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# CONGRESSIONAL GLOBE

FOR THE

SECOND SESSION FORTIETH CONGRESS.

PART III.

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# THE CONGRESSIONAL GLOBE:

CONTAINING

## THE DEBATES AND PROCEEDINGS

OF THE

SECOND SESSION FORTIETH CONGRESS;

TOGETHER WITH

AN APPENDIX,

COMPRISING THE LAWS PASSED AT THAT SESSION;

AND

A SUPPLEMENT,

EMBRACING THE PROCEEDINGS IN THE TRIAL OF ANDREW JOHNSON.



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BY F. & J. RIVES & GEORGE A. BAILEY.

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CITY OF WASHINGTON:  
OFFICE OF THE CONGRESSIONAL GLOBE.  
1868.

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Entered according to Act of Congress, in the year 1868, by  
F. & J. RIVES & GEO. A. BAILEY,  
In the Clerk's office of the Supreme Court of the District of Columbia.

BLAIR,] whether, if this be true, the soldiers in the Army, their pensioned widows, and crippled comrades now the laborers on the streets, the mechanic in his workshop, the farmer for his produce, the trader for his commodities, and the sexton who "gathers them in," are all compelled to receive greenbacks in full payment, are they treated justly? Again, is the bondholder entitled to payment in gold and silver while those above named are compelled to take rags?

Mr. BLAIR. That is very good, indeed; very good. That is a catchword which is used to deceive the people all over the country. I undertook to show, and thought that I had answered the cavil of the gentleman, that the greenback has some value, because a man may trust that the Government means to pay it in gold at some period. I said that the Government ought to do it, and to do it directly; if not now, then as soon as it can; that that was its duty, and it is for the benefit of all that this should be done. I wish to make these securities more valuable than less so. It was a great necessity which caused the use of this paper at all. My sole object is to get rid of it as soon as may be and to return to a sound specie-paying currency.

Mr. WELKER. Will the gentleman allow me to make one remark?

[Here the hammer fell.]

The SPEAKER *pro tempore*, (Mr. LAWRENCE, of Ohio.) The hour of the gentleman from Michigan [Mr. BLAIR] has expired.

Mr. PERHAM obtained the floor.

Mr. WELKER. Will the gentleman yield to me for a few minutes?

Mr. PERHAM. I cannot yield to the gentleman for more than a remark or two.

Mr. WELKER. I desire to say that I think the gentleman from Michigan [Mr. BLAIR] has not correctly represented the position taken by the recent Republican convention in Ohio in reference to the payment of the bonds of the United States in greenbacks. That is all I will now take time to say, although I would be glad to say more, if it were not for trespassing too far upon the courtesy of the gentleman from Maine, [Mr. PERHAM.]

#### RELIEF FROM TAXATION—THE NATION'S FINANCES.

Mr. PERHAM. Mr. Speaker, next in importance to the restoration of the whole country to a condition of peace, happiness, and prosperity, and intimately connected with it are the questions in which our financial interests are involved. These questions are not only very important, affecting the interests of all the people, but exceedingly intricate. We are so unlike all other countries that their experience furnishes no guide for us, and our present condition is so unlike anything in our past history that our own experience furnishes but an uncertain light. True, we have many men among us who comprehend the whole subject, can see with mathematical certainty the precise results of any given policy, and can tell us exactly the kind of legislation needed to set all the financial machinery of the Government in harmonious and successful operation. Unfortunately, however, no two of these men can see alike. What one knows will produce certain results the other believes he knows will produce entirely different results. Some of us not favored with this remarkable light and foresight, who have been obliged to grope our way in the partial darkness, have sometimes attempted to follow in the path of these luminaries in the hope of bringing order out of confusion, but only to experience the mortification of seeing "confusion worse confounded." I confess that I have not quite as much confidence in the judgments of men "learned in finance" as I once had. In our present condition much wisdom and great caution are required. We are liable to legislate too much. In this lies our great danger. Laws of Congress should not interfere with what the laws of business demand. We need time as well as laws to adjust our disordered finances. Every

step should be thoroughly considered before it is taken. Better not move at all than take a step in the wrong direction. This lesson it is hoped we have learned by the experience of the past.

The work before us may be stated as follows:

To lighten the burdens of taxation.

To establish the national credit.

To give a currency that shall be equal to gold.

To lower the rates of interest.

To provide for the payment of the national debt.

I propose to discuss briefly the principles involved in these several propositions, though not, perhaps, in the order in which I have stated them.

The large balances against us in our foreign trade, which we are obliged to supply by shipments of gold and the most valuable of our securities, has become a source of anxiety to the people and threatens to involve us in further financial embarrassments unless a remedy can speedily be applied. The balance of trade with foreign nations has for the last four years averaged \$200,000,000 per annum against us. That is, we have imported \$200,000,000 more than we have exported, and have supplied the balance by sending abroad Government bonds, railroad, mineral, and other valuable stocks, and gold. This practice is ruinous to us and must not be continued. If our people would content themselves with articles of our own production and manufacture, instead of importing so largely from abroad, these balances, now so ruinous, would soon be turned in our favor; but this they will not do to any considerable extent while the means of indulgence in imported luxuries are at hand. How, then, shall these balances be met? I can see but one safe method, and that is the increase of our exportable products and manufactures.

The restoration of the States recently in rebellion on a basis that will secure the rapid development of their immense resources and their assimilation to the great industrial interests of the other States in the Union, now so auspiciously progressing, will do very much toward this result. But more than this must be done. Capital, now lying dormant, must be called out from its depositories; national taxation, now paralyzing so many of the industrial interests of the country, must be reduced and placed chiefly upon luxuries; labor must be made to yield a reward corresponding to the cost of living. Our agricultural and mineral resources must be developed. The music of the spindle and the hum of busy industry must again be heard in all our manufactories. Our ship-yards, once the source of prosperity and wealth to the country, but now almost deserted, must be made again to resound with the ax and hammer. Our commerce, now so much depressed, must be revived. Open the avenues of labor; give the workingman enough to do; protect him from ruinous competition with the pauper labor of Europe; unlock the vaults in which much of our capital is hoarded; put the money in circulation; make the industries of the country active; develop our immense resources; send more of the products of the soil and manufactures abroad; make the ledger of foreign trade show a balance in our favor, so as to enable us to keep our gold and valuable stocks at home: these are the great demands of the times, and which challenge our most earnest attention. We can hardly expect to accomplish these desirable results while the industrial interests of the country are burdened with heavy taxation. The bill just passed relieves many of these interests and will be hailed with great joy in all parts of the country and impart a new impetus to business. But other interests need the same relief, and I trust will obtain it before the close of this session.

#### RELIEF FROM TAXATION.

During the war, and while the necessity existed, the people of this country bore the burdens of unprecedented taxation willingly and cheerfully, and met all the demands made upon

them by the Government with wonderful promptness; but now, when the war has closed, they expect, and have a right to demand, that the expenses be reduced to something like a peace basis. We are now not only suffering from the general derangement of business growing out of a gigantic civil combat, but the States and municipalities are struggling to free themselves from debts contracted during the war, and while they are doing this, especially national taxation must be made to rest as lightly as possible. No burdens should be imposed except such as are absolutely necessary, and those should not apply to the necessities of life. How much tax should be raised? Just enough to meet such expenses as, in the exercise of the most rigid economy, are necessary to defray the expenses of the Government, including interest on the public debt, (with perhaps a small sum for its reduction,) bounties and pensions, and no more. Notwithstanding the large expenditures necessary for the payment of officers and men of the military and naval service at the time of their discharge, including bounties, pensions, &c., we have, since the close of the war, reduced our national debt more than two hundred and fifty million dollars, or at the rate of about one hundred and twenty million dollars per annum.

The large expenditures growing out of the discharge of the Army and the reorganization of the States lately in rebellion, have chiefly been met, so that hereafter by an economical administration of public affairs we can reduce our national taxes very largely and still continue a rate of reduction that would pay the whole debt in about twenty years. To attempt to pay the debt in that time, however, is, in my judgment, neither necessary nor wise. The debt has been incurred in the maintenance of a Government in which the interests of the future are as much involved as those of the present, and should bear a portion of the price of the nation's life. This generation has paid the cost of liberty and Union in blood, and the next, to which we bequeath this priceless inheritance, may well pay its share of the debt. The increase of wealth and population will rapidly reduce the proportionate burdens of the debt. The value of the property of the country nearly or quite doubles every ten years; so that, if the debt is now ten per cent. of our valuation, in 1878 it will be but five per cent.; in 1888 two and one-half per cent.; and when, in 1900, our valuation shall have reached \$200,000,000,000, and our population eighty millions, the debt, if no part of the principal should be paid before, would be comparatively small, and its burdens would be so light on each individual as to be scarcely felt.

But to return to the question, how much is it necessary to raise by taxation? The Committee on Appropriations, after a careful examination of the subject, have reported that the following sums will be sufficient to meet the necessary expenses of the Government for the next fiscal year:

Army.....	\$33,082,093
Navy.....	18,998,045
Executive, legislative, and judicial.....	17,119,478
Post Office Department.....	4,050,000
Consular and diplomatic.....	1,261,434
Indian Department.....	3,000,000
West Point Military Academy.....	303,000
Miscellaneous of all kinds.....	14,000,000

Total expenses of the Government.....\$90,912,050

This is a sum somewhat larger than was required before the war, but not so much larger as the difference between gold and currency. For the fiscal year ending June 30, 1868, the expenditures for the same purpose were about seventy millions, equivalent to gold, which, in the present currency, would be equal to \$98,000,000.

The other expenses, chiefly made necessary by the war, are estimated as follows:

Interest on the public debt.....	\$130,000,000
Pensions.....	30,330,000
Bounties.....	25,000,000
Total amount necessary.....	\$285,242,050

From what sources shall this amount be raised? To answer this question I desire to present my views in regard to what interests should be relieved and on what taxation should remain. In my judgment, the time has come when the taxes can safely be removed from all the industrial business of the country except such luxuries as are not essential to the happiness or well-being of the people, and the consumption of which, like spirits and tobacco, might be largely reduced, in case the tax should have that effect, without any disadvantage to the country or any hazard to our highest interests.

During the war, when all the productions and manufactures of the country sold readily at large prices, these interests could bear the burdens of taxation; but now, when prices are so much lower and the cost of producing is but little less, the present rate of taxation operates in many instances to prohibition, so that we not only lose the business, but the revenue also, thus defeating the object of taxation. Many manufacturing establishments have been obliged to suspend, while others have continued at ruinous losses in the hope that some change for the better would take place.

#### SHIP-BUILDING AND COMMERCE.

Representing, as I do, a district largely interested in ship-building and navigation, I shall be pardoned for referring in this connection to the effect of our present system of taxation on this important interest. The State of Maine, before the war, constructed on an average more than fifty per cent. of all the sea-going vessels of the country, and, now that they have been obliged to suspend almost entirely this business, her people feel the depression severely.

In our eagerness to relieve other interests which have pressed their claims with more pertinacity we have not only turned a deaf ear to those who have presented the claims of the shipping interest, but much of our legislation has been directly antagonistic to it; and now, in order to give a finishing blow to an interest which has been at once the pride and strength of the country, it is seriously proposed to allow foreign vessels to be brought here and registered with the same privileges as those built in our own country. This would effectually crush out the ship-building business in our own country and place it in the hands of others, because we should be obliged to meet, in any attempt at competition, not only our own heavy taxation, but the cheap means of living and low price of labor in other countries. We cannot afford to adopt a policy that will take the gold we so much need at home to pay for vessels built by the people who contributed so largely to the destruction of our ships and our commerce.

A vessel costing seventy-five dollars per ton at our yards, ready for sea costs only forty-five dollars in gold, or about sixty-three dollars in our currency in Nova Scotia or New Brunswick, thus giving our provincial neighbors the advantage over us of from twelve to fifteen thousand dollars on a vessel of one thousand tons. This condition of things has brought our ship-building to a stand-still, benefiting nobody, but injurious to the whole country, and should not be allowed to continue. The remedy in part may be found in a drawback equal to the amount of duties on imported articles, and the removal of all taxes on all materials of domestic production and manufacture, entering into the construction of vessels. Our neighbors across the line will then have the advantage of their cheaper labor, but it is believed that our facilities for and thorough knowledge of the business will enable our ship-builders to compete successfully with all rivals.

The depression of the ship-building interest, with the influences of the war, has affected very seriously our commerce on the seas. A nation that builds ships generally sails them, and it is equally true that a nation that builds none sails none of any consequence. Freights are perhaps sufficiently high to pay fair profits on vessels costing what ours did before the war, and even what they would cost now if

the taxes were removed, but they will not pay on the present high prices. This fact, combined with the havoc made in our navigation by confederate cruisers and privateers in the war, has almost annihilated our carrying business. While the subjects of Great Britain were destroying our vessels engaged in the carrying trade, that Government took care that for every one so destroyed she had another sailing under her own flag to take its place.

Our foreign carrying trade is now less than one third what it was in 1860, and the business under foreign flags has increased in proportion. Our domestic commerce or coasting trade, which was wisely secured to us in 1817, is nearly all that remains to us. The business of building and sailing vessels, which in Maine alone employed more than twenty thousand able-bodied men, and on which some one hundred thousand persons depended for support, has been nearly destroyed. This is no mere local question; it is one of great national importance, in which all the interests of the country are concerned, for it is an indispensable source of national wealth, as well as honor and power. The great West wants cheap freights for their immense products, and this can best be secured by reducing the cost of the vessels in which these products are to be carried. She also wants the market which a large number of consumers engaged in this business would create. Our mineral and manufacturing interests want a market for the iron, copper, coal, cordage, duck, &c., which a revival of this business would create. Our forests contain large quantities of timber waiting to become a source of large income whenever this interest shall again be revived. The district I have the honor to represent paid annually, prior to the war, \$300,000 to persons in Maryland, Virginia, North and South Carolina, Georgia, and Florida for timber used in our ship-yards, and will do so again whenever this business shall be relieved from its unnatural burdens.

Another reason for encouraging a large merchant marine should not be overlooked. I refer to its importance in the creation of a Navy in time of war. A land force may be raised from the common pursuits of life, organized and drilled so as to be made effective in a few months. Not so with the Navy. We must have men who have been trained in the management of vessels. At the beginning of the recent war our merchant marine furnished experienced men for the creation of a large Navy in a brief period of time, and contributed in no small degree to the salvation of the country. Where should we have obtained the seamen if we had not had the merchant ships in which they had been schooled? In a few years, when those who have had experience in the recent war have become unfit for service, we shall be entirely at the mercy of any hostile maritime Power, in case of a sudden war, unless we resort to the expensive method of supporting a large number of men in the naval service in time of peace. I submit that it is much cheaper and wiser to encourage and foster a large merchant marine, from which, besides being a source of wealth to the country, we can obtain experienced seamen in an emergency such as that we have just passed through. The national convention recently held in Boston declared that—

"The mercantile marine commerce of the United States ever has been so intimately allied to and blended with the naval power of our country that it may be regarded as the indispensable auxiliary of the Navy, as the naval history of our country will abundantly show. By our energetic and daring privateers, and by the men in the naval service drawn from our merchantmen this country contested the assumed supremacy of England on the ocean, and wrested the scepter from her in the war of 1812. By a similar intimate union and cooperation between the Navy and our merchantmen, our coast was blockaded for more than two thousand miles during the rebellion.

"We believe it is not too much to assume that the splendid achievement of the Kearsarge, the brilliant victories of Farragut at New Orleans and Mobile, of Rogers at Savannah, of Porter at Fort Fisher, and others equally worthy of mention, could not have been accomplished without the hardy sons of the ocean taken from our merchant ships, and previously educated in the merchant service. The tens of thousands of seamen drawn from the New England States

to recruit the Navy are in proof of the truth of this position.

"As an economical measure to the Government, can it be doubted that the mercantile marine, with the men and workshops sustained by private capital, are a cheaper resource to the Navy to meet an emergency than mammoth establishments and immense naval fleets, adequate to the possible and sudden exigencies of the Government, kept up at great cost to the Treasury? As the people do not believe in large standing armies in time of peace, neither do they wish to be taxed to keep up large naval establishments in time of peace, with little or no commerce to protect. The high position of the United States as a naval Power, in comparison with England and France, has been acquired by the cooperation and aid of maritime commerce; it can only be sustained in the future by a similar intimate relation and alliance."

The men who build and sail vessels are generally patriotic, and are willing to sacrifice largely for the public good, and would not complain of the burdens I have referred to if they could see a corresponding advantage to the Government; but no such advantage is derived. The tax of which we complain approximates to prohibition, and defeats the end it was intended to accomplish, besides being destructive to one of the most important interests of the country. It is true that some vessels have been built and some tax has been collected from this source. But it is also true that much of this tax has been derived from the completion of vessels which the owners had begun before the taxes were imposed, or for which they had a portion of the material on hand, and were compelled to use it to prevent greater loss.

Our Navy has achieved too many glorious victories in the past to allow us now to hazard its efficiency in any other contest that may lie before us, by refusing to encourage this preparatory school which has heretofore contributed so largely to our naval success. This subject is one that appeals to the patriotism of every American citizen.

The tonnage tax of thirty cents per ton, imposed by the present law, is exceedingly onerous, and serves still further to cripple our commerce. At the beginning of the present session the Committee of Ways and Means was on my motion instructed to inquire whether this tax should not be abolished. The attention of the committee has also been called to the subject by others; and I cannot doubt but in due time we shall have a report from that committee removing entirely this burdensome tax. Viewed as a means of revenue alone, I am confident that by removing the burdens from these branches of business the Government would be more than compensated in the increase of business it would produce in all the various interests dependent on their prosperity.

In view of the national importance of this subject I cannot for a moment permit myself to doubt that this Congress will grant a drawback on all imported articles entering into the construction of vessels and remove all other taxes that embarrass their building and sailing, and that we shall readily find the means of all needed revenue in other sources.

But, to return to the question, from what sources shall our revenue be raised? It is estimated that we shall receive from duties on imports \$170,000,000 in gold. The country require and the people expect, and have a right to demand, a large revenue from spirits and tobacco. But here we are met by the humiliating fact that, despite all the efforts we have made, not one gallon in five pays any tax. The liquor interest, never promotive of good morals, has during the last three years perpetrated frauds to an extent without a parallel in the history of the country.

Prior to the war, when there was no tax on the manufacture of spirits and no occasion to conceal the amount produced, we manufactured, as shown by the census returns, about ninety million gallons of distilled spirits; now we are collecting tax on less than fifteen millions. We see no evidence of any material decrease in its use except, perhaps, in the form of burning fluid. There is no reason to suppose the manufacture is now very much less than in 1860. There is certainly no reason why we should not collect a tax on sixty-five million gal-



lons. It is a national disgrace that while the other interests of the country are so heavily taxed, we allow ourselves to be cheated out of the amount justly due from this, by the connivance of corrupt officials with the distilleries.

It is demoralizing to the whole business and every man engaged in it. The honest distiller who pays two dollars per gallon on the amount of his production cannot compete in the market with the dishonest man who pays nothing to the Government.

The result is that those who would not succumb to the temptation have been driven out of the business. A practice which at once puts any branch of business entirely in the hands of worthless men cannot too soon be abolished. It is a source of just complaint to the tax-payers and a burning shame to the country that should not be tolerated, and that finds its remedy only in the removal of the dishonest revenue officers who now disgrace the Government and eat up its substance, and the appointment of men who are honest and whose integrity cannot be purchased with gold. The pay of these agents is sufficient to secure the services of men who are above suspicion, and with whom the distillers will not dare to attempt to tamper. It is a source of congratulation that there is now a prospect of a speedy change that will rectify this great wrong and relieve the country from such deep disgrace. It is urged by some, as a remedy for these frauds, that the tax should be reduced to one dollar or fifty cents, and some say twenty-five cents, per gallon, on the ground that the reduction of the tax would reduce correspondingly the temptation to fraud and that the distillers would then allow the tax to be collected. If this was an original question the argument might be a strong one, but its force is very much reduced when applied to the present state of the question. I am unwilling to confess, without another trial, that through the agency of better men the laws of the country cannot be enforced. The truth is, these men have learned the tricks of the trade.

They have already sunk into whatever demoralization the tax of two dollars may have produced, and will hardly be elevated into a much purer atmosphere by the reduction of the tax. If a man has once disgraced himself and forfeited the confidence of the community by cheating the Government out of \$100,000, he cannot, without a miracle of special grace, which an act of Congress would not be likely to produce, be expected to refrain from taking fifty or twenty-five thousand in the same way when the opportunity presents itself. I trust no reduction will be made in the tax, but that, after the experience we have had, we shall be able so to adjust the law that, with reliable men, who must be placed in charge of these interests, the revenue which the country expects from this source will be realized.

The frauds in the manufacture of fermented liquors and tobacco have been about equal to those in the manufacture of distilled spirits, and can only be prevented by the same instrumentalities.

From the facts I have presented, and other data at hand, it is evident that an honest and efficient enforcement of the law would, at the lowest calculation, secure to the Government, at the present rates of taxation, the following sums:

From distilled spirits.....	\$130,000,000
From fermented liquors.....	15,000,000
From tobacco and its manufactures.....	50,000,000
	\$195,000,000
Add from customs.....	170,000,000
	\$365,000,000
Deduct interest on public debt.....	130,000,000
Leaves a balance of.....	\$235,000,000
Deduct the sum estimated by the Committee on Appropriations to defray the expenses of the Government, including pensions and bounties.....	276,242,050
And we have a balance of.....	\$58,757,950

which is amply sufficient to meet all contingencies and leave a very considerable sum to

be applied to the reduction of the debt—certainly as much as we ought to attempt to pay now. It will be observed that this calculation leaves out every species of taxation except duties on imports and the tax on spirits and tobacco. All other national taxation can be removed from the people whenever we can secure reasonable efficiency in the collection of the taxes from those sources.

It is understood that the Committee of Ways and Means, seeing and appreciating the difficulty that surrounds us, and the uncertainty of being able to secure, in the present state of things, the removal of the officials through whose corruption the manufacturers of spirits and tobacco are robbing the Government of its just dues, have decided to recommend the continuation of the stamp duties, license or special tax, and tax on sales, &c. This may be necessary for the present, but it is earnestly to be hoped, for the honor of the nation as well as the interest of those who pay these taxes, that the occasion will not continue beyond the meeting of the next session of this Congress.

#### TAXATION OF GOVERNMENT SECURITIES.

In some portions of the country the exemption of Government bonds from taxation is a source of very great complaint. In some places, men on whom the cities and towns in which they reside have depended for a considerable portion of their taxes have invested largely in these bonds, thus reducing, in some instances, their taxes and transferring the sum of which they are relieved to those less able to bear the burdens.

To the principle that all productive property should bear its share in the burdens of taxation, except under extraordinary circumstances, I most heartily subscribe. As, however, Congress has been severely censured for its legislation on this subject, I desire to say a word in vindication of its action. It is proper to state, in this connection, that the complaint to which I have referred has in part been created by the impression that these securities are held by the large capitalists. This is but partially true. There is no class of securities held so largely by persons of small means as our Government bonds. The savings of the masses were invested in them, and freely offered to the nation, not simply as a good investment, but as a proof of their affection. They have been the favorite investment of the working people. They are desirable for this class, because they are convertible at any moment into money. A large amount of these securities are held by the trustees of orphans and widows, and by the savings banks which have invested the sum made up of the scanty earnings of the poor.

Another fact worthy of note: but a small portion of the means invested in Government securities had before paid taxes, or would have done, if it had not been so invested. The instances in which the valuation of persons has been reduced because of investment in Government securities are not numerous. It is supposed by many that the shares in national banks, amounting to more than three hundred million dollars, and all now taxable where the shares are owned, and which is, in effect, a tax on the bonds which the owners of shares have deposited with the Government, will pay as much tax as would have been derived from all the money invested in these bonds providing it had remained as it was before being so invested.

The principle has been well settled by the judicial authority of this country that Government securities are not taxable by local authority. The provision for the exemption in the several acts under which bonds were issued during the war had no effect except as a notice to all interested that they were not to be taxed. Had no such provision been made the exemption would have followed in accordance with the decision of the courts and the uniform practice of the Government. The right of a Government to hold its own securities exempt from taxation is essential to its very existence, for without this right, or in the absence of its exercise, the local authorities, if they should

choose so to do, might tax the Government securities to such an extent as to render them utterly worthless and effectually exclude them from such communities, thus limiting the power of the Government to borrow money to those municipalities only which might happen to be friendly to its policy and would be willing from the promptings of patriotism to waive their right to taxation or be content with a tax so low as not to interfere with the ready disposal of the Government securities. This would place the Government, in times of great demand for money, as in the case of our recent war, entirely at the mercy of its enemies. If the Government should pay six per cent. interest and the local authorities should tax the securities four per cent., as they might do if Congress should exercise no control in the matter, capitalists would be very likely to invest in other property. It may be said that no community would so discriminate between different kinds of securities. Suppose the local authorities had been given unlimited power to tax Government bonds issued during the war, what would have been the result? Does any one doubt that the men who opposed the war would have combined wherever they could control and prevent the bonds being valuable by any system of local taxation at their command? I need only call attention to facts still too fresh and mortifying in our minds.

Many men believed, or pretended to believe, that the war for the suppression of the rebellion as prosecuted under Mr. Lincoln's administration was unnecessary, unconstitutional, tyrannical, exceedingly wicked, and no better than a system of wholesale murder. It is not strange that such men justified themselves in throwing obstacles in the way of the Government and resorting to whatever means they found at their command to thwart its purposes and paralyze its efforts.

Does any one doubt that had the privilege of unlimited taxation been allowed these men would have succeeded in excluding the bonds from all places under their control, thus limiting the power of the Government to borrow money to support its struggle with the rebellion to those places in which a majority could be found for the support of the war, thus seriously hazarding, if not effectually preventing, success in the great struggle?

Another reason for not authorizing the taxation of the bonds issued during the war should not be overlooked. The acts under which the most of those bonds were issued were passed when the military situation was not encouraging; when every neighborhood was mourning the loss of some cherished one fallen in the bloody strife, and when the Government was obliged to make frequent calls for "three hundred thousand more" to take the places of the slain; when many of our best men feared that we should fail in our effort to crush the rebellion; when those who opposed the war were telling us defiantly that we could never do it; when leading men were declaring that the bonds were no better than so much white paper, and warning the people against investing in them; when we were being told that we should never pay the debt, and repudiation was boldly talked of as a measure sure to follow the close of the war.

These were perilous times for the country, times when the strongest hearts were made sad and when all faltered save those who felt the justice of our cause, and could see by the eye of faith beyond the seas of blood that encompassed them a glorious future of peace and prosperity.

To prosecute the war the soldiers must be fed, clothed, and paid. Money must be had. Without it the war must cease, and the demands of the rebels become the law of the land. Under these trying circumstances Congress felt that the terms of the securities to be issued must be such as would present some inducement for those who had money to take them, and they were declared exempt from taxation. As to the necessity or the wisdom of the measure the country must judge. It should be remembered

that this was no departure from the uniform practice of the Government from its earliest history; and if the exemption was so wicked as some profess to believe, it is but the continuation of the policy of the founders of the Government acted upon by every Administration to the present time.

As Congress has been so severely censured for its exemption of Government securities that were issued during the war from taxation, and as I voted for all the bills authorizing their issue that were passed after I took my seat as member of Congress, I have deemed it my duty to say this much in vindication of my action in this regard.

As to the bonds already issued, I take it for granted that the number who favor any violation of the pledge made to the holders of these securities when the money was paid for them is so small as to render a discussion of that subject unnecessary. The tax-payers of the country do not require the Government to repudiate its agreement. Our promises must be sacredly kept.

But now that the peculiar circumstances under which the present bonds were issued have passed, and when we are about to fund the debt for a long period of time by the issue of new bonds, the question of taxation becomes important, and may very properly claim careful consideration. I do not know that the power of the Government to provide for the taxation of Government securities has been denied. It is believed that the Government would be safe in allowing taxation to a certain extent, say one per cent. or even two per cent. but a specified per cent. should be named, beyond which the authority should cease. The question, then, that will demand our attention in providing for a new issue of bonds will be: can the interest and rights of all concerned be better subserved by providing for taxation or by continuing the policy of exemption heretofore pursued?

It is not unreasonable in the outset to assume that if taxation be allowed we must pay larger interest than we should if the securities were not subject to taxation. If a man proposes to lend money his first object is to see that the payment of the principal is secure, and next, how he shall realize the greatest net income. He inquires not only for the rate of interest, but whether there are to be deductions in the form of taxes or other dues. In other words, he will consider bonds at five per cent. exempt from taxation as desirable as bonds at six per cent. interest with the right of the Government or the local authorities to tax one per cent. unless he intends to cheat the officers of the law out of the tax.

If this view is correct, it follows that the debt would be funded as readily at four per cent. exempt from taxation as at five per cent. interest subject to a tax of one per cent., and that, so far as the Government is concerned, taxation would be but taking from one pocket in interest what we place in the other in taxes. When applied to the local authorities, however, the case is somewhat different. It is right that in the absence of any absolute public necessity to the country that such securities should be taxed in the places where they are owned and from which the money that purchased them has been taken, and where it would have remained subject to taxation in some form if the securities had not been purchased. It is a right which, by the general principles of taxation, belongs to the cities or towns in which personal property is owned, to receive the benefit of its taxation; and it is a right that should not be taken away unless some important public interest requires it. When our debt was small this subject was one of comparatively little consequence, but now, when property to the amount of billions is to be invested in these securities, it becomes a question of very great interest to those who pay the taxes. I therefore trust that in any bill for the funding of the debt that may be passed we shall provide for a limited percentage of taxation by the local authorities, or

that the tax shall be collected by the Government when the coupons are paid and distributed in some equitable manner to the municipalities in which the securities shall be held.

#### SHALL THE FIVE-TWENTY BONDS BE PAID IN GOLD OR CURRENCY?

The question as to whether we will pay the principal of our five-twenty bonds in coin or currency has very unwisely, it appears to me, been thrust upon us at a very inopportune time. It is getting up a controversy on a question that if let alone would settle itself in a few years. We have neither the coin nor the currency with which to pay. And yet we are working ourselves into a high state of excitement about how we shall do what we have no prospect of doing while the cause of division exists. If our legislation shall be wise we will resume specie payment as soon as we shall be able to pay enough of the debt to make this subject of any great importance, and thus settle a question that never had any occasion for existence. It seems to me that it is much better to unite all our efforts to find the shortest and most practicable way to a sound specie basis, and then it will make no difference whether we pay coin or currency.

Since, however, this question has been forced upon us, and has entered so largely into the discussions on this floor and in the country, it must be met and settled. I propose to speak in what I have to say on this subject, not in the interests of the bondholders—for they will do well enough whether they get gold or currency—but in what I deem the highest interest of the country—the maintenance inviolable of its credit.

Even admitting all that is claimed by the advocates of the currency theory, as to our legal right to pay these bonds in currency, I do not believe that, for the little we should gain on the small amount we might possibly pay while the currency is depreciated, we can afford to suffer the shock to our national credit which such a declaration would produce. We are to be borrowers of money for many years to come, and we cannot afford to do an act that will give to our financial policy the least suspicion of repudiation. We must maintain our credit at all hazards. We are soon to make an effort to fund the public debt at a lower rate of interest. It is a subject of vast consequence to the tax-payers of the country, much more than the difference between the price of gold and currency on the few millions that may be paid while our finances are being brought to a gold basis. Our ability to fund the debt at a low rate of interest will depend not only on our ability to pay, but on what capitalists believe to be our disposition to meet, without evasion, every obligation; and this disposition will be judged by our action in regard to the bonds already issued.

There seems to have been an attempt to create an impression that by paying the debt in greenbacks the Government would save about forty per cent. on the entire debt. This would not be true, even if we had—which we have not—the greenbacks to pay; the greenbacks are promises to pay, and must, sometime, if they are good for anything, be paid in gold or its equivalent, the same as the bonds. If we are to pay in our present currency where is it to come from? How shall the Government get it? What are the processes by which we are to come into possession of the means? I know of but two methods: first, tax the people beyond the necessary expenses of the Government, and take from them what you propose to pay the bondholders for the redemption of your securities; or second, set your greenback machinery at work, make the money with which to purchase the bonds, flood the country with an irredeemable currency, thus reducing, proportionately, the purchasing capacity of every dollar the poor man has to pay for the necessities of life. Neither of these methods is believed to be practicable or desirable. I do not know that any one who favors the payment of the debt in coin or its equivalent proposes to pay while

our currency is depreciated. It is simply proposed to husband our resources with a view to return at the earliest possible moment to specie payment, when we may just as easily pay gold as currency, and the bondholder would be just as willing to take greenbacks as gold, thus settling this and all other troublesome questions that grow out of the depreciated currency and saving at the same time the credit of the nation inviolate.

Whatever may be the strict legal construction of the several acts under which the five-twenties have been issued—and I do not propose to discuss that subject now—it is undeniable that those who purchased the bonds had good reason to expect that when the principal should be paid it would be in gold or its equivalent. When the acts referred to were passed it was generally expected that before they would be paid our currency would be equal to coin. The Government allowed its agents, through whom a large portion of the loan was made, to advertise to the world that the principal of the bonds would be paid in gold. Two Assistant Secretaries of the Treasury, Messrs. Harrington and Field, declared at different times, in answer to inquiries on the subject, that these bonds would be paid in coin. I submit, that in view of the facts I have stated and the importance of our national credit it would be exceedingly unwise to declare in favor of paying our bonds in depreciated currency, but that by a wise financial policy tending toward a gold basis we declare to all the world that the time is not distant when we will be able to meet all the demands against the Government in gold or paper money, as our creditors may desire. This is the best method of settling a question the agitation of which has, in my judgment, only served to weaken the confidence of this country and Europe in our securities.

I have not time for the discussion of other topics of financial policy, as I intended. I will, however, say a word further in regard to a subject to which I have already referred.

#### FUNDING THE NATIONAL DEBT.

While I am in favor of paying every dollar of the principal and interest of the bonds now outstanding in exact accordance with our agreement, and am opposed to the violation of any contract, either expressed or implied, I am, at the same time, opposed to paying the present high rate of interest a single day beyond the time when the bonds are payable and the money can be had at a cheaper rate.

Six per cent. interest in gold is now equivalent to more than eight per cent. in currency. Add to this the advantage of exemption from taxation, which is about two per cent., and the interest we are now paying amounts to about ten per cent. This is too much for a nation of such vast resources as ours—a nation whose credit might and should be beyond suspicion—to pay. It would, of course, be for the interest of the holders of the bonds to continue the present rate of interest; but the Government is under no obligations to pay such interest beyond what, by the terms of the law, it agreed to do. The Government has the right to pay the five-twenties at the end of five years from their date. A part of them are already payable, and all will be within five years. As the debt becomes payable we ought to be able to fund it at a rate of interest two per cent., at least, better for the Government than we are now paying.

This will save for the country in interest some thirty-five millions annually. To be able to do this, however, our finances must be placed on a firmer basis and our credit established beyond distrust. The talk about repudiation, the possibility of some time being compelled to assume the debt contracted on the other side of the rebellion, and to pay the value of slave property which was destroyed by emancipation, has impaired, to some extent, our credit. The adoption of the constitutional amendment guarantying the payment of our debt, and preventing the assumption of that contracted in the interest of the rebellion will speedily set these questions at rest. We



have then only to unfetter the industry of the country, readjust our currency so that it shall be equal to gold, which will not, we hope, be long delayed. When this is done our securities will be equal to any in the world, will be eagerly sought after by capitalists everywhere, and can be sold at a rate of interest that will reduce the interest on the public debt about one third and relieve the people of taxation to that extent.

#### SUFFRAGE AND RECONSTRUCTION.

Mr. WOODWARD. Mr. Speaker, referring myself to several measures now pending in this House, or lately passed, and to various speeches which have been made here, I submit some observations on three principal heads: suffrage in general, negro suffrage, and the reconstruction laws. And if the discussion seems more elementary than is usual in this Chamber I beg gentlemen to remember that all safe conclusions are derived from elementary discussions. First principles are our best guides to complex truths.

The first relation which the new-born boy sustains is that of the family, and out of this relation result many rights and duties, among which, however, is nothing in the nature of suffrage. He has no voice in the choice even of his name, by which he is to be known through life, nor in the conduct of the affairs of the family. When he becomes a pupil in school or an apprentice in a workshop or an office clerk he is subject to the will of others who have been placed over him, not by his election, but by the disposing providence of his parents or guardians. Nor in the higher relation which the human being sustains to his Creator has he any choice or election. He is brought into the world and taken out of it according to a will superior to his own; and through all his life—

"There's a divinity that shapes our ends,  
Rough-hew them how we will."

But when men, emancipated from the disabilities of infancy, and free to act within the sphere of human agency that has been allotted to them, come together to form a commonwealth they settle for themselves the principles upon which they will be governed; they agree what rulers they will have and how they shall be chosen. And in doing this they are guided by no natural laws, but by an intelligent regard to the conveniences and expediences of their situation. If they find a government already established their consent to it is implied from their remaining under it, claiming its protection, and enjoying its benefits. So that every member of the State has either assisted at laying the foundations or consented to them as laid, and in both cases suffrage and whatever other political rights he has acquired have come, not from nature, but from the social compact.

The governing power may be divinely appointed, as in the Jewish theocracy; or it may be founded in conquest, as has happened in every age of the world; or it may be hereditary in families whom revolution has placed upon the throne, as in the existing monarchies of Europe; or it may be conferred by the consent of the governed, as in the instance of our own country. All governmental functions have their root in power or compact. Naturally A has no more right to rule over B than B has to rule A, but if one is stronger than the other power decides the right; or if, for mutual advantage, they agree how to rule and be ruled, compact becomes the foundation of their State. In neither case has suffrage or any other incident that is peculiar to the government any foundation in nature.

The Declaration of American Independence is often misapplied to this subject. Thirteen English colonies were in the act of throwing off and abjuring the only civil Government under which they had ever lived. That Government set aside, they were remitted to a state of nature; and in a state of nature, antecedently to the formation of civil government, the Declaration, copying Locke, declares—

"That all men are created equal; that they are endowed by their Creator with certain inalienable

rights; that among these are life, liberty, and the pursuit of happiness."

But it goes on immediately to declare that "to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed."

Thus that immortal instrument brings into sharp contrast the freedom and equality of a state of nature, and the restricted freedom of a state of government. It does not predicate absolute freedom and equality of a state of government, but of a state of nature before civil government has intervened or been set up. To secure these natural rights governments are formed, and government creates distinctions and inequalities, for some must rule and others obey, else you have no government at all. If I am too weak to defend and secure my natural rights standing alone, I will associate with others in like condition and give up some of my natural rights for the sake of forming with them a commonwealth that shall secure to us all the great rights of life, liberty, and the pursuit of happiness. For the sake of these great interests I will assent to a condition of inequality and subjection which nature never ordained. Such is the manner in which civil government supervenes upon natural rights, and the misconstruction which is so frequently made of the Declaration of Independence consists in applying to a state of government that which it predicates of a state of nature. The Declaration of Independence never became an article of the Constitution nor an institute of the Government. The colonies, I repeat, were passing from one government to another, and in the transition they called to mind their natural rights, that the government about to be formed might secure those that are specified. But, while these rights are distinctly asserted as proper objects of governmental protection, neither the absolute freedom nor equality of individuals in a state of civil government is affirmed.

And let it be observed, sir, that suffrage is not among the natural rights which the Declaration enumerates. Nor was it mentioned in Magna Charta. That famous passage beginning *nulius liber homo*, which has been called bad Latin but good law, contains the germinal principles of our Bills of Rights, but does not allude to the elective franchise. The "Petition of Right" and the "Bill of Rights" in the reign of Charles I were equally silent on this head. Liberty never had more passionate devotees than our Saxon ancestors, among whom those principles of common law grew up which were reasserted in Magna Charta and the Petition of Right. But suffrage was not claimed. They were content that rulers should be elected by the sword, by hereditary succession, by revolution, or by accident; but, whoever ruled, religion and speech should be free, trial by jury and *habeas corpus* should be inviolate, the people should be secure in their persons, houses, papers, and effects from unreasonable searches and seizures; warrants should issue only on sworn probable cause, and no one should be held to answer for crime unless on presentment of a grand jury, or be deprived of life, liberty, or property without due process of law.

These were the great principles of civil liberty that were insisted on and obtained and maintained without popular elections once mentioned or thought of. Yet there are men in our day so ignorant as to teach that suffrage is essential to the negroes of the South to secure the civil rights we have conferred upon them. As if life, liberty, and the pursuit of happiness could not be secured without the ballot! Not only does all the history of English freedom disprove it, but the presence of women, minors, and foreigners in our midst in the full enjoyment of life, liberty, and the pursuit of happiness without the ballot demonstrates the folly of such a pretense.

It is not intended to deny that suffrage may be a safeguard to these civil rights; it is only not indispensable to them. When, in the organization of a State, suffrage is made universal or limited or qualified, it is controlled by high

considerations of convenience and general welfare, not by natural rights or necessity. Who shall be voters and who shall not be is a question of expediency rather than of principle, and is to be decided by a due regard to the greatest good of the greatest number. The framers of our Declaration of Independence so considered it; for, while they asserted the natural rights of the man and the principles of good government, they left it to the States which they called into being to regulate suffrage. The pith and substance of the Declaration of Independence are contained in these grand words:

"We, therefore, the Representatives of the United States in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name and by the authority of the good people of these Colonies, solemnly publish and declare that these united Colonies are, and of right ought to be, free and independent States; and that as free and independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do."

What a sublime fiat was that by which free and independent States were evoked from colonial dependence and bondage. If ever the voice of the people was the voice of God it was when it thundered these words into the ears of the nations: independent States, with full power to do all things which independent States may of right do. How large the charter here claimed! And how triumphantly it was borne aloft through the fires of the Revolution! And how absolute the acknowledgment that was wrung from the monarchs of earth that these poor dependent Colonies had, indeed, burst into States. Sir, do gentlemen consider what a State is? In law, it is treated as a corporation; but it is more than that, for corporations, both municipal and private, are merely creatures of the legislative will, whereas States make Legislatures instead of being made by them. No sharp definition of the incorporeal essence which we call a State is, perhaps, possible; but, without going into metaphysical distinctions, it may be said that a State is formed by an aggregation of individuals into one Commonwealth sufficiently numerous and possessing a territory sufficiently extensive to secure their independence and to enforce their will as supreme law. And when the supreme power is exercised by the people of such a State or by representatives of their own choosing the government is republican in form.

Such were the States which the colonists formed in 1776. They were thirteen living examples not only of States, but of republican States; and whoever would learn what our Constitution means when it speaks of guaranteeing republican forms of government has only to study the constitution of those States.

Two years after the Declaration of Independence these States, in the exercise of the inherent powers which they claimed to themselves, entered into Articles of Confederation in which they called themselves the "United States of America," a name which the subsequent Constitution retained.

The second article of Confederation reads as follows:

"Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this confederation expressly delegated to the United States in Congress assembled."

"ART. V. For the more convenient management of the general interest of the United States delegates shall be annually appointed in such manner as the Legislature of each State shall direct," &c.

Now, sir, take notice that while each State possessed necessarily, in virtue of its statehood, the absolute right of regulating suffrage within its own borders, it did not delegate this right to the Federal Government; but, on the contrary, the Federal Government agreed that its own rulers should be chosen by such electors as the States should qualify. Very important it is that this fundamental principle of our civil polity should be kept in view, for it is one of the mischievous devices of our times to scout State rights as a "pestiferous heresy," whereas it is really the rock on which our political fabric is built, and other foundation can no man lay than that is laid.



Usurpers do not like to hear of State rights, because they know that the doctrine of State rights, when rightly expounded and limited, is the highest safeguard of popular liberty, and the spirit of usurpation is always opposed to popular freedom. It would consolidate all governmental powers into a grand central oligarchy, the actual management of which would fall into the hands of the most adroit and unscrupulous politicians, who would make the people mere hewers of wood and drawers of water.

When the Constitution superseded the Articles of Confederation it provided, in article one, section two, that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

This is a very remarkable provision. It not only does not arrogate the regulation of suffrage to the Federal Government, and not only leaves it to the unrestricted will of the States, but it refers the members of the popular House of Congress to such electors as each State shall designate for electors of its own popular branch of the Legislature. And yet, as argued by Mr. Madison, in No. 52 of the *Federalist*, it was an arrangement that—

"Was safe to the United States, because, being fixed by the State constitutions, it is not alterable by the State governments; and it cannot be feared that the people of the States will alter this part of their constitutions in such a manner as to abridge the rights secured to them by the Federal Constitution."

The qualifications of electors being thus referred to the States and placed beyond control of the Federal Government, the fourth section of article one provides that the times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations except as to the places of choosing Senators.

The honorable gentleman from Pennsylvania [Mr. KELLEY] argued that this clause gave Congress plenary powers over suffrage in the States. Not so. The two clauses, the second and the fourth, are consistent with each other, are *pari materia*, as the lawyers say, and ought to be read together, though I could not persuade the gentleman to read them together. Taken together they amount to this: that the qualifications of the electors shall be prescribed by the States, and also the times, places, and manner of holding elections, but Congress may alter these regulations. Time, place, and manner, the mere scaffolding of suffrage, may be regulated by Congress, while the essential matter, the qualification of the elector, is committed wholly to the States. In the Virginia convention of 1788 Mr. Madison and others explained that the reason of giving Congress a right to regulate the time, place, and manner of suffrage was to secure uniformity throughout the country, but the fears of State action which prevailed at that day have not been realized, and this provision giving Congress an ultimate control over the accidents of suffrage has been found a useless though a harmless provision. The honorable gentleman [Mr. KELLEY] made a parade of the debates in the Virginia convention and in the First Congress upon this unimportant clause of the Constitution, and applied the *obiter dicta* which fell from gentlemen on this subject to the other and very different subject we are discussing—the qualifications of electors. His citations were irrelevant to the point in issue, and calculated only to mislead our judgments.

The States thus left free in all our history to regulate suffrage have conferred it according to their sovereign will and pleasure. In some States property qualifications are required, in others only a poll-tax; in some vagabonds and paupers are permitted to vote; in others they are not; in some negroes have the ballot, and in others it is denied to them. And in the same State it has at one period been extended to them; at another taken away. Thus

have the States used and controlled suffrage without abusing it. Until a very recent period their exclusive jurisdiction over the subject has never been questioned—they have been permitted to do as they would with that which was their own. But in the times upon which we are fallen, which are called times of progress in political science, all old truths are questioned, the landmarks of our liberties are ruthlessly dug up, and the passions of party are set up as the only standard of truth and duty.

It must be apparent to the dullest comprehension, from this brief review of our political history, that, except in the District of Columbia, the Federal Government has no suffrage to bestow upon anybody, white or black. No power over the subject was ever delegated, and, by necessary consequence as well as by express provision, all power over the subject was "reserved to the States respectively or to the people." (Art. 10 of the Amendments.)

It is sometimes argued that the second section of article four—"the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States"—gives the Federal Government power to confer a citizenship which the States are bound to respect in the matter of suffrage. But if this were so every foreigner whom the Federal Government naturalized would instantly become entitled to vote in any State without regard to its regulations about residence, tax-paying, &c. That this provision is entitled to no such application is apparent from the masterly summary of the civil and commercial rights secured by it which Judge Washington made in the case of *Corfield vs. Coryell*, (4 Washington Circuit Court Reports, 371,) and in which he included "the elective franchise as regulated and established by the laws and constitution of the State in which it is to be exercised." The elective franchise, then, which this clause of the Federal Constitution secures to the citizen is that which the States regulate and establish. Many other authorities might be cited to the same effect, but the text of the Constitution, the uniform usage of the Government, the civil and political history of the country, and all concurrent judicial authorities ought to be sufficient to silence cavils and to settle the proposition that suffrage is one of the reserved rights of the States and that the Federal Government has no power to confer or take it away.

Yet, sir, the reconstruction acts of Congress assume control over this State right, and undertake to disfranchise many citizens and to confer suffrage upon ignorant negroes just emancipated from the slavery in which they were born. This brings me to the two remaining heads of my discourse, which must be treated together, for negro suffrage and reconstruction are too intimately associated to be contemplated separately. They are twin heresies, and as they were sent into the world together, no doubt to curse us for our sins, together they will go out of the world after their mission of vengeance is ended, and be mentioned and remembered only as war, pestilence, famine, and other dire afflictions are remembered.

The first of these extraordinary acts of legislation that are indexed under the title of reconstruction was passed over the executive veto on the 2d March, 1867. It divided the ten southern States into five military districts, provided a military commander and army for each, gave to the commander authority to arrest, try, and punish offenders and disturbers of the public peace, "and all interference under color of State authority with the exercise of military authority under this act shall be null and void," which was the provision that struck down all the constitutional tribunals and subjected the civil to the military power in a time of peace. The act then went on to provide for forming a constitution for each State; it was to be framed by delegates elected by the male inhabitants over twenty-one years of age of "whatever race, color, or previous condition," except such as were disfranchised

for participation in the rebellion; the constitution to be formed was to provide that the elective franchise shall be enjoyed by the above classes, and when the constitution so formed should be approved by Congress, and the State Legislature elected under it shall have approved of the amendment to the Federal Constitution known as article fourteen, Senators and Representatives were to be admitted into Congress, provided that no person excluded from the privilege of holding office by said proposed amendment shall be eligible as a member of the convention or entitled to vote for members thereof. The final section of the act declared all civil governments in those States provisional only, "and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same."

Just twenty-one days after this unexampled act of usurpation was passed a supplementary law of nine sections was found necessary to complete the subjugation of the Saxon to the African. It provided for a registration of voters, which, however, should "include only those persons who are qualified to vote for delegates by the aforesaid act," and who should take an oath which many of the best men in the South could not take. Then these registered voters were to elect a convention to form a constitution, which was to be "ratified by a majority of the votes of the registered electors," and then submitted to Congress, who were to pass upon it, subject to various conditions, all of which looked to the stifling of the voice of white men.

The pretense put forward in the preamble of the original act for establishing this military despotism in ten free and independent States was that no legal governments existed therein, or adequate protection for life or liberty, upon which I make two observations:

First, if this were true, Congress found it out, not in the ordinary channels of information, but by some illegitimate and untrustworthy medium of communication. The ordinary modes in which Congress obtains local information is by petition of the people or executive communications from the President. But the people never told Congress there were no legal governments in those States, and how the President deprecated this legislation is shown by his emphatic veto.

The second remark upon the preamble is that it mistakes the fact. The fact is that legal State governments did exist in every one of these States, and had existed in some of them from the date of the Declaration of Independence, in others from the time of their admission into the Union; State governments republican in form and fact; State governments that Congress had often recognized and acknowledged; State governments that are indestructible by any power less than the voice of the people, because that was the power that called them into being.

Such were the avowed purposes of this legislation; but its tendency was not to establish legal governments and to protect persons and property, but to overthrow legal State governments, and to excite animosity and conflict between the whites and the blacks, the power to rule being carefully confided to the blacks. Nothing could be wilder apart, not even the poles, than the avowed purposes and the necessary tendencies of this legislation. The sign it wore on its frontlets was a mask to hide its destructive tendencies from the popular eye.

But, bad as it was, it was found not to be bad enough for the occasion. At the first session of the present Congress more legislation was necessary to interpret the prior acts, and at the present session still more to complete the subjugation of free States to a military despotism in the interest of the negro. And lest the Supreme Court should decide all this legislation unconstitutional we have passed a bill that requires two thirds of the judges to curb these acts, while a bare majority of that tribunal is competent to pass upon the lives, the liberties, and the property of the citizen.

It would seem as if this House could find nothing in the country, not even the absolute rights of life, liberty, and the pursuit of happiness, so precious in their eyes as these darling acts of reconstruction—nothing else so worthy to be elevated beyond the reach of the judiciary. The Senate hesitates to second this blow at the Supreme Court, but if they finally do, and the bill becomes a law, I hope the court will prove faithful enough to its high trust to declare this disabling enactment, and the reconstruction acts it is designed to shield, flagrant violations of the Constitution. Such a decree would infuse a new life into the body-politic.

Now, all this legislation is the building up of negro States by means of Federal bayonets. To regulate suffrage in the States by peaceful means would have been a subversion of our political system, but to force it upon a servile race by the sword, and to disfranchise those who inherit it in common with ourselves, is to levy war against the United States, and gentlemen can read the name of that crime in the Constitution.

When gentlemen have been pressed to point out the provision of the Federal Constitution which justified this monstrous legislation they have as a last resort taken refuge in section four, of article four:

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature or the Executive, against domestic violence."

This is a pledge of guarantee and protection. The reconstruction acts redeem this pledge with a vengeance. Let us look for a moment at the scope of this constitutional provision.

Thirteen States, uniting under a Federal Constitution, promise, the whole to each, to guaranty a republican form of government to each. The government of each was republican at that time, and it is a fair interpretation of the covenant therefore that it was a guarantee of the existing governments.

This would not prevent the States from abolishing the slavery which many of them tolerated, because the republicanism promised entitled them to regulate their domestic institutions according to their pleasure, retaining always the form of a republican government. And it was a solemn pledge of the Federal power to support the people of the States in their right of self-government. Taken in connection with the always admitted State right of suffrage, it was a pledge that this should never be violated, but should be secured to the States in perpetuity. Guarantee is an accessory or secondary contract. The States stood pledged to the people, the Federal Government guaranteed the redemption of the State pledge. If A contracts to build a house or paint a picture for B, that is an original undertaking and not a contract of guarantee; but if I contract with B that A shall do as he promised, there is a guarantee. This contract of guarantee presupposes an existing contract between parties, and superadds itself to what they have already established. The framers of the Constitution had an exquisite sense of the force of language, and when they bound the Federal Government to guaranty and protect the people of the States in such republican governments as they then enjoyed, the existence of the States and their obligations to the people were recognized. And if any State failed to perform its obligations the guarantor might be called on to perform for it. If invasion or insurrection were likely to overrun popular rights the Federal Government was bound to protect the people against these.

Now, who would have dreamed, in the wildest reveries to which human brain was ever subject, that such a provision, so reasonable, so fair, so considerate of State rights, would become the excuse for marching an army into ten States in time of peace, superseding Governors, judges, sheriffs, and all civil officers, and setting up military power to regulate the internal economy of the States, and especially suffrage? Yet we have seen just such a military despotism established by these reconstruc-

tion laws; and that not on the ground that they are conquered provinces subject to the will of the conqueror, but that they are States entitled to demand, or rather to have without demand or desire, performance of the guarantee clause of the Constitution. Unlike all other guarantors, we hasten to offer performance before breach of the covenant by the original parties! Upon this clause the reconstructionists plant themselves, for they refuse to follow their leader outside of the Constitution into those devious paths of international law which it is supposed entitle us to wreak our utter vengeance upon our prostrate foe. And I venture to affirm that this beneficent clause of the Constitution, as it never has been heretofore, will never again be invoked to justify so inhuman a policy. Why, sir, what sort of republicanism do the reconstruction enactments guaranty to the southern States? Military invasion, constitutions written with the point of bayonets, *habeas corpus* suspended, civil tribunals abolished, white men disfranchised, and suffrage forced upon a stupid, ignorant race of negroes who scarcely know how to wield it under the dictation of military masters. Call you this guarantying a republican government? If some foreign enemy had undertaken to do in those States the precise things we have done this clause of the Constitution would have obliged us to protect the people against the enormous wrong, yet we pretend to find in it our justification for inflicting the wrong with our own mailed arm. It had been better to rest our acts upon the imperial maxim "*sic volo, sic jubeo*." It would have been more candid to have confessed ourselves outside of the Constitution, working our will upon our victims according to no rule but our passions, instead of attempting to torture the benignant provisions of the Constitution into the support of an anti-republican tyranny.

The pretense is insincere. It was not to guaranty republican governments to those States that this scheme of reconstruction was devised. The reader of our current history will stultify himself who so understands it. It was rather to overrun and destroy the republican governments which existed there—to strip white men of their hereditary suffrage and to confer it upon negroes. Negro suffrage and negro supremacy over white men are what reconstruction means, and so the world does read and will read our record.

Now, sir, I have shown sufficiently that the Federal Government has no power to qualify electors in the States. It would be rank usurpation to dictate to the States what white men should vote; it is an intolerable wrong to set up negro suffrage.

If negroes ever acquire the right to vote in the States they must obtain it from the States themselves. The Federal Government cannot confer it, for it has no suffrage to bestow outside of the District of Columbia and the Territories. When any State shall, in the exercise of its unconstrained will, admit the black race to the right of suffrage, I shall respect and acknowledge it. Much as my individual tastes might incline me to vote against negro suffrage in my own State, and fatal as I believe it would be to the peace and comfort of the negroes themselves, yet whenever Pennsylvania, in the free and fair exercise of her sovereign will, shall admit them to a suffrage, either general or restricted, I will reluctantly, but honestly, say amen.

With no undue prejudice against this race, entertaining always the kind and sympathetic feeling for them which a state of inferiority and dependence begets, I have always treated them with tenderness, and have contributed in various forms to their welfare; but, well knowing that they were never a party to the social compact on which our political institutions are founded, and believing that neither their comfort nor our own would be promoted by admitting them into political partnership, I am, and always have been, against negro suffrage. I do not place my objections on ethnological distinctions of races, nor on the denial which is

sometimes made, but which I am always pained to hear, that they are human beings, having a common God and Father of us all and a common destiny with ourselves; but I place it on those high considerations of expediency which always prevailed with the founders of our Government. It is not best for the common interests of both races that the inferior should share political privileges with the superior. The men who planned a government in the cabin of the Mayflower were white men—the men who made the Declaration of Independence, the Articles of Confederation, and the Constitution of the United States were white men. The naturalization laws expressly declared that all foreigners who should be admitted into political partnership with us should be white men.

Thus, sir, this has been from the root upward a white man's Government, and it has enjoyed the Divine benediction as such. The negro race had nothing to do with planning or building it up. They have been so well cared for that they have increased and multiplied beyond all example, and if left to be protected by white men, as women are, they are in no more danger of suffering persecution than the gentler sex. Brought here in slavery, the ancestors of these people did not enter as voluntary partners into our political system, and their progeny have never become parties to the compact. This is abundantly shown by the judicial authorities I referred to a few days since, especially the opinion of Chief Justice Gibson, in *Hobbs vs. Fogg*; Chief Justice Taney, in *Dred Scott's case*; and of Mr. Justice Agnew, in *Miles vs. The Railroad Company*. Highly inexpedient, in my humble judgment, as it would be to thrust this race into a compact of white men, if it is to be done it must be by State action and not by superserviceable meddling on the part of the Federal Government. Better let us encourage them to emigrate to Liberia, as the Colonization Society, whose petition has lately been laid before us, urges us to do, and, upheld by the strong arms of English and American benevolence, they may possibly found a state in their fatherland that shall gradually dissipate the thick darkness that has settled for centuries upon Central Africa.

But the learned gentleman from Pennsylvania [Mr. STEVENS] thinks universal suffrage is the panacea for all the hurts and ills of the body-politic. This he conceives is the grand, culminating point of modern civilization and political science. It is amazing that while he is so enamored of universal suffrage he should persist in disfranchising his fellow-citizens in the southern States. The benevolence that fires at such long range as to overlook the poor and oppressed kindred at your own door and is spent on Africans, who neither need nor deserve it, is not very remarkable for sharpness of sight nor worthy of commendation. Universal suffrage, when it can express the free will of a white yeomanry and is developed by the natural growth of communities in virtue, intelligence, and patriotism, will have all the testimonies of my heart of hearts; but your universal suffrage which comes with a sword in one hand and bills of confiscation and of pains and penalties in the other, which strikes down the hereditary suffrage of intelligent men and confers it on ignorant negroes whom insatiate lust of power expects to use as its supple instruments, talk not of that as progress in political science, as an "inalienable right which ranks with life and liberty." Does not the honorable gentleman know that the petty republics in which a suffrage absolutely universal was practiced have long perished from off the earth? Does he not know that the great struggles of humanity have been for civil rights, not for suffrage? Is he yet to learn that suffrage is more general in despotic France than in free America? And has he not discovered that a form of free government may remain long after the vital principle has been killed out? Sir, when I contemplate all that is being done in this country in the name of universal suffrage, loyalty, and such good words, I feel like



exclaiming, with Madame Roland, "O Liberty! what wrongs are perpetrated in thy name."

But, sir, I must hasten to close with a summary of the thoughts suggested:

1. Suffrage is a conventional and not a natural right.

2. It is bestowed by the parties to the social compact according to their views of their best interests.

3. In our political system it is a reserved and an exclusive right of the States with which the Federal Government has no right to interfere.

4. The reconstruction acts violate this fundamental law.

5. Negro suffrage, if ever established, must be done by the States; but the highest good of both races forbids it, and dictates rather that the African should be colonized on his native shores.

Mr. Speaker, without exhausting the subject my time is exhausted. I beg leave only to add that thirty years ago I had occasion to discuss negro suffrage in the Pennsylvania constitutional convention, and having now before me a speech I then made, I propose to conclude my present remarks with the following extracts from that speech. I have only to say that the experience and observation of nearly a third of a century have tended to confirm the conclusions then expressed:

"Who ought to be voters in Pennsylvania? Or, in other words, who ought to have the political control of our Government. This is a question of the first impression and of great magnitude. When you have established your Government and distributed its powers among the several departments of Government, legislative, executive, and judicial, it remains to decide who shall control and direct that Government. The machine may be well supplied with all the necessary wheels and springs; but in preparing and fitting them no question can arise of so great moment as who shall have the regulation of its motion and direction when it is finished and ready for use. This question has now to be answered with reference to two distinct and separate classes of men, the whites and the blacks; and from all thereoflection I have been able to give the subject I am prepared to say the political powers of this Government ought to be exercised exclusively by the whites. In coming to this conclusion, sir, I have endeavored as far as possible to divest my mind of all the popular prejudices against the African race whom we have among us. They deserve my sympathies, and they have them; but I feel unwilling to surrender this Government, in whole or in part, into their keeping; and I am therefore prepared to vote for this amendment, and to say in our constitution that the voters of Pennsylvania shall be white freemen.

"The reasons for this vote must be stated; but I cannot explain them clearly without noticing a few prominent and undoubted facts which attended the introduction of negroes into Pennsylvania and the other American Colonies, and which now mark their condition here. The first fact, then, to which I invite the attention of the Convention is that the negroes of Africa were brought into these Colonies by the English. Whatever the sin was of seizing the defenseless African, of tearing him from his home and country, and carrying him into hopeless bondage in a distant land, lies at the door of England. And whatever of evil has resulted or is to result to the colored people or the whites of this country from the institution of domestic slavery and the presence among us of large masses of degraded and wretched blacks is also fairly chargeable to the inhuman policy of Great Britain. From the middle of the sixteenth century up to 1807 England carried on an extensive slave trade from the coast of Africa; and while the American Colonies belonged to her she made it a State object to introduce so many of them here as would render the Colonies more productive and beneficial to her. Avarice and an ambition for commercial supremacy were the motives which impelled England to the vigorous prosecution of the slave trade. And she made it as far as she could her own trade. She incorporated African companies and gave to these and her merchants a monopoly of the business. If the Colonies desired a participation in this nefarious traffic they were excluded by the monopolizing inhumanity of the mother country, and did not, to any considerable extent, engage in it.

"The next fact to which I refer is that from a very early day in the history of the Colonies they resisted in every way they could, by petitions and remonstrances and laws, the continuance of the slave trade and the increasing of the black population by importation. I find that in 1688 the 'Friends,' who have always been foremost in Pennsylvania to consider and agitate the subject. The German Friends settled at Germantown presented a protest at their yearly meeting—this year held at Burlington—drawn by Daniel F. Pastorius, against the 'buying, selling, and holding men in slavery, as inconsistent with the Christian religion.' That meeting did not feel prepared to act, and declared it not proper then to give a positive judgment in the case. In 1696 the yearly meeting discouraged the further importation of slaves and adopted measures for their moral improvement. In the same year George Keith and his

friends denounced the institution of slavery 'as contrary to the religion of Christ, the rights of man, and sound reason and policy.' About the same period several of the other Colonies began to move in the same direction. Massachusetts, in 1645, made a law prohibiting the buying and selling of slaves, except those taken in lawful war or reduced to servitude for their crimes by a judicial sentence; and in 1703 Massachusetts imposed a heavy duty on every negro imported, for the payment of which both the master and vessel were answerable."

"In 1728 Pennsylvania passed a law imposing a duty on the importation of negroes and allowing a drawback on their reexportation. Virginia, too, was early and earnest in her opposition to the introduction of negroes. By petitions to the crown and Colonial Legislature she discouraged to the utmost this inhuman traffic, which had long been a settled and a favorite policy of England; and the first Legislature which met under the first constitution of Virginia abolished the traffic.

"These measures were constantly opposed by the mother country. To the petitions of the Colonists she turned a deaf ear; to their legislation she opposed her negative, and overruled and defeated every effort which was made in the Colonies for preventing the introduction of the negro population. And this policy, so disgraceful to England and so injurious to the Colonies, so perseveringly adhered to by her, and so abundant in bitter fruits to us, was one of the causes which finally impelled the Colonies to throw off their allegiance to Great Britain."

"So soon as the Colonies became free States they abolished the slave trade—Virginia in 1778, Pennsylvania in 1780, Massachusetts, Connecticut, and Rhode Island in 1787 or 1788. The Revolution was not yet fought, their independence was not yet established, when the Old Dominion and the future Keystone of the Federal arch extinguished forever within their borders the nefarious traffic in human flesh. Now, sir, let it be remembered that England, who forced slavery upon us, and whose authors, orators, and travelers denounced us on account of it, did not herself abolish the slave trade until 1807."

"Federal America interdicted the slave trade from her ports thirteen years before Great Britain. She made it punishable as a crime seven years before, and she fixed four years sooner the period of non-importation."

"During the time the British nation was engaged in the slave trade, from the early part of the sixteenth century to the year 1807, a period of nearly two hundred and fifty years, it is estimated that she must have torn from their homes in Africa six or seven million human beings, and carried them away into hopeless slavery. If the English, instead of superadding to their guilt by attempts to dissolve our Union and to sacrifice our liberties, were to enlighten, civilize, and Christianize the remaining millions on the continent of Africa, they would scarcely atone for the deep and unutterable injuries inflicted on that race by their prosecution of the slave trade.

"The history of slavery in the American colonies establishes the fact beyond all controversy that negroes were brought here and planted by the power of England against the will as well of the negroes themselves as of the colonists. They were forced upon us. They came not as the primitive colonists came, searching for liberty; but, torn from their native soil by English rapacity, they were brought here slaves. The colonists sought these peaceful shores as a refuge from tyranny, and as a home where they might worship God according to the dictates of their consciences, and enjoy all the blessings of civil and religious freedom. And when in further pursuit of these objects they proceeded to establish governments, there was in their voluntary presence here an implied consent to the forms of government which were adopted. They were freemen, capable to consent to a particular form of government, and they did consent. It is the great excellence and beauty of our system that it is founded on the consent of the governed, so that allegiance and fidelity result as necessary consequences, and need not to be enforced by oaths and positive enactments.

"But, sir, the negroes never assented, and their presence here, since it was procured by fraud and force, could not be construed into an adoption of the country or an acquiescence in its terms of government. They were brought here to be slaves and not freemen; and they were slaves and not freemen when the principles of government were agreed on, and when its foundations were laid. They had neither lot nor part in the matter. I inquire not whether they ought to have had. Sufficient for my present purpose is the fact that they had not. No, sir; this Government, the control of which it is now proposed to divide with the colored race, was founded and reared by white freemen; it was a white Government and not a parti-colored. In its institution they had no voice; in its early struggles no share. It was founded by white men and freemen, and they bequeathed it to us. Shall we preserve it as we inherited it, or share it with a race with whom we cannot have any social equality? It seems to be supposed that since the first establishment of free government in this country the condition of the negro, at least in Pennsylvania, has been so changed as to qualify him for the proposed participation. A great change has, indeed, been wrought in his condition by our humane legislation, but nothing which elevates him to political brotherhood with us.

"The act of 1780, which abolished slavery in Pennsylvania, has already been referred to. That act was a proud monument to the humane policy of the State, and presents a contrast with the course of England on the subject of slavery which no Pennsylvanian need blush to look on. It wiped out the stain of slavery which England had left on our soil, and conferred on the negro what he had not before enjoyed, civil freedom. It secured to him those civil rights to which he, in common with all other

human beings, of whatever clime or complexion, had an inalienable title, and of which he never ought to have been deprived. But did it do more? Did it confer political equality? Did it say to the negro, 'You have indeed been thrust upon our soil by your oppressor and ours against your consent and in defiance of our opposition; but we bestow on you now a full measure of our political privileges, which we have purchased at so great a cost of blood and treasure?' No; such was not the construction of that law. It pledged the security of the Government for his life, liberty, his reputation, and property; but it went no further. It has never been understood to confer any political privileges; it opened no door for him into the political family. The Legislature of Pennsylvania and the public at large have never so understood it.

"The naturalization laws illustrate and fortify this position. A free white alien comes to Pennsylvania and establishes a residence. No law compels him to become naturalized.

"We receive him into the community on a footing of exact equality with ourselves, so far as relates to his natural and civil rights. We extend to him not only the charities of life, but the same protecting laws which secure our interests; and he may live his whole lifetime in this condition, and be all the while as destitute of our political privileges as if he had never set foot on our soil. Into that condition, sir, and no more, did the act of 1780 bring the negro. Before the alien can add our political privileges to his other rights he must become naturalized; but no provision has been made for admitting colored men, whether native or alien born, to political equality. And I infer, from the absence of all such provisions, that it was never dreamed of in the early days of our Government, that these people were to be made voters. Some act like that of naturalization would be necessary to testify the allegiance of even native negroes; for when we look into the history of the race we can find nothing in the fact of their presence among us which is a pledge for their fidelity to the Government.

"But no means have been provided for their testifying their allegiance, even though they come here voluntarily from abroad and take up a residence like other foreigners; and is not this indicative of the universal understanding of our people that they do not and ought not to possess our political privileges? The act of 1780 was not a naturalization law. It could not be; for it was the act of a single State and would have interfered with the uniformity which was to prevail under the legislation of Congress in reference to naturalization, and would have been unconstitutional. It attempted no impossibilities; and it accomplished whatever it attempted, the relief of the Pennsylvania negro from slavery and all its disabilities, and here it stopped. The negroes have themselves understood it in the same manner as the whites. In common with the whites, they have appealed to the laws for the redress of their injuries and the protection of their rights; but they never have as a body exercised or claimed the right of exercising the political privilege of voting. I do not say that now and then on occasions of great popular excitement a single vote, or perhaps a few votes, may have been offered at the polls by negroes, and occasionally perhaps these votes have been received; but my general position is not affected by these instances, that the negroes as a body have never claimed the rights and privileges which have lately been discovered to have belonged to them since 1780.

"No, sir; they have lived in the peaceful enjoyment of their civil rights, exempted from the payment of such taxes as are assessed on the person, and from the performance of those duties which attend the right of suffrage; and they might have continued to enjoy the blessings of freedom without prejudice, excitement, or reproach, if a new party had not started into existence who arrogate to themselves a peculiar sympathy for this injured race, and who testify their affection by sowing discord and jealousies where peace and confidence prevailed before. Would they not have been content so to live? Do they now ask for any change in their past condition? But an excitement has been produced in the country which threatens to overthrow all the Governments hitherto the protection of the blacks as well as the whites; an excitement which is rending society to its foundation, and which threatens to melt in its lurid flames the bonds of our national Union; and, under the influence of this pernicious excitement, men demand for the blacks what the blacks never demanded themselves—a share, a partnership with us in the administration of this Government of ours.

"If this point could be gained, if the negro race could be elevated to political equality with the white voters of Pennsylvania, this excitement would acquire a new impulse, and the war of the Abolitionists against our southern brethren would be waged with redoubled ferocity. I cannot assent to it. Let us rescue our institutions from meditated debasement by declaring what has always been understood, that voters must be white men. Let us rebuke the excitement which has been kindled by the bad passions of the North by a vote which will show that we mean not to disturb the foundation of our political fabric, but that we do mean to preserve them where our revolutionary ancestors planted them."

"For the manifold evils which connect themselves with the black population of this country, slavery, abolitionism, questions of suffrage and all, there is a remedy—a peaceful and a constitutional remedy. My friend from Alleghany [Mr. Forward] has discussed it. It is colonization. The negroes belong to Africa; they were cruelly torn from that country, and if now they could be returned to their fatherland with the arts of civilization and the lights of education and religion, their bondage might prove a blessing to the benighted millions who inhabit that continent.

"Colonization is the antidote both for slavery and that wild fanaticism which is far-spreading now, and destined one day to rock this Union—it is the best expedient both for the blacks and the whites. Sir, by giving the blacks the right of suffrage, an everlasting obstacle is thrown in the way of colonization—it will chain them to us, and expose them to every species of indignity and outrage on the election grounds. Broils and bloodshed will be the inevitable consequence of their attempts to vote, particularly in large and dense communities like this. But if you deny them the right to vote, you not only save them from this danger, but you keep before them an abiding lesson, that this is not their fit resting-place, and that on the luxuriant soil and in the genial climate of the country of their ancestors, they could enjoy a full measure of the privileges which are denied them here. The amendment becomes another argument for colonization, and as such is worthy of all support.

"Sir, I believe the negro race to be capable of self-government, and if habits of industry be cultivated among them in the colonies of western Africa, and if care be taken to educate them, they may in our day present the delightful spectacle of a great, free, and prosperous people. Undoubtedly they deserve civil and religious freedom, and with proper culture are capable of enjoying it. Thither, then, would I turn the eyes and hopes of these people. Thither, then, let them go with our political principles, and establish governments after our model, which may protect them, and exert salutary effects on their fellow Africans, now ignorant of all the blessings of civilization. And, sir, verily do I believe that the much-wronged people of the South would add to the tide of emigration by gradually abolishing slavery, and sending their blacks to Africa, so that we might hope that our country would see the day when slavery on her soil would be extinct—her whole population white people, and this same Government still enduring the glory of the world and the fountain of infinite happiness."

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that that body had passed a bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, with amendments, in which the concurrence of the House was requested.

#### FREEDMEN'S BUREAU.

Mr. NIBLACK. Mr. Speaker, when the Freedmen's Bureau bill was under consideration, I endeavored to obtain the floor to state some of my objections to its passage, but was unable to do so in consequence of the very limited time allowed for discussion on that measure. I do not propose to-day, in view of the fact that the bill has already passed this House and is now pending in the Senate, to attempt anything like a discussion of the merits of the measure or to submit in detail the many objections I have to the enactment of that bill and of all prior bills on this subject which have been passed during the last as well as the present Congress.

So long as the doctrines of the Dred Scott decision, as they are frequently termed, prevailed in this country—which were in substance that the negro was an inferior race, not a part of the governing power of the country, not a party to the social compact which organized in the first place the governments of the States and afterward the Government of the United States—there was to my mind some reason, some apology for attempting to govern the colored people of the country by different laws from those by which the white people were governed. We were justified under that theory in treating them as an alien element among us, as the people of another country, another nation.

Upon that theory we might with some degree of consistency enact this Freedmen's Bureau bill and continue in force the law on that subject. But, sir, I submit in all seriousness that since the passage of the civil rights bill, which is now a part of the law of the land and enforced, I believe, by all the Departments of the Government—at all events never yet declared to be unconstitutional by the courts of the country, at least the courts of last resort—I submit that to attempt now, in view of this condition of things, to govern the negro race in this country by separate laws and by an independent bureau is absurd in theory as it is pernicious in practice. If they are, in point of fact, as the other side claim they are, a part of the governing power of this country, really citizens of the United States, entitled to enjoy the right of elective franchise, then, sir, I think

the commonest consistency requires no greater means shall be taken for their protection than for the protection of any other class of citizens. Therefore this proposition, that by a sort of military authority they shall be governed and special care taken of them, is a gross violation of those very principles of equality which gentlemen asked for when they passed the civil rights bill, and which runs through all the other legislation of Congress peculiarly affecting the southern States.

But, sir, my principal object was to have a letter read from a gentleman formerly from my State, and who for many years was a distinguished officer of the Federal Army, whose loyalty, integrity, and intelligence no one doubts who is acquainted with him. He presents some of the objections to this measure more forcibly and graphically than I can, for he is now a resident of one of these southern States, and, of course, has better opportunities to know the practical workings of the Freedmen's Bureau, and I will have this letter read, especially since the gentleman from Massachusetts [Mr. ELIOT] stated that opposition to this bureau came from none other than disloyal sources. It is a private letter and was not intended for publication, and I do not propose to disclose his name at present. I ask the Clerk to read all but the name and the last two lines.

The Clerk read as follows:

VICKSBURG, December 26, 1867.

DEAR SIR: I see by the papers here that Major General Gillem has been sent by General Ord, commanding this department, to the capital to represent the suffering condition of the freedmen and to ask aid from the Government in their behalf. The order says their condition has been brought on by the bankruptcy of the planters, and wants them to be fed, and especially those who are armed, to prevent a war of races. It seems to me that any legislation or action having this object in view would be unwise and entail unnecessary additional burdens, in the way of taxes, upon the people of the country. Nothing, in my opinion, has done so much to render the freedmen worthless and indifferent as to working for their support as this fostering care of the Government. They are about convinced that they will be taken care of at all hazards, and do not care a fig whether they try to support themselves or not. They are much more responsible, next to the Freedmen's Bureau, for the present condition of things than any one else. In the beginning of the season just closed inducements were held out to the planters and to the merchants by the military to employ the freedmen and furnish them lands, provisions, clothing, and all means necessary to cultivate the crops. In most cases contracts were made to work on the shares, the freedmen to have one half the crop, the cost of his supplies and clothing to be deducted therefrom. It is a notorious fact that they did not half work, and at the close of the season there were but few instances in which the entire crop would pay for the supplies alone, much less the use of the land, stock, and implements. The freedmen, not being able to see how they must labor all the year and come out in debt, run to the bureau with their complaints of fraud, &c., and an order is too readily and willingly issued upon this *ex parte* testimony all in the interest of the freedmen and against the planter and the merchant. The entire course, so far, looks as though it was intended to teach the freedmen to repudiate their contracts and to let those who have supported them whistle for their pay.

General Ord has even gone so far as to issue an order making the crop of this year liable for the claims of those who worked on the same place last year, thus, in some instances, entirely setting aside the claim of the merchant who fed and clothed the freedmen who made this year's crop. The planters are not only bankrupt, as General Ord says in his order sending General Gillem to Washington, but the merchants are great sufferers. The course of proceeding I have mentioned may be a temporary advantage to the freedman, but, if I am not very much mistaken, it will prove a hardship to him in the end, and unless the Government does take charge of them as so many paupers there will be actual suffering among them in the future. If they are to be given all the benefits and bear none of the burdens; if this officious and rather indifferently administered bureau is to be here to step in and act as commission merchant (as the one here does) and appropriate the proceeds as it suits their tastes, regardless of the interests of any one, I cannot see who will be silly enough to furnish lands and stock and clothing and food for the freedmen to operate upon in the future, unless, indeed, it be some men in Congress who know little of the true situation and care less.

The only real concern the freedmen hereabouts have manifested was not many days since, when General Gillem issued an order requiring them to go to work, if only for their board, or be treated as vagrants. Now that they have learned he is on a mission to Washington they have quieted their fears, and, like the ever hopeful Micawber, are "waiting for something to turn up." As long as the Government keeps turning it up for them they will not, as a rule, be anything but a burden. I do hope that no legislation, as contemplated in General Gillem's mis-

sion, will be worked through. It would certainly be unjust to the tax-payer and injurious to the freedmen. There is no excuse for suffering in this productive country for the want of food except pure indolence or miserable management. This, I think, is a fair representation of affairs here in a brief way.

HON. WILLIAM E. NIBLACK, M. C.

Mr. NIBLACK. Mr. Speaker, I do not attempt to enlarge upon what I have already said or the suggestions contained in that letter. Similar testimony comes to us from other sources all over the South.

I have no question myself, and never have doubted so long as the fostering care of this Government is continued as it now is by the Freedmen's Bureau, the colored people of the southern States will continue to be, as they have all the time been since their emancipation, a burden upon the Government; while, in the meantime they will acquire none of the habits of industry and of reliance which will make them a self-sustaining people. Sooner or later they must be thrown upon their resources, and I know no reason, if they are ever to take care of themselves, why they should not begin now. To attempt to perpetuate this Freedmen's Bureau is to perpetuate the anomalous condition of things which the people of this country will not always patiently submit to. But, sir, I will not occupy the attention of the House longer to-day, and now thank the gentleman from Pennsylvania [Mr. WOODWARD] for his courtesy in yielding to me.

#### ADMISSION OF ALABAMA.

Mr. PETERS. Mr. Speaker, I wish to say a word for Alabama. I took occasion, not long ago, to say something before the House about reconstruction, and to put upon record certain written evidence of the condition of politics in that State. I have felt much interest in her affairs. I have been particularly attracted in that direction, because among her loyal and struggling thousands, who are endeavoring to take her from the thralldom of slavery and rebellion, are many earnest, honest, and reliable men who are sons of Maine. Circumstances have thrown me of late into a considerable correspondence and sympathy with them. For one, sir, I am earnest for her admission now under the bill which is at this time before us. There are, to my mind, pressing reasons for such a measure.

In my opinion, sir, it would exceedingly encourage and gratify the people of the whole country to see Alabama in her place among the States. The country would feel greatly rejoiced to see some progress in the work of reconstruction. It would be a step forward. It would show the world that we are advancing in the execution of our plan. The great masses will patiently wait for us if we only show signs that the work is actually going on. It has now been about three years since actual hostilities ceased, and but one of all the seceding States has been brought back again; and who does not recollect and appreciate the thrill of joy that ran over this nation when Tennessee was readmitted! It was an augury of the future. It stopped the mouth of our enemies, who denied our desire and purpose to bring back the rebellious States as soon as it could be done, and maintain the dignity and safety of the nation. It did much toward conferring power upon the party having the responsibility for the government of the land. And how well has Tennessee maintained herself! But for that act of restoration she might to-day have been controlled by the withering influence of rebellion; instead of which she is now represented upon this floor by a MAYNARD and a MULLINS, a TRIMBLE and STOKES, and other eloquent and loyal sons. The prompt and liberal action of Congress toward Tennessee gave her a wonderful impulse in her determination to be loyal and free. May we not to-day make Alabama as proud and patriotic a State? The people are looking for our efforts to bring all the discordant portions of our country into a harmonious whole; let us give them this experiment—let others follow.

The rejection of Alabama would terribly dis-

courage the loyal white and black people of that State. They have exhausted themselves in means and money, and almost in mind and body, in the election which has just taken place. They have shown wonderful heroism in accomplishing as much as they have accomplished against such terrible odds. The blacks have acted the part of martyrs. They have in many instances footed it for distances of even twenty to forty miles, swam swift currents, been without rest or food for well nigh several days at a time, and breasted all sorts of danger to reach a chance to vote. They have sought or received no office or nomination; they have claimed no pay. Many of them knew they would for such act be driven from their hearths and homes, and be subject to personal injury, not excepting even death. Words can hardly describe their sufferings, nor would many men believe their story of woe so awfully true. All this has been endured by the black people of Alabama for the sake of giving aid to a country which has promised them the boon that they shall be free. What noble heroism! Nothing but a reliance upon God, for which that humble race are so remarkably, would ever enable them to afford us such splendid example. They cannot repeat such efforts without encouragement from us. They will be discouraged and dispirited if after all such efforts they can see and feel no practical results. Their enemies will have more potent weapons with which to oppose them, and trample their rights in the dust. If disappointed now, the black population will hesitate and falter by and by, till their cause in that State may be lost. Nor will they alone suffer from our inaction. The loyal whites of that State will have to pause in the work of reconstruction. Their representatives here, who have come to Washington to maintain their cause, say they would hardly be safe to return. If admitted, Alabama can maintain herself; if rejected, the cause of loyalty and freedom, for a season at least, in that State must die.

But, Mr. Speaker, there can be no reasonable doubt that Alabama has complied with the requirement that a majority of the registered votes shall be cast, if such compliance should be necessary. There was an essential performance of the condition, if condition it is. While the nominal failure in the number of votes is not great, the real failure is none. Between seventy and eighty thousand votes were thrown for the constitution, and about one thousand against. Adding to this the number of votes shown to have been cast, and not known to General Grant when he reported to the House what information he had, and a very few thousands more would in any view have been enough. But the evidence is quite conclusive and satisfactory, that on account of the peculiar condition of that country the number who have died or left the State since the date of their registry would even exceed the number wanted to bring out such a result. Again, the evidence is as clear as sunlight that thousands upon thousands of electors who offered to vote were deprived of the privilege on account of various and almost endless errors in names. The hostile registrars of election were very strict constructionists about names, when slavery had hardly allowed name enough to a black man to be known by.

But, Mr. Speaker, if the terms of admission have not been literally complied with, it was on account of the fraudulent, violent, and wicked conduct of the red-hot rebels of Alabama, who were as bent upon keeping that State out of the Union as they were in taking her out in the beginning of rebellion.

Mr. ELDRIDGE. Mr. Speaker, I ask the gentleman from Maine what evidence he has that the state of things existed in Alabama to which he has referred? I should also like to know whether he does or not claim that Alabama is a State in the Union? I understood him to say that the rebels of that State were as anxious and persistent to keep the State out of the Union—to prevent her coming back—as they were to take her out originally. If the

State is out of the Union, as he seemed to intimate, at what time did it go out and what power took it out?

Mr. PETERS. As to the evidence, in the first place it is one of great notoriety. It has been wafted on the newspaper press to every part of the country. It has come to us in the private letters and other communications every member of this House has received. It is in evidence before the Reconstruction Committee in detail, and it will be laid before the House before this question is closed. I have had the pleasure of referring to that evidence in general. I am fully convinced; I have no doubt the House is fully convinced; I have no doubt the nation is convinced of the truth of the facts I have stated.

As to the other question of the gentleman, it seems to me it has been put and answered a great many times on this floor. I remember that the gentleman asked the question once of the gentleman now in the chair, [Mr. LAWRENCE, of Ohio,] by whom it was fully answered. I can only state that in my opinion the rebellion took these States out of the Union, at least so far as to leave them States without any political rights in the Union at the present time, excepting such rights as may be allowed them by Congress.

Mr. ELDRIDGE. Will the gentleman then allow me to ask him this question? If the rebellion took the confederate States out of the Union then does the gentleman consider that the rebellion was successful? I understand that the rebellion, when it was inaugurated, was intended to take those States out of the Union. I had supposed that the armies of the loyal North had been successful and had overthrown the rebellion and prevented its success, thereby preserving those States to the Union.

Mr. PETERS. Yes, the rebellion succeeded to the extent of taking those States out of any political rights in the Union. We have conquered them; we have seized them; they are in our possession, and they can be allowed to come back again when they have attained a fit political condition for that purpose, a condition to which, I contend, Alabama has now attained, and which no other of these rebel States has yet reached.

The proofs upon this point are incontestable. Shall the men who have committed the frauds against the adoption of this constitution have the benefit of such fraudulent action? Shall we hesitate to pass this bill because it will not suit rebels, who have not even voted upon the issue, but who have, by force and threat and guile, restrained thousands of others from voting? But the gentleman from Pennsylvania [Mr. BOYER] upon this floor has asked how could any frauds have been committed except by Republicans, because they only had the appointing power. Let me ask, sir, why was General Pope removed by Andrew Johnson from this military district? Why was General Swayne ordered away? Was it not to give more opportunities to the supporters of rebellion to stifle the voice of the loyal people? Was it not an emphatic expression of the President of the United States against the constitution offered to the electors of that State? Was it not an act of rebellion in itself? Mr. Speaker, I will read a letter just received from a gentleman in Alabama, every word of which, I have no doubt, is literal truth. The picture here drawn will show gentlemen and the country whether frauds were committed, and who committed them. Bear in mind that while it is reckoned that at least thirty thousand white men voted for the convention no more than from three to five thousand of the same color dared to vote upon the constitution which that convention had adopted:

GREENVILLE, ALABAMA, March 2, 1868.

DEAR SIR: I had refrained from writing you in regard to the election, thinking that the facts would be so fully stated by the Alabamians now in Washington, and the case would be such a clear one for congressional action, that there would be no justification for my troubling you. But the delay that has already occurred, and the adverse reports of newspaper correspondents, awaken a fear that for some, to me, unaccountable reason Congress is not

decided upon the matter. I wish only that all who are in doubt whether the free choice of the legal voters of Alabama would have ratified the constitution could have been, *in cogno*, witnesses of the scenes at the polling place for this (Butler) county. They would have seen the registrar deprived of all competent assistance by the force of social and business proscription for the express purpose of hindering the voting and discouraging the brave and patient crowds waiting in the bitter storm to strike the last blow at the shackles their old masters are trying so hard to keep fastened upon them.

These men have come from five to forty miles on foot. Many of them have stripped and swam the deep and swift creeks that crossed their route. They have traveled through the woods and by night, avoiding the observation of their fellow-citizens, gifted with white skins, as the hunted fugitive did in the days of ownership slavery. They have endeavored to show the Congress of the United States that they appreciate their generous sympathy and aid, but they find all the vast machinery that Congress has set in motion clogged and frustrated by the petty devices of rebel malignants. The unknown looker on would have seen next the sheriff of the county, a fuming and blatant rebel, with a posse of twelve men, selected notoriously for their bitter and reckless hatred and their active partizanship against the constitution. These men crowd around the polling window, filling all the space behind the ropes and compelling every voter to pass between their lines. The duty of a posse *comitatus* is supposed to be that of keeping order in the crowd and in the town should any disturbance arise. The actual employment of this set was to watch and mark every man who voted and give immediate information to his employer, so that he might be discharged, in accordance with the resolutions of the Conservative Club adopted the Saturday night before election.

Two of the posse stood at the window, book and pencil in hand, to take names and challenge voters. They would challenge upon the most frivolous causes, and endeavor to confuse and mislead the voter into a statement of something to his prejudice. Others would talk with voters as they stood waiting their turn, and by threats and promises try to induce them not to vote. For a time they compelled every voter, at a certain point in the line, to pull off his hat and bow before he could go on to vote. All of them continually were jeering, scouting, ridiculing, and insulting the voters as they came up. Their rebel friends outside the ropes passed back and forth the jests, curses, and information that the posse gave out to them, and on one occasion circulated a scandalous and obscene drawing of the registrar, which was passed around among the posse with boisterous manifestations of admiration. If these observers had been known to the colored people, and had their confidence, they would have heard them saying: "Well, I hardly know what to do; I have a large family. If I vote I am to be turned out of employment and out of house and home at once." "Cannot I vote secretly? Men are watching who will go immediately and report." Others would say, "Well, I have done it. The old boss turned me off. I do not know what I will do, but if I had it to do again I would gladly do it."

The devotion and courage exhibited by the whole class, and especially in individual instances, where every chance of success or even support was depending on their action, cannot be too highly commended. The thanks of the nation are due their self-sacrificing patriotism. One word further in regard to the matter of the expression of the popular will in the election. There were white men estimated by all who know best to number between one hundred and fifty and two hundred in this county who had promised and were anxious to vote the constitution, but when they saw how completely the system of terrorism inaugurated by the malignants had gained the ascendancy their hearts failed them, and they went home feeling as they felt when Alabama was dragged into secession by the same means.

It is much to be regretted that Congress has not seen fit to ratify promptly, for every day that the insolent and self-styled victorious rebels hold office is an additional power of damage, which they are ready and active to use. It is a possibility which we depreciate very much that a new election may be ordered. I hope this policy will not be adopted unless ample means and regulations for securing a fair expression of the popular will are insured. The rebels will, of course, change their policy and vote their strength, while the friends of the constitution, especially the colored portion, will be confused and distracted by the seeming whiffing and uncertainty, will be disheartened by the failure of all their heroic sacrifices, and slow to repeat the ordeal. Many will be out of reach of the necessary information to clear their understanding in the matter. Even if troops and orders should be satisfactory, it is impossible to avert the influence of social and business proscription which will again be exerted in its fullest power. I greatly fear such a policy will only prolong the triumph of the anarchists and call for greatly increased expense and effort to secure the desired settlement.

Very respectfully, your obedient servant,

Hon. JOHN A. PETERS.

But, Mr. Speaker, I go further, and maintain that the only essential element in the terms of admission has been literally complied with; and that is, that the constitution has been adopted by an overwhelming majority of all those who have seen fit to vote. No more stringent provision has usually, or perhaps ever, been required. The history of this subject-matter shows that States have been admitted



under all sorts of application, and, as has been said, Rhode Island was one of us without even a constitution at all, but having merely a charter from a king of Great Britain. All the precedents show that Congress has from the beginning exercised the authority of admitting States when and as they pleased. Let us recur to the act of March last:

"*Sec. 5. And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one half of all the registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall moreover appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided."

It will be seen that it is provided that if a majority of the votes were given for the ratification of the Constitution, and a majority of the registered votes were cast upon the question of ratification and certain other things are done, the State then shall be declared entitled to representation—Alabama could then with a show of reason demand her admission. She could have claimed to come in on a sort of moral, if not a political right. But can we not grant her admission by a relaxation of some of these conditions if we please to do so? The conditions are named upon which she should come in, but there is no declaration that she might not come in if the conditions should, some of them, remain unperformed. In annexing the condition requiring the action of a majority of the registered voters Congress made no contract with anybody, white or black, loyalists or rebels. The question submitted was not so much what kind of a political constitution Alabama should have, as whether she should have any at all. Thank Heaven, it was settled by the war and the potent voice of the people that her constitution should be a radically free one. That is a foreclosed question. What, then, was the meaning of the conditions annexed? It was this: Congress desired to be satisfied whether the people of Alabama were strong enough to frame and uphold a loyally reconstructed State. The principal evidence of the fact was to be whether the conditions of said section could be carried out. Even if we had agreed with Alabama to be conclusively satisfied with that amount of evidence, have we not a perfect right to be satisfied with less evidence under all the circumstances which surrounded the election in that State? Nothing can be clearer than that Congress would decide upon the political character of the constitution for Alabama. The section which I have read requires that it shall be in conformity with the act of reconstruction and that it shall be approved by Congress.

There can be no bad faith or want of authority in our admission of this State. Then why postpone action for a day? Is it an apprehension that the friends of the Government cannot maintain the State upon the side of loyalty? For one, Mr. Speaker, I am willing to try the experiment. If there is a risk about it I am ready and willing to meet it. Are we not in as good condition to pursue the fight now as we shall be in time to come? Are not the patriotic people of Alabama as able to inaugurate and maintain civil government now as they can be the next week or the next year? Do they not need the hope and courage and impetus which the passage of this bill would inspire? What say the rebels of that State? Do not they believe that our friends could maintain the government they are building up? If not, why is every one of them as hostile as death toward the new constitution? What

hopes and expectations can they have under it when they have refused to vote, and used murderous means to prevent others from voting for its ratification? Would not the success of Alabama, like the heaven hidden in the measures of meal, work out good influences through all the other seceding States? Why should the Democratic party so violently denounce our mode of reconstructing this State, if, with all their sagacity, they believed that, politically, she could be turned immediately upside down and her electoral vote be obtained for the Democratic candidate? If we pause now for such reasons when shall we dare to move again? When shall we attempt to give emphasis and application to the words of Andrew Johnson, that "loyal men, black or white, shall rule America," a sentiment which has been echoed and reechoed throughout the land.

I find this view, sir, sustained by the New York Tribune in another phase, and in words of a most direct and emphatic character; and I invoke the sentiments of Horace Greeley, or some one who writes in that paper as well as he does, when he says:

"We hold that the concerted proscription and terrorism whereby the rebels of Alabama prevented the ratification of that instrument by a majority vote was a most culpable conspiracy, which should not be allowed to prevail. Congress, in recoiling before that conspiracy, concedes a virtual triumph to the rebellion." "We venture to suggest to the Republican majority that the country is tired of agitation, turmoil, chaos, and longs for restoration and peace. The rebels and their northern allies want the South kept disorganized till after the presidential election. Their chief stock in trade is complaint that ten States remain unrepresented in Congress, though they would keenly deplore their being represented otherwise than by unchanged rebels. It is the plain duty of Congress to divest them of their pet grievance at the earliest possible day. Every hour that a State remains unrepresented is a damage to the Republican cause."

Mr. Speaker, we owe it to the black man to admit Alabama. President Lincoln never uttered nobler words than when he said: "We have promised the colored men their rights; and, by the help of God, that promise shall be kept." It is needless to enumerate what the colored man has done for our country. He has prayed for and expected in return the liberty of the citizen. Give him all else in the States where slavery lately existed, and in some forms essentially continues to exist, and deny him the right to vote, and you deny him his liberty. If he does not obtain such a boon by our indorsing the constitution of Alabama now, in that State, at least, he may never obtain it. The sooner he gets such a privilege the more likely will he be to retain it. The longer he has it, the harder it will be for rebels to wrest it from his possession. If he can maintain himself to-day, he will be stronger to-morrow. The ballot is the symbol of freedom, and the use of it in his hands will be the needle-gun which will bring about a speedy political victory over the whole hosts of rebels and Democrats combined.

Education will be constantly advancing him. It makes a mighty difference whether education of the race, as under this constitution, or their subjection to ignorance, as under a slave constitution, is enjoined by law. He has the capacity for self government. In spite of the declaration of Democratic orators I will invoke the belief and opinion of that man whom Democracy has always canonized as a saint; I mean Thomas Jefferson. He wrote a brief letter which is valuable enough to read in full:

PHILADELPHIA, August 30, 1791.

SIR: I thank you sincerely for your letter of the 19th instant, and for the almanac it contained. Nobody wishes more than I do to see such proofs as you exhibit that nature has given to our black brethren talents equal to those of the other colors of men, and that the appearance of the want of them is owing only to the degraded condition of their existence both in Africa and America. I can add with truth, that no one wishes more ardently to see a good system commenced for raising the condition both of their body and mind to what it ought to be as fast as the imbecility of their present existence, and other circumstances which cannot be neglected, will admit. I have taken the liberty of sending your almanac to Monsieur de Condorcet, Secretary of the Academy of Sciences at Paris, and member of the Philanthropic Society, because I considered it a document to which your whole color had a right for their justification

against the doubts which have been entertained against them.

I am, with great esteem, sir, your most obedient servant,

THOMAS JEFFERSON.

MR. BENJAMIN BANNEKER, near Ellicott's Lower Mills, Baltimore county.

This Mr. Banneker lived at Ellicott's Mills, in Maryland. He was a profound and scientific scholar, although self-educated. John H. B. Latrobe, Esq., in an interesting memoir read in 1845 before the Maryland Historical Society, says: "His father was a native African, and his mother the child of natives of Africa; so that to no admixture of the blood of the white man was he indebted for his peculiar and extraordinary abilities."

He compiled an almanac and sent it in manuscript to Jefferson. What a commentary is this generous expression of the immortal author of our Declaration of Independence upon the bigotry and ignorance and prejudices of smaller men!

Mr. Speaker, let us extend to the southern black man all political rights and privileges. It will pour a new sunlight over that land. It is just toward them; it may be necessary for us, and the very life of the nation. Then their more perfect development, morally, socially, and politically, will follow. Then will all classes and colors be better off. Then other Bannekers may be found among them; and now, while the occasion offers, first of all, let us welcome back Alabama.

I now yield the remainder of my time to the gentleman from Wisconsin, [MR. PAINE.]

Mr. PAINE then addressed the House against the ratification of the treaty for the purchase of Alaska. [See Appendix.] At the conclusion of his remarks Mr. PAINE yielded the remainder of the hour of Mr. PETERS to Mr. WILSON, of Iowa.

AMENDMENT TO JUDICIARY ACT OF 1789.

Mr. WILSON, of Iowa. Mr. Speaker, I was not in the House last Saturday when the somewhat remarkable debate occurred which was reported in the Globe of last Monday. The gentleman from Pennsylvania [Mr. BOYER] speaking, as he said, for the minority of the House, referred to an amendment which I offered to a bill on the preceding Thursday, denounced the whole proceeding as one which involved not only sharp practice, but a fraud. During that debate to a question propounded to him by the gentleman from Maine, [Mr. BLAINE,] the gentleman from Pennsylvania [Mr. BOYER] replied as follows:

"The gentleman entirely misinterprets my language when he says that I characterized this as an 'illegal' transaction. I admit that whatever fraud there may be in this case is not punishable at law. I admit that the act, although passed as it has been, cannot therefore be vitiated as an act of legislation. What I condemn particularly is not the illegality of the transaction, but the manner in which the measure was foisted upon us, and so made a law without resistance and without debate. I say that such a proceeding was not consistent with the courage usually displayed by the gentleman from Maine [Mr. BLAINE] himself, and I will add by the gentleman from Ohio, [Mr. SCHENCK,] and the gentleman from Iowa, [Mr. WILSON.] What is done in this House upon important matters like that should be done courageously, in a manly way, in open debate, with fair notice. Your numbers surely are overwhelming enough. Can you not rely upon them without resorting to devices of this description in your assaults upon the judiciary of the country?"

Mr. Speaker, I cannot account for this language or the general course of remarks indulged in by the gentleman from Pennsylvania on that occasion, except on the ground that he was smarting under the effects of his inattention to the public business; for certainly there was not involved in the transaction, so far as I was concerned, anything which would afford just ground for any such charge or complaint as this.

Before I proceed further I will state the facts involved in my connection with the adoption of the amendment complained of and the passage of that bill. My attention had been called to the bill by one of the revenue officers in New York city, he suggesting it was important that bill should pass. I examined it. I saw it was a bill relating to the judiciary, and on Thursday morning, knowing an amendment

such as was adopted could be fairly ingrafted upon the bill, I handed to the clerk of the Judiciary Committee a draft of the one of which complaint has been made, and asked him to copy it inasmuch as it was somewhat defaced by interlineations and erasures. He did so, and returned it to me. I went to the Speaker of the House and inquired of him whether we would have the morning hour on that day. He informed me it was doubtful, owing to the condition of the business of the House. I informed him if the morning hour should occur on that day it was my purpose, after the expiration of the hour, to go to the Speaker's table for the purpose of taking up that bill, and it was my intention, when the bill should thus come before the House, to offer that amendment by way of adding a new section. But, on being informed that there would probably not be a morning hour on Thursday, I returned to my committee room.

During the course of the afternoon I was informed a motion would be made by the gentleman from Ohio [Mr. SCHENCK] to take that bill from the Speaker's table. The bill having originated with the Finance Committee in the Senate, and he, being the chairman of the Committee of Ways and Means of the House, deemed it his proper province to take charge of the bill. I had no consultation with the gentleman from Ohio on the subject. The amendment was locked up in my desk, and when I came into the House, thus knowing the bill was to be called up, I went to my seat and unlocked my desk and took out the amendment for the purpose of offering it, and I asked the gentleman from Ohio to yield to me that I might do so. Before the bill was called up I sent to the Library for the acts of 1866 and 1867, and turned to the act entitled "An act to amend an act to establish judicial courts of the United States," approved September 24, 1789, and marked upon the proper page that portion of the law which I wished to have read to the House in explanation of the amendment I intended to offer.

When the gentleman from Ohio yielded to me to offer the amendment I expected to make an explanation, but there seemed to be no demand for it on the part of any member of the House. The previous question was moved and the main question ordered to be put. Gentlemen know I never trouble the House with any unnecessary remarks. If a measure proposed by me can pass without discussion I am inclined to let it so pass, whether it be a bill from my committee or a measure brought forward on my own motion, or a measure of any character, amendment or otherwise. The House adopted the amendment, and then passed the bill as amended.

That, sir, is my entire connection with the subject, except such as I will hereafter disclose. The gentleman from Pennsylvania, on the points growing out of this state of facts, bases the attack to which I have alluded; and he said, at the time he was speaking, for the minority.

The first ground of the complaint presented by the gentleman from Pennsylvania is that the amendment was not germane to the bill and was therefore out of order. In that respect, as well as in others, he spoke, as he said, for the minority of the House. That is his first complaint. I wish to call the attention of the House to the fact that one of the minority, for whom he proposed to speak, stated during that debate last Saturday—I allude to the gentleman from Indiana, [Mr. HOLMAN,]—that "the amendment of the gentleman from Iowa was germane, and, therefore, no point of order could be made." There is one of the minority for whom the gentleman from Pennsylvania was not authorized to speak.

Mr. BOYER. I desire to correct what is a misstatement of the gentleman, no doubt made unintentionally, that I stated I was speaking for the minority. The gentleman will find no such thing in my remarks. What I stated in the course of my remarks, and near the conclusion of them, was, "what I did say was due

to the minority in explanation of their position." I did not say in any part of my remarks I had been authorized to speak for the minority of the House, or had undertaken to speak for the minority. I spoke for myself, but I said the explanation was due to the minority, including myself.

Mr. WILSON, of Iowa. Which only results in this, (I will not take up the time to hunt up the gentleman's precise language,) instead of an affirmative statement that he was speaking for the minority, he left it to be inferred that he was speaking for them when he said it was due to the minority he should call the attention of the House and go on and make his remarks in that connection. I do not care whether the authority was affirmed or left to implication.

The gentleman from Indiana, [Mr. NIBLACK,] during that debate, also interposed and stated, as follows:

"Mr. Speaker, I only want to say a word or two about this matter by way of explanation on my own account. I happened to be one of those on this side of the House who were not 'caught napping' so far as this amendment was concerned. I think, however, that many of our friends attach undue importance to the action of the minority here on that occasion. Nothing that we could have done could have delayed the passage of that proposition for any great length of time; and hence our action is of no practical importance in the matter."

In another place the gentleman says he noticed the amendment was germane to the bill.

Now, sir, there are two gentlemen from the minority who have spoken on this subject, and who certainly do not agree in opinion that the amendment was not germane to the bill. More than that, I think the gentleman from Pennsylvania himself, on reflection, will not contend it was not germane, and did not relate to the subject embraced in the bill.

But, sir, the gentleman from Pennsylvania, speaking at least by implication for the minority, in order to set them right before the country, not only insists the amendment was not germane, but that they were taken by surprise, and could not interpose opposition to the bill, is confronted again by the same gentleman from Indiana by these words, uttered by him on the occasion in question:

"I suppose that the difference of a day or two will not amount to anything so far as regards any influence which the bill may have upon the Supreme Court. I was in my seat giving some attention to the motion of the gentleman from Ohio [Mr. SCHENCK] and to his statement about this bill, he being the chairman of a committee of which I am a member. From the statement which he made I could see nothing objectionable in the bill, and, therefore, I did not object to taking it up. When, however, the bill had been taken up, and this amendment was proposed, I did see in the amendment a measure to which I was seriously opposed. I rose to my feet for the purpose of objecting to the amendment; but a moment's reflection convinced me that an objection from me would be of no avail; that the amendment was regularly in under the rules, and that the gentleman from Ohio controlled the affair. I did not think the amendment could be ruled out on a point of order; for it occurred to me that it was germane to the bill. I turned round to a gentleman near me and remarked, 'We are caught handsomely in this thing; there is no use in making a fuss now.' Under those circumstances the bill with the amendment was passed, the previous question being ordered on the demand of the gentleman from Ohio."

I fully understood when that measure was passed what was involved in it, and was prepared to submit my objections if those objections could have availed in the slightest degree; but I knew that objection was useless. I subsequently inquired of the gentleman from Illinois [Mr. MARSHALL] and the gentleman from Wisconsin, [Mr. ELDRIDGE,] who did not happen to be in their seats at the time, and who are members of the Judiciary Committee, whether the measure had been considered by that committee, and whether there had been any prior arrangement or understanding in the committee in regard to the matter. Learning that there had not been, I did not see that anything was to be gained by pursuing the matter further; but it having been telegraphed all over the country that we on this side were 'caught napping,' I desired to say that I, for one, understood the effect of the proposition of the gentleman from Iowa [Mr. WILSON] at the time it was offered, though, of course, when the gentleman from Ohio asked unanimous consent to take up a perfectly unobjectionable measure, I could not foresee that any such amendment as that of the gentleman from Iowa was to be offered."

Now, it will not do for gentlemen to say, unless they are informed in advance of all the amendments that may be offered to a bill when

once before the House, that if some amendment is offered which is objectionable in their view of the case, they have been entrapped into allowing the main subject to come before the House by unanimous consent. Every member of the House understands perfectly well that, under the rule, when any measure comes before the House, either by being originally introduced, or by being taken from the Speaker's table by unanimous consent, it comes up subject to the right of every member to offer any amendment to it which may be germane to its subject-matter.

Mr. NIBLACK. Will the gentleman allow me to interrupt him a moment at this point?

Mr. WILSON, of Iowa. Certainly.

Mr. NIBLACK. I desire to say that the reason why I remarked the other day that I did not regard as of much practical importance any action we might have taken upon that occasion, was this: (I did not then amplify my statement as much as perhaps I might have done,) if the effort of the gentleman from Ohio [Mr. SCHENCK] to obtain unanimous consent to take up this bill had not been successful, I knew, or supposed, that a motion to proceed to business on the Speaker's table would soon be in order; and then the bill would have been taken up and disposed of that day. Therefore I did not regard what we had done or had not done as of any practical importance.

And I did not complain of the bill being taken up in view of the statement submitted by the gentleman from Ohio, [Mr. SCHENCK.] But what I did complain of was that after the bill had been taken up, judging by the action of gentlemen, not by anything that was said, it seemed that there was some preconceived relation to this matter. And we have labored under that impression from that time to this: at least I have to a certain extent. I have had the impression that there was a prearrangement between the gentleman from Iowa [Mr. WILSON] and the gentleman from Ohio [Mr. SCHENCK] in regard to this bill.

[Here the hammer fell.]

THE SPEAKER *pro tempore*. (Mr. LAWRENCE, of Ohio.) The hour of the gentleman from Maine [Mr. PETERS] has expired.

Mr. MOORHEAD obtained the floor.

Mr. ELDRIDGE. I hope the gentleman from Iowa [Mr. WILSON] will be allowed to conclude his explanation.

Mr. MOORHEAD. I have no objection to yielding, if by general understanding I may be considered as being entitled to the floor on the next day for general debate.

THE SPEAKER *pro tempore*. That will require unanimous consent.

No objection was made.

Mr. WILSON, of Iowa, resumed the floor.

Mr. NIBLACK. Will the gentleman from Iowa [Mr. WILSON] allow me to conclude what I was saying when the hammer fell?

Mr. WILSON, of Iowa. Certainly.

Mr. NIBLACK. I desire to say that the disclaimer of the gentleman from Iowa that there was no preconceived arrangement concerning this matter is sufficient for me, and I presume it will be sufficient for this side of the House. But we have been under the impression that there was a prearrangement between gentlemen to have the bill taken up, and then the gentleman from Iowa [Mr. WILSON] was to come in with his amendment, and thus perpetrate upon us what might be called a parliamentary trick. And I will say to the gentleman from Iowa that the force of that impression was increased by expressions used and remarks made by members of the other side after the bill had passed. We were informed that there was a prearrangement, between some gentlemen at least on the other side, that this affair should go off just as it did. We felt that if there was such an understanding, then the gentleman from Ohio [Mr. SCHENCK] had done something which we could not indorse, something which was reprehensible in submitting the statement he did in regard to what he proposed to do if he in fact understood that behind that bill there was an important amendment to come in of which the

House had no previous notice. That was all that I or any other member of the House, had any right to complain of. If there was no such previous understanding, then, of course, much that I objected to was unfounded. But that was the point on this side of the House, that we were entrapped by a previous understanding of some sort of which we had no knowledge.

The SPEAKER. The Chair will now recognize the gentleman from Iowa [Mr. WILSON] as entitled to the floor for one hour.

Mr. ELDRIDGE. Will the gentleman from Iowa yield to me for a question?

Mr. WILSON. I desire first to answer the gentleman from Indiana, [Mr. NIBLACK.]

Mr. ELDRIDGE. I think the gentleman can reply to both of us at the same time.

Mr. WILSON, of Iowa. Very well.

Mr. ELDRIDGE. I desire to say that just before this bill came up, I was called to the door by a gentleman who had sent his card in to me. I was at the door when unanimous consent was given to the gentleman from Ohio [Mr. SCHENCK] to have this bill taken up from the Speaker's table. I came into the House just as the last words of the amendment, as I supposed, were being read. It struck my ear as something differing from the proposition which I heard. As I came in and took my seat I was asked if the amendment proposed by the gentleman from Iowa was a matter reported from the Judiciary Committee, and not recognizing it as anything we had considered in committee I at once called upon my colleague on the committee [Mr. MARSHALL] to know if it came from the committee. He said he knew nothing of it. I then went to the Clerk's desk to read the amendment; but about the time I reached the desk the Speaker announced that the measure had passed.

I did not at that time suppose it was anything extraordinary, and as was remarked by the gentleman from Indiana [Mr. NIBLACK] the first that led me to suppose we had been entrapped or tricked in the matter was a remark made to me by gentlemen of the House.

The Speaker himself, about the time we adjourned, came to my desk and wondered that no one had discovered what that measure was, as no one had made or insisted upon any objection. These remarks have been made to me repeatedly since by gentlemen of the House who said that they understood the matter. I remember one gentleman from Indiana saying to me—and I suppose he was not speaking to me privately—that he understood precisely what was to be done; that if the bill of the gentleman from Ohio [Mr. SCHENCK] was allowed to come before the House the gentleman from Iowa [Mr. WILSON] intended to move his amendment. It was from these remarks that I became satisfied—and I must say the impression still remains upon my mind—that gentlemen on the other side of the House had arranged to adopt the measure in the manner in which it passed the House.

I now wish the gentleman from Iowa [Mr. WILSON] to state—and I certainly shall be satisfied with his statement—whether there was not an understanding by certain members of the House that in case the gentleman from Ohio [Mr. SCHENCK] should get unanimous consent to take up his bill that amendment was to be moved, and whether it was not drawn in such language as not to inform the House by its terms and without reference to the section of the statute it was intended to repeal of the nature and character of the amendment.

Mr. WILSON, of Iowa. Mr. Speaker, I have nothing to disguise in this matter. When the charge was made, at least implicitly, that I had entered into an arrangement with the gentleman from Ohio [Mr. SCHENCK] that he should disarm the House of any suspicion of what might be coming, in order to get that bill before the House so that I might offer that amendment, I said, as I say now, that it was entirely without foundation. I had no interview with the gentleman from Ohio on the subject of the preparation of the amendment, nor did

he see it, nor did I know that he was aware of what the amendment was to be. If he was it certainly came from nothing said by me to him or by him to me. I am free to say that I had the amendment prepared for the purpose of putting it on to that particular bill as an additional section, and in pursuance of that purpose I inquired of the Speaker, as I have already stated, whether there would be a morning hour on Thursday, intending, if such should be the case, immediately upon the expiration of the morning hour, to move to proceed to business on the Speaker's table for the purpose of taking up that bill. I had resolved to make that motion in order that I might attach to the bill the then prepared amendment as an additional section. And it was for the express purpose, so far as I was concerned, of taking away the jurisdiction of the Supreme Court in the cases that are affected by the amendment—of repealing the very power which we conferred upon that Court about a year ago. I have no disguise about that. That was my purpose.

But how the gentleman from Ohio [Mr. SCHENCK] came to move in the matter at that time I do not know. It was proper for him to take charge of the bill. The bill having originated with the Committee on Finance in the Senate, the chairman of the Committee of Ways and Means in the House very properly assumed jurisdiction of it. I learned that he proposed to ask to take it from the Speaker's table, and I was resolved not to permit the opportunity afforded by its consideration to pass without offering that amendment whenever that bill should come before the House. But, sir, had not the gentleman from Ohio interfered with my purpose, in about twenty minutes after he made that motion, the morning hour would have expired.

Mr. BOYER. I would like to inquire if the gentleman from Iowa heard the remark made by the gentleman from Ohio [Mr. SCHENCK] introductory to that bill.

Mr. WILSON, of Iowa. I certainly did; and the statement of the gentleman from Ohio was entirely correct, so far as I now remember it. As I remarked, within twenty minutes after the motion was made the morning hour would have expired, when I should have moved at once to proceed to business on the Speaker's table. Now, it is very well understood by every member that that is a motion of very high privilege.

It is an invariable practice to permit a member on the expiration of the morning hour to take the floor, even though another may have occupied it, to make a motion to proceed to business on the Speaker's table." (*Rules, House, p. 30.*)

Under that rule, by a vote of the majority, I had expected to reach that bill and offer that amendment.

Now, sir, I will say further, in order that there might not be any misunderstanding about the matter, after I had made known to the Speaker my purpose to make that motion, I did say to very many gentlemen on this side of the House that I intended to make it, and that I would also offer that amendment to the bill. I have no concealment to practice about that.

Mr. WOODWARD. Will the gentlemen yield for a question?

Mr. WILSON, of Iowa. Yes, sir.

Mr. WOODWARD. I wish to inquire of the gentleman whether, in his legal judgment, the effect of that bill was to take away the jurisdiction of the Supreme Court in the McCordle case?

Mr. WILSON, of Iowa. Yes, sir; I think it would be.

Mr. WOODWARD. One further question. Was it not your intention in offering that amendment to take away the jurisdiction in that case?

Mr. WILSON, of Iowa. Most assuredly it was my intention to take away the jurisdiction given by the act of 1867 reaching the McCordle case, or any other case depending on the provisions of that act affected by the amendment.

Mr. HUBBARD, of Connecticut. I would like to inquire whether the gentleman had any

other specific intention than to reach the McCordle case?

Mr. WILSON, of Iowa. My specific intention was to reach that case and all other cases in which the jurisdiction might depend upon that provision of the statute.

And now, inasmuch as the gentlemen have themselves introduced the McCordle case, let me see whether it was a very improper thing to be done, considering the kind of man he is. In the first place I may say that, in my judgment, the court is mistaken in its construction of that act; but they have construed it so as to take jurisdiction, and there we must be content to rest as to that case if it should be decided before the repealing amendment becomes a part of the law. I hold in my hand the Vicksburg Daily Times, a paper of which the said McCordle is the editor; and, sir, during the very time that he and his attorneys were pressing the Supreme Court to advance his case on the docket, on the ground that his rights and liberties were being interfered with, in a number of his paper, bearing date January 21, 1868, I find an editorial article from which I will read an extract. Speaking of the constitutional convention then in session in the State of Mississippi, and of the ordinance for the collection of taxes in order to pay the expenses of the same, he says:

"There is not a man who will pay any tax imposed by this convention, and if their tax collectors undertake to enforce collection, by seizing and selling the property of the people, they will be shot down like dogs, as they are! They will deserve to be shot, and we advise every man to resist the payment of such a tax by all the means God has given him. The Mygatts and Orrs, the Hausers and Gibbs, the Aldersons, and all the other scavengers may make a note of it. The people of Mississippi are in no humor to be trifled with. They know that Ord's convention has no power or authority to tax them, and they are determined not to be robbed! The men who attempt it will certainly get hurt, for they will be treated as all robbers and highwaymen deserve to be treated."

"The insolence and villany of this convention is boundless. The adventurers from abroad, the renegades of home production, and the negroes assembled with them seem to think that they are the masters of the people, and that they can rob them at pleasure. We advise a little caution. There are some things that flesh and blood will not bear. Let them go on and concoct their villany; let them make their constitution "so called," and when it is completed the people—the real people—not the omnibus full of vagrants and vagabonds, called Radicals—will rise in their might and trample this constitution under their feet. Decent negroes even will not vote for it!"

This was published on the 21st day of January, 1868, and at the very time McCordle's counsel were pressing the advancement of this case on the docket. And now, because, in strict accordance with the rule of this House, myself not being entitled even to the floor to enter upon any discussion except by consent, I offered the amendment which may or may not (that is a question of time) result in depriving the Supreme Court of jurisdiction in that man's case, we are told that we have been practicing a great wrong upon the rights of a man who uses his press for the purpose of obstructing the laws of the land, a man who calls upon the people of the State of Mississippi to shoot down the agents of the law; to "shoot them down like dogs, as they are."

Because, in the exercise of our just powers, this man may be interfered with in some respects, we find the minority of this House raising a hue and cry, as though some great outrage had been perpetrated.

Mr. ELDRIDGE. Mr. Speaker, I wish to put an inquiry to the gentleman from Iowa, who is, I believe, in the habit, at all events, of thinking in regard to himself, as I do of myself, that he means to act fairly and to give just judgment in regard to a matter of this kind, in view of the explanation which was given by the gentleman from Ohio, [Mr. SCHENCK,]—and I base my question simply upon that, for I have no feeling about this matter, so far as I am concerned; I did not happen to be here; and there was no fraud practiced upon me personally, so far as I am aware—I ask the gentleman, in view of the explanation of the gentleman from Ohio, in view of that gentleman's statement that there was nothing objectionable in the proposition for which he asked



unanimous consent, and after the minority, with their known opinions upon the question of the jurisdiction of the Supreme Court, and their known desire to have the McCordle case decided, had given their consent, was it fair to introduce a proposition so objectionable as that amendment was known to be to the minority without explaining the amendment which was intended to be attached?

Mr. WILSON, of Iowa. Why, sir, I judge of the fairness of the transaction by the rules of the House. Any member could have objected to taking that bill from the Speaker's table. No member did object. When the members withheld their objections they did it with a full understanding of the rule which would authorize the presentation of the identical amendment which I did present, and with knowledge also of the fact that the majority of the House, if they should so decide, could second the previous question and cut off debate, and that the same majority could pass the bill as amended.

Mr. ELDRIDGE. But the gentleman does not quite answer my question. Suppose that the gentleman had asked the consent of the House; suppose that he had made precisely the speech which the gentleman from Ohio made—

Mr. WILSON, of Iowa. I am not here defending the gentleman from Ohio; he did that for himself very well last Saturday.

Mr. ELDRIDGE. I am not asking the gentleman to defend him. But I ask him, if that had been done by himself, would he consider that he had a right, in fairness, in candor, in justice to this side of the House, to introduce that amendment? Having explained the original proposition as unobjectionable, would he have felt that he was justified in attaching to that proposition an amendment to which he knew every member of the minority in this House to be opposed?

Mr. WILSON, of Iowa. The gentleman cannot put me in a false position in this matter. He is stating a hypothetical case. That is not the case with which we are dealing. I made no statement to the House upon the subject.

Mr. ELDRIDGE. But the gentleman from Ohio did.

Mr. WILSON, of Iowa. Very well. The gentleman from Ohio speaks for himself, not for me. When the gentleman can present a case in which I have made any representations to the House then he will have a case which I may feel called upon to answer.

Mr. NIBLACK. The gentleman, however, availed himself of the statement made by the gentleman from Ohio to get in his amendment.

Mr. WILSON, of Iowa. No, sir; I did no such thing. I availed myself of the right which the rule of the House gave me to offer an amendment to the then pending bill. That was all. Now, there was no disguise at all as to the purpose of that amendment. I will read it:

"Sec. 2. And be it further enacted, That so much of the act approved February 5, 1867, entitled 'An act to amend an act to establish the judicial courts of the United States, approved September 24, 1789,' as authorizes an appeal from the judgment of a circuit court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is hereby, repealed."

No person could misunderstand the scope of that proposition. Any member who listened to the reading of it knew at once that it was striking at a branch of the jurisdiction of the Supreme Court of the United States, a jurisdiction conferred by an act of Congress passed but little more than a year ago. The proposition was that Congress should by statute take away from the Supreme Court jurisdiction which it had but recently conferred by statute. That is all there was of the proposition. Any man could comprehend it. There was no attempt to cover up its purpose or conceal its scope and effect; and the gentleman from Indiana [Mr. NIBLACK] says that he understood it. He was not caught in any trap. He saw that the amendment was an important one,

reaching to the very end that I purposed it should reach. But he has very properly said, doubtless, in view of the rule to which I have called the attention of the House, that but a few minutes would elapse before the morning hour would expire, when any member could make the motion to proceed to business on the Speaker's table; and seeing that the amendment was germane to the bill, and that resistance would amount to nothing because of the majority on this side of the House, he said nothing further and permitted the matter to pass.

That gentleman could have interposed an inquiry. I was prepared to answer any that might have been proposed, and should have done so just as unreservedly on that occasion as I have done to-day. I was not prepared to ask this House to pass anything under false pretenses or by trick or fraud. I never do anything in this House by trick or fraud. As to any measure which I introduce or advocate, I am always willing to announce its purpose and to assume the responsibility which may attach to it. And I will say to gentlemen who have propounded questions to me that I will be glad if the bill shall become a law before a decision is made by the Supreme Court in the McCordle case, thereby sweeping the case from the docket by taking away the jurisdiction of the court.

Mr. WOODWARD. I beg leave to say, in opposition to the legal opinion of the gentleman from Iowa, that the bill will accomplish no such purpose.

Mr. WILSON, of Iowa. Very well; then the gentleman from Pennsylvania is not hurt, nor is Mr. McCordle. If the bill will not accomplish that purpose, why all this "tempest in a teapot?"

Mr. WOODWARD. I have not stirred up any "tempest in a teapot," nor do I intend to do so. I put a question to the gentleman from Iowa a little while ago as to his legal opinion of the effect of that bill. If I understood his answer, it was that the bill was not only designed to take away the jurisdiction of the Supreme Court in the McCordle case, but would, in his judgment, have that effect. Now, I submit to the gentleman, as a lawyer, that it is not in the power of the legislative department of the Government to take away from the Supreme Court jurisdiction in a case where the jurisdiction has already attached.

Mr. WILSON, of Iowa. Why, Mr. Speaker, is not the gentleman from Pennsylvania aware that the Supreme Court has decided that a repeal of the act conferring jurisdiction arrests the power of the court at any stage of a case before judgment? that if, after hearing and before judgment is announced, the jurisdiction is taken away by a repeal of the act under which it is conferred the court cannot announce judgment? Why, sir, the right of the court to act at all depends upon the jurisdiction conferred. Take away the jurisdiction and of course the power to act ceases.

Mr. WOODWARD. Mr. Speaker, however well the gentleman may have succeeded in exonerating himself from responsibility for a questionable line of conduct in bringing the bill before the House—I pronounce no judgment upon that matter—the gentleman must see that he stands here maintaining that the legislative department of the Government may do the highly indecent thing of looking into the courts of the country to see what cases are there pending, and then using the legislative function to arrest the course of justice in any particular case.

That is the position in which the gentleman places himself and his party by the explanation he has made here to-day.

I submit to that gentleman's legal judgment, for he stands at the head of the Judiciary Committee of this House, that it is a misuse and an abuse of the legislative power of this Government. I maintain the courts of this country have a right to finish their investigation of a case to which their jurisdiction has attached; and neither the Republican party nor the Judi-

ciary Committee itself, though its chairman, nor the whole country together, have the right to interfere with the exercise of that jurisdiction by that department of the Government.

Mr. WILSON, of Iowa. I do not know whether the gentleman uses the term "right" in the sense of "power" or not.

Mr. WOODWARD. The judicial power of the Government is vested in that court. It has attached in a particular case. The court is in the exercise of that jurisdiction. I maintain as to that case it is, in the first place, indecent for the legislative power to come in, and in the next place, it is incompetent.

Mr. WILSON, of Iowa. As to the question of indecency the gentleman will permit those who voted for that measure to judge for themselves. As to the power I have already stated that the Supreme Court have settled that by their own decision.

Mr. WOODWARD. In what case?

Mr. WILSON, of Iowa. I cannot refer to the case by title now, and will hand it to the gentleman. I think every lawyer familiar with the reports of the Supreme Court understands this question perfectly.

Mr. ELDRIDGE. Was it not in a criminal case?

Mr. WILSON, of Iowa. Let me get through with one thing at a time, if you please.

The gentleman from Pennsylvania says it is not proper for us to look into the courts and see what they propose to do—what cases they have to dispose of. Why, sir, we could not shut our eyes nor close our ears to the information which come to us from all quarters, particularly in the press representing the party to which the gentleman belongs, that it was a thing certain that the McCordle case was to be made use of to enable a majority of that court to determine the invalidity and unconstitutionality of the reconstruction laws of Congress.

Mr. Speaker, if their papers had merely stated in this respect that the court will pass upon the sufficiency of the return to the writ and decide whether or no, in view of that return, McCordle can properly and lawfully be held by the authorities by whom he was arrested, I do not know that much would have been said about it on this side of the House. It would have been proper and not going out of the line of jurisdiction conferred upon the court as its members construe the act of February 5, 1867. But when we were told day by day that the majority of the court had practically made up its judgment, not only to pass upon the sufficiency of the return to the writ, which involves the only question properly before them in the McCordle case, but also to do as the court did once before in the Dred Scott case, go outside of the record properly involving the questions really presented for its determination, undertaking to infringe upon the political power of Congress and declare the laws for the government of the rebel States in every respect unconstitutional, it was our duty to intervene by a repeal of the jurisdiction and prevent the threatened calamity falling upon the country.

Now, sir, I have said all that I wished to say on this case, and more than I intended when I asked for the floor.

I yield to the gentleman from Wisconsin.

Mr. ELDRIDGE. I wish to ask a question. I understand the gentleman from Iowa to defend his own conduct in this matter. I wish to say to him I never once impugned his conduct, but what we complain of is the whole transaction. It must necessarily involve the statement made by the gentleman from Ohio, [Mr. SCHENCK,] in getting unanimous consent for the proposition he introduced as well as the amendment offered by the gentleman from Iowa. I think that was fairly involved in the question, which I think he evaded when he said he did not come here to defend the gentleman from Ohio. Yet the gentleman, as I understand it, has endeavored to show we had no reason to complain. We complain of the entire transaction. We think it was an abuse of the unanimous consent given to the gentleman

from Ohio, especially if there was a preconcerted plan to pass at that time this amendment. The gentleman from Indiana [Mr. NIBLACK] has stated he was informed by gentlemen upon this floor, and I will state I was informed by gentlemen here, that they knew this thing was to be done. It is of that which we complain.

Mr. WILSON, of Iowa. The gentlemen who make such statements are responsible for them. I am not responsible for anything to which I was not a party. I say again to the gentleman from Wisconsin, as I have said before, that I did inform members of the House of my intention to make a motion to proceed to the business upon the Speaker's table to get up that bill, and that I intended to offer an amendment; and, sir, I disclosed the terms of the amendment to very many gentlemen on this side of the House. What particular event may have brought that bill to the attention of the gentleman from Ohio and caused its coming before the House twenty minutes before I could make the motion I am not advised. As I stated before, there was no agreement between the gentleman from Ohio and myself that he should do that thing, and then purposely let me in by way of catching in a trick the minority of this House. If the gentleman from Ohio knew the terms of my amendment he did not get his information from me. The amendment, when I left the House to retire to my committee-room, was locked up in my desk, and I had not conversed with the gentleman from Ohio concerning it.

Mr. BOYER. I rejoice the gentleman from Iowa thought it necessary to make the explanation which he has made to the House, for it is well that matters of this kind should be felt to be subjects which need an explanation. When, on last Saturday, I introduced this subject I did so without consultation with many of the members of the minority. But few members on our side of the House knew a few minutes before it was done that I intended to do it. But I believed then, and I am sure now, that I spoke the sentiments of the minority; and I am glad to find I have spoken the sentiments of a great many just and right-minded men belonging to the party of the majority, if not in this House, at least outside of it.

The gentleman from Iowa has not, in my opinion, by the explanation which he has given, materially changed the aspect of the case. He has said, to be sure, that he had no previous consultation with the gentleman from Ohio before he offered his amendment, but he has said he told members around him that he was about to offer such an amendment to the then pending bill. The gentleman from Ohio informed the House on last Saturday that he understood when he introduced the bill and made his remarks that there was some such amendment to be offered—that there was to be a "good thing" attached to the bill, which would be likely to produce a good effect.

Mr. WILSON, of Iowa. I did not yield the floor to the gentleman to attack the gentleman from Ohio.

Mr. BOYER. This reference is inseparable from the discussion of the subject now before the House.

The gentleman from Iowa has further admitted that he was present and heard the remarks of the gentleman from Ohio with which he introduced the bill, and that notwithstanding he pressed his amendment without any explanation, although he also stated he had intended to make an explanation of the amendment before its introduction, but he was not in the habit of unnecessarily discussing any subject, and when he found it could be introduced and passed without discussion he abstained from it. He has defended the amendment on the ground that it was germane to the bill then pending, and has taken exception to the position I then took, that it was not so. As a technical matter it may be the amendment was germane to the bill, but it was not germane in the ordinary general sense. It related to the restriction of

the jurisdiction of the Supreme Court, whereas the bill itself provided for its enlargement. It related to a case pending upon a *habeas corpus*, whereas the bill itself only related to appeals to the Supreme Court in cases in which revenue officers were parties. I said then, and I say now, if the amendment was strictly germane to the bill under the rules, it presents a worse case than if it had not been germane, for the reason that no point of order could have been made to exclude it if it was germane, no matter how attentive the minority might have been to what was passing at the time.

I desire, in the first place, to show the manner in which the previous question was moved immediately after the introduction of the amendment, in order to show that there was no possible opportunity to introduce any effective objection on the part of any member, no matter how perfectly he might have understood at that stage of the proceedings what was going on and however desirous he might have been to be heard. When the amendment was offered by the gentleman from Iowa the gentleman from Ohio [Mr. SCHENCK] said:

"I am willing to have the amendment received, and now I call the previous question on the bill and amendment."

Immediately upon the introduction of the amendment, and its being accepted by the gentleman from Ohio, in the same breath and in the same sentence he moved he previous question and shut off everything in the nature of inquiry and everything in the nature of opposition unless a question of order was raised, which could only be entertained in case the amendment was not germane. But being, as the gentleman from Iowa now says, germane to the bill, the mode in which it was introduced completely closed the door against any effort which could possibly be made in opposition to it.

I do not think it necessary that I should enter into any discussion as to whether it was proper to limit the jurisdiction of the Supreme Court in the case in question.

Mr. WILSON, of Iowa. I do not propose to yield for the discussion of that question.

Mr. BOYER. Or whether the amendment in any way prevents the Supreme Court from deciding the McCordle case. That was discussed by the gentleman from Iowa, and I do not undertake—

Mr. WILSON, of Iowa. It was brought in by your colleague, [Mr. WOODWARD.]

Mr. BOYER. I do not intend to go into that subject on this occasion. The gentleman admits the object of the introduction of the amendment, and he has alluded to the defense made by the gentleman from Ohio [Mr. SCHENCK] on Saturday last in approving terms.

Mr. WILSON, of Iowa. Pardon me; I said the gentleman from Ohio had taken care of himself well in the debate on Saturday. That is not my branch of the case. [Laughter.]

Mr. BOYER. That was substantially what the gentleman said.

Mr. WILSON, of Iowa. I do not say there is anything in what he said to disapprove of.

Mr. BOYER. The gentleman does not say there is anything in what the gentleman from Ohio did that he disapproved of.

Mr. WILSON, of Iowa. In what he said, not did.

Mr. BOYER. The gentleman explains—

Mr. WILSON, of Iowa. I do not explain; I rest upon my statement in the first instance.

Mr. BOYER. Very well; the gentleman may have his own way. The introduction of the bill by the gentleman from Ohio was, of course, perfectly legitimate; so were his remarks as applied to the bill itself as it then stood. The introduction of the amendment, disconnected with any other question, by the gentleman from Iowa, was also perfectly legitimate. He had a right to do it. With that no fault should be found. Very innocent things may be done by individuals without preconcert and without a common design to which no possible exception could be taken, and yet, when the two things are done by different individuals by preconcert

and with a common design to effect a certain purpose, the law sometimes denominates it a conspiracy.

Mr. WILSON, of Iowa. I want to know of the gentleman (who is speaking in my time) whether he charges that there was concert of action?

Mr. BOYER. I accept whatever the gentleman has stated in that respect as being true; for I do not charge him with having made any intentional misrepresentation of his own position, his own object, or the facts connected, so far as he is individually concerned, with the introduction of the amendment; nor did I undertake to characterize by any offensive epithets on last Saturday what had taken place. But I intended to mention the facts, and I said then what I repeat now, that I would have the country to give the transaction a name and to pass judgment upon it.

Mr. WILSON, of Iowa, resumed the floor.

Mr. MAYNARD. Will the gentleman yield to me for a moment?

Mr. WILSON, of Iowa. Certainly.

Mr. MAYNARD. I ask the gentleman to yield to me, not for the purpose of participating in the discussion of the issue which has arisen between that gentleman and the gentleman who has just taken his seat, [Mr. BOYER,] but for the purpose of alluding to a remark which fell from another gentleman from Pennsylvania, [Mr. WOODWARD,] in which he criticised the action of Congress, of this House and the other, in passing the amendment which was introduced by the gentleman from Iowa, [Mr. WILSON,] as indecent. Passing over the assumption—

Mr. WOODWARD. Allow me to correct the gentleman as to the form of my expression. My recollection is that my remark was that it was "an indecent exercise of legislative power."

Mr. MAYNARD. So I understood the gentleman to say. Now, if any gentleman considers himself justified in assuming to lecture Congress upon questions of decency, why, sir, I shall not quarrel with him. But I submit to the consideration of gentlemen, if we are to engage in inquiries of this sort, whether the indecency is not in the judicial branch of the Government seeking to transcend its legitimate sphere, and to enter into the domain of the political branch of the Government, and to attempt the decision of political questions. With my ideas of decency and propriety, so long as I am connected with either of the branches of the political department of this Government, I will use every means in my power, will cast every vote I can, to take away every jurisdiction or subject of jurisdiction that would authorize the judicial tribunals of the country to pass beyond their legitimate sphere and attempt the decision of purely political questions.

Mr. WOODWARD. I know the gentleman from Iowa [Mr. WILSON] alluded to it, and the gentleman from Tennessee [Mr. MAYNARD] again alludes to it. But I confess I do not understand what they mean when they charge the Supreme Court with having gone beyond its jurisdiction. The gentleman read from a newspaper criticism on the Supreme Court.

Mr. WILSON, of Iowa. Who did that?

Mr. WOODWARD. I do not know that the gentleman read from a newspaper, but he cited a newspaper—

Mr. WILSON, of Iowa. I did not.

Mr. WOODWARD. Certainly you did.

Mr. WILSON, of Iowa. I referred to a newspaper criticism of the Supreme Court?

Mr. WOODWARD. Certainly.

Mr. WILSON, of Iowa. No, sir.

Mr. WOODWARD. I understood you to do so.

Mr. WILSON, of Iowa. I referred to the constant assertions of the newspapers representing the party to which the gentleman belongs, in which we were informed, day by day, and week by week, that a majority of the Supreme Court had determined to use the McCordle case for the purpose of annulling, by declaring them unconstitutional, all the reconstruction laws of Congress.

Mr. WOODWARD. Then I was entirely right in what I was saying. The gentleman did charge, upon the authority of newspapers—

Mr. WILSON, of Iowa. The gentleman will pardon me, and remember that the McCordle case was introduced into this discussion by himself.

Mr. WOODWARD. I made an inquiry of the gentleman in regard to the McCordle case; but the point I am now upon is this—

Mr. WILSON, of Iowa. Excuse me; but I do not intend to get too far away from the remarks of the gentleman from Pennsylvania, [Mr. BOYER.]

Mr. MAYNARD. Will the gentleman allow me to conclude what I was saying?

Mr. WILSON, of Iowa. Very well.

Mr. MAYNARD. I will simply observe that *his pendens* is the highest notice. Surely the gentleman from Pennsylvania [Mr. WOODWARD] has not been here listening to what was going on in that high tribunal without knowing, just as well as he knows any fact, from the line of argument of counsel, to say nothing about what has appeared in the newspapers, that this McCordle case was brought up for no purpose in the world except to test and settle political questions. It is a political suit; that and nothing else, and brought for that purpose alone. And decency and propriety, according to my ideas, require that we should, by our legislation, put an end to that suit and save the court from further annoyance or further occasion to engage in any discussion, or to make any decision of that kind.

Mr. WILSON, of Iowa. Now, Mr. Speaker, I wish to notice very briefly the last remarks of the gentleman from Pennsylvania, [Mr. BOYER,] and I do not intend that that gentleman shall escape from his responsibility as a member of this House by any specious plea such as he has put in here to-day and on last Saturday.

Mr. BOYER. The gentleman will find that there is no design on this side to escape from responsibility.

Mr. WILSON, of Iowa. The gentleman will pardon me; he has had his say, and I prefer not to be interrupted just now.

The gentleman from Pennsylvania was in his seat; he heard that amendment read. It took some time to read it. The gentleman was not deprived of an opportunity of making an inquiry. He did not even attempt to do so. He sat in his seat dumb. Now, will he say that after that bill was introduced he understood by the rules of the House that I could not offer an amendment? Will he say that he did not hear the amendment read? If he knew that I might offer the amendment, why did he not object to the bill? If he heard the amendment read, why did he not, at least, make some attempt to get some explanation of it?

Mr. BOYER. Because there was no time.

Mr. WILSON, of Iowa. The gentleman did not even rise in his seat and attempt to object.

Mr. BOYER. And because the measure was introduced in such a way as to disarm suspicion.

Mr. WILSON, of Iowa. Disarm suspicion! Were the gentleman's ears closed while the amendment was being read?

Mr. BOYER. The gentleman asks me a question and I will answer it. I am sometimes, like the gentleman from Iowa, engaged in other matters than attending to the reading of bills which are presented, especially when the nature of the bill has been explained to me, and when by that explanation it appears perfectly harmless.

Mr. WILSON, of Iowa. I beg the gentleman's pardon. The amendment had not been explained to him, but it was read in his hearing, while he was sitting in his place as a Representative of the people. It was understood by other members on that side of the House, for they have so stated in their places.

Mr. BOYER. Will the gentleman say that the amendment upon its face explains its full nature and effect?

Mr. WILSON, of Iowa. Will the gentle-

man say that any law upon its face explains its full nature and all of its effects?

Mr. BOYER. Yes, sir; I do say that some laws do that.

Mr. WILSON, of Iowa. Are all amendments to be so drawn that by the mere reading of them members shall understand their entire scope and bearing?

Mr. BOYER. As an example of what I said, I may remark that the bill to which this amendment was attached does explain itself; its whole nature and effect are apparent upon its face.

Mr. WILSON, of Iowa. If the gentleman would not listen to the reading of the amendment what right had I to expect that he would listen to an explanation? The gentleman sat there while that bill was being read, and after it was read the amendment was also read at the Clerk's desk, yet, as I have stated, the gentleman did not even attempt to interpose an objection or an inquiry. Now, sir, it was fair for me to presume from the terms of my amendment that any gentleman could understand the general scope of its provisions.

Mr. BOYER. Will the gentleman allow me to ask him a question?

Mr. WILSON, of Iowa. Certainly.

Mr. BOYER. I desire to ask the gentleman this question: if the nature and effect of this proposition were so obvious that any one could read them upon its face, why have so many gentlemen upon the majority side of the House boasted of the proceeding since as a most excellent trick on their part to entrap the minority?

Mr. WILSON, of Iowa. I do not know that any gentleman has made any such boast, though it may have been so. If gentlemen on this side have made a boast of that kind, it may have been founded on the seeming dullness of the gentleman from Pennsylvania in not understanding the amendment when it was read by the Clerk.

Mr. BOYER. Or, perhaps, upon the seeming candor of the gentleman from Iowa.

Mr. WILSON, of Iowa. The gentleman from Iowa said nothing on the subject at all.

Mr. WOOD. Will the gentleman from Iowa permit me to say a few words?

Mr. WILSON, of Iowa. How long does the gentleman want?

Mr. WOOD. One or two minutes.

Mr. WILSON, of Iowa. Oh, yes; I will yield the gentleman three minutes.

The SPEAKER. The gentleman from Iowa has but three minutes remaining.

Mr. WILSON, of Iowa. Then I yield to the gentleman two minutes.

Mr. WOOD. I desire to call the attention of the gentleman from Iowa and of the House to this fact, that the chairman of the Committee of Ways and Means occupies a very peculiar position in this House.

He has charge of revenue matters. He has charge of what we term the legislation of the House, and when he rises in his place to call from the Speaker's table an ordinary revenue bill apparently it is almost always the case he receives the unanimous consent; but it is not always the case, after a bill has been introduced by unanimous consent, an amendment is attached to it, which could not have got in under other circumstances, which refers entirely to another subject, and which, as an original proposition, would lead to a great deal of opposition and debate.

Mr. WILSON, of Iowa. Both referred to the same subject.

Mr. WOOD. One word further. Mr. Speaker, I think our side of the House is not entirely blameless in this matter. When it occurred I was in the library reading; but when it did occur I think the old members who sat here on our side are censurable for the neglect they showed on that occasion.

Now, to show how the gentleman's own political friends view this subject—to show it is not Democrats alone who look upon this procedure with marked disfavor—I desire to send to the Clerk's desk to have read an arti-

cle from the New York Times, a Republican paper, edited by Henry J. Raymond.

Mr. WILSON, of Iowa. I cannot yield for that purpose.

Mr. WOOD. I have not exhausted my two minutes.

Mr. NIBLACK. Let it be read. We will extend the time of the gentleman from Iowa.

Mr. WILSON, of Iowa. Then I yield.

Mr. WOOD. It is Republican authority.

The Clerk read as follows:

*"Congress and the Supreme Court—Sharp Practice.—* We see nothing very adroit, and certainly nothing very creditable, in the hurried passage of a bill nominally relating to appeals in internal revenue cases, but really designed to remove the McCordle case and all similar cases from the jurisdiction of the Supreme Court. In its original shape, as introduced by Mr. TRUMBULL, the proposition would have encountered strenuous opposition. It was considered, very justly, a dangerous interference with the authority of the court and a disingenuous attempt to evade judicial criticism of the constitutionality of the reconstruction acts; and, though opposition would probably have been futile, it would unquestionably have served to give prominence to the real nature of the proceeding, the purpose of its authors, and its effect upon a coordinate authority in the Government. On Thursday, however, a bill was brought up in the House which on its face bore no evidence of importance. It seemed to be no more than a measure required to relieve collectors of internal revenue from annoyance; and so it professed to be. Taking advantage of the absence of Democratic members, and without affording the slightest clue to its object and scope, an amendment was added repealing so much of a certain act as provides for an appeal in *habeas corpus* cases from the circuit court to the United States Supreme Court. No opposition was offered because nobody not in the secret understood the game, and the bill, as amended, passed at once. It was carried to the Senate, where it slipped through with equal celerity. Not until it had escaped the legislative ordeal was its import understood or its effect upon the case now undergoing argument in the court.

If the only interests involved were those of party, we might smile at the dexterity with which the Democratic members and Senators were outwitted. And if in legislation that passes for dexterous strategy which in ordinary life would be denounced as trickery or fraud, we might set down the Democrats as dull-witted fellows, whom their sharper associates are privileged to out-manuever. But the proceeding has more than a personal or partisan significance. A trick it is, and as a trick it will be remembered, but it is a trick by which Congress is enabled to forestall the action of the Supreme Court, and prevent an adverse decision on the merits of reconstruction by limiting the jurisdiction of the court. Unless the court refuses to be so restrained, and thus comes into direct collision with Congress, all chance of obtaining a judgement is destroyed. Whether the reconstruction law is constitutional or otherwise is no longer a matter of moment to sufferers from its provisions. They are denied the privilege of testing the validity of the law by a proceeding which is virtually retroactive, and which renders the administration of justice subordinate to partisan ends.

The shamelessness with which the thing is done suggests a humiliating commentary upon the temper of Congress and the effect of its legislation upon the most cherished institutions of the country. In better days changes affecting the judiciary were discussed calmly, carefully, and with no immediate reference to their effect upon parties. They were, in fact, discussed and settled on their merits. Now, we have a measure arresting justice in its course, forcing out of court a case rightfully there, awaiting argument and judgment, and forbidding the recognition of cases affecting the constitutionality of statutes under which the States are to be brought into the Union; and this measure not subjected to examination, not debated or explained, not understood or even known, but hurried through both Chambers almost with the quickness of lightning, and for a purpose of which the ruling party are ashamed.

The SPEAKER. The hour of the gentleman from Iowa has expired.

Mr. NIBLACK. I move that the gentleman's time be extended.

There was no objection, and it was ordered accordingly.

Mr. WILSON, of Iowa. There are two or three unfortunate features about that, so far as the other side of the House is concerned. In the first place, the gentleman presents it as a Republican authority.

Mr. WOOD. Henry J. Raymond, of the New York Times.

Mr. WILSON, of Iowa. I read the article some days ago. I do not know any member on this side of the House who would acknowledge the New York Times as a Republican paper. It opposes more Republican measures than it supports.

Mr. WOOD. We do not acknowledge it as a Democratic paper.

Mr. WILSON, of Iowa. Then it must stand between us. [Laughter.]



Mr. ELDRIDGE. All the more reason for believing it is impartial.

Mr. WILSON, of Iowa. It seems so. It gives as much attention to that side as it does to this, but it did not understand the facts.

If members on the other side of the House were absent we could not wait for their return; if compelled to await their presence they might stop all legislation. Therefore I submit that the authority he has presented is very much against him and his friends. Why was not the gentleman here attending to his public duties?

Mr. WOOD. I did not suspect a trick.

Mr. ELDRIDGE. I have given the reason why I was absent.

Mr. WILSON, of Iowa. The gentleman says he did not suspect a trick. What right had he to be absent, even though he did not suspect a trick? His constituents expect him to attend to their business and the affairs of the country in the House. Instead of that he absents himself from the House and neglects his public duties. His constituents have a right to find fault with him if he absents himself in this way. [Laughter.]

Mr. WOOD. I never will give my consent hereafter to anything, not even when courtesy would seem to demand it.

Mr. WILSON, of Iowa. The gentleman loses his temper. [Laughter.] If he will only continue that practice of neglecting and betraying his constituents he will not need to consent to anything. If, however, he shall discharge his duty by remaining here he will have an opportunity, as he might have had when this bill was taken from the Speaker's table, to make objection.

Mr. ELDRIDGE. I think the gentleman from New York [Mr. WOOD] made quite as severe a confession in the opening of his remarks as the lecture of the gentleman from Iowa. [Laughter.]

Mr. WILSON, of Iowa. I think he deserves both. [Laughter.]

Mr. WOOD. You have not answered that article in the New York Times.

Mr. WILSON, of Iowa. Oh, no; the gentleman himself will not indorse that because it strikes his friends quite as much as it does any one on this side. Let the Times scold.

Again, the bill went to the Senate. Were all the Democratic Senators absent? Why was it not challenged there? Why did not some of the gentlemen who, like the gentleman from New York were absent, after returning to the Hall and ascertaining the nature of this amendment inform some Democratic Senators of this

"trick" which had been perpetrated in their absence from their seats? If that had been done there might have been a full discussion in the Senate, for there there is no limit to debate except that of physical endurance. But, instead of its being arrested in its passage there, Senators were as dumb and perhaps as absent as members of the House.

But before the roll-call was finally completed on the passage of the bill in the Senate, the vote being taken by yeas and nays, we find that there were a number of Democratic Senators present. Now, their attention must have been called to that amendment, otherwise they would not have demanded the yeas and nays. Where a matter is not deemed important they do not call the yeas and nays on its passage; but Democratic Senators present deemed this so important that, having at their disposition unlimited time for discussion, they merely demanded the yeas and nays on the passage and all the Democrats voted against it. Why? It must have been because they understood it. We certainly will not charge them with voting against a thing they did not understand. That would be quite as unfair as it would be to charge the gentleman from New York, who was absent on this occasion, with being absent all the time. Therefore I will not make any charge against the Senators any more than against the gentleman from New York.

Mr. BOYER. I would inform the gentleman that I believe there was opposition made to it in the Senate, so far, at all events, as to inquire in reference to the nature of it, but no explanation was given. The vote was immediately afterward taken, and I believe the yeas and nays were called on the passage of the bill by the Senator from Pennsylvania, [Mr. BUCKALEW.]

Mr. WILSON, of Iowa. I do not know for what purpose that explanation is interpolated. Is it for the purpose of showing that Democratic Senators were quite as unable to understand that amendment when it was adopted as members of this House were when it was being read? [Laughter.] Or is it for the purpose of showing that they, too, disregarded the interests of the people, their constituents, and had abandoned attention to public affairs?

Mr. BOYER. If it will do the gentleman from Iowa [Mr. WILSON] any good I will confess, for my own part, that the members of the minority of this House were not as attentive as the proceedings in the particular matter we are discussing show they ought to have been; and I will say further to the gentleman that he may be assured that it is not necessary for him

further to lecture the members of the minority upon that point.

Mr. WILSON, of Iowa. Then I will desist.

Mr. BOYER. The lesson he and the gentleman from Ohio [Mr. SCHENCK] have taught us will not be lost either upon us or upon the country.

Mr. WILSON, of Iowa. That is to say, the gentleman from Pennsylvania [Mr. BOYER] will hereafter be more attentive to his public duties than he was on that occasion.

Mr. BOYER. And less confiding.

Mr. WILSON, of Iowa. But I must interpose a defense for some members on that side of the House, and particularly the gentleman from Indiana, [Mr. NIBLACK,] who is always attentive to his duties, and that is that he neither deserves a lecture on this occasion nor needs any defense from the gentleman from Pennsylvania, [Mr. BOYER.] The gentleman from Indiana has stated in his own behalf that he understood the nature of the amendment, and yet he did not think it was necessary to consume the time of the House in opposing it. Mr. Speaker, I have done.

#### TREATY-MAKING POWER—THE PUBLIC LANDS.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I take this occasion to say to the House that I will at the earliest time, when it may be in order, submit for consideration the following:

*Resolved*, That the Committee on the Judiciary be instructed to inquire and report whether public lands sold under treaties with Indian tribes are held by a valid title, and whether such lands can be sold except in pursuance of a law duly enacted by Congress.

And I will present now very briefly some of the reasons in support of the resolution, so that the House may know in advance the grounds upon which I will ask its adoption. The ample discussions in Congress on the subject of the public lands have demonstrated the wisdom, the justice, and the expediency of so disposing of them as to secure their sale to actual settlers. Notwithstanding this there have been, and yet are, many and plausible pretexts for disposing of the public lands so as to place them in large tracts in the hands of monopolists and speculators, who grow rich at the expense of the toiling millions, and impoverish the agricultural classes by the exorbitant prices demanded and received when the lands are sold.

Among the modes more recently adopted of disposing of the public lands in this unjust and ruinous mode is that of selling them by virtue of treaty stipulations with Indian tribes, and without any act of Congress to authorize it.

I have procured from the Commissioner of Indian Affairs a table, as follows:

Schedule showing sale of Indian Trust Lands from January 1, 1864, to January 1, 1868.

Reservation.	Location.	When sold.	To whom sold.	No. acres sold.	Price per acre.	Total amount.	By what authority sold.
Delaware.....	Kansas.....	August 31, 1866.....	L. L. Smith, Pres. of Missouri R. R. Co.	92,598.33	\$2 50	\$231,495 82	Treaty July 4, 1866, art. 2, Laws 1st sess. 39th Congress, p. 109.
Kickapoo.....	Kansas.....	August 16, 1865.....	Achison & Pike's Peak R. R. Co.	123,832.61	1 25	154,790 76	Treaty June 28, 1862, art. 5, Statutes-at-Large, vol. 13, p. 623.
Ottawa.....	Kansas.....	June, 1864, to July, 1866.....	Sundry individuals...	18,405.63	2 31	42,577 36	Treaty June 24, 1862, art. 9, Statutes-at-Large, vol. 12, p. 1237.
Sac and Fox, Mississippi.....	Kansas.....	Since January 1, 1864.....	Hugh McCulloch.....	2,220.76	1 73	3,855 95	Treaty of October 1, 1859, art. 4.
Sac and Fox, Mississippi.....	Kansas.....	.....	Coney & Stevens.....	2,490.36	1 84	4,587 33	
Sac and Fox, Mississippi.....	Kansas.....	.....	William R. McKean.....	29,677.21	64	19,180 80	
Sac and Fox, Mississippi.....	Kansas.....	.....	Fuller & McDonald.....	39,038.27	73	28,825 85	
Sac and Fox, Mississippi.....	Kansas.....	.....	Robert S. Stevens.....	51,689.31	71	36,965 78	
Sac and Fox, Mississippi.....	Kansas.....	.....	John McManus.....	142,915.90	1 09	156,937 65	
Sac and Fox, Mississippi.....	Kansas.....	.....	Other parties.....	20,667.85	2 42	50,127 71	
Kansas.....	Kansas.....	Since January 1, 1864.....	J. W. McMillan.....	2,946.59	1 16	3,440 05	Treaty October 1, 1859, art. 4, and March 13, 1862, art. 1, Statutes-at-Large, vol. 12, pp. 1111, 1221.
Kansas.....	Kansas.....	.....	Northrop & Chick.....	7,519.66	1 28	9,628 36	Treaty March 6, 1861, art. 2, Statutes-at-Large, vol. 12, p. 1171.
Kansas.....	Kansas.....	.....	Other parties.....	23,505.07	1 50	35,254 09	
Sac and Fox of Missouri.....	Nebraska.....	Since January 1, 1864.....	Stephen B. Miles.....	3,182.29	1 77	5,645 27	
Sac and Fox of Missouri.....	Nebraska.....	.....	H. Q. Ferguson.....	3,420.39	1 40	4,789 17	
Sac and Fox of Missouri.....	Nebraska.....	.....	Hugh McCulloch.....	4,794.75	1 31	6,313 03	
Sac and Fox of Missouri.....	Nebraska.....	.....	Other parties.....	9,827.57	1 15	16,310 03	
Winnebago.....	Minnesota.....	Since January 1, 1864.....	John A. Willard.....	4,719.65	2 46	11,629 41	Treaty April 15, 1859, art. 2, and act of Congress of February 21, 1863, Statutes-at-Large, vol. 12, pp. 1101 and 658.
Winnebago.....	.....	.....	John T. Williams.....	5,387.44	1 85	9,974 82	
Winnebago.....	.....	.....	Daniel G. Shillock.....	5,723.82	2 50	14,351 70	
Winnebago.....	.....	.....	William F. Lewis.....	7,975.91	2 59	20,681 36	
Winnebago.....	.....	.....	Willard & Barney.....	10,458.77	2 50	26,135 06	
Winnebago.....	.....	.....	Other parties.....	57,510.93	3 26	187,608 75	
Cherokee neutral lands.....	Kansas.....	October 9, 1867.....	James F. Joy.....	*800,000.00	1 00	-	Treaty July 19, 1866, Laws 1st sess. 39th Congress, p. 115.
				1,478,528.99		\$1,081,122 52	

\*Less number of acres taken by settlers which is at present unknown.

Sent to Secretary of Interior with report February 28, 1868.

(See House Ex. Doc. No. 85, second session Fortieth Congress, relative to Indian lands in Kansas; speeches of Mr. JULIAN in House of Representatives, January 22 and 28 and February 4 and March 6, 1868.)

It is a fact which should not be overlooked that the treaty made October 1, 1859, ratified July 9, 1860, between the United States and the confederated tribes of Sacs and Foxes of the Mississippi, and under which more lands were sold than under any other, has never been published with the volumes of public laws, and was, therefore, comparatively unknown to the people.

Now, sir, if the public lands of the United States occupied by Indian tribes can be sold in pursuance of treaties like this, without consulting the law-making power of the Government, it is high time it should be known, in order that some proper remedy may be applied. This nation has never admitted that any Indian tribe ever had any title to the lands in their occupancy, and consequently no power of sale was ever conceded to them. No tribe ever could make a treaty with or sell the lands in their occupancy to any foreign nation, or even to private citizens of the United States. The writers on public law all agree as to this, and no citation of authorities is necessary. These treaties under which sales have been made to private individuals assert the novel, dangerous, and, as it seems to me, unwarranted right to divest the title of the United States simply by the authority of the President and Senate. I deny that there exists in this Government any such power as is asserted in these treaties, and I will at the proper time introduce the resolution just submitted, in order that the subject of which it treats may be considered and that this House may assert its rights over the public lands.

The treaty-making power is not defined by the Constitution. It is treated as a power already known, defined, and recognized, and limitations are thrown around it by the Constitution. Subject to these limitations it is as ample as was the treaty-making power in England when the Constitution was adopted. There "the sovereign power *quo ad hoc* is vested in the king. Whatever contracts he engages in no other power in the kingdom can legally delay, resist, or annul." (1 Blackstone, 267.) And Blackstone says that ministers are impeachable if from criminal motives they advise an improper treaty. In this country the power is limited as to the authority to make treaties by devolving it on the President and Senate. But all treaties are declared to be the supreme law. It has been maintained, therefore, with great force, that the treaty-making power is competent to execute itself even by the appropriation of money from the Treasury—that such appropriation is a law within article one, section eight, clause twelve, of the Constitution. It was so declared—

"By William Pinckney, of Maryland, in 1816, in the House of Representatives, and supported by one of his most elaborate and able speeches. The speech may be found in Williston's 'Eloquence of the United States,' vol. 3, page 231."—1 *Cranch*, 103; 1 *Wash. C. C. R.* 322; 1 *Paine*, 65.

The action of the Government, however, has been different from this from Jay's treaty to this hour. And it has been said:

"The discussion of the appropriation for that treaty was an undisputed admission of the right of the House to act. The occasion was worth the error, for it gave birth to that magnificent oration of Fisher Ames, which, in honor of American literature, will be read in future ages in company with the oration of Demosthenes for the crown."

But as the Constitution, in article one, commits the whole subject of raising revenue to Congress, a treaty requiring the payment of money to execute it cannot of its own force be carried into effect so far as the payment is concerned, unless, indeed, money shall be found in the Treasury unappropriated by act of Congress or shall so come in. (Paschal's Annotated Constitution, 175; 2 *Peters*, 314; 3 *Dallas*, 276; Story on Constitution, sec. 1508; 4 *Hall's Law Journal*, 461; 6 *Wheat.*, 161; 1 *Kent*, 165, 284; Spalding's speech, House of Representatives, December 19, 1867.)

A treaty with an Indian tribe cannot dispose of public lands, and the reason is plain. I have already remarked that the title to the public domain within the boundaries of the

United States, though there be an occupancy by Indians, is nevertheless in the Government. The Indians never did and never could have any title but only a right of occupancy. (Johnson vs. McIntosh, 8 *Wheat.*, 543; Clark vs. Smith, 13 *Peters*, 195.)

And the power to dispose of the public lands is expressly reserved to Congress by the Constitution. (Art. 4, sec. 3, clause 2; United States vs. Rogers, 4 *Howard*, 567; American Insurance Company vs. Cauter, 1 *Peters*, 542; 19 *Howard*, 395, 633.)

A power which is reserved to Congress exclusively cannot be exercised under any authority purporting to be conferred by treaty.

The authorities which explain and illustrate the treaty-making power have been collected by the gentleman from Massachusetts, [Mr. Butler,] and I present them, so that they may be before the House for the proper understanding of the land titles purporting to have been created under treaties with the Indian tribes.

The treaty-making power was discussed in the national convention which framed the Constitution in 1787, as follows: May 29, 5 *Eliot's Debates*, 127, 181; June 13, *ibid.*, 190; June 15, *ibid.*, 192; June 18, *ibid.*, 209; June 20, *ibid.*, 245; July 17, *ibid.*, 322, 375; August 6, *ibid.*, 379; August 7, *ibid.*, 382, 383; August 15, *ibid.*, 427, 428, 467, 469, 470; August 25, *ibid.*, 478; August 27, *ibid.*, 483; September 4, *ibid.*, 607; September 7, *ibid.*, 622, 623, 624; September 8, *ibid.*

It was discussed in the Virginia convention, June 18, 1788. (3 *Eliot's Debates*, 496, 514, 516, 660.)

It was said by Mr. Madison that "if the President got up a treaty by surprise he would be impeached."

It was discussed in the North Carolina convention, July 28, 1788, (3 *Eliot*, 115, 132, 245;) in Maryland, (2 *Eliot*, 553;) in the Federalist, Nos. 21 and 63, (Dawson's *Fed.*, 147, 148;) in the debates on Jay's Treaty, March 2, 1796; March 7, March 24; 1 *Benton's Abridgment*, 642, 643, 644, 645, 646, 648, 651, 671, 677, 678, 679, 680; March 25, President's Message; March 30, 1 *Benton's Abridgment*, 692, 693; March 31, 1796, 1 *Benton*, 692, 693, 696; April 6, 1796, 1 *Benton*, 696, 698, 699, 700, 701, 702.

*The Opinions of Jefferson.*

Letter to Colonel Monroe, March 20, 1796. (Jefferson's Works, edition of 1830, vol. 3, pp. 323-4.)

Letter to James Madison, March 27, 1796. (*Ib.*, 324-5.)

Letter to Madison, April 19, 1796. (*Ib.*, 326-7.)

Letter to Breckinridge, August 12, 1803. (*Ib.*, 542-3.)

*Opinions of George Tucker.*

Tucker's Blackstone, (vol. 1, part 1, appendix, 339-40.)

*Contemporary Opinions of Washington.*

Message of March 30, 1796.

Marshall's Life of Washington, (vol. 2, p. 382; 1 *Benton's Abridgment*, note, p. 702.)

*Judicial Opinions.*

Foster & Elam vs. Neilson, (2 *Peters*, 253-314.)

United States vs. Arredondo, (6 *Peters*, 711-2.)

United States vs. Percheman, (7 *Peters*, 88.)

Case of Metzger, (1 *Barbour*, 248-258.)

Turner vs. American Baptist Missionary Union, (5 *McLean*, 344.)

Mr. Speaker, the objection to these Indian treaties is twofold; first, as to the asserted power to dispose of the public lands; and second, the fact that lands have been sold in large tracts, thus creating vast monopolies and subverting the homestead policy of the Government. And while upon this subject I desire to say, as I have often before said, that land monopoly is a great, and, I fear, a growing evil. Let me state some facts to prove this.

The Government, since its organization, has sold lands amounting to over 154,000,000 acres.

Of the lands sold, there remain in private

hands, not reduced to occupancy as farms, over 30,000,000 acres.

The Government grants of lands to western and southern States, to aid in constructing railroads, amount to over 57,000,000 acres.

The grants to aid in the construction of canals amount to over 17,000,000 acres.

The grants to different lines of Pacific railroad companies, 124,000,000 acres.

The amount of land granted and to be granted to the States under the act of Congress of July 2, 1862, to aid in the establishment of agricultural colleges, reaches (Laws of 1862, p. 504) 9,600,000 acres.

The lands granted to the States under different acts of Congress as "swamp and overflowed lands," amount to 43,000,000 acres. (See JULIAN's speech, House of Representatives, March 6, 1868.)

This subject is further illustrated by letters which I have received from the Commissioner of the General Land Office, as follows:

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE, February 6, 1868.

SIR: I have had the honor to receive your letter of this date, and in reply have to refer you to the Indian office for the information therein requested as to the lands in Indian reservations sold to individuals or companies within the last three years. In answer to your second inquiry I have to state that the selections in place for agricultural colleges under the act of July 2, 1862, amounted on the 30th June, 1867, to one million one hundred and fifty-nine thousand four hundred and ninety-nine acres, and the scrip issued under the same law to non-public-land-holding States, amounts to five million three hundred and forty thousand acres, which is exclusive of two hundred and seventy thousand acres issued to North Carolina, and the location thereof prohibited under the joint resolution of March 29, 1867.

Very respectfully, your obedient servant,  
JOS. S. WILSON, Commissioner.

Hon. WILLIAM LAWRENCE, House of Representatives.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE, February 8, 1868.

SIR: I had the honor this morning to receive your letter dated the 9th instant, and in reply to your first and second inquiries have to state that the quantity of land inuring under grants by act of Congress for railroad purposes is estimated at 181,588,581 acres, exclusive of 3,225,413 acres granted for wagon roads, and up to the 30th of June last there were certified to the proper beneficiaries a fraction over twenty-one millions. (See Annual Report of October 15, 1867.)

In reply to your third inquiry I have to state that the quantity of public land which remained unsold and unappropriated in the States and Territories on the 30th of June last, including 399,529,600 acres, as the area of the American purchase from Russia, was.....1,414,567,574 acres.

The area surveyed on the 30th June, 1867, was.....485,311,778 acres.

Of the aforesaid surveyed area the area undisposed of was.....64,880,952 acres.

I have no data for forming a judgment of the probable amount of arable land not surveyed.

Very respectfully, your obedient servant,  
JOS. S. WILSON, Commissioner.

Hon. WILLIAM LAWRENCE, House of Representatives.

It was to remedy some of the evils of land monopoly that I deemed it my duty, on the 20th of January, to introduce a bill which is now pending, as follows:

A bill to secure to actual settlers the right to purchase lands hereafter granted to railway and other companies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all lands which may hereafter be granted to railway or other companies to aid in the construction of railways or other works, whether under existing law or laws hereafter enacted, shall be sold by such grantees only to actual settlers in quantities not greater than one half section to any one person, and at a price not exceeding \$1 25 per acre, with interest at six per cent. per annum from the date of the grant to such company; and the Secretary of the Interior shall have power to prescribe rules and regulations for carrying this act into effect; and no person shall be deemed an actual settler who does not furnish evidence in such form as the Secretary of the Interior may prescribe, that it is his or her intention to enter upon, improve, and reside upon the lands he or she may purchase as and for a homestead.

The Committee on Public Lands subsequently reported a bill designed to remedy the same evils, which is as follows:

A bill to regulate the disposition of lands that may be hereafter granted to aid in the construction of railways.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all lands which may hereafter be granted to aid in the construction of railways shall, unless otherwise expressly provided in the act granting the same, be sold by the State or Territory to which said grant is

made to actual settlers, in quantities no greater than one quarter section to any one person, and at a price to be fixed by the company which shall build the road, not exceeding \$250 per acre, and the amount received for the said land shall be paid by the State or Territory to the company constructing said road, after deducting all the expense incurred by the State or Territory in making such sales. And all sales so made shall be made upon the following terms, namely: one fourth of the amount thereof shall be paid in cash at the time of purchase, and the balance thereof shall be paid by the settler in three annual installments, with interest not to exceed seven per cent. per annum, until paid. And the Secretary of the Interior shall have power to prescribe rules and regulations for carrying this act into effect; and no person shall be deemed an actual settler who does not furnish evidence, in such form as the Governor of a State or Territory may prescribe, that it is his or her intention to enter upon, improve, and reside upon the lands he or she may purchase: *Provided further*, That any alternate even-numbered sections along the line of any railway, which have not been sold or entered upon by actual settlers within ten years from and after the survey and location of said railway, shall be disposed of on the same terms as other public lands of the United States.

As these bills relate to a kindred subject and are yet pending I have deemed it proper to present them here, and I hope they and the facts I have stated may be of some service in illustrating the policy pursued as to the public lands and the resolution which I have submitted.

This subject has attracted the attention of the public in many forms.

The Republican State convention in Indiana, on the 20th February, 1868, adopted a platform of principles, which declares:

"*Eighth.* The public lands are the property of the people. Monopolies of them either by individuals or corporations should be prohibited. They should be reserved for actual settlers, and as a substantial recognition of the services of the Union officers and soldiers in the late civil war, they should each be allowed one hundred and sixty acres thereof."

I hope the resolution when it shall be offered may receive the sanction of the House.

The SPEAKER. According to general consent given to-day, the gentleman from Pennsylvania [Mr. MOORHEAD] is entitled to the floor.

Mr. LAWRENCE, of Ohio. I move that the House now adjourn.

The motion was agreed to; and accordingly (at five o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: Resolution of the Grant Club of Cheyenne, Dakota Territory, indorsing the action of Congress in reinstating to office Secretary Stanton, and in impeaching President Johnson.

By Mr. CLARKE, of Ohio: The petition of Charles M. Diserens and others, officers of United States steamer Undine, for loss sustained by her capture by the rebels on the 30th October, 1864.

By Mr. HUBBARD, of Connecticut: The remonstrance of Case, Lockwood & Brainard and sundry other citizens of Hartford, Connecticut, against the passage of an international copyright law.

#### IN SENATE.

MONDAY, March 23, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Saturday last was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of authors, praying for the passage of an international copyright law; which was referred to the Committee on the Library.

He also presented a memorial of citizens of Morristown, New York, in favor of a law to make eight hours a legal day's work as to all workmen, laborers, or artisans in the employ of the United States; which was ordered to lie on the table.

Mr. CONKLING. I present the memorial of a large number of citizens of the State of New York, asking that a pension may be given

to the soldiers of the war of 1812 and their widows. As there is a measure on this subject reported already, I move that the petition lie on the table.

The motion was agreed to.

Mr. HOWE presented the petition of Benjamin Cooley and James W. Boswell, praying for compensation for carrying the mails to the United States troops in and around Poolsville, Maryland, from 1861 to 1864; which was referred to the Committee on Claims.

Mr. CAMERON presented a petition of employes of Philadelphia morocco manufacturers, praying for a repeal of the duty on goatskins and sumac, and an increase of the duty on finished or manufactured morocco, and that the internal revenue tax of two and a half per cent. be omitted; which was referred to the Committee on Finance.

Mr. RAMSEY presented a resolution of the Legislature of the State of Minnesota, relative to the unexpended balance of an appropriation made by Congress for the construction of a wagon-road from the western boundary of Minnesota to the Missouri river; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented a resolution of the Legislature of the State of Minnesota, relative to the improvement of the Minnesota river; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented a memorial of the Legislature of the State of Minnesota, in relation to mail service between Fort Abercrombie, Dakota Territory, and Helena, Montana Territory; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented a resolution of the Legislature of the State of Minnesota, relative to the survey of the lands in the Red river valley; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislature of the State of Minnesota, praying for a grant of land to aid in the construction of the Minnesota and Northwestern railroad; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. NORTON presented a resolution of the Legislature of the State of Minnesota, relative to the unexpended balance of an appropriation made by Congress for the construction of a wagon-road from the western boundary of Minnesota to the Missouri river; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislature of the State of Minnesota, for a semi-weekly mail route from Houston, in Houston county, via Dedham, Black Hammed, Spring Grove, and Prairie Grove, in Houston county, Minnesota, and thence via Locust Lane and Canoe, in the State of Iowa, to Dacorah, Iowa, and for the establishment of certain post offices thereon; which was referred to the Committee on Post Offices and Post Roads.

He also presented a joint resolution of the Legislature of the State of Minnesota, relative to the Black Hills wagon-road; which was referred to the Committee on Post Offices and Post Roads.

He also presented the memorial of the Legislature of Minnesota, in favor of the establishment of a mail route from Jackson to Red Wood Falls, in said State; which was referred to the Committee on Post Offices and Post Roads.

He also presented the memorial of the Legislature of Minnesota, in favor of the construction of two wagon-roads, one westerly from Du Luth to the Chippewa reservation of the Pokegama Lake, Sandy Lake, and Mille Lac bands of Chippewa Indians, to Oak Point, and one northerly from Du Luth to the reservation of the Bois Fort Chippewa Indians, at Net Lake, Minnesota; which was referred to the Committee on Military Affairs and the Militia.

Mr. SHERMAN presented a petition of

citizens of Boston, Massachusetts, praying for a repeal of the tax on manufactures; which was ordered to lie on the table.

He also presented a petition of Harriet Jepson, praying that a pension may be granted to the minor child of Levi Forsyth, late of company F, one hundred and twenty-fourth regiment Ohio volunteers; which was referred to the Committee on Pensions.

Mr. CATTELL presented a petition of citizens of Philadelphia engaged in the business of coffee-roasting and storekeeping, praying that the tax of one cent per pound on roasted coffee be taken off, and that the tax be transferred to the coffee in its freshly-imported state; which was ordered to lie on the table.

Mr. NYE presented the petition of M. J. Safold, of Alabama, praying to be relieved from civil disabilities imposed on him by acts of Congress; which, with the accompanying papers, was referred to the Committee on the Judiciary.

#### REPORTS OF COMMITTEES.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the petition of William C. Anderson, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 109) for the relief of Jeremiah McChesney, asked to be discharged from its further consideration, the relief asked for being provided by the general bill for the relief of the soldiers of the war of 1812; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 400) granting a pension to Maria Raftery, widow of Patrick Raftery, corporal company H, thirty-third Massachusetts infantry volunteers, asked to be discharged from its further consideration, a similar bill having already passed the Senate; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 201) to amend an act entitled "An act to amend the several acts heretofore passed to provide for the enrolling and calling out of the national forces, and for other purposes," approved March, 1865, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (S. No. 175) for the relief of Joseph McGhee Cameron and Mary Jane Cameron, children of La Fayette Cameron, deceased, reported it without amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 232) granting a pension to Henrietta Nobles, reported it without amendment, and submitted a report; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Sylvester Nugent, submitted a report, accompanied by a bill (S. No. 456) for the relief of Sylvester Nugent. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Elizabeth J. Miller, submitted a report, accompanied by a bill (S. No. 457) granting a pension to Elizabeth J. Miller, widow of General John Miller. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. DOOLITTLE, from the Committee on Indian Affairs, to whom was referred the joint resolution (S. R. No. 96) for the relief of certain Winnebago Indians residing in Minnesota, reported it with amendments.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (S. No. 151) for the relief of Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, reported it with an amendment, and submitted a report; which was ordered to be printed.

Mr. COLE, from the Committee on Claims, to whom was referred the petition of George B. Halstead, submitted a report, accompanied



by a joint resolution (S. R. No. 128) for the relief of George B. Halstead. The joint resolution was read and passed to the second reading, and the report was ordered to be printed.

#### REPORT OF IMPEACHMENT TRIAL.

Mr. ANTHONY. The Committee on Printing, to whom was referred the resolution providing for printing extra copies of the report of the impeachment trial as it progresses, have instructed me to report it back with amendments, and I ask for its present consideration. The Secretary may read it as amended. It is not necessary to read the original resolution.

The resolution as amended was considered and agreed to, as follows:

*Resolved*, That three hundred and fifty copies of the edition of the report of the impeachment trial published at the Congressional Printing Office be furnished as the trial progresses, for the use of the Senate, and that five thousand copies of the entire work, with an index, be printed and bound for the use of the Senate, and that copies of the daily reports be also furnished to the Chief Justice, to the managers, and to the President's counsel.

#### BILLS INTRODUCED

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 458) to abolish the office of superintendent of exports and drawback; which was read twice by its title, and referred to the Committee on Finance.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 459) to reorganize the Department of State and to reduce the expenses thereof; which was read twice by its title, referred to the joint select Committee on Retrenchment, and ordered to be printed.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 460) to reorganize the circuit courts of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CAMERON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 461) to regulate the sale of hay in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 462) making appropriations for the expenses of the trial of the impeachment of Andrew Johnson, and other contingent expenses of the Senate for the year ending June 30, 1868; which was read twice by its title, and referred to the Committee to Audit and Control the Contingent Expenses of the Senate.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 129) donating certain captured ordnance for the completion of a monument to the memory of the late Major General John Sedgwick; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### ARMY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move that the House of Representatives be requested return the bill (H. R. No. 638) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, which was passed by the Senate on Saturday last.

The motion was agreed to.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 4) for the relief of William Shunk; and

A joint resolution (S. R. No. 122) for the relief of the heirs of Major A. L. Brewer, late a paymaster in the United States Army.

#### DAMAGES TO STEAMER MONITOR IN JAPAN.

Mr. FESSENDEN. I move that the Senate

proceed to the consideration of Senate joint resolution No. 123, reported from the Committee on Foreign Relations, to which I think there will be no objection.

The motion was agreed to; and the joint resolution (S. R. No. 123) authorizing the Secretary of State to adjust certain claims, and directing the payment thereof, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of State to ascertain and allow the damages which ought to be paid to the owners of the steamer Monitor, or Fee Pang, their representatives or assigns, for the injuries sustained from being fired into by the batteries of the Daimio of Nagato, in July, 1864, and the sum allowed by the Secretary of State, together with the expenses attending the ascertainment thereof, is to be paid out of the moneys received for indemnities from the Government of Japan.

It also proposes to authorize the Secretary of State to appoint a commissioner, or commissioners, as may be necessary, to take testimony in Japan, or elsewhere, in relation to such damages, and report the same to him; and any consular or diplomatic officer who may be so appointed is to be entitled to a reasonable compensation, to be allowed by the Secretary of State, in addition to his official salary or emoluments.

Mr. SHERMAN. Is there a report accompanying the joint resolution?

Mr. FESSENDEN. There is a statement of the facts. I will state them briefly to the Senator and the Senate to save time. The difficulties out of which this present fund grew arose from the firing upon this vessel, the Monitor, a private vessel, by this Daimio. Afterward one of our national vessels went there, I believe, and she was fired upon. When the several Powers came to demand payment for injuries done the demand was, I believe, for \$3,000,000 for all of them, which was pretty high, and a proposition was made at the same time that we should take instead another port, a particular port that was wanted for the benefit of commerce; but, to their surprise, the Government of Japan chose to pay the money. Our proportion of it is about eight hundred thousand dollars, and there is nothing to which to appropriate it in fact. The injury done to this vessel would not exceed twenty or thirty thousand dollars. The injury to our national vessel was very slight. The report of the fact shows that this was the only vessel that was injured.

Mr. JOHNSON. The money is paid into the Treasury?

Mr. FESSENDEN. A part of the money is already paid.

Mr. JOHNSON. In gold?

Mr. FESSENDEN. In gold; and properly the damages sustained by our citizens should first be paid out of the fund. It is recommended by the Secretary of State, and the joint resolution was drawn by him.

Mr. CONNESS. I do not know anything about the case of the Monitor to which this resolution refers, and for which it is proposed to provide; but it was not in connection with the attack on the ship Monitor that the American national vessel was afterward fired upon; but in connection with the attack by the ships and forts under the direction of one of the local princes of Japan upon the American steamer Pembroke, which was an unarmed trading vessel, and it was after that attack that the United States steamer Wyoming, under Commander McDougall, was fired upon, and attacked those vessels and forts. It was out of that attack, and the further attack made by the French and English ships upon the Japanese forts, that this money was paid to us. But it is not, I think, correct that the treaty made and growing out of those disturbances did not open other ports to us. I think it did result in the opening of other ports.

Mr. GRIMES. Osaka.

Mr. CONNESS. Yes, sir; and Hiogo, and three or four different ports, and the payment of a sum between seven and eight hundred thousand dollars indemnity to the United States.

That money is in the Treasury, but not appropriated to any purpose nor disposed of, and this resolution provides:

That the Secretary of State be, and hereby is, directed to ascertain and allow the damages which ought to be paid to the owners of the steamer Monitor or Fee Pang, their representatives or assigns, for the injuries sustained from being fired into by the batteries of the Daimio of Nagato, in July, 1864, and that the sum allowed by the Secretary of State, together with the expenses attending the ascertainment thereof, be paid out of the moneys received for indemnities from the Government of Japan.

Now, it appears to me that at best this is a very partial disposition of this case, and that any step we should take in the way of a commission for the ascertainment of damages done to American ships should include all that was done. Therefore I hope that this resolution at present will be laid over until we further inquire into the matter.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore*. The hour has arrived when, by the eleventh rule relative to proceedings in the trial of impeachments, all legislative business must cease and the House be notified by the Secretary that the Senate is ready to proceed upon the impeachment.

Mr. TRUMBULL. I understand that we adjourned the trial until one o'clock to-day.

The PRESIDENT *pro tempore*. At twelve o'clock and thirty minutes all legislative business must cease, according to the eleventh rule of proceeding.

Mr. TRUMBULL. I suppose that that rule was changed by the order of the Senate which directed these proceedings to commence at one o'clock to-day.

The PRESIDENT *pro tempore*. I am not aware that the rule is changed.

Mr. TRUMBULL. I suppose the order of the Senate will change it. That is my understanding.

Mr. HOWARD. It becomes now the duty of the Secretary of the Senate to inform the House of Representatives that the Senate are ready to receive the managers on the part of the House. It will require about half an hour to do that, and to put things in order to proceed upon the impeachment.

Mr. TRUMBULL. I call for the reading of the resolution adopted by the Senate at the last meeting.

The PRESIDENT *pro tempore*. The eleventh rule will be read.

Mr. TRUMBULL. Not the rule, the resolution adopted by the Senate.

The Secretary read from the Journal of the proceedings of the Senate sitting on the trial of impeachment of March 13, 1868:

"On motion by Mr. HOWARD, the Senate sitting for the trial of the impeachment of the President upon articles of impeachment adjourned to the 23d day of March instant, at one o'clock p. m."

Mr. TRUMBULL. I so understood; and the rule I understand only to apply to the first day. I will ask that the rule may now be read.

The PRESIDENT *pro tempore*. It will be read.

The Secretary read rule eleven, as follows:

"11. At twelve o'clock and thirty minutes afternoon of the day appointed for the trial of an impeachment the legislative and executive business of the Senate shall be suspended, and the Secretary shall give notice to the House of Representatives that the Senate is ready to proceed upon the impeachment of ——— in the Senate Chamber, which Chamber is prepared with accommodations for the reception of the House of Representatives."

Mr. TRUMBULL. I will now ask the Secretary to read the next rule.

The Secretary proceeded to read rule twelve, as follows:

"12. The hour of the day at which the Senate shall sit upon the trial of an impeachment shall be (unless otherwise ordered) twelve o'clock m.; and when the hour for such sitting shall arrive the Presiding Officer shall so announce."

Mr. TRUMBULL. That is enough. That hour has not yet arrived.

"The hour of the day at which the Senate shall sit upon the trial of an impeachment shall be (unless otherwise ordered) twelve o'clock m.; and when the hour for such sitting shall arrive the Presiding Officer of the Senate." &c.

The hour was otherwise ordered; it was by our last adjournment made one o'clock, and that hour has not yet arrived. I know it is not a matter of any great importance, but my understanding was that the adjournment was until one o'clock; and I think that is the rule.

Mr. CONKLING. I take it this is a mere question of dispatch in the transaction of business. It will be remembered that on the last day when the subject of impeachment was under consideration, after the hour had arrived, a good deal of delay took place and a good deal of confusion was caused; first, by the managers of the House coming with those attending them; and subsequently, after the proceedings had commenced, by the body of the House coming with the Speaker and chairman of the Committee of the Whole, and so on. It had occurred to me that if, under the rule, the Chair should make the announcement which he has already made, and then the interval should be occupied in having the House come here, as the whole House is to come, and find their seats, and have the whole Chamber tranquil and in order by one o'clock, we should gain just that much in the proceedings of the day.

Mr. EDMUNDS. I think an examination of the rules will settle this question without any difficulty. The ninth rule provides that at half past twelve o'clock "of the day appointed for the return of the summons" the Senate shall proceed to the trial of the impeachment, the Presiding Officer vacating the chair and the Chief Justice taking it. That day was the last day on which we sat—the day for the return of the summons. Then the eleventh rule provides that "at twelve o'clock and thirty minutes after noon of the day appointed for the trial," &c. Now, the question is, under that rule, whether this is the day appointed for the trial. The action of the Senate on that cause subsequently shows to me that it is not the day appointed for the trial, but it is the day appointed for the filing of the answer, with a provision that after that a replication may be put in by the managers on the part of the House of Representatives, upon which the trial shall proceed. So that, coming down to the time when the trial really begins by the appointment of the Senate, it is entirely in the power of the Senate, independent of the rules, because the rules do not provide for it, to fix from time to time to what period it will postpone the proceedings. Acting under that, my friend from Michigan [Mr. HOWARD] submitted the order the week before last that this proceeding should stand adjourned over until one o'clock to-day. I therefore respectfully submit to the Chair that that order of the Senate adjourning the proceeding until one o'clock to day is not in opposition to any of the rules, but is in accordance with them, because it speaks upon a topic for which the rules have not yet provided.

The PRESIDENT *pro tempore*. This is a question of the true construction of the rules, and it ought to be understood. The Chair will refer the question to the Senate.

Mr. CONNESS. I hope the Chair will decide it.

The PRESIDENT *pro tempore*. The Chair has decided what seems to him to be the meaning of the rule.

Mr. CONNESS. Then let that stand.

Mr. SUMNER and Mr. HOWARD. Nobody appeals.

The PRESIDENT *pro tempore*. If the rule is to stand according to the decision of the Chair, the Secretary will inform the House of Representatives that the Senate is now ready to receive the managers of the House of Representatives for the purpose of proceeding with the impeachment.

Mr. EDMUNDS. I appeal from the decision of the Chair in order to bring the matter before the Senate; and for this reason: if the Chair will permit me to state, as an appeal is subject to debate; not that it is of any practical consequence except that it involves us in this extraordinary position: that the announcement is made to the House of Representatives that the Senate is ready, under that rule, to

proceed upon the impeachment, when, in point of fact, it is not ready, because the Chief Justice is not in the chair, and no step upon the trial can be taken, either of receiving managers or anything else, now that the body is organized, without the presence of the Chief Justice. At least, it would seem very extraordinary, indeed.

I only wish to submit a word more. As I have said, this appeal is not taken in any spirit of opposition to the decision of the Chair, but to avoid what would appear to me to be an impropriety. The Senate when it sat upon this trial last ordered that this proceeding should stand over until one o'clock to-day. Now, can anything be done in this proceeding until one o'clock arrives? If the Senate, by its order, violated its own rules, it was a question of order then whether the rule should be permitted to be set aside; and inasmuch as we all know that that order passed by unanimous consent, without any opposition, the fact that it was in violation of the rule would make no difference; it would stand as the order of the Senate; and any objection to its standing in opposition to this rule should have been made then, when it could have been considered, when the Senator from Michigan submitted his order for the adjournment of the proceedings. It is for that reason that the introduction of the managers and the statement to the House of Representatives that we are ready to proceed upon this half an hour before the time when the Chief Justice can take the chair would be an impropriety which, I think, we ought not to enter upon, that I appeal from the decision of the Chair, with all respect, in order to bring it before the Senate.

The PRESIDENT *pro tempore*. The question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. TRUMBULL. I confess I do not like the shape that this is assuming, of an appeal from the decision of the Chair. When I made the suggestion I supposed that the Chair had, inadvertently, looking at one rule, supposed that at half past twelve o'clock the time had arrived without, perhaps, knowing or remembering that we had adjourned to one o'clock; and it seemed to me it might confuse matters. I do not think there is any considerable importance in it.

The PRESIDENT *pro tempore*. The Chair was of opinion that all legislative business was to be suspended at twelve o'clock and thirty minutes, because the rule said so.

Mr. TRUMBULL. There is such a rule; but the Senate having adjourned until one o'clock it would seem as if we could do no business until that hour, and I supposed that the Chair, on having his attention called to it, would probably reconsider the matter. But I do not think there is importance enough in it to have an appeal from the Chair, and I hope my friend from Vermont will withdraw the appeal and let the case stand as it is. I do not think there is any importance in it. It will be one o'clock by the time we get ready.

The PRESIDENT *pro tempore*. The Chair is desirous that the Senate should settle the question. That is all the Chair cares about it.

Mr. EDMUNDS. Inasmuch as I have got inveigled into this discussion in support of my friend from Illinois, and he wishes me to retire, I will do so. I withdraw the appeal. [Laughter.]

The PRESIDENT *pro tempore*. Then the Secretary will inform the House of Representatives that the Senate is ready to receive the managers and the House preparatory to the trial of the impeachment.

The Secretary accordingly proceeded to notify the House of Representatives.

The PRESIDENT *pro tempore*, at one o'clock, said: According to the order of the Senate the chair will be now vacated, that the Senate may be presided over by the Chief Justice of the United States for the trial of the impeachment.

At one o'clock the Chief Justice took the chair, and the Senate was engaged in the consideration of the impeachment case till four

o'clock and forty minutes p. m., when, the Chief Justice having retired, the President *pro tempore* resumed the chair.

On motion of Mr. CONKLING, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, March 23, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

### ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is calling the States and Territories (commencing with the State of Maine) for bills and joint resolutions for reference to appropriate committees, not to be brought back into the House by motions to reconsider; during which call resolutions and memorials of State and Territorial Legislatures are in order.

As the House, by its order, has determined that at one o'clock this day it will proceed to the bar of the Senate, the morning hour will close at one o'clock precisely.

### RAILROAD BRIDGE ACROSS THE HUDSON.

Mr. BUTLER introduced a bill (H. R. No. 946) to authorize the building of a railroad bridge across the Hudson river, New York, at some crossing between Caldwell's Landing and Buttermilk Falls, in the highlands; which was read a first and second time, and referred to the Committee on Roads and Canals.

### PUBLIC MARINE SCHOOLS, ETC.

Mr. ELIOT introduced a bill (H. R. No. 947) to provide for the examination of masters and mates in the merchant service, and to encourage the establishment of public marine schools; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

### CIVIL SERVICE OF THE GOVERNMENT.

Mr. JENCKES introduced a bill (H. R. No. 948) to regulate the civil service of the United States and to promote the efficiency thereof; which was read a first and second time, referred to the Committee on Retrenchment, and ordered to be printed.

Mr. JENCKES. I desire to say that I propose this as a substitute for bills of a similar character now before that committee.

### RAILROAD BRIDGE ACROSS CONNECTICUT.

Mr. HOTCHKISS introduced a bill (H. R. No. 949) to authorize the building of a railroad bridge across the Connecticut river, Connecticut, crossing at Middletown and Portland; which was read a first and second time, referred to the Committee on Roads and Canals, and ordered to be printed.

### PENNSYLVANIA WESTERN DISTRICT COURT.

Mr. MILLER introduced a bill (H. R. No. 950) regulating the trial of causes in the United States court for the western district of Pennsylvania; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

### SAMUEL HEALY.

Mr. WOODWARD introduced a bill (H. R. No. 951) for the relief of Samuel Healy, late lieutenant fifty-sixth Pennsylvania volunteers; which was read a first and second time, and referred to the Committee on Invalid Pensions.

### MARGARET NYCE.

Mr. BUCKLAND introduced a bill (H. R. No. 952) for the relief of Margaret Nyce; which was read a first and second time, and referred to the Committee on Military Affairs.

### LANDS SOLD UNDER INDIAN TREATIES.

Mr. LAWRENCE, of Ohio, introduced a joint resolution (H. R. No. 241) relative to lands sold under treaties with Indian tribes; which was read a first and second time, and referred to the Committee on the Public Lands.



## DIRECT IMPORTATIONS.

Mr. GROVER introduced a bill (H. R. No. 953) to encourage commerce and internal trade by facilitating direct importations; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

## WILLIAM HOWARD.

Mr. COBURN introduced a bill (H. R. No. 954) for the relief of William Howard; which was read a first and second time, and referred to the Committee of Claims.

## DAVID D. NEGLEY.

Mr. COBURN also introduced a bill (H. R. No. 955) for the relief of David D. Negley, late captain of company C, one hundred and twenty-fourth regiment Indiana volunteer infantry; which was read a first and second time, and referred to the Committee of Claims.

## MILITARY RANK.

Mr. CULLOM introduced a bill (H. R. No. 956) in relation to the rank of military officers appointed under act of July 28, 1866; which was read a first and second time, and referred to the Committee on Military Affairs.

## AMENDMENT OF BANKRUPT LAW.

Mr. ANDERSON introduced a bill (H. R. No. 957) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867; which was read a first and second time, and referred to the Committee on the Judiciary.

## ORLENA WALTERS.

Mr. GRAVELY introduced a bill (H. R. No. 958) for the relief of Orlena Walters; which was read a first and second time, and referred to the Committee of Claims.

## NANCY COX.

Mr. GRAVELY also introduced a bill (H. R. No. 959) for the relief of Nancy Cox, widow of Jesse N. Cox, late of the seventy-second enrolled Missouri militia; which was read a first and second time, and referred to the Committee of Claims.

## MAILS AND MAIL SERVICE.

Mr. DRIGGS introduced a joint resolution (H. R. No. 242) relating to mails and mail service; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

## BREAKWATER, ETC., AT STURGEON BAY.

Mr. SAWYER introduced a bill (H. R. No. 960) granting lands to the State of Wisconsin to aid in the construction of a breakwater and harbor and ship-canal at the head of Sturgeon bay, in the county of Door, in said State, to connect the waters of Green bay and Lake Michigan, in said State; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

## WISCONSIN RAILROAD GRANT.

Mr. WASHBURN, of Wisconsin, presented the memorial of the Legislature of Wisconsin, concerning lands granted to the State of Wisconsin to aid in building a railroad from Lake St. Croix to Lake Superior; which was referred to the Committee on the Public Lands.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed the bill (H. R. No. 819) making partial appropriations for the expenses of the Indian department and for fulfilling treaty stipulations, with an amendment, in which he was directed to ask the concurrence of the House.

## RESOLUTIONS OF CALIFORNIA LEGISLATURE.

Mr. HIGBY presented resolutions of the Legislature of California, asking Congress for leave to select public lands for agricultural college within the limits of railroad grants; which were referred to the Committee on the Public Lands.

## J. E. REESIDE.

Mr. CLARKE, of Kansas, introduced a joint resolution (H. R. No. 243) for the relief of J. E. Reeside; which was read a first and second time, and referred to the Committee on Military Affairs.

## RESOLUTIONS OF KANSAS LEGISLATURE.

Mr. CLARKE, of Kansas, also presented a concurrent resolution of the Legislature of the State of Kansas, pledging unanimous support to Congress, not only in the removal of Andrew Johnson if found guilty, but of every other obstruction to reconstruction upon a loyal basis; which was laid on the table, and ordered to be printed in the Globe.

The following is the resolution:

H. C. R. No. 65.]

Whereas the House of Representatives of the United States has resolved to present to the Senate articles of impeachment against Andrew Johnson, President, for high crimes and misdemeanors: Therefore,

*Resolved by the Senate of the State of Kansas, (the House of Representatives concurring therein.) That loyal Kansas, through her Legislature, pledges to a loyal Congress a unanimous support, not only in the removal, if found guilty, of Andrew Johnson, but also of every other obstruction to reconstruction upon a loyal basis.*

Adopted by the Senate February 27, 1868.

E. C. MANNING, Secretary of Senate.  
Concurred in by the House of Representatives  
March 4, 1868.

JOHN S. MORTON, Chief Clerk.

I, R. A. Barker, Secretary of State, do hereby certify that the foregoing is a true and correct copy of the original on file in this office.

In testimony whereof I have subscribed my name [L. S.] and subscribed the great seal of the State, this 6th day of March, 1868.

R. A. BARKER, Secretary of State.

## POST ROUTE IN DAKOTA.

Mr. BURLEIGH introduced a bill (H. R. No. 961) to establish a post route in Dakota Territory; which was read a first and second time, and referred to the Committee on the Post Offices and Post Roads.

## IMPROVEMENT OF MISSISSIPPI RIVER.

Mr. WASHBURN, of Wisconsin, introduced a bill (H. R. No. 962) making an appropriation for the improvement of the Mississippi river between the mouth of the Minnesota river and St. Anthony's Falls; which was read a first and second time, and referred to the Committee on Commerce.

## THOMAS W. WARD.

Mr. ELIOT introduced a bill (H. R. No. 963) for the relief of Thomas W. Ward; which was read a first and second time, and referred to the Committee on Commerce.

## ROCK ISLAND BRIDGE.

Mr. PRICE introduced a bill (H. R. No. 964) appropriating money for the construction of a bridge across the Mississippi river at Rock Island; which was read a first and second time, and referred to the Committee on Appropriations.

## MAIL ROUTE.

Mr. PRICE also introduced a bill (H. R. No. 965) to establish a mail route from Rockingham to Waterloo; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

## CALL OF STATES FOR RESOLUTIONS.

The SPEAKER stated the next business in order was the call of States for resolutions, beginning with the State of Indiana.

Mr. HOLMAN submitted the following resolution, on which he demanded the previous question:

*Resolved, That in the judgment of this House it is equally just to the holders of public securities and to the people of the United States that the bonds issued by the Government should be paid in the lawful money of the United States on the basis on which the public debt was contracted, and that said bonds, except where by law expressly payable in coin, should be paid as the same shall from time to time mature and the public resources shall permit, in lawful money of the United States, commonly known as United States notes.*

Mr. BLAINE. I hope the demand for the previous question will not be seconded.

Mr. GARFIELD. I hope the resolution

will be referred to the Committee of Ways and Means.

Mr. BLAINE. Let it go where all like resolutions go.

The House divided; and there were—ayes 27, noes 67; no quorum voting.

Mr. KERR moved that the resolution be laid on the table.

Mr. HOLMAN demanded the yeas and nays.

The House divided; and there were—ayes 20, noes 82.

Mr. HOLMAN called for tellers.

Tellers were refused; and the yeas and nays were not ordered.

Mr. KERR withdrew the motion to lay upon the table.

The question then recurred on seconding the previous question.

The SPEAKER ordered tellers; and appointed Mr. HOLMAN and Mr. BLAINE.

The House again divided; and the tellers reported—ayes 28, noes 75.

So the previous question was not seconded.

Mr. BLAINE moved that the resolution be referred to the Committee of Ways and Means.

Mr. HOLMAN demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were refused; and the yeas and nays were not ordered.

The House divided; and there were—ayes 74, noes 23.

So the resolution was referred to the Committee of Ways and Means.

Mr. BLAINE moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## LEAVES OF ABSENCE.

Mr. LYNCH was granted ten days' leave of absence.

Mr. WASHBURN, of Indiana, was granted indefinite leave of absence.

## ENROLLED BILL.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 4, for the relief of William Shunk; when the Speaker signed the same.

## ENROLLED JOINT RESOLUTION.

Mr. HOLMAN, from the same committee, reported that they had examined and found truly enrolled Senate joint resolution No. 122, for the relief of the heirs of Major A. L. Brewer, late a paymaster in the United States Army; when the Speaker signed the same.

## COMMITTEE-ROOMS.

Mr. WASHBURN, of Illinois, submitted the following resolution:

*Resolved, That the room now occupied by the engrossing clerks be assigned to the use of the Committee on Appropriations, and the room at present occupied by that committee be assigned to the engrossing clerks until a better and a permanent arrangement can be made.*

Mr. BLAINE proposed the following as an amendment, but, objection being made by several members, subsequently withdrew it:

*Resolved further, That the architect of the Capitol be requested to furnish this House without delay with an estimate of the expense and practicability of converting the old Hall of Representatives into committee-rooms for the use of the committees of the House.*

Mr. WASHBURN, of Illinois, demanded the previous question on his resolution.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## REMOVAL OF JAMES B. STEADMAN.

Mr. SHANKS offered the following resolution, and demanded the previous question thereon:

*Resolved, That the Secretary of the Treasury be, and he is hereby, instructed to inform the House in*

full the causes assigned by the Commissioner of Internal Revenue for asking the removal of James B. Steadman, collector of internal revenue for the first district of Louisiana.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. SHANKS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COMPENSATION TO COMMITTEE CLERKS.

Mr. WASHBURN, of Indiana, offered the following resolution, and demanded the previous question thereon:

*Resolved*, That the resolution of the House passed March the 3d instant, in the following words:

*Resolved*, That the clerks to committees in the House of Representatives shall receive the same additional compensation as the other employes of the House; shall be so construed as to increase the compensation of those committee clerks now receiving four dollars per day twenty per cent.; and the Clerk of the House of Representatives is hereby authorized to pay them at the rate of \$480 per day during the sessions of the Fortieth Congress.

The previous question was not seconded; and Mr. ROSS rising to debate the resolution, it went over.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, notified the House that the Senate had ordered that the Secretary be directed to request the House of Representatives to return to the Senate the bill of the House (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, passed by the Senate on the 21st instant with amendments and sent to the House for its concurrence in said amendments.

By unanimous consent, it was ordered that the bill be returned to the Senate.

#### ADDITIONAL COMPENSATION.

Mr. WASHBURN, of Indiana, also offered a joint resolution (H. R. No. 245) giving additional compensation to certain employes in the civil service of the Government for the fiscal year ending June 30, 1868; which was read a first and second time.

Mr. WASHBURN, of Illinois. Let it be reported.

The joint resolution was accordingly read in full. It provides that there be paid for the fiscal year ending the 30th of June, 1868, to the several clerks, messengers, laborers, and other employes in the several Executive Departments in the city of Washington, (excepting those female employes whose pay has been raised to \$900 per annum, under the act of July 23, 1866,) and to the photographer and assistant photographer of the Treasury Department, to the clerks and other employes in city post office and the Agricultural Department, and civilians who are clerks and temporary clerks in the offices of the Coast Survey and Naval Observatory and in the office of the Capitol extension, in the city of Washington, a graduated per cent. upon the amount of their salary or other compensation of the following character and with the following restrictions and limitations, to wit: to all who receive a compensation of less than \$1,200, per annum, twenty per cent. on the amount of such compensation; to all who receive \$1,200 and less than \$1,600, fifteen per cent.; to all who receive \$1,600 and less than \$2,000, ten per cent.; and to all who receive \$2,000 and less than \$3,500 per annum, five per cent. on the amount of their annual compensation; to be paid out of any money in the Treasury not otherwise appropriated.

Mr. HOLMAN. I suppose my colleague does not wish this acted upon immediately.

Mr. WASHBURN, of Indiana. I want action upon it now.

Mr. CHANLER and Mr. ROSS objected on the ground that the gentleman from Indiana [Mr. WASHBURN] had already offered one resolution.

Mr. ORTH. I then introduce the joint resolution.

Mr. HOLMAN. I trust my colleague will strike out that part of the resolution which excludes the female employes receiving \$900 per annum.

Mr. WASHBURN, of Indiana. Have they not already received twenty per cent. extra?

The SPEAKER. If debate arises the resolution goes over.

Mr. WASHBURN, of Illinois. Is action asked upon this without reference to a committee?

The SPEAKER. It is.

Mr. ROSS. I raise the point of order, that the resolution contains an appropriation, and must therefore go to the Committee of the Whole.

The SPEAKER. The Chair sustains the point of order. The last words in the resolution make an appropriation, and it must therefore go to the Committee of the Whole.

Mr. WASHBURN, of Indiana. I move to strike them out.

The SPEAKER. That cannot be done.

On motion of Mr. SPALDING, the joint resolution was ordered to be printed.

#### PAY OF GEORGE D. BLAKEY, CONTESTANT.

Mr. JULIAN submitted the following resolution, on which he demanded the previous question:

*Resolved*, That there be paid out of the contingent fund of the House to George D. Blakey, the sum of \$2,500 as compensation for time spent and expenses incurred in contesting a seat in this House, as Representative from the third congressional district of Kentucky.

Mr. UPSON. Will not the gentleman consent to have this resolution referred to the Committee of Elections?

Mr. JULIAN. I prefer to take the sense of the House upon it.

Mr. KERR. I move that the resolution be laid on the table.

The motion was agreed to—ayes 73, noes 25.

Mr. JULIAN. I trust that by unanimous consent the resolution may be referred to the Committee of Elections.

Mr. INGERSOLL. That is fair. Let that be done.

Mr. CHANLER. I object.

Mr. WASHBURN, of Illinois. I move to reconsider the vote by which the resolution was laid on the table; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVES OF ABSENCE.

Mr. BOYER obtained leave of absence for one week.

Mr. HIGBY obtained leave of absence for two weeks.

Mr. AXTELL obtained indefinite leave of absence.

#### ATTENDANCE ON IMPEACHMENT TRIAL.

Mr. GARFIELD. Mr. Speaker, as the hour is at hand when the impeachment trial will be resumed, would it not be proper for the Chair to suggest to members the very great impropriety of their straggling over one by one into the Senate, so that when the time arrives for us to go over, according to order, as a Committee of the Whole, but a small number of members will be there, and all the best seats in the Senate will have been secured by members who have gone over in advance?

The SPEAKER. The order of the House is that the House shall, as a Committee of the Whole, accompany the managers to the bar of the Senate. Gentlemen will understand that the order of the House is not complied with by members going over individually.

A message from the Senate, by Mr. FORNEY, its Clerk, communicated the following extract from its Journal; which was read at the Clerk's desk:

IN SENATE OF THE UNITED STATES,  
March 23, 1868.

*Ordered*, That the Secretary inform the House of Representatives that the Senate is in its Chamber and ready to proceed on the trial of Andrew Johnson, President of the United States, and that seats are provided for the accommodation of the members.

Mr. CHANLER. Does the rule still hold that when the House shall return from the Senate business is to be transacted as usual?

The SPEAKER. Any business can be transacted after the House returns from the Senate.

Mr. CHANLER. Is a motion now in order to provide that no business be transacted to-day after the House returns to its Hall?

The SPEAKER. That motion is not now in order, because the House is now about to execute its resolution with regard to attendance on the impeachment trial.

Agreeably to order, the House resolved itself into the Committee of the Whole, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the bar of the Senate.

At twenty minutes before five o'clock p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the Chair,

Mr. WASHBURN, of Illinois, said: As chairman of the Committee of the Whole I have to report that the committee have, according to order, attended the trial by the Senate of the impeachment of Andrew Johnson, President of the United States; that the answer of the said Andrew Johnson was presented in their presence; that progress was made in the trial; and that the Senate sitting for the said trial adjourned to meet to-morrow at one o'clock.

#### CONTESTED ELECTION.

The SPEAKER presented papers in the contested-election case of McGrorty vs. Hooper; which were referred to the Committee of Elections.

#### ASSISTANT SECRETARY OF THE TREASURY.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, in response to a resolution of the House of the 9th instant, relative to the authority by which Edmund Cooper acts as Assistant Secretary of the Treasury.

Mr. ELDRIDGE. I call for the reading of that document.

The SPEAKER. If it is to be read the Chair will withdraw it and present it to-morrow morning.

Mr. ELDRIDGE. I would like to hear it read whenever it may be presented.

The SPEAKER. The Chair will withdraw the document for the present.

#### PRESENTS FOR INDIANS IN ALASKA.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, recommending an appropriation, to be expended in presents of clothing and tobacco to the Indians of the Aleutian islands, in Alaska; which was referred to the Committee on Appropriations, and ordered to be printed.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER also laid before the House resolutions of the constitutional convention of North Carolina, indorsing the action of the House of Representatives in impeaching the President of the United States; which were laid on the table, and ordered to be printed.

#### POLITICAL DISABILITIES.

The SPEAKER also laid before the House the report of the committee on political disabilities of the convention of North Carolina, asking the action of Congress in behalf of certain persons therein named; which was referred to the Committee on Reconstruction, and ordered to be printed.

#### ELECTION CONTEST—SWITZLER VS. ANDERSON.

Mr. POLAND, from the Committee of Elections, presented a report in the contested-election case of Switzler vs. Anderson, accompanied by the following resolutions:

*Resolved*, That George W. Anderson is not entitled to a seat in this House as a Representative in the Fortieth Congress from the ninth congressional district of Missouri.

*Resolved*, That William F. Switzler is entitled to a seat in this House as a Representative in the Fortieth Congress from the ninth congressional district of Missouri.

Mr. POLAND. I move that the report and accompanying resolutions be laid on the table and printed.

The motion was agreed to.

Mr. McCLURG, from the same committee, subsequently asked and obtained leave to submit a minority report in the case of Switzler vs. Anderson.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. BINGHAM. I desire to say to the House that the managers on the part of the House in the matter of the impeachment of the President, anticipating the answer which has been presented by him, are prepared, as soon as the gentleman from Massachusetts [Mr. BOUTWELL] may come in, to present, for the consideration of the House, a general replication to the answer which the President has filed to the articles of impeachment exhibited against him. I have made some inquiries since I left the Senate Chamber, but have not been able to ascertain with certainty where the gentleman from Massachusetts [Mr. BOUTWELL] now is.

Mr. WASHBURNE, of Illinois. Let the gentleman from Ohio [Mr. BINGHAM] make the motion himself.

Mr. BINGHAM. Very well; I move that the managers be authorized to file in the Senate to-morrow, through the gentleman from Massachusetts, [Mr. BOUTWELL,] a general replication to the answer filed to-day by the President of the United States to the articles of impeachment exhibited against him by the House.

Mr. NIBLACK. I rise to a point of order; my point of order is that the managers already have full power to do this without further authority from the House.

The SPEAKER. The Chair overrules the point of order. Heretofore, in cases of impeachment, the House has always decided upon the replication.

Mr. WOOD. I would inquire if it is designed, after this replication has been submitted to the House, to give us an opportunity to examine and discuss it before it is authorized to be presented in the Senate as the action of the House? Or are the managers alone to assume the exclusive right to prepare and present this replication in the name of the House?

Mr. BINGHAM. That will rest with the majority of the House. I suppose every member understands very well what a general replication is. It is, in short, a traverse to all the material allegations in the answer; a denial of matters and things set up; an averment that the accused is guilty of the several high crimes and misdemeanors charged against him in the several articles heretofore exhibited against him.

Mr. WOOD. We desire to discuss this replication.

Mr. ELDRIDGE. I desire to say that if a replication is to be presented to the answer of the President it cannot be done without the authority of this House. The responsibility of this replication rests upon the House, and not upon the managers, and, for one, I do not wish to authorize those managers to file a replication in my name or on my behalf unless I know beforehand what the replication is. I have heard the answer of the President read, and I am not prepared to deny its correctness. On the contrary, I believe that the most of it is true, in fact that every word of it is true, and I do not wish the managers, on my behalf, to present a denial of that answer. It is now a part of the current history of the country that that answer is the truth, that every word of it is the truth, so far as it states the facts, and this House cannot deny it. I do not want the managers or anybody else to deny it.

Mr. BLAINE. We all agree that the answer is true so far as it states facts. When the managers were elected by this House the gentleman from Wisconsin, [Mr. ELDRIDGE,] and all here who sympathize with him, refused to participate in the election, saying that they

had neither part nor lot in the whole transaction. It seems to me it ill becomes them to wake up just at this time and interpose an objection of this kind.

Mr. ELDRIDGE. I believe that if the gentleman will reflect a moment—certainly if he recollects the facts as I recollect them—he will not deny that we took part in discussing the articles of impeachment so far as we were allowed to do so.

Mr. BLAINE. The gentlemen on that side took no part in the election of managers, but expressly declined to do so, stating that they would have no participation in the matter.

Mr. ELDRIDGE. The gentleman from Maine [Mr. BLAINE] undertakes to be very sharp, as he always is. He says I stated that the answer of the President was true so far as it stated facts. I supposed that that remark would be understood as lawyers understand such an expression. When in pleading we speak of facts we mean facts, not conclusions. I do not undertake to say that everything the President has said in his answer, where he undertakes to draw conclusions, is true; but I say that the answer, wherever he has undertaken to state facts, is true—every word of it.

If it be the fact, as the gentleman from Maine says, that we refused to take any part in electing the managers, that is a reason, and a very strong one, why we should not be willing that in our name they should put in an answer denying those things which we claim to be facts.

Mr. BINGHAM. I desire merely to state to the House that all we wish in regard to this matter is to be authorized, by the order of the House, to respond at the bar of the Senate to-morrow with a general replication to this answer. It must be very obvious to every man that gentlemen who think the answer of the President all true and the allegations of the House all false have nothing to do but to refuse to vote for any replication.

Mr. WOODWARD. I wish to make a single inquiry.

Mr. BINGHAM. I will yield for a question.

Mr. WOODWARD. I wish to inquire whether the motion of the gentleman from Ohio [Mr. BINGHAM] is open to amendment?

Mr. BINGHAM. No, sir; not now. Mr. Speaker, I propose, pending my motion, to suggest that the House take a recess till to-morrow morning at half past ten o'clock.

Mr. WOOD. I desire to make an inquiry.

The SPEAKER. Does the gentleman from Ohio [Mr. BINGHAM] yield to the gentleman from New York, [Mr. WOOD?]

Mr. BINGHAM. No, sir. I desire to state to the House that one of the managers, after consultation with the other managers, notified the Senate that the managers hoped to file a replication, by order of the House, at the bar of the Senate to-morrow at one o'clock p. m. To that end I suggest that the House now take a recess until half past ten o'clock to-morrow morning, so that the House may have an opportunity to consider and pass upon this replication and authorize the managers to present it. To meet the suggestions of gentlemen around me, I am willing to name eleven o'clock to-morrow morning as the hour of meeting.

Mr. WOODWARD. I now desire to inquire of the Chair whether the motion of the gentleman from Ohio in regard to filing a replication is not amendable.

The SPEAKER. It is not while the gentleman from Ohio is upon the floor. If he surrenders the floor without demanding the previous question the motion will be open to amendment or debate.

Mr. FARNSWORTH. Is the motion for a recess debatable?

The SPEAKER. Whenever that motion is made it is not debatable.

Mr. FARNSWORTH. I hope the gentleman from Ohio will make that motion.

Mr. BINGHAM. I move that the House take a recess till to-morrow morning at eleven o'clock.

Mr. WOOD. I rise to a question of order.

Is not the gentleman's motion debatable, he not having demanded the previous question?

The SPEAKER. The motion for a recess is not debatable, as the gentleman will find by referring to the Digest.

Mr. WOOD. Will the gentleman allow any discussion on this question?

Mr. BINGHAM. I have no objection to discussion to-morrow.

The motion to take a recess was agreed to; and thereupon (at four o'clock and fifty-five minutes) the House took a recess till to-morrow morning at eleven o'clock.

#### AFTER THE RECESS.

The SPEAKER. The recess having expired, the House resumes its session.

#### REVENUE LAWS.

Mr. CULLOM, by unanimous consent, introduced a bill (H. R. No. 965) to amend the revenue laws; which was read a first and second time, and referred to the Committee of Ways and Means.

#### LEAVE OF ABSENCE.

Leave of absence was granted for ten days to Mr. BLAIR; also, to Mr. WILLIAMS, of Indiana, and Mr. LAWRENCE, of Pennsylvania, for the same time.

#### POST OFFICE APPROPRIATION BILL.

Mr. BLAINE. I ask unanimous consent to take up from the Speaker's table House bill No. 832, making appropriations for the Post Office Department during the fiscal year ending June 30, 1869, which has come back from the Senate with an immaterial amendment.

No objection being made, the bill was taken up.

The amendment of the Senate was to insert on page 1, line twelve, after the word "dollars," the words "under the act approved March 3, 1865, entitled 'An act relative to the Post Office laws.'"

Mr. BLAINE. It merely defines the law under which a certain item in an appropriation bill was authorized.

The amendment of the Senate was concurred in.

Mr. BLAINE moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEGAL-TENDER NOTES.

Mr. WOODWARD. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Judiciary Committee be instructed to inquire into the expediency of repealing so much of the act of February 25, 1862, and of all subsequent acts of Congress as makes Treasury notes or anything else than gold and silver coin a legal tender in payment of debts; the repealing law to take effect as to all debts not exceeding twenty dollars on the 1st day of January, 1869, and as to all other debts on the 1st of January, 1870.

Mr. INGERSOLL. Is that intended for action at the present time?

Mr. WOODWARD. It is simply a resolution of reference to the Judiciary Committee.

The resolution was agreed to.

#### CONTESTED ELECTION—M'KEE VS. YOUNG.

Mr. McCLURG. I rise to a privileged question. I present the report of the Committee of Elections in the contested-election case of Samuel McKee vs. John D. Young, from the ninth congressional district of Kentucky.

The resolutions at the conclusion of the report were read, as follows:

*Resolved*, That John D. Young, having voluntarily given aid, countenance, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Representative in this House from the ninth congressional district of Kentucky or to hold a seat therein as such Representative.

*Resolved*, That Samuel McKee, not having received a majority of the votes cast for Representative in this House from the ninth congressional district of Kentucky, is not entitled to a seat therein as such Representative.

*Resolved*, That the Speaker be directed to notify the Governor of Kentucky that a vacancy exists in the representation in this House from the ninth district of Kentucky.



Mr. McCLURG. I move that the report be laid on the table, and ordered to be printed. The motion was agreed to.

Mr. KERR. I submit the report of the minority in the same case, and move that it be laid on the table, and ordered to be printed with the majority report. At the proper time I give notice that I shall move a substitute for the first resolution.

The minority report was laid on the table, and ordered to be printed.

#### FLORIDA.

Mr. FARNSWORTH, by unanimous consent, presented the memorial of the members of the Florida constitutional convention, transmitting two constitutions, and moved that they be referred to the Committee on Reconstruction, and ordered to be printed.

The motion was agreed to.

#### ANNUAL POST ROUTE BILL.

Mr. FARNSWORTH, by unanimous consent, moved to take from the Speaker's table the amendments of the Senate to the amendments of the House to the Senate amendments to House bill No. 328, to establish certain post roads.

The amendments were taken up and concurred in.

#### SETTLEMENT OF PUBLIC ACCOUNTS.

Mr. POLAND. I ask unanimous consent to report back from the Committee on Revision and Unfinished Business Senate bill No. 350, to amend an act entitled "An act to provide for the prompt settlement of public debts," approved March 3, 1817, with the recommendation that it do pass. The committee have examined the bill fully and are unanimously of the opinion that the bill ought to pass.

The bill was read in *extenso*. It provides that the act of March 3, 1817, entitled "An act to provide for the prompt settlement of public accounts," shall not be construed to authorize the heads of Departments to change or modify the balances that may be certified to them by the Commissioner of Customs or the Comptrollers of the Treasury, but that such balances, when stated by the Auditor and properly certified by the Comptroller as provided by that act, shall be taken and considered as final and conclusive upon the executive branch of the Government, and be subject to revision only by Congress or the proper courts, provided that the head of the proper Department, before signing a warrant for any balance certified to him by a Comptroller, may submit to such Comptroller any facts in his judgment affecting the correctness of such balance, but the decision of the Comptroller thereon shall be final and conclusive as hereinbefore provided.

Mr. BOUTWELL. I cannot yield if it gives rise to debate.

Mr. WASHBURN, of Illinois. I do not know that I want to debate it. I should like to have some explanation whether it takes away any of the guards now thrown around the Treasury.

Mr. BOUTWELL. I reserve the right to object during the debate.

Mr. POLAND. Mr. Speaker, this bill gives construction to the act of 1817. Prior to March 3, 1817, accounts had been settled in the different Departments. Accounts arising in the Navy or War Department were settled in that Department, and evidence of that fact was final and conclusive. Such was the practice, but within a few years there has been some controversy between officers of the Treasury Department and the War Department in reference to the settlement of accounts.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House of its action sitting as a court for the trial of the President, and communicating a copy of the President's answer to the articles of impeachment.

#### SETTLEMENT OF ACCOUNTS—AGAIN.

Mr. POLAND. I must call for the previous question on the pending bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, and it was accordingly read the third time.

The House divided on the passage of the bill; and there were—ayes 58, noes 6; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. POLAND and Mr. CHANLER.

Mr. SPALDING demanded the yeas and nays.

The yeas and nays were ordered.

Mr. BOUTWELL. I reserved the right to object to further proceeding on this bill.

The SPEAKER. Objection being made, the bill is not before the House.

Mr. CHANLER. I rise to a point of order, that a vote having commenced it must absolutely be continued.

The SPEAKER. The gentleman from Massachusetts reserved the right to object at any time.

Mr. ELDRIDGE. The reservation was during debate.

The SPEAKER. The gentleman is correct, and the vote must be taken if insisted on.

Mr. CHANLER. I insist on the vote.

The question was taken; and it was decided in the affirmative—yeas 100, nays 18, not voting 71; as follows:

YEAS—Messrs. Adams, Allison, Ames, Bailey, Baker, Banks, Barnes, Beaman, Beck, Benjamin, Bingham, Blaine, Buckland, Burr, Butler, Calkins, Chandler, Reader W. Clarke, Covode, Dixon, Dodge, Driggs, Eckley, Eldridge, Eliot, Farnsworth, Ferriss, Ferry, Fields, Fox, Garfield, Getz, Glossbrenner, Goldaday, Gravelly, Grover, Haight, Higby, Hill, Holman, Hooper, Hopkins, Chester D. Hubbard, Hulburt, Hunter, Ingersoll, Jencks, Judd, Julian, Kelsey, Kerr, Kitchen, Koontz, Laffin, George V. Lawrence, Lincoln, Logan, Mallory, Maynard, McCullough, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Peters, Pike, Poland, Polesky, Pomeroy, Randall, Raum, Robertson, Schenck, Selye, Shanks, Sitgreaves, Smith, Spalding, Taber, Taffe, John Trimble, Lawrence S. Trimble, Twichell, Van Auker, Robert T. Van Horn, Van Trump, Ward, Cadwalader C. Washburn, Welker, Thomas Williams, Wood, and Woodward—100.

NAYS—Messrs. Beatty, Boutwell, Broomall, Churchill, Cullom, Dawes, Ketcham, William Lawrence, Orth, Paine, Perham, Price, Sawyer, Scofield, Thaddeus Stevens, Elihu B. Washburn, William B. Washburn, and James F. Wilson—18.

NOT VOTING—Messrs. Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Barnum, Benton, Blair, Boyer, Bromwell, Brooks, Cary, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Donnelly, Eggleston, Ela, Finney, Griswold, Halscy, Harding, Hawkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Johnson, Jones, Kelley, Knott, Loan, Loughridge, Lynch, Marshall, Marvin, McCarthy, McClurg, McCormick, Morgan, Morrissey, Nunn, Phelps, Pile, Platts, Pruyn, Robinson, Ross, Shellabarger, Starkweather, Aaron F. Stevens, Stewart, Stokes, Stone, Taylor, Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Van Wyck, Henry D. Washburn, William Williams, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—71.

So the bill was passed.

Mr. POLAND moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. BOUTWELL. I am directed by the managers to report to the House a form of replication to the answer filed by the President of the United States to the articles of impeachment exhibited by the House, and also to submit a resolution.

The SPEAKER. The replication and the resolution will be read.

Mr. CHANLER. Is it in order to call for the reading of the President's answer?

The SPEAKER. It is not. It is in order to call for the reading of the message from the Senate.

Mr. CHANLER. I call for the reading of that.

The SPEAKER. The Chair rules that the message from the Senate can be read, but the answer of the President cannot be read upon the demand of any member.

Mr. CHANLER. Does the reading of the message from the Senate bring the answer before the House?

The SPEAKER. It does not.

Mr. CHANLER. I desire to ask, for information, how the House can act judiciously and judiciously on a replication to the answer of the President without having that answer before it?

The SPEAKER. That is a matter for the House and not for the Chair to determine.

Mr. BLAINE. The House heard the answer yesterday.

The SPEAKER. The message from the Senate will be read.

The Clerk read as follows:

In the Senate of the United States sitting for the trial of Andrew Johnson, President of the United States, upon articles of impeachment exhibited against him by the House of Representatives:

March 23, 1868.

Ordered, That the Managers have time to consult the House of Representatives on a replication, and that the Secretary communicate to the House of Representatives an attested copy of the answer of the President to the articles of impeachment.

Attest: J. W. FORNEY, Secretary.

The Clerk then read the replication reported by the managers, as follows:

*Replication by the House of Representatives of the United States to the answer of Andrew Johnson, President of the United States, to the articles of impeachment exhibited against him by the House of Representatives.*

The House of Representatives of the United States have considered the several answers of Andrew Johnson, President of the United States, to the several articles of impeachment against him by them exhibited in the name of themselves and of all the people of the United States, and reserving to themselves all advantage of exception to the insufficiency of his answer to each and all of the several articles of impeachment exhibited against said Andrew Johnson, President of the United States, do deny each and every averment in said several answers, or either of them, which denies or traverses the acts, intents, crimes or misdemeanors charged against said Andrew Johnson in the said articles of impeachment or either of them; and for replication to the said answer do say, that said Andrew Johnson, President of the United States is guilty of the high crimes and misdemeanors mentioned in said articles, and that the House of Representatives are ready to prove the same.

The Clerk then read the resolution reported by Mr. BOUTWELL, as follows:

Resolved, That the House hereby adopts the replication to the answer of the President as now submitted by the managers.

Mr. SPALDING. I desire to inquire of the managers if the President, in his answer—we have it not before us—has denied that he is guilty? I want to know what he admits.

Mr. FARNSWORTH. He admits the fact, but denies the motive.

Mr. SPALDING. The managers will unquestionably be met by legal critics in the other House, and they had better be careful how they draw the replication.

Mr. BOUTWELL. The attention of the managers was called to the peculiar form of the answer filed by the President. To most of the articles, however, he makes answer, in substance, that he is not guilty, although the form of the answer is different from that which has generally been employed in similar cases. In respect to some of the articles the answer probably amounts to a demurrer merely. But upon the whole the managers have chosen to treat the answer of the President to each and every article as a plea of the general issue of not guilty. And the managers are of opinion that no advantage can be taken, as against the House of Representatives, from the form of replication which has been reported by the managers.

Some gentlemen near me desire that the replication may be read again. And, inasmuch as it is the desire of the managers to give a few minutes for criticism, in the first place, before the previous question is demanded, as to the form of the replication, I should myself be glad to have it again read and the attention of the House directed to it.

The replication was again read.

Mr. WOODWARD. Will the gentleman from Massachusetts [Mr. BOUTWELL] yield to me?

Mr. BOUTWELL. For a moment, yes, sir.

Mr. WOODWARD. I wish to call the attention of the managers to a state of facts that I hope they will recognize. If I understood the answer of the President to the eleventh article of impeachment, it amounts to a demurrer to that article. It denies that there is any impeachable offense charged in the eleventh article. My own private opinion is that the demurrer or answer is very conclusive. I do not think there is any impeachable offense charged in the eleventh article.

The answer of the President putting that point in issue, which is a legal question and amounts to a demurrer, there should be a special replication to that part of the answer which relates to the eleventh article, or a formal rejoinder in demurrer. This general replication does not join an issue upon that article at all; it is what might be called a departure in pleading. Here is a demurrer to the eleventh article which denies that any impeachable offense is charged in it. The managers do not aver in the replication that the eleventh article charges any impeachable offense; and therefore there is no issue upon the record upon that article.

Mr. BINGHAM. Will my colleague [Mr. BOUTWELL] yield to me for a few moments?

Mr. BOUTWELL. Certainly.

Mr. BINGHAM. Mr. Speaker, the gentleman from Pennsylvania [Mr. WOODWARD] will find that the eleventh article of impeachment, like every other article exhibited by the House against the President, charges and avers that he has committed a misdemeanor in office or a high crime in office; so that there is no departure in the replication.

Now, as to the answer of the President, I beg leave to call the attention of the House and the attention of the gentleman from Pennsylvania [Mr. WOODWARD] to the fact, that while it does contain much that is argumentative, much that may be called demurrer, which is never allowed at all in an impeachment case, which was never introduced into the proceedings of an impeachment case—for there never was a demurrer entertained by the Senate in an impeachment case, none ever entertained in the House of Lords of England; there is no such note of record; it does not lie; special pleading is unknown to the whole proceeding—yet this answer of the President to the eleventh article of impeachment, in its last clause, does expressly deny, and is therefore simply a plea of not guilty—it expressly denies that he committed a crime. As to form, it is nothing; substance is everything. This is the clause which the gentleman overlooked when he raised his objection:

"And this respondent, further answering the said eleventh article, denies that by any means or reason of anything in said article alleged this respondent, as President of the United States, did, on the 21st day of February, 1868, or at any other day or time, commit, or that he was guilty of, a high misdemeanor in office."

I say that by the parliamentary law it is the same thing as if he had said he is not guilty of the crimes and misdemeanors alleged against him in manner and form as charged. Forms are nothing; substance is everything. The replication is of the substance, and it is no departure. I would like to see somebody go into the Senate and prefer a demurrer to the replication. I would like to see Andrew Johnson do that, and thereby confess the averments of the replication. No such rule as that stated by the gentleman obtains, because, as he knows right well, the demurrer admits everything that is well pleaded; and in this replication, instead of a departure, the averment is made over again that Andrew Johnson is guilty of the several high crimes and misdemeanors alleged against him in the articles. Now, a demurrer, if it would lie, would be simply a confession of guilt; that is all.

Mr. BOUTWELL. Mr. Speaker, I am willing that all the time which can properly be given for debate should be so occupied by gentlemen desire. I suppose there will be about an hour for debate. I therefore demand the previous question, and when that has been

seconded I will yield all of the time allowed for debate to other gentlemen, and largely to the minority side of the House, if they choose to avail themselves of it.

The SPEAKER put the question on seconding the demand for the previous question, and declared it agreed to.

Mr. CHANLER. I call for a division.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from Massachusetts [Mr. BOUTWELL] that instead of demanding the previous question he leave the matter open, with the understanding, which may be had by unanimous consent, that the vote be taken on adopting the replication at five minutes before one o'clock.

Mr. CHANLER. I rise to a point of order, that while the House is dividing debate is not in order.

The SPEAKER. The Chair sustains the point of order.

On seconding the previous question there were—ayes 88, noes 22.

So the previous question was seconded.

The main question was ordered.

Mr. BOUTWELL. In accordance with a promise which I have made to the gentleman from New York, [Mr. WOOD], I yield him ten minutes.

Mr. WOOD. Mr. Speaker, I presume that the exception taken by the gentleman from Pennsylvania [Mr. WOODWARD] to the replication has reference to making it what it really ought to be as a replication to the answer of the President. I think, however, that that is a question which the court may determine. It seems to me that the question whether the replication is sufficient or insufficient is a matter which probably belongs more appropriately to the Senate to determine—a question for the managers and the President's counsel to discuss before the Senate at the proper time.

I think, however, it is very desirable that the House, in whatever action it may take with reference to this procedure, should exercise the utmost care, and that so far as we are represented by these managers we should at all times reserve the right to instruct and direct the managers. I would myself take exception to the phraseology of the replication where it refers to the prior action of this House as being "in the name of all the people of the United States." Sir, we know that that is not the fact. There is not a man in this House who can rise in his place and seriously and candidly declare that the people of the United States have ever authorized the House of Representatives to act upon this question, or that any member of this House was ever elected upon any such issue. Therefore, it is false in fact that the House, in this action, is representing all the people of the United States. Sir, we have had no representation made to this House from any portion of the people of the United States in favor of this procedure, except by a handful of office seekers who expect to derive personal advantage from the result.

Now, sir, I take occasion to say that these managers represent the House of Representatives and only the House of Representatives; and in representing this House they are our agents. We are responsible for their action, and they are responsible to this House for their action. We not only have the right to direct and control them, but I believe that we have the right to criticize their action, as I propose to do on this occasion. Now, sir, upon the first day of the sitting of the court, one of the honorable managers, acting, no doubt, in pursuance of what he deemed to be his duty, took it upon himself to bully the Senate of the United States sitting as a high court. The honorable manager from Ohio [Mr. BINGHAM] told the Senate that he wanted to see whether the Senate would observe its own rules; and yesterday the same honorable manager undertook to criticize severely, and in my judgment improperly, the decision of the Chief Justice of the United States sitting as the presiding officer of that court. Now, sir, it will not do to

say that that gentleman alone is responsible for this; it will not do to say that the managers alone are responsible. They represent and speak in behalf of the House of Representatives of the United States.

Therefore it is, sir, I, as one member of the House of Representatives, desire to enter my protest against any action, against any language, against any conduct on the part of either of these managers not sufficiently decorous and proper, and not commensurate with the dignity and gravity of the occasion.

Again, sir, the managers yesterday assumed the right to say that to-day at one o'clock they would present their replication. Who authorized the managers to so declare to the Senate? Is this replication the replication of the managers on the part of the House of Representatives in the absence of authority? It may be the act of the managers, but in the absence of our action it is not of the House, and it was an assumption for the managers to declare to the Senate that at one o'clock to-day they would present this replication.

Why, sir, a Baltimore paper of to-day contains this replication; so that before being presented to the House it is given to the public. Do gentlemen who have been selected by the House to represent us in the Senate constitute the House of Representatives for this purpose? I do think, in a procedure of this magnitude, of this importance, of this gravity, where gentlemen are selected to represent us, it is but decorous and proper they should defer to the House in a matter of such grave importance before assuming authority or taking for granted what the action of the House may be on any subject.

Now, Mr. Speaker, I do not propose to criticize this paper. It is upon its face a mere form of law. It is a mere *pro forma* procedure, which, I have no doubt, considering the antecedent events, is proper, and is such a replication as this House, under the circumstances, ought to pass; but I do contend that at every step of this procedure it is the duty of the managers to consult the House. It is the duty of the managers to come to the House for instruction and information. It is the right of this House to have absolute control of this proceeding from its incipient steps to its conclusion. Therefore it is, I desire to say, that in the further prosecution of this cause the managers will rely upon the House, that they will conform to the action and preserve the dignity of this House in the prosecution of this case, and that they will report back for instruction when important questions shall arise.

Mr. BUTLER rose.

Mr. BOUTWELL. I yield to my colleague indefinitely.

Mr. BUTLER. Mr. Speaker, I understand the objection of the gentleman from New York [Mr. WOOD] to be to the replication that it professes to reply in the name of all the people of the United States, and therefore as it does not reply in his name, as he does not agree to it, therefore it is not a good replication. If that is so, sir, there would be an end to the prosecution.

Mr. WOOD. That was not my statement. The gentleman has not quoted me correctly. I stated that a portion of the people of the United States does not authorize this action, and therefore it does not represent all of the people of the United States.

Mr. BUTLER. The Representatives of the people usually represent their constituents. But the gentleman has not even the merit of originality in his objection. The form is one which has been used for five hundred years, lacking eight. An objection was made to it once before and only once, when the people of England, smarting under the usurpations and tyranny of Charles I, not having any provision as we have by which that tyrant could be brought to justice, stepping outside of their constitution, but in a perfectly legitimate manner, as I understand and believe, brought Charles to justice. When proclamation was made that they were proceeding in the name

of all the people of England there was one adherent of Charles I got up and said no; all the people did not consent to it. So the gentleman has at least a precedent for what he has done; and I wish we could follow out the precedent.

Mr. WOOD. And behead the king.

Mr. BUTLER. It was the great inquiry who made that objection, and they tried to find him out for the purpose of punishing him. [Laughter.] But, as he concealed himself, they could not find him. It afterward turned out to be a woman, [laughter,] the wife of General Fairfax, who "ratted" on that occasion from the rest of the Commons of England. [Laughter.]

Another thing. It is said that the replication is published in the Baltimore papers. I pray to take issue as to the fact. This replication was ready, aye, it was corrected in form, at fifteen minutes past eleven o'clock. True, it is a formal one, copied in part from the great precedents, so far as they apply, and, therefore, any paper can publish something like it.

Mr. WOOD. If the gentleman will permit me, the managers probably altered it after they sent it to the press, and here it is, with the names of the managers attached to it, in the Baltimore American of to-day.

Mr. BUTLER. And as the names of the managers are not attached to this that ends the question. [Laughter.] When we make a replication we do not attach our names to it, but we expect the Speaker of the House and the Clerk of the House, by order of this body, to attach their names.

Mr. WOOD. You altered it.

Mr. BUTLER. We never altered it at all. This Baltimore paper is one which the managers do not take and do not patronize, either by furnishing matter or reading it after it is furnished.

Mr. WOOD. You should not have deceived the reporter.

Mr. BUTLER. Another thing. It is said we have exceeded our authority in saying to the Senate that we would file our replication to-day at one o'clock. I think we said no such thing. We said that we, the managers, would be ready, with the leave of the House, to file the replication at one o'clock.

Mr. BINGHAM. And expected to be.

Mr. BUTLER. We expected and hoped to be ready, and had no doubt we should be. And if the gentleman will take the same course and wash his hands of this as he did of the former proceedings the managers will be ready as they expected.

As I said, this is a mere formal proceeding. There can be no demurrer, no issues of law, and all the President's answer can amount to is the plea that he is not guilty with a mere stump speech in its belly. [Laughter.]

Mr. WOOD. That is not rhetorical. [Laughter.]

Mr. BUTLER. It may not be rhetorical, but it is true. The truth is rarely rhetorical. It is, however, a parliamentary phrase, first used, to my knowledge, in the Senate on the passage of the Kansas-Nebraska bill.

Mr. WOOD. The gentleman admits that his statement, also, is not "original."

Mr. BUTLER. I am informed that the Baltimore American in the paper containing this alleged report of the managers. Finding the paper in suspicious company I thought it was the Baltimore Gazette. If it is not the Gazette, I have nothing to say. The American is a very decent paper. I only wonder that my friend has found it there. Now, I trust, we shall not hesitate from any suggestion as to propriety of language or propriety of conduct—

Mr. WOOD. I rise to a point of order. It is now about twelve o'clock, and I would inquire whether the recess does not expire at twelve?

The SPEAKER. It does not; it expired at eleven o'clock.

Mr. WOOD. My point is whether we do not commence Tuesday's session now?

The SPEAKER. We do not. The House of Representatives continues its session of Monday till the final adjournment, even if the session runs for several calendar days. In the great parliamentary struggle on the Missouri compromise the session continued two days and two nights, and the House of Representatives received on Monday a message sent from the Senate on Tuesday.

Mr. FARNSWORTH. I move that the House adjourn.

The SPEAKER. The gentleman from Massachusetts has the floor.

Mr. BUTLER. A single further suggestion. I trust the House will receive no lecture on propriety of conduct or of language from a gentleman who stands as yet under its censure for violation of all parliamentary rules.

Mr. WOOD. The highest compliment in my life.

Mr. BOUTWELL. I yield ten minutes to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. FARNSWORTH. I move that the House adjourn.

The motion was agreed to; and thereupon (at eleven o'clock and fifty-nine minutes and three quarters a. m., Tuesday, March 24,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Saxby Chaplin, of Lexington, South Carolina, for restoration of certain real estate, situate on Lady's Island, in Beaufort district, South Carolina.

By Mr. FERRY: The petition of S. W. Fowler, Byron M. Cutcheon, Chauncey C. Bailey, J. T. Ramsdell, and 97 others, praying for the reduction of Government expenses to a peace basis, that the Navy and Army be reduced, and the revenue laws so adjusted as to keep the balance of trade in favor of this country.

By Mr. GRAVELY: The petition of citizens of Kansas and Missouri, for a mail route from Fort Scott, Kansas, to Carthage, Missouri.

By Mr. GROVER: The petition of Mrs. Lucy A. Barker, of Louisville, Kentucky.

Also, a memorial of the Board of Trade and 150 importing merchants, manufacturers, and other business men of Louisville, Kentucky, praying the passage of an act to encourage commerce and internal trade by facilitating direct importations.

By Mr. LAFLIN: The petition of E. D. Babcock and others, of Copenhagen, Lewis county, New York, in favor of reduced expenditures and taxation.

By Mr. MUNGEN: A memorial of W. P. Leighton and 6 others, distillers, of Kenton, Hardin county, Ohio, asking for a reduction of the tax upon distilled spirits.

By Mr. NICHOLSON: A memorial of the citizens of Wilmington, Delaware, for the improvement of the harbor at the mouth of the Christiana river.

By Mr. RAUM: The petition of E. & W. Buder, Hamilton & Reiley, Charles Shelby, and Bristol & Stilwell, of Cairo, Illinois, for the allowance of claims.

By Mr. SAWYER: A memorial from the mayor and council of the city of Green Bay, in favor of an additional grant of the public lands to the State of Wisconsin, to aid in building the Sturgeon Bay and Lake Michigan ship-canal and harbor.

By Mr. STEVENS, of New Hampshire: A resolution of the town of Chichester, New Hampshire, in favor of the taxation of United States bonds and the application of such tax to the purchase of the debt of the United States.

Also, a resolution of the town of Peterborough, New Hampshire, in favor of the taxation of United States bonds and the application of such tax to the purchase of the debt of the United States.

#### IN SENATE.

TUESDAY, March 24, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Secretary proceeded to read the Journal of yesterday's legislative proceedings, but before concluding was interrupted by

Mr. EDMUNDS. I move that the further reading of the Journal be dispensed with at least to receive a message from the House of Representatives.

No objection being made the further reading of the Journal was dispensed with.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendment of the Senate to the bill (H. R. No. 882) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1869.

The message further announced that the House of Representatives had directed its Clerk to return to the Senate, in compliance with its request, the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, with the amendment of the Senate thereto.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating correspondence in relation to the propriety of making a present of clothing and tobacco to the chief of the Kaloshian Indians and Aleutian priests on the Aleutian Isles, in Alaska; which was referred to the Committee on Indian Affairs.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented resolutions of the constitutional convention of South Carolina in favor of granting to that State the proceeds of the sale of certain lands sold by the Government for taxes due to the United States for the support of public schools in that State, and further recommending the granting of the prayer of the accompanying petition of F. L. Cardoza and B. L. Nash, that certain lands not yet sold by the United States be allotted to destitute and deserving citizens of South Carolina; which were referred to the Committee on Public Lands.

Mr. HARLAN presented the memorial of Captain Jonas P. Levy, for payment of money due him under the treaty between the United States and the Republic of Mexico, of February 2, 1848, and an act for the relief of Jonas P. Levy and José Maria Jarrero, approved August 3, 1854; which was referred to the Committee on Foreign Relations.

#### REPORTS OF COMMITTEES.

Mr. MORGAN, from the Committee on Finance, to whom was referred the bill (S. No. 458) to abolish the office of superintendent of exports and drawback, reported it with an amendment.

Mr. CRAGIN. The Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the bill (S. No. 462) making appropriations for the expenses of the trial of the impeachment of Andrew Johnson and other contingent expenses of the Senate, for the year ending June 30, 1868, have had the same under consideration and instructed me to report it back without amendment and recommend its passage; but as this is an appropriation bill, although it is quite important that it should be passed at once, I move its reference to the Committee on Appropriations.

The motion was agreed to.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 216) to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association damaged and captured ordnance, reported it without amendment.



## PRESENTATION OF BILLS TO THE PRESIDENT.

Mr. EDMUNDS. As there seems to be but little, if any, morning business, I move that the Senate proceed to the consideration of the bill (S. No. 366) regulating the presentation of bills to the President of the United States and the return of the same. Let us see if we cannot get that disposed of.

The motion was agreed to; and the consideration of the bill was resumed as in Committee of the Whole.

The bill was reported to the Senate without amendment.

Mr. DAVIS. I move to amend the bill by striking out the last section.

The PRESIDENT *pro tempore*. The section proposed to be stricken out will be read.

The Secretary read the last section of the bill, as follows:

Sec. 3. *And be it further enacted*, That the time mentioned in this act shall be computed by excluding the day on which a bill may be presented to the President and including the tenth day (Sundays excepted) thereafter.

Mr. EDMUNDS. I hope that section will not be stricken out.

Mr. DAVIS. Mr. President, it is the second section that I wish to strike out.

The PRESIDENT *pro tempore*. The second section of the bill will be read.

The Secretary read the second section, as follows:

Sec. 2. *And be it further enacted*, That every bill which, having passed both Houses of Congress, and having been presented to the President, as provided in the Constitution, shall not have been returned by the President with his objections thereto to that House in which it originated within the time herein defined and declared shall be a law; and it shall be the duty of the President in such case immediately to deliver such bill, so having become a law, to the Secretary of State, who shall receive and proceed with the same in the same manner as may be provided by law for bills signed by the President, and to certify thereon, and in the promulgation thereof, that such bill has become a law for the cause aforesaid.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kentucky, which is to strike out the section just read.

The amendment was not agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. DAVIS. On the passage of the bill I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. BUCKALEW. I desire to inquire of the Senator who has this bill in charge whether the provision is retained that messages shall be filed with the Secretary of the Senate and Clerk of the House of Representatives?

Mr. EDMUNDS. That the bills shall be returned to the Secretary or Clerk with the messages.

Mr. BUCKALEW. I should like to know how the Secretary can make entries and make up a Journal when the Senate is not in session. I can understand that when the Senate reconvenes the Clerk may hand to the President of the Senate, just as any member might or any outsider might, the particular paper, and it may then be presented to the Senate, and it may be entered in the Journal. But this bill contemplates that our Secretary shall make and keep a Journal when the Senate is not here at all, when there can be no Journal of its proceedings.

Without entering into debate on the other features of the bill, which were discussed on a former occasion by the Senator from Delaware, [Mr. BAYARD,] and by other members, I will say that I think that portion of the bill, at least, ought to be omitted. The transmission of a message in the manner proposed to the Secretary of the Senate must go for nothing for any constitutional or legal purpose, and the bill ought, therefore, to provide, if passed at all, that this message be transmitted to the Senate in the usual manner. How can you by law charge upon the President, under the Constitution of the United States, the duty of communicating with the Secretary of the Senate or communicating with any one else except the Senate itself? I do not care to enter into de-

bate, but I wanted to suggest this point before the bill was passed.

Mr. EDMUNDS. I do not wish to occupy time except to answer fairly the suggestion of my friend from Pennsylvania. His opposition to that clause of the bill to which he has referred is really an opposition to the whole principle of the bill. The bill proceeds upon the principle that the Congress of the United States is in session after it commences on the first Monday of December, for instance, all the time, until it adjourns itself as a Congress definitely and finally; and it therefore proceeds upon the included principle that when we adjourn over each body from one day to another Congress is still sitting in session, although the particular components of it are distributed all over the city; but still it has its members and its officers; the one House has its President and the other its Speaker. The language of the Constitution is that the President shall return a bill within ten days after it is presented to him "unless the Congress by their adjournment prevent its return;" that is the language of the Constitution. Now, what is an adjournment of "the Congress?" The Constitution says that the Congress is composed of a Senate and of a House of Representatives associated together for political and legislative purposes; and it is that associated body which represents the whole law-making power of the Government whose adjournment it is that is to prevent the return of a bill. Another clause provides that he shall return the bill to that House in which it originated; and the same Constitution provides that either House may of its own motion adjourn for three days. Now, then, if one House adjourns for three days, and the bill is to be returned to that House, is it an adjournment of the Congress? Of course not. Then can he not return the bill to that House during those three days although it is not sitting? If he cannot it is equivalent to saying that he is bound to return the bill within seven days, or else it must become a law in spite of his opposition, when, perhaps, it was only passed by one majority.

The fault in the argument against this bill is in considering that the adjournment of one House to a definite time, either with or without the consent of the other House, as the Constitution may permit or provide, is an adjournment of Congress, the law-making and legislative power of the country, a consolidated body in legal contemplation when the concurrent act of the two Houses is requisite to the perfection of a measure. If that be the nature of each House it is still a House and a body, although it does not sit every moment of time, and it has an officer who, for all purposes with which the law may clothe him, represents that body in a mere executive and ministerial point of view.

Now, what do we provide? We provide that the President may, at any time within the ten days, if he wishes, return a bill with his objections though the House in which it originated may not be sitting actually in its Chamber, although, in contemplation of law, it and the Congress of which it composes a part is in session; that is to say, if a bill be returnable to-day, if this be the tenth day, and we choose for any reason, as we frequently do, to adjourn almost upon the moment of our assembling, that the President may still exercise, in a manner regulated by law, his constitutional prerogative of returning the bill, with his objections, to this body—because it is still a body—it may punish persons for contempt of its authority just as well committed after it has adjourned, for the day, as it is called, as before.

What, then, do we provide? We simply provide that he may communicate with this body while its active operations are in a state of suspense from one day to another, or from one day to two or three days or a week, as the case may be, by filing the paper that the Constitution gives him a right to file within that time with the responsible officer whom the law designates to receive it; and then all that is required of that officer is that he shall enter upon his Journal, which is a book that the

rules of the Senate and the Constitution require to be kept—not any daily entry of proceedings, not an ideal thing, but an actual book, the book of record—that he shall enter in that book of record, under the date upon which the bill is returned, the fact that it is returned with the message. Then, when we meet on the next day, whatever that day may be, when the Journal of the last day's proceedings is read, you find the official entry, the record of the clerk that the law requires him to make, that on such a day this bill, with the accompanying message, was returned. Is there anything irregular or illegal in that when the law has once fixed it? I certainly fail to perceive it. And I may say that this measure met with the careful examination of the members of the Judiciary Committee, composed of gentlemen of my friend's own party as well as of my own; and inasmuch as it did not involve—perhaps I ought not to say "inasmuch"—

Mr. JOHNSON. It was not a party measure.

Mr. EDMUNDS. I was about to say that, inasmuch as it was not in any sense a party measure, we felt that we were investigating it on all sides without any bias, which sometimes misleads men in the investigation of a case, and I believed we concurred unanimously not only in the constitutionality of the measure but in its eminent propriety as a measure of regulation for these cases that must frequently otherwise occur.

Mr. BUCKALEW. Mr. President, the Constitution provides that the Senate shall keep a Journal of its proceedings, of what it does itself. In another clause it is provided that when the President returns a bill with his objections that message thus containing his objections shall be entered upon the Journal of the Senate. The fact of receiving such a message and the entry of that message upon the Journal must, in the very nature of the case, be when the Senate itself is in session.

Mr. EDMUNDS. That is begging the question.

Mr. BUCKALEW. The Senator says I beg the question. I refer to the express language of the Constitution. The Journal is to be kept by the Senate, and it is to be a Journal of what it does, a Journal of its proceedings. What is a proceeding of the Senate? The reception of a message from the President of the United States is a proceeding by the Senate; it is an act by the Senate itself. The entering of the message upon the Journal is the act of the Senate itself, though it is done by the Secretary of the Senate. It is done in the presence of the Senate, and it is the act of the body itself for that reason. I think, therefore, it is manifest that under the Constitution of the United States this Journal and the entries upon the Journal are matters which relate to a session of the Senate, an actual session, the personal presence of the body, and that it is not competent for the Senate to commit to one of its own officers, or to any officer of the Government, or to any citizen, the performance of a duty which is by the Constitution charged upon itself and to be performed by itself. I do not know that by multiplying words I can make my meaning more clear than I have by the statement already submitted.

Mr. JOHNSON. There was some little difficulty in the committee on the question—not much—and I think that we all came to the conclusion that it was within the power of Congress to adopt a measure such as the one before you now. The supreme court of New Hampshire, composed of very able men, and in whose constitution there is a like provision to the one involved in this discussion, except that the number of days is less, being five, I think, there instead of ten, came to the opinion, and they have acted upon it ever since, that the bill might be returned to an officer of the body, although the body was not in actual session. The honorable member from Pennsylvania gives a literal interpretation to the words of the Constitution, and exclusively literal. He says that

the Senate is to keep a Journal; the message is to be returned to the Senate and is to be entered upon its Journal, and that those words necessarily imply that the Senate must be in session at the time, or otherwise there would be no evidence at all that the Journal was one which the Senate authorized. The answer to that is, that if we pass a law which empowers the clerk to receive it and enter it, it is received and entered under the authority of the Senate. And so of the other House. So, then, it depends upon the question whether you are to give a literal interpretation, one strictly literal, to the clause, or give an interpretation to it which complies with the spirit of the provision.

There are difficulties in a literal interpretation which will occur to any one who reflects on the subject. The Senate adjourn from Friday over to Monday; very often from Thursday over to Monday. The ten days expire, say on Friday or on Saturday. There is no Senate in session. What is the President to do? If he does not return a bill within the ten days it is a law; and he has no authority to return it at all unless he can return it on Friday or Saturday, and on neither day, according to the assumption that there has been an adjournment from Thursday, is the Senate in session. If the honorable member from Pennsylvania is right, then, in a case of that description, the President would be compelled to return it within a period less than ten days, or it would become a law in spite of his returning it on the last hour of the tenth day. We thought that did not at all comport with the object of the provision, and, as I have before said, came to a very satisfactory opinion, so far as the committee were concerned, that there was a power to pass such a bill as this, and that it was expedient to pass it.

Mr. HENDRICKS. I have listened with a great deal of care to the arguments against this bill by gentlemen in whose judgment I have great confidence, but I have not been able to concur with the view they have taken of it. I think that in the practice of Congress there has arisen a practical question of difficulty that must be provided for. It has come to be the habit of Congress, and of each branch of Congress, to take recesses. Those are clearly not adjournments within the meaning of the Constitution, as I think. Then a case of that sort must be provided for, and I think it is proper that by law we should settle that which is not settled perhaps definitely by the Constitution. Now, I think it is proper for Congress to say explicitly that a recess is not an adjournment; that a recess for a term of days by the two branches is not an adjournment; and especially a recess of either branch for a period less than three days is not an adjournment, and to provide what shall be done with a bill that is returned from the President during that time. It is simply a declaration on the part of Congress that it is still in session, and a provision whereby a bill may be returned. In that view, I support the measure.

Mr. BUCKALEW. I wish to make one other remark. When this subject was up before I spoke upon the point now made by the Senator from Vermont—the case of an adjournment by one House of Congress when the other remains in session, or when the consent of the other House has not been obtained. I do not understand that in that case we are precluded from making some regulation, either the regulation proposed by this bill or some similar regulation appropriate to the case. The provision of the Constitution is that the bill shall be returned within ten days unless Congress, meaning both Houses, by their adjournment prevent its return. Now, sir, that will not apply to the case of an adjournment to a period not exceeding three days by one House; and if there be any regulation of law necessary to provide for the case of an adjournment of one House merely I should not interpose any objection.

But the argument of the Senator from Vermont goes beyond this illustration which he has made. He argues that, no matter for what

period of time Congress shall, in fact, adjourn, although it may adjourn for a period of eleven months, still the ten days will not expire. Take the case which happened last year. The two Houses of Congress adjourned over somewhere about the 1st of April, and provided for an additional session in the month of July. The two Houses reassembled pursuant to that adjournment in July and entered upon a session because there was a quorum in each House. After sitting a short time Congress again adjourned over until the month of November, and then reconvened and held a short session during the latter part of that month. If the reasoning of the Senator from Vermont be correct a bill sent to the President on the 30th of March, or say one day before Congress adjourned in the spring, would not have fallen necessarily by the adjournment over to the month of July; and we might provide by law, if the Senator be correct, that in such a case that bill should remain in the hands of the President until a period of three or four months of adjournment had elapsed, and then, when we met here, transmit it to both Houses of Congress.

Mr. EDMUNDS. If the Senator will pardon me, I beg to remind him that the Constitution requires that he shall return the bill to the body in which it originated in ten days, which, I suppose, the Senator construes to mean ten calendar days.

Mr. BUCKALEW. Of course, ten calendar days.

Mr. EDMUNDS. Then we cannot provide for his holding it any longer time.

Mr. BUCKALEW. But, according to the argument of the Senator, Congress may make provision based on the assumption that its adjournment before the expiration of ten days will have no effect.

Mr. EDMUNDS. I do not make any such argument. My argument is based on the proposition that a concurrent resolution of each House permitting the other to adjourn its session for a number of days is not an adjournment of the Congress that the Constitution provides for as preventing a bill becoming a law.

Mr. BUCKALEW. I am not speaking of a case of consent given by one House to the adjournment of the other. I am speaking of the fact in the case to which I have alluded, to wit, the sessions of 1867, which were held by regular adjournments of the two Houses, two adjournments carrying a session continuously from the 4th day of March, when the Fortieth Congress convened, down to the first Monday of December, when the second or regular session of that Congress commenced.

Now, one objection which applies to the bill and the argument by which it is sustained is that it is against the practice of the Government. From the time that Congress first convened together in 1789 down to this time it has been held, and held uniformly, that if the two Houses of Congress adjourned by a concurrent resolution before the expiration of ten days from the presentation of a bill to the President a bill which should then be left in his hands would fail. We know cases where bills have failed under such circumstances. They have failed upon repeated occasions, not only during recent years, but far back in former times. This bill is based on the idea that that practice was incorrect, that it was not founded upon a sound construction of the Constitution, to wit, that if Congress shall not be in session, if it shall have adjourned before the ten days expire, the bill, if not returned, fails to become a law, it expires by virtue of that clause of the Constitution which says in express language that it shall not under such circumstances become a law of the United States.

This bill proposes, in the absence of both Houses of Congress, to provide a substitute for the House to which the bill is to be returned. Instead of being returned to the House in which it originated, as the Constitution says, this bill proposes to enact that it shall be returned to the Secretary here alone,

not in the Chamber of the House at all, but possibly without the building, or anywhere in Washington city, or anywhere in the United States, or, if you please, in some remote foreign country, if you can suppose so extreme a case as that; and that upon the paper or engrossed bill being given to that particular person it shall be considered that it has been returned to the House in which it originated. Why, sir, can anything be more absurd? Can anything more flatly contradict common sense, deny the plain fact? Can we constitute our Secretary into the Senate, and can we make the Clerk of the House of Representatives the House for the purpose of doing any official act whatever? You propose that he shall receive the communication from the President as if he were the Senate or the House; that he, sitting anywhere, responsible to nobody, with no check upon him, shall make up a Journal as if he were the Senate or the House for the occasion.

I grant you, Mr. President, that where one House adjourns within the stated limit of three days without the consent of the other, you may presume that it is a case not within the limitation of the Constitution, which says that if the bill is not returned within ten days it shall not become a law, because that provision is to be taken in connection with the other provision that is connected with it, which is that the Congress by its adjournment shall have prevented its return. I would construe that that one House by its adjournment within the period of three days would not prevent the return of the bill, but that it might be returned to the House when it reconvened. Perhaps you might make some regulation of law for that case; but why pass this bill in opposition to the practice of the Government from the beginning, and in opposition to the practice which we know actually prevented bills becoming laws under General Jackson, under Mr. Lincoln, and under Mr. Johnson, by which any adjournment of the two Houses by concurrent resolution before the ten days had expired induced the defeat of the bill if the President did not return it before the adjournment? Here, then, you have not only the plain signification of these clauses of the Constitution, but you have the practice of the Government itself; and to get away from both these considerations by such a provision as that which we have in the bill before us seems to me almost farcical. It is an attempt by statute to create an individual a substitute for the Senate or for the House for the performance of plain, clear, imperative duties charged upon such House. If anything can violate both the letter and the spirit of the Constitution, it seems to me it must be such a bill as this.

Mr. MORTON. Mr. President, I quite agree with the ground taken by the Senator from Pennsylvania. It does seem to me that it is absurd to say that we can make the delivery of a bill to the Secretary of the Senate and the Clerk of the House of Representatives, or the Speaker of the House, if you please, to be the return of the bill "to the House" in which it originated. The Constitution says that when a bill is presented to the President, "if he approve, he shall sign it; but, if not, he shall return it with his objections to that House in which it shall have originated." It contemplates that the bill shall pass from the custody of the President to the custody of the House in which it shall have originated; and we have no power, in my judgment, to say that it shall be sufficient to return it to the President of the Senate or the Speaker of the House or to the Secretary or Clerk. Suppose we say that he shall return it, if you please, to the Secretary and he may lay it before the Senate; suppose he loses it or he refuses to return it to the Senate, I ask you what is the remedy in that case? What has become of the bill? The Constitution does not contemplate such a condition of things. It provides that the President shall not return that bill to a subordinate officer, but that it shall pass from him to the custody of the Senate or of the House of Representatives, according to the House in which



it shall have originated. The Constitution says so; and if we are bound to observe it in any respect certainly we are bound to observe it in this respect. If we can resolve or enact that the Secretary shall stand instead of the Senate, and place the bill in his custody, we can dispose of any other provision of the Constitution by similar construction.

Mr. President, I believe that the true construction of the Constitution is this: that the failure of the President to return a bill so that it shall not become a law will only prevent its becoming a law by the final adjournment of the two Houses; that is to say, the adjournment of Congress. If the Senate adjourns over on the tenth day the President is not even presumed to know that fact, and the adjournment over that day will not defeat the bill or make it a law. My opinion is, that the reason of the Constitution is given in the concluding clause, that it is the final adjournment which causes the failure of the bill if he does not return it within ten days and there is a final adjournment before the ten days expire. If on the tenth day the Senate is not in session, but it is in session on the eleventh, it is, in my judgment, a compliance with the spirit and with the reasoning of the Constitution to send the bill here on the eleventh day. But to send it to the Secretary, as was said by the Senator from Pennsylvania, at his office, or on the street, or at his hotel, or to the President of the Senate at his rooms or at a party, is not a compliance with the Constitution. The Constitution does not mean that. I think it would be safer and I think it would be better to enact simply that if the Senate or House of Representatives shall not be in session on the tenth day, there being no final adjournment of Congress, it shall be sufficient if the bill shall be returned on the eleventh, twelfth, or fifteenth day, when it shall actually be in session. It would be just as good for the private Secretary of the President to retain a bill as for the Secretary of the Senate; just as much a compliance with the provision of the Constitution; and it would be just as satisfactory to my mind for the President to retain it during the odd days as for the Secretary of the Senate to do so.

It seems to me, Mr. President, that the bill is not founded upon the correct principle in that respect. I agree that it is the final adjournment of Congress, of both Houses, that was intended to defeat a bill. That is the spirit and meaning of the Constitution; and if we start out with that as a key, we shall find that it makes no difference whether the bill be returned on the eleventh or twelfth day, if that be the first day that the Senate or House shall be in session after the ten; but to say that it may be returned to a subordinate officer, to the Secretary or to the President of the Senate, or to the Speaker of the House, and that that shall be a compliance with the Constitution, it does seem to me, in the language of the Senator from Pennsylvania, is absurd.

The PRESIDENT *pro tempore*. The question is on the passage of the bill, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 29, nays 11; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Essenden, Frelinghuysen, Harlan, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Tipton, Van Winkle, Williams and Wilson—29.

NAYS—Messrs. Bayard, Buckalew, Davis, Dixon, Doolittle, McCreery, Morton, Norton, Saulsbury, Vickers and Willey—11.

ABSENT—Messrs. Chandler, Ferry, Fowler, Grimes, Henderson, Hendricks, Howard, Nye, Patterson of Tennessee, Pomeroy, Thayer, Trumbull, Wade and Yates—14.

So the bill was passed.

#### ADMISSION TO IMPEACHMENT TRIAL.

Mr. SHERMAN submitted the following order for consideration:

*Ordered*, That the order of the 10th of March instant, relative to admission to the galleries, be suspended until further order, and that the Sergeant-at-Arms of the Senate shall take special care that order shall be observed in the galleries during the trial of the impeachment now proceeding; and he is

hereby authorized to arrest and bring before the Senate any person who violates the order of the Senate; and he shall take effective measures to secure admission to the diplomatic gallery, the ladies' gallery, and the reporters' gallery to those only who are entitled to admission thereto under the rules.

Mr. CONNESS. I object to the consideration of that.

Mr. SHERMAN. I only ask that it lie on the table for the present.

The PRESIDENT *pro tempore*. The proposed order will lie over under the rules.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 350) to amend an act entitled "An act to provide for the prompt settlement of public accounts," approved March 3, 1817.

The message also announced that the House had adopted a replication to the answer of the President of the United States to the articles of impeachment exhibited against him, which would be presented to the Senate by the managers on the part of the House.

#### LINCOLN MONUMENT ASSOCIATION.

Mr. CONNESS. I move that the Senate proceed to the consideration of House joint resolution No. 216, reported from the Committee on Military Affairs this morning.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 216) to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association damaged and captured ordnance. It proposes to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association, incorporated by act of Congress, approved March 30, 1867, damaged and captured guns and ordnance, out of which to cast the statues of the principal figures surmounting and to be incorporated in the structure; but no metal is to be thus appropriated until the voluntary contributions actually in the hands of the treasurer shall amount to \$100,000.

Mr. GRIMES. I inquire whether that is intended to include anything except bronze cannon?

Mr. CONNESS. Unquestionably not.

Mr. GRIMES. Then that word had better be inserted.

Mr. CONNESS. They cannot use anything else.

Mr. GRIMES. They may not be able to use anything else in the construction of their monument; but it includes all damaged ordnance, as I understand, which would amount to millions of dollars.

Mr. CONNESS. Put in the words, "brass or bronze."

Mr. GRIMES. I move to insert the word "bronze."

#### IMPEACHMENT OF PRESIDENT JOHNSON.

The PRESIDENT *pro tempore*. The hour has arrived when the chair must be vacated, that the Chief Justice of the Supreme Court of the United States may preside over the trial of the impeachment of the President of the United States.

The PRESIDENT *pro tempore* vacated the chair.

On the adjournment of the Senate, sitting for the trial of the impeachment, at three o'clock and twenty-eight minutes p. m., the President *pro tempore* resumed the chair.

#### EXECUTIVE SESSION.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business.

Mr. ANTHONY. I hope not. There is unfinished business that ought to be disposed of. I hope we shall go on with the unfinished business.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa.

Mr. ANTHONY. On that motion I wish to say that when the Senate adjourned last the unfinished business was the consideration of

the report of the select Committee for the Revision of the Rules, and I hope we shall go on with that.

Mr. CHANDLER. I move that the Senate adjourn.

The PRESIDENT *pro tempore*. It is moved and seconded that the Senate do now adjourn. The motion was not agreed to.

Mr. GRIMES. I renew my motion for an executive session.

Mr. ANTHONY. I hope not.

Mr. SUMNER. I hope we may proceed with executive business.

The motion was agreed to.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 350) to amend an act entitled "An act to provide for the prompt settlement of public accounts," approved March 3, 1817; and

A bill (H. R. No. 832) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1869.

#### EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business, and after an hour spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, March 24, 1868.

The House met at 12 o'clock m.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

#### IMPEACHMENT OF THE PRESIDENT.

The House resumed the consideration of the business pending at the adjournment, being the replication to the answer of the President to the articles of impeachment and the resolution relating thereto reported by the managers, upon which Mr. ELDRIDGE was entitled to the floor.

Mr. ELDRIDGE. It would seem from the remarks of the gentleman from Massachusetts [Mr. BUTLER] that this matter is never to cease to be a subject of levity. In the impeachment of the President the proceedings from the beginning up to this hour have been treated, not only as a mere matter of form, but as a subject for trifling and for amusing those who happen to give their attention upon the House of Representatives.

The gentleman from Massachusetts tells us that when the question was raised in England whether an impeachment was in the name of all the people of England some one was heard to exclaim that it was not, that that individual did not assent, and he said that it was understood to be a ranting old woman. Well, sir, it is not necessary for old women to come here to rant, for we have plenty of ranters upon this subject in the House of Representatives.

Mr. BLAINE. On which side?

Mr. ELDRIDGE. The gentleman from Maine asks me on which side. I should suppose he knew, coming right from that quarter.

Mr. RANDALL. He is a very fair specimen himself.

Mr. ELDRIDGE. Yes, he is a very fair specimen himself. I adopt that remark.

Mr. Speaker, the gentleman from Massachusetts undertakes to say that this replication has been prepared with reference to the answer of the President, that it is a mere formal matter, and that they only gave notice in the Senate that they would probably be prepared, with the consent of the House, to file this replication at one o'clock to-day. Now, that may be the understanding of the gentleman from Massachusetts, but we had the statement of the leading manager, Mr. BINGHAM, of Ohio, on last evening to the contrary, when he desired that the House should authorize the managers

in their discretion to file just such replication as they should see fit. I read from his remarks:

"The managers, anticipating the answer which has been presented by him, are prepared, as soon as the gentleman from Massachusetts [Mr. BOUTWELL] may come in, to present, for the consideration of the House a general replication to the answer which the President has filed to the articles of impeachment exhibited against him. I have made some inquiries since I left the Senate Chamber, but have not been able to ascertain with certainty where the gentleman from Massachusetts [Mr. BOUTWELL] now is."

Now, sir, there can be no other construction put upon that language than that before the managers had ever heard a word of the answer of the President they had prepared in form a replication to that answer. They do not consider the facts of the case. They do not look at the President's declarations and answer them either specifically or generally; but they prepare and present to this House an answer in form before they are informed what the answer of the President is to be.

Now, sir, I said last evening that I did not desire the managers of this impeachment proceeding—much as I respect them as individuals, much as I have confidence in them as gentlemen—to answer in my name upon their own discretion. Every one of these managers was known to have convicted the President, without regard to evidence, without regard to the answer, without regard to the defense, when they were appointed. The gentleman from Ohio tells us that—

"It is, in short, a traverse to all the material allegations in the answer; a denial of matters and things set up."

Is the impeachment of the President so much a matter of form that whatever he may answer, whether he answer truly or falsely, the managers are to deny his answer? Has the subject of impeachment become so much a matter of form that whatever may be said by the President in response, whether it be a confession or a denial of the charges, it is to be denied by the managers before the answer comes in? Is this the form and is this the proceeding by which you are to remove the Chief Magistrate of this great nation? Suppose the President had come in and confessed many of the facts charged, (and I understand that he does admit many of the facts that are charged in the articles against him,) do the managers consider it proper and that they are authorized to deny those? Are they prepared, as the gentleman from Ohio said they were prepared, in advance with a general denial of all matters and things set up by the President? If the managers are prepared thus recklessly, thus without regard to the truth or falsity of the allegations, to deny whatever the President may say, I do not want those gentlemen to file an answer for me; I do not wish them to be authorized to act in my name, even at the hazard of being styled by the gentleman from Massachusetts a ranting old woman.

Now, sir, the President has spread out *in extenso* facts covering the entire charges contained in the articles. So far as he has undertaken to state facts and not conclusions, so far as he has undertaken to give a version of what has transpired of the facts and circumstances upon which the articles are founded, I believe he has stated God's truth, and I believe that the majority of this House to-day believe that what he has stated is true. Why, then, should not the House, with frankness and sincerity, come forward and meet and admit upon the record whatever the President has stated which is true? We are acting upon our oaths of office, upon our honor as Representatives, and are not expected by the people we represent to deny or withhold the truth. We are not hired attorneys, but our interest and that of our constituents and the highest interest of our country demand that we should develop the truth and act upon it. Why should we here, a House of Representatives, impeaching the President of the United States, deny all that he may state, whether it be true or whether it be false? Why should we not come up and meet the case, admit such facts as are true,

consider the answer clause by clause and fact by fact; wherever we can find that the President has stated the truth admit in our replication that he has done so? Why send forth to the country a false replication denying those things which we know to be truths? Why should we tell the country that all the President has said is a lie, when we know that the major part of the answer is true?

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me to ask him a question?

Mr. ELDRIDGE. A question? Yes.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman state, as a lawyer, who has, I know, looked into the precedents upon this point, whether he can point out any case which has been tried except upon the general issue of not guilty?

Mr. ELDRIDGE. It matters not—

Mr. WILLIAMS, of Pennsylvania. And whether any other issue can be made, and whether in this case any other replication could have been filed than that which has been presented to-day?

Mr. ELDRIDGE. The gentleman from Ohio [Mr. BINGHAM] tells us that the answer of the President is an unprecedented answer. He tells us that it has not ordinarily been the case that the respondent comes in and specially denies the charges made against him. Now, if that be unprecedented—and it is certainly admitted here, the managers admit that it is correct practice, that the President may so state the fact, may so plead—then why is it that we may not, in our replication boldly and fairly and honestly and truthfully meet the President upon the statement, and admit such facts as he states to be true, and which we know to be true, which we cannot deny? Certainly there can be nothing in the answer that can require us to answer a falsehood. Why not, then, narrow down the trial by answering the truth? Why not thus lessen the necessity for taking up the time of the House and causing expense to the country? Would not the course for which I contend narrow the issue, and save calling a multitude of witnesses? Whenever the President states a fact which the witnesses will prove, which we know they will prove, what is the necessity for putting in a denial and putting the President and the country to the expense and trouble of calling witnesses to prove that fact? Why not the managers consider the answer of the President fact by fact, statement by statement, paragraph by paragraph, and deny only such things in the answer as they know they can prove to be false?

Mr. HIGBY. Will the gentleman allow me to ask him a question?

The SPEAKER. The ten minutes allowed to the gentleman from Wisconsin [Mr. ELDRIDGE] by the gentleman from Massachusetts [Mr. BOUTWELL] have expired, and the gentleman from Massachusetts is now entitled to the floor.

Mr. ELDRIDGE. I will yield to the gentleman from California [Mr. HIGBY] for a question, if the gentleman from Massachusetts will allow me time to reply to it.

Mr. BOUTWELL. Very well.

Mr. HIGBY. I desire to ask the gentleman if he is in a great hurry to have the President tried?

Mr. ELDRIDGE. The gentleman from California [Mr. HIGBY] is continuing the same levity and insincerity which has been practiced all the way through.

Mr. HIGBY. Not at all.

Mr. ELDRIDGE. I will say to the gentleman that I am anxious to save expense to the country. I care not, so far as I am individually or personally concerned, whether the trial be hurried up or delayed. But I would have just as few facts as possible to be controverted by testimony. I would act with truth and in good faith. To admit truth is good faith, and that would be good practice, too; and that I am in favor of.

Mr. HIGBY. I am glad the gentleman has made that declaration.

Mr. BOUTWELL. I now yield to the gentleman from Pennsylvania, of the managers, [Mr. WILLIAMS.]

Mr. WILLIAMS, of Pennsylvania. Mr. Speaker, the gentleman from Wisconsin [Mr. ELDRIDGE] seems to be of the opinion that this case is to be tried upon the technical rules of pleading which are applicable in the trial of cases in courts of common law. I beg leave to remind him that it has been already openly confessed by the President's counsel themselves, who, doubtless, well understand their case, that a case of this sort is to be tried, not by the rules which prevail in the common law courts, but by the law of Parliament itself. The gentleman will also remember the emphatic declaration of one of the leading counsel of the President made before the Senate—I think I do not misquote the declaration—that they thanked the managers for the remark that they intended to try this case without reference to artistic rules, and upon such great principles as had been heretofore laid down and recognized as a part of the law of Parliament. The counsel, I say, thanked one of the managers for the expression of that opinion, and joined in the declaration that it was no case wherein a demurrer would be proper.

And now, sir, I desire to say a word in regard to the pleadings. They are something peculiar. The counsel for the defendant are doubtless learned, and as we all know, very ingenious men, who have come here, fresh from their practice in the courts, for the purpose of trying this case. They have put in a series of answers having very much the character of an answer in chancery. There is no plea; there is no demurrer. In this particular the answer filed by them has, I think, no precedent. Now, what are the managers under these circumstances to do? It stands confessed, as I have remarked already, by the defendant's counsel themselves, that a demurrer in a case of this sort would not be proper. The gentleman from Wisconsin admits, if I understand him correctly, that there is no such precedent. We come, then, before this House upon the hypothesis that there is but one issue to be tried; and that is the general issue of guilty or not guilty.

Mr. ELDRIDGE. Will the gentleman allow me a further suggestion? I made no point with reference to the insufficiency of the answer, or the insufficiency of the replication. My position is this: That the President having gone on and stated the facts, covering specifically the ground of the charges against him, we ought to meet him fairly and confess or admit such facts as we cannot controvert by proof, thereby narrowing the issue, saving expense to the country, and avoiding the necessity of calling a large number of witnesses to testify with regard to facts which we cannot deny.

Mr. WILLIAMS, of Pennsylvania. The gentleman, then, expects us to follow the President in the answer which he has made, and to put in a special replication precisely as we would do in a case in the common law courts.

Mr. CHANLER. I rise to a point of order; that the answer made by the President is not properly before the House.

The SPEAKER. This question, with regard to the replication, necessarily involves a consideration of the answer; and the latter is therefore before the House.

Mr. CHANLER. The answer has not been presented to the House or read in our presence. The House has not received that answer in any official form.

The SPEAKER. When the answer was read in the Senate, the House, in accordance with its own resolution, was in attendance there for the specific purpose of hearing the proceedings. It is, therefore, to be presumed that every member of the House was present and heard the answer read.

Mr. CHANLER. I beg to correct the Chair. The House was at the bar of the Senate as a Committee of the Whole, and the Speaker was

there as a Representative from his State, not as Presiding Officer of the House of Representatives. Hence he is now assuming a fact which has not come to his knowledge as Presiding Officer of the House.

The SPEAKER. The Chair overrules the point made by the gentleman on the ground that the House takes official cognizance of all proceedings in the Committee of the Whole as well as in the House; whether the Speaker or the chairman of the Committee of the Whole presides does not affect the question.

Mr. WILLIAMS, of Pennsylvania. The gentleman from Wisconsin takes occasion to complain of the language of the chairman of the managers in regard to the preparation of this replication. The gentleman maintains that because the chairman said that we would be prepared on behalf of the House to submit the replication at one o'clock to-day, therefore, we have prejudged the case. He charges that we have already decided in favor of the President's conviction. I beg the gentleman to answer whether upon the same sort of evidence he has not prejudged the case by declaring in favor of the President's acquittal. In this particular he stands upon precisely the same platform as ourselves, with this difference: that we in this question represent the House, while he ought to stand unaffected as one of its members.

Mr. ELDRIDGE. I voted against the articles—all of them—believing them to be untrue.

Mr. WILLIAMS, of Pennsylvania. Exactly; so the gentleman has as much prejudged the case in favor of the President's innocence as any of the managers or any other member of the House can have prejudged it in favor of the President's guilt.

Mr. ELDRIDGE. My point was that they had prepared their replication in advance, anticipating the President's answer.

Mr. WILLIAMS, of Pennsylvania. Anticipate the answer! What other answer, I ask the gentleman as a lawyer, could have been made to the plea of not guilty, or that substantially equivalent, to wit, guilty? Can he name any other? Did he expect us to depart from the parliamentary practice to enter upon a long series of special pleas as he would have done as a lawyer in a civil cause? That would be precisely playing into the hands of the President and his counsel, whose object, I assume, and I do not think I speak uncharitably or without the book, is nothing more nor less than delay. Is the process of technical proceeding to be formed in a great cause of this sort where the interests of the nation, its very life, I may say, are involved? Does the gentleman want delay? Does he hope to perpetuate this examination down until the close of the term of the President, as was suggested significantly by the gentleman who sits at his own side in the debate on the articles of impeachment? Why, sir, we were threatened in advance we could not put this case through before the expiration of his term, and I know there was a general feeling in the country of that sort, and there may have been at one time a feeling in this House of that kind. And we have evidence, I think, it was the expectation of the President himself from outgivings which seemed at all events to be semi-official that the case could be prolonged indefinitely in this way.

Why, I ask gentlemen, may not this replication have been prepared in advance and without hearing the case of the President when there was no other, he must confess himself, which could have properly been made in order to join the issue in this cause? I have asked them what other than a general replication could be put in? If so, why is it necessary to wait for the answer.

Mr. ELDRIDGE. If the gentleman will allow me, I have answered repeatedly that he might by replication confess such facts the President has stated which could not be denied by evidence and only deny such facts as he could disprove.

Mr. WILLIAMS, of Pennsylvania. Exactly;

the gentleman comes back again and urges the special plea. The plea is one in confession and avoidance, and we are expected to make a special reply—a special reply on every answer. I have examined the precedents to some extent, and I find no case but this in which the party has failed to put in, in connection with his answer, the plea of not guilty. Here it has been avoided, whether purposely or not I do know.

I have some doubts myself, as I am constrained to say, whether we should not have gone back to the Senate and compelled the accused to put in a plea of not guilty in form. I have deferred to the judgment of my colleagues in the expression of the opinion disclosed in this replication that, inasmuch as there could be no issue, the President himself was in default if he failed to put in this plea, and we might take the whole of the answer as a substantial plea of not guilty.

Mr. ELDRIDGE. Let me say one word to the gentleman from Pennsylvania and only a word. The point I endeavored to make was that the House of Representatives, through their managers, having accepted the answer, the special answer, put in by the President, they are bound by that answer and it was their duty to reply to it specially to deny or confess the facts as stated.

Mr. WILLIAMS, of Pennsylvania. I have asked the gentleman for a precedent, and I ask again, in which any motion of this sort has been entertained?

Mr. ELDRIDGE. Is there any case on record where the managers of an impeachment allowed such an answer as the President's to stand?

Mr. WILLIAMS, of Pennsylvania. The gentleman from Illinois will answer the gentleman on that.

I desire to say on another point that what the gentleman has said is only a rehearsal of what has been declared by other gentlemen on the same side of the House that the facts stated in the President's answer are true—they are, to use his emphatic language, God's truth. I do not think God recognizes any truth of that sort. [Laughter.] Does the gentleman undertake to say that the speeches charged to have been made by the President at St. Louis, at Cleveland, and at Washington were not true?

Mr. ELDRIDGE. The President says he did not make them in the form in which they are charged.

Mr. WILLIAMS, of Pennsylvania. He denies that he made them as they are charged; the gentleman affirms that that denial is true, and therefore that the President never made any such a speech. I put it to him whether he believes it himself? [Laughter.]

Mr. LOGAN. I ask the gentleman to yield to me a moment.

Mr. BOUTWELL. For a moment.

Mr. LOGAN. I desire merely to answer the remark of the gentleman from New York, [Mr. Wood,] that no managers ever made such a replication. In the trial of Warren Hastings a committee was appointed to examine the Journal of the House of Lords, and they reported, from an examination of three centuries, that no demurrer or exception could be found as having been taken to articles or answers. There is no precedent except that the articles are to be answered, and then the general replication is put in. That the gentleman will find to be the law, so far as usage is concerned, in impeachment cases.

Mr. BOUTWELL. I yield five minutes to the gentleman from Pennsylvania, [Mr. Woodward,] and at the close of his remarks I shall feel it my duty to ask for a vote.

Mr. WOODWARD. I have no desire to embarrass this proceeding, but as the managers have made their report to the House and we are now being consulted, I suppose it is proper for any member of the House to point out to the managers any difficulties that may occur to him in this proceeding. I do it with no disposition to embarrass the gentlemen or this

proceeding, but, if possible, to give to our record something like that legal respectability to which it is entitled.

It is said by the managers that this is not a case for special pleading, and that there are no instances of special pleading on record. But will gentlemen please to remember that they are pleading specially? They have pleaded specially in their articles against the President, and the President has pleaded specially in answer to those articles, and now these gentlemen come in to reply specially to that plea. It is too late, therefore, for them to talk about this being a case for special pleading.

Mr. WILLIAMS, of Pennsylvania. A single question. Does the gentleman consider an indictment or declaration in the nature of special pleading?

Mr. WOODWARD. Undoubtedly. Mr. Speaker, I am amazed at some things. Does not my colleague know that all pleading is an alteration between the parties litigant for the single purpose of presenting and developing an issue? That is the only object. I do not care whether you call it general or special, indictment or declaration; the whole purpose of the science of pleading is to bring out an issue. That is done by the mutual alterations of the parties, and until those alterations result in an issue there is nothing to try. That is horn-book law.

Now, I am not quarreling about what you may call it. Here is the President of the United States arraigned on a bill or an indictment to which he has put in a plea, and we are now maturing a replication to that plea. Now, in regard to the eleventh article, I ask the attention of lawyers in this House, who are now being consulted, to what the President has to reply to. You will remember that the article charges him with indulging in undue criticism of Congress and its legislation, speaking of them with disrespect. I give the substance; I do not pretend to give the charge in full. Now, what does the President say in answer to that charge? I will read the material portion of his answer to that charge:

"But this respondent, in further answer to, and in respect of, the said allegations of the said eleventh article hereinbefore traversed and denied, claims and insists upon his personal and official right of freedom of opinion and freedom of speech, and his duty in his political relations as President of the United States to the people of the United States in the exercise of such freedom of opinion and freedom of speech, in the same manner, form, and effect as he has in this behalf stated the same in his answer to the said tenth article, and with the same effect as if he here repeated the same; and he further claims and insists, as in said answer to said tenth article he has claimed and insisted, that he is not subject to question, inquisition, impeachment, or inculpation, in any form or manner, of or concerning such rights of freedom of opinion or freedom of speech or his said alleged exercise thereof.

Mr. BINGHAM. Will the gentleman—

Mr. WOODWARD. Wait a moment, if you please.

Mr. BINGHAM. I only want the gentleman to read the last line.

Mr. WOODWARD. I am replying to gentlemen. I say that there the President has planted himself upon his freedom of opinion and freedom of speech. He denies that that is an impeachable offense. And what says the Constitution of the United States?

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or prohibiting the freedom of speech or of the press."

Now, Mr. Speaker, if this Congress can make no law prohibiting the President from doing precisely that which he is now impeached for doing; if we could make no law upon the subject which he might not violate without being impeachable therefor, then, in the name of Heaven, how are we now going to impeach him for exercising that freedom of speech which the Constitution secures to him? He claims that he has only exercised his constitutional right of freedom of speech. What says the replication? "A general replication," the gentleman says, as if he had pleaded not guilty. But he has not pleaded not guilty to this elev-



enth article. He has confessed that he has indulged in criticisms on Congress, and he has planted himself upon his constitutional right to indulge in such criticisms. Now, what is your replication?

Mr. BINGHAM. The gentleman will find by referring to the last lines of the answer that the President says he is not guilty.

Mr. WOODWARD. I have eliminated the substance, the point, the pith of his reply to this eleventh article.

Mr. BINGHAM. You have omitted the real answer.

Mr. WILLIAMS, of Pennsylvania. Will the gentleman allow me a word?

Mr. WOODWARD. If I have an opportunity to say a word in reply.

The SPEAKER. The time of the gentleman has expired.

Mr. BOUTWELL. I cannot yield further.

Mr. WOODWARD. I have no desire to consume time.

Mr. BOUTWELL. If we can have general consent of the House that the replication may be considered as adopted at five minutes before one o'clock, without the yeas and nays, I am willing that the debate shall go on until that time.

Mr. WOOD. We shall insist upon our right to have the yeas and nays.

Mr. BOUTWELL. Then I ask that the question may be now taken.

The question was upon adopting the following resolution:

*Resolved*, That the House hereby adopts the replication to the answer of the President, as now submitted by the managers.

Mr. BOUTWELL. Upon this question I ask for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 116, nays 36, not voting 37; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Covode, Cullom, Dawes, Dixon, Dodge, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravelly, Halsey, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Ketcham, Kitchen, Koontz, Ladin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, Maynard, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Polsley, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spaulding, Aaron F. Stevens, Thaddeus Stevens, Taffe, Thomas, John Trimble, Twissell, Upson, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—116.

NAYS—Messrs. Adams, Barnes, Beck, Burr, Chandler, Eldridge, Fox, Gotz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Johnson, Kerr, Knott, Marshall, McCormick, McCullough, Mungen, Niblack, Phelps, Prunty, Randall, Ross, Sitgreaves, Stela, Stone, Taber, Lawrence S. Trimble, Van Aukon, Van Trump, Wood, and Woodward—36.

NOT VOTING—Messrs. Archer, Arnell, Axtell, Baker, Barnum, Blair, Boyer, Brooks, Gary, Cobb, Cook, Cornell, Donnelly, Ela, Finney, Griswold, Harding, Hawkins, Asahel W. Hubbard, Humphrey, Jones, Kelley, Marvin, McCarthy, Morgan, Morrissey, Nicholson, Nunn, Robins, Shellabarger, Starkweather, Stokes, Taylor, Trowbridge, Van Aernam, Henry D. Washburn, and William Williams—37.

So the motion was adopted.

Mr. BOUTWELL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BOUTWELL. I offer for adoption the following resolution, upon which I demand the previous question:

*Resolved*, That a message be sent to the Senate by the Clerk of the House informing the Senate that the House of Representatives has adopted a replication to the answer of the President of the United States on the articles of impeachment exhibited against him, and that the same will be presented to the Senate by the managers on the part of the House.

The previous question was seconded and

the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BOUTWELL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has commenced, and reports are in order from the Committee of Ways and Means.

#### REFUNDING OF DUTIES.

Mr. SCHENCK, from the Committee of Ways and Means, reported back, without amendment, the bill (H. R. No. 881) refunding duties paid under protest on the importation from France of a bell donated for the use of St. Mary's Institute and Notre Dame University, Indiana.

The bill was read. It directs the Secretary of the Treasury to refund to Rev. Edward Sorin the amount of duties paid by him under protest to the collector of the port of New York, in 1867, on a bell donated and imported from France for the use of St. Mary's Institute and Notre Dame University, institutions incorporated by the State of Indiana for literary and philosophical purposes.

Mr. SCHENCK. I hope the House will pass the bill at once on the explanation which I shall submit. There is a provision at present in the law that all philosophic apparatus and instruments and various articles for the use of scientific, literary, religious, and benevolent associations shall be imported free of duty. The metal of which the bell referred to in this bill was manufactured was composed in great measure of American copper from Lake Superior, and the bell was presented by a foreign religious society to the Sisters of a Catholic institution of learning in Indiana. The Treasury Department decided upon a strict construction of the law that this bell could not come in free of duty. The duties upon the bell have been paid in behalf of this literary institution under protest, and this bill proposes to refund to them, upon general principles and upon the merits of the case, as well as under what might be considered a fair construction of the law, the duties thus paid by them.

Mr. DRIGGS. What is the amount they want refunded?

Mr. MOORHEAD. It is about twelve hundred dollars.

Mr. SCHENCK. It is a little over two thousand dollars. That does not, however, affect the principle of the case nor the reasons of the committee. It was thought by the committee that perhaps by a strict construction of the law this bell, as a casting, might possibly come within the general description of casts that are permitted to come in free for religious, benevolent, and literary institutes; or, if not under that, that under the general term of "instruments" for the benefit of such institutions it might come in free. But, as I said before, under a strict construction of the law, the Secretary of the Treasury has determined that it cannot be received free of duty. This has thrown upon these petitioners the necessity of applying to Congress for the relief which they now pray. There was a case occurred in the last Congress, where relief was extended, that seems to the committee to involve not at any rate more equity than this, but the same principle upon which they would extend relief in this case. It was a case where there had been a statue or a group of statuary presented to the city of New York for their Central Park. It did not come literally and strictly within the provisions of the law, yet the Committee of Ways and Means of the last Congress reported in favor of remitting the duties on an object of art introduced for the public benefit, and Congress, acting upon the merits of the case, at once passed the bill. In that case, as in this, the article was a gift.

The joint resolution of March 26, 1867, provides:

"That from and after the passage of this joint resolution any object of art imported by any individual or association of individuals for presentation, as a

gift, to the United States Government, or to any State, county, or municipal government, shall be admitted free of duty, under such rules and regulations as the Secretary of the Treasury may prescribe."

What led to the passage of this joint resolution was the presentation of statuary to the city of New York for the Central Park. Now, whatever considerations of equity apply in a case of that kind apply, we think, with equal force to this case; for, although here the article was not imported as a gift to the United States or a State or a municipal corporation, it has been imported as a gift to a literary institution—a Catholic college in Indiana. And, if the merits of the institution are to be considered, I may say that almost all the Sisters connected with this college left it during the war for the purpose of going South to nurse our sick and wounded soldiers; and thus the business of the institution was during the war almost suspended. I do not know I ought to occupy the House any further than by stating the case that is before them is one, in the opinion of the committee, carrying merit in itself independent of law, and one which is admitted ought by liberal construction of law to be relieved from this burden. I will read the general provision for the information of the House:

"All books, maps, charts, mathematical, nautical instruments, philosophical apparatus, and all other articles whatever, imported for the use of the United States; all philosophical apparatus, instruments, books, maps, and charts, statues, statuary, busts, and casts of marble, bronze, alabaster, or plaster of Paris; paintings and drawings, etchings, specimens of sculpture, cabinets of coins, medals, regalia, gems, and all collections of antiquities: *Provided*, That same be specially imported, in good faith, for the use of any society incorporated or established for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use or by the order of any college, academy school, or seminary of learning in the United States."

Here is an importation, a gift for a seminary, but it happens to be a bell instead of an instrument of some other kind, and the Secretary doubted whether a bell came within the letter of the law, though it is admitted on all hands it came within its spirit.

The bill was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### EXEMPTION FROM TAX.

Mr. SCHENCK, from the Committee of Ways and Means, reported back the amendments of the Senate to House bill No. 900, to exempt certain manufactures from internal tax, and moved that the bill and amendments and accompanying report be printed, so as to get them up to-morrow.

The motion was agreed to.

Agreeably to order, at one o'clock p. m., the House resolved itself into the Committee of the Whole, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the bar of the Senate.

At twenty-five minutes before four o'clock p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, said: As chairman of the Committee of the Whole I have to report that the committee have, according to order, attended the trial by the Senate of the impeachment of Andrew Johnson, President of the United States; that the replication of the managers of the House was presented in their presence; that progress was made in the trial; and that the Senate sitting for the said trial adjourned to meet on Monday next, the 30th instant, at one o'clock.

#### ASSISTANT SECRETARY COOPER.

The SPEAKER, by unanimous consent, laid before the House the following communication from the Secretary of the Treasury:

TREASURY DEPARTMENT,  
March 21, 1868.

SIR: In response to the resolution of the House of Representatives directing the Secretary of the Treas-

ury to inform the House whether Edmund Cooper is now performing the duties of Assistant Secretary of the Treasury, or has been at any time since the rejection of his nomination by the Senate of the United States, and if so, by what authority of law, I have the honor to say that Mr. Cooper was on the 2d day of December last, in consequence of a vacancy caused by the resignation of W. B. Chandler, Esq., authorized to perform the duties of Assistant Secretary of the Treasury, in pursuance of the act of Congress approved February 13, 1795, and that he has continued to perform the duties of that office from the time when he was so authorized to the present, the period for which the vacancy may by law be thus supplied not having yet expired.

I deem it proper to add that the action of the President in this regard is in accordance with many precedents which have arisen in this Department both before and since the passage of the act of February 20, 1863, the constant understanding having been that the act of 1795 had not been repealed by that of 1863, but still remained in full force. The case of Maunsell B. Field, Esq., is especially deserving of attention as being in all material respects similar to that of Mr. Cooper. Mr. Field was on the 1st day of October, 1863, authorized by President Lincoln, at the request of Mr. Secretary Chase, to perform the duties of Assistant Secretary of the Treasury during the absence of George Harrington, Esq., at that time the incumbent of the place. Mr. Field not being an officer of either of the Executive Departments whose appointment is vested in the President. He performed the duties of the office from the time he was so authorized until the 18th of March, 1864.

I am, very respectfully,  
H. McCULLOCH,  
Secretary of the Treasury.

Hon. SCHUYLER COLFAX,  
Speaker House of Representatives.

On motion of Mr. SCHENCK, the communication was referred to the Committee on the Judiciary, and ordered to be printed.

#### FRAUDS IN PRINTING CURRENCY.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, in compliance with a resolution of the House of the 17th instant, in regard to the regulations for the detection of frauds in the printing of postal and fractional currency; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### GOVERNMENT LANDS IN SOUTH CAROLINA.

The SPEAKER also laid before the House a resolution of the constitutional convention of South Carolina approving the petition of certain citizens of South Carolina relative to certain lands belonging to the Government; which was referred to the Committee on the Public Lands.

#### EXEMPTION FROM TAX—AGAIN.

Mr. SCHENCK. Mr. Speaker, just before the House went into the Committee of the Whole and proceeded to the Senate I had the floor for the purpose of reporting a bill from the Committee of Ways and Means, and, not anticipating that we should return so soon I consented that the bill which I was then prepared to report for the relief of certain manufacturers from taxes should be printed with the amendments of the Senate and the further amendments of the House. On that account I am not prepared to go on with the consideration of the bill to-day. I am willing to yield the floor for the accommodation of gentlemen who may desire to present other matters, with the understanding that the committee may have the floor to-morrow morning.

Mr. FARNSWORTH. What is the regular order?

The SPEAKER. The morning hour, to which the Committee of Ways and Means are entitled.

Mr. FARNSWORTH. How much of the hour remains?

The SPEAKER. Fifty minutes.

Mr. SCHENCK. If my suggestion is not agreeable to gentlemen, I will move to adjourn now, and go on to-morrow with this bill. Or if the bill can be taken up while it is at the printer's I am willing to do that. But I suppose that is not practicable.

The SPEAKER. That cannot be done.

Mr. SCHENCK. Then I will yield to my colleague, [Mr. GARFIELD.]

#### IOWA WAR CLAIMS.

Mr. GARFIELD. There is a report from the commissioners appointed to examine into the war claims of the State of Iowa, which was

referred to the Committee on Military Affairs, together with all the testimony and vouchers in the case. They are all in the hands of the committee. The report itself will occupy only about ten or fifteen pages. I ask that it be printed and recommitment to the committee.

By unanimous consent the report was accordingly ordered to be printed and recommitment to the Committee on Military Affairs.

#### HARPER'S FERRY.

Mr. GARFIELD. I ask unanimous consent to report back from the Committee on Military Affairs Senate bill No. 186, providing for the sale of the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, in the county of Jefferson, West Virginia.

The bill was read. It directs the Secretary of War to advertise and sell by public auction the lands, tenements, and water privileges belonging to the United States at and near Harper's Ferry, except as hereinafter provided, in such parcels as shall, in his opinion, be best adapted to secure the greatest amount of money therefor, on a credit of one and two years, taking bonds of security from the purchasers, the proceeds to be applied as follows: 1. In defraying the expenses of making such sale. 2. In refunding to the United States the principal sum of purchase money paid for said lands, tenements, and water privileges by the United States and for the erection of buildings thereon. 3. If any surplus remains he shall deliver the same to such agent as the Legislature of the State of West Virginia shall appoint to receive the same, but upon condition that such surplus shall be received by the State of West Virginia to be set apart, held, invested, used, and applied as a part of the school fund of that State, as provided in the tenth article of the constitution of West Virginia and for no other purpose. And on making such sale of the property, or any part thereof, the Secretary of War is required, on receiving the purchase-money, to execute all the necessary deeds to the purchasers on behalf of the United States.

Section two directs the Secretary of War to convey by deed to Stover College, in West Virginia, certain portions of the aforesaid property heretofore assigned by the War Department to the Bureau of Refugees, Freedmen, and Abandoned Lands, for educational purposes, and all such portions as have heretofore been set apart by proper authority for religious and charitable purposes.

Mr. WASHBURN, of Illinois. I object to that bill.

Mr. GARFIELD. I thought the bill was before the House.

The SPEAKER. It was not. It was merely read for information.

Mr. WASHBURN, of Illinois. I object to the provisions of this bill. If members have attended to the reading of the bill they will see that instead of this money coming into the Treasury, to be appropriated by us in various ways as we may see fit, this bill makes an appropriation of a certain amount of it to be determined on by parties over whom we have no control.

Mr. GARFIELD. The gentleman can move an amendment.

Mr. WASHBURN, of Illinois. I cannot move such an amendment as I want to now.

Mr. SCOFIELD. I think that the bill in this form would be an economical measure, because under it there will be somebody interested in having the property bid for and sold at a price something near what it is worth. I think that if it should be passed in this shape, West Virginia would perhaps be interested in seeing that the property is bid up high enough to cover the United States claim so that they may get something for themselves.

The SPEAKER. The bill is not before the House.

Mr. GARFIELD. I hope the gentleman from Illinois will withdraw his objection.

Mr. WASHBURN, of Illinois. No, sir; I object.

Mr. MAYNARD. Is the objection of one member sufficient to defeat the reception of the bill?

The SPEAKER. It is.

Mr. MAYNARD. Is it not a report from the Committee on Military Affairs?

The SPEAKER. It is; but that committee is not now called for reports.

Mr. GARFIELD. I move that the bill be printed.

The motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (S. No. 350) to amend an act entitled "An act to provide for the prompt settlement of public accounts," approved March 3, 1817; and an act (H. R. No. 832) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1869; when the Speaker signed the same.

#### TITLE TO INDIAN LANDS.

Mr. LAWRENCE, of Ohio, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire and report whether public lands sold under treaties with Indian tribes are held by a valid title, and whether such lands can be sold except in pursuance of a law duly enacted by Congress.

Mr. ALLISON moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MARINE FORTIFICATIONS.

Mr. HIGBY. I ask the unanimous consent of the House to introduce the concurrent resolutions, which I send to the Clerk's desk, for the purpose of reference to the joint select Committee on Ordnance.

The Clerk read the resolutions, as follows:

*Resolved, &c.*, That the Secretary of War be directed to advertise not less than thirty days for proposals to ascertain the cost of constructing one of Ryan Hitchcock's revolving iron forts at the entrance to the bay of the city of New York.

*And be it further resolved, &c.*, That the Secretary of War and the Secretary of the Navy be directed to organize a board, consisting of the General of the Army and the Admiral or vice admiral of the Navy, to inquire into the utility and practicability of the Ryan Hitchcock mode of marine fortification, with authority to make such experiments as they may deem proper.

Mr. ROSS. I object. We have got guns enough.

#### BRIDGE ACROSS THE MISSISSIPPI.

Mr. PILE, by unanimous consent, introduced a bill (H. R. No. 966) authorizing the construction of a bridge across the Mississippi river in Madison county, Illinois; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### CAPTAIN GEORGE WRIGHT.

Mr. ELIOT, by unanimous consent, from the Committee on Commerce, reported a joint resolution (H. R. No. 246) directing the Secretary of State to present George Wright, master of the British brig J. & G. Wright, a gold chronometer, in appreciation of his personal services in saving the lives of three American seamen wrecked at sea on board of the American schooner Lizzie F. Choate, of Massachusetts; which was read a first and second time.

The joint resolution directs the Secretary of State to cause to be procured and presented to George Wright, master of the British brig J. & G. Wright, of St. John's, New Brunswick, a gold chronometer, in token of the appreciation by the Government of the United States of his humane and successful efforts in rescuing from death three American seamen on board the wreck of the American schooner Lizzie F. Choate, of Gloucester, Massachusetts, wrecked at sea on the 14th of February, 1863.

Mr. ELIOT. I will simply state in regard to this joint resolution that from the evidence laid before the committee they were satisfied

that the conduct of this British master was such as to call for a proper recognition on the part of the Government of this country. He was master of the brigantine J. & G. Wright, and in the course of his voyage they encountered the wreck under circumstances which made it exceedingly perilous for any person to leave the vessel commanded by Captain Wright. It was ascertained that there were three persons on the wreck, which was entirely dismantled. The sea was running so roughly that the mate of the brig declined to leave the vessel for the purpose of going to the wreck. Under these circumstances Captain Wright himself went in a boat and at great peril of his life succeeded in rescuing from the wreck three American seamen and returned them to their homes. It was an act which we have always been glad to recognize. This joint resolution is in the usual form, simply authorizing the presentation to him of a chronometer, in token of our appreciation of his gallant act.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed unanimously.

Mr. ELIOT moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was not agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed an act (S. No. 366) regulating the presentation of bills to the President of the United States and the return of the same, in which the concurrence of the House was requested.

#### HYGEIA HOTEL—FORTRESS MONROE.

Mr. GARFIELD. I ask unanimous consent to report from the Committee on Military Affairs a joint resolution in relation to an extension of the Hygeia Hotel, at Fortress Monroe, Virginia.

The joint resolution was read. It authorizes the Secretary of War to grant permission to Henry Clarke, proprietor of the Hygeia Hotel, at Fortress Monroe, Virginia, to enlarge the same; the whole lot on which said hotel is built being about one hundred feet front, and the improvement intended to be made only taking up forty feet of said front; also running the eaves of the roof to make it a flat instead of an inclined one, that being the form approved by Major General Schofield, commanding the first military district; Major General Humphreys, chief of engineers; and General Grant; provided that such enlargement or improvement, and any building hereafter erected by any person or persons upon the land of the United States at Fortress Monroe, shall be at once removed at the expense of the respective owners whenever the Secretary of War shall deem such removal necessary, and that no claim for damages therefor shall be made upon the Government of the United States.

Mr. ROSS. I object.

Mr. GARFIELD. I desire to say that this joint resolution is precisely like one passed a few days ago.

Mr. ROSS. I object to debate.

The SPEAKER. Objection having been made, the joint resolution is not before the House.

#### PRESIDENTIAL ELECTORS.

Mr. GARFIELD. I will try once more. I ask leave to submit the following resolution for consideration at this time:

*Resolved*, That the Committee on the Judiciary be directed to inquire into the expediency of providing by law for the settlement of contested elections for electors of the President and Vice President of the United States, and that they report by bill or otherwise.

Mr. ROSS. I object to that resolution.

Mr. GARFIELD. Will the gentleman from Illinois [Mr. Ross] allow me to make a suggestion?

Mr. ROSS. I will hear it.

Mr. GARFIELD. There is now no law, and there never has been a law, providing what shall be done in case of a contested election of presidential electors. It seems to me it would be a great calamity should the time ever come when one State of the Union, perhaps holding the balance of power, should appear in the Electoral College by two sets of electors claiming to be duly elected, and there was no provision of law to settle the question.

Mr. ROSS. Let the resolution be again read.

The resolution was read.

Mr. ROSS. I withdraw my objection.

The resolution was received and adopted.

Mr. GARFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SMALL UNITED STATES NOTES.

Mr. INGERSOLL. I ask unanimous consent to submit the following preamble and resolution for consideration at this time:

*Whereas* there is a scarcity throughout the country of notes of a small denomination, both of the national banks and of the United States legal-tender notes, especially embarrassing to the people: Therefore,

*Be it resolved by this House*, That the Secretary of the Treasury be, and he is hereby, requested to issue an amount of United States notes of the denomination of ones and twos sufficient to supply the present deficiency in exchange for United States notes of a larger denomination and in making payments authorized by law.

Mr. GARFIELD and Mr. SPALDING objected.

Mr. BLAINE. It does not increase the circulation.

Mr. GARFIELD. I withdraw my objection.

Mr. SPALDING. I do not.

#### SURPLUS MARBLE, ETC., FOR CAPITOL.

Mr. DRIGGS. I ask unanimous consent to submit the following preamble and resolution for consideration at this time:

*Whereas* in the erection of the Capitol of the United States a very large amount of marble has been left over in consequence of imperfections in the material, or by reason of too large an amount having been purchased for the building aforesaid; and whereas much waste and loss is likely to accrue to the Government on account of the scattered and unprotected condition of this property: Therefore,

*Be it resolved*, That the Committee on Public Buildings and Grounds be instructed to inquire whether there is not more marble in the open grounds and streets about the Capitol than is required for the completion of the public buildings, and whether the interest of the Government does not require that the surplus marble, and their railing recently removed from the old Hall, and all such other materials as are not required for the above purpose, be sold at public auction, after due notice, to the highest bidder, and to report to the House by bill or otherwise.

Mr. ROSS. I suggest that, so far as the building material is concerned, we need that in Illinois in erecting our new capitol, and it had better not be sold. [Laughter.]

The SPEAKER. Does the gentleman object to the resolution?

Mr. ROSS. No, sir.

There being no objection, the preamble and resolution were considered and agreed to.

#### ORDER OF BUSINESS.

Mr. SCOFIELD. Mr. Speaker, is there any regular order?

The SPEAKER. The regular order is the business of the morning hour.

Mr. SCOFIELD. I would like to get at it.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] is entitled to the floor.

Mr. SCHENCK. Mr. Speaker, I have a proposition to submit in regard to the consideration, to-morrow, of the bill relative to the taxation of manufactures. That bill would come up regularly in the morning hour; but as I desire that there shall be some few hours allowed for debate upon the bill, if such be the wish of the House, I suggest that by unanimous consent the bill be assigned as preferred business, to come up immediately after the morning hour, thus clearing the way for other committees to report during the morning hour. If this proposition be not assented to, then we

shall have to occupy with this bill the morning hour to-morrow.

Mr. GARFIELD. I hope that the arrangement proposed by my colleague [Mr. SCHENCK] will be agreed to.

Mr. SCHENCK. But, Mr. Speaker, I make this proposition with the understanding that the bill will certainly come up immediately after the morning hour. If there is anything in the way of that, I shall insist on the bill retaining its place in the morning hour.

The SPEAKER. It is impossible for the Chair to state with certainty whether anything will interfere with this bill, if it be fixed as the business immediately after the morning hour. If the House should adjourn upon some other business that would interfere; or if the Committee of Elections should call up a question of privilege that also would interfere. But the Chair supposes that neither of those things will occur, and that there will be a morning hour to-morrow.

Mr. SCHENCK. And then this will be the first business after the morning hour?

The SPEAKER. If the House grants its consent. Is there objection to the understanding that the bill (H. R. No. 900) relative to tax on certain manufactures shall be taken up immediately after the morning hour to-morrow?

Mr. FARNSWORTH. I believe I must object.

Mr. SCHENCK. I move, then, that the House adjourn.

The motion was agreed to; and the House (at four o'clock p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Silas M. Garrison, and numerous other citizens of Winston county, Alabama, praying for certain amendments to the homestead law.

By Mr. BENJAMIN: A petition from the cigar-makers of Hannibal, Missouri, in relation to the tax on cigars.

By Mr. DRIGGS: The petition of E. G. Merick, John A. Sloan, and 50 merchants, shipowners, and lake captains, praying for a light-house at Ausable, Lake Huron, Michigan.

Also, the petition of John S. Tully, register United States land office at New Orleans, praying Congress for relief.

By Mr. EGGLESTON: The petition of Henry J. Hunt, asking that a pension may be granted to Mrs. A. Snelling Chaplin.

By Mr. GOLLADAY: The petition of Elizabeth Richardson, for pension.

By Mr. HILL: The petition of Rowland Johnson, recommending the new Territory to be organized from Dakota to be named Lincoln.

By Mr. KERR: The petition of Alinzor Clark, for a renewal of patent No. 7134, issued March 5, 1850.

By Mr. KETCHAM: The petition of Sarah E. Ball, widow of James Ball, praying for a pension.

By Mr. O'NEILL: The petition of 82 citizens and firms in the city of Philadelphia, engaged in coffee-roasting and dealing in coffee, complaining that now they are obliged to be the collectors of taxes, and asking either that the additional duty or tax of one cent per pound upon roasted coffee be altogether taken off, or that the said tax be transferred to the coffee in its freshly-imported state, and that such coffee be made to bear the entire tax instead of its being laid, as now, partly upon the green and partly upon the roasted coffee.

By Mr. PAINE: A memorial of the Chamber of Commerce of the city of Milwaukee, asking for the enactment of a law to provide that imported merchandise received at any part of the United States and directed by invoice and bill of lading to any other port of entry, may be forwarded for entry to the custom-house of the port of destination without entry,



warehousing, bonding, or other delay, at the port of arrival under suitable regulations.

By Mr. PERHAM: The petition of Edmund Johnson formerly captain of company E, thirty-first New York volunteers, for increase of pension.

By Mr. PHELPS: The petition of H. Wittich and others, citizens of Baltimore, Maryland, for such a revision of the revenue laws as will impose an increased duty on vinegar imported into the United States.

By Mr. ROBERTSON: The remonstrance of Thomas Reeve and 130 others, inventors of sewing-machine improvements, manufacturers, dealers, and users of sewing-machines, against the further extension of the patent of Elias Howe, jr. deceased, for improvements in sewing machines, originally granted September 10, 1846, and once extended for a term of seven years.

By Mr. VAN HORN, of New York: The petition of 57 citizens of Le Roy, New York, asking a reduction of taxes and the expenses of the Army and Navy; also a revision of the revenue laws in the interests of our own country.

## IN SENATE.

WEDNESDAY, March 25, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday's legislative proceedings was read and approved.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 881) refunding duties paid under protest on the importation from France of a bell donated for the use of St. Mary's Institute and Notre Dame University, Indiana, in which the concurrence of the Senate was requested.

## IMPEACHMENT OF PRESIDENT JOHNSON.

The PRESIDENT *pro tempore*. The Chair has received and will lay before the Senate resolutions adopted by the constitutional convention of North Carolina, returning thanks for the vigilance with which the House and Senate have proceeded in the matter of impeachment.

Several SENATORS. What are they? Let them be read.

The PRESIDENT *pro tempore*. The resolutions will be read, if there be no objection.

The Secretary read as follows:

Resolutions passed by the State constitutional convention of North Carolina, March 12, 1868.

Whereas the people of North Carolina, through their representatives in convention assembled, have viewed with not less indignation than apprehension the efforts on the part of the executive branch of the Government to throttle, circumscribe, and overrule its coordinate and legislative branch of the same; and whereas, in the opinion of this convention, success in such efforts would lead to an agrarianism alike dangerous to the liberties of the people and subversive of that good feeling and correct principle of republicanism which should be viewed not only with extreme jealousy and horror, but be marked by the unqualified condemnation of all lovers of good order and stable government:

Be it therefore resolved, That the thanks of the convention are due, and are hereby tendered, to those noble Representatives who have so promptly stepped forth in their power of impeachment to check and correct the evil threatened by the acts of an usurpative Executive.

Be it further resolved, That a copy of these resolutions, duly engrossed, be transmitted to the honorable the President of the Senate and the Speaker of the House of Representatives of the people of the United States.

Be it further resolved, That this convention tender to Brevet Major General Edward R. S. Canby and the officers of his command its thanks for the bold, fearless, unprejudiced, and manly manner in which they, each and all, have discharged the onerous and delicate duties devolving upon them under the reconstruction acts of Congress.

Mr. SAULSBURY. I object, Mr. President, to the reception of that paper, and for this reason: it purports to be addressed to the Senate of the United States, and the members of the Senate of the United States compose the court of impeachment; and any communication addressed to the members of that court upon the pending subject is improper to be

entertained by the Senate, the Senate composing that court, as being an attempt to exercise an influence upon the minds of the judges.

The PRESIDENT *pro tempore*. The Senator from Delaware moves that the resolutions be not received.

The question being put, the motion was not agreed to.

The PRESIDENT *pro tempore*. The resolutions will lie on the table if no objection be made. The Chair hears no objection, and that course will be pursued.

## HOUSE BILL REFERRED.

The bill (H. R. No. 881) refunding duties paid under protest on the importation from France of a bell donated for the use of the Saint Mary's Institute and Notre Dame University, Indiana, was read twice by its title, and referred to the Committee on Finance.

## PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Lehigh Zinc Company, remonstrating against the passage of the bill (H. R. No. 780) for the relief of Martha M. Jones, administratrix of Samuel T. Jones, deceased, without the amendment reported by the Committee on Patents and the Patent Office.

Mr. FERRY. I move that the memorial lie on the table, the matter having been acted upon by the committee.

The motion was agreed to.

The PRESIDENT *pro tempore* also presented the constitution adopted by the constitutional convention of the State of Louisiana March 7, 1868; which was referred to the Committee on the Judiciary.

Mr. WILSON presented a petition of Philip A. Bolling, a resident of Virginia, praying the removal of political disabilities imposed upon him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. CONKLING. Mr. President, I present the memorial and proceedings of the Board of Trade of the city of Oswego, New York, and also of the common council of that city, praying the favorable consideration of the plan recommended by C. E. Blunt, lieutenant colonel of engineers, to General A. A. Humphreys, chief of engineers, at Washington, for the preservation of the harbor at the mouth of the Oswego river, on Lake Ontario. I move that these papers be referred to the Committee on Commerce.

The motion was agreed to.

Mr. JOHNSON presented a petition of citizens of Baltimore, Maryland, praying for the passage of a law giving a pension to the soldiers and the widows of soldiers of the war of 1812; which was ordered to lie on the table.

## REPORTER OF ASSOCIATED PRESS.

Mr. ANTHONY. I offer a resolution which relates to the order of business:

Resolved, That the Presiding Officer be authorized to admit to a seat on the floor the reporter of the New York Associated Press during the trial of the impeachment.

I learn authentically that the Associated Press have made arrangements to make as full and complete a report of the trial of the impeachment as is possible, and to send every day as much as the wires can take. It is, of course, very desirable for the public interests and very desirable for the Senate that this report, which is the first one that reaches the public and makes the greatest impression, in fact the only one that most people read, should be as full and accurate as possible. I am satisfied from examination that when we come to take testimony, to examine witnesses, it will be impossible for a reporter in the gallery to hear and report with sufficient distinctness to make such a report as we shall wish to go out to the country. The resolution which I offer is not mandatory, but authorizes the Presiding Officer, in his discretion, to assign a seat to the reporter for the Associated Press during the trial of this important matter. I know how reluctant the Senate has always been to extend the priv-

ilege of the floor, and I should not ask it for any permanent arrangement; but for this temporary purpose, it seems to me, it would be very desirable.

Mr. EDMUNDS. Let the resolution be read again.

The Secretary read the resolution.

The PRESIDENT *pro tempore*. Is there any objection to the present consideration of the resolution? No objection being made, the question is on agreeing to the resolution.

Mr. HOWE. Is that resolution just reported?

The PRESIDENT *pro tempore*. It is just submitted.

Mr. HOWE. I wish it may lie over. If the Senator offering it has no objection I should like to have it lie over until to-morrow.

The PRESIDENT *pro tempore*. Objection being made, the resolution will lie over.

## REPORTS OF COMMITTEES.

Mr. MORGAN, from the Committee on the Library, to whom were referred resolutions submitted by Mr. MORRILL, of Vermont, for the formation of a library of the Senate for the use of its members and committees and the appointment of a librarian, reported adversely thereon, and also asked to be discharged from its further consideration; which was agreed to.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the petition of Benjamin Rodgers, praying to be allowed pay as second lieutenant, asked to be discharged from its further consideration and that it be referred to the Committee on Claims; which was agreed to.

Mr. FRELINGHUYSEN. The Committee on the Judiciary, to whom was referred the bill (S. No. 360) to prevent and punish the unlawful use of public money and property, have directed me to recommend that it be indefinitely postponed, in consequence of another bill to the same effect having passed the House.

The Senate proceeded to consider the report of the committee, and the bill was indefinitely postponed.

Mr. FRELINGHUYSEN also from the same committee, to whom was referred the bill (H. R. No. 787) to prevent and punish the unlawful use of public money and property, reported it with an amendment.

Mr. PATTERSON, of Tennessee, from the Committee on the District of Columbia, to whom was referred the petition of N. Callan, clerk of the levy court of the District of Columbia, praying that the register of Washington city, the register of Georgetown, and the clerk of the levy court be compensated for their services in preparing ballots and drawing the jurors for the courts of the District, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 177) regulating the rights of property of married women in the District of Columbia, reported it without amendment.

## BILL RECOMMENDED.

Mr. HENDRICKS. I move that Senate bill (S. No. 378) organizing a commission for the examination and decision of claims in the War Department be recommitted to the Committee on the Judiciary. There was an adverse report, and I wish the committee to look at it again.

The motion was agreed to.

## ORDER OF BUSINESS.

Mr. HOWARD. I now move to take up Senate bill No. 253, relating to the Central Branch Union Pacific railroad.

Mr. HENDERSON. I hope we shall be allowed to get through the morning business; I have a report in my hand that I desire to make.

Mr. FERRY. The bill can be taken up and laid aside informally.

Mr. HOWARD. The bill can be taken up and laid aside if there are any reports to be made. I wish to get this bill up because we have nearly finished the discussion upon it, and

I think we can come to a vote in a few minutes.

Mr. HENDERSON. I desire to remark that every morning some Senator rises and asks that a bill be taken up, and that the morning business be presented to the Senate after the bill is already before the Senate. In that way Senators who desire to get up business are prevented from doing so; bills are pending during the whole time the morning business is gone through with. The better plan, in my judgment, is to get through with the morning business, and then give Senators an equal chance to get the floor to take up their bills.

Mr. HOWARD. I leave it to the disposition of the Senate.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, to take up the bill indicated by him.

Mr. CONKLING. I should like to inquire of the Senator from Michigan what the purpose is in taking up the bill now?

Mr. HOWARD. To proceed with its consideration and take the final vote upon it as soon as we can.

Mr. CONKLING. At one o'clock there is a special order, as I understand.

Mr. HOWARD. There is more than half an hour between this and that time.

Mr. CONKLING. I do not think it possible to take up the bill the Senator proposes to take up and act upon it finally by that time.

Mr. HOWARD. I think we can do so. I apprehend there will not be much more discussion upon it.

Mr. CONKLING. I do not know what the Senator's view with regard to it is, but I am sure I am not alone in feeling that the vote ought not to be taken upon this bill until there is a little more exact understanding of some facts which, once or twice, when the bill was up, were canvassed and questioned. I wish to submit a few remarks myself, and I know of one or two other Senators who mean to do so. If the idea is to take it up with a view of disposing of it by one o'clock I must say that certainly it cannot be done; and if it is to be cut off by a special order then I think it is hardly worth while to take it up. I have no objection to taking it up at any time when it can be acted upon deliberately; but I do not think it is a bill which anybody ought to seek to press through without a fair hearing.

Mr. HOWARD. It has not been my disposition to press the bill through without a fair and complete hearing; and certainly the Senator from New York has not been deprived of any opportunity of speaking upon this bill, because I think he has consumed more time in his remarks upon it than has been consumed by all other Senators besides. I am entirely willing, however, to submit the question to the Senate, whether they will take up the bill or not.

Mr. CONKLING. I accept, with great humility, the rebuke of the Senator from Michigan as to the length of time I have expended upon this bill; but I beg to say, in mitigation of my offense—I will not undertake to justify or even to excuse it—but in mitigation of the wrong that I have committed, I beg to say that it involves \$2,400,000, about seven hundred thousand of which, if it pass, are to be paid by the people whom I represent, or whom I endeavor to represent; and if I have been a little earnest in regard to it, perhaps something will be pardoned to the circumstances and the occasion. I beg to say, further, that I shall consider it my duty to submit some additional objections to the bill before I accept finally what I have been assured by those who are promoting and engineering it, namely, that it is perfectly idle to debate it and utterly idle to oppose any objection to its passage. I am ready to accept the situation, but not that part of the situation, until a fair statement has been made. I adopt the Athenian rule, "Strike, but hear me."

The PRESIDENT *pro tempore* put the question on the motion of Mr. HOWARD, and declared that the ayes appeared to have it.

Mr. CONKLING. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 17; as follows:

YEAS—Messrs. Chandler, Conness, Cragin, Ferry, Fessenden, Fowler, Harlan, Howard, Johnson, Nye, Pomeroy, Saulsbury, Sumner, Thayer, Tipton, Van Winkle, Vickers, Wade, Willey, and Wilson—20.

NAYS—Messrs. Anthony, Buckalew, Cole, Conkling, Corbett, Edmunds, Frelinghuysen, Henderson, Hendricks, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of Tennessee, Sherman, Trumbull, and Williams—17.

ABSENT—Messrs. Bayard, Cameron, Cattell, Davis, Dixon, Doolittle, Drake, Grimes, McCree, Morton, Norton, Patterson of New Hampshire, Ramsey, Ross, Sprague, Stewart, and Yates—17.

So the motion was agreed to.

Mr. HENDERSON. I desire to make a report, with the permission of the Senator from Michigan.

Mr. HOWARD. Very well.

The PRESIDENT *pro tempore*. The Chair will receive the report, if there be no objection.

#### TAXATION OF SCHOOL PROPERTY.

Mr. HENDERSON. I am instructed by the Committee on the District of Columbia to report back the amendment of the House of Representatives to the bill (S. No. 389) exempting property in the District of Columbia held and used for school purposes from local taxation, with certain amendments to it. I ask that it be considered now; it is a matter of some consequence, and it will take but a moment.

Mr. HOWARD. Let the other matter be laid aside informally.

Mr. CONKLING. I object to that. I object to any arrangement by which anything shall be passed over informally.

The PRESIDENT *pro tempore*. If there is no objection the amendment will be read.

Mr. JOHNSON. I object.

The PRESIDENT *pro tempore*. Objection being made it is not in order, because there is another matter pending.

Mr. HARLAN. If Senators will allow me I will explain in one word what this is. The Senate passed a bill exempting school-houses in this city and Georgetown from taxation. The House has passed that bill with an amendment, and the Committee on the District of Columbia propose to adopt the House amendment with a few verbal amendments. That is all there is in it, and I hope no Senator will object. I understand some of this property is advertised for sale, and it is important that the measure be acted on at an early day.

The PRESIDENT *pro tempore*. Objection being made, it cannot be considered, there being another bill before the Senate.

Mr. MORRILL, of Maine. I desire to make a report.

Mr. HENDERSON. Do I understand that any objection was made to considering the report I presented?

The PRESIDENT *pro tempore*. If any objection is made, nothing is in order except the consideration of the bill before the Senate, taken up on the motion of the Senator from Michigan. [Mr. HOWARD.]

Mr. HENDERSON. I understand the objections were withdrawn.

Mr. CONKLING. I made no objection to this bill being considered, but merely to the suggestion that another bill should be passed by informally.

The PRESIDENT *pro tempore*. The Senator from Maryland [Mr. JOHNSON] objected.

Mr. HOWARD. I hope we shall proceed with the consideration of the bill taken up.

Mr. STEWART. I desire to introduce a bill.

The PRESIDENT *pro tempore*. The Chair will receive it if there be no objection.

#### BILL INTRODUCED.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 463) to provide for a temporary and provisional government for Alabama; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

#### CENTRAL BRANCH PACIFIC RAILROAD.

The PRESIDENT *pro tempore*. The bill

(S. No. 256) relating to the Central Branch Union Pacific Railroad Company is before the Senate as in Committee of the Whole. The pending question is on an amendment moved by the Senator from Vermont, [Mr. MORRILL] which will be read.

The Secretary read the amendment proposed by Mr. MORRILL, of Vermont, which was in lines twenty-four and twenty-five to strike out the words "for any greater length of road than one hundred and fifty miles from" and in lieu thereof to insert "beyond;" so as to make the proviso read:

*Provided*, That no subsidy in United States bonds shall be allowed to said Central Branch company beyond the termination of the one hundred miles on which bonds are already authorized to be issued on said line of railroad.

Mr. MORRILL, of Vermont. I hope the Senate will give some attention to this amendment; and I should be glad if the Senator who has charge of the bill would accept it without any discussion upon its merits. It seems to me that it challenges the judgment of the Senate on its mere presentation. Does anybody believe that it is necessary now to give anything more than lands in Kansas and Nebraska to build a railroad? and that is all that is proposed to be done by this Central Branch. If this amendment be adopted, it only cuts off the money subsidy and leaves the amount of lands, and even lands in my judgment are not necessary at the present time to secure the building of the road. The road may not be built as quickly without a subsidy of lands, but it would inevitably be built by private enterprise and by private capital. But I waive any objection to a donation of lands and only object to an additional subsidy of United States bonds.

It seems to me, Mr. President, monstrous that the United States should build so many of these Pacific railroads and so many branches, and yet when they get through not own a dollar of them. Private stockholders are to own and control the whole. If we were practicing upon the policy of some of the European Governments of building railroads, holding them, and running them at the expense and for the profit of Government, and thereby providing a sinking fund by which the national debt could be somewhat reduced or extinguished in process of time, that might be very well; but to do that it is now too late. Shall we do what is here proposed, build up a gigantic corporation and make this United States Government, like that of New Jersey, the mere appendage of a railroad company? I say it without intending any offense, for it is known that railroad corporations throughout the country, when they get the growth, capital, and character which we are giving to this one, do control, more or less, the destinies of the States where they are located; they control the politics as well as the business and the finances of States; and for one I do not desire that we shall so nurse and contribute to the growth of a great gigantic corporation that hereafter it may have more sway and power over the destinies of this country than ever the United States Bank had in all its glory.

Mr. President, we have been reducing taxation on the plea that we should thereby compel a reduction of expenditures, and I am informed that before our laws proposed for reducing taxation have gone into effect the receipts of the Treasury for the last month are \$10,000,000 below the expenditures. I ask if Senators, in the face of such facts, are going on in the old routine of granting subsidies to every application that may be made for a road between here and the Pacific? for we must be aware that if we grant this there will be a dozen cases that will present themselves with infinitely stronger arguments in favor of them—some of them I may vote for myself—than can be found to support the bill before us. Take the various Territories that are strewn along all the way between our western States and the Rocky mountains and beyond, are they not as much entitled to branches of the Pacific railroad as Kansas and Nebraska? Who will pretend that they are not? I think they are

vastly more entitled to our aid; and if they come here with such applications, with our committees, I will not say "organized to convict," but I will say, for experience justifies it in both Houses, that railroad bills sent to the railroad committees are almost invariably returned with a favorable response, and the minority in each House who are in favor of greater economy are not very fully represented on those committees. We do not find upon them many Senators or Representatives representing any portion of the Senate or House who are opposed to these gigantic schemes, at points where public necessity does not seem to justify the outlay.

Mr. President, I have an interest in the success of the measure, and it is so great that if I felt at liberty to vote for the bill I should deem myself compelled to withhold my vote, for I have, in proportion to my means, a large interest in a road that will be fed by this branch, and I could not, in conscience, vote in favor of it; because if I did I should be putting money, as it seems to me, in my own pocket. I trust that if other Senators are here with a like interest they will feel, as I have no doubt they do, an equal delicacy with myself about voting in favor of any such measure.

Now, Mr. President, what I propose is, that we shall strike out all the money subsidy, the provision for additional bonds, and leave the amount of lands donated as it is in the bill. I would not object seriously to the grant of lands, although I think it is altogether too much or more than is absolutely necessary; and if it were to come here independently on its merits I do not see how, at this late hour, we could vote to give even lands in Kansas and Nebraska for a railroad commencing at a point no further west than the Missouri river. I trust the Senate will adopt the amendment proposed by me.

Mr. HARLAN. Mr. President, I am not embarrassed, as the Senator who has just taken his seat is, by having any interest in this company, either pecuniarily or locally. I suppose, locally considered, my interest would be adverse to it. I had not intended to say a word in relation to it, but have been appealed to by those who are locally interested to say a few words, which I consent to do very reluctantly. I am not, I will observe, entirely without hope that the Senator who has just taken his seat, as well as the Senator from New York, [Mr. CONKLING,] may yet vote for the bill. That hope is founded on my conviction that they are just men, and disposed to carry out in good faith the contracts made by the Government with its citizens.

This company, known as the Central Pacific Railroad Company, was authorized to construct a branch of the Union Pacific railroad one hundred miles in length, beginning at St. Joseph, Missouri, or at Atchison, Kansas, and extending westwardly to a point of junction with the branch known as the Union Pacific railroad, eastern division, extending from the mouth of the Kansas river to the one hundredth meridian of longitude. The company having completed the construction of this one hundred miles as provided by law, they claim that they have the legal and equitable right to continue this road up the valley of the Republican river to the one hundredth meridian, and to receive the same subsidy in lands and bonds which the eastern division company would have been entitled to had that part of the line been constructed by the latter company on account of the failure of the said company to construct its branch up the Republican river. The Secretary of the Interior has decided, it is said, that this Central Railroad Company has not this right under the law, and hence the company have applied for the explanatory law proposed in the pending bill.

The Pacific Railroad Committee think they are entitled to the relief claimed. The Senator who has spoken and other Senators have expressed an adverse opinion. That we may have a clear comprehension of this question it may be well to recur to the provisions of the Pacific railroad law enacted in 1862, its sup-

posed defects, and the remedies proposed in the law of 1864. In this mode, I doubt not, the true intent and meaning of that provision of the latter law which is in dispute can be readily ascertained. Every Senator, perhaps, will remember that under the provisions of the law of 1862 a company was organized to construct a railroad westwardly, beginning on the one hundredth meridian and terminating on the eastern boundary of the State of California, with authority to build a branch road eastwardly from the one hundredth meridian to the Missouri river. The same act authorized a company organized under the laws of California to build a road from the Pacific coast to the eastern boundary of that State, so as to connect with the first-named road. It also authorized another company to build a road from the mouth of the Kansas river, in a north-west direction, to the one hundredth meridian, to connect with the main trunk line; and still another company to build the road now under consideration from the town of Atchison, on the Missouri river, for one hundred miles interior to a point of connection with the last-named branch road on or near the Republican fork of the Kansas river.

The company proposed to be incorporated by the law of 1862, organized some time in that year, but did little work; the other companies referred to also accepted the provisions of the law, but did very little until the year 1864, for the reason, as they said, that the law was found to be defective, if not totally impracticable. They, therefore, applied for remedial legislation. The law of 1862, they alleged, was defective in various particulars, which they presented to a standing committee of this body, and which were intended to be removed by the law of 1864. The first evil complained of was that the subsidy was not large enough. By the law of 1862 bonds to the amount of \$16,000 a mile were granted for each mile of the road from the Missouri river to the Pacific, making no special provisions for the interior and more difficult part of the road. That law also provided that twenty or twenty-five per cent. of this subsidy should be retained by the Government until the final completion of the whole work.

The companies also complained that they had no mode of condemning private property across which the lines of the road and the branches might be located. They complained, moreover, that they were unable to raise money to build these roads, because the several companies holding the franchise were disconnected organizations. The company chartered by the law of 1862 told us that their road began two or three hundred miles west of the Missouri river, on the one hundredth meridian, and terminated one or two hundred miles east of the Pacific coast. It would require, perhaps, \$100,000,000 to construct that line. It began at no business point and terminated nowhere. When they were told that other companies had been organized to construct the connecting links, the California end of the line and the line extending to the Missouri river, through Kansas and Nebraska, they replied that they had no assurance that those companies would ever proceed with the construction of their sections of the road to a final completion, and that they might be thus left without either an eastern or a western connection.

Each of the other companies complained in the same way. Gentlemen were here from California saying, "We can build our part of the line; we can raise money to build this line if we have an assurance that we are to have an eastern connection. But we have no assurance that after we shall have invested forty or fifty millions of money in our part of the road the company chartered by this law will ever complete the main trunk line and give us a connection with the railroads east to the Atlantic." And so the eastern division company in the State of Kansas assured the committee that they could build their part of the line; but to construct a railroad up to the one hundredth meridian and there terminate, without a possi-

ble western connection, would be a waste of treasure, promising neither a return of interest or principal. So, also, this company now appealing to the Senate for relief said that they could build their line as proposed in the law; and, as a part of the whole enterprise, it would be a valuable franchise if each of the other companies should build their respective sections so as to secure communication with the Pacific; but that without this connection the investment would be worthless, and that they had no sufficient assurance that the other companies intended or were able to go on in good faith to a successful conclusion of this great enterprise.

The law of 1864 was intended to remedy these defects. The clause of the preceding law granting subsidy was modified so as to increase the amount of Government bonds from \$16,000 to \$48,000 per mile on the mountainous portions of the road; and across the valley, between the Rocky mountains and the coast ranges, from \$16,000 to \$32,000 per mile; and that clause authorizing the withholding of twenty or twenty-five per cent was repealed so that the companies could receive the whole subsidy stipulated as the work proceeded. Another provision authorized these companies respectively to secure the condemnation of private property over which the roads were to be located; and then, to remove the material defect—for that was the great evil complained of—to secure to each company a possible connection all the way through, from the valley of the Missouri to the shores of the Pacific, and to secure, if possible, harmony of interest between these several companies and railroad capitalists throughout the country, the committee framed a section providing for a consolidation of any two or of all these companies as one organization, to complete the whole line and branches; but Congress had no mode of coercing a consolidation; they could only provide for a voluntary consolidation of these companies; Congress could not compel them to unite; and each of the companies had doubts whether the other companies would agree to a harmonious union on just and equitable terms. The committee, therefore, framed an additional clause providing that if this consolidation should not occur, and if any of the companies, either an individual company or a consolidated company of two or more of them, should fail to build its part of the line, the company constructing the part of the line assigned to it might take up the work at the end of its section and build the whole work through; the object being to enable the company in California, if they built their section of the road in good faith to the eastern side of that State, to take up the work if they should reach that point first and build eastward until they came through to the Missouri river; or the Kansas companies, either of them, if they built in good faith their part of the work, and the main company or any other of the companies authorized to build any part of the line should fail, to do it in their stead; so that no one of these companies should be at the mercy of the others or any one of them, so that any company putting in its money in good faith and constructing the work should not be compelled to lose the money thus invested on account of the bad faith or pecuniary disability of another company, but that it might make a further advance of means and build the links of the road which had been assigned the company or companies in default.

This is what Congress, in passing the law of 1864, intended to do, for the reasons I have assigned. It may be that the law was not very well drawn; and if so I am perhaps more responsible personally than any other member of Congress. It so happened that the chairman of our committee [Mr. HOWARD] was absent from the city when that bill finally passed both branches of Congress. There were differing votes of the two Houses; the bill was referred to a committee of conference on their disagreeing votes, and it so happened that I was a member of that committee on the part of the Senate, and was made chairman of the



joint committee, and after meeting and agreeing on the various points of previous difference the committee directed me to draw up the amendments which were agreed upon and deemed necessary in order to cure these defects in the original law. I endeavored to do so; succeeded, I now fear, but indifferently, judging from the tenor of the arguments to which I have listened. I fear the language of the law is somewhat ambiguous, and that its meaning may not be perfectly clear, especially to the minds of those who were not personally conversant with the facts to which I have referred. But in the minds of those conversant with these facts there can be no doubt as to the intention of Congress when the law of 1864 was passed. To all such the design of that bill must be perfectly clear.

Now I come to the arguments that have been presented by Senators who have differed from this view. It is said that Congress could not have intended this central branch to be a part of the through line, because this line, extending from Atchison westward for one hundred miles, as provided for originally, would not have reached to the line of the branch road extending from the mouth of the Kansas river up to the one hundredth meridian along the Republican river by some forty or fifty miles. On this point I would remark that I hold in my hand a map made at the General Land Office, drawn from the official surveys, showing it to be just about one hundred and eight miles due west from the town of Atchison to the channel of the Republican river. If any Senator is curious he will see that, computing the townships, which are generally a little under six miles across, the distance is about one hundred and eight miles.

Mr. EDMUNDS. How far from St. Joseph by way of Atchison?

Mr. HARLAN. It is a little further. Hence no adverse conclusion can be legitimately drawn from the provisions of the law limiting subsidies on this branch to one hundred miles, for this must be construed in connection with another clause providing that these branches should be so located as to enable it to make the connection within the limits indicated. Then, to make that more sure, if greater certainty was possible, another clause was put in providing that these several branch lines should be located subject to the approval of the President of the United States. It being about one hundred and eight miles due west from Atchison to the channel of the Republican river, every Senator will perceive that it was practicable to make the connection within the limits named in the law; it is clear, therefore, that what we have heretofore ascertained to have been the intention of Congress was perfectly practicable; that these parties, by the construction of one hundred miles of road, could have secured their connection with the main trunk line had the Eastern Division Company built its road up the Republican river, as provided in the law of 1864.

Mr. FESSENDEN. Allow me to ask the Senator what the word "limits" in the clause of the law to which he now alludes referred to? What are the "limits" meant by that expression?

Mr. HARLAN. The limits in relation to this road would be, of course, the limit of one hundred miles extending from the eastern terminus to the western terminus, or the point of connection with either the main line or some one of the branches.

Mr. CONKLING. Will the Senator allow me to make an inquiry? If that be the meaning of this law, will he explain how the Iowa road could possibly have connected with the eastern division, the purpose being to connect with the main trunk, when it would have been compelled to cross the main trunk in order to get down to the eastern division at all?

Mr. HARLAN. Why, Mr. President, the company incorporated by the law of 1862 was required to build the eastern branch from the one hundredth meridian to some point on the west side of Iowa, to be fixed by the President

of the United States, so that practically there was no difficulty, however there may have been an ambiguity in the language of the law itself.

Mr. CONKLING. My trouble is this: according to the Senator's construction of the act it applies to what is now called the eastern division, and it was compelled to so locate its road that the Iowa road and this road of which he now speaks, among others, could connect with it within their respective number of miles. If that be so, does it not make nonsense of the section, because would it not require the Iowa road to run across the very road which ultimately it was to connect with, in order to get a connection with this road which would bring it back upon that route which it had thus crossed?

Mr. HARLAN. Not at all, as it seems to me.

Mr. POMEROY. The Iowa road referred to is the Sioux City road. That had to make connection before it got to the one hundredth meridian.

Mr. HARLAN. The Sioux City road was not limited to any definite number of miles, but was to be built from Sioux City so as to connect with the main trunk line on the one hundredth meridian or with the so-called Omaha branch at some point east of the one hundredth meridian, the length of the line being subject to the result of engineering; and so with the main Iowa line, so called, from the one hundredth meridian to Omaha, the length of that line would depend, of course, on the result of engineering. Hence there may be a surplusage of language in describing what was intended in the law when it says, "so that the several lines may form their connection within the limits indicated;" but, if so, it applies surely to this one branch, the number of miles of which was definitely fixed. This was one of the lines or branches named, and it was entitled to a connection within the limits specified. This connection was practicable, and the law of 1866 made it the duty of the President of the United States to supervise the location of these branch roads so as to put it beyond the power of one of these companies to so locate its line as to render a connection impracticable for any other of the lines named.

I have the law before me; I aided to frame it; I cannot be mistaken, I think, as to the meaning of the phraseology. I am certain that I do not misunderstand the original design of those who framed it. But the Senator from New York [Mr. CONKLING] says that if these parties have the legal right why do they not go to the courts for a remedy instead of coming to Congress? Well, sir, it is a sufficient answer to say that they have a choice of remedies; before the courts to secure a correct construction of the law, in a judgment or decree, in some case involving the rights of individuals; or before Congress, to secure the passage of an explanatory act. They have chosen the latter course for reasons satisfactory to themselves, and as Congress is competent to act, is able to remove all ambiguity, and as the Senate has taken jurisdiction there is no good reason for dismissing the case if a remedy as complete and perfect were attainable elsewhere.

But the Senator alleges that this company has already received vast subsidies from the Government; that they need no additional aid to enable them to secure ample returns for the capital invested; and, therefore, if the legal rights of this company are not absolutely clear and imperative, the remedy sought should not be granted; that these gentlemen have no just claims to the sympathies of members of Congress. He enumerates their assets in glowing words. He says they are entitled to twelve hundred thousand acres of land, a large tract of Indian lands, \$16,000 per mile of Government bonds, and \$16,000 per mile in their own company bonds, making, in the aggregate, \$32,000 per mile of bonds which they have received already to aid them in the construction of the one hundred miles now completed.

Well, sir, the whole amount of land has been ascertained to be much less than was supposed

by Congress when the bill passed—the Government lands amounting to but about two hundred and thirty thousand acres on the one hundred miles, and the Indian lands are not in the nature of subsidy, they having been paid for under a contract with the Government at a higher rate than they would have commanded from any other purchaser; and the \$32,000 of bonds per mile is a debt owed by the company, not money due to the company; the company, in the construction of this road, has contracted a debt represented by bonds to the amount of \$32,000 per mile.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business now in order is the report of the select Committee on the Revision of the Rules of the Senate. That report is now regularly before the Senate.

Mr. HOWARD. I suggest that it be laid aside informally for a few minutes. I think we shall be through with this bill very soon.

Mr. ANTHONY. I think we had better take up the rules. We shall get through with them in half an hour, I think.

Mr. SHERMAN. There is one rule that I have delayed introducing separately, in the hope that the Senator from Rhode Island would have it passed, and that is to protect the morning hour from interruption.

Mr. ANTHONY. That is in these rules.

Mr. SHERMAN. I hope we shall adopt the rules to that extent. I presume that will excite no debate.

Mr. ANTHONY. Let us take up the whole report.

Mr. HOWARD. I propose that the rules be laid aside for the purpose of proceeding with the consideration of the railroad bill.

Mr. ANTHONY. I hope not. The Senate a year ago came to the conclusion that the rules should be revised for the orderly and convenient transaction of its business, and it intrusted that duty to a committee. We have given considerable attention to it and have prepared a report which has been read once as in Committee of the Whole, and I believe no amendments were suggested, though I think there are one or two amendments which certain Senators have to suggest that will lead to no debate. I presume we can get through with that report in half an hour; but if it takes all the day it ought to be taken up. That business is the regular order, and cannot be laid aside without a formal vote.

The PRESIDENT *pro tempore*. The regular order will be passed over informally, by unanimous consent, if there be no objection.

Mr. ANTHONY. I object.

Mr. CONKLING. I object to its being passed over informally.

Mr. HOWARD. I move, then, that the unfinished business be laid aside, and that the Senate proceed with the consideration of the bill we have had under debate.

Mr. ANTHONY. I will state that I have been trying for five or six weeks to get up this report, in season and out of season; and now, if the Senate gives it the go by, I shall think I have discharged my duty and so will my associates on the committee, and leave the matter in the hands of those who think the rules require revision.

Mr. GRIMES. I do not think the Senator ought to put us in that condition. I am disposed to allow my colleague [Mr. HARLAN] to go on and complete his remarks, and not cut him off in the middle of them; and, therefore, I shall be compelled to vote against the Senator's proposition.

Mr. ANTHONY. But the motion is to lay the report of the select Committee on the Rules aside for the purpose of continuing the consideration of the subject upon which the Senator from Iowa [Mr. HARLAN] was speaking. I have no objection to his finishing his remarks. I do not wish to cut him off in the middle of them.

Mr. CONNESS. Let us finish the bill and get it out of the way.

Mr. ANTHONY. That I object to. If it can be understood that the Senator from Iowa

shall finish his remarks, and that then we shall go on with the unfinished business, I have no objection to that. I wish to extend every courtesy to him.

The *PRESIDENT pro tempore*. It can only be continued by unanimous consent. Objection is made, and therefore the question is on the motion of the Senator from Michigan.

Mr. CONKLING. I beg to say that I make no objection to the honorable Senator from Iowa completing his remarks. My objection was to going on with the bill.

Mr. FERRY. There is a motion before the Senate.

Mr. ANTHONY. If the motion is that the unfinished business be laid aside informally for the purpose of proceeding with the consideration of this bill until it is finished then I object. If the motion is by unanimous consent to allow the Senator from Iowa to complete his remarks, I assent with great pleasure. Gentlemen can take either course.

Mr. HOWARD. My motion is to postpone all other orders and proceed with this bill.

Mr. ANTHONY. Then I object, and call for the yeas and nays.

The *PRESIDENT pro tempore*. It is moved that the unfinished business and all prior orders be postponed for the purpose of proceeding with the consideration of the present bill, and on that question the yeas and nays are demanded.

The yeas and nays were ordered.

Mr. POMEROY. I think we can complete both these measures to-day. I was a member of the committee that reported these rules, and I am anxious, as the Senator from Rhode Island is, to consider them; but that is a subject relating simply to the rules of the Senate, which can be considered at any time during the day, but as we are upon the bill I think we had better complete it.

Mr. CONNESS. Is this discussion in order after the yeas and nays have been ordered?

Mr. ANTHONY and Mr. EDMUNDS. Certainly it is.

Mr. POMEROY. Remarks are as much in order after the yeas and nays are ordered as they are before. My point is that I am desirous of passing both measures to-day.

Mr. ANTHONY. I do not believe that the bill now under discussion can be completed in two days. I believe these rules can be disposed of in an hour probably; I have no doubt of it.

Mr. POMEROY. I think they can, and I think the bill can be, too.

Mr. EDMUNDS. I am one of the committee who reported these rules, and I think it right to say that the committee believe, unanimously, that the adoption of these rules will be a great advantage to the orderly progress and dispatch of the business of the Senate; that we shall save a great deal of time and avoid a great deal of confusion, if they are once adopted, every day.

Mr. WILLIAMS. That is, if they are observed.

Mr. EDMUNDS. When they are once adopted we will try to have them observed. It appeared to us, therefore, that the consideration of the rules was in the nature of a matter of privilege, and that every Senator, whatever bills he may have in charge, ought to give way far enough to have the rules improved, if they can be, so as to facilitate the passage of just such bills as this and all others that ought to be acted upon and to pass. Now, to say that a bill of this kind shall override the consideration of these rules, when we all know that this bill will lead to further discussion at considerable length—I do not mean unfair and improper length, but further fair and proper and reasonable discussion—it appears to me is asking too much; and I appeal to the Senate to decide whether it is willing to consider these rules or whether it is not, because we want to be rid of the responsibility of having them in charge.

The *PRESIDENT pro tempore*. The question is on postponing the unfinished business

for the purpose of continuing the debate on this bill, on which question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 17, nays 26; as follows:

YEAS—Messrs. Chandler, Conness, Ferry, Fowler, Grimes, Harlan, Howard, Norton, Nye, Pomeroy, Ramsey, Ross, Sumner, Tipton, Wade, Wiley, and Wilson—17.

NAYS—Messrs. Anthony, Bayard, Buckalew, Cole, Conkling, Corbett, Davis, Doolittle, Edmunds, Fessenden, Frelinghuysen, Henderson, Hendricks, Howe, Johnson, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Saulsbury, Sherman, Trumbull, Van Winkle, and Williams—26.

ABSENT—Messrs. Cameron, Cattell, Cragin, Dixon, Drake, Morton, Sprague, Stewart, Thayer, Vickers, and Yates—11.

So the motion was not agreed to.

#### ARMY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move to take up the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, which has been returned from the House of Representatives, with a view to its reference.

The motion was agreed to.

Mr. MORRILL, of Maine. I move to reconsider the vote by which the bill was passed by the Senate.

The motion was agreed to.

Mr. MORRILL, of Maine. I also move to reconsider the vote ordering it to a third reading.

The motion was agreed to.

Mr. MORRILL, of Maine. I now move that the bill be recommitted to the Committee on Appropriations.

The motion was agreed to.

#### NAVAL APPROPRIATION BILL.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869, reported it with amendments.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 246) directing the Secretary of State to present to George Wright, master of the British brig J. & G. Wright, a gold chronometer, in appreciation of his personal services in saving the lives of three American seamen wrecked at sea on board of the American schooner Lizzie F. Coate, of Massachusetts, in which it requested the concurrence of the Senate.

#### SUPREME COURT JURISDICTION—VETO.

During the pendency of the report of the Committee to Revise the Rules the following message was received from the President of the United States by Mr. W. G. MOORE, his Secretary:

Mr. President: I am directed by the President of the United States to return to the Senate, in which House it originated, the bill (S. No. 213) entitled "An act to amend an act entitled 'An act to amend the judiciary act passed on the 24th of September, 1789,'" with his objections thereto in writing.

#### REVISION OF THE RULES.

The Senate resumed, as in Committee of the Whole, the consideration of the report submitted by Mr. ANTHONY on the 21st of February last from the select committee appointed to revise the rules of the Senate.

Mr. EDMUNDS. I rise to move an amendment—not by the authority of the committee or against it; it is a matter that has occurred to me since the report was made. I move to amend the thirtieth rule by striking out in the first line the words "proposing additional appropriations," and by striking out the word "general," so that, if amended in that respect, the rule would read:

No amendment shall be received to any appropriation bill, unless, &c.

If that is agreed to I shall then move to add a qualification at the end so as to permit an

amendment to reduce the sum proposed to be appropriated to a smaller one, or to strike it out altogether, or to correct mere phraseology; but at present I merely confine my motion to striking out the words I have named.

The *PRESIDENT pro tempore*. The question is on the amendment proposed by the Senator from Vermont.

Mr. GRIMES and Mr. SHERMAN. Let it be read.

The Secretary read the amendment.

Mr. EDMUNDS. I wish to explain to the Senate precisely the object that I have in view. As I have said, it will need some further words at the end, which I shall offer if this amendment is agreed to; but what I propose to accomplish, and that is what I wish to call the attention of the Senate to, is this: to prevent the loading of appropriation bills with general provisions of legislation, and to confine every appropriation bill to precisely what in theory it is; a lawful direction for the payment of money out of the Treasury, and nothing else. I believe that it is very injurious to the course of legislation and hurtful to the public interest, after an appropriation bill is reported from a committee, to have suddenly an amendment proposed to that (when the nature of the bill, of course, does not call the attention of any Senator to what is proposed) making some alteration in existing law or proposing some new law, and thus forcing through a provision sometimes that one House or the other thinks ought to pass when the other thinks it ought not, because one House is afraid of having the appropriation fail altogether, and is, therefore, in a certain measure, coerced into agreeing to general legislation which it otherwise would not do.

Mr. CONNESS. You propose to protect yourself against the other House in this way?

Mr. EDMUNDS. I am not proposing, in reply to the Senator from California, to protect myself against the other House any more than to protect the other House against myself. I am proposing to keep appropriation bills, which are merely a distinct direction for the payment of money out of the Treasury, as I have said, free from the general legislation of the country. I think we have all witnessed in our own experience here the evil that I am endeavoring by this rule to correct. And it is proper to say in this connection, because it does not allude to any proceeding of the other House, that the rules of the other House provide for that thing now. It requires, as I understand, unanimous consent in that body to put a rider on an appropriation bill which shall change the existing law; and I believe it to be a very good provision. Now, what I propose to accomplish is to make our rule conform to that.

Mr. GRIMES. I should like to know what the Senator proposes to put on at the end.

Mr. EDMUNDS. I propose to put on at the end a qualifying proposition which shall permit an amendment to strike out one sum and insert a smaller one, or to strike out any words in the bill entirely; strike out a section; reduce or in any way change by not going so far as the bill when it is reported does go; strike out an entire appropriation; reduce the sum; strike out one sum and insert another.

Mr. BUCKALEW. I should like to inquire of the Senator whether under that proposition it will not be in order to strike out a limiting clause, a clause limiting the application or appropriation of money?

Mr. EDMUNDS. Possibly it would; but if the limiting clause is struck out it would be an appropriation for no purpose at all, and the appropriation would then become inoperative entirely. Then I propose, also, of course, to permit amendments which merely correct the phraseology of the bill within the scope of its original design. There is no difficulty in guarding the proposition in such a way as to leave the body perfectly free to exercise its rights of amendment, except the right that now exists of putting on an appropriation bill a new provision of law which has no connection with

the bill itself, sometimes no connection with the subject of the appropriation, and which I believe to be injurious and detrimental.

Mr. HOWARD. I ask for the reporting of the amendment as offered by the Senator from Vermont. We did not understand it in this part of the Chamber.

The Secretary again read the amendment.

Mr. GRIMES. I should like to know why the Senator does not extend this rule to standing committees. With the Senator's amendment a standing committee can still propose any sort of general legislation to an appropriation bill.

Mr. EDMUNDS. Not at all.

Mr. GRIMES. Yes, sir; for the rule will then read:

"No amendment shall be received to any appropriation bill unless it be made to carry out the provisions of some existing law or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate, or in pursuance of an estimate from the head of some of the Departments."

If moved by the direction of a standing or select committee of the Senate an amendment to a general appropriation bill can be made, not in regard to the amount of the appropriation, but any description of amendment, as I understand.

Mr. EDMUNDS. As I have said, I have only advanced the general proposition that we ought to exclude from appropriation bills this sort of legislation; and, so far as I have already gone, I now see—my attention had not been before called to that precise language read by my friend from Iowa in the center of the rule—it only limits this exclusion to propositions made by individual Senators. If the Senate think that is wise, then the next question will be, is it wise, also, to take this right of amendment away from a committee? I think, myself, as to matters of general legislation, when any committee in this body can report a bill at any time—the rules provide that they may report by bill at any time—it would be wise to take this power away from the committees, and if the Senate agree with me in that we can very readily make that proposition. But some Senators might believe that individual Senators ought not to have the power to spring general legislation on appropriation bills while a committee who had the subject under consideration might properly be permitted to report such an amendment. The two things are not necessarily in equal degree of propriety or impropriety, and it will be for the Senate to say, if they agree that it ought to be limited, how far the limitation ought to go.

Mr. GRIMES. I have had a little experience on this subject. I have seen here in this Senate where an appropriation bill, for example an appropriation bill to defray the expenses of the Army has been under consideration, some gentleman connected with the Committee on the District of Columbia has gone around and seen the members of his committee and got their assent to put on a proposition altogether different from that which should pertain to an Army appropriation bill, and overcame the rule in that regard.

Mr. EDMUNDS. That shows that we ought to go further.

Mr. GRIMES. I doubt exceedingly whether we had better tie ourselves with any such provision as this. It sometimes becomes very important, I think, that we should limit or restrain, or enlarge, if you please, or regulate in some way the method in which a particular appropriation should be expended. I have seen, I think very wisely, propositions added to some appropriation bills this year with regard to the excess of appropriations that have lapsed over from last year back into the Treasury. That can be applied to particular Departments, not to all; and in the general manner in which it has been attempted to be applied by the House of Representatives, and to which we, in one or two instances, assented, there cannot be any harm in such a provision in many instances, and great good may be accomplished.

Mr. SHERMAN. When the Senator first offered the amendment I supposed he intended to take away from the committees of this body the power to report amendments to appropriation bills. If so, I shall object to it very strenuously. The Committee on Finance are already considering a number of propositions made with a view to reduce expenditures, with a view to ingraft them upon bills which provide for the expenditures of the current year as the proper place for them. General legislation on these subjects, without the power to amend appropriation bills, would be very difficult, indeed, and the difficulty to get up a small bill by itself would make it substantially impossible.

I do not know that I have any objection to the amendment so far as it is actually proposed, because sometimes the Senate is embarrassed by amendments suddenly sprung upon it by individual members of the body, even where they do not propose to make appropriations; but there may be times of high importance when the Senate may choose to assert its power to declare a principle upon the motion of a single member of the Senate where the committees probably have not had time or formal occasion to consider the amendment. I do not think, therefore, that it would be wise for the Senate to tie up its power over those subjects. The power to propose additional appropriations is already limited sufficiently by the second clause of this rule providing that all such amendments must be sent to the Committee on Appropriations. Thus that committee is enabled to prepare itself in advance to resist improper amendments; but questions of general political power, questions of the reduction of office, or a proposition to repeal or to change a law regulating an office, it seems to me ought to be left open to the action of the Senate. There is no practical difficulty growing out of this rule except that sometimes Senators attach to appropriation bills long discussions about collateral matters. I do not know that that can be avoided.

Mr. CONNESS. That is within the power of the Senate at all times.

Mr. SHERMAN. Usually the Committee on Appropriations can crowd off or defeat those amendments if they are glaringly bad. If a majority of the Senate are strongly in favor of an amendment, there is no reason why it should not be attached to an appropriation bill; but generally the chairman of the Committee on Appropriations can crowd off such propositions unless there is an overwhelming sentiment of the Senate in favor of them. So that, practically, I do not think it would be wise to go further than we have already done in the second clause of the thirtieth rule, which gives to the Committee on Appropriations power to consider all propositions to increase appropriations. The amendment of the Senator would prevent us from increasing the amount proposed. For instance, the Committee on Appropriations may report that \$30,000 are required for a particular service. Under this proposition we could not increase the amount without a report of the committee. No member, although his own individual opinion was that \$50,000 should be appropriated, could move any amendment increasing or diminishing the sum by the amendment proposed by the Senator from Vermont, unless, perhaps, by moving some other amendment.

Mr. EDMUNDS. As I said, so far as an amendment moved by any Senator is concerned, I propose, if this be agreed to, if the principle be agreed to so far, to provide at the end of the rule a qualifying clause that any Senator shall have the right to move to strike out one sum and insert a smaller one. As the rule now stands I will say to my friend from Ohio that no Senator, when an appropriation bill is reported, has a right to move to strike out the sum reported and insert a larger one.

Mr. GRIMES. Unless he gives notice.

Mr. FESSENDEN. The rule as it stands only applies to "additional appropriations." It does not apply to the alteration of an appropriation already made.

Mr. EDMUNDS. That is a question that is open to debate. I have seen it practiced in that way and sometimes in the other.

Mr. FESSENDEN. No, sir; the uniform practice of the Senate is that it has been applied to a new appropriation, because it has always been the custom for a Senator to move to enlarge or diminish an appropriation as he pleases, and I have never heard it objected to.

Mr. SHERMAN. I believe I still have the floor. I simply desire to say that we ought not to tie our hands in this way. The rule, as proposed by the Senator from Vermont, would be evaded by a member of a committee going around and getting the authority of his committee here on the floor, and then, under the rule, he could move his proposition. It is simply to take away from an individual Senator the power of making a motion to amend and requiring it to come from the majority of a committee whose consent can always be obtained informally. I do not see that any good is to be accomplished by it, and I shall vote against it.

Mr. MORRILL, of Maine. In one aspect of the proposition of the Senator from Vermont it seems to me to be desirable, and that is that it shall not be regarded as a proper thing to amend an appropriation bill by general legislation. I do not understand it to go any further than that. That is the rule of the House of Representatives. No Representative, as I understand, is authorized to move any such legislation upon an appropriation bill; and it seems to me that a rule of the Senate in harmony with that rule would be advantageous to us. To that extent I should be very glad to see the proposition adopted.

Mr. GRIMES. Allow me to ask the Senator this question: suppose an appropriation bill comes here from the House of Representatives, as several have during this session, with general legislation ingrafted upon it; under this amendment can we amend that?

Mr. MORRILL, of Maine. In our committee, I suppose, we could.

Mr. GRIMES. Can we here, in the Senate?

Mr. SHERMAN. Not on the motion of a Senator.

Mr. GRIMES. For example, we had before us the other day the general pension appropriation bill, on which there was a provision abolishing the prize laws in effect and dispensing with the naval pension fund. Could we modify and amend that proposition in the way that we did upon the suggestion of the Senator from Ohio [Mr. SHERMAN] under this amendment?

Mr. MORRILL, of Maine. I think we might very properly, because the rule would not restrain us in that direction.

Mr. GRIMES. This rule if adopted?

Mr. MORRILL, of Maine. I had not supposed it would.

Mr. FESSENDEN. The thirtieth rule is confined, as I understand it, exclusively to amendments proposing additional appropriations. It does not go any further than that. Although there are many inconveniences arising from general legislation being put upon these bills, yet, I think, it would not be safe to deprive ourselves of all power in that particular. So far as the rule stands, I think it is well enough with regard to appropriations; and with the addition to the rule that has been lately made, requiring that all amendments proposing new items of appropriation shall be sent one day beforehand, at least, to the Committee on Appropriations, we are perfectly safe, so far as the object of that rule is concerned, which is confined to amendments that propose additional appropriations. Now, then, the only question is whether we propose to make a rule which shall cut off at once all legislation from appropriation bills which does not have particular reference to appropriations.

Mr. EDMUNDS. Unless reported by a committee.

Mr. FESSENDEN. Unless reported by a committee. I do not see the necessity of that, because it may very frequently happen that it



may be necessary to do that; and I do not know why it should be confined to a committee. Possibly, on the last night of a session, when people are in a hurry to get through, when the annoyance is sometimes very great of propositions to amend by general legislation, such a restriction might be advantageous. It might be very convenient at that time to have a rule of this sort here; but I do not think that would make up for the inconveniences that might arise from cutting off all opportunity from Senators to make such suggestions as they saw fit with reference to matters to be placed upon the bills. It very frequently happens, as every Senator knows, that important matters, quite important matters, cannot be carried through in any other way than on an appropriation bill, and the result is that they are very frequently moved and put on at the close of the session.

I have known cases where very great injury has been done in that way, and I have known cases where great good has been done. But, after all, I think it will be better to leave it to the discretion of the Senate and to the watchful care of the Committee on Appropriations, who, of course, will have their eye upon everything that is proposed under such circumstances, rather than to tie our hands by any iron rule which shall prohibit anything of that sort. I therefore am rather opposed to the proposition of my friend from Vermont, and feel disposed to stand by the old landmarks with which we are familiar, and submit to the inconveniences rather than to, perhaps, make a provision which will result in preventing much good.

Mr. POMEROY. I do not know that I understand the amendment; but if I do I do not see how it changes the rule from what it now is. You may move to strike out the words "proposing additional appropriations" and also the word "general," and then how will it read?

No amendment shall be received to any appropriation bill, unless it be made to carry out the provisions of some existing law.

Well, you cannot do so now, for the rule now reads:

No amendment proposing additional appropriations shall be received to any general appropriation bill, unless it be made to carry out the provisions of some existing law, or some act or resolution previously passed by the Senate during that session, or moved by direction of a standing or select committee of the Senate.

If it be amended as is proposed a standing committee can still move an amendment. Of course, by the last provision of this rule, an amendment to an appropriation bill must be referred one day beforehand to the Committee on Appropriations. I think it is better myself that our appropriations should all be in one bill. That is better than that each committee should have an appropriation bill by itself. I think each committee should put its appropriations on a general bill, so that when we open the law containing the appropriations for this year we can see the appropriations in one act.

Mr. EDMUNDS. My friend will permit me to correct him. I think he is obviously mistaken in supposing that the amendment I now propose does not change the meaning of the rule. As the rule is reported, if my amendment be not agreed to, any member of the Senate, when an appropriation bill is under consideration, can move any amendment that does not propose an additional appropriation; that is, he can move any amendment proposing legislation changing the law of the country, and not providing for the payment of money. That is what I desire to avoid; and therefore I submit to him—it is not necessary to submit it to those gentlemen who think so now—that if the amendment is adopted it will make that change. One man who, as the rule now stands, may move a section which provides for general legislation, if the amendment be adopted cannot do it; that must be confined to a committee. That is an important change, and I called it fairly to the attention of the Senate to see what they thought about it.

Mr. POMEROY. I admit what the Senator says. I thought the Senator undertook to say that committees would not be allowed, if this amendment was adopted, to move their respective amendments.

Mr. EDMUNDS. Oh, no.

Mr. POMEROY. If the Senator only means that individual members of the Senate, if this amendment should pass, will not be allowed to move general legislation by way of amendment to an appropriation bill, if that is the object of the amendment, I have no objection to it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

The amendment was rejected.

Mr. CONNESS. I desire to call attention to the last rule, rule fifty-four, which reads, the suggestion originally coming, I think, from the Senator from Maine, [Mr. FESSENDEN:]

"All resolutions calling upon the President or any of the Executive Departments for information shall be referred without debate to the appropriate standing committee, which shall report on the same, with an estimate of the probable expense of furnishing the information called for."

I do not object to this rule because I feel that it affects me, for I have offered very few such resolutions and do not propose offering many; but it appears to me to be a restriction that the Senate proposes to impose upon itself by a rule which will be particularly binding and offensive to a minority of the Senate, no matter what political party that minority belongs to. While it is now in the power of a majority of the Senate to vote down a resolution offered by the minority, and it is very frequently done, or else the resolution is so amended as to take the point from it, this proposes additionally to refer the resolution for inquiry or information to a standing committee, where there is a party majority, and where it may be kept interminably, if deemed necessary or politic. If information is asked for it is a fair presumption that information is needed; but, in place of facilitating that information, this rule proposes to put the demand for light under a bushel, with a prospect of its being kept there.

Mr. ANTHONY. Contrary to Scripture.

Mr. CONNESS. My friend, who is chairman of the Committee on Rules, suggests that that is contrary to Scripture. Yes, sir; it unfortunately is.

I know that in the absence of this rule resolutions for information very often lead to a considerable abuse. Information is called for which has already been spread before us, or which is not of great utility, which leads to considerable embarrassment at the Departments and the employment of clerical force rendered necessary to the performance of other duties. But that is one view of the case. The abuse that the adoption of this rule will create and lead to I think is the greater of the two. In my opinion no such restriction ought to be placed upon calls for information. It would be but a reasonable presumption that there is good judgment enough and independence enough in the Senators present when a call for information is presented to determine whether it ought to be made, whether the resolution should be adopted. But if it is a resolution for information touching the Post Office Department, under this rule it will be referred to the Committee on Post Offices and Post Roads, and their regular meeting may be a week off. It necessarily waits that length of time, while the Senator calling for the information ought to have it before that time has passed, and then it may go over for want of there being a quorum at the committee meeting that morning. It amounts, in other words, to a suppression; that is really what it will lead to—an effectual mode of suppressing calls for information.

Mr. ANTHONY. There is, undoubtedly, force in the objection which the Senator from California makes to this rule. I agree with him in all that; but I differ from him in thinking that the other side does not present a greater abuse than the adoption of this rule

will. It is true that delay will be caused by sending calls for information to the appropriate committees; but it is also true that almost any information which a Senator wants he can get without a formal resolution of the Senate. By addressing a note to the head of a Department or the head of a bureau almost any information which a Senator really desires can be obtained.

Mr. CONNESS. Then, if the honorable Senator will permit me, why not change his rule so that it shall read "that no resolution calling upon a Department for information shall be in order unless the Senator offering it shall first have called upon the Department for the information and been refused?" Then there would be sense in the rule.

Mr. ANTHONY. I would hardly like to adopt that proposition. I think that would be placing the heads of Departments in rather an unpleasant situation, throwing on them responsibilities that they ought not to have. The abuse of this practice has been very great, indeed. I have been told by a head of Department that at a previous session of Congress all the clerical force in his Department could not have answered the calls for information that were sent from one House and the other of Congress.

Now, it is fair to presume, it is very courteous to presume, as the Senator does, that every call for information is well considered and receives the deliberate attention of the Senate; but we know very well, in practice, that a call for information is almost always passed as a matter of course. A Senator offers the resolution. Somebody objects, or asks "What is it?" The answer is, "A mere resolution of inquiry;" and that is the end of it. Nobody hears what it is; nobody cares what it is; and when it is passed it is found that information is called for that will take half a dozen clerks months to prepare—clerks whose services are required in the ordinary transaction of the public business, and perhaps the information is already before us. Of the two evils, I think the existence of this abuse is a greater evil than the mode which is provided in this rule to prevent it, although I quite agree with my friend from California that there will be some evil either way.

Mr. FESSENDEN. The Senator from California is mistaken in supposing that this rule was adopted on my suggestion. I made no suggestion whatever to the committee with reference to any of the rules.

Mr. CONNESS. That was simply my recollection.

Mr. FESSENDEN. I have occasionally spoken on this matter heretofore, and called attention to these abuses. With regard to a great many of the resolutions calling for information, they are such as nobody has any objection to, and from their very nature would not occasion any particular expense in answering them. Therefore I think perhaps it might not be quite necessary or quite wise to make a general rule that every resolution whatever shall be referred to a committee. I think, however, those should be referred to a committee to which attention might be called by any Senator as probably involving considerable expense. I therefore suggest to the committee whether it would not be well to amend this rule—I am decidedly in favor of the principle of it, for I think there have been very great abuses—so as to have it read in this way:

All resolutions calling upon the President or upon any of the Executive Departments for information, shall, upon motion of any one Senator, be referred without debate, &c.

So that, if there is a motion to that effect, it may go to a committee.

Mr. EDMUNDS. That will be practically the same thing as the rule now; for if a Senator wishes to obtain information that he thinks evidently ought to be granted, all he has to do is to ask unanimous consent to have the resolution put on its passage, and then it goes without a reference.

Mr. ANTHONY. The rule can be suspended by unanimous consent.

Mr. EDMUNDS. It amounts to the same thing.

Mr. FESSENDEN. I do not know but that such a provision would meet the case. Unquestionably there would be no objection to a great many of these resolutions, and the answers to them would not involve expense; but my experience is such as to satisfy me that some rule of this kind is absolutely necessary to prevent useless waste of time and of money in calls for information, not intentionally, of course, on the part of anybody, but arising from the fact that a Senator cannot tell, when he calls for information sometimes, how much expense it is to occasion, and how much time is to be wasted necessarily in preparing the answer. It is frequently made ground of complaint by Senators that they do not get answers to resolutions, when it is impossible for the Department, within what would appear to be a reasonable time, to prepare the answer. I have seen great heaps of documents and folios, in answer to a resolution trying to get at a single fact, laid upon the table, which were utterly useless, and cost hundreds of dollars to compile. I really hope that this rule will be adopted.

Mr. HOWARD. I inquire whether it is in order to strike out the fifty-fourth rule entirely? The PRESIDENT *pro tempore*. It is in order.

Mr. HOWARD. Then I make that motion. The PRESIDENT *pro tempore*. The Senator from Michigan moves to strike out the fifty-fourth rule, in the following words:

54. All resolutions calling upon the President or upon any of the Executive Departments for information shall be referred, without debate, to the appropriate standing committee, which shall report upon the same, with an estimate of the probable expense of furnishing the information called for.

Mr. HOWARD. Mr. President, such an inquiry is always made under the vote of the Senate, acting in public, in the face of the world. This rule proposed appears to be a novelty introduced by the committee to whom the subject of the revision of the rules was referred. I believe that there is no precedent for it in the rules of any legislative body. There may be; but if there be, I have not seen or heard of it. I believe that the public interest will be best served by allowing perfect freedom of inquiry into the conduct of every public officer, whether the officer be the President of the United States or any head of a Department.

Sir, I can see how this rule would operate very injuriously, and I think very unfairly, in reference to the minority of the Senate. A member of the minority rises and offers a resolution of inquiry, which may be perfectly just and fair in itself, and necessary for the enlightenment of the body; but it may contemplate some disclosure that would not be so pleasant to the majority. If the question were taken in open Senate by yeas and nays as to the propriety of making the inquiry, there would be some chance, at least, that the resolution would be adopted, and thus the facts contemplated be disclosed; whereas if the resolution should be referred to a standing committee of the Senate, made up as that committee would be, a majority of them, in accordance with the majority of the Senate, the resolution would run, in most cases I should fear, a very great chance of being totally smothered in committee, or at least reported against, so that the information might not be obtained. I think, whatever might be the consequence of passing such a rule as this, as it is a novelty, and I believe entirely without precedent in legislation, it ought not to be adopted. These are the grounds upon which I move to strike it out.

Mr. GRIMES. As the rule now stands the Senate, by a majority vote, can refuse to call for any information that may be desired without assigning any reason at all. If you adopt this rule and have the question of the inquiry referred to a standing committee of the Senate, as in the case of printing public documents, and they report that the information will be inexpensive, then you take away from the inexorable

majority its excuse for refusing to furnish the minority with the information which they desire. If, on the other hand, it turns out that the expense will be large and that the information that is sought will not compensate for the expense, then the Senate will have some information before it upon which to act. It appears to me, therefore, that it is no particular advantage to the minority to strike this rule out. If I were in the minority I would prefer that it should stand, because then the apology would be taken away from the majority for refusing to give such information as I might desire for the benefit of my constituents or for enlightening the public mind when the expense attending the furnishing of that information would be very slight.

Sensors say that this is without precedent. Why, sir, we do precisely the same thing in regard to printing. If it is proposed to publish any document which a Senator thinks desirable to circulate through the country the Senate does not undertake to decide that question until its mind has been enlightened by the report of the Committee on Printing, and the rule is almost inflexibly observed. I do not know that there is any greater departure from principle in this instance than there is in that instance. I therefore am in favor of the rule standing as reported by the committee.

Mr. DAVIS. It appears to me that this is rather a difficult subject to regulate properly; but, at the same time, I am very decided in my opinion that this rule ought not to be adopted. I believe that the reference of calls for information to a committee will be made use of as the means of stifling information and concealing it from the minority of the body. The Departments are the hot-beds in which abuses generally originate, and the evidences of abuses are found there alone as a general rule. When there is a perfect harmony between the majority in the Senate and the head of a Department, and, especially, if the head of a Department be a favorite, although he be guilty of abuses and corruption, there will always be a disposition on the part of the majority to screen him by withholding the information that may be asked for in a resolution.

Now, Mr. President, there is an example at this time existing. There is a certain head of Department here who is called the Carnot of the late war. There never was a more arbitrary, oppressive, or lawless head of a Department in this Government than that same gentleman; and never a man, in my judgment, who has perpetrated more of abuse and more of outrage. On the 20th of January last I submitted a resolution asking for information from that Department in these terms, which was passed by the Senate:

"Resolved, That the Secretary of War furnish the Senate with the names of vessels of all kinds purchased by the War Department or any bureau or officer connected with that Department during the late war of rebellion, the tonnage and amount paid for each vessel, the amount of contract price and its date."

"Also the names of the vessels of all kinds hired or employed in the same way and by the same authority during the said war, the tonnage when given, and when not given the size or description of each, the value when specified, and when not specified the value by estimation, with the amount paid by the day, month, or other term, with dates for each time. The price for which any of the foregoing vessels were sold by the Government, giving dates of sale, terms, and times of payment. And in every case the names of the party or parties from whom any such vessel or vessels were purchased or hired, and to whom they were sold."

That resolution for information has received no response. This infamous Secretary at the head of the War Department, in the absolute-ness of his power, disregards this call, as he disregards law and every other obligation that ought to be sacred and ought to be obligatory upon an officer of the Government, but acts just according to his will and pleasure. For two months this resolution has received no response. This Carnot of the War Department has not deigned to answer it. He was "the Government" during the war. He did, or refused to do, what he chose then; and now, being restored in the manner in which he has been restored to his office, he thinks that he

has a double security for his lawless administration of that Department to what he had during the exigencies of the war.

Mr. CONNESS. Will my friend from Kentucky permit me to interpose a question here?

Mr. DAVIS. Yes, sir.

Mr. CONNESS. I should like to know, as the Senator has lacked that information from the recent head of the War Department, why, since the change, he has not called upon the other Secretary of War, General Thomas? [Laughter.]

Mr. DAVIS. Well, sir, the other Secretary is laid up in ordinary by the influence of the honorable Senator himself and his associates. [Laughter.]

Mr. CONNESS. We thought he was very ordinary for the position.

Mr. DAVIS. If he had been in office and had the control of the archives, and was the one to respond to a resolution of this kind, I have no doubt we could have had the information long ago.

But, Mr. President, I admit the difficulties of this subject; that calls are very frequently expensive and inconvenient, and require a great aggregation of force and increase of expenditure to meet them; but I am for just such a rule now as I would be if I was in the majority in this Chamber. I am for the rule of justice and reason for all times, without regard to minorities or majorities. Whenever there has been an abuse of power in a Department, and that Department has been guilty of corruption, of making improvident contracts or permitting it to be done, I want the revelation to be made to the Senate and to the people of America. I do not care who it touches, and who is blasted or who is protected by such information. I want a pure and honest administration of the Government in all of its Departments and services without regard to the Presidency and without regard to the incumbents who fill the Departments or any other officers of the Government. Where there are abuses of power in relation to contracts—and I am informed that if this resolution is responded to truthfully and faithfully it would reveal a most revolting and most shocking abuse of power—I want those abuses of power brought to the light that those who have been guilty of them or those who have suffered them to take place may be held up to their proper responsibility.

I therefore am most happy to agree with my ancient friend, the Senator from Michigan, [Mr. HOWARD,] for once. [Laughter.] There was a time when there was a general accord between us; but that was in the days of yore. We were then both members of the House of Representatives. But I am struck with the good sense, the justice, and the manliness of his remarks to-day in favor of the rights of minorities. It has been rather my fortune to be nearly always in a minority, and I believe I always shall be, [laughter,] and consequently, I am in a condition to sympathize very strongly with minorities, and with any argument in favor of a minority.

I trust that this additional rule will be voted down, and that the responsibility of refusing or granting these calls shall be brought before the Senate in open session, and be referred to the members of the Senate collectively.

Mr. FESSENDEN. I believe I shall not attempt to reply to what the Senator from Kentucky has seen fit to state with regard to the Secretary of War, calling him the "infamous Secretary of War." All I have to say is, that, in my humble opinion, if he or I ever arrive at the degree of "infamy" which the honorable Secretary of War will have in the history of this country, we shall stand much better than either of us is likely to at present.

Mr. DAVIS. The Lord help us, then! [Laughter.]

Mr. FESSENDEN. Now, Mr. President, with reference to this particular matter, I want to express my obligations to my friend from Kentucky for reading his resolution. It is the best possible illustration that could be given of

the necessity of this rule. I have noticed that these calls for general information extending over indefinite periods of time, are usually made, as suggested by somebody, by gentlemen who are disposed to quarrel with the Secretaries. I remember that at about the first of the present Administration the calls upon the Secretary of the Treasury from the other side of the Chamber for information about cotton matters, &c., were very frequent and very voluminous, covering great length of time and great multitudes of transactions. Of late, however, the calls upon the Secretary of the Treasury come from this side of the Chamber, while the calls on the Secretary of War are confined to the other. So it works generally; and, therefore, I agree that all these matters which are exceptional, perhaps, are rather matters of the minority than otherwise.

But, sir, after all, that does not answer the difficulty. The difficulty really arises from the inability of Senators to get at the facts they want in a narrow compass, from their not being familiar with the Departments and the records of the Departments, and knowing what they intend to do and what they exactly want. Consequently, they draw resolutions covering great lengths of time and great multitudes of transactions in order to get at a few facts which a little inquiry would enable them to get without a resolution. The object of this rule, as I understand it, is to prevent the difficulties that arise from that source. I before remarked that I had seen great piles of useless paper on our Secretary's table frequently, which, after they got there, the member calling for them made no use of whatever. He had accomplished his purpose; he had got the information printed at the public expense, and whether it amounted to anything or not did not seem to make any great difference.

Now, what has the Senator from Kentucky read as an illustration? A resolution covering the whole period of the war and all the transactions of the quartermaster's department in various sections of the country and of the War Department proper with reference to vessels. Why, sir, I undertake to say that if the whole force in the Department had been busily at work from the time that resolution was introduced, upon that single thing, down to the present moment, they would hardly have been able to accomplish it. It could not have been done in the time that has elapsed since then by any possibility. With the great number of books to be examined, and the great number of accounts to be looked at, and everything to be drawn off, covering the immense transactions of the quartermaster's department during the whole period of the war, it could not have been done in the time that has elapsed, and it will cost an immense deal of money, comparatively speaking. As my friend from Iowa [Mr. GRIMES] remarks, in order to get that information you must examine every quartermaster's account for every month during the war. It is impossible to get at that information in any reasonable time. I do not think it could be got at under six months.

Is it reasonable to complain of the Secretary because such a resolution has not yet been answered? I undertake to say, with my slight knowledge of those matters, that it could not have been answered in the time that has elapsed. Another thing: I do not remember when the present Secretary, the Secretary now holding office, came back to the Department; but, according to my recollection, it has not been a very long period. Whether he was there when that resolution was passed or not I do not know. I suspect not, however; and for a period since he has been there he has been hardly recognized; and the last time since he has been back in the Department he has not been recognized at all by the executive government. What control he may have I do not know. But the Senator should inquire before he makes such charges and before he exhibits a resolution of that kind as illustrating the neglect of the Department to answer. I say again, that, in my judgment, it would be per-

fectly impossible in the length of time that has elapsed, with all the force that the Department could possibly spare upon it, to have come anywhere near answering the questions the Senator put or give the information he desired, from the very nature of the business itself and from its voluminous character. That resolution is one that it would be eminently proper to send to a committee to examine, to make inquiries about, if the Senator before he offers it will not condescend to make inquiries. He knows what facts he wants with reference to the matter.

I do not see any danger arising from the adoption of this rule. I have more than once spoken of it in reference to single resolutions that have been offered. I do not know that it is very often that such resolutions come up; but when they do they ought to be examined into. Taking the time that is bestowed by clerks upon calls of this very character that come from these two bodies, I should not be surprised if the absolute expense of them was \$100,000 a year. I think it worth while to make a little inquiry about them.

But it is said that when such a resolution is sent to a committee there is danger of its being stifled. There is no difficulty about that. If a member of the minority sends a resolution to a committee, and the committee do not report it, all he has got to do is to call for it in open Senate and ask why the committee do not report it. I have that faith and confidence in the gentlemen composing this Senate as to suppose that when a matter of business is sent to them they will make a business report upon it, without reference to whether it is to affect one side of the Chamber or another, one party or another. I have never seen any disposition to stifle things in that way; and I do not believe that it exists. If it appeared that there was undue delay, Senators might make their complaint, and they have the same advantage of it before the country; and that is, that their attempt to get information for the benefit of their constituents has been stifled by a majority; and they can appeal to the record to show it; and they will have just as much advantage from it probably, and more than they would have from the information itself when they got it; because, after all, these things generally turn out to be mere bugbears. It is very seldom that anything is developed to the prejudice of the Departments. I believe, as a general rule, so far as my observation has extended, the affairs of the Departments of this Government, under all parties, have been conducted with integrity. Occasionally there has been an exception.

There is a disposition on the part of the minority always to complain of the majority, and to suspect fraud and injury; at any rate to charge it; but when you come to investigate it, it very seldom turns out that you cannot rely with perfect safety upon the high character and the sense of responsibility of the eminent men who are placed at the heads of Departments, let them belong to what party they may. That has been the result of my observation and experience. I believe it is true, and I hope it will always continue to be true in this Republic. I see no danger, therefore, from the adoption of this rule. I think it will save a great deal of money and a great deal of annoyance.

Mr. HOWARD. Before the Senator from Maine takes his seat, I wish to ask him a question. The rule which I move to expunge requires the appropriate committee to whom the matter shall be referred to "report upon the same," that is, upon the call, "with an estimate of the probable expense of furnishing the information called for." Does the Senator suppose that in most cases it will be practicable for such a committee to make any estimate of the expense?

Mr. FESSENDEN. An approximate estimate. By simply inquiring at the Department, the Department could answer at once how long it would take and the number of clerks it would require to be employed upon it. There is no trouble about it, practically.

Mr. HOWARD. Let me call the attention of the Senator to a single call for information that I made myself at the commencement of this session. I called for the correspondence between the Government of the United States and that of Great Britain in reference to the joint occupation of the island of San Juan, in Puget's sound. Of course I knew but very little concerning the state of the negotiations, nor did I know what amount of manuscript it might be necessary for the Department to furnish in response to the call. Does the Senator suppose that a committee of the Senate, in such a case as that, would go to the Secretary of State and ask permission to look over the entire correspondence between the two Governments in order to make up an estimate of the cost of responding to the call?

Mr. FESSENDEN. No, sir. If it was sent to a committee of which I was a member, I should address a note to the Secretary of State, send him a copy of the resolution, and ask him how many clerks it would probably take, and how long, to furnish the information required.

Mr. HOWARD. That might be done, undoubtedly.

Mr. FESSENDEN. There would be no trouble about it.

Mr. HOWARD. But after all, Mr. President, I see no ground of attacking the old rules because a compliance with such a call may lead to expense. That seems to be the burden of the complaint of the Senator from Maine. Undoubtedly, there are cases in which useless expense is incurred; but is it not one of the incidents of a free government? Is it not one of the inseparable consequences of a perfectly free inquiry upon all matters connected with legislation and with our public affairs? Is it possible to avoid it? Do not the people pay their money readily for such information? Is it not, after all, one of the most indispensable qualifications of a member of Congress to be fully and completely informed upon all subjects of public concern on which he may be called to act in his legislative capacity?

It seems to me that the scheme of the committee to narrow down our expenses in reference to these calls for information is totally impracticable; and I would not, if I could, carry out the ideas which seem to be entertained by the honorable Senator from Maine. Give us perfectly free inquiry, such as we have had always from the commencement of the Government down to the present time. It is what we need, and it is what the people need. If money is unnecessarily expended for such a purpose, it is not our fault nor the fault of the people; but it is the fault of the frame of Government under which we have the good fortune to live, if it can be called a fault.

I hope, sir, as this is an entire novelty, one which is entirely without precedent in any State government, and has never been resorted to by our own Government hitherto, that we will not embark upon this experiment of being penny-wise, while at the same time it will turn out that we are pound-foolish.

Mr. DAVIS. I concede the high authority of the Senator from Maine upon all subjects on which he chooses to give information or to express his opinion to the Senate; but in relation to the matter of the resolution which I read a few minutes ago I have authority that is higher, with me at least, than that of the honorable Senator from Maine. I am assured by an officer, one of the best and most efficient officers in the Department, that it would require but a very short time to give all the information that is asked for in that resolution. I have no doubt myself that that officer could put a clerk to work, and in less than one week's time he would furnish accurate and reliable information upon every head of the resolution. I do not entertain any doubt of it from the information that I have received from one of the officers.

I am furthermore assured that if the resolution was fully responded to it would disclose contracts of sale and of hire at a rate of sale and of hire, and worthlessness in the ves-



sels sold and hired, and also sales made by the Government of vessels that were of a good quality at prices that would demonstrate to any unprejudiced mind that there was corruption or the greatest negligence and inefficiency in this part of the public service. I do not believe, where books are properly kept, that it requires the length of time that we frequently hear intimated to give information that is asked for by Senators.

Mr. GRIMES. I inquire of the Senator if that officer of whom he speaks informed him that the Department kept books which showed the facts embodied in this inquiry?

Mr. DAVIS. He told me that it would not take long to give the information I wanted; and that was sufficient for me.

Now, Mr. President, here is an exceptional service in the War Department. What has the Secretary of War or the War Office or the War Department to do, properly, with the purchase of vessels? It may become necessary, and has no doubt become necessary, and has often been proper; but it is rather an exceptional part of the service attached to the War Department, belonging particularly and peculiarly to the Navy. So far as the War Department has been attending to business of this kind, purchasing vessels, hiring vessels, selling vessels, and all that sort of thing, I am assured by an officer in whom I have the highest confidence that all the information sought for by the resolution, if a particular bureau or office of the Department had been asked, could have been given in a very reasonable time. But there is no response, no reply to it. If instead of appealing to the Carnot of the War Department, according to the usage and custom of the Government, there had been a rule of the Senate that authorized me to appeal directly to a particular subordinate officer, I could have got this information long ago, without much trouble, delay, or expense, I have no doubt.

But the honorable Senator from Michigan suggested intrinsic difficulties to the execution of this rule, if it should be adopted. How can the different committees speak of what would be the approximate cost and the time for answering calls on particular subjects in the different Departments? The committee would have to go there and explore each Department and each bureau and each office, and ascertain the extent of the entries of records there, before they could give even an approximate judgment as to what would be the cost of answering such calls and what would be the time and the additional force that would be required. I think, with the honorable Senator from Michigan, that the matter had better be left where it has been from the beginning, and that each call should be left to be passed upon and adjudged by the Senate upon the proper responsibility of Senators in open Senate.

Mr. CONNESS. I wish to say simply a word upon the suggestion made by the honorable Senator from Maine when up touching this rule, as to the course that would be pursued under it, namely, that a committee would address the proper Department and get an estimate of the expense involved in the inquiry. There, sir, would be its greatest abuse. If the resolution called upon the head of a Department who did not want to make the reformations asked for the estimate of expenses might be put at such a rate as would discourage the adoption of the resolution.

Mr. FESSENDEN. They would lie about it!

Mr. CONNESS. The honorable Senator from Maine says they would lie about it. Well, sir, the honorable Senator, having been once the head of a Department, may be the best judge of whether they would or not.

Mr. FESSENDEN. I mean that is the charge the Senator makes. I do not say it is so. He says distinctly that they would make such a report as would discourage action; that is, an untrue report. That is nothing but charging them with falsehood.

Mr. CONNESS. I would not say that the

Senator was sensitive, because it is not sensitiveness that caused him to make the response that he did. He was fairly caught in his own trap, and I have nothing to say in reply to it. I did not, however, intend to say that the head of a Department would tell a falsehood; but we know that in connection with these matters there is a certain amount of elasticity that might be practiced; and I hardly think the honorable Senator would like to state to the contrary.

Mr. FESSENDEN. As the honorable Senator appeals to me, I will state—

Mr. CONNESS. No; I did not make an appeal to the Senator.

Mr. FESSENDEN. I will state that in a matter of verity I do not plead guilty to any elasticity of conscience. The Senator speaks for his own conscience, I suppose, not for mine.

Mr. CONNESS. Mr. President, I have already said that I never had any experience as the head of a Department. How can I speak from my own experience?

Mr. FESSENDEN. You spoke of elasticity of conscience.

Mr. CONNESS. Nor have I attributed the elasticity suggested to my honorable friend. I rather think that if the honorable Senator lacks any of the graces it is the grace of elasticity, and particularly in the direction that I have indicated. I concede, in other words, entire truthfulness to my friend.

But I rose also to take exception, in a friendly manner, to some very broad statements made by the honorable Senator from Kentucky when last up. His resolution, to which he alluded, calls for information from the War Department touching contracts for the hire and sale of vessels; and in that connection the honorable Senator incidentally condemned the practice of hiring and selling vessels by the War Department.

Mr. DAVIS. No, sir; the honorable Senator mistook me. I did not condemn it.

Mr. CONNESS. I understood the honorable Senator to say that all that class of business more properly belonged to, or came under the head of, the Navy Department.

Mr. DAVIS. I said it was exceptional to the War Department.

Mr. CONNESS. Mr. President, it was not exceptional to the War Department. The War Department necessarily did very much of it during the war. All that related to the transportation of troops, in the hire and purchase and sale of vessels, devolved upon the War Department. In this connection the Senator undertook to say that if he had been furnished with the report called for he could reveal transactions discreditable to the head of the War Department. Upon that I take direct issue with the honorable Senator; and although I know, and we all know, which of the two Secretaries of the War Department, the real or the bogus one, our friend's affections and affinities go to—

Mr. DAVIS. Will the Senator allow me—

Mr. CONNESS. When I finish my sentence I will give way to the honorable Senator. I, nevertheless, have that confidence in the sense of justice of the honorable Senator to believe that he would not, knowingly, charge even the present head of the War Department with a wrong.

Mr. DAVIS. Will the honorable Senator now permit me?

Mr. CONNESS. Yes, sir.

Mr. DAVIS. The honorable Senator in attributing to me any inclination whatever to either of these honorable Secretaries does the Secretaries or myself great injustice. I never had any such feeling toward either of them. I never was in the presence of either of them but once each; and I assure the honorable Senator that toward both of them I have no feelings whatever but those of repugnance. [Laughter.]

Now, in relation to what I expect to establish by the proof—of course I do not know personally that it would establish; but my in-

formation is that it would reveal an administration of the War Department in relation to these particular transactions that would be calculated to bring upon it the highest discredit.

Mr. CONNESS. I can readily understand, and so can the Senate, the truth of what the Senator says, that he regards both of these functionaries with equal repugnance. We know by a long experience that the real Secretary of War is very cordially disliked by the honorable Senator; and we also know that innately and instinctively the Senator despises a pretender. Consequently, he can have no particular regard for the *ad interim* Secretary.

Mr. HOWE. *Ad interim*. [Laughter.]

Mr. CONNESS. *Ad interim*, the honorable Senator suggests. Very well; you can have it either way. But what I rose to say was this: that one of the best acts of Edwin M. Stanton as Secretary of War was in bringing to prompt arrest and condign punishment the perpetrators of frauds upon the Treasury in the very branch of service to which the Senator's resolution alludes and relates. One of my first experiences when I arrived here in 1863, with a commission as United States Senator, was in this very connection. Some gentlemen visited me claiming to be constituents of mine, and claiming that they were prevented by an order of the Secretary of War from going to Fortress Monroe where they had property, and asking me to interfere in their behalf. After making a considerable statement, I visited the Secretary of War, but not until I became pretty well satisfied from the statement of the parties themselves that they were engaged in connection with illicit proceedings. However, I visited the Secretary of War. I found that it related to the celebrated case, well-known by the Senate, and which was afterward investigated by the Senate, of Captain Hunt, who had been arrested by the Secretary of War and imprisoned in the Old Capitol prison. Without going into the exact particulars of the case, with which I am pretty familiar, I will say that I quit it, being convinced of the promptness, the fairness, and the justice with which the Secretary had acted in the case and in like cases; and I added then, that if I were in his place and had the power, I would have exacted a very much severer sentence against those malefactors.

I desire the Senator to understand something about this branch of the service, and so I will state what that case was. There were quartermasters necessarily intrusted with the purchase of vessels to transport troops, munitions of war, and supplies from point to point by sea; and there were superintendents of transportation; and then there were collusions gotten up between these quartermasters and the superintendents of transportation. The superintendent of transportation would condemn a vessel purchased by his confederate, the quartermaster, and the quartermaster upon such condemnation would offer the vessel for sale, and sell it in such a manner as that it might be purchased by a third party to the transaction and a confederate at a very low rate. Then, with a coat of paint, or some other means of changing the outer aspect of the craft, she was relet or resold to the Government, being offered to another officer. It was simply impossible for the Secretary of War, being here at Washington involved in the immense outlays and intricacies of the Department that he was then at the head of, to become immediately and instantly acquainted with the subtleties and schemes of these men intent on but one purpose, and that was to enrich themselves in that period of great public excitement and concern at the public expense. But so soon as information came to Mr. Stanton he laid his strong hand upon each of those malefactors and put them in a public prison, against which acts, from time to time, my honorable friend, in behalf of the rights and liberties of the individual citizen, cried out in stentor tones. I have no doubt that my friend really is an advocate of individual rights and a fair administration of law; but I have no doubt either that he has often allowed himself, and in this very con-

nection, to condemn prompt and decided action necessary to suppress frauds under the circumstances that I have detailed, when, if he had been acquainted with all the circumstances of the case, he himself would have gone further, and had he the power, have ordered the villains to be shot.

Now, sir, it has been rather in order to attack the head of the War Department. I have rarely, I think I have never, spoken a word in this body in his defense. It was my good fortune, however, when I came here first, to be introduced favorably to that honorable gentleman; and it has also continued to be my good fortune to have uninterrupted relations with him to the present hour. I necessarily went to his Department with much public business, very often with business that I would like to have had done and consummated according to the requests made by constituents and friends of mine. But, sir, from the day that I first met him as a public officer to the present hour he has constantly challenged my admiration by the exact rectitude and impartiality of his judgments in connection with the propositions that I submitted to him. Nothing for favor, nothing for partiality, nothing for friendship, but everything for justice and for the country and for a faithful administration of the law. That, sir, is how I found that officer. And in the very connection that the honorable Senator asked for this information, while another man in his place with less will, less natural probity, and less courage would have paltered with the thieves and the thieving would have gone on, he reached out the strong hand of power and crushed them and their schemes so soon as he could possibly get information of them. Such, sir, has been my experience and such is my opinion of him.

Mr. FRELINGHUYSEN obtained the floor.

Mr. ANTHONY. I hope the Senator from New Jersey will allow me to appeal to Senators on both sides of the Chamber to let Mr. Stanton alone, and go on with these rules.

Mr. CONNESS. Well, Mr. President, I felt that it was my duty, and due to the Secretary of War to say what I have said.

Mr. ANTHONY. The Senator's speech was very proper and very timely, and I listened to it with pleasure; but the Secretary of War has been sufficiently vindicated, and I hope we shall now go on with the consideration of these rules.

Mr. FRELINGHUYSEN. I have but a word to say in reference to this rule; nothing in reference to Mr. Stanton. I think that this is a very important rule; and that it is very important that it should not be adopted. I think that the rule would virtually stop all inquiry. If one offers a resolution for inquiry on any subject it is to be referred to a committee. That committee may not meet for a week after the member makes the motion; and then, after the information is obtained, it may be another week before the report can be made; and thus ten days or a fortnight will elapse necessarily, and the time and the occasion for which the information is wanted will have passed.

But the important objection to this rule is, that it strikes at a most valuable principle. I agree with the Senator from Maine that the Departments of this country have generally been managed with integrity and care; and I believe that it is in some degree attributable to the fact that they are always subjected to this free inquiry on the part of Congress. And if the expense of this supervision and inquiry is, as is said, \$100,000 a year, I believe it secures to this country incidents worth millions a year, and I would not destroy it.

Mr. FESSENDEN. We had better abolish the taxes if we can get our money so easily.

Mr. FRELINGHUYSEN. A principle is worth more than money. You might better abolish the tax bill than abolish the principle which lies at the foundation of this Government, namely, that the President and every Department shall be subject to the inquiry and

free investigation by the representatives of the people. The rule proposed would destroy entirely the principle that the people shall investigate all the departments of this Government, because it would delay the investigation until the occasion had passed, and would be subject to the political opinions or biases of whatever committee it was referred to, and be circumscribed and limited by the question at every turn, "What will it cost?"

Mr. WILLIAMS. I think there is no doubt that these rules must lead to an extended debate; and I move, therefore, that their further consideration be postponed for the present, and that the Senate take up the message from the President which has just now been announced.

Mr. ANTHONY. If we cannot come to a vote on the rules, I have no objection to laying them aside informally for the purpose of having the veto message laid before the Senate. But my opinion is that we are ready to vote on this proposition, and there is no other question to be presented.

Mr. WILLIAMS. I believe there are other amendments to be offered.

Mr. ANTHONY. Let us take a vote on this proposition at any rate. If there be further debate I shall not object to the Senator's motion.

Mr. WILLIAMS. Very well; I withdraw my motion for the present with a view to allow the vote to be taken, if there is to be no further debate.

Mr. ANTHONY. If there is to be further debate, I shall not insist.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Michigan to strike out the proposed fifty-fourth rule.

The amendment was agreed to.

The PRESIDENT *pro tempore*. If no further amendment be proposed, the rules will be reported to the Senate. [A pause.] The Senate, as in Committee of the Whole, has had under consideration "standing rules for conducting business in the Senate of the United States," as reported by the select committee on that subject. These rules are still open to amendment. If no amendment be proposed, the question is on the adoption of the rules as reported from the Senate acting as in Committee of the Whole.

The rules were adopted.

On motion of Mr. ANTHONY, five hundred copies of the rules were ordered to be printed.

#### SUPREME COURT JURISDICTION—VETO.

Mr. WILLIAMS. I now move that the Senate proceed to the consideration of the veto message.

The PRESIDENT *pro tempore*. The message is on the table, and will be read.

The Secretary read as follows:

*To the Senate of the United States:*

I have considered, with such care as the pressure of other duties has permitted, a bill entitled "An act to amend an act entitled 'An act to amend the judiciary act passed the 24th of September, 1789.'" Not being able to approve all of its provisions, I herewith return it to the Senate, in which House it originated, with a brief statement of my objections.

The first section of the bill meets my approbation, as, for the purpose of protecting the rights of property from the erroneous decisions of inferior judicial tribunals, it provides means for obtaining uniformity by appeal to the Supreme Court of the United States in cases which have now become very numerous and of much public interest, and in which such remedy is not now allowed. The second section, however, takes away the right of appeal to that court in cases which involve the life and liberty of the citizen, and leaves them exposed to the judgment of numerous inferior tribunals. It is apparent that the two sections were conceived in a very different spirit, and I regret that my objection to one imposes upon me the necessity of withholding my sanction from the other.

I cannot give my assent to a measure which proposes to deprive any person "restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States," from the right of appeal to the highest judicial authority known to our Government. To "secure the blessings of liberty to ourselves and our posterity" is one of the declared objects of the Federal Constitution. To assure these guarantees are provided in the same instrument, as well against "unreasonable searches and seizures" as against the suspension of the privilege of the writ of *habeas corpus*, unless when, in cases of "rebellion or invasion, the public safety may require it." It was, doubtless, to afford the people the means of protecting and enforcing these inestimable privileges that the jurisdiction which this bill proposes to take away was conferred upon the Supreme Court of the Union. The act conferring that jurisdiction was approved on the 5th day of February, 1867, with a full knowledge of the motives that prompted its passage, and because it was believed to be necessary and right. Nothing has since occurred to disprove the wisdom and justness of the measure; and to modify it as now proposed would be to lessen the protection of the citizen from the exercise of arbitrary power and to weaken the safeguards of life and liberty, which can never be made too secure against illegal encroachments.

The bill not only prohibits the adjudication by the Supreme Court of cases in which appeals may hereafter be taken, but interdicts its jurisdiction on appeals which have already been made to that high judicial body. If, therefore, it should become a law it will, by its retroactive operation, wrest from the citizen a remedy which he enjoyed at the time of his appeal. It will thus operate most harshly upon those who believe that justice has been denied them in the inferior courts.

The legislation proposed in the second section, it seems to me, is not in harmony with the spirit and intention of the Constitution. It cannot fail to affect most injuriously the just equipoise of our system of Government; for it establishes a precedent which, if followed, may eventually sweep away every check on arbitrary and unconstitutional legislation. Thus far during the existence of the Government the Supreme Court of the United States has been viewed by the people as the true expounder of their Constitution, and in the most violent party conflicts its judgments and decrees have always been sought and deferred to with confidence and respect. In public estimation it combines judicial wisdom and impartiality in a greater degree than any other authority known to the Constitution; and any act which may be construed into or mistaken for an attempt to prevent or evade its decisions on a question which affects the liberty of the citizens and agitates the country cannot fail to be attended with unpropitious consequences. It will be justly held by a large portion of the people as an admission of the unconstitutionality of the act on which its judgment may be forbidden or forestalled, and may interfere with that willing acquiescence in its provisions which is necessary for the harmonious and efficient execution of any law.

For these reasons, thus briefly and imperfectly stated, and for others, of which want of time forbids the enumeration, I deem it my duty to withhold my assent from this bill, and to return it for the reconsideration of Congress.

ANDREW JOHNSON.

WASHINGTON, D. C., March 25, 1868.

The PRESIDENT *pro tempore*. The question is, Shall the bill returned by the President of the United States, with his objections, pass, the objections to the contrary notwithstanding.

Mr. DAVIS. Mr. President, I ask that the consideration of the message be set for tomorrow, at one o'clock. The Senate will recollect the circumstances under which this bill passed. There was no opportunity to debate it in the Senate. I waited here until nearly five o'clock that day, when the Senate went

into executive session. I had given a general attention to all the bills having reference to the Supreme Court which were pending in the two Houses; and it was my desire, as one member of the Senate, to express my opposition to the measure contained in the House amendment to this bill as it originally passed. While the Senate was in executive session, I think, information of the adoption of the House amendment to this bill was communicated to the Senate. The Senate came out of executive session into open session, and then the bill was taken up after most of the Senators or a large number of them at least had left, not suspecting that any business of that importance would be taken up at so late an hour in the evening.

In view of these circumstances, I hope that the honorable Senator from Oregon will consent that this matter be made the special order for to-morrow at one o'clock, with a view to give Senators who are opposed to the measure some opportunity of investigating it. I have had no such opportunity myself. I have had no information, and no belief until this morning that there would be a veto message of the bill; and therefore I have made no particular research, and have not indulged in such particular reflection as would justify me in claiming the attention of the Senate upon it at this time. I should like to have an opportunity to be heard upon the measure. It is one of great importance, and I think it deserves mature consideration.

Mr. BUCKALEW. Mr. President—

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that the further consideration of the bill and message be postponed until to-morrow at one o'clock.

Mr. BUCKALEW. If there is no opposition to that motion I do not care to speak at this time.

Mr. WILLIAMS and Mr. STEWART. There is opposition.

The PRESIDENT *pro tempore*. The question is on the motion to postpone.

The question being put, it was declared to be carried in the negative; and a division was called for.

Mr. HENDRICKS. Mr. President, before the division is had, I wish to say one word. The question is on the proposition to postpone the consideration of this measure until to-morrow. I wish merely to say that I hope that will be done. As one member of the Senate, I have, in one way or other, not been able to examine this bill as thoroughly as I would desire. All Senators will concede that it is an important measure; and it is known, as has been suggested by the Senator from Kentucky, that the bill itself passed the Senate under rather unusual circumstances, under such circumstances that our attention was not called to it. It excited no debate on its passage; and now the granting of one day to look into it is certainly not hazardous to the public interests. Perhaps it may be proper for me to suggest that it is understood that the Supreme Court of the United States has declined to take any action upon any case that is now before it under the act proposed to be repealed until the will of Congress upon this particular bill shall finally be known. If that be so, and I suppose there is no doubt about it, there is no occasion to hurry the consideration of the bill; and it leaves just one single question for the Senate to consider upon this particular application; and that is, whether there shall be such time given to Senators to examine the measure as is ordinarily allowed on important questions.

Mr. WILLIAMS. I suppose the Senators are aware that there is very little time in which to consider matters of legislation before the impeachment trial commences. Although there is nothing, as it seems to me, involved in this bill except simply repealing an act that was passed last year affecting the appellate jurisdiction of the Supreme Court—a matter which is clearly within the rightful power of Congress—yet it is of such a nature as to open a wide and boundless field of discussion if Senators are disposed to occupy that field. I

am not, of course, disposed to press this matter unreasonably; and I will now propose that if a vote can be taken to-morrow upon the question—

Mr. JOHNSON. Or the next day.

Mr. WILLIAMS. No; I say to-morrow. If we can have any assurance that the vote can be taken to-morrow I do not know that I shall have any objection to its going over.

Mr. SAULSBURY. Say the day after to-morrow. I wish to be heard very briefly. There is no purpose of delay.

Mr. JOHNSON. I am sure that the honorable member from Oregon has no desire to force this bill through to-day, if he is satisfied that the public interest does not require it, and if he is further satisfied that those who think the bill ought not to pass sincerely desire an opportunity of investigating it, and I presume he is satisfied upon both points. I speak knowingly when I say—and I do not regret, for one, that the Supreme Court have come to that determination—that as long as this bill is pending it is not their purpose to dispose of a case which has already been argued, and which is before the court under the authority of the act which the bill upon your table proposes to repeal. It has, I know, been urged upon them that they should disregard the pendency of this measure and proceed to announce whatever decision they may have formed, if they have formed any, upon the case which is before them; but they have determined, as they have done upon former occasions, not to pursue such a course. I recollect, certainly, a case of that description, and the honorable member from Nevada [Mr. STEWART] will, when I remind him of it, agree, I think, that my recollection of it is accurate.

During the pendency of the territorial government of Nevada cases were decided in the superior court of the Territory, and brought up, as they could be by the law at that time, to the Supreme Court of the United States. While they were pending in that court the Territory became a State, and was admitted into the Union as a State. The law admitting it as a State did not provide for the continuance of the cases that were before the Supreme Court of the United States upon writs of error prosecuted to the territorial court or appeals from that court. There were one or two cases of very great importance. I think the honorable member from Nevada was counsel in one of those cases, and he or his associate counsel made a motion in the Supreme Court to dismiss the cases then pending upon writ of error to the territorial court, upon the ground that there was then no Territory of Nevada, and that the law under which the State had been admitted into the Union did not provide for the continuance of those cases. It was very evident, as I thought at the time—I was not counsel on either side—that the dismissal must have been ordered, and I have no doubt they would have been dismissed if the decision were then pronounced. They involved a large amount of property, as I understood; and application was made to Congress, or action was proposed without any application by some member of this body, and, perhaps, by myself, to cure what we supposed would be the injustice of dismissing the cases under the circumstances by passing a law giving the court jurisdiction to decide upon them. The measure was pending here for some time.

I think the honorable member from Nevada opposed it upon constitutional grounds. I endeavored to satisfy the Senate, and, as the result proved, the Senate was satisfied, either because of what I said or of what others said, that it had authority to pass such a law, and the law was passed. The court during the whole of that period were ready to deliver an opinion sustaining the motion to dismiss, but they held up that decision until Congress should have an opportunity of deciding whether jurisdiction should continue or not. The honorable member from Nevada, in the Supreme Court, either by himself or his associates, argued against the constitutionality of that

legislation, but the court sustained it, and the motion to dismiss was overruled, and the cases went on to be heard upon their merits. How they were decided I do not recollect.

Now, if the court thought, as, in my judgment, they very properly thought, that it was their business to await the determination of a measure of that kind then pending in Congress, it was equally their duty—and I am glad that they so considered it—to forbear deciding the case now before them under the provisions of the act of 1867 when they knew that there was pending before Congress, in point of fact, a law passed by Congress repealing the act under which the case came before the Supreme Court, and they have withheld their decision. That being so, there can be no necessity whatever for hastening the determination of Congress upon the particular measure now before us. No possible mischief can result from postponement.

Then, if the sincerity of those who are opposed to the particular measure was not (as I am sure it will be) admitted, the next objection would be that the debate would be unnecessarily prolonged. I am satisfied that such will not be the case; and, speaking for myself, I know that if I take any part in the debate it will not be to consume time. I am satisfied that no member of the Senate who thinks that the act ought not to be passed will address the Senate merely for the purpose of delay and to prevent the majority, if there should be a majority for the measure, from expressing their opinion in a reasonable time.

I submit, therefore, to the honorable member from Oregon, that we may come to an understanding that the vote upon this measure shall be taken on the day after to-morrow. We do not meet until twelve o'clock, and the hour until one is, or ought to be, occupied with the usual business of the morning hour; and then there may be other business pending during a portion of the day, so that the arrangement I propose will afford a very short time to enable Senators who desire to participate in the discussion to take part in it. I feel some desire to do so myself, but I am not now prepared to do so in a way in which I should like to appear before the Senate in discussing a measure of this kind, if I discuss it at all. I hope, therefore, that the proposition will be acceded to—that the measure shall be passed over until to-morrow, with the understanding that the day after to-morrow it shall be decided.

Mr. BUCKALEW. Mr. President, when this bill came back from the House of Representatives with the second section as an amendment, it has already been stated that the Senate had arrived about at the hour of its adjournment; it was near five o'clock; a number of Senators had left, and those who remained were fatigued and anxious to adjourn. It was under these circumstances that, upon the reading of this amendment, I called attention to its character and submitted a motion to postpone the question until the following day. Very much to my surprise, sir, that motion was rejected; postponement was refused, and the amendment was presently put to a vote. I asked for an explanation of it from the honorable Senator who had the bill in charge. He made none, except simply to state that it was an amendment repealing the act of 1867 and restoring or leaving the law to stand on the act of 1789. I asked for time, that the law which it was proposed to repeal might be read. That opportunity or that time was not afforded me.

All that I understood about the amendment was that it was one to repeal the jurisdiction of the Supreme Court, so far as appeals from the circuit courts were concerned in cases affecting personal liberty. The effect of the amendment upon the great case pending in the Supreme Court I did not fully understand, although I supposed it had application to it.

Mr. WILLIAMS. Will the Senator permit me to say a word?

Mr. BUCKALEW. Certainly.

Mr. WILLIAMS. This discussion has sprung up on a proposition, as I understand, as to when



the vote on the measure shall be taken. I propose that the bill shall go over until to-morrow, if that is desired by Senators, with the understanding that a vote shall be taken to-morrow at five o'clock. I do not make this proposition with reference to any action by the Supreme Court. I am not advised particularly as to what the Supreme Court do or do not intend to do; and, of course, I shall not be governed in my action by that consideration. But it will be necessary, if this bill is passed by the Senate, that it shall go to the House of Representatives, where it must, of course, be more or less discussed; and I wish so to provide that, if possible, it may be passed through both Houses this week, because the next week will be taken up with other business, and the legislation of the country cannot proceed. If that will be satisfactory—and I am sure the friends of this bill will give the gentlemen on the other side a very large proportion of the time in which to discuss the subject—I propose to let the bill go over until to-morrow, with the understanding that the vote shall be taken by five o'clock. I would agree to continue its consideration for a longer time if I thought the action of the other House could be had before the commencement of next week.

Mr. BUCKALEW. I will come to that question in a moment, Mr. President. The statement has been made, and very extensively published in the newspapers of the country, that this amendment was voted on in the House of Representatives, and was concurred in by the Senate, without any person understanding it in either House except gentlemen who were concerned in proposing the amendment, and who desired its enactment. I have stated the facts as they took place in the Senate to show that, so far as I was concerned, there was no lack of vigilance in relation to this measure; that I did all I could to procure delay upon it in order that it might be thoroughly examined; and I called for the yeas and nays on the question of concurring in the amendment, and recorded myself against it; but as the question came up just at the time of adjournment, when the Senate was thin and fatigued, and I, myself, exhausted, it was impossible at that time to enter upon the debate; and by the refusal of the Senate to give me any time whatever for its consideration it was impossible that any gentleman should enter upon its discussion. At all events, so far as I am concerned, I disavow altogether, for myself, the imputation which has been so extensively published throughout the country, that members of the Senate who are now opposed to the enactment of this particular measure were in fault, either with regard to the attention which they bestowed on the subject or with regard to any effort to procure its due consideration.

Now, sir, the measure having passed under the circumstances I have mentioned, I am not at all disposed to become a party to an agreement such as the Senator from Oregon speaks of, now, before anything has been done in the way of debate upon the bill, to fix an arbitrary limit for debate under circumstances unprecedented, as far as I know, in the history of measures in this body. After debate has gone on upon a measure to a certain extent, when members of the Senate think it has been sufficiently debated, it is occasionally our habit by mutual understanding to fix some time when the vote shall be taken. Now, the Senator asks that this shall be done before we enter upon its consideration at all. I object to the introduction of this new practice, not so much because I desire delay upon this bill; I do not intend to speak upon it at length, and I do not suppose the gentlemen opposed to it generally intend to speak at length or to occupy any unreasonable time; and, so far as I understand their views, they will be perfectly content to conclude this subject at all events within the next two sittings of the Senate. That will afford ample opportunity to send the bill to the other House on Friday.

There will be, doubtless, a Saturday session of both Houses, so that there will be no lack,

no want of time for disposing of this matter. My desire is that we shall simply postpone it for the present, and let the debate go on to-morrow and come to an end to-morrow, if an end can then be attained; and, if not, that it shall at all events be concluded on the day following within reasonable time for final action, and this ought to be done certainly in the case of a measure which underwent no debate in either House when it was under consideration originally.

Mr. SUMNER. Mr. President, it is well known that there is important business before the Senate of an executive character; and I think, perhaps, in the present state of this question, there may be a compromise between both sides by proceeding with the consideration of executive business with the understanding that this measure shall be in order at one o'clock to-morrow to be proceeded with; and I would add, also, with the further understanding that a vote should be reached some time in the course of to-morrow afternoon, say by four or five o'clock. I will move, therefore, that the Senate now proceed to the consideration of executive business.

Several SENATORS addressed the Chair.

The PRESIDENT *pro tempore*. The motion of the Senator from Massachusetts is not a debatable motion under the rules which have just now been adopted.

Mr. HENDRICKS. I do not wish to debate it, but I wish, as a matter of justice, perhaps, to the Senator from Massachusetts, to say that I do not vote to go into executive session with the understanding that we shall come to a vote on this other question to-morrow.

Mr. TRUMBULL. I hope, then, we shall not go into executive session.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts, that the Senate proceed to the consideration of executive business; and that motion must be decided without debate under the present rules.

The motion was not agreed to; there being, on a division—yeas 19, noes 21.

Mr. TRUMBULL. Mr. President, as the Senators who seem to be opposed to the consideration of this subject are unwilling to have any understanding in regard to taking the vote and protest against any such understanding, I see no other way but to proceed with the consideration of the measure. I wish, however, in the outset, to say one word in reply to the Senator from Maryland [Mr. JOHNSON] and the Senator from Pennsylvania [Mr. BUCKALEW] as to the importance of this measure. In my judgment there is no such great importance to be attached to it. It is a bill of very little importance, in my judgment; and I wish to say to the Senator from Maryland that the Supreme Court has not decided that any case is pending before it under the act of February 5, 1867. No such decision has been made, nor do I believe any such decision ever would be made.

The second section of this act repeals so much of an act passed a year ago as authorizes appeals from the circuit courts to the Supreme Court in a certain class of cases, of which class no such case is in the Supreme Court, in my judgment. We had lived ever since the formation of the Government down to 1867 without any law upon the statute-book authorizing an appeal from a circuit court to the Supreme Court in *habeas corpus* cases generally; there was a special provision for an appeal where a foreigner was arrested and claimed some right under the law of nations, by a statute passed, I think, in 1842. The act of 1867 was not the first act which authorized writs of *habeas corpus* to be issued by the United States courts. The act of 1789 authorized the issuing of all such writs in cases where persons were deprived of their liberty under authority or color of authority of the United States. Why, then, was the act of 1867 passed? It was passed to authorize writs of *habeas corpus* to issue in cases where persons were deprived of their liberty under State laws or pretended State laws. It was the object of the

act of 1867 to confer jurisdiction on the United States courts in cases not before provided for, and it was to meet a class of cases which was arising in the rebel States, where, under pretense of certain State laws, men made free by the Constitution of the United States were virtually being enslaved, and it was also applicable to cases in the State of Maryland where, under an apprentice law, freedmen were being subjected to a species of bondage. The object was to authorize a *habeas corpus* in those cases to issue from the United States courts, and to be taken by appeal to the Supreme Court. Now, there is no such case as that pending in the Supreme Court, and there has been no such case pending in the Supreme Court.

That was the object of the statute of 1867; and it is proposed to repeal that provision. When the Senator from Maryland says that this is repealing a law which gives the Supreme Court jurisdiction of a case now before it, and a great case, he assumes the very point in dispute. There is no such case before the Supreme Court, in my judgment, nor has the court decided that there is any such case.

Now, sir, it seems to me that this is not a bill of such vast importance as to require any great delay. Nor is it true, as the Senator from Pennsylvania assumes, that the Senate was very thin when the bill passed. The Senator from Pennsylvania called attention to this bill, and he called for the yeas and nays, and the record shows that thirty-eight Senators voted on the call of the yeas and nays. I think that is about as full as the Senate ordinarily is; larger, I presume, than the average votes in the body. Thirty-two Senators voted for it and six Senators voted against it. The President of the United States in his message—I do not propose to go into the discussion of it at this time—regards the passage of this bill as dangerous to the liberties of the people! Why, sir, the liberties of this people had been pretty well preserved for three quarters of a century without the act of February 5, 1867, in any of its provisions; and all the securities that were ever afforded, until within the last year, are left just as they always have been.

I hope, sir, we may go on with the consideration of this subject now, unless there can be some understanding that we shall get a vote to-morrow.

Mr. DOOLITTLE. Mr. President, my honorable friend from Illinois seems to think that there is no importance in this measure; that it affects nothing and nobody; that there is no case pending in the Supreme Court which this act will affect; that it is a mistake and a delusion on our part to suppose that there is any such case there, under the law of 1867. Well, sir, if he be correct in this, why the great haste for pressing this bill? What does it mean? If there is no case in the Supreme Court to which it will apply, if there is no importance in this measure, why is it pressed?

Sir, I apprehend that the honorable Senator from Illinois is altogether mistaken in the view which he now presents; that this is a very important measure, and that there is a very important case pending in the Supreme Court under the act which it is now proposed to repeal. The honorable Senator himself, as counsel in that court, if I am correctly informed, with other counsel, made a motion to dismiss a case pending in the Supreme Court, or alleged to be pending, under this act, and the court refused to dismiss it. I think the presumption is, when the court refuse to dismiss it and the ground urged for dismissal was that they had no jurisdiction, that the court decided that they had jurisdiction of the case, and that there is a case pending there. We all know, the whole world knows, that this case of McCordle is pending in the Supreme Court, brought up on appeal, under the act of 1867, from the circuit court of Mississippi, and that that case has been argued, argued by eminent counsel, and that it is pending.

It is important because the case involves the constitutionality of the reconstruction acts which confer upon military tribunals the power

to try men in civil life without the presentment of a grand jury and without trial by a petit jury, as is required by the Constitution of the United States. It involves the constitutionality of these acts which have been passed by Congress. If there be no such case before the court why does the honorable Senator desire to pass this bill to take away jurisdiction of a case which does not exist? If the honorable Senator does not believe it is an important question to determine whether these acts be or be not constitutional, if he has faith to believe that they are constitutional, and that the court will decide that they are constitutional, why undertake to take away the jurisdiction of the court?

Mr. President, the truth is, and we may as well look it square in the face, it is because men know that these acts will be decided to be unconstitutional. That is the reason why they desire to take away from the court the consideration of the question. The matter has been considered; it has already been argued on both sides; and the court stands ready to decide one way or the other, unless Congress interfere and take away its power to decide. Why this haste to take away the power? Is it because you know that the court will decide your acts to be unconstitutional?

Mr. WILSON. I desire to ask a question of the Senator, if he will yield?

Mr. DOOLITTLE. Certainly.

Mr. WILSON. The Senator says that Senators know that the Supreme Court will decide certain acts to be unconstitutional. How does the Senator from Wisconsin know that?

Mr. DOOLITTLE. I have not said that. My honorable friend is mistaken. I say it is because honorable Senators fear that the court will so decide that they make this effort to take away its jurisdiction.

Mr. WILSON. I understood the Senator to say that we knew it.

Mr. DOOLITTLE. I did not intend to say that Senators know what the Supreme Court will decide. If I said that, it is more than I intended to say. I say it is because they fear it; because they know that the constitutionality of the measures is devolved, and they fear that the decision will be against their constitutionality that they make this effort to take away the jurisdiction. No other reason can be given.

Mr. STEWART. Mr. President—

Mr. TRUMBULL. Will the Senator from Nevada allow me to read a single sentence from the opinion of the court to show that the Senator from Wisconsin has incorrectly stated it?

Mr. STEWART. Certainly.

Mr. TRUMBULL. I understood the Senator from Wisconsin to say that the Supreme Court had decided, on the motion to dismiss an appeal, that the case referred to was a case under the act of 1867.

Mr. DOOLITTLE. No, sir. I said they refused to dismiss it, and therefore I thought the fair presumption was that the court were of opinion that they had jurisdiction of it.

Mr. TRUMBULL. Well, sir, I will read what the court itself said, and that will answer the Senator's presumption:

"Another objection to the jurisdiction of this court on appeal was drawn from the clause of the first section, which declares that the jurisdiction defined by it is 'in addition to the authority already conferred by law.'"

"This objection seems to be an objection to the jurisdiction of the circuit court over the cause rather than to the jurisdiction of this court on appeal."

"The latter jurisdiction, as has just been shown, is coextensive with the former. Every question of substance which the circuit court could decide upon the return of the *habeas corpus*, including the question of its own jurisdiction, may be revised here on appeal from its final judgment."

"But an inquiry on this motion into the jurisdiction of the circuit court would be premature. It would extend to the merits of the cause, in that court."

The point was that that court had no jurisdiction under the act of 1867; and the Supreme Court expressly say that that is a question to be decided with the merits of the cause, and they do not decide it on this motion.

Mr. DOOLITTLE. I understand the Supreme Court to say that as to the jurisdiction

of the court below they do not now assume to pass on that until the case comes up for hearing; but, as to their own jurisdiction, they do say that they have a right to review the whole case and decide whether the court below had jurisdiction or not, as well as every other question involved in the case.

Mr. TRUMBULL. Let there be no misunderstanding between the Senator from Wisconsin and myself about the point. The court expressly refused to decide whether the circuit court had jurisdiction under the act of 1867, and that is the very point. If the circuit court did not have jurisdiction under the act of 1867, then, of course, the Supreme Court had no jurisdiction, because the two jurisdictions are coextensive. They refused to pass upon that question expressly. Before the act of 1867 no appeal lay in a *habeas corpus* case to the Supreme Court. It was the act of 1867 that gave the right to appeal to the Supreme Court. Under the act of 1789 no such thing as an appeal in a *habeas corpus* case to the Supreme Court was ever known, and so the court had often decided that an appeal did not lie. Then the question was whether in this particular case the circuit court had jurisdiction under the act of 1867 or under the act of 1789, and the Supreme Court said they would not decide that until the merits of the case came up. Now, suppose it appears on the merits that the jurisdiction in the particular case referred to was under the act of 1789, then, as a matter of course, the Supreme Court has no jurisdiction, or the circuit court either, under the act of 1867, and that is an end of the case; and that is just what the court did not decide on this motion.

Mr. DOOLITTLE. That confirms just what I stated. The Supreme Court decided that they had jurisdiction of the decision of the court below and the right to review it, and review the whole of it; but the question as to whether the court below had jurisdiction of the case or not they would not decide until they came to decide on the merits.

Mr. STEWART. I suppose, in considering a law of this character, Congress must place it on grounds of public policy and public convenience, as they do all laws. If the act of February 5, 1867, can be construed so as to give appellate jurisdiction in *habeas corpus* cases generally to the Supreme Court, it certainly must be admitted by all to have been a great blunder. It must have been an inadvertence; for while the Supreme Court is two or three or four years behind with its business and the vast interests of the country there are delayed as they are, and the rights of litigants practically denied, to load it with business of this character that never has been thought of before to the exclusion of other business certainly is legislation that should be at once corrected. I think the McCord case, which has been referred to, is a case in point to illustrate the necessity of this proposed legislation. Here is a case where a party is out on bail, where there is not the slightest inconvenience to him personally; and that case is advanced and several weeks of the term of the court exhausted in long arguments upon a matter of very trifling importance in itself to the exclusion of all other business. It does seem to me that if we have loaded the court in that way we should proceed at once to relieve it in some mode of so much labor.

Mr. HENDRICKS. I wish to ask the Senator from Nevada a question. He states that the court is overburdened with this class of business. How many cases have come into the Supreme Court under this law?

Mr. STEWART. Not very many under this law, but a great deal of time has been occupied.

Mr. HENDRICKS. Do you know of any but one?

Mr. STEWART. I only know of one; but I have heard of several that are in process of preparation for this purpose.

Mr. HENDRICKS. One case, then, burdens the court?

Mr. STEWART. But it consumes time.

Mr. FESSENDEN. Will the honorable

Senator from Nevada give way for a motion that the Senate proceed to the consideration of executive business? Our friends on this side of the Chamber are perfectly acquainted with the merits of this question and very anxious to vote upon it to-night, while Senators on the other side are not acquainted with it and ask for time. We insist upon going on now, and then we take to ourselves nearly all the time. If that course is to be pursued I shall move an executive session, so as to give time to gentlemen on the other side.

Mr. STEWART. I will yield the floor in a moment. I did not intend to occupy any considerable time. I was about through. I simply wanted to call attention to the fact that we had got along very well since the foundation of this Government—since 1789—without calling on the Supreme Court to attend to this class of business; and in the first instance when it has been undertaken we find that the regular business of the court has been set aside and several weeks occupied by a case of this kind. I think, in view of this fact, it is very proper that we should retrace our steps and correct our mistake, if, indeed, the act of 1867 confers the jurisdiction which it is claimed that it does confer, which seems to me exceedingly doubtful.

Mr. SUMNER. I now renew my motion that the Senate proceed to the consideration of executive business.

Mr. WILLIAMS. I hope we shall go on with this bill.

Mr. HENDRICKS. Is this question debatable?

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) It is not debatable.

Mr. HENDRICKS. If the Senator from Massachusetts will withdraw his motion for a moment I will make a proposition.

Mr. SUMNER. I withdraw it for that purpose.

Mr. HENDRICKS. We expect, as far as the minority here are concerned, to have a reasonable hearing upon this question. We expect that not as a matter of favor from the Senate, but as a matter of right and as becoming the dignity of the body itself. But we do not wish to protract debate unreasonably; there is no such purpose. We know very well that there is no importance in hurrying this bill through. We know that there is no law enacted by the majority here which is in danger in the Supreme Court, and that this bill could lie, without any danger to any political party or to the country, for three months. The Supreme Court is to conclude the arguments before it on Tuesday next; no new case can then come in to be considered; but, although we know that, we are perfectly willing, as far as I am aware of the judgment of the minority, to come to a vote at a reasonable hour. Senators can see something like what is just about the time to be allowed for this debate from what has already occurred.

It is not just for three or four or five of us on this side or for a dozen Senators on this side to consume all the time. Of the hour that has been already consumed on this subject three fourths of it has been consumed on the side of the majority. We do not wish to take three or four hours and say that that is sufficient. It is not sufficient. It is not right. Now, I am willing to say that we shall come to a vote on the day after to-morrow; I understand all the gentlemen on this side are willing to say that; and if we are not allowed any reasonable portion of the time for debate we shall suffer by it if there is any suffering on the subject. We are willing to say that the vote shall be taken at a reasonable hour on the day after to-morrow, at four o'clock, for example, or, if we can get through with the fair debate to-morrow, we are perfectly willing to come to a vote to-morrow; we have no desire to postpone it. Now, if Senators are satisfied to agree to that—and I think it is a fair proposition—let it be so.

Mr. SHERMAN. I do not wish to interfere with any understanding about this matter; but

I desire to inform the Senate that the House of Representatives have acted upon certain amendments to what is called the manufacturers' bill, and I may have to ask the Senate for a little time to-morrow in regard to them and to take the sense of the Senate on one or two of the amendments. It is vitally important that that bill should be acted upon in its final stages this week. I am also charged with a little bill in regard to deposit banks, which I think will excite no opposition.

Mr. HENDRICKS. Does the Senator from Ohio think the amendments to the tax bill are likely to excite much debate? Are they material?

Mr. SHERMAN. Not generally; but I think there is one that is material. There is one which relates to whisky, and that may consume some time, because that subject always excites discussion.

Mr. HENDRICKS. It is suggested by some of the Senators near me that we are willing to sit a little later if that bill shall come up, so that I think there is no doubt that we shall reach a vote the day after to-morrow at four o'clock; and I shall hope to-morrow, and I think it probable that we can reach a vote to-morrow.

Mr. SUMNER. Why not to-morrow have an evening session?

Mr. HENDRICKS. Oh, no; that is unnecessary.

Mr. SUMNER. I do not know that. The Senator from Ohio has already indicated two or three measures that he desired to have considered.

Mr. WILLIAMS. I think it is quite unnecessary to take any more time in talking about an arrangement. So far as I am concerned, I will not agree to specify the day after to-morrow at four o'clock for the purpose of taking this vote. If the Senators can get through with the discussion of that question to-morrow I shall not object to allowing to-morrow.

Mr. HENDRICKS. I will say, with all kindness to the Senator from Oregon, that it is not my opinion that he will facilitate the passage of this bill by his refusal to accept terms that everybody knows are reasonable and fair.

Mr. WILLIAMS. Very well, sir; you can take your own course about that.

Mr. HENDRICKS. Yes, sir; and you can take your course.

Mr. WILLIAMS. I propose to do that.

Mr. HENDRICKS. Here is a bill that was gotten through the Senate in a mode that I hope never to see repeated in the Senate again, whatever party is in power, without an opportunity to debate the measure not explained, though it is, as we think, very material in its character; and when we had no opportunity to discuss it upon its passage, now that it has received the veto of the President we ask a reasonable time to be heard. We ask only a reasonable time to be heard, and the Senator is not willing that we should have it.

Mr. WILLIAMS. If there is no limitation put upon debate in the Senate by agreement I ask the honorable Senator from Indiana if he has not an opportunity to discuss the bill. What I say is that I do not propose to agree to the limitation upon debate which he proposes. Now, of course, if I do not agree to his proposition, he has all the time that anybody can possibly ask in which to discuss the bill.

Mr. HENDRICKS. That has the appearance of liberality without being liberal. What is the Senator's proposition? That we shall go on to-night with the debate; right now, when he knows that this bill has never been printed. We have never had an opportunity to read it until it came back with the President's veto. It passed here without being printed, and was not printed after it passed. I say that I have never read the bill until it came back with the President's veto. Now, for the Senator to say that we can go on with the discussion is a proposition that has no liberality in it, in my judgment.

The PRESIDING OFFICER. Is the Senate ready for the question on the motion of the Senator from Maryland, to postpone the further consideration of the bill until to-morrow?

Mr. JOHNSON called for the yeas and nays, and they were ordered.

Mr. GRIMES. I wish to know what became of the motion of the Senator from Massachusetts, that the Senate proceed to the consideration of executive business.

The PRESIDING OFFICER. That was withdrawn, and the question now is on the motion to postpone.

The question being taken by yeas and nays, resulted—yeas 15, nays 31; as follows:

YEAS—Messrs. Bayard, Buckalew, Davis, Dixon, Doolittle, Fowler, Grimes, Hendricks, Johnson, McCreery, Norton, Patterson of Tennessee, Saulsbury, Vickers, and Willey—15.

NAYS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Connors, Corbett, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomerooy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, and Williams—31.

ABSENT—Messrs. Anthony, Cragin, Drake, Morton, Sprague, Wade, Wilson, and Yates—8.

So the motion to postpone was not agreed to.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding.

Mr. DOOLITTLE. I move that the veto message be printed for the use of the Senate.

The PRESIDING OFFICER. The motion can be entertained if there be no objection.

Mr. EDMUNDS. I object.

Mr. DOOLITTLE. I insist on the motion. Surely one objection does not carry over a motion to print the message.

Mr. EDMUNDS. The motion is not in order.

Mr. DOOLITTLE. Why?

Mr. TRUMBULL. Another subject is up.

Mr. EDMUNDS. I shall have no objection afterward.

The PRESIDING OFFICER. The motion of the Senator from Wisconsin is not in order because another motion is pending.

Mr. DOOLITTLE. What motion?

The PRESIDING OFFICER. The motion that the bill pass, notwithstanding the objections of the President.

Mr. DOOLITTLE. I move, then, that the question be, for the moment, laid aside, so that the message can be printed. I suppose the discussion will go on to-morrow, and it ought not to go on until we have the message printed upon our tables. I propose to lay it aside for the moment until we decide to have the message printed.

The PRESIDING OFFICER. The Senator from Wisconsin moves that the pending and all prior orders be postponed for the purpose of proceeding to the consideration of the motion made by him.

The question being put, the motion was declared to be not agreed to.

Mr. DOOLITTLE. I must ask for the yeas and nays on that question. Surely the message ought to be printed for our use.

The yeas and nays were ordered.

Mr. SHERMAN. There will be no objection to printing it to-morrow.

Mr. ANTHONY. What is the question?

The PRESIDING OFFICER. The question is on the motion of the Senator from Wisconsin, to postpone all prior orders and proceed to the consideration of the motion made by him to print the message.

Mr. ANTHONY. There is no objection to that, I suppose.

Mr. SUMNER. The order to print can be made by unanimous consent. There is no need of taking time with that question.

Mr. HENDERSON. I rise to make an inquiry. Is it necessary, under circumstances such as exist now, to postpone the consideration of the bill and all other pending measures in order to print the message? I thought the message was before the body now. It is hardly worth while to suspend the consideration of the

bill in order to receive a motion to print the message.

Mr. ANTHONY. But the printing of the message was objected to, and of course the Chair was then obliged to entertain the motion. I think, if the Senate understands the question, nobody will object to printing the message.

Mr. HENDERSON. Certainly not.

Mr. DOOLITTLE. All I asked for was that we have an order to print the message.

The PRESIDING OFFICER. The Chair asked if there was unanimous consent to that order and objection was made, and then a motion was made to postpone the pending business to allow the order to print to be received.

Mr. HOWE. Does it make any difference to my colleague or any one else whether the order to print is made now or half an hour later?

Mr. DOOLITTLE. I do not suppose the bill will be disposed of in half an hour.

Mr. HOWE. Does it make any difference whether the order to print is made now or hereafter?

Mr. DOOLITTLE. I ask for an order to print. I do not ask that the consideration of the measure be postponed now. All I ask at present is an order to print, so that we can have a copy of the message on our tables. I should like to see it.

Several SENATORS. There is no objection to that.

The PRESIDING OFFICER. If there be no objection, the motion made by the Senator from Wisconsin will be entertained. The Chair hears no objection.

Mr. TRUMBULL. I should like to know what will be the effect of an order to print? Will it take the matter from the Senate? We do not want to send the bill away.

The PRESIDING OFFICER. The Chair is of opinion that it does not take the bill from the Senate.

Mr. TRUMBULL. There is no objection to an order to print the message.

Mr. HENDRICKS. I move to print the bill with the message. I should like to see it. The bill has never been printed.

The PRESIDING OFFICER. The bill will be printed with the message without a motion.

Mr. HENDRICKS. That is satisfactory.

The PRESIDING OFFICER. Is there any objection to entertaining the motion made by the Senator from Wisconsin? The Chair hears no objection. The question is, Shall the order to print this message be entered? The Chair hears no objection, and the order will be entered.

Mr. DOOLITTLE. The bill and message together? ["Certainly."]

The PRESIDING OFFICER. The question now is on the passage of the bill, the objections of the President to the contrary notwithstanding. Is the Senate ready for that question. ["Question; question."] The question must be taken by yeas and nays.

Mr. JOHNSON. What is the question?

The PRESIDING OFFICER. The question is on the passage of the bill, the objections of the President to the contrary notwithstanding.

Mr. JOHNSON. Mr. President, I am in no condition to discuss the question which the measure before us involves. I understood the honorable Senator from Oregon and those who agree with him on the other side of the Chamber as being willing that the subject should be postponed until to-morrow if there was an understanding that the vote should be taken to-morrow at five or six o'clock. I make the motion now to postpone it, subject to that understanding.

Mr. WILLIAMS. I have no objection to that if the vote can be taken to-morrow.

Several SENATORS. At what hour?

Mr. WILLIAMS. At any time to-morrow before twelve o'clock at night. I am willing to postpone the consideration of this bill until to-morrow.

Mr. JOHNSON. Very well; that is fair; though I would rather have it the next day.



Mr. WILLIAMS. And I will say that it is only because the impeachment trial is about to commence that I insist on the vote to-morrow.

Mr. JOHNSON. I make the motion then, Mr. President, to postpone the bill until to-morrow, with the understanding that the vote upon it is to be had to-morrow.

Mr. EDMUNDS. At what hour?

Mr. JOHNSON. Any hour the Senate may think proper.

Mr. WILLIAMS. Any hour before twelve o'clock.

Mr. EDMUNDS. Say before six o'clock.

Mr. JOHNSON. Say six o'clock to-morrow. We often sit until six.

Mr. ANTHONY and others. That is fair.

Mr. WILLIAMS. I agree to that.

Mr. SUMNER. Then let us proceed to the consideration of executive business.

Several SENATORS. Settle the other matter first.

Mr. JOHNSON. I make the motion that the bill be postponed until to-morrow, subject to that understanding stated, so far as I am concerned.

The PRESIDING OFFICER. The question is on the motion to postpone.

Mr. EDMUNDS. I move to add to that motion, by unanimous consent, "and that the vote on the passage of the bill, notwithstanding the objections of the President, shall be taken at or before six o'clock to-morrow."

Mr. GRIMES. I object to that being incorporated in our record.

Mr. EDMUNDS. All the assurance we now have is that so far as the Senator from Maryland is concerned that result can be reached.

Mr. GRIMES. The understanding has been, I believe, always that where a gentleman makes such a statement, and no opposition is made to it on the part of his political associates, it is regarded as embodying the opinion of that portion of the Senate.

Mr. EDMUNDS. I withdraw my motion to amend, and now I call attention to the observation of the Senator from Maryland, that so far as he is concerned he is willing to take the vote by that time. I do not doubt at all that he will observe it; but I wish to understand from the other gentlemen who are opposed to this bill whether they so understand, or from him, whether he speaks for the others?

Mr. JOHNSON. I have not consulted with gentlemen, but I suppose they would agree to the proposition rather than go on with the debate now. I shall certainly, for myself, consider that if there is no objection made to the understanding on the part of any member of the Senate, they will be esteemed as agreeing to it.

Mr. DAVIS. Mr. President, when such a proposition is made to the Senate publicly, and I do not express my dissent publicly, of course I consider myself bound by it. I would remark, however, that the proposition that the question shall be taken upon this bill to-morrow I am willing to accede to; but I want it distinctly understood that whatever time we choose to appropriate to the discussion of the bill to-morrow, we shall be at liberty so to appropriate it. If we are ready to take the question at two o'clock, be it so; if not, at four; if not ready then, we will go on; but we will take the question some time to-morrow.

The PRESIDING OFFICER. The question is on the motion made by the Senator from Maryland to postpone the further consideration of this bill until to-morrow.

Mr. HENDRICKS. I do not know that I shall object to the proposition of the Senator from Maryland; but in my judgment it is not a good precedent for the Senate. Ordinarily when a proposition to limit debate is made in this body it is after the debate has progressed for perhaps one or two days, when we see what number of Senators desire to express their views, and know within what probable limits the discussion can be brought to a close. Now, without any debate it is proposed to limit the consideration of this bill to one day. It is almost, in the Senate, equal to adopting the

"previous question" of the House, and I regret to see it done. A couple of days would be a fair and liberal opportunity for debate. I do not know that the debate will occupy any considerable time; perhaps not. I consider this an unfortunate precedent, but I shall not object to it now under the circumstances.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maryland, to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

GREATHOUSE AND KELLY.

Mr. VAN WINKLE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelly having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate agree to the amendment of the House, with the following amendment, to wit: strike out the word "five" in the amendment of the House of Representatives, and in lieu thereof insert the word "eight," and that the House agree to the same as amended.

P. G. VAN WINKLE,

A. RAMSEY,

JOHN CONNESS.

Managers on the part of the Senate.

J. F. FARNSWORTH,

T. W. FERRY,

JAMES A. JOHNSON.

Managers on the part of the House.

The report was concurred in.

EXECUTIVE SESSION.

Mr. SUMNER. I now move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, March 25, 1868.

The House met at twelve o'clock. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### FRAUDS IN PRINTING CURRENCY.

Mr. CHANLER. I rise to a privileged question, and move to reconsider the vote by which the House referred to the Committee of Ways and Means a communication from the Secretary of the Treasury in regard to the regulations for the detection of frauds in the printing of postal and fractional currency.

The motion to reconsider was agreed to.

Mr. CHANLER. I move that the communication be referred to the joint Committee on Retrenchment.

The motion was agreed to.

### REMAINS OF HON. W. T. COGGESHALL.

Mr. BANKS. I ask unanimous consent to introduce a bill suggested by Mr. SHELLBARGER, of Ohio, now absent on account of sickness.

There being no objection,

Mr. BANKS introduced a bill (H. R. No. 967) to provide for the removal of the remains of Hon. W. T. Coggeshall, late minister of the United States at Ecuador, to the United States; which was read a first and second time, and referred to the Committee on Foreign Affairs.

### SMALL UNITED STATES NOTES.

Mr. INGERSOLL. Mr. Speaker, I yesterday endeavored to have the House consider a resolution proposing not an expansion of the currency, but an issue of notes in a form suitable to meet the wants of the business community. There is, especially in the West, (and western members who have paid any attention to the subject will bear me out in the statement,) a scarcity of the small denominations, ones and twos, both of the notes of the national banks and the United States legal-tender notes. The resolution proposes to request the Secretary of the Treasury (and he will comply with the request of the House) to issue small notes in exchange for larger ones,

and in making payments authorized by law. We shall thus relieve a very great want of the country. I ask the House to allow me to offer that resolution this morning.

The Clerk read as follows:

Whereas there is a scarcity throughout the country of notes of a small denomination, both of the national banks and of the United States legal-tender notes, especially embarrassing to the people: Therefore,

Be it resolved by this House, That the Secretary of the Treasury be, and he is hereby, requested to issue an amount of United States notes of the denomination of ones and twos sufficient to supply the present deficiency in exchange for United States notes of a larger denomination, and in making payments authorized by law.

Mr. ALLISON. I object. It may take up a great deal of time.

Mr. INGERSOLL. It will take up no time.

The SPEAKER. If this is mandatory it must be a joint resolution.

Mr. INGERSOLL. It is a simple request which the Secretary of the Treasury will heed when we make it.

Mr. GARFIELD. I must object to the resolution unless it is provided that the Secretary of the Treasury shall cancel the notes in lieu of which this issue is proposed to be made.

Mr. INGERSOLL. I agree to that, not that I approve of the cancellation of United States notes, but because it is the best that I can do now.

Mr. HOLMAN. I object if that modification be made.

Mr. INGERSOLL. So do I personally, but I would rather have that than nothing.

Mr. HOLMAN. I object to the resolution with the modification.

Mr. GARFIELD. And I insist on the modification.

Mr. INGERSOLL. I give notice, then, that I will offer this resolution when my State is called.

### MORNING HOUR.

The SPEAKER. The morning hour has now commenced.

Mr. WASHBURNE, of Illinois. What is the regular order of business after the morning hour?

The SPEAKER. The Pacific railroad tariff of freight, on which the gentleman from Iowa [Mr. PRICE] is entitled to the floor.

### EXEMPTION OF MANUFACTURES FROM TAX.

The SPEAKER. The first business in order is the amendments of the Senate to House bill No. 900, reported back yesterday from the Committee of Ways and Means with amendments.

Mr. HOLMAN. I rise to a question of order, that this bill, imposing a tax upon the people, must be first considered in the Committee of the Whole on the state of the Union. I call attention to the last section of the amendments.

The SPEAKER. The gentleman from Indiana makes the point of order that the amendments in the last section contains a tax and must be first considered in the Committee of the Whole on the state of the Union. The Chair overrules the point of order on the ground that it is now made too late. It ought to have been made yesterday when the report was made and received by the House.

Mr. HOLMAN. This is the first reading of the bill.

The SPEAKER. Only the Senate amendments are before the House with the amendments of the Committee of Ways and Means. The gentleman will find that objection to be valid must be made at the time the subject is received.

Mr. HOLMAN. Rule 185 provides that "every such proposition shall receive its first discussion in the Committee of the Whole." These amendments are being read before the House for the first time.

The SPEAKER. The Clerk will read from the Digest, page 15.

The Clerk read as follows:

"This rule is rigidly enforced, so far as relates to amendments offered in the House or in committee, but it not unfrequently happens that bills are re-

ported which are in conflict with it; and as they are usually received by the House and committed without being read *in extenso* the conflict is not discovered until they are considered in committee, when it is too late to make the point."

The SPEAKER. When bills are reported they are constructively read *in extenso*, and the point of order must be made at that time.

The amendments of the Senate and the Committee of Ways and Means were then reported.

Mr. SCHENCK. Mr. Speaker—

Mr. JUDD. By permission of the gentleman from Ohio, I desire to ask the Speaker for information in regard to a parliamentary question. If the House does not concur in the recommendation of the committee to non-concur in the amendments of the Senate, are those amendments then open for amendment?

The SPEAKER. If the House is not acting under the previous question the amendments of the Senate will still be before the House for further amendment.

Mr. SCOTFIELD. I would inquire of the gentleman from Ohio if he designs to give us an opportunity to move to concur in the amendments of the Senate?

Mr. SPALDING. I suppose that is in order; is it not?

The SPEAKER. The Chair will state, in answer to the gentleman from Ohio, [Mr. SPALDING,] that a motion to concur in an amendment has priority.

Mr. SCHENCK. Mr. Speaker, I give notice that I will not yield in the midst of any explanation that I may be endeavoring to give to the House. It is impossible to present bills to the House under such circumstances. I say this with the most entire regard for what is due to members of the House and to the House itself. I have no disposition, nor has the committee any disposition, to unnecessarily restrict legitimate inquiry, and I will answer any such inquiries at the close of my remarks.

Mr. MILLER. I desire to ask the gentleman—

The SPEAKER. The gentleman from Ohio declines to be interrupted, but will answer questions at the close.

Mr. SCHENCK. It is best, perhaps, for the House first to know the position in which we come before it at this time. The committee was desirous to take this bill out of the morning hour with a view of considering it when an opportunity would be had for some three or four hours' debate. The House refused yesterday to permit that; we are now left, therefore, to consider the bill in the morning hour. If we hold the morning hour and run over from day to day through successive morning hours we shall crowd out business which is ready to be presented to the House from other committees. I propose, therefore, acting under this restriction that the House has imposed upon us, to do this: first to explain the bill as briefly as I can in the time that is left of the hour, and to call the previous question before the hour shall end, submitting to any inquiry that may be made in regard to the bill after the explanation submitted on behalf of the committee. After the previous question is sustained, if it shall be, then, in like manner, we propose to allow gentlemen to present their views before the vote is taken, thus securing two hours at least for the consideration of the bill without interfering with the morning hour. I do not know of anything fairer than that.

Several MEMBERS. That is right.

Mr. WASHBURNE, of Illinois. I hope my colleague will withdraw his objection, and let us consider it to-day. We ought to have a continuous session on this bill.

Mr. SCHENCK. I will submit a proposition, that by general consent we go on with this bill until it is disposed of.

Mr. PRICE. What will be the effect of that upon my right to the floor after the morning hour expires on the Pacific railroad bill?

Mr. BANKS. If there can be a session on Saturday for business I have no objection.

The SPEAKER. The Chair cannot predict what will be the action of the House in regard to Saturday, but it requires unanimous consent

to order a session for debate on Saturday; otherwise that day must be devoted to business.

Mr. INGERSOLL. What will be the effect of continuing this debate during the day on the Pacific railroad bill?

The SPEAKER. It will probably come up after the morning hour to-morrow; but a question of privilege may intervene.

Mr. FARNSWORTH. I must object to the proposition.

Mr. SCHENCK. Very well; then I am compelled to go on; and I give notice that before the expiration of the morning hour I shall demand the previous question, so as to obtain action on it to-day.

Now, Mr. Speaker, so far as the bill itself is concerned, it would have been preferred by the Committee of Ways and Means that the bill should have been adopted by the Senate as a clean bill, for reasons which I need not now repeat, because they were fully heretofore explained to the House at the time of the introduction of the bill. The Senate has thought proper, however, to send the bill back to us with certain amendments, thus opening the question whether those amendments shall be agreed to or non-concurred in, or agreed to with amendments, and what else, if anything, the House will think proper to do in regard to the matter of taxation as connected with the bill.

It will be remembered that in the original bill were repealed sections ninety-four and ninety-five of the present law imposing taxes upon manufactures at various grades of percentage, but generally at the rate of five per cent., with the exception of four things contained in section ninety-four, which were reserved from such repeal. Those were gas, distilled oils, certain classes of adulterated wines, and all manufactures of tobacco. The Senate has sent us back the bill without interfering by amendment so far as the three latter subjects are concerned; but, so far as oil is concerned, they have inserted a provision which reduces the tax on distilled oils to one half its present rate. The Committee of Ways and Means recommend to the House not to concur in this amendment of the Senate, and I will state very briefly why. I am not prepared to say in behalf of the committee now just what tax we will impose on oil, although our minds are virtually made up, and our report, so far as that subject is concerned, as constituting a part of the provisions of the general bill which we intend to introduce, is ready. But I will say this: the committee are of opinion that it will not do to relieve distilled oils from all taxation; and that being the conclusion of the committee, they ask this House not to interfere with this subject in this little bill, if they agree with us that oil is one of the subjects to be reserved for taxation, but to take it out from the relief to be given to manufactures, and wait until the general bill covering the whole subject of taxation is introduced, when, as I have before pledged myself in behalf of the committee, gentlemen shall have the fullest opportunity of presenting to the House their amendments and their reasons in support of their amendments, either reducing the tax or taking it off altogether. Distilled oils produce now about five million dollars, and it was because we could get \$5,000,000 from these distilled products of petroleum that we were enabled to come to the conclusion that we might relieve manufactures pretty generally, except so far as the tax on sales and other special taxes might be concerned.

I know it will be said this amendment of the Senate is right and just, because this is a taxation of the "poor man's light"—a phrase coined, I believe, and a very ingenious and plausible one, by my friend from Pennsylvania, [Mr. SCOTFIELD,] and upon which the changes have been rung ever since. In connection with that I desire to relate a little incident which occurred in the Committee of Ways and Means the other day, when we had some twenty gentlemen representing the oil manufacturers of the country appearing as a delegation before

that committee. They were intelligent, well posted, full of statistics, and presented their case ably and plausibly. In a paper elaborately prepared, which they read to us, occurred this phrase: "The poor man's light;" and subsequently it was pressed upon us as a matter of sympathy with the poor people of the country that it was wrong to impose a tax at all upon oil which afforded light to all the masses of the people of the country. Struck with the way in which they presented it in this view, keeping back other considerations that I thought probably more impelled them to come before us, this conversation was held. I asked the gentleman who was the spokesman of the party and others who were with him, "What is the price at this time of distilled oil; is it not very low?" "Ruinously low." "What is it?" "That depends," said they, "upon the place of production; if it be near petroleum wells, it is, of course, less than when transported to more distant points." "What is it in the eastern market at this time, taking Philadelphia as the standard?" "Only thirty-eight cents; ridiculously cheap." "What was it this time last year?" "From forty-seven to fifty cents." "Then, gentlemen, it is ten cents cheaper now than it was this time last year?" "Yes." "What was it the year before; sixty or seventy cents or more, was it not?" "Yes, very much higher." "When was the tax of twenty cents a gallon imposed on it? It was in 1864, was it not?" "Yes, it was." "Then, gentlemen, this light for the poor man, this oil, has been going down rapidly ever since the twenty cents tax was imposed upon it, until it has become so ridiculously cheap that light was never afforded at such a rate before!" Well, they rather squirmed under that view of the subject. I say now to gentlemen, as I said to those gentlemen then, if they would throw out of view all this demagogism about its being for the poor man; that they are interested, and say that it is the poor manufacturer that they think is pinched and that his is the interest they represent, then we shall understand each other better.

But the fact is that here is a commodity, used generally for purposes of light, the price of which, under the influence of this taxation, has been brought down and down, until the manufacturers themselves admit that it affords about the cheapest light in the world, and they claim that it is so.

Now, what is the reason it has become so cheap? It may be said that the honest manufacturer is imposed upon, because there are a great many products of illicit distillation of oil sent out upon the country which, as in the case of whisky, bring the price down, so that it is ruinous to the honest manufacturer. Well, that is so, to a certain extent. I have always said that the interest of the honest manufacturer is in all cases precisely the interest of the Government. What then? Instead of being an argument for taking off the tax it ought to be an argument for protecting the honest distiller of oil from these fraudulent products of illicit distillers and mixers.

And I feel now authorized to say that at the beginning of the winter just passed, when these oil men came before us, they all concurred in saying that nothing could better bear a tax than distilled oil. And all they wanted was just this sort of protection. The committee have been for some time past very assiduously engaged in endeavoring to frame a provision in the general bill which we think will have the effect to prevent these fraudulent and dangerous distillations and mixtures of oil.

Now, for this reason, and for the further reason that if oil is to be taxed at all it is better that it shall not be ranked among those things which are now the subjects of entire relief from taxation, but it shall be reserved to be acted upon when we come to act upon the general tax bill—for these reasons the committee have recommended non-concurrence in this proposed amendment of the Senate.

I wish, therefore, to be understood. The committee expect to be compelled, in behalf

of the revenue of the country, to lay a tax on oil. And, inasmuch as they will be compelled to recommend that tax, they prefer that the question what that tax shall be, whether the present rate of taxation or a less rate, shall be reserved until they bring in the general bill upon the subject of taxation, and that it shall not be forced into a bill the subject of which is exemption from taxation. So much for the first amendment of the Senate.

Mr. SELYE. Was the tax on oil left out altogether before?

Mr. SCHENCK. Gentlemen ask me whether it was left out altogether before. It was left out of this class. Oil is now taxed at a certain rate. And it is taxed under the ninety-fourth section, which we propose to repeal with certain reservations. We reserve this among other subjects, just leaving it as the law now is until we can take it up with the other subjects to be taxed, and then determine what the tax shall be.

The second amendment of the Senate to the second section of the bill is as follows:

And nothing herein contained shall be construed as a repeal of any tax upon machinery or other articles which have been or may be delivered on contracts made with the United States prior to the passage of this act.

Gentlemen may differ very much in regard to the principle there involved. When contracts have been made for the manufacture of articles, and the fact is that those articles are subject to a certain tax, of course the manufacturers will add so much more to the price they agreed to take for their articles. Every law that is passed raising or lowering the tax helps somebody and hurts somebody. The general principle, as we understand it, is that the Government cannot undertake, except in certain clear and easy ways which exist in some cases, to interfere as between citizens. We leave every man, therefore, when he makes a contract to deliver an article or to purchase an article, to take his chances that the law may be changed. That principle is recognized by the Senate in not interfering as between individuals; but the Senate say that the Government, however, can take care of itself; and as the Government has, particularly, I am told, in the Navy Department, made contracts for certain machinery at a price higher than would have been agreed upon if the tax had not been taken into consideration, therefore it is proposed that the Government shall say to these contractors, "When we remove the tax we take care that you shall not have the benefit of the removal, but that the benefit shall accrue to the Government. In other words, we employ, as between the Government and its contractors, a different rule from that which prevails as between individual and individual." A question may arise whether it is right to make this distinction. We suppose that the Government, having the power in its hands when it legislates, and particularly because it has that power, should put itself upon the same footing with individuals who have made contracts.

But there is another consideration. I do not know that such contracts for machinery have been made by the Navy Department, but I do know that no such contracts ought to have been made; for there is now upon the statute-book a provision that any Department of the Government, when it makes a contract for articles to be furnished, shall have the power to take into account and reserve the taxes which shall be imposed upon the article. Hence, if contracts have been made by the Navy Department without reserving the taxes, such contracts have been improvidently and improperly made. In the seventeenth section of the act of March 3, 1865, it is provided—

"That the privilege of purchasing supplies of goods imported from foreign countries for the use of the United States duty free which now does or hereafter shall exist by provision of law shall be extended, under such regulations as the Secretary of the Treasury may prescribe, to all articles of domestic production which are subject to tax by the provisions of this act."

That is the internal tax. And it was very

improper for any Department or officer of this Government to omit to take advantage of this provision, that, in making contracts, the tax might be reserved. But, if there be any cases in which the Government has not taken advantage of this provision, the question is, shall the benefit of the removal of the tax accrue to the contractor or to the Government? I admit, as I said before, that in every case a change of tax, while it benefits somebody, hurts somebody else; but all that the committee think proper to recommend upon this subject is that as the Government had the power to provide for this contingency and did not choose to do so the Government shall take its chances under the law, just as it compels individuals to do.

And, Mr. Speaker, when it is said that there are large amounts of machinery which have been contracted for, I ask gentlemen to bear in mind the fact that if the Government has contracts outstanding for \$50,000 or \$100,000 or \$500,000 worth of machinery, this is but a drop in the ocean as compared with the aggregate amount of the immense number of contracts between individuals which will be affected in this same way. If the Government is going to be affected to the amount of a few thousand dollars, individuals will be affected in the aggregate to the amount of millions. Yet the Government is asked to step in and say that it will protect itself to the extent of a few thousand dollars against chances improvidently incurred, while there is to be no such protection as to the various individuals concerned in contracts. I leave it to the judgment of the House to decide whether we are right in the principle we propose, that the Government shall itself abide by the same rule which it prescribes with regard to contracts of individuals between each other.

The Senate have made a provision in regard to drawbacks which I will in a few words explain. Gentlemen know that now when goods which are subject to internal tax are exported there is a drawback allowed for the tax that has been paid. The Senate have provided that after the 1st of April, which is next week, there shall be no drawback as to these goods from which we remove the tax, nor, perhaps, as to any goods. The House has proposed to allow three months and to provide that there shall be no drawback after the 1st of July next. The object of the House in this was to permit the fulfillment of contracts actually made, where vessels have been freighted and cargoes supplied, but not to interfere, or attempt to interfere, in any other case—to apply, in short, precisely the same rule that was adopted the other day in the case of spirits actually contracted for and distilled with a view to exportation. But the House amendment, as reported yesterday, does not quite accomplish the object intended; and I am instructed by the Committee of Ways and Means to propose an amendment to the amendment of the House. I ask gentlemen to look at the printed report made by the Committee of this House:

That after the 1st of July, 1868, no allowance for drawback on account of internal taxes paid on manufactures shall be made on the exportation of any article of domestic manufacture which is relieved from tax by the provisions of this act.

We then strike out the words of the clause "manufactured after the 1st of April," and insert these words:

Nor shall such allowance be made in any case unless it shall be proved by sworn evidence to the satisfaction of the Commissioner of Internal Revenue such articles of manufacture were, prior to the 1st of April, 1868, actually purchased or manufactured and contracted to be delivered for such exportation.

The effect of that will be this: the Senate says there shall be no drawback after the 1st of April. The House proposes to allow the drawback to go on as usual for three months, but to limit it to those cases where contract was actually made, the goods prepared to be exported being also manufactured before the 1st of April—applying the principle which we apply to the case of exported spirits. That is the difference between the Senate and the House.

The House proposes to extend the drawback for three months, and they now instruct me to limit that so it shall not apply to any but those cases where contracts have actually been made, bringing it within that rule which was before established in the case of distilled spirits.

Next comes the amendment of the Senate in regard to putting a tax upon sales of manufactures. Their proposition is a general one, to put a tax upon the sales made by manufacturers above ten thousand dollars of two dollars per thousand, equivalent to the fifth of one per cent., upon the principle that, while we relieve these manufacturers from direct taxation, we must bring them, in order to get a sufficient revenue, within the provisions of those special taxes by which we expect in some degree to make up for the loss of revenue accruing from this exemption.

Now, sir, it has been a great mistake if any body has supposed it was intended, or possible in due consideration for the revenue, to exempt manufacturers entirely from taxation; and this I fully explained when this subject was first before the House. But we do believe we can safely take off, as we propose to do, this heavy tax, which is in general five per cent. on the value of the article manufactured, and put a special tax of ten, twenty, or twenty-five dollars on manufacturers, and add to that a further special tax of a certain percentage upon the sales above a given amount. That is now the law in regard to wholesale dealers and various other persons engaged in the different pursuits in the country. The machinery is prepared, ready to hand, and it is proposed to extend that to the case of manufacturers.

This small tax we have heretofore imposed, and it is a tax of such a character that it will produce, though small, very large results. I remember a gentleman stated to me, interrupting me when I was explaining this matter before the House, this special tax would only amount to some five or six million dollars. I explained then, under the present system, this special tax amounts to \$18,000,000; and we have ascertained, if we extend it, a small special tax upon manufacturers like this will add from twelve to fourteen million dollars, thus swelling the \$18,000,000 up to \$30,000,000 and upward—much higher than I supposed when I first made the calculation running up only to \$20,000,000. And I ask gentlemen to stand by the proposition that while we relieve these manufacturers from being thus burdened by a large specific tax upon articles as they are produced they shall enable us to do so by allowing a special tax upon sales, which will, in some degree, put the revenue of the country in such condition as to make us able to allow this exemption to the manufacturers themselves.

We had left this matter to the general bill in which we propose to report it, and did not recur to it when this bill was before the House. The Senate think it best to provide for it in this bill, because they say it may be some two or three months before another general bill can be matured into and become a law, and in the interval these manufacturers will escape taxation entirely on their sales or their manufactures, and then when we come to impose a tax on sales it may seem as if we were getting up a new subject of taxation. The Committee of Ways and Means are impressed with the propriety of consenting to a certain extent to this view of the Senate. We propose, therefore, to agree to put a special tax on now, but to limit it to the articles which are exempted by this bill from taxation. That is in respect to dealers, manufacturers, and all the pursuits and interests of the country which are subject to taxes of this kind on their sales now. We propose to leave them under the law as it at present exists, and, so far as we exempt any of these manufacturers from tax entirely now, we propose to extend the special tax on sales only to those who are thus exempt, so as to put them in the same condition with the rest, and then leave the whole of them to be provided for together when we come to introduce the general bill.



The committee therefore recommend that instead of this special tax on sales being laid on all manufactures, as well those that have been exempted heretofore as all others not otherwise provided for, to confine it to those manufactures which are the subject of legislation by this bill. Therefore we propose to lay it upon those "whose manufacture of any kind or articles produced by them are exempted from taxation by the provisions of this act, and whose annual sales exceed five thousand dollars." We have adopted a standard of \$5,000 as conforming to their general bill on the subject. Gentlemen will find when we come to report our general bill that this is but a provision from that bill.

There is one other subject which does not strictly pertain to this bill, but which the committee take this opportunity of presenting for the action of the House, and that is the section which relates to the tax on whisky and distilled spirits. I have already occupied necessarily more time than I intended, but I will present this matter to the House as briefly as I can.

The section which we ask the House to adopt as an amendment to this bill is a section of our general bill, and we ask to have it adopted for the present, as we hope it will hereafter be, as a part of the general bill on the subject of whisky, because of the emergency of the occasion. The Secretary of the Treasury and Commissioner of Internal Revenue come to us and say that the violation of the whisky law is rampant and there is high carnival among the distillers. They are now selling whisky in Philadelphia at less than one dollar a gallon, which is less than half the tax. What is the reason? Because, whether the Commissioner of Internal Revenue or his subordinates have been efficient or inefficient, it is certain that the collection of your tax has fallen into such hands that it is virtually not collected at all. When we come to report our general bill we think we can satisfy the House that the two dollars, or any other tax you choose to impose under two dollars, can be collected. But we shall propose to give the control of this matter to the department of internal revenue, independent of the President and independent of the Secretary of the Treasury, and to say to the Commissioner, whoever may be at the head of the department, "There is the law and there is the tax to be collected; you shall appoint and you shall remove every subordinate, but we hold you responsible for the collection of the tax." But until that is done what can be done now? We can add, perhaps, to the law by taking this section of our proposed law and putting it in force. Accordingly we provide that it shall be a crime, as it has been made heretofore by law, to carry on a distillery with intent to defraud the Government out of this tax, and that it shall be held to be *prima facie* proof of the commission of this crime if any dealer persists, after a certain number of days, in carrying on his distillery while whisky is at a price in the locality where his distillery is situated below the aggregate of the tax and the reasonable cost of producing the article.

But that is not enough. Where you find a guilty distiller or a guilty manufacturer of any kind I will undertake to find you two official rascals to match him, and, therefore, we propose to extend the provision of the law to the assessors and collectors of the district, and hold them responsible; so that if whisky be sold in any district where it is produced or sold for a less price than the tax upon it the Commissioner shall immediately make an investigation into the conduct of all the revenue officers in such district, and while that investigation is going on shall suspend the two principal officers and deprive them of their pay until it is shown that it is by no negligence or connivance of theirs that the tax is thus defeated. The provision is a stringent one. We hope it will be adopted as a part of the general law. We only propose now to anticipate its adoption, which we hope for in the general law, by taking it out at the request of the offi-

cers of the Treasury, and putting it in this law when there is an opportunity to have it go into effect immediately or in twenty days, so as in some degree to anticipate a cure of the evil.

Mr. Speaker, I understand that there are but few minutes left to me, and I am instructed by the Committee of Ways and Means to ask the previous question before closing. I dislike not to afford gentlemen an opportunity of being heard, and I promise them that if the previous question be sustained I will give almost the whole of the hour that will be allowed me afterward to them to make any objections or suggestions or give reasons why the bill as we recommend it should not be passed.

Mr. GARFIELD. I hope my colleague will allow me to appeal to the gentleman from Illinois [Mr. FARNSWORTH] to withdraw his objection and allow this bill to be considered after the expiration of the morning hour.

Mr. FARNSWORTH. I am appealed to on both sides—to withdraw it and not to withdraw it. My impression is that the House can vote just as intelligently on this bill after another hour's discussion as after a week's discussion. It is not for the purpose of preventing the passage of the bill, but to facilitate it and hurry it, that I make the objection.

Mr. SCHENCK. I cannot give way for a speech if the gentleman insists on the objection.

Mr. FARNSWORTH. I must decline to withdraw it.

Mr. SCHENCK. Then I am instructed by the committee to report some amendments to their amendments, which I send to the Clerk's desk. They are modifications of our amendments.

The SPEAKER. Does the gentleman from Ohio intend to allow any other amendments to be offered besides these before he moves the previous question?

Mr. SCHENCK. I will hear the amendments which gentlemen desire to offer.

The SPEAKER. Then, if there be no objection, the morning hour will be extended for the purpose of allowing amendments to be suggested, but not for debate.

No objection was made.

Mr. JUDD. I desire to move to amend the fourth amendment of the Senate by striking out the word "monthly" wherever it occurs and inserting "annually."

Mr. SCHENCK. I cannot agree to that. It is utterly impossible to get along unless we can get our revenue in regularly.

Mr. MILLER. I was going to suggest precisely the same amendment.

Mr. SCHENCK. I would say to gentlemen that the special tax is to be paid annually. It is the tax on sales which is to be paid monthly.

Mr. MILLER. Will the gentleman allow me to move to insert the word "semi-annually" instead of "monthly."

Mr. SCHENCK. This matter was fully discussed in the committee, and I am instructed by the committee to ask a vote of the House upon the collection of the tax monthly.

Mr. MILLER. It would save a great deal of expense to collect it semi-annually.

Mr. WOOD. I desire, with the permission of the gentleman from Ohio, to move that the bill be recommitted with instructions to report an amendment to the same which shall reduce the duties on foreign importations to the like extent now proposed to reduce the tax on domestic manufactures.

Mr. SCHENCK. I cannot yield for that.

Mr. WOOD. Will the gentleman allow me to explain my proposition?

Mr. SCHENCK. I do not want a tariff attached to this bill.

The SPEAKER. The gentleman from Ohio has only time to allow amendments to be read. He cannot yield for debate.

Mr. SCOTFIELD. I desire to move to insert after the word "petroleum," in the first amendment of the Senate, the words "above the specific gravity of thirty-two;" so that it will read:

*Provided*, That the product of petroleum, above the specific gravity of thirty-two, and bituminous

substances hereinbefore mentioned, except illuminating gas, shall, from and after the passage of this act, be taxed at one half the rates fixed by the said section ninety-four.

That will make the tax on naphtha and benzine the same as that on oil, and will cut off all these frauds.

Mr. SCHENCK. I appreciate the motives of the gentleman, but I am instructed by the committee to insist on not acting on oil now. I think we can do all he wants and even a little more when the general bill comes in.

Mr. SCOTFIELD. Allow me to say that if the House should concur in the amendment of the Senate, as they possibly may, it would be a great deal better with the amendment which I propose than without it.

Mr. SCHENCK. I do not know but that it would be better if the amendment of the Senate should be concurred in, but I hope it will not be. I am afraid it would induce some gentlemen to vote to concur who would otherwise vote to non-concur. I would therefore prefer that the amendment should not be offered.

Mr. BANKS. I desire to ask the chairman of the Committee of Ways and Means if, when he brings in the general bill, he proposes to reduce the tax on distilled oils?

Mr. SCHENCK. I am not prepared to say now exactly what we shall do; but I do not think we shall lower the tax much, at any rate. But that will be for the House to determine. I assure gentlemen they shall have full opportunity to offer amendments.

Mr. DAWES. I desire to make an inquiry of the gentleman from Ohio.

Mr. SCHENCK. Very well.

Mr. DAWES. There is now a tax of one tenth of one per cent. upon sales. If this bill becomes a law will it affect that tax?

Mr. SCHENCK. Not now.

Mr. DAWES. It does not affect that tax?

Mr. SCHENCK. It does not. We have confined ourselves carefully to this: this bill exempts certain manufactures from taxation, but does not affect the general provision in regard to sales, &c. We have disagreed with the Senate in regard to going over the whole ground, which we have reserved for our general bill, and propose that the tax on sales shall be confined to what we are now acting upon.

Mr. DAWES. Another question.

Mr. SCHENCK. Certainly.

Mr. DAWES. In the amendment proposed by the Committee of Ways and Means it is provided:

If any distiller shall carry on such business in any place or locality for a period of twenty days, during which the market value, in such place or locality, of the kind of spirits produced by him is less by more than ten per cent. than the tax and the cost of producing said spirits, it shall be *prima facie* evidence that the business is being carried on with intent to defraud the United States.

That is a criminal statute, providing for a criminal prosecution. The term "place or locality" is too indefinite to be used in a criminal statute. I therefore suggest that instead of that term we should say "city or town."

Mr. SCHENCK. I do not know but the gentleman may be right, and if he will go a little further, and say "district, city, town, or township," I think I will venture to consent to such an amendment.

Mr. ALLISON. That change should be made wherever the words "place or locality" occur; they occur more than once.

Mr. HOLMAN. We do not fully understand that amendment on this side of the House.

Mr. DAWES. I suggested that instead of using the words "place or locality" there should be used words expressing something that has limits; either "town" or "city" or "county" or "parish;" perhaps all those terms; something that has defined limits, or no criminal prosecution can possibly lie.

Mr. SCHENCK. As this is a penal statute I think the gentleman from Massachusetts [Mr. DAWES] is right in suggesting that there ought to be greater precision; therefore I am willing that where the words "place or locality" occur the words used shall be "district, city, town, township, or parish."

The SPEAKER. That will require unanimous consent.

No objection was made; and the amendment of the committee was modified accordingly.

Mr. BROOMALL and others asked Mr. SCHENCK to yield to them.

Mr. SCHENCK. The gentleman from Massachusetts [Mr. DAWES] still has my ear, and I beg that other gentlemen will not take hold of it. [Laughter.]

Mr. DAWES. I have done, and will let go. [Laughter.]

Mr. SCHENCK. I now yield to the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. I desire to ask the gentleman from Ohio [Mr. SCHENCK] if there will not be difficulty in carrying out the provision of the section providing a tax on sales, which reads as follows:

And whose annual sales exceed \$10,000 shall pay for every additional \$1,000 in excess of \$10,000 two dollars, and the amount of sales within the year beyond \$10,000 shall be returned monthly to the assistant assessor, and the tax on sales in excess of \$10,000 shall be assessed by the assessor and be paid monthly as other monthly taxes are assessed and paid.

I cannot understand how that is to be done. It might be done if the sales were the same in every month throughout the year. But, inasmuch as in all branches of business the sales differ every month, I do not see how it is to be done.

Mr. SCHENCK. That is being done now in regard to wholesale dealers and others.

Mr. BROOMALL. That is a tax on all the sales. This provides for a tax on the excess over \$10,000 a year. How that is to be got at I do not understand.

Mr. ALLISON. If my colleague on the committee [Mr. SCHENCK] will allow me, I will answer the gentleman from Pennsylvania, [Mr. BROOMALL.] The law now provides that on the 1st day of May in each year an estimate of the annual sales shall be made. Of course, this latter clause will allow assessors to make an estimate at the beginning of the year, from the condition of the business, of the probable amount of the manufacture. He can examine the last year's books and see what amount was manufactured the year before. There can be no difficulty in relation to it.

Mr. BROOMALL. That, Mr. Speaker, is but guessing. It seems to me that in this way great injustice might be done.

Mr. ALLISON. There can be no injustice done, because there will at a subsequent time be a readjustment, as is the case under the existing law with reference to wholesale dealers.

Mr. BROOMALL. And suppose at the end of the year it should be found that less than five thousand dollars' worth had been manufactured, is there any provision for refunding the whole tax collected, which, in that case, would have been improperly collected?

Mr. ALLISON. That is hardly possible.

Mr. SCHENCK. We have not found heretofore that those who have returned tax have erred in returning too much. In reply to the gentleman, I will say, in general terms, that this provision precisely corresponds with that which has been for a long time in operation with regard to wholesale dealers, and which has not been attended with any such practical difficulty as that which the gentleman apprehends. We simply propose to extend a provision of the existing law. Mr. Speaker, I now yield to the gentleman from Pennsylvania, [Mr. KOONTZ.]

Mr. KOONTZ. Mr. Speaker, this bill, as I understand, repeals entirely sections ninety-four and ninety-five of the existing law. Among the articles taxed in section ninety-four is cotton. Now, on the 3d of February, 1868, a bill was passed exempting from tax cotton grown in 1867. Now, if I understand the present bill, it repeals the tax on cotton altogether.

Mr. SCHENCK. The gentleman is mistaken about the effect of the act passed last February. It repealed the tax on cotton not for 1867, but for 1868; and if it be the fact that cotton is embraced in section ninety-four,

then, if this bill be passed, the result will simply be that the tax on cotton for 1868 will be twice repealed. That is all.

Mr. KOONTZ. But this bill, as I understand, repeals entirely sections ninety-four and ninety-five, while the bill passed last February simply exempts from tax cotton grown in 1867.

Mr. SCHENCK. The gentleman is mistaken in point of fact. We exempted cotton grown after 1867, and if we now exempt it a second time by this bill it will not be any more exempt than it was before.

Mr. KOONTZ. But I understand that the bill which was passed in the early part of this session exempted only the tax on cotton grown during the year 1868, thus refusing to exempt cotton grown thereafter. But if this bill be passed in its present form all cotton grown hereafter will be exempted from tax. That is the way I understand it.

Mr. ALLISON. I think my friend from Pennsylvania [Mr. KOONTZ] has referred to the wrong compilation of the laws. In the compilation which I have examined cotton is not included in either the ninety-fourth or the ninety-fifth section. Hence it will not be affected by the provisions of this bill.

The SPEAKER. The gentleman from Missouri [Mr. BENJAMIN] is seeking the floor to suggest a modification of the bill. He might be stating that modification while the committee are examining this point.

Mr. ALLISON. There is no necessity for further examination. I know I am right. [Laughter.]

Mr. SCHENCK. I yield to the gentleman from Missouri, [Mr. BENJAMIN.]

Mr. BENJAMIN. Mr. Speaker, I suggest to the gentleman from Ohio [Mr. SCHENCK] that the penalties prescribed in this bill for a violation of the law on the part of distillers might with propriety be extended to the manufacturers of tobacco. It is very clear that the frauds committed by the manufacturers of tobacco are as flagrant as those committed by the distillers, though perhaps not so enormous in amount. By a slight amendment the penalties provided for in this bill could be extended to the manufacturers of tobacco.

Mr. SCHENCK. The gentleman is quite right in saying that there is a great deal of fraud with regard to tobacco. So there is with regard to almost everything subjected to tax, whether the tax be high or low. There is cheating all round, and a very inconsiderable proportion, in some sense, of our tax is collected. But we propose to apply this provision to distilled spirits because there is at present more fraud in regard to that than as to anything else. When our general bill shall be reported the gentleman will find that we have provided stringently in regard to tobacco and a great many other things. It was only that we yielded to the pressure of the occasion and took a general section out of our law, at the request of the Secretary himself as well as the Commissioner of Internal Revenue, to be passed speedily, on this question of whisky, because in regard to that particular class of frauds there is more mischief going on than in anything else in the country.

I will, if permitted, have a letter read from Chicago upon this subject which will be a reply to the gentleman, showing why I prefer not to anticipate general action on this subject. I assure the gentlemen he will find the tobacco men quite as well taken care of when we come to that.

The Clerk read as follows:

"CHICAGO, March 21, 1868.

"\* \* \* \* \* This place is wholly sold out to the 'whisky ring,' distillers, revenue officers, and all. I do not think there is a worse spot on the foot-stool, and everybody connected with the service is disgraced by the fact that the Department at Washington allows it to continue. I am sick at heart and disgusted with the charges that are made by honest men against those in charge of revenue matters at Washington. We all suffer together—Mr. Rollins, the Secretary, Committee of Ways and Means, Congress, and every honest revenue officer—are each vilified and charged with being in 'cohorts' or friends of the ring. It is too bad, and unless something is soon

done to clean out these dishonest officers who are sucking the life out of our public credit we shall see a revolution. I wish I could see you face to face. I am too much disgusted to write as I feel."

Mr. SCHENCK. I have but a single remark further—

The SPEAKER. Unanimous consent was only given that amendments might be proposed, and not for a continuance of the debate.

Mr. SCHENCK. I now demand the previous question; I think I have allowed amendments in sufficient number to be proposed.

Mr. JUDD. There was a departure from the unanimous consent in allowing the letter to be read. I ask that the privilege be extended to ask the gentleman from Ohio from whom that letter comes.

The SPEAKER. The gentleman from Illinois should have made his point of order at the time. The Chair seeing this was debate called attention to it. He did not know what it was until it was read.

Mr. SCHENCK. It comes from a man whose duty it is to be well posted. I now yield to my colleague on the committee, who has an amendment to propose.

Mr. MAYNARD. It is a mere verbal amendment. I move to insert "selling" for "being sold."

The SPEAKER. It is a grammatical correction, and if there be no objection it will be considered as agreed to.

There was no objection, and it was ordered accordingly.

Mr. HUNTER. I desire to ask the gentleman from Ohio a question.

Mr. SCHENCK. If I am permitted to reply I will not object.

The SPEAKER. Debate is not in order.

Mr. SCHENCK. As I have said before, if the demand for the previous question is sustained I shall yield to gentlemen to talk about these matters. I have exhausted all the time I want except in reply to gentlemen.

#### MESSAGE FROM THE PRESIDENT.

Several messages in writing were received from the President of the United States, by Colonel Moore, one of his Secretaries; also, a message informing the House that a joint resolution (H. R. No. 226) appointing managers of the National Asylum for Disabled Soldiers, and for other purposes, having been received on the 12th of March, 1868, and not having been returned within ten days, Sundays excepted, has become a law under the Constitution of the United States.

#### EXEMPTION OF MANUFACTURES FROM TAX.

Mr. SCHENCK. I now demand the previous question.

The previous question was seconded and the main question ordered.

Mr. SCHENCK. I yield to my colleague on the committee.

Mr. ALLISON. The chairman of the committee being somewhat unwell this morning has left the control of the floor to me during his absence from the Hall. I yield five minutes to the gentleman from Pennsylvania, [Mr. SCOFIELD.]

Mr. SCOFIELD. I desire to ask the House to vote for the first amendment of the Senate, which reduces the tax on rock oil from twenty cents a gallon to ten cents. I understand from the Speaker that the vote will be on the question of concurrence, and all who are in favor of reducing the tax to ten cents will vote "ay" on this amendment.

I understand the chairman of the Committee of Ways and Means to say that we ought to keep this tax at twenty cents a gallon because oil is cheap. He says it is only thirty-eight cents a gallon at this time. Perhaps it is; but, if so, it is because the business of the country is such and the tax is such that all those who are engaged in its manufacture are forced to throw upon the market the product of their labor at half price. A large number of these men are retiring from the business, not rich, as the gentleman from Ohio [Mr. SCHENCK] says, but in poverty. They are re-

tiring with the loss of all they have invested. Their business is crushed out. The largest refinery in my district, in which a large amount of capital was embarked, owned by Samuel Downer, whom many of the members of the House have seen about these Halls, has closed because he cannot manufacture oil at such low prices and compete with the fraudulent article that is put in market all over the country.

But the gentleman is mistaken in supposing that the oil which he says is selling at thirty-eight cents a gallon comes to the consumer at that price. It averages a dollar a gallon to the consumer. The nature of the article, its explosive and dangerous character, makes it quite expensive. Now, if it is selling at only thirty-eight cents, as the gentleman says, is it fair, is it honest, to lay a tax of one hundred and twenty per cent. upon it?—for twenty cents a gallon on an article selling at thirty-eight cents is one hundred and twenty per cent.

But the gentleman says it is cheap. So is milk cheap. Why do you not lay a tax of one hundred and twenty per cent. on milk? So is cold water cheap. So is the light of heaven cheap. Why do you not tax the light of heaven as they do in England, where they make a man pay for every pane of glass he has in his dwelling. Cotton and wool are comparatively cheap. Why not tax them? This oil is just as much a necessity as food. Spelling-books are cheap, and I would just as soon lay a tax of one hundred per cent. on spelling-books as to lay it on the light by which the boy has to learn his lesson. Bibles are cheap, and you may just as well lay a tax of one hundred per cent. upon them as to put it upon the light by which the Christian studies out the sacred pages of the Scriptures. All the necessities of life are cheap. We could not live if they were not so. Now, why single out this one article of absolute necessity when all the rest are to go free? Why keep up so exorbitant a tax on what the gentleman says I called some years ago the poor man's light? It is emphatically true; there is no rhetoric in that. But, as one of my Democratic friends said the other day about something else, "it is God's truth" that it is the poor man's light. Why class it with whisky and tobacco? If you cannot take the whole tax off from it take off half the tax. Make it ten cents a gallon instead of twenty cents. It should not be left at the present high rate. My colleague [Mr. Woodward] suggests that we tax illuminating gas only seven per cent.—[Here the hammer fell.]

Mr. NIBLACK. Will the gentleman from Iowa [Mr. Allison] yield to me?

Mr. ALLISON. I am appealed to all around, and I do not see how I can yield to all.

Mr. SPALDING. You promised to yield to me.

Mr. ALLISON. I yield to the gentleman from Ohio, [Mr. Spalding.]

Mr. SPALDING. I represent a people largely interested in this matter of petroleum; I think it is the second point in the United States on the question of magnitude; and I know that they have been excessively desirous of having this whole tax abated. They think that that article of industry ought to be relieved as well as most of the others which have been relieved by the bill; but, as a measure of compromise, willing to pay their share of the taxation of the country, they are willing now to accept of the proposition as it comes from the Senate, and to pay one half of the tax that has been imposed upon this article of manufacture. I agree in spirit with the remarks submitted by my friend from Pennsylvania, [Mr. Scofield.] I say that this may justly be regarded as among the articles of necessity of the country, and it is our bounden duty to do something toward relieving it. I hope, therefore, the House will concur in the amendment of the Senate. That is all I have to say.

Mr. ALLISON. I only want to say one word in answer to what has been said on this question of petroleum. I think the answer made by the chairman of the Committee of Ways and Means was a perfect answer, and

that was that, inasmuch as we propose to impose some tax upon petroleum, that question should be reserved until we bring in our general bill, and then every gentleman will have an opportunity of discussing at length this question of taxation of the "poor man's light." I do not know but I may vote with the gentleman from Pennsylvania [Mr. Scofield] for a reduction of the tax when that bill comes up. But I beg gentlemen at this time not to insist on an amendment which will disarrange the entire bill as reported by the Committee of Ways and Means. I yield now to the gentleman from West Virginia, [Mr. Hubbard.]

Mr. HUBBARD, of West Virginia. I desire simply to add a single word to what has been said by the gentleman from Pennsylvania [Mr. Scofield] and the gentleman from Ohio [Mr. Spalding] in relation to this tax upon refined oils. During the last three months the articles of naphtha and benzine, which are produced from the crude oil at the refineries, have very much increased in price in Europe. These articles, on account of their explosive character, cannot very well be transferred to Europe separately, but they can be taken over in the crude oil, and, therefore, the crude oil is going to Europe instead of the refined oil, and the refineries in this country are being stopped on account of that. It is, therefore, a necessity that the tax should be taken off the refined oil, so that our manufacturers here can send the refined oil to Europe and compete with the manufacturers there. An additional reason why the amendment of the Senate should be concurred in is that we shall then have an indication on the part of the House of its wish and desire in regard to this question. I hope, therefore, that when we come to vote on the amendment of the Senate it will be concurred in.

Mr. ALLISON. I now yield two minutes to the gentleman from Massachusetts, [Mr. Banks.]

Mr. BANKS. It would give me pleasure to accede to the request of the Committee of Ways and Means if it were practicable to do so and obtain a reduction of this tax on petroleum. But the chairman of the Committee of Ways and Means has notified the House that it is not the intention of the committee to reduce it much at any rate; and therefore, if there is to be a reduction, it should be made now when the question is submitted to the House by itself.

Now, sir, without entering into any demagogical argument at all, to which reference has been made, I say from my own experience, my personal knowledge, that there is not a wealthy corporation or city or a wealthy family in this country that uses this article, and there is scarcely any poor family that is not confined to its use as a means of light almost exclusively. Now, to put a tax, as the gentleman from Pennsylvania [Mr. Scofield] has said, of one hundred or one hundred and twenty per cent. on this article, which is almost exclusively the light of the common people in the common towns, and to tax gas, which is used in the wealthy cities and by wealthy corporations, only seven per cent., is a proposition which the House cannot well sustain. I trust that when this question is presented in the simplest possible form a reduction of fifty per cent., or ten cents on the gallon, and when we are notified that it is not to come before us in this shape again we shall sustain the proposition of the Senate.

Mr. ALLISON. I now yield for a moment to my colleague on the committee, the gentleman from Indiana, [Mr. Niblack.]

Mr. NIBLACK. Mr. Speaker, the second amendment which the Senate ingrafted on the bill as we passed it the other day is as follows:

And nothing herein contained shall be construed as a repeal of any tax upon machinery, or other articles which have been or may be delivered on contracts made with the United States prior to the passage of this act.

I did not concur with the Committee of Ways and Means in the recommendation that the House should non-concur in this amendment. On the contrary, I am in favor of con-

curring in it. My observation has taught me that gentlemen holding contracts with the Government, as a general proposition, are not likely to lose much in any event, and they can as a class as well afford to pay taxes as any other class in this country, according to their number. I am told that there are now a large number of subsisting contracts for the building of machinery of one kind or another for the Government, some partly executed, some, perhaps, just commenced, and some under which nothing has yet been done, but still the contracts exist, and they were all made with reference to the amount of tax which the manufacturer had to pay upon the manufacture of the machinery. These contracts were all made with reference to the amount of taxes the contractors would have to pay, and hence there is no hardship in collecting the taxes now. To fail to collect them only puts so much additional money into the pockets of these contractors.

I am informed, upon inquiry, that if this amendment of the Senate is not concurred in it will make a difference to the Government of some four hundred thousand dollars. Now, I am in favor of relieving these industrial interests as far as possible. That is one of the great demands that are now being justly made upon this Congress; but I believe we are here going rather too far in that direction. There is a point beyond which we cannot go and sustain the credit of the Government. I am afraid we are, without consideration, relieving many interests of this country that can bear at least a small amount of taxation. Now, I submit that while we can, without doing injustice to anybody, save some four hundred thousand dollars a year to the Government of taxes, I think we should do it. Therefore, as a member of the Committee of Ways and Means, I am in favor of this amendment of the Senate, and trust it will be concurred in by the House.

Mr. ALLISON. I now yield to the gentleman from Maine [Mr. Pike] for two minutes.

Mr. PIKE. It ought to be said, by way of defense of the action of the Committee of Ways and Means in relation to the amendment of the Senate, that the contractors referred to here maintain that, upon the facts of the case, they have good reason for exemption from the tax. I will say this, in addition to the forcible reasons urged by the chairman of the Committee of Ways and Means, [Mr. Schenck,] that there should be no discrimination between public contractors and private contractors. The memorials of these contractors in relation to this taxation were before the House at the last session of Congress, and have been at the present session of Congress. They allege, and I presume correctly, though I have not examined the matter, that the tax has been raised upon them since the contracts were made. The House is aware that this manufacturers' tax has been increased from the original tax of three to five per cent., then to six per cent., and then back to five per cent. again.

These contractors allege that a portion of those contracts were made while the original tax of three per cent. was in force. And they say that for that reason, if for no other, this amendment of the Senate should be concurred in. I am told that the contracts referred to here pertain mainly to engines for the Navy Department. I have not looked into the matter; but I know from general statements that these contracts were of a very close character. They were made during the war, and in such a manner that the contractors generally had but very little or no margin of profits. And the contracts were so large that they called for the whole mechanical force of the country, and the contractors were deprived of the advantage they hoped to have in obtaining labor at a more moderate price than at the time the contracts were made.

[Here the hammer fell.]

Mr. WASHBURN, of Massachusetts. Will the gentleman from Iowa [Mr. Allison] yield to me for a question?

Mr. ALLISON. Certainly.



Mr. WASHBURN, of Massachusetts. I desire to call the attention of the gentleman to the fourth amendment of the Senate. As I understand it, it is proposed to exempt \$5,000 from taxation. But gentlemen will observe that a manufacturer may manufacture goods to the amount of \$5,999 free of tax.

Several MEMBERS. Four thousand nine hundred and ninety-nine dollars.

Mr. WASHBURN, of Massachusetts. No; \$5,999, for this is the clause of the committee's amendment:

Manufactures of any kind, or articles produced by them, are exempted from taxation by the provisions of this act, and whose annual sales exceed \$5,000, shall pay, for every additional \$1,000 in excess of \$5,000, two dollars.

The tax is to be on "every additional thousand dollars;" therefore, the \$999 will be exempt from tax. The tax is to be paid monthly. Suppose that each month there is a production of \$900, you gather no tax. I would suggest to the gentleman to make it read "for every additional \$1,000, or fractional part thereof."

Mr. ALLISON. This is precisely the provision in existing laws in relation to wholesale dealers. It is at the rate of two dollars for every \$1,000 over \$5,000.

Mr. WASHBURN, of Massachusetts. You do not say "at the rate of;" if you did, that would meet the difficulty.

Mr. ALLISON. It is too late to make any change now, even if desirable, because the previous question has been called. But I think there will be no difficulty. I now yield to the gentleman from Pennsylvania, [Mr. MOORHEAD.]

Mr. MOORHEAD. I desire to say, in relation to the remarks of the gentleman from Massachusetts, [Mr. BANKS]—in which I think he does injustice to the chairman of the Committee of Ways and Means, [Mr. SCHENCK]—that the chairman did not say that the committee were in favor of not reducing the tax upon oils. Yet the gentleman from Massachusetts quoted him as saying so. Now, the committee have not decided any such thing, and I think the gentleman has misquoted what the gentleman from Ohio said.

I am of the opinion that the committee will report a reduction, from the fact that crude oil is now going abroad in large quantities; and unless a reduction be made the business of refining the oil will be transferred from this country to foreign countries. Whether the House should now concur in the Senate amendment or defer action on this subject till the Committee of Ways and Means report their general bill I am not prepared to say, nor do I feel much interest in the question; but I have no doubt that the committee fully admit the propriety of a reduction.

Mr. BANKS. I stated to the House what the chairman of the committee had said, using his very words.

Mr. ALLISON. I now yield two minutes to the gentleman from Illinois, [Mr. JUDD.]

Mr. JUDD. Mr. Speaker, when the report of the committee was read I supposed the question would come directly before the House on concurring or non-concurring in the amendment of the Senate. If the vote of the House were to be finally upon concurring in the amendment of the Senate I would desire to offer an amendment to that amendment. I am advised, however, that, in the present posture of the bill, I am not permitted by the rules to offer my amendment without unanimous consent. I therefore ask unanimous consent to offer the amendment.

Mr. ALLISON. I agree that if the amendment of the Senate is to be concurred in an amendment substantially such as that which the gentleman from Illinois [Mr. JUDD] has prepared should be added. I would like to hear it read.

Mr. JUDD. My amendment is to amend the proviso added by the Senate to the first section by striking out "passage of this act" and inserting "1st of July next;" so that the proviso will read:

Provided, That the product of petroleum and bitu-

minous substances heretofore mentioned, except illuminating gas, shall, from and after the 1st of July next, be taxed at one half the rates fixed by the said section ninety-four.

I had desired, with the assent of a portion of the committee, to offer that amendment if the vote should be taken on concurrence; but I am precluded, as I understand, by the rules from doing so. The only effect of my amendment would be to protect those dealers who now have on hand stocks on which they have actually paid taxes, and which by this legislative action, without the amendment, will be reduced some four dollars and a half per barrel. The amendment would simply make the operation of this provision prospective, fixing the 1st of July as the time when it shall take effect. We would thus give to those who have already paid their taxes upon this article an opportunity to dispose of their stocks under the law as it now stands.

Mr. SCOTFIELD. Those who have paid their taxes are broken down, and they want the tax taken off that they may recuperate. Those who have not paid their taxes are cheating the Government, and the time ought not to be extended to enable them to continue their cheating. If unanimous consent is necessary to permit the offering of the amendment I object.

Mr. ALLISON. As this amendment would be an improvement upon the Senate amendment I would be disposed to allow it to be introduced but for the fact that the Senate amendment is still crude in other respects, and it is not desirable that it should be adopted even with this amendment. I therefore must decline to permit the gentleman to offer it.

The SPEAKER. The Chair will state that if the House should concur in the Senate amendment in regard to petroleum that question will not go before the committee of conference, as both Houses will have agreed on this subject.

Mr. ALLISON. I yield two minutes to the gentleman from Illinois, [Mr. INGERSOLL.]

Mr. INGERSOLL. Mr. Speaker, in the two minutes which the gentleman allows me I desire to call the attention of the House to the subject of this petroleum or illuminating oil. As the law now stands the products of petroleum known as benzine and naphtha (which are essentially the same) pay a tax of ten cents a gallon when they mark below seventy degrees of Baumé's hydrometer. When the specific gravity is above seventy they pay no tax whatever. By far the larger proportion of benzine and naphtha marks above seventy and pays no tax. Now, sir, the illuminating oil, of which the only sort proper for use by the poor man, or any other man, is the non-explosive sort, should be protected against the fraudulent mixing of benzine and naphtha, which give it its explosive character. Benzine and naphtha are the explosive and inflammable substances, in petroleum, which, by distillation, are taken out; and if they are of a specific gravity above seventy they pay no tax whatever.

Mr. SCOTFIELD. Allow me a word.

Mr. INGERSOLL. I have only two minutes and I wish to make that clear. I wish the House to adopt an amendment to increase the tax upon naphtha and benzine so there shall be no premium to fraudulent rascals to mix benzine with oil. Instead of the poor man's light it is the poor man's murderer. I know I am right, and we ought to protect the people by our legislation. I say, sir, that nine tenths of the conflagrations in the country are due to this mixture of benzine and naphtha with oil. It has also caused the loss of hundreds of lives. The admixture of benzine and naphtha with illuminating oil renders it as inflammable and explosive as powder or nitro-glycerine and just as dangerous. A gentleman tells me that a whole family were burned to death in his district by this mixture.

Mr. SCHENCK. I cannot understand from the gentleman from Illinois whether he is advocating the Senate amendment or not.

Mr. INGERSOLL. I had hardly time to

say that I prefer to take that as about the best thing we can get at this time.

Mr. SCHENCK. I cannot understand the gentleman's reasoning. What does the Senate amendment propose? To cut down the tax, and it does not touch the question the gentleman is talking about.

Mr. INGERSOLL. The Senate amendment at least reduces the premium on fraud.

Mr. SCHENCK. I am as familiar with the subject as the gentleman from Illinois. Ten cents is the tax upon one grade, twenty cents upon another, and there is another grade upon which there is no tax. The Senate propose to cut down the twenty to ten and the ten to five. Now, I agree with the gentleman these inflammable substances ought to be taxed out of existence.

Mr. INGERSOLL. I agree with that.

Mr. SCHENCK. In our general bill we have provided for putting the tax so it will not favor these things as they are favored now. But the Senate does not touch the question. They simply reduce the tax one half. They do not touch the question to which the gentleman refers, but they leave it as it is. I think we had better leave the whole subject over to the general bill.

Mr. INGERSOLL. Let me have one minute to reply.

Mr. SCHENCK. My colleague on the committee has charge of the floor.

Mr. ALLISON. I yield the floor now for five minutes to the gentleman from Ohio.

Mr. GARFIELD. Mr. Speaker, I sincerely sympathize with the chairman of the Committee of Ways and Means in the necessity which has been forced upon him to discuss this subject under the pressure of the previous question. I know the House has permitted, by unanimous consent, amendments to be proposed, and I had some amendments to offer, but I was unwilling to submit them unless in my own time, and as the chairman was embarrassed by the situation I did not ask to move them.

I desire to consider in the time given to me the fourth amendment of the Senate and the substitute proposed for it by the House. That fourth amendment provides that all articles of manufacture which are not specifically taxed after the bill shall pass shall be subjected to a tax upon the sales of the same by the original manufacturer. That is the provision the Senate ask us to adopt, and which it is said will give us about ten million dollars of revenue. The House committee has proposed an amendment which limits this provision to those articles liberated from tax by this bill alone.

Now, at the last session of the Thirty-Eighth Congress and at the first session of the Thirty-Ninth Congress, in each of those sessions, in the passage of the internal revenue bill a large number of articles of manufacture were liberated from taxation, amounting in the aggregate to a remission of \$75,000,000 of taxes. And now, as the bill comes from the Committee of Ways and Means, not one of all those articles liberated in the last two Congresses will sustain any tax on sales, but all the articles liberated by this bill are to be subjected to tax on sales, thus discriminating between the manufacturers by a remission of taxes to the amount of \$64,000,000 in addition to the \$75,000,000 remitted by the former acts. Now, I have looked over the law and there are some four closely printed pages, amounting in all to perhaps a thousand articles that were liberated under the laws of the last two Congresses. All these articles are to be subjected to no tax on sales whatever, whereas all the articles liberated by the bill now before the House are to be subjected to such tax. That, I contend, is entirely unjust. I admit that the fact that they have now been liberated and are adjusted to the present condition of prices gives them, perhaps, for a temporary purpose, a right to a little consideration over those that we are now liberating. But how will it be a year hence? A year from now they ought to stand on the same ground. But here is a law that, so far as we are concerned, forever discriminates, providing that

half the manufacturers of the country shall suffer a tax on sales while the other half have no tax at all to pay.

Now, if we are to adopt either of these propositions I prefer to adopt that of the Senate. But I desire to say that I am opposed to the adoption of the Senate amendment also. It will be remembered that in the Thirty-Eighth Congress a very elaborate discussion took place on the principle of taxing sales, and I wish only to say, as my time is almost exhausted, that it was then developed that but three civilized nations ever attempted to or ever did adopt a law levying a general tax on sales, and the result was most disastrous in all those nations. This is not a general tax on sales, but it is a step toward it.

[Here the hammer fell.]

Mr. ALLISON. I only desire to say a single word in reply to my friend from Ohio, [Mr. GARFIELD.] The reason urged by him why this modification proposed by the Committee of Ways and Means should not be adopted is a reason why we should stand here and do nothing on this question of taxation. We introduced this bill believing there was a present necessity to relieve the manufacturers from tax. We introduced this bill because we could not bring in our entire bill for a month to come.

Now, my friend mistakes the committee when he supposes it is our intention to relieve a large class of manufacturers from this tax on sales. This bill applies only to those manufactures that are included in sections ninety-four and ninety-five of the existing law. It does not apply to those that are exempted by former legislation. I agree with my friend that we, perhaps, made a mistake in our bill two years ago when we relieved absolutely a certain class of manufactures from tax. I believe, for instance, that the iron interest can bear a burden of taxation as well as any other manufacture in this country. Yet a year ago we relieved that interest from internal duty. Now, when we come to report our general bill—and this is an answer to every speech made in opposition to this provision—we propose to tax all manufacturers upon their sales, as we now propose to tax those manufacturers who are affected by this bill—not only the manufactures included in this bill, but all other manufactures—one fifth of one per cent.

Mr. GARFIELD. I am very much pleased to learn that the gentleman proposes, when the general bill is introduced, to do that thing; but it seems to me, if he will allow me the suggestion, that he has given us an argument against passing this clause when he says that they propose to change it in the general bill. Why not, then, disagree with the Senate and remit the whole question to the general bill?

Mr. ALLISON. I will answer my friend on that point. We now propose to relieve the manufacturers of fifty dollars on \$1,000, and their products will, of course, be absolutely free if we do not adopt this amendment of the Senate or some modification of it. And we shall find, when hereafter we come to reimpose taxation on manufactures, that they will oppose it entirely. We think when we relieve them of fifty dollars on \$1,000 they ought to be willing to allow us to impose on them an additional tax of two dollars. But it is the intention of the Committee of Ways and Means not only to tax manufacturers one fifth of one per cent., but to tax all wholesale dealers one fifth of one per cent. on sales, instead of one tenth of one per cent., as now imposed by law on wholesale dealers, so that all wholesale dealers will be placed on a par with manufacturers, and be compelled to pay one fifth of one per cent. on sales. Were it not for the fact that a higher tax ought to be imposed on sales we could not remit the tax on manufactures, because we must have revenue to sustain the Government and support its public credit; and we cannot do that if we relieve manufactures entirely from taxation.

Mr. KELLEY. Will the gentleman yield to me for a moment?

Mr. ALLISON. Certainly.

Mr. KELLEY. Having been detained at home by the dangerous illness of a member of my family, I have been conferring for the last three days with leading manufacturers of Philadelphia, which is, I believe, conceded to be the great manufacturing center of the country at this time, and the gentleman from Iowa has expressed in the philosophy which has governed the committee the conclusion presented to me by, I may say and speak largely within bounds, fifty of the manufacturers of Philadelphia. Their suggestion is an amendment to the Senate amendment, such as I find here, making the two mills tax apply to the articles to be relieved by this bill and not to articles which have hitherto been relieved, because that would involve an embarrassment in their accounts, and on many articles upon which the profits are very minute a readjustment of prices or a loss upon the articles. Men who are relieved of a five per cent. tax will not object to two mills as a tax upon them, and so, too, of those that are relieved of two and a half and three per cent. I do not think that a measure of legislation more vital to the interests of the country than this was ever before this House, and I do not believe that any amendment could be made to the bill which would make it so satisfactory to the classes it affects as precisely this one, which leaves free from taxation articles that have hitherto been exempted, and diminishes or almost removes the taxes imposed on other products of manufacturing skill and industry.

Mr. ALLISON. I now yield five minutes to the gentleman from New York, [Mr. WOOD.]

Mr. WOOD. Mr. Speaker, I made an effort to get a motion before the House to recommit this bill to the Committee of Ways and Means, with instructions to report an amendment which would make a like reduction on foreign importations. I desire to explain very briefly the object which I had in view in that proposition.

It will be perceived that this bill proposes an aggregate reduction of about sixty million dollars from the whole revenue of the country. It is thus proposed to reduce the revenue nearly one fifth by taking off the tax upon manufactures.

Now, it is estimated that there will be required for the expenses of the Government \$331,000,000, and \$150,000,000 of that, or nearly half, is to be derived from duties on imported articles. The committee and the House, I am afraid, do not see the fact that by reducing the tax on manufactures they necessarily reduce the prices to the consumers of manufactures, and in doing that they will necessarily reduce importations, because the foreign manufacturers cannot thus compete with American manufacturers.

The effect of that, in my judgment, will be to create a proportional decrease in the revenue from duties upon foreign articles imported, thus creating a large deficiency in the amount required to carry on the Government. In that aspect of the case, therefore, I think it but right and fair, should we desire to continue in the receipt of sufficient revenue, to make a *pro rata* reduction of the duties laid upon foreign importations. And there is another reason. It is unfair to the commercial interests of this country to relieve manufacturers and throw a corresponding increase of the burdens of taxation upon trade and commerce. We have other interests besides those of manufacturers. There are our agricultural, importing, trading, commercial, and navigating interests that are materially affected by our action. In my judgment it is untimely for Congress at this time to lay this burden upon these other interests in order to relieve the manufacturing interest.

It was for that reason, therefore, that I desired to move to recommit the bill to the Committee of Ways and Means, with instructions to provide for a *pro rata* reduction of the duties upon imported articles. As that motion was not in order at the present stage of this

matter I have made this explanation of my views upon this subject.

[Here the hammer fell.]

Mr. ALLISON. I will yield for a moment to the gentleman from Massachusetts, [Mr. DAWES.]

Mr. DAWES. The gentleman from Ohio [Mr. GARFIELD] has shown very good reason why we should not adopt the amendment proposed by the Committee of Ways and Means in reference to manufactures, inasmuch as it makes a broad discrimination without any reason, by removing the tax on sales from one class and imposing it on another.

I desire the floor, also, to show why we should not concur in the amendment of the Senate touching the same thing; but that we should non-concur and have a committee of conference. That amendment of the Senate proposes to bring within the scope of this tax the entire free list; that upon which the gentleman from Pennsylvania, who last addressed the House, [Mr. KELLEY,] and myself, and members of this House generally, have struggled to put articles which it was absolutely necessary to have upon the free list; such as agricultural implements and articles of necessity generally. All the articles in the free list, which, from absolute necessity, has increased until it now covers many pages of the law, by this amendment of the Senate are to have this tax laid upon them. I hope, therefore, the House will non-concur in this amendment, for reasons which I have sought to urge, and which have been urged with so much more ability by the gentleman from Ohio, [Mr. GARFIELD.]

Mr. ALLISON. I now yield to my colleague upon the committee, [Mr. MAYNARD.]

Mr. MAYNARD. If we could have everything as we wanted we would probably carry our proposition a little further and abolish taxes altogether; or, as some one has expressed it, have no taxes at all and pay the expenses of the Government by drafts upon the Treasury. But unfortunately we are compelled to have money in the Treasury derived from the collection of taxes, and that to a very large amount.

There is one thing to be noticed; during the whole of this debate and during the discussions which we have heard in the committee-room, where we have had a great number of persons who have told us of articles that should not be taxed and have given very ingenious and plausible reasons to show why they should not be taxed, I believe we have not yet had one person come before us to tell us of an article that might be or ought to be taxed.

Now, in regard to this article of petroleum, which my friend from Pennsylvania [Mr. SCOFIELD] characterizes as the "poor man's light," when did it become the poor man's light? Was there no poor man's light before petroleum came into use? Were there no poor men before this light was discovered? Did not they have light from animal and fish oils?

Mr. SCOFIELD. That was "the light of other days." [Laughter.]

Mr. MAYNARD. Petroleum may supply the light which some poor men use, but it also furnishes the light which a great many rich men use also. That argument, it strikes me, is a very suspicious one.

Who are they that are here seeking to have the tax on this article abolished? Are they the poor men or the representatives of the poor men? No, sir; they are the petroleum capitalists, the men who represent the oil wells. It is a very suspicious circumstance that the appeal for the removal of this tax, made in the name of the poor men of the country, comes from those who represent the petroleum wells and the oil distilleries. Why, sir, our taxes should be collected from the wealthy interests, the capital of the country, the men who have the means to pay; and I know of no interest so abundantly able to pay as that which is represented by the word "petroleum," a word which from the time it came into the general vocabulary has been the synonym for wealth hastily acquired, wealth gotten without effort,

fabulous capitals springing up suddenly from fortuitous causes, not from the slow accumulations of labor. I hope the House will concur in the action of the committee, and leave this whole subject of petroleum to be considered and discussed in all its bearings when the general bill shall come before us.

Mr. ALLISON. I yield two minutes to the gentleman from New York, [Mr. VAN WYCK,] and then I will surrender the floor to the chairman of the committee, [Mr. SCHENCK.]

Mr. VAN WYCK. Mr. Speaker, in the two minutes allowed me by the courtesy of the gentleman from Iowa, I have only time to ask the members of the House to read and consider carefully the last section proposed in the report of the committee. The well-settled principles of law are here overthrown. The law presumes that every man is innocent until he is proved guilty. Yet this section proceeds upon the principles that every man is to be presumed guilty until he proves himself innocent. Hence this legislation, harsh as it is, will not have the effect to increase the revenues nor to punish dishonest distillers, because it will be impossible in this country to obtain a jury that would ever be willing, upon a mere *prima facie* case, such as that contemplated in this section, to convict any man. But the harshest feature of this section is that which provides that—

The fact of the selling below the amount of the tax shall be held to be *prima facie* evidence that the collectors and assessors of the districts in which said spirits were produced and were sold have severally neglected their duties; and such collectors and assessors shall thereupon be suspended from office.

Why, sir, under this provision, if any vagabond chooses to buy in one district a barrel of ardent spirits and then go into a second district and sell it for \$1 75 the revenue officers of each district are to be considered as *prima facie* guilty of negligence, and are to be suspended from office. Why, sir, is it possible that any Committee of Ways and Means should propose such legislation by which all our revenue officers are placed at the mercy of their enemies? I have only time to call the attention of the House to this provision, and ask members to decide whether they are willing to do such injustice to the officers of the Government.

Mr. SCHENCK. Mr. Speaker, in closing this debate, I find that my colleague upon the committee, the gentleman from Tennessee, [Mr. MAYNARD,] has anticipated a good deal I would have said upon the general subject of taxation. Everybody is ready to help the committee to take the taxes off; but few seem disposed to assist in maintaining and collecting them. But taxes we must have; and, as I have before said, in recommending the imposition or continuance of taxation upon certain articles, we have no disposition to levy taxes where they are not necessary as sources of revenue, but we are actuated by the conviction that we must tax some things in order to have revenue at all. Now, sir, I would gladly adopt, were it practicable, that platform suggested the other day as the only one on which any party could win—the platform which would insure to every man a big roll of greenbacks in his pocket and an exemption from all taxation. But that is a Utopia to which we are not likely to arrive. And therefore, sir, I say to the gentleman, after a full, thorough, earnest investigation of this whole subject, the Committee of Ways and Means have come to the conclusion, if we are to remit tax upon a large number of manufactures of the country, as we are seeking to do, we must at the same time get such tax as we propose upon other subjects of taxation, or to a certain extent upon those, in order that we may have revenue enough to carry on the operations of the Government.

Coming, then, to this particular subject about which so much has been said, there is no tax upon petroleum properly considered and no tax upon crude oil as it comes from the bowels of the earth. I would gladly tax that some two or three cents per gallon, and thus make foreigners, by whom it is bought and manufac-

tured after exportation, pay their proportion to the support of our revenue; but after thorough investigation we are satisfied we cannot tax the crude oil without building up distilleries of coal and peat and shale in England and other places abroad to the detriment of our own manufactures. If we tax, therefore, we have to tax, as we are now doing, distilled oil—distilled oil the product of petroleum. Shall we tax it as now, or shall we come down one half? The Senate propose a general reduction of one half. The law now produces \$5,000,000. The Senate throw off half of that, and if gentlemen will side with the Senate in propositions of this kind they must recollect it is by so much they help to embarrass the House in attempting to get revenue for the Government so as to enable us to relieve other things. As to our taxing the poor man's light, I will not say a good deal of that is demagogery, or, to use the Turkish term, "bosh;" but I do say that assertion is made to the face of the fact that under the present tax, considered so onerous upon the products of petroleum, they run down, down, down, until no people are so cheaply lighted as ours.

Mr. WILLIAMS, of Pennsylvania. I ask the gentleman whether it is not true that almost every other product of American industry has declined to the same extent?

Mr. SCHENCK. No, sir; not if these gentlemen tell the truth. They tell us while other manufacturers are comparatively prosperous they are utterly crushed out. We do not find it so by investigation. I leave that now, sir, to come back to this matter again. I say these very manufacturers tell us they did not know anything which could better bear the present rate of taxation than these very products. What they do claim we are trying by our general provisions to accomplish; that is, protection from illicit distillation of oil and protection from these dangerous adulterations; and if the House will confide in the committee we can report a bill we think satisfactory upon that point. And when the committee report it, as I have said again and again, if gentlemen will not undertake to interfere with it, which gentlemen must admit this does to a certain extent, if they will let it alone for the next three months, they will have the fullest opportunity on the general bill for amending it, if they can, so as to reduce the tax, or amending it so as to take the tax off altogether. I hope they will not succeed, but they shall have an opportunity of trying the question. For that reason, among others, we beg them not to undertake the exemption of a certain class of manufactures in this indirect way from taxation altogether.

My colleague [Mr. GARFIELD] wishes us to extend this system of taxing sales above a certain amount to all manufactures. Our reasons are very simple for not doing that, and they have been well sustained by what the gentleman from Pennsylvania, [Mr. KELLEY,] just returned from that State, has stated. I say we are compelled to put some special tax upon sales in order to get revenue. We propose to leave all outside of this bill for the present until the general bill is passed; that which is exempt to remain exempt, and that which is specially provided for to remain specially provided for. But so far as these particular exemptions are concerned, we propose when we take off the specific tax of a certain percentage directly upon the manufacturers, that they shall be put under what will have to be a provision, as we believe, of a general bill. If we do not do this, what will be the effect? While exempting them from every sort of tax for the next two or three months, they will treat it as a great burden when we come to put the tax on their sales, and there will be great grumbling then. So now we propose to get rid of that difficulty by making the transaction at once.

[Here the hammer fell.]

The first amendment of the Senate was read, as follows:

Add to section one the following proviso: *Provided, That the product of petroleum and bitu-*

minous substances hereinbefore mentioned, except illuminating gas, shall, from and after the passage of this act, be taxed at one half the rates fixed by the said section ninety-four.

The committee recommended non-concurrence.

The question being put on concurring in the amendment, there were—ayes 51, noes 53.

Mr. SCOTFIELD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 63, not voting 49; as follows:

YEAS—Messrs. Adams, Archer, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Banks, Begman, Beatty, Beck, Bingham, Blaine, Broomall, Buckland, Burr, Cake, Covode, Briggs, Eckley, Eggleston, Eldridge, Eliot, Fields, Fox, Getz, Glossbrenner, Golladay, Gravelly, Grover, Halsey, Higby, Hotchkiss, Chester D. Hubbard, Hulburt, Hunter, Ingersoll, Kelley, Kerr, Ketchum, Kitchen, Knott, Koons, George V. Lawrence, William Lawrence, Mercur, Miller, Moorhead, Mungen, Myers, O'Neill, Paine, Plants, Polesley, Pomeroy, Price, Pruyn, Randall, Robertson, Scofield, Shanks, Sitgreaves, Spalding, Thaddeus Stevens, Stewart, Stone, Taber, Lawrence S. Trimble, Twichell, Van Auker, Ward, Welker, Thomas Williams, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—77.

NAYS—Messrs. Allison, Ames, Anderson, Arnell, Baker, Baldwin, Benjamin, Benton, Boutwell, Bromwell, Chanler, Reader W. Clarke, Coburn, Cook, Cullum, Dawes, Dixon, Dodge, Ferriss, Garfield, Griswold, Hawkins, Hill, Holman, Hooper, Hopkins, Richard D. Hubbard, Jenckes, Judd, Kelsey, Ladin, Lincoln, Loughridge, Marshall, Maynard, McClurg, McCormick, Moore, Morrell, Mullins, Newcomb, Niblack, Orth, Perham, Pike, Poland, Baum, Ross, Sawyer, Schenck, Selye, Smith, Aaron F. Stevens, Taylor, Thomas, John Trimble, Unson, Burt Van Horn, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, and William B. Washburn—63.

NOT VOTING—Messrs. Barnes, Barnum, Blair, Boyer, Brooks, Butler, Cary, Churchill, Sidney Clarke, Cobb, Cornell, Donnelly, Ela, Farnsworth, Ferry, Finney, Haight, Harding, Asahel W. Hubbard, Humphrey, Johnson, Jones, Julian, Loan, Logan, Lynch, Mallory, Marvin, McCarthy, McCullough, Morgan, Morrissey, Nicholson, Nunn, Peters, Phelps, Pile, Robinson, Shellabarger, Starkweather, Stokes, Taffe, Trowbridge, Van Aernam, Van Wyck, Henry D. Washburn, William Williams, James F. Wilson, and Windom—49.

So the amendment of the Senate was concurred in.

Mr. SCOTFIELD moved to reconsider the vote by which the amendment was concurred in; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The second amendment of the Senate was read as follows:

At the end of section two add the following: And nothing herein contained shall be construed as a repeal of any tax upon machinery or other articles which have been or may be delivered on contracts made with the United States prior to the passage of this act.

The committee recommended non-concurrence.

The amendment was non-concurred in—ayes sixteen, noes not counted.

Mr. SCHENCK moved to reconsider the vote by which the amendment was non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The third amendment of the Senate was read, as follows:

Add the following as a new section: SEC. 3. And be it further enacted, That after the 1st day of April next, no allowance for drawback on account of internal taxes paid, shall be made on the exportation of any article of domestic manufacture on which there is no internal tax at the time of exportation, and no claim for drawback on any article exported prior to June 30, 1866, shall be allowed unless presented to the Commissioner of Internal Revenue within three months after this act takes effect.

The committee recommended concurrence, with the following amendment:

Strike out all after the word "enacted," in the first line, and insert in lieu thereof:

That after the 1st day of July, 1868, no allowance for drawback on account of internal taxes paid on manufactures shall be made on the exportation of any article of domestic manufacture which is relieved from tax by the provisions of this act, nor shall such allowance be made in any case unless it shall be proved by sworn evidence, to the satisfaction of the Commissioner of Internal Revenue, that such articles of manufacture were, prior to the 1st day of April, 1868, actually purchased or manufactured and contracted to be delivered for such ex-



portation; and no claim for such allowance on any such article shall be paid unless presented to the Commissioner of Internal Revenue prior to the 1st day of August, 1868.

The amendment of the committee was agreed to; and the Senate amendment, as amended, was concurred in.

The fourth amendment of the Senate was read, as follows:

SEC. 4. *And be it further enacted*, That every person, firm, or corporation who shall manufacture by hand or machinery any goods, wares, or merchandise not otherwise specifically taxed as such, or who shall be engaged in the manufacture or preparation for sale of any articles or compounds not otherwise specifically taxed, or shall put up for sale in packages with his own name or trade mark thereon any articles or compound not otherwise specifically taxed, and whose annual sales exceed \$10,000, shall pay for every additional \$1,000 in excess of \$10,000, two dollars, and the amount of sales within the year beyond \$10,000 shall be returned monthly to the assistant assessor, and the tax on sales in excess of \$10,000 shall be assessed by the assessor and be paid monthly as other monthly taxes are assessed and paid.

The Committee of Ways and Means recommended concurrence in this amendment with two amendments, the first of which was then read, as follows:

Strike out all after the word "corporation," in line two of said amendment, and insert in lieu thereof the following:

Whose manufactures of any kind, or articles produced by them, are exempted from taxation by the provisions of this act, and whose annual sales exceed \$5,000, shall pay, for every additional \$1,000 in excess of \$5,000, two dollars; and the amount of sales within the year in excess of \$5,000 shall be returned monthly to the assistant assessor, and the tax on sales in excess of \$5,000 shall be assessed by the assessor, and paid monthly as other monthly taxes are assessed and paid. And the assessment for the month of April, A. D. 1868, shall be made on the excess of sales above the rate of \$5,000 per annum; and thereafter the annual period for the assessment of such tax shall commence on the 1st of May in each year.

The question was taken on the amendment to the amendment, and it was agreed to—ayes seventy-one, noes not counted.

Mr. SCHENCK moved to reconsider the vote by which the amendment to the amendment was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WARD. Would it be in order to ask the special attention of the House to the next amendment reported by the Committee of Ways and Means?

The SPEAKER. The Chair supposes that the special attention of the House is given to all amendments.

Mr. WARD. It is a very extraordinary amendment.

The SPEAKER. No debate is in order.

The second amendment reported by the Committee of Ways and Means to the fourth amendment of the Senate was to insert the following as an additional section:

SEC. —. *And be it further enacted*, That every person who shall engage in or carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall forfeit the distillery and distilling apparatus used by him and all distilled spirits and all raw materials for the production of distilled spirits found in the distillery and on the distillery premises, and shall, on conviction, be fined not less than \$500 nor more than \$5,000, and be imprisoned not less than six months nor more than three years. If any distiller shall carry on such business in any district, city, town, township or parish for a period of twenty days, during which the market value in such district, city, town, township, or parish, of the kind of spirits produced by him is less by more than ten per cent, than the tax and the cost of producing said spirits, it shall be *prima facie* evidence that the business is being carried on with intent to defraud the United States. And if it shall at any time come to the knowledge of the Commissioner of Internal Revenue that distilled spirits are selling directly or indirectly, in any collection district, at a market price less than the tax on such spirits, he shall forthwith institute a strict examination into the business and conduct of all the revenue officers, both in the district in which such sales are being made and in the district in which such spirits have been manufactured; and the fact of the selling below the amount of the tax shall be held to be *prima facie* evidence that the collectors and assessors of the districts in which said spirits were produced and were sold have severally neglected their duties; and such collectors and assessors shall thereupon be suspended from office, and the powers and duties of their several offices shall devolve upon such subordinate officers as are now designated by law, of which suspension notice shall be immediately given to said collectors and assessors by the Commissioner of Internal Revenue, and all pay and compensation shall be withheld from

them until they shall respectively show to the satisfaction of the Commissioner of Internal Revenue either that on the spirits so sold for less than the tax thereon the tax has been regularly paid, or that if the tax has not been paid the failure to pay has not been on account of negligence or want of due diligence on the part of the officers so suspended.

Mr. ROSS. I would inquire if that amendment is open to amendment?

The SPEAKER. It is not.

Mr. MUNGEN. I would like to make a suggestion to the chairman of the Committee of Ways and Means.

The SPEAKER. No debate is in order.

Mr. INGERSOLL. Is it not in order to ask unanimous consent that thirty minutes be allowed for the discussion of this particular section?

The SPEAKER. That is in order.

Mr. INGERSOLL. Then I make that suggestion.

Mr. PRICE. I object.

The question was put on agreeing to the amendment to the amendment; and there were—ayes 54, noes 57.

Mr. SCHENCK demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—ayes 82, nays 57, not voting 50; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Beatty, Benjamin, Benton, Blaine, Boutwell, Broomall, Buckland, Calk, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Eckley, Eggleston, Eliot, Ferriss, Ferry, Garfield, Gravelly, Griswold, Hooper, Hopkins, Chester D. Hubbard, Ingersoll, Judd, Kelley, Kelsoy, Ketcham, Ladlin, George V. Lawrence, William Lawrence, Loughridge, Mallory, Maynard, McClurg, Mercer, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Plants, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Spalding, Aaron F. Stevens, Taffe, Taylor, Thomas, Twichell, Robert T. Van Horn, Cadwalder C. Washburn, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, Stephen F. Wilson, and Woodbridge—82.

NAYS—Messrs. Adams, Archer, Axtell, Bailey, Baker, Banks, Beaman, Beck, Bromwell, Burr, Chanler, Churchill, Eldridge, Farnsworth, Fields, Fox, Getz, Glossbrenner, Golladay, Grover, Halsey, Hawkins, Higby, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Hunter, Jencks, Johnson, Julian, Kerr, Knott, Koontz, Lincoln, Marshall, McCormick, Miller, Mungen, Niblack, Pomeroy, Prayn, Randall, Ross, Sitgreaves, Stone, Tabor, Lawrence S. Trimble, Upson, Van Anker, Van Trump, Van Wyck, Ward, Wood, and Woodward—57.

NOT VOTING—Messrs. Barnes, Barnum, Bingham, Blair, Boyer, Brooks, Butler, Cary, Cobb, Cornell, Donnelly, Driggs, Ela, Finney, Haight, Harding, Humphrey, Jones, Kitchen, Loan, Logan, Lynch, Marvin, McCarthy, McCullough, Morgan, Morrissey, Nicholson, Nunn, Peters, Phelps, Pike, Pile, Poland, Robinson, Selye, Shellabarger, Starkweather, Thaddeus Stevens, Stewart, Stokes, John Trimble, Trowbridge, Van Aernam, Burt Van Horn, Henry D. Washburn, William Williams, James F. Wilson, John T. Wilson, and Windom—50.

So the amendment to the amendment was agreed to.

The amendment of the Senate, as amended, was then concurred in.

Mr. SCHENCK moved to reconsider the vote by which the amendment of the Senate was concurred in as amended; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The amendment of the Senate, to add to the title the words "and for other purposes," was then concurred in.

Mr. SCHENCK moved to reconsider the vote by which the amendment to the title was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. No. 108) for the relief of Henry Great-house and Samuel Kelly.

#### CONTINGENT EXPENSES OF STATE DEPARTMENT.

The SPEAKER laid before the House a message from the President of the United

States, transmitting a report and accompanying documents from the State Department, in answer to a resolution of the House of the 18th ultimo, relating to the unexpended money appropriated by law for the contingent expenses of foreign intercourse.

Mr. BANKS moved that the message and accompanying documents be referred to the Committee on Foreign Affairs, and ordered to be printed.

The motion was agreed to.

#### AMERICAN CITIZENS IN PRUSSIA.

The SPEAKER also laid before the House a message from the President of the United States, transmitting, in answer to a resolution of the House of the 9th instant, a report from the Secretary of State in relation to negotiations with the German States concerning the rights of naturalized American citizens, &c.; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### LEGAL EXPENSES OF STATE DEPARTMENT, ETC.

The SPEAKER also laid before the House a message from the President of the United States, transmitting, in compliance with a resolution of the House of the 11th ultimo, a report and accompanying documents from the State Department, relating to the amounts paid by the State Department for legal expenses since 1860.

Mr. JENCKES moved that the message and accompanying documents be referred to the Committee on Retrenchment, and ordered to be printed.

The motion was agreed to.

#### SECURITIES OF NATIONAL BANKS.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of the 12th instant, a report of the Treasurer of the United States, relative to national banks having changed their securities held in the Treasury.

Mr. RANDALL moved that the communication and accompanying report be referred to the Committee on Banking and Currency, and ordered to be printed.

The motion was agreed to.

#### SAN JUAN ISLAND, ETC.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a communication from Major General Halleck, relative to the occupancy of San Juan Island, number of troops, &c.; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### HARBOR AND RIVER IMPROVEMENTS.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of the 18th instant, a communication from the chief of engineers, containing revised and reduced estimates of appropriations required for harbor and river improvements for the year ending June 30, 1869.

Mr. ELIOT moved that the same be referred to the Committee on Commerce, and ordered to be printed.

The motion was agreed to.

#### UNION PACIFIC RAILROAD.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting a communication from Lieutenant General Sherman, inclosing one from the president of the Union Pacific railroad, eastern division, asking aid of Congress in extending that road to Fort Lyon.

Mr. WASHBURN, of Illinois, moved that the same be referred to the Committee on Military Affairs, and ordered to be printed.

The motion was agreed to.

#### PACIFIC MILITARY POSTS.

The SPEAKER also laid before the House a communication from the Secretary of War, in reply to a resolution of the House of the 10th instant, relative to the number of soldiers

stationed at certain military posts on the Pacific coast.

Mr. MALLORY moved that the same be referred to the Committee on the Pacific Railroad, and ordered to be printed.

The motion was agreed to.

#### CLERKS, ETC., IN TREASURY DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with acts of April 20, 1818, and August 26, 1842, lists of clerks and other employes in the various offices of this Department; which, on motion of Mr. RANDALL, was referred to the joint Committee on Retrenchment.

#### ROOM FOR APPROPRIATION COMMITTEE.

The SPEAKER also laid before the House the following letter from the Clerk of the House:

CLERK'S OFFICE HOUSE OF REPRESENTATIVES,  
UNITED STATES,  
WASHINGTON, D. C., March 23, 1868.

SIR: On the 23d instant the House passed this resolution:

"Resolved, That the room now occupied by the engrossing clerks be assigned to the use of the Committee on Appropriations, the room at present occupied by that committee being assigned to the engrossing clerks until a better and permanent arrangement can be made."

Yesterday afternoon I received formal notice from the clerk of the Committee on Appropriations on behalf of a sub-committee who have had charge of this subject, that they desired immediate possession of the present enrolling room.

The room assigned to the enrolling clerks by the resolution referred to has been examined and is found to be so small that it will not even hold the desks and cases now in use by the enrolling clerks daily employed; and I am at a loss to see how the engrossing and enrolling required by the rules of the House can be promptly and properly done with accommodations so inadequate and so inferior to those now possessed. I feel it my duty to make this representation to the House, and trust that a more suitable room than that indicated in the resolution of the 23d instant may be provided for those charged with this branch of the work of this office.

Very respectfully, your obedient servant,

EDWARD McPHERSON,

Clerk of House of Representatives United States.

Hon. SCHUYLER COLFAX,

Speaker House of Representatives.

Mr. WILSON, of Pennsylvania. I move that this letter be referred to the Committee on Enrolled Bills.

Mr. SCOFIELD. I move to amend the motion by adding a provision that all action under the resolution heretofore adopted be suspended till the Committee on Enrolled Bills shall report on this subject.

Mr. BLAINE. The substance of that letter is that the room which has been used by nine committee men with frequently large audiences is not large enough for three enrolling clerks.

Mr. WASHBURN, of Illinois. I did not hear the reading of the whole of this communication. I would like to have it read again, that we may know whether the Clerk rules the House or whether the House rules itself.

The SPEAKER. The Chair will state to the gentleman from Illinois that the communication was read in full, and that the House was unusually quiet during the reading.

Mr. WASHBURN, of Illinois. Gentlemen were talking to me.

Mr. SPALDING. I move to amend the motion to refer by striking out "the Committee on Enrolled Bills" and substituting "the Committee on Appropriations."

Mr. SCOFIELD. In reply to the remarks of the gentleman from Illinois, [Mr. WASHBURN,] which reflect upon the Clerk, I wish to say that if the gentleman had heard this letter read he would have discovered that it is a very respectful communication, not asking the restoration to the enrolling clerks of the room heretofore occupied by them, but simply informing the House of what we probably had not thought of, that the room which we have assigned them is too small, and asking us to make some other arrangement. If the gentleman had heard the communication read he would not have made the remark which he has made.

Mr. WASHBURN, of Illinois. I made my remark for this reason, that since this reso-

lution was adopted a few days ago, the Clerk has obstructed the execution of the order of the House.

Mr. BLAINE. Oh, no; I think not. I think the Clerk has behaved toward us with marked courtesy.

Mr. WILSON, of Pennsylvania. I rise to a question of order—that I have not surrendered the floor.

The SPEAKER. The Chair overrules the point of order. When the gentleman made his motion to refer, he did not demand the previous question, and therefore left it open to debate.

Mr. INGERSOLL. Is it in order to move to reconsider the vote by which the House adopted the resolution referred to in this communication?

The SPEAKER. It is not, because the motion to reconsider was made and laid on the table. The resolution can only be rescinded by another resolution, to be offered under the rules of the House with regard to resolutions.

Mr. WILSON, of Pennsylvania. Mr. Speaker—

The SPEAKER. The Chair now recognizes the gentleman from Pennsylvania [Mr. WILSON] as entitled to the floor.

Mr. WILSON, of Pennsylvania. I desire to inquire what is the amendment proposed by my colleague, [Mr. SCOFIELD?]

The SPEAKER. Two amendments are now pending. The gentleman from Pennsylvania [Mr. SCOFIELD] moves to amend the motion of his colleague [Mr. WILSON, of Pennsylvania] by adding a provision that the execution of the resolution be suspended till the Committee on Enrolled Bills shall have reported. The gentleman from Ohio [Mr. SPALDING] moves to amend the motion to refer by striking out "the Committee on Enrolled Bills" and inserting "the Committee on Appropriations."

Mr. WILSON, of Pennsylvania. I accept the amendment of my colleague, [Mr. SCOFIELD,] and call the previous question.

Mr. FARNSWORTH. I ask the gentleman to yield to me a moment.

Mr. WILSON, of Pennsylvania. For what purpose?

Mr. FARNSWORTH. For a moment only. I desire to make an inquiry and a remark.

Mr. WILSON, of Pennsylvania. I will hear the gentleman's inquiry.

Mr. FARNSWORTH. I desire to inquire whether the business of the Committee on Appropriations is not nearly finished for the session? Have not all their bills been reported to the House, or nearly so?

Mr. SPALDING. They have not.

Mr. FARNSWORTH. I ask whether the pleasant room they now have is not sufficient for this session? Is it not a good room for the approaching warm weather?

Mr. SPALDING. If the gentleman is so pleased with it let him exchange it for the committee-room of the Committee on the Post Office and Post Roads.

Mr. WILSON, of Pennsylvania. I demand the previous question.

Mr. WASHBURN, of Illinois. I hope it will be voted down.

The SPEAKER. The amendment of the gentleman from Ohio [Mr. SPALDING] is considered as pending.

The previous question was seconded; there being, on a division—aye ninety-one, noes not counted.

The main question was then ordered to be put.

Mr. SPALDING's amendment was disagreed to. The resolution, as modified, was adopted.

Mr. WILSON, of Pennsylvania, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURN, of Illinois. We shall have to report more liberal appropriations. [Laughter.]

#### NICKEL-COPPER FIVE CENT PIECES.

Mr. KELLEY, by unanimous consent, introduced a bill (H. R. No. 968) for the coinage of nickel-copper pieces of five cents and under; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

Mr. ALLISON moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REGISTER OF DEEDS.

Mr. INGERSOLL, by unanimous consent, introduced a bill (H. R. No. 969) supplementary to an act entitled "An act to establish the office of register of deeds for the District of Columbia," approved February 14, 1863; which was read a first and second time, and referred to the Committee for the District of Columbia.

Mr. ALLISON moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PACIFIC RAILROAD FREIGHT TARIFF.

The SPEAKER stated the next business in order was House joint resolution No. 168, to regulate tariff for freight and passengers on the Union Pacific railroads and their branches, on which the gentleman from Iowa [Mr. PRICE] was entitled to the floor.

Mr. PRICE. Mr. Speaker, it is not my intention to take up the time of the House to any considerable extent in reference to the subject now pending; nor, indeed, should I have said a word on this joint resolution, but have satisfied myself with the motion to refer to the Committee on the Pacific Railroad, had it not been for the singular course, in my judgment, pursued by the gentleman from Wisconsin [Mr. WASHBURN] in debating this measure. I have reference particularly to what I consider an attack upon the Committee on the Pacific Railroad. I will give his own language:

"Mr. Speaker, at a very early day in the session I introduced a bill and had it referred to the Pacific Railroad Committee providing for a commission, consisting of the Secretary of War, Secretary of the Interior, and Attorney General, whose duty it should be on the 1st of July in each year to revise the tariff of rates for transportation over the Pacific railroads. Waiting for a long time for some action from that committee, and becoming satisfied that there would be great delay and perhaps the bill would 'sleep the sleep that knows no waking,' I endeavored to arrive at the same result by the means of a joint resolution."

Why that language should be used in reference to that committee is more than I am able to conceive. No gentleman in this House knows better than the gentleman from Wisconsin [Mr. WASHBURN] that it is almost impossible for a committee to report a bill until that committee is regularly called; and the Committee on the Pacific Railroad had not been called from the time the bill was referred to it until the time when this language was used; nor has it been called since. In addition to that I had personally stated to the gentleman, what probably I had no right to do, that the committee had had the matter under consideration, and that as chairman of the committee I had been instructed to communicate with the different railroads named in the joint resolution, for the purpose of ascertaining from them something in reference to their business, their receipts, and their expenditures. The knowledge of that fact the gentleman from Wisconsin had from me, and I was, therefore, the more surprised to hear him use the language I have just read.

I do not know that it is necessary to defend the committee in this or any other case, but it appears to me that it is when the further fact is taken in connection with this that a rather wholesale denunciation was made of the members of the House because of the passage of the amendment to the Pacific railroad bill in 1864. Gentlemen who heard that speech will remember that it was stated that there was no member to be found who had voted for it;

meaning by that, I suppose, that those who had voted for it were ashamed of having done so. In looking at the Congressional Globe containing the record of the proceedings on that occasion I find that there are thirty-one members of this Fortieth Congress who voted for that measure in the Thirty-Eighth Congress. That, I take it, is a fair indication that the people who sent them here indorsed their action upon that occasion. And not only have they done that, but some of the members who voted for this measure in the Thirty-Eighth Congress have been elevated by their constituents to the Senate of the United States. Whether all the thirty-one gentlemen will get there or not remains to be seen. [Laughter.] It is a matter of time and of hope on the part of some of them. I am asked by a friend on my left how many are here who voted against it. I am not prepared to say exactly, but I will risk the assertion that there are not ten members of the Fortieth Congress who voted against that measure in the Thirty-Eighth Congress.

Mr. WASHBURN, of Illinois. Here is one who voted against it.

Mr. PRICE. Why, as a matter of course the gentleman did. It is a work of supererogation on his part to say he is one of them.

Mr. WASHBURN, of Illinois. And here is another present.

Mr. PRICE. Mr. Speaker, I do not understand that it is a mark of condemnation upon a member of this House that he has voted for or against any measure. I presume no gentleman casts his vote upon any measure here, whether it be a railroad bill or any other, unless he conceives it to be right to do so. He stands upon the record. I deprecate the idea, and if I could cure the evil in that way I would enter my protest here on the record against this seeming—to use no harsher term—impugning or calling in question of the motives of members who happen to vote for or against a measure.

I heard before I became a member of Congress or had ever seen the inside of this congressional Hall an anecdote which I will relate as illustrative of this practice and of my own feelings in reference to it. A colored man, before the shackles had been stricken from his limbs, while not only his body but his mind, to a certain extent, was in bondage, was asked if his master was a Christian. "No, sir," said he, "my massa is a member of Congress." [Laughter.]

Now, sir, I was not able to see why a man should not be a member of Congress and at the same time a Christian, and I supposed a man with the free use of his limbs and faculties, who was morally and mentally free, would not have given such an answer. But when I hear members of Congress on this floor calling in question the motives of gentlemen who have voted for or against a measure, they themselves being parties concerned, I do not wonder that a man outside who knows nothing but what he had heard should make just such an answer as that.

Did the members of the Thirty-Eighth Congress commit any sin against the laws of God or man when they voted for the amendment to the Pacific railroad charter in 1864? Are they to be called before the judgment seat to-day and arraigned as having committed an act against their country or against their Maker? Sir, I hope to live long enough to see the day when that kind of argument will not be used upon this floor, but when a measure will stand upon its merits, and gentlemen will vote for or against it because they believe it to be right or wrong, and when those principles and motives will alone govern them.

Why, sir, it was but a day or two since that I picked up a paper—and I will let it go upon the record to correct the evil—in which I read a statement that besides one gentleman in this House and another at the other end of the Capitol, there were not a dozen sober men in Congress. [Laughter.] I am asked who were the exceptions. The exceptions were the Speaker of this House and Senator WILSON. [Laugh-

ter.] Well, sir, I am glad that they named two good men. When they said that, they told the truth, but they did not tell it all. I do not find any particular fault with this scribbler who writes from the Halls of Congress for saying that we have sober men here. That is true; but if I could have controlled him I would have had him tell the whole truth. And I want to say here and now and to put it upon the record—I did not intend to say anything on this subject when I rose to discuss a Pacific railroad bill, but I do not think I can say anything better—let it go to the country that the Fortieth Congress has not only got two sober men in it, one in the House and one in the Senate, and they are exemplary men and worthy to be copied after by any one, but that there are more of the same kind of men in the Fortieth Congress than there have been in any Congress for the last fifty years. I want that to go upon the record as an answer to the statement made by this writer. And, as a friend in front of me says, there are fewer of the other kind—fewer men who indulge in intoxicating liquor as a beverage than there have been in this House or in the Senate for the last fifty years. I name this, sir, to show that this species of argument—if it may be called argument—this indulging in innuendoes and insinuations is not calculated to do the Congress of the United States or the people of the United States any good.

Why, sir, if we do not respect ourselves who is to respect us? If a man comes here without a moral foundation on which to build the superstructure of his legislative character his constituency had better keep him at home. I trust that in the discussion of this or any other question gentlemen will confine themselves to the merits of the case and show by facts and figures why the measure ought or not to be adopted. Character is everything in this world, and I presume there is not a gentleman on the floor now, nor has been for the last ten years, and I hope there never will be in the future, who does not entirely sympathize with the sentiment expressed in the language of Shakspeare, which I will quote:

"Who steals my purse steals trash; 'tis something, nothing;  
'Twas mine, 'tis his, and has been slave to thousands;  
But he that filches from me my good name,  
Robs me of that which neither enriches him,  
And makes me poor indeed."

Reputation, sir, ought not to be cheap in this House; it ought not to be cheap anywhere; and I hold that the practice of impugning the motives of gentlemen who vote for or against measures is cheapening the reputation of this House to an extent that ought not to be allowed.

But, sir, I proceed now to show that the Committee on the Pacific Railroad ought not to have been criticised in the manner they were. I said to the gentleman from Wisconsin at the time that the statement he made lacked correctness. He replied:

"I state nothing but what is correct. The gentleman from Iowa I have spoken with several times, and I have understood from him that the committee had had the matter under consideration, and I think that he is in favor of the measure, but that a majority of the committee have no intention of reporting that bill."

If the gentleman from Wisconsin understood me to say anything of that kind to him I can only say that he entirely misunderstood me. I certainly never said to him what I did not know myself, that the committee had no intention of reporting that bill. The committee proceeded to the consideration of the bill with a diligence and industry that has not been exceeded by that applied to any bill that has come before the committee since I have had the honor to be a member of it; and they would have been ready, I presume—and if the bill is left with them they will be ready, I presume—whenever the committee is called to make some report, whether for or against it I am not now prepared to say, because I do not happen to know what the majority of that committee will do in the premises. I know they will consider the matter fairly; I know there are upon that committee gentlemen who

understand the question, and will bring to its consideration all the knowledge and experience they possess on that subject.

Let me give another item or two from the speech of the gentleman from Wisconsin [Mr. WASHBURN] which I think should be examined. In one place he says, "I say what I do on this subject only to call attention more forcibly to where we are drifting." Then, in another part of his speech, he says:

"Nothing shows more clearly where we are drifting than the fact that this Pacific Railroad Committee, only three or four days ago, attempted to report another Pacific railroad bill, from Portland, Oregon, to connect with the Pacific road at the north bend of the Humboldt river."

Now, all I have to say in reply to that is that the Committee on the Pacific Railroad did not attempt to report a bill of that kind at all. We had had under consideration a bill for such a road, and had so cut it up and changed it by amendments, without coming to any conclusion upon it, that the committee instructed me to ask the House to allow it to be reprinted and recommittees. That was all I did. That, however, was objected to, and of course we did not have the benefit of that reprinting. The Committee on the Pacific Railroad have never sought to report that bill, or any bill like it. They have never decided what they will do with that bill. I so stated to the gentleman from Wisconsin [Mr. WASHBURN] at my own desk, where he came to ask me the question; I so stated to him in so many words.

Then why make this complaint against the Committee on the Pacific Railroad? What have they to do with it? Some of the members of that committee belong to the legal profession; some of them are business men. Their duty is to consider the bills referred to them, and to report to the House such as they think proper to be passed by Congress; and until they do this, it is scarcely necessary, to say the least of it, for any gentleman to rise on this floor and attempt to charge that committee with doing something they have not sought to do.

The gentleman has charged, too, that a great wrong was done to the Government because a certain road had not been built in a direct line. When the gentleman made that statement I asked him this question:

"Has the Government given one dollar more of subsidy to the road on that route than it would have been obliged to give had the road been built on the other route?"

The gentleman from Wisconsin [Mr. WASHBURN] answered "Yes, sir." Now, I want to read the law on that subject. The provision to which I refer is as follows:

"And said company, constructing said branch, shall not be entitled to receive in bonds an amount larger than the said Union Pacific Railroad Company would have been entitled to receive if it had constructed the branch under the act to which this is an amendment."

That is tolerably plain language. So, then, if the Union Pacific Railroad Company, or the Government of the United States, or the Congress of the United States, as is the fact, allows that road to be built in any way so as to make the connection contemplated and specified in the first act of Congress that may be presumed to be right; and when the gentleman from Wisconsin said that they got more money from the Government than they would otherwise have got he was mistaken simply, as the record shows.

Mr. ALLISON. Will my colleague [Mr. PRICE] yield to me for two minutes?

Mr. PRICE. Certainly.

Mr. ALLISON. I desire merely to say that my friend from Wisconsin [Mr. WASHBURN] has evidently been laboring under a misapprehension upon this question of the Sioux City branch railroad, possibly because he has not investigated it with that care which he might have exercised, and possibly because he was not in the Thirty-Eighth Congress, which changed the original legislation upon that subject.

The chairman of the Committee on the Pacific Railroad [Mr. PRICE] will bear me witness that whatever change was made in that Sioux City branch was made at the instance



of the Minnesota delegation in this House and at their request; it was made with the view of accomplishing the very thing that the gentleman from Wisconsin desires to accomplish, that is a short route from the head of Lake Superior to the main line of the Union Pacific railroad.

Mr. WASHBURN, of Wisconsin. Mr. Speaker—

Mr. ALLISON. In the few minutes allowed me I cannot yield to the gentleman.

Now, sir, by a direct line from Sioux City to the town of Frémont, which is at the north bend of the Platte river, the distance is seventy-three miles. By the route which has been selected it is one hundred miles—only twenty-seven miles longer than the straight line; the latter running over high hills and through a number of valleys—the route having been pronounced by distinguished engineers almost impracticable. If the route were carried across the Missouri river at Sioux City it would really make a longer line than that which has been selected, a portion of which is in the State of Iowa. I submit that it is not a good ground for objection to this Sioux City branch that a portion of it runs through the State of Iowa and not the State of Nebraska. That is all I desire to say.

Mr. WASHBURN, of Wisconsin. Mr. Speaker—

Mr. PRICE. I have not time to yield to my friend from Wisconsin. I have promised a part of my time to my colleague, [Mr. DODGE.]

Now, Mr. Speaker, I wish to call attention to an expression which was made the other day by the gentleman from Illinois, [Mr. WASHBURN,] and I desire to see whether the gentleman himself will not agree that he has done some injustice. My colleague from the fifth district [Mr. DODGE] was trying to get the ear of the gentleman from Wisconsin [Mr. WASHBURN] when the gentleman from Illinois rose and said—I cannot say it so loudly as he did—I cannot imitate his style of utterance, but I can read the language as reported in the Globe:

"I object to the gentleman from Wisconsin yielding to the agents of the road, unless some of the Representatives of the people can be heard."

Now, we shall all agree without argument that the people have an able advocate on this floor, not only to watch the Treasury but to watch the agents of the railroads. So long as he is allowed to occupy a place here, which I presume will be a long time—and I hope his shadow may never grow less—the people will have not only a faithful guardian of the Treasury but a vigilant sentinel upon the watchtower, always ready to protect their rights. But what did the gentleman mean when he spoke of "agents" of a railroad? I thought I might have misunderstood him, and that probably he had spoken in the singular number. But it is printed in the Globe, as I understood it, "agents." There happened to be two of us claiming at that time the attention of the gentleman from Wisconsin; one was my colleague, [Mr. DODGE,] and the other myself. It took both of us to make "agents." How did we come to be "agents of the road?" Why was that remark interpolated in that form? I cannot consider it as anything else than a part of the sharp tactics of the gentleman from Illinois. If we are "agents of the road," the presumption is that we are sent here for the purpose of advocating the interests of the road and of doing things which, as legislators, we ought not to do.

Now, sir, I have not come here as an "agent of the road." I have no more interest in it than my friend from Illinois has. I have never had any interest in it, and never expect to have. Sir, when this project was originated—a project unprecedented, proposing to connect the waters of the Atlantic with the waters of the Pacific, to unite with bands of iron the East and the West—there were but few men in this country who had the nerve to invest their money in the enterprise. My friend from Illinois did not invest any money in it; nor did I. We had not the necessary amount of nerve.

We had not much money, and we had less nerve. Therefore, we did not engage in the enterprise. And I think that no gentleman ought to come here to-day to call in question the motives or the principles of those men who had the nerve to spend their money for the construction of this road, which, when finished, will be one of the most magnificent works on this continent.

Why, sir, no one who has studied at all the history of Rome can fail to know something about the Appian Way, which one of the Roman historians went so far as to call the Queen of Roads. What was it? It reached originally from Rome to Capua, a distance of one hundred and twenty-five miles, and was afterward extended till it embraced a distance of three hundred and thirty, or, as some say, three hundred and fifty miles. The famed Appian Way will live in the pages of history while the name of ancient Rome lives in the pages of history. But what is that, sir, compared to the Pacific railway, from ocean to ocean, that penetrates into a wilderness never before explored save by the Indian or the buffalo? Compared with this gigantic undertaking the famous Appian Way is little better than a cow path. I say, then, it comes with a bad grace from any gentleman here, and especially any gentleman from the West, to attempt to do discredit to the resolute men who have invested their energies and their capital in this vast undertaking.

Now, let us look at what the Pacific Railroad Company charge for the carriage of freight and passengers. I trust, if I tell the truth on this point, and I never intend to tell anything else, I shall not be accused by the gentleman from Wisconsin with being the agent of this company. I do not know but they charge too much both for freight and for passengers, but I shall know better about that when I come to investigate the subject fully and in detail. Then when we have all the figures before us, for figures do not lie, we can better judge whether the company charges too much or not. But, sir, from the slight investigation I have given to the subject I have satisfied myself the Pacific Railroad Company does not charge more than one third of what was charged for freight and passengers before that road was commenced. That much I know. I know while it cost \$185 a passenger for going from Omaha to Denver City before that road was built, upon this road for the same distance the charge is only \$51 50. I know while before it cost \$1 80 the hundred pounds to carry freight that distance it now only costs fifty cents. The cost, then, for passengers and freight is really two thirds less than it was before this road was built. So the cost has been reduced two thirds, and not increased as was alleged by the gentleman from Wisconsin. Of course I do not undertake to speak with precise accuracy, but generally; nor is it necessary to this argument that I should go into details. The fact is that the charge for passengers and freight is now only one third of what it was before this road was built. The public have to that extent been benefited by the construction of this road.

When the committee investigates all of the facts, when we have all of the figures before us, I shall then make up my judgment upon those facts and figures. I shall do that which I believe to be right.

I can assure gentlemen there are now railroad companies which charge more than the Pacific Railroad Company; and there is a fact about the Pacific railroad which gentlemen should not lose sight of, and it is this: this road, sir, has to carry fuel for its engines hundreds of miles. No other railroad company is compelled to do this to anything like the same extent. And there is still another fact. This road has freight and passengers to a great extent only one way, and its cars are brought back empty, or nearly so. Gentlemen who know anything about these things know it costs more to run a road that has business only one way than to run a road which has a return business; that is, business to and fro. Yet, sir, notwithstanding these disadvantages, this

road charges two thirds less than the cost before the road was built.

I do not know that it is relevant to the pending joint resolution, although it is in an answer to the gentleman's speech. My friend from Wisconsin said it was fortunate men did not live beyond one hundred years, for otherwise Cornelius Vanderbilt in the next fifty years would own the world. I do not ask any legislation to protect me or my constituents from Mr. Vanderbilt or any other man living. If he can own this world I am satisfied. I presume he is a live man and that he will not be buried till he is dead. That is more than can be said for some others; they are dead and ought to have been buried out of sight long ago. I hope the gentleman will not charge me with being the agent of Vanderbilt. If I am he does not know it, and I do not know it.

I have invested a few thousands in a railroad running through a country where more people lived than lived upon the line of this Pacific railroad, and I have no distinct recollection of getting my money out again. I think I have got one dollar in seven out. But I had not got money enough to speculate in that way and so I quit the business.

And, so far as the Pacific railroad is concerned, if the enterprise had depended on the aid of my friend from Illinois [Mr. WASHBURN] and myself, I think that the trackless forest and unbroken wilderness would have remained undisturbed until this day, and for many days in the future. Neither he nor I would have helped to build it.

But I say all honor to the men, whether they live in Massachusetts, New York, or elsewhere, who have the money, the energy, and the nerve to prosecute an enterprise like this such as the world, up to the present time, has never seen, and never would see but for such men. There has never been a railroad built—and I must say it at the risk of being charged with being an agent of the company—there has never been a railroad built on this or any other continent with the speed with which this has been built.

At one time I am told the stock of the company was not worth fifty cents on the dollar, and bankruptcy stared the majority of the stockholders in the face. But they persevered, as Columbus did, against difficulties and discouragements until now, from the best information I can obtain from my friend from Wisconsin, [Mr. WASHBURN,] their bonds are said to be the best securities of the kind in the world. The suggestion occurs to my mind whether somebody has not got these bonds to sell. But I say after these men have passed through all the dangers and outrode the storm, now that the clouds begin to break away from the horizon and they can see the light in the distance, now that the prospect is brightening for them they are met by parties who seek to interpose obstacles in the way of their success. Just as soon as a man begins to get a little ahead in this world somebody is ready to pull him back by the coat tail. Where you find one man with the hatchet and hammer ready to build up you will find five hundred ready to burn down what he is building. I do not think that kind of practice ought to have any countenance in this House.

If these men make money I shall, for one, rejoice at the fact, because some other men will be encouraged to undertake like enterprises, until between the Atlantic and the Pacific there shall be railroad after railroad, highway after highway; when a man can attend church in New York on one Sabbath, and in San Francisco on the next; when space will be annihilated, as it were, and this nation shall be united and bound together not only by the common ties of kindred and language, but by iron bands that cannot be severed.

Mr. Speaker, I have scarcely introduced this subject, but my colleague [Mr. DODGE] wants some time, and I promised to yield to him. Now, this matter having been discussed for an hour and a quarter by the gentleman from Wisconsin, [Mr. WASHBURN,] and as I know the business of the House is pressing, and

there are several important bills that gentlemen are desirous of getting passed, I propose at the expiration of my hour to submit to the House the motion to refer, on which I shall call the previous question. I shall make the motion, and leave it to the House whether it will sustain it or not.

Mr. WASHBURN, of Illinois. I ask the gentleman not to do that. Many gentlemen desire to speak on the subject.

Mr. PRICE. The gentleman from Wisconsin [Mr. WASHBURN] has been heard on the other side, and I intend to make the motion. I yield now to my colleague, [Mr. DODGE.]

Mr. DODGE. Mr. Speaker, as there appears to be some misapprehension as to the true status of the Union Pacific railroad and its branches, all I desire to do is to set forth the facts in relation to that enterprise. I have no defense of the company to make. I leave that to the country and this House; but, sir, I believe I know as well as any man can what that company has done and what its intentions are. I will notice briefly a few points of the gentleman from Wisconsin. I believe that he does not desire to misrepresent that great enterprise, and I therefore desire to correct a few statements that bear directly upon the subject before the House. The gentleman says Government has given absolute control to parties managing the Union Pacific railroad. Does he not know that the Union Pacific railroad has to build its road under the supervision of three Government commissioners, who examine and criticize every mile of road built before it is accepted by the Government, and that they, under oath, certify the road is a first-class American road before one dollar or one cent can be obtained from Government? And this is not all; every act of the board of directors and of the company is criticised and scrutinized by five Government directors, appointed by the President, and forming one fourth of the board of directors. One of these Government directors has a position on each one of the committees, and nothing can be done in or out of the board but what they have full cognizance of. No other of the roads receiving Government aid has any such board or any such supervision, and these directors have full knowledge of the rates of freight, the necessity for these rates, &c.

The gentleman says it is a work that over sixty millions of the people's money is to be invested in, whereas the law prohibits the loan of over fifty millions of credit or bonds to the main line, and so far not a cent of the people's money has been put into the enterprise, the company having fully paid their interest on bonds; and if the money saved to Government in the transportation of Government freight, mails, troops, &c., should be made a sinking fund it would pay off the entire debt or entire amount of bonds within thirty years. In another place he says:

"If we see fit to sacrifice posterity to this giant monopoly, that they will have \$100,000,000 of the people's money in their hands; that they (the company) will defy any legislation."

Now, sir, I do not understand where the gentleman gets his \$100,000,000, as I have shown the company can only obtain \$50,000,000 on the main road under any circumstances. The amount really granted to the company is as follows:

For five hundred and thirty-four miles at \$16,000 per mile.....	\$8,544,000
For three hundred miles at \$48,000 per mile, namely, one hundred and fifty miles of mountain work from Cheyenne west, and one hundred and fifty miles of mountain work from near Sacramento east, which equals.....	14,400,000
For eight hundred and ninety-eight miles crossing the main divide of the continent, the Wataach promontory, Laone, Taone, and Humboldt ranges of mountains, at \$32,000 per mile, amounting to.....	28,736,000
Making a total amount of bonds for the main through line of.....	\$51,680,000

If the company received pay on the full length of line that they will have to build to complete the road from the Missouri river to Sacramento; but

as, under the law, they obtain only \$50,000,000 for eighteen hundred and thirty-two miles of road, counting the distance to San Francisco, they get an average of a little over twenty-seven thousand dollars per mile; that the Government loans its credit for the purpose of obtaining an all-rail communication from the Atlantic to the Pacific through a country, over mountains and plains, that no private enterprise would for one moment invest one cent without Government aid. If this road is to be the great thoroughfare that the gentleman says it will be, then the Government freight that will alone go over it will more than pay their interest on the loan.

And now, sir, the gentleman says Government has furnished every dollar to complete this road—in other words, that not one cent of money has been put into the enterprise outside of the Government—and I deny *in toto* the statement of the gentleman. I say, up to the present time, that that company has furnished and spent more money in building the road than Government has loaned; and according to the gentleman's statement they have only built as yet the easiest portion of the road; he says five hundred miles of the built portion is a dead level, and assumes the contract to commence at Omaha. This is not the fact. It commences two hundred and forty-seven miles west of Omaha; therefore all his assertions and assumptions fall to the ground, being based upon false premises. When you compare the rates of this road with other roads you will not see so vast a difference as is endeavored to be shown.

The Union Pacific railroad charges about seven mills per hundred pounds of freight per mile. The Great Eastern routes, competing for freight between the great cities of the East and the great West, charge from two and a half to four mills per hundred pounds per mile, they having all the advantages of civilization, concentration, transportation, the cheapness of material, fuel, repairs, &c.; while the western roads—the roads east of the Missouri river—charge four and five mills on one hundred pounds per mile. Many of the local southern railroads charge four, five, six, and as high as seven mills per hundred pounds of freight per mile. As to passenger fare, the Union Pacific Railroad Company are now charging ten cents per mile; the Northwestern Railroad Company four cents per mile; the Chicago, Rock Island, and Pacific Railroad Company three and a half cents per mile; the Richmond, Danville, and Piedmont Railroad Company six cents per mile; and these roads are all in a heavily settled country, with heavy local business, while the Union Pacific railroad runs five hundred miles into a wilderness, without comparatively any local business, nearly all their freight and travel going but one way.

Now, sir, the past year coal for fuel has cost the Union Pacific Railroad Company from twenty-eight to forty-two dollars per ton, delivered at places for use. It has had to be obtained in Illinois, Missouri, and Iowa, and has had to be transported from five hundred to one thousand miles before the company could use it. Again, wood, at first cost, has been six to eleven dollars per cord, and when laid down at the points for use averaged about eighteen to twenty dollars per cord. Labor and living of all kinds on the Union Pacific railroad and branches are one third more than on eastern roads. Material for repairs of road, cars, running stock, building material, and all other things pertaining to the keeping up and furnishing the road, have to be transported from the East. And the gentleman asks this House to burden us with rates and fares that he knows the road could not earn its running expenses under.

As soon as the road reaches the coal fields one hundred miles west of the track, then the companies propose to reduce the rates and fare themselves; they have already reduced them somewhat; and so far as these railroad companies being a grinding monopoly it is far from the facts in the case, and is not substantiated

by any proofs whatever. The gentleman, it seems to me, takes a very singular way to protect Government. He charges that the bonds will never be paid; that our rates are equal to old rates by wagons and stage, and he comes in here with a proposition that, if adopted, would prevent these companies from earning sufficient money to even pay the interest on their bonds. It is the first time that I ever saw the mortgagee come in and endeavor to injure the value of the property of the mortgager, and if possible put the property on which he holds a mortgage in a condition that they cannot not only pay the mortgage, but not even the interest on the mortgage.

Now, Mr. Speaker, as to the rates as compared with former rates as paid by Government for transportation of its freight. The average price paid by Government for 1865, 1866, and 1867, inclusive, on route No. 2 from Leavenworth west was \$1 57 per one hundred pounds per one hundred miles, or one and one-half cents per mile per one hundred pounds, more than double the rates upon the Union Pacific railroad and branches; and in the last year Government has saved by transporting its freight on the Union Pacific railroad, eastern division, over what it would have had to pay if transported by wagon trains over an average transportation of only one hundred and four miles of railroad, \$335,138; or, if that road had been built three hundred miles west, it would have saved by this "great monopoly," with its "exorbitant rates and tariffs," over one million dollars. And the statement made by the Quartermaster General of the rates of freight over the Plains, over route No. 1, the Great Platte valley route, for the last six years, is as follows:

#### QUARTERMASTER GENERAL'S OFFICE.

WASHINGTON, D. C., March 24, 1868.

SIR: In reply to your communication of the 20th instant to this office requesting information as to the rates paid for each year for the last five years and the total number of pounds of stores transported and total cost for such transportation on route No. 1 for 1866 and 1867, I have the honor to state that the rates of transportation per one hundred pounds per one hundred miles on route No. 1 for the last five years, including the contract rates for the present year, are as follows:

1864. April, \$2 25; May, \$2 25; June, \$2 25; July, \$2 25; August, \$2 25; September, \$2 25.
1865. April, \$2 26; May, \$2 26; June, \$2 26; July, \$2 26; August, \$2 26; September, \$2 26.
1866. April, \$1 45; May, \$1 45; June, \$1 45; July, \$1 45; August, \$1 45; September, \$1 45.
1867-68. April, \$1 64; May, \$1 64; June, \$1 64; July, \$1 64; August, \$1 64; September, \$1 99; October, \$1 99; November, \$1 99; December, \$1 99; January, \$2 50; February, \$2 50; March, \$2 50.
1868-69. April, \$1 90; May, \$1 75; June, \$1 60; July, \$1 60; August, \$1 60; September, \$1 75; October, \$1 75; November, \$1 90; December, \$2 00; January, \$2 50; February, \$2 50; March, \$3 00.

This office is unable at present to furnish the number of pounds of stores transported over route No. 1 for the years 1866 and 1867 and the cost of such transportation for that time; but the information desired on this point has been this day called for from the chief quartermaster military division of the Missouri, which, as soon as received, will be forwarded to you.

Very respectfully, your obedient servant,  
D. H. RUCKER,  
Acting Quartermaster General, Brevet Major General United States Army.

Hon. G. M. DODGE, M. C., Washington, D. C.

The average is two dollars per one hundred pounds per one hundred miles, or two cents per mile, being one cent and three mills above the rates of the Union Pacific railroad. The Quartermaster General is now unable to give me the precise facts as to the saving in rates, but we can figure for ourselves. The Government transportation over the road last year was about twenty million pounds of freight, and the Union Pacific railroad transported it, on an average, four hundred miles; showing a saving to the Government on its freight alone, at the average price of the last six years, of about one million forty thousand dollars. If we take the price that the contracts are let for this year and apply it to the amount of freight that will be transported over from five to eight hundred miles of line, the saving will reach nearly two millions on the Union Pacific railroad, and nearly a million on the Union Pacific railroad, eastern division.

And now, Mr. Speaker, what are the facts in relation to the Union Pacific railroad? This

road was projected some fourteen years ago. The first examination as to its feasibility was made by private enterprise and private capital, and a connection with it, dating back to its first inception, renders me able to state some of the difficulties under which it has labored. The examination made by me thereon and reported to the capitalists of the United States showed that at that day or this it would be impossible to build that road upon private capital and credit alone. The country demanding the railroad, the Republican party, in its far-seeing and liberal policy, seeing the necessity of this railroad, indorsed it, made it a part of their platform, and breathed life into it by the bill passed in 1862. But even then, with that law and that grant, it was found impossible to raise the funds to push it forward or even to build a mile of the road. The Congress seeing this amended the act in 1864, and after the passage of that act this great monopoly, this great swindle, could not obtain the means for one year to start the work.

A few men took hold of the enterprise, threw their fortunes and their energies into it, and the capitalists of the country looked upon it as so foolish an act on their part that they were actually shunned as prospective bankrupts; their paper would not be taken except upon first class collateral securities, and within one year the enterprise came near failing for want of financial support. But the energy and determination displayed by that company; the unheard of ability displayed in pushing forward the work; the unexpected development of that country that the enterprise caused, called the attention of the world to it, and now to-day the men who would not one year ago have put a dollar into it are denouncing it as a great monopoly, and trying to cripple it by unjust and unequal legislation. If it is a success, and any money is made out of it, it will be simply and merely from the fact that a few men had the nerve and the foresight to throw their all into the scale, and "sink or swim" with the enterprise. And, Mr. Speaker, to reach the success they have to-day, no person can, for one moment, know or see the obstructions, prejudice, and obstacles those companies have had to meet and overcome. The first three hundred miles of road were built without an eastern connection; they had to start hundreds of miles away from any railroad connection, in a country entirely destitute of the proper means or material for building a road; paying enormous prices for labor and material; transporting the superstructure and equipment by water at from thirty-three to fifty per cent. more than it would cost to build the same length of road in a country affording railroad facilities. The iron laid down cost \$125 a ton, equipment and everything else pertaining to the road that came from the East costing in the same proportion.

The first year the company, under these circumstances, built about forty miles, the next two hundred and sixty, and the next two hundred and fifty miles, but with a lavish expenditure of money that astonished the world. Who, in 1864 could have been made to believe that this company would have accomplished what they have? What class of men except those who had this enterprise at heart would have paid thirty-three and a third per cent. more for building the road merely for the purpose of obtaining distance when, if they had carried out only the true letter of the law, they could have saved that amount and put it in their pockets? Have they had at interest themselves more than the country? I hold not, for I know that their orders have been to give them the most miles of road in the least possible time, no matter what it cost. And in their contract they have provided \$7,500 per mile for the equipment of the road, a sum far beyond any ever before provided for a new road under similar circumstances; and when built and equipped this sum will give it the best machinery, the best shops, and the most liberal supply of rolling stock of any road in the country for the business it has to transact. During the past two years the road has been

built through an Indian country with all the tribes banded together and hostile. Our best and ablest men have been killed; our cars and stations and ranches burnt; our men driven off and our stock stolen. Graders and track-layers, tie-men and station-builders, have had to sleep under guard, and have gone to their work in the day-time with their picks and shovels and their mechanical tools in one hand and the rifle in the other, and they have had often to drop one and use the other.

It may not be known but it is a fact that the graders went to their work as soldiers, stacked their arms by the cuts and worked all day, with hostile bands of Indians in view, ready to pounce upon, kill, and scalp any unlucky or negligent person who gave them an opportunity. The company paid not only the cost of the work proper, but contractors were often paid large sums for the risk they run. It is an easy matter to-day, after the enterprise has been made a success, and when we can just begin to see the beginning of the end, when daylight begins to open on the future out of these years of darkness, for men to now come in and endeavor, for some reason, I know not what, to hamper these roads, to pass laws that they know will make them spend the energies that it is their duty to put on the road and which are necessary to complete it, in trying to break down the barriers that this bill, if passed, will make against those roads in the financial market. And I doubt if the gentleman from Illinois or the gentleman from Wisconsin, who appear to make this great republican national work their special objective point, would, for all the money in it, stand as I have had to do, at the risk of my life, and endeavor to keep men from abandoning the work; would travel as I have done to make the surveys and construct the road, obliged to keep all the time within the range of a Government musket, for to be outside of it was to lose your scalp.

And now, Mr. Speaker, while the Government has been liberal to this great enterprise, I hold and can prove that while the road has received this liberal credit, that it will bring to the Treasury millions in the saving of the extra expenses in freight. That it must and will develop a country whose wealth no one to-day can predict. The mountains those roads cross are no myth, as the gentleman states, but were formidable obstructions in its path, which have been overcome by the skill and energy of the company. These mountains are underlaid with gold, silver, iron, copper, and coal. The timber ranges that those roads pass will develop an immense lumber trade, and the millions upon millions of acres of Government land that they will bring into the market and render feasible for settlement will bring to the Government more money than all the bonds amount to; and this land and these minerals never would have brought this Government one cent if it were not for the building of these roads. The inaccessibility and the trouble and cost of developing the country through which they run would have cost ten times more under any other circumstances than it would have yielded. And now, Mr. Speaker, these Union Pacific railroads, when completed, will build up an interest right in the center of that heretofore great unknown country, an empire that shall add to our wealth, population, capital, and greatness, from a source we never expected, and by no other means could we ever obtain.

Mr. PRICE. I promised several gentlemen that if this joint resolution came up to-day I would make a motion to refer it to the Committee on the Pacific Railroad, and move the previous question on it.

Mr. WASHBURNE, of Illinois. This is a matter of too great importance to choke down discussion, and I beg the gentleman from Iowa not to press that motion.

Mr. PRICE. It will be for the House to determine.

Mr. WASHBURN, of Wisconsin. It will be perceived that a large number of members have already left the Hall, and there is hardly

a quorum present. I hope the gentleman will take notice of that fact.

Mr. PRICE. I will say to the House that the other side have had an hour and a quarter to discuss this joint resolution, which has never been printed. I therefore move that it be referred to the Committee on the Pacific Railroad; and I move the previous question.

The question was put upon seconding the previous question; and there were—ayes 54, noes 31; no quorum voting.

Mr. WASHBURNE, of Illinois. I move that the House do now adjourn.

The SPEAKER. The previous question being pending this joint resolution will be the first thing in order after the reading of the Journal to-morrow morning, if the House shall now adjourn.

The question was taken on Mr. WASHBURNE's motion, and it was agreed to; and the House (at four o'clock and thirty-five minutes p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of John Elwell, of Onawa, Iowa, on the state of the currency.

By Mr. CHURCHILL: A memorial of the Board of Trade of Oswego, New York, asking for favorable action upon the recommendations of the department of engineers for the improvement of Oswego harbor.

By Mr. FIELDS: The petition of J. G. Olney and 37 others, citizens of Chenango county, New York, asking that the rights of citizenship be bestowed by law on the Indians, including the right to own lands in fee, protecting their right as white people are protected, and giving them the right to the courts for an investigation into the conduct of military officers toward Indians.

By Mr. HUBBARD, of Connecticut: The remonstrance of sundry citizens of Connecticut against the passage of a law requiring a tax-stamp on cigars.

By Mr. JULIAN: A memorial of J. M. Hutchings and J. C. Lamon, of California, praying Congress to so amend the act of Congress donating the Yosemite valley to the State as to exempt their claims of one hundred and sixty acres each, and allow the same under the preemption laws.

Also, a memorial of the Protestant University of the United States, asking a grant of land for educational purposes.

Also, the petition of Abner Duncan, of Virginia, praying a pension for military services in the war of 1812.

By Mr. PRUYN: The petition of C. H. Adams and others, of Cohoes, New York, urging on Congress a reduction of taxes.

Also, the remonstrance of Shields & Son and 60 others, cigar-makers, of the fourteenth congressional district of New York, against the bill requiring stamps to be affixed to cigars.

Also, the remonstrance of John McCall and 60 others, Lewis Eitzenger and 59 others, cigar-makers, of the fourteenth congressional district of New York, of similar import.

Also, the petition of J. W. Osborn and many others, of Albany, New York, that the present oppressive tax upon refined petroleum be removed.

By Mr. ROBERTSON: The petition of H. H. Irvine and 110 others, citizens of New York city, praying for the removal of the special tax of twenty cents per gallon upon refined petroleum, and that the necessary revenue be raised upon articles of luxury.

By Mr. SPALDING: The petition of sundry insurance companies and insurance agents in the city of Cleveland, Ohio, asking for the passage of a law making premiums for insurance a lien upon vessels in the admiralty.

By Mr. TAFPE: The petition of citizens of Otoe county, Nebraska, praying the repeal of



the act of Congress granting land in Nebraska to the Burlington and Missouri River Railroad Company.

By Mr. WILSON, of Ohio: A memorial of Isaac Watts, setting forth the facts in the case and praying for the passage of a law to enable him to receive the back pay and allowances due his adopted son, Samuel Watts, who died in the service of the United States, together with affidavits.

#### IN SENATE.

THURSDAY, March 26, 1863.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating an estimate of the Commissioner of Indian Affairs of appropriations required for the different bands of Chippewa Indians in Minnesota in removing them to their reservations and subsisting them for six months after their arrival, and also for the erection of a mill at Red lake; which, on motion of Mr. RAMSEY, was referred to the Committee on Appropriations.

#### HOUSE BILL REFERRED.

The joint resolution (H. R. No. 246) directing the Secretary of State to present to George Wright, master of the British brig J. & G. Wright, a gold chronometer, in appreciation of his personal services in saving the lives of three American seamen wrecked at sea on board of the American schooner Lizzie F. Choate, of Massachusetts, was read twice by its title, and referred to the Committee on Commerce.

#### ORDER OF BUSINESS.

Mr. SUMNER. I move that the Senate now proceed to the consideration of executive business.

Mr. RAMSEY. I hope we shall be allowed to go through with the morning business.

Mr. SUMNER. That can be done after we have finished what is to be transacted in executive session.

Mr. RAMSEY. I trust we shall not go into executive session now.

Mr. TRUMBULL. Before the question is put on the motion of the Senator from Massachusetts I ask leave to introduce a bill.

Mr. SUMNER. I make no objection to that.

Mr. TRUMBULL. Then I ask leave to introduce a bill without notice.

The PRESIDENT *pro tempore*. By the new rules that will require unanimous consent. The order of business now comes within the rule, so that any objection will prevent the introduction of any business out of its order.

Mr. TRUMBULL. I ask unanimous consent to introduce a bill.

Mr. CONKLING. I should like to suggest to the Senator from Illinois that he does not require unanimous consent for that any more than unanimous consent is necessary for the other motion. The new rule is that his bill and all bills are received, among other things, before anything else is done.

Mr. FESSENDEN. In their order.

Mr. CONKLING. In their order. I call attention, if the Chair will allow me, to Rule 24, as we adopted it, which recites what shall be done, and then declares "all which shall be received and disposed in such order, unless unanimous consent shall be otherwise given." Now, I suppose, it is only in order by unanimous consent to move to go into executive session.

Mr. SUMNER. I beg the Senator's pardon.

The PRESIDENT *pro tempore*. That is a question on which the Chair entertains some doubt. On the other question he has no doubt.

Mr. SUMNER. A motion to adjourn is in order at this moment, and so is a motion to proceed to the consideration of executive business.

Mr. TRUMBULL. If anybody objects to my bill I will withdraw it; but I ask unanimous consent to introduce the bill.

The PRESIDENT *pro tempore*. If there be no objection it will be received and read a first time.

Mr. SHERMAN. If that is done the rules will amount to nothing. I hope we shall begin by observing the rules that we adopted yesterday.

Mr. TRUMBULL. If the Senator objects I cannot offer it.

The PRESIDENT *pro tempore*. Objection being made, it cannot be received now under the rules. Petitions and memorials are in order.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a resolution of the Legislature of Kentucky, protesting against the action of the House of Representatives in refusing to admit the Representatives of that State into that body.

The Secretary proceeded to read the resolution.

Mr. HARLAN. I move that the further reading be dispensed with, and that the communication lie upon the table, and be printed.

Mr. SUMNER. From whom is the communication?

Mr. HARLAN. The Legislature of a State. The motion was agreed to.

The PRESIDENT *pro tempore* also presented a memorial of the constitutional convention of South Carolina, praying for the removal of the civil disabilities imposed on certain persons in that State by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. MORGAN presented a memorial of merchants of the city of New York, asking that the time in which claims for drawback may be presented be extended to January 1, 1869; which was referred to the Committee on Finance.

#### REPORTS OF COMMITTEES.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 881) refunding duties paid under protest on the importation from France of a bell donated for the use of Saint Mary's Institute and Notre Dame University, Indiana, reported it without amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the petition of colored citizens of Alabama and Georgia, praying for an appropriation to each person who will embark under the auspices of the American Colonization Society to Liberia, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 442) to amend section one of an act to prevent and punish frauds upon the revenue, and for other purposes, approved March 3, 1863, reported it without amendment.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the resolution of the Legislature of the State of Minnesota relative to the Black Hills wagon-road, asked to be discharged from its further consideration, and that it be referred to the Committee on Territories; which was agreed to.

He also, from the same committee, to whom was referred the bill (S. No. 356) for the relief of Messrs. Gelatt & Moore, reported adversely thereon.

Mr. HARLAN, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 369) to provide for mail service between Fort Abercrombie, Dakota Territory, and Helena, in Montana Territory, reported it without amendment.

He also, from the Committee on the District of Columbia, reported a bill (S. No. 465) for the erection of school-houses and the maintenance of schools in the District of Columbia outside of the cities of Washington and Georgetown; which was read twice by its title, and

on his motion referred to the Committee on Appropriations.

#### ORDER OF BUSINESS.

Mr. MORTON. I ask the Senate to proceed to the consideration of House bill No. 881 just reported by the chairman of the Committee on Finance.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate.

Mr. TRUMBULL. I presume the Senator from Ohio will hardly agree to that.

Mr. SHERMAN. It is perfectly in order for the Senator from Indiana to ask the unanimous consent of the Senate to pass a bill which has been reported.

Mr. TRUMBULL. The Senator from Ohio objected to giving unanimous consent a moment ago.

Mr. SHERMAN. Not at all.

Mr. TRUMBULL. And he ought not to consent to it now.

Mr. SHERMAN. I objected to all motions out of order.

The PRESIDENT *pro tempore*. To entertain the motion requires unanimous consent. Is there any objection?

Mr. SUMNER. I renew the motion that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. That motion is in order.

Mr. HENDRICKS. I wish to present a memorial.

The PRESIDENT *pro tempore*. There is a motion pending to go into executive session.

The question being put on the motion, it was declared that the ayes appeared to have it.

Mr. HENDRICKS. I call for a division until I can submit a question of order, whether I have not the right to present a memorial before that vote is taken.

The PRESIDENT *pro tempore*. Petitions and memorials were in order until the Senate seemed to be through with them, and then the Chair called for the next business in order, the reception of reports of committees.

Mr. HENDRICKS. That settles that question. I did not hear petitions and memorials called for.

The PRESIDENT *pro tempore*. The motion to go into executive session is in order. The Chair will put it over again.

The motion was agreed to.

#### BILL INTRODUCED.

Mr. TRUMBULL. While the doors are being closed I ask permission to introduce a bill. I suppose there will be no objection to that.

By unanimous consent leave was granted to introduce a bill (S. No. 464) in relation to the qualifications of jurors; which was read twice by its title.

Mr. TRUMBULL. I move that the bill be printed and go upon the Calendar, as it has already been considered by the Committee on the Judiciary.

The motion was agreed to.

#### EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and, after fifty minutes spent in executive session, the doors were reopened.

#### TAX ON MANUFACTURES.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in some, and non-concurred in others, of the amendments of the Senate to the bill (H. R. No. 900) to exempt certain manufactures from internal tax, and concurred in other amendments, with amendments.

Mr. SHERMAN. I move to take up that bill now with a view to the appointment of a committee of conference.

The motion was agreed to.

Mr. SHERMAN. I will state that the House of Representatives has concurred in some of our amendments, concurred in others with amendments, and non-concurred in others. I

will make the usual motion, that the Senate insist on its amendments disagreed to by the House, and disagree to the amendments of the House to the amendments of the Senate, and ask for a committee of conference on the disagreeing votes of the two Houses, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to.

Mr. SHERMAN. I also move that the bill as it now stands be printed.

The motion was agreed to.

The PRESIDENT *pro tempore* appointed Mr. SHERMAN, Mr. WILLIAMS, and Mr. MORGAN the conferees on the part of the Senate.

#### SUPREME COURT JURISDICTION—VETO.

Mr. WILLIAMS. I call for the unfinished business of yesterday.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the veto message of the President of the United States on the bill (S. No. 219) to amend an act entitled "An act to amend the judiciary act passed the 24th of September, 1789." The question is, "Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?"

Mr. HENDRICKS. Mr. President, the objections made by the President of the United States in his message to this bill are based upon the second section. That section alone does not explain or enable us to understand its force and meaning. It is as follows:

That so much of the act approved February 5, 1867, entitled "An act to amend an act to establish the judicial courts of the United States," approved September 24, 1789, as authorizes an appeal from the judgment of the circuit court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been made or may hereafter be taken, be, and the same is hereby, repealed.

The section of the law which is thus repealed is in part as follows. In the first place, the act of February 5, 1867, provides:

"That the several courts of the United States, and the several justices and judges of such courts, within their respective jurisdictions, in addition to the authority already conferred by law, shall have power to grant writs of *habeas corpus* in all cases where any person may be restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States."

Then, toward the close of the section, it provides that—

"From the final decision of any judge, justice, or court, inferior to the circuit court, an appeal may be taken to the circuit court of the United States for the district in which said cause is heard, and from the judgment of said circuit court to the Supreme Court of the United States, on such terms and under such regulations and orders, as well for the custody and appearance of the person alleged to be restrained of his or her liberty, as for sending up to the appellate tribunal a transcript of the petition, writ of *habeas corpus*, return thereto, and other proceedings, as may be prescribed by the Supreme Court, or, in default of such, as the judge hearing said cause may prescribe."

The effect of this legislation is to give any citizen of the country the right to the writ of *habeas corpus* to be issued by any of the courts of the United States within their jurisdiction or by any judge of such court in the following case; that is:

"Where any person may be restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States."

And either party interested in such a case as that may have his appeal from the circuit court of the United States to the Supreme Court; and now the bill which the President sends back with his objections repeals that clause which allows a party in any case an appeal to the Supreme Court of the United States, where his liberty is withheld from him in violation of the Constitution or any law or treaty of the United States. Without reference to any particular case, without reference to any purpose that is to be subserved, why take away from a party an appeal to the Supreme Court in a case like that? Independent of all temporary considerations, independent of all possible party views, independent of the effect upon any pending cause, why is it that a party may not have an appeal to the Supreme Court from the judg-

ment of the circuit court when the question is whether he be restrained of his liberty in violation of the Constitution of the United States or of any law or treaty of the United States? And, sir, in the discussion of this question I shall be very happy to hear Senators upon the other side give a reason why an appeal ought not in such a case to be allowed to the Supreme Court of the United States. In all civil suits that are tried before the circuit courts of the United States, where the controversy is in regard to property of the amount of \$2,000, either party has his appeal to the Supreme Court. The legislation of the country assumes that where the matter in controversy is of less value than two thousand dollars the cases are too trivial to bring before that tribunal, but whenever the matter in controversy is of the value of \$2,000 or more, either party shall be allowed his appeal.

Now, Mr. President, in a case where a man's liberty is involved, ay, sir, under existing laws where his life may be involved, and the question has been brought before a circuit court of the United States, and the decision has been adverse to him, you say that he shall not have his appeal to the Supreme Court. I wish to know why. We were told yesterday by the Senator from Illinois [Mr. TRUMBULL] that an appeal has been allowed in the past in *habeas corpus* cases only under one law, the law of 1842; and the Senator from Illinois does not propose to repeal that law. He proposes to allow the appeal in that particular case in favor of the party who may be wronged or supposed to be wronged by the decision of the circuit court. Now, I will ask the attention of Senators to that particular law. Senators will recollect that that law grew out of the controversy connected with the matter of Alexander McLeod; and it provided that the justices of the Supreme Court and judges of the district courts should have power "to grant writs of *habeas corpus* in all cases of any prisoner or prisoners in gaol or confinement, when he, she, or they, being subjects or citizens of a foreign State and domiciled therein, shall be committed or confined, or in custody under, or by any authority, or law, or process founded thereon of the United States, or of any of them, for or on account of any act done, or omitted under any alleged right, title, authority, privilege, protection, or exemption set up or claimed under the commission or order, or sanction of any foreign State or sovereign, the validity and effect whereof depend upon the laws of nations, or under color thereof." That law expressly gives an appeal to the Supreme Court of the United States; and I submit to the Senator from Illinois whether that law itself did not have effect to give an appeal to the Supreme Court in all cases of *habeas corpus* provided for up to that time. I do not know that the Supreme Court has decided to the contrary, and I think that the effect of the recent decision made on the motion to dismiss McCord's case is to recognize the right of appeal in all *habeas corpus* cases under the language which was used in the act of 1842.

Mr. TRUMBULL. If so, what harm. I should like to ask, to repeal the law of 1867, if the Senator is right?

Mr. HENDRICKS. The Senator did not exactly understand the point I made. I said that the law of 1842, in my judgment, gives an appeal to the Supreme Court of the United States in all *habeas corpus* cases arising under it. If Congress enlarges the field of the jurisdiction of the Federal courts without giving an appeal covering that enlarged field perhaps the appeal does not follow; but I will ask the attention of the Senator from Illinois to the provision in the act of 1842 which gives the appeal to the Supreme Court of the United States and to the language of the act of 1867, and he will find that the language is the same, and that the Supreme Court under the act of 1867 holds:

"The latter jurisdiction, [that is the jurisdiction of this court,] as has just been shown, is coextensive with the former, [the jurisdiction of the circuit court.] Every question of substance which the circuit court could decide, upon the return of the *habeas corpus*,

including the question of its own jurisdiction, may be revised here on appeal from its final judgment."

I understand the Supreme Court to hold that the language of the act of 1867 gives an appeal to the Supreme Court of the United States in all *habeas corpus* cases, whether they rest upon the act of 1789, of 1842, or of 1867. If so, the act of 1842 gave an appeal to the Supreme Court in all cases under the act of 1789 and of 1842, because the language is the same as that of the act of 1867.

But, Mr. President, waiving that for the present, I wish to call the attention of the Senate to the fact that if a foreigner comes before any judge of a court of the United States, or before any of the Federal courts, and shows to that judge or that court that he is wrongfully restrained of his liberty, and that such restraint of his liberty is in violation and in disregard of a "right, title, authority, privilege, protection, or exemption" which he sets up and claims "under any commission or order or sanction of any foreign State or sovereignty, the validity and effect whereof depend upon the laws of nations, or under color thereof," and the judge or court decides against his case, he has an appeal to the Supreme Court of the United States. Notice the fact, Mr. President, that you give to the foreigner in protection of his liberty an appeal to the Supreme Court when he says that he is entitled to his liberty by virtue of some regulation, order, or authority of his foreign Government under the laws of nations; but when a citizen of the country in that same court claims his liberty in express terms under the Constitution, or under any treaty or law of the United States, you say he shall not have an appeal to the Supreme Court. Can Senators reconcile such legislation with the rights which the citizens may claim, and with the duties which we owe to the citizens themselves?

Mr. President, I wish very briefly to refer to the Federal legislation on the subject of the writ of *habeas corpus*. The first is found in the judiciary act of 1789, very simple in its provisions, giving to the Federal courts a very limited jurisdiction in *habeas corpus* cases:

"That all of the before-mentioned courts of the United States—

The Supreme Court, the circuit court, and the district court—

"Shall have power to issue writs of *scire facias*, *habeas corpus*, and all other writs not specially provided for by statute which may be necessary for the exercise of their respective jurisdictions and agreeably to the principles and usages of law."

Thus, in the law organizing the judicial system of the United States, a jurisdiction to issue writs of *habeas corpus* is given to the courts in all cases when it is necessary to the exercise of their other jurisdiction. This was so limited a field that it was of but small consequence, indeed, as compared with the present state of the law, whether an appeal were allowed to the Supreme Court of the United States or not. Under this law such appeal was not allowed. If, for the purpose of exercising its jurisdiction, a circuit or district court issued a writ of *habeas corpus ad testificandum* to bring a witness before it, that writ was issued in aid or support of its jurisdiction, and no appeal would be allowed to the Supreme Court of the United States. But, sir, when we come to the law of 1842, and find that when Congress provides for the issuing of writs of *habeas corpus* by the circuit courts for the protection of substantial rights, an appeal is secured to the Supreme Court, although the claim to liberty in that case rested upon the right which the party acquired from a foreign country. I wish very particularly to ask the attention of Senators to the language of the act of February 5, 1867; and the first clause I will read again:

"That the several courts of the United States, and the several justices and judges of such courts, within their respective jurisdictions, in addition to the authority already conferred by law, shall have power to grant writs of *habeas corpus* in all cases where any person may be restrained of his or her liberty in violation of the Constitution or of any treaty or law of the United States."

Mr. President, is not that a case which prop-

erly, not only according to the spirit, but according to the very letter of the Constitution, comes within the judiciary system of the United States? Let me call the attention of Senators to the language of the Constitution providing for the judicial system of the United States:

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority."

The judicial power of the United States shall extend to all cases arising under the Constitution or any treaty or law of the United States; and, sir, when the writ of *habeas corpus* is given to protect a man's liberty, when he asserts his right to his liberty under the Constitution or a law or treaty of the United States, why stop him midway in the judicial system? Why not allow him to go to the highest court, where he might go if he only had \$2,000 in controversy in a civil case?

Mr. President, under the act of the 2d of March, 1867, and the acts amendatory thereof, it is possible for the citizen to be arrested, to be taken before a tribunal unknown to our Constitution and system of laws, a military commission, to be held in custody, to be tried, condemned, and confined in prison or put to death. If, during the progress of these proceedings, he appeals to the circuit court of the United States having jurisdiction in the State, and the court refuses to restore him to liberty, refuses to protect him in his endangered life, you say he cannot come to the Supreme Court with that case. A trial is being had for his life before a court that is unknown to the Constitution, not only a court unknown to the Constitution and the laws, but a court which the Supreme Court of the United States has decided cannot become known to the Constitution and the laws of the United States for the purpose of trying a citizen; and being brought before such a court he seeks the protection of his liberty, the safety of his life, in the Federal courts; and being denied that protection in the circuit court, he seeks his appeal to the Supreme Court of the United States, and Congress says, "You shall not have it." Now, upon general principles, can Senators reconcile that to their sentiments of right, to the security which the Constitution and the laws ought to afford to every citizen?

If a reason for the repeal of this law cannot be found in the nature of the case itself, where is it to be found? Yesterday the Senator from Nevada [Mr. STEWART] undertook to give a reason. He said, as a reason for repealing this law, that there were too many cases finding their way into the Supreme Court. Why did he say that? Why did the astute Senator from Nevada say, as a reason for enacting this law, that the Supreme Court was becoming crowded by this class of cases, and that, therefore, the law allowing the appeals ought to be repealed? Senators, is that a reason, if it be true?

If a case is of such magnitude and of such importance to the citizen as that he ought to have a hearing in the highest court of the land, is it a sufficient answer to him, under the Constitution which guarantees to him protection in his rights, that we are likely to overcrowd and overwork the judges of the Supreme Court? Do you recognize that as an answer? If it is the right of the citizen to be heard in the Supreme Court, it is no answer to him to say that that court is likely to become too much crowded in its business. If such be the condition of the court it is the duty of Congress to relieve that court, but not by denying the citizen a hearing in a proper case.

But, sir, in point of fact, the Senator from Nevada was compelled to admit that the court was not crowded; and when I asked him the question how many cases of this sort and under this law had come into that court he could name but one—the McCordle case. Strange position for the Senator to find himself in: to give as a reason to the Senate of the United States why this bill should pass, the veto of the President to the contrary notwithstanding, that the Supreme Court was becoming crowded

and the judges could not dispose of the business; and when questioned upon it he was compelled to say that there was but one cause in that court under this law.

Of course it has attracted the attention of other Senators as well as my own that the Senator from Nevada recently has become over zealous; at least, very zealous. I will not say over zealous, because he is the judge of the degree of the zeal with which he should serve his party. It is not for me to say that it is over zeal. But a very striking contrast is to be found in his position politically to-day and this day two years ago. Then he thought the President of the United States was right; that it was right for him to support him, to stand by him, to maintain his policy.

Now, there is no Senator that can go quite far enough in the opposite direction to please the Senator from Nevada. He felt that he was the champion of his party in this body, and therefore he must lead off in giving, if possible, some reason why a citizen whose life is in danger, and cries to his Government for protection under the Constitution, should not be heard in the highest court; and the reason he gave to us is most unsatisfactory in principle and untrue in point of fact, as he admits. There is but one cause under this law pending in the court. Is it not right in the cause of liberty, the protection of a man in the enjoyment of his person and his life, that we should allow the appeal? In one provision this bill is most extraordinary. It is not that in the future there shall be no such appeals allowed; but if there are any causes pending there now the jurisdiction of the Supreme Court shall be taken away. So the bill relates to just one case. The Senator from Nevada admitted that he knew of but one case. He said he had heard of some other cases—they are lying around loose—that are likely to come. He could not name them, nor tell where they came from. Then there was but one case in the Supreme Court, the McCordle case, and special legislation is invoked to throw it out.

As I observe that the Senator from Nevada has taken his seat again, I wish to suggest to him that I have been commenting upon the reason which he felt called upon to give to the Senate why this law should be repealed; why a man should not have a right of appeal to the Supreme Court of the United States, if he claimed his liberty or his life under the Constitution of the United States, or any law or treaty of the United States Government; and that reason assigned by him was that the Supreme Court was becoming too much crowded; and when he was crowded himself with a tolerably straight question on the subject he said he knew of but one case in the Supreme Court. I was calling attention to that fact, and I wish him to know exactly the use I made of it. It is this: that he, the zealous champion of his party, who would claim to be the leader; more zealous than all others in every party question; more intolerant of the rest of us who may differ with him, although but two years ago he occupied a very different position, now, as the leader of his party in this body, he felt called upon to give a reason why a citizen should be denied an appeal to the Supreme Court of the United States, when he was likely to lose his liberty or life by a tribunal unknown to the Constitution, and a tribunal—a military commission—upon which the Supreme Court of the United States has impressed the brand of illegality. The Senator felt that he must give a reason; and that reason was that the Supreme Court was too much crowded. I felt it to be my duty to say that that would be no reason if the case was of such dignity as that it ought to come to the Supreme Court. It is not a question whether the judges will have too much work to do; it is a question whether the party shall have his rights under the Constitution and the law. But the fact is that the court is not overcrowded.

This brings me to comment a little upon the peculiarity of this section in one regard. It not only denies to the Supreme Court jurisdic-

tion in all future cases, but takes away the jurisdiction in the single case that the Senator from Nevada was able to recollect—the McCordle case. Will Senators be good enough to recollect of a single instance in the history of any free Government where, for proper purposes, the jurisdiction of an appellate court has been taken away from a cause after that jurisdiction had attached? I do not mean the criminal courts, where jurisdiction sometimes falls by the repeal of the law defining the crime, but I speak of an appellate court of important jurisdiction, before which a case has come, and the jurisdiction of which has attached under existing law. When in the history of this Government or of any State of this Union was that jurisdiction expressly taken away? I know of no such case. It is understood that when the law gives a man a right to bring his case into a court he shall have that cause heard; that the Legislature will not come in after he has brought his case according to law and take away the right to prosecute the case to a final hearing.

But it is done here; and why? It is to reach the McCordle case. I do not know very much of that cause; I had not the opportunity to hear very much of the able argument in the Supreme Court; but I understand the facts to be these: McCordle was the publisher of a newspaper in the State of Mississippi, and in the publication of his paper he felt authorized to make criticisms upon the policy Congress had established in his State, and he felt authorized to make criticisms upon the conduct of the military officers who were carrying out this congressional policy in Mississippi, and the military officers caused him to be arrested and to be brought before a military commission to be put upon trial. At that stage of the case he appealed to the circuit court of the United States for that State for the writ of *habeas corpus*. The writ was issued, and when the officer returned to the court that this man was held in custody because he had published these articles in his newspaper, the circuit court held that return to be sufficient, and that the party should be remanded to the custody of the military officers. From that decision McCordle appealed to the Supreme Court of the United States. Sir, why should he not be heard in that court? Had not the Supreme Court of the United States, with great unanimity, decided that a military commission could not try a citizen in a time of peace for an ordinary civil offense; that the Constitution had guaranteed to the citizen a trial before a jury with full opportunities for defense? That was the decision of the Supreme Court of the United States, and McCordle, when he was sent back by the circuit court to the dungeons of the military prison, prayed his appeal to the Supreme Court that he might come under the protecting wing of that court in its decision that the civil authority should be preserved in this country. That is the case that came to the Supreme Court. I understood the Senator from Illinois [Mr. TRUMBULL] to say that that case did not come within the provision of the act of the 5th of February, 1867, but that the right to issue the writ might well rest upon the act of 1789, and I think he occupied the same position in support of his motion in the court. Let us see how it stands.

McCordle claimed that he was a citizen; that he was not in the Army or the Navy; that he was not answerable to a military court; that a military court could not deprive him of his liberty, but that if responsible at all for any abuse of the right of freedom of speech and freedom of the press in the publication of his newspaper he was answerable to the civil courts; if he was liable to prosecution for libel at all he was so liable in the civil courts. This was the position he occupied: that his liberty was denied him when that liberty was guaranteed under the Constitution. I submit to Senators if it is not very plain that he was right in that. When he said to the circuit court of the United States in Mississippi "My liberty has



been taken from me by parties that have no right, no lawful authority to deprive me of it, and I appeal to you for the writ of *habeas corpus*," was his appeal not made squarely upon the Constitution of the country? I should suppose that in that court he read this provision of the Constitution when he laid his application upon the bench and asked for the high writ to protect him:

"The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State the trial shall be at such place or places as the Congress may by law direct."

When he said to the court, "I have been arrested; I have been taken on a charge of publishing improper matter in my newspaper before a military commission; I ask you to protect me under this provision of the Constitution which says that if I have committed a crime I shall be tried by a jury," how would any Senator have answered him? When he took that position before the circuit court was he not bringing his case directly within the act of last year? Was he not claiming that his liberty had been taken from him "in violation of the Constitution?" The law is, that if he makes his claim that his liberty is taken from him in violation of any provision of the Constitution of the United States his case shall be heard. Then, sir, had he not, to say the least of it, a reasonable ground to say to the court, "My liberty is wrongfully withheld from me, because if I am guilty of a crime I am entitled to a trial before a jury."

Again, sir, it is possible that he read to the court this provision of the Constitution:

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

Reading that provision of the Constitution, he would say to the court, "My petition is based upon the law of 1867, because I claim that my liberty is withheld from me in violation of the Constitution." And now, Senators, conceding that McCardle did publish libelous matter in his newspaper; that because of that libelous matter he was liable to punishment under the laws of Mississippi, is it not plain that for that crime he must be tried before a jury? Will Senators be good enough to refer to any law of the United States punishing a man for the publication of libelous matter in a newspaper? What law has been offended by McCardle? If he did in unbecoming language criticize the policy of Congress; if he did unfairly and unjustly criticize the conduct of the military officers in Mississippi, and did wrong in this, what was the crime? What crime, under the laws of the land, did he commit? It cannot be more than a libel; and for the publication of a libel by a citizen in a time of peace the Supreme Court, in plain words, says that he shall be tried only according to the provisions of the Constitution.

Then, sir, McCardle claims that he should be heard in the Supreme Court of the United States. A year ago you said this was right; a year ago you said exactly as Congress had said in 1842, that there ought to be an appeal to the Supreme Court if a man's liberty was denied him in violation of the Constitution of the United States. Is it not monstrous, Mr. President, that you are not now willing to give that appeal? The language of the law is peculiar and forcible, that if a man is denied his liberty in violation of the Constitution he may go to the Supreme Court to assert that constitutional right. If a foreigner, as you now propose the law, shall be denied his liberty when he claims that it is withheld in violation of some regulation, authority, or commission which he receives from a foreign country, consistent with the laws of nations, you say he shall be heard in the Supreme Court; but if a citizen of the State of Indiana should go into

Mississippi, and, feeling that he was a freeman, should criticize the conduct of Congress; should express the opinion, most vehemently, if you please, that the policy of Congress was hurtful to the country; and if he should go further and say that the military officers in command down there were guilty of cruel and oppressive conduct to the people; that they were guilty of partiality; that they had favored unfair registration of the voters; that they had favored illegal voting and frauds at the elections; if a citizen had said that, and had arraigned the military men at the bar of public opinion for a violation even of your law of March 2, 1867, and he should be arrested by a military officer who took offense at the freedom of his language, and should be taken before a court of whom he knows nothing, he would be put upon trial for what, sir? For no crime defined by the law. He would be tried by no mode of proceeding that is defined by the law; punished according to no sanction of any law; but put upon a trial upon charges that the commanding officer sees fit to declare as containing an offense; tried and punished according to the pleasure of the court. And, in such a case, that citizen of Indiana, sojourning for the time being in one of the southern States, appeals to the Supreme Court for protection; he says "I am entitled to my liberty under the Constitution; if this language of mine is the violation of any law let me be tried by a jury;" and when he makes that case you said a year ago, if the court down there decided against him and sent him back to the dungeons of the military prison, he might still have his appeal to the Supreme Court of the United States; and now you take it away from him. Why?

Mr. President, I take it that the reason which the Senator from Nevada assigned yesterday was hastily assigned by him and that it is not the true reason; not the reason upon which he would wish to stand permanently upon a question so grave as this. I know that he would not wish permanently to stand for his defense upon a question like this on the proposition that one case had overcrowded the Supreme Court. He cannot stand there. It is impossible. You have to stand somewhere else. Can you, Senators, stand upon this proposition, that a man's liberty or a man's life is of not sufficient importance to give him an appeal to the highest court of the land? Can you stand upon that? If after the adjournment of Congress my business or pleasure should call me into any of the southern States, and I should express myself very freely in regard to the policy of Congress, as I would if I expressed myself at all; and if I should find any military ruler there oppressing the people or committing frauds at elections or stuffing the ballot-boxes, or giving a preference of one class of voters over another with a view to political ends, and if my indignation should be aroused, as it ought to be, by such sights, and I should denounce it as a freeman ought to denounce corruption everywhere, and that military man should arrest me and take me before twelve of his officers that are bound to obey his command, organized into a military commission not for the purpose of administering the law, but for the purpose of convicting and punishing, and I should raise my voice to be heard in the Supreme Court of the nation, and claim that it is under the Constitution that I am to be free, and that it is in violation of the Constitution that my liberty is restrained, would any Senator say that I ought not to be heard? If my speech were ever so intemperate, would you not say that I should be heard in the Supreme Court upon the great question of liberty?

Why, sir, upon liberty it is understood that a whole nation will involve itself in war. For the liberty of the citizen, that he shall be safe in his rights, that he shall be safe in his rights as defined by law, a free people will go to every length and risk everything. But when I ask under the Constitution that I shall take my case to the Supreme Court of the United States, and your law says I may do it, and then when

I get it into the Supreme Court you come to the conclusion that it may bring up some question of the validity of your legislation, and although by repealing the law you send me back to a military dungeon, you will send me back rather than allow the high court of the land to pass upon your legislation! Do you, Senators, expect the people of this country to say that is right? I say to you they will not do it. In the hour of passion they may; but they will come back to the great doctrines of the fathers, that he who is tried, being a citizen, and not connected with the Army or the Navy, shall be tried by his peers according to the forms prescribed by law, and shall be punished according to the sanctions of law.

Why is this, Mr. President? Why is it that you are not willing that the Supreme Court of the United States shall pass upon the legislation of last year? More than one half the people of the United States deny the constitutionality of your legislation; more than one half the people of the United States believe it to be clearly in the face of the Constitution; more than one half the people deny that you can establish in one third of this country a military despotism. You talk about "all the people of the United States!" In the North alone there are one million eight hundred thousand voters that have expressed their opinion on this subject. Then, sir, you say you are right, but you will not let it be tested. That is brave, to say the least of it! Why, I know I am right. The legislation of the 2d of March, 1867, places ten States under military government, places eight million white people under a rule unknown to our Constitution and laws, which establishes a system of government more odious, in my judgment, than Austria established over Hungary when she sent the monster Haynau there to whip the women in the streets, and you say that that can be done and you will not let it go before the Supreme Court!

For what purpose has the Supreme Court of the United States been established? It is provided for in the Constitution that the Supreme Court shall decide questions that properly come before it, questions of law. Shall that court not decide questions of constitutional law? Who is prepared to say that the Supreme Court ought not to pass upon the constitutionality of your legislation? It is impossible that it should be otherwise. If it be a court at all, and the case come before it, the Supreme Court must decide what is the law in that case.

Now, Mr. President, let us take the McCardle case in one other view. That case is between McCardle and a military officer. McCardle comes into court and says, "I ought to be free, because the Constitution of the United States says I ought to be free." The military officer comes into the same court and says, "You ought not to be free, because the Congress of the United States, on the 2d of March, 1867, authorized me to take you into custody and hold you." Does not the question at once come up: which is right and which wrong? The one man claims his liberty under the provisions of the Constitution, the other man claims the right to hold him in custody and in servitude under the language of an act of Congress; and if that case comes into the circuit court of the United States must not the circuit court decide which is the law; and if it comes to the Supreme Court of the United States must not that court decide which is the law? They cannot both be the law; that is certain. It cannot be that the law of the Constitution is in force which says that a man shall be tried by a jury, and another law at the same time in force which says he may be tried by a military commission. They do not both stand at the same time. In the nature of things it is not possible, and it is no use to pretend it. The truth of the business is that Mr. THADDEUS STEVENS was right when he said that of necessity your legislation was outside of the Constitution.

Then, if you take his theory, McCardle comes into court and says: "I am within the

Constitution, whether your legislation is outside of it or not; I have never gone out; I claim the protection of the Constitution; with all my sins, with all my faults upon me, I claim the protection of the Constitution; that is the law I stand upon." The military officer says: "When I claim to hold you in custody; when I put you down into the dark dungeon of a military prison; when I lead you to the scaffold; when I order out a platoon of soldiers to shoot you dead, I stand upon the law prescribed to me by Congress." When that case comes to the Supreme Court must not the Supreme Court of necessity decide whether the military man stands upon the law or McCardle stands upon the law? It must be. In the nature of courts it must be so, that when it comes to act upon a case the court shall decide what is the law; and the Constitution declares itself to be the supreme law of the land. It has been so recognized hitherto. There can be no law superior to it; it cannot be overridden by any law.

Then, Mr. President, you propose, in regard to most important measures, to strike down the judiciary of the country. That has been pretty effectually done already in regard to the Executive. I do not see that the executive department amounts to anything any more. It is very innocent now, in my opinion. In three short years the powers of the executive and of the legislative departments of this Government have come into the same hands and under the control of the same body of men. The next step is to strike down the judiciary. Do that, and then all the powers of the Government are in the hands of one body.

It cannot be, Mr. President, that brave Senators are afraid of the decision of the Supreme Court. That is impossible. How is the Supreme Court organized? Will you be pleased to tell me? You did claim to the country that the administration of Mr. Lincoln was entitled to its confidence; and are there not five judges out of eight whom Mr. Lincoln appointed and whom you confirmed, and at the head is there not Chief Justice Chase, distinguished as a party leader?

Then, Mr. President, with a Supreme Court, five out of eight appointed by Mr. Lincoln himself, and confirmed by these honorable Senators that I am addressing, and only three of the old court left, you say you cannot afford to risk this question before that court. Why? Let that question be answered—why? McCardle must go out of court; he must go back and be handed over to a military commission, without the possibility, in the highest court of the land, of ascertaining his rights under the Constitution, rather than allow this question to go before the Supreme Court of your own organization; that court shall not be allowed to pass upon a question involving the liberty of the citizen when he claims that liberty under the Constitution of the United States!

This, Mr. President, is brave legislation! When I vote for a law I expect that law to undergo all the tests that the Constitution contemplates. Does not the Constitution contemplate that all legislation shall undergo the test of the Supreme Court of the United States? Marshall thought so; Taney thought so. I cite the lights of the law. Marshall, probably the greatest jurist our country has produced, freely discussed all constitutional questions, and contributed more to establish the meaning and proper construction of the Constitution than any other man of the country.

Then, sir, whether the Constitution or an act of Congress is the law of a particular case, you will not allow the Supreme Court of the United States to decide. Why? With five judges out of eight of your own appointment, why not? I say, before the country and the world, it is an admission that your legislation will not stand the test of judicial examination. If the Supreme Court of the United States, as now organized, shall decide that you have the power under the Constitution to establish five military governments in the South, to place the men, women, children, property

of the ten southern States under the control of an irresponsible military power, to strip these States of civil government, I shall bow in obedience to that decision, because it is made by the tribunal which our fathers established for the settlement of such questions. But, sir, you need not expect that this country will be satisfied when you force upon it a species of legislation that you are unwilling shall go before the highest court of the land, especially when you are unwilling that it shall undergo the test of the judges Mr. Lincoln himself appointed.

Mr. President, I have said about all that I feel it necessary for me to say on this subject. I regard it as very serious when we propose to strip any one of the departments of the Government of its legitimate power with a view to our exercising power without restraint. I believe the safety of the people, the liberty of the people, requires that one department of the Government shall be a check upon the other; that the legislative shall check the executive, and that the judiciary shall check both the legislative and the executive within the sphere allowed by the Constitution.

Now, sir, if it be necessary for party ends to legislate in a particular way, Senators have got to decide upon that for themselves. I shall not vote for any law with a view to party ends. I intend upon this important legislation to vote according to the dictates of my conscience. I think I may add that political capital is not made by special and unfair legislation. We know very well what all this means. We know that the Senators who have allowed the act of 1842 to remain unrepealed, who now propose to let it remain upon the statute-book, and give the foreigner an appeal to the Supreme Court where he claims his liberty under some authority of his foreign Government, cannot possibly believe that a man ought not to have an appeal to the Supreme Court when he claims his liberty or his life under the Constitution of the United States as a citizen of the country.

Mr. STEWART. Mr. President, I do not desire to prolong this discussion or occupy the time which all would prefer to see occupied by the opposite side. They have a very hard case to make out, and I am desirous that they should have all the time practicable in which to make it out. They are attempting to show by some kind of excitement, I know not exactly how, that it is a great outrage, on the part of this Congress, to repeal a law which was passed a year ago. According to them, this repeal violates not only the Constitution, but every principle of civil government; and the rights of man appear to be involved in this bill. It seems that the people, for three quarters of a century of the existence of this Government, did not have that recourse to the Supreme Court of the United States which is now said to be absolutely necessary for some purpose. It is a proposition which, it seems to me, gentlemen on the other side should have all the time to argue, and I do not think that we on this side should consume very much time. Inasmuch, however, as special allusion has been made to me, I may, perhaps, be pardoned for making a few remarks. I do not intend to occupy any time in defending myself personally; but as the Senator from Indiana seems to think that, because I was slow to believe that our party was betrayed by Mr. Johnson, I should, therefore, keep silence now, I beg to differ from him. If he thinks that is a very good reason he can enforce it as strongly as he pleases.

It is alleged that there is one McCardle to be influenced by returning to the former practice with regard to the courts, returning to the law as it stood for three quarters of a century; that there is one man by the name of McCardle to be injured thereby, to be deprived of some rights. I do not exactly understand how it is that he is to be specially injured. I know that there is a McCardle case that has been talked about. It is simply this, as I have seen it stated in the newspapers: one McCardle undertook to revive the disloyal spirit in Mississippi, where the military is in charge; he was arrested and

taken before the military authorities, and he applied to the circuit court for a *habeas corpus*. The court denied the *habeas corpus*, but let him go on bail, and he brings that up to the Supreme Court of the United States; and the question is whether he shall be exonerated and allowed to go on with his little six-by-nine sheet, revive the drooping spirit of disloyalty in the South, say all the disagreeable things he pleases, or whether he shall be deprived of that luxury of stimulating disloyalty. His case is brought before the Supreme Court, and the public business of that court, as I understand, was set aside; the calendar, with two or three hundred cases upon it, was stopped to hear arguments about advancing his case for the accommodation of Mr. McCardle, so that he could go on with his little paper and encourage the rebels to resist the reconstruction laws of Congress. The Supreme Court laid aside all their grave business, all the suits of parties that were brought up in the regular way, to hear Mr. McCardle's case, although he was on bail and was not suffering nearly as much as many of the persons who were involved in litigation before the court, who had everything at stake, while he had nothing at stake, but brought up a mere question of punctilio.

He was not restrained of his liberty; there was no pressing necessity that the court should throw aside all other business to consider his case. It was brought up, however, and a day assigned for arguing the question whether this private case should be advanced to the exclusion of other business. Litigants in that court felt it to be very oppressive that a case of this character should be advanced, postponing their causes; but the court, it seems, regarded it as its duty to advance the cause. The court advanced it and a long time was spent in arguing it to the exclusion of other business, and I believe the court now has on its calendar a larger number of cases than it had at the commencement of the term, during which it has been occupied in hearing advanced cases.

I remarked very innocently yesterday that the Supreme Court was so much overburdened with business that it was certainly politic to pass this bill, because the workings of the law proposed to be repealed thus far had shown that it interfered with the ordinary business of the country, with the ordinary business of litigants in the Supreme Court, postponed their rights to allow the court to give exclusive attention to such matters as this McCardle case.

Mr. President, we are charged with being afraid of the Supreme Court. I tell the Senator from Indiana we are not afraid of the Supreme Court. The Supreme Court has no power to interfere with the question of reconstruction. It has no power to determine the status of the southern States. The Supreme Court under the Constitution only has power to decide cases, and it must receive the law from the law-making power. We know it has no power to injure us. The policy of making the Supreme Court supreme dictator and giving it a will is a policy which, if it could be carried out to the entire satisfaction of the Democratic party, would soon subvert this Government. The Supreme Court, I say, can decide cases, but it has no will, no policy; it must follow the law-making power of the Government.

We are not afraid of it. If it goes outside of a case before it and sets up its will and issues proclamations we are no more bound by those proclamations than we should be by the proclamations of any other body of men acting outside of their jurisdiction. We have no right to presume that the Supreme Court will, in this or any other case, attempt to establish a policy in violation of the best interests of this country.

The Senator from Wisconsin remarked yesterday that we knew the Supreme Court would decide this case against us. We cannot know that; and no man dare believe that that court intends to lend its sanction to a violation of the Constitution or a usurpation of power. The question of making war or determining the political status of a State is as much beyond the power of the Supreme Court as it is beyond

the power of the humblest individual. Sir, we are not afraid of the Supreme Court; but it is true that in the case referred to parties have been laboring that court to get it to legislate on questions with which it has nothing to do, to get it to establish a policy, to get it to determine when the war closed. It is true there has been a long argument there, which we complain of, occupying the time of that court; and we see now that it is perfectly right that we should return to our original policy in regard to that court, under which the country had lived for more than three quarters of a century.

When gentlemen say that we know that the Supreme Court is to take up our reconstruction measures and decide them to be unconstitutional, I answer that we have no means of knowing so; on the contrary, the presumption is that they would not; the presumption is that the Supreme Court would be bound by the law, and I think if we know anything we know that the law is with us.

Mr. HOWARD. I wish to inquire of the honorable Senator from Nevada if he is able to furnish the information upon what ground it is that McCardle was apprehended, and what was the nature of the offense with which he was charged? I am not very well posted in that extremely important matter, and I should like to have the information.

Mr. STEWART. I am unable to give the precise statement of the facts, although I have a general impression in regard to them.

Mr. WILLIAMS. I can inform the Senator from Michigan that he was arrested for a breach of the peace or an attempt to violate the peace, and for inciting insurrection in Mississippi. Those were the charges against him.

Mr. HENDRICKS. I inquire of the Senator from Oregon if the only charge against him was not founded on matter published in his newspaper?

Mr. WILLIAMS. That is true; but the articles in his newspaper were intended to produce resistance to law, and incite insurrection among the people against the authorities of the United States in Mississippi. That was the direct object of these publications.

Mr. HOWARD. Has the Senator from Oregon the newspaper article?

Mr. WILLIAMS. I have.

Mr. HOWARD. I wish it might be read for our general information.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The Senator from Nevada is entitled to the floor.

Mr. JOHNSON. I was about to ask the honorable member from Nevada to allow me to answer the inquiry of the honorable member from Michigan. I am familiar with the decision which the court has pronounced on the motion to dismiss the appeal; and the grounds upon which the arrest was made are stated by the Chief Justice in the opinion as taken from the return of the military officer in whose custody the relator was. There are four grounds: the first is disturbing the public peace; the second is exciting to insurrection; the third is libeling General Ord; and the fourth is preventing the reconstruction acts being carried out.

Mr. STEWART. I thank the Senator from Maryland for stating the charges. Then it appears that Mr. McCardle was engaged in the obstruction of the reconstruction laws. He appears to be admitted on all hands to have been a rebel, and that may account to some extent for the sympathy for him in certain quarters—I do not mean, of course, on the part of the Senator from Indiana—but it may account for the sympathy of others; for instance, of such men as Jeff. Davis. It could not certainly account for the sympathy of any Senator on this floor. I regard the Senator from Indiana as a loyal man, and I do not presume that he could have any sympathy with characters of that kind. It is altogether probable that the Senator from Indiana, who dwelt a few moments ago so eloquently upon the case, was laboring under the impression that he was

really talking for an oppressed individual, some party who had been denied his liberty. One would suppose at the time he was raging against the outrage Congress was committing in denying McCardle the privilege of monopolizing the Supreme Court for this term, and for the next term, and for all time, to the exclusion of public business—McCardle and others who wish to bring their grievances before that court in the shape of writs of *habeas corpus* against the military who are endeavoring to restrain them from stirring up insurrection—he supposed this man had suffered great hardships, and that something very wrong was done, and for that reason we should not return to the ancient practice of the country.

Now, I have no sympathy for McCardle and I do not think McCardle will suffer. The only question is whether this is a proper bill to pass, whether the law of 1867 as it stood would work any good. In deciding on such questions we are always governed by the light of experience. When we find on our statute-book a law which has accomplished no good result, and which we think there are good reasons for repealing, it is certainly very proper to repeal it. This law is undoubtedly made use of as one of the weapons by which the Democratic party seek to get their political questions before the Supreme Court. I do not believe there is a man in the United States who thinks McCardle would be affected, substantially, one way or the other. The case is brought up here, not for the sake of liberty, but for the purpose of subserving political ends.

McCardle is on bail; he is not imprisoned. Who knows but that his whole case is collusive all the way through? No hardship is shown. The only hardship I can see is to litigants, who are denied justice at the hands of the court while the Democratic party are allowed to parade their political theories in that forum; and I say that if any legislation furnishes a pretext or excuse for dragging that high tribunal into the political arena it ought to be repealed. I want that tribunal preserved to the people. I do not wish to see the judicial ermine dragged into political contests. If McCardle gets any relief in that court it will be because rebels have the right to dictate the terms of reconstruction and there is no power in this Government to secure the fruits of victory; it will be predicated upon the right of the conquered to dictate terms to the conqueror; and therefore we have no right to presume that the Supreme Court will adopt any such rule. We have no right to presume that the Supreme Court will say that the rebel States are still, and have been all the time, States of the Union. We have no right to presume that the court will act upon any such theory; but still we desire to relieve them from further trouble in this direction; we desire to give litigants an opportunity to have their cases heard; we do not desire to have McCardle or any one else stir up insurrection in the South and attempt to get the Supreme Court to command our armies.

If the Supreme Court has jurisdiction of this matter of war and of reconstruction why did it not begin before? If it could say when the war should terminate or when it had terminated why did it not begin before? Why did it not issue an injunction and stop the firing upon Fort Sumter? Why did it not declare after the battle of Antietam that peace had come? Why did it not declare at the time of the surrender of Lee that peace had come? Why did it let Mr. Johnson go on with his military establishment until the passage of the reconstruction acts? for he did continue to exercise military authority all that time. It is a late day for the court to interfere now. If it had jurisdiction it should have stopped the waste of blood, the waste of treasure, the sacrifice of blood and life in the war. The mere statement of the proposition that that court is to determine when the military power shall cease and when the civil tribunals shall have control shows that it has nothing to do with it; and if the act now on the statute-book can be

construed to make military chieftains of the members of the Supreme Court, and have them control our armies in that country which remains still unreconstructed—if it can be construed in that way, and their time is to be thus occupied, there is no public reason why the act should not be repealed; and the private reason, so far as McCardle is concerned, the less it is investigated, so far as that rebel is concerned, the better the whole case will appear for the Opposition.

Mr. JOHNSON. Mr. President, in what I am about to say I shall not be under the influence of any feeling; nor shall I deem it necessary to vindicate the Supreme Court against what I am forced to call the reckless charges of the honorable member from Nevada, [Mr. STEWART:] but before I proceed to examine what the Supreme Court have done in relation to the case to which the honorable member has referred I deem it advisable to understand exactly what the question before the Senate is.

The Constitution of the United States provides that "the privilege of the writ of *habeas corpus* shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require it." The Supreme Court of the United States decided unanimously, in what was known as the Milligan case, that at the termination of the war there was no authority to establish anywhere within the limits of the United States military commissions for the purpose of trying any person who did not belong to the Army or the Navy in some relation or other. The difference between the judges in that case was not upon that point at all. They held, all of them, that as the law then stood, under the act of Congress which had been passed at that time, there was no authority to try by military commission a citizen not connected with the Army in the State of Indiana.

A majority of the judges held that in time of war, when the courts of the United States were open and the State courts were open, where the war had not in point of fact made its appearance, Congress had no power by law to provide for the trial of offenses committed by civilians. The Chief Justice and two of the judges who concurred with him held that in a time of war the States, all of them, might be in such a situation that Congress could, under the war powers, authorize the trial of civilians by military commission; but all of the judges, as I have just stated, concurred in holding, and none in more positive terms than the eminent man who stands now at the head of that tribunal, that when the war was ended, when peace prevailed, the Constitution of the United States was at once reinstated all over the country, and that that inhibited the trial of civilians by military commission, they being entitled to the protection which the Constitution of the United States, in the trial of offenses, guarantees to the alleged offender.

Mr. President, the war ended in April, 1865. Then we had a problem to solve. Many of the officers of the Army and many of those employed by the Government that were not officers of the Army, including Cabinet ministers and including, perhaps, the President himself, had done acts which the State courts might hold, and some of the circuit courts of the United States might hold, were unauthorized by the Constitution; and that they therefore might be liable in damages at the suit of the persons who might have been aggrieved. I thought, as I believe every member of the Judiciary Committee thought, that there ought to be a law to provide that cases of that description should be brought to the Supreme Court of the United States, and that for that purpose, when such cases were instituted in the State courts, the officer or the agent of the Government sued should have the privilege upon application of having his case removed into the circuit court of the United States in the district where he was sued, and that it might finally come to the Supreme Court for adjudication. All consented that that was the best and the only constitutional mode of settling the



supposed difficulty, terminating such controversies, ascertaining what were the rights of the officers who had acted under the authority of the Government during the war, and whether it was in the power of Congress to provide that they should not be responsible for anything that they did under the authority of the United States. How was that to be accomplished?

The honorable member from Illinois [Mr. TRUMBULL] told the Senate yesterday very correctly that that was almost the entire design of the act of February 5, 1867. It was to protect the officers of the Government from being responsible to harassing suits or suits that might destroy them in point of fact and by the heavy damages that might be awarded by juries in the several States, and to ascertain (with a view to their protection and the protection of the Government) what were the powers of the Government under the Constitution, situated as the Government was during the pendency of the civil war, that there should be upon the statute-book some mode by which such cases should be brought by writ of error to the Supreme Court of the United States.

Mr. TRUMBULL. The Senator will allow me to say that he certainly misunderstood me.

Mr. JOHNSON. I only judge by the report. I had not the pleasure to hear the honorable member.

Mr. TRUMBULL. I did not understand that the law of February 5, 1867, if the Senator is alluding to that, was intended to protect the officers of the United States against suits growing out of the war. I thought it was designed to protect persons from oppression under State laws who had been made free by the Constitution of the United States. I supposed the chief object was to protect the colored people of the South.

Mr. JOHNSON. That, I know, Mr. President, was one of the objects; but it was necessary to make the law comprehensive, and it therefore covers all cases in which any man entitled to any right under the Constitution and laws of the United States, or who claimed to be entitled to any right under either, should have the decision of that question brought by appeal to the Supreme Court of the United States.

Mr. TRUMBULL. I dislike to interrupt my friend from Maryland, but I must say that that was the object of the indemnity act. This act of February 5, 1867, does not provide at all for taking up suits for damages.

Mr. JOHNSON. I know that.

Mr. TRUMBULL. It only provides for *habeas corpus* cases.

Mr. JOHNSON. I understand that; and I will come to it in a moment.

Mr. TRUMBULL. It is another act that protects officers against suits.

Mr. JOHNSON. That I understand very well. Now, Mr. President, we found in 1867, in February, that our agents might be subjected to annoyance, they might be arrested, the State courts might attempt to punish them; and, in order to give them as full protection as could be afforded, Congress, supposing that it had the power to go to that extent, provided that in all such cases an application might be made to any judge of the United States or to any court of the United States for the writ of *habeas corpus*, and then went on to provide that the party might appeal, if denied it, to the circuit court of the United States, and that there might be an appeal from the decision of the circuit court to the Supreme Court of the United States. That is the state of the law now. It is under the provisions of that act that the case named in the debate occurred. I do not know who the man is, whether he was a rebel or not; but he was an American citizen, and just as much entitled to the protection of the Constitution of the United States as the honorable member from Nevada is entitled to it. If he was engaged in rebellion—and I do not know that fact—he lost no right whatever until, if prosecuted for treason against the United States, he had been convicted and judgment had been pronounced upon him.

Then, of course, he would lose all the rights which are forfeited by such a conviction and judgment; but, independent of trial and of judgment, he is entitled to the protection of all the guarantees of personal freedom found in the Constitution; and among others is that of being tried by a jury.

Mr. STEWART. If that be true, were any rights lost by rebellion?

Mr. JOHNSON. Our time is limited, and perhaps the honorable member had better make a supplementary speech when I am done. I prefer to go on. Now, he is arrested; he is a civilian, never has belonged to the Army or the Navy of the United States. He is arrested upon the four charges which I mentioned just now: first, that he is a disturber of the public peace; second, that he is inciting to insurrection; third, that he has libeled one of the generals of the Army of the United States, commanding in the district; and fourth, that he has impeded the execution of the reconstruction acts. Those are all. Whether either of those grounds constitutes a charge for which he could be held responsible involves this inquiry: are the acts of the 2d of March, 1867, constitutional? If they are, perhaps he is responsible; if they are not constitutional, then he is not responsible. How is that question to be decided? It is strictly a judicial inquiry. Nobody can doubt that. The question itself, irrespective of the tribunal by whom it is to be decided, is strictly a judicial one, a legal inquiry; and that being the nature of the inquiry, by what tribunal ought it to be decided? The answer that every man, I think, would be inclined to give, when he came to reflect upon the nature of our institutions, would be that it is to be decided by the courts and not by military men; and to the circuit court he applied for a *habeas corpus* to be discharged from the arrest under which he was, upon the grounds to which I have just referred. The court refused to discharge him, and he appeals to the Supreme Court.

The first question that arises is, is the right of appeal given in such a case by the act of February 5, 1867? I know that the honorable member from Illinois entertains the opinion, as I see by the report of his remarks yesterday, that the act of 1867 does not authorize an appeal in that particular case, and the ground upon which he places that opinion is that the act of 1867 does not cover the case of a *habeas corpus* originating in the circuit court, but embraces only cases in that court upon appeal from a district court. Entertaining that opinion, therefore, as the counsel of the Government—and I was glad to see that the Government was so well represented—he made a motion in the Supreme Court to dismiss the case for want of jurisdiction, and argued it in part upon that ground—that the act of 1867, the second section of that act I think it is, which gives the right of appeal in cases of *habeas corpus*, did not apply to any decision pronounced by a circuit court of the United States unless it was upon an appeal from the district court of the United States. He argued the cause with ability. He referred to the judiciary act of September, 1789, to the act of August, 1842, and to the particular phraseology of the act of February 5, 1867; and, no doubt, thought he had made good his motion; but it failed by the unanimous judgment of that tribunal, the judgment being pronounced by the Chief Justice. The opinion is before me. After a critical examination of the several acts regulating the jurisdiction of the Supreme Court in cases of *habeas corpus*, he says:

"We entertain no doubt that an appeal in this case lies."

He repeats the same doctrine in the conclusion of that opinion, saying in the conclusion, "We are satisfied that this court has jurisdiction to inquire into the decision of the circuit court for the Mississippi district." The honorable member from Illinois, as I think—and I speak of it with deference, because I was not concerned in the controversy, and know of it only from the opinion of the Supreme Court

on the motion to dismiss—seems to suppose that the court did not hold that it had jurisdiction under the act of 1867, which we are about to repeal. That, if he will permit me to say so, is an utter misapprehension of the opinion which I have read, which, as the Senate must see, is not a hesitating but a positive conclusion that they have jurisdiction to review the decision of the court below. My friend, the honorable member from Illinois, had urged upon them, however, that the circuit court of the United States, from whom the appeal was taken, had no jurisdiction; and the answer that the court gave to that, through the Chief Justice, was that that was a question to be decided when the case came to be heard upon its merits.

In cases of the description which this was made to assume upon the motion of the honorable member there are always two inquiries: first, whether the court has jurisdiction over the case; and second, if they have, how shall they dispose of the case. The court declined to express any opinion upon the objection that the circuit court had no jurisdiction upon the ground that, if upon the hearing of the case upon the merits they came to that conclusion, then they would dismiss the case for the want of jurisdiction.

There was another objection, and the court disposed of that in the same way. The honorable member contended that in the latter part of the second section of the act of February, 1867, certain cases are excluded from the operation of that act, such as military offenses, and having been engaged in the rebellion during the war, or giving aid and comfort to the rebels during the war. The court say, and say very properly:

"That is not a question which we can decide now; that will be before us when we hear the case; and if we shall come to the conclusion that McCordie has committed what falls within the class of military offenses we will refuse to interfere."

But I suspect, without knowing, and I only entertain that suspicion because such is the inclination of my own judgment upon the subject, that the words "military offenses," as found in that section, mean military offenses in the technical meaning, or, in the general understanding of the term, offenses committed by the military—those who are in the naval service or in the Army of the United States.

Then, in relation to the other objection, that the party is not to be entitled to the benefit of the act upon the ground that he had been engaged in the rebellion or given aid and comfort to the enemy, the answer was obvious, and might, therefore, have been given by the court, that the return of the officer placed the arrest upon no such ground. The law was passed upon the 5th of February, 1867. The arrest was made in November, 1867—several months after the passage of the act and the war was over; and, as the words are there used, he could not have fallen under that denomination. But it is immaterial to inquire strictly into that, because, in point of fact, he was not held upon any such ground. He was arrested and detained upon the ground alone that he had committed the offenses specifically stated in the return, and nothing else.

Now, Mr. President, does anybody doubt—will my friend from Illinois doubt when he reads the opinion of the court upon the motion to dismiss more carefully than I cannot help thinking he has already read it—can anybody doubt that the court will entertain jurisdiction over the case? They say they will; and they say they will, not by virtue of the act of 1789, not by virtue of the act of August, 1842, but by virtue of the act of February 5, 1867. I can entertain no such doubt. I have great confidence in the ability of the Chief Justice of that court in making his judgments clear to the understanding of the reader; and if he means, and if the judges who concurred with him, and they all concurred, mean, what the opinion as delivered by him states, then the case is now before the court under the authority of the act of February 5, 1867, and will be decided if that act is not interfered with.

Mr. President, I never call in question the motives of Senators, particularly of gentlemen for whom I have a great personal esteem; but they will pardon me for saying that I very greatly regret that the bill now upon your table should have been passed as it was. That it was not understood by those who, there was every reason to believe, would have opposed it is manifest. That the purpose was not at all to be collected from the title is manifest. That it was not to be collected from the bill in which it was inserted in the House, as that bill passed the Senate, is manifest. What was that bill? What did the Senate do? On the 11th of March, 1868, there was reported from one of our committees the bill exactly in the shape in which it passed the Senate. What was its object? To obtain the decision of the Supreme Court of the United States upon all questions affecting the revenue of the United States, irrespective of the amount involved in each controversy. Nobody could object to that. It was to the interest of the Government that all such questions should be carried to the Supreme Court of the United States, in order that uniformity of rule should be established, so important for the successful collection of the revenue and the quiet of the country, that importers should know, that those who were called upon to pay internal taxes should know what were the rights of the United States upon the one hand and what the obligation of the citizen upon the other; and the bill passed unanimously.

It was at once sent over to the House of Representatives. On the 12th of March a motion was made to take it from the table, and it was so done, the character of the bill being evident from its title. As soon as it was taken from the table and was under the consideration of the House, this amendment to it was proposed and adopted without explanation or debate. I will not say that the object was to conceal the purpose of those who were not in the secret. That would not be parliamentary; but the effect was to conceal it. Nobody can doubt that. That it would not have passed without debate if its character had been known nobody can for a moment question. The amendment came to this Chamber. No explanation was given of it here. It was passed here; I do not know that it was without inquiry. I did not happen to be in the Chamber, being in the Supreme Court at the time. It was passed here, however, without explanation. I of course do not charge any designed concealment upon any member of the Senate, especially the honorable member from Oregon, who had the bill specially in charge; but I repeat that the effect was concealment when there should have been, as I think, disclosure; for it is not to be assumed that bills of this description are to be passed or to be rejected upon party grounds. It does not comport with the character of the Senate to imagine that any such motive would actuate anybody at any time to be found in this Chamber. It is to be presumed, therefore, that it was passed upon public ground; and upon that assumption it ought to have been explained, because for aught that those who are now in favor of the bill and who voted for the bill before can know to the contrary a debate upon the question might have led to a different result.

Mr. President, it is true, and it is one of the defects of the Constitution, though not a defect in the palmiest days of the Government, that the third article of the Constitution does not provide in itself for the courts who are to exercise the judicial power there enumerated. Congress, it was assumed, would establish the courts. Above all, it was assumed that Congress would establish a Supreme Court, that being almost the command of the Constitution, and it was a command carried out, coeval with the organization of the body. It dates back to the first Congress held under the Constitution. Now, what is its jurisdiction. The moment you see the extent of its jurisdiction, you cannot fail to see what were the motives that led the members of the convention to

organize such a department as one of the constitutional departments of the Government. It is to have jurisdiction in "all cases of law or equity arising under this Constitution, the laws of the United States and treaties," &c.—"all cases." For the same reason that the convention assumed, as a clear duty upon the part of Congress, the organization of a Supreme Court and such inferior courts as might be found to be necessary, did they assume that it would be authorized to examine into all cases involving the Constitution and laws of the United States, which could, without any great inconvenience to the public, be brought by a writ of error or appeal to that tribunal, for that was the purpose of the provision.

It may be, Mr. President, in these latter days of what my friend from Indiana [Mr. MORTON] called, a few weeks ago, political and constitutional education, under which we are improving, that we have adopted the opinion, or are coming to the conclusion that an institution of that sort is not at all necessary for the protection of the Government, the States, and the people. Sir, it will be a sad day when we act upon any such opinion. I do not think I am in error when I say that but for the existence of that department of the Government, and but for its peculiar jurisdiction to examine into all cases arising under the Constitution and laws of the United States, the Government would have ended long since. First, the States would have been legislating to the injury of the Government; second, Congress might be found legislating in the same direction; and thirdly, the Executive might be found trespassing beyond the limits of his authority and trampling upon the rights of the States or the people of the States, and seeking to trample upon the constitutional authority of Congress. But all have so far been kept within their constitutional orbits through the instrumentality of this great, and especially great because of its being a peaceful tribunal, having no power except that which reason gives; having no voice except that which speaks the law; no authority whatever; and placed beyond the temptation which in other departments of the Government political aspirations may create. It may from time to time be less able than at other periods; but he who charges that a court, constituted as that court is, can be governed in its determinations by any corrupt motives or political motives, charges upon our people an incapacity to preserve a Government like ours.

The honorable member from Nevada has told us in his peculiar style of oratory that he is unwilling to trust political questions to the judges of the Supreme Court; he is unwilling that they should become military chieftains and issue their orders to the Army; by injunction restrain the movement of troops; and with that logical precision which belongs to him, he supposes that a case involving the right of a citizen under the Constitution of the United States is a political question of that description.

Mr. STEWART. Is it not the case of a public enemy?

Mr. JOHNSON. No.

Mr. STEWART. Whether he is a public enemy or not—is not that a political question?

Mr. JOHNSON. No; it is not.

Mr. STEWART. Is not the political department to determine who are public enemies?

Mr. JOHNSON. I do not get any additional light from my friend's interruption. I am speaking to the case as it is. Here is a citizen of the United States, whether enemy or not makes no difference, who claims the protection of the Constitution of the United States. If he has forfeited that protection the court to decide that question is the Supreme Court of the United States, if the case can be properly brought before that tribunal. But how are those questions political in the sense in which the honorable member uses the term? All questions, according to his interpretation of it, involving the construction of the Constitution of the United States, are political. So they are, in one sense. They demand an exami-

ation of the Constitution of the United States, and that is a political instrument; but it is an instrument which the law says shall, in the courts, protect the citizen; and when he applies to the court for protection upon the ground that some right secured to him by the Constitution is being invaded, the court is bound to examine whether he is within its protection or not.

The honorable member from Nevada has read, no doubt, the approved commentaries upon our Constitution, such as those of Story and Kent and others, and he therefore knows, professing to speak the sentiments of the entire country, that they hold that without such an institution the Constitution would be a dead letter. What is the honorable member's doctrine practically? Congress is the law-making power; and nobody has a right to question the authority of any laws which they may make. How is it the law-making power? It is clothed with the authority to pass laws upon all the subjects submitted to it by the Constitution, when those laws are not in conflict with the Constitution of the United States. The first question, therefore, that arises when the validity of any law passed by Congress presents itself is, did the Constitution authorize it or prohibit it? If the court, in a case brought before it legitimately between parties, either private parties or between the Government and a party whose right may be assailed, as he supposes, contrary to the Constitution of the United States, finds that the law under which he is held was one which Congress had no authority under the powers vested in them by the Constitution to pass, they have no discretion; they must so hold or violate their duty and their oath.

Mr. President, party cannot carry on a Government if unrestrained. Congress (certainly I mean not to disparage them) are subject to the infirmities of our nature; and if they were left unrestrained by the checks and the balances found in the Constitution of the United States despotism would at an early day be our condition. If the Senate will look at the sixth chapter of the philosophic work of De Tocqueville on Democracy in America they will find that that writer, whose insight into our institutions and into the science of government is remarkable, who seems to have understood us better than any writer of our own has understood us, places the security of our Government and its continuance and the rights of the individual citizen mainly upon the ground that there exists here a Supreme Court of the United States vested with power to decide all conflicting questions. He says:

"Within these limits, the power vested in the American courts of justice of pronouncing a statute to be unconstitutional forms one of the most powerful barriers which has ever been devised against the tyranny of political assemblies."

There are but two modes by which controversies can be settled, as we all know—force and law. Force necessarily leads to destruction. Law, if observed, leads to peace. In the beautiful language of Hooker, "its voice is the harmony of the world stilled into silence. The laws of nature, by any dispensation of their Divine Author, relaxed, and the universe would soon be hurled into atoms and chaos be once again."

A word more, sir, and I shall have done. What will the public ask, what will the world ask, was the motive for this legislation when history comes to record the events of the day. Congress has been passing acts of legislation which were supposed to be questionable; the power to pass them doubted. The President of the United States sought to prevent them by messages containing an argument to demonstrate the want of authority to pass them. Congress passed the act of February 5, 1867, and under that act a case finds its way into the Supreme Court, was argued several days or a week or more prior to the 11th of March, 1868, and rumor had it that it was to be decided. The court had no authority to decide it except by virtue of that act; and the bill repealing it, without original explanation of its

purpose, was passed by both Houses in two days. Will not the historian say that those who were engaged in such legislation either knew or apprehended that the highest court in the land would or might hold the laws to be unconstitutional? For he will naturally say to himself, "If they had believed otherwise they would have let the act of 1867 stand, since an authoritative adjudication of that court on such a question would have settled the public mind of the country as to the constitutionality of their legislation." The fact, therefore, of the repeal will be considered as demonstrating that, in the judgment of the majority of Congress, by whom the repeal was effected, they believed that that high court would rule their legislation to be unconstitutional.

I am glad to believe, Mr. President, as I said yesterday, that if this bill becomes a law, notwithstanding the veto of the President, no such decision will be pronounced. But I should be more glad if the bill was not to pass, and the decision was pronounced, no matter what it might be. If it should affirm the validity of the legislation all would be peace. If it should hold it to be invalid because unconstitutional we should know where we were; then all would be peace again if we thereafter kept within the prescribed limits of the Constitution as recognized by the highest judicial tribunal in the country.

Mr. President, it is a dangerous thing to deal with the courts of justice in this suspicious spirit. It is dangerous to suppose that they can be governed by political and party motives. I shall cease almost to hope for the endurance of our Government if that comes to be the prevailing opinion. That tribunal pure in the public estimation and we have nothing to apprehend. The conflicts of the day will soon be forgotten, and those who are to succeed us will, in a few years, reading the adjudications of that tribunal, come, as I think, to the conclusion to which alone a dispassionate reader can come: that to the existence of that tribunal we owe the safety which we have had in the past and the prosperity which we have enjoyed in the past; and that without it we should not have long safety or prosperity in the future.

Mr. SAULSBURY. Mr. President, it was my intention at the adjournment of the Senate last evening to submit to-day some remarks in support of the views presented by the President of the United States and in opposition to the bill which has once passed this body, and which, I suppose, the exigencies of party will cause to be passed over the President's objections.

Two hundred years ago the British Parliament, to relieve one humble subject from illegal imprisonment, passed the first *habeas corpus* act. From that day to this, in that country, it has been the bulwark of liberty. And our fathers, who claimed English liberty as their birthright, solemnly declared in the Constitution which they framed that the privileges of that writ should not be suspended except in times of invasion, insurrection, or public danger. In what business is the American Senate engaged to-day? We have been wont to boast that we were the great nation on earth which cherished more than any other nation personal freedom and civil liberty. And yet, in the face of the civilized world, in the face of the English nation which in comparatively dark periods enacted this great charter of civil liberty, we, to reach one single case, and to deny an American citizen the blessings of civil liberty and of personal liberty, are solemnly repealing the act of *habeas corpus*, and saying that, although a right has been vested in him under existing law to test in your highest legal tribunal the legality or illegality of his imprisonment, he shall not, now that his case has been argued and the court is ready to decide upon the merits of his case, be entitled to the judgment of your highest court.

Sir, we are legislating against liberty, against personal freedom; and I invoke Senators, after they shall have done this deed, never again to let the word fall from their lips that they

cherish the personal freedom and the liberty of the American citizen. Go unblushingly and confess before your people and before the world that liberty is enjoyed infinitely better under the model queen than it is in the free Republic of the United States. Make no more Fourth of July harangues to your people. Tell them not what great blessings your fathers achieved for you and for all their posterity by declaring their independence of the British Crown; but rather confess that you, the descendants of the fathers of the Revolution and the men who framed the Constitution, are denying to American citizens in times of peace that liberty which an English king could not deny to his subjects and retain his throne.

Sir, I impute motives to no one; but the charge has been distinctly made by others in this debate that the object of passing this measure is to prevent the Supreme Court of the United States from deciding upon the constitutionality of your action as members of the Congress of the United States. We all know that in the argument of the McCardle case in the Supreme Court the constitutionality of your acts of reconstruction necessarily entered into the discussion. Is it an apprehension, sir, that that court, composed of your political friends, acting in a high judicial capacity, may find it their duty to decide that the action of Congress, in reference to the southern States and the people inhabiting them, is unconstitutional? Sir, when it comes to this, that the legislative power of the country shall assume to itself all authority under this Government, that the executive and judicial departments of the Government are to be stripped of their former authority, and that the will of the legislative department of the Government is to be absolute, then will freedom not only be denied to McCardle, but to every American citizen; and then it will be that, in imitation of the example which the party in power has so far so successfully imitated of the British Parliament when it usurped to itself all authority under the British Government, the liberty of American citizens generally will be no greater, if as much, as the liberty enjoyed by an English subject during the reign of that Parliament.

Mr. President, as this bill was originally reported to the Senate and passed the Senate, it was very simple, very harmless; no one could object to it; and that the country may see distinctly its perfect harmlessness, and why it was that the opponents of the amendment were not looking out and on their guard, I will read the bill as it originally passed the Senate:

*"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That final judgment in any circuit court of the United States in any civil action against a collector or other officer of the revenue for any act done by him in the performance of his official duty or for the recovery of any money exacted by or paid to him, which shall have been paid into the Treasury of the United States, may, at the instance of either party, be examined and reversed or affirmed in the Supreme Court of the United States, upon writ of error, without regard to the sum or value in controversy in such action."*

That was the simple, harmless bill as it passed the Senate. It went to the House of Representatives; and there was proposed as an amendment to it the following:

*"SEC. 2. And be it further enacted, That so much of the act approved February 5, 1867, entitled 'An act to amend an act to establish the judicial courts of the United States,' approved September 24, 1789, as authorizes an appeal from the judgment of the circuit court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is hereby, repealed."*

Sir, the change was distinctly made in the other branch of Congress, as appears from the reports, as I recollect them, and it was admitted that that amendment was offered to meet the McCardle case, which had been argued in the Supreme Court of the United States. It was passed under circumstances which have been detailed already in this debate. It came here and it was passed, few suspecting its true character.

But, sir, it is unnecessary that we on this side of the Chamber should take up the time

of the Senate in attempting to point out the impropriety of this measure. The almost unbroken silence of gentlemen on the opposite side of the Chamber shows that they are resolved to pass this bill, to pass it this evening, and to take away from the highest legal tribunal in the land the right to determine upon the title of the citizen to his personal liberty. If you think proper let the leaden wings of despotism continue still to hover over that large section of the country and over its ten million inhabitants. If you will not allow them an appeal to the highest legal tribunal in the land, let me tell you, sir, that an appeal is about to be entered from the legislation of this Congress to a power greater than Congress. If the love of liberty has ceased to animate the hearts of the representatives of the people and of the States assembled in Congress it has not died out with the great mass of the American people. Pass your act, and to the majority of the people who never attempted to disconnect themselves from the Government of the United States do we take an appeal, and you cannot prevent judgment being entered. On the 12th day of November next our appeal from your legislation will come up before the great court of the people assembled, and, God helping us, if all recollection of the noble example of their fathers has not fled from their minds, if all love for those cherished institutions which have been handed down to them has not ceased to exist, they will reverse your judgment.

Mr. BAYARD. Mr. President, when the measure now before the Senate was returned with the objections of the President yesterday, I read the bill as amended in the House of Representatives for the first time. My belief on reading it was that it had been passed from inadvertency. I did not consider it possible that the Senate of the United States would deliberately pass a retroactive law divesting the vested rights of any citizen of the United States. Chancellor Kent has told us, and I think truly, that—

*"It is a principle of the English common law, as ancient as the law itself, that a statute even of its omnipotent Parliament is never to have retrospective effect."*

And Lord Mansfield, in a case before him, said:

*"It can never be that the true construction of this act is to take away vested rights and punish the innocent pursuer with costs."*

I believe honestly in those principles. I thought that in our more limited form of government, where the powers of Government are more defined, where the legislative power is vested in one department, the executive in another, and the judicial in another, each made coördinate and independent of the others, the principles which had obtained in the common law, nay, not only in the common law, but under the civil law, even in the laws of imperial France, in opposition to retrospective legislation would never fail to prevent the passage of such a measure as that now before the Senate—I speak of part of the bill, not all of it. The debate yesterday, however, has satisfied me that I was under an illusion; and in this case, as in too many others, party spirit, with its wild and bewildering influence, and the supposed necessities of party, will certainly lead to the passage of this bill by a constitutional, but by a party, vote.

The bill as it originally passed the Senate contained but a single section. That section provided that in civil actions against the revenue officers of the country, whether the foreign revenue or the internal revenue, they, or the parties suing, should have the right of appeal to the court of last resort in order that in that class of cases there might be uniformity of decision, and that without reference to ordinary limitations of law, whether the sum in controversy be ten dollars, \$500, or \$1,000. That was the bill as it passed the Senate of the United States. That was its original purpose. It went to the House of Representatives, and in that House an amendment was introduced not germane to the bill, but absolutely foreign,



foreign to the entire provisions of the bill, inconsistent and contradictory in its principles to the bill as it passed the Senate. As to the mode in which that amendment was introduced, with the concomitant circumstances and remarks made in the debate there, I will not speak now; because legislative decorum forbids me to characterize, as I think it ought to be characterized, the whole transaction as it occurred in another body. The amendment came back to the Senate at a late hour of the day; I believe when we were in executive session. I was not present when it was taken up; but it was at a very late hour. Without explanation, without the opportunity of examination or discussion, it was pressed at once to a vote and was passed in the Senate as if it were in coincidence or in accordance with the original measure, a mere amendment to it, and sent to the President for his signature. No opportunity was given for modification, for consideration, for examination, and explanation of the objects and purport of that amendment. It passed, the honorable Senator from Illinois [Mr. TRUMBULL] has said, by what he calls a large vote; and I had hoped until yesterday that that vote had been what I called inadvertent, because the Senate were not apprised of the whole character of the amendment.

But, now, when the President returned this bill to us with his objections yesterday, I find that it was pressed upon the Senate still without the opportunity for examination and discussion, and those objections which can be made to it must be made on the spur of the occasion. The Senate have, for the first time, introduced a practice which in the House of Representatives has precluded the character of a deliberative assembly—not, it is true, by the adoption of what is called the previous question; but by a large dominant majority forcing the minority into an immediate consideration of a measure before the message itself had been printed or the bill itself had been capable of examination by the members who were opposed to its provisions. Sir, it is the first step toward the destruction of debate on the part of the minority in this body. I trust it will not be followed hereafter.

No time has been allowed for examination. No one can doubt—it is impossible to deny—that one of the questions, at all events, involved in this bill, if not others, is of grave importance as a principle. The authorities that may be submitted upon it must be cursorily selected. The debate is pressed on the day that the message is read, when for the first time, certainly a large number of the members of the Senate have read the bill as amended or knew what its object was. I had believed, and I would fain hope even now, that a large majority of the Senate were not apprised of the character of this bill at the time it was returned to us by the President. I should be unwilling to believe that the body of which I am a member would have lent, by preconcerted, deliberate action, its sanction to the amendment which was introduced and passed in the House of Representatives. But, sir, I heard yesterday in the debate, with deep regret, the language of the honorable, the learned, and the distinguished Senator from Maine, [Mr. FESSENDEN.] As I heard that language then, and as I read it now, it was a declaration that on the other side of the Chamber they were prepared to vote; that they were willing to leave discussion to the minority, but that they had made up their minds and were ready to vote on this measure, which the President had vetoed. If that honorable Senator, with all his ability, with his acknowledged integrity, and with the commanding influence that he wields in this body, can take that view of this measure, then I must necessarily assume that there is no possibility that any objection I may urge here can avail for the purpose of defeating its passage.

What does this bill effect, or rather what does it intend to effect? The act of the 5th of February, 1867, gave to the several courts of the United States and the several justices

and judges of the courts, within their respective jurisdictions, in addition to the authority already conferred by law, the power to grant writs of *habeas corpus*, and prescribed summary and speedy action for the purpose of relieving citizens of the United States from unlawful imprisonment. It was a remedial act. It matters not whether it was necessary or not. That is the scope of the act. And it also provided, with a view to that necessary uniformity of decision which is essential to guide the numerous inferior tribunals, that in cases involving, as those writs do, the personal liberty, if not the life, of the party who sues out the writ, he should have the right to appeal to the Supreme Court of the United States. That was the provision. The necessary result of that provision was that in a few brief decisions the principles of personal liberty would have been so settled on all our controverted questions that there would have been no difficulty in the performance of their duties on the part of the inferior tribunals.

What does this bill propose? Not to repeal the power which was granted to the justices and judges of the inferior courts of the United States, but to take away from the appellate tribunal, the Supreme Court, the right to revise their decisions and to settle with uniformity what are the rights of American citizens in reference to their liberty and their lives. That is all it does. It does not repeal the jurisdiction confided to the circuit courts and justices, but only so much of the act of 1867 as provides for a revision of the judgments of those courts in reference to writs of *habeas corpus* as authorized under that act. Does it not present a case of extraordinary action on the part of the House of Representatives and of the Senate that, in a bill which was originally passed in the Senate to give proper relief to the ministerial officers of the Government in matters connected with property alone where they were sued, no matter how minute the sum for which they were sued, they should, in that same bill take away the appellate jurisdiction of the court of last resort, where the life and liberty of the citizen were concerned? Senators may reconcile it to themselves. To my mind the contrast between the provisions of the bill as it originally passed the Senate, and the amendment of the House, is alone sufficient for the condemnation of this second section. I shall come presently to the worst portion of the bill, which is its retroactive agency.

The bill in the second section provides:

That so much of the act approved February 5, 1867, entitled "An act to amend an act to establish the judicial courts of the United States," approved September 24, 1859, as authorizes an appeal from the judgment of the circuit court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is hereby, repealed.

The different judges of the inferior tribunals are left to exercise a wild discretion, if you please, in reference to their decisions. They may come in entire conflict with each other as to what is the protection given by the law under this great writ of *habeas corpus*, the remedial protection to the liberty and the life of an American citizen. This measure, which takes away the right to give uniformity to those decisions and to control these inferior courts, is coupled in a bill which provides that in reference to matters of property alone, however minute, an appeal may be taken to that court of last resort.

The honorable Senator from Nevada [Mr. STEWART] yesterday, though he was checked by the honorable Senator from Maine [Mr. FESSENDEN] for attempting to discuss this bill, as an unnecessary act, placed his defense of it on the ground that it was both expedient and proper; that with the press of business on the Supreme Court of the United States, and the multitude of cases before it, it was wise and right to repeal the act of February, 1867, which authorizes the appeal. If the honorable Senator had only paused and read the whole bill, how singular and inconsistent his argument would have appeared to him! The same

bill authorizes an appeal in matters connected with property, so far as your revenue officers are concerned; and where there would be one case arising under the law of February 5, 1867, there would be twenty arising under the measure which originally passed the Senate. The bill itself, as originally passed, would add twenty cases to the docket of the Supreme Court, where the bill which it is now proposed to repeal would add but one; and that, too, in reference to matters which are merely matters of property. In one class of cases the question is as to the responsibility to pecuniary damages of the different revenue officers in the country; and in the other the law was intended to protect the liberties and the life of every American citizen. Mr. President, has it come to this, that in these United States money and property are of more value in the eyes of the Congress of the United States and to be more sedulously protected than the liberty or the life of a citizen?

Again, sir, the argument is even more illusory on the part of the honorable Senator from Nevada, because this bill, though it increases the labors of the Supreme Court in its first section twenty to one, even if it had not been retroactive, when you look at it as retroactive it literally not only leaves no room for any case to appear before the Supreme Court hereafter, but it undertakes to dispose of existing cases which have been argued and are ready for decision. How, then, can it be as to that class of cases—and whether there be one case or many is immaterial—that there was a necessity for the retroactive clause in this bill which deprives, or intends to deprive, the court of jurisdiction in a case which has already been heard before it? That would not occupy its time. That would not add to its burdens, whatever the first section of the bill might do. Sir, the argument is baseless, and I presume, with the high intelligence of the honorable Senator from Nevada, that it was relied upon only because there was no better argument in support of such a measure.

But, sir, the honorable Senator from Illinois [Mr. TRUMBULL] told you yesterday that this bill was really of no importance; that it would not have the effect of dismissing any case on the records of the Supreme Court which would not otherwise be dismissed. I have great respect for the legal acumen of the honorable Senator; but I might well ask him, why is it that the retroactive clause is introduced if it was not intended to affect existing cases in the court; if it was not supposed that a case known as McCordle's case, in which the honorable Senator bore his part in the argument on the merits, was to be supplemented by legislation for the purpose of preventing the decision of the court on the merits of that argument, so as to deprive the court of the power of deciding the case upon its merits, but requiring them to dismiss it, although it had been argued before them?

But the honorable Senator went further. He undertook to explain to you what was the object of the law sought to be repealed—no; let me correct myself: it is not proposed to repeal the law, but to take away the right of appeal alone. He told you it was passed for certain purposes with reference to a particular class of the community. I was not a member of the Senate when that law was passed, but I read all laws in the language in which they are expressed. The law provides that the right to the writ of *habeas corpus* in a summary way shall be allowed in every case—

"Where any person may be restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States."

I suppose, and I should so read the law, that that was meant to protect the rights of every citizen; that that was its object and purpose; that it was not passed for the benefit of any particular class, notwithstanding that may have been the private opinion of the honorable Senator from Illinois. The only effect of the second section of this bill is to take away the right of appeal which gives uniformity of decision.

ion under that law. Therefore, the argument which tells you that the law is no longer necessary, and that it is a very unimportant matter whether you pass the bill or not, is aside of the question.

The honorable Senator also tells us that we had existed without this speedy remedy under a writ of *habeas corpus* and the right of appeal, as prescribed in the act of February 5, 1867, from the year 1789 almost to the present day, and that therefore it will make no great difference if the act of 1867 be repealed. Now, sir, the act is not repealed; whether it was wise or not is not necessary to be discussed here. Whether the act ought to be repealed for the future or not is not the question which I consider material here. But, sir, it is not repealed. The only effect of this bill is to deprive the appellate tribunal of the right of correcting the error of inferior tribunals in the execution of that law. The law may be unnecessary. If so, repeal it prospectively as you do other laws. I may think that action unwise; I may think the law was proper and right; and I might vote against any repeal of the law in any of its terms. But the great objection to the present bill is that it is retrospective in its action; that it seeks to divest the vested right of action on the part of any American citizen who has hitherto taken his appeal and brought it before the Supreme Court. I have read to you the language of Chancellor Kent. I have read to you the language of Lord Mansfield as applied to the omnipotent Parliament of Great Britain, that it could not be that the Parliament intended by an act to deprive the citizen of his vested rights and render him liable to the costs of the suit which he had instituted under an existing law. That is precisely in principle what this bill intends to do.

Now, sir, I may well ask why is it that the provision should have been inserted in this second section, not only that the Supreme Court shall not have jurisdiction of appeals hereafter taken, but that it shall have no jurisdiction of appeals which have heretofore been taken? Is not that provision violative of a great general principle recognized in all time past by both the civil and common law; which was recognized even under the arbitrary rule of the Roman emperors, which is now part of the law of imperial France, that retrospective legislation shall not deprive a party of existing rights? Sir, on this subject, as it conveys the principle with more fullness and more power than I could express, I will read the language of that great jurist, Chancellor Kent, in a case which came before him. It is an exposition of the principle which I defy the acutest and the ablest man in this body to controvert or to answer:

"An *ex post facto* law, in the strict technical sense of the term, is usually understood to apply to criminal cases, and this is its meaning when used in the Constitution of the United States; yet laws impairing previously acquired civil rights are equally within the reason of that prohibition and equally to be condemned. We have seen that the cases in the English and in the civil law apply to such rights; and we shall find upon further examination that there is no distinction in principle nor any recognized in practice between a law punishing a person criminally for a past innocent act, or punishing him civilly by divesting him of a lawfully acquired right. The distinction consists only in the degree of the oppression, and history teaches us that the Government which can deliberately violate the one right soon ceases to regard the other."—*Johnson's Reports*, page 505.

Mr. President, does not this bill violate an existing civil right? The law of February 5, 1867, passed little more than a year ago, gave the right to every American citizen not only to enjoy the protection of the writ of *habeas corpus* in the mode prescribed, where he is deprived of his liberty, but it also gave him the right to carry the decision of the court below into the appellate court, the highest tribunal of the nation, for its final decision. Under that right there are cases—no matter what cases. I know nothing of the particular merits, for I have never examined them, of what is called McCordle's case or any other. I have only a limited knowledge, and it may be an incorrect knowledge of the questions involved in them or any other cases before the

court; but there can be no question that if the appeal has been taken and the case docketed in the court, that vests a civil right in the party prosecuting the appeal. This bill is intended to divest him of that civil right, to deprive him of what belonged to him as a right under the existing law of the land. It comes precisely within the condemnation pronounced by Chancellor Kent against all legislation of that kind; and pronounced not only by him, but by the universal action of the judges of England and by the jurists of other civilized nations under the civil law.

Mr. President, it may be, I presume it will be, that this measure will be passed by the Congress of the United States; but if it is passed, it is nothing else than a law against reason, against justice, trampling upon, aye, stamping out the existing rights of American citizens.

I have said that, from the debate of yesterday and the votes that were given, I had lost my hope that this measure would be considered irrespective of party. I fear that that hope cannot be regained. I fear that under the influence of party organization and what are the supposed necessities of party, which too often blind wise, good, and able men, this measure, spite of the condemnation which the principle of it has received—I speak now of its retrospective clause—from every public jurist who has ever written upon the question, will pass. But there still remain two remedies.

I do not know what may be the decision of the Supreme Court as to the construction of the law if passed. I can readily perceive that it may be (according with Lord Mansfield in his opinion that it cannot be that the Legislature, whether the omnipotent Parliament of Great Britain or the law-making body of the limited Government of the United States, can pass a law to divest a citizen of his vested rights) the court may hold that a law which says that the jurisdiction of the Supreme Court is taken away on appeals which *have been* or may hereafter be taken does not apply to appeals which have been docketed and the record filed in court. An appeal may be taken and never prosecuted. It may be, looking to the great principle of justice which utterly condemns these retrospective laws, that the court may hold, in reference to existing cases which are docketed before it with a record filed, that the law has no application and cannot be held as intended to affect them. Certainly Lord Mansfield would so have held, according to his doctrine, if such a case had come before him.

But, again, it may also be (and I confess that if I were in a position to act as one of the judges of that court I should not hesitate on that question) that if the court should feel themselves compelled by the repeal of the law of 1867 to dismiss a case which had been previously argued and heard before them on its merits prior to the passage of the act, they would still pronounce their opinion on the law as it then existed, though they might add to that opinion that the legislative body had deprived them of the power to give the redress to the citizen to which he was entitled. Such would be my course; such deliberately would I decide if I were sitting as a judge of that court and arrived at the conclusion that the party was entitled to the relief he sought under the law as it stood when his appeal was heard. I should pronounce my opinion of the law as it stood at the time the case was heard before me, and I should not shrink from the expression of that opinion though I might feel compelled to submit to the exercise of legislative power, however unjust I might deem it, and subsequently to dismiss the appeal without relief to the party.

Mr. President, if it be true that this legislative measure is intended to prevent a decision upon any of those laws passed by Congress, in my judgment mis-called reconstruction laws; if it be true that that be its object, to prevent a decision of the ultimate judicial tribunal which might influence the minds of the American people—and I can conceive of no other object

in the retrospective action of this bill unless it be that—I think the dominant party make politically a grand mistake. It is true that the reverence of the American people for law and their disposition to submit to law make the decision of the Supreme Court on any law of immense influence; and if Congress proceeds in the execution of a legislative act, in spite of the judgment of the court that it is unconstitutional, I have no doubt that it would be highly injurious to the popular success of any party who attempts to carry out any such legislation. But, sir, will it be less destructive to the influence of the dominant party if, by the passage of this law intercepting a decision by the court in a case which has already been argued before it, you prevent that decision being rendered? Is it not a confession that you fear the invalidity of the laws which were in question before the court? And do you suppose that the people of the United States are so unintelligent that they will not perceive that a retrospective law which wrenches from the court the right to decide on a case which has already been heard and which involves principles of the highest order is a confession of judgment? I know not what the decision of the court will be; I have had no intercourse with them; I have exchanged no word with any of the judges; and I can only judge of the probability of the decision in the case so far as I have heard of it from my own views of constitutional law. But do you suppose that if you intercept that decision by retrospective legislation the people of the United States will not view it as precisely the same in effect as if the court had decided the question, as an admission of the unconstitutionality of your measures of legislation?

If you pass this law it must be by a party vote. If you pass this law its only effect and object is to repeal the right of jurisdiction on the part of the appellate court, not only as to future cases, but as to those which are now on the docket or which have been argued before it; and the common sense of every man will necessarily draw the conclusion that you fear the decision of a non-political body. You fear the decision of a coördinate department of the Government to whom the Constitution intrusts the right to determine whether your laws are passed in excess of power or whether they are within the constitutional limits which are assigned to you.

Sir, if this bill be passed and sustained by popular approval, I have very little hope for the perpetuity of the free institutions of this country. Chancellor Kent has told you truly, I think, that when retrospective laws to effect any purposes, party purposes or personal purposes, are sanctioned by the legislative authority it is not a very long step to pass *ex post facto* laws for the purpose of inflicting direct punishment. If this retrospective law now is intended and operates to deprive a coördinate department of the Government of the right to pass upon the validity of an act coming before it in a case intrusted to it by your own legislation, then you are abrogating judicial power and, as I think you have already done in reference to executive power; you are merging the entire powers of Government in two aggregate bodies composing the Legislature.

Gentlemen may suppose while they have the power in these bodies that this may be effected without future danger. In my own belief the experience of history teaches that it is not uncommon for despotism to be established in the first instance by an aggregate body, but the ultimate end is sure; an individual will displace, as Cromwell did, the legislative body, and assume despotic powers over the whole country.

Sir, I have not made my remarks against this bill in the spirit of party in the ordinary sense of the term. Nor, sir, have I made them with the expectation of influencing the Senate, because since the indications of yesterday I have been hopeless that the dominant party in this body would listen to any discussion on the bill. But, sir, I am a worshiper of civil liberty. I care not what the rest of your legislation may

be if you keep the country as a government of laws, if you keep it with its powers subdivided, so that we may escape a mere government of will. I have not many years to remain in political struggles; but while I do live I pray God that I may never live under a government of will, whether it be the mere will of a single despot or the will of a majority of an aggregate body.

Mr. BUCKALEW. Mr. President, under ordinary circumstances I might well decline to go on with the debate upon a subject so important and interesting at so late an hour in the afternoon, because it is impossible, speaking at this time, that I should do justice to the subject or to myself; but, sir, I regard the circumstances under which we are placed. It was by common consent yesterday understood that this debate should be concluded to-day, and I am unwilling to be held responsible for an adjournment or a night session. I rise, therefore, to speak at this time in the hope that after the Senator who has the bill in charge is heard and such other members as desire to speak are heard we shall reach a vote.

Mr. President, this subject is undergoing debate in a somewhat unfortunate manner, at least in a somewhat unusual manner. The affirmative is not heard; the debate begins and progresses, at least it has progressed so far, with speeches from gentlemen who are opposed to the bill; and if we are to hear any regular, any elaborate vindication of it, it is only to be at the conclusion of the debate. Sir, I think that we ought to have had the privilege early in the debate of a speech or two from gentlemen who support the bill, and who are responsible for its introduction and for the form which it has assumed.

I might well inquire, Mr. President, even at this late time, how it happens that those who proposed and supported this second section in the House of Representatives gave no explanation of it, subjected it to no analysis, assigned to it no character before they proposed to place it upon the statute-book of the United States. I might well make also the further inquiry why, when an explanation of that section presented here as an amendment of the other House was challenged upon the floor of the Senate, no explanation was made, no argument entered upon, no vindication attempted, and why time to consider it by those who doubted its propriety was refused by a formal vote of the Senate and the decision upon it pressed at a time and under circumstances when examination and debate were impossible; when it was inevitable that if the amendment received the sanction of the Senate it was to be upon trust and not upon argument or upon reasons assigned for its enactment. And now, in this debate, as I said before, we who oppose the measure do not enjoy the advantage of hearing the argument in its favor set forth and fully expounded in all its length and breadth before we are called upon to explain the reasons why we oppose it and desire to place ourselves once more upon the record against it.

Two little gleams of light alone are afforded us from gentlemen who support the bill and propose to vote for it. First, the Senator from Illinois, [Mr. TRUMBULL,] who heads our law committee, and who has held his position for many years, informs us that this bill is quite harmless, inoperative, so far as the McCordle case in the Supreme Court is concerned; that it will have no effect whatever upon that case, and that all this debate in Congress and all this discussion outside of Congress are quite thrown away, expended to no purpose. In his judgment—and he is the highest legal authority which we have constituted in the formation of our committees—the passage of this measure or the failure to enact it is equally indifferent and unimportant, so far as that case is concerned.

Mr. President, it is quite unnecessary that I should attempt very carefully to answer the Senator from Illinois, that I should chop logic with him over this question of the construction and effect of the present bill in the particular to which he referred and to which I now refer—

I mean its effect upon the case pending in the Supreme Court. Two or three things are not questioned and are incapable of denial: that the member who offered this amendment (the second section) in the House of Representatives declares that he offered it and sought its enactment because it would effect the removal of that case from the jurisdiction of the Supreme Court before it should be decided; and that the member who had charge of the bill in the House openly proclaims that he acceded or assented to the amendment because he desired that such should be its effect and operation, and he applauds the amendment because it is to have precisely that effect and no other.

We are informed, also, that the Supreme Court has thought itself justified under the circumstances in delaying action upon that case in view of the pendency of this bill. The members of that court have in some way, perhaps informally, determined that they will not proceed to deliver a judgment upon the case which was argued before them because this bill relating to it has been pending before Congress and the President of the United States.

These things are known to us, and we know, also, that discussion of this bill in its relations to that case has been going on in the newspapers of the country.

I think I am safe, then, in saying that the second section of this bill was intended by those who are responsible for its introduction and who have given it their support for the express purpose of removing from the Supreme Court of the United States that jurisdiction which up to this moment it possesses, not to hear only but to render judgment between the authorities of the United States and a citizen of Mississippi who are parties before them in an issue at law in which the liberty of the latter is involved.

Mr. President, I put aside, then, the feeble and fruitless denial of the Senator from Illinois, that this is a bill which relates and was intended to relate to the jurisdiction of the Supreme Court over a case pending before it upon which, after full argument, its judgment was about to be pronounced.

Next, we have from the Senator from Nevada [Mr. STEWART] an observation which can hardly be described as an argument, but which deserves some answer. He says why make so much ado about the repeal of this statute of 1867, or of a part of it, inasmuch as the people of the United States had lived prosperously and happily for nearly eighty years without any such enactment; that, inasmuch as their judicial system had been found sufficient for their wants for all the purposes of the administration of justice among them down to the year 1867, it is not becoming and it is not seemly that so much objection should be made to the repeal of that part of the law of 1867 which is effected by this bill.

Mr. President, that would be very well if it were not for two very important facts which the Senator overlooked, but which I will now state. In the commencement of 1867 we had extended over the southern country in time of peace an extensive military jurisdiction affecting the citizens of that section of the Union in all its parts, and our officers, the agents of our Freedmen's Bureau, and other persons of the North were brought into intimate relations with individuals in the South. Under such circumstances it was apprehended that constant occasion of dispute and of difficulty between them would arise; and hence Congress thought proper to pass a new *habeas corpus* act infinitely more extensive than any one which had been previously enacted in this country, extending to subjects and to persons that had not been affected before that time by our laws. Previous to the enactment of the act of 1867 the remedy by *habeas corpus* for the delivery of the citizen from illegal imprisonment had been almost entirely under the authority of the States. In their courts and by their authorities liberty was sufficiently vindicated; and it had not been thought necessary to arm the courts of the United States with very extensive

jurisdiction for the protection of the citizen. But, sir, Congress then began to treat this southern country as without legal State governments, as without political organizations which we would recognize as legal and effectual for all the purposes for which State organizations or governments are established; and as we assumed to ourselves and asserted for ourselves new and extensive jurisdiction in that section of the Union, it was necessary that we should arm our courts as well as our military authorities with new and unusual powers.

Any one who will examine the act of 1867 will see that it is most extensive in its enactments and in its operation, having been purposely made so. A new or extended system of Federal jurisdiction having been asserted by us in that part of the Union, it became proper, if not indispensable, for the purpose of congruity and uniformity in our system, that the different magistrates and judges and courts should be subjected to a review of their decisions by some judicial authority, and for that reason, by the law of 1867 we did confer, not only jurisdiction upon the circuit courts of the United States in the several judicial districts, but appellate powers upon the Supreme Court itself, in cases arising in those circuit courts. That was necessary to the system established by the law of 1867. It was indispensable to that scheme of government and action which Congress then framed and imposed upon the southern country. Without this what would have been the consequence? Conflict of decisions everywhere; one judge or magistrate deciding one way in one section, and another in a different way in another section. I mean decisions upon the rights of the freedmen: decisions upon the boundaries between military and civil authority; decisions upon the character and extent of the authority left to the provisional State governments in the South, for they were soon afterward declared provisional by our laws. It was necessary that your system of administration should have coherence and uniformity in the South; and for that proper and indispensable reason you provided that there should be an appellate power exercised by the Supreme Court of the United States, so that a case might be brought here, and upon being determined by our highest judicial tribunal, the decision should become the law of the country and binding upon all inferior tribunals, whether of the United States or of the several States.

Now, Mr. President, under that statute this case came up to the Supreme Court from the circuit court in the State of Mississippi, and it involved one of the gravest and most important questions which can arise under Federal law—the question whether Congress can organize the southern country into military districts and confer authority upon the military commanders of those districts to try, or cause to be tried, by military commission criminal offenses, and cases involving the civil rights of the citizen; and whether by the exercise of that jurisdiction the ordinary provisions of public law which have heretofore obtained throughout the United States can be dispensed with; whether persons not in the military or naval service of the United States can be tried as if they were in such service by military tribunals in a summary manner, and subjected to such punishment, undefined by civil law, as the military authorities may think proper to impose. That case was brought up from one of the circuit courts to the Supreme Court, and it underwent prolonged and exhaustive debate. The voices of counsel who were heard on both sides of that great controversy almost reached this Chamber and echoed in our ears. They spoke in a much more appropriate forum, in a place much better suited to the case than this would be. They did not speak to the law-making power, although they spoke of it. They addressed themselves to a judicial tribunal, to one of the three great departments into which the Government was divided when it was established, and one adapted by its Constitution and by its qualifications for hearing the case



and for giving a just and lawful judgment upon it.

The Senator from Nevada says, "Why make so much ado when we propose to take away the authority by which this appeal was brought into that court, and take away the authority by which the argument was heard by that court, and take away the authority by which judgment may be pronounced by that court? Why make so much ado when the law we repeal is only a year old; when twelve months only have elapsed since by the signature of the President of the United States it became a law and was incorporated among our statutes, and became one of those rules of civil conduct by which all the people are bound?" I tell the Senator we make ado about that because you remove from that statute of 1867 a provision which is indispensable to justice and which is indispensable also to the uniformity and fair operation of the system established by that law, which was itself new and extraordinary. Very true, before 1867 there was no pressing necessity for extending very far the jurisdiction of the Supreme Court of the United States in *habeas corpus* cases, because prior to that time you had never proposed to exercise the jurisdiction you then assumed over the inhabitants of one third of the United States. Prior to that time it had been thought that this Federal Government was confined within narrow limits; that its powers had been sparingly if not grudgingly dealt out to it by those who founded it and who put it in operation in 1789, and that the great mass of public power which presses upon the citizen and regulates his conduct, proceeded and must proceed from the government of his own State.

But, sir, when in 1867 you took a gigantic stride in your imperial career, when you grasped to yourself and drew to yourself large and unusual powers which you had not asserted before, it became necessary that your judicial system should be largely extended, so that the machinery by which you worked, the means which you employed, should be commensurate with the new jurisdiction which you assumed. The Senator from Nevada, therefore, makes a bootless complaint, makes one, at least, without weight, importance, or justice when he objects to us upon the ground which I have mentioned.

Mr. FESSENDEN. Will the Senator from Pennsylvania give way for a moment that I may make a suggestion?

Mr. BUCKALEW. Certainly.

Mr. FESSENDEN. My object in asking the Senator from Pennsylvania to give way is to learn whether we cannot arrive at an understanding. What was agreed upon yesterday is not, I learn, understood precisely alike. Some of us understood that the agreement was that the vote was to be taken absolutely at six o'clock this evening; but I learn that that is not the understanding of other gentlemen. Of course there is a misapprehension about it, and the matter should be settled.

Mr. BUCKALEW. The understanding very distinctly was that the vote was to be taken to-day.

Mr. FESSENDEN. But some of us understood that the hour was fixed. For one I am not willing to stay here much longer; indeed, I am not able to do so; and I am not disposed to take any part in the discussion and I desire to learn why we cannot have a specific agreement that the vote shall be taken to-morrow at one o'clock, and then let gentlemen who wish to speak take all the time they desire this evening.

Mr. BUCKALEW. I have no objection to that. I commenced my remarks by saying that I rose to speak at this time, and proposed to go on, because I intended to keep the agreement, which was that we should reach a vote to-day.

Mr. FESSENDEN. Then as I wish to vote on the question, but do not feel disposed to stay here to listen to discussion, I rose to suggest, in accordance with the idea of my friend from Oregon, with whom I have spoken on the subject, that we had better have an under-

standing that we shall take the vote to-morrow at one o'clock, at all events.

Mr. WILLIAMS. If it can be understood that the vote shall be taken to-morrow at one o'clock, without discussion then, I have no objection.

Mr. BUCKALEW. I will go on, sir.

Mr. FESSENDEN. Can we not have that understanding?

Mr. CONKLING. And let it be, of course, with the further understanding that no other business shall be done to-day.

Mr. WILLIAMS. That nothing except this discussion shall go on.

Mr. DAVIS. I have no objection to an understanding that the vote shall be taken to-morrow.

Mr. FESSENDEN. And then the gentlemen can take what time they please this evening for discussion.

Mr. CONKLING. And let it be understood that no subject except this will be considered to-day.

Several SENATORS. Of course not.

Mr. CONKLING. Then no Senator need wait here any longer, unless he wishes to do so.

Mr. BUCKALEW. I shall certainly object to any House bills being acted upon. [Laughter.]

Mr. FESSENDEN. I hope if the suggestion I have made is agreeable all round, it will be generally understood, and we shall act upon it.

Several SENATORS. And let there be no executive session.

Mr. WILLIAMS. No other business whatever to-day.

Mr. HENDERSON. With this understanding I suggest to Senators that we take a recess until to-morrow morning at ten o'clock. That will leave us three hours to debate the bill.

Mr. BUCKALEW. That will accommodate me very greatly.

Mr. TRUMBULL. It is impossible to understand in this part of the Senate Chamber what the agreement is. We should like to know.

Mr. FESSENDEN. Simply that the vote shall be taken at one o'clock precisely, to-morrow, and that no other business shall be done to-day except this.

Mr. HENDRICKS. That is a queer way they have of doing business in the House of Representatives, and as one in the minority here, I do not choose to accept it. I do not choose to say, for the accommodation of a portion of the Senate, that we shall have an understanding that gentlemen may stay here and speak and do nothing else. I do not care about seeing any Senator put in the unpleasant position of making a speech when he appears to have no purpose in view but just to make a speech.

Mr. FESSENDEN. If the Senator objects to the arrangement, and it does not seem to be agreed to, of course we must go on.

Mr. HENDRICKS. I do object. I would not wish to stay here to make a speech with the understanding over my head that all the rest of the Senators were going home and would not listen to me.

Mr. McCREERY. I submit a motion that the Senate take a recess until to-morrow morning at ten o'clock.

Mr. WILLIAMS. I hope not. There are committees to meet to-morrow morning, and to agree to that proposition would derange their business. I insist that we go on now according to the agreement.

The PRESIDENT *pro tempore*. Does the Senator from Pennsylvania abandon the floor?

Mr. BUCKALEW. I gave way informally for this little friendly chat. [Laughter.]

The PRESIDENT *pro tempore*. It is moved and seconded that the Senate take a recess until to-morrow at ten o'clock.

Mr. WILLIAMS. That is a violation of the agreement made yesterday that the vote should be taken to-day.

Mr. McCREERY. But I understood that there was a proposition for a new agreement.

Mr. HENDRICKS. Who made the proposition to take the vote at one o'clock to-morrow?

Mr. FESSENDEN. I made it, and it was agreed to by everybody, before the Senator from Indiana came in just now.

Mr. HENDRICKS. I regret very much that I did not hear it at first.

Mr. McCREERY. If my motion is construed as a violation of any agreement, of course I withdraw it.

Mr. COLE. The meeting of committees in the morning will not be in the way of the discussion of this bill in the Senate before one o'clock, and I hope we shall take a recess.

Mr. WILLIAMS. I know it will be in the way, because I am on a committee that meets at ten o'clock, a very important committee, a conference committee; and there are other Senators who are on such committees. Such an arrangement will very much interfere with them. If there is to be any further discussion of this bill I want it to go on now, and I want an opportunity to say a few words at the conclusion of the debate.

Mr. MORTON. We all want to vote on this bill, but some of us do not wish to stay here to-night to a late hour for that purpose, and are not physically able to do it. For my part I think we had better take a recess until to-morrow at ten o'clock, and then have it understood that the time between that hour and one o'clock shall be devoted to this discussion, and that at one o'clock the vote shall be taken. That will allow plenty of time to send the bill to the House of Representatives to-morrow, and answer every purpose.

The PRESIDENT *pro tempore*. Is there any motion submitted to the Senate?

Mr. COLE. The motion of the Senator from Kentucky is before Senate.

The PRESIDENT *pro tempore*. The Chair understood that to be withdrawn.

Mr. TRUMBULL and others. Let us have the question on the passage of the bill.

Mr. FESSENDEN. I suppose if no arrangement is arrived at, the Senator from Pennsylvania will continue his speech.

Mr. BUCKALEW. I am ready to go on, sir. The act of 1867 was intended to have special relation to freedmen in the South, to persons connected with the Government service, and to persons from the northern States sojourning in that section. As I understand, it was particularly intended to protect all these persons against possible hostility, injury, or outrage, while they were engaged in the performance of public duties or in the peaceful exercise of their private employments. But, sir, the law has a more extensive application than perhaps was intended by those who are responsible for its enactment. Such is the imperfection of human language that in a general statute intended for the advantage of the one race and of particular persons in another race, passed for their advantage, a great number of other persons are included. Although, as has been hinted to us in this debate, and as has been said more explicitly elsewhere, this law was mainly intended to curb the impertinence and to limit the authority of State jurisdictions, and to protect the freedmen and their political associates, it has a much more extensive effect. It not only includes negroes and radicals, but it includes all persons, whomsoever they may be, the whole of our population; those whose political opinions are sound and those whose opinions are not sound, judged by the political standard which we set up in Congress, or which may be set up elsewhere.

So, sir, it has unfortunately happened that this law of 1867, in the course of its administration, has been invoked in favor of a man who is not a favorite with the law-making power; has been invoked in favor of a man who used violent, perhaps improper language with reference to some military officer set over him in his district as his commander and superior. I think the language he used in his newspaper was described by his own counsel in the Supreme Court as "coarse." I suppose it was

exceptionable language, not such as we would approve of or commend. Well, sir, in favor of a man who was not devoted to us in the late war, and in favor of a man whose language was unbecomingly or gross, this statute of 1867 has been invoked and a case of attempted punishment of him by the military authorities, in regular course has been brought, as I said before, into your highest court, the Supreme Court of the United States.

Now, sir, it is a misfortune, perhaps, that the protection and advantages of our laws cannot be confined exclusively to our friends; that when we attempt to make comprehensive enactments, general rules, put them upon the statute-book, and throw them out to the people of the country as the law for their conduct, it will happen that those laws will not discriminate in favor of persons we like and against those we dislike, that their operation will be equal upon friend and foe; that these our enactments, to use a figure of speech, once before used in our political history on a signal occasion, these enactments which we cast out to the country will fall like the dew of heaven upon all alike, upon rich and poor, upon the humble and the lofty, upon men with whom we sympathize and upon men whom we detest. This, sir, is characteristic of Justice herself; and when you frame her laws their effect and operation will be according to her nature, and the more perfectly they are so the more perfectly is the object of their enactment accomplished, and the more thoroughly have you secured the proper and legitimate ends for which Governments are established among men.

It is, therefore, with me no objection to the act of 1867, no objection to its continuance upon our statute-book, that it can be invoked in favor of a man belonging to a class for whom the law was not specially intended when it was passed. Will you withdraw this provision of law from your statute-book because its operation is equal, because, under the stubborn arrangements by which courts are constituted and by which courts are conducted and administered, you cannot select friend from foe and administer your system upon principles of favoritism or of friendship on the one hand or of hostility and enmity upon the other? But I suppose gentlemen will not say this law is to be repealed for that reason. They will not choose to proclaim it before the people of the country or acknowledge it to their own consciousness when they come to its exact and thorough consideration.

But there is another consideration perhaps more potent, more influential with them. This law is to be repealed, this jurisdiction is to be withdrawn from the Supreme Court, because it is necessary to preserve the reconstruction system enacted by Congress from molestation, injury, perhaps demolition, by the court. An humble man in the State of Mississippi, not admirable, perhaps, by his personal character or his past career, is able to carry the Congress of the United States into court and to demand judgment upon its most solemn enactments. What a spectacle! What an arrangement of things upon earth is that! A poor, humble, despised man in Mississippi, regardless of your dignity, of your constitutional authority, of the immense popular power you possess, can carry you, or rather your most solemn and deliberate work, into a quiet court before eight men, and there, upon logic and reason alone, not by passion, not by influence, not by brute force, not by physical power, not by the sword, but by logic and honest argument, may peradventure destroy what you have done, prostrate the edifice which you have reared, and give a new direction to the Government of the United States in the future.

It is this danger which appals men in Congress and out of it. Oh, what a spectacle is this! How it speaks of civilization, of the advance of mankind beyond their position in former ages! Great controversies in Government, great questions of political power, instead of being determined upon fields of battle by the mailed arm of the soldier or by the

intrigues and corruption of polluted courts, may be decided by the voice of reason and justice in the courts of law, and those who speak the decision command the acquiescence and approval and blessing of mankind.

Mr. MORTON. I trust the Senator from Pennsylvania will allow me to interrupt him for the purpose of having the question settled as to what we are going to do to-night. I move that the Senate do now adjourn.

Mr. BUCKALEW. I can hardly give way to a motion of that kind.

Mr. WILLIAMS. I desire to state to the Senate that so far as I am advised it is agreed on all hands that as soon as the Senator from Pennsylvania concludes his speech we shall take the vote. I propose to waive, so far as I am concerned, any speech on this question, and my learned friend from Kentucky [Mr. DAVIS] has agreed with me to do the same thing.

Mr. BUCKALEW. Then we are pretty safe. [Laughter.]

Mr. WILLIAMS. It is understood that as soon as the Senator from Pennsylvania concludes the vote will be taken, and I hope, therefore, that the Senator will watch the hands of the clock as he proceeds.

Mr. BUCKALEW. Mr. President, that puts me on my good behavior.

Mr. DAVIS. I am sorry that my honorable friend from Oregon does not treat me with as much respect generally as he does on this particular occasion. [Laughter.]

The PRESIDENT *pro tempore*. Does the Senator from Indiana withdraw his motion?

Mr. MORTON. As the Senator from Oregon says there is an agreement on all hands that the vote shall be taken when the Senator from Pennsylvania concludes I shall not insist upon my motion. I was not aware of that fact before or I would not have made the motion.

Mr. BUCKALEW. Well, Mr. President, I will endeavor to concentrate myself as much as possible. Mr. President, this spectacle of a court holding within its hands a great and salutary power for the determination of public disputes awakens in my breast no jealousy and no apprehension. As a member of the Congress of the United States I am content that the judicial department of the Government shall hold all its powers complete, entire, untouched, undiminished, so far as the Congress of the United States is concerned. I would yield to it immunity from a spirit of meddling on our part, as I would claim for this department of the Government complete exemption and immunity from its interference with our just jurisdiction and powers. Now, sir, what have we done with regard to that court? Have we in no way interfered with it? Have we not sought to mold and to conform it, to some extent at least, to our own will? Let us turn to our laws. Let us see about the constitution of that court. Here is the statute of the 3d of March, 1837:

"The Supreme Court of the United States shall hereafter consist of a Chief Justice and eight associate judges, any five of whom shall constitute a quorum; and for this purpose there shall be appointed two additional justices of said court, with the like powers and to take the same oaths, perform the same duties, and be entitled to the same salary as the other associate judges."

Then follows the act of March 3, 1863:

"The Supreme Court of the United States shall hereafter consist of a Chief Justice and nine associate justices, any six of whom shall constitute a quorum; and for this purpose there shall be appointed one additional associate justice of said court, with the like powers, and to take the same oaths, perform the same duties, and be entitled to the same salary as the other associate judges."

Then comes the act of 1866:

"No vacancy in the office of associate justice of the Supreme Court shall be filled by appointment until the number of associate justices shall be reduced to six; and thereafter the said Supreme Court shall consist of a Chief Justice of the United States and six associate justices, any four of whom shall be a quorum; and the said court shall hold one term annually at the seat of Government, and such adjourned or special terms as it may find necessary for the dispatch of business."

These are the acts upon the statute-book in recent times relating to the constitution of the

Supreme Court. We had sent to us the present winter, from the House of Representatives, a bill providing that upon constitutional questions two thirds of the judges should agree together in judgment in pronouncing any act of Congress violative of the Constitution of the United States. That bill was sent to a committee, and it remains unacted upon; but it was sanctioned, approved, and passed by one House of Congress. Here we have sent to us in the form of an amendment upon a bill in the first place, and now included in a bill vetoed by the President in the second place, a provision that that court shall not have appellate power to the circuit courts in *habeas corpus* cases, and that all cases that may be pending before the Supreme Court shall be taken away from it, and justice, so far as they are concerned, refused.

These are the several things done by Congress, including the one measure to which I have referred, passed by the House and yet pending here. The act of 1837 defines the Supreme Court so far as membership is concerned, almost during the entire period within our recollection. In 1863, the political majority in Congress desired an additional judge upon the bench of that court, and in pursuance of the power which was vested in them they took that additional judge; they selected him, of course, from among their political friends and assigned to him his place and the exercise of his duties among his colleagues upon the bench. In 1866, a vacancy existing in the court by reason of death, the President of the United States sent to us a nomination for the vacancy of Mr. Stanbery, then well-known as a distinguished member of the bar of Ohio and Kentucky, since Attorney General of the United States. That nomination was held for some time; action was not taken upon it; but one fine morning a bill was passed reducing the number of the judges of that court as vacancies should occur to seven. Vacancies should not be filled until the whole number should be reduced below seven.

Thus the filling of vacancies by presidential nomination and senatorial consent was stopped, prevented, for what purpose? It was provided that the next judge that died on that bench should leave a vacancy unfilled. I do not know whether anybody cogitated tables of mortality and made a nice calculation of the exact value of the chances. It was probably supposed that the judges senior in service would be most likely to depart this life and consequently depart from the discharge of their judicial duties first. At all events the court was left by that law at eight in number and with a prospect of reduction to seven, and the same political condition of affairs which then existed continuing down to this time there has been no change, no new law.

Now, is it not rather remarkable that here in 1866, when the business of the Supreme Court had increased very greatly; when its jurisdiction had been extended to many new subjects; when business was flooding in upon it from all sections of the country, and when here in Congress we were called upon to legislate for the relief of that court, because it was overworked—is it not remarkable that the number of judges, at such a time, should be reduced? Sir, we can all see what the explanation is. The explanation is political. It was not desired that the President, who at that time was entering upon the existing chronic difference with Congress, should fill a vacancy upon that bench by nomination, and, therefore, the law of 1866 was passed to cut down the number of judgeships from ten to seven. Well, sir, how was that court made up, and how does it stand under the law of 1866? Was it not pretty safely constituted for the objects which were in the contemplation of astute gentlemen? It is now made up of eight judges, five of whom were put upon the bench by the nomination and appointment of Mr. Lincoln. Pretty safely constituted! Judiciously made up! All right! All went smoothly; all was fair sailing, until the present winter, when we heard in the House of Representatives the

first murmurings of Radical indignation against the Supreme Court; the mutterings of hostility against that court, and a bill was started and passed, and sent over here to curb and bridle that court, and to prevent a majority from determining against the validity of an act of Congress, although in their judgment it should be in plain conflict with the fundamental law which they, as well as we, are sworn to support.

Thus the court was to be curbed by an act of Congress and forbidden to discharge one of its most solemn and imperative duties, pronounced to be such by John Marshall in one of the earliest opinions upon our judicial records, luminous, demonstrative, unanswered ever since, and unanswerable in all future time. That court was to be forbidden to perform that function solemnly charged upon it and indispensable to the maintenance of any balance among the powers of Government, any just and judicious distribution of power among its departments.

Why did that bill slumber here? Was it not because it was found out or believed or supposed that even that bill would not save the extraordinary legislation of Congress from judicial condemnation? Was it not because it came to be believed or suspected that even under such a rule as that an honest judiciary could not maintain the laws enacted by the two Houses of Congress? Their enactments might be found to be deficient in that inherent life which belongs to a valid statute, namely, constitutionality. No, sir, that bill was dropped; you cannot endure even the test of a two-thirds vote upon reconstruction in the court you have reorganized and manipulated by the legislation which I have read.

How must you think the people look upon you politically? I am speaking in that aspect exclusively; and as this is a political bill it justifies my discourse of and concerning its provisions in a political sense. No, sir; a two thirds vote provision will not answer for protective purposes in these extraordinary times and with these extraordinary laws to undergo examination, not here where partisan passion speaks, not here where the inspiration of sensation newspapers is felt, not here where personal interests and party organization may mislead and distract the judgment; but in a serene and tranquil and just and honored court, whose voice when heard by the people will be respected and obeyed from the Penobscot to the Rio Grande, and everywhere within our borders, because it is the voice of justice speaking from its own temple words which the people will hear and take home to them as rules for both belief and conduct.

Therefore, sir, what do you do? Snrreptitiously, in a moment when attention was withdrawn, a quiet amendment goes on a bill in the House of Representatives and comes here and is put through without explanation and with postponement denied—to do what? To take from our great court the just power which it holds under your law, to defeat the pronouncement of its honest opinion, to save your reconstruction work from that just destruction which impends over it or which you suppose impends over it, to secure yourselves from criticism and review and reversal by any earthly power, to say and to proclaim that your will and your interests, and they alone, shall be the law of your conduct. Is not that this bill? Did not the men who introduced and passed it in the other House tell us so and tell the country so? Is not the court—armed with no military power, with no political authority, backed by no party passion—arrested now in the performance of its duty under the law? Struck at and wounded justice hesitates in her course; her judges tell you, "We pause; we suspend our functions; we await the action of the two Houses of Congress; they have power which we do not possess, and we are weak and helpless for the moment before them."

Mr. President, Dean Swift tells us that "the great evil to be guarded against in government is the *summa imperii*, the unlimited power in

the hands of the one, the few, or the many." We suppose that in these two Houses of Congress we represent the popular voice of the people of the United States; of the majority of the people, in consequence of the expression of their judgment under our republican forms. Well, sir, one of the things best remembered by me is the astonishment and incredulity with which, many years ago, I read Mr. Madison's disquisition in the *Federalist* upon the relative powers and the relations of the different Departments of our Government, wherein he insisted (and he continued to insist on the point during his whole life) that the danger of encroachment by either one of the Departments of the Government upon the other was to be looked for here; here in Congress, here in the legislative branch; that the danger to our free institutions lurked here, where the voice of the people was organized, where the main mass of effective power was lodged, where the initiation of legislation pertained; and that against encroachment by this department the judicial and executive departments were to a great extent defenseless. He said this was our danger, and he wrote strong words upon it even late in life, when upon the verge of the grave he looked back with tranquil vision over his past career, over the debates which he had conducted in the *Federal Convention*, and over his experience as Chief Magistrate of this Union.

He left his words upon record, words of earnest exhortation to his countrymen, to look to Congress as the department which above all others would overstep the bounds of its just authority and encroaching upon the other departments, would disturb the balance of our system, and introduce into it evils and dangers not contemplated by the sanguine and sagacious men who established the Government and laid deep its foundations on the basis of popular power.

Well, sir, look at this work of ours concerning the Supreme Court; this past action of Congress and this bill. I need not go over the old story of what you have done to the executive department; how you have plucked from it time by time, month by month, one prerogative after another; how you have shorn the power of the President as Commander-in-Chief of the Army and Navy, so that you now speak to one third of the United States through the General of your Army. I need not tell you how you have stripped him of the power of control over all his executive subordinates by your tenure-of-office law, and how by many other enactments you have sought to impoverish that department, if I may so express myself, to strip and disrobe it of its constitutional garments and of its inherent and just powers. That may be a political question. You are engaged in a struggle for power; you suppose your true political antagonist is located in the executive chair. He speaks harshly and unkindly of you, and you in turn assail him and attempt to deprive him of influence, of the power to wound and to injure you with the people, because to the people you both look. Each courts the favor of the great mass in whom all sovereign power is lodged. Well, sir, at this time I shall say nothing about that contest, now protracted through a period of two years and a half. I will not attempt to hold the scales between you and your executive opponent, and determine upon which side is the balance of right or the balance of impropriety.

But, sir, I have a right in the conclusion of this debate to appeal to you on another point. Be satisfied with your political contest. Go to the people upon it and take their judgment, and as they decide so let it be. If in the adhering States—I mean those now represented in Congress, and about whose powers and functions there is no question—the majority say you are right, so be it; we submit to the inevitable, and what you shall enact will be our law for the future. If, on the contrary, judgment go against you, we shall expect your acquiescence and your submission to that popular voice from which there is no appeal. Fight

out this battle, take its results honestly, and we may all, both majority and minority, obey as American citizens the decision which shall be made. That will be righteous and just conduct. No man will take any possible result, obtained in an honest manner, more cheerfully than myself. But while you are fighting this political battle, in the name of all that is sacred and excellent in our institutions, do not assail the temple of justice; do not enter its portals to pull the judge from his bench; do not enter that sacred place to despoil the court of its powers, to prostitute justice before the hot breath of your passions or your interests. And I think upon this point I have a conclusive argument, one that will go to the breasts of those to whom other considerations cannot successfully appeal; and that is, it is against your interests. He who assails justice embodied in her own court, who takes away the proper functions committed to the court under an honest law which you yourselves enacted, will not obtain popular favor, will not obtain the approval of the people, will reap no rich results in any future political harvest. Rather to him and to all concerned with him, when they attempt to pluck the ripe fruits of victory, those fruits will turn in their grasp to dust and ashes.

The question *pro tempore*. The question is, "Shall the bill pass notwithstanding the objections of the President of the United States?" On this question the Secretary will call the yeas and nays.

Mr. WILLIAMS. I wish to state that Mr. GRIMES and Mr. JOHNSON are paired on this question. Mr. GRIMES, if here, would vote for the bill; Mr. JOHNSON against it. Mr. CORBETT and Mr. VICKERS are also paired. Mr. CORBETT, if here, would vote for the bill, and Mr. VICKERS against it.

The question being taken by yeas and nays, resulted—yeas 33, nays 9; as follows:

YEAS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Cragin, Edmunds, Ferry, Frelinghuysen, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—33.

NAYS—Messrs. Bayard, Buckalew, Davis, Dixon, Hendricks, McGroery, Norton, Patterson of Tennessee, and Saulsbury—9.

ABSENT—Messrs. Anthony, Conness, Corbett, Doolittle, Drake, Fessenden, Fowler, Grimes, Johnson, Sherman, Sprague, and Vickers—12.

The PRESIDENT *pro tempore*. Two thirds of the members present having voted for the bill, it is passed notwithstanding the objections of the President; and it will be transmitted, with the objections, to the House of Representatives.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPherson, its Clerk, announced that the House insisted on its disagreement to the second amendment of the Senate to the bill (H. R. No. 900) to exempt certain manufactures from internal tax, insisted on its amendments to the third and fourth amendments of the Senate disagreed to by the Senate, and agreed to the conference asked by the Senate on the disagreeing votes of the two Houses, and had appointed Mr. R. C. SCHENCK of Ohio, Mr. SAMUEL HOOPER of Massachusetts, and Mr. W. E. NIBLACK of Indiana, managers at the same on its part.

The message further announced that the House had agreed to the report of the committee of conference of the bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelly.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled bill (H. R. No. 328) to establish certain post roads; and it was thereupon signed by the President *pro tempore* of the Senate.

Mr. WILLIAMS. I move that the Senate adjourn.

The motion was agreed to; and the Senate (at six o'clock and twenty-five minutes p. m.) adjourned.



## HOUSE OF REPRESENTATIVES.

THURSDAY, March 26, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

## PACIFIC RAILROAD FREIGHT TARIFF.

The SPEAKER stated that the first business in order was House joint resolution No. 168, to regulate tariff for freight and passengers on the Union and Central Pacific railroads and their branches, the pending question being on the demand for the previous question, on the motion of the gentleman from Iowa [Mr. PRICE] to refer the joint resolution to the Committee on the Pacific Railroad.

## PRINTING OF REPORTS.

Mr. LAFLIN. I desire to report from the Committee on Printing the following resolutions, upon which I demand the previous question:

*Resolved*, That there be printed for the use of the House fifteen thousand and three hundred copies of the report of J. Ross Browne on the mineral resources.

*Resolved*, That there be printed for the use of the Treasury Department five hundred copies of the report of the commission on life-saving inventions.

Mr. WASHBURNE, of Illinois. I move to amend the first resolution by striking out "fifteen thousand" and inserting "one thousand."

Mr. LAFLIN. I have demanded the previous question on the resolutions.

Mr. WASHBURNE, of Illinois. There is one demand for the previous question already pending.

The SPEAKER. That point of order being raised the resolutions cannot be received.

Mr. WASHBURNE, of Illinois. I object.

## PACIFIC RAILROAD TARIFF—AGAIN.

The SPEAKER. The question before the House is on seconding the demand for the previous question on the motion to refer the joint resolution (H. R. No. 168) to regulate the tariff for freight and passengers on the Union and Central Pacific railroads and their branches to the Committee on the Pacific Railroad.

Mr. WASHBURNE, of Illinois. There is no quorum present, and the gentleman from Iowa [Mr. PRICE] cannot get a vote on his motion, and I ask him to yield a few minutes for discussion until a quorum comes in.

Mr. PRICE. I presume a quorum will soon be here. The joint resolution, if it be referred, will be considered by the committee, and they will probably report it back on Wednesday next, and then gentlemen can have an opportunity of talking on it. I think the interests of the business of the House demand that the matter shall be disposed of now. The joint resolution has never been referred or even printed.

Mr. WASHBURNE, of Illinois. Let me say, in reply to the gentleman from Iowa, that the business of the House is not pressing and that the House cannot give its attention to a more important matter than this. I hope that, in a matter of so much importance, the friends of this measure will not attempt at this time to stifle discussion. The gentleman and his colleague [Mr. DOBBS] spoke for an hour yesterday, and made various reflections on gentlemen on the other side.

Mr. PRICE. The gentleman will excuse me—

Mr. WASHBURNE, of Illinois. I think it is but fair that we should be heard for a few minutes only.

Mr. PRICE. There has been no stifling of discussion. The gentlemen on the other side have had an hour and a half to debate the matter. Let the joint resolution go to the committee, and when it is reported back it can be discussed.

Mr. HIGBY. I hope the House will not get a false impression from what has been said in reference to this matter. It is charged here that the Committee on the Pacific Railroad is unfriendly to having anything done with refer-

ence to this matter. That is untrue, entirely untrue, and the charge has been made without foundation. Now, I have only this to say, at some time I hope there will be discussion upon this question.

Mr. WASHBURNE, of Wisconsin. Why not discuss the matter now?

Mr. HIGBY. Wait, if you please. It seems to me it would be more consistent, unless this House has lost all faith in the Committee on the Pacific Railroad, to refer this matter to that committee, have them consider it, and then, when they report upon it, there can be all the discussion necessary.

I am in favor of discussion; I wish to say something upon this subject myself. It will be borne in mind, however, that when this proposition first came before this House, on the motion of the gentleman from Wisconsin, [Mr. WASHBURNE,] its friends undertook to press it through under the operation of the previous question. There has now been an hour's speech made on each side. Now let the matter go before the committee, who can examine the present railroad law and see what can be done.

When I have the opportunity I think I shall be able to show that this proposition is in conflict with the railroad law as it now is, and that the proper way to accomplish the object gentlemen have in view will be to amend that law, unless we adopt a proposition to go into effect after the road is completed, which is not the one now urged by the gentleman from Wisconsin. I desire the House to understand that there is no disposition on the part of the committee, so far as I am acquainted, to have this matter suppressed, or to have the debate suppressed upon it. As to whether this resolution should go to that committee and receive their consideration, and then come back for debate, that is a question for the House to consider.

Mr. FARNSWORTH. My colleague [Mr. WASHBURNE] observed that there was no pressing business now before the House. I desire to say that the Committee on Reconstruction have ordered several reports to be made, and are only waiting an opportunity to make them. These are bills which, in the opinion of that committee, should be passed at once. Except the three days of this week, if we sit on Saturday for business, we shall probably not have much time for the consideration of business until the impeachment trial is over.

Mr. WASHBURNE, of Illinois. If my colleague [Mr. FARNSWORTH] desires to save time, I would say to him that he could save it by allowing a little discussion on this matter now.

Mr. FARNSWORTH. I have no objection to discussion. But it strikes me that it would be well to refer this joint resolution to a committee, have it printed, and then when it is brought back the House can discuss it to any extent. I hope, therefore, the previous question will be insisted upon.

Mr. HIGBY. I have no doubt the committee will be ready to report at any time it may be called by the House for reports.

Mr. WASHBURNE, of Wisconsin. As the discussion yesterday reflected somewhat upon me, I would like to have a few moments before this matter is passed upon to explain to some extent the remarks I made the other day. I hope, therefore, the previous question will not be seconded, but that I will be allowed an opportunity to explain some misapprehensions which the two gentlemen from Iowa [Mr. PRICE and Mr. DOBBS] seemed to entertain in regard to the remarks I made the other day. As I said before, this is a very grave matter.

Mr. HOLMAN. I would suggest to the gentleman from Wisconsin [Mr. WASHBURNE] that he consent to allowing the previous question to be sustained if one hour of further debate is permitted upon this subject.

Mr. ALLISON. Who is to have that hour?

Mr. PRICE. I must insist upon my demand for the previous question.

Mr. WASHBURNE, of Illinois. I move a call of the House. The friends of the railroad are all here—

Mr. PRICE. Is debate in order?

The SPEAKER. It is not.

Mr. PRUYN. I would ask the gentleman from Iowa [Mr. PRICE] to yield to the suggestion made by the gentleman from Indiana, [Mr. HOLMAN.]

Mr. PRICE. What is that?

Mr. PRUYN. To allow an hour more for debate.

Mr. PRICE. That is for the House to determine.

The question was upon the motion of Mr. WASHBURNE, of Illinois, that there be a call of the House; and being taken, upon a division there were—ayes 33, noes 51; no quorum voting.

Tellers were ordered; and Mr. WASHBURNE, of Wisconsin, and Mr. PRICE were appointed.

The House again divided; and the tellers reported that there were—ayes 40, noes 61.

Before the result of the vote was announced, Mr. WASHBURNE, of Illinois, called for the yeas and nays.

Mr. PRUYN. I hope the gentleman will waive that demand. Let it be agreed that we shall have one hour's discussion of this matter.

Mr. WASHBURNE, of Illinois. I did not distinctly hear the proposition of the gentleman from New York, [Mr. PRUYN.] If he will repeat it perhaps I may assent to it.

The SPEAKER. Does the gentleman from Illinois [Mr. WASHBURNE] withdraw the call for the yeas and nays?

Mr. WASHBURNE, of Illinois. No, sir.

The SPEAKER. Debate is not in order without unanimous consent. The gentleman asks unanimous consent that a suggestion may be made by the gentleman from New York, [Mr. PRUYN.]

Mr. FARNSWORTH. I object. I want the business disposed of.

Mr. WASHBURNE, of Illinois. Very well. I insist on the call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 45, nays 86, not voting 58; as follows:

YEAS—Messrs. Adams, Arnell, Bailey, Beatty, Cake, Coburn, Cook, Callom, Ferry, Fields, Fox, Getz, Glossbrenner, Golladay, Holman, Hotchkiss, Ingersoll, Johnson, Judd, Kelsey, Knott, Koonz, William Lawrence, Marshall, Maynard, Mullins, Niblack, Nicholson, Orth, Phelps, Plants, Spalding, Thaddeus Stevens, Taber, Taffe, Taylor, John Trimble, Van Aukens, Van Trump, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Thomas Williams, Wood, and Woodward—45.

NAYS—Messrs. Allison, Ames, Anderson, Archer, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barnes, Beaman, Book, Benjamin, Bingham, Boutwell, Brownell, Broomall, Buckland, Cary, Chanler, Churchill, Sidney Clarke, Covode, Dawes, Dixon, Dodge, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Gravelly, Griswold, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Huburd, Hunter, Jencks, Julian, Kelley, Kerr, Ketcham, Ladin, Lincoln, Loan, Mallory, McClurg, Meceur, Miller, Moore, Moorhead, Morrell, Morrissey, Mungen, Myers, Newcomb, O'Neill, Perham, Pike, Pile, Poland, Polsley, Pomeroy, Price, Pruyn, Raun, Robertson, Ross, Sawyer, Scofield, Shanks, Smith, Aaron F. Stevens, Tieball, Robert T. Van Horn, Van Wyck, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—86.

NOT VOTING—Messrs. Axtell, Barnum, Benton, Blaine, Blair, Boyer, Brooks, Burr, Butler, Reader W. Clarke, Cobb, Cornell, Donnelly, Eckley, Ela, Eldridge, Finney, Gardfield, Grover, Haight, Halsey, Harding, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jones, Kitchen, George V. Lawrence, Logan, Loughbridge, Lynch, Marvin, McCarthy, McCormick, McCullough, Morgan, Nunn, Paine, Peters, Randall, Robinson, Schenck, Selye, Shellabarger, Sitgreaves, Starkweather, Stewart, Stokes, Stone, Thomas, Lawrence S. Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Henry D. Washburn, and William Williams—88.

So the House refused to order a call.

During the roll-call,

Mr. GETZ said: I desire to announce that my colleague [Mr. RANDALL] is detained from the House by serious sickness in his family.

The result of the vote was announced as above stated.

The question recurred on seconding the demand for the previous question.

Mr. WASHBURNE, of Illinois. I rise to a privileged question. I call up the motion made by the gentleman from Wisconsin, [Mr. WASHBURNE,] to reconsider the vote by which the letter of the Secretary of the Treasury relative to

the Union Pacific railroad was ordered to be printed.

The SPEAKER. That is not in order at the present time. The demand for the previous question, which is pending, prevents the calling up of any other business.

Mr. WASHBURNE, of Illinois. I give notice that, if the previous question be seconded and discussion cut off, I shall call up that motion to reconsider at the first opportunity.

On seconding the demand for the previous question there were—ayes 59, noes 40.

Mr. WASHBURNE, of Illinois. I call for tellers.

Tellers were ordered; and Mr. WASHBURNE, of Illinois, and Mr. DODGE were appointed.

The House divided; and the tellers reported—ayes 63, noes 37.

So the previous question was seconded.

The question recurred on ordering the main question.

Mr. WASHBURNE, of Illinois. On that question I demand the yeas and nays. Let us see who want to put a gag on the discussion of this question.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 54, not voting 62; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Benton, Bingham, Boutwell, Broomall, Buckland, Sidney Clarke, Covode, Dawes, Dixon, Dodge, Eliot, Farnsworth, Ferriss, Ferry, Fields, Griswold, Higby, Hill, Hooper, Hotchkiss, Hubbard, Jenckes, Johnson, Judd, Julian, Kelley, Lufkin, Lincoln, Loan, Mallory, Marshall, McClurg, McCormick, Miller, Moore, Moorhead, Morrell, Mungen, Myers, Newcomb, Nicholson, O'Neill, Plants, Poland, Polesie, Pomeroy, Price, Pruyn, Raum, Ross, Smith, Aaron F. Stevens, John Trimble, Twichell, Upson, Robert T. Van Horn, Van Trump, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—73.

NAYS—Messrs. Archer, Bailey, Baker, Barnes, Beatty, Bromwell, Burr, Cary, Chanler, Coburn, Cornell, Cullom, Eggleston, Eldridge, Fox, Getz, Glossbrenner, Golladay, Halsey, Holman, Hopkins, Chester D. Hubbard, Richard D. Hubbard, Hunter, Ingersoll, Kelsey, Kerr, Koonitz, William Lawrence, Maynard, Moreau, Mullins, Niblack, Orth, Paine, Perham, Pike, Sawyer, Shanks, Sitgreaves, Spalding, Thaddeus Stevens, Stone, Taber, Taffe, Taylor, Van Auker, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Thomas Williams, Windom, Wood, and Woodward—54.

NOT VOTING—Messrs. Adams, Axtell, Barnum, Beck, Benjamin, Blaine, Blair, Boyer, Brooks, Butler, Cake, Churchill, Reader W. Clarke, Cobb, Cook, Donnelly, Driggs, Eckley, Ela, Finney, Garfield, Grover, Haight, Harding, Hawkins, Asahel W. Hubbard, Humphrey, Jones, Ketcham, Kitchen, Knott, George V. Lawrence, Logan, Loughridge, Lynch, Marvin, McCarthy, McCullough, Morgan, Morrissey, Nunn, Peters, Phelps, Pile, Randall, Robertson, Robinson, Schoenck, Scofield, Selye, Shellabarger, Starkweather, Stewart, Stokes, Thomas, Lawrence S. Trimble, Trowbridge, Van Aernam, Burt Van Horn, Van Wyck, Henry D. Washburn, and William Williams—62.

So the main question was ordered.

During the vote,

Mr. VAN WYCK stated that he was paired with Mr. LAWRENCE, of Pennsylvania; otherwise he would vote "no."

Mr. HOLMAN. I rise to a privileged question. I make the request that, under the twenty-ninth rule of the House, the gentlemen who are interested in the result of this question may be permitted to withdraw their votes. If it be proper I make that point now.

The SPEAKER. That point cannot be made during a roll-call, as the gentleman from Indiana is aware.

Mr. HOLMAN. Must it be made before the roll-call?

The SPEAKER. It must. It cannot be made while the roll-call continues, and the roll-call continues until the Chair announces the result. Otherwise there might be roll-calls within roll-calls, the yeas and nays being ordered on the questions arising under the point of order.

The vote was then announced as above recorded.

The question recurred on the motion to refer to the Committee on the Pacific Railroad.

Mr. WASHBURNE, of Illinois, demanded the yeas and nays.

Mr. INGERSOLL. Is it in order to move an amendment to the motion to refer?

The SPEAKER. It is not, as the previous question has been seconded and the main question ordered.

Mr. PRICE. What reference does the gentleman propose?

Mr. INGERSOLL. The Committee on Roads and Canals.

Mr. PRICE. I do not object to its going to the Committee on the Judiciary.

The yeas and nays were ordered.

Mr. WASHBURNE, of Illinois. I ask that this vote shall be considered as a test vote on this question; those in favor of the resolution will vote—

Mr. PRICE. I call the gentleman to order.

The SPEAKER. Debate is not in order.

Mr. HOLMAN. I now rise for the purpose of asking the Clerk to read the twenty-ninth rule of the House.

The Clerk read as follows:

"No member shall vote on any question in the event of which he is immediately and particularly interested, or in any case where he was not within the bar of the House when the question was put."

The question was taken; and it was decided in the affirmative—yeas 83, nays 49, not voting 57; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Banks, Beaman, Beck, Benjamin, Bingham, Boutwell, Broomall, Buckland, Cary, Chanler, Churchill, Sidney Clarke, Covode, Dawes, Dixon, Dodge, Eliot, Farnsworth, Ferriss, Ferry, Fields, Griswold, Higby, Hill, Hooper, Hotchkiss, Richard D. Hubbard, Hulburd, Jenckes, Johnson, Kelley, Ketcham, Knott, Lufkin, Lincoln, Loan, Mallory, McClurg, McCormick, Miller, Moore, Morrell, Mungen, Myers, Newcomb, Nicholson, O'Neill, Perham, Phelps, Plants, Poland, Polesie, Pomeroy, Price, Pruyn, Raum, Robertson, Ross, Smith, Aaron F. Stevens, Thaddeus Stevens, John Trimble, Lawrence S. Trimble, Twichell, Upson, Robert T. Van Horn, Van Trump, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—83.

NAYS—Messrs. Bailey, Baker, Barnes, Beatty, Bromwell, Burr, Coburn, Cook, Cullom, Fox, Getz, Glossbrenner, Halsey, Holman, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelsey, Kerr, Koonitz, William Lawrence, Loughridge, Maynard, Moreau, Mullins, Niblack, Orth, Paine, Pike, Pile, Sawyer, Shanks, Sitgreaves, Spalding, Stone, Taber, Taffe, Taylor, Van Auker, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Windom, Wood, and Woodward—49.

NOT VOTING—Messrs. Adams, Allison, Arnell, Barnum, Benton, Blaine, Blair, Boyer, Brooks, Butler, Cake, Reader W. Clarke, Cobb, Cornell, Donnelly, Driggs, Eckley, Eggleston, Ela, Eldridge, Finney, Garfield, Grover, Haight, Harding, Hawkins, Asahel W. Hubbard, Humphrey, Jones, Kitchen, George V. Lawrence, Logan, Lynch, Marshall, Marvin, McCarthy, McCullough, Moorhead, Morgan, Morrissey, Nunn, Peters, Randall, Robinson, Schoenck, Scofield, Selye, Shellabarger, Starkweather, Stewart, Stokes, Thomas, Trowbridge, Van Aernam, Van Wyck, Henry D. Washburn, and William Williams—57.

So the joint resolution was referred to the Committee on the Pacific Railroad.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message, in writing, from the President of the United States, was delivered to the House by Colonel WILLIAM G. MOORE, his Secretary.

#### REPORT ON MINERAL RESOURCES, ETC.

Mr. LAFLIN. I report from the Committee on Printing the following:

*Resolved*, That there be printed for the use of the House fifteen thousand and three hundred copies of the report of J. Ross Browne on the mineral resources.

*Also resolved*, That there be printed for the use of the Treasury Department five hundred copies of the report of the commission on life-saving inventions.

Mr. Speaker, I did not intend to introduce these two resolutions together, and while I wish to demand the previous question I will yield to any gentleman who wishes to be heard.

If I correctly understood the motion of the gentleman from Illinois, [Mr. WASHBURNE,] he was disposed not to concur in the passage of the resolution. Perhaps he would desire to debate it. If any one desires to debate it I will yield a portion of my time for that purpose, simply remarking that, in my judgment, having carefully read the previous report of J. Ross

Browne, and having to some extent examined the manuscript of the report referred to in this resolution, I can say that since I have occupied my present position our committee has reported no resolution calling for the printing of extra copies which more fully meets my approval.

If the House, in accordance with the suggestion of the gentleman from Illinois, shall see fit to amend this resolution by striking out "fifteen thousand," so as to leave it only three hundred, I shall certainly receive that as a most gratifying evidence of a decided improvement on the part of the House in a direction of which I shall endeavor to avail myself in the future whenever we may have occasion to submit reports of other kinds. But I submit to any intelligent member of the House that when we consider the vast importance of the mineral wealth of the United States, the large amount of money invested in their development, and when we consider also the ability, experience, candor, and integrity of the gentleman making this report, it certainly is not an extravagant number that is named in this resolution. If there is any one book that Congress publishes—I will not except even the agricultural report—which, in my judgment, will bring back to the Government a most profitable return for this small investment, I believe this report is of that character.

Now, Mr. Speaker, it is needless for me to add more, and unless some one chooses to attack this report I will demand the previous question.

Mr. CAVANAUGH. Will the gentleman yield to me five minutes?

Mr. LAFLIN. Yes, sir.

Mr. CAVANAUGH. I do not rise, Mr. Speaker, for the purpose of making any remarks against J. Ross Browne. He is an elegant and accomplished scholar and a most interesting writer. But I desire to say to the gentleman from New York [Mr. LAFLIN] and to members of this House that the report made by Mr. Browne last year was incorrect, from the title-page to the end, so far as it related to the resources of Montana; and I desire to state how he acquired his present statistics so far as Montana is concerned. The agent of Mr. Browne, Dr. Blatchley, of New York, furnished him with his facts, after a tour across the continent of sixty days. Now, will any man pretend to tell this House and the country that this Dr. Blatchley, passing across the continent for sixty days only, could make a report with any degree of accuracy in regard to the Territories of Montana, Idaho, Utah, Colorado, Washington, and the States of Oregon, Nevada, and California, and their immense resources, either mineral or agricultural?

Sir, I read this manuscript of Mr. Browne in his room, and I told him he must know it was not true. There are at least fifty gulches and hundreds of mines in the Territory of Montana that this man has never seen, as I know from my personal knowledge, because there are but few gulches in that Territory that I have not myself visited. The report is not correct in regard to Montana, and the reason why I object to the publication of it is simply that no false statement should go out to the people of the country with the sanction of Congress.

Mr. WASHBURNE, of Illinois. It is impossible, Mr. Speaker, to hear the gentleman's statements on this side of the House. It is very important that we should know something about this matter before we vote on it.

Mr. CAVANAUGH. Mr. Speaker, the other day when this report was recommitted to the committee on my motion I thought that the committee ought to have consulted gentlemen who are acquainted with the Territory of Montana, such men, for instance, as Mr. Whitlock, who has been engaged in mining for the last ten or twelve years, and is one of the most intelligent miners in the country. Major Cullen, Mr. Hubbell, Mr. Bruce, Captain Huntley, and other intelligent gentlemen now in this city, who could have given the committee most valu-

able information as to the wonderful resources of this the youngest born of the Territories. Or, without being egotistical, they might have sent for myself or my friend from Idaho, [Mr. HOLBROOK,] who knows the country from one end to the other. We could have given them such information as might have been of use in reference to this report.

Mr. Browne can write elegantly and charmingly. He can delight us with the "Land of Thor," "Yusef," "The American Family in Germany," and fascinating sketches of frontier life, and pleasant tales, that certainly amuse, and perhaps instruct, but it is equally certain that statistics are not his forte. But, sir, when the Congress of the United States asks for a report upon the mineral resources of the country, they ought, at least, to have one that is true. You know, Mr. Speaker, that the mountains of Montana, of Colorado, of Utah, of Idaho, and of Arizona are filled with gold and silver. Rich jewels lie hidden in the mountains—the heart of the continent—that await only the busy hands of industry, aided by capital, to be plucked from their dark caverns and add to the world's wealth; but we want no bogus report made in relation to that country.

[Here the hammer fell.]

Mr. LAFLIN. Mr. Speaker, I am not here to controvert any of the statements which have been made to this House by the gentleman from Montana, [Mr. CAVANAUGH.] How far the author of this report has neglected to notice any particular mines, to subserve or to injure any private person's interests, I am unable to say. But I do say, with perfect confidence, that this is not the proper place in which to assail the integrity of J. Ross Browne.

Mr. CAVANAUGH. Will the gentleman allow me to set myself right?

Mr. LAFLIN. I must decline to yield. Anyone who reads the report presented by Mr. J. Ross Browne last year must become satisfied that if he did not render an honest and a candid report then he has most ingeniously convinced the community that he did so. I think every man who will examine that report will be satisfied that he has resisted all entreaties of interested miners and interested capitalists at the expense of truth to publish the value of their mines and increase the value of their property. For my part, I think that he has rendered the country an essential service, for which he deserves the thanks of this House and the thanks of the country; and I think, too, that if many of the capitalists of this country had read that report four years ago many of them would have been much richer, if not much wiser, than they are now. I now yield to the gentleman from Nevada for ten minutes.

Mr. ASHLEY, of Nevada. If I understand the purport of the objection made against this report by the gentleman from Montana, [Mr. CAVANAUGH,] it is that it is not laudatory enough of Montana, and perhaps of Idaho. I, sir, consider, and so will every thinking man, that the best recommendation of that report is that Mr. Browne has not allowed himself to be carried away by the flattering accounts of enthusiasts, but that so far as the report does go it is at least true, and can be relied upon.

Mr. HOLBROOK. Will the gentleman allow me to ask him a question?

Mr. ASHLEY, of Nevada. Yes; if it is a short one.

Mr. HOLBROOK. I would ask the gentleman if he does not know that four fifths of the report is taken up with the description of mines in his own State, and more particularly of one mine—the Comstock ledge?

Mr. ASHLEY, of Nevada. Mines deserve attention according to their magnitude, and if the Comstock ledge is described more extensively than any other in this report it is because it furnishes more than any twenty other mines in this whole country. It has furnished \$80,000,000 within the last six or seven years, and when they can show any other mines that are equal to that they may justly make com-

plaint if it is not noticed as extensively as this one.

Mr. CAVANAUGH. How many million dollars have the gold mines of Montana yielded in the last three years?

Mr. ASHLEY, of Nevada. I will answer that question directly. That is the objection against J. Ross Browne's report. Now, then, that objection has little weight unless there be intentional and known mistakes made. The gentlemen who have asked me questions—the gentlemen from Montana and Idaho—have been to the room of Mr. Browne and have examined his report more extensively than I have, and I know, and so do they, that he has said to them, "I cannot take your statements simply, unless you bring me some proof that you have produced more gold and silver than is stated in my report."

Mr. CAVANAUGH. I desire to correct that statement here and now; so far as I am concerned, J. Ross Browne never said any such thing to me.

Mr. ASHLEY, of Nevada. I do not care what the gentleman contradicts. Mr. Browne said that in his room and said it to the gentleman.

Mr. CAVANAUGH. I deny that he said any such thing to me.

Mr. ASHLEY, of Nevada. With the amount of compensation allowed him, and in the time which he had to prepare the volume, he could not travel all through that country from Lower California to the verge of Montana. He had to rely upon the vouchers of the shipments of gold and silver through express offices, and upon the statements of the most scientific writers that could be found in the different localities, as to the features of their particular localities.

I have sought the floor on this occasion more particularly on account of the attack made upon Dr. Blatchley, in connection with his report upon Montana. Now, I have known Dr. Blatchley for many years. I know that for fourteen or fifteen years he has devoted his time and attention almost exclusively to mining subjects in connection with the Pacific coast regions. I know, further, that in the various vicissitudes and exigencies that have arisen in the various portions of Montana, he is recognized to be as capable and expert a mineralogist as they have had there; not excepting even the noted individuals who have been sent from this coast as professors upon the subject. Although those professors might have been well read in books, they were not more so than is Dr. Blatchley; and they were woefully deficient in that experience which he has acquired, pick in hand, among those mountains.

Now, I venture to say, that although his report may not do Montana full justice—and I doubt whether it does—I claim that it contains all that he could be sure was correct. Now, if the gentleman from Montana [Mr. CAVANAUGH] could have proved by the shipping lists of the express offices that more metals had left Montana than was reported in that book, it would willingly have been incorporated there.

I have no doubt that as gold can be transported more easily than the same value of silver, much has been taken away from Montana which does not appear upon the lists of shipments. But the writer of books—the man who writes reports—must be relied upon as worthy of our consideration, even if he does not tell all that has been carried out in that way, if he tells the truth in all the respects about which he could inform himself.

Now, in this case, Mr. Browne has put in his book only what can be relied upon; that information which has been acquired from the sources to which I have referred, so that this Congress and the people to whom this book will be distributed can know that it is true to that extent, and that probably the full truth has not been reached. That is just the merit of this report.

I rise simply to vindicate this report, more

especially than the other, by saying that there has been an attempt made in it to strike out the laudatory expressions, so as to rely simply upon the statements and facts he has been able to gather. For that reason this report deserves a consideration which it would not be entitled to if it indulged in high-sounding terms and statements.

[Here the hammer fell.]

Mr. CAVANAUGH. Will the gentleman from New York [Mr. LAFLIN] yield to me for two minutes?

Mr. LAFLIN. I feel as though I would be trespassing upon the patience of the House if I should allow this debate to go on. But I will yield to the gentleman from Montana [Mr. CAVANAUGH] for two minutes.

Mr. CAVANAUGH. Say five minutes.

Mr. LAFLIN. Very well, five minutes: and after that I will yield to the gentleman from Idaho [Mr. HOLBROOK] for five minutes.

Mr. CAVANAUGH. I now desire to deal frankly and fairly by the House; I desire to deal frankly and fairly by this report; I intend to deal honestly and justly by Mr. J. Ross Browne. Personally there is not a man in the country whom I respect more, as an author or a gentleman, than Mr. Browne. But when my friend from Nevada [Mr. ASHLEY] pronounces a eulogy on Dr. Blatchley and his report, I will say that he must have reference to the report on Nevada, and not the report on Montana. Sir, he remained in Montana only three weeks, and I say here, and I challenge contradiction, that he never examined a mine in that Territory during all the time he was there. He may have used a pick and shovel in Nevada and California—and so have thousands of equally intelligent gentlemen—in every mining company in the Territories. But we are seeking after the truth, and I repeat that, so far as Montana Territory is concerned, that report is not true. I am not here for the purpose of making a stump speech in behalf of my Territory nor in behalf of the West. But when the Congress of the United States orders fifteen thousand copies of a certain report it should know that the report is true.

Now, sir, one word in reply to the remark of the gentleman from Nevada, [Mr. ASHLEY,] that I went to J. Ross Browne's room, and that he made the statement reported by the gentleman. I went to the room of J. Ross Browne, it is true, but at his request. Knowing from my own personal knowledge that his report of the year previous was false from the title-page to the conclusion in reference to my Territory, I read his report, stating to him wherein he was wrong. He was obliged to confess that his information as to the resources of Montana was obtained from Dr. Blatchley. Perhaps Mr. Browne is not to blame, but I do know that this man Blatchley spent most of his time in the saloons, on the streets, and not in the mines of that Territory.

When the gentleman from Nevada speaks of the Comstock lode sending to the States so many millions within the last six years, I ask him how many millions Montana has added to the nation's wealth? Why, sir, even J. Ross Browne himself has been forced, though reluctantly, to admit in his report that we sent to the States \$65,000,000 within the last three years. The manifests of your steamers sailing from California show millions and millions of shipments annually. Where do they come from? They come from Idaho and Montana, from Oregon, from the northern mines. Because our merchants and the merchants of Oregon and of Washington Territory trade with San Francisco our gold is shipped to the East by way of San Francisco, and that city and State obtain credit thereby which rightfully belongs to Montana.

Mr. J. Ross Browne says in this report that our Territory has produced \$12,000,000 the present year. If he had been correctly informed he must have known that we produced over twenty millions. I am not here, Mr. Speaker, to advertise Montana, her mines, or



her agricultural resources. They speak for themselves, and require no eulogy from me.

"She springs a queen from verdant vales and mountains flecked with gold."

I simply ask members to examine carefully this report before ordering it to be printed, that this House may not be responsible for sending to the world statements which are false.

[Here the hammer fell.]

Mr. LAFLIN. I now yield five minutes to the gentleman from Idaho, [Mr. HOLBROOK.]

Mr. HOLBROOK. Mr. Speaker, I have only a word to say in regard to this proposition. The gentleman from Nevada, [Mr. ASHLEY,] in his remarks on this subject, seems to suppose that I am opposed to the printing of this report. Such is not the case. I believe the country will derive a vast amount of information from the report. It will call the attention of the eastern section of the country to our mines in the distant West. It will doubtless be the means to some extent of inducing capitalists to make investments in that country, which we at the present time very much need.

But, sir, I cannot allow that report to go unchallenged and uncontradicted, so far as its statements concern the Territory of Idaho. I do not mean to censure Mr. Browne for the report which he has made. Considering the comparatively small amount of the appropriation made by Congress for the purpose of carrying out this examination, it was impossible for Mr. Browne to go there and devote to the work the time necessary to enable him to make an accurate and truthful report. No man starting from New York and crossing this continent, passing over hundreds of thousands of square miles of mineral territory, and spending there a period of only about sixty days, could undertake to make a full and accurate report in regard to the mineral resources of that country.

A great portion of that report, however, I can heartily indorse, believing it to contain information valuable to the country; and I rose only for the purpose of correcting the impression which might have been created by the remarks of the gentleman from Nevada, that I oppose the printing of the report. My object was not to advertise the mines of Idaho.

Mr. LAFLIN. I now yield five minutes to the gentleman from the San Francisco district.

Mr. AXTELL. Mr. Speaker, I do not think I shall wish to occupy the attention of the House for five minutes, and rise now simply to attract attention to the fact of the capability and capacity of J. Ross Browne to make this report. While I presume his personal history is well known to most of the gentlemen who have the honor to occupy seats here, yet it may not be known that he is one of the oldest and best-informed citizens of the Pacific coast, arriving there as early as 1849, being engaged in public affairs, part of the time in the employ of the Government and at other times in the employ of private companies. Again, as a prospector, he has traveled extensively over that country, more so perhaps than any man now living. And, sir, I call attention to this fact for this reason: any man may go from the Atlantic to the Pacific and travel through California, and yet be unable for want of the right knowledge to make a report on the country, either as to its agricultural or mining interests.

Mr. CAVANAUGH. Let me ask the gentleman a question. Was Mr. J. Ross Browne ever either in Montana or Idaho?

Mr. AXTELL. I cannot answer. I do not know whether he ever was there or not. I do not desire any controversy with the gentlemen who so ably represent those Territories. I wish the wealth of those Territories was fully understood by the people of the United States.

The point I wish to call attention to again is that J. Ross Browne has established such reputation for capacity and accuracy, he has such a character of mind for obtaining statistics and other information necessary to enable him to make such reports, that his reports to-day in California and elsewhere are, so far as I know, in greater demand by people who have actively

prospected portions of that country than any other document issued by Congress on this or any other subject during this session—I mean any other report called for by Congress so far as my constituents are concerned. I receive constantly letters and requests desiring me to send forward copies of the report of J. Ross Browne on our mineral resources.

The scope and force of the objection of the gentlemen from the Territories who have spoken are that this report is in the nature of a romance; that, as he was a writer of romances before, he wrote his reports in the same vein. I understand that his book on Norway gives descriptions of what he saw. There is no romance, however, about figures. I have understood that from my boyhood, and have had a painful understanding of it. There is no romance in mathematics. This report is made up of facts and figures, and it cannot be said to be a romance because its writer happened to be an author of romances. And I desire it to be understood that the people of the Pacific coast are justly proud of J. Ross Browne, not only as a writer of fiction, but an accurate writer of facts, and we believe that when he claims to state what is true he does tell the truth.

Mr. HIGBY. I ask the gentleman to yield to me for five or ten minutes.

Mr. LAFLIN. I yield to the gentleman for five minutes.

Mr. HIGBY. I have not examined the manuscript of Mr. Browne, but I have given some examination to the report he made last year. The delegate from Montana [Mr. CAVANAUGH] has made a statement which, in his cooler moments, I think, he will withdraw. He said the last report was false from its title page to its conclusion.

Mr. CAVANAUGH. I said only so far as Montana is concerned.

Mr. HIGBY. I did not so understand the gentleman, but I take his correction.

Mr. Speaker, notwithstanding I have not examined the manuscript, I am better satisfied with it possibly than I would have been before the remark of the gentleman from Montana. Mr. Browne, like other men, is expected to picture the imaginings of the people with respect to the gold and silver belt. Now, sir, we have had enough of such false things published to the people of the East, by which millions of capital have been induced to come from the East and West seeking investment, purely, sir, upon these false reports with reference to the mineral regions in the West and in the interior. I have taken some pains since I have been here to try to impart such knowledge on the subject that people would not be led off by false and delusive ideas upon this subject.

Now, sir, it must be very clear to members of this House that it is utterly impossible for one man to go through the whole belt of country and make these investigations. I know in my own part of the State a gentleman, who probably possesses as much knowledge as almost any other man on this subject, who has made it his business to travel and investigate the subject for a term of years. Not only that, but he has got up a work that is very creditable on account of its fullness and correctness. I allude to John S. Hittell, of the city of San Francisco. I do not pretend to say it is in every respect correct, for it is utterly impossible for any one man to accumulate information on this subject which shall be correct in every particular at this time. I know of regions of country in California that were condemned as mining districts fifteen years ago. The general impression was that they were worthless for mining purposes. And yet heaps upon heaps of gold have been taken out of these very belts. And, sir, I should not think it strange if information should be given to the country five years hence controverting some things which are contained in this book, and which are now generally believed to be true. If Mr. Browne has failed to carry out the imaginary ideas of all men throughout this min-

eral belt, I am glad he has been so reserved and cautious in what he has written.

Some gentlemen seem to be disappointed because Mr. Browne has not given everything at full length. But yet there is a great deal of merit in this report. It is utterly impossible to have investigated the whole mining region of Montana, Idaho, Colorado, Washington, and Arizona in six months, or even a year, and make a perfect report to Congress. Such information as it was possible for him to get I have no doubt he has presented to Congress. It is meager, I presume. I do not know how it could be otherwise.

Now, I know Mr. Hittell has traveled several months through my portion of the State, and I know the manner in which he has accumulated his information. If some men that he had to assist him were dilatory or indolent, and have in some respects failed to acquire all the knowledge they might have acquired, it is nothing strange when we consider the number of men necessarily employed in furnishing such an amount of information in reference to this belt of country.

[Here the hammer fell.]

Mr. LAFLIN. I now demand the previous question.

Mr. WASHBURNE, of Illinois. Mr. Speaker, the gentleman has agreed to allow me to make an amendment reducing the number to five thousand two hundred.

Mr. LAFLIN. I am not aware of any such arrangement. [Laughter.] If the previous question is voted down he can offer his amendment.

Mr. WASHBURNE, of Illinois. I do not wish to have any misunderstanding, but I gave a valid consideration to the gentleman. I told him if he would permit me to offer this amendment I would give him my share of the copies. [Laughter.]

Mr. LAFLIN. But I told him that was altogether too selfish a consideration to suit me. [Laughter.] I renew the demand for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolutions were adopted.

Mr. LAFLIN moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILL.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (H. R. No. 328) to establish certain post roads; when the Speaker signed the same.

#### GREATHOUSE AND KELLY.

Mr. FARNSWORTH submitted the following privileged report:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelly, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate agree to the amendment of the House, with the following amendment, to wit: strike out the word "five" in the amendment of the House of Representatives, and in lieu thereof insert the word "eight," and that the House agree to the same as amended.

J. F. FARNSWORTH,  
T. W. FERRY,

JAMES A. JOHNSON,  
Managers on the part of the House.

P. G. VAN WINKLE,  
A. RAMSEY,

JOHN CONNESS,  
Managers on the part of the Senate.

Mr. FARNSWORTH. This claim of Kelly and Greathouse is for carrying the mails for one year upon certain routes in the Territories without any contract. The claim presented by them was, I think, for \$25,000. By the Senate bill the accounting officers of the Post Office Department were directed to settle with them and pay them not exceeding \$12,000. The House amended it by limiting the amount to \$5,000. The Senate disagreed to that amend-

ment and asked for a committee of conference. We have compromised the matter by agreeing that the amount shall not exceed \$8,000, which is \$4,000 less than the Senate had put it at in their bill and \$3,000 more than our amendment.

The report of the committee of conference was agreed to.

Mr. FARNSWORTH moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REPORT OF MR. COWDIN.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

*To the House of Representatives of the United States:*

In answer to a resolution of the House of Representatives of the 18th ultimo, relating to the report of Mr. Cowdin, I transmit a report of the Secretary of State and the documents to which it refers.

ANDREW JOHNSON.

WASHINGTON, March 25, 1868.

The message and the accompanying documents were referred to the Committee on Foreign Affairs, and ordered to be printed.

#### REMOVAL OF JAMES B. STEADMAN.

The SPEAKER also laid before the House a communication from the Secretary of the Treasury, in reply to a resolution of the House of the 23d instant calling for all the reasons assigned by the Commissioner of Internal Revenue for asking the removal of James B. Steadman, United States collector at New Orleans, Louisiana; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### REPAIRS OF NEW YORK CUSTOM-HOUSE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, in response to a resolution of the House of the 26th of February, asking for the amounts paid for repairs on the New York custom-house during the past two years; which was referred to the Committee on Retrenchment, and ordered to be printed.

#### CHIPPEWA INDIANS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, submitting estimates of appropriations for the different bands of Chippewa Indians in Minnesota; which was referred to the Committee on Appropriations, and ordered to be printed.

#### REMOVAL OF POLITICAL DISABILITIES.

The SPEAKER also, by unanimous consent, laid before the House the memorial of the constitutional convention of South Carolina, asking the removal of political disabilities from John D. Ashmore and forty-two others, citizens of South Carolina; which was referred to the Committee on Reconstruction.

#### PROTEST OF KENTUCKY LEGISLATURE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Governor of Kentucky, transmitting the memorial of protest of the Legislature of Kentucky against the constitutional wrong and injustice of refusing their just representation in the House of Representatives.

Mr. TRIMBLE, of Kentucky. I move that the communication and protest be referred to the Committee of Elections and printed in the Globe.

The motion was agreed to.

The communication of the Governor and the protest are as follows:

STATE OF KENTUCKY, EXECUTIVE DEPARTMENT,  
FRANKFORT, March 17, 1868.

SIR: In compliance with the request of the Legislature of this Commonwealth, I have the honor to inclose you the within memorial of protest adopted by that body during the late session.

Very respectfully, your obedient servant,

JOHN W. STEVENSON.

#### Memorial of Protest.

The General Assembly of the Commonwealth of Kentucky, acting for and on behalf of the people of Kentucky, are constrained to enter a most earnest and solemn protest against the great constitutional wrong and manifest injustice which has been done this people in the failing and refusing to admit their just representation on the floor of the House of Representatives of the Congress of the United States, on the presentation of their legal certificates of election, duly authenticated, and each of the said representatives possessing all the qualifications prescribed by the Constitution of the United States.

We solemnly protest against the assumption of power to make and apply new tests and qualifications for membership, not only not authorized by or contemplated in, but we hold clearly prohibited by, the Federal Constitution, as nothing less than a usurpation culminating in violation of vested right and an assault upon the liberty of a free people.

The essential principle of our free government is that it is the Government of the people, made by the people, and carefully framed with the special view of reserving all power in the people which it was not found essential to concede, and which was not actually given by the Constitution to their representatives and public servants.

It being impracticable for the people to assemble in mass and deliberate upon measures of public policy, representative agents of the people are at once a palpable necessity, and the highest object of the Constitution is to define and limit their powers and duties. The Representative is but the agent of the people, and the Constitution is the warrant of his authority. It is his power of attorney, and he cannot transcend the limit of its authority. Nay, he is required to make solemn oath to support the Constitution and be bound by its restrictions.

The Constitution plainly enumerates and defines the powers of Congress; and by all rules of legal interpretation that body could assume no power not expressly granted therein. But the people, jealous of the growing anxiety of their agents for more power, and fearing their public servants should aspire to rule as masters, determined, after a short experience, to add the tenth amendment to the Constitution, which provides that—

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

The force of this constitutional inhibition is in nowise weakened as regards the Congress, because it applies alike to all the departments of the United States Government. It is the people saying plainly to their public servants in the United States Government, "You have your warrant of authority; whatever powers are not expressly given you in the Constitution we, the people, reserve to our State governments and to ourselves."

Where, therefore, the Federal Constitution, in the second section of the first article, provides that "No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen," it has defined all the qualifications which may be exacted by any power or authority, save and except that each House may require, in addition, satisfactory evidence that a member has been legally elected.

The provision of the fifth section of the first article, "That each House shall be the judge of the elections, returns, and qualifications of its own members," means only this, and can be made to mean nothing more. Nor can the qualification be altered or enlarged indirectly by the requirement of an amplified oath; for the Constitution not only prescribes and defines all the qualifications that may be exacted, but as plainly and definitely declares the oath which shall be required of a Representative in Congress. In the third clause of article six is provided: "The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

Considering, then, the restrictions of the tenth amendment, before quoted, what authority has Congress to add to the substance of this oath; and how may it be done without a direct infraction of one of the dearest rights of the people therein reserved—the right to elect whom they may choose, possessing the qualifications defined in the Constitution, as their Representative? To deny the right of any people to elect a Representative of their own choosing is practically to deny them the right of franchise, or any participation in framing the policy of their Government. Their election is a mockery if a ruling power may direct for whom or for what class of men their polls shall be cast; and when they submit to this their liberty is destroyed and they are made slaves.

But beyond all questions of power we earnestly protest and utter a solemn warning against the dangerous precedent of amplifying the prerequisite qualifications or the oath of office to conform to the views of the ruling majority, as conceding a power which Congress not only does not, but ought not, possess. Such power would always be capable of the greatest abuse, and lead necessarily to the most deplorable practices. The tendency of a test-oath on political sentiments is to perpetuate the ascendancy of the party in power; and the authority once established the temptation to use it for that object becomes too strong for resistance in times of high political excitement and rancor. If this Congress may apply through the oath of office a test of present or past political sentiments, another Congress, controlled by the devotees of the Grand Army of the Republic, may require that each member shall swear to having actually served a specified term in the Army or Navy. Or, the

tables being turned and that great organization vanquished in its struggle for supremacy, another Congress may enact an oath that would disqualify for membership any one having served in the Army or Navy of the United States.

Political enthusiasms are often epidemic, and carry the populace, for the time being, on a single idea. A party predicated on one idea, (as anti-masonry, know-nothingism, &c., in the past), attaining a majority in Congress, would seek to perpetuate its ascendancy by requiring an oath of admission to conform to its peculiar tenets.

And so protesting, in the name of the people of Kentucky, and of their great chart of liberty, the Constitution, the General Assembly of the Commonwealth of Kentucky does hereby declare:

1. That in a Republican Government the right of representation is a franchise which the people may not safely relinquish, and of which they cannot be deprived and remain free. The right of a people to representation implies the right for them to choose their Representatives, and a denial of the latter involves a destruction of the former; hence a government is no longer republican when this right of the people is destroyed.

2. The Constitution of the United States, which is the creature of the States, and which constitutes the only bond of the Federal Union, prescribes the qualifications which must be possessed by members of Congress; also the mode of choosing them, and the right conferred by the Constitution on each House of Congress to "judge of the election, qualification, and returns of its members," does not authorize the denial of representation to the people of a State or district, nor authorize the application of any new or additional tests or qualifications for membership.

3. To reject a Representative duly chosen, because of any political sentiments which he may have held or may hold, is at once a flagrant violation of the Constitution and a ruthless annihilation of freedom itself; because freedom consists in the right to be represented by whomsoever a majority may select: *Provided*, There be no disqualification in the member so chosen embraced within the provisions of the Federal Constitution.

4. Each and every of the Representatives elected by the people of the State of Kentucky to the Fortieth Congress was not only duly elected, but possessed all the qualifications required by the Constitution, and the exclusion for a single day of any one of them upon the grounds alleged by the controlling power in the House of Representatives was an infraction of the constitutional rights of the people which demands our most unqualified denunciation; and in the name of an injured and outraged people we do most solemnly and earnestly protest against such action, which, if persisted in and established as the policy of the Government, will render the elective franchise a farce, and what we have been taught to regard as constitutional liberty but a solemn mockery.

*Resolved*, That his Excellency, the Governor of this Commonwealth, be requested to forward a copy of this declaration, duly certified, to the President of the United States, to the President of the Senate and Speaker of the House of Representatives of the United States, to each of our Senators and Representatives in Congress, and to the Governors of each of the States, with a request that it be laid before their respective Legislatures.

JOHN T. BUNCH,

Speaker of the House of Representatives.

WILLIAM JOHNSON,

Speaker of the Senate.

Approved March 9, 1868.

JOHN W. STEVENSON.

By the Governor:

S. B. CHURCHILL, Secretary of State.

Mr. CHANLER. I move to reconsider the votes by which the communications were severally referred; and to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### UNION PACIFIC RAILROAD.

Mr. WASHBURN, of Illinois. I rise to a privileged question. I call up the motion submitted on the 26th of February by the gentleman from Wisconsin [Mr. WASHBURN] to reconsider the vote by which the letter of the Secretary of the Treasury relative to the Union Pacific railroad was ordered to be printed.

I congratulate my friend from Iowa [Mr. PRICE] on his success in preventing my being heard this morning by getting the previous question on his motion to commit the joint resolution to the Committee on the Pacific Railroad, of which he is chairman; and, as I have now an hour to discuss this question of the Pacific railroad just as fully as I would have had if the gentleman had yielded to me, I will yield ten or fifteen minutes to the gentleman from Wisconsin, [Mr. WASHBURN.]

Mr. WASHBURN, of Wisconsin. Mr. Speaker, I was desirous at the close of the remarks of the chairman of the Pacific Railroad Committee [Mr. PRICE] and his colleague [Mr. DODGE] yesterday of making a few remarks in reply and in explanation of what I had previously uttered on this floor, thinking that I had in some respects been misunder-

stood, and that it was but right that I should have a few moments for explanation. But, sir, so determined were the friends of this great monopoly to stifle discussion that they resisted every appeal that I could make to allow me even that poor privilege. That I am now enabled to defy all attempts to silence discussion is in no degree due to the friends of these roads, but in spite of them. It is simply due to the fact that I had the foresight some time since to enter a motion to reconsider a vote upon a proposition connected with the Pacific railroad. I entered that motion because I thought an occasion might arise such as has actually arisen here.

Now, I wish to advert very briefly to what was said by my friend from Iowa, the chairman of the Committee on the Pacific Railroad, [Mr. PRICE.] He said we should not have been heard here upon this subject had it not been for what he called the unfair course which I had pursued toward his committee. Now, I beg to assure him, and to assure every member of that committee, that I believe I have pursued no unfair course toward them; that I have said nothing here which the facts did not warrant me in saying; that I was not perfectly justified in saying. It was the last thing in my thought to reflect upon that committee, and I did not in any way reflect upon them. I stated that I had become satisfied when I offered the resolution that there would be great delay in reporting, even if the resolution did not sleep in the committee "the sleep that knows no waking," which I feared it would.

That was the language to which the gentleman from Iowa [Mr. PRICE] took exception. How far he was justifiable in taking exception to that remark a few facts will show.

Now, for the facts upon which I based that declaration, and I will leave the House and the country to judge whether or not I had good reason to believe that the committee intended to let that bill sleep on, whether they were friendly or unfriendly to it. I introduced that bill as long ago as the 9th of December, and it was referred to the Pacific Railroad Committee. Nothing having been heard from it, and thinking that perhaps the committee would not be called for some time, or that there might be very considerable delay, I introduced, on the 17th of February, the joint resolution which was discussed yesterday. A motion was made to lay that joint resolution on the table. Who voted against laying it on the table? Certainly not my friend from Iowa.

Mr. PRICE. Do me the justice to say that I did not vote the other way.

Mr. WASHBURN, of Wisconsin. I will; I was going to say that. I will say that he was not found voting at all, from which I certainly had the right to infer that he was not particularly friendly to the joint resolution. There are three members of the committee who did not vote; I do not know why. I did not at the time notice whether they were present or not; but I have directed my attention to the matter since, and I find that my friend from Iowa [Mr. PRICE] did not vote for the proposition.

I will say, however, that in conversation with him afterward I understood him to say that he was in favor of some such proposition as this. I have stated that before, and I state it now. And I will state further, that notwithstanding that I had reason to believe the committee, as a committee, would not report in favor of such a proposition as this. I think I had good reason for believing that the committee was unfriendly to the proposition, because on the 12th instant the question again came up, and but a single member of the committee voted in favor of it—my friend from Iowa, [Mr. PRICE;] Mr. DONNELLY and Mr. MALLORY voting to lay it on the table, and the rest of the committee not voting. Now, I suppose, that may not be entirely inconsistent with his declaration that he was in favor of such a proposition; but then I had no reason from that vote to think he was warmly in its favor.

The gentleman says in his speech that I ought to have known that the committee in-

tended to report it, because he had told me so. Well, he did tell me that the committee intended to report something, and that they were considering the matter; and he said yesterday that the committee had instructed him to write to these different companies and find out what their earnings and expenses were, and what they thought would be right.

Now, if the committee are friendly to this proposition it is most astonishing that they should wait until they could hear what the wishes of these railroad companies are. The calling on these companies to learn what should be done to protect the people sounds very like some fable I have read at some time. Now, my friend represents a State blessed with vast flocks of sheep, and, if I mistake not, a colleague of his in the last Congress was a great shepherd. Now, what would be thought of that former colleague if, when his sheep appealed to him for protection against the wolves, whom they alleged were claiming more mutton than enough to satisfy their reasonable appetites, he should say to them, "I have written to the wolves to know if they are not going it rather too strong, and to ask if they could not suggest some measure by which you may be restricted in your forays upon my flocks?" It occurs to me that that would be about a parallel case to that of my friend from Iowa calling on those roads for information; and, if I mistake not, I read in *Æsop's Fables*, when I was a boy, a fable very much resembling something of this kind.

Now, sir, the gentleman seemed to think that because I commented upon the acts passed in 1862 and 1864 I was therefore making a wholesale condemnation of the members of the Congresses that passed those acts. He is justified in drawing no such inferences. Those acts are matter of record, and they are fit subjects for comment here or elsewhere; and because I disapprove an act it by no means follows that I call in question the action of the members who carried that act through. The gentleman will not undertake to deny that he has had occasion to comment unfavorably upon acts of Congress when he would by no means intend to comment in unfavorable terms upon those whose judgment induced them to vote for such acts.

Now, sir, I am the last man who would attribute any improper motives to my friend from Iowa. I know perfectly well why he voted in favor of this Pacific railroad act. He felt, as the country felt, that the road was a necessity; and as I have heretofore remarked, it is the disposition of our people when they want a thing not to look far into the future; not to count the cost; not to look far forward to see the consequences. I think it was in this respect that my friend from Iowa was at fault.

Hence he did not take care to provide proper guards. The country was at war at the time, and war was the great absorbing topic, and we were then in the habit of voting such vast sums that many measures passed without proper scrutiny. Certainly no man who knows my friend from Iowa would attribute to him any improper motives in voting for such a bill as this. But, sir, I do say that the act of 1864 was very insufficiently guarded. I say, as I have said before, (and no man here has attempted to deny it, for it cannot be denied,) that every restriction embodied in the act of 1862 for the protection of the people was wiped out by the act of 1864. That the gentleman from Iowa has not attempted to controvert. He has not attempted to controvert any proposition which I submitted, but he has addressed himself to these little matters which are of no consequence, so far as the country is concerned. I did expect that he would try to meet and answer some of the points I made, but, sir, he failed entirely to do so, and my speech stands to-day unanswered, and, I may say, unanswerable.

Now, sir, I subscribe entirely to what the gentleman said in regard to reputation. He quoted Shakspeare and quoted it well, and with good effect; but, sir, "it is a good divine

that follows his own teachings." Now, when I was on the floor before, I thought it due to the road to say (because, as I have said repeatedly) I feel most friendly toward it, that I believed its bonds were as good security as there possibly could be. I said it because I believed it, and I did not mean to say anything that was not true or anything to injure this road. But the gentleman from Iowa thinks otherwise, and if so, it is right the public and the road should have the benefit of his opinion. He said that it occurred to him that somebody must have bonds to sell, or I would not have made that declaration. Well, now, after having spoken eloquently and justly in regard to attributing improper motives to men, I thought it a little strange that the gentleman should make such an observation as that. If he would allow me to quote Shakspeare (I cannot begin to quote it as well as he) I would say to him—

"Do not, as some ungracious pastors do,  
Show me the steep and thorny way to heaven;  
Whilst,  
Himself the primrose path of dalliance treads,  
And recks not his own read."

I know it was a loose observation on the part of the gentleman. He did not intend, I know, to imply that in what I said in regard to the bonds of these railroads I was influenced by any personal interest of myself or any friends of mine. If he did, let me say here that I never owned a Pacific railroad bond; I never saw one; I have no friend, so far as I know, who owns one; I know of no man upon the face of the earth who owns one. If he wishes it to go out that in the declaration I made in regard to the security of these bonds that I was in error, be it so.

The gentleman, when he spoke of my allusion to the Oregon bill, misconstrued my language, as he will see if he reads it again. I stated then and there that I understood the gentleman was opposed to it; and I did not say that the committee was in favor of it at all. I referred to the matter to show that these schemes were pressing upon Congress. He will not deny that there is such a scheme before that committee; and, sir, "their name is legion." In this morning's Chronicle I see the description of another Pacific railroad scheme, to build a road from Cairo down through Arkansas, New Mexico, Old Mexico, and the Lord knows where; and it is commended very kindly to the consideration of Congress.

And, sir, I allude to all these simply that members may understand the extent of these schemes; for I will undertake to say there are Pacific railroad schemes now on foot which would require at least two hundred or two hundred and fifty million dollars in subsidies if they are carried out.

Now, sir, I had occasion before to comment on what is called the Sioux City railroad. I stated some facts which the gentleman from Iowa [Mr. ALLISON] yesterday undertook to controvert. I have a little map here which will show any man who has any curiosity on the subject whether I was in error or not. I stated then, and this map will show I was correct in all I have before said on this subject.

THE SPEAKER. The gentleman's fifteen minutes have expired.

Mr. WASHBURN, of Illinois. I yield to the gentleman five minutes farther.

Mr. WASHBURN, of Wisconsin. Now, sir, it was stated by the gentleman from Iowa [Mr. ALLISON] that the change in the law of 1864 was at the express solicitation of the gentlemen from Minnesota. The members from Minnesota were not present when the statement was made, and I could not deny it then. I could not believe it to be true; I could not believe that the members from Minnesota would have sacrificed the interests of their State, as it seems to have been sacrificed, and as I see one member from that State now present, I beg to inquire of him whether he consented to any change of the law by which the Sioux City railroad was to be built in another direction than that provided in the act of 1862?

Mr. WINDOM. I will answer the gentle-



man's question. I wish to say that I never did consent to it, and one of the chief complaints I have had to make against the Pacific Railroad Committee is that, by some manner of means unknown to myself, it secured this alteration. When the bill was first introduced I insisted on it as it was passed, and that was made the condition upon which it was passed.

Mr. WASHBURN, of Wisconsin. That is what I stated in my speech, and I thought I was not in error.

I will state further that the act of 1864 in no way changed the act of 1862 except in this respect, that it released the Union Pacific railroad from its obligation to build the road from Sioux City to join the Union Pacific railroad, and to authorize, but not required, another road to build it; but, sir, it did not change in any manner the direction of the road. It required the road should be upon the nearest and most practicable route.

Mr. ALLISON. I only desire a moment, Mr. Speaker, to make an explanation of what I stated yesterday in reference to the Minnesota delegation. I then stated that I believed they were in favor of that legislation. I was called upon this morning by the gentleman from the southern district of Minnesota, [Mr. WINDOM,] and he said that he did not assent to it. Therefore, sir, to that extent I did him injustice. But I remember the matter distinctly, and I call on the chairman of the Pacific Railroad Committee to say whether it is so or not, whether the Minnesota delegation did not press upon that committee the exact change made with reference to the Sioux City branch?

Mr. PRICE rose.

Mr. WASHBURN, of Wisconsin. I cannot be further interrupted.

I wish to call the attention of the House and the country again to the fact that no material allegation I made here in my speech has been disputed. They cannot be disputed.

If I had time I should like to review the remarks of the other member from Iowa, [Mr. DODGE,] but I am limited, and cannot do it. He makes out the best case possible for the road. He has done that well as he does everything well; but he makes no case, and he can make none impeaching what I stated in my speech.

It is well known, Mr. Speaker, that a measure of this kind commends itself to the favor of the country, and it is strange that such opposition should be developed here.

My friend from Massachusetts [Mr. DAWES] heard "a lion in the lobby roar" the other day, and was frightened nearly out of his wits; but now here is a whole drove of lions surrounding and besieging the Capitol, "meager, gaunt, and grim," licking their very chaps and peering in at our very doors, and yet the gentleman from Massachusetts is as unconcerned as was Daniel in the lion's den.

The SPEAKER. The gentleman's five minutes have expired.

Mr. WASHBURN, of Illinois. Mr. Speaker, I would have much preferred to have submitted my remarks when the question to refer the joint resolution was before the House for action; but my esteemed and honorable friend from Iowa, [Mr. PRICE,] my neighbor, who represents a district right across from mine, on the other side of the "great Father of Waters," refused to yield to me for that purpose. Now, sir, I am at a loss to know the reason which induced him to press upon us the previous question, refusing a full discussion of this subject. Certainly, sir, he must have known that nothing I could have said would have detracted from the effect of the eloquent speech he made yesterday, and I regret he so persistently refused me the privilege of saying a few words at that time, as my purpose was simply to review the legislative history of this Pacific railroad business in 1864, which, being familiar with, I beg leave to assure gentlemen is a very interesting history.

Mr. PRICE. Will the gentleman allow me to say why I did not permit him?

Mr. WASHBURN, of Illinois. I will not

treat you as you treated me. I am a Christian, and return good for evil. [Laughter.]

Mr. PRICE. And you might add "and a member of Congress." I say to the gentleman what is the truth in reference to this matter, that I had promised half a dozen friends I would call for the previous question on the motion to refer, and I could not help it.

Mr. WASHBURN, of Illinois. I am very sorry for that, that my friend from Iowa comes up here and acknowledges he had pledged himself to call the previous question on so important a matter, so as to cut off all discussion.

Mr. PRICE. Having promised I was bound to perform.

Mr. WASHBURN, of Illinois. Mr. Speaker, I am sorry the gentleman was betrayed into such promises. I now desire to say that after the extraordinary developments touching the Union Pacific Railroad Company as to the character of the company, the gigantic power which it is commencing to exercise, its extortions from, and its oppressions of, the people; after the disclosure of the illegal and fraudulent issue of hundreds of thousands of Government bonds to enable a private company to build a railroad in the State of Iowa, in a southeast direction, under the pretext of building a Pacific railroad, the question has become one of national importance and magnitude, and as such must attract universal attention. I come not here to speak of the original act of 1862. That act had its inception in a spirit of liberal and enlightened legislation, and was passed in the interest of the Government; while it made the most liberal provisions for the purpose of accomplishing the work, it yet guarded the rights of the public. But I come to speak more particularly of the amended act of 1864—an act surrendering nearly all the rights reserved to the people—and, as that act has challenged the severest criticism, and is likely to become historical, I propose to put on record the history of its passage through the House of Representatives.

The Thirty-Eighth Congress met on the 7th of December, 1863, and on the 16th of that month the Speaker appointed a select committee on the Pacific railroad consisting of Messrs. STEVENS of Pennsylvania, Wilder, Steele of New York, PRICE, Cole, Noble, DOXNELEY, McBride, Steele of New Jersey, McCLEURG, AMES, Yeaman, and Sweat.

On the 16th of March following, the gentleman from Iowa [Mr. PRICE] introduced, by unanimous consent, a bill entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes,'" approved July 1, 1862; which was referred to the Pacific Railroad Committee. (Congressional Globe, volume 51, page 1142.)

On the 2d of June the gentleman from Pennsylvania [Mr. STEVENS] reported back this bill, as introduced by the gentleman from Iowa, with a substitute, which was ordered to be printed, and its consideration postponed for one week. (Congressional Globe, volume 52, page 2671.) On the 10th of June the bill was again brought before the House and went over as unfinished business. (Congressional Globe, volume 52, page 2842.) On the 16th of June this bill came before the House at a night session. The gentleman from Indiana, from the Aurora district, [Mr. HOLMAN,] moved an amendment, as follows:

"And that said road shall be a public highway, and shall transport the property and troops of the United States, which transportation thereof shall be required free from all toll or other charge."

That proposition was discussed until the hour expired that evening for the consideration of the bill. The gentleman from Indiana pressed his amendment upon the House with great ability and energy, and was replied to by a member of the Pacific Railroad Committee, [Mr. Steele, of New York,] who, in the course of his remarks, said:

"And here allow me to disagree with my distin-

guished friend from Indiana in the idea that the men who are engaged in this great public enterprise are engaged only with the hope of making money. I could name to him many patriotic men who have come forward with their \$10,000 and \$20,000 to put into this road, for the purpose of encouraging the enterprise—and I need not go out of this House to find some of those examples—without any hope or expectation of ever being pecuniarily benefited by the advance thus made."

The gentleman from Indiana, [Mr. HOLMAN,] in reply to Mr. Steele, said he was startled, as a Representative on this floor, when it was said—at a moment when we were voting away \$95,000,000 of the public treasure and uncounted bodies of the public land without any recompense whatever—to hear the intimation made by the gentleman from New York, that benevolent men on this floor had stock in the corporation by which this road is to be constructed.

Mr. Steele, in reply to Mr. HOLMAN, said that this subscription was made by members of Congress as a matter of patriotism, and assailed the gentleman from Indiana in a manner in which it is fashionable to assail all men now who propose to save anything to the Government, charging that his—

"Ideas were so contracted and belittled by looking at small expenditures, that he could not appreciate the possibility of a man having patriotism enough to invest in a work of great public necessity for the purpose of encouraging that work, without some idea of dollars in it."

The bill went over until the 17th of June. On the 18th the gentleman from Iowa [Mr. PRICE] urged that action be taken upon it; but in this he was antagonized by Mr. Rice, of Massachusetts, chairman of the Committee on Naval Affairs, who claimed that that day had been set apart for the consideration of reports from the Committee on Naval Affairs; and it was postponed.

The consideration of the bill was again resumed in the evening session of June 21, and no gentleman who was here at that time will ever forget the extraordinary scene which was presented. The lobby mustered in its full force. I say nothing here of the shameful means which it is alleged were used in a "confidential way" to carry through this bill; but I do say that the scene was one of the most exciting and animated that I have ever witnessed in a service of nearly sixteen years. The galleries were packed with people interested in the measure, by lobbyites, male and female, and by shysters and adventurers, hoping for something to "turn up." Your gilded corridors were filled with lobbyists, who broke through all rules and made their way upon the floor and into the seats of members. The amendment referred to, of the gentleman from Indiana, was first up for consideration, and I felt it to be my duty to speak on the general character of the bill. I undertook to show by a Senate document, which I hold in my hand, the amount of the liability for bonds issued and interest thereon under the law for the purpose of building a Pacific railroad would be \$95,088,000; but which document I am advised somewhat overstates the amount, as the estimate was made upon a greater number of miles than the real length of the road.

But the amount of the liability was, at any rate, so enormous that even at that era of vast and unheard-of appropriations of the public money it should have alarmed the Representatives of the people and challenged the closest attention. In my speech on that occasion I compared the different sections of the original law of 1862 with the modifications proposed by the act of 1864, which we were then considering. I beg leave to read from the Congressional Globe, volume fifty-three, page 3152, some remarks which I then made:

"I come now to the tenth section of the bill, and I confess to a sort of admiration of the sublime audacity which parties must have to come here and ask Congress to enact such a provision into a law. I have called attention to other provisions of an extraordinary nature, but this proposed enactment throws all others far into the shade, and stands out in bold relief as an indication of the 'base uses' that this company have conceived the Congress may be put to in their behalf. I carefully read the section that every gentleman may know its exact meaning and purport:

"Sec. 10. And be it further enacted, That section five of said act be so modified and amended that the Union Pacific Railroad Company, the Central Pacific Railroad Company, and any other company authorized to participate in the construction of said road, may issue their first mortgage bonds on their respective railroads and telegraph lines to an amount not exceeding the amount of the bonds of the United States authorized to be issued to said railroad companies respectively. And the lien of the United States bonds shall be subordinate to that of the bonds of any or either of said companies hereby authorized to be issued on their respective roads, property, and equipments. And said section is further amended by striking out the word 'forty' and inserting in lieu thereof the words 'on each and every section of not less than twenty.'"

"Now, it will be recollected that the fifth section of the existing law provides for the repayment of the bonds issued to the company, and declares that the issue and delivery of them to the company shall *ipso facto* constitute a first mortgage on the whole line of road and telegraph, together with the rolling stock. This was the security which Congress had a right to demand of any company that should be organized. It was its duty to require it, unless it was intended to surrender everything and place the most gigantic interests at the feet of the company without control and without challenge. We donated, as I have before stated, millions upon millions of acres of the public lands for this purpose; then we agreed to give our bonds for the amount, with the interest thereon, of \$96,000,000, and if Congress had required less than a first mortgage as its security it would, in my judgment, have been derelict in duty to the country, whose interests in this regard it can alone protect."

"What is now proposed by this amendment? I demand that gentlemen shall look at it; let the mirror be held up to nature. Nothing less than that the Government, with its liability of a hundred millions, shall relinquish its first mortgage and subordinate its lien to the liens of all the companies created for building the road. The bonds of the United States are to be issued to the company, and the Government is to have no prior lien for its security; but by this provision the company, representing as it may but one per cent, or a little over of the amount that the Government is liable for, is to subordinate that Government to its own interests, raise money on the security of the means that the Government has furnished, give a first mortgage for the security of that money, and leave the United States as a second mortgagee, obliged to pay off the first mortgage before it can be in a position to take advantage of any security there might by possibility be as a second mortgagee. But who is wild enough to believe that, should the provisions of this section become a law, the remaining security of the Government will be worth a straw? It is worse than idle to contend that we shall have any security left for all our liability if this bill shall pass. And further, by the fifth section of the law bonds cannot be issued till forty consecutive miles of the road are fully completed and equipped. It is now proposed by this tenth section to strike out forty and make it twenty. This company, not content with snatching from the Government the security it now holds for the bonds it issues, cannot even wait to finish the forty miles of road at present required before grabbing what is proposed to put into their hands, but they must cut it down so that they can go in on twenty miles. Sir, on my responsibility as a Representative, I pronounce this as the most monstrous and flagrant attempt to overreach the Government and the people that can be found in all the legislative annals of the country. When we look at the original law with all its liberal and just provisions, when we look at the company organized under it and see how far it has failed to meet its proper obligations, and consider the extraordinary amendments here proposed, are we not filled with astonishment at what is demanded of us as the guardians of the people's rights? Indeed may we now exclaim:

"Can such things be,  
And overcome us like a summer's cloud,  
Without our special wonder?"

I desire here to state, in justice to my distinguished friend from Iowa, [Mr. WILSON,] that he proposed an amendment to the bill which was adopted, and which in effect secured the lien provided in the sixth section of the act of 1862, notwithstanding the provision of the bill declaring the bonds issued to the company a first lien upon the road.

After closing my speech the gentleman from Iowa, [Mr. PRICE,] from the Committee on the Pacific Railroad, replied to me with his usual vehemence and zeal, justifying the bill, and urging with all his power its adoption by the House. He was followed by the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] both gentlemen addressing most of their remarks in reply to the observations I had the honor to submit, the gentleman from Iowa alluding to a conversation he had overheard between some gentlemen near him, in which it was said that if the things I had charged against the bill were true "it ought not to pass." But it did pass.

Finally, before the close of that evening session, the amendment of the gentleman from Indiana requiring that the property and troops

of the Government transported over this road should be carried free of charge came up for action. The gentleman from Indiana expressed the hope that as it was ten o'clock a vote should not be taken until there should be a fuller House.

The gentleman from Pennsylvania replied that the House was full enough, and as gentlemen understood the amendment they might as well dispose of it now as at any other time. And the House did dispose of that amendment, so reasonable, so proper, and so just, by rejecting it, by a vote of 39 yeas to 82 nays, as follows:

"YEAS—Messrs. James C. Allen, William J. Allen, Ancona, Augustus C. Baldwin, John D. Baldwin, Baxter, Cobb, Coffroth, Cravens, Dawson, Denison, Eden, Edgerton, Eldridge, Farnsworth, Finck, Hale, Harding, Herrick, Holman, Philip Johnson, William Johnson, Knapp, Marcy, Middleton, James R. Morris, Nelson, Norton, Orth, Pike, Samuel J. Randall, Stiles, Thayer, Thomas, Tracy, Elihu B. Washburne, Wheeler, Chilton A. White, and Williams—39."

"NAYS—Messrs. Alley, Allison, Ames, Arnold, Ashley, Beaman, Blair, Blow, Boutwell, Boyd, Brooks, Broomall, Ambrose W. Clark, Cole, Thomas T. Davis, Dawes, Dixon, Donnelly, Driggs, Eckley, Eliot, English, Fenton, Frank, Ganson, Garfield, Gooch, Grider, Griswold, Benjamin G. Harris, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Lagersoll, Julian, Kasson, Kelley, Francis W. Kellogg, Knox, Loan, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Moorhead, Daniel Morris, Morrison, Amos Myers, Leonard Myers, Noble, Odell, Charles O'Neill, Perham, Pomeroy, Price, Alexander H. Rice, John H. Rice, Edward H. Rollins, James S. Rollins, Ross, Schenck, Scott, Shannon, Sloan, Smithers, John B. Steele, William G. Steele, Stevens, Stuart, Sweet, Thayer, Upson, Van Valkenburgh, Wadsworth, Ward, William B. Washburne, Whaley, Wilder, Wilson, Windom, and Winfield—82."—*Congressional Globe*, vol. 53, p. 3156.

I wish the gentleman from Iowa [Mr. PRICE] could have had an opportunity to explain to the House and to the country his reasons for voting against an amendment of that kind after having given this company the enormous subsidies and untold millions of acres of land, equal to twice the area of Great Britain and Ireland. I wish he could have given a reason for not imposing that condition upon this railroad company when it had been imposed on every other railroad built by a grant of land.

On the 22d of June the House again resumed the consideration of this bill, and the gentleman from Iowa [Mr. WILSON] got on an amendment for a grant of land for the Burlington and Missouri River Railroad Company. A long discussion followed on many of the provisions of the bill, participated in by Mr. Sweet, of Maine, a member of the Pacific Railroad Committee, and by the gentleman from New York, [Mr. PRYOR,] who, though connected with the building of the road, was not satisfied with the bill, with that sense of honor which belongs to him, refused to vote, furnishing an example that might well be followed.

On the 21th of June (*Congressional Globe*, volume 53, page 3244) I moved to strike out the tenth section, which provided that the Union Pacific Railroad Company, the Central Pacific Railroad Company, and any other company authorized to participate in the construction of said road, might issue the first mortgage bonds of their respective railroad and telegraph lines to an amount not exceeding the amount of the bonds of the United States authorized to be issued to said railroad companies respectively, and that the lien of United States bonds should be subordinated to that of the bonds of any or either of said companies which were thereby authorized to be issued by said railroad companies on their respective roads, property, or equipments; and which provided, further, that the fifth section of the original act should be further amended by striking out "forty" and inserting in lieu thereof "on each and every section of not less than twenty." And other startling provisions were in the bill doubling the amount of land, making a grant amounting to more than double the area of Great Britain and Ireland, as I have before said. Upon that amendment the yeas and nays were ordered, and that section, thus subordinating the security of the United States to that of these companies was retained, and the amendment rejected by a vote of 38 to 81:

"YEAS—Messrs. Ancona, Arnold, Bailey, John D. Baldwin, Boutwell, Cobb, Creswell, Dawson, Den-

ison, Eden, Edgerton, Farnsworth, Halé, Harding, Harrington, Herrick, Holman, William Johnson, Orlando Kellogg, Kernan, Law, Marcy, McDowell, Morrison, Nelson, John O'Neill, Orth, Rogers, Edward H. Rollins, Scofield, Sloan, Spalding, Stiles, Thayer, Tracy, Upson, Elihu B. Washburne, and Joseph W. White—38."

"NAYS—Messrs. Allison, Ames, Anderson, Ashley, Baxter, Beaman, Blaine, Blair, Blow, Boyd, Brooks, Broomall, Ambrose W. Clark, Cole, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Driggs, Eckley, Eldridge, Eliot, English, Finck, Gooch, Griswold, Benjamin G. Harris, Higby, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburt, Julian, Kelley, Francis W. Kellogg, Knapp, Knox, LeBlond, Littlejohn, Long, Longyear, Marvin, McBride, McClurg, Samuel F. Miller, Morrill, Daniel Morris, James R. Morris, Amos Myers, Leonard Myers, Noble, Norton, Charles O'Neill, Perham, Pomeroy, Price, Samuel J. Randall, John H. Rice, James S. Rollins, Ross, Schenck, Scott, Shannon, Smithers, John B. Steele, William G. Steele, Stevens, Stuart, Sweet, Van Valkenburgh, Ward, William B. Washburne, Webster, Whaley, Wheeler, Williams, Wilson, Windom, Winfield, and Benjamin Wood—81."—*Congressional Globe*, vol. 53, page 3244.

The previous question having been ordered and the bill having passed to its third reading, the gentleman from Indiana [Mr. HOLMAN] called for the reading of the engrossed bill, which resulted in postponing its final passage until Monday, June 25. The bill was on that day brought again before the House and was passed by a vote of 70 to 38; which vote is recorded in the *Congressional Globe*, volume fifty-three, page 3267, as follows:

"YEAS—Messrs. Allison, Ames, Ashley, Augustus C. Baldwin, Beaman, Blaine, Blair, Blow, Brandegee, Brooks, William G. Brown, Ambrose W. Clark, Coffroth, Cole, Creswell, Thomas T. Davis, Dawes, Denning, Dixon, Donnelly, Eliot, English, Fenton, Garfield, Griswold, Hale, Higby, Hooper, Asahel W. Hubbard, John H. Hubbard, Hulburt, Jenekes, Julian, Kalblich, Orlando Kellogg, Knox, Littlejohn, Loan, Longyear, Marvin, McBride, McClurg, Moorhead, Morrill, Morrison, Amos Myers, Noble, Odell, Charles O'Neill, Patterson, Perham, Pomeroy, Price, John H. Rice, Ross, Schenck, Shannon, Sloan, Smithers, John B. Steele, William G. Steele, Stevens, Stuart, Sweet, Thayer, Upson, Webster, Wilson, Windom, and Benjamin Wood—70."

"NAYS—Messrs. Ancona, Bailey, Bliss, Boutwell, Chandler, Dawson, Denison, Eden, Edgerton, Gooch, Grider, Harding, Harrington, Benjamin G. Harris, Holman, Philip Johnson, Kernan, Knapp, Law, LeBlond, Mallory, Marcy, McDowell, McKinney, John O'Neill, Orth, Radford, Robinson, Rogers, Edward H. Rollins, Scofield, Stiles, Thomas, Elihu B. Washburne, William B. Washburne, Chilton A. White, Joseph W. White, and Fernando Wood—38."

The members of the present Congress who voted for the bill were as follows: Allison of Iowa, Ames of Massachusetts, Ashley of Ohio, Baldwin of Massachusetts, Beaman of Michigan, Blaine of Maine, Brooks of New York, Dawes of Massachusetts, Dixon of Rhode Island, Donnelly of Minnesota, Eliot of Massachusetts, Garfield of Ohio, Griswold of New York, Higby of California, Hooper of Massachusetts, Hubbard of Iowa, Jenekes of Rhode Island, Julian of Indiana, Loan of Missouri, Marvin of New York, McClurg of Missouri, Moorhead of Pennsylvania, O'Neill of Pennsylvania, Perham of Maine, Pomeroy of New York, Price of Iowa, Ross of Illinois, Schenck of Ohio, Stevens of Pennsylvania, Upson of Michigan, Wilson of Ohio, and Windom of Minnesota.

Those members of the present Congress who voted in the negative were as follows: Boutwell of Massachusetts, Chandler of New York, Holman of Indiana, Orth of Indiana, Scofield of Pennsylvania, Washburne of Illinois, Washburn of Massachusetts, and Fernando Wood of New York.

The bill then went to the Senate and came back with amendments upon which a committee of conference was ordered. On the 1st of July the committee of conference reported, bringing in such new matter as would, in my opinion, be in violation of every rule which governs committees of conference in legislative bodies. Gentlemen by turning to the *Globe*, volume fifty-three, page 3480, will see that the new matter so introduced covers nearly a page of nonpareil. And this report, changing so materially the bill as acted upon by the House and Senate, was gagged through; the opponents of the measure were not permitted to have it printed and postponed, so that they could see what it was. I struggled in vain for the printing of the report and for its delay until the members of the House could have an oppor-

tunity of reading it; but the gentleman from Pennsylvania [Mr. STEVENS] demanded the previous question, which was seconded and the main question ordered to be put; and it would seem incredible that in a matter of legislation involving interests so vast and pledging amounts of money so enormous, even the yeas and nays were refused; that even tellers were refused. I read from the proceedings as reported in the Globe, volume fifty-three, page 3481:

"Mr. WASHBURN, of Illinois, demanded the yeas and nays on agreeing to the report; and tellers upon the yeas and nays.

"Tellers were not ordered; and the yeas and nays were not ordered.

"Mr. WASHBURN, of Illinois, demanded tellers on agreeing to the report.

"Tellers were not ordered.

"The report was agreed to."

Thus ends the story of the action of the House touching this extraordinary legislation, which will go into the history of the country.

I now yield to the gentleman from New York [Mr. BAILEY] the remainder of my time.

The SPEAKER. The gentleman has six minutes remaining.

Mr. WASHBURN, of Illinois. I presume that gentleman will be recognized at the conclusion of my hour.

The SPEAKER. The Chair will recognize some one on the opposite side of the question.

Mr. WASHBURN, of Illinois. Then I will demand the previous question, which will give me an hour to close the debate.

The SPEAKER. That rule only applies to members reporting bills from committees.

Mr. WASHBURN, of Illinois. Then I move to lay the motion to reconsider on the table.

Mr. PRICE. I ask the gentleman if he will not give me the balance of his time, or a portion of it.

Mr. WASHBURN, of Illinois. Most assuredly. I told you I was a Christian. [Laughter.] I yield three minutes to the gentleman.

Mr. PRICE. Yes, sir; and the gentleman has just corroborated the statement which I made yesterday; and as I like corroboration, and particularly from eminent sources, I will repeat what I said yesterday, that it is altogether possible for a man to be a member of Congress and a Christian at the same time. [Laughter.] And now the gentleman, who has been a member of Congress longer than any one else upon this floor, has stated twice, on his responsibility as a man and a citizen and a member of Congress, that he is a Christian, and thereby I have established by proof what I alleged, and I want it to go to the country that it is a fact.

Now, sir, let me say that the scene in this House to which the gentleman has referred is very well remembered by me. I occupied a seat just upon the right of where I now stand and I remember that on that "memorable night" the gentleman arose here with a written speech, as he has done to-day, which I presume had laid in his desk for some time until it was fit to be given to the House; and to my astonishment, because I did not expect anything of the kind, he challenged the House, or at least those who were in favor of the construction of the road across the continent to the Pacific coast, to answer it. And it reminds me of the day and of another occasion, when a certain other challenge was given; and to the best of my ability upon that occasion,

"Upon the word,  
Accouter'd as I was, I plunged in,"

and the result of the vote will show who sank and who swam. My speech in answer to the speech of the gentleman in the Thirty-Eighth Congress which he has read to-day, was printed in the Globe, and I will just refer the gentleman and the country to that answer in the Globe. That is all the answer I have to make on that point.

There is one other item in the gentleman's speech which I wish to notice. He has referred to the immense subsidy of lands given to the Sioux City branch of the Pacific railroad that my friend from the Dubuque district [Mr.

ALLISON] has specially in charge. I say that those very lands which the gentleman now seeks to make the House and the country believe are of so much importance, but a few days ago he stated with equal vehemence and determination and positiveness were not worth surveying! Now, I will just let the gentleman answer himself. If they were not worth surveying six or eight days ago, how does it happen that they make this railroad corporation so immensely wealthy as to cause the indignation of the gentleman from Illinois upon that railroad company for the reception of the lands? [Here the hammer fell.]

The SPEAKER. The gentleman from Illinois [Mr. WASHBURN] has two minutes.

Mr. WASHBURN, of Illinois. Most of the lands are in the State of Iowa. The gentleman ought to know that one of the reasons for getting that bill through was to get lands for Iowa for the Burlington and Quincy railroad.

Mr. PRICE. This is the Sioux City railroad.

Mr. WASHBURN, of Illinois. Let the country understand that the Sioux City branch, instead of running toward the Pacific ocean, runs to the east in the State of Iowa, and is twenty-five miles further from the Pacific ocean when it gets south than it was when it started. These were the lands that I referred to.

Mr. PRICE. The gentleman said lands on the same parallel in Dakota were not worth surveying.

Mr. WASHBURN, of Illinois. The lands in Dakota on the same parallel are all surveyed, as the gentleman from Iowa well knows.

I wish I could have given the gentleman more time. I wanted him to explain why he subordinated the first lien of the country to this Pacific Railroad Company. I wanted him to tell his constituents and the country what induced him to commit—as I believe he did conscientiously; I do not challenge his motives—this great outrage on the people.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois, subsequently said: Mr. Speaker, I understand that the gentleman from Iowa, from the Burlington district, [Mr. WILSON,] thinks I omitted a statement in my speech which was due to him, in regard to an amendment which he moved to that railroad bill. I will incorporate that statement in my speech, for I certainly do not intend to do any injustice to him or to any one else.

Mr. HIGBY obtained the floor, and moved that the time of Mr. WASHBURN, of Illinois, be extended for half an hour.

The SPEAKER. That requires unanimous consent.

No objection was made.

Mr. WASHBURN, of Illinois. I am much obliged to my friend from California [Mr. HIGBY] for his courtesy. But I will move that the motion to reconsider be laid on the table, unless my friend from New York [Mr. BAILEY] desires to be heard for a short time.

Mr. HIGBY. I liked the gentleman's speech so well that I was willing to have him go on.

Mr. ELDRIDGE. I believe the consent was given to the gentleman from Illinois [Mr. WASHBURN] upon the condition that he himself should speak.

The SPEAKER. The gentleman has the right to yield to others for explanation of the pending measure.

Mr. WASHBURN, of Illinois. The gentleman from New York [Mr. BAILEY] does not desire to speak now. I therefore move to lay the motion to reconsider on the table.

The motion was agreed to.

#### WITHDRAWAL OF PAPERS.

Mr. BURR asked and obtained leave to withdraw from the files of the House the papers in the cases of Mrs. Mary E. Wooten and Mrs. Stout for presentation in the Senate.

#### LEVEES IN ARKANSAS AND MISSOURI.

Mr. LOAN. Is it in order for me at this time to enter a motion to reconsider the vote

by which the House referred to the Committee on Freedmen's Affairs House bill No. 745, to provide levees to secure the low lands of Arkansas and Missouri from inundation, and to encourage the settlement thereof?

The SPEAKER. When was the bill referred to the committee?

Mr. LOAN. On the 17th of February.

The SPEAKER. The time for reconsideration has expired, under the following rule of the House:

"When a motion has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof on the same or succeeding day."

#### EIGHTY-FOURTH NEW YORK VOLUNTEERS.

Mr. VAN WYCK. I ask unanimous consent to submit for consideration at this time the following resolution:

*Resolved*, That the Paymaster General be directed to inform this House why the members of the eighty-fourth regiment of New York volunteers, who served three years, are allowed only fifty dollars additional bounty.

No objection was made; and the resolution was entertained.

The SPEAKER. The Chair will suggest to the gentleman from New York [Mr. VAN WYCK] that it is customary to address such inquiries to the head of the Department and not to the head of a bureau.

Mr. VAN WYCK. I will modify the resolution accordingly, if there no objection.

Mr. ELDRIDGE. I object to the resolution if it is to be in that form.

The SPEAKER. The resolution is before the House by unanimous consent and open to amendment.

Mr. VAN WYCK. I move to amend by striking out "Paymaster General," and inserting "Secretary of War."

The amendment was agreed to; and the resolution, as amended, was then adopted.

#### IOWA AND MISSOURI LAND GRANT.

Mr. ANDERSON. I ask unanimous consent to report from the Committee on Public Lands a bill, to be printed and recommended, granting lands to the Iowa and Missouri State Line Railroad Company, and for other purposes.

Mr. HOLMAN. I object.

#### NAVAL STOREKEEPER AT RIO, ETC.

Mr. ARNELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Navy be directed to inform this House upon what authority an officer of the grade of paymaster in the United States Navy is employed as a resident naval storekeeper at Rio Janeiro and elsewhere, at a greater salary than that provided by the law of June 17, 1844.

#### ADMISSION OF ALABAMA.

Mr. FARNSWORTH. I now report back from the Committee on Reconstruction House bill No. 935, to admit the State of Alabama to representation in Congress, with an amendment in the form of an additional section.

Mr. PIKE. Was this not assigned to come up after the morning hour?

The SPEAKER. The Committee on Reconstruction are authorized to report at any time.

Mr. SPALDING. Will the gentleman from Illinois [Mr. FARNSWORTH] yield to allow me to offer an amendment to this bill?

Mr. FARNSWORTH. I will hear it read.

Mr. SPALDING. I desire to move to amend this bill by striking out all after the enacting clause, and inserting in lieu thereof the following:

That the constitution framed by the convention of Alabama, which was submitted for ratification by the people at an election commencing on the 4th day of February, 1868, is hereby declared to be the fundamental and organic law for a provisional government for the people of Alabama, so far as the same is not in conflict with the Constitution and laws of the United States. And the officers elected at said election shall, on the 1st day of May, 1868, qualify as provided in said constitution and the ordinances of said convention, and immediately thereafter enter upon the discharge of the duties of their respective offices.

SEC. 2. And be it further enacted, That the Governor at any time after he shall have qualified and entered upon the discharge of the duties of his office may, by proclamation, convene the Legislature chosen at



said election. The Legislature, when so convened, shall possess all the power conferred by said constitution, which may not be in conflict with the Constitution and laws of the United States. And the Legislature is hereby further empowered to submit said constitution to the qualified electors of Alabama for ratification at such time or times as it may designate. And said Legislature is also empowered to submit the constitution, as framed by the convention, with or without amendments proposed by the Legislature.

SEC. 3. *And be it further enacted*, That whenever the people, by a majority vote of the qualified electors of Alabama, shall have ratified a constitution submitted as aforesaid, and the Legislature of the proposed State organization shall have ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, the constitution of Alabama may be presented to Congress for its approval.

SEC. 4. *And be it further enacted*, That the district commanders shall furnish all necessary aid in enforcing this act, and the act of March 2, 1867, entitled "An act to provide for a more efficient government of the rebel States," and the acts supplementary to and amendatory thereof shall remain in full force except as modified by this act, until Alabama shall be restored to representation in Congress.

Mr. FARNSWORTH. I have no objection to allowing a vote to be taken on that amendment.

Mr. SPALDING. My amendment is substantially the same as a proposition offered yesterday in the Senate. It is not my own production at all.

Mr. FARNSWORTH. I now call for the reading of the bill as reported from the committee.

The SPEAKER. The Clerk will read the bill as reported. If there is no objection, the bill as amended by the committee will be considered as an original bill, so that it may be still further amendable.

There was no objection, and the bill (H. R. No. 970) to admit the State of Alabama to representation in Congress was read a first and second time.

The Clerk read as follows:

Whereas the people of Alabama, in pursuance of the provisions of an act of Congress entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, have framed a constitution of State government which is republican in form; and whereas, at an election commencing on the 4th day of February, A. D. 1868, a large majority of the legal voters of said State, voting at said election, voted for the adoption of said constitution: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the said State of Alabama shall be entitled to representation in Congress as soon as the Legislature of said State, the members of which were elected at the election mentioned in the preamble of this act, shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen.

SEC. 2. *And be it further enacted*, That it shall be the duty of the commanding general of the military district in which Alabama is included to notify the members of the Legislature of said State, chosen at the election held in February, 1868, to assemble at the capital of said State within thirty days after the passage of this act.

SEC. 3. *And be it further enacted*, That said State of Alabama shall be entitled to representation in Congress and reorganized as a State of the Union upon the following fundamental conditions: that the constitution of Alabama shall never be so amended or changed as to deprive any citizen or any class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, nor so amended or changed as to allow any person to vote who is excluded from office by the third section of the fourteenth article of the amendment to the Constitution of the United States, until the disabilities imposed by said section shall have been removed in the manner therein provided; and Congress shall have power to annul any amendment to the constitution of Alabama or any act of the Legislature of said State contrary to the provisions of this section.

The SPEAKER. The amendment of the gentleman from Ohio [Mr. SPALDING] will be regarded as pending as an amendment to this bill.

Mr. FARNSWORTH. I yield to the gentleman from Ohio, [Mr. BINGHAM.]

Mr. BINGHAM. I move to amend by striking out the third section of the bill as reported.

The SPEAKER. Does the gentleman from Illinois [Mr. FARNSWORTH] yield to permit that amendment to be offered?

Mr. FARNSWORTH. Yes, sir.

Mr. Speaker, I desire to occupy the attention of the House for less than half an hour, and then I shall yield the remainder of my

time to the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. KERR. Before the gentleman proceeds I desire to make a suggestion. It is that the bill as reported, together with the amendments pending, be ordered to be printed, that they may be on our tables to-morrow.

Mr. FARNSWORTH. I have no objection to that.

The SPEAKER. If there is no objection that order will be made.

There was no objection.

Mr. ELDRIDGE. I desire to inquire of the gentleman from Illinois whether the bill as reported, differing, I understand, in some respects from the bill heretofore under consideration, has been printed?

Mr. FARNSWORTH. It has not.

The SPEAKER. The bill with the pending amendments has just been ordered to be printed.

Mr. FARNSWORTH. Mr. Speaker, I do not care to repeat what I said the other day in regard to the admission of Alabama. I wish, however, to call the attention of the House to the language of the reconstruction act of March 22, 1867, providing for the formation of constitutions by the rebel States, and their admission to representation in Congress. Why? Because objection is made to this bill and to representation upon the ground, as alleged, that the majority of the registered voters in that State were not in favor of the Constitution; that a majority of the registered voters did not vote upon the question. Now, I will read that section of the act of March 22, 1867, applicable to this question:

"SEC. 5. *And be it further enacted*, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, (at least one half of all the registered voters voting upon the question of such ratification,) the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall, moreover, appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided."

Now, sir, it is very true that a majority of the registered voters of Alabama did not vote at this election. If some eight or ten thousand rebels had come to the polls and voted against the constitution at that election we should have been bound by the provisions of this act, if we approved the constitution, to admit that State. All that was necessary to comply with the letter of that act was that some few thousands of rebels should have gone to the polls and have voted against that constitution, for there were seventy thousand votes polled in favor of that constitution. And does it not seem strange, is it not preposterous, that we should refuse to admit Alabama as a State or accord her representation in Congress because a few thousand rebels did not come up and vote against this constitution? That is all there is of it. That is the effect of this law. All the law required was that a majority of the registered voters voting at that election should vote in favor of this constitution; that more than one half of the registered voters should vote in favor of the constitution.

Again, that law provided that if Congress shall be satisfied a majority of the legal voters of the State was in favor of the constitution the State should be admitted. If a majority of the legal voters voted for the constitution there was no necessity to be satisfied about it at all. That would not only have been affirmative but positive evidence that the majority were in favor of it. I mention this to show to the House the intention of the law was that Congress should exercise a general supervi-

ion over the matter, and if Congress were satisfied a majority of the registered votes were in favor of the constitution the State should be admitted.

Now, sir, the object of this section, the object of this provision, well understood at the time by the members of the House and of the Senate, was to protect the loyal men of those States in having a fair election. We did not want to admit the State under a constitution framed by the rebels, and who might have it adopted by taking possession of the polls. These provisions were all inserted for the protection of the loyal men, and not for the protection of the rebels. No man ever dreamed that it would be necessary that Congress should require the rebels to go to the polls and vote against the constitution before we should admit the State. No member had any such intention. We have seventy thousand and upward of eligible voters of Alabama voting for this constitution under all the disabilities and adverse circumstances which attended that election, under menaces and threats, with their lives in their hands, in the midst of a furious storm. We have seventy thousand and upward returned as having voted for this constitution.

One fact not mentioned in the debate before us was that three counties were not returned by General Meade to General Grant, because the vote was declared illegal. Here were fourteen hundred votes cast for the constitution. That is more than one half of the votes of those counties. There is another fact not mentioned before. In Lowndes county nearly twenty-five hundred votes were cast, nearly all for the constitution; but the ballot-boxes were stolen and destroyed by the rebels.

And there is still another fact I wish to mention. The gentleman from Missouri wished to know when this matter was up before how many white people voted at this election. The official returns show that about seven thousand white men voted in favor of the adoption of this constitution. And I will say, in connection with this, that over twenty thousand white men in Alabama are members of the Union League.

Mr. WILLIAMS, of Pennsylvania. I desire to know how this fact was ascertained to be true. Did they vote separately, or were they registered as white men?

Mr. FARNSWORTH. I will tell you how it was ascertained, and in stating this it will appear that more than seven thousand white votes were cast. It appears affirmatively that seven thousand white men voted for the constitution in this way. At most of the polls the officers of election were directed to ascertain the votes of all the colored men by putting a distinguishing mark upon the ballots as they were polled. In that way they ascertained how many white men voted. It was done under the direction of the officers. But at some of the polls this course was not pursued; no mark was placed on the ballots.

Mr. WILLIAMS, of Pennsylvania. Then the evidence is not official.

Mr. FARNSWORTH. It is official so far as this fact affirmatively appears. Now, it appears that seven thousand of the ballots were thus marked as having been given by white men. How many were given by white men that were not marked at those polling places where they did not take this precaution does not appear.

Mr. KERR. I desire to inquire of the gentleman whether the fact he has just stated has been returned according to any law, either of Congress or of the State of Alabama.

Mr. FARNSWORTH. That fact is not returned by General Meade, and I am not aware that any law requires it.

Mr. KERR. Then how is it that this information comes into the possession of the committee?

Mr. FARNSWORTH. I have received this information by telegrams and letters from Alabama.

Mr. KERR. Oh, telegrams and letters!

Mr. FARNSWORTH. From gentlemen of

unquestionable character; from intelligent and trustworthy sources.

Mr. BECK. I desire to ask a question. Has the Committee on Reconstruction received any information that seven thousand white men voted for the constitution?

Mr. FARNSWORTH. I have received it. Whether the Government has or not I do not know.

Mr. BECK. What I ask is, has the Committee on Reconstruction received it in any form?

Mr. FARNSWORTH. I am not aware that it has; but I say I have received it from the most trustworthy sources, and I think some other members of the committee and of the House have received it.

Mr. ELDRIDGE. Will the gentleman yield?

Mr. FARNSWORTH. I will not yield. I do not propose to occupy much time myself. I do not think this kind of discussion is very profitable.

Mr. BECK. The gentleman made a remark about three counties being disfranchised. I will state why they did it.

Mr. FARNSWORTH. The gentleman will have an opportunity to make the statement hereafter.

Mr. BECK. I think not. I can state it in one minute. The three counties disfranchised are Baine, Colbert, and Jones. There were ten new counties formed by the convention in 1866, namely: Clay, Cleburn, Crenshaw, Elmore, Hale, Lee, Bullock, Baine, Colbert, and Jones. The last three were thrown out and not allowed to cast their votes for the ratification of the constitution. There were not over three hundred colored men in these counties. There was hardly a colored man in Jones county, and very few in Baine county, and twice as many white as black in Colbert county. Those counties were rejected. The rest of the ten, in a majority of which there were three colored men to one white, were recognized as counties and permitted to vote.

Mr. FARNSWORTH. I do not understand the gentleman as referring to the same three counties that I referred to.

Mr. BECK. Yes, sir; I refer to Baine, Colbert, and Jones, the only three that were rejected.

Mr. FARNSWORTH. If those are the three counties the facts are these: when they voted for the convention they gave fourteen hundred more than half the votes registered in those counties, and they were all thrown out in this election by reason of some illegality. What is the presumption? If fourteen hundred more than half the registered voters in those counties were in favor of the convention when the question was fairly put to the people of Alabama whether they were in favor of or against the reconstruction acts or this method of reconstruction, how many are we to presume would have voted for this constitution? It is just such things as these, just such tricks as these—the destruction of ballot-boxes, the forcible prevention of men from attending the polls, all sorts of frauds, menaces, corruption, bribes, deprivations of employment, threats against lives—it is this kind of things which prevented a majority, and an overwhelming majority, of the registered votes of Alabama being given in favor of this constitution. Why, Mr. Speaker, no man can examine the affidavits which this committee has—and we have eighty of them and upward—no man can examine those affidavits without coming to the conclusion that a very large majority of the voters of Alabama are in favor of this constitution and would have voted for it, and would vote for it to-day if they could.

Mr. KERR. Will the gentleman allow me to ask him a question?

Mr. FARNSWORTH. No; I decline to be interrupted.

Mr. KERR. I only wanted to know if these affidavits have been printed.

Mr. FARNSWORTH. Now, sir, with what kind of grace can we be asked to refer this

constitution back to the people of Alabama when we have declared by law that, as to all the rest of these States, the majority of those voting shall govern on the question of the adoption or rejection of the constitution? Why should we say to Alabama, after she has gone through this struggle, after she has voted and voted so largely as she has done under all the adverse and disadvantageous circumstances which surrounded her, that she shall again go through the expense and labor and struggle of voting on this constitution? Why should we say to the rebels, and thus flush them still more with their supposed victory, "You have beaten our friends in Alabama; go and beat them again?" Why should we encourage this system of fraud and violence which was practiced by these men? Why, sir, I hold here in my hand evidence—evidence of men who voted and whose votes were not counted, and those who tried to vote and were prevented by violence from voting—which, if it was before the Committee of Elections in a contested-election case, would be deemed sufficient to unseat any member of this House and give the seat to the man for whom these men tried to vote and did vote. We have such evidence here of men enough to make up a majority of all the registered voters in the State.

I will refer to some of the evidence where the numbers are given of those who were prevented from voting in different counties:

J. E. Summerfield proves a diminution of seven hundred votes, or from seven hundred to twelve hundred votes—I take the minimum—in his district through misconduct of judges and rebel sympathizers.

A. J. Applegate testifies to the loss of one hundred votes at Huntsville. There is abundance of evidence of violence and intimidation, but I only give the cases where they prove an actual number of votes lost.

A. Wood and Thomas D. Fister and others prove the loss of four hundred and seventy votes in Calhoun county.

J. H. Bone proves the loss of five hundred votes in Madison county.

Jacob Black proves the loss of one thousand votes in Barbour county.

Lewis M. Douglas corroborates the evidence of Applegate as to Huntsville, and proves the loss of eight hundred and thirty-four votes in Madison county.

L. D. Lusk proves the loss of two hundred votes in Marshall county.

Moses Boisseau and others prove threats, &c., in Elmore county.

About three hundred votes are proved to have been lost in Wetumpka county. Those three hundred votes were lost by being stolen out of the ballot-box after they were voted and destroyed.

J. A. Zordy testifies to the tearing from the votes of the part ratifying the constitution, thus losing about fifty votes. That was one of the dodges resorted to. The tickets had the names of the persons for whom the people were voting for State officers upon them and also "for the constitution." They would get hold of tickets that were in the hands of colored men and clandestinely tear off that portion for the ratification of the constitution.

Now, everybody knows that it is not at all probable that a man would go to the polls and vote for officers under a constitution without voting for the constitution itself. That was one of the tricks the rebels resorted to; to tear off the words "For the constitution."

Tobias Lane, of Marengo county, proves that four hundred tickets were stolen from the ballot-box, and that large numbers of voters were prevented by threats, &c., from voting.

W. H. Pruitt, assistant registrar at Wetumpka, proves that nine hundred men were unable to vote on account of the insufficiency of ballot-boxes, and because of threats; and also that votes were taken from the boxes. At one precinct in Dale county the election was suspended for one day, all the registrar's books were destroyed, and voters were deterred from voting

by threats. The witnesses testify that the number of votes lost, to which they approximate as nearly as they can, was probably five hundred.

Besides this, we have the affidavits of some seventy-nine or eighty men who were turned out of their employment, and expelled from their houses, because they went to the polls and voted.

Now, here is proof of a sufficient number of votes to constitute a majority of the registered votes of the State of Alabama, to say nothing of the men who stayed away from the polls, fearing for their lives if they went, to say nothing of the thousands and tens of thousands of men in that State who would have gone to the polls and voted for this constitution if they had dared to do so.

Now, while the offices in Alabama—I do not allude to the military offices, but to the civil offices—are chiefly in the hands of rebels and rebel sympathizers, while the sheriffs and constables and magistrates and other officers in that State are rebels, how can you expect that under such circumstances, and in such a storm as they had there during the election, the loyal people of Alabama could do better than they did do?

Gentlemen ask me how they can do better hereafter. I will tell them. Put the offices in the hands of loyal men; let the Governor, Lieutenant Governor, members of the Legislature, magistrates, sheriffs, constables, &c., be loyal men; clothe the loyal men of that State with the entire power of the State, so far as the civil power is concerned, and then we will show you a different result at the elections.

Now, sir, taking into consideration the vote which was given under the circumstances, then place the State in the hands of loyal men, with the offices controlled by loyal men, I ask what would be the result at the next election? Why, sir, we would carry the State by more than a two-thirds majority of all the registered voters there. I have no doubt of it.

I would not ask for the admission of Alabama if I thought it was to go into the hands of rebels. The committee of which I am a member do not desire the admission of a rebel State. But we do desire that the agony of the loyal men of that State shall not be prolonged. And if we do not admit them under the circumstances I have narrated, then we can be justly charged with holding the promise to the ear and breaking it to the hope. They have done precisely what every other revolted State is required to do under the act which we passed at this session; they have adopted their constitution by a majority of the voters voting at that election.

I now yield the remainder of my hour to the gentleman from Pennsylvania, [Mr. KELLEY.] The SPEAKER. The gentleman has occupied twenty-eight minutes of his hour.

Mr. KELLEY. Mr. Speaker, justice to the good citizens of Alabama and to the union men of every other unreconstructed State demands the passage of this bill. And I believe that the law of March 23, 1867, not only justifies but demands the admission of Alabama under the constitution framed by the recent convention. Sometimes the letter killeth when the spirit giveth life, but in this case we have both the letter and the spirit to justify the action proposed by this bill. The law provides some regulations of the details of the elections and requires that a majority of the registered voters should vote at the election. But it does more. When Congress was adopting it it did not forget the spirit of the democracy of the South and the possibility that it might resort to force or fraud to prevent a fair election, and it reserved to itself the right to make the broadest and most searching examination of the conduct of the election. It did not agree to bind itself to accept formal returns as conclusive and binding on its judgment, but reserved to itself the right to inquire whether voting had been free, and without restraint, fear, or the influence of fraud. It made this reservation in express

terms. The act of March 23, 1867, provided that—

"If it shall moreover appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as herein provided."

Now, sir, I am abundantly satisfied that a majority of the qualified electors of Alabama desire the adoption of that constitution. I believe, sir, that the typographical and clerical errors in making the registration alone deprived thousands of such electors of their votes. The votes thus excluded would have swollen the seventy-one thousand actually accounted for to the required majority. Wherever a register made an error of a letter in a name, wherever a mistake was made in copying the lists of voters, and wherever, in the imperfect printing, establishments throughout the State, an error was made in printing the registers' lists, the Union was deprived of the services of a man and reconstruction of the vote of a qualified elector. I have no doubt that by this means alone enough votes were rejected to have changed the reported result. Again, sir, the vote for the constitution was the last on a long printed ticket. Every one who voted for officers under that constitution voted or believed he was voting for its adoption. Yet, it being well known that the loss of a few votes at each poll would tell largely in the aggregate result, there was organized throughout the State a system by which the privilege of looking at the tickets of voters should be sought by apparent friends, and that while the voter's attention was engaged in conversation by a third person the vote for the constitution should be torn from the ticket, the mutilated ticket be refolded and handed back to the voter. This system was found to have been practiced all over the State. By counting as votes for the constitution all those cast for candidates for the offices it ordains, and which were intended to support it, you supply nearly, if not quite, the number of votes required by the provision on which the Democracy rest their opposition to the admission of the State.

But, sir, I refer to other illegal means by which the result was affected, and for the purpose let me say that I do not go back to letters brought me so long ago as yesterday; but from those which I have opened since I came to my seat. I will read one or two extracts. A cotton planter, one who served as a surgeon in our Army, rising, I believe, to the position of the surgeon of a corps, who I have known from boyhood, and for whose endurance, courage, and veracity I can vouch, writes thus:

"The courts of this county are being held, presided over by rebel judges, with packed juries, in violation of military orders and law, so that there is not the shadow of chance for a northern man nor freedman to receive justice. If Congress will admit us we can correct many of these evils through the Legislature and Governor, and take care that the like shall not be repeated. We can then also protect ourselves in every particular without assistance from any other source, as we have nearly one hundred thousand true, loyal freedmen, who would rally to a man in support of law and order and maintain them. Such is the business and social ostracism that now exists here that unless Congress does admit us many will be compelled to leave, and we have none to spare. I trust Congress will not abandon the loyal men of Alabama in this crisis and turn us over to the cruelties of these unprincipled rebels, but will speedily relieve us from our present sufferings and oppressions, and give us the opportunity, so that we can easily take care of ourselves."

Mr. Speaker, the paragraph just read may not seem to be pertinent to the line of suggestion I was presenting; but in the letter I find the following, clipped from one of the papers of that section:

"We had overlooked the following resolution unanimously adopted at its last meeting by the Democratic club of Marion:

"Resolved, That the members of this club, in their

social intercourse, will not recognize any man as a gentleman or a friend to his country who may accept any appointment to office under the reconstruction acts of the Congress of the United States."

In another letter received to day, dated so late as the 20th, the writer incloses a pleasant little clip from the Tuscaloosa Monitor. I beg gentlemen to listen to it, that they may know how voters had reason to believe they would be treated by their "Democratic" brethren if they courageously expressed their opinions at the polls under the law of Congress. It is not copied from a Republican paper. It is no misrepresentation, but is here in the type of that model Democratic organ the Tuscaloosa Monitor:

"We reiterate the advice hitherto offered to those of our southern people who are not ashamed to honor the service of the 'lost cause' and the memory of their kith and kin whose lives were nobly laid down to save the survivors from a subjection incomparably more tolerable in contemplation than in realization. That advice is to touch not a loyal-leaguer's hand; taste not of a loyal-leaguer's hospitality; handle not a loyal-leaguer's goods. Oust him socially; break him pecuniarily; ignore him politically; kick him contemptuously; hang him legally; or lynch him clandestinely—provided he becomes such a nuisance as Claus or Wilson."

Claus and Wilson were well-known white Union men.

Gentlemen of the Republican party, are you willing to declare to the Union men of Alabama that you will not interpose the power reserved to you as I have shown by the express terms of the law for their protection when the Democratic press of that State openly advises clandestine assassination; and the representatives of the Democratic party of the North stand here pleading the cause of that party and practically approving the course of that press? No; let it go forth to-day, if it may be, to the Democratic citizens of the other unreconstructed States, that Congress takes cognizance, not only of the votes registered on the poll-list, but of the manner in which the election is conducted; that it will guaranty to every Union man the right to vote, and if his vote shall be withheld by fraud or violence it will count it as having been given, and given for the reconstruction of the country. If you do not do this you give the violent and lawless the advantage of their own wrong and invite the Democracy of the South to persecute our friends in the other nine unreconstructed States.

For nearly three hundred miles Alabama is coterminous with Mississippi, where the election is still to come off. On the North she bounds Florida, where the election is still pending. On her long eastern line, for more than two hundred and fifty miles, she bounds Georgia, where the election is still pending. Our action on this question is eagerly watched in those States, and can it be that Congress will indorse the doctrines of the Tuscaloosa Monitor, that the Union men of those States should only vote at the risk of being "clandestinely assassinated." Sir, if, with the information before us, we refuse to admit Alabama, may God have pity upon the Union men of Florida, Mississippi, and Georgia! In their name I appeal to the Representatives of the Republican party to enforce the reconstruction law in its own humane spirit. In their name I ask you to proclaim to the country that you find vital power in that clause of this law which says if the election be without restraint, fear, or the influence of fraud, you will then look at its results as officially reported, but if it be tainted with these influences and you still find evidence that the constitution meets with the approval of a majority of the qualified electors in the State, you will treat it as though fraud and violence had not prevented the free and fair expression of opinion on the subject at the polls.

Sir, the interests of the country, too long distracted by the rebellious spirit of the Democracy of the South, demand the immediate settlement of this question. In 1860 there were nine hundred and sixty-three thousand two hundred and one inhabitants of Alabama, nearly one million, and notwithstanding the desolation of the war her population has largely

increased. More than a million people are without organic government. There is no court within the limits to which a man who honors the country's flag can appeal with certainty of having the law honestly administered or justice done him under the civil or criminal law. No officer in the State government—whether of the State, county, or township—is in sympathy with the Union men. All the machinery of the law, all the patronage, all the influence of official station and power is cast against the friends of the country, and so as election day approached every effort was made to inspire Union men with fear and to keep them from giving free expression to their opinion. It is wonderful that more than seventy thousand of them, under these circumstances, should have made their way through floods and over almost trackless fields to distant polling places and incurred such imminent risks as they did to cast their votes. Contemplate the fact, sir. A million people, occupying very nearly fifty-one thousand square miles of American territory, are without government, and subject to a despotism set up over them during the time of the rebellion and organized in the interest of the confederacy. No officer of the pretended government is in sympathy with the Government of the United States, nor do they generally recognize Union men, whether white or black, as having any rights which law protects or which they are bound to respect. To relieve them from this terrible condition a majority of the qualified electors appeal to us to admit them as a State under a constitution the provisions of which will compare favorably with the constitutions of the northern States; containing one provision, wisely inserted, which appears in none of ours, by which through no judicial trick, through no political machinery, can any part of the citizens ever be disfranchised by reason of race, color, or previous condition, as was done in Pennsylvania by a conspiracy between an expiring bench of judges looking for reappointment, a corrupt State administration, and a State convention from which the people expected no action on the subject of suffrage. In that respect the constitution of Alabama is superior to our own.

Mr. WOODWARD. I wish to inquire of the gentleman what bench of judges in Pennsylvania he alludes to when he makes the remark he has?

Mr. KELLEY. I speak of that bench of judges whose terms were cut short or would be by the adoption of the constitution.

Mr. WOODWARD. What constitution?

Mr. KELLEY. The constitution which was then being framed, or which had just been framed, and was in a few days to be submitted for adoption—the constitution of 1838.

Mr. WOODWARD. I submit to the gentleman—

Mr. KELLEY. Having but thirty minutes, I yielded for a question but not for one of my friend's judicial dissertations. It seems to me that my colleague is like the Irishman at a fair; whenever he sees a "nigger's" head he is bound to have a clip at it. [Laughter.]

Sir, the constitution framed by the Alabama convention is republican in form. And in order to perpetuate its republican character its framers inserted a provision in the substance of an oath that shocked one of my colleagues who is not now in his seat, [Mr. BOYER.] It is a provision to prevent forever the disfranchisement of any man who has not been convicted of crime. It requires every citizen, before his acceptance as a voter, to swear as follows:

"That I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men."

My colleague, with pious horror, threw up his hands and, as if appealing to God, cried out, "And this in the name of republican government!" Yes, and in the name of the Republican party, in the name of a party charged with the extension and perpetuation of republican



government and inspired by the humanity and the Christian benevolence that have carried the Republican party upward and onward in a few years from a hopeless and almost voiceless minority in this House and Senate to a continuous majority of two thirds in both Houses, sustained by over two thirds of the people of the country, and given it the ability to bind as with chains a would-be usurper and bring him to the bar of justice for trial, and, as I trust, to conviction for his crimes. Yes, sir, in the name of republicanism and republican government, I implore Congress to admit Alabama and to proclaim to every refractory rebel in the South and to every timid Union man there that each State that will bring to us a constitution providing, as that of Alabama does, for the right of every freeman to hold land and enjoy common schools, and securing the right of every freeman, not only for a brief term, but until that constitution shall be altered, to enjoy without the fear of disfranchisement suffrage and all other political rights, shall be admitted; and that the right of admission shall not be withheld, even though terror inspired by Democratic threats of "clandestine assassination" may have kept some of the qualified electors who, if free from restraint, would have voted for it, from the polls, if they can bring that fact as clearly to the mind of the House as it has been brought in the case of Alabama.

Sir, with such continuous lines as I have indicated, southern Alabama is the outlet to the Gulf for a broad stretch of country beyond her limits. She is, in herself, not only in her dominions, but in the diversity of her soil and climate and the wealth and variety of her native resources, a magnificent empire. She embraces four distinct belts of country. Upon the Gulf coast and for some distance above it, you find the towering pine trees of the region known as the piney woods country; and were I familiar with Milton as my friends from Illinois, [Mr. WASHBURN] and Iowa, [PRICE,] this morning proved themselves to be with Shakspeare, I would give you a description of them from that author, for they equal the Norwegian pine with which he compared the masts and spars of his imaginary vessel. North of this is a broad belt producing cotton which is scarcely equalled and not exceeded by that grown slightly inland on the coast. North of that again is the wheat belt, a region in which gold, iron, copper, and various other minerals are found along navigable streams and easily accessible for use. Then among the mountains of the northern counties from which hardy men to the number of fifteen hundred, in defiance of the confederate powers, rallied under Spencer and went to fight the rebels under the flag of the Union, is a rich bucolic region in which cattle may be herded by the thousand, and which might be made to supply our present population with wool. And yet all that wealth is paralyzed, and all that capacity to afford cheerful homes to millions of people is shut against the immigrant from Europe or the over-crowded cities of the East, and Congress is asked upon a technical, dry, dead-letter construction of a particular clause in the law which is qualified and overruled by subsequent provisos of the same section, to keep it thus closed forever if the Democratic party of the State continues as refractory and turbulent as it is and has been.

I do not wish to detain the House, but I felt it proper that, having seen the grandeur of this State, having mingled—not as a soldier, for I have been but a poor civilian—with her soldiers when they wore our blue, guarded our flag, and were ready to meet in deadly conflict the rebels in their own State, and having been in large intercourse with Union men who have lived on the soil from their birth, who plead to me and through me to Congress for protection, I felt it but proper that I should at least make my voice heard and say what I have done. And, sir, in closing, I again implore the Republican party of the House to take the responsibility, and come promptly to the performance of their

high duty, and announce to the still contumacious rebels from Texas to the northern line of the unreconstructed territory, that if they do not leave voting free as the air, and make it safe to the Union man as he would be in a northern State, we will, despite their violence, accept the constitutions proposed and admit the States, let the election returns foot up as they may. The reconstruction acts were not meant to authorize a lawless minority to overawe and govern their peaceable neighbors by violence, and it would be treason to so construe them.

**Mr. PLANTS.** Mr. Speaker, for seven years certain vacant seats here have silently witnessed that Alabama has been out of her proper relations to her sister States in the Union. Her voice has not been heard in these Halls. For good or for evil she has had no share in the counsels of the nation. During all these years this member of the Union has been paralyzed. Like the stricken soldier the great Republic has thus been marred in its fair proportions. But I have ever believed that the vitality of the general system, aided by careful nursing, would restore the disabled member to its proper functions, when the living forces of the sound body would again circulate through it, giving to it not only its former strength, but a vigor and beauty never before enjoyed.

That Alabama has been for years, and still is, unrepresented on this floor is a fact disputed by none. But whether she has in the mean time been in the Union or out of it has been the subject of a controversy as interminable as it has ever seemed to me to be inconsequential.

The boundaries of the United States are clearly defined in the Constitution and the treaties and laws made in pursuance thereof. The territory of which Alabama consists is and ever has been within the limits of the United States as thus defined. In this respect she certainly has not been out of the Union; but in our peculiar form of government something more than a definite and inhabited district of country within the boundaries of the United States is necessary to constitute it a State in the Union. Utah and Dakota have clearly-defined boundaries; they are inhabited by citizens of the United States, and are as perfectly in the Union as New York and Ohio; but they are not States. To constitute a State in the Union requires not only the Territory and inhabitants, but also a political organization, a corporate body, a government republican in form, and sustaining certain relations to the Government of the United States under the Constitution thereof. The form of a proposed State government is to be found in its constitution; but a constitution may be complete in all its parts and republican in form without the existence of a government in fact.

By the common law of this country the government of a State is vested in certain departments—legislative, judicial, and executive. But to put these departments into operation there must be officers duly elected and qualified to perform their various functions. The form of the government is expressed in the constitution, but the government itself consists of these officers. There must be legislators elected and qualified to enact the laws; judges must be elected and qualified and courts organized to adjudicate upon these laws; and executive officers likewise duly qualified to carry into effect the laws and judgments of the courts. It is these officers, for the time being executing these functions, who constitute the government. And while such an organization may have all the elements of a State in the general meaning of that term, it is not yet entitled to representation in Congress and is not a State in the Union, although within its geographical limits. There remains yet that every legislative, judicial, and executive officer of such State shall take a solemn oath to support the Constitution of the United States, and that duly elected and qualified Senators and Representatives be elected to Congress. When all this has been done, and

Congress has approved it, then, and not until then, is it a State in the Union.

Alabama was once, by all these tests, a State in the Union. Has she by all or any of them been out of it? I maintain that, as to her territory and people, she never was, but that as a political corporation—a government—she did in fact cease to exist, at least in such connection with the Union as alone constitutes a State thereof. The nerves, so to speak, through which alone the vital forces of the national system flowed to her were severed, and she became to the Union what the palsied arm is to a healthy body, and as unable to restore herself as is a nerveless limb. Her restoration can only come by reestablishing through her the circulation of the national life. The constitution of Alabama was but the expression of the form of her government. The government itself consisted of the several officers for the time being in whom were vested the several powers defined in the constitution. The nerves which gave these officers—the government—connection with and life from the Union were their solemn oaths to support the Constitution of the United States and the presence of her Senators and Representatives in Congress, bound by the same solemn obligations. These were the conditions which gave to Alabama her proper relations to, and the rights of a State in, the Union. So long as she continued to fulfill these conditions so long her relations to the Union and her rights therein remained. These conditions broken, her proper relations to the Union and her rights as a State therein ceased, while her territory and her people remained amenable to the Constitution and the treaties and laws made in pursuance thereof. But did she continue to fulfill these conditions and thus remain in the Union as a State? Or did she violate these conditions and thus sever her connection with and lose her character as a State government therein?

I know, Mr. Speaker, that gentlemen who have a purpose to accomplish argue that her State government remained intact through all the war; that she never lost any of her rights as a State in the Union; that at any moment through all the bloody years of her rebellion she had a perfect right to be represented here and in the Senate, and that she now has that right, under her old constitution, in absolute defiance of any law or condition that Congress may prescribe. If the wish is always father to the thought, it is possible that gentlemen have brought themselves into the actual belief of this monstrous position, for it is difficult to determine how far partisan feeling may pervert the judgment.

It is not my purpose, Mr. Speaker, to recite the history of the rebellion. Its scenes of horror and madness are but too sadly familiar to us and to the country. Nor is it my purpose to recount the part taken therein by Alabama. That, too, has passed into history. It is sufficient for me to say that her Representatives in this Hall and her Senators in the other end of the Capitol left their seats cursing the Union and trampling the sacred obligations of the Constitution beneath their feet. Forswearing their allegiance to the Union and severing the ties that held them to it, they hastened to connect themselves to the southern confederacy, and while it lived gave all their energies to its support and the destruction of the Republic. Yet gentlemen tell us that she had, nevertheless, during all this time, a perfect State government; that that State government was all the time in the Union; that she had continuously an indisputable right to send Representatives and Senators to Congress, and that a refusal to admit them was then, and is now, unconstitutional and revolutionary!

Let us examine this proposition a moment. Had Alabama a State government, in the constitutional meaning of that term, after every officer composing it had renounced his allegiance to the United States and had sworn to support the confederation? I most distinctly

assert that she had not. There can be no State government, in the American sense of that term, without legislative, judicial, and executive departments, filled with legislative, judicial, and executive officers duly elected and qualified to exercise these several functions. And, sir, one of the absolutely essential qualifications is the being "bound" by oath or affirmation to support the Constitution. It is not enough that he simply take the oath. He must be bound by voluntary assent. In article six of the Constitution will be found these emphatic words:

"The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound, by oath or affirmation, to support this Constitution."

This is the supreme law of every State. Without this "binding" there can be no such thing as a Legislature. Whatever a body of men may style themselves or be styled by others, without this binding oath they cannot be a Legislature. But during all the years of the rebellion those who constituted the so-called Legislature of Alabama refused to be so bound, but swore to support the confederacy instead. Alabama, therefore, had no Legislature. So, too, every judicial officer, every judge of a State court, before he can be a judge must be bound by the same oath. Without it there can be no judiciary. But the so-called judges of Alabama refused to be so bound, but did bind themselves to the confederacy; Alabama, therefore, had no judiciary.

Again, sir, by the same supreme law every executive officer of a State must be bound to the Union by the same oath. There can be no Governor or other executive officer of a State until this essential condition has been complied with. But the so-called Governor and executive officers of Alabama refused to be so bound—to take this oath—but did bind themselves to the confederacy. Alabama, therefore, had no judiciary. But without legislative, judicial, and executive officers duly elected and qualified, and bound to the Union by the obligation to support its Constitution, there could be no State government; and without a State government there could be no representation in Congress according to the Constitution. It is true we admit to this Hall, but not to vote, delegates from the Territories; but they are not in any sense members of Congress, nor can a Territory be represented at all in the Senate. By the terms of the Constitution nothing but a State Legislature can elect a Senator. But Alabama, as I have shown, had no Legislature, and could not therefore elect Senators.

The people of Alabama and the land they occupied remained in the Union. But the State government, as a political corporation in the Union, ceased to exist, and having so ceased it could not restore itself. In the very nature of things, as well as by the terms of the Constitution, it could only be restored to its proper relations to the Union by the sanction and under the authority of the United States.

I need not stop, Mr. Speaker, to discuss this last proposition, for it is admitted by all parties except the open and very poorly disguised rebels. The only controversy is as to who shall prescribe the terms and authorize such restoration. The President, by his solemn proclamation, declared that "the rebellion destroyed all civil government in Alabama." To this most solemn and public declaration I give my full assent. Congress, too, agreed with the President that "the rebellion had deprived her of all civil government, and that no authority but that of the United States could restore her." But Congress did not understand that the President was the United States in the meaning of the Constitution.

All parties, therefore, assent to the proposition that the State government of Alabama was absolutely destroyed, and could only be restored by the authority of the United States. And here arose two questions of vital import-

ance, not only affecting the present emergency, but to stand as precedents for all coming time. These were, first, who shall give this authority to restore the State government? And second, who shall authoritatively sanction it as republican in form when presented for that purpose and admit her to all the rights of a State in the Union? On these propositions the President and Congress differed. The President claimed the prerogative without the pretense of lawful authority and in palpable violation, as it seems to me, of the whole theory of our institutions, to grant that authority, to order elections for members of conventions, to prescribe the qualifications of voters, to appoint judges of the elections, to prescribe the forms of the oaths to be taken, to disfranchise the great mass of the loyal inhabitants, amounting to a clear majority in several of the States, to call conventions and appoint the times and places of their meeting, and to determine their qualifications, and even to dictate the provisions to be inserted in the constitutions to be formed. He claimed, further, the absolute authority to approve and confirm the work of his conventions so created by his sole mandate, and to bind the United States for all time by his action.

This was the claim put forth by the President. And in the recess of Congress he proceeded to execute his imperial decree. When Congress met this stupendous scheme was presented to us as the perfected plan of reconstruction and the demand made upon us to register the edict. Senators, fresh from the cabinet of Jeff. Davis and the rebel congress, and representatives of like antecedents, presented credentials from these President-made State governments, and demanded admission to Congress, backed by the insulting declaration of the President that all we had to do was to examine their credentials and see that they were in due form.

At the audacity of this assumption of more than kingly power not only Congress but the country was astounded! We demurred and refused to register the decree, and the President and the whole rebel voice of the country denounced us in terms that I do not care to repeat. An appeal was taken to the people—with what result the Republican majority on this floor is the sufficient answer. The President chose to persist in defiance of the overwhelming popular condemnation, and Congress proceeded calmly, and in the face of difficulties and obstructions thrown in the way by the Executive which the people will never know, to pass the several reconstruction laws. The purpose of these laws being to restore these States and to guaranty to each of them a republican form of government as the Constitution required to be done. By the authority and under the provisions of these laws the people of Alabama have acted, and as the result of their action have presented to us a constitution, and they wait to-day, as the loyal millions of the other unrepresented States are waiting, in anxious suspense for our action thereon. And shall we disappoint their hopes by refusal or unnecessary delay?

I do not propose to consume the time of the House by an examination of the constitution she has presented to us. It has been upon our desks for some weeks, and has, no doubt, been carefully considered by every gentleman present. I will simply say that in my opinion it is not only republican in form, but, in the matter of manhood suffrage, it is eminently so, and might well be taken as a model by other communities. For myself, I think it should not have stopped at manhood suffrage. I would be glad to see in all our constitutions all disabilities arising from sex as well as race and religion removed; but I know the time for this has not yet come, and I will not reject the attainable good because I cannot secure the unattainable better. Impartial manhood suffrage is a long step in advance, and the rest will come as true civilization advances. It is but a question of time and the refining influences of education and social progress. Why,

then, should we not accept this constitution, restore the State to her proper relations to the Union, and admit her Senators and Representatives to Congress? It would be useless to argue with those who are in sympathy with rebels or who have predetermined to place the government and loyal people of the State in rebel hands. The leaders of the Democratic party in the North know full well that the only hope they have of ever obtaining control of this House depends upon the success of the effort to disfranchise the Union black men in the South and filling the vacant seats here with rebels. I do not say that the leaders of the Democratic party of the North are rebels; but they know, and the country knows, that every rebel who may find a seat here will be an acquisition to the strength of the Democratic side of this House. Argument, therefore, with a view of securing support to this bill from that side would be in vain; but it may be well, for a moment, to consider an objection urged with a slight show of plausibility, founded upon a supposed failure of the people of Alabama to comply with the terms of the reconstruction laws.

It is asserted not only here, but proclaimed through every rebel and Democratic paper in the land, that the proposed constitution was defeated by an overwhelming majority of the voters of the State. This has been so persistently repeated that many who have no means of correct information no doubt believe the statement. But is the statement true? We have just had the report of General Grant, announcing the vote so far as received, a few districts not yet returned. And how stands that vote? Can the people, who have been told that the constitution was voted down, believe that the vote in fact stands 70,812 for the constitution and only 1,005 against it? Yet such is the fact. I admit that probably the whole vote will not show a clear majority of all the men in the State qualified by registration as voters. By a strange and inexplicable provision of the reconstruction law it was required that the vote on the constitution should show a clear majority of all the qualified voters in the State. Not that a majority should vote for the constitution, but that a majority should vote; and then if a simple majority of those voting were found in its favor it should be held as adopted. I do not question the motives of those who persisted in forcing this provision into the law, because I do not and never did comprehend their purpose. It seemed to me then, and does still, that if the President and Jeff. Davis, with Jerry Black to aid them, had framed this provision, it could not have been more ingeniously devised to aid the rebels, discourage and oppress the loyal people of the State, and secure the defeat of the constitution! It will be seen by this strange provision that every opponent of the constitution was relieved from the trouble of going to the election, as he would be counted against it whether he voted or not. By the same provision all of both parties who might die between the date of registering and voting were to be counted as having voted against it! So, too, all who were sick or had removed from the district or from any other accident or unavoidable cause were detained from the polls were counted in opposition.

And, as if this was not sufficient, its very terms called into play all the malignant hate of the rebels, and virtually invited them to exercise all their resources of deception, fraud, intimidation, and open violence to keep voters from the polls, for every one so prevented from voting was counted as having voted with the opposition!

Sir, in view of this provision there need be no surprise at the evidence of fraud, threats, and violence presented by the committee as having been used to keep men from voting. This evidence is sufficient to startle the country. But I shall not detain the House by repeating it, and especially as we virtually invited it. The only wonder is that in the face of these

obstacles and dangers so very large a vote was cast. Nothing less than the conviction of the people that their freedom or slavery depended upon the ballot could have induced so many to risk all present dangers and to overcome all surmountable obstacles in order to vote. In spite of every difficulty the vote, as just announced by General Grant, stands, as I said, more than seventy thousand for the constitution and less than two thousand against it! Yet gentleman say it is defeated; not, be it remembered, because there are not votes enough in its favor to carry it, but because there are not enough against it! For all admit that if there had been ten or twenty or forty or even sixty thousand more votes cast against it than there were, and not another in its favor, it would have been carried triumphantly!

Sir, this most astonishing effect of the vote results from our blunder and not from the fault of the loyal people of Alabama. And shall they be made to suffer from our mistake? How can we, how dare we, refuse our assent to the petition of these people, and in consequence of a technical failure, if even such there be, to comply with this absurd provision of our own act, turn them over to the tender mercies of their rebel enemies?

Mr. Speaker, the evidence before us shows conclusively to my mind, and I am sure to every unprejudiced mind in this House who will examine it, that a clear majority of the living and resident voters of the State did, in the face of such obstacles and dangers as are inconceivable to those not so circumstanced, vote at that election; and for the constitution. Being satisfied, therefore, beyond a doubt that the spirit of the reconstruction law has been fully complied with, and its letter even substantially so, I shall vote for the bill.

Mr. KERR obtained the floor.

Mr. STEVENS, of Pennsylvania. I desire that an order shall be made to print what I shall offer to-morrow as an amendment to the bill.

Mr. KERR. I yield for that purpose.

Mr. FARNSWORTH. I have no objection to its being printed, but there are two amendments now pending.

The SPEAKER. One is in the nature of a substitute, and the other is an amendment to the original bill.

Mr. STEVENS, of Pennsylvania. Mine is an amendment to one section of the bill.

The SPEAKER. It is an amendment to strike out all after a part of the second section and insert, which is in order. In the absence of the gentleman from New York [Mr. Brooks] the Chair has assigned the floor to the gentleman from Indiana, [Mr. KERR.]

Mr. KERR. Mr. Speaker—

Mr. PAINE. I ask the gentleman from Indiana to allow me to present a memorial.

Mr. KERR. I yield for that purpose.

#### HARBOR OF MILWAUKEE.

Mr. PAINE, by unanimous consent, presented the memorial of the Chamber of Commerce of Milwaukee, for reimbursement for certain expenditures in the harbor of that city; which was referred to the Committee on Commerce.

#### ADMISSION OF ALABAMA.

Mr. PAINE. If agreeable to the gentleman from Indiana, I will move that the House adjourn.

Mr. KERR. In one moment I will yield for that motion. I desire to suggest that the numerous affidavits that have been referred to by the gentleman from Illinois [Mr. FARNSWORTH] be printed for the information of the House and laid upon our desks before this matter is disposed of. I hope the gentleman will consent that an order shall be made for the printing of those affidavits.

Mr. FARNSWORTH. I have no objection, but I doubt if they can be printed by to-morrow.

The SPEAKER. The Chair would suggest that the bill and amendments will first be printed. That is the rule at the Government

Printing Office; and then the affidavits will be printed if there is time.

Mr. KERR. I think they can be printed.

The SPEAKER. The order to print will be made if there be no objection. The Chair hears none, and the Clerk will send an order to the Printing Office to have them printed by to-morrow.

Mr. FARNSWORTH. I wish to state that I desire to call for a vote on this bill to-morrow.

The SPEAKER. At what time?

Mr. FARNSWORTH. Can it be discussed during the morning hour?

The SPEAKER. To-morrow is private bill day, and unless the House by a majority vote should set aside private business this bill will not come up until after the morning hour.

Mr. FARNSWORTH. Then I will ask the previous question at half past three o'clock to-morrow, so that we can get the vote by half past four.

Mr. ELDRIDGE. I move that the morning hour be dispensed with to-morrow.

The SPEAKER. That cannot be done until the day arrives.

Mr. KERR. I now yield to gentlemen who desire to introduce some bills, and then for a motion to adjourn.

#### ROBERT C. HORN.

Mr. COBURN, by unanimous consent, introduced a bill (H. R. No. 971) for the relief of Robert C. Horn; which was read a first and second time, and referred to the Committee of Claims.

#### TAX ON MANUFACTURES.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had insisted on its second amendment, disagreed to by the House, to the bill (H. R. No. 900) to exempt certain manufactures from internal tax; disagreed to the amendments of the House to the third and fourth amendments of the Senate to said bill; asked a conference on the disagreeing votes of the two Houses; and had appointed Messrs. SHERMAN, WILLIAMS, and MORGAN as conferees on the part of the Senate.

Mr. HOOPER, of Massachusetts. I move that the House accede to the request of the Senate and appoint a committee of conference. The motion was agreed to.

#### IOWA AND MISSISSIPPI LAND GRANT.

Mr. ANDERSON. The gentleman from Indiana [Mr. HOLMAN] having withdrawn his objection, I ask unanimous consent that the bill now pending in the Committee on Public Lands, granting lands to the Iowa and Missouri State Line Railroad Company, and for other purposes, be ordered to be printed.

There was no objection, and it was so ordered.

#### ENROLLED BILL SIGNED.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (S. No. 108) for the relief of Henry Greathouse and Samuel Kelly; when the Speaker signed the same.

#### ISAAC WATTS.

Mr. WILSON, of Ohio, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be, and they are hereby, directed to inquire into the expediency of authorizing the payment to Isaac Watts of the back pay and allowances due his adopted son, Samuel Watts, who died in the service of the United States, and report by bill or otherwise.

#### HELEN L. WOLF.

Mr. POMEROY, by unanimous consent, introduced a bill (H. R. No. 972) for the relief of Helen L. Wolf; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### SAMUEL FARNSWORTH.

Mr. POMEROY also, by unanimous consent, introduced a bill (H. R. No. 973) for the

relief of Samuel Farnsworth; which was read a first and second time, and referred to the Committee on Invalid Pensions.

Mr. HOLMAN moved to reconsider the votes by which the bills were severally referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JAMES L. RIDGLEY.

Mr. ARCHER, by unanimous consent, presented the memorial of James L. Ridgley, of Baltimore, Maryland, in relation to the theft of a quantity of beer revenue-stamps from his office; which was referred to the Committee of Claims.

And then, on motion of Mr. PAINE, (at four o'clock and twenty minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ADAMS: The petition of divers citizens of Whitley county, Kentucky, praying that the name of Samuel Freeman be placed on the pension-roll of the United States, in consequence of wounds received while engaged as a Union soldier in fighting guerrillas.

By Mr. CHURCHILL: Resolution and proceedings of the common council of the city of Oswego, New York, asking favorable consideration of the plan recommended by the engineer department for the preservation of the harbor and public works at the mouth of the Oswego river, on Lake Ontario.

By Mr. CLARKE, of Ohio: The petition of J. W. Snyder and others, citizens of Fayette and Madison counties, Ohio, praying for the establishment of a mail route from Washington, in Fayette county, via Bloomingburgh, Midway, and Newport, (Walnut Creek,) to London, in Madison county.

By Mr. HALSEY: A memorial of citizens of Newark, New Jersey, regarding the abolition of the Presidency.

By Mr. HUBBARD, of West Virginia: The petition of Cyrus Hall and 90 others, citizens of Wood county, West Virginia, asking that the oppressive special tax of twenty cents per gallon upon refined petroleum be removed, and that the necessary revenue be raised upon articles of luxury.

By Mr. JENCKES: The petition of B. Maillefert, for compensation for blasting rocks in Hell Gate.

By Mr. KITCHEN: The petition of John McIlwee, a soldier in the war of 1812, and 5 others, citizens of Mineral county, West Virginia, asking that his name be placed upon the pension-roll.

By Mr. LINCOLN: A memorial of merchants, bankers, and shippers of New York city, for an American line of steamers between New York and Bremen.

By Mr. MYERS: The memorial of 50 citizens of Philadelphia, members of the Commercial Exchange of Philadelphia, asking remission of duties and taxes on articles entering into the construction of vessels, and a judicious system of subsidies for ocean steamship lines to encourage American commerce.

By Mr. PHELPS: The petition of James Wilson and others, citizens of Baltimore, for such revision of the revenue law as will relieve refined petroleum from special tax.

Also, the petition of E. G. Codd & Co., and others, citizens of Baltimore, to same effect.

Also, the petition of George S. Dickey, of Baltimore, Maryland, for indemnity for damages to property used by the United States Government for military purposes.

Also, the claim of the mayor and city council of Baltimore, Maryland, for appropriation for expenses in erecting fortifications around said city in 1863.

By Mr. TWICHELL: A memorial of Charles F. Davenport and 38 others, of Boston, Massachusetts, for removal of internal revenue tax on refined petroleum.



## IN SENATE.

FRIDAY, March 27, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

## ORDER OF BUSINESS.

Mr. CHANDLER. I move that the Senate proceed to the consideration of Senate bill No. 266.

The PRESIDENT *pro tempore*. The motion can only be entertained by unanimous consent.

Mr. EDMUNDS. I think we had better go through with the morning business. It will take but a moment.

The PRESIDENT *pro tempore*. Under the new rules the motion is out of order if any objection is made.

## PETITION AND MEMORIAL.

Mr. ROSS presented a memorial of honorably discharged officers of the late army to suppress the rebellion, protesting against the passage of the bill prohibiting the payment of the commutation for pay of officers' servants; which was referred to the Committee on Military Affairs and the Militia.

## REPORTS OF COMMITTEES.

Mr. FRELINGHUYSEN, from the Committee on Claims, to whom was referred the bill (S. No. 25) for the relief of John F. Stewart, reported adversely thereon.

Mr. WILLEY, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 218) for the relief of John M. Palmer, reported it with amendments, and submitted a report; which was ordered to be printed.

## BILLS INTRODUCED.

Mr. CONKLING asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 130) for the relief of certain officers, non-commissioned officers, and soldiers of the Army; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 466) fixing the salary of the district attorney of the State of Nevada; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. STEWART. I present certain letters explanatory of the bill just introduced, which I move to refer with the bill to the Committee on the Judiciary.

The motion was agreed to.

## J. ROSS BROWNE'S REPORT.

Mr. ROSS submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That five thousand additional copies of the report of J. Ross Browne on the mineral resources of the Territories be printed for the use of the Senate.

## AMENDMENT TO APPROPRIATION BILL.

Mr. THAYER. I desire to give notice to the Committee on Appropriations that I shall offer at the proper time the amendment which I now send to the Secretary in order that it may be referred to the Committee on Appropriations.

The proposed amendment is to the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes; and it is on page 15, to insert after line three hundred and fifty-three the following paragraph:

For surveying the boundary line between the State of Nebraska and Territory of Colorado, and that portion of the western boundary of the State of Nebraska embraced between the forty-first and forty-third degrees of latitude, estimated three hundred and twenty miles, at not exceeding twenty dollars per mile, \$6,400.

## FOREIGN AND COASTING TRADE.

Mr. CHANDLER. I now move that the Senate proceed to the consideration of Senate bill No. 266.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 266) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes.

Mr. CHANDLER. As the Committee on Commerce have reported an amendment to the bill in the nature of a substitute, I ask that the substitute only be read.

The PRESIDENT *pro tempore*. The substitute only will be read unless the reading of the original bill is called for by some Senator.

The Secretary read the amendment of the Committee on Commerce, which was to strike out all of the original bill after the enacting clause and to insert the following in lieu thereof:

That the master of every vessel enrolled or licensed to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States shall, before the departure of his vessel from a port in one collection district to a port in another collection district, present to the collector at the port of departure duplicate manifests of his cargo, or, if he have no cargo, duplicate manifests setting forth that fact, which manifests shall be subscribed and sworn or affirmed to by the master before the collector, who shall indorse thereon his certificate of clearance, retaining one for the files of his office, the other he shall deliver for the use of the master. And in case such vessel shall touch at any intermediate port in the United States, and there discharge cargo taken on board at an American port, or at such intermediate ports shall take on board cargo destined for an American port, the master of such vessel shall not be required to report such lading or unlading at such intermediate ports, but shall enter the same on his manifest obtained at the original port of departure, which he shall deliver to the collector of the port at which the unlading of the cargo is completed within twenty-four hours after arrival, and shall subscribe and make oath (or affirm) as to the truth and correctness of the same. And the master of such vessel shall, before departing from a port in one collection district to a place in another collection district where there is no custom-house, file his manifest and obtain a clearance in manner aforesaid, and make oath or affirmation to the manifest aforesaid, which manifest and clearance shall be delivered to the proper officer of customs at the port at which said vessel next arrives after leaving the place of destination specified in said clearance: *Provided*, That the master of any vessel with cargo, passengers, or baggage from any foreign port or place, shall obtain a permit and comply with existing laws before discharging or landing the same: *And provided further*, That nothing in this section contained shall exempt masters of vessels from reporting, as now required by law, any goods, wares, or merchandise destined for any foreign port: *And be it further provided*, That no permit shall be required for the unlading of cargo brought from an American port.

SEC. 2. *And be it further enacted*, That the master of any vessel enrolled or licensed as aforesaid, destined with cargo from a place in the United States at which there may be no custom-house to a port where there may be a custom-house, shall, within twenty-four hours after arrival at the port of destination, deliver to the proper officer of the customs a manifest, subscribed by him, setting forth the cargo laden at the place of departure, or laden or unladed at any intermediate port or place, to the truth of which manifest he shall make oath or affirm before such officer: *Provided*, That if said vessel have no cargo the master shall not be required to deliver such manifest.

SEC. 3. *And be it further enacted*, That steam-tugs duly enrolled and licensed to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, when exclusively employed in towing vessels, shall not be required to report and clear at the custom-house: *Provided*, That when said steam-tugs shall be employed in towing rafts or other vessels without sail or steam motive-power, not required to be enrolled or licensed under existing laws, they shall be required to report and clear in the same manner as is hereinbefore provided in similar cases for other vessels.

SEC. 4. *And be it further enacted*, That the manifests, certificates of clearance, oaths or affirmations provided for by this act, shall be in such form, and prepared, filled up, and executed in such manner, as the Secretary of the Treasury may from time to time prescribe.

SEC. 5. *And be it further enacted*, That if the master of any enrolled or licensed vessel, as aforesaid, shall neglect or fail to comply with any of the provisions or requirements of the foregoing sections of this act, such master shall forfeit and pay to the United States the sum of twenty dollars for each and every failure or neglect, and for which sum the vessel shall be liable and may be summarily proceeded against by way of libel in any district court of the United States.

SEC. 6. *And be it further enacted*, That in case the master or owner of any vessel shall willfully and falsely swear or affirm to any of the matters or facts herein required to be sworn or affirmed to, said master or owner shall be deemed to be guilty of perjury, and shall be liable to all the fines and penalties imposed by existing laws punishing such offenses.

SEC. 7. *And be it further enacted*, That from and after the passage of this act the following fees shall

be levied and collected from the owners and masters of vessels enrolled or licensed on the northern, northeastern, and northwestern frontiers of the United States, and none other shall be received than those herein specially enumerated: For the admeasurement of any vessel the fees prescribed by section — of an act entitled "An act —," approved May 6, 1864: for certificate of enrollment, including bond and oath, \$1 10; for granting license, including bond and oath, if not over twenty tons, forty-five cents; for granting license, including bond and oath, above twenty and not over one hundred tons, seventy cents; for granting license, including bond and oath, above one hundred tons, \$1 20; for certifying manifest, including master's oath, and granting permit for vessels to go from district to district, under fifty tons, twenty-five cents; for certifying manifest, including master's oath and granting permit for vessels to go from district to district, over fifty tons, fifty cents; for receiving manifest, including master's oath, on arrival of a vessel from one collection district to another, whether touching at foreign intermediate ports or not, under fifty tons, twenty-five cents; for receiving manifest, including master's oath, on arrival of a vessel from one collection district to another, whether touching at foreign intermediate ports or not, over fifty tons, fifty cents; for certifying a manifest, including master's oath, and granting permit to a vessel under fifty tons, laden with a cargo destined for a port or place in another district at which there is no custom-house, twenty-five cents; for certifying a manifest, including master's oath, and granting permit to a vessel above fifty tons, laden with a cargo destined for a port or place in another district at which there is no custom-house, fifty cents; for the entry of a vessel of fifty tons or under direct from a foreign port, \$1 50; for the entry of a vessel above fifty tons direct from a foreign port, \$2 50; for the clearance of a vessel of fifty tons or under direct to a foreign port, \$1 50; for the clearance of a vessel above fifty tons direct to a foreign port, \$2 50: *Provided*, That vessels departing to or arriving from a port in one district to or from a port in an adjoining district, and touching at intermediate foreign ports, are exempted from the payment of the entry fees. For a post entry of such vessel, two dollars; for permit to land or deliver goods, twenty cents; for a bond taken officially, not otherwise provided for, forty cents; for permit to load goods for exportation entitled to drawback, thirty cents; for debenture or other official certificate, not otherwise provided for, twenty cents; for recording all bills of sale, mortgages, hypothecations, or conveyances of vessels, fifty cents; for recording all certificates for discharging and canceling any such conveyances, fifty cents; for furnishing a certificate setting forth the names of the owners of any registered or enrolled vessel, the parts or proportions owned by each, and also the material facts of any existing bill of sale, mortgage, hypothecation, or other incumbrance, the date, amount of such incumbrance, and from and to whom made, one dollar; for furnishing copies of such records for each bill of sale, mortgage, or other conveyance, fifty cents; for receiving manifest of each railroad car or other vehicle laden with goods, wares, or merchandise from a foreign contiguous territory, twenty-five cents; for entry of goods, wares, or merchandise for consumption—warehouse, rewarehouse, transportation, or exportation, including oath and permit to land or deliver, fifty cents; for certificate of registry, including bond and oath, \$2 25; for indorsement of change of masters on registry, one dollar.

SEC. 8. *And be it further enacted*, That section one of an act entitled "An act to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontiers, and for other purposes," approved July 14, 1862; and section six of an act entitled "An act to prevent smuggling, and for other purposes," approved June 27, 1864; and so much of an act entitled "An act to regulate the fees of custom-house officers on the northern, northeastern, and northwestern frontiers of the United States," approved March 3, 1865, and all other acts or parts of acts conflicting with or supplied by this act, be, and the same are hereby, repealed.

SEC. 9. *And be it further enacted*, That the Secretary of the Treasury shall have authority to ascertain the facts upon all applications for remissions of fines or penalties incurred under the provisions of this act, where the amount in question does not exceed \$1,000, in such manner and under such regulations as he may deem proper, and he may thereupon remit or mitigate such fines or penalties, if in his opinion the same shall have been incurred without willful negligence or intention of fraud in the person or persons incurring the same, and all fines and penalties imposed or recovered by this act shall, after deducting proper costs and charges, be disposed of as provided by section ninety-one, act of March 2, 1799.

Mr. FESSENDEN. I should like to hear some explanation of this bill. It is a very long and, it strikes me, a very important bill, and it has been on our tables but a day or two. I have never seen or heard of it before. I should like to have an explanation of where it comes from, what it means, and what the operation is.

Mr. CHANDLER. It is a bill that materially affects the commerce of the northwestern lakes and changes the present rules and regulations to a considerable extent. Under existing laws a vessel taking in a cargo at Buffalo destined for different points between Buffalo and Chicago is obliged to take out a manifest and general papers at every port where she

discharges cargo, paying custom-house fees. This bill changes that. It authorizes the captain of the ship at the point of departure to state upon his manifest what his cargo is and where it is to be delivered, and not compel him to report until he reaches his final port of destination. For instance, a propeller at Buffalo, her final destination being Chicago, will take on cargo for Cleveland, Detroit, Mackinaw, Milwaukee, and other points, and is compelled, if she lands in the night, to await the opening of the custom-house to get out her papers, and is subject to great delay and expense. This does away with that, and authorizes him to state upon his manifest every port at which he proposes to stop until arriving at the end of the voyage and what is to be delivered there. That is the chief end of section one.

Then there is a proviso applying to steamers plying only upon the Niagara, Detroit, and St. Clair rivers. A vessel that is worth, perhaps, eight or ten thousand dollars will touch every five or six miles upon each side of those rivers, and is obliged to take out a manifest every time she touches Canadian soil and touches American soil, thus compelling a small vessel of very slight value to pay in many instances as high as fifteen or eighteen hundred dollars. This bill does away with the multiplicity of manifests which heretofore she has been compelled to go through with. It reduces somewhat the fees which are paid by these small steamers. It saves a great deal of time and trouble and a vast amount of labor which is deemed useless.

Then the general fees are not materially altered, although they are slightly changed. The large sums paid by these small steamers are reduced, and the fees generally are changed somewhat, but very slightly. For example, as the fee-bill now stands, the fee "for granting license, including bond and oath, above twenty and not over one hundred tons," is one dollar; this bill makes it seventy cents. "For certifying manifest, including master's oath, and granting permit to vessels to go from one district to another over fifty tons," the fee is now fifty cents, and it is here made fifty cents. "For debenture or other official certificate not otherwise provided for" the fee is now twenty-five cents, and this bill makes it twenty cents. In some cases the fees are raised slightly, but the general effect is to leave the amount about the same.

The bill was very carefully considered by the Committee on Commerce, and unanimously reported. I have in my hands a petition, signed, I believe, by nearly all the shippers on the lakes, and certainly by all in Detroit, earnestly urging the passage of the bill. It is a bill which is deemed of very great importance to the commerce of the lakes. If there are any other points in regard to which Senators desire explanation I shall be happy to tender it.

Mr. FESSENDEN. I should like to have this bill lie over, in order that I may look into it. I have now seen it for the first time, and know nothing about it. I should like to know from the Senator from Michigan if the bill has been examined at the Treasury Department?

Mr. CHANDLER. Yes, sir.

Mr. FESSENDEN. I should like to look into it and see what its effect is to be. I have had no opportunity, seeing it now for the first time, to form any opinion about it.

Mr. CHANDLER. Very well; but I beg to say to the Senate that I shall call it up to-morrow morning. I can say to the Senator from Maine that our ships are about coming out within a week or two, and it is deemed very important by the shipping interest of the lakes that the bill should pass before the opening of navigation, which will take place about the 1st of April. I hope there will be as little delay as possible, and I shall endeavor to call up the bill to-morrow morning.

Mr. FESSENDEN. I want an opportunity to examine it carefully before it is taken up, and I do not know that I shall have that opportunity by to-morrow morning.

The bill was postponed until to-morrow.

#### NATIONAL BANKS.

Mr. CATTELL. I move to take up for consideration Senate bill No. 440, which was reported from the Committee on Finance, and is a bill supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864.

Mr. HOWE. I wish to say to the Senate that there are several bills here reported from the Committee on Claims, and it has been several times said that this day, Friday, should be set apart for passing upon those bills. We have not enough of them, I think, to occupy the Senate more than an hour or two to-day, and I would be very glad if the Senate would allow those few cases to be passed upon. Some of them have been hanging here a long time, and others have been reported recently.

Mr. POMEROY. The Senator from Iowa [Mr. HARLAN] was broken off in the midst of a speech the other day by the calling up of the special order at one o'clock; and there was a general understanding that the bill on which he was speaking should be considered this morning. I hope that will be taken up, and the Senator allowed to conclude his speech.

Mr. HOWARD. I was about to call the attention of the Senate to that bill.

Mr. POMEROY. The Senator from Iowa is prepared to go on.

Mr. HOWARD. The bill referred to is the bill relating to the Central Branch Union Pacific railroad. I hope it will be taken up. The Senator from Iowa is very anxious to finish his remarks on the subject.

Mr. CATTELL. In regard to the bill which I now ask the Senate to take up I will only state that the Comptroller of the Currency, in the particular circumstances which surround him at present, is desirous that this bill reported by the Finance Committee, if passed, should be passed soon; and I trust that as it is a bill of considerable public importance it will be taken up. It can probably be disposed of between this time and the termination of the morning hour.

Mr. MORRILL, of Maine. I do not rise to object to the proposition of the Senator from New Jersey on his statement that the bill will only occupy the time of the Senate between this and one o'clock; but I give notice that at one o'clock I shall ask the Senate to take up for consideration the naval appropriation bill. I think it is quite important that we should act on that bill, so that it may go back to the House of Representatives very soon.

Mr. HOWARD. I hope the Senate will consent to take up the bill to which I have referred, the one we had under consideration the day before yesterday. The Senator from Iowa had not completed his remarks upon it, and is now under the necessity of leaving town for a short time on account of sickness in his family. I am very anxious to go on with that bill, and I hope the Senate will consent to do so.

Mr. CONKLING. May I inquire of the Senator from Michigan whether his motion is to take up that bill merely to enable the Senator from Iowa to complete his remarks, or with a view to continuing the consideration of the bill afterward?

Mr. HOWARD. Of course my purpose is to continue the consideration of the bill until we can reach a final vote upon it; but I wish at the same time to give the Senator from Iowa an opportunity to finish his remarks.

The PRESIDENT *pro tempore*. That question is not before the Senate. The question is on the motion of the Senator from New Jersey.

Mr. SUMNER. On this question of taking up I desire to say that it does seem to me, considering that we have already entered upon the consideration of the bill now moved by the Senator from Michigan, that it has occupied so much of our time, that we have got so far in it, in all probability so near the termination of the debate, and that, in point of fact, one of our number was in the midst of a speech

when the subject the other day was postponed, ought to take that up in preference to all other business that is not of the most urgent character, and press it to a conclusion. Of course we should give our friend from Iowa the opportunity of finishing his remarks. That is beyond all question; but, besides that, the bill being once again before the Senate, I think it would be for the economy of public time that we should proceed with it to its final disposition. I hope, therefore, that my friend from Maine will not press to-day his appropriation bill, at least to the exclusion of this other bill which is now moved by the Senator from Michigan.

Mr. HENDERSON. I desire simply to state that the bill which the Senator from New Jersey moves to take up is one which, in the judgment of the Finance Committee, is very important. It is a bill of two sections only, and those sections being read, in all probability will commend themselves to the judgment of Senators, and we can dispose of that bill in the time we occupy in discussing the priority of business. I hope the Senate will take it up. It is a matter of importance in connection with the regulation of the currency; and surely the currency of the country is sufficiently deranged to command some consideration at the hands of Senators. The bill has been reported for some time, and has been lying on gentlemen's desks, and being a matter of much greater importance than the measure urged by the Senator from Massachusetts I think it ought to be taken up and considered. I live in the immediate vicinity of the railroad to which the bill urged by him relates; and while it is a proposition which perhaps a very large majority of my constituents feel interested in, I have taken no part in its discussion, and I do not know that I shall take any part in it. Yet, as I have been cognizant of all the circumstances connected with that road from the beginning, as I took part in the legislation of 1862, of 1864, and of 1866, I feel confident in my own mind that this is a much more important measure than that. While that proposes to increase the public debt of the United States, this proposes to do something toward reviving business by a correction of errors in our financial system.

Mr. FOWLER. While I am in favor of taking up at an early day the bill mentioned by the Senator from Michigan, there is another bill that I feel disposed to press. It is true it is not in my hands, and, therefore, I cannot bring it before the Senate; but I feel bound to mention it. One of the districts in my State has been here by its Representative for four months pressing its claims upon the attention of Congress, and as yet that Representative has not been admitted to his seat. The House of Representatives has passed a bill for his admission as one of its members, and that bill is now before the Senate, and has been before it for four or five weeks. I think we ought to act on that bill one way or the other, and let the people of that district know what they shall expect. They sent him here by a Republican majority of ten thousand votes, probably the largest Republican majority in any district in the State of Tennessee, and one of the largest Republican majorities in any district in the United States, a district that furnished more soldiers to the Union Army, in proportion to its population, than any other district in America. And yet this Representative has been kept out of his seat for four months, and the proposition to admit him has been four weeks before the Senate without any action upon it. I think the Senate ought to take up that bill and decide upon it at once. I feel disposed to vote with the Senator from Michigan in reference to the claim which he presents for this bill; but I think the measure to which I have just referred ought to be acted upon and disposed of.

Mr. CATTELL. I think the bill which I have moved to take up could probably have been disposed of in the time which the discussion in regard to taking it up has consumed. I

hope gentlemen will permit it to come up, after the statement of two members of the Finance Committee as to its importance, and at least allow it to be proceeded with until the close of the morning hour.

Mr. THAYER. I observe that on almost every occasion when a motion is made to take up a bill more time is spent in the discussion of the question whether it shall be taken up than would be necessary to pass the bill. If there was less of talking and more of action I think we should accomplish much more. I hope we shall vote.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Jersey.

The motion was agreed to; there being on a division—ayes 16, noes 12.

The Senate, as in Committee of the Whole, accordingly proceeded to consider the bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864.

The first section makes it unlawful for national banks located in the cities of Boston, New York, Philadelphia, or any of the cities named in section thirty-one of the act approved June 3, 1864, to pay interest on the deposits or balances of any other national banking association, or to offer any inducement, other than the prompt and correct transaction of business, in order to secure such deposits. It is made the duty of the Comptroller of the Currency to see that this act is observed; and upon a violation thereof by any national banking association he is to proceed, as in other cases of default, to appoint a receiver to wind up the affairs of such association according to the provisions of section fifty of the act of June 3, 1864.

By the second section it is provided that every national banking association selected as a depository of public moneys under the provisions of section forty-five of the national currency act shall deposit United States bonds with the Treasurer of the United States as security for such deposits; and whenever the public moneys deposited in such association shall exceed ninety per cent. of the par value of the bonds so held by the Treasurer as security the Treasurer is forthwith, by draft or otherwise, to reduce the amount of such deposits to a sum not exceeding ninety per cent. of the bonds thus deposited. If any officer or agent of any association designated as a depository of public moneys shall pay or offer to pay any money or other valuable consideration, directly or indirectly, for the purpose of obtaining or retaining deposits of public moneys, or if any officer or agent of the Government shall receive any money or other valuable consideration, directly or indirectly, for making such deposit of public moneys, such officer or agent is to be deemed guilty of a misdemeanor, and upon conviction thereof to be punished by a fine of not less than \$1,000, or imprisonment for not less than one year nor more than five years, or both, in the discretion of the court.

The PRESIDENT *pro tempore*. If no amendment be proposed the bill will be reported to the Senate.

Mr. CONKLING. I suggest that before the bill is reported to the Senate any explanation that is to be made had better be made. The explanation may suggest amendments that some Senator would like to offer. I should be glad to hear the explanation.

Mr. CATTELL. Mr. President, the bill under consideration was reported to the Senate on the 16th instant from the Finance Committee, and its passage recommended by the unanimous vote of the committee. Considering the measure proposed one of great importance I beg the indulgence of the Senate while I state briefly the provisions of the bill and the reasons which govern me in advocating its passage. As the title indicates, the bill is an amendment to the act creating the national

banking system commonly known as the national currency act. Of this system from its inception I have always been an earnest advocate. Its superiority over the old State bank system which it superseded is now universally admitted. Without stopping to discuss the question whether the creation of banks of issue under State authority was not the assumption by the States of a power reserved to the Federal Government by the framers of the Constitution, it is safe to say the power was at least doubtful; and all must admit that the escape from the evils resulting from a currency heterogeneous, unequal, and unsafe to one uniform, equal, and safe, is cause for congratulation, and I venture to say that so radical a change in the character of the currency of a great country bringing with it so much to commend and so little to condemn, and in the transition disturbing so little the business and monetary affairs of the nation, is without a parallel in the history of the world.

And, Mr. President, I deeply regret the antagonism to this system which has been exhibited in some quarters, threatening its destruction even before its great advantages are fully developed. Since it seems to be conceded that paper money is a necessity in all great commercial countries, and banks of issue are recognized as legitimate agencies in promoting the trade and commerce of our own country, let us give a fair trial to that system which has delivered us from the financial anarchy that reigned under the irregular, unequal, and unsafe issues of the State banks, and has given us a single, uniform currency of equal value all over our broad land, regulated and controlled by the Government, and amply secured to the holders thereof by a pledge of Government bonds. The system has received the popular sanction. Doubts which existed in some minds at first have been removed by observation of the practical workings of the plan. The distinguished Senator from Maine, [Mr. FESSENDEN,] when Secretary of the Treasury, said, in his report to Congress, December, 1864, when alluding to the national banks:

"The Secretary was not among the first to approve the plan adopted by Congress, and which seems to be receiving the popular sanction. Time and observation of its effects have, however, convinced him that the system, if not without defects, is based upon sound principles, and is entitled to all the benefits of a fair trial."

Having myself been brought into close connection with the system, and having carefully observed its workings and studied the principles upon which it is based, I concur with a recent writer, who says:

"If the national banking system shall prove as great a benefit as we believe it to be it will give to the administration of Mr. Lincoln a distinction in history only second to that acquired by the abolition of slavery and the successful conduct of the war."

I have chosen to say thus much in regard to my estimate of the national banking system lest in advocating the measure now before the Senate I might be supposed to be inimical to the plan. In what I have already said I do not mean to be understood as claiming that the system is a perfect one. There are, doubtless, some defects which can be remedied by the wisdom of Congress, and it is because I am anxious that the system should in all respects commend itself to the public favor and bear the most rigid scrutiny as to its soundness and its conservative influences in the monetary affairs of the nation that I advocate the amendment proposed in this bill, which, in my judgment, will remedy one of the principal defects. The first section of the bill provides—

That it shall be unlawful for national banks located in the cities of Boston, New York, Philadelphia, or any of the cities named in section thirty-one of an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, to pay interest on the deposits or balances of any other national banking association, or to offer any other inducement, other than the prompt and correct transaction of business, in order to secure such deposits; and it is hereby made the duty of the Comptroller of the Currency to see that this act is observed; and upon a violation thereof by any national banking association he is hereby

authorized and required to proceed, as in other cases of default, to appoint a receiver to wind up the affairs of such association according to the provisions of section fifty of said act.

This section is intended to break up, as far as possible, the pernicious practice of the payment of interest by one class of national banks to other national banks on their deposits or current balances. In my judgment, the payment of interest on current deposits or balances of either banks or individuals is illegitimate banking, injurious alike to the banks themselves and the people. Banks are properly lenders of money, not borrowers, and when they bid for money one rate of interest for the purpose of loaning it out at a higher rate they depart from their legitimate business, and become speculators in money, which not only tends to enhance the rate of interest, but also to bring into actual use and risk the reserve of the country, which is manifestly unsafe and unwise, because this reserve is the conservative power of the legitimate business of the country, the necessary balance to steady the financial ship. Moreover, the tendency of this practice is to draw capital unnaturally to the great commercial centers to the impoverishment of all other localities; and thus, while it produces a scarcity of capital for legitimate trade at one point it produces a temporary plethora of money in the cities, which, being loaned on call to stock-brokers and speculators, tends to produce unsteadiness in business, excessive fluctuations in stocks, facilitates, in the present condition of affairs, the gambling gold operations of Wall street, and is productive of mischief alike to the community and to the banks themselves.

This view is sustained by a highly intelligent committee of New York bank officers, appointed a few years ago to examine this subject and to report upon it to the clearing-house association of New York. In this report, which is an exceedingly able and interesting one, they say:

"We believe that the system of allowing interest on current deposits is unsound in principle, unsafe in practice, and that it operates injuriously both upon the banks themselves and upon the commercial community."

And near the conclusion of their report, in urging upon the banks the adoption of an agreement not to pay interest upon balances, they express the opinion—

"That no simple measure can be adopted of a public or legislative character that will so effectually secure the good of the country at large without the least admixture of evil."

Now, let us look for a moment at the practical working of this practice of paying interest on bank balances under the provisions of the national currency act. The thirty-first section of the act reads as follows:

"And be it further enacted, That every association in the cities hereinafter named shall at all times have on hand, in lawful money of the United States, an amount equal to at least twenty-five per cent. of the aggregate amount of its notes in circulation and its deposits; and every other association shall at all times have on hand, in lawful money of the United States, an amount equal to at least fifteen per cent. of the aggregate amount of its notes in circulation and of its deposits. And whenever the lawful money of any association in any of the cities hereinafter named shall be below the amount of twenty-five per cent. of its circulation and deposits, and whenever the lawful money of any other association shall be below fifteen per cent. of its circulation and deposits, such association shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividend of its profits, until the required proportion between the aggregate amount of its outstanding notes of circulation and deposits and its lawful money of the United States shall be restored: *Provided*, That three fifths of said fifteen per cent. may consist of balances due to an association available for the redemption of its circulating notes from associations approved by the Comptroller of the Currency, organized under this act, in the cities of St. Louis, Louisville, Chicago, Detroit, Milwaukee, New Orleans, Cincinnati, Cleveland, Pittsburg, Baltimore, Philadelphia, Boston, New York, Albany, Leavenworth, San Francisco, and Washington city."

Now, it will be observed that by the provisions of this section the banks outside of the redemption cities are required to maintain a reserve of fifteen per cent. of their liabilities for circulation and deposit. This reserve is



presumed to be the conservative power of the system to be kept in lawful money at all times unused and not subjected to risk. But the law further provides that three fifths of this amount may consist of balances due from other banks located in either of the redemption cities. The country bank cannot, without violation of the law, use this money reserve in their own business; but they may send it to a bank in one of the cities named, and virtually loan it to them at such rate of interest as may be agreed upon, while the city bank must, of course, reloan it at a higher rate of interest, thus putting the reserve at work as if it were usable capital, and virtually destroying the conservative power intended by the requirement of the specified reserve. Nor is this all. The country bank finds that with the rate of interest allowed them by the city banks, and with the profits on exchange drawn against its city funds, the temptation is strong to keep even a much larger sum at the redemption centers than the three fifths of the reserve provided for by law. An examination of the figures in the quarterly reports of the national banking associations, made in accordance with law, discloses the fact that a sum much larger than three fifths of the reserve is kept by the country banks on deposit at the redeeming agencies. Let us look at the figures.

The aggregate of circulation and deposits of all the national banks on the 6th of January, 1868, was \$836,039,306, requiring a reserve by law of \$168,470,000. Aggregate amount of circulation and deposits of banks located outside of redemption cities, \$405,395,131, requiring a reserve of \$60,809,000. Now, three fifths of this amount is \$36,485,400; and this is the sum we might naturally expect to see in the banks of the redeeming cities to the credit of the national banks. But what is the fact? A further reference to the figures of the quarterly statement of the 6th of January, 1868, will show that—

The national banks really have on deposit in the redemption cities.....	\$39,513,242
But the banks located in redemption cities report that they have at their redeeming agencies in New York, which is included in the above sum, and must be deducted in order to show the actual amount of deposits by banks outside of redemption cities.....	17,732,018
Balance.....	\$71,781,224

If these figures be correct, then the country banks have over seventy-one millions of their money—about one third of the entire amount of their capital—withdrawn from the communities in which they are located, and for whose accommodation they were established, and placed on deposit in the redemption cities. Now, it is said, and I think with great justice, that the West and Southwest have not their fair share of banking facilities. You will hear this, I imagine, before the session closes, from my friend, the Senator from Missouri, [MR. HENDERSON,] in a somewhat impressive form. You will, if I mistake not, find him demanding, in the name of the people he represents, either an extension of the limit of circulation or a more equitable apportionment of that now existing; and yet, in the face of the admitted fact that circulation is frequently short of the actual requirements of trade in the interior, it is gathered up and expressed to the large cities to swell the bank balances upon which interest is allowed. I am aware it may be said that the reserve, even if kept at home, could not be used, which is undoubtedly true; but, as I have shown, the amount actually kept at redemption points is about twice as much as is admissible to be counted as reserve, and to the extent of this excess the practice impoverishes the localities from which the capital is withdrawn.

I object, therefore, Mr. President, to the practice of paying interest on bank balances, because, so far as the reserve is concerned, it is an indirect method of using what is required by law to be kept unused—free from all risk, and immediately available. This fund should

be literally what the term implies, a reserve; this it ceases to be when deposited in another bank upon conditions which make its use a necessity, just as fully as if three fourths of it were used in discounting by the country bank itself. And so far as the excess above the reserve is attracted from its natural channel by the payment of interest, I object to it, because it tends to divert capital from its legitimate sphere, and accumulates it at the commercial centers only to foster speculation and work mischief. The amount of these bank balances are always largest when they are least wanted, and always rapidly reduced when their withdrawal is the most inconvenient. It would be easy to show, also, that the profit to the city banks adopting this policy is more apparent than real; but as my argument is not addressed to bank managers, I will not detain the Senate on this point further than to say that, as a bank officer under the State law, and also under the national system, I have always resisted the payment of interest on bank balances as unsound in finance, wrong in principle, and, to say the least, doubtful as a source of profit.

I trust this feature of the bill will meet the approbation of the Senate, and that it will become law. It has the approval of the Comptroller of the Currency, who thus speaks upon the subject in his late very able report to Congress:

"Attention is respectfully called to a practice prevailing more or less in the banks of the principal cities, of paying interest on the balances of country banks—a practice characterized by the Chancellor of the Exchequer of England, in commenting upon the causes which led to the crises of 1857, as 'one eminently liable to abuse, and containing within it elements of danger, and to which many of the evils of the recent crises may be attributed.'"

"Country banks keep deposits with city banks for the purpose of facilitating exchanges in carrying on their own business; and ordinarily it is to be presumed they find a profit in doing such business, and in keeping a working balance in the city banks. The funds so placed are needed, and properly belong there, but will not be allowed to exceed the amount actually necessary for the current demands of business. The payment of high rates of interest on such balances attracts all the spare capital from the country to the commercial centers, while it is still payable on call. This capital would not remain dead or unemployed, but it is drawn away from the country where it is needed, to the business centers, where the rate of interest is higher. The cities then come into competition with the country, and compel borrowers in the country to pay higher rates."

"But, as the banks pay interest for such deposits, they must be used; the city banker becomes a broker, a seeker after investments; he must get more interest than he pays or he will lose money; he must loan it on call, for it is payable on demand, and it will always be demanded when he wants it most. Deposits are the reserve of the country, and the deposits of the country banks, at the centers of trade, are their reserves for all demand liabilities. Required by law to keep a reserve equal to fifteen per cent. of their deposits and circulation, three fifths of this reserve may consist of balances due from the city banks. Forbidden to use their reserve in their own business, they remit it to New York, where it is not held in reserve, but it is loaned to stock-brokers and speculators. Receiving interest on the amount under the name of a deposit, they really loan it on call to the city banks, which in their turn loan it at a higher rate of interest."

The second section of the bill is intended to apply additional safeguards to the public moneys deposited in such national banks as are or may be designated as depositories of public moneys.

It will be remembered that the House of Representatives passed a bill abolishing these depositories in certain localities, which was referred to the Finance Committee, and after a careful examination of the subject was reported back to the Senate with a recommendation that it be not passed.

The Secretary of the Treasury, Mr. McCulloch; the Treasurer of the United States, General Spinner; the Comptroller of the Currency, Mr. Hulburd; and Mr. Van Dyck, the Assistant Treasurer at New York, from each of whom the committee sought information, all concur in the opinion that it would be unwise for the Government and inconvenient to the public to disperse with the services of these institutions in receiving the deposits of the collectors of internal revenue. Mr. Van Dyck puts the matter so clearly in his reply to the inquiry of the Secretary of the Treasury, that I beg to

call the attention of the Senate to his letter. He says:

UNITED STATES TREASURY,  
NEW YORK, August 22, 1867.

"In regard to receiving the deposits of collectors of internal revenue I have not been able to see my way clear in the matter. The first objection relates to the time at which the deposit can be made here. Most of the collectors are so far away that their accounts for the day would have to be made up long before the close of business, in order to get them in here in season. Then they wish a certificate of the amount deposited to transmit, which I should be unwilling to give until the amount claimed had been verified by an actual count. The question also arises what they are to do with the balance of the day's collections. No bank would be willing to receive and keep it over night only to have it reclaimed the next day, and it is very questionable whether it could be safely left in the office. Besides, now, each day's collections, as shown by the books, must be deposited, and a comparison between these and the books of the bank will always show whether the whole has been duly deposited. But if we split up the business between different days, there will be more difficulty in tracing discrepancies and another door opened to irregularities."

But a stronger objection is found in the fact that very many payments are made in checks on all the banks in this city and Brooklyn, which institutions are widely scattered and distant from this office. The several banks receiving the deposits collect these checks through the clearing-house, but in our case they have to be collected by messenger. Think of the trouble and annoyance of collecting hundreds of these small checks in this way. We should need much additional help in the receiving department; we should have to keep open much beyond the usual hours; we should subject collectors (and they citizens) to much annoyance without commensurate advantage.

H. H. VAN DYCK,  
Assistant Treasurer.

Hon. H. McCulloch, Secretary, &c.

Moreover the committee found upon examination that the Department held ample security for the sums deposited in the banks, a security which presents a striking contrast to the security given by assistant treasurers:

The total amount of United States deposits in national banks, designated depositories, on the 1st of January, 1868, was.....	\$19,600,000
United States bonds held as collateral security for same.....	\$7,827,000
Total amount at same period held by Assistant Treasurers.....	133,353,243
Security, personal bonds, for.....	1,955,000

So, as a question of security, it would hardly seem natural to withdraw deposits secured by a pledge of two dollars for one in United States bonds, and transfer them where in the very nature of the case it is impossible to have any security worth the naming other than the integrity and honor of the officer. Besides, it has been estimated, I believe, by the Secretary of the Treasury, and the United States Treasurer, that the services performed by the national depositories would cost the Government, if the labor were performed by its own officers, from \$1,000,000 to \$2,000,000 per annum.

Your committee, therefore, in view of the ample security held from the deposit banks—the convenience to the public, and to the collectors of internal revenue, and the value of the services rendered by the banks to the Government, fail to see any good reason why their use should at present be discontinued.

It is proposed, however, to guard more fully two points. First, to provide that not more than ninety per cent. of the par value of the bonds deposited as security shall be allowed in any designated depository; and, secondly, to make it a misdemeanor, punishable by fine and imprisonment, for any officer or agent of any association designated as a depository of public moneys to pay or offer to pay any money or other valuable consideration, directly or indirectly, for the purpose of obtaining or retaining deposits of public moneys, and visiting a like punishment on any officer or agent of the Government who shall receive any money or valuable consideration, directly or indirectly, for making such deposit of public moneys. Both these points are covered by the second section of the bill. A faithful observance of its provisions in regard to the first will render loss to the Government well nigh impossible, and the intimation that improper influences may have been used to secure deposits has led the committee to recommend the stringent provisions against such a practice contained in the latter clause of this second section.

Believing, Mr. President, that the passage of this bill will result in great good to the legitimate business of the country at large, that it will remedy one of the most serious defects of the national bank system, and thus make the system still more effective in its operations and still more popular with the people, I sincerely trust it will meet with the favorable consideration of the Senate and become a law of the land.

Mr. CAMERON. Mr. President, to my mind this bill is an excellent one for the city banks; but if I can trust to an experience of some thirty years connected with country banks I think it would break them all up; and it rather seems to me to have been gotten up for that purpose—not, of course, by the Senator from New Jersey—but somehow or other it looks to me as if this was a great combination of the city banks to make more money out of the country institutions. I do not see how the country banks can exist if you are to prevent them from receiving interest upon the deposits they have in the cities. They are compelled to send their funds to the cities for the redemption of their notes because the notes go there first. I believe the bank law makes it a part of their duty to redeem their notes at certain designated cities. They have only a portion of the year when they can do business at home. The business of the country banks comes from the agricultural products and the mining products of the neighborhoods in which the banks are located. During the time when the farmer is preparing his stock for market he borrows from the country bank. When the feeder is buying his lean cattle he borrows his money from the country bank. When the product goes to market there is a certain period of the year when the country banks have scarcely any business at home, except to lend money at long time upon accommodation notes made for the purpose of getting loans, and upon the payment of which at a fixed time they can never certainly depend. Their custom is, during the business season, to do the whole business of the country which is legitimate, and for which they expect to be paid in a reasonable time; and afterward the country banks in my State send their money to Philadelphia and in other States to other commercial centers, and receive an interest upon it while it remains there upon deposit. I have no means of knowing just now the amount of deposits in New York and Philadelphia belonging entirely to country banks, but they must be immense.

This bill will enable the city banks to control the country banks entirely, and induce them to place their money in the hands of brokers; for, after all, the system in the cities is to get as much money out of their unemployed funds as possible, the same as it is in the country. They lend money by the day, sometimes by the hour, to brokers upon stock securities, and they can call it in whenever they please. If this bill is to pass I shall propose to amend it by inserting after the word "deposits" in the twelfth line—

Nor shall any bank located in any of the said cities loan to brokers or other person engaged in stock speculations any portion of their funds.

It is just as important that you should save the city banks from making wild and improper loans as it is that you should save the country banks from doing wrong. In the course of my life I have seen at three different periods a general failure of the banks; and my experience is that in each case the failures began in the cities. The city banks were unable to pay their deposits to the country banks and stopped payments, and then the country banks were compelled to stop also. There will not be that danger under this system, however.

Mr. CATTELL. Allow me to ask my friend if that is not a very good reason why the country banks should not keep so much of their funds in these city banks, where they are in danger?

Mr. CAMERON. I expected that question, but there is nothing in it. When the city banks

broke up, as they have always done at every crisis heretofore, the whole monetary affairs of the country stopped. There is a great system, and one stops with the other.

There is no reason why the country banks should be required to keep the reserved fund in any one particular bank. It is just as convenient, and more convenient, for a country bank to have its funds in the city than at home; and it is just as safe, because each is part of a great system, and if the system breaks down all go together.

I was not prepared for this bill to come up to-day. I did not think of it, indeed; nor did I believe it was going to be seriously pressed. I thought it was one of those schemes that are very often got up in the cities, and which I have frequently seen during my life got up for particular effect; but if it is seriously proposed to pass the bill I will offer the amendment which I have indicated.

Mr. WILSON. I move that the further consideration of this bill be postponed until to-morrow.

Mr. FESSENDEN. Why not just as well go on with it to-day?

Mr. WILSON. There are other matters to be considered to-day.

Mr. CATTELL. Allow me to make a single remark to urge the early passage of this bill, if it is to be passed at all. As I understand it, some of the older and stronger banks in the city of New York have found out that, at any rate, if the principle itself is not wrong, they have been paying too great a rate of interest, and they have notified the banks in the interior that they must reduce that rate. Some of the banks, perhaps not so strong, taking advantage of that state of facts, are offering to pay the old rate of interest, four per cent. Consequently the country banks are, to a large extent, applying to the Comptroller of the Currency for permission to change their redeeming agency from one bank to another, and I think he anticipates great evil in concentrating into some of the smaller banks a very much larger amount of reserve than should be in a single bank. While this matter is in abeyance he will be somewhat embarrassed. He would prefer, rather than to decide upon those applications as they come along, to have the question settled whether the practice is to be dispensed with or not. It is for that reason that I should like to see the bill passed at once.

Mr. WILSON. I hope this bill will be postponed. I voted to take it up and to take the floor away from the Senator from Iowa on the bill which was laid aside the other day; but I understood, when we took up this bill, that it would occupy but a short time, only the morning hour. It has gone much beyond that, and I think we may as well postpone it until to-morrow.

Mr. MORRILL, of Maine. I voted to take up this bill on the information of the Senator from New Jersey that it would probably not occupy much time, or only a few moments beyond one o'clock, and upon the idea that the bill which the Senator from Michigan had in charge would be likely to occupy a somewhat longer time; and also on an understanding with the Senator from New Jersey that he would yield to my purpose to call up the naval appropriation bill about this time. Now, I hope the Senator from New Jersey will have no objection to allowing this bill to pass over that I may call up the appropriation bill. I submit the motion that this bill be postponed and the Senate proceed to the consideration of the naval appropriation bill, and on that motion I wish to make a single remark—

Mr. CATTELL. I said to the Senator from Maine that if this bill led to discussion, so as to interfere with the appropriation bill which he proposed to bring up at or near one o'clock, I would make no opposition to postponing it. I should be very glad to have the bill passed, but if he insists on going on with the appropriation bill I shall not object to this bill going over.

Mr. FRELINGHUYSEN. I would suggest

to the Senator from Maine whether we can take up that appropriation bill properly to-day? The chairman of the Committee on Naval Affairs and most of the members of that committee are away. I think it is desirable that they should be here when that bill is considered.

Mr. MORRILL, of Maine. The chairman of the Committee on Naval Affairs is also a member of the Committee on Appropriations; he understood that the naval appropriation bill was to be called up to-day and made no objection.

Mr. CAMERON. This bank bill will most likely occupy some time. It is really a question between the city and the country banks, and when I can get the gentlemen here who are interested in the country to look at it I think there will be something more said about it than what I shall say. Besides, I want time to look into it further.

Mr. MORRILL, of Maine. The Senator from New Jersey consents that the bill may go over, and I have moved to take up the appropriation bill. I do not desire to antagonize the appropriation bill against the desire of the Senator from Iowa to finish his speech, but I do not understand that he makes that point at the present moment, and I confidently believe that if the Senate will proceed to the consideration of this appropriation bill it will not occupy more than an hour. With that expectation, I hope the Senate will allow the bill to come up. At any rate, I submit the motion.

Mr. HOWARD. I hope the Senate will take up the railroad bill in preference to the bill mentioned by the Senator from Maine. We have been engaged in the discussion of it a considerable time and I think have reached very nearly its close, and I really hope, for one, we shall dispose of that bill to-day, if possible.

Mr. MORRILL, of Maine. I do not think the naval appropriation bill will occupy much time; and after it is disposed of the Senator will have an opportunity to make his motion. I feel bound to call that bill to the attention of the Senate now for the reason that it ought to go to the House of Representatives to be acted upon between this and to-morrow, as the Senate understands that we are to be engaged next week upon other matters.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine, to postpone the bill under consideration until to-morrow for the purpose of taking up the naval appropriation bill.

Mr. SUMNER. There seems to be a little misunderstanding here. Some Senators seem to think that the effect of refusing the postponement would be to keep the bill of the Senator from New Jersey before the Senate. Perhaps its first effect would be that.

The PRESIDENT *pro tempore*. The Chair understands that if the motion prevails it will bring the naval appropriation bill before the Senate.

Mr. SUMNER. I am in favor of proceeding with the unfinished business—

Mr. EDMUNDS. There is no unfinished business.

Mr. SUMNER. There is business that is unfinished, which has been before the Senate day by day for several days, and which may be finished now this afternoon, and the Senator from Iowa is in the midst of a speech upon it. Now, I do think it is the best economy for us to get rid of that this afternoon. Do not send it over to another day. Why should we have so many unfinished matters before the Senate? Here is the business of my friend from New Jersey, then the business of my friend from Michigan, all unfinished; and now my friend from Maine proposes to bring forward a third matter, which may be left unfinished. It does seem to me that we had better take up to-day the earliest matter which is still unfinished, and carry it to a conclusion.

Mr. MORRILL, of Maine. Will the Senator allow me to make a suggestion?

Mr. SUMNER. Certainly.

Mr. MORRILL, of Maine. If this motion

does not prevail, then it will turn out that the bill under the direction of the Senator from New Jersey is before the Senate, and then certainly under the argument of the Senator from Massachusetts, that we should finish what is before the Senate, the propriety of action will be with the Senator from New Jersey, and the Senator from Massachusetts will not certainly reach his object.

Mr. SUMNER. No; I beg the Senator's pardon—

Mr. CAMERON. Will the Senator from Massachusetts give way to me for a moment. I ask the indulgence of the Senate to give me some time to prepare for the consideration of this bill; and in order to bring the question fairly, nakedly before the Senate, I move that the bill of the Senator from New Jersey be postponed—

Mr. MORRILL, of Maine. There is a motion already pending to that effect. I have made that motion.

Mr. CATTELL. And I have said that, according to my arrangement with the Senator from Maine, I agreed to the postponement, and I certainly would accede to the request of the Senator from Pennsylvania without a moment's hesitation.

Mr. MORRILL, of Maine. I understand that.

Mr. SUMNER. Then do I understand that the bill of my friend from New Jersey is put aside?

Mr. EDMUNDS. Not yet.

Mr. SUMNER. Can the motion be divided so as to vote first on postponing the pending bill without acting on the question of what bill shall be taken up instead of it?

Mr. MORRILL, of Maine. I suppose not.

Mr. SUMNER. I should like to have the decision of the Chair on that question.

The PRESIDENT *pro tempore*. The Chair thinks the motion is divisible.

Mr. SUMNER. I ask, then, for a division, so that we may have the question taken first on postponing the bill of the Senator from New Jersey, and then, after that, I would move to proceed with the railroad bill.

Mr. MORRILL, of Maine. I submit that that cannot be done.

The PRESIDENT *pro tempore*. The pending motion appears to the Chair to be divisible, so that the first question will be on postponing the bill under consideration, and then the next question will be on taking up the naval appropriation bill, if the Senator from Massachusetts asks for a division of the question.

Mr. SUMNER. I do.

The PRESIDENT *pro tempore*. Then the first question is on postponing the bill under consideration until to-morrow.

The proposition was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 480) in relation to the pay of grand and petit jurors in the District of Columbia; and

A bill (H. R. No. 566) to incorporate the Grueth-Verein of Washington, District of Columbia.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the enrolled bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelley; and it was thereupon signed by the President *pro tempore*.

#### SUPREME COURT JURISDICTION—VETO.

The message further announced that the House of Representatives having proceeded, in conformity with the Constitution, to reconsider the bill (S. No. 213) entitled, "An act to amend an act to amend the judiciary act, passed 24th of September, 1789," returned by the President of the United States to the Senate with his objections, and sent by the Senate to

the House of Representatives with the message of the President returning the said bill, has—

*Resolved*, That the bill do pass, two thirds of the House of Representatives agreeing to pass the same.

Mr. WILLIAMS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Senate be directed to present to the Secretary of State the bill entitled "An act to amend an act entitled 'An act to amend the judiciary act passed the 24th of September, 1789,' together with the certificates of the Secretary of the Senate and Clerk of the House of Representatives, showing that the said act was passed by a vote of two thirds of both Houses of Congress, after the same had been returned to the Senate by the President with his objections and after the reconsideration of said act by both Houses of Congress, in accordance with the Constitution."

#### NAVAL APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine, to take up the naval appropriation bill for consideration.

Mr. SUMNER. I hope that will not prevail, and that we shall proceed with the railroad bill.

Mr. EDMUNDS. I am a little interested in this railroad bill, as when it left off on the occasion next preceding the one on which my friend from Iowa was addressing the Senate I had the floor myself, endeavoring to obtain information from the chairman of the Committee on the Pacific Railroad; and I am in the middle of a speech, so to speak, although my speech has been overridden by the speech of the Senator from Iowa; but I certainly do not feel that I have a right, as representing a small portion of the people of this country, to let a local bill of this kind stand in the way of an appropriation bill, a finance bill that the proper appropriation or Finance Committee bring before this body. The usage, which has become a law with us almost, has always been, since I have had the honor to be here, to give way to these measures of finance. It has been considered that they were entitled, not by any written rule, but by the general consent of everybody, to take precedence, not only over matters of general legislation other than appropriations, but also over local bills. And yet my friend from Massachusetts seems to have a special regard for this railway that is three or four thousand miles away from him. If I did not know him so well I should almost believe that he had a special interest in it as well as a regard in the way, of course, of representing some peculiar client—I should rather say constituent—who was desirous to take two million dollars and a little upward of the people's money, for a good use, of course, to build a railway with.

But of course I do not suppose that; if I did not know him so well I should; but I know that no other consideration than that of the highest public welfare can possibly have any influence in his conduct. Therefore I believe it to be entirely a question of public welfare with him; and that is what leads me to feel surprised that, being animated only by such a sentiment of public welfare, he should oppose this local measure that may as well be passed, if it is to be passed, next week as this week, or next month as this month, against the Committee on Appropriations bringing forward their regular annual supply bill to provide for maintaining and carrying on the processes of the Navy.

I say it is against our traditions; and my honorable friend knows that as well as I and perhaps much better than I. And I am astonished that gentlemen should so persistently insist upon pressing local measures, however important they may be to the persons interested in them, however important they may be to the particular locality that is to be benefited by them, against measures of general concern providing for the general legislation and the general welfare of the country.

It is true, sir, that your Calendar is full of bills that are quite necessary to be passed, bills of general import, necessary, in some instances, to the preservation of the public money, in

others to the regulation of suits against the United States. I have in mind a bill reported from a committee of which I happen to be an humble member, that it is of great importance should be passed immediately, regulating appeals from the Court of Claims, regulating the law of evidence there in the cotton cases where millions are at stake; and yet I do not feel at liberty to press a bill of that kind against the measure which the Finance Committee, or the Committee on Appropriations, which is only a branch of it, choose to bring forward. I certainly hope, therefore, that the friends of this Central Branch Pacific railway bill will be willing to give way to those usual considerations of courtesy and progress of business—I speak it in all sincerity—that have obtained here, and let those matters of general legislation be passed through, and then we will consider fairly their measure.

Mr. HARLAN. I think it is, perhaps, due to the chairman of the Committee on the Pacific Railroad that after the remarks submitted by the Senator who has just taken his seat I should state that I think the chairman is prompted perhaps somewhat on my account to urge the Senate to consider the railroad bill now. The gentlemen who have invested their money in the construction of the road which it affects have said to him and to me that they thought, from my former connection with the committee, when the law of 1864 was framed, and with the Interior Department for a short time while the law was being administered, I was personally conversant with facts which ought to be stated in the Senate with a view of arriving at a just conclusion on that subject; and I stated to the chairman of the committee that I probably should be compelled to leave the city to-night on account of the extreme illness of my father, I regret to say. For these reasons he desires to have the bill considered to-day. Personally I have no wish that the Senate should depart from any purpose they may have to dispose of other business. If it be the will of the Senate to take up that bill now I shall be ready to conclude the few remarks I began to submit a day or two since; but—

Mr. FESSENDEN. I wish to suggest to the Senator from Iowa that I understand it has been proposed, if it will be satisfactory, to take up that bill and allow him to conclude his remarks, and then to go on with the bill coming from the Committee on Appropriations; but I understand the chairman of the Committee on the Pacific Railroad, who has that bill in charge, to insist not only that the Senator from Iowa shall conclude his remarks, but that the bill shall then be gone on with to the exclusion of all other business.

Mr. HARLAN. I know not what the wish of the chairman of the committee may be on that subject. I can only say for myself that I do not think that any remarks which I intended to make, or which I may submit, are of sufficient consequence to ask the Senate for a special hour in which to deliver them. If it is not the purpose of the Senate to take up the bill with a view of disposing of it I cannot make a request to be heard at this time.

Mr. MORRILL, of Maine. I intended to say, and I think I did say, that I was very desirous of hearing the Senator's remarks on that subject; and I will now propose to the chairman of the Committee on the Pacific Railroad, if it is agreeable, that the railroad bill be now taken up in order to give the Senator from Iowa an opportunity to address the Senate, with the understanding that at the conclusion of his remarks it shall be laid aside and that we shall proceed with the bill which I have proposed to take up for consideration—the naval appropriation bill.

Mr. SUMNER. It seems to me that all must agree that under the circumstances our friend from Iowa ought to be allowed to proceed, and after that it will be in the power of the Senate to determine whether to proceed with this matter to the end of to-day or to take up some other.

Mr. MORRILL, of Maine. To accommo-



date gentlemen. I propose that now this appropriation bill come up, and then I will yield to the honorable Senator from Iowa, and consent to have the appropriation bill informally laid aside to allow his remarks to be made on the other bill. It seems to me that will accommodate all.

Mr. SUMNER. It appears to me that that is not meeting the proposition in a proper way. And here allow me to make one remark in reply to my friend from Vermont, [Mr. EDMUNDS.] He is against the railroad bill, and therefore he is very glad to-day to vote to proceed with the consideration of an appropriation bill; and he makes a very good argument—I applaud it as an argument in favor of proceeding with an appropriation bill. We have all listened to that argument (perhaps never delivered with more effect than on this occasion) from the first day that we have been in the Senate. It is a common argument.

Mr. EDMUNDS. Will my friend permit me to ask the authority he has for saying that I am against the railroad bill?

Mr. SUMNER. I have understood that the Senator was against it; indeed, I thought he avowed so on the floor. I do not intend to attribute to the Senator any opposition which he has not expressed. I hope he is not against it.

Mr. EDMUNDS. I have expressed no opposition to the railroad bill. I do not know but that I shall be opposed to it, and I do not know but that I shall be in favor of it. What I have been desirous to do so far was to find out whether it had any merit in it. When I ascertain that I shall know whether I am for it or against it.

Mr. SUMNER. As I understand the Senator, he has not found out yet that the railroad bill has any merit in it. Indeed, I have understood, I have been told—I do not know by whom, and I do not know whether the Senator has expressed the opinion before on the floor or not—that he is against the bill; and now I learn from his own lips that he is trying to find out whether it has any merit in it. I think, therefore, I did not express myself too strongly when I said that he was against the bill. He resorts to a very natural argument by trying to antagonize against that bill an appropriation bill. Very well; he is perfectly justified in that, and I make no criticism; I make no complaint. I simply call attention to his speech as a common mode of opposition to a measure which a person is at least at the time not disposed to vote for. There the Senator stands.

Now, I have to say, on the other hand, that I am in favor of the railroad bill. The Senator made some allusions to the earnestness with which I have supported it. I will not say that he traveled a little too far when he made those allusions. I know he did not intend to do so. But I presented to the Senate the petition from these parties which is the basis of the present bill; and I think at a later day I introduced in some form or other the proposed enactment which was referred to the committee. Before I took that step I made it a point to give my best attention to it. I did not introduce that petition until I had studied the question according to my manner and ability. I felt that there was occasion for remedy; that certain parties had ventured largely in the interests of the public, also in their own interests, and that they were about to experience great loss and detriment unless we should interfere. I listened to the argument of my friend, the Senator from Ohio, [Mr. SHERMAN,] in which, while opposing the proposed measure, he admitted that there was an equity—that was his very language—in the claim of these petitioners. Sir, if there is an equity by the admission of those who oppose the measure, that is a reason, it seems to me, for action on our part. But, beyond all that question of private interests, you have the great interest of the public itself, which is concerned, that this great railroad, one of the triumphs of civilization in our day, through which our country is to gain so immensely, shall be com-

pleted, not only in its main trunk, but in all its arteries and affluents. I say, therefore, the measure which my friend from Michigan proposes to press upon the Senate to-day is not a local measure.

Mr. MORRILL, of Maine. Will my honorable friend allow me to suggest that there is no proposition to take up that measure pending, and, therefore, that the merits of that question are hardly open to debate.

Mr. SUMNER. But I am not going into the merits. Indeed, I have not been discussing the merits at all; I have only been considering, in answer to the argument of my friend from Vermont, very briefly, in about half the time he occupied, reasons why we should proceed now with the railroad bill rather than with the appropriation bill. I will make one other remark, and there I will stop.

My excellent friend from Maine knows that his appropriation bill, as I have said constantly, will take care of itself. It can be passed after we get through with the railroad bill this evening; to-morrow, it will surely pass. The public interests, about which my friend from Vermont is so anxious, will not suffer by the delay of an hour or two, more or less, with regard to the appropriation bill.

But if the railroad bill is not taken up and acted upon to-day, and then, if other measures are allowed to supervene, I know not when, considering what we have before us, it will be again reached. I think, therefore, considering the gravity of the case, that the Senate has already gone so far in the discussion that it is essentially unfinished business—threefold, fourfold, fivefold unfinished business, because it has been as many as five times at least before the Senate, and we should proceed with it and get it out of the way.

Mr. MORRILL, of Maine. One word is all I desire to say, and I only say that that I may be free of any responsibility on this question. This is an appropriation bill which must be passed sooner or later; it is one of a series that have come from the House of Representatives; some have been passed, some remain back. The principal appropriation bills are still back with the Senate committee. If we are to be occupied about other matters for a period, more or less—nobody can tell how long—and the appropriation bills are postponed, I can see well enough that I shall be asked about them hereafter and possibly called to some responsibility for not having presented them at an early day to the Senate. I present this bill to the Senate, and I ask its consideration. If the Senate see fit to postpone it to an uncertain future, and throw it upon bills which are behind, I do not propose myself to be responsible; that is all.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine, to take up the naval appropriation bill. The motion was agreed to; there being on a division—ayes 17, noes 15.

The Senate accordingly, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 601) making appropriations for the naval service for the year ending 30th June, 1869.

The Secretary read the bill.

Mr. HENDRICKS. When this bill was called up I did not observe that it was the naval appropriation bill. I understand the chairman of the Committee on Naval Affairs is not present, but is necessarily absent. I do not know that there is any impropriety in considering the bill in his absence, but I wish to suggest the fact to the Senator from Maine.

Mr. MORRILL, of Maine. I advised the Senator from Iowa, [Mr. GRIMES,] chairman of that committee, of my desire to take up this bill to-day, and asked him if he wished to be present; and he, having been upon the Committee on Appropriations, where it was considered, had no particular desire to be here.

Mr. HENDRICKS. Is he on the Committee on Appropriations?

Mr. MORRILL, of Maine. Yes, sir.

Mr. HENDRICKS. Very well.

The PRESIDENT *pro tempore*. The Secretary will read the amendments reported by the Committee on Appropriations.

The Secretary proceeded to read the amendments. The first amendment was in line eight, to strike out the words "millions of" and insert "million," and after the word "be" in line nine to strike out "required by existing law" and insert "necessary," so as to make the clause read:

For pay of commission, warrant, and petty officers, and seamen, \$8,000,000, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was to strike out the proviso from lines nine to seventeen, in the following words:

*Provided*, That all moneys now under control or subject to the order of the Secretary of the Navy, whether arising from appropriations or from sales of public property, or otherwise, which shall be expended on the 1st day of July, 1868, shall be covered into the Treasury, so that no amount hereby appropriated shall be expended or drawn while any other unexpended moneys shall be subject to the order of the Secretary of the Navy.

The amendment was agreed to.

The next amendment was in line twenty-ones after the word "kinds," to insert the words "labor in navy-yards;" so as to make the clause read:

For preservation of wood and iron vessels and ships in ordinary, and for those that are on the stocks; vessels for the Naval Academy; for purchase of material and stores of all kinds; labor in navy-yards; tools, transportation of material, repair of vessels, and maintenance of the Navy afloat, \$3,000,000.

The amendment was agreed to.

The next amendment was in line thirty-six, to strike out "tools" and insert "tolls," and after the word "ferridges" in the same line to insert "for coal and other fuel" among the items of contingent expenses of the Bureau of Yards and Docks appropriated for.

The amendment was agreed to.

The next amendment was after the word "necessary" in line sixty-five to insert "repairs of;" so as to make the item read:

Naval station at Key West:  
For necessary repairs of wharves and buildings \$3,000.

The amendment was agreed to.

The next amendment was to strike out the following proviso from line eighty to line ninety-two:

*Provided*, That the civil engineer and the naval storekeeper at the several navy-yards, and that the persons employed at the several navy-yards to superintend the mechanical departments, and heretofore known as master mechanics, master carpenters, master joiners, master blacksmiths, master boiler-makers, master sailmakers, master plumbers, master painters, master caikers, master masons, master boatbuilders, master sparsmakers, master block-makers, and the superintendent of rope-walks, shall be appointed by the President, with the advice and consent of the Senate, and shall be men skilled in their several duties and appointed from civil life, and shall not be appointed from officers of the Navy.

Mr. WILSON. I hope that amendment will not be concurred in by the Senate, but that the proviso will remain as it came from the House of Representatives.

Mr. MORRILL, of Maine. I only rise to say that the Committee on Appropriations were of opinion that it would not subserve the public interests nor add to the efficiency of the public service to subject these officers, who are strictly petty and subordinate, to appointment by the President and confirmation by the Senate; that in practice it would lead to difficulties; and it was not obvious that the present mode of appointment is liable to any special abuse, particularly under a fair Administration.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. WILSON. I wish simply to say that I have no objection to these officers being appointed without coming to the Senate for confirmation; but I think they should be selected from people who know something about these various pursuits. The good of the service requires it. The abuses that have crept into the system during the last three or four years ought to be corrected, and the additional expense to which the Government has been put ought to

be stopped. There is not a navy-yard in the country where the changes made lately have not increased to the amount of tens of thousands of dollars the expenses of the Government and the inefficiency of the service. These officers ought to be appointed from the class of men who are skilled in the various branches of work, who will know what they are about, and not men who know nothing at all, as they have been in many cases recently. If it is objected that the persons appointed to those small offices should not be sent to the Senate for confirmation, I would not object to amending this proviso so as to provide merely that they shall be selected by the President from persons skilled in their profession, and not from people who know nothing about it, and who have a great capacity to run up expenses on the Government, as has been the case within the last two or three years in this Department.

Mr. FESSENDEN. I should like to hear the last clause of that proviso read again.

The Secretary read as follows:

Shall be appointed by the President, with the advice and consent of the Senate, and shall be men skilled in their several duties and appointed from civil life, and shall not be appointed from the officers of the Navy.

Mr. FESSENDEN. That is the clause to which I suppose the honorable Senator from Massachusetts objects.

Mr. WILSON. No; I do not object to part of it.

Mr. FESSENDEN. What part?

Mr. WILSON. I said that I understood the reason why it was proposed to strike out this proviso was that we ought not to bring these small officers before the Senate for confirmation.

Mr. FESSENDEN. That is one reason; but what part does the Senator think it of particular importance to retain?

Mr. WILSON. I think that that part which provides that they shall be skilled in their duties and appointed from civil life, and not from men who have never studied and who know nothing about this class of duties, should be retained. I would be willing that the President should appoint these persons without sending their names to the Senate; but I think they ought to be appointed from the class of men who are skilled in that particular kind of business and are fit for it. I know that great complaint has been made in the last two or three years that such persons have generally been dismissed and a class of men who have little knowledge of these matters have taken their places, and many of them appointed from the Navy, who know as little as any other class.

Mr. FESSENDEN. I am aware that those complaints have been made; but the complaints have come, as a general rule, from those who have ceased to be employed at the navy-yards in these capacities, as I understand. While we had use at sea for all our ship-carpenters, calkers, &c., who were connected with the Navy, it became necessary, as was the custom, to appoint men to these places, which are simply subordinate, and the appointments were made by the Secretary of the Navy, ordinarily from civilians outside, not on account of any particular skill that they had, but on account of their having political friends, as a general rule, and being themselves pretty active politicians, either on one side or the other, according to the party that happened to be in power. That has been the general principle that has governed the appointments, as we all know, on both sides. Now, when the naval service at sea is very much cut down and very largely diminished, the carpenters and others who formerly went to sea and who are acquainted with ships and everything in connection with them, from having spent their lives in connection with them and this particular kind of business, instead of going to sea are sent to the navy-yards to superintend the work there. Thus there is a saving. Those men must be paid; they belong to the regular corps of the Navy, and we save the amounts that would be paid to persons outside, civilians, to take those places, while

these men substantially have nothing to do; and the complaint that comes here that they are not skilled is because they happen to be men who have been exercising their skill at sea for a considerable portion of time recently, instead of being in the navy-yards as formerly.

The object of this proviso, which was put on the bill in the House of Representatives, as I understand it, is to leave these men to do nothing substantially, and employ political persons outside, either of one stripe or another, who are civilians, changing them regularly with every changing Administration, to take these petty places in the navy-yards. That is the simple secret of the whole of it. As to the words providing that they shall be persons skilled in their professions, that is a matter of accident, and who is going to settle it? The real point of the whole thing is, that they shall be taken from civil life. In reality it is legislation to continue a class of officers who are entirely unnecessary when we have officers connected with the Navy whom we are obliged to pay, who can discharge the same duty, and who are not subject to all the reverses of parties or changes of parties. It is a question of economy. This talk about it being a great deal more expensive to have the work done by naval men is unfounded; it is a great deal less expense. They are just as skilled as the other men.

Mr. WILSON. That is a great mistake.

Mr. FESSENDEN. I should like to have the proof of it. For the Senator to get up here and say it is so, without giving us any proof, does not convince me. I have no doubt he has been told so, because I have been told so; but look at the face of the thing: you shall not take a person to fill one of these positions from the Navy, although you have carpenters and calkers in the Navy who are men of age and experience and skill, just as likely to be fitted as others, from their being connected with ships as long as they have been; but you must go and take somebody, a carpenter or a calker, outside and bring him in there for the reason that you want to give the place to a civilian. Why should not the persons already in the employ of the Government and paid by the Government be the individuals to perform these duties in the navy-yards instead of our having two classes of men to pay when we have service for only one? We have heard no reason why they should not discharge these duties.

Mr. PATTERSON, of New Hampshire. This clause which it is proposed to strike out is rather a trifling matter as it seems to me; and in voting against striking it out I am influenced somewhat by the statement of the chairman of the Committee on Appropriations at the moment he brought up this bill, the necessity of having the bill passed so that it may go to the country. If you strike out this provision the bill must go back to the House of Representatives to be acted upon there. They may concur or they may not. Now, as it is so trifling a matter, would it not be better to leave it where it is rather than to strike it out and send the bill back to the House?

Mr. FESSENDEN. The bill must go back to the House anyway, because a great many amendments are made to it.

Mr. PATTERSON, of New Hampshire. The principal difficulty about the matter is, that of late the Navy Department has turned off from our navy-yards men who are skilled in their various professions, and have put into their places men who are skilled as politicians, and we have no remedy against this sort of thing. It seems to me it would be vastly better to leave this matter just where it is in the bill, and then we shall have some remedy against turning out men of skill, men who have had years of experience in their profession, and having put in their places men who know nothing about the duties to be performed.

Mr. FESSENDEN. That is not the fact.

Mr. PATTERSON, of New Hampshire. It is the fact at the Portsmouth navy-yard, to my knowledge.

Mr. SUMNER. And so is it the fact at Boston.

Mr. CRAGIN. I wish to make a remark or two in relation to the alleged increase of expense. The Senator from Maine thinks that the Senator from Massachusetts is greatly mistaken in that respect. I will endeavor to show that in one particular the expense has been greatly increased. A year ago, or a little more, there was a clause inserted in the naval appropriation bill requiring that the civil engineers and naval storekeepers should be appointed by the President and confirmed by the Senate; but the Secretary of the Navy took it into his head that he would abolish the office of naval storekeeper. The naval storekeeper was an officer who kept the stores for all the different bureaus in the Navy Department, and issued them on requisition. The Secretary of the Navy, inasmuch as the law said that these officers should be appointed by the President and confirmed by the Senate when required, taking advantage of that word "required" abolished the office of naval storekeeper. The result has been that every single bureau of the Navy Department has now officers at the navy-yards, a clerk and others, who keep the stores for each bureau, and the officers have been largely increased, and the expenses increased. I am told so at the Navy Department by men who are well posted in this matter.

Mr. WILSON. So far as this matter has any political influence I have no care about it anyway. I am against men appointed to office—mere appointees of the Government—having much influence or much to do with political affairs. I would not permit them to be taxed nor to pay money for political purposes if I had my way about it. I am in favor of cutting down the number of persons employed in the navy-yards to the smallest possible number; and I think we shall find when this bill goes into effect that it will discharge four fifths of the men in the navy-yards who cannot be employed under it. The bill is a great reduction as it came from the House of Representatives, and we have reduced it \$700,000 as reported by our committee. But the fact cannot be disguised that under the Navy Department the expenses have been largely increased in the navy-yards of the country. Take the Charlestown navy-yard; they employ four times as many clerks as they did before the act to which reference has been made was passed. In fact, I have a report—I cannot lay my hands on it at present—called for by a resolution of the House, and anybody who will take it and compare it will find that the officers have been increased throughout the country; that they have been divided up into petty departments for the accommodation of men employed there who ought to be sent to sea or sent out of the service. I think the Navy Department during the last two or three years has been one of the most extravagant and corrupt Departments of this Government, and one of the worst managed. For one, I cannot see that naval officers can know anything about the duties of master joiners or master mechanics of any kind.

Mr. CRAGIN. Or master masons.

Mr. WILSON. Sir, what are these officers—"master carpenters, master joiners, master blacksmiths, master boilermakers, master sailmakers, master plumbers, master painters, master calkers, master masons, master boat-builders, master sparmakers, master block-makers, and the superintendents of ropewalks?" I do not believe that officers connected with the Navy know anything about these things, and I do not think they should be sent to the navy-yards to attend to this work. I do not believe that the public business is promoted by it, or that the quality of the work or the amount of it is increased by it. I am opposed to striking out this proviso from the bill and shall vote against the amendment. I do not wish to occupy time on it.

Mr. MORELL, of Maine. It seems to me all that has been said of the necessity of this measure has grown out of a supposed abuse

of the administration of the law. Now, if the abuse were corrected, and a faithful administration of the law as it stands could be premised, I submit to my friend from Massachusetts whether he believes this provision would be necessary; because, as the law now stands, I take it, any of these officers may be selected from civil life. This proviso, therefore, is only intended to provide against an abuse in the administration of affairs in this particular. The committee so understood it; but if it were allowable to suppose that we are not necessarily to legislate against every little abuse which possibly might exist, and we might hope for a better state of things, then I think it would not be necessary to pass this provision. At any rate the committee thought there would be more embarrassments growing out of it from the method of appointment than relief to the public service by its adoption.

Mr. SUMNER. I hope the Senate will pardon me if I make one remark. I will say that I do not like this proposition as an original proposition and not growing out of public exigencies. I think that the persons named here, in the ordinary course of business, ought to be appointed by the Department or by the heads of bureaus, as they have been for many years. I may say perhaps for several generations; but this measure belongs to a class of measures to which we have been obliged to resort during the last two or three years, growing out of the maladministration of the Government through the defection of the President of the United States. That is the fact; and we, as legislators, now are obliged to confront it. That was the origin of the tenure-of-office bill. It is the origin of many other measures on which we have been obliged to act. And now comes this smaller measure, belonging to the same class, sustained precisely on the same principle, which is this: we cannot trust the head of the Department. In the exercise of his discretionary powers, according to the old system, he turned out of place excellent men and put in others merely on political grounds. All that has come within my own knowledge in the navy-yard at Boston. The Senator from New Hampshire [Mr. PATTERSON] says the same of the navy-yard in his State; and I doubt not that other Senators would be obliged to give more or less the same testimony with regard to any other navy-yard that came within their cognizance.

Now, the question is whether at this time there are any circumstances which should induce us for the moment to depart from or suspend the policy which for two years we have been gradually adopting in order to encounter these abuses in the administration of the Departments. I think that for the present we must proceed as we have done; as we did in the tenure-of-office bill; as we did in other bills; and by legislative provision in advance tie the hands of persons whom we cannot trust.

Mr. JOHNSON. I have no reason to believe that there is a greater disposition in the present Administration, either on part of the President or the heads of Departments, to act in relation to appointments upon party grounds than has existed during the last twenty years, and particularly during the period that Mr. Lincoln himself was at the head of the Government. I have some reason to believe that changes such as are now spoken of in this bill were made by him, or rather by the Secretaries who were in the several Departments under him. The system commenced as a dangerous one, a mischievous one, in my opinion, in the days of General Jackson, and has been continued more or less ever since, and will be continued to the end of time, or until healthier sentiment governs the country.

But what will the honorable member from Massachusetts gain if he succeeds in calling upon the Senate to act as a Senate upon these several appointments? Suppose the President nominates a boatswain, a sailmaker, or a blacksmith. Then, I suppose, my friend from Massachusetts will say, "What party does he belong to? Is he of us or of the opposite faction?"

If he is not of us we disapprove." Does that change the matter at all? It makes it, in my opinion, worse, because it involves the character of the Senate; and I would much rather, if anybody is to suffer in reputation, that it should be the members of the Cabinet than the members of a body like the Senate of the United States.

But what a work it will be for us to be engaged in, vested with the high legislative power the Constitution confers upon us and the authority to deal with foreign nations in conjunction with the President in matters that may involve the peace or promote the prosperity of the country, to be called upon to advise whether this man, that man, or the other, whose name has never reached us, or reached anywhere beyond his immediate neighborhood, is fit to be a blacksmith, a sailmaker, or a boilermaker!

Mr. FRELINGHUYSEN. Will my friend from Maryland permit me to interrupt him for a moment?

Mr. JOHNSON. With great pleasure.

Mr. FRELINGHUYSEN. This proposition provides that these officers—the civil engineer and the naval storekeeper and the persons employed to superintend the mechanical departments at the several navy-yards—shall be taken from civil life. I suppose, consequently, they must be considered as civil officers; and I suggest, if that is so, that they would come under the provisions of the tenure-of-office bill, and they could only be removed by suspension, and we should have to try the merits of suspending one of these officers also.

Mr. JOHNSON. Certainly; and what a time we should have of it! The honorable member from Nevada [Mr. STEWART] yesterday, in the debate upon the bill which was passed over the President's veto, said that the Supreme Court of the United States was behind in its docket. I think he is mistaken as to that; but how far should we be behind in our legitimate docket? Our whole time would be taken up in trials of a sailmaker or a joiner or a boilermaker or a carpenter or a gatekeeper. It seems to me to be beneath the dignity of the body, and that of itself would be a sufficient objection to it, in my mind.

But there is still, if possible, a greater objection. It unfits us—I do not mean to say it would have that effect upon the body as it now is; but the tendency of such a power, of such a duty, would, in course of time, be to unfit the Senate—to discharge properly its high constitutional functions; functions which involve the nation in its reputation throughout the world, and functions with the proper discharge of which the safety and prosperity of the nation are so vitally and so indissolubly connected. I hope, therefore, Mr. President, that the amendment proposed by the committee will be adopted.

Mr. FESSENDEN. The Senator from Massachusetts, who spoke last, [Mr. SUMNER] admitted the truth of what I said, that this is merely a political matter and intended as such. Now, sir, I am not so much of a politician perhaps, as the Senator, and, therefore, I do not see the propriety of mixing politics up with everything which is a mere matter of business. But what do we gain by it politically? These changes have already been made in the navy-yards.

The effect, then, of this provision is to keep things just as they are. We cannot put our friends back except by turning out the men now in place. We shall not be very likely to do that until we have a change of Administration, at any rate; and I suppose when we have a change of Administration, it can be done without this legislation; but then, I suppose, we are to repeal our law if we now enact it; the object will have been accomplished. I suppose gentlemen on our own side of the Chamber expect to carry the next presidential election. I hope they will. If they do we probably shall have another Secretary of the Navy; one that we like, and one that will make all the improvements necessary without any legislation. But if we do not, and the other side

carry it, they will do what they like about this matter; that will be the amount of it. Now, as the thing is already done, what is the object of this provision?

I have no peculiar affection for the present Secretary of the Navy. I have not seen him for a year or two, and do not suppose I shall for the next year or two; I certainly shall not of my own motion. But, sir, the policy of the Navy has been, since the business of the Navy is so much reduced and we have so many officers who are unemployed, to put them in these places and save money, if we can. For instance, take the naval storekeeper. Instead of having a naval storekeeper that you pay, the Department appoints an officer of the Navy at the yard to administer those duties, and he lives on his pay as an officer of the Navy, which he must receive anyhow. If there has been any abuse in the appointment of clerks, that should be corrected; but it is no matter how many naval storekeepers you have provided they are all naval officers. As naval officers they have hardly anything else to do, and they may as well be employed in this service; but if you have too many clerks you can correct that by the proper legislation. There is no difficulty about that.

So, too, with regard to the heads of the different trades carried on at the navy-yards. Is there any objection to having as the head of a trade in a navy-yard a ropemaker who has been to sea, and who has been engaged in vessels and connected with the cordage of vessels, and everything of that sort, probably for many years? Is he not just as competent to do work of that sort as a ropemaker outside? Precisely so; only you do not get a politician; you do not get a man who is bound to employ everybody under him of a particular stripe. And so of a ship-joiner and a ship-carpenter. With regard to the master mason, you must take him from civil life, for masons do not go to sea; and so, perhaps, of some of the others. But the object of this proviso is to compel the Navy in all cases to take a political man from outside, instead of employing somebody who is just as good, that they have to pay whether he renders any services or not. That is the amount of this last clause of which the Senator speaks.

As to the greater expense of this system, that remains to be proved to my satisfaction. All that anybody has been able to specify was that specified by my friend from New Hampshire, [Mr. CRAGIN], who says the number of clerks in the navy-yards has been increased. How that may be I do not know. Probably it may be so. If so, let us correct that abuse. But with regard to the other clause, that these persons shall be nominated by the President and confirmed by the Senate, it strikes me as simply ridiculous.

Mr. EDMUNDS. My friend from Massachusetts [Mr. SUMNER] seems to entertain the idea that the tenure-of-office bill was intended to reach cases analogous to this, and was a mere political measure—a temporary expedient to check the existing presidential patronage of the incumbent of that office—and speaking from our side of the Chamber, unless his remarks should be disputed by some one, they might lead to the inference that that is the view which gentlemen of our political opinion take. I wish, speaking for myself, to dissent from that proposition. When that bill was under consideration it was distinctly placed by the committee who reported it—my friend from Oregon [Mr. WILLIAMS] and myself and my friend from Pennsylvania, [Mr. BUCKALEW], who, although he did not agree to the bill itself, assisted with most valuable aid in making the framework of it—on the ground that it was a measure intended to restore that just equipoise of harmony which the Constitution originally intended to exist between the Senate of the United States, representing the States, and the Executive, in respect to the management of the affairs of the Government—that is to say, in the selection of those chief and responsible



agents who were to administer the laws—and that it was calculated for all Administrations, for all species of politics; as a measure that would be equally beneficial to Democrats in Democratic times as to Republicans in Republican times; because it was supposed by the committee to be a measure which had in it the inherent merit of restoring what I have said was the true constitutional equipoise of right and power between these Departments of the the Government.

The tenure-of-office bill, therefore, provided merely that that class of officers who by the Constitution or the laws were required to be appointed by the President, by and with the advice and consent of the Senate, should hold their offices by a tenure resting upon the same stable foundation; that they, having been once agreed upon and appointed, should continue to exercise their functions until some new men selected in the same constitutional method should be chosen to supplant them. I submit, then, to my friend from Massachusetts, to his good sense, to his constitutional learning, whether he has not taken a somewhat too narrow view of the scope of that act.

Mr. President, that being the tenure-of-office bill, it would be true, as has been said by my friend from New Jersey, that if we adopt the proposition contained in this bill these mechanics will be brought within the operation of the tenure-of-office law, and not one of them can be removed or suspended or dismissed otherwise than in conformity to its provisions; and therefore, if the Secretary of the Navy finds that he has employed at any one of our naval stations a ropemaker or a boatbuilder, or a boilermaker, or whatever he may be—a painter even, which I suppose does not mean a Raphael, but a man with a somewhat larger brush—he must appeal to us to decide whether it is fit that he should be displaced and a man with a fresh brush and a new pot of paint be brought in.

It appears to me that my friend from Maryland stated the case pretty truly when he said that it would load the Senate with a docket exceeding that which has so troubled the Supreme Court; and I will add that it might lead us to a line of decision somewhat more reprehensible, if it be possible to say so, than that which the Supreme Court at some stages of its existence has fallen into. I hope that we shall not agree to let this provision stand, but shall concur with the committee in striking it out.

Mr. WILSON. Is it in order to move to amend this proviso before the question is taken on striking it out?

The PRESIDENT *pro tempore*. It is in order.

Mr. WILSON. I move to amend it so that it will read:

*Provided*, That the persons employed at the several navy-yards to superintend the mechanical departments, and heretofore known as master mechanics, master carpenters, master joiners, master blacksmiths, master boilermakers, master sailmakers, master plumbers, master painters, master calkers, master masons, master boatbuilders, master spar-makers, and master blockmakers, shall be men skilled in their several duties, and appointed from civil life, and shall not be appointed from the officers of the Navy.

I propose to say nothing in regard to the civil engineer and naval storekeeper and the superintendents of rope-walks. I do not care about the President appointing them or the Senate confirming them; but I do object to putting naval officers over mechanics in these several departments any way. They are not fit for it.

Mr. FESSENDEN. Why should not a carpenter in the Navy be put over carpenters?

Mr. WILSON. I am against putting naval officers to superintend mechanics in our navy-yards or anywhere else. I do not want to take men brought up over old salts, with their manners and their habits and their general insolence, and put them over a body of men, many of them quite as intelligent as they are, and in every sense of the word their equals; and therefore I move this amendment.

The PRESIDENT *pro tempore*. The amendment to the amendment will be reported.

The SECRETARY. It is proposed to amend the proviso in the eightieth and eighty-first lines by striking out the words "civil engineer and naval storekeeper at the several yards, and that the;" and also in lines eighty-nine and ninety by striking out the words, "and the superintendents of rope-walks shall be appointed by the President by and with the advice and consent of the Senate, and."

Mr. FESSENDEN. I have no objection to the amendment to the amendment.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on striking out the proviso as amended.

Mr. FESSENDEN. I am not aware of any law which provides for the appointment of a master carpenter or a master sailmaker or any of those persons who are there enumerated. There is no law whatever providing for it that I am aware of; but it is the custom, of course, in these navy-yards, to have somebody to superintend, that is, to be the head man over these different kinds of work, and he receives more pay and he has got to be called the "master" carpenter or painter or sailmaker. Now, what is the effect of this provision? If the Secretary of the Navy does not choose to have these men all he has to do is not to appoint them, and the Senate accomplishes nothing by the provision. You say if he does appoint anybody as master carpenter he shall not be anybody connected with the Navy; that is to say, if you have an officer who occupies that position in the Navy, and by looking at the Navy Register you will see quite a list of them; I do not know whether they call them ship-carpenters or ship-joiners, but if there is one of them who has nothing to do particularly the Secretary of the Navy shall not put him over the men who are at work in a navy-yard, no matter what may be his capacity, no matter whether he is to be idle or not; but you must go outside of the Navy and find somebody else to bring in there and put over the workmen. Is that economy? We talk a great deal about economy now-a-days. Is it an abuse, is it an outrage upon the workmen employed in a navy-yard that a man who has been employed in the Navy, of their own trade, brought up as they are, with all his experience, should be the head man? But here you provide that you must go outside. That is the effect of it, and nothing else.

Mr. HENDRICKS. Mr. President, I think the condition of the business in our navy-yards is such as ought to excite the most profound anxiety of every citizen. I am sure every year since I have been in the Senate, now five years, it has been reported here, upon personal observation, that the yards are getting into a worse condition than they were the year before. Every year, to the best of my recollection, that has been the report; and I was very much concerned about it each time that the statement was made. But I never entirely surrendered myself to despair until I heard the distinguished Senator from Massachusetts [Mr. SUMNER] just now say that, upon his own personal observation, the business was not at all well conducted, and was getting worse and worse every day; that the good men of the country had all been turned out, and all the bad men had been put in; and now the machinery was in the worst possible condition in the navy-yards according to his own observation.

I do not know anything that would be much more amusing than to see the Senator from Massachusetts go through a workshop and undertake to criticise the workmen. I should like to see him make a personal observation of a boiler when the hard-fisted and iron-muscled man was making it. I should like to see the Senator from Massachusetts standing beside him, with his benevolent countenance and cultivated intelligence, judging whether the rivets were being put in in proper style, and whether the metal that was being used

was such as ought to be used. When his judgment would be brought to bear on a question like that there could be no doubt about the sufficiency of the machinery afterwards. When the superintending blacksmith was seeing to the structure of the cables, and the rope men of the ropes, and the painters were painting the work, and the calkers were calking the vessel, then the Senator from Massachusetts would bring his judgment to bear upon all that; and if he decided that it was being well done, then all patriots might dismiss all concern from their minds for the future. [Laughter.]

I should like to see the Senator from Massachusetts passing his opinion upon the blacksmith. The blacksmith is doing the best he knows how; but the Senator from Massachusetts, taking a view of the proceeding, decides that we are fast going in the backward track in machinery, especially iron machinery and iron structures. I suppose he could tell at a glance whether a chain of particular dimensions, and made out of a particular quality of iron, would be sufficient to hold a vessel to its moorings or not. I suppose he could tell a machinist at once whether the iron that came from Lake Superior or that which came from the Iron Mountain in Missouri was the better calculated to make chains out of. No doubt he is competent to judge of all these things, for he tells us, upon his own personal observation, that the good men, the qualified machinists have been dismissed, and bad men have been brought in.

Now, if the Senator will not take it at all as offensive, I will say that in my humble judgment he has acquired so much knowledge upon everything else in the world except machinery, that his judgment is not worth a groat upon any question of that kind. [Laughter.] It is impossible, in my humble judgment, though, perhaps, I cannot judge of the capacity of other gentlemen, for one man to know everything. We know that the Senator from Massachusetts does know nearly everything; that in all the field of law, national and municipal, in the field of science, of philosophy, and especially of literature, what he does not know is scarcely worth laboring after, [laughter;] and, therefore, he will excuse one standing at so humble a distance from him as myself in expressing some doubt whether, when he goes into a machine shop, he can form the very best opinion upon the questions that may arise there.

What right has the Senator here in the Senate to say that the men who are now managing these navy-yards are not skilled in their business? What right has he to say that they are not honest men? As a Senator he stands very high above them. They are very humble men. They came up, many of them, from the humble walks of life. Their paths have never been cheered by the lights of learning. But still they and their families take a great pride in their good name. Their position as machinists to them is as dear as the position of the Senator as a Senator. What right has he to blacken their names here, humble as they are, unobtrusive as they may be? What right has he to say that as machinists they are not skilled, and that as men they are not honest? When a man in the Senate says that somebody else who occupies a responsible position to the Government is dishonest I think he ought to be ready to prove it, because he then makes a question between himself and that humble individual who is pursuing his avocation as he thinks properly to society.

The Senator said that the machinery was all getting wrong; I cannot give his language—

Mr. SUMNER. The Senator will not attribute to me what I did not say. Of course, I never undertook to say whether they were honest or not. I said nothing on that subject; and I do not know that I said anything as to whether they were skilled or not. I said there had been changes made under malignant political influences which were not for the better, and that good men had been displaced.

Mr. HENDRICKS. And bad men appointed, and, from your own observation, it was not

going right. Certainly you did introduce your own observation; and when the Senator did observe what did he observe? He observed that good men were out and bad men in; and yet upon that, with great deference, I think I may venture to doubt his capacity to judge whether a master machinist is a skillful man or not.

Mr. President, this question was discussed a year ago or more, and it was decided by the judgment of the Senate that the proposition of the Senator from Massachusetts then was not right. He then insisted that these machinists who depend for their position upon their skill, upon their judgment, upon their science, should cease to rely upon that, and should be made to depend upon political influence and political power; that they should look to the politics of the country for their avocation instead of their skill and position as mechanics. The Senate would not concur with him then, and he insists upon it now.

Sir, upon this whole subject of wrong in the navy-yards I have just this to say: I have tried as diligently as I could to discharge my duties as a member of the Committee on Naval Affairs, and not a word of complaint, so far as I have heard, has come to that committee against any of these shops, so far as the integrity of the superintendents is concerned. The workmen have not complained. I have not heard anything said against them. The engineers have sought to have their grade and position in the Navy fixed and defined. Officers in the Navy have sought to have their positions in the Navy regulated by law; but so far as the management of the business in the navy-yards by the practical machinists and workmen is concerned, I have not heard any complaint. My opinion is that the proposed change in the law will be very inconvenient.

Mr. NYE. I do not propose to take up the fight between my friend from Massachusetts and the Senator from Indiana.

Mr. HENDRICKS. It is no fight.

Mr. NYE. But, sir, there is, at the present time, if my investigations are worth anything, great confusion in the management of the navy-yards. There is a war going on between the engineering department and those who belong to the Navy proper—a strike for the ascendancy; and I suppose I shall not be guilty of a breach of any rule that governs this body if I say that we have before us in the Naval Committee a bill the object of which is to regulate the management of the construction of ships and repairs in the navy-yards generally. I do not know that I myself should have the highest confidence in the opinion of my friend on my right [Mr. SUMNER] in regard to proper mechanics and proper machinery for naval purposes; but I should have quite as much confidence in his opinion as I have in that of the present Secretary of the Navy. I suppose that he knows as much about mechanics as the present Secretary of the Navy. During this great struggle, potent as the Secretary of the Navy is, the old battle-cry has not been raised, "The sword of the Lord and of Gideon." [Laughter.]

The trouble is that there is no particular head that knows what ought to be done in these navy-yards; and the object of the bill to which I have alluded is to make a head who shall be responsible, who knows what machinery is, how much it ought to cost, how it ought to be made, when made, and where. In regard to this one department of civil engineering, while I have nothing but words of the highest commendation for all those engaged in it, I think the country will find that, if they are going to get engineering adapted to the wants of the Navy, the greatest power, the smallest space, and the perfection of workmanship, they will have to adopt the course that the British navy long ago adopted, of going into the markets for their engineering, instead of relying upon any Government engineer. In that one thing would be found a saving, in my judgment, of untold millions in the remaining portion of our lives, if we live to the ordinary age of men. I know

how liable these things are to run into clannishness; and hence we see already a strike as broad as the Navy and its whole Department between the sailing portion, the professional portion of the Navy, and the engineers. My friend from Indiana well knows that our table literally groans with documents from each side upon that question.

Mr. HENDRICKS. What question?

Mr. NYE. Upon the question of the position of engineers. We have one or two bills now before us grading these engineers; and there was laid on our tables a few days ago a remonstrance against the promotion of the naval officers to the neglect of the engineers.

Now, sir, in almost every navy-yard of importance we have a large engine factory. There is one at the navy-yard in this city, involving an annual expense of not less than \$1,000,000, where in ordinary times there is no more use for it than there is for any other article there as an adornment.

I make these suggestions to show that there is discontent and dissatisfaction in the Navy itself in regard to the management of these yards. I doubt, myself, whether the remedy lies in the course proposed by this amendment. I have serious doubts whether that will reach the difficulty; but I expect there will be a bill reported from the committee of which my friend from Indiana and myself are both members, attempting to regulate the management of the navy-yards so as to reduce them, or introduce into them a system of economy and of wise management that will very greatly decrease the cost of their administration at the present time.

Before the war—and I am not saying that there existed no necessity for a change during the war—we had but one storekeeper in each navy-yard; and now each bureau of the Department has a storekeeper at each navy-yard. I think that could well be done away with to-day. There would be no difficulty in a time of peace in requiring that one storekeeper should be sufficient for the whole service of a yard. I think in that respect there could be a large saving in the expense of our navy-yards. That is the object of the bill that I had the honor to introduce some time ago, and which I propose to submit again to the consideration of the Senate, so systematizing these navy-yards that the highest grade of economy shall be required. It is not questioned whether the opinion of my friend from Massachusetts or of my friend from Indiana is good or not, that there should be some one responsible head to determine whether the work in the navy-yards is well done or not.

I congratulate these laboring men that they have so able an advocate on all occasions as my distinguished friend from Indiana; and I have no doubt the laboring men of that State will read with great pleasure his ready defense of their interests on all occasions.

Mr. SUMNER. I find that the proposition under discussion was in part adopted last year. You will find it in the naval appropriation bill approved March 2, 1867, as follows:

*Provided*, That the civil engineer and naval storekeeper, when required at any of the navy-yards, shall be appointed by the President, by and with the advice and consent of the Senate, and the persons employed at the several navy-yards as master machinists, master carpenters, master joiners, master blacksmiths, master boiler-makers, master sail-makers, master plumbers, master painters, and master calkers shall be men skilled in their several duties and appointed from civil life.

Now, this proviso which you find in the bill of last year is substantially the same with that in the present bill as amended on the motion of my colleague. I think, under the circumstances, it would be better, or at any rate it would be more in harmony with the policy that has been pursued, if we took from the present appointing power the control over these different masters; and I say that I am moved to that conclusion by what I know of navy-yards. My friend from Indiana, I know, has no intention to carry anything I have said beyond its natural meaning; but I know that he cannot torture anything from my lips into any disparagement of those who labor. I respect them

as much as he can. Always, where I am able, I stand by them; and it is now because I am interested in labor, and because I desire to stand by them, that I propose to shield them, if possible, from that interference to which they have been exposed through malignant political influences. Such influences have shown themselves in the navy-yard at Boston. Whether they came directly from the Secretary or not I do not affirm; but they made themselves manifest at that yard. Honest and true men who have suffered from those influences have come to me with their complaints.

Others in their neighborhood have testified with regard to them. The Representative of that district of Boston has had occasion to make himself acquainted with those complaints, and to feel keenly sometimes the wrongs that have been done. Men have been placed in office there as the substitutes for good Union men whose special recommendation was that they sympathized with the recent policy of the head of the Navy Department, representing the President of the United States. Good men were obliged to give way under that influence. All that is perfectly familiar to gentlemen in Boston and in the neighborhood. It has been the subject of complaint; it has been recognized all around as an existing abuse, and the only question now is whether we shall undertake by legislation to apply a remedy. It has seemed to me, under the circumstances, especially considering the precedent of last year, that we shall not err if we do legislatively apply the remedy. But I do not wish to urge this. I shall accept the vote of the Senate, whatever it may be.

The PRESIDENT *pro tempore*. The question is on the amendment striking out the proviso as amended, on which the yeas and nays have been ordered.

Mr. EDMUNDS. Let the proviso be reported as it now stands.

The Secretary read it, as follows:

*Provided*, That the persons employed at the several navy-yards to superintend the mechanical departments, and heretofore known as master mechanics, master carpenters, master joiners, master blacksmiths, master boiler-makers, master plumbers, master painters, master calkers, master masons, master boatbuilders, master sparmakers, and master blockmakers, shall be men skilled in their several duties, appointed from civil life, and shall not be appointed from the officers of the Navy.

Mr. CONKLING. I am in favor of striking out these words, as the committee report. I wish, however, to make one suggestion, in reply to a remark which fell from the honorable Senator from Maine, [Mr. FESSENDEN.] He said that if the proviso, as amended on the motion of the Senator from Massachusetts, stood, it would still be in the power of the Secretary of the Navy to disregard or evade the provision by allowing persons who are at the time officers in the Navy to perform these duties, by simply omitting to make any appointments. I wish to call the attention of the Senate and of the Senator from Maine to the fact that the phraseology would not tolerate such a latitude as that. It does not imply that these are to be officers, and it does not require in those terms the Secretary of the Navy to appoint such officers. The requirement of the provision, if it is adopted, is, that "the persons employed at the several navy-yards to superintend the mechanical departments, and heretofore known" by these titles, "shall be men skilled in their several duties, and appointed from civil life, and shall not be appointed from the officers of the Navy." So the Senate will see, I think, and the honorable Senator from Maine, upon looking at the language as it stands now amended, will agree with me, that it would be obligatory, mandatory upon the Secretary, and that the only way he could evade the statute, as suggested, would be squarely to defy it, and to detail, appoint, or permit (whatever the phraseology might be) officers of the Navy to perform a function which, according to the express language of this provision, must be performed by persons from civil life, by whatever official name or title they are to be known. However, sir, with the conclusion of the sug-

gestion of the Senator from Maine I agree; and I shall vote for the recommendation of the committee to strike out the whole clause.

The question being taken by yeas and nays, resulted—yeas 23, nays 8; as follows:

**YEAS**—Messrs. Buckalew, Cattell, Conkling, Davis, Dixon, Edmunds, Ferry, Fessenden, Frelinghuysen, Hendricks, Johnson, McCreery, Morrill of Maine, Morrill of Vermont, Nye, Patterson of Tennessee, Ross, Sherman, Stewart, Tipton, Trumbull, Willey, and Williams—23.

**NAYS**—Messrs. Cragin, Harlan, Howard, Patterson of New Hampshire, Pomeroy, Sumner, Wade, and Wilson—8.

**ABSENT**—Messrs. Anthony, Bayard, Cameron, Chandler, Cole, Conness, Corbett, Doolittle, Drake, Fowler, Grimes, Henderson, Howe, Morgan, Morton, Norton, Ramsey, Saulsbury, Sprague, Thayer, Van Winkle, Vickers, and Yates—23.

So the amendment striking out the proviso was agreed to.

The next amendment of the Committee on Appropriations was under the head of "Bureau of Navigation," after line one hundred and twenty-three, to insert:

For books for libraries for vessels of war, and for books and stationery for naval apprentices, \$4,500.

The amendment was agreed to.

The next amendment was in line one hundred and twenty-eight, to strike out "six" and insert "three," so that the clause will read:

For binnacles, pedestals, and other appurtenances of ship's compasses, to be made in the yards, \$3,000.

The amendment was agreed to.

The next amendment was in line one hundred and fifty-eight, after the word "offices" to insert "and contingent expenses;" so that the clause will read:

For freight and transportation of navigation materials, instruments, books, and stores, postage on public letters, telegraphing on public business, advertising for proposals, packing boxes and material, blank-books, forms, and stationery at navigation offices, and contingent expenses, \$10,000.

The amendment was agreed to.

The next amendment was under the head of "Expenses of Naval Academy," in lines one hundred and sixty-one and one hundred and sixty-two, to strike out "\$73,001" and insert "\$76,706," so that the clause will read:

For pay of professors and others, \$76,706.

The amendment was agreed to.

The next amendment was in line one hundred and sixty-six, to reduce the appropriation for contingent expenses of the Naval Academy from \$65,450 to \$63,450.

The amendment was agreed to.

The next amendment was in line one hundred and sixty-eight, to strike out the words "and so forth."

The amendment was agreed to.

The next amendment was in line one hundred and seventy, under the head "Naval Academy," after the word "enginery," to insert the words "and for pay of mechanics and laborers," and in line one hundred and seventy-one, to strike out the word "seven" and insert "five;" so that the clause will read:

For support of department of steam enginery, and for pay of mechanics and laborers, \$5,000.

The amendment was agreed to.

The next amendment was to strike out from the appropriations for the Naval Academy the following item in lines one hundred and seventy-two and one hundred and seventy-three:

For pay of mechanics and others in same, \$3,000.

The amendment was agreed to.

The next amendment was under the head of "Expenses of Naval Observatory," to strike out line one hundred and eighty-two, in the following words:

For salary of three aids, \$4,000.

Mr. HENDRICKS. I wish to ask the chairman why the committee propose to strike out that appropriation?

Mr. MORRILL, of Maine. These persons were not deemed indispensable.

Mr. HENDRICKS. They are the persons to take care of the Observatory.

Mr. MORRILL, of Maine. The Senator will see that this appropriation is under the head of "Expenses of Naval Observatory," and if aids in any sense were necessary it was not deemed necessary to have them as officers

attached entirely to this particular bureau; but for all the purposes that could be desired in any case they might be detailed.

The PRESIDENT *pro tempore* put the question on the amendment, and declared it to be agreed to.

Mr. FESSENDEN. I believe nobody voted in the affirmative, and I voted in the negative. I am not quite satisfied that those three aids ought to be stricken out. I remember that last year I examined the question very carefully and came to the conclusion that it was the cheapest way of carrying on the operations there. It must be evident to everybody that the head of that Observatory cannot get along without some assistance. It was finally settled, after a good deal of examination, that the amount of assistance that was absolutely necessary was three aids. I noticed that in the discussion of this bill this year in the House of Representatives the same question was brought up, and there was a communication presented from the head of the Naval Observatory, and the House came to the conclusion that three aids were essential. I should like to hear some good reason for striking them out.

Mr. MORRILL, of Maine. I have no special information on the subject. By reference to the book of estimates it will be seen that the estimates are as follows:

"For salary of assistant astronomer, \$2,500.

"For salary of clerk, \$1,500.

"For salary of three aids, per act of May 21, 1864, \$4,000."

I think that act of 1864 does not authorize the appointment of any aids at all.

Mr. FESSENDEN. It authorizes the appointment of some assistants. I believe they had another name.

Mr. MORRILL, of Maine. The conclusion to which the committee came was that the law did not absolutely justify the appointment of these persons as aids. That was the first proposition.

Mr. FESSENDEN. That is a mere change of name.

Mr. MORRILL, of Maine. And the next was that, from the information which the chairman of the Committee on Naval Affairs had, he believed they might be dispensed with.

Mr. FESSENDEN. I think he is mistaken. I defer to his opinion on naval matters generally; but on this subject of the Naval Observatory there is nothing in the fact that he is the chairman of the Naval Committee to enable him to understand it any better than other people. I doubt very much whether the operations of the Naval Observatory can be carried on at all without these aids. You may as well abolish it at once unless you give some assistance to the man who is at the head of it. It was formerly given by that statute in the shape of assistants, and under the name of assistants, but Congress finally came to the conclusion that it would appropriate only a certain amount for that purpose; and the way in which it was finally arranged was that the amount before given to two—they wanted another—should be given to three. The amount appropriated was not increased, but the number was increased, that number being said to be quite essential.

Mr. HENDRICKS. I wish to ask the Senator if these are aids to the scientific examination; or what are they?

Mr. FESSENDEN. They are scientific men, employed there with the astronomer.

Mr. HENDRICKS. That is what I supposed.

Mr. FESSENDEN. But at very low rates; and all of them, as I understand, are very competent persons. It was thought by themselves, as there was a good deal of discussion about it, that the amount appropriated had better be divided among three. What is the amount appropriated?

Mr. EDMUNDS. Only \$4,000.

Mr. FESSENDEN. It is only \$4,000 for the three.

Mr. HENDRICKS. One thousand three hundred and thirty-three dollars apiece.

Mr. FESSENDEN. That is all; and they are all scientific men; young men, I believe, mostly. I do not know perfectly about that, but that is my strong impression. I am perfectly confident that their services are absolutely essential to carry on the operations of the Observatory. That was explained to the satisfaction of the Committee on Finance last year, and finally agreed upon; and the question was raised in the House of Representatives this year, and there was a communication from the head of the Observatory on the subject read, which perfectly satisfied the House that the appropriation was necessary. I do not think any good reason can be found, unless you wish to dispense with that institution altogether, for withdrawing this small appropriation for these three men. I hope the amendment will not be concurred in. I am satisfied it is erroneous.

Mr. MORRILL, of Maine. I have nothing to justify the action of the committee. We were referred in the estimates for these three aids to the act of 1864, and I have that act before me.

Mr. FESSENDEN. What act is that? Is that the appropriation bill?

Mr. MORRILL, of Maine. Yes, sir.

Mr. FESSENDEN. Very well; that is a wrong reference. Go to the appropriation bill of last year, and you will find that the reference should have been to the act of last year. If you can find that it is authorized by law anywhere, a wrong reference in the estimate of appropriations is of no consequence at all. We adopted it last year.

Mr. MORRILL, of Maine. The authority for it is not found in the reference. That is what I mean to say.

Mr. FESSENDEN. Very well; it is found in the appropriation bill of last year, I think.

Mr. MORRILL, of Maine. I will look at the bill for 1865.

Mr. FESSENDEN. Look at the very last appropriation bill, passed at the second session of the Thirty-Ninth Congress.

Mr. MORRILL, of Maine. I have not that before me. In the act of 1865 I find the following:

"For wages of instrument maker, watchman, porter, and laborers; keeping grounds in order, and repairs to building and inclosures; fuel, lights, office furniture, and stationery; and for freight, transportation, postage, and incidental expenses, \$12,000."

That is the appropriation for 1865 for this particular service, and none of these officers are included. They may have been appropriated for somewhere else; but the committee found no authority for an appropriation for these aids, as aids, in the statute to which we were referred.

Mr. HENDRICKS. I think, after the explanation that has been made, this appropriation had better be allowed to remain in the bill. I would rather economize in regard to that institution at some other point than in the aid that is given to the scientific examinations.

Mr. MORRILL, of Maine. If the Senator will allow me a moment, I will read the provision of last year, to which my colleague refers me as authority, and it is in this language:

"For expenses of Naval Observatory, for pay of assistant astronomer, three aids, and clerk."

There you find it as he said. I think that is the first time it appears.

Mr. FESSENDEN. Very well. I say it was arranged last year, after a great deal of deliberation and discussion, and that is sufficient authority for it this year.

Mr. MORRILL, of Maine. It was appropriated for last year, to which law the committee were not referred. That is the authority, I suppose.

Mr. CONKLING. If the Senator from Maine will allow me, it may have been done with great deliberation last year; but it was not done in the first instance, then, surely. The act of 1864, to which reference is made in the estimates, contains this item:

"Naval Observatory:  
"For pay of assistant astronomer, three aids, and clerk, \$3,000, and \$4,000 thereof shall be equally divided among the three aids as their salary."



Mr. FESSENDEN. That was in 1864?

Mr. CONKLING. That is the act referred to in the estimates.

Mr. FESSENDEN. I thought it was fixed last year. We had a great deal of discussion about it last year, and finally kept that in. Whether it was original then I did not know, but it seems it was in the act of 1864.

Mr. NYE. Their salary is fixed at what?

Mr. FESSENDEN. Four thousand dollars for the three.

Mr. HENDRICKS. On looking over the entire expenditures provided in this bill for this institution I find that they are not large, and I do not think it is wise to reduce the scientific force of the institution that is really the most important; and I suggest to the Senator from Maine, the chairman of the committee, to consent to let this clause remain in the bill.

Mr. MORRILL, of Maine. I have stated all the knowledge I have on the subject.

The PRESIDENT *pro tempore*. The Chair will put the question over again on this amendment.

Mr. CONKLING. There is one fact about this which the Senate should have in mind in voting. The chairman of the Committee on Naval Affairs, who is a member of the Committee on Appropriations, understood all about this personally. He discussed it very intelligently in the committee and seemed to comprehend the whole thing, and he gave it as his opinion to the committee that these three aids were not indispensable or necessary; but that, on the contrary, they might be dispensed with. The recommendation of the Committee on Appropriations was made largely upon the statement of the chairman of the Committee on Naval Affairs.

Mr. HENDRICKS. Do you know that he personally examined it?

Mr. CONKLING. The Senator inquires of me whether I know that he personally examined it. Of course I do not know that he personally examined it; nor do I know what would constitute a personal examination of such a subject. I know that, speaking with the knowledge that he had of such things, and speaking of this in particular, he gave the committee his opinion that it was not necessary and concurred with the committee in striking it out. As the honorable Senator from Maine [Mr. FESSENDEN] occasionally says, it might be well enough to have some proof about this; and as every other Senator does not know that it is necessary it might be very well to have that fact proved before we put in this appropriation.

Mr. FESSENDEN. It is perfectly obvious to anybody who considers the matter that the chief of that Observatory, the officer of the Navy detailed there, cannot get along and take his observations without assistance. He must have some; and if the chairman of the Naval Committee gave an opinion that he could do without assistance he gave a very strange opinion.

Mr. CONKLING. I do not think he did give that opinion; but the Senator will observe that there is an appropriation here for the salary of a clerk of \$1,500, which implies a man of some competency. That, I am aware, does not supply scientific aid; but I think (and the chairman of the Committee on Appropriations will correct me if I am wrong in my recollection) that the chairman of the Committee on Naval Affairs was of opinion that there were persons easy of access in the service already whose aid could be brought into requisition, and would be naturally, for all such purposes as the Senator from Maine [Mr. FESSENDEN] now refers to, and that it was not necessary to have any persons specially detailed or paid; but that, on the contrary, the service at all times would afford, among men competent to this duty and interested in it, those who would take part with the superintendent in making observations, and in doing the variety of things which it might be supposed would devolve upon the aids; and that, by having a clerk to record and to do everything clerical in reference to it, he would need no other force.

Mr. FESSENDEN. It seems nobody has been detailed for that purpose. Now, the gentleman, if I mistake not, at the head of the Naval Observatory is a Mr. Coffin, who was formerly a professor of mathematics in the Navy; and, unless my recollection fails me very much, a letter was read from him in the House of Representatives at the time this appropriation was under discussion there, in which he explained it and the necessity of retaining these men, which proved satisfactory to the House, and this clause was kept in the bill. His opinion must certainly, I think, be better on the subject—at any rate it was satisfactory to the House—than that derived from the mere supposition of the honorable Senator from Iowa, although chairman of the Committee on Naval Affairs, with regard to the possibility of getting along without these aids. It is a Naval Observatory, to be sure, but it is not so connected with naval affairs that the peculiar studies to which that committee devote themselves would enable them necessarily to judge better than anybody else who had investigated the subject. I hope the clause will be retained.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee, to strike out the clause.

The amendment was rejected.

The next amendment was on page 9, line one hundred and eighty-eight, to strike out the word "one" and insert "two;" so as to make the clause read:

For payment of expenses of visitors to the Naval Academy, \$2,000.

Mr. EDMUNDS. Why is not \$1,000 enough, as the House left it?

Mr. MORRILL, of Maine. We found this item estimated for in another part of the bill. The expense for the visitors was provided for in the contingent expenses for the Naval Academy.

Mr. EDMUNDS. On what page?

Mr. MORRILL, of Maine. On the eighth page: "For contingent expenses, \$63,450." It seems to have been appropriated twice.

Mr. EDMUNDS. Then my friend ought to strike out the whole of these two lines.

Mr. MORRILL, of Maine. It will be seen that we reduce the appropriation for contingent expenses \$2,000, and then increase the sum where it is specifically appropriated for, thinking it was better to let the appropriation be specific. We struck that amount out of the contingent fund for the Academy. That is the explanation of the action of the committee.

Now, the reason for the increase was this: it was suggested, and that was the information of the committee, that \$2,000 was about the sum which had been ordinarily appropriated and expended by these visitors. They come from different parts of the country, some of them almost from the extreme West. I believe they are not paid anything except their expenses; but this sum was understood by the committee to be the ordinary sum expended for the visitors who are provided for by law.

Mr. EDMUNDS. What is the number provided for by law?

Mr. MORRILL, of Maine. Ten.

Mr. EDMUNDS. That is \$200 a piece.

Mr. MORRILL, of Maine. Some of them come from a great distance, from the extreme West. Nothing but their expenses, including travel, is paid; and this is found to be the ordinary sum.

The amendment was agreed to.

The next amendment was in line two hundred and fifteen, after the word "tools," to strike out the words "and so forth, for."

The amendment was agreed to.

The next amendment was in line two hundred and nineteen, to strike out the words "and so forth."

The amendment was agreed to.

The next amendment was in line two hundred and thirty-two, to strike out the word "tools" and insert "tolls."

The amendment was agreed to.

The next amendment was in lines two hundred and thirty-eight and two hundred and thirty-nine, to strike out the words "and so forth."

The amendment was agreed to.

The next amendment was under the head of "Bureau of Medicine and Surgery," to strike out in line two hundred and forty the following clause:

For naval laboratory, \$20,000.

Mr. HENDRICKS. I think we ought to have some explanation of that amendment.

Mr. FESSENDEN. Where is that establishment?

Mr. MORRILL, of Maine. All the information I have on this subject is that they wanted \$80,000 in the estimates for buildings, and this amount appropriated by the House of Representatives was so small—\$20,000—as not to be at all adequate to the estimates, and the committee came to the conclusion that it was hardly worth while to make such a small appropriation, and we had better strike it out altogether.

Mr. FESSENDEN. Has there been any appropriation heretofore for this purpose?

Mr. MORRILL, of Maine. Not that I am aware of.

Mr. FESSENDEN. Where is it founded?

Mr. MORRILL, of Maine. It is a laboratory in one of the bureaus of the Navy Department. That is all I know about it.

Mr. FESSENDEN. The chairman of the Committee on Naval Affairs introduced it some three years ago, and ought to know something about it.

The amendment was agreed to.

The next amendment was in line two hundred and forty-nine, to strike out "\$877,000" and insert "\$170,000;" so as to make the clause read:

Marine corps:

For pay of officers, non-commissioned officers, musicians, privates, clerks, messengers, steward, nurse, servants; for rations and clothing for officers' servants, additional rations to officers for five years' service for undrawn clothing, \$170,000.

Mr. TRUMBULL. That is a very desirable amendment to make; but I do not see how you can reduce the pay of these officers about seven eighths.

Mr. MORRILL, of Maine. It is easily explained, though I do not know that the explanation will be satisfactory; but we want to do something that is agreeable. The original estimate sent in, and on which the bill was drawn, was \$1,007,477 17. I hold in my hand a supplemental estimate for this precise service which is only \$170,000.

Mr. WILLIAMS. Is that a revised estimate?

Mr. MORRILL, of Maine. Yes, a revised estimate at a subsequent day.

Mr. SHERMAN. I suppose there are unexpended balances?

Mr. MORRILL, of Maine. We came to the conclusion on careful examination, considering the reduction of fifty per cent. in the service, that \$170,000, with the surplus the Department has on hand, is adequate for the purpose.

Mr. EDMUNDS. What I should like to inquire of the chairman, if he can tell us, is how it happens that the Navy Department sends us an estimate that is eight or nine hundred thousand dollars out of the way in any direction?

Mr. MORRILL, of Maine. The original estimate was made, I suppose, independent of any reduction in the service and without any regard to the surplus on hand.

Mr. FESSENDEN. There must be some mistake about it, I think.

Mr. MORRILL, of Maine. One hundred and seventy thousand dollars is the last estimate of the Department.

Mr. SHERMAN. I have no doubt the explanation is to be found in the unexpended balances.

The amendment was agreed to.

The next amendment was in line two hundred and fifty-one, to reduce the appropria-

tion for provisions for the Marine corps from \$127,000 to \$100,000.

The amendment was agreed to.

The next amendment was in line two hundred and fifty-three, to reduce the appropriation for clothing for the Marine corps from \$102,000 to \$100,000.

The amendment was agreed to.

The next amendment was in line two hundred and fifty-nine, under the head of "Marine corps," to strike out "twenty" and insert "twelve;" so as to make the clause read:

For transportation of officers, their servants, troops, and for expenses of recruiting, \$12,000.

The amendment was agreed to.

The next amendment was in line two hundred and sixty-one, before the word "rent" to insert "for."

The amendment was agreed to.

The next amendment was in lines two hundred and seventy-six, two hundred and seventy-nine, and two hundred and eighty, respectively, to strike out the words "and so forth."

The amendment was agreed to.

The next amendment was to strike out lines two hundred and eighty-four and two hundred and eighty-five, in these words:

For necessary repairs of marine barracks, headquarters, Washington, District of Columbia, \$5,000.

The amendment was agreed to.

The next amendment was in section two, line four, to strike out the word "including" and insert "excluding;" so as to make the section read:

SEC. 2. *And be it further enacted*, That the number of persons authorized to be enlisted into the Navy of the United States, including seamen, ordinary seamen, landsmen, and mechanics, and excluding apprentices and boys, is hereby fixed and established at eighty-five hundred, and no more.

Mr. CONKLING. I hope before this amendment is adopted it will receive so much attention as will lead to its being understood. I did not agree to it in committee, reserving the right to vote against it in the Senate, and, if I could find any other persuadable member of this body, to endeavor to persuade him also to vote against it.

It will be seen, Mr. President, that the House of Representatives proposed that the future naval establishment upon a peace footing should consist of eighty-five hundred and no more; and this was to include apprentices and boys. Before the war the Navy consisted of precisely the number fixed by the House, eighty-five hundred, and no more, as regards rated men or boys. In addition to that there were, I believe, boys called powder-boys or powder-monkeys sometimes, to what precise number I do not know; but in the Navy now there are of apprentices and boys twelve hundred and twenty-one, so that by this amendment proposed by the committee, with the next one, which is a proviso to be appended to the section, the Navy is to be maintained at eighty-five hundred, as it was before the war, and twelve hundred and fifty apprentices and boys are to be added to that number.

It was suggested in the committee that fixing a maximum number and including apprentices and boys would leave the naval authorities practically to exclude apprentices and boys and make the entire force consist of effective seamen, and thus an argument was deduced in favor of fixing the number of the Navy, then fixing more or less positively the number of apprentices and boys. That argument, very likely, is sound. I do not wish any opposition I make to this amendment to encounter that. My proposition is that there is no reason at this time, looking to the future, why an increase of the Navy should be voted or allowed—an increase, I mean, speaking in reference to the Navy as it was before the war began.

I have no doubt there is a great deal to be said in favor of the apprentice system, the school-ship system, and all that; but I think few will challenge the correctness of the assertion that the commercial marine of the country is likely to be a school and nursery for seamen,

which will always furnish the material, when bounties are offered as occasion arises, from which the Navy can be filled up. My belief was and is that the House of Representatives made sufficiently liberal appropriations and sufficiently liberal estimates when it fixed eighty-five hundred as the number of the Navy.

We have heard, Mr. President, various propositions about cutting down the Army and cutting down the Navy. Here is one now before us upon which we must vote, sent here by the House of Representatives, and the subject is free from all those uncertain matters which attend the Army at this time. There is no Indian war in which the Navy is to take part; there are no contingencies of any sort in the immediate future to be provided for. On the contrary, at this time and in this bill, it is in order and it is prudent and safe for the two Houses of Congress to express their judgment as to what the sum-total of the Navy should be. If it be the sense of the Senate that an addition should be made to what the House has proposed, so be it.

Mr. JOHNSON. Did the Senator state what is the number of apprentices and boys now?

Mr. CONKLING. The number now actually in the Navy is twelve hundred and twenty-one; but there is no limit by law, I believe. I am very sure there is no limit in the law as it stands. So the committee understood. They found no limit and they understood there was none.

My purpose, Mr. President, is accomplished when I induce the Senate to look at this matter and not to adopt the amendment by the formal concurrence which was about to take place in the recommendation of the committee.

Mr. MORRILL, of Maine. I ought, perhaps, to state to the Senate precisely the effect of this amendment if I can get their attention for a moment. The bill as proposed by the committee, and as it will stand with the amendment, is to reduce the Navy down to the peace establishment immediately preceding the war. I mean the Navy proper, rank and file, which was eighty-five hundred effective men. There were at that time about eight hundred boys, variously denominated, some as powder-boys, some, perhaps, as servants, connected with the Navy; so that it stood eighty-five hundred rank and file proper, and eight hundred boys, connected with the service in various capacities.

Mr. CONKLING. If the Senator will allow me, I should like to inquire from what source he derives his information that there were eight hundred boys in the Navy. That is not my information.

Mr. MORRILL, of Maine. We took it from the Senator from Iowa, who is chairman of the Committee on Naval Affairs. That was his information on the subject. During the war it was thought advisable to add another feature to the Navy, to wit, apprentices, boys who should be induced to go on board naval ships and be educated practically to naval duties, and so their service secured for the Navy. That was deemed advisable; and that is the policy now, and that is the law. Those boys number now about four hundred. The bill, as we have it here, if the amendment of the committee be agreed to, brings the Navy proper back to what it was at the period just anterior to the war, retains the rank and file as then, retains the boys in the service who are useful to it, and provides for retaining the apprentices, not an unlimited number, but boys and apprentices to the number of twelve hundred and fifty. That would embrace the number of boys who belonged to the Navy when the war began, and provide for the retention of the apprentices you have on hand now, and a few over, not exceeding, however, twenty-five. As long as it is the policy of the Government to retain that feature, I submit that this provision is absolutely necessary, unless you are willing to take the alternative presented by the other House, which is to reduce your number and to dispense with the

boys and the apprentices, or reduce the effective force of your Navy by so much. The committee believed that the propriety of the thing was not to go below the effective force of the Navy just anterior to the war, and at the same time provide for these other two features which are necessarily ingrafted on your Navy, namely, the boys and the apprentices. That is all this is.

Mr. EDMUNDS. I do not see why we cannot with propriety leave this first clause as the House left it, using the word "including" instead of "excluding," and then agree to the proviso recommended by the committee, which will limit the proportion of apprentices and boys to a certain number.

Mr. MORRILL, of Maine. If you use the phrase "including apprentices and boys," and fix your whole force at eighty-five hundred, so that the Department cannot go beyond that, then you reduce the effective force of your Navy by so much.

Mr. EDMUNDS. That is, you will reduce the effective force of the Navy to eighty-five hundred and no more, including apprentices and boys not exceeding twelve hundred and fifty.

Mr. MORRILL, of Maine. Which would reduce the effective force so much.

Mr. EDMUNDS. That is precisely what I want to do, for one.

Mr. MORRILL, of Maine. The answer to that is, that as a committee making appropriations to meet the demands of the service, and having no especial information as to the demands of that service, whether it could suffer that detracting or not, we did not feel authorized to make it. If the Senate have information which enables them to say that this branch of the public service can be reduced properly so much without detriment, then that is a safe proposition to take; but as the Committee on Appropriations had no information which authorized them to form a judgment that the service might be so reduced, they reported in accordance with what was understood to be the demands of the service according to the requirements of law.

Mr. EDMUNDS. The Committee on Appropriations must have exercised some intellectual function, either with or without information, in proposing the amendment that they did, because the House of Representatives has proposed to us to make the whole effective force of the Navy, including apprentices and boys, eighty-five hundred in number, and no more; and now the Committee on Appropriations propose, either with or without information—and I leave it to my honorable friend from Maine to decide which; he knows, and I do not—to change that and to make the effective force of the Navy eighty-five hundred seamen and ordinary seamen and landsmen and mechanics, and to add to that twelve hundred and fifty apprentices and boys.

Mr. MORRILL, of Maine. I intended to explain the reason which guided the committee; and that was that the exigencies of the war being over, we thought it a safe proposition to say that we could go back to the demands of peace; but it was not quite so obvious that we could go beyond that; and that was the reason which influenced the committee.

Mr. FRELINGHUYSEN. And I suppose the committee acted also on the counsel it had from the chairman of the Committee on Naval Affairs.

Mr. MORRILL, of Maine. Yes, sir.

Mr. WILSON. It was stated by the chairman of the Committee on Naval Affairs that before the war, in addition to the eighty-five hundred men, we had about eight hundred boys in the service, and that during the war he had succeeded in establishing the apprentice system, which added some four hundred more, so that we then had some twelve hundred boys and apprentices. Under these circumstances the committee supposed that this bill as it came from the House of Representatives would reduce the naval force below what it was before

the war, and that it was not safe to go any further back; and they therefore proposed to fix the number of the Navy at eighty-five hundred seamen and to retain the twelve hundred and fifty boys and apprentices. I should have preferred myself to make the force about eight thousand men and then keep this number of boys. I think it is a good thing to have the boys in the service.

Mr. EDMUNDS. Mr. President, so do I; and therefore it is that I wish to disagree to the first amendment proposed by the committee to this section, so as to have the apprentices and boys included in the total force of eighty-five hundred, and then to agree to the proviso of the committee, limiting the total number of these apprentices and boys, within the eighty-five hundred, to a certain maximum. I agree with my friend from Massachusetts, that it is desirable for the interests of the country and of the Navy that this school of apprenticeship should be kept up; and that our young men from Maine—where the ship-building business has so fallen into disrepute as to make it desirable for the boys to navigate ships, rather than build them—and all along the coast should enter into the Navy young and grow up in it. They will be useful to us when we have occasion to settle differences upon the ocean, undoubtedly. But, Mr. President, in a state of peace, as we are now, beyond three leagues from shore, at least—I do not agree exactly that we are in a state of peace on land yet, as my friend from Pennsylvania yesterday thought we were, when he was speaking of one of his fellow-citizens in Mississippi—but on the sea I believe we are at peace, unless the volcano near the island of San Domingo, which has so troubled one of the President's counsel they say that he has left him—shall produce a state of war, [laughter.] we may therefore reduce the force of our Navy to that number of officers and men who are only required for the care and preservation of the property. You keep up the organization; you can then fill it up rapidly whenever you have occasion, and without the least difficulty.

Now, we all know that the Navy, since the necessity of maintaining the blockade and chasing pirates has been over, have only had a holiday season. Our cruisers, it is true, are on every sea, and we fulfill the poetic idea of displaying the stars and stripes from sunrise to sunset over the whole world; but we do it at the expense of the people's money; and I think that we can indulge in a little less gala parade on the ocean and lay up more of our vessels than are now laid up, and thus be enabled to reduce the number of seamen who are to navigate them to such a point as the other House proposes.

Mr. MORRILL, of Maine. Will the Senator allow me to ask him a question?

Mr. EDMUNDS. Certainly.

Mr. MORRILL, of Maine. Has the Senator any information which authorizes him to believe that we can afford to reduce the effective force of the Navy below the standard at the period immediately before the war?

Mr. EDMUNDS. I have just about the same amount of information on this subject that my friend, the chairman of the committee, says they had, and that is next to nothing.

Mr. MORRILL, of Maine. We went on this presumption, and I submit whether that should not control in the absence of information: that during the period of war it was necessary to increase the Navy, and that now, at the close of the war, it will be proper to go back precisely to the effective force of the Navy prior to the commencement of the war. That would seem to be justified by the fact that at that period it was found necessary to maintain so much force to keep the Navy up; and I suggest to the Senator if this force were necessary at that period, with the ships we then had in commission, whether it is not fair to presume that at least as much as that is necessary with the additional ships which have since been put into the service?

Mr. EDMUNDS. I agree that if you are to

navigate all your ships you must keep more men than this bill provides for in any way; but the presumption that I proceed upon—and I do proceed upon a presumption, just as it seems the committee did—is based upon our general knowledge of the course of these affairs. And my general knowledge of the state of the Navy in 1860 was, that in the long period of peace which had followed the Mexican war and under Administrations which for the most part commended themselves to what are called the Democratic instincts of the people the Navy had been gradually swelling itself, and that former Secretaries of the Navy had permitted the thing to go beyond the point of economy and prudence into such a condition that in 1860 it ought to have been reduced and might have been so. Therefore it is, Mr. President, proceeding upon that presumption, that I feel justified, for one, in believing that we ought to leave this section just as the House left it, with a proviso that within the eighty-five hundred men the number of apprentices and boys shall not exceed twelve hundred and fifty.

Mr. BUCKALEW. Mr. President, I desire to say that I think the Senator from Vermont has made one of the most sensible observations that have been submitted on any bill in this Chamber recently. He called our attention to a consideration in connection with these proper bills which we ought to keep constantly in view. It seems to be taken for granted that whenever there has been an appropriation of public money or any action heretofore upon any subject which involves an outlay of money, we are to assume that in any further act and in any change which is to take place we are to increase instead of diminishing. It seems to be taken for granted that where gentlemen can show that a certain force has been heretofore authorized, we are, as a matter of course, to increase that if we change it at all. I do not accept the argument that several years ago a particular number of persons was employed in our Navy, in connection with the other idea that that was of course a necessary and proper arrangement.

I submitted some remarks the other day to the Senate with reference to a reduction of the Army. Here we have another opportunity to pass upon a question of reform. The House of Representatives, acting on the report of a committee, whose action upon this subject it is presumed was taken intelligently, have sent us a bill here with a particular appropriation of money; and now we are asked by the Senate Committee, so far as I can understand without any new information, without any thorough examination of the subject, to increase the amount. Now, sir, as a matter of principle I shall vote against increasing the public outlay either for the Army or for the Navy, and I am indisposed to vote for any increase of appropriation for any object whatever unless there be the most clear and demonstrative arguments submitted to prove its necessity and propriety.

I think, then, sir, that the argument against this amendment is conclusive, if we are to act upon a rule of this sort. It is conclusive because on behalf of this amendment no sufficient cause is shown, and therefore the decision ought to be against it.

Mr. CONKLING. Mr. President, I am unable to accept the reasoning of the honorable Senator from Maine, the chairman of the Committee on Appropriations, upon one point; and I ask the attention of the Senate to it. He informs us that we must either reduce the effective force of the Navy or dispense with the apprenticeship system. I do not understand it so, sir. The system of apprenticeship grew up with the war; it was unknown before. It does not mean an infant school in which boys of such tender years as to be useless are reared and taught. Apprentices in the Navy are effective men. Why not? And I would inquire, do they not constitute a part of the effective force of the Navy? Certainly they are not ineffective because you call them apprentices. They are

usually young men of more than average intelligence. That is implied by the act recognizing them, because we allowed ten each year to go to the Naval Academy to compete for admission to that institution, which presupposes and implies a grade of men certainly likely to be quite as efficient on board a ship as the ordinary run of those who enter the Navy.

Mr. MORRILL, of Maine. They must be boys; they are not men. Those who enter the Naval Academy are boys.

Mr. CONKLING. But they are of what age? Eighteen?

Mr. MORRILL, of Maine. There is a limit. They must have served some time as apprentices before they can be sent to the Academy.

Mr. CONKLING. How long?

Mr. MORRILL, of Maine. I do not know.

Mr. CONKLING. The time may be ever so short.

Mr. MORRILL, of Maine. They must be boys, not men.

Mr. CONKLING. The recollection of the honorable Senator from Maine is like my own. They may be eighteen years of age. Do young men eighteen years of age, and above mediocrity in point of intelligence as a class, constitute no part of the efficient force of the Navy when you are speaking of seamen, of the various grades of men belonging to the Navy? I submit, sir, that it is not so at all. It is a fallacy to suppose that the House of Representatives intended, by as much as they recognized and continued the establishment of apprentices, by so much to impair or diminish the effective force of the Navy.

There is another thing. The honorable Senator says that before the war there were eight hundred boys, and I think the Senator from Massachusetts specified more minutely than that; eight hundred and something, I think he said; I could not catch precisely the number he gave.

Mr. WILSON. I said about eight hundred.

Mr. CONKLING. That is speaking very much in the air, as I understand. I heard the statement made by the Senator from Iowa which the statement here refers to, and he ran through his mind a general computation, from which he thought there might have been somewhere in that neighborhood. It is not my information at all that there was any such number. Boys in the Navy before were powder-boys, powder-monkeys, as they were called, and their services were required only in special cases. When salutes were to be fired and certain things to be done these boys were in requisition; and they added nothing to the effective force of the Navy. They were mouths to be fed, to be sure; but they were never rated. There was the fact that there was this number, whatever it may have been, of small boys.

Now, the result will be, taking the inducements which we have offered to apprentices, taking the pay and the object which we have presented to the apprentices, that if we make the whole number of the Navy eighty-five hundred, and then provide that not more than a certain number shall consist of boys and apprentices, the complement of apprentices will be full; and they are to be counted, as I have already said, as a part of the effective force of the Navy in its strictest sense, and the only diminution which will occur will be in the fact that by as many boys as there are by so much there will not be efficient men.

What is the objection to that? What is the theory upon which we are to look back and see how much money was ever appropriated for a given purpose, and then insist upon it that there must not be any less than that? At other times, when propositions of reduction have been made here, I have heard Senators say in regard to each of them that it was a leap in the dark; it was going without any information. Sir, this is not a proceeding without information. Every Senator, without investigation, can ascertain, I think, beyond a question, whether any interest is to be endangered by displacing four or five hundred seamen by making the Navy four or five hundred



less than it was, when we know it was larger than there was any need of. That is a very plain proposition, and can be comprehended without investigation and without argument. That was the view the House of Representatives took of it; and now the proposition is, that without any good reason in the world for doing it we are to add twelve hundred and fifty men, and the appropriation involved in that. This is to be done at a time when, as has been said sometimes in satire and sometimes in earnest on this floor, men of all parties are conspiring with each other and talking about economy.

Mr. MORRILL, of Maine. Allow me to suggest that this bill, as we propose to amend it, reduces the effective force of the Navy from eleven thousand to eighty-five hundred, the Navy proper just now being twelve thousand five hundred, including twelve hundred and fifty boys and apprentices.

Mr. CONKLING. I do not know but that a surgeon would think my friend was talking about comparative anatomy from the answer he gives. What of that? The Army some time ago was understood to be about a million; we have reduced that very much. The Navy was very large during the war; and we have reduced that. Surely I am not denying it; and I am not discussing any such thing. That is not a standard to measure by. I am speaking of the Navy normal; the Navy in the conditions and of the dimensions which it was when no rebellion raged in the country. That is the normal standard and condition to compare by.

Mr. MORRILL, of Maine. Now, does the Senator say that our amendment increases the Navy as it stood then?

Mr. CONKLING. I am saying, if my honorable friend will attend to me, precisely this: that the Navy before the war consisted of eighty-five hundred men, and no more, and it consisted of nobody else excepting an unfixed number of these powder-boys or powder-monkeys, who were never rated as men, and never went on the pay-roll.

Mr. MORRILL, of Maine. That is precisely what we are attempting to fix in this bill now, eighty-five hundred men and the boys, and the Senators want to get rid of the boys. It is a big thing to get rid of the powder-monkeys and the apprentices! That is all there is in it.

Mr. CONKLING. If my friend coveted an opportunity to make a little rhetorical flourish, in which his rhetorical figures are a great deal better than his arithmetical figures, it was all right, and I am very glad that he interposed; but if he wants to know what I am seeking to say, if he will pay a little attention to what it is, he will see that I am not desirous to do any such thing as he supposes. Let me restate myself.

I know this is a small matter, Mr. President; I know that everything which involves money is a small matter here; and a member of this body seems to become small by as much as he espouses the idea of lopping off any appropriation which he does not believe in. Now, sir, in view of all that, I venture to reaffirm, and I ask the attention of the Senate to this proposition: before the war began, when the Navy was large enough for all purposes, and when it had within it superfluities, as we all know—no matter of what committee we are members—it consisted of eighty-five hundred men, and nobody else belonged to it except this unascertained number of boys; and now the proposition is to make the effective force of the Navy consist of that and to add to it some four hundred, more or less, of what the honorable Senator from Maine correctly calls apprentices, who are young men eighteen years of age or thereabouts.

Mr. MORRILL, of Maine. The law provides between the ages of thirteen and eighteen years.

Mr. CONKLING. Will not my friend pardon me, and let me once state my proposition, which he seems not inclined to understand and not eager to have anybody else understand? I

know precisely what I am talking about, if he will allow me to say so. I am talking about these apprentices, who may be young men eighteen years of age, and who, in point of fact, as he knows and as I know from the applications made to both of us for recommendations, are not boys of tender years, but young men seventeen or eighteen years of age, and intelligent, too, who become, many of them, apprentices, in the hope, on the part of themselves and of their parents, that they may go to the Naval Academy. Now, I say the proposition is to add that to the effective force of the Navy as it was—four hundred to be fed and clothed and paid; at least that, because that is the number now; and then to leave a loose and swinging end in the proviso proposed to be added to the section in these words:

That the number of apprentices and boys shall not exceed twelve hundred and fifty.

Suppose the number of apprentices exceeds twelve hundred and fifty, gradually as I think it would under the inducements offered to them, these boys, useless comparatively as they are, go out by degrees and apprentices come in; then what have we done under this provision? Have we not augmented the effective force of the Navy, as to expense and everything else, by just twelve hundred and fifty without any reason in the world for doing it? That is what I am talking about. It may be right; but it is best to meet it fairly, and not to say that I am denying the propriety of keeping the effective force of the Navy where it was before.

What did the other House do about this matter? The House of Representatives said that a total of eighty-five hundred was enough, and they said that it ought to include the apprentices and the boys. Why do you suppose they said that? Because they knew that apprentices were a part of the effective force of the Navy, and they knew that by counting the boys as a part of the effective force they displaced and dispensed with just that number of seamen, whatever it might be, whether four hundred or five hundred or six hundred or even eight hundred, as the Senator from Massachusetts thinks it had become before the war began. That is what the House thought.

Now, I submit that the logical point of this argument, the particular spot which the argument should touch, is that which will be touched when we are shown some reason why we endanger or neglect the public interest by diminishing the effective force of the Navy to the number of four hundred or five hundred or six hundred men. That is the point. I have not heard that in the Committee on Appropriations; I have not heard it—I say so with great deference—on this floor. No such argument as that has been made. On the contrary, the argument is, "The effective force before the war was eighty-five hundred; we must keep it at that at least; it will not do to appropriate anything less; and then, in order to maintain the apprentice system, we must treat that as an addition and put that on, and then we must add the boys to that, and then, in the third place, we must leave it wholly discretionary as to how many of these twelve hundred and fifty shall be apprentices and how many shall be boys, or whether any of them shall be boys." If I understand the meaning of this, it is simply a provision to increase, as to numbers and as to expense, the amount of the Navy twelve hundred and fifty beyond what it was before the war.

I may be very wrong in all this; but I take leave to restate it in order that my honorable friend from Maine may not suppose that I am lost in the mazes of metaphorical confusion on this subject, or that I do not understand precisely what it will be if you deduct two from four or if you make an addition.

Mr. FRELINGHUYSEN. Will my friend from New York answer this question: whether, if the House proposition is adopted, we do not reduce the Navy to a number eight hundred less than it was before the war?

Mr. CONKLING. If the Senator from New Jersey assumes in his question: first, that there

were eight hundred boys before the war, and second, that hit or miss, eight hundred boys would remain in the service and would displace that number of men, then unquestionably by the House provision the effective force of the Navy would be reduced that much. My belief, however, is—and I think the information of everybody who has any information about it is—that the number of boys before the war was larger than it need to have been, and would have been but for the fact which I have referred to before that boys were not rated; there was no limit about it, and they congregated and were about ships. The Senator will see that when you establish a regulation which does count the boys as part of the force and which does make it of importance to enumerate them, there will be no more boys than are needed; in other words, the thing will be properly adjusted, and then I have no idea that the number would be eight hundred or any such number. That is the answer which I give to that question, and that I submit is the common sense of it.

Mr. FRELINGHUYSEN. I understand that the Committee on Naval Affairs were of opinion that the Navy could not be safely reduced that number; and as the chairman of the Committee on Naval Affairs is not here, it would be hardly prudent for the Senate to undertake to reverse the judgment of that committee.

Mr. CONKLING. I do not know what information the Senator from New Jersey refers to as that which substantiates in some way an apprehension that we cannot with safety reduce the force of the Navy. If there is no impropriety in it, and I believe there is none, I may say that I heard no such suggestion made in the Committee on Appropriations, nor have I heard any such suggestion made here. The suggestion which the committee acted upon, as I understood it, in brief was this: that the apprentice system was a good one to foster; that if we left the provision as it came from the House of Representatives—and this proposition answers somewhat the argument made by the Senator from Vermont, and I thought of it when he was up—an inducement would be offered to diminish the number of apprentices, to crowd them out in order to get in a greater number of regular seamen; and it was upon that suggestion that the committee acted in substituting the word "excluding" for the word "including" to the end that the number of apprentices might not be put at the discretion or the mercy or the accident of any one.

That was the suggestion in that regard; and then the committee, (certainly I shall be within bounds if I say that I do not think upon the idea that the safety of the country or the safety of the service or any paramount consideration of that kind required them to do so,) having changed the word "including" to "excluding," came to the conclusion to recommend that these apprentices and boys should be in addition.

Now, it is a mere matter of discretion in the economical administration of the Government, not overruled, as I conceive, by any considerations so paramount as one of public safety; and I submit with great deference that it is a most appropriate occasion for the Senate to express its opinion, not upon the general subject of economy and wholesome administration merely, but upon a subject which has attracted the attention of the country and has been discussed here; one of the two subjects around which ideas of retrenchment and reform are most likely to gather. I think myself there will be a great deal more of the Navy as it will be left than is indispensable in any sense, just as I believe there is a great deal more of the Army than is indispensable. We have talked a great deal about cutting down both of them. Here is an opportunity to concur with the House in what, upon advice and investigation, they have done, and in answer to which, I submit, no argument has been adduced sufficient to reverse it, and I propose that we act upon it.

Mr. MORRILL, of Maine. I do not suppose we are to act on the judgment of the House of Representatives. I suppose we are to act on our own judgment.

Mr. CONKLING. So do I.

Mr. MORRILL, of Maine. I understood the Senator to sit down saying that he proposed to act on their judgment.

Mr. CONKLING. Oh, no; but I proposed to act on this occasion which is presented by the House.

Mr. MORRILL, of Maine. On this occasion! Now, sir, I do not propose to act on their judgment on any occasion. I propose to act on my own judgment, and I propose to draw it from such sources within my own knowledge as are reliable. Now, sir, it is not true, as the honorable Senator supposes, that what is proposed here would add twelve hundred and fifty to the force of the Navy as it existed prior to the war. That is his proposition. I say it is not true, as the honorable Senator undoubtedly supposes it to be. The Navy, as it stood before the war, was eighty-five hundred men, rank and file; and then there were about eight hundred boys connected with it, and an essential part of it, a necessary part of it.

Mr. EDMUNDS. Was that limited by law?

Mr. MORRILL, of Maine. I do not think it was limited by law; but I understand that to have been the number of boys who were connected with the Navy in one capacity and another. Then the Navy would stand ninety-three hundred. That is what it was including the boys. So it will stand if this bill passes as we propose to amend it, with four hundred and fifty added to that. For what? To meet the demands of a law which was passed since the rebellion began. Since the period when the boys were added to the naval service we have passed a law which authorized the enlistment of apprentices; and under that some three or four hundred boys have been enlisted; and the question was whether we should make provision for them; whether we should go back to the old peace establishment, and say there is no further demand for them in the Navy in actual service. Is it not probable, is it not reasonable, to believe that you can go back to that period? The only information we had on the subject was that we knew that we had an establishment anterior to the war, and that it was fixed at certain numbers; and if it were adequate for the service then it was reasonable to suppose that it might be adequate to the service now. But does it follow, as the Senator from New York has argued, that you can go beyond that? Has he any information outside of the action of the House of Representatives which authorizes him to strike down the service one man below that? Nobody pretends that we have. Why do we stop at the peace establishment? Because a just presumption, I submit for legislation, was authorized by the fact that we had that service, and it was not safe to go below that; and we had no information on the subject which authorized us to believe the service could be reduced below that.

So the committee on the part of the Senate undertook to place the numbers in exact conformity with the Navy establishment at the beginning of the war, adding the apprentices which have been added by law since. Now, if the Senate are of opinion that the establishment ought to be maintained as it was, including the boys, and also maintaining the apprentice system, then this amendment is right. If the Senate have the information which justifies them in believing that they can reduce the naval establishment below the demands of the service before the war, then they can afford to them the action of the House; but as the committee had no information to authorize them to make any reduction of that kind, and presumed that the demands of the service now are at least equal to what they were at the beginning of the war, we fixed on that basis, and that is all there is of it.

The PRESIDENT *pro tempore*. The ques-

tion is on the amendment reported by the Committee on Appropriations.

Mr. CONKLING called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 14; as follows:

YEAS—Messrs. Cragin, Fessenden, Frelinghuysen, Henderson, Hendricks, Howe, Morrill of Maine, Norton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sumner, Trumbull, Van Winkle, Wiley, Williams, and Wilson—19.

NAYS—Messrs. Buckalew, Chandler, Conkling, Davis, Dixon, Edmunds, Morgan, Morrill of Vermont, Patterson of Tennessee, Sherman, Stewart, Thayer, Tipton, and Wade—14.

ABSENT—Messrs. Anthony, Bayard, Cameron, Cattell, Cole, Conness, Corbett, Doolittle, Drake, Ferry, Fowler, Grimes, Harlan, Howard, Johnson, McCreery, Morton, Saulsbury, Sprague, Vickers, and Yates—21.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury.

#### TAX ON MANUFACTURES.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 900) to exempt certain manufactures from internal tax.

Mr. SHERMAN. I hope we shall act on the conference report upon the manufactures tax bill at once. I send it to the Chair.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 900) to exempt certain manufactures from internal tax, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from their disagreement to the second amendment of the Senate and agree to the same.

That the House recede from their amendment to the third amendment of the Senate and agree to the said Senate amendment with an amendment, as follows:

Insert in lieu of the said Senate amendment, after the enacting clause, the words:

That after the 1st day of June next no drawback of internal taxes paid on manufactures shall be allowed on the exportation of any article of domestic manufacture on which there is no internal tax at the time of exportation; nor shall such drawback be allowed in any case unless it shall be proved by sworn evidence, in writing, to the satisfaction of the Commissioner of Internal Revenue, that the tax had been paid, and that such articles of manufacture were, prior to the 1st day of April, 1868, actually purchased or actually manufactured and contracted for, to be delivered for such exportation; and no claim for such drawback, or for any drawback of internal tax on exportations made prior to the passage of this act, shall be paid unless presented to the Commissioner of Internal Revenue before the 1st day of October, 1868.

And the Senate agree to the same.

They recommend that the House recede from their amendment to the fourth amendment of the Senate and agree to the same with an amendment, as follows:

Insert in lieu of said Senate amendment the following:

SEC. 4. And be it further enacted, That every person, firm, or corporation who shall manufacture, by hand or machinery, any goods, wares, or merchandise not otherwise specifically taxed as such, or who shall be engaged in the manufacture or preparation for sale of any articles or compounds not otherwise specifically taxed, or shall put up for sale in packages with his own name or trade mark thereon any articles or compounds not otherwise specifically taxed, and whose annual sales exceed \$5,000, shall pay for every additional \$1,000 in excess of \$5,000, two dollars, and the amount of sales within the year in excess of \$5,000 shall be returned monthly to the assistant assessor, and the tax on sales in excess of \$5,000 shall be assessed by the assessor and paid monthly as other monthly taxes are assessed and paid. And the assessment for the month of April, A. D. 1868, shall be made on the excess of sales above the rate of \$5,000 per annum, and thereafter the annual period for the assessment of such tax shall commence on the 1st day of May in each year.

SEC. 5. And be it further enacted, That every person who shall engage in or carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall forfeit the distillery and distilling apparatus used by him, and all distilled spirits and all raw materials for the production of distilled spirits found in the distillery and on the distillery premises, and shall, on conviction, be fined not less than \$500 nor more than \$5,000, and be imprisoned not less than six months nor more than three years. If it

shall at any time come to the knowledge of the Commissioner of Internal Revenue that distilled spirits are selling, directly or indirectly, in any collection district at a market price less than the tax on such spirits, he shall forthwith institute a strict examination into the causes of such reduced sales, and into the business and conduct of all the revenue officers in the district in which such sales are being made, and in the district in which such spirits have been manufactured, and if such sales below the amount of tax shall have been continued or shall hereafter be continued in any collection district for a period of ten days, the Commissioner of Internal Revenue shall forthwith cause every distillery in which the business of distilling is carried on in the district to be seized and closed; and after such seizure no such distillery shall be permitted to continue or resume business, either under bond or under any other pretext or arrangement, until relieved by the Commissioner of Internal Revenue from such seizure.

SEC. 6. And be it further enacted, That if any officer or agent appointed and acting under the authority of any revenue law of the United States shall be guilty of gross neglect in the discharge of any of the duties of his office, or shall conspire or collude with any other person to defraud the United States, or shall make opportunity for any person to defraud the United States, or shall do or omit to do any act with intent to enable any other person to defraud the United States, or shall make or sign any false certificate or return in any case where he is by law or regulation required to make a certificate or return, or having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States, under any revenue law of the United States, shall fail to report in writing such knowledge or information to his next superior officer and to the Commissioner of Internal Revenue, he shall, on conviction, be fined not less than \$1,000 nor more than \$5,000, and shall be imprisoned not less than six months nor more than three years.

And the Senate agree to the same.

JOHN SHERMAN,  
GEORGE H. WILLIAMS,  
E. D. MORGAN,  
*Managers on the part of the Senate.*  
ROBERT C. SCHENCK,  
S. HOOPER,  
WM. E. NIBLACK,  
*Managers on the part of the House.*

Mr. SHERMAN. If Senators wish any explanation of any particular point I can give it. I can state that all the Senate amendments are agreed to substantially. The first amendment disagreed to by the House was our second amendment, that in regard to contracts executed by the United States. The House have receded from their disagreement to that. The next amendment was in regard to exportations. The only change made by the conference report in the Senate amendment is to postpone the taking effect of that clause to the 1st of June instead of the 1st of April, so as to allow parties to complete contracts already made. It is confined simply to that purpose, to permit the exportation of goods where contracts have been made, so as to allow the parties to execute their contracts. The tax on sales is substantially the same as the Senate provided for, reducing the aggregate from \$10,000 to \$5,000.

The two criminal sections attached to the fourth amendment of the Senate were put on in the House of Representatives in what we supposed to be an obnoxious form. They have been entirely redrafted, and amount substantially to this: that where a distiller carries on business in fraud of the revenue, intending to defraud, he shall be liable to fine and imprisonment, and where distilling is carried on in a district or city where for more than ten days whisky is sold at a less price than the tax, without counting anything for the cost of production, in such cases the Commissioner of Internal Revenue is authorized to seize the distilleries and to stop them. The House section, as adopted by that body, at first regarded it as evidence of fraud on a criminal trial, and men might be convicted for the result of acts over which they had no control. The section, however, as it now stands, simply authorizes and directs the Commissioner of Internal Revenue to close the distilleries and suspend the distillation. Then the last section punishes for clearly-defined crimes officers of the revenue who with intent to commit a fraud do commit a fraud.

These two sections the conferees on the part of the Senate were indisposed to allow to be attached to this bill, on the ground that they related to whisky, a subject-matter not embraced in the bill; but the Commissioner of

Internal Revenue and the Secretary of the Treasury were very anxious, indeed, to check the wholesale fraud now going on in the manufacture of whisky, and we thought these sections would do no harm if they would not do any good. The Senate conferees, however, I may state, were very anxious, under the direction of the Committee on Finance, to put a stop to whisky frauds by imposing at once a special tax on all distilleries after the 1st of April or the 1st of May, at the rate of about four thousand dollars on the lowest, so as substantially to cut off the great mass of distilling in this country and confine it to comparatively few distillers. The House of Representatives were not prepared at present to act on that proposition, and the result is that we only agreed on these two sections.

Mr. NYE. Allow me to ask the Senator a question. Some of these distillers have large stocks on hand, and some of them may be obliged to sell at a loss, even though they pay the Government the full tax. If a man is driven to that extremity, I do not see the propriety of our declaring that, because of his ill-fortune he may be arrested and forfeit his whole distillery, when it may be an actual necessity for him to sell the whisky at that low price.

Mr. SHERMAN. No; the House section originally made that *prima facie* evidence of fraud, but all that this bill does now is to require him to suspend. No sane man who did not want to cheat the Government would carry on the distillation of whisky in a collection district where the price of whisky was less than the amount of tax he had to pay.

Mr. NYE. Certainly not.

Mr. SHERMAN. All this provides is that if he should go on for ten days in succession to carry on his business of distilling when the price of whisky in the district is less during each of those ten days than the tax, it should be considered evidence of fraud sufficient to authorize the Commissioner of Internal Revenue to seize the distillery and close it.

Mr. NYE. If I understand the amendment, it is that if any distiller, carrying on the distilling business, is caught in the act of selling whisky for less than the tax—

Mr. SHERMAN. No. He can sell his whisky at three cents a gallon if he chooses, but he shall not carry on the distillation of whisky for ten days consecutively if the price of whisky in his district is less than the tax. It shall be considered evidence of fraud. It does not prevent him selling whisky, but he cannot carry on the business of distilling.

Mr. NYE. I think that is more objectionable. A man with a large stock of grain on hand who is not obliged to sell his whisky, but has capital to carry on his establishment, may run it for twenty or thirty days, or just as long as he pleases. There is no right to prevent distilling as long as a man has money to carry it on.

Mr. SHERMAN. A man would not carry on a distillery in that way unless he intended to commit a fraud.

Mr. NYE. I can imagine circumstances where he might.

Mr. SHERMAN. If he carries on distillation after the market price in his neighborhood shows that he cannot even get back the tax he would have to pay he would be a rogue or a fool or a madman to carry on business after that time.

Mr. NYE. There is no law to punish madmen or fools; if there was most of us would be punished. [Laughter.] But there is a right in Congress to prevent frauds and to punish those who commit frauds; but I deny the propriety of that law which assumes *prima facie* that a man is guilty of fraud when he is carrying on business on his own hook and does not offer his commodity for sale.

Mr. HENDRICKS. I wish to ask the Senator from Nevada if this is a bill that proposes to punish a man merely because he produces liquor when the market price is low.

Mr. NYE. Certainly.

Mr. HENDRICKS. Is that this bill?

Mr. NYE. Yes, sir; at any time anybody is selling whisky in a man's district for less than two dollars a gallon, the tax, he shall be presumed to be guilty of fraud, and shall be stopped in his business. I insist on it that ought not to be done.

Mr. WILLIAMS. Allow me to say a word.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The Senator from Ohio is entitled to the floor. He yielded to the Senator from Nevada.

Mr. SHERMAN. I should like to have the section read again.

Mr. HENDRICKS. I suggest to the Senator that it is due to us that this section ought to be printed and the bill ought not to be considered now. It is of too much importance.

Mr. CONKLING. Let us hear the section read, and see if we cannot understand it.

Mr. HENDRICKS. I move that the report be printed and lie over until to-morrow.

Mr. CONKLING. Let us hear the section read first.

Mr. HENDRICKS. This bill affects millions of property of the people I represent, and I cannot consent to have it acted on in this hasty way.

The PRESIDING OFFICER. The Senator from Indiana moves that the further consideration of this report be postponed until to-morrow.

Mr. HENDRICKS. And that it be printed.

Mr. CONKLING. I ask the Senator to withhold his motion for a moment until we can hear this section read again.

Mr. HENDRICKS. Certainly; I have no objection to that.

Mr. FESSENDEN. Why not have the report postponed and printed, and then we can read it for ourselves.

Mr. HENDRICKS. That is my motion.

Mr. FESSENDEN. It is impossible, on merely hearing several sections of this kind read, for gentlemen to decide what the legal effect of them is, even if they are read here twice. The better way, it strikes me, as the provisions appear to be rather remarkable, would be to print them and let us look at them.

Mr. SHERMAN. I think, myself, it would be better for the Senate to have these two sections printed. There are only two sections that affect this matter—the last two sections of the report. I am willing to let them be printed, and take them up to-morrow.

Mr. TRUMBULL. Let the whole report be printed, so that we may have it before us.

Mr. HENDRICKS. And let the bill be printed as it will stand if amended as proposed.

Mr. SHERMAN. I ask that the bill and report as they stand be printed, so that we can have them in the morning.

Mr. MORRILL, of Vermont. Before that question is taken I desire to call the attention of the chairman of the Committee on Finance to one clause of the report as I heard it read, because I think an amendment should be made. As I understood the proposition, it was that in case of the exportation of goods for drawback sworn evidence should be submitted to the Commissioner of Internal Revenue in writing.

Mr. SHERMAN. Yes, sir.

Mr. MORRILL, of Vermont. I merely desire to call attention to the great inconvenience which will arise if that shall be put into the law, because a party at New Orleans or in California or in Maine would be compelled to send here to Washington before he could export an article. The evidence should be submitted to the collector of the district.

Mr. SHERMAN. No, sir. We discussed that matter, and concluded that the question of drawbacks under the law could not be left to any one but the Commissioner of Internal Revenue. We have allowed six months to furnish proof. That will give time to furnish it from every part of the United States.

Mr. BUCKALEW. I understand this is an amendment by the House of Representatives upon a bill which was passed by the House

originally and sent to the Senate, and amended here and returned to the House.

Mr. FESSENDEN. This is a report from a committee of conference.

Mr. BUCKALEW. But the bill originated in the House of Representatives. Now, sir, it seems to me very extraordinary that we should take up a new subject of legislation in this way. This bill passed the Senate after it came from the House without anything in it on the subject of the manufacture or taxation of whisky. It goes back to the House, and then an amendment is put on there, and we have not seen it, but are asked to vote upon it.

Mr. FESSENDEN. I ask the Senator if we cannot tell better about it when we have it printed and read.

Mr. BUCKALEW. But I am objecting to this system; I am objecting to this mode of legislation.

Mr. FESSENDEN. We do not adopt it now. We only propose to have it printed, and objection may be made to-morrow when it comes up for consideration as well as to-night.

Mr. BUCKALEW. On a subject so important as this, and calculated to provoke debate, and in which vast millions of money in the country are concerned, in which the public mind is deeply interested, I object to having it sent into the Senate at all from a committee of conference in this way, or from the House of Representatives by an amendment of their own bill after it has gone back to them.

Mr. SHERMAN. I cannot allow my friend to make this remark without informing him that the House of Representatives put on this provision, and it was sent to the Senate and printed and laid on our tables and sent to a committee of conference. This subject is not introduced by the committee of conference. My friend will understand that when the bill was pending in the other House on the Senate amendments the House, after debate, put on a section which, if this is obnoxious, was ten times as obnoxious as this. It was adopted in the House without debate. It was sent to us; and with it printed before us we asked for a committee of conference, and a committee of conference was ordered; and that committee has stricken out nearly all that was objectionable in the section proposed. There may be something objectionable yet; and, as the subject has not been debated in the Senate, I prefer that the report should be printed, and that the Senate should deliberately act upon it, because it is an important subject.

Mr. BUCKALEW. My point was this: that a subject of this kind ought to be introduced on the bill at an earlier stage, either when it was originally considered in the House of Representatives or when it was undergoing consideration in the Senate; that it was improper for one House, when their bill is sent back to them, to introduce new matter, and thus to prevent the deliberate consideration which all measures ought to undergo.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana to postpone the further consideration of this report until to-morrow, and that it be printed.

The motion was agreed to.

#### NAVAL APPROPRIATION BILL.

Mr. MORRILL, of Maine. I wish to inquire whether the naval appropriation bill is now before the Senate.

The PRESIDING OFFICER. It is now before the Senate. It was simply laid aside to receive the conference report, and is now again before the Senate.

Mr. MORRILL, of Maine. Very well.

Mr. HENDERSON. I move that the Senate adjourn.

Mr. McCREERY. I move that we adjourn until Monday.

The PRESIDING OFFICER. The question is on the motion of the Senator from Missouri, that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.



## HOUSE OF REPRESENTATIVES.

FRIDAY, March 27, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.  
The Journal of yesterday was read and approved.

## ORDER OF BUSINESS.

The SPEAKER. This being Friday, the first business in the morning hour is the call of committees for bills of a private nature, commencing with the District of Columbia. The morning hour has now commenced.

Mr. WELKER. I have been instructed by the Committee for the District of Columbia to report a bill with a substitute.

Mr. BURR. Will the gentleman yield to me for a moment?

Mr. WELKER. For what purpose?

Mr. BURR. I desire to make a suggestion relative to the business of the day.

Mr. WELKER. I will hear the suggestion.

Mr. BURR. An important measure is now pending, being the bill for the admission of Alabama, and several gentlemen desire to be heard upon it. I wish to say that I, myself, have no desire to speak upon it. I wish to move that the morning hour be dispensed with, and that the House now proceed to the consideration of the Alabama bill.

Mr. WELKER. I cannot yield for that purpose.

## RIGHTS OF MARRIED WOMEN.

Mr. WELKER. I now report from the Committee for the District of Columbia House bill No. 91, concerning the property of married women in the District of Columbia, with a substitute.

The first section of the bill provides that the real estate of any married woman within the District of Columbia shall not be liable for the debts of her husband, but such real estate and the profits therefrom shall be her separate property as fully as if she were unmarried, and the separate deed of the husband shall convey no interest in it; provided such wife shall have no power to incur or convey such real estate except by deed in which her husband shall join.

The second section provides that the personal property of any married woman within said District held by her at the time of her marriage, or acquired by her during coverture by purchase, descent, devise, or gift, shall remain her own separate property in the same manner and to the same extent as her real estate so remains, and on the death of the husband before the wife such personal property shall go to the wife, and on the death of the wife before the husband it shall be apportioned and distributed in the same manner as her real estate descends and is apportioned under similar circumstances within the District; provided the assent of her husband shall not be necessary to enable such wife to incur or sell such personal property.

The third section provides that all suits within said District relative to such separate property of the wife, whether real or personal, shall be prosecuted by or against the husband and wife jointly, or if they be separated, then in the name of the wife alone; and in case of such separate suit the husband shall not be liable for costs, unless he be a defendant therein.

The fourth section provides that within said District the husband shall be liable for the debts and liabilities of the wife contracted or incurred before marriage to the extent of the personal property he may have received through her, or which he may have derived from the sale or rent of her real estate, and no further, and the liability of the husband to the extent aforesaid shall not be extinguished by the death of the wife.

The fifth section provides that when any judgment within said District is rendered against a husband and wife for the tort of the wife, or on account of any liability existing against her before her marriage, execution on

such judgment shall be first levied on the separate property of such wife, if she have any.

The substitute was read, as follows:

A bill concerning the property, rights, and liabilities of married women in the District of Columbia.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled, That any estate or interest, legal or equitable, in real property in the District of Columbia belonging to any woman at her marriage, or which may have come to her during coverture by conveyance, gift, devise, or inheritance, or by purchase with her separate means or money, shall, together with all rents and issues thereof, be and remain her separate property and under her control; and she may, in her own name, during coverture, make contracts for labor and material for improving, repairing, and cultivating the same, and also lease the same for any period not exceeding three years. This act shall not affect the estate by the courtesy of any husband in the real property of his wife after her decease; but during the life of such wife, or any heir of her body, such estate shall not be taken by any process of law for the payment of his debts, or be conveyed or incumbered by him, unless she shall join therein with him in the manner prescribed by law: Provided, Such wife shall have no power to convey or incumber such real estate except by deed in which her husband shall join.*

*Sec. 2. And be it further enacted, That any personal property, including rights in action, in the District of Columbia belonging to any woman at her marriage, or which may have come to her during coverture by gift, bequest, or inheritance, or by purchase with her separate money or means, or be due as the wages of her separate labor, or have grown out of any violation of her personal rights, shall, together with all income, increase, and profits thereof, be and remain her separate property and under her sole control, and shall not be liable to be taken by any process of law for the debts of her husband. This act shall not affect the title of any husband to any personal property reduced into his possession with the assent of his wife: Provided, All articles of furniture and household goods belonging or which may have come to any married woman, as above set forth, shall not be deemed to have been reduced into the possession of her husband by reason of their joint use of the same, but shall remain her separate property.*

*Sec. 3. And be it further enacted, That in any action against husband and wife upon any cause existing against her at their marriage, or upon any tort committed by her during coverture, the separate property of the wife shall be also liable to be taken for any judgment rendered therein.*

*Sec. 4. And be it further enacted, That any married woman in said District whose husband shall desert her, or from intemperance or other cause shall become incapacitated or neglect to provide for his family may, in her own name, make contracts for her own labor and the labor of her minor children, and in her own name sue for and collect her own or their earnings. Any such married woman, in such case of desertion, incapacity, or neglect, may file her petition in the supreme court of said District of Columbia, alleging the same and making her husband thereto, which proceedings shall be subject to all rules applicable to civil actions; and upon proof by testimony of such desertion, incapacity, or neglect, the court may, in its discretion, make an order having the force and effect of a judgment, vesting such woman with the rights and privileges of a *feme-sole*, as to acquiring, possessing, and disposing of property, real and personal, making contracts and being liable thereon, and suing and being sued in her own name: Provided, After such judgment the husband shall not be liable upon any contract so made by her in her own name, or any tort thereafter committed by her.*

*Sec. 5. And be it further enacted, That this act shall not effect any rights which may have become vested in any person at the taking effect thereof.*

*Sec. 6. And be it further enacted, That all laws and parts of laws in force in said District of Columbia inconsistent with the provisions of this act are hereby repealed, and this act to take effect from and after its passage.*

Mr. WELKER. I call for the previous question on the adoption of the substitute.

Mr. HOLMAN. I wish to inquire whether this bill has been printed.

Mr. WELKER. The substitute has not been printed.

Mr. MAYNARD. Mr. Speaker, how does this come up as a private bill?

The SPEAKER. It is reported by the Committee for the District of Columbia.

Mr. WELKER. I will state to the gentleman from Tennessee [Mr. MAYNARD] that the Committee for the District of Columbia have had this matter under consideration, and are unanimously of the opinion that this substitute should be adopted. I will state further, that its provisions are in substance the same as the laws of the State of Ohio on this subject. It modifies in a few particulars the bill introduced by the gentleman from Indiana, [Mr. NIBLACK], preserving the main features of that bill. I demand the previous question.

Mr. MAYNARD. My point (and it does not seem to be taken by my friend who repre-

sents the committee) is that this is, as I understand, private bill day, and committees are called for private bills. This surely is not a private bill.

Mr. WELKER. I supposed that under a former ruling of the Chair we were entitled to report this bill, which operates simply in the District of Columbia.

The SPEAKER. The ruling of the Chair, made in the last Congress, and incorporated in the Digest, page 151, was that "to be a private bill it must not be general in its enactments." "Bills for the incorporation of companies and whose operations are confined within the District of Columbia have been treated as private." The Chair said at that time, in answer to the gentleman from Ohio, [Mr. GARFIELD], that a bill in regard to suffrage in this District would be a public bill, because it would not be confined to particular individuals or to a company or a corporation.

Mr. MAYNARD. This bill applies to everybody who happens to be here.

Mr. INGERSOLL. I hope the gentleman from Tennessee will withdraw his point. The time which may be consumed on this bill will come out of the hour belonging to our committee.

Mr. MAYNARD. Private claims coming before Congress have at best but little opportunity for consideration. I have no hostility to this particular bill, but as this is private bill day I think we ought to devote it to giving private claimants a hearing.

The SPEAKER. If the gentleman from Tennessee insists on his point the Chair must decide, even under the liberal ruling made by him at the last Congress and sustained by the House, that this is a public bill.

Mr. WELKER. I wish to suggest to the gentleman from Tennessee that perhaps this bill will not interfere with any private bills which any other committee could report on this occasion. Most likely there will be enough reports from our committee to occupy the whole morning hour.

Mr. INGERSOLL. And more too.

Mr. MAYNARD. My objection is that if the morning hour should be consumed in the consideration of this bill (and it is a bill which ought to be considered with some care) private claimants are thereby postponed. I hope the gentleman will ask to have the bill printed and recommitted.

Mr. WELKER. I will, of course, do so if the gentleman insists on his objection.

Mr. MAYNARD. I must insist on the point.

The SPEAKER. The Chair sustains the point of order raised by the gentleman from Tennessee. If there is no objection the bill will be printed and recommitted.

There was no objection.

Mr. CHANLER. In view of the character of the bill I move that the committee have leave to report it at any time.

The SPEAKER. That will require unanimous consent.

Mr. BOUTWELL. I object. I move to reconsider the vote by which the bill was recommitted; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## LEAVES OF ABSENCE.

Mr. HUBBARD, of West Virginia, asked and obtained leave of absence for ten days.

Mr. WOOD asked and obtained leave of absence for one week.

## METROPOLITAN POLICE.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back, with a recommendation that it do not pass, a bill (H. R. No. 428) to repeal section three of the act approved July 23, 1866, establishing a metropolitan board of police for the District of Columbia; which was laid on the table.

## RAILROAD ROUTES.

Mr. INGERSOLL, from the same committee, also reported back adversely House joint resolution No. 152, providing for the survey of

one or more railroad routes, and the same was laid on the table.

#### PAY OF JURORS.

Mr. INGERSOLL, from the same committee, reported back House bill No. 480, in relation to the pay of grand and petit jurors in the District of Columbia, with an amendment.

The bill provides that from and after the 1st of December, 1867, the pay of grand and petit jurors of the supreme court of the District of Columbia shall be five dollars per day for each and every day while engaged in attendance before said court.

Mr. MAYNARD. I make the same point of order, that this is not a private bill.

The SPEAKER. The Chair decides that it is a private bill, as it relates exclusively to grand and petit jurors.

Mr. INGERSOLL. The amendment of the committee is to strike out "five" and insert "three." I now demand the previous question.

The previous question was seconded and the main question ordered.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. MAYNARD. Mr. Speaker, would it be in order to enter a protest against the ruling of the Chair being drawn into a precedent hereafter?

The SPEAKER. It will not, as no appeal was taken from the decision of the Chair.

#### WEIGHTS IN THE DISTRICT.

Mr. INGERSOLL, from the same committee, also reported back House bill No. 654, in relation to weights in the District of Columbia, with the recommendation that it do pass.

Mr. MAYNARD. I make the point that this is not a private bill.

The SPEAKER. It is a public bill by its title.

#### EVIDENCE OF MARRIAGE.

Mr. INGERSOLL, from the same committee, also reported back House bill No. 414, to preserve evidence of marriage in the District of Columbia, with the recommendation that it do pass.

Mr. MAYNARD. I make the point that this also is a public bill.

The SPEAKER. The Chair decides it is a public bill.

Mr. MULLINS. It seems to me if there is any private bill at all this is a private bill.

The SPEAKER. It is general in its operations, and is therefore a public bill. Acts of corporation in the District are private matters.

#### GRUETI-VEREIN.

Mr. INGERSOLL, from the same committee, also reported back House bill No. 566, to incorporate the Grueti-Verein of Washington, District of Columbia, with the recommendation that it do pass.

Mr. MAYNARD moved to amend so as to reserve to Congress power to amend or repeal the charter.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. THOMAS for ten days, and to Mr. HOTCHKISS for two weeks.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by

Mr. FORNEY, its Secretary, communicating Senate bill No. 213, entitled "An act to amend the judiciary act passed 24th September, 1789," with the message of the President returning the same to the Senate with his objections, and the proceedings of the Senate thereon.

#### NEW HORSE RAILWAY.

Mr. VAN HORN, of New York, from the same committee, reported back House bill No. 420, to incorporate the Connecticut Avenue and Park Railway Company, in the District of Columbia, with the recommendation that it do pass.

The bill was read *in extenso*.

Mr. MAYNARD. If the gentleman from New York will allow me, I would like to suggest that these railroad franchises are always supposed to be, and generally are, very valuable, and the only consideration given for them by the public is the public convenience. The great vice of our railroad system, as I understand it, has been putting these franchises into the hands of a very few persons practically, who invest but a very small amount of their private means, and then by public donations, by issuing bonds, by getting in debt, or other contrivances that are very well known, they get control of property which represents oftentimes many millions. Now, if I understand the reading of the bill, it proposes that the capital stock shall not be less than twenty thousand dollars, nor more than two hundred thousand dollars. Will the Clerk read the eighth section?

The Clerk read as follows:

SEC. 8. And be it further enacted, That the capital stock of said company shall not be less than twenty nor more than two hundred thousand dollars, and that the stock shall be divided into shares of twenty-five dollars each, and shall be deemed personal property transferable as the by-laws of said company may direct.

Mr. MAYNARD. I suggest a verbal alteration, at all events, by adding after the word "twenty" the words "thousand dollars."

Mr. VAN HORN, of New York. I will accept that.

Mr. MAYNARD. But it seems to me that \$20,000 is too small a sum for such a franchise, and I suggest that it shall be not less than \$50,000. That is one point.

Another suggestion is this: the bill provides, as I understand, that the books of subscription are to be kept open for two days unless the stock shall be subscribed earlier. If so it will give an opportunity for two or three persons, a ring, in common parlance, to go in and subscribe the whole amount of stock and close the books at once. I submit that the books ought to be kept open for a definite period, say for one or two days, or whatever time would be proper, so as to let as many subscribe as choose, and then let the stock be distributed *pro rata* as provided in this bill. The object I have in view is to prevent the franchise, which in time will probably be valuable, from passing into the hands of a few persons who might use it for their own benefit without reference to the public convenience.

Mr. VAN HORN, of New York. I have no objection to the adoption of those suggestions.

Mr. MAYNARD. Then I move as an amendment that the eighth section be amended by striking out "\$20,000" and inserting "\$50,000;" and that the tenth section be amended by providing that the books of subscription shall be kept open two days. The point is that they should be kept open a stipulated time and not be permitted to be closed after a few persons have subscribed.

Mr. VAN HORN, of New York. I have no objection to those amendments being incorporated in the bill.

Mr. CHANLER. I would like to inquire of the gentleman from New York if it is usual in such grants to make the property real estate? I observe from the reading of the bill that this is to be ranked as real estate. That, as I understand it, is an unusual provision. I would like to hear some explanation on that point.

Again, I would like to ascertain if this is one

or two lines of road; that is, whether it is intended that this road shall continue from one given point by two parallel lines of track, or whether it diverges, and is practically more than one road. A practice which is not unusually in grants in railroads in other cities is to call the road one, whereas it is practically two. This is a question I would like to have answered. It does not appear in the bill whether it is one or two lines.

Mr. VAN HORN, of New York. In answer to the first question, I will state that this bill follows the act of incorporation of the Metropolitan railroad in this District and the Pennsylvania avenue railroad. I believe it is word for word the same as the former bills. In answer to the second question it is but one road or one line.

Mr. ROSS. I would like to make a suggestion, if the gentleman would permit me.

Mr. VAN HORN, of New York. I have no objection to a question.

Mr. ROSS. I do not understand, from the reading of the bill, that there is any provision in it as to the time that the work shall commence or shall be completed.

Mr. VAN HORN, of New York. I think there is.

Mr. ROSS. I did not hear anything of that kind. I think there should be a provision that the work shall be commenced in twelve months and finished in three years. There certainly should be some such provision.

Mr. VAN HORN, of New York. I have no objection to an amendment of that kind.

Mr. ROSS. I move, then, to add to the bill the following proviso:

Provided, That the work shall be commenced within twelve months from the passage of this act and completed within three years.

The SPEAKER. If there is no objection that amendment will be incorporated in the bill. The Chair hears no objection.

Mr. WASHBURN, of Illinois. I hope the gentleman from New York will give us some information as to where this road is to go.

Mr. VAN HORN, of New York. I was about to do so.

Mr. WASHBURN, of Illinois. Upon my word I do not know where Connecticut avenue is.

Mr. ASHLEY, of Ohio. Before the gentleman from New York proceeds I desire to make a suggestion to him. There is nothing in this bill which limits the amount which each person may subscribe.

Mr. VAN HORN, of New York. Will the gentleman suggest an amendment?

Mr. ASHLEY, of Ohio. I move, then, to add to the bill this provision:

And that no one individual shall be allowed to subscribe for more than one hundred shares of said stock.

I wish to say that I was a member of the Committee for the District of Columbia at the time when the first horse railroad company in this District was chartered, and we endeavored to guard the bill with great care, but a company came here from Philadelphia and subscribed for some two millions of the stock and gobbled up the whole concern, so that no man in this city could have anything to do with it. Now, if this franchise is to be worth anything, it ought to be given to the people residing in this District and not to outsiders.

Mr. VAN HORN, of New York. I have no objection to that proviso.

The amendment was agreed to.

Mr. WASHBURN, of Illinois. I now ask the gentleman from New York to agree to an amendment which I will suggest.

Mr. VAN HORN, of New York. Let me first explain the bill. For the information of the House I desire to state that it is proposed that this road shall commence at the intersection of Seventeenth street and Pennsylvania avenue, which point will be recognized by the House as the corner near the quartermaster general's department. It is to run upon Seventeenth street northerly, till it strikes Connecticut avenue, following that avenue to Boundary

street at the limits of the city corporation. It is then proposed that when the contemplated park outside of the city limits is laid out this company shall have a right to extend their road to that park.

I will say further that I was invited to go over the road and did so, and have examined the route personally; and I think every dollar of stock in the proposed road will be taken by parties living on the road. The parties who are moving in this matter are those who live on the line of the proposed road; many of them are clerks in the Departments, and the railroad is proposed for the convenience of themselves and their families.

This matter has been before the Committee for the District of Columbia for two months, and I have not heard, nor has any member of the committee heard, a single objection to the construction of the road or to the passage of this bill, and I know of no objection to it. As I said, I have been over the road myself, and have conversed on the subject with the parties living upon it, and they are entirely unanimous in its favor.

Mr. WASHBURN, of Illinois. I have no objection to the passage of any bill of this kind which properly protects the rights of the people. Horse railroads are the poor men's roads, and I profess to belong to that class, and I would desire to have any reasonable provisions extended to them. I ask the gentleman from New York, [Mr. VAN HORN,] as he has fixed the fare at six cents, and I do not know that that is unreasonable for a single ride, to include in this bill this provision:

And the said company shall sell tickets, each ticket to entitle the holder thereof to one ride over the road, at the rate of twenty tickets for one dollar, and ten tickets for fifty cents.

That is but right and just. And I will state to the gentleman, what he probably knows, that the F street road—which we all know is one of the best conducted horse railroads in the country, with the cleanest cars, and the most genteel class of passengers—is entitled by its charter to charge seven cents for a single ride; yet that road, upon its own motion, has adopted this plan of selling twenty tickets for a dollar, and ten tickets for fifty cents. I think a similar provision should be inserted in this bill.

Mr. VAN HORN, of New York. I do not think I can consent to this proposition, and for this reason: the Pennsylvania Avenue Railroad Company now charges six cents, and, as everybody knows, their cars are continually crowded. The Metropolitan Railroad Company, or, as it is sometimes called, the F street railroad company, charges seven cents fare. I know they sell twenty tickets for one dollar; but it is because their business is such that they can afford to do it. But everybody knows that the stock of this proposed new company will not be worth much for a long time to come. I think the provision suggested by the gentleman from Illinois [Mr. WASHBURN] would be an unnecessary restriction upon this road. Gentlemen will notice that we reserve in this bill the right to alter, amend, or repeal this charter at any time.

Mr. WASHBURN, of Illinois. I understand that provision of amendment or repeal; it amounts to nothing at all; for if this bill is once passed it will never be repealed or modified so as to take away any privilege it confers. The gentleman says the Pennsylvania avenue road charges six cents fare. But that is not the rate fixed by the original charter; the original rate is five cents. The company, however, is entitled to charge the additional one cent on each fare because of the tax it is obliged to pay. And let me say to the gentleman that if the rate of fare on this proposed road is fixed at six cents it can add the amount of the tax under the existing law; so that the fare will really be more than six cents. If the gentleman is urging the chartering of this road for the benefit of the class of people that he professes to desire to benefit he certainly ought not to object to the insertion of a provision of the kind I have suggested.

Mr. VAN HORN, of New York. I am as

much in favor of low fare as the gentleman can be; but I wish to say to the gentleman that five cents on the Pennsylvania avenue road is better than eight or even ten cents on the proposed Connecticut avenue road. The business upon the road will be light; the people along the line of the proposed road will build it with their own money, for their own convenience, and for the convenience of their families.

Mr. WASHBURN, of Illinois. There must be a great many more people to ride on that road than those who live in the neighborhood. I think the provision I have suggested is one which we should put in this bill.

Mr. VAN HORN. I think if it is left to the people along the line of the road they would be willing to pay six cents for the privilege of getting the road.

Mr. WASHBURN, of Illinois. They have the privilege of paying that now.

Mr. CHANLER. If I understood this bill correctly as it was read, the termination of the road is to be at the boundary line of this city. Now, I want to know if this bill proposes to grant the franchise of travel over any streets of the city, except Connecticut avenue? I ask the Clerk to read that portion of the bill which describes the route of the proposed road.

The Clerk read as follows:

Commencing at the intersection of Seventeenth street west and Pennsylvania avenue, along the west side of Seventeenth street to its intersection with H street north, thence along Seventeenth street west to its intersection with Connecticut avenue, thence along said avenue to Boundary street; also from the intersection of Boundary street and Connecticut avenue along the county road from such intersection, thence on any road opened, or which may hereafter be opened west of the Fourteenth street road to, within, or through the proposed public park, or to the county line of Washington county.

Mr. CHANLER. I beg to draw the attention of the House to the fact that this bill grants a franchise over any county road which is now opened, or which may hereafter be opened. There is a road which connects Connecticut avenue at the foot of Meridian Hill with the Fourteenth street road; and I would ask those who have charge of this bill whether the object is to make a connection at that point? I think it is due to the House that the full extent of this contemplated road should be stated. I would suggest the propriety of limiting this grant to such county roads as already exist.

Mr. VAN HORN, of New York. I am not inclined to yield further to the gentlemen, as I have only a few minutes remaining.

Mr. CHANLER. I would like to offer an amendment providing that the grant shall not extend over any street or road not specified and not marked on any existing map or chart of the city.

Mr. VAN HORN, of New York. I cannot yield for any further amendment. I demand the previous question.

Mr. WASHBURN, of Illinois. I ask the gentleman to let the House vote on the amendment I suggested.

Mr. VAN HORN, of New York. I decline to yield for that purpose.

Mr. WASHBURN, of Illinois. Well, then, I hope that the previous question will not be seconded. My proposition is fair and just.

On seconding the previous question there were—ayes 39, noes 39; no quorum voting.

Tellers were ordered; and Mr. VAN HORN, of New York, and Mr. CHANLER were appointed.

The House divided; and the tellers reported—ayes 52, noes 44.

So the previous question was seconded.

The question recurred on ordering the main question.

Mr. WASHBURN, of Illinois. I call for the yeas and nays.

On ordering the yeas and nays, there were—ayes 10, noes 51.

Mr. WASHBURN, of Illinois. I call for tellers on ordering the yeas and nays.

Tellers were not ordered.

So the yeas and nays were not ordered.

On ordering the main question there were—ayes 47, noes 32; no quorum voting.

Tellers were ordered; and Mr. INGERSOLL and Mr. WASHBURN, of Illinois, were appointed.

The House divided; and the tellers reported—ayes 59, noes 39.

So the main question was ordered.

Mr. WASHBURN, of Illinois. I move that the bill be laid on the table.

On the motion there were—ayes 36, noes 60.

Mr. WASHBURN, of Illinois. I call for the yeas and nays.

On ordering the yeas and nays, there were—ayes twenty.

The SPEAKER. More than one fifth of those voting on the last count have voted for ordering the yeas and nays.

Mr. FARNSWORTH. I call for tellers on ordering the yeas and nays.

Tellers were not ordered.

So the yeas and nays were ordered.

The question was taken on the motion to lay the bill on the table; and it was decided in the negative—ayes 29, nays 94, not voting 66; as follows:

YEAS—Messrs. Baker, Benton, Churchill, Sidney Clarke, Cook, Getz, Glossbrenner, Holman, Hunter, Kelley, Ketcham, William Lawrence, Orth, Scofield, Sitgreaves, Smith, Spaulding, Aaron F. Stevens, Stone, Taber, Taffe, Taylor, Upson, Van Auker, Cadwalader C. Washburn, Elihu B. Washburne, Thomas Williams, James E. Wilson, and Stephen F. Wilson—29.

NAYS—Messrs. Ames, Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Beaman, Beatty, Beck, Benjamin, Bingham, Bromwell, Broomall, Buckland, Burr, Cake, Cary, Chanler, Rander W. Clarke, Coburn, Covode, Cullom, Dixon, Driggs, Eckley, Eggleston, Eldridge, Farnsworth, Ferriss, Ferry, Fields, Fox, Gravely, Hawkins, Hill, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Hulbard, Ingersoll, Jenckes, Johnson, Judd, Julian, Kelsey, Kerr, Kitchen, Koontz, Laffin, Lincoln, Loan, Loughridge, Mallory, Marshall, Maynard, McClurg, McCormick, Mercer, Miller, Moore, Morrell, Mullins, Mungen, Myers, Newcomb, Nicholson, O'Neill, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Pomroy, Price, Sawyer, Stewart, Thomas, Lawrence S. Trimble, Twichell, Burt Van Horn, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Welker, Windom, and Woodbridge—94.

NOT VOTING—Messrs. Adams, Allison, Barnes, Barnum, Blaine, Blair, Boutwell, Boyer, Brooks, Butler, Cobb, Cornell, Dawes, Dodge, Donnelly, Ela, Eliot, Finney, Garfield, Golladay, Griswold, Grover, Haight, Halsey, Harding, Higby, Hooper, Asahel W. Hubbard, Humphrey, Jones, Knott, George V. Lawrence, Logan, Lynch, Marvin, McCarthy, McCullough, Moorhead, Morgan, Morrissey, Niblack, Nunn, Phelps, Pile, Pruyn, Randall, Raum, Robertson, Robinson, Ross, Schenck, Selye, Shanks, Shellabarger, Starkweather, Thaddeus Stevens, Stokes, John Trimble, Trowbridge, Van Aernam, Henry D. Washburn, William B. Washburn, William Williams, John T. Wilson, Wood, and Woodward—66.

So the House refused to lay the bill on the table.

During the vote,

Mr. GETZ stated that his colleague, Mr. RANDALL, was absent on account of the death of his child.

The vote was then announced as above recorded.

The bill was ordered to be engrossed and read a third time.

Mr. WASHBURN, of Illinois. I ask that the engrossed bill be read.

The SPEAKER. It is not engrossed, and therefore goes to the Speaker's table.

#### ALABAMA ELECTION.

Mr. BOUTWELL, by unanimous consent, from the Committee on Reconstruction, submitted the following resolution:

*Resolved*, That the Secretary of War be directed to transmit to this House copies of all reports made by Major General Meade to the General of the Army, relating to the election in Alabama in February last, together with copies of all papers on the same subject transmitted by General Meade.

The resolution was adopted.

Mr. BOUTWELL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LOYAL CLAIMANTS.

Mr. THOMAS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Claims be instructed to inquire into the expediency of devising



means of ascertaining precisely the amounts severally due to loyal claimants by the United States for which payment is not now authorized by law, and of providing for the payment thereof by grants of public land to the respective claimants to the amount of their several claims in value, estimating the land granted at \$1.25 per acre.

#### RIGHTS OF AMERICAN CITIZENS.

Mr. SPALDING, by unanimous consent, presented the joint resolution of the Legislature of Ohio, in respect to the rights of American citizens; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### RICHARD HENRY YALE.

Mr. AXTELL, by unanimous consent, introduced a joint resolution (H. R. No. 247) as to the admission of Richard Henry Yale to examination for admission into the Naval Academy; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### NEW POST ROUTE IN PENNSYLVANIA.

Mr. MILLER, by unanimous consent, introduced a bill (H. R. No. 974) establishing a post route from Montgomery station, by way of Mount Zion, to Elemeport, in Lycoming county, Pennsylvania; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### COLLEGE SCRIP.

Mr. TAFTE, by unanimous consent, introduced a bill (H. R. No. 975) making agricultural and mechanical college scrip receivable in payment of preemption claims; which was read a first and second time, and referred to the Committee on Public Lands.

#### ADMISSION OF ALABAMA.

The SPEAKER stated that the first business in order was the bill for the admission of Alabama, on which the gentleman from Indiana [Mr. KERR] is entitled to the floor.

Mr. WILSON, of Iowa. I move to proceed to the consideration of the President's veto message.

The SPEAKER. That can be reached by the gentleman moving to proceed to the business on the Speaker's table.

Mr. WILSON, of Iowa. I make that motion. The motion was agreed to.

#### PAYMENT OF SOLDIERS' BOUNTIES.

The SPEAKER laid before the House a letter from the Secretary of War, relative to the necessity of an appropriation for the payment of soldiers' bounties under the recent law; which was referred to the Committee on Appropriations.

#### NEW YORK "BATTERY."

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the purchase of land on the "Battery" in New York; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### IMPROVEMENT OF TAUNTON RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to the improvement of the Taunton river, Massachusetts; which was referred to the Committee on Commerce, and ordered to be printed.

#### FORT GRATIOT MILITARY RESERVATION.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to a sale of a portion of the Fort Gratiot military reservation; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### APPROPRIATIONS FOR PUBLIC BUILDINGS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting an estimate by General Michler of the amount of necessary appropriations for deficiencies for public buildings for the present fiscal year; which was referred to the Committee on Appropriations, and ordered to be printed.

#### SURVEY OF TENNESSEE RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, relative to

the survey of the Tennessee river; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### JURISDICTION OF THE SUPREME COURT.

The SPEAKER laid before the House the following message from the Senate:

IN THE SENATE OF THE UNITED STATES,  
March 25, 1868.

Ordered, That the Secretary communicate the bill entitled "An act to amend an act to amend the judiciary act, passed the 24th of September, 1789," with the message of the President returning the same to the Senate with his objections, and the proceedings of the Senate thereon, to the House of Representatives.

Attest:

J. W. FORNEY,  
Secretary.

The Clerk then read the bill, as follows:

An act to amend an act entitled "An act to amend the judiciary act, passed the 24th of September, 1789."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That final judgment in any circuit court of the United States, in any civil action against a collector or other officer of the revenue, for any act done by him in the performance of his official duty, or for the recovery of any money exacted by or paid to him which shall have been paid into the Treasury of the United States, may, at the instance of either party, be reexamined and reversed or affirmed in the Supreme Court of the United States, upon writ of error, without regard to the sum or value in controversy in such action.

SEC. 2. And be it further enacted, That so much of the act approved February 5, 1867, entitled "An act to amend an act to establish the judicial courts of the United States," approved September 24, 1789, as authorizes an appeal from the judgment of the circuit court to the Supreme Court of the United States, or the exercise of any such jurisdiction by said Supreme Court on appeals which have been or may hereafter be taken, be, and the same is hereby, repealed.

SCHUYLER COLFAX,

Speaker of the House of Representatives.

B. F. WADE,

President of the Senate pro tempore.

The Clerk then read the following certificate attached to the foregoing bill:

IN THE SENATE OF THE UNITED STATES,  
March 23, 1868.

The President of the United States having returned to the Senate, in which it originated, the bill entitled "An act to amend an act entitled 'An act to amend the judiciary act, passed the 24th of September, 1789,'" with his objections thereto, the Senate proceeded, in pursuance of the Constitution, to reconsider the same, and—

Resolved, That the said bill do pass, two thirds of the Senate agreeing to pass the same.

Attest:

J. W. FORNEY,  
Secretary of the Senate.

The Clerk then read the message of the President of the United States, as follows:

To the Senate of the United States:

I have considered, with such care as the pressure of other duties has permitted, a bill entitled "An act to amend an act entitled 'An act to amend the judiciary act, passed the 24th of September, 1789.'" Not being able to approve all of its provisions, I herewith return it to the Senate, in which House it originated, with a brief statement of my objections.

The first section of the bill meets my approbation, as, for the purpose of protecting the rights of property from the erroneous decisions of inferior judicial tribunals, it provides means for obtaining uniformity, by appeal to the Supreme Court of the United States, in cases which have now become very numerous and of much public interest, and in which such remedy is not now allowed. The second section, however, takes away the right of appeal to that court in cases which involve the life and liberty of the citizen, and leaves them exposed to the judgment of numerous inferior tribunals. It is apparent that the two sections were conceived in a very different spirit, and I regret that my objections to one impose upon me the necessity of withholding my sanction from the other.

I cannot give my assent to a measure which proposes to deprive any person "restrained of his or her liberty in violation of the Constitution, or of any treaty or law of the United States," from the right of appeal to the highest judicial authority known to our Government. To "secure the blessings of liberty to ourselves and to our posterity" is one of the declared objects of the Federal Constitution. To assure these guarantees are provided in the same instru-

ment, as well against "unreasonable searches and seizures" as against the suspension of "the privilege of the writ of *habeas corpus*," "unless when, in cases of rebellion or invasion, the public safety may require it." It was doubtless to afford the people the means of protecting and enforcing these inestimable privileges that the jurisdiction which this bill proposes to take away was conferred upon the Supreme Court of the nation. The act conferring that jurisdiction was approved on the 5th of February, 1867, with a full knowledge of the motives that prompted its passage, and because it was believed to be necessary and right. Nothing has since occurred to disprove the wisdom and justness of the measures; and to modify it as now proposed would be to lessen the protection of the citizen from the exercise of arbitrary power and to weaken the safeguards of life and liberty, which can never be made too secure against illegal encroachments.

The bill not only prohibits the adjudication by the Supreme Court of cases in which appeals may hereafter be taken, but interdicts its jurisdiction on appeals which have already been made to that high judicial body. If, therefore, it should become a law, it will, by its retroactive operation, wrest from the citizen a remedy which he enjoyed at the time of his appeal. It will thus operate most harshly upon those who believe that justice has been denied them in the inferior courts.

The legislation proposed in the second section, it seems to me, is not in harmony with the spirit and intention of the Constitution. It cannot fail to affect most injuriously the just equipoise of our system of government; for it establishes a precedent which, if followed, may eventually sweep away every check on arbitrary and unconstitutional legislation. Thus far during the existence of the Government the Supreme Court of the United States has been viewed by the people as the true expounder of their Constitution, and in the most violent party conflicts its judgments and decrees have always been sought and deferred to with confidence and respect. In public estimation it combines judicial wisdom and impartiality in a greater degree than any other authority known to the Constitution; and any act which may be construed into or mistaken for an attempt to prevent or evade its decisions, on a question which affects the liberty of the citizens and agitates the country, cannot fail to be attended with unpropitious consequences. It will be justly held by a large portion of the people as an admission of the unconstitutionality of the act on which its judgment may be forbidden or forestalled, and may interfere with that willing acquiescence in its provisions which is necessary for the harmonious and efficient execution of any law.

For these reasons thus briefly and imperfectly stated, and for others, of which want of time forbids the enumeration, I deem it my duty to withhold my assent from this bill, and to return it for the reconsideration of Congress.

ANDREW JOHNSON.

WASHINGTON, D. C., March 25, 1868.

The SPEAKER. The question before the House, under the Constitution, is, "Will the House, on reconsideration, agree to the passage of this bill?" on which the gentleman from Iowa [Mr. WILSON] is entitled to the floor.

Mr. WILSON, of Iowa. Does the gentleman from Pennsylvania [Mr. WOODWARD] desire to be heard on this question?

Mr. WOODWARD. Yes, sir; but I prefer to be heard after the gentleman from Iowa, [Mr. WILSON.]

Mr. WILSON, of Iowa. It is not my purpose to enter upon any general discussion of the veto unless it should be rendered necessary by something that may be said in favor of it. If the gentleman desires to be heard I will yield him a part of my time.

Mr. WOODWARD. How much?

Mr. WILSON, of Iowa. How much does the gentleman desire?

Mr. WOODWARD. I want an hour.

Mr. WILSON, of Iowa. Well, sir, that is all the time I have. My purpose is to move the previous question at furthest at the expiration of the hour.

Mr. ELDRIDGE. What does the gentleman mean by saying he has but one hour? I understand this bill to be in his control. It is not imperative that he should call the previous question at the end of the hour.

Mr. WILSON, of Iowa. I mean simply this: that I am now in possession of the floor, and under the rule of the House I am entitled to hold it for the period of one hour.

Mr. ELDRIDGE. But it is not necessary that the gentleman should then call the previous question.

Mr. WILSON, of Iowa. It is my purpose to demand it at the expiration of the hour.

Mr. ELDRIDGE. It seems to me, as the bill was gotten through the House in a manner which was confessedly a surprise upon the minority of the House, the veto message ought not now to be considered in one hour. More time than that ought to be given. The gentleman said we might have had an opportunity to debate this question when it was before the House if we had sought that opportunity, and he lectured us for not having availed ourselves of the rights which sometimes we have—

Mr. WILSON, of Iowa. A good-natured lecture.

Mr. ELDRIDGE. Yes, sir; he gave us a very good-natured lecture; one, perhaps, which was just and which we deserved. But I must say that I shall have to change my views of his good nature if he shall insist that this matter is to be considered now in one hour.

Mr. WILSON, of Iowa. Oh, the gentleman does not appear to be in a bad humor.

Mr. ELDRIDGE. I shall believe that he was not sincere when he said that he thought we might have had an opportunity to debate this bill if we had sought it.

Mr. WILSON, of Iowa. Why is not the gentleman now addressing himself to the substance of the veto instead of lecturing me?

Mr. ELDRIDGE. I did not expect that the gentleman from Iowa would allow me to do that. Much as I appreciate his liberality, I supposed that if I undertook to talk on that he would at once call me to order.

Mr. WILSON, of Iowa. The gentleman from Wisconsin will remember that for two Saturdays this matter has been discussed, and I propose to let the debate run through the hour to-day. At the end of that time I will submit to the House a demand for the previous question. If the House sustains me, well; if not, well. I desire to have the bill passed.

Mr. MAYNARD. I suggest to the chairman of the Committee on the Judiciary that he let the debate run on till four o'clock, and then call the previous question. I have some curiosity to hear what gentleman can say against this bill.

Mr. ELDRIDGE. The gentlemen appealed to me, and said that I knew that on two Saturdays this matter had been discussed. I must say to the gentleman that I do not know that fact. I only know the fact that the manner in which the bill passed was discussed and not its character, its merits. I do not understand that its merits have ever been discussed before this House. The gentleman from Iowa, therefore, cannot call me to the stand as a witness to that fact.

Mr. WILSON, of Iowa. Oh, no; I am not calling the gentleman to the stand as a witness on that or any other point. I merely stated the fact that this bill had been discussed on two Saturdays. I will now yield fifteen minutes to the gentleman from Pennsylvania, [Mr. WOODWARD.]

Mr. WOODWARD. Mr. Speaker, I cannot do justice to this subject, nor to myself, nor to the gentleman from Iowa in fifteen minutes. If he will give me half an hour I will go on. [Cries of "No!" "No!" and "Give him that time!"]

Mr. WILSON, of Iowa. Other gentlemen may desire a part of my time; but if it is sat-

isfactory to the other side of the House, I will yield the gentleman that time—thirty minutes.

Mr. BROOKS. I hope my friend from Pennsylvania will not take fifteen minutes.

Mr. WOODWARD. I cannot take fifteen minutes.

Mr. BROOKS. Let them gag the bill through.

Mr. WILSON, of Iowa. Well, if the gentleman from New York meets my proposition in that way, when I am proposing to yield the gentleman from Pennsylvania the amount of time asked by him, I will withdraw it and renew my offer of fifteen minutes.

Mr. BROOKS. What I said was that I would not advise my friend to take fifteen minutes for the discussion of a constitutional question, of which there has not been fifteen minutes' discussion here in this House.

Mr. WILSON, of Iowa. Yes, and the gentleman from New York made that suggestion after I had proposed to give the gentleman from Pennsylvania half an hour.

Mr. BROOKS. I had not heard the offer of half an hour when I made the suggestion.

Mr. WILSON, of Iowa. I have stated that if "it is satisfactory to the minority of the House that the gentleman from Pennsylvania shall consume thirty minutes of my time, that is satisfactory to me, and he can have that time."

Mr. ELDRIDGE. I do not wish it to be understood that that time is satisfactory to the minority of the House. We do not consider that it is a proper and reasonable time for the discussion of such a measure, and as one of the minority I protest against this bill being rushed through now, after one hour's discussion.

Mr. WILSON, of Iowa. Well, I will demand the previous question at the expiration of an hour, and the gentleman from Pennsylvania [Mr. WOODWARD] may proceed for thirty minutes, if he pleases.

Mr. WOODWARD. Mr. Speaker, I have no expectation of being able to submit anything to this House which will induce the majority to pause for a single hour in passing this bill. I do not rise to speak with any such vain expectation. But I consider it my right and my duty, both to the House and to the country, to call attention to the position in which the House is placing itself in passing the bill.

If that be a position which gentlemen shall be proud to occupy they are entitled to the benefit of it before the country. If it be a position which will involve disagreeable consequences it is but kindness to gentlemen to point them out now. And, therefore, while I do not expect to convince the most fair-minded man in the House who is inclined to favor the passage of this bill that it is not worthy to be passed, I trust I shall not be considered as trespassing upon the House in submitting, in the short time allotted to me, the views which it seems to me are appropriate to the occasion.

Mr. Speaker, the bill consists of two sections, the first of which extends the appellate jurisdiction of the Supreme Court of the United States to cases arising under the revenue laws of the United States, mere money cases. The second section takes away the appellate jurisdiction of the Supreme Court in cases affecting personal liberty.

Now, the first feature of the position in which the House is placing itself to which I wish to call the attention of gentlemen is this: that while they are conferring upon the Supreme Court jurisdiction in cases of revenue they are taking away jurisdiction in cases of human liberty. The cases that arise under our revenue laws are very numerous; but they are comparatively unimportant; they affect only such questions of taxation and collection of revenue as, under our very complex revenue laws, arise from time to time, and which we are unwilling to leave to the final arbitrament of the inferior courts. The first section of this bill secures to the parties and to the Government the right to take the judgment of the Supreme Court in these cases. I have no complaint whatever to

make of that section, of its spirit or its object. I think it is proper; I think it should be passed.

Mr. ELDRIDGE. It gives the largest liberty.

Mr. WOODWARD. It allows the largest liberty to tax-payers and to the Government to have considered before the highest tribunal of the country all such questions as may arise under our revenue laws. And what is the constitution of that human mind that can insist upon and claim such a law for the tax-payer and yet deny to the citizen of the United States the right of *habeas corpus*, which has come down to us from the remotest antiquity of the common law? What is to be thought of the spirit of legislation which secures to the citizen the right to have the opinion of the highest judicial tribunals of the country upon a mere question of dollars and cents, and yet denies to the citizen the right to have the opinion of that tribunal upon a question of life or liberty? Is it possible that gentlemen mean that questions of taxation, which touch only the pocket, are superior to the questions which touch the lives and the liberties of the citizens? Are gentlemen, descended from that Saxon ancestry who toiled and suffered for centuries to obtain and maintain the great principles of civil liberty, now ready quietly to surrender them, while they will hedge around and guard by all the legislation in their power the interest which a man may have in a question of public taxes?

I cannot enlarge on this point. I do not intend to enlarge upon any of the points which I may make. I wish merely to call the attention of the House to the fact that they are placing themselves before the country as willing to extend to revenue cases the highest protection which, under the Constitution and laws of the country, can be given to them, while they are not willing to extend to the imperiled life and liberty of the citizen the ordinary privilege of the *habeas corpus*. That is one thing.

Now, here is another point. When this Government entered upon the perilous enterprise which is known as reconstruction, and that even more questionable scheme which is known by the name of the Freedmen's Bureau, both which measures, taken separately or together, were nothing more or less than invasion of sovereign States with the military power of the Government, and to force upon the people of those States a government not of their choice, but such a government as we chose to dictate from these Halls—when we entered upon that, it was apparent to every man that conflicts were liable to arise in those localities; that your agents of the Freedmen's Bureau, your teachers of negro children, the negroes themselves—

Mr. KERR. And organizers of loyal leagues. Mr. WOODWARD. Yes; those organized in loyal leagues and other treasonable combinations were extremely liable to fall under the operation of some local law and to be imprisoned for misdemeanors.

As a part, therefore, of this system of subjugation upon which we had entered, the act of 1867 was passed. It had always, since the organization of the Federal judiciary, been within the competency of any Federal judge to issue writs of *habeas corpus*; but as this power was limited to the local district and circuit courts, and as it was possible that those judges might sympathize in the local feeling, thereby causing the oppression of some negro or some Freedmen's Bureau agent, an appeal from the decision of the local judge to the Supreme Court of the United States would be necessary to secure to that negro or to that agent of the Freedmen's Bureau his personal liberty, and hence this act of 1867 came into existence. I cannot mistake its character, its history, or its objects, because I take my information from the recent argument of Mr. TRUMBULL before the Supreme Court of the United States and in the Senate. And I say that, looking at the general interests to which I alluded just now, I regard that law as a law in favor of human liberty. It was very possible, in the conflict which the bad legislation that Congress has

devised for the southern States was liable to produce, that individuals might suffer false imprisonment. It was very proper, therefore, that the Supreme Court of the United States should have appellate jurisdiction over these local tribunals to protect the liberty of every man. For I hold that every man in the land who lives under the Constitution of the United States is worthy of protection. Though he be black, though he be mean, though he be a criminal, he is entitled to the protection which is secured to every man in virtue of his manhood by the fundamental principles of our Government.

I have therefore no complaint to make of the act of 1867. It never would have been necessary, however, if your reconstruction laws and your Freedmen's Bureau acts had not been passed. It grew out of a necessity of your own creation; and when so violent measures as those were forced upon the people it was wise and salutary to accompany them by such an act as the act of 1867.

Now, it so happened that an individual of Mississippi, of whom I know nothing, but whose name has become familiar to the public ear as McCordle, fell a victim to the military tyranny which has been sent into those States. As I understand, his offense consisted in criticising in a public print some measures of the commanding general. It was the exercise of the right of freedom of speech and of the press for which he was restrained of his liberty, and thrown into jail. He applied for *habeas corpus*. It was denied him in the local court. He took his appeal to the Supreme Court of the United States. The case came into that court under this act of 1867—this very law that you passed for the purpose of securing to people their liberty. Mr. McCordle came into the Supreme Court of the United States pleading that law. After an argument by counsel, who denied that the case came within that law, the Supreme Court decided that they had jurisdiction in the case under the law; and they decided it unanimously. I read the argument of Mr. TRUMBULL upon that question as reported in the papers. I have not read the opinion of the court as delivered by the Chief Justice; but I understand it was a unanimous decision. And what was it in legal effect? It was a decision that that court was entitled to take jurisdiction of McCordle's case, that jurisdiction had attached in the case and that the argument should proceed. In pursuance of that decree the argument did proceed by distinguished counsel on the one side and on the other.

Now, I call the attention of the House to the fact that by all this Mr. McCordle acquired certain rights in that court, rights just as well defined as his right to life. He acquired the right of taking the judgment of that court on his case. It was a right which vested by the circumstances to which I have adverted, and not one of which will be controverted. It was a vested right. It was a vested right in respect to one of the highest interests of the man—his liberty. It was a vested right which the act of 1867 showed you were ready to respect when asserted by a negro. It was a vested right which, I say, is just as worthy of respect when asserted by a white man as when asserted by a negro.

Mr. ELDRIDGE. Do you go that far?

Mr. WOODWARD. Yes, sir; I will go that far. I say that the vested rights of this man are just as worthy of the respect of this Congress as if he were a negro.

Now, sir, what happens? This House having allowed the chairman of the Committee of Ways and Means to take up by unanimous consent a bill relating to the revenues of the country, to which nobody had any objection, the gentleman from Iowa, [Mr. WILSON,] the chairman of the Judiciary Committee, offered as an amendment this section, which takes away the jurisdiction of the Supreme Court under the act of 1867, and takes away the vested, attached jurisdiction of the Supreme Court in McCordle's case. Such is not only the legal effect of it; but, upon interrogation

on this floor, the gentleman from Iowa declared that such was his intention in offering that amendment. I asked the question myself; and the gentleman made that distinct declaration. Nay, more, he not only admitted that that was his intention, but, with infinite bad taste, seemed to be proud of it—seemed to be proud that he had slipped in this amendment to rob a fellow-citizen of his vested rights in the Supreme Court of the United States. It was the first time I ever saw a lawyer, not to say a chairman of a Judiciary Committee, plume himself both upon the thing done and the mode of doing it when both were so questionable. I was shocked last Saturday, in the running debate we had here, at the spirit and manner of my friend from Iowa. When my friends around me here complained of that which I did not feel disposed to complain of—the manner in which this amendment was introduced—it was evident from the tone of the gentleman's remarks, as it had been evident from the tone of the remarks of the gentleman from Ohio, [Mr. SCHENCK,] a few days before, that they were proud of what gentlemen on this side called a trick.

I did not call it a trick. I would be sorry to call it so. They talked of their superior vigilance, of their being always "wide-awake," and advised us on this side to keep awake and not confide in them to the extent that we had done, advice, this last, which will probably not be lost on this side of the House. I say all this seemed to be in exceedingly bad taste. For what was the gentleman doing? He was trampling upon the rights of a fellow-citizen. I tried last Saturday to make him see the position in which he was placing himself. I cared nothing about this minor question as to the manner of doing it. I tried to fix the gentleman's eyes upon the real nature of the thing he was doing, the essential quality of the enactment. But he was so much occupied with self-admiration of the manner of doing the thing that I succeeded badly. I could not get him to contemplate the essence and quality of the thing itself, so much enamored was he of that which honorable gentlemen did not hesitate to call a trick. [Laughter.]

But, let that matter pass. The thing was done. The bill was passed without a word of debate or explanation. It was afterward justified and even boasted of, and now these desultory thoughts that I am expressing are the first words of debate upon the measure that have been heard in this Hall.

Now, sir, I have said that the act of 1867 was a law in favor of human liberty. This bill proposes the repeal of the law, which has not been asked for by the people of those States in whose behalf the law was passed, not demanded by any great public necessity, but dictated, according to the confession of the gentleman from Iowa himself, merely by a desire to prevent the Supreme Court of the United States from deciding McCordle's case. And the reason of this desire was a fear that the Supreme Court would declare the reconstruction laws unconstitutional and void.

Sir, in former times, candid and wise legislators were most anxious that questionable legislation should be brought to judicial test at the earliest possible moment. If anybody doubts the constitutionality of an enactment for which I vote while I may have the honor of a seat on this floor, I will facilitate the judicial investigation of the question by all the means in my power. I shall consider it a valuable privilege to bring a questionable measure for which I may cast my vote before the judicial tribunals of the country; and such I believe has generally been the prevailing sentiment in legislative bodies in this country until the present time.

But it was rumored that the Supreme Court were likely to declare the reconstruction laws unconstitutional; and this bill was reported and passed, says the gentleman from Iowa, for the purpose of preventing that. Mr. Speaker, when the country understands that the act of 1867 was a law in favor of human liberty, that

a citizen restrained of his liberty had availed himself of this law for the purpose of obtaining the decision of the Supreme Court of the United States, what will they think of the chairman of the Judiciary Committee of this House, coming in with such a section at such a moment for such an avowed purpose? And what will they think of the action of this House in sustaining such a bill over a veto from the President? Will they not see that it is a deadly blow at the liberties of a citizen? That it is an unworthy device to prevent a review of most questionable legislation? That it amounts in effect to a confession on the part of the House that their legislation cannot stand the ordinary judicial tests to which all laws are subjected?

I desire that the people shall understand this matter. If there is honor in it, gentlemen are entitled to it; if there is responsibility in it, gentlemen must expect to bear it. The people of the country shall have their attention riveted upon the facts of this case, if I can rivet it.

There is another point which I trust will not be overlooked by the public. The Government under which we live happily distributes its powers in three separate coordinate departments. The legislative is one of them, but the judiciary is also one of them. And the judicial power is vested in the Supreme Court of the United States and in such inferior courts as Congress may establish. Now, McCordle's case was a judicial case. It presented a question for judicial inquiry. Jurisdiction had attached. The rights of McCordle had vested. And I deny that the legislative department has any power to meddle with the coordinate department, the judiciary, while the latter is performing its appropriate functions in respect to jurisdiction of a particular case that has attached.

I am not going to discuss the question which was started between the gentleman from Iowa and myself as to the legal effect of this repealing law. I did ask him in that colloquial discussion on Saturday whether, in his judgment as a lawyer, the effect of this repealing law would be to divest that jurisdiction? He very promptly answered it would; that was the object, and he had no doubt that would be the legal effect. I ventured to express a doubt that such would be the legal effect. He said it had been decided, and I asked him where? He said he did not have the authority then, but he would bring it to me. On Monday he brought me three cases, I presume in answer to my inquiry. I will say, for the satisfaction of the gentleman from Iowa, that I have examined those three cases carefully, and I have examined several other cases, and when the question comes up, if it ever does come up in the House, on the legal effect of this repealing law I will be prepared to discuss with my friend from Iowa the cases he has referred to and other cases to which I will take the liberty of referring him. I will not discuss them now. I cannot do it in the half hour allowed me, nor do I think it expedient to do so.

On the contrary, Mr. Speaker, I choose to place myself upon his ground and to admit, for the purpose of the argument, that the passage of this law will divest jurisdiction in the McCordle case. That is his position. I concede it for the present. Then I say that is a posture of the case which I think will interest the people of the country. Here is an American citizen with the vested right to the judgment of that court, about, according to common rumor, to obtain favorable judgment, when the legislative department rushes in and takes the case out of the hands of the judicial department. It decides the case against the citizen. The gentleman says that will be the legal effect of this law.

Now, sir, I say if the gentleman is right in that legal opinion, and for the present I will not question it, this law prostrates all distinction between the coordinate branches into which the political power of this country was divided. It is no longer true that judicial power belongs exclusively to the judicial depart-



ment. It is henceforth true that the Legislature may invade the courts and stop the exercise of judicial power in proper judicial cases. In other words, sir, the first principles of the Government under which we live are trampled under foot by this law: The Constitution, which we have sworn to support, is utterly disregarded by this law. Every man must judge for himself how that oath is to be performed, but I lay the Constitution across the path the majority are pursuing, and I remind them of their oaths.

"If reason hath not fled from man to brutish beasts," I would like to see these positions either confessed or answered. Powers are distributed; the judicial power (all of it) belongs to the courts; jurisdiction in *McCardle's* case had attached; the court were advising on the judgment to render; the Legislature claims to take the case out of court, and thus, in effect, to decide it against *McCardle*.

Mr. Speaker, this is not the only liberty we have taken with the Supreme Court of the United States. At this session we passed a law which requires two thirds of the judges of that court to unite in declaring any act of Congress unconstitutional. The Senate has not passed that bill, and I trust it never will. I took the liberty to express my repugnance to it when it passed the House. I am glad the Senate has refrained from passing it. Why? Because it is a legislative interference with judicial functions. That is my great objection to that law as it is to this one.

I look upon any interference on the part of Congress with the proper judicial tribunals not only as a great indelicacy, but a most dangerous precedent. We have found it so in stripping the Executive of his proper constitutional duties. The tenure-of-office act and several other laws which place the Executive in the power of his subordinates have virtually destroyed the executive power of this Government. The legislation to which I have referred, and this bill are acts directed at the judicial department, and what do they portend and intimate? What are the people of the country to understand from such legislation? Just this: that the legislative department of the country is determined to consolidate all the powers of the Government into its own hands; determined to consolidate this Government into a grand legislative oligarchy, the country to be governed by the Legislature, and the Legislature to be governed by a caucus, and the caucus to be governed by the Lord knows who; for I do not know who will succeed my venerable friend from Pennsylvania [Mr. STEVENS] as ruler of this House when he shall depart. I hope he will be a man as wise and good as he is.

Sir, if this legislation means anything it means just this: that the President shall not exercise the constitutional functions of his office, the judges shall not exercise the constitutional powers vested in them, but the legislative will shall be supreme; which I say is a repeal of the Constitution of the United States and a consolidation of all the political power of this Government into the hands of a legislative oligarchy to be wielded I know not by whom.

[Here the hammer fell.]

Mr. HUBBARD, of Connecticut. I ask the gentleman from Iowa [Mr. WILSON] to allow me five or ten minutes.

Mr. WILSON, of Iowa. I yield five minutes.

Mr. HUBBARD, of Connecticut. Some of my friends, Mr. Speaker, on this side of the House have been anxious to disclaim any imputation of negligence connected with the passage of this bill. I start by making a confession of default against myself, for I was in the House when the original bill, reported by the gentleman from Ohio, [Mr. SCHENCK] was introduced. I heard the bill read by the Clerk. I listened to the explanation which the chairman of the Committee of Ways and Means was pleased to make, though the bill explained itself. I voted for the bill as it passed, and had not the slightest suspicion that it contained hid-

den in its stomach the strange and extraordinary amendment of the gentleman from Iowa, [Mr. WILSON], which now appears in the form and garb of a second section in the bill. It came in at what time, or by what art, manner, or process, I do not pretend to say. I do not pretend to know except as since advised by the gentleman from Iowa. I only know it came in by some legislative prestidigitation—not to use any stronger words—which I can neither understand, admire, or respect.

However, I do not desire to make further comment on the mode and means by which the bill was passed, but hasten on to say a word in reference to the character, intent, and purpose of the bill. I do not agree with my learned friend from Pennsylvania, [Mr. WOODWARD]—though I have not studied the question, and ought not, perhaps, to express dissent—that this amendment will not reach the appeal in the *McCardle* case. I think it will reach it and sweep it out of existence. I think it will not only reach that but every other case of a like character either now pending or which may hereafter arise, and it is for that reason I am opposed to it. This bill, as it stands, is a kind of centaur, or, to use a coarser metaphor, a Demerara team—a horse and a donkey yoked together. The first section of the bill confers the right to transfer all revenue cases to the Supreme Court. This section is the original bill as reported by the committee, and it is just and right. It opens the door of the Supreme Court to any tax-payer in any part of the country whose property, even to the amount of a farthing, is subjected to taxation in violation of the Constitution or the laws of the United States.

Look, now, at the second section of the bill. This latter section relates to human liberty—to that great writ of *habeas corpus* which is the defense both of life and of liberty. Does this section enlarge the remedy and strengthen the defense? No, sir; just the contrary. It closes the doors of the Supreme Court—just opened for the tax-payer—upon every citizen who has been despoiled of his liberty in violation of the Constitution and laws of the Republic, and hands him over to his oppressor, to wear the chain or rot in the dungeon.

Why, sir, if a man's horse, his ox, or his ass is illegally distrained by the tax collector, what remedy may he have under this law? The bill provides that for the purpose of recovering even a dumb beast he may travel clear up to the Supreme Court and lay his grievance on the altar of justice and demand redress. Now, I beg the House to notice that if, on the other hand, a man's wife or children are torn from him by violence, imprisoned, given over to captivity in utter and admitted violation of the laws and Constitution of the United States, he cannot stir one step toward the Supreme Court. The remedy in last resort is denied him; the doors of the Supreme Court, which are wide open to property suitors, to a question of an ox or an ass, are shut on their hinges and barred when the suit is for liberty, for wife, or children.

That, sir, in a word, and in plain language, is the purpose and effect of this bill. Is there not something marvelous about it? What is the explanation? Why has property become so dear and human life and liberty so cheap? It needs no sphynx to solve the riddle. The problem is level to the meanest capacity. The law of 1867, intended to be repealed, was passed, as we all know, for the purpose of giving relief to some Maryland negro apprentices; and whenever a black man's liberty was thought to be in danger it was deemed proper and just—and I admit it was so—that the man, black, poor, and ignorant though he might be, should have free access to the supreme judicial tribunal, to the end that if he was wrongfully restrained of his liberty he might find a just deliverance by the law of the land, and therefore this bill was passed.

The law did its work for the black man. Now, what has happened? Why, a white man in Mississippi—not in a State where civil courts are open and civil remedies free, but in a State

where the courts exercise their jurisdiction not at all or under the edge of the sword—is seized and imprisoned. For what? For exercising the liberty of speech, the liberty of writing, the liberty of criticising a military despotism that a Government calling itself free imposes on the people of the South. Seized and imprisoned by whom? By an officer of the civil law? Not at all. By an epauletted gentleman with a sword at his side. And turned over to whom? To a jury of his country? Not at all. To a military commission "organized to convict." From this drum-head conviction he has sought relief by the writ of *habeas corpus*, and has carried his case, under a law of your own passing, to the Supreme Court of the United States, a court officered in the main by members of your own party; and there, before that august tribunal, unstirred by the passions of the hour, he demands judgment upon your act in turning over four million free white men to the despotism of sword and bayonet. And now what do we behold? The doors of the Supreme Court, which, a little more than one year ago, were thrown wide open to the whole negro race, are slammed in the face of a white man upon a question of liberty—liberty today; life, it may be, to-morrow; not his liberty alone, but the liberty of every white citizen in the Republic. Is this just? Is it honest? Is it manly? Is it decent? Do you intend to hire pimps and spies to run round the country and spy out the cases you are likely to lose and then strip the court of jurisdiction? Do you intend "to clip the wings of the court" because the bird does not fly to suit you?

[Here the hammer fell.]

Mr. WILSON, of Iowa. Mr. Speaker, it seems strange, after listening to the wails of the gentlemen who have just addressed the House, that the party to which they belong, and which they claim has existed from the organization of the Government down to the present time, never discovered until now that it was important for the Supreme Court of the United States to have appellate jurisdiction in such cases as the one to which they have called our attention. This jurisdiction never was conferred on that court until the 5th of February, 1867. By whom conferred? By the Congress of the United States; and, if my memory does not mislead me, conferred after no little opposition made thereto by the members of the Democratic party on this floor. It was one of the measures adopted by the majority in Congress for the purpose of reaching a particular end. And what was that end? It was to enable persons held under the apprentice laws of some of the former slave States to reach a determination of their right to freedom in the Supreme Court in opposition to the judgments of the local State courts upholding or enforcing those laws by which the people of those States were endeavoring to defeat the emancipation of the slaves of this country. That was the purpose and object of the act to which the repealing section of the present bill is applied. It was to reach cases arising under certain State laws, to the end that those laws might be removed out of the way of the grand emancipation policy, then a part of the Constitution of the Government, which they were obstructing. It was enacted in the interests of liberty, and not to give immunity to disturbers of the public peace.

The provision incorporated in the act of 1867 was as follows:

"From the final decision of any judge, justice, or court inferior to the circuit court, an appeal may be taken to the circuit court of the United States for the district in which said cause was heard, and from the judgment of said circuit court to the Supreme Court of the United States," &c.

The very terms of the section show that it was the intention of Congress to deal with a particular class of cases and provide a remedy for them—cases originating in courts inferior to the circuit court, and the *McCardle* case is not one of them. But, upon what considerations I know not, the Supreme Court, in my judgment, misapprehended the intention of the legislative department of the Government, and attached jurisdiction to a class of cases

which it was never intended should be included within the provisions of that act, and that, as a gentleman near me remarks, was not, in fact, included in its provisions. Finding, sir, that such use was being made of the act of 1867, this House passed an amendment to the bill now pending repealing the jurisdictional clause of the act of 1867. Now, sir, have we violated any power vested in the Congress of the United States? Does the gentleman from Pennsylvania [Mr. WOODWARD] say that we have exceeded our power? Does the gentleman from Connecticut [Mr. HUBBARD] say that we have exceeded our power? No, sir; for they both tell us that the effect of this bill, if it shall become a law, will be to deprive the Supreme Court of jurisdiction in the McCordle case. They admit our power to pass it, and inform us in advance that the constitutionality of the act will be maintained by the Supreme Court; for if it be not constitutional the Supreme Court will so pronounce and retain jurisdiction in the McCordle case; but this is just what those gentlemen tell us will not be done, and they thereby admit away the entire force of the objections urged against this bill. We are exercising an undoubted power under the Constitution of the United States. Who shall judge as to how the power is to be exercised? Am I to submit my judgment to the learned gentleman from Pennsylvania, [Mr. WOODWARD?]. Is he to direct my discretion when I am called upon to vote on any given bill in this House? Am I to be directed by the learned gentleman from Connecticut, [Mr. HUBBARD?]. Will he claim this prerogative, in addition to his assumed right to lecture us for what we have done? If neither of them has the power to direct my discretion, if no one else has that power, who then must direct it? I must do so, and each member of the House must direct his own discretion, follow his own judgment, regardless of the censures of others. Acting upon this rule of conduct, the majority of this House adopted the amendment of which so much complaint has been made and passed the bill. Every step taken and act done in that regard were within our legitimate power and for the purpose of correcting an abuse of an act of Congress arising from what we regard as a misinterpretation of it.

Mr. ELDRIDGE. Will the gentleman yield to me for a moment?

Mr. WILSON, of Iowa. For a moment; yes, sir.

Mr. ELDRIDGE. I wish to call the attention of the gentleman from Iowa to a fact in the case which it seems to me he is neglecting in his argument, either designedly or from inadvertence. The gentleman says that the act which the bill now under consideration is intended to repeal was originally passed to give to the Supreme Court jurisdiction in cases where courts inferior to the circuit courts had given wrong decisions with reference to the imprisonment or wrongful detention of apprentices.

Mr. WILSON, of Iowa. The gentleman misapprehends my statement.

Mr. ELDRIDGE. I think the gentleman and myself will not differ as to the facts when I have fully stated my question. The gentleman says the object of the repealing bill now under consideration is to correct an abuse of the act of 1867 by the Supreme Court. Now, I desire to propound this interrogatory to the gentleman from Iowa:

If it is important that the rights of an apprentice, wrongfully restrained in his liberty, should be considered and determined by the highest judicial tribunal of the land, is it not equally important—and if this bill does not provide for it ought we not to provide for it in justice to ourselves and for the purpose of protecting the rights of our citizens—is it not equally important and our duty to provide that, where the circuit courts of the United States decide incorrectly in reference to the rights of the white citizen, they may be reviewed by the highest tribunal? Ought not that right and jurisdic-

tion to be conferred, if it be not conferred by the act of 1867? And will the gentleman insist that we ought to repeal that act because of fear or a suspicion that the Supreme Court may exercise the jurisdiction with reference to a white citizen which the gentleman concedes it was the purpose of the original act to give the Supreme Court in reference to a black child or apprentice?

Mr. WILSON, of Iowa. If, when the act of February 5, 1867, was pending in this House, the gentleman made any noise about it or urged its passage, it has entirely escaped my memory. My impression is, however, that the gentleman was just as much opposed to the passage of that bill then as he is now to the repeal of that particular clause of it which the second section of this bill will repeal.

But I will answer the question of the gentleman. I did not turn my explanation of the reason for the enactment of the law of February 5, 1867, upon the mere wrongs of black persons or of white persons, but upon the higher ground of reaching, through the remedy provided, certain State laws that were being enforced by the courts of several of the States in opposition to the emancipation policy adopted by the Government of the United States. It was for the purpose of removing from the free-men of the nation, because of their repugnancy to the Constitution and laws of the United States, these engines of wrong and of oppression called "apprentice laws" in the States to which I have referred. Now, sir, that end has been accomplished. After it is over we find—

Mr. ELDRIDGE. Will the gentleman allow me to ask him another question?

Mr. WILSON, of Iowa. A question; yes.

Mr. ELDRIDGE. If the gentleman from Iowa feels it safe, right, and just to submit those rights to the Supreme Court, why does he hesitate, why does he fear to trust the rights of McCordle to the decision of the Supreme Court; and why would he take away the jurisdiction of the Supreme Court in that case, if he feels that his black wards are safe in the hands of this terrible Supreme Court? Why not trust the court in the one case as well as the other?

Mr. WILSON, of Iowa. Mr. Speaker, I am not urging the passage of this bill over the President's veto because I believe the Supreme Court has jurisdiction in that case under the law as it now stands, but because by misconstruction of it, as I believe, they assume jurisdiction, and, therefore, it is necessary to correct that assumption in this particular way.

Now, the gentleman from Connecticut [Mr. HUBBARD] referred to McCordle as languishing in a dungeon. He has not been in a dungeon at all. He has been out on bail all the time, and only \$1,000 in amount at that. He was deliberately, purposely, persistently defying the laws of the United States passed for the better government of the rebel States, and stirring up sedition in the State of Mississippi, and exciting the people to revolt. For this he was arrested, yet the Government has treated him so kindly that he has not been placed in prison.

We are remanding him to the same remedy that he and all other persons in like cases had provided for them by the Democratic party from the passage of the judiciary act of 1789 down to the passage of the act of the 5th of February, 1867. Why did not that party, which opposes this bill to-day, provide this remedy in the days of its power if it is so necessary for the protection of the rights and liberties of the people?

Mr. ELDRIDGE. I will answer the gentleman if he will permit me.

Mr. WILSON, of Iowa. Go on.

Mr. ELDRIDGE. The reason is that in the days of our power there were never such wrongs inflicted upon white citizens as in the days of your power you have inflicted.

Mr. WILSON, of Iowa. Mr. Speaker, during the time when the gentleman's party held the reins of Government, they were not very careful of the rights of the people. They did

everything in their power to direct every element and energy of every department of the Government to hold in slavery four million people and to rivet that accursed system on the descendants of the helpless slaves. More than this did they do. After the Government had been taken from their hands and freedom was conferred upon these four million, the party for whom the gentleman from Wisconsin [Mr. ELDRIDGE] speaks to-day sought, by resorting to the use of the power of several State governments, in defiance of the will of the nation, to practically continue that system and condition of slavery in some of the States; and yet he comes here to-day and lectures us for being unmindful of the liberties of one man, and he a violator of law and a disturber of the public peace. The gentleman and his party were not mindful of the rights of white men when the South Carolina branch of the party refused protection to a citizen representing one of the great States when, by authority of his State and in the name of all the white people of the Commonwealth, he sought to appear in a South Carolina court, in strict conformity to law, to defend the Constitution and laws of the nation, and to protect from oppression and outrage the citizens of Massachusetts. It was his right to be there as a citizen, and doubly was it his right when, as an agent of the State which sent him, he was there to obey its commands in strict accordance with the laws of the land. He was there for the purpose of resorting to one of the remedies provided by law for the identical wrong of which his State complained. But his rights and those of his State were disregarded, and under threats of personal violence he was compelled to abandon his mission. The party which resists us to-day did the work, nor has it repented of it. Let not lectures on the rights of a citizen come to us from such a source.

Now, when all men are free through the action of the political organization represented on this side of the House, gentlemen come in here and lecture us when we propose, in the interest of good government, to do no more than to permit the same remedies to operate with reference to *habeas corpus* which operated during all the days of their political power. What remedy do we present? Is it not the same that preceded the passage of the act of 1867? We do not interfere with that remedy? Not in the least. We leave the old remedy in full and complete force, and only aim to avert a great wrong from resulting from a misuse of this McCordle case and other similar cases for political purposes. I hope such use will not be made of it, but we have just grounds upon which to rest fears, and should, therefore, be all the more cautious and guard against the happening of so great a wrong.

Mr. ELDRIDGE. Let me ask the gentleman a question.

Mr. WILSON, of Iowa. I yield for a question.

Mr. ELDRIDGE. I ask the gentleman whether the real purpose, if he will allow himself frankly to avow it, is not to prevent the decision of the Supreme Court that the reconstruction bills which you have passed are themselves in violation of the Constitution.

Mr. WILSON, of Iowa. It may have entered into the considerations presented to my mind to endeavor to prevent any court, and especially the Supreme Court of the United States, from usurping a power, if there is any intention in the minds of any of the judges to do it, which has been denied to them by the Constitution of the United States, which denial has been recognized by decisions of that court from the earliest times. This is a protection to the court quite as much as it is an assertion of a rightful power of Congress.

Mr. WOODWARD and Mr. HUBBARD, of Connecticut, rose.

Mr. WILSON, of Iowa. How much time have I left?

The SPEAKER. Two minutes?

Mr. WILSON, of Iowa. Then I cannot yield.

Now, sir, the House of Representatives has not, in the passage of this bill, moved one step beyond the line of power recognized by the Supreme Court of the United States. In 5 Wallace I find a decision made in the case of *Insurance Company vs. Ritchie*, the opinion being delivered by the Chief Justice, all the judges concurring, in which this doctrine is held:

"The case before us is a case under the act of 1864. It is a case of which, because of the fact that the appellants and appellees are citizens of the same State, we have no jurisdiction except under the act of 1833; and the act of 1866 declares that the act of 1833 shall not be construed so as to apply to such a case.

"This is equivalent to a repeal of an act giving jurisdiction of a pending suit; it is an express prohibition of the exercise of the jurisdiction conferred by the act of 1833 in cases arising under the internal revenue laws.

"It is clear that when the jurisdiction of a cause depends upon a statute the repeal of the statute takes away the jurisdiction; and it is equally clear that where a jurisdiction conferred by statute is prohibited by a subsequent statute the prohibition is so far a repeal of the statute conferring the jurisdiction."

The principle here recognized of the power of Congress to divest a court of jurisdiction, and thus arrest the progress of cases pending, supports fully our power to pass this bill; and no one has or will seriously question it. The jurisdiction given to the court by the act of February 5, 1867, is the law of the remedy in and for cases coming within its provisions. We established it and may demolish it; we passed the act and may repeal it, or any part thereof. If the McCordle case falls the country may have escaped the danger of another political decision by a majority of the Supreme Court. I do not know how this may be, but I do know that in all this thing we have followed and are following strictly our constitutional power. We have kept within its lines as defined by the Supreme Court. We are exercising no doubtful power whatever, and its exercise in this instance is for a rightful, just, and proper purpose. The passage of this bill will give relief to the court and advance the interests of many waiting suitors, whose causes have been delayed by the persistent efforts which have been made to induce the court to enter upon political questions involved in the reconstruction legislation of Congress. It springs from higher considerations than those of hostility toward the court.

Mr. Speaker, the gentleman cannot hope that the majority of this House, possessing the legislative power of the Government with the majority in the Senate, will yield, on any misconception of law or any political subterfuge, the right to settle into a condition of peace and repose this country, reorganize the rebel States upon just, firm, and abiding foundations, and restore them to the Union. I demand the previous question.

The previous question was seconded—ayes 80, noes 30.

Mr. ELDRIDGE. I demand the yeas and nays on ordering the main question, as this is the only opportunity we have to vindicate our right to debate.

Mr. WOODWARD. Does not the Constitution require the vote to be taken by yeas and nays?

The SPEAKER. Only on the final passage. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 34, not voting 44; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravely, Halsey, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Luffin, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Mallory, Maynard, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Polsley,

Price, Raum, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, John Trimble, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu D. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodward—111.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glosbrenner, Golladay, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Kerr, Knott, Marshall, Mungen, Niblack, Nicholson, Pruyn, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—34.

NOT VOTING—Messrs. Allison, Barnum, Blair, Boyer, Butler, Cobb, Cornell, Dodge, Donnelly, Ela, Finney, Garfield, Griswold, Grover, Haight, Harding, Hawkins, Higby, Asahel W. Hubbard, Jones, George V. Lawrence, Loughbridge, Lynch, Marvin, McCarthy, McCormick, McCullough, Morgan, Morrissey, Nunn, Phelps, Pomeroy, Randall, Robertson, Robinson, Shellabarger, Starkweather, Stewart, Stokes, Trowbridge, Van Aernam, Henry D. Washburn, William Williams, and Wood—44.

So the main question was ordered.

During the roll-call,

Mr. O'NEILL said: My colleague, Mr. RANDALL, is paired with Mr. CORNELL; the former would have voted "no" and the latter "ay."

Mr. PRUYN. My colleague, Mr. WOOD, has been called away by illness in his family; if here he would vote in the negative.

Mr. WOODWARD. My colleague, Mr. BOYER, is absent; he would have recorded his vote in the negative.

Mr. SITGREAVES. My colleague, Mr. HAIGHT, is absent on account of illness; he would have voted "no."

Mr. FOX. My colleagues, Mr. ROBINSON and Mr. MORRISSEY, are detained from the House on account of illness; they would have voted against the bill if here.

Mr. MAYNARD. My colleagues, Mr. STOKES and Mr. NUNN, are absent; if here they would vote in favor of the bill.

The SPEAKER. The question, under the Constitution, is, "Will the House on reconsideration agree to the passage of the bill?" The question will be taken by yeas and nays.

The question was taken; and there were—yeas 114, nays 34, not voting 41; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravely, Halsey, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, Luffin, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Mallory, Maynard, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Polsley, Pomeroy, Price, Raum, Sawyer, Schenck, Scofield, Selye, Shanks, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Taffe, Taylor, Thomas, John Trimble, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu D. Washburne, William B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodward—114.

NAYS—Messrs. Adams, Archer, Axtell, Barnes, Beck, Brooks, Burr, Cary, Chanler, Eldridge, Fox, Getz, Glosbrenner, Golladay, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Johnson, Kerr, Knott, Marshall, McCormick, Mungen, Niblack, Nicholson, Pruyn, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Auken, and Woodward—34.

NOT VOTING—Messrs. Allison, Barnum, Blair, Boyer, Butler, Cobb, Cornell, Donnelly, Ela, Finney, Garfield, Griswold, Grover, Haight, Harding, Hawkins, Higby, Asahel W. Hubbard, Jones, George V. Lawrence, Lynch, Marvin, McCarthy, McCullough, Morgan, Morrissey, Nunn, Phelps, Randall, Robertson, Robinson, Shellabarger, Starkweather, Stewart, Stokes, Trowbridge, Van Aernam, Van Trump, Henry D. Washburn, William Williams, and Wood—41.

The SPEAKER. Two thirds having voted in the affirmative, and it having been certified to the House that the Senate, on a similar reconsideration, have, by a two-thirds vote, agreed to the passage of the bill, I do, by the authority of the Constitution of the United States, declare that notwithstanding the objections of the President the bill (S. No. 213) to amend an act entitled "An act to amend the judiciary act, passed the 24th of September, 1789," has become a law.

During the roll-call,

Mr. HUNTER said: My colleagues, Messrs.

WILLIAMS and WASHBURN are absent on leave. If they were here they would vote "ay."

Mr. TRIMBLE, of Kentucky, said: My colleague, Mr. JONES, is paired with Mr. HARDING; if here he would vote "no."

#### APPROPRIATIONS FOR INDIAN DEPARTMENT.

The next business on the Speaker's table was the amendment of the Senate to the bill (H. R. No. 819) making a partial appropriation for the expenses of the Indian Department and for fulfilling treaty stipulations.

Mr. BLAINE. I move that the amendment of the Senate be referred to the Committee on Appropriations.

Mr. WINDOM. I move that it be referred to the Committee on Indian Affairs.

Mr. HOLMAN. I desire to reserve the point of order on that amendment, that it must have its first consideration in Committee of the Whole.

The SPEAKER. That point of order can be raised when the amendment shall be reported back to the House. An appropriation bill can be considered in the House so far as referring it to a committee is concerned.

Mr. HOLMAN. I only desired to make the point of order in time.

Mr. BLAINE. This is a regular appropriation bill. It came from the Committee on Appropriations, and it ought to be referred to that committee.

Mr. WINDOM. Are remarks in order on the motion to refer?

The SPEAKER. The motion is debatable.

Mr. WINDOM. I desire to say that I am aware that this is an appropriation bill, and I am at the same time aware that it is an appropriation bill the design of which is to change the entire Indian system, and that being the case it seems to me that it is very proper that it should be referred to the Committee on Indian Affairs.

I desire to say further, that I believe a very injurious usage has grown up in this House; I do not expect to correct it, but I have an opportunity of calling attention to it and I desire to embrace that opportunity. Now, I believe it is the rule in the Senate that all appropriation bills are, by courtesy, referred to the appropriate committees. For instance—

Mr. BLAINE. Not all.

Mr. WINDOM. I know they do go to those committees.

Mr. BLAINE. Not at all. The gentleman is entirely mistaken in regard to the proceedings of the Senate. No such rule prevails there.

Mr. WINDOM. I do not know what the rule is, but I know that by courtesy all appropriation bills go before the appropriate committees and are examined. The Post Office Committee has an opportunity of examining and proposing amendments in committee to the Post Office appropriation bill; and the same of the military committee, and the naval committee, and throughout the entire list of committees.

Mr. BLAINE. Allow me to correct the gentleman. What he has got into his head is this: when an appropriation bill is pending in the Senate the appropriate committees may move amendments thereto, because the rule of the Senate requires that an amendment to an appropriation bill must be recommended by the committee to which the subject appertains, and it is not in order, as here, for an individual member on his own responsibility to move an amendment.

Mr. WINDOM. I think I am not mistaken in the idea that there is such a usage in the Senate, that by courtesy all these different appropriation bills are examined by their appropriate committees. Now, that opportunity is entirely denied in the House. I say nothing against our Committee on Appropriations; it is a very wise and proper committee. But the Appropriation Committee of this House has absorbed all the business of the House, so far as appropriations are concerned. That, perhaps, would not be so objectionable if the bills



thus controlled by that committee were confined to making appropriations. But when it comes to inaugurating new systems for the action of the different Departments of the Government I think it is time that practice should be changed. Now, this bill came from the Committee on Appropriations, I have been informed—if incorrectly, I hope I may be corrected by any member of that committee—that this subject of Indian affairs was referred to a single member of that committee for his consideration and judgment. Now, that member may be well qualified to judge concerning impeachment questions and such things, as well as very many other questions; but I think he has already too many subjects on his hands to be enabled to give the proper consideration to the subject of Indian affairs.

Mr. SPALDING. Allow me a moment.

Mr. WINDOM. Very well.

Mr. SPALDING. I desire to say to the gentleman that the general Indian bill has been before the Committee on Appropriations for some days, and they are going over it item by item. It is a very lengthy bill, and requires a great deal of time for its proper consideration. The bill now under consideration makes only a partial appropriation for the Indian service; it is a bill reported in advance of the general Indian bill. Now, how can the Committee on Indian Affairs deal properly with this bill, when they do not know at all what is in our general bill?

Mr. WINDOM. I am very well aware that this is but a partial appropriation bill. It is because of the peculiar nature of this bill that I call the attention of the House to it.

Here is a bill coming from the Committee on Appropriations which proposed to appropriate some two hundred thousand dollars to be expended without one single guarantee or safeguard to the Treasury. It was proposed by the Committee on Appropriations to place in the hands of a commission—to be composed of very honorable and respectable men it is true—over two hundred thousand dollars, to be expended by them, without giving any bonds, without taking any voucher, without the Treasury being protected in any way.

Now, if all the members of that commission were to act together in making the payments under this bill, I would not have the least objection to it, for I think that would afford the strongest guarantee of the honest application of this fund. But gentlemen know very well that will not be done. We all know that General Sherman and Senator HENDERSON, and men of that class, are not going to make any money out of Indian contracts, or would not improperly apply this fund. But I do not know that every member of that commission will be an honest man. And I will say that if there should be a dishonest man on that commission he will be the very man who will have time enough to go out and make these payments. And under this bill of the House he will not be required to give any bonds, or to return a single exhibit or voucher; but he will be left free to pay out the \$200,000 as he pleases, or to forget to pay out any portion of it, just as he pleases. That is the House bill. A single member of the Committee on Appropriations having charge of the preparation of it, brings it in here without giving a single member of the Indian Committee the slightest notice of what it contains. It is passed by the House and then goes to the Senate, where very properly they strike out the House bill and give us one with some guarantees, which we do not find in the bill as it passed the House.

Mr. BLAINE. The gentleman will allow me a single remark. The Committee on Appropriations, if this bill be referred to them, must take it with the Senate amendment, and when they report it back the question must come up on that amendment. In what different condition would it be if the Committee on Indian Affairs should take charge of it? Are all the customs and usages which have prevailed in reference to appropriation bills during the entire history of congressional proceedings

to be reversed because the gentleman from Minnesota [Mr. WINDOM] does not like what the gentleman from Massachusetts [Mr. BUTLER] did in one particular instance?

Mr. WINDOM. It would be a little more polite if the gentleman would obtain consent before interrupting me. But I suppose he feels justified in imposing on a modest man like me, and I am always glad to hear him.

Now, Mr. Speaker, I have made my motion, not particularly because I am dissatisfied with the action of this bill. For the last five years I have heard a general murmur of dissatisfaction all over this House that the Committee on Appropriations absorbs all the business of the House, and does not give to other committees a fair opportunity to consider the measures properly belonging to them.

Mr. BLAINE. The Committee on Appropriations has been in existence only two years.

Mr. WINDOM. I am aware that since the gentleman has become a member of that committee he is disposed to think it the only committee that ever existed. But the committee had an existence before the gentleman was ever on it.

Mr. BLAINE. It has only existed for one Congress.

Mr. WINDOM. Well, it was the Committee of Ways and Means before; and that committee was chargeable with the same practice of absorbing the business of the House.

Now, I do not want to say anything disparaging of the Committee on Appropriations. It is just as careful and judicious a committee as any in this House. But I believe there are other committees just as well qualified to consider the peculiar branches of business which the House has confided to them as this committee is to consider every possible matter of business relating to the affairs of the country. I believe that if the House will to-day vote for my motion, and thus declare in favor of giving the various committees of the House an opportunity to examine measures which properly belong to them, we shall establish a new usage which will have a very beneficial effect. I have only to refer to the form in which this bill was introduced, with its loose and unguarded provisions, for the purpose of showing that the Committee on Appropriations is not infallible, that it may make mistakes as well as other committees. The fact is that it has too much business on its hands; and the other committees, if they would do themselves justice, will demand the right to examine questions appertaining to the peculiar province intrusted to them by the House.

I do not wish to occupy time on this question. I think it is fully understood by members generally. I hope that we may have an opportunity to give a fair examination to this bill, and that in future each committee will have confided to it matters properly coming within its jurisdiction.

Mr. BLAINE obtained the floor.

#### MONEYS COVERED INTO THE TREASURY.

Mr. WASHBURN, of Wisconsin. I rise to a privileged question, and submit a report from the committee of conference on the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their amendment to the Senate amendments proposing to strike out section three of said Senate amendments, and agree to said section with the following amendments, to wit:

First. Strike out the words "one hundred" in the second and third lines of said section, and insert in lieu thereof the words "seventy-five."

Second. Add at the end of said section the words, "and for prosecuting suits in the United States for the

recovery of such property and for providing for the defense of the United States against suits for or in respect to such property in the Court of Claims."

And that the Senate agree thereto.

C. C. WASHBURN,

G. W. SCOTFIELD,

DEMAS BARNES,

Managers on the part of the House.

GEORGE F. EDMUNDS,

W. P. FESSENDEN,

Managers on the part of the Senate.

The report was agreed to.

Mr. WASHBURN, of Wisconsin, moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TAX ON MANUFACTURES.

Mr. SCHENCK. I rise to a privileged question, and present a report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 900) exempting certain manufactures from internal tax.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 900) to exempt certain manufactures from internal tax, having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from their disagreement to the second amendment of the Senate and agree to the same.

That the House recede from their amendment to the third amendment of the Senate and agree to the said Senate amendment with an amendment, as follows:

Insert in lieu of the said Senate amendment, after the enacting clause, the words:

That after the 1st day of June next no drawback of internal taxes paid on manufactures shall be allowed on the exportation of any article of domestic manufacture on which there is no internal tax at the time of exportation; nor shall such drawback be allowed in any case unless it shall be proved by sworn evidence, in writing, to the satisfaction of the Commissioner of Internal Revenue that the tax had been paid and that such articles of manufacture were, prior to the 1st day of April, 1868, actually purchased or actually manufactured and contracted for, to be delivered for such exportation; and no claim for such drawback, or for any drawback of internal tax on exportations made prior to the passage of this act, shall be paid unless presented to the Commissioner of Internal Revenue before the 1st day of October, 1868.

And the Senate agree to the same.

They recommend that the House recede from their amendment to the fourth amendment of the Senate and agree to the same with an amendment, as follows:

Insert in lieu of said Senate amendment the following:

SEC. 4. And be it further enacted, That every person, firm, or corporation who shall manufacture, by hand or machinery, any goods, wares, or merchandise not otherwise specifically taxed as such, or who shall be engaged in the manufacture or preparation for sale of any articles or compounds not otherwise specifically taxed, or shall put up for sale in packages with his own name or trademark thereon any articles or compounds not otherwise specifically taxed, and whose annual sales exceed \$5,000, shall pay for every additional \$1,000 in excess of \$5,000 two dollars; and the amount of sales within the year in excess of \$5,000 shall be returned monthly to the assistant assessor, and the tax on sales in excess of \$5,000 shall be assessed by the assessor and paid monthly as other monthly taxes are assessed and paid. And the assessment for the month of April, A. D. 1868, shall be made on the excess of sales above the rate of \$5,000 per annum, and thereafter the annual period for the assessment of such tax shall commence on the 1st day of May in each year.

SEC. 5. And be it further enacted, That every person who shall engage in or carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall forfeit the distillery and distilling apparatus used by him, and all distilled spirits and all raw materials for the production of distilled spirits found in the distillery and on the distillery premises, and shall, on conviction, be fined not less than \$500 nor more than \$5,000, and be imprisoned not less than six months nor more than three years. If it shall at any time come to the knowledge of the Commissioner of Internal Revenue that distilled spirits are selling, directly or indirectly, in any collection district at a market price less than the tax on such spirits, he shall forthwith institute a strict examination into the causes of such reduced sales, and into the business and conduct of all the revenue officers in the district in which such sales are being made, and in the district in which such spirits have been manufactured, and if such sales below the amount of tax shall have been continued or shall hereafter be continued in any collection district for a period of ten days, the Commissioner of Internal Revenue shall forthwith cause every distillery, in which the business of distilling is carried on in the district, to be seized and closed; and after such seizure no such distillery shall be permitted to continue or resume business, either under bond or under any other pretext or arrangement, until relieved by the Commissioner of Internal Revenue from such seizure.

SEC. 6. And be it further enacted, That if any officer or

agent appointed and acting under the authority of any revenue law of the United States shall be guilty of gross neglect in the discharge of any of the duties of his office, or shall conspire or collude with any other person to defraud the United States, or shall make opportunity for any person to defraud the United States, or shall do or omit to do any act with intent to enable any other person to defraud the United States, or shall make or sign any false certificate or return in any case where he is by law or regulation required to make a certificate or return, or having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States, under any revenue law of the United States, shall fail to report in writing such knowledge or information to his next superior officer and to the Commissioner of Internal Revenue, he shall, on conviction, be fined not less than \$1,000 nor more than \$5,000, and shall be imprisoned not less than six months nor more than three years.

And the Senate agree to the same.

ROBERT C. SCHENCK,  
S. HOOPER,  
WM. B. NIBLACK,  
*Managers on the part of the House.*  
JOHN SHERMAN,  
GEORGE H. WILLIAMS,  
E. D. MORGAN,  
*Managers on the part of the Senate.*

Mr. SCHENCK. Mr. Speaker, I am able to say to the House, after some two or three hours of full and free conference the managers on the part of the House and of the Senate concur unanimously in the report which we have now presented. Without going too much into detail I will explain what it is we have agreed to.

The first amendment of the Senate, it will be remembered, related to the reduction of the tax on oil. The House relieved the committee of conference from anything to do on that subject by agreeing to the amendment of the Senate; so that, not as a part of the report of the committee of conference, but outside of that, I have only to say we are indebted to our friend from Pennsylvania [Mr. SCOTFIELD] for that reduction of the revenue which will have to be made up hereafter by a tax on iron or something else. [Laughter.]

The second amendment of the Senate was in relation to giving to the United States the benefit of the relief from taxation so far as it applied to those articles of machinery, &c., which have been or may hereafter be delivered under contract for the benefit of the Government. Such representations were made by the managers on the part of the Senate in relation to the very great advantage this would be to the Government on account of the peculiar character and extent of some contracts that were made, and the circumstances under which they were made, that the managers on the part of the House agreed to let that amendment of the Senate stand, and recede from the non-concurrence on the part of the House.

The next amendment is that which relates to drawbacks. This has been settled between the managers on one side and the other by a compromise, taking the first part of the Senate amendment and the last part of the House amendment; so that, while there is to be after the 1st of June next no drawback allowed on the exportation of any article that was free from tax at the time of the exportation, it is provided, as proposed by the House, that there shall be relieved from this provision those cases where articles prior to the 1st of April, when this law takes effect, have actually been purchased or manufactured and contracted to be sent abroad.

There is another provision contained in this report as agreed to which was virtually agreed to in a different shape by both Houses before, and that is that there shall be a time limited within which any claim for drawback from internal taxes shall be paid or settled at the Treasury. We have fixed it on the 1st of October, so that both as to those things which are relieved from tax by this bill and as to any former claim made for drawbacks it is provided that there shall be what is equivalent to a statute of limitations, whereby every such claim shall be brought forward and proved for settlement on or before the 1st of October next, and no claim shall be paid after that date. It seems strange that there has never been a limitation of this kind. In consequence of the want of

it old proofs presented in old cases, extending back several years, are still coming forward to the Treasury.

The fourth amendment of the Senate is that which relates to extending the special tax on sales to manufactures. The House so managed the proposition of the Senate as to limit that tax to all sales above \$5,000 in those cases where by this bill manufactures were exempted.

After full consultation upon this subject the managers to the part of the House have agreed with the Senate in putting generally a tax on sales above \$5,000, as a part of the special tax in all cases of manufactures where they are not otherwise differently provided for, as in the case of tobacco, spirits, and some few other articles. In other words, we have agreed to put into this bill that general provision which would have been reported and will be reported in the general tax bill as prepared by the Committee of Ways and Means.

This brings me to the whisky question. It will be remembered that by the amendment of the House it was provided that to run a distillery with intent to defraud the Government of the tax was made a penitentiary offense, a crime to be visited with heavy penalties. The managers on the part of the Senate have agreed to that part of the House amendment. The House had inserted a provision that if any distiller should carry on business for a period of twenty days when the market price of distilled spirits was below the aggregate cost of production with the tax added, it should be held *prima facie* evidence that such distiller was carrying on his distillery in violation of the preceding portion of the section.

It was thought by the Senate that this was too hard a rule of evidence. It was claimed that it was too much to make a *prima facie* case by this means against a man and subject him to punishment by imprisonment in the penitentiary in consequence of it.

So, also, there was a provision in the House section that in any district where spirits were produced and sold for less than the tax, or where they were put on sale and sold from day to day for less than the tax, the assessor and collector should be suspended from their offices and their pay stopped until they should virtually prove their innocence, clear their skirts of the charge of conniving at it. In lieu of that, which the Senate also objected to, it was finally, by a compromise, agreed that in every case where it shall come to the knowledge of the Commissioner of Internal Revenue that distilled spirits are selling directly or indirectly for less than the tax there shall be instituted a strict examination into the cause of the reduced price and into the conduct and business of every revenue officer in the district where spirits are thus sold or produced, leaving, without any new provision of law, the consequences of the guilt of the officers to be provided for as in other cases where officers may be guilty of offenses against the law, but making no provision here in regard to it, no suspension from office. And there is a further provision that if it shall be found in any case that distilled spirits are selling in a collection district for less than the cost for a period of ten days, the Commissioner of Internal Revenue shall have power immediately to close every distillery in the district, seizing it for that purpose, and that this seizure shall not be remitted under any pretext of putting it under bond or any other arrangement, until relieved regularly from seizure by the Commissioner.

The object of this last clause is this: it is found that where seizures of distilleries have taken place and they have been turned over to the courts, in a great many cases—and we have such proof before the Committee of Ways and Means—the marshal of the district has made a very pretty business by running the distillery under bonds, or, if not the marshal, then the keepers of the distillery whom he puts in charge.

We therefore provide that the closing up shall be absolute. If this be done, I may here

explain to the House, it will be perhaps one of the most efficient means of bringing out of bond whisky which is there now, and which ought to pay \$40,000,000 of tax.

Mr. Speaker, when I was on the floor yesterday or the day before, this subject being before the House, I gave a little offense, I believe, to the gentleman who represents the Chicago district in Illinois, [Mr. JUMP,] by having read a letter telling of the infernal condition of things, so far as distilled spirits are concerned, and all the officers engaged in watching or pretending to watch the revenue in that particular city. I am sorry if I left any wrong impression, for if I had not been cut off, as the Speaker will recollect I was, by the necessary enforcement of the rule prohibiting me from going further, I should have added that, bad as it is at Chicago, it is, if possible, a little worse in New York and very much worse in Philadelphia. [Laughter.] I hope this is making the *amende* to Chicago.

Mr. BROOKS. I suppose the object of this bill, then, is to stop distillation in the great cities of the country, and send it back to the rural districts altogether?

Mr. SCHENCK. No, sir; the rule is general. It applies to all—to rural districts as well as city districts.

Mr. BROOKS. Let me remark that, so far as my city is concerned, I think the great majority of frauds are perpetrated by persons from the rural districts.

Mr. SCHENCK. That is very likely. Men born away up in the New England States who wander down to the cities are very apt to get into bad practices when they get there; they are demoralized by becoming citizens of those large cities. [Laughter.]

This provision applies to the districts everywhere. If there is not so much fraud committed in the rural districts as in the cities, I do not myself suppose it is owing so much to the superior morality of the rural districts as to the fact that they are more open to observation. Being compelled to suspend business when they have committed any offenses, that business has gone lurking in the purlieus of the cities, where it is less liable to observation and detection.

Mr. NIBLACK. Mr. Speaker, before the vote is taken on this conference report I desire to make a brief explanation in relation to this last section upon the subject of whisky and distilleries. As a member of the Committee of Ways and Means I was opposed, in the first instance, to bringing this matter of whisky and whisky frauds into this bill in any shape. As to these I preferred to wait until the regular tax bill was reported. On yesterday, however, on the motion of the gentleman from Ohio, [Mr. SCHENCK,] representing a majority of the Ways and Means Committee, the House, by a very large and decided vote, attached to this bill a very stringent and very remarkable section by way of amendment, changing very materially existing laws in regard to distilleries and internal revenue officers. It became, therefore, imperative on the committee of conference to meet the question and dispose of it in some way. The Treasury Department, too, we were informed, desired some additional and very prompt legislation, placing distilleries more completely under the control of the Commissioner of Internal Revenue than they now are, and to enable the Department to enforce more rigidly the collection of the whisky tax and the laws governing the manufacture and sale of whisky. After a very full and free conference it was ascertained that the substitute reported by the committee of conference for the amendment adopted by the House was the very best that could be obtained or agreed upon under existing circumstances. As this substitute is, in my judgment, a very great improvement on the House amendment, and as I do not want to seem to stand in the way of any reasonable measure looking to a more efficient collection of internal taxes, I agreed to the report of the committee of conference embracing this last section.

I was willing, at all events, to report it with the other amendments recommended by us for the consideration of the House. I regard this section, however, as exceptional and experimental, and as an independent proposition I would not vote for it. As the vote, however, on the amendment on yesterday was so decidedly in favor of something more stringent on this subject of the manufacture and sale of whisky, I felt it my duty as a member of this committee of conference to defer so far as I possibly could to what seemed to be the sentiment of the House. In agreeing to this report, therefore, I have endeavored to execute rather what might be called the order of the House, instead of insisting on my own views regarding the section to which I have referred.

Mr. SCHENCK resumed the floor.

Mr. HOLMAN. Will the gentleman yield to me for a question?

Mr. SCHENCK. Certainly.

Mr. HOLMAN. My question is this: whether under this provision, if distilled spirits shipped from the rural districts, say from Ohio, are sold in New York for less than the tax imposed by law, the distilleries in New York, as well as in the rural districts where the spirits so sold were manufactured, are all liable to be seized and closed?

Mr. SCHENCK. The provision relates to the collection district where for a period of ten days whisky is sold for less than the amount of the tax. When that is the case it is to be considered a reason for closing all the distilleries in the district.

Mr. HOLMAN. The distilleries in the collection district where those sales are made?

Mr. SCHENCK. Yes, that is all.

Mr. HOLMAN. It does not affect the district where the whisky so sold was made?

Mr. SCHENCK. Only the collection district where the sales are made. I have not intended any attack or reflection upon any particular part of the country, nor have I intended to draw any invidious distinction between the cities and the rural districts. This provision is general in its application; it applies to every district, wherever it may be, in which there are distilleries, and where whisky is thus sold.

I might perhaps adopt the idea of an old friend of mine, that the only true way to keep the country pure, so far as the morality and virtue of cities and rural districts are concerned, was to burn down every city as soon as it had attained a population of one hundred thousand and start afresh. But I am not prepared to go that far yet.

Mr. EGGLESTON. Will my colleague [Mr. SCHENCK] allow me to make a single suggestion?

Mr. SCHENCK. Certainly.

Mr. EGGLESTON. I want to have my colleague, who has had this matter under consideration for so long a time, tell the House how these distilleries are to be opened again, after they have been closed by the Commissioner of Internal Revenue, under this provision. And then I want to ask him what is to prevent an evil-disposed person causing the distilleries in a particular district to be closed at any time. For instance, a gentleman owns a distillery in a certain district; the whisky dealers conclude they will stop that distillery, and thereupon they commence selling a little whisky every day and continue to sell for ten days for a less price than the amount of the tax. Under this provision the Commissioner would be required to pounce down upon that distillery and all the other distilleries in the district and close them. Then the whisky speculators would put up the price and make money on their whisky. Now, I want to know what there is to prevent that.

Mr. SCHENCK. If I understand this catechism of my colleague, it is double-barreled. [Laughter.] The first question is how the distilleries shall be started again. Well, it is provided that they shall be closed until the Commissioner of Internal Revenue shall permit them to resume operations, and that, of

course, depends upon the removal to his satisfaction of the cause. That is specially provided for in this bill.

In the next place, my colleague desires to know how we shall prevent collusion between the whisky dealers to shut up the distillers. My first reply is that this whisky "ring" generally includes distillers, dealers, and all; but if rogues should fall out—if the dealers should go to work against the distillers and the distillers against the dealers, instead of working, as heretofore, into each other's hands—then I think honest men would be more likely to get their rights. But, sir, I do not think a proceeding of the kind described would be very practicable. It is not very easy for one or two persons in any district to control the selling price, the market value, of an article; and if they could do so the worst consequence that could possibly follow would be that the distilleries there would be closed; and I do not think there need be any very great number of tears shed on that account. [Laughter.]

Mr. EGGLESTON. I would like to ask my colleague one other question. How does he reconcile the provisions of this bill with justice, when an honest man, (if there is such a one in the whisky business,) a man manufacturing spirits without violating any law, may have his establishment closed up because a few rascals, for the purpose of speculation, combine together and put down the price of whisky?

Mr. SCHENCK. I will answer the gentleman in this way: it costs, upon an average, thirty cents to produce a gallon of whisky. The tax upon it is two dollars. Under the most favorable circumstances, then, whisky ought to bring about two dollars and thirty cents or more per gallon. Now, sir, when we find in any part of the country distilleries running while whisky is selling around them at less than two dollars a gallon, I would not be afraid to adopt the rule of evidence which met the approval of the House the other day and take this circumstance as proof in itself of the existence of fraud which ought to be stopped. The Senate, though not willing to go so far as that, have gone so far as to say that, if under those circumstances distilleries are being run, it is sufficient to justify the Government in requiring its officers to close up the distilleries until the thing has been investigated. It may be that some innocent, pious distiller [laughter] might be injured by such a proceeding; but that will be a very exceptional case. And my impression is that where there will be one instance of wrong done to an innocent, God-fearing distiller there will be some measure of justice visited upon a dozen rogues.

Mr. VAN WYCK. I would like to ask the gentleman a question with reference to the practical operation of this bill apart from the consideration of the guilt or innocence of the distillers. If a person for any reason desires to do injustice to the distillers in a particular collection district, to make them the victims of his spite, can he not take one barrel of whisky into that district and sell five gallons per day for ten successive days at \$1 75 per gallon? And does it not follow under this bill that every distillery in that district must be closed up? If this be so, is it just?

Mr. SCHENCK. I did not expect to elicit this defense of the distillers, especially from that quarter. [Laughter.] But still the gentleman mistakes very much both the language and the spirit of the bill when he puts that construction upon it. It is not the mere fact of a sale of distilled spirits that is to have the effect referred to. The provision in question is to take effect when in any district spirits shall be "selling" (using the participle to indicate the sale as a continuous thing) at a market price below a certain standard. And I have no apprehension that the sale of a gallon, or even of a barrel, would by any proper construction bring the distiller within this law. Besides, it is to be continuous selling.

Mr. VAN WYCK. I ask the gentleman from Ohio whether this language is not liable to the construction I have put on it? Is not

that a construction which could be put upon this bill?

Mr. SCHENCK. I think not.

Mr. VAN WYCK. If that construction can be put upon it then it ought to be corrected right here.

Mr. SCHENCK. I do not think there is any doubt about it. I do not think any man could so misunderstand it.

There are two other words: if they shall be found selling "directly or indirectly." The reason for that will be manifest to any one who knows how these frauds are conducted. Whisky is selling to-day in Philadelphia at less than a dollar. It has been openly advertised at from ninety to ninety-five cents; and it is advertised to-day, I believe, at less than a dollar, because of the enormous amount of fraud being committed in that city. Well, sir, notwithstanding that, it is not probable there has been a large amount of whisky at any time which upon its face did not appear to be from \$2 25, \$2 30, and \$2 40 per gallon so as to look fair. Why? Because a part of the mode of committing these frauds is to have a false bill of sale; and while they sell directly or indirectly for less than one dollar, they have by indirection furnished whisky on a false bill of sale in order to deceive any one who may inspect the whisky that it has sold for more than the cost and tax.

So far as the market value is concerned, I will remark again to the gentleman that the market price in a locality is not ever fixed by a single sale. What is called the market price is the aggregate of sales which happen at that place.

Mr. HUNTER. I ask the gentleman to yield to me for a question.

Mr. SCHENCK. I yield for that purpose.

Mr. HUNTER. I desire to ask the gentleman whether there is a provision in the bill as now reported to prevent distillers from combining not to sell liquor in the district where it is manufactured, but to take it abroad for sale? Is there anything to prevent that?

Mr. SCHENCK. There is no such provision in this proposition. It is not a general law in regard to the sale of whisky. If they combine to sell it somewhere else at a less price a combination would have to be necessary to complete it with some officer of the Government, and I will show the gentleman what is provided for in the next section.

Mr. HUNTER. I will ask the gentleman another question with his permission.

Mr. SCHENCK. Certainly, when I get through with my answer to the one you have already asked.

It is suggested to me if there were distillers at the place where the sale was to take place under a combination there would be no one so much interested in preventing the combination as the distillers who were imposed upon by the distillers of another district. If we bring about a condition of things in setting distillers to watch distillers and dealers to watch dealers I apprehend there is a great deal gained for the benefit of the Government by such a provision of law.

Mr. HUNTER. The other question is whether there is any provision in reference to whisky manufactured and upon which the tax has been paid?

Mr. SCHENCK. This is not a general whisky law. It is not a law generally in regard to distilled spirits, as the House well understands. If there be whisky with the tax paid or unpaid on the market it will, of course, affect that condition of things this bill is intended to reach.

Gentlemen are very much afraid these distillers, who by law ought to be paying two dollars a gallon on whisky, will have some great wrong done to them. All that we ask is that they shall be held to a rigid application of the law. Sir, whisky is selling at from one dollar to one dollar and a half per gallon, when the tax is two dollars per gallon. Now, how can a distiller, satisfactorily to his own conscience, carry on business when he knows he must pay two dollars a gallon tax and yet sell it for one dollar? I ask how can he carry



it on satisfactorily to his own idea of profit? This is a singular defense gentlemen make for the distiller, and I cannot but sympathize with them. It is suggested that, although they may lose by selling whisky at \$1 50 a gallon, they make it up by selling a vast quantity. [Laughter.] But that will require a sort of back-handed arithmetic that I am not myself prepared to say would work out any such result.

Now, sir, I said when this subject was up before, as I continue to say—for the information on that subject is full, clear, and satisfactory—that wherever distillers and dealers in distilled spirits are engaged in committing frauds upon the law they are in ninety-nine cases out of a hundred aided by one or more rascals in the revenue department of the Government in doing it. Therefore it was that we put into the amendment as proposed in the House from the Committee of Ways and Means a provision to catch the collectors, assessors, and other officers. That not having been agreed to by the Senate, we have gone to our general bill upon the subject and taken another section out therefrom, which we ask the House to pass in advance, as it was unanimously agreed to by the managers both of the Senate and House, and which will best explain itself by simply being read to the House without argument. We propose to add this amendment as an additional section:

SEC. —. *And be it further enacted*, That if any officer or agent appointed and acting under the authority of any revenue law of the United States shall be guilty of a gross neglect in the discharge of any of the duties of his office, or shall conspire or collude with any other person to defraud the United States, or shall make opportunity for any person to defraud the United States, or shall do or omit to do any act with the intent to enable any other person to defraud the United States, or shall make or sign any false certificate or return in any case where he is by law or regulation required to make a certificate or return, or having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States, or any revenue law of the United States, shall fail to report in writing such knowledge or information to his next superior officer and to the Commissioner of Internal Revenue, he shall, on conviction, be fined not less than \$1,000 nor more than \$5,000, and be imprisoned not less than six months nor more than three years.

I think by that section, which is part of our general bill, and which the managers of the Senate have agreed with the managers of the House to put upon this bill for immediate operation, we have struck at the root of the whole matter—a provision that there shall be heavy fines and imprisonment measured out to any revenue officer of any grade whatever who shall be concerned in any way in aiding, conniving at, or committing any of these frauds upon the revenue. Now, unless gentlemen desire further explanation, I propose to call the previous question.

Mr. HUNTER. I desire to ask the gentleman whether, when the general tax bill is reported, he expects to have this section placed in it, so that the question can be discussed by the House?

Mr. SCHENCK. Unquestionably.

Mr. HUNTER. Or is this the only discussion to be had on the section?

Mr. SCHENCK. I have said again and again, and I repeat now for the satisfaction of my friend from Indiana, [Mr. HUNTER,] that we do not expect it will be possible nor do we think it would be right to attempt to get a long general law on the subject of internal taxation through this House without having a free discussion of its various provisions; and it will be not only the purpose but the desire of the committee, when they bring in this general bill containing this and other sections relating to frauds and every other matter, that there shall be the fullest opportunity for amendment and for discussion.

Mr. KELLEY. I would like to put a question to the gentleman. I would inquire whether it would be practicable for the House, or whether any good result might be obtained from it, to non-concur in that part of the report by which the provision of the Senate imposing a two mill tax on articles hitherto exempt from tax has been accepted by the committee. I would

like, if practicable, to have the House non-concur in that amendment of the Senate and concur in the rest.

Mr. SCHENCK. I suppose the gentleman is aware that by parliamentary law this report of the committee of conference will have to be accepted as a whole, or rejected as a whole, and I will say to the gentleman that I have not the slightest idea that the Senate will agree by any managers that they may appoint to any other provision in regard to the two-mills tax than the one we have in this bill. The matter was fully discussed in the committee of conference.

Mr. PIKE. I would inquire whether this two-mills tax is to be in addition to the tax now paid by commission merchants, or whether it is to be a substitute for it?

Mr. SCHENCK. No, sir; it is not an addition. This does not apply to commission merchants. We have a similar provision with regard to commission merchants. Our system of special taxes is this: that a man shall pay ten, twenty, or twenty-five dollars as a special tax imposed upon him for the business he carries on, and then we provide in the case of manufacturers and dealers that, in addition, there shall be a further special tax of two mills on their sales above \$5,000.

Mr. PIKE. By the present law commission merchants pay a tax on sales, and my question is whether, in addition to that, they are to pay this two-mills tax?

Mr. SCHENCK. Oh, no; this does not relate to commission merchants. This relates only to manufacturers; there is nothing said about commission merchants. If the gentleman means what I think he does, I will explain that there has been a construction of the law by which, if a commission merchant sells goods for another party, the commission merchant makes a return and is taxed, and the owner of the goods makes a return and is also taxed. By our general law we have provided that there shall be deducted from any tax paid by the owner of the goods that tax which he shall show that his auctioneer or commission merchant has paid on the goods, because we think that the construction of the law which has prevailed was wrong and has amounted to a double tax on the same goods. That we have provided against in our general law.

Mr. SELYE. A few days since the House passed a bill, as I understood, to relieve manufactures from taxation, and there was a general rejoicing all over the country that labor was not to be taxed in this country except on whisky, tobacco, and other luxuries. Now, then, I would like to know why the gentleman consents to bring in a bill at this time to tax them, notwithstanding what he has promulgated and the Committee of Ways and Means have said here over and over again? The country understood that manufacturers were not to be taxed hereafter, and I would like to know how much better off they will be now than they were before?

Mr. SCHENCK. I desire to say, in the first place, that the gentleman has entirely misapprehended the position taken by the Committee of Ways and Means. The committee have uniformly said that while they desired to relieve these industrial pursuits, these manufacturers of the country, from the onerous tax of two, three, and five per cent., imposed upon their manufactures, yet they would have to retain the special tax and the tax on sales. The gentleman asks what good it will do to manufacturers. Why, that is a question of arithmetic. Just the difference between five per cent. on the article and two tenths of one per cent., and with the further difference that that two tenths of one per cent. is not imposed on any part of it until the sales get to be above \$5,000.

Now, Mr. Speaker, there is no disposition on the part of anybody unnecessarily to impose taxes upon the labor of the country, as the gentleman from New York expresses it. Something has to be taxed; taxes must be raised; and, on looking over the whole field, the committee became satisfied, as, I think, the whole

country is satisfied, that as far as it is possible to relieve from taxes, the first relief should be extended to those things which are the product of the industry of the country in the shape of its manufactures. In pursuance of that idea they have lifted this onerous burden of a direct tax of heavy percentage off all those articles when thus produced.

But, inasmuch as there must be a revenue raised, we have limited the tax—not taken it away entirely—to a mere special tax in the nature of a license for carrying on the business; not formidable, not large. And then when the business is considerable, the sales amounting to more than \$5,000 a year, we put a small tax on the excess of sales over \$5,000. That is the whole story.

Mr. STEVENS, of Pennsylvania. I desire to ask the gentleman a question.

Mr. SCHENCK. Certainly.

Mr. STEVENS, of Pennsylvania. I desire to inquire if the Committee of Ways and Means have considered whether, under the law of nations, it is possible for them to assess upon the conquered enemy an amount of money which would very considerably reduce the amount of the public debt and of the public taxes, whether that question has been before them at all and considered by them?

Mr. SCHENCK. No, Mr. Speaker, we have left all that to the Committee on Reconstruction, and have confined ourselves to the preparation of general provisions of law, weighing upon all alike. If any special revenue, to be derived from the source to which the gentleman refers, is to be obtained, we suppose the provision for that purpose ought rather to come from the Committee on Reconstruction than from our committee.

Mr. STEVENS, of Pennsylvania. The gentleman certainly is not in earnest.

Mr. SCHENCK. I am.

Mr. STEVENS, of Pennsylvania. The gentleman cannot think that is a proper subject for the consideration of the Committee on Reconstruction. The gentleman is at the head of the Committee of Ways and Means, and if he is going to pursue the course which other nations have pursued, he will inquire whether a portion of the revenue of this country can be raised from a conquered enemy. If it cannot, then we must submit to the necessity of raising all our revenue from other sources. I asked, in good faith, whether that question had been considered at all by the Committee of Ways and Means, and I received a sneering answer from the chief of that committee, who seems to think that the true system for this country to adopt is that our own loyal people shall bear all the burdens, and the conquered enemy go entirely free.

Mr. SCHENCK. The gentleman says he asked me the question in good faith. I say I answered in equal good faith, and without any sneer at all, that the Committee of Ways and Means have not felt that it devolved upon them to propose any measure for the seizure of the property, either real or personal, of the people in the rebel States, whom, I suppose, the gentleman refers to when he speaks of a conquered enemy. The committee have confined themselves to general legislation, affecting all citizens everywhere, so far as the laws for the raising of revenue are concerned. And I say to the gentleman from Pennsylvania [Mr. STEVENS] that I think it would be going beyond the objects for which they were appointed, and beyond the duties conferred upon them by your rules, for the Committee of Ways and Means to attempt anything else than what I have indicated.

And I might give another reason for our action in that regard. As we were not a committee to direct the seizure of real or personal property, but only to provide means for levying a tax for purposes of revenue upon such property, we might have found that while the Government was waiting for revenue from that source, we were trying to sue a beggar and catching only a flea.

Mr. BENTON. I desire to ask the gentleman a question.

Mr. SCHENCK. Very well.

Mr. BENTON. I would like to inquire of the gentleman how this provision in relation to closing distilleries can have any effect in preventing fraud, and if it would not be more likely to lead to the illicit manufacture of whisky in those districts where the distilleries have been thus closed?

Mr. SCHENCK. I have already said that one, perhaps the most important, result of the application of that rule, would be to bring out of your bonded warehouses the immense amount of whisky that is now shut up there, and which will not be removed while the article can be supplied from other quarters. In that way the Government will probably be put in possession of many millions of revenue in a very short time.

So far as regards the suggestion that this provision may tend to foster illicit distillation, let me say that a very earnest and I think thorough, at any rate a very protracted, investigation has convinced me, has convinced others, has convinced, perhaps, all the members of the Committee of Ways and Means, that the amount of whisky produced by illicit distillation—although there is plenty of it, comparatively speaking—is not that which appreciably affects the market price of the article. But it is the whisky produced by known distilleries in different parts of the country which are permitted to run, and whose product, by the connivance of rascals in the revenue department, is allowed to be put on the market.

Mr. BOUTWELL. Will the gentleman allow me to ask him a question?

Mr. SCHENCK. Certainly.

Mr. BOUTWELL. I desire to inquire if this is the best thing which can be done at this time? My impression is that it will have the effect to transfer the manufacture of distilled spirits from the districts where it is sold to districts where it is not sold; that the unlawful distillation will go on to precisely the same extent as heretofore; that this provision for closing the distilleries in the district where the distilled spirits are sold for less than a certain price will simply cause whisky manufactured in one district without paying the tax to be sold in another.

Mr. SCHENCK. I understand the objection of the gentleman, and I make this answer to it. In the first place, it is not conceivable that in any district where whisky is or may be produced it will not have a price, a market value; and if it be driven from certain districts to others, distilleries being set up there, the moment it has a price, the moment it has a market value by the sales made there, it will become subject to the provisions of this bill.

Let me further say—and this may have escaped the gentleman's thought—that as things are now regulated by law the whisky must have a price, for the tax has to be paid before it can be removed from the distillery warehouse for the purpose of sale or consumption; and, of course, it is not removed from the distillery warehouse until some provision is made for disposing of it. The gentleman will recollect that by the act of 11th January last no whisky can be removed from any warehouse, including a distillery warehouse, for any purpose of consumption or sale without the tax being first paid on it. Hence there must be something equivalent to a market value or price in any place where there may be a distillery and distillery warehouse containing the whisky as it first comes from the still, and upon which the tax must be paid before it can be removed for sale or consumption.

I hope, Mr. Speaker, that I have now answered all the inquiries and objections which gentlemen desire to present, and I call the previous question on agreeing to the report of the committee of conference.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the report was agreed to; and

also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BUSINESS DURING IMPEACHMENT TRIAL.

Mr. BOUTWELL. On behalf of the board of managers of the impeachment of the President, I submit the following resolution:

*Resolved*, That after Monday next this House will postpone action upon all matters except questions relating to the impeachment of the President of the United States until the conclusion of the trial now pending before the Senate.

Mr. WASHBURN, of Illinois. That is right.

Mr. BOUTWELL. This resolution is not offered upon the original suggestion of the managers, nor have they any particular wish in regard to the matter. They have thought it proper, in accordance with the suggestion of many gentlemen, to submit the proposition to the judgment of the House. I demand the previous question.

The SPEAKER. The Chair will state to the gentleman from Massachusetts [Mr. BOUTWELL] that although the managers of the impeachment have the right to report at any time, yet, under the usage of the House, that is construed to mean when no other business is pending. There is now pending a question in regard to the reference of the Senate amendment to a bill making certain appropriations for the Indian department, and on that question the gentleman from Maine [Mr. BLAINE] is entitled to the floor, his remarks having been suspended by the presentation of a conference report, a matter so highly privileged that it can be received even while other business is pending, and while a member is on the floor. The resolution of the gentleman from Massachusetts can be received at the present time only by unanimous consent.

Mr. SPALDING. I object to the introduction of the resolution at this time.

#### APPROPRIATIONS FOR INDIAN DEPARTMENT.

Mr. BLAINE. I merely want to state what the gentleman from Minnesota [Mr. WINDOM] proposes to do. A regular appropriation bill, making appropriations for the Indian department, was reported by the Committee on Appropriations, passed by the House, and sent to the Senate. That body has returned the bill with a certain amendment. Now, the gentleman proposes that the bill, as amended, shall be referred to the Committee on Indian Affairs instead of the Committee on Appropriations. If it is to be referred to the Committee on Indian Affairs I would like the gentleman from Minnesota to tell me when it will come back. The Committee on Appropriations are, by the rules, authorized to report appropriation bills at any time, but the Committee on Indian Affairs have no such privilege; and if this bill, which the gentleman is anxious to get through, should be sent to the latter committee there is no telling when it can be reported, for a single objection can prevent the report being made till the committee shall be regularly called. I hope that, upon such a matter as this, we are not going to reverse what has been the uniform practice of the House from the foundation of the Government. I call the previous question.

Mr. WINDOM. I ask the gentleman to yield to me.

Mr. BLAINE. Certainly.

Mr. WINDOM. The gentleman has asked me, if this is referred to the Indian Committee, when it can come back again. I presume it can come when the committee is called. I am not anxious this House bill shall pass.

Mr. BLAINE. Are you anxious the Senate bill shall pass?

Mr. WINDOM. There is ample time for the Senate amendment to pass.

Mr. BLAINE. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. WINDOM's amendment was agreed to; and the motion, as amended, was agreed to.

The bill was accordingly referred to the Committee on Indian Affairs.

#### BUSINESS DURING IMPEACHMENT TRIAL.

Mr. BOUTWELL. I now submit the following resolution:

*Resolved*, That after Monday next this House will postpone action upon all matters, except questions relating to the impeachment of the President of the United States, until the conclusion of the trial now pending before the Senate.

Mr. PIKE. I make the point that the board of managers have no right, without unanimous consent, to report any resolution which does not relate to impeachment.

The SPEAKER. The Chair overrules the point of order. But as this resolution changes the order of business it requires under the rules a two-thirds vote.

Mr. NICHOLSON. I would like to inquire whether this resolution is reported from the board of managers collectively?

The SPEAKER. So the Chair understands.

Mr. ROSS. I move that it be laid on the table.

The SPEAKER. The gentleman from Massachusetts is upon the floor.

Mr. MILLER. Suppose the trial should be delayed and not go on on Monday next?

Mr. BOUTWELL. This order can be revoked by the House at any time.

Mr. SPALDING. Is it not in order for the managers to move to suspend the rules at any time?

The SPEAKER. It is.

Mr. DAWES. There are four unfinished cases from the Committee of Elections that will take up a great deal of time at one time during the session. It has been the fortune of that committee to have its business crowded into the last portion of the session, when the business of the House is such that no full consideration can be given to questions of contested elections. I suggest to the House, therefore, whether it would not be entirely consistent with the dignity of the House, during the trial of the President, to dispose of two or three of those cases from the Committee of Elections?

Mr. PIKE. I ask leave to make a suggestion. After the trial begins we may still have a morning hour for three mornings during the week, Tuesday, Wednesday, and Thursday, for general business. Business of importance has accumulated in the committees, and they ought to have an opportunity to report it. It would be well, therefore, to have a morning hour for that purpose. I am quite sure the House would come here and attend to that business. If this resolution passes it will leave the House without a quorum. Members will either go home or attend to anything else than the business of Congress.

Mr. SCOTFIELD. I only want to say that I believe if we hold sessions at all during the time the impeachment trial is going on all matters which ought to be defeated will be passed, and all matters which ought to pass will be defeated. There will be but few members here, and they will have an interest in some particular project. I am opposed to any session unless it is understood all the members shall be present. We know how wrong measures have succeeded in passing this House. They always come in when the House is thin, just as we are adjourning, or something of that kind, and when the attention of but few members is called to them. I am sure there will be more of this thing in these morning sessions than at any other time.

Mr. BOUTWELL. I have no interest in this matter. I believe it expresses the opinion of the managers. I understand the Chair to say it will require a two-thirds vote.

Mr. STEVENS, of Pennsylvania. I desire to inquire whether the managers have authorized this?

Mr. BOUTWELL. There was a consultation on the part of the majority of the managers, to whom I submitted the resolution at the request of several members.

Mr. PIKE. I hope the gentleman will withdraw it.

The SPEAKER. If there is any question as to whether this resolution was agreed to by

the managers the Chair must put the question of reception to the House.

Mr. BOUTWELL. I am not disposed to insist on this resolution. It was prepared and submitted to the majority of the managers, and they desired I should report it to the House for action; but rather than occupy the equivocal position indicated by the gentleman from Pennsylvania [Mr. STEVENS] I will withdraw it.

Mr. WASHBURN, of Illinois. I renew it.

Mr. DAWES. I raise the question of order, that none but the managers can present the resolution at this time.

The SPEAKER. The Chair sustains the point of order.

#### APPROPRIATIONS FOR INDIAN DEPARTMENT.

Mr. WASHBURN, of Illinois. I move to reconsider the vote by which the amendment of the Senate to the Indian appropriation bill was referred to the Committee on Indian Affairs.

I now move that the House adjourn. I will state that very many gentlemen about me ask in relation to the business of the House to-morrow.

Mr. WINDOM. I object to the gentleman's speaking after making a motion to adjourn.

The SPEAKER. The Chair will state that the motion to reconsider will probably not come up till Tuesday or some other day next week.

Mr. BANKS. I desire to know if there will be a session for business to-morrow?

The SPEAKER. There will be.

Mr. FARNSWORTH. What will be the first business to-morrow?

The SPEAKER. The first business will be the consideration of private bills in the morning hour. If that order should be set aside, then the motion to reconsider by the gentleman from Illinois [Mr. WASHBURN] will come up; afterward the bill for the admission of Alabama.

Mr. SPALDING. I call for the regular order.

The SPEAKER. That is the motion to adjourn.

The motion was agreed to; and thereupon (at four o'clock and fifty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rules, and referred to the appropriate committees:

By the SPEAKER: The petition of T. C. Hubbell, postmaster of Orangeburg, South Carolina, for relief.

By Mr. DAWES: The petition of John Hamilton & Son and others, citizens of Hampden county, Massachusetts, for the removal of the oppressive tax on petroleum.

Also, the petition of Betsey Burt and 16 others, for pensions for soldiers of the war of 1812.

By Mr. DRIGGS: The petition of W. J. Buckley, president Detroit Board of Trade; Moore, Foote & Co., and 100 merchants, ship-owners, and others, praying Congress to continue the appropriation for the harbor at Marquette, Michigan.

By Mr. HALSEY: A memorial of Mrs. Phoebe S. Taylor, widow of Surgeon George Taylor, United States Army, asking Congress for additional pension.

By Mr. KRISSEY: A remonstrance of 53 soldiers of the late war against the passage of the act to equalize bounties at \$8 33 $\frac{1}{3}$  per month for each month of actual service, with all Government, State, and local bounties deducted.

By Mr. MILLER: The petition for the establishment of a post route from Montgomery's station, on the Philadelphia and Erie railroad, by way of Mount Zion, to Elmsport, in the county of Lycoming, and State of Pennsylvania.

By Mr. MOORHEAD: Two petitions from citizens of Venango county, Pennsylvania, asking that the tax upon refined petroleum be removed.

By Mr. PAINE: A memorial of H. Tallow, J. Kretlow, A. Boehm, W. G. Hockstein, and others, manufacturers of cigars, remonstrating against the bill for stamping cigars.

By Mr. RAUM: The petition of Thomas Maddox and others, of Tippah county, Mississippi, for an act relieving from disabilities Judge Alexander M. Clayton, of Mississippi.

#### IN SENATE.

SATURDAY, March 28, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a resolution of the Legislature of the State of Ohio, in relation to the allegiance of naturalized citizens and the rights of American citizens in foreign countries; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also presented a memorial of the Legislature of the State of Wisconsin, for the establishment of a daily mail route from Evansville, in the county of Rock, via Albany, to Monticello, in the county of Green, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Christiana Abercrombie, of Hoboken, New Jersey, praying to be allowed the pay due her husband, T. B. Abercrombie, a lieutenant in the war of 1812; which was referred to the Committee on Pensions.

Mr. HOWE presented the memorial of the Chamber of Commerce of the city of Milwaukee, praying that that city may be reimbursed for outlay incurred in the improvement of the harbor entrance to the same; which was referred to the Committee on Commerce.

Mr. MORGAN presented the memorial of William F. Schwilk and others, asking for the adoption of measures to secure for citizens of this country in Palestine the rights and privileges which the "International Association for colonizing the Orient" have asked from the Sublime Porte; which was referred to the Committee on Foreign Relations.

Mr. WILLEY presented the petition of Harry Risk, of Staunton, Virginia, praying the removal of the political disabilities imposed upon him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. TIPTON presented a petition of citizens of Nebraska, praying that a treaty be made with the Sac and Fox and Iowa Indians, so that their lands may be sold for railroad purposes; which was referred to the Committee on Indian Affairs.

Mr. COLE presented the petition of Messrs. Sweeny & Baugh, proprietors of the Merchants' Exchange, San Francisco, California, praying to be remunerated for expenses incurred in erecting a light-house and maintaining the light on Point Lobos, near the Golden Gate entrance to the bay of San Francisco; which was referred to the Committee on Commerce.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 480) in relation to the pay of grand and petit jurors in the District of Columbia, and the bill (H. R. No. 566) to incorporate the Grunth-Verein of Washington, District of Columbia, were severally read twice by their titles, and referred to the Committee on the District of Columbia.

#### REPORTS OF COMMITTEES.

Mr. COLE, from the Committee on Claims, to whom was referred the memorial of Benjamin Tilley, submitted an adverse report; which was ordered to be printed.

Mr. WILLIAMS, from the Committee on Finance, to whom was referred the memorial of the Council and House of Representatives of Colorado Territory, in favor of granting to the Denver branch mint the privilege to coin silver, asked to be discharged from its further consideration; which was agreed to.

Mr. TIPTON, from the Committee on Public Lands, to whom was referred the petition of Moses F. Shinn, reported a bill (S. No. 467) to confirm an entry of land by Moses F. Shinn; which was read, and passed to a second reading.

Mr. PATTERSON, of New Hampshire, from the Committee on the District of Columbia, to whom was referred the bill (S. No. 209) to incorporate the Evening Star Newspaper Company, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 286) to incorporate the National Life Insurance Company of the United States of America, reported it without amendment.

Mr. HENDERSON, from the Committee on Finance, to whom was referred the bill (S. No. 437) for the relief of Isaac Rutishouser, of Chicago, Illinois, reported adversely thereon.

#### CAPTURED AND ABANDONED PROPERTY.

Mr. EDMUNDS. I send to the Chair a report from a conference committee, which I ask to have read.

The Secretary read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows, namely:

That the House of Representatives recede from their amendment to the Senate amendments proposing to strike out section three of said Senate amendments, and agree to said section with the following amendments, to wit:

1. Strike out the words "one hundred" in the second and third lines of said section and insert in lieu thereof the words "seventy-five."
2. Add at the end of said section the words: "and for prosecuting suits in the United States for the recovery of such property and for providing for the defense of the United States against suits for or in respect to such property in the Court of Claims."

And that the Senate agree thereto.

GEORGE F. EDMUNDS,

W. P. FESSENDEN,

Managers on the part of the Senate.

C. C. WASHBURN,

G. W. SCOFIELD,

DEMAS BARNES,

Managers on the part of the House.

Mr. JOHNSON. I inquire of the honorable member what the change is.

Mr. EDMUNDS. The change made reduces the appropriation from \$100,000 to \$75,000, and provides not merely for defending suits that are pending against the Secretary, but for prosecuting in this country some that the committee, from communication with the Secretary, thought it was necessary to the public interests should be prosecuted.

The report was concurred in.

#### BUOYS OF NEW YORK HARBOR.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of the Treasury be, and hereby is, requested to communicate to the Senate the report of Commodore Case, United States light-house inspector, third district, dated the 13th of February, 1868, on the buoys of the harbor of New York.

#### MILITARY DEPARTMENTS.

Mr. EDMUNDS. I offer a resolution, and ask for its present consideration:

*Resolved*, That the President of the United States be requested to communicate to the Senate whether he has established, or ordered the establishment of, any new military department since the 1st day of August, 1867; and, if so, what department or departments, and under what statute or other authority.

Mr. DAVIS. If that resolution leads to no debate I have no objection to its being considered; but if it is to be debated I must object.

Mr. EDMUNDS. No, sir; no debate.

The resolution was considered by unanimous consent, and agreed to.

#### UNITED STATES BONDS.

Mr. DAVIS. I submit the following resolution for consideration:

*Resolved*, That the Secretary of the Treasury report to the Senate the amount outstanding of each class of the bonds of the United States, with the rate of interest which they bear; and what each class of said bonds were worth in gold at the times they respectively bear date.



Mr. SHERMAN. I think that resolution had better lie over. It would be impossible to answer it. The information the Senator wants is contained in printed reports so far as it can be given. How is it possible to furnish all the information he asks for? I object to the resolution. Let it lie over until to-morrow.

The PRESIDENT *pro tempore*. Objection being made, it goes over under the rule.

#### TAX ON MANUFACTURES.

Mr. SHERMAN. I now move that the Senate proceed to consider the report of the committee of conference on what is known as the manufactures bill.

The motion was agreed to; and the Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 900) to exempt certain manufactures from internal tax.

Mr. SHERMAN. I wish to make a statement of the point involved, so that the Senate may understand precisely what the report is. There is no controversy between the two Houses as to any of the amendments made by the Senate to the bill, because they have all been concurred in substantially as the Senate passed them. The modifications only relate to matters to carry into execution and to make more clear and definite the amendments of the Senate.

But the House of Representatives attached an amendment relating to whisky to one of the Senate amendments. There was nothing in the bill in relation to whisky, and consequently thus introduced the subject in the nature of an amendment to an amendment. Ordinarily, I should regard this as a fatal objection to the proposition, and we should have resisted its passage, because it is contrary to the usual course of legislation and an improper example. The House admitted that that was wrong usually, but they insisted that the circumstances justified the addition of the amendment; that they were justified in taking advantage of the pendency of a bill relating to the internal revenue to pass a measure demanded by the Secretary of the Treasury and by the Commissioner of Internal Revenue to stop an immediate injury to the public service. They based it on the exceptional condition of affairs.

The amendment, as it was passed by the House of Representatives, was totally inadmissible, according to the opinion of the Senate conferees. It contained three or four propositions that I would not agree to, and none of us, I think, would agree to. One is that the mere selling of whisky below two dollars a gallon in any district should be *prima facie* evidence upon which a distiller might be convicted of fraud and sent to the penitentiary. Another clause is that upon the selling of whisky in the market for ten days consecutively in any district below the tax the collector and assessor of that district and the district from which it came should be suddenly suspended without any further inquiry—a proposition that we would not at all consent to. We therefore opposed the proposition of the House. Then they submitted to us whether, under the peculiar circumstances by which we were surrounded, it was not important to adopt some measure that would at once stop the distillation of spirits.

It was shown to us that although the price of spirits in the city of Philadelphia was now about one dollar a gallon, tax paid, and in the city of New York a little over a dollar a gallon, and all through the country was far less than the tax, yet distilleries were going on in the large cities in great numbers, going on at a time when the product of their distillation would have to pay a tax to the Government of two dollars, while its market value was a little over one dollar, and it was palpable that this was a case of fraud, and that no distillery could thus be continued unless the expectation was to sell the product of the distillation in fraud of the law. The question was whether we were entirely powerless to check this. Un-

der the bill we passed sometime since prohibiting the exportation or redistillation of spirits from bonded warehouses it is impossible for the whisky "ring" or those persons who are defrauding in whisky to get whisky out of bonded warehouses. Heretofore most of the frauds have been in getting the whisky out of bonded warehouses, and in that way evading the law; but now that door to fraud is at least partially closed. There are something like twenty million gallons of whisky in bonded warehouse, and it is probably as safe there as it can be anywhere. At any rate the frauds in getting it out of the warehouses have in a measure stopped. The result has been that the distilleries are started again with a view to get hold of whisky before it goes into bonded warehouse; and it is now being manufactured in New York, Philadelphia, and most of the great cities to a large extent. Under these circumstances we agreed as an exceptional matter to the two last sections attached to this bill. If Senators will look at them, as they are now printed before them, they will see precisely the extent of them. I will read them. The fifth section provides:

That every person who shall engage in or carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall forfeit the distillery and distilling apparatus used by him, and all distilled spirits and all raw materials for the production of distilled spirits, found in the distillery and on the distillery premises, and shall, on conviction, be fined not less than \$500 nor more than \$5,000, and be imprisoned not less than six months nor more than three years.

There is certainly no objection to that. To convict a man you must prove the intent. The next clause is the one to which objection might be made ordinarily:

If it shall at any time come to the knowledge of the Commissioner of Internal Revenue that distilled spirits are selling, directly or indirectly, in any collection district at a market price less than the tax on such spirits, he shall forthwith institute a strict examination into the causes of such reduced sales, and into the business and conduct of all the revenue officers in the district in which such sales are being made, and in the district in which such spirits have been manufactured; and if such sales below the amount of the tax shall have been continued or shall hereafter be continued in any collection district for a period of ten days, the Commissioner of Internal Revenue shall forthwith cause every distillery in which the business of distilling is carried on in the district to be seized and closed; and after such seizure no such distillery shall be permitted to continue or resume business, either under bond or any other pretext or arrangement, until relieved by the Commissioner of Internal Revenue from such seizure.

The whole legal effect of this provision is that where a distillery is being carried on under circumstances that plainly and palpably involve a case of fraud the Commissioner of Internal Revenue shall stop distilling in that district until a different state of facts occurs. I do not see that there is anything very harsh in that. It was suggested here last night that perhaps interested parties might run whisky into a district with a view to keep the market price for ten days below the tax, and thus stop a distillery. It would be very easy to stop a distillery for a few days, but no such action is likely to arise. At any rate, if this results in stopping every distillery in the United States until the new machinery which Congress proposes to provide shall take effect with a view to collect the tax, no great harm will be done. No harm will be done now by stopping any distillery. The season of the year has arrived or nearly arrived when the distilleries should properly stop in the ordinary course of their business. If the effect of this law should be to stop, on the passage of the act, every distillery in the United States, no harm would be done; we should still have in bond an ample stock of whisky to make everybody drunk for one hundred days, and by the time the new machinery takes effect we shall probably be able to collect a portion of the tax. The present state of things is that whisky is being made and no tax is being collected.

Mr. HOWE. Will the Senator allow me to make a suggestion?

Mr. SHERMAN. Certainly.

Mr. HOWE. I think the theory upon which this section is framed is a correct one, but the

conclusion to which it comes seems to me very strange. The section is framed on the theory that the selling of whisky below the tax demanded by the Government is evidence of fraudulent dealing. The only consequence which the section imposes on fraudulent dealings, thus conclusively proved, is that everybody in the district, whether engaged in those sales or not, is stopped from manufacturing whisky; so that the penalty falls upon the just and the unjust alike, and the penalty is nothing more than to just stop distilling liquors; and the section does not allow that penalty to be imposed until they have looked on and seen the sales going on for ten days. Now, I ask the Senator if this section is not likely to work a good deal more mischief than good, so constructed?

Mr. SHERMAN. The only effect it can have is to stop distilling, and that, I think, is not a mischief, but a good. The objection of the Senator from Wisconsin is that the section is not strong enough, not harsh enough; but that was not the objection we feared to encounter in the Senate, and therefore we made it what we thought would answer a good purpose, and yet not so as to violate the rules of law and rules of evidence. But, sir, I will go on with my statement of what these sections provide.

The next section is nothing but a criminal provision touching certain defined offenses by officers of the revenue service. I do not think there is anything remarkable in that, but it adds a little to the penalties contained in the present law. The law now does not provide penalties for some of the offenses named there, and this defines them very clearly and punishes them by imprisonment. It extends to all revenue officers. The House bill, as it was originally framed, required at once the suspension of all the officers on a given state of facts over which they might have no control.

So far as the actual disagreeing votes between the two Houses are concerned, I believe they have been reconciled substantially upon a basis satisfactory to the Senate.

Mr. NYE. Mr. President, last evening, on a casual reading of this report, I made an inquiry as to what the scope of it was, and I was not satisfied with the answer. The same answer seems to be made this morning by the chairman of the committee. I think that the theory of this legislation rests entirely on an unsatisfactory reason. The penalties attached to a breach of the law with regard to distillation are in the shape of punishments for criminal offenses; and they rest on the idea that the distiller has been guilty of a criminal offense, and hence the penalties attached. Now, sir, I believe the presumption of law always has been, and always will be, that a man is to be considered innocent until he is proved guilty. That has been the theory of our law, and I hope it will continue to be. But here, sir, is a provision that assumes *prima facie* the guilt of all the men engaged in a certain business in the same district. To that I object entirely. I suppose that men may be engaged legitimately in the business of distilling as well as in other business, and a man who pursues that business legitimately should not be subject to seizure and the results consequent on a seizure of this kind for the guilt of another.

Let me illustrate. Probably there is very little whisky sold, comparatively, in the district where it is manufactured. Suppose, for instance, that I am a distiller in the city of New York; the Government has put its meters upon my distilling apparatus, and it has the eyes of its public officers on my distillery day and night. I am paying honestly two dollars a gallon tax on every gallon I manufacture. From the city of Cleveland one hundred or one thousand gallons of whisky are run into the eighth district of New York, if that is the district in which I am distilling, and sold for \$1.80 a gallon. Those sales continue for the term of ten days. I do not know it. I am not offering any of the article that I manufacture for sale. I am carrying on business upon my capital, not forced to sell, not desiring to sell, and with the approbation and

the indorsement and the certificate of the Government officers that my business is legitimately conducted; but for the crime and offense of this foreigner who has forced his goods into my district, and is selling them unknown to me for a period of ten days of time, I am to be presumed to be guilty, and to be subject to have my establishment seized and held under that seizure, until the Commissioner of Internal Revenue is entirely satisfied that my business is correct. Who is to prove that?

Sir, I repeat, I am presumed to be in the legitimate pursuit of my business until those whose duty it is to watch shall be able to prove to the contrary, and I should be exempt from seizure and its consequences until that is shown. I submit that it would be a high-handed outrage, and entirely changing every principle by which trade has heretofore been governed, to allow the fraud of one man to rest with its stigma upon me and its financial consequences upon my business. Distilling is just as legitimate a business pursuit, when carried on in accordance with law, as the manufacture of leather. It is a known fact that in the manufacture of leather, a process that used to take months and years to do, producing at the end a very superior article, is supplanted now by chemical processes that make leather the same day the bullock is butchered. That leather, of course, cannot be as good as that produced in the old way, but is that a reason why a man who is pursuing that business legitimately should be seized and stopped?

I think that the whole series of our laws in regard to distilleries have rested upon this hypothesis, which I believe to be wrong, that every man who pursues the business of distilling is a rascal *prima facie*. There are some people who believe that; I do not. And my friend from Ohio will find as to the consumption of this article that it is not alone used to gratify the appetites of men, but to minister to their necessities in a thousand ways that I shall not take time to describe, which make its manufacture as legitimate a business as any other. To carry it on to any considerable extent requires a large outlay of means. There are distilleries in the cities of Philadelphia and New York in which two or three hundred thousand dollars do not cover the cost necessarily incurred to enable them to commence to manufacture. That property belongs to those who own it, and, on the theory of our law, is exempt from any interference by any authority until the fact affirmatively appears that the owner has broken some law of the country and thus incurred a forfeiture and become subject to a penalty. I insist upon it that it is not fair to change the *onus* of proof in this respect. Here a man's establishment is seized without any pretense of knowledge that he is guilty. It rests upon the dishonesty of another man with whom he is not connected, while he is as honest in his business as any man can be. Now, if I am engaged in this business, I am presumed by this provision to be guilty of a fraud, and the strong arm of the law and edict of the Commissioner of Internal Revenue shut up my place and destroy my business. What is the consequence? Ruin, utter ruin, before the Commissioner of Internal Revenue will be able to reach my case, as they tell me in all these Departments, "in the ordinary course of business." That means interminably; there is no telling the time when this Commissioner, industrious as he is, will be able to reach a conclusion whether I am guilty or not.

In addition to that I am subjected to the scrutiny of these public officials. Make your law upon them as stringent as you please, but I deny the right of Congress to stop me in a legitimate business that I am pursuing, a business recognized by the laws of the country, until they can show that I have worked a forfeiture of my right to pursue it. Such a law would not stand the scrutiny of our legal tribunals for one minute. It is at war with the policy of trade entirely, and the whole theory of our legislation in regard to the whisky trade puts it under a system of espionage that makes

every man who pursues it hang his head as he walks the street.

Now, Mr. President, it seems to me that this committee of conference, with due respect to them, have attempted to do a thing here that was entirely foreign from the bill upon which they went out to confer.

Mr. SHERMAN. I beg to inform my friend that this very amendment was referred to the committee of conference.

Mr. NYE. By whom?

Mr. SHERMAN. By the Senate and House of Representatives. It was put on in the House after debate, came to us here as an amendment to our amendments. I never would myself allow any new matter to be reported from a conference committee. I never have, and never will consent to it. But the amendment came to us from the House of Representatives, and was sent by the House and Senate to the committee.

Mr. NYE. The Senate did not concur in the action of the House.

Mr. SHERMAN. The committee have modified it.

Mr. FESSENDEN. I ask my friend from Ohio whether the fact is not that it came here as new matter from the House of Representatives?

Mr. SHERMAN. Yes.

Mr. FESSENDEN. It was never discussed in the Senate; but a motion was made, which was agreed to, that we appoint a committee of conference without its being made known to the Senate that such an amendment had been incorporated in the House. So that, instead of its being discussed here in the first place and then referred to a committee of conference, the committee took it up without the knowledge of the Senate that there was any such thing referred to them. Although it has been done before, and I do not wish to impute anything to anybody, for I do not feel that any one ought to be blamed for it, yet the effect of it is that the Senate does not come to the knowledge and discussion of very important amendments. I think it is better in such cases, when new matter entirely is put on a bill in this way, instead of referring it at once to a committee of conference, to have it read to the Senate and discussed, so that we may know what we are referring to the committee of conference before such a reference is made. That was not done in this case.

Mr. SHERMAN. I am aware that the Senate did not know what the amendment was when the matter was referred to the committee of conference, because the amendment was not read to the Senate, and had not been printed; but it was referred. The Senator from Maine well knows, because he and I have always acted together on these matters, that we have never allowed, except for special reasons, clear and definite, the House of Representatives to introduce new matter in the third stage of a bill in the nature of an amendment to an amendment; and I say now I would not have allowed this (nor did we allow the amendment as they passed it) unless for strong and cogent reasons. Therefore, I do not urge any Senator, unless his mind is clear on the subject, to vote for this report of the committee of conference.

Mr. FRELINGHUYSEN. I desire to ask the chairman of the committee whether it was the intention of this bill to close up every distillery in the country as soon as the bill passes? I understand that it will have that effect. The bill says:

And if such sales below the amount of the tax shall have been continued or shall hereafter be continued in any collection district for a period of ten days the Commissioner of Internal Revenue shall forthwith cause every distillery in which the business of distilling is carried on in the district to be seized and closed.

I suppose the fact is that in every collection district in the United States whisky, for ten days, has been selling for less than the tax. If that is the purpose of the bill would it not be better for us directly to pass a law closing the distilleries?

Mr. SHERMAN. I have no doubt this

measure would enable the Commissioner of Internal Revenue to close every distillery in the great cities of the United States, but not in the country districts, because in the country, and especially at the smaller distilleries, the price of whisky is higher than the tax, especially certain classes of whisky, such as old Bourbon and others, that now command there and everywhere in the market a higher price—two and a half or three dollars. This proposition would enable the Commissioner of Internal Revenue to close every distillery now running in the cities. I avow that. Its purpose and object and design is to enable him to do that in order to stop, if possible, these frauds.

Mr. FRELINGHUYSEN. I do not know that I object to it. I only want to understand it.

Mr. NYE. Mr. President, it seems to me that this bill as it now stands has two objects in view: first, to stop the collection of any revenue from whisky; and next, to fill up the penitentiaries with Government officials. I do not know but that, as suggested by my friend in front of me, [Mr. Howe,] the last would be a worthy object; but, sir, the result of it is going to be to stop all revenue whatever derived from this distillation.

Mr. SHERMAN. We only get three quarters of a million a month now.

Mr. NYE. Well, sir, if it is not collected the fault does not lie in this body. If this Congress would stop legislating upon this subject with one single enactment to tax the distilleries of this country upon their capacity, and get rid of this horde of Government officials, it would collect millions where it now collects thousands, and it would have the satisfaction of knowing that it was not corrupting all of its own officials at least.

Now, Mr. President, I say that the powers conferred by this section are dangerous in every aspect in which they are viewed, and at war with the whole theory and policy of trade. If Congress assumes to establish this system of espionage upon this article of distilled spirits it will be a precedent for doing it upon all the pursuits of business in this country; and I desire here to enter my protest against it. The business men of this country should not have it understood, and Congress should not give them the power to have it so understood, that they are pursued by a series of detectives as though they were assumed to be criminals before they started in their business. It is derogatory to us as a nation; and if the theory is adopted here as a principle we shall stand alone in the catalogue of nations pursuing great and varied businesses as having first adopted that system of espial. Sir, the remedy—and I beg to call the attention of the chairman of this conference committee to the fact—lies in another direction; and I submit, whether upon this bill it was necessary to have any such provision. I understand that a bill is now in course of preparation covering this whole subject, a review of the whole system of laws now extant in regard to it; and I suggest that it would be more likely to be harmonious as a whole if we should leave off this section from this bill, and let us discuss thoroughly what law is best to enable the country to collect this revenue.

I do not desire to take up the time of the Senate on this question. I have no friend in the world that I know of that runs a distillery. I never saw one in my life, though I have seen some of the commodities after they were run out. [Laughter.] I do not know whether they were manufactured in the district where I purchased or not; and I do not suppose it is in the power of the Senator from Ohio to determine whether what he drinks was manufactured in the district in which he purchased it or not, or what it costs all the time. If you establish this principle you at once sap the very foundation upon which trade is carried on. It is sufficient for me, as I have said, to be understood as entering my protest against putting it in the power of any man on earth to stop me or my friend or any citizen of this nation pursuing a legitimate business, unless

the evidence exists that he himself is involved in some fraud or crime for which he forfeits this right to pursue it. I have the highest regard for the Commissioner of Internal Revenue, but I would as soon authorize him to put a torch to my distillery and burn it as I would authorize him to hold it until in due course of business he reaches an examination of my case, one among a million. Sir, this will not do. It is oppressive in its character, unjust in its operation, however justly administered, and it strikes a blow at the whole system of trade which we have rested upon heretofore.

Mr. MORRILL, of Vermont. I am quite in favor of making very stringent laws in relation to these distillers. It must be known to every one that there could not have been an honest distiller of common ordinary whisky in the United States for the last year. The distillers of the superior qualities alluded to by the chairman of the Committee on Finance, commonly called Bourbon or old rye, in some parts of the country, for which they obtain three and four dollars a gallon, unquestionably may be honest men. But the facts are that not one fourth, probably not one eighth of the amount distilled in the country pays the tax. Undoubtedly these distillers pay much more than the amount the Government receives to their accomplices who aid and assist them to defraud the Treasury. It is not, therefore, very wide of the mark to suppose that the men who are now remaining in the business are guilty of fraud almost universally. But I am disposed to believe that this section is altogether too stringent, and I will suggest an amendment that will cure, in part at least, some of its objectionable stringency.

Mr. SUMNER, Mr. SHERMAN, and others. The report of a conference committee cannot be amended.

Mr. MORRILL, of Vermont. I merely suggest it for the consideration of any committee that may be appointed if the report should not be agreed to. On page 4, section five, line twenty-two, I suggest that the words "shall forthwith cause" be stricken out, and the words "may, at his discretion, cause any or;" so that it will read:

And if such sales below the amount of the tax shall have been continued, or shall hereafter be continued in any collection district for a period of ten days, the Commissioner of Internal Revenue may, at his discretion, cause any or every distillery in which the business of distilling is carried on in the district, to be seized and closed.

Under the provision as it now stands, it is compulsory on the part of the Commissioner to close up all the distilleries, whether there has been any fraud or not. Mr. President, at the western distilleries they buy up large droves of cattle; they are feeding them upon the refuse of the distilleries; and it may be more for the interest of the distiller to lose something on his whisky than to lose on his fatted cattle. There must be a great loss if the distillery is stopped at once. His cattle must be fed, and they must be fed from the grain if they are not fed from the refuse of the distilleries. Therefore I think this provision would work very great hardship, and it might be upon honest men, men who were disposed to keep their distilled spirits until they could sell them at a price about equal to the tax. The amendment I propose would remedy that in some degree. It would leave it optional with the Commissioner to do or not to do it as he saw fit, after investigation.

Mr. SHERMAN. My friend from Vermont will allow me to interrupt him just to say that it is not worth while to have a committee of conference on that point, for we considered it fully. The answer is conclusive in my opinion: this is intended to make a sharp, certain, and effective remedy; the proposition of the Senator from Vermont would raise the case as to every distillery, and as to the fraud and intent of every distiller, to be decided by the Commissioner of Internal Revenue, and would throw upon him a burden of work which it would be utterly impossible for him to act upon. This assumes the fact that the running of a

distillery when the price is below the tax is evidence of fraud.

Mr. MORRILL, of Vermont. Then, with the interpretation the chairman of the Committee on Finance gives to it, I think it is even more objectionable, because it will close up every distillery to-morrow, or the moment the law is passed, without any notice whatever. I should consider that rather a hardship, something that we have hardly ever done in any business.

While I am on the floor, I desire to suggest an amendment on page 3, section four, which I should be in favor of. It will be seen that the tax imposed here is two dollars on each \$1,000 of sales of all manufacturers where their sales exceed \$5,000. It strikes me that by this provision we are to ring in a large number of manufacturers who have not heretofore paid much if any tax. It will include shoemakers, broom-makers, woodenware manufacturers who are all over the country, and a great number of that kind, and will entail a pretty heavy business upon the Department to follow them all up. I think it would be far better to increase the rate of taxation a little and to enlarge the amount of exemption; place it, say, above ten thousand dollars, and, if you please, increase the rate something higher, say five dollars on the \$1,000, equal to one half of one per cent. I think that would not be objected to by the manufacturers. If they are to pay any tax at all on sales, which I consider rather an objectionable tax any way, I see no reason why we may not make it one half of one per cent., and thereby obtain a very considerable revenue. A tax merely of two dollars on \$1,000 will only reach a very inconsiderable amount of revenue. I would prefer to exempt small and inconsiderable manufacturers and to tax the others more.

Mr. MORTON obtained the floor.

Mr. FESSENDEN. If my friend will allow me, I want to ask an explanation of the second section.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) It becomes the duty of the Chair at this hour to call up the unfinished business of yesterday, which is the naval appropriation bill.

Mr. EDMUNDS. Let it be laid aside informally.

The PRESIDING OFFICER. It can be laid aside informally, if there be no objection.

Mr. HENDRICKS. I object, unless my colleague wishes to address the Senate now. I do not think there need be any haste to pass any such bill as this is proposed to be.

Mr. SHERMAN. Let us have a vote on it.

The PRESIDING OFFICER. The Senator from Indiana [Mr. MORTON] is entitled to the floor, if the Senate are to proceed on the bill that has been before the Senate.

Mr. HENDRICKS. Then I withdraw the objection until he makes his argument.

The PRESIDING OFFICER. The naval appropriation bill will be laid aside by unanimous consent, and the Senator from Indiana is entitled to the floor on the report of the committee of conference.

Mr. FESSENDEN. I will not interrupt the Senator.

Mr. MORTON. Mr. President, I object to the fifth section of this conference report for two reasons: first, because the first part of the section, which makes a forfeiture of the distillery and its material, and which provides for punishing the distiller, is unnecessary, there being penalties already prescribed in various forms that cover the whole ground. Then I object to the concluding part of the section because I think it is unreasonable, and would be unjust in its operation, and because it would fail to accomplish anything.

Now, sir, I understand—I have not counted them, though I examined the law some time ago—that there are over one hundred penalties, crimes, and misdemeanors already created by law for frauds upon the revenue in connection with whisky. The trouble is not that there are not penalties enough, but that the

law has not been enforced. We multiply penalties, but we fail to enforce any of them. On the 6th of January last I made an inquiry at the internal revenue department, and from all that I could learn at that time there had been less than one dozen persons convicted and imprisoned for frauds upon the revenue in connection with whisky, and I could not find more than half a dozen well authenticated cases. Notwithstanding the many thousand frauds that have been committed, the hundreds and thousands of seizures that have been made up to this time, I believe not one dozen persons have been convicted and sentenced to imprisonment or to infamous punishment for these crimes; and until something is done to remove this miserable failure in the administration of the law it is idle to talk about collecting the whisky tax. You may multiply penalties, you may adopt all the safeguards that you can; but until you make it a matter of personal danger to a man to commit a fraud upon the internal revenue in this respect you will not be able to collect this tax.

As the administration of the law stands there is no personal danger in committing a fraud upon the revenue in regard to the collection of the tax upon whisky. The only penalty of detection is a compromise—a compromise in which the criminal escapes all personal punishment, and in which he escapes, as a general thing, by paying far less than what he ought honestly to pay under the law; so that there is an absolute advantage in being detected and compromising. The men who are guilty of these frauds care nothing about the name of it; the publicity of it has no terrors for them. They are willing to be detected as long as there is no personal danger connected with it, no danger of imprisonment or of the penitentiary. If it is a mere confession of judgment in a civil action in the circuit court of the United States, or if it is a mere compromise to be made here with the Commissioner of Internal Revenue, by which they pay a certain sum of money, they care nothing about that. If you want to stop the whisky frauds you must make it a cause of personal danger to the man that commits them; and I undertake to say that the conviction and punishment of fifty of these scoundrels, by incarcerating them in the penitentiary, would do more than all that you have done or can do to enforce the collection of this tax. If these men, who care nothing about the publicity of detection, who care nothing about the name of the thing, were to understand that they are incurring direct and imminent danger of going to the penitentiary, they would hesitate; but so long as they can settle the matter by confessing a judgment under a compromise with the district attorney of the United States, or under a compromise made here, these things will go on.

Why, sir, how many thousand frauds have been committed, how many thousand detections have taken place, and yet less than a dozen men have been imprisoned for any of these things. Compromises are made every day here and all over the country. Indictments have been found by the hundred; but where have they been tried? Why have they not been tried? Because, as a general thing, they are settled in some way. The criminal will not compromise civilly and confess a judgment and pay a portion of that which he ought to pay while the criminal prosecution hangs over him. The compromise of the case criminally is always a part of the compromise of the case civilly; and, therefore, if you would begin at the very root of this evil, begin by taking away from the Commissioner of Internal Revenue, the Secretary of the Treasury, all subordinate officers, and especially from district attorneys, the power to compromise these cases. Let there be a trial wherever there is an indictment found, and put it out of the power of the district attorney or of a revenue officer to settle these criminal prosecutions. Sir, need we be astonished that this Government is defrauded out of forty or fifty million dollars of revenue every year when we



understand that there is no personal danger attending the commission of these frauds?

The remedy is simple; it lies right on the surface. Take away the power to compromise these cases; require the criminal prosecutions to go forward. If there is no sufficient inducement now to the officers of the law to prosecute the cases criminally give them larger fees. Why, sir, how does the matter stand? If a man is indicted for a punishable offense in a whisky fraud the prosecuting attorney will get fifty dollars if he is convicted; but if he will settle and confess judgment in a civil action on the bond or in any other way for \$10,000, \$20,000, or \$50,000, the prosecuting attorney will get two per cent. on the amount. You thus place temptation in the way of the officers. You tempt them not to do their duty. You place temptation all around them; and what has been the result? Less than a dozen convictions and sentences to imprisonment as yet. You talk about establishing spirit meters, and you make provisions this way and that way; but until you make it a matter of personal danger by imprisonment to the man that commits these frauds you will never stop them.

Now, Mr. President, look at the provisions of this bill. It provides that if liquor shall be sold in any district for more than ten days below the amount of the tax, then the Commissioner of Internal Revenue is required peremptorily—not in his discretion, but peremptorily—to seize every distillery in that district. What is the effect of this? We all know it would be unjust to the honest men, if there are any there. The effect of it is simply to make more compromises. Here is the city of New York, if you please, where it is said there are one hundred and fourteen distilleries. Whisky is sold below the tax there; the one hundred and fourteen distilleries are stopped, the honest alike with the dishonest, and the distillers all rush pell-mell to Washington. They all say they are innocent, and they complain loudly that it is a great hardship that they shall be stopped because somebody is selling whisky at less than two dollars a gallon. The Commissioner of Internal Revenue would feel that it was a great hardship. He would recognize the injustice of the law; and in this way there would be more compromises. The whole thing is a continuous compromise; and the very evil that we complain of would be vastly increased by the proposition we now have before us. While there have been great frauds committed upon the Government, and will continue to be, let the Government itself not be unjust. Some there are who pay taxes. Shall they be suspended alike with the guilty? Why, sir, there would be a universal cry against the justice of the law on that subject. It has been said it would have the effect to suspend, perhaps, every distiller in the United States for a short time; and here they will come rushing for a compromise, each man proclaiming his innocence. A, B, C, and D will get liberty to go on; and in this general rush and this vast multitude the guilty will get permission to go on alike with the innocent.

Sir, I cannot conceive of a provision better calculated to defeat the very purpose we desire to attain than the one that is now under consideration. Let me call the attention of the chairman of the committee to this provision:

If it shall at any time come to the knowledge of the Commissioner of Internal Revenue that distilled spirits are selling, directly or indirectly, in any collection district, at a market price less than the tax on such spirits, he shall forthwith institute a strict examination into the causes of such reduced sales and into the business and conduct of all the revenue officers in the district in which such sales are being made and in the district in which such spirits have been manufactured.

Do we not all know that that will be a mere nullity? What will that "strict examination" be made by Commissioner Rollins amount to in New York or in the Peoria district in regard to the conduct of revenue officers or the conduct of distillers as is provided for in that section? It will amount to nothing. That part of your law will be a mere nullity.

But when you come down to the other part

of the same section, where you require him positively and peremptorily to suspend the distilleries in case of sales of whisky made for more than ten days under the price of two dollars, what is the result? It falls upon the just as well as it does upon the unjust, and, what is more, it results simply in more compromises, and the compromise business goes on.

Mr. President, I do not wish to be understood in talking about this compromise business as imputing corruption to the Commissioner of Internal Revenue or to the Secretary of the Treasury. I do not. They are far away from the scene of action. They only hear one side. They are called upon from day to day to take action, and they do, and these compromises are made from day to day; and while probably they are acting in the very best faith on their part, yet the guilty are escaping; the criminal punishment is waived; the law is not administered, and the Government is defrauded almost out of its entire revenue.

Sir, let us provide for enforcing the penalties already existing in the law, and not create more of them. If, as I said before, one hundred of these men could be tried and convicted it would virtually stop these frauds, and nothing but that will do it. You cannot disgrace these men by detection. You cannot disgrace them by exposure. They care nothing about that. But they have just as much objection to going to the penitentiary as anybody else; and nothing but the fear of that will prevent the commission of these frauds. Therefore, adopt legislation by which the compromise of these transactions will be taken away and the law will be required to be enforced.

On the 6th of January last I introduced a joint resolution on this subject, which was referred to the Finance Committee, of which I believe the committee did not take any notice. I will read the preamble to that resolution as containing all the argument which I wish to make on this subject:

"Whereas it is believed that not more than a dozen persons have been convicted and punished by imprisonment for the perpetration of the many thousand frauds that have been committed upon the internal revenue in the collection of the tax upon whisky, and that criminal prosecutions have in some way been abandoned, compromised, or suffered to fail; and whereas this policy has relieved the perpetrators of these frauds from criminal responsibility and personal danger, and has offered a premium for swindling the Government, by making a compromise the only penalty for detection in frauds, in which the criminal generally gets off by the payment of far less than the amount of tax he honestly owes the Government, whereby it is made cheaper to be detected and to compromise than honestly to pay the tax"—

And I say, as the matter now stands, that it is cheaper for these distillers all over the land to be detected and to compromise than it is to pay the tax. If they can succeed in their fraud of course it is all clear profit. If they can make a thousand barrels of whisky and sell them without paying the tax it is all clear gain; but if they are detected they get off by a compromise that is much cheaper than to pay the tax on the thousand barrels:

"And whereas the practice of this policy affords a reasonable explanation for the general prevalence of successful fraud and the loss of more than two thirds of the revenue which should be collected from the tax on whisky: Therefore,

*Resolved, &c.,* That from and after the passage of this joint resolution neither the Secretary of the Treasury, Commissioner of Internal Revenue, collectors of internal revenue, district attorneys, or any other judicial or Treasury officer or agent, shall have power to compromise or arrange any criminal proceeding or prosecution against any person for frauds committed upon the revenue: and that it shall be the duty of all such officers and agents to prosecute diligently and bring to punishment all offenders of that class without reference to any compromise that may be made in regard to damages or forfeited property."

If there shall be compromises made in regard to the matter civilly as to damages or to forfeited property, still provide that the criminal prosecution shall go forward; and when you provide that you cut off the civil compromise, because these men will never compromise civilly except on the understanding that they are to escape criminally. I have for some time, with all the attention that I have been able to give to the subject, been satisfied that the root of the great evil, the chief cause, was

the utter failure to administer the law criminally, the utter absence of all personal danger in the commission of these immense frauds. If a man swindles this Government by forging a ten-dollar Treasury note he goes to the penitentiary, but he may swindle this Government out of \$100,000 in a whisky fraud and it can be compromised, and he goes acquitted, except, perhaps, by confessing a judgment civilly, or by paying a certain amount that may be agreed upon between him and the officers of the law. So far as this provision is concerned in this bill I regard it as unjust, unnecessary, and, so far from stopping the evil, it is to increase and continue the compromise business.

Mr. FESSENDEN obtained the floor.

Mr. MORRILL, of Vermont. Will the Senator from Maine allow me to ask the chairman of the Committee on Finance a question, and that is, whether this tax on sales will not include flour—

Mr. FESSENDEN. That is exactly what I was going to suggest.

Mr. MORRILL, of Vermont. And lumber, marble, butter, and cheese. I think it clearly would, and those articles we have exempted.

Mr. SHERMAN. If the Senator has the definition of the word "manufactures" in the revenue law before him, he can answer his own question.

Mr. MORRILL, of Vermont. In the very first revenue law that we passed we thought it proper to make those exemptions.

Mr. FESSENDEN. I agree with what has been said in opposition to this particular section with regard to liquor, very generally; and I particularly agree, because I have thought of it more than once, with the idea suggested by the honorable Senator from Indiana in his resolution that what lies, perhaps, as much at the foundation of all the difficulty we have as anything else, is the facility that we give to persons who commit crimes to escape by compromising for money. Whether it would do to entirely take away that power, I do not know; but, perhaps, nothing short of that will accomplish the purpose.

But with regard to this particular provision I am of opinion that it will be entirely inoperative. The Commissioner of Internal Revenue cannot, with the force he has, or by any means that he has at his command, without taking up his whole time and giving him more officers than he has got, accomplish this purpose of shutting up all the distilleries of the country at once. Consequently, it will not be tried to any very considerable extent; and that consideration is outside of what has been argued with regard to the possible injustice it may work upon innocent persons; for I agree with the Senator from Vermont upon that particular point, that now, when it is perfectly manifest all over the country that whisky is sold everywhere at about one half the tax or very little exceeding half the tax, and especially in our large cities, the man who carries on the business in the cities, with that knowledge of what has been and what is, may fairly be presumed to intend to carry it on in fraud of the law. It is so not only in the cities, but probably elsewhere also; for it certainly cannot be for the interest of the distillers in country places to manufacture their liquor with facts staring them so notoriously in the face with regard to the price at which it sells, without intending to violate the law themselves. Therefore I do not feel any very particular sympathy for any men engaged in this business at the present time, carrying it on largely; for I cannot understand that in doing it they have any view except to avail themselves of some of the loop-holes through which the law may be evaded.

I know, sir, that it is a very difficult thing to frame a law that will accomplish the purpose. The committees of the Senate and House of Representatives have been trying, ever since the first tax law was enacted early in the war, to provide some machinery by which to guard against fraud. They did their best. They failed to a certain extent, and it was supposed that

they failed on account of the very high rate of taxation that was placed upon the article. Undoubtedly that had a very considerable effect, because the profits to be made when the tax is so high, if it can be evaded, are so very large that the inducement to violate the law and to run all the hazards which the law provides in such cases is proportionately large. There will be an inducement in all cases; but in proportion as you increase the tax on spirits precisely in that proportion you increase the temptation. It is so in regard to frauds upon the customs revenue, and is so in regard to frauds upon the internal revenue. Therefore, I believe the matter might be mitigated in some degree if the tax should be reduced, although it would not be wholly relieved.

But, leaving that out of the question, I was stating what the committees of the two Houses had done. In the last bill that was passed upon the subject, the project that was then conceived and the changes then made were made at the suggestion of the Special Commissioner of Revenue in connection with the Commissioner of Internal Revenue. They did their best to provide some way in which this difficulty might be avoided, if possible, and the men who violated the law brought to justice, and the revenue collected. It seems, however, that it has been worse since than it was before, although the penalties were made more severe. Now, this measure proposes an additional penalty touching everybody, and I really believe in addition to the matter which I have spoken of, but which has very little influence on my mind, namely, that it is possible that in some cases you may injure an innocent person, it will be impracticable to carry this into effect, and it will equally fail with the other.

I know it has been said—I think by the honorable chairman of the Committee of Ways and Means of the other House—that that committee were preparing a bill on the general subject, and that it was found necessary, on account of the numerous discrepancies and mistakes and errors and blunders in all previous bills, that the new committee should draw a new bill which would avoid all these things. I can do no otherwise than wish them a happy deliverance. I trust they will be able to do it; and I shall unite with them most cordially in accomplishing their purpose of amending the errors of all previous generations, and producing some wise scheme that will effect the beneficial purpose they have in view. I trust they will be able to accomplish it, as they think they may; but I think this first effort is not a very promising specimen of what they will be likely to do from any effect it will have.

Now, sir, with regard to this report, I have an objection more especially to the proposed fourth section, which has been suggested to me by my friend from Vermont; but without reference to the suggestion made by him I do not exactly see how it is to be executed. I wish to call the attention of the chairman to the twelfth line of section four on the third page:

And the amount of sales within the year in excess of \$5,000 shall be returned monthly to the assistant assessor.

How is that to be ascertained?

Mr. SHERMAN. The law points out the mode.

Mr. FESSENDEN. What law; the law as it stands now?

Mr. SHERMAN. The previous law.

Mr. FESSENDEN. What particular provision is there?

Mr. SHERMAN. I cannot turn to it at this moment; but taking the amount of sales annually, they divide it into months. The last clause of this section provides for it in April, and afterward the annual assessment is to be on the 1st of May.

Mr. FESSENDEN. I see that the provision as to the assessment for the month of April is specific. I noticed that.

Mr. SHERMAN. There is a provision in an existing law that where a monthly assessment is made to raise a tax fixed by an annual

amount, the annual amount shall be divided by twelve, and this section as it now stands precisely in this shape, was prepared by the Special Commissioner of Revenue, with the sanction of the Commissioner of Internal Revenue, so that there is no doubt of the practical ability to execute it.

Mr. FESSENDEN. I have very great respect for both of those gentlemen; but I do not think this provides specifically, either by any reference to any former law or from anything you can find in the section itself, how it is to be executed. I know what is meant undoubtedly; but by any designation there, you cannot tell precisely how it is to be done.

"The amount of sales within the year in excess of \$5,000 shall be returned monthly to the assistant assessor." If you provided that the amount of sales in every month should be returned, and that the excess should be carried to the amount of sales within the year, you might do it; but the language is very different.

Mr. SHERMAN. I think the Senator would have no difficulty, if he was construing this law, to know what it meant. "And the amount of sales within the year in excess of \$5,000 shall be returned monthly to the assistant assessor." As a matter of course the manufacturer determines his sales for the month according to the ratio which the month bears to the year, \$5,000 being the yearly sales on which he has no tax to pay; and if he sells above the rate of \$416 a month he knows he must return the excess for taxation.

Mr. HOWARD. Now, that the Senator from Ohio is up, I wish to ask him a question, by permission of the Senator from Maine.

Mr. FESSENDEN. Certainly.

Mr. HOWARD. I wish an explanation from him whether it is the intention of the committee of conference to impose a tax on the manufacture of flour or lumber?

Mr. FESSENDEN. That is the very question the Senator from Vermont put.

Mr. HOWARD. I wish an explanation on that point. Perhaps I do not understand it.

Mr. SHERMAN. Since that question is put to me, I will say that as a matter of course the proposition is to insert this language in place of section ninety-four.

Mr. FESSENDEN. I think I had better be allowed to close my remarks, because I find that what I designed to say is picked out by other gentlemen as I go along and before I get through.

Mr. HOWARD. I beg pardon of the Senator for interposing.

Mr. FESSENDEN. Very well; I give up altogether.

Mr. HOWARD. Then I should like an explanation of the Senator from Ohio as respects this fourth section. As it stands now, I understand that it imposes a tax upon lumber and upon flour which are not now subject to any internal tax. The very terms of this section, if I understand it, impose a tax upon these manufactures.

Mr. FESSENDEN. It imposes a tax upon everything that was formerly exempted under previous laws, no matter what it is, whether flour or meat or bread or anything else that never has been taxed heretofore, where the sales amount to over \$5,000 a year. Here is a tax put on; there is no question about that. The language is broad enough to cover everything.

Mr. SHERMAN. I am inclined to think that it covers all manufactures except butter and cheese; and there is no reason why it should not cover every manufacture. The great complaint now is the discrimination between various classes of manufactures. There is no reason why butter and cheese, when manufactured to the extent of more than \$5,000 a year, should not be taxed. It is a very small tax. All exemptions, all exceptions of every nature, it seems to me, are unjust unless there be a clear reason for them; and there is no reason in the world why the manufacturer of lumber or of flour should not be taxed as much as any other manufacturer. It is a very

small tax, only amounting to two dollars in a thousand. I am inclined to think the criticism, if it is a criticism, of the Senator from Michigan is correct, that flour would be considered as a manufacture under the definition of the word "manufacture," contained in the internal revenue law. There the meaning of "manufactures" is defined; and, of course, when we use the word "manufactures" in this law, we refer to the definition of the word in the internal revenue law. I think it would include the manufacture of flour, but I am not sure. The existing law reads:

"Any person, firm, or corporation who shall manufacture by hand or machinery any goods, wares, or merchandise not otherwise provided for, exceeding annually the sum of \$1,000, or who shall be engaged in the manufacture or preparation for sale of any articles or compounds, or shall put up for sale in packages with his own name or trade mark thereon any articles, the contents thereof shall be regarded as manufactures."

I think that would include flour.

Mr. JOHNSON. And lumber, too.

Mr. SHERMAN. I do not know certainly; it is a question depending on the internal revenue laws. The language there is defined. This does not change the old language.

Mr. JOHNSON. Mr. President, I agree, and with some knowledge of the practical operation of the law as it now stands in relation to the tax on whisky, that the best way to prevent the frauds which are certainly being perpetrated is the one suggested by the honorable member from Indiana. The temptation to which the officers of the revenue and the district attorneys are subjected has, I regret to say, been found too great, as I think. These parties are making, if they are successful, enormous profits. That is proved by the fact of the quantity of whisky which is manufactured and the very small amount of revenue that is received from it. I do not think the Government gets one third of the revenue, and one third is some forty million dollars. There is, therefore, \$80,000,000 in the hands of these people to use with a view to corrupt the officers of the revenue. Their property is seized, they themselves are arrested, and the first thing they do is to apply to the collector of the district, and he becomes satisfied that they did not intend to do any wrong upon the Government, and he compromises. He very rarely goes to the district attorney for the purpose of having an indictment found; but when an indictment is found, in nine cases out of ten, it is not prosecuted, but the district attorney becomes a convert to the idea that no fraud was contemplated; and yet we all know that fraud is perpetrated to an enormous extent, if not to a larger amount than that which I have stated. We are placing, therefore, practically in the hands of these men—I do not mean all of them, but those engaged in the frauds—a fund of at least eighty million dollars with which they can corrupt officers of the revenue.

Mr. SHERMAN. Does the Senator say the collectors of internal revenue have power to compromise?

Mr. JOHNSON. By the concurrence of the Commissioner here. They recommend it, and their recommendation becomes practically conclusive. The Commissioner of Internal Revenue here requires the recommendation of the collector, and he cannot but act, if he believes in the honesty of the collector, upon the recommendation of the collector; and in nine cases out of ten that recommendation proves to be conclusive. It is not to be wondered at, because the compensation we give to these officers is comparatively trifling. The district attorney gets his thousand or his twelve hundred dollars a year; the collector gets his two or three or four thousand dollars or more, and he has before him the prospect of getting ten, fifteen, or twenty thousand dollars a year, and his virtue falls before the temptation.

It is idle to disguise the fact; the Senate must, I am sure, be cognizant of the fact that in that way frauds are being perpetrated; for it is idle to imagine that the perpetration of the frauds can be successfully concealed. I think, therefore, with the honorable member

from Indiana, that the best mode is to take away from the Commissioner, or, if not, to subject it to still stronger limitations than now exist, the power to compromise. But, as far as the proposition recommended by the committee of conference on the subject is concerned, I have but a word to say.

The first provision which they recommend will be found practically useless, because it will not be in the power of the Commissioner of Internal Revenue to make the discovery which the section contemplates as within his power. Then as to the second clause, that is objectionable, in my view, upon several grounds: in the first place, it seems to me to be grossly unjust; it visits upon the innocent the crimes of the guilty; it goes upon the assumption that there may be innocent distillers. I have no doubt there are; and, notwithstanding it assumes the innocence of the distiller, it strikes at his trade and may ruin him, because the Government is unable to distinguish between the innocent and the criminal distiller.

But again, Mr. President, I think it objectionable, because it is entirely futile, or will be found so in practice. A continuous sale for ten days of liquor at a price less than the tax, is to cause the Commissioner to close all the distilleries within the district. What will they do? They will sell for eight or for nine days and then stop, and thus avoid the penalty and laugh at your law. It would not be the duty or the right of the Commissioner acting under that provision to close the distillery unless the sales had gone on for ten continuous days; and if he attempted to execute it because the sales had continued for a number of days less than ten, he would be exceeding his authority and would render himself liable to damages.

But it is, as I think, objectionable in part on a constitutional ground. It not only provides that in the future a continuous sale for ten days is to be punished by the closing of all the distilleries, but if there shall have been in the past such sales for ten days, the distilleries are to be stopped. That is *ex post facto*. It is a penalty which we are about to impose upon an alleged offense. The offense is the selling for less than the tax for a period of ten days. That we may do in the future, if it be advisable to do so at all; but as the law now stands a man might sell for ten days or twenty days without being liable on account of the sales or without the distilleries in his district being responsible to the punishment imposed by this bill; and yet the bill provides that in a case of that description the distilleries are to be closed. Now, what is the effect of closing them all? How does that benefit the revenue? It prevents the manufacture out of which the revenue is to arise. It says in so many words that no whisky shall be distilled in the future until we think proper to open the distilleries. Then every day that the distilleries are closed is the object upon which the tax is to be levied defeated.

Now, I do not know whether I am right in what I am about to say, but I have so heard; my friend from Ohio will set me right if I am wrong; what is done with the whisky that is seized as forfeited to the Government under the law? It is carried, I understand, into the bonded warehouses. It belongs to the Government. It is forfeited property. What is done with it? Is it sold for an amount not less than the tax?

Mr. WILLIAMS. It is held in the custody of the Government; but if we can stop the manufacture of whisky so that it will rise above two dollars a gallon, we can then sell it and realize the tax.

Mr. JOHNSON. It may or may not; but I have had some reason to believe that in the past—I do not know how it has been lately—either after or before it gets into the bonded warehouse, it is sold for less than the amount of the tax. I do not know that the law authorizes it, but I have supposed that it did, because I do know professionally that an offer was made to buy some of this whisky which the Government had seized, and the party agreed to give, or

proposed to give, some forty or fifty cents for it, he meaning to ship it to Mexico, where he could have sold it, as he thought, for three or four dollars; and he was told if he would give fifty cents he might have it. If the Commissioner was the party with whom the negotiation was held I have so much confidence in his integrity that I have no doubt he supposed that he was authorized to sell it.

Mr. WILLIAMS. I will refer the Senator to the law if he wishes. Section twenty-seven of the act of March 2, 1867, provides "that no distilled spirits which have been forfeited to the Government in accordance with law shall be sold for a price less than the amount of the tax required thereon by law at the time of such sale."

Mr. JOHNSON. The case to which I referred was before that. That was not the law before 1867. They were willing to sell for less than the tax before that. I was about to conclude by saying that I have no doubt the suggestion of the honorable member from Indiana would go very far to arrest these frauds; and if, in addition to that, the tax were reduced to a dollar a gallon I do not believe there would be any fraud of any consequence, and that the Government would derive twice as much revenue as it is now receiving.

Mr. WILLIAMS. I do not know, Mr. President, that it is at all necessary to undertake to defend this report; but it may be proper to make a few suggestions in reference to the subject that has been so elaborately discussed. Senators on this floor, whenever any discussion has arisen about the whisky tax, have denounced the persons who are engaged in the business as thieves and robbers, men who plunder the public Treasury; but when a law is brought in here that strikes an effective blow at these men, then their hearts suddenly expand with sympathy for these poor, persecuted, honest distillers.

The argument of the distinguished Senator from Indiana, if I understood it, was remarkable, as it appeared to me, for its inconsistency. Commencing with the declaration that this measure was unnecessary because there were already sufficient enactments upon the subject, he then proceeded to say that it was so defective that there was no way of preventing fraud upon our present system of internal revenue, because there was a power under existing laws by which compromises between collectors or prosecuting attorneys and persons arrested might be made. It may be true that it would be of advantage to amend the existing law in that respect; but I conceive that the honorable Senator attaches altogether too much importance to the effect of the compromises which are made between those who prosecute on the part of the Government and those who are charged with the violation of the law of the land. These compromises are either honest or they are corrupt. Assuming that they are honest, then, of course, no objection can be made to them; but if they are corrupt they are corrupt because the men upon whom the enforcement of the law is devolved are dishonest and corrupt men; and if they are so they can prevent the effective prosecution of these criminals as well without power to compromise as with that power. Suppose a prosecuting attorney is corrupt and purchasable, it is possible that he may advise a compromise; but could he not be hired to abandon the prosecution, hired not to call his witnesses, hired to defeat the prosecution in many ways?

But if you take away the power of compromising the case must go to judgment and the United States must pay the costs and recover nothing. Witnesses may be suborned. If there is that wide-spread corruption connected with the revenue from whisky which is alleged, I undertake to say that it is in vain for you to depend upon criminal prosecutions for the enforcement of your law; for if prosecuting attorneys and witnesses and judges and collectors and all concerned are corrupt, what advantage is it to have a law that deprives those persons of any power to compromise?

Now, sir, it appears to me that the only

effective mode which can be adopted in order to prevent these frauds is to provide for a proceeding *in rem*, and not to provide for the prosecution of any particular individual or individuals. When a distillery is engaged in the violation of the law speak and strike, and strike before you speak, and then you may accomplish something in the way of suppressing these frauds. It appears to me that the defects of the system arise, perhaps, not so much from the imperfections of the law, for our most distinguished men in both branches of Congress have been busy for years in devising legislation to meet these cases, but our legislation has been inoperative because the men who have had to execute the law have been unfaithful, dishonest men; and so the law has proved an abortion. Now, this bill proposes to proceed at once, without any circumlocution, without calling upon prosecuting attorneys, collectors, or witnesses to swear to one thing and another, but it proposes to proceed at once against the distillery.

Mr. PATTERSON, of New Hampshire. Will my friend allow me to ask him a question?

Mr. WILLIAMS. Certainly.

Mr. PATTERSON, of New Hampshire. I want to know if whisky is distilled in one district and carried to an adjoining district where there is no distillery and sold, how he will reach the case?

Mr. WILLIAMS. If sales of whisky are made in a district where there is no distillery, of course there is no distillery there to close; but if the distillery which is engaged in manufacturing sells whisky at a less price than the tax that distillery can be closed.

Mr. PATTERSON, of New Hampshire. Do you in that case shut up any distillery? Would not all the whisky be sold in districts where there were no distilleries?

Mr. WILLIAMS. I think not, Mr. President. Is it possible that there would be no whisky sold in the city of New York, or in New Orleans, or Philadelphia, or any of those large cities? According to the Senator from Kentucky, [Mr. DAVIS,] and I think he is quite right on that subject, the great frauds upon the public revenue are not committed in the country among the rural distilleries so much as in the great cities, where there are hundreds of distilleries engaged in the illicit manufacture of whisky. It is to empower the Commissioner to proceed against those distilleries that this measure has been reported.

It is quite singular to notice the different objections that are made to this report. One Senator objects to it because it is entirely inoperative.

If that be so, of course it can produce no harm. But another Senator objects to it because it is too severe and too oppressive in its operation; and its penalties, it is urged, may fall equally, like the rain from heaven, upon the just and the unjust. These objections are entirely inconsistent with each other; but there seems to be a disposition to take a running jump at this report on all hands, and to whistle it down the wind without very much consideration, because it is something that, as has been suggested, has no precedent in our legislation upon the subject of whisky.

Will this proposed law operate upon honest men to their great detriment and harm? I assume what is frequently assumed in this Senate, and is generally conceded here to-day, that men who are now engaged in the distillation of ardent spirits are not honest men; and they cannot in the nature of things be so, with a possible exception, so long as spirits sell in the immediate neighborhood where they manufacture them, for less than the tax. How can an honest man make whisky and pay a tax of two dollars upon it, add it to the cost of production, and then sell that whisky for one dollar a gallon in the market?

Mr. NYE. Will the Senator allow me to answer him on that point?

Mr. WILLIAMS. I prefer to conclude what I have to say, and then the Senator can answer as he deems proper.



It is impossible to make a law that is entirely perfect in all respects and that may not operate with hardship in some individual cases. But here is an evil of immense magnitude staring us in the face; here is a great fraud that is permeating every part of the nation. Hundreds, if not thousands, of men are engaged in palpable violation of law and in defrauding the public revenues of the United States, so that now we receive less than one million dollars per month of revenue from whisky, while we proceed here to legislate upon the assumption that we are to receive \$50,000,000 per annum of revenue from whisky. There will be a great deficit in the revenues of the next fiscal year or there must be some rigid and effective provision made for the collection of the revenue from whisky.

It may be that this would operate severely and harshly in some cases, but they are inconsiderable in number. Where the public safety or the public good requires it you must make a law that will be generally beneficial, even though in some particular case it may operate with hardship. No general law upon the subject of taxation can be made that will not in some individual or imaginable case produce hardship; but that is no reason why the law should not be enacted. If you proceed upon that ground every proposition to enforce the collection of taxes may be defeated.

Here I beg to say that the Commissioner of Internal Revenue differs from the gentlemen who have said on this floor that this law would be impracticable and that he could not enforce it; for I conversed with him this morning on the subject of this report, and he gave it as his opinion that it was a good law and that it would enable him to do very much in suppressing the frauds that are now prevailing in the country.

Mr. HENDRICKS. Who was it gave that opinion?

Mr. WILLIAMS. The Commissioner of Internal Revenue. And now, Mr. President, suppose these distilleries are stopped; suppose that no more whisky is manufactured within a given time, until the whisky upon the market is exhausted; or, if the manufacture is not stopped until the supply upon the market is exhausted, suppose the manufacture is stopped until the whisky in the market rises to the price of two dollars and forty cents or two dollars and fifty cents a gallon on account of its scarcity. I ask if that would not be of advantage to the honest distiller? For then he could proceed to manufacture his whisky and pay his tax and make a profit upon his business. And it is a fact perfectly demonstrable now that no honest man can conduct the business of distilling with profit. Closing up these distilleries now, and bringing up the price of whisky thereby to more than the amount of the tax and the cost of production, would enable honest men to pay the tax and to make a profit in their business. Do this, and enable the Commissioner, wherever he may find a distillery making whisky contrary to law, to seize it and keep it closed until the business can be conducted according to the requirements of the statute, and what will be the result?

The United States has on hand a very large amount of whisky that has been forfeited to the Government, and under the existing law it cannot be sold for less than the amount of the tax. Stop these distilleries at this time, let the price rise, as it will if the manufacture ceases, and then the Government can realize from this large quantity of whisky that it has on hand the amount of the tax, and thus have a great addition to its revenue.

These are some of the considerations that influenced the report of the committee. Every Senator, I suppose, knows the amendment that was adopted by the House of Representatives, which was altogether more stringent and more severe than this section which the committee of conference has reported, and in this modified shape we consented to report it to the Senate. To say that it is objectionable on account of its injustice seems to me to be taking ground

against that legislation which is necessary to secure the collection of the tax upon whisky.

The Senator from Nevada says that this system of espionage and presumption is contrary to our principles of public law. I had supposed that our legislation in relation to the collection of customs contained provisions of law very similar to what are contained in this section. Take our legislation upon the subject of smuggling. When a man is found in possession of goods that have been smuggled into the country the law presumes that he is guilty without a particle of evidence, and devolves upon him the necessity of proving his innocence.

Mr. NYE. Allow me to ask the Senator a question. Is there any law under the customs system that if one merchant be caught smuggling goods all other importing merchants in that city shall be closed up? If you can give me some such law as that I should like to see it. I know of no law by which other importers are to be closed because one man is caught smuggling.

Mr. WILLIAMS. No, sir; there is no such provision of law; but the Senator denounced this measure because it presumed that somebody was guilty without proof from a particular circumstance; and I referred to the case of smuggling as illustrative of legislation of a similar nature and effect. Of course the law makes no such provision as he says as to smuggling, because there is no parallel between that case and the case of selling whisky; but here the law proceeds upon the ground that where a man is manufacturing whisky in a place where it is selling for a dollar a gallon he does not pay two dollars tax per gallon upon that article and then sell it for one dollar. Is there any violence whatever in that presumption? I understand that where prosecutions have been carried on in some States that has been put to the jury as a circumstance of presumptive guilt, and the jury have found upon that evidence alone that the person charged with the illicit manufacture of whisky was guilty, because it is unreasonable to suppose that a man would lose a dollar and a half on every gallon of whisky that he made and still conduct his business and fill his coffers with money.

When was this discovery made that there are so many honest men engaged in the distillation of liquor? Sir, we expected to find in this body, from the discussions that have heretofore taken place, an assumption that nine tenths of these men were necessarily violating law and defrauding the revenue, for the arguments heretofore have proceeded upon that ground; and when we avail ourselves of a supposed opinion of the Senate that has been corroborated from every source of information on this subject we are met on every hand with declamation, or perhaps I should say with argument, in favor of these honest men, to whom the law ought to extend its protection, who ought to be regarded as engaged in the same lawful and praiseworthy business as any man who is engaged in manufacturing any other article.

But, sir, I do not know that it is necessary to say any more on this subject. I have made these suggestions and assigned these reasons for this report. I care nothing about the adoption or rejection of the report any further than I believe that if we are to have any revenue at all from whisky we must adopt some more rigid system than we have heretofore adopted, for every day the revenues are falling off; every day fraud is becoming more unblushing everywhere in the country, more defiant of law; and unless we take some step of this description we may as well make up our minds to give up all revenue from whisky. It is for the Senate to decide the question.

It is true—as allusion has been made to that subject I may speak of it—that the House of Representatives is perfecting a system of legislation upon this subject, an entire system from beginning to end; but the Commissioner of Internal Revenue, who is admitted by Senators

to be honest, while their arguments, as it seems to me, contain some reflections upon his administration of the office, esteemed it absolutely necessary that now, without delay, something should be done to save to the country some revenue from whisky; and it was under this imperious necessity that the House acted, and it is under this necessity that the Senate committee concluded to make this report. Now, if it pleases the Senate to reject it, very well. If they are satisfied with the present condition of things as to the revenue from whisky of course I ought to be satisfied; but it appears to me, taking everything into consideration, that we should try this experiment, and if it is found to be unprofitable, or inexpedient, or as unjust as Senators say, then the general law which is to be introduced may take its place.

Mr. NYE. We have learned now, Mr. President, the object of this legislation. By the declaration of the honorable Senator from Oregon its object seems to be to stop entirely the manufacturing of whisky, for a sufficient length of time, at least, to allow the Government to realize upon that stock which it has on hand that it has received by forfeiture; and he tells us that it is about twenty million gallons of that article.

Mr. WILLIAMS. I presume the Senator does not wish to misconstrue what I said.

Mr. NYE. Not at all.

Mr. WILLIAMS. I mentioned that as one reason for this legislation; but I say that the primary object is to raise the price of whisky in the market so that honest men can distill and sell for a price which will enable them to pay the tax and reimburse them for the cost of production.

Mr. NYE. I hold that such an object as that is unworthy of the consideration of the Senate for a moment. If the Senate is reduced to the business of regulating the sale of whisky, it has reached a point where I think it is engaged in smaller business than it would be in appointing masons and carpenters and blacksmiths in the navy-yards. No, sir; the only legitimate object of your legislation should be to collect the revenue upon the whisky made. That is the point; and I agree with the Senator from Indiana that the remedy lies in a different direction, and that the only possible effect of this measure would be to stop the manufacture of whisky.

Mr. President, I am no apologist for whisky frauds, and I have the same object in view that the Senator from Oregon has, to not only impose this tax but to collect it. The difference between us is in the means prescribed. I have the highest regard and respect for the opinion of the present Commissioner of Internal Revenue; I have the highest confidence in his integrity and honesty; but if he has given his opinion that this is the best means to produce that revenue I beg leave to differ with him, as I do with the honorable Senator from Oregon; and we are not bound by the simple opinion of any officer in regard to such a question.

I know enough of distilling to know that the largest distillers of this country are not at all concerned in the home market; I speak of the largest distillers in our cities; they never sell one gallon at home. Their supremacy lies in the superiority of the article they manufacture, at a large outlay of expense and a large advance of money to prepare for it. They manufacture a superior article to the ordinary distillers, so that they sell in a foreign market and can afford to pay the two-dollar tax and make money and conduct their business legitimately. That is well known. They manufacture the highest proof spirit that is taken to Paris, tax paid, and undoubtedly it comes back afterwards as French brandy through the manipulations of the French, and pays two duties; first a home duty, and then a duty when it comes back afterwards as an import.

Mr. SHERMAN. I am sorry to correct my friend, but the exported whisky never pays any tax at all.

Mr. NYE. I grant that; I was mistaken in

that; but those men carry on a legitimate business within the pale of the law.

Mr. SHERMAN. The whole amount exported is only about two million gallons, and nearly all of that is made in Kentucky and Ohio. The whisky made in New York is sold there.

Mr. NYE. The Senator from Ohio may be more familiar with whisky than I am. [Laughter.] I will not contest the palm with him on that point; but I do know of establishments in New York that manufacture more than any other distilleries there, which manufacture solely and alone for foreign markets; and whether it pays a duty or not, their business is legitimate at least; but this law would close them up. But the idea that there should be a policy on the part of this Government to stop a business already legalized by it, until it can dispose of the stock it has on hand, is, I repeat, unworthy of the consideration of the Senate, and should not, for one moment, enter into its contemplation. What, sir, are we to be told that because this Government holds a large stock of whisky which has been forfeited by the distillers to it, it is by solemn enactment to declare that no more whisky shall be manufactured until the commodity it has on hand to this large amount is sold? No, sir; it would be a species of legislation that would not be recognized by civilized communities. The imperial Government of France would not dare attempt it, nor the monarchical Government of England, to stop the legitimate business of individuals to make a market for property that had been forfeited to the Government.

My impression is, Mr. President, that the best way is to recommit this bill to another committee of conference, for I know that the honorable Senator from Ohio did not intend to tax the bread that the poor eat, and I know he did not intend to gather within the scope of taxation the large list of articles that have been exempt throughout the entire war. I know that while starvation is almost everywhere seen in our land he is the last that would understandingly introduce a bill to tax the very bread that the poor eat. I hope that the Government, while it is professing to be liberal in lifting the burden of taxation from the industries of the people, will not put it upon every mouthful of bread that the toiling millions have to earn by the sweat of their brow to eat. I think that every principle of prudence requires that a new committee should be appointed, or that the same committee, if you please, should review their proceedings and present to us, at least, a bill that will be acceptable and efficient and sure to reach the end desired.

Mr. HENDRICKS. Mr. President, I have observed that on some occasions the Senator from Nevada, [Mr. STEWART,] when he fails to meet an argument otherwise, will say that it is an argument in sympathy with the rebellion. A similar suggestion has been made by the Senator from Oregon [Mr. WILLIAMS] this morning. He says that if there be any opposition to what seems to us most absurd legislation that opposition is in sympathy with whisky dealers, and that no man is justified in holding any opinion in regard to a manufacturer of liquor except that he is a scoundrel and organized intellectually and morally only with a view to evade the laws of the land. If a man entertains any other opinion than that of a whisky dealer he sympathizes with that dealer in his frauds, I suppose!

Mr. WILLIAMS. The honorable Senator is at liberty to draw his own inferences from what I said, of course; but I made no such statements in reference to persons who sympathize with distillers or in reference to distillers. I said that Senators on this floor had denounced them as such in discussions that had heretofore taken place; but I did not say that any Senator who opposed this bill sympathized with those who defrauded the law, or anything of that kind. I think the Senator misconstrues what I said.

Mr. HENDRICKS. Mr. President, I put my construction on the Senator's language,

and will leave it just there, alongside of the language he used on that subject. My opinion is that it only requires the adoption of this proposition to make our laws on the subject of collecting revenue from whisky absolutely absurd and ridiculous. I have thought that much of the legislation was most objectionable, but I have not seen any proposition that lacked every merit, as I supposed, until this came.

Senators suppose that there ought to be as much revenue collected from whisky as if the production corresponded with that of the year 1860. I say that is absurd. Do Senators not know that the policy which has been adopted by the Government in the collection of a revenue from whisky has destroyed to a very large extent that interest? Do Senators not know that the production is very much reduced and that it is now impossible, because of the legislation itself, in connection with the conduct of some dishonest persons under that legislation, for an honest man to produce whisky?

I will tell you, Mr. President, what is necessary in order to have a proper system. It is necessary that we should protect honest men in the production of this article. In my opinion that can only be done by imposing a rate of taxation that every man will feel is right. I think everybody engaged in the business of the country knows that a tax of two dollars on the gallon of whisky is an unreasonable and an unjust tax. I feel it. That an article that costs but forty cents to produce should bear a tax of two dollars is unreasonable, and I believe that the failure to collect the tax is because it is an unreasonable tax. I have no doubt that at fifty cents a gallon we should have collected much more revenue, and there would have been much more whisky produced in the country.

I am not going to discuss to-day whether it is well that whisky should be produced. With that question Congress has nothing to do. With any question of morality in connection with the production of whisky, in my judgment, Congress has nothing to do. Congress has only to legislate with a view to realizing revenue from this article, and such legislation contemplates its production; and I think any man makes a mistake in legislating with a view to revenue by starting out with a proposition that whisky is an outlaw, that it is simply to be pursued and destroyed. Congress has no right to pursue it in that way, and only has the right to pursue it with a view of realizing revenue. I admit that it is proper in levying a tax to take into consideration the fact that whisky is not a necessary in most uses to which it is applied. It is a necessary for some purposes; but the larger amount of it produced is used as a matter of luxury; perhaps it would be proper thus to express it. Therefore it may be properly taxed more than articles of absolute necessity. Now, sir, the question for us to consider is what rate of tax ought to be imposed with a view to revenue, and I submit to Senators if we have not had experience enough on this subject.

In 1860 the production of whisky in the country was very nearly ninety million gallons, above eighty million. Indiana produced about nine million; Ohio about fifteen million; Illinois nearly fifteen million. What has become of this production? In Indiana, I suppose, there is not a million gallons produced. There was one large establishment, one very wealthy firm of very eminent and wealthy citizens, very honest and reputable men, that produced, perhaps, more than half the entire production of the State in 1860; and your legislation has driven them from the business; your legislation has left their large property unemployed; and the production now in the State is almost defeated, and you have but to pass this bill and there will be none produced in the State, I presume. If Senators wish that there shall be no revenue let them go on in this course; but if they want revenue let them tax the article at such a rate as the people feel it is right to tax it, and then they will have the support of the judgment of the country.

I have not a very extensive acquaintance with whisky producers. This particular firm that I have spoken of I knew very well. I respected them very much because I knew they were excellent men. They had their agents in almost every neighborhood of the State of Indiana buying up the corn. They bought corn by the millions of bushels in Indiana and Illinois, furnished a market to the people for their corn, and of course we came to know them well. And as they were most excellent men and very skillful business men, and in the legitimate prosecution of their business made very large fortunes, they had a commercial influence, a business influence, in that State. But, sir, they have been driven out of this business and into other pursuits.

Now, Mr. President, let us consider just for a minute this proposition. If whisky, in a particular district, for a period of ten days, shall remain below two dollars a gallon, then it is the duty of the Commissioner in Washington to order an investigation, and all the distilleries in that district shall be closed, upon the presumption, I suppose, that anybody who is then producing, the market being at that low rate, must be producing illegally in some way or other. How is that, sir? Can you not conceive of a manufacturer carrying on business when the market price of the article produced is less than the cost of production? Can you not conceive of the case of a cotton manufacturer having a very large amount of cotton on hand which he must manufacture into fabrics; that, although the price in the market may be below what it will cost him, he will go on and complete the manufacture of the material on hand? Can you not conceive of such a case? Can you not imagine that, rather than dismiss his many operatives, rather than leave his machinery idle, rather than leave his raw material unmanufactured, he would go on, trusting to a better market in the future? And can you not understand this case, that a distiller producing in large quantities shall, at the proper season of the year, send out into all parts of the corn-growing region and buy up millions of bushels of corn, and having it on hand and his machinery in working order, although for a while the price may fall very much, he would go on and manufacture that corn into whisky, although he might have to hold the whisky for a considerable period of time? Is it a presumption that a man is guilty of fraud because he will go on and manufacture that corn which he has already purchased with a view to a future and better market.

Mr. President, in this business there is another consideration that the Senator from Oregon seems to be ignorant of. A very important part of the profit of the manufacture of whisky is in the feeding of stock, mainly of hogs. Hundreds of thousands of hogs used to be fattened in Indiana at the distilleries; and it was regarded as a source of great profit to the distiller that he could use the material, after the alcohol had been extracted from it, in fattening stock. Now, suppose, that which occurs with every distiller, that he has purchased up hundreds of head of hogs and has them on hand; he must feed them; he is going on with his distilling, and some emissary of the Department comes into that district, ascertains that whisky has fallen below two dollars a gallon and that it has continued at that depressed rate for more than ten days: he comes to this distiller who is manufacturing the corn which he has purchased at the proper season of the year and which he has on hand, and he is fattening his hundreds of head of hogs, and this agent of the Department stops his operations, stops not only the manufacture of the whisky, but stops the supply of the food to the hogs which is relied upon, as I said before, as a very important part of the profits of the business. Why, sir, Senators that understand anything about the production of whisky and the other interests that are connected with it know very well that a distiller would not stop in the manufacturing of corn he had already

purchased and in the feeding of the hogs he had already purchased merely because whisky had fallen to \$1 90: he would not think of stopping; he would go on and complete the business that he had provided his supply for.

Mr. President, I was surprised that the Senator from Ohio should support a proposition of this sort, because he does know very well the practical inconvenience, the absolute destruction to men that a provision like this would be. Suppose that the distiller has two hundred thousand bushels of corn on hand; he buys that in the month of November, when it is cheap; and in the month of January he is manufacturing; and he has two hundred head of hogs that he is feeding from this corn after it is distilled; and the agent of the Department comes along and sees that in some town in that district, perhaps twenty, thirty, or fifty miles distant, they are selling whisky at \$1 90, and, therefore, this distiller must stop—upon what principle? Absolute ruin to the man is the result. There is no evidence of dishonesty on his part; but he must stop, and his stock go unfed, or he will be driven to the necessity of feeding and fattening with a much more expensive food.

Mr. President, I notice that a colleague of mine in the other House, Mr. NIBLACK, has signed this report. I desire, while it is being discussed, in justification of him, to say that this report is, to some extent, a modification of the proposition of the House; it is not quite so bad as that was; and my colleague felt himself justified in signing the report, inasmuch as he simply represented the will of the House; and as the bill which comes back to us from the committee of conference is somewhat less objectionable than the House bill he felt authorized to sign it. He had better not have signed it, in my opinion; though I recollect that upon one occasion I was on a committee of conference—

Mr. SHERMAN. I would ask my friend if Mr. NIBLACK told him that; or is it only his own inference?

Mr. HENDRICKS. I think I am stating it from a conversation with him.

Mr. SHERMAN. I do not feel at liberty to state what occurred in the conference, and therefore I will not go into it.

Mr. HENDRICKS. I asked Judge NIBLACK how he came to sign it, and he said he was opposed to the bill of the House, but the report of the committee of conference was less objectionable, in his judgment, than was the House proposition; and I understood the Senator from Ohio to say that the bill is not so extreme in its provisions now as it was as it came from the House. But I was going to say, Mr. President, that upon one occasion I was upon a committee of conference, and the report of the committee was very objectionable to me, but the two Senators associated with me on the committee decided in favor of that report, and I thought it was rather an administrative or a ministerial act for me to sign the report with them, and that it was my duty to do so; and so I signed the report, although I voted against it when it came into the Senate and was very much opposed to it. So much, sir, for my colleague who has signed this report. I know this style of legislation is not agreeable to him, as it is not to myself.

Mr. President, I do not believe the remedy is to be found in meters or in any machinery whereby whisky shall be measured; I do not believe it is to be found specially in condemning the whisky or in sending the manufacturer to the penitentiary. I believe the remedy is in the modification of the law so that everybody will feel that the tax is just. When you bring it down to one dollar or fifty cents on the gallon you will have a more efficient administration of the law and more revenue; and I do not look for it before that time. When the inducements to evade the law are so very great it will be evaded, and the honest men who are engaged in the business ought not to be punished merely because there are dishonest men engaged in it. What a remarkable propo-

sition it is that all the distilleries of a district shall be closed up at one time, whether they are all involved in the evasion of the law or not.

Very well said the Senator from Nevada that if one importing merchant shall bring in his goods without paying the duty all the importers must have their houses closed up, according to the logic of this proposition. That is the principle of it. It is not right, of course. If Senators think they are justified in voting to destroy the business and stop it on moral grounds that is another question; but when you are legislating with a view to revenue you must contemplate the production of the article taxed and deal with it as you would by law with any other article, justly.

Mr. MORRILL, of Maine. Mr. President, I do not rise to discuss the general character of this bill, but to notice a single observation that has fallen from the Senator from Indiana, who has just taken his seat; and I do it the more because the remark to which I refer has been so often repeated here and has so often arrested my attention that I think now I am justified in making an observation or two in regard to it. I allude to the proposition that this tax is unjust in that it is too high, and that the remedy is not in new provisions of law for more stringency and efficiency, but in an appeal to the moral sense of the manufacturers of whisky and in imposing a tax which shall be recognized by their moral sense as just, and, therefore, addressing itself to their magnanimity, that they will pay it because it is just, when they would not pay a high tax because they think it onerous.

Mr. President, I agree entirely with that Senator that, as a legislative body, we have no control over the question of the manufacture of liquors in the several States. Whether the States shall allow their citizens to manufacture whisky or not is not a question over which we have any control. If it were I should think that it was sound policy to prohibit the manufacture of it altogether. I would hold that it would be the wisest thing for this country to do to say it is a positive immorality, and it is so productive and so fruitful of pauperism and crime that it is not a fit thing for this nation to allow it to exist. I would say that it was an unfit and an improper thing for the Government of a great country to participate in it at all as a question of traffic; that we should be wise if we would gather no revenue whatever from it, and say that we would not countenance the manufacture or the traffic in ardent spirits, or in whisky, if you please, as a matter of profit for the purpose of replenishing the Treasury; and I would rejoice if my country and my countrymen would, if they had the power, look at it as a moral question and say, as a matter of morality and as a matter of sound policy, we do not encourage the manufacture of ardent spirits as an article of traffic. But I agree with the Senator that we have no such control over the subject; that it is a matter which belongs entirely to the States.

But, sir, when you come to levy a tax on the manufacture, when you come to the question of how much tax you will impose on it, I maintain that you have a right to consider the morality of it, to use the language of the honorable Senator from Indiana. I maintain that we have a right to take notice of the fact that this article is manufactured in the States, and we have a right to inquire of ourselves whether we will encourage or discourage it, so far as the tax is concerned. We do that in regard to all our manufactures. We lay our external revenue taxes, our imposts, and also our excises with reference to the encouragement of those articles which are by common consent of mankind, articles of necessity, and on those articles which are articles of luxury, we lay a heavy hand. So here. This distinction runs exactly in this line. This article of whisky is not an article of necessity by the general consent and judgment of mankind. Therefore, we have a right to lay the heaviest duty possible upon it. We have a right to say

that if the States will allow the manufacture of whisky, if they will allow an article of prime necessity for the people, the bread, the staff of life, to be converted into an article which poisons the people and which is the frightful source of pauperism and crime, we will lay the heaviest possible tax which the case admits of upon it.

What is the answer to that? "You cannot collect it." Why? The persons who are engaged in this business, the assumption is, will be honest with a tax of fifty cents, and they will be very dishonest if the tax is two dollars! Sir, that is not the theory of the law. You do not base your laws upon such a theory as that. You hold that the citizen is to pay such a duty or such a tax as the Government sees fit to impose upon him.

Mr. HENDRICKS. I will ask the Senator this question: whether it has not been for a very long time the policy of the Government to impose no duties on diamonds, for instance, for the reason that it was so easy to evade the law by smuggling, and that the temptation to evade it must be considered?

Mr. MORRILL, of Maine. I suppose that is so; but my honorable friend would hardly think that a parallel case.

Mr. HENDRICKS. The Senator does not state my position exactly right. I did not say that a man was necessarily dishonest with the tax at two dollars and honest if it were at fifty cents. I said that the tax of two dollars held out so great an inducement to an evasion of the law that it ought to be expected.

Mr. MORRILL, of Maine. Certainly the honorable Senator did not say that in words, but he said the remedy, our relief was in placing this tax at fifty cents. Why? He said men would pay the tax at fifty cents and would not pay at two dollars. What is the implication? Of course, that they would not seek to evade the law if you give them the terms they desire.

Mr. HENDRICKS. They would not run the risks.

Mr. MORRILL, of Maine. They would not run the risks. I think that is the inference, of course. Now, Mr. President, is it true that this tax cannot be collected? Is that the experience? It is the experience, I admit, that it has not been; but why has it not been? I have not examined the subject particularly, but from what I have observed, and what I have heard here, and of the debates in the other branch of Congress, it is because the law has not been faithfully administered. That is the difficulty. I understand it is true that in other countries where similar provisions prevail, there is no difficulty in collecting this tax. If I am correctly informed, in Great Britain, perhaps in France, and some other countries, it is as high, and I think higher than it is here. Why, then, should this be an exceptional case?

Mr. HENDRICKS. It is \$2 50 in Great Britain.

Mr. MORRILL, of Maine. Two dollars and fifty cents in Great Britain, and it is collected, and collected unquestionably without difficulty. Why? Simply owing to the administration of the law; that is all. Is it practicable to administer the law here so as to collect it? I can understand, owing to our widely-extended country, and owing, perhaps, to the lax condition of the police force of the country that we encounter greater difficulties here than are encountered in England, France, and the other States of Europe; but it does seem to me that it is very obvious that the remedy is not what the Senator from Indiana supposes.

Mr. HENDRICKS. Will the Senator allow me to make a suggestion?

Mr. MORRILL, of Maine. Certainly.

Mr. HENDRICKS. I said the tax was \$2 50 in Great Britain. I did not wish to be understood as admitting that the tax was no more here than there, for the reason that I presume the production of whisky in England costs very much more than it does in the western States of the United States. I think it is mainly manufactured out of much more costly



grain, and perhaps it would cost, instead of thirty or forty cents, as with us, a dollar a gallon to the manufacturer. Therefore, the tax is not so great on the article there as it is here.

Mr. MORRILL, of Maine. I only rose to say what I have said, that I do not believe the remedy lies in the reduction of the tax. The Senator from Indiana [Mr. MORRISON] made an observation that I think contains the solution of the whole question; and that is, make your penalties personal; let them apply to the person; subject the person who violates the law to the pains of imprisonment, and you will reach a remedy that will be conclusive.

Mr. SHERMAN. The Senate does not seem to think it is necessary to come to any vote on this question, and so I propose to indulge in the general latitude of debate which has been opened by other gentlemen.

Mr. MORRILL, of Vermont. I hope we may reach a vote at once. It is now three o'clock, and if we intend to act upon this bill at all we must dispose of it this afternoon.

Mr. SHERMAN. If I thought there was the slightest prospect of getting a vote within two hours I would not say a word.

Mr. FESSENDEN. I think we are ready to take a vote now.

Mr. SHERMAN. I desire to reply to a few things that have been said in this debate. I will not reply to all the various questions about whisky that have been discussed here; but I will reply to one or two things that relate to this particular amendment. If we can get a vote, I only desire to occupy the time of the Senate for about five minutes; but if not, I want an hour or two, because it seems we have got to discuss the entire question of the whisky tax.

Mr. MORRILL, of Maine. We cannot pass the bill in time unless we dispose of it to-day.

Mr. DAVIS. I ask the honorable Senator from Ohio to permit me to say a word. The Senator from Vermont cannot surely expect me to be so recreant to Bourbon whisky and Bourbon distillers as not to say something in their defense.

Mr. SHERMAN. I will not carry out the purpose that I had when I rose, which was to enter into the general debate. I shall not discuss the question whether the Commissioner of Internal Revenue ought to be invested with the power to settle suits, or the question whether a tax of two dollars is too much or too little; or whether there is some other mode that may be devised by human ingenuity to prevent frauds. All these are very interesting questions, and at the proper time I shall be perfectly willing to discuss them. I rose to give my views at length on the subject; but I shall not do so now. I have studied the question a great deal, and thought of it a great deal, and have been concerned more or less in making these laws; but the subject is too great, I think, to be fully considered this afternoon.

This bill is to take effect on next Wednesday. It relieves taxes from a multitude of industrial occupations. The whole country is anxiously expecting it to pass. It passed the House without a division; it passed the Senate with but three votes against it; so that I think both Houses of Congress desire it, and I know the people desire the passage of this bill. Now, the only question is, whether in this, its last stage, in this, its last vote, the bill is in a shape to command the judgment of the Senate. It is no longer open to amendment; no amendments can be proposed; and the only question is whether there are such defects in the bill now as will justify Senators in voting against it. As a matter of course, however, by refusing to confirm the report of the committee of conference and letting it go over, you can have another conference.

But, now, let me examine the objections that have been made to this report of the committee of conference. We entered into this examination entirely without any feeling in regard to these various questions. Every amendment of the Senate was concurred in without substantial modification except one; and here I must confess my regret, and, for the time being, my

pain, that the Senator from Vermont found an objection to that section, although he himself was the most in favor of the section, and my impression is, assented to it, voted for it, and perhaps partly dictated its terms.

Mr. MORRILL, of Vermont. Will the Senator yield to me for a moment?

Mr. SHERMAN. Certainly.

Mr. MORRILL, of Vermont. I desire to say in relation to the tax on sales, to which the Senator now refers, that the fact that that would include manufactures of lumber, bread-stuffs, and the various articles which are never taxed, did not occur to me until I read the report this morning; and I am as much in fault as any member of the Committee on Finance in relation to it.

Mr. SHERMAN. Now, I will relieve the Senator from Vermont from all trouble on that account. There is now no tax on the manufacture of lumber, the manufacture of flour, &c., but there is a tax on every wholesale dealer who sells flour; there is a tax on every retail dealer who sells flour; there is a tax on every man who passes it through his hands; and that tax is one half the tax we now propose to put upon the manufacturer. Now, let me see what great bugbear this is. What is the tax imposed by this bill on a barrel of flour? Two cents. That is, if a miller should make more than \$5,000 in the course of a year, on a barrel which is worth ten dollars, (which is above the average price, taking the United States at large, and a little less than its present price,) the tax is two cents a barrel, and that is paid by the miller. It is a tax of less than two per cent. on his tolls; yes, less than one per cent. on his legal tolls. The tolls are, I believe, one eighth or one tenth; so that it is a tax of two per cent. on his tolls. And now we are to pause in this last stage of this bill in order to make a discrimination in favor of the miller of two cents on a barrel of flour; and unless we do that we are subjected to the imputation of my friend from Nevada, [Mr. NYE,] that we are taking the poor man's bread. Why, sir, we tax the poor man's bread now. He cannot buy it from any dealer without paying a tax of one half the amount we now impose upon him. Is it wise to continue this effort of making discriminations merely to follow this thing down to a little, narrow tax of this sort? There is not a consumer of a barrel of flour in the United States of America that is worthy of the name who would object to this insignificant tax, and demand that, to save him two cents on his barrel of flour, we should make an exception in his favor. It does not operate against him at all, but only operates against the miller who is employed.

I heard the objection made in conversation that it would affect live cattle, &c.; but I find by reference to the internal revenue act that it does not. It only affects those defined as manufacturers, and it does not affect any of those who deal in various other articles, live cattle, &c. It is perfectly plain and manifest; we amend one single paragraph of a single section by inserting a tax on manufactures, just as we do with the dealers, and insert it in the dealers' tax. We now tax dealers one tenth of one per cent., and this would be a tax on manufacturers of one fifth of one per cent. By this bill we relieve the manufacturers from all other taxes. Should the manufacturers be entirely exempt from all tax, and a wholesale dealer, a retail dealer, a druggist, and everybody else be taxed by a special tax? Not at all. There is no reason in the world why they should not pay their fair share of tax; and as we have it now arranged by the assent of both the Senate and the House, it having been agreed to by both Houses, the tax is perfectly insignificant. As this manufacturers' tax passed the Senate, it was only imposed on all sales above \$10,000. The House, however, changed it to \$5,000, on the ground that there were a multitude of manufacturers whose productions were between five and ten thousand dollars who might pay this insignificant tax. How much is it? Suppose a lumberman conducts a business to the amount

of \$25,000, which is a pretty large business for a lumberman; or suppose a miller conducts a business to the amount of \$25,000, and that is a pretty large business: you deduct the \$5,000; and what is his tax? Forty dollars on a mill the actual production of which is \$25,000. Why, sir, it is a perfectly insignificant tax, scarcely worth naming; and yet it will yield us about ten million dollars in the aggregate.

Now, Mr. President, I come down to the whisky tax. I regret, I am frank to say so, that the House put on this bill this provision in relation to whisky. I would have preferred that they had not done so; but let me say, in justice to the House of Representatives, that they did not put it on without the earnest demand and desire of the proper officers of internal revenue; and that was made known to me as well as to the House. My friend from Maine [Mr. FESSENDEN] criticised some remark which he said was made by the chairman of the Committee of Ways and Means of the House. I have nothing to say in defense of such a remark as that, if he correctly reports it. I think the chairman of that committee will find he has a "hard road to travel" before he gets through with revising the internal revenue laws, if, indeed, such a remark was made. But this section cannot be charged to any particular member of the House nor to the House itself. It is the amendment of the Commissioner of Internal Revenue, urged upon both the House and the Senate day by day; and why? The Commissioner says he is now utterly powerless to collect the tax on whisky; that the distilleries are running in open defiance of law in all the large cities of the Union; not in the country, because there he can control and watch them; but in all the large cities of the Union they are conducting this business in open defiance of law. The distillers are carrying on their distilleries and selling the whisky at one half, or a little over, of the tax levied upon it. How it is done we do not know. There is fraud somewhere. We know that no honest man will run a distillery and pay the tax of two dollars a gallon and sell it at a dollar and a half. It is utterly impossible. The man who would do that is either a fool or a lunatic, or he is a cheat. The very fact that he is willing to manufacture and go on day by day to manufacture whisky when he knows he cannot sell it in the market for more than one half the net cost to him is evidence that he expects to make up that difference by fraud. Now, I say, when you take that palpable fact and show that to have existed for ten days consecutively there you have plain and palpable evidence of fraud, of an attempt to defraud the law; and upon that fact you ought to close his distillery.

What harm can result if this amendment is adopted? The distilleries will be suspended for a time in certain districts in the cities. I do not think it will interfere with my friend from Kentucky, who is anxious about his Bourbon whisky, for that sells now in the market at three, four, and five dollars in some cases—from two to five dollars a gallon. It will not affect the small distilleries scattered through portions of Pennsylvania and Ohio. Most of them have been wound up on account of the competition of fraudulent whisky. There are scarcely any of them going. It will operate mainly in the cities, and enable the Commissioner of Internal Revenue to seize and close the distilleries there. Suppose he does it; what harm is done? The result is that it stops the manufacture of whisky for a time; it suspends the operation of the law for a time, at a season of the year when it may be done, when there are no hogs to fatten, no corn to feed them; when the ordinary operations of the distilleries are suspended as a matter of course; at a time when they are usually cleaned out. My friend from Indiana, I suppose, knows something about distilleries.

Mr. HENDRICKS. Not much; but that would not stop them.

Mr. SHERMAN. They design to stop them about now.

Mr. HENDRICKS. But this would stop them when they were going ahead.

Mr. SHERMAN. The ordinary course of the distillery is to stop about this time, and wait until the next corn crop to go into full play again.

Mr. DAVIS. About the 1st of June the big distilleries stop.

Mr. HENDRICKS. I thought you referred to the action of the Government itself.

Mr. SHERMAN. Oh, no. I say the distillers, as a matter of course, stop about this time; my friend from Kentucky says about the 1st of June; but I think generally in the spring of the year they stop and suspend operations until the next year's corn crop comes in, and they commence feeding hogs again and distilling whisky. That was the old-fashioned way of doing the business. But now whisky is manufactured out of molasses in little stills that could be put in the desk of my friend from Missouri, distilled from molasses in a cellar, under a livery stable; in every nook and corner of a great city; and there are now hundreds and hundreds of these stills working daily in the city of New York. They pay a license and they go on. Their stills are there. They are legalized. There is no power under the present law to stop the distillation of spirits. Now, all that this measure does is to authorize the Commissioner of Internal Revenue to suspend their operations. In the first place, they are required to suspend when the market value of the whisky is such as to indicate a fraud in its manufacture. Then power is given to the Commissioner to relieve them from these liabilities. It seems to me, therefore, that Senators will find nothing in this bill which should alarm them. If they will take it up and read these sections and apply them to the facts stated in these sections, they cannot find anything there that could be very injurious for two months. In the meantime, as we are informed, the House of Representatives are engaged in revising this whole internal revenue system, codifying the laws, presenting a new system. I do not know that we shall be able to agree upon the basis of that system. I do not know that we shall be able to agree about the mode and manner of collecting the whisky tax. I have my own ideas on that subject, which I could give to the Senate for an hour or two. I could make an answer to the Senator from Indiana [Mr. MORRIS] about his joint resolution that I think would silence him in about two minutes; but I do not want to go into that discussion.

Mr. EDMUNDS. If you can do it in that time let us have it.

Mr. SHERMAN. No; I do not want to go into the discussion at all. I will state now that the power to settle suits is confined solely to the Commissioner of Internal Revenue. The collector has no power over it. It is all on page 27 of the compilation of internal revenue laws. The district attorney is bound to report to the Commissioner of Internal Revenue and obey his orders. If there is anything wrong it is in the Commissioner of Internal Revenue or the Secretary of the Treasury. There is no subordinate or divided authority. It may be done by the district attorneys under the general authority to enter a *nolle prosequi*; it may be done by the directions of the court, who may order the entering of a *nolle prosequi*. It may be done in that way by your judicial officers, but not by any collector; and it is necessary to have this power somewhere.

There was one thing in the argument of my friend from Indiana that struck me as very surprising. He was very anxious that you should not conclude against the distiller merely because he ran his distillery when it would not pay; that it was not fair to draw a conclusion against him and seize him on that account without giving him an opportunity to explain; and yet he would take away from all officers of the Government the power to settle a suit, even if the explanation showed that there was no guilty intent, no purpose to defraud, and no actual fraud committed. It is utterly im-

possible to consider the proposition of the Senator from Indiana without soon raising objections to it; and that is the difficulty. If you take up these various propositions you will find that the argument will go to an indefinite extent, and we shall arrive at no conclusion.

This bill is in a stage where we must either take it as it is or send it back to another committee of conference. If Senators have made up their minds that it is best to divest this bill of questions about whisky all they have got to do is to say so, and it can be very easily done; but if not, then, as a matter of course, they had better take the bill as it is. The House conferees may, at the next conference, abandon this section; the House may be compelled to abandon it; but my own opinion is that the bill as it stands will work no substantial injury to any interest whatever; that it will have an immediate effect of preventing the fraud in the distillation of spirits, and will yield us a large revenue by securing at least our hold upon that which is now in bonded warehouses. But if Senators think differently let them so vote.

I close my remarks by an appeal to the Senate to let us have a vote on this question and decide it one way or the other, so that we may get through with this bill to-night if possible. If not, I do not know when it will take effect, when we can pass it.

Mr. FRELINGHUYSEN. Mr. President, there is one feature of this bill that commends itself to my judgment; and that is, that it puts it in the power of the Government officials to close all the distilleries as soon as this bill is passed. The other feature of this bill, that they shall be permitted to go on for eight or ten days, does not commend itself to me; but what possible injury is done by having all the distilleries closed as soon as this bill is passed? No person who is honestly engaged in the manufacture of liquor has his distillery running now. It is, as has been said, absurd to suppose that a man will pay two dollars tax on whisky and then sell it for a much less sum. There may be persons who are honestly engaged in manufacturing for the purpose of selling hereafter, not removing it from their distilleries; but their number must be very small, if there are any. This legislation is in aid of such a person; because, by stopping the distilleries, it tends to raise the price of what he has in store; and there certainly is no impropriety in stopping all distilleries that are engaged in dishonestly manufacturing whisky. Therefore that feature of the bill I am in favor of.

The suggestion of the Senator from Maryland, that this is an *ex post facto* provision, I do not think is well taken. Where persons are engaged in violating the law it is not *ex post facto* to pass a law that they shall stop the manufacture altogether. Besides, I look upon this as a temporary measure. The attention of Congress is about to be engaged in other matters than legislation, and if we do not pass this bill now perhaps for weeks and months these distilleries will be engaged in flooding the country with this illicit manufacture. And besides that, in all probability, if we do not adopt this amendment, we shall lose the relief bill to the manufacturers of the country. For these reasons I am in favor of adopting the report of the committee of conference.

Mr. DAVIS. Mr. President, I am very much impressed with the belief that the subject of whisky, from its extent and difficulty and the amount of revenue which it produces to the Government, ought to be made the matter of a special law. I believe it would be for the interest of the Government and of the manufacturers of whisky, and of the country generally where grain is sold to the manufacturers of whisky, that the whole subject should be matured in a single bill; and I would be very much gratified, myself, if gentlemen would come to that decision.

But, in relation to the matter now under consideration, I will inquire of the honorable

Senator, the chairman of the Committee on Finance, if the subject of whisky was attached to the bill under consideration before there was any difference between the two Houses.

Mr. SHERMAN. Oh, yes; there was nothing about whisky in the bill until it went back to the House with the Senate amendments; but they attached to our manufacturers' amendment, as it is called, several other amendments, and then this provision about whisky, for the first time.

Mr. DAVIS. There was a disagreement between the two Houses in relation to manufacturers?

Mr. SHERMAN. And several other matters.

Mr. DAVIS. And whisky was added after that disagreement had arisen?

Mr. SHERMAN. No; there was no disagreement at that time. The Senate made its amendments, but that was no disagreement. The bill went back to the House with the Senate amendments, and then the House amended our amendments and added this proposition in the third stage.

Mr. DAVIS. There was, of course, a disagreement between the Senate and the House to the extent that the Senate made amendments to the House bill.

Mr. SHERMAN. Yes.

Mr. VAN WINKLE. The House of Representatives agreed to our amendments in relation to the tax on manufacturers' sales, with an amendment embracing two new sections on an entirely different subject from any contained in the bill.

Mr. DAVIS. Yes, sir. The matter as it is presented after this explanation shows that the committee of conference had no jurisdiction to take cognizance of the subject of whisky. As I understand the rules of parliamentary proceeding, it was improperly ingrafted upon the bill at a time when there was a disagreement between the two Houses in relation to some propositions, and when, according to parliamentary law, the committee of conference had cognizance only of the matters that were then in disagreement between the two Houses.

Mr. VAN WINKLE. The section was introduced and passed in the House of Representatives before the bill went to the conference committee.

Mr. DAVIS. That I understand; but the parliamentary law in relation to committees of conference is that it is only upon points in regard to which the two Houses have disagreed that a committee of conference has any jurisdiction; because, otherwise, the provision of the Constitution that a bill shall be read three several days in either House, if it be required, and the further provision of the two Houses that there shall be entire freedom of debate upon all propositions, and not only of debate, but of vote, a vote of acceptance or rejection, would be violated by this illegitimate mode in which committees of conference for the last few years between the two Houses have acted in relation to all subjects. It is a provision of the Constitution that bills shall be read three several times on as many days, unless that provision be obviated by the consent of the two Houses; and, in relation to all amendments that are legitimately offered to bills in the House and in the Senate, there is not only the freedom of debate, but a perfectly free vote. Now, sir, from this clandestine manner—and I use the word in no offensive sense—in which subjects are ingrafted upon measures by committees of conference, both the freedom of debate and the right to take separate and distinct votes upon each proposition are defeated; and that, of itself, in my judgment, is a sufficient ground for the rejection of this report of the committee of conference. There has been no opportunity to take a separate and distinct vote in the Senate in relation to this whisky proposition. According to the rule in relation to all reports of committees of conference you cannot divide the report; you cannot take a vote upon one feature or pro-

vision of a report of a committee of conference disconnected from the whole report; but you have to vote upon it as an entirety; and in this way the benefit of discussion, and especially the privilege of a separate and distinct vote, is denied to the Senate; and that, I maintain, is a sufficient ground for the rejection of this report.

But, Mr. President, it seems to me that there is a plain, practical principle upon which all the legislation of Congress in relation to the tax upon whisky might have proceeded, and which has been violated by the system as long as it has been in operation. It seems to me further that the experiences of the present mode of levying and collecting taxes ought to have induced the abandonment of the principle upon which this legislation has proceeded long since. That principle is to impose the tax upon the amount of whisky that is distilled of a particular proof, and to have a very complicated and difficult system of assessing and collecting the revenue, and numerous officers to discharge those duties. I suggest to the honorable chairman of the Committee on Finance, in my judgment, a simple principle by which this complexity and difficulty of the system and its liability to fraud and evasions may be obviated. The capacity of every distillery can be computed with almost mathematical certainty. Men who are experienced distillers require but a few days of experiment to compute, with almost perfect exactness, the capacity of every distillery, be it a steam distillery or a copper distillery. If that position be true it furnishes a simple rule by which the whole system of taxation might be imposed. Impose a tax upon the distillery according to its capacity to produce liquor, and require the distiller to pay it.

If that system was resorted to it would be almost impossible to perpetrate frauds by the distillers; and it would greatly simplify the system, lessen the number of officers to carry it into execution, and, of course, decrease their salaries in the aggregate and greatly diminish the opportunities for fraud and evasion. It would require, in truth, but two officers—an assessor and a collector. One officer would go to a distillery; he would compute its capacity, and the tax would be assessed, if you please, payable weekly, or daily, or at any short period that should comport most with the certainty of collecting the revenue. I do not see any objection whatever to the adoption of that principle.

Mr. President, in my section of the country there are a great many distilleries. With the exception of three or four large establishments, they are generally engaged in what is called the copper distillation of whisky. They make the very best article that can be made. They fear no fair competition; but they are undersold in the market; and by whom are they undersold? By the distillers, or the purchasers of whisky that is distilled without the payment of tax. The distillers in Kentucky desire, if this system is to be continued, that the rate of taxation shall be inexorably collected from every distiller. They are willing to cooperate; they are willing to give their consent to any system of taxation that will certainly and infallibly collect the tax from the manufacturer of the article. It is the fact that other manufacturers of whisky evade the payment of the tax, and by that means carry their article into market and undersell those who honestly and fairly pay the tax upon the whisky, to which the distillers of Kentucky take the most exception, and which is, in truth, the great danger that they have to encounter in the manufacture of whisky.

But the honorable Senator from Ohio stated distinctly a few days ago that the object of the present system was to suppress small distilleries wholly; that in a very short time the distillation of whisky would be in a few hands. I think he stated that the number of big distilleries now was only about fourteen, and that this system of having meters to test the proof of the whisky, some of which cost \$2,000,

would soon drive the small distillers entirely from the business, and would monopolize it in the hands of a few large manufacturers. That system ought not to be encouraged; it ought not to receive any favor. I agree with the honorable Senator from Indiana [Mr. HENDRICKS] that the revenue system of the United States ought not to be founded upon any such principle as that. Instead of seeking to suppress all over the country, not only in small but in moderate establishments, the manufacture of the article wholly, and causing it to be manufactured by a few wholesale manufacturers, in whose distilleries frauds take place so extensively as to defraud the revenue of about three fourths of the amount that should be collected from the tax; if Senators would adopt a system that would distribute the manufacture of this article over the whole country and confine it to men whose distilleries had a capacity of one or two or three or four or five barrels a day, instead of producing a monopoly for the big distilleries that make from fifty to one hundred barrels a day, there would be an infinitely less amount of fraud; you would receive more revenue, and you would have a greatly superior article of manufacture. Men will drink whisky; there is no way of trying to prevent it; and Congress ought not to legislate so as to impose upon them a poison instead of the pure article. If those who use whisky were poisoned, in a few days or in a few months this great and fruitful product of revenue would entirely cease to be manufactured. If you want to increase the manufacture of whisky or to keep it up at its present amount, you must keep up the number of consumers. The number of consumers would be perpetuated by the wholesomeness and salubrity of the article, not by its being merely red-head, rot-gut, or anything of that kind. The honorable Senator from Oregon, I presume, even to sell the stock which the Government has in bond, would hardly be willing that that stock should be of the qualities to which I have made reference, because it would kill the consumers, or at least a large portion of them, and would reduce the capacity to use the article. There is no manner of doubt about that.

But the honorable Senator from Indiana struck the true principle. This tax is so enormous, so unjust, and so oppressive that no man feels that it is turpitude to evade its payment if he can. When legislation becomes unjust and oppressive, and when it assumes the principle of putting down all fair competition and of securing monopolies to large manufacturers, and in that way does injustice to a vast number of the community, the people lose their sympathy and respect for such a system; and, instead of feeling that they are subjecting themselves to any dishonor or to any turpitude by evading the payment of such taxes, they feel that they have a right to defeat the imposition of such taxes upon them by any mode that they can make successful. It is, then, only by the punishment of frauds upon the revenue and by making them degraded and infamous that you can create a personal motive with men to abstain from an evasion of the payment of the tax. There is no greater truth than this; and it is proved by all experience that where taxation is enormous and excessive you multiply the propensity and the inventions for the evasion of that taxation.

If you want your revenue collected fairly, with facility, and without fraud, you must reduce the tax to a reasonable amount. You must make it just, according to the sentiment of the country. You must not legislate with a view to suppress a particular business by one class of manufacturers, and throw it as a monopoly into the hands of a few others. You must have an equal, fair, and just system of taxation, and to have such a system as that you must do away with your costly meters, which a distillery of the capacity of two or three barrels a day cannot afford to pay for. You must have a simple system; and that simplicity can be secured, according to my belief and what little knowledge I have of the subject,

by imposing a tax upon the capacity of each distillery without regard to the quantity or proof of the liquor that is made. Ascertain how much each distillery has the capacity to produce, send an assessor there to assess it according to its capacity, and then send your collector and collect the tax according to its capacity.

My friend from Missouri [Mr. HENDERSON] has furnished me with the gross amount of whisky tax collected in five years. In 1863 it amounted to \$3,229,997. The tax then was but twenty cents a gallon, and only for a short period of the year. In 1864 it was raised to fifty cents, and I believe for a part of the year it was a dollar. I do not recollect certainly whether the dollar tax went into operation during any part of the year 1864 or not; but in that year, when the average tax was fifty cents or less, the aggregate amount collected was \$28,231,997.

Mr. HENDRICKS. At what rate of tax was that?

Mr. DAVIS. Twenty cents, fifty cents, and perhaps a dollar for a part of the year 1864; but if so, only for a small fraction of that year. I have no doubt, without having made an estimate, that the average rate of tax levied upon whisky in 1864 was under seventy-five cents, at any rate; and yet the gross product of the tax was upward of twenty-eight million dollars. In 1867 it was something over twenty-eight million dollars; about two hundred and fifty thousand dollars more than it was in the year 1864. In 1867 we were under the two dollar tax system. It was estimated upon the best information that in 1867 there were about ninety million gallons made. The amount of tax was only a little over twenty-eight million dollars; a tax upon only fourteen million gallons and a fraction of whisky. There were five times as much whisky made in that year as paid any tax. This is the grievance, and the point of the grievance of my constituency who are interested in the manufacture of whisky.

Mr. HENDRICKS. Let me ask the Senator who makes that estimate that ninety million gallons were produced in 1867?

Mr. DAVIS. It was made by the Commissioner of Internal Revenue, was it not?

Mr. HENDERSON. Yes, sir.

Mr. CONKLING. By the Commissioner of Internal Revenue and the Special Commissioner of Revenue, both.

Mr. HENDRICKS. I do not believe myself the production was more than half of that.

Mr. DAVIS. I was struck by a remark of the honorable Senator from Indiana. He spoke of the decrease in the manufacture of whisky in Indiana. Now, it occurred to me, and I believe it to be true, that the decrease was not in the aggregate product of the article; there was only a change in the section of country that produced it. The number of distilleries has greatly increased in some of the cities, especially in New York and Brooklyn. The whisky that was formerly manufactured in Indiana, and a portion of it in Kentucky, that was the pure and genuine article, was diminished in its manufacture there, to be transferred to the greater production of the distilleries of the cities where the inferior and adulterated article is produced. I believe, from everything I have heard, that there was as much whisky distilled in 1867 in the United States as there was in 1860; but it was made in different localities; it was a different, inferior, and pernicious article; and instead of paying a tax upon all that was made, there was not a tax levied upon more than about one fourth or one fifth of the quantity that was made. I believe that if the rate of taxation had been fifty cents, and it had been collectable from the distiller at his place of manufacture, there would have been something like double the amount of revenue produced from whisky last year that was collected and paid into the Treasury.

I cannot doubt, myself, I do not doubt, that it is a perfectly easy and accurate mode of levying a tax upon whisky to tax the capacity of every distillery; and when you have done that



you have so simplified the system and reduced the number of officers necessary to assess and collect the tax that there will be little or no evasion or fraud in the collection. If you choose to make it at the rate of two dollars a gallon, be it so; but have a system that will collect the revenue equally from the dishonest, or those who are disposed to be dishonest, as from those who are honest.

The honorable Senator from Oregon takes it for granted that every distiller is a knave. I dissent entirely from that proposition. I know the distillers in my region of the country, and they are men of as much truth and rectitude as the rest of society. They are not tempted there to go into frauds as they are in large establishments. Why? As I said once before, in the congressional district in which I live, with the exception of four or five distilleries, the whole of them are of moderate capacity, and are what are called copper distilleries. There was, in the month of December, if I recollect aright, about one hundred and forty-seven thousand dollars of revenue collected from the distilleries of that district. Much the largest portion of that revenue was collected from the numerous small copper distilleries that exist and operate in that part of the country. These men are willing, if you will, to encounter the system of revenue at two dollars the gallon, but they want Congress to impose it so that each gallon of whisky, whether made by a small or a large distiller, whether by a steam or copper distillery, shall be required to pay the tax that is levied upon it.

I do not believe it practicable, I do not believe it possible to collect that rate of tax off whisky. If you have any success whatever in taxing the whole amount that is manufactured, and in realizing what would be a proper amount of revenue from the distillation of spirits, you must bring down that tax to at least one dollar per gallon; and, I think, if you were to bring it down to half a dollar, and make the distiller pay it, you would realize the largest amount of revenue that you can realize from the distillation of the article.

As to this proposition, that if one man be dishonest and commits fraud in his distillery, and sells his product at less than the rate of tax upon it, his delinquency, his offense against the law, his moral turpitude, shall work the same consequences upon honest and innocent men that it works upon him, it is monstrous. The principle is utterly revolting. There may be now in the district represented by Mr. BECK a fraudulent and dishonest distiller. I have heard of one or two. He may be selling his article at less than the rate of tax imposed upon him; but I know that the most of the men who are engaged in that business in that district are men of integrity; that they are meditating no frauds upon the public revenue, that they are perpetrating none; and, because there is one dishonest scoundrel living in a community where there are one hundred other good men engaged in the same business, that his delinquency and his crime should put it into the hands of the Commissioner of Internal Revenue to punish the whole of them by stopping their business and ruining them in their fortunes, is the most monstrous principle of legislation that I have ever yet known to be presented to Congress.

I trust, Mr. President, that the report of the committee of conference will be voted down for the benefit of the revenue. I would not care if all the revenue which the people of America had to pay was collected off whisky, if it was practicable; but, for the benefit of the revenue, it seems to me that the present erroneous and most unsuccessful system of taxing whisky should be abandoned, and one more correct and more simple ought to be adopted; and I believe it would be to the interest of the Government and the people that the system should be regulated by a special law.

Mr. HOWE. In one respect at least, Mr. President, I think this Government can properly be said to resemble the Deity: it is long

suffering and slow to anger. We have been told from year to year that the annual product of distilled spirits was from eighty to one hundred million gallons. It used to be that in the old halcyon days of the Republic, before the war came upon us, when we had but about twenty-six million free white drinkers, and the rest was made up of slaves who did not drink. Now we are all free, all emancipated, and all at liberty to take something, [laughter;] and under these circumstances it would be natural to suppose that the demand had somewhat increased; and so of the supply. There is no reason therefore for claiming that the product of distilled spirits is less at the present time than it was before the war commenced; that it is less than eighty million gallons per year.

When the nation came to look about itself, straining to find those sources from which it might derive revenue most easily, most readily, and most abundantly, its eye naturally fell upon this subject, this object—distilled spirits. Here was a product amounting to eighty million gallons. If it would pay two dollars per gallon, there would be \$160,000,000 in the Treasury; and Congress said, after several experiments, they would try the experiment of reaping two dollars per gallon from it. Everybody knows that if a man must pay taxes, there is no object, there is no subject, there is no occasion, there are no circumstances upon which, or under which, he will pay taxes so readily, so abundantly, so liberally, as upon this article of whisky. A man, I suppose, can hardly take a glass of first quality Kentucky whisky without feeling a strong desire to contribute a quarter of a dollar, at least, to somebody. [Laughter.] And to offer him this opportunity to contribute a few cents—a fraction of that quarter of a dollar—to the Government, do you not see, is making the habit patriotic, making it respectable, allaying it to the uses of the Government, making it subserve for once in the history of the world, a good purpose? It adds to the respectability of the thing. And so I was always fondly in favor, enthusiastically in favor of this effort to collect two dollars a gallon, and not a dime less, from this article.

The moment the experiment was set on foot it began to be said that there were difficulties in the way; that the two dollars were not paid promptly; that they were not received regularly into the Treasury. From that time to this I have looked on to see whether the Government would surrender to what is called, I believe in common parlance, the "whisky ring," or whether they would capture the "whisky ring." Whenever any complaint has been made about the difficulty of collecting this revenue, we have found those who urge in explanation of it right off, "The tax is too high; put it down to a dollar, and you can collect it; put it down to fifty cents, and it will come of itself." Mr. President, if your Government cannot collect two dollars, it cannot collect two cents; and if it cannot collect two dollars, it is not fit to be trusted with the expenditure of two cents. If it cannot collect two dollars, I would not give two dollars for it; and I will sell out my interest in it any day, on any opportunity, for that money.

Mr. EDMUNDS. Will you sell now?

Mr. HOWE. Let us have the money. When it be confessed that the tax cannot be collected let me see your two dollars. I am not prepared to sell just now to my friend from Vermont, because I am not prepared to subscribe to the doctrine that the tax cannot be collected. We had great difficulty in whipping the rebellion; but we did it. We have, I admit, great difficulty in whipping whisky; but I think we shall do it; we will master it in the end.

I have, therefore, not been prepared to acquiesce in the suggestions of those gentlemen who tell us the tax is too high. I have been hoping that in the course of events and after the lapse of time, when our financial ministers became ripened by experience, their judgments matured by observation, they would produce some plan by which the Government would be

enabled to collect this tax. It has been threatened from year to year, and there have been various new measures proposed from time to time; some have been adopted; some have been rejected; and I believe the more perfect they got the machinery the less money they got, as a rule. [Laughter.] And we are told to-day that with the latest modifications patented, instead of getting what we got the year before, about thirty million dollars, or two million five hundred thousand dollars a month, now we only get about one million dollars a month; and, driven to desperation, they have finally framed this bill and brought it before us. I am not prepared to say what would be the revenue derived from whisky under this bill, and I am not so curious to know, I think, as to be willing to try it.

Mr. President, I lack faith in the efficacy of this measure. I lack faith in any part of it. This very first amendment I do not quite understand, or, if I do understand, I think I object to it. This first amendment tells us—

That after the 1st day of June next no drawback of internal taxes paid on manufactures shall be allowed on the exportation of any article of domestic manufacture on which there is no internal tax at the time of exportation.

Then it proceeds to say—and I am glad I have the attention of the chairman of the committee, because he can doubtless explain this passage to me:

Nor shall such drawback be allowed in any case unless it shall be proved by sworn evidence in writing to the satisfaction of the Commissioner of Internal Revenue that the tax had been paid, and that such articles of manufacture were, prior to the 1st day of April, 1868, actually purchased or actually manufactured and contracted for, to be delivered for such exportation.

Mr. SHERMAN. Do you want an explanation of that?

Mr. HOWE. I want an explanation of that; at least I want to know if it be the purpose of that to relieve against the operation of the act passed in January last?

Mr. SHERMAN. Not at all. It has no connection with that. Under the present law all manufactures in this country, when exported, have a drawback of the amount of internal tax paid.

Mr. HOWE. But I understand the act of January last took that away.

Mr. SHERMAN. This has nothing to do with that; no connection with it. This is the drawback that the manufacturers receive.

Mr. HOWE. And is there not a drawback on distilled spirits?

Mr. SHERMAN. The tax is not paid on exported spirits now. There is no drawback on spirits, because they are put in bond and exported in bond.

Mr. HENDERSON. From a bonded warehouse.

Mr. SHERMAN. From a bonded warehouse. That section was carefully considered by such merchants as my friend from New York [Mr. MORGAN] and Mr. HOOPER, of Boston, who understand it. It is simply regulating the mode of collecting drawback when goods of domestic manufacture are exported abroad, and giving some two months time to export in compliance with contracts made before the 1st of April.

Mr. HOWE. And why was the date "before the 1st of April" fixed upon?

Mr. SHERMAN. Because the internal tax on manufactures is repealed by this bill, to take effect on the 1st of April, and consequently the cases could not arise of drawback after the 1st of April or after the 1st of June now, as we have made it.

Mr. HOWE. Yes, sir. I was not at all confident that there did not somebody understand it; I was only confident that I did not understand it myself. It may not be at all objectionable in that point of view. The fourth section, I think, is objectionable, because I do not think, as others have said, and I shall not dwell upon the point, that this is the time or the occasion to venture to put a new tax upon the manufacture of new articles—just while

you have conceded the propriety of remitting all taxes—to put even a small tax on the manufacture of these most necessary articles of existence.

Mr. SHERMAN. I wish to correct my friend, and also other Senators. There is no new tax imposed by this bill. The present tax is on wholesale dealers in the same articles precisely.

Mr. HOWE. Manufacturers?

Mr. SHERMAN. No. There is a tax on all wholesale dealers now, and this extends it to manufacturers as well as dealers. The special tax on manufacturers is repealed, and the general tax applicable to wholesale dealers is extended to manufacturers, only it is put at twice the rate.

Mr. HOWE. The tax is moderate in amount, to be sure, and I should not spend much time in debating that. I think it is unadvisable to resort to that source of revenue at the present time. But the fifth section has been commented upon by various gentlemen, and I should not spend any time upon it myself if my objection to it harmonized altogether with the objections that have been urged by others. I do not object to this section because I think it hard, because I think it severe, because I think it onerous; quite the contrary. I have thought, as others have intimated, that you never would have a wholesome administration of your revenue laws until you had taken out from the circle of those who have been most active in the production of this article and some others that I could mention, and from the circle of those who have been most prominent in collecting the revenue from it, a pretty large percentage, and transferred them to your penitentiaries. Your best school for educating the public up to the method of collecting revenue, I think, is found there.

So I am not at all startled by this proposition to impose the penalty of imprisonment added to fine upon those who deliberately practice frauds upon the revenue of the Government; and I certainly am not very much alarmed at the severity of this second clause which, recognizing the palpable and unmistakable fact that in a community where distilled spirits from which the Government demands two dollars a gallon to its revenue are openly and habitually sold at \$1 50 and \$1 25 such a transaction is not only *prima facie* but conclusive evidence of fraud on the part of those who manufacture it and those who deal in it, requires them to stop doing so. I do not think that very severe; and I do not think it is reprehensible in the law to say to them "you shall not do so any longer;" especially when it acts so deliberately as this statute proposes to do; when it does not allow the Government to speak until they have looked on upon the operation ten days. It deliberately requires of the Government to stand and look on and see this thing done ten days and only then to say peremptorily "you must stop doing it." In other words—this is the interpretation of the clause—the Commissioner of Internal Revenue, with his agents planted about in different districts, when he finds that this fraud is being committed one day, is to tell them to look on and see if it is done another day, and if he finds it done another day he is to say "still watch and see if it is done another," and if he finds it has been done eight days right along, this thing which is regarded by the law as conclusive evidence of fraud, then the law says through the Commissioner "if you dare to do it two days more," what then? "We will make you stop doing it!"

That is the law that is proposed here as a measure to correct these frauds. What is the practical effect of that? What is the practical use of it? Here is a district in which the Commissioner finds that whisky is manufactured and whisky is sold at a dollar and a half or a dollar a gallon. Of course the Government has not got its two dollars. The Commissioner watches that state of things for ten days, and

then he tells the distiller—there is but one in the district, you may suppose—"stop." "Oh, certainly," says he; "I will stop;" and he continues to stop. He is in no hurry to go on with that business. He has a supply on hand. He stops how long? He stops until the Commissioner tells him he may start again. When will the Commissioner tell him he may start? If he is honest he will tell him he may start as soon as whisky may be sold there at a price which will pay the Government its tax. If he is dishonest I do not know when he will let him start; but, no matter when, by and by he tells him he may start again. Well, he starts. He may not offer any for sale until he gets just as large a quantity manufactured as he has capital to manufacture. He can clean out his stock in whisky if he does not pay any tax to the Government at any time within ten days. So, of course, you do not get the slightest protection from this provision against dishonest men.

There is something in the objection urged here that it includes innocent men, innocent manufacturers, within the same penalties with the guilty. I do not put much stress on that, because I do not believe much in the innocence of distillers in a community where their products are sold for from fifty cents to a dollar less than the Government demands in revenue.

The Senator from Indiana [Mr. HENDRICKS] undertook to make us believe that that was entirely consistent on the theory of perfectly honest distillation, because, he says, considerable of an item in the profits of distillation consists in feeding the refuse to stock, and a distiller may have a large quantity of grain on hand intending to fatten, and with contracts out for fattening stock; and it may be a great injury to him to stop him at once with this stock on his hand, not permitted to fatten it. I do not suppose the Senator from Indiana will really insist that it is an advantage to the grain to run it through the mash-tub; that it is worth more to be fed to the stock after it has been through the process of distillation than it is before. I suppose the stock would not starve if he stopped right where it was and fed the grain to the oxen and to the hogs without running it through the mash-tub at all. They would live if they would not fatten. They would live not only a prosperous life, but a sober life, and get ready to be killed just as quick, and die a sober death. [Laughter.] No, Mr. President; the Senator from Indiana does not mean that these gentlemen who are engaged in the distillation of whisky can afford to pay anything for the privilege of running their grain through the process of distillation in order to feed it out to cattle.

Mr. HENDRICKS. The Senator argues as if the whisky was of no value.

Mr. HOWE. I beg my friend not to misrepresent me to that extent. [Laughter.]

Mr. HENDRICKS. I did not believe that that was the Senator's real sentiment, [laughter,] still I thought perhaps he had expressed himself carelessly. I was going to suggest to him that if a bushel of corn will produce four gallons of whisky, and then the mashed grain after the alcohol has been extracted is worth fifty per cent. as food, does not that fifty per cent. enter, in an important degree, into the business of the distiller?

Mr. HOWE. Most unquestionably, Mr. President. Now let us see how the account stands. A bushel of corn will produce four gallons of whisky and he has got his corn in the distillery, and he wants to make it up. The Commissioner finds that whisky is sold at a price under the amount of the tax required by the Government, and therefore orders him not to manufacture. What is the hardship? The Senator from Indiana says that if it was not for that order he could make four gallons of whisky out of that bushel of corn, and after he had paid eight dollars to the Government he would have four gallons of whisky which he could sell at \$1 90 per gallon, making \$7 60; so that he would only lose on his distillation

forty cents in cash; and the great advantage he would derive from that operation would be that the refuse would be worth fifty per cent. as much as the corn would be to feed to his stock! That is the operation in dollars and cents. I do not think it would be any hardship to the distiller to stop him before he had reduced the value of his corn fifty per cent.

Mr. HENDRICKS. I do not wish to be misrepresented on the whisky question, or on the corn question either. I do not claim that a man can afford to manufacture whisky and sell it for less than the tax; I do not approve of that; but a man may be willing to go on, his affairs may be in that condition that he would go on, and manufacture notwithstanding the fact that the price in the market was less than the tax. In the first place, he might hope that there would be a rise in the market, and in the second place he might have a stock of hogs to feed that must be fed. I do not know whether the Senator from Wisconsin is aware of the fact, but in very many cases the distiller makes a contract with farmers in the neighborhood to feed their stock for them, so much on the head per day. Then the Senator can see what will be the condition of the farmer and distiller both if he were to stop while the work was going on.

Mr. HOWE. The Senator from Nevada [Mr. NYE] remarked some time since that there were honest men engaged in this business of distillation. Now, I cannot positively deny that; but where this product is sold at the prices now paid for it, if the Senator would produce me a man who was distilling and paying the Government two dollars a gallon, as he must pay if he is an honest man, and selling at a dollar and a half or a dollar and a quarter; if he should succeed in satisfying me that he was an honest man, and therefore ought not to go to the State prison, I should certainly conclude that he was an insane man who ought to go to a lunatic asylum. That thing cannot be done.

Mr. NYE. Just make provision for that in the bill. [Laughter.]

Mr. HOWE. No, Mr. President, I am not framing the bill; I am objecting to it; and my objection is not, as I said before, that the provisions of this section are too stringent. If the conference committee will strike this out and put in the place of it a provision which holds every man in any community who sells a gallon of liquor at a price less than the Government demands for its revenues guilty of high treason, and will sentence him to imprisonment in the State prison for a term not less than one hundred and fifty years and then hang him by the neck until he shall be dead, to adopt the suggestion of a friend near me, I will consider the propriety of that. That would be satisfactory to me abundantly, in comparison to this.

Mr. SHERMAN. Would it be to anybody else?

Mr. HOWE. I do not know. I think it should be to the chairman of the Committee on Finance; I think it should be to the Committee on Finance; I think it should be to the financial minister of the Government; I think it should be to the Legislature of the nation, if they mean that this tax shall be collected. If they do not mean it, I think they had better say so at once and stop the struggle, and let us have peace on the terms on which the distillers are undoubtedly willing to grant it to us, come down to fifty cents or twenty-five cents, and I think you might as well come down at once to fourpence halfpenny a gallon, and then have quiet.

I want it understood if this section is rejected, my vote, as I shall give it in that direction, is not upon the objection which has been urged to it by other Senators. The Senator from Maryland [Mr. JOHNSON] was on the floor some time since, and he put a question which I thought was pertinent, but which I did not hear any one answer. He asked, and I think he directed, his inquiry to the Senator from Ohio, the chairman of this committee,

what have been done with the liquors which have been seized from time to time by the officers of the Treasury Department as guilty of offenses against the revenue laws? The question was not answered; but I have the answer in my hand, and the Senator from Maryland, if no other Senator, will doubtless be interested in knowing what has been done with these liquors. Sir, they have been sold. The Secretary of the Treasury has told us so, and he has told us what they have brought.

Mr. SHERMAN. What is the date?

Mr. HOWE. The date of the report?

Mr. SHERMAN. The date of sale.

Mr. HOWE. The date of sale is not given, but it is said to include all the sales made subsequent to the 2d of March, 1867. The report was made December 20, 1867. This is the report of the sales of liquors condemned by judicial decree. I find among other sales reported a sale of seventeen hundred and twenty-eight barrels of whisky condemned in the eastern district of New York, and these seventeen hundred and twenty-eight barrels yielded \$4,918 61.

Mr. SHERMAN. I suppose that was sold subject to the tax—sold in bond?

Mr. HOWE. The tax had to be paid on this. There is no evidence of that in the report.

Mr. SHERMAN. The figures as read by the Senator are not evidence of that, of course, but the liquor was sold in bond, because the law expressly declares that it shall not be sold for less than the tax. It was sold, no doubt, subject to the tax. The law was read here awhile ago.

Mr. HOWE. Then here are sales of fifty-eight and a half barrels reported from New Jersey for \$4,166 99. Was that sold subject to tax?

Mr. HENDERSON. That was thrown on the market.

Mr. HOWE. There must be some mistake somewhere. Both these sales could not have been subject to tax, and I take it neither of them was. In the northern district of New York eighty-four barrels were sold for \$5,125 38, between one hundred and two hundred dollars more than the seventeen hundred barrels sold for in the eastern district of New York. So in Illinois, in the northern district, one hundred and thirty-five barrels sold for \$3,775,008 18, while in the southern district five hundred and twelve barrels sold for \$1,000,996.

Mr. HENDERSON. Five hundred and twelve barrels for a million! That must be a mistake.

Mr. HOWE. There is unquestionably a mistake somewhere. I do not know whether it is in the report or in the sale. These are the figures returned in the report.

Mr. President, of course, where the Government is furnishing whisky in the market at a dollar and a half or at twenty-five cents a gallon, you cannot expect honest distillers to carry on the business and pay two dollars a gallon tax into the Treasury. Repeatedly I have seen gentlemen whom I had known to be formerly engaged in the business of distillation, and who have told me that they have been obliged to close their business entirely because they could not consent to carry it on in violation of the revenue laws; and they certainly could not carry it on in conformity with them while everybody else was allowed to violate those laws with impunity. I want to see some measure put upon the statute-book which will make these frauds upon the revenue of the United States not, like treason, respectable, but, as some fond gentlemen meant to have treason—infaustus.

Several SENATORS. "Odious."

Mr. HOWE. "Odious." Is it as bad as that? Then I will go even to the full extent of saying "odious;" and when that is done you will begin to discriminate between honest and dishonest practices under your revenue laws.

Mr. CONKLING. Mr. President, the measure which is being smothered underneath all

this debate is a very brief bill to take off some of the shackles that weigh down the arms of labor; and I rise for the purpose of appealing to the friends of that bill to allow a vote to be taken upon this conference report. Taking the expression so far of the Senate, it is not to be adopted, and it will follow that a new conference is to be ordered. The ordinary hour of adjournment has already arrived; and on Monday, at the ordinary hour of meeting or immediately afterward, the Senate is to proceed to the consideration of business which precludes altogether the possibility of disposing of this; so that I suppose it will be necessary to adjourn until, say eleven o'clock on Monday morning, in order to hear the report of another conference committee, if a new committee shall be ordered. Now, while this debate is instructive—certainly I do not wish to intimate that it is not—and while it is all material to those points to which it relates, I do not think that it is indispensable to an intelligent action upon the pending proposition, and I trust, Mr. President, that we shall vote either upon this motion or upon a motion to be submitted by somebody—I do not propose to submit it myself—to non-concur and ask for another conference, to the end that the committee may have the rest of this evening to confer after our message shall be sent to the House, and be able to come in on Monday morning by eleven o'clock, so that we may then pass a law which, if it is lost in all this wilderness of talk, will carry great and just disappointment to the whole country. We have talked about relieving these taxes. I believe another committee can agree on a bill which, avoiding the whisky difficulty, will enable us to act finally upon that measure; and I trust Senators will postpone to a more convenient season any debate which they feel does not necessarily relate to this question.

Mr. HOWARD. I move that the Senate disagree to the present report and ask for another committee of conference.

Mr. CONKLING. Now let us have the vote.

Mr. EDMUNDS. That does not present any very new question, Mr. President, as the question before was on agreeing. I merely wish to say—and I will not occupy two minutes in saying it—that I shall vote to send this bill to another conference, not because I am not willing to try every experiment possible, either to collect the tax the law imposes upon whisky or else to stop the production of whisky. I will try any experiment and in trying such an experiment I wish it to be as effective a one as possible. But there are defects in this section that strike me at the first blush, and which I wish to call to the attention of any subsequent committee.

First, it proposes to forfeit every piece of real estate that is used by a distiller, whether he owns it or not, in the production of whisky contrary to law. I believe that to be entirely unjust. The proprietor who leases his property may be entirely innocent of any such use as this to which it may be put, and therefore he ought not to suffer in consequence of such action. If he connives at it he ought to suffer; but if he does not he ought not.

Then, in the next place, it is entirely uncertain from this section what is meant by "selling indirectly at a market price." I think the use of that term "market price" will lead to great confusion, and it should be reconsidered and made more definite.

Again, in the latter part of the section it is left entirely to doubt whether the distilleries are to be closed in the district of sale or in the district of manufacture, or in both. The language is so entirely vague that it is impossible on the face of the section to tell which of the places is to suffer by being shut up. It is desirable, of course, to have that rectified. That is, although merely a verbal criticism, a point that in practice it will be of great importance to have thoroughly understood.

These are the reasons, Mr. President, without going into any others, why I shall vote to send this bill back, not because I will not go with the committee in any reasonable experi-

ment to endeavor to accomplish the object they have in view.

Mr. BUCKALEW. Mr. President, of course at this time of the day I am not going to speak on this subject, although I have felt some anxiety to do so. I withhold myself from the debate, very much opposed though I am to this report, in the expectation that it will not be agreed to, and that we shall have an opportunity to debate whatever measures shall be eventually adopted by the Senate on this subject. I desire to say that much now.

The PRESIDENT *pro tempore*. The Senator from Michigan moves that the Senate non-concur in the report of the committee of conference and ask of the House of Representatives another conference on the subject of the disagreeing votes of the two Houses on this bill.

Mr. SHERMAN. On that question I ask for the yeas and nays.

Several SENATORS. Oh, no; do not take the yeas and nays.

Mr. SHERMAN. Yes, I insist upon the yeas and nays. I want the vote of the Senate to be on record that the other House may understand the view of the Senate.

The yeas and nays were ordered.

Mr. CAMERON. Before the vote is taken I wish to say that I have tried for four or five hours to get an opportunity to say a word on this subject. I shall not now detain the Senate under the circumstances by which we are surrounded. I will only say that I am going to vote for this report because I desire to have the tax collected, and I shall vote for every scheme looking to that purpose which the Committee on Finance shall bring in to this body. Acting upon this principle, I shall vote for this proposition, and at a future time I may, perhaps, explain somewhat at length my reasons for doing so.

Mr. TRUMBULL. I shall vote against the proposition actuated by a different consideration entirely from that of the Senator from Pennsylvania, [Mr. CAMERON.] I do not believe that the tax of two dollars a gallon upon whisky is to be collected by severe and extraordinary and unusual penalties.

Mr. FESSENDEN. Then you are in favor of recommitting.

Mr. TRUMBULL. I am. I shall vote against concurring in this report. I understood the Senator from Pennsylvania to say that he was for concurring, because he believed in these penalties. I do not believe, in this enlightened and Christian age and in this day of the world, that you are to prevent crime by the extremity of your penalties.

Mr. CAMERON. Mr. President—

Several SENATORS. Let us vote.

Mr. CAMERON. You shall have the vote in a moment. Just let me say in reply to the Senator from Illinois, that I believe the tax can be collected, and therefore I am going to vote for every measure which I think will produce the collection.

Mr. ROSS. Before the vote is taken I wish to say that I am paired on this question with the Senator from Minnesota, [Mr. NORRIS.] If he were here he would vote in the affirmative, and I should vote in the negative.

Mr. THAYER. I am paired with the Senator from Indiana, [Mr. MORRIS.] If he were present he would vote in the affirmative and I should vote in the negative.

The question being taken by yeas and nays, resulted—yeas 23, nays 9; as follows:

YEAS—Messrs. Buckalew, Chandler, Cole, Conklings, Davis, Dixon, Edmunds, Fessenden, Hendricks, Howard, Howe, Johnson, McGreey, Morrill of Vermont, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Tipton, Trumbull, Van Winkle, Willer, and Wilson—23.

NAYS—Messrs. Cameron, Cattell, Frelinghuysen, Henderson, Morgan, Pomeroy, Sherman, Sumner, and Wade—9.

ABSENT—Messrs. Anthony, Bayard, Connors, Corbett, Cragin, Doolittle, Drake, Ferry, Fowler, Grimes, Harlan, Morton, Morrill of Maine, Norton, Ross, Saulsbury, Sprague, Stewart, Thayer, Vickers, Williams, and Yates—22.

So the report was non-concurred in and a new conference asked for.



Mr. CONKLING. I now move that when the Senate adjourn it be to meet at eleven o'clock on Monday.

Mr. SUMNER. I suggest ten o'clock.

Mr. CONKLING. That is too early.

Mr. SUMNER. I move that it be ten o'clock. I think that with a view to the public interests an additional hour only will not be enough.

Mr. CONKLING. Allow me to suggest that there is half an hour under the rule. Half past twelve is the time for the other business. By meeting at eleven we shall have a morning hour and half an hour besides. I do not think the Senate will be willing to come as early as ten o'clock, and therefore I say eleven.

Mr. SUMNER. There need be no committee meetings on Monday. I think it better that we should come at ten o'clock.

Mr. BUCKALEW. I would suggest to the Senator making this motion that the House of Representatives must first act on this question before it can come to us again. If we shall meet at an early hour on Monday we shall gain nothing. Besides, under our rules, every day, even though we should sit upon the impeachment, there will be a session of the Senate on the adjournment of the court, and we can go on with this subject in the afternoon.

Mr. MORRILL, of Maine. I desire to make an inquiry whether I am right in supposing that the bill which has just now been disposed of has been informally before the Senate, so that the naval appropriation bill will be the regular order for Monday.

The PRESIDENT *pro tempore*. Yes, sir. The naval appropriation bill is now regularly before the Senate; but the pending motion is that when the Senate adjourns it be to meet on Monday morning at eleven o'clock.

Mr. SHERMAN. I ask if a message has gone to the other House announcing our action on the manufacturers' bill. The House is waiting for the message.

The PRESIDENT *pro tempore*. The Senate ordered another committee of conference to be appointed but did not say how it should be appointed. How shall it be appointed? ["By the Chair."] If there be no objection the Chair will appoint the committee. It will consist of Mr. SHERMAN, Mr. HOWE, and Mr. MORTON.

Mr. SHERMAN. I trust that as I was on the other committee I shall be relieved. It is not usual to put a member situated as I am upon a second committee. I voted in the minority.

The PRESIDENT *pro tempore*. Will the Senate excuse the Senator from Ohio. ["No!" "No!"]

#### HOOR OF MEETING.

Mr. NYE. If it is in order, I wish to submit a motion to take up a bill.

Mr. CONKLING. What has become of the privileged motion in reference to the order of meeting on Monday?

Mr. HENDRICKS. I wish to inquire whether that is a privileged question, or, indeed, whether it is in order at all, as the rules fix twelve o'clock as the hour of meeting.

The PRESIDENT *pro tempore*. A motion is in order to fix any hour for the meeting. The Senator from New York moves that when the Senate adjourn to-day it adjourn to meet at eleven o'clock on Monday.

Mr. SUMNER. I move to amend that by making the hour ten o'clock.

Mr. JOHNSON. I hope not. In all human probability we shall be kept here until five or six or seven o'clock on Monday; and to meet at ten is rather taxing us too much.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York, that when the Senate adjourn to-day it be to meet at eleven o'clock on Monday.

The motion was agreed to.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 19) re-

quiring certain moneys of the United States to be paid into the Treasury, and for other purposes; and it was signed by the President *pro tempore*.

#### POLITICAL DISABILITIES OF R. R. BUTLER.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of the bill for the relief of Mr. Butler, of the House of Representatives, a bill which we ought to act upon. It was up some days ago, and I presume every member of the Senate can understand it without explanation. It is important that the Senate should decide one way or the other in reference to it. He is a member-elect to the House of Representatives, and the case ought to be disposed of. Let us take it up and act on it this evening. We can act on it I think in a few minutes.

Mr. MORRILL, of Maine. If the Senate is disposed to proceed with business, I want to finish the naval appropriation bill.

Mr. TRUMBULL. I hope the Senator from Maine will not interpose the appropriation bill to-night. The reason I ask to call up Mr. Butler's bill is to get it out of the way of the Senator's bill. It is a matter that ought to be decided.

Mr. BUCKALEW. When the bill to which the Senator from Illinois alludes was up before, I had the floor, and had proceeded part of the way with my remarks upon it when I gave way to a motion made by the Senator from Ohio to take up a tax bill, I think. Now, whenever that measure is taken up I desire to conclude my remarks upon it. I do not suppose the Senate will care to hear me to-night.

The PRESIDENT *pro tempore*. The Senator from Illinois moves to take up the bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee.

Mr. MORRILL, of Maine. If the Senator from Illinois wishes to proceed with the consideration of that bill at the present moment, I will not object to laying aside informally the regular order before the Senate to oblige him, but I do not wish to have it displaced.

Mr. TRUMBULL. That is what I desire. I do not wish to postpone the appropriation bill, but I want action on this measure. If the Senate will allow this to come up and be disposed of, I shall be very glad.

Mr. MORRILL, of Maine. I have no objection that the regular order should be laid aside informally to do that thing.

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

Mr. HENDRICKS. I move that the Senate adjourn.

The motion was not agreed to—ayes eight, noes not counted.

Mr. MORRILL, of Maine. Now I propose that the special order be laid aside informally, that the bill of the Senator from Illinois may be taken up.

Mr. HENDRICKS. What is it?

The PRESIDENT *pro tempore*. It has been proposed to lay aside informally the naval appropriation bill for the purpose of taking up the bill mentioned by the Senator from Illinois. No objection being made, that bill is before the Senate, and it will be read.

Mr. HENDRICKS. I do not think we understand in my neighborhood how the business stands. I do not understand that there has been any vote on the motion of the Senator from Illinois.

Mr. MORRILL, of Maine. No, sir; the question was on laying aside the regular order informally to allow the bill to come up.

Mr. HENDRICKS. There is no such motion as to do anything informally.

Mr. MORRILL, of Maine. Yes, sir.

The PRESIDENT *pro tempore*. It can be done by unanimous consent, and in no other way.

Mr. HENDRICKS. That is not given.

Mr. TRUMBULL. Then I make a motion to lay aside the regular order for the purpose of proceeding with this bill, and I give notice that I will vote to take up the appropriation

bill as soon as it is through, and I hope my friend from Maine will allow us to get it up.

The PRESIDENT *pro tempore*. The bill referred to by the Senator from Illinois is up.

Mr. HENDRICKS. I should like to know how it got up.

The PRESIDENT *pro tempore*. It was taken up by the Senate, and it will now be read.

The Secretary read the title of the bill, as follows:

A bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee.

The PRESIDENT *pro tempore*. When this bill was last under consideration as in Committee of the Whole the Senator from Pennsylvania [Mr. BUCKALEW] moved to amend the amendment reported by the Committee on the Judiciary, by striking out in line twelve the words "Constitution or;" so as to read, "any disabilities imposed by the acts of Congress known as the reconstruction acts."

Mr. BUCKALEW. Mr. President, I shall address the Senate at some inconvenience from the fact that the papers which I had prepared for the further debate of this question are not at hand. However, sir, I will go on as well as I can and submit the additional remarks which I propose to make upon this measure before the Senate shall formally determine it.

When this bill was up before I pointed out the differences which existed between it and the case of Senator PATTERSON, of the same State, of Tennessee, from which this claimant comes, and I endeavored to show that in his case there were grounds for a much stronger appeal for removing or dispensing with a portion of what is known as the test-oath, the oath provided by an act of July 2, 1862; and I commented with some degree of earnestness, though with no ill-feeling, upon the conduct of the House in these two cases. Whereas in that former case, when we sent a bill to them asking them to dispense with so much of the oath as by some gentlemen was supposed to interfere with the admission of Senator PATTERSON, and sent it to them under circumstances that strongly appealed to their equity and to their courtesy also, they flatly and strongly refused to dispense with any portion of the oath; after which the Senate, upon further consideration, permitted Senator PATTERSON to take the oath in its entirety, which he did, and became a member of the Senate. It was then declared in the House by a Representative from Tennessee, who, I understand, is very anxious for the adoption of the present measure, that he would freeze in his seat before he would assent to dispensing with any portion of that official oath in the case of any member proposed for admission to the Congress of the United States. The House of Representatives refused our request; they rejected the bill which we sent to them, and they said, and said strongly, that this oath should not be relaxed; that it should remain a general rule upon our statute-book, and should be enforced in all cases that might arise.

Now, sir, we have before us a bill proposing to dispense with the oath in the case of a gentleman claiming membership in the House from the same State of Tennessee, against whose admission to that House, as appears by the report upon his case, there is much stronger objection than could be urged or was urged against the admission of Senator PATTERSON here. This gentleman was a member of the Legislature of Tennessee at the time of secession; he remained a member of that Legislature for a considerable time afterward; he voted for various bills passed by that Legislature intended to aid the rebellion and to encourage it.

Mr. FRELINGHUYSEN. I would suggest to the Senator from Pennsylvania and to the Senate, as it is getting late, whether it would not be as well for him to continue his remarks on Monday at eleven o'clock, if agreeable to him, and that we now adjourn.

Mr. BUCKALEW. As to that, I conform myself to the pleasure of the Senate. I began

this argument on a former occasion, and as the Senate chose to take up the bill against my vote at this time I concluded to adapt myself to their action, and to go on. One thing is certain: so much interest do I feel in this question—not because this single man is involved, but because there are a vast number of cases behind this for which this will form a precedent—that I should consider myself derelict in the performance of public duty if I did not discuss it; and I entertain a strong hope that the Senate will refuse to pass this bill, and that for very good reasons shown. I desire to address myself to the Senate itself with reference to the decision of this case here, not for the purpose of influencing public opinion out of doors.

Mr. FRELINGHUYSEN. Will it be agreeable to the Senator to give way?

Mr. BUCKALEW. I will give way to a motion to adjourn.

Mr. FRELINGHUYSEN. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, March 28, 1868.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

### CANAL AROUND DES MOINES RAPIDS.

Mr. WILSON, of Iowa, by unanimous consent presented a joint resolution of the General Assembly of the State of Iowa, in favor of the passage of a law indemnifying the citizens of Lee county, Iowa, for land and property used in the construction of a canal around the Des Moines rapids in the Mississippi river; which was referred to the Committee on Appropriations.

### SWAMP LANDS IN IOWA.

Mr. PRICE, by unanimous consent, presented a joint resolution of the General Assembly of Iowa, relative to swamp land selections made by the agents of the State during the years 1859, 1860, and 1861; which was referred to the Committee on the Public Lands.

### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. BARNES till Monday, April 6, and to Mr. McCORMICK indefinitely.

### LEAVE TO PRINT REMARKS.

Leave to print remarks was granted to Mr. MOORHEAD, who would have been entitled to the floor to-day, if it had been assigned to debate on the President's message. [See Appendix.]

### NAVAL APPROPRIATION BILL.

Mr. VAN HORN, of Missouri, by unanimous consent, introduced a bill (H. R. No. 976) amendatory of an act entitled "An act making appropriations for the naval service for the year 1863, and for other purposes," approved July 14, 1862; which was read a first and second time, and referred to the Committee on Naval Affairs.

### REORGANIZATION OF NAVY DEPARTMENT.

Mr. VAN HORN, of Missouri, by unanimous consent, also introduced a bill (H. R. No. 977) to amend an act entitled "An act to reorganize the Navy Department of the United States;" approved July 5, 1862; which was read a first and second time, and referred to the Committee on Naval Affairs.

### CHANGE OF COINAGE.

Mr. ASHLEY, of Ohio, by unanimous consent, presented the following preamble and resolutions adopted at a meeting of the Toledo Board of Trade, held on the 3d day of March, 1868; which was ordered to be printed in the Congressional Globe:

Whereas Senator SHERMAN, chairman of the Finance Committee, has submitted a bill to the American Senate to change the coin of the United States to correspond with the French system, the same to bear on one side the emblems of France and the value of such coin in the French language, and the reverse to show American devices and the value in English;

and whereas the expense of the proposed change is estimated by Commissioner Ruggles to be \$600,000, to be paid by the United States; and whereas the only reason presented in support of this scheme is the better and freer circulation which it will secure for our coin in Europe, increasing the demand for precious metals in our markets, and stimulating shipments of the same to foreign countries: Therefore,

*Be it resolved*, That in the judgment of the board the decimal system of coinage originating with our organization as a nation and rooted in the habits and love of the people should not be abandoned to suit the standard adopted by foreign countries.

*Resolved*, That the French system offers no advantage to domestic commerce or the trade and industry of the country, and the wants of our people do not demand the proposed change in our national coinage.

*Resolved*, That the secretary be requested to inclose a copy of this action to each of our Senators and Representatives in Congress.

DENISON B. SMITH, Vice President.  
CARLOS COLTON, Secretary.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (H. R. No. 19) directing that certain moneys now in the hands of the United States Treasurer, as special agent of the Treasury Department, be covered by warrant into the United States Treasury.

### STAFF OFFICERS OF THE NAVY.

Mr. PIKE, by unanimous consent, introduced a bill (H. R. No. 978) to equalize the grade of the staff corps of the Navy; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

### RIGHTS OF AMERICAN CITIZENS.

Mr. JUDD, by unanimous consent, presented resolutions in relation to the rights of citizens of the United States of America; which were referred to the Committee on Foreign Affairs.

### POSTPONEMENT OF PRIVATE BUSINESS.

Mr. FARNSWORTH. I move that private business be postponed for this day for the purpose of proceeding with the Alabama bill.

Mr. MAYNARD. I hope not. Private bills have had no show. I hope the gentleman will at least modify his motion so as to postpone private business until the Alabama bill shall be disposed of, so that if it shall be disposed of before the close of the day private business may be taken up.

Mr. FARNSWORTH. I will modify my motion in that way.

The motion, as modified, was agreed to.

### ADMISSION OF ALABAMA.

The House then resumed the consideration of the bill (H. R. No. 970) to admit the State of Alabama to representation in Congress, upon which Mr. KERR was entitled to the floor.

Mr. ASHLEY, of Ohio. I ask the gentleman from Indiana to yield to me to offer an amendment to the substitute of my colleague, [Mr. SPALDING.]

Mr. KERR. I make no objection if it does not come out of time.

The SPEAKER. It is in the power of the House to amend the substitute, but the power to amend the original bill is exhausted.

Mr. ASHLEY, of Ohio. I move to amend the substitute by striking it out and inserting in lieu thereof the following:

That the constitution framed by the convention of Alabama, which was submitted for ratification by the people at an election commencing on the 4th day of February, 1868, is hereby declared to be the fundamental and organic law for a provisional government for the people of Alabama, so far as the same is not in conflict with the Constitution and laws of the United States. And all State, county, and municipal officers elected at said election shall, on the 1st day of May, 1868, or as soon thereafter as possible, qualify as provided in said constitution and the ordinances of said convention, and immediately thereafter enter upon the discharge of the duties of their respective offices.

*Sec. 2. And be it further enacted*, That the Governor at any time after he shall have qualified and entered upon the discharge of the duties of his office, may by proclamation convene the Legislature chosen at said election. The Legislature, when so convened, shall possess all the power conferred by said constitution, which may not be in conflict with the Constitution and laws of the United States. And the Legislature

is hereby further empowered to submit said constitution to the electors of Alabama qualified to vote undersaid constitution, for their ratification or rejection at such time or times as it may designate. And said Legislature is also required to submit with the said constitution the "article" proposed in the fifth section of this act.

*Sec. 3. And be it further enacted*, That whenever the people, by a majority vote of the qualified electors of Alabama, shall have ratified said constitution submitted as aforesaid, together with the article proposed in the fifth section, and the Legislature of the proposed State organization shall have ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, the constitution of Alabama may be presented to Congress for its approval.

*Sec. 4. And be it further enacted*, That the district commanders shall furnish all necessary aid in enforcing this act, and the act of March 2, 1867, entitled "An act to provide for a more efficient government for the rebel States," and the acts supplemental to and amendatory thereof, shall remain in full force except as modified by this act, until Alabama shall be restored to representation in Congress.

*Sec. 5. And be it further enacted*, That the State of Alabama shall be entitled to resume its constitutional relations with the national Government upon the fundamental condition that the following article shall be adopted and made a part of the constitution of said State, which shall be forever irrevocable without the consent of the Congress of the United States: "This Constitution shall never be so altered or amended as to operate as a denial or abridgment of the elective franchise to any citizen of the United States qualified to vote under this Constitution, and no amendment of said Constitution shall hereafter be valid until the same shall be ratified by a majority of the qualified electors of this State, and shall have been approved by the Congress of the United States."

Mr. ELDRIDGE. Has that amendment been printed?

Mr. ASHLEY, of Ohio. It has not. I ask that it may be printed if no vote is to be taken on this bill to-day.

Mr. FARNSWORTH. I intend to call for a vote to-day.

Mr. KERR. Mr. Speaker, it has many times been asserted in the history of Governments that revolutions never go backward. It seems now to be one of the tenets of the Radical party of this country that revolutions shall not only never go backward, but that they shall never cease to go forward; and it seems to have become so much a part of their political faith that it has become a necessity to them in the progress of their revolution to disregard and override their own laws and violate the provisions of their own statutes, in order to remove obstacles that arise in the course of their political measures and schemes. It is pretended now by the gentleman from Illinois [Mr. FARNSWORTH] that by some sort of torturing we may derive from the reconstruction measures themselves some justification for the proposed action of Congress. It will be found an impossibility to find any just excuse for such a construction, unless the search be made with a predetermination to find it. The spirit and intent of the reconstruction laws are utterly opposed to it. Everybody at the date of the laws understood them expressly to give the choice of modes in the rejection of any constitution that might be formed and submitted to the people.

The gentleman from Illinois [Mr. FARNSWORTH] and the gentleman from Pennsylvania [Mr. KELLEY] attempted by a verbal criticism upon the terms of the fifth section to justify the pending measure. Let us see if their appeal to that section affords any relief.

I, too, invite the attention of gentlemen to the same section in order, by a single word, to expose the fallacy that is apparent in his attempt to make that section justify this proposed legislation. I will read it:

"Sec. 5. And be it further enacted, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, (at least one half of all the registered voters voting upon the question of such ratification,) the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and"

I ask especial attention to the following portion of the section:

"If it shall, moreover, appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence

of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided."

The obvious and only legal interpretation which this section can bear is that it is the intention of Congress to require that a majority of the registered voters shall vote upon the question of the adoption of this so-called constitution of Alabama; and that, "moreover," in addition thereto, besides that prerequisite and indispensable condition, the other facts recited in this section shall appear. So that there is no foundation in that section, as the gentleman attempts to set up, for this revolutionary movement against your own laws.

But we are told by the gentleman from Illinois [Mr. FARNSWORTH] that seven thousand instead of one thousand white men did vote at that election. And we are told at the same time that there are over twenty thousand white men in Alabama who are members of the loyal league, and I am authorized to infer from his language that these members of the loyal league in Alabama are all voters. And yet we are told that there could be no fair election there; that, notwithstanding the military despotism there, manipulated by the Radical party, in the hands of political adventurers, the camp followers and political tools of the Republican party, they are not able in Alabama to secure a fair election. We are told that, after the white men of that State were handcuffed and chained to the car of military despotism, with seven thousand white men voting at that election, and twenty thousand loyal-leaguers to aid the military and Freedmen's Bureau in securing the desired results, there could be no fair and legal election. I take it the people of this country will not accept any such arguments as those as containing any truth or affording the slightest shadow of justification for this legislation.

It is also contended, by way of justification for this legislation, by the gentleman from Pennsylvania, [Mr. KELLEY,] that all civil power in Alabama is in the hands of white rebels and rebel sympathizers, and that they prevented the holding of a fair election there or a fair expression of the public opinion upon this constitution. Now, I submit that, so far as that assertion is concerned, it is unworthy of one particle of respect, because, in the very teeth of that assertion, the country sees and knows and feels the fact that the people of Alabama are not under the control of a civil government, but that this Radical Congress, by its reconstruction legislation, has done what the rebellion never could do and never attempted to do; it has overthrown all civil government in the State of Alabama and set up its own arbitrary and despotic will for a government there, with its own tools, the mere agents of a party, to administer civil government. Yet we are told that the rebel sheriffs and other civil officers have prevented a fair election. We have also served up in this debate a batch of *ex parte* affidavits of men who have been elected to offices under this bastard government, or expect places after it is forced upon the State, in which they attempt to persuade us that enough negroes were kept from the polls by intimidation to make up the needed majority of the registered voters. But these men dared not, and were not allowed, to appear before the Reconstruction Committee and testify, subject to cross-examination, touching these matters. They get up these *ex parte* statements to promote their mere personal and selfish purposes, and I consider them entitled to no respect whatever.

Mr. KELLEY. Will the gentleman yield to me for a moment?

Mr. KERR. I can yield no portion of my time to the gentleman from Pennsylvania, [Mr. KELLEY,] except for a question.

Mr. KELLEY. I simply wanted to state—  
Mr. KERR. I do not yield to the gentleman for any statement.

Mr. KELLEY. My authority was derived from Democratic papers and speakers.

Mr. KERR. I do not yield to any remarks by the gentleman.

The truth in reference to this constitution is that when Congress enacted this reconstruction law it tendered to the people of Alabama two ways by either of which they might adopt or reject the pretended constitution. The people could either go to the election and vote against the constitution, or stay away, if they opposed it, and thus defeat it. It tendered to the people these two modes of rejection in good faith, I take it. It certainly indicated no bad faith or insincere purpose at the time. I will not presume, for I do not believe, that the party at that time intended or attempted to devise a trap into which the people might fall, and thus enable Congress, by a stupendous fraud, to force upon them a constitution.

The people of Alabama accepted those alternatives. They acted upon them. They rejected that constitution. They did it in pursuance of your own laws. They adopted their own mode of doing it, as they well might do according to the very terms of these reconstruction acts. Now it is proposed, in bad faith, in cruelly and wickedly bad faith, to turn upon those people and say to them, "You have rejected this instrument according to the terms of our law; yet you had no right to reject it in that way. You ought to have rejected it, if you desired to do it, in some other way, and then we might have sustained you in your action." The truth is they did reject it; they never did adopt it. It is not their constitution; it was not made by the people of Alabama; it was not made for the people of Alabama; it was not made in the interests of the people of Alabama. It is a Congress-made constitution, in violation of every principle of civil liberty heretofore universally recognized in this country.

Talk about this being the way to make government "republican in form." Why, Mr. Speaker, if the Radical party want to go to the country and the world as endorsing this mode of erecting governments "republican in form," then in God's name, I say, you are entitled to the distinction it gives. If in this way constitutions are to be framed, utterly void of the spirit and intent which above all things should pervade, should give existence and vitality to constitutions, then, I say, we may bid adieu to "republican forms of government" in this country.

If you were making this constitution for the negroes of Alabama alone I should not raise my voice in protest against it to-day, because I agree that the negroes in Alabama require to be governed by somebody else than themselves. But you pretend to be making this constitution for the white people of Alabama; and while you are acting under that pretext, you are violating every wish of those white people, and outraging every principle of civil liberty in the mode you have adopted to force upon them a system of government.

You assume that this constitution was made for all the people of Alabama. But its entire history and its intrinsic character show that it was conceived and framed in the interests of a political party. It is not made to promote the welfare of all the people, and its administration is not committed to the virtue, refinement, intelligence, and civil experience of the white people of the State. Its effect will be to deprive them of all control and submit them and all their precious interests to the control of the negro population, the latter to be controlled by the Radical party.

Only a few days ago the honorable gentleman from Pennsylvania, [Mr. STEVENS,] the chairman of the Reconstruction Committee, said, in the hearing of this House, speaking of the bill then pending, substantially the same as this:

"After a full examination of the final returns from Alabama, which we had not got when this bill was

drawn, I am satisfied, for one, that to force a vote on this bill and admit the State against our own law, where there is a majority of twenty-odd thousand against the constitution, would not be doing such justice in legislation as will be expected by the people."

But now, taking back the just and righteous conclusion of his judgment, then he proposes to force this hateful government on Alabama with increased and degrading conditions.

The same honorable gentleman offered on the day before yesterday an amendment to this bill. Let us see what it provides. It declares:

"That the right of suffrage of citizens of the United States shall never be denied or abridged in said State on any account except for treason, felony, or other crime infamous at common law; but suffrage as above provided for shall forever be universal and impartial."

This language does not even confine the suffrage which the honorable gentleman would establish by act of Congress in Alabama to males over the age of twenty-one years. In unqualified, unlimited terms it declares that suffrage shall perpetually be "impartial and universal" in the State of Alabama.

Mr. Speaker, the first speech I had the honor to make in this House was against this wretched, this revolutionary heresy now so rapidly being adopted by the Radical party of this country, that Congress may regulate suffrage in all the States of this Union. At that time this doctrine found but few advocates on this floor who were willing or had the courage publicly to announce their faith in it. But how is it now? In this connection, Mr. Speaker, I beg leave to invite the attention of the House to the opinion entertained on this question less than two years ago by the same honorable gentleman from Pennsylvania [Mr. STEVENS] who to-day takes back, eats up, and spits upon every one of the teachings of his past life on this most grave proposition.

But why should we complain of inconsistency on the part of the majority here? They are not restrained by any laws, although made by themselves, nor by any constitutional limitations upon their power, and infinitely less by their own political platforms, when the progress of their revolution requires them to violate them. I will let the honorable gentleman from Pennsylvania, [Mr. STEVENS,] on this great right of the States to maintain their own forms of local self-government and to regulate their own suffrage, answer his revolutionary position of to-day by his true and honorable position of less than two years ago. I read from his speech in this House when speaking of the proposed fourteenth article of amendments to the Constitution of the United States, and when referring to these same southern States:

"I hold that these States have the right, and always have had it, to fix the elective franchise within their own States, and I hold that this does not take it from them. Ought it to take it from them? Ought the domestic affairs of the States to be infringed upon by Congress, so far as to regulate the restrictions and qualifications of their voters? How many States would adopt such a proposition? How many would allow Congress to come within their jurisdiction to fix the qualification of their voters? Would New York? Would Pennsylvania? Would the northwestern States? I am sure not one of them would. Therefore if you should take away the right which now is and always has been exercised by the States, by fixing the qualification of their electors, instead of getting nineteen States, which is necessary to ratify this amendment, you might possibly get five. I venture to say you could not get five."

I might read further in the same direction, and thus make the honorable gentleman answer himself and answer every position that is assumed to-day by the friends and advocates of this infamous bill; but I will not occupy in that way the time of the House.

Mr. Speaker, we are told that this is a constitution for the people of Alabama, and that they made it. The white men of that State protest that they did not make it and do not want it. They prefer even a decent military government by white men to any government by negroes under the manipulation of the skirmishers, camp-followers, and political colporteurs of the Radical party, or of any other party. They stand upon the sacred, original, indefeasible, and God-given right of self-gov-



ernment. They tell you what you and all the world know, that the negroes, whether thus manipulated or left to themselves, are alike incompetent to govern themselves or any other people. You confess the truth of this protest when you organize your machinery for the government of the negroes by your Freedmen's Bureau; you confess it when you prolong the existence of that bureau; you confess it when you provide that the educational part of that bureau shall be continued in existence for an indefinite number of years after the States shall have been fully restored to the Union; you confess it when you assume a Federal guardianship over the negroes in all the southern States; you confess it when you impose millions in taxation upon the people of the North to enable you to continue this condition of pupillage and dependence on the part of the negroes; you confess it when and as long as you refuse to remit these negroes to the control of the natural law and the law of God, which condemns idleness and requires all men to struggle for self-support, and to learn by the discipline of experience and necessity; you confess it when you expend, directly or indirectly, for the government, education, and support of negroes, from fifteen to twenty-five million dollars per annum out of the hard earnings, honest labor, and unaided energies of the people of the North. You confess your own shame, too, when you confess, as many gentlemen do, that this sort of legislation is necessary to enable you to retain continued political power in the country.

Mr. STEVENS, of Pennsylvania, rose.

Mr. KERR. I will yield for a question with great pleasure.

Mr. STEVENS, of Pennsylvania. I was going to answer.

Mr. KERR. I cannot yield to be answered now, but only for a question or correction.

Mr. STEVENS, of Pennsylvania. I understood you called for an answer.

Mr. KERR. I do not wish to yield for a speech to be put in mine.

The Radical party in Alabama, Mr. Speaker, do not themselves pretend this constitution was freely and voluntarily made by the people of Alabama. They sacrificed their manhood; they surrendered their self-respect; they surrendered their inherent God-given right of self-government and got down upon their miserable knees to the Radical party in making this constitution, and in its presentation to Congress and asking it to be forced upon the people of Alabama.

I hold in my hand a proof of what I say on this subject. The chairman of the Radical central committee of Alabama, on the 2d of January, 1868, issued an address to his followers in that State, and in that address I find this paragraph:

"II. Some features of the constitution that have been adopted have provoked severe and general criticism. It is just and proper to remark that enough is now known of the purposes of Congress to assure us that while the State will expect to be admitted promptly those features will be subject to complete revision. And it is better far to be admitted now, and with this understanding, than, after being tossed about so long, to go to sea again not knowing where we land."

Thus we see it confessed, to the dishonor of the men who want to become masters and rulers in Alabama, and contrary to all precedent in our country, that Congress is to make the constitution anew, to change it, to amend it, or to dictate such terms as Congress pleases to the tools of Congress in the State of Alabama or to the remonstrating majority of the people of that State. The address then proceeds as follows:

"III. Enough is also known of the disposition of Congress and of the Republican party in this State to warrant the statement that the existence of political disabilities in any case need not fetter the party in the choice of a candidate for any office, but that the fact of a Republican nomination will be sufficient evidence of favoring reconstruction to be relied on for the prompt removal of all disabilities."

It is in this way and by such considerations that white men are to be induced to stultify themselves, surrender their judgments, and become allies of the Radical party in its

efforts to force a hateful, odious, and anti-republican constitution on all the people.

I hope, Mr. Speaker, it will not be any longer pretended that this constitution comes here as the voluntary work of the people of Alabama. It does not possess a single essential attribute of a freely-adopted government of the State of Alabama. If it is a principle of republican government in this country that the people who are to be ruled by the fundamental law of a State have the inherent and undeniable right to make that law, then in God's name I say this constitution possesses not one of these attributes.

Now, Mr. Speaker, I invite attention briefly to some remarkable provisions contained in this bill.

Mr. MULLINS rose.

Mr. KERR. I do not yield.

Mr. MULLINS, (in his seat.) Have they lost their fundamental rights?

Mr. KERR. No, sir; they have not. But, whatever they have lost, they have given you no power to change their government for them or to dictate one to them. Any attempt to do it is simply usurpation.

Now, let us see what are some of the provisions of this bill. I call attention to the amendment of the gentleman from Ohio [Mr. SPALDING] offered as a substitute for the bill. It is proposed in the first section of that amendment to declare that "the constitution framed by the convention of Alabama, which was submitted for ratification by the people at an election commencing on the 4th day of February, 1868, is hereby declared to be the fundamental and organic law for a provisional government for the people of Alabama."

Provisional government for the people of Alabama! What is the logical result and legal effect of that kind of a proposition? It is to make this constitution a matter of pending legislation before this body for its consideration, for adoption or rejection as the law of Congress. It does not attempt, it does not present even a pretense of attempting, to recognize a constitution made by the people of Alabama, but to make a law for the provisional government of the State, a sort of territorial act.

Then this amendment proposes that Congress by an act of legislation shall make a body of legislators, elected as a State Legislature under a pretended existing State constitution, a constitutional convention, conferring upon them powers which that same constitution denies to them, and which belong alone to conventions elected to make constitutions, not to Legislatures elected to execute constitutions.

It is provided in the second section of the proposed amendment that when this Legislature shall have been convened they shall possess all the power conferred upon them by the proposed constitution of Alabama if the same had been ratified by the people. And then it further proposes, after this rejected constitution is given vitality by Congress and put into practical operation, that they may submit this proposed constitution to the people of Alabama for ratification, with or without amendments. Amendments to be proposed by whom? By this provisional government, by this pretended Legislature of the State of Alabama. But what are these amendments to be proposed? Why, they are to be amendments to the constitution which now lies on our desks, and which it is pretended has been formed by the constitutional convention of the people of Alabama. In other words, this Legislature is declared to have the power to make a constitution for the people of Alabama. In other words, it is further declared by this act of Congress that this Legislature shall have the power at its first meeting, after the members shall have taken the oath prescribed in the constitution itself, to go to work at once and by its very first act violate its own fundamental law, its own constitution, because that constitution in its last chapter prohibits the making of amendments except in a certain very tedious, cumbersome, and bungling way. It is proposed, then, not only

by Congress to violate this fundamental law of Alabama, but to authorize this pretended Legislature of Alabama to violate the constitution of Alabama and the oath of office taken by its members to support it and every principle of decent government known to our institutions.

It is further provided by the last section of the proposed amendment or substitute that until all these things shall have been done by this newly-created legislative convention your military despotism shall continue in full force and power in the State, and that the people of the State, including the Legislature, the courts, the civil officers, and everybody else, shall be under it, subject to it, controlled by it, and that the election to be held and ordered by this new constitutional convention shall be held and ordered as it has hitherto been; in violation of every principle of just government or of self-government.

But in this proposed substitute of the gentleman from Ohio [Mr. SPALDING] I think there is a secret and hidden purpose, more cruel, wicked, and tyrannical than any expressed upon its face. The reconstruction laws under which the registration of the people of Alabama was made, the constitutional convention elected, and the pretended constitution voted upon by the people, prohibited certain classes of white men from registration or voting and disfranchised them. But the number of persons disfranchised is greatly increased by the provisions of this pretended constitution. It requires a new registration. That registration would have to precede the submission of the constitution again to the people for ratification. Thus the relative power of the negroes and Radicals in Alabama to adopt the constitution and further disfranchise and oppress the whites will be greatly increased. Hence this cunning device of a provisional government, which consists in imposing upon that State a Congress-made constitution and giving force and validity to its meanest and most oppressive provisions, so that by their aid its adoption may be secured.

Mr. Speaker, I further invite attention to the last section of the bill itself as introduced by the gentleman from Illinois, [Mr. FARNSWORTH.] It is proposed by that section that the constitution of Alabama, whatever it shall be, when it shall be submitted to the people and shall have been adopted by them, "shall never be so amended or changed as to deprive any citizen or any class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized; nor so amended or changed as to allow any person to vote who is excluded from office by the third section of the fourteenth article of the amendments to the Constitution of the United States." And then it reserves to Congress the power to annul any amendment of the constitution of Alabama or any act of the Legislature of the State contrary to the provisions of this section.

Now, I would inquire of any honest man on this floor or in this country whether, if the State of Alabama shall ever be admitted into the Union under this law and in pursuance of its provisions, with these shackles proposed by this last section upon her limbs, that State can stand up in this family of republics and say she is the equal of her sisters, when she will come into the Union with a brand of degradation and inferiority upon her, put there by the edict of this Congress and made absolutely perpetual, irrepealable? Thus, for the first time in our history, it is proposed to admit into the Union a State inferior in most vital powers to her sister States. The great bond and precious principle of equality, of equal statehood in the Union, is broken, is rejected, and a hateful Union of unequal members is to be established. This is a most dangerous innovation, and will erect a most vicious precedent in our history. In every instance in our past history when a State has been admitted into the Union its equality has been guaranteed in express terms by the act of admission. The usual formula has been that such State be

"admitted into the Union on an equal footing with the original States." The spirit, intent, and genius of our institutions demand that when a State is admitted the measure of its obligations shall consist in obedience to the Federal Constitution and the laws made in pursuance thereof. All powers not granted in that instrument to the Federal Government are, by its very terms, "reserved to the States or to the people respectively." And yet we are told that this is to be a government "republican in form!" A government that the people despise, that they loathe, that they reject in every way that is left to them by military despotism to express their feelings.

It is a somewhat interesting fact, in connection with the history of this State of Alabama, that when she was first admitted she inserted in her coat-of-arms, as the motto of the State of Alabama—which motto expresses the true philosophy of the Constitution of the United States in reference to all the States—"Younger, but equal;" and you can see it now inscribed on her coat-of-arms in the beautiful canopy which covers this Hall. In that motto is expressed the law of this country; a law most important, most valuable, most vital to the essential principles of the equality of State governments, of equal self-government, which have always characterized the legislation of the country, either in these Halls prior to the ascendancy of the Radical party or in the States of this Union.

In this connection I invite attention to the fact that in 1845 there was decided by the Supreme Court of the United States the case of Pollard's lessee vs. Hagan et al. I read from that decision, reported in 8 Howard's Reports:

"To maintain any other doctrine is to deny that Alabama has been admitted into the Union on an equal footing with the original States, the Constitution, laws, and compacts to the contrary notwithstanding. But their rights of sovereignty and jurisdiction are not governed by the common law of England as it prevailed in the Colonies before the Revolution, but as modified by our own institutions. In the case of Martin and others vs. Waddell, 11 Peters, 410, the present Chief Justice, in delivering the opinion of the court, said: 'When the Revolution took place the people of each State became themselves sovereigns, and in that character had the absolute right to all their navigable waters and the soils under them for their own common use, subject only to the rights surrendered by the Constitution. Then to Alabama belong the navigable waters and soils under them in controversy in this case, subject to the rights surrendered by the Constitution to the United States; and no compact that might be made between her and the United States could diminish or enlarge these rights.'

Yet it is proposed by this measure that the State of Alabama shall come into this Union only upon the fundamental condition that she shall indorse certain conditions precedent, certain stipulations, certain compacts which, if adopted, will forever degrade her below the rank of an equal State in the Union. I say, Mr. Speaker, that if this thing shall be forced upon the people of Alabama it will not possess one whit of legal or constitutional validity.

But, sir, we are told that all this legislation is carried on for the purpose of the "better government" of the rebel States. Better government! If this matter were not so intensely grave and solemn as it is, that expression might be received as a mere caricature, or as bitter and cruel irony, upon the conduct of Congress in reference to these States. If Congress has entered upon the duty of making constitutions for States in this Union, as it certainly has done, as it is boldly declared in this law that it will do, and that it has the physical power and right to do—for no honest man will say it has got the constitutional right to do it—then I submit to the House that it is our duty to make for Alabama, at least, a decent constitution; one that is in fact and in truth republican in form and not a despotism. We have no right to make it, and if we should make the most faultless instrument that ever came from human hands and force it upon the people of Alabama it still would not be a constitution republican in the spirit and intent of that word. But still we are doing it, and therefore it becomes our duty to consider what it is that we are doing, what it is that we are

forcing upon Alabama, what kind of constitution it is that we are tendering her. And I desire now to invite the attention of the House for a short time to some provisions that are contained in this constitution.

I first refer to the fact that by an express article of the constitution it is provided,

"That all persons resident in this State born in the United States or naturalized, or who shall have legally declared their intention to become citizens of the United States are hereby declared citizens of the State of Alabama, possessing equal civil and political rights and public privileges."

Why force that unprecedented constitutional provision on the people of Alabama? It has no precedent in the constitution of any State in this Union. Why, then, force it upon Alabama? Because the party in power must be able to go into that State, and, in the persons of citizens of other States, mere adventurers, assume the control and civil administration of the government of the State of Alabama. And to that end the constitution of Alabama must provide that every man who shall come into the State and declare himself a resident thereof shall possess all civil and political rights and public privileges, including the right to hold office.

Hence it is that we to-day see the shameful and disgraceful spectacle presented here of a civil government proposed to be set up in the State of Alabama, the great majority of the persons holding office under which consists of citizens of other States, who have no interests or sympathy with the people of Alabama, but are simply place-hunters, political adventurers and vultures, that now swarm in the devoted States of the South, and seek to make themselves masters over their people, to fatten and filch from their substance, and defeat the return of material prosperity by prolonging insecurity and strife among the people and between the races.

I next invite the attention of gentlemen to the test-oath that is prescribed in this constitution. I will not devote much time to its consideration, although in my judgment it is one of the most important and obnoxious provisions in that instrument. It is one which, above all others and more than all others, stamps the instrument with the inherent and intrinsic character of anti-republicanism and despotism. The genius of our Government, the very spirit of our forefathers revolts at the idea of incorporating into a fundamental law any of these odious test-oaths, these mean-spirited, detestable, retrospective, expurgatory test-oaths, which free men throughout the history of the world have ever held to be most worthy of their detestation. I will read that provision of the constitution. Article seven provides:

SEC. 3. It shall be the duty of the General Assembly to provide, from time to time, for the registration of all electors, but the following class of persons shall not be permitted to register, vote, or hold office: 1. Those who, during the late rebellion, inflicted, or caused to be inflicted, any cruel or unusual punishment upon any soldier, sailor, marine, employé, or citizen of the United States, or who, in any other way, violated the rules of civilized warfare. 2. Those who may be disqualified from holding office by the proposed amendment to the Constitution of the United States known as article fourteen, and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Alabama, under the act of Congress to provide for the more efficient government of the rebel States, passed by Congress March 2, 1867, and the acts supplementary thereto, except such persons as aided in the reconstruction proposed by Congress, and accept the political equality of all men before the law: *Provided*, That the General Assembly shall have power to remove the disabilities incurred under this clause. 3. Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crime punishable by law with imprisonment in the penitentiary, or bribery. 4. Those who are idiots or insane.

"SEC. 4. All persons, before registering, must take and subscribe the following oath: I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and maintain the Constitution and the laws of the United States and the constitution and the laws of the State of Alabama; that I am not excluded from registering by any of the clauses in section three, article seven of the constitution of the State of Alabama; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men; and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political

or civil right, privilege, or immunity enjoyed by any other class of men; and, furthermore, that I will not in any way injure, or countenance in others any attempt to injure, any person or persons on account of past or present support of the Government of the United States, the laws of the United States, or the principle of the political and civil equality of all men, or for affiliation with any political party."

Tell me that the constitution with this test-oath in it is "republican in form?" You might as well tell me that Haynau himself was the impersonation of a true Republican. I object to these test-oaths because they violate one of the most fundamental provisions contained in the Constitution of the United States. They contain in effect both bills of attainder and *ex post facto* laws, and violate some of the most essential principles of civil liberty. A bill of attainder is a legislative act which inflicts punishment without a legal trial.

An *ex post facto* law is one which imposes a punishment for an act which was not punishable at the time it was committed, or imposes additional punishment to that then prescribed, or changes the rules of evidence by which less or different testimony is sufficient to convict than was then required. Either of these violations of the Federal Constitution may be effected by provisions embodied in a State constitution or law or in an act of Congress. The prohibition of the Constitution was intended to secure the rights of the citizen against deprivation for past conduct by legislative enactment, under any form, however disguised. These most valuable principles have been repeatedly defended by the Supreme Court in solemn judgments declaring void, not only acts of State Legislatures and laws of Congress, but even constitutional provisions in State constitutions. This was done in the late great case of Cummings against the State of Missouri, in 4 Wallace's Reports. This pretended constitution of Alabama violates every principle laid down in that case. The purpose of these two sections is to disfranchise and withhold most valuable rights and privileges from thousands of white men in Alabama as a punishment for past conduct, without trial or conviction, and to prolong the denial of these precious rights during the pleasure of Congress and the negro government of Alabama.

The oath prescribed in this third section has no parallel in modern governments. It is fit only to mark and disgrace the sway of an oppressor. Every person who refuses to take it is therefore deprived of some of his most precious and valuable rights and privileges, and if he does take it he does violence to his own manhood, judgment, and conscience. He is compelled to swear that "he accepts the civil and political equality of all men," which he knows exists only in the imaginations of political Utopians or demagogues. He is also compelled to swear that he "agrees not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men." He is thus required under oath to agree, before he is permitted to exercise any of the rights of a free American citizen, that he never will exercise certain of those rights. One of the inherent rights of every human mind is to change his opinion on subjects connected with politics, policy, and government, and to make the government a fair reflex of the enlightened popular judgment. But in Alabama this cannot be done. The voter must swear and agree that he will never attempt any improvement in the government or change in the basis of suffrage in his State. He may be profoundly convinced that the safety of civil liberty, the welfare of both races, the interests of society, morality and religion demand the limitation of colored suffrage or its reduction to a property or educational qualification, but his oath stands as a perpetual bar to any effort to do his duty in these matters. Very few men not themselves purblind fanatics can take this oath without violence to their convictions, a sort of moral perjury. How can northern men, who may go to and desire to become citizens of

Alabama, take such an oath when all their lives in their own States they opposed, voted against, and resisted every attempt to establish any such dogma?

These scandalous provisions disclose a purpose not only to control the actions, but also to debase, demoralize, and enslave the judgments and consciences of men. Governments in this country that do not express the honest and voluntary will of the governed are simply usurpations or despotisms. That will cannot be chained without doing violence to every principle of civil liberty and defiance to the laws of God.

But it may be said by honorable gentlemen that these provisions in the constitution of Alabama are justified by the proposed fourteenth article of amendments to the Constitution of the United States. But that article is not to-day the law of the land. It never has been ratified, and I pray God it never shall be; and if it ever is it will be against the will and judgment of the white people of this country. It will be done under the lash of military power; it will be done at the dictation of the Radical party; and, if done, it will involve in itself a palpable violation of the fundamental principles of republican government as prescribed for this country by our fathers, in just so far as it approves or makes valid these infamous test-oaths.

But I now invite attention to another very remarkable provision in this constitution of Alabama. The white men of Alabama, in the constitution which they made for their own government and for the government of the black men, exempted \$500 of property from execution for debts. They considered that just, liberal, and sufficient for the purposes of humanity and good government. But what does this radical constitution do? What does this convention of negroes and Republican camp-followers do? They provide that \$3,000 worth of property shall be exempt from execution for the payment of debt. I read from article fourteen:

"Sec. 1. The personal property of any resident of this State, to the value of \$1,000, to be selected by such resident, shall be exempted from sale on execution or other final process of any court issued for the collection of any debt contracted after the adoption of this constitution.

"Sec. 2. Every homestead not exceeding eighty acres of land, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any town, city, or village, or, in lieu thereof, at the option of the owner, any lot in the city, town, or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of \$2,000, shall be exempted from sale on execution or any other final process from a court from any debt contracted after the adoption of this constitution."

Now, can any gentleman in this House say that he believes there are to-day in the entire State of Alabama twenty negroes who are each the owners of \$3,000 worth of property? I do not believe there are ten negroes in the State of whom, under this constitution, one solitary dollar could be collected by law for any debt or civil obligation. Why is this provision adopted? Is it to make this constitution "republican in form?" Ah, no; it is done to make the civil government of Alabama in perpetuity radical in its administration. That is the object. It is a bid for negro votes. It is a bid for the control of a debased, demoralized, corruptible population. That is the way you propose to illustrate your ideas of government "republican in form."

I make no objection to any just provision on this subject. My own State has adopted an exemption of only \$300 in favor of the debtor. But what I solemnly protest against is the mean partisan *animus* that pervades this entire instrument, this part no more than others. But I venture the prediction now that if the shackles shall ever be removed from the white men of Alabama and they obtain the control of the State, which rightfully belongs to them, the negroes will become their allies, because they will find in them their best and truest friends and protectors. The result of the exacting and selfish reign of radicalism in that

State, as in every other State, will tend more and more to burden and impoverish the people of all classes. It will promote strife and hatred instead of good-will, peace, and prosperity. It will never bring the races together in harmonious and intelligent coöperation. It will inspire the ignorant negro with false and baseless fears, organize him into secret societies the better to control his political actions and enslave his feeble judgment, and attempt, by his aid, to control the legislation of the country and retain partisan power. The poor negro, sooner or later, following the guide of his instincts, if not his awakening reason, will discover that radicalism has done him no good and will renounce it.

Mr. Speaker, I next invite attention to the provisions of this remarkable instrument on the subject of taxation for the maintenance of schools. Now, I desire it to be distinctly understood that I and, so far as I know, every gentleman on this side of the House, entertain as sincere a devotion to the interests and advancement of education everywhere as any men in this country; but we want those interests so advanced, so promoted, as not to make them the very engines of tyranny for the oppression, demoralization, and destruction of social and civil government. This constitution provides for the levying of most onerous taxes for the support of education in the State of Alabama. Those taxes must be nearly all paid by the white men of Alabama. Yet every dollar (and I assert this without the fear of successful contradiction)—every dollar that shall be so raised will go to the education of the negroes of Alabama and to the support of radical officers connected with its expenditure, not to the support and education of white children. Why? Because by your fundamental law you make it a perpetual obligation upon the people of Alabama that they shall educate all their children in the same schools; that they shall practically amalgamate; that they shall educate the white children in debasing, personal association with the black children under the control of your Freedmen's Bureau and the agents of your military despotism, or such other machinery as shall succeed them. Yet we are told that this is a government "republican in form." These white men of Alabama, in order to maintain their self-respect, their manhood, the integrity of their blood and race, will be compelled from their own impoverished pockets to draw whatever they may for the education of their own people, independently of any provision that may be made by the State under this constitution. Why did you not suffer your political allies in the convention of that State to secure to the negroes their just proportion, or one half, or even more, of the school fund, and give to the white men the balance, so that the races might be educated apart? Would it have been anti-republican to make so just an adjustment? It would have secured justice and equality to both races in the enjoyment of the school funds. The refusal to do it is a disgrace to the convention and to the Radical party, and an outrage upon the white people.

Then this constitution gives to what it calls a school board legislative power, making them a sort of *imperium in imperio*. They may make laws; they may enforce those laws, no matter how rigid, how cruel, how exacting they may be, they must be obeyed until by the Legislature of Alabama they may be repealed.

Mr. Speaker, I invite attention to another provision of this remarkable instrument. It is provided in article nine that—

"All taxes levied on property in this State shall be assessed in exact proportion to the value of such property."

That is right. It prescribes a rule of equality. It does, or proposes to do, justice. It is in harmony with the idea of republican government. But in the eleventh article we find another provision. I read it:

"Sec. 13. The General Assembly shall levy a specific annual tax upon all railroad, navigation, banking, and insurance corporations, and upon all insurance

and foreign bank and exchange agencies, and upon the profits of foreign bank bills issued in this State by any corporation, partnership, or persons, which shall be exclusively devoted to the maintenance of public schools."

The Constitution thus first provides for an equality of taxation. Then, in another article, it provides for an absolute inequality of taxation. It selects out certain objects of taxation and makes it the imperative duty of the Legislature to impose upon them a specific tax. What is a specific tax? Is it a tax levied according to values? Is it a tax having relation to the intrinsic value or productiveness of any enterprise or capital? No; it is an arbitrary tax—a tax having no relation to the intrinsic value or productiveness of the thing taxed. Such taxation is therefore in spirit, in intent in all its results, an unequal kind of taxation, destroying the very spirit of equality which should pervade all fundamental laws. Then, I submit that it involves a violation of that provision in the Federal Constitution which says that the citizens of each State shall enjoy in the other States the immunities and privileges of citizens of the several States. Can it be pretended that this is making a republican constitution? Will such a system of unequal taxation advance the material welfare of the State? Is this the way you would invite enterprise and capital to seek homes and make investments in Alabama? I fear there is design in this provision, so singular in itself, so exceptional in its terms, so plainly partial in its requirements, and so violative of the just principles of equality. It may produce a large fund, for it is required to be levied on the aggregated capital which is chiefly employed in the development of the great material interests and resources of the State. But who will own that capital? White men of Alabama and of other States. Who will enjoy the benefit of that fund? Negroes alone, not white men. But you may say, let white men send their children to schools with negroes. Do you do so yourselves? Would you not esteem it contamination to do so? Yes, sir. But you commend by this legislation to the poor, already impoverished, oppressed people of Alabama, what you would never submit to yourselves, what you would resist as unjust and cruel. I conclude, therefore, that the purpose of this specific tax is further to burden the white people of Alabama.

I next invite attention, Mr. Speaker, to the apportionment provisions of this "republican" constitution for the people of Alabama. It is said to be a "republican form of government." Let us see. We find in this constitution an infamous system, not exactly of "gerrymandering" as we call it in the States where tricks and frauds of this sort are sometimes resorted to by political parties having the ascendancy for the time; but it is proposed to indulge in this infamous kind of legislation in a charter of government and to fasten it perpetually upon the people of that State.

Let us see how it is to be carried out. The thirty-five counties in which the whites predominate, having 282,282 whites to 111,159 blacks, have but thirty-five representatives to an aggregate population of 393,441. The twenty-four counties in which the negroes predominate, 323,300 blacks to 252,407 whites have sixty-five representatives to an aggregate population of 580,717.

In other words, wherever the whites predominate, the apportionment of representatives is one to 11,241 people, and where the negroes predominate, the apportionment is one to 8,933 people. So that with nearly one hundred thousand less population in the State, the negroes will control two thirds of the State Legislature, and thus prevent amendments to the constitution or any amelioration of the horrible oppressions of the whites. Is this making a government "republican in form?" If it is, then the spirit and purpose of republican government are more unholy and infamous than those of a monarchy, aristocracy, oligarchy, or despotism. If Congress can make and dictate to



States no more republican systems of government than this one, it would be infinitely better for the country that it should attend to its proper and legitimate duties and let the States alone. If the States cannot govern themselves better and more wisely than Congress has done, then I agree that the boasted capacity of our own race in this country for self government is a dream, a myth.

Mr. FARNSWORTH rose.

Mr. KERR. I will yield for a question.

Mr. FARNSWORTH. I wish to inquire whether the gentleman speaks of voters, registered voters under the reconstruction acts?

Mr. KERR. I speak of population.

Mr. FARNSWORTH. The gentleman has been speaking of voters.

Mr. KERR. I referred to the population as my aggregates will show. But, sir, it makes no difference—the result is the same, although the figures would be less if I took voters alone. Now, it is pretended there are but a few thousand white men in the State of Alabama who have been disfranchised by this constitution. Mr. Speaker, with a predominance in numbers of nearly one hundred thousand in the State, the white voters are made about twenty-one thousand less than the negroes by the process of military registration there and radical disfranchisements of the white voters.

I invite attention to the following facts on this subject, which settle forever the pretense that but few are disfranchised. In 1866 a census was taken of the people of Alabama, and is reported by the assistant commissioner of the Bureau of Refugees and Freedmen, by which it appears that the whole population, white and black, was 972,158. The negro population alone was 439,469, and the white population was 532,689, making an excess of whites of 93,220. By the census of 1860 the whole population was 964,191, and the blacks were 437,760, and the whites 526,431, making an excess of whites of 88,671. By the census of 1861 the white males over twenty-one years of age were 108,416, and the black males were 90,603, making an excess of white males of voting age of 17,807 in the State.

Mr. Speaker, I invite attention to another beautiful illustration of the manner in which it is proposed here to make constitutions "republican in form." In the State of Alabama, by this proposed constitution, three entire counties are disfranchised; their very existence is ignored—they are not noticed even by the constitution in the apportionment of representatives. They have no representation in the Senate or House of the Alabama Legislature. Why? Because they have a predominance of white voters. They would send white representatives. They would be controlled by white men. They must therefore be stricken down and ignored entirely.

Mr. UPSON. I should like to ask the gentleman to state by what authority these counties were created?

Mr. KERR. I will state by what authority they were created. By the constitution of Alabama as it stood until 1866 it was provided that no county should contain less than nine hundred square miles. Under that arrangement there were fifty-two counties in Alabama. The convention of 1866 reduced the minimum of land necessary to constitute a county to six hundred square miles. The latter provision is adopted and continued in the constitution now before the House. Under that ten new counties were created, to-wit, Clay, Cleburn, Crenshaw, Elmore, Hale, Lee, Bullock, Baine, Colbert, and Jones. All these ten counties were recognized in the registration of voters for the convention in the fall of 1867. The convention ignored the existence of three of them, to-wit: Baine, Colbert, and Jones, recognizing and retaining the other seven. The registration shows that there were hardly any negroes in Jones and Baine, and in Colbert the whites exceeded the negroes more than two to one. In four at least of the seven retained, to-wit, Elmore, Hale, Lee, and Bullock, the blacks

greatly exceeded the whites. The three counties were ignored, I have no doubt, because they would be controlled by white men. This is the history of that matter.

Now, Mr. Speaker, I wish to invite attention for a moment to another of the documents which illustrate the republican character of the constitution of Alabama. I refer to what is called the militia ordinance of that State. That military ordinance is not published with this constitution. It is not put into the possession of the members of the House. It is purposely kept out. It is the design to keep it in the back-ground. It is a "good thing," and when the constitution is adopted that ordinance will be adopted and become part of the fundamental law of Alabama. It provides, Mr. Speaker, that a volunteer militia shall be organized from the male inhabitants between eighteen and forty-five years of age, "without regard to race or color," with one company at least to each county, and not more than one company to every one thousand electors. It is made a complicated and expensive military organization. Of whom will that militia consist? Mr. Speaker, it will consist only of the black men of Alabama. The white men will not degrade themselves by going into the ranks and becoming a part of the militia of the State with the negroes. They will never do it; they will shrink from it with loathing. They did not do it during the war; they did not degrade themselves by that kind of association in which we indulged even during that struggle. They have never done it and they ought not to be required to do it.

But when this militia is organized let us see what are some of its powers. It is proposed:

"SEC. 13. Any one who shall have enlisted in the volunteer militia of the State, having been previously made acquainted with the duties and requirements of the service, and shall afterward neglect or refuse to obey the lawful orders of his superior officer, or willfully violates any of the provisions of this ordinance, shall pay the sum of twenty dollars, to be levied upon his goods and chattels, by order of the commanding officer of the district, and may be imprisoned or put to hard labor by said officer until said fine is paid, and shall then be assigned to such platoon or company as the commanding officers of the district may direct; and any person thus liable to militia service, who shall refuse or neglect to perform such service, shall pay a fine of five dollars per day for every day he fails to render such service, after having been thereto required by his officers, and in addition thereto such delinquent shall be subject to arrest and punishment, within the discretion of a court-martial; and nothing in this section shall be construed to exempt any man from military service."

"SEC. 14. The commanding officer of each platoon or company shall certify to the commanding officer of the battalion or regiment to which he is attached a list of all persons liable to fine under the provisions of this ordinance, with the number of days each person has neglected or refused to do duty, which list shall be by the commanding officer of the battalion or regiment certified to the clerk of the circuit court of the county ten days before the next term of the said court, who shall place a copy of said list on a conspicuous place in his office at least five days before the first day of the term."

These military officers of this volunteer militia, this colored army under the control of course as they will be of white men, of members of the party of the majority here, will certify all the delinquencies of these men to the clerk of the circuit court, and then without trial, without evidence, without hearing, without appeal, without any safeguards of civil or personal liberty, these returns are to be entered as the solemn judgments of that court, to be collected by execution.

But it is further provided:

"SEC. 15. It shall be the duty of the circuit court to render a judgment and an execution against each person named in his said list for the sum due by him and cost, which shall be collected as other fines. The sheriff of the county may collect all sums due in said list before judgment, and shall pay over the same to the State treasury, to the credit of the militia fund. He shall certify to the commanding officer of the district the names of all persons who fail to pay the amount stated against them in said lists, or who have no property whereof to levy such execution, and the commanding officer of the district shall arrest and put at labor the persons mentioned in the last-named lists, until the amounts due by them are paid; and it shall be the duty of the circuit attorney of the proper circuit, to prosecute all such matters as shall come before the said court by virtue of said section."

Before judgment, upon the mere return of

militia officers, in violation, I submit, of every principle that has hitherto characterized the organization of civil governments in this country, or our legislation in such cases, the power is here given to the sheriff to proceed to collect fines and forfeitures by levy and sale of the property of the citizens.

But the most remarkable section in this ordinance is the twentieth, which I now read:

"SEC. 20. All taxes levied and collected for military purposes, and all fines imposed upon militia-men by this ordinance, all proceeds of the sale of contraband or captured property seized or captured by the militia, and all other appropriations and levies made for the benefit of the militia, shall likewise be paid into the treasury to the credit of the said fund. Out of such fund shall be paid all expenses incurred according to law, and audited by the proper officers, and appropriations for military purposes, as other claims against the State."

Mr. Speaker, what does this section mean? What is it that may become "contraband or captured property seized or captured by the militia?" I confess I am embarrassed to understand the exact meaning of that expression. It seems to be expected that the militia are to make war upon somebody; to prowl about the country in search of contraband property. What is contraband property? It is usually defined to be property the importation or exportation of which is prohibited by law. Are the civil laws of Alabama to be enforced by this negro militia? Are white men to be disarmed by them? It appears to me that this whole system of legislation for the States of the South is most cruel; it tends to perpetuate and intensify the natural antagonism of races; to provoke strife, envy, hatred, open hostility, and finally a war of races; to prevent the growth of hearty sympathy, generous confidence and coöperation, and obedience to the laws of mutual and intelligent self-interest between the races; for there needs not and ought not to be any conflict of interests; both races would naturally seek the aid of each other in appropriate ways if not poisoned and estranged by the pestiferous and wicked interference of partisans and demagogues. The most of this interference has no higher motive than malignity against the whites and a selfish interest in the control of the negroes.

This prolonged oppression, agitation, and injustice is rapidly crushing out the recuperative power of the people of Alabama; reducing one of the greatest natural fields of fruitfulness, wealth, health, and happiness on this continent to a desert waste; depreciating the value of and destroying the demand for all property in the State, until it is true to-day that many of the best lands will not sell for as much as they could have been, and in many cases were, rented for in 1866. The business of the State is everywhere crippled or prostrated; her industry and material development are discouraged and suspended; immigration is repelled from her borders; foreign capital sees neither security, equal laws, nor reasonable prospect of return; and hope has well nigh fled from her unhappy and suffering people. If punishment is the object of these laws it seems to me the most cruel nature should be satiated by what her people have already suffered.

The State should be admitted at once to representation under her own constitution, not this mongrel and bastard instrument, because she was never out of the Union, never lost or forfeited her equal right with the other States to self-government, and is now simply the victim of superior brute force, not of lawful or constitutional punishment or control.

Mr. Speaker, I desire, for future information, to make this militia ordinance a part of my remarks:

An ordinance for the organization of the volunteer militia.

SEC. 1. A volunteer militia of this State shall be organized from the able-bodied male inhabitants of the State over the age of eighteen years, without regard to race or color.

SEC. 2. Upon the written petition of forty persons, liable to military duty under the constitution of this State, recommending a suitable person to raise and command a militia company, the Governor may

give such person authority to organize the same when filled to the maximum number required for a company by the United States Army regulations; when the company so raised shall be accepted by the Governor he shall issue a commission as captain to said person.

SEC. 3. Subalterns and non-commissioned officers shall be chosen by two thirds of the members of their respective companies; field officers of regiments and separate battalions, by the written roll of the commissioned officers of their respective regiments and battalions; major generals, brigadier generals, and commanding officers of regiments or separate battalions shall appoint the staff officers of their respective divisions, brigades, regiments, or separate battalions.

SEC. 4. There shall not be less than one organized company of militia in each county in the State, nor more than one company to every one thousand qualified electors.

SEC. 5. The Governor, on entering upon the discharge of his duties, shall immediately proceed to organize the militia into platoons, companies, battalions, regiments, brigades, and divisions. Platoons, companies, and regiments shall be composed of the number of commissioned officers, non-commissioned officers, and men now required by the revised regulations of the Army of the United States. A regiment shall consist of not less than eight companies, with the number of field and staff officers prescribed by the revised Army regulations for the particular branch of the service to which it may be assigned. A brigade shall consist of three or more regiments.

SEC. 6. Platoons or companies, as soon as organized, shall elect the subalterns and non-commissioned officers. The commissioned officers of all regimental brigades and staff officers appointed by the Governor shall, before commissions are issued to them, take and subscribe to the following oath.

\* \* \* \* \*

The staff of general officers shall be the same as, for the time, may be prescribed by regulations of the United States Army or orders of the War Department, governing appointments of officers of the same grade in the United States service, all of whom shall be detailed from the line of the command of the officers to whose staff they are attached.

SEC. 7. The staff of the commander-in-chief shall be an adjutant general, with the rank and pay of colonel of cavalry; a quartermaster general, an inspector general, and a commissary general, each with the rank and pay of colonel of cavalry; a paymaster general, with the rank and pay of lieutenant colonel of infantry; a surgeon general, with the rank and pay of colonel of infantry; a judge-advocate general, with the rank and pay of lieutenant colonel of infantry; three aids-de-camp, with the rank and pay of major of infantry; he may detail from the line and field officers of any regiment such officers as he may deem proper, and assign them to duty on his staff.

SEC. 8. It shall be lawful for the commander-in-chief to call into service such platoons, companies, regiments, or other force, as the safety and peace of the State may require, and to issue such orders, instructions, general and special, as may be necessary to insure good discipline and perfection in drill, and safety to the persons and property of the citizens of the State.

SEC. 9. The publication of the proclamation of the Governor shall be deemed sufficient notice to all persons belonging to the organized militia to report to their respective commanding officer for active service.

SEC. 10. The Articles of War and Regulations, as published by the War Department of the United States, shall be observed by the volunteer militia of Alabama in every particular, not otherwise provided by this ordinance, and the manner of drill shall be such as is prescribed in the tactics adopted for the United States Army.

SEC. 11. Whenever the militia, or any part of it, is called into service, the inspector general, or his assistants, shall muster such force into the service, on the rolls of the platoon or company, one of which rolls shall be retained by the commanding officer of the platoon or company, one copy shall be returned to the adjutant general of the State, and one copy to the district headquarters. He shall administer to each platoon or company, separately, the following oath: "You, and each of you, do solemnly swear that you will support, protect, and defend the United States and the State of Alabama, and the constitution and laws thereof, against all their enemies; that you will assist in enforcing the laws, and will obey all lawful orders of the officers having authority to command you while in the service, so help you God."

SEC. 12. This paragraph imposes penalties for neglect of duty.

SEC. 13. Any one who shall have been enlisted in the volunteer militia of the State, having been previously made acquainted with the duties and requirements of the service, and shall afterward neglect or refuse to obey the lawful orders of his superior officer, or willfully violates any of the provisions of this ordinance, shall pay the sum of twenty dollars, to be levied upon his goods and chatties, by order of the commanding officer of the district, and may be imprisoned or put to hard labor by said officer, until said fine is paid, and shall then be assigned to such platoon or company as the commanding officers of the district may direct; and any person thus liable to militia service who shall refuse or neglect to perform such service, shall pay a fine of five dollars per day for every day he fails to render such service, after having been thereto required by his officers, and in addition thereto such delinquent shall be subject to arrest and punishment, within the discretion of a court-martial, and nothing in this section shall be construed to exempt any man from military service.

SEC. 14. The commanding officer of each platoon or company shall certify to the commanding officer of the battalion or regiment to which he is attached a

list of all persons liable to fine under the provisions of this ordinance, with the number of days each person has neglected or refused to do duty, which list shall be by the commanding officer of the battalion or regiment certified to the clerk of the circuit court of the county ten days before the next term of the said court, who shall place a copy of said list on a conspicuous place in his office at least five days before the first day of the term.

SEC. 15. It shall be the duty of the circuit court to render a judgment and an execution against each person named in his said list for the sum due by him and cost, which shall be collected as other fines. The sheriff of the county may collect all sums due in said list before judgment, and shall pay over the same to the State treasury, to the credit of the militia fund. He shall certify to the commanding officer of the district the names of all persons who fail to pay the amount stated against them in said lists, or who have no property whereof to levy such execution, and the commanding officer of the district shall arrest and put at labor the persons mentioned in the last named lists, until the amounts due by them are paid, and it shall be the duty of the circuit attorney of the proper circuit to prosecute all such matters as shall come before the said court by virtue of said section.

SEC. 16. The sum of one dollar per day shall be reckoned to every person put at labor under the provisions of this ordinance.

SEC. 17. The uniform of volunteer militia of Alabama shall be the same as prescribed by the United States Army regulations for the Army of the United States, until otherwise ordered by the commander-in-chief.

SEC. 18. All officers when on duty shall wear the uniform of their rank, and no person not in the military service of the State or United States shall wear any insignia of rank, under a penalty of \$100 for every offense, to be recovered by suit and summary trial before any justice of the peace.

SEC. 19. The pay of the volunteer militia when called into actual service of the State or of the United States, shall be the same for officers and men as allowed for the time by the United States to officers and soldiers, and fifty cents for each day's service of his horse when he is mounted.

SEC. 20. All taxes levied and collected for military purposes, and all fines imposed upon militia men by this ordinance, all proceeds of the sale of contraband or captured property seized or captured by the militia, and all other appropriations and levies made for the benefit of the militia, shall likewise be paid into the treasury to the credit of the said fund. Out of such fund shall be paid all expenses incurred according to law, and audited by the proper officers, and appropriations for military purposes, as other claims against the State.

SEC. 21. The Governor of the State shall lay before the General Assembly at each regular session thereof, a report of the money expended for militia purposes, and an estimate of the funds necessary for support of the militia for the next two years.

SEC. 22. Any officer, civil or military, who may refuse to account for, and pay over according to law, any moneys or property, coming into his hands belonging to the militia fund, shall, upon conviction thereof in the circuit or criminal courts, on indictment, be sentenced to imprisonment in the penitentiary for a term of not less than five or more than ten years.

SEC. 23. Courts-martial shall be constituted and shall proceed in all cases, and be governed by the laws and regulations prescribed for the United States Army.

SEC. 24. The General Assembly of the State shall provide the ways and means for the payment of the Alabama volunteer militia when in actual service, and may at any time amend or repeal this ordinance.

SEC. 25. It shall be the duty of the Governor in organizing the militia of the several counties into regiments, brigades, and divisions, to so distribute the several commands as to insure the public safety.

SEC. 26. The following shall be the apportionment to the several counties of militia, each: Baldwin, one company; Baine, one company; Bibb, one company; Blount, one company; Clay, one company; Cherokee, one company; Cleburn, one company; Coffee, one company; Conecuh, one company; Coosa, one company; Colbert, one company; Covington, one company; Dale, one company; DeKalb, one company; Franklin, one company; Jefferson, one company; Marshall, one company; Marion, one company; Morgan, one company; St. Clair, one company; Walker, one company; Washington, one company; Winston, one company; Autauga, two companies; Butler, two companies; Calhoun, two companies; Chambers, two companies; Clark, two companies; Crenshaw, two companies; Choctaw, two companies; Elmore, two companies; Henry, two companies; Jackson, two companies; Lauderdale, two companies; Lawrence, two companies; Limestone, two companies; Monroe, two companies; Pickens, two companies; Randolph, two companies; Shelby, two companies; Bullock, three companies; Greene three companies; Hale, three companies; Lowndes, three companies; Lee, three companies; Macon, three companies; Pike, three companies; Russell, three companies; Talladega, three companies; Tallapoosa, three companies; Tuscaloosa, three companies; Barbour, four companies; Madison, four companies; Sumter, four companies; Wilcox, four companies; Marengo, five companies; Perry, five companies; Dallas, seven companies; Montgomery, seven companies; Mobile, seven companies.

D. E. COON, *Chairman.*

M. D. BRAINARD,

B. O. MASTERSON,

C. W. DUSTAN,

C. P. SIMMONS,

JAS. R. WALKER,

GEO. J. DYKES,

Committee.

#### REPORT OF GENERAL MEADE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in compliance with a resolution of the House of the 27th instant, a report by Major General Meade relative to the State of Alabama; which was ordered to be printed, and referred, with accompanying documents, to the Committee on Reconstruction.

#### NAVAL STOREKEEPER AT RIO JANEIRO.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Navy, in reply to a resolution of the House of the 26th instant, relative to the authority by which a paymaster in the United States Navy is employed as resident naval storekeeper at Rio Janeiro and elsewhere at an increased salary; which was referred to the Committee on Naval Affairs.

#### LIGHT-HOUSE AT AU SABLE RIVER.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the Light-House Board covering a letter from General Reynolds, engineer eleventh light-house district, relative to the creation of a light-house at the mouth of the Au Sable river, Lake Huron, Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

#### DESTITUTE CHEROKEE INDIANS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a report of the Commissioner of Indian Affairs relative to the removal of certain destitute Cherokee Indians now scattered through the Indian Territory to their homes in the Cherokee country, with estimates of the appropriations made therefor; which was referred to the Committee on Appropriations, and ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. TABER asked and obtained leave of absence for next week.

#### ADMISSION OF ALABAMA.

Mr. PAINE. Mr. Speaker, the gentleman from Indiana, [Mr. KEAR,] who has just taken his seat, asserts, as one of his objections to this constitution of Alabama, that the convention has disfranchised three of the counties of that State. That objection was made by the gentleman from Kentucky [Mr. BECK] the other day in the document which was submitted to the House as the views of the minority of the Committee on Reconstruction. That, sir, is a serious objection to this constitution if it can be said upon this floor with truth that the people of three of the counties of the State have actually been disfranchised by the convention. That would be an objection which might well have great weight with the members of this House when asked to vote for the admission of Alabama under this constitution. But I meet that assertion here with a point-blank denial. I tell you, sir, the convention did not disfranchise the people of three of the counties of the State of Alabama, that the framers of the constitution have not in any way impaired the representative power of the people of any of the counties of the State, and I will show that what I state is true. I know what counties the gentlemen has in mind, although he has not named them. He refers to the counties of Baine, Colbert, and Jones.

Now, sir, I might call upon the gentleman to present proof of the fact which he asserts. I might call upon him to show you that the three counties to which he refers were actually counties of the State of Alabama, and that the people of those counties have been stripped of their representation by this constitution. He has not offered any proof. He has not pointed to the facts in the case upon which he bases his assertion. I deny the assertion; and I will assume the burden of proof and will present the facts which show the assertion to be incorrect. It is true that in the year 1867

three new counties were erected; erected, not, as the gentleman says, by a constitutional convention, but erected by an act passed by a Legislature which was the creature of executive usurpation, and approved by a Governor who was also a creature of executive usurpation. We have already twice, if not more than twice, in our legislation, repudiated that Legislature and that Governor and their acts. We have declared them all illegal and without authority. This was not the Legislature which Alabama had before secession. It was not the Legislature which was in power pending the war, clothed with whatever semi-sovereign State power remained to Alabama at the end of the war. But it was a Legislature which Andrew Johnson, in violation of the Constitution, in contempt of the fundamental principles of our Government, manufactured and attempted to fasten upon the people of Alabama, which erected these counties. It was a Governor appointed by Andrew Johnson, in like violation of our Constitution, over the people of Alabama who approved the acts by which these counties were created.

Such was the origin of these three counties. The constitutional convention assembled under our reconstruction acts adopted ordinances which restored the territory which those three counties embraced to the counties from which it was originally taken. So far was the convention from withholding from the people of those counties in their new condition any part of the representation to which they would have been entitled if their county organizations had been preserved, that it actually increased the representative power of the people of those counties in their restored relations. It extended to them, as a matter of fact, a power which is above that of the average of the people of the State of Alabama. In other words, the convention actually provided that, so far as these three counties are concerned, a less number of voters shall be sufficient to elect a representative than constitute the average basis of representation in the State.

Mr. BECK. Will the gentleman allow me to ask him a question?

Mr. PAINE. Certainly.

Mr. BECK. As the gentleman has referred to what I said the other day, I would ask him if it is not a fact that there were ten new counties created at that time, and that three of those, Baine, Colbert, and Jones, were stricken out, and the other seven, which were created at the same time, in 1866, were retained?

Mr. PAINE. That is not the fact, as I am about to show. It is a fact that on the 7th of December, 1866, by an act which I hold in my hand, the act of the bogus Legislature of the State of Alabama, the county of Baine was formed out of portions of Cherokee, DeKalb, Marshall, Blount, St. Clair, and Calhoun counties; that is true, and that act was approved by Robert M. Patton, then provisional Governor of Alabama. This act was passed, not by any constitutional convention, but "by the Senate and House of Representatives of the State of Alabama in General Assembly convened."

It is also true that on the 4th of February, 1867, the new county of Jones was formed out of portions of the counties of Marion and Fayette by the same bogus Legislature. And on the 6th of February, 1867, the same Legislature formed the county of Colbert out of a portion of the county of Franklin. So far my friend from Kentucky is correct; this Legislature did erect these three counties of Baine, Jones, and Colbert.

But when this convention of Alabama assembled ordinances were introduced to restore the territory of these new counties to the counties from which it had been taken. I have before me the journal of the proceedings of the eleventh day of that convention, the 16th of November, 1867. On that day an ordinance was introduced in these words:

"Be it ordained by the people of the State of Alabama in convention assembled, That the county of Colbert, formed out of the county of Franklin, created by an

act of the last General Assembly of the State, and purporting to have been approved on the 6th day of February, 1867, be, and the same is hereby, abolished; and that the territory and jurisdiction of said new county be restored to the said county of Franklin, just as it was on the 10th day of January, 1861."

I have here, also, the journal of the ninth day of the convention, in which I find noticed the introduction of an ordinance in precisely the same words, *mutatis mutandis*, for restoring the territory of the new county of Jones to the old counties of Marion and Fayette, from which it was taken. I have not been able to obtain the journal of the convention showing when these two ordinances were adopted, but I have before me the correspondence of the New York World, dated Montgomery, Alabama, December 7, 1867, which I have no doubt will be accepted as good authority by gentlemen on the other side. In that correspondence I find mentioned among the ordinances adopted by the convention the following: an ordinance to abolish the county of Colbert; an ordinance to abolish the county of Jones; an ordinance to abolish the county of Baine.

The complete journal of the convention is not accessible to us. Fortunately I found the portions which I have read and also the foregoing correspondence in the office of the Clerk of the House. Here is the explanation of the disappearance of these three counties: they were by the convention returned to the condition which they held before the non-descript Legislature, installed by President Johnson, undertook to erect them into new counties. And when the gentlemen assert that these three counties were disfranchised they are utterly mistaken. Why, sir, if they will look at those counties, in their present condition, they will perceive that they not only retain the whole of the representative power which is bestowed upon other people of the State, but on account of the accidental numbers of their people they actually have now a greater power than the average people of the State possess. This results from no purpose to give them increased representation at the expense of the rest of the State, but from the fact that their population happens to fall a little short of the average basis of representation of the State.

Under the new arrangement the former counties of Franklin and Colbert are embraced in the single county of Franklin, and have two representatives in the State Legislature. Those two counties have of registered voters 3,352, as the gentleman will see if he will refer to the tables from which he obtained his other facts. The ratio of representation for the entire State is one representative in the Legislature for 1,658 registered voters. Now, the half of 3,352 is 1,676, the ratio for the county of Franklin. This, to be sure, exceeds the average basis by eighteen. But the counties of Jones, Fayette, and Marion constitute now two counties, with 3,121 registered voters, entitled to two representatives, or at the rate of one for 1,560 voters. This is almost one hundred less than the average. The counties of Cherokee, DeKalb, Marshall, Blount, St. Clair, and Calhoun, to which the county of Baine has been restored, with 3,912 voters, have six representatives, or one to 1,485 voters, almost two hundred less than the basis in each case. Is it denied, in the face of all this, that Colbert is in fact authorized to vote in Franklin? Then tell me how it happens that Franklin alone, under General Pope's registration, made before the restoration of these short-lived counties, had only 985 registered voters, only a little more than half the basis for a single representative, and yet, under the constitution, has two representatives. The reason is that Colbert has returned to her former place with her 1,810 registered voters. Is it denied that the people of Jones are permitted to vote in their old county organizations of Fayette and Marion? Then why have Fayette and Marion each a representative, when General Pope's registration shows only 1,106 voters for the former and 837 for the latter? Sir, the 1,178 voters of Jones are distributed among them, and so

the number of voters in each is made to approximate to the average basis of the State."

It appears, then, that the counties to which Baine, Colbert, and Jones counties are restored, in forming these representative districts, have, under the apportionment of this convention, the full representation, and even more than the full representation, of all their registered voters. If, on the other hand, you withdraw the population of these counties, Colbert, Baine, and Jones, from the counties with which they are associated in this apportionment under the constitution, you give these original counties a representative power vastly greater than their population or their registration entitles them to wield.

I say, then, that here is the explanation of the fact that the three names, Colbert, Baine, and Jones, do not appear in the constitution, that they have disappeared from the list of counties as it existed in 1867. They were restored by the convention to their old places, the places they occupied before these three acts were passed; and when they were restored their representative power went with them to those old counties. The counties of Cherokee, DeKalb, Marshall, Blount, St. Clair, and Calhoun have representative power which is increased by distributing among them the registered voters of Baine county registered by General Pope when that county stood by itself. So the representation of Fayette and Marion is increased by distributing to them the registered voters of Jones. And the representation of Franklin is increased by giving to it the representation to which the people of Colbert would have been entitled if that county had remained separate from Franklin.

These counties, then, are not disfranchised. Their voters are required by the Constitution to vote in the counties where they formerly voted; and voting there, instead of being stripped of their power, they find it materially increased. And this increase, Mr. Speaker, does not result from any injustice purposely done by this convention to the other counties of the State. It is always impossible to make the size of the counties or of representative districts conform exactly to the basis of representation. Some counties will have more, some less, population or registered voters than the average basis for the whole State. It so happens that these counties had less than the basis, and they actually have in the aggregate more representation in the State Legislature, (including both the Senate and the House of Representatives,) and will have more representation in Congress than the same number of people on the average in other parts of the State. There is, then, no injustice done to them; and there is no intentional injustice to the other people of the State, because this results from the accidental numbers of their population.

Another objection made to this constitution is, that the State has been "gerrymandered," as the phrase is. It is said that an undue portion of political power is given to one part of the State while its proper share is withheld from another. I desire to present to this House the facts so far as this point is concerned. It is asserted here by the gentleman from Indiana [Mr. KERR] and the gentleman from Kentucky [Mr. BECK] that to twenty-four counties of the State sixty-five representatives are allotted, whereas to thirty-five counties only thirty-five representatives are given; that to these twenty-four counties is assigned a proportion of political power vastly greater than that to which their population entitles them, because there is a preponderance of black voters there, while there is a preponderance of white voters in the other counties. Well, sir, it happens that to each one of the thirty-five counties to which the gentleman refers one representative is given. They are the small counties of the State. As I have said, the basis of representation in the State is 1,658 votes; and I state to this House now, in answer to all that has been said in the way of charging unfairness upon the convention in this apportionment, that of those thirty-five counties seventeen



have actually less than the average basis of representation in the State—less than 1,658 voters each; and eighteen of them have a little more than that; and when you look at the twenty-four large counties which have respectively two, three, or five representatives you discover that exactly the same thing is true of them as of the thirty-five small counties; that some of them have a slightly smaller number of registered voters than the average basis of representation in the State, while some of them have a slightly larger number. Now, take, for example, the county of Tuscaloosa, which has but two representatives in the Legislature. Its registered voters number 3,390; whereas twice the average basis of representation would only be 3,316. This county, therefore, instead of having excessive representation, has less than the average of the State; and yet Tuscaloosa is one of the twenty-four counties alleged to have more than their just political power. The same is true of the county of Russell. It has a population of 3,551, and it has only two representatives, though twice the average basis of representation would be 3,316. This county, therefore, has less than its due proportion of political power in that State. The same is true of the counties of Lee, Hale, and Greene.

But, sir, I will not go through with all these counties in detail. I turn to the counties that have three representatives each. Three times 1,658 votes, the basis of representation, would be 4,974. Barbour has 5,123 registered voters, being more than enough for three representatives. Bullock has 4,482, a little less. Lowndes has 4,654, and Madison 4,770, each a little less; while Marengo has only three representatives, and yet has 5,168 registered voters; and Perry, with only three representatives, has 5,359 registered voters. So it is with the counties that have five representatives, Dallas, Mobile, and Montgomery. Every one of these counties has more voters for each representative than form the average basis of representation for the State.

It would be impossible, Mr. Speaker, to apportion this representation upon any plan fairer than that on which representatives are distributed among these counties. You can not certainly deprive the small counties of their single representatives; you cannot make the registration or population of all the small counties equal. The consequence is, that some are below and others above the basis fixed for representation. The counties entitled to more than one representative of course could not have, without a miracle, the precise number of population, which would entitle them to any particular number of representatives; and very properly the convention of Alabama undertook to make the division in the most equitable manner possible under the circumstances of the case. And, sir, I defy the ingenuity of any member upon this floor to take the tables of registered voters or the population tables given by gentlemen on the other side, and make a fairer apportionment than that made by this convention for the State of Alabama.

If you consider the population of these counties, as stated by the gentleman from Kentucky [Mr. BECK] and the gentleman from Indiana, [Mr. KERR,] you arrive at the following results. They make the total population of Alabama 972,153. This, divided by one hundred, the number of representatives, gives a basis of 9,721. Now, while it is true that these thirty-five counties have, on an average, a basis of 11,181, yet, if you give them each an additional representative the average basis would be only 5,592; and if you deprive each of the twenty-four large counties of one representative, the average basis in those twenty-four counties will be 14,163. This would result in a great wrong in either case. And if you give one additional representative to each of the small counties you will give two representatives each to seventeen counties which have not registered voters enough for one, and you will give two representatives to sixteen other counties whose number of registered voters comes nearer to the basis for one rep-

resentative than for two. On the other hand, if you reduce the representation of the large counties by one member for each county you will reduce a representation already less in nearly every case than that to which the number of their registered voters would entitle them.

I say to the gentlemen on the other side of the House, and I say to my friends on this side of the House, after a most careful scrutiny of this constitution and this table of registered voters, that I can see no reason to complain of any unfairness on the part of this constitutional convention; but I can, on the contrary, see every reason to applaud the exceeding great care they have taken to give every county in the State a fair representation. It will be impossible for gentlemen to go through with the whole State and make any more equitable distribution of political power.

But it is further objected that many of the members of this convention were candidates for State or county offices at the first election under this constitution. Well, sir, if they have erred in this matter they have erred following great and well-known examples—the examples of the illustrious founders and fathers of the Republic themselves. If this is an unpardonable offense, a disgrace to be punished by the rejection of the Alabama constitution, what shall we do to efface the stain from our own Federal Constitution and from the good name of its honored framers? George Washington was the President of the Convention which framed the Constitution of the United States, and he was the first President of the United States under the Constitution which that Convention framed. John Langdon and Nicholas Gilman represented New Hampshire in that Convention and the former was a Senator and the latter a Representative in the First Congress of the United States. William S. Johnson and Roger Sherman represented Connecticut in that Convention, and the former was a Senator and the latter a Representative in the First Congress. Alexander Hamilton alone represented New York, and he was our first Secretary of the Treasury. John Blair and James Madison represented Virginia. The former was one of the first justices of our Supreme Court and the latter was a Representative in the First Congress. William Few and Abraham Baldwin represented Georgia, and were members of the First Congress. Robert Morris and George Clymer of Pennsylvania, George Read and Richard Barrett of Delaware, William Patterson of New Jersey, and Daniel Carroll of Maryland were delegates in the Convention and members of the First Congress. John Rutledge, of South Carolina, was a member of the Convention and was one of the first associate justices of our Supreme Court. These names occur to me. Doubtless an examination of the records would show that many others of these great men held office under the Government at its first organization. And who shall say that they impaired the value of their work or disgraced themselves by doing so? Who shall say that the constitution of Alabama is any the worse, or the State any the worse, or the framers of her constitution any the worse because members of the convention were esteemed worthy and were willing to hold office under that constitution?

Another objection made by the gentleman from Indiana [Mr. KERR] to this constitution is that it exempts from execution property of the value of \$3,000 for the benefit of the poor men of that State. It is supposed that the colored men will be the poor men, worth always less than three thousand dollars, and so this provision is virtually an odious discrimination in favor of the poor blacks against the rich whites. Well, sir, I am not so very sure that every white man in Alabama is worth \$3,000, or even three thousand cents; and, now that labor owns itself, I am not confident that the whites are to engross the wealth of that region of country. This constitution, however, exempts only \$1,000 in personal property, and it exempts real estate not exceeding in value \$2,000. I

see nothing very remarkable in the constitution so far as this exemption is concerned. If the gentleman complains that these exemptions are extravagant, I do not know what he would say if he should go to my own State and find there no limit in value to the exemption of real estate—no limit except as to quantity. I think the Alabama exemptions wisely provided. I certainly see nothing in them so atrocious as to justify us in excluding the State from representation in this House.

Gentlemen tell us that by accepting this constitution and admitting Alabama to representation under it we shall impose upon the people of that State a test-oath which is too infamous to be imposed by this Congress or any other authority upon any people? What is this test-oath? I will read it:

Not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men.

The gentleman from Kentucky [Mr. BECK] stated the other day that not over twelve thousand white people were excluded from registration by our reconstruction acts. He might have said that not over five thousand white people were so excluded. And it is possibly true, as some of the members of our committee believe, that even one thousand would be the maximum of white men who were in fact excluded.

The gentleman from Kentucky has further admitted, nay, he has asserted in the presence of this House, that a majority of the white registered voters of Alabama were rebels during the war. I have no doubt that this is true. And now we are assailed by gentlemen as if guilty of the most outrageous tyranny because we require these men who were rebels during the war to swear that they "will not attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men." The gentlemen from Kentucky, [Mr. BECK,] in speaking on this subject, declared:

"It is the very essence of tyranny, the very climax of despotism, to require a man to take an oath, as a condition precedent to the exercise of any political rights or privileges, that he will never, in any emergency, no matter how urgent, do what, in his judgment, not only patriotism, but the very existence of republican liberty and free institutions may require, to wit, deprive all or certain classes of the negro population of the State of political rights and privileges."

"He may be willing now to make the experiment of negro suffrage, if you please; but to require him in all time to swear that he will maintain and defend it, even though it may be apparent to him and to all the world that it is a failure, is to degrade and disgrace him, and make him swear in advance that he consents to his own degradation."

And the gentleman from Pennsylvania [Mr. BOYER] said:

"But there is one feature in that instrument so especially monstrous that I cannot forbear its mention. It disfranchises all citizens who will not swear eternal fidelity to negro equality. The fourth section of article seven provides as follows:

"That I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men."

"Was there ever so shameless a law to fetter free thought and the utterance of honest convictions? And this is in the name of republican government!"

Why, sir, of whom do they speak when they utter these words? Of these very white men of whom my friend has asserted that a majority were rebels during the war. Now we consent that they shall be enfranchised and registered themselves. We permit them to vote, we allow them to exercise full political power in that State. But when we require that as a condition of the enjoyment of these privileges they shall declare under oath that they will not hereafter attempt to deprive the loyal men of the South who happen to be black of their political rights they upbraid us as perpetrators of an atrocious wrong upon these enfranchised rebels.

Sir, I can look upon this in no such light. I think it is a favor to those white men who were traitors during the war that we allow them to partake of political power at all. I do not believe that we are bound in justice to do it under

our Constitution. I think it would be right for us, if we deemed it expedient, to withhold absolutely from them all political power. Nay, sir, I am not sure that it was not our duty to deprive some of the leaders of their lives and to consign more to perpetual exile. Certainly I can see no reason; I can see no justice, I can see no propriety in the course of any man who stands up on this floor and charges us with wrong because we say that those men who were, as my friend admits, rebels during the war shall not exercise political power which we have a right absolutely to withhold from them, unless they will swear not to wrest it from those men who were loyal during the war and to whom we are in justice and honor bound to extend and perpetuate these rights.

Again, sir, our friends on the other side of the House denounce most bitterly the declaration of rights contained in the second section of the first article of the constitution. They denounce it as an intolerable outrage upon these penitent rebels whom we generously and graciously permit to vote under our reconstruction acts. They denounce it as galling tyranny over these white men who have so earnestly striven to overthrow our Republic—who are conquered, but, I fear, none the less hostile to their country. What is the language of this detestable declaration of rights? Here it is:

Sec. 2. That all persons resident in this State, born in the United States or naturalized, or who shall have legally declared their intention to become citizens of the United States, are hereby declared citizens of the State of Alabama, possessing equal civil and political rights and public privileges.

I am amazed that such a complaint should be made in this presence. What? is it oppressive to these white men who are punishable with the doom of the basest traitors to give the loyal men of the South who happen to be black equal civil and political rights and public privileges? Instead of thanking us because we give them back their rights which they have forfeited, do they curse us because we extend them to loyal men who never forfeited them? Do they suppose that all distinctions between loyalty and treason have so soon disappeared in the quicksands of our consciences? It was simply a question of policy, of expediency, whether we would or would not give these privileges to white traitors. But, sir, it was not merely a question of policy whether we should give them to the loyal blacks; it was a solemn duty which we could not evade without such national disgrace as the penitential tears of ages could not wash out. We enfranchised the white rebels. They ought to be thankful for it. Their champions on this floor ought to thank us for our unspeakable—perhaps, also, unwise—magnanimity toward their friends. And yet they sting the hand that blesses them, and accepting our benefactions as absolute debts they upbraid us because we remove their heels from the necks of the loyal men whom they have so long oppressed. There is a cruel forgetfulness of all distinctions between treason and loyalty in this objection to our bill which shocks me. And I am the more pained because I see gentlemen on this side of the House lending an altogether too willing ear to this monstrous doctrine. Sir, we have no right to accept this constitution without such a provision. Instead of being an objection it should be a *sine qua non* to the reconstruction of the State.

But gentlemen complain that this constitution was framed by a convention some of the members of which were not born upon the soil of Alabama. I admit that. The gentleman from Kentucky [Mr. Beck] proved this by a table which he read from the Selma (Alabama) Times and Messenger of February 28, 1868, a table copied into that journal from the New York World. This is far enough from being official authority, and yet, for the sake of argument, I admit that several of these delegates were not natives of Alabama.

But, sir, there is no atrocity, no enormity in this. There is nothing startling or shocking or disgusting in this; no reason for sneering or groaning at foreigners or adventurers or Yankees. This will afford us no pretext, no excuse,

for rejecting the application of the people of the State for admission under this constitution. Why, sir, on this floor to-day there is not a single member from my own State who was born in Wisconsin, nor is there a Wisconsin Senator in the other end of the Capitol who is a native of that State. In our State Legislature, which has just adjourned, there was not one senator who was born within our State; there was but a single representative who was a native of our soil.

The State of Alabama was originally admitted to the Union in 1819 and the State of Indiana in 1816. More than half of the Representatives from the State of Indiana in this Capitol to-day were born elsewhere than on the soil of that State, although Indiana was admitted into the Federal Union before Alabama was ever admitted. The State of Illinois was admitted into the Union in 1818, and before the State of Alabama. There are sixteen Senators and Representatives in this Capitol from that State, and of that entire number only four were born on the soil of Illinois. Why, sir, almost as many of them were born in the State so honorably represented by my friend from Kentucky [Mr. Beck] as were born in Illinois. Three were born in Kentucky and only four in Illinois. The State of New Jersey, one of the original thirteen, has more foreign-born than native-born Representatives upon this floor to-day; of the five Representatives of that State only two were born within her borders.

When my friend from Kentucky [Mr. Beck] was hurling his execrations against this convention and its work because some of its members were not natives of Alabama, his voice, though powerful and eloquent, was marked by a foreign accent so strong that I could not escape the conviction that he himself was not a native of Kentucky; and although I do not know where was the place of his nativity, I venture to express the belief that the gentleman who so ably represents the State of Kentucky on this floor, and who uttered these maledictions against the Alabama convention, was not born himself on the soil of the State which he represents; nay, not even born on the soil of this continent. I venture to say that today an ocean rolls between him and the island of his nativity. But, sir, the people of Kentucky have sent to us a representative man, whom I am happy to be able to call my personal friend and to meet on this floor—a gentleman who is none the less welcome because he is, if he is, foreign born. But, sir, it is not for him, as it certainly is not for any other man on this floor, to upbraid those citizens of the Republic, whether natives or foreign born, who framed this constitution for Alabama because some of them were not born within her borders. Nor is the other gentleman who signed this minority report, and who represents so ably the city of New York, [Mr. Brooks,] if I am correctly informed, a native of the State he represents; and I know that the gentleman from Indiana, [Mr. Kerr,] who has just addressed the House, was not born in the State which he represents with so much credit on this floor. And, sir, if you will look into our directory, you will find that only a little more than half the members of this House were born in the States which sent them hither. Why, then, add this frivolous complaint to the burden of execration heaped upon the framers of this constitution?

Again, we are reminded that of the members of this convention sixteen were blacks. Well, that is true. In a convention numbering over one hundred sixteen were actually blacks. But it must be remembered that the number of registered black voters was 93,543, while the number of registered white voters was 72,746. If, under that registration, one third or even one half the members of the convention had been blacks there would have been no injustice done to the whites. I think they were exceedingly modest in only requiring that sixteen out of the one hundred should be of their own race and color. I think that, instead of reproaching them for sending so many, we ought rather

to commend them for that spirit of self-sacrifice which prompted them to send so few.

The gentleman from Kentucky [Mr. Beck] assures us that the whole proceedings of the convention are so infamous that thirteen of the members of the convention presented their protest and refused to sign the constitution, and among the extracts from that protest he read the following:

"The constitution provides a mode for its amendment, but each elector must swear that he will never seek to exercise that constitutional right in a certain direction.

"The evils of universal suffrage may become intolerable, but he must swear that he will endure them without even a peaceful and constitutional effort at amelioration."

And this is the main point in the protest. This is the burden of the grievances inflicted by the constitution. Here is the height and depth, the length and breadth of the infamy of these proceedings, which my friend says was sufficient to prompt this protest. I think this was no infamy. I think it was honorable and honest and just. If I had been a member of that convention I should have esteemed the places of these protestants more valuable than their company. It was, in my judgment, not the constitution but the protest that was infamous.

The gravest objection to this measure seems to be this: that we have pledged the faith of this nation to these white men of the South, to these men who, as is admitted, were chiefly traitors during the war, whether now friendly or hostile to the Union; that we have pledged the faith of this nation to them, by our act of 1867, that they should be permitted, if they saw fit, to defeat this constitution by effectuating such a result of the election that either the constitution should not receive a majority of the votes polled or a majority of the registered voters should neglect or refuse to vote. They say we made this solemn pledge to these white people of the State of Alabama; that we gave them the privilege of defeating the constitution, either by going to the polls and voting against it so as to cast a majority of hostile votes, or by absenting themselves from the polls so that a majority of the registered voters might not vote at all. They say we made this solemn pledge to them by the passage of the reconstruction act; that these white people of Alabama have availed themselves of it, have seen fit to stay away from the polls, and thereby defeated the constitution which would have been adopted if they had actually voted "no." that we gave them the power and the right to accomplish, by absenting themselves from the polls, that which they could not have accomplished if they had gone to the polls and voted against the constitution. They say that, having made this pledge to these people, we have no right now to withdraw it; that to do so would be a breach of the faith of the nation.

The gentleman from Kentucky [Mr. Beck] says:

"If language can make any proposition clear beyond dispute, these acts establish the facts, first, that a majority of the registered votes had to be cast on the question of a convention and on its ratification; and, second, that two modes were allowed to the people of Alabama of rejecting any constitution that might be submitted to them if its provisions were obnoxious—one by a majority of those voting to vote against it; the other by a concerted abstention from voting by those who were registered voters. Either course was equally legal and equally efficient. It was as legitimate a mode of opposing its ratification by the qualified voters by refusing to vote as by voting against it. That this was a mode deliberately and purposely adopted by those who opposed the ratification is a part of the political history of the country. The primary conservative county conventions of the people of Alabama adopted it as the best mode of opposition, and by resolution recommended it to the conservatives of the State. All their newspapers advocated it, and it was well known, both to this Congress and to the advocates of the constitution, as the mode of opposition, most publicly and deliberately adopted long before the vote was taken."

The gentleman from Pennsylvania [Mr. Boyer] said:

"The act of March 23 told the people of Alabama, as plainly as language could express it, that the vote of every registered citizen not polled should count as a vote against the constitution framed by the mongrel convention lately assembled in that State,

This Congress pledged itself to reject any constitution not sustained by at least one half of the registered voters of Alabama. Upon the faith of that pledge a majority of the registered voters refrained from voting; and thus, by staying at home, they defeated the proposition in the very mode provided by Congress for that purpose. Now, it is proposed to go back upon this pledge thus solemnly made by Congress, and accepted and acted upon in good faith by the people of Alabama, and in the face of the American public and before high Heaven the Reconstruction Committee advises this Congress to eat its own words, and to perpetrate that which in a statute, enacted, printed, and promulgated as a law of the land, it has heretofore declared ought not and should not be done."

And in the minority report it is asserted that the voters were expressly authorized by the provisions of the reconstruction acts to reject the constitution, either by voting against it or not voting at the election.

All this, I confess, seems to me incomprehensible. Is it true, then, that we said to these white men who had been traitors so long, you may, if you see fit, avoid the polls, and thereby defeat a constitution which you could not defeat by voting against it. When and where did we expressly, or even by implication, authorize these men to avoid the polls? Did we do this when, in the third section of the act itself, we peremptorily declared that "at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act," and extended that order by the last clause of the fourth section to the election held for the ratification or rejection of the constitution? No, sir; no. We never expressly or by implication said, we never intended to say, to these men that they were authorized to avoid the polls, either for the purpose of defeating the constitution or for any other purpose.

I well remember the reasons which actuated this House in the enactment of this law. We are still here members of the same Congress which passed that act. We voted for it in this very Hall. Why that law was enacted we all well understood and well remember. We did not enact it for the purpose of enabling the late rebels of the South, the minority of the registered voters, to defeat constitutions which the loyal people of the South should frame and attempt to ratify. But we enacted it for the purpose of preventing the white rebels of the South, the minority of the people, from fastening on those States constitutions framed by minorities which should be objectionable to the majorities of the people of those States. That was the motive which prompted us. We knew that the whites of Alabama, as of the other rebel States, having enjoyed freedom and the opportunities of education and the exercise of political power hitherto would inevitably exercise in that State a political influence vastly disproportioned to their numbers. Everybody could see that. No one will even now deny it. Apprehensive that, although they might be in the minority so far as numbers were concerned, they would nevertheless get possession and control of the convention and frame a constitution themselves; and that when the election day came, by intimidation and by threats and by all the various means which their superior knowledge and experience and wealth could command, they would unduly influence the ignorant, inexperienced, and needy blacks of the State and thus repel from the polls large numbers of loyal voters, and enable themselves, by a majority of the votes actually cast, which might be only a small minority of the votes of registered voters, to ratify their minority constitution, we resolved and endeavored to prevent them from framing and foisting and fastening upon the people of the State a constitution, the work of their own hands, which should perpetuate the oppression under which the blacks, who were loyal during the war, had so long and so fearfully suffered. This law was not framed to enable the minority to defeat the constitution of the majority. It was framed to secure the majority from a constitution framed by an adroit and unscrupulous minority.

On the 11th day of March, 1867, this bill was before our House, and my colleague on the committee [Mr. BINGHAM] proposed so to

amend it as to permit a majority of the votes cast at the election to ratify the constitution. The chairman of the Committee on the Judiciary then stated the object which the committee, and, in fact, the majority of the gentlemen on this side of the House, had in the enactment of the fifth section of the act of 1867. He said that the question had been considered in the committee and the judgment of the committee was against it, and he added:

"The judgment of the committee was against it upon this ground: that in the rebel States the whites, being in possession of political power, might, by threats and intimidation, prevent the colored citizens from voting, keep them away from the polls, and adopt a constitution which would not be free and equal in its operation, and therefore they rejected the amendment when it was proposed in the committee."

The gentleman from Massachusetts [Mr. BOUTWELL] on the same occasion said:

"I submit that the power which Congress has to reject the work of any of these conventions is merely a negative power. I know very well that when any of the rebel States come here with the work of their conventions, and it conforms to the acts of Congress, even though but one third or one quarter of their people have assented to it, we shall be under an irresistible pressure to accept what they have done, and to admit their Representatives to seats upon this floor. I am, therefore, opposed to the amendment of the gentleman from Ohio, [Mr. BINGHAM]."

It was not to put a weapon in the hand of the disloyal minority wherewith to destroy the loyal majority that we framed this act, but we framed it to furnish a safeguard to the loyal majority against the cunning and fraud and violence of the disloyal minority.

It was not to give the late rebels of the South an opportunity and the means of defeating the will of the ever-loyal people of the South by defeating the constitutions which the loyal people might adopt. But it was to give to the loyal people of the South security against the imposition of constitutions framed, adopted, and ratified by disloyal minorities. Yet gentlemen on the other side of the House, in unholly sympathy with the rebellious element of Alabama, seek to make that fifth section the means of defeating the will of the majority of the people of that State. They insist that we expressly authorized them to avoid the polls when the fact is that we expressly and peremptorily ordered them to attend the polls. They seek to hold us to a forced construction of that text. They maintain that when we declared, as we did in that section, that upon certain conditions we would admit Representatives from that State, we declared virtually, but not the less solemnly, that unless those conditions should be fulfilled we would not admit Representatives from that State into this Congress, that we would not allow that State to be restored to its former place in the Federal Union. Now, sir, I deny that we ever made any such promise as this. I deny that we ever did by implication, as nobody pretends we did expressly, promise to the disloyal whites of the South that if these conditions should fail we would reject the constitution and reject Representatives calling upon us for admission. No, sir; we did none of those things; and the gentleman from Indiana, [Mr. KERR,] in my judgment, misconstrues this law when he declares such to be the purport of this fifth section. As I understand this fifth section it was not made one of the conditions of the admission into Congress of Representatives from that State that a majority of the votes polled should be for the constitution, nor was it made a condition to such admission that a majority of the registered voters should vote. Those are the first two conditions named in this fifth section. I say that it is an unnatural, a forced construction of this section which refers those two first-mentioned conditions to the admission of Representatives from that State. I assert my opinion that those conditions are solely conditions precedent to the authorization of the president of the convention to forward to the President of the United States the certified copy of the constitution. The exact provision of the section is:

"That if, according to said returns, the constitution shall be ratified by a majority of the votes of the

registered voters qualified as herein specified, cast at said election—at least one half of all the registered voters voting upon the question of such ratification—the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling."

These two conditions are not conditions precedent to the admission of Representatives from any of those States. We do not declare that if these two things shall be done we will admit those Representatives. What we do declare is, that if those two things are done the president of the convention shall be authorized to transmit the certified constitution of the State to the President of the United States, to be laid before Congress, and there we stop. We do, indeed, promise, upon certain conditions, to admit Representatives; but these two are not among those conditions. There are five conditions subsequently laid down upon compliance with which we promise admission of Representatives from those States. One of them is—

"That Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors of the State."

And right here, sir, is the sum and substance of the whole act.

I am satisfied on that point. I have not the slightest doubt that this constitution meets the approval of a majority of the qualified voters of Alabama. To my mind the evidence is overwhelming on this point. When I vote, then, as I shall vote, for the admission of Representatives under this constitution, I shall do that which I should be at liberty to do even though I had expressly declared in this act that I would never vote for the admission of such Representatives unless I should be satisfied that this constitution had the approval of a majority of the voters of the State. I never did, by voting for that act, declare expressly or by implication that I would never vote for the admission of Representatives from these States under any circumstances unless satisfied that the constitution met the approval of the majority of the registered voters of the State. I never placed such faith in registration as that would imply. But I do declare here and now that I would not vote for the admission of Representatives in this particular case unless I should be satisfied of such approval. I am satisfied on that point. I have no doubt that a majority of the registered voters of the State approve this constitution; and, as if bound by an express declaration that I would not vote for their admission without such approval, I will here vote for their admission.

The minority of our committee oppose this constitution because, as they assert, it deprives a large number of the white males of Alabama of the right to vote and hold office. Sir, these men during the war were traitors. They have no right to vote or to hold office, and for the present this dangerous favor is most righteously withheld. They oppose it, too, because it enfranchises the blacks. But, if it did not enfranchise the loyal men, black and white, I could never approve it. They object that it places the power to impose taxes in the hands of those who will not pay taxes. But it remains to be seen who will pay the taxes in the South. Formerly the white planters paid the taxes, because they owned the laborers, and the laborers earned the money with which the taxes were paid. The whites did not labor. It is yet to be decided whether they will hereafter themselves earn the money which will pay the taxes of the South, or whether the rough hands which have heretofore earned it shall earn it hereafter also and pay it into the Treasury themselves. It is a question what is the color of the future tax-payers of Alabama. But, then, in all States of the Union the majority are poor. It must be so everywhere, for if none are poor none can be rich. And yet everywhere the poor vote, and only modern Democracy is shameless enough to oppose it.

In the third section of this bill we lay down certain fundamental conditions upon which



this State is to be admitted. The gentlemen on the other side speak of these conditions as something unheard of in the organization of States in this Republic. Sir, we have admitted twenty-four new States since the Federal Constitution was adopted. Of these twenty-four States nine were admitted with fundamental conditions in the acts of admission in perfect harmony with the conditions of this bill so far as the principles involved are concerned, excepting only that clause which authorizes Congress by law to annul conflicting State legislation, which clause does not meet my approval.

Arkansas was admitted in 1836 upon the express condition that the people of that State should never interfere with the primary disposal of the public lands within the State, nor levy a tax on any of the lands of the United States in that State. California was admitted in 1850 upon the same conditions; and also upon the further conditions that non-resident proprietors being citizens should never be taxed higher than residents; and that all her navigable waters should be common highways. Florida and Iowa were admitted on conditions similar to those prescribed for Arkansas. Conditions were also prescribed in the cases of Louisiana, Michigan, Indiana, Missouri, and, I believe, Nebraska.

I will not detain the House to explain the provisions of the several acts imposing conditions upon the admission of the States named. I will read only the one applicable to the State of Missouri. The act admitting the State of Missouri into the Union provides as follows:

"Missouri shall be admitted into the Union on an equal footing with the original States in all respects whatever, upon the fundamental condition that the fourth clause of the twenty-sixth section of the third article of the Constitution, submitted on the part of said State to Congress, shall never be construed to authorize the passage of any law, and no law shall be passed in conformity thereto by which any citizen of either of the States in this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States."

If that provision did not ingraft a new feature upon the constitution of the State of Missouri, it did give a construction to that constitution which virtually amounted to the same thing.

While I am opposed to that clause of this bill which expressly authorizes Congress to annul conflicting State laws; while I am opposed to the third section as unnecessary and inexpedient, and shall vote for the motion of the gentleman from Ohio [Mr. BINGHAM] to omit the third section, yet, sir, in accordance with nine precedents in similar cases, I insist that we have the well-established right to adopt this section of the act with the single exception of that provision which specially authorizes Congress to annul conflicting acts of the Legislature of Alabama. Therefore, sir, I shall vote, in the first place, for the amendment of the gentleman from Ohio [Mr. BINGHAM] to strike out the third section from this bill. If that motion shall fail I shall ask for an opportunity to move to strike out the provision which in terms authorizes Congress to annul the acts of the State.

I am free, sir, to say that while I support this bill and shall vote for it and hope it will pass, nevertheless if the amendment of the gentleman from Ohio [Mr. SPALDING] shall be adopted in its stead, I shall find no occasion for much regret. Next to this bill, I prefer that to any measure that has been presented to this House or to which my attention has been called. While I hope that the bill presented by the committee may be enacted into a law, while I hope the Representatives of that State will be admitted on this floor under this constitution, yet if this House shall otherwise decide and conclude to adopt the amendment of the gentleman from Ohio or anything equivalent to it, I shall see no great reason to find fault with that decision.

#### NIGHT SESSION.

Mr. FARNSWORTH. I move, that the House take a recess to-day from half past four o'clock to seven o'clock p. m.

The motion was disagreed to.

#### REPORT ON PARIS EXPOSITION.

Mr. CAKE, by unanimous consent, reported from the Committee on Printing the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed of the report of Abraham S. Hewitt, commissioner to the Paris Exposition, eight thousand extra copies, six thousand for the use of the House and two thousand for the use of the State Department.

Mr. CAKE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NUMBERING OF BILLS, ETC.

Mr. CAKE also, by unanimous consent, reported from the Committee on Printing the following resolution; which was read, considered, and agreed to:

*Resolved*, That the numbers of all bills and joint resolutions, with their titles, shall be inserted in the Globe.

Mr. CAKE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. MILLER asked and obtained leave of absence for four days after Monday next.

#### RIGHTS OF AMERICAN CITIZENS.

Mr. JUDD. I desire to enter a motion to reconsider the vote by which the resolutions which I introduced this morning in relation to the rights of citizens of the United States were referred to the Committee on Foreign Affairs. The motion was entered.

#### ADMISSION OF ALABAMA—AGAIN.

Mr. ELDRIDGE. Mr. Speaker, I have been taught to believe that our system of government, State and national, embodied the perfection of all the models. I have supposed it so formed that it was safe from the assaults of radical innovation and not subject to change or alteration from within, except in the manner provided in the Constitution. With such opinions I cannot view the constant assaults upon its several departments, supposed to have been its chief perfection, but with sadness and alarm. These departments, intended to work in harmony, operating only as proper checks and balances upon each other, cannot long continue in open and hostile antagonism without fatal consequences. And yet what do we behold? The executive power is assailed, trenched upon, hedged about and circumscribed till its influence is scarcely perceptible, and its chief officer finally is sought to be deposed and removed because he will not altogether abdicate and surrender the office and power to a partisan Congress. The judiciary, too, that last refuge of patriotic hope, that supposed conservator of popular liberty when all others should fail, is in menace. It is not only menaced, but its prerogatives, powers, and jurisdiction are assailed with a frenzied zeal and partisan hate that admit of no room for doubt of the result. It is no longer to be the independent, peaceful, pure, and impartial arbiter of our disputes and controversies; but the fiat has gone forth from a partisan Legislature that the judges of the highest court of the land must soil the ermine in doing its bidding or surrender the judicial power. The gentleman from Ohio [Mr. SCHENCK] boasting proclaimed on this floor only the other day that the purpose was "to clip its power" in every possible way. And thus it is that one by one the very bulwarks of liberty are being thrown down and all the safeguards of the people's rights destroyed. These measures, I repeat, fill me with apprehension and alarm. With the President deposed, the prerogatives and jurisdiction of the Supreme Court taken away, a partisan Congress will riot in power unrestrained. With the sword and the purse at its command who so fool-hardy as to believe our liberties safe? Look at the War Depart-

ment barricaded and picketed with armed soldiers in time of profound peace and in the capital of the Republic!

And, sir, I cannot forget the most significant fact, that only a few days ago an attempt was made, probably at the suggestion of the usurping Secretary of War, to smuggle through the House in an appropriation bill a provision for the removal of the present Capitol police and authorizing the Secretary of War to detail non-commissioned officers and soldiers to take charge of the Capitol building and grounds. Had this not been discovered and the provision had become law we should be sitting to-day and legislating under the gleam of the sword and the Supreme Court rendering its decisions at the point of the bayonet. Verily, coming events are casting their shadows before. Are these things to familiarize our eyes to what is in waiting for us? Are they the advance pickets of the army with which Congress, if permitted to pursue unrestrained its purpose, will control the destinies of the people, and by which it will enforce its edicts; by which it will make and unmake States; make and unmake Presidents; make and unmake the courts and force them all to do its bidding? Is this the power, the policy, that is to control us?

Mr. Speaker, I desire to enter my protest against this bill and to relieve myself of all responsibility for its passage. Never, in my judgment, was there a more inexcusable or unjustifiable measure. It has no warrant in the Federal Constitution and no justification or precedent in the practice of this Government, unless, indeed, it be in the kindred measures of so-called reconstruction. It is in clear and unmistakable violation of all the underlying fundamental principles of the Republic.

Sir, if there be one idea upon which this Government was formed more essential and fundamental than any other, that idea is that the people of the United States are sovereign and entitled by nature to the right of self-government. This principle underlies all our institutions, and is coextensive with the utmost boundaries of the United States and its authority. The source of all power is the people, and their only grant or authority to the Federal Government is the Constitution. If the power is not there found it does not exist. Under the Constitution there are, and there can be, no conquered, tributary, or subject States. Equality of citizenship and the right of self-government have never been granted or surrendered by the people or States of the Republic. To do this would be voluntary submission to the chains and manacles of slavery. The right of self-government constitutes the liberty and freedom of the citizen. Without the enjoyment of this right no man can be styled free; no man can enjoy the liberty intended to be secured by the Federal Constitution. It is the dearest, the most essential right of American citizenship. It cannot be taken away without totally subverting the Constitution and destroying our system of Government altogether.

Sir, upon what provision of the Constitution can this bill rest; to what do its friends appeal for their justification in its support? I do not make this inquiry with reference to the gentleman from Pennsylvania, [Mr. STEVENS.] He is consistent and logical; he has never stultified himself by any pretended constitutional sanction. He proclaims all the reconstruction measures of Congress "outside" the Constitution. But to those who admit the obligation and duty of obedience to the fundamental law of the land, I ask them in all sincerity and honesty under which of its provisions or by what right do they justify their action upon this bill?

Article four, section three, provides that—

"New States may be admitted by the Congress into the Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States or parts of States without the consent of the Legislatures of the States concerned as well as of the Congress."

The State of Alabama is certainly not a new State; it is not a State formed by the junction of two or more States or parts of States; it is

not a new State formed within the jurisdiction of another State. And, if it were a new State so formed and erected, there is no consent of the Legislature of the State concerned. There is then no authority for this bill in this section, and it is the only provision of the Constitution relating to the admission of States into the Union.

But if it be said that the purpose of this bill and the measures of Congress preceding it are only to reorganize government in the State of Alabama and not to admit the State as a new State, the inquiry is still pertinent where does Congress get the authority? I have looked in vain to find any authority for this even. I can find no authority in the Constitution for any interference by Congress in the organization or reorganization of a government by the people of an existing State of the Union. The right to form and reform, to organize and reorganize governments is under our system a right original and inherent in the people. It is only the exercise of the right of self-government—the original right upon which all our State and national governments are founded. The right to form and establish Governments does not come from Congress; it is not a constitutional grant. It is one of the rights never delegated, never parted with by the people. It was derived from a source higher than Congresses or Parliaments. It is the right, the power to make and unmake both. All the "just powers of Government are by the consent of the governed."

If the right of the people to govern themselves be usurped or surrendered to that extent the people are enslaved. They cannot part with it or allow it to be taken from them and be free. The people must either govern themselves or be governed by others. They must make their own constitutions and laws or submit to constitutions and laws made for them. The right given up, conceded to others, to make the laws, the kind and quality of the laws depend upon the will of the makers, and the people are at their mercy. They are no longer free.

Sir, these views are too elementary to admit of argument. The principles stated lie at the very foundation of the Republic. They were most clearly enunciated in the Declaration of Independence, and are imbedded in all our State and Federal Constitutions. They are the foundation ideas of all free government. They are the principles upon which alone our system of government can be maintained. They are the only principles upon which any free government can be maintained.

Now, what does this bill propose? I will not here stop to argue the question of whether Alabama is a State, whether it is out of the Union. That it is a State and a State in the Union I have several times shown in this House, to my own satisfaction at least, and by arguments and facts that cannot be refuted, denied, or answered. It is an existing State in the Union, or the history of the last five years is a lie. It is a State in the Union, or the war for the preservation of the Union and the vast expenditure of life and treasure in its name and on its behalf is a monstrous crime. It is an existing State, or all the professions and promises of the party controlling the Government during these long and bloody years, by which so many brave men were induced to offer their lives a sacrifice on the battle-field, and so many homes and hearts made desolate, were stupendous frauds and cheats. It is, and has been, a State saved and preserved to the Union by the gigantic struggle through which we have passed, or the party now in power has till the time, from the beginning of the war till this day, in bold, wicked, criminal conspiracy with the rebels and secessionists, aided them in accomplishing, and now finally consummating, what they could not alone accomplish, the division and final dismemberment of this Union. Alabama is not out of the Union, is not destroyed as a State, or every man who fought, aided, encouraged, or countenanced the war, with any consciousness of what

was to be the result, whether in the North or the South, whether on the one side or the other, is a conscious traitor to this Union of States, and an enemy of the Republic of States.

But, I repeat, the State of Alabama is not destroyed. It still exists in the Union. This last bill admits that it is a State in the Union. The first bill provided for the admission of the State and for its representation; this last only for its admission to representation.

And now, if it is to be turned out or excluded from the Union, or dealt with in any other manner than as a State in the Union, it will be the work of this Congress alone. All the other enemies of this once proud and noble State; all those who would have taken her from the Union by war or force; all those who would have incorporated her in another confederacy of States, surrendered and abandoned the conspiracy for her dismemberment. It is Congress alone that would now exclude her from or degrade her in the Union. It is Congress that has made and would humiliate her to accept this constitution. And this is to be done by this bill. By this bill and the previous acts of Congress her nine hundred and sixty-four thousand two hundred and one population are to be made slaves, are to have forced upon them a government in which they have in reality, as a people, had no part in creating; a government obnoxious to all their tastes, hateful and odious to them. The constitution made by themselves, and under which the State came into the Union, and which the rebellion in vain strove to overthrow and destroy, is to be taken from them by this Congress, by this bill, and a constitution in which the vast majority feel no interest, and by which their dearest rights are taken away, is to be forced upon them.

The educated, the intelligent, the cultivated, the refined, the experienced are to be excluded from all part or share in the government of the State, and all their interests and rights of life, liberty, and property are to be given into the hands and keeping of an ignorant, debased, uneducated, uncivilized, servile minority. And all this is to be done, not in violation of the Federal Constitution only, but in most flagrant violation and disregard of the very act of Congress under which and by virtue of which this bill is justified.

And, according to the preamble of this bill, this monstrous measure is denominated, is to be taken and considered, the voluntary act of the people of Alabama! Seventy thousand, all except one thousand of which are negroes, are all who are claimed or pretended to have approved or to be in favor of the constitution which is thus sought to be forced upon this people. And these seventy thousand—sixty-nine thousand blacks and about one thousand blacker whites—are denominated, are to be, the governing people of Alabama! And this, too, when there stands on the registers made by the friends of the measure, under the direction and authority of Congress, dictated and managed by the sword, one hundred thousand more competent and legal voters, mostly white men, who condemn, loathe, and execrate such constitution and government. Add to this thirty thousand or more disfranchised by the despotic enactments of Congress and the tyrant agents appointed to administer them, and tell me, are not the preamble and all pretenses that this constitution is framed or adopted by the people of Alabama a lie?

The gentleman from Pennsylvania, [Mr. STEVENS,] chairman of the committee, and who reported the original bill, stated, when he moved to recommit, that there were twenty-odd thousand majority against the constitution. He said:

"After a full examination of the final returns from Alabama, which we had not got when this bill was drawn, I am satisfied, for one, that to force a vote on this bill and admit the State against our own law, where there is a majority of twenty-odd thousand against the constitution, would not be doing such justice in legislation as will be expected by the people. With that view of the case I shall vote for the motion to recommit, and on that motion I demand the previous question."

"The bill was recommitted."

That this constitution is not the choice of the people, that it would be an act of injustice to pass the bill, is declared. There is no real difference between that bill and this. In principle and effect they are the same. They are in violation of the will of the majority. They are in violation of that great right of the people to make their own fundamental law; they would place the majority under the control of the minority. I agree with what the gentleman said, that to pass this bill against our own law, where there is a majority of twenty-odd thousand against the constitution, would not be doing such justice in legislation as will be expected by the people.

And yet this monstrous wrong, this outrage upon all the essential principles of the Republic, is to be forced, at the point of the bayonet, upon a free people by the men who prate longest and loudest of freedom, liberty, and popular rights. In this day of progress, of advancing civilization; in the nineteenth century; in this "land of the free and home of the brave;" in this Republic, composed of sovereign, coequal States, united by and under a Constitution, the matchless work of Washington, Madison, and their noble compeers, one of those States upon which the Federal Union rests, of which it is formed, is to be dismantled, robbed of the constitution made by its people, and to have forced upon it and its million of inhabitants a constitution of government dictated to it by Congress and approved by only seventy thousand uneducated negroes—ignorant, squalid, degraded negroes! Do the annals of the world present an instance of such stupendous folly, absurdity, and wickedness? It can be justified by no man not filled with infernal hatred of our form of government and desirous of its overthrow. It must, it can only, end in blood. No man in his senses can expect anything else. The white man, the white race in the history of the world has never been the servant of the black. The madness or folly of Congress can never compel him to submit to African domination or government.

Sir, the gentleman from Pennsylvania [Mr. STEVENS] tells the country, by way, I suppose, of reconciling the people to this horrid work, that "we are not now merely expounding a Government; we are building one; we are making a nation." And the committee, reporting this bill in similar language, tell us that we are "building a mighty nation." They say, "But while this free people are rebuilding a mighty nation, in which there must be no taint of despotism or injustice, they have examined carefully all the provisions of the Constitution, and as a precedent which they hope will never be departed from, but which becomes necessary by the injustice of the sister States, they have determined that no State shall ever be admitted into the Union where the right to universal suffrage shall not be made permanent and impossible of violation." They have determined—the committee have determined—that no State shall ever be admitted into "this mighty nation" where the right of universal suffrage shall not be made permanent. What is to be done with New York, Pennsylvania, Maryland, Kentucky, and the other States which have not yet made universal suffrage permanent? They are never to be admitted into this new nation till they bow to negro domination. "Not expounding a Government," but "making a nation," "rebuilding a mighty nation in which there must be no taint of despotism or injustice!" Was there ever such impudence, such folly, such absurdity, such treason? This Reconstruction Committee, those who support this bill, members of Congress, not expounding the Constitution, not legislating according to its provisions for the Union, but building a nation, a "mighty nation." Who commissioned Congress? Where did it get the power? Who can read these bold, unblushing avowals, these foul utterances of treason to the Union, that the purpose is not to maintain this Republic of States, but to build a Government, a mighty nation, in its stead, and not stand aghast at the declaration! But

there is to be "no taint of despotism" in this new, this "mighty nation!" Oh no; there is no despotism in forcing a constitution upon a people against its will. No despotism in forcing half a million white, intelligent, educated, refined men, women, and children to live under the domination of seventy thousand negroes. There is no taint of despotism or injustice in forcing the people of a sovereign State to surrender their constitution of government and accept one made by negroes. Or, can anything on earth be more cruel, arbitrary, unjust, and despotic than such a Government so enforced?

I am glad this committee and the gentleman from Pennsylvania have had the hardihood to proclaim their revolutionary purpose. There need be no longer any cavil or dispute. They would build a Government; they would make a mighty nation on the ruins of the old Union. Let the people of the States that deny universal negro suffrage take heed and understand that no State shall ever be admitted into this "mighty nation" which this revolutionary party is now making "where the right of universal suffrage shall not be made permanent and impossible of violation." This has become "necessary by the injustice of sister States." These are the solemn utterances of the representatives of a great party—the party that is building a "mighty nation." They are the official declarations of members of Congress, of a committee of the House of Representatives, while in the very act of violating its declared principles. They are the opening up of the revolutionary schemes of the party now controlling the destinies of the Republic. The grand temple of republican liberty erected by our ancestors with so much care and wisdom is to be torn down; the pillars of that majestic edifice, resting upon the solid and safe foundation of popular sovereignty and the right of self-government, are to be wrenched from their foundations, and a new Government, "a mighty nation," built in its place! And this is the war that is now being waged against our system of government, against the Constitution and Government of our fathers. Congress is not "expounding" the Constitution under which it was created and exercising the powers granted by it, but it is usurping the power and arrogating to itself the right to make a Government, to build a nation. The people are no longer to be consulted or regarded, no longer to be the architects of the Government under which they live. They must submit to the arbitrary hand of power and bare their necks to the yoke prepared by Congress and such agents as it in its majestic wisdom may depute. Congress is to rule the empire and sway the destinies of the people with more than regal power. Who will hereafter pretend that ours is a government "deriving all its just powers from the consent of the governed?" It is no longer a Government "by the people for the people." It is a Government of the people by Congress; it is the rule of the servant over the master; it is an utter denial of the right of self-government; it is Federal usurpation; it is Federal tyranny—Federal oppression.

The gentlemen who lead the other side of this House understood this in 1858. How energetically and eloquently our worthy Speaker [Mr. COLFAX] inveighed against Federal interference with the affairs and constitution of Kansas. How ably did he argue for the right of self-government—the right of the people to make their own constitutions unawed and uninfluenced by Federal power.

Let me read from his speech on that occasion, and see if it is not applicable to the present; if it does not show that this bill ought not to pass:

"A constitution is before us, not framed by the authority of an enabling act, the last Congress having failed to concur in the passage of one—not ratified by the people interested at any election in which the right to choose, the simple power of saying yes or no, had been conceded—but framed by a convention, elected under an imperfect, unfair, disfranchising, and, therefore swindling, census and registry, whose members represented on an average, exactly thirty votes

apiece; who needed an army to protect them while in session from the indignation of the people, whose organic law they pretended to have been commissioned to make; who themselves conceded all that I have charged against them by submitting the constitution only to those who were willing to vote for it and to swear besides to support it; and whose ill-shapen and illegitimate offspring was repudiated as spurious by an overwhelming majority of ten thousand at a fair, open election, authorized by the Governor and Legislature of the Territory."

Ten thousand were enough to stigmatize the rule as despotic then; with a majority of twenty-odd thousand against the constitution to-day the House proposes to pass this bill:

"And yet this fraudulent instrument, which no one here is hardy enough to claim as the voice of the majority of the people of the proposed State; which no more speaks their will than does the constitution of conquered and enthralled France speak the will of the freemen of America; and which every one, here or elsewhere, knows full well is loathed and scorned and repudiated by the people who are to be forced with the bayonet to live under it—this instrument is pressed upon us for ratification on the technical ground that it emanated from a body which was nominally a convention representing the people of Kansas, that it has passed the ordeal of a pretended, one-sided submission, and that we have, therefore, no right to go behind it and inquire whether it is or is not the will of the people of that distant Territory."

The gentleman proceeds in another passage to put the following inquiry:

"Imagine, sir, George Washington sitting in the White House; that noble patriot, whose whole career is a brilliant illustration of honor and purity in high places, and who doubts that if such a constitution as this had been submitted to him for his sanction he would have spurned from his door with contempt and scorn the messenger who bore it? Or, ask yourself what would have been the indignant answer of Thomas Jefferson, who proclaimed, as the battle-cry of the Revolution, that great truth enshrined in the Declaration which has made his name immortal, and which scattered to the winds the sophistries and technicalities of the royalists of our land, that 'all Governments derive their just powers from the consent of the governed'; not the implied consent of enforced submission, but the actual, undeniable, unquestioned consent of the freemen who are to bear its burdens and enjoy its blessings? If a messenger had dared to enter the portals of the White House when that stern old man of iron will, Andrew Jackson, of Tennessee, lived within it, and asked him to give his indorsement and approval, the sanction of his personal character and official influence, to a constitution reeking with fraud, which its framers were seeking to enforce on a people who protested and denounced and loathed and repudiated it, and to go down to history as its voluntary advocate and champion, that messenger, I will warrant, would have remembered the torrent of rebuke with which he would have been overwhelmed till the latest hour of his life."

Then he makes an appeal in almost the same language that is used in the appeal to Congress on behalf of the people of Alabama. He says:

"She appeals to you to release her from the grasp of this despot and dictator, and to let her go free. In the language of an eloquent and gifted orator of my own State, I say, 'When she comes to us let it be as a willing bride, and not as a fettered and manacled slave.'"

So I say of Alabama.

The gentleman from Ohio, [Mr. BINGHAM,] too, strange to say, spoke against the Kansas constitution on the ground that it was not freely and fairly adopted by the people who were to live under it. He, one of the committee who reports in favor of this bill, in favor of forcing this constitution upon the people of Alabama against their will, then contended manfully that the people had some rights and that Congress was bound to respect those rights. How rhetorically and bitterly eloquent he became at the thought of the Federal Executive interfering with the people in the formation of their constitution! He denounced it as usurpation—a gross outrage and wrong upon the people of Kansas. Let me read:

"I say such a thing is without precedent in the legislation of the country; is unauthorized by and in direct contravention of the Constitution of the United States. There is nothing in the Constitution of the United States which gives colorable authority for such legislation. There is nothing in the past legislation of this country that gives colorable authority for it. It is a simple act of despotism attempted to be enacted here by the Congress of the United States under cover of that Constitution which bears the peerless name of Washington. It were better, sir, that that sacred instrument should perish as though smote by the lightning of heaven than that any such act as that now proposed should be placed upon our statute-book. What is it? Why, that the Congress of the United States shall dictate to freemen that they shall accept, under pains and penalties, a bribe, and thereby become subject to a constitution which they never made, which they abhor, and which they have condemned."

Now comes the principle which I hold to be the true one, and which I want the gentleman from Ohio, when he makes his speech to-day, to answer:

"I say, and I say it without the fear of contradiction, that the genius of our Constitution is this: that new State constitutions must emanate from the people within the limits of the proposed State, and from no other source."

He said it with more eloquence and force, I have no doubt, than I could.

Sir, what has caused these most remarkable changes in the views and opinions of gentlemen? If popular sovereignty was true doctrine, if self-government was right in 1858, why is it not now? If the people of Kansas were entitled under our Constitution to frame their own fundamental law unawed by Federal bayonets and uncontrolled by Federal interference, why are not the people of Alabama? Has the result in Kansas convinced gentlemen of their error, answered all their arguments? Let the long line of emigrants fleeing from the military despotism created in and over the States of the South to seek an asylum from the oppressions of congressional reconstruction in the State of Kansas conclude the answer. The gentleman from Pennsylvania, [Mr. STEVENS,] in advocating confiscation, gave utterance to this most barbarous and inhuman sentiment: "If it drives them into exile so much the better." I would that gentleman and all those who advocate this and its kindred measures of tyranny, injustice, and oppression could have beheld only last week, as described to me by an eyewitness, the scene of sixty emigrants at the depot of the Baltimore and Ohio railroad in Baltimore, on their way to Kansas, voluntary exiles from their native homes in North Carolina. There were old men and young men; there were women and little children—a poverty-stricken, sad, and sorrowful band—resting their emaciated and weary limbs upon the floor and allaying the pangs of hunger upon crusts of bread. They had seen better and happier days; they had enjoyed the luxuries of life, the blessings of education and refinement. But, broken-hearted and in despair, they had left their sunny and once happy homes in the South, the scenes of their childhood, the birth-places of their children, and the graves of their ancestors, in the hope to find in free Kansas a place where they and their posterity may hereafter enjoy the blessings of liberty and freedom from the despotism which is crushing and destroying their old State.

Sir, the only policy under which the States of this Union or the people can prosper is that which honestly administers and fully secures to all the Constitution, and prohibits the exercise by the Federal Government of any powers not therein granted. The right of self-government cannot be denied or infringed upon with safety to the Commonwealth. The course that Congress has pursued and is pursuing in the passage of this bill will not restore good government and prosperity to Alabama. The wrong and injustice of forcing a government upon her people against their will will not soon be forgotten. The memory of it will be transmitted from father to son, and will assuredly bring the result which a sense of oppression and injury never fail to produce. The exercise of a little magnanimity, generosity, forgiveness, and kindness by the conqueror would have settled all our difficulties long ago; would have restored the States to the Union and prosperity and happiness to the people. With this spirit the victorious North should have met its conquered countrymen. Christian charity can do more now than an army with banners. A withdrawal of the armies and restoration of the government into the hands of the people is all that is necessary. That would restore the happiness and prosperity of former days, the happiness and prosperity which will never come of subjugation, oppression, and wrong.

Mr. Speaker, no man has been more desirous and anxious, I believe, than myself that the State of Alabama and the other excluded States should be represented in Congress. I



believe she has been for almost three years justly entitled to have her Representatives on this floor and in the Senate. She has been, against all law and all precedents, wrongfully and unjustly excluded. But I cannot be a party to this bastard constitution, this negro government. I cannot recognize this as the State or constitution of the State. I cannot by any act of mine consent to this outrage, not upon Alabama only, but upon the people of all the States now represented in Congress. I cannot consent that seventy thousand negroes shall be the depositaries of the government of that great State; that to them shall be committed the future destinies of half a million of my own race; that they shall send seven Representatives to this House and two Senators to the Senate, when eight hundred thousand white citizens of my own State of Wisconsin can have but six Representatives and two Senators. This constitution may be good or bad; I would not vote to fasten a constitution, the best the world ever saw, upon an unwilling people. To command my support it must be the voluntary choice of those who are to live under it.

With my views I could not vote this constitution upon the people of that State if it had been made by the angels in heaven, instead of having been dictated by Congress, and enforced by the despotic power of the Army. It matters little what the constitution of government may be; if it be not the choice of the people it will be considered and felt to be a most unjust and grinding despotism, a cruel and oppressive burden. The lightest oppression is too heavy for the proud and brave long to bear. The iron in the soul wounds more deeply than manacles upon the limbs. There is no agony like that the spirit feels when crushed and bowed down by wrong and oppression. The burdens we take upon ourselves and bear with ease and pleasure would, if forced upon us by others, crush us to the earth. It is the free, the unfettered spirit that can do and brave and bear. The load the freeman carries would crush the slave. The consciousness that the man is free gives him power to do and patience to endure.

Mr. Speaker, the acts of to-day will affect this Republic for all time to come for good or for ill. Our foot-prints, as we are now moving along, will remain till the dust of ages shall cover them up, unless, as we have reason greatly to fear, the gathering storm of revolution or the rising passion of a wronged and outraged people shall wash them out with blood. The idea of the people of that State, the white people, born in freedom and accustomed to its enjoyment, submitting to a constitution formed and forced upon them as this is to be, is utterly absurd and preposterous. I have not so mean an opinion of my countrymen, my own race, the white people of Alabama, as to believe it. They may submit; they will submit so long as they are in the presence of and awed by standing armies and no longer. The time will assuredly come when the pride of race and blood will not brook the domination of inferior men; when the white people of that State, conscious of the great wrong and injustice inflicted upon them by the unhallowed hand of despotic power, and conscious, too, of their God-given strength and their right to be free, will rise in their might and drive the African rulers you shall place over them into the sea. They will regard as little the constitution enforced upon them by this bill as do those who vote for it the one they have sworn to support and which this bill so wantonly and flagrantly violates.

This bill and all such measures as subordinate the majority to the rule of the minority are but invitations to war and bloodshed. Eternal justice will bring just retribution. It may end in the destruction of both blacks and whites. It can never end in the domination by the former over the latter. I beg gentlemen to hesitate long before they endeavor to bring it about. There is a point beyond which you cannot go. Hold that people, if you will, under the sword—punish them till the most malig-

nant passion is satiated; but seek not to make them the slaves of their former servants. They can submit to the rule of the sword without dishonor, but to be ruled and governed by the negro they cannot without utter disgrace and degradation. If you dare not trust them to govern themselves as communities, as a people, hold them in the iron grasp of military power till you dare, but do not dishonor and degrade your own countrymen and race; do not overthrow our system of government in an experiment that all history teaches must end in disaster and blood.

I can add nothing more forcible and eloquent than the remarks of the gentleman from Ohio [Mr. BINGHAM] against the Kansas bill, substituting only the word Alabama in place of Kansas:

"I repeat it: look to it, ye Representatives of the people, ye men who keep ward and watch over the Constitution and the Union, that the free men of Alabama are not by your act driven to the dread election of submission and dishonor or resistance unto blood. I tell you, notwithstanding their alleged want of manliness, Alabama has hosts of citizens, good men, and true who will never stoop to be your abject slaves—

"While heaven has light or earth has graves!"

"Sanction this constitution, conceived in sin and brought forth in iniquity, and you can only maintain it by the Federal arm and the Federal bayonet. It can never secure the voluntary support of a free people. Sanction this constitution, and with it sanction, as it sanctions, that code of abominations which the invaders of Alabama enacted, and you compel resistance. Resistance to such legislation would be duty, not crime; patriotism, not treason. The resisters or insurgents or rebels, if you please, could point you, in vindication of their rebellion, to the fact that the history of Federal intervention in Alabama, ever since the day of its organization, is but a history of repeated injuries and usurpations."

I close with reading a single passage from another speech of the gentleman from Ohio, [Mr. BINGHAM,] made on the occasion of the consideration of the constitution of Kansas:

"In this hour of the world's repose and the world's hope shall America, the child and the stay of the earth's old age, prove false to her most sacred traditions, false to her holiest trust, and by this proposed enactment consent to strike down liberty in her own temple and forge chains for her own children?"

Let the gentlemen answer that. I now yield the remainder of my time to the gentleman from Kentucky, [Mr. BECK.]

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. HAIGHT for two weeks.

Mr. NEWCOMB asked and obtained indefinite leave of absence after Tuesday next.

#### SUE MURPHEY.

Mr. MAYNARD, by unanimous consent, introduced a bill (H. R. No. 979) for the relief of Miss Sue Murphey, of Decatur, Alabama; which was read a first and second time, and referred to the Committee of Claims.

#### J. F. ST. JOHN.

Mr. DODGE, by unanimous consent, presented a memorial from the State of Iowa, for the relief of J. F. St. John; which was referred to the Committee on Military Affairs.

#### DAVID WAGNER.

Mr. DODGE also, by unanimous consent, presented a resolution of the Legislature of Iowa, asking for the passage of a bill for the relief of David Wagner.

#### WASHINGTON AND SCHUYLKILL RAILROAD.

Mr. CAKE, by unanimous consent, introduced a bill (H. R. No. 980) to authorize the building of a railroad from Washington city, District of Columbia, to the Schuylkill river, Schuylkill county, Pennsylvania; which was read a first and second time, and referred to the Committee on Roads and Canals.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had disagreed to the report of the committee of conference upon the disagreeing votes of the two Houses upon House bill No. 900, to exempt certain manufactures from internal tax, had further insisted upon their amendments to said bill, and ask the appointment of another

committee of conference, and that Messrs. JOHN SHERMAN, TIMOTHY O. HOWE, and A. P. MORTON had been appointed the conferees on the part of the Senate.

#### TAX ON MANUFACTURES.

Mr. HOLMAN. On behalf of the chairman of the Committee of Ways and Means, [Mr. SCHENCK,] who is absent on account of sickness, I ask unanimous consent to consider the message of the Senate just received.

No objection was made.

Mr. HOLMAN. I now move that the request of the Senate for another committee of conference upon the disagreeing votes of the two Houses upon House bill No. 900, to exempt certain manufactures from internal tax, be acceded to by the House.

The motion was agreed to.

The SPEAKER appointed as the conferees on the part of the House Messrs. ROBERT C. SCHENCK, of Ohio, THOMAS W. FERRY, of Michigan, and JAMES BROOKS, of New York.

#### ADMISSION OF ALABAMA.

Mr. BECK. I only desire to say a few words in answer to some of the objections made by the gentleman from Wisconsin [Mr. PAINE] in regard to the minority report presented by my colleague on the committee [Mr. BROOKS] and myself concerning the three counties that were stricken out by the convention and not allowed to vote on the ratification of the constitution nor for officers under the constitution.

Now, sir, the fact is that these three counties were not the only counties created by the convention of 1866, which the gentleman complains was, under a provisional government, organized illegally by the President of the United States, but ten new counties were organized under the action of that convention. Previous to 1866 the constitution of Alabama required that each county should contain nine hundred square miles; by the convention of 1866 the minimum size of counties was reduced to six hundred square miles, and ten new counties were created—Clay, Cleburn, Crenshaw, Elmore, Hale, Lee, Bullock, Baine, Colbert, and Jones. In all those ten counties the people were registered and allowed to cast their votes for members of the convention. After the convention framed the constitution the three counties of Baine, Colbert, and Jones were stricken out, and were not allowed to cast their votes for the ratification of the constitution or against it, although the county of Jones had 1,178 voters registered, the county of Colbert had 1,810, and the county of Baine about the same number, each being entitled to a representative. But each of these counties being composed almost exclusively of white men, and each entitled to a representative on the basis of representation adopted by the convention, they were stricken out altogether, while the seven other counties created at the same time were allowed to remain, and were recognized by the convention, because in a majority of them the blacks predominated. That was the objection we made. By the census of 1866, as set forth in the report of the assistant commissioner of the Freedmen's Bureau—and it is from that I take my statistics—there were only 439,000 blacks in the State of Alabama against 532,000 whites, being an excess of 93,000 whites; and yet the counties in which the blacks predominate control sixty-five representatives, while the counties in which the whites predominate only control thirty-five, and the basis of representation, as set forth by the gentleman from Indiana, [Mr. KERR,] shows that while it takes 11,220 where the white men are in the majority to elect a representative, only 8,900 are required where the blacks have the control. That was one objection which I desired to state.

I desire to say to the gentleman from Vermont, [Mr. POLAND,] who has offered an amendment, that if he will adhere to it and add to it the proviso which I hold in my hand, and which I propose to read in a moment, it will come nearer securing a fair election in the State of Alabama than anything which has yet

been proposed. The House will remember that the reconstruction act only excluded from the right of suffrage those men who were to be excluded from the right to hold office by the proposed fourteenth amendment to the Constitution. The House will also remember that a large number of the members of the convention elected themselves as registrars, and struck off and put on the names of voters, and were themselves candidates for office under this constitution. I suggest to the gentleman this proviso:

*Provided, That no man shall be deprived of the right to register and vote in the county where he resides for or against the ratification of the proposed constitution, and for all officers to be elected thereunder, except such as are prohibited from holding office by virtue of the third article of the proposed fourteenth amendment to the Constitution of the United States: And provided further, That no man who is a candidate for any office under the proposed constitution shall either act as registrar, or as an officer of the election, or shall in any manner take part either in determining who shall have the right to vote, who have voted, or how the fact of his right shall be determined, and any interference or attempted interference by any candidate for any office in any of these respects shall render the election of such candidate null and void, and all votes cast for him shall, so far as he is concerned, be nullities.*

That will give the people of Alabama a fair chance to determine whether or not they in fact desire this constitution. Only 70,000 have voted for it out of 170,000 registered voters, while there are only 90,000 black men in the State of Alabama, according to the report of the assistant commissioner of the Freedmen's Bureau, and 108,000 white men, making a majority of 18,000 whites over the blacks. The gentleman from Wisconsin says that only 5,000 white men are disfranchised by the provisions of the third section of the fourteenth amendment, and he reports that the gentleman from Massachusetts [Mr. BOWWELL] says there are not more than 1,000; still the fact is that only 90,000 colored men over twenty-one years of age present the singular anomaly of having 98,548 registered voters, while 108,000 white men, with only say 5,000 of them disqualified, are cut down to 72,746 registered voters. If the majority in favor of this constitution is as great as is contended here, why not let the constitution go back, pass such laws as will enable all to vote upon it, and ascertain the truth of the allegations on either side? My great objection to this bill is that by it Congress undertakes to force upon the people of Alabama a constitution as the constitution of their choice, when the fact is that less than a majority of the people of that State whom you have allowed to vote have declared themselves for it, and it has been in fact rejected in accordance with the acts of this Congress.

[Here the hammer fell.]

Mr. SPALDING. I desire to modify the substance which I offered for this bill the other day so that it will read as follows:

That the constitution framed by the convention of Alabama, which was submitted for ratification by the people at an election commencing on the 4th day of February, 1868, is hereby declared to be the fundamental and organic law for a provisional government for the people of Alabama, so far as the same is not in conflict with the Constitution and laws of the United States. And the officers elected at said election shall, on the 1st day of May, 1868, qualify as provided in said constitution and the ordinances of said convention, and immediately thereafter enter upon the discharge of the duties of their respective offices.

Sec. 2. *And be it further enacted, That the Governor, at any time after he shall have qualified and entered upon the discharge of the duties of his office, may, by proclamation, convene the Legislature chosen at said election. The Legislature, when so convened, shall possess all the power conferred by said constitution which may not be in conflict with the Constitution and laws of the United States. And the Legislature is hereby further empowered to submit said constitution to the qualified electors of Alabama for ratification at such time or times as it may designate. And said Legislature is also empowered, by a majority vote of each House, to submit the said constitution, as framed by the convention, with or without amendments proposed by the Legislature. And if amendments be proposed by the Legislature they shall be voted upon separately, and not in connection with the constitution as it came from the convention.*

Sec. 3. *And be it further enacted, That whenever the people, by a majority vote of the qualified electors of Alabama, qualified under the act of Congress of March 23, 1867, to vote for delegates to frame a constitution, and actually voting upon such ratification,*

*shall have ratified a constitution submitted as aforesaid, and the Legislature of the proposed State organization shall have adopted the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, the constitution of Alabama may be presented to Congress for its approval.*

Sec. 4. *And be it further enacted, That the district commanders shall furnish all necessary aid in enforcing this act, and the act of March 2, 1867, entitled "An act to provide for a more efficient government for the rebel States," and the acts supplemental to and amendatory thereof shall remain in full force in Alabama, except as modified by this act, until Alabama shall be restored to representation in Congress.*

Mr. MILLER. Mr. Speaker, the bill reported a few days since from the Committee on Reconstruction, through their chairman, [Mr. STEVENS, of Pennsylvania,] I consider of great importance. The preamble sets forth that—

Whereas the people of Alabama, in pursuance of the provisions of an act of Congress entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, have framed a constitution of State government which is republican in form; and whereas at an election commencing on the 4th day of February, 1868, a large majority of the legal voters of said State, voting at said election, voted for the adoption of said constitution.

The first section provides—

That the said State of Alabama shall be recognized and admitted as one of the States of the United States, and shall be entitled to representation in Congress, as soon as the Legislature of that State, the members of which were elected at the election mentioned in the preamble of this act, shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen.

And the second section relates to the rights of suffrage of citizens of the United States. That bill, after considerable discussion, was recommended, and the committee, through Mr. FARNSWORTH, one of its members, reported in lieu thereof the bill which is now under consideration, the preamble of which is the same as that of the former bill. The first section enacts—

That the said State of Alabama shall be entitled to representation in Congress as soon as the Legislature of said State, the members of which were elected at the election mentioned in the preamble of this act, shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen.

And the second section provides—

That it shall be the duty of the commanding general of the military district in which Alabama is included to notify the members of the Legislature of said State, chosen at the election held in February, 1868, to assemble at the capital of said State within thirty days after the passage of this act.

There are also two proposed amendments printed and laid upon our desks, one of which is proposed by the gentleman from Illinois, [Mr. BAKER,] which is in substance almost the same as that reported by the committee, and the other, proposed by the gentleman from Vermont, [Mr. POLAND,] which is asking that the constitution be referred back to another vote of the registered electors. I am opposed, Mr. Speaker, to both these amendments. The one proposed by Mr. BAKER is not, in my opinion, as good as that reported by the committee; and as to the one proposed by Mr. POLAND, referring the matter back to another vote seems to be unnecessary, as I will hereafter show. Subsequently three additional amendments have been proposed and printed, one of which is by the gentleman from Ohio, [Mr. BINGHAM,] He proposes to strike out the third section of the bill reported through Mr. FARNSWORTH.

There may be some doubt whether the conditions contained in this third section could be strictly carried out, but I do not deem it necessary to discuss that at this time, and am satisfied as to whatever the majority of this House may do in regard to it. My main desire is to have that as well as all the other late rebellious States admitted to representation with as little delay as possible. Another of these amendments is by the gentleman from Ohio, [Mr. SPALDING,] by which he proposes to strike out all after the enacting clause and insert in lieu thereof four sections which, among other things, provide for referring the constitution back to the registered electors of Alabama, to be again voted upon, and that of Mr. STEVENS providing

for universal suffrage in said State. That however, is fully provided for in the bill reported by Mr. FARNSWORTH. I have given the constitution adopted by the convention of the State of Alabama, and submitted to the qualified voters for ratification, (a copy of which has been transmitted to Congress,) a careful examination, and I am satisfied that it is republican in form, and the framers of it deserve not only the thanks of Congress, but of the entire nation, for the able and cautious manner in which it has been drawn.

There certainly can be no substantial objection urged against it, and if a change should be subsequently deemed necessary a provision is made for it in the constitution before us. But it is contended on this floor that Alabama is not in a condition to be admitted at this time in accordance with the provisions of the act of Congress of the 2d of March, A. D. 1867, entitled "An act to provide for the more efficient government of the rebel States," and the supplements thereto of the 23d of March, A. D. 1867, entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, and to facilitate restoration," the fifth section of which (supplement) reads as follows:

"That if, according to said return, the Constitution shall be ratified by a majority of the votes of the registered electors qualified as therein specified, cast at said election, at least one half of all the registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall, moreover, appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud; and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as herein provided."

It will be seen that the above section provides that the Constitution must be ratified by a majority of the votes of the registered electors, "at least one half of all the registered voters voting upon the question." It is said that the whole number of registered voters in that State is about 170,000, and of course the one half of which would be 85,000. It is conceded that one half of all the registered voters did not vote upon the question of such ratification. It appears by a letter from General Grant, in answer to a resolution of this House, that according to General Meade's report there had been 71,817 votes polled, of which 70,812 were cast in favor of the ratification of the constitution and 1,005 against it, thus showing a majority of 69,807 in favor of its adoption, and which is 13,188 less than one half of the reported registered vote. It is contended, however, by some, that at least one half of the actual registered voters in the State at the time of the election did vote, inasmuch as after the registration a large number left the State, others died, and some were defectively registered, so that by a proper correction full one half exercised the right of voting. But suppose one half did not vote, it will be seen on examination of the reconstruction law that there is no prohibition in the reconstruction act or supplements thereto against the admission of Alabama in case a majority of the registered electors should not vote on the question; but that act makes the admission imperative in case a majority of the electors should vote and certify other conditions therein specified be complied with, so that there is no inconsistency in Congress passing a law for the admission of that State to representation when a large majority of those qualified electors that saw fit on that occasion to exercise the right voted in favor of the ratification.

It seems, Mr. Speaker, that every effort was made on the part of those who were opposed

to the ratification of the constitution to prevent a vote by a majority of those registered, and I presume the main movers in this strategy for a reduced vote were those who were disqualified on account of their participation in the rebellion; and if those who were qualified to vote and opposed to the constitution neglected to exercise the right it is not for them now to complain. But it has been asked why was not a larger vote polled by those said to be in favor of the ratification? My answer, Mr. Speaker, is that it appears that the proper accommodations were not provided, the polls having been established at inconvenient distances from many of the voters, so that it was very difficult, especially for those who had to travel on foot, to reach them; and besides, there had been heavy rains about that time, causing swollen streams and making the roads in many places almost impassible.

The supplement above referred to provides that "there shall be an opportunity to vote freely and without restraint, fear, or the influence of fraud." This part of the statute seems not to have been fully complied with, hence the reason why the vote was not larger. I would have preferred if there had been a majority of the registered electors voting; still I see no good reason for putting the Government to the expense and the electors to the great inconvenience of another voting on this question. It was a great mistake to have inserted in the reconstruction acts such a clause as to require at least one half of the registered voters voting upon the question of ratification. As a general rule in almost all cases a majority of those voting control in an election, and why a different rule should have been established in this case I cannot imagine, for there is no compulsion for electors to vote, and why should their staying away from the polls be the means of preventing a majority of the votes polled from prevailing? But Congress has recently removed that defect in the reconstruction acts, so far as regards future voting in the unreconstructed States, so that a majority of the votes cast shall govern. This latter act, after having passed both Houses of Congress, was sent to the President for his approval, but he neither signed nor vetoed it, and let it become a law by neglecting to return the same within ten days. So that it would be folly to require Alabama to vote over again on the question of the ratification of its constitution, and certainly those who willfully stayed away from the polls have no right to complain.

There is a wholesome provision in the reconstruction law that I deem of vast importance as to the future welfare of this Republic, and that is requiring of all these States as a condition-precedent to representation in Congress the ratification by their Legislatures of the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress and known as article fourteen. That amendment settles the question as to who are citizens, and extends to all the protection of law and the apportionment of Representatives. It also provides that the validity of the public debt of the United States authorized by law, including debts incurred for the payment of pensions and bounties for services in suppressing the insurrection or rebellion, shall not be questioned; and said amendment also declares that neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave, but all such debts, obligations, and claims shall be held illegal and void. This amendment being ratified by three fourths of all the States of the Union, there can be no question raised as to whether a ratification by three fourths of the States that did not claim to have seceded would be sufficient; and then to change it would also require three fourths of the States, which it is not likely could ever be obtained; so the adoption of this amendment makes our country safe against speculators and evil designing men, who might be disposed to involve us by assum-

ing the rebel debt, and make us liable for slaves emancipated, which would be ruinous.

As I have already said, Mr. Speaker, the adoption of article fourteen is a condition-precedent to representation in the bill under consideration. I am rejoiced to find that the dark cloud that seemed to be hovering over us is about being dispelled, and that the late rebellious States are again taking their stand in the Union, properly reconstructed, so as to protect life, liberty, and property. Then the governing of their States by military rule, with which the Democratic members of this House found so much fault, can be dispensed with, unless it might be for a short time to prevent obstruction to the enforcement of the civil law. Had the southern people manifested the proper spirit there would have been no occasion to place over them military rule; but under the circumstances then existing it was the only recourse left for Congress, and now, from present indications, it can soon be dispensed with.

It has, Mr. Speaker, long been the desire of the Republican members of the House that these States should again be represented in Congress, and every effort was employed on our part to have that end accomplished as soon as it could be with safety to the Union. We could not, without being derelict to duty, admit such representation until we had a sufficient guarantee for the future. The nation has suffered too much in the way of expenditures of money and loss of hundreds of thousands of our bravest young men to allow any State that had claimed to secede and joined the rebellion to take its stand in full fellowship in the Union until thoroughly reconstructed, so as to render the nation secure in the future. I do not agree with the doctrine that any of the so-called rebel States were taken out of the Union by the rebellion and are now to be treated as conquered provinces. I think such theory unsafe and one that I have battled against ever since the question was agitated, and if such doctrine should be entertained by Congress it would involve the country in inextricable difficulties.

But it may be said if they were not out of the Union how can Congress insist on their reconstruction? My answer is that by the rebellion they overthrew their State governments and were reduced to such a condition as to render it impossible for the United States to guarantee them a republican form of government. Hence, in order to accomplish that a reconstruction policy was necessary in order to subdue the rebellious spirit and afford adequate protection to the citizens; and, in my opinion, it would be unwise to adopt a theory that might involve the country in difficulties with citizens of foreign nations in regard to the rebel debt. We have full authority under the Constitution to regulate these States prior to their admission to representation, without adopting any doubtful policy, and had not a large portion of these States listened to evil advisers, they might have been admitted to full fellowship with the other States long since, and been in a more prosperous condition.

Mr. Speaker, I regret that one of my colleagues [Mr. BOYER] should exhibit so much venom against the Republican party, which is founded on the old Whig party, of which he was at one time a member. He, in classic style, denominates it—

"A party which has not hesitated during three years to wantonly perpetrate disunion, and to rob the nation of the natural fruits of peace; a party which seeks to degrade the judiciary, destroy the executive, and murder constitutional liberty for party ends, may be expected to do anything else which might be deemed necessary for the accomplishment of the same objects."

Why, sir, if it had not been for the great Republican party what would have become of this Republic when leading men, during the country's struggle for existence, promulgated the abominable—I will not for the sake of modesty say reasonable—doctrine that if a State undertakes to secede there is no power under the Constitution to prevent it, notwithstanding the President is bound under that instrument "to take care that the laws be

faithfully executed?" and it seems to me no good statesman or sound lawyer will contend at this day that secession is warranted under the laws and Constitution of the Union. The Republican party well deserves the credit of putting down the rebellion and saving the country. When has that great party attempted to "perpetuate disunion and rob the nation?" Why, in article fourteen of the amendments to the Constitution, proposed by the Republican party, is the very salvation of the Union, and yet we find that gentleman and his present party opposing it. We are charged by him with destroying the Executive. The Executive no sooner joined hands with the gentleman's party than he became reckless and the friend of rebels who sought to overthrow the country, and became so emboldened that it was found necessary to impeach him. We are also charged with "murdering the Constitution!" Now, sir, as to that we, as a party, have always sought to sustain it in its purity, while the gentleman and his party were endeavoring to protect those who in the country's peril attempted to destroy it.

I will say, in addition, Mr. Speaker, that all the abuse of the gentleman and his party, to which he clings with so much tenacity, will not deter this side of the House from doing its duty, and hurrying the admission of representatives in Congress from these ten States as soon as it can possibly be done with safety to the country, which, if reconstruction progresses with a proper spirit on the part of citizens residing therein, will be in a few months. I would say to our friends this is no time to stand upon technicalities; and as Alabama has presented a fair case it is our duty to admit it, and certainly it presents full as strong a claim as did Kansas when it was admitted under the Wyandott constitution by the act of Congress of January 29, 1861. I will say, in conclusion, Mr. Speaker, that it affords me great satisfaction to find my venerable colleague, the chairman, [Mr. STEVENS,] is still able to battle in the cause of reconstruction, and though, through age, disease, and close application, he has become somewhat enfeebled in body, yet that gigantic intellect with which he has been endowed by an all-wise Providence remains as clear as the sun at noonday. I trust that his health may be preserved so that he may be enabled to join in welcoming to representation those erring States by admitting to seats on this floor loyal Representatives, which God grant may be within the course of a few months.

Mr. BINGHAM obtained the floor, and said: I yield twenty minutes of my time to the gentleman from Pennsylvania, [Mr. WILLIAMS.]

Mr. WILLIAMS, of Pennsylvania. I shall vote against this bill, as I did against the recent amendment of the reconstruction acts; and inasmuch as in so doing I shall probably be found at variance with many of my political friends, I crave the privilege of stating in as few words as possible the reasons that have brought me to this conclusion.

The arguments upon which the present measure rests—as did the other—are substantially these:

1. That it is essential to the settlement of the nation that we should not only invite but compel the rebel States to come in and sit down at the board we have so generously spread for them, at all hazards and in the shortest possible time;

2. That the rule which required a majority of the registered voters to accept the invitation was a profound error in policy; and

3. That the loyal people of Alabama were intimidated by threats, and deterred by foul weather, from signifying their desire to respond to the importunate instances of those who were pining so greatly for their return.

In the first place, then, while I am as anxious as any man to see this Union restored, I do not agree that it is either essential or wise that these people should be compelled to enjoy its privileges, and share in its Government, against their will. I am not one of those who think



that all that is necessary to restoration is the outward presentment of it, in the reappearance of the delinquents within these Halls, only perhaps to embarrass our legislation and defy our power, as heretofore. I want evidence that a majority of them at least are sincerely desirous to get back, and that not for the purpose of escaping from our military rule, but because they have repented of their great crime and feel like the returning prodigal, an instinctive yearning for the old roof-tree, and a reawakening affection for the old Union that watched over their cradles, and the old flag that their own fathers would have died to defend from insult or dishonor. Upon no other terms than these would I desire to see them here, as upon no other would it, in my opinion, be consistent with the public safety or with sound statesmanship to readmit them, with no means of retrieving a possible error that might prove to be a fatal one.

And yet I find no such condition of things in any of the rebel States. If there be any considerable number of white men there, who have any conviction of wrong, any sense of contrition for what they have done—beyond that feeling of remorse which smote the hearts of Satan and his peers only because their enterprise had failed—or any honest regard for that Union which they so lately endeavored to destroy, I have not seen the evidences of it. Too proud even to enact the part of the hypocrite in the presence of those who seemed to wish to be deceived, they have not, I think, made, and certainly not paraded, any pretension of loyalty beyond the reluctant declaration that they submit to the necessities of their condition, which is precisely the standard that the apostate President had prescribed, and no more. So long as they were without hope they were humble, it is true; but who does not know that with every glance of encouragement from the Executive of this Government their visors have been lifted, and their unconquered pride and unrepented diabolism revealed anew? And this was natural. The monsters who could be capable of starving and shooting their own captive brethren in cold blood were not to be reclaimed to love or even humanized by chastisement. If the appearances had been even otherwise the statesman must have felt that after a five years' wanton, unprovoked, and barbarous war, such as these men had waged against us, those appearances required to be scrutinized before being trusted, because they were unnatural. But with these great facts flashed again and again into our eyes, it passes all comprehension with me how any cautious, reflecting man should think for a moment of compelling these incorrigible malignants into an association of power with a people whom they hate, and a Government they will spare no effort, as they have spared none heretofore, to destroy; and this, too, in a case where there is no apology for haste, as there never can be in great affairs of State; where we can afford to wait if they can; where we can control them outside, and shall only break our scepter by letting them in to defy us as before. I doubt whether there is a Government on earth that would take such a risk as this, except it may be our own. It was not certainly thus that imperial Rome maintained her conquests over the barbarian world.

Nor am I ready to agree that the rule which required a majority of the registered votes was an erroneous one. I voted for it, and against its repeal. I did not then, and do not now, believe that to give to a minority of the people, whether white or black, the power to construct a government for the whole is to fulfill the constitutional guarantee of a republican government, of which I supposed the majority principle to be an essential feature. The argument that the refusal of a majority to vote in such a case is either evidence of assent or only a default which may be punished by giving the rule to a wakeful minority does not satisfy me. It strikes me only as a flimsy sophism, resting on a false analogy. In a State which has a government, and that a loyal one, the

reasonable presumption is that the man who declines to exercise his privilege of suffrage is willing to trust the business of politics to those who do, and it is a necessity that the majority of the votes cast there should decide in order to have any effective election at all. Here it is a question of the erection of a new government, among a people who have just emerged from a universal rebellion, and are all, of course, presumptively disloyal. It is an affirmative expression that you want with such an element, and the presumption, therefore, is that all who do not vote are in antagonism to the plan which you propose. If they be, however, there is an end of the question, unless you are prepared to reject the majority idea in the very first steps of the establishment of a civil and political State, which you intend to be republican, and are bound to make so. And the objection is neither captious nor technical, as the rapid reconstructionists would have you to believe. It is substantial, fundamental, vital. Other foundation can no man lay for a republican State than on the will of a majority, which the supporters of this bill are constrained to assume, not only without evidence, but against it.

But then it is insisted that the majority were deterred from voting by threats, and fraud, and "accidents by flood and field." No argument could have been more unhappy and unseasonable than this; and those who mistrust this hurry, and doubt the wisdom of this bill, may well exclaim, on hearing it, "I thank thee, Jew, for teaching me that word." Assuming the fact to be as supposed, and without indulging in any unkind reflection upon the fair-weather patriots, who were too delicate to wrestle with the angry elements, or even to brave the clouds, on which the iron men of the North looked down from the heights of Lookout mountain, I see in this statement the literal verification of my worst fears—"confirmations strong as proofs of holy writ," of the heavy doubts that have oppressed me in regard to the admission of these States, even upon their rigorous compliance with the severest terms that Congress has imposed on them. If I had hesitated before as to the wisdom of admitting any of them, I should scarcely do so now, upon this startling confession. We know that the white men, in Alabama at least, have almost invariably refused to vote. The government we propose to admit, then, is not only a minority government, but substantially a negro government. Now, while I have been among the very first to advocate the suffrage of the black man in the rebel States, as well upon the principles of the Declaration of Independence as from a sense of gratitude and justice, and upon the conviction that it was a necessity of State—the cheapest, and, indeed, the only defense of his liberties and our peace—I am not quite persuaded of the wisdom or propriety of surrendering the republican idea of the majority rule, for the purpose of bringing in a new government, whether it be black, yellow, or red, without, at least, some little intermixture of the paler element. Whatever objection may be taken to the form of speech, I cannot shut my eyes to the great fact that this Government was built by white men, upon ideas, if not instincts, that were peculiar to their race, and, perhaps, to some only of the great families that compose it; that its predominating element is still the same; and that there is no reason to expect that in the long future it will ever put on any other complexion.

In saying this I would not be understood as intending to disparage the political rights of any race that fate or fortune has cast upon our shores, whether it be the docile African or that other and more turbulent one, that comes by shiploads, with its Old-World ideas, and its anti-republican instincts in church and State, to fill the ranks and feed the wasting reservoirs of the so-called American democracy. We have them both to deal with, as we have had the Spaniard and the Frenchman, and have now the Mexican and the Indian, and under the new purchase of the President and Senate, if ratified here—which God forbid—the Esquimaux

or Mongol of the Polar sea, and must do the best we can to incorporate and assimilate, if we cannot fuse down these heterogeneous elements, by educating them into a love of order and a just appreciation of the rights of man. But nobody, I suppose, would think of constructing a durable republican State from either of these materials without a judicious inter-mixture—a little leaven—a flavoring; at least, of that high instinct which puts the man above the State, and has, in the process of ages, evolved stability and independence from the assertion of individual manhood, and, as its consequence, a just respect for the rights and liberties of all.

The negro, as we know, has just thrown off the chains that have shackled his limbs and bound down his higher faculties for more than two hundred years. That he will be able to maintain himself for any considerable time, even by superior numbers, without a reasonable amount of support from loyalists with whiter skins, in the presence of the stronger and more cultivated, if not the higher ethnic element, I do not believe. When you bring the two races—nay, any two races—in juxtaposition, on terms of equality and rivalry, the weaker will be sure to go to the wall; just as among the white races the Celtic man has always succumbed in the presence of the stronger Teuton, as well on this continent as upon the other. With the white element divided, as in the State of Tennessee, I should have felt no difficulty on this score. But where it is all black on one side and all white on the other I see no safety in, as I look for no great popularity for, the measure here. When I am told that the loyal black and white man both have been afraid to vote, even under the ægis of our flag, and with the bayonets of the Federal Government at their backs, I realize the imminent risk that, once within the charmed circle of the Union, the arrogant and still unconquered rebel of the South will put his foot upon the neck of his quondam slave, but that the poor white man, too, whom that power has held in the like chains of ignorance and dependence will, probably share the same fate. It makes no difference, in my judgment, that the rebel lords are even disfranchised. They still hold, by the grace of Andrew Johnson, all their great baronial possessions, with all the influence that waits on property. There is a spirit of caste, a power of public opinion, that is stronger than political institutions, more potent than the law, which, even without the suffrage, will climb into the seats of justice, invade the jury-box, and eventually govern the State. Until the whole texture and framework of society there are changed—a result which the treachery of the President has now apparently rendered impossible except in the lapse of years—whenever it becomes the interest of the proprietor classes to unbend, there is danger that they will conquer the negro, and the poor white man, by the same courtly arts, and the same gracious and irresistible condescension, by which they so promptly overcame and mastered the fiercest of their enemies, in the person of him who has now delivered the South over to their rule. It is not wise to underrate their power. It is confessed, I think, as well in the recitals of my colleague [Mr. KELLEY] a day or two ago as in the *reign*—I do not intend a pun—of terror, so graphically described by the gentleman from Illinois [Mr. FARNSWORTH] himself. If it was strong enough to subdue even the man who hated its possessors, because they looked down on him as a plebeian; if the first ray of its beneficent regards was powerful enough to melt down the fierceness of the tiger to the meekness of the lamb, and to make the dispenser of more than royal patronage feel honored even by its acceptance of a pardon at the hands of a parvenu; if its fascination has been so irresistible as to lead even the rugged Democrat of the North, whose heart went out with the hegira of his southern allies, and abode with them through all the vicissitudes of the war, to regard the southern lordling as a better man than himself, what hope is there for the unfuture negro, and the

equally untutored white man of the South, who have been trained alike to habits of obedience and reverence under that aristocratic rule? If they can be deterred from voting now by menaces of injury, what will be their condition when the arm of the Federal Government shall be withdrawn? and what will be ours with that power once more securely enthroned at the Capitol? I shudder at the risks which all this involves, and cannot consent to be a party to any measure that invites them.

It is said, however, that all this is but conditioned upon the ratification of the constitutional amendment by the Legislature lately elected—the stipulation that the Constitution shall never be so amended as to deprive any citizen or class now entitled of the right to vote, or to allow anybody excluded by the fourteenth article—and the reservation of the power here to annul any amendments or enactments made in violation of these conditions.

Without inquiring whether an antecedent ratification is such a one as the Constitution requires in case the amendment in question is not already a part of that instrument—as I think it is—it is only necessary to say that the reservation is an idle one. Is there any way of enforcing it? If there be, what is it? Is the defaulting State to be expelled, or is its law to be nullified by legislation here? Where will gentlemen find the power to do either? Does it rest on the contract or the Constitution? If on the former, how is that to confer on Congress a jurisdiction which the Constitution does not give, or to take away from the States a power that is expressly reserved to the States respectively and to the people? I have no faith in such stipulations. They confess a condition of things which is not yet ripe for unconditional restoration. I do not choose to anticipate by taking such a risk. I prefer to wait until all is at least apparently safe. There will be danger enough even then. It is no easy task to construct a friendly republican State, with a hostile element so formidable to be dealt with and provided for. He is but an apprentice in political science who thinks it can be done either in a hurry, or without the coöperation of a clear majority of the people. No good thing, no instrument certainly of a structure so delicate or complex as the organism of a State, was ever perfected in a hurry. We can afford to wait. I warn gentlemen that we cannot afford to commit an error.

Mr. BINGHAM. Mr. Speaker, I can scarcely hope, in the short time that is left to me, to answer all that has been suggested on this side of the House and also upon that side of the House against the bill which was reported by the Committee on Reconstruction. The bill as originally ordered to be reported by the committee is as follows:

A bill to admit the State of Alabama to representation in Congress.

Whereas the people of Alabama, in pursuance of the provisions of an act of Congress entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, have framed a constitution of State government which is republican in form; and whereas at an election commencing on the 4th day of February, A. D. 1868, a large majority of the legal voters of said State, voting at said election, voted for the adoption of said constitution: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said State of Alabama shall be entitled to representation in Congress as soon as the Legislature of said State, the members of which were elected at the election mentioned in the preamble of this act, shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress and known as article fourteen.

Sec. 2. And be it further enacted, That it shall be the duty of the commanding general of the military district in which Alabama is included to notify the members of the Legislature of said State, chosen at the election held in February, 1868, to assemble at the capital of said State within thirty days after the passage of this act.

I desire to assure the House, in the outset, that I do not stand here to-day wedded to any special form of restoration. The records of this House will bear witness that I have surrendered before, as I surrender to-day touching this matter, measures which I thought

essential to the prosperity of all the people of this country in this work of reconstruction.

The bill as originally reported by the Committee on Reconstruction is not the bill which I had the honor to refer to it. But I assented to their bill as originally reported and above set forth, and am willing to stand by it, acting in this matter upon the principle which has always governed my action, a principle that statesmen cannot well afford to ignore; that if you cannot obtain what you would obtain, then you should take what you can get.

The great point is the restoration of the State; it concerns all the people of this country. We are pledged, so far as we have the control over this question, to interpose no obstruction to restoration. We have heretofore gone to the people upon that issue, and they expect us to keep faith with them. The interest of all the people of this country, outside of as well as within the territorial limits of Alabama, are involved in this question of the speedy restoration of the State to its proper relations to the other States of this Union.

Now, the gentlemen on the Democratic side of the House have an account to settle with the people, because they have heretofore attempted to secure such legislation as would work against reconstruction and prevent these States from being speedily restored to their proper relations in the Union. There stands the record to bear witness of the truth of that which I aver.

The gentleman from Wisconsin [Mr. ELDRIDGE] stands here to denounce me to-day for advocating the restoration of a State under the operation and limitations of existing law, when the record bears witness that in spite of every effort of mine to the contrary the gentleman and his party, with one honorable exception, united with the minority on our side to interpose these very obstacles and by law place these very fetters on the action of the people. More than once, standing in my place here, fettered and restrained by the combined opposition of a minority of my own side of the House and a solid vote on the other side, I insisted that every resident citizen of the United States, being a male person over twenty-one years of age, should, without regard to his past conduct, be permitted to vote on this question of reorganization and restoration. Twice over I was sustained in that position by the Senate; twice I was sustained in that position by a vote of this House; but at last I was defeated by a minority of Republicans with the united vote of the representatives of the Democracy. Now, gentlemen who assisted in getting up this condition of things come here and undertake to denounce me and those who act with me for the results of their own handiwork.

Mr. ELDRIDGE. I did not intend to denounce the gentleman.

Mr. BINGHAM. I desire now to say to the House that the first two sections of this bill with the preamble did receive the support of a majority of the Committee on Reconstruction, and were ordered to be reported to this House. I desire to say further, that the third section of this bill, as it stands printed, never did receive the support of a majority of the Committee on Reconstruction. The committee was called together after the bill had been agreed upon, and—

Mr. BOUTWELL. Will the gentleman permit me to ask him a question?

Mr. BINGHAM. Certainly.

Mr. BOUTWELL. I suppose the gentleman does not mean to say that the third section was not considered and adopted by a majority of a quorum at a regular meeting of the committee, called upon due notice?

Mr. BINGHAM. No, sir. I was just stating, when the gentleman interrupted me, that after the committee had ordered this bill to be reported without this third section, the committee was called together again, and by a minority only, as I am advised, by but four votes of the committee, was the third section ordered to be reported to the House. I have moved to strike it out for that reason, that it never

received the support of the majority of the committee; for the further reason that it is in direct contravention of the pledged faith of the majority of this House in its past legislation—faith pledged to the people of Alabama as well as to the people of the other unreconstructed States. It, in other words, imposes conditions which were not imposed upon them by the previous existing legislation of Congress. I think myself that too many conditions have been imposed hitherto. I am opposed to laying upon them any further conditions. For that reason I ask that this third section may be stricken out; and in order that I may be more fully understood by the House let me read the language of the section:

That said State of Alabama shall be entitled to representation in Congress and recognized as a State of the Union upon the following conditions: that the constitution of Alabama shall never be so amended or changed as to deprive any citizen or any class of citizens of the United States of the right to vote, who are entitled to vote by the constitution herein recognized.

Now, sir, I oppose this, because, as I have already said, there is nothing in your statute-laws that authorizes the adoption of any such condition. I oppose it for the further reason that there is nothing in the Constitution of the country that authorizes it. I say, in the words of Washington, that the basis of the whole American system is the right of the people to alter and to amend their constitutions of government at pleasure, subject always to the limitations and restrictions of the Constitution of the United States. Why, sir, take this third section literally as it stands, and it results that a man, for any future bad conduct, in violation of the laws of the State and the country, in violation of the private rights of his fellow-citizens, could not, by the act of the people of the State, be disfranchised, because, forsooth, you choose to put into a law as a fundamental condition of the restoration of the State, the words, "that the constitution of Alabama shall never be so amended or changed as to deprive any citizen or any class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized." Sir, the American system of government is a total failure if the people cannot be intrusted with the right of altering and amending their constitutions of government at their pleasure, subject to the general limitations of the Federal Constitution.

Besides, sir, it is a departure from all your previously enacted legislation on the subject of reconstruction. There is not a word of the sort in any of your acts.

But the third section contains the further provision that the constitution of the State shall never be "so amended or changed as to allow any person to vote who is excluded from office by the third section of the fourteenth article of the amendment to the Constitution of the United States until the disabilities imposed by said section shall have been removed in the manner therein provided."

It seems to me, Mr. Speaker, I am justified in saying to the House and the country there is no colorable excuse for attempting to ingraft such an act as this upon the statute-book of the United States.

Why, sir, this Congress is concluded on that question, and the Thirty-Ninth Congress as well. When I speak of this Congress and the Thirty-Ninth Congress I recognize the majority of the Thirty-Ninth Congress who voted for the fourteenth article of amendment to the Constitution as now present. They then conceded, sir, that to place a limitation of this sort upon reconstructed or unreconstructed States it was needful it should be authorized by an amendment to the Constitution of the country; and when the fourteenth article of amendment was reported to the House from the Committee on Reconstruction it contained a limitation that persons who participated in the rebellion should not vote for Representatives in Congress or presidential electors until after the year 1870. Where was the need of this limitation then, for a period of three years, by way

of amendment to the Constitution, if you could impose it by mere act of Congress, as a fundamental condition for the restoration of a State? Let some man who advocates this third section answer that question.

Sir, the question as to its policy, as to its wisdom, as to its justice, was condemned by the Thirty-Ninth Congress. To be sure this House, by the aid of the Democratic members coöperating with the minority on the Republican side, resisted your efforts and mine to strike out from the fourteenth article of amendment this limitation upon the elective franchise for three years, and fastened it upon us in the House. We sent the amendment with that limitation in it to the Senate. The yeas and nays were there called upon it, and every vote in that body save one was recorded to strike out the limitation as a thing not to be tolerated even for the short period of three years, much less for the indefinite period contemplated by the third section of this bill.

Mr. Speaker, I have said all it is needful to say to justify my motion pending before the House to strike the third section out. I leave it there perfectly willing the House should pass judgment upon it in the light of our past legislation. It is quite inconsistent with all we have ever done, and I trust it is quite inconsistent with all we shall do hereafter touching this matter of restoration.

I come now to the proposed amendment of the gentleman from Pennsylvania, [Mr. STEVENS;] and I desire to say here, as I have already intimated in the remarks I have addressed to the House, it would have been acceptable to me, in perfect accord with all I have ever endeavored to do touching this matter of restoration, if the bill contained a provision requiring the Legislature of the State, in accordance with the constitution of the State adopted by the people, to enlarge the elective franchise and to remove disabilities. The constitution adopted by the people of Alabama authorizes the Legislature to do so, but the committee saw fit to reject the proposition. I have no complaint to make against the committee on that account.

Allow me to say we are not without precedent for the bill as originally reported. When we admitted Tennessee by her constitution and laws a large majority of the free male population of the State were excluded from the elective franchise; but, sir, that constitution authorized her Legislature to remove disabilities in Tennessee just as the constitution of Alabama authorizes the Legislature of Alabama to remove disabilities in Alabama. I ventured upon the discussion of the bill admitting Tennessee to say that it would be the interest of the people of Tennessee and the interest of the people of the United States to immediately remove disabilities to such an extent as to place the power of the State in the hands of the majority of the people, and the Legislature of Tennessee after admission did it. I venture to say that if we allow the people under the constitution of Alabama to remove disabilities they will do it. But the amendment of the gentleman from Pennsylvania goes further.

The section offered by the gentleman from Pennsylvania, [Mr. STEVENS,] which I ask shall also be rejected by the House, is this:

SEC. 2. And be it further enacted, That said State of Alabama shall be recognized and admitted into the Union upon the following fundamental condition: that the right of suffrage of citizens of the United States shall never be denied or abridged in said State on any account except for treason, felony, or other crime infamous at common law; but suffrage as above provided for shall forever be universal and impartial.

Who does not know that every person born within the limits of the Republic is, in the language of the Constitution, a natural-born citizen? Who does not know, therefore, that all the natural-born persons in the United States, men, women, and children, are citizens of the United States? This section, therefore, as it reads, is simply to confer suffrage upon men, women, and children. I do not strain the con-

struction of it. There is no one can hesitate a moment about it who ponders on the words of the section. It is, "That the right of suffrage of citizens of the United States shall never be denied or abridged in said State on any account except for treason, felony, or other crime infamous at common law." "On any account." If citizens of the United States are excluded from suffrage on account of sex, is not that within the meaning of this provision? Are we prepared to legislate in this way? I trust the House will reject the amendment of the gentleman from Pennsylvania.

As to the substitute offered by my learned colleague, [Mr. SPALDING,] I was not able to catch the amendments very clearly as read by the Clerk, but I believe I comprehended their substance. As the substitute is printed, I beg leave to say to the House that it is directly in conflict with your past legislation. I refer to the third section of the substitute, which is:

That whenever the people, by a majority vote of the qualified electors of Alabama, shall have ratified a constitution submitted as aforesaid, and the Legislature of the proposed State organization shall have ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, the constitution of Alabama may be presented to Congress for its approval.

Now, these words, "whenever the people, by a majority vote of the qualified electors of Alabama, shall have ratified a constitution," are simply a restoration of that bungling provision of the law of last year which we repealed this year.

Mr. SPALDING. Allow me to state that that section is modified so as to read "a majority vote of the electors qualified under the act of Congress."

Mr. BINGHAM. Very well; that is what I was coming to now. If the substitute be so amended it should be rejected. Why? Because it simply acknowledges the very principle that is at stake in this whole controversy, namely, that less than a majority of the qualified electors of the State, but a majority, nevertheless, of those voting, may ratify a constitution. That is fair, that is just. If that is the law, why not stand upon it now, as the first and second sections of the bill reported provide? An overwhelming majority of the people voting at the recent election did ratify the constitution of Alabama.

But, sir, there is another objection to this substitute, and that is this provision of the second section:

And said Legislature is also empowered to submit the constitution, as framed by the convention, with or without amendments proposed by the Legislature.

While that remains in the substitute—"with or without amendments proposed by the Legislature"—I do not stand upon the word which I uttered here before, and which the gentleman from Wisconsin [Mr. ELDRIDGE] did me the honor to quote from my speech, that the constitution of a State can emanate only from the people of the State. These conventions that are called by the people are acts of original sovereignty, not complete, to be sure, till accepted and ratified by the general sovereignty of the nation.

Mr. SPALDING. Will the gentleman allow that amendment to be read as it has been modified?

Mr. BINGHAM. Yes, sir; the last clause. The Clerk read as follows:

And the said Legislature is also empowered by a majority vote of each House to submit the constitution as framed by the convention, with or without amendments proposed by the Legislature; and if amendments be proposed by the Legislature they shall be voted upon separately and not in connection with the constitution as it came from the convention.

Mr. BINGHAM. Of course; and the result of all that is that they may amend it by striking out everything after the preamble and make a constitution and submit it to the people. I see no occasion for any such legislation.

Mr. SPALDING. It is very easy to suppose cases.

Mr. BINGHAM. There is nothing like it, I undertake to say, in the past history of this

country, in our past legislation on reconstruction.

Mr. DAWES. It may be so with the last qualification of the gentleman's remark, so far as reconstruction is concerned; but the gentleman will remember, for I think he stood with me, that when the acts were passed to admit Colorado and Nebraska into the Union, this House prescribed a certain amendment to be attached to their constitutions, and prescribed that if that amendment was adopted, not by the people of the States, but by the Legislatures which had already been elected, then they should be admitted.

Mr. BINGHAM. That is entirely foreign to what I am saying. The power of Congress to impose fundamental conditions within the limitations of the Constitution of the United States was settled by the great and immortal act of 1819, on the admission of Missouri; but that is a different question.

Mr. DAWES. It is not a question of fundamental condition that I am calling the attention of the gentleman to, but to the fact that there was prescribed an amendment to the constitutions of the States of Colorado and Nebraska by this House, and it was also provided that the amendment so framed here should be submitted, not to the people of these inchoate States, but to the Legislatures.

Mr. BINGHAM. Oh, I cannot yield further. I understand it perfectly. I undertake to say it was a fundamental condition in the case of Nebraska; and, so far as I am concerned, I have no difficulty about it, for I never voted for it at all.

Mr. DAWES. Does the gentleman decline to yield?

Mr. BINGHAM. I do. It has nothing to do with the question at all; nothing at all to do with it.

Mr. DAWES. Will the gentleman yield?

Mr. BINGHAM. No, sir. There is no kind of excuse for undertaking to evade this issue in that way. This proposition is that the Legislature may amend the constitution of the State of Alabama without any limitation about it, and submit their amendments to the people of that State; and I undertake to say, for myself, (gentlemen can decide for themselves,) that there is no kind of parallel between this provision and the provision of the act of 1819, or the provision of the act admitting the State of Nebraska.

Mr. DAWES. Will the gentleman allow me to ask a question?

Mr. BINGHAM. The gentleman is not putting a question that is germane to my point. Not at all.

Mr. DAWES. I would inquire of the gentleman from Ohio, through the Speaker, if he will permit me to put a question to him.

Mr. BINGHAM. Well, I will yield for that, but not to make a speech.

Mr. DAWES. If the gentleman will yield for a question, it is this: will the gentleman permit me to inquire of him what the difference is?

Mr. BINGHAM. Well, I supposed I had said enough for the gentleman to have seen the difference.

Mr. DAWES. Does he decline to be interrupted by me?

Mr. BINGHAM. I decline to be repeating myself for the accommodation of the gentleman. [Laughter.] The difference, however, is perfectly manifest. I have said before, and I do not intend to be diverted from what I have said, that, for myself, I hold that no fundamental condition can be imposed upon the restoration of any State to this Union, or upon the admission of any new State into this Union that does not stand within the limitations and conditions of the Federal Constitution. I stand here to reiterate and reassert what I said before, that the great question involved in the admission of the State of Missouri was a question that stood within the very provisions of the Constitution of the United States itself, not simply by construc-



tion, not simply by intendment, not simply by implication, but by the express letter of the Constitution of the United States.

But this is a very different thing. Here is a proposition to authorize the Legislature elected under the constitution already adopted by the people of Alabama to amend that constitution at their pleasure. I say it is without a parallel in the history of the country. I give the gentleman the benefit of the suggestion of the case of Nebraska. The Legislature elected under the constitution which they were sworn to support were asked to change that constitution, and that, too, withholding the people a vote upon the subject. Asked to change it in what? In one particular only. Gentlemen doubtless thought that it stood within the provisions of the Constitution of the United States as the Constitution then was, for the Constitution was not then, in my judgment, what it is now—not by any manner of means. I intimated upon that occasion, speaking for myself, that if the fourteenth article of the amendments had been adopted I thought it very likely that within the provisions of that amendment, so far as the elective franchise was concerned, within the general rule that had obtained in the States, it might be competent for Congress to do the very thing which Congress did attempt to do in that case. But that is foreign to this matter.

Now, having indicated the objections to these various amendments to the bill, I desire to say a few words further in support of the bill as originally reported and without the amendments which are attempted to be fastened upon it, in the hope that the House will come to a direct decision upon the questions; first, whether the original bill shall be perfected by striking out this third section; and second, whether the amendment proposed by the gentleman from Pennsylvania [Mr. STEVENS] shall be rejected; and third, whether the substitute for this bill, offered by my colleague, [Mr. SPALDING], shall also be rejected; and lastly, whether the bill so amended shall be passed.

The bill, if it be passed in that shape, will be substantially the bill upon which you admitted the State of Tennessee. That bill worked well for the Republic, worked well for the Representatives of the people that passed the law, for the people sustained them everywhere. And I venture the prediction that if the House proceed with this work, following the example set in that case, and admit the State of Alabama, so far as this House is concerned, agreeing to the first and second sections of this bill as reported by the committee, they will find themselves again sustained by the constituencies which they immediately represent upon this floor, and sustained hereafter by the action of the people of Alabama.

Men consult their own interests in matters of this kind. And it is of the highest interest to the people of Alabama, for it touches even their personal security and the security of their homes and their firesides, that they shall provide for the future by extending and securing to a large majority of all the male population of the State the right of the elective franchise as authorized by the provisions of their constitution. That being done, I shall be content.

But, says the gentleman from Wisconsin, [Mr. ELDRIDGE], appealing to your record, Mr. Speaker, and to my record, "You go back upon yourselves." I remember that day, Mr. Speaker, when, ten years ago, standing in your place here as a Representative of the people of Indiana, you made the speech from which the gentleman read some portions—a speech which did honor alike to your head and your heart. But the gentleman saw fit, taking advantage of your present position, when you could not speak for yourself, to mutilate your speech. For his own purposes the gentleman substituted in my speech of that day the word "Alabama" for the word "Kansas."

Sir, how was it about the constitution of Kansas? It never emanated from that people. No seventy thousand, no fifty thousand, no

twenty thousand, no ten thousand, no thousand of the resident citizens of Kansas ever voted for it. You exposed that fact, and so did I, in the arguments which we made on that day. That constitution, known as "the Leecompton atrocity," was nothing more nor less than a written conspiracy against the rights of the people.

The gentleman from Wisconsin [Mr. ELDRIDGE] did well to read so much of our speeches as he did, for they reflect no discredit upon us. He also did well, perhaps, to omit so much of our speeches as he did omit, for that reflects credit upon his ingenuity. If he had pursued his investigations further in that record he would have found that there was imbedded in that Leecompton constitution the blasphemous doctrine that the right of ownership in slaves was before and higher than any human constitutions or laws, and that the constitution of Kansas should never be so amended as to affect the ownership of property in slaves.

Are the cases of Alabama and Kansas parallel? They are as wide apart as the poles; as manifestly distinct as those two conditions in the universe, heaven and hell. There is no use in attempting to get up a parallel. Here is a constitution which secures to every human being, irrespective of the accidents of birth, color, race, or the adventitious aid of wealth or social position, the equal protection of the laws. On the other hand, there was a constitution that smote down men on account of their color, and declared that they had none of the rights whatever which belong to human nature.

I am not to be moved from my support of this bill by any reference of that sort to my past record. Here is a constitution of government republican in form; a constitution ratified by the votes of seventy thousand freemen; a constitution, I venture to say, supported by a larger vote, with perhaps a solitary exception, than the constitution of any State of this Union organized under the Constitution of the United States ever received in its inception.

Now, my friend from Pennsylvania [Mr. WILLIAMS] talks of the majority principle. What, sir, is the majority principle in this country and in every State of the Union but the principle that the majority of those voting at the election shall determine the result. That is all there is of it.

Mr. ELDRIDGE. I would like the gentleman to say why that principle was not adopted in the reconstruction act.

Mr. BINGHAM. I answer, because the gentleman and his friends, aided by a minority on our side of the House, voted it down. But, sir, we have repealed the provision of our law that conflicted with this principle, and the principle is now embodied in our act; and I want some man in this House or out of the House to tell me the difference between recognizing that principle now, after the fact, or recognizing it before the fact and allowing it to go through this operation again. It is the difference between tweedledum and tweedledee. If it be wise or just or proper for this House to provide that seventy thousand votes shall be sufficient next May to adopt and ratify this constitution, it is within the power of this House, to-day, to say that the seventy thousand who did vote for it last February made it thereby the law of that people. Why? Because it is but the exercise of the right of petition, and, no matter how or when that right may be exercised, it is for Congress to give effect to that petition, the highest petition of right known among the American people, by a solemn act of Congress. If you affirm their petition it becomes fundamental law for the State; if you reject their petition, whether it be sent up last February or next May, it will be no more than so much blank paper.

[Here the hammer fell.]

Mr. FARNSWORTH. I call for the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The gentleman from Illi-

nois, [Mr. FARNSWORTH,] who reported this bill, is entitled to one hour to close the debate.

Mr. FARNSWORTH. I yield five minutes of my time to the gentleman from Massachusetts, [Mr. DAWES,] and afterward I will yield twenty minutes to the gentleman from Pennsylvania, [Mr. STEVENS.] I propose to occupy but a brief time myself, as the House is anxious to come to a vote.

Mr. DAWES. Mr. Speaker, I should be very glad to vote for this bill as it comes from the committee, either with or without the third section, if I could see that it afforded any guarantee of security to the people of Alabama. I did desire that the gentleman from Ohio [Mr. BINGHAM] should, if possible, remove from my mind some doubts which I at present entertain on this subject. I regret that the gentleman, in his seeming self-satisfaction with his own ideas, was disposed to proclaim them as the *lex scripta* of the House, and permit no man to dissent from them as conclusive evidence of the duty of this body. The gentleman knows very well that he and I stood side by side in this House in resisting to the extent of our power what seemed to me precisely the same thing as that which he denounced a moment ago when referring to the proposition of his colleague from Ohio, [Mr. SPALDING.] That which the gentleman proclaimed has never been done before is, it seems to me, precisely the thing which has been done time and again.

My purpose, however, in rising at this time, was merely to put on record a reason why I am unwilling to vote for this bill. The proposition of the gentleman from Ohio [Mr. SPALDING] will secure to the people of Alabama everything that is secured to them by the original bill, except one thing; and that is representation in Congress. The theory of all our legislation touching those States recently in rebellion is that the moment representation is secured to any one of them in this and the other branch of Congress the State passes from under our control, except so far as we may, under the limitations of the Constitution, control every other State of the Union; in other words, that if Alabama be admitted to representation in the Halls of Congress, then, whatever may afterward result, we can no more interfere with the State of Alabama than with the State of Massachusetts. That is the theory upon which all our reconstruction legislation rests.

Now, it is proposed by the substitute of the gentleman from Ohio to legislate so that everything which, under the Constitution, can be secured to those people shall be secured to them, except representation in the two Houses of Congress. It is insisted, however, that it is our duty not only to secure to them this right, but also to take them from under the supervision of Congress hereafter. Notwithstanding the doubtful condition of things in that State, notwithstanding the uncertain voice of the people touching this fundamental law, gentlemen of this House are unwilling to say to those people, "We will put you in a condition in which you will be able to prove whether you can sustain your constitution and your personal rights under it." It appears to be absolutely necessary, in the opinion of those who advocate the original bill, that representation in Congress shall be at once granted to Alabama.

Now, Mr. Speaker, I confess to have undergone some change of views during the years I have spent in this House touching the question of granting representation in Congress to those portions of the country that have been under the control of the rebellion. You remember, sir, that in times past I have struggled to secure representation to even single districts as the armies of the United States cleared out the rebellious element in those districts. I have stood here trying to secure to them, district after district, representation in this House. But, sir, I have become satisfied that representation in Congress, instead of being the first thing to be secured to these States, should be the last thing; that the State should first be built up, personal rights should be secured, the damage done by the rebellion should be re-

paired, the stability and security of the State as an organized and peaceful community should be made certain; and representation in Congress should follow and grow out of that security, not be relied upon as a means of bringing about such security. Representation in Congress should be the last step in the work of reorganization, not the first.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I hope the time of the gentleman from Massachusetts [Mr. DAWES] may be extended.

Mr. FARNSWORTH. I cannot consent to extend the gentleman's time. Mr. Speaker, I now yield to the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS, of Pennsylvania. I wish to say a few words with regard to the condition of this bill, and what seems to me as wise to be done by this House.

Sometime ago Congress passed an act authorizing Alabama and other waste territories of the United States [laughter] to form constitutions so as, if possible, to make them fit to associate with civilized communities; and we gave them a certain length of time for that purpose. It was provided—whether wisely or unwisely it is not for me to say—that Alabama and these other communities, after having their voters registered, should hold elections and that a majority of the registered voters should be necessary to secure the adoption of such constitutions. Unfortunately, Alabama in her recent election has failed by a considerable number to poll the required majority for the adoption of her constitution. The House, foreseeing this difficulty before it finally happened, passed several months ago an act empowering these States to adopt constitutions by a majority of the votes polled, in accordance with the majority principle as recognized generally throughout the Union. But the Senate (and here is the source of all our troubles) with a wisdom far above that of this House—a wisdom which has characterized that body upon many just such disastrous issues [laughter]—let that bill lie upon their table for over two months, though urged to take it up and pass it before the election had taken place in Alabama. The election was held, and it was found that the constitution had received, according to the existing law, a minority of votes. Hence we are now called upon either to deny Alabama admission under that constitution or to violate our own enabling act, which provided for admitting those States upon certain conditions. There is nothing that prevents us from violating that act if we deem it prudent to do so.

I am often reminded by gentlemen in this House—some very wise and some otherwise [laughter]—that I have said more than once that all our legislation on this subject was "outside of the Constitution." [Laughter.] He is "otherwise" who thinks that assertion untrue. [Laughter.] This very proceeding shows, if a majority here should adopt the measure now proposed, that this House believes itself to be acting not in accordance with the forms of the Constitution, which contemplates no such case of lapsed territory to be formed into communities and brought into the nation.

When West Virginia was introduced I first made that declaration. That State sought to come in and was admitted by a majority of this House, upon the ground that the people had gone through with the requirements of the Constitution in obtaining the consent of both those States when one had ceased to exist long before and the other one existed in Ohio, and gave her consent there. [Laughter.] I voted for the admission of that State. I was not going to make either a fool or a knave of myself and say I voted for it under the Constitution, or I did not know what I was voting for. I held then, as I hold now, that having conquered that portion of another power—a power recognized as an independent belligerent by all civilized nations of the earth, ours as well as the rest—we had a right to treat them as a foreign nation and take them in or keep them out as we

pleased. I said then that the Constitution had nothing to do with them.

Now, I would inform my learned friends from the bushes [laughter] that when I spoke of being outside the Constitution I did not mean that the Constitution does not recognize the law of nations. It does recognize the law of nations, and the law of nations recognizes the right of a conquering power to do with its conquered territories as it pleases. Hence we had a right to treat these rebel States after they had become a power just as we pleased, without the least reference to the Constitution except so far as the Constitution covered over them the law of nations under which we were acting.

I trust that I shall hear nothing more after this explanation from my most obfuscated friends who have so often seemed so ignorant of what I meant or what they were talking about. [Laughter.]

Now, Mr. Speaker, what are we to say with regard to Alabama? And I confess to you, sir, that I am not entirely clear as to what we ought to do as a just and wise body. We have power under the Constitution to admit new States, whether made out of the fragments of a confederate State or the fragments of a foreign nation, or by another process when we come to agree with those States. For I hold that when you come to admit new States you can admit them on just such conditions as the States agree upon. They are parties capable of contracting, capable of proposing and consenting, and until they have lost their power to consent by having become actually incorporated in another body which takes away that power, they have always the right to enter into such contracts, and after they have gone into a negotiation and made a contract and it is partly executed, they are bound to fulfill it.

What was done with regard to Texas? When she was admitted it was not only a condition imposed by this Congress, but it was a proposition made to that State that she should keep her wild lands and pay her debts, there being over fifteen million acres of wild lands and several million dollars of debt, which we afterward paid to be sure, because Texas could not pay it. Did any body ever doubt that that was a valid and binding contract on the people of both sections—upon both nations, if you please, for they were two nations—upon both contracting powers?

Sir, after the many cases which I shall not enumerate, for it would be an intimation of great ignorance on the part of members of this House for me to do so, after the numerous cases in which conditions have been proposed and accepted and acted upon and never violated; after the conditions proposed to Missouri, to Arkansas, and the other States, which, as I said I will not enumerate, after the admission of States without enabling acts, time out of mind, for anybody to maintain, upon any tract of land coming here and saying, "Here are one hundred thousand people; here is a constitution under which we would like to become one of the members of your Union;" that we cannot upon that state of the case send that identical constitution to their people to be voted upon, and if ratified to be accepted and acted upon here forever after, seems to me to be a degree of ignorance which I will not presume to exist in this House.

If, then, we have a right to do it in one instance we have a right to do it in all instances in which we admit new States into the Union. Now the only question is, although this State has not lived up to this enabling act, are we prepared to admit her as fit to associate with freemen, a few of whom have so sympathized with the rebels that they are unwilling to let these poor men into this Union at all?

What is that Constitution? It is that every man of sufficient age, twenty-one, shall be entitled to vote at their elections. If I were certain that those who have just perjured themselves and attempted to break down this glorious Union would live and abide by their contract, and not attempt further to destroy us if we admit this terrible leaven, I should not

hesitate. There are no forms, no omissions, that would keep me from admitting them into the Union at once. I confess I have my doubts—I am sorry for it—as to whether, after we shall have admitted them into the Union, and after the morrow's sun shall have set upon them, they will not be ready to call a new convention and to reestablish slavery in some shape or form. We know very well the ingenuity of these men. We abolished slavery except for crime; but I have been informed of twenty cases in which men have been sold into bondage and are now serving in it. One case is in Florida, where our commissioner of freedmen informed me that he had seen six of them sold for twenty years. How do they do it?

They pass a law that any man guilty of assault and battery shall be sold into slavery for twenty years. It is the law there now. They go into the street and a white man jostles a black one or a black man jostles a white one. He is taken right to the court-house, is convicted of assault and battery, and is sold for twenty years into slavery. There are hundreds this day in the southern States who are serving as slaves on just such contrivances. They have so altered the law that they have introduced the system of peonage, even worse than in Mexico and the middle southern provinces. And yet what shall we do? We must try so to shackle them in some way that while we are admitting these fraudulent white men we are securing the poor ignorant black man from their impositions. Hence it is that I have moved to strike out all after the first section and insert in its place what I think will be a complete shackle.

But the proposition of the gentleman from Ohio [Mr. BINGHAM] to strike out the third section is all, I must say, in the interest of slavery. I have offered my proposition to try to protect, if possible, freedom against the wiles of the most wicked institution that God ever afflicted man with or that ever could exist through the invention of human ingenuity.

Mr. BROMWELL. I desire to make a suggestion to the gentleman. His amendment is considered not specific enough. It would permit any citizen of any other State to vote in Alabama who might happen to come in immediately before an election.

Mr. STEVENS, of Pennsylvania. How should I alter it?

Mr. BROMWELL. Confine it to citizens of the State of Alabama. As it stands now it would confer the right of suffrage on both sexes.

Mr. STEVENS, of Pennsylvania. What words shall I use?

Mr. BROMWELL. I want to know if that is the gentleman's intention?

Mr. STEVENS, of Pennsylvania. Oh, no; but the intention is that everybody shall vote.

Mr. BROMWELL. I suggest to the gentleman that he use the words "citizens of the State according to the laws thereof."

Mr. STEVENS, of Pennsylvania. I will make it read "citizens of the State." Now, sir, I will vote for no constitution that does not give universal and impartial suffrage, and, so far as human ligaments can bind it, bind that provision unalterably and ineradicably into that instrument, so that if it is ever taken out by the roots it shall take out every other fragment of the instrument itself, and send them back to act according to the provisions of a new law.

[Here the hammer fell.]

Mr. FARNSWORTH. I now yield five minutes to the gentleman from Massachusetts, [Mr. BOUTWELL.]

Mr. BOUTWELL. Mr. Speaker, I wish to make one observation in regard to the amendment of the gentleman from Pennsylvania, [Mr. STEVENS.] I believe that, however just may be its purpose, it is wholly inadequate to accomplish any practical result in the form in which it is presented. It provides "that the right of suffrage of citizens of the United States shall never be denied or abridged in said State on any account except for treason, felony, or other crime infamous at common law." That

applies as well to women and children as to men.

Mr. STEVENS, of Pennsylvania. The gentleman will allow me to say that that is not a fair construction of the amendment; but I will say "electors of the United States" instead of "citizens."

Mr. BOUTWELL. Well, I do not see how that would help the matter.

Mr. STEVENS, of Pennsylvania. Well, how can you help it, then?

Mr. BOUTWELL. If I submit a proposition I consider it my province to meet all the difficulties that may be raised in regard to it. If I oppose a proposition it can hardly be supposed that I will suggest the means to perfect it.

Mr. STEVENS, of Pennsylvania. If the gentleman is opposed to the proposition, very well; let him go on.

Mr. BROMWELL. Let the gentleman say "male citizens."

Mr. STEVENS, of Pennsylvania. I will say "male citizens of the United States over twenty-one years of age."

Mr. BOUTWELL. I am in favor of this bill and opposed to the amendment submitted by the chairman of the Committee on Reconstruction [Mr. STEVENS] after the bill has been agreed upon by the committee and reported by them to this House. The objection to the amendment submitted by that gentleman is so practical and easy to be understood that, in my judgment, it is not possible for this House or for Congress or for the country to accept it.

What does the gentleman say in that amendment? That the right of suffrage shall not be abridged except for treason, felony, or other crime infamous at the common law. How is that fact to be ascertained? There is no provision here for that purpose; but by the necessary construction of the language, if employed in a statute, it is to be ascertained by a conviction of the party. And does the gentleman expect that the men who, by the third section of the fourteenth article of amendments to the Constitution of the United States, have been declared to be ineligible to the office are to be convicted in any court in Alabama of treason, or that any considerable number of them are ever to be arraigned? And will it not be a consequence of the amendment of the gentleman from Pennsylvania, [Mr. STEVENS,] if it shall be adopted and become a part of the law of the land, that all persons in the State of Alabama will be at once admitted to the exercise of the elective franchise? I say that the amendment would give to every rebel in that State, even though guilty of treason of the highest grade, the right to vote at all the elections of that State.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. BOUTWELL. I cannot yield to the gentleman. He has had half an hour, and I have only five minutes.

I have to say further only that the conditions declared to be fundamental by the third section of this bill are in entire harmony with nine precedents in the history of this country, and are within the rule laid down by the gentleman from Ohio, [Mr. BINGHAM,] they are in harmony with the Constitution of the United States, and not in any sense outside of it, or extraneous to it, and they are conditions that are necessary to the security of this country, if Alabama is to be readmitted as a State in the Union.

[Here the hammer fell.]

Mr. FARNSWORTH. Mr. Speaker, I shall not occupy much of the time of the House on this occasion. I think I have been very considerate so far, having occupied less than thirty minutes when I reported this bill; and I shall now occupy less than twenty minutes in closing the debate upon it.

The gentleman from Massachusetts [Mr. DAWES] opposes the passage of this bill because, he says, it will put the State of Alabama

in the hands of rebels. Gentlemen on the other side of the House oppose its passage because it will put the State in the hands of loyal men. Now, who shall decide when doctors disagree?

Sir, the arguments of gentlemen upon the other side, through four speeches, have been this, "only this, and nothing more," that we put the State of Alabama into the hands of what they please to call "negroes," and exclude from the control of that State the disloyal white men of Alabama, if we admit the State under the constitution which is submitted to us; while now, at this late hour in the debate, the gentleman from Massachusetts [Mr. DAWES] says he opposes the bill because he thinks our friends will not be able to hold the reins there, but that the State will go over into the hands of the rebels. Inasmuch as the Democrats on this floor are unanimous in their opinion regarding it, while the gentleman from Massachusetts is only one of a very few on this side of the House holding to his opinion, I am inclined to think that they are right and he is wrong, and that the question now before the House is whether we are in favor of confirming the power of the State of Alabama in the hands of loyal men, our friends and the friends of the Government, the friends of human liberty, human rights, and equality, or whether we are willing to give it over to the hands of the rebels.

The case of the State of Tennessee has been referred to in this debate. Who upon this floor doubts that if Tennessee had not been admitted as she was, if Tennessee had been kept out until this hour, she would have been in as bad a condition as the State of Alabama is to-day; that nothing saved the State of Tennessee to the Union cause but putting the control of that State into the hands of our friends there? The legislative and the executive power of the State, the power to make the laws to protect the Union men and the freedmen, and the executive power to enforce those laws, are all that has kept Tennessee loyal to the Union—all that keeps her so to-day. Every member upon this floor from that State will agree with me.

To reject Alabama now, after she has gone through this struggle and has given her seventy thousand loyal votes in favor of this constitution, to turn her back and say, "You shall go through this agony again," is only to encourage rebels, while you dishearten and discourage loyal men. It is only to make the struggle more fearful, to leave more corpses by the way, to have more men hung upon gibbets and lamp-posts, to have more murders committed in that State, which we might prevent by admitting the State, and getting the power and control into the hands of the loyal men there. Of this fact I am as firmly convinced as I am of my own existence. To refuse to admit Alabama is to perpetrate a great wrong, a wrong that will cry to Heaven against this Congress, if you intend ever to admit those States.

I say to gentlemen that things cannot drift along in this way forever. Those States must be admitted some time. There must be an end of the confusion, the anarchy now prevailing. We must have civil law and civil order. We cannot always control those States by the bayonet. Our friends in Alabama have formed this constitution. The only complaint I have heard against it is that it secures equal civil and political rights to all the loyal men of that State. That is the only objection we hear from the other side of the House. In favor of this constitution more than seventy thousand votes have been polled, while only one thousand have been polled against it. The constitution has obtained within eight thousand of one half the registered vote of the State; and we show by incontestible proof that a larger number than eight thousand tried unsuccessfully to poll their votes, while many others actually voted, but their votes were destroyed. Yet gentlemen on this side of the House (and I am sur-

prised to see it) ask that we shall turn them back, deny them admission when they knock at the doors of Congress.

In pursuance of the constitution thus voted upon the loyal men of that State have elected a loyal Legislature—entirely loyal. Every member of it is a loyal man. The entire Legislature is in the hands of the Republicans; and when I say that everybody understands that it is in the hands of loyal men. They have elected a Republican Governor and Lieutenant Governor, and all the State and county officers are Republicans. And who doubts their loyalty? As soon as you clothe them with the powers and functions of the State they will have the entire legislative, judicial, and executive power of that State in their hands. If the State of Alabama could poll seventy thousand votes in favor of this constitution under the circumstances attending that election, how many votes can be polled when the loyal men control all the offices? If they could poll seventy thousand when the offices were all in the hands of the rebels, when the voters were turned out of employment for voting, kicked out of their cabins, waylaid and assaulted, hustled by violence away from the polls, threatened with all kinds of ostracism and persecution, who doubts that they could poll one hundred thousand when they have the control of the offices, and the power of State is in their hands?

Mr. MYERS. In furtherance of what the gentleman from Illinois [Mr. FARNSWORTH] has stated I ask to read the following original letter sent in January, 1866, to Captain Francis Lyons, a gallant soldier who had just been honorably discharged from our service, notifying him to quit the State. It is addressed "To the traitor, Francis Lyons, late commanding Florida renegades:"

MOBILE, ALABAMA, January 28, 1868.

SIR: The undersigned, citizens of Mobile, Alabama, give you one week from date to leave the place, and if found within the limits of the city or State after the time specified as above you and your traitorous offspring will be wiped into eternity as sure as there is a God above you.

By order of special committee, Mobile, Alabama.

Captain Lyons remained, and a few months later was brutally murdered almost in sight of his wife, a lady now living in my district, who in vain applies for a pension. This was when Andrew Johnson began to inspire rebels with fresh courage, the whole power of the State being placed by him in the hands of men who are unfriendly to loyalty. That power will now be given to loyal men, and those who fought for or sympathize with the Union can find protection.

Mr. FARNSWORTH. Mr. Speaker, I have letter upon letter from Alabama praying, begging, and beseeching Congress not to turn its back upon them and make them go through the cruel agony of another election. They ask to be spared the mortification, humiliation, and insults, to be spared the repeated publication of the black list deprived of employment and driven from their homes. They ask to be admitted now. Gentlemen say it is a violation of law to admit the State. The gentleman from Pennsylvania, [Mr. STEVENS,] for whose opinions I always entertain a very high respect, says, as I understood him, that if we admit Alabama under this constitution we violate the enabling act.

Mr. STEVENS, of Pennsylvania. I made no such intimation.

Mr. FARNSWORTH. I think the gentleman has mistaken himself.

Mr. STEVENS, of Pennsylvania. I have no doubt of our power to do it in good faith.

Mr. FARNSWORTH. The gentleman used the word "violation." I have no doubt, however, and so thought at the time, that he did not intend it. Of course, it is not a violation of the enabling act. The same Congress that passed the enabling act has the right to pass another, repealing as much of the former act as it deems proper, and at most it is but a repeal. But I hold that this is neither a viola-



tion nor a repeal; for what means the provision in that enabling act which says that "if Congress shall be satisfied that a majority of the registered voters were in favor of the constitution?" If we "are satisfied"—what does that mean? It certainly does not mean that we shall be satisfied of the fact that a majority of them voted for it, for this is a provision in addition. The intention of that law was to give to Congress entire supervision and control of the matter. The chief object was to protect loyal men and prevent rebels in the minority, by fraud and violence, from forcing or palming upon the people a constitution against their wishes.

As I said when I reported this bill, according to the argument of some gentlemen here, if eight thousand rebels or eight thousand copperheads or Democrats or what not had come out and voted against the constitution we would be bound under this law to admit the State. Is not this preposterous—that because eight thousand or ten thousand did not vote against it we should refuse to admit it, while, if they had voted against it, we should be bound under the law to admit it?

But, Mr. Speaker, I have detained the House as long as I desire at this late hour.

The SPEAKER stated that the vote would be first taken on the amendment of Mr. BINGHAM; next on that of Mr. STEVENS, of Pennsylvania; next on that of Mr. ASHLEY, of Ohio; and then on that of Mr. SPALDING.

Mr. BROOKS. I desire, whenever it shall be in order, to submit a motion to recommit the bill and amendments to the Committee on Reconstruction.

The SPEAKER. That will not be in order; the previous question operating prevents its being made.

Mr. BROOKS. I refer to page 190 of the Manual, paragraph 124.

"After commitment and report thereof to the House, or at any time before its passage, a bill may be recommitted."

The SPEAKER. The point of order would be sustained if the previous question did not operate. By referring to page 132 of the Digest it will be seen that—

"When a question is under debate no motion shall be received but (1) to adjourn, (2) to lie on the table, (3) for the previous question, (4) to postpone to a day certain, (5) to commit or amend, (6) to postpone indefinitely; which several motions shall have precedence in the order in which they are arranged."

The motion for the previous question, of course, takes precedence of the motion to recommit.

The Clerk read the bill and the various amendments.

Mr. ELDRIDGE. I move that the bill and amendments be laid on the table; and on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 30, nays 103, not voting 56; as follows:

YEAS—Messrs. Adams, Beck, Brooks, Burr, Cary, Eldridge, Fox, Glessbrenner, Golladay, Haight, Holman, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, Munger, Niblack, Nicholson, Pruyn, Ross, Sitgreaves, Stewart, Taber, Lawrence S. Trimble, Van Auken, Van Trump, and Woodward—30.

NAYS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Bingham, Blaine, Boutwell, Brownell, Broomall, Buckland, Churchill, Sidney Clarke, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravelly, Halsey, Hawkins, Hill, Hopkins, Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Ketcham, Koonz, Laffin, William Lawrence, Lincoln, Loan, Loughridge, Mallory, Maynard, McClurg, Mercer, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Patne, Perham, Peters, Pile, Plants, Poland, Polsey, Pomerooy, Price, Raum, Robertson, Sawyer, Seofield, Selye, Shanks, Smith, Spalding, Thaddeus Stevens, Taffe, Taylor, Thomas, John Trimble, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Elihu B. Washburne, William B. Washburne, Walker, James F. Wilson, John P. Wilson, Stephen F. Wilson, Windom, and Woodbridge—103.

NOT VOTING—Messrs. Allison, Archer, Axtell, Barnes, Barnum, Benton, Blair, Boyer, Butler, Calkins, Chanler, Reader W. Clarke, Cobb, Cornell, Donnelly,

Driggs, Ela, Finney, Garfield, Getz, Griswold, Grover, Harding, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Kelley, Kitchen, George V. Lawrence, Logan, Lynch, Marvin, McCarthy, McCormick, McCullough, Morgan, Morrissey, Phelps, Pike, Randall, Robinson, Schenck, Shellabarger, Starkweather, Aaron F. Stevens, Stokes, Stone, Trowbridge, Van Aernam, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, William Williams, and Wood—56.

So the House refused to lay the bill on the table.

During the roll-call,

Mr. GLOSSBRENNER stated that his colleague, Mr. GETZ, had paired with Mr. CAKE.

The question recurred on the amendment of Mr. BINGHAM, to strike out the third section of the bill, as follows:

SEC. 3. *And be it further enacted*, That said State of Alabama shall be entitled to representation in Congress and recognized as a State of the Union upon the following conditions: that the constitution of Alabama shall never be so amended or changed as to deprive any citizen, or any class of citizens, of the United States of the right to vote, who are entitled to vote by the constitution herein recognized; nor so amended or changed as to allow any person to vote who is excluded from office by the third section of the fourth article of the amendment to the Constitution of the United States, until the disabilities imposed by said sections shall have been removed in the manner therein provided; and Congress shall have power to annul any amendment to the constitution of Alabama, or any act of the Legislature of said State, contrary to the provisions of this section.

The question being put on striking out the foregoing section, there were—yeas 71, nays 39.

Mr. ARNELL demanded the yeas and nays. The yeas and nays were refused.

Mr. WARD demanded tellers.

Tellers were refused.

So the amendment striking out the section was agreed to.

The question recurred on the amendment of Mr. STEVENS, of Pennsylvania, to strike out all after the first section of the bill, and insert in lieu thereof the following:

SEC. 2. *And be it further enacted*, That said State of Alabama shall be recognized and admitted into the Union upon the following fundamental condition: that the right of suffrage of male citizens of the United States, and of said State of Alabama, of the age of twenty-one years and upward, shall never be denied or abridged in said State on any account except for treason, felony, or other crime, infamous at common law; but suffrage, as above provided for, shall forever be universal and impartial, and Congress shall have power to annul any act of said State in violation or derogation of this act with regard to suffrage, and may regulate the same in case of such alteration. If the right of suffrage in the State of Alabama should ever be reduced below the universal right herein provided for, all legislation admitting said State into the Union shall be null and void.

The amendment was disagreed to.

The next question was on the following amendment offered by Mr. ASHLEY, of Ohio, to the substitute proposed by Mr. SPALDING:

Strike out all of the substitute and insert in lieu thereof the following:

That the constitution framed by the convention of Alabama, which was submitted for ratification by the people at an election commencing on the 4th day of February, 1868, is hereby declared to be the fundamental and organic law for a provisional government for the people of Alabama, so far as the same is not in conflict with the Constitution and laws of the United States. And all State, county, and municipal officers elected at said election shall, on the 1st day of May, 1868, or as soon thereafter as possible, qualify as provided in said constitution and the ordinances of said convention, and immediately thereafter enter upon the discharge of the duties of their respective offices.

SEC. 2. *And be it further enacted*, That the Governor at any time after he shall have qualified and entered upon the discharge of the duties of his office, may by proclamation convene the Legislature chosen at said election. The Legislature, when so convened, shall possess all the power conferred by said constitution which may not be in conflict with the Constitution and laws of the United States. And the Legislature is hereby further empowered to submit said constitution to the electors of Alabama qualified to vote under said constitution, for their ratification or rejection at such time or times as it may designate. And said Legislature is also required to submit with the said constitution the "article" proposed in the fifth section of this act.

SEC. 3. *And be it further enacted*, That whenever the people, by a majority vote of the qualified electors of Alabama, shall have ratified said constitution submitted as aforesaid, together with the article proposed in the fifth section, and the Legislature of the proposed State organization shall have ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known

as article fourteen, the constitution of Alabama may be presented to Congress for its approval.

SEC. 4. *And be it further enacted*, That the district commanders shall furnish all necessary aid in enforcing this act, and the act of March 2, 1867, entitled "An act to provide for a more efficient government for the rebel States," and the acts supplemental to and amendatory thereof, shall remain in full force except as modified by this act, until Alabama shall be restored to representation in Congress.

SEC. 5. *And be it further enacted*, That the State of Alabama shall be entitled to resume its constitutional relations with the national Government upon the fundamental condition that the following articles shall be adopted and made a part of the constitution of said State, which shall be forever irrevocable without the consent of the Congress of the United States:

This constitution shall never be so altered or amended as to operate as a denial or abridgment of the elective franchise to any citizen of the United States qualified to vote under this constitution, and no amendment of said constitution shall hereafter be valid until the same shall be ratified by a majority of the qualified electors of this State, and shall have been approved by the Congress of the United States.

The question was taken; and the amendment was disagreed to.

The next question was upon the substitute offered by Mr. SPALDING, to strike out all after the enacting clause and insert in lieu thereof the following:

That the constitution framed by the convention of Alabama, which was submitted for ratification by the people at an election commencing on the 4th day of February, 1868, is hereby declared to be the fundamental and organic law for a provisional government for the people of Alabama, so far as the same is not in conflict with the Constitution and laws of the United States. And the officers elected at said election shall, on the 1st day of May, 1868, qualify as provided in said constitution and the ordinances of said convention, and immediately thereafter enter upon the discharge of the duties of their respective offices.

SEC. 2. *And be it further enacted*, That the Governor at any time after he shall have qualified and entered upon the discharge of the duties of his office, may by proclamation convene the Legislature chosen at said election. The Legislature, when so convened, shall possess all the power conferred by said constitution, which may not be in conflict with the Constitution and laws of the United States. And the Legislature is hereby further empowered to submit said constitution to the qualified electors of Alabama for ratification at such time or times as it may designate. And said Legislature is also empowered, by a majority vote of each House, to submit the said constitution, as framed by the convention, with or without amendments proposed by the Legislature. And if amendments be proposed by the Legislature, they shall be voted upon separately, and not in connection with the constitution as it came from the convention.

SEC. 3. *And be it further enacted*, That whenever the people, by a majority vote of the qualified electors of Alabama, qualified under the act of Congress of March 23, 1867, to vote for delegates to frame a constitution, and actually voting upon such ratification, shall have ratified a constitution submitted as aforesaid, and the Legislature of the proposed State organization shall have adopted the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, the constitution of Alabama may be presented to Congress for its approval.

SEC. 4. *And be it further enacted*, That the district commanders shall furnish all necessary aid in enforcing this act, and the act of March 2, 1867, entitled "An act to provide for a more efficient government for the rebel States," and the acts supplemental to and amendatory thereof shall remain in full force in Alabama except as modified by this act, until Alabama shall be restored to representation in Congress.

Mr. FARNSWORTH demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 54, not voting 53; as follows:

YEAS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beatty, Benjamin, Brownell, Broomall, Churchill, Sidney Clarke, Coburn, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Driggs, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Halsey, Hawkins, Hill, Hopkins, Hunter, Ingersoll, Judd, Julian, Kelsey, Ketcham, Koonz, Laffin, William Lawrence, Loan, Loughridge, Maynard, McClurg, Mercer, Moore, Moorhead, Morrill, Mullins, Myers, Nunn, O'Neill, Orth, Poland, Polsey, Pomerooy, Price, Raum, Sawyer, Seofield, Smith, Spalding, Thaddeus Stevens, Taffe, Twichell, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Elihu B. Washburne, William B. Washburne, Walker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—77.

NAYS—Messrs. Adams, Arnell, Bailey, Beaman, Beck, Bingham, Blaine, Boutwell, Brooks, Buckland, Burr, Cary, Eldridge, Farnsworth, Fields, Fox, Glessbrenner, Golladay, Gravelly, Haight, Holman, Humphrey, Jones, Kerr, Knott, Lincoln, Mallory, Marshall, Mil-Perham, Peters, Pile, Plants, Pruyn, Ross, Sitgreaves, Trimble, Van Auken, Van Trump, Van Wyck, Windom, and Woodward—54.

NOT VOTING—Messrs. Allison, Archer, Axtell,

Barnes, Barnum, Benton, Blair, Boyer, Butler, Cake, Chanler, Reader W. Clarke, Cobb, Cornell, Donnelly, Ela, Finney, Garfield, Getz, Griswold, Grover, Harding, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Jenckes, Kelley, Kitchen, George V. Lawrence, Logan, Lynch, Marvin, McCarthy, McCormick, McCullough, Morgan, Morrissey, Phelps, Pike, Randall, Robertson, Robinson, Schenck, Selye, Shellabarger, Starkweather, Aaron F. Stevens, Stewart, Stokes, Stone, Trowbridge, Van Aernam, Cadwalader C. Washburn, Henry D. Washburn, William Williams, and Wood—58.

So the substitute was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time.

The question was then put on ordering the preamble to be engrossed, and it was decided in the negative.

So the preamble was rejected.

Mr. NIBLACK. I call for the reading of the engrossed bill.

The SPEAKER. The engrossment of the bill is not quite completed.

Mr. ELDRIDGE. Then I move that the House adjourn.

The question was taken; and the House refused to adjourn.

Mr. NIBLACK. I withdraw the demand for the reading of the engrossed bill.

The bill was then read the third time.

Mr. ELDRIDGE. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken: and it was decided in the affirmative—yeas 102, nays 30, not voting 57; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Blaine, Boutwell, Brownell, Broomall, Buckland, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Covode, Cullom, Daves, Dixon, Dodge, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravely, Halsey, Haykins, Hill, Hopkins, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Ketcham, Koontz, Laffin, William Lawrence, Lincoln, Loan, Loughbridge, Mallory, Maynard, McClurg, Mercor, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Pomerooy, Price, Raum, Sawyer, Scofield, Shanks, Smith, Spaulding, Thaddeus Stevens, Taffe, Taylor, Thomas, John Trimble, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Elihu B. Washburne, William B. Washburn, Welker, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—102.

NAYS—Messrs. Adams, Beck, Brooks, Burr, Cary, Eldridge, Fox, Glossbrenner, Golladay, Grover, Haight, Holman, Richard D. Hubbard, Humphrey, Johnson, Jones, Kerr, Knott, Marshall, Mungen, Niblack, Nicholson, Pruyn, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Aiken, Van Trump, and Woodward—30.

NOT VOTING—Messrs. Allison, Archer, Axtell, Barnes, Barnum, Benton, Bingham, Blair, Boyer, Butler, Cake, Chanler, Cobb, Cornell, Donnelly, Ela, Finney, Garfield, Getz, Griswold, Harding, Higby, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Kelley, Kitchen, George V. Lawrence, Logan, Lynch, Marvin, McCarthy, McCormick, McCullough, Morgan, Morrissey, Phelps, Pike, Randall, Robertson, Robinson, Schenck, Selye, Shellabarger, Starkweather, Aaron F. Stevens, Stewart, Stokes, Stone, Trowbridge, Van Aernam, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, William Williams, and Wood—57.

So the bill was passed.

During the roll-call,

Mr. HUNTER stated that his colleagues, Messrs. WILLIAMS and WASHBURN, were absent by the leave of the House.

Mr. WOODWARD stated that Mr. BOYER was absent by the leave of the House; if present, he would vote "no."

Mr. MORRELL announced that Mr. CAKE was paired with Mr. GETZ.

Mr. O'NEILL announced that Mr. RANDALL was paired with Mr. CORNELL; and also stated that if Mr. KELLEY had been present he would have voted for the bill.

Mr. WINDOM stated that Mr. DONNELLY was absent from the city; if present he would vote "ay."

Mr. HOLMAN stated that Mr. BARNES was necessarily absent; if present he would vote "no."

Mr. PRUYN made a similar statement in regard to Mr. WOOD.

The result of the vote having been announced as above recorded,

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and

also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SPALDING moved to amend the title of the bill so as to read "A bill to provide for a temporary and provisional government for Alabama."

The amendment to the title was agreed to.

#### LEAVE OF ABSENCE.

Mr. KELLEY was granted leave of absence for ten days.

#### ENROLLED JOINT RESOLUTION.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House joint resolution No. 19, requiring certain moneys of the United States to be paid into the Treasury, and for other purposes; when the Speaker signed the same.

#### RIGHTS OF AMERICAN CITIZENS ABROAD.

The SPEAKER. The next business in order is the consideration of the bill (H. R. No. 768) concerning the rights of American citizens in foreign States.

On motion of Mr. BANKS, (at six o'clock and five minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Dr. Theo. Stirtzberg, of San Antonio, Texas, and many other citizens of said State, in favor of relieving Mr. Jacob Kuckler from political disabilities incurred by participation in the rebellion.

Also, the petition of E. Basse, district judge, and others, citizens of Hidalgo county, Texas, for a division of said State.

By Mr. ANDERSON: The petition of Tinsley, Van Howe & Co., Glenn, Overall & Co., and others, of Louisiana, Pike county, Missouri, with accompanying papers.

By Mr. BUCKLAND: The petition of J. W. Goodson and 34 others, citizens of Sandusky county, Ohio, that the oppressive special tax of twenty cents per gallon upon refined petroleum be removed, and that the necessary revenue be raised upon articles of luxury.

By Mr. DAWES: The petition of William Gibbs, for a pension.

By Mr. JUDD: The petition of Rev. E. B. Tuttle, for compensation for services, &c.

Also, the petition of C. R. Durfee and others, quartermaster sergeants, asking for compensation.

By Mr. SPALDING: A memorial of many citizens of Cleveland, Ohio, setting forth the causes that have depressed our foreign commerce, and asking legislation in relief of American ship-builders.

By Mr. TAYLOR: The petition of Mrs. Eliza Matthews, widow of George W. Matthews, for a pension.

#### IN SENATE.

MONDAY, March 30, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Saturday last was read and approved.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House further insisted upon its amendments to the amendments of the Senate to the bill (H. R. No. 900) to exempt certain manufactures from internal tax, disagreed to by the Senate, agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. R. C. SCHENCK of Ohio, Mr. JAMES BROOKS of New York, and Mr. T. W. FERRY of Michigan, managers at the same on its part.

The message also announced that the House had passed a bill (H. R. No. 970) to provide for a temporary and provisional government

for Alabama, in which it requested the concurrence of the Senate.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating a report from the Commissioner of Indian Affairs in relation to removing certain destitute Cherokee Indians, now scattered through the Indian country, to their homes in the Cherokee country; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### PETITIONS AND MEMORIALS.

Mr. DRAKE presented a memorial of Giles F. Filley and others, of St. Louis, Missouri, remonstrating against the further extension by Congress of the patent of Samuel Pierce, granted him on the 6th of December, 1845, for an improved plate in a cooking-stove; which was referred to the Committee on Patents and the Patent Office.

Mr. VAN WINKLE presented a petition of Catharine Wands, praying to be allowed arrears of pensions; which was referred to the Committee on Pensions.

#### THE LATE NOAH SMITH.

Mr. CRAGIN, from the Committee to Audit and Control the Contingent Expenses of the Senate, to whom was referred the resolution submitted by Mr. MORRILL, of Maine, to pay the legal representatives of Noah Smith, late principal legislative clerk, \$300 for funeral expenses and three months' pay of the said Noah Smith, reported it with an amendment.

The Senate proceeded to consider the resolution as in Committee of the Whole, and the reported amendment having been agreed to, the resolution was reported to the Senate, and the amendment was concurred in.

The resolution was ordered to be engrossed for a third reading; and it was read the third time as amended, and passed, as follows:

*Resolved*, That there be paid out of the contingent fund of the Senate to C. Hart Smith, for the legal representatives of Noah Smith, deceased, late principal legislative clerk in the office of the Secretary of the Senate, \$300 for funeral expenses and three months' pay of the said Noah Smith.

#### BILL INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 131) to authorize the settlement of the accounts of Robert L. Stockton, late Indian agent; which was read twice by its title, and referred to the Committee on Indian Affairs.

#### COURT OF CLAIMS.

Mr. EDMUNDS. If there are no other bills or resolutions, as there do not appear to be, I move that the Senate proceed to consider the bill reported from the Committee on the Judiciary, providing for appeals from the Court of Claims, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 164) to provide for appeals from the Court of Claims, and for other purposes.

The first amendment of the Committee on the Judiciary was to add to section one the words, "under the limitations now provided by law for other cases of appeal from said court;" so as to make the section read:

That an appeal to the Supreme Court of the United States shall be allowed on behalf of the United States from all the final judgments of the said Court of Claims adverse to the United States, whether such judgments shall have been rendered by virtue of the general or any special power or jurisdiction of said court under the limitations now provided by law for other cases of appeal from said court.

The amendment was agreed to.

The next amendment was to strike out the second section of the bill, in the following words:

SEC. 2. *And be it further enacted*, That no judgment of the Court of Claims upon any claim or demand for, or in respect to, any captured or abandoned property, or any property seized or taken as captured or abandoned property, shall be paid in any wise, or from any money or fund, until such payment shall be ordered by act of Congress.

The amendment was agreed to.

The next amendment was to insert as a new section the following:

SEC. 2. *And be it further enacted*, That said Court of Claims, at any time while any suit or claim is pending before or on appeal from said court, or within two years next after the final disposition of any such suit or claim, may, on motion on behalf of the United States, grant a new trial in any such suit or claim and stay the payment of any judgment thereon, upon such evidence (although the same may be cumulative or other) as shall reasonably satisfy said court that any fraud, wrong, or injustice in the premises has been done to the United States.

The amendment was agreed to.

The next amendment was to insert as a new section the following:

SEC. 3. *And be it further enacted*, That whenever it shall be material in any suit or claim before any court to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant or party asserting the loyalty of any such person to the United States during such rebellion shall be required to prove affirmatively that such person did, during said rebellion, consistently adhere to the United States, and did give no aid or comfort to persons engaged in said rebellion; and the voluntary residence of any such person in any place where, at any time during such residence, the rebel forces or organization held sway shall be *prima facie* evidence that such person did give aid and comfort to said rebellion and to the persons engaged therein.

The amendment was agreed to.

The next amendment was to insert as a new section the following:

SEC. 4. *And be it further enacted*, That no plaintiff or claimant, or any person from or through whom any such plaintiff or claimant derives his alleged title, claim, or right against the United States, or any person interested in any such title, claim, or right, shall be a competent witness in the Court of Claims in supporting any such title, claim, or right, and no testimony given by such plaintiff, claimant, or person shall be used: *Provided*, That the United States shall, if they see cause, have the right to examine such plaintiff, claimant, or person as a witness.

Mr. FERRY. I certainly hope this amendment will not prevail. It raises again the disqualification of interest, which disqualification in the courts of most of the States has been abolished, and its abolition has worked well, so far as I know, both in this country and in England. The only effect of continuing the disqualification in the Court of Claims would be to exclude information which ought to be before that court. The interest of a party, according to the now well-understood principle in the administration of justice, goes simply to his credibility.

Mr. EDMUNDS. It is true this section restores the law to the position in which it stood until within a year or two, when there was incorporated into the end of some appropriation or other bill a little proviso that permitted claimants in the Court of Claims to testify there, if not having been the law before; and it is understood that that proviso was intended to enable a claimant in a particular case—though that perhaps it is not proper I should mention, as it is not yet disposed of—to testify. It has been found by experience in that court, as might well be expected, that the principles upon which that court proceeds, the nature of the cases that come before it, the fact that there is no personal defendant who has personal knowledge himself of the transactions, make the will of evidence in this respect in that court properly different from that which usually prevails. It is true in Connecticut and in the State of Vermont and in many other States now that parties and persons in interest are permitted to testify; but whenever they are, they are confronted by an opposing party who has himself a personal interest in opposition to the claimant or to the witness, who can cross-examine him upon his personal knowledge of the transactions testified to, and who can himself take the stand to rebut, explain, or contradict that which has been stated by the interested party or witness.

Cases in the Court of Claims, from the very nature of things, cannot be conducted in that way. The United States is the defendant, having no personality, having nobody representing it who can have a personal knowledge upon which to proceed, and depending upon its agents, scattered wherever they may happen to be, for the proof or explanations which shall be necessary to meet the statements of those

interested witnesses. It has been found, therefore, that the rule which has permitted now for a year or two persons in interest and claimants to testify has operated injuriously to the just interests of the United States; and it operates as an inducement to persons to bring forward fraudulent or unfounded claims, depending upon their testimony alone, particularly relating to affairs arising during the recent war, when the quartermasters or the commissaries or the Government officers or agents with whom they dealt have passed away, many of them killed in battle, or dying from disease—to bring forward, as I have said, claims that have no just foundation. It therefore appeared clear to the committee that, for the time being at least, situated as these matters are, it was highly necessary to return to the principle that has guided us until a very recent period. We thought that this amendment ought to be adopted for this reason. I hope it will commend itself to the good sense of the Senate.

I wish to move to amend the amendment, however, before a vote is taken upon it, in order to limit the operation of it a little. The amendment is this: to add at the end of the section, after the word "witness," these words:

Under the regulations and with the privileges provided in section eight of the act passed March 3, 1863, entitled "An act to amend an act to establish a court for the investigation of claims against the United States, approved February 24, 1855."

Mr. CONNESS. Why not let it lie over first?

Mr. EDMUNDS. I will in a minute. I want to explain it. The effect of that amendment will be to make the testimony of a claimant or party in interest hereafter stand in the nature of a discovery, to entitle the United States, if the purposes of justice require it, to examine him under the same principles that a party at common law may be examined upon a bill of discovery, and to use his testimony if they shall desire it.

Mr. TRUMBULL. Mr. President—

Mr. FERRY. I want to ask a question. Is it intended to press this bill to its passage to-day?

Mr. TRUMBULL. I was going to dispose of that by asking the Senator from Vermont to lay this bill aside, as it will take some time, and it is very desirable to dispose of the subject that we had under consideration on Saturday, the case of Mr. Butler, of the House of Representatives. I move to lay this aside and proceed to the consideration of that.

Mr. EDMUNDS. If the Senator will permit me to have a vote taken on this amendment to the amendment, so as to perfect the section before it is laid aside, I shall then have no objection.

Mr. TRUMBULL. I have no objection to that.

The PRESIDENT *pro tempore*. The amendment to the amendment will be read.

The SECRETARY. At the end of the amendment proposing to insert words as the fourth section it is moved to add "under the regulations and with the privileges provided in section eight of the act passed March 3, 1863, entitled 'An act to amend an act to establish a court for the investigation of claims against the United States,' approved February 24, 1855."

Mr. CONKLING. I should like to vote intelligently on these amendments. I do not understand at all what the effect of this is. Reference is made to an act not before me, and which I have no opportunity to understand.

Mr. EDMUNDS. I just stated, but I will repeat to my friend from New York—

Mr. CONKLING. My friend will allow me to suggest that he did state something just now; but, like very much that is stated in that part of the House, it is entirely inaudible to everybody sitting here, and it might as well not have been stated, so far as we are concerned.

Mr. EDMUNDS. The effect is to permit a claimant to be examined on behalf of the United States, if the officers of the United States shall desire, in the nature of a bill of discov-

ery. They may take his testimony under an order of the court, and then use it or not, as you can use testimony obtained in answer to a pure bill of discovery in equity. The effect of this amendment is to put it under the same limitations provided in the act of 1863.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. It is now moved that the further consideration of this bill be postponed until to-morrow.

The motion was agreed to.

POLITICAL DISABILITIES OF R. R. BUTLER.

Mr. TRUMBULL. I now move to proceed with the consideration of House bill No. 870.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee, the pending question being on the amendment proposed by Mr. BUCKALEW to the amendment reported by the Committee on the Judiciary.

Mr. BUCKALEW. Mr. President, a man named R. R. Butler is a claimant for membership in the House of Representatives from the State of Tennessee. The obstacle he encounters to obtaining his seat there is the oath act of July 2, 1862; for it appears that he cannot conscientiously swear that he did not yield aid, comfort, and assistance to the late rebellion against the United States. We have before us a bill to relieve him from the political disabilities under which he labors, imposed by our laws; in other words, we are asked to dispense in his case with the oath act of 1862, with the provision of the fourteenth constitutional amendment—if indeed it be a part of the Constitution—which disqualifies him and persons like him from certain political privileges, and also to relieve him from all the disabilities created or imposed by what are known as the reconstruction laws. Now, sir, is this man a proper object for congressional indulgence? Ought we to interpose in his case and suspend in his favor the existing laws?

Mr. President, one thing very remarkable appears in this bill upon the first glance we bestow upon it, which is that this man is to be relieved from the disabilities of the reconstruction laws when those reconstruction laws have no application whatever to him, and no application whatever to his State. We may stand somewhat surprised before this bill when we come to contemplate this singular fact. Why does the House of Representatives send us a bill to remove disabilities which do not apply to this man or to his State? I suppose it was a simple blunder, the result of a careless investigation of the case. Yet, sir, I do not see that the Senate is bound to make itself ridiculous because this measure has already passed the House of Representatives; because there has been an oversight or an error there in forming the bill or in passing it. Your reconstruction law of the 2d of March, 1867, applied to the ten unrepresented States of the South and named them; the supplement of the 23d of March also applied only to those States; and the second supplement of the 19th of July had a similar application; very carefully in all those laws their provisions were confined to the ten States unrepresented in Congress, commencing with Virginia and ending with Arkansas.

Tennessee, it will be remembered, had been readmitted to representation in Congress some time before those reconstruction laws were passed. Consequently, when we came to enact them the State of Tennessee and all her people stood upon the same footing, so far as reconstruction was concerned and so far as representation in Congress was concerned, as the State of New York or the State of Pennsylvania or as the people of those States stood. Yet, sir, we have the remarkable spectacle here of a bill from the House for which our votes are asked, which attempts to remove political disabilities imposed by the reconstruction laws from a citizen of Tennessee. I take it for granted that the Senate will not pass the



bill with that absurd provision contained in it. It will not commit so foolish an act as that would be. The bill will require amendment in some way, and I suppose the simplest form it could assume to secure the purpose in view in proposing it, would be that it should provide that the oath of 1862 need not be taken by this applicant; that he may take that oath in some modified form. The bill put in that shape would be sensible, and, I suppose, would strike directly at the object intended by its authors.

But, Mr. President, ought this man to be relieved? Ought you to withdraw in his case the requirement of the oath-of-office act of July 2, 1862? I propose to show that he has no special merit; that he has no strong claim on our indulgence or favor, and that if we should retain sternly the provisions of that act in any case and apply them in any case, this is the very one or one of the very cases in which it should be retained and applied.

This claimant called an interesting witness and had him examined preparatory to the contest in the House of Representatives on the question of his seat. This witness was Rev. Lewis Venable. He was sworn and examined in Johnson county, Tennessee, on the 24th December, 1867. He testifies as follows concerning Mr. Butler. He says:

"My opportunities for knowing his sentiments are as follows: we were both Clay whigs and of the same religious sentiments; consequently our political and religious sentiments ran together." (Page 41 of evidence.)

From page 63 of the same volume of the evidence in this case (published by the House) I will read a couple of passages, which will, perhaps, show more fully the religious and political position of this applicant as defined by his own witnesses and by his own questions submitted to them.

Stephen Mathews, a witness being under examination, the claimant asks him this question:

"If" \* \* \* "I did not state to you that I wished not only the bridges had been burned, but the damned road had been torn up from one end to the other?"

Again, he asked the same witness, being his own—

"Please state if, during the fighting at Fort Donelson, I did not say that General Buell would come to Nashville, and I hoped that he would blow the damned 'rebel hole' to hell, and not leave one stone upon another."

This is a question asked by this claimant himself of his own witness, citing his own words on a former occasion with reference to the utter destruction and demolition of a great city, the capital of his own State, in which there were many thousands of loyal and innocent persons then as there are now. The witness responds to the latter question, virtually affirming that that language was used to him. Again, at page 64, appears an answer of the same witness with reference to some sword presentation:

"In our conversations"—that is, between Butler and himself—

"Upon the subject of the sword, Judge Butler and myself agreed that if the sword was to cut the damned rascal's throat we would both sign our names to the list to help furnish it."

He calls Rev. Lewis Venable, who swears that their religious sentiments and political opinions are precisely alike. I have read from other parts of the testimony as produced and shaped by himself, to show you by way of illustration somewhat of his moral status as an applicant for admission to Congress; and also, sir, for another purpose, as preparatory to my submission of facts with reference to his political career since the commencement of the rebellion.

I will now read from pages 51 and 52 of the evidence. Observe, Mr. President, what I am reading is from the testimony of this applicant himself; the testimony taken by him in his own behalf, and not from testimony taken against him or in hostility to him. La Fayette Jones, a witness is under examination, and Mr. Butler asks him the following question and receives the following answer:

"Question. Please state if Johnson county, where said R. R. Butler resided, was not infested by a rebel

company of home guards, commanded by William K. Waugh, and if you, while in the United States Army, was not ordered to come to said county, and while in said county if it did not become necessary to kill said Captain Waugh, and if you did not kill him, and what took place between you and said Butler relative to said killing.

Answer. Johnson county, where said Butler resides, was infested by a rebel company of home guards, commanded by William K. Waugh, and while belonging to the United States Army I was ordered to come into said county; and while there it became necessary to kill said Captain Waugh; and I did kill said Captain Waugh; and after I returned to the Federal army I told said Butler that I had killed said Captain Waugh; he told me I had done the best thing I ever did in my life, and told me to go to the store in Knoxville and help myself to the finest pair of boots in the store, and I did so.

Further deponent saith not.

LA FAYETTE JONES.

The mode and manner in which this life was taken, for which a reward was given afterward by the applicant is not stated, but the fair presumption, from the language used and the description of the witness is, that it was an assassination, that it was an irregular and unlawful taking of human life, not in any recognized mode of warfare, but according to that violent, irregular, cruel, I might say detestable, mode in which diabolical passion sometimes manifests itself in border warfare. Deliberately after the thing was done this applicant rewarded the person who committed the act by a present of a fine pair of boots, and he himself calls a witness and puts upon the record the proof of that fact in this case, apparently oblivious to the opinion which all mankind must form, if not express, upon such a transaction.

But that is not all. I pass to another case, produced also by himself in the evidence taken by him. Captain Daniel Ellis is under examination, and this is the question put to him on behalf of Butler, with his answer.

"Question. You say in your book (page 289) that Samuel McQueen, Greene Moore, and other rebels of Johnson county, had entered into a conspiracy to kill all the Union men of Johnson county and burn their houses. Please state if R. R. Butler did not come to you at Knoxville and agree, if you would go through the rebel lines and go to Johnson county and kill said McQueen, that he would make you a present of a fine military suit, and if you did not agree so to do?"

Answer. He did agree, if I would go through and kill McQueen, he would give me a suit of military clothes; I did go through the rebel lines and made the effort, but failed.

The excuse in this case for this attempted exercise possibly of private vengeance was that this man McQueen and several others had united together to kill all the Union men and destroy all the Union property in Johnson county. That that is a mere pretext as an excuse for this act is manifest from other parts of the evidence, to which I will refer. At page 27 Jacob H. Norris testifies as follows—he is a witness also for Mr. Butler:

"Question. Please state if Johnson county, it being the county where R. R. Butler resides, was not one of the most loyal counties in Tennessee?"

Answer. Johnson county, where R. R. Butler resides, was considered one of the most loyal counties in the State of Tennessee to the Federal Government, casting only about 73 votes for secession."

At page 58 appears the following in the testimony of Hamilton C. Smith, another witness for Mr. Butler. He says:

"He, Butler, was elected"—

This was in 1861, to the rebel legislature—

"He, Butler, was elected, receiving the largest majority of votes over his opponent that any one man ever did receive in the two counties; the balloting was strictly upon party issues: the strictly Union men of the two counties voted for Butler and the rebels voted for Rhea."

It appears afterward that the secession vote was utterly insignificant.

In view of these facts, with regard to Johnson county, this excuse, that McQueen and several other persons had entered into a conspiracy to kill all the Union men in that county and destroy all their property, is perfectly absurd. If this story were located somewhere else, where the Union men were weak, there might be some show of probability in a statement of that kind. It is obvious, however, that this is a mere pretext; and the presumption is that some other motive than a public or patriotic one actuated this attempt to pro-

cure the private assassination of an individual in that county. It looks to me, from the face of it, very much like a transaction for private vengeance, for glutting private animosity. Certainly there was no necessity at that time for any such action in that county, above all other counties in Tennessee, where the Union men were in an overwhelming majority, where nearly the entire population were or had been Union men, one where such a nefarious conspiracy as this could not be carried into execution unless backed by a military force, which it does not appear was there at the time.

I say, then, that upon the face of this record this claimant, to make out a case for himself, proceeds to prove against himself acts which stamp his character more darkly and strongly than mere words from me could do it; and I leave him, so far as that point is concerned, upon this exhibition of the record.

It is said that this man, in the latter part of the war, held a military command in the Federal Army and rendered important service. When you come to look into the record you find that he came into the Union lines and was concerned in raising a company of volunteers in East Tennessee at a particular time in the war when his conduct is easily explained, and that not upon the hypothesis of patriotism. But, sir, upon one of the witnesses, John M. Sawyers, (who was in the Army and knew the facts,) being asked a question about Butler's military service, he says, on page 5:

"The first I ever saw of him, Butler, was at Camp Nelson, Kentucky, and he was there ordered to Nashville, Tennessee, with his command, and resigned shortly after he arrived at Nashville, Tennessee. I know of no battles in which he and his command were engaged while he was in the Federal service."

It was a nominal command, which he resigned without having performed any service, and it was taken by him at a time and under circumstances to which I will refer hereafter.

Now, sir, let us come to the record of this man with regard to loyalty prior to the time when he was concerned with a military organization on our side, and commenced receiving pay out of our Treasury as a converted rebel, or as a man who under particular circumstances chose to take part with us in the struggle. At page 12 of the evidence appears this statement by Henry T. Wilber, a witness. He says:

"I was with Butler in Knoxville, and he asked me to give him all the influence I had to procure him office under the confederate government."

In the previous part of his testimony he fixes the date as in the fall of 1862. At that time it appears that this applicant was seeking office or place in the confederate service.

In August, 1861, Mr. Butler was elected to the rebel legislature of Tennessee. The State had seceded previously; I think about the month of June. In August an election was held, and he was chosen as a representative from Johnson and Carter counties, composing a representative district. He went to Nashville and took his seat in the rebel legislature, and served there for some three or four months, until the attack upon Fort Donelson and the fall of that place, when in consternation the legislature adjourned and subsequently met at Memphis. By tracing the journal and the laws passed it seems, however, that Butler was present in the month of March following, and was then found voting upon bills in hostility to us and in aid of the rebellion. In the course of that year, however, our fortunes brightening in that part of the country, Butler changed his side and came over to the Union lines, and was engaged in raising troops, as I have already stated.

Now, I propose to prove these facts. I have extracts from the journal of the rebel legislature of Tennessee of 1861 and 1862, which I will read:

"The general assembly of the State of Tennessee, begun and held in the city of Knoxville, State of Tennessee, on Monday, the 7th day of October, in the year of our Lord 1861, &c."

"The following gentlemen appeared, presented their credentials, and took their seats, the oath to

support the constitution of the confederate States of America and of the State of Tennessee being administered by Hon. William R. Turner."

Among the members appears "from the counties of Carter and Johnson, R. R. Butler." He took his seat there, and was sworn to the confederate cause. On the 14th of December, 1861, Mr. Butler votes for the following resolutions:

*Resolved*, That it is the sense of this general assembly that the separation of those States now forming the confederate States of America from the United States is, and ought to be, final, perpetual, and irrevocable; and that Tennessee will, under no circumstances, entertain any proposition from any quarter which may have for its object a restoration or reconstruction of the late Union on any terms or conditions whatever.

*Resolved*, That the war which the United States are waging against the confederate States should be resisted with the utmost vigor and energy, and until our independence and nationality are unconditionally acknowledged by the United States.

*Resolved*, That Tennessee pledges herself to herself and to her sister States of the confederacy that she will stand by them throughout the struggle; that she will contribute all the means which her resources will supply, so far as may be necessary, to the support of the common cause, and will not consent to lay down arms until peace is established on the basis of the foregoing resolutions."

These resolutions were adopted by yeas 42, nays 19, as a substitute for other resolutions which had been proposed in the other branch of the Legislature, Mr. Butler being in the affirmative, and there being 19 negative votes. Then the resolutions, as thus amended by the substitution of these resolutions for others, were adopted—yeas 54, nays 3—Butler voting in the affirmative. On page 21 of this report of evidence appears a resolution by Mr. Ellis, an extract from which I will read:

"That any one who would, in this hour of danger to the country, in violation of that potential voice which has been spoken by the people of Tennessee, attempt to get up dissensions and internal strife, and thereby insidiously seek to draw any portion of the people into the clutches of the Lincoln despotism, should be regarded as a traitor and avoided as an enemy who would sacrifice our best interests upon the altar of his unholy ambition. We would therefore earnestly appeal to our respective constituencies throughout the State to discard minor differences of opinion which may have existed in reference to the old political parties, or touching the great revolution through which we are passing, and for the future stand as one man in support of the confederate government and against our common enemy, who, in violation of the sacred right of self-government, would, if possible, subjugate our people and desolate our homes."

On the 11th of November that resolution was read and adopted, there being no vote against it.

Mr. TRUMBULL. Allow me to ask the Senator from Pennsylvania if Mr. Butler voted for that resolution?

Mr. BUCKALEW. I stated that the resolution was adopted by the Legislature, no division taking place.

Mr. TRUMBULL. Mr. Butler had nothing to do with it, so far as the record goes, except being a member of the Legislature.

Mr. BUCKALEW. Certainly, that is all I said. The presumption is that he was in its favor, as there was no division. Then, sir, on the 19th of October, another resolution was passed without a division, which read as follows:

"Whereas the counties of Overton, Fentress, and Jackson are threatened with invasion by the Lincoln forces of Kentucky: Therefore,

*Be it resolved* by the General Assembly of the State of Tennessee, That the Governor be authorized and requested to accept and have mustered into the service forthwith, and armed and equipped, the cavalry company from Overton county known as the Brown Rangers."

The resolution was adopted without a division, and on motion of Mr. Donaldson its transmission to the Senate was ordered.

Here is a bill somewhat more remarkable than the resolutions to which I have referred. On the 9th of October, 1861—

"Mr. Osborne introduced House resolution No. 6, being entitled 'An act to amend an act passed June 25, 1861, entitled 'An act to raise and equip a provisional force and for other purposes'—"

A title very much like our military and conscription laws North—

"Which was read a first time, and passed to a second reading."

On the 11th of October this bill passed a second reading—yeas 53, nays 13. Among

the yeas is recorded the name of Mr. Butler. The third reading was had on the 12th of October, and was carried by a vote of yeas 61, nays 5, Mr. Butler's name being again in the affirmative. On both of those readings there were men in the Legislature who voted nay, who went upon the record against the organization of a military force to resist the Federal arms, a military force to destroy the lives of our officers and soldiers that by extraordinary exertions and sacrifices we were raising and sending into that part of the country to vindicate our laws and maintain our jurisdiction. Upon the second reading there were no less than thirteen votes against that bill for perfecting a military organization of the State, and upon the final vote there were also men recorded in the negative; but this applicant for membership in the House of Representatives put himself on the record in the affirmative on both occasions, and defined his position beyond all cavil or question.

Now, sir, I have here that law which was thus enacted. It is chapter twenty of the laws of that year of the public acts of the State of Tennessee, page 20, entitled:

"An act to amend an act to raise, organize, and equip a provisional force, and for other purposes."

It is a long, elaborate military bill of nineteen sections to aid the confederate government; to raise the military and pecuniary resources necessary to invigorate the confederate arms and resist us in the struggle; and this man is upon the record solemnly upon two occasions on the yeas and nays in favor of its enactment, even when there were other members of the Legislature who voted against it.

I give way at this point to the Senator from Ohio, [Mr. SHERMAN,] to enable him to make a report.

Mr. SHERMAN. With the consent of the Senator from Pennsylvania, I ask leave to make a report from the committee of conference on the disagreeing votes of the two Houses on the manufactures bill.

Mr. TRUMBULL. I desire to inquire of the Senator from Ohio if he expects action on that report now?

Mr. SHERMAN. Yes, sir.

Mr. TRUMBULL. Will it not give rise to debate?

Mr. SHERMAN. I do not know; but I desire action immediately. I wish to state that I hope it will not give rise to debate because I think there is nothing in it to which any one will object. I further desire to state that by the ordinary rules, not imperative, this report ought first to go to the House of Representatives; but in the peculiar circumstances by which we are surrounded, in view of the necessity of passing the measure before Wednesday, we were induced on examining the rules to report to the Senate first. There is no imperative rule on the subject, only a practice that has grown up to report first to the House that asked the conference. I ask that the report be read.

Mr. TRUMBULL. I should make no objection, but the Senator sees there are but about twenty minutes between this and the time when we shall proceed to other business.

Mr. SHERMAN. If the report is read and debate arises it will go over; but I certainly will not debate it.

Mr. TRUMBULL. That necessarily postpones the bill we have under consideration.

Mr. JOHNSON. You cannot get a vote on that now.

Mr. TRUMBULL. I shall not object.

The PRESIDENT *pro tempore*. The report will be read.

#### TAX ON MANUFACTURES.

The Secretary read the report of the committee of conference, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 900) to exempt certain manufactures from internal tax, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from their disagreement to the second amendment of the Senate and agree to the same.

That the House recede from their amendment to the third amendment of the Senate and agree to the said Senate amendment, with an amendment, as follows: Insert in lieu of said Senate amendment, after the enacting clause, the words: That after the 1st day of June next no drawback of internal taxes paid on manufactures shall be allowed on the exportation of any article of domestic manufacture on which there is no internal tax at the time of exportation; nor shall such drawback be allowed in any case unless it shall be proved by sworn evidence in writing to the satisfaction of the Commissioner of Internal Revenue that the tax had been paid, and that such articles of manufacture were prior to the 1st day of April, 1868, actually purchased or actually manufactured and contracted for, to be delivered for such exportation; and no claim for such drawback, or for any drawback of internal tax on exportations made prior to the passage of this act, shall be paid unless presented to the Commissioner of Internal Revenue before the 1st day of October, 1868, and the Senate agree to the same.

They recommend that the House recede from their amendments to the fourth amendment of the Senate, and agree to the same with an amendment, as follows: Insert in lieu of said Senate amendment:

SEC. 4. *And be it further enacted*, That every person, firm, or corporation who shall manufacture by hand or machinery any goods, wares, or merchandise (breadstuffs and unmanufactured lumber excepted) not otherwise specifically taxed as such, or who shall be engaged in the manufacture or preparation for sale of any articles or compounds not otherwise specifically taxed, or shall put up for sale in packages, with his own name or trade-mark thereon, any articles or compound not otherwise specifically taxed, and whose annual sales exceed \$5,000, shall pay for every additional \$1,000 in excess of \$5,000 two dollars, and the amount of sales in excess of the rate of \$5,000 per annum shall be returned quarterly yearly to the assistant assessor, and the tax on the excess of \$5,000 shall be assessed by the assessor and paid quarterly yearly in the months of January, April, July, and October of each year, as other taxes are assessed and paid. And the first assessment herein provided for shall be made in the month of July, 1868, for the three months then next preceding.

SEC. 5. *And be it further enacted*, That every person engaged in carrying on the business of a distiller who shall defraud or attempt to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall forfeit the distillery and distilling apparatus used by him and all distilled spirits and all raw materials for the production of distilled spirits found in the distillery and on the distillery premises, and shall, on conviction, be fined not less than \$500 nor more than \$5,000, and be imprisoned not less than six months nor more than three years.

SEC. 6. *And be it further enacted*, That if any officer or agent appointed and acting under the authority of any revenue law of the United States shall be guilty of gross neglect in the discharge of any of the duties of his office, or shall conspire or collude with any other person to defraud the United States, or shall make opportunity for any person to defraud the United States, or shall do or omit to do any act with intent to enable any other person to defraud the United States, or shall make or sign any false certificate or return in any case where he is by law or regulation required to make a certificate or return, or having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law of the United States, shall fail to report in writing such knowledge or information to his next superior officer and to the Commissioner of Internal Revenue, he shall, on conviction, be fined not less than \$1,000 nor more than \$5,000, and shall be imprisoned not less than six months nor more than three years.

SEC. 7. *And be it further enacted*, That no compromise, discontinuance, or *nolle prosequi* of any prosecution under this act shall be allowed without the permission in writing of the Secretary of the Treasury and the Attorney General.

And the Senate agree to the same.

JOHN SHERMAN,  
J. M. HOWARD,  
O. P. MORTON,

Managers on the part of the Senate.

ROBERT C. SCHENCK,  
JAMES BROOKS,

T. W. FERRY,  
Managers on the part of the House.

Mr. HENDRICKS. I move that the report be printed, so that we may know something more about it, and that the subject be postponed until to-morrow.

Mr. SHERMAN. I trust the Senator will not feel it his duty to do that, because this bill takes effect on Wednesday, and we have stricken out all that to which any objection was made in the Senate in the debate of Saturday. As this bill is of such pressing importance and as it is to take effect on Wednesday, and will be such a great relief to the country, the report was agreed to unanimously by the two committees of conference; and I trust the Senator will withdraw the motion and allow us to take the vote.

Mr. HENDRICKS. It is utterly impossible to be prepared to either discuss or vote on a measure of this importance upon the mere reading of it by the Secretary. I do not think

that the Senate can be informed of the effect of this legislation so fully as to justify them in acting upon it this morning. It is to be regretted that the measure is crowded up so near to the day it is to take effect; but that is no answer when Senators desire an opportunity to know what the proposition of the committee really is. Now, I do not suppose there is a Senator here who knows—

Mr. SHERMAN. I will state to the Senator that every word of this is printed on the table with some slight modifications of the fourth section exempting breadstuffs and lumber, excepting the last section which takes away the power to compromise under this act except with the consent of the Secretary of the Treasury and Attorney General. I will ask the Secretary to read the last section.

The PRESIDENT *pro tempore*. Let it be read.

The Secretary read as follows:

And be it further enacted, That no compromise, discontinuance, or *nolle prosequi* of any prosecution under this act shall be allowed without the permission in writing of the Secretary of the Treasury and the Attorney General.

Mr. HENDRICKS. I am not able to tell what change this makes in the law. It provides for the forfeiture of property and for personal punishment. How does the law now stand? There are forfeitures of property, confiscation, if I may so express it, under the judgment of a court as the law now stands; but what changes does this propose? I think it is due to the Senate that we should have an opportunity to know what it is. I have no objection to passing it to-morrow, if it is right, but I think we ought to postpone it until to-morrow and have it printed. Therefore I make the motion.

The PRESIDENT *pro tempore*. It is moved that the report of the committee be printed and the subject postponed until to-morrow.

Mr. MORRILL, of Vermont. I hope not. I hope it will be adopted.

Mr. CATTELL. It is a very important bill. Let us have a vote.

Mr. GRIMES. It is still more important that we should understand what the bill is than it is that we should have a vote. I want to understand from the chairman of the committee whether or not there is a provision here that if a party shall surreptitiously introduce into leased property a small distillery, and the discovery is made that there is a violation of law going on there, the property of the lessor shall be forfeited.

Mr. SHERMAN. The section as it now stands, I think, for offenses that occur after it takes effect, does forfeit the property, but not for offenses that occurred before, nor as to leases that occurred before. It would not affect anything that occurred before the passage of this act.

Mr. BAYARD. Mr. President, I might vote for this report, and certainly I should not object to it but for a portion of the section preceding the last. It reads that if any officer or agent appointed, acting under the authority of the revenue laws of the United States, "shall be guilty of gross neglect in the discharge of any of the duties of his office," he is to be punished on conviction. I can never consent to place a man in a position to be punished merely on the broad general ground of "gross neglect." That cannot be the ground of a criminal prosecution; it may be of civil liability; but to make it a crime on the part of the party defendant when it was the consequence of a want of capacity, or of carelessness, if you will, is entirely without precedent, and I should be unwilling to consent to such a principle being established.

Mr. JOHNSON. I think the honorable member from Ohio is mistaken as to the effect of this bill. If it is to go over I have no desire to say anything; and I think it ought to go over, that we may understand exactly the effect of the bill. If we are to act on it now I will say that the explanation made by the honorable member from Ohio is not satisfactory to me in the particular as to which inquiry was made by the honorable member

from Iowa. If there be a lease now, a continuing lease, the lessor having no knowledge at all of the purpose for which his property was to be used, and the property shall hereafter be used so as to bring it within the terms of this act, the lessor's interest would be forfeited. Again, assuming that it does not cover the case of an existing lease, it certainly covers the case of leases to be made hereafter. Parties may very well lease their houses without the slightest knowledge of the purpose to which the lessee is about to devote them; the lessor may be altogether innocent; and yet, under this bill, if the lessee does use the premises in contravention of the terms of this bill, the property of the lessor is to be forfeited. That appears to me to be very rigid. I cannot tell, without seeing the bill in print, whether that is the scope of it or not; but I so understand from the reading.

Mr. SHERMAN. I see Senators are determined not to allow the vote to be taken on this matter before we are compelled to proceed to another duty. I therefore give notice that at as early an hour of the day as I can possibly do it I will move an adjournment of the court of impeachment, with a view to continue the discussion of this bill. In the meantime I will try to get it printed. I have no doubt it can be printed by three or four o'clock.

Mr. TRUMBULL. I hope the order to print will be entered now.

Mr. SHERMAN. I have no objection.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana, that the subject be postponed until to-morrow, and that the report be printed.

Mr. SHERMAN. I object to the postponement.

Mr. HENDRICKS. I modify my motion so as to make it simply an order to print. I do not care about what time we debate it.

The PRESIDENT *pro tempore*. The motion now is that the report be entered to be printed.

Mr. HOWE. I simply want to say that if I understand this report it is satisfactory to me, but I suppose my name is not appended to it. I learned this morning for the first time officially, and only upon inquiry at the desk, that I was upon the committee of conference. The paper yesterday reported that it was Mr. HOWARD who was a member of the committee. I never received any notice of the meeting of the committee; I did not know that there had been any meeting of the committee, and did not know until this morning that I was a member of the committee.

Mr. HOWARD. I believe my name was audibly announced on the appointment of the committee, and I received a formal notice from the proper clerk to attend the meeting of the conferees this morning, which I did, and I signed the report accordingly.

The PRESIDENT *pro tempore*. The Senator from Ohio [Mr. SHERMAN] and the Senator from Wisconsin [Mr. HOWE] and the Senator from Indiana [Mr. MORTON] were appointed on the committee.

Mr. HOWE. I was so informed at the desk this morning.

Mr. SHERMAN. I suppose the trouble grew out of the similarity of name. I heard the Chair or some one distinctly announce Mr. HOWARD, the Senator from Michigan, as a member of the committee.

The PRESIDENT *pro tempore*. No; Mr. HOWE.

Mr. SHERMAN. Either of them would have been very acceptable indeed, and I suppose both agree substantially. Mr. HOWARD's name was printed in the papers as one of the committee, and the clerk gave notice accordingly.

The report was ordered to be printed.

POLITICAL DISABILITIES OF R. R. BUTLER.

Mr. BUCKALEW. I suppose House bill No. 870, on which I was speaking, is now again before the Senate.

The PRESIDENT *pro tempore*. It is.

Mr. BUCKALEW. Mr. President now, I suppose I shall not be able to proceed with my remarks at this time, as the hour has arrived for entering upon another duty. I can only express my regret that I was not permitted to go on and conclude my speech this morning, though under the circumstances it was impossible to refuse the request of the Senator from Ohio, that I should give way to him that he might make a report upon the very interesting and important bill which we have been considering so long. I only desire it to be understood that when this subject comes up again I shall be entitled to the floor.

HOUSE BILL REFERRED.

The bill (H. R. No. 970) to provide for a temporary and provisional government for Alabama was read twice by its title, and referred to the Committee on the Judiciary.

IMPEACHMENT OF PRESIDENT JOHNSON.

The PRESIDENT *pro tempore*. The hour having arrived when all legislative business is ordered to cease preparatory to the Senate entering upon the business of the impeachment of the President of the United States, no further business is in order, and the House of Representatives will be notified of the fact that the Senate is ready to receive them. The chair will now be vacated, that the Chief Justice may take it for the purpose of presiding over the Senate in the trial of the impeachment of the President of the United States.

The PRESIDENT *pro tempore* thereupon vacated the chair; and the Senate proceeded to the trial of the impeachment of President Johnson. The Senate sitting for the trial of the impeachment having adjourned,

The PRESIDENT *pro tempore* resumed the chair at four o'clock and twenty minutes p. m.

TAX ON MANUFACTURES.

Mr. SHERMAN. I move that the Senate resume the consideration of the conference report which was under consideration.

The motion was agreed to; and the Senate resumed the consideration of the report of the committee of conference on the bill (H. R. No. 900) to exempt certain manufactures from internal tax.

Mr. GRIMES. I should like to inquire why it is that the committee have introduced into this bill a new proposition to exempt all manufacturers of lumber and flour? If there be any class of manufacturers in this country who are well able to pay a tax it is the manufacturers of lumber, whom we have protected by our present tariff bill by a duty of from two to three dollars upon every thousand feet of lumber; and it is precisely the same case with the manufacturers of flour. The tax will be of no appreciable disadvantage to the agriculturist and will realize a considerable amount to the Government.

Mr. SHERMAN. The only answer I can make is that I believe it is a species of humbug to exempt breadstuffs and unmanufactured lumber; but the Senate substantially decided this question, as I considered, on the vote the other day. There is no reason in the world why flour should not pay two cents a barrel and lumber should not pay the insignificant tax that was put upon it; but I do not consider it important to endanger or delay this bill by this exception, which I very reluctantly yielded to.

Mr. HENDRICKS. I wish to ask the Senator from Ohio what change the fifth section will make in the law?

Mr. SHERMAN. The particular change is that it makes the punishment both fine and imprisonment. It takes away the discretion of the judge to merely fine and not imprison. I think it is a little more stringent, too, in the forfeiture clause; but I cannot say positively upon that point.

Mr. CAMERON. I should like to ask a question of the Senator from Ohio. The difference between this proposition and the bill as presented on Saturday, as I understand, is that this confines the punishment to the individual, not to all the distillers of the district.



Mr. SHERMAN. Yes. I would state to the Senate that the chief change made was in striking out the second clause of the fifth section, which authorized the Commissioner of Internal Revenue to close all the distilleries of a district in a certain state of facts. That is the only material change. Then, we add the last section providing for taking away from the Commissioner of Internal Revenue the power to compromise cases arising under this bill.

Mr. CONKLING. What are those cases arising under this bill?

Mr. SHERMAN. Cases of criminal accusations or indictments under the fifth and sixth sections.

Mr. CONNESS. And in regard to that proposition it is required that the Secretary of the Treasury and the Attorney General shall both agree before any such case shall be discharged.

Mr. SHERMAN. Yes, sir.

Mr. HOWARD. Before any suit is discontinued or *nolle prosequi* or compromised it requires the joint consent of both of those officers. The committee thought it best to hold two of the principal officers of the Government responsible for such action.

Mr. FRELINGHUYSEN. I desire to ask the chairman of the committee whether this act intended to relieve from taxation all manufactures which are not sold. It provides for a tax on all over \$5,000 of sales. There is a vast amount of manufactures in this country that are never sold—the railroads of the country and various other branches manufacture for themselves.

Mr. SHERMAN. I will state to the Senator that this is only a tax on sales. It extends the principle of the wholesale dealers' tax to the manufacturers, and only applies to sales. Railroads pay in a different way, as the Senator is aware.

Mr. MORRILL, of Vermont. I do not desire to delay the passage of this bill, but I am somewhat surprised that the chairman of the Committee on Finance should denounce as a humbug the exemption of lumber and breadstuffs. Why, sir, we have exempted them from the very start, in the first bill and in every bill since, from all taxation. I should consider it something worse than a humbug for us to impose a new tax upon articles that have been exempted throughout the war.

Mr. SHERMAN. If my friend will allow me, I will say that these articles are taxed now, this day, precisely as they would be as the bill was framed before; that is, when a wholesale dealer sells lumber it is taxed; when a wholesale dealer sells flour it is taxed. As the bill stood before, the manufacturer was also to pay an insignificant tax. I say that any discrimination between the various articles of production, levying taxes upon one and not upon another, is invidious and unjust. I might get up and make a very plausible argument to show that a poor man's boots ought not to be taxed and a poor man's coat ought not to be taxed, just as much as a poor man's flour ought not to be taxed. Lumber we know very well, the great body of it, is consumed by the rich, and bought by the rich.

Mr. MORRILL, of Vermont. I do not propose to make a long speech, and I do not propose that the Senator shall make a longer one in mine. I merely desired to call the attention of the Senate to the fact that these exemptions have existed hitherto, and, as I was about saying, I should consider it something worse than a humbug to begin now, in time of peace, to impose a new tax upon these articles particularly which have been hitherto exempt. And there is a propriety in exempting lumber—

Mr. FERRY and Mr. RAMSEY. They are exempt by the bill now.

Mr. MORRILL, of Vermont. I know they are exempt.

Mr. GRIMES. I should like to know what that propriety is?

Mr. FERRY. That is an outside question.

Mr. MORRILL, of Vermont. For the reason that it is used for building purposes. It is de-

sirable that we should encourage enterprise throughout our country for building purposes, and we have not only exempted lumber heretofore but every article so far as we could that went into a house or building. We have exempted brick, building stone, and lime. In relation to flour, the millers derive but a very small amount of profit for grinding wheat. It is brought here, say from the West to Oswego, and ground, and if this bill had not been amended you would compel these flouring mills that grind it to pay upon the whole amount of their sales, when the amount of their profits is but a very small percentage.

Mr. RAMSEY. Flour is exempt now.

Mr. MORRILL, of Vermont. I do not desire to debate the question.

Mr. GRIMES. I am astonished that the remarks I made on the subject of lumber a year and a half ago should have made such a deep impression on the Senator from Vermont; for I am satisfied that he cannot have read the debate recently, and yet he has repeated exactly, in behalf of the exemption from tax of lumber, the arguments that I used against the imposition of two or three dollars a thousand as tariff duty upon lumber brought in from Canada and the British Provinces. I insisted then that the enterprise of the country should be encouraged, that every man should have an opportunity to build a residence to shelter his family from the storm; and in order to encourage that kind of enterprise and domestic economy and domestic comfort, I insisted with the gentlemen who were acting with the Senator from Vermont on this subject that we should not put upon those who desired to erect dwellings for their families a burden of two or three dollars a thousand on the lumber necessary to go into their houses; but I was overruled in that.

Mr. MORRILL, of Vermont. If the Senator remembers at all what my course was, he must know that I was for the lowest duty.

Mr. GRIMES. The lumber men are among the richest men in this country, having the largest capital; and so it is precisely with these large merchant millers. There is not any class of the population who are better able to pay this tax than they are. The Senator speaks of it as though it was the imposition of a new tax. I do not understand it in that light. You tax them now if their sales amount to a certain sum. You will only tax them precisely as you tax everybody else who makes money out of lumber and flour.

Mr. CONNESS. Mr. President, I just want to say one word in reply to one point the honorable Senator from Iowa makes. He seems to assume that the domestic article, as in the case of lumber, will always attain the price of the foreign article with the duty added, whatever that duty may be, which is not the case, for in almost all instances the price of the domestic article is subject to domestic competition. The statement the Senator makes would seem to claim that this three dollars a thousand is added to the price of the lumber, which is not the case.

Mr. GRIMES. That may be so where the Senator is familiar with it; but that is not the case on the prairies of Illinois and Iowa where we wish an opportunity to have lumber brought in from the Canadas in order to develop our country.

Mr. CONNESS. Wisconsin furnishes you with lumber.

Mr. GRIMES. No.

Mr. CONKLING. If I am to vote for this report I shall have to do so in spite of several things that it contains, and not for the sake of them. I wish to call attention now, however, only to the last section proposed. The object of it is one of the most wholesome and commendable in the world, as explained in part the other day by the honorable Senator from Indiana [Mr. MORRIS] to break up what is deemed loose or corrupt practice in the compromise of prosecution. Now, from the knowledge I have of such things, and the workings of the present system, I believe that, inadvertently of course, the committee has con-

trived a provision better for favoritism, for loose practice, for insecure administration, than anything that has ever crept before or been put by design into the revenue legislation of the country.

Now, Mr. President, look at this for one moment. "No compromise, discontinuance, or *nolle prosequi*, of any prosecution under this act shall be allowed without the permission in writing of the Secretary of the Treasury and the Attorney General." What are they to know about this? Under what evidence are they to act? The Attorney General will act upon the recommendation of the district attorney, the very officer against whose bad or loose practice, as I am told, the disposition is to guard. The district attorney belongs to the official staff of the Attorney General; he is his subordinate officer; he is in the line of his own Department; and as far as the Attorney General can have any official information at all, it is to come from the district attorney. Then what is the Secretary of the Treasury to know about it? He is to know from his official subordinates. The best source from which he can derive his information would be the Commissioner of Internal Revenue, the officer next below him in this line of descent; and he is to derive it, as he does now, from the revenue officers of the district, the assessor and the collector and their deputies. Does this give any additional security?

But, Mr. President, observe the security with which it parts, namely, the intervention of the court. I recollect a period of history which illustrates this in a very marked way in my own State. Up to the time of the great excitement that arose in reference to the alleged murder of Morgan, the attorney general of the State of New York, and the district attorneys, had the power to enter *nolle prosequis*, each of his own motion, and favoritism was charged. Then by statute the advice and concurrence of the court was required; and ever since in the State of New York *nolle prosequis* have been entered only upon open motion in court, and the action of the court upon the case before it; and experience has shown, as my friend from Wisconsin [Mr. DOOLITTLE] knows very well, the experience of the courts and of the public has shown that a most admirable safeguard was thus set up. No district attorney, or attorney general since that time has been able to put an indictment in his pocket without assigning reasons to anybody, enter a *nolle prosequi*, or dismiss a prosecution, because it was to be done in the light of day, with the eyes of both sides in the interest upon the persons who did it, and a fair opportunity to be heard.

That exists now with regard to indictments and *nolle prosequis* under the existing statute of the United States. But what does this section propose? To withdraw the subject entirely from the court; to take it away; therefore the court is never to be heard at all unless the judge volunteers as a petitioner or a correspondent or a citizen to address the Treasury Department for permission to be given by two officers here in Washington who cannot in the nature of things know anything about it, except upon the representation of such persons as get access to them. Does anybody doubt that it is to become more or less a matter of favoritism?

Mr. DOOLITTLE. And will be referred to some clerk.

Mr. CONKLING. As the Senator says, it will be referred to some clerk or go into the hands of some person connected with the Department; and in the event the defendant being represented by an attorney, a claim agent, some man with political standing, who will go and intercede with him, he will be heard; and in the event of his not being represented in that way, he will never be heard at all.

It seems to me that we shall be like that celebrated engineer who was "hoist with his own petard." We are devising here a mode of withdrawing these transactions from the very presence in which they cannot to any extent be perverted, and enacting that they shall be disposed of in secret. I do not use the word

offensively in the absence of the public, in the absence of the proper parties, and upon testimony which must be *ex parte*, which must be partial, and that, too, by officers hundreds and thousands of miles from the scene of the controversy to be settled.

Whether it is worth while for Senators who agree with me in these views to vote to send back this report, I ought not to affirm, perhaps; but I hope this will not be drawn into a precedent, and that we shall not have, with regard to offenses provided for in the revenue laws generally, a provision by which, in a closet up here at the Treasury Department, on the recommendation of some clerk, a thing is to be done which a court cannot do, with parties and counsel before it, and an opportunity to understand and ventilate the whole subject.

Mr. GRIMES. I can perhaps relieve the Senator by informing him that this does not apply to cases already existing, but is prospective.

Mr. CONKLING. If the Senator had listened to what I was saying he would have been relieved himself instead of relieving me, because my last remark was that I hoped this would not be drawn into a precedent to apply to cases under other acts; for if good under this act it will be argued it is good under others, and when we get the tax bill here there will probably be some amendment to it by which we shall be asked to cut off the bad practices of district attorneys by putting the whole thing into this mill of bureaucracy here and have it run through this hopper, with clerks, and with the red tape and circumlocution of these Departments. I believe that even with the wisest and purest administration of things here at the seat of the central Government, nothing conduces more to a pure administration of justice than to keep it in its appropriate channels, and keep it before the local tribunals, and especially the judicial tribunals who have parties representing all interests before them and have the public to watch them and see that they do not fall into error or into corrupt practices.

Mr. HOWARD. Mr. President, I am as anxious as the Senator from New York to provide some surety for the enforcement of the revenue laws. Now, sir, does not that Senator know perfectly well—of course he does—that it is one of the usual and ordinary powers of a United States district attorney to discontinue or to *nolle prosequi* his indictments or his informations that he has filed whenever he sees fit to do so? And I know of no statute of the United States which restricts his authority in this respect. He is under no obligation at all to ask leave of the court to enter a *nolle prosequi* under the laws of the United States. It is undoubtedly one of the greatest evils connected with our system of revenue laws, that the district attorneys of the United States are found wanting in their duty, wanting in energy, activity, and perseverance in prosecuting offenses which come to their knowledge; and it too often occurs, sir, that a prosecuting attorney favors friends; and I might go further, and I of easy virtue suffers himself to be persuaded to *nolle prosequi* or discontinue his prosecutions in will go further and declare here, in my place, that according to my information this is one of the greatest sources of corruption and abuse that exist in the administration of our laws. It is not a difficult thing for an ingenious and wealthy party, resting under a serious accusation, to approach a district attorney of easy virtue and buy him out. This has given rise to a great deal of expense and a great deal of injustice and abuse. The object of this provision in the report of the committee is to take from the district attorney the power which he now has in all cases, wherever he sees fit, to discontinue his proceedings; and if there be good cause for the discontinuance of a particular case, it requires the joint action of the Secretary of the Treasury and of the Attorney General of the United States to authorize him to discontinue his proceedings. We have there some safeguard, to say the least, against the weaknesses, the corruption, and the dishonesty of district attorneys.

Mr. CONKLING. With the permission of the Senator I beg to ask him a question. Take the case of such a district attorney as he supposes, a man corrupt and approached by wealthy parties, and I inquire of the Senator which, in his judgment, such a district attorney would be most likely to impose upon—the court in which the indictment was pending, or the Attorney General and the Secretary of the Treasury by representations that he might make here at the city of Washington.

Mr. HOWARD. Mr. President, the court spoken of by the Senator has nothing to do with the question of a discontinuance or a *nolle prosequi*. It is the right of the district attorney to withdraw his proceedings without asking leave of the court or showing any cause or reason for it; but, even if it were to be by leave of the court, in most cases we know very well that upon the recommendation of the district attorney the court would be very likely to grant its consent to a discontinuance, because the court is not presumed to know, is not presumed to be informed of the nature of the prosecution or of the facts which are really involved in the case. The court never inquires into that, but always relies, and necessarily relies, upon the United States district attorney.

Mr. HENDRICKS. I wish to ask the Senator from Michigan where can the Secretary of the Treasury or the Attorney General get any information as to the evidence that was before the grand jury, except from the district attorney?

Mr. HOWARD. It is not a difficult thing for the Attorney General or the Secretary of the Treasury to correspond with the district attorney, to correspond with the collector of the district or the assessor of the district; it is not difficult to send a special agent, as is often the case, to make inquiry and to report the necessary information to the head of one or the other of these Departments. It is a very easy thing; and, besides all that, an application to the Secretary of the Treasury and the Attorney General for leave to discontinue a case must necessarily give rise to some delay, and thus furnish opposite parties in interest an opportunity to correspond with these high officers and to present the real facts of the case before them. This is, at least, some security against abuse of authority on the part of the district attorneys, whereas, if the law is left as it is now, the Government have no security whatever against those practices to which I have referred.

I hope, sir, that this clause will be adopted. I see in it a very important security for the Government, and I see in it a possibility, nay, sir, a probability, of making it necessary for the district attorneys to prosecute the suits which they commenced and to bring somebody to justice and send somebody to the penitentiary, instead of selling out the case themselves and putting the avails in their own pockets, as is too often done, I fear.

Mr. MORTON. I think some of the objections taken by the Senator from New York to this section are just. I, for one, was opposed to allowing the Secretary of the Treasury and the Attorney General to authorize these indictments to be *nolle prosequi*; but I accepted this section, as one member of the committee as the best that could be done. I will say to the Senator from New York, in answer to his objection, that if it is the law now or if it is now the practice that the district attorney cannot *nolle prosequi* indictments without the consent of the court this section will not change it. It simply requires in addition the consent or permission of the Secretary of the Treasury and the Attorney General. If, according to the practice in any of the States, the consent of the court is necessary to *nolle prosequi* an indictment, that consent is not made unnecessary by this section, but simply the written consent of these other officers in addition is required.

I think, Mr. President, that something very important will be gained even by this section,

imperfect as it is, because, I think, it will have the effect to locate somewhere this great responsibility which is now located nowhere, which is floating about between so many officers, and for which nobody is taken to account. Every compromise that is made hereafter by which a great criminal shall escape punishment for a fraud upon the revenue is to be taken right home by the Attorney General and the Secretary of the Treasury. It cannot be done without their consent; and although I am opposed to authorizing them to give consent, yet I think this is better than nothing; it is so much gained; and I shall cooperate with the Senator from New York and with any other Senator on this floor, when the tax or revenue bill comes here, in providing that there shall be no power by which criminal prosecutions for frauds upon the revenue can be compromised away. I believe that the conviction and the punishment by imprisonment in the penitentiary of twenty-five whisky scoundrels would add \$25,000,000 to the revenue.

Mr. CONKLING. I rose merely to remind the Senator from Indiana that he apparently overlooks one of the provisions of an existing statute. The last tax bill provides, in most specific and unavoidable language, that no compromise whatever shall be made, except on just such a permission as is proposed here on the part of the Commissioner of Internal Revenue.

Mr. HOWARD. I think the Commissioner has nothing to do with the suits that may be commenced. He has nothing to do with pending prosecutions, if I recollect the laws properly.

Mr. CONKLING. My recollection is that the Commissioner of Internal Revenue is to take part in every compromise that is made, and the section which I will refer to is on page 135 of the revenue act:

"The Commissioner of Internal Revenue shall be, and is hereby, authorized and empowered to compromise, under such regulations as the Secretary of the Treasury shall prescribe, any case arising under the internal revenue laws, whether pending in court or otherwise."

Mr. HOWARD. Read all the section.

Mr. CONKLING. I will.

"The several circuit and district courts of the United States shall have jurisdiction of all offenses against any of the provisions of this act committed within their several districts: *Provided*, That whenever, in any civil action for a penalty, the informer may be a witness for the prosecution, the party against whom such penalty is claimed may be and shall be admitted as a witness on his own behalf."

The residue of the section has nothing to do with it. So that I am right in saying that as the law stands as to all prosecutions which have gone to indictment, to presentment by a grand jury, the practice and the statute regulating proceeding of the court in the first place apply as to other indictments. In the next place, by act of Congress, the Commissioner of Internal Revenue is vested with the supervising and discretionary power to see to these compromises; and, more than that, he may exercise that power only under such regulations and directions as the Secretary of the Treasury prescribes. That is the law now. So the Senator from Indiana can hardly say, in view of this statute, that this power lies about somewhere, not located anywhere. It is located by the practice in the court as to prosecutions which have gone further than presentment by a grand jury, and then with a power above the court, the Commissioner of Internal Revenue and the Secretary of the Treasury.

The proposition now is by legislation which does not seem to me to be cumulative, as the Senator suggested, nor in confirmation of the power of the court, but which seems to be exclusive and absorbing in its character, to give to two high officers of this Government, the Secretary of the Treasury and the Attorney General, the power, upon the *ipse dixit* in writing of both of them, to allow any prosecution under this act that they choose to be compromised. Now, sir, here it is, and it is to be taken; it is *aut Caesar aut nullus* as far as that is concerned; but I think it is very unfortunate that we have departed from the old practice.

With the present provision added, I believe we shall see reason to regret the change we make.

Mr. HOWARD. In reply to what the Senator has said, it seems to me to be sufficient to say that if, with all the vigor and vigilance which it has been possible for the Commissioner of Internal Revenue to exercise in such cases, we have continued to lose millions upon millions of the public revenue in the shape of compromises; and if thousands and tens of thousands of criminals have escaped unwhipped of justice in consequence of his failure to apply the proper remedy or to make the proper regulation, it is high time the power were taken out of his hands and given to some other officer of the Government who will attend to and enforce the laws rigorously and carefully.

Mr. HENDRICKS. I shall not vote for this report, because I do not agree to the fifth section nor to the last. My colleague thinks that the law as it now stands distributes the responsibility, and therefore there are no good results. I think this proposition is to distribute the responsibility. If an indictment be pending in the United States court the district attorney is authorized by law to enter a *nolle prosequi*, if he thinks it right; but he can do that only with the approval of the court. It is done in the presence of the community where the indictment is presented, and not far perhaps from the locality of the offense itself. Here is a direct responsibility upon the district attorney, and he is under the check and control of the court. Instead of that, you propose that he shall report the case to the Secretary of the Treasury and to the Attorney General, and if, after consultation, they decide to *nolle prosequi* the case, what is the effect? The Attorney General says he acted upon the advice of the district attorney; and the Secretary of the Treasury says that he has got his information from the district attorney, and the district attorney when called upon to respond to public opinion about it says that he has the authority of the Secretary of the Treasury and the Attorney General. The result of it is that there is no direct responsibility to the public opinion in regard to the case. That is my judgment of it practically.

Mr. HOWARD. Are not the Secretary of the Treasury and the Attorney General responsible?

Mr. HENDRICKS. They are responsible upon the information that is furnished to them. They can only act upon information that the district attorney gives to them. Sir, there is so much noise and confusion in the Chamber that I cannot hear myself. I do not believe the Senate cares anything about this, for I do not think anybody is heard in speaking upon it. It is a matter of a good deal of importance, and I wish to say a little upon it; but if it is not agreeable that the question shall be discussed I shall not do so. It is about liquor to be sure, and liquor ought to be pursued, and all men that deal in liquor ought to be, perhaps, put to death, according to the judgment of some gentlemen. I do not agree to that myself. I undertook to say to the Senate, but I was not heard—the chairman of the committee in my rear makes so much confusion that I cannot hear myself—and with the permission of the committee I will suggest to them that the proposition of the last section is to water all responsibility until there is none. The district attorney will say to the public, "I have acted under the advice of the Attorney General and the Secretary of the Treasury." The Secretary of the Treasury and the Attorney General will say, "We have got our advice from the law officer at the locality."

Mr. MORTON. I should like to ask my colleague one question, whether it can possibly make it any worse than it now is?

Mr. HENDRICKS. I think a great deal worse; for if you leave the matter with the district attorney in the community where the indictment is found, where the offense has been committed, he is under the check of public opinion where the crime itself has been per-

petrated; but if he is authorized to refer the question up to Washington and he can say to the community, "I have referred it up there;" and he gets the advice of the Attorney General, when he comes to act upon the subject his responsibility is gone. Within the scope of my observation I do not know any case in which the district attorney has disregarded a proper public opinion.

But, Mr. President, I am more particularly opposed to this fifth section. It requires that the punishment shall be by a fine and imprisonment. There are many cases where that punishment ought not to be inflicted. Is any Senator afraid of the Federal courts? I have not heard the integrity of the courts questioned in regard to the liquor-tax question.

A Senator in my rear says that there are such cases; but I have not heard of them. I know there can none arise in the district in which I practice law. The district judge there is not only an eminent jurist, but is distinguished for his integrity.

Mr. SHERMAN. I do not wish to be understood as saying there are any imputations of dishonesty, but there are great complaints made in regard to the conduct of judges in these cases in letting off persons at nominal penalties and punishments; in some cases the fines were less than one tenth the value of the whisky out of the tax on which the Government was defrauded.

Mr. HENDRICKS. I have not heard of any such case. I am not familiar with very many of them. In my profession I have only defended, as I now recollect, one man charged as defendant in a whisky case; and every Senator here, if he had known of that case, would say that this law that you now propose to enact would in that case have been a public outrage, a simple outrage. That man was a very humble man. He had a little still on his own farm. He never had manufactured for public sale, but just for the accommodation of his neighbors, manufacturing a very good article. He took out a license for one month, the month of April, and he got along and manufactured a part of a barrel, but did not complete it. Afterward when he returned to it, he finished that one barrel, perhaps in the month of August. That man was the defendant in three indictments and one civil suit, all in relation to one barrel. I think he sold it to his neighbors. He was an old acquaintance of mine and he came to see me about it. He was scared nearly to death, and was likely to be broken up. I got to know all about the facts and saw the district attorney, and had him *nolle prosequi* two of the indictment cases, and dismiss the civil suit, and take a fine on the remaining criminal case, enough to cover the tax that the Government ought to have; I do not recollect what; but the tax was paid. There was no question about that. Now, if that man had had to go to the penitentiary it would have been an outrage simply, unmixed, unquestionably.

Mr. MORTON. I suggest to my colleague that the man's poverty explains the whole matter. He had nothing to give to anybody.

Mr. HENDRICKS. There was not enough of it to justify giving anything. It was a little trifling case; but this law would have sent him to the penitentiary; and it is proposed that there shall be no *nolle* entered and then his only salvation would be an appeal to the presidential clemency. That ought not to be. The law is right now. The law says that the judge, not the jury, shall decide upon the punishment; and I do not think we have occasion to question the integrity of the Federal judges. If the juries had the power in the Federal courts as in some of the State courts to decide upon the punishment, it might be another question; but the jury merely finds the question of guilt or innocence, and then the court decides upon the punishment. Are we afraid of the court?

Mr. TIPTON. Will the Senator from Indiana give way for a motion to adjourn? It is now after five o'clock.

Mr. SUMNER and others. No; no; let us finish this bill.

Mr. TIPTON. I move that the Senate do now adjourn.

Mr. WILSON and others. No, no; let us finish the bill.

The motion to adjourn was not agreed to.

Mr. HENDRICKS. I was going on to say that the security of the Government is ample in the fact that the courts prescribe the penalty; and the law, as it now stands, being in the alternative, is as it should be; and if the judge hearing the case says that imprisonment ought to be added to the fine, the judge can so order. That is right. Therefore I shall vote against the report.

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee of conference.

The report was concurred in.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Senate stands adjourned until twelve o'clock to-morrow.

Mr. SHERMAN. Half past eleven.

Mr. HENDRICKS. No, twelve o'clock; that is right.

Mr. SHERMAN. The court meets at twelve o'clock.

## HOUSE OF REPRESENTATIVES.

MONDAY, March 30, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

### ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is calling the States and Territories (commencing with the State of Maine) for bills and joint resolutions for reference to appropriate committees, not to be brought back into the House by motions to reconsider; during which call resolutions and memorials of State and Territorial Legislatures are in order.

### THIRD ASSISTANT ENGINEERS.

Mr. ELIOT introduced a bill (H. R. No. 981) relating to third assistant engineers in the Naval Academy; which was read a first and second time, and referred to the Committee on Naval Affairs.

### PRESIDENTIAL SUCCESSION, ETC.

Mr. CHURCHILL introduced a bill (H. R. No. 982) to amend an act entitled "An act relative to the election of the President and Vice President of the United States and declaring the officer who shall act as President in case of vacancies in the office both of President and Vice President," approved March 1, 1792; which was read a first and second time.

Mr. CHANLER. I call for the reading of the bill in full.

The Clerk read the bill. It proposes to amend the ninth and tenth sections of the act named in the title. The ninth section, as proposed to be amended, will provide that in case of the removal, death, resignation, or inability both of the President and Vice President of the United States, the President of the Senate *pro tempore*; and in case there shall be no President of the Senate, then the Speaker of the House of Representatives; and in case there shall be no Speaker of the House of Representatives, then the Chief Justice of the Supreme Court of the United States, shall, for the time being, act as President of the United States until the disability be removed or a President shall be elected.

The tenth section as proposed to be amended will enact that whenever the offices of President and Vice President shall both become vacant more than eighteen months before the expiration of the term for which they were elected, the Secretary of State shall forthwith cause a notification thereof to be made to the executive of every State, and shall also cause the same to be published in at least one of the



newspapers printed in each State, specifying that electors of the President and Vice President of the United States shall be appointed in the several States on the Tuesday next after the first Monday in the month of November next ensuing, the Tuesday next after the first Monday in which shall not be less than sixty days after the occurring of both of said vacancies, at which time the electors shall accordingly be appointed. The said electors, when appointed, shall meet and give their votes for President and Vice President of the United States on the first Wednesday of December then next ensuing, and the proceedings and duties of the said electors and of others shall be pursuant to the directions of the Constitution and laws of the United States respecting the election of President and Vice President of the United States; and the persons so chosen to be President and Vice President of the United States shall hold said offices for the term of four years, to commence on the 4th day of March then next ensuing. Whenever electors of President and Vice President of the United States shall be appointed as provided for by this section, on account of those offices having both become vacant, subsequent appointments of such electors shall be made the Tuesday following the first Monday in November in each fourth year thereafter.

The bill was referred to the Committee on the Judiciary.

#### PENSIONS.

Mr. CHURCHILL also introduced a bill (H. R. No. 988) supplementary to the several acts relating to pensions; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. TAFTE asked and obtained leave of absence for two weeks.

Mr. FARNSWORTH also asked and obtained leave of absence for two weeks.

Mr. BEAMAN asked and obtained indefinite leave of absence.

#### QUARTERMASTER'S DEPARTMENT.

On motion of Mr. GARFIELD, by unanimous consent, it was ordered that the communication from the Secretary of War, transmitting, in compliance with the acts of April 21, 1808, and July 17, 1862, statements of the contracts made by the Quartermaster's Department during February, 1868, be printed.

#### CONSTITUTIONAL AMENDMENT—NEW JERSEY.

Mr. HAIGHT presented a joint resolution of the Legislature of the State of New Jersey, "withdrawing the consent of that State to the proposed amendment to the Constitution of the United States, entitled article fourteen, and rescinding the joint resolution approved September 11, A. D. 1862, whereby it was resolved that said proposed amendment was ratified by the Legislature of the State."

Mr. ELDRIDGE. I call for the reading of this resolution.

Mr. WASHBURNE, of Illinois. I hope the call for the reading of this document will be withdrawn. It will consume a large part of the morning hour and prevent the introduction of bills by other gentlemen.

Mr. ELDRIDGE. The resolution is not long. It will not take any great length of time to read it, or, if it should, I will not insist on the continuance of the reading.

The Clerk proceeded to read the joint resolution, but was interrupted by

Mr. WASHBURNE, of Illinois, who objected to the resolution being received.

The SPEAKER. It is too late, as the reading has commenced.

Mr. WASHBURNE, of Illinois. I did not know what it was.

Mr. HAIGHT. Let it be read, and if there is any objection to it it may be considered afterward.

The Clerk continued the reading, and was again interrupted by

Mr. WASHBURNE, of Illinois, who in-

quired if a motion would be in order to return the resolution to the New Jersey Legislature?

The SPEAKER. It would not, because all papers presented in the morning hour of Monday must, under the rules, be referred to some committee without debate.

Mr. ELDRIDGE. I will withdraw the call for the reading of the resolution provided it may be printed in the Globe.

The SPEAKER. It may as well be read, because in a very few moments it will be half past twelve o'clock, when the House will have to resolve itself into the Committee of the Whole and proceed to the bar of the Senate.

Mr. PILE. Let it be read, and then I will object to the printing.

The Clerk resumed the reading, and was again interrupted by

Mr. BOUTWELL, who raised the question of order that the paper was not respectful to the House, referring particularly to the last sentence read.

Mr. ELDRIDGE. The gentleman has no right to interrupt the reading.

The SPEAKER. The Chair rules that the paper must be read and referred without debate. Any question in regard to its reception or its character cannot be settled at this time.

The Clerk resumed the reading until interrupted by

The SPEAKER, who said: The hour of half-past twelve o'clock has now arrived, and the House resolves itself into the Committee of the Whole, according to order, to proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and twenty-five minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate sitting as a court of impeachment has adjourned until twelve o'clock to-morrow.

#### HOOR OF MEETING TO-MORROW.

The SPEAKER. Does the gentleman suggest any time for meeting to-morrow?

Mr. WASHBURNE, of Illinois. I suggest that we meet at a quarter before twelve—time enough to have the Journal read.

Mr. BANKS. I hope the House will meet at eleven o'clock.

Mr. SCHENCK. I feel constrained to state to the House that the committee of conference on the bill relieving manufactures from tax agreed this morning to a report which has been presented to the Senate, and the chairman of the Committee on Finance in the Senate informed me that they proposed to take it up now, immediately after having gone into legislative session, and hoped to dispose of the report of the committee of conference and agree to it this evening. I trust, therefore, as the bill is to go into effect on the 1st of April, if it becomes a law, that we will meet early to-morrow, at least at eleven o'clock, if not half past ten, so that the report may be made here and acted on.

Mr. BANKS. I move that the House meet at eleven o'clock to-morrow.

The SPEAKER. That requires unanimous consent or a suspension of the rules.

Mr. KERR. I object.

Mr. SCHENCK. Is it in order now to move to suspend the rules? I believe there is a motion pending.

The SPEAKER. The resolution presented by the gentleman from New Jersey [Mr. HAIGHT] was being read when the House went

in the Committee of the Whole to the bar of the Senate.

Mr. SCHENCK. I give notice, then, that when that is disposed of I will move to suspend the rules that the House may meet at half past ten o'clock to-morrow. I hope that all who are interested in the question of the tax on manufactures remain here.

Mr. ELDRIDGE. I rise to a question of order. The gentleman cannot interrupt the reading of the resolution presented by the gentleman from New Jersey [Mr. HAIGHT] to give any notice or for any other purpose.

The SPEAKER. The Chair, on considering the subject, will rule that as the morning hour on Monday, unlike the other morning hours, expires at exactly one hour after the Journal is read, the morning hour has expired and the reading of the resolution presented by the gentleman from New Jersey goes over until Monday next.

Mr. WASHBURNE, of Illinois. Then I desire to move a resolution in regard to the paper presented by the gentleman from New Jersey.

Mr. BANKS. Let us settle the question of adjournment first.

The SPEAKER. The Chair will inform the gentleman from Illinois that the resolution to which he alludes is not yet before the House. The reading of it has not been completed and it goes over until Monday next.

Mr. SCHENCK. I move to suspend the rules so as to order that the House shall meet to-morrow at half past ten o'clock.

Mr. ROSS. I move that the House do now adjourn.

Mr. ELDRIDGE. I demand the yeas and nays on that motion.

The House divided; and there were—ayes 18, noes 74—not one fifth voting in the affirmative.

Mr. ELDRIDGE. I call for tellers on the yeas and nays.

The question was put; and eighteen voted in the affirmative.

The SPEAKER. Tellers are not ordered.

Mr. ELDRIDGE. Is not that enough for tellers?

The SPEAKER. It requires one fifth of a quorum absolutely to order tellers, and that is now twenty as a quorum of ninety-six. Tellers are not ordered, and the yeas and nays are not ordered.

The question was taken; and the House refused to adjourn.

The question recurred on Mr. SCHENCK's motion to suspend the rules.

Mr. BANKS. I hope the gentleman will make a general motion to suspend the rules, so that we can fix the time for meeting hereafter. If the Senate meets every day at twelve o'clock for the impeachment trial the House ought to meet earlier.

Mr. SCHENCK. I prefer to limit my motion to the one day. I want it understood that all this filibustering is to prevent the speedy passage of a bill to relieve manufactures from taxation.

Mr. ROSS. I want it understood that it is because we are hungry and want our dinners.

Mr. ELDRIDGE. I want it understood that if the gentleman from Ohio [Mr. SCHENCK] wanted to relieve the laborers we would go with him.

Mr. SCHENCK. Oh! yes; we understand. The question was then taken upon suspending the rules and ordering that the House shall meet to-morrow at half past ten o'clock a. m., and (two thirds voting in the affirmative) the rules were suspended, and it was ordered accordingly.

#### CONSTITUTIONAL AMENDMENT—NEW JERSEY.

Mr. WASHBURNE, of Illinois. I desire to move that the rules be suspended for the purpose of directing the return to the member who presented it, of the paper purporting to be a resolution of the Legislature of New Jersey.

Mr. HAIGHT. I suppose the Chair has

already decided that the resolution is not before the House to be returned.

The SPEAKER. The chair will hear the motion of the gentleman from Illinois [Mr. WASHBURN] before ruling upon it.

Mr. WASHBURN, of Illinois. I offer the following resolution, and if there is objection to it, I will move to suspend the rules:

*Resolved*, That the resolutions of the Legislature of the State of New Jersey, presented by the gentleman from New Jersey, [Mr. HAIGHT], purporting to withdraw the assent of said State to the constitutional amendment known as the fourteenth article, be returned by the Speaker of the House to the gentleman who presented it, and that its title only shall be referred to in the Journal of the House, and in the Congressional Globe, and further that this House denies the constitutional right of any State Legislature to withdraw such assent.

The SPEAKER. The Chair will rule upon the question of order made by the gentleman from New Jersey, [Mr. HAIGHT.] If the resolution of the gentleman from Illinois [Mr. WASHBURN] was a simple resolution, the Chair would rule that it was unquestionably not in order. But the gentleman moves to suspend the rules for the purpose of making the order indicated. The rules can be suspended even for the purpose of taking a petition which is before a committee and returning it to the member who presented it, or taking any other paper not directly before the House from the files of the House and referring it to some committee, or sending it to any person named in the order. This is a motion to suspend the rules for the purpose of making a certain order, which the Chair thinks is in order.

Mr. ELDRIDGE. The Chair has already decided that the resolution of New Jersey had gone over until Monday next. Can the rules be suspended for the purpose of bringing before the House a paper not now before it?

The SPEAKER. The paper is in the custody of the House, though not immediately before it. It is in precisely the same condition, so far as respects the proposed order, as if it had been referred to a committee. It is not before the House for action.

Mr. ELDRIDGE. Is it not still the property and in the possession of the gentleman from New Jersey, [Mr. HAIGHT]?

The SPEAKER. It is not. It must have been out of his possession, and in the possession of the House, for the Chair made a ruling upon it just before the recess to-day, which he could not have done had it still been in possession of the gentleman from New Jersey.

Mr. ELDRIDGE. The Chair has ruled that it is not before the House.

The SPEAKER. The Chair has so ruled.

Mr. ELDRIDGE. If not before the House must it not be still the property of the gentleman from New Jersey?

The SPEAKER. It is not; because although it is not now before the House for its action, it is in the custody of the House, and must have been before it to enable the Chair to rule upon it, as he did before the recess.

Mr. WASHBURN, of Illinois. I have modified my resolution somewhat, and now move to suspend the rules in order to offer the following resolution:

*Resolved*, That the resolution of the Legislature of the State of New Jersey, purporting to withdraw the assent of said State to the constitutional amendment known as the fourteenth amendment, be returned by the Speaker of the House to the gentleman who presented it, for the reason that the same is disrespectful to the House and scandalous in character, and that its title only shall be referred to in the Journal of the House and in the Congressional Globe.

Mr. ELDRIDGE. I ask for the yeas and nays on the motion to suspend the rules.

The yeas and nays were ordered.

Mr. ROSS. I demand the reading of the resolution of the Legislature of New Jersey.

The SPEAKER. The gentleman has not the right to demand the reading of the resolution.

Mr. ROSS. Have we not a right to have it read before we determine whether it is scandalous or not?

The SPEAKER. That is a question to

govern the votes of members upon the motion to suspend the rules.

Mr. BROOKS. I rise to a question of order. That is, whether we, who did not happen to be in the House when this paper was read, have not the right to know what it is that is termed scandalous?

The SPEAKER. It is presumed that every member is in his place from the time of meeting until adjournment, unless absent by leave of the House.

Mr. ELDRIDGE. Mr. Speaker, I rise to a question of order. The document referred to has not been read to this House. The gentleman from New York, [Mr. BROOKS], who was absent, is in no worse position than myself, who was here. The document has never been read to the House.

Mr. BROOKS. Is that so?

Mr. ELDRIDGE. Yes, sir; it was only partially read; and now, without knowing the contents of the document, we are called upon to vote on a resolution proposing to return it to the Legislature of New Jersey as "scandalous and disrespectful to the House."

The SPEAKER. The Chair will state to the gentleman from Wisconsin, [Mr. ELDRIDGE], whose remarks present an argument under the form of a point of order, that what he states might be a consideration calculated to influence some gentlemen in their votes, but it cannot be sustained as a point of order with regard to the parliamentary position of the resolution. This resolution claims on its face that a sufficient portion of the document in question has been read to show that it is disrespectful to the House. Whether that is so or not is for the House to determine, not for the Chair.

Mr. HAIGHT. I rise to a point of order. The resolution now before the House has direct reference to the language of the resolution of the Legislature of New Jersey, which I had the honor to present this morning. Now, the language of the latter resolution is not all before the House; it has not all been read; the part which has been read depends very much upon what follows; and—

The SPEAKER. The Chair overrules the point of order. The question is on suspending the rules for the purpose of making the order embraced in the resolution of the gentleman from Illinois, [Mr. WASHBURN].

Mr. ROSS. I move that the House adjourn.

On the motion to adjourn, there were—yeas 20, noes 77.

Mr. ROSS. I call for the yeas and nays.

On ordering the yeas and nays, there were—yeas 20, noes 77.

So (one fifth voting in the affirmative) the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 20, nays 80, not voting 89; as follows:

YEAS—Messrs. Adams, Beck, Brooks, Burr, Eldridge, Golladay, Haight, Holman, Jones, Kerr, Marshall, Mungen, Niblack, Nicholson, Phelps, Pruyn, Ross, Stone, Lawrence S. Trimble, and Van Auker—20.

NAYS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Beatty, Benton, Bingham, Blaine, Boutwell, Broomall, Buckland, Butler, Cako, Churchill, Reader W. Clarke, Covode, Cullom, Dawes, Dixon, Dodge, Driggs, Eckley, Eliot, Ferriss, Ferry, Fields, Garfield, Hill, Hooper, Hopkins, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelsey, Kitchan, Koonitz, Ladin, William Lawrence, Logan, Loughridge, Mallory, Maynard, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrill, Mullins, Myers, O'Neill, Perham, Pike, Pile, Poland, Polesky, Pomeroy, Price, Sawyer, Schenck, Seofield, Shanks, Smith, Aaron F. Stevens, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Welker, Thomas Williams, James F. Wilson, Stephen F. Wilson, and Windom—89.

NOT VOTING—Messrs. Allison, Archer, Arnell, Axtell, Baldwin, Barnes, Barnum, Beaman, Benjamin, Blair, Boyer, Bromwell, Cary, Chanler, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Donnelly, Eggleston, Ela, Farnsworth, Finney, Fox, Getz, Glossbrenner, Gravely, Griswold, Grover, Halsey, Harding, Hawkins, Higby, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Jenckes, Johnson, Kelley, Ketcham, Knott, George V. Lawrence, Lincoln, Loan, Lynch, Marvin, McCormick, McCullough, Miller, Morgan, Morrissey, Newcomb, Nunn, Orth, Paine, Peters, Plants, Randall, Raum, Robertson, Robinson, Selye, Shellabarger, Sitgreaves, Spaulding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Taber, Taffe, Taylor,

Thomas, John Trimble, Trowbridge, Van Aernam, Van Trump, Van Wyck, Ward, Henry D. Washburn, William B. Washburn, William Williams, John T. Wilson, Wood, Woodbridge, and Woodward—80.

So the House refused to adjourn.

The question then recurred on suspending the rules for the purpose of adopting the resolution of Mr. WASHBURN, of Illinois, on which the yeas and nays had been ordered.

The question was taken; and there were—yeas 80, nays 17, not voting 92; as follows:

YEAS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Beatty, Bingham, Blaine, Boutwell, Broomall, Buckland, Cako, Churchill, Reader W. Clarke, Covode, Cullom, Dawes, Dixon, Dodge, Driggs, Eckley, Eliot, Ferriss, Ferry, Fields, Garfield, Halsey, Hawkins, Hill, Hooper, Hopkins, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelsey, Kitchan, Koonitz, Ladin, William Lawrence, Logan, Loughridge, Mallory, Maynard, McCarthy, Mercur, Moore, Moorhead, Morrill, Mullins, Myers, O'Neill, Perham, Pike, Pile, Poland, Polesky, Pomeroy, Price, Sawyer, Schenck, Seofield, Shanks, Smith, Aaron F. Stevens, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—80.

NAYS—Messrs. Beck, Burr, Eldridge, Golladay, Haight, Holman, Jones, Kerr, Marshall, Mungen, Niblack, Nicholson, Phelps, Ross, Stone, Lawrence S. Trimble, and Van Auker—17.

NOT VOTING—Messrs. Adams, Allison, Archer, Arnell, Axtell, Baldwin, Barnes, Barnum, Beaman, Benjamin, Benton, Blair, Boyer, Bromwell, Brooks, Butler, Cary, Chanler, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Donnelly, Eggleston, Ela, Farnsworth, Finney, Fox, Getz, Glossbrenner, Gravely, Griswold, Grover, Harding, Higby, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Jenckes, Johnson, Kelley, Ketcham, Knott, George V. Lawrence, Lincoln, Loan, Lynch, Marvin, McClurg, McCormick, McCullough, Miller, Morgan, Morrissey, Newcomb, Nunn, Orth, Paine, Peters, Plants, Pruyn, Randall, Raum, Robertson, Robinson, Selye, Shellabarger, Sitgreaves, Spaulding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Taber, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Van Aernam, Van Trump, Van Wyck, Ward, Henry D. Washburn, William B. Washburn, William Williams, Wood, Woodbridge, and Woodward—92.

So (two thirds voting in favor thereof) the motion to suspend the rules was agreed to; and the resolution of Mr. WASHBURN, of Illinois, was adopted.

During the roll-call,

Mr. BROOKS said: Not knowing what I am called to vote on, I decline to vote.

The result of the vote was announced as above stated.

#### ARGUMENT OF MR. BUTLER.

Mr. SCHENCK. I offer the following resolution for reference to the Committee on Printing:

*Resolved*, That there be printed for the use of this House five thousand copies of the opening address of Hon. BENJAMIN F. BUTLER, one of the managers on the part of the House of Representatives on the trial of Andrew Johnson, President of the United States, before the Senate, with the accompanying brief of law authorities, and forty thousand copies without the accompanying brief.

Mr. KERR and Mr. BURR objected.

Mr. SCHENCK. I move to suspend the rules for the purpose of referring the resolution.

Mr. KERR. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 20, not voting 87; as follows:

YEAS—Messrs. Ames, Anderson, Bailey, Baker, Banks, Beatty, Benton, Blaine, Boutwell, Broomall, Buckland, Cako, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Covode, Cullom, Dawes, Dixon, Dodge, Driggs, Eckley, Eliot, Ferriss, Ferry, Fields, Garfield, Halsey, Hawkins, Hill, Hooper, Hopkins, Hulburd, Hunter, Ingersoll, Judd, Julian, Kelsey, Kitchan, Koonitz, Ladin, William Lawrence, Lincoln, McClurg, Mercur, Moore, Moorhead, Morrill, Mullins, Myers, O'Neill, Perham, Pike, Pile, Poland, Polesky, Pomeroy, Price, Sawyer, Schenck, Seofield, Shanks, Smith, Aaron F. Stevens, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Windom—82.

NAYS—Messrs. Adams, Archer, Brooks, Burr, Eldridge, Golladay, Haight, Holman, Jones, Kerr, Marshall, Mungen, Niblack, Nicholson, Phelps, Pruyn, Ross, Stone, Lawrence S. Trimble, and Van Auker—20.

NOT VOTING—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Barnes, Barnum, Beaman, Beck, Benjamin, Bingham, Blair, Boyer, Bromwell, Butler, Cary, Chanler, Cobb, Co-

burn, Cornell, Donnelly, Eggleston, Ela, Farnsworth, Finney, Fox, Getz, Glossbrenner, Gravelly, Griswold, Grover, Harding, Higby, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Jenckes, Johnson, Kelley, Ketcham, Knott, George V. Lawrence, Loan, Lynch, Marvin, McCormick, McCullough, Miller, Morgan, Morrissey, Newcomb, Nunn, Orth, Paine, Peters, Plants, Randall, Raum, Robertson, Robinson, Selye, Shellabarger, Sitgreaves, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Taber, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Van Aernam, Van Trump, Van Wyck, Ward, Henry D. Washburn, William B. Washburn, William Williams, Wood, Woodbridge, and Woodward—87.

So (two thirds voting in favor thereof) the motion to suspend the rules was agreed to; and the resolution was referred to the Committee on Printing.

Mr. ELDRIDGE. Is not the resolution debatable?

The SPEAKER. It is not; it goes to the Committee on Printing.

Mr. ELDRIDGE. I understand a resolution to print to be debatable. The motion to suspend the rules, which is not debatable, cannot prevent the House from debating a resolution of this kind.

The SPEAKER. The Chair overrules the point on two grounds, both of which the gentleman will recognize. The first is that the gentleman from Ohio [Mr. SCHENCK] moved to suspend the rules for the purpose of referring the resolution; the second is, even if he had not made that motion, the resolution to print must be referred to the Committee on Printing without debate. It must come back from the committee before it can be considered by the House. Therefore, while the motion to suspend the rules is to allow the resolution to be introduced, the effect of a suspension of the rules is to refer the resolution to the Committee on Printing. When the resolution comes back from the committee it may be debated.

Mr. SCHENCK. Can the vote to refer to the Committee on Printing be reconsidered?

The SPEAKER. It goes to the committee under the law, and therefore cannot be reconsidered; even by unanimous consent the law cannot be waived. It has so been decided by the predecessors in the Speaker's chair as well as by himself.

#### DISTRICT COURT IN INDIANA.

Mr. SHANKS, by unanimous consent, introduced a bill (H. R. No. 984) authorizing the district court to be held at the city of Fort Wayne, in the State of Indiana; which was read a first and second time, and referred to the Committee on the Judiciary.

#### HOOR OF MEETING.

Mr. BANKS. I move to suspend the rules for the purpose of introducing the following resolution:

*Resolved*, That during this week the House will meet each day, except Tuesday, at eleven o'clock a. m.

Mr. WASHBURN, of Illinois. I object to it, and move that the House adjourn.

The motion was agreed to; and thereupon (at five o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BEAMAN: The petition of A. F. Diedrick and others, of Detroit, Michigan, regarding the abolition of the Presidency.

By Mr. ELIOT: A memorial of Charles G. Nazro, president, and others, officers of the Boston Board of Trade, and of F. W. Lincoln, jr., Thomas Lamb, and 88 others, merchants and citizens of Boston, praying for legislation in aid of the shipping and carrying trade of the United States.

By Mr. HUNTER: The petition of Mrs. Augusta Peters, asking compensation for damages done her property by burning of Government stables.

Also, the petition of divers citizens of Ripley

county, Indiana, asking that the name of Frances Horseley, widow of Richard Horseley, deceased, who was killed in the Morgan raid in Indiana on the 12th day of July, 1863, be placed upon the pension-roll of the United States and allowed a pension.

By Mr. MORRELL: The petition of 62 citizens of the District of Columbia and Maryland, praying Congress to grant a charter for the Washington and Maryland Railroad Company.

#### IN SENATE.

TUESDAY, March 31, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. SHERMAN, and by unanimous consent, the reading of the Journal of yesterday's legislative proceedings was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a resolution of the Legislature of the State of Minnesota, relative to the purchase of Alaska and the transfer of certain territory; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also presented a resolution of the Legislature of the State of Minnesota, relating to the Ulm Mill claims; which was referred to the Committee on Claims and ordered to be printed.

He also presented a memorial of the Legislature of the State of Minnesota, praying Congress to increase the mail service on route No. 13629, (running from St. Cloud, Minnesota, to Pembina, Dakota Territory,) from Fort Abercrombie, Dakota Territory, to Pembina, Dakota Territory, and that the same be increased to three times per week; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented a memorial of the Legislature of the State of Minnesota, praying for a mail route from Lime Springs, Howard county, Iowa, by way of Canfield, Cherry Grove, and Aetna, to Spring Valley, in Minnesota; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented a memorial of the Legislature of the State of Minnesota, praying for the establishment of certain mail routes; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. DRAKE presented a memorial of citizens of Missouri, praying for the abolition of the Presidency; which was referred to the Committee on the Judiciary.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. STEWART. I submit that legislative business is a violation of the rule, and out of order.

The PRESIDENT *pro tempore*. I believe that the trial of the impeachment was adjourned until twelve o'clock, which was the hour to which the Senate adjourned, which somewhat embarrasses the proceedings. It is the opinion of the Chair that all legislative business is suspended by the adjournment of the court, and that nothing now is in order. The Chair will be vacated under the order of the Senate, that the Chief Justice may preside over the trial of the impeachment.

The President *pro tempore* thereupon vacated the chair, and the Senate proceeded to the trial of the impeachment of President Johnson. The Senate sitting for the trial of the impeachment having adjourned.

The President *pro tempore* resumed the chair at twenty-two minutes past six o'clock p. m.

#### TAX ON MANUFACTURES.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 900) to exempt certain manufactures from internal tax.

The message also announced that the Speaker of the House of Representatives had signed

the enrolled bill (H. R. No. 900) to exempt certain manufactures from internal tax, and for other purposes; and it was thereupon signed by the President *pro tempore*.

#### HOOR OF MEETING.

Mr. FERRY. I move that on the trial days of the pending trial the legislative session of the Senate shall commence at eleven o'clock in the forenoon.

Mr. DOOLITTLE. That changes the rule, and I ask that it lie over for consideration. I object to it.

The PRESIDENT *pro tempore*. The motion is that when the Senate adjourns, it adjourn to meet during the trial at eleven o'clock.

Mr. CONKLING. I move that the Senate do now adjourn.

Mr. FERRY. I hope not. Let us have an hour in the morning to transact business.

Mr. CONKLING. Let us have one day to consider it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York, that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, March 31, 1868.

The House met at half past ten o'clock a. m. The Journal of yesterday was read and approved.

#### INDEMNITY TO STATES FOR WAR EXPENSES.

Mr. CULLOM, by unanimous consent, introduced a bill (H. R. No. 985) to amend an act entitled "An act to indemnify the States for expenses incurred by them in defense of the United States," approved July 27, 1861; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that that body had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 900) to exempt certain manufactures from internal taxation.

Mr. SCHENCK obtained the floor and yielded for the introduction of various propositions for reference, as follows:

#### RIGHTS OF AMERICAN CITIZENS.

Mr. VAN TRUMP. I ask unanimous consent to present joint resolutions of the Legislature of Ohio in regard to the rights of American citizens for reference to the Committee on Foreign Affairs.

The SPEAKER. They have already been presented by the gentleman from the Cleveland district, [Mr. SPALDING.]

Mr. VAN TRUMP. I did not know that.

#### SOPHIA BEELER.

Mr. CULLOM, by unanimous consent, introduced a bill (H. R. No. 986) granting an additional pension to Sophia Beeler, widow of the late Major Abram Beeler, an additional paymaster in the United States Army; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### WESTERN UNION TELEGRAPH COMPANY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a letter from William Orton, president of the Western Union Telegraph Company, relative to a contract with the Pacific Electric Telegraph Company; which were referred to the Committee on Appropriations, and ordered to be printed.

#### HOSPITAL TENTS LOANED TO ST. LOUIS.

Mr. PILE, by unanimous consent, introduced a joint resolution (H. R. No. 249) relieving the quartermaster's department from responsibility for hospital tents loaned to the city of St. Louis; which was read a first and



second time, and referred to the Committee on Military Affairs.

#### BENJAMIN ATKINS.

Mr. PILE, by unanimous consent, also introduced a bill (H. R. No. 987) for the relief of Benjamin Atkins; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### WILLIAM B. EDWARDS.

Mr. GRAVELY, by unanimous consent, introduced a bill (H. R. No. 987½) for the relief of William B. Edwards; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### JAMES T. WHEELER.

Mr. GRAVELY, by unanimous consent, also introduced a bill (H. R. No. 988) for the relief of James T. Wheeler; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### CHARLES HARVEY.

Mr. GRAVELY, by unanimous consent, also introduced a bill (H. R. No. 989) for the relief of Charles Harvey; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### ABBY BENTON.

Mr. GRAVELY, by unanimous consent, also introduced a bill (H. R. No. 990) for the relief of Abby Benton; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### ZADOCK T. NEWMAN.

Mr. GRAVELY, by unanimous consent, also introduced a bill (H. R. No. 991) for the relief of Zadock T. Newman; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### ALCY MASON.

Mr. GRAVELY, by unanimous consent, also introduced a bill (H. R. No. 992) granting back pension to Alcy Mason; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### PLEASANT M. WEAR.

Mr. GRAVELY, by unanimous consent, also introduced a bill (H. R. No. 993) for the relief of Pleasant M. Wear; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### HUGH BOYLE.

Mr. GRAVELY, by unanimous consent, also introduced a bill (H. R. No. 994) for the relief of Hugh Boyle; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### JOHN BOOKER.

Mr. GRAVELY, by unanimous consent, introduced a bill (H. R. No. 995) for the relief of John Booker; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### LICENSES.

Mr. KERR, by unanimous consent, submitted the following resolution; which was read, considered, and referred to the Committee of Ways and Means:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of so amending the internal revenue law as to permit the transfer or assignment of special license receipts so as to make it lawful for the assignee to continue and carry on the business at the place named in the receipt just as the license might have done, and to report by bill or otherwise.

#### TAXATION OF BANKS.

Mr. KERR, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Banking and Currency be instructed to inquire into the expediency of reducing the excessive and unequal tax imposed by existing laws upon private banks and banks organized and doing business under State laws, to the end that capital so employed and invested shall bear no greater burdens of taxation than those borne by national banks, and to report by bill or otherwise.

#### THOMAS T. SHEWELL.

Mr. MYERS, by unanimous consent, introduced a bill (H. R. No. 996) granting compensation to Thomas T. Shewell, late acting commissioner of internal revenue in the fourth district of Pennsylvania; which was read a first and second time, and referred to the Committee on Appropriations.

#### RICHARD PARSONS.

Mr. MYERS also, by unanimous consent, introduced a bill (H. R. No. 997) for the relief of Richard Parsons, of Lynchburg, Virginia; which was read a first and second time, and referred to the Committee on Appropriations.

#### LAKE ERIE AND OHIO SHIP-CANAL.

Mr. LAWRENCE, of Ohio, by unanimous consent, introduced a bill (H. R. No. 998) to authorize the construction of a ship-canal from Lake Erie to the Ohio river; which was read a first and second time, referred to the Committee on Roads and Canals, and ordered to be printed.

#### EXPENSE OF COLLECTING REVENUE.

Mr. BAILEY, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Whereas taxation for the purposes of internal revenue has been, or is about to be, much reduced, and the assessing and collecting of said revenue thereby greatly simplified; and whereas a force far too large and unnecessarily expensive is now employed for the purposes of tax-gathering: Therefore,

*Resolved*, That the Committee of Ways and Means inquire into the propriety and expediency of a large reduction of said force, and also that said committee further inquire into the propriety and expediency of so adjusting our whole system of internal revenue as will, among other essential things, require the smallest possible number of officials for that duty; and that said committee report by bill or otherwise.

#### COURTS IN IDAHO.

Mr. CHURCHILL. I ask unanimous consent to report from the Committee on the Judiciary a bill in regard to the jurisdiction of courts in the Territory of Idaho for the consideration of the House at this time.

Mr. SCHENCK. If it is going to occupy any time I cannot yield.

Mr. WASHBURN, of Illinois. I ask the gentleman from Ohio if he expects to get through the report of the committee of conference this morning?

Mr. SCHENCK. Yes, if I can. I expect that every gentleman to whom I yield will vote for the report. [Laughter.]

Mr. CULLOM. I must object to the reporting of the bill.

Mr. SCHENCK. I will yield to my colleague from the Cleveland district, [Mr. SPALDING.]

#### DUTY ON NATIVE PETROLEUM.

Mr. SPALDING, by unanimous consent, introduced a joint resolution (H. R. No. 250) imposing a duty on native petroleum intended for export; which was read a first and second time, and referred to the Committee of Ways and Means.

Mr. SCHENCK. I will yield now, and for the last time, to the gentleman from New York, [Mr. LAFLIN.]

#### ARGUMENT OF MR. BUTLER.

Mr. LAFLIN. I am instructed by the Committee on Printing to report the following resolution; upon which I demand the previous question:

*Resolved*, That there be printed for the use of this House five thousand copies of the opening address of Hon. BENJAMIN F. BUTLER, one of the managers on the part of the House of Representatives on the trial of Andrew Johnson, President of the United States, before the Senate, with the accompanying brief of law authorities, and forty thousand copies without the accompanying brief.

Mr. ROSS. I object to that resolution.

The SPEAKER. The Chair will state that if the gentleman from Ohio yields the floor, the Committee on Printing has a right to report at any time.

Mr. BROOKS. I call for the regular order.

The SPEAKER. That is the regular order, there being no other business before the House.

The Committee on Printing can report at any time.

Mr. ELDRIDGE. If the gentleman is going to press this resolution, the gentleman from Ohio will not be able to get his bill through to-day.

Mr. SCHENCK. I beg the gentleman from New York to withdraw his resolution for the present.

Mr. LAFLIN. I withdraw it.

Mr. WASHBURN, of Illinois. I rise to a privileged question. I move to reconsider the various votes by which the bills and resolutions which have been introduced were referred; and to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### TAX ON MANUFACTURES.

Mr. SCHENCK. I rise to a privileged question. I submit a report from the committee of conference on House bill No. 900.

The Clerk read the report of the committee of conference, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 900) to exempt certain manufactures from internal tax having met, after full and free conference have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from their disagreement to the second amendment of the Senate and agree to the same.

That the House recede from their amendment to the third amendment of the Senate and agree to the said Senate amendment, with an amendment, as follows: Insert in lieu of said Senate amendment, after the enacting clause, the words: That after the 1st day of June next no drawback of internal taxes paid on manufactures shall be allowed on the exportation of any article of domestic manufacture on which there is no internal tax at the time of exportation; nor shall such drawback be allowed in any case unless it shall be proved by sworn evidence, in writing, to the satisfaction of the Commissioner of Internal Revenue that the tax had been paid, and that such articles of manufacture were, prior to the 1st day of April, 1868, actually purchased or actually manufactured and contracted for, to be delivered for such exportation; and no claim for such drawback, or for any drawback of internal tax on exportations made prior to the passage of this act, shall be paid unless presented to the Commissioner of Internal Revenue before the 1st day of October, 1868; and the Senate agree to the same.

They recommend that the House recede from their amendments to the fourth amendment of the Senate, and agree to the same with an amendment, as follows: Insert in lieu of said Senate amendment:

SEC. 4. And be it further enacted, That every person, firm, or corporation, who shall manufacture by hand or machinery any goods, wares, or merchandise (breadstuffs and unmanufactured lumber excepted) not otherwise specifically taxed as such, or who shall be engaged in the manufacture or preparation for sale of any articles or compounds not otherwise specifically taxed, or shall put up for sale in packages, with his own name or trade-mark thereon, any articles or compound not otherwise specifically taxed, and whose annual sales exceed \$5,000, shall pay for every additional \$1,000 in excess of \$5,000 two dollars, and the amount of sales in excess of the rate of \$5,000 per annum shall be returned quarterly yearly to the assistant assessor, and the tax on the excess of \$5,000 shall be assessed by the assessor and paid quarterly yearly in the months of January, April, July, and October of each year, as other taxes are assessed and paid. And the first assessment herein provided for shall be made in the month of July, 1868, for the three months then next preceding.

SEC. 5. And be it further enacted, That every person engaged in carrying on the business of a distiller who shall fraud or attempt to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall forfeit the distillery and distilling apparatus used by him and all distilled spirits and all raw materials for the production of distilled spirits found in the distillery and on the distillery premises, and shall, on conviction, be fined not less than \$500 nor more than \$5,000, and be imprisoned not less than six months nor more than three years.

SEC. 6. And be it further enacted, That if any officer or agent appointed and acting under the authority of any revenue law of the United States shall be guilty of gross neglect in the discharge of any of the duties of his office, or shall conspire or collude with any other person to defraud the United States, or shall make opportunity for any person to defraud the United States, or shall do or omit to do any act with intent to enable any person to defraud the United States, or shall make or sign any false certificate or return in any case where he is by law or regulation required to make a certificate or return, or having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States, shall fail to report in writing such knowledge or information to his next superior officer or to the Commissioner of Internal Revenue, he shall, on conviction, be fined not less than \$1,000 nor more than \$5,000, and shall be imprisoned not less than six months nor more than three years.

SEC. 7. And be it further enacted, That no compromise, discontinuance, or nolle prosequi of any pros-

ection under this act shall be allowed without the permission in writing of the Secretary of the Treasury and the Attorney General.

And the Senate agree to the same.

ROBERT C. SCHENCK,  
JAMES BROOKS,  
T. W. FERRY,  
*Managers on the part of the House.*  
JOHN SHEERMAN,  
J. M. HOWARD,  
O. P. MORTON,  
*Managers on the part of the Senate.*

Mr. SCHENCK. Mr. Speaker, this second conference has so far narrowed the matters in question between the two Houses that I think I can submit this report to the House for its action with a very brief explanation. The first two points which were the subjects of conference were those which related to the advantage resulting to certain contractors for machinery for the Government from the remission of the tax, and regulations in regard to drawbacks. The second conference agreed to these provisions precisely as they had been agreed to before, leaving them to stand according to the former action of the House, and as was understood then, and as has since been proved, according to the wish of the Senate, the Senate now having agreed to the whole of this report.

The first question in relation to which there was any special difference to be anticipated, is that which relates to taxation. The committee of conference have agreed upon a modification of the section on that subject which the House adopted, but which the Senate did not agree to, after the former report of the committee of conference; that modification is as to this point: they left the provision of two mills tax upon all sales over \$5,000 of goods manufactured and sold by any manufacturer, with the exception that the tax shall not extend to breadstuffs and unmanufactured lumber.

The other point is this: the committee of conference agreed to change the time for the assessment and collection of the tax, so that, instead of being provided for monthly, the assessment and collection shall be only quarterly, four times in a year instead of twelve times. I apprehend that the House will be satisfied to adopt what it adopted before with those two points of difference, making it still more satisfactory.

As to the first section, which related to distillers and distilled spirits, the last committee of conference have agreed to strike out every part of it except the provision making it a penal offense for the distiller to carry on his business and to defraud or attempt to defraud the United States in doing so. All that relates to stopping the distillery, all that was contained in the first section adopted by the House providing for making a rule of evidence in condemning a distillery, is omitted. And there remains in this case nothing now except simply a penalty provided against any distiller who defrauds or attempts to defraud the United States in carrying on his distillery.

The next section, in relation to the punishment provided for revenue officers, for all their various misdeeds, by consigning them to the penitentiary in case of conviction, is left just as the House agreed to it before.

Then there is only one other thing agreed to by the committee of conference; that is, an additional section which takes away the right to compromise or to discontinue or enter a *nolle prosequi* in any suit or prosecution against a distiller, &c., under the provisions of this act, unless there is permission given in writing, signed by the Secretary of the Treasury and the Attorney General of the United States. The object of that is to cut off all compromises of proceedings by the settlement of which some of these officers have become enriched while offenders have escaped. With this explanation, if there be no inquiry to be made by any member, I will move the previous question upon the adoption of the report.

Mr. BROOKS. Will the gentleman yield to me for a moment?

Mr. SCHENCK. Certainly; as the gentleman was one of the conferees on the part of the House.

Mr. BROOKS. I desire to say that I have signed this report because it is the only way to get a good thing, such as the House originally proposed. The bill was so far completed, before going to the committee of conference, at least in reference to Government contracts as distinguished from private contracts, that I am satisfied to acquiesce in it as a part of the bill, although I do not fully agree to it.

I have considerable doubt in my own mind as to how far the fourth section goes in reference to the tax on sales. But as that is a subject which will be subsequently investigated by the House when we commence to consider the general report of the Committee of Ways and Means, we can then correct whatever may need correction.

I wish the House had not been called upon thus early to act on the subject of fines and penalties as to distilleries and distillation, the duties on whisky, &c., but that we had waited for the report of the Committee of Ways and Means. I do not believe it is ever possible to collect two dollars a gallon tax on whisky, and I do not believe these fines and penalties will benefit the matter in any degree. On the contrary, sir, I am inclined to think it will rather propagate fraud and perjury and other crimes. I have signed the bill notwithstanding.

Mr. SCHENCK. We shall have these subjects open for discussion hereafter in the House; but, as my colleague on the committee has remarked, this is the best we could do. We believe it will be more satisfactory to the House than that which they before agreed to. I submit the report to the House with the explanation I have made.

Mr. GARFIELD. I desire to ask my colleague whether the House is to understand the action now proposed to be taken on the subject of tax upon whisky will bind the House as a finality? I ask whether it binds the House, or, on the contrary, leaves the whole subject open for discussion and action hereafter upon the general tax bill?

Mr. SCHENCK. I answer my colleague that we throw the whole subject open for general legislation. The introduction of anything on the subject here was at the earnest solicitation of the Secretary of the Treasury and the Commissioner of Internal Revenue. We have not yet secured what is wanted, but have provided so much for some bad cases now existing, especially in the city of Philadelphia.

Mr. GARFIELD. The Committee of Ways and Means, then, intend to report a complete and harmonious bill hereafter on the subject of whisky?

Mr. SCHENCK. The bill will be harmonious, but I cannot say how far the House will be when it comes to hear it. [Laughter.] We have in the general tax bill, which we have in part prepared, entire sections relating to this subject. We intend to propose entirely new legislation in regard to distilled spirits, and to move it as part of the general tax bill to the House.

Mr. INGERSOLL. I should like to ask the chairman of the Committee of Ways and Means whether this last section in reference to compromise and discontinuance of any prosecution under this act will apply to claims for drawback in the Department?

Mr. SCHENCK. I cannot possibly see how it can. There is no such thing as a prosecution in reference to drawbacks. It refers to preceding sections, where prosecutions are provided for against distillers and officers for bad conduct.

Mr. INGERSOLL. It relates to prosecutions.

Mr. SCHENCK. Criminal prosecutions.

Mr. INGERSOLL. Then I have no objection to it.

Mr. SCHENCK. When a prosecution is once commenced it is required to be gone through with.

Mr. INGERSOLL. I am satisfied with it.

Mr. PAINE. I see, Mr. Speaker, that the conference committee propose to tax "the

manufacturers of all merchandise, breadstuffs and unmanufactured lumber excepted." I cannot understand how unmanufactured lumber can be manufactured merchandise, and I ask for some explanation.

Mr. SCHENCK. Mr. Speaker, the reason for it is, if I may be permitted to disclose without naming names, this: we could not get an agreement on it without some such exceptions, the lumber interest and the breadstuff interest being represented in the committee and very generally in the House and Senate. The lumber interest seemed to be satisfied that this was all they could get.

Mr. MULLINS rose.

Mr. SCHENCK. Let me finish the answer I am now making. It is understood to be unmanufactured lumber when it is turned out of the saw mill in the shape of boards, joists, laths, &c. It becomes manufactured when dressed for making sashes, doors, windows, &c. That distinction is drawn in the bill between what is manufactured and unmanufactured lumber.

Mr. MULLINS. The latter explanation in regard to lumber has satisfied me. I was unapprised in regard to what the gentleman thought about the lumber region.

Mr. SCHENCK. I do not know that I can make any explanation clearer than I have made it to the gentleman from Wisconsin, [Mr. PAINE,] who again calls my attention to the subject of manufactured and unmanufactured lumber. As I understand the matter from those more familiar with it than I am, the making up or changing the shape of lumber which is already made lumber out of logs is the manufacture of lumber. In the rough it is unmanufactured lumber.

Mr. MULLINS. Of course that is obliged to be the meaning. The manufacture of lumber is supposed to mean the changing of lumber already on hand into a different thing.

Mr. SCHENCK. I believe it is as comprehensible now as it can be. I now yield to my colleague on the committee, [Mr. FERRY.]

Mr. FERRY. Mr. Speaker, as my name appears appended to the report I desire to say to the House that, as a member of the conference committee, I was anxious to secure the exemption of all manufactures that had heretofore appeared on the free list. But, as was said by the chairman of the conference committee, it was impossible to accomplish this desirable result. We therefore took up with what we could get; in other words, with half a loaf rather than lose the whole.

I desire here to state that, in view of the phraseology expressed within the brackets—"unmanufactured lumber excepted"—the question arose in the discussion upon this topic whether this phraseology would include all forms of lumber converted into other articles, and I think I do not mistake the views of the committee (such, at least, were mine) in saying that the expression excludes all kinds of lumber that have taken such other forms as to be named and designated by other specific terms than lumber. For instance, furniture is manufactured lumber. So is a desk or a bureau, sofas, chairs, book-cases, or any other article of the kind, as well as doors and sashes. They lose the designation of lumber when so formed and so combined as to be specifically known by some other name. I wish it to be understood at this time that this is the turning-point of construction. The exception applies to all forms of lumber, whether in the rough or not, that do not take other forms expressed through a peculiar mode of construction, by which the form and idea of lumber are merged into another specific, readily and naturally known and named as such by all. Lumber continues to be known as such so long as it retains its distinctive features. When its characteristics so far change by being transformed into another form by shape and combination, so as to serve substantially a different purpose as a specific and recognized article of merchandise, that moment it ceases to be unmanufactured lumber and becomes manufactured lumber, or rather merges

into the name of the kind of article formed and designed, as I understand the meaning of the terms employed.

Mr. MOORHEAD. I desire to ask the gentleman whether boards that have been manufactured in a planing-mill and plowed with a groove for flooring are manufactured lumber.

Mr. FERRY. I understand that flooring or ceiling is planed and grooved lumber. It is lumber used as such, and cannot be known or construed into any other article but lumber. The terms flooring and ceiling are merely descriptive of different articles of lumber and not names of other articles of merchandise.

Mr. BLAINE. How about doors and sashes?

Mr. FERRY. These are manufactured lumber, in my judgment, and are not considered as included in the exception at all, for the simple reason illustrated by my remarks, that the idea of lumber, by the new form and construction, has been lost in the specifics "door and sash."

Mr. PIKE. Under the decision of the Treasury Department in relation to this matter, the phraseology used in the reciprocity treaty being "lumber, unmanufactured in whole or in part," which came in free, shingles that were shaved did not come in free, but were taxed, while laths that were sawed came in free and boards came in free. But shaved lumber, planed lumber, and finished articles, such as doors, sashes, blinds, and articles of that kind, did not come in free. If the committee had used that phraseology it would have been familiar at the Treasury Department. I suppose this phraseology used by the committee would be taken to be like that used in the reciprocity treaty, and in consequence of the decision under that treaty.

Mr. HALSEY. The ruling of the Department under the present law is that sawing and planing of lumber, tonguing and grooving of boards, and grinding of breadstuffs are not considered manufactures.

Mr. FERRY. The gentleman has answered for me, and I wish here to state, in further explanation of this construction, that whenever any flooring and ceiling or any planed lumber of any kind is shipped to market it is always described as "lumber" and not especially as "flooring" or "planed lumber." It all goes by the title of lumber, whether in the rough or manufactured. Manifests of cargoes frequently designate different qualities, as common, first, second, and third uppers, irrespective of whether the cargoes are composed of boards, scantling, flooring, siding, or clearstuff, and, whether planed or unplanned, the whole goes to market under the general term of lumber. When, however, doors or laths or shingles are shipped, they are designated in the bill of lading or manifest as such, whether sawed or shaved shingles. They are not and cannot be by any perversion of construction called manufactured lumber. They ceased to be lumber when they by different form became lath and shingles.

If I understand this exception—and I was present during the discussion in the committee—it applies only to that kind of manufacture of lumber which converts it into different materials by which it is thereafter designated and known as a specific article of commerce.

Mr. Speaker, to be more explicit, and in hopes to clear up the confusion of ideas with which gentlemen seem inclined to encircle this question of phraseology, I may say that in the committee of conference I had the honor to move the amendment excepting breadstuffs, lumber, shingles, and lath, and believing that I reveal nothing that took place in committee more than is proper for the elucidation of this matter, I may also say that "shingles and lath" were strenuously objected to, the committee consenting to the exemption of lumber, but unwilling to include sawed or shaved shingles or lath. They reluctantly assented to lumber, but would not open the door to further exemptions. The question then arose whether the term lumber would cover all articles of different names made of that article and

of various combinations of that material. To guard against this the qualifying term unmanufactured was offered by a member of the committee and adopted. Its purpose was to cut off all articles that by the processes of manufacture had been transformed into such definitive characteristics as to be generally known, accepted, and named by some other more specific term than the general dismissed one of lumber. The distinction, I think, is very clearly settled when you attempt to consider the names of articles synonymous or interchangeable. Shingles are not lumber nor lath; lath is not shingles or lumber any more than lumber is either shingles or lath. They all may have been logs, and have sprung from trees. Because of their common origin they are not to be necessarily of like nomenclature, after undergoing various processes of manufacture, by which their form, characteristics, and use are materially changed. Nor am I to be diverted or answered by the statement in my hearing that unmanufactured lumber or shingles or lath are logs. Manufactured logs may be either lumber, lath, or shingles; but the reverse cannot be true. Unmanufactured shingles or lath or lumber are not nor cannot be logs. They cannot possibly be both. As well might it be said that unmanufactured lumber, shingles, and lath are standing trees, while it can correctly be said that manufactured trees may be lath, shingles, or lumber.

Let me further state in answer to the gentleman who, attempting to draw the line of discrimination, said that unmanufactured lumber is such material as falls from the first process of manufacture, and that manufactured lumber is of that which follows second and more processes of manufacture; that one process of manufacture does not necessarily make either lumber, laths, or shingles. I would remind gentlemen that in the manufacture of either of those articles more processes than one are required to perfect each. All may spring from logs, as they generally do. For instance, logs taken from a common boom at the foot of your mill-slide are taken one way, sawn and split by two processes into bolts, then sawn into imperfect shingles, and again by the fourth process edged into the perfect shingle, thus ceasing to be a log by becoming manufactured into a shingle. Logs taken from the same boom are drawn another way into the saw-mill and first slabbed in whole or in part. These slabs, by a second sawing, are cut into the requisite length, and by a third and fourth sawing, or process, made into manufactured laths, thus losing the title of log to take the name of lath. The slabbed log, by a second sawing, is converted into imperfect lumber, by a third edged into perfected lumber, and may again be planed, tongued, and grooved for finishing purposes or for flooring or ceiling, and all the while be nothing else than lumber. It will be seen, therefore, that processes of manufacture, or degrees of form, finish, or quality, cannot be the distinctive line of severance between the characteristics of lumber to determine the construction of the term "unmanufactured lumber," as submitted by the conference committee, and now under consideration. Without, therefore, going beyond legislative proprieties, or in any way assuming to state what were the views of, or to commit the members of the conference committee to any particular basis of construction, I can properly state my conviction of the true intent or import of the words "unmanufactured lumber" by declaring it to mean, in my judgment, all sorts, kinds, forms, finish, and qualities of lumber as have not by further manufacture and other combinations and forms passed into such construction as to lose the palpable conditions of lumber by transformation into the shape of some specifically known article of use and merchandise by which it is generally and invariably named.

Mr. Speaker, much as I regret the failure to include in this exemption from taxation all manufactured articles heretofore ranged under the free list, I am content with the inclusion of breadstuffs and lumber. These, of the many

articles taxed, are, perhaps, the proper ones to be free of taxation if only two can be saved. It harmonizes with the theory of that legislation which generously grants a free homestead to the poor settler who, for want of means, would otherwise roam homeless and a wanderer throughout the land. Freeing lumber from taxation lessens its cost and cheapens the shelter of the homestead. Releasing breadstuffs from taxation reduces the cost of the primal food of the primal poverty-stricken settler. With a free home, a free shelter, and free food, the staple and necessary conditions of livelihood are protected and the poorer classes of the community befriended by a considerate Government. With such protection and such a start in life failure to rise above the misfortunes which hover around the more dependent classes of citizenship must be chargeable to personal inefficiency rather than to legislative magnanimity. I trust the report of the conference committee will receive the concurrence of the House.

Mr. SCHENCK. I will yield now for a moment to the gentleman from Pennsylvania, [Mr. MYERS.]

Mr. MYERS. I believe the House has been fully enlightened on this question of lumber, and I only rise to say that I hope we shall come to a vote at once, and that the report will be adopted. What we desire to do is to relieve the industrial interests of the country from a burden no longer necessary to be imposed on them, and it was not intended at this time to perfect a general tax bill.

Some gentlemen object that certain articles are exempted and others not. They will be taken care of, I presume, in the general revenue bill whenever justice requires it.

Other gentlemen wish that the provisions in regard to whisky had been made more stringent. I hope that before long we shall have a new system to facilitate the collection of the whisky tax, that of levying this tax upon the fermenting capacity of the distilleries, by which I have no doubt fraud can be largely prevented, and \$100,000,000 revenue raised from this source. We have before us a good bill, the best that could be obtained, and, notwithstanding what was suggested yesterday by the gentleman from Wisconsin, [Mr. ELDRIDGE,] one which will relieve the laboring men as well as the manufacturers of the country. I hope we shall come to a vote, and finally pass the bill.

Mr. SCHENCK resumed the floor.

Mr. WELKER. I desire to ask my colleague whether the fourth section of this bill will have the effect of placing upon the tax list, at two mills on the dollar, all the agricultural implements which are to be manufactured and which were exempted from taxation by the bill last year?

Mr. SCHENCK. Of course manufacturers of agricultural implements, like other manufacturers, will pay the two mills tax on their annual sales above \$5,000.

There are no exceptions made but the two named, breadstuffs and unmanufactured lumber. And, by the way, I will here remark that there is a pretty strong disposition always in the House—and it is very natural, too—to pay court to farmers and others who have votes, by taking the tax off agricultural implements and everything of that kind supposed to be used by the laboring classes. Well, we tried that experiment last year. We took the tax off all plows and harrows and reaping machines and mowing machines; and what has been the consequence? No farmer has got his agricultural implements one cent cheaper, but the manufacturers have made some gains by the increase of their profits from this source. And so it would probably be again, should we attempt any competition in a race of that sort.

We have endeavored to equalize taxes by spreading them over the whole community, making the tax exceedingly low, only two mills, and that only upon the amount of annual sales in excess of \$5,000, and making no exceptions but those to which we agreed in the



committee of conference for the sake of compromise.

Now, one word in regard to this subject of manufactured lumber. It is not proper that I should permit what was said by my colleague on the committee of conference [Mr. FERRY] to go to the country without expressing my dissent from some of his conclusions. I think there is a misunderstanding between him and other gentlemen on the committee in this. He supposes that the committee, after full discussion and consideration, settled upon some definition of the phrase "unmanufactured lumber." I do not so understand. If I were to give my individual opinion I would say that boards, when they are planed for flooring or ceiling, have gone through another process after they have left the saw-mill and have become manufactured lumber. In that I would, perhaps, disagree with the gentleman from Michigan, [Mr. FERRY.]

If I were Commissioner of Internal Revenue I would hold the meaning of the phrase "unmanufactured lumber" to be simply this: as we understand manufactured corn to be corn converted into whisky or something else, so manufactured lumber is lumber in the rough converted into something else. In other words, I hold it to be unmanufactured lumber when it leaves the saw-mill, and that it becomes manufactured lumber when it goes through any other process. But these opinions of mine are not binding upon anybody.

Mr. PIKE. How about laths?

Mr. SCHENCK. Those I suppose have not gone through any second process. Any lumber that has not gone through a second process of manufacture I hold to be unmanufactured lumber; and I would so decide if I were Commissioner of Internal Revenue.

I want this to be distinctly understood: there has been no construction put upon this provision of the bill by any assent of mine which is to be hereafter binding upon any Commissioner of Internal Revenue or the Treasury Department. We adopted the language of the gentleman who desired unmanufactured lumber to be exempted. That phrase is one which I think is entirely comprehensible, and I am willing to leave it for consideration hereafter.

Mr. BLAINE. I wish it distinctly understood that in the judgment of the chairman of the Committee of Ways and Means unmanufactured lumber is lumber in the condition in which it leaves the saw-mill or in the first remove from logs.

Mr. SCHENCK. Considering my relation to the subject, I have no objection to repeating briefly what I, as one of the conferees, understood unmanufactured lumber to be. I suppose that when lumber leaves the saw-mill, when shingles leave the cleaver by which they are made, when only one process has been gone through with to convert it from a log into lumber, it is then unmanufactured lumber; but whenever it reaches or goes through a second process of any character, for instance, passing through a planing-mill or a dressing-machine or a sawing-machine, and is converted into smaller kinds of lumber, fancy lumber, then it becomes manufactured lumber.

Several members rose to ask questions.

Mr. SCHENCK. If the Chair will decide which one of the gentlemen who are addressing me is entitled to the floor I will yield, but not otherwise. I have the floor, and when I yield to gentlemen I will say so. I now yield to the gentleman from Wisconsin.

Mr. PAINE. I wish to ask the gentleman a practical question, one in which many people in my State are interested. The process of making shingles is not exactly a single process, as the gentleman from Ohio has stated. It involves two distinct operations: first, the logs are cut by a cross-cut saw, and then the blocks are carried to the shingle saws and the shingles are there completed. I ask the gentleman from Ohio whether, under this conference report, shingles are exempted from this tax?

Mr. SCHENCK. I am not as learned in

shingles as these gentlemen from Wisconsin and Michigan, and other places in the Northwest. I do not know that I have anything to add to what I have already said to the House. According to my poor comprehension when all that has been done which is needed to make a shingle a shingle, in the rough if you may call it, it is unmanufactured lumber, but go a step further and put a fancy touch on it, and then it becomes manufactured lumber.

Mr. GARFIELD and Mr. BLAINE rose.

Mr. SCHENCK. I am attacked by my colleague in the rear and by the dictionary on the left, but I give precedence to my colleague. [Laughter.]

Mr. GARFIELD. What my colleague is now saying will be drawn into an interpretation of this law when it becomes the law. I wish to know, therefore, when, according to his idea, shingles become manufactured lumber? He says when shingles pass out from under the knife they are in the condition of unmanufactured lumber. Suppose that shingle goes on through, I should like to know at what point it ceases to be unmanufactured and becomes manufactured lumber?

Mr. SCHENCK. It is hard to go through a cross-examination on the subject of lumber, not having been educated in that line; but according to the best of my ability I will answer my colleague. Ordinarily I do not know that the shingles we use out in the West require any additional process in order to make them suitable for putting upon our houses. In New Jersey and Long Island they get them up in fanciful styles with scalloped butts and use them as weather-boards for their houses. In that way they may convert them into manufactured lumber. I suppose if they are planed, jointed, or butted, and subjected to other processes they might be considered as manufactured lumber, but I will not enter into that question. I am not called upon to do it. I now yield to "Mr. Webster."

Mr. BLAINE. The definition of my friend, the chairman of the Committee of Ways and Means, is sustained by "Webster." He says lumber is "timber sawed or split for use, as beams, joists, boards, planks, staves, hoops, and the like."

Mr. SCHENCK. I am happy to find myself backed up by "Webster."

Mr. PIKE. We should consider this to be what it means under the language of the treaty, "lumber manufactured in whole or in part."

Mr. SCHENCK. The House does not make treaties, and I prefer to have it construed as a statute and not as a treaty; and if the construction happens to be the same in both cases I shall be satisfied.

Now, before submitting this question, I wish to make a remark on another subject, which I hope will not lead to any excitement among gentlemen. I go back to that part of the bill which relates to whisky and distilled spirits for just one purpose. The Committee of Ways and Means are exceedingly anxious to get a rigorous, stringent whisky law, which shall punish those who are guilty of infraction of it, whether they be tax-payers who are seducing officers to commit fraud, or officers who are seducing tax-payers or conniving with them that frauds may be committed on the revenue. In the course of their labors they may often make mistakes. They have in this bill attempted to accommodate themselves to the wishes of the Department in having made provision for an emergent difficulty.

The other day there was a debate on this subject. We are accustomed to have our motives impugned. All the distillers howl at us for the attempt that we are making, as they suppose, to oppress them. Many distillers who are not distillers, but who get excited on the subject howl at us upon the supposition that we are in some way playing into the hands of the whisky ring. Now, until our labor appears and is closed up, I am willing to set one of these things off against the other. They do not concern me. I do not think the equanimity of any member of the committee is disturbed by these

outside commentaries. But, when a commentary is made by one who may be considered in some sense as officially connected with this House, I think it proper to direct attention to it, with the expression of a hope that it may not occur again.

We have admitted here on the floor a gentleman to report for the Associated Press. His reports are also those which go into the Daily Chronicle of this city. In the debate which took place the other day I find that, not content with confining himself to reporting what was said in the House, he reports his own conclusions also, or gives intimation of his own opinions upon the subject as the debate goes on. Speaking of what took place on that occasion, I find the reporter of the Associated Press, and for the Daily Chronicle, holds this language:

"Various other questions were put by Mr. VAN WYCK, Mr. STEVENS, of Pennsylvania, Mr. BOWWELL, Mr. BENTON, and others, and were replied to by Mr. SCHENCK, but no explanation was asked or given as to what public advantage it is to be to compel fraudulent distillers and whisky dealers to exact larger profits than they do at present."

That is the reporter's remark, he being of opinion that the effect if not the object of the bill was to play into the hands of the distillers and fraudulent persons to increase their profits. Nothing was said in the discussion on that point. I allude to it now simply for the purpose of calling the attention of the House to the fact that the reporter of the Associated Press nor any other reporter should undertake to interpolate his opinion either on one side or the other into the account which he undertakes to give of the debates and proceedings of this House, and to say—for I am very candid in this matter—with the kindest feelings toward that reporter, as well as others connected with our proceedings here, that if anything of the kind occurs again I shall feel it my duty to bring it before the House for action.

Mr. BAKER. I desire to ask a question.

Mr. SCHENCK. I was about calling the previous question, but I will yield.

Mr. BAKER. I observe that one of the provisions of the bill upon which the penalties of fine and imprisonment attach is in these words:

"Or shall make or sign any false certificate or return in any case where he is by law or regulation required to make a certificate or return."

I suppose the meaning is shall knowingly or intentionally do this thing. It is usual in penal laws to provide that if the thing is done knowingly or intentionally the penalty shall apply.

Mr. SCHENCK. That would be my construction, and the word "false" is used with a view of conveying, as I understand, that meaning. I will now call the previous question, because there is barely time to go through with the vote on this report by ayes and noes, if they should be demanded.

Mr. HUNTER. Will the gentleman yield for a question?

Mr. SCHENCK. Only for a question, and it must be brief.

Mr. HUNTER. I see that the fifth section of this bill provides for the forfeiture of certain articles used for distilling when the distilling is carried on in violation of law. I would ask the gentleman why the committee did not go further and provide for the forfeiture of the real estate on which the distillery is carried on?

Mr. SCHENCK. For the simple reason that we are now, at the request of the Department, passing a temporary law on the subject. We shall report a law on that subject which I think will be quite as stringent as the gentleman wishes, but we are now only dealing out milk for babes. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## TRADE WITH THE BRITISH PROVINCES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in reply to a resolution of the House of Representatives of the 7th instant, information as to the trade between the United States and the British North American Provinces since the abrogation of the reciprocity treaty; which was referred to the Committee of Ways and Means, and ordered to be printed.

Mr. INGERSOLL, by unanimous consent, submitted the following resolution; which was referred under the law to the Committee on Printing:

*Resolved*, That ten thousand copies of the report of the Secretary of the Treasury, in reply to the resolution of the House asking for information in reference to the trade between the United States and the British North American Provinces since the abrogation of the reciprocity treaty, be printed for the use of the House.

## COMMISSIONS ON SALES OF BONDS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, in reply to the resolution of the House, relative to commissions paid on sales of bonds, to whom paid, &c.; which was referred to the Committee of Ways and Means, and ordered to be printed.

## LEAVE OF ABSENCE.

Leave of absence was granted to Mr. PRICE for three weeks.

Indefinite leave of absence was granted to Mr. BENJAMIN on account of the serious illness of his wife.

## PRINTING OF DOCUMENTS.

On motion of Mr. LAFLIN, an order was made for the printing of the written statements, letters, and documents, proved and read to the commission whose report is found in House Document No. 22, second session Fortieth Congress, together with any other communications on the same subject, either in the hands of the commission or of the officers of the War Department.

## PROTECTION OF EMIGRANTS AND PASSENGERS.

Mr. WASHBURNE, of Illinois. It is not often that I ask to introduce a bill or to have one printed, but I have here a bill for the better protection of emigrants and passengers. It is a bill of great importance, and it is desirable to have it early considered by the Committee on Commerce. I therefore ask leave to introduce it and have it referred to the Committee on Commerce, and printed.

Mr. NIBLACK. I desire to ask the gentleman if they are going to report anything from the Committee on Commerce this session?

Mr. WASHBURNE, of Illinois. That will depend on whether the committee is called for reports or not.

The SPEAKER. It will soon be called, when reports of committees are in order.

No objection being made,

Mr. WASHBURNE, of Illinois, introduced a bill (H. R. No. 999) for the better protection of emigrants and passengers; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

Mr. INGERSOLL. I ask unanimous consent that the committee be allowed to report that bill back at any time after the morning hour.

Mr. WASHBURNE, of Illinois. I do not ask that.

Mr. PIKE. I object.

Mr. INGERSOLL. The House ought to allow a bill of that importance to be reported back at any time.

Mr. O'NEILL. I hope no bill will be reported back from that committee before the committee is called regularly for reports. I have several bills which I desire to bring before the House at an early day.

Mr. INGERSOLL. Well, the gentleman can object.

The SPEAKER. The gentleman from Maine [Mr. PIKE] objects, and the request is not granted.

## ARGUMENT OF MR. BUTLER.

Mr. LAFLIN. I am instructed by the Committee on Printing to report the following resolution; upon which I demand the previous question:

*Resolved*, That there be printed for the use of this House five thousand copies of the opening address of Hon. BENJAMIN F. BUTLER, one of the managers on the part of the House of Representatives on the trial of Andrew Johnson, President of the United States, before the Senate, with the accompanying brief of law authorities, and forty thousand copies without the accompanying brief.

Mr. ROSS. I would like to ask the gentleman what it will cost to print this Republican campaign document?

Mr. LAFLIN. It will cost somewhere from fifteen hundred to two thousand dollars.

Mr. BROOKS. What I want to ask the gentleman is, if he intends hereafter impartially, in like manner, in like way, in like numbers, to have printed all the speeches on both sides; those of all the managers on the part of the House and of all the counsel for the President?

Mr. WASHBURNE, of Illinois. I desire to inquire of the Chair what is the precise condition of this resolution?

The SPEAKER. The resolution is before the House.

Mr. BROOKS. I want an answer to my question.

Mr. LAFLIN. I can simply state in reference to that, that I have no power to bind the House of Representatives. I do not speak in the name of the House of Representatives. In offering this resolution I do not offer any report in reference to the address or speech of any particular member of the House of Representatives or any one of the counsel of the President. It is simply a resolution in reference to the argument of an officer of the House of Representatives. If the gentleman from New York [Mr. Brooks] can convince me that the counsel of the President are in the same category with the managers on the part of the House of Representatives, and that it is the duty of the House of Representatives to print their speeches in the same way that it is proposed to print the speeches of those acting for the House, he certainly will find me with him.

Mr. BROOKS. The gentleman does not answer my question directly.

Mr. WASHBURNE, of Illinois. I want some further explanation of this resolution before I can vote for it. We are now about to establish a precedent, and we must deal fairly and justly on all sides in this matter. I hope the resolution will not be adopted.

Mr. ROSS. Does the gentleman from New York [Mr. LAFLIN] think it is quite fair to tax the people of this country for printing Republican campaign documents?

Mr. LAFLIN. I give as close attention as I possibly can to what is said on the other side of the House, but there is so much confusion here that I cannot understand what is said.

Mr. ELDRIDGE. Is it intended to publish this simply as an electioneering document? Or is it for the purpose of furnishing the country with information in regard to the proceedings in the court of impeachment? If the latter object be the one in view, then I suppose the proper way would be to publish all the proceedings, so that the people may have a fair understanding of the whole subject.

Mr. LAFLIN. I have not placed myself here for the purpose of being catechised; I am perfectly willing to answer proper questions. But such questions as are now being asked me I must respectfully decline to answer. I now demand the previous question.

## ENROLLED BILL SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. No. 900) to exempt certain manufactures from internal tax, and for other purposes; when the Speaker signed the same.

## LEAVE OF ABSENCE.

Mr. HALSEY asked and obtained leave of absence for one week.

## CONSTITUTION OF FLORIDA.

Mr. PAINE. I move that the constitution of Florida, with the accompanying papers, referred to the Committee on Reconstruction, be printed for the use of the House.

The motion was agreed to.

## ARGUMENT OF MR. BUTLER.

The SPEAKER. The question is now upon seconding the previous question upon the resolution reported from the Committee on Printing in reference to the argument of Mr. BUTLER.

The question was taken; and upon a division there were—ayes 55, noes 34; no quorum voting.

Tellers were ordered; and Mr. LAFLIN and Mr. CHANLER were appointed.

The House again divided; and the tellers reported that there were—ayes 73, noes 24.

So the previous question was seconded.

The question was upon ordering the main question.

Mr. CHANLER. I move that the resolution be laid upon the table; and upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 82, not voting 70; as follows:

YEAS—Messrs. Adams, Archer, Delos B. Ashley, Baker, Beatty, Beck, Blair, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Glossbrenner, Golladay, Grover, Haight, Holman, Richard D. Hubbard, Humphrey, Ingersoll, Kerr, Knott, Koontz, Marshall, Niblack, Phelps, Poland, Ross, Sitgreaves, Spaulding, Stone, Lawrence S. Trimble, Van Auker, Van Trump, Elihu B. Washburne, and Woodbridge—37.

NAYS—Messrs. Ames, Anderson, Arnel, James M. Ashley, Bailey, Banks, Beaman, Benjamin, Blaine, Boutwell, Bromwell, Broomall, Buckland, Cake, Churchill, Reader W. Clarke, Coburn, Covode, Dawes, Dixon, Dodge, Driggs, Eckley, Eggleston, Eliot, Ferriss, Ferry, Fields, Garfield, Gravely, Halsey, Hawkins, Hooper, Hopkins, Hunter, Judd, Julian, Kelsey, Kitchen, Ladin, William Lawrence, Lincoln, Loughbridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercer, Moore, Moorhead, Morrell, Mullins, Myers, O'Neill, Paine, Perham, Peters, Pike, Pile, Plants, Polsey, Pomeroy, Price, Raum, Sawyer, Schenck, Scofield, Shanks, Smith, Stokes, Twichell, Burt Van Horn, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, Welker, William Williams, John T. Wilson, Stephen F. Wilson, and Windom—82.

NOT VOTING—Messrs. Allison, Artell, Baldwin, Barnes, Barnum, Benton, Bingham, Butler, Sidney Clarke, Cobb, Cook, Cornell, Cullom, Donnelly, Ela, Farnsworth, Finney, Fox, Getz, Griswold, Harding, Higby, Hill, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Jencks, Johnson, Jones, Kelley, Ketcham, George V. Lawrence, Loan, Logan, Lynch, McCormick, McCullough, Miller, Morgan, Morrissey, Mungen, Newcomb, Nicholson, Nunn, Orth, Pruyn, Randall, Robertson, Robinson, Selye, Shellabarger, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stewart, Tabor, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Upson, Van Aernam, Van Wyck, Henry D. Washburn, Thomas Williams, James F. Wilson, Wood, and Woodward—70.

So the resolution was not laid on the table.

## IMPEACHMENT OF THE PRESIDENT.

The SPEAKER then said: The hour of half past twelve o'clock has now arrived, and the House resolves itself into the Committee of the Whole, according to order, to proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At six o'clock and twenty-five minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate sitting as a court of impeachment has adjourned until twelve o'clock tomorrow.

And then, on motion of Mr. WASHBURNE, of Illinois, (at six o'clock and twenty-seven minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. COBURN: A memorial of the members of Post No. 1, Grand Army of the Republic, district of Indiana, asking that a bronze medal be presented by the United States to each honorably discharged soldier and sailor and officer of the Army and Navy in the war of the rebellion.

By Mr. FIELDS: The petition of Andrew Bradbury, of Chenango county, New York, executor of the last will and testament of Sophia Twichell, deceased, asking an appropriation to pay the balances due on bonds issued by the State of California for expenses incurred in the suppression of Indian hostilities.

By Mr. GARFIELD: The petition of citizens of Ashtabula county, Ohio, asking that the tax on petroleum be removed.

By Mr. HUBBARD, of Connecticut: The remonstrance of sundry citizens of Connecticut against the passage of a law requiring tax-stamps on cigars.

By Mr. LAFLIN: The petition of James A. Bell and others, of Jefferson county, New York, in favor of an appropriation to improve the navigation of Black river, New York.

By Mr. LINCOLN: The petition of citizens of Broome county, New York, asking the removal of the tax on refined petroleum.

By Mr. MARVIN: Two memorials from officers and privates of the United States volunteer forces of the war of the rebellion, in support of the memorial prepared by the Union League Club of New York, praying Congress to commemorate the preservation of the American Union by causing medals to be given to every soldier and sailor who served during the war, and also to the children of those who were killed.

#### IN SENATE.

WEDNESDAY, April 1, 1868.

Prayer by Rev. JAMES J. KANE, of Brooklyn, New York.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore*. Under the orders of the Senate, nothing remains but for the chair to be vacated that the Chief Justice may preside over the trial of the impeachment.

The President *pro tempore* thereupon vacated the chair, and the Senate proceeded to the trial of the impeachment of President Johnson.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at ten minutes past five o'clock p. m.

#### EXECUTIVE SESSION.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

Mr. RAMSEY. I move that the Senate adjourn.

Mr. SHERMAN. I appeal to Senators to allow a short executive session, for a minute, on a matter of public business which I cannot speak of here.

Mr. RAMSEY. Very well; I withdraw the motion.

The motion of Mr. SHERMAN was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 1, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The SPEAKER stated that as the hour had arrived at which the House, by its order, proceeded to the bar of the Senate, the reading

of the Journal would be dispensed with if there should be no objection.

There was no objection; and it was ordered accordingly.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. URSON indefinitely.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock has now arrived, and the House resolves itself into the Committee of the Whole, according to order, to proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Door-keeper.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At five o'clock and thirteen minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate sitting as a court of impeachment has adjourned until twelve o'clock to-morrow.

#### LEAVE OF ABSENCE.

Leave of absence was granted for ten days each to Mr. POMEROY, Mr. LAFLIN, Mr. ARNELL, and Mr. DRIGGS.

And then, on motion of Mr. WASHBURNE, of Illinois, (at five o'clock and fifteen minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of citizens of Live Oak, Medina, Kendall, and Bexar counties, Texas, for a division of said State.

Also, the petition of Dr. R. E. Shryock, of Rochester, Indiana, for a pension to John Power, a soldier of the war of 1812.

Also, the petition of W. A. B. Murphy, of Marion, McDowell county, North Carolina, for the removal of political disabilities from C. S. S. Carpening, for participation in the late rebellion.

Also, the remonstrance of S. S. Schutz and others, German citizens of Boston, Massachusetts, against any interference upon the part of German citizens of the United States with the impeachment of the President of the United States.

By Mr. BALDWIN: Forty petitions of authors and others for an international copyright law.

By Mr. KITCHEN: The petition of E. G. Pendleton, a citizen of Martinsburg, Berkeley county, West Virginia, asking that his name be placed on the pension-roll.

#### IN SENATE.

THURSDAY, April 2, 1868.

Prayer by Rev. A. D. GILLETTE, D. D., of Washington.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore*. As no legislative business is in order, the chair will be vacated, that the Chief Justice may preside over the impeachment.

The President *pro tempore* thereupon vacated the chair, and the Senate proceeded to the trial of the impeachment of President Johnson.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at three minutes past five o'clock p. m.

#### EXECUTIVE MESSAGES.

Several executive messages were received

from the President of the United States, by Mr. W. G. MOORE, his Secretary.

#### ADMISSION TO IMPEACHMENT TRIAL.

Mr. SHERMAN. I desire to call up the motion I submitted the other day, and I propose to modify it in the form in which I send it to the chair; and I hope we shall have a vote without debate.

The PRESIDENT *pro tempore*. The resolution of the Senator from Ohio, as modified, will be read.

The Secretary read as follows:

Ordered, That after to-morrow the order of the 15th of March ultimo, relative to admission to the gallery, be suspended until further order; and that the Sergeant-at-Arms of the Senate shall take special care that order shall be observed in the galleries during the trial of the impeachment now pending, and he is hereby authorized to arrest and bring before the Senate any person who violates the orders of the Senate; and he shall take effective measures to secure admission to the diplomatic gallery, the ladies' gallery, and the reporters' gallery, to those only who are entitled to admission thereto under the rules.

Mr. HOWARD. From what time is that to take effect?

Mr. SHERMAN. After to-morrow.

Mr. RAMSEY. Why not make it apply after to-day?

Mr. SHERMAN. Tickets for to-morrow are already out.

Mr. SUMNER. I doubt the expediency of making the change as broadly as is proposed.

Mr. SHERMAN. Let us try it for a day or two.

Mr. SUMNER. I was going to suggest an amendment that this should be tried on alternate days. ["Oh, no."] On one day let the galleries be opened as they have been usually, and then, on the other day, try the ticket system.

Mr. SHERMAN. If the people who come here do not behave themselves as well as the ladies and gentlemen who have attended our sittings I shall be perfectly willing to go back to the present system; but let us try the free system for a while.

Mr. FRELINGHUYSEN. I hope that the rule will not be altered at all. The rule we have is a good one and it operates well. We have order and quiet, which we shall not have if we change it. All we can do is to have the galleries filled by the public, and they are filled now under the present rule. The distribution of tickets is equal; the Representatives and Senators have an opportunity of making that distribution as equal as possible; so that it is much more just to the public than that only those should get here who are willing to come and stay three or four hours or make a rush to get in. So, as to the rights of the public, they are not infringed upon at all by the present rule. And when we have a rule which has been adopted and which operates well, has been tested, I think there is great impropriety in departing from it.

Mr. WILLIAMS. I move that the Senate adjourn.

The motion was agreed to; there being on a division—ayes 18, noes 15; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, April 2, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The SPEAKER. The Journal of yesterday's proceedings being only a record of the meeting and adjournment of the House, its reading will be dispensed with if there be no objection.

There was no objection; and it was ordered accordingly.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. VAN TRUMP for ten days; and to Mr. GARFIELD, Mr. MCCARTHY, Mr. HILL, Mr. MOORHEAD, Mr. DAWES, and Mr. LOUGHRIDGE indefinitely.

#### MISSOURI CONTESTED-ELECTION CASE.

Mr. MCCLURG, from the Committee of Elections, presented the minority report in the



case of Switzler against Anderson; which was laid on the table, and ordered to be printed with the majority report in the same case.

#### ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. Before the House proceeds, Mr. Speaker, to the bar of the Senate I wish to submit a proposition, to which, I think, there will be no objection. I move, by unanimous consent, that, unless the Speaker shall intimate there will be business to be transacted after the adjournment of the Senate sitting for the trial of the President, it shall be the understanding that nothing shall be done, so that members shall not feel themselves obliged to remain here hour after hour waiting the return of the House from the Senate.

Mr. ELDRIDGE. When and how shall the Speaker give us such intimation? Shall it be in the morning?

Mr. WASHBURNE, of Illinois. Yes, sir; in the morning, before the House proceeds to the Senate.

Mr. ELDRIDGE. I think that entirely agreeable, provided we have the intimation in the morning before the House proceeds to the Senate.

Mr. WASHBURNE, of Illinois. I should have stated that, for such is my proposition.

The SPEAKER. The gentleman from Illinois proposes that unless the Speaker, or some member of the House, shall notify the House, before it proceeds to the Senate, that business shall be taken up, it shall be the understanding that no business shall be transacted that day.

Mr. WASHBURNE, of Illinois. I should prefer to have it limited, for as the Speaker states the proposition any member of the House might, I will not say officiously, state that he wanted to call up business and compel the members to remain in constant attendance as at present. I want it left to the Speaker to make the intimation each morning.

The SPEAKER. It will be limited to the Speaker, unless otherwise ordered.

Mr. ELDRIDGE. I hope that proposition will be adopted.

There was no objection; and it was ordered accordingly.

#### ORDER OF PROCEDURE.

Mr. NIBLACK. I rise to what I believe to be a question of order. It seems to be the object of the House in proceeding each day to the bar of the Senate to try to make an impression upon the Senate and the country. I suppose that everything appertaining to the matter of impeachment is to be considered as a question of privilege.

The SPEAKER. The House has resolved that each day at twelve o'clock the House will proceed to the bar of the Senate. If the gentleman gives notice that he has a motion to submit after the return of the House this afternoon the Chair will so notify members.

Mr. NIBLACK. I wish to give notice that at some time I shall move that the Clerk of this House shall provide, to be paid for out of the contingent fund, for some kind of uniform or badge of honor or red feather for the chairman of the Committee of the Whole to wear when he goes to the Senate. [Laughter.]

The SPEAKER. If the gentleman from Indiana is serious in giving notice that business may be expected on the return of the House from the Senate the Chair, in accordance with the order of the House, will now give such intimation.

Several MEMBERS. Oh, no!

The SPEAKER. Then the gentleman from Indiana does not give notice that any business may be expected this afternoon on the return of the House from the Senate.

Mr. NIBLACK. I do not give any such notice if it will make any session this evening. What I desired was to have the proposition considered now. I think, however, our chairman ought to have something to distinguish him from the rest of us as he marches at the head of the House to the bar of the

Senate. Besides, I am sure he would be more impressive.

#### WISCONSIN RIVER VALLEY RAILROAD.

Mr. ELDRIDGE, by unanimous consent, presented the memorial of the Legislature of the State of Wisconsin, praying for a grant of land to aid in the construction of the Wisconsin River Valley railroad; which was referred to the Committee on the Public Lands.

#### BRIDGE AT COUNCIL BLUFFS.

Mr. LOUGHRIDGE, by unanimous consent, presented the preamble and joint resolutions of the State of Iowa, relative to the construction of a drawbridge across the Missouri river at Council Bluffs; which were referred to the Committee on Roads and Canals, and ordered to be printed.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock has now arrived, and the House resolves itself into the Committee of the Whole, according to order, to proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Door-keeper.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At five o'clock and three minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until twelve o'clock to-morrow.

And then, on motion of Mr. WASHBURNE, of Illinois, (at five o'clock and five minutes p. m.,) the House adjourned.

#### PETITIONS.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. MYERS: The petition of citizens of Maryland, for the passage of House bill No. 470, to incorporate the Washington and Maryland Railroad Company.

#### IN SENATE.

FRIDAY, April 3, 1868.

Prayer by Rev. E. H. GRAY, D. D.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore*. As no legislative business is in order, the chair will be vacated that the Chief Justice of the Supreme Court may preside over the Senate organized for the trial of the impeachment.

The President *pro tempore* thereupon vacated the chair, and the Senate proceeded to the trial of the impeachment of President Johnson.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at five o'clock and eight minutes p. m.

#### PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had, on the 30th of March, signed the following bills and joint resolution:

A bill (S. No. 350) to amend an act entitled "An act to provide for the prompt settlement of public accounts," approved March 3, 1817;

A bill (S. No. 4) for the relief of William Shunk;

A bill (S. No. 108) for the relief of Henry Greathouse and Samuel Kelley; and

A joint resolution (S. R. No. 122) for the relief of the heirs of Major A. L. Brewer, late a paymaster in the United States Army.

#### REPORTER OF ASSOCIATED PRESS.

Mr. ANTHONY. I move that the Senate take up the order which I offered the other day authorizing the Presiding Officer to assign a place on the floor to the reporter of the Associated Press.

Mr. CONNESS. I hope not.

The PRESIDENT OFFICER. The proposed resolution will be read.

The Secretary read the following resolution, submitted by Mr. ANTHONY on the 25th of March:

*Resolved*, That the Presiding Officer be authorized to admit to a seat on the floor the reporter of the New York Associated Press during the trial of the impeachment.

Mr. FERRY. Mr. President, I move that the Senate do now adjourn.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution which has been read.

Mr. FERRY. Mr. President, I moved an adjournment because I am exceedingly opposed to the order which is proposed to be adopted. I do not think the Senate ought to grant the permission to the reporter of the Associated Press, which is asked for by the Senator from Rhode Island, and moved for in his order. The Associated Press is represented by its reporters in many other legislative and deliberative bodies besides the Congress of the United States, and the reports of the Associated Press from many other deliberative bodies have been and are systematic libels upon the principles, the policy, and the conduct of the friends of the majority in this body. The agents of the Associated Press, reporting the deliberations of constitutional conventions now sitting and heretofore sitting in many of the States, have systematically libeled those conventions and their members, and unless those who have the control of that institution shall prevent such reports as have emanated from those agents I think we ought not, in justice to ourselves and the principles and policy that we represent, to permit an agent of that association upon the floor of this Senate on the present occasion.

Mr. CONKLING. Mr. President, I am somewhat surprised at the statement made by the honorable Senator from Connecticut; but I am still more surprised by the application he makes of that statement. This is not a question of favoritism to the Associated Press.

Mr. HOWARD. Entirely so.

Mr. CONKLING. I beg pardon of the Senator. My constituents are compelled to rely upon the reports of the Associated Press, be those reports better or worse, for the information they get from day to day touching this trial. Now, sir, what is this proposition, and what are the circumstances that gave rise to it? We sit here in this Senate Chamber, limited as its dimensions are, and we commence by the adoption of a rule which excludes from it everybody except that select few to whom tickets are given. The trial goes on, and the reporter of the Associated Press occupies a place in the gallery from which we are informed it is impossible for him to catch from the mouths of witnesses, only half audible as they are, many answers that are given. And then, when a proposition is made that this reporter be permitted to draw so near the witnesses that he can truly and fully give to that great public which reads the eight hundred and forty papers, supplied, as I am told by the Associated Press, the question is raised whether some other reporter in some other place, connected with this association, has given or has not given a fair and truthful statement of the proceedings which there took place.

Now, I submit with great deference to the Senator from Michigan, who says that this is a matter of favoritism, that, if it be, it is favoritism to the whole people of the State of New York, for example; it is for their benefit more especially that I am speaking; and it is favoritism to the people of every other State where newspapers are circulated and where an

intense interest is felt in this trial, and an intense interest in all the details of the trial, and where the people must depend upon those sounds which cannot be caught in the reporter's gallery.

Now, sir, I should like to know by what system of reasoning it is that we, in the first place, under a supposed necessity, are to exclude the public at large from the galleries and admit upon tickets such as are selected to come here, and, then, we are to arrange the situation of the trial in such way that one single person, (because that is all the resolution implies,) who alone is the medium of detailed communication with the whole public, is not to be permitted to be in such contact with the proceedings that he can make that communication full. I do not know, for my own part, to which reporter it is that this privilege is to be given; I mean I do not know the name of the reporter; but I understand it is to be given to some one who is to report for the whole of this association, communicating, as I am told, with eight hundred and forty papers, with the whole country, so that to all these eight hundred and forty papers and all that countless multitude which no man can number reading these eight hundred and forty papers, is to be extended the "favoritism" of allowing one single chair to be occupied within the limits of convenient hearing.

Mr. RAMSEY. If the Senator from New York will give way, I will move to postpone the consideration of the present resolution for the purpose of taking up that offered by the Senator from Ohio, [Mr. SHERMAN,] to repeal the present ticket system.

Mr. CONKLING. As it will take but a moment to vote on this I beg the Senate to let us vote squarely on it, because I may suggest to the honorable Senator when we have repealed, if we shall repeal, the resolution in reference to the galleries, that will not at all relieve this difficulty, but will increase it, because there will be more buzz in the galleries, and then the public who rely upon these reports, and look at these reports made by the Associated Press reporter, will be no better off than it is now. Therefore I beg the Senate to allow us to take the vote on this proposition.

Mr. ANTHONY. Mr. President, if it were possible—

Mr. RAMSEY. Do I understand the Senator from New York does not give way to this motion?

Mr. CONKLING. No, sir.

Mr. SHERMAN. I hope we shall pass both propositions before we adjourn.

Mr. ANTHONY. If it were possible I would give to the reporters of all the papers a place upon the floor, but that is entirely out of the question, and, therefore, I have moved to give it to the reporter who represents the larger number of papers, very much the larger number. The reports of the proceedings of the Senate are taken almost wholly from the Associated Press, and the question is whether we shall have those reports as accurate and as full as possible. I have inquired into the matter, and I am satisfied that from the gallery it is not practicable to hear the testimony of witnesses as they are examined here upon the stand, and the result is that the reports must be in some degree imperfect and inaccurate; and then the broad complaints which have been made against the Associated Press are raised.

Mr. CONNESS. There has been no complaint since the trial began.

Mr. ANTHONY. I have had more experience, perhaps, than most of my associates of this body as to the exceeding difficulty of making satisfactory reports. Now, the Associated Press comprehends papers all over the country, without any reference whatever to their politics. The papers upon both sides, and the extreme papers upon both sides, are represented equally in this association; and if there should be a systematic, regular misrepresenta-

tion of our proceedings in the interest of one party or the other complaint would be made from the papers representing the other party, and it would be prevented and broken up, as it ought to be.

Mr. EDMUNDS. I should like to ask my friend from Rhode Island how this association is formed, and whether all the newspapers can come in if they please, or whether it is a close corporation that admits persons upon certain conditions which are pretty heavy? What is the nature of the association?

Mr. FERRY. I can answer that question. The Associated Press that seeks to come on this floor consists of seven newspapers of the city of New York.

Mr. ANTHONY. Perhaps I can answer the question a little more fully than my friend from Connecticut, because I have had the misfortune to suffer considerably from this Associated Press in matters that are not proper to be brought into this place. The Associated Press consists of all the daily papers of New York; I think all of them; all the principal ones, at any rate; in fact, no paper can live there unless it belongs to the Associated Press, and that Associated Press takes the reports, takes the news from all parts of the country and from all parts of the world, and sells it to the newspapers of every other part of the country.

Mr. CONKLING. How many in all?

Mr. ANTHONY. I do not know how many.

Mr. CONKLING. Eight hundred and forty, I understand.

Mr. ANTHONY. But I think no paper out of the city of New York that desires to have the reports of the Associated Press is refused.

Mr. JOHNSON. They pay for them.

Mr. ANTHONY. They pay their price. Their price is not very extravagant.

Mr. JOHNSON. They make money by it.

Mr. HENDRICKS. The price is reasonable.

Mr. ANTHONY. I believe all the daily papers and all the papers in the country can have their reports.

Several SENATORS. Oh, no.

Mr. ANTHONY. Then I am misinformed. I ought to know; but perhaps I am mistaken.

Mr. FERRY. How many papers are in the Association?

Mr. ANTHONY. All the daily papers in New York, I believe.

Mr. FERRY. Only seven.

Mr. ANTHONY. Very well. I understand the Associated Press refuses to receive into its Association new daily papers, which I think is wrong. I think it creates a monopoly, which I do not defend at all.

Mr. FERRY. Do you not know that they have refused to admit new daily papers in New York?

Mr. ANTHONY. I understand they have refused to admit a new daily paper there, and in that I think they have done wrong; but that is a question which I do not think we are to go into. There are local associations in various parts of the country which have the same restrictive and monopolizing provisions that the Associated Press of New York has, that no new paper shall come into their associations unless by the consent of those already in; but the Associated Press of New York sells its news to the press of the whole country, subject to any restrictions which the local press associations may make.

Mr. RAMSEY. If the Senator from Rhode Island is through, I should like to make a motion to postpone the present matter for the purpose of considering the resolution submitted by the Senator from Ohio [Mr. SHERMAN] the other day.

Mr. ANTHONY. I do not know why the Senator from Minnesota supposes the Senator from Rhode Island is through.

Mr. CONKLING and others. Let us have a vote on this.

Mr. HENDRICKS. It does not seem to me that there ought to be any difference of opinion on a question like this. It is well known to

every Senator here that if the country has to depend upon the Globe for the report of this trial it will get no information on the subject. The only opportunity of getting information from day to day is through the Associated Press, whatever faults it may have; and I never had heard the objection that is made by the Senator from Connecticut. I had supposed that the Democrats were the men who had occasion to complain of this association. I had supposed it was controlled by party politics to a very considerable extent. I have never examined with a view to ascertain it.

I know that I was made to appear very stupid in some remarks that I had occasion to make some time since. I did not care much about it, however; and I am not going to vote here upon any consideration of that sort. I think that this Associated Press intends to give to the great New York journals very nearly *verbatim* the proceedings of this trial; and if the report should not go in *verbatim* to any other papers than the New York journals, that of itself would go a great way to inform the country. The journals of New York go to all the villages of the Northwest, as well as all the great cities, and are read by the mass of the people; and then from these journals, as well as directly from the Associated Press, it goes into all the local journals. I think it is of great importance; and as a matter of public duty I should vote for this resolution.

Mr. DOOLITTLE. My dignity or sense of dignity as a Senator is no more offended by the representative of the Associated Press sitting on the floor than it is by his sitting in the gallery. I do not see any difference at all. It is a mere matter of convenience. The witnesses do not speak quite as loud as Senators do when they speak in addressing the Senate; and therefore, simply for the convenience of the reporter, I am perfectly willing that he shall sit here and take a report.

Mr. CONNESS. It is very evident that there are a good many speeches to be made on this subject, and we cannot get a vote to-night. I therefore move that the Senate adjourn. ["No!" "No!"]

Mr. ANTHONY. I hope not. I hope we shall settle this question now.

The question being put, there were on a division—ayes 17, noes 19.

Mr. CONNESS. I call for the yeas and nays.

Mr. ANTHONY. If the Senate will allow me, I have a suggestion to make. I suggest that the Senate adjourn now until half-past ten o'clock to-morrow. ["No!" "No!"] I suppose some Senators are hungry for dinner. I have not that weakness.

Mr. CONKLING. No; let us vote on this question now.

The PRESIDENT *pro tempore*. On the motion to adjourn the Senator from California demands the yeas and nays.

The yeas and nays were ordered.

Mr. THAYER. I rise to a point of order. Can the yeas and nays be demanded after the vote has been declared? The Chair distinctly declared it.

The PRESIDENT *pro tempore*. They can be demanded after the result has been declared by the sound or after a division.

The question being taken by yeas and nays, resulted—yeas 19, nays 20; as follows:

YEAS—Messrs. Cattell, Chandler, Conness, Davis, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Johnson, McCreey, Morrill of Maine, Morrill of Vermont, Pomeroy, Ramsey, Trumbull, Van Winkle, Vickers, and Williams—19.

NAYS—Messrs. Anthony, Buckalew, Cole, Conkling, Cragin, Dixon, Doolittle, Henderson, Hendricks, Howe, Morgan, Patterson of New Hampshire, Ross, Sherman, Sprague, Stewart, Sumner, Thayer, Tipton, and Wade—20.

ABSENT—Messrs. Bayard, Cameron, Corbett, Drake, Grimes, Harlan, Howard, Morton, Norton, Nye, Patterson of Tennessee, Saulsbury, Willey, Wilson, and Yates—15.

So the Senate refused to adjourn.

Mr. CONKLING and others. Question!

Mr. EDMUNDS. I am much obliged to the

Senator from New York for calling for the question after he has made a very handsome speech and feeling satisfied that enough has been said on the subject; but, inasmuch as I wish to explain the ground upon which I shall vote against this resolution, I must ask his patience—I am sure everybody else will grant it to me—to hear me. I have no fault to find with the Associated Press, so far as it has treated me. It has done me more justice than I am entitled to, I do not doubt. The ground upon which I vote against permitting their agent to take notes on the floor is that it extends a privilege to that close corporation of associated newspapers—who, I admit, have the perfect right to associate if they please, and upon terms to suit them—that other newspapers who are equally worthy cannot have; and therefore it is that I am opposed to extending a privilege of this kind to one set of newspapers that I cannot extend to others who are just as much entitled to it as they are. That is the reason why I shall vote against this resolution.

Mr. TRUMBULL. It is manifest that we can get no vote immediately upon this question. The Senator from Connecticut [Mr. Dixon] has been struggling for the floor for some time, and there is some other business that we ought to do. I move that the Senate adjourn until eleven o'clock to-morrow. Let us have an hour to do business. ["No!" No!"] We shall get no vote to-night.

The PRESIDENT *pro tempore*. It is moved that when the Senate adjourns it adjourn to meet at eleven o'clock to-morrow.

Mr. CONKLING. That motion is not in order now.

Mr. TRUMBULL. No; my motion is that the Senate now adjourn to meet at eleven o'clock to-morrow.

Mr. CONKLING. Then I rise to a question of order. That motion is not in order.

Mr. TRUMBULL. I think it is in order to adjourn to any hour.

Mr. SHERMAN. I think not. I move that when the Senate adjourns to-day it adjourn to meet at eleven o'clock to-morrow.

The PRESIDENT *pro tempore*. In the opinion of the Chair it is in order to adjourn to any hour.

Mr. TRUMBULL. Certainly it is in order. The PRESIDENT *pro tempore*. The hour of meeting is only fixed by a motion, and of course it can be modified by a motion.

Mr. TRUMBULL. Then I move that the Senate adjourn until eleven o'clock to-morrow.

Mr. SHERMAN. Is that in order?

Mr. HENDRICKS. The Chair decides that it is.

Mr. SHERMAN. Then I have no objection.

The motion was agreed to—ayes twenty-four, noes not counted; and the Senate adjourned to meet at eleven o'clock to-morrow.

## HOUSE OF REPRESENTATIVES.

Friday, April 3, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Speaker stated that if there were no objection the reading of the Journal of yesterday would be dispensed with.

There was no objection, and it was ordered accordingly.

### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. SINGREAVES, Mr. CHURCHILL, Mr. BURLEIGH, and Mr. MOORE for ten days; to Mr. McCULLOUGH for two weeks, and to Mr. KITCHEN for four days.

### POST OFFICE, NEW YORK CITY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, inclosing the report of the supervising architect of the Treasury Department, in answer to a resolution of the House, relative to the proposed post office at New

York city; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. SPALDING. I think that communication ought to be referred to the Committee on Appropriations, as that committee has the subject under consideration.

The SPEAKER. The Chair understood the subject was before the Committee on the Post Office and Post Roads, and accordingly gave it that reference.

Mr. WASHBURNE, of Illinois. I hope it will be referred to the Committee on Appropriations.

Mr. CLARKE, of Ohio. I hope that direction will not be given to the document. The Committee on the Post Office and Post Roads has the subject under consideration and will report in four or five days, and it ought to have this report before it.

The SPEAKER. The reference will stand as it is, to the Committee on the Post Office and Post Roads.

### MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. MOORE, one of his Secretaries.

### EXPENSES OF ELECTION.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, transmitting a communication from General Schofield relative to the expenses of holding elections in the first military district; which was referred to the Committee on Reconstruction, and ordered to be printed.

### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock has now arrived, and the House resolves itself into the Committee of the Whole, according to order, to proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Door-keeper.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At five o'clock and ten minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until twelve o'clock to-morrow.

And then, on motion of Mr. WASHBURNE, of Illinois, (at five o'clock and fifteen minutes p. m.,) the House adjourned.

### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BUCKLAND: The petition of Edmund Willard, Abiathan Strickland, and Polly Peck, widow of Abjah Peck, soldiers of the war of 1812, all of Norwalk, Ohio, for pensions.

Also, the petition of James F. Smith, of Bellevue, Ohio, for relief for injuries received in the military service.

By Mr. ROBERTSON: The petition of Captain Robert A. Dimmick and others, asking Congress to order a medal to be struck in bronze, to commemorate the preservation of the American Republic; and that one of such medals, under the direction of the War and Navy Departments, shall be presented to every officer, soldier, sailor, and marine who, by his service in the war and an honorable discharge, has earned such a tribute of his country's regard; and one, also, to the children of those who have fallen in their country's defense.

## IN SENATE.

SATURDAY, April 4, 1868.

Prayer by Rev. E. H. GRAY, D. D. The PRESIDENT *pro tempore*. The Secretary will read the Journal of the legislative proceedings of yesterday.

Mr. HOWARD. I move that the reading of the Journal of yesterday be dispensed with.

Mr. EDMUNDS and Mr. GRIMES. No, no; let us hear it.

The PRESIDENT *pro tempore*. It is moved to dispense with the reading of the Journal of yesterday.

Mr. GRIMES. I object. I want to know what is in it.

The PRESIDENT *pro tempore*. Objection being made, it must be read.

The Journal of yesterday's legislative proceedings was read and approved.

### EXECUTIVE SESSION.

Mr. HOWARD. There are certain documents upon the executive files of the Senate which the managers of the impeachment desire to use as evidence. It is impossible to furnish them with certified copies without an order of the Senate, which I suppose should be taken in executive session. I therefore move that the Senate now go into executive session.

Mr. SHERMAN. I hope the Senator will allow me first to take up and get a vote upon the resolution in regard to the galleries, so that it may be settled for the next week.

Several SENATORS. No, no.

Mr. HOWARD. I insist on my motion.

Mr. SHERMAN. I have no objection if it is deemed necessary.

The PRESIDENT *pro tempore*. The motion does not admit of argument.

The motion was agreed to; and the Senate thereupon proceeded to the consideration of executive business; and after some time spent therein the doors were reopened.

### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 28th of March last, information in relation to the buoys of New York harbor; which was referred to the Committee on Commerce.

### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of Rehma Brown, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a petition of citizens of New York, praying the repeal of the rule in relation to the issuing of tickets to the galleries during the trial of the impeachment of Andrew Johnson; which was ordered to lie on the table.

He also presented three memorials of the Legislature of Wisconsin, praying for the erection of a light-house on the point of the reef at Bailey's harbor; for an appropriation of \$75,000 to improve the harbor of Superior and for the location of a light-house on Outer Island, in Lake Superior; which were referred to the Committee on Commerce.

He also presented a petition of John Harman, William Coolman, and Samuel Redfield, praying for the passage of the bill granting pensions to the soldiers and sailors of the war of 1812; which was referred to the Committee on Pensions.

Mr. HENDRICKS. I desire to present a resolution adopted at a regular meeting of the Machinists' and Blacksmiths' Union, No. 4, of Indiana, signed by the president, secretary, and corresponding secretary, expressing their desire that Congress should legislate so as that eight hours shall be a day's work in the Government employment. This resolution comes from an organization of highly respectable men in Indiana, and relates to a subject of general interest in that portion of the country. I ask its reference to the appropriate committee, and I make these remarks to call the attention of the committee to it.



The PRESIDENT *pro tempore*. To what committee does the Senator move the reference of the resolution?

Mr. HENDRICKS. I believe similar memorials and resolutions have been referred to the Committee on Naval Affairs, and I move the reference of this resolution to that committee.

The PRESIDENT *pro tempore*. It will be so referred.

Mr. WILLEY presented a petition of John Spangler, of Bolivar, West Virginia, praying to be allowed compensation for the use of his house, occupied by United States troops from September 1, 1862, to April 9, 1865; which was referred to the Committee on Claims.

Mr. THAYER presented a petition of journeymen cigar-makers and manufacturers of cigars of Nebraska, remonstrating against the passage of the bill which provides that a stamp be affixed to each cigar, and praying for a tax of five dollars per thousand on domestic cigars, and that the tariff on imported cigars may remain unchanged; which was referred to the Committee on Finance.

#### PRINTING OF AMENDMENTS.

Mr. EDMUNDS. I desire to submit two amendments, which I shall offer for the consideration of the Senate, to Senate bill No. 164, to provide for appeals from the Court of Claims, and for other purposes, which I ask to have laid on the table and printed.

The PRESIDENT *pro tempore*. That order will be made, no objection being made.

#### ADMISSION TO IMPEACHMENT TRIAL.

Mr. SHERMAN. If there is no further morning business I now move that the Senate proceed to the consideration of the resolution introduced by me some days ago in relation to admission to the impeachment trial.

Mr. ANTHONY. When the Senate adjourned yesterday there was an order under consideration, which I think had better be disposed of first, about admitting the reporter of the Associated Press to a seat on the floor.

Mr. SHERMAN. That would not come up until after the morning hour.

Mr. ANTHONY. It is not in order now, regularly; neither is the proposition of the Senator from Ohio.

The PRESIDENT *pro tempore*. The resolution proposed to be taken up by the Senator from Ohio will be read.

The Secretary read it, as follows:

*Ordered*, That after to-morrow the order of the 15th of March ultimo, relative to admission to the gallery, be suspended until further order, and that the Sergeant-at-Arms of the Senate shall take special care that orders shall be observed in the galleries during the trial of the impeachment now pending; and he is hereby authorized to arrest and bring before the Senate any person who violates the orders of the Senate; and he shall take effective measures to secure admission to the diplomatic gallery, the ladies' gallery, and the reporters' gallery, to those only who are entitled to admission thereto under the rules.

Mr. CONNESS. I move to strike out—

Mr. ANTHONY. The resolution is not yet.

The PRESIDENT *pro tempore*. The question is on taking it up for consideration.

Mr. ANTHONY. I hope it will not be taken up; I want the other matter disposed of.

The question being put, a division was called for, and the yeas were twenty.

Mr. CONNESS and others called for the yeas and nays.

Mr. SHERMAN. We can pass them both.

The yeas and nays were ordered.

Mr. CONKLING. I appeal to the Senator, whoever he may be, that asked the yeas and nays, to take them on the order itself and save one vote.

Mr. CONNESS. I made the call for the yeas and nays, and I did it because I am opposed to rescinding the rule. Therefore I desire to put the rescinding of the rule as far off as possible.

Mr. CONKLING. That is true; but I suggest to the Senator that if he would take it directly on the proposition it would save a vote.

The PRESIDENT *pro tempore*. The ques-

tion is on taking up the order for consideration.

Mr. ANTHONY. I have no objection to taking a vote on the proposition if it can be done without debate.

Mr. EDMUNDS. It cannot be done without debate.

The PRESIDENT *pro tempore*. The question is on taking up the resolution of the Senator from Ohio for consideration.

The question being taken by yeas and nays, resulted—yeas 26, nays 16; as follows:

YEAS—Messrs. Buckalew, Chandler, Cole, Conklings, Cragin, Davis, Dixon, Ferry, Fowler, Grimes, Hendricks, Howard, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sherman, Sprague, Stewart, Thayer, Trumbull, Van Winkle, Wade, Willey, and Williams—26.

NAYS—Messrs. Anthony, Cattell, Conness, Doolittle, Drake, Edmunds, Fessenden, Frelinghuysen, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Pomeroy, Saulsbury, Tipton, and Vickers—16.

ABSENT—Messrs. Bayard, Cameron, Corbett, Harlan, Henderson, Howe, McCreery, Morton, Ross, Sumner, Wilson, and Yates—12.

So the motion was agreed to, and the Senate proceeded to consider the order.

Mr. CONNESS. I move to strike out where they occur the words "until to-morrow" and insert the words "for one week," and then strike out in another line where they occur the words "until further order;" so that if this experiment is to be carried out at all we shall have a week's experience of it, and then, without further order of the Senate, the issuing of tickets or the present regulation shall be resumed. There has been a great deal of expense incurred, and it had better be known—

Mr. SHERMAN. If that will make it more satisfactory to the Senate, as I wish to try the experiment to see whether the people will not behave as well as those who are invited here, I am willing to accept the modification and try the experiment.

Mr. CONNESS. That would be more acceptable to me; but I should not vote for it even with that modification. I totally deny that the people are not represented in the galleries.

Mr. SHERMAN. What is the proposition?

Mr. CONNESS. I say that will make it more acceptable to me, but yet I should not vote for its adoption. I have no doubt whatever that the Senate might adopt it with that modification.

Mr. SHERMAN. Then I withdraw my proposition to accept the modification.

Mr. POMEROY. If the Senator from California would modify his amendment so as to say three days, I should be willing to agree to it. I hope that a week will close the trial.

Mr. CONNESS. Then I will accept the suggestion and modify my amendment so that it shall be for three days that the experiment shall be made.

I was about proceeding to say, Mr. President, when interrupted by the Senator from Ohio, that it had better be understood and known that, anticipating by the significant demonstration which occurred in the galleries of the Senate upon the decision of a question incidental in the first proceedings in the trial of the impeachment that there would be disorder, and that disorderly persons who had gathered from distant sections of the country to the capital for the purpose of creating disorder, and who did not in the public streets, or in the bar-rooms, or at many of the places of public resort pretend to conceal their demonstrations of disfavor to the Congress of the United States—in anticipation, I say, of these demonstrations and declarations, very considerable expense has been gone to preserve order. The regulation created for admission to the Senate galleries constituted a part of the regulations adopted; and in furtherance of those regulations a large police force has been employed, so that admission to the Senate wing of the building should not be obtained by persons other than orderly persons who desired to witness the trial pending these great proceedings. All that is to be brushed away—the expense gone to having been for the purpose of gratifying the morbid curiosity or perhaps the malig-

nity of a portion of the population. I do not, of course, intimate in any respect that that is the purpose of the honorable Senators who advocate rescinding this rule; but that is the purpose and disposition and desire and wish of many persons outside of this Capitol; and I do not expect to see order preserved with this regulation rescinded. I do not expect to see delicate, backward, and well-ordered persons able to ascend the steps of the galleries, much less to enter the galleries. We shall have those come here as they go to places where very small amounts are charged for admission to shows, to observe, look on, and see the show—not persons deeply concerned in this great trial; not such persons as arrive here from the different towns and cities of the Union, who desire to see these great proceedings transpire; but persons who desire to gratify a morbid curiosity or some worse feeling.

It is very far, Mr. President, from my mind to draw distinctions between the people of this country other than those based, in these times of trouble and travail, upon the well-known inherent qualities of the population. If opportunities were given rebellion would be as rife in the streets of Washington to-morrow as it ever was. And you propose opening these galleries to the tread and occupancy of persons entertaining those feelings.

The regulations that have been adopted have worked well. Tickets have been issued every day, so that they have been changed generally, and, with some rare exceptions, there is a new audience in the galleries daily. I have given my tickets variously to persons from different States of the Union. My friend from Rhode Island, [Mr. ANTHONY,] who had so many applications at the beginning of these proceedings, not being able to satisfy all his constituents, I have contributed to supply some of them, [laughter;] and I may as well say here that, on some occasions, I have referred others back to the Senator. I hope they found him and got tickets. [Laughter.]

I am opposed to the rescinding of this resolution; but, if the experiment is to be tried, let it be tried for a period of three days, and then, without further order, let the existing regulation be resumed. If it works well we shall all then be in favor of continuing the new rule. If it does not no further action will be necessary, and it will not depend upon our being able to obtain a legislative session.

Mr. FRELINGHUYSEN. Mr. President, I do not know that I sympathize entirely with my friend from California as to the danger of great disorder here; for I believe we have the ability to keep order in this Capitol, and in this city, and in this nation. If we have not, we will try it if there is any doubt about it. But there is great injustice, in my opinion, in the proposition to rescind this resolution. I have a great respect for the people of Washington; but this Capitol does not belong to the people of Washington. It belongs to this nation, and when this great trial is transpiring it is our duty to make such arrangements that every part of this great nation may have here its witnesses; that they may come from Maine and from New Jersey and New York and every State. We have made arrangements by which they can be here, the nation can be here; and now we propose to adopt a rule which will exclude them; for who questions but that the first day these galleries are opened those who are willing to enter the rush or willing to stay here two or three hours will take possession of the galleries to the exclusion of those who come from various parts of the Union to be here as witnesses of this trial? And I further think it is a breach of good faith; for persons have come from various parts of the nation to stay here during this trial and witness it, knowing that they can be accommodated with seats. The arrangement that is made is perfectly just and equitable, equal for every part of the nation, as the seats in this building are at the disposal of the Senate and the Representatives of the people. If we rescind the rule, while I do not anticipate any disorder or violence, I do

anticipate such a noise in this Capitol that we shall be unable to hear the proceedings. I trust that the Senate, inasmuch as they have adopted a rule which has worked well, will have stability enough to stand by the rule.

Mr. MORRILL, of Maine. Mr. President, the Senator from Ohio seems to contemplate a distinction which it is quite difficult for me to understand, between those who are invited here and the people, from which I infer that this measure is a measure in behalf of what the honorable Senator supposes to be the people as contra-distinguished from those who are invited here. Now, I rather agree with the Senator from New Jersey that the regulations made on the part of the Senate have been such as would enable the Senate to make that just discrimination in behalf of that class of the people of this country who would have a right in the highest sense to visit this Senate while this great proceeding is under consideration; and if the honorable Senator from Ohio means that the populace (I use that phrase in no offensive sense) immediately surrounding this Capitol have the right to crowd these halls to the exclusion of those who may come here from abroad on invitation, if you please, then I object to it altogether, for I submit to the honorable Senator that in no sense whatever can the attendance upon this court, or this Senate while it sits to try impeachment, be considered in a popular sense; that is to say, it cannot from the nature of the case be popularized. The people in a body cannot be invited here, from the nature of the case.

Mr. DAVIS. Will the honorable Senator permit me to offer an amendment to the amendment, that both may receive his attention?

Mr. MORRILL, of Maine. Certainly; with great pleasure. I should like to have as much of this subject as I can get to talk about. [Laughter.]

The PRESIDENT *pro tempore*. The amendment of the Senator from Kentucky to the amendment will be read.

The Secretary read the amendment of Mr. DAVIS, which was to add the following:

And when there may be white persons present at the door of the gallery who cannot obtain seats and colored persons may have seats in the gallery, it shall be the duty of the officers to unsat and remove from the gallery such seated colored persons and assign their seats to such white persons as may not have seats. [Laughter.]

Mr. MORRILL, of Maine. Do I understand that the Senator desires to argue that proposition?

Mr. DAVIS. No; I want you to argue it. [Laughter.]

Mr. MORRILL, of Maine. I will give the Senator five minutes of my time if he desires to argue it.

Mr. DAVIS. I am much obliged to you. It does not require any argument, unless it be from the honorable Senator from Maine.

Mr. TRUMBULL. Question!

Mr. MORRILL, of Maine. Does the Senator from Illinois desire the question? [Laughter.]

Mr. TRUMBULL. I thought the Senator had given way.

Mr. MORRILL, of Maine. No; I was listening to see whether the honorable Senator from Illinois desired to address the Chair.

Mr. TRUMBULL. I supposed the Senator from Maine, after he had taken his seat, and an amendment had been offered by the Senator from Kentucky, had got through with his speech; but if he is determined to speak the hour out, I do not know any way to prevent him.

Mr. MORRILL, of Maine. I do not know any way on earth to prevent it. [Laughter.] I hope the honorable Senator from Illinois will see the condition in which he is placed, and possess his soul in as much patience as is practicable. [Laughter.] I am opposed to the passage of this order, and I suppose the honorable Senator from Illinois cannot have the slightest objection in the world to my presenting the reasons to the Senate for that opposition.

I was about proceeding to say that I think the Senate of the United States have made the most equitable and reasonable disposition of the whole subject that the case admitted of. If the desire is to popularize this affair, the Senator from Rhode Island [Mr. ANTHONY] made a proposition yesterday which comes the nearest to it of anything that has occurred to me; and I was greatly surprised that the friends of that measure, those who exhibited so much solicitude yesterday to pass that measure, should have consented to thrust this in ahead of it this morning.

Mr. FOWLER. I wish to ask the Senator a question. I want to know whether this is the part of the Senator's speech in which he was "about proceeding to say," or whether it is the speech itself? [Laughter.]

The PRESIDENT *pro tempore*. The Senator from Maine has the floor.

Mr. MORRILL, of Maine. I do not quite understand the Senator's remark. What I was about to say, Mr. President, when interrupted, [laughter,] was, that the measure best calculated to popularize this trial was the one introduced by the Senator from Rhode Island yesterday.

Mr. CONKLING. With the Senator's permission, I beg to inquire of him whether the purpose of this eloquent speech which he is now endeavoring to make is to defeat the proposition of the Senator from Ohio, or to defeat the proposition which he now refers to, and which is behind this—the one offered by the Senator from Rhode Island—inasmuch as but five minutes remain. My curiosity on that point is very active.

Mr. MORRILL, of Maine. Well, I will satisfy the honorable Senator's curiosity with the greatest pleasure. My desire is to defeat this particular proposition, and give the precedence to the proposition lying so near the heart of the honorable Senator from New York; and if he will move to proceed to the consideration of that subject at this time I will give way with great pleasure for that purpose; or, if the honorable Senator will second it, I will move that.

Mr. SHERMAN. Will the Senator say that no one else will oppose that resolution in the same way that he is opposing this? If so, I will give way at once.

Mr. MORRILL, of Maine. If the honorable Senator asks me whether I suppose any other Senator will argue that proposition as I think I am very properly arguing this I beg to say that I cannot answer that. I have no objection, however, to satisfy the curiosity of my honorable friend from New York, to satisfy him that I am entirely sincere in the proposition he seemed to have such an earnest desire for yesterday, and to my astonishment to-day yields to have displaced by a proposition which he might know, I think, would not pass in a half hour or fifteen minutes time of the Senate—a proposition which proposes to rescind the established rule of the Senate which has provided for order in this body during the trial of the impeachment, against which I have not heard the slightest complaint.

Mr. SHERMAN. As there is but one minute left I will ask the Senator from Maine if there ever was a court of justice in the world organized under English law which excluded everybody from getting into the gallery or gave preference in allowing people to witness the exhibition? I ask him whether, in this country, there has been any such case?

Mr. MORRILL, of Vermont. Allow me to ask the Senator from Ohio a question, whether there is a country in the world that furnishes one twentieth part of the room for the public that we furnish for this court.

Mr. SHERMAN. I say this, that, in my judgment, this is an exceptional case. It was never done before. We deny people who come a thousand miles to witness this trial an opportunity to see this spectacle, and give our tickets out in such a way that the mass of the people who come here have no opportunity to witness the proceedings.

Mr. CONNESS. I beg to correct the Senator, if the Senator from Maine will allow me. The PRESIDENT *pro tempore*. The Senator from Maine has the floor.

Mr. CONNESS. I know that; I ask his permission.

Mr. MORRILL, of Maine. Certainly.

Mr. CONNESS. In the Surratt trial—I call the attention of the Senator from Ohio—such a regulation had to be adopted. I state that to the Senate, not being able to secure the attention of the Senator from Ohio. And it is always so on inauguration days here.

Mr. MORRILL, of Maine. I would state a fact—

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore*. The morning hour having expired, all legislative business must be suspended.

The President *pro tempore* thereupon vacated the chair, and the Senate proceeded to the trial of the impeachment of President Johnson.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at three o'clock and twenty-five minutes p. m., when, on motion of Mr. GRIMES, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, April 4, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

#### EXECUTIVE COMMUNICATION.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit to the House of Representatives, in further answer to their resolution of the 9th ultimo, the accompanying report from the Secretary of State.

ANDREW JOHNSON.

WASHINGTON, April 2, 1868.

The SPEAKER. The report relates to the treaty made with the German States relating to the rights of naturalized citizens.

The message and the accompanying report were referred to the Committee on Foreign Affairs, and ordered to be printed.

#### RESOLUTIONS OF GEORGIA CONVENTION.

The SPEAKER also, by unanimous consent, laid before the House the resolutions of the constitutional convention of Georgia in regard to the removal of political disabilities; which were referred to the Committee on Reconstruction, and ordered to be printed.

#### RESOLUTIONS OF NEW ENGLAND CONFERENCE.

The SPEAKER also, by unanimous consent, laid before the House resolutions adopted by the New England annual conference on the state of the country; which were referred to the Committee on Reconstruction, and ordered to be printed.

#### LIGHTING THE HALL.

Mr. BROOMALL. I ask unanimous consent to submit a report, accompanied by a resolution, from the Committee on Accounts, relative to the means of lighting the Hall of the House. I do not desire to make the report for the purpose of action at this time; but as it is an important matter I desire that the report may be printed and recommitted and put in such a position by a motion to reconsider being entered that it can be called up when there is no pressing business before the House, and passed or rejected as the House may see fit.

Mr. HOLMAN. I desire to know what the report is?

Mr. BROOMALL. The resolution recommends the adoption of the electric mode of lighting which is used on the Dome instead of the mode now in use.

Mr. HOLMAN. I have no objection to the reception of the report.

The report was received, recommitted to the

Committee on Accounts, and ordered to be printed.

Mr. BROOMALL moved to reconsider the vote by which the report was recommitted.

The motion was entered and passed over for the present.

#### EMMOR WARE.

Mr. HUNTER, by unanimous consent, introduced a bill (H. R. No. 1000) for the relief of Emmor Ware, of the State of Indiana; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I desire to have an understanding that when bills and other matters are introduced and referred by unanimous consent pending the impeachment trial they shall not be brought back by motions to reconsider, and I suggest that that understanding shall relate to everything introduced to-day except the report of the gentleman from Pennsylvania, [Mr. BROOMALL.]

The SPEAKER. If there be no objection it will be ordered that during the pendency of the impeachment trial all bills, &c., which may be introduced and referred shall be considered as reconsidered and laid on the table, with the exception of the resolution reported by the gentleman from Pennsylvania, [Mr. BROOMALL].

There was no objection, and it was so ordered.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. PILE for ten days, and to Messrs. KNOTT and BURR indefinitely.

#### WITHDRAWAL OF PAPERS.

On motion of Mr. VAN HORN, of New York, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Erastus Spalding, copies being left.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House resolves itself into the Committee of the Whole, according to order, to proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At three o'clock and thirty minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until Thursday next at twelve o'clock m.

The SPEAKER. The report will be entered on the Journal.

#### ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I desire to make a suggestion to the House. In view of the fact of the adjournment of the Senate, sitting as a court of impeachment, until Thursday next, and of the further fact of the absence of a great number of gentlemen, who have left the city with the understanding that no business would be done, my suggestion is that it shall be the general understanding that no business shall be transacted in the House until Thursday next.

The SPEAKER. That would be business of a most important character, because it would bind all those who are absent now with the understanding that no business should be transacted to-day.

Mr. ELDRIDGE. I move that when the House adjourns it adjourn to meet on Wednesday next.

Mr. WASHBURNE, of Illinois. We may as well adjourn over, as, owing to the understanding that no business would be done, there is hardly a quorum of members in the city.

The SPEAKER. It will require a quorum to adjourn for more than one day, if the point is made.

Mr. BLAINE. I desire to make a statement if there is no objection.

Mr. SCOFIELD. Is debate in order?

The SPEAKER. It is not.

Mr. ELDRIDGE. I have made the motion to adjourn over with no disposition to interfere with any business, but for the reason that I thought there would then be one day's session of the House previous to the meeting of the Senate for the trial, and if the managers should have anything to submit to the House they would be able to submit it on that day, so that they would be prepared to meet the court at its next sitting. I know that many gentlemen on both sides of the House have left the city with the understanding that no business of a legislative nature was to be done.

Mr. GARFIELD. I would like to inquire of the Speaker whether, in his judgment, there is a quorum in the city or would be by Monday, so that the House could proceed to transact business on that day?

The SPEAKER. The Chair is of the opinion that there is no quorum at the present time in the city in consequence of the understanding that there should be no business of a legislative character transacted unless the House should be notified of it previous to going over to the Senate. But as to whether there would be a quorum here on Monday, if it should be understood that the House would resume business on that day, the Chair cannot tell. A great number of members have gone home.

Mr. BLAINE. I call for a division on the motion of the gentleman from Wisconsin.

Mr. ELDRIDGE. I give notice now that you shall not transact business without a quorum.

The House divided on Mr. ELDRIDGE's motion; and there were 35 in the affirmative and 1 in the negative—no quorum voting.

Mr. PIKE. I think it would be very well for the House to come here on Monday and see how many members there are present; and then, if there be not a quorum present, we can adjourn until Thursday.

Mr. SCOFIELD. I call for the enforcement of the rule. A motion to adjourn is not debatable.

Mr. COVODE. Would it not be in order and proper to have a call of the House?

The SPEAKER. It would not. The Chair does not believe that under the order of the House a motion for a call of the House would be in order, because the understanding was that, without previous notice by the Speaker, no business should be done after the return of the House every day to its Chamber, and if a call were made it should be a call of members for legislative business, and the Chair thinks that would not be in good faith.

Mr. BLAINE. I beg to make one remark.

Mr. SCOFIELD. I demand the regular order of business.

The SPEAKER. No debate is in order.

Mr. CLARKE, of Ohio, (at three o'clock and thirty-five minutes p. m.) I move that the House do now adjourn.

The question was taken, and the House refused to adjourn.

Mr. BLAINE. I desire to make a suggestion, if gentlemen will allow me. It is quite evident to every gentleman—I do not speak of it at all because I have any interest, for I expect to leave the city—that there are a good many members in the city who desire to make speeches.

Mr. SCOFIELD. I rise to a point of order. Is debate in order?

The SPEAKER. There is no proposition before the House. The Chair supposed that the gentleman from Maine was about to submit a proposition.

Mr. WASHBURNE, of Illinois. I appeal

to the gentleman from Pennsylvania [Mr. SCOFIELD] to withdraw his point of order. I presume we can come to some understanding that will be satisfactory all around. I appeal to the gentleman to withdraw his objection.

Mr. SCOFIELD. There is nothing before the House.

Mr. BLAINE. I wish to make a suggestion.

Mr. PIKE. Let us come here on Monday and see if we can transact business.

Mr. GARFIELD. I desire to say a word or two.

Mr. SCOFIELD. I withdraw my point of order in favor of the gentleman from Ohio, [Mr. GARFIELD.]

Mr. BLAINE. The gentleman is very civil. He took me off the floor.

Mr. SCOFIELD. Well, I withdraw it in favor of everybody.

Mr. GARFIELD. I will yield the floor to the gentleman from Maine in a moment. I desire to say that if there was likely to be a quorum here on Monday, Tuesday, and Wednesday, it is very important that we should make some progress in the call of committees. The Committee on Military Affairs, which has some important measures to present, has not been called for more than two months; and, if I supposed we could get a quorum here on these days, I should be very glad to have the House in session for business. That was the reason why I asked the Speaker what the probability was of having a quorum on Monday; but, as the Speaker says it is manifest there is not a quorum in the city, I am quite willing to give way and hear the suggestion of the gentleman from Maine.

Mr. BLAINE. The suggestion which I desired to make was, that for the three days intervening between now and Thursday nothing shall be in order except debate in the House, if such an understanding be in order under the ruling of the Chair. We might use these three days as Saturdays have been used. As soon as the impeachment trial ends the business of the House will be resumed with such vigor and the committees will be so pressing with their measures that the season for debate on the part of members will be narrowed down to the closest possible limits. It seems to me a fair thing that, by unanimous consent, these three days be allowed to any gentleman who might desire to come here for the purpose of making speeches.

Mr. ELDRIDGE. I cannot see why the gentleman should object to adjourning over or make this suggestion when he has stated to the House that he intends to leave the city.

Mr. BLAINE. I said that to show that I was not selfish in making the suggestion and had no purpose to take advantage of it to make a speech myself.

Mr. ELDRIDGE. I have not seen one man yet who wants to make a speech.

Mr. BLAINE. Having been allowed to make this explanation, I will withdraw the call for a division on the motion to adjourn over.

Mr. ROSS. I would inquire why debate cannot go on in the House during the progress of the impeachment, the same as we have it on Saturdays?

The SPEAKER. Because the House has ordered otherwise by resolving that the House will accompany the managers to the bar of the Senate. That resolution would have to be rescinded when there is a quorum present. The Chair will state, in answer to the gentleman from Maine, that the Chair is at the present time informed of but three gentlemen who desire to speak in the Committee of the Whole.

Mr. BLAINE. I have stated that having been allowed to make the explanation I withdraw the call for a division.

Mr. SCOFIELD. I would like to inquire if there is any constitutional objection to any member going to his room and making his speech there if he wants to?

The SPEAKER. There is not.

Mr. SCOFIELD. Then that will answer just as well as if we came here.

Mr. WASHBURNE, of Illinois. I hope



the gentleman from Wisconsin will now renew his motion.

Mr. ELDRIDGE. I renew the motion, that when the House adjourns it adjourn to meet on Wednesday next.

The question was taken, and the motion was agreed to.

And then, on motion of Mr. WASHBURN, of Illinois, (at three o'clock and forty minutes p. m.,) the House adjourned until Wednesday next.

#### PETITIONS.

The following petitions &c., were presented under the rule, and referred to the appropriate committees:

By Mr. RAUM: The petition of Captain David Slinger, company B, thirteenth regiment Illinois cavalry volunteers, for payment of claim for forage for horses of his company.

Also, the petition of Captain Samuel A. Hogue, company H, thirteenth regiment Illinois cavalry volunteers, for payment of claim for forage for horses of his company.

Also, the petition of Rev. David S. Colgin, of Daviess county, Kentucky, for payment for damages done his homestead by the Union Army.

#### IN SENATE.

MONDAY, April 6, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The legislative Journal of Saturday last was read and approved.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Interior, communicating a report from the Commissioner of Indian Affairs, relative to the wants and necessities of the Chippewa Indians of Lake Superior; which was referred to the Committee on Indian Affairs.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a resolution of the Legislature of the State of Minnesota, approving the action of Congress in relation to the impeachment of Andrew Johnson; which was ordered to lie on the table.

Mr. RAMSEY presented a resolution of the Legislature of the State of Minnesota, relative to the Fort Ridgely military reservation in Minnesota; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of the State of Minnesota, relative to the improvement of the Wisconsin and Fox rivers; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented a memorial of the Legislature of the State of Minnesota, for a grant of land to aid in the construction of the Chatfield branch railroad; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislature of the State of Minnesota, praying for additional appropriations for the survey and improvement of the Mississippi river above Rock Island, and of the Minnesota river; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. GRIMES presented a petition of the Independence school district of Burlington, Iowa, and Burlington University, praying that certain land reserved for public burial purposes may be granted to the Independence school district of Burlington; which was referred to the Committee on Public Lands.

Mr. FESSENDEN presented a petition of officers of the Navy attached to the navy-yard at Mare Island, California, praying an increase of their compensation; which was referred to the Committee on Finance.

Mr. WILLEY presented a petition of Fannie Filly, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. COLE presented a resolution of the Board of Trustees of Santa Barbara, Califor-

nia, praying the passage of an act confirming the distribution of the lands confirmed to that town to the grantees of the corporation; which was referred to the Committee on Private Land Claims, and ordered to be printed.

He also presented a resolution of the Legislature of the State of California, in favor of aid to the San Diego and Gila Southern Atlantic and Pacific Railroad Company in the completion of its road from the port of San Diego to the Gila river; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of the State of California, in favor of aid to the Southern Pacific railroad; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

He also presented a resolution of the Legislature of the State of California, in favor of a grant of land to aid in the construction of a wagon-road from Hideville, in Humboldt county, to the southern boundary line of that county, and a wagon-road from Arcata to Weaverville, in that State; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a resolution of the Legislature of the State of California, in favor of an appropriation for the erection of a lighthouse at Trinidad, in Klamath county; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. WILLIAMS presented a petition of citizens of Oregon, and of Washington and Montana Territories, praying for an appropriation to construct a wagon-road from Horse Plains to Cabinet Landing, in Montana Territory; which was referred to the Committee on Territories.

Mr. SUMNER. I offer a petition from Isaac F. Holton, of Massachusetts, in which he sets forth that more than a year ago the law of the United States changed the postal weights from avoirdupois ounces to grammes. He says that this law, according to his knowledge, has been utterly ignored by the Post Office Department. He asks that Congress take some action on the subject. I move the reference of the petition to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. WILSON presented resolutions of the Georgia constitutional convention, recommending the removal of political disabilities from certain citizens; which were referred to the Committee on the Judiciary.

#### REPORTS OF COMMITTEES.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was re-committed the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, reported it with an amendment.

#### BILLS INTRODUCED.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 468) to provide for the completion of the branch mint at Carson City, Nevada; which was read twice by its title, and referred to the Committee on Appropriations.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 469) confirming the title to a tract of land in Burlington, Iowa; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 470) to remove the political disabilities resting upon certain citizens of Georgia; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 471) to indemnify Abial Morrison for property destroyed by hostile Indians in Washington Territory in the years 1855 and 1856; which was read twice by its title, and referred to the Committee on Claims.

Mr. WILLIAMS. I ask that the papers of this claimant be withdrawn from the files and also referred with the bill.

The PRESIDENT *pro tempore*. Has there been an adverse report?

Mr. WILLIAMS. No adverse report. The bill passed the House at the last session, and was lost in the Senate for want of time.

The PRESIDENT *pro tempore*. The order will be entered.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 472) supplementary to an act entitled "An act to allow the United States to prosecute appeals and writs of error without giving security;" which was read twice by its title.

Mr. TRUMBULL. I move that the bill be printed and go upon the Calendar. It comes from the Judiciary Committee, but has never been formally referred to the committee.

The PRESIDENT *pro tempore*. That order will be entered, no objection being made.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 132) authorizing the Secretary of War to furnish supplies to an exploring expedition; which was read twice by its title.

Mr. TRUMBULL. As the resolution is short, I ask that it be read.

The Secretary read the joint resolution, as follows:

*Resolved, &c.* That the Secretary of War be, and he is hereby, authorized and empowered to issue such commissary and quartermaster stores to the expedition engaged in the exploration of the river Colorado under direction of Professor Powell as may be necessary to enable the expedition to prosecute its work.

Mr. TRUMBULL. I should like to ask the consideration of the Senate to that resolution at this time, if there is no objection. I will explain it in a moment.

The PRESIDENT *pro tempore*. That can only be done under the rules by unanimous consent. Is there any objection?

Mr. CONNESS. What is it?

Mr. TRUMBULL. I will state in one moment, and then, if there is any objection, let it go to a committee.

Mr. FESSENDEN. I am inclined to object, as I desire to call up a resolution and have it disposed of.

Mr. TRUMBULL. Let me state what it is. It will not occupy more than two or three minutes. I will state that Professor Powell is engaged in the exploration of the Colorado river of the West. He was there last year.

Mr. GRIMES. Under whose authority?

Mr. TRUMBULL. The authority of the State of Illinois.

Mr. FESSENDEN. I think the matter ought to go over.

Mr. TRUMBULL. The Senator has not heard my statement. If, after hearing it, he has any objection I will allow the resolution to be referred.

The State of Illinois made an appropriation for this purpose, and Professor Powell, under the auspices of the State—he is connected with the Normal University of that State—was engaged last year in this service. The Government last year furnished him with a guard for protection, and, I think, furnished him supplies from the commissary department, which he paid the Government price for. He is going out again this year. The Government of the United States are very much interested in this exploration. The Secretary of War has been consulted in regard to it, and the resolution meets his approbation; but, as the law now is, he would not feel at liberty to furnish these supplies. That is all there is of it.

Mr. CONNESS. Are they to be furnished gratis?

Mr. TRUMBULL. Yes, they will be if the resolution is passed.

Mr. CONNESS. I should like to inquire—

The PRESIDENT *pro tempore*. The first question is to ascertain whether there is any objection to the present consideration of the resolution.

Mr. CONNESS. Mr. President—

Mr. TRUMBULL. I move its reference to the Committee on Military Affairs, if anybody objects.

Mr. CONNESS. I do not object. I want to know what it is.

The PRESIDENT *pro tempore*. If there is no objection, the resolution will be considered at this time.

Mr. FESSENDEN. There is an objection, I understand, and the Senator from Illinois moves to refer it to the Committee on Military Affairs.

The PRESIDENT *pro tempore*. It will be so referred.

#### SETTLEMENT OF WAR DEPARTMENT ACCOUNTS.

Mr. EDMUNDS submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of War be requested to communicate to the Senate what was the course of practice in respect to the settlement of public accounts and the drawing of requisitions therefor by the Secretary of War upon the Treasury prior to the passage of the late act respecting the prompt settlement of public accounts, and what, if any, evils exist under the present law in that respect.

#### DAMAGES TO STEAMER MONITOR IN JAPAN.

Mr. HENDRICKS. I move to take up Senate bill No. 307.

Mr. FESSENDEN. I believe I had the floor, and yielded it to the Senator from Vermont to offer a resolution. I want to take up the little resolution that I mentioned to the Senator.

Mr. HENDRICKS. Very well.

Mr. FESSENDEN. I ask the Senate to take up a little matter, the joint resolution reported from the Committee on Foreign Relations that was considered the other day, to which attention was called by the Senator from California, [Mr. CONNESS.] It is Senate joint resolution No. 123.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. R. No. 123) authorizing the Secretary of State to adjust certain claims, and directing the payment thereof.

Mr. FESSENDEN. The Senator from Indiana has an amendment that he proposes to offer, I understand. I call his attention to the fact that the resolution is now before the Senate.

Mr. HENDRICKS. The Senator from California was specially interested in this subject. I expected to have had an amendment prepared from the Committee on Naval Affairs, but the committee have not been able finally to agree upon it. Therefore, I am not prepared to offer it now.

Mr. FESSENDEN. I think the Senator had better offer it in a separate bill. I do not think this resolution ought to be delayed any longer.

The PRESIDENT *pro tempore*. The joint resolution is before the Senate as in Committee of the Whole, and open to amendment.

Mr. JOHNSON. What is the resolution?

Mr. FESSENDEN. Authorizing the Secretary of State to adjust certain claims. If the Secretary will read it through it will be understood in a moment. I explained it the other day.

The Secretary read the joint resolution, as follows:

*Resolved, &c.*, That the Secretary of State be, and hereby is, directed to ascertain and allow the damages which ought to be paid to the owners of the steamer Monitor or Fee Pang, their representatives or assigns, for the injuries sustained from being fired into by the batteries of the Daimio of Nagato, in July, 1864, and that the sum allowed by the Secretary of State, together with the expenses attending the ascertainment thereof, be paid out of the moneys received for indemnities from the Government of Japan.

SEC. 2. And be it further resolved, That the Secretary of State be, and hereby is, authorized to appoint a commissioner or commissioners, as may be necessary, to take testimony in Japan or elsewhere, in relation to such damages, and report the same to him; and that any consular or diplomatic officer who may be so appointed shall be entitled to a reasonable compensation, to be allowed by the Secretary of State, in addition to his official salary or emoluments.

Mr. HENDRICKS. That appropriation of money is proposed to be made out of a special

fund which came into the Treasury under the convention of 1864, according to which the Government of Japan paid to the United States, for injuries to our commerce, the sum of \$750,000. This is one of the vessels that, as I understand, were insulted and perhaps injured by the rebel prince under the authority of Japan. All the money is not to go to this vessel. I am not sure that any one ought to be provided for until all are provided for. That is the only question in my mind. There was referred to the Committee on Naval Affairs the claim of Commander McDougall and his men for their gallant conduct on one of the vessels of war of our Government in resenting one of these insults; and the character of our country was very handsomely maintained by the captain and his men. I am of the opinion that a portion of this money ought to go in the nature of prize money to the captain and crew of that vessel; perhaps from thirty to fifty thousand dollars of it. Then the vessel that was fired into two days before the captain made his attack, perhaps, ought to be provided for also. I have not examined the subject enough to know what other vessels were injured by this rebel prince of the Japanese Government besides the vessel that is to be provided for by the resolution now before the Senate.

I make these suggestions that the Senator from Maine may decide whether it is entirely safe and proper to provide for one vessel until all are provided for. It is very clear that the money does not all go for the injuries to this particular vessel, and that there are others who have proper claims upon this fund.

Mr. HOWARD. If the Senator will allow me, I wish to inquire whether this subject has ever been reported upon by any of the standing committees of the Senate?

Mr. HENDRICKS. I will say that the Committee on Naval Affairs has charge of the claim so far as Captain McDougall and the men under his command are concerned, their claim being in the nature of prize money for the destruction of three vessels of this rebel prince. One was sunk, another blown up, and the third, perhaps, almost destroyed. They claim that they are entitled to prize money, not according to the letter of our laws, but according to their spirit.

Mr. HOWARD. Was the subject-matter of the present resolution, now before the Senate, ever acted upon by a committee?

Mr. HENDRICKS. In answer to the Senator from Michigan, I will say that this particular resolution was not before the Committee on Naval Affairs, nor has the naval committee decided upon the claim that I speak of, although my own mind—

Mr. FESSENDEN. This resolution was reported by me from the Committee on Foreign Relations with a written report from the Secretary of State.

Mr. HOWARD. I was not aware that it had been under the consideration of any one of the committees.

Mr. FESSENDEN. I explained this matter the other day. There is a sum of money, amounting to about eight hundred thousand dollars, coming to us from Japan. There are no claims upon it which can cover, by any possibility, over \$100,000. I stated the other day, and I think stated correctly, although my honorable friend from California [Mr. CONNESS] thought I was in error, that the immediate cause of the attack which was made was the previous attack made upon this very vessel, the Monitor, which was fired into and injured. In consequence of that the attack was made by our vessels afterward. Now, the owners of this vessel, which was injured, have made an application that out of that fund of about eight hundred thousand dollars they may be compensated to the extent of the injuries received by her.

Mr. HENDRICKS. I will ask the Senator from Maine what was the date of the attack on this vessel?

Mr. FESSENDEN. That I am unable to state.

Mr. CONNESS. The joint resolution states that the attack was made on the Monitor, or Fee Pang, in 1864; so that the Senator must be in error in regard to the fact he has just now stated. The other attack was made in 1863.

Mr. HENDRICKS. The first outrage on our commerce was about the 1st of July, 1863.

Mr. CONNESS. And the firing was on the steamer Pembroke.

Mr. GRIMES. There were two vessels.

Mr. FESSENDEN. I may be in error about that; but these parties have presented papers and filed their claim at the State Department. No other claim has been made upon this fund by any vessel that was injured. The owners of this vessel desire to have testimony taken, and to have their own claim settled. The amount paid to our Government by Japan is probably enough to pay four or five times over all possible claims that may be made. I explained the matter the other day as the facts came from the Secretary of State, the proper authority. There were certain injuries, occasioned by one of these Daimios, to our commerce. The representatives of foreign Powers made their claim upon the Japanese Government for these injuries, and they claimed a very large sum of money; but as an alternative of the claim they said they would take another port to be opened, which they thought would be done rather than have that large sum of money paid; but the Japanese Government chose to pay the money, and paid \$3,000,000, of which our Government, I understand, gets about eight hundred thousand dollars. Now, the injuries to all our commerce that took place there, perhaps, will not reach \$75,000.

Mr. SUMNER. No; not that much.

Mr. FESSENDEN. This claim is about thirty thousand dollars. I think that is more than the parties are entitled to; I do not suppose they are entitled to more than \$20,000. Probably the claim of the Pembroke is not much larger.

Mr. GRIMES. I do not think the Pembroke was struck at all.

Mr. FESSENDEN. And the Pembroke has made no claim whatever; and that is the only other vessel, I understand, in regard to which there is a possibility of a claim.

Mr. HOWARD. Allow me to inquire of the Senator from Maine in what way is the amount to be ascertained? By the Secretary of State, if I understand it.

Mr. FESSENDEN. The Secretary of State is to have evidence taken by our consul or to appoint somebody to take evidence on the subject.

Mr. HOWARD. But who is to decide finally as to the amount?

Mr. FESSENDEN. The Secretary of State, whoever he may be, with all the papers before him.

Mr. HOWARD. Will that be entirely fair to the opposite party?

Mr. FESSENDEN. Who is the opposite party?

Mr. HOWARD. The Japanese Government.

Mr. FESSENDEN. The Japanese Government have nothing to do with it. They have paid the money, \$800,000, and that money is in the Treasury, and this claim is in the hands of the Secretary of State, I suppose. There is no other party except the Government of the United States. The Secretary of State recommends this, and the resolution was drawn at the office of the Secretary of State. There will be plenty of money with which to pay the Pembroke or any other vessel that may hereafter appear. The only question is whether this shall be delayed for other claims to be made which have never yet been presented.

Mr. HOWARD. How much has been allowed at the State Department?

Mr. FESSENDEN. Nothing has been allowed yet. It is for the State Department to examine and find out. The claim itself, as I am informed by the owner, probably will not exceed—he does not expect to recover over

thirty thousand dollars, if he does that; but the exact amount of the injury to the vessel has not yet been ascertained. It is a small question.

Mr. CONNESS. I of course have no disposition to delay the payment of this claim. The statement made by the honorable Senator in the main is correct. The money has been paid into the Treasury of the United States by the Japanese Government, and is there subject to such claims for injuries as our citizens have sustained. It appears that the owners of the Monitor or Fee Pang have presented their claim for injuries sustained by their vessel, but that the owners of other American vessels sustaining injuries have not as yet presented their claims.

A part of the statement made by the honorable Senator when first up, namely, that the treaty and payment of the money, as well as the attack by our national vessel on the forts and ships of this prince, were the consequence of the attack upon the Monitor, was not strictly correct. The proceedings were founded distinctly upon the attack made on the Pembroke in the year previous; and those attacks were continued, not only upon our commerce but upon that of the other treaty Powers, until the Japanese were pretty soundly drubbed, and the payment of this money was the consequence. I think, however, the Senator ought to amend this resolution slightly in such a manner as to cover other claims without delaying the prosecution and payment of this claim at all, so as to dispose of the whole matter at once. I suggest that if after the word "Fee Pang" the words "or other American vessels" were inserted, and then before "1864" insert "1863 and," the facts could be taken together, and it would not delay the payment of this claim at all. If no other claims were presented in the meantime, of course nothing would come of it, and by no possible circumstance could the payment of this claim be delayed. Therefore, I move to insert in the fifth line, after the word "Fee Pang," the words "or other American vessel or vessels," and at the beginning of the eighth line the words "1863 and." Then the facts can all be taken together.

Mr. GRIMES. Does the Senator understand that any other vessel was injured? Was the Pembroke struck at all?

Mr. CONNESS. I really do not know. The papers are all in the possession of the chairman of the Committee on Naval Affairs.

Mr. FESSENDEN. I will inquire of the Committee on Naval Affairs if any claim has been before them for the Pembroke?

Mr. HENDRICKS. As I said before, the claim that is before the Naval Committee is for prize money on behalf of the commander and men.

Mr. CONNESS. What possible objection can there be to the amendment?

Mr. FESSENDEN. Nothing, except my fear that it may delay the settlement of this case.

Mr. CONNESS. It cannot in any respect whatever.

Mr. FRELINGHUYSEN. Another objection to it is that it is fishing for applications.

Mr. HENDRICKS. I will say to the Senator from Maine that the evidence does not show whether the Pembroke has been injured or not. She escaped. In my judgment the claim for prize money will probably not exceed \$30,000.

Mr. FESSENDEN. Very well, then; this fund of \$800,000 will cover, four times over, all possible claims against it. I do not think it very wise, when a claim has been filed, to invite other claims on funds in the Treasury by inserting such language as is now proposed when no such claim has been made from 1863, and it is now 1868. It is merely putting out an invitation to all persons, notifying them that here is a fund, and that they may make claims upon it. I do not think it is wise legislation, unless a claim has been made or there is some proof that some other vessel was injured.

Mr. FRELINGHUYSEN. I would suggest

to the Senator from Maine that he limit the amount which may be paid by the Secretary of State to the amount claimed by this vessel, not exceeding \$30,000.

Mr. FESSENDEN. I think the first claim was \$40,000. I have no objection to limiting it to that; but I do not think it is at all necessary. This resolution was drawn at the Department of State.

Mr. FRELINGHUYSEN. If that claim is filed with the Secretary of State, I do not know that it is necessary.

Mr. FESSENDEN. This resolution was drawn there to cover the matter. I do not think it wise to put in others.

Mr. SUMNER. I agree with the Senator from Maine that it does not seem expedient now, in passing this resolution, to put in words that will be like fishing words to fish for a claim. In point of fact, this money has been in the hands of our Government for a long time, and there is only one claim that has been filed. On that claim there has been a report made to the Department of State by the examiner of claims. That report was before the committee when they acted on this resolution; and that report shows that there is a certain degree of merit in the claim.

Mr. CONNESS. If the Senator will permit me, I will withdraw the amendment to save time.

Mr. SUMNER. Very well.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### REMISSION OF DUTIES ON A BELL.

Mr. SHERMAN. I move that the Senate proceed to the consideration of House bill No. 881, which will excite no debate whatever, I think.

Mr. MORRILL, of Maine. I desire to take this opportunity to remind the Senate that the Naval appropriation bill, which was nearly finished the other day, ought to be considered and disposed of.

Mr. FESSENDEN. Not in the morning hour.

Mr. SHERMAN. This bill will not take any time, I imagine.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Ohio.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 881) refunding duties paid under protest on the importation from France of a bell for the use of Saint Mary's Institute and Notre Dame University, Indiana.

The bill will be a direction to the Secretary of the Treasury to refund to Rev. Edward Sorin the amount of duties paid by him under protest to the collector of the port of New York in 1867 on a bell donated and imported from France for the use of Saint Mary's Institute and Notre Dame University, institutions incorporated by the State of Indiana for philosophical and literary purposes.

The bill was reported to the Senate without amendment.

Mr. HOWE. I want to remind the Senator from Ohio that some years ago a like application was made on behalf of a church to have refunded the duties paid on a bell which was presented to the church by some parties, and it was refused.

Mr. SHERMAN. If the Senator will hear the brief report read, he will get the facts in such a way that I think he will not object to the bill. I doubt very much whether the duties were properly collected in this case. But the report will explain it if the Senator desires information as to the facts. The case to which he refers was probably a case that accrued before the act of 1861, which I think really exempted these articles. I do not think this bell was subject to duty, and, therefore, the duty was improperly levied.

Mr. HOWE. When was the bell imported?

Mr. SHERMAN. Last summer; but under

the law as it now stands there is a provision exempting bronze castings and works of art, &c., for colleges and public libraries. The only question was whether a bell came under exception of the present tariff act. My own impression is that it does.

Mr. HOWE. Is there a written report?

Mr. SHERMAN. There is a printed report, a very brief one.

Mr. HOWE. I should like to hear it read.

The Secretary read the following report, made by Mr. SHERMAN from the Committee on Finance on the 28th of March:

The Committee on Finance, to whom was referred H. R. No. 881, refunding duties paid under protest on importation from France of a bell donated for the use of St. Mary's Institute and Notre Dame University, Indiana, beg leave to report:

The bell referred to weighs sixteen thousand six hundred and fifty pounds, and is the largest in the United States. It is composed of ninety-four per cent. of Lake Superior copper. This was exported to France, and there, with six per cent. of tin, cast into this bell. It was presented as a charity by the Sisters of Mercy in France to the above-named institution of learning, conducted by the Sisters of Mercy in Indiana.

It was imported under the supposition that it would be admitted free of duty under a clause of section twenty-three of the tariff act approved March 2, 1861, which exempts from duty "all philosophical apparatus, instruments, books, maps, and charts, statues, statuary, busts and casts of marble, bronze, alabaster, or plaster of Paris, paintings and drawings, etchings, specimens of sculpture, cabinets of coins, medals, regalia, gems, and all collections of antiquities." *Provided*, The same be specially imported in good faith for the use of any society incorporated or established for philosophical, literary, or religious purposes, or for the encouragement of the fine arts, or for the use or by the order of any college, academy, school, or seminary of learning in the United States.

Under this clause organs have been admitted free of duty. The bell is certainly a cast of bronze for a college, and is certainly as much a work of art as an organ. The collector of customs did not so regard it, and the duties, amounting to \$2,203 83, were paid. The college now asks the refunding of these duties for the following reasons:

1. The bell was a donation to our institutions of learning, which institutions during the late war sent even its best and most efficient teachers, to the number of fifty, to serve in the military hospitals. Some died, and many returned home shattered in health, but from our institution we kept the number recruited until the close of the war. For these services we were encouraged by some of our most eminent generals to believe that the duty (so insignificant in its amount to Congress, yet onerous to Sisters of Mercy, whose lives are devoted to works of charity) would be remitted. Therefore when the bell reached New York we paid the amount under protest.

2. The second reason why the memorialists supposed that the bell would be passed free of duty was based on the fact that, as a work of art, or rather mechanism, it is the finest article of the bell kind in the United States, and as it was not imported for sale, but merely for the adornment and improvement of public literary institutions, the memorialists pray Congress to encourage the importation of such rare and valuable donations, that are in a manner public property, by allowing on said bell the remission of duty paid last August.

3. The memorialists consider that another strong reason for remitting the duty is found in the fact that the copper, which forms ninety-four per cent. of the composition, is native ore, having been exported to France from Lake Superior.

Upon the facts and reasons thus stated your committee recommend that the duty be refunded.

Mr. HOWE. Now, Mr. President, I do not know but that if this was an original question I should vote to remit these duties; but I do respectfully insist that the rule ought to be uniform, and I cannot perceive a single fact which distinguishes this case from the case to which I referred, where such a remission of duties was absolutely refused.

Mr. SHERMAN. I do not remember the case mentioned by the Senator from Wisconsin, but I know, since I have been connected with the Committee of Ways and Means and the Finance Committee, we have made remissions in cases like this, in cases much weaker than this, many times. There are at least fifty precedents of remissions of duties to public colleges, and therefore, in consequence of the general practice that has grown up to remit duties on works of art, this provision in the tariff act was inserted. I presume that the bell referred to by the Senator from Wisconsin must have been imported before the passage of that act.

Mr. HOWE. What act?

Mr. SHERMAN. The tariff act of 1861-62.

Mr. SUMNER. I do not mean to express



any opinion on the measure, but one case that has occurred within two or three years was in Charleston, South Carolina, and I think I presented the petition myself.

Mr. SHERMAN. I know there was a case of remission of duties on an organ in Boston.

Mr. SUMNER. I remember that case; but here were bells sent out from England to a church that had been very much injured, nearly destroyed, during the rebellion, and it was very important, and they so regarded, to have those bells; and the parties could not well afford to pay the duties. They sent a petition to Congress, which I think I presented, asking to have the duties remitted; but the Senate refused to do that.

Mr. SHERMAN. The Senator will notice another matter that makes the case a very equitable one, besides considerations of charity. This bell is made almost entirely of American materials. If all the bell had been made of American materials it would have been admitted free of duty on the general rule that articles of home production are admitted back free of duty. There is no foundry in this country that could cast a bell of this size.

Mr. FESSENDEN. Does the Senator say that raw material sent abroad and manufactured comes back free of duty in the shape of a manufacture?

Mr. SHERMAN. That is the general provision of law when articles are sent abroad and there all made of domestic material; they are admitted back free of duty. That is the general provision of the tariff law now.

Mr. HOWE. So wheat sent to Canada and made into flour would be admitted back free of duty?

Mr. SHERMAN. My friend from Vermont [Mr. MORRILL] can tell better about that; but it is a general principle of the tariff law that articles made entirely of American products, sent abroad and being manufactured, are admitted free of duty.

Mr. FESSENDEN. I confess I cannot recollect any such provision of law.

Mr. MORRILL, of Vermont. I do not know of any instance except the manufacture of railroad iron, which has sometimes been allowed to be transferred across the line.

Mr. SHERMAN. I have seen such a provision of law, and that was one of the points made by these ladies. The case on the equitable view presented by them is, I think, very strong. It comes undoubtedly within many precedents. I do not know anything about the circumstances of the case mentioned by the Senator from Wisconsin; but here the article is made of American production sent abroad to be cast, where, from the nature of the article, it could not be cast here, the bell-founders in this country not being able to cast so large a bell. It is entirely a work of charity for public use, for the benefit of a large college and seminary of learning conducted by these ladies, who, as they say, have been exceedingly patriotic during the war, and sent from among their number some fifty nurses in our hospitals. They certainly do make a case of equity which I think the Senate ought at once to yield to.

Mr. HOWE. Well, Mr. President, considering this as a charity, I should not insist very strongly on a duty being assessed upon the article if the rule was uniform. There are, I know, instances of such remissions; and I found the cases and exhibited them to the committee when this other application was pending; but, while it was conceded that in the happier days of the Republic such importations had been permitted free of duty, it was then said, and, my impression is, almost unanimously, by the committee, if not entirely so, that the necessities of the Republic would not warrant it, and a new rule must be enforced; and such was the rule in that case. There is, I repeat again, no single fact which distinguishes between this case and that. That was a charity, as this is. That was a charity to a church, which, I suppose, is as creditable an institution in every way and as much entitled

to the fostering care of the Government as the institution which petitions in this case. That is the only distinction between the two. I do not know that that was manufactured of American material, which this is said to be, in part; but I think the honorable Senator from Ohio must be mistaken in supposing that our tariff laws exempt from duty manufactured articles imported simply because they are manufactured from American material.

Mr. SHERMAN. I have sent for the tariff act.

Mr. HOWE. If that is the fact, it is a feature in the tariff laws which I think has not attracted general attention, and which I think will cease to exist when it becomes generally known.

Mr. JOHNSON. I do not know that the tariff act provides that articles manufactured abroad out of American material shall be exempt from duty. I assume, therefore, that there is no such provision. If there be one, there can be no question as to the propriety of passing this bill. But supposing that there is none, it seems to me to be very clear that we should pass the bill. There are no persons in the country belonging to a religious sect, or belonging to any other class of our population, who have conferred more especial benefit upon our soldiers than the Sisters of Mercy. They have been found in every hospital; they have been found, I believe, upon every field of battle, attending to the wounded, consoling the dying, at the hazard of their own lives, and the hazard in very many cases proved to be fatal. And now, in consideration of their services, in honor of their Christian benevolence, they have had presented to them this bell for a college to which they are attached; and all that they ask is that we should permit them to hold it clear of the obligation to pay the duty. It is doubtful, in my opinion, whether it should not have been exempt from duty under that portion of the tariff act read by the honorable member from Ohio. It is a bronze manufacture, as much a bronze manufacture as any other of the manufactures of that description. Ninety-four per cent. of it consists of American copper. They have been obliged to work the rest of it, the other portion of the percentage of the whole into it of tin, for the purpose of enabling them to make such a bell as this is. It is in point of fact an ornament; not an ornament of the parlor, not an ornament of the chamber of private citizens, but an ornament to the college, a valuable ornament to the college, and a possession of which the college is naturally proud; a possession, as I think, of which we should be proud, because it is a tribute to that benevolence, that Christian benevolence, which has lent such a charm to the character of the people to whom the soldier and ourselves are so much indebted. I should hope, therefore, whether it falls within the tariff act of 1861, to which the honorable member from Ohio referred, or whether it falls within the act of which he has read us a section, the Senate will agree to pass the bill refunding to them the amount of the duties which they have been compelled to pay.

Mr. MORRILL, of Vermont. Mr. President, I favored the report of this bill, and favored it because, as I thought, it was in the spirit, although not in the letter, of our law. We have heretofore been in the habit of allowing books, philosophical apparatus and instruments, busts, and casts of marble and bronze, and alabaster, &c., to be imported for institutions of learning free of duty. I do not think this is included in this provision, or that it could under any possibility be admitted under the laws exempt from duty. I know of no act that allows the transportation from the United States into other countries of goods, and then to be reimported back again, exempt of duty, except in the single case of rerolled railroad iron, and that is provided for by a special statute; and perhaps I might include barrels or carboys that are sent abroad to hold petroleum, or something of that sort, as suggested to me by my colleague.

Mr. FESSENDEN. They are not manufactured abroad, but only returned here.

Mr. MORRILL, of Vermont. But it seems to me, Mr. President, that under the circumstances we ought to allow the bell to come in free. It was a special gift of the Sisters of Mercy in France; and it seems to me that under the circumstances, having been made out of American material in chief part, it would be rather illiberal on the part of Congress to refuse to grant their request and allow it to come in free of duty.

Mr. FESSENDEN. Mr. President—

Mr. SHERMAN. Before the Senator proceeds I will refer now to the principle. I find that in substance I was correct, although I do not think the language of the law would bring this case within it; nor am I at present able to lay my hand upon the clause of the statute, but I find in the collated digest of the tariff that all manufactures of the United States exported and brought back are admitted free of duty.

Mr. MORRILL, of Vermont. That is a different thing.

Mr. SHERMAN. This is a case where nearly all the cost, the chief cost of the article, is the value of copper which enters into the bell. It is sent abroad for casting simply because the casting could not be made in this country. I think myself that it does not come within the rule, because it is changed by being cast, by being mixed with the small portion of tin cast into the bell.

Mr. MORRILL, of Vermont. The Senator would not admit that American cotton or American wool sent abroad and manufactured into cloths should be imported free of duty.

Mr. SHERMAN. Where the manufacturer greatly changes the article it would not be admitted free. I do not think the mere casting of the copper, without any great admixture of other materials, in the form of a bell, is such a great change that the case does not come at least within the spirit of the rule which allows American manufactures when imported to be admitted duty free. That is the law, though it does not quite reach this case.

Mr. FESSENDEN. Mr. President, all I wish to say upon this subject is that I fear the introduction of the principle of taking off duties of any kind, either internal or external, for the reason that it is for the benefit of a charitable institution, or something of that description. I know that up to this session of Congress, in bills of both characters, Congress have steadily refused to do anything of the kind, because they saw that it would be but the entering wedge to a very large number of claims of the same description. For instance, we lay a tax on incomes in the internal revenue law. We had several applications made to us not to exact that tax off the income of charitable institutions; and, as you may observe, the reasoning is very strong in such cases in favor of an exemption; but, whatever character they might have, Congress has, up to this time, resisted the introduction of the principle either into the tariff laws or the internal revenue laws. And, as the honorable Senator from Wisconsin observed, in another case applicable to a bell for a church we adhered to the rule. Now, if it be true, as I suppose it is, that this bell is made out of American material in a very great degree, I think that does not strengthen the argument, for it is only sending abroad the material to manufacture articles and then exempting them from duty on account of the original material. That is directly in the face of our doctrine of protecting our own manufactures. They cast bells in this country, and our bell-founders are as much entitled to protection as any other class of manufacturers.

The argument has been used by the honorable Senator from Maryland [Mr. JOHNSON] that this bill should be passed because it is in favor of Sisters of Charity. Well, sir, I appreciate their services as much as anybody; but they have no claims that I know of over the vast numbers of American women who went into

the camps and performed precisely the same services without pay, and services quite as valuable in every particular. The country undoubtedly owes a debt of gratitude to all of them, and to everybody else who served the country in its time of trial; but I do not regard it as being a sufficient excuse for making an exception in this case simply on that account.

Of course it is an unpleasant duty to make even the show of opposition to anything of this description, and my own objection is simply that it is introducing into our system a new principle, which, if carried into the revenue laws of both characters, would deprive us of a very large income which we cannot afford to spare, after the encroachments which have been made so far.

Mr. SHERMAN. Mr. President—

Mr. ANTHONY. I beg to inquire of the Chair if the unfinished business is not in order at one o'clock?

Mr. SHERMAN. I hope the Senator will allow this bill to be voted on.

Mr. ANTHONY. I am perfectly willing; but I want it understood that the unfinished business is laid aside informally.

Mr. SHERMAN. I have nothing to say in regard to the order of business, but I do not wish to call up this bill again. I hope it will be now disposed of.

Mr. ANTHONY. I do not wish the unfinished business to lose its place, and I simply enter my protest for that purpose.

The PRESIDENT *pro tempore*. The Chair understands that the unfinished business is the resolution of the Senator from Rhode Island.

Mr. SHERMAN. I hope the Senate will allow it to lie over informally, whatever it is, for the purpose of disposing of this bill.

Mr. EDMUNDS. I think the unfinished business is the naval appropriation bill.

The PRESIDENT *pro tempore*. The unfinished business is the resolution to permit the reporter of the Associated Press to occupy a seat on the floor during the trial of the impeachment. That is before the Senate, and can only be passed over by unanimous consent. Is there any objection to continuing the consideration of the present bill? No objection being made, House bill No. 881 continues before the Senate.

Mr. SHERMAN. I do not wish to detain the Senate, but I could show many precedents of this kind where importations for charitable purposes and for colleges have been admitted free of duty.

Mr. FESSENDEN. Those exceptions were in old times, when we could afford it.

Mr. SHERMAN. I had a list of some forty or fifty cases furnished me by persons who are desirous to get this bill passed.

Mr. FESSENDEN. They were before the war, were they not?

Mr. SHERMAN. No; not all of them. One occurred in New York, two years ago, of a remission of duty for some charitable purpose. I think it was a remission for a church. There were cases nearly every year for three years, and finally the principle was adopted which is incorporated in the proviso in the law, quoted in the report, declaring that all works of art, all bronzes or casts, statuary, marble, &c., for colleges or philosophical and literary institutions, should be admitted free of duty. It seems to me that this case comes clearly within that rule. I do not see why a great bell is not as much a work of art as an organ. One is to give sound to call the people in, and the other is to make music for those who assemble in church. They are both of the same character; both produce sounds, and musical sounds. One is a chime of bells which call the people to the sanctuary; the other is to amuse them when they get there, or to turn their thoughts heavenward. I trust that this request of the Ladies of Mercy, who appeal to our benevolence, will be granted without a division. I did not myself suppose when this bill was presented that it would create the least division or debate. I trust we may have a vote and remit these duties.

Mr. CONNESS. I will only occupy a min-

ute, sir. I hope that this bill will pass, not upon the general principle as stated, which I do not admit, because it would be a discrimination against labor, that because it is a domestic product that enters into a manufacture, the domestic product may be sent into a foreign country and then imported here free of duty. I do not think that our revenue laws contain any such general provision, and if they did it would be well to change it at once. But upon its merits I desire the bill to pass. It is a very small matter to the Government of the United States. It is in behalf of persons whose lives are given for benevolent, philanthropic, and religious purposes; and I am willing to give a vote without any regard to the association, its religious class or otherwise, in every such case, for a remission of the duty. It can scarcely be called a subscription for this great purpose, and if it were it would be rather creditable to us than the contrary. But there are reasons, and they have been stated, clearly showing this to be a case in which the duty, in all probability, was wrongfully collected and exacted, and I think it ought to be remitted and paid back, and I hope it will be.

Mr. HENDRICKS. I hardly expected the Senator from Maine to oppose this bill. It is only about eight or ten days ago since he asked that all articles brought into this country which might be used in the ship-building business should come in free, and I voted with him because I thought he was right. He said to us that the ship-building interest was very much depressed, and they could not very well afford to pay the duties; and when he said that of course I voted with him. Now, I think I may say to him that the cause of education and of religion cannot very well afford to pay this tax, especially as this case falls clearly within the analogies which we have recognized not only in special but in general legislation, that where an article is manufactured so entirely out of American material that it has to come in for the ornament of the country, and where, so far as it has any benefit at all, it goes for an educational and religious cause which we never tax, it seems to me that there ought to be no question about it. I think that there is no State of this Union which taxes education or religion. This is a tax upon both. The finest bell in the country, not an ornament alone to that institution of learning, but to the whole country. I understand that it is so superior, so extraordinary in its qualities, that it can be heard, the atmosphere being favorable, to a distance of thirty miles. Such a bell is certainly not only an ornament to that institution and the State of Indiana, but to the country generally. I should hope there would be not a single vote against remitting these duties.

Reference was made very admirably by the Senator from Maryland to the services of the Sisters of Charity and Mercy during the war. The Senator from Maine thinks that there are many other persons who have rendered services also of a like kind. Not as a class, Mr. President. Perhaps as a class there are no set of females in the country who contributed more to the comfort and happiness of the soldiers in the hospitals when confined by wounds or sickness than the Sisters of Charity and Mercy.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### NAVAL APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The resolution of the Senator from Rhode Island is the unfinished business, and is now in order.

Mr. MORRILL, of Maine. I will ask the Senator to allow that to be laid aside informally to allow the Senate to conclude the naval appropriation bill, which was very nearly finished on a former day. It will occupy only a few minutes, I trust.

Mr. ANTHONY. I have no objection to the special order being laid aside informally, especially as I suppose I shall be voted down if I resist the Senator from Maine.

The PRESIDENT *pro tempore*. Is there objection to the unfinished business going over informally? If no objection be made, the bill mentioned by the Senator from Maine will be taken up.

Mr. SUMNER. I desire to say that there is a bill which I have had in my drawer for a long time, and I have had it in my hand repeatedly, and it is very important that it should be acted upon this week. It is a House bill to regulate the selection of officers of the city of Washington, District of Columbia. It is very important it should be acted on, and I hope I can have the assistance of my friend from Maine in getting it up after the appropriation bill is disposed of.

The PRESIDENT *pro tempore*. There is no objection to passing over informally the special order. The bill mentioned by the Senator from Maine will be taken up as in Committee of the Whole.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 601) making appropriations for the naval service for the year ending 30th June, 1869; the pending question being on the last amendment reported by the Committee on Appropriations, to add the following proviso to the second section:

*Provided*, That the number of apprentices and boys shall not exceed twelve hundred and fifty.

Mr. CONKLING. Mr. President, I wish to make a suggestion which, strictly speaking, is not so applicable directly to this amendment as to the amendment last preceding, which was adopted in committee and upon which I shall ask a separate vote in the Senate. The Senate adopted the amendment preceding this, putting the complement of the Navy at eighty-five hundred, with apprentices and boys added, upon a misstatement made by me and one or two other Senators as to the number of which the Navy consisted before the war. The information of the committee was, and the statement of the chairman was, and my own statement was, that before the war there were actually in the Navy eighty-five hundred men, and that in addition to that there were a number of boys, thought by somebody who had made a remark upon the subject to consist of about eight hundred. I have now as to the boys there were in the Navy no information more accurate than that which I had the other day. I was informed then, and have been informed since, that in truth there was no such number of boys; but in reference to the rank and file of the Navy I have very definite information, which shows that in truth there never was any such number as is proposed now and as we supposed formerly existed. In a communication which I have from Commodore Smith, the chief of the Bureau of Equipment and Recruiting, he states that in 1850 there were seventy-five hundred men in the Navy; in 1855 there were seventy-five hundred; in 1860 there were seventy-six hundred. He states, as do the Fourth and Second Auditors, that it is impossible to get at accurately the number of boys without an examination that I could not ask them to make; but the general information is that the number was not so great as was stated the other day.

Now, Mr. President, the Senate will observe that, intending as the Senate did to cut down the Navy, to reduce it certainly to a number as small as that which existed anterior to the rebellion, we are about to add nine hundred men to the rank and file, and twelve hundred and fifty young men under the name of apprentices. It may be said in answer to this, and such is the fact, that the Navy might before the war have been increased to eighty-five hundred. That I understand was the limit; but I am speaking to the fact, which is that it never reached that limit, that the highest number it ever actually embraced was seventy-six hundred. If now we make it eighty-five hundred and add twelve hundred and fifty as apprentices, we make it consist of ninety-seven hundred and fifty, which is more than two thousand more than it ever contained before the war, except-

ing this indefinite number of boys. I hope when we come to vote on the other amendment in the Senate the Senate and the committee will adhere to what was the original design and leave it as the House did, which would then be in excess of what the complement was before the war.

Mr. GRIMES. I do not know exactly how this question stands before the Senate, but I believe it is on the amendment to limit the number of boys and apprentices to twelve hundred and fifty. I understand the Senate has expressed its judgment on striking out the word "excluding" and inserting "including," and decided that it will exclude the boys and apprentices from the total number to be fixed for the effective force of the Navy.

Mr. EDMUNDS. That was only in Committee of the Whole.

Mr. CONKLING. The Senator from Iowa was not present the other day when the bill was considered as far as it has been. The last vote taken, as he will see, was upon the amendment striking out the word "including" and inserting the word "excluding;" and as I commenced by saying, the suggestions I make are applicable rather to that amendment than to the one which we are now considering. If the view which I now suggest, and which I hope will prevail, shall prevail, the other amendment of the committee will, of course, be rejected in the Senate, so that the bill will stand eighty-five hundred, including the apprentices and boys; and then, if the Senator, understanding the subject thoroughly, as he does, will propose the addition of some words fixing the limits of apprentices and boys, so that we shall understand of how many the rank and file shall be, and to what extent the boys and apprentices shall be added, the design of the House of Representatives will be carried out.

Mr. GRIMES. Mr. President, I propose to state to the Senate exactly how I understand this case to stand, and then they can exercise their judgment as to whether it is desirable that the Navy should be cut down below the amount that it stood at before the war, for I understand that to be substantially the proposition. The proposition to reduce it to that number came from me, and everybody, I believe, with whom I conversed thought I made that proposition in a most extraordinary fit of economy and was very much dissatisfied with the proposition; but I confess that it is impossible for me to keep pace with the Senator from New York in matters of economy. The law at the beginning of the war read as follows:

"And the Secretary of the Navy be, and is hereby, authorized to enlist eighty-five hundred men for the Navy instead of seventy-five hundred."

Mr. EDMUNDS. What law was that?

Mr. GRIMES. That was the law of March 8, 1857. He was authorized to enlist eighty-five hundred men, not including boys. The boys were authorized to be enlisted, so many as might be necessary, under an act of Congress passed in 1809, and we have been employing them ever since. There is no limit, and never was, to the number of boys. The Secretary was authorized to and did enlist as many as were necessary for doing chores and assisting in conducting the discipline of the ship.

It is true that up to the beginning of the war we may not have had actually in the service over seventy-six hundred men, just as in the Army we had eighteen thousand men authorized by law, but we never, up to the beginning of the war, had more than eleven thousand actually in service. The reason for this leeway of one thousand men in the Navy and of seven thousand men in the Army is that a sudden emergency may arise which will call for the enlistment of an additional number in order to meet the emergency. We have an example before us now.

In the last three or four weeks the people of Maine and Massachusetts have been down here asking that two ships should be sent on to the northeastern coast, in order to protect the fish-

ermen from the imposition of some extraordinary tonnage duty that the authorities of the British Provinces have seen fit to impose upon the fishermen. I do not know whether those vessels have been sent or not; but suppose the proposition of the Senator from New York should be carried into effect, the result would be that it would be impossible for us to send a man or a vessel in order to protect the commercial interests of the New England States on that coast. Emergencies of this kind are occurring everywhere and at all times.

Mr. CONKLING. Why would it be impossible?

Mr. GRIMES. Because the number of men authorized to be enlisted would be full, and you could not raise another man because you would have your eighty-five hundred men, and you would have them at all times. You have reduced to-day, Mr. President, your squadrons, one would suppose, to the lowest possible estimate, and yet you have in the service twelve thousand three hundred and ninety-five men and boys. I have proposed to reduce this number nearly four thousand men below what it is now.

Then, again, it must be taken into consideration that in 1857, when we fixed the number of men in the Navy at eighty-five hundred, nearly all our vessels were sailing vessels; we had but ten steamers; to-day our vessels are all steamers; and in addition to the men we were obliged to have on our vessels then, we must have coal-heavers and firemen, and they make a very respectable portion of the complement of a ship.

Mr. EDMUNDS. Does the Senator mean that it requires more men to work a steamer than a sailing ship?

Mr. GRIMES. The Senator from Vermont does not seem to comprehend that. I will explain it to him. Our vessels are instructed to sail all the time except during a storm or going in or out of port. They are not authorized to use coal generally, because coal is very expensive; and it makes better sailors and better officers of those who are on board the ship, of the ship's company, if they sail. Therefore, in order to do the sailing, they must have their full complement of men to work the guns and to manage the sails and to preserve the discipline of the ship; but an emergency may arise when it is necessary for them to use their steam power. One of the vessels may be in a foreign port and receive a telegraphic dispatch to proceed immediately and with the utmost celerity to another point. In order to enable her to do that, she must have an additional number of men who are coal-heavers and firemen.

Mr. EDMUNDS. Cannot "landsmen" and "ordinary seamen" shovel coal?

Mr. GRIMES. No, sir, they cannot; at least they say they cannot; and these firemen instead of getting fourteen dollars a month, as an ordinary seaman gets, get thirty dollars per month.

Mr. EDMUNDS. I was speaking of coal-heavers.

Mr. GRIMES. Coal-heavers and firemen both get additional pay. I have a bill before the Senate proposing to increase the pay of a landsman if he will perform the duty of a coal-heaver in order to avoid additional expense; but it has not yet come under the consideration of the Senate. But you are obliged to have your coal-heavers and your first and second class firemen. They are expensive men, one class getting twenty-five dollars a month and the other class thirty dollars.

Mr. EDMUNDS. Will the Senator permit me to ask him whether a first-class fireman could not act as a landsman or ordinary seaman when they were under sail, and help to trim?

Mr. GRIMES. Mr. President, really it seems extraordinary that a Senator living as near to the coast as does the Senator from Vermont should ask a landsman like myself, living in the interior of the continent, to give an opinion on a point of that kind. I supposed every-

body knew that a coal-heaver and a fireman were not sailors. A "landsman" is a man who has had some experience at sea.

The ship's company are divided into classes. A seaman is a man who has had at least ten years' experience at sea; an ordinary seaman is a man who has had five years' experience at sea; and a landsman is a man who has had some experience at sea, but he is recruited as a landsman, at fourteen dollars a month. You enlist a coal-heaver at twenty dollars a month. You recruit him for a specific purpose. You cannot say that that man shall perform other duties than those he enlisted for unless you pay him an additional compensation, or unless you are assured that he is capable of performing those duties, which we know he is not. Therefore it is, sir, that more men are required on a steam vessel to-day than used to be required on a sailing vessel before the war.

Mr. President, while I am up I want to say a word upon the general subject. A member of this body came to me the other day in very great alarm, to repeat what he had heard in regard to the extraordinary amount of vessels that we had afloat and the extraordinary expenses that were being incurred by the Navy Department. Why, sir, we have presented here almost every day a printed form of petition got up by some gentlemen—I do not know that I ought to state who—in which it is alleged that the number of vessels in commission to-day in the Navy of the United States is one hundred and three. To make out that one hundred and three they have included coal barges; they have included tenders; they have included old hulks of vessels, out of which the engines have been taken, and which are being used merely for the dormitories of marines at our stations; vessels that are not in commission at all; they have included vessels that are stationed at New Orleans and elsewhere upon which there is only a guard for the purpose of protecting the public property. And this Senator told me that he had been informed that there were thirteen vessels doing escort duty to Admiral Farragut in the Mediterranean sea.

Now, what are the facts? There are five vessels in the Mediterranean squadron, or what is now known as the European squadron. We used to have a Mediterranean squadron and an African squadron. Those two squadrons are now united. We are required by treaty stipulations with Great Britain, and perhaps with some other Government, to keep up a squadron on the African coast. We have four vessels in that squadron now, including the whole of Europe, the Mediterranean, the British waters, the northern seas, and the whole of the African coast as far as the island of St. Paul De Loando, without a single tender or a single steam barge, or anything in the world that is calculated to make additional expense. So it is, Mr. President, with all of our squadrons. It is proposed, I believe, to reduce one or two of them one or two vessels, if we pass this bill, and reduce the number of men authorized to be employed from twelve thousand three hundred and ninety-five, which they now have, down to eighty-five hundred.

We now have in service twenty-seven hundred and eighty seamen, twenty-four hundred and eighty-two ordinary seamen, thirty-nine hundred and sixty-six landsmen, four hundred and forty-four boys, and nine hundred and ninety-six apprentices. The number of boys which the Secretary was authorized to enlist before the war corresponded, I suppose, from what I learn, (for I have not been able to find exactly the number,) with the number of men that were then employed. The naval apprentices, amounting now to nine hundred and ninety-six, we did not have before the war. That is a system which has grown up during the war—established by Congress three or four years ago. It was discovered both in the commercial marine and in the naval marine that the number of sailors was gradually diminishing and that it was almost impossible to secure the service of men who were fit to perform duty on man-of-war-men. It was therefore thought advisable to



establish what is known in our service at this day as the apprentice system, picking up boys along the coast and putting them upon old hulks, old sailing vessels, under the charge of naval officers, where they are instructed in the rudimentary branches of education, enlisting them until they are twenty-one years of age, preparing them for the performance of the duties of petty officers on board ship; and in order to encourage this class of young men to enter the service we have said that ten of them shall every year be taken from on board these practice ships and be sent to the Naval Academy, there to be educated as officers.

The opinion of naval officers is that this system has worked admirably. They do not desire that it should be disturbed; and the only purpose I had in view in making this proposition to exclude the apprentices and boys—for that is all there is involved in the whole proposition—was to save this system, to encourage the education of this class of boys for the naval and the commercial marine in the future. Without this proposition, without any amendment, if it had not been for my anxiety to exclude the inference that the apprentices might be included in the number here fixed, the Secretary of the Navy would have the authority to enlist the eighty-five hundred men as he had before the war, and then under the law of 1809 he would have the authority to enlist boys.

Mr. EDMUNDS. They are specially mentioned here.

Mr. GRIMES. I say that the section was drawn by myself. I drew this section.

Mr. EDMUNDS. It is in the House bill.

Mr. GRIMES. I know it is in the House bill, but it is in a Senate bill, too. This section was drawn by myself, introduced by me in a bill into this body. The House took the section out of that bill, changed the word "excluding" to "including," and put it on this appropriation bill. That is the way it came here. My only object in drafting it as I did was to exclude the idea that these apprentices were to be dispensed with or that we were going to do away with that system.

Mr. CONKLING. Mr. President, if the Senator from Iowa shall succeed, inadvertently or otherwise, in impressing upon the Senate the idea that it is part of anybody's design to break up the apprentice system, he will doubtless give a damaging blow to the proposition to cut down the Navy. As I wish to reply to the three suggestions that he has made, I commence with this one, and beg the attention of the Senate to the fact that there is now, according to the statements of the chief of the proper bureau, only nine hundred and sixteen apprentices of all sorts in the Navy now upon a war footing. I beg Senators to notice this, that with the Navy as it stands, swollen by the rebellion, according to this statement there are now nine hundred and sixteen apprentices and boys, and no more; and the figures I beg to give to the Senator, if he will allow me; I have them here in detail.

Mr. GRIMES. Allow me to ask the Senator what he means by "a war footing."

Mr. CONKLING. I mean the Navy increased as it has been and as it has remained hitherto in consequence of the war.

Mr. GRIMES. Now, will the Senator permit me to say to him that we have less guns afloat to-day than we had before the rebellion?

Mr. CONKLING. I will permit the Senator to say that, of course, although I do not see what relevancy it has to what I am saying.

Mr. GRIMES. It shows that it is not on a war footing. During the war we had as many as fifty thousand men.

Mr. CONKLING. I am aware that we had more men during the war than we have now, and I am aware also that the Navy now consists actually of eleven thousand three hundred and sixty seamen, to which I want to call attention in another connection, for it answers entirely a suggestion made by the Senator from Iowa; but, first of all, Mr. President, let us get right about this apprentice matter. The boys on vessels in commission now are three

hundred and sixty-three; apprentices on vessels in commission are one hundred and sixty-one, making five hundred and twenty-four apprentices and boys afloat in the service. Then there are three hundred and ninety-two apprentices on apprentice ships, making in all nine hundred and sixteen apprentices and boys. So the Senate will see that if the Navy is put precisely where it was before the war, at seventy-six hundred, and we retain in the service every boy and every apprentice, whether actually in service or on an apprentice ship, the sum total would be eighty-five hundred and sixteen, just sixteen more than the House of Representatives has allowed. Now, why talk about breaking up the apprentice system? Everybody appreciates, though perhaps not quite so well as the Senator from Iowa, the importance of encouraging, of fostering the apprentice system. Nobody proposes to interfere with it; but the simple question is whether the rank and file of the Navy was in truth extensive enough before the war or whether it is necessary to add to it. Now, let us examine that question for one moment, Mr. President.

The Senator from Iowa says that the Navy might before the war have been increased to eighty-five hundred. So I say; but my point was, that with that permission it had never been found necessary to do any such thing. Why does the Senator think it may be necessary to do it now? He supposes that we may be called upon to send up to the banks of Newfoundland a vessel or two vessels to protect the fishermen. Well, sir, I beg to ask him and the Senate why can we not send them? Is it necessary to enlist fresh men in order to do that? Surely he will not contend that it is. But what will his argument be? He will say, "If we reduce this number to seventy-six hundred men and an extraordinary emergency should arise we shall then need them." Very well, sir; I meet him upon that ground. We have now eleven thousand and odd men in the service, and it is proposed to reduce them to a certain point. If the reduction is made to eighty-five hundred we have all the men actually on the pay-roll, whether we want them or not; and if the proposition of the Senator be correct, the true remedy would be to reduce the actual number to seventy-five or seventy-six hundred, and then provide that in case of emergency more may be enlisted. But I ask the Senator from Iowa whether, following his lead, we are so far to distort the argument as to reduce the rank and file of the Navy to eighty-five hundred and leave those men actually in service, because some emergency might arise which would make it necessary to enlist that number in case the emergency should arise? We now have a larger number than this, and we are taking steps, I repeat, to cut down the number actually in service. When the law he has read was adopted we were enlisting men; the Navy was on the rising scale; and the question then was, in the case both of the Army and the Navy, what should be the maximum to which we might go.

Now, we are on the descending scale. We have more than we propose to retain; we are cutting them down; and if we stop at eighty-five hundred those are the men, not possibly in service, but actually in service. Therefore my point is—and I borrow the argument of the Senator to show it—that in actual experience before the war seventy-six hundred, at the highest point, was all that was necessary. Let us then reduce the Navy to that, and, if the Senator pleases, have a provision by which, in case of emergency, it may go up to eighty-five hundred, but do not let us, upon a peace establishment, put in permanently so many supernumeraries, knowing that they are supernumeraries, to the end that should an emergency arise we shall have them. It will be very much like that woman who made so many foolish purchases on the ground that it was so handy to have them in the family in case they should be wanted; but it is not the true system of economy, and the Senator will not say that it is.

Mr. President, if we agree with the House of Representatives and make eighty-five hundred the sum total of the Navy rank and file, and then provide that every boy now in the service shall be retained and every apprentice shall be retained, and that the number of boys and apprentices shall be kept up to the present number, then we shall have every apprentice and boy that we have now, and as large a Navy besides as we ever had before the war. The question is whether that is not enough. Will any Senator rise and say that it was not enough before the war, or will any Senator make an argument to show that it is not to be enough hereafter except upon some emergency which can be provided for at the time? I have heard no such argument, and I venture to say that we shall hear no such argument, because, upon a somewhat extensive consultation with the officers and persons familiar with this subject, there seems to be no practical answer to the suggestion which I make.

Mr. MORRILL, of Maine. Mr. President, I think the difficulty in this case arises from the fact that the Committee on Appropriations really had no adequate information which either justified or authorized them in proposing any reduction whatever. The Senate will see that when the Committee on Appropriations undertook to say, in addition to providing for the payment of the service absolutely established by law, what that service requires, they have exceeded the bounds of their authority. That is precisely the difficulty in this case; the House of Representatives, in undertaking to provide for the pay, &c., of the Navy, went one step further and said they would reduce the naval force of the country; and that was the question presented to the Committee on Appropriations in the Senate. We found that, instead of merely providing for the Navy proper as established by law, there was mixed with that question the question of reducing the Navy. The first point for us to consider was to what point is it practicable to reduce the Navy. On that topic we had no information; that is, no information which authorized us to act with precise accuracy. That subject of how much, of what the naval service requires, is not a subject which properly belongs to the Committee on Appropriations, and, therefore, we had no information which justified us in fixing the precise standard to which we could go. Then what was the presumption on which we acted? We said that as during the war the Navy had been increased, if we could find the point which existed anterior to the war perhaps it might be presumed that it was safe to go back to that period and go back to that standard.

Mr. HENDRICKS. There is your mistake.

Mr. MORRILL, of Maine. I am only stating the theory which, in the absence of facts, influenced the committee.

Mr. JOHNSON. What was the limit before the war?

Mr. MORRILL, of Maine. I will read what it was before the war. In 1857, so recently as that before the war, the Congress of the United States believed it was necessary to increase the Navy, how much? I will read the provision; it is very brief:

"And the Secretary of the Navy be, and he is hereby, authorized to enlist eighty-five hundred men for the Navy instead of seventy-five hundred."

So recently as 1857 the Congress of the United States did deem it proper, in a time of peace, that the Navy should consist of eighty-five hundred men. Now my honorable friend from New York insists that we should go back of that, on what evidence? None at all; not the slightest; no evidence which the Committee on Appropriations had the right to consider; and I submit that we go back to eighty-five hundred men, only upon the presumption that, it being peace now, the demands of the service are no greater than they were anterior to the war. But the honorable Senator from Iowa, familiar with the business of the committee with which he acts, tells you that the demands of the service are more to-day than they were before the war, from the fact that you have changed the class

of your vessels and other considerations to which he has adverted. But, Mr. President, the theory was that we would go back in fact to the basis of that Navy anterior to the war.

Mr. GRIMES. I think that I can safely say that no one of the members of the Committee on Naval Affairs except myself is willing that the Navy should be reduced to the limit fixed by the House of Representatives, which I was willing to agree to, from the investigation we had.

Mr. CONKLING. Let me ask the Senator from Iowa a question, as he is interrupting the Senator from Maine. I beg to inquire of him whether he did not vote the other day in the Senate, and did he not state, as we all did, not that eighty-five hundred was in theory before the war the limit of the Navy, but that in fact the rank and file of the Navy consisted of that number of men? Was not that his impression, as it was mine, when we adopted this amendment in committee and discussed it in Senate?

Mr. MORRILL, of Maine. I wish to say, in regard to that, that we had no information as to the actual number of men in the Navy; and from the nature of the case it must always be an uncertain standard. I probably spoke inaccurately on that subject; but it was not my intention to confine myself—nor did I have that idea in my mind at the time I was discussing the subject—to the precise number of men on the lists. I was thinking of the legal standard.

Mr. CONKLING. But did you not suppose that the enlistments had actually gone as high as that?

Mr. MORRILL, of Maine. No, sir; I think not. I was not certain that I had not said that or used language which justified that inference; and so, while the honorable Senator was speaking, I sent for the report, and I think I shall be justified by the Senate, when I read the report, in saying that I did not mislead the Senate on that point.

Mr. HENDRICKS. Let me ask the Senator if eighty-five hundred, excluding the apprentices, was not the number prior to the war?

Mr. MORRILL, of Maine. It was.

Mr. HENDRICKS. Then, if we make it inclusive, is not that a reduction from what there was before the war?

Mr. MORRILL, of Maine. Certainly it is.

Mr. HENDRICKS. That is the way I understand it.

Mr. MORRILL, of Maine. The Senator from New York speaks of the matter of fact that, although that was the legal standard, it was not the standard in point of fact. I understand that to be his argument.

Mr. HENDRICKS. That the quota was not filled up?

Mr. MORRILL, of Maine. That the quota was not filled up.

Mr. CONKLING. My honorable friend hardly means to answer the Senator from Indiana what there was before the war exclusive of apprentices, because the apprentice system was adopted after the war began. There was nothing then but boys, powder-boys, as they were called, except the rank and file. The apprentice system is in addition to the peace basis of the Navy, because it arose during the war.

Mr. HENDRICKS. I ask the Senator from New York what the powder-boys did differently from what the apprentices do?

Mr. CONKLING. They are distinct classes altogether. The boys and apprentices were and are different. The young men who are apprentices are a different class, both in age and otherwise, from the powder-boys. They may be eighteen years of age. They are intelligent young men, as is implied by the statute, which allows ten of them to go to the Naval School—a different class of persons, with different pay, and a new description altogether, from the powder-boys or powder-monkeys, as they were sometimes called.

Mr. MORRILL, of Maine. I did not know but that I might have misled the Senate by

inaccuracy of expression, and that the honorable Senator from New York was right in saying that I had committed myself to the idea of the actual number of men in the service rather than the limit of the service itself; but to show now that I did not I will read what I said upon that subject when the question was before the Senate on the former occasion:

"I thought, perhaps, to state to the Senate precisely the effect of this amendment, if I can get their attention for a moment. The bill as proposed by the committee, and as it will stand with the amendment, is to reduce the Navy down to the peace establishment immediately preceding the war. I mean the Navy proper, rank and file, which was eighty-five hundred effective men."

Mr. CONKLING. "Effective men."

Mr. CONNESS. That does not mean boys.

Mr. MORRILL, of Maine. That means that we were to go back to the old standard immediately preceding the war. The only difference between the Senator from New York and myself on that subject is that he says we ought to go back to the actual number of men that were in the Navy, and not to that standard which was provided by law, assuming that the actual number in the Navy was less than the number provided for by law; and he thinks I was committed to that in the remarks I made the other day.

Mr. EDMUNDS. What standard did the law provide for boys and for apprentices?

Mr. MORRILL, of Maine. It provided just this eighty-five hundred rank and file, and the boys in addition. That is precisely what I understand it provided for. The committee of the Senate in its action undertook to preserve that precisely, to say we will go back to eighty-five hundred rank and file and the boys proper in addition as explained by the Senator from New York, and in addition to that the apprentice boys who have been added under the policy of Congress since the war began. That is precisely the action of the committee.

Mr. CONNESS. I desire to inquire whether those boys can, in any manner, be regarded as a part of the effective strength of the Navy?

Mr. MORRILL, of Maine. No, sir.

Mr. CONNESS. But they are regarded as the means of supplying the ranks of the Navy?

Mr. MORRILL, of Maine. Entirely.

Mr. CONNESS. Then why should they be included in the proposed reduction at all?

Mr. MORRILL, of Maine. The committee did not say that they should be; and we have acted on the idea that they ought not to be; but the Senator from New York thinks that they ought to be included, and being included it will not reduce the rank and file so much.

Mr. CONNESS. Now, Mr. President, I desire to ask the exact form of the pending proposition?

Mr. MORRILL, of Maine. If the Senator will allow me to explain, I believe I can.

Mr. CONNESS. Certainly; that is precisely what I want.

Mr. MORRILL, of Maine. Following the recommendation of the committee, the Senate the other day struck out of the second section of the bill as it came from the House of Representatives the word "including," by which it will be seen that the boys were included in the number of rank and file of the effective force. The committee of the Senate, to obviate that, and to have the boys outside of and in addition to the number of the effective force, recommended that the word "including" should be stricken out, and the word "excluding" inserted, and it was done.

Mr. CONNESS. I understand that, then, to be the report of the committee.

Mr. MORRILL, of Maine. Yes, sir; and then the committee also reported the proviso at the end of the section, which is the amendment now under consideration, that the number of boys and apprentices shall never exceed twelve hundred and fifty, so that if the action of the committee is adopted your Navy will stand eighty-five hundred effective men with a certain number of boys and apprentices added, but never to exceed twelve hundred and fifty in the whole, and according to the statement

of the Senator from New York at the present moment they amount to nine hundred and sixteen. If, then, the bill passes in this shape, you will have precisely the force you had anterior to the war, and which was provided for by the act of 1857, with a certain number of boys and apprentices added, but in no instance to go beyond twelve hundred and fifty.

Mr. CONNESS. Now, I understand the pending question to be on adding to the section a proviso that the number of apprentices and boys shall not exceed twelve hundred and fifty.

Mr. MORRILL, of Maine. Yes, sir; that is the pending proposition.

Mr. CONNESS. Is there any objection to that?

Mr. EDMUNDS. Yes.

Mr. CONKLING. I wish to inquire whether it is in order to move to strike out the word "eight" and insert the word "seven" in line five of the second section, so that the sense of the Senate may be taken upon the question whether the Navy shall be increased as it stood in fact before the war. If that motion is in order, I will make it before we vote on this other proposition; and if it prevails, it will have the effect of making the Navy as it was before and adding this number of apprentices to it. I will move that amendment now.

Mr. MORRILL, of Maine. Is that in order?

The PRESIDENT *pro tempore*. The amendment now pending must first be determined.

Mr. MORRILL, of Maine. Very well; I hope we shall vote on that.

Mr. CONKLING. I will withhold this amendment until we vote on the pending proposition.

The PRESIDENT *pro tempore*. It will be then in order.

Mr. EDMUNDS. I should like to ask the chairman of the Committee on Appropriations to point out to the Senate the precise provisions of the apprentice enlistment bill so that we may know whether the apprentices before that time were included within the maximum of enlistments previously permitted.

Mr. MORRILL, of Maine. I think that act is not at hand. I am not perfectly familiar with it. I think the act adding apprentices was in 1863, so that they must have been in addition.

Mr. EDMUNDS. I am not able to find it.

Mr. GRIMES. I have before me one of the acts authorizing the enlistment of boys.

Mr. EDMUNDS. Is there any act authorizing boys since 1837?

Mr. GRIMES. The apprentice act.

Mr. EDMUNDS. That is what I want to see. Will my friend from Maine read the act referred to by the Senator from Iowa, if he has it before him?

Mr. MORRILL, of Maine. It is—

"That it shall be lawful to enlist boys for the Navy, with the consent of their parents or guardians, not being under thirteen nor over eighteen years of age, to serve until they shall arrive at the age of twenty-one years."

Mr. EDMUNDS. That is the act of 1837.

Mr. MORRILL, of Maine. Yes, sir.

Mr. EDMUNDS. Then came the act of 1857, which increased the number of men in the Navy to so much. Now, what I want to get at is, whether the act of 1837, permitting the enlistment of boys, under the previously existing enlistment laws, did not, so far as enlistment goes, put them upon precisely the same footing as the men. That is a term which would include male persons of all ages whom the law permitted to be enlisted, just as in the Army persons under twenty-one years of age are permitted to be enlisted; but in the legal common-law sense they are boys, and in fact all men in the Army, when they are invited to fight, are addressed, "come on, boys," or more frequently, perhaps, "go on, boys."

Therefore, Mr. President, it is far from being clear yet that the act of 1857, which increased the force of the Navy from seventy-five hundred to eighty-five hundred, did not include within its limit of eighty-five hundred whatever persons, whether they were boys or men, the

law permitted to be enlisted. I cannot find any law myself, but I am not very familiar with the subject, which seems to import any other conclusion; and if that be so, then when we are told by the committee that they thought it safe to go back to the peace establishment of 1860, they have failed to do it by just the amount of twelve hundred and fifty in excess which they provide by their amendment shall be added to the old force of eighty-five hundred; and when we turn to the information derived by my friend from New York, from the Navy Office, we find that in point of fact the total number was altogether below eighty-five hundred in 1860.

So, then, Mr. President, what has been said on the subject of making an increase of the Navy in 1857 from seventy-five hundred to eighty-five hundred amounts to just this: that while by some influence or other, which we have not now the time to investigate, Congress was induced to pass such a law, yet in point of fact the actual number of men was not increased above that number which the law authorized before, which was seventy-five hundred, or only a hundred or so. Is that an argument to induce us to keep up to the maximum of 1860 or 1857, or above that by twelve hundred and fifty? No, because it has appeared in answer to the argument of my friend from Maine, as I have just said, that the act of 1857, which authorized an increase of one thousand men, was totally unnecessary, and that when that came to be put in practice the Navy Department found that it was not necessary to act upon it and that the whole number of men in 1860 was only one hundred above that which the law authorized before 1857.

Therefore, Mr. President, it appears to me that we shall be entirely safe, proceeding upon the same presumption that the Committee on Appropriations proceeded upon; and that is all, aside from this information, we have obtained in going back to the actual standard, and, as I believe, really the theoretical standard, too, of 1857; and that is, the eighty-five hundred shall include the whole number of persons, whether they happen to be under twenty-one years of age or above twenty-one years of age, who are to be kept and enlisted in the Navy. And that, sir, is no attack upon the system of having apprentices. It only limits the whole number altogether; and if it be necessary to have five or six hundred or more apprentices it is only necessary that they should take the place in time of peace of just that number of other persons who would otherwise draw greater pay, to which there can certainly be no objection.

Now, it is said by my honorable friend from Iowa, which is an argument in fact in opposition to the theory of the committee, that it is necessary to have more men now than it was before the war, because now vessels are propelled by steam as well as by sail, and you must have a double complement of men; you must not ask the coal-heaver when he is taking his picnic sail across the Atlantic by sailing to help man the yards, or trim the sails, or scrub the decks, or tear up junk, or do anything else that is to be done by a landsman or an ordinary seaman that is within the scope of his ability; but he is to be regarded as a person entitled to do nothing during all the time that he is not required to shovel coal. I do not believe in that, sir. It is true, as he says, that you must keep your faith with the man; if you have enlisted him to shovel coal, you must not ask him to do anything else; but it is within the scope of the powers of the Navy Department, when the law shall have regulated the whole number who are to be enlisted, to make just such enlistment regulations as they please, and they may therefore make regulations which shall require the shipping articles of a coal-heaver to provide that he shall be turned to other duty when the vessel is not requiring his services in that capacity, and assist in other labors which the vessel requires.

In respect to the ordinary duties, such as our ordinary seamen, and particularly such as

landsmen—who are shipped in larger numbers, as this paper shows, which my friend has produced, there being now thirty-nine hundred and ninety-six of that class of persons in the Navy—perform, there is no objection, it appears to me, either as a matter of convenience or any other way, to requiring them to be performed by persons who ship for the special uses ordinarily—the handling of steam machinery. They may attend to these other duties, such as they are capable of, when their services are not required in that particular line of labor. Certainly a man who is fit to be a second-class engineer, or is fit to be even a coal-heaver, a strong and able man, who has been on a ship at all, can perform in ordinary weather, and when he is not required for other purposes, all the duties that a landsman can perform, or substantially all of them, so that there could be intermixed in some small degree with the seamen who are navigating a sailing vessel, men who can perform this service as well as the other. But my friend from Iowa seems to go upon the old Navy idea that no man must be supposed capable of doing more than one kind of work. I do not believe in that; and it is not so, in point of fact, upon war vessels. The sailors—men who are perfectly competent to do everything about the sailing of a ship—are required to man the guns when there is an engagement or a salute; not all of them, to be sure, because some are still required to work the sails; but a man who is a first-rate sailor may be just as good a gunner as anybody else, and frequently is.

Then, I do not think, Mr. President, when you come to study this law, you will find that you are reducing it below the maximum of 1860, or that you are doing any injustice by seeking to do as the House has provided.

Mr. GRIMES. I am inclined to think that I am getting a good deal of valuable information from this debate.

Mr. EDMUNDS. You stand in need of it. [Laughter.]

Mr. GRIMES. I am satisfied I do. My information has always been that a vessel of war was a great military organization, and that it was just as necessary that it should be thoroughly disciplined and a perfect machine in time of peace as it is in time of war, ready for any national emergency that should call for the exercise of its powers and its duties. I suppose that the purpose of having coal-heavers, firemen, and engineers was to enable that vessel to be propelled in the water or across the ocean and to carry her into action; and that at the time when the men above were manning the guns and devoting all their efforts and all their attention to fighting the enemy the men down below would be required to heave the coals and manipulate the engine.

Mr. EDMUNDS. Nobody disputes that.

Mr. GRIMES. Then I want to know how the Senator is going to have these men down below performing duty up-stairs in time of action?

Mr. EDMUNDS. Do you want me to answer now?

Mr. GRIMES. Yes, sir.

Mr. EDMUNDS. My friend professes to be a little more ignorant than he really is, and I may say a great deal more so. I did not say that a man could be heaving coal in the hold and at the same time discharging a Parrott or any other kind of a gun on the decks. What I did say was—and the same remark will apply to the sailors themselves—that all the men you need on a vessel, provided they have skill enough, are men sufficient to work the ship in action, either when she is working under sail or under steam. If you are fighting in action under steam, as you ordinarily would if you had any wit at all, and I take it the Navy has, the men who in old times would have been managing the sails can now be engineers and coal-heavers, and the men who in ordinary times were managing the sails can manage the guns. You do not have, a complete double set, and never did have, in my judgment, and I think my friend will agree with me.

Mr. GRIMES. My impression has always been that every man had his particular place ready for action, and that a man who ever left that place when the drum beat for action was punished.

Mr. EDMUNDS. Yes, nobody disputes that.

Mr. GRIMES. Now, I should like to know how it is possible for a man whose business it is to be a sailor up aloft, ready for action, or to man a gun, can be down-stairs heaving coal or manipulating the engine as you go into action?

Mr. CONNESS. Allow me to make a suggestion. A set of firemen, on a war steamer or any other steamer, who perform four or six hours of duty cannot perform any other duty without a corresponding rest, because they are engaged at labor so exhausting and trying that very often, in the performance of it, they fall dead. That is a very common occurrence on all our sea-going steamers, and to talk about firemen doing double duty is simply to talk about a subject that nothing is known about.

Mr. EDMUNDS. Now, Mr. President, I wish to reply to my friend from California. I am happy to see that he has not fallen dead at putting in the fuel. I will say that to begin with.

Mr. CONNESS. I never put the fuel in, sir.

Mr. EDMUNDS. I did not maintain that a fireman was to perform double duty at the same time. What I was saying was simply in reply to the Senator from Iowa. He said that by the regulations, and they are wise, coal was only to be used on special occasions, and that a sea-going war steamer was generally rigged with sailing apparatus which she used as a rule. Now, if a vessel is to go, for instance, to join the Mediterranean squadron, it is the duty of that vessel to carry sail and not to use coal as the rule. What I say in reply to my friend from California as to these coal-heavers and assistant engineers is, that while that vessel is making a three weeks' voyage across the Atlantic, carrying easy sail in pleasant weather, it would not hurt those engineers and coal-heavers an atom to assist in navigating the ship with sails, and when she did not choose to use sails it would not hurt them much to go down below and heave coal.

Mr. GRIMES. What I said was that the vessel must be all the time ready for action.

Mr. CONNESS. What the Senator from Vermont has told us now would seem to show that he is a thorough seaman and understands the business.

Mr. EDMUNDS. Or else that I am a good deal at sea. [Laughter.]

Mr. CONNESS. Well, sir, the fact is that now the Senator is at sea without either rudder or compass. He tells us that the business of a ship of war, if it wants to go to the Mediterranean, is commonly, as a rule, to use sails. I say it is no such thing.

Mr. EDMUNDS. I got that from the chairman of the Committee on Naval Affairs. I am not responsible for it.

Mr. CONNESS. Sails they have as an auxiliary power to be added to their steam power. The business of the vessel is to go to her place of destination, and not to keep her crew rambling about an ocean, where she has no business, at the expense of the nation. The honorable Senator would play off; I find him incidentally trying to throw the responsibility of this statement on the chairman of the Committee on Naval Affairs. Sir, he made no such statement. If my friend from Vermont spent more of his time on sea-going vessels, he would understand this business better. What he proposes is to offset the saving in the consumption of coal against the pay and expenses of the entire vessel beside.

Mr. GRIMES. Mr. President, all I have to say is that vessels of war must have their full complement of men, or else they are not fit to go to sea in time of peace, ready for action; and I think it must be demonstrable to the Senate that a steam vessel does require an additional number of men to a sailing vessel, and hence it is that when our Navy is all steam



vessels we require a larger service than we did in 1857.

Now, one word in regard to this proposition. I was the only person, I believe, so far as know, among those who had paid much attention to the Navy, who was willing that its *personnel* should be reduced as low as I have proposed to go; and my reason was principally because I saw that a storm was coming, and I thought it was for the interest of the service to reduce it to this amount at the start, and as a voluntary act, rather than to have my friend from Vermont and my friend from New York come in here and attempt to destroy it entirely, as I was fearful that they or some others might do. Now, what is the proposition really before us? It is simply to increase the Navy, for that is all it amounts to, to authorize the increase of the Navy over and above what it was in 1857 to the extent of the apprentices only.

Mr. EDMUNDS. Twelve hundred and fifty.

Mr. GRIMES. No, sir; not twelve hundred and fifty.

Mr. MORRILL, of Maine. Not exceeding that.

Mr. GRIMES. The proposition before the Senate increases them to the amount of five hundred and ninety-six persons. You had eighty-five hundred men before the war, and you had the boys before the war, amounting now to four hundred and forty-six. The Secretary was authorized to enlist boys to an unlimited extent. All that we have authorized him to enlist since then is the apprentices, amounting, as I said, to five hundred and ninety-six. That is all really that there is before us, whether or not we shall authorize the Navy to go back to where it was in 1857, with the addition of the apprentices that have been enlisted into the service until they are twenty-one years of age, whom the naval officers regard as destined to be the main reliance of the naval service in the coming future. I am willing to leave it to the Senate.

Mr. MORRILL, of Maine. I want to say one word in reply to the Senator from Vermont, because he has adopted a mode of interpretation so ingenious and specious that I think it is worth while to notice it. I should like to see whether he thinks it sound. In order to get rid of the force of the argument of the committee, that we go back to the standard of the Navy before the war, the honorable Senator is forced to read the statutes as if boys were one and the same thing with men. He says that it does not appear that the boys mentioned in the statute of 1857 are not identically the men and rated as men in the Navy.

Mr. EDMUNDS. I did not say "rated;" I said entered under the general name.

Mr. MORRILL, of Maine. I understood the honorable Senator's argument to go to the extent that they were really men, men in the proper sense of the term, that when they are in the Navy they are counted as men. If that is not so, the argument goes for nothing.

Mr. EDMUNDS. What I said was to have the chairman of the committee explain to us under these various statutes where the limitation was either upon the number of men or boys, unless it be in the act of 1857, being merely an act for the increase of the Navy by a thousand only. May not the term "men" used in that act, merely increasing the whole number, fairly be considered as applying to the whole force of the Navy as a part of the enlistment law?

Mr. MORRILL, of Maine. That is what I understand the honorable Senator to say, and, therefore, he was not clear that the committee was right in saying that eighty-five hundred men, mentioned in the statute of 1857, was the effective force of the Navy, excluding boys.

Mr. EDMUNDS. That is exactly what I want to get at.

Mr. GRIMES. In all the naval legislation from the foundation, men and boys are rated differently.

Mr. EDMUNDS. Let us see the statute.

Mr. GRIMES. Look at the act of 1809.

Mr. MORRILL, of Maine. I have the statutes here to show it.

Mr. EDMUNDS. That is what I want to see.

Mr. MORRILL, of Maine. By the act of 1857 "the Secretary of the Navy be and he is hereby authorized to enlist eighty-five hundred men;" and by the statute of 1837, "it shall be lawful to enlist boys for the Navy." I want to ask the Senator if he does not think the enlistment of boys is contradistinguished from the authority to enlist men for the Navy?

Mr. EDMUNDS. I will answer my friend with entire frankness, as I always do. It is impossible to escape from him under any circumstances. [Laughter.] If by the existing law, on the 2d of March, 1837, the total number of persons authorized to be enlisted into the Navy was seventy-five hundred, then I say that the true construction of the act of 1837 did not permit the increase of force by a single man, boy or woman, or anybody else. I wish to call the attention of my friend to the act which that of 1837 was amendatory of, the act of May 15, 1820. If he will show us the act of May 15, 1820, we shall then be able to know whether the act of 1837 was intended to authorize an increase of the force of the Navy, or only to authorize the enlistment of boys as a part of the force that the preëxisting law authorized.

Mr. MORRILL, of Maine. Now, to show the Senator how these boys are rated and esteemed, what their services are, and that they are distinguished in the service from men, I read from the Naval Register: "Boys, first class," rated not as men, because seamen have twenty dollars a month and boys of the first class have half that price. They are therefore not men, and they do not do men's duty.

Mr. EDMUNDS. That is not the point.

Mr. MORRILL, of Maine. That is the point; I am trying to satisfy the honorable Senator that there is a distinction between men and boys as well in the service as out of the service. A seaman gets twenty dollars a month; a first-class boy ten dollars; a second-class boy nine dollars; a third-class boy only eight dollars; so that I think it is clear that when we speak of men in the naval service we speak of them as contradistinguished from the boys, who are authorized to be enlisted by the several acts which have been referred to.

Mr. EDMUNDS. Let me ask my friend how that same line of argument would apply, as ascertaining the total number that the law authorizes, in the distinctions that exist in the pay between seamen and ordinary seamen and landsmen? There is a distinction in their pay; and yet my friend would not therefore say that a landsman was not a man.

Mr. MORRILL, of Maine. I suppose a seaman is a man who has been enlisted and served a certain number of years, and an ordinary seaman is a man of less experience. But, sir, I will not trouble the Senate. Let us have the question.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment proposed by the Committee on Appropriations.

The amendment was agreed to.

Mr. CONKLING. Now, this matter of the apprentices having been disposed of, so that Senators can no longer be beguiled into the idea that they are interfering with the apprentices, I move to amend the second section by striking out the word "eight" in line five and inserting the word "seven;" so as to make the section read:

SEC. 2. And be it further enacted, That the number of persons authorized to be enlisted in the Navy of the United States, including seamen, ordinary seamen, landsmen, and mechanics, and excluding apprentices and boys, is hereby fixed and established at seven thousand five hundred, and no more: *Provided*, That the number of apprentices and boys shall not exceed twelve hundred and fifty.

The amendment I offer now presents pure and simple this proposition. I think I may say with safety that we have now fewer guns afloat than we had before the war, and my impression is, although I do not say that positively, that we have fewer vessels afloat than we had before the war. The letter before me shows

that we had in 1860 about seventy vessels in commission. I think the chairman of the Committee on Naval Affairs will bear me out in saying that that is a greater number than we have now, of vessels afloat, I mean. Now the simple proposition is, having the apprentices and boys, and fixed them where they are, beyond the reach of this amendment, whether we shall put the Navy where it was, and where it was found to be abundantly large before the war, or whether we shall add a thousand men to the Navy without anybody being able to assign a reason for doing it.

Mr. President, let me state that we need not misunderstand each other as to the facts prior to the war; the Navy might have been increased to eighty-five hundred men; but in point of fact the highest number that it ever touched was seventy-six hundred for one single year, and that with more guns afloat and more vessels afloat than are afloat now. The proposition of the amendment is, having fixed the number of apprentices and boys in a way that is satisfactory to those who wish, as I wish, to foster them, that we shall now reduce the rank and file of the Navy to where it was prior to the war, and where it always was with the exception of one year, when it increased that number by only one hundred.

Now, sir, I do not wish to dilate upon it. We have had a great deal of talk here about reducing expenditures, about reducing the Army and reducing the Navy. In this bill the House of Representatives has sent to us a section upon which we are compelled to vote. We cannot avoid it by saying it properly belongs on some other bill. It properly belongs here, because it is before us; and the naked issue is presented whether we will vote to put into the Navy and to keep there so many men as were found sufficient before the war, or whether, without any reason, we shall add to them.

I beg to remind Senators once more that this is to take place upon a descending scale. There are now in the Navy eleven thousand men, and the point is to what number are we to reduce, so that whatever number we fix as the maximum will be found the number of men actually in service, the number of months to feed, of men to pay.

In 1857, when the number was fixed, the existing number being smaller than that, of course everybody understood that only so many men would be enlisted as were found necessary for the occasion. Here the maximum and the actual number, owing to the circumstances, will be identical, because inasmuch as one thousand or two thousand, as the case may be, are to be discharged, of course the reduction will be made only to the point that we fix. Therefore, I repeat again that the only question is, how many men, in truth and in fact, we will pay and clothe and feed? I insist upon it that it shall be that number which the experience of years has found to be sufficient, and not a greater number for which no necessity can be shown.

Mr. GRIMES. All I have to say in reply is simply this: it is true, I think, that we have no more guns afloat and probably not as many as we had before the war. Then, however, they were all afloat on sailing vessels, and now they are on steam vessels; and that makes a very material difference, in the judgment of those who are familiar with the subject.

Mr. CONNESS. We have got a much more extended commerce.

Mr. GRIMES. And we have a much more extended commerce, as is well remarked. Our vessels are more numerous, but they do not carry as large an armament. We are now obliged to keep vessels on the coast of China and in the ports of Japan and the eastern archipelago, going up their rivers, and protecting the commerce of this country in that region of the world at a greater expense than we did before. That is all I have to say.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York.

Mr. CONKLING. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CONNESS. When the Senator from New York was last up he argued in favor of this amendment by assuming that whatever we fixed as the maximum number of the men to be employed in the Navy would certainly be retained; and to sustain that assumption we were told to remember that it was a declining scale, namely, that we had now eleven thousand or more men, and that when we arrived by general regular process of reduction to eight thousand we would stop there. I hardly think that that is a legitimate course of reasoning. When the law fixes a number as the maximum number it becomes a question of public necessity and public administration as to whether the maximum shall be maintained or not.

It is proposed now that the maximum be reduced one thousand in face of the fact that the ships we employ require a larger number of men, and that the region occupied by our foreign commerce has been very much increased. We have added a coast line of great extent in the new Russian acquisitions. It is suggested by some one near me that that may not prove to be an acquisition. Mr. President, it is an acquisition. It is in our possession, and we have to keep and guard it. Our ships now navigate the Japanese and Chinese waters, and carry their valuable freights, worth millions upon millions of dollars, and we must be represented there by not only numerous naval ships, but powerful ones. We do not know at what time it may be necessary to send an addition to our Pacific and China fleets; and yet it is proposed to fix the maximum by law at a number that would not enable us to do it. Surely we can have no Secretary of the Navy who, if the maximum number shall be fixed at eight thousand men and it should be necessary to employ but seven thousand, would dare to retain eight thousand. I hope, sir, that this amendment will not be adopted.

Mr. DRAKE. There is one point that I should like to inquire about of the chairman of the Committee on Naval Affairs, as it will influence my vote on this question. Is there any doubt at all, from actual experience, that the number of men on a vessel propelled by steam, necessary to man her, is greater than the number of men required upon a vessel of corresponding tonnage, propelled by sails only?

Mr. GRIMES. I have no doubt about it; that the number is required to be much greater, just exactly to the extent that it is necessary to have men to manage her engines and to furnish her with the material that is to propel her. A vessel of war, even in time of peace, has to be a perfect military organization, ready for battle at any moment; and, as the Senator very well knows, the man who, in time of peace, is not performing his duty when upon watch is most severely punished, just because they do not know at what moment they may meet an enemy or may be compelled to encounter the elements that may, under some circumstances, destroy the vessel. If she be such an organization as I say, she must be equipped in her hold as well as on her deck, ready to be propelled by steam as well as to fight the enemy that she meets; she must have her full complement.

Mr. DRAKE. I will make a further inquiry of the chairman of the Committee on Naval Affairs, and that is, whether the force that is required on a steamer or a steam vessel of war to manage the engines and in connection with the steam machinery is not a force extraneous altogether to that which is required to manage the sails of the ship?

Mr. GRIMES. Of course it is; and, Mr. President, I wish to say further that there is no analogy between a commercial vessel and a war vessel in this regard. A commercial vessel, I have no doubt, would not be compelled to have a complete complement of men, because she would be propelled all the time by steam. She has not a battery to work; she has not

got to have every twelve feet sixteen men assigned to every gun, besides the men whose business it is to bring powder and shot to the gun or to carry the wounded men below, or to stand by the plugs to fill up shot holes, or buckets to put out a fire, or anything of that sort.

Mr. JOHNSON. I am not sure that I understand the question, and I am about to inquire of the honorable chairman of the committee about it; although I think I do. It is proposed to reduce the whole number to eighty-five hundred.

Mr. GRIMES. The proposition now is to reduce it below that, to seventy-five hundred.

Mr. JOHNSON. Well, whatever may be the number fixed—seventy-five hundred. What I want to know is, whether the coal-heavers and the firemen will not be a part of that number?

Mr. GRIMES. Yes, sir.

Mr. CORBETT. I suggest that a vessel under steam, performing naval service, it seems to me, should perform more service than a vessel under sail, and therefore it would appear that the same number of men on steamships might perform as much service as the same number of men upon sailing vessels, they being able to make quicker time and visit more ports. It does seem to me, if we are going to reduce the expenses of the Government, that we have got to do it either in the Army or the Navy, and therefore I feel disposed to vote for the proposition of the Senator from New York.

Mr. SHERMAN. I should like to inquire of the Senator from Iowa if there is any doubt about the fact stated by the Senator from New York, that the number of men in the Navy was seventy-six hundred before the war?

Mr. GRIMES. I am not aware that there is any doubt about it.

Mr. EDMUNDS. That comes from the official figures.

Mr. SHERMAN. I know but very little about this matter except the information given to us here; but it strikes me if we could carry on the mixed service, steam and sailing vessels, before the war, on the basis of seventy-six hundred men, we might carry on the service at present on the same basis.

Mr. GRIMES. But we had not the steam service before the war. That is the trouble. That is the point I make.

Mr. SHERMAN. That is sufficiently answered by the observation of the Senator from Oregon, that on similar service the same number of steam vessels ought certainly to do as effective service.

Mr. GRIMES. If the Senator from Oregon had known anything about the Navy he would not have made his suggestion. As I have said, a naval vessel must have just as perfect a military organization in time of peace as in time of war. Every man must be ready for action, whether in the tops or by the side of his gun, or by the side of the engine, or heaving coal.

Mr. SHERMAN. I appreciate that; and I admit that the coal-heavers cannot be discharged.

Mr. GRIMES. Exactly. Therefore, you must admit that you must add to the number of men you had in the service before the war, the number of men that are now required to heave your coal and to regulate your engines. That number of men, as I have shown, is greater than the difference between seventy-six hundred and eighty-five hundred.

Mr. SHERMAN. But it strikes me the argument is sufficiently clear; if you have a thousand men, that thousand men employed on steam vessels in the naval service are certainly as effective as a thousand men employed in sailing vessels. It is the arm of the service that is improved and increased and perfected. A thousand men still in the steam service, doing the appropriate duties of steam machinery, are certainly as effective as a thousand men in the sailing vessels. I am in favor of testing the question of reducing the Navy and Army, if possible. I shall be willing to

vote for a bill to reduce the Army. I am willing to reduce the number of men to the same rate we had before the war. And let me say another thing: we know the Secretary of the Navy will not reduce one man below the amount he is compelled to do.

Mr. GRIMES. This proposition, as it now stands, without the amendment of the Senator from New York, compels him to reduce it four thousand from what it now is.

Mr. CONKLING. Oh, no.

Mr. GRIMES. The Senator says, "Oh, no." I happen to have official information on that subject. It reduces it nearly four thousand. The number now in service is twelve thousand three hundred and ninety-five, according to the report signed by Commodore Smith, now lying on the table.

Mr. CONKLING. That includes the nine hundred and eleven apprentices.

Mr. GRIMES. Everybody.

Mr. SHERMAN. I hope Senators will let me finish what I have to say, because I do not wish to make a speech. The Senator from Iowa admits the necessity of some legislation to reduce the Navy, and he has provided to reduce it to the old maximum of eighty-five hundred. He admits the necessity of a reduction, and the necessity of a reduction by legislation, and fixes the old maximum of eighty-five hundred; but it seems to me that, as seventy-six hundred men were sufficient to maintain the honor of the Navy with sailing vessels, the same number of men ought to be sufficient to maintain the honor of the Navy with steam vessels, because while it requires more men to run a steam vessel, yet fewer steam vessels are required to perform the service. As we were able under a wise and economical administration to carry on the Navy with seventy-six hundred men at the highest, certainly we ought to be able to do it now, especially as provision is made for a greater number of apprentices and boys. Therefore, without any knowledge except that derived from the Senator from Iowa and the debate, I shall vote for the lowest number, in the hope that if any harm is done, as a matter of course it is easier to raise the amount of the naval force than it is to decrease it.

Mr. CORBETT. I do not know that I am as well versed in naval affairs as the gentleman from Iowa; and perhaps we do not have as much of the navy in Oregon as they do in Iowa, [laughter;] but it does seem to me that this is a matter of plain common sense. In sailing vessels you must have some men to furl the sails and manage the ship, as well as men to place in action; and viewing the whole case; considering the more effective force in steamships; reasoning as I do from steamships in commercial business, which perform much more service than sailing vessels of the same capacity, I judge that the naval force under steam would perform better service than under sail. I therefore feel disposed to sustain the amendment.

Mr. GRIMES. One word in reply to the Senator from Ohio, [Mr. SHERMAN.] He seems to imagine that because we got along with seventy-five hundred men before the war we can get along with that number now. If the Senator will go to his committee-room and refer to the old Navy Registers published before the war he will see that, for example, on the coast of China we used to have three or four sloops of war, each of which had three or four hundred men; and now, instead of having three or four sloops of war on the coast of China, we have seven or eight small steamers that can run up those streams, that can protect our commerce wherever it goes; and it penetrates for several hundred miles, I believe, into the heart of China. Does the Senator suppose it does not require any more men to manage six or eight steamers now on the coast of China than it formerly took to manage three large sailing sloops of war, that did not go into the interior and did not half as well protect your commerce then as it is protected now? The character of your whole Navy has changed; and that

is the reason why I insist that the limit that was established before the war is a very low limit, if it is established now. I have a letter from the Navy Department in which they remonstrate against its being reduced as low as I propose to reduce it. They say that if we pass this bill as it stands, without the amendment of the Senator from New York, that they must withdraw a very large portion of each of their squadrons.

Mr. EDMUNDS. Let us have the letter.

Mr. GRIMES. I do not think I have got it here.

Mr. EDMUNDS. I did not doubt your statement, but I should like to hear what they say.

Mr. GRIMES. I have such a letter as that, and I know they are opposed to this reduction, thinking that they will be compelled to very materially reduce each one of the squadrons that they have now afloat; but everybody knows they are down as low as the Senator from New York admits, lower than they were before the war.

Mr. DRAKE. Before the Senator takes his seat there are one or two points about which I should like to have authentic information.

Mr. GRIMES. I do not know whether I can give it or not.

Mr. DRAKE. Is it not true that the average size of the vessels that we have in commission now is much larger than it was before the war? Are they not of greater tonnage, larger size, and requiring more men to man them?

Mr. GRIMES. I think they require more men in proportion to the tonnage than they did before the war. I do not think they are larger than they were before the war, but they require more men in proportion to the size than they did before.

Mr. DRAKE. Did I not understand the Senator from Iowa to say a little while ago that before the war of all the vessels that we had afloat in the Navy there were only ten steamers?

Mr. GRIMES. I do not think we ever had ten steamers afloat before the war, unless, perhaps, we had them during the Paraguay expedition, and they were little river steamers.

Mr. DRAKE. Are not all the vessels now in commission steamers?

Mr. GRIMES. Yes, sir. I think we had only ten steamers in all before the war, and not more than one or two of them, I think, were in service.

Mr. DRAKE. Now, all the vessels we have in service are steamers, are they not?

Mr. GRIMES. Yes, sir; all of them.

Mr. DRAKE. And they require a great many more men than sailing vessels?

Mr. GRIMES. Yes, sir. Just as the war broke out we had built the Richmond and Hartford, and one or two more, but they were in a sort of comatose state, I believe.

Mr. SPRAGUE. One idea, I believe, has not been expressed by any Senator in this debate, and that is, that the size of the guns now used is different from the size used before the war. It is well known that a vessel now carrying four eleven, thirteen, or fifteen inch guns has a greater capacity than a vessel carrying seventy-five guns before the war. It is also well known that one thirty-two or forty-four pounder would employ about the same number of men as is now employed upon these very large guns. It is evident, therefore, that the number of men required to be employed upon a vessel of the same capacity now is much less than the number required to be employed upon a vessel before the war.

Mr. GRIMES. I have to say, in reply to that, that there is not a fifteen-inch gun afloat in the first place, and, in the second place, that the number of men to man a gun is exactly in proportion to the increase of the capacity of the gun.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York, upon which the yeas and nays have been ordered.

The question, being taken by yeas and nays, resulted—yeas 23, nays 20; as follows:

YEAS—Messrs. Buckalew, Cattell, Chandler, Cole,

Conkling, Corbett, Edmunds, Fowler, Henderson, Howard, McCreery, Morgan, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Saulsbury, Sherman, Sprague, Thayer, Trumbull, Vickers, Wade, and Yates—23.

NAYS—Messrs. Conness, Cragin, Davis, Dixon, Doolittle, Drake, Fessenden, Frelinghuysen, Grimes, Hendricks, Johnson, Morrill of Maine, Morrill of Vermont, Norton, Nye, Pomeroy, Ross, Sumner, Tipton, and Williams—20.

ABSENT—Messrs. Anthony, Bayard, Cameron, Ferry, Howe, Harlan, Morton, Stewart, Van Winkle, Willey, and Wilson—11.

So the amendment was agreed to.

Mr. MORRILL, of Maine. I move to amend the bill on page 8, line one hundred and seventy-six, under the head of "for expenses of Naval Observatory," by striking out the word "two" and inserting "three" before the word "watchmen," so as to give them an additional watchman. I have been called upon by Professor Pierce and other gentlemen connected with that institution, who say it is indispensable that they should have an additional watchman there. The word "watchman" conveys but an imperfect idea of the duties to be performed. The committee had supposed that these watchmen were simply persons to guard the building, but they have other duties, such as making scientific observations during the night, and they are qualified for that service, and the representation is that the service would be crippled without this additional watchman. I hope the Senate will agree to the amendment.

The amendment was agreed to.

Mr. MORRILL, of Maine. On page 11, line two hundred and forty-two, under the head of "Bureau of Medicine and Surgery," I move to strike out "thirty-two" and insert "sixty;" so that the clause will read:

For pay of the civil establishment under this bureau, at the several Navy hospitals and navy-yards, \$60,000.

I offer this amendment by the recommendation of the committee upon further consideration. The estimate was \$73,365, and the House of Representatives reduced it to \$32,000; but the committee are satisfied upon examination that such a reduction would cripple the service to a very great extent.

The amendment was agreed to.

Mr. SHERMAN. I offer an amendment to insert as an additional section the following:

And be it further enacted, That all unexpended appropriations existing on the last day of July next for any of the several heads of appropriation provided for in this act shall be carried to the surplus fund, unless the same is necessary to pay expenditures made during the present fiscal year, or unless the same is necessary to execute contracts made before said date.

Mr. CONNESS. I should like to know who offers that amendment?

Mr. SHERMAN. I have offered it after careful examination and consideration by the committee. The amendment simply makes the same proposition in regard to the Navy that was made in regard to the Army, except that the last clause, the Senator will see, reserves the right to execute contracts, and reserves enough money to execute and complete all contracts.

Mr. CONNESS. I should like to inquire of the chairman of the committee whether the proposition as offered and adopted by the Senate to the Army appropriation bill was finally incorporated in the act?

Mr. MORRILL, of Maine. It has not yet been agreed upon.

Mr. CONNESS. I am entirely satisfied, from some investigations made by me, that this proposition applied to either of those bills will be a great injury to the public service. The difference between this amendment and the proposition offered of the same class by the Senator from Ohio to the Army appropriation bill is, as he states it, that in this case contracts are excluded. There is a great deal of business going on in the administration of each of those Departments, to be paid from unexpended appropriations, that cannot be included as contracts; and I think that such a proposition as this, without consulting the head of the Department as to the effect of it, is a very injudicious one at least, and I hope

it will not be adopted. After the proposition was made to the Army appropriation bill I had some conversation with the Secretary of War, and he said the result of it, if adopted, would be to utterly destroy that branch of the service, and if the gentlemen who had proposed it and voted for it had consulted the Department they never would have adopted it.

Mr. SHERMAN. Since the debate the other day I have examined this subject carefully, and I assure the Senate there is no practical difficulty in the way. I have submitted this amendment to different members of the Committee on Appropriations around me, and there is no possible difficulty about it.

Mr. CONNESS. I should like to ask the Senator if he submitted it—

Mr. SHERMAN. Wait until I get through and then I will answer any questions. It may possibly embarrass the Departments a little by cutting off facilities they have had heretofore of making payments without authority of law. Now, I will recall the facts to the Senate. There are over one hundred million dollars of unexpended appropriations for the support of the Army, for a multitude of heads of appropriations, which they are carrying along on the books of the Treasury Department, and out of which they are paying money never appropriated by Congress. This is caused by the lapping of appropriations during the war made for a great number of purposes not necessary for a peace establishment; and out of these unexpended balances they are paying expenditures that we have no control over whatever. It would have been better at the close of the war to have carried the whole of these to the surplus fund; but it was not done. The amendment offered in regard to the Army has been agreed to, slightly modified, as I understand, by the Committee on Appropriations, and this amendment carefully saves sufficient to carry into execution existing contracts.

To avoid all difficulty I will offer another section as another amendment calling upon the Secretary of the Treasury for estimates in his next annual estimates of such balances as are indispensably necessary to carry into execution existing contracts, &c. That next section will enable us to provide for every possible inconvenience. If we do not do this there is no use for appropriation bills, and we had better not go through the farce of passing them. The balances of unexpended appropriation now for the support of the Army are more than twice the aggregate of the appropriations for the support of the Army; and if they can transfer appropriations from one head to another, or lap them over from year to year, the process by which you go through the form of annual appropriations is a simple farce, perfectly idle and futile. They may carry on the operations of this Government without an appropriation bill at all. It is a necessary and high public duty for Congress, seeking to have a proper control over the expenditures, to put an end to these unexpended balances, so that no money can be drawn from the Treasury except in pursuance of law. One of the greatest guards of the Constitution is the power given to Congress over the public Treasury. No money can be drawn for any purpose from the Treasury except in pursuance of an appropriation by law.

During the war we made a multitude of appropriations without a careful analysis, without the ordinary checks and restraints that have usually been put upon appropriations, and although the war has been over for three years these have been lapped over and lapped over and continued on the books of the Treasury Department and are now within the control of the heads of the Navy and War Departments. This is an unwise and improper discretion to be left to any officers, however exalted their position, or however pure they may be. The law and the Constitution contemplate that money should only be paid for the War and Navy Departments upon appropriations made by law, and we cannot have our control over the public expenditures until we carry all of these unexpended balances to the surplus



fund. Then on the 1st of July next we commence with a new fiscal year. We are now making annual appropriations for the service of the next fiscal year. This section does not commence until the 1st of July, and the reservation is contained carefully that there shall be sufficient appropriations to pay all moneys that has already been expended during the current fiscal year, to execute all contracts made before the 1st of July next, and then the next annual appropriations come in and supply all the wants of the public service.

Mr. TRUMBULL. Will the Senator from Ohio allow me to inquire what has become of the bill that we passed some days ago on this very subject in regard to carrying over appropriations.

Mr. SHERMAN. That related only to the Army appropriations, and was attached to the Army bill, and after the bill was passed I understand it was recalled and is now in the hands of the Committee on Appropriations. This amendment applies the same thing to the Navy, nothing else; indeed, it is not quite so broad. The amendment I now introduce in regard to the Navy is not quite so broad as was the proposition with regard to the Army.

Mr. TRUMBULL. I am very much in favor of the provision; but why not make one provision to cover all these Departments?

Mr. SHERMAN. I will say to the Senator that in certain branches of the public service it might be very difficult. I have another section that applies to all; but as this bill relates only to the expenditures of the Navy I have preferred to put it separately for the Army and Navy. I propose then to offer a section to cover all unexpended balances. Intended to add it to the legislative bill, where it properly belongs; but I will add it as an amendment to this bill with the consent of the Senate.

Mr. JOHNSON. I ask for the reading of the amendment offered by the Senator from Ohio.

The Secretary read the amendment.

Mr. JOHNSON. The principle of that amendment is clearly right, but whether we should adopt it now seems to me not so clear. The Departments have been in the habit of using the unexpended appropriations for the ensuing current year, and, for aught that I know, the estimates that they have sent in have been made upon the faith that they would have the right to use the unexpended appropriations of the current year.

Mr. CONNESS. I will state, if the Senator will permit me, in that connection, that the Secretary of War, in a conversation the other day touching the same kind of a proposition offered by the Senator from Ohio to the Army appropriation bill, and adopted by the Senate, stated that the bounties of the soldiers authorized by our acts were now paid from an unexpended appropriation, and that the adoption as a law of the provision made would prevent their further payment.

Mr. SHERMAN. I heard that, bagaboo and examined it, and there is not the slightest foundation for it. On the contrary, the language of the provision shows that it only applies to the heads of appropriations contained in the bill. Are there any appropriations in this bill or in the Army bill for the payment of bounties under that act? Not at all. We make an appropriation every year for the payment of bounties, and there is no head of appropriation either in the Army bill or the Navy bill on that subject.

Mr. CONNESS. I should like to ask the Senator how an appropriation for the payment of bounties does apply?

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The Senator from Maryland is entitled to the floor.

Mr. JOHNSON. I did not think I was giving the floor to everybody, although at all times willing to give the floor to the Senator from Ohio, or anybody else who desires it specially.

Mr. SHERMAN and Mr. CONNESS. I beg pardon.

Mr. JOHNSON. What I said—I do not

know that the Senate understood me—was, that I am inclined to think the estimates on the faith of which we are now appropriating have been made what they are because the Departments have unexpended balances of prior appropriations which they have a right to use. They have been using them in the past, and the Senator from Ohio says that they are using them now. Having the right to use the unexpended balances, they have estimated what they shall want for the succeeding year upon the faith of their being able to use during the succeeding year the unexpended balances. I concur with the principle of the honorable member's amendment, that at the end of each current year the balances that remain in the Treasury unexpended, and upon which contracts have not been made, ought to be carried to the surplus fund; but it might be dangerous for the ensuing year unless we know upon what ground to apply the provision to this year.

Mr. GRIMES. I think that this proposition, as applied to some heads of appropriation, would be very desirable and proper; but I do not see how it is going to be made applicable to some. For example, there is an appropriation here of some millions of dollars for the pay of the Navy. A vessel sailed three weeks ago for China and she will be gone three years. The men will only have twenty per cent., for example, paid to their wives, or upon allotment, during the time they are absent, and the balance will be paid at the end of three years when they return. Now, how are they going to obtain that money under this provision?

Mr. SHERMAN. There is no difficulty about that, because every year there is an appropriation for the pay of the Army and the pay of the Navy; and whenever that pay is demanded it is due, although it may have been carried a year or two before. The Senator will see that the very language of this bill provides for the pay of the Navy. Now, whether that pay has accrued a year before or two years before makes no difference. Whenever it is demanded it is due.

Mr. GRIMES. But they do not demand it until they return at the end of a three years' cruise; and, when they land in Boston or New York and demand their pay, they will find that it has all been covered back into the Treasury.

Mr. SHERMAN. There is no trouble about that, because it has always been done.

Mr. GRIMES. What has been done?

Mr. SHERMAN. They have been paid when they came home, and yet the law forbids an appropriation for more than two years. Now, let me say what I think the Senator from Iowa already knows. The Constitution declares that no appropriations for the Army or Navy shall be made for a longer period than two years. That constitutional provision is entirely evaded by lapping over and opening a new account and carrying it from one account to another. It is for the purpose of avoiding the continued abuse of this system that I offer this amendment. There is no practical difficulty in the case suggested by the Senator from Iowa. When a sailor comes home his pay is given to him. If the Senator really desires to guard against a possible construction of that kind, I have no objection to his making the provision apply to all except the pay of the Navy.

Mr. GRIMES. That is the only difficulty that I think of.

Mr. SHERMAN. I have no objection, if the Senator really thinks it subject to that construction, to his inserting the words "except the pay of the Navy" in the proper place.

Mr. FESSENDEN. I do not think I have information enough with regard to the exact state of things to enable me to vote understandingly on this proposition. I am not willing to take the decided opinions even of my friend from Ohio upon the subject without more knowledge. He says this can be done easily. I am not quite satisfied that it can be without injury. All the large balances that have existed that came from war times ought to be disposed of, as a general rule, by carrying

them into the Treasury, and not leaving them open as they are, and I do not think the heads of the Departments would object to that as a general rule. But, sir, I recollect very well, and any one who considers the course of business will see that it must necessarily be so, that in the reports made to Congress with reference to appropriations, we used in time of war to carry over fifty million dollars regularly, probably as unexpended appropriations, at the end of the fiscal year. Everybody will see that appropriations made for a year cannot be expended within the year; it is out of the question. The heads of Departments cannot even know, such is the extent of our territory, what contracts have been made that will require money to be expended. They cannot know what debts may be incurred. They cannot even know for months afterward what the liabilities and the obligations of the Department are under the appropriations; and, therefore, I am not quite certain that the exceptions made by the honorable Senator would be such as would be of any practical value, would effect anything. We make certain appropriations for a year. The practice has been, of course, to expend as much as is called for within the year, but a very large portion must necessarily go over into the next year before it is called on for the obligations that have been incurred of one kind and another.

I think what the Senator wants to get at is to prevent transfers—transfers from one head of appropriation to meet another appropriation where the money falls short. That has always been a matter that has occasioned discussion here in the Senate. I remember as long ago as when I was first on the Committee on Finance it was a matter that was introduced and considered once or twice. Mr. Hunter, who was then chairman of the Committee on Finance, and who was very careful and anxious to cut down every possibility of misappropriation of the public money, examined that subject once or twice, and he found that in the War Department and in the Navy Department—the War Department especially—you could not get along at all unless you allowed transfers to a certain extent; and it first arose, I think, on an appropriation bill where a transfer was allowed. I have not looked it up for a good many years now, and I should not know where to look for it.

While I agree with the general object of the amendment, I am not satisfied that it would be safe to pass it in the form in which the honorable Senator has introduced it. I think that such an amendment can only be prepared safely by consultation with the heads of the Departments, and a careful examination at the Departments themselves to see how it would work. A general proposition of that sort—unless the Senator will assure me that he has made that examination in connection with the heads of Departments—is not so satisfactory to me as to enable me to vote for it. I think there will be danger of its occasioning difficulty. While, therefore, I am in favor of the object, I think it is not to be obtained without a more thorough and careful understanding of the facts than the Senator or anybody else has yet furnished to me at any rate.

Mr. MORRILL, of Maine. I should like to call the attention of the Senator from Ohio to an existing statute, to see wherein his proposition differs from the law as it already stands. By the tenth section of an act making appropriations for the civil and diplomatic expenses of the Government for the year ending June 30, 1853, and for other purposes, approved August 31, 1852, it is provided—

"That where any moneys shall have remained unexpended upon any appropriations by law, other than for the payment of interest on the funded, or the payment of interest and reimbursement according to contract of any loan or loans made on account of the United States, as likewise moneys appropriated for a purpose in respect to which a larger duration is specially assigned by law, for more than two years, after the expiration of the fiscal year in which the act shall have been passed, all and any such appropriations shall be deemed to have ceased and be determined, and the moneys so unexpended shall be immediately thereafter carried, under the direction of

the Secretary of the Treasury, to the account on the books of the Treasury denominated the 'surplus fund,' to remain like other unappropriated moneys in the Treasury, and it shall not be lawful, for any cause or pretense whatsoever, to transfer, withdraw, apply, or use for any purpose whatever any moneys carried as aforesaid to the surplus fund without further and specific appropriations by law."

My inquiry is whether the Senator's amendment changes that statute in any respect whatever except the limitation to one year? It seems to me it does not.

Mr. SHERMAN. The section to which the Senator refers is called the "surplus fund section" of the statute, and is perfectly familiar to me. But the trouble is that that statute and the operation of the surplus fund have been avoided by the mode of keeping the accounts, and the fact is shown clearly enough by the estimates of appropriations submitted to the Committee on Appropriations, by which it appears that \$144,000,000 of appropriations made during the war are still continued subject to the order and requisition of the heads of the different Departments.

Mr. FESSENDEN. They ought to be carried to the surplus fund.

Mr. SHERMAN. That is the very purpose of this provision. Now, I wish to assure the Senator from Maine that this subject has come under his consideration as well as my own, and has been fully considered. At the last session of Congress we proposed this something in the Committee on Finance, to cut off these balances of appropriations. The proposition was made and debated, and the attention of the Secretary of the Navy was called to it, and he said that it ought not to be done without notice, because the estimates for that year were made upon the basis that they had the right to use a portion of the unexpended balances, and therefore it would take them a good deal of time to revise their estimates in order to make them complete for a year, but that he would do so.

Now, here is his letter written a year ago, showing that he has had ample notice of the intention of Congress to move in this matter; and by referring to the estimates that are now on your table you will find estimates complete for the Navy Department, for every item of expenditure falling within that Department, giving the details in full; so much for the pay of the Navy, &c. In these estimates he does not allude to the unexpended balances of appropriations, but makes the estimates complete; and in the bill as it now stands there are appropriations for all the proper heads of appropriation for the Navy Department complete in themselves; and there is no doubt those estimates are based upon the idea that they are complete for the service of the Navy Department for the next fiscal year.

Mr. EDMUNDS. May I ask, does not the law require the Secretary, in making his estimates, to take into account the unexpended balances applicable to the service he is to execute?

Mr. SHERMAN. Yes, sir. The amount of the appropriations for the support of the Navy by this bill, I am informed, is something over twenty million dollars. They are carefully limited and carefully reduced. Some of the old heads of appropriations are not named in this bill, and consequently the section I offer does not apply to them. It only applies to the heads of appropriation that this bill proposes to furnish means for. There are to the credit of these very heads of appropriation now, according to the estimates, \$15,226,264. It is very convenient for the head of a Department to have this large reserve, which he may call for if he chooses; having a fresh appropriation for all the items necessary to carry on his Department the next year, to have the power to draw at pleasure from these unexpended balances, the items of which are not given, but only the bulk.

Mr. FESSENDEN. Will the Senator allow me to ask him, is his amendment simply confined to existing balances?

Mr. SHERMAN. Yes, sir.

Mr. FESSENDEN. Suppose there is a bal-

ance of the present appropriations that we have made for this year. We made appropriations last year. At the end of this fiscal year there will be a balance on hand of the appropriations made last year; that is to say, made for the existing fiscal year. Does not this amendment carry all those balances into the Treasury just as well as the others?

Mr. SHERMAN. No, sir; it keeps them open just precisely as is always done in the Treasury Department until the service of this fiscal year is settled. It may take six months, as the Senator knows.

Mr. FESSENDEN. It may take two years.

Mr. SHERMAN. Very well; suppose it does; for all the debts contracted during this year that balance still stands and cannot be used for any other purpose.

Mr. FESSENDEN. The difficulty is, you cannot tell what that balance is until after the lapse of a considerable time.

Mr. SHERMAN. I know that; but it still stands on the books to the credit of that head of appropriation until the accounts of this year are settled. If, in the case put by the Senator from Iowa, debts that were incurred this year should come in two years hence, this proposition does not affect them.

Mr. FESSENDEN. Then I do not see how the Senator's amendment changes the existing law a particle, except so far as the old balances are concerned.

Mr. SHERMAN. It carries the whole of those old balances to the surplus fund.

Mr. FESSENDEN. All the old balances ought to go there, except the balances of the year before last and last year. As the law stands now, the idea is that the balances may stay on the books for two years and then they go into the surplus fund. I should think that all those balances in the War Department would, under the law as read, go into the surplus fund now.

Mr. SHERMAN. But the Senator will see that that law has been entirely avoided, because here is the report.

Mr. FESSENDEN. Then this will be in the same way.

Mr. SHERMAN. Oh, no.

Mr. FESSENDEN. Why not?

Mr. SHERMAN. Because they do it by simply stating the accounts. This amendment declares that all the money appropriated before this time, unless that money is necessary for such and such a purpose, shall be carried to the surplus fund. The law has been defeated by opening a new account and carrying the unexpended balance to the new account, and adding to that the new appropriation, and so on lapping it over year after year.

Mr. FESSENDEN. That is an evasion.

Mr. SHERMAN. I know it is an evasion, and it is for the purpose of correcting it that I offer this proposition. I am not sure but that during the war, when this practice arose, it was necessary, because then they had to have large sums at their discretion, as there were sometimes deficiencies in heads of appropriation.

Mr. MORRILL, of Maine. I desire to make a suggestion to the Senator, by way of amendment, that I think might relieve the embarrassment which the Senator from Iowa anticipates. I see he has provided here that the surplus necessary to execute existing contracts shall not be carried into the surplus fund. Now, the Senator from Iowa suggests a difficulty that it may be necessary to execute a service already provided for.

Mr. SHERMAN. But the first clause will cover the case suggested by the Senator from Iowa entirely.

Mr. MORRILL, of Maine. I want to suggest an amendment, and see whether it will be satisfactory to the Senator from Ohio. I suggest that he add, after the concluding words of his amendment, "or unless the same is necessary to execute contracts made before said date," the words "or for the continuous service appropriated for."

Mr. SHERMAN. That will defeat the whole

law, because an appropriation is made say for pay of the Navy or for any given head of appropriation, and this proposition continues that for that particular purpose. Now, you have already cut off the power of transfers. That is all right enough. That has been done already by law. But until you cut off these large balances you will have all the evils of the old system continued. There is not a single head of appropriation provided for in this bill that there is not a large balance to the credit of. I make the general assertion because I know it is so as to the great body of them. I am willing that those appropriations shall still stand to the credit of those heads of appropriations on the books of the Treasury Department for the purpose of settling up all accounts or dues accruing during the present fiscal year whenever they may be presented, or to execute all contracts made during the present year, but not for the purpose of swelling or increasing the appropriation that we say is sufficient for the public service of this year. If the Senator from Iowa will allow me, I will say that this clause is amply sufficient for his purpose.

Mr. GRIMES. I think I am satisfied with it as it stands, if I understand it. It reads:

*And be it further enacted,* That all unexpended appropriations existing on the 1st day of July next for any of the several heads of appropriations provided for in this act shall be carried to the surplus fund, unless the same is necessary to pay expenditures made during the current fiscal year, or unless the same is necessary to execute contracts made before said date.

Who is to determine that? The Secretary of the Navy, I suppose.

Mr. SHERMAN. Yes; as a matter of course, upon his requisitions, countersigned at the Treasury Department.

Mr. GRIMES. I ought to say that I have a letter here, which I should like to have read, from the Assistant Secretary, against this proposition. I will say, at the same time, that it seems to me there is nothing very objectionable in it, if the discretion is lodged in the head of the Department as to whether it is necessary to retain those balances in order to pay existing contracts or continuing contracts or liabilities already incurred; but the Assistant Secretary of the Navy has written me a letter expressing his objections to it, and I think it proper that it should be read. I will ask that it be read.

The PRESIDING OFFICER. The letter will be read if there be no objection.

The Secretary read as follows:

NAVY DEPARTMENT,  
WASHINGTON, April 6, 1868.

DEAR SIR: As suggested in our conversation the other day, I will state the effect upon this Department of a proviso similar to that added to the Army bill—which I have learned might be added to the Navy bill—relative to any balance of funds existing on the 1st of July.

In the Army there are two classes of pay officers: the paymaster proper, who pays the *personnel* only, and the quartermaster, who pays for supplies, &c. In the Navy, as you are aware, both are combined in one. The Army paymaster every month or every two or three months pays a regiment in full to the date of payment, and thus the Army is fully paid for any given year within a short time of its close. Not so the Navy. Seamen are often absent for three years, and during that time are rarely, if ever, fully paid up; they are given only what is required to meet their necessary expenses, and so they come home with the fragments of pay of one, two, or three years due them. If this is to be dissected, and the balance for each year defined and charged to the appropriation for that particular year, it will create great confusion, and the additional work in the Navy and the Auditors' offices will require a regiment of clerks, and not the slightest public good would be gained thereby. If there stands to the credit of pay of the Navy \$50,000,000 it amounts to nothing—it is all upon paper—the actual payments are no more and no less.

There are over a hundred heads of appropriations for the Navy and little expenses which cannot be foreseen, and funds provided under the proper appropriation are constantly arising, and are necessarily paid for by the paymaster from any funds in his possession, and upon his return and the settlement of his accounts, years after the expenditures were made, the proper appropriation is debited by transfer warrant from the auditing office, as is provided by law. If, therefore, the balances of appropriations are wholly wiped out, as is provided by the amendment to the Navy bill which passed the House, (and I believe, been rejected in the Senate,) these accounts could never be settled, and if they have to be charged to the distinct year's appropriation the labor will be enormous. All regular

appropriations have since the foundation of the Government been considered as continuous—unused special appropriations lapsing to the Treasury after two years.

As suggested, also, I call to your attention the reduction in the appropriation for the support of the hospitals.

Very respectfully, WILLIAM FAXON.  
Hon. J. W. GRIMES, *United States Senate.*

Mr. FESSENDEN. My colleague read a section which had escaped me, if I knew anything about it—I do not know when it passed—prohibiting all transfers from one head of appropriation to another. Is that the law, that all transfers are forbidden? When was that passed?

Mr. MORRILL, of Maine. We passed an act at this session forbidding all transfers.

Mr. FESSENDEN. What act was that? What was the character of the act? One of the appropriation bills?

Mr. MORRILL, of Maine. Yes, sir; on one of the appropriation bills.

Mr. FESSENDEN. Which one was it?

Mr. GRIMES. On the deficiency bill.

Mr. FESSENDEN. The first deficiency bill?

Mr. GRIMES. Yes, sir.

Mr. FESSENDEN. I was not aware of that; but, if it is now the law that all transfers are prohibited, no possible harm can follow by letting things remain just as they are. This matter, as the Assistant Secretary of the Navy suggests, is merely upon paper. The money is in the Treasury, and nothing can be drawn out except in the payment of regular bills as they come in. I cannot see what necessity there is or what is to be accomplished by the amendment, because the Secretary cannot lay his hand upon a dollar of the appropriation except in payment of some bill that arises.

Mr. SHERMAN. I will give a case to the Senator where the difficulty has actually occurred. I wished to ascertain during this session of Congress the probable expenditures for the next fiscal year. How could that be ascertained under our present system of conducting business since the war?

Mr. FESSENDEN. I do not see how you could ascertain it by putting this clause in.

Mr. SHERMAN. Yes, I will state to the Senator how I can do it, if I do not interrupt him.

Mr. FESSENDEN. Certainly not; I merely rose to make a suggestion.

Mr. SHERMAN. I wish to ascertain the amount of money necessary for the next fiscal year in order to provide ways and means to raise the money. I look at the estimates of appropriations; I find how much is estimated; I have the estimates of the various Departments and the Secretary of the Treasury that so much is needed; I call upon the committees of the two Houses, and I find that they have reduced the estimates somewhat and fixed such an amount for the expenditure of the next fiscal year. But I am met with the remark: "That is no test; that is no criterion; that is not within one hundred million dollars of it." Why? Because there are old balances of appropriations that have been carried over and are lapping over like a snowball in winter, and you cannot tell how much of those will be used.

Mr. FESSENDEN. Are they not reported regularly as so much in hand?

Mr. SHERMAN. Only in bulk.

Mr. FESSENDEN. Not in detail?

Mr. SHERMAN. No, sir.

Mr. FESSENDEN. Then the Senator can get at it by calling for a detail, for a statement of how much there is under each head, when the appropriation bills come up, and the Committee on Appropriations can make their appropriation bills accordingly.

Mr. SHERMAN. The Senator must have forgotten, I think, what occurred on this subject a year or two ago.

Mr. FESSENDEN. Very likely.

Mr. SHERMAN. Because this very subject was then considered by the Committee on Finance, and I am quite sure my friend from

Maine agreed to it. We proposed to cut off these unexpended balances. I thereupon wrote an official letter to the Secretary of the Navy, and he stated as a reason why it could not be done that year that the annual estimates had been made upon the supposition that they would be able to use a portion of these large balances; and so it was postponed that year; and this year they have changed the form of the estimates, no doubt in consequence of that inquiry, and given complete estimates for the Navy Department. They have been somewhat reduced. There is now, it seems to me, no objection, no practical difficulty in carrying these unexpended balances into the Treasury unless it may arise in the pay of the Navy. I think the exception already made by me is sufficient to cover that; but, as I said before, if the chairman of the Naval Committee thinks it is not, I am willing to except the pay of the Navy from the operation of this provision. I do not think it is necessary to do so, because I think it is sufficiently excepted by the general provision, "unless the same is necessary to pay expenditures made during the current fiscal year." As to keeping the accounts there is no practical difficulty, because only the balance is paid and charged to the proper appropriation.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Ohio.

The amendment was agreed to.

Mr. SHERMAN. I offer another amendment, to which I think there will be no objection. It is to add as an additional section:

*And be it further enacted, That the Secretary of the Treasury is hereby directed, in his next annual estimates of appropriations, to state all the balances of appropriations made prior to the present session of Congress for each branch of the public service and remaining unexpended on the 1st day of July next, and designate the amounts necessary to execute contracts or pay expenditures properly chargeable to each of such balances.*

Mr. EDMUNDS. Why not make that continuous?

Mr. SHERMAN. We have already provided for the Army and Navy appropriations; but as there are a multitude of other appropriations for the Indian service and other services, I thought it better to make this provision requiring an estimate to be submitted in the next estimates of appropriations of the amounts actually necessary to complete contracts.

Mr. EDMUNDS. My inquiry was, why you do not make that section apply in the future continually instead of only to his next report?

Mr. SHERMAN. I think this other section will cut it off sufficiently, and then we shall be able to legislate in view of the estimates, cutting off all that is not necessary to complete contracts or carry out an existing law.

Mr. EDMUNDS. It would be a great deal better to make it continuous.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the Senate in the amendments made as in Committee of the Whole. The question will be taken on the amendments collectively unless some Senator desires a separate vote.

Mr. DRAKE. I wish a separate vote on the amendment of the Senator from New York, [Mr. CONKLING.]

The PRESIDING OFFICER. That amendment will be excepted.

Mr. HOWE. I wish a separate vote taken on the amendment increasing the appropriation made for Navy hospitals.

The PRESIDING OFFICER. That amendment will be excepted. The question is on concurring in the Senate in the amendments made as in Committee of the Whole, except those that are specially excepted.

The amendments not specially excepted were concurred in.

The PRESIDING OFFICER. The question now is on concurring in the first excepted amendment.

The Secretary read the amendment, which which was in line two hundred and forty-two, under the head of "Bureau of Medicine and Surgery" to strike out "thirty-two" and insert "sixty;" so as to make the clause read:

For pay of the civil establishment under this bureau, at these several Navy hospitals and navy-yards, \$60,000.

Mr. DRAKE. That is not the amendment on which I asked a separate vote.

Mr. HOWE. It is the one on which I asked a separate vote.

The PRESIDING OFFICER. This amendment being the first one in the bill will be considered first. The question is on concurring in this amendment made as in Committee of the Whole.

Mr. HOWE. The estimate I think was something like \$70,000.

Mr. MORRILL, of Maine. Seventy-two thousand dollars.

Mr. HOWE. The House of Representatives cut down the estimate to \$32,000. I admit that it is not very easy to estimate accurately the precise sum that is needed for these purposes; but in looking at the figures submitted by the Department, and looking at the best evidence I could get on the point, it seemed to me that the appropriation made by the House was abundant for the purpose. It is suggested already that I am mistaken, and perhaps I am. The number of employes at these different hospitals is something over two hundred. The amount of work they have to do is indicated in the report of that bureau, showing the number of persons in these several hospitals at two different dates a year apart, the 31st December, 1865, and the 31st December, 1866.

The whole number of persons in the Chelsea hospital on the 31st December, 1865, was thirty-seven; the year following it was fifty-six. In New York it was one hundred and fifty-six; and the year after it was one hundred and fifty-four. In Philadelphia it was sixty-four; and the year after it was nineteen. The whole number in all the hospitals in December, 1865, was four hundred; and in December, 1866, it was just thirteen less—three hundred and eighty-seven.

Now, you will perceive, Mr. President, that if this is a fair average of the number in these hospitals, you have almost one employe to a patient. That seems to me to be very extravagant. Nay, I guess you have more than that if you take into consideration the navy-yards. Here are half a dozen navy-yards at which appropriations are made for hospital purposes. Here is \$1,480 for hospital expenses at Washington; but there is a hospital at Washington. It does not appear from this report that there ever was a patient treated there in the world. And so of the navy-yard at New York, at Philadelphia, at Norfolk, and at Boston. There are hospitals at each of these places, and yet appropriations are made for hospital expenditures at the navy-yards at the same places. It seems to me if the Government maintains one hospital at a place, that should be sufficient for all purposes; and it would seem to be sufficient from the reports, because I do not gather from them that there ever was a patient treated at either of these navy-yard establishments, whatever they may be.

But, is this number of employes necessary to do the work? Why, sir, the number of employes in the hospital at Boston is twenty-eight. The number of persons admitted to that hospital in the year 1866 was two hundred and eighty-eight. The number of employes at New York is thirty-nine. The number of patients admitted to that hospital in 1866 was five hundred and seventy-two. The number of employes at Annapolis is eight. The number of patients admitted to that hospital in that year was five hundred and ninety-six. A larger number of patients was admitted to the hospital at Annapolis in that year than in any other hospital in the whole catalogue; and yet the number of employes is only eight, or about one fourth of the number employed at some of the



other hospitals, and about one fifth of the number employed at New York. If eight persons could take care of the sick admitted into the hospital at Annapolis, will some Senator tell me why thirty-nine are required to take care of a less number at New York? If eight persons can take care of the sick at Annapolis, they can take care of them evidently at any other hospital, because there was a larger number admitted into the hospital at Annapolis than into any of the other hospitals.

I find that in most of these hospitals, or in many of them, there are no less than three apothecaries under pay—apothecaries and assistant apothecaries of the first or second or third class—three apothecaries to put up medicines. It takes three men, or you pay for three men, to put up the medicines for one hundred and fifty patients in the New York hospital; two to put up the medicines for the patients in Boston; and so of the other hospitals. Now, I should think one good, smart apothecary could put up more medicines than that number of patients would readily take. I have seen one surgeon that I think could put up enough to kill the whole of them, and not work over half the day at that. [Laughter.]

There are also three cooks and a farmer at most of these hospitals. A farmer I should think about as useless a piece of furniture in an hospital as you could well contrive; but you have one designated as a farmer, and as under pay. Then you have three nurses, three washers, four laborers, a gardener, a painter and glazier, a gatekeeper, three watchmen, one messenger, a matron, an engineer, and a carpenter. That is a corps that I should not mistrust were required on the staff of an hospital, to a certain extent, but it is a force that it seems to me it is impossible should be employed. I am satisfied if you adhere to the appropriation made by the House of Representatives you can furnish more help at every one of these hospitals than the Annapolis hospital has, and the Annapolis hospital received under its treatment during this year more than any other hospital in the country. Therefore, I felt inclined to call for a separate vote on this particular amendment. I was not in the Senate when it passed before.

Mr. MORRILL, of Maine. One word in reply to the Senator from Wisconsin. I think it difficult to reply to the criticism of the Senator in detail, for it may turn out that the Senate will find it difficult to believe that all these establishments at these various points are necessary; but that is not the proposition before the Senate. If it was a question whether we would establish and maintain these hospitals or not, then the argument of the Senator would be relevant; but we have got these establishments, and the Committee on Appropriations have no judgment on the question whether they ought to be sustained or not. The presumptions are all in favor of the institutions.

The argument of the Senator is that they ought to be conducted upon more economical principles; that there is a surplus of help. There are fifteen establishments in all for which this appropriation is made, and the aggregate is \$60,000 for maintaining fifteen hospital establishments in different sections of the country. Now, I will read you the force for which this appropriation is made, and let any Senator, if he pleases, including the Senator from Wisconsin, tell me if he can which one of the employes can be left out. He has seized one particular one, which I will take notice of directly.

Now, take the hospital at Boston, Massachusetts. It is an establishment under the Government; and the question is of making an appropriation to pay the employes. I want you to notice the employes, their duties, and their compensation, and see whether it is too much or too little. There is "one apothecary, first class." His duties are not defined; but his compensation is. It is \$750 only. There is a second class apothecary at \$480. I believe there is a third class apothecary at New York at \$360; but there are only two at Boston.

Now, if you take the sums you will see that they are not persons employed independent of this hospital in some way. You cannot conceive that you can find a competent apothecary for \$480. My friend says he knows a physician who could do all the services of the three apothecaries and have plenty of time to spare; but he could not employ one competent physician to do the duties of an apothecary at those establishments for the salary of all three combined. I only mention it to show that a low grade of service and skill is employed and very low compensation paid.

Then, there is a carpenter at \$360; a chief cook at \$240; two cooks at \$168 each; one engineer at \$600; one farmer, \$480; two firemen, \$360 each; one gardener, \$300; four laborers, \$240 each; three washers at \$168 each; one matron, \$360; one messenger, \$240; three nurses at \$240 each; one painter and glazier, \$360; one gate-keeper, \$300, and three watchmen, \$360 each. Now, if you keep an establishment of this sort, whether you can dispense with these persons or not does not depend on the number of patients actually in the hospital. You must maintain the establishment, because you are liable to have more or less enter there at any time. So that the criticisms of my honorable friend go against the establishment altogether.

But the Senate committee adopting the argument of the Senator, so far as it touches this case, did cut the appropriation down. The appropriation necessary to maintain all these persons intact is \$72,360. It will be seen that the amendment of the committee is \$12,000 less; and that was based upon criticisms such as my friend from Wisconsin has addressed to the Senate. Looking at these establishments, and seeing, as is suggested by him, that it is possible there may be a surplus man or two, a surplus apothecary, and perhaps a surplus laborer, the committee have cut down the whole estimates \$12,000; so that the bureau will be required to discharge some of these persons. Now, can my honorable friend say that they can dispense with more than one half? That is the House proposition.

Mr. HOWE. Yes, I can.

Mr. MORRILL, of Maine. More than one half?

Mr. HOWE. Yes.

Mr. MORRILL, of Maine. Has my honorable friend any information on that subject?

Mr. HOWE. Yes.

Mr. MORRILL, of Maine. Does he know about the establishments?

Mr. HOWE. Why, yes, Mr. President, let me say to my friend what evidence I have. I have the evidence here of this report, that the hospital which received the most patients during the year 1866 at Annapolis does the work with eight employes, while you are paying in this bill for from twenty-five to thirty-nine employes—

Mr. RAMSEY. In the same hospital?

Mr. HOWE. In other hospitals doing less work.

Mr. MORRILL, of Maine. That does not argue anything.

Mr. HOWE. I thought it did.

Mr. MORRILL, of Maine. I think the argument is not conclusive, because take this one at New York: the entire establishment at New York costs but \$12,000; but if it was necessary to keep an establishment there for the reception of sailors and marines, it seems to me it is very difficult for the Committee on Appropriations to say that it can be done much under the estimates presented to us from the proper authorities.

Mr. HOWE. Now, Mr. President, it is just as easy for us to vote \$60,000 as \$32,000. We can do it by the same motion of the hand or the same word of mouth; but when the Department shows you that eight men do a certain amount of work at Annapolis, treat a certain number of patients, and take care of them, I thought, with all deference to the opinion of my friend from Maine, that that was an argument which tended to show that less than

thirty-nine could do less work at New York and less than twenty-eight could do it at Boston or Chelsea.

Mr. MORRILL, of Vermont. Will my friend allow me to ask him a question?

Mr. HOWE. Certainly.

Mr. MORRILL, of Vermont. I ask my friend whether the establishment at New York is not much larger than that at Annapolis, and whether it does not require a larger force to take care of the building and the appurtenances thereto belonging; whether, in fact, the accommodations there are not sufficient to take care of a much larger number of patients in case any emergency should arise requiring them to be taken care of?

Mr. HOWE. What the relative size of the two establishments is I am not informed.

Mr. GRIMES. I can tell the Senator that the size of the one at Annapolis is four ordinary-sized rooms, about sixteen feet square, I believe.

Mr. MORRILL, of Vermont. Then I suppose the one at New York is much larger.

Mr. GRIMES. I never saw the one at New York; but I understand it is quite a large building, and it ought to be, and must be, because it is adjacent to a large city where we are liable to have a large ship come in with one hundred sick people in a day, and have got to be in a condition to receive them at any moment they may come in.

Mr. HOWE. Well, sir, I know a ship is likely to come into New York with a hundred sick persons on board; and I suppose a ship is liable to come into Annapolis with sick persons on board. It seems they do come in, and did come in, and bring more patients—

Mr. GRIMES. Oh, no; none of the patients at Annapolis come in by sea.

Mr. HOWE. I do not know where they come from. They get there; and I do not suppose it makes any difference in particular whether they come by land or water. They probably require about as much nursing and about as much treatment. I am only giving you the report of the Department.

I was trying to say I did not know the relative size of the two institutions, that at Annapolis and that at New York. If these people are employed just to take care of the building then I have a very prompt remedy for that, which is to destroy part of the building. You do not use it. The use you find is for the four rooms at Annapolis, and not for the castle in New York. Cut down your building; discharge your employes. If they are employed to take care of the sick, the sick are at Annapolis, or were during this year at Annapolis.

I thought that this was an argument why a less number of persons were required at the other hospitals. I thought there was another argument. I thought the very facts to which our attention has been directed by the chairman of the committee, to wit, that these were very cheap hands, was an argument going to show that no such hands were required. They do not employ any such apothecaries as are spoken of here at the figures. They do not get this at the price named. I take it they are not there, because they cannot be hired for that, I think. I would hate to trust myself in the hands of one of them who could be hired at those figures.

The Senator appealed to me to say which one of these employes I would think it safe to discharge. I will tell him. It is a fair question. I will give him my opinion, with such information as I have—it is very limited—drawn from the report. I would discharge the whole batch of apothecaries early in the morning.

Mr. MORRILL, of Vermont. Would not the Senator be willing, if a little ground be attached to these hospitals, that it should be carried on so that they could furnish their own vegetables?

Mr. HOWE. No. I would not employ a farmer and a gardener to carry on any of the public domain; I do not care whether it is attached to a hospital at New York or whether it is out on the prairies in the West. I do not

believe we had better do it. I would discharge all the apothecaries and the carpenter and the farmer and the gardener, and I think I would reduce the number of washers and laborers; but I am not sure about that. I think I should try to get along with less than three watchmen in an ordinary hospital. I do not believe they are necessary. I think I should try and get that number down to the number that is employed at Annapolis.

Mr. RAMSEY. As the Senator from Wisconsin seems to have informed himself on this subject, I should like to ask him a question to see whether his opinion agrees with mine. I am told that if this reduction of the appropriation for the hospitals takes place several of the largest hospitals in the country will have to be closed. While I am in favor of reducing the appropriations for the Navy, I should be very sorry to commence at this end of them. I am willing to vote for any amendment involving the reduction of the men in the Navy; but I should be very sorry indeed to see the naval asylums or naval hospitals interfered with, unless there be an absolute necessity for it, and I am told if this reduction takes place several of the largest hospitals in the country will have to be closed.

Mr. CRAGIN. Mr. President, I make it a point never to speak unless I have something to say, and never to say anything unless I know something about the subject. It has been my duty in my lifetime to examine some of these marine hospitals officially.

Mr. FESSENDEN. These are naval hospitals.

Mr. CRAGIN. I find, sir, that I am mistaken. I will say, however, that I once had occasion to examine the hospital at Portland and the hospital at Chelsea, in Massachusetts, and I supposed, from the debate I had heard on the subject, that those were the class of hospitals referred to in this bill.

Mr. WILSON. The one at Chelsea is.

Mr. CRAGIN. Then it seems I am not so much mistaken.

Mr. DRAKE. I should like to inquire whether the Senator from Wisconsin, in the remarks that he made on this subject, was in any better condition than the Senator from New Hampshire? [Laughter.]

Mr. CRAGIN. I thought I was right when I commenced; but being told by some older Senators that I was probably incorrect I concluded to take my seat. But some five years ago I had occasion officially to examine the hospital at Chelsea, Massachusetts, and I can assure the Senator from Wisconsin that it is a very different establishment from the one at Annapolis. It is a very large building, probably containing at least one hundred rooms, and there are there many permanent patients, sailors who are suffering with chronic diseases and who stay there through the year.

Mr. HOWARD. How many?

Mr. CRAGIN. I should say about one hundred permanent patients, and then there are others coming and going. In the case at Annapolis, although the number may be five hundred, as the Senator reads from some report, they were probably temporary patients that came there for a day or two with only some little ailments, and a few men could take care of them and they were soon away, and others came. But at Chelsea many of the patients are permanent, and the establishment has to be maintained on a permanent basis. There are several acres of land; the establishment is a very fine one; the land is kept in fine shape, and it is a credit to the Department. There is very great reason why that establishment and the one in New York, which, I presume, is superior to that at Chelsea, should require a much larger force. I found in my examinations that the number of patients treated upon Cape Cod was greater than the number at Chelsea hospital, but they were treated only for a day or two perhaps, and the expense was very small. This little four-room hospital down at Annapolis can easily be taken care of by eight or ten men; but it was one part

of my duty to go to the Chelsea hospital and examine and see whether the force could be reduced, whether there were more men employed there than were necessary, whether their salaries were higher than it was proper should be paid. My report to the Treasury Department, according to my recollection, shows that there was no greater number than was necessary. I thought the institution was managed with great economy and with great credit, and I still believe it.

I hope these appropriations will not be cut down, Mr. President. These sailors pay out of their monthly pay a certain sum that goes to make up the general fund that supports them when they are sick. These hospitals are built by the Government, and the mere personnel of the establishment is supported by the Government; but the great amount of the money that goes to support these sick sailors they pay themselves out of their monthly pay.

Mr. GRIMES. The Senator is quite mistaken about our building the hospitals. Many of them are built by the sailors themselves. The one in this city is built out of the deductions made from the pay of the sailors.

Mr. EDMUNDS. Out of the hospital fund?

Mr. HOWE. I am not going to occupy any more time than is necessary to say, in reply to the Senator from New Hampshire, that if he supposes I am trying to take away any support from the disabled or sick sailors he is entirely mistaken. The point I make, and to which I wish to direct the attention of the Senate, is simply this: that the fact that we have some sick sailors to take care of is no reason why we should put the whole civil fraternity, men, women, and children, under pay. They are not sick sailors. Whatever is necessary to take care of the disabled sailors ought to be and will be provided freely and abundantly at all times.

These are appropriations not to support these sailors there, but to support two or three thousand other men and women who never were seamen at all. The Senator from New Hampshire says that there is a large number at Chelsea hospital of chronic cases, and he estimates the number at one hundred. If he will look at the report which is right before him he will see that on two different days, of which we have authentic accounts, there was not half that number in that hospital.

Mr. MORRILL, of Maine. I simply wish to mention the fact that the appropriation for this purpose last year was \$60,763.

The amendment was concurred in.

The Secretary read the next excepted amendment, which was in line five of section two, to strike out "eight" and insert "seven."

Mr. DRAKE. Upon that question I ask for the yeas and nays.

Mr. HENDRICKS. I do not intend to delay the action of the Senate upon this bill, except to say one or two things upon this proposition. I did not suppose that the Senate would agree to the proposition of the Senator from New York, and was very much surprised at the vote. This question has been considered somewhat in the Committee on Naval Affairs, and I know that there is not before that committee such information as justifies so large a reduction. Now I ask Senators upon what information they have reduced the Navy in its force to seventy-five hundred? Upon what information has this reduction been made? There is none from the Department upon which we can rely; and I understand the chairman of the Committee on Appropriations to say that his committee had no information that would enable them to act with such certainty upon the subject as ought to prevail.

The Committee on Naval Affairs, through its chairman, has agreed and is willing to consent to a reduction to eighty-five hundred; and I must say that that reduction was agreed to by the chairman without very full information communicated to the rest of the committee; but upon a question of that sort I was willing to accept of the judgment of the chairman. We all know that he is well informed in regard

to the Navy, its wants, its force, what is expected of it; therefore, when he has investigated a subject which I have not investigated in regard to the Navy, I am willing very much to rely upon his judgment. But I repeat the question: upon what information has the Senate agreed to reduce the force in the Navy a thousand almost less than was found necessary for years before the war? I ask Senators, in giving this vote, how many ships have we? What is their character? Upon what service are they expected to be employed? What number of men is required upon any one ship? Is there a Senator here who has voted to reduce this force to seventy-five hundred who can tell the Senate what force is necessary upon a single ship in the service? Where are those ships to be employed? What portion are to remain in port and what are to be upon the sea? Senators are not informed upon a question of that sort. We need very much information from the Department, and I thought it was going a great way when the chairman of the Committee on Naval Affairs proposed at one step to cut down from the war standard to the peace standard of the Navy.

But that seems not satisfactory to the Senator from New York, but we must go still a thousand below that. I know he includes the apprentices; but they are not regarded as a portion of the force that is to take charge of and manage the ships. We have come one thousand below that which was found necessary from 1857 to the commencement of the war, instead of eighty-five hundred seventy-five hundred. Now, I ask Senators upon what information have they given this vote? I believe there is not a member of the Committee on Naval Affairs who has advocated it. They have given the subject some attention; but without the opinion of a single member of that committee—a committee that ought to investigate the question as to the force necessary in the Navy—you reduce the Navy a thousand below what the chairman of the committee upon his observation and investigation says is necessary to keep the Navy in proper condition; and you do that when the chairman of the Committee on Appropriations tells you that he has no information to guide him. Are Senators willing in regard to the Navy to vote to fix the force necessary to maintain it, without any information, at a thousand less than the chairman says is necessary, a thousand less than was in the force prior to the war?

I do not, Mr. President, profess to say myself what the force ought to be, but I do not think the opinion of the Senator from New York ought to prevail altogether upon this question. I defer very much to his judgment, but not quite enough to say that the Committee on Naval Affairs ought to be disbanded in the Senate. If Senators believe that the Committee on Naval Affairs is of no importance in this body, then you had better disband it, wipe it from among the regular committees of the body. If there is any one question upon which the Senate ought to have the judgment of the Naval Committee it is certainly the question as to the force necessary to leave the Navy in a proper condition. Against the judgment of every member of that committee you have voted to reduce it below the standard that prevailed prior to the war.

Do Senators legislate thus upon other questions and in reference to other portions of the service? If it was proposed arbitrarily to reduce any part of the public service, would you do that without any information from the Department at all? Would you do it without some suggestion from the appropriate committee? Would you do it in the face of the judgment of the entire committee?

I do not understand, Mr. President, this vote. I cannot comprehend it. I have never seen an important action taken so entirely without information. It may be that we do not need half this force; I am not prepared to say; but I know the best guide is that we have before us. The Navy does need as large a force as it had before the war, from 1857 to 1861.

Prior to the commencement of the war it was found necessary to keep on our ships and in service eighty-five hundred men. I am not talking about powder-boys; I do not know what figure they cut in maintaining the honor and dignity of this nation prior to the war. I am speaking of the efficient force which was found necessary. Senators know that during the war we added very much to our naval force; we added to the vessels; we added to the Navy a class of vessels that requires a greater number of men to keep them in an efficient condition. We have added a class of vessels that require not only seamen but laborers in very large numbers. And, Mr. President, as a member of the Committee on Naval Affairs, having some regard for its position and its influence in this body, I am not willing to see the judgment of the committee upon an important question such as this, and upon which the judgment of the committee ought to have weight with this body, entirely ignored.

Mr. CONKLING. Mr. President, I have often been surprised at the ingenuity exhibited by the Senator from Indiana, not to speak of other great qualities so conspicuous in him; but I never heard him address to this body a question which surprised me so much as that which he reiterates so often. Upon what information, he asks, has this Senate acted in reducing the number of effective men a thousand below the number found to be necessary before the war began. Why, sir, if I supposed he had been here, and had attended to this debate, I should be utterly confounded by his asking such a question as that and repeating it over and over again. Why? Because it is in the face of the incontestable fact of the case. During what year was it necessary to have a thousand men more than the Senate has voted in the Navy? During what day of what year was there a thousand men in the Navy, necessary or unnecessary, in addition to the number that we have fixed? During no year, at no time whatever. If the statement of the head of the bureau is to be relied upon, what is the fact? Why that only once in the history of the Navy, before the war, did it ever rise so high as seventy-six hundred men. I am not talking now either about powder-boys; I am talking about the effective force. There is where it was.

Now, then, with not more than two thirds the number of the vessels afloat, and with nothing like the number of guns, the Senate has fixed the number of men at the highest possible point within one hundred that experience ever showed to be necessary at any time; and then they have added twelve hundred and fifty apprentices and boys besides that; and the Senator rises here with very striking declamation to know why it is that the Senate has run off after a mere *ignis fatuus* in this way, and has undertaken to reduce the number of effective men below what experience has shown to be necessary. Now, Mr. President, let me answer the Senator categorically.

He wants to know upon what information we have done this thing. Let me tell him. The committee of the House and the House more than two weeks ago passed a bill which cut down the Navy two hundred and fifty below the point to which we have reduced it. Let me state why I say that. The House bill provided that the total force of the Navy, including apprentices and boys, should be only eighty-five hundred. That was the recommendation of the committee, and that was the vote of the House of Representatives two weeks ago. Now, sir, what do we find? The eyes of the Naval Department have been upon this bill; Senators have produced letters here, I know, about expected amendments. That Department knew what the House of Representatives had done; and has any Senator produced here a letter from the Navy Department showing that what the House had done was something inadmissible in the judgment of the Navy Department?

Mr. GRIMES. Will the Senator allow me to say a word?

Mr. CONKLING. Certainly.

Mr. GRIMES. I am unwilling that the Navy Department should be put in a false position on this matter. They have not written to me on this subject, but I know it is against the wish of the Navy Department that the Navy should be reduced below twelve thousand, as it is now. The reason they have not written to me is that this section which passed the House of Representatives upon the naval appropriation bill was originally drawn by me and incorporated into a bill that I introduced into the Senate and had referred to the committee, and I supposed that the Department and myself were antagonists on the subject. I wanted to get the Navy back to where it was before the war. They thought it was not advisable to put it back. I thought that was just as far as it was safe to the public interest to reduce it, and I did not want to go below it, but I wanted to cut it down. Therefore, it must not be inferred, because the Secretary of the Navy has not written to anybody here in opposition to the reduction of the Navy, that the Department are not opposed to it.

Mr. CONKLING. Mr. President, I have no objection to that interruption, or rather that argument. Very likely it will assist the view which the Senator espouses. Now, I put to the sense of this Senate again the question which I suggested: why have we not heard from the Navy Department on this question? The Navy Department and bureaus of the Navy Department have written letters here; I do not speak of letters to the Senator from Iowa alone, but letters to other Senators, touching this bill. Several communications that I have presented here have been addressed to me on this very point. The Department knowing what was under consideration, being asked to ransack their records to enable us to determine this subject, have sent us letter after letter, but none on this question; no man here has been armed with an argument to show that when we have a reduced force, not only of guns afloat, but of vessels afloat, more men are necessary than anybody ever dreamed were necessary before.

The Senator from Iowa cannot answer this suggestion by saying that the Navy Department did not address him for the reason that they wish to hold the force up to the present number, which he persists in saying is over twelve thousand, which is made up only by counting apprentices and boys. I repeat, the force is only eleven thousand and a fraction without them. He does not answer it by that suggestion; but it is left in this way: that the House of Representatives, intending to reduce the Navy to where it was before the war, sent us a maximum of eighty-five hundred, and we turn around in the first place and change the word "including" to "excluding," and thus add all the number of boys and apprentices now in the service, namely, nine hundred and sixteen, and then we raise that number to twelve hundred and fifty, and put that on, and then we reduce the rank and file one thousand from the House provision; and thus we increase over their vote two hundred and fifty, and make an amount largely in excess of what the Navy ever was for an hour before the war began. We, who are all the time declaiming and subjecting ourselves, some of us, to criticism, because we do declaim in favor of retrenchment and frugality, do this; and now, without any argument under heaven, the Senate is asked to turn around and do what? To add twelve hundred and fifty to the number of the Navy as it was before the war; and why? Because steam has come into requisition more than it used to do; and that, although we know the number of vessels afloat has been largely reduced and the number of guns has been largely reduced. But upon that argument, without anybody having a word to add to it, we are to reverse the action of the House committee and the judgment of the House which has gone unchallenged by the Navy Department up to this moment.

Mr. GRIMES. Allow me to ask him a question. Does the Senator understand that coal-

heavers and firemen were included in the eighty-five hundred before the war?

Mr. CONKLING. I understand that in answer to a letter calling for men of all sorts and conditions rated in the Navy before the war I am furnished with a table showing that seventy-six hundred is the highest possible mark that that number ever touched.

Mr. GRIMES. Do I understand the Senator to say that that includes coal-heavers and firemen?

Mr. CONKLING. I say that that is an answer to a letter asking for all the men of all sorts and conditions in the Navy before the war, and the answer does include every one excepting the powder-boys, and the answer as to those is that the information could only be given in the office of the Fourth Auditor, and on going there I found it could only be given at the office of the Second Auditor, and it could not be obtained there without an amount of labor I could not ask to have bestowed.

Mr. GRIMES. Will the Senator be kind enough to inform the Senate what was the number of coal-heavers and firemen in the service before the war?

Mr. CONKLING. I have informed the Senate that the men are given altogether, the officers by themselves, and all others by themselves; and he understands, of course, in asking this question, that I cannot specify the number of coal-heavers or the number of any other denomination of men in the Navy. I am talking about totals and aggregates, and that I supposed we were all talking about, except when Senators keep talking about this imaginary number of eighty-five hundred that never existed except in possibilities which were not resorted to or reached.

Mr. President, I want to make one other remark in answer to the Senator from Indiana. He put this as if in some way or other it was the action of the Senate in contrariety of the views and judgment of the Naval Committee, audacious almost in that respect! I know it is not parliamentary to allude to what happens in committees, but without trenching upon any rule I may say, because I made the statement myself repeatedly the other day, and no one is to blame, for it more than I am, if there be blame in the case, that the Appropriation Committee, of which the chairman of the Committee on Naval Affairs is a member, proceeded upon the idea that anterior to the war eighty-five hundred was not the number they might have had in the Navy if they needed them, but the number which in point of fact they did have.

Mr. GRIMES. I desire to say to the Senator that he is wholly mistaken so far as I am concerned.

Mr. CONKLING. Then I can only say that the Senator was misunderstood; I will speak for nobody else besides myself; but certainly I shall give no offense by saying that he led me two or three times in this Chamber to inform other Senators, not merely in conversation, but publicly in debate, that the number of men actually in the Navy anterior to the war was eighty-five hundred, and I took my information from what he said. Of course, however, I admit that I misunderstood him if he says he did not intend to be so understood.

Mr. GRIMES. The Senator did certainly misunderstand me, for I never stated so, and I think the Senator from Maine will bear me testimony that I never said so in committee. I said that the amount fixed by law was eighty-five hundred, but I did not know how many there were actually in service or had ever been.

Mr. CONKLING. The Senator will require nothing more of me than the remark I have made about that, I am sure, because I say I take it for granted that the error was with me, although I was misled, and I transferred my mistake to the Senate and here stated it in debate. I am very glad to be put right about it, because I wish to be accurate, certainly, in any statement that I make. However, sir, the point which I was going to submit is not answered at all by the suggestion made by the Senator from Iowa. It was understood here



the other day when the Senate voted—of this there can be no mistake, because every Senator present will bear me out in it—that we were putting back, by the vote first given the other day, the Navy to where it was in truth, not in imagination, anterior to the war. Now, it turns out that we were not doing any such thing; it turns out that while the law gave the Department the power before the war to increase the Navy to eighty-five hundred, they never in any case had need to approach that maximum, but that the highest number they ever had was seventy-six hundred; and that, too, as I do not wish to repeat too often, with a much greater number of vessels and a much greater number of guns.

The other day the committee and the Senate were entirely agreed that the principle upon which we should act was to restore the Navy to its former condition in fact. We are only doing that now; we are only correcting the vote given the other day by the official figures which are presented to us. Is not that right? It seems to me manifestly it is, particularly when two facts are borne in mind; one is, that the question now before us is practically not who shall be enlisted into the Navy, but how many shall be mustered out of the Navy to raise it to a given point; and the other fact is this, which must not be forgotten: we are discussing here a question of debtor and credit between the Treasury of the United States and the Navy of the United States. Senators must not forget that the pay has been raised during the war, and that, therefore, the same establishment which we had before will be vastly more expensive than it was; and when that is taken into the account, and when we include the fact that we had added two hundred and fifty to the number the House fixed and thus two hundred and fifty to the actual number of men that there ever was when the number was highest before the war, I think the Senate will be able to defend itself and excuse itself against the criticism made by my honorable friend from Indiana.

Everybody knows that, excepting the interest upon the public debt, the two bulky items of appropriation are the Army and the Navy; and consistency in retrenchment certainly will hold every Senator and every Representative to scrutinize those two items of appropriation. The interest is fixed; we cannot cut that down; but those other two great items are not fixed; they are the proper subject of adjustment. Now, here is the opportunity to follow the committee of the House of Representatives and the original intentions of the committees of this body, and at the same time to leave the country furnished with the whole complement and equipment that it ever had, and something added to that. If we cannot stand by that, sir, I humbly submit it is idle for any of us to talk about or to hope for retrenchment or diminution in any way the appropriations that we make.

Mr. HENDRICKS. Mr. President, I think I am as earnestly in favor of retrenchment and reform as the Senator from New York; but I propose to have some guides to my judgment when I strike. When you reduced the Army, or when you made a legal establishment of the Army last year, did you do it without any investigation? Did you not consult the War Department? Did you not take the judgment of the distinguished Committee on Military Affairs of this body? And when you fixed it did you reduce it to the peace establishment? When you made it eighty regiments strong, did you not take the judgment of the War Department and also of the committee upon that subject? Now, when you propose to reduce the Navy four or five thousand, at least one third, are you not willing to take somewhat the judgment of the Committee on Naval Affairs upon the question? The question itself is never to reach that committee, it seems; but simply a general declamation in favor of retrenchment, economy, and reform, you are to cut down below the standard of peace prior to the war. I did not state the question at all improperly when I was up before. The legal standard before the

war was eighty-five hundred; and the Senator thinks he answers by saying the standard was not reached, the corps was not full; it was only filled up to seventy-six hundred at its maximum practically and in fact. Sir, are we not now fixing the legal standard of the force? We are not now putting the men in, but we are saying what shall be the maximum, fixing it according to law.

When last year you said that the Army might be seventy five or eighty regiments, you contemplated what is now the case; that it is only fifty-six thousand men strong. And when you now fix the legal maximum of the Navy at eighty-five hundred, it does not involve the necessity that it should always be thus full. There may be times when the Department will let it run down to seventy-six hundred, or below that. All we ask is that the standard prior to the war shall have some force in the Senate, and that the judgment of the committee shall have some respect in this body.

Now, sir, the Senator refers again to the apprentices. I want to know if apprentices are to be regarded as a portion of the available force of the Navy. What is the apprentice? A boy that is placed in the service for the purpose of learning him how to be of service. The apprentice is not to be regarded as a part of the available strength of the service.

The Senator, in answer to my inquiry what information has the Senate, tells us—what? I challenged for the information, and he tells us that two weeks ago the other House passed this bill reducing the Navy to eighty-five hundred men, including the apprentices. Our committee reports eighty-five hundred men excluding the apprentices. In other words, the committee places the standard where it was before the war, and does not regard the apprentices, boys that are learning how to be of service to the nation, as a part of the naval force. But is the Senate to be told when we ask for information that the House has passed the bill? If that is to be regarded, Senators, as a sufficient answer, why do we investigate any question that comes from the House? Why not say that the House is the people's branch, and that the Senate must concur in every judgment of the House? That is not the policy of American legislation. The Senate for itself decides what shall be the Army and the Navy of the United States as well as the House of Representatives exercises its judgment upon the subject; and in the absence of information it is but reasonable to follow the Committee on Naval Affairs when it says to the Senate that we ought not to go below the legal standard—I do not mean the number in fact, but the standard fixed by law prior to the war.

The Senator has referred to the expense to the nation of the Army and Navy, and says that we must strike down. Why, sir, we agree to strike down nearly one third, from twelve thousand and some hundred to eighty-five hundred. I understand this apprentice business. That is not a part of the naval force. That is the source from which we expect to fill up the Navy from time to time, to furnish it with experienced and educated men for its purposes. It is not to be regarded as a part of its available force for keeping ships in trim, managing them in their cruises, and doing all those things for which we need a force.

I concede the importance of the retrenchment in the Army and where we can in the Navy. When we agree to reduce the Navy from twelve thousand three hundred, as I believe it now stands, to eighty-five hundred, is not that a large retrenchment? Is the Senator from New York prepared to say that the Navy ought to be retrenched to a greater extent? That you should reduce it more than a third? I do not know that. Before I vote upon that subject I wish to have the opinion of the Committee on Naval Affairs; I wish to have the opinion of the Department, and all the facts stated. I want to know, when we reduce the Army, where our regiments are, how full they are, what number of regiments were required

upon the border, what number of regiments to man our forts, where we need a military force; and then, having all the facts, I am prepared to vote with some degree of intelligence upon the proposed reduction of the Army. What is the comparison, sir? The Army is costing us \$100,000,000 a year. Last month, as I noticed by some statement in the newspapers, it cost cost nearly fourteen million dollars, or at the rate of over one hundred and fifty million dollars a year.

I do not choose that the comparison shall be made between the Navy and the Army in that respect. But it is not a part of my argument now to institute any comparison. The Senator has spoken of the two. There is no comparison. The chairman of the Committee on Naval Affairs is willing to reduce the Navy down to the standard prior to the war. Does the Senator from New York wish to go further in regard to the Army? Prior to the war the Army, as fixed by law, was about sixteen thousand men. When some committee shall propose to reduce the Army to the peace standard of sixteen thousand men will the Senator from New York get up then and in the name of economy, retrenchment, and reform say that we must go a thousand lower? No, sir. We must know something about it, in my judgment, before we reduce below the peace standard.

And his comparison of the number of guns prior to the war and at this time, I think, throws no light on the question. The Senator knows very well that upon some of the vessels there are but two guns, when on some of the old-fashioned ships, requiring no more men, there might be a dozen or perhaps twenty or thirty guns; so that throws no light upon the subject. We must have the men to manage the ships according to their machinery and their mode of being managed.

Now, sir, all I have to add is just this—the argument I commenced with: it is now proposed to reduce the Navy to the legal standard of eighty-five hundred, where it was before the war; and I say that the Senate is not justified in going below that unless we have some information from the Department or some report from the proper committee.

Mr. RAMSEY. I move that the Senate do now adjourn.

The motion was agreed to; there being on a division—ayes 22, noes 15; and the Senate adjourned.

#### IN SENATE.

TUESDAY, April 7, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Montana Agricultural, Mechanical, and Mineral Association, praying a donation of public lands to that Territory for the benefit of the association; which was referred to the Committee on Public Lands.

Mr. RAMSAY presented a petition of Mrs. Emma M. Moore, widow of Lieutenant John W. Cox, of the United States Navy, and of the late senior Captain E. W. Moore, of the Texas navy, praying to be restored to the pension list; which was referred to the Committee on Pensions.

Mr. JOHNSON. Mr. President, I present to the Senate a memorial from some two or three thousand colored citizens of the South, living in South Carolina, Alabama, Georgia, and Mississippi, asking the Government of the United States to give them some aid to enable them to emigrate to Liberia. It is stated in a paper from the Colonization Society accompanying the memorial that the society have applications from three thousand for passage to Liberia, and that the memorial which I am about to present is authorized to be signed by four thousand more, making a total of seven thousand. Their representation is that they are unable to obtain the happiness to which

every man is entitled in the condition in which they now are; that the rewards of their labor are barely sufficient to enable them to live; that they have no means of educating their children; and that the social inequality which would seem to be inseparable from their condition is such that they can never hope to be anything else than inferiors in the estimation of the white race. They desire, therefore, to go to Liberia, where there is a republic, consisting of members of their own race, firmly established, recognized as a Government by nearly all the nations of the world, and now in a career of prosperity. I have reason to believe that so far as they speak of that Government the facts justify their statements. They have their schools and colleges which, in point of usefulness, in point of science, compare well with the best of those to be found within the United States; and many of their State papers which have fallen under my own eye compare also very well with the best of the State papers which have emanated from the Government of the United States. It is but natural that they should desire to be incorporated into a government of that description, consisting of persons of the same race with themselves, and it would have been much better, I think, for the Government of the United States in every respect, if it could have been accomplished, that the emigration of these persons should have been provided for years ago; and by this time, by a comparatively small appropriation, they might all have been on the African shore, the land of their fathers, and there contribute, and effectually contribute, to the civilization of a country as fertile as any country in the world, and thus to compensate as much as possible for the rapine, the robbery by which their ancestors were brought to the United States. I move the reference of the memorial to the Committee on Foreign Relations.

The motion was agreed to.

Mr. JOHNSON. I understand that petitions like the one of which I have just spoken have been referred to the Committee on Finance; and with the permission of the Chair, therefore, I move the reference of the memorial that I presented to that committee.

Mr. SHERMAN. I think you had better let it stand as it is.

Mr. JOHNSON. They should all go to one committee.

The PRESIDENT *pro tempore*. It will be referred to the Committee on Finance.

#### REPORTS OF COMMITTEES.

Mr. MORGAN, from the Committee on Finance, to whom was referred the petition of the heirs and representatives of Miss Harriet Pinkney, deceased, praying the restoration to them of Pinkney Island, South Carolina, the same having been confiscated, submitted a report; which was ordered to be printed.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Charles E. Capehart, submitted a report, accompanied by a bill (S. No. 478) for the relief of Charles E. Capehart. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Captain Daniel Ellis, submitted a report, accompanied by a bill (S. No. 474) for the relief of Captain Daniel Ellis. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 129) donating certain captured ordnance for the completion of a monument to the memory of the late Major General John Sedgwick, reported it without amendment.

Mr. THAYER, from the Committee on Patents and the Patent Office, to whom was referred the bill (S. No. 295) for the relief of Eliza Mascher, widow of John F. Mascher, reported it with amendments.

Mr. WILLIAMS, from the Committee on Public Lands, to whom was referred the bill (S. No. 349) granting aid in the construction of a railroad from the town of Vallejo to Humboldt bay, in the State of California, reported it with amendments.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (S. No. 462) making appropriations for the expenses of the trial of the impeachment of Andrew Johnson and other contingent expenses of the Senate for the year ending June 30, 1868, reported it with amendments.

#### PRIVATE BILLS.

Mr. HOWE. There are quite a number of bills pending before the Senate reported from the Committee on Claims, and I am disposed to ask the Senate either to allow me this afternoon or to-morrow afternoon, or an evening, this evening or to-morrow evening, as the Senate shall prefer, to consider those private bills. Many of them are bills the passage of which is very important to the parties interested. The press of public business has been such as to crowd them out from the consideration of the Senate up to this time, and, unless the Senate concede what I ask, it seems probable that they will be crowded out of consideration for a long while to come. I hardly know whether to submit a motion for an afternoon or an evening; but I am very anxious that the Senate should accord me one or the other. I will be content with either, whichever will best accommodate the Senate. I suggest to-morrow afternoon, with a view of getting at the sense of the Senate, and I therefore move that to-morrow, at one o'clock, be assigned for the consideration of private bills.

Mr. MORRILL, of Maine. To-morrow I shall want to pass an appropriation bill.

The PRESIDENT *pro tempore*. It is moved that to-morrow at one o'clock be assigned for the consideration of private bills.

Mr. MORRILL, of Maine. I want to say to the Senator from Wisconsin that the Committee on Appropriations have instructed me to report a deficiency bill to-day which we ought to pass, and, perhaps, we can pass it this morning. Otherwise, I shall be obliged to ask for the consideration of that bill at the earliest moment. It is a very small affair, containing only two items. It would not occupy much time anywhere. With the understanding that I should have an opportunity to dispose of that bill I do not know that I should object to the Senator's motion.

The PRESIDENT *pro tempore*. As many as are in favor of the motion—

Mr. HENDRICKS. What is the motion?

The PRESIDENT *pro tempore*. To dedicate to-morrow after one o'clock to the consideration of private bills reported by the Committee on Claims.

Mr. CONNESS. I do not understand the motion to be confined to bills from the Committee on Claims; but if so, I shall vote against it. I understand that the motion of the Senator from Wisconsin is that the day shall be given to private bills.

Mr. HOWE. Bills reported from the Committee on Claims.

Mr. CONNESS. Then I shall vote against it.

Mr. HOWARD. I hope that this motion will not be adopted by the Senate. There is a bill before the Senate which I am very anxious to get up again for consideration, and to have the Senate come to final action upon; and that is the bill relating to the Central Branch Pacific railroad, which has been up for consideration several times. I am very anxious, the moment an opportunity shall present itself, to call it up again and take the final vote upon it. I shall therefore move it at the first opportunity, though I do not foresee that I shall be able to do so to-day on account of the protracted debate upon the naval appropriation bill; but I hope no hour will be fixed for the consideration of any other bill until that shall be disposed of.

Mr. SUMNER. I should like to ask my friend whether he expects that the naval appropriation bill will occupy all day?

Mr. HOWARD. Judging from the past, I should think it very likely that it might.

Mr. SUMNER. I hope that we shall be able to pass both bills to-day.

Mr. HOWARD. The Senator is not more ardent in that hope than I am, surely; but judging from the past I foresee that the most of this day may be spent in the discussion of the naval appropriation bill.

Mr. MORRILL, of Maine. If it is in order, I will move that to-morrow night at half past seven o'clock be assigned instead of to-morrow afternoon at one o'clock.

The PRESIDENT *pro tempore*. The preceding motion is that to-morrow after one o'clock be appropriated to the consideration of the bills mentioned.

Mr. POMEROY. I suggest that it is hardly worth while to make a special order in regard to these bills. The Senator can give notice that he intends to move to proceed to the consideration of those bills at that time, and I presume there will be no difficulty about it; but making a special assignment by a vote would be objectionable, although I think the Senate would concede a willingness to proceed with the consideration of private bills without a vote.

Mr. CONNESS. What do I understand the form of the motion to be now?

The PRESIDENT *pro tempore*. The motion of the Senator from Wisconsin is, that to-morrow after one o'clock be devoted to the consideration of private bills reported by the Committee on Claims.

Mr. HOWE. "And the Committee on Pensions," I ought to have added.

The PRESIDENT *pro tempore*. The motion will be modified in that way—the Committee on Claims and the Committee on Pensions.

Mr. CONNESS. I shall vote against that.

Mr. MORRILL, of Maine. Was not my motion to amend in order? I moved to amend by substituting half past seven o'clock in the evening, instead of one o'clock.

Mr. FESSENDEN and others. Oh, no; do not have an evening session.

Mr. POMEROY. I think we had better have an evening session.

Mr. MORRILL, of Maine. Well, I withdraw.

Mr. HENDRICKS. I move to amend by striking out the two committees. I think private claims that come from other committees ought to have a chance also. I know one private bill reported from the Committee on Naval Affairs, only one, and I do not see why it is not entitled to the same consideration as others. I move, therefore, to amend the motion by striking out the two committees, so as to have it simply a resolution that to-morrow shall be devoted to private claims.

The PRESIDENT *pro tempore*. Does the Senator from Wisconsin accept that modification?

Mr. HOWE. I cannot.

The PRESIDENT *pro tempore*. The question, then, is on amending the motion by striking out the Committee on Claims and the Committee on Pensions, so that the motion shall be simply to devote to-morrow to the consideration of private bills.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Wisconsin, that to-morrow after the morning hour be devoted to the consideration of private bills from the Committee on Claims and the Committee on Pensions.

The motion was agreed to; ayes twenty-eight, noes not counted.

#### ORDER OF BUSINESS.

Mr. CHANDLER. I move that the Senate now proceed to the consideration of Senate bill No. 266. It is a bill that has been read, and that will, I think, lead to no discussion.

Mr. FESSENDEN. That bill will lead to discussion. I shall discuss it.

Mr. CHANDLER. Very well, then, let us discuss it now. It is a very important bill to the commerce of the Northwest.

The PRESIDENT *pro tempore*. The Senator from Michigan moves to take up the bill (S. No. 266) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes.

Mr. FESSENDEN. I hope that bill will not be taken up.

Mr. EDMUNDS. The morning business is not through yet.

Mr. CHANDLER. The morning business is through, I think.

Mr. FESSENDEN. It is a bill to which the Treasury Department is very much opposed. I have letters and statements from them which I must submit to the Senate. It is a bill that makes a very important change in the revenue laws, and, in my judgment, it ought not to pass in its present shape. Perhaps something ought to be done; but in the half hour that is now left between this time and the time when the special order will come up it will be impossible to pass this bill.

Mr. CHANDLER. I shall ask, then, that it be continued until it is passed. It is, perhaps, one of the most important bills to the commerce of the Northwest that have been presented here in a long time, and I do not think it will lead to much discussion. I shall be very happy to hear anything the Senator from Maine may have to say in opposition to it. Although the clerk in the Treasury Department who writes opinions for that Department is not very much in its favor, I have found upon examination of him that he knew nothing about it. The Committee on Commerce was unanimous, after a thorough investigation of several weeks, in recommending the passage of the bill.

Mr. FESSENDEN. That may be so; but I have understood from one member of the Committee on Commerce that he did not know anything about it.

Mr. CHANDLER. All who were present when it was considered were in favor of it.

Mr. FESSENDEN. I think, from the character of the bill, it could not have been much considered. It changes entirely the whole system of trade upon the lakes. It affects the revenue very much, and decreases the revenue considerably, and makes an entirely different system from that which prevails in other parts of the country. Whether Congress is prepared to adopt it or not I do not know. I knew nothing about it at the time the bill was first presented here, but I have taken pains to inquire since. I inquired of the honorable Senator when he presented it if it had been submitted to the Treasury Department, and he said it had been; but he did not inform the Senate in his reply that the Treasury Department was very much opposed to it, and had written to him a letter disapproving of it, which I have since ascertained to be the fact.

Mr. CHANDLER. I should have stated it if the Senator had asked me the question.

Mr. FESSENDEN. I did ask the question.

Mr. CHANDLER. The Senator asked if it had been submitted to the Department, and I said it had been.

Mr. FESSENDEN. But it was not stated that their opinion was unfavorable.

Mr. CHANDLER. I know it was so; but still I must insist on the passage of the bill. I hold in my hand a communication signed by most of the shippers of the Northwest recommending it. It has been very thoroughly examined, and I know of no opposition to it except from a few custom-house officers, who think their fees may be reduced, and the Senator from Maine. I think I can satisfy the Senator from Maine that his objections are not well taken; and as for the custom-house officers, if the commerce of the country is to be hampered for their benefit, it may as well be known now as at any future time. It will not materially affect their fees generally, but in some cases it will cut them off. It is really a

bill of very great interest to the shipping interests of the Northwest. The ships are now coming out; navigation will be open within a week or ten days, and they are very anxious that this bill shall be passed now, so that they may begin the season under it. It is a subject with which I am perfectly familiar, and I shall be very happy to give the Senator any information he may desire. I ask that the bill be taken up.

Mr. FESSENDEN. I am not a member of the Committee on Commerce, but I had the impression that the fees received were paid into the public Treasury, and did not go to the custom-house officers; that they are paid by a salary.

Mr. CHANDLER. Yes; but the collector has a contingent interest in the fees up to the limit of his salary. The salaries of some of these officers, for example, are fixed at \$1,000 a year, and they have a contingent interest in the fees up to \$2,500, and after that they have no interest. Some of those collectors are afraid that if this bill be passed their contingent interest may not reach the full amount they are entitled by law to receive. I do not think it will affect more than one or two in that way, and then all that is cut off will be from a few steamboats that now pay enormously.

Mr. FESSENDEN. The Senator assumes that the opposition comes from the custom-house officers. I have not heard of that. The opposition I referred to is the opinion of the officers of the Treasury Department with reference to the effect on the revenue. I do not know that there are any remonstrances here against it; I have not heard of any.

Mr. CHANDLER. I have seen some from the Treasury that came from custom-house officers. The whole opposition at the Treasury comes from custom-house officers.

Mr. FESSENDEN. The custom-house officers undoubtedly in this case, as in all such cases, are consulted as to the operation of the measure in their line; but that they have any pecuniary interest in the matter I am not aware.

Mr. CHANDLER. I will inform the Senator that the committee have taken the opinion of several custom-house officers and custom-house agents as to the effect of the bill; and all, with two or three exceptions, where they are afraid their fees will be cut off, are in favor of it. I hope the bill will be taken up.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan, to take up the bill named by him.

Mr. ANTHONY. I was not aware that we had yet gone through with the morning business.

Mr. CHANDLER. I supposed we had.

Mr. ANTHONY. If so, I have no objection.

Mr. HARLAN. I desire to make a report.

The PRESIDENT *pro tempore*. Reports are in order.

#### DISTRICT REGISTER OF DEEDS.

Mr. HARLAN. The Committee on the District of Columbia, to whom was referred the bill (S. No. 453) supplementary to the act entitled "An act to establish the office of register of deeds for the District of Columbia," approved February 14, 1863, have instructed me to report it back with an amendment, and to ask that it be taken up now for consideration. There is a vacancy in the office, occasioned by the death of the incumbent.

The PRESIDENT *pro tempore*. The motion to take up the bill is not in order, under the present rules, until the morning business is through with.

Mr. HARLAN. I ask unanimous consent to take it up.

The PRESIDENT *pro tempore*. It can be done by unanimous consent. Is there any objection?

Mr. EDMUNDS. I want to hear it read before I know whether to object or not. If it merely provides for one register of deeds I shall not object; but if it is a general scheme I must ask that it be printed.

Mr. HARLAN. I ask that the amendment reported by the committee be read.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Secretary read the amendment reported by the Committee on the District of Columbia, which was to strike out all after the enacting clause of the bill and insert:

That the chief justice of the supreme court of the District of Columbia be, and he is hereby, authorized and required to appoint a suitable person to act as register of deeds in said District whenever a vacancy may exist in said office, who shall perform the duties of register and receive the legal fees therefor until a register shall be appointed and qualified as now provided by law.

Mr. EDMUNDS. I object.

The PRESIDENT *pro tempore*. Objection being made, the bill must lie over.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. TRUMBULL submitted an amendment to be proposed by the Committee on the Judiciary to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869; which was referred to the Committee on Appropriations under the rules.

#### WIDOWS' PENSIONS.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Pensions be directed to inquire into the expediency of so amending the pension laws that the marriage of a deceased soldier's widow shall no longer work a forfeiture of her pension.

#### WASHINGTON CITY CHARTER.

Mr. HARLAN. The Committee on the District of Columbia have instructed me to report a bill in relation to the extension of the charter of the city of Washington; and I think it ought to be taken up and acted on at once.

The bill (S. No. 475) to extend the charter of Washington city was read twice by its title.

Mr. HARLAN. I ask leave to make a statement in relation to this bill. The charter of the city will expire in May. The annual election will occur in June. The voters of the city have to be registered in advance of the annual election. It is somewhat important, therefore, that the charter be extended now, at least temporarily.

Mr. EDMUNDS. How long do you propose to extend it?

Mr. HARLAN. One year. I ask unanimous consent of the Senate to consider the bill at this time.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to continue in force for one year from its passage the act to continue, alter, and amend the charter of the city of Washington, approved May 17, 1848, and the several amendments thereof now in force, or until Congress shall by law determine otherwise.

Mr. SUMNER. I have in my hands a bill which has already passed the House of Representatives, and which has been carefully considered by the Committee on the District of Columbia of the Senate, which was reported by myself by their direction some time ago. I have tried to bring it before the Senate separately, and it is very important that it should be acted on now. It may be treated as a supplement to the bill before the Senate. I unite with my friend from Iowa in expressing my sense of the importance of some action like that which he proposes, but it seems to me that it is not sufficient. There are some other details which we must regulate now in advance, if possible; the citizens of the District are very anxious that they should be attended to; and some of them are embodied in the bill which I hold in my hand. I now send it to the Chair, and move it as an amendment to the pending bill.

The Secretary read the amendment, which was to add to the bill the following additional sections:

*And be it further enacted*, That it shall be the duty of the mayor of the city of Washington, District of



Columbia, the board of aldermen, and the board of common council thereof, to assemble in joint convention at the City Hall, in said city, on the first Tuesday of the first month after the passage of this act, and proceed to select by ballot all officers whose appointments, upon the nomination of the mayor, are now authorized by the charter, or by any law of the United States, or act or ordinance of said city, or which may hereafter be authorized thereby, who shall hold their offices, respectively, for one year, and until a successor is appointed; and on the same day of the month in each year thereafter the joint convention shall proceed to a new selection: *Provided*, That when so assembled they may abolish any of the offices now established not elective by the voters of the city, or change the duties connected therewith, or the compensation thereof, as they may deem proper or necessary for the interests of said city: *And provided further*, That no person shall be regarded as incompetent to hold any of said offices, or be disqualified therefor, who is a qualified elector in said District.

*And be it further enacted*, That in all the meetings of the mayor of the city of Washington and of the boards of aldermen and common council for the purposes mentioned in the first section of this act the mayor or the president of either of said boards shall preside, and the secretaries of said boards shall act as tellers, and keep a record of the proceedings, and the mayor or any member of either of said boards may nominate one or more persons for the offices required to be filled, and the person having the highest number of votes shall be publicly declared selected, and a certificate of his election shall within five days be made out and be signed by the presiding officer and secretaries, and be transmitted to the person selected, who shall within ten days thereafter enter on the discharge of the duties of his office, which shall be immediately vacated by any person then holding the same.

*And be it further enacted*, That all questions arising in the joint convention authorized by this act shall be determined by a majority of the votes of the members thereof present at any of its meetings, and it shall have power to adjourn from time to time until all the duties imposed upon it shall be completed, and to require of the persons selected for any office such security as may be deemed necessary. And in the event of any vacancy from disability, death, or resignation, it shall be the duty of the mayor to call a meeting of the joint convention to select a successor for the unexpired term of service.

*And be it further enacted*, That when the mayor, board of aldermen, and common council shall be assembled in joint convention as provided for in this act, they shall by a majority vote designate a bank in which the various moneys of the city of Washington shall be deposited, and they shall make such regulations in relation to the mode in which such funds shall be kept and paid out as shall be deemed advisable for the interests of the city; and within five days after such designation a certificate of the bank selected shall be made out and placed in the hands of the president or cashier thereof, and thereafter it shall not be lawful to retain or deposit the funds of the city, or any part thereof, in any other bank or place.

*And be it further enacted*, That all acts and ordinances or parts thereof, or parts of the charter of the city of Washington, inconsistent herewith, be, and the same are hereby, repealed.

Mr. WILLIAMS. I do not propose to proceed blindfold about anything. I should like to know, in the first place, whether this proposition has been considered by a committee?

Mr. SUMNER. Most carefully considered in the Committee on the District of Columbia. It has already passed the House of Representatives, and has been on the Calendar of the Senate now for some time; but the Senator knows very well, in the press of public business, the difficulty of bringing forward the bill.

Mr. WILLIAMS. I suppose there was no harm in asking for information.

Mr. SUMNER. Not at all.

Mr. WILLIAMS. That was all I proposed to do.

Mr. JOHNSON. I ask that the amendment be reported.

The PRESIDENT *pro tempore*. It has just been read through.

Mr. JOHNSON. I suppose the honorable member can explain it.

Mr. SUMNER. The amendment is explained by a resolution which passed the common council of the city of Washington, which I will read. It will be an answer to the question of the Senator:

"Mr. S. S. Baker offered a resolution urging the immediate passage by Congress of the act pending in the Senate making all officers now appointed by the mayor elective by joint meeting of the boards."

Mr. O. S. Baker objected, stating that the Conservatives had one majority on joint ballot.

Mr. Plau offered an amendment so as to ask authority for the joint boards to designate the bank of deposit; which was accepted.

"The resolution was adopted."

The object of the amendment is to take from the mayor the existing authority to appoint

certain officers and to lodge it with the boards, the mayor presiding on those occasions. It is also to take from the mayor the power which he now has of selecting the bank of deposit. It is well known that the appointing power, as exercised by the mayor, has been hostile to those citizens who now constitute a majority of the population, especially hostile to all colored persons. No colored person can be appointed through the mayor. If this bill passes colored persons may hope for some appointments through the boards. In that matter I hope I shall have the sympathy of my friend, the Senator from Maryland. I know he would not throw himself in the path of colored persons deserving appointments from the city government. I think that he will join us in supporting this measure.

Mr. JOHNSON. Mr. President, I do not mean to throw myself in the path of anybody seeking office; but, although I have the kindest possible feeling for "our colored brethren," in the language of the Senator from Massachusetts, yet if I was the mayor I should not appoint any of them to any office of any consequence. They now hold under the administration of all the Departments here a great many of the subordinate offices, and I believe there are some of them in the mayor's office. A great many of the messengers belonging to the several Departments and bureaus have been men of color. They discharge their duties, I have no doubt, very well; but to place them in office under the city government, and without limiting the kind of offices they are to fill, might be productive of very serious mischief to the citizens. They are, the most of them, wholly uneducated. The most of those who are in the city, a large majority of them, have become residents of the city during the war. They are really in one sense not citizens to be relied upon, because they have no interest in the city which is a guarantee that they could be safely intrusted with the management of the finances or other measures necessary to conduct the city government with propriety. I do not know, Mr. President—and I am left to understand from the honorable member from Massachusetts that that is the fact—that any actual inconvenience has resulted from the power of appointment being in the mayor, unless it be (if that be an inconvenience) that as long as he is the mayor he will not nominate to any important office any of these colored gentlemen or colored ladies.

The honorable member from Massachusetts has had an opportunity of showing that he is willing to give them the same attention as he is to give to the white race; but I do not believe that he has given any of his tickets to any of them to come to the court of impeachment. Why not? Because there is a difference; because it would be distasteful to a great many of those who agree in political opinion with the honorable member from Massachusetts. We have had the tickets issued now for some time, seven or eight or ten days, and I believe not more than six or seven colored persons have been seen in the gallery. It is one thing: Mr. President, (and every man who considers for a moment will agree in that opinion, I think,) it is one thing to give to them all the rights of citizenship, to place them upon an equality politically with all the white race, and another thing to enable them to be placed in a situation, through some political contrivance, some party measure, to get possession of the offices of the Government. If I thought that their safety depended upon it, that the protection of their rights as men depended upon it, nobody would be more willing to place them in the situation which the honorable member from Massachusetts desires them to fill than I; but I am yet to learn that it is important to the enjoyment of all the rights which belong to us that we should hold office. That is a matter of political expediency to be governed from time to time by the circumstances existing from time to time in every political community; and if there be a prejudice or an unwillingness that a measure of this sort should be

adopted, that of itself, looking to the quiet and peace of the community, is sufficient reason with me for not giving them that which it is not material they should have in order to the protection of all the rights which belong to them as mere men.

Mr. HARLAN. Mr. President, I would simply observe to the Senator from Maryland that this amendment, proposed by my honorable friend from Massachusetts, does not require the appointment of colored people to fill any of the offices. It changes somewhat the appointing power, however; it confers it on the mayor and aldermen and councilmen when convened in joint convention for that purpose. Those gentlemen are all white men, and the presumption is that they are intelligent men, and will not select either white or black men for any of these minor offices who are not competent to fill them. I would observe also that, if this amendment should be adopted and the bill pass with the amendment, it would place this power precisely where I think it is placed in Baltimore. I am sure it is so in Georgetown, and I think it is so in all the great cities of the country. The aldermen and the councilmen with the mayor of the cities appoint to those minor places. This is the whole of it.

Mr. SUMNER. Let us have the question. The PRESIDENT *pro tempore*. The question is on the amendment.

Mr. DAVIS. I ask for the yeas and nays on the amendment.

Mr. SUMNER. I would suggest that they be called upon the passage of the bill.

Mr. DAVIS. No; I want them on the amendment.

Mr. SUMNER. Very well.

Mr. DAVIS. On that question I want to say a word. The proposition to give a negro authority over white men cannot come up here in any form under God's heavens that I will not oppose it. The idea of placing negroes in this District over white men, giving them the rule under the city government or any other government, is a proposition that I will never give any sanction to while I have a seat here. If there is any absurd dogma, if there is any preposterous proposition on this earth that I am opposed to, it is generally, universally, an equality between the races. It does not exist in nature; it has been disproved by the history of both races from the beginning of time to the present hour, and it will be so from the present hour to the end of time. A race that has never done anything whatever to emerge from barbarism, that has never contributed one iota to the civilization and progress of men generally, to be placed in this country over the white man is a proposition too monstrous and absurd, in my judgment, to receive the sanction of any reasonable and unprejudiced people. If you were now to put the negroes of St. Domingo to themselves exclusively what would be the result? They commenced the career of self-government nearly a century ago; about one third of them were mulattoes, and had considerable education; but they have been degenerating from that time to the present, and revolutions in their government are almost as frequent as the changes of the moon. If it was not for the number of white people who are resident among them, and from their intercourse with whites in commerce and in trade, they would have fallen into their original barbarism years since.

The negro race began the career of history, I may say, with the white man; but the negro race in the interior of Africa, numbering seventy millions, are in the same state of fossil barbarism that they were four thousand years ago. They have never invented letters; have no arts, no sciences, no civilization, but are as fixed in their ignorance and barbarism as though they were fossils under the face of the earth. To make the descendants of such a race as that, which is wholly incapable of civilization, the equals of the white man, among a people that have the decision of that proposition, is the greatest injustice to the white race that could possibly be attempted. Sir, we are

admonished on this subject from day to day. Go to Michigan, one of the States that it was supposed was most deeply committed to negro suffrage, and how have the white people decided that question in the election of yesterday? The question will, sooner or later, sweep every party and every man who advocates it in this country from political life. If the question was put seriously, in the bosom of the family, to every white man of ordinary intelligence in the land, "Are you willing to recognize the negro as your equal politically, socially, in all the relations of life," nine tenths of the white population would answer in the negative.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, the naval appropriation bill.

Mr. DAVIS. I am glad of it; and I wish this measure would go over eternally. [Laughter.]

Mr. HARLAN. I move that the special order be postponed for the purpose of continuing the consideration of this bill.

Mr. SUMNER. I hope so, by general consent.

The PRESIDENT *pro tempore*. It is moved that the special order be postponed for the purpose of continuing the debate on this bill.

Mr. DAVIS. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MORRILL, of Maine. I wish to say that the naval appropriation bill only requires a single vote to finish it.

Mr. SUMNER. Still, I would suggest to my friend, as this bill is now before the Senate, that we proceed with it to the end. It cannot take long.

Mr. MORRILL, of Maine. I do not like to have the other bill displaced. This motion would displace that bill.

Mr. NYE. Let us suspend it temporarily.

Mr. MORRILL, of Maine. I have not the slightest objection to laying it aside informally.

Mr. SUMNER. Very well; let it be done so. I have no objection.

Mr. MORRILL, of Maine. I should not like to have my bill displaced, because it is nearly finished.

The PRESIDENT *pro tempore*. Evidently the unfinished business cannot be laid aside informally, because the yeas and nays are called on the motion.

Mr. MORRILL, of Maine. The call can be withdrawn. I do not like to have my bill put aside, because I think we can take a vote in five minutes.

Mr. HENDRICKS. I do not suppose the appropriation bill for the support of the American Navy is of any consequence when it comes in comparison with a measure of this sort, which shall secure the appointment of colored people to hold offices in the capital of the nation instead of white people. That is the reform I believe that is to be accomplished, and of course an appropriation to support the Navy ought to stand aside until that is done.

Mr. HARLAN. I have this remark only to make. I suppose the Senator from Indiana knows that now by law no colored man can hold office in the District of Columbia.

Mr. HENDRICKS. I am not prepared to say that. The distinguished Senator from Massachusetts, [Mr. SUMNER,] who is better versed on a question of that sort than I pretend to be, claims that the bill which was passed and which failed to receive the signature of the President in November last, and I believe also in July last, is the law. I would like to have his opinion upon that particular point, whether he considers that to be the law. That bill, which failed to receive the signature of the President because of the recess of Congress, or rather which failed to be returned to Congress by the President because of the recess, I understand the Senator from Massachusetts claims now to be a law. That bill did give to negroes the right to hold office as well as white people.

Mr. CONNESS. Then I understand the

opposition of the Senator to this bill to be that the law already provides that they may hold office, which he is in favor of.

Mr. HENDRICKS. No, Mr. President, the Senator from California is too shrewd a man to understand me so. He understands me as opposing this bill, the purpose of which is to take the appointment of officers from the mayor, according to the ancient usage of the District, and to give it to a body who will certainly confer offices on negroes instead of white men. That is what I object to.

Mr. SUMNER. It gives some offices to the white people and some to the colored people; it gives them justice.

Mr. HENDRICKS. I want to give the white men something of a chance in this country.

Mr. SUMNER. They will have a good chance.

Mr. MORRILL, of Maine. I would yield to the desire of the Senator from Iowa, who has charge of this bill, but I am satisfied from what I see about me that the bill will exhaust the afternoon.

Mr. SUMNER. Oh, no; it cannot.

Mr. MORRILL, of Maine. And there is but one single question to conclude on the naval appropriation bill, which has been now twice or thrice before the Senate. I think we shall make dispatch by allowing the vote to be taken on the naval appropriation bill, and then proceeding to the consideration of this subject. I hope, therefore, the Senate will allow me to conclude the appropriation bill.

Mr. HENDERSON. The bill reported by the Senator from Iowa this morning from the Committee on the District of Columbia is a measure of some importance, and it ought to be passed. The charter of this city will expire in the course of a very short time, and this proposition is a simple one. It is to continue in operation the present charter until the Committee on the District of Columbia shall have duly considered another act for the purpose of organizing the city authorities here. The probability is that before we get through with the impeachment proceedings the charter will have expired, and, there being no government left, we shall be rather in a bad fix in the city. It expires in May; I believe on the 20th of May. I will ask the chairman if that is not so?

Mr. HARLAN. From the 15th to the 17th.

Mr. HENDERSON. The 15th or 17th of May, which is only little over a month from to-day. The probability is that after we shall commence the impeachment trial again on Thursday we shall not be able to take up any legislative business prior to that time. Such a thing, if not probable, is at least possible. The bill was unanimously reported by the committee this morning. I am very sorry that the Senator from Massachusetts has thought fit to encumber this simple measure with a proposition that excites debate. I hope the Senator from Massachusetts will withdraw his amendment, and let us consider that subject in the new charter. Otherwise, I fear, from the indications around me, that it will be impossible to pass this measure to-day, and it is important, if the House is to act upon it, that it should be put through here to-day.

I rose merely to state the importance of the measure proposed by the chairman of the committee, and to express my hope that the Senator from Massachusetts would withdraw his amendment. On the final vote on his amendment I should expect to vote for it with my views of these questions; but I hope he will see the necessity of the passage of the original bill to-day, and, with that view, will withdraw his amendment, so that the Senator who has charge of the naval appropriation bill will consent that that may be postponed for the time being, until a vote can be had on the original proposition of the Senator from Iowa.

Mr. SUMNER. With my friend from Missouri I see the necessity of the passage of the bill reported by the chairman of the committee; but I see also the necessity of the passage

of the amendment. The Senator is mistaken if he supposes that one has not the sanction of the committee as much as the other.

Mr. HENDERSON. It is true.

Mr. SUMNER. The Senator says it is true. Of course it is true. It was some time ago that I reported from the committee, by their direction, the House bill No. 143, entitled "An act to regulate the selection of officers in the city of Washington, District of Columbia, and for other purposes." I have tried to put that on its passage from day to day without succeeding in getting it before the Senate. Now, by the direction of the Committee on the District I move it as an amendment to the bill reported by the chairman of the committee this morning. I am acting as the organ of the committee now in making this motion. After a careful view of the whole ground they regarded the passage of this bill by way of amendment to the proposition of the Senator from Iowa as important. And let me say, that after a careful consideration of the matter, having put myself in communication with various committees of our fellow-citizens here in the District, I am satisfied that this amendment of mine is of very great practical importance prior to any election that may take place. If it is not acted on to-day, I shall despair of its passage prior to any such election. It is a practical measure calculated to exercise an influence on any election and to favor the interests of those with whom the Senator from Missouri and myself are particularly associated. It further carries out the desires of the common council of this District as represented by a vote, a positive resolution of the board which I have in my hands—I will not read it—in which they ask Congress to pass this very bill. I hope, therefore, there will be no delay; and I really would appeal to my excellent friend, the Senator from Maine, to allow this measure to be proceeded with to the end. The naval appropriation bill is sure. He will call it up when this is over, and it will be put on its passage. It cannot fail. The other measure requires that when it is before the Senate it should be kept there until the vote, or if it is not kept there until the vote I fear that its passage may be embarrassed. If it were not important that it should be acted upon now during this brief interval, if really we could afford delay, I would not press it as I do; but feeling its present importance, and that we cannot afford delay, I hope that my friend from Maine will withdraw his opposition and allow us to proceed with its discussion.

Mr. MORRILL, of Maine. I feel called upon to say, in reply to the appeal made to me personally by the Senator from Massachusetts, that I do not think he ought to make that appeal to me personally. I am not charged with the conduct of this bill in any personal sense. The Senator will remember that this is the third time I have attempted to conclude the action of the Senate on this naval appropriation bill. It is a matter of public concern, and I do not feel that I am authorized to waive it in favor of any other bill. It is a matter that I must submit to the judgment of the Senate, whether it ought or ought not to be done. I ought to say in this connection that the Army appropriation bill itself is still unfinished; very much in the condition of this bill. Besides, I have reported to-day, from the same committee, a deficiency bill, and have given notice that I shall ask the attention of the Senate to that bill to-morrow. Now, I submit to my honorable friend that he can hardly expect me to take the responsibility of disposing of this matter according to my own personal feelings toward him. I therefore must submit to the Senate to determine whether they will proceed with the order of the day, which is the appropriation bill for the Navy, on which, as I understand, there is but a single question to be concluded, or whether they will proceed and finish this bill, which I greatly fear, from the present aspect of affairs, will occupy the residue of the day.

Mr. HARLAN. I suppose the only question to be decided by the Senate is between the relative importance of action on the naval

appropriation bill and this bill extending the charter of the city of Washington.

Mr. DRAKE. The relative urgency?

Mr. HARLAN. Yes; I stand corrected—the relative urgency. Mr. President, I suppose not one dollar in the pending appropriation bill will be available before the 30th of June next. It is not the appropriation of money needed now to defray the expenses of the Navy; it is an appropriation of money that will be needed during the coming fiscal year. As has been explained by some members of the Committee on the District of Columbia, the charter of the city of Washington expires before the 30th of June, to which day the present fiscal year extends. It expires in the middle of May, and hence legislation is urgent, for we have now nearly reached the middle of April. It is also important that it should be disposed of now, because day after to-morrow, and how many succeeding days cannot be stated with accuracy, the attention of the Senate will be absorbed with grave matters that cannot well be evaded; and then the many measures that have been imperatively delayed will be forced upon our attention, and the Senate will be oppressed with its accumulated business. This bill is before the Senate, and I trust it will be disposed of while it is here and understood. Dispose of it now, and the time of the Senate will be economized.

It may delay for a few minutes the naval appropriation bill, but they can both be acted upon to day. The appropriation bill will certainly not fail, and it would not be injuriously affected by a little delay. During the twelve or thirteen years that I have been honored with a seat on this floor I have never known more than one appropriation bill fail. These considerations I trust will induce the Senate to continue the consideration of this bill and to pass it.

The PRESIDENT *pro tempore*. The question is on postponing the unfinished business for the purpose of continuing the consideration of the bill that was before the Senate, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 27, nays 17; as follows:

YEAS—Messrs. Cattell, Chandler, Conkling, Connness, Dixon, Doolittle, Drake, Edmunds, Frelinghuysen, Harlan, Henderson, Howard, Morgan, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Sprague, Sumner, Thayer, Tipton, Wade, Wiley, Williams, Wilson, and Yates—27.

NAYS—Messrs. Anthony, Buckalew, Cole, Cragin, Davis, Grimes, Hendricks, Howe, Johnson, McCreery, Morrill of Maine, Patterson of Tennessee, Ross, Saulsbury, Sherman, Trumbull, and Van Winkle—17.

ABSENT—Messrs. Bayard, Cameron, Corbett, Ferry, Fessenden, Fowler, Morton, Norton, Stewart, and Vickers—10.

So the motion was agreed to.

The PRESIDENT *pro tempore*. The Senator from Kentucky is entitled to the floor.

Mr. DAVIS. Mr. President, I have no doubt that the majority of the Senate are joined to their idols, and I think for myself I will leave them alone, that they may work out their own deliverance. [Laughter.]

Mr. GRIMES. I should like to inquire of the Senator who introduced the amendment what is meant by the first proviso on the second page? I ask the Secretary to read it.

The Secretary read as follows:

*Provided*, That when so assembled they may abolish any of the offices now established, not elective by the voters of the city, or change the duties connected therewith, or the compensation thereof, as they may deem proper or necessary for the interests of said city.

Mr. GRIMES. I want to inquire whether it is intended to create a third legislative assembly that shall have control of the power to legislate as to offices, create new ones, abolish old ones, fix the compensation that each of these officers shall receive, &c.?

Mr. HARLAN. I do not think it was the intention of the framers of the bill to confer that power on the aldermen and councilmen when in joint convention. This amendment, I ought to remark, is the substance of a bill that has passed the House of Representatives. If my colleague thinks the bill subject to the objection which he has intimated I will move

to amend the amendment by striking out that proviso.

Mr. SUMNER. I doubt whether it can be subject to that objection.

Mr. GRIMES. Let us hear your explanation of it.

Mr. SUMNER. The explanation I find in the text of the bill, which I will read. Here is a provision for a meeting of the board of aldermen and the board of common council in joint convention on a particular day to select by ballot officers who are now appointed by the mayor. Then follows the proviso:

That when so assembled they may abolish any of the offices now established—

Mark the qualification:

not elective by the voters of the city.

That is, offices that are municipal in their character and created, as I understand, by municipal ordinance.

Mr. GRIMES. Now, I want to know how they can abolish an office, unless it be a legislative act when they get together? The bill goes on and provides that this convention when it assembles, composed as it is of the two branches of the councils, may elect certain officers that are now subject to appointment by the mayor and confirmed by one of the branches of the councils. Under the bill that is now under consideration, if enacted into a law, they will have the power when thus assembled to abolish the office, to define new duties, to declare that a man who is now comptroller shall also be treasurer, or *vice versa*, or they may fix his compensation, increase it or diminish it. What I want to know is whether the capacity to do that is not a legislative capacity, and whether it was the purpose of the Senator from Massachusetts to create a third legislative assembly?

Mr. SUMNER. In reply to that I will say that I have no special purpose on the subject. I find this clause in the bill as it came from the House of Representatives, having already passed that body, and I understand that it was drawn by gentlemen of the District who are particularly interested in the subject and familiar with the operations of the Government.

I then come to the next question of the Senator, as to whether this is not creating what he calls a third branch, and investing it with legislative powers. The Senate will see that it confers upon the boards when in joint convention powers which are sometimes exercised by the two boards apart.

Mr. GRIMES. How? Where?

Mr. SUMNER. A city ordinance usually passes first one body and then the other, and then is signed by the mayor, precisely as an act of Congress passes first one House and then the other, and is signed by the President. But, so far as I understand this proviso, it would vest in the joint convention the power of abolishing certain offices that are not elective by the people. The Senator will see that they are offices that are minor in their character, purely municipal, and that it simply intrusts to this joint convention, when assembled as a joint convention, the power to regulate these offices by abolishing them or by changing their duties. I do not see any harm to come from it; but if the Senator sees harm, and if he really thinks it would be better to throw that overboard, I shall have no objection, particularly as I find his colleague, the chairman of the committee, seems to have no objection to that course.

Mr. NYE. As I understand, there are many officers appointed now who are not authorized by law. For instance, the law provides that there shall be a city surveyor appointed by the city in a certain way, and the law provides that he shall be elected at the annual election. There was one elected, and immediately the board of aldermen convened and appointed another, who has superseded the person elected according to law, and who has been doing the duties ever since. The object of this provision was to authorize this board to abolish that kind of office where it has been created without

color and authority of law. That, I presume, was the intention. That there are several such cases I suppose is not to be questioned.

Mr. FESSENDEN. I approve of the object of this measure so far as it appears on its face, and that is, to place the corporation of the city of Washington, with reference to the election of officers, precisely on the same foundation that all others I know of are placed now. It will place it upon the same foundation that it is placed in my own city. The city officers, municipal officers, minor officers, are elected ordinarily in all cities by the two bodies forming the city legislature in convention. They generally meet in convention to elect the minor officers. The provision of this bill is simply that, no more, the two branches of the legislature of the city shall meet in convention to choose the officers, and they may choose whom they please; and if they please to select or elect a colored man, very well; they have a right to do it as the provision stands, and I have no objection to giving them the power. I prefer that it should be made so far democratic as other municipal legislatures are. I see no objection to that; but I do object to the proviso. It is not part of the measure properly; it changes the whole system; it puts legislative power into the hands of a convention which is not done in any other place that I know of. I hope the Senator will himself move to strike it out.

Mr. SUMNER. If any Senator criticises it, so far as I am concerned I will abandon it.

Mr. FESSENDEN. If the Senator will strike that out I see no objection to his amendment.

Mr. SUMNER. Very well; I will consent that it shall go out.

Mr. HARLAN. I move to amend the amendment by striking out the proviso described by my colleague.

The PRESIDENT *pro tempore*. The words proposed to be stricken out will be read.

The Secretary read as follows:

*Provided*, That when so assembled they may abolish any of the offices now established not elective by the voters of the city, or change the duties connected therewith, or the compensation thereof, as they may deem proper or necessary for the interests of said city.

The amendment to the amendment was agreed to.

Mr. BUCKALEW. Mr. President, the bill before the Senate is, of course, unobjectionable, and its passage may be necessary, as the charter expires, I am informed, next month, and an election is to be held in June, preparatory to which a registration is to be taken under the existing law. But I should like to know what necessity there is for the fourth section of this amendment. It is certainly a novelty in legislation. I never recollect hearing any provision of the kind, here or elsewhere, in the legislation of Congress or in the legislation of the States, for the selection of a financial depository of the moneys of the city. Such selection everywhere is made by some executive officer, and very properly so—some officer who is held responsible for the exercise of the discretion placed upon him, and who may be punished for any corrupt exercise of his power. Here, sir, you propose to put the selection of a financial depository for the District of Columbia into the control of a caucus—a caucus of the city councils. This invites, certainly, to corrupt combination. I am not speaking so much of the particular case here as of the mode of transacting public business, by which, where there is a competition among moneyed men or among moneyed institutions, they will be invited to use their funds for the purpose of controlling caucus nominations. It is certainly a very bad and a very dangerous system which is proposed here. There has been no suggestion that the chief executive officer selects an improper or an unsafe bank. If he is exercising his powers in a doubtful manner there is, doubtless, a remedy; the councils may, in some way, check or direct him, or the people have a remedy in their own hands by selecting a different mayor. But,



sir, I think it is a very bad system to have the public moneys of the city of Washington disposable by some caucus arrangement in a legislative body, whether of aldermen or of councilmen. I therefore move to strike out the fourth section of the amendment. It seems to be entirely distinct from any other purpose of the bill on amendment.

Mr. HARLAN. Perhaps it is proper to state that there is no treasurer legally authorized by law to control or take care of the funds of the city, but under the present arrangement the mayor of the city designates a bank to take care of the public money of the city, and that bank becomes, in effect, the treasurer of the city. This amendment is intended to place the appointment of all the minor officers under the joint control of the mayor, the aldermen, and the councilmen. If this is proper in principle it is proper if applied to a treasurer; and that is all there is in that section of the amendment. It virtually provides that the treasurer shall be appointed by the joint action of the mayor and members of the board of aldermen and board of common councilmen, and places that office in the same condition with the other minor offices that are to be filled, if this amendment should become a part of the bill and the bill become a law, under the control of this joint board. If the principle is right, then it is, I think, as applied to a treasurer, and the bank selected to control the money becomes virtually the treasurer for the corporation.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania, to strike out the fourth section of the amendment of the Senator from Massachusetts.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts.

Mr. BUCKALEW. Mr. President, I have heard no explanation of the necessity of this amendment. We are told that it is to conform the government of Washington city to the form of government in some of the eastern cities. Well, sir, that may be an argument in vindication of the measure against objection; but I do not hear any argument made to show why this change should be now inaugurated and established by act of Congress. It seems to me that this bill looks very much like an attempt to control the patronage of the city. By the first section it is provided:

That it shall be the duty of the mayor of the city of Washington, District of Columbia, the board of aldermen, and the board of common council thereof, to assemble in joint convention at the City Hall, in said city, on the first Tuesday of the first month after the passage of this act, and proceed to select by ballot all officers whose appointments, upon the nomination of the mayor, are now authorized by the charter, or by any law of the United States or act or ordinance of said city, or which may hereafter be authorized thereby.

Now, it seems that these appointments are made under the same guarantees which exist in the selection of officers of the Government of the United States; that is, the mayor has no power of absolute appointment; he nominates, and his nominations are subjected to the confirmation of one branch of the legislative body of the municipality. I am not certain what particular arrangement is made. You have, then, in this city a system for the selection of the municipal officers upon the nomination of the mayor, to be approved by a legislative body, precisely the arrangement provided by the Constitution of the United States for the selection of Federal officers. No gentleman points out any inconvenience which has arisen in this city from the present arrangement, no mischief to be remedied, no public wrong to be righted by legislation. We have simply a bill thrown in here, and the only vindication of it is that there is some precedent for it in the government of some eastern city, but we have no argument applicable to the case itself, no reason why we should depart from the model established by the Constitution of the United States as to the selection of Federal officers. In the

absence of any reason given we are left at liberty to infer that for some temporary, some casual reason, it is desirable that this change shall be made for the purpose of controlling the local patronage of this city—an object which ought not, in my judgment, to appeal, or at least to appeal successfully, to the Senate or Congress of the United States. I shall therefore vote against the amendment, and with a very clear mind, because there is no reason assigned for this particular arrangement, and because I am left at liberty to suppose that it is brought on here and pressed upon our attention for partisan reasons alone.

The last clause of the first section of the amendment very carefully provides that any person who is an elector of this city shall be authorized to hold office in the city government. That is, it contains the provision of that bill of which we have heard so much, which was sent to the President and was not signed by him. Of course, sir, I shall not discuss that. I think that this amendment for the purpose of changing the distribution of patronage in the city of Washington and putting the control of the public moneys also of the city of Washington in new hands stands upon no reason whatever, and is open to the objection that it is instigated and is introduced to us for some temporary and petty party purpose which we ought to scout.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts.

Mr. McCREERY called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 29, nays 10; as follows:

YEAS—Messrs. Anthony, Cattell, Cole, Conkling, Drake, Edmunds, Fessenden, Frelinghuysen, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ross, Sherman, Sprague, Stewart, Sumner, Thayer, Wade, Willey, Williams, Wilson, and Yates—29.

NAYS—Messrs. Buckalew, Davis, Dixon, Doolittle, Hendricks, Johnson, McCreery, Patterson of Tennessee, Saulsbury, and Van Winkle—10.

ABSENT—Messrs. Bayard, Cameron, Chandler, Conness, Corbett, Cragin, Ferry, Fowler, Grimes, Morton, Norton, Ramsey, Tipton, Trumbull, and Vickers—15.

So the amendment was agreed to.

Mr. SHERMAN. I do not wish to embarrass this bill, and if the Senator from Iowa thinks the amendment I am about to offer will not embarrass it I should like to have it put on the bill. It has already received the sanction of the Committee on the District of Columbia. I propose to amend the bill by adding as an additional section:

And be it further enacted, That the mayor, aldermen, and common council of the city of Washington are hereby authorized to provide for the paving and grading of the streets of said city, and the planting and improving of any of said streets, and they shall assess the cost of such improvements upon the lots adjacent thereto according to the frontage of said lots, to be collected in the mode and manner of collecting other taxes or assessments.

I will state that the only change this makes is that it authorizes the corporate authorities of the city to have some of the wide streets improved in the mode now adopted in Cleveland, Buffalo, and nearly all the cities; that is, to allow the planting of a portion of the wide streets so that they may be improved.

Mr. GRIMES. Does that extend to the avenues?

Mr. SHERMAN. No; merely the streets.

Mr. HARLAN. I suggest to the Senator to insert after the word "streets" the words "and avenues."

Mr. SHERMAN. There is objection to extending it to the avenues.

Mr. HARLAN. I have no objection to the amendment.

Mr. FESSENDEN. I object to the substance of the amendment itself. I do not think it is a correct principle for a city to be allowed to make improvements *ad libitum* just as it pleases with regard to ornamenting its streets, &c., and charge the expense of that ornamenting upon the owners of the adjacent lots.

Mr. SHERMAN. I will state that the corporate authorities here have the power now to

do it so far as paving and grading are concerned, and this only enables them to make improvements such as planting.

Mr. FESSENDEN. If they have the authority so far as paving and grading are concerned, I think it is wrong. The streets are for the general use of all the citizens, and if they select one as more advantageously situated to be improved for the general benefit than another there is no reason, in my judgment, why the expense of that improvement should be assessed wholly upon the owners of the adjacent lots. Some of the owners of the adjacent lots may not choose to pay more than their proportion of the general tax which should be levied for such improvements. Some of the owners of adjacent lots may be very much oppressed by such an assessment; they may be unable to pay it. When you confer the power on corporations for all these matters which are of a general benefit, to select special streets or particular parts of the city and impose the burdens of improving them upon those who own the contiguous lots, it may become so severe as almost to ruin the property-holders. I have known many instances where that has happened. So far as sidewalks in front of a particular lot or building are concerned, it may be very well to require the owner of the adjacent property to pay the expense of them; but when you come to the question of drainage, and all those questions that involve expenditures for general purposes, they should be assessed upon the property of the city equally, and go on by degrees, and the burden should not be placed on a few individuals who may be ill able to bear it. An individual, for instance, may own a lot that is unimproved, and it may be a very severe burden upon him. He may not have the means to ornament and beautify the street in front of his lot as much as might be desired, or even to grade and pave it. The grading and paving of those streets which are of general use, streets where everybody goes, and of which everybody has the advantage, should be assessed on the whole corporation, in my judgment. I always contended against the principle of this proposition everywhere; for I have known very great injury to individuals to arise from it, and I think it is unjust in itself. It is a very pleasant power to possess on the part of a city, to go on improving in that way; but there may be people, and there are always more or less in a city, who have not the means to do it.

Mr. GRIMES. I have contributed to a fund in this city for building a sewer down H street, for poor people who owned a house and lived by sewing, and were not able to pay the tax assessed.

Mr. FESSENDEN. It operates very injuriously. A gentleman in this city who was conversing on this subject, a man who never objects to paying his portion of the expense, told me of an instance of a sewer or drain near his property. He owned a piece of property which was perfectly drained from the back side of his house by a drain which he had made himself at considerable expense, and his lot could not be drained in front of it owing to the lay of the land; but still the city built a drain for the benefit of other lots on the other side of the street mostly, in the square, which passed in front of his, and he was assessed \$100 for his proportion of the expense of that drain. It was of no possible benefit to him, into which he could not drain his lot by any possibility, and he had already actually constructed his own drain and paid for it in another direction, and yet he was taxed in this way.

Now you come to planting trees and all those things which are ornamental in a street. I think they had better be left to the individuals concerned. The desire of ornamenting a lot upon which a man lives will lead him to do it in process of time; but if you take a city of this kind or of any kind and place this burden which should be borne equally by the whole people for matters of general benefit, and allow the corporation to improve particular streets and assess the property holders on those streets, you put into their hands a power which has

been exercised and which will always be exercised to the great injury of some individuals for the benefit of others. My friend from Iowa [Mr. GRIMES] suggests to me that in every case he heard of before two thirds of the property owners were required to petition for the improvement before anything of that sort was done.

Mr. HARLAN. If the Senator will allow me, I desire to suggest that my colleague has perhaps overlooked what the law is in this District now. A majority of the owners of property on any street or part of a street may require it to be improved by paving and the necessary grading for the pavement and for putting down sidewalks. A majority of them may require it to be done under the law, or the corporation may do it without any such motion on the part of the inhabitants. That is the law now in this District.

Mr. GRIMES. I was not speaking about the law as it is here; but my side remark to the Senator from Maine was that in every case I have heard of except here an application was required from two thirds or three fourths of the property holders adjacent to the proposed improvement before it could be done. I know it is so in my own State, as I have an unfortunate recollection of.

Mr. PATTERSON, of New Hampshire. Before my friend from Maine proceeds, I desire to suggest to him that there is now before the Committee on the District of Columbia a memorial on this subject, which I presented myself early in the session, praying for the passage of a law taking from the city authorities this right. I was sent here by a gentleman who happens to own a corner lot, a poor man, to whom great injustice was done, as he said, by making him improve on both sides of his lot, while a rich man, who owned property just by the side of him, but had a narrow frontage, was put to but little expense.

Mr. FESSENDEN. It operates unequally in all cases. I have known cases where a poor person owning a lot of land with a building on it was absolutely turned out of doors, obliged to sell her lot for what she could get for it from absolute inability to meet the burden. If the law is now as the honorable Senator from Iowa says it is, it was passed probably in the early days when a few individuals had everything their own way at the expense of the public, and who, for their own particular benefit, were enabled to use those whom they elected to office in the city. The result of this system is, so far as I have noticed, always the same.

There is no constitution applicable to this city; but a general provision in all our State constitutions is that taxes shall be equal. Now, take the improvement of streets; what are they for? The streets are not made for the benefit of the people who build the houses on those streets and who own the lots along them. A street is laid out for the benefit of the public at large, that they may pass and repass, have good opportunities for ingress and egress, &c., and for the general benefit of the city itself and the improvement of the property of all the citizens. It may be convenient to grade a particular street, and it may be attended with very great expense. It may be proposed to pave one street instead of another, and what is it for? Not for the benefit of the adjacent lots, but because there is a great deal of travel on that street. Take Pennsylvania avenue, for instance, or any other; you want to pave it because there is a vast deal of travel upon it. When the whole body of citizens use that street what propriety is there in saying that for paving it and making it a convenience for the whole mass of the people you will assess the expense upon the individuals who happen to own lots upon that street itself? They are not the people who derive all the benefit from it. It is for the benefit of the whole city, and the whole community should pay for it. Take even the matter of sidewalks; it was for a long time a moot point whether under the provision that taxes should be equal in our State constitution

a city could, by ordinance, compel the adjacent owners to pay even half the expense of making a sidewalk in front of their premises. With us it is generally equalized in that way; the city pays one half and the occupants of the lot the other half.

A person may own a considerable quantity of land upon a street in the outskirts of the city. One individual, or two or three individuals, own a particular lot, and it may be for their convenience to have a sidewalk, or to have the street made in a particular way. They may have influence with the mayor and aldermen to get it done; while an individual owning land there, who resides in another part of the city, may be compelled to pay four fifths or five sixths of the whole expense of making the improvement, and be ruined in that way, or be obliged to sell his property. The whole system, in my judgment, of putting so much power into the hands of the officers of municipal corporations, with regard to the property of individuals, is very dangerous. It has worked badly; it oppresses those who are least able to bear the burden, and is used not only for the benefit of the whole city, but often for the particular benefit of those who are most able and are most advantaged by it. I am opposed to the whole principle, and I shall therefore vote against this amendment.

Mr. SHERMAN. Mr. President, I do not wish to embarrass this bill, and I intimated before that if this amendment was likely to delay it I should not press it.

Mr. SUMNER. I hope the Senator will withdraw it. I must appeal to him to do so.

Mr. SHERMAN. I happen to know what the practice of the city authorities of the city of Washington is; and I know that this proposition is in conformity with the general law. They exercise the power of laying down pavements, making sewers, and all those improvements, and assess the cost upon the proprietors in the neighborhood. I will state frankly the reason I have in offering this amendment, so that the Senate may see that I am only promoting a great object of public usefulness. In one of the wide streets of this city the property-owners have been desirous to institute improvements similar to those of Buffalo, Cleveland, and many of the western cities, by inclosing a portion of the wide space and ornamenting it by planting trees, &c. The mayor and city authorities were anxious to promote it, and the proprietors were perfectly willing to undergo the expense; but there was no authority to authorize it; the authority of the city over the streets was disputed, and we were therefore compelled to apply to Congress; but on account of the smallness of the matter and the difficulty of getting through a separate bill, although it was passed by the Senate unanimously, the proposition finally failed. The proprietors along that street desire the privilege of inclosing a portion of the street for the public benefit, in the nature of a park, by planting it with trees. There is no objection on the part of any one.

As to the general principle of making the proprietors pay for such improvements, I have not any doubt of its correctness. No man has a right to own property unless he is willing to conform to the general spirit of improvement going on in his neighborhood. Although particular cases of hardship may arise, yet no city can improve and no city can be made great without considerable power in the local authorities. In Paris they have reduced this to a perfect system; and if the Senator from Iowa, [Mr. HARLAN,] who now has charge of the city of Washington, as chairman of the Committee on the District of Columbia, will look to the municipal regulations of the city of Paris he will find the most perfect system in the world for the regulation of improvements. There the city pays a certain portion of the expense, the Government of France pays a certain portion, and the proprietors are divided into classes, first, second, and third, and perhaps others. Those directly benefited on the line of the

improvement pay a certain portion; those secondarily benefited pay a certain portion, and those incidentally benefited pay a certain portion of the cost of the improvement. The whole is arranged admirably, so that whenever an improvement is made the expense is adjusted with a careful regard to the interests and the rights of property of the various persons benefited by it. The result has been vast improvements in Paris. Avenues have been cut right through the city, sometimes two or three miles long. Before the first step is taken there is a careful survey, an estimate and analysis of the whole expense of the improvement, a careful estimate of what each person will be benefited by it, and then the whole is adjusted in the way I have stated.

But that is not the law in this country. Here, according to the law as it now stands, the whole expense is levied on the adjoining proprietors. In Ohio we have a general law which requires the proprietors to pay the expense of these improvements. In some cases the law requires a majority of the persons interested along the line of a street to petition for the improvement. In other cases the city authorities have the power to order it without consulting any one; and in certain cases, where two thirds petition, the city authorities are required to make the improvement.

Now, Mr. President, I do not wish to introduce a new principle here; but I trust that the Senate will agree to put on this bill so much as I desire to put on it, and to which I think there will be no objection; that is, a provision authorizing the city authorities to allow the streets to be improved according to some general plan to be furnished by them, and the expense to be assessed on the adjoining proprietors. The expense is trifling; it is only carrying out the law as it now stands, but extending the present law to the planting of trees, authorizing the city authorities to allow trees to be planted in front of particular squares.

Mr. FESSENDEN. If it is simply proposed to allow that to be done I have no objection.

Mr. SHERMAN. But to secure it there must be a general plan, and that plan must be devised by some one; I suppose by the city authorities. Then if persons do not conform to the plan let the expense, which cannot be much for the character of improvement I speak of, be assessed on the adjoining proprietors.

Mr. FESSENDEN. There is no need of any general plan. If the people choose to do without it let them do without it.

Mr. SHERMAN. That is not fair.

Mr. FESSENDEN. Why not fair?

Mr. SHERMAN. Simply because nobody ought to enjoy property without being willing to conform to the general character of the improvements that are necessary for public use, as pavements, &c.

Mr. FESSENDEN. It depends entirely on the character of the people. They may not be able to do it, and there is the thing; you compel people who are not able to join in these improvements. It is all very well for a rich man, who owns a good deal of land and can afford to contribute money for the improvement of his property; it is a very nice thing for him; but for a poor man who owns one house, or for a widow with a parcel of minor children barely able to get along, having only a shelter over her head, this system is oppressive beyond measure.

The Senator talks about the necessity of a provision of this kind. I happen to live in a city which people who have been there call the most beautiful city in the country. It is not a very large one. We were full of trees all over our city; it was called the "Forest City." No such thing was ever heard of there as requiring anybody to set out a tree except public opinion. Public opinion requires that if a man builds a house he shall put trees before it; and he always does, because he wants to look as well as his neighbor. When we had our great fire there the loss that was felt really

by the people more than any other was the loss of the trees that had grown up, and which were destroyed. I thought it a very singular thing, when I went home and talked about the suffering and loss in the city, that when I met a man whose house had been burned down I found that he did not speak of his house, but he spoke of his trees. His trouble seemed to be that he had lost his trees. If you get among a people who have enterprise and taste for comfort and beauty they will attend to these things, and they will not ask other people to pay the expense of them.

Mr. MORRILL, of Vermont. Will the Senator allow me to put a question to him?

Mr. FESSENDEN. Certainly.

Mr. MORRILL, of Vermont. Does not the Senator believe that it is a favor to the property holders to allow them to narrow these broad streets, and appropriate some portion of them to grass and the cultivation of trees?

Mr. FESSENDEN. That I do not object to.

Mr. MORRILL, of Vermont. That is the only thing new that is contained in the proposition of the Senator from Ohio. As I understand, the law now goes even further than he proposes in his amendment, as was stated by the Senator from Iowa.

Mr. FESSENDEN. Then I say, if it does, it ought to be altered and the power ought to be taken away if it exists in this city. If the city has power to grade streets and pave streets as it pleases, and do what it pleases with them, and assess the whole expense upon those who happen to live upon the particular streets, it is wrong in principle and oppressive in practice.

Mr. MORRILL, of Vermont. I only hope that we shall allow some portion of the streets to be narrowed.

Mr. FESSENDEN. It is not a question of allowance. I am perfectly willing to allow the corporation to do what they please in regard to narrowing the streets and in regard to setting out trees and in regard to grading streets and making other improvements which they deem fit and proper; but when they have done it let them assess the expense on the corporation, to be paid by the people, and not say to an individual who has no money in his pocket, because he happens to live there "You shall be taxed largely for this, which, in reality, is for the benefit of the whole." It is not democratic, it is not consistent with any principle of justice and right; it is not equal in any sense of the word. The whole system is an oppressive one. If the law goes as far as the Senator from Iowa says it does it goes far enough, in all conscience, and I am not disposed to extend it. So far as concerns giving power to the corporation to narrow streets and set out trees and lay out grass in a portion of them, I am in favor of it; but what I am opposed to is the proposition that every man in front of whose property that is done shall pay the expense of what the corporation decide to do, he having no voice in the matter.

Mr. SHERMAN. I have modified my amendment so as to confine it to carrying out the simple purpose I had in view, and I hope in this shape it will not be objected to:

*And be it further enacted, That the mayor, aldermen, and common council of the city of Washington are hereby authorized to provide for the planting of any of the streets or parts of streets, and they shall assess the cost of such improvements upon the lots adjacent thereto, according to the frontage of such lots, to be collected in the mode and manner of collecting other taxes or assessments.*

Mr. FESSENDEN. That is the same principle. I am perfectly willing to allow them to do it at the general expense; but I move to amend the amendment by striking out the words "and they shall assess the cost of such improvements upon the lots adjacent thereto according to the frontage of such lots, to be collected in the mode and manner of collecting other taxes or assessments."

Mr. JOHNSON. I am in favor of striking out these words; but what will be the effect of the measure if passed without these words? Will the city not be at liberty, under the general law, to levy the tax upon the proprietors?

Mr. FESSENDEN. They are authorized to set out trees, and, of course, if nothing more be said, they are to assess the tax upon the city.

Mr. JOHNSON. That is not in the amendment.

Mr. FESSENDEN. If we strike out the last part of it, and simply give them authority to make the improvements, and they make them, of course they will have authority to lay a tax on the city, and they will put it into their general assessment for city expenses. Then there is no danger of their laying a burden that is too heavy. In the other case they might.

Mr. JOHNSON. I think the principle contended for by the honorable Senator from Maine is right. I have observed the operations of the one for which the honorable member from Ohio contends in Baltimore and in this city, and it has, over and over again, almost ruined many poor persons who were along the line of the improvement. Under the power to improve they have been improved out of their property; they have been obliged to sell the land improved in order to pay the assessment for the improvement, and it very seldom brought more than was necessary to pay the expense of the improvement.

I have seen it illustrated here in regard to the pavement and in the construction of a sewer along Fourteenth street. A poor widow lady, owning for life a house at the corner of that street and the avenue, desiring, so far as that house was concerned, no new pavement and no new sewer, was assessed for the construction of a sewer and the laying down of a pavement some nine hundred or one thousand dollars. She was not able to pay it, and I believe she has been compelled to leave the city. She had but a life estate in the property, and the tax was levied upon the tenant in possession. It operates so over and over again. It is not like the method to which the honorable member from Ohio referred as existing in Paris. There commissioners are appointed by the Government, who have no interest whatever in the improvement. They are directed to make a very careful examination. It is not left to discretion. They divide the persons whose property is supposed to be improved into classes, and they levy more upon one class than they do upon another. One third of the whole expense of the improvement there is paid out of the city treasury; another third out of the treasury of the Government; so that two thirds are virtually paid by the Government itself or by its municipality, and one third is left to be paid by those whose property is supposed to be within the range of the improvements. But here the city councils, who are now chosen by general franchise, including black and white, select Tom, Dick, and Harry to estimate the effect of the improvements, and they levy a tax upon whomever they may think proper, without reference to anything except the fact that they are to raise money enough to pay the expenses, and it often operates not only to the loss, but to the ruin of many who are unable to pay for the improvements.

Mr. HOWE. I am inclined to think if this amendment is agreed to the original amendment will be useless, for I take it no city government will ever venture to order the embellishment of any particular street at the general cost of the tax-payers of the city. That would be an extraordinary enterprise for a city government to enter upon.

I agree to most that the Senator from Maine has said. I think, however, it should be accepted with one qualification. I think if a majority of the owners of property on a street ask to have any particular improvement made upon it the city government should make it at the expense of the whole body of the owners on that street. That is the usual provision in cities, I believe. It is said to be the general provision of law here with reference to the other kinds of improvement contemplated by the amendment as first offered by the Senator from Ohio. Now, if the amendment moved

by the Senator from Maine is not accepted, I shall move a proviso providing that no such improvement as is contemplated shall be made in any street except upon the application of a majority of the lot owners.

Mr. SHERMAN. Any square.

Mr. HOWE. If squares were contemplated, be it so. Then it will bring these improvements under the operation of the same law which, as I now understand, regulates other improvements in the city.

Mr. SHERMAN. I have not the slightest objection to an amendment declaring that the improvements should not be made on any particular square except by the consent or on the petition of a majority of the persons in interest on that square.

Mr. HOWE. I cannot move my proposition while the amendment of the Senator from Maine is pending.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Maine to the amendment of the Senator from Ohio.

The amendment to the amendment was rejected.

Mr. HOWE. Now I move to amend the amendment of the Senator from Ohio by adding to it this proviso:

*Provided, That no such improvement shall be ordered upon any street except upon the application of a majority of those owning lots thereupon.*

Mr. SHERMAN. These streets are about two miles long. The Senator ought to confine it to the portion proposed to be improved.

Mr. HOWE. Of course that would be the operation.

Mr. SHERMAN. I hope the Senator will change his proposition so as to confine it to the consent of a majority of the property owners on the portion of the street to be improved. I do not object to that.

Mr. HOWE. Very well, let it be so modified.

Mr. DRAKE. I would inquire of the Senator from Wisconsin whether his amendment means a majority in number of the individuals owning property there, or those owning the greater part of the property there?

Mr. SHERMAN. The frontage.

Mr. DRAKE. I do not understand that the amendment so reads. I understand it requires a majority of all the individuals owning property, not a majority of interest.

Mr. HOWE. I will modify my amendment to read in this wise:

*Provided, That no such improvement shall be ordered upon any street except upon the application of a majority of those owning lots adjacent to the proposed improvement.*

Mr. DRAKE. I think there is a very serious objection to that. Half a dozen men may own lots each of twenty-five feet in front, and two other men may own lots of two hundred and fifty feet, and just because the number of small proprietors is the greatest they would be enabled to carry the thing one way or the other. It would be an injury to those representing the greater part of the property.

Mr. SHERMAN. A majority of the frontage.

Mr. HOWE. The proposition of the Senator from Missouri makes property more influential and more potential than persons. If his idea prevails, then the one individual who owns two hundred and fifty feet would control the half dozen or dozen who own two hundred and forty feet. Should it be so? I think persons should prevail, and not property.

Mr. DRAKE. The individual owning the greatest part of the property is to pay the greatest part of the expense of the improvement. I never have known an instance anywhere where the individuals, the persons, were to control this thing; but always the amount of property to be taxed to make the improvement controls it.

Mr. HOWE. That is giving a man an influence at the polls in proportion to his wealth, in proportion to his property.

Mr. DRAKE. Not at the polls. There is no election under this. It is a matter of petition to the authorities.



Mr. HOWE. Not at the polls, but at a substitute for the polls. It amounts to precisely the same thing. It is in the government of the city, and he votes according to his property.

Mr. DRAKE. Then the amount of it is just this: if three individuals happen to own twenty-five feet lots upon any street and one other individual happens to own one thousand feet, those three individuals, having only seventy-five feet altogether, may saddle him, whether he wishes it or not, with an expense proportioned to his thousand feet. I do not see the justice of that; and I never heard of such a principle applied in such a case before.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Wisconsin to the amendment of the Senator from Ohio.

Mr. DRAKE. Is that open to amendment? The PRESIDENT *pro tempore*. Not now. That would be an amendment in the third degree. The Chair understands the proposition has been modified since it was last read, and it will be read as it now stands modified.

The Secretary read as follows:

*Provided*, That no such improvement shall be ordered upon any street, except upon the application of those owning a majority of the frontage of the squares adjacent to the proposed improvement.

Mr. DRAKE. That is another thing altogether.

Mr. HOWE. I do not know how it came to be modified in that way.

Mr. SHERMAN. That is the way I like it, and I suggested the modification to the Clerk at the desk, but I had no right to modify it.

Mr. HOWE. That is not the way I would like it. [Laughter.]

The PRESIDENT *pro tempore*. Then the modification was unauthorized; and the question is on the amendment of the Senator from Wisconsin as it stood before to the amendment of the Senator from Ohio.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on the amendment as offered by the Senator from Ohio.

Mr. FRELINGHUYSEN. Let it be read as it now stands.

The Secretary read as follows:

*And be it further enacted*, That the mayor, aldermen, and common council of the city of Washington are hereby authorized to provide for the planting of any streets or parts of any streets in said city, and they shall assess the costs of said improvements upon the lots adjacent thereto according to the frontage of such lots, to be collected in the mode and manner of collecting other taxes or assessments.

Mr. HOWARD. What does the amendment refer to? The word "planting" is used there, but it does not say what is to be planted—trees or corn or garden fruits or tobacco.

Mr. SHERMAN. I supposed the intelligent people of Washington, especially as their elections are now by universal suffrage, would know that the proper thing to plant in the streets was trees; but if the Senator has any doubt about it he can make it certain by a slight modification.

Mr. HOWARD. That is rather a remote inference, sir. I think the words "with shade trees" ought to be inserted after "planting."

Mr. WILLIAMS. I shall vote against this amendment proposed by the Senator from Ohio, because it involves a debatable question, and, as it seems to me, very much embarrasses the passage of this bill, and it in no way relates to the subject-matter of the bill. I do not think it ought to be attached to the bill.

Mr. SUMNER. I must appeal again to my friend, the Senator from Ohio, not to press his proposition on this bill, which is germane to it only in the most general sense.

Mr. SHERMAN. The Senator can vote against it; let us have the vote.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio.

The amendment was rejected.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. SAULSBURY called for the yeas and nays on the passage of the bill, and they were ordered; and being taken, resulted—yeas 36, nays 9; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Fessenden, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—36.

NAYS—Messrs. Buckalew, Davis, Dixon, Doolittle, Hendricks, Johnson, McCreery, Patterson of Tennessee, and Saulsbury—9.

ABSENT—Messrs. Bayard, Cameron, Corbett, Edmunds, Ferry, Fowler, Morton, Norton, and Vickers—9.

So the bill was passed.

Mr. SUMNER. I move to amend the title by adding thereto the words "Also to regulate the selection of officers, and for other purposes."

The amendment was agreed to.

#### POLITICAL DISABILITIES OF R. R. BUTLER.

Mr. MORRILL, of Maine. I move now to take up the naval appropriation bill.

The motion was agreed to.

Mr. TRUMBULL. Before proceeding with that I ask permission to call up House bill No. 870, relating to the removal of political disabilities from Roderick R. Butler, of Tennessee, for the purpose of recommitting it to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. That bill will be regarded as before the Senate; and the question is on the motion to recommit.

Mr. BUCKALEW. I would make a single remark on the question. I had the floor when this bill was under debate, and was about half through with an argument against it. I, with entire willingness, forego the liberty of continuing my argument, in the hope that the committee, by their careful examination of this subject on those points which I did not go over in my speech, will arrive eventually at the conclusion to which I have arrived by an examination. When this subject was before the committee on a former occasion, as I understand, they did not go into a thorough investigation of the facts. The objection which was considered by them was simply a general objection to special legislation of this sort, and as they overruled that objection they reported the bill, and it came up in due course for the consideration of the Senate without that prior examination of the details of fact to which I invited the attention of the Senate in my former argument. I have only to express the hope that the committee will make as thorough an examination of the facts of this case as I have done, and by undertaking the investigation of this case in any manner they will not require any further speech from me on the subject.

Mr. HOWARD. I hope so, too; and I hope the committee will furnish the Senate a written report in this case, so that not only we but the country may see what the real facts of the case are.

The motion to recommit was agreed to.

#### REPORT OF IMPEACHMENT TRIAL.

Mr. DRAKE submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That there be printed for the use of the Senate, at the close of the pending impeachment trial, five thousand copies of the report thereof, in addition to the number of copies thereof heretofore ordered to be printed.

#### NAVAL APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 601) making appropriations for the naval service for the year ending 30th June, 1869, the pending question being on concurring in the amendment made as in Committee of the Whole, to strike out "eight" and insert "seven" in line five of the second section.

Mr. DRAKE. I do not propose, sir, to enter upon any extended discussion of this amendment. I have simply to express my gratifica-

tion that the Senate yesterday enabled me to learn something as to this body which I had not learned before. The very first time I offered a proposition in this body, about a year ago, I was met by the concerted and determined opposition of the committee that reported the bill which I proposed to amend, among whom was the honorable Senator from New York, [Mr. CONKLING,] and I was informed that the committee was determined to stand by its bill, and the Senate was called upon to vote down the amendment because the committee was determined to stand by its bill. Now, sir, I find that there is a little change in the order of things. The honorable Senator from New York wishes to break down the report of the Committee on Appropriations in the face of the unanimous opposition of that committee and of the Committee on Naval Affairs, too.

Mr. CONKLING. Will the Senator allow me to interrupt him a moment?

Mr. DRAKE. Yes, sir.

Mr. CONKLING. In the first place the Senator is quite mistaken about my encountering the unanimous opposition of those committees; on the contrary he will see by looking at the record that the reverse is quite the fact.

Mr. DRAKE. As to which committee?

Mr. CONKLING. As to the Appropriation Committee. As to the other point, if the Senator will allow me, I will say that when I concurred in this report it was with a full belief that the actual number of the rank and file of the Navy before the war was eighty-five hundred. Finding that I was mistaken a thousand, of course I corrected myself that much.

Mr. DRAKE. Mr. President, I stand corrected as to the action of the Committee on Appropriations; but this is an appropriation that has relation to naval affairs, and I believe I am correct in saying that there is not one single member of the Committee on Naval Affairs that is in favor of the amendment proposed by the Senator from New York; and yet the honorable Senator from New York, who met me, as I stated, a year ago with the requirement that the report of the committee should be sustained, now wishes to override the reports of two committees. Very well, Mr. President, if it is the mind and will of the Senate that that thing shall be done I am very happy, indeed, to have got this additional amount of light upon the course which the Senate takes in regard to the questions that come before it. If it is to be the understood rule of the Senate hereafter that the report of a committee does not amount to anything in the Senate, and that the opposition of two committees to a particular proposition amounts to still less, then I shall know just exactly what to look for in time to come, and shall shape my action accordingly. I ask for the yeas and nays on this question.

The yeas and nays were ordered.

Mr. SPRAGUE. Mr. President, I do not desire to discuss this measure or to presume to give an opinion as to the number of men that should constitute the effective force of our Navy. That belongs to the Senate; but there is a point which I do desire that the Senate shall consider. I make the broad statement, and challenge contradiction everywhere, that seventy-five hundred men as now employed will give an effective force to our Navy three times that which it had prior to the invention of new armament and prior to the introduction of steam as a motive power. The contrary has been suggested on this floor in the fact that steam requires an additional number of men as coal-heavers and as engineers, without considering the other fact that those men were heretofore employed in sailing the ship with the other motive power—that of the wind. A gun now employed—take an eleven or thirteen inch gun—is more effective to-day than the whole armament of the Pennsylvania, of one hundred and twenty guns, that employed nine hundred men to fight her guns. In lieu of them nine or twelve men will fight one of these larger guns.

Every Senator, I have no doubt, who has been interested in the examination of the appliances that have been used in gun-carriages and in labor-saving machinery as applied to the fighting and management of guns, knows that one of these large guns can be fought with as small a number of men almost as was employed in the light caliber guns.

So, sir, I make the assertion, and ask the contradiction of my friend from Iowa if he can, and if he can contradict me he will go, in my judgment, contrary to the accepted opinion of the day—I say that an effective force of seventy-five hundred in your Navy as they are applied to new ordnance, and to engines in place of wind as a motive power, will be an effective naval force in this country three times that which we had before the war.

Mr. CONNESS. Mr. President, I suppose that nearly a full answer to the challenge so trenchantly made by the honorable Senator from Rhode Island may be found in this statement of the case: it is stated, and I suppose correctly, that the number of ships in commission now does not exceed the number that were in commission before the war.

Mr. GRIMES. The number of guns afloat is less than before the war, but the number of vessels is a little more, though nearly the same.

Mr. CONNESS. The number of guns is less, the number of ships about the same. Now, sir, the ships constituting the Navy at the present time are manned by a force of nearly twelve thousand men. I take it it will hardly be assumed or stated or asserted by the honorable Senator last up that any of the ships now afloat have a larger number of men than is absolutely necessary to man them.

In fixing the maximum, as is proposed by this amendment, at seventy-five hundred men, or very nearly half the number of men now employed in the Navy, with no greater number of ships afloat and not so many guns, I do not know what the Senator contemplates. It amounts to an abolishment of one half of the Navy of the United States as at present constituted, unless it be held that the Navy Department employ a larger number of men on each ship than is necessary to man or to fight it. I take it there is found in this statement, which the Senator can scarcely contradict, a full answer to his challenge.

Mr. GRIMES. There is some truth in the idea suggested by the Senator from Rhode Island, and a good deal of error. In the first place, let me say to him that there is not a fifteen-inch gun afloat.

Mr. SPRAGUE. I did not assert that to-day.

Mr. GRIMES. And I do not think there is a thirteen-inch gun afloat.

Mr. COLE. I think the Senator from Iowa must be mistaken. I understand that is the caliber of the guns of the monitors.

Mr. GRIMES. Exactly; but they are not afloat, they are in the harbor all tied up. We are speaking now of vessels that are cruising upon foreign stations. These large guns on a monitor, when controlled and manipulated by an engine below them, do not require a larger number of men than a nine-inch gun, I admit; but, if you transfer that gun to a sailing vessel that is not managed by an engine peculiar to itself, then, instead of having eight men to that gun you must have twenty-six men, and the number of men to handle your gun increases where you have not an engine to manage it, exactly in proportion to the size and caliber of your gun. Does it seem unreasonable to the Senator from Rhode Island that it should be so?

I admit, further, that steam is a much more efficient propelling power than the wind, and if we felt justified in allowing our vessels to steam all the time it would not be necessary for us to employ as many men as we think are necessary, because if we steamed all the time we could take down a great deal of the top hamper of the vessel; but if you did that you would only entail additional expense on the Government by the use of coal. Therefore it has been thought advisable by all Gov-

ernments—not only our own, but all others—that naval vessels should have their full complement of men for sailing, and that in making ordinary cruises and on ordinary occasions they should sail only, and thus save the expenditure of millions of dollars that would otherwise be used up in the purchase of coal. But, at the same time, it is necessary to have a certain complement of firemen and coal-heavers on board of your vessel, so that if an emergency arises, if a dispatch shall be sent across the ocean to the commander to repair at once to Japan or to Siam, or to any particular point where a national vessel is required to protect American interests, he can go there with the utmost celerity, and then he is authorized to use his propelling power of steam.

Now, sir, as I have accurate information to-day on the subject of the number of vessels that have at different times been afloat and that are afloat now, let me state what is the actual condition of affairs as furnished in a letter by the Secretary of the Navy addressed to the chairman of the Committee on Naval Affairs of the House of Representatives.

In 1858, when our complement of men was authorized to be eighty-five hundred, but according to the Senator from New York was only seventy-six hundred actually, the number of our vessels was twenty-eight afloat as cruisers. The number of guns they carried was six hundred and seventeen; and their tonnage was thirty-seven thousand eight hundred and ninety-seven. All those who have paid any attention to the Navy know that at that time nearly all of these vessels were large sailing sloops and frigates, and that they were not as efficient as the steam vessels; they could not penetrate many of the waters that our vessels now run in. In 1859 the number of vessels was thirty-three, of guns six hundred and fifty-four, and the tonnage forty thousand eight hundred and seventy-three. In 1860 the number of vessels was forty-four, of guns six hundred and sixty-four, and the tonnage forty-seven thousand two hundred and eighty. In 1861, at the beginning of the war, the number of vessels was thirty-eight, the number of guns was five hundred and forty-one, and the amount of tonnage was forty-two thousand seven hundred and thirty-eight.

In 1868, at the beginning of this year, the number of vessels was fifty-three, the number of guns four hundred and ninety-seven, and the amount of tonnage fifty-eight thousand five hundred and twenty-five. In other words, we have fifty-three vessels in 1868 in January, against forty-four vessels in 1860. We had in January of this year four hundred and ninety-seven guns afloat, and we had in 1860 six hundred and sixty-four, or nearly two hundred more guns than we have now. We have now fifty-eight thousand five hundred and twenty-five tons of tonnage, and we had then forty-seven thousand two hundred and eighty. Now, let not the conclusion be drawn from the fact that we have two hundred guns less afloat now than we had in 1860, that our guns are larger now and much more efficient, for that is hardly the case. It was the thirteen and the fifteen inch guns that were introduced during the war; the nine and the eleven inch guns were the guns of the Navy long prior to the war; and of eight-inch, nine-inch, and eleven-inch guns we had nearly two hundred more afloat in 1860 than we have to-day. We have now, it is true, several more vessels; but the tonnage has not increased in proportion, and the guns are diminished. The vessels are small, and as I have already told the Senate, they now penetrate waters that it was never thought we should penetrate with a vessel of war, all through the streams of China and Japan, and among the Eastern islands. The Secretary of the Navy says:

"Included in the fifty-three vessels noted as in the squadron service upon the 1st of January last are six store and hospital vessels, besides the Mahaska, which can never again go to sea, and is used as a guard and living ship for officers and men in charge of iron-clads at New Orleans; also, the Yantic, which has been detained for months above the bar at Tampico, so that the effective naval force was actually

forty-five vessels, four hundred and fifty-one guns, and fifty-one thousand eight hundred and seventy-six tonnage. All of the cruising vessels are steamers, though most of them can and do move with sails when speed or the circumstances of the case do not require steam. The expense of keeping the squadrons in commission is greater now than when nearly all the ships were sailing vessels, for fuel has become a large item of expenditure, and incidentally the depreciation of our currency adds largely to the expense, thereby necessarily increasing the estimates."

Another reason why there is necessarily a considerable increase in the number of men, grows out of the fact that the war has left us in a peculiar condition. We are now compelled to employ one hundred and thirty-nine men to take care of the iron-clad and other vessels which are in our hands and which we are attempting to sell at New Orleans. We employ three hundred and seventeen men on vessels that are now in ordinary; vessels that are laid up; that we cannot dispose of; that we must keep; that we must preserve; and that may at some future time be useful. There was no necessity for such men before the war. Then there are on the Tonawanda, another iron-clad at the Naval Academy, eighteen men, making in all four hundred and seventy-four. The Tonawanda is used for various purposes, and among others, I believe, for a powder magazine. There are, then, four hundred and seventy-four men used for such purposes.

Now, Mr. President, let me say a word in regard to the enormous expense that is supposed to be incurred. A gentleman spoke to me to-day inquiring whether or not it was a fact that it cost as much to support a man in the Navy as it did in the Army; and because it has been said that it cost one thousand or eleven hundred dollars a year to support a man in the Army, the inference was drawn that it cost just as much to support a man in the Navy. I have taken the trouble to investigate that subject a little to-day. In order to make out the amount of one thousand or eleven hundred dollars expended annually on a man in the Army it is necessary to add together all the appropriations made for the support of the Army, and then to divide that aggregate by the number of men in the Army. That aggregate includes the expense of the transportation of the quartermaster's department, the commissary stores, the surgeon general's department, and all the officers of the Army.

Now, sir, suppose that a thousand men be divided equally into seamen, ordinary seamen, and landsmen. That would not be the proportion, because there would be a greater number of landsmen than of seamen or ordinary seamen; but suppose they be equally divided, what would be the expense? You would have three hundred and thirty-three seamen whose pay is twenty dollars a month, amounting to \$6,660; you would have three hundred and thirty-three ordinary seamen at sixteen dollars a month, amounting to \$5,328 a month; and you would have three hundred and thirty-three landsmen whose monthly pay would be \$3,663, making the aggregate monthly pay of the whole nine hundred and ninety-nine men \$15,651, which, multiplied by twelve, makes a sum total of their annual pay \$187,812. Then their rations at thirty cents a day would amount to \$3,600 a month. It must be remembered that a sailor is compelled to pay for his clothing out of his pay. The only additional expense these thousand sailors can be to the Government, possibly under any circumstances, will be the medicines that will be used in curing them if they get sick, and the expense they may be to the Government when they are sent to hospital. It must be remembered, however, that when they are sent there they are supported with funds taken out of their own pay, saving and excepting the amount we pay for officials, nurses, and attendants. Thus it appears that the whole expense incident to one thousand men, which everybody in the Navy deems to be necessary, would only amount to about two hundred thousand dollars a year.

Mr. President, I believe I have attempted to state the case as fairly as I possibly could.

have no particular interest in keeping up this number. I would not advocate it for a moment if I did not believe the public interest would be subserved by it. I stand alone among all those who may be regarded as being friends of the Navy, in being willing to reduce it down to eighty-five hundred men. This reduction does not meet the approbation of the Department; it did not meet the approval of a single member of my committee, so far as I know, and I thought I was going a great way in proposing to reduce it down to that number.

With these remarks, Mr. President, I am content to leave the subject in the hands of the Senate.

Mr. MORRILL, of Vermont. Mr. President, I intend now, as I think I have done heretofore, to go for those measures of economy which will serve the public interests; but I do not intend to run a muck at every bill about which I do not know as much as the various committees who have charge of them do. In this instance I believe the Senator from Iowa is a safe leader to follow. He certainly is not in favor of any kind of extravagance in the Navy, so far as I have ever observed, watching his course; and I do not believe in reducing our Navy down to the old gunboat system of Thomas Jefferson.

Improvements have taken place, and such improvements as no doubt give our Navy a greater effective force than it had prior to the war; but the navies of other nations have improved in about the same ratio; so that, relatively, we do not stand better now, perhaps, than we did prior to the war; and it does require, in my judgment, more men to man the vessels which are propelled by steam and wind than it did when the propelling power was only sails. It looks to me as though the reduction that has been proposed is, as far as it is prudent for us, having in view the public welfare, to go, I shall therefore oppose the amendment proposed by the Senator from New York.

Mr. DAVIS. Mr. President, I am always in favor of a just economy; but I do not believe that retrenchment is always economy. Indeed, I have a very different opinion, both in relation to public and private affairs. From the time that I knew anything at all about it I have been a most decided friend of the Navy; and I continue to be so, not only of the military navy, but of the commercial navy of the United States. I regard the Navy as the most important arm of our public defense. The geographical position of other Powers, and their own intrinsic strength in relation to the United States, are such as to render a standing army almost unnecessary to our country. We are in contact with England in her Canadian dominions; we are in contact with Mexico; but neither of those Powers, with any feelings of hostility, could at all affect our security or our interests in a military point of view. Our contact with foreign nations is mainly upon the ocean, and it is in the strength and efficiency of our Navy that our national force is to be most imposingly demonstrated to foreign Powers.

The Navy is not unfriendly to liberty. The Navy is not unfriendly to a free and popular Government. There is no nation that has ever been free that I have any knowledge of whose essence or form of freedom has not been lost by the agency of armed men. One of the early American principles, as far as I have learned them, has been to foster the Navy and to have a standing Army of the smallest possible number. I frankly admit that I am a proselyte to both those theories. I want a strong and an efficient Navy. I would be willing to vote for a small increase of the naval force. I am in favor of the policy of keeping up the Navy at least to its present strength and efficiency and to evolve and increase it in proportion to the increase of the nation, of its population, resources, and power. I have taken as much pride in the Navy, both mercantile and military, as I have in any institution belonging to our country. All the achievements of the American Navy, in war and peace, have been a source of pride to me and of the high-

est national and patriotic pleasure. I still cherish those feelings. I want the time to return to our country when we shall be the largest commercial people on the globe; that is, when we shall have the largest commercial marine. I want to encourage and sustain ship-building. I want to do it by granting every facility to the business of ship-building and by so acting that we shall become the carriers of the world; and to this end I will sustain every measure that is at all proper; and gentlemen who favor such a policy as that will always find in me an humble, but a true and most earnest advocate of it.

I am especially favorable to the Navy because it in no degree imperils or endangers our institutions and our constitutional and popular liberties; and those very considerations induce me always to be distrustful of, and inimical to, a standing army. That jealousy and distrust and unfriendliness to a standing army which distinguished the early and able American statesmanship I have imbibed. I still cherish those sentiments. I believe now that the Army is three or four times as large as it should be. Instead of the Navy being too large, and having too many sailors, I believe it is rather too small and has rather too few sailors; and, as I said before, I would be willing myself and always will be found willing, to meet the responsibility of its just and reasonable enlargement according to the growth and resources and power of our country.

Mr. President, I have some facts in relation to the Army. In 1858 the authorized force of the Army was eighteen thousand one hundred and sixty-five; its actual force was seventeen thousand four hundred and ninety-eight. The expenditures of the Army for that year were \$12,888,740 73. This year the expenditures of the Army swell up above the sum of one hundred million dollars, and the actual number of soldiers, according to the last authentic report that I saw, was upward of fifty-eight thousand.

Mr. MORRILL, of Maine. My honorable friend undoubtedly intends to be just.

Mr. DAVIS. That is my wish.

Mr. MORRILL, of Maine. He should consider that in that sum are included the bounties and the expenditures of the Indian war.

Mr. DAVIS. Yes; that I understand.

Mr. HENDRICKS. No, sir; not the bounties of last year. The expenses of the War Department of this year are estimated including the bounties.

Mr. MORRILL, of Maine. No; I beg the Senator's pardon.

Mr. HENDRICKS. And they will go up to \$124,000,000.

Mr. DAVIS. I took the figures and exposition of my honorable friend from Indiana in relation to this subject given a few days ago. He had investigated the subject, and, if I recollect his statement, it was that the estimates for the Army, independent of the pension-list, would exceed \$100,000,000. I took it to be authentic and true then, and I shall continue to do so until the contrary is shown.

Now, sir, the expenses of the Army for the past year have exceeded those of 1858 upward of eight times. In 1858 the amount was \$12,888,740 73; last year upward of one hundred million dollars. In the year 1859 the authorized force of the regular Army was eighteen thousand one hundred and sixty-five; the actual force was seventeen thousand four hundred and ninety-eight; and the available force eleven thousand. During that year the expenditures for the Army were \$17,656,619 19. In the year 1860 the authorized strength of the Army was eighteen thousand one hundred and fourteen men, and the actual force was sixteen thousand and six men. The expenditures for the same time were \$15,658,000 and a fraction. Now, when the Navy, according to economical statesmen, is to be kept to the same establishment and to the same force that existed previous to the war, I ask upon what principle of reason, of public defense, of safety

to the country and its institutions, the Army shall be raised to three times the amount and its expenditure to seven or eight times the amount that it was in those respective years?

Sir, there are subjects upon which retrenchment and economy can go hand in hand, and one of the great and important subjects upon which both of these principles can move is the Army. I am against heavy and burdensome taxation; but neither taxation nor any other public question has any terrors for me. I am willing to meet any question whatever; and so far as the public service of the country requires a liberal expenditure to sustain the Navy, to maintain its power relatively to the people of the world, and to keep up with the improvements in naval architecture and naval warfare and naval armament, I am willing to meet any expenditure that is necessary to these great national ends, and I am willing to throw myself upon the justice and reason of my constituency to sustain my position.

I am not willing under a cry of retrenchment to cripple the Navy, to reduce it below a proper standard as to vessels, tonnage, guns, and men; and especially am I not willing to make this reduction when there is that enormous standing Army at such an immense cost to the people, and which exists in its numbers only to endanger the rights of the States, the liberties of the people, and our constitutional form of government. I am utterly unwilling to sustain an Army in such dimensions and at such a cost, and at the same time to make a pretext of economy in relation to restricting the Navy to what it was before the war.

Mr. President, I believe to-day that ten thousand men in our standing Army would be amply sufficient for all the just demands of the Government and the country. I proposed a few days ago that it should be reduced to twenty thousand; and that would be an increase upon the force in the year before the war of about three thousand men; and certainly twenty thousand men would be amply sufficient to answer all the just purposes of the Government and the country. Gentlemen who opposed the reduction of the Army and a restriction of its expenses such as would be produced by a reduction of the Army according to the propositions that were made by the Senator from Pennsylvania [Mr. BUCKALEW] and myself, cannot seduce nor frighten me into a crippling of the Navy upon the cry of retrenchment and economy.

Mr. President, I go for my country, my whole country. I go for the maintenance of the Constitution and of all the powers of the General Government under it. I go for the maintenance of the Union. I go for the rights of the States under the Constitution and every right of the States under the Constitution. I go for a just and enlightened and proper maintenance of our complicated system of government, partly national and partly State; and to maintain the public service of the General Government I am willing to vote every dollar that according to just reason and enlightened policy may be necessary. And, especially, I go for the Navy. In my boyhood I read of "The Saucy Jack," and "The True Blooded Yankee" scouring the British coasts up the channel and the Dover Straits; I read of the gallant resistance made by the privateer General Armstrong; I read of the battle of Lake Erie, on the 10th of September, my birthday; of the battle on Lake Champlain, where McDonough triumphed; of all the great naval battles in which our gallant tars met and vanquished the proud mistress of the seas; and my boyish heart glowed then with as much pleasure at those recitations as that of any Yankee tar whose sons and brothers were bringing these glorious victories upon the common banner of our country. And now, in my age, my heart warms, the ashes and cinders that glow here warm at the recollection of those noble deeds; and never, never will I abandon that arm of the public service that contributed thus to the glory, renown, and



power of our common country. I therefore go for sustaining the Navy; and I would go for increasing the force if the honorable chairman was to propose that it should be increased.

Mr. CONKLING. Mr. President, I did not mean again to encroach upon the attention of the Senate in reference to this amendment, nor should I do so now but that I have in my hand evidence to which I think we shall all be compelled to bow upon some of the questions which were in difference yesterday.

Quite late in the debate a suggestion was made by the chairman of the Committee on Naval Affairs that the introduction of steam had multiplied the number of men per vessel which was necessary; and when the suggestion was made that there were fewer vessels now than anterior to the war, the honorable chairman of the Committee on Naval Affairs met that by the statement that although there were fewer guns afloat now than then, the number of vessels was greater now than then. In order that I may do him no injustice I beg to call attention to the statement which he made, as it appears in the Globe.

But before doing so, Mr. President, I beg to drop one remark which may not occur to me again. I dissent, for one, entirely from the idea that any committee, whatever that committee may be, or that any chairman of a committee, however experienced or distinguished he may be, is to give upon the floors of Congress a weight to his opinion, or the opinion of the committee, which goes beyond the facts upon which that opinion is founded. No man's opinion, I humbly submit, is worth any more than the facts and the considerations upon which that opinion rests entitle it to. If any Senator chooses, like the distinguished Senator from Vermont, [Mr. MORRILL] to adopt the idea that a particular Senator is usually a safe leader, and, shutting his eyes to all facts, to vote in a given direction, I am perfectly aware that I shall address in vain to him the presentation of evidence which I wish to make. But if, on the contrary, the Senate, like other tribunals, is to pass upon questions by taking the facts and the arguments, where facts and arguments can be deduced, as controlling considerations, I believe there can be no doubt as to the just vote upon the proposition before us.

In justice to myself, perhaps, I ought to make a qualifying remark. I am aware that a great variety of questions are presented to all bodies, the evidence and facts in reference to which it is impossible to have assembled all before us; and upon those questions the opinions of experts, whether committees or chairmen, are valuable, and must be received as entitled to great weight. But I insist, again, that upon a question where all the facts with regard to which can be and are brought before us, it is our business as legislators to predicate our vote on those facts, and not on the version or the opinion of any one, and particularly not on the shifting version or shifting opinion he may receive from somebody else.

Mr. President, the Senator from Iowa, speaking upon the information which he had, informed the Senate thus:

"Our vessels are more numerous, but they do not carry as large an armament. We are now obliged to keep vessels on the coast of China and in the ports of Japan and the Eastern Archipelago, going up their rivers and protecting the commerce of this country in that region of the world, at a greater expense than we did before."

And it was upon that statement of the honorable chairman, and upon the kindred statement, the twin of this, that more men were required upon steam-going vessels than upon sailing vessels, that a doubt was cast upon the propriety of this amendment, and that a large part of the Senate voted against it. Following in this wake, the honorable Senator from Indiana [Mr. HENDRICKS] said over and over again, in the same spirit in which my honorable friend from Massachusetts, [Mr. SUMNER], who does me the honor at this moment to give me his attention, has often remarked here that

we were leaping in the dark, we were moving in the dark—the honorable Senator from Indiana, I say, in that same spirit reiterated that we were acting here without figures, without facts, and who knew that we could safely reduce the Navy to the point at which the Navy stood anterior to the war?

Now, Mr. President, let me see whether we shall not know all about it. I ask Senators to give their attention to a letter which I hold in my hand, and which letter was addressed this day by Commodore Smith, the chief of the Bureau of Equipment and Recruiting—

Mr. BUCKALEW. To whom?

Mr. CONKLING. Addressed to myself. I addressed to the Commodore several interrogatories, I think four—the number will appear from his letter—in order to sift the facts if I could, and the letter which I have in my hand is in response to those questions. Now, sir, let us compare it with the information we had yesterday, and let us compare it with the argument made sometime ago by the Secretary of the Navy addressed to the chairman of the House Naval Committee to show that a very large Navy was necessary:

"WASHINGTON, April 7, 1868.

"SIR: In answer to the interrogatories contained in your note of yesterday, I have the honor to state:

"1. There were in 1859-60, eighty-nine vessels in the Navy—

Not thirty-three vessels, as I understood the chairman to read from the letter of the Secretary of the Navy, but eighty-nine vessels in the Navy—

"carrying"—

Not, as I understood him to read, six hundred and fifty-four guns, but—

"eighteen hundred and sixty-four guns.

"2. There are in commission, in active service, in foreign and home squadrons, fifty-seven vessels carrying five hundred and twenty-one guns, and three apprentice vessels carrying fifty-two guns, making a total of sixty vessels and five hundred and seventy-three guns."

So that as five hundred and seventy-three is to eighteen hundred and sixty-four, so is the number of guns afloat now compared to the number of guns afloat anterior to the rebellion; and as sixty vessels, including the apprentice vessels, is to eighty-nine, so is the number of vessels now floating compared with the number which floated anterior to the rebellion.

"3. The largest vessel in service prior to 1860 was the Roanoke, carrying forty guns and five hundred and twenty-five men.

"4. The Franklin is the most efficient vessel now in commission, and carries thirty-nine guns."

Mark, Mr. President, only one gun less than the Roanoke carried, with all their increased caliber and capacity—

"and five hundred and seventy-two men."

Only forty-seven more men than the old Roanoke carried are carried by the Franklin, that magnificent frigate, the pride, and, in one sense, the wonder of the American Navy, albeit, in my humble opinion, she is spending her time just now in a ceremony "more honored in the breach than the observance." But, sir, I am upon the point in reading this last item, whether it be true that a vessel carrying the same number of guns of greatly increased dimensions involves and necessitates the employment of a number of men as eight is to twenty-six, if I understood the proportions given this morning. Now, sir, what do we find? We find here before us a proposition denounced, which proposition is to leave in the Navy as many men as ever were in the Navy before the war began, and add to that number two hundred and fifty. For what purpose? For the purpose of manning two thirds as many vessels carrying less than one third as many guns. Is it a leap in the dark, I beseech Senators? Is it a random shot at reform without understanding what we are talking about? Or is it a demonstration, as far as anything is demonstrable by figures of the nature of this, that here is the appropriate place and time not to dissent from what the House has done, to which we have added two hundred and fifty already, but to agree to it? Is there any doubt about these facts?

Mr. GRIMES. Will you have that letter read?

Mr. CONKLING. Certainly. I have read the whole of it. Do you wish to have it sent to the desk and read by the Secretary?

Mr. GRIMES. Let me see it.

Mr. CONKLING. I will read it all the way through as a part of my remarks, and then send it to you:

NAVY DEPARTMENT,  
BUREAU OF EQUIPMENT AND RECRUITING,  
WASHINGTON, April 7, 1868.

SIR: In answer to the interrogatories contained in your note of yesterday, I have the honor to state—

1. There were in 1859-60, eighty-nine vessels in the Navy, carrying eighteen hundred and sixty-four guns.

2. There are in commission, in active service in foreign and home squadrons, fifty-seven vessels, carrying five hundred and twenty-one guns, and three apprentice vessels, carrying fifty-two guns, making a total of sixty vessels and five hundred and seventy-three guns, being exclusive of receiving ships and tugs employed at navy-yards.

3. The largest vessel in service prior to 1860 was the Roanoke, carrying forty guns and five hundred and twenty-five men.

4. The Franklin is the most efficient vessel now in commission, and carries thirty-nine guns and five hundred and seventy-two men, exclusive of apprentices and marines.

Very respectfully, your obedient servant,

M. SMITH, Chief of Bureau.

The letter is addressed to me. It is at the service of the Senator.

Now, Mr. President, I think I am warranted in saying that the action taken by the Senate in committee, which is sought to be reversed now, is quite inside of safety, because if you admit all that has been said as to the increased force of the steam vessels, which proposition is contradicted by that letter, as I submit—

Mr. GRIMES. In what respect?

Mr. CONKLING. In respect of the fact that the Franklin, the master ship of the Navy, carrying, as she does, thirty-nine guns, only one less than the old Roanoke, which carried forty, has of her crew only forty-seven more men, which forty-seven more men are necessitated by all that is implied in the increased caliber of her guns and in the increase of necessity necessary to manage her tackle, apparel, and furniture, whatever it may be.

Mr. GRIMES. Does the Senator understand that the Roanoke was a sailing vessel?

Mr. CONKLING. No, sir; I do not understand how that was. I made no statement about it. I am speaking of the Franklin. I shall be indebted to the honorable chairman if he will tell me what the Roanoke was.

Mr. GRIMES. She was a steamer; and so far as I know was never in commission. She was a steamer built at this navy-yard, and in launching her she broke her back. She was afterward changed into an iron-clad, and has three turrets upon her, and is stationed, I think, at New York, but I am not certain.

Mr. NYE. She is at Brooklyn now.

Mr. CONKLING. I see my honorable and naval friend from Nevada—

Mr. NYE. You will see him again in a few minutes. [Laughter.]

Mr. CONKLING. I see he rose upon that as if he considered that a significant fact, as I have heard counsel sometimes emphasize something very much. Will he do me the favor, as I profess but little nautical knowledge, to inform me of the precise weight of the fact just stated about the Roanoke?

Mr. NYE. I am holding no controversy with the Senator from New York. I have not said a thing. I intend to say something in a minute.

Mr. CONKLING. I am afraid my honorable friend is not so good natured as he naturally is.

Mr. NYE. I intend to pay my respects to the gentleman's naval skill as soon as he gets through.

Mr. CONKLING. I certainly do not wish to molest my honorable friend; but he rose with an emphasis and turned around with an ejaculation and manner which led me to suppose that there was something stunning in the fact which the honorable Senator from Iowa

stated, and I wished to be knocked down by degrees, if there was, by being gradually informed what the weight of that information was.

Mr. NYE. In a moment of thoughtlessness I rose without consulting the Senator from New York as to the manner in which I should get up or sit down. I will not do it again. [Laughter.]

Mr. CONKLING. Well, Mr. President, I wish to withdraw what I said. I rather think the Senator is pretty good natured after all. I thought from his first remark that his habitual good nature or good spirits had abandoned him for a moment; but I am inclined to think he is very good natured, and I therefore withdraw that remark, and that makes it all right.

Now, sir, without addressing the question to the honorable Senator, who does not like me to address it to him, I beg to submit to the Senate what pertinency and weight has the fact that the Roanoke broke some of her machinery, if that was the statement, when she was launched? What of that? She was the largest vessel in the Navy, and she had her complement of men furnished to her. How? As a question of skill, as a matter of art in the Navy. What was it? Five hundred and twenty-five men. Is it of any consequence that she met with an accident in being launched? Is it of any consequence that she commenced her career shortly before the war and was transformed into a three-turret gunboat, or whatever she was? Suppose the Franklin had been constructed before the war, and had been burned up at the Gosport navy-yard, would it not be just as instructive to refer to her in order to ascertain what her equipment was?

I did not ask Commodore Smith anything about the Roanoke. I simply propounded to him the question which vessel anterior to the war was the most powerful vessel carrying the largest armament and crew; and he, competent, I hope, to select the vessel which answered that description, named the Roanoke as being that vessel. I do not know but that a landsman, one who knows as little about this as I do, for I know but very little—I do not say that with ceremony; it is truer than I wish it was—I do not know but that one as ignorant of the nautical branches of this subject as I am is bound to believe that because the Roanoke met with an accident in being launched, and because she did not live long enough before she was transformed to make trips and to have a record, therefore the Commodore has made a great mistake in citing the Roanoke as showing what he adduces her to show; but I am unable to see it.

This statement, if I am able to apprehend it, as I commenced by saying when I was broken off by the question of my friend from Iowa, shows, in the first place, that, allowing all that can be claimed as to the increase of force necessary owing to the adoption of steam, the disparity is so great between the number of guns afloat and of vessels afloat now and then that seventy-six hundred men, with the twelve hundred and fifty added, which number we have added, is a far more numerous provision, a far more abundant provision, in reference to the vessels and the guns now afloat than we ever had anterior to the rebellion. And that must be apparent, I think, upon simply bearing in mind the proportions that we have now, less than one third the number of guns and only two thirds the number of vessels.

One word more, Mr. President, and I have done. I despair of finding anything which will satisfy the honorable Senator from Kentucky, at all events, as to the proper object of retrenchment or of economy, if that was the word that he used. I have no expectation of that; and, as to everybody, it may be a very difficult thing to find the precise and appropriate object. But I beg to say, in extenuation for the discourse that I have inflicted upon the Senate in reference to this subject, that I have no purpose in the world except that which I presume other Senators have in the same general way, to find as often as I can an appropriate occasion to re-

duce expenditures, and then to propose to do it, and to vote in that direction. I have no idea that I have a wish on that subject which is peculiar to me, or which, by comparison with the wishes of other Senators, would show any sort of superior sincerity or earnestness on the subject; but we are all compelled to go according to the lights which we have. The Senator from Kentucky judges for himself. He thinks the Army is the appropriate place to retrench. I agree with him; and I beg to say to him that, as far as my discernment will permit me to see the right direction for retrenchment there, I will go with him on the first and the last and all intermediate occasions.

Mr. DAVIS. You have not done so yet.

Mr. CONKLING. My honorable friend should hardly say that to me, and I will tell him why; and I think he will be just enough to admit it. The other day upon an appropriation bill, where the House of Representatives had made no provision in reference to the reduction of the Army, where that question was not up, an amendment was offered reducing the Army. I objected to it upon a specific ground, namely, that that subject was not before us; that I was in favor of action in the right direction, and not in the wrong, when we came to it; but that, inasmuch as it was not before us, I thought it should be postponed to an appropriate bill. Now, mark the distinction, if the honorable Senator pleases. Here comes a proposition from the House, which we do not propose to strike out, and to say "it is not germane; it is foreign substance here; we will eliminate it and take this subject up again;" but we do propose to act upon it. It has been reported back by the committee, and the Senate proposes to allow to stand in this bill words which shall fix the number of the Navy. Therefore the Senator will see that it is not on all fours at all with the proposition made the other day in regard to the Army. There the objection was that that was not the appropriate bill on which to consider it. That objection is foregone here, because it is admitted on all sides that we are to consider it, and consider it in this bill.

Then we come to the proposition whether we are to be content with adding two hundred and fifty to the number fixed by the House, or whether we are to have a thousand more than that, an addition of twelve hundred and fifty; and that, too, upon as clear a mistake, as clear a surprise upon the Senate as ever afforded ground for relief in a court of equity. Why? Because the majority of Senators who voted for it, of whom I am one, and of whom, I venture to say, my honorable friend by my side [Mr. WILSON] is another, never doubted that eighty-five hundred was the actual number, not the possible number, not the theoretical number, not the "legal standard," as it has been called, but the actual number of men in the Navy, borne upon the pay-rolls anterior to the rebellion. Believing that we voted to put the Navy back where it was. And now, when we find that we voted under a mistake of a thousand, and when we demonstrate, as I submit, over and over again upon the figures that the complement as it stood in point of fact is abundantly large, we are to be asked, without any argument except that which I submit this letter of Commodore Smith completely refutes, to turn around and add a thousand men to the number fixed by the House, after having already added two hundred and fifty, making twelve hundred and fifty in all, involving an expense the amount of which, I am informed, is very much larger than that suggested by the honorable Senator from Iowa, I do not venture to make any statement about it, because I have no information sufficiently accurate; but I understand that it involves an expenditure a great deal larger than that which he suggests. That, then, is the statement; that is the proposition; and we cannot avoid it by saying we will consider it on some other bill; but upon this bill, and now, every Senator is to say whether he thinks it should be one number or should be the other number.

Mr. President, I beg pardon of the Senate for all the time I have occupied on this subject. I have endeavored to discharge my duty, and there I leave it.

Mr. GRIMES. I have only a word to say in reply to the Senator from New York and the letter that he has introduced. I do not propose to argue this question over again, or to allude to the subjects that have been under discussion during yesterday and to-day that we have already talked about. In regard to the first of his discourse as to that which should govern Senators in their conduct of public affairs, I have not a word to say, except this, that I have never arrogated to myself any particular knowledge upon naval affairs. It has so happened that during my past life I have been brought into rather intimate connection with the subject, and during the term of my service in the Senate I have been on the Naval Committee. I have done the best that was in my power so inform myself upon the subjects that came before that committee, and I have honestly attempted to convey the information that I have obtained to the body of which I was a member.

Now, sir, what is this letter that the honorable Senator from New York has introduced here with such a flourish of trumpets, and which he imagines is to have a terrible effect or a great effect upon the sentiment of the Senate on this matter? It seems that yesterday or to-day he addressed a letter to Commodore Smith, the chief of the Bureau of Equipment and Recruiting. I suppose the Senator's first inquiry—I judge from the response—was as to the number of vessels that were in the service of the United States belonging to its Navy in 1859-60, to which he has received an answer saying, that there were eighty-nine vessels, and that they carried eighteen hundred and sixty-four guns. The Senator would have obtained that information if he had simply looked into the Navy Register of 1860, or if he looks into the Navy Register of 1868 he will see that the number of vessels we have now is counted by hundreds, and that the number of guns is counted by thousands in place of hundreds.

But what has that to do with the question under consideration? The question for the Senate to consider is, what is the number of men requisite to keep that number of cruisers afloat, to show our flag, and to protect our commerce in foreign seas, that may be necessary—not what may be the number of hulks that are laid up at our docks; not what may be the number of vessels that are in ordinary at home; not what may be the number of iron-clads at St. Louis or Mound City or New Orleans. He would get a response in reply to a similar inquiry addressed to Commodore Smith to-day, in which he would have all those included. The analogy that he draws between the number of men and the number of vessels then acting as cruisers, and the number of vessels that we had at home and guns that we had at home, that were not afloat, I am not able to see the applicability of. Doubtless it is owing to the dullness of my apprehension.

Commodore Smith says that there are fifty-seven vessels carrying five hundred and twenty-one guns now in service and three apprentice vessels carrying fifty-two guns, making a total of sixty vessels and five hundred and seventy-three guns, being exclusive of receiving ships and tugs employed at the navy-yards. The Secretary of the Navy says in his report, made in January or February, that the number of vessels afloat as cruisers—and he specifies the particular squadrons that they compose—was fifty-three, whereas this letter of Commodore Smith's shows it was fifty-seven, a discrepancy of four vessels; and it is accounted for in this way: we have recently put into commission the Contoocook, the Wampanoag, the Piscataway, and other vessels that are sent to foreign stations to relieve vessels there that are to be sent home, and they have been sent to sea since the letter was written to Mr. PIKE, of the House of Representatives, by the Secretary of the Navy. When those other vessels that have

been on foreign stations, as for example the Hartford in the Chinese waters, come home, they will be laid up in ordinary, and the number of cruisers afloat of course will be diminished to that extent. That accounts for the discrepancy. The number of guns afloat, according to Commodore Smith, was five hundred and twenty-one guns upon the cruisers, instead of four hundred and twenty-seven; and that is to be accounted for in the same way; the vessels that have been sent out and the ones that are to be relieved both being included in this list.

I judge that the Senator also made this inquiry: what was the largest vessel in the service before the rebellion, to which Commodore Smith answers, "the largest vessel in service prior to 1860 was the Roanoke, carrying forty guns and five hundred and twenty-five men." She may have been a ton or two, a very few tons, larger than the vessels of her class. The old Senators here will remember that we authorized, some fifteen years ago, the building of five steam frigates, the Wabash, the Minnesota, the Merrimac, that was destroyed at Norfolk, and the Roanoke. The Roanoke was built at this place. She was built for a complement of five hundred and twenty-five men. She was a steamer. She was about the same capacity as the Franklin.

Then, I suppose, the Senator asked what is the most efficient vessel in our service to-day, to which the Commodore responds, "the Franklin is the most efficient vessel now in commission, and carries thirty-nine guns and five hundred and seventy-two men, exclusive of apprentices and marines." Marines are never counted as a part of the ship's complement. She is also a steamer. There is not any very material difference between the tonnage of the two vessels. At any rate, according to this report, there is only a difference of one gun. The Roanoke carried forty guns and the Franklin carries thirty-nine guns. The Franklin's number of men is five hundred and seventy-two, and the Roanoke's complement of men was five hundred and twenty-five, there being some thirty-odd men more for the Franklin now afloat with thirty-nine guns than would be required for the Roanoke if she had been afloat, with forty guns. Now, what deduction does the Senator draw from that? I did not see the conclusion that he reached. I suppose—

Mr. CONKLING. Does the Senator want an answer?

Mr. GRIMES. I do, indeed.

Mr. CONKLING. I beg to say that I draw this deduction from it: that taking the addition which appears there it does not account at all when you make allowance for the reduced number of guns and vessels, for the necessity of even the increase that we give. If I do not state it clearly in that form, allow me to state it the other way: taking the addition of force shown to be necessary by this additional number of men, when you take into consideration that the number of vessels is so much less, and the number of guns is so much less, you do not then want even the seventy-six hundred, nor anything like it. That is the deduction which I draw from it.

Mr. HENDRICKS. I wish to ask a question of the Senator from New York. I understood his argument to be that the chairman of the Naval Committee was altogether mistaken in supposing that steam vessels required a larger number of men than sailing vessels, and that his argument was, "here is the Roanoke of the same tonnage, the same number of guns, that requires only about forty men less than the Franklin, which is a steam vessel." I thought when he was making his argument that he understood this vessel that was in the service before the war to be only a sailing vessel, and therefore his deduction was that a steam vessel does not require more men. I will ask him if that was not his argument?

Mr. CONKLING. The Senator asks me a question, and by permission of the Senator from Iowa I will answer it. The Senator from Indiana is entirely mistaken in supposing that

I was combating the proposition that steam required more men. I was combating the proposition that steam required so many more men as to make it unsafe to adopt this amendment. In other words, I was combating the proposition that the reduced number of guns did not enable us to reduce the force because steam required so many more men. I said that the addition shown to be necessary upon this vessel to manage all her tackle, apparel, and furniture, and take care of her, using that expression, was not enough to make up the difference; that, making allowance for all that could be claimed from those figures, seventy-six hundred men were more than we should need for that number of vessels and that number of guns. That was my argument.

Mr. HENDRICKS. The Senator from Iowa will allow me to add simply this: then I was not, when the Senator spoke, nor am I now, able to see the force of the comparison he makes between these two vessels. He certainly did make some use of the fact that upon the one vessel there was only a small number of men required over the other; and if they were both sailing vessels or both steam vessels I do not see the force of the comparison.

Mr. CONKLING. I am very glad to be interrogated by the Senator, and I will endeavor to make him see it precisely. I understood the honorable chairman of the Committee on Naval Affairs to say, in answer to the Senator from Rhode Island, that these large guns were so unwieldy—he did not use that word—that where eight men could manage a gun before twenty-six men, if I caught his figures correctly, were necessary to manage one now. I instituted a comparison between these two vessels, showing that the difference in the number of guns was only one, that between thirty-nine and forty, and yet that this additional number of men, thirty or forty, whatever it may be, was all that was called for to manage all these guns and manage the vessel. That is the purpose for which I introduced it, and that is the purpose for which I insist upon it, to show that the additional force, whatever may occasion it now, I do not care what it may be per gun or per vessel, is enough to exhaust the seventy-six hundred men with the present armament, saying nothing about the additional force.

Mr. GRIMES. I judge that the Senator from New York imagines that one of these vessels has an armament of larger caliber than the other.

Mr. CONKLING. I supposed that to be so from what the chairman of the Committee on Naval Affairs said. I admitted that. I did not assert it, but I admitted it. If it is not so I have strengthened my argument on that subject.

Mr. GRIMES. The chairman of the Naval Committee did not say so. I never admitted it, and do not admit it now. In reply to the Senator from Rhode Island I stated that a gun on a monitor or on a vessel that could be controlled by an engine beneath it did not require as many men as a gun of small caliber; but I said when you increase the armament upon a vessel where the guns have to be handled by men, by manual labor, you have to increase your men exactly in proportion to the caliber of your gun or the weight of your gun; and that it would take at least twenty-six men to make a gun's crew for one of these fifteen-inch guns. That is what I said; but I never said that the Franklin had guns of a larger caliber than the Roanoke. I did say that our vessels were armed before the war with eight, nine, and eleven inch guns, and they are armed with them now, and we have not got any larger armaments upon our frigates to-day or upon any of our cruisers than we had then. These large guns do not go afloat.

Mr. CONKLING. What makes the increase of men necessary on the Franklin?

Mr. GRIMES. Simply because the Franklin is pierced for a great many more guns than she carries, and they were not put on before, and it was necessary that an additional number of men should be employed upon her in order

to perform certain duties upon that portion of her deck that was not covered by her battery. That is the reason that they have some thirty odd men more.

I ought to say a word, Mr. President, not as being drawn out by anything the Senator has said here to-day specially, but on account of what I have seen stated elsewhere, in regard to this Franklin. She is the only large ship that we have now afloat. She is in the European waters and bears the pennant of the only admiral this country ever saw. Festivities have been enjoyed by that gentleman, whose father was a native of one of the islands in the Mediterranean, such as have never been enjoyed by any one else in this country; and greater honors have been bestowed upon him.

Now let me relieve the apprehensions of anybody who may have apprehensions on this subject by saying that not a dollar is spent by Admiral Farragut in any of the festivities in which he participates or that he gives which does not come out of his own pocket, and that ours is the only nation on the face of the globe that has a fleet that does not furnish money to its admirals situated as he is to entertain distinguished people where they cruise. There is no naval officer who goes abroad and maintains the character of the nation in the way that gentlemen suppose it should be maintained who is not obliged to come home bankrupt, or else draw very largely upon his private purse or the purse of his friends.

Mr. President, I say that this is the only large vessel that we have afloat. Our largest squadron is in the Chinese waters. It is composed for the most part of small vessels, and it requires more men, let me tell the Senator from New York, in proportion to the number of guns and the size of the ships, upon a small vessel than it does upon a large one. Anybody can see that, I suppose.

I believe, sir, that I have said all that I desire to say about this letter. It only conveys the same facts that were embodied in the Secretary's letter which I read here to-day to the Senate.

Mr. NYE. Mr. President, I believe I am in my proper place, being last and least upon this Committee on Naval Affairs, in proposing to occupy the attention of the Senate for a few minutes. I propose to vote against the amendment offered by the Senator from New York, on the ground that I believe I am acting upon better information than he has been able to furnish us why I should change my vote. I generally look for information to sources that know more about the subject than I know myself. If I desire to find out how many men a ship wants to man her properly as a man-of-war I go to a naval officer, who is presumed to know all about it. If I want to find out how many ships are necessary for us in time of peace I go to those who are best qualified to judge. If I want to know what the cost of that is I go to the fountain head, the Secretary of the Navy, to ascertain, and I do not often consult subalterns. The distinguished Senator from New York, instead of going to the fountain head, goes to the kitchen door and talks with a lieutenant, who knows perhaps as little about the whole arrangement of the Navy as the honorable Senator has shown he does himself. [Laughter.] Were it not that I am confident his ambition would strike higher I should presume, from the course of his argument and the time he has occupied, that he was convincing the world of his peculiar fitness to be Secretary of the Navy, if there should be a change in that Department. [Laughter.]

The chairman of the Committee on Naval Affairs of the Senate is a man ripe in experience, who has stood at the head of our naval affairs in peace and in war, and who knows every artery, vein, nerve, and ligament that binds the Navy together. He knows what it needs in time of war and in time of peace, and is certainly on record for having as high a regard for economy as the distinguished Senator from New York; and his economy is not spasmodic; it has pervaded him ever since I



have had the honor to be a member of the Naval Committee. He has never been spasmodic, but is constant in that respect.

Mr. President, the standard of our Navy was eighty-five hundred men under the administration of Mr. Toucey, Secretary of the Navy, and I shall not be considered as speaking disrespectfully of him when I say that at that time he had no peculiar desire to increase our naval force. Judging from the record and from where our ships were at the time our trouble commenced, I may say that the fewer men we had and the more they were scattered the better it suited him. But, sir, the point I desire to make here is, that eighty-five hundred men—not boys—not, in the peculiar parlance of the Senator from New York, "powder-monkeys," on which he seems to have dwelt with peculiar relish from the time this argument commenced till now—that eighty-five hundred men was the number fixed by law. That is where we propose to keep it now. They had boys in the Navy then, but they were not counted as men. They have boys in the Navy now, and they should not be counted now as men any more than then.

But, sir, the honorable Senator from New York deems it important every time he discusses this question to talk of the apprentice boys. What and who are they, and how much are they to be relied upon? I say, in advance, that the apprentice system is a system which experience will abolish as soon as Congress gets time to investigate it. They are made up in the main of most unreliable boys, boys that are not controllable at home, and who are sent upon these ships more as a place of confinement than from any expectation that they will improve to such an extent that they will be able to be made officers or more efficient seamen than other boys. Among them, I know, is a different class, and I assert that the system, if carried on, will prove the ruin of that class. Poor, honest people in the country, mistaking the object of this apprentice ship, send their boys to it, and they find themselves either inoculated with the follies and vices of the mass that surround them, or in company that makes them discontented, and it is absolutely a confinement instead of a place of improvement to them. Upon this class of persons I should not rely much in the hour of our country's necessity. They are boys. The system is supposed simply to be a nursery, in its broadest sense a nursery, in which seamen are reared to supply the places of the men in the service who become old and drop out. How far it may be beneficial in this respect I do not know; but I would much rather trust to our merchant marine to make seamen for our Navy in the hour of our necessity than to rely upon that system of training that they receive in these apprentice ships. This is a subject upon which I have made a good many inquiries of those who are experienced in its operations.

The honorable Senator from New York is not only discontented and dissatisfied with the number of men we propose to have, but he is dissatisfied with the operation of the Navy generally. He says that he thinks Admiral Farragut's duty would be better performed in some other place than where he is now.

Sir, I agree with the honorable Senator from Kentucky that our Navy is and should be our glory. Our naval vessels are our missionaries abroad; and the honorable Senator from New York, when he made use of the expression to which I have just referred, forgot the inspiration that was gathered from our flag when it touched the Italian shore. What nobler service can this country perform than to swing the broad pennant of her first admiral in those waters, and an admiral, Mr. President, who has won the affections not only of this nation but of the world—to show the flag in which we glory on the shores that have been so long longing to be free? He was visited there by persons of no ordinary character. He was visited by that daring leader who has made Romans Romans again; and from that, as he himself describes, he gathered fresh inspiration and

will redouble his exertions to light the fires of liberty, of which our flag is emblematic, upon that long down-trodden shore and people.

Sir, it is a noble function of this Government that while our Navy and its flag bespeak our own national glory and power they have that electric, indescribable something which makes whoever sees them pant for our institutions and their glory as much as any other thing could do; and yet the honorable Senator from New York does not think that expense is tolerable. Sir, when the admirals of the French and British navies at the Belize told Farragut that they had been up to New Orleans, and that it was impossible for him to go, that it was one wall of fire, he replied simply that he was ordered up, that was all. There was nothing more that he could say. Now, sir, he has been ordered abroad and he has gone, and I glory in it.

But the Senator from New York talks of economy. Sir, there is a difference between picaune economy and a generous view of things. My friend has spasms of economy. Every time he wants to force a measure of his own over any committee he cries "economy" and talks of taxation. If the admiral of that fleet was half as spasmodical as the Senator is I would not trust him abroad, and the nation would not. [Laughter.] Sir, in my judgment it is in the broadest national sense economy to send such a fleet to foreign ports as their eyes never saw before and can see nowhere else.

The fleet itself is beautiful; it is powerful; it is the perfection of human mechanism; it bespeaks a nation rich in her inventive genius and power, and with a caliber of guns that command respect everywhere. That is not all of the Navy, sir. I want to see her manned with American men. I do not care so much for the beauty of the ship, but the glory of the American Navy is her men; and when we man the yards in a foreign port I want to see none of them go through the lubber-hole, but out over the futtock shrouds, like good sailors, as Americans only can do.

Now, talk of your powder-monkeys and boys of the Navy! We want men, sir, and so would the honorable Senator from New York if it was economical, [laughter;] but as it is not he wants boys' and powder-monkeys to man the yards! Sir, I am down on all such economy. I represent a great deal poorer people than he does, and my people would be ashamed of my economy if I were to take one laurel or one man that was necessary from the American Navy. Such, sir, is the character of our seamen, and such is the desire of the Naval Committee that it shall remain. I assert here that this nation is able to pay the expenses of keeping men in our Navy, not boys. What would the boys have done before Fort Jackson and those other ports and land batteries up the Mississippi? It tried the nerves of the strongest men, and the waters were dyed with their blood; and yet they went on in obedience to Farragut's orders, and they got there. Boys would not have done it, nor powder-monkeys! You want men, strong men, not only men of physical but mental stature, that know the dignity and honor of the country they represent, and bear it with them in their impress wherever they go. That is what we want. Now, away, sir, with your powder-monkeys as an exhibition of American greatness in our Navy! It is nonsense; there is neither economy nor sound statesmanship in it!

Mr. President, I have said all I desired to say on this question. The chairman of our committee is clock and dial. He is Daboll and Pike in figures, and my friend from New York will learn that he had better not strike him in the statistics of the Navy, for he reads them nights and Sunday mornings and knows what they are. [Laughter.]

I hope, sir, that the Senate will vindicate the character of this nation in such way, keeping a close eye upon economy, as is becoming its greatness and its dignity. Eighty-five hundred men is a less naval force than any nation

on the earth, with ships of the same number or the same size as ours, maintains.

Sir, I desire to maintain the glory that our Navy has already won for us. From the day that the little Monitor fought the Merrimac this nation has stood supreme in her naval architecture and power; and well exclaimed that noble lord in the British Parliament who said that the English navy was not worth the timber of which it was constructed as compared with ours.

Sir, that monitor was the fruit of American ingenuity; it was born as an American idea. That thing now a stripling, clothed yet literally with the marks of its swaddling clothes around it, I want to build up and perfect in its glory till the nations of the earth shall answer centuries from now that their navies are powerless against the American Navy. As long as we do that we shall maintain our prowess on the sea. And I anticipate the day when no nation will go to war with another without saying "By the permission of your Government; we are afraid of your Navy; we are afraid of your men, not your boys or powder-monkeys, but your men; we have seen you on the field of strife, in the conflict of the seas." Sir, it is American men we want in the Navy, guided by an intelligence that as yet outranks the commander of any other Navy of the earth; and as we go on in this way we shall have not only one Farragut, but scores of them, not only one Porter, but a thousand, if we stand as we ought to stand and keep the dignity of our Navy where it ought to be—the strongest naval Power of the earth.

Mr. DIXON. Mr. President, I have not risen with the intention of entering in the discussion of the general subject now before the Senate, but for the purpose of alluding to an intimation which fell from the Senator from Nevada—an allusion to a charge which has frequently been made against one of my constituents, a man whom I believe to be as patriotic as any man living in this country, whatever may have been his political views at a former time. The charge to which the Senator alluded is a charge which has often been made against that distinguished gentleman, that while Secretary of the Navy he scattered, as the Senator said, the Navy in all parts of the world a year before the breaking out of the war, with the design and intention of crippling this Government, so far as that arm of defense was concerned, in anticipation of the civil war. That charge has frequently been made; it has been a common charge in the newspapers; and I have no doubt it is believed by many. At the time when the charge was first made I differed entirely from that gentleman in his opinions and in his course; but I never believed there was the slightest foundation for that idea. In fact, any gentleman looking at it for a single moment would see that it was in itself almost impossible and absurd.

But, sir, it was investigated; there was a committee of investigation upon that or a similar subject, of which the former chairman of the Naval Committee, now our minister at Madrid, [Mr. Hale,] was chairman. Mr. Toucey was summoned to appear before that committee; he did appear; he came from Hartford to Washington and testified before that committee; he was fully examined, and the committee were entirely satisfied that there was no foundation whatever for the charge; that the Navy, so far from having been scattered with any design or intention of weakening the Government, was in point of fact more at home at that time than it had been, and that if any of our vessels had been sent away it was not for the purpose of weakening the Government but for entirely a different purpose, a purpose alluded to by the Senator himself when he said that our Navy ought to be missionaries in foreign countries. In that very expression he vindicated the course of Mr. Toucey with regard to the Navy of this country at that time. They were sent abroad to foreign ports, as they had been.

Mr. HOWARD. Was not Mr. Toucey a member of Mr. Buchanan's Cabinet?

Mr. DIXON. He was. I am speaking of him in relation to that point.

Mr. HOWARD. Did he resign his place?

Mr. DIXON. He did not.

Mr. HOWARD. He held it in the fore part of 1861?

Mr. DIXON. He held his position. I am now speaking of the charge against him, renewed here by the Senator from Nevada, that he scattered the Navy with the intention of weakening the Government. I did not wish to go into it; I barely wished to say that at that time, having heard the charge, I believed it unjust. I now believe it unjust, and I think it my duty as representing the State of which he is a distinguished citizen, here to say that there was never any foundation for it; it was a mere political charge, without any foundation whatever, in my judgment.

The question being taken by yeas and nays, resulted—yeas 13, nays 28; as follows:

YEAS—Messrs. Chandler, Cole, Conkling, Edmonds, McCreery, Morgan, Patterson of New Hampshire, Patterson of Tennessee, Sherman, Sprague, Thayer, Trumbull, and Wade—13.

NAYS—Messrs. Anthony, Buckalew, Connors, Crain, Davis, Dixon, Doolittle, Drake, Fessenden, Frelinghuysen, Grimes, Harlan, Henderson, Hendricks, Howard, Johnson, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Ross, Stewart, Sumner, Tipton, Van Winkle, Wiley, Williams, and Wilson—28.

ABSENT—Messrs. Bayard, Cameron, Cattell, Corbett, Ferry, Fowler, Howe, Morton, Norton, Ramsey, Saulsbury, Vickers, and Yates—13.

So the amendment was non-concurred in.

The amendments were ordered to be engrossed, and the bill to be read the third time. The bill was read the third time, and passed.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, in answer to a resolution of the 6th instant, as to the course of practice in respect to the settlement of public accounts and the drawing of requisitions therefor by the Secretary of War; which was laid on the table, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Interior, transmitting a copy of a communication dated the 6th instant, from the Commissioner on Indian Affairs, relative to the necessity of a speedy action of Congress on the estimates of appropriation for the use of the Indian service, heretofore submitted by that Department; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### EXECUTIVE SESSION.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of Senate bill 464, in relation to the qualification of jurors. I do not think it will take any time.

Mr. MORGAN. I move that the Senate proceed to the consideration of executive business. It is very important to have an executive session; I have been waiting a day or two.

Mr. TRUMBULL. I think this bill will pass without controversy.

The PRESIDENT *pro tempore*. The motion of the Senator from New York is not debatable. The question is on that motion.

Mr. TRUMBULL. Will not the Senator withdraw it until I get this bill up?

Mr. SHERMAN. A motion to take it up is just as good.

Mr. TRUMBULL. No.

Mr. SHERMAN. I will ask if a motion to take up a bill does not leave it as the unfinished business?

Several SENATORS. No.

Mr. SHERMAN. I understand the Chair to have so ruled, and I want to know what the practice is.

Mr. TRUMBULL. Let the bill come up first.

Mr. SHERMAN. I want that question settled.

The PRESIDENT *pro tempore*. That question is not up now. The motion is to go into executive session.

The motion was agreed to—ayes twenty-four, noes not counted; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

#### IN SENATE.

WEDNESDAY, April 8, 1868.

Prayer by Rev. J. R. LOOMIS, LL. D., President of Lewisburg University, Pennsylvania.

On the motion of Mr. POMEROY, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. POMEROY presented the memorial of the Memphis, El Paso, and Pacific Railroad Company of Texas, praying for a grant of public lands and a loan of United States bonds to aid in constructing a continuous line of railroad and telegraph from Jefferson, in Texas, to San Diego, in California, by the way of El Paso, with authority to make such railroad connections as to reach San Francisco, Guaymas, Memphis, and Virginia City on the harbor of Norfolk, in Virginia, or any other point on the Atlantic coast, and Washington city, under the title of the Southern Transcontinental railroad; which was referred to the Committee on the Pacific Railroad.

Mr. COLE presented a resolution of the Legislature of the State of California, in favor of the establishment of a mail route from Trinity Center to Lawyer's Bar, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the Legislature of the State of California, in favor of the establishment of a mail route from Weaver-ville to Hydenville, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. MORTON presented a petition of Sarah A. B. Camp, praying for compensation for cotton seized by Captain George E. Alden, assistant quartermaster, and sold on account of the Government; which was referred to the Committee on Claims.

Mr. WILSON presented a memorial of officers of the United States Army, remonstrating against the passage of the bill which deprives retired officers of the Army of their longevity or service rations or any equivalent therefor; which was referred to the Committee on Military Affairs and the Militia.

Mr. SAULSBURY presented the petition of Joseph B. Strafford and one hundred and forty other citizens of Sussex county, Delaware, praying for the establishment of a mail route from Georgetown, in that county, to Angota, via Springfield and Hollysville; which was referred to the Committee on Post Offices and Post Roads.

Mr. SUMNER. I present a petition from the members of the grand and traverse juries now sitting in the circuit court at Boston, in which they represent that they are allowed pay at two dollars per day, and they are unable to board for that sum at any first-class hotel in Boston, and they ask that their case may be taken into consideration by Congress and that they may have an additional allowance. I ask the reference of this petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. HENDERSON presented a petition of citizens of Fredericktown, Missouri, asking that James Duncan, of that town, be compensated for services rendered during the late war; which was referred to the Committee on Claims.

He also presented a petition of Mary Potter, praying for a pension; which was referred to the Committee on Pensions.

#### SCHOOL PROPERTY IN THE DISTRICT.

Mr. HARLAN. There is lying on the desk a bill of the Senate in relation to the exemption of school-houses in this District from taxation, which has passed the House of Representatives with an amendment, and the Committee on the District of Columbia propose to concur in the amendment with some amendments. I would be glad if the Senate would allow it to be taken up. It will occupy, I think, not more than a moment.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent.

Mr. HARLAN. I ask the unanimous consent of the Senate.

There being no objection, the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 389) exempting property in the District of Columbia held and used for school purposes from local taxation.

The Secretary read the amendment, which was to strike out all of the bill after the enacting clause and to insert in lieu thereof the following:

That all real and personal property in the District of Columbia now under the school laws of said District, or hereafter to be held by the trustees of colored schools for the cities of Washington and Georgetown, and by the board of commissioners of primary schools of Washington county, District of Columbia, in trust for the use of colored schools, shall be, so long as held for that purpose, exempt from local taxation, except such as are authorized by the charter of said cities, and by the law establishing the levy court of the county of Washington for special purposes; and it shall not be lawful for the municipal authorities of either of said cities, or the levy court of the county of Washington, to collect any tax that may have accrued against, or been levied or assessed upon, any such property since said trustees of colored schools or board of commissioners of primary schools, as the case may be, acquired the title or right to occupy or use the same for such purposes, except such taxes as may have accrued, or been levied or assessed, for special purposes as aforesaid.

SEC. 2. And be it further enacted, That it shall be the duty of such member of the board of trustees of the schools for colored children in the cities aforesaid as now is or shall be, by said board of trustees, from time to time, hereafter designated or selected to act as treasurer thereof, to give separate bonds every year to the municipal authorities of said cities of Washington and Georgetown respectively, with two sureties each, to be approved by the mayors of said cities respectively, in a penal sum to be fixed annually by the mayors of said cities respectively, for the safe-keeping and faithful disbursement of such moneys as shall, from time to time, be paid to said trustees by the municipal authorities of said cities for educational purposes, under and by virtue of the provisions of the eighteenth and nineteenth sections of the act of Congress, approved June 25, 1864, "to provide for the public instruction of youth in the county of Washington, District of Columbia, and for other purposes," and the declaratory act, approved July 23, 1866, "relating to public schools in the District of Columbia."

SEC. 3. And be it further enacted, That it shall not be lawful for said trustees of the schools for colored children to expend in either of said cities moneys received under the provisions of said acts from the municipal authorities of the other.

The Committee on the District of Columbia recommended a concurrence in the amendment of the House with amendments. The first amendment of the committee was in section one, line seven, to strike out the word "are" and insert the words "may be;" in line eight to strike out the word "and" and insert the word "or;" and in line ten to strike out the words "for special purposes" and to insert "upon property held for the use of other public schools therein;" so that the clause will read:

Shall be, so long as held for that purpose, exempt from local taxation, except such as may be authorized by the charter of said cities, or by the law establishing the levy court of the county of Washington upon property held for the use of other public schools therein.

The amendment to the amendment was agreed to.

The next amendment of the committee was in section one, line eighteen, to strike out the words "for special purposes as aforesaid" and to insert "according to the provisions of this act."

The amendment to the amendment was agreed to.

The next amendment of the committee was in section two, line eight, to strike out the words "mayors of said cities respectively" and to insert "chief justice of the supreme court of the District of Columbia."

The amendment to the amendment was agreed to.

The amendment of the House of Representatives, as amended, was concurred in.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 598) to continue the Bureau for the relief of Freedmen and Refugees, and for other purposes, reported it with an amendment.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 132) authorizing the Secretary of War to furnish supplies to an exploring expedition, reported it with an amendment.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of H. D. McKinney, reported a bill (S. No. 476) for the relief of H. D. McKinney; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the petition of Charles C. O'Neill, reported a bill (S. No. 477) for the relief of Charles C. O'Neill; which was read, and passed to a second reading.

He also, from the same committee, to whom was referred the bill (S. No. 251) for the relief of Charles N. Goulding, late quartermaster of volunteers, reported it with an amendment.

MOSES F. SHINN.

Mr. HENDRICKS. I ask the unanimous consent of the Senate to take up Senate bill No. 467.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to take up the bill at this time.

There being no objection, the bill (S. No. 467) to confirm an entry of land by Moses F. Shinn was read the second time and considered as in Committee of the Whole. It proposes to confirm the entry, by Moses F. Shinn, of the northeast quarter of section sixteen, in township fifteen, north of range thirteen east, in the district of lands subject to sale at Omaha, Nebraska, made on the 22d of August, 1866, by cash certificate No. 1931.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### FILING OF RAILROAD REPORTS.

Mr. HOWARD. I ask the Senate to take up Senate bill No. 450, relative to filing reports of railroad companies. It will lead to no debate, and the bill is very necessary to be passed.

By unanimous consent, the bill (S. No. 450) relative to filing reports of railroad companies, was read the second time, and considered as in Committee of the Whole. It provides that the reports required to be made to the Secretary of the Treasury on or before the 1st of July of each year, by the corporations created by or entitled to subsidies under the provisions of an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862, and the acts supplemental to and amendatory thereof, shall hereafter be made to the Secretary of the Interior, on or before the 1st of October of each year. The reports are to furnish full and specific information upon the several points mentioned in the twentieth section of the act of 1862, and are to be verified as therein prescribed, and on failure to make them as herein required the issue of bonds or patents to the company in default is to be suspended until the requirements of this act shall be complied with by such company, and the reports hitherto made to the Secretary of the Treasury under the act of July 1, 1862, are to be transferred and delivered by him to the Secretary of the Interior, to be filed by him.

The corporations created by the provisions of the acts of Congress, approved July 2, 1864, and July 27, 1866, and known as the Northern Pacific Railroad Company, the Atlantic and Pacific Railroad Company, and the Southern Pacific Railroad Company, are to make reports to the Secretary of the Interior on or before the 1st of October of each year, as are thus required to be made by the Union Pacific railroad and branches, and on failure so to do are to be subject to the like suspension.

The reports required from the commissioners appointed to examine and report in relation to the road of any of the corporations

whereto reference is made in this act, are to be addressed to and filed in the Department of the Interior.

Mr. HOWARD. I move to amend the bill in section three, line five, by inserting after the words "Department of the Interior" the words "and all such reports heretofore made shall be transferred to and filed in said Department of the Interior."

The amendment was agreed to.

Mr. FESSENDEN. I should like to inquire of the honorable chairman of the Committee on the Pacific Railroad, as this bill relates to filing certain reports or something of that sort, whether we are going to get into the same scrape that we did with regard to the other matter that is now under debate, whether we are going to complicate ourselves with other companies, and lay the foundation of a claim of two or three millions on the Government, because we have broken faith, &c.?

Mr. HOWARD. If the honorable Senator would read the bill he would see at once that no such danger is to be incurred.

Mr. FESSENDEN. I did not know. I did not understand it at all.

Mr. HOWARD. Allow me to say a word. This bill simply requires the reports that are to be filed by these railroad companies to be filed in the office of the Secretary of the Interior instead of being filed as they now are, some of them, in the office of the Secretary of the Treasury.

Mr. FESSENDEN. It does not extend the time, or give any new privileges, or anything of that sort?

Mr. HOWARD. Not in the slightest degree.

Mr. FESSENDEN. If no danger of that sort is incurred I have nothing to say about it.

Mr. HOWARD. I am very much obliged to the Senator for his exceeding care on the subject.

Mr. FESSENDEN. I really did not know what the effect of it was.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. CONKLING. I should like to ask the Senator from Michigan one question, if he will allow me. What is the point of the amendment dispensing with filing reports with the Secretary of the Treasury? There is no doubt some object in it. Will the Senator be kind enough to state it?

Mr. HOWARD. The object of the bill is simply this: to require all the reports from the various railroad companies which are receiving subsidies; either in land or bonds, from the United States to be filed in the Department of the Interior, for the sake of uniformity and convenience. That is all. Some of them are now filed with the Secretary of the Treasury, and some with the Secretary of the Interior, thus producing confusion.

Mr. CONKLING. The whole object, then, is to make them of record all in one place?

Mr. HOWARD. All in one place. That is the sole object of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### DISTRICT JAIL.

Mr. HENDRICKS. I move to take up Senate bill No. 307, reported from the Committee on Naval Affairs.

Mr. FESSENDEN. I think I shall object this time. My friend has had one bill considered this morning, and I am very anxious to take up one myself.

Mr. HENDRICKS. Will it take long?

Mr. FESSENDEN. I think not; but it is one that it is very important to pass.

Mr. HENDRICKS. The bill that I have moved to take up, I will say to the Senator, has been taken up once.

Mr. FESSENDEN. I have no objection, only as to time. I think my friend has had his share this morning. I do not like to object.

The PRESIDENT *pro tempore*. One objection carries it over.

Mr. FESSENDEN. I will not object; but I ask him to give way to me.

Mr. HENDRICKS. I yield to the Senator.

Mr. FESSENDEN. There is a bill on the table, which was reported some time ago from the Committee on Public Buildings and Grounds, with reference to the new jail for the District. It is a House bill, and has been reported back to the Senate with some amendments. I think it will take no time, and it is important to pass it, from the fact that it is getting late in the season, and if the work is to be begun this year the bill ought to be passed very soon. I move to take up that bill. It is House bill No. 784, to amend an act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866.

The PRESIDENT *pro tempore*. It can only be taken up at this time by unanimous consent.

Mr. FESSENDEN. So I understand.

Mr. CHANDLER. I object.

The PRESIDENT *pro tempore*. Objection being made, the motion cannot be entertained.

#### ONE TERM FOR PRESIDENT.

Mr. SUMNER asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 133) proposing an amendment to the Constitution of the United States; which was read twice by its title.

Mr. SUMNER. I ask that the amendment proposed be read for information.

The Secretary read it, as follows:

No person elected President or Vice President who has once served as President shall afterward be eligible to either office.

Mr. SUMNER. I move the reference of the joint resolution to the Committee on the Judiciary.

The motion was agreed to.

#### PRINTING OF A REPORT.

Mr. MORGAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 3d of February last, information in relation to existing laws regulating the carriage of passengers in steamships and other vessels, be printed.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled bill (H. R. No. 881) refunding duties paid under protest on the importation from France of a bell donated for the use of Saint Mary's Institute and Notre Dame University, Indiana; and it was thereupon signed by the President *pro tempore* of the Senate.

#### QUALIFICATIONS OF JURORS.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of Senate bill No. 464, in regard to the selection of jurors in United States courts. I called it up last evening.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill at this time. Is there any objection?

Mr. JOHNSON. The honorable member from Indiana [Mr. HENDRICKS] wishes to be here when that bill is taken up; and I do not see him in his seat.

Mr. TRUMBULL. He was here a moment ago.

The PRESIDENT *pro tempore*. Is there any objection to taking up the bill?

Mr. JOHNSON. I have none.

Mr. SHERMAN. What is the bill?

Mr. TRUMBULL. It is a bill reported from the Judiciary Committee in regard to the qualification of jurors. I hope it will be taken up. The Senator from Indiana will probably be in a moment.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 464) in relation to the qualifications of jurors. It provides that no person shall be held incompetent to act as a juror upon any grand jury by reason of having formed or expressed an opinion upon the matters to be sub-



mitted to such grand jury for investigation, founded upon public rumor, statements in public journals, or the common history of the times, provided he be otherwise competent, and upon his oath declare, and it appear to the satisfaction of the court that, notwithstanding such opinion, he can and will act impartially upon the matters to be submitted, and true presentment make according to the evidence; but the court may, in its discretion, set aside any such person. In trials for public offenses against the United States no person is to be held to be incompetent to act as a juror by reason of having formed or expressed an opinion upon the guilt or innocence of the accused, founded upon public rumor, statements in public journals, or the common history of the times, provided he be otherwise competent, and upon his oath declare, and it appear to the satisfaction of the court that, notwithstanding such opinion, he can and will impartially try the accused upon the crime charged in the indictment, and a true verdict give upon the evidence to be produced upon the trial; but the court may, in its discretion, set aside any such juror.

Mr. JOHNSON. I am not sure that that bill meets with the approbation of the Senator from Indiana. My recollection is that it was approved by all the other members of the committee. I say I am not sure he approves of it, because he told me yesterday, if I understood him correctly, that he desired to speak to the bill when it was called up again. I suggest, therefore, to the chairman that he had better let it be laid aside informally until that Senator is in the Chamber.

Mr. TRUMBULL. The Senator will probably be in a moment; and in the mean time I will suggest a slight amendment.

Mr. JOHNSON. I was about to say, not wishing to speak again on the subject, that my opinion is the bill does not change the law at all, but there are various opinions upon the subject throughout the United States, in the courts of the United States and the State courts. Some of them think the formation of an opinion of itself is sufficient to exclude a juror; others that it must be not only the forming but the expressing of an opinion; while others think that neither forming nor expressing an opinion, if it be formed upon the grounds stated in this bill, ought to exclude. I think in the case of the United States vs. Burr, tried before Mr. Chief Justice Marshall and his associate, they ruled that the formation and expression of an opinion would exclude; but that is not, I am sure, the judgment of very many of the courts of the United States at the present time; and I am not certain that it is now the ruling in England. It will be at once seen that in all cases that produce a strong impression upon the public mind the newspapers of the day state their understanding of the facts, and are calculated to form the opinion of the public. It is very difficult, therefore, in a case of that description, to find a person who has not formed some opinion, either upon the law or the facts; and that is especially the case in relation to all political offenses. But if a man is known by the court to be an honest man—and this is left to the judgment of the court—we must trust the court if he is known or believed to be an honest man, and he swears, notwithstanding the then impression, that he feels that he will be able to render a fair verdict, and the court so think from the character of the man and the manner in which he states his belief in his power to decide impartially, I do not see why he should not be permitted to be a juror.

Mr. TRUMBULL. I think the Senator from Maryland is probably correct in his view that the better rule is that which this bill prescribes, and that it is already the law. I am quite sure it is held so to be in many of the States; but there is some contrariety of opinion on the subject, and it was thought better to have an act which would make the practice uniform. I desire to suggest a slight amendment. In section two, line two, I move to strike out the word "public" before the word

"offenses;" so that it will read: "In trial for offenses against the United States." It does not change the meaning at all; but I think the word "public" had better be left out. It is a mere verbal alteration.

The amendment was agreed to.

Mr. TRUMBULL. In line ten of the same section, after the word "indictment," I move to insert the words "or information;" so that it will read: "Upon the crime charged in the indictment or information and a true verdict give."

The PRESIDENT *pro tempore*. That amendment will be made if there be no objection.

Mr. BAYARD. I have never examined this measure before, but it seems to me that this bill is hardly necessary upon any construction that I can conceive, and I think it is dangerous in its principles. I believe the principle to be sound and true that a man who has formed and expressed an opinion for or against an accused person ought not to sit as a juror in the trial of his cause. It matters not as to the reasons upon which that opinion has been formed and expressed. The real reason why a man is held not to be impartial and fit to act as a juror in a particular case after having formed and expressed an opinion in that case—the mere forming of an opinion is not sufficient—is that from the pride of human opinion men would necessarily be biased in their action in the case; and the object is to secure entire impartiality. Are you to waive that in particular cases, cases where it may be there is a difficulty in the selection of a jury? Compare the difference of the two principles. The impartiality of the juror in the case is an essential principle of justice. In a few individual instances it may be that forming and expressing an opinion may exclude a great number of persons and create difficulty in obtaining a jury for the trial of the accused; but in no case can it entirely prevent such a trial, because there is the right of change of venue.

I submit, therefore, without further time to look into the questions connected with it, that this is a dangerous innovation upon the settled principle of law founded on the necessity of the impartial action of justice in reference to persons accused of crime. The reasons given for making an exception of persons who have formed their opinion founded upon public rumor, statements of public journals, or common history cannot avoid the effect of the rule itself, because it matters not what may be the reasons or grounds on which a man has formed and expressed an opinion. The basis which rejects him on the ground of want of impartiality is the pride of human opinion founded on an expressed opinion. I think, therefore, that the bill ought not to pass. With regard to grand juries it would make very little difference. In the case of a petit jury, where it may affect the liberty or life of the accused, I think the innovation upon the general principle of law unsound.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. HENDRICKS. I wish to inquire of the Senator from Illinois what those amendments were? I was not in the Chamber at the time they were made.

Mr. TRUMBULL. Striking out in the second line of the second section the word "public" before the word "offenses," and in the tenth line inserting the words "or information" after the word "indictment." The first is merely a verbal amendment.

Mr. DRAKE. I would inquire what the private conversation is that is going on between the Senator from Illinois and the Senator from Indiana?

Mr. TRUMBULL. It is of very little consequence.

Mr. HENDRICKS. In reply to the Senator from Missouri I will say that the conversation in no way affects the honor of Missouri.

Mr. DRAKE. But perhaps it may refer to the bill before the Senate.

Mr. HENDRICKS. I had the honor to

inquire of the Senator from Illinois, as chairman of the Committee on the Judiciary, what the amendments made in Committee of the Whole were. I made this inquiry because I was a member of the same committee with him, and desired to know in what respect the bill was changed.

Mr. DRAKE. I merely wished to know if it referred to the bill before the Senate. I should like to have the pleasure of hearing the conversation.

Mr. HENDRICKS. Then, that the Senator from Missouri may know exactly what the conversation was, which, unquestionably as a member of this body is his constitutional right, I will say that the Senator from Illinois explains that in the second line of the second section the word "public" is stricken out before the word "offenses," and in the tenth line after the word "indictment" the words "or information" are inserted. That is the extent of the information communicated to me by the Senator from Illinois. [Laughter.]

Mr. DRAKE. I am much obliged to the honorable Senator from Indiana.

Mr. DAVIS. Mr. President, I confess myself unfriendly to this bill. Of all the rights that are secured by human government I believe the right of trial by an impartial jury to be the most important. Indeed, I do not think that any system of government could possibly be devised, even by the honorable and able Senator from Illinois, who has stood at the head of the Committee on the Judiciary for so many years, that would be worth preserving if it dispensed with the right of trial by an impartial jury in criminal cases.

Mr. TRUMBULL. I would not do that.

Mr. DAVIS. I am not certain that the honorable Senator's measure is not the initiation of such an innovation. It is certainly a change upon the right to the trial by jury as defined by Chief Justice Marshall in his opinions in the case of Burr. I agree with the honorable Senator from Delaware, that not only the safety, but the glory of the trial by jury is to have impartial jurymen. I do not believe that it is within the scope of human nature to be an impartial juror in any case in which an opinion has been formed and expressed, whether upon rumor, upon newspaper publications, or history, or having heard the evidence in some other way in advance. The honorable Senator from Delaware has well said that from the infirmity of human nature there is an inherent pride of opinion, of consistency of opinion, of firmness in adhering to an opinion; and where ever that state of mind exists, whether it has been produced by rumor, or public history, or the hearing of evidence on oath, in my judgment and according to my experience, it is an insuperable barrier against the requisition of impartiality in a juror. I have had some little experience in the trial of criminal cases, and, to the best of my recollection, in all the thousands of jurors that I have heard examined on their *voir dire* to ascertain whether they were impartial and competent jurors I never have known of a solitary instance in which a man has formed or expressed his opinion of the guilt or innocence of the accused, from whatever sources or character of information he formed that opinion, upon that he was an impartial juror in the case.

Sir, if the question was put to me to-day, will you yield the right of trial by jury or the whole Government besides, I would sooner yield the whole Government besides than that single and most inestimable right of the citizen. The commendations of the importance and the value of that right and its indispensable necessity to a free government and a free people that have been given to it by Montesquieu and Blackstone and other enlightened writers throughout the world I fully accord with.

Now, Mr. President, here certainly is an innovation upon the right of trial by jury. If the bill makes no alteration in the law of juries, there is no necessity for it. We cannot presume that as able and as learned a lawyer

as is the Senator from Illinois would propose a law changing the right of trial by jury in some feature that did not effect a material change. I concede that this proposed measure does, if it becomes a law, effect a material change. The one indispensable test which ought never to be yielded by any law or by any system of law in the qualification of a juror is that he should be strictly impartial; that he should come to the trial of the case with an unformed opinion. His mind should be as pure as a blank white piece of paper, and should have nothing written upon it, either of conviction or opinion against the accused, from whatever sources of information upon which that opinion might be formed. Gentlemen may laugh and they may snigger; but their scoffs and their jibes will not drive me from my opposition to this innovation. I do not care what their age or their standing for legal ability or their position in society may be. That is not the way to meet an objection to an important measure like this.

Mr. TRUMBULL. I hope the Senator does not understand me as doing anything of that sort?

Mr. DAVIS. No; nor do I care.

Mr. TRUMBULL. I supposed not; but then the Senator was remarking—

Mr. DAVIS. I was remarking upon the scene that was going on in front of me.

Mr. JOHNSON. The honorable member certainly did not mean to say that I was scoffing or sneering at his argument.

Mr. DAVIS. I do not know whether you were or not, and I am indifferent as to that. Sir, I make the objection which I have made in all seriousness.

But there is another and the principal objection which I make to this measure of legislation. When you once commence innovations upon the right of trial by jury no man can set limits to the extent to which those innovations may go. The only way to preserve the right of trial by jury sacred and inviolate is to permit no innovations upon it. I did not intend to say as much as I have said. I simply intended to utter my protest against the bill and to record my vote against it, and, having done that, I am satisfied.

Mr. FRELINGHUYSEN. I do not suppose that any Senator here would be disposed to injure or impair the great right of trial by jury or to change it. The object of this bill is not to change the right of trial by jury in any manner; it is to preserve it unchanged. All lawyers know that the jury originally must always come from the locality, from the vicinage, perhaps because they were thought to know something of the subject. In our day, when everybody reads newspapers, if we want to have an intelligent jury it will not answer to exclude those that read an account of the affair or transaction to be investigated; and no intelligent man can read a newspaper account without forming at least a hypothetical opinion; and if he has formed it he may express it, and yet in no manner be disqualified from being a juror. The object of this bill is to correct the injurious rulings of some of our courts. There is no State in the Union where the old common law is preserved with as much purity and as little affected by statute as the State of New Jersey, and in that State the amount and purport of this statute have uniformly been ruled by the courts as a part of the common law. I will simply read the heading of an important case in that State, which states the true principle which this statute is intended to preserve:

"It is no ground of principal challenge to a juror that he has expressed an opinion on the matter to be tried, if it was not done through ill-will or malice."

If done through ill-will or malice he would be excluded; but it is no ground of principal challenge.

"A juror cannot be asked whether he has expressed an opinion on the issue. A hypothetical opinion formed by a juror from facts which he has heard is no cause of challenge."

Therefore, instead of this bill being intended to change the common law or to impair in any way the right of trial by jury, it is to preserve

the common law and to secure intelligent and impartial jurors.

Mr. BAYARD. The decision cited by the honorable Senator from New Jersey carries the common-law principle further than I supposed it to exist; and it seems to me that the very ground that is stated there of exception, that a man shall not be rejected for having formed an opinion unless he did it from malice or ill-will, is one reason why this bill ought not to pass. The individual who from ill-will or malice has formed an opinion is most likely to take the oath required by the law for the purpose of enabling him to sit in the cause. That is human nature. Nor do I concede that the proper mode of reasoning for correcting the supposed diversities of opinion that exist among courts is by legislation of this kind. I suppose a case might in some way be brought before the ultimate tribunal that would settle that principle soundly for all cases; for it ought to be the same in all cases, surely. Nor do I concede that the objection I have stated is answered by the honorable Senator from New Jersey; the decision does not notice it; and that is, that the principle of law is that the juror should be *omni exceptione major*. The object is impartiality, freedom from that bias which will not suffer the mind to give a fair verdict. Now, sir, when there is a formed and expressed opinion, it matters not on what grounds that opinion has been formed, beyond all question the pride of human opinion will prevent the juror from being impartial in the case. It gives him a bias. Gentlemen have but to bring it home to themselves. Suppose they stood in the attitude of an individual accused of crime and on trial. Would they feel that a fair verdict could be rendered by a man who on rumor or newspaper reading, if you please, had formed and expressed an opinion as to their guilt or innocence? They might desire that a man who had expressed an opinion of their innocence should be on the trial; but that would be objectionable on the other side. But if the opinion of guilt had been expressed, certainly no man would feel that he had a fair trial if the individual who had expressed that opinion was to sit as a juror on his trial.

Sir, I am told that men will form hypothetical opinions. That is not the language of the law. Hypothetical opinions are very different from those opinions the law contemplates as ground of exclusion. Nor do I think that any practical inconvenience can arise from the fact that men will read newspapers and form some kind of impression, and even state that impression which arises in their minds from reading newspapers, on the supposition that the facts there stated are true. That is not in law what is called forming and expressing an opinion as to the guilt or innocence of the party; and the case comes more strongly and is better understood after the word "hypothetically" which the honorable Senator from New Jersey introduced in the course of his remarks.

For my own part, I trust this bill will not pass. I think it a dangerous innovation. I think it an innovation upon the true principle of the common law; that a formed and expressed opinion, which is a fixed opinion, ought to incapacitate a party from sitting as a juror in a trial; and any inconvenience in obtaining a jury in individual cases does not compare at all with the propriety of securing to an accused person a fair and impartial trial.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. BAYARD and Mr. DAVIS called for the yeas and nays on the passage of the bill, and they were ordered; and being taken, resulted—yeas 37, nays 8, as follows:

YEAS—Messrs. Buckalew, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Edmunds, Fessenden, Fowler, Frelinghuysen, Grimes, Harlan, Henderson, Howard, Howe, Johnson, Morgan, Morrill of Vermont, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Sprague, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Willey, Williams, Wilson, and Yates—37.

NAYS—Messrs. Bayard, Davis, Dixon, Hendricks, McCreery, Morton, Saulsbury, and Wade—8.  
ABSENT—Messrs. Anthony, Cameron, Corbett, Doolittle, Ferry, Morrill of Maine, Ross, Sherman, and Vickers—9.

So the bill was passed.

GEORGE E. GLENN.

The PRESIDENT *pro tempore*. The morning hour having expired, by the order of the Senate private bills are now in order.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 168.

Mr. POMEROY. With the leave of the Senator from Wisconsin, I should like to take up a resolution that lies on the table calling for some information. It is a resolution offered by the Senator from Indiana, [Mr. HENDRICKS,] which was passed and subsequently reconsidered and returned here. I merely want to amend the resolution, and then it may either go to a committee or be passed. It is a resolution calling on the Secretary of the Treasury for some information in regard to the expenses of the War Department.

Mr. HOWE. I am told that that resolution will lead to debate.

Mr. POMEROY. I merely wish to move an amendment to it, and then, if it leads to debate, I will not ask its further consideration.

Mr. HOWE. I should be very glad to accommodate the Senator from Kansas, and I would if any one felt any more interest in these claims than I do; but that is not the case.

Mr. POMEROY. It will require no time except that which may be consumed in the reading of the resolution and the reading of the amendment which I propose to submit.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the resolution. Is there any objection?

Mr. HOWE. Yes, sir; I think I must object under the circumstances. I am very sorry to do it.

Mr. POMEROY. The Senator may not be aware that unless this resolution is considered to-day it will have to lie over for some time, until after the conclusion of the impeachment trial.

Mr. HOWE. Senators all around me say that if I give way to one they want me to show them the same favor.

The PRESIDENT *pro tempore*. Objection being made, the resolution cannot be considered. The question is on the motion of the Senator from Wisconsin, to take up Senate bill No. 168.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 168) for the relief of George E. Glenn, additional paymaster United States Army. It proposes to direct the proper accounting officers of the Government, in the settlement of the accounts of George E. Glenn, additional paymaster United States Army, to allow a credit of \$25,456 80, being the amount of Government money stolen from him by men of company B, second battalion, fourteenth United States infantry, while at Fort Boise, Idaho Territory, in the discharge of his official duties.

Mr. HOWE. The Committee on Claims reported that bill adversely, and I move that it be indefinitely postponed.

The motion was agreed to.

JAMES HOOPER.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 436.

The motion was agreed to; and the bill (S. No. 436) for the relief of James Hooper was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to James Hooper the sum of \$16,000, being the value of his vessel, the bark General Berry, which was captured and destroyed at sea, on the 9th of July, 1864, while in the military service of the United States, by the rebel steamer Florida.

Mr. GRIMES. Is there a report accompanying that bill?

The CHIEF CLERK. There is.

Mr. GRIMES. Let us hear it read.

The Chief Clerk read the following report, submitted by Mr. FRELINGHUYSEN, from the Committee on Claims, on the 13th of March last:

The Committee on Claims, to whom were referred the petition and proofs of James Hooper, for compensation for the loss of the bark General Berry, burnt by the rebel steamer Florida, July 9, 1864, between New York and Fortress Monroe, makes the following report:

Captain S. L. Brown, assistant quartermaster United States Army, on duty in New York city, advertised for proposals for freighting forage, and on the 28th of June, 1864, accepted the offer of claimant; and on the 6th of July, 1864, dispatched the bark General Berry to C. D. Webster, acting assistant quartermaster at Fortress Monroe.

The acceptance of the offer of claimant was qualified thus: "No guarantee to unload at Fort Monroe; may be sent up the James river, but not to any other port or place to discharge;" and the bill of lading or contract was indorsed thus: "The war risk to be assumed by the Government if sent up the river to be discharged."

The act of March 3, 1849, entitled "An act to provide for the payment of horses and other property lost or destroyed in the military service of the United States," provides for the payment of damages sustained by the destruction by an enemy of horses, mules, boats, &c., while such property was in the military service of the United States either by impressment or contract; provided such property was destroyed without any fault of the owner while it was actually employed by the United States. By the fifth section of the act of March 3, 1863, the provisions of the foregoing act are extended to steamboats and other vessels.

The bark in question was valued at American Lloyd's (S. L. Taylor, secretary) on the 29th of June, 1864, at \$16,000.

The Third Auditor of the Treasury, while reporting that this claim is meritorious, and that it justly appeals to Congress for relief, refused to allow the claim.

1. Because he considered the claimant to be a common carrier.

If a railroad company or other common carrier should undertake, in the course of business, to carry property for the United States, and the train or vessel should be destroyed by an enemy, the train or vessel could not properly be considered as in the military service of the United States, and the common carrier would not be entitled to compensation for the damage sustained.

But the claimant was not acting as a common carrier. The Government made a contract, at a sum per ton named, to occupy the whole vessel, and none of the incidents attaching to a common carrier, or one who undertakes for hire to transport the goods of such as choose to employ him from place to place, are found in this case.

The bark was in the military service of the United States by contract, and while thus employed was, without the fault of the claimant, destroyed by the enemy. Since the loss of the vessel the bill of lading has been indorsed by the assistant quartermaster thus:

"At the time this bill of lading was signed there was supposed to be no war risk between here and Fort Monroe; consequently no application had been made to the Quartermaster General to assume the war risk on vessels carrying freight for the Government by the undersigned. The note that war risk was to be assumed if sent up the river to be discharged was not designed to bar the owner for claiming reimbursement for her loss."

The Quartermaster General also writes to Mr. Hooper thus:

"I hereby certify that on the 27th day of June, 1864, the whole of the bark General Berry was offered to the quartermaster's department for employment, and that on the 28th of June, 1864, the whole capacity of said vessel was accepted by me to load forage for Fort Monroe, and that I furnished said vessel a full cargo of forage under and on deck for account of the United States Government, and had the same covered with plank, at the expense of the United States, to protect her cargo.

"After having accepted the whole of said vessel she was then in the military service of the United States by contract and subject to my order and control. I further certify that neither the master, owner, nor agent of the General Berry assumed, either directly or indirectly, in writing or verbally, the war risk on any portion of her voyage to Fort Monroe; but, on the contrary, I considered the vessel at the risk of the Government, if destroyed by the enemy while in the service of the United States."

The claimant does not hold the position of a common carrier. His vessel was in the military service of the United States by contract, and, under the authority of the statute aforesaid, being destroyed by an enemy, the claimant is entitled to be compensated for the loss.

The Third Auditor refused to allow the claim also on the ground that the bill of lading was indorsed, "The war risk to be assumed by the Government if sent up the river to be discharged."

It is insisted by the Auditor that, on the principles of law that "the including of one is the excluding of the other," this provision raises the implication that the war risk is not assumed by the Government excepting in the event of the bark going up the river.

The evidence shows that the claimant objected to signing this indorsement, and was told by the clerk of the quartermaster who attended to the business that it was not considered that there was any war risk between New York and Fort Monroe, no vessel having, at that time, been captured or destroyed by

the enemy between those points. And the claimant was furthermore told that, should the vessel be destroyed, the Government would make it all right; and thereupon the claimant, by his agent, signed the indorsement.

And it further appears that after the destruction of this bark between New York and Fort Monroe by the Florida the Government uniformly assumed the war risk between those points.

Under these circumstances, as the provisions of the statute referred to would have entitled the claimant to compensation for the loss of his vessel but for the indorsement on the bill of lading, he should not, for that reason, be debarred from compensation. Such was not the intention of the indorsement, as the facts show. Besides, it is very clear the understanding was, that in case the vessel was captured the Government would make it "all right;" and the claimant, for that reason, did not have the vessel insured.

The committee have, therefore, come to the conclusion that Congress ought to reimburse the claimant for the value of the vessel, and for that purpose recommend the passage of a bill for the sum of \$16,000, the value of the vessel at the time of the departure from the port of New York.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

PARKER QUINCE.

Mr. HOWE. I now move that the Senate proceed to the consideration of Senate bill No. 452.

The motion was agreed to; and the bill (S. No. 452) for the relief of Parker Quince was read the second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to allow the sum of \$1,608 97 to Parker Quince in the settlement of his accounts with the Government, for his salary as collector of customs for the port of Wilmington, North Carolina, and acting collector of internal revenue from September 13, 1865, to May 14, 1866, in addition to the sums already paid him for salary for that period.

Mr. FESSENDEN. I should like to know something about that case. If there is a report accompanying the bill let it be read.

The Chief Clerk read the following report, submitted by Mr. Howe, from the Committee on Claims, on the 20th of March:

The Committee on Claims, to whom were referred the papers and petition of Parker Quince, have examined the same and submit the following report:

The petitioner held the office of collector of customs for the port of Wilmington, in North Carolina, from September 13, 1865, to May 14, 1866. During the same period, by direction of the Secretary of the Treasury, he acted as collector of internal revenue, and collected in the latter capacity the sum of \$20,335 74.

His fees and commissions for this service amounted to \$3,148 35. But of this sum he was paid only the sum of \$2,244 09, because the law prohibits the payment of two salaries to the same person at the same time.

The petitioner now asks the remainder of the compensation to which he would have been entitled if he had held the office of collector of internal revenue, and could have legally drawn the salaries of both offices.

The committee cannot recommend such an appropriation without disregarding existing laws. But they deem it just to allow him the compensation of the highest office, deducting the salary already received.

He has received for expenses—  
As collector of internal revenue.....\$2,244 09  
As collector of customs.....1,295 29

Total.....\$3,539 38

Deducting this total from the amount he would have earned as collector of internal revenue and the balance is \$1,608 97, for which sum the committee report the following bill and recommend its passage.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WILLIAM H. KIMBALL.

Mr. HOWE. I now move to take up Senate bill No. 50.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 50) for the relief of William H. Kimball, which proposes to direct the Secretary of War to cause to be paid to William H. Kimball, late regimental quartermaster of the eleventh regiment of Minnesota volunteers, the full pay and emoluments of first lieutenant and regimental quartermaster of infantry from the 10th of October, 1862, to the 8th of May, 1863.

Mr. HOWE. The Committee on Claims

reported that bill adversely, and I move that it be indefinitely postponed.

The motion was agreed to.

GOLDSMITH BROTHERS.

Mr. HOWE. I now move that the Senate proceed to the consideration of Senate bill No. 151.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 151) for the relief of Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers. It authorizes the Secretary of the Treasury to issue and pay to Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers, two seven-thirty United States Treasury notes for the payment of \$5,000 each, in lieu of two United States seven-thirty Treasury notes of the value of \$5,000 each, dated June 15, 1865, and respectively signed by the Treasurer, and numbered three hundred and sixty-four and three hundred and sixty-five, issued under an act of Congress passed March 3, 1865, entitled "An act to provide ways and means for the support of the Government," which notes were lost or destroyed by the wreck of the steamer Brother Jonathan, off the port of Crescent City, on the 31st of July, 1865; but they are to execute a bond, with sufficient sureties, in the penal sum of \$20,000, to be approved by the Solicitor of the Treasury, indemnifying the United States against any loss on account of the issuing of the bills.

The Committee on Claims reported an amendment to the bill, to strike out the word "bills" at the end of the bill and to insert the word "bonds."

The amendment was agreed to.

Mr. COLE. I move to amend the bill in the eighteenth line by striking out the word "execute," where it speaks of the bond, and inserting in place of it the word "file," for the reason that I understand the bond is already here, and it will result in unnecessary delay to require of them the execution of another bond.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

WILLIAM HENRY OTIS.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 279, for the relief of William Henry Otis.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The Committee on Claims reported the bill with an amendment, to strike out all of the original bill after the enacting clause, in the following words:

That the Treasurer of the United States be, and is hereby, authorized and directed to pay to W. Henry Otis, of Indianapolis, Indiana, the sum of \$20,820 out of any money heretofore or hereafter appropriated and applicable to the payment of claims against the quartermaster's bureau, in full discharge of all claim of the said W. Henry Otis, for damages to face of property occupied from 1861 to 1866 as Camp Burnside, near Indianapolis, Indiana, and for destruction of apple and pear trees and wheat and oat fields, and for total destruction of seven thousand fence rails, five hundred and twenty apple trees, and forty pear trees, during the continuance of the occupancy by the United States authorities of the premises known as the said Camp Burnside.

And to insert in lieu thereof the following:

That the Secretary of the Treasury be, and he is hereby, authorized and required to pay, or cause to be paid, to William Henry Otis, of Indianapolis, in the State of Indiana, the sum of \$3,000, in full consideration for growing crop, fencing, and fruit trees destroyed upon and damages done by the United States troops in and to forty-five and a half acres of land belonging to the said William Henry Otis, known as Camp Burnside, lying and being adjacent to the said city of Indianapolis, while said land was occupied by said troops from the year 1861 to the year 1865.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.



Mr. TRUMBULL. I should like to hear the report in that case. I am satisfied, if the case is as the bill seems to present it, there will be a great many such claims. I know of a great many in my State.

The Chief Clerk read the following report, submitted by Mr. WILLEY, from the Committee on Claims, on the 21st of March last:

The Committee on Claims, to whom was referred Senate bill 279, for the relief of William Henry Otis, having considered the same, beg leave to report as follows:

At the commencement of the late war Mr. Otis was the owner (and still is) of a lot of land adjoining the corporate limits of the city of Indianapolis, containing forty-five and a half acres. Of this lot of land the United States military authorities took possession in June, 1861, as a military camp and drill-ground. It was called "Camp Burnside." This possession continued until the year 1866, the latter part of the time for hospital purposes. For the use of said lot of land during the time aforesaid Mr. Otis acknowledges that he received as rent from the United States Government the sum of \$4,951 81. But the quartermaster's department refused to pay for damages done by the military forces to said premises, because "the Quartermaster General had no appropriations for the payment of such claims." Thereupon Mr. Otis comes to Congress and asks relief. He presents his claims as follows:

To seven thousand fence rails in fence, at the rate of six dollars per hundred.....	\$420
Leveling ground, filling up ditches, sink-holes, and removing embankments, as per lowest bid (see proposals).....	900
Damage to ground for agricultural purposes from June, 1861, to 1866, by grading, graveling embankments, ditches, and sink-holes, on grounds known as "Camp Burnside," near Indianapolis, including the apple crops and pear crops—the production of five hundred and twenty apple trees and forty pear trees—during said years; also, thirty acres of wheat in the field, and five acres of oats in field when occupancy commenced, totally destroyed.....	6,000
Five hundred and twenty apple trees totally destroyed, at the rate of twenty-five dollars per tree.....	12,500
Forty pear trees, totally destroyed, at the rate of twenty-five dollars per tree.....	1,000
	<u>\$20,820</u>

A great amount of evidence was presented to the committee in support of this claim. The following is a synopsis of it:

#### I.—As to fence rails.

The claimant himself swears: "There were about seven thousand fence rails destroyed by the army. Said rails are worth six dollars per hundred in the fence."  
Livingston D. Johnson swears: "Fence around the entire premises was destroyed. Have examined the premises and have estimated the fence at about three hundred and twenty rails. It would take about six thousand four hundred rails; rails cannot be had for less than six dollars per hundred."

James G. Featherston testifies: "I have examined the premises and have estimated the fence. I think there were near seven thousand rails destroyed by the army. I estimate rails at the time these rails were destroyed at four dollars per hundred."

John B. Sullivan testifies: "I know the fence was destroyed. I cannot state the number of rods of fence."

William D. Johnson testifies: "Fence totally destroyed; calculated the fence; about six thousand four hundred rails, worth six dollars per hundred."

#### Recapitulation.

Claimant.....	7,000
Livingston D. Johnson.....	6,400
James G. Featherston.....	7,000
Averaged.....	6,800

which, at six dollars per hundred, makes \$408.

#### II.—In reference to leveling the ground.

The evidence shows that the surface of the ground was much broken by ditches, made by embankments thrown up, sink-holes, collars, &c., dug by the troops. To render the land tillable again it will be necessary to have these embankments leveled, the ditches and sink-holes, &c., filled up. To have this done Mr. Otis published proposals. In response he received the following proposals: By B. F. Johnson, \$900; by Johnson Carran, \$960; by O'Connor & Smith, \$990; by John E. Saunders, \$1,000.

#### III.—General damages done unfitting the land for agricultural purposes.

Livingston D. Johnson: "The land was greatly damaged and rendered unfit for agricultural purposes. It would be impossible to put the land in as good condition as it was before occupancy. I consider the land for agricultural purposes almost a total loss. I would consider the damage to the land for agricultural purposes at about six thousand dollars."

James G. Featherston testifies: "The land was greatly damaged for agricultural purposes by tramping upon it, digging pits, sinks, sidewalks, and graveling and grading over it. For agricultural purposes the soil is almost totally lost."

I estimate the damage to the soil for agricultural purposes at about five thousand dollars."

John B. Sullivan testifies:

"The land was greatly damaged and rendered unfit for agricultural purposes. It would require a great outlay of time and money to render the land of any value for agricultural purposes."

William D. Johnson testifies:

"The land was greatly damaged, and, in my judgment, rendered unfit for agricultural purposes—damaged at least \$5,000."

A. Harrison testifies:

"There were streets laid out, gravel put on them, ditches were dug, and the ground was greatly changed from its former condition. The various buildings, digging, and the usual deposit of offal, &c., occasioned great damage to the property."

#### IV.—Destruction of fruit trees.

Claimant swears:

"Not less than five hundred and sixty pear and apple trees; all good fruit-bearing trees; selection made with great care; extra selection. The orchard, with all the trees, was a total loss. Value said trees at not less than twenty-five dollars per tree."

Livingston D. Johnson testifies:

"Large orchard, numbering at least four hundred healthy, bearing trees; selected with great care; fine selection of trees; all, or nearly all, killed; few that still remain in a dying condition; annual yield of fruit in this orchard was more than ordinary; I consider the orchard a total loss; I have considerable experience in working, cultivating, and growing apple trees, and from my own personal knowledge of the orchard of W. Henry Otis I would value the orchard at not less than twenty-five dollars per tree."

James G. Featherston testifies:

"Large orchard, numbering near five hundred healthy, bearing trees; fine selection of trees, and was a choice variety of fruit; nearly all killed; the few that manifest any signs of life will eventually die; I consider the orchard an entire loss; would value the orchard at not less than twenty-five dollars per tree."

John B. Sullivan testifies:

"Fine orchard; extra fine selection; cannot state the number of trees; I know the trees are all dead; I consider the entire orchard as a total loss; there may be some signs of life in some of the trees, but they will all die; consider the trees worth twenty dollars each."

William D. Johnson testifies:

"Large orchard on the premises; the number of trees I never counted; would estimate the number from three to four hundred fine, healthy apple and pear trees; selection made with great care; extra selection of trees; orchard, with all the trees, I consider a total loss; annual yield usually larger than common; value the orchard at not less than twenty dollars per tree."

A. Harrison certifies:

"Valuable and full bearing orchard was thrown open and, of course, destroyed."

W. H. Loomis certifies:

"The valuable orchard, consisting of five hundred trees, is now entirely destroyed. My estimate of their value alone, were the premises my own, would not be less than fifty dollars per tree. I am satisfied their annual yield, over expense of cultivation, would exceed twenty-five per cent. on that investment."

#### Recapitulation.

Say fruit trees, five hundred—	
Loomis's estimate per tree.....	\$50
W. D. Johnson's estimate per tree.....	20
Sullivan's estimate per tree.....	20
Featherston's estimate per tree.....	25
Livingston D. Johnson's estimate per tree.....	25
Making the average estimate per tree \$28; and, of course, the total value of trees destroyed is, therefore, \$14,000.	

#### V.—Evidence of a general character.

Assessed value of the land for years 1861-62-63 was.....	\$8,325
Assessed value for 1864-65-66.....	12,510
The taxes paid on said land by said claimant for the years 1861-62-63-64-65-66 amounted to the sum of \$944 24.	

#### Estimated value of said land.

	Per acre.
By John W. Murphey.....	\$1,500
By E. B. Martindale.....	1,500
By S. H. Fletcher.....	1,000
By A. L. Roache.....	1,000
By W. H. Morrison.....	1,000
By T. A. Morris.....	1,000
By — Ekin.....	1,000
By A. & J. A. Harrison.....	1,000
By L. D. Johnson.....	1,500
By S. R. Martin.....	1,000
By W. D. Johnson (oath).....	1,200

The average of these estimates makes \$1,154 54 per acre; or, \$52,531 57 for the entire lot.

One witness, W. H. Loomis, (fruit grower,) certifies in general terms: "When I first knew this tract of ground (namely, 1860) it was a fine garden and orchard enclosure, and if properly cultivated it would readily yield interest on \$1,000 per acre."

The committee think that the claimant is entitled to compensation for his fencing which was destroyed. They also are of the opinion that a reasonable allowance should be made to him to pay for the leveling and grading of his lot of land, and that a fair price should be paid to him for his fruit trees that were destroyed; but they think that his alleged claim for damages done to his land, unfitting it for agricultural purposes, is merely speculative, and should not be entertained. They also regard the claimant's estimate of the value of his fruit trees destroyed, as well as the estimated value thereof by the witnesses

hereinbefore cited, as very extravagant. If the committee were to be guided in their conclusions by these *ex parte* estimates, the result would be about as follows:

For fencing destroyed.....	\$408
For leveling and grading.....	900
For fruit trees destroyed.....	14,000
	<u>\$15,308</u>

This amount for fencing destroyed is, probably, about correct. The committee cannot see, from the evidence in the cases to the character of the ditches, sinks, &c., made on the premises, how it would cost \$900 to level and grade the lot so as to fill up these ditches, sinks, &c.; and as to the item of \$14,000 for apple trees destroyed, although sustained by the *ex parte* testimony in the case, they regard it as utterly extravagant. They have been informed that one acre of ground is sufficient to contain thirty-six apple trees, which, at the average estimate of the witnesses, to wit, twenty-eight dollars per tree, would amount to \$1,008; and yet the land, fruit trees and all, was not, perhaps, worth more than \$1,000 per acre.

On consideration of the whole case as presented to the committee, they are of the opinion that the claimant is justly entitled to, at least, the sum of \$5,000, and they accordingly report a substitute for the bill to them referred as aforesaid, and recommend its passage.

Mr. CONKLING. I ask what the sum total of the claim is?

Mr. HOWE. Twenty thousand eight hundred and twenty dollars.

Mr. CONKLING. I thought it was \$52,000.

Mr. ANTHONY. What do you allow?

Mr. HOWE. Three thousand dollars.

Mr. WILLEY. The amount of the claim is \$20,820. The first page of the report shows it.

The Chief Clerk read from the report, as follows:

"The average of these estimates makes \$1,154 54 per acre; or \$52,531 57 for the entire lot."

Mr. HOWE. That is the value of the property.

Mr. WILSON. This appears to be a claim for damages to a lot of land on which taxes were paid at a valuation of \$8,000; and probably that is a fair approximate of what the whole land was worth. Probably it will sell for more now than it would when it was occupied, as it is close to a growing city. Sir, I regard this bill as one of that class of bills that are to be trumped up against this Government, and if we commenced paying them the sooner we make up our minds that we are to bankrupt the Government and the country the better. Here were forty-five acres of land occupied by this Government for four or five years, for which it paid, if I understand the report aright, \$4,900, about half the amount the land was valued at for the purpose of taxation; and here is a claim made up against the Government of probably a great deal more than the land was ever worth at the time it was occupied. We shall have any quantity of these claims made on the Government, and I think we had better stop right here.

I have no doubt that the Government paid for the use of this land all it was worth at the time. I do not know whether there is any evidence here from the quartermaster's department that the department would have paid more if it had authority to do it. It may be that the officers of that department would have made some allowance if they had been authorized to do so; but it appears to me that we paid a large price for the use of the land—vastly more than the land was worth for agricultural purposes—and I have no doubt that in making this payment allowance was made for the damages done to the fences and trees, and the land itself. Here is a claim of more than twenty thousand dollars for the use of forty-five acres of land, after the claimant has already received \$4,900 of the Government, and it is proposed to pay him \$3,000.

Mr. CONKLING. How much was received for the land?

Mr. WILSON. Four thousand nine hundred dollars for the use of it. If we commence these payments, we shall have to pay these extravagant and unpatriotic claims wherever our armies camped in this war, and I suppose we shall yet have to pay for the battle-fields on which we fought. I think it is time to stop and let the people of this country understand that

this nation is not to be plundered for years to come for the benefit of men who made money out of the war. Let the proper Department of this Government pay for the use of these lands what they deem to be fair. I am willing that they shall do that. But I want to keep these claims out of Congress. Let us try to save these expenses. If we commence to pay this class of damages there will never be an end of them, and the Treasury of the country will be plundered out of millions and millions of dollars. Sir, this claim cannot be an honest claim, or if it is, the Committee on Claims is an unjust committee. It bears on its very face an attempt to get a sum of money out of the Treasury of this country wrongfully. The whole thing is unjust. The very report of the committee proposing to pay \$3,000, where \$20,800 were claimed, shows that the committee believed the claim to be a dishonest claim. In my opinion, the best way to treat a claim thus made, in which it is proposed to pay one dollar out of seven claimed, is to pay nothing at all. I hope, sir, that this Senate and this Congress will make no appropriations of this character.

Mr. BUCKALEW obtained the floor.

Mr. TRUMBULL. Mr. President—

Mr. BUCKALEW. I will give way, if the Senator desires to speak.

Mr. TRUMBULL. I will not claim the floor from the Senator from Pennsylvania; I did not observe that he had taken it.

Mr. BUCKALEW. I give way with great pleasure; I do not care to occupy it.

Mr. TRUMBULL. Mr. President, this case affords a very apt illustration of the class of claims which we are to have against this Government. Here was a tract of land occupied as a camp by the Union soldiers in the State of Indiana. The quartermaster's department have paid what they considered a fair compensation for the use of the land, I presume; at any rate they have paid \$4,500 for the use of some forty odd acres of land.

Mr. WILLIAMS. Four thousand nine hundred and fifty-one dollars and eighty-one cents, nearly five thousand dollars.

Mr. TRUMBULL. Nearly five thousand dollars for the use of this land; and now the owner of the land comes here and proves the value of the rails that were destroyed and the value of the apple trees. He proves the rails to have been worth six dollars a hundred and the apple trees to have been worth twenty-five dollars apiece. He proves that the troops dug ditches upon this land and that it has been injured very extensively for agricultural purposes, and that it will cost a large amount of money to restore it to its original condition, and he makes up claims amounting to between twenty and thirty thousand dollars more than he has already been paid. If we are to commence that sort of payments I ask the Senate to pause for a moment to consider what it will lead to. If we are to pay the damages that shall be proved by neighbors, on *ex parte* testimony, I do not believe we shall have money enough in the Treasury to pay our expenses if we keep up the taxes at the highest limit that we have had them at any time during the war. I think we shall have to go to making loans again. This report shows how the case is made up.

It reminds me very much of a case which arose in the Senate, soon after I became a member of this body, from the State of Alabama, growing out of the war of 1812. The claimant was the owner of some one hundred and forty or one hundred and fifty acres of land, according to my recollection, upon which he had a corn-field, and that corn was destroyed by our troops in some of the Indian difficulties that arose in that country about the year 1812. The claimant came here claiming damages for the destruction of that property. The proof was not clear whether it was destroyed by our troops or by the Indians. The party was paid what was supposed to be the value of the property, somewhere about 1830, I think. He got some five thousand dollars or ten thousand dollars damages. However, some of his proof,

it was claimed, was excluded. He came again afterward and got interest upon this at a subsequent session of Congress. After I came into Congress, somewhere between 1855 and 1860, he came here with that claim again. He had up to that time, my recollection is, received some fifteen thousand dollars for his one hundred and forty acres of corn. He proved the corn to be worth some three dollars a bushel. He proved that he would have raised the most extraordinary crops, I think, one hundred bushels to the acre. Scarcely ever was there such a corn-field known as that was proved to be. [Laughter.] He got pay for this originally, half of it, I think. Then it was insisted that he could have proven that our troops destroyed the whole of it, but the proof was excluded on the ground of some informality, and a little bill was brought in here one day to allow the case to be opened in order to let in this testimony that had been excluded for informality. The case was allowed to be opened; he came in with his new proof, and he was then allowed \$60,000 for the corn-field.

Mr. HOWE. Will my friend give way for a suggestion?

Mr. TRUMBULL. Yes, sir.

Mr. HOWE. I have got several cases that I want the Senate to consider, and, as I find we must go over a very broad field of debate before we shall come to a vote on this bill, I would prefer to move to postpone its further consideration for the present.

Mr. TRUMBULL. I shall have no objection in a moment. I want to end the story which I was telling in this Alabama case. I am very nearly through.

Mr. HOWE. It was to avoid that story that I wanted to postpone the bill. [Laughter.]

Mr. TRUMBULL. I am nearly through. The claimant got \$60,000 additional. Congress found this out at its next session, and we succeeded in getting a resolution through both Houses of Congress to stop payment of it, and I believe the last \$60,000 was never paid. This looks to me very much like that case. If we open this door and allow this sort of claims to come into Congress there will be no end to them. I commend the Committee on Claims for what they have done in this case. They have cut it down. We have an excellent committee. They would not allow this claim of twenty odd thousand dollars; but cut it down to \$3,000. Perhaps the party really may be entitled to something; but, sir, we have all had to suffer in this war, and the owner of this property, if he has got \$5,000 for the use of forty or fifty acres of land for three or four years, has not suffered very deeply, and it would be better that he should bear and contribute something to the support of the Government than that its Treasury should be opened to all sorts of claims. I will not take up time, because the Senator desires to postpone the case.

Mr. HOWE. I move to postpone the further consideration of this bill until to-morrow.

Mr. HENDRICKS. I hope the Senator from Wisconsin will let us proceed with the consideration of this bill now.

Mr. HOWE. Let me say to the Senator before he goes on that my purpose is to save time in the consideration of the general file of private bills. I am sorry for the sake of the committee, more so than the Senator can be for the sake of his fellow-citizen, after listening to the remarks which have now been made, to have this bill now go from the consideration of the Senate until those remarks have been replied to; but I feel compelled to move it because it seems pretty evident that this one little claim will consume the rest of the afternoon.

Mr. HENDRICKS. I ask the Senator from Wisconsin if he will call this up as soon as he gets through with the bills not objected to.

Mr. HOWE. I will call it up at once after the other cases are disposed of, if the Senate will indulge me in taking it up.

Mr. BUCKALEW. I gave way to the Senator from Illinois, although I desired to sub-

mit some remarks on this bill. I do not care to interrupt the proceedings of the Senate, however, to speak if the subject is to go over until to-morrow.

Mr. HENDRICKS. It is not to go over until to-morrow.

Mr. HOWE. The Senator has no objection to letting it pass over for the present?

Mr. BUCKALEW. I suppose there will be no "to-morrow" for this bill, at any rate within any considerable period.

Mr. HOWE. The Senator is mistaken. There will be a double-breasted to-morrow for its time. [Laughter.]

Mr. BUCKALEW. What I desire to speak of is our general policy with reference to these claims—a very large and very important subject.

Mr. HOWE. I agree with the Senator that it is, and I should be very happy to hear him on that subject if he will allow me to get rid of this bill at this time.

Mr. BUCKALEW. Mr. President, as to this particular claim I do not know anything about it. I shall be found agreeing with the committee at all times when they report bills to us upon the principle that justice is the first duty which the Government owes to the citizen; and I will agree with them or with any other competent committee at all times that when a case is made out appealing to our sense of justice we should accede to the demand, no matter whether it be convenient or not.

But, sir, there is another thing which does not seem to attract the attention of gentlemen, and that is, that these claim cases will accumulate in number and will grow in amount the longer they are postponed. I protest against that species of argument in relation to them which the Senator from Massachusetts [Mr. Wilson] entered upon this morning, and against the policy to which his remarks point; and that is, the pushing away of these claims for the time being, rejecting or postponing them. It is simply putting off the evil day, and it is accumulating against the Treasury of the United States a body of demands which will eventually tax it two or three times over the amount of outlay which we should incur if we met them promptly and while they were fresh. Two years ago, I think it was, I introduced a bill, and sent it to the Committee on Claims, providing for a system of investigation in reference to all these demands, and, what was more important, providing a statute of limitation upon claimants, a limitation of time after which claims should not be presented or considered by the Government of the United States. Unless we have some general legislation on this subject there will be no end to the claim bills which will be presented here, and it will be the most short-sighted and foolish policy that can be imagined to attempt to vote down individual bills or to postpone them with the expectation that thereby we shall save the Treasury of the United States. It is the very system which will accumulate against the Treasury a vast body of demands that will eventually be met, and that will be much greater in amount than if we met and determined them promptly.

Therefore, sir, whenever this bill comes up again, if the chairman of the Committee on Claims makes out a case of apparent justice for this claim, I stand ready to vote the amount and vote it promptly, because, as I said before, justice is a duty above all others which the Government owes to her citizens, and if you do not provide by some general legislation a mode and manner by which these claims can be investigated and heard outside of Congress there can be no reason why they should not be heard in Congress. So that both upon grounds of right and upon grounds of public policy I protest against the mode of action which is supported by the Senator from Massachusetts, a mode merely of postponing, of delaying, of putting off the evil day to some other occasion, without making any provision for ending and bringing to a termination this system of claim cases against the Government of the United States connected with the late war.

I am very sorry that my bill, introduced on a former occasion, did not pass both Houses of Congress. If I had been a member of the majority at that time, and responsible for the legislation of the Government, I should have been more prompt and zealous in pressing that bill. It did meet the approval of the Committee on Claims; but I left it to them to say whether it should be pressed, and the result was that nothing was done. Now, sir, that committee will be deluged with these cases, and there will be no end to the difficulty and harassment, both of that committee and of Congress, until you provide, by some general bill, a mode and manner of prompt and thorough investigation of these claim cases.

Mr. HENDRICKS. Mr. President, I cannot resist the proposition of the Senator having in charge these private bills; but, before this bill passes from the attention of the Senate, I desire to say that I hope as soon as we get through the bills that are not objected to we shall very earnestly urge the consideration of this one. I wish simply to add another thing, that I did not indorse the doctrine of the Senator from Massachusetts, that because claims are likely to amount to a large sum of money therefore they ought not to be paid; and I repudiate the doctrine of the Senator from Illinois, that this claimant ought to bear his proportion of the public burdens, or, rather, his application of that idea to this particular claimant. He is willing to bear his proportion, but he did not think it right, and I do not think it right, that the Government should strip his land of very valuable improvements and then say to him that he shall bear that entire loss and the public not share with him in it.

Mr. MORTON. Mr. President, I know something about this claimant whose premises were used. I do not think the committee have got the damages too high; they might, perhaps, have been put higher without impropriety; but I want to enter my protest against the doctrine enunciated by the Senator from Massachusetts, that we are to disallow all these claims, because if we do not we shall have a vast amount of claims on the Government.

Mr. President, there cannot be a very large amount of these claims in the loyal States. This is very different from taking lands, timber, property in the rebel States during the conduct of the war. Here is land that was taken by the Government from necessity in a loyal State, and the claim for its use or for damages done to it is just as honest, to the extent it goes, as a claim for payment for quartermasters' stores. I would appeal to the sense of justice of that Senator himself what can the Government offer as an objection to the payment of actual damages done to a piece of property taken in the loyal States for the purpose of organizing troops? If damages have been inflicted upon property, if a man's property is taken by the Government for its uses, and he suffers greatly by that use of it, it is dishonest in the Government to refuse to consider that claim, just as much so as it would be to refuse to pay a debt contracted in any other way. What is the difference? If the Government takes provisions, or contracts for them, it is bound to pay for them if it takes them from a loyal man in a loyal State; and if it takes his property, his real estate, and uses it, why should it not pay him for it?

Mr. President, I want to make a general remark here. While there are a great many spurious claims brought up against the Government, some of which are allowed from time to time, I undertake to say that the Government often inflicts the foulest injustice, and that claims which are right and honest in themselves and which involve a man's whole fortune, the interests of himself and his family, are often put aside without even a consideration. The Government has no more right to do a wrong of that kind than a private individual. I know of some claims which have been pending here for years that have had no attention paid to them, which are honest, and

because they have not been paid the owners of them have been involved in almost total ruin.

I know it is somewhat popular, or at least is so regarded by some, to refuse to pay all claims, to say "the Government will pay nothing, because if the Government pays anything it will be overwhelmed." Sir, that is not the right principle. The Government will some time or other pay these claims. They will be pressed, and pressed until they are paid; and wherever there is an honest one that is clearly made out it might as well be allowed now as at any time. But the claims of this character, to which the Senator from Massachusetts alludes, cannot be very large. I make a broad distinction between claims of this character in the loyal States, where the Government has taken property for the purpose of organizing camps of instruction or building up camps of organization, and claims for the taking of property in the southern States for carrying on the war. If you undertake to pay the latter class they will bankrupt the Government; but the other class, of which the one before the Senate is an example, do not amount to very much. Where the Government has taken a man's property in the city of Indianapolis or of any other place in the North, and used it for the purpose of there organizing troops, and it has been damaged, it is just as honest to pay for it as to pay for any other debt that could possibly be created.

The PRESIDENT *pro tempore*. The question is on the motion to postpone the further consideration of the bill until to-morrow.

The motion was agreed to.

GEORGE B. HALSTEAD.

On motion of Mr. HOWE, the joint resolution (S. R. No. 128) for the relief of George B. Halstead was read the second time, and considered as in Committee of the Whole. It proposes to appropriate a sum sufficient to pay George B. Halstead the regular compensation of first lieutenant in the Army of the United States from the 11th of November, 1861, to April 1, 1862.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, and was read the third time, and passed.

BEALS AND DIXON.

Mr. HOWE. I move that the Senate proceed to the consideration of House joint resolution No. 217.

The motion was agreed to; and the joint resolution (H. R. No. 217) for the relief of Beals & Dixon was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Treasury to cause the accounts of Beals & Dixon, for the delivery of material after May 1, 1861, under their contracts with the United States, to be adjusted and paid, allowing to them such additional prices for material delivered after May 1, 1861, as they may be justly entitled to under the provisions of their supplementary contract dated January 1, 1857, the same to be adjusted by the proper officer and in the manner named in the contract.

Mr. JOHNSON. I should like to know why that account cannot be settled now without any additional legislation.

Mr. HOWE. I was about to state. The case is somewhat peculiar, and I feel bound to state to the Senate the point involved in it. The point is very simple. On the 10th of October, 1855, Beals & Dixon, this firm, contracted with the Treasury Department to furnish the granite for the south wing of the new Treasury building. The contract was reduced to writing. The only part of it that I need read is the last clause, which is:

"It is also agreed and understood by and between the parties hereto that the said parties of the second part are to furnish the material for the outside of the remainder of the Treasury building at the prices heretofore named for similar work, when Congress may have made the necessary appropriations therefor: *Provided*, That at that time it is deemed for the interest of the United States to employ them."

The contract to furnish the granite for the south wing was to be completed within two

years, and was completed. On the 1st of January, 1857, this addition was made to the contract:

"Congress having made an appropriation continuing the extension of the Treasury building, and it being deemed to be the interest of the United States that the parties of the second part should furnish the material for the outside of the remainder of the building and above the cellar wall, pursuant to the last clause of the within contract, it is hereby agreed by and between the parties to the within contract that the parties of the second part shall furnish the material required for said extension as above noted, in all respects as provided in the within contract, and at the same price and within a reasonable time, and any departure from these conditions, or changes, increasing or lessening the cost of materials, and any and all differences growing out of this extension of the contract shall be adjudged by the superintendent of the work upon *pro rata* principles, and the decision of the superintendent shall be final between the parties."

Under this contract the petitioners went on delivering granite until in March, 1859, when, by the order of the Department, they were stopped from delivering any more granite for the time being, and that continued for about two years. Sometime in the year 1861 they were ordered to proceed again with the delivery. In the meantime the cost of procuring and delivering this material had greatly enhanced, as the petitioners allege. This change increased the cost of doing the work, as they say, and they insisted that, under this clause of the contract, the superintendent should adjust this additional cost of procuring the material upon the principles of the contract. The Secretary of the Treasury, it seems, had some doubt as to whether he could make that adjustment or not, and thereupon these petitioners came to Congress, and Congress passed a resolution, approved May 2, 1866, providing:

"That the Secretary of the Treasury is hereby authorized to cause the accounts of Beals & Dixon, for deliveries of material after May 1, 1861, under their contract with the United States, to be adjusted and paid, allowing to said Beals & Dixon such additional prices for material delivered after May 1, 1861, as, in his opinion, they may be justly entitled to under the provisions of their supplementary contract, dated January 1, 1857: *Provided*, That, in the opinion of the Attorney General, said Beals & Dixon have a legal claim upon the United States for an increase of prices under said contract."

Under that resolution the question was referred to the Attorney General to say whether they had a legal claim under the contract upon the Government for this increased cost of procuring the material, and Attorney General Speed decided that they had not. His opinion was before the committee. I do not care to take the time of the Senate by reading his opinion. The committee have not drawn an opinion in reply to it; but it all turns on the language in the supplementary contract which I have read. The committee were of the opinion that they had a legal claim. I am not sure but that there was one member of the committee who dissented from that view, but all the members of the committee were of opinion that they had an equitable claim, and that the mode provided in the contract itself was an equitable mode of adjusting the matter; and to that end they have reported this joint resolution, which has already passed the House of Representatives, and which provides that this additional cost shall be adjusted in the mode provided in the contract itself by the superintendent of the work.

Mr. JOHNSON. His judgment to be conclusive?

Mr. HOWE. His judgment to be conclusive. It is within the knowledge of every Senator that the delay from 1859 to 1861 must have operated injuriously, because everybody knows, it is matter of common fame, that the cost of doing all sorts of work has been much higher since that period than it was for the two years or any years previous to that.

Mr. FESSENDEN. Was it not suspended after 1861?

Mr. HOWE. No, sir; at least that does not appear.

Mr. FESSENDEN. I think it was.

Mr. HOWE. I do not understand that there is any claim for any such suspension. Now, sir, where there was no pretense of a contract to that effect, Congress has in several instances



awarded this extra cost. It has done it in the case of contracts for building vessels, and it did it in the case of contractors who furnished the material for the Dome of the Capitol; and in this case, if there were no pretense of a contract, I take it Congress might say it would take the testimony and itself adjust the price; but this resolution, following the provision made in the contract, refers it to the superintendent of the work to adjust that amount. My own judgment is that that is as safe a reference as could be made.

Mr. FESSENDEN. That is the architect.

Mr. HOWE. Yes, sir. If the Committee on Claims undertook to take the testimony they would be in the main controlled by the testimony of the architect; probably his testimony would be as satisfactory as any testimony that could be obtained. The committee deemed this the most convenient mode, the fairest one of settling it, even if there was nothing but an equitable claim before us; but it was the opinion of nearly the whole, if not the whole, of the committee, that the rights of the petitioners were regulated by the contract itself, and by the terms of that contract they had a right to have this adjusted.

Mr. FESSENDEN. Mr. President, I knew something about this claim on the part of these gentlemen. It so happened that while I was in the Treasury Department application was made to me to readjust the prices under this contract. I examined the contract very carefully, and came to the conclusion that I had no power to do it; that it was not within my legal competency as Secretary of the Treasury to readjust the matter, but that these gentlemen must come to Congress. They came to Congress with this resolution, or one somewhat like it, which they desired to have passed. They put it upon a legal ground, that they had a legal claim upon the Government for a larger price, and particularly for some damages that they had incurred, I think, in consequence of the fact that their wharf was taken possession of by the Government and used, and they were put to some extra expense in the way of hauling, &c. Congress did not act on the case while I was in the Department. The matter then came to the Committee on Finance, of which I was a member at that time, and I had some conversation with Mr. Dixon. I found that he was still disposed to put it upon the legal ground, to assert that he had a legal claim. I told him that in my judgment he had no legal claim; I examined it carefully as a lawyer; but as he was disposed to put it upon that ground I drew the resolution so as to leave it in that shape, that if the contractors had a legal claim it should be enforced, and for that purpose I put in a clause that it should be referred to the Attorney General to decide whether they had a legal claim or not. It was so referred, and the Attorney General decided in accordance with the opinion which I had expressed and which I entertain now, that there was no such claim in law.

While I say this, sir, I say very distinctly that I think these gentlemen have a strong, equitable claim upon the consideration of Congress to be allowed more than they have received. They have gone on in spite of the very great increase of prices with remarkable energy and a disposition to fulfill their contract to the letter, cost what it would or be the consequences what they might; and they have, so far as I am aware, and I have no doubt it is so, fulfilled that contract very considerably to their own loss. I think Mr. Beals, however, died some time since, and Mr. Dixon is the only one now living of the original contractors. They have at any rate done their work well and faithfully and thoroughly. I believe no fault is found with them in that particular.

Under the circumstances presented I had the impression at the time, and I have it now, that these gentlemen have a strong, equitable claim upon the consideration of Congress. I am perfectly willing to vote for a bill which shall put the matter in such shape as to give them what they ought to receive. What that

may be I do not know. I believe no prices are fixed in the contract except the first prices, which might be varied afterward according to circumstances.

I doubt very much whether the resolution on the table will reach their case, for it strikes me—I have just looked at it—that it confines them to the legal claim. It goes upon the ground that there is a power to readjust existing; and from the words of it I am afraid that if it passes as it stands they will meet with the same difficulties again that they have met heretofore, and it will be contended that they have no legal claim under the contract. I am perfectly willing to vote for the resolution in any shape that will be safe, which will accomplish the purpose of making them an equitable and fair allowance for what they have done.

Mr. JOHNSON. I ask for the reading of the particular part of the resolution which authorizes the readjustment of the account.

The Secretary read as follows:

"Allowing to said Beals & Dixon such additional prices for material delivered after May 1, 1861, as they may be justly entitled to, under the provisions of their supplementary contract dated January 1, 1857; the same to be adjusted by the proper officer and in the manner named in the contract."

Mr. JOHNSON. I am not sure that the Attorney General's right in his construction of that contract, and of course I am not sure that the honorable member from Maine is correct, although the fact that they have both concurred in giving that opinion is entitled to the consideration of the Senate. If they be right I submit to the honorable chairman of the committee that perhaps the claimant will be in the situation in which he is after we pass this measure. If I understand it, the matter is to be adjusted upon the principles of the contract of 1857. If by that contract they are not entitled to be paid the additional expense to which they have been subjected I should be very apprehensive that under this resolution they would receive nothing. My own impression is, and it was very strong until the honorable member from Maine expressed a contrary opinion, that under that contract they had a legal claim; but if that be doubtful, and that should be the continuing opinion of the Department, they might get nothing under the resolution as it stands. The probability is that such is the general usage of the Attorney General's office that even if the construction of that contract was referred again to that office the Attorney General would consider it as settled by the opinion of his predecessor, and, if so, the parties would have to stand upon the contract, not being relieved as to that, I fear, by the frame of the particular resolution. I submit, therefore, to the honorable chairman that he had better use some general phraseology which will clearly authorize the superintendent to settle the claim upon principles of equity and justice, independent of any legal construction of the contract of 1857.

Mr. DAVIS. I will suggest an amendment that I think will meet the difficulty. I propose to insert in line eleven, after "1857," the words "and upon principles of equity and justice."

Mr. FESSENDEN. That would be rather too indefinite, I think. I understand, however, that they prefer to take the resolution as it is now rather than to run the hazard of sending it back again to the House of Representatives. That being the case, I shall make no objection to it.

Mr. HOWE. This joint resolution was drawn by the House committee and passed by the House of Representatives, and comes to the Senate from our committee as it came to the committee from the House of Representatives.

Mr. FESSENDEN. I understand that the claimants prefer to have it just as it is.

Mr. HOWE. I am inclined to think there will not be any serious doubt as to the meaning of the resolution. If there is it can be cleared up by a subsequent enactment.

Mr. FESSENDEN. Then I would not amend it. My suggestion was made for their benefit.

Mr. HOWE. I hope the Senator from Kentucky will withdraw his amendment.

Mr. DAVIS. I do so. I still believe that the opinion of the Attorney General was grossly incorrect. I have no doubt about that in my own mind.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### COMMITTEE SERVICE.

Mr. CONNESS. I rise to ask the Senate to excuse me from further service upon the Committee on Revolutionary Claims.

The PRESIDENT *pro tempore*. The question is on granting the request of the Senator from California.

The request was granted.

CHARLES E. CAPEHART.

Mr. HOWE. I move that the Senate now proceed to the consideration of Senate bill No. 473.

The motion was agreed to; and the bill (S. No. 473) for the relief of Charles E. Capehart was read the second time, and considered as in Committee of the Whole. It is a direction to the Paymaster General of the Army to pay to Charles E. Capehart, late captain of company A, of the first regiment of West Virginia cavalry volunteers, the pay and allowances of a captain of cavalry from the 2d day of July, 1862, to the 1st day of March, 1863, and after deducting therefrom any sums of money heretofore paid Capehart by the pay department for his services for that time; but he is to present the usual certificates required by the rules of the pay department upon final payment of volunteer officers.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

DAN ELLIS.

On motion of Mr. HOWE, the bill (S. No. 474) for the relief of Captain Dan Ellis was read the second time, and considered as in Committee of the Whole. It proposes to appropriate the sum of \$3,000 to Captain Dan Ellis, of Carter county, in the State of Tennessee, in compensation for his services as scout, pilot, and recruiting agent, volunteered in the cause of the Government, from 1861 to 1865, during the late war.

Mr. GRIMES. I should like to hear the report of that case.

Mr. HOWE. This bill was reported yesterday, and the report is not yet in print, but I will state the character of the case upon which the bill is founded.

This man Ellis is a resident of eastern Tennessee, and he was there at the outset of the war. The testimony shows that he was one of those fervent East Tennessean patriots, who, when that community were taken possession of by the rebel army, devoted himself to the work of getting out from the community and within the Federal lines such of his fellow-citizens as he could; that he spent his whole time in that work; that he took out through the lines several thousand people. I have not the facts before me just now; but I think the testimony shows that about two regiments in our Army were composed of Tennesseans whom he took out of that community, and procured to enlist in our Army. He continued in this service up to the spring of 1865, and then was commissioned a captain in one of the Tennessee regiments. Of course there is no legal claim resting on the Government, but it has a character of service which the committee thought required some acknowledgment, and they have reported a bill which gives him the pay of a captain for two years.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

C. N. GOULDING.

Mr. HOWE. I now ask the Senate to take up some bills reported to-day, but I suppose

it requires unanimous consent to do that. They are not yet in print, but I think they will not be disputed. The first one is a bill for the relief of C. N. Goulding.

The PRESIDENT *pro tempore*. That bill will be taken up if there be no objection.

By unanimous consent, the bill (S. No. 251) for the relief of Charles N. Goulding, late quartermaster of volunteers, was considered as in Committee of the Whole.

The Committee on Claims proposed to amend the bill by striking out all after the enacting clause, and inserting the following:

That the accounting officers of the Treasury be and they are hereby authorized to allow and place to the credit of Charles N. Goulding, late captain and assistant quartermaster, in the final settlement of his accounts as such officer, such amounts and sums as he shall satisfactorily prove to have been captured either in money or vouchers, by the enemy in the month of August, 1862, while on duty in the Army of Virginia, under Major General John Pope: *Provided*, That no greater amount for losses shall so be passed to his credit than the balance now appearing against him on the books of the Government.

The amendment was agreed to.

The bill was reported to the Senate, as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

C. C. O'NEILL.

Mr. HOWE. I move that the Senate now proceed to the consideration of the bill for the relief of Charles C. O'Neill, reported to-day.

The PRESIDENT *pro tempore*. It requires unanimous consent.

There being no objection, the bill (S. No. 477) for the relief of Charles C. O'Neill, was read the second time, and considered in Committee of the Whole. It proposes to appropriate \$5,351 to Charles C. O'Neill, as balance due him in the final liquidation of his claim against the United States under a contract for the delivery of ten thousand cords of wood to the officers of the Government near Nashville, Tennessee, dated December 24, 1864.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

H. D. MCKINNEY.

Mr. HOWE. I move that the Senate proceed to the consideration of the bill for the relief of H. D. McKinney, reported to-day.

By unanimous consent, the bill (S. No. 476) for the relief of H. D. McKinney was read the second time and considered as in Committee of the Whole. It proposes to appropriate \$6,035 53 to H. D. McKinney as balance due him in final liquidation of his claim against the United States under a contract for the delivery of ten thousand cords of wood to the officers of the Government near Nashville, Tennessee, dated December 24, 1864.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN M. PALMER.

On motion of Mr. HOWE, the joint resolution (H. R. No. 218) for the relief of John M. Palmer was considered as in Committee of the Whole.

The preamble to the resolution recites that John M. Palmer, of Nashville, Tennessee, on the 7th August, 1866, contracted with the quartermaster's department to manufacture and deliver fifty-two thousand two hundred coffins for the interment of deceased Union soldiers at Natchez, Vicksburg, and Corinth, Mississippi; Memphis, Pittsburg Landing, Fort Donelson, and Nashville, Tennessee; and Marietta, Georgia, and also to erect fences for the national cemeteries at Natchez, Vicksburg, and Corinth; Mississippi, and at Memphis, Fort Donelson, Stone River, and Pittsburg Landing, Tennessee; that by the malicious destruction of Palmer's steam saw-mill and machinery by rebel incendiaries, and the loss of lumber by providential floods, but by no fault or neglect of his own, he has failed to fully complete his contract, and has incurred forfeitures to the Government thereon.

The resolution proposes to relieve Palmer from all stoppages and forfeitures on account of his failure to deliver coffins under the contract, and to direct the Quartermaster General to adjust and settle his further claim for erecting fences around the national cemeteries by an additional allowance of \$7,283 70, to be paid from the appropriation provided in an act entitled "An act to establish and protect national cemeteries," approved February 22, 1867.

The Committee on Claims proposed to amend the resolution by adding as an additional section:

SEC. 2. And be it further resolved, That the chief quartermaster of the military department of the Cumberland, in addition to the contract price of ninety cents for each coffin manufactured by the said John M. Palmer, under his contract aforesaid, of the date of the 27th of August, 1866, cause to be paid out of any money under his control unto the said John M. Palmer the further sum of \$12,716 30 for manufacturing and delivering said coffins: *Provided*, That the said John M. Palmer shall, in conformity with the provisions of his contract aforesaid, well and truly manufacture and deliver all the coffins which he is thereby still required to manufacture and deliver.

Mr. CONKLING. I ask the Senator who has this measure in charge to explain it to us.

Mr. HOWE. Mr. President, the facts in this case are somewhat complicated and numerous. They are much more clearly within the recollection of the honorable Senator from West Virginia [Mr. WILLEY] than they are within mine, and I will ask him to state them.

Mr. WILLEY. Mr. President, if the Senator from New York desires a presentation of the facts of the case, I do not know that he can be better satisfied than by the reading of the report. They are as concisely stated in the report as I could state them; and if the Senate desire a full statement of the facts I should myself prefer that the report should be read, although it is somewhat lengthy.

The Chief Clerk read the following report, made by Mr. WILLEY on the 27th of March:

The Committee on Claims, to whom was referred House joint resolution No. 218, for the relief of John M. Palmer, having considered the same, beg leave to submit the following report:

That among the papers accompanying the said joint resolution they find the following report made to the House by the Committee of Claims in that body:

To the honorable the Committee of Claims:

The sub-committee, to whom was referred the memorial of John M. Palmer, for relief in the matter of his contract for furnishing coffins for interment of deceased Union soldiers and fencing national cemeteries, have the honor to report as follows:

From the copy of the contract presented by the memorialist it appears that—

1. He contracted with competent authority to furnish fifty-two thousand coffins, as might be ordered, of specified sizes and material, to be delivered as required in numbers and quantities, at different points, namely: Natchez, Vicksburg, and Corinth, Mississippi; Memphis, Pittsburg Landing, Fort Donelson, and Nashville, Tennessee; and at Marietta, Georgia, at ninety cents each; and that he was to erect a fence around the national cemeteries at Natchez, Vicksburg, and Corinth, Mississippi; Fort Donelson, Pittsburg Landing, and Stone River, Tennessee, and at any other points that should be designated by the Government. These fences to be constructed of specified materials and dimensions, and in a manner described, at the price of forty-five cents per lineal foot. (See copy contract herewith, marked No. 2.)

The memorialist further sets forth in his petition that, before he proposed to furnish the coffins and erect the fences called for by the contract, he all the time made every exertion to get such information as to what the cost of the work would be as would enable him to make his bid at a reasonable price; and that he was the lowest responsible bidder, which latter fact is certified to (see paper marked —) by Colonel S. R. Hamill, then acting chief quartermaster military division of Tennessee, and still an officer in the quartermaster's department.

The petitioner further sets forth that immediately upon the award of the work to him he gave bonds for \$35,000, with approved security, and began to put forth every requisite energy and effort to fulfill his agreement. He was the owner of one saw-mill at a convenient point for supplying Nashville and Stone River, which he at once put in operation in getting out the required lumber; and erected another saw-mill at Johnsonville, on the Tennessee river, which was a favorable location for supplying lumber to the points where it was required on that river and the Mississippi and Cumberland rivers; and that he at once commenced traversing the country from point to point where the material and labor were to be supplied and applied, and made arrangements for the requisite labor, transportation, and everything necessary to carry out his contracts.

The petitioner further sets forth that, as soon as he set about this business of fulfilling his contract, he

found himself the object of a combined opposition, comprising a portion of the seventy odd unsuccessful bidders for the same contract, and also the common enemies of the country, who cherished a most bitter hatred toward the purposes of the work, (see statement of Mr. Barnshaw, chairman of the cemetery board for selecting and laying out the grounds of national cemeteries, No. 18;) that this opposition manifested itself in his being followed from place to place by men who made various false reports, such as the statements that he was not able to carry out the work; that he had abandoned the contract; that he had absconded; that the Government had taken the contract from him; and many other false reports that were calculated to, and did for a time, destroy confidence in the petitioner's integrity, ability, and competence in carrying out his agreement, and having the effect to repeatedly break up the arrangements he had made for labor and materials, and delay him in procuring the requisites of his undertaking, and enhancing the prices of the same, and adding largely to his expenses; that, further, the saw-mill he erected at Johnsonville, on which he relied for a large quantity of lumber, was, during the first two months of its operation, almost wholly obstructed by its machinery being repeatedly broken by men hostile to him or to the objects of his efforts, and before three months had elapsed from the time the mill was erected it was set on fire on a dark and rainy night and burned to the ground, under circumstances which left no doubt of its being the work of men who were evil-disposed toward the petitioner. (See, also, statement of J. G. Allen, paper No. 3; George Bailey, No. 6; A. T. Prentiss, paper No. 5; J. D. Millard, paper No. 14; William Welsh, paper No. 15, and A. F. Prentiss, paper No. 7.)

The petitioner further sets forth that, besides the difficulties which beset him as stated heretofore, the time from the date of the advertisement for proposals to the date of opening the bids was not sufficient to enable a bidder to go to the various points, embracing over two thousand miles of travel, at which labor was to be performed, and survey the ground and obtain definite information as to the cost of labor, materials, transportation, &c., but that estimates had to be made upon general reports and such knowledge as could be hastily gathered, and that he calculated the cost of materials, labor, transportation, and incidental expenses at a much lower figure than he found himself compelled to pay; in addition to this the unprecedented flood at one time and the very low state of the rivers at another made the cost of transportation by water, on which he greatly depended, treble the ordinary cost; and the price he had to pay for lumber was, in many instances, more than double what he anticipated; that in some localities at Vicksburg the ground on which he erected fences was partially covered by water, and that another portion was required over high hills, which were terraced, and thereby the expense was more than doubled. That the fence at Fort Donelson was required at a time when the water did not admit of navigation, and instead of getting his lumber by that ordinary transportation, and being unable to purchase what was required from any point near by, had to carry it by wagons across the country over rough, hilly roads; also that, in erecting the fence at this point, he encountered a ledge of shelly rock, which, not being firm enough to admit of bolting the posts, he was obliged to dig holes therein, which was a great increase of expense upon his estimate.

In a paper which is filed with the memorial, to wit, a communication from the petitioner to General Swords, assistant quartermaster general, it is stated that the petitioner was subjected to unexpected expense by the failure of payments being made to him once a month, according to the contract; that he had been obliged to sell vouchers at a heavy discount and to borrow a large amount of money, paying interest at the rate of two per cent. a month, to enable him to carry on the work; which statement General Swords indorses as true.

All the statements recited or referred to as made by the petitioner in his memorial are sworn to by him as true, and are sustained by Colonel E. B. Whitman, acting quartermaster and superintendent national cemeteries, by his official certificate, to which especial attention is invited. General George H. Thomas also indorses the memorial, recommending its favorable consideration by Congress. In support of the statement of facts made by the petitioner in his memorial the testimony of quite a number of other persons cognizant of the facts and circumstances bearing on the case is submitted and will be briefly noticed.

The sworn statement of J. B. Allen (paper No. 3) shows that the petitioner, as soon as the contract was awarded, went to work with great energy in getting out lumber at his saw-mill near Nashville and in erecting another mill at Johnsonville; that he encountered unforeseen obstacles and trouble in running said mill; its machinery was repeatedly broken in a manner that showed the use of sledge-hammers and appliances as could not have resulted from the ordinary operation of the mill, but purposely by malicious and evil-disposed parties; that threats were made against him; and when it was found he was not to be intimidated inducements of money were offered him to effect the stoppage of the mill; and that, these proving of no avail, the mill was finally fired by incendiaries and burned to the ground; that another was at once erected on the spot and run day and night, but was very soon obstructed by a flood, which covered it for several weeks; and that as soon as possible it was put in running order, and the work carried forward with all possible dispatch in the face of all the impediments which were thrown in the way.

The sworn statement of John Welsh (paper No. 15) coincides with that of J. G. Allen as to the hostility the petitioner encountered in running his saw-mill

at Johnsonville, and the facts of its being broken, stopped, and finally burned by persons evilly disposed toward the petitioner, and the work he was endeavoring to carry out, and the damage and delay resulting therefrom.

The sworn statement of J. D. Millard (paper No. 14) corroborates J. G. Allen in all material parts, and further sets forth that the contract price was much less than the cost of fulfilling it.

The sworn statement of A. T. Prentiss (paper No. 5) shows that he, being employed by the petitioner in erecting fences at Stone river, Corinth, Memphis, Vicksburg, and Natchez, knows that he put forth every exertion possible in prosecuting the work under his contract, working by day and traveling by night; that he met with many hindrances resulting from the hostility of some of the inhabitants of the localities to the work; that he suffered loss, delay, and heavy expense from the burning of his saw-mill, and the flood which covered the one erected on the river; that the contract price was much less than the actual cost of the work under the adverse circumstances; that the price of lumber was much higher than anticipated, oak being fifty dollars per thousand, and pine and poplar, fit for the work, was thirty to thirty-five dollars per thousand; that five thousand feet of fence at Vicksburg had to be set over hills too steep for men to stand without some other support than the ground for their feet; and that considerable was set when the water covered the ground, and which was the cause of loss of time and increase of expense; but that, notwithstanding, the petitioner carried out his work satisfactorily to the inspecting officers.

The sworn statement of James Saunders corroborates that of A. T. Prentiss in most of the material points; and further, the statement of the petitioner as to the transportation of lumber across the country (when the water was too low for navigation) at a heavy expense, over rough, hilly roads, and as to the difficulty and great cost of setting the posts in the shelly rock.

The sworn statement of James Walker corroborates Saunders as to the difficulties of getting lumber and setting the posts at Fort Donelson.

The sworn statement of George Bailey (paper No. 6) coincides with that of J. G. Allen as to the hostility manifested by citizens of Johnsonville toward the purposes for which the mill of petitioner at that place was erected, and as to the machinery being purposely broken, and the mill finally burned by incendiaries; and as to the erection of another, and the subsequent delay of its operation by reason of floods. It also corroborates the statements of James Saunders and John Walker as to the difficulties encountered in getting lumber to Fort Donelson, and in the erection of the fences in the rocky ground.

The official statement of Lieutenant Gurney, acting quartermaster, (see paper No. 10,) concurs with that of Prentiss, Walker, and Saunders as to being obliged to transport lumber across the country to Fort Donelson because of low water, and as to the rock into which holes for the fence posts had to be made, which involved considerable expense, and, further, shows the satisfactory manner in which the contract was fulfilled at that place.

The sworn statement of W. G. Bond (see paper No. 9) is substantially the same as that of Lieutenant Gurney.

The sworn statement of J. B. Armstrong (paper No. 17) shows that he has known the petitioner for twenty years, and knows him to be a man of integrity, great energy, and that he was untiring in his efforts and labors to carry out this contract for supplying coffins and fences to national cemeteries in every way fully equal to its requirements; that he knows the petitioner incurred great loss and unexpected expense in fulfilling the same; and that, aside from the unforeseen losses and expenses growing out of the work, the contract price was inadequate.

The sworn statement of Junius M. Palmer sets forth the facts that he superintended the fulfillment of the contract at Vicksburg, and concurs with the statement of Prentiss, that the cost of lumber was for oak, fifty dollars per thousand; that yellow pine and cypress cost thirty dollars per thousand; white pine seventy-five to eighty dollars per thousand; that the coffins made thus cost nearly two dollars each; that the cost of erecting the fence on ground overflowed by water and over the hilly, terraced ground, was five times as great as it would have been on good ground; that the price stated in the contract is not nearly sufficient to cover the amount actually paid out, aside from the losses by fire and flood, and the other causes beyond the control of the petitioner.

The sworn statement of William Earnshaw, late chaplain United States Army, and chairman of the board for purchasing and laying out cemeteries in the division of Tennessee, sets forth that he had full opportunities for knowing the expenses of building fences and making coffins under the petitioner's contract, and of the unfriendly and hostile feelings of the people of that country toward the object of said work, and of the difficulties the petitioner encountered from said cause, as well from obstacles thrown in his way by unsuccessful bidders for the same contract; that one dollar per lineal foot for the fence, and \$2 50 for each coffin, would be a very reasonable price for the then furnishing of the same, and that said price is less than the Government procured them for, except at Nashville; that he, Earnshaw, carefully read the memorial of the petitioner, and that the facts and matters therein set forth are true; that of his own knowledge they are not too strongly stated, but rather fall short of the real facts of the case; that he deemed it impossible for the petitioner to fulfill the contract under so many difficulties, and with the determined opposition of common enemies of the country, with that of the unsuccessful bidders for the same contract; that the life of the petitioner was often in great peril, and that it was only by his courage and indomitable energy that he overcame the many impediments

thrown in his way; that he had a good opportunity of knowing the motive which actuated the petitioner in making his bid at the extremely low price, and that his motives were praiseworthy, and that he entered into the contract in good faith, and carried it into execution; that he, Earnshaw, firmly believes that, unless relief be granted petitioner, he will be financially ruined.

The official statement of J. W. Scully, acting quartermaster, confirms the statements of Prentiss and Junius M. Palmer as to the price of oak lumber at Vicksburg being fifty dollars per thousand, yellow pine and cypress thirty dollars per thousand, and white pine seventy-five to eighty dollars per thousand; and further, that the lowest price at which coffins could be purchased there was \$2 50 each.

The official statement of Colonel Moore, assistant quartermaster, shows that the petitioner fulfilled his contract in good faith; that the price stated in the contract was too low, and that it was carried out at a heavy loss.

The official statement of Colonel A. W. Wills sets forth his knowledge of the fact that the petitioner encountered the most earnest efforts of the common enemies of the country, and, in many instances, the efforts of unsuccessful bidders for the same contract, to prevent the fulfillment of the contract, in order that, in case of his failure, they might secure it. This officer further states that the erection of the fence at Corinth was done under most unfavorable circumstances, in addition to the foregoing, on account of the heavy rains which continued during nearly all the time the work was going on.

The official statement of Colonel S. R. Hamill, assistant quartermaster, sets forth the fact that he was acting chief quartermaster of the district of Tennessee when the contract was made; that the contract was spirited; that when the petitioner was awarded the contract bitter expressions of disappointment were made, and charges laid that he was too low to admit of its being faithfully carried out; but that the petitioner fulfilled it in a manner which established the fact of his determination to act in good faith, notwithstanding the unforeseen misfortunes which came upon him; that, as disbursing officer, said Hamill has knowledge of the fact that at times the Department was not in funds to pay the vouchers issued to the petitioner, and that he was compelled to sustain considerable losses to obtain the money due on the same whereby to carry on the work to completion; and closes with a recommendation that his application be favorably considered.

Upon a careful perusal and consideration of the sworn statements submitted in this case, and official certificates and indorsements of the military officers, the substance of which has been recited, your sub-committee find the following facts established:

1. That the petitioner made his proposal in good faith, and gave approved and sufficient bonds to fulfill his contract. (See paper —.)
2. That he at once entered upon the performance of it, employing a large amount of capital, and applying unusual energy and efforts in the work. (See paper —.)
3. That he endeavored to obtain necessary information so as to estimate the cost of the work, but that it fell short of the expense necessarily incurred in the execution of his contract. A condition of things was found to exist which the exercise of prudence or business judgment would not have anticipated, and that by reason of the combined opposition of unsuccessful bidders for the same contract, the hatred of the citizens hostile to him and to the purposes of his contract, the loss of his mill by fire, the malicious mischief of evil persons in breaking the machinery, the delays by flood, the damaging false reports of such persons as to his lack of integrity, pecuniary responsibility, and incompetency to fulfill his engagements, the usual obstacles to navigation of the rivers on which dependence was placed for transportation of materials to the designated places at which it was to be used, the overflow of water upon the ground in places where the fences were to be erected, and the underlying rock and the steep hills in other places, greatly adding to the estimated cost of the labor, the failure of the Government to pay promptly according to the contract, necessitating a sale of vouchers at a discount, and the borrowing of a large amount of money at high rates of interest, all combined against the constant endeavor of the petitioner, and rendered the fulfillment of his contract impossible without his incurring pecuniary loss.

It is shown by the proofs submitted that the memorialist fulfilled the contract as to the fences to the letter, (see papers marked 10; and 11.) By the same papers and No. 16 is also shown that he fulfilled the contract as to coffins, except in the matter of delivery of two lots at the time required, the reason for this failure being explained in papers Nos. 3, 5, 6, 14, 15, and 19, together with the indorsement of Major E. B. Whitman, supervisory quartermaster, Brigadier General Thomas Swords, assistant quartermaster general, and Major General George H. Thomas, on paper No. 1. It is conclusively established that the burning of his lumber mill and destruction of machinery, and a delay resulting from a flood, circumstances beyond his control or precaution, prevented him from furnishing the coffins ordered at Vicksburg and Memphis at the time the same were required, in the quantity of about twelve thousand at the first and eighteen hundred at the last-named point. Under the terms of the contract for this failure to deliver the coffins last referred to, others were procured by the Government at a cost of two dollars at Memphis and \$2 50 at Vicksburg for each coffin. The difference between these prices and the price, ninety cents, for which the memorialist was to furnish the same amounts to \$15,765, (see indorsement of General Swords, on paper No. 16,) and was charged to the memorialist. From this charge he cannot escape, except by an act of Congress for his relief. And

in view of all the facts shown, your sub-committee respectfully recommend such relief to be granted.

The petitioner further prays that he may be paid an increased price for the work now finished and the coffins hereafter to be made and delivered under the contract at Vicksburg and Natchez, the most distant and expensive points, to indemnify him for all his necessary expenses incurred heretofore in the execution of it, and give him a reasonable compensation for the time, labor, and money invested in carrying on the work, and asks that such increase of price may be what the proofs adduced and a sense of justice may dictate. Upon this point your sub-committee has to observe as follows:

It would seem from the concurrent testimony of the officers of the quartermaster's department and of business men, (all acquainted with the markets in the localities where the contract calls for the supplies,) as to the price of lumber of the kinds specified in the contract, the condition of the ground on which the fence had to be erected, the unusual expense of navigation, because of the unprecedented condition of the streams, and all the material circumstances involved in the case, that the price stated in the contract was and is insufficient to reasonably compensate the petitioner (or any other party who might have undertaken the work) for the time, labor, and expense necessarily involved in the faithful fulfillment of the contract. Your sub-committee is therefore of the opinion that a fair and reasonable increase of price for the coffins would be eighty cents each, and for fence thirty cents per lineal foot, and that it ought to be made.

The Senate committee have compared this report with the evidence filed by the claimant, and find that it is substantially verified thereby. On this statement of the case the House proposed the joint resolution aforesaid, whereby it is proposed to relieve the said Palmer from all stoppages on account of his failure to deliver coffins under said contract, and to authorize and direct the adjustment and settlement of the further claim of the said Palmer for erecting fences around the national cemeteries by an additional allowance of \$7,283 70, to be paid from the appropriation provided in act entitled "An act to establish and protect national cemeteries," approved February 22, 1867, but no allowance is made in said joint resolution to relieve the said Palmer for the difference between the contract price for said coffins and what it actually cost him to make and deliver them.

The number of coffins already delivered is about forty-three thousand. It is estimated that from fifteen to twenty thousand more will be required under the contract; say sixty thousand in all. The increase of price recommended by the foregoing report of the House committee for each coffin is eighty cents, which would make the aggregate amount of increase \$48,000.

This committee are satisfied that Mr. Palmer is a man of integrity, and that he has, in good faith, industriously, earnestly, and with reasonable prudence, economy, and skill, endeavored to fulfill the obligation of his contract, and that, unless additional relief be granted to him beyond that provided in the joint resolution aforesaid, he will still suffer large pecuniary loss beside the loss of his time and labor. The nature of the case and facts connected with it render it impossible to ascertain with absolute certainty what that loss would be, but it is beyond a doubt that it would approximate the amount supposed by the committee of the House. The committee, therefore, recommend that the said joint resolution be so amended as to allow the said Palmer the sum of \$20,000, (including the sum of \$7,283 70, extra compensation for erecting fences around the national cemeteries,) and the committee report back the said joint resolution with an amendment accordingly.

Mr. CONKLING. Now I beg to inquire of the honorable chairman of the Committee on Claims, or, if he has not the measure in charge, of the honorable Senator from West Virginia, upon what principle it is that this \$20,000 is to be paid, upon what principle of law or equity?

Mr. WILLEY. There is no principle of law upon which the payment could be required. It is simply a question on the facts addressing itself to the sense of equity of the Senate. The contract distinctly binds the contractor, Mr. Palmer, to deliver his coffins and to build his fence in a certain manner and within certain times and for certain prices. Mr. Palmer has been unable to do so, and in part the reasons why he has been unable to do so have been stated to the Senate by the reading of the report. He presented his petition to the other House for relief. The committee of the other House reported a joint resolution granting him relief to the extent of seven thousand and some odd hundred dollars for that part of his contract which referred to the erection of fences around the cemeteries, and gave him no relief whatever in regard to the claim which he sets up in his petition for the difference between the price which he had to pay for furnishing the coffins and the price for which he contracted to make and deliver them; but the House did this in that behalf; in consequence of the hinderance by the enemies of the country, by floods, and by fire, he was unable to deliver



twelve thousand coffins at Vicksburg and eight hundred coffins at Memphis within the time specified in his contract and within the time required by the quartermaster's department, in consequence of which, under the provisions of his contract, the authorities deducted from what he was to get for the coffins which he had actually made the amount of \$15,765. In consequence of the failure of Mr. Palmer to deliver these coffins in time the Government were required to make about thirteen thousand eight hundred coffins themselves, a large portion of which cost the Government, according to the proof of the Government's own officers, \$2 50 each coffin; a part of them made out of old lumber belonging to the Government were made for two dollars per coffin. The contract price of these coffins was ninety cents per coffin. So the Senate will see that when the Government by its own means was compelled to make these coffins each one cost the Government \$2 50 when made out of lumber the Government had to purchase, whereas by the contract of Mr. Palmer he was compelled to make and deliver them for ninety cents each.

Mr. CONKLING. Is there not an item here for damages?

Mr. WILLEY. I was going to state that by the terms of the contract the Government were authorized to withhold certain sums of money upon a failure on the part of Mr. Palmer to fulfill his contract, and these sums withheld are called, in the language of the War Department and of the bill reported by the House, "stoppages."

Mr. CONKLING. What is the amount?

Mr. WILLEY. The amount is \$15,765; that was the price paid by the Government for the coffins which Mr. Palmer failed to make and deliver in time. The joint resolution from the House does relieve Mr. Palmer to that extent. It allows him to be paid in full for all the coffins he actually made at ninety cents per coffin; that is to say, it authorizes the quartermaster's department, notwithstanding the contract, to pay Mr. Palmer what they withheld by that stoppage for his non-delivery of those thirteen thousand eight hundred coffins. To that extent it relieves him; but for the other coffins, amounting to twenty-nine thousand, it afforded him no relief. Mr. Palmer now asks further relief in consequence of the facts set forth in this report—the hardships of the contract, his being prevented from fulfilling it in time by the hostility of the population in the country where he had to execute this contract to the purposes to which these coffins were to be dedicated, and to which these cemeteries were to be dedicated, that is, the care and sepulture of the dead who had fallen in the service of the country. In consequence of the hostility of the population which these acts excited against Mr. Palmer the result was the destruction of his mills and an attempt to destroy his credit and in every imaginable way to embarrass him in fulfillment of his contract. He seeks relief for the difference between what the coffins actually cost him and what he contracted to make and deliver them for.

He has already made and delivered forty-three thousand coffins, including what the Government had to make on account of his failure to deliver the thirteen thousand eight hundred in due time, leaving the number he actually made and delivered twenty-nine thousand two hundred, and he has made and delivered them at the price of ninety cents per coffin; that is, he will get ninety cents if this resolution passes, and the stoppage of \$15,765 be allowed to be paid to him for them. Otherwise, he will have made his twenty-nine thousand coffins for ninety cents a coffin, and yet have deducted from the price of them \$15,765, withheld by the Government on account of stoppages, so that he would get very little; scarcely anything at all. The House joint resolution proposed to relieve him of that embarrassment and difficulty; but if the Senate paid attention—and I was sorry they did not—to the facts specifically set forth in this report, the result of an

elaborate and careful examination of the committee in the other House, and verified by the committee of this House by comparing the testimony filed in the case with the statements of the report itself, they would have seen that the contract is most unconscionable. The fact is proved by Mr. Hamill and the officers of the Government there, that when the Government had to make these coffins themselves they cost the Government \$2 50 a coffin.

Mr. JOHNSON. What did they pay to other contractors?

Mr. WILLEY. There were no other contractors. The quartermaster's department itself procured lumber and employed its own mechanics, and when it did that, according to the testimony of Hamill, one of the officers of the Government, the coffins cost \$2 50 apiece where the lumber was new, and making some of the coffins out of old lumber they cost two dollars; and yet Mr. Palmer, who, by his personal appearance and his personal conference with me, has given me a high idea of the man as a man of honor and patriotism, who has been striving in the utmost degree in his power faithfully to carry out his contract, will be compelled, under the unconscionable conditions of this contract, to deliver, as I understand from the best information I can get, about seventeen thousand coffins yet, at the inadequate price of ninety cents a coffin, and he is to be allowed only ninety cents for the twenty-nine thousand which he has already made. He is under bonds in the penalty of \$80,000, and it will utterly ruin him.

I understand from my friend from Tennessee, [Mr. FOWLER,] who has some personal acquaintance with this gentleman, he being a constituent of his, and I have understood from other gentlemen, that Mr. Palmer is what he seems to be, a highminded and honorable man; and that he has the confidence of the Army any Senator may see who will examine this testimony. On the back of the petition itself is the autographic statement of General Thomas, who says that he has carefully read the within petition, and, from his knowledge of the facts, commends it to the favorable consideration of Congress. I was informed by Colonel STOKES, of the House of Representatives, that when Mr. Palmer, under the pressure of this contract, was about submitting to the penalties of his bond, when he found that he must necessarily be a ruined man anyhow, and proposed to throw up his contract, he was advised not to do so, because certainly the magnanimity and sense of honesty of the United States would not allow an honorable man, honestly struggling to fulfill his contracts, to be injured and to be utterly ruined; and upon the faith of such representations, and upon the suggestions of officers of the Army to whom he made the same proposition to throw up his contract, that he certainly would be indemnified and compensated if he would go on and fulfill it, he has struggled on and is struggling on. The House of Representatives, upon the evidence in the case, agreed to relieve him to the extent which they thought was necessary to afford some compensation for the deficiency of price.

Mr. CONKLING. Before the Senator takes his seat allow me to ask him one question. Am I right in supposing that the bill contains three elements of compensation; first, seventy-two hundred and eighty-three dollars and some cents in reference to the fencing of cemeteries; second, \$12,716 in reference to the unexecuted contract; and, third, the remittance of what are called stoppages, amounting to \$15,765. Are those the three items?

Mr. WILLEY. The Senator is correct as to those three items?

Mr. CONKLING. That makes \$35,000.

Mr. WILLEY. The Senator is correct as to the items, but not exactly correct in his statement of the case.

Mr. CONKLING. I only described the items. Am I correct in the statement and description of the items?

Mr. WILLEY. Yes, sir; but—

Mr. DAVIS. Before the Senator from West Virginia proceeds allow me to say a word to the Senator from New York. I sustained this report in committee, and it is apparent that no man could have furnished the coffins that this man did in truth furnish at the remuneration which the committee allowed him by the report and make one dollar profit. It was because of the oppressive nature of the contract that I agreed to the report.

Mr. WILLEY. Allow me to state here that the absolute lumber which goes into a coffin will cost \$1 11 besides the nails, besides the payment of the mechanic for making it, and besides the transportation from the place where it is made to the place where it is wanted.

The Senator from New York, I fear, does not understand the House joint resolution, especially as it proposes to relieve Mr. Palmer from the stoppages of \$15,765. Those are simply stoppages, that much deducted out of the amount of the ninety cents per coffin on the coffins he has actually made. For instance, including what the Government has furnished and what Mr. Palmer has made, the whole number of coffins made up to the time this report was submitted was about forty-three thousand. Of that number the Government made, or had made for it otherwise than through Mr. Palmer, thirteen thousand eight hundred, for most of which the Government paid \$2 50 per coffin, and for the residue two dollars. What those coffins cost the Government has been stopped by the War Department out of the compensation which Mr. Palmer was to get, out of the pay for the twenty-nine thousand coffins he made at ninety cents a coffin. That much money, therefore, is deducted from the pay actually due him for the work done. The provision of the joint resolution in that respect simply allows him to get the balance actually due, which would be very little in truth. The \$15,875 is part of the price of the twenty-nine thousand coffins which he made at ninety cents per coffin.

The other branch of the relief provided for in the amendment to this joint resolution, \$12,000, was not intended by the committee to be an increase of the price of the coffins he was yet to make, but it was to apply alike to what he has made and what he is still required to make. I understand he will be required to make from fifteen to seventeen thousand more, and it is to give him something like a reasonable, equitable compensation for the real *bona fide* honest service which he has rendered to the United States. I am satisfied that every Senator who will examine this testimony will come to the conclusion that, adding this amendment to this bill and passing it in that shape, Mr. Palmer must still be the sufferer and the loser from fifteen to twenty-five thousand dollars. You have only to make a calculation to show such to be the case. He says these coffins cost him two dollars per coffin, and he proves that they cost him that with his own materials and his own facilities of making them, so that the loss on each coffin he has made is \$1 10, and if he is compelled to lose that much on each coffin that he is to make the sum will amount to \$30,000.

Under all these circumstances I trust it will be the pleasure of the Senate to extend to this man this partial relief. As I said at first, he has no legal claim on the Government. His contract is specific, and if we are to hold him to the strict letter of the bond; if we are to say it is so nominated in the bond; if we say that we must have the pound of flesh, that and nothing less, this man must suffer, and he will suffer and be ruined by such action on the part of the Senate.

Mr. SHERMAN. I trust the Senate will do a measure of justice to this man by passing this joint resolution. I would not detain the Senate but for the fact that I know Mr. Palmer and know his character and standing very well. At the beginning of the war he was a fellow lawyer and a judge of the court of common pleas in the State of Ohio. He raised two companies of men in that State for a force with

which I was perfectly familiar. I knew him personally and intimately at that time. He went off and became a citizen of the State of Tennessee. I knew him to be an earnest, honest man. He engaged in a contract which, on the face of it, seems to be a foolish one, at an insufficient price. He agreed to deliver forty or fifty thousand coffins at ninety cents apiece. It seems from the testimony, which is spread out at great length in this report, that it was utterly impossible for any man to comply literally with the terms of that contract. The result is that, on account of the burning of his mills and the inability to perform the contract, he could not supply in some places the coffins demanded, and the quartermasters had coffins made at the Government expense, costing \$2 50 each, and they deducted the loss thus sustained by the Government from the price of those he actually delivered. He delivered about forty-three thousand coffins at ninety cents each, for which he was to receive about forty thousand dollars, and it is proposed to take from the amount coming to him the loss and damage caused by his inability to comply with his contract, so that he will be ruined by the operation. This man is engaged in a patriotic duty, displaying great ability, great zeal, and great fidelity. He is a man of great energy; I know him personally; a man of pure character, who entered into this matter from the best of motives. He is likely to be ruined by the Government enforcing against him a hard contract. It seems to me that it is a case for the equitable relief which Congress alone can render.

As for enforcing against him these stoppages, that I think would not be done in any court of justice; because the fact that he did all that any man could do to execute the contract would be sufficient in a court of law or equity to prevent a literal enforcement of the contract. Having done all that any man could possibly do, no more should be required of him.

The \$7,000 proposed to be allowed to him for the additional expenses incurred in making the fences around the cemeteries is a perfectly proper item; because it seems from the report that he encountered difficulties not contemplated at the time the contract was made; that in certain cases they had to dig post holes through to the rock, the ground not being firm enough to put iron bolts down, and the expense was increased by unexpected events—a condition of facts that was not contemplated by either party when the contract was made. In a case of this kind a court of equity would give relief on the ground that new facts not known to either party had occurred.

The only disputed item there can be is the additional allowance proposed by our committee of some twelve thousand dollars to insure the future completion of the contract. In my judgment that is a beneficial provision for the United States. There are some seventeen thousand of these coffins yet to be delivered. If he is allowed to deliver them at ninety cents each, they will cost the Government, including the \$12,000, about a dollar and a half each; but if he is unable to carry out the contract by the passage of this measure, the Government will have to supply those coffins at \$2 50 each.

Mr. FRELINGHUYSEN. I will state to the Senator from Ohio, that it was on that principle, because it was a good arrangement for the Government, that the committee proposed the amendment.

Mr. SHERMAN. So it strikes me. I know nothing about the facts of this case except what I find in the report, and I should not have said a word in regard to it but that I happen to know Mr. Palmer. I was rather surprised that he got into a contract of this kind by which he agreed to make coffins at ninety cents. It seems to me on the whole the arrangement proposed by the committee is a fair one, and I hope the Senate will pass the joint resolution.

Mr. FOWLER. I will make a remark that, perhaps, will explain to the Senator from Ohio why the contract was made by this gentleman.

I am well aware that Major Palmer is better known to the Senators from Ohio than he is to me. He was formerly a citizen of Ohio. He came to the State of Tennessee with the Army. He was a good soldier. As has been stated by the Senator from Ohio, he is an earnest, energetic, intelligent gentleman. He purchased property in a portion of the country that was not at all congenial to his sentiments. It was a very unfortunate location for his property. He has always had difficulty in doing anything on his farm. He owned a portion of land that was covered with a very excellent quality of timber well adapted to this purpose. He erected saw mills there, and by having such a vast quantity of timber and fine mills he was enabled to furnish lumber cheaper than it could be purchased at any other place, so that this contract was simply a means of enabling him to sell his lumber.

As I said, however, his farm was located in a section of country where there was a great deal of violence of feeling—unusually so. It was in a county in which there was not a solitary vote given for the Union in 1861; and perhaps there is as much violence of feeling there as in any portion of the State of Tennessee or in any portion of the South. His mills were burned down, and he was unable to use his timber as he had expected to use it in fulfilling this contract, so that he was forced to go into the market and purchase lumber at as high rates as other people, and he was unable to fulfill his contract, and I think would have been unable to supply coffins at ninety cents, even if he had not met with the misfortunes to which I have alluded.

I believe every Senator knows well enough that ninety cents is no price for a coffin. I do not think there is a Senator here who would expect Mr. Palmer or any other man to fulfill a contract of that kind. It was certainly a very great exaction.

Mr. FESSENDEN. Why did he make such a contract?

Mr. FOWLER. I do not know, unless it was for the reasons I have stated. I can only say that I should not have made such a contract. But, under the circumstances, if he could have manufactured his timber on his own premises he might not have lost so much by it. He undoubtedly meant in good faith to fulfill the contract; and of my own personal knowledge I can say that he has used almost superhuman exertions to fulfill it. No man ever put forth greater efforts than he has done for that purpose. The proof of that fact is before the committee. For my part, I do not think the committee have allowed him anything like equity in the case. I do not suppose there is a Senator who will examine the facts of the case throughout who will hesitate to award him this small amount of money in order to save him from utter ruin.

He is a temperate man; he pays good attention to everything that he does; he knows the way to accomplish results; he has acted upon economical principles; there has been no extravagance whatever in his expenditures; every effort that he could employ in order to conduct this business in the most economical manner has been put forth. I know personally that General Thomas feels very much interest in this case, and is perfectly aware that Major Palmer will lose largely by the operation—not only enough to ruin him, but his securities also, unless some relief be extended.

The case has been presented by the committee; it is unnecessary to go over the facts. I have merely mentioned the points which I have stated in order to explain the circumstances that induced him to make the contract in the first place; and it must be borne in mind that he has not had an opportunity of meeting his expectations, because when his mills were burned down he could no longer secure timber from his own farm.

Mr. CONKLING. Mr. President—

Mr. MORGAN. I ask my colleague to give way. It is very evident that this bill cannot be passed to-day, and I desire now to move an

executive session in accordance with the understanding of the Senate yesterday.

Mr. WILLEY. I hope not. Let us pass the bill.

Mr. CONKLING. The understanding yesterday was that my colleague should have an executive session early to-day, and I do not feel at liberty to object to it. I want to submit some suggestions about this bill. It concerns a number of my constituents to know what the rule in these cases is, and I want to state a case or two to the Senate, to be put along with this, as I expect to derive a good deal of light from what shall be done in Mr. Palmer's case. As I have no doubt it will take some time, I yield to my colleague to make his motion.

Mr. MORGAN. I move that the Senate proceed to the consideration of executive business.

Mr. FOWLER. I hope that motion will not be carried.

Mr. CONKLING. Is it debatable?

The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. FOWLER. I did not rise to debate it. I only rose to express my wish that it would not be carried, and that is allowable on all occasions of the kind.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York.

The question being put, there were, on a division—yeas 14, noes 14.

Mr. FOWLER. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 19; as follows:

YEAS—Messrs. Cattell, Conkling, Dixon, Fessenden, Grimes, Henderson, McCroery, Morgan, Morrill of Vermont, Morton, Nye, Pomerooy, Ross, Salsbury, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Williams, and Wilson—22.

NAYS—Messrs. Buckalew, Cole, Conness, Cragin, Davis, Edmunds, Fowler, Frolinghuysen, Harlan, Hendricks, Howard, Howe, Johnson, Morrill of Maine, Patterson of Tennessee, Van Winkle, Vickers, Wade, and Willey—19.

ABSENT—Messrs. Anthony, Bayard, Cameron, Chandler, Corbett, Doolittle, Drake, Ferry, Norton, Patterson of New Hampshire, Ramsey, Sprague, and Yates—13.

So the motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 8, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. McDONALD, its Chief Clerk, informed the House that the Senate had passed the bill (H. R. No. 881) refunding duties paid under protest on the importation from France of a bell donated for the use of St. Mary's Institute and Notre Dame University, Indiana.

Also, that the Senate had passed the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869, with amendments, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed a bill (S. No. 475) to extend the charter of Washington city; also to regulate the selection of officers and for other purposes; and a joint resolution (S. R. No. 123) authorizing the Secretary of State to adjust certain claims and directing the payment thereof; in both of which he was directed to ask the concurrence of the House.

### APPROPRIATIONS FOR INDIAN SERVICE.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, relative to the necessity of speedy legislation by Congress upon the estimates of appropriations for the use of the Indian service; which was referred to the Committee on Appropriations, and ordered to be printed.

## RELIEF OF CHIPPEWA INDIANS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a report from the Commissioner of Indian Affairs, relative to the necessities of the Chippewa Indians of Lake Superior, and recommending an appropriation for their relief; which was referred to the Committee on Appropriations, and ordered to be printed.

## LEAVE OF ABSENCE.

Leave of absence was granted to Mr. JULIAN for one week on account of sickness in his family; to Mr. ASHLEY, of Ohio, for ten days; to Mr. POLAND for two weeks; to Mr. PRUYN indefinitely; and to Mr. HUNTER for two weeks.

## NAVAL APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the amendments of the Senate to House bill No. 601, making appropriations for the naval service for the year ending June 30, 1869, be taken from the Speaker's table and referred to the Committee on Appropriations.

No objection was made; and the bill and amendments were referred accordingly.

## STEAMSHIP ATLANTIC.

Mr. WASHBURNE, of Illinois. I do not know that there is a quorum present for business; but I have a resolution here calling for information which I think we all want. I ask that the resolution be read, and if there is no objection I will then ask its adoption.

The following preamble and resolution were then read:

Whereas the following advertisement appears in the newspapers of the city of New York:

Notice is hereby given that under and by virtue of a certain instrument of indenture, dated the 6th day of February, in the year 1849, made and entered into between Edward K. Collins, James Brown, Elisha Riggs, William S. Wetmore, and Stewart Brown, of the first part; Prosper M. Wetmore, of the second part, and the United States of America, by John Y. Mason, Secretary of the Navy of the United States, of the third part, and for the purpose of obtaining repayment of the sum of \$115,500, being the amount of the outstanding balance of advance due, unpaid, and unrefunded to the United States, with interest thereon from the 20th day of February, in the year 1858, will, on the 1st day of November, in the year 1858, at twelve o'clock at noon, sell at the Merchants' Exchange, at the city of New York, at public auction, for cash, the steamship Atlantic, her tackle, apparel, &c.

PROSPER M. WETMORE, Trustee.

NEW YORK, April 19, 1858.

The above sale having been postponed from time to time to this date, it is hereby again postponed until Thursday, October 20, 1864, at the Merchants' Exchange sales room, No. 111 Broadway, in the city of New York, at twelve o'clock at noon.

PROSPER M. WETMORE, Trustee.

NEW YORK, May 31, 1864.

The above sale is postponed till Wednesday, November 30, 1864, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, October 20, 1864.

The above sale is postponed till Thursday, January 26, 1865, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, November 30, 1864.

The above sale is postponed till Thursday, March 23, 1865, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, January 20, 1865.

The above sale is postponed till Wednesday, April 26, 1865, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, March 23, 1865.

The above sale is postponed till Wednesday, May 24, 1865, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, April 26, 1865.

The above sale is postponed till Wednesday, June 23, 1865, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, May 24, 1865.

The above sale is postponed till Wednesday, August 23, 1865, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, June 23, 1865.

The above sale is postponed till Thursday, October 26, 1865, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, August 23, 1865.

The above sale is postponed till Thursday, December 28, 1865, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, October 26, 1865.

The above sale is postponed till Thursday, March 29, 1866, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, December 28, 1865.

The above sale is postponed till Thursday, May 31, 1866, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, March 29, 1866.

The above sale is postponed till Thursday, July 26, 1866, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, May 31, 1866.

The above sale is postponed till Thursday, October 25, 1866, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, July 26, 1866.

The above sale is postponed till Thursday, December 27, 1866, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, October 25, 1866.

The above sale is postponed till Thursday, January 31, 1867, at the same hour and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, December 27, 1866.

The above sale is postponed till Thursday, March 28, 1867, at the same hour and place.

PROSPER M. WETMORE, Trustee.

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PROSPER M. WETMORE, Trustee.

NEW YORK, December 26, 1867.

The above sale is postponed till Thursday, May 23, 1868, at the same time and place.

PROSPER M. WETMORE, Trustee.

NEW YORK, March 26, 1868.

And whereas further, it appears by said advertisement that the sale of the said steamship Atlantic has been postponed from time to time for the period of ten years; therefore,

Be it resolved, That the Secretary of the Navy be directed to report to this House all the facts and circumstances connected with the mortgage held by the United States on the said steamship Atlantic, and the reasons why the said sale of the said steamship has been postponed for so long a time; where the said steamship now is, what is her present condition and value, and whether or not in his judgment the Government will realize from the sale of said steamship the amount now due on the mortgage; and further, whether the said steamship was chartered by the United States during the rebellion, and if so, for what period and upon what terms, and if any portion of the charter money was deducted to be applied to the claim of the United States, and if not why not.

No objection was made, and the preamble and resolution were adopted.

## ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, a bill (H. R. No. 881) refunding duties paid under protest on the importation from France of a bell donated for the use of St. Mary's Institute and Notre Dame University, Indiana; when the Speaker signed the same.

## IMPEACHMENT OF THE PRESIDENT.

Mr. ROBINSON. I ask consent to offer a resolution, which I think the Speaker will rule to be privileged, when it shall have been read. The resolution was read, as follows:

Resolved, That the resolution of impeachment against Andrew Johnson, President of the United States, passed February 24, 1868, and the proceedings of this House amendatory thereof, or supplemental thereto, be, and the same are hereby rescinded, and that the managers be recalled.

The SPEAKER. The Chair will rule that this resolution is not privileged at this time, and for this reason: the House is now acting under the previous question, which was pending at the adjournment on the 31st of March. The House at that time had under considera-

tion a resolution reported by the gentleman from New York, [Mr. LAFLIN,] from the Committee on Printing, to print an extra number of copies of the argument of Manager BUTLER. The motion of the gentleman from New York [Mr. CHANLER] to lay the resolution on the table was voted down; the previous question was seconded, and the pending question now is "Shall the main question be now put?" and no other business is now in order, except by unanimous consent.

Mr. ROBINSON. Then I call for the regular order.

Mr. WASHBURNE, of Illinois. I move that the House now adjourn.

The motion was agreed to; and accordingly (at twelve o'clock and fifteen minutes p. m.) the House adjourned.

## PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of citizens of Kendall and Maverick counties, western Texas, for a division of said State.

Also, a remonstrance of the State Central committee representing the Union men of North Carolina, against disabilities being removed from John S. Short, Martin county, North Carolina.

Also, a memorial of the Chamber of Commerce of Charleston, South Carolina, praying that the building known as the old post office may be rented to them, to be used as a public exchange, &c.

By Mr. COOK: The petition of citizens of Maryland, for the passage of House bill No. 420, for the incorporation of the Washington and Maryland Railroad Company.

By Mr. FERRISS: The petition of George Cronkrite and others, soldiers of the war of 1812, for further pension of eight dollars per month.

Also, the petition of S. F. Vilas and others, stockholders of the Second National Bank of Plattsburg, for leave to change the name of said bank to The Vilas National Bank of Plattsburg.

By Mr. GROVER: A memorial of more than 100 oil refiners and other business men of Jefferson county, Kentucky, including the city of Louisville, praying a repeal of the law taxing refined petroleum.

By Mr. RAUM: The petition of G. W. Cochran, on behalf of himself and the other stockholders of the City National Bank of New Orleans, for the name of said bank to be changed to the Germania National Bank of New Orleans.

## IN SENATE.

THURSDAY, April 9, 1868.

Prayer by Rev. R. FULLER, D. D., of Baltimore, Maryland.

## IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore*. As all legislative business is suspended, nothing remains but for the chair to be vacated that the Chief Justice of the Supreme Court may preside.

The PRESIDENT *pro tempore* thereupon vacated the chair, and the Senate proceeded to the trial of the impeachment of President Johnson.

The Senate sitting for the trial of the impeachment having adjourned,

The PRESIDENT *pro tempore* resumed the chair at eighteen minutes to four o'clock p. m.

Mr. CONNESS. I move that the Senate adjourn.

Mr. SHERMAN called for the yeas and nays, and they were ordered.

Mr. THAYER. Mr. President—

The PRESIDENT *pro tempore*. The motion is not susceptible of argument.

Mr. THAYER. I desire to state—

Mr. GRIMES. I object.

Mr. THAYER. Very well.



The question being taken by yeas and nays, resulted—yeas 14, nays 35; as follows:

YEAS—Messrs. Buckalew, Conness, Corbett, Dixon, Doolittle, Edmunds, Grimes, Howard, McCreery, Norton, Patterson of Tennessee, Sprague, Van Winkle, and Vickers—14.

NAYS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Cragin, Davis, Drake, Ferry, Fessenden, Frelinghuysen, Harlan, Henderson, Hendricks, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, Willey, Williams, Wilson, and Yates—35.

ABSENT—Messrs. Anthony, Bayard, Fowler, Howe, and Saulsbury—5.

So the Senate refused to adjourn.

#### EXECUTIVE SESSION.

Mr. THAYER. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, April 9, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The reading of the Journal of yesterday was dispensed with by unanimous consent.

#### ORDER OF BUSINESS.

Mr. ELDRIDGE. I desire to inquire of the Chair if the understanding of last week is still in force, in reference to business by the House?

The SPEAKER. That understanding will continue in force, unless otherwise ordered, until the close of the impeachment trial; that is, that unless the Speaker gives notice at the opening of the day's session that there will probably be business for the consideration of the House none will be transacted when the Committee of the Whole return to the Hall.

#### IMPROVEMENT OF UPPER MISSISSIPPI.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting a communication from the chief of engineers, with the report of Major General G. K. Warren, of the engineer corps, on the survey and improvement of the Upper Mississippi river and tributaries; which was referred to the Committee on Commerce, and ordered to be printed.

#### SOUTH AMERICAN AFFAIRS.

Mr. CHANLER. I have some resolutions which I desire to offer. If, after they shall have been read, no objection is made, I will ask action upon them now; otherwise, I will consent to their reference to the Committee on Foreign Affairs.

The resolutions were read, as follows:

*Resolved*, That in the opinion of this House it is the duty of this Government to take prompt and vigorous measures to reconcile the nations of South America now at war.

*Resolved*, That the President of the United States be requested to appoint a special mission to Brazil, Bolivia, Uruguay, and Paraguay for this purpose.

*Resolved*, That the President be requested to inform this House what efforts he may have already made to reconcile the parties to the war now raging between those countries.

Mr. KELSEY. I think those resolutions should be referred to the Committee on Foreign Affairs.

Mr. CHANLER. Very well.

The resolutions were accordingly referred to the Committee on Foreign Affairs.

#### LEAVE OF ABSENCE.

On motion of Mr. LOUGHRIDGE, leave of absence was granted to Mr. FERRY for ten days.

Leave of absence was also granted to Mr. BLAIR for two weeks.

#### DELANO VS. MORGAN.

Mr. KERR. Mr. Speaker, I ask unanimous consent of the House that the Ohio contested-election case of Delano vs. Morgan be deferred until the 7th day of May next, by which time the minority will be prepared to report on the case. I desire further to state the reason I

make that request of the House is this: on account of business which duty compels me to attend to I ask leave to be absent about three weeks. I will have to leave for Indiana to-day to be absent about three weeks. I will not be able by any possible effort to make the report before my departure or until after my return. The case involves more than two thousand pages of testimony, all of which has to be examined, and it is altogether one of the most complicated and laborious cases ever passed upon by a committee of the House. I ask this as a matter of justice to parties interested in the contest, and as a matter of kindness to myself.

Mr. SCOTFIELD. I will have no serious objection to the case being continued until the 1st day of May, and if the gentleman from Indiana shall not be prepared at that time, I will be glad to have the committee have an opportunity to report and the report acted upon at the earliest possible time.

Mr. KERR. I will suggest to the gentleman from Pennsylvania that the 1st day of May comes on Friday. The 4th of May will be Monday. I could not well get here by any effort before the 4th of May, and then I would have only two or three days to make the report in. I ask that time in which to prepare the report, and I agree that it shall be done by that time.

Mr. MAYNARD. When does the gentleman from Pennsylvania propose to report in the Kentucky and Missouri cases?

The SPEAKER. Let us dispose of the pending case first.

Mr. SCOTFIELD. I will not consent to a further extension beyond the 1st day of May. If that is not satisfactory to the gentleman from Indiana, if he cannot consent to that time, and thinks that he will not be prepared with his report on that day, I now give notice that I will call the case up for the action of the House at the first opportunity which may be afforded to me.

Mr. CHANLER. I do not think the acting chairman of the Committee of Elections heard the reason assigned by our colleague from Indiana for asking a further extension of time in the case of Delano vs. Morgan. I think the attention of the gentleman from Pennsylvania was drawn off at the time the gentleman from Indiana made his explanation. I hope he will listen to it again.

Mr. SCOTFIELD. I did not hear all the gentleman had to say, but I supposed he informed me in private of all that he stated publicly.

Mr. KERR. I explained it fully to the gentleman.

Mr. SCOTFIELD. On consultation with some who take an interest in the case I have stated the best I could do if it depends upon me to make any arrangement about it.

Mr. KERR. I cannot consent to the 1st day of May for the reason that I know I cannot prepare the report by that time.

Mr. SCOTFIELD. I give notice to the House, then, that I will call the case up at the earliest opportunity the House is ready to act upon it.

Mr. KERR. Is it in order to submit my request to the House?

The SPEAKER. It is not, for the reason that there is a question of privilege now pending on the printing of forty thousand copies of Manager BUTLER'S speech.

Mr. KERR. Then I understand that any time is refused.

#### NATIONAL FORCES.

Mr. SHANKS, by unanimous consent, introduced a bill (H. R. No. 1001) to amend the twenty-first section of an act entitled "An act to amend the several acts heretofore passed for enrolling and calling out the national forces, and for other purposes;" which was read a first and second time, and referred to the Committee on the Judiciary.

#### HENRY C. TYLER.

Mr. WOODWARD, by unanimous consent, introduced a bill (H. R. No. 1002) for the

relief of Henry C. Tyler; which was read a first and second time, and referred to the Committee of Claims.

#### M. B. BRADY AND COMPANY.

Mr. TWICHELL. I ask unanimous consent to lay before the House a communication of M. B. Brady & Co., asking for the privilege of selling in the lobby of the House photographs of the impeachment managers on the part of the House.

Mr. ELDRIDGE. I would like to know whether the managers have any interest in the sale of these pictures. [Laughter.]

The SPEAKER. Under the order of the House made during the last Congress, the Chair is not at liberty to assign any table or desk or stand for the sale of any article whatever in this part of the Capitol. It is under the control of the House.

Mr. ELDRIDGE. If the managers have any interest in this I hope the House will give unanimous consent.

Mr. WASHBURN, of Illinois. I move that the communication be referred to the Committee on the Rules.

The motion was agreed to.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House resolves itself into the Committee of the Whole, according to order, to proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Door-keeper.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At three o'clock and forty-five minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: the Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until twelve o'clock to-morrow.

And then, on motion of Mr. WASHBURN, of Illinois, (at three o'clock and forty-six minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ARCHER: The petition of citizens of Baltimore, Maryland, praying for the abolition of the internal tax on refined petroleum.

By Mr. DONNELLY: A memorial of the Legislature of the State of Minnesota, in relation to General Warren's report upon the subject of the survey and improvement of the Mississippi river above Rock Island and of the Minnesota river.

Also, a memorial of the same, in relation to increase of mail service on route No. 13629, from Fort Abercrombie, Dakota Territory, to Pembina, Dakota Territory, to three times per week.

Also, a memorial of the same, in relation to the establishment of certain weekly mail routes.

Also, a memorial of the same, in relation to the survey and construction of two wagon-roads to Indian reservations on the north shore of Lake Superior.

Also, a memorial of the same, in relation to mail service between Fort Abercrombie, Dakota Territory, and Helena, Montana Territory.

Also, a joint resolution of the same, relative to indorsing Congress in the impeachment of Andrew Johnson.

Also, a joint resolution of the same, relative to the survey of lands in the Red River valley.

By Mr. WINDOM: A concurrent resolution of the Legislature of Minnesota, relating to the naturalization of foreigners.

Also, a joint resolution, relative to the Fort Ridgely military reservation.

Also, a joint resolution, relating to the improvement of the Minnesota river.

Also, a joint resolution, relating to the improvement of the Wisconsin and the Fox rivers.

Also, a joint resolution, relating to the New Ulm mill claims.

Also, a joint resolution, relating to an appropriation to construct a wagon-road through southern Dakota to the Missouri river.

Also, a joint resolution, in relation to the transfer of the Territories between Minnesota and Alaska to the Dominion of Canada, and requesting the confirmation of the purchase of Alaska.

Also, a memorial, in relation to the establishment of a mail route from Waseca to Albert Lea.

Also, a memorial, for the establishment of a mail route from Jackson, Jackson county, to Red Wood Falls, Red Wood county.

Also, a memorial, in relation to the establishment of mail routes and post offices in certain counties.

Also, a memorial, asking a grant of land to aid in the construction of the Minnesota and Northwestern railroad.

Also, a memorial, for a grant of land to aid in the construction of the Chatfield Branch railroad.

Also, a memorial, relating to a mail route from Lime Springs to Spring Valley.

#### IN SENATE.

FRIDAY, April 10, 1868.

Prayer by Rev. E. H. GRAY, D. D.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore*. As all legislative business is suspended, nothing remains but for the chair to be vacated that the Chief Justice of the Supreme Court may preside.

The President *pro tempore* thereupon vacated the chair, and the Senate proceeded to the trial of the impeachment of President Johnson.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at five o'clock and twenty-two minutes p. m.

#### ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 217) for the relief of Beals & Dixon; and it was signed by the President *pro tempore*.

On motion of Mr. CONKLING, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, April 10, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. WILLIAM J. McDONALD, its Chief Clerk, informed the House that the Senate had passed, without amendment, House joint resolution No. 217, for the relief of Beals & Dixon.

The message further announced that the Senate had agreed, with amendments, to the amendment of the House to Senate bill No. 389, exempting property in the District of Columbia, held and used for school purposes, from local taxation; in which amendments the concurrence of the House was requested.

The message further announced that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. No. 151) for the relief of Gold-

smith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers;

An act (S. No. 251) for the relief of Captain Charles N. Goulding, late quartermaster of volunteers;

An act (S. No. 436) for the relief of James Hooper;

An act (S. No. 450) relative to filing reports of railroad companies;

An act (S. No. 452) for the relief of Parker Quince;

An act (S. No. 464) in relation to the qualification of jurors;

An act (S. No. 467) to confirm an entry of land by Moses F. Shinn;

An act (S. No. 473) for the relief of Charles E. Capehart;

An act (S. No. 474) for the relief of Captain Dan. Ellis;

An act (S. No. 476) for the relief of H. D. McKinney;

An act (S. No. 477) for the relief of Charles C. O'Neill; and

A joint resolution (S. R. No. 128) for the relief of George B. Halstead.

#### UNEXPENDED APPROPRIATIONS.

Mr. BLAINE, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Committee on Appropriations be directed to inquire into the expediency of defining more accurately the time and the manner of carrying unexpended appropriations to the surplus fund and covering the same into the Treasury.

#### NAVIGATION OF IOWA RIVER.

Mr. LOUGHRIDGE, by unanimous consent, presented a memorial of the General Assembly of the State of Iowa, asking that the Iowa river be declared not navigable from the city of Wapello north; which was referred to the Committee on Commerce.

He also, by unanimous consent, introduced a bill (H. R. No. 1008) to declare the Iowa river, in the State of Iowa, unnavigable above the city of Wapello, Louisa county, Iowa; which was read a first and second time, and referred to the Committee on Commerce.

#### LAKE WASHINGTON COAL COMPANY.

Mr. FLANDERS, by unanimous consent, introduced a bill (H. R. No. 1004) granting the right of way to the Lake Washington Coal Company, in King county, in the Territory of Washington; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

#### ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a joint resolution (H. R. No. 217) for the relief of Beals & Dixon; when the Speaker signed the same.

#### ORDER OF BUSINESS.

The SPEAKER. There are several executive communications, and a variety of other matters which have accumulated upon the table of the Speaker, and which should be disposed of by reference to committees, &c. In order, however, not to delay the Senate, the Chair will defer laying them before the House until after the return of the Committee of the Whole to the Hall of the House.

Mr. WASHBURNE, of Illinois. I suppose no other business will then be transacted.

The SPEAKER. None but that of which the Chair has just given notice.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House resolves itself into the Committee of the Whole, according to order, to proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At five o'clock and twenty-five minutes p. m.,

the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until twelve o'clock to-morrow.

#### J. E. RESIDE.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a report relative to the claim of J. E. Reside for services as contractor in 1868; which were referred to the Committee on the Post Office and Post Roads.

#### BOSQUE REDONDO RESERVATION.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, transmitting a communication from the Commissary General of Subsistence respecting the unsuitableness of the Bosque Redondo reservation, in New Mexico, for the location of Navajo Indians, &c.; which was referred to the Committee on Appropriations, and ordered to be printed.

#### FORT POINT, SAN FRANCISCO.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, transmitting information as to the unfinished condition of the sea-wall at Fort Point, San Francisco, and suggesting an appropriation for its completion; which was referred to the Committee on Appropriations.

#### BOUNTIES.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, in relation to the amount of public land necessary to meet the requirements of House bill No. 940, to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union, in the event of its becoming a law; which was referred to the Committee on Military Affairs.

#### TEXAS TELEGRAPH.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, transmitting a communication from the commander of the fifth military district, relative to the construction of a military telegraph as auxiliary to the defense of the Texas frontier; which was referred to the Committee on Military Affairs.

#### FORT LEAVENWORTH RESERVATION.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, relative to leasing a portion of the Fort Leavenworth military reservation for coal mining purposes; which was referred to the Committee on Military Affairs.

#### PROVISIONAL GOVERNMENT OF CRETE.

The SPEAKER. The Chair will state that he has been requested to lay before the House an address of the National Assembly of the Provisional Government of Crete, asking Congress for recognition, for aid to secure the complete emancipation and independence of the island, and for instructions by the United States to their minister at Constantinople to cooperate with ministers of European Powers who are active with the Sublime Porte in behalf of Crete.

Mr. BANKS. That ought to come to us through the proper executive department.

The SPEAKER. It is addressed directly to the Congress of the United States.

Mr. BANKS. Such papers should come to us through the State Department. Communications from foreign Governments always come to us in that way.

Mr. KELSEY. I suppose any foreign Government has the right to petition the Congress of the United States.

Mr. BANKS. No petition from any foreign Government ought to be received by the House of Representatives except through the proper Department.

The SPEAKER. If there be objection the Chair will withdraw it.

Mr. BANKS. I do not object.

The SPEAKER. If there be no objection it will be referred to the Committee on Foreign Affairs, and ordered to be printed; and as it is interesting in giving the history of the origin of the troubles in Crete the translation will be printed in the Globe.

There was no objection, and it was ordered accordingly.

The paper is as follows:

To Hon. SCHUYLER COLFAX, Speaker of the House of Representatives of the United States of America:

HONORABLE SIR: We have the honor to forward you the inclosed document, begging that you would be pleased to arrange for its reading before the members of the honorable body over which you preside, and inform us of the result.

In anticipation of your goodness to comply with our request, we take this opportunity to express to you our gratitude.

We remain with the highest respect the members of the National Assembly of the Provisional Government of Crete.

At St. JOHN OF MELOPOTAMUS,  
February 18, (N. S. March 1,) 1898.

*The Members of the General Assembly of Crete.*

The President, Pang Ser-	N. Mantakales.
gakes.	Con. Protopapadakes.
Vice President, Pant. S.	Peter Papadakes.
Stratoudakes.	K. P. Bouloudakes.
Parthenios Peredes.	G. Giannoulakes.
A. Manouseles.	A. Grippakes.
Jos. Hatz Rouse Boubou-	N. Kapetanakes.
bankes.	A. Papagianakes.
N. Spheniadakes.	A. M. Frangakes.
Andrew Polentakakes.	Leonidas Geo. Logios.
A. J. Poloyanakes.	M. Johannakes.
Stelcanos J. Demetri-	K. Dovogakes.
kakes.	A. T. Tsickies.
A. Z. Bouboulakes.	J. Ch. Manoudakes.
A. Berakes.	Alex. Markakes.
A. Papa George.	A. Tellianakes.
Gregory Frangondakes.	John Flotakes.
John Kokalakes.	Gregory Procgoumenos.
M. Bistakes.	A. Stamathionakes.
Alex. Stephanides.	J. Papagianakes.
A. K. Pattakes.	Ch. Papa George.
Anto. Papadogianakes.	Secretary of the General
Ang. Kaselakes.	Assembly, Maximus D.
N. Trikolos.	Daskalakes.

*Members of the Provisional Government of Crete.*

N. M. Stamatakakes.	Con. Em. Sarolites.
N. Nicoloulouides.	The General Secretary of
Aris. Kaloidas.	the Provisional Govern-
Ch. N. Karatanakes.	ment, Leonidas Geo. Lo-
A. Panayotakes.	gios.

*To the House of Representatives of the United States of America:*

HONORABLE GENTLEMEN: During the Greek revolution of 1821 the Cretans fought for nine long years—this is, a year more than the rest of the Greeks.

They fought not only the armies of the Sultan, but also those of Mahomet Ali, the viceroy of Egypt.

When the three allied Powers undertook to establish peace between Greece and Turkey the Cretans had in their power not only the whole country, but also the two forts, namely, that of Kissamos and of Grambousa, which were the strongest, while the Turks held only three other forts, namely, Chania, Rethimnos, and Heracleum. Yet the Cretans were deemed unworthy of the liberty for which their country had been desolated and half of their number slain.

The allied Powers, not satisfied with condemning the Cretans to the most abject slavery, forced them also to give up the fort of Grambousa, which they held. The only change made in the fortunes of the Christians of Crete was a change of masters. They were transferred from the yoke of the Sultan to that of Mahomet Ali, viceroy of Egypt. They promised solemnly that they would protect the Christians from all acts of lawlessness and oppression from the Turkish Government, and that they would aid them in the amelioration of their future state.

The new yoke to which the Cretans were now subjected, although less oppressive as regards personal liberty, was more galling in its system of taxation. The viceroy endeavored to enforce at Crete the same cruel measures which were already operating in Egypt.

Such measures, however, became insupportable to the Cretans, who had suffered everything during the war of independence; therefore in 1833 they assembled, unarmed, outside of Chania, in order to draw up a petition whereby they might express, respectfully, their complaints to the local authorities. The wily governor, by false promises, succeeded in persuading the people to disperse, and then seized about seventy of the leading men, whom he hung on the olive trees in the village of Mourines.

The Cretans, depressed by the cruelties and injustice of the viceroy, and seeing no practical fulfillment of the promises made by the allies, embraced the first opportunity, when the Sultan and Mahomet Ali were at war in 1841, to resort once again to arms.

But alas! some of the great Powers interfered in behalf of the Sultan, while two others, disagreeing among themselves, caused even this effort to fail. One wished to see Crete a principality and the other desired to see it attached to Greece. After this the Cretans were once again subjected to the yoke of the Sultan, and the oppression which they have since

suffered from the different governors appointed by the Sultan is beyond description.

The Cretans being naturally a freedom-loving people could not long bear such servitude, therefore, in 1858, they made another more cautious effort for relief. They assembled quietly, without arms, and drew up a petition to the Sultan, begging to be relieved from the oppressive system of taxation, and from other abuses to which they had been subjected. The Sultan, in order to quiet them, granted to the Cretans, by vague edicts, certain privileges, namely, that they should have courts, the members of which were to be elected by the inhabitants; that the municipal officers also were to be chosen by the people; also, taxes were regulated and agreed upon. But while these privileges were on the one hand granted, on the other they were allowed to be violated in the most shameful manner. Neither the courts nor the municipal officers were ever elected freely by the people, but, instead, they were compelled to accept such candidates as were recommended by the Pasha. The testimony of Christians was also rejected at court, and those injured could seldom obtain justice.

These acts of treachery forced the people to resort to almost desperate measures. Many of the less intelligent, though fondly attached to the religion of their fathers, were almost induced to accept the propositions of the agents of popery, who, taking advantage of the people's distress, urged them to recognize the Pope as the head of the Church, promising that, by this step, they would secure the powerful protection of Rome. The Papal agents so represented the case to the people as to make them think that such an acknowledgment would in no way interfere with their own belief. But even this measure has failed, inasmuch as the Sublime Porte hastened to declare that it would, on no account, respect such a protection.

Rome, by the way, had never held out to the people any such inducements, while the people by this time had begun to see that such a recognition would reflect on their own faith.

The evils which the Cretans suffered were not limited to taxation and the non-execution of justice, but extended to the most lawful and simple wishes of the people.

1. The Government refused to repair roads which had become dangerous for travelers.
2. Oil could not be landed at any port except those under the forts, and so the farmer was compelled to make long and dangerous journeys.
3. They were denied commercial banks where the farmer might borrow money at a regulated rate, and thus be delivered from the extortion of the avaricious oil merchant who invariably secured the oil at less than half its value.

4. They were refused common schools, so indispensable to their prosperity, although the people proposed to defray all expenses.
5. The personal liberties of Christian subjects were disregarded, and persons seized and held as prisoners at the pleasure and caprice of the local authorities.
6. Public taxes were increased to such an extent that the tax was often above the value of the product.
7. The Government forbade all private enterprise in the manufacture of salt, and compelled the people to purchase from the Government at one franc per oke.

These, and many other acts of oppression which we omit to enumerate at present, compelled the people to assemble in May, 1866, in the province of Cydonia, and there draw up another petition expressing their complaints most respectfully to the Sublime Porte, begging it especially that they might be allowed the privileges once granted to them.

The Sultan, after three months' silence, replied to them through the local authorities, condemning the movement and requesting them to disperse, threatening that in case they refused he would disperse them by force, which evidently was being prepared during this period of silence.

The Cretans, now losing all hope of ever receiving redress, and seeing at the same time some Christians imprisoned without cause and others secretly murdered, decided as a last resort to take up arms and thus defend their rights and their lives. Soon after, through a General Assembly, chosen at the outset, the Cretans declared their purpose of throwing off the yoke of the Sultan, and took for their watchword "Union with Greece or death."

Such, in brief, is the history of the beginning of the present struggle between the Cretan Christians and the Turks.

A year and a half is nearly gone, and the inhumanities practiced by the Turks against the Christians are beyond description.

They have burned the Christian's dwelling and his harvests of corn, plundered his property, hewn down his orchards, profaned his churches, abused even his cemeteries by exhuming the dead and scattering them everywhere that they might become the prey of crows and dogs. They have butchered in cold blood the innocents, ravished in a most fiendish manner the gentle and harmless, tortured the strong, and committed other acts of barbarity in order to gratify their passions; in short, they have been guilty of atrocities as yet unwritten in the annals of the world. Some of these acts are recorded by name and with particulars in the inclosed copies of "The Hellas," and in the future we will provide you with a list of the pecuniary losses suffered thus far by the Christians, as measures have already been taken to ascertain the facts from official and reliable sources.

The Cretans, however, have not only to contend against the evils already mentioned, but also against hunger and nakedness, which have cut down thousands of men, women, and children. Yet in spite of all this they are determined to suffer anything rather than submit again to the yoke of such a fearful despotism.

In order that they may more effectually fight the common enemy of their country, they have taken

measures to transport those whom they love to free Greece.

No one can foresee the extent or degree of sufferings and losses to which they will be subjected in future, as they have no adequate means of support; they have not the fleet needed to dislodge the Turks from the forts where they are fortified. The whole island, except the forts and some entrenchments, is in the hands of the Christians, and this is the reason why the provincial officers, lately appointed by the Grand Vizier, cannot reach their destination at the seat of their respective provinces.

The Cretans have often represented their sufferings and appealed for aid to the great Powers of Europe, but as yet no effective measures have been taken in their behalf. This is owing greatly to the differences of opinion and jealousies among those Powers, not, as some suppose, to the obstacles presented in consequence of the Mohammedan population of the island.

In case Crete becomes free, all the inhabitants, both Christian and Turk, will be treated alike and will enjoy the same privileges; besides, the Mohammedan Cretans, amounting to fifty or sixty thousand souls, are from Christian parentage, and it is very likely that most, if not all of them, will return to their father's faith. We believe that even to-day, if they were not shut up in forts and placed under guard, they would declare themselves in sympathy with the Christians and against the Turkish Government, which they hate and publicly curse on account of the many evils which they have suffered.

Finally, the Cretans appeal to the United States of America, and beg them:

1. To recognize the Provisional Government of Crete.
2. To pledge the moral and material support of the noble and freedom-loving people from whom they have already received many tokens of sympathy.
3. To give their protection, in order to secure the complete emancipation and independence of the island.
4. Especially that the United States ambassador at Constantinople be instructed to cooperate with the ambassador of those European Powers which are active with the Sublime Porte in behalf of Crete.

Would that it were written in the records of Divine Providence that the people of the United States had assisted in the emancipation of the freedom-loving but oppressed people of Crete—the mother of ancient civilization; by such an act a new luster would be added to the glory which they already enjoy in both hemispheres.

At St. JOHN OF MELOPOTAMUS,  
February 18, (N. S. March 1,) 1898.

*The Members of the General Assembly of Crete.*

The President, Pang. Sor-	N. Trikolos.
gakes.	N. Mantakakes.
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Stelcanos J. Demetri-	K. Dovogakes.
kakes.	A. T. Tsickies.
A. Z. Bouboulakes.	J. Ch. Manoudakes.
A. Berakes.	A. Telcanakes.
A. Papa George.	Alex. Markakes.
Gregory Frangondakes.	John Flotake.
John Kokalakes.	Gregory Procgoumenos.
M. Bistakes.	A. Stamathionakes.
Alex. Stephanides.	J. Papagianakes.
Leonidas Geo. Logios.	Ch. Papa George.
A. K. Pattakes.	Secretary of the General
Anto. Papadogianakes.	Assembly, Maximus D.
A. Kaselakes.	Daskalakes.

*Members of the Provisional Government of Crete.*

N. M. Stamatakakes.	Con. Em. Sarolites.
N. Nicoloulouides.	The General Secretary of
Aris. Kaloidas.	the Provisional Govern-
Ch. N. Karatanakes.	ment, Leonidas Geo.
A. Panayotakes.	Logias.

THANKS TO CONGRESS, ETC.

The SPEAKER, by unanimous consent, also laid before the House joint resolutions of the Legislature of the State of Pennsylvania, returning thanks to the House of Representatives and the Secretary of War; which were referred to the impeachment managers on the part of the House.

And then (at five o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. FERRISS: A memorial of S. F. Vilas and others, praying for a reduction of the Army and Navy to a peace basis, and a consequent reduction of taxes.

By Mr. MARVIN: A memorial of James W. Van Arman, of Johnstown, Fulton county, New York, late of the one hundred and fifteenth New York volunteers, and others, citizens of the same State, late officers of the volunteer



service, praying that medals may be given by the Government to each volunteer of the war of the rebellion.

By Mr. PAINE: The petition of H. W. Boyce, C. L. Oatman, and others, citizens of Geneva, Wisconsin, for relief from oppressive taxation and reduction of public expenditures.

Also, the petition of C. T. Harris, of Ann Arbor, Michigan, for a modification of the pension laws.

Also, a memorial of the Legislature of Wisconsin, for an appropriation for the improvement of the harbor of Bayfield.

By Mr. ROBERTSON: The petition of Henry H. Pearson and others, asking Congress to order a medal to be struck in bronze to commemorate the preservation of the American Republic; and that one of such medals, under the direction of the War and Navy Departments, shall be presented to every officer, soldier, sailor, and marine who, by his service in the war and an honorable discharge, has earned such a tribute of his country's regard; and one also to the children of those who have fallen in their country's defense.

#### IN SENATE.

SATURDAY, April 11, 1868.

Prayer by Rev. E. H. GRAY, D. D.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore*. The chair will be vacated, that the Chief Justice of the Supreme Court may preside.

The President *pro tempore* thereupon vacated the chair, and the Senate proceeded to the trial of the impeachment of President Johnson.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at four o'clock and forty-six minutes p. m.

On motion of Mr. WILLIAMS, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, April 11, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The reading of the Journal, by unanimous consent, was dispensed with.

#### RULES IN BANKRUPTCY.

The SPEAKER, by unanimous consent, laid before the House a letter from the justices of the Supreme Court, transmitting amendments to rules in bankruptcy; which was referred to the Committee on the Revision of the Laws.

#### WASHINGTON CITY SAVINGS BANK.

The SPEAKER, by unanimous consent, also laid before the House the annual report of the Washington City Savings Bank, in compliance with section eight of the act of Congress incorporating said bank; which was referred to the Committee on Banking and Currency.

#### BACK PENSIONS.

Mr. COBURN, by unanimous consent, introduced a bill (H. R. No. 1005) to provide for the payment of back pensions in cases where the persons entitled thereto have been infants or insane and without guardians, during the period in which such persons were without guardians; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### CONSTITUTIONALITY OF ACTS OF CONGRESS.

Mr. WOODWARD, by unanimous consent, introduced a bill (H. R. No. 1006) to test the constitutionality of questionable acts of Congress; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded

by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and forty-five minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until twelve o'clock on Monday next.

#### LEAVE OF ABSENCE.

Mr. TWICHELL asked and obtained indefinite leave of absence.

Mr. BLAINE. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty-eight minutes p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. BOYER: The petition of Mary Wright, mother of John Wright, deceased, for arrears of pension.

Also, the petition of citizens of Montgomery county, Pennsylvania, for pensions to the surviving soldiers of the war of 1812.

By Mr. WASHBURN, of Indiana: The petition of Mrs. D. C. Daily and 500 widows, made by the late war, praying increase of pensions.

#### IN SENATE.

MONDAY, April 13, 1868.

Prayer by Rev. E. H. GRAY, D. D.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore*. The chair will be vacated that the Chief Justice of the Supreme Court may preside.

The President *pro tempore* thereupon vacated the chair, and the Senate proceeded to the trial of the impeachment of President Johnson.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at four o'clock and forty-five minutes p. m.

On motion of Mr. DOOLITTLE, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, April 13, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent, the reading of the Journal of Saturday last was dispensed with.

#### ST. PAUL ISLAND—ALASKA.

Mr. WASHBURNE, of Illinois, by unanimous consent, submitted the following preamble and resolution; which was read, considered, and adopted:

Whereas it is reported that efforts are being made to procure from the Government a transfer to a private company, without consideration, of the island of St. Paul, a territory embraced in the treaty with Russia; and whereas said island is believed to be very valuable as being the only home of the fur seal in the world: Therefore,

*Be it resolved*, That the Committee on Foreign Affairs be directed to inquire into the matter and a report to the House, touching such efforts to procure a transfer to a private company of said island, and also in regard to its situation, value, &c., and all other facts connected therewith.

#### ORDER OF BUSINESS.

The SPEAKER. The Chair gives notice that on the return of the House to the Hall this afternoon the Chair will lay before the House certain executive communications, &c., in order not to delay the Senate by presenting them at the present time.

Mr. WASHBURNE, of Illinois. In view of the order which has been adopted by the House, and in further view of legislation which may become necessary, I now give notice that on Thursday next I shall move a call of the House. I give this notice now so that members who are absent may return by that time.

The SPEAKER. Does the gentleman from Illinois mean that he will move a call of the House after the return of the House to the Hall from the Senate?

Mr. WASHBURNE, of Illinois. On Thursday next, yes.

Mr. BANKS. I desire to give notice that if any business is transacted I shall insist upon the action of the House upon the bill relating to the rights of American citizens in foreign States.

The SPEAKER. That bill will be the unfinished business before the House, as soon as the resolution in regard to printing the argument of Manager BUTLER shall have been disposed of.

Mr. ELDRIDGE. I shall object to any business being done unless there is a quorum of the House present.

The SPEAKER. The gentleman can ascertain that by calling for a division upon any question.

Mr. GARFIELD. Will it be in order before Thursday next to call up the resolution in regard to printing the argument of Manager BUTLER?

The SPEAKER. By giving notice.

Mr. GARFIELD. I give notice, then, that I will ask for action on that resolution tomorrow morning.

The SPEAKER. That will not be in order, because the House by order must proceed to the Senate at twelve o'clock.

Mr. GARFIELD. Then I give notice that I will call up that resolution on the return of the House to this Hall to-day, if there shall be a quorum present.

Mr. ELDRIDGE. I desire to have referred to the Committee on Printing a resolution in relation to the argument made by the counsel for the President, Mr. CURTIS, similar to the resolution now pending in relation to the argument of Manager BUTLER.

The SPEAKER. That will require unanimous consent, pending the consideration of the other resolution.

Mr. ELDRIDGE. I hope unanimous consent will be given.

Mr. KELSEY. I object.

Mr. ELDRIDGE. Then I shall have to object to the consideration of the other resolution in the absence of a quorum.

#### REGISTERING, ETC., OF VESSELS.

Mr. LYNCH, by unanimous consent, introduced a bill (H. R. No. 1007) to amend an act entitled "An act concerning the registering and recording of ships or vessels," approved December 30, 1792; which was read a first and second time, and referred to the Committee on Commerce.

#### JUDICIAL PROCEEDINGS IN THE DISTRICT.

Mr. WELKER, by unanimous consent, introduced a bill (H. R. No. 1008) to amend the law of the District of Columbia in relation to judicial proceedings therein, and for other purposes; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

#### POST ROUTE IN INDIANA.

Mr. COBURN, by unanimous consent, introduced a bill (H. R. No. 1009) to establish a post route from Plainfield to Smootsdel, Indiana; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### ALTON HARBOR, ILLINOIS.

Mr. BAKER, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Secretary of War be instructed to communicate to this House the report of Major H. C. Long on the improvement of the harbor at Alton, Illinois.

## IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper. There will be business to be transacted upon the return of the House to this Hall.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and forty-five minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until twelve o'clock to-morrow.

## EIGHTY-FOURTH NEW YORK VOLUNTEERS.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, in answer to a resolution of the House, relative to the eighty-fourth New York volunteers having received only fifty dollars additional bounty; which was referred to the Committee on Military Affairs, and ordered to be printed.

## ARIZONA.

The SPEAKER, by unanimous consent, also laid before the House the journal of the fourth Legislature of Arizona; which was referred to the Committee on the Territories.

## LINCOLN MONUMENT.

The SPEAKER. The Chair has received the following invitation:

WASHINGTON, D. C., April 9, 1868.

The committee having in charge the order of ceremonies request the honor of the presence of Mr. Speaker Colfax, members and officers of the House, on the occasion of unveiling and dedicating the statue of the late President Abraham Lincoln, now being erected by the citizens of Washington in front of the City Hall, on the afternoon of Wednesday, the 15th instant, at two o'clock.

RICHARD WALLACH, Chairman.

CROSBY S. NOYES, Secretary.

The House will be probably engaged in its duties at the bar of the Senate on Wednesday.

Mr. WASHBURN, of Illinois. I move that the Speaker return the proper answer to the invitation.

Mr. GARFIELD. Expressing our regret, and declining it.

The SPEAKER. The Chair will understand that as the order of the House.

Mr. RAUM. Why cannot a committee be appointed by the Speaker to accept this invitation on the part of the House, and to be present at this ceremony?

Mr. WASHBURN, of Illinois. I suggest to my colleague to let it remain with the Speaker what answer to send.

The SPEAKER. Members will understand that they are invited and can be present at the hour of two o'clock Wednesday afternoon next.

## ARGUMENT OF MANAGER BUTLER.

Mr. GARFIELD. In accordance with the notice I gave this morning I now call for the regular order of business.

The SPEAKER. The Chair will state the pending question. On the 30th of March the House seconded the previous question on a resolution reported from the Committee on Printing for the printing of forty thousand copies of the speech of Manager BUTLER in opening the case for the House on the trial of the President. The gentleman from New York [Mr. CHANTLER] moved that the resolution be laid on the table, which motion was rejected; and the question now recurs on ordering the main question to be put.

Mr. ELDRIDGE. I move an amendment to the resolution.

The SPEAKER. That can only be done by unanimous consent.

Mr. ELDRIDGE. So I suppose. I had drawn it up as an independent resolution, but propose to submit it now as an amendment to the pending resolution.

The Clerk read as follows:

Resolved, That there be printed for the use of this House forty thousand copies of the opening argument of the President's counsel, Judge Curtis.

The SPEAKER. Even unanimous consent could not make that in order; and for this reason: by law to be found in the Statutes-at-Large, volume nine, (incorporated in the Digest, not now before the Chair,) every proposition for printing extra numbers of any document whatever must be referred to the Committee on Printing; and it has been decided that no amendment and no unanimous consent can waive it.

Mr. ELDRIDGE. The Senate frequently amends a bill of the House for raising revenue, and on the same principle this might be amended.

The SPEAKER. That is the constitutional right of the Senate.

Mr. ELDRIDGE. I ask the vote on the pending resolution be delayed, and this resolution of mine be referred to the Committee on Printing, so they may report on both cases at the same time.

The SPEAKER. The committee have already reported upon one subject. The gentleman from Wisconsin [Mr. ELDRIDGE] now asks unanimous consent that the resolution just read may be introduced and referred to the Committee on Printing.

No objection was made; and the resolution submitted by Mr. ELDRIDGE was accordingly received and referred.

Mr. ELDRIDGE. The proposition, as stated by the Chair, was not the precise proposition for which I asked unanimous consent. I desire that both resolutions go to the Committee on Printing, in order that they may come before the House together for action.

The SPEAKER. Then the gentleman desires to have the pending resolution recommitted to the Committee on Printing?

Mr. ELDRIDGE. That is what I ask.

The SPEAKER. That will require unanimous consent pending the previous question.

Mr. KELSEY. I object.

Mr. ELDRIDGE. Gentlemen must see that this resolution cannot go through. There is no quorum now present.

The SPEAKER. The pending question is, "Shall the main question be now put?"

The question was taken; and upon a division there were—ayes 43, noes 15; no quorum voting.

Mr. GARFIELD. As there is no quorum present I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and fifty-five minutes p. m.) the House adjourned.

## PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. MAYNARD: A memorial of the Memphis, El Paso, and Pacific Railroad Company, of Texas, praying for a grant of public lands and a loan of United States bonds, to aid in constructing a continuous line of railroad and telegraph from Jefferson, in Texas, to San Diego, in California, by the way of El Paso, with authority to make such railroad connections as to reach San Francisco, Guayamas, Memphis, and Virginia City, on the harbor of Norfolk, in Virginia, or any other point on the Atlantic coast, and Washington city, under the title of the Southern Transcontinental railroad.

By Mr. STARKWEATHER: The petition of H. S. Bedet and 100 others, citizens of New London, Connecticut, for the repeal of the special tax on petroleum.

By Mr. WASHBURN, of Indiana: The claim of George Memasin, for loss of horse, &c.

## IN SENATE.

TUESDAY, April 14, 1868.

Prayer by Rev. E. H. GRAY, D. D.

## IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore*. The Chair will be vacated, that the Chief Justice of the Supreme Court may preside.

The President *pro tempore* thereupon vacated the chair, and the Senate proceeded to the trial of the impeachment of President Johnson.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at twelve o'clock and nineteen minutes p. m.

## IMPEACHMENT RULES.

Mr. DAVIS. I wish to give notice of my purpose to offer an additional rule to the rules of practice and proceeding in cases of impeachment. I ask that the Clerk read it.

The Secretary read the additional rule proposed to the rules of practice and proceeding in cases of impeachment, as follows:

Two thirds of the Senators present shall be necessary to rule any question of evidence or law against the party impeached.

## JOURNAL.

The PRESIDENT *pro tempore*. The Journal of yesterday will be read.

The Secretary read the Journal of yesterday's legislative session.

## TERRITORIAL LAWS.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary for the Territory of New Mexico, transmitting, in conformity with a joint resolution of the Legislative Assembly of that Territory, copies of acts passed by the Legislative Assembly of the Territory of New Mexico at its last session which were disapproved by the Governor of that Territory; which was referred to the Committee on Territories.

He also presented the journals of the fourth Legislative Assembly of the Territory of Arizona for the session begun on the 4th day of September and ended on the 7th day of October, A. D. 1867, at Prescott; which were referred to the Committee on Territories.

## BANKRUPTCY RULES AND FORMS.

The PRESIDENT *pro tempore* presented a letter of the justices of the Supreme Court of the United States, communicating a report with rules and forms of proceeding in bankruptcy; which was referred to the Committee on the Judiciary.

## PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislature of the State of Wisconsin, for a grant of land to aid in the construction of the Wisconsin River Valley railroad; which was referred to the Committee on Public Lands.

He also presented an address of the National Assembly of the Provisional Government of Crete, asking Congress for recognition, for aid to secure the complete emancipation and independence of the island, and for instructions by the United States to their minister at Constantinople to cooperate with ministers of European Powers who are active with the Sublime Porte in behalf of Crete; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also presented an address of the Chamber of Commerce of Geneva, Switzerland, in relation to the currency of the United States; which was referred to the Committee on Finance.

He also presented a memorial of the General Assembly of the State of Iowa, in relation to the project of connecting, by navigable channels through the Fox and Wisconsin rivers, the waters of the Mississippi river with the waters of Lake Michigan; which was referred to the Committee on Public Lands.

He also presented a memorial of the Chamber of Commerce of Charleston, South Carolina, praying that the building known as the old

post office may be rented to them for the purpose of establishing a public exchange and reading-room; which was referred to the Committee on Finance.

Mr. MORGAN presented the memorial of Stephen Brown and Charles D. Burrell, executors of the last will and testament of James C. Roosevelt Brown, remonstrating against the passage of Senate bill for the relief of Roosevelt Hospital; which was referred to the Committee on Finance.

He also presented a memorial of exporters of rum and alcohol residing in the city of New York, favoring the passage of the House bill to allow the export of rum and alcohol for the space of thirty days in order to enable them to fulfill contracts; which was ordered to lie on the table.

He also presented the preamble and resolution of the Buffalo Board of Trade, favoring the application of the Chamber of Commerce of Milwaukee, for the reimbursement for money expended by the city of Milwaukee in constructing a straight cut from Lake Michigan to the Milwaukee river; which was referred to the Committee on Commerce.

Mr. FOWLER presented the memorial of the Memphis, El Paso, and Pacific Railroad Company, of Texas, praying for a grant of public lands and a loan of United States bonds to aid in constructing a continuous line of railroad and telegraph from Jefferson, in Texas, to San Diego, in California, by the way of El Paso, with authority to make such railroad connections as to reach San Francisco, Guaymas, Memphis, and Virginia City, on the harbor of Norfolk, in Virginia, or any other point on the Atlantic coast, and Washington city, under the title of the Southern Transcontinental railroad; which was referred to the Committee on the Pacific Railroad.

Mr. HARLAN presented the memorial of the General Assembly of the State of Iowa, in relation to the project of connecting the waters of the Mississippi river with the waters of Lake Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

He also presented resolutions of the General Assembly of the State of Iowa, asking Congress to declare the Iowa river unnavigable north of the city of Wapello, in Louisa county; which were referred to the Committee on Commerce, and ordered to be printed.

He also presented a resolution of the General Assembly of the State of Iowa, praying for the relief of Peter J. Knapp, late a private in company H, fifth regiment Iowa volunteer infantry; which was referred to the Committee on Claims, and ordered to be printed.

He also presented a resolution of the General Assembly of the State of Iowa, relative to the construction of a drawbridge across the Missouri river at Council Bluffs; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. HENDERSON presented a petition of James F. Joy, praying such action as will give him the possession of the marine hospital and grounds at Chicago, Illinois, purchased by him under act of Congress; which was referred to the Committee on Naval Affairs.

Mr. SHERMAN presented a memorial of officers of the Army, remonstrating against the passage of the bill which deprives all retired officers of the Army of their longevity or service rations; which was referred to the Committee on Military Affairs and the Militia.

Mr. DAVIS presented the petition of William Gray, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

He also presented the petition of William Cook, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

Mr. McCREERY presented the petition of Charles C. Higdon, guardian of the minor children of William M. Hooten, praying that they may be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Martha

Stout, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. FOWLER presented a petition of citizens of Columbus, Mississippi, praying a donation of certain land for the benefit of the school for freedmen in that place, and an appropriation of money for the purpose of building a school-house; which was referred to the Committee on the Judiciary.

Mr. HENDRICKS presented a memorial of Duff Green, in relation to the currency, the issue of Treasury certificates, and the system of railroad mail service for the Post Office Department; which was referred to the Committee on Post Offices and Post Roads.

#### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. HENDERSON, it was

Ordered, That the petitions of Walter H. Tinker and John P. McElroy, praying for a grant of pensions, together with the accompanying papers, be taken from the files of the Senate, and referred to the Committee on Pensions.

#### REPORT OF IMPEACHMENT TRIAL.

Mr. ANTHONY. The Committee on Printing, to whom was referred the resolution submitted by the Senator from Missouri, [Mr. DRAKE,] to print five thousand copies of the report of the impeachment trial, have instructed me to report back the same without amendment, and recommend its passage. I ask for its present consideration.

The PRESIDENT *pro tempore*. It requires unanimous consent. Is there any objection?

No objection being made, the Senate proceeded to consider the resolution, which is as follows:

*Resolved*, That there be printed for the use of the Senate, at the close of the pending impeachment trial, five thousand copies of the report thereof, in addition to the number of copies thereof heretofore ordered to be printed.

Mr. SHERMAN. I desire to inquire of the Senator from Rhode Island whether this is printed at the Public Printing Office?

Mr. ANTHONY. Certainly.

Mr. SHERMAN. Is it also printed at the Congressional Globe office?

Mr. ANTHONY. Not in pamphlet form.

Mr. SHERMAN. Do we pay for it as part of the Congressional Globe?

Mr. ANTHONY. We pay the Congressional Globe for the proceedings in the Congressional Globe, of course.

Mr. SHERMAN. I submit, then, that this is a double expenditure that ought not to be incurred. The Globe has got to be a mammoth, monstrous, overgrown affair. At any rate it is very expensive, costing far more than Senators dream of. Now, to pay for this trial in the Globe, and then to pay for it at our own printer's, doubling the composition, is an unnecessary expenditure. I think it ought not to be published in the Globe, if published in the other form.

Mr. ANTHONY. The Senator certainly would not have the Globe deficient in the most interesting proceedings we have had for years. It is necessary that the record in the Globe should be perfect, I suppose. The trial is printed in the Globe, and then this is printed in this octavo form.

Mr. SHERMAN. I ask why publish these extra copies at the Government Printing Office, which is already overburdened with printing. Why not direct these to be supplied at the Globe office?

Mr. TRUMBULL. The Senator will allow me to suggest that we do precisely the same thing in reference to the President's message. It is printed in the Globe, but we order extra copies. So the reports of the heads of Departments are printed in the Globe, but we order extra copies. As a matter of course the proceedings of this trial must go into the Globe; but it is very essential that we should have these impeachment proceedings in a separate form. We all want them.

Mr. SHERMAN. The answer to that is, that nothing is printed in the Congressional Globe except the bare message necessary to explain the debate, while all the accompany-

ing documents are published at the Government Printing Office, and there alone. If we are to make the Congressional Globe a vast depository for all the proceedings of Congress and all the proceedings on the trial of impeachments, and then publish the trial again at our own Government Printing Office, it seems to me we are doubling the expense. The law for the publication of the Globe expires on the 4th of March next, and then we shall get rid of it; but it seems to me it is hardly worth while to double this expenditure. If these proceedings are published in the Government Printing Office, there is no necessity for printing them in the Globe; or if they are published in the Globe, there put in type, we may as well order from the Globe office the requisite number of copies without going to this double expense.

Mr. TRUMBULL. The Senator from Ohio certainly would not leave out of the Globe, which contains the proceedings of Congress for a great many years, all about this trial; and we surely must have the proceedings in this impeachment case separately so that each Senator can examine them without going to the Daily Globe. We have already ordered that, and it is now only a question about extra numbers, as I understand, which will not be a very expensive matter. I do not know what the cost will amount to; I suppose the chairman of the Committee on Printing can tell us; but it seems to me it would be a very strange proceeding to strike from the publication of our proceedings in the Congressional Globe this great trial. I hope the resolution will pass.

Mr. JOHNSON. Mr. President, this publication will cost only the expense of printing and of the paper; the type is all set, and the cost will of course be very immaterial. We must be of opinion, and I suppose the whole country is of the same opinion, that this trial should go into the hands of the public generally. That cannot be done by circulating the Globe. They would hardly be able to read it in the Globe if they got it. The number of copies of the Globe we shall have will not enable us to distribute them at all to the public generally. The Committee on Printing, therefore, had no doubt that it was but a reasonable request on the part of those who made the suggestion that the number of copies of this publication should be increased as proposed by the committee.

Mr. VAN WINKLE. I should like to inquire of the chairman of the Committee on Printing whether the edition which is laid on our tables daily is printed at the Government Printing Office or at the Globe office, and whether this is the one of which it is proposed now to print extra copies?

Mr. ANTHONY. It is printed at the Government Printing Office, and it is the edition of which the committee propose to order additional copies. The Senator from Ohio will understand that this does not double the expense. The reporting for this edition of course costs nothing. This report is taken from the Globe, and it is kept back one day, allowing an opportunity for revision, which is a matter of considerable consequence if there be any errors or mistakes, as there are more likely to be in taking down testimony than anything else, although the reporters of the Globe in the Senate never make mistakes.

Mr. EDMUNDS. We do not get the Globe early enough.

Mr. ANTHONY. It can be got by sending for it. The Globe would be laid on our desks every morning, but for the fact that, as I understand, the Presiding Officer thought it not proper to allow newspapers on our desks during the trial, and, therefore, they have not been allowed to be brought in. We can have the Globe here every morning with the proceedings of the day before, and the following morning we have this edition in which there has been an opportunity for revision. The additional expense is only in setting up the type. That is something, of course, and perhaps considerable more than the committee would think of



incurring in ordinary cases; but it seemed to the committee that this was a matter of very grave importance, and that if we print anything we ought to print this.

Mr. HENDRICKS. I wish to inquire of the chairman whether the Government Printing Office is printing in pamphlet form now what the reporter of the Globe takes down—all the proceedings.

Mr. ANTHONY. Certainly, this is copied from the Globe.

Mr. HENDRICKS. Is that done under any order made by the Senate on that subject?

Mr. ANTHONY. Yes, it is done under an order made by the Senate.

Mr. HENDRICKS. Then there is no difference whether it be printed in the Globe or at the Government Printing Office, as far as expense is concerned.

Mr. ANTHONY. The form of the page that is used in the Globe would be inconvenient, ill adapted to a book, and the type is too fine to be conveniently read. The Senator, by comparing the type of this book with the type of the Globe, will see the difference.

Mr. POMEROY. I understand the Senate have ordered five thousand copies of this edition already.

Mr. ANTHONY. That has been already ordered.

Mr. POMEROY. And the question now is whether we shall order five thousand more.

Mr. ANTHONY. Exactly; and there are three hundred pages now kept standing in type in anticipation of this order. The printer wants to distribute that type if we do not pass this order, and hence it ought to be disposed of.

Mr. POMEROY. As we have already provided for printing five thousand, this resolution will only involve the additional cost necessary to print five thousand more from the same type.

Mr. ANTHONY. Merely the cost of the paper and press-work, and I suppose the paper and press-work will cost less at the Government Printing Office than at any other establishment; so that, perhaps, it will cost, after all, not much to print it in this form, which is much more desirable, at the Government Printing Office, than it would be to make a contract with the Globe to print it from their type. Of course they would be entitled to a profit on it.

Mr. SHERMAN. Five thousand copies have been already ordered. Now, what is the use of incurring the expenditure of at least \$5,000 more? It is a very small item, to be sure; but what is the use of incurring that expense to supply persons with free books when they can buy them, if they please, at the Congressional Globe office?

Mr. ANTHONY. That is for the Senate to judge; they have had the whole story.

Mr. DRAKE. As I offered this resolution I will say a word about it. I do not think that Congress will have during this session any document to send forth to the country which the people of the country will be more desirous to see than the report of this trial. It will be, to be sure, in the Congressional Globe; but very few persons in any State will see the Congressional Globe. By printing five thousand additional copies of the book in the form in which it is laid upon our tables here every day there will be just that number more sent among the people of the country to let them see what their Senators and Representatives have been doing upon this occasion; and as it will cost to put them forth only the additional expense of paper and press-work and binding, I submit that we cannot, in my judgment, make any better expenditure of money in printing than to provide for these additional copies to go abroad among the people, and let them see what we have been doing in reference to this great transaction.

Mr. SHERMAN. I dislike to detain the Senate in regard to a matter of this kind; but we know that the proceedings of this trial are published now in hundreds of thousands of sheets daily in full, and they are read by the people.

Mr. TRUMBULL. Not in full,

Mr. SHERMAN. Substantially in full. I have seen in the western papers and in the New York papers very full and complete reports, just as much as the people are willing to read, just as much as they are willing to demand. The proceedings are also published complete in the Congressional Globe, and become a part of the records of the country in the most permanent form, where they will be enduring, where the people in future ages may resort to see all that has been done during the trial. Now, it is proposed, having ordered five thousand copies of this work, to publish five thousand more for free distribution among our constituents. It is true the expense of it may not be large; probably \$10,000 would cover it. If the trial should fill two or three volumes, as I presume it will, it will cost probably \$10,000. That may not be a very large sum, but still it is so much wasted, given away.

Mr. DRAKE. It will not cost half that.

Mr. SHERMAN. I do not know what it will cost. Can the Senator from Rhode Island give us an idea of how much it will probably cost?

Mr. ANTHONY. I can generally give an idea of the cost of a document, but not of this, because I cannot tell what it will amount to.

Mr. SHERMAN. I suppose it will not be less than two or three volumes.

Mr. ANTHONY. It is impossible to have any idea of the cost, because we do not know how long the trial will last.

Mr. CONNESS. Under the addition offered to the rules to-day, I should think there would be an additional volume.

Mr. ANTHONY. I think it would be safe to estimate it at from five to ten thousand dollars. That, however, is a very general estimate.

Mr. SHERMAN. Although this is a small matter, I appeal to the Senate whether it is worth while to go into the free distribution of this book? Indeed, I hope that the whole system of distributing books among our constituents, at the expense of the great mass of the people for the benefit of a very few, will be discontinued. I will not myself vote for it. For the publication in the records of the country of these great proceedings in permanent and enduring form for the benefit not only of the present, but of future generations, I am perfectly willing to incur the necessary expense; but there is no department of this Government in which the abuses are more gross and scandalous than they are in printing for the Government of the United States. The printing in various forms for Congress, for the Congressional Globe, and for the Departments, now costs millions of dollars for each Congress, and the amount is accumulating more rapidly than a snow-ball in winter time. It seems to me that, although this item is a small one in itself, we had better stop now. If we distribute five thousand copies gratuitously among our constituents I think it is enough.

Mr. RAMSEY. I should like to ask the chairman of the Committee on Printing what has become of the five thousand copies already ordered? We only receive one copy each.

Mr. ANTHONY. They are to be bound. Any Senator can take his copies as they go along, and have what he takes deducted from the final number given to him. But, Mr. President, I desire to say one word in reply to the remarks of the Senator from Ohio, and I wish the Senate to listen to me, for I have repeated what I am about to say a great many times here, and I never could make myself either understood or believed. The story that is in all the newspapers, and that the Senator from Ohio now, under a misapprehension, repeats, is entirely incorrect. The expenses of public printing, so far from being increased, have been greatly reduced since I have been familiar with them. I speak now of the printing of Congress. Of course our internal revenue system, as the Senator from Ohio knows very well, must make a large amount of printing, and that printing is all done here. It is done here, where it costs more than it would

in some other places, because it is desirable that all the blanks and all the forms and all the returns should be printed from the same identical plates. It gives great security, great uniformity, and great accountability, and this is worth the additional expense. But the cost of printing for the two Houses of Congress is less to-day in dollars and cents in greenbacks than it was before the war in gold. The printing of the Departments we have no control over, but I have no reason to think it is at all extravagant. People have taken the cost of printing before the establishment of the Government Printing Office, and compared the cost of the printing for the two Houses prior to that time with the entire cost of the printing for the two Houses of Congress and all the Departments now, and, of course, the latter sum overtops the former.

Mr. BUCKALEW. Mr. President, this resolution, so far as my State is concerned, will give me less than four copies for each congressional district. Now, sir, we are to take into account the fact that this publication will be largely in demand by members of the House of Representatives; and as a matter of course the Senators will be called upon by their colleagues in the other branch for a very large part of the distribution.

Again, sir, taking the question simply upon the ground that it is to be a distribution by the Senators themselves, as I said before, it would amount in the case of my State to less than four copies for each congressional district. Now, this is a very important and very interesting publication, and I would be in favor of curtailing the amount of publication upon other documents for which there is no large, no earnest demand among the people, and bestowing our attention to the publication of a larger number of this publication in preference to those others. As has already been stated, the amount of the additional cost incurred in this case is comparatively small; and if the Senate intend to distribute books at all, they ought to distribute this publication in preference to others. But, sir, it occurs to me that the distribution of the extra numbers proposed by the present resolution should be upon the same principle on which we distribute tickets. You have already provided for a distribution to Senators *per capita*, an equal number to each; and it seems to me that in providing for the publication of an additional number they should be distributed among the Senators in proportion to the population of their States, so that there will be a proportion, as far as the distribution by Senators is concerned, according to the number of congressional districts. I propose, therefore, to amend the resolution, so as to make this distribution conform to that rule or principle.

Mr. HENDRICKS. Mr. President, I believe this resolution would give to each Senator ninety additional copies; that would be equal in the State of Indiana to about eight or ten volumes to a congressional district. Now, it is simply absurd to say that that is furnishing general intelligence to the people. It would enable my colleague and myself to send over the State to an occasional person this volume to be put away for the dust to rest upon, perhaps, the balance of the party's life. My judgment is that the resolution offered by some Senator the other day, to allow the reporter of the Associated Press a seat upon the floor, which would cost the people not a cent, is worth more to the cause of general intelligence than this resolution, which will cost the Government perhaps ten or twenty thousand dollars. That is my conviction. If we want copies to supply the libraries the five thousand already furnished enable us to do that. If we want to send a copy to the county libraries we shall have to have more; and for the general libraries of the State and for the colleges this will furnish enough; but if you intend us to furnish it to the people as a body, so as to be a source of general intelligence, five thousand copies will be of very little consequence, will accomplish nothing, and I shall not vote for the

resolution. I did not understand the facts to be as the Senator from Rhode Island has stated. My examination of this question at the last session satisfied me that there had been a great increase in the cost of congressional printing. I tried fairly to satisfy myself at the last session, and I thought there was a very great increase. It may not be so now; I do not know.

Mr. ANTHONY. Perhaps, if the Senator has made an estimate, he can give us the figures. I should like to see them.

Mr. HENDRICKS. It was at the last session I examined.

Mr. ANTHONY. I refer to the last session.

Mr. HENDRICKS. I cannot give the figures I do not recollect figures for a year, and I should not want to have a mind that would; but my recollection is, that the increase had been nearly double.

Mr. ANTHONY. Well, sir, the Senator is mistaken.

Mr. HENDRICKS. I may be mistaken; but I investigated with a desire to ascertain the facts. The argument here always is that each document which it is proposed to print in large numbers is the most important document that has come before the Senate. That argument is applied in every case. The number already provided for will enable us to supply the larger and more important libraries, colleges, and public institutions; beyond that I think the supply is not of general value to the people.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania [Mr. BUCKALEW] sent an amendment to the Chair which has not yet been read. It will be read.

The Secretary read the amendment of Mr. BUCKALEW, which was to add to the resolution the following words:

And the distribution of the same to Senators shall be according to the population of the States respectively.

Mr. DAVIS. Mr. President, I am against the amendment, and I am in favor of the original proposition. I would be willing myself to increase the additional number to ten thousand. I believe with the Senator from Indiana, that the amount of congressional printing is greatly too large. I have no doubt in my own opinion that with a proper respect to the public intelligence and service the aggregate amount of congressional printing might be reduced at least fivefold. There is a great multiplication of large and expensive documents in the printing, which are read by very few men; and I think that if the Committee on Public Printing of the Senate will turn their attention to economy and a restriction of printing in relation to useless documents from the Departments, reports of Secretaries, and restrict the number of those documents that are published, it would be a just and proper source of economy. But in relation to this trial there is probably no publication of the day that would be of more interest generally to the American people; not only all the State libraries, but all the county libraries, in my judgment, ought to have a full copy of the proceedings of this trial, and I think that the number ought to be multiplied to ten thousand instead of five thousand, in addition to the five thousand already ordered, that a proper and reasonable supply of this book may be made throughout the States.

Mr. BAYARD. Mr. President, I regret to hear the amendment proposed by the honorable Senator from Pennsylvania. It seems to me it is the first step taken to break down the equality of the States in this Union. It is a small step, I admit, but it looks that way. Printing is to be ordered by the Senate of the United States in which we stand here representing States without regard to their population. Now, as regards the question of distribution at any time of any document of this kind or any other kind, I should be very glad myself to part with a portion of my copies to any Senator from a larger State who desired to distribute it more than I supposed they were desired by my own constituents; but that is very different from introducing a principle that

in a body composed of Senators representing States they are by their order to make a difference as regards the rights of Senators representing States in reference to the distribution of documents or any other act whatever.

Mr. CRAGIN. Mr. President, I am also opposed to the amendment offered by the Senator from Pennsylvania, for the same reason given by the Senator from Delaware; but I rose mainly to say that, in my judgment, the chairman of the Committee on Printing is entirely right in his statement in relation to the reduction of the actual expense of the printing for Congress. Some ten years ago, when I was a member of the other House, I was a member of the Committee on Printing, and had an opportunity then to know about the expense of congressional printing. About that time Congress was printing large numbers of documents, such as the reports on the Pacific railroad, making some thirteen large volumes, elaborately illustrated, and printed at great expense. About the same time they printed the report of Commodore Perry of the Japan expedition, which all Senators will recollect, at a cost of more than a million dollars. No such publications now are being made or printed at the expense of the Government. Large numbers of those publications were ordered and printed at that time. At the present time we have no such documents, but only the ordinary documents, and the same numbers of them that were then printed. I concur fully in the statement that the actual cost of printing for the two Houses of Congress is to-day much less than it was ten years ago. I have not examined the figures specially at present; but, judging from what I knew then about the matter, I have not the least doubt that the Senator from Rhode Island is entirely right.

Mr. ANTHONY. Mr. President, I think my friend from Pennsylvania is the queerest sort of a State-rights man that I ever knew. I have no apprehension, however, that a proposition of this kind can pass this body. I agree with the Senator from Delaware, that although a very small step it is the first step toward destroying the equality of the States in this body. Perhaps the framers of the Constitution made a mistake in having the States represented here as equal States, rather than having them represented according to their population; but that is the theory we go upon, and I never will agree to anything which shall recognize any other theory in this body.

Mr. CONKLING. I should like to ask the Senator a question.

Mr. ANTHONY. In one moment I shall be through, and then I will answer the Senator's question.

I wish to say on another point, in regard to what fell from the Senator from Ohio, that although we have reduced the expenses of public printing very materially, I agree fully with what he says that the publication of documents for distribution is an abuse that ought to be not only diminished, but entirely abolished. I think that documents should be printed as they are in England, and I believe in France, at the public expense, in such quantities as the public demand is estimated for, and then sold at about two thirds the cost of publication, which will prevent them from being bought for waste paper and enable every man who really desires to have information with regard to the transactions of the Government to get them at a reasonable price.

Now, sir, I will hear the question which the Senator from New York wishes to propose to me.

Mr. CONKLING. I was going to ask the Senator from Rhode Island, sensitive as he is about State rights and constitutional rights, how he could have permitted such an infraction in this direction as took place when the tickets for admission to the galleries were distributed, as they are, in reference to the number of Representatives from the States?

Mr. ANTHONY. Because I could not prevent it. I thought it was a very small matter

to make a fuss about, but I thought that was a very improper provision, and I think the Senate made a great mistake in doing it.

Mr. CONKLING. I call the attention of the Senator to it, because, seeing that we are verging upon another very dangerous precedent, I was afraid we should be drawn on further. [Laughter.]

Mr. ANTHONY. I believe the Senator from New York is responsible for that precedent. I think he introduced the resolution. The original resolution was introduced by me providing that the tickets should be distributed *per capita*. If it be desirable to distribute tickets, documents, or anything else other than *per capita* the distribution should be made through the House. I think it is very proper that the people of New York should have a larger number of tickets and a larger number of documents than the people of Delaware or Rhode Island; but I think that distribution should be made through the House of Representatives, where they are represented upon the popular basis, and not here, where they are represented upon the basis of States.

Mr. FESSENDEN. It is so there.

Mr. ANTHONY. Yes, it is so there.

Mr. CONKLING. I think that was a more flagrant case than this.

Mr. ANTHONY. I think it was just such a case as this is. This is a small step; that was smaller still; but I think we ought to guard ourselves against any step in that direction.

Mr. MORRILL, of Vermont. I do not apprehend that the amendment proposed by the Senator from Pennsylvania is about to pass, but I call his attention to the logic of the principle announced in this amendment. If that is right why does he not propose to have ten times the amount appropriated for newspapers and for stationery that Senators representing the smaller States receive? If it is right, why does he not occupy ten times the space, ten times the time, here that other Senators occupy, coming from smaller States? This is a question of the large fish swallowing the small ones, but I have read of some very voracious fish of extremely small dimensions who yet were able to swallow fish of a much larger size. When the Senator from Pennsylvania has succeeded in swallowing the Senator from Delaware, who sits nearer to him than I do, and is much larger than either of us, and digested him, I suppose he will reach out after me. I shall have the gratification, at least, of being swallowed last, and with less strain upon the Senator from Pennsylvania.

But, sir, if the logic enunciated here is to be carried out, why not carry it out in the other House of Congress also, when documents are distributed there? There are members of the House of Representatives who represent three and four times as much population as some other members. If we are to look into this matter why not see by what majorities Senators have been sent here?

With regard to the former expenses of printing, when we were in the habit of publishing Pacific railroad reports, I believe it is true that the expenses of printing were very much larger than they are now; but we have got rid of those large and magnificently illustrated volumes, and now are confined to much smaller ones, and I hope soon may be to a much smaller number. In my judgment we ought to follow the course indicated by the Senator from Rhode Island, and distribute nothing gratuitously, but publish all our documents at the lowest possible expense and allow them to be sold by the Government at cost. I shall vote against the amendment and against the original proposition.

Mr. JOHNSON. Mr. President, nothing is more true historically than that the Constitution of the United States could not have been adopted, and no Union could have been formed without the admission of the equality of the States in this Chamber. I mean, nothing is more true than that at that time those things could not have been accomplished except upon

that assumption; and I believe, looking at the history of the Government from the period of its organization to the present hour, that it is owing, to the equality of the States in this Chamber that the Union has been preserved. I do not think that it could have been preserved if the Government had been exclusively in the hands of a mere numerical majority. Periods have occurred in our history which, I think, if properly studied, will demonstrate the truth of what I state. Believing that such has been the result in the past, I believe it will continue to be the result in the future. A popular Government like ours, extending over a territory as extensive as ours, cannot be maintained by a mere numerical vote. Practically, it would become the government of the masses, the government in one sense of the mob, without the restraint which our being divided into communities, small and large, in this Chamber is sure to impose. We, by our conduct—I mean the Senate, not the individual members who now compose this body, or who at any time in the past have composed it, or in the future will compose it—because of the smallness of our number, and because of the interest we feel in the preservation of our State governments, operate to check what might be hazardous and mischievous legislation. I am, therefore, unwilling that, as far as the Senate is concerned, it should in any instance, if it can be avoided, sanction a principle which recognizes the inequality of the States in this Chamber. I am aware that that inequality exists in the case of the distribution of tickets; but it passed *sub silentio*. The attention of the Senate was not called to the fact. It certainly escaped mine. But now the honorable member from Pennsylvania proposes a measure which can only be maintained upon the ground that there is an inequality, and that that inequality should be recognized as existing. Against that I protest as at war with the very principle upon which the Government was founded, and dangerous to the continuing and wholesome preservation of the Union.

Mr. CONNESS. I cannot have anything to say on this subject from the constitutional point of view; but I will take this opportunity to say that I wish some of our good legislators would report a provision to govern the distribution of documents, making it the duty of Senators and Representatives to distribute them among the libraries in their States, and, if necessary, for the reporting of those libraries here, and the appointment of a secretary or clerk to make the distribution. Then it could not be claimed that they were given to personal favorites, nor that they would not go into the most general use. When I came here first I caused a list of the libraries of my State to be made, and it has gone on until I am distributing the documents that I receive to a list of fifty-six libraries. At least twenty of those have been induced to be formed since, because they knew they would get documents in that way. I know it has caused me some little personal difficulty because personal friends and even newspapers have complained that I did not furnish them with valuable documents such as they received sometimes from other parties; but it occurred to me that the books were not mine to give to anybody as a gift, but that they were published for public use, and that the best custodians of them were those conducting and carrying on and maintaining libraries to which the public had free access. If a provision of that kind could be made, and I think it could, I do not know any small reform that would result in a greater percentage of good.

Before I sit down I will say that I am in favor of printing this additional number of copies asked for. No question is involved but the one of whether we shall authorize the publication of five thousand or ten thousand copies. I am in favor of ten thousand.

Mr. FESSENDEN. I should like to ask my friend whether he has any good evidence that other Senators are not as careful about the libraries in their States as he is of those in his State?

Mr. CONNESS. I have not. If it be a fact that others have done as I have done, or if I have copied from others, in either case it is, in my opinion, the best distribution; but I incline to think it is not a universal mode. Now, I ask the Senator whether he thinks it is?

Mr. FESSENDEN. I have not any opinion about others. I know I am very careful to send documents to all the libraries that I know anything about in my own State, and my colleagues do the same, and I have no doubt every library in the State is supplied with public documents.

Mr. YATES. I do not know, sir, that I would have any objection to the principle proposed by the Senator from Pennsylvania, because Illinois is already the fourth State in the Union in population, and I think my share would far exceed that of the Senator from Rhode Island, or the Senator from Vermont, or the Senator from Massachusetts. Moreover, I think that in a very few years Illinois will be the second State of the Union in population, and then the distribution to which her Senators would be entitled upon this principle would be a very large one indeed. But, sir, I do not think this is the point or the place to discuss this great constitutional question of State rights and State equality. I think we can find other times and other subjects upon which to discuss that great question. I believe that the States are equal. I wish I could say that we had equality in the standard of citizenship as we have constitutional equality of the States in the Senate.

But, sir, I rose for the purpose of saying that if we go further than to ask for the publication of enough of these books to furnish the libraries I shall oppose it, because there will be a scramble from all of our constituents for these books which we shall be unable to supply.

Mr. MORTON. Mr. President, I am in favor of cultivating the spirit of economy here. I believe great abuses have prevailed on the subject of printing and distributing documents; but, sir, the record of this trial is unlike anything else we have had in the history of this country. There is a deep and abiding interest on the subject felt by the people. Perhaps there has been no document printed, and there will be none printed for years, that will excite so much interest as the history of this trial, no document which the people will be so glad to get as a correct record or history of this trial. I have already had applications for it; and I presume every Senator here has had. I think the people will not expect a rigid reform in the way of printing to commence on this subject and at this time. They will expect that we shall be enabled to inform some of them at least correctly in regard to the history of this trial. The Congressional Globe is seen by but few persons. There are but few newspapers that print the full history of the trial. It may be done in New York, Cincinnati, St. Louis, Chicago, and Boston; but as a general thing the newspapers give but a meager account of the trial; no full account that would be satisfactory.

Now, sir, on the subject of the distribution of this document, it is said by some that the distribution should be made to the States equally. Why? Because the States are entitled to equal representation in this body. I insist that an equal distribution of these documents would not be just. Take the State of Delaware, with her small population; would it be fair to give to the people of Delaware the same number of documents that you would give to the people of New York, Pennsylvania, Illinois, or Indiana? Is there any justice in that? It does not affect the question of State equality at all. It is only the question of the equality of population, not the question of the equal rights of the States. We do recognize that the population of the States is unequal. We recognize it in a hundred ways. Our legislation provides for it in a hundred ways, recognizes the fact that New York has many times the population of Rhode Island and of Delaware. We are bound to recognize it in a thousand ways. We do not affect the principle of the equal repre-

sentation of the States in this body by saying that documents printed at the public expense shall be distributed according to population.

The doctrine of the equal representation of the States in the Senate is not to be affected or to be overthrown by the fact that you distribute documents according to population. These documents do not go to the States, but they go to the people; and therefore it is right to send them to the States according to the number of their people. There should be nothing done to make the doctrine of equal representation of the States in this body more unpopular than it is now. There is in this country a strong feeling, and it has developed itself more within the last two years than, perhaps, at any former period, against the justice and propriety of allowing Delaware, with a population of one hundred or one hundred and fifty thousand, to have the same power in this body that the State of New York has with her four million population. I do not sympathize with that feeling; but I say it exists, and it is becoming stronger from year to year. This distribution of documents or the distribution of tickets according to the number of Representatives in the other House or according to population does not affect the other question at all. It only recognizes the inequality of population which we recognize in a thousand forms and legislate for accordingly. These documents are not for the States, but they are for the people of the States, and therefore they ought to be sent to the States according to the number of their people.

Mr. YATES. The principle that is contended for by the honorable Senator from Indiana, if carried out, would amount to this: that Indiana should have Senators in proportion to her population; Illinois should have Senators in proportion to her population; and every other State should have Senators in proportion to her population. That is the principle for which he contends. We cannot think of introducing this distinction between the States in the Senate of the United States. In the House the distinction is made. There each Representative receives his documents in proportion to population; but in the Senate we can only act upon the spirit of equality. It would be ungenerous in the highest degree for States of a large population to encroach upon the rights of the smaller States and destroy the constitutional equality which was provided for by the framers of the Government.

Mr. BUCKALEW. Mr. President, I had no expectation of raising a grave constitutional question or debate by proposing my amendment to this resolution. I suppose that the equal representation of the States in the Senate is a question of power. They have equal power here. What is before us is a question with reference to the exercise of power. Although the Senators from the State of Delaware and from the State of New York have equal power over all questions pertaining to legislation, they are bound to exercise their powers in a reasonable and proper manner. Now, sir, in the present case, when it comes to the distribution of an extra number of public documents, it will be but a reasonable exercise of that unquestioned equality of State power that they should be distributed according to the demand and according to the numbers of the people in the respective sections of the country. Gentlemen confound two things which are quite distinct and independent of each other.

Mr. Madison thought that our system of government was a compound one, that it was made up of two principles; that in some respects it was federal and in some respects it was national. With regard to the location of power in the Senate of the United States it may be considered from the former point of view, as exclusively and entirely federal, in which State equality is maintained entire and intact; but in the exercises of our power we act for a great nation, and we must act upon principles of equality and even-handed justice to the people in all portions of the country.



I think, therefore, that the criticisms to which my amendment has been subjected are quite inapplicable, are strange, are unjust, and deserve no further answer than a mere statement of the most apparent and palpable distinctions which exist in the very nature of things in the constitution of our Government.

This argument is equally absurd with another argument which may be made: that because the States are equal in power here they are to be equally taxed. If gentlemen will run out their principle there will be no end to the absurdities. I suppose the State of Delaware would object very much if, upon this grand doctrine of State equality, we should ask her to pay into the public Treasury an equal amount with the State of New York. And so with regard to appropriations of the public money to the various objects of disbursement in the country. What could be more absurd than to insist that our appropriations of money should be upon this principle of territorial equality or of State equality, instead of being according to the common necessities and the general interests of the people of the country?

Now, sir, be it observed that the Senate has already made provision for the distribution of these documents among Senators upon a principle of perfect equality, upon a *per capita* rule. We have already made provision for that. The individual demands of each Senator for his own convenience and for the convenience of his State interests are already provided for. Now, what is proposed? That we shall print an extra number of documents. With reference to what? An equal demand among members of the Senate? No, sir; but a general and common demand in the country, which is a demand in proportion to population. The means which we propose to supply among the people are to be measured by the numbers in the respective sections.

I insist, therefore, that in printing these extra copies of this work, after the ordinary usage of an equal distribution among the members has been complied with and fulfilled, we shall provide for a just and fair distribution of them among the people. That is all to which my amendment points; and although I am not very particular with reference to this question I think that it stands upon good ground, and that it ought to command the assent of the Senate.

Mr. MORGAN. I move that the Senate proceed to the consideration of executive business.

Mr. ANTHONY. I hope we shall have a vote on this resolution.

Mr. MORGAN. I will wait a little while.

Mr. ANTHONY. I may be allowed to explain that it is of a great deal of importance, if this printing is to be ordered at all, that it should be ordered now; because, if done now, it saves the resetting of the type. I have no sort of preference whether the Senate votes it up or votes it down; but I wish to have it disposed of now.

The PRESIDENT *pro tempore*. Does the Senator from New York withdraw his motion?

Mr. MORGAN. I think there are some other persons intending to speak on this subject—

Mr. ANTHONY. I hope we shall vote down the motion.

Mr. MORTON. I want to say one word in reply to the Senator from Illinois.

Mr. EDMUNDS. Debate is not in order on a motion to go into executive session.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New York, that the Senate proceed to the consideration of executive business.

Mr. MORGAN. I will state that if there are no persons wishing to speak on the subject before the Senate I will withdraw the motion to allow a vote to be taken.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Pennsylvania [Mr. BUCKALEW] to the resolution reported by the Senator from Rhode Island, [Mr. ANTHONY.]

Mr. MORTON. If I understood the Senator from Illinois correctly, he said that the principle that I advocated would give the number of Senators to the various States according to their population. The Senator is mistaken. I did not say any such thing, or anything like it. My friend misunderstood me. I said I did not sympathize with that feeling which was growing up in the country against the equal representation of the States in the Senate; but I said that such a feeling did exist, and was becoming stronger. I said that this had nothing to do with the question of the right of equal representation; but simply recognized the inequality of population, and that there was no justice in sending as many documents to one hundred thousand people in Delaware as you would to four million people in New York.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on adopting the resolution reported by the Senator from Rhode Island.

The resolution was adopted—ayes twenty-six, noes not counted.

#### ORDER OF BUSINESS.

Mr. MORGAN. I move that the Senate proceed to the consideration of executive business.

Mr. MORRILL, of Maine. I want to say one word.

Mr. EDMUNDS. Debate is not in order on this motion.

Mr. MORRILL, of Maine. I am not going to debate it; but there is on the table an appropriation bill that I have been waiting for an opportunity to call to the attention of the Senate. It ought to be passed. It is to provide for the necessary expenses of the proceedings now before the Senate. I wish to say to my honorable friend who makes this motion that I do not desire to oppose it, but I wish to suggest to him the importance of passing this bill, and I doubt whether it will take us ten minutes.

Mr. MORGAN. I shall be in favor of taking up that bill immediately after the executive session.

Mr. CONNESS. We shall not come out into open session to-day.

Mr. MORRILL, of Maine. I ask the Senate to consider whether they will take up the bill at the present time or after the executive session.

The PRESIDENT *pro tempore*. The question is not debatable.

Mr. CONNESS. I ask the Senator from New York to withdraw his motion while I offer a resolution calling for information. We are not having legislative sessions, and I cannot do it at any other time. I shall vote with the Senator for his motion.

Mr. MORGAN. The Senator can offer his resolution while the doors are being closed.

Mr. CONNESS. I ask unanimous consent to offer a resolution.

The PRESIDENT *pro tempore*. Is there any objection? The Chair hears none, and the resolution will be received.

#### FISHERIES IN ALASKA.

Mr. CONNESS. I offer the following resolution:

*Resolved*, That the President be requested to communicate to the Senate copies of any papers in the Department of State relating to any application by any party for exclusive privileges in connection with the fisheries in our recent purchase of territory from Russia; and whether any steps have been taken, or acts done, tending to the extension of such exclusive privilege or sale of lands in the said Territory to private parties or companies.

There being no objection, the Senate proceeded to consider the resolution.

Mr. COLE. I suggest to my colleague that that resolution includes fisheries only.

Mr. CONNESS. It also relates to lands.

Mr. COLE. I ask my colleague to amend it by including "hunting and trading" as well.

Mr. CONNESS. Let the resolution be read again.

The Secretary read the resolution.

Mr. COLE. I ask my colleague to allow the resolution to be amended by inserting the words "hunting, trading, and" before the words "the fisheries;" so as to read, "exclusive privileges in connection with hunting, trading, and the fisheries in our recent purchase."

Mr. CONNESS. I have no objection to that. I accept it. I will state to the Senate in brief, without reading it, that I hold in my hand quite an extensive dispatch, which has cost twenty-three dollars in gold to send here, touching a good deal of public feeling which exists at San Francisco on this subject, and I desire to obtain the information from the proper source.

The resolution was adopted.

#### EXECUTIVE SESSION.

Mr. MORGAN. I now renew my motion for an executive session.

The motion was agreed to; and, after two hours and a half spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, April 14, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Messrs. HALSEY and HILL, of New Jersey; and Mr. WASHBURN, of Wisconsin.

#### PENSIONS.

Mr. PERHAM, by unanimous consent, reported from the Committee on Invalid Pensions a bill (H. R. No. 1010) relating to pensions; which was read a first and second time, ordered to be printed, and recommitted.

#### WASHINGTON AND NEW YORK RAILROAD.

Mr. TABER, by unanimous consent, presented the memorial of Messrs. Henry Clews & Co., Rufus Hatch & Co., and a large number of merchants and capitalists of New York city, praying for the passage of the bill now before Congress for a national railroad between Washington and New York; which was referred to the Committee on Roads and Canals.

#### REPORT OF HON. FREEMAN H. MORSE.

Mr. WASHBURN, of Illinois, by unanimous consent, from the Committee on Commerce, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of State be directed to communicate to the House the report of Hon. Freeman H. Morse, United States consul at London, on the mercantile marine and commercial policy of Great Britain, recently made to the State Department, and also a copy of the dispatch of Mr. Morse, No. 325, dated May 12, 1866.

#### ORDER OF BUSINESS.

The SPEAKER. The Chair will state that on the return of the House from the Senate to-day he will present certain executive communications; and he also now renews the notice given yesterday by the gentleman from Massachusetts, [Mr. BANKS,] that on Thursday next, after the House returns to this Hall, and after the disposition of the pending resolution relative to the printing of the opening speech of Manager BUTLER in the impeachment trial, he will call up for action House bill relating to the rights of naturalized citizens abroad.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper. There will be business to be transacted upon the return of the House to this Hall.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At twelve o'clock and twenty minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until twelve o'clock to-morrow.

#### CHAMBER OF COMMERCE OF GENEVA.

The SPEAKER, by unanimous consent, laid before the House the following letter from the Secretary of the Treasury:

TREASURY DEPARTMENT,  
April 14, 1868.

SIR: I take the liberty of inclosing to you, with the request that you will submit it to the House, a copy of an "address of members of the Chamber of Commerce of Geneva and a number of citizens to the Congress of the United States of America and the chambers of commerce of their sister Republic."

I am advised that some of the gentlemen who signed the address are members of the Government of the Canton of Geneva, and of the Federal Congress of Switzerland, and that all are persons of the highest respectability.

The Government and the people of Switzerland sympathized sincerely with the Government and loyal people of the United States in their recent struggle for the preservation of the Union and of constitutional liberty, and they are therefore, perhaps, justifiable in expressing to Congress through one of their most important chambers of commerce the interest which they feel in the advancement and maintenance of our financial credit.

I have the honor to be, your most obedient servant,  
H. McCULLOCH,  
Secretary of the Treasury.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

On motion of Mr. GARFIELD, the letter and accompanying address were referred to the Committee of Ways and Means, and ordered to be printed.

#### SEPARATE CUSTOMS DISTRICT, MAINE.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of the Treasury, transmitting a report of a special agent of the Department, relative to the necessity of a separate customs district in Maine, and recommending the same; which, on motion of Mr. PETERS, were referred to the Committee on Commerce, and ordered to be printed.

#### STEAMSHIP ATLANTIC.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of the Navy, transmitting, in compliance with the resolution of the House, the correspondence between that Department and the district attorney of New York, relative to the steamship Atlantic; which, on motion of Mr. WASHBURN, of Illinois, were referred to the Committee on Commerce, and ordered to be printed.

Mr. PAINE. I ask unanimous consent to introduce a joint resolution for the relief of a soldier.

The SPEAKER. No business can be now transacted unless proper notification was given before the House went to the Senate.

And then, on motion of Mr. COVODE, (at twelve o'clock and twenty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BROOMALL: The petition of citizens of Washington and District of Columbia, praying for the passage of House bill No. 224, for the incorporation of the Washington and Cincinnati National Railroad Company.

By Mr. CLARKE, of Ohio: Additional vouchers in support of the claimants for losses sustained by the capture of the United States war steamer Undine.

By Mr. ELIOT: The petition of Thomas S.

Hathaway, Pardon Tillinghast, and 57 others, merchants of New Bedford, Massachusetts, praying that the effective action of the Coast Survey may be continued.

Also, the petition of T. W. Sherman and others, praying that the service ratings may not be withdrawn from retired officers.

By Mr. PAINE: A memorial of the Chamber of Commerce of Milwaukee, for an appropriation for the Buffalo harbor.

Also, the petition of R. C. Hathaway, of Wisconsin, for a survey and sale of certain lands in that State.

By Mr. TROWBRIDGE: A memorial of the trustees of the Massachusetts Society for the Promotion of Agriculture, asking Congress to engage the services of Professor John Gamgee, head of the Albert Veterinary College, London, to investigate the diseases of the live stock of this country with a view to their prevention and cure, and thus saving to the country the thousands of dollars now annually lost in consequence of the ignorance on the subject.

#### IN SENATE.

WEDNESDAY, April 15, 1868.

Prayer by Rev. E. H. GRAY, D. D.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair, that it might be occupied by the Chief Justice.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at four o'clock p. m.

Mr. MORRILL, of Maine. I move that the Senate proceed to the consideration of Senate bill No. 462.

Mr. TRUMBULL. Before that is done, I suggest to the Senator from Maine whether we should not pass the order which was asked for on the impeachment trial?

Mr. MORRILL, of Maine. If the Senator has one prepared I will give way; but I hope this bill will be allowed to come up first.

Mr. TRUMBULL. I understand the order will be presented in a moment.

Mr. MORRILL, of Maine. Let the bill first come up and then it can be laid aside for the moment.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maine.

The motion was agreed to.

Mr. JOHNSON. I move that the matter before the Senate be informally passed over for the moment that I may offer the order which I send to the Chair.

The PRESIDENT *pro tempore*. The order may be received by unanimous consent without displacing the bill before the Senate.

There being no objection, the following order, submitted by Mr. JOHNSON, was considered and agreed to:

Ordered, That the Secretary of the Senate be directed to furnish to the counsel for the President a statement of the beginning and end of each executive and legislative session from 1789 to 1868.

#### SENATE CONTINGENT EXPENSES.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 462) making appropriations for the expenses of the trial of the impeachment of Andrew Johnson and other contingent expenses of the Senate for the year ending June 30, 1868.

The first amendment of the Committee on Appropriations was in line nine, before the word "expenses," to strike out the words "miscellaneous items, including the;" and in line eleven to strike out "fifty" and insert "ten;" so as to make the clause read:

For expenses of the trial of the impeachment of Andrew Johnson, President of the United States, \$10,000.

The amendment was agreed to.

The next amendment was to insert after line eleven:

For miscellaneous items, \$50,000.

Mr. HENDRICKS. That is rather liberal

legislation on "miscellaneous" propositions. I think we ought to know something about it. We vote miscellaneous sometimes, but not such large sums if it can be avoided. I think the chairman of the committee ought to state to the Senate something about what it relates to, why it is, and how this deficiency has occurred.

Mr. MORRILL, of Maine. Out of this "miscellaneous" item are paid a great variety of expenses, such as ordinary labor about the Capitol not specifically provided for, which is oftentimes considerable. Then there are funeral expenses, which are sometimes large. Then, growing out of an irregularity of practice, this fund is sometimes drawn upon where other appropriations have been short. Upon the best examination we could give it the Committee on Appropriations became thoroughly satisfied that there is a deficiency growing out of these reasons to this extent, which the Senate ought to provide for. That is the general statement. This business belongs more immediately, however, to the Committee on Contingent Expenses.

Mr. DIXON. I should like to ask the Senator whether any part of this appropriation for miscellaneous items refers to the expenses of this trial?

Mr. MORRILL, of Maine. No; that is specifically provided for.

Mr. DIXON. That is covered by the specific appropriation of \$10,000.

Mr. MORRILL, of Maine. Ten thousand dollars are, as far as the committee have any information, deemed sufficient for any expenses of this trial.

Mr. DIXON. The "miscellaneous" appropriation does not refer to that.

Mr. MORRILL, of Maine. No. That item relates to what is found necessary to carry us forward to the end of the current year.

Mr. HENDRICKS. I should not have asked the question which I propounded to the chairman if the Secretary of the Senate had furnished us any statement of the origin of this deficiency or the causes of it which would have enlightened us upon the subject. Now, sir, upon the general statement made by the chairman I am not prepared to vote this sum of \$50,000 for miscellaneous items, to be under the control of the Secretary of the Senate. I think it is without parallel that, without a report from the Secretary of the Senate showing what these expenses are and how it is that the Senate ought to appropriate \$50,000, we should vote upon a general averment of miscellaneous expenditures so much money. There is not much use in talking about economy, retrenchment, and reform if we legislate in this general way without that information which will enable us to judge whether this money has been properly used by a public officer, and whether we ought to vote it as a deficiency. I understand this is a "deficiency."

Now, what has there been in the history of the Senate so peculiar and extraordinary that this deficiency should have occurred? I believe the chairman mentions funeral expenses. I am not prepared to say whether those expenses have necessarily been larger recently than heretofore. They are expenses that no Senator will question; they are not to be questioned; but they will hardly account for a fifth part of this \$50,000 for miscellaneous expenditures. The answer given by the chairman is to my mind not satisfactory.

Mr. CRAGIN. I rise to make a little statement in relation to this matter. The Senator from Indiana says that he is unwilling that this large amount should be under the control of the Secretary of the Senate. I can inform him that it is not under the control of the Secretary in any shape or manner whatever. There are some matters of interest in this bill in regard to which, if Senators will give me their attention, we may come to an understanding. Being on the Committee to Audit and Control the Contingent Expenses of the Senate, and chairman of the committee, my attention has been especially called and directed to the subjects-matter of this bill, and especially to these items of

miscellaneous expenses. Every Senator will at once see that this is a very general term. It includes a multitude of items. Among them, as stated by the chairman of the Committee on Appropriations, are items of funeral expenses. Perhaps there has been no call during this session for any expenditure on this account; but Senators will remember that Senator Riddle died in April last, and, although there was no funeral here, there were expenses attending his burial. Then the expenses of investigating committees are paid out of it. There was the investigation by the Judiciary Committee in the case of Mr. Thomas, Senator-elect from Maryland. All the expenses of witnesses, and the other expenses of investigating committees come out of this item. Then there are the expenses for carpenters' work and repairs to this end of the building, painting, &c., which generally take place in the vacation. The carpenters' work, I may say, is considerable every month. There are boxes and various things; the mending of furniture, &c. Then some of the messengers and clerks in the Secretary's office are paid out of this fund. Then we have various miscellaneous items, such as we have all seen mentioned in the newspapers, such as soap, brushes, towels, &c. They are all paid for out of this fund. The towels and soap are used in the committee-rooms and in the cloak-rooms. Then there are brooms, tubs, pails, and an infinite variety of articles used around the Senate Chamber, that are bought and paid for out of this appropriation. There are also some things furnished in the committee-rooms, as books, which come out of this item. Frequently, as at present, this appropriation is needed to pay for furniture and repairs; for instance, the fitting up of the Committee-room on Appropriations was an extra expense during this fiscal year; or at least it must be paid for out of this item. Then there are the carpets for the reception-room, the carpets in this Hall, in the marble-room, and in several of the committee-rooms, which have been put down during the year, to be paid for out of this fund. The item for furniture and repairs appropriated at the last session of Congress was not sufficient, and these bills must be paid out of this item.

During the last fiscal year, ending June 30, 1867, there was appropriated, in the first place, \$30,000 for this item, and then a deficiency afterward of \$30,000 more, making \$60,000. There has been appropriated already for this fiscal year \$30,000 for this item; and when we take into consideration that we had a session in July and another in November, and that this is now the long session, I think Senators will readily see why we need \$20,000 more for this fiscal year than was used during the last fiscal year. I know from an examination of the books and of the items of expense that have been paid and are to be paid that this amount is necessary to carry us through this present fiscal year up to the 30th of June next.

Mr. DIXON. It appears from the statement of the honorable chairman of the Committee on Contingent Expenses that this is really an addition to the appropriation for contingent expenses. It is an increase of so much, \$50,000, to the fund for contingent expenses of this body, as I understand.

Mr. CRAGIN. One item of the contingent expenses.

Mr. DIXON. Everything the Senator has stated which is to come out of this appropriation has always been paid for from the contingent fund of the Senate. I also had the honor of being chairman of that committee for several years, and I know we never, under any circumstances, had an appropriation in the whole of \$50,000 a year. There were some cases in which it was necessary to make an appropriation for deficiencies in the contingent expenses of the Senate, but never amounting, according to my recollection, to one fifth of this appropriation. Now, I do not say that this is not necessary. I do not say that the Senate ought not to adopt the amendment; but I wish to call the attention of the Senate to the fact that

the contingent expenses of the Senate are being increased by the addition of the amount of \$50,000. It may be all right, but we ought to adopt it with our eyes open.

Mr. CRAGIN. I stated that a year ago a deficiency of \$30,000 was voted for this very item. Last winter, just after the short session, \$30,000 was appropriated as a deficiency, \$30,000 having been originally appropriated, making \$60,000 for the last fiscal year, in which was included the short session of Congress. Now we ask for \$50,000 deficiency, whereas there was \$30,000 last year, in order that we may pay the expenses for this long session and the two intermediate sessions in July and November. The expenses were greatly increased, as Senators must see, from the fact of the additional session of this Congress during the last summer.

Mr. DIXON. I think the honorable Senator is mistaken in regard to the increase of expense. The regular appropriations for contingent expenses were made, and a deficiency was occasioned by the expense of furnishing the new rooms. Large expense was incurred in furnishing the committee-rooms, and there was also a large item for ornamental painting of the committee-rooms which I objected to at the time, not thinking it ought to be charged to the contingent fund; but it was. As I have stated, I do not say that this is not proper; but one thing I do say, it is not proper that it should be adopted in this form; it ought to be stated to be an addition to the contingent expenses of the Senate; so much for a deficiency for contingent expenses. Heretofore that has always been the case. It has never been brought in under the form of miscellaneous expenses in this way. It does not appear what it is for. But for the statement of the honorable chairman it would scarcely have been known that this was an addition to the contingent fund of the Senate. I shall offer no amendment, but it is for the honorable chairman of the committee to make such a suggestion as he may think proper by way of amendment. I state merely for the information of the Senate that this is really an addition to the contingent expenses, and it seems to me it ought to be so stated in the bill.

Mr. DAVIS. I desire to ask a question of the honorable Senator from New Hampshire. It is this: whether the expenses of many sessions of a Congress are not more than the expenses of a few sessions?

Mr. CRAGIN. Of course they are.

Mr. DAVIS. I ask the honorable Senator if he cannot manage to have fewer sessions of Congress, so that we can reduce the miscellaneous expenses?

Mr. CRAGIN. I have no objection.

Mr. BUCKALEW. The amount of this appropriation in the bill originally as sent to the Committee on Appropriations was \$40,000. They have divided it into two items now. It originally stood "for the expenses of the trial of the President and other miscellaneous expenses, \$50,000." They report to us now an appropriation of \$10,000 for the trial and \$50,000 for other miscellaneous objects. I have not heard the reason given for this increase, and until better advised I am not prepared to agree to it. I wish to move to make the amount what it was before and I propose to reduce this item to \$40,000, unless some reason be given for changing it. I move to amend the amendment of the committee by striking off "fifty" and inserting "forty."

Mr. HENDRICKS. The explanation made by the chairman of the Committee on Contingent Expenses will hardly do for a full understanding of this subject. The expenses of the funeral of our deceased friend from Delaware could not have been very large, not nearly as large as the expenses attending most funerals.

Mr. CRAGIN. More than one fiftieth part of this appropriation.

Mr. HENDRICKS. I said that in my opinion the funeral expenses could not amount to one fifth of this \$50,000, which would be \$10,000; and now, inasmuch as the Senator has been

able to refer to but one case, I do not suppose those expenses exceeded \$500.

Mr. CRAGIN. More than that.

Mr. HENDRICKS. At any rate we have no evidence on the subject. The Secretary of the Senate has furnished us with no report, and I ask the Senator whether that officer has made a detailed statement of these items to the committee?

Mr. CRAGIN. I will state that there is a large number of unpaid bills. The Secretary of the Senate has not paid the bills, and they now remain unpaid, there being no money to pay them. The fitting up of the Senate Chamber last fall was an occurrence that does not happen more than once in three or four years. Then there was the fitting up of the room of the Committee on Appropriations. The Naval Committee room was completed, and so was the Military Committee room, the Library, the reception-room, the marble-room, and the corridors. All these expenses were incurred last fall. Bills to a small extent have been paid, but quite large amounts remain unpaid. That is one item, and, perhaps, the principal item in this account of miscellaneous items.

Mr. HENDRICKS. I was going to speak of that. The Senator spoke of painting and carpenter work. I suppose that is in this building. I have not seen where it is going on, and I do not know anything about it; but I will call the Senator's attention to the twenty-third line of the bill, where there is an appropriation of \$5,000 for "deficiency in the appropriation for furniture and repairs," covering this very subject he spoke of.

Mr. DIXON. Is there not also an appropriation for stationery?

Mr. HENDRICKS. No; that is stricken out, apparently. Then the deficiency in regard to furniture and repairs being provided for, we have an appropriation of \$50,000 for miscellaneous items, and the only suggestion of anything to come out of this fund is the expense attending the burial of one Senator.

Mr. CRAGIN. Will the Senator allow me to make a suggestion?

Mr. HENDRICKS. Certainly.

Mr. CRAGIN. Some two or three weeks ago a resolution passed the Senate to pay the representatives of the late Noah Smith, principal legislative clerk of the Senate, \$300 for funeral expenses and three months' pay, to come out of the contingent fund of the Senate. There is a bill that will amount to about one thousand dollars that must come out of this item, if we make the appropriation; for if we do not make it it cannot be paid. If the Senator, at any time within a week, will take the trouble to walk with me for three or four hours about this Capitol and about the different rooms down below and up above, I will show him better than I can tell him now where this money goes. It is in small items frequently. The Senator from Kentucky asked me if many sessions of Congress are not more expensive than few. During the July session the miscellaneous expenses were considerable. Among other things, large quantities of ice were used in hydrating and cooling the Chamber, besides a little iced lemonade; and I may say to the Senate, as all know, that there was nothing stronger. If gentlemen will go about this end of the Capitol they will find much property of various kinds belonging to the United States that is paid for out of this item. For instance, painting to the amount of \$2,000 was done during the vacation last fall; below here mainly, but partly in this Chamber, touching up the gilding where it had been rubbed off by chairs leaning back, and so on. Most of the matters under this item are not under the direction of the Secretary of the Senate, for he has nothing whatever to do with them.

Mr. DIXON. Under whom do they come?

Mr. CRAGIN. Most of the expenditures under this item are under the direction of the Sergeant-at-Arms of the Senate.

Mr. HENDRICKS. Well, Mr. President, I will go on with what I was about to say.

Mr. TRUMBULL. If the Senator from



Indiana will allow me, I desire to ask the Senator from New Hampshire a question. I wish to know whether the expenses before the committees for reporting, for witnesses, &c., do not come out of this fund?

Mr. CRAGIN. Certainly, they do.

Mr. TRUMBULL. We had one of the reporters of the Senate before the Judiciary Committee at one time taking testimony in a case involving a right to a seat, I think Mr. Thomas's case; and I certified to the bill, but the reporter told me he had not been able to get his pay.

Mr. CRAGIN. There was no money to pay it.

Mr. HENDRICKS. How much was it?

Mr. TRUMBULL. That bill was not much—less than one hundred dollars, I think. The Senator from Indiana remembers that case where we had one of the reporters taking testimony and a number of witnesses before us, some from Maryland and some from New York. I do not remember what the precise amount was; but I recollect that when the bills were brought to me I certified them as chairman of the committee, and I learned afterward that there was no fund out of which the reporter could be paid. I suppose it is included in some of these appropriations.

Mr. HENDRICKS. The Senator from New Hampshire suggested that I should take a walk some pleasant day to different parts of the Capitol. I know I should enjoy it very much, and I am sure he could explain matters with entire satisfaction, inasmuch as the rules have abolished liquor from the institution. [Laughter.] I could take a very pleasant walk and examine the rooms; but inasmuch as I am not a good judge of carpenters' work and painting, I would rather the Secretary of the Senate had informed us exactly how much money he had and what exactly he had done with it, and why it is that \$50,000 more is necessary. That would be more satisfactory, and I should know a great deal better just what money was spent, what it was spent upon, if we had an exact statement, and we could then know why this deficiency is to be provided for and where it is to go.

Mr. CAMERON. Mr. President, I should be very glad to have an opportunity of saying a few words about these expenses. The country is full of the impression that there is a defalcation somewhere in the accounts of the Senate; and there is a question of veracity, I am told, between the Secretary of the Senate and his confidential clerk, amounting to some forty or fifty thousand dollars. I think this is a question about which we ought to have some time to reflect. For myself particularly I should like to know exactly how all the money of this Senate is expended. I think the most important situation belonging to the Senate is the chairmanship of the Committee to Audit and Control the Contingent Expenses of the Senate. I have great confidence in my friend from New Hampshire, [Mr. CRAGIN.] I have no doubt he will do what is right in the matter; but, having been a man of business, and having dealt in figures during a long life, I should like to know what money has been expended, and how it has been expended.

I should like to see every dollar and every cent put down with a receipt or a voucher for everything that has been done. I have heard that there are some difficulties, some differences of opinion between the Sergeant-at-Arms and the Secretary of the Senate. I do not want to get into the difficulty between them, but I want to know how each of those officers has performed his duty; and especially do I want to know why a confidential clerk and relative of the Secretary of the Senate has been dismissed, he complaining that injustice has been done him, as I understand, and that the money was properly expended by him; but yet there is a balance against the funds. I want to know where the wrong is. I have no charge to make against anybody. The general impression of my mind always is that everybody is honest, but here we are the mere agents of others. I think that a great difficulty in this Government

is the contingent expenses of Congress; and we here in the Senate, above all others, should see to it that our accounts are properly squared. There is no system in the world so correct as that of book-keeping by double entry, and by it an intelligent man can see at once whether a rogue or an honest man has been expending money. I should like to see this account balanced for the last eight or ten years. I will give way to my friend from New Hampshire.

Mr. CRAGIN. The honorable Senator from Pennsylvania has suggested one or two inquiries, from which, unless some reply is made, an impression might go out here that would be injurious. Now, I wish to say, in the outset, that the Secretary of the Senate has no power to contract debts for the Senate, so far as I have been able to ascertain from any law. The Secretary of the Senate gives bonds as the disbursing agent of the Senate, and pays out the money on presentation of bills properly certified by the Committee to Audit and Control the Contingent Expenses, or under laws making appropriations. For instance, there are certain bills that are paid without coming before the Committee on Contingent Expenses at all. The law provides for paying the salaries of our officers, clerks, and others about the Senate, and of course their monthly bills are made out and paid without a reference to the committee; but the Secretary of the Senate, as I said before, so far as I know, has no power to run the Senate in debt or to defraud it.

Mr. HENDRICKS. Will the Senator allow me to ask him a question?

Mr. CRAGIN. Certainly.

Mr. HENDRICKS. I ask him whether there is not something wrong in regard to the funds of the Senate to the extent of about forty thousand dollars, and whether the old gentleman who was the pay clerk of the Senate, Mr. Wagner, was not dismissed last fall, and whether the Senator has made any inquiry into that business?

Mr. CRAGIN. Mr. President, I will state the facts of the case. It was ascertained some time during the last fall that the money supposed to be in the hands of the Secretary of the Senate, or subject to his order, was somewhere deficient.

Mr. HENDRICKS. Then I wish to ask the Senator a question right there.

Several SENATORS. Let him finish his statement.

Mr. CRAGIN. Mr. Wagner was called upon to account for that deficiency, and in the examination—he never said it to me, but I have full faith to believe it—he acknowledged to Colonel Forney and others that he—I do not know that I ought to state it.

Mr. WILSON and others. Say it now.

Mr. CRAGIN. That he had taken money from the safe or drawn it from the Treasury to the amount of \$40,000, and appropriated it and used it as his own.

Mr. CAMERON. Will the Senator allow me to interrupt him for a moment at that point?

Several SENATORS. No, no; let him go on and finish the statement.

Mr. CRAGIN. I will finish my statement first. Mr. Wagner acknowledged this defalcation on his part, and at once turned over all the property he held, as I understand, to Colonel Forney to secure him. Colonel Forney raised the money to the amount that Mr. Wagner stated he had taken from him, and went up to the Treasury Department and there deposited it, so that the Government should not be the loser of one dollar on his account. These are the facts, as I understand them, in relation to that matter.

Mr. CAMERON. I ask the Senator from New Hampshire whether he saw that money; whether he had any evidence of the deposit by Colonel Forney of \$40,000 to make up that deficiency?

Mr. CRAGIN. I have seen a certificate from the Comptroller, Mr. Taylor, I think, certifying to that fact. As to the exact amount I do not remember.

Mr. CAMERON. Now, I desire to state that

this Mr. Wagner is a relation of Mr. Forney, the Secretary of the Senate. He held the very responsible situation of cashier of the York bank, one of the best conducted banks in Pennsylvania, and was there for more than thirty years, living a life of frugality, and saving out of his salary a small sum. He was invited to come here, and with his knowledge of accounts and his high character, to take charge of the accounts of the Secretary of the Senate. He came here, as I understand, living frugally, spending no money, having no bad habits, and buying nothing but a house, for which I think he paid some six or seven thousand dollars. He has a family who do their own labor, keeping no servants, as the German people of Pennsylvania are in the habit of living. He was devoting his whole time to this place. He leaves here suddenly with a deficiency in his accounts, as it is stated, of \$40,000. Since he has left, I am told, he says it is not true; that there is no deficiency chargeable to him. Now, as a citizen of my State, a good old man, as everybody in Pennsylvania who knows him—and there are many who do know him—says he is, I am not willing that he shall be disgraced, and that his children and grandchildren shall be disgraced without a proper examination. I want no appropriation made here until the Senate see the whole of these accounts. Let us see how these accounts have been kept in the last six years; who has spent the money; who has drawn money improperly; and who has used money which he had no right to use. It may be that this gentleman is not guilty. It is possible, and barely possible, that he cannot be guilty of an offense so heinous as this would be of using money intrusted to his charge.

Mr. MORRILL, of Maine. Now, will my friend allow me to explain this bill, and see whether we cannot obviate the difficulty and make this appropriation and attend afterward to the question which impresses itself upon his mind?

Mr. CAMERON. I will listen to the Senator.

Mr. MORRILL, of Maine. In the first place, I want to say that whatever has transpired in the way supposed by the Senator from Pennsylvania has no possible connection with this bill, not the slightest in the world. There have been irregularities in the keeping of the accounts; I have seen them myself; but I am not aware that the interests of the Senate of the United States are at all involved in it. It is a matter between the Secretary of the Senate and his confidential clerk; and if the Senate feel an interest to investigate that matter they can instruct the Committee on Contingent Expenses to do so.

This bill came from the Committee on Contingent Expenses, with its passage recommended by that committee. It was then referred to the Committee on Appropriations. Finding it my duty to examine it, I took the bill and went to the cashier to examine the heads appropriated for here to ascertain the general fact whether a deficiency to these several amounts existed. That was my first inquiry. Now, I will take them up in detail and explain them, and see whether the Senator from Pennsylvania [Mr. CAMERON] will not agree that this is not the time to examine that subject, or, in other words, that this bill need not be postponed until that subject is examined.

The first item in this bill is an appropriation for the expenses of the impeachment trial. None of us, I take it, think we can afford to postpone that. Witnesses have been called from a distance. Not a dollar has been paid to any witness. Some of them have gone away leaving their pay behind. It is hardly creditable, I think, to the Senate of the United States that that state of things should exist.

Mr. CRAGIN. If the Senator from Maine will allow me I will correct him in that particular. At the time this bill was introduced there was no money to pay witnesses, but the question arose whether these witnesses should be allowed to go away without their pay, those

who were not going to return, and I suggested to the Secretary that he should in some way procure the money to pay them as the bills were presented, and I think he has done so in some cases.

Mr. MORRILL, of Maine. I am sorry that the Sergeant-at-Arms or the Secretary of the Senate or anybody else should feel at liberty to go on the streets and borrow money in the name of the Senate of the United States. I do not believe we ought to be put in the attitude of doing any such thing. If there is a trial here on foot, the Senate, I insist upon it, should provide the expenses. What these expenses will be cannot be known, but the committee, on the best information we had, calling before us the officers connected with it, concluded that \$10,000 would perhaps cover the expenses of this trial.

Mr. HENDRICKS. I do not desire the Senator to represent me, if it can be done by inference from his remarks, as opposing the appropriation of \$10,000 for the expenses of the trial. My opinion is we shall have to appropriate much more than that. Whatever the expenses of the trial are must be paid, and paid cheerfully.

Mr. MORRILL, of Maine. I had not the slightest reference to the honorable Senator; I had not him in my mind; I did not understand him to rise for that inquiry. Now, let us take the next appropriation:

For miscellaneous items, \$50,000.

I tried to see, in a general way, how that arose. There is a deficiency—there is no mistake about that—on the books. I have seen it and seen the items.

Mr. SHERMAN. Will my friend allow me to put a question to him in regard to that? How does that deficiency occur? Is it in unpaid bills, or by the officers paying more than was appropriated?

Mr. MORRILL, of Maine. There are about twenty thousand dollars of unpaid bills; but they paid more—

Mr. CAMERON. Allow me to ask—

Mr. SHERMAN. Let me finish my question. Have the officers paid more than the amounts they have to their credit and which are appropriated?

Mr. CONKLING. They have transferred funds.

Mr. MORRILL, of Maine. If Senators will allow me to explain in a general way, there will be less necessity for asking particular questions; but I will hear the Senator from Pennsylvania.

Mr. CAMERON. I was going to say this: I am perfectly willing that the expenses of this trial should be paid; but I am not willing at this moment to appropriate \$50,000 or any other number of thousands to the settlement of the accounts of the Secretary, for this reason: the Secretary is an officer of the Senate who gives security for a certain sum of money which goes into his hands, and I am not willing to appropriate any more money to put into his disbursement until we see what he did with that which he had.

Mr. MORRILL, of Maine. This bill has not the slightest possible reference to anything he may have done, and it can in no possibility affect anything he has done. If anybody is curious to know what the Secretary of the Senate does with the money it is not his fault that they are not informed. There is a book which gives you the items. [Holding up one of the annual reports of the Secretary on the disbursements of the contingent fund.] My honorable friend from Indiana complains that the Senate is misinformed—does not know what becomes of the money. There is a book published last year, sent to you here at the commencement of the last Congress, and there is one which only awaits publication now, in which every item of expenditure is set down.

Mr. HENDRICKS. I will ask the Senator if this book that is in his hand gives the items contained in this appropriation of \$50,000?

Mr. MORRILL, of Maine. No; not in this book; but I say the Senator is complaining that

we get no accounts from the Secretary of the Senate, while the Secretary of the Senate publishes, as it is his duty to publish, at the beginning of every Congress, the items of expenditure of the contingent funds of the Senate, and here they are. How creditable it would be to the Senate to have them read is another question.

Mr. HOWE. That is the report for the year before?

Mr. MORRILL, of Maine. I say it is for the year before. I am only speaking of the general fact that if Senators are not informed on this subject it is not the fault of the Secretary of the Senate. I want to say another thing: that if anybody is at fault for the necessity of this deficiency bill it is not the officers of the Senate; it is the Senate itself.

Mr. CAMERON. It is time to correct it, then.

Mr. MORRILL, of Maine. It is time, I admit, to correct it; but it is hardly worth while for us to stand up here and make reflections in all directions. I do not allude to the honorable Senator from Pennsylvania, [Mr. CAMERON,] for I can understand that case; but I am more particularly addressing myself to my honorable friend from Indiana, [Mr. HENDRICKS,] who says that he does not know why this deficiency occurs. He might know if he would read this book which is published here; and if he would take notice of what transpires in the Senate he might know why it is. Why, sir, at the last session, in July, we had some seventeen additional messengers provided under a resolution of the Senate directing the Sergeant-at-Arms to put on an additional force to keep order; and what did we do? The last hour of that session we passed a resolution retaining all these messengers and all the pages and all the clerks during the recess of the Senate; and they were all on pay; and of course we all voted for it.

Mr. BUCKALEW. Oh, no.

Mr. MORRILL, of Maine. There was no division, I think, on that subject.

Mr. BUCKALEW. I voted against it.

Mr. MORRILL, of Maine. The Senator from Pennsylvania voted against it.

Mr. SHERMAN. I voted against it.

Mr. MORRILL, of Maine. It went through. That is all I have said about it; and it became the privilege of these people to receive their pay; and now we are called upon to make an appropriation for a deficiency.

Mr. BUCKALEW. That is not covered by this bill.

Mr. MORRILL, of Maine. Yes, it is covered by this very bill, and the action of the Senate rendered it necessary; and yet Senators get up here and complain and are utterly amazed that we should have this appropriation bill, when it grows out of our own action.

Now, sir, let me go back for a moment to this appropriation of \$50,000. There are about twenty thousand dollars of bills audited by the Committee on Contingent Expenses unpaid. I have not examined that matter. I take that from the statement of the chairman of the Committee on Contingent Expenses, and also from the Secretary. They are unpaid. They are for furniture in part, for labor in part, and for a great variety of items, just such expenses as would naturally be incurred in such an establishment as this. Now, I say I went far enough with the cashier to satisfy myself that this deficiency actually does exist, and it exists in the way I have suggested; and the question is, whether the Senate will meet the deficiency and pay it, or whether we shall have these parties, these men who have been employed by our officers, calling upon us time after time for their bills, and be told "there is no money in the Treasury for the payment of these expenses." That is the precise question.

Now let me come to the next item:

For deficiency in the appropriation for the payment of the Capitol police.

Mr. HENDRICKS. How much is that?

Mr. MORRILL, of Maine. Seventeen thousand dollars. That arises, in great part, from the fact that we have added in contemplation

of this trial, for some time back, twenty additional policemen. That is one of the items. The next is:

For deficiency in the appropriation for the payment of additional messengers, \$15,000.

I have already spoken of that. Then the next item is:

For deficiency in the appropriation for defraying the expenses of hydration of the Senate Chamber.

My honorable friend from Pennsylvania [Mr. BUCKALEW] can enlighten us upon that subject if it were necessary, but that is one of the ordinary expenses which have grown out of the attempt to hydrate the Senate.

Mr. BUCKALEW. That is a small item.

Mr. MORRILL, of Maine. That is a small item, but it is one of the items.

Mr. HENDRICKS. How much is it?

Mr. MORRILL, of Maine. Three thousand dollars. Last year, I think, there was a deficiency of six or seven thousand dollars, and now we have another item of deficiency. I am only enumerating it, not to criticize it, but simply to account for the fact. Then another item in the bill is:

For deficiency in the appropriation for furniture and repairs, \$5,000.

That grows out of the fact that since the last session you have fitted up, by order of the Senate, three or four committee-rooms.

Mr. HENDRICKS. The Senator from New Hampshire told us that that was connected with the miscellaneous appropriation of \$50,000.

Mr. MORRILL, of Maine. No.

Mr. HENDRICKS. That is the way he understands it.

Mr. MORRILL, of Maine. That is not so, as I understand it. The deficiency in miscellaneous items comes from having used that sum for furniture heretofore. Then here is another item:

For deficiency in the appropriation for clerks of committees, pages, horses, and carriages, \$15,000.

All these clerks were put on the pay list during the entire recess of the Senate by a vote of the Senate; and hence comes this appropriation.

If there is any committee of this Senate who think they can get any more information on this subject than we have been able to obtain I should be glad to have this bill referred to that committee and have them ascertain the facts in a more satisfactory form to the Senate than we have been able to do. This committee have faithfully attended to this business. We called the cashier before us, and we are satisfied that these deficiencies actually do exist, and ought to be met; and they exist in the ways that I have suggested, chiefly from the action of the Senate itself, chiefly by allowing additional service here, and to a considerable extent growing out of the fact that we have been obliged in the last two or three months to provide for additional force about the Capitol.

I have not been able to see, I will say to my honorable friend from Pennsylvania, [Mr. CAMERON,] that this bill has the slightest connection in the world with what he suggests. I do not controvert at all the propriety of his suggestion that perhaps some committee of the Senate ought to be charged with an examination of that particular subject; but I think my honorable friend will agree that it does not belong to the Committee on Appropriations to do it. The Committee on Appropriations having ascertained that these deficiencies do actually exist, that they have arisen, first, in the ordinary affairs of the Senate, and secondly, out of the extraordinary exigencies to which I have adverted, I submit, Senators, that you have as much of information on this subject as it is practicable to get, unless you are disposed to send it to a particular committee for particular investigation.

Mr. CRAGIN. There is one thing that I desire to say right here. The Senator from Maine says that these deficiencies actually exist. He means, of course, that these appropriations are to run on until the last of the fiscal year, the 1st of July next.

Mr. MORRILL, of Maine. I have stated that they cover the current year.

Mr. CRAGIN. That is what is meant. It is estimated what it will cost to pay clerks of committees and pay these other officers up to the 1st day of July next. Now, I wish to say one word more. There is one item here, an appropriation of \$15,000 for additional messengers. These messengers have not received any pay since last January. There was no money to pay them for February or for March, and there will be none until this bill passes. I know that many of them are in great distress.

Mr. DIXON. I wish to say a few words with regard to this item of \$50,000. I have nothing to say about the other items upon which the Senator from Maine has spoken. When this discussion commenced I did not fully understand it; I think I can now throw some light upon it. The honorable Senator from Maine has stated the condition of it in such a manner that I think I understand it. I have no doubt that somebody has an interest in getting this appropriation as large as possible. Who it is I do not know. I do not say it is an officer of the Senate. I know, of course, it is no member of the Senate. I do not say it is Mr. Forney or any other officer, but it is always the disposition of parties who are to have the use and advantage of money to make the appropriation as large as possible.

What did the Senator tell us in the first instance? He said this was for past expenses, in reply to my inquiry; and I understand him to say now, although there is a small item running to next July for the payment of certain messengers, that this is a deficiency for past expenses.

Mr. MORRILL, of Maine. This bill is to meet the deficiencies not provided for which already exist, and which will exist at the end of the current year. Of course it runs to the end of the year.

Mr. DIXON. So I understand. At first I understood the Senator to say that it was all for past expenses; but now I understand that some portion of it is to run for the fiscal year; but, of course, that is a small portion. Now, what does the Senator tell us? He tells us there are bills before the Committee on Contingent Expenses amounting to \$20,000, which ought to be paid. Well, let them be paid; make an appropriation for their payment. There is no proper mode by which this money can be expended when appropriated except after having been audited by the honorable chairman of the committee. Here is \$30,000 proposed to be appropriated which is not now due, and is not necessary now to be appropriated. I do not know who proposes this large expenditure. It attracted my attention in the first place because it was so much larger as a deficiency for contingent expenses than has heretofore been the case, and I knew of nothing which should occasion very great additional expense.

The honorable Senator speaks of the pay of witnesses. There is an appropriation in the bill for witnesses, or for the expenses of this impeachment trial. The Senator from New Hampshire says that that has been provided for partially in advance by an arrangement made by him with the Secretary of the Senate. That is provided for by the appropriation of \$10,000 in this very bill. I have no doubt that the whole of this money comes properly under the head of contingent expenses; but I was going to ask the very question which was answered by the honorable Senator from Maine. I was going to ask the chairman of the committee what was the amount of the bills now before that committee which needed payment, if he could tell.

Mr. CRAGIN. If the Senator from Connecticut will give way, I will make a statement. He seems to argue to the Senate as though there were some twenty thousand dollars of bills that had not been presented to the committee, or had been presented and were not approved, or had not been paid. I can say to him and to others that there has been more

money paid actually than has been appropriated for under this item; that is, \$15,000 have been taken from other appropriations to pay under this one item, and there is an actual deficiency in addition to the bills which have not been presented and paid.

Mr. DIXON. If that is the case, then it is wholly wrong. That is an utterly improper mode of transacting business; and is a sufficient reason why this appropriation should not be made. I have no doubt that the object of having an appropriation of \$50,000—of course I do not reflect on the chairman of either of the committees—is to very conveniently pay certain expenses which perhaps are proper; I do not know; I would not say they are improper; but they ought to be looked into. I now move to reduce this appropriation to \$20,000.

The PRESIDENT *pro tempore*. That is not now in order.

Mr. DIXON. The honorable chairman has stated to us that the bills now due and audited by the committee amount to \$20,000. If so, let us make an appropriation to pay those, and then let us see what is necessary next to be done.

The Senator talks of deficiencies. That is a very convenient mode of explaining an expense which has been incurred. What does he mean by a deficiency? How do we know that it is a deficiency? Who is to pay it? Who is to audit it? There may be possibly a desire somewhere to have certain bills paid. Let them be presented to the committee; let the committee audit them, and when they are audited let them be paid; but I am utterly opposed to making in the dark an appropriation of \$50,000 here, which is actually for the contingent fund of the Senate, without knowing what it is for, and especially when we are told that the whole amount of bills now before that committee, and really the whole amount of deficiency, is only \$20,000. I therefore move to strike out "\$50,000 and" insert "\$20,000."

The PRESIDENT *pro tempore*. That motion is not now in order.

Mr. THAYER. I desire to make a statement, and I do so at the request of the Secretary, and I make it now so that it may go out with what has been stated here. He states that his first suspicions in regard to a deficiency occurred in November last. He called Mr. Wagner's attention to the subject, and Mr. Wagner made a voluntary admission that he had taken this money and had used it. He made a statement in writing, which is now in Colonel Forney's possession, and which any Senator can see. Mr. Wagner accounted for the greater part of the money. One item was that he owed \$10,000 on some property in Pennsylvania, for which he was called upon sooner than he expected, and that he had taken out money for that purpose and for other purposes. Colonel Forney authorizes me to say that that voluntary statement is in his possession and can be seen at any time; and furthermore, that on finding this out every dollar was paid into the Treasury by him, as certified by the Comptroller.

Mr. CAMERON. In order to put this thing right I move that a committee be appointed to investigate the accounts of the Secretary of the Senate.

The PRESIDENT *pro tempore*. That motion is not now in order.

Mr. CAMERON. The statement made by the Senator from Nebraska comes in such a shape that I have no right to doubt its authenticity or its correctness; but I have great respect for the old man who was the pay clerk of the Secretary of the Senate. I have known him for twenty-five or thirty years myself, and I do not think there is a man in the whole State of Pennsylvania who knew him, as I said a while ago, who ever doubted his integrity. I do not think it is fair that that man's fame and character and all the labor of his long life should be destroyed by the single statement of a man now in authority. He is a relation of Mr. Forney's. He is a man of

accounts. Nobody ever believed that Mr. Forney pretended to keep any accounts.

Mr. MORRILL, of Maine. Let us pass this bill, and then you can make your motion afterward.

Mr. CAMERON. If it can be agreed afterward to appoint a committee of investigation I will not object to the bill. With that understanding I shall not oppose the passage of the bill.

Mr. HENDRICKS. I shall detain the Senate but a moment. The Senator from Maine has suggested that every Senator ought to have informed himself about this appropriation of \$50,000 for miscellaneous items, and says that if we had read the book that he had in his hand it would have informed us.

Mr. MORRILL, of Maine. I did not say that. I beg the Senator to be a little careful how he states me if he intends to represent what I said.

Mr. HENDRICKS. Then, by a combination of words and gestures, he made the impression on the Senate that by examining this book we would have it.

Mr. MORRILL, of Maine. What I said was that if the Senator was not informed as to the expenditure of the contingent fund of the Senate it was his own fault, as it was the duty and the practice of the Secretary to publish it to the Senate and to the country.

Mr. HENDRICKS. I do not admit that I am able to understand accounts merely because it is the duty of somebody to publish them who has not discharged that duty.

Mr. MORRILL, of Maine. But he has published them.

Mr. HENDRICKS. This book to which the Senator refers is a report of the payments from the contingent fund of the Senate for the year ending December 3, 1866. It has not anything to do with this bill; and the Senator from Maine will not say that it has. But he says there is another book something like this, that is going to be published directly; and it is our own fault if we do not know what is in that. I wish I could know what is in all books in advance of their publication. It would save me a great deal of work in reading them after they came out. [Laughter.]

Now, I have thought it my duty to call attention to this appropriation of \$50,000 for miscellaneous items which being for that we know nothing about. I have done it in good faith. My mind is not satisfied on the subject, and I think we ought to strike it all out. I will vote for the proposition of the Senator from Connecticut, to strike out \$30,000 of it and leave it \$20,000, though I would prefer to vote to strike it all out.

The Senator from Maine has referred to other items of this bill which I did not speak of at all, and among others is an appropriation of \$17,000 for deficiency in the payment of the Capitol police. How did that deficiency occur? The salary of the Capitol police is fixed by law; their number is fixed by law. Who has appointed more policemen than the law allowed, and who has paid them more money than the law fixed for their salary, that there should be a deficiency? Then this bill provides "for additional policemen and incidental expenses thereof." What does that mean? That is an amendment inserted in the bill by the committee. What do you mean by providing for additional policemen? Upon whose recommendation? Upon what public necessity? What property is there to guard that is not sufficiently guarded that there should be this additional appropriation?

Mr. CRAGIN. Does the Senator want a reply?

Mr. HENDRICKS. Not now; when I am through. "For additional policemen and incidental expenses thereof!" I do not take to policemen very readily. In most cities that I am acquainted with the public safety is really more endangered by the policemen than from the public; and as a general thing I would rather trust my person and my property in the custody of the common people than to the



policemen, and for these particular policemen and their devotion to this country I have not so great an admiration since their proceedings yesterday, when they refused to let a soldier, because he carried the American flag, go on to the Dome of the Capitol, when every man, woman, and child in the United States has a right to go there. This is the class of men for whom we are going to appropriate \$17,000 of additional money. For what purpose? I did not intend to speak of this until the Senator brought it out.

Mr. HARLAN. I will inquire of the Senator from Indiana if he knows the fact to exist as he has just stated it?

Mr. HENDRICKS. I was not present. I know it a good deal in the same way that the Senator from New Hampshire said he knew how these accounts stood between Mr. Wagner and Colonel Forney, because somebody told him.

Mr. HARLAN. If the Senator will allow me, I know he would not intentionally state an untruth.

Mr. HENDRICKS. I was told by a person who said he was present that a policeman stopped this man, Sergeant Bates, and would not let him go upon the Dome of the Capitol with his flag, but took him in a hack and took him away from the Capitol, while the mass of persons were allowed to go into the Capitol. A gentleman who was present told me that.

Mr. HARLAN. I understand this to be the fact: that the Commissioner of Public Buildings gave an order to admit this Sergeant Bates to unfurl his flag from the Dome of the Capitol; that this order was presented to the Sergeant-at-Arms; that he wrote across it to the Capitol police to permit the sergeant to enter the building with the committee that attended him, but not to admit the populace, the crowd of miscellaneous persons who were present; and when this order written across the permission of the Commissioner was read the parties took personal offense and left.

Mr. THAYER. Perhaps I can add some information on this subject. I understand the Senator from Wisconsin acted as chairman of the committee of ceremonies on the occasion, and perhaps he can inform the Senate.

Mr. HOWE. Oh, no; I did not.

Mr. THAYER. I mean the other Senator from Wisconsin.

Mr. DOOLITTLE. If this is to become important I will state—I was not chairman of the committee.

Mr. MORRILL, of Maine. If this is not in order, I object. I want to know what has become of my bill.

Mr. CONKLING. Let us hear this.

Mr. DOOLITTLE. I was not present myself when Sergeant Bates undertook to enter the Rotunda of the Capitol. All I know of that is what Sergeant Bates told me this morning. He stated to me that when he arrived at the door of the Rotunda the captain of the police, or the person in charge, refused him admission; that is to say, refused his admission with his flag. If he desired personally to come into the Rotunda, he could do so; but he could not come in and bring the flag with him. He stated that he, or those who accompanied him, had the order of General Michler, allowing him to ascend with his flag to the Dome of the Capitol.

Mr. CAMERON. It was not the flag that was objected to.

Mr. DOOLITTLE. The flag was what was objected to, not the man. He applied for admission, and it was refused. It was refused upon the ground that it was necessary that the order of General Michler should be indorsed by the Sergeant-at-Arms of the Senate. That was applied for by Mr. ELDRIDGE, of the House of Representatives, and obtained. Then Sergeant Bates attempted again to enter, and was again refused, because the order was not also indorsed by the Sergeant-at-Arms of the House of Representatives. They searched about for the Sergeant-at-Arms of the House, but were unable to find him. The people who accompanied Sergeant Bates were standing on the

outside in the rain, and they found it was impossible for him to make an entrance with his flag. He applied for the privilege of coming in and putting his flag just in the Rotunda of the Capitol; and it was refused. Those are the facts as they were stated to me.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania to the amendment of the committee, to strike out "\$50,000" and insert "\$40,000."

The PRESIDENT *pro tempore* put the question, and declared that the ayes appeared to have it.

Mr. MORRILL, of Maine. I ask for a division.

Mr. CAMERON. I made no such motion as that.

Mr. BUCKALEW. I made the motion to restore the bill to the original amount. That was simply my motion.

The PRESIDENT *pro tempore*. The motion was to strike out "\$50,000" and insert "\$40,000."

Mr. BUCKALEW. Yes, sir; so as to leave the aggregate amount precisely as it was when the bill went to the Committee on Appropriations.

Mr. MORRILL, of Maine. The honorable Senator from Pennsylvania is undoubtedly very sincere in his desire to reduce the bill and save a little money in that way, and rather than divide the Senate under the circumstances I think I will not object, but allow the honorable Senator to have his way in that fit of economy.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question recurs on agreeing to the amendment of the committee as amended.

The amendment, as amended, was adopted.

The next amendment of the committee was to insert after the word "police," in line fourteen, the words "and for additional policemen and additional expenses thereof;" so that the clause will read:

For deficiency in the appropriation for the payment of the Capitol police, and for additional policemen and incidental expenses thereof, \$17,000.

The amendment was agreed to.

The next amendment was to strike out lines twenty-one and twenty-two, in the following words:

For deficiency in the appropriation for stationery, \$7,500.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed. The title of the bill was amended so as to read: "A bill making appropriations for the expenses of the trial of the impeachment of Andrew Johnson, and other contingent expenses of the Senate for the year ending June 30, 1868, and for other purposes."

#### ACCOUNTS OF SECRETARY OF SENATE.

Mr. CONKLING and Mr. CAMERON addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from New York.

Mr. CONKLING. I move that the Senate adjourn.

Mr. CAMERON. I believe I had the floor. Before a motion to adjourn is made I desire to submit a motion in regard to the subject which has just been discussed. I ask the Senator from New York to withdraw his motion for a moment to enable me to do so.

Mr. CONKLING. I withdraw it for the Senator.

Mr. CAMERON. I now move that the Committee on Contingent Expenses of the Senate be instructed to investigate the accounts of the Secretary of the Senate and report to the Senate.

Mr. BUCKALEW. This, I suppose, is in the nature of a resolution. I do not object to it in form, but if we are to appoint a commit-

tee to examine into the conduct of our Secretary I think there is another subject that should be referred to them, and that is his conduct and proceedings, as an officer of the court of impeachment, in discussing the trial which is pending before the Senate acting as a court. I think that is a more important question, possibly, than the little matter of money.

Mr. CONKLING. If this is to give rise to debate I cannot withdraw my motion for that purpose. I withdrew it for a moment to hear a suggestion from the Senator.

Mr. BUCKALEW. The Senator can hardly interpose his motion at this moment, while I am on the floor. I am not going to take time. I was going to propose to my colleague, for the purpose of simplification of the proceedings with reference to our Secretary, that the committee he proposes take both these subjects in charge.

Mr. WILSON and Mr. CONKLING. I hope not.

Mr. CAMERON. I desire to have this matter of the accounts settled now, and after awhile I shall go with my colleague cheerfully; but now I beg to adhere to my original motion.

Mr. BUCKALEW. I will not insist upon it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania, to instruct the Committee to Audit and Control the Contingent Expenses of the Senate to investigate the question mentioned by him.

The motion was agreed to.

Mr. CONKLING. Now I renew the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 15, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. TRIMBLE, of Kentucky.

#### ORDER OF BUSINESS.

The SPEAKER. The Chair will state that on the return of the House from the Senate to-day he will, in accordance with the right reserved, call the States and Territories for bills and joint resolutions for reference to appropriate committees, and not to be brought back by a motion to reconsider.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper. There will be business to be transacted upon the return of the House to this Hall.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until twelve o'clock to-morrow.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. STEWART, Mr. HOLBROOK, and Mr. LAFLIN.

#### CALL OF THE STATES.

The SPEAKER stated that in accordance with the notification this morning he would call the States and Territories for bills and resolu-

tions for reference to appropriate committees, and not to be brought back by a motion to reconsider.

#### ACTING ASSISTANT SURGEONS' PENSIONS.

Mr. O'NEILL introduced a bill (H. R. No. 1011) supplementary to the several acts relative to pensions, proposing to extend their provisions to acting assistant surgeons disabled by wounds or disease while performing the duties of assistant or acting assistant surgeons; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### EXPLORING EXPEDITION.

Mr. CULLOM introduced a joint resolution (H. R. No. 251) to authorize the Secretary of War to furnish supplies to an exploring expedition; which was read a first and second time, and referred to the Committee on Military Affairs.

#### RIGHTS OF RIPARIAN OWNERS.

Mr. SAWYER introduced a bill (H. R. No. 1012) defining the rights of riparian owners of land acquired by purchase from the United States on the Menomonee river, in the States of Michigan and Wisconsin; which was read a first and second time, and referred to the Committee on the Public Lands.

#### HITCHCOCK'S REVOLVING IRON FORTS.

Mr. HIGBY introduced a joint resolution (H. R. No. 252) in relation to Hitchcock's revolving iron forts; which was read a first and second time, and referred to the joint select Committee on Ordnance.

#### MISS DOROTHY L. DIX.

Mr. MAYNARD introduced a bill (H. R. No. 1013) conferring the franking privilege upon Miss Dorothy L. Dix; which was read a first and second time, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

#### MEMPHIS, ETC., PACIFIC RAILROAD.

Mr. MAYNARD also introduced a bill (H. R. No. 1014) to aid the Memphis, El Paso, and Pacific Railroad Company of Texas in the construction of a railroad and line of telegraph from the Mississippi river to the Pacific ocean, and to secure to the Government of the United States the use of the same for postal, military, and other purposes; which was read a first and second time, referred to the Committee on the Pacific Railroad, and ordered to be printed.

#### SESSION FOR DEBATE.

Mr. STEVENS, of Pennsylvania. I desire, with the consent of the House, to offer a resolution, not for action at this time, but to go over until to-morrow.

The SPEAKER. Under the order of the House that cannot be done at this time. But the gentleman can now give notice that to-morrow he will ask leave to submit a resolution.

Mr. STEVENS, of Pennsylvania. Then I will give notice that to-morrow, on the return of the House from the Senate Chamber, I will ask the House to take a recess until seven o'clock, in order to allow members who choose to make speeches an opportunity to do so without reference to any action of the House, but in order that those speeches may be published and sent to the country.

Allow me to say one word in relation to my reason for doing this, so that members may reflect upon it. It is now very plain that the Senate will not allow the managers on the part of the House to speak and lay before the public the reasons which they may have in support of the impeachment of the President, except so far as those who have been selected for that purpose may do so. And it is believed that there may be some advantage in laying before the country the reasons which they have.

I have, therefore, deemed it right to give notice of my intention to offer the resolution of which I refer, merely for the consideration to the House, not for its action at present;

and I give the notice at this time in order that members may have until to-morrow to reflect upon it and determine whether it would be expedient to make such an arrangement as I have suggested, in order that speeches may be made. I know there are four or five very able speeches written, not by the managers only, but by others, on the subject of impeachment. Whether or not it would be prudent to make such an arrangement is a question for the consideration of members. I give this notice now in order that I may not be concluded to-morrow from submitting the proposition to the House.

The SPEAKER. By the order of the House no business can be transacted this afternoon except that of which notice was given; that is, the introduction of bills and joint resolutions for reference merely, in order to accommodate members who have bills which they desire to get before committees for consideration.

The gentleman from Illinois [Mr. WASHBURN] and the gentleman from Massachusetts [Mr. BANKS] have already given notice that to-morrow, on the return of the House to this Hall, they will endeavor to get the House to dispose of the pending resolution in relation to the printing of Manager BUTLER's argument, and then to have action taken on the bill in regard to the rights of American citizens in foreign States. The Chair would therefore suggest to the gentleman from Pennsylvania [Mr. STEVENS] that Friday would be a better time than to-morrow for an evening session.

Mr. WASHBURN, of Illinois. I would inquire of the gentleman from Pennsylvania [Mr. STEVENS] if he proposes that the managers shall make their speeches to the House instead of to the Senate?

Mr. ELDRIDGE. I was about to make the same inquiry. It looks as if it was a proposition to make the arguments here in the House before the case is closed in the Senate.

Mr. STEVENS, of Pennsylvania. All I can say to the gentleman is that it looks very much now as if the trial were fast approaching its close. I have already said that I have given notice of this proposition as a precautionary measure, so that I may not be precluded from offering it to-morrow or next day if I choose to do so. I am not sure that I shall offer it.

Mr. VAN AUKEN. I desire to inquire of my colleague [Mr. STEVENS, of Pennsylvania] whether the object of this proposition is to forestall the action of the Senate in regard to how many speeches shall be made in closing the impeachment trial?

Mr. STEVENS, of Pennsylvania. As I understand, the Senate has decided that matter.

Mr. WASHBURN, of Illinois. I call for the regular order.

The SPEAKER. The regular order is called for, and the pending question is upon ordering the main question on the resolution reported from the Committee on Printing relative to the publication of the argument of the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. ELDRIDGE. Mr. Speaker—

The SPEAKER. No debate is in order, the pending question being undebatable.

Mr. ELDRIDGE. I do not wish to indulge in any debate. I simply desire to ask of the Committee on Printing that they shall report the resolution I offered with reference to the publication of the argument of Judge Curtis, so that the House may act on the matter.

Mr. WASHBURN, of Illinois. I did not call the regular order for the purpose of cutting off that proposition.

Mr. ELDRIDGE. What I desire is that the House shall act on the two propositions together. Unless this be assented to, I shall feel it my duty to require the presence of a quorum to act upon this question. If both propositions be acted on at the same time, there will be no objection on this side of the House.

Mr. MAYNARD. The chairman of the Committee on Printing [Mr. LAFLIN] is not now present.

Mr. CULLOM. I move that the House adjourn.

The motion was agreed to; and the House (at four o'clock and ten minutes p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. BROOMALL: The petition of many citizens of Chester and Delaware counties, in Pennsylvania, praying for the passage of a law extending the right of suffrage in the District of Columbia to women.

By Mr. EGGLESTON: The petition of Mrs. Sarah Johnston, praying for a pension.

Also, two petitions from 200 citizens of the District of Columbia, praying for the passage of the bill to authorize the building of a railroad from Washington to Cincinnati.

By Mr. FERRISS: A memorial of John H. Ryenson and 100 others, citizens of New York city, in favor of a national railroad between the commercial and Federal capitals of the nation.

By Mr. O'NEILL: A memorial of Lawrence Wall, for arrears of pension.

By Mr. STEVENS, of New Hampshire: The vote of the town of Hillsborough, in New Hampshire, in favor of the taxation of United States bonds.

By Mr. WASHBURN, of Indiana: The petition of Marshal N. Snodgrass, for pension.

#### IN SENATE.

THURSDAY, April 16, 1868.

Prayer by Rev. E. H. GRAY, D. D.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at four o'clock and forty-five minutes p. m., when, on motion of Mr. HOWE, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, April 16, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

#### LEAVE OF ABSENCE.

Mr. FIELD and Mr. KITCHEN obtained leave of absence indefinitely, and Mr. ARCHER till next Monday.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper. There will be business to be transacted upon the return of the House to this Hall.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and forty-five minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until twelve o'clock to-morrow.

## NEW MEXICO CONTESTED ELECTION.

The SPEAKER, by unanimous consent, laid before the House evidence in the contested-election case of Chaves vs. Clever, from the Territory of New Mexico; which was referred to the Committee of Elections.

## FOURTEENTH CONSTITUTIONAL AMENDMENT.

The SPEAKER also, by unanimous consent, laid before the House proceedings of the Legislature of Arkansas upon the ratification of the fourteenth constitutional amendment; which were referred to the Committee on Reconstruction, and ordered to be printed.

## CRIMES AGAINST THE UNITED STATES.

Mr. SPALDING, by unanimous consent, introduced a bill (H. R. No. 1015) to amend an act entitled "An act for the punishment of certain crimes against the United States," approved April 30, 1790, so as to extend the time within which certain offenses may be prosecuted; which was read a first and second time, referred to the Committee on the Revision of the Laws of the United States, and ordered to be printed.

Mr. RANDALL, of Pennsylvania. I move that the reference of all those bills and other propositions be reconsidered.

The SPEAKER. During the pendency of the President's trial in the Senate such is the order of the House that bills and joint resolutions shall be introduced for reference only and not to be brought back by a motion to reconsider.

## VALLEJO AND HUMBOLDT BAY RAILROAD.

Mr. JOHNSON, by unanimous consent, introduced a bill (H. R. No. 1016) granting lands to the State of California for the construction of a railroad and telegraph line from Vallejo to Humboldt bay; which was read a first and second time, and referred to the Committee on the Public Lands.

## OSAGE INDIAN LANDS.

Mr. CLARKE, of Kansas. I ask unanimous consent to present the following resolution:

*Resolved*, That the Secretary of the Interior is hereby requested to immediately suspend the sale of all lands ceded and sold to the United States by treaty with Great and Little Osage Indians, proclaimed January 20, 1837, and now advertised to take place at Humboldt, Kansas, on and after the 1st of May next.

Mr. RANDALL. I do not object to its being referred to the Committee on the Public Lands.

Mr. CLARKE, of Kansas. If the gentleman will listen to a short explanation he will not object to the adoption of the resolution.

Mr. RANDALL. It is an important matter, and should go to a committee.

Subsequently Mr. RANDALL withdrew his objection, and the resolution was adopted.

## SPEECH OF MANAGER BUTLER.

Mr. GARFIELD. I call for the regular order of business.

The SPEAKER. The pending question is, "Shall the main question be ordered to be now put on the resolution reported from the Committee on Printing for the printing of forty thousand copies of the opening speech of Manager BUTLER in the trial of the President of the United States?"

Mr. GARFIELD. The gentleman from Wisconsin [Mr. ELDRIDGE] moved an amendment to that resolution, which the Chair decided could not be received; that under the law it must be referred to the Committee on Printing. Desiring that nothing shall be done which will be unequal or unjust in this matter, I move that the pending resolution, with the resolution of the gentleman from Wisconsin, for the printing of Mr. Curtis's speech, be referred to the Committee on Printing.

The SPEAKER. The resolution of the gentleman from Wisconsin has already been referred to that committee.

Mr. MAYNARD. I must object to it. They

do not stand upon the same footing. The speech of Manager BUTLER is the speech of an officer of this House in the discharge of an official act.

Mr. GARFIELD. I do not controvert that; but let both go to the committee for consideration.

Mr. CHANLER. I make the point that debate is not in order.

Mr. KELSEY. I call for the regular order of business.

The SPEAKER. Debate is not in order. A quorum, or nearly so, is present.

Mr. WASHBURN, of Illinois. I move that there be a call of the House.

Mr. RANDALL. Let us see first, by a count, whether a quorum is present.

Mr. WASHBURN, of Illinois. I withdraw my motion for the present.

The SPEAKER. The Chair understands the gentleman from Ohio to move to reconsider the vote by which the previous question was seconded.

Mr. GARFIELD. That is what I desire.

The House divided; and there were—ayes 55, noes 27; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. GARFIELD and Mr. ELDRIDGE.

The House again divided; and the tellers reported—ayes 60, noes 22; still no quorum voting.

Mr. GLOSSBRENNER moved that the House do now adjourn.

Mr. HIGBY demanded the yeas and nays.

Mr. CHANLER called for tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The House then refused to adjourn.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a bill (S. No. 462) making appropriations for the expenses of the trial of the impeachment of Andrew Johnson and other contingent expenses of the Senate for the year ending June 30, 1868, and for other purposes; in which he was directed to ask the concurrence of the House.

## CALL OF THE HOUSE.

Mr. GARFIELD. I now move that there be a call of the House.

The motion was agreed to—ayes 59, noes 20.

The roll was accordingly called; when the following-named members failed to answer to their names:

Messrs. Allison, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Barnum, Beaman, Benjamin, Benton, Bingham, Blaine, Blair, Brooks, Burr, Butler, Churchill, Dixon, Dodge, Donnelly, Eckley, Farnsworth, Ferry, Finney, Fox, Getz, Golladay, Gravely, Griswold, Grover, Haight, Halsey, Hill, Holman, Hooper, Hopkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Ingersoll, Julian, Kelley, Kerr, Kitchen, Knott, Laffin, William Lawrence, Loan, Logan, Loughbridge, Lynch, Marshall, Marvin, McCarthy, McCormick, McCullough, Moore, Morgan, Morrell, Morrissey, Mungen, Newcomb, Niblack, Pike, Poland, Pomeroy, Price, Pruyn, Ross, Sawyer, Schenck, Selye, Shellabarger, Sigreaves, Thaddeus Stevens, Stewart, Stokes, Stone, Thomas, John Trimble, Trowbridge, Twichell, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Thomas Williams, Wood, Woodbridge, and Woodward.

The SPEAKER. The Chair will state before the doors are closed and the call proceeded in, if that be the order of the House, that ninety-four members have answered to their names, which, with the Speaker, would make one less than a quorum. The Chair was desired by a sub-committee of the Committee of Ways and Means, Mr. SCHENCK, Mr. ALLISON, and Mr. HOOPER of Massachusetts, to state that they are in consultation in the transaction of their business in a room at the Treasury Department, and will come whenever sent for when the House proceeds to business.

Mr. KELSEY. If we adjourn now, will this business be the first thing in order to-morrow?

The SPEAKER. It would be except for the order that the House shall, at twelve o'clock, proceed to the Senate Chamber. If

notice be given, it will be resumed when the House returns from the Senate Chamber.

Mr. KELSEY. Then I move that the House do now adjourn.

Mr. WASHBURN, of Illinois. I ask the gentleman to withdraw that motion for a moment to enable me to have a bill from the Senate referred to the Committee on Appropriations.

Mr. KELSEY. I withdraw the motion.

## SENATE CONTINGENT EXPENSES.

On motion of Mr. WASHBURN, of Illinois, by unanimous consent, the bill (S. No. 462) making appropriations for the expenses of the trial of the impeachment of Andrew Johnson, and other contingent expenses of the Senate for the year ending June 30, 1868, and for other purposes, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Appropriations.

## CHANGE OF REFERENCE.

The SPEAKER. The Chair is requested by the gentleman from New York [Mr. LINCOLN] to state that the report of the Secretary of War, transmitting papers relative to the claim of J. E. Reeside for services as a contractor, was erroneously referred to the Committee on the Post Office and Post Roads. The Chair stated at the time the communication was presented that he thought it ought to go to the Committee on Military Affairs, but the House ordered it to be referred to the Post Office Committee on account of the name of the contractor. It appears that the Chair was correct, and, if there be no objection, the Committee on the Post Office and Post Roads will be discharged from the further consideration of the report, and it will be referred to the Committee on Military Affairs.

There was no objection, and it was so ordered.

## POST ROUTE IN ILLINOIS.

Mr. COOK, by unanimous consent, introduced a bill (H. R. No. 1017) to extend a mail route from Serena to Ottawa, in the State of Illinois; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

## CALL OF THE HOUSE.

Mr. KELSEY. Can less than a quorum of the House dispense with further proceedings under the call of the House?

The SPEAKER. Certainly.

Mr. SPALDING. I move that further proceedings in the call be dispensed with.

The motion was agreed to.

And then, on motion of Mr. DRIGGS, (at five o'clock and fifteen minutes p. m.) the House adjourned.

## PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CHANLER: A memorial of members of the New York Corn Exchange, in favor of the construction of the New York and Washington railway, and asking for the passage of the bill now before Congress.

By Mr. COBB: The petition of General J. B. Moore and others, for a post route from Muscoda, Grant county, to Richland Center, Richland county, Wisconsin.

By Mr. PETERS: The petition of Ransom Horton and others, for the erection of Aroostook county, in the State of Maine, into a district for the collection of customs.

Also, the petition of David Dudley and others, for same.

Also, the petition of C. F. A. Johnson and others, for same.

Also, the petition of Daniel Randall and others, for same.

Also, the petition of L. Powers and others, for same.

By Mr. WOODWARD: A memorial of the Philadelphia Drug Exchange.



## IN SENATE.

FRIDAY, April 17, 1868.

Prayer by Rev. E. H. GRAY, D. D.

## IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order and at once vacated the chair, that it might be occupied by the Chief Justice.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at four o'clock and forty-two minutes p. m.

Mr. EDMUNDS. I move that when the Senate adjourns to-day it adjourn to meet at eleven o'clock to-morrow morning.

The motion was agreed to.

On motion of Mr. EDMUNDS, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, April 17, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

## SALE OF IRON-CLADS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, relative to the sale of certain iron-clads, in compliance with the act of February 2, 1868; which was referred to the Committee on Naval Affairs.

## COTTON CLAIMS.

Mr. SHANKS, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the clerk of the Court of Claims be directed to inform this House of the number of judgments rendered in the said Court of Claims in the cotton claims, the amount thereof, and in whose favor rendered, and also to state the nature and character of the claims presented, and by what attorneys prosecuted.

## TAX ON DISTILLED SPIRITS.

Mr. INGERSOLL, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, directed to furnish this House with a statement which shall show the amount of tax collected on distilled spirits since the 1st day of January last.

## PRINTING OF IMPEACHMENT REPORT.

Mr. MILLER, by unanimous consent, submitted the following resolution; which was referred to the Committee on Printing under the law:

*Resolved*, That the Committee on Printing be, and are hereby, requested to order to be printed ten thousand additional copies of the impeachment trial for the use of the members of this House, to be by them distributed.

## ORDER OF BUSINESS.

The SPEAKER. As a quorum of the House is now in the city, the Chair, under the authority given him by the House, will announce that if upon any day the House shall return to the Hall before three o'clock it may be expected that business will be transacted. If the House shall not return until after that time then no business will be done, unless special notice shall have been previously given.

Mr. GARFIELD. Will any business be done this afternoon?

The SPEAKER. No notice has been given of any. The Chair will make the announcement, if any gentleman desires, that business may be expected when the House returns this afternoon.

Mr. WASHBURN, of Illinois. Oh, no; I hope not.

The SPEAKER. No notice has yet been given.

Mr. GARFIELD. Is there a quorum of the House here?

The SPEAKER. There are one hundred and ten members in the city.

## IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House will now resolve

itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House accordingly resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and forty-five minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until eleven o'clock a. m. to-morrow.

## HOUR OF DAILY MEETING.

The SPEAKER. As the Senate, sitting as a court of impeachment, has adjourned to meet to-morrow morning at eleven o'clock, if there be no objection the House will meet at that hour.

Mr. WOOD. I object.

Mr. SCOTFIELD. I think the objection was not made in time.

Mr. WOOD. I submit that I made the objection in time.

The SPEAKER. The Chair thinks the objection was in time.

Mr. GARFIELD. I move that the House now take a recess until to-morrow morning at eleven o'clock.

Mr. WOOD. I submit there is no quorum present, and it is not competent to change any rules of the House.

The question was taken upon the motion for a recess; and upon a division there were—ayes 27, noes 10; no quorum voting.

The SPEAKER. As it requires a quorum for the House to take a recess the Speaker now gives notice that at eleven o'clock to-morrow morning he will be here with the chairman of the Committee of the Whole, [Mr. WASHBURN, of Illinois,] and, as a matter of respect to the Senate, will, with such members as may be here, attend the managers to the bar of the Senate; and at twelve o'clock he will take his seat as Speaker of the House in this Hall.

Mr. WOOD. I raise the question of order whether that will be the House.

The SPEAKER. The gentleman from New York raises a question of order which the Chair declines to entertain.

Mr. WASHBURN, of Illinois. I move that the House adjourn.

The motion was agreed to; and the House (at four o'clock and fifty minutes p. m.) adjourned.

## MEMORIALS.

The following memorials were presented under the rule, and referred to the appropriate committees:

By Mr. KELSEY: A memorial of William B. Ogden, Abram C. Bell, and others, praying for the passage of House bill No. 621, which provides for a military and postal road between Washington, District of Columbia, and the city of New York.

By Mr. NIBLACK: A memorial of Andrew Reinfort, late of company B, fifty-eighth regiment of Indiana volunteers, praying for a pension.

## IN SENATE.

SATURDAY, April 18, 1868.

Prayer by Rev. E. H. GRAY, D. D.

## IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at three o'clock and thirty-eight minutes p. m.

Mr. CONNESS. I move that the hour of meeting hereafter, until further order of the Senate, be at eleven o'clock each day.

Mr. DOOLITTLE. I object to that.

The PRESIDENT *pro tempore*. Objection is made to the consideration of the proposed order.

Mr. DOOLITTLE. I understand the Senator from California to move that hereafter the Senate meet at eleven o'clock, not the court of impeachment.

Mr. CONNESS. What is necessary to be done the Senate will know.

Mr. SHERMAN. The Senator from California can vary his motion.

Mr. CONNESS. To get out of this difficulty I move that the Senate adjourn until eleven o'clock on Monday morning.

Mr. SUMNER. I suggest that eleven o'clock be the time for meeting until otherwise ordered. Several SENATORS. Order! order!

The PRESIDENT *pro tempore*. That infringes a rule of the Senate, and, objection having been made, cannot be considered now. The question is on the motion of the Senator from California, that the Senate adjourn to meet on Monday morning at eleven o'clock.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, April 18, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

## IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper. The Chair will add that it being manifestly unseemly that during the defense, which is now progressing, the deliberations of the Senate should be disturbed by an announcement, the Chair has notified the Chief Justice, presiding in the Senate on the trial of the impeachment, that he will not expect an announcement of the members and officers of the House on their appearance at this hour.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At three o'clock and forty minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until next Monday at eleven o'clock a. m.

## DAILY HOUR OF MEETING.

The SPEAKER. The Chair desires to state that when the objection was made yesterday to changing the hour of meeting of the House of Representatives to correspond with the hour which the Senate had fixed for the commencement of the trial upon each day, it was the impression of the Speaker, as well as of the Journal clerk, that that question had been already settled by the House. But the Journal was not then at hand; and as several gentlemen upon the right of the Chair insisted that the absence of a quorum should be disclosed for the purpose of preventing the order being made, the Chair did not desire, upon his mere recollec-

tion, to make a decision which might take from them a right possessed by them under the rules. An examination of the Journal, however, shows that the recollection of the Chair was correct. The Clerk will read from the Journal the action of the House upon this subject on the 20th of March.

The Clerk read as follows:

"Mr. BOUTWELL, from the managers in the matter of the impeachment of the President, (the rules having been suspended for that purpose,) reported the following resolution, which was read, considered, and agreed to, namely:

"Resolved, That on the days when the Senate shall sit for the trial of the President upon the articles of impeachment exhibited by the House of Representatives the House, in Committee of the Whole, will attend with the managers at the bar of the Senate at the hour named for the commencement of the proceedings."

The SPEAKER. The Chair rules that, the Senate having fixed eleven o'clock a. m. as the hour at which the trial shall daily commence, the hour of meeting of the House is, under the resolution just read, (which was adopted under a suspension of the rules,) changed to eleven o'clock a. m. so long as the Senate may meet at that hour for the continuation of the trial, unless the order of the House should be rescinded, which can only be done when a quorum is present.

Mr. GARFIELD. I move that the House adjourn.

The motion was agreed to; and the House (at three o'clock and forty-five minutes p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. MYERS: The petition of Elizabeth Morton, mother of Corporal William H. Morton, late of company B, twenty-fifth New York volunteers, for arrears of pension.

Also, the petition of Rose O'Connor, guardian of minor children of Edward Corrigan, deceased, for arrears of pension.

Also, a memorial of the Drug Exchange of Philadelphia, for a reduction of the tax on distilled spirits to fifty cents per gallon.

Also, the petition of the principal producers and manufacturers of American sumac, asking a change from the present *ad valorem* duty on foreign sumac to a specific duty of one cent per pound.

By Mr. POLSLEY: The petition of Dr. Baldwin, of Monroe county, West Virginia, for removal of political disabilities.

#### IN SENATE.

MONDAY, April 20, 1868.

Prayer by Rev. E. H. GRAY, D. D.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at one o'clock and ten minutes p. m.

#### EXECUTIVE SESSION.

Mr. RAMSEY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and, on motion of Mr. GRIMES, the Senate adjourned till Wednesday at eleven o'clock.

#### HOUSE OF REPRESENTATIVES.

MONDAY, April 20, 1868.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The reading of the Journal of Saturday's proceedings was, by unanimous consent, dispensed with.

#### LEAVE OF ABSENCE.

Mr. CORNELL, Mr. BARNUM, Mr. THOMAS, Mr. CHURCHILL, and Mr. STEVENS, of New

Hampshire, were granted indefinite leave of absence.

#### TREASURY DEPARTMENT APPOINTMENTS.

Mr. HARDING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved by the House of Representatives.* That the Secretary of the Treasury is hereby instructed to communicate to this House the names of all persons who have applied for appointments in his Department, the office applied for, and the name of any member of Congress recommending the same in any way, and in what cases (if any) the appointment has been directed by the order of the President, or by his Secretary, since the 20th day of February, 1868.

#### ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I give notice that when the House returns from the Senate this afternoon I shall move to take up and pass Senate bill No. 462, making appropriations for the expenses of the trial of the impeachment of Andrew Johnson, President of the United States, and other contingent expenses of the Senate.

The SPEAKER. The Chair also desires to give notice, as the session of the Senate may not be lengthy to-day, that business may be expected on the return of the House. There will be a report from the Committee on Printing in regard to the number of copies to be ordered to be printed of the impeachment proceedings, as the Congressional Printer desires to know, while the type is standing, what the wish of the House may be.

#### SABINE.

Mr. STARKWEATHER. I ask unanimous consent to submit the following preamble and resolution:

Whereas the Secretary of the Navy, on the application of certain persons not officially connected with the administration of the Navy Department, recently caused the Sabine, a vessel belonging to the United States Navy, to be detained for several days in the harbor of New London, after said vessel had been ordered out of commission and away from said harbor of New London, at an expense of more than twenty thousand dollars and to the prejudice of the public service; Therefore,

*Be it resolved,* That the Secretary of the Navy be directed to communicate to this House the number of days said vessel was detained, and the reason of said detention; the number of men connected with said vessel, and the daily and aggregate expense of said vessel and men while thus detained; also to communicate the entire correspondence that passed between the Navy Department and Hon. Frederick L. Allen, Hon. James Dixon, the Democratic committee of New London, and any other person or persons in regard to this subject, together with a copy of the "descriptive list" of said vessel now in the possession of the Navy Department, a copy of all of the orders of said Department on this subject, and also a copy of all letters and telegrams sent and received in relation to the same; also a copy of any letter or letters or telegrams relating to this subject exhibited by any person or persons asking for the detention of said vessel for partisan or political purposes, or for other reasons; also to communicate to this House what representations, verbal or otherwise, were made on this subject.

Mr. NIBLACK. I object.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Connecticut will move to suspend the rules on the return of the House.

Mr. STARKWEATHER. I will.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of eleven o'clock having arrived, the House will now resolve itself into the Committee of the Whole, according to order, to proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Door-keeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At one o'clock and fifteen minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until next Wednesday at eleven o'clock a. m.

The SPEAKER. In consequence of the adjournment of the Senate, sitting for the trial of the President of the United States until Wednesday next, the House will meet to-morrow at twelve o'clock m., for the transaction of its ordinary business. While the House was in the Senate the morning hour expired; but if there be no objection, this being Monday, the States and Territories will be called for bills and resolutions for reference only, and not to be brought back by a motion to reconsider.

There was no objection.

Mr. ELDRIDGE. I desire to know if the order of the House does not operate upon its action to-day, and whether any notice of business was given?

The SPEAKER. It was given by the Chair and also by the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. ELDRIDGE. I was not in at the time.

The SPEAKER. Notice was given that business would be transacted, and the nature of some of the business was stated.

Mr. ELDRIDGE. I know that many gentlemen are absent with the expectation that nothing would be done.

The SPEAKER. Notice was given by the Chair that business would be done, and the Chair stated that the Committee on Printing desire to report on the proposition to print a certain number of copies of all the impeachment proceedings, including the speeches on both sides and the evidence.

The SPEAKER then proceeded with the call of the States and Territories.

#### CLAIMS OF BRITISH CITIZENS.

Mr. SCOFIELD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved.* That the Committee on Foreign Affairs be instructed to inquire into the propriety of providing by law that no claims of British citizens for the proceeds of captured and abandoned property shall be allowed by the Court of Claims or any executive department of the Government of the United States until the claims of citizens of the United States for spoliation committed by rebel cruisers fitted out by British citizens or in British ports shall be adjusted and provision made for their payment; and that said committee have leave to report by bill or otherwise.

#### SAFETY OF RAILROAD PASSENGERS.

Mr. MOORHEAD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas the late loss of life and injury to persons by recent railroad accidents and the destruction of the cars by fire call loudly for a remedy: Therefore,

*Resolved.* That the Committee on Commerce be requested to inquire into the power and authority of Congress to make regulations in relation thereto, and if such power exists, then the propriety of having a Government inspection of the rails and other materials used in the construction of railroads, and of substituting iron for wood in the construction of all cars used for carrying passengers and mails.

#### NAVIGATION OF THE TENNESSEE RIVER.

Mr. MAYNARD presented joint resolutions of the Legislature of the State of Tennessee, in relation to the navigation of the Tennessee river; which were referred to the Committee on Commerce, and ordered to be printed.

#### FLEET OFFICERS OF THE NAVY.

Mr. WASHBURNE, of Illinois, introduced a bill (H. R. No. 1018) to amend certain acts relating to the appointment of fleet officers of the Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

#### HENRY KOLB.

Mr. PAINE introduced a joint resolution (H. R. No. 252) providing for the admission of Henry Kolb to the Soldiers' Home; which was read a first and second time, and referred to the Committee on Military Affairs.

#### BENITTER ROBINSON.

Mr. ANDERSON introduced a bill (H. R. No. 1019) for the relief of Benitter Robinson; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### SALE OF INDIAN LANDS.

The SPEAKER, by unanimous consent, laid before the House a communication from

the Secretary of the Interior, in response to the resolution of the House of the 16th instant, relative to the suspension of the sale of certain lands ceded to the United States by the Great and Little Osage Indians; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### CLERICAL FORCE IN PATENT OFFICE.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the acting Commissioner of Patents, relative to the necessity of increasing the force of clerks and the accommodation for said clerks; which was referred to the Committee on Patents, and ordered to be printed.

#### INDIAN APPROPRIATIONS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a communication from the Commissioner of Indian Affairs, relative to the necessity of an early appropriation for the purpose of subsisting friendly Indians; which was referred to the Committee on Appropriations, and ordered to be printed.

#### COTTON CLAIMS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the clerk of the Court of Claims, in compliance with the resolution of the House of the 17th instant, as to the number of judgments rendered in said court in cotton cases; which was referred to the Committee of Claims, and ordered to be printed.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. VAN AUKEN for one week, and to Mr. POLSLEY for three weeks.

#### ARGUMENT OF MANAGER BUTLER.

The SPEAKER. The next business in order is the consideration of the following resolution, reported from the Committee on Printing, on the 8th of March, on which the previous question was seconded:

*Resolved*, That there be printed for the use of this House five thousand copies of the opening address of Hon. BENJAMIN F. BUTLER, one of the Managers on the part of the House of Representatives on the trial of Andrew Johnson, President of the United States, before the Senate, with the accompanying brief of law authorities, and forty thousand copies without the accompanying brief.

When this resolution was last under consideration the gentleman from Ohio [Mr. GARFIELD] moved to reconsider the vote by which the previous question was seconded upon the resolution. The question was taken, and no quorum voted. That is now the pending question, and the Chair will appoint Mr. GARFIELD and Mr. ELDRIDGE to act as tellers.

The question was taken; and the tellers reported that there were—ayes 50, noes 37; no quorum voting.

Mr. BANKS. I move that there be a call of the House.

Mr. WASHBURN, of Illinois. I hope unanimous consent will be given to have this resolution recommitted to the Committee on Printing, who will, no doubt, adjust this whole matter to the satisfaction of this House.

Mr. ELDRIDGE. There is no objection on this side of the House to that being done.

Mr. BANKS. If that can be done, I will withdraw my motion for a call of the House.

No objection being made, the motion for a call of the House was withdrawn, and the resolution was recommitted to the Committee on Printing.

#### CENTAL SYSTEM.

Mr. PILE, by unanimous consent, presented the resolutions adopted by the St. Louis Merchants' Exchange, concerning the cental system; which were referred to the Committee on Coinage, Weights, and Measures.

#### ORDER OF BUSINESS.

The SPEAKER. The next business in order is the consideration of House bill No. 768, con-

cerning the rights of American citizens in foreign States.

Mr. BANKS obtained the floor.

Mr. WASHBURN, of Illinois. I have been directed by the Committee on Appropriations to report back to this House Senate bill No. 462, making appropriations for the expenses of the impeachment trial, and one other item not connected with that subject. I hope there will be no objection to its consideration at this time.

Mr. BANKS. I do not think I can yield for that purpose.

Mr. WASHBURN, of Illinois. It is a matter of great public necessity, and I suppose the gentleman will not object to it if no one else objects to it.

Mr. BANKS. If there is no objection to the bill I will yield.

No objection was made.

#### EXPENSES OF IMPEACHMENT TRIAL.

Mr. WASHBURN, of Illinois, from the Committee on Appropriations, reported back Senate bill No. 462, making appropriations for the expenses of the trial of Andrew Johnson, and other contingent expenses of the Senate, for the year ending June 30, 1868, and for other purposes.

Mr. SPALDING. I would inquire if there are any amendments reported to this bill?

Mr. WASHBURN, of Illinois. I will inform my colleague on the Committee on Appropriations [Mr. SPALDING] that this is the same bill which was considered in the committee this morning.

Mr. SPALDING. I know there was one matter left undetermined. I want to know what was done with the \$40,000 item.

Mr. WASHBURN, of Illinois. I will explain that.

Mr. BANKS. I must object to this bill being considered now if there is to be any lengthened discussion upon it.

Mr. CHANLER. Let there be five minutes' explanation.

Mr. BANKS. Very well.

Mr. WASHBURN, of Illinois. The bill contains several items: one of \$10,000 for the expenses of the impeachment trial; one of \$40,000; and then an item of \$17,000 to pay the Capitol police. The Committee on Appropriations have directed me to report those three items, proposing to leave the other items to abide the fate of the ordinary deficiency bill. If the House proceed to the consideration of this bill I shall move, in addition to what the committee report in favor of, the appropriation of \$15,000 to pay the laborers over there, who, I understand, have not had a dollar of pay since last December.

Mr. ELDRIDGE. What is the aggregate amount of the items in the bill.

Mr. WASHBURN, of Illinois. There are items of \$10,000, \$40,000, \$17,000, and \$15,000.

Mr. ELDRIDGE. I understand that the appropriation of \$15,000 is not already in the bill, but that the gentleman from Illinois proposes to add it as an amendment.

Mr. WASHBURN, of Illinois. It is in the bill now; but the Committee on Appropriations of the House decline to recommend the adoption of that item, for the reason that they thought it should go into the ordinary deficiency bill; but in consequence of an explanation I have had this morning—and I make this statement more particularly for the benefit of my friend from Ohio [Mr. SPALDING]—in regard to these messengers, who have waited since last December for their pay, I propose upon my own responsibility to ask the House to adopt the appropriation providing for their compensation. The House can vote for the proposition or not, according to its own judgment.

Mr. SPALDING. I would like to know what the item of \$40,000 is for? The committee has not been informed upon that subject.

Mr. WASHBURN, of Illinois. I propose to explain.

Mr. ELDRIDGE. Will the gentleman from Illinois allow me to ask one other question?

I wish to inquire whether this bill contains any "cat under the meal," which is to be brought to view by the gentleman from Iowa [Mr. WILSON] or the gentleman from Ohio, [Mr. SCHENCK?] I wish to know whether we are to be entrapped, as we were on a former occasion?

Mr. SPALDING. Oh, no; you are not to be entrapped.

Mr. WASHBURN, of Illinois. I have not seen any "cat under the meal."

The SPEAKER. The Chair will state that this is an appropriation bill, and does not now contain any legislation; and if any should be proposed it would not be in order, not being germane to the bill.

Mr. WASHBURN, of Illinois. I do not think that the gentleman from Wisconsin [Mr. ELDRIDGE] has any reason to believe that the Committee on Appropriations would foist anything upon the House.

Mr. ELDRIDGE. No, sir. I will do the gentleman the justice to say that I do not believe he would do anything of that kind; but the gentleman will remember that once, when we gave unanimous consent for an apparently unobjectionable bill, we found ourselves in the dilemma of being entrapped.

Mr. WASHBURN, of Illinois. I trust the House will never be deceived by anything which I may state.

I wish now to say a word in reply to the inquiry of my friend from Ohio, [Mr. SPALDING.] I was directed by the Committee on Appropriations to inquire into the item of \$40,000 for miscellaneous expenses. It is for a great number of expenses for which the vouchers are filed in the Senate. I have not had time to go over them; but I have been assured by the Senator from Maine, [Mr. MORRILL,] the chairman of the Senate Committee on Appropriations, one of the most careful and correct men who has ever had charge of appropriation bills, that he went over these items carefully, one by one, and that they are amounts actually due. Under this statement of the circumstances I have thought it my duty, under my instructions from the committee, to consent to that item.

Mr. SPALDING. I ask my colleague on the committee whether he has learned that these expenditures are for legitimate purposes in the Senate.

Mr. WASHBURN, of Illinois. Entirely so.

Mr. SPALDING. Are they connected with the impeachment?

Mr. WASHBURN, of Illinois. They are not all connected with the impeachment; but they are all for legitimate purposes, as I have been informed by the chairman of the Senate Committee on Appropriations. I conferred with him this morning, and he said that if I would refer to the debate as reported in the Globe I would find the matter all explained. I have not, however, had time to do so. With these remarks I leave the question to the consideration of the House.

The SPEAKER. The bill as passed by the Senate will be read.

The bill, which was read, proposes to make the following appropriations for the payment of the expenses of the trial of the impeachment of Andrew Johnson, and other contingent expenses of the Senate of the United States, for the year ending June 30, 1868: for expenses of the trial of the impeachment of Andrew Johnson, President of the United States, \$10,000; for miscellaneous items, \$40,000; for deficiency in the appropriation for the payment of the Capitol police, and for additional policemen and incidental expenses thereof, \$17,000; for deficiency in the appropriation for the payment of additional messengers, \$15,000; for deficiency in the appropriation for defraying the expense of hydration of the Senate Chamber, \$3,000; for deficiency in the appropriation for furniture and repairs, \$5,000; for deficiency in the appropriation for clerks to committees, pages, horses, and carriages, \$15,000.

Mr. WASHBURN, of Illinois. Mr. Speaker, I will again state that the Committee on Appropriations agreed to recommend the striking



out of all the items except the three first. I propose on my own responsibility to submit to the House the question whether it will adopt the fourth item, which proposes to appropriate \$15,000 for the back pay of these messengers.

The SPEAKER. The first question will be on striking out the following items:

For deficiency in the appropriation for defraying the expense of hydration of the Senate Chamber, \$3,000.

For deficiency in the appropriation for furniture and repairs, \$5,000.

For deficiency in the appropriation for clerks to committees, pages, horses, and carryalls, \$15,000.

The question was taken, and the items were stricken out.

Mr. SPALDING. I now move to strike out the appropriation of \$40,000 for miscellaneous expenses. I ask my colleague on the Committee on Appropriations whether it will not answer just as well to provide for this appropriation in the deficiency bill?

Mr. WASHBURNE, of Illinois. I am advised that it will not; that it is absolutely necessary this appropriation should be made now to carry on the present operations of the Senate.

Mr. WELKER. I desire to make an inquiry of the gentleman who reported this bill. I noticed in the debates of the Senate that some controversy grew up in relation to this \$40,000 appropriation, in which it was said it was to be applied to a deficiency which occurred in the payment of money in the Senate. Now I wish to ask whether this sum of \$40,000 is to be applied to the payment of laborers, and has no reference whatever to the charge that it is to supply a deficiency which I saw stated in the debates of the Senate.

Mr. WASHBURNE, of Illinois. What was that?

Mr. WELKER. In relation to the Secretary of the Senate.

Mr. WASHBURNE, of Illinois. Not in the least.

Mr. WELKER. It was stated that there was a difficulty between the Secretary of the Senate and his financial clerk as to the sum of \$40,000.

Mr. WASHBURNE, of Illinois. That was in regard to another matter, and did not come up in this bill at all as a matter of legislation, as I understand.

Mr. WELKER. This, then, has nothing whatever to do with it?

Mr. WASHBURNE, of Illinois. It has not.

Mr. SPALDING. I do not think that we ought to pass an item of \$40,000 without knowing more about it than we do about this one. We have already passed one deficiency bill for the Senate to make up a deficit in its appropriations. This comes upon us, not as an ordinary deficiency bill, but as a special bill to provide for the expenses of the impeachment trial. I propose to strike out this item and give the committee further time to look into this item of \$40,000, and see what it is made up of. That is all. It will only be for a week or two. I insist on my motion.

Mr. ELDRIDGE. I ask the gentleman from Illinois whether the Committee on Appropriations have already ascertained that \$10,000 are anything like an adequate sum to pay the expenses of the impeachment trial? It seems to me it will amount to a great deal more. Or is this merely at once to strike the public mind as all the expense of the trial? Is it not designed to sugar-coat this pill of impeachment?

The SPEAKER. That is not germane to the pending question?

Mr. ELDRIDGE. I put the question to the gentleman.

Mr. WASHBURNE, of Illinois. I will answer.

Mr. ELDRIDGE. If these \$10,000 be not sufficient to meet the expense, it seems to me that the committee ought to meet this question boldly and appropriate enough to pay the whole expense, so the people may know all about it.

The SPEAKER. The debate must be con-

finied to the pending proposition, to strike out \$40,000.

Mr. ELDRIDGE. I do not insist that my question shall be answered at once; but I do want an answer.

Mr. WASHBURNE, of Illinois. I will state first in answer to my honorable colleague on the committee that we might almost as well not pass the bill at all as to strike out this item of \$40,000. It is for contingent expenses, and it is absolutely necessary the Senate should have it. The gentleman from Ohio knows I would not urge anything unless I thought it necessary and proper; and I think if he had the consultation I had, as I was instructed by the Committee on Appropriations to examine into the items of this appropriation, with the chairman of the Senate Committee, he would be entirely satisfied in regard to this amount.

Mr. SPALDING. In reply to my excellent colleague on the Committee on Appropriations, I will say that I am most commonly governed by his opinion in regard to these matters. It is due to myself to say that this morning when this bill was before the Committee on Appropriations for ten minutes, I agreed that the gentleman should examine into this item as to how it is made up; and he agreed with me that it should not come in here before the House under the head of "contingencies," but that we should give it a substantial name and let the people see what they were paying the money for. Was not that the understanding? Now, if my colleague on the committee is satisfied in this respect and will tell me he is, I will withdraw my proposition.

Mr. WASHBURNE, of Illinois. I do not wish my friend to withdraw anything on my account. I have no particular interest in this matter; but I can tell my colleague on the committee and the House in regard to this matter as I understand it. I am as much indisposed as my colleague or anybody else is to having these general miscellaneous items in any of the appropriation bills. This is not for contingent expenses; it is for "miscellaneous items." We all agreed in the committee—I can say that without any violation of the rule—that this was a subject to be inquired into. I went and made inquiry. I could, perhaps, have gone through these vouchers and looked them over myself; but I was assured by the chairman of the Finance Committee of the Senate that he had gone over these items very thoroughly, being very reluctant indeed to permit the appropriation to be made, but he was forced to it from the state of financial matters there, and hence the Senate passed upon this question. They found that this amount was necessary, and it is a courtesy which has always been accorded by one House to the other to permit each House to judge to some extent of what its needs are for miscellaneous items.

Mr. DAWES. I would like to make an inquiry. I wish to inquire if my friend is clear that this is for "miscellaneous," and not for "contingent" expenses? [Laughter.]

Mr. WASHBURNE, of Illinois. Does my friend think it makes any very great difference?

Mr. DAWES. I only want to get at the fact, for I think it will govern my vote. I do not think I could be induced to vote for it if it is for "contingent" expenses; but I do not know what I might be induced to do if it is for "miscellaneous" expenses. I therefore desire to withhold my views until I know what this is for.

Mr. WASHBURNE, of Illinois. I should very much like to have an expression of my friend's views on this subject as on all others.

Mr. DAWES. I make the inquiry because the gentleman from Ohio [Mr. SPALDING] said that he and his friend from Illinois—his excellent friend—had agreed that they would not go for this appropriation if it was for "contingent" expenses; and now the gentleman from Illinois comes in and says that he still goes with his excellent friend from Ohio, and that it is not for "contingent" expenses, but for "miscellaneous" expenses. [Laughter.]

Mr. WASHBURNE, of Illinois. I hope my friend is satisfied. I will tell him what one of the items is, and he can judge for himself. It is for the funeral expenses of the Senator from Vermont, the late Mr. Foot, and it is a very large item, too, I am sorry to say.

Mr. DAWES. Well, that is miscellaneous.

Mr. SPALDING. I have accomplished my purpose. I merely wished the House to understand that the Committee on Appropriations did not understand how this sum was made up. That purpose is accomplished, and I now do not desire to be captious but withdraw my motion.

Mr. WASHBURNE, of Illinois. I now demand the previous question.

Mr. ELDRIDGE. I want to make an inquiry of the gentleman from Illinois. We think here upon this side of the House that \$10,000 cannot begin to pay the expenses of impeachment, that is a mere bagatelle, that the expenses must amount to many times that sum. I do not suppose there is a gentleman here who doubts that it will cost twenty times that sum.

Mr. WASHBURNE, of Illinois. So far as I am concerned, if it is a success, I would be willing to vote \$100,000.

Mr. ELDRIDGE. So far as I am concerned, I would not vote any sum of money to carry it through.

Mr. WASHBURNE, of Illinois. I do not think the money could be used for any better purpose, but I do not want it used for any illegitimate purpose.

Mr. ELDRIDGE. I wish the gentleman to answer my question. Does he mean to say that this item of \$10,000 is for the purpose of obtaining success, and that if he was sure he could get success he would vote ten times that sum? Does he propose by this legislation to affect the action of the Senate in that way? Is that the candor of the gentleman from Illinois?

Mr. WASHBURNE, of Illinois. Of course the gentleman from Wisconsin [Mr. ELDRIDGE] does not understand me to say any such thing. He must have understood me to say this: that the Senate that has charge of and is conducting this trial has said that it wants \$10,000 for the purposes of the trial. I do not know whether it is sufficient or insufficient. The Senate has asked for this amount, and I am in favor of appropriating it. And if any other amount shall become due I shall be in favor of making an appropriation for the purpose.

Mr. ELDRIDGE. I want to know if the gentleman from Illinois [Mr. WASHBURNE] means to stand by the remark he made, that if he could have the impeachment a success he would vote \$100,000?

Mr. WASHBURNE, of Illinois. I said that if the impeachment should be a success it would be worth not only \$10,000, but \$100,000. And if it will be any satisfaction to the gentleman, I will say to him that it would be worth \$100,000,000. [Applause in the galleries, promptly checked by the Speaker.]

Mr. ELDRIDGE. I do not suppose the gentleman can be candid upon this subject. I do not suppose that he or this House expects that the sum of \$10,000 will be all that will be necessary for the expenses of the impeachment trial. It is a mere bagatelle for the purpose of favorably affecting the popular mind toward impeachment while the trial is progressing before the Senate.

The gentleman from Illinois admits that when he says that he would appropriate not only \$10,000 but \$100,000 if impeachment could be made a success. And he then adds, with the approbation of his fellows and the applause of their followers of the galleries, that he would be willing to appropriate hundreds of millions of dollars for that purpose. Sir, that is not worthy of the gentleman from Illinois, [Mr. WASHBURNE:] it is unworthy of this House to say here, when this trial is pending before the Senate, one of the most august trials the world has ever seen, that we would appropriate this large sum of money for

the purpose of making impeachment a success; or that we have any such interest or feeling in regard to it as that, under the explanation of the gentleman from Illinois, [Mr. WASHBURNE,] that we would even give that sum for the purpose of making it a success; or that if it were a success we would be willing to pay that amount. Sir, I would not be willing to give one dollar or one cent for that or any such purpose. Let the trial go on under the strict, the simple rules and principles of justice, unaffected and uninfluenced by money or the interest this House may feel on account of its action heretofore taken or its political bias. If this sum of \$10,000 is named merely for the purpose of striking the public mind at this time as the probable expense of the impeachment I say that such action is unworthy of this House. We ought to meet the question fully and fairly, and let the country understand precisely what we believe the expense of that trial may be; at all events, not endeavor to deceive or cheat the people in regard to it.

Mr. WASHBURNE, of Illinois. I desire to say but a word or two. As I said before, the gentleman from Wisconsin [Mr. ELDRIDGE] does not at all misunderstand the proposition which I submitted to the House. And he cannot put his own misconstruction before the country without explanation. He may undertake to lecture the House, he may undertake to lecture me, in regard to what is the duty of the House or what my duty may be, but I will not permit him to misrepresent what I have said here. Now, what I did say in regard to this proposition was this: that if impeachment was a success it would be worth hundreds of millions of dollars to this country, and I so believe. It would be worth hundreds of millions of dollars in what it would save to the country from the amount which is plundered from the Treasury by the office-holders who have been thrust into office by the gentleman from Wisconsin and his party. It would be worth hundreds of millions of dollars, it would be worth uncounted millions, in the lives of the loyal men of the South which would be saved by thrusting this acting President forth from the White House. That, sir, is what I said; and the House and the country will not misunderstand me, but will agree with me, and will agree with that verdict of guilty which I trust the Senate will render on this subject. Now, sir, I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill, as amended, was ordered to a third reading, read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REMOVALS, ETC., IN TREASURY DEPARTMENT.

Mr. MULLINS. I ask unanimous consent to offer the following resolution:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, required to furnish to this House information as to how many removals of clerks and other employes of said Department have been made since the 1st day of January, 1868, and for what cause; also, how many persons have been appointed to office or employed in the Treasury Department since said 1st day of January, 1868; and by whom the removals and appointments were made, and the names of those removed and of those appointed or employed; also, the reasons for the same.

Mr. VAN AUKEN. I object.

#### SALES OF UNITED STATES BONDS, ETC.

Mr. LOGAN, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be required to at once comply with the following resolution, passed March 18, 1868:

*Resolved*, That the Secretary of the Treasury be directed, without delay, to report to this House the amount of commissions paid for sale or disposal of United States bonds or securities since the 2d day of March, 1862; to whom paid, and if commissions are still paid for similar services to the same parties; if not, to whom commissions have been paid by the Treasury Department since the 2d day of March, 1861, and what amount of commissions have been paid on

sales of gold, and to whom paid; whether said commissions on sales of gold were paid in coin or currency; that he state separately the amount of commissions paid on the sales of Government securities and sales of gold."

#### GUARDS AT WAR DEPARTMENT.

Mr. ELDRIDGE. I ask unanimous consent to submit the following resolution:

*Resolved*, That the General of the Army be directed to inform the House why the office of the War Department is surrounded by armed men, and whether, in his opinion, it is necessary that able-bodied soldiers should be thus employed in time of peace, and how many men are similarly employed in the District of Columbia.

Mr. GARFIELD. Will the gentleman include the same inquiry with regard to Secretary Seward's office?

Mr. ELDRIDGE. I am willing to do so.

Mr. GARFIELD. Well, I object to the resolution.

#### PUBLICATION OF SOLDIERS' CLAIMS.

Mr. COBB, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be, and they are hereby, instructed to inquire into the expediency of providing by law for the publication by the several Departments of the Government of all soldiers' claims which have been allowed and paid by such Department, such publication to be made in a newspaper published in the capital of each State respectively, and made monthly or quarterly, of all such claims paid during the last preceding month or quarter, to the end that claim agents may not be able to retain soldiers' pay and bounty for an unnecessary time after its collection; and that the committee report by bill or otherwise.

#### WASHINGTON BUILDING BLOCK COMPANY.

Mr. INGERSOLL, by unanimous consent, introduced a bill (H. R. No. 1020) to incorporate the Washington Building Block Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### SALE OF PUBLIC VESSELS.

Mr. COOK. I ask unanimous consent to submit the following resolutions:

*Resolved*, That the Secretary of the Navy be directed to furnish the information asked for in the following resolution adopted by this House on the 12th day of December last, and which remains unanswered:

*Resolved*, That the Secretary of the Navy be directed to inform the House, in connection with the information this day called for in relation to the number and price of the public vessels sold since the war, whether any of the vessels so sold were captured from the enemy during the war and upon which prize money was paid by the United States, and if so, the amount of prize money so paid, the date of payment, and the price for which the vessels were sold."

Mr. BANKS. I do not yield to that resolution if it takes up time.

The SPEAKER. Is there objection?

Mr. WASHBURNE, of Illinois. I understand this to be offered by my colleague.

The SPEAKER. It is not before the House until the Chair ascertains whether it is objected to or not.

Mr. WASHBURNE, of Illinois. I do not object to it; but I wish to call attention to a fact in connection with another matter. It seems that the Secretary of the Navy declines to answer any request made to him. I submitted a resolution calling upon him for information so long ago as the 12th of January, and perhaps before, and although I have often called his attention to it, still he has never yet responded to it. His course is unprecedented, and I hope we shall take such measures as will vindicate the dignity of this House.

Mr. ELDRIDGE. What resolution does the gentleman refer to?

Mr. VAN AUKEN. The gentleman makes me believe that I ought to object to this resolution.

Mr. WASHBURNE, of Illinois. It was in reference to vessels bought and sold on commission, and a variety of other information was asked for.

Mr. ELDRIDGE. Has the resolution never been answered?

Mr. WASHBURNE, of Illinois. It has never been answered to this day.

Mr. ELDRIDGE. Were not those the vessels sold by the present acting Secretary of War?

Mr. WASHBURNE, of Illinois. I do not know.

Mr. VAN AUKEN. I object to the resolution.

THOMAS CHITTENDEN.

Mr. PERHAM, by unanimous consent, from the Committee on Invalid Pensions, reported back Senate bill No. 340, for the relief of Thomas Chittenden, and moved that it be referred to the Committee on Revolutionary Pensions and of the War of 1812.

The motion was agreed to.

SYLVANUS BLODGETT.

Mr. PERHAM, by unanimous consent, from the same committee, also reported back Senate bill No. 317, granting an increase of pension to Sylvanus Blodgett, of Jericho, Chittenden county, Vermont, and moved that it be referred to the Committee on Revolutionary Pensions and of the War of 1812.

The motion was agreed to.

#### CHANGE OF REFERENCE.

On motion of Mr. PIERHAM, the Committee on Invalid Pensions was discharged from the further consideration of the following petitions, and the same were referred to the Committee on Revolutionary Pensions and of the War of 1812:

Petition of Abner Duncan, of Virginia, praying for a special act, &c.; and

Petition of John McIlwee and five other citizens, asking for a pension for military services as a soldier in the war of 1812.

On motion of Mr. PERHAM, the same committee were discharged from the further consideration of the following, and the same were referred to the Committee on Military Affairs:

A bill (H. R. No. 932) for the relief of the heirs of Sarah Smith; and

Petition of Ann Shelly, for a pension.

#### AMENDMENT OF BANKRUPT LAW.

Mr. JENCKES. I ask unanimous consent to report, from the Committee on Revision of Laws of the United States, a short bill making amendments to the bankrupt law.

The SPEAKER. For action at the present time?

Mr. JENCKES. Yes, sir. It is very short.

Mr. BANKS. I cannot yield for that purpose.

Mr. SPALDING. Will it give rise to debate?

Mr. JENCKES. It will not. I ask five minutes for explanation.

Mr. BANKS. I yield five minutes, reserving my right to object.

Mr. WASHBURNE, of Illinois. I give notice to the gentleman from Massachusetts that I shall probably want to debate this matter. I think I am opposed to the bill of the gentleman from Rhode Island.

Mr. JENCKES. I think not, if the gentleman will hear it.

The SPEAKER. Will the gentleman reserve his objection until the bill is read?

Mr. WASHBURNE, of Illinois. Very well, sir.

The Clerk commenced to read the bill.

Mr. BANKS. I must resume the floor. It is perfectly apparent that that bill cannot be considered without some discussion.

Mr. JENCKES. Then, if the gentleman will allow me, I will ask that the bill may be reported and printed in the Globe, in order that it may be called up to-morrow on a motion to reconsider. I do not think it will give rise to any discussion whatever.

The SPEAKER. It will require unanimous consent to have the bill reported and left so that it can be called up to-morrow by a motion to reconsider.

Mr. MAYNARD. I must object.

The SPEAKER. The Chair understands that there is no objection to the bill being reported, recommitted, and ordered to be printed.

Mr. BANKS. That will not give the bill precedence.

The SPEAKER. It will not.

The bill (H. R. No. 1021) in amendment

of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867, was read a first and second time, recommended to the Committee on Revision of Laws of the United States, and ordered to be printed; and also ordered to be printed in the Globe.

The SPEAKER stated that a motion to reconsider the vote by which the bill was recommended would be regarded as laid upon the table.

The bill is as follows:

A bill in amendment of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the provisions of the second clause of the thirty-third section of said act shall not apply to the cases of proceedings in bankruptcy commenced prior to the 1st day of June, A. D. 1869, and the time during which the operation of the provisions of said clause is postponed shall be extended until said 1st day of June, A. D. 1869; and said clause is hereby so amended as to read as follows: in all proceedings in bankruptcy commenced after the 1st day of June, 1869, no discharge shall be granted to a debtor whose assets shall not be equal to fifty per cent. of the claims proved against his estate, upon which he shall be liable as the principal debtor, unless the assent in writing of a majority in number and value of his creditors to whom he shall have become liable as principal debtor, who shall have proved their claims, be filed in the case at or before the time of the hearing of the application for discharge.

SEC. 2. *And be it further enacted,* That said act be further amended, as follows: the phrase "presented or defended" in the fourteenth section of said act shall read "prosecuted and defended," the phrase "non-resident debtors," in line five, section twenty-two, of the act as printed in the Statutes-at-Large, shall read "non-resident creditors;" that the word "or" in the next to the last line of the thirty-ninth section of the act shall read "and;" that the phrase "section thirteen" in the forty-second section of said act shall read "section eleven;" and the phrase "or spends any part thereof in gaining" in the forty-fourth section of said act shall read "or shall spend any part thereof in gaining;" and that the words "with the senior register, or," and the phrase "to be delivered to the register," in the forty-seventh section of said act, be stricken out.

SEC. 3. *And be it further enacted,* That registers in bankruptcy shall have power to administer oaths in all cases and in relation to all matters in which oaths may be administered by commissioners of the circuit courts of the United States; and such commissioners may take proof of debts in bankruptcy in all cases, subject to the revision of such proofs by the register and by the court, according to the provisions of said law.

#### RIGHTS OF AMERICAN CITIZENS ABROAD.

The House then resumed the consideration of the bill (H. R. No. 768) concerning the rights of American citizens in foreign States, reported from the Committee on Foreign Affairs, the pending question being upon the motion of Mr. BANKS, to recommit the bill.

Mr. BANKS. Mr. Speaker, the bill now before the House has been for a long time under consideration, and I have taken every possible opportunity to press it for final action in the House. I do not wish now to consume the time of the House in its discussion, but I am willing to follow the general judgment of the House in regard to its disposition. My own desire would be to have the previous question ordered at this time, and then I shall be willing to give half of my hour to gentlemen who desire to discuss the bill, and I shall want the remainder of the time to explain any objections that may be made to it, if there be any objections urged.

Mr. ELIOT. Before the previous question is called I desire to send to the Clerk's desk an amendment, upon which I shall ask the action of the House. It is an amendment of which I notified my colleague when the bill was under discussion some time ago. I ask that it be read.

The Clerk read as follows:

In section third, commencing on the ninth line, strike out the words, "The President shall be, and hereby is, empowered to order the arrest and detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States," and to insert in lieu thereof the following words, "Such delay and refusal shall be regarded as an offense to the United States incompatible with the continuance of friendly relations with such foreign Government."

Mr. BANKS. I have no objection to that amendment being submitted to the House. I believe it was the judgment of the Committee

on Foreign Affairs that it had better be submitted to a vote. I withdraw the motion to recommit, and allow the amendment to be offered.

Mr. ELIOT. Then I offer the amendment.

Mr. JENCKES. I ask the gentleman to yield to me to offer a substitute in order that it may be submitted to a vote of the House.

Mr. BANKS. I will hear it read.

The substitute proposed by Mr. JENCKES was as follows:

That the right of expatriation, and also the right of naturalization under the conditions imposed by law be, and they hereby are, declared to be and to have been a part of the public law recognized by the United States, and the executive department of the Government shall insist upon the recognition of these rights by the Governments of all other nations; and if such rights shall in any case or in any manner be contravened by the Government of any foreign State, contrary to the intent and purposes of this act, it shall be the duty of the Executive to give information of the same to Congress without delay, in order that means may be taken with effect for the protection of any citizens of the United States in any rights which may have been interfered with or denied by such foreign Governments.

SEC. 2. *And be it further enacted,* That any citizen of the United States may lose his national character: *First.* By becoming naturalized in any foreign country. *Second.* By undertaking, without the permission of this Government, the performance of public duties under a foreign Government. *Third.* By making his domicile in any foreign country without intent to return. But no residence for the purpose of commerce shall be considered as made without intent to return.

SEC. 3. *And be it further enacted,* That citizens of the United States in every part of the world, while engaged upon lawful business, shall be entitled to and shall receive such protection as this Government has the power to afford to their persons and property, and the executive department of the Government shall see that such protection is given, and that the rights of American citizens shall be recognized in every foreign State.

SEC. 4. *And be it further enacted,* That any citizen of the United States who shall have lost or renounced his citizenship in either of the modes hereinbefore set forth, may again become entitled to the same by resuming his permanent residence in any State or Territory thereof, and by making declaration of his intent to resume his citizenship in the clerk's office of any court of the United States.

Mr. BANKS. I do not yield for any amendment of that kind.

Mr. JENCKES. I hope the gentleman will give us further time for discussion, and that the previous question will not be seconded.

Mr. PAINE. I desire to move an amendment to that portion of the bill which the gentleman from Massachusetts [Mr. ELIOT] has moved to strike out, and I ask the gentleman to yield to me for that purpose.

Mr. BANKS. I am willing to have the amendment voted on by the House.

Mr. PAINE. I move to amend section three by inserting after the word "States" the words "except ambassadors and other public ministers and their domestics and domestic servants."

Mr. BANKS. I do not object to that amendment, though I do not regard it as at all necessary. The Supreme Court of the United States has decided that the privileges of foreign ministers do not depend upon the action of Congress, which cannot confer and cannot take away any such right. But inasmuch as it is explanatory I hope the amendment will be adopted.

Mr. PAINE. My object is to make it perfectly clear that we do not intend to authorize the President to attempt to violate the law of nations.

Mr. VAN TRUMP. Will the gentleman from Massachusetts [Mr. BANKS] allow me to offer an amendment?

Mr. BANKS. I will hear it.

Mr. VAN TRUMP. I desire to move to amend the bill by adding to it the following:

SEC. 4. *And be it further enacted* That whenever any citizen of the United States, either native born or adopted, by a declaration in writing, made and executed in a district court of the United States within the State where he shall have held his last legal residence, done in open court, to be by said court entered of record in said court, declare that he relinquishes the character of a citizen of the United States, and shall thereupon depart out of the United States, such person shall, from and after the time of his said departure, be considered as having exercised his right of expatriation under this act, and shall thereafter be considered as no citizen of the United States,

and as absolved from all allegiance thereto, and as having voluntarily relinquished all right and benefit of protection therefrom.

SEC. 5. *And be it further enacted,* That any person, either as a native or adopted citizen of the United States, making such declaration, and departing out of the United States in accordance therewith, and being thus by this act deprived of all protection from and absolved from allegiance to the United States, shall not thereafter again become a citizen of the United States in any other manner than under and by virtue of the provisions of the naturalization laws then existing.

Mr. BANKS. I cannot yield for that amendment. The gentleman from Ohio [Mr. VAN TRUMP] must see that it defeats the very purpose of legislating upon this bill. It is in effect a declaration that without the consent of the Government no citizen of the United States can cease to be such citizen. That defeats our claim upon foreign Governments in behalf of the naturalized citizens of this country.

Mr. VAN TRUMP. It is my misfortune to differ with the gentleman on that point.

Mr. BAKER. Will the gentleman from Massachusetts yield to me to offer an amendment?

Mr. BANKS. I will hear it read.

Mr. BAKER. I desire to offer the following as a substitute for this bill:

That the right of expatriation, like the rights of life, liberty, and the pursuit of happiness, is a natural and unalienable right.

SEC. 2. *And be it further enacted,* That when in the bona fide exercise of the rights of expatriation and naturalization citizens or subjects of any foreign State have heretofore become, or shall hereafter become, citizens of the United States, such naturalized citizens are citizens of the United States to all intents and purposes whatsoever, and as such are of right entitled to receive from this Government, and shall receive, the same protection of life, liberty, and property, that is awarded to native-born citizens of the United States in like situation and circumstances.

SEC. 3. *And be it further enacted,* That the United States will, at all hazards, extend full and complete protection to its native born and naturalized citizens, and will exercise the same jealous care and put forth the same measure of energy in the protection of the rights of its naturalized as of its native born citizens.

SEC. 4. *And be it further enacted,* That to the end that the rights of American citizens in foreign countries may cease to be questioned, and that the peace of nations may be preserved, it is hereby declared to be the duty of the Executive of this Government to insist energetically and without delay upon the recognition of the foregoing rights by other Governments, and particularly to interpose with like promptitude and energy, upon the basis of the principles declared in this act, in the behalf of all American citizens whose rights may be infringed by or under the authority of any foreign State, and to lay before Congress as early as practicable, and from time to time, the results of such interposition, together with the facts involved in the cases which may now exist or hereafter arise of alleged violation of the principles of this act by or under the authority of any foreign State.

Mr. BANKS. I cannot yield for that amendment to be offered.

Mr. BAKER. Will the gentleman allow me to make one suggestion?

Mr. BANKS. Very well.

Mr. BAKER. I would prefer to have this in the form of a joint resolution.

Mr. BANKS. That is a mere declaration. It does not reach the purpose which the Committee on Foreign Affairs has in view. We want something more than that. With great respect for the opinions of the gentleman from Illinois, [Mr. BAKER,] I cannot yield to allow that amendment to be moved.

Mr. BAKER. Then I ask the gentleman whether he will yield that I may offer an amendment to strike out that part of the preamble which asserts in substance that the descendants of all immigrants into the United States since the formation of the Government are claimed by foreign countries as subjects? which I understand not to be a fact.

Mr. BANKS. Mr. Speaker, it is not so asserted.

Mr. BAKER. Then I ask the gentleman to yield that I may offer another amendment.

Mr. BANKS. I yield to the gentleman from Missouri, [Mr. PILE,] who wishes to propose an amendment, and then I shall ask the judgment of the House upon this question.

Mr. PILE. I propose to amend the third section by inserting after the words "empowered to" the words "suspend in part or wholly commercial relations with the said Gov-



ernment, or in case no other remedy is available;" so as to make the clause read:

Or if any citizen shall have been arrested and detained, whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to suspend in part or wholly commercial relations with the said Government, or, in case no other remedy is available, to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, &c.

Mr. BANKS. I have no objection to having a vote on that amendment.

Now, Mr. Speaker, before calling the previous question, I will ask the adoption of an amendment to the phraseology, which was proposed some time ago by the gentleman from Indiana, [Mr. KERR,] now absent. It is to strike out at the end of the first section the words "and therefore null and void."

The SPEAKER. If there be no objection the verbal amendment stated by the gentleman from Massachusetts will be considered as adopted.

There was no objection.

Mr. BANKS. I now call the previous question upon the bill and pending amendments.

Mr. CHANLER. I call for the reading of the bill and amendments.

The Clerk read the bill and pending amendments.

Mr. BANKS. I now renew the call for the previous question upon the bill and pending amendments.

On seconding the call for the previous question, there were—ayes 58, noes 20; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. BANKS and JENCKES.

The House divided; and the tellers reported—ayes 71, noes 25.

So the previous question was seconded.

The main question was ordered.

The SPEAKER. The gentleman from Massachusetts [Mr. BANKS] is now entitled to the floor to close the debate.

Mr. BANKS. Mr. Speaker, I have only a few words to say in addition to what I have already said on this subject, and I will not trespass long upon the attention of the House.

In regard to the remark of the gentleman from Illinois, [Mr. BAKER,] who wished to amend the preamble by striking out that part which refers to the claim of European nations, I have only to say that it is referred to as a claim. Whether the claim be well founded or not it is certainly a claim made by those Governments, and a claim which we deny. We know perfectly well that it is not true.

Mr. BAKER. Will the gentleman allow me to read a few lines of the preamble?

Mr. BANKS. Yes, sir.

Mr. BAKER. The language of the preamble is:

Whereas the right of expatriation is a natural and inherent right of all people, indispensable to the enjoyment of the rights of life, liberty, and the pursuit of happiness, for the protection of which the Government of the United States was established; and whereas, in the recognition of this principle, this Government has freely received emigrants from all nations and invested them with the rights of citizenship—

So far it is all right and all true, as I believe—and whereas it is claimed that all such American citizens with their descendants are subjects of foreign States, owing allegiance to the Governments thereof.

The language "all such American citizens" extends the statement back to the foundation of the Government.

Mr. BANKS. The word "all" has been stricken out.

Mr. BAKER. When was that done?

Mr. BANKS. When the bill was reported.

Mr. BAKER. Well, I was speaking of the bill as I find it on the file.

Mr. BANKS. Now, Mr. Speaker, I have a few words to say in regard to the amendment of my colleague, [Mr. ELLIOT,] which might as well be a motion to strike out the enacting clause of the bill. Before reading that amendment, however, I have one suggestion to make in regard to the general subject.

This bill presents a matter of legislation different in character from that which ordinarily comes before us. It is legislation for the purpose of affecting the action of other Governments. Ordinarily legislation is for the purpose of affecting our own Government. Here we propose to affect the action of foreign Governments, of European Governments, and that gives it a distinctive character as a legislative act. It stands, therefore, upon different principles, and involves different considerations.

If members of the House do not care by its action to affect the course and conduct of other Governments, I have nothing to say; that it is for them to judge. If gentlemen who represent constituents composed in great part of naturalized citizens are indifferent to the action and the claims of other Governments, and to the rights and claims of our own Government, I have nothing to say. If my colleague is willing that citizens of the United States shall be arrested in foreign countries for acts done and words spoken here; if he is willing that a member of this House, as one of its members—a native-born citizen of Massachusetts was once so arrested by a foreign Government for no crime committed against that Government—then his amendment is well adapted to effect his object. It presents a case past argument. If such legislation answers the purpose of the House, we have nothing to say. It is not an affair of ours. The Committee on Foreign Affairs reports this bill as the measure best calculated in the judgment of its members to secure from other Governments the recognition of the rights we claim on behalf of naturalized as well as native-born American citizens.

Now, Mr. Speaker, let me ask gentlemen how it is expected we can influence foreign Governments upon this subject if we adopt no measures to affect that action? We can have no law they are bound to consider. For seventy-nine years the American Government has constantly and persistently proposed to foreign Governments its consideration, but they have politely, and in their view properly, declined to meet our wishes on this subject. They say they are quite willing to concede whatever rights Americans may claim under their own laws; but when we come to matters affecting their affairs they claim the same right that we exercise; that is to say, they treat it as a question of domestic legislation, and decline to consider the claims of our Government made in behalf of its naturalized citizens. We have practiced the expedients now recorded by my colleague for nearly three quarters of a century. We have remonstrated, we have declared that it must affect disadvantageously our friendly relations; we have even gone so far as to make war, but all to no purpose. We have found no method to compel them to give that attention to the subject which is necessary for its final and just settlement. What we now propose is a method of accomplishing that object. It compels foreign Governments, at least, to consider and decide upon for themselves and for us; and we entertain no doubt whatever, when such attention is given to this subject, that it will be settled finally and with justice to all parties. We cannot doubt this. But so long as we allow this matter to postpone and evade its decision, so long will it be delayed, and so long will our citizens be exposed to injury and wrong.

Mr. SCOTFIELD. I wish to inquire of the gentleman from Massachusetts if the remedy he proposes is to authorize the President of the United States to arrest travelers? If that be so, then is it not the same as the remedy practiced by King Theodorus, of Abyssinia, with perfect success, so far as we have heard?

Mr. BANKS. I understand, so far as the Abyssinian king, Theodorus, is concerned, that he has not arrested travelers for the settlement of a case like this. What he does in regard to his Government he does in his own way. What we propose is for the action of the General Government in regard to our own affairs. If the gentleman from Pennsylvania

thinks this is of no more consequence to us than the conduct of King Theodorus in the administration of the affairs of his kingdom, we cannot expect to convince him of the necessity of the action we propose.

Mr. SCOTFIELD. I used it only by way of illustration. Do I understand the gentleman to say that he proposes to accomplish this result in any other way except by authorizing the President of the United States to arrest travelers?

Mr. BANKS. I propose to make a declaration of the rights of our Government, and to compel foreign Governments to consider them.

Mr. SCOTFIELD. You propose to do it by the arrest of travelers.

Mr. BANKS. No, sir; I do not propose to arrest any travelers. The word is not used in the bill. I do not propose that anybody shall be arrested. I propose the United States Government shall, in the exercise of powers conferred upon it by Congress, be able to compel foreign Governments to take action on this subject, with a view to the settlement of this question between us and them; and, sir, it is our belief that if the power recommended in this bill be conferred upon the Government, there will be no occasion for the arrest of anybody.

Twenty-five years ago Mr. Webster, in one of the ablest of his dispatches—a dispatch which I believe is accounted by his friends as doing the greatest honor to his great intellect—presented in the clearest and strongest manner the necessity of preserving the peace of the Government by a final arrangement of this question between the United States and England. The English Government paid no regard to it whatever. They never so far considered it as to answer it. It was referred by Lord Ashburton to his Government almost without comment, and I think it never obtained any consideration whatever from that Government. The reason was that they claim this to be a domestic question affecting their own local Government with which we have nothing to do. So long as we allow that claim, so long they will exercise the power of which our people complain.

Now, I ask the attention of the House to the status of this question as it affects England, and I do not speak of England as an exception to the Governments of other foreign countries. In England a change of ministry is probable. There are domestic difficulties of a very serious nature, which threaten not only the success of the present administration, but, perhaps, the stability of the Government itself. England has traditions upon this question which she has maintained for six hundred years. No administration and no minister has ever surrendered or proposed to surrender them. I ask any member of this House if he expects that the Government of the United States can call upon the administration of the English Government at this time to voluntarily abandon English traditions and laws and recognize the principles of the American Government upon the subject of citizenship and allegiance unless the American Government shall make such a demand for action as to compel consideration, if not acquiescence in our demands. In the absence of such action on our part any English administration that should, without necessity, concede that which we regard as right, would be overturned in an hour because it would be construed by its opponents as an unnecessary abandonment of everything that England has claimed through all her administrations in regard to her right to control her own municipal legislation in the first instance, and secondly in regard to her jurisdiction over subjects who have left her dominions without her consent.

If we expect any Government to act upon this question in such a manner as to satisfy our demands we are bound in honor and interest to present it in such manner as to satisfy all classes of people and all parties that it cannot be disregarded. I have said already that if it is considered we shall have a satisfactory judg-

ment. The claim we present is of such a character that it cannot be denied by any Government that expects to maintain friendly relations with us. But so long as we leave them to decide it for themselves alone, so long must we expect a settlement of the question to be delayed. Every foreign Government has a right to ask of us not only a persistent but a positive claim for action on their part in order to justify them in yielding to the claim that we make. We cannot expect them to abandon their own and recognize our principles unless we present them in such manner as to command action. Now, in what way can it be so presented? The Committee on Foreign Affairs believes it can best be done by adopting the principle of reprisal, which is embodied in the third section of the bill before us, and it has been reported for this purpose. The amendment of my colleague [Mr. ELIOT] presents a different method. His proposition is that if citizens of the United States, native or foreign born, shall continue to be arrested by foreign Governments, it shall be "regarded as an offense to the United States incompatible with the continuance of friendly relations." Well now, sir, I do not want any share in such legislation as that.

Mr. SPALDING. I desire to ask the honorable chairman of the Committee on Foreign Affairs one question, with his permission.

Mr. BANKS. Certainly.

Mr. SPALDING. I desire to know if this great question has been adjusted between our Government and Prussia or the North Germanic Confederation in a manner satisfactory to our people?

Mr. BANKS. I will speak of the Prussian treaty in a moment.

Mr. ELIOT. I should like to have my colleague state whether he represents, in what he says as to this amendment of mine, the judgment, as he understands it, of the Committee on Foreign Affairs.

Mr. BANKS. I do understand it to be their unanimous judgment.

Mr. ELIOT. I beg leave to say that I differ with my colleague as to that.

Mr. BANKS. We have had many deliberations upon this question. I understand that every proposition that has been presented by the chairman of the committee to the House has had the unanimous consent of that committee, and I take it upon myself to say, with pleasure, that I have refrained in every instance from any attempt to impress upon the committee views of my own, and have presented to them no proposition upon this subject which had not the unanimous approval of the committee. That is my reply to the question of my colleague.

I have stated before that I have never sought even to impress my own views upon the committee, much less to control that committee upon any subject; and whenever I have made a report from that committee my understanding is that it has been with the unanimous consent of its members.

Now, let my colleague [Mr. ELIOT] look at his proposition for a moment. "Such delay and refusal"—that is, delay or refusal to deliver up the citizens of the United States—"shall be regarded as an offense to the United States, incompatible with the continuance of friendly relations." Now, I pass the word "offense" as amounting to nothing. But I would call the attention of my colleague to the result: "it will be incompatible with the continuance of friendly relations."

Now, I undertake to say that there are twenty millions of our people whose rights of travel and sojourn in other States are injuriously affected by the claim of inalienable set up by foreign Governments with regard to their native-born subjects. Wherever there are questions pending between us and foreign Governments, like this now pending between us and Great Britain, the claim is of such a character that it covers a large part, if not the whole, of our population.

I do not know but that, in the judgment of the House, I may have stated the point too

strongly. But if there be ten million or five million, or one million or one thousand persons thus affected—if there be one man thus deprived of the rights of travel and sojourn in other countries which are enjoyed by subjects of other Governments in this country, it cannot be expected of us that we are to submit to it indefinitely; and yet these negotiations and these injuries have continued nearly eighty years without an approach to any settlement whatever.

Mr. ELIOT. Will the gentleman yield to me for a few minutes?

Mr. BANKS. For how long a time?

Mr. ELIOT. Well, say ten minutes.

Mr. BANKS. I would inquire of the Chair how much time I have.

The SPEAKER. The gentleman's hour commenced at twenty-eight minutes past two, and he has now forty-four minutes of his hour remaining.

Mr. BANKS. I will yield five minutes to my colleague.

Mr. ELIOT. I will try and use that liberal allowance of time as well as I may. In the first place, it is charged by the gentleman who has reported this bill [Mr. BANKS] that the amendment which I have offered to-day, and which I indicated some time ago, is one which substantially repeals the enacting clause of this bill. Now, I have a better opinion of the bill reported by the gentleman from the Committee on Foreign Affairs than he himself seems to have. And, in my judgment, the amendment which I have offered will make his bill a sensible and an effective one, instead of a bill which, if it shall have any effect at all, will probably involve us in a war before the proper time shall have arrived.

The gentleman from Massachusetts [Mr. BANKS] is not the only gentleman here who feels desirous that all proper legislation shall be had to protect the rights of citizens of the United States traveling abroad. But I differ from him in supposing that the best way to do that is to give the President of the United States the arbitrary power to himself select such man or men within the United States as he may choose and to incarcerate them in case information shall come here of the arrest of one of our citizens abroad, and in case that citizen is not released from arrest within a certain time. I am not in favor of giving the President power to arrest any man, whoever he may be, whether that man be a minister from abroad, whether he be here representing some foreign Government in its diplomatic relations, or whether he be a traveler here within the confines of our country; whether he be here officially or unofficially. In my judgment the end which the gentleman seeks to gain will not be attained in the best manner by permitting the President to order such arrest *ex mero motu* upon a case found by him.

Now, sir, the preamble of this bill recites an important principle in legislative form; all that it is desirable to have embodied in the law. The first section of the bill provides—

That any declaration, instruction, opinion, order, or decision of any officers of this Government which denies, restricts, impairs, or questions the right of expatriation is hereby declared inconsistent with the fundamental principles of this Government, and therefore null and void.

I hold it important that a declaration of that kind should be made, and made in the form of law.

The second section proposes to declare—

That all naturalized citizens of the United States while in foreign States shall be entitled to, and shall receive from this Government, the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances.

That is a legislative declaration never heretofore made, a declaration of vital importance, which I for one should be glad to see incorporated into the laws of the country. Then, in the third section, it is provided—

That whenever it shall be duly made known to the President that any citizen of the United States has been arrested and is detained by any foreign Government, in contravention of the intent and purposes of this act, upon the allegation that naturalization in the United States does not operate to dissolve his

allegiance to his native sovereign; or if any citizen shall have been arrested and detained whose release upon demand shall have been unreasonably delayed or refused, the President shall be, and hereby is, empowered to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, and the President shall, without delay, give information to Congress of any such proceedings under this act.

Now, sir, this tit-for-tat legislation is not what I deem wise or just. I hold it to be rather of the kind that might have been deemed advisable in the days of Moses, when "an eye for an eye" was the law. I hold that if this Government shall declare by law that such an act as is here described will be deemed to be an offense against the United States incompatible with the continuance of friendly relations with the Government offending, it will be a pretty serious declaration upon the part of Congress, and will result in such immediate action as will remove all cause of difference in the case named. The suspension of friendly relations will call for instant examination of the case, that friendly relations may be restored. My colleague does not mean to say that if the United States Government should adopt in the form of law such a declaration as I propose in my amendment it would be *brutum fulmen*. He has too high a regard for the character of his Government, its dignity, its strength, the influence which it has upon the other Powers of the earth, to take any such position.

[Here the hammer fell.]

Mr. ELIOT. I ask my colleague to give me a few moments more.

Mr. BANKS. I yield to the gentleman five minutes more.

Mr. ELIOT. Nor will my colleague state, I think, that any one who here in his place proposes such an amendment thereby justly exposes himself to the intimation, which seemed to be conveyed by the gentleman, of not desiring as earnestly, as truthfully, as conscientiously as he himself that the rights of the citizens of this nation shall in every country upon the face of the globe be equally protected, whether those citizens be native-born or naturalized. My colleague and I both seek (I suppose him to be seeking the same end that I do) the protection, the security of the citizen of the United States abroad. He thinks it will be better gained by giving to the President authority, according to his own arbitrary will, to select from the strangers among us who may be citizens or subjects of the Government offending such a one as he may choose and order his imprisonment. I believe that the end desired will be more effectually and properly gained by saying to that Government, "Until this matter is examined and this wrong redressed friendly relations with you shall be suspended." By taking that position the end would, in my judgment, be better gained; and it is because I thus believe that I ask the action of the House upon my amendment, which is offered for the purpose of strengthening the bill, not weakening it.

Mr. BANKS. Of course I do not wish to impute any want of interest in this subject to my colleague or to any other member of this House. As I have said, if these were new questions we might be satisfied with the proposition embraced in his amendment; but, sir, it is an affair of eighty years, and is still unsettled. We have made these representations frequently, we have made them continually for this whole period of three quarters of a century, and we have never yet succeeded in reaching any result on this subject, and we can never reach any satisfactory result until we make it necessary for other Governments to act upon it. So long as we leave it to the option of foreign administrations to act on this question or not, so long will they disregard our claims. You cannot expect any English administration or any administration of any Government to concede them against the traditions of their own Government for five or six hundred years unless we shall force upon them the necessity for such action.

Mr. DAWES. I am anxious to vote for this

bill, to vote for the most efficient measure to carry out the ends which my colleague says on due consideration in committee they have endeavored to obtain by legislation. To that end I desire to ask my colleague if he understands on the enactment of this bill into law the privilege of the writ of *habeas corpus* will be suspended as to all persons who may be arrested by the President under the third section?

Mr. BANKS. It is immaterial whether it is suspended or not.

Mr. DAWES. One word more. If it is not suspended I should like to ask my colleague what will be the use of this enactment? If, upon its enactment, the President should see fit to arrest any person in this country, and is unable to say it is for any offense committed by that person within the jurisdiction of this country, how long could he detain him upon the writ of *habeas corpus*?

Mr. BANKS. I make this answer to that question, that he will detain him just so long as the Congress of the United States chooses to maintain this law. Just so long as American citizens are arrested in other countries, so long will such persons be detained by the President of the United States, if any are even arrested.

Mr. DAWES. I want to understand it. Does my colleague say that anybody can be arrested by the President of the United States by virtue of this law without regard to any court which has the right to issue a writ of *habeas corpus*, unless it is for an offense committed by that individual and committed within the jurisdiction of our country?

Mr. BANKS. I say, Mr. Speaker, unhesitatingly, that the position the gentleman takes does not touch this question at all. The laws do not allow the arrest of any citizen except for some offense against the laws, and whenever he is arrested the writ of *habeas corpus* applies to him.

Mr. DAWES. Offense committed by him?

Mr. BANKS. Offense committed by him.

Mr. DAWES. I want to know, Mr. Speaker, how a traveler in this country, for no offense committed by him, can be detained simply because the sovereign in another jurisdiction has committed some offense against the law?

Mr. BANKS. He has committed no offense; whatever individual is arrested under this statute will not be arrested because of any offense committed by him. It is the assertion of the sovereign power of this Government to enforce the rights of its citizens against other Governments. It is in the nature of a compulsory regulation, and exercise of its sovereign power to secure the rights of its own citizens at the hands of other Governments?

Mr. DAWES. Then you do mean that the writ of *habeas corpus*, as touching that individual, would be suspended.

Mr. BANKS. Not at all. I mean simply to say that if the President shall ever arrest any subject of a foreign Government under this law, and any court should issue a writ of *habeas corpus*, and the individual should be brought before the court, that court would decide that he could be detained under this law of Congress, and that until the President should release him he would be held as a hostage for the protection and security of the rights of American citizens.

Mr. DAWES. I inquire whether the Constitution does not guaranty to every individual here that he shall not be arrested except for some offense of his own, and upon a warrant indicating what the offense is?

Mr. BANKS. Certainly; but that applies to citizens. If my colleague means to say that the Government of the United States is deprived of all power to enforce against other Governments the rights of its citizens, then I might concede his argument. But it is against that that we protest. We protest against this doctrine that the Government of the United States has no power to compel other Governments to consider the rights of our citizens when they are within their limits.

Mr. DAWES. If my colleague means to

intimate that I hold that doctrine because in my opinion every individual within our jurisdiction in time of peace has the same rights in our courts whether he be a citizen or a foreigner, he is mistaken entirely. Does the gentleman mean to say that when a man is brought up upon *habeas corpus* in time of peace in one of our courts the court stops to inquire whether he is a citizen of the United States or not?

Mr. BANKS. No, sir; not at all.

Mr. DAWES. Then, sir, if citizens of the United States and foreigners in time of peace stand upon the same level, I inquire again of my colleague by what authority under the Constitution of the United States can you arrest any citizen of the United States or foreigner standing upon the same level with citizens of the United States, unless you charge against him some offense committed by him individually against the laws of the United States?

Mr. BANKS. My colleague takes too narrow a view of this question. The *habeas corpus* is a writ which brings any person arrested before a court to know by what authority he is held. The person holding this man in duress will show the authority, an act of Congress intended to protect its own citizens abroad, intended to enforce upon other Governments a regard for the rights of our citizens.

Mr. DAWES. Will it not be a clear answer for the man to say that he has committed no offense against that law? Will it not be enough for him to say, "You do not even allege that I have infringed that law?"

Mr. BANKS. It will not be enough. It does not come within the pale of the criminal law in any way whatever.

Mr. PAINE. I would be glad to ask one of the gentlemen from Massachusetts to explain the predicament in which I find myself. The gentleman from Massachusetts who has just taken his seat [Mr. DAWES] informs us that the Constitution provides that no man shall be arrested except for some crime which he has himself committed. Now, I would be glad if he would point out to us the provision of the Constitution to which he refers.

Mr. BANKS. I do not wish to yield for that purpose. There is no provision of the Constitution which forbids us to exercise the power in question.

Mr. DAWES. Let me ask my friend from Wisconsin if he holds the doctrine that a man can be arrested without any offense being charged against him?

Mr. PAINE. I have not said that I hold any doctrine. I merely asked the gentleman to show us the clause of the Constitution, or what he declares is a part of it.

Mr. DAWES. It is in every letter and word of the Constitution—the spirit and life of it—that every man shall be safe in his person and in his property.

Mr. GARFIELD. If the gentleman will allow me I will read a clause of the Constitution of four lines from article thirteen:

"Neither slavery or involuntary servitude, except as punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

[Laughter.]

Mr. BANKS. I do not see the application of that clause to this question. This, as I said before, is not an ordinary subject of legislation, and it is to the difference in its character that we must attribute the various views which are entertained by gentlemen.

Mr. JUDD. Will the gentleman allow me to call his attention to section five of the amendments to the Constitution? It is in these words:

"No person shall be held to answer for a capital or otherwise infamous crime except on a presentment or indictment."

Mr. BANKS. We do not charge anybody with any crime. It is useless to read that. If the gentleman does not see the application we cannot convince him. We do not charge that any man who may be arrested under this act is guilty of any crime. He is to be arrested in the exercise of the sovereign power of this

Government for the protection of its own citizens, and with a view of compelling his own Government to take action upon this question. If the gentleman has so tender a conscience in regard to the rights of foreign citizens in this country, what does he say of the American citizens—three or four hundred of them—who are now in prison in Great Britain for no offense whatever committed against the laws of that country?

Mr. JUDD. I wish the honorable gentleman would allow me to read this entire section.

Mr. BANKS. I cannot well yield for that, because my time is limited. I say to the gentleman from Illinois—and if he cannot discover it for himself, it is impossible for me to convince him—that that relates solely to crimes and criminals in this country with which this bill has nothing to do whatever.

Mr. JUDD. I say to my honorable friend that if he will allow me to read the section through instead of cutting me off—

Mr. BANKS. I know what it is.

Mr. JUDD. If you will allow me to read it.

Mr. BANKS. Well, read it.

Mr. JUDD. I will read it:

"No person"—

This is "person," not "citizen"—

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person"—

This is "person" again, not "citizen"—

"nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property without due process of law;"—

This all relates to "person," not "citizen"—

"nor shall private property be taken for public use without just compensation."

Now, I desire to ask the gentleman from Massachusetts [Mr. BANKS] if it has not been determined by the adjudication of the courts of this country that the term "by due process of law" means not by a legislative enactment, but by a proceeding in a court of justice?

Mr. BANKS. The clause of the Constitution to which the gentleman from Illinois [Mr. JUDD] has referred relates altogether to crimes and the arrest of criminals. I do not present this as a criminal matter. It is not alleged that the subject who may be arrested is to be regarded as a criminal. It is a question of international law, an international proceeding. The man is to be held as a hostage for the rights of American citizens who are deprived of them in the country to which the subject belongs. It is not probable that any arrest will be made. All that is proposed is that the President shall have the power; that when the power of arrest is exercised in other States, he shall be authorized to that extent, at least, to make reprisals. We want the power to compel foreign States to settle this question at issue between us.

Mr. MULLINS. Will the gentleman allow me to ask him a question?

Mr. BANKS. Certainly.

Mr. MULLINS. Does not the article of the Constitution just read authorize arrests for public necessity? And is this not a matter of public necessity?

Mr. BANKS. It may, undoubtedly, be so considered. Now, there are controversies constantly arising between nations; there are certain recognized powers which each nation has a right to exercise within its own jurisdiction, and which stop short of war. I referred to them in detail on another occasion when this subject was before the House. One is the suspension of commercial intercourse; another is the right to enforce an embargo. And there are various acts of that character which the Government has the right to exercise for the protection of its own rights which are not acts of war and which do not necessarily lead to war. This right of refusal and arrest is one which comes within that sovereign power accorded to each independent State by the rec-



ognized principles of international law for its own defense and the protection of its citizens.

Every Government has the right for its own peace and security to arrest the citizens of a foreign Power, within its own jurisdiction, in time of peace or war; to put an embargo upon its vessels, to prohibit commercial intercourse between its own citizens and those of other countries. It may extend its power as far as it pleases without limiting it to the exercise of the power of arresting a single person for the same object. This is not to punish any person for a criminal offense; it is not for his injury, but to compel his Government to consider the claim we make. That is the object we have in view.

Mr. JUDD. Will the honorable gentleman yield to me for five minutes?

Mr. BANKS. I cannot yield now, for my time has nearly expired.

Mr. JUDD. Will the gentleman yield to me for two minutes?

Mr. BANKS. The gentleman from Illinois [Mr. JUDD] has already occupied more time upon this question than any other member of this House, and he certainly should be content without taking any portion of my time, inasmuch as I have but a few minutes left, and have been subject to constant interruptions from all sides of the House, to which I have cheerfully yielded.

My colleague [Mr. DAVES] calls my attention to article four of the amendments to the Constitution of the United States, which I will read. It is as follows:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Now, my colleague knows perfectly well that that provides that an arrest, seizure, or search shall not be made without the authority of the Government. What we propose is to give that authority to the Government. This article does not apply to anything beyond that, and does not in any respect controvert the principle I advocate, or the action recommended by the committee.

Mr. BENTON. Will the gentleman yield to me for a moment?

Mr. BANKS. For what purpose?

Mr. BENTON. Is it contemplated under this bill that there may be a legal investigation of the case of the person arrested?

Mr. BANKS. Certainly there will be an investigation of the question whether there is authority to hold him or not. There must be investigations; let me say the more the better. Publicity is what we want. It will be a subject of constant investigation, and I ask the attention of my colleague [Mr. DAVES] to the point, whether a foreign Government may seize and imprison, without trial, citizens of the United States guilty of no offense, as subjects of a foreign Government, while we have no power to do anything for their relief, or for the correction of unjust principles of Government by which such arrests are justified.

Mr. DAVES. Will there also be an investigation of the guilt or innocence of the man arrested?

Mr. BANKS. We have nothing to do with that. It is with his Government that we are interested. Mr. Speaker, gentlemen of the House must see that there is no connection between the rights of persons under the criminal law or the provisions of the Constitution relating to criminal law and the powers of a Government in a case of this kind. The question is broader, more extended than anything relating to the rights of persons under the Constitution, whether citizens or aliens. It is the question whether the Government of the United States has power to take any action whatever to compel the Governments of other countries to consider the rights of our citizens and to bring the matter to negotiation and settlement. That is all. We stand for that and nothing more.

I said the other day that reprisal is not necessarily a barbarous proceeding. I say now that it is not a barbarous proceeding. It may be an act of the highest civilization. And let me call the attention of gentlemen to the fact that the Government of the United States has never attained the recognition of its rights from other Governments, with a few exceptions, except by the adoption of this principle of action. When General Jackson entered upon the administration of the Government he found unsettled controversies with nearly all the States of Europe; controversies dating back, some of them, to the beginning of our Government. Up to that time there had been found no means of compelling the attention of foreign Governments to such matters. We had controverted questions pending with France, with England, with Turkey, with Italy, with Spain, with Portugal, and with some other States. They disregarded every claim that we made upon them and gave us nothing in satisfaction and nothing in prospect but barren negotiation. We said, as my colleague [Mr. ELIOT] recommends us to say now, "If you do not attend to our complaints it will be difficult for us to maintain friendly relations with you." But such a course was not enough for General Jackson; nor was it enough for the Government of the United States. Selecting the strongest of those Governments, the President brought our controversies with that Government to an issue, and in that action he was unanimously sustained by this House. How did he do it? He said to the Government of France, "Unless you recognize your obligations to the Government of the United States we will seize your vessels or other property, and take such other measures as shall be necessary to secure the rights of the people of this country." France then yielded the point in controversy.

Mr. DAVES. Will my colleague allow me to present right here a single suggestion?

Mr. BANKS. Yes, sir.

Mr. DAVES. My colleague has said that he bases this bill upon the ground that it is the obligation of this Government to protect its citizens in foreign countries when imprisoned there while guilty of no offense against the laws of those countries; and he proposes to vindicate the rights of our own citizens by visiting similar unjust imprisonment upon innocent foreigners traveling in our own country. Now, Mr. Speaker, if it is justifiable to resort to war, as I agree with my colleague it is, to defend the rights of our citizens in foreign countries guilty of no offense against the laws of those countries, it is equally a justification for a resort to war on the part of a foreign Government if we, in this country, inflict upon a foreigner guilty of no crime the same unjust imprisonment of which we complain when inflicted upon our own citizens abroad. We propose to go to war with a foreign country for imprisoning our citizens guilty of no offense; and yet we propose to write it down on our statute-book that we shall do the same thing toward an innocent foreigner in our own country.

Mr. BANKS. My colleague begs the question. We propose nothing with regard to a citizen of any other country. We have no controversy with such persons. We propose action with regard to foreign Governments. Our difficulty is with the foreign Government, not with its subjects. If any foreign Government, in the event of an arrest under this bill, should undertake to vindicate the rights of its citizens its first step will be to settle this question between us and them, and, failing in that, to make war upon us. If there is to be war upon this question, or any other, I hope it may always be initiated by other Governments. The proper position of this Government is a defensive position.

My colleague speaks of his willingness to go to war. Sir, he does not mean war. My other colleague does not mean war. If they consent to the action proposed against an individual subject of another Government, they are not bold enough to assert the rights of our people

against the Government itself; they do not mean this country shall be involved in war. Sir, I do not wish to involve this country in war. The Committee on Foreign Affairs do not want war. What we want is peace. And the measure we recommend is to maintain peace. What we ask is that this question shall not drag along until restless and excited persons shall involve us in war by committing this or other Governments to that action from which they cannot recede and which leads to war.

Mr. HARDING. Your bill is partial war.

Mr. BANKS. No, sir; not quite that. But it is a measure looking to the assertion of the sovereign power of the nation, which, if disregarded by other nations, might in the end lead to war.

I will say, sir, that this measure is not an act of war according to the interpretation of international law; but if a foreign Government should compel us to go to war on this question then we must abandon our independence. Our action should be such as to secure our rights or to compel other nations to make war upon us. The responsibility of war should be put upon them, and in the defense as we claim in behalf of naturalized or native-born citizens we can very well afford to enter upon our defense if it shall become necessary.

This principle brings the question to a settlement, whatever may be the result. General Jackson's action of this character brought the Government of France to an immediate settlement. He brought to a settlement in the same way our difficulties with other Governments. His principle was that he would ask nothing that was not right and would submit to nothing that was wrong. He did not wait until other Governments were ready to consider our rights. He compelled action upon subjects of controversy that had existed, many of them, from the earliest period of the Government. His policy was that which we present in this bill, that of reprisals. He was willing to accept anything that looked like justice in the way of settlements, but he would not submit to no action at all. We adopt his policy in this great controversy in regard to the rights of American citizens in foreign States, and we are confident of its success as we are of its justice. General Jackson, by the same policy which we recommend now to favorable consideration of the House, obtained the payment of the French indemnity for spoiliations upon American commerce; the payment of the Danish indemnity; the Neapolitan indemnity; the Spanish indemnity; the Portuguese indemnity for similar wrongs sustained by American citizens. Under the influence of such measures and such success he opened for the first time the direct trade with the British West Indies, negotiated treaties with Turkey, opened the Black sea to American commerce, established liberal commercial relations with the Government of Morocco and other States, to which in an earlier period of our history we had paid an annual tribute for the maintenance of peace, and what is more interesting and satisfactory is that he established those friendly relations never before attained between the United States and Russia which have been of so great advantage to both countries. This success was the result of the principle he proclaimed and the policy he adopted. He demanded nothing that was not right. He submitted to nothing that was wrong, and he allowed no Governments to defer without reason the consideration of the claims he urged. By this policy he settled controversies amicably and justly that had been outstanding for half a century. But for this settlement they would still remain to embroil the nations in war, not with a single State only, but possibly with the whole of Europe. His decisive action was a policy of peace, and the same principle we recommend now for the same object. His administration was an era in the history of the country, not a single outstanding controversy was left between the United States and the Governments of Europe. It was not war. It did not lead to war. On the

contrary, sir, it was peace. It was civilization. It was defending the honor of the United States, and securing to our citizens their rights.

My colleague has undertaken to pin us down to the theory that this is a mere matter of criminal law. We discard this idea, exercising our sovereign power, which, though it may lead to war, puts the responsibility of war on others, not on us, and which in itself is intended only as the vindication of the honor of the country and the rights of its citizens.

There is another view of this subject to which I wish to allude.

Mr. BENTON. I wish to ask the gentleman a question.

Mr. BANKS. If I am to be interrupted so much I must ask that my time shall be extended.

The SPEAKER. How much?

Mr. BANKS. Say ten minutes.

Mr. INGERSOLL. I move that it be extended fifteen minutes.

There was no objection, and it was ordered accordingly.

Mr. BENTON. I would ask whether the bill provides for a legal investigation into the case of each individual who is arrested?

Mr. BANKS. The bill has nothing to do with investigation of anybody's offenses or case. The law asserted is that of reprisals, and persons who are arrested will be held as hostages.

Mr. BENTON. Suppose an innocent person is arrested who is guilty of no crime?

Mr. BANKS. It has nothing to do with the crimes of any person whatever. We oppose the claim of foreign Governments to hold naturalized citizens of the United States as their own. So long as they refuse to consider our claim we have the right to exercise the same power on their citizens. In this way similar questions with foreign Governments were settled.

Let me state, because it is of interest, that this question of citizenship and inalienable allegiance was thought at that time to have been settled. We had a war upon it, and England was thought to have abandoned her claim. There was not sufficient emigration then to excite inquiry. It was at that time believed to have been settled; but now we find the same doctrine is again asserted. If this question had arisen in Jackson's administration as it is now, he would never have allowed it to remain unsettled for a single hour, and his remedy would have been that provided in this bill.

The gentleman from Ohio [Mr. SPALDING] asked me a question in regard to the Prussian treaty. That is an important subject. Sir, the Prussian treaty has transferred legislation upon the rights of American citizens from the United States and its Government to the Government of a foreign country. Prussia has granted in the treaty such rights as she chooses to acknowledge. The Government of the United States had no defined policy in regard to this matter which limited the minister of the United States in his negotiations with that Government. The result of it is that we have the Prussian treaty, which is a treaty which allows all the laws of Prussia to be in operation against any naturalized citizen of this country who returns to that country if an action of any kind can be made to lie against him. That is what it is.

Now, sir, the first bill reported by the Committee on Foreign Affairs upon this subject would have prevented the negotiation of a treaty upon this basis. It would have defeated its ratification if it had been negotiated. It would have placed the question upon an American basis. The bill to which I refer conceded to other Governments the rights which they claim; but it secured the recognition of the rights which we claim. Any American minister who undertook to negotiate a treaty would have negotiated it in the light of the bill had it become a law. We would have had instead of the Prussian treaty an American treaty, and that American treaty would have been followed in the negotiations with other Governments in Europe just as now the Prussian treaty will be

made the model for future negotiations. The Prussian treaty is now a treaty for the whole of Europe. We cannot accept less or demand more of other Governments than is secured by the recent negotiations. And I venture the prediction, however much I may be gratified with the liberality of the Prussian Government, that that treaty embodies within itself provisions which will require further negotiation and further action on the part of this Government. Sir, I want a statute in this country that shall be the basis for treaty stipulations, and that should be the object of our legislation. It should openly accord to other Governments what is necessary for the maintenance of their rights, and it should secure what is necessary for the maintenance of our own. It was such a project that we first reported to the House. It conceded nothing that was not right and it demanded nothing that was wrong, and it contained, as does the bill now before us, the means of enforcing itself.

My colleague [Mr. ELIOT] has called my attention to the excellent provisions of the preamble of the present bill. Sir, they are nothing. They are mere declarations questioned by nobody here, and without the slightest effect under any other Government. They are well enough; but, sir, they only recognize the principles of natural law. These principles are neither stronger nor weaker for being embraced in the preamble. We introduced it because gentlemen of the House thought it necessary to have some recognition of those principles. But it does not effect the change we desire in the policy of other Governments. You might as well describe the space which shall constitute a bushel or the length which shall make a yard, as to declare this principle. It is of no effect unless the Governments of other States choose to recognize it, and make it their own legislation, which they are not inclined to do.

So, sir, with the first section of the bill. It merely states that any opinion given by any agent or officer of this Government that the right of expatriation depends upon the consent of the Government is not American law, and is in contravention with the principles of the American Government. That is all.

Mr. JENCKES. Will the gentleman allow me to ask him a question at this point?

Mr. BANKS. Certainly.

Mr. JENCKES. Will the gentleman inform the House what declaration is made in any part of this bill as to what is the American law upon the subject of expatriation?

Mr. BANKS. It is a subject which, in our opinion, ought not to be legislated upon. Now, I want my friend from Rhode Island [Mr. JENCKES] to say to me whether he is willing that the right of speech, the right of petition, the right to assemble in public meeting, the right to bear arms, shall be made dependent upon the statutes of the Government? I want him to say to me whether my right, or his right, to hear, to see, to smell, to feel, or to walk is to be made dependent upon an act of the American Congress? No, sir; this comes within the scope and character of natural rights which no Government has the right to control and which no Government can confer. And wherever this subject is alluded to in the Constitution—a Constitution framed by wise men—it is in the declaration that Congress shall have no power whatever to legislate upon these matters.

Mr. JENCKES. Will the gentleman allow me to ask him one further question?

Mr. BANKS. What is it?

Mr. JENCKES. If there be no legislation upon the subject is not the common law respecting allegiance in force?

Mr. BANKS. No, sir; never.

Mr. JENCKES. What has abrogated it?

Mr. BANKS. The Constitution of the United States; the Declaration of American Independence; the war of the Revolution; our war with Great Britain in 1812; our triumphs upon the sea and upon the land; all these have abrogated the English common law, except it

be in the minds of such gentlemen as the gentleman from Rhode Island, [Mr. JENCKES.] We have no treaty with Great Britain which forfeits the rights we claim, and we shall never make a treaty which shall forfeit the right of expatriation on the part of American citizens, or recognize the forfeiture on the part of British subjects, for it is a natural right.

My colleague [Mr. ELIOT] referred to the excellent provisions of the second section of this bill, as follows:

That all naturalized citizens of the United States while in foreign States shall be entitled to and shall receive from this Government the same protection of persons and property that is accorded to native-born citizens in like situation and circumstances.

That is most excellent reading, but it is prohibited in France and in England. They do not recognize that doctrine there; they do not sing that song. And we may sing it as long as we please, and they will exercise their power in a different way, and set it to different music. Now, what we want is that the European Governments shall be induced to consent to the principles of the American Government.

Mr. ELIOT. If it is a declaration which is worth nothing then why assert it?

Mr. BANKS. Because it is the principle upon which we plant the third section of this bill; it is a right which we will enforce against all nations of the earth, and at all hazards. But its assertion is unimportant unless it be with intent to secure its recognition.

The second section states a principle which has rarely or never been denied in this country, but which has never been admitted by any foreign Government, and we establish upon that principle another equally important in its character, equally well founded, which has given the best results to our Government, and from the exercise of which we now enjoy the blessings of peace with all foreign nations. We plant upon this section this practical power of compelling the Governments of Europe to yield at least a consideration to the questions which we present. It is for that reason we present it.

I like this bill; it is all excellent music. But if you leave out the only clause which refers to action, and which compels people who do not like this music to listen to it, and bring us and them to a tolerable harmony upon this question, it will avail us nothing. Of course I have no right to judge of the intent and purpose of my colleague; but I will say to him that his constituent who may be arrested under the asserted power of other Governments will have reason to complain of his forbearance and delicacy.

Now, Mr. Speaker, I return to the single point which I had in my mind when I commenced speaking. This is no question of criminal law, and hence it is no subject for criminal lawyers. It has nothing to do with the clauses of the Constitution relating to the arrest of persons for crime. We propose in this bill to assert the sovereignty of the Government of the United States. The bill embodies a principle of action which international law has conferred upon all Governments, the right of seeking means to enforce the recognition of the rights of its citizens.

Mr. Speaker, I trust the House will allow me to say a word further as to the nature of this principle of reprisals. I have shown how the assertion of this principle operated during General Jackson's administration, settling our affairs all around the circle, and leaving us at the close of that great administration in perfect peace with all the world. I have shown, I think, how General Jackson would treat this question if his administration existed now. He would apply now the same power that he applied then, and with the same result.

Sir, I would like to call the attention of the House to the fact that such has been the principle of action recognized and exercised by this Government both abroad and at home from its very foundation. No matter how trivial the occasion, wherever there has been

a necessity for the settlement of a question, and that settlement has been deferred, the Government of the United States has adopted this principle in its legislation to bring about a settlement. We propose to assert the principle now. It has never discredited the character of this Government; it has never led us into war. On the contrary, it has given us the highest honor as a Government, and it has enabled us to maintain peace. We find instances of the assertion of this principle from the very foundation of our Government. The first instance of the kind, I think, was in the case of the State of Rhode Island, so ably represented by my friend on the other side, [Mr. JENCKES,] whose great interest in this question has recalled the incident to my mind.

When our Government was inaugurated under the Constitution of the United States in 1789, Rhode Island was not inclined to participate in the advantages of the Union. She refused all proffers; she rejected all invitations. She thought herself independent and strong enough to stand outside the Union. In 1790, in pursuance of a resolution introduced in the Senate of the United States, a law was passed prohibiting all commercial intercourse between the United States and the State of Rhode Island after the 1st of July of that year. That act passed the Senate, I believe, in February or March, 1790. The prohibition of commercial intercourse was to go into effect on the 1st of July; and on the 1st of June General Washington in a special message congratulated the Congress of the United States upon the accession of Rhode Island to the Union as one of its sovereign States. But for that principle of compulsion there would have been no means of bringing to an issue the questions between the State of Rhode Island and the United States Government. It is the same principle that we have adopted in this bill.

Mr. JENCKES. Will the gentleman allow me to correct him as to a matter of fact?

Mr. BANKS. Certainly; with pleasure.

Mr. JENCKES. The gentleman's remarks convey an entirely erroneous impression as to the reason why Rhode Island was last at the feast.

Mr. BANKS. I gave no reason for the action of Rhode Island.

Mr. JENCKES. When the law to which the gentleman has referred was passed the convention of Rhode Island was in session; and the reason why the final act of ratification was delayed was that the citizens of Rhode Island were strenuous for the protection and preservation of the personal rights of the people, and were not altogether satisfied with the guarantees provided by the Constitution as it then stood.

Mr. BANKS. I have no doubt that Rhode Island had excellent reasons for her conduct. The point to which I desired to call the attention of the House was the manner in which that controversy was cut short and the State of Rhode Island brought into the Union.

Mr. DAWES. As that is an interesting matter of history, I would like to inquire whether the United States in that case dealt with the citizens of Rhode Island or with the State?

Mr. BANKS. The State of Rhode Island was then practically within the jurisdiction of the United States.

Mr. DAWES. Did our Government propose to seize and hold citizens of Rhode Island whenever they came within the borders of the United States?

Mr. BANKS. The United States, because it had jurisdiction of that State, operated upon all the people of the State and their government. What it might have done I cannot say; what it did was enough to secure its object.

Mr. DAWES. Had we jurisdiction over the State before she was in the Union?

Mr. BANKS. Yes, sir; before she came in. By the Revolution the United States acquired the right to control, and did control in the manner I have recited. And if my colleague is not familiar with that portion of our

history, let me tell him that if New York or Virginia or any other State or States controlling the heart of this country had undertaken to maintain their own separate independence or to acknowledge allegiance to Great Britain or any other foreign Government, the same jurisdiction would have been seized and exercised by the Government of the United States.

Mr. DAWES. I understood my colleague to say—

Mr. BANKS. I do not want to go into any hair-splitting arguments on this question. I state the fact, that Rhode Island came into this Union because Congress passed a law prohibiting all commercial intercourse between the people of the United States and the people of that State, unless she came into the Union. That is what I stated.

Mr. DAWES. I only inquired what analogy there was between that case and this one. Then you proceeded against a government, here you proceed against the individual citizens.

Mr. BANKS. It is the analogy of right. It is the analogy of force, the analogy of necessity, the analogy of success; and when the Government of the United States shall assert the rights of its citizens and enforce them upon foreign Governments, we shall exercise the same power and enjoy the same success.

Mr. COBURN. I trust the gentleman will allow me to ask him a question in relation to the third section.

Mr. BANKS. Certainly.

Mr. COBURN. I ask him whether a person of foreign birth, who has merely declared his intention to become a citizen of the United States, will not be liable to arrest under this third section?

Mr. BANKS. Not if we have a wise man for President, as I hope we always may have. [Laughter.]

Mr. COBURN. We may have a fool for a President, and I do not suppose the gentleman from Massachusetts wants to discourage emigration.

Mr. BANKS. Certainly not.

Mr. COBURN. I propose to insert after the word "States," in the thirteenth line, these words, "and who has not declared his intention to become a citizen of the United States." A simple-minded man residing in a foreign Government, reading this law as it is proposed, would suppose that he would not be exempted from arrest, even if he had declared his intention to become a citizen of the United States, and would believe that he would be liable to arrest for five years after his residence here, and until his naturalization had become complete. Now, it is not our purpose to arrest those who have declared their intentions to become citizens, nor to frighten foreigners from coming here, and so to exclude such a conclusion I offer this amendment, so that it may be perfectly understood that he who declares his intention to become a citizen shall not be subject to the annoyance of an arrest.

Mr. BANKS. I do not object to the gentleman's amendment being incorporated in the bill. The exercise of the power of the Government in the settlement of questions between individuals rests upon the same principle exactly. In contests between individuals for the possession of property, if left to themselves, there could be no settlement without violence. Therefore the Government steps in and seizes the property and brings the parties into court and adjudicates upon the controversy. The principle embodied in this bill is of the same character. It stands upon the principle which lies at the foundation of all Governments; for unless you have some power to settle controversies which arise between Governments or individuals all security is at an end. The same principle is established in our county courts in the administration of the law. It is the same principle that we propose to establish here for the settlement of controversies between this and foreign Governments. It has been successful when tried before, and it will be successful hereafter.

[Here the hammer fell.]

Mr. PAINE's and Mr. PILE's amendments were agreed to.

The question then recurred on Mr. ELIOT's amendment, as follows:

Strike out these words:

The President is hereby empowered to suspend in part or wholly all commercial relations with such Government; and in case no other remedy is available, to order the arrest and to detain in custody any subject or citizen of such foreign Government who may be found within the jurisdiction of the United States, except ambassadors and other public ministers and their domestics and domestic servants, or who has not declared his intention to become a citizen of the United States.

And in lieu thereof insert the following:

Such delay and refusal shall be regarded as an offense to the United States incompatible with friendly relations toward such foreign Government.

The House divided; and there were—ayes 45, noes 49; no quorum voting.

Mr. INGERSOLL demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 50, not voting 79; as follows:

YEAS—Messrs. Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Beaman, Benton, Broomall, Buckland, Chanler, Cobb, Cook, Dawes, Briggs, Eggleston, Eliot, Farnsworth, Ferriss, Garfield, Hopkins, Jenckes, Johnson, Judd, Kelsey, Ketchum, Koontz, Lawrence, Loan, Logan, Loughbridge, Marvin, Maynard, McClurg, Miller, Morrill, Paine, Perham, Phelps, Plants, Polsley, Robertson, Scofield, Smith, Stone, John Trimble, Upson, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, and Windom—51.

NAYS—Messrs. Adams, Anderson, Bailey, Banks, Beatty, Beck, Broomall, Cake, Cary, Reader W. Clarke, Sidney Clarke, Coburn, Cullom, Donnelly, Ela, Eldridge, Griswold, Harding, Hawkins, Higby, Hotchkiss, Chester D. Hubbard, Hulburd, Ingersoll, Jones, Laffin, Mallory, McCarthy, Mercer, Moorhead, Morgan, Mullins, Myers, Niblack, Nunn, O'Neill, Orth, Pike, Pile, Price, Raum, Robinson, Shanks, Sitgreaves, Spalding, Starkweather, Stokes, Taber, Taffe, Taylor, Trowbridge, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Henry D. Washburn, William Williams, and Stephen F. Wilson—50.

NOT VOTING—Messrs. Allison, Archer, Axtell, Baldwin, Barnes, Barnum, Benjamin, Bingham, Blaine, Blair, Boutwell, Boyer, Brooks, Burr, Butler, Churchill, Cornell, Covode, Dixon, Dodge, Eckley, Ferry, Fields, Finney, Fox, Getz, Glossbrenner, Goldaday, Gravelly, Grover, Haight, Halsey, Hill, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Julian, Kelley, Kerr, Kitchen, Knott, William Lawrence, Lincoln, Lynch, Marshall, McCormick, McCullough, Moore, Morrissey, Mungen, Newcomb, Nicholson, Peters, Poland, Pomeroy, Pruyn, Randall, Ross, Sawyer, Schenck, Selye, Shellabarger, Aaron P. Stevens, Thaddeus Stevens, Stewart, Thomas, Lawrence S. Trimble, Twichell, Van Auker, Van Wyck, Cadwalader C. Washburn, James F. Wilson, John T. Wilson, Wood, Woodbridge, and Woodward—79.

So the amendment was disagreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BANKS. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ASHLEY, of Ohio. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 104, nays 4, not voting 81; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, James M. Ashley, Bailey, Banks, Beaman, Beatty, Beck, Benton, Broomall, Buckland, Cake, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Donnelly, Briggs, Eggleston, Ela, Eldridge, Eliot, Farnsworth, Ferriss, Garfield, Griswold, Harding, Hawkins, Higby, Hill, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburd, Ingersoll, Johnson, Jones, Judd, Kelsey, Ketchum, Koontz, Laffin, George V. Lawrence, Logan, Loughbridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercer, Miller, Moorhead, Morgan, Morrill, Mullins, Myers, Niblack, Nunn, O'Neill, Orth, Paine, Perham, Phelps, Pike, Pile, Plants, Polsley, Price, Raum, Robertson, Robinson, Shanks, Sitgreaves, Smith, Spalding, Starkweather, Stokes, Stone, Taber, Taffe, Taylor, John Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, Stephen F. Wilson, and Windom—104.

NAYS—Messrs. Delos R. Ashley, Baker, Jenckes, and Loan—4.

NOT VOTING—Messrs. Adams, Allison, Archer, Axtell, Baldwin, Barnes, Barnum, Benjamin, Bingham, Blaine, Blair, Boutwell, Boyer, Brooks, Burr, Butler, Churchill, Cornell, Covode, Dawes, Dixon, Dodge, Eckley, Ferry, Fields, Finney, Fox, Getz,



Glossbrenner, Golladay, Gravely, Grover, Haight, Halsey, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Julian, Kelley, Kerr, Kitchen, Knott, William Lawrenco, Lincoln, Lynch, Marshall, McCormick, McCullough, Moore, Morrissey, Mungen, Nowcomb, Nicholson, Peters, Poland, Pomeroy, Pruyn, Randall, Ross, Sawyer, Schenck, Scofield, Selye, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Stewart, Thomas, Lawrence S. Trimble, Twichell, Van Auker, Van Wyck, Cadwalader C. Washburn, James F. Wilson, John T. Wilson, Wood, Woodbridge, and Woodward—81.

So the bill was passed.

During the roll-call,

Mr. TABER stated that Mr. Fox was absent from the House on important business; if present, he would have voted for the bill.

Mr. BROOMALL stated that Mr. KELLEY was necessarily absent on public business.

Mr. ORTH announced that his colleagues, Mr. JULIAN and Mr. HUNTER, were absent on leave; if present, they would have voted for the bill.

Mr. O'NEILL said: I ask that permission be given to those members who are absent to record their votes on this bill.

The SPEAKER. There is no precedent for such a proceeding. No authority was ever given in the whole history of the Government when a bill passed to allow gentlemen afterward to come in and record their votes. Sometimes, by a suspension of the rules under the new rule, such authority has been given, but never in advance.

The result of the vote having been announced as above recorded,

Mr. BANKS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The next business in order is the consideration of House bill No. 370, to prevent the further sale of the public lands of the United States except as provided for in the preemption and homestead laws, and the laws for disposing of town sites and mineral lands. The gentleman who has charge of that bill [Mr. JULIAN] has been called home in consequence of sickness in his family. But the Chair has been informed that two members of this House will be ready to speak upon the bill to-morrow, one in favor of and one in opposition to the bill.

Mr. ROBINSON. I desire to give notice that to-morrow I shall ask the House to vote upon my resolution to recall our managers in the matter of the impeachment of the President.

#### AMENDMENT OF THE BANKRUPT LAW.

Mr. JENCKES. I ask unanimous consent for the Committee on Revision of Laws to report to-morrow, after the morning hour, the bill amendatory of the bankrupt law. Unless it shall have passed both Houses before the 1st of June it will prove unavailing.

Mr. WASHBURNE, of Illinois. I object at this time; though I may not object to-morrow, after I shall have had an opportunity to read the bill.

Mr. JENCKES. Then I move that the rules be suspended, and that the committee be authorized to report the bill at that time.

Mr. MAYNARD. Does the gentleman from Rhode Island [Mr. JENCKES] propose to allow any discussion of the bill?

Mr. JENCKES. I do not suppose any will be necessary.

Mr. ELDRIDGE. I ask consent for the gentleman from Rhode Island to take five minutes to explain the amendatory bill to which he refers.

Mr. WASHBURNE, of Illinois. I object, unless time is allowed to reply to him.

Mr. ELDRIDGE. I think the gentleman from Rhode Island [Mr. JENCKES] can satisfy the gentleman from Illinois [Mr. WASHBURNE] that his bill is a perfectly proper one. It is a bill, as the gentleman from Rhode Island says, of public importance, and perfectly unobjectionable. I ask that he be allowed to state what the bill proposes to accomplish.

Mr. WASHBURNE, of Illinois. This bill, I take it, is like all other bills in that respect. The gentleman from Rhode Island undoubtedly thinks it is a very just bill; I do not know but it may be. But there are very many other just propositions which have equal rights with this one. That is the reason why I object to its being made a special order to the exclusion of everything else.

Mr. JENCKES. I insist upon my motion that the rules be suspended, and that the Committee on Revision of Laws be authorized to report this bill to-morrow after the morning hour.

The question was taken; and upon a division there were—ayes 77, noes 19.

So (two thirds voting in the affirmative) the rules were suspended, and leave granted accordingly.

#### SABINE.

Mr. STARKWEATHER. I ask unanimous consent to submit the following preamble and resolution for consideration at this time:

Whereas the Secretary of the Navy, on the application of certain persons not officially connected with the administration of the Navy Department, recently caused the Sabine, a vessel belonging to the United States Navy, to be detained for several days in the harbor of New London, after said vessel had been ordered out of commission and away from said harbor of New London, at an expense of more than twenty thousand dollars and to the prejudice of the public service: Therefore,

*Be it resolved*, That the Secretary of the Navy be directed to communicate to this House the number of days said vessel was detained and the reason of said detention; the number of men connected with said vessel and the daily and aggregate expense of said vessel and men while thus detained; also, to communicate the entire correspondence that passed between the Navy Department and Hon. Frederick L. Allen, Hon. James Dixon, and Hon. Frederick L. Allen, Hon. James Dixon, and any other person or persons, in regard to this subject, together with a copy of the "descriptive list" of said vessel now in the possession of the Navy Department, and also a copy of all letters and telegrams sent and received in relation to the same; also, a copy of any letter or letters or telegrams relating to this subject exhibited by any person or persons asking for the detention of said vessel for partisan or political purposes, or for other reasons; also, to communicate to this House what representations, verbal or otherwise, were made on this subject.

Mr. ELDRIDGE. If the gentleman from Connecticut [Mr. STARKWEATHER] will modify the preamble of his resolution by striking out the words "and to the prejudice of the public service" I will not object to it.

Mr. STARKWEATHER. I have no objection to striking out those words, although I have no doubt such is the fact.

Mr. ELDRIDGE. I do not want to vote for any such declaration.

The preamble and resolution, as modified, were received by unanimous consent, and adopted.

#### LEAVE OF ABSENCE.

Leave of absence for two weeks was granted to Mr. MARSHALL.

#### ORDER OF BUSINESS.

Mr. SPALDING. I desire to give notice that I shall ask the House to consider to-morrow, after the morning hour, two appropriation bills having reference to benevolent institutions in this District.

#### LIGHTING THE HALL.

Mr. BROOMALL. I call up the motion to reconsider the vote by which the report of the Committee on Accounts relative to lighting the Hall by the galvanic battery now used for lighting the Dome was recommitted. I am willing that this question shall go over till to-morrow morning, if the House desires now to adjourn.

Mr. WASHBURN, of Indiana. If the gentleman will yield, I will move an adjournment.

Mr. BROOMALL. I give way for that purpose.

Mr. WASHBURN, of Indiana. I move that the House adjourn.

The motion was agreed to; and the House (at four o'clock and twenty-five minutes p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CHANLER: A memorial of A. S. Diven, C. W. Durant, E. C. Litchfield, and others, in favor of the New York and Washington railway.

By Mr. EGGLESTON: A memorial of J. W. Jack, praying that \$300 commutation funds may be refunded.

Also, a remonstrance of 98 citizens of Cincinnati, against the extension of Howe's patent on sewing-machines.

By Mr. ELIOT: The petition of Thomas Nye, jr., Joseph C. Delano, and others, merchants and ship owners of Massachusetts, praying for the erection of breakwaters at the entrance of Cuttahunk harbor, in Vineyard sound.

By Mr. FERRISS: The petition and accompanying papers of Levi M. Roberts, a soldier of the war of 1812, praying for increased pension.

By Mr. GARFIELD: The petition of Charles O. Williams, for bounty.

Also, the petition of officers of the Army on the subject of the pay of officers on the retired list.

By Mr. LOAN: The petition of Captain W. B. Hamilton, for an increase of pension.

By Mr. MYERS: The petition of Catharine Payne, mother of Michael Bayne, deceased, late of company A, sixth New Jersey volunteers, for arrears of pension.

By Mr. PHELPS: The petition of the mayor and city council of Baltimore, Maryland, for an appropriation to pay rent for occupation by the United States of La Fayette square, and for compensation for damage to same.

By Mr. SCHENCK: The petition of W. W. J. Kelly, of Florida, praying Congress to remove his political disabilities incurred by reason of his service under the rebel flag.

Also, the petition of John W. Hilt, late captain in the twelfth regiment of Ohio volunteers, praying for arrears of pension.

By Mr. TAYLOR: Four petitions of 150 citizens of Virginia, producers and manufacturers of American sumac, in favor of a specific duty on imported sumac.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, April 21, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. McCARTHY till Monday next.

#### LIGHTING THE HALL.

The SPEAKER. The first business in order is the consideration of the unfinished business pending at the adjournment last evening, being the motion to reconsider the vote by which the report of the Committee on Accounts relative to lighting the Hall by the galvanic battery now used for lighting the Dome was recommitted. On this question the gentleman from Pennsylvania [Mr. BROOMALL] is entitled to the floor.

Mr. BROOMALL. I yield for a few minutes to the gentleman from Ohio, [Mr. GARFIELD.]

Mr. GARFIELD. I ask unanimous consent to report from the Committee on Military Affairs a joint resolution, the passage of which is very desirable, as the subject is being acted on in the Senate.

Mr. PIKE. I object, and call for the regular order.

The SPEAKER. The regular order being called for, the gentleman from Pennsylvania [Mr. BROOMALL] must proceed or surrender the floor.

Mr. BROOMALL. Before the vote is taken on the motion to reconsider I ask that the re-

port of the committee be read. It is short and it sets out all the facts.

The Clerk read as follows:

The Committee on Accounts, who were instructed by resolution of the House of February 22, 1868, to inquire into the expediency and the expense of causing the gas over the Hall to be lighted by electricity from the battery now used for lighting the Rotunda and Dome, make report:

The mode of lighting the gas over the Hall now in use is this:

A pipe, called a carrier tube, about one inch in diameter, in which are inserted at intervals of an inch small jets or burners, passes the burners which light the Hall, and when fire is communicated to the jets at one end it passes from jet to jet and lights the burners.

The proposed mode is to put a wire in the place of the carrier tube and connect it with the galvanic battery used for lighting the Dome, so that the electricity being communicated to the wire will immediately light the burners as soon as the gas is emitted. After careful investigation the committee are of opinion that the following advantages will result from the proposed change:

1. The expense of keeping the carrier tube and jets in order will be saved. This expense is shown to the satisfaction of the committee to be about eight hundred or a thousand dollars a year. There are nine thousand six hundred and seventy jets or small burners in the carrier tube. To prevent the extravagant use of gas these jets are very small, eight of them emitting about a cubic foot of gas per hour. By the decrease of the size of these jets their liability to become obstructed and out of order is increased. The obstruction of a single jet frequently stops the progress of the fire. Two jets together obstructed almost always stops the communication. Hence the jets require frequent cleaning and removing. This constitutes the great item of expense attending it.

The annual cost of the proposed substitute will be very little.

The entire expense of the similar apparatus for lighting the Rotunda and Dome in the way of repairs is about sixty dollars a year.

2. The waste of gas during the time required to light by the carrier tube will be prevented, and the amount used by the carrier tube saved.

The time occupied in lighting is about ten minutes. The amount of gas consumed by the twelve hundred and sixty six-foot burners is about six thousand feet per hour, and that used by the jets about twelve hundred feet, making the amount used by both about twelve hundred feet in ten minutes, costing, at the present rate, \$4 20 per evening.

Assuming the number of evenings during which the Hall is lighted to be thirty per annum, the number during the past year, and the expense saved on this account would be \$136 annually.

3. Much of the gas discharged by both jets and burners during the time of lighting is not consumed, but, as every member of the House knows, is suffered to escape and pervade the atmosphere of the Hall, rendering it for some time not only unpleasant to breathe, but very injurious to health.

4. By the present mode it is necessary for the person lighting the Hall to remain in the place where the lights are during the time of lighting, to attend to the carrier tube, and prevent the flame from stopping, by reason of obstructed jets.

This is not only pernicious to the individual so compelled to breathe the noxious atmosphere, but dangerous both to him and the occupants of the Hall. The effect produced upon him is often that of partial insensibility, and the consequences of falling in such a place may be easily foreseen.

The recent accident, by which a member and an ex-member of the House were injured by the falling of broken glass, was attributed to this cause.

These are the material advantages of the proposed change; and in the opinion of the committee they are sufficient to justify it.

If the proposed mode of lighting should be adopted, the committee would recommend other changes. The present burners are metallic, and hence liable to corrosion. Many of them are already so corroded as to require renewing; probably all of them will require it within the next year. The committee have examined the lava-tipped burners used in the Dome, and are satisfied of their much greater durability than metallic ones, and of their entire freedom from corrosion. It is only while a metallic burner is new that its action is perfect, that the whole of the gas emitted is consumed, and consumed to the best advantage. The lava-tipped burners, on the other hand, remain the same.

From some experiments made by the direction of the committee it has been shown that the horizontal direction of the present burners prevents, to some extent, the proper combustion of the gas, and hence fails to attain all the light of which the gas is capable.

These experiments have shown that twenty-two upright burners placed immediately over the large sash in each of the panels will produce as much light as the twenty-eight horizontal burners placed as they now are.

By this change two hundred and forty-six burners may be saved, and counting six hours to the evening, and thirty evenings to the year, the amount saved would be about one hundred and thirty-seven dollars per annum on this account.

Throwing aside the danger to health and life of the present mode, the committee are of opinion that the actual saving of expense by all the proposed changes would be about one thousand dollars per annum.

The committee further report that the expense of changing the mode of lighting as proposed, and changing the burners and their position, will not exceed \$6,600.

And they believe that this expense will be much more than compensated by the annual saving. On this account, and because the committee are satisfied that the proposed change will conduce to the health and safety of the occupants of the Hall, they recommend the passage of the following resolutions:

*Resolved*, That the Clerk of the House of Representatives be directed to cause the carrier tube now used for lighting the burners of the Hall to be removed, as well as the burners and the pipe in which they are inserted, and to cause a pipe furnished with lava-tipped burners to be placed in the most advantageous position over each panel, and to be so connected with the battery used for lighting the Dome as to be lighted therefrom.

*Resolved*, That the work be done under the direction of the architect of the Capitol extension, and that the expense be paid out of the contingent fund of the House: *Provided*, That the same shall not exceed \$6,600.

The SPEAKER. If there be no objection the recommitment will be reconsidered, and the resolutions reported by the Committee on Accounts will be regarded as pending before the House.

There was no objection.

Mr. MAYNARD. I would like to put a question to the gentleman from Pennsylvania, [Mr. BROOMALL.]

Mr. BROOMALL. I was about to say that I do not wish to occupy the time of the House longer than may be necessary; and any explanation which may be desired might as well be given by answering questions as in any other way.

Mr. MAYNARD. I desire to ask what is the necessity for any action of the House on this subject? From the statements made in the report this change in the mode of lighting the Hall ought obviously to be made. But why cannot the thing be done and paid for out of the contingent fund without any action on the part of the House?

Mr. BROOMALL. It is not entirely clear that under existing laws it can be done without any action of the House. It certainly can be done if these resolutions be adopted. I am not sure that the Clerk has not the power to do it without such action; and he is not sure. But he doubts his power; and inasmuch as there was a doubt the matter was referred to the Committee on Accounts, and these resolutions are the result.

Mr. MAYNARD. Well, then, let the resolutions be passed.

Mr. BROOMALL. If no other gentleman desires information, I will call the previous question.

Mr. MILLER. Will the Hall be better lighted by the method proposed?

Mr. BROOMALL. There is no doubt that the Hall will be better lighted. This has been shown by an experiment which has been made under the direction of the committee with one of the panels.

I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. BROOMALL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### IMPEACHMENT.

Mr. ROBINSON. I submit the following resolution:

*Resolved*, That the resolution of impeachment against Andrew Johnson, President of the United States, passed February 24, 1868, and all the proceedings of this House amendatory thereof, or supplementary thereto, be, and the same are hereby, rescinded, and the managers on the part of the House be recalled from the further prosecution of said impeachment.

Mr. MULLINS. I move that be laid on the table.

Mr. ROBINSON. I have not yielded the floor.

Mr. WASHBURN, of Illinois. Does the Chair decide that to be a question of privilege?

The SPEAKER. He does.

Mr. WASHBURN, of Illinois. I object, then, to its reception.

Mr. ROBINSON. Is it a question of privilege.

The SPEAKER. It is.

Mr. WASHBURN, of Illinois. I object to its reception and consideration at this time.

The SPEAKER. The Chair will have the rule read on the subject.

Mr. ELDRIDGE. How can the gentleman from Illinois object to a question of privilege?

Mr. ROBINSON. And I have not yielded the floor.

The SPEAKER. The Clerk will read the rule from page 71 of the Digest.

Mr. ROBINSON. I did not yield for any motion.

The SPEAKER. The gentleman from Illinois objects to it as a question of right.

The Clerk read as follows:

"When any motion or proposition is made, the question, 'Will the House now consider it?' shall not be put, unless it is demanded by some member or is deemed necessary by the Speaker."

"RULE 41.—And it is competent for a member to raise the question of consideration upon a report even though a question of privilege is involved in the report.—*Journal*, 1, 35, pp. 1083, 1085.

"But after a question has been stated and its discussion commenced, it is too late to raise the question of consideration."—*Journal*, 1, 17, pp. 296, 297.

The SPEAKER. This has been the ruling previously in the House, and the Chair will have read the decision of Mr. Speaker Orr, in the first session Thirty-Fifth Congress, in a case of the highest privilege, the right of a member to a seat upon this floor.

The Clerk read as follows:

"Mr. Thomas L. Harris having proposed to call up the report of the Committee of Elections in the case of W. Pinckney Whyte, contesting the right of J. Morrison Harris to a seat in the House from the State of Maryland, Mr. Israel Washburn, Jr., demanded that the question be put, 'Will the House now consider it?' Mr. Thomas L. Harris made the point of order that the said report being a question of privilege, it was not competent for a member to raise the question of consideration. The Speaker overruled the said point of order, and decided that under the fifth rule of the House it was competent for a majority, upon the demand of a member, to determine whether they would now consider the report."

The SPEAKER. From the decision of Mr. Speaker Orr Mr. Houston, of Alabama, appealed; and Mr. ELIUS B. WASHBURN, of Illinois, moved that the appeal be laid upon the table; and the question being put it was decided in the affirmative—yeas 124, nays 66. That settled the parliamentary construction of the rule which is now the forty-first rule.

The reason for this rule is obvious. A member might move that the gentleman from Illinois or the gentleman from New York should be expelled from the House and then claim the right to make a speech before the House decided whether it should consider the question or not. The ruling of Speaker Orr was no doubt correct.

Mr. ROBINSON. I have no doubt the proceedings in the other House will soon induce this House to adopt my resolution.

Mr. ELDRIDGE. Can the gentleman from New York be taken from the floor?

The SPEAKER. He certainly can. And the Chair will refer the gentleman from Wisconsin to a decision made by Mr. Speaker Barbour, of Virginia, in the Seventeenth Congress. It will be found on page 296 of the *Journal* of the first session of the Seventeenth Congress, where Mr. Whitman offered resolutions in regard to the disposition of the documents accompanying President Monroe's message on the 28th of January:

"Which being read, Mr. Whitman then proceeded in his argument until Mr. Rhea demanded that the question be put, 'Will the House now consider it?' which demand was declared out of order, for that it had not been deemed necessary by the Speaker nor demanded by any member until the mover had proceeded to discuss his resolutions and was actually discussing them.

"From this decision of the Chair Mr. Nelson, of Virginia, appealed to the House.

"And on the question, 'Is the decision of the Speaker correct?' (which was the way then of taking an appeal) it passed in the affirmative."

The ruling, therefore, was made by that decision of the Seventeenth Congress that the point as to the consideration of a resolution or report must be made instantly upon its presentation, and not after the discussion has commenced.

Mr. ROBINSON. I raise this point of order. Perhaps I have not distinctly heard everything that the Speaker read and said. But is it in order for the gentleman from Illinois, when a member is upon the floor, to take the floor from him without his consent and raise such a question as this?

The SPEAKER. That is exactly what the rule says.

Mr. ROBINSON. I did not hear it distinctly, but I will not ask the Speaker to read it again.

The SPEAKER. The construction of two Congresses on appeals from the decision of the Speaker has settled the question that this point can be made when a member is upon the floor, and must be made when the resolution or report first comes before the House.

Mr. ROBINSON. Although I did not hear the exact point, if that is the decision I am content.

The SPEAKER. The Chair will state as a matter akin to this that during the morning hour on Mondays members are authorized to introduce bills and joint resolutions for reference, and yet in the Thirty-Ninth Congress it was decided that this point could be made after granting leave to a member to bring in a bill for reference; and on the yeas and nays once in the Thirty-Ninth Congress the House refused to allow a member to introduce a bill at the time it was presented. That case is akin to this. The question is "Will the House now consider the resolution?"

Mr. ROBINSON. Having been overruled, I wish to avail myself of all the privileges of the House, and I demand the yeas and nays on that question.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 18, nays 93, not voting 78; as follows:

YEAS—Messrs. Archer, Beek, Boyer, Cary, Eldridge, Glossbrenner, Hotchkiss, Johnson, Jones, Mungen, Niblack, Phelps, Robinson, Sitgroves, Stewart, Stone, Taber, and Van Trump—18.

NAYS—Messrs. Ames, Anderson, Dolos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Beaman, Beatty, Bromwell, Broomall, Buckland, Calk, Reader W. Clarke, Cobb, Coburn, Cook, Covode, Curllom, Dawes, Dixon, Donnelly, Briggs, Eggleston, Eli, Eliot, Farnsworth, Ferriss, Garfield, Gravelly, Griswold, Harding, Higby, Hill, Hopkins, Chester D. Hubbard, Hubbard, Ingersoll, Jenekes, Judd, Kelsey, Ketchum, Keontz, Laffin, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Price, Raum, Robertson, Seofield, Shaunks, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Talle, Taylor, John Trimble, Trowbridge, Unson, Van Aernam, Bart Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Walker, William Williams, James F. Wilson, and Windom—93.

NOT VOTING—Messrs. Adams, Allison, Arnell, Axtell, Baldwin, Barnes, Barnum, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Brooks, Burr, Butler, Chandler, Churchill, Sidney Clarke, Cornell, Dodge, Eckley, Ferry, Fields, Finney, Fox, Getz, Golladay, Grover, Haight, Halsey, Hawkins, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Julian, Kelley, Kerr, Kitchen, Knott, George V. Lawrence, William Lawrence, Lincoln, Marshall, McCormick, McCullough, Morgan, Morrissey, Newcomb, Nicholson, Nunn, Peters, Poland, Polsley, Pomeroy, Pruyn, Randall, Ross, Sawyer, Schenck, Selye, Shellabarger, Aaron F. Stevens, Thomas, Lawrence S. Trimble, Twichell, Van Auker, Van Wyck, Cadwalader C. Washburn, Thomas Williams, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—78.

So the House refused to consider the resolution.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MANAGERS OF IMPEACHMENT.

Mr. PHELPS. I rise to a question of privilege, and submit the following preamble and resolution for consideration at the present time:

Whereas there appeared in the Baltimore American newspaper of the 15th of April, 1868, the following paragraph:

"General Sherman before the Managers.

"Lieutenant General Sherman was before the impeachment managers for a considerable time, and

was very minutely examined in relation to his interviews with the President at the time of the proffer of the War Department to him. It is understood that the declination of General Sherman to proceed with the cross-examination of General Sherman yesterday was in view of this preliminary examination of General Sherman this morning."

And whereas "false and scandalous reports of proceedings in this House"—"charges affecting the official character of its members," and "alleged combinations on the part of certain members," as questions of high privilege, demand that such indecent imputations are contained in the above-recited paragraph upon the official conduct of the honorable managers appointed by the House of Representatives to conduct the trial of the impeachment of the President at the bar of the Senate of the United States should not be promulgated without proper action on the part of this House to vindicate the reputation of its officers and its own dignity:

Resolved, That a committee of three be appointed to inquire into the truth or falsity of the imputations conveyed in the above-recited paragraph, with power to send for persons and papers, and to report what action, if any, should further be taken in the premises.

Mr. WASHBURNE, of Illinois. I rise to a question of order, that this is not a question of privilege.

The SPEAKER. The Chair will rule that this is not a question of privilege, and will state his reasons. Although the gentleman from Maryland [Mr. PHELPS] has noted upon his resolution references to pages 154 and 155 of the Digest, which relate to questions of privilege, if he will examine the authorities there quoted he will find that the charges are not to be general charges. If a charge is made by a newspaper affecting the official character of a member of this House, that would be a question of privilege. If an attack should be made by the Public Printer, and the Chair would add, by the publisher of any paper, in an article alleged to be for the purpose of inciting unlawful violence upon members, that would be a privileged question, because relating to the privileges of the House. If alleged corrupt combinations on the part of certain members were presented, those would be questions of privilege. But the corrupt combination must be charged, and the statement of the corrupt combination must be incorporated in the resolution. In the extract which the gentleman has quoted in his resolution, and which the Chair will again read, upon which extract the gentleman bases his demand that this shall be considered a question of privilege, it is stated that—

"Lieutenant General Sherman was before the impeachment managers for a considerable time, and was very minutely examined in relation to his interviews with the President at the time of the proffer of the War Department to him. It is understood that the declination of General Sherman to proceed with the cross-examination of General Sherman yesterday was in view of this preliminary examination of General Sherman this morning."

The Chair is unable to see how, even by the utmost stretching of the rule, that could be construed into a question of privilege. But if the gentleman from Maryland desires it the Chair will submit the question to the House whether this is or is not a question of privilege.

Mr. PHELPS. I would like to have that question presented to the House, as in my judgment it is clearly within the clause of the rules relating to matters affecting the character of members. The paragraph quoted mentions one of the honorable managers by name. He is said to have declined to cross-examine a witness publicly before the Senate and the country, in order that he and his co-managers might have an opportunity to cross-examine him privately, without that publicity which would be had in a court of justice; in other words, that they might probe the witness and see whether it was safe to venture upon a public cross-examination of him.

The SPEAKER. The Chair has now heard the gentleman from Maryland, [Mr. PHELPS], and will decide against him on two grounds: the first ground is that, in the action quoted in this paragraph, the managers did exactly what the House of Representatives instructed them to do, when it authorized them to send for persons and papers and take the testimony of witnesses. That they had a perfect right to do. In the second place, if this proposition could be entertained as a question of privi-

lege, the House of Representatives would or could have resolutions upon questions of privilege before them every day, because probably not a day elapses without some newspaper in the country making a general charge against the Congress of the United States or some of its members. These charges must be specific charges. A general charge that some conduct has been scandalous and unjust, the Chair will rule, is not a question of privilege, unless the gentleman from Maryland desires to have that question submitted to the House.

Mr. PHELPS. I would prefer to have the decision of the House on the question.

The SPEAKER. In accordance with the request of the gentleman from Maryland, the Chair will submit to the House the question, "Will the House entertain this resolution as a question of privilege?"

Mr. PHELPS. On that question I call for the yeas and nays.

On ordering the yeas and nays there were—ayes fourteen, noes not counted.

Mr. PHELPS. I call for tellers on ordering the yeas and nays.

Tellers were not ordered; there being—ayes fourteen.

So the yeas and nays were not ordered.

The vote being taken on the question, "Will the House entertain the resolution as a question of privilege?" it was decided in the negative.

Mr. ELDRIDGE. I ask unanimous consent that the House consider the resolution and appoint the committee without any debate upon the question.

Mr. KELSEY. I object.

#### SAFETY OF STEAM TRAVEL.

Mr. JOHNSON, by unanimous consent, introduced a bill (H. R. No. 1022) amendatory of the tenth section of the act of July 25, 1866, entitled "An act to further provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes;" which was read a first and second time, and referred to the Committee on Commerce.

#### GOVERNMENT CONTROL OF TELEGRAPHS.

Mr. INGERSOLL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads are hereby instructed to inquire into the expediency of securing to the General Government the exclusive control of all telegraphs within the United States, and that they report by bill or otherwise.

#### REPORT ON FREEDMEN'S AFFAIRS.

Mr. PAINE, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved, That five thousand extra copies of the report of the Committee on Freedmen's Affairs be printed for the use of the members of the House of Representatives.

#### EXTENSION OF FRANKING PRIVILEGE.

Mr. DRIGGS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Post Office and Post Roads be, and hereby is, instructed to inquire into the expediency and propriety of reporting a bill to this House extending the franking privilege through the United States mails to the heads and members of the legislative branches of such foreign Governments as shall extend by law the same privilege to the members of the Government of the United States.

#### MESSAGE FROM THE PRESIDENT.

Several messages in writing from the President of the United States were presented by Mr. W. G. MOORE, his Private Secretary, who also announced that the President had on the 11th instant approved and signed a bill and joint resolution of the following titles:

An act (H. R. No. 881) refunding duties paid under protest on the importation from France of a bell donated for the use of St. Mary's Institute and Notre Dame University, Indiana; and



Joint resolution (H. R. No. 217) for the relief of Beals & Dixon.

#### ORDER OF BUSINESS.

The SPEAKER. The first business in order during the morning hour is the call of committees for reports, commencing with the Committee on Appropriations.

The reports were presented from the Committee on Appropriations.

The SPEAKER. The next committee in regular order would be the Committee on Banking and Currency; but that committee on the 28th of January last exchanged places by unanimous consent with the Committee on Naval Affairs, who are, therefore, entitled to the two morning hours of the Committee on Banking and Currency.

#### STEAM FRIGATE JAVA.

Mr. PIKE, from the Committee on Naval Affairs, reported back adversely a joint resolution (H. R. No. 178) to finish the steam frigate Java; which was laid on the table.

#### PILOTS.

Mr. PIKE also, from the Committee on Naval Affairs, reported back adversely a petition of pilots of the Mississippi squadron, and a petition of E. H. Baldwin and others, pilots in the United States Navy, praying for relief; which were laid on the table.

#### ASA WEEKS.

Mr. PIKE also, from the Committee on Naval Affairs, reported back adversely a memorial of Asa Weeks, of Minnesota, praying for the purchase by the Government of an invention for exploding torpedoes under water; which was laid on the table.

#### NAVAL OFFICERS VISITING THE CAPITAL.

Mr. PIKE also, from the Committee on Naval Affairs, reported back adversely joint resolution (H. R. No. 3) in regard to naval officers visiting the capital; which was laid on the table.

#### SUSPENDING WORK ON WAR VESSELS.

Mr. PIKE also, from the Committee on Naval Affairs, reported back adversely a resolution explanatory of the resolution adopted November 25, 1867, in reference to suspending work on war vessels; which was laid on the table.

#### NAVAL ACADEMY.

Mr. PIKE also, from the Committee on Naval Affairs, reported back adversely a petition of the assistant professors of the Naval Academy for increase of pay; which was laid on the table.

#### PROMOTION OF NAVAL OFFICERS.

Mr. PIKE also, from the Committee on Naval Affairs, reported back adversely a bill (H. R. No. 196) concerning the promotion of officers who have been restored to the active list in the United States Navy; which was laid on the table.

#### LIFE-BOAT STATIONS ON NEW JERSEY COAST.

Mr. PIKE also, from the Committee on Naval Affairs, reported back a petition of citizens of New Jersey, for a change of the district and superintendents of life-boat stations on the coast of New Jersey, and moved its reference to the Committee on Commerce.

The motion was agreed to.

#### DISMAL SWAMP CANAL COMPANY.

Mr. PIKE, from the same committee, made an adverse report on House joint resolution No. 170, in reference to stock held by the United States in the Dismal Swamp Canal Company; and the same was laid on the table.

#### ADVERSE REPORTS.

Mr. PIKE, from the same committee, made adverse reports in the following cases; and the same were laid on the table:

Petition of William H. Bolton, United States Navy, for payment for clothing lost at sea;  
Petition of Ira Neville, mate of steamboat

Lancaster No. 3, praying portion of prize money awarded to vessels for destruction of four rebel craft at Memphis in June, 1867;

Petition of assistant professors of Naval Academy, for increased pay;

Petition of William B. Whiting, praying that the grade of admiral on the retired list be created and conferred upon Rear Admiral Charles S. Stewart;

Petition of Eliza Hudson and others, relative to pensions for widows of naval officers; and

Petition of workingmen in the navy-yard, relative to repeal of House resolution recommending suspension of work in the navy-yards.

#### WASHINGTON NAVY-YARD.

Mr. BANKS. What is it that the committee reports in regard to the Washington navy-yard?

Mr. PIKE. We report adversely on the petition asking for the repeal of the resolution passed by the House in regard to the construction of naval vessels.

Mr. BANKS. Does the committee propose any action in regard to that resolution?

Mr. PIKE. It does not.

Mr. BANKS. Am I to understand that the object of the petitioners is substantially complied with?

Mr. PIKE. We report adversely on the petition. I will state to the House how the matter stands. A resolution passed this House early in December that in the judgment of this House further work should not be done in equipping or constructing ships of war. The petition from the Washington navy-yard asks that resolution shall be rescinded so far as regards that yard. The committee report adversely on that petition.

Mr. BANKS. Do I understand the gentleman to say that the committee intend to report in favor of the resolution hereafter?

Mr. PIKE. I have not said so. We want the resolution to stand as it is.

#### TREVETT ABBOTT, UNITED STATES NAVY.

Mr. PIKE, from the Committee on Naval Affairs, reported back Senate bill No. 358, providing for the restoration of Lieutenant Commander Trevett Abbott, United States Navy, to the active list of the Navy, with the recommendation that it do pass.

The bill directs the Secretary of the Navy to order Trevett Abbott, lieutenant commander in United States Navy on the retired list, before the retiring board of the Navy for examination, and if on examination he be pronounced morally, professionally, and personally competent for active service, then the Secretary of the Navy is authorized to restore him to the active list with the same grade as if he had not been retired.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PIKE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### POWDER MAGAZINES.

Mr. PIKE, from the same committee, also reported back Senate joint resolution No. 118, for the appointment of a commission to select suitable locations for powder magazines, with the recommendation that it do pass.

It directs the Secretary of the Navy to select three competent officers of the Navy to constitute a commission, whose duty it shall be to examine and report on the practicability of securing more suitable sites for powder magazines than those now used in the vicinity of New York, Boston, and Portsmouth, New Hampshire; and also to report the cost of procuring said sites and of erecting powder magazines thereon.

The joint resolution was ordered to a third reading, and it was accordingly read the third time, and passed.

Mr. PIKE moved to reconsider the vote by which the joint resolution was passed; and

also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### GEORGE W. DOTY, UNITED STATES NAVY.

Mr. PIKE, from the same committee, reported back Senate joint resolution No. 126, for the relief of George W. Doty, a commander in the United States Navy on the retired list, with the recommendation that it do pass.

The joint resolution directs that the name of George W. Doty, commander in the United States Navy, be placed in the Navy Register as commander from 16th July, 1862, the date of his commission.

The joint resolution was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PIKE moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JOHN S. CUNNINGHAM.

Mr. PIKE, from the same committee, reported back, with the recommendation that it do pass, the bill (S. No. 416) for the relief of John S. Cunningham, paymaster United States Navy.

The bill directs the proper accounting officers of the Government, in the settlement of the accounts of John S. Cunningham, paymaster United States Navy, to allow a credit to him of \$1,671 07, the amount of public money stolen from the money chest of the United States frigate Colorado while said chest was under his charge.

Mr. MAYNARD. Is there a report?

Mr. SPALDING. I would like to hear the report in this case.

Mr. PIKE. A report accompanies the bill, and I ask that it be read. It is a matter of \$1,600, and the report explains it.

The report was read. It sets forth that John S. Cunningham is a paymaster in the Navy, and during the years 1865 and 1866 was fleet paymaster on board the United States frigate Colorado, flagship of the United States European squadron. Between the months of August, 1865, and February, 1866, the safe in which he kept the public money on board that ship was repeatedly opened by Riley and Watts, two seamen belonging to the ship, and money was abstracted therefrom, said by Paymaster Cunningham to amount to \$1,671 07, for which robbery, after trial and conviction, the prisoners themselves confessing the acts, the said Riley and Watts were sentenced to five years' imprisonment and a forfeiture of all pay and allowances due or to become due to them. It does not appear that the petitioner was in any way careless or remiss, and the committee recommend the passage of the bill for his relief.

Mr. UPSON. I would like to inquire whether there is any other evidence as to the amount of the loss except the statement of the claimant?

Mr. PIKE. There is none.

Mr. UPSON. Is it not rather a loose rule to take his word for the amount?

Mr. PIKE. I will state in relation to this matter that this loss occurred on board the steamship Colorado. The money was taken from the chest from time to time by means of false keys by two seamen, and the theft was discovered by one of the confederates confessing it to the surgeon. It seems that Paymaster Cunningham discovered from time to time that money had been taken. He is, by the testimony of all his associates, a very careful man, careful in the management of the money and of the safe, which was, of itself, of a very poor quality. This thing ran along for some months, and finally, by a confession made to the surgeon, it was discovered who the parties who stole the money were. They were then arraigned and tried by court-martial; the men were convicted, and the judgment of the court having been approved by Admiral Goldsborough, they are now serving out their sentence. Under these circumstances this sum of money

was lost. The paymaster's books show that some money was lost; but, of course, it is necessary to repose a degree of confidence in the character of the paymaster in order to ascertain the exact sum. To that extent the House is called upon to trust Paymaster Cunningham, who is a man of exemplary character, of very high personal consideration among his associates, well known here in Washington for a long period of years, and recommended by everybody who has known him as a gentleman of entire honesty. The Navy Department and the accounting officers of the Treasury have no doubt of the facts, but they have no authority to make the allowance, and this bill authorizes them to make the allowance. The bill has passed the Senate, and it is under these circumstances that the House is asked to pass it.

Mr. COBB. I would like to ask the gentleman a question?

Mr. PIKE. Certainly.

Mr. COBB. Was there any evidence before the committee fixing the amount of the money stolen?

Mr. PIKE. That was precisely the question of the gentleman from Michigan.

Mr. COBB. Was there any evidence to show that these men confessed to having taken any specific amount?

Mr. PIKE. These men confessed to having taken money from time to time, and when the vessel was in foreign ports they went on shore and spent the money.

Mr. COBB. I wish to inquire whether the records of the court-martial have been before the Committee on Naval Affairs?

Mr. PIKE. There is a statement with the papers in relation to the court-martial.

Mr. COBB. Have the committee had the record of the court-martial before them?

Mr. PIKE. They have examined the record of the court-martial.

Mr. COBB. The gentleman will pardon me for interfering to ask these questions when I state that the only interest I take in the matter is that there are a great number of similar cases now before the Committee of Claims, all of which we have deemed it to be our duty to examine with great minuteness and caution, and I do not wish to see a precedent set here in this case which it could be urged upon us to follow in those cases which are before the Committee of Claims.

Mr. PIKE. I was mistaken; here is a record of the court-martial.

Mr. COBB. I would like to hear read, either by the gentleman from Maine [Mr. PIKE] or by the Clerk of this House, what evidence there is of the specific sum which was stolen. Or I would ask if the amount is made up only from the books of this paymaster showing what was deficient?

Mr. PIKE. As I stated in reply to a similar inquiry from the gentleman from Michigan, [Mr. UPSON,] there is no specific sum proved to have been stolen. The charge is this:

"In this, that the accused did, on one or more occasions, between the months of August, 1865, and February, 1866, as principal or accessory, thieves from the iron chest in the ward-room of this ship, in which chest public money in charge of Paymaster John S. Cunningham was there kept, a sum or sums of money."

Mr. SCOFIELD. I would like to ask the gentleman from Maine [Mr. PIKE] a question.

Mr. PIKE. Very well.

Mr. SCOFIELD. I understand the gentleman to say that there is nothing in the papers before the committee which indicates the specific sum lost. Now, I would like to know how the committee came to report a specific sum in this bill. Do they guess at it, or how do they get at it?

Mr. PIKE. I have frankly stated to the House, for I have no motives for concealment in this case, that there is no testimony before the committee in relation to the precise sum. In regard to that sum the House must take the statement of the paymaster, and rely upon his character and honesty.

Mr. MAYNARD. Will the gentleman allow me to ask him a question?

Mr. PIKE. Certainly.

Mr. MAYNARD. Will the gentleman state whether there appears in the record the statement of the paymaster, either made under oath or by report to the Department?

Mr. PIKE. It does.

Mr. MAYNARD. If this paymaster were suing a common carrier or a landlord for money abstracted, his statement would be accepted as satisfactory in regard to the amount taken, it being proved *abunde* that some amount was taken. It seems to me that we should not here exact a more rigorous measure of evidence than would be required in a litigation between individuals.

Mr. SCOFIELD. Does the gentleman mean to state that such is the law?

Mr. MAYNARD. I do.

Mr. SCOFIELD. I know it is the rule of law, so far as clothing and ordinary baggage is concerned; but it is not the rule so far as money is concerned. An express company or common carrier is not liable for money carried by them unless a specific statement is made of the amount claimed.

Mr. PIKE. I do not wish to rest this simply upon character.

Mr. MAYNARD. Will the gentleman allow me a moment?

Mr. PIKE. Certainly.

Mr. MAYNARD. I believe it is universally held, so far as I am aware, that a party may be allowed to state the amount of money, where it is a sum not incommensurate with the necessities of personal expenditure. In some courts they have gone even further than that and allowed the statement to extend generally.

Mr. PIKE. I have here the statement of the surgeon of the ship, from which I read as follows:

"That some time before the discovery of the robbery by (Paymaster John S. Cunningham) had expressed his want of confidence in the safe as to its security; that my state-room was in the near vicinity of the safe, and that I never saw any other person visit it but himself, and that on such occasions I always observed that he assured himself of its fastness before leaving it; that there was no guard kept at the ward-room doors during the night, and that persons might enter it and tamper with the safe when the officers were in their several state-rooms and asleep, without necessarily attracting observation; that for some time the stationary light of the ward-room was unlit during a part of the night, when that apartment was in darkness; that Paymaster Cunningham was always careful and anxious of his charge, and under the circumstances he does not appear to me to be at all accountable for the robbery of the safe."

Then, here is a statement of the officers of the ship Colorado in relation to the general character of the paymaster:

"We, the undersigned, officers of the United States ship Colorado, attached to said vessel at the time of the robberies of the safe of Paymaster Cunningham, in the year 1866, and acquainted with the circumstances connected therewith, do hereby attest our belief that the said robberies were not in any way due to negligence or want of proper precautions on the part of Paymaster Cunningham. We also believe the said robberies to have been systematically planned by experts and executed in spite of the usual precautions adopted on board ship for the protection of public property."

This is signed by the fleet surgeon, the captain, the engineer, and all the other officers of the ship.

Now, I will say that, except by the passage of such a bill as this, there is no possible way in which this applicant can be relieved. This is not like the case of a man outside of the Government service proposing to prove by his own testimony that the Government owes him a large sum of money. Nor is it like a case in which a man proposes to prove by his own testimony the loss of a bond for which he seeks reimbursement. It is no such case. Here is the case of a disbursing officer of the Government suffering a loss by robbery while engaged in the proper discharge of his duties as such disbursing officer. He is proved to have exercised all due and proper vigilance. There is no way in which the exact amount of the loss can be proved *abunde*. Thieves, by the use of false keys, abstract from day to day or from week to week small sums of money from the safe of this paymaster. He misses the money from time to time, but is unable to account for the

deficiency. He watches carefully, and finally by the confession of these men the robbery is ascertained. In order to fix the precise sum of money abstracted we are obliged to trust to the honor and honesty of this man.

Mr. MILLER. Does not the disbursing officer state in his affidavit the exact amount of money that he lost?

Mr. PIKE. Yes, sir.

Mr. MILLER. Then I would merely remind gentlemen that an act of Congress has been passed making the evidence of parties competent evidence, and, if not contradicted, sufficient evidence in the courts of the United States. This corresponds with the law in a number of the States of this Union.

Mr. PIKE. I suppose there is no question as to the competency of the testimony in this case.

Mr. WELKER. I would like to ask the gentleman from Maine a question. How long before this robbery had this paymaster settled his accounts?

Mr. PIKE. He did not settle his accounts till after the return of the ship last July, and the robbery occurred previous to that time.

Mr. WELKER. How long previous was his last settlement—a year or six months?

Mr. PIKE. It was before the sailing of the ship. The Colorado was the flag-ship.

Mr. WELKER. How long was she gone?

Mr. PIKE. Two years, I should think.

Mr. WELKER. Does the bill propose to balance up the paymaster's account so as to cover the deficiency in the account at the time when the robbery occurred?

Mr. PIKE. There was no appearance of a deficiency in the account.

Mr. WELKER. Is it proposed to credit him with this sum of money so as to square his account with the Government?

Mr. PIKE. In reply to that, I will say that previous to this abstraction the paymaster's accounts did balance.

Mr. WELKER. How long before?

Mr. PIKE. Immediately previous. During the time when the abstractions were going on the accounts, of course, would not balance. These paymaster's books, like the books of other disbursing officers, are balanced from day to day.

Mr. WELKER. How does the gentleman know that the accounts balanced previous to the robbery?

Mr. PIKE. From testimony—the only way in which we can know anything of this kind.

Mr. WELKER. From whose statement?

Mr. PIKE. From the paymaster's statement and from the books themselves.

Mr. WELKER. I make this suggestion, not because I mean to intimate that there has been anything wrong in this man's accounts, but because it would be very easy in squaring these accounts of public officers to say that a certain loss or robbery just covers the amount of the deficiency. Hence in examining a matter of this kind a committee should be careful not to be misled by statements, unsupported by evidence, as to the amount actually abstracted.

Mr. BANKS. Will the gentleman allow me a moment?

Mr. PIKE. Certainly.

Mr. BANKS. I desire to say that in this case it is impossible to obtain evidence of the amount of money stolen unless the testimony of the paymaster shall be taken. That testimony is given, as I understand, under oath, and he is known to many gentlemen of this House who will not believe that under any circumstances whatever he could be induced to commit perjury. The men who committed this robbery were unable to state the amount of money stolen. They confess that they had opened the safe several times and that money had been taken, but it is not in their power, so it appears, to state the amount that they took.

Mr. WELKER. Is the paymaster's affidavit on file?

Mr. BANKS. So I understand.

Mr. PIKE. The paymaster's full statement

is on file, but whether under oath or not I do not know.

Mr. BANKS. Here is a statement of the manner in which this discovery was made. It shows conclusively on its face that it is a true statement.

Mr. COBB. Mr. Speaker, I make the suggestion whether it is not better that this bill should be referred to the Committee of Claims. We have now before that committee claims of this character from paymasters in the Army, internal revenue officers, and many other officers who disburse public money, asking for relief of this character. We have endeavored to mature a uniform provision of law in regard to all such claims. If we adopt one system for naval officers, another for Army officers, and still another for internal revenue officers, it seems to me it will lead to confusion. It will not only lead to great confusion, but, sir, injustice will be done to some of these officers, if indeed injustice will not be done to the Government. If the gentleman from Maine will yield to me I will move that the bill be referred to the Committee of Claims, to which committee all such claims have been referred.

Mr. PIKE. I cannot yield for that purpose.

Mr. STARKWEATHER. Mr. Speaker, this claim seems to have been fairly investigated by the Committee on Naval Affairs, and therefore I do not see any propriety in taking it away from the action of that committee and referring it to the Committee of Claims. I am surprised that the gentleman from Wisconsin should suggest such a course when the Committee of Claims, as it is admitted, have now before them more claims than they can investigate during this session of Congress. The Committee on Naval Affairs have investigated this claim, and reported that it is just and should be allowed. Now, one word in regard to this matter. It seems to me that we have all the evidence in this case we can have in any case; and if Congress is to pay any claim proved to be just and proper then it ought to pay this claim. If it does not mean to pay any of these claims, if the Government can afford to say that it will not pay any of these claims, however just they may be, and will refuse to act on them, then this, as well as other just cases, will be rejected; but, sir, if we pay any class of cases of this kind then we ought promptly to pay this one. It has been investigated, and the committee has reported in favor of it; and I hope, therefore, that it will be passed.

Mr. UPSON. I desire to ask the gentleman from Maine a question.

Mr. PIKE. I have other important business, and I cannot yield further. I wish only to make a remark. Here is the whole length and breadth of this case. No committee can supply the want of testimony, neither this nor any other committee, and the House must trust to this extent to the committee. It seems to me it is not fair to take this small amount from a worthy officer, a man of high character; but if it is to be done let the bill be voted down and not referred to another committee, and still further postponed. I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. PIKE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NAVY AND MARINE CORPS.

Mr. PIKE also, from the Committee on Naval Affairs, reported a bill (H. R. No. 1023) to amend certain acts in relation to the Navy and Marine corps; which was read a first and second time.

The bill was read at length. The first section provides that from and after the passage of this act the Marine corps shall consist of the number of officers, non-commissioned officers, and musicians authorized by the act

for the increase of the Marine corps of the United States, approved March 2, 1847, and the acts previous thereto, and of fifteen hundred privates, and repeals all acts and parts of acts inconsistent herewith; provided that the commissions of officers now in the Marine corps shall not be vacated by this act, but no appointment shall be made in any of the grades of said corps until the number in said corps is reduced below the number herein provided for each of said grades.

The second section provides that no appointment of engineers shall be made in either of the grades of said corps until the number is reduced below that provided in the first section of the act to regulate the appointment and pay of engineers in the Navy of the United States, approved August 31, 1842, and the number so authorized shall be based upon the number of steamships in commission. And it also abolishes the grade of third assistant engineer.

The third section repeals the second section of an act entitled "An act to increase the pay of midshipmen and others," approved March 3, 1865, and the ninth section of an act entitled "An act to amend certain acts in relation to the Navy," approved March 2, 1867; provided the repeal of said section shall not be construed to increase the pay now allowed by law to officers promoted in accordance with its provisions.

The fourth section repeals all acts and parts of acts authorizing the appointment of temporary acting officers in the Navy.

Mr. PIKE. Mr. Speaker, I am asked to explain this bill, and I will do it very briefly. I wish to call the attention of the distinguished gentleman from Illinois [Mr. WASHBURN] to this bill, and to remind him of the expression of a doubt by him in the discussion which occurred here a month or two ago in relation to the purpose of the Naval Committee, when he attempted to make a partial reform in the management of our naval ships, and he was replied to at the time that the Naval Committee had in preparation a bill which would be very much more thorough. I now call his attention to this bill.

The first section provides for reducing the rank and file of the Marine corps to fifteen hundred men. It is now three thousand men. At the beginning of the war the number was fixed by law at two thousand, although the actual number was only between fourteen hundred and fifteen hundred. By the law of 1861 the number was increased to twenty-five hundred, and by the act of the Executive without law it was increased to about thirty-five hundred. It was proposed, I think, by the gentleman from Illinois to reduce the Marine corps to twenty-five hundred men. Upon full consideration the Committee on Naval Affairs have come to the conclusion that it should be reduced to fifteen hundred men.

This force is in use in our naval vessels as a police force merely, and a large number is not necessary in any one vessel. I believe the number employed on board a vessel is from ten or fifteen up to fifty; and as we have but fifty vessels in the service, it is quite apparent that we do not need as large a number of men as is now authorized by law. It is not thought fair to throw out the officers who now hold commissions in this branch of the service, like other officers in the Army and in the Navy, reckoning upon a life service and abandoning other pursuits to take positions in this corps; and for that reason it has been provided in this bill that the commissions of officers now in the Marine corps shall not be vacated by this act, but that no appointments shall be made in any grade of the corps until the number in the corps is reduced below the number provided by this bill for each grade. The reduction is very rapid from resignation and casualty, both in the Army and in the Navy.

The next section provides that no appointment of engineers shall be made in either of the grades until the number is reduced to a

certain number for each vessel. Before the war we had about one hundred and forty engineers. During the war we had a very large number, and by the last Naval Register I see that about five hundred remain in the service. We need more engineers than before the war; but it is quite apparent that we do not need the large number now employed. The number for each vessel was one chief engineer, two first assistants, two second assistants, and three third assistants. The grade of third assistant engineer it is proposed by this bill to abolish. That will give about two hundred and fifty, which, upon investigation, we think, is about the proper number, as our Navy is now composed wholly of steam vessels.

The next section provides for the repeal of an act in relation to mates, providing that the Department shall be authorized to give sixty dollars a month to mates. It practically proposes to abolish the grade of mates. It is supposed that midshipmen and passed midshipmen can do the duty of this grade.

Another portion of the section provides that an act passed in March last shall be repealed. That act provided that officers on the retired list might be promoted as their dates are promoted on the active list. The result has been to fill up the higher grades of the retired list of the Navy with officers retired long ago and for all manner of reasons. It provided the pay should not be increased above that received by the officer when he was retired. But by some construction of the Attorney General the executive department concludes that these officers ought to have pay according to the rank they now hold. The Secretary of the Navy does not hold to that opinion, and no pay of the promoted grade has heretofore been given to these officers. But it is deemed proper to repeal the act altogether.

Mr. NIBLACK. I would inquire of the gentleman what is the objection to this law of March, 1867, to which he refers, by which officers on the retired list are to have promotion? Why should they not be promoted, if they deserve it, as well as any other class of officers?

Mr. PIKE. I will state to the gentleman from Indiana [Mr. NIBLACK] we have a statute for persons on the retired list besides the statute proposed to be repealed. It provides that their appointment to a higher grade shall be sent to the Senate for confirmation. But under this law of March, 1867, they are promoted as their dates are promoted on the active list. The operation of that law has been, that in one case a passed midshipman was put on the retired list because of insanity, and he has been insane for the last twenty years, yet he has been promoted as his date has been promoted, and he now appears upon the Naval Register as captain. The whole thing is simply absurd. It makes the retired list, which was meant to be a list of worthy officers, a list of men placed there on account of disease, disabilities incurred in service, or old age, what one of the officers of the Navy styles the "Botany Bay" of the Navy.

Mr. HARDING. Will the gentleman yield to me for a few moments?

Mr. PIKE. Certainly.

Mr. HARDING. I would ask the gentleman if he considers that these officers should be retained in the service notwithstanding there is no service for them to perform? Does he hold that, in consequence of having been once commissioned in the naval or Marine corps, they have therefore a life estate in the service? Does the gentleman conceive it to be a hardship or a disgrace that they should be dismissed from the service when there is no longer any service which they can perform? I protest against any such doctrine.

I hold that they are in the public service as all other officers are, to be dismissed when the public exigencies no longer require them. They have no life estate in the corps by reason of once having been commissioned in it. Volunteer officers went into our Army and qualified themselves for the service and fought



bravely; and then went home again and were dismissed from the service without considering it any hardship or disgrace. And so it should be with these men. Let them retire to private life when the service no longer requires them, which they can do with as little disgrace as these other officers.

Mr. PIKE. The gentleman from Illinois [Mr. HARDING] entirely misapprehends my expression as well as the bill itself. I was speaking—and this is the question for the consideration of the House now—in relation to the provision of the act of March 2, 1867, with regard to promotions upon the retired list in the Navy. It is not a question whether these officers shall be retired or not, but whether when they have been retired they shall be promoted. That is the only question.

Mr. HARDING. I understood the gentleman to say that the officers of this corps, embracing three thousand men, are to be retained in service, notwithstanding the reduction.

Mr. PIKE. That is in another part of the bill.

Mr. HARDING. That is the point in reference to which I made inquiry.

Mr. PIKE. In relation to that, as well as in relation to the old officers of the Navy, I am quite sure so generous-hearted a gentleman as my friend from Illinois would not follow out into practice the sentiment he has just expressed.

An old officer of the Navy who has served forty-five years, or come to be sixty-two years of age, has in that time become a part and parcel of the Navy itself. He is an old "sea dog," who knows little of business outside of the Navy, or of obtaining a livelihood in any other way. Would you in the case of a man like that, worn out in the service, say that for the few remaining years of his life he shall not receive even half pay? After he has expended all the energies of his more vigorous manhood in the naval service, would you deny him even the small allowance of half pay, which may afford him some of the necessities and perhaps a few of the comforts of life? Besides, these officers are in many cases very useful for shore service. Many of them are now serving as commandants in our navy-yards and in other valuable service; but many more are on the retired list, like Admiral Stewart, of Philadelphia, who has identified himself in his career with the naval glory of the country. Now, at the age of ninety, he receives the pittance of half pay of the rank he held when he was retired. The gentleman from Illinois certainly would not strike at the commander of Old Ironsides, and leave him entirely without pay?

Mr. HARDING. I desire to say to the gentleman that, whether "generous-hearted" or not, I said no such thing as he imputes to me.

Mr. PIKE. I am very glad of it.

Mr. HARDING. I am surprised that the gentleman misunderstood me. What I said was that I objected to the sentiment that officers holding commissions in this corps, and whose services by reason of this reduction would not be required, shall be retained because they hold commissions. That is the sentiment to which I objected. I have no objections to paying pensions to old and worthy officers—"old sea dogs" or old land dogs, who have served their country faithfully. I would give the last drop in my cup for their comfort in their old age. But, sir, I was speaking of the young officers who have obtained commissions in the exigencies of the last few years, and who now come here exhibiting their commissions and saying, "Though you have nothing for us to do, you must retain us in service till we are old." That I object to.

Mr. PIKE. I am very glad that I misunderstood the gentleman, and that the opinion which he expressed, and which I understood to extend to all officers of the Navy no longer useful, did, in fact, embrace only the Marine corps.

In regard to that corps, as well as to the corps of engineers, it may be said that it reduces itself rapidly by means of resignations

and casualties; so that the sum of money which the Government would save if it should to-day discharge every surplus officer would be very small indeed. It has not been deemed wise by the Committee on Naval Affairs, in reference to either of these corps, as it has not been deemed wise by the House, in reference to the Army, to discharge any of these men who have been partially educated in the public service and at the public expense. But very rapidly these corps will be reduced to the numbers fixed by this bill; and it is hardly worth while for us to attempt anything more in that direction.

Mr. SPALDING. I would like to ask the gentleman one question in connection with this bill. I notice that it proposes to repeal the act of March 3, 1867, entitled "An act for increasing the pay of midshipmen and other officers of the Navy." I wish to know to what extent the repeal of that act will reduce the pay of midshipmen and other officers?

Mr. PIKE. This does not affect the pay of midshipmen. The second section of the act referred to relates only to the pay of mates.

Mr. SPALDING. Is that all that is to be repealed?

Mr. PIKE. Yes, sir.

Mr. SPALDING. So that the pay of midshipmen and lieutenants will not be reduced.

Mr. PIKE. It will not be changed at all. We simply propose to abolish the grade of mate.

Mr. INGERSOLL. You provide for the repeal of the ninth section of the act of March 2, 1867. Now, why do you propose to repeal that provision of the law?

Mr. PIKE. I have just fully explained that.

Mr. INGERSOLL. Then I must have been out. If I understand it I would like to say a word, if the gentleman will allow me.

Mr. PIKE. My time has almost expired, and I am obliged to call the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PIKE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COASTING TRADE AND FISHERIES.

Mr. PIKE. I am directed to report back from the same committee House joint resolution No. 155, in relation to the vessels enrolled and licensed for employment in the coasting trade and fisheries; and I will ask for the previous question.

Mr. SPALDING. I hope the previous question will not be seconded.

Mr. PIKE. I will withdraw it after I have made a few remarks on the condition of the commerce of the country, and let the resolution go to the Committee on Commerce.

The House divided; and there were—ayes 55, nays 11; no quorum voting.

The SPEAKER. The morning hour has expired, and the joint resolution will go over until to-morrow.

#### ANTONIO PELLITIER.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting a letter from the Secretary of State, relative to the imprisonment and destruction of the property of Antonio Pellitier by the people and authorities of Hayti; which, on motion of Mr. BANKS, was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### RUSSIAN AMERICA.

The SPEAKER, by unanimous consent, also laid before the House a message from the President of the United States, transmitting a letter from the Secretary of State, in reference to Russian America; which, on motion of Mr.

BANKS, was referred to the Committee on Foreign Affairs, and ordered to be printed.

Mr. WASHBURN, of Illinois, entered the motion to reconsider, to be called up hereafter.

#### CONFEDERATE PROPERTY IN EUROPE.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of the Treasury, relative to certain efforts of that Department for the recovery of confederate property in Europe; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### HARBOR OF ALTON, ILLINOIS.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, transmitting the report of the chief of engineers, relative to the improvement of the harbor of Alton, Illinois; which, on motion of Mr. BAKER, was referred to the Committee on Commerce, and ordered to be printed.

#### REEDY ISLAND AND LISTON POINT.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, transmitting reports of survey of Reedy Island and Liston Point, in the Delaware river and bay; which was referred to the Committee on Commerce, and ordered to be printed.

#### CHOCTAW AND CHICKASAW BOUNDARY.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of the Interior, relative to the survey of the eastern boundary of the Chickasaw and Choctaw nations; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### QUARTERMASTER'S DEPARTMENT CONTRACTS.

The SPEAKER, by unanimous consent, also laid before the House, in compliance with law, a statement of the contracts made by the quartermaster's department during March, 1868; which, on motion of Mr. GARFIELD, was referred to the Committee on Military Affairs, and ordered to be printed.

#### AMENDMENT OF THE BANKRUPT LAW.

Mr. JENCKES, from the Committee on Revision of Laws of the United States, reported back the following bill:

A bill in amendment of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of second clause of the thirty-third section of said act shall not apply to the cases of proceedings in bankruptcy commenced prior to the 1st day of June, A. D., 1869, and the time during which the operation of the provisions of said clause is postponed shall be extended until said 1st day of June, A. D., 1869. And said clause is hereby so amended as to read as follows: in all proceedings in bankruptcy commenced after the 1st day of June, 1869, no discharge shall be granted to a debtor whose assets shall not be equal to fifty per cent. of the claims proved against his estate upon which he shall be liable as the principal debtor, unless the assent in writing of a majority in number and value of his creditors to have whom he shall become liable as principal debtor, and who shall have proved their claims, be filed in the case at or before the time of the hearing of the application for discharge.

SEC. 2. And be it further enacted, That said act be further amended as follows: the phrase "presented or defended" in the fourteenth section of said act shall read "prosecuted or defended;" the phrase "nor resident debtors," in line five, section twenty-two, of the act as printed in the Statutes at Large, shall read "nor resident creditors;" that the word "or," in the next to the last line of the thirty-ninth section of the act, shall read "and;" that the phrase "section thirteen" in the forty-second section of said act shall read "section eleven;" and the phrase "or spends any part thereof in gaming" in the forty-fourth part of said act shall read "or shall spend any part thereof in gaming;" and that the words "with the senior register, or" and the phrase "to be delivered to the register" in the forty-seventh section of said act be stricken out.

SEC. 3. And be it further enacted, That registers in bankruptcy shall have power to administer oaths in all cases and in relation to all matters in which oaths may be administered by commissioners of the circuit courts of the United States, and such commissioners may take proof of debts in bankruptcy in all cases, subject to the revision of such proofs by the register and by the court according to the provisions of said act.

Mr. JENCKES. Mr. Speaker, the Commit-

tee on Revision of Laws of the United States had before them the various propositions of amendment to the bankrupt act that have been submitted in the House, and have also had before them the reports of registers and the extensive correspondence between the registers and the Chief Justice of the Supreme Court, in which various other amendments and alterations were suggested. The result of the examination of the whole subject arrived at by the committee was that a great portion of the amendments which have been suggested are immaterial and relate to questions of practice which can be remedied by the courts themselves, and they have found but two substantive matters which they thought, upon all this evidence and upon full consideration, seemed to require amendment.

The second section of the bill as reported corrects some verbal inaccuracies in the act as printed and does no more than make the act symmetrical. There is no alteration made or proposed by that section which materially alters the sense of the law as it stands.

The first section proposes an extension of the time at which the fifty per cent. clause of the act, as it is called, shall take effect. That clause was inserted postponing the operation of it one year from the 1st of June, 1867, when the law went into full operation. It was believed at that time one year would be a sufficient period to clear off all the old wrecks of business, and that the country would become so familiar with the law and so conform to it that this clause might take effect without any injury or shock in the commercial world. Perhaps the clause might take effect now or upon the 1st of June without any shock to actual business, but it has been found that a year has not been a sufficient period to dispose of all these old cases. The testimony is uniform from all the districts that there has not been a sufficient period from the time when the law practically went into operation down to the present time within which to prepare and file the petitions of those who desire to take the benefit of the law. One reason for this, and the principal one, was the delay in the promulgation of the general orders and forms. Without those it was impossible to transact business. They were framed by the Supreme Court and ordered to be printed prior to the 1st of June, 1867, but they were not actually distributed and were not actually in the hands of the profession until some time in July, so that two or three months at least were lost to the profession which they would otherwise have had the benefit of. Those rules and orders with the act itself also had to be studied, which required further time.

Mr. NIBLACK. If the gentleman will allow me, I will corroborate him by saying that in many places in the western States the forms did not go into the hands of the profession until August and September.

Mr. JENCKES. I think that is so, and in the southern country it was later still; so that, practically, there were from three to six months lost throughout the whole country.

As I was stating, the character of these general orders and forms required time for their examination and study; and still further time was needed to conform to their requirements. They were framed upon the principle that a case under this law should be prepared and presented by the party seeking relief fully in every respect before going into court; that he should not file papers first and amend them afterward; but that he should, at the threshold, make a full statement of all his affairs. This preparation, in many old cases, was a work of great time and labor; and I think it may be fairly stated that, practically, the country has not had the benefit of the operation of this act fully for more than six months. Upon that ground, and that mainly, it has been deemed expedient that the operation of this clause should be postponed.

The third section remedies an evil which is of very grave magnitude in some of the large congressional districts. It has not been the

practice heretofore in the United States courts to appoint a large number of commissioners, nor, until they were required to do so by the civil rights act, have they much enlarged the number. But under the provisions and requirements of that act they are now appointing a commissioner in almost every county in the United States. So that if all commissioners are empowered to take proof of debts, then in every case the creditor will have some one within reach before whom he can make his proof; he can go to some place as convenient as the clerk's office of his county court, where he can take his claim and make proof of it. In large districts, where some judges construe the law to give power only to the register to take proof of debts, for the resident debtor it has been a great hardship, and that will be removed by this bill.

Some doubts also existed, under the construction given to the act by certain judges, as to whether registers could administer oaths in all cases. That doubt has been removed. And this amendatory bill proposes to remove the only serious obstacles which have been found to the full and regular working of the act.

Mr. ELIOT. I desire to submit an amendment to the first section of this bill, and to make some remarks upon it. I move to amend by striking out the word "June" where it first occurs and inserting in lieu thereof the word "January."

Mr. JENCKES. I do not wish to yield to have that amendment offered; but I will hear what the gentleman has to say upon it.

Mr. ELIOT. I do not understand that the previous question has yet been demanded.

The SPEAKER. It has not been; but the gentleman from Rhode Island [Mr. JENCKES] is still upon the floor, which precludes any amendment being offered without his consent.

Mr. ELIOT. Does the gentleman object to my offering that amendment, and having a vote of the House upon it?

Mr. JENCKES. I do; and for this reason—

Mr. ELIOT. Then I will avail myself of the courtesy of the gentleman from Rhode Island, [Mr. JENCKES], so far as I can, hoping that before I get through I may prevail upon him to allow me an opportunity to offer that amendment.

I will begin by saying to that gentleman that, in my judgment, it would have been impossible for him to have succeeded in passing the original bill through the House as it was reported by him unless upon the distinct understanding that the provision in the bill, which he now seeks to extend for one year, should be incorporated in it as it passed.

Mr. JENCKES. If the gentleman wishes simply to take the sense of the House upon his amendment I will allow it to be offered; and before calling the previous question I wish to reply to what the gentleman has to say upon it.

Mr. ELIOT. Then I move to strike out the word "June" and to insert in lieu thereof the word "January" wherever it occurs in the first section; so that it will read as follows:

That the provisions of second clause of the thirty-third section of said act shall not apply to the cases of proceedings in bankruptcy commenced prior to the 1st day of June, A. D. 1869, and the time during which the operation of the provisions of said clause is postponed shall be extended until said 1st day of January, A. D. 1869. And said clause is hereby so amended as to read as follows: in all proceedings in bankruptcy commenced after the 1st day of January, 1869, no discharge shall be granted to a debtor whose assets shall not be equal to fifty per cent. of the claims proved against his estate upon which he shall be liable as the principal debtor, unless the assent in writing of a majority in number and value of his creditors to whom he shall have become liable as principal debtor, and who shall have proved their claims, be filed in the case at or before the time of the hearing of the application for discharge.

Mr. JENCKES. The committee had this matter under consideration, and were desirous of meeting this subject in the same spirit with the gentleman from Massachusetts, [Mr. ELIOT,] for the majority of the committee entertained the views entertained by him. But upon examining the great mass of testimony concern-

ing the operations of the law and the necessity of extending the time, they were satisfied it would require a full year, and not six months, as the gentleman proposes, to put this act fairly into operation.

Mr. PAINE. Will the gentleman yield to me for a moment?

Mr. JENCKES. Certainly.

Mr. PAINE. The gentleman from Rhode Island [Mr. JENCKES] having yielded to the gentleman from Massachusetts [Mr. ELIOT] to offer an amendment, I ask him, as a concession to another interest in this House, to yield to me to propose an amendment, in order that the House may have an opportunity to vote upon it.

Mr. JENCKES. I will hear the amendment.

Mr. PAINE. I desire to move to amend the last clause of section one, by inserting after the words "proceedings in" the word "voluntary;" so that it shall read, "In all proceedings in voluntary bankruptcy," &c.

Mr. JENCKES. I cannot yield for that amendment; this provision is intended to apply to both kinds of proceedings.

Mr. DAWES. Will the gentleman yield to me for a few moments?

Mr. JENCKES. Certainly.

Mr. DAWES. At the time of the passage of this act—and as my colleague [Mr. ELIOT] has called the attention of the gentleman from Rhode Island [Mr. JENCKES] to that fact, I would like to hear the gentleman from Rhode Island further upon it—it was stated that it was necessary to insert a provision to postpone the operation of this portion of the bill for one year from the 1st day of June, 1867, in order to permit the commencement of proceedings in bankruptcy by those who, in consequence of the disasters of war and similar circumstances, had become involved, so that there might be a clean bill, or a clean state of things applicable to those who were to avail themselves of this law as a permanent system. And the gentleman well recollects how many times he lost his bill in this House before he consented to the insertion of that provision. When it was inserted it was inserted for that purpose, and that alone. Now, the gentleman proposes to extend that very provision one year longer.

Mr. SPALDING. Will the gentleman permit me to say just here that the committee have reported this bill in compliance with petitions from all parts of the United States asking for such a provision?

Mr. DAWES. I am aware of that.

Mr. SPALDING. It is not because we wish to change the original contract at all.

Mr. DAWES. I trust that the gentleman from Ohio [Mr. SPALDING] and the gentleman from Rhode Island [Mr. JENCKES] have not yielded to "petitions from all parts of the United States" unless they have seen some good reason for complying with the prayer of those petitions. If this provision of the bill is to apply to the permanent system of bankruptcy, and the relief from the fifty per cent. is to apply only to cases in existence before the act went into effect, I desire to know why it is necessary to allow two years for the commencement of proceedings? for, as I understand the bankrupt law at this moment, the benefit of this provision applies to every one who commences his proceedings in bankruptcy before the 1st day of June, 1868. And I do not know why every man who has been involved by the disasters of the past may not commence his proceedings between this time even and the 1st day of June next. A whole year has been allowed for the very purpose of commencing such proceedings; and when a man has once initiated them (and this applies to voluntary as well as involuntary proceedings in bankruptcy) he has the whole benefit of this provision. The effect of the bill is (I do not suppose such is the intention of the committee) to ingraft this provision upon future cases of bankruptcy, and to give those who have become bankrupts since the passage of the law, and in the face of it, the benefit of this provision for

a discharge, though they may not be able to pay fifty per cent. of their debts.

It is for us to decide whether it is proper to ingraft upon our permanent system of bankruptcy a provision that a man shall be discharged from his debts, whatever may be the per cent. he may be able to pay; and I would vote upon this provision precisely as if it were to be incorporated in those very terms in a permanent system of bankruptcy. For if you find in a bundle of petitions that may be presented a reason for extending the provision another year it is equivalent to a permanent extension. It is equivalent to ingrafting upon the bankrupt law of the country a provision that a man shall be entitled to discharge from his debts without regard to the amount that he may pay. Hence we are brought to this simple question—and I trust no member will vote upon this bill with any other view—shall we incorporate into the permanent system of bankruptcy in this country a provision that a debtor shall be entitled to his discharge, whether he pay much or whether he pay little?

I suppose, sir, that one object, in framing our system of bankruptcy, was to hold out to an insolvent at the earliest period of his insolvency an inducement to an equal distribution of all his property among his creditors; so that a man, at the first moment he finds himself insolvent, may come forward and say to his creditors, "I am unable to pay my debts; take what I have and give me a discharge." But under the provision here proposed an insolvent will be entitled to his discharge, whether he pays much or little. Thus he will be tempted to go on involving himself more and more and jeopardizing more and more the interests of his creditors. For he himself runs no risk; he is entitled to his discharge at any future period, whatever he may have done with his estate, however he may have squandered it in speculations or unwise business operations; though, when he knew himself insolvent, he may still have gone on increasing his debts, taking advantage of the credit system of the country, and involving his business connections in deeper and deeper indebtedness. There will be no inducement to an early application for the benefits of this law, because a man can always rely on obtaining those benefits just as well in the future as at present.

Mr. JENCKES. I cannot yield further for the discussion of a question that is not properly before the House. I must resume the floor.

It is entirely true, as the gentleman from Massachusetts [Mr. Dawes] has stated, that the original bankrupt bill was defeated once or twice because of the opposition of the members from Massachusetts to the bill without this clause in it. And I will say that a similar clause exists in only one bankrupt or insolvent law in the world; and that is the insolvent law of Massachusetts. No such provision exists in the bankrupt law of England or of Scotland or in the bankrupt laws of any of the continental nations of Europe. No such provision was ever incorporated in any bankrupt act in this country, or, so far as I am aware, in the law of any other civilized country.

Mr. DAWES. Will the gentleman allow me for one moment?

Mr. JENCKES. In a moment. I wish the House to understand the point. What I have said explains why the gentleman from Massachusetts is so strenuous for this clause; but agreeing it should be inserted, we now ask that the time in which its operation shall commence shall be extended and nothing more, and we ask that it shall be extended, for the same reason it was extended at the outset. We find those classes of cases still exist. We raise no question of propriety in retaining this section. It is a question of time as to when it shall first take effect, and that alone. Hence I object to the gentleman's arguing the broad question whether such a clause should be in or out of such a statute. It is not before us.

Mr. DAWES rose.

Mr. JENCKES. I yield for a question, but not for a speech.

Mr. DAWES. The gentleman is mistaken when he says this was put in at the instance of the Massachusetts delegation. It is true this is copied from the Massachusetts law; and the gentleman will allow me to give him the experience of Massachusetts in reference to this provision.

Mr. JENCKES. I understand that as well as the gentleman himself.

Mr. DAWES. I know the gentleman does.

Mr. JENCKES. Therefore I agreed to the retention of the clause.

Mr. DAWES. Let me state it to the House.

Mr. JENCKES. The gentleman has stated it.

Mr. WASHBURN, of Illinois. I hope the gentleman does not mean to call for the previous question until the matter has been discussed.

Mr. JENCKES. Not until there has been a full and fair discussion.

Mr. DAWES. I do not wish to interrupt the gentleman, but I should like to have a few moments.

Mr. JENCKES. How long?

Mr. DAWES. Such time as suits the gentleman.

The SPEAKER. The gentleman's hour expires at three o'clock.

Mr. JENCKES. I will give the gentleman ten minutes.

Mr. DAWES. I am obliged to the gentleman.

Mr. Speaker, this provision is incorporated from the Massachusetts law, and Massachusetts members have had experience and Massachusetts herself has had experience under this law. The insolvent law of Massachusetts, so largely incorporated in the gentleman's bill, did not originally have this provision in it. It was not until after twenty years' experience of the law that this provision was inserted in it. The effect was this: that the moment a man found himself insolvent, and before he found himself so deeply insolvent that he could not pay fifty cents on the dollar, he said to himself, "I will now distribute my property among my creditors before I sink below the fifty per cent.; and I can then obtain a full discharge without the concurrence of one half of my creditors." The effect was an early distribution of every insolvent's estate. It worked so well in Massachusetts that it saved the insolvent law of Massachusetts from repeal after twenty years' experience of that law which the gentleman from Rhode Island has taken bodily into his bankrupt law.

The insolvent law of Massachusetts is a most perfect system; and, sir, nothing better could be said in support of that law than that the gentleman from Rhode Island has incorporated all or nearly all of its essential provisions in his law. He took the provision in reference to the fifty per cent. from that law, but he suspended its operation for one year. That was time enough to allow those who were deeply involved to take advantage of the law, to commence proceedings and to get a discharge; but the gentleman now proposes to extend it for another year. I submit to the House that the postponement of another year amounts to a postponement entirely of this provision of the bankrupt law. It will act as a great "hopper" through which all fraudulent debtors will go to strip themselves of their obligations. If you desire to have a healthy system of bankruptcy, one which will secure the most to the creditors and relieve the honest debtor from the first moment he becomes convinced of his insolvent condition—which is the only honest basis upon which a bankrupt law can rest—you must hold out to him the inducement to distribute his property immediately, for it goes upon the principle, and it can rest upon no other principle than that, that it is fraudulent for a man to continue to contract debts after he knows that he is unable to pay them in full.

I desire, therefore, to test the sense of the House by moving to strike out the first section of the bill, if the gentleman will permit me to

do so, because it is nothing more nor less than an attempt to place this bankrupt law upon such a basis that a man can fraudulently go to the extent of the patience of his creditors into bankruptcy and into speculation and ruin, carrying down not only himself but his trusting creditors, and then avail himself of the provisions of this law with all the benefits which he would have if he was compelled by it to go into bankruptcy and distribute his property the moment he found himself unable to pay his debts. You cannot maintain your law on any such system as that. If the gentleman from Rhode Island cares to know what has been the experience of the only State in this Union that has had a bankrupt law for twenty years, I assure him that we could not have maintained our law in Massachusetts without this provision, compelling insolvents in our State to go into bankruptcy and distribute their property, and cease to attempt the fraud of contracting new debts after they have found they were unable to pay them.

The SPEAKER. Does the gentleman from Rhode Island yield to allow the gentleman from Massachusetts to move to strike out the first section of the bill?

Mr. JENCKES. No, sir; I cannot yield for that purpose.

Mr. PAINE. Will the gentleman yield to me for two minutes?

Mr. JENCKES. Yes, sir.

Mr. PAINE. Mr. Speaker, few members of this House were in favor of the provision which the gentleman from Massachusetts [Mr. Dawes] so eloquently advocates here to-day—the provision that the debtor should be stripped by compulsory bankruptcy of all his estate and yet not be discharged of his debts unless his estate should pay fifty per cent. I know very well that there were many members in this House opposed to the enactment of the bankrupt law on any terms. There was also a large section of the House in favor of it without this objectionable feature which the gentleman from Massachusetts so earnestly defends. These opposing parties were almost equally balanced. It happened that the gentleman and his friends held the balance of power, and thus a very few members of the House were able to say "unless you incorporate this feature into the bill it shall not become a law." But there never was a day when there was half of the House, or one third of the House, or, I think I may say, even one fourth of the House, in favor of the proposition upon which the gentleman now so zealously insists.

Sir, the whole principle of involuntary bankruptcy involved in this bill is, and always has been, most distasteful to a large portion of the people of the West. We were satisfied with, and in favor of, the voluntary provisions of this act for the most part, but we had, and we have to-day, in all the western States abundant machinery provided by our own local laws for the accomplishment of all the objects secured by this law, so far as its provisions for involuntary bankruptcy are concerned; and we could never have been reconciled to this legislation unless this clause had been incorporated in it which postponed for one year the taking effect of that provision under which a debtor dragged into involuntary bankruptcy could be deprived of all his property, and yet if he did not pay fifty per cent. of his debts could have no discharge.

Sir, the gentleman's arguments are all aimed against the postponement of the taking effect of the fifty per cent. provision in cases of voluntary bankruptcy. They have no weight as against such postponement in cases of involuntary bankruptcy. The gentleman says it would be all wrong to permit a voluntary bankrupt to receive a complete discharge at the close of a mad career of speculation without paying half of his debts. But, sir, how is it with the involuntary bankrupt who is struggling to pay his debts, and has estate enough to pay them, if left in his own hands, to be carefully and prudently used, but, if dragged into bankruptcy and sold out under the hammer, has not enough



to pay fifty per cent., and therefore becomes involved in hopeless ruin?

Now, we say that in case of involuntary bankruptcy, where the debtor is compelled against his will to go into court and surrender all his property, he should be allowed to go free, and that this privilege should continue not merely for one or two years, but forever. We are in favor of striking from this law entirely the provision which declares that a debtor shall not go acquit unless he pays fifty per cent. of his debts in all cases of compulsory bankruptcy. Make what rule you will for those who voluntarily become bankrupts. But if the debtor shall be stripped of all his estate by his creditors let him stand discharged of all his debts by the law.

We are unwilling that this provision should permanently stand in this law. And I now give notice that at no distant day the attempt will be made to transform this postponement of the provision into its absolute repeal, and to provide that every debtor who shall be stripped of all his estate by proceedings in involuntary bankruptcy shall at the same time be discharged of all his debts.

[Here the hammer fell.]

Mr. MILLER. Will the gentleman from Rhode Island yield to me for a moment?

Mr. JENCKES. Certainly.

Mr. MILLER. I desire to ask the gentleman if he has considered a bill which was presented to him some time ago in regard to the construction of the thirty-ninth section of this act? The district courts of Pennsylvania have decided that in the case of a creditor filing his petition declaring a debtor bankrupt, under this act of Congress the *onus* of proof was thrown entirely upon the debtor. That certainly was not the intention of Congress when this act was passed; we did not then suppose that such a construction would be placed upon it. And I ask the gentleman, in amending that act, to see that that provision be so altered that the *onus* shall be thrown upon the petitioner.

Mr. JENCKES. I know it was stated that there was a decision of that kind made by one of the courts of Pennsylvania. But it was an erroneous decision, and has not been followed or sustained by any other court in the United States.

Mr. MILLER. I understand that that decision of the court of the western district of Pennsylvania has been concurred in by Judge Grier.

Mr. JENCKES. I know such a statement was published, but I have ascertained upon inquiry that such was not the fact. And in other circuits where the question has been presented it has been decided differently. I do not think it is necessary for Congress to undertake to correct the erroneous decision of a single district court judge.

Mr. MILLER. That is held to be the law in Pennsylvania. And I understand that the district judge consulted Judge Grier, who sat with him, and that Judge Grier concurred with him.

Mr. JENCKES. I think if the gentleman will inquire a little further in regard to that case, he will find that there is no necessity for amending the law for the purpose of rectifying that error. If it has not been corrected already, it soon will be.

Mr. MILLER. Will the gentleman yield to allow me to offer an amendment for that purpose?

Mr. JENCKES. I cannot yield for that purpose.

Mr. MAYNARD. Will the gentleman yield to me for a moment?

Mr. JENCKES. Certainly.

Mr. MAYNARD. I wish to call the attention of the gentleman to the first section of this bill, and ask his consent to offer an amendment to the effect that the proposed extension of time from the 1st of June, 1868, to the 1st of June, 1869, shall not inure to the benefit of debtors, so far as regards debts contracted subsequently to the passage of the original bill.

I am satisfied that at least in some portions of the country a condition of things has prevailed and still prevails which will enable debtors to avail themselves very largely of the benefit of this law prior to the 1st of June next; and that so far as they are concerned it is right to extend the time possibly as long as this provision extends it. But it does seem to me that the original policy of the act, requiring voluntary bankrupts to pay at least fifty cents on the dollar before they should be discharged, ought to be retained so far as regards indebtedness that has been incurred since the passage of that act. And if the gentleman will allow me, I will move an amendment to that effect.

Mr. JENCKES. I cannot yield for that amendment, and for this reason: the suggestion was presented to the committee and considered by them. But we have doubts whether with such an amendment the law would be uniform; and it must be uniform in all cases. And if there should possibly be in the course of a year one case of hardship out of ten thousand cases we must submit to the smaller evil for the sake of the greater good.

Mr. MAYNARD. I desire to call the attention of the gentleman to the fact that the original bankrupt bill was passed in this House with very great difficulty, its fate being for a long time doubtful. The vote, if I recollect aright, was at first 70 to 70; and then, I believe, the gentleman from Maine [Mr. PIKE] changed his vote making the vote 71 to 69. Twenty-five years ago we had a bankrupt law which after a short experiment proved to be highly unsatisfactory; and the cause of complaint was this very voluntary feature. If the gentleman wishes to retain this bankrupt act a part of the commercial law of the land I suggest to him that he should not press this feature to too great an extent.

Mr. JENCKES. I might agree with the gentleman if what he suggests had not been considered and determined against as contrary to the principle upon which the act is founded.

Mr. PIKE. I would like to make one observation with the consent of the gentleman from Rhode Island.

Mr. JENCKES. I yield to the gentleman.

Mr. PIKE. I hope the House will allow the gentleman from Massachusetts [Mr. DAWES] to offer his amendment. I voted for the original bill with great reluctance; and one of the considerations that induced me to vote for it was that debtors were to have the unlimited benefits of the act for but a single year. With some reluctance I consented that these benefits should be extended for one year without limitation; but I am not willing that the time shall be further extended. I hope the gentleman from Rhode Island will allow the gentleman from Massachusetts to offer his amendment, so that the House may determine this question, whether or not a creditor has anything to do with the estate of a debtor. It must be well understood that under our present bankrupt law, as under that law of 1842, so long as there is no conservative provision that either the consent of creditors or the payment of a certain percentage of debts shall be necessary in order to the discharge of a debtor, the creditor practically has nothing whatever to do either with the property or the discharge of the debtor, the matter depending almost wholly upon the affidavit of the debtor, who goes in and acquits himself of his debts without regard to the wishes of the creditor.

Mr. JENCKES. I believe I must resume the floor.

Mr. ARNELL. I would like to ask the gentleman a question.

Mr. JENCKES. I will hear it.

Mr. ARNELL. Will not the gentleman permit me to offer the amendment I indicated sometime ago in regard to publication of notice?

Mr. JENCKES. I will state for the information of the gentleman that that matter has been considered by the committee and also by the courts. It is a matter relating to process, and is entirely within the control of the courts. I

understand from the justices of the Supreme Court that it is a matter of which they can and will take care. Therefore there is no need of inserting in the act any provision on the subject.

I wish now to reply, in a very few words, to the remarks which have been made by several gentlemen in regard to this bill. It is true, as the gentleman from Tennessee [Mr. MAYNARD] has said, that the original bill was passed with very grave doubts in the minds of many as to its success; but I think I can say, from testimony that has been presented to the committee and the House, that those doubts have been overcome in every part of the country. No one has been able to mention here any case in which there has been any hardship upon any creditor, or in which any creditor has not received his just and proportionate share of the estate of the debtor; and there has been no case presented where a fraudulent debtor has obtained a release from any court. Such cases have not occurred under this law.

Let me, then, state the reason why this further extension is asked. No person, under the present law, can go into a court of the United States and obtain a discharge from his indebtedness unless he makes a full and free exhibition of the whole of his affairs, not only of their condition at the time he goes into court, but during the whole period in which he has transacted business. Hence many persons are deterred from applying for the benefit of this act; and thus there have been hundreds and thousands of settlements, compromises between debtors and creditors; so that the time of the courts has not been occupied by such cases.

I would state to the gentleman from Massachusetts [Mr. DAWES] that whenever a proposition shall be made here to strike out this clause altogether, then his argument and that of the gentleman from Maine [Mr. PIKE] may be pertinent to such an issue. But no such proposition is now made. The arguments of the gentleman from Massachusetts in the last Congress prevailed with the committee and with the House, and this clause was inserted. The practical administration of this law has satisfied the committee of the propriety of still further postponing the operation of this clause.

We meet now precisely as we did then, agreeing on the one hand as to the propriety of the clause, but on the other contending that its operation should be further postponed for a period. Why? Because we find still existing the causes which justified the postponement of its operation in the first instance. It is reported to us from all parts of the country that there are hundreds of persons desirous to take the benefits of this law but too poor to raise the fifty dollars required to be deposited for the fees of the register and other officers of the court. Many are waiting till the time when they shall have accumulated a sum sufficient to make the necessary deposit and to pay the expenses as the proceedings go on. In the southern country there are thousands of such cases. One register writes that three hundred applications for the benefits of the law have been made in his district, and that there would be three hundred more if the parties could raise the fifty dollars to pay the expenses. From Tennessee the report of the registers is to the same effect. I have received some recently. They ask for this delay, and for this very reason that they are unable to pay the fifty dollars. And in some districts the judges require the deposit of an additional fifty dollars to pay the expenses of the marshal and clerk. There the debtor has to deposit \$100 before his petition can be received.

If the man could come into court without this deposit and at once file his petition there would be no reason for delay. He has not only to prepare his petition and schedule, but he has also to deposit this money at the same time. That requires not only time for preparation, but present means. He must satisfy the marshal and clerk and also his counsel before his petition can be received. This is one

reason for the delay, and I submit to the House that it is a good one.

But there is another and a greater reason growing out of the introduction of this section in the Massachusetts law itself. It is true it is to be found in that law, but in no other law in the world except that of Massachusetts; and Massachusetts did not attempt to incorporate it into her law until after, as the gentleman says, twenty years' experience. Twenty years were required in Massachusetts of experience in reference to her insolvent law before that active commercial community consented to its insertion. Previous to that an absolute discharge was given to the debtor from his home debts without this requirement. Now, I ask the gentleman and this House whether a statute applicable to this whole country, and not confined alone to a single State, should be put into effect more speedily than one relating to the business of a single compact commercial community? When it required twenty years' experience before this provision was incorporated into the insolvent law of a State it is not to be expected that it should be put more speedily into effect under a law that has application to the whole country.

Mr. DAWES rose.

Mr. JENCKES. I yield to a question only.

Mr. DAWES. The gentleman from Rhode Island mistakes the reason why the State of Massachusetts put this into her insolvent law after ten years' experience. She did not wait to be educated up to that point. She started off with the idea that the gentleman from Rhode Island has, that the insolvent law of Massachusetts could stand without such a provision.

Mr. JENCKES. I do not yield to an argument. We have heard this argument often enough. The House has heard it. We all understand it.

The gentleman argues as if the proposition of the committee was to strike out this provision from the law. That is not the proposition of the committee. I say that this provision is made applicable to the whole country, and not to Massachusetts alone. It is not made applicable to a single compact commercial community, but to the whole country and to States and communities where business is carried on differently from what it is in Massachusetts. When it goes into effect the whole business of the country will have to conform to it. And it is for that reason, and that alone, if not for the other reasons I have stated, that the operation of the provision is asked to be extended for a longer period. We agree that the country can be, and ought to be, educated up to the Massachusetts standard in this respect, but when he admits that Massachusetts herself was not educated up to this point in twenty years he should consent to give the rest of the country at least twenty months.

I now demand the previous question.

Mr. BECK. I ask the gentleman from Rhode Island whether this will not enable men to take the benefit of the law more cheaply than can now be done by enabling the judges to take proof?

Mr. JENCKES. Judges of the court now have power to take proof; but the statutes of the United States punishing perjury are not applicable to proof of debt taken before State officers. I demand the previous question.

Mr. DAWES. I hope that the demand for the previous question will not be seconded until I can move my amendment.

The House divided; and there were—ayes 40, noes 32; no quorum voting.

Tellers were ordered; and Mr. JENCKES and Mr. DAWES were appointed.

The House again divided; and the tellers reported—ayes 69, noes 28.

So the previous question was seconded.

The main question was ordered.

The question then recurred on Mr. Eliot's amendment.

The House divided; and the tellers reported—ayes 45, noes 44; no quorum voting.

Mr. WASHBURNE, of Illinois, moved that the House adjourn.

Mr. JENCKES. I demand the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 57, not voting 78; as follows:

YEAS—Messrs. Archer, Arnell, Bailey, Baker, Beaman, Beatty, Benton, Bromwell, Buckland, Calkins, Reader W. Clarke, Sidney Clarke, Covode, Cullom, Dawes, Driggs, Eldridge, Eliot, Farnsworth, Glossbrenner, Gravelly, Griswold, Harding, Hawkins, Chester D. Hubbard, Kitchen, Koonitz, Loan, Lynch, Maynard, McCarthy, McClurg, Miller, Mullins, Mungen, Perham, Pike, Polaisy, Raum, Scofield, Shanks, Stokes, Stone, Taffe, Upson, Van Aernam, Bart Van Horn, Robert T. Van Horn, Ward, William Williams, Washburne, William B. Washburn, Welker, William Williams, and Wood—54.

NAYS—Messrs. Adams, Ames, Anderson, Delos R. Ashley, James M. Ashley, Beck, Boyer, Broomall, Cary, Chanler, Cobb, Coburn, Dixon, Donnelly, Eggleston, Ela, Ferriss, Higby, Hill, Hopkins, Hotchkiss, Hulburd, Ingorsoll, Jenckes, Johnson, Jones, Judd, Julian, Kelsey, Ketcham, Loughbridge, Mallory, Marvin, Mercur, Moore, Moorhead, Morrell, Myers, Niblack, O'Neill, Orth, Paine, Peters, Pike, Plants, Sitgreaves, Smith, Spalding, Starkweather, Stewart, Taber, Taylor, Trowbridge, Ward, Henry D. Washburn, Stephen F. Wilson, and Windom—57.

NOT VOTING—Messrs. Allison, Axtell, Baldwin, Banks, Barnes, Barnum, Benjamin, Bingham, Blaine, Blair, Boutwell, Brooks, Burr, Butler, Churchill, Cook, Cornell, Dodge, Eckley, Ferry, Fields, Finney, Fox, Garfield, Getz, Golladay, Grover, Haight, Hall, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Kelley, Kerr, Knott, Lathin, George V. Lawrence, William Lawrence, Lincoln, Logan, Marshall, McCormick, McCullough, Morgan, Morrissey, Newcomb, Nicholson, Nunn, Phelps, Poland, Pomeroy, Price, Pray, Randall, Robertson, Robinson, Ross, Sawyer, Schenck, Selie, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Van Auker, Van Wyck, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, Woodbridge, and Woodward—78.

So the House refused to adjourn.

The question recurred upon the amendment of Mr. Eliot, upon which no quorum had voted.

Mr. UPSON. I demand the yeas and nays on the amendment.

Mr. JENCKES. In order that a vote may be taken on this bill to-day, I withdraw my opposition to the amendment.

The amendment was then agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. JENCKES. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. WASHBURN, of Massachusetts. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 45, not voting 79; as follows:

YEAS—Messrs. Adams, Anderson, Archer, James M. Ashley, Bailey, Beaman, Beck, Boyer, Calkins, Cary, Chanler, Sidney Clarke, Cobb, Dixon, Donnelly, Driggs, Ela, Farnsworth, Ferriss, Griswold, Hawkins, Higby, Hotchkiss, Chester D. Hubbard, Hulburd, Jenckes, Johnson, Jones, Judd, Kelsey, Ketcham, Kitchen, Lathin, Loughbridge, Mallory, Marvin, McCarthy, Mercur, Moorhead, Morrell, Niblack, Paine, Peters, Phelps, Pike, Plants, Raum, Robertson, Shanks, Sitgreaves, Smith, Spalding, Stewart, Stone, Taber, Trowbridge, Upson, Van Aernam, Bart Van Horn, Robert T. Van Horn, Ward, William Williams, Stephen F. Wilson, Windom, and Wood—65.

NAYS—Messrs. Ames, Arnell, Delos R. Ashley, Baker, Beatty, Benton, Bromwell, Broomall, Buckland, Reader W. Clarke, Cobb, Covode, Cullom, Dawes, Eggleston, Eldridge, Eliot, Gravelly, Harding, Hopkins, Julian, Koonitz, Loan, Lynch, Maynard, McClurg, Miller, Moore, Mullins, Mungen, Myers, O'Neill, Orth, Perham, Pike, Scofield, Starkweather, Stokes, Taffe, Taylor, Van Trump, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Welker—45.

NOT VOTING—Messrs. Allison, Axtell, Baldwin, Banks, Barnes, Barnum, Benjamin, Bingham, Blaine, Blair, Boutwell, Brooks, Burr, Butler, Churchill, Cook, Cornell, Dodge, Eckley, Ferry, Fields, Finney, Fox, Garfield, Getz, Glossbrenner, Golladay, Grover, Haight, Halsey, Hill, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Ingorsoll, Kelley, Kerr, Knott, George V. Lawrence, William Lawrence, Lincoln, Logan, Marshall, McCormick, McCullough, Morgan, Morrissey, Newcomb, Nicholson, Nunn, Poland, Polaisy, Pomeroy, Price, Pray, Randall, Robinson, Ross, Sawyer, Schenck, Selie, Shellabarger, Aaron F. Stevens, Thaddeus Stevens, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Van Auker, Van Wyck, Cad-

walader C. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, Woodbridge, and Woodward—79.

So the bill was passed.

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NEW YORK AND WASHINGTON RAILROAD.

Mr. BANKS, by unanimous consent, presented a memorial from the Legislature of Massachusetts, praying for the passage of a bill by Congress providing for additional railroad communication between the commercial and Federal capitals of the nation; which was referred to the Committee on Roads and Canals, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. The next business in order is the consideration of House bill No. 370, to prevent the further sale of the public lands of the United States except as provided for in the preemption and homestead laws, and the laws for disposing of town sites and mineral lands; upon which the gentleman from Michigan [Mr. Driggs] is entitled to the floor.

Mr. WASHBURNE, of Illinois. Will the gentleman yield to me to make a motion to adjourn?

Mr. DRIGGS. I would inquire of the Chair when the bill would be again reached if I yield now to a motion to adjourn?

The SPEAKER. It will come up again after the next morning hour, subject, however, to the contingency of being superseded by the Committee of Elections calling up a contested-election case, of which there are several, or a motion to go into Committee of the Whole on a tax bill or an appropriation bill.

Mr. SPALDING. I wish to give notice to the gentleman from Michigan [Mr. Driggs] and to the House that upon the first opportunity that may be offered I shall move to go into Committee of the Whole upon the appropriation bills.

Mr. WASHBURNE, of Illinois. I desire also to give notice that the minority of the Committee on Appropriations will ask leave to file a report embodying their views upon the appropriation bills referred to by the gentleman from Ohio, [Mr. Spalding.]

Mr. DRIGGS. I do not desire to go on this afternoon, as the House is not very full; and therefore I will yield for a motion to adjourn.

Mr. UPSON. I move that the House do now adjourn.

The question was taken; and upon a division there were—ayes seventy, noes not counted.

So the motion was agreed to; and accordingly (at three o'clock and twenty five minutes p. m.) the House adjourned till eleven o'clock a. m. to-morrow.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of Denver, South Park, and Rio Grande Railroad Company, of Colorado Territory, for a grant of land to aid in the construction of said road.

By Mr. DRIGGS: The petition of vessel owners, steamboat owners, merchants, and others, of Detroit and Cleveland, for an appropriation for a light-house at the mouth of Au Sable river, Lake Huron, Michigan.

By Mr. JUDD: The petition of William M. Egan and others, asking an appropriation for the enlargement of the St. Mary's canal.

Also, the petition of Martha E. McKenny, widow of Edwin McKenny, asking for a pension.

By Mr. MYERS: The petition of Prudence Righter, widow of J. Coram Righter, late a private of company C, eleventh New Jersey cavalry, for arrears of pension.

## IN SENATE.

WEDNESDAY, April 22, 1868.

Prayer by Rev. E. H. GRAY, D. D.

## IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at four minutes past four o'clock.

Mr. CONNESS. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 22, 1868.

The House met at eleven o'clock a. m.

Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

## ORDER OF BUSINESS.

The SPEAKER. The Chair will repeat the announcement made by him last week, that during the remainder of the trial in the Senate, should the House on any day return to the Hall before three o'clock, business may be transacted. The first business will be the morning hour call of committees for reports.

Mr. WASHBURNE, of Illinois. I would suggest to the Chair to fix the time at two o'clock.

Several MEMBERS. No; three o'clock will be better.

The SPEAKER. The Chair consulted with several members, who suggested three o'clock as the proper time.

Mr. WASHBURNE, of Illinois. We could not do much business after three o'clock.

The SPEAKER. The House can adjourn if members think proper to do so.

## APPOINTMENTS IN INTERIOR DEPARTMENT.

Mr. MILLER. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved*, That the Secretary of the Interior be, and is hereby, directed to inform this House of the names and date of clerks appointed in that Department since the 1st of April last and by whom recommended.

Mr. SPALDING. I object.

## IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of eleven o'clock having arrived the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Door-keeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and five minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until to-morrow at eleven o'clock a. m.

And then, on motion of Mr. WINDOM, (at four o'clock and seven minutes p. m.,) the House adjourned until eleven o'clock to-morrow.

## PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. DONNELLY: The petition of P.

Cudmore and 150 others, discharged volunteer soldiers of the United States, residing in the State of Minnesota, asking that the preëmption law be so amended as to permit honorably discharged soldiers to make a second preëmption entry in certain cases.

## IN SENATE.

THURSDAY, April 23, 1868.

Prayer by Rev. E. H. GRAY, D. D.

## IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at two minutes before four o'clock p. m.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions:

A bill (S. No. 358) providing for the restoration of Lieutenant Commander Trevett Abbott, of the United States Navy, to the active list of the Navy;

A bill (S. No. 416) for the relief of John S. Cunningham, paymaster United States Navy;

A joint resolution (S. R. No. 118) for the appointment of a commission to select suitable locations for powder magazines; and

A joint resolution (S. R. No. 126) for the relief of George W. Doty, a commander in the United States Navy, on the retired list.

The message also announced that the House had passed the bill (S. No. 462) making appropriations for the expenses of the trial of the impeachment of Andrew Johnson and other contingent expenses of the Senate for the year ending June 30, 1868, and other purposes, with an amendment, in which the concurrence of the Senate was requested.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 768) concerning the rights of American citizens in foreign States;

A bill (H. R. No. 941) to amend acts in relation to the Navy and Marine corps; and

A bill (H. R. No. 1021) in amendment of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867.

## SENATE CONTINGENT EXPENSES.

Mr. MORRILL, of Maine. I move that the deficiency bill just returned from the House of Representatives be taken up at the present time with a view to concurrence in its action.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the bill (S. No. 462) making appropriations for the expenses of the trial of the impeachment of Andrew Johnson and other contingent expenses of the Senate for the year ending June 30, 1868, and for other purposes.

The amendment was to strike out the following items:

For deficiency in the appropriation for defraying the expense of hydration of the Senate Chamber, \$3,000.

For deficiency in the appropriation for furniture and repairs, \$5,000.

For deficiency in the appropriation for clerks to committees, pages, horses, and carryalls, \$15,000.

Mr. MORRILL, of Maine. I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

## PETITIONS AND MEMORIALS.

Mr. RAMSEY presented a petition of the Governor of Minnesota, praying for the passage of an act of Congress to give construction

to existing laws granting land for the use of a State university in that State; which was referred to the Committee on Public Lands.

Mr. SPRAGUE presented resolutions of the Legislature of the State of Rhode Island, praying for the construction of a harbor of refuge on Block island; which were referred to the Committee on Commerce, and ordered to be printed.

He also presented a letter from the Secretary of War, communicating a report from the chief of engineers, relative to the construction of a harbor of refuge on Block island; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. ROSS presented a memorial of citizens of South Florida, praying relief for the Indians of South Florida, and against an Indian war; which was referred to the Committee on Indian Affairs.

## REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was recommitted the bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee, reported it with an amendment, and submitted certain testimony relating to the case; which was ordered to be printed.

Mr. MORRILL, of Vermont, from the Committee on Claims, to whom was referred the bill (S. No. 185) for the relief of the Bartholomew County Agricultural Society, in the State of Indiana, reported it without amendment, and submitted a report; which was ordered to be printed.

## HOUSE BILLS REFERRED.

The bill (H. R. No. 768) concerning the rights of American citizens in foreign States was read twice by its title, and referred to the Committee on Foreign Relations.

The bill (H. R. No. 941) to amend acts in relation to the Navy and Marine corps was read twice by its title, and referred to the Committee on Naval Affairs.

The bill (H. R. No. 1021) in amendment of an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved March 2, 1867, was read twice by its title, and referred to the Committee on the Judiciary.

On motion of Mr. SHERMAN, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, April 23, 1868.

The House met at eleven o'clock a. m.

Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

## IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of eleven o'clock having arrived the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Door-keeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until to-morrow at eleven o'clock a. m.

And then, on motion of Mr. MAYNARD, (at four o'clock and two minutes p. m.,) the House adjourned until eleven o'clock to-morrow.



## IN SENATE.

FRIDAY, April 24, 1868.

Prayer by Rev. E. H. GRAY, D. D.

## IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice. The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at four o'clock and fifteen minutes p. m.

## EXECUTIVE MESSAGES.

Several executive messages, in writing, were received from the President of the United States, by Mr. W. G. MOORE, his Secretary.

On motion of Mr. CHANDLER, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, April 24, 1868.

The House met at eleven o'clock a. m. Prayer by the Chaplain, Rev. C. B. BOXTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

## APPOINTMENTS IN INTERIOR DEPARTMENT.

Mr. MILLER. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved*, That the Secretary of the Interior be, and is hereby, directed to inform this House of the names and date of clerks appointed in that Department since the 1st of April last, and by whom recommended.

Mr. GLOSSBRENNER. I object.

## COTTON CASES.

Mr. WASHBURN, of Illinois, by unanimous consent, entered a motion to reconsider the vote by which a communication from the clerk of the Court of Claims in reference to judgments in cotton cases was laid upon the table and ordered to be printed.

## FLORIDA PRIZE CASES.

Mr. DAWES, by unanimous consent, introduced a bill (H. R. No. 1024) to facilitate the settlement of certain prize cases in the southern district of Florida; which was read a first and second time, and referred to the Committee on Naval Affairs.

## ORDER OF BUSINESS.

The SPEAKER stated that on the return of the House he would present certain executive communications; but that no other business would be done unless the House returned before three o'clock.

## IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of eleven o'clock having arrived the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Door-keeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and twenty minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until to-morrow at twelve o'clock m.

## SIOUX INDIANS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from General H. H. Sibley, giving addi-

tional information relative to the destitute condition of the Sioux Indians near Devil's lake, Dakota Territory; which was referred to the Committee on Appropriations.

## PATENT OFFICE ACCOMMODATIONS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of the General Land Office, relative to additional accommodations for the Patent Office; which was referred to the Committee on Patents.

## DESTITUTE INDIANS IN KANSAS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting the report of special agent A. R. Banks, relative to the destitute condition of various Indian tribes in Kansas; which was referred to the Committee on Appropriations.

## REVENUE SERVICE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, relative to the number of vessels in the revenue service and the further requirements of the service; which was referred to the Committee on Commerce, and ordered to be printed.

## SOLDIERS' NATIONAL CEMETERY.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Governor of Pennsylvania, transmitting an act of the Assembly of that State, relative to the soldiers' national cemetery; which was referred to the Committee on Military Affairs.

## SUPPLIES FOR DESTITUTE INDIANS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the Commissioner of Indian Affairs, in relation to the immediate necessity of an appropriation for the purpose of furnishing supplies to destitute and friendly Indians; which was referred to the Committee on Appropriations.

## POST ROUTE IN WISCONSIN.

Mr. COBB, by unanimous consent, introduced a bill (H. R. No. 1025) to establish a post route from Lower Lynxville to Freeman, in the State of Wisconsin; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

## DISTRIBUTION OF REVENUE STAMPS.

Mr. PRICE, by unanimous consent, presented joint resolutions of the Legislature of the State of Iowa, in reference to making post-masters agents for the distribution of revenue stamps; which were referred to the Committee on the Post Office and Post Roads.

## LAKE MICHIGAN AND MISSISSIPPI RIVER.

Mr. PRICE also, by unanimous consent, presented the memorial of the Legislature of the State of Iowa, in reference to connecting the waters of the Mississippi river with the waters of Lake Michigan; which was referred to the Committee on Commerce.

## IOWA RIVER UNNAVIGABLE.

Mr. PRICE also, by unanimous consent, presented joint resolutions of the Legislature of the State of Iowa, asking to have the Iowa river declared un navigable; which were referred to the Committee on Commerce.

## PETER J. KNAPP.

Mr. PRICE also, by unanimous consent, presented joint resolutions of the Legislature of the State of Iowa, for the relief of Peter J. Knapp; which were referred to the Committee on Military Affairs.

## BRIDGING THE MISSOURI RIVER.

Mr. PRICE also, by unanimous consent, presented joint resolutions of the Legislature of the State of Iowa, in reference to bridging

the Missouri river; which were referred to the Committee on Commerce.

## WISCONSIN RIVER VALLEY RAILROAD.

Mr. COBB, by unanimous consent, presented the memorial of the Legislature of the State of Wisconsin, for a grant of land to aid in the construction of the Wisconsin River Valley railroad; which was referred to the Committee on the Public Lands.

## APPOINTMENTS IN TREASURY DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House the following from the Secretary of the Treasury:

TREASURY DEPARTMENT, April 24, 1868.

SIR: In reply to the resolution of the House of Representatives of the 20th instant, instructing the Secretary of the Treasury "to communicate to this House the names of all persons who have applied for appointments in his Department, the office applied for, and the name of any member of Congress recommending the same in any way, and in what cases (if any) the appointment has been directed by the order of the President, or by his Secretary, since the 20th day of February, 1868," I transmit herewith lists showing the names of all applicants for office, the office applied for, and the names of members of Congress recommending the same, together with lists showing those appointed since February 20, 1868. No appointment has been directed by the President or his Secretary since that date, except in the case of the nomination of D. M. Fleming as assessor of the fourth district of Ohio, which is now before the Senate.

I am, very respectfully, your obedient servant,  
H. McCULLOCH,  
Secretary of the Treasury.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

Mr. HARDING. I move that the communication and accompanying papers be laid on the table.

The motion was agreed to.

Mr. ROSS. I move that they be printed.

The motion was agreed to.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had agreed to the amendments of the House to Senate bill No. 462, making appropriations for the expenses of the trial of Andrew Johnson and other contingent expenses of the Senate for the year ending June 30, 1868, and for other purposes.

Mr. STARKWEATHER. I move that the House do now adjourn.

The SPEAKER. The adjournment will be to twelve o'clock to-morrow, the Senate having adjourned to that time.

The motion to adjourn was agreed to; and accordingly (at four o'clock and twenty-five minutes p. m.) the House adjourned till twelve o'clock m. to-morrow.

## PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of citizens of Matagorda and Gillespie counties, Texas, for a division of said State.

Also, the petition of John Blair, Houston county, Texas, to be relieved from political disabilities incurred by participation in the rebellion.

By Mr. BEAMAN: The petition of O. A. Critchett and others, of Monroe county, Michigan, praying for a law granting pensions to the few surviving soldiers and non-commissioned officers of the war of 1812.

By Mr. CARY: The petition of John J. Clark, asking for an increase of pension, having been in the service forty-nine years and eleven months.

Also, the petition of same, for veteran bounty. By Mr. GARFIELD: A memorial of officers of the Army, praying that the pay of retired officers may not be decreased.

By Mr. HARDING: The petition of relief of Lieutenant John H. Hays, of McDonough county, Illinois, for relief.

By Mr. PERHAM: The petition of Miss Esther Graves, for pension.

## IN SENATE.

SATURDAY, April 25, 1868.

Prayer by Rev. J. W. PARKER, D. D., of Washington, District of Columbia.

## IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at four o'clock and twenty-nine minutes p. m.

Mr. TRUMBULL. I move that the Senate proceed to the consideration of executive business.

Several SENATORS. No; let us adjourn.

Mr. CHANDLER. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, April 25, 1868.

The House met at twelve o'clock m.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

## GOLD SALES BY THE TREASURY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with House resolution of the 18th ultimo, statements of sales of gold, commissions paid, &c., since March, 1861; which was referred to the Committee of Ways and Means, and ordered to be printed.

## UNITED STATES STEAMSHIP SABINE.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of the Navy, transmitting, in answer to a resolution of the House of Representatives of 20th of April, in relation to the detention of the United States steamship Sabine at New London, Connecticut; which was referred to the Committee on Naval Affairs, and ordered to be printed.

## IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and thirty minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until Monday next at twelve o'clock m.

## LEAVE OF ABSENCE.

Mr. RAUM and Mr. AMES obtained indefinite leave of absence.

And then, on motion of Mr. WASHBURNE, of Illinois, (at four o'clock and thirty-two minutes p. m.) the House adjourned till Monday next at twelve o'clock m.

## IN SENATE.

MONDAY, April 27, 1868.

Prayer by Rev. E. H. GRAY, D. D.

## IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at five minutes past four o'clock.

Mr. CHANDLER. I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. Prior to putting that motion the Chair will receive a message from the President of the United States.

A message in writing was received from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary.

The PRESIDENT *pro tempore*. It is moved and seconded that the Senate do now adjourn.

Mr. TRUMBULL. I hope the Senate will not adjourn until we see what the message is. The other day—

Mr. CHANDLER. Debate on a motion to adjourn is not in order.

Mr. TRUMBULL. I have no doubt the Senate will allow me to say a word. The other day a message came in, and we immediately adjourned, and a number of Senators collected around the desk looking at it. I think we had better see what the message is. I hope the Senate will not adjourn until the message can be examined.

The PRESIDENT *pro tempore*. The motion is not debatable.

## EXECUTIVE COMMUNICATIONS.

Mr. TRUMBULL. I hope that the message will now be read, if it is a legislative message.

The PRESIDENT *pro tempore*. It is a legislative message, and will be reported.

The Secretary read the message, as follows:

To the Senate and House of Representatives:

I submit a report of the Secretary of State concerning the naturalization treaty negotiated between the United States and North Germany.

ANDREW JOHNSON.

WASHINGTON, D. C., April 27, 1868.

The PRESIDENT *pro tempore*. The message will be referred to the Committee on Foreign Relations.

Mr. SUMNER. It should be printed. I ask that that document be printed.

The PRESIDENT *pro tempore*. That order will be entered, and it will be referred to the Committee on Foreign Relations.

Mr. RAMSEY. Now, Mr. President, I move an adjournment.

The PRESIDENT *pro tempore*. There are more legislative messages.

Mr. RAMSEY. Very well; I withdraw the motion.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

To the Senate of the United States:

In compliance with the resolution of the Senate of the 28th ultimo requesting information as to the number and designations of military departments formed since the 1st day of August, 1867, and as to the statute or other authority under which they have been established, I transmit a report from the Adjutant General's office, showing the organization, since that date, of the department of Alaska and the military division of the Atlantic.

The orders issued by me upon this subject are in accordance with long-established usage and hitherto unquestioned authority. This will be readily seen from the accompanying report, which shows that, employing the authority vested by the Constitution in the President, as Commander-in-Chief of the Army, it has been customary for my predecessors to create such military divisions and departments as from time to time they deemed advisable.

ANDREW JOHNSON.

WASHINGTON, D. C., April 22, 1868.

The message was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a message of the President of the United States, communicating, in compliance with a resolution of the Senate of the 14th instant, information in relation to any application by any party for exclusive privileges in connection with hunting, trading, and the fisheries in Alaska; which was referred to the Committee on Foreign Relations, and ordered to be printed.

He also laid before the Senate a communication from the President of the United

States, in answer to a resolution of the Senate of the 5th of February last, calling for the correspondence upon the subject of the murder, by the inhabitants of the Island of Formosa, of the ship's company of the American bark Rover, and transmitting a report from the Secretary of State and a report from the Secretary of the Navy, with accompanying papers; which was referred to the Committee on Foreign Relations, and ordered to be printed.

Mr. RAMSEY. I now renew my motion for an adjournment.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, April 27, 1868.

The House met at twelve o'clock m. Prayer by Rev. JONATHAN CABLE, of Tabor, Iowa.

The reading of the Journal of Saturday last, by unanimous consent, dispensed with.

## LIGHT-HOUSE AT PORT AUSTIN, MICHIGAN.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting report of the Light-House Board, relative to the establishment of a light-house at Port Austin, Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

## GOVERNMENT CONTROL OF RAILROADS.

Mr. ORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Roads and Canals be instructed to inquire whether Congress has the power under the Constitution to provide by law for the regulation and control of railroads, especially those extending through several States, so as to secure: 1. The safety of passengers; 2. Uniform and equitable rates of fare; 3. Uniform and equitable charges for freight or transportation of property; 4. Proper connection with each other as to transportation of passengers and freight; and, if in the opinion of the committee Congress possesses such power, then to report a bill which will secure the foregoing objects.

## ADMISSION OF ARKANSAS.

Mr. PAINE, by unanimous consent, introduced a bill (H. R. No. 1026) to admit the State of Arkansas to representation in Congress; which was read a first and second time, and referred to the Committee on Reconstruction.

## BRIDGE OVER BLACK RIVER, OHIO.

Mr. WELKER, by unanimous consent, introduced a bill (H. R. No. 1027) to authorize the construction of a bridge over Black river, in Loraine county, Ohio; which was read a first and second time, and referred to the Committee on Commerce.

## SOLDIERS' BOUNTIES.

Mr. NIBLACK, by unanimous consent, introduced a bill (H. R. No. 1028) extending bounties to certain soldiers who were discharged on account of disability incurred while in the service of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

## LINCOLN AVENUE.

Mr. FARNSWORTH, by unanimous consent, introduced a joint resolution (H. R. No. 253) to change the name of Four-and-a-Half street, in the city of Washington, to Lincoln avenue; which was read a first and second time, and referred to the Committee for the District of Columbia.

## LAND GRANTS TO ARKANSAS AND MISSOURI.

Mr. ECKLEY, by unanimous consent, introduced a bill (H. R. No. 1029) to repeal a portion of an act entitled "An act to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river," approved

July 28, 1866; which was read a first and second time, and referred to the Committee on the Public Lands.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and five minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until to-morrow at twelve o'clock m.

#### MESSAGE FROM THE PRESIDENT.

A message in writing from the President was communicated to the House by Colonel WILLIAM G. MOORE, his Secretary.

#### NATURALIZED CITIZENS.

The SPEAKER, by unanimous consent, laid before the House the following message from the President:

To the Senate and House of Representatives:

I transmit a report of the Secretary of State concerning the naturalization treaty recently negotiated between the United States and North Germany.

A. JOHNSON.

WASHINGTON, April 27, 1868.

Mr. WASHBURNE, of Illinois I move that the message and accompanying report be referred to the Committee on Foreign Affairs, and printed.

The motion was agreed to.

And then, on motion of Mr. HUBBARD, of West Virginia, (at four o'clock and ten minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ELA: The petition of a committee appointed by the town of Atkinson, New Hampshire, to levy a tax upon Government bonds, at a rate not to exceed one per cent. semi-annually, to constitute a sinking fund for the purchase of the public debt.

Also, the certificate of the town of Littleton, New Hampshire, that the town, by a unanimous vote, petition Congress to tax Government bonds not exceeding one per cent. semi-annually, and make the same a lien on the coupons, to furnish a sinking fund to purchase the debt of the United States.

By Mr. ELIOT: The petition of the Boston and Providence Railroad Company, and the Taunton Branch Railroad Company, praying for remission of certain taxes.

By Mr. MULLINS: A memorial of J. D. Whitney, J. W. Raymond, W. Ashburner, E. S. Halden, G. W. Coulter, Alexander Dearing, Galen Clark, and Henry W. Cleareton, commissioners, &c., of the State of California, of the Yosemite valley and Mariposa grove of big trees, praying for relief, &c., by Congress.

By Mr. ROBERTSON: The petition of W. W. Davidson and others, asking Congress to order a medal to be struck in bronze to commemorate the preservation of the American Republic, and that one of such medals, under the direction of the War and Navy Department, shall be presented to every officer, soldier, sailor, and marine, who, by his service in the war and an honorable discharge, has earned

such a tribute of his country's regard—and one also to the children of those who have fallen in their country's defense.

#### IN SENATE.

TUESDAY, April 28, 1868.

Prayer by Rev. JOHN M. BUCHANAN, D. D., of Milwaukee, Wisconsin.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at four o'clock and twenty-seven minutes p. m., when, on motion of Mr. CHANDLER, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, April 28, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The reading of the Journal of yesterday was, by unanimous consent, dispensed with.

#### TAX ON DISTILLED SPIRITS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House of the 17th instant, a statement of the tax collected on distilled spirits since the 1st day of January last; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### CONSTITUTION OF SOUTH CAROLINA.

The SPEAKER also, by unanimous consent, laid before the House an attested copy of the constitution of the State of South Carolina; which was referred to the Committee on Reconstruction, and ordered to be printed.

#### ADMISSION OF SOUTH CAROLINA.

Mr. PAINE, by unanimous consent, introduced a bill (H. R. No. 1030) to admit the State of South Carolina to representation in Congress; which was read a first and second time, and referred to the Committee on Reconstruction.

#### ADMISSION OF NORTH CAROLINA.

Mr. PAINE also, by unanimous consent, introduced a bill (H. R. No. 1031) to admit the State of North Carolina to representation in Congress; which was read a first and second time, and referred to the Committee on Reconstruction.

#### ADMISSION OF LOUISIANA.

Mr. PAINE also, by unanimous consent, introduced a bill (H. R. No. 1032) to admit the State of Louisiana to representation in Congress; which was read a first and second time, and referred to the Committee on Reconstruction.

The SPEAKER. None of these bills can be brought back into the House by a motion to reconsider.

#### SALE OF IRON-CLADS.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to offer the following resolution:

*Resolved*, That the joint Committee on Retrenchment be directed to inquire into the alleged fraudulent sale, by the Navy Department, of the iron-clads Oneonta and Catawba to Alexander Swift & Co., and report all the facts and circumstances connected therewith to Congress.

Mr. BROOKS. Why the Committee on Retrenchment?

Mr. WASHBURNE, of Illinois. Because they are authorized to make examinations of this character, and I suppose they can make it with more facility than any other committee. I do not care about having another committee of investigation. This is a matter that ought to be investigated.

Mr. BROOKS. Cannot it as well go to the Committee on Commerce as to the Committee on Retrenchment?

Mr. WASHBURNE, of Illinois. The Committee on Commerce is not invested with any

power to investigate, and I do not desire it to go to that committee.

Mr. BROOKS. I do not object to the investigation.

The resolution was agreed to.

#### AMERICAN INTERESTS.

Mr. PIKE, by unanimous consent, introduced a joint resolution (H. R. No. 254) for the protection of American interests in the Gulf of St. Lawrence; which was read a first and second time, and referred to the Committee on Naval Affairs.

THOMAS M'LEAN.

Mr. ELDRIDGE, by unanimous consent, introduced a bill (H. R. No. 1033) for the relief of Thomas McLean; which was read a first and second time, and referred to the Committee on the Public Lands.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and twenty-five minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until to-morrow at twelve o'clock m.

Mr. VAN HORN, of New York. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and twenty-seven minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BENTON: The petition of Thomas J. Sanborn and 28 others, in favor of an act to establish a mail route from Plymouth to West Campton, New Hampshire.

Also, the vote of the towns of Claremont, Charlestown, Lyme, and Littleton, New Hampshire, in favor of taxing United States bonds.

By Mr. SCHENCK: The petition of John Brumm, of Brooklyn, New York, praying the passage of a law providing certain regulations in the manufacture and sale of tobacco and cigars.

By Mr. WASHBURN, of Massachusetts: The petition of R. T. Bush and 750 others, manufacturers and mechanics, against the extension of Howe's patent on sewing-machines.

By Mr. WELKER: The petition of Sabina Himbleman, widow of Julius Himbleman, deceased, company H, forty-sixth regiment New York volunteers.

#### IN SENATE.

WEDNESDAY, April 29, 1868.

Prayer by Rev. R. FULLER, D. D., of Baltimore.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at four o'clock; when,

On motion of Mr. POMEROY, the Senate adjourned.



## HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 29, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

## CONSTITUTIONS OF SOUTH CAROLINA, ETC.

Mr. STEVENS, of Pennsylvania, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

*Resolved*, That five hundred copies each of the constitutions of South Carolina and Arkansas be printed for the use of the members of this House.

## ST. CLAIR FLATS IMPROVEMENT.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a communication from the chief of engineers, asking an appropriation of \$27,300 to preserve from decay the timber to be used in the dikes of the St. Clair flats improvement; which was referred to the Committee on Commerce, and ordered to be printed.

## ELECTION CONTEST—CHAVES VS. CLEVER.

The SPEAKER, by unanimous consent, also laid before the House evidence in the contested election of Chaves vs. Clever, of New Mexico; which was referred to the Committee of Elections.

## IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until to-morrow at twelve o'clock m.

Mr. BROOMALL. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and two minutes p. m.) the House adjourned.

## PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. GARFIELD: The petition of J. E. St. Clair, for payment of a company of men exempt from draft organized at Columbus, Ohio.

Also, the petition of Thomas M. Dye, for payment of the ninety-fourth regiment Ohio volunteers from date of muster-out to date of final discharge.

By Mr. PRICE: The petition of citizens of Dubuque, in the State of Iowa, asking for the abolition of the office of President of the United States.

Also, the petition of W. H. Johnson, asking for increase of pension.

By Mr. SCHENCK: The petition of Richard Stockdale, late private of company A, third regiment Iowa volunteers, praying Congress to cause, by law, an honorable discharge to be made in his case.

Also, a memorial in favor of the passage of a bill granting a charter for an air-line railroad between Washington and New York, signed by DeGrasse Livingston, James Brown, and 100 others, capitalists of New York.

## IN SENATE.

THURSDAY, April 30, 1868.

Prayer by Rev. R. H. NEALE, D. D., of Boston, Massachusetts.

## IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at four o'clock and twenty five minutes p. m., when,

On motion of Mr. SHERMAN, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, April 30, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

## LEAVE OF ABSENCE.

Leave of absence was granted to Mr. KOONTZ and Mr. WASHBURN, of Massachusetts, for two weeks, and to Mr. HUBBARD, of West Virginia, for one week.

## SURVEYS OF THE TENNESSEE RIVER.

Mr. EGGLESTON. I am directed by the Committee on Commerce to move that the communication of the Secretary of War of the 26th instant, together with the accompanying report of the examination and surveys of the Tennessee river, be ordered to be printed.

The motion was agreed to.

## NAVIGATION OF MISSISSIPPI RIVER.

Mr. EGGLESTON, by unanimous consent, reported back from the Committee on Commerce a bill (H. R. No. 594) to take possession of the bar known as Pass à l'Outre, at the entrance of the Mississippi river, and construct a canal without any expense to the Government; which was ordered to be printed, and recommitted.

## DISPOSITION OF CAPTURED VESSELS, ETC.

Mr. O'NEILL, by unanimous consent, submitted the following resolution:

*Resolved*, That the Secretary of the Navy be requested to furnish the House of Representatives with a list of the vessels and property captured or destroyed by the Navy of the United States from April 15, 1861, to April 20, 1865, with the disposition made of each capture, the names of the vessels interested, and the cause of delay in the payment of the prize-money to the parties in accordance with existing laws.

Mr. ELDRIDGE. I ask the gentleman from Pennsylvania [Mr. O'NEILL] to modify his resolution so as to extend the inquiry to all vessels captured during the war.

Mr. O'NEILL. I have no objection to that. I modify the resolution by substituting "during the war" for the words "from April 15, 1861, to April 20, 1865."

Mr. WASHBURN, of Illinois. I ask the gentleman from Pennsylvania to permit another amendment: to ask the Secretary of the Navy the reason why he has not answered a resolution of the House of the 6th of January in regard to the purchase and sale of vessels.

Mr. O'NEILL. I have no objection to that inquiry; but I think it had better not be included in this resolution, which refers merely to the vessels captured during the war and the distribution of the prize-money. The object is that the many men who are waiting for these small sums of money may know why they are not forthcoming.

The resolution, as modified, was adopted.

## NOTICE OF BUSINESS.

Mr. BROOKS. Mr. Speaker, I want to avail myself of a proper opportunity to call the attention of the House, either as a privileged question or in some other form, to the official report of the impeachment proceedings with reference to the connection of some of the managers with the Alta Vela affair; and I should like to do it to-day after the Senate has adjourned.

The SPEAKER. That matter cannot be

considered at this time, as no business can be entertained except by unanimous consent, and nothing that will occupy any time. The gentleman from New York, [Mr. Brooks,] as the Chair understands, gives notice that business may be expected this afternoon after the return of the House to the Hall.

Mr. WASHBURN, of Illinois. I desire to give notice that after the return of the House from the Senate this afternoon I shall ask the House to consider the Senate amendments to the naval appropriation bill. I will say further that I presume no questions of any particular interest will arise, as the Committee on Appropriations recommend concurrence with most of the amendments of the Senate, which are in the line of economy, and recommend non-concurrence in two or three others, which will probably go to a committee of conference.

## ARTIFICIAL LIMBS.

Mr. WASHBURN, of Indiana, by unanimous consent, from the Committee on Military Affairs, submitted a report in writing on the subject of artificial limbs for soldiers; which was recommended to the committee, and ordered to be printed.

## IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and thirty minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until to-morrow at twelve o'clock m.

## ENCYCLOPEDIA OF THE REBELLION.

Mr. FERRISS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Library be instructed to inquire into the expediency of purchasing "Townsend's Historical Record and Encyclopedia of the Rebellion," now in the Library for inspection and examination.

## CONDUCT OF IMPEACHMENT MANAGERS.

Mr. BROOKS. I hold in my hand a resolution which I wish, as I stated this morning, to submit to the consideration of the House, having reference to certain official proceedings before the high court of impeachment in the other end of the Capitol. It appears from these proceedings that the Managers appointed on the part of this House—

Mr. WASHBURN, of Illinois. I do not understand what question the gentleman rises to.

The SPEAKER. The gentleman from New York must state what he desires to bring before the House in the shape in which the House can act upon it.

Mr. BROOKS. I am stating it as briefly as possible.

The SPEAKER. The gentleman must state it in writing in a manner in which it can be acted on. A speech cannot be acted on.

Mr. BROOKS. Then I will offer a resolution, which I will read myself.

The SPEAKER. Gentlemen on the left insist that the rules be observed. The gentleman must ask unanimous consent to make a speech, or else present something that the House can act upon.

Mr. BROOKS. I then offer the following preamble and resolution:

Whereas it appears by the official reports of the high court of impeachment that after the House of Rep-

representatives, on the 24th of February, voted the impeachment of the President of the United States for high crimes and misdemeanors, and after the articles of impeachment were laid before the Senate March 2, and after the summons served upon the President, March 7, some of the managers selected by the House to demand the conviction and eviction of that President for these high crimes and misdemeanors signed a letter laid before the accused, counseling or influencing him, while thus accused, to exert the war powers given him under the act of August, 1856, through the Navy, to seize the guano island, Alta Vela, off the coast of St. Domingo, valued at over a million dollars; and whereas such action upon the part of our managers is, to say the least, extraordinary and of a character to involve them in controversy, if not in suspicion; and whereas it is of high importance that the dignity and purity of this House be maintained through the managers chosen from among us, especially to represent us before the high court, and there to accuse the President of these high crimes and misdemeanors: Therefore,

*Be it resolved,* That the aforesaid managers be directed forthwith to appear before the House and to explain to that House the causes or reasons which induced some of them, pending a trial threatening the deposition of the President, to sign such a letter thus laid before that President.

Mr. WASHBURNE, of Illinois. Is that offered as a question of privilege?

The SPEAKER. The gentleman submits it as a question of privilege.

Mr. WASHBURNE, of Illinois. Does the Chair hold that it is a question of privilege?

The SPEAKER. The Chair is of opinion that the managers, representing the House of Representatives as they do, must be under the control of the House in regard to their action at the bar of the Senate; and he, therefore, thinks it would be in the power of the House at any time to require them to answer any allegations touching their official relations to the Senate or to the case.

Mr. WASHBURNE, of Illinois. If the Chair regards it as a question of privilege—

The SPEAKER. Such was the decision upon an analogous question in the Warren Hastings case.

Mr. WASHBURNE, of Illinois. As none of the managers are now present, I presume the gentleman from New York [Mr. Brooks] will not press the resolution at this time. If he does I shall object to its consideration.

Mr. BROOKS. I certainly am not disposed to press it now, if the managers are not present.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURNE] objects to the consideration of the resolution, and the question will be whether the House will now consider it.

Mr. WASHBURNE, of Illinois. I understand the gentleman from New York does not propose to press the consideration of the resolution now.

Mr. BROOKS. To what time does the gentleman from Illinois propose the resolution shall go over?

Mr. WASHBURNE, of Illinois. I make no proposition myself at all. I have no control over the question whatever. I presume the gentleman from New York does not intend to press a matter of this kind during the absence of the managers, and when they are engaged in the performance of the duties we have devolved upon them in the Senate.

Mr. BROOKS. I gave notice of the resolution this morning, so that the managers might hear what I contemplated doing. I made the notice a matter of record in order to bring it to their special attention. I am surprised that none of them are here after such a notice publicly given.

The SPEAKER. If the gentleman from New York insists upon the consideration of the resolution at the present time, the Chair will put the question to the House whether it will or will not consider the resolution.

Mr. BROOKS. I must insist upon it, unless some definite understanding can be had as to when the resolution shall come up.

Mr. WASHBURNE, of Illinois. Then I object to the consideration of the resolution.

The SPEAKER. The gentleman from Illinois objects to the consideration of the resolution, and, as this is a matter relating to the priority of business, the question is, Will the House consider the resolution now?

Mr. BROOKS. For information, I wish to ask the gentleman from Illinois whether he

will not suggest some time for the consideration of the resolution?

Mr. WASHBURNE, of Illinois. I certainly cannot. I made the objection to the consideration of the resolution now because the managers are not here, being engaged in the performance of the duties assigned them in the other end of the Capitol.

Mr. BROOKS. Let me ask the gentleman from Illinois whether he does not think that when such charges are afloat before the public the managers ought to have an opportunity to explain in person before the House their action?

Mr. ELIOT. Mr. Speaker, I object to debate.

The SPEAKER. Objection being made, debate is not in order.

Mr. ELDRIDGE. I raise a question of order. The gentleman from Illinois, as I understand, has objected to the consideration of the resolution on the ground that the managers are not present. I discover that one or two of them are now in the House.

The SPEAKER. That is certainly not a question of order.

Mr. ELDRIDGE. I understood that to be the ground of the gentleman's objection.

The SPEAKER. The gentleman from Massachusetts [Mr. ELIOT] objects, as he has a right to do, to debate; and no debate is in order.

Mr. BROOKS. Then we are to understand that this thing is to die here, and that the managers will not appear and answer.

The SPEAKER. The question is, Will the House now consider the resolution?

Mr. RANDALL. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 28, nays 52, not voting 109; as follows:

YEAS—Messrs. Adams, Beck, Boyer, Brooks, Cary, Eldridge, Fox, Getz, Golladay, Holman, Hotchkiss, Richard D. Hubbard, Johnson, Jones, Knott, Marshall, McCormick, Morgan, Niblack, Nicholson, Phelps, Randall, Robinson, Ross, Stone, Taber, Van Trump, and Woodward—28.

NAYS—Messrs. Allison, Delos R. Ashley, James M. Ashley, Banks, Blair, Buckland, Churchill, Reader W. Clarke, Cobb, Covode, Cullom, Dawes, Dixon, Dodge, Eggleston, Elia, Eliot, Ferriss, Ferry, Garfield, Griswold, Halsey, Harding, Higby, Hooper, Hopkins, Hunter, Judd, Julian, Kelley, Ketchum, George V. Lawrence, Lincoln, Maynard, Miller, Moore, Moorhead, Myers, O'Neill, Perham, Pike, Pile, Price, Robertson, Schenck, Starkweather, Aaron F. Stevens, Taffe, Burt Van Horn, Ward, Elihu B. Washburne, and Henry D. Washburn—52.

NOT VOTING—Messrs. Ames, Anderson, Archer, Arnell, Axtell, Bailey, Baker, Baldwin, Barnes, Barnum, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Boutwell, Bromwell, Broomall, Burr, Butler, Cake, Chanler, Sidney Clarke, Coburn, Cook, Cornell, Donnelly, Driggs, Eckley, Farnsworth, Fields, Finney, Glessbrenner, Gravely, Grover, Haight, Hawkins, Hill, Ashbel W. Hubbard, Chester D. Hubbard, Hubbard, Humphrey, Ingersoll, Jenekes, Kelsey, Kerr, Kitchen, Koontz, Ladlin, William Lawrence, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, McCarthy, McClurg, McCullough, Mercur, Morrell, Morrissey, Mullins, Mungen, Newcomb, Nunn, Orth, Paine, Peters, Plants, Poland, Polsley, Pomeroy, Pruyn, Raum, Sawyer, Seefeld, Selye, Shanks, Shelabarger, Sigreaves, Smith, Spalding, Thaddeus Stevens, Stewart, Stokes, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Aernam, Van Auker, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—109.

The SPEAKER. On this question no quorum has voted.

During the roll-call,

Mr. WASHBURN, of Indiana, stated that his colleague, Mr. COVEX, was detained at his room by sickness.

The result of the vote was announced as above recorded.

Mr. WASHBURNE, of Illinois. I desire to inquire what condition this matter will be in if the House now adjourns?

Mr. BROOKS. What becomes of my resolution?

Mr. ELDRIDGE. Did the Chair say that the question before the House was whether the House will now proceed to consider the resolution?

The SPEAKER. That is the question. No

quorum having voted, it will remain before the House until disposed of, and no other business can be transacted except by unanimous consent.

Mr. JONES. I rise to a question of privilege.

The SPEAKER. There is one question of privilege now before the House, and there cannot be two at the same time.

Mr. WASHBURNE, of Illinois. I suggest to the gentleman from New York [Mr. Brooks] that he withdraw his resolution for the present. It will be in the same position to-morrow as it is to-day. He can offer it again when the House shall return from the Senate Chamber to-morrow. The managers will have full notice by the offering of the resolution to-day, and there will undoubtedly be a quorum here at that time.

The SPEAKER. If the gentleman from New York adopts that suggestion, the Chair will give notice this evening so that it will appear in the papers to-morrow, that this matter will come up on the return of the House from the Senate Chamber to-morrow.

Mr. BROOKS. I did not understand in what condition the Chair decided the resolution to be.

The SPEAKER. It is in the condition of unfinished business; but the Chair will state to the gentleman from New York that if he withdraws the resolution now, the gentleman from Illinois desiring to take up public business, the Chair will give notice to-night that business will be transacted to-morrow, and that this resolution will be offered which will probably bring a quorum here.

Mr. ELDRIDGE. I did not desire to interrupt the Speaker, but I understood the question to be a different one from the one the Chair decided that the House voted on. I supposed that a question of privilege came before the House unless the House determined otherwise, and that the gentleman from Illinois [Mr. WASHBURNE] moved that it be not now considered. I supposed that to be the question instead of whether the House would now consider it.

The SPEAKER. The Clerk will read the rule from page 71 of the Digest.

The Clerk read as follows:

"When any motion or proposition is made, the question 'Will the House now consider it?' shall not be put, unless it is demanded by some member, or is deemed necessary by the Speaker. And it is competent for a member to raise the question of consideration upon a report, even though a question of privilege is involved in the report. But after a question has been stated and its discussion commenced it is too late to raise the question of consideration."

The SPEAKER. The gentleman from Illinois raised the question of consideration.

Mr. ELDRIDGE. I thought the question was different. I do not know but the ruling of the Chair is correct.

Mr. BROOKS. Let me understand the suggestion of the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. WASHBURNE, of Illinois. My suggestion is that the gentleman withdraw his resolution now, as he will lose nothing by it, and he can offer it again to-morrow if he desires to do so.

Mr. BROOKS. It may be impossible for me to get the floor again to-morrow.

Mr. WASHBURNE, of Illinois. I take it, that by unanimous consent, or by general understanding, the gentleman can be recognized to-morrow as he was to-day.

The SPEAKER. If the gentleman from New York credits the statements of the Chair, the Chair stated that in order that the public business might not be interrupted now he would give notice this evening that on the return of the House from the Senate Chamber to-morrow the gentleman from New York would introduce the question of privilege on which no quorum voted. It will then be subject to the rules of the House, as it is to-day.

Mr. BROOKS. With that understanding I withdraw the resolution.

Mr. ELDRIDGE. Is the proposition of the

gentleman from Illinois [Mr. WASHBURN] to do business without a quorum?

The SPEAKER. The Chair does not know; that depends on the House itself.

Mr. ELDRIDGE. It is shown that there is no quorum present.

Mr. MAYNARD. Inasmuch as the Journal demonstrates that there is no quorum present, can we do any business?

The SPEAKER. The Chair will state that by the withdrawal of the resolution of the gentleman from New York the proceedings on it have virtually fallen, and, therefore, the House can proceed to other business, although a single member can object by demanding a division if there is no quorum present. But there might possibly be a quorum present now.

#### NAVAL APPROPRIATION BILL.

Mr. WASHBURN, of Illinois. I report back from the Committee on Appropriations the amendments of the Senate to the naval appropriation bill. I ask the House to consider them now, as they will take but a short time.

Mr. ROBINSON. I object. The gentleman objected the other day to the consideration of the privileged question which I presented.

Mr. WASHBURN, of Illinois. The Committee on Appropriations has the right to report at any time. So the gentleman's objection does not avail.

The SPEAKER. The Committee on Appropriations is authorized to report at any time.

Mr. ROBINSON. I raise the same point that the gentleman raised on me the other day. I object to the consideration of the subject.

Mr. ROSS. I move that the House now adjourn.

Mr. WASHBURN, of Illinois. Before that question is put, I desire to withdraw the report.

Mr. ROBINSON. Although it was ungentlemanly in the gentleman to object the other day to the consideration of my resolution I withdraw my objection.

Mr. WASHBURN, of Illinois. The gentleman from New York [Mr. ROBINSON] having withdrawn his objection, I trust my colleague [Mr. ROSS] will withdraw his motion to adjourn, and permit this matter to be acted on now.

Mr. RANDALL. Oh, no; I object to transacting business without a quorum.

Mr. WASHBURN, of Illinois. Well, as there is no quorum present, I will not press the matter.

The motion of Mr. ROSS was agreed to; and the House (at four o'clock and fifty minutes p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ELA: The petition of Captain James Davidson, for pension as a captain, or to be allowed to retire on the same allowance expended on those at the Military Asylum. Captain Davidson has been forty-five years in the service; twenty-eight as ordnance sergeant, and while so acting was commissioned as captain, to take command of all State troops sent to Fort Constitution by arrangement with Secretary of War, and subsequently authorized to raise a company, and while acting in this capacity was disabled in the line of his duty.

Also, the petition of George W. Nesmith and others, for a pension for Prescott Y. Howland, who was accidentally wounded while target shooting.

By Mr. JULIAN: The petition of 154 citizens of Grant county, Indiana, praying Congress to postpone the sale of the Osage Indian lands in the State of Kansas.

Also, a memorial of Hon. Robert A. Hill, judge of the United States district court of Mississippi, and others, praying an increase of compensation for the clerk of said court.

By Mr. MOORHEAD: The petition from citizens of Pittsburg, Pennsylvania, praying for the creation of a new post office in said city.

By Mr. MYERS: The petition of Mary A. Perkins, widow of John Perkins, deceased, late company C, seventy-first Pennsylvania volunteers, for arrears of pension.

By Mr. PAINE: The petition of Jacob Levit, of Milwaukee, for an additional bounty of fifty dollars.

#### IN SENATE.

FRIDAY, May 1, 1868.

Prayer by Rev. WARREN RANDOLPH, D. D., of Philadelphia.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at four o'clock and five minutes, when,

On motion of Mr. FRELINGHUYSEN, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, May 1, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

#### NOTICE OF BUSINESS.

The SPEAKER. The gentleman from New York [Mr. BROOKS] gave notice yesterday afternoon that he would offer a resolution to-day on the return of the House from the Senate Chamber. Business will, therefore, be transacted this afternoon, and gentlemen who desire to refer bills will postpone such matters until that time.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and ten minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until to-morrow at twelve o'clock m.

#### LEAVE OF ABSENCE.

Leave of absence was granted for two weeks to Mr. WILSON, of Ohio, and for an indefinite time to Mr. VAN HORN, of Missouri.

#### SMITHSONIAN INSTITUTION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Board of Regents of the Smithsonian Institution, asking an appropriation to aid in the repairs of the Smithsonian building, &c.; which, on motion of Mr. GARFIELD, was referred to the Committee on Appropriations, and ordered to be printed.

#### WHISKY SEIZURES.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a statement of the quantity of whisky seized in New York and Brooklyn, &c., in compliance with the resolution of the House of the 6th of Jan-

uary; which was referred to the Committee of Ways and Means, and ordered to be printed.

#### NAVAL APPROPRIATION BILL.

Mr. EGGLESTON. I move that the House do now adjourn.

The SPEAKER. The gentleman from New York [Mr. BROOKS] gave notice of his intention to offer to-day the resolution which he offered yesterday, and on which no quorum voted. The gentleman from New York is not now in his seat.

Mr. WASHBURN, of Illinois. The gentleman from New York is not here, and I desire to call the attention of the House for a few moments to the amendments of the Senate to the naval appropriation bill. I hope the House will agree to consider them.

Mr. EGGLESTON. I withdraw the motion to adjourn.

Mr. WASHBURN, of Illinois, then, by unanimous consent, from the Committee on Appropriations, reported back the amendments of the Senate to the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869.

#### First amendment:

On page 1, line five, strike out the words "million of" and insert in lieu thereof the word "million."

The Committee on Appropriations recommend concurrence in the amendment.

The amendment was concurred in.

#### Second amendment:

Lines five and six strike out the words "required by existing law" and insert in lieu thereof the word "necessary."

The committee recommend concurrence.

The amendment was concurred in.

#### Third amendment:

Strike out the proviso commencing on line six and ending on line thirteen, as follows:

*Provided*, That all moneys now under the control or subject to the order of the Secretary of the Navy, whether arising from appropriations or from sales of public property or otherwise, which shall be expended on the 1st day of July, 1868, shall be covered the into Treasury; so that no amount hereby appropriated shall be expended or drawn while any other unexpended moneys shall be subject to the order of the Secretary of the Navy.

The committee recommend non-concurrence.

The amendment was non-concurred in.

#### Fourth amendment:

In line sixteen, before the word "tools," insert "labor in navy-yards;" so that it will read:

For preservation of wood and iron vessels and ships in ordinary, and for those that are on stocks, vessels for the Naval Academy, for purchase of material and stores of all kinds, labor in navy-yards, tools, transportation of material, repair of vessels, &c.

The committee recommend concurrence.

Mr. CHANLER. I desire to make an inquiry for information in regard to the use of tools in navy-yards. Is there any restriction in this bill upon converting the laborers in navy-yards into political tools?

The SPEAKER. That is not embraced in this amendment. The two Houses have concurred in regard to the word "tools."

The amendment was concurred in.

#### Fifth amendment:

On page 2, line nine, strike out the word "tools" and insert "tools."

The committee recommend concurrence.

The amendment was concurred in.

#### Sixth amendment:

In line nine, page 2, after the word "ferriages" insert "for coal and other fuel."

The committee recommend concurrence.

The amendment was concurred in.

#### Seventh amendment:

On page 3, line ten, after the word "necessary" insert "repairs of."

The committee recommend concurrence.

The amendment was concurred in.

#### Eighth amendment:

On pages 3 and 4 strike out the following proviso: *Provided*, That the civil engineer and naval store-keeper at the several navy-yards, and that all persons employed at the several navy-yards, and superintendents of mechanical departments heretofore known as master mechanics, master carpenters, master joiners, master blacksmiths, master boiler-makers, master sailmakers, master plumbers, mas-



ter painters, master masons, master boatbuilders, master sparmakers, master blockmakers, and the superintendents of rope-walks, shall be appointed by the President, with the advice and consent of the Senate, and shall be men skilled in their several duties and appointed from civil life, and shall not be appointed from the officers of the Navy.

The committee recommend concurrence.

Mr. BANKS. I hope the House will not concur in that amendment.

Mr. WASHBURNE, of Illinois. This proviso is precisely like a provision in the existing law.

Mr. BANKS. The chairman of the Committee on Appropriations [Mr. WASHBURNE, of Illinois] is utterly mistaken in that respect. The provision of the existing law is a proviso to an appropriation bill, and expires with that bill. If it is the intention of the committee that this provision shall remain operative as a part of the law, it is indispensable that it should be incorporated in this bill.

This proviso was adopted by an almost unanimous vote of the House. It touches one of the subjects most interesting and most important to the people. I am sure the two Houses will concur in some regulation upon this subject, if they properly consider it. I hope, therefore, the committee will allow this proviso to stand as a part of this bill. I am convinced in my own mind—though the idea occurs to me suddenly, but I may be in error—I am convinced in my own mind that the proviso inserted in the appropriation bill of last year, upon my own motion, is a condition attached to that appropriation, and is exhausted with the expenditure of the appropriation.

But, at any rate, I may be allowed to say that the Secretary of the Navy has deliberately disregarded that provision; he has set it aside. And some action or some legislation ought to be taken upon this subject in that view. If this action be not necessary to maintain the original condition in the bill of last year I would be glad to hear the statement of the chairman of the Committee on Appropriations upon this subject, showing that it is a part of the existing law. If it be so, of course I will not ask that it be repeated in this bill.

Mr. WASHBURNE, of Illinois. Mr. Speaker—

Mr. ELDRIDGE. With the consent of the gentleman from Illinois, I would like to put a question to the gentleman from Massachusetts [Mr. BANKS] in regard to what he has said. We wish to understand what change is proposed to be made in the existing law. If the proviso now in the bill should be stricken out, how will the matter then stand; how will these officers or these workmen be appointed?

Mr. BANKS. If the proviso now in the bill, and which the Senate proposes to strike out, be retained, these men will be appointed by the President and confirmed by the Senate, unless some change shall be made in the law on this subject.

Mr. ELDRIDGE. I supposed that, under the existing law, they were appointed by the Secretary of the Navy. That was my impression.

Mr. BANKS. No, sir; they will be appointed by the President. Whatever the Secretary of the Navy does is supposed to be done with the concurrence of the President.

Mr. ELDRIDGE. But the gentleman will, if he pleases, answer the question I have suggested—how will the law stand if the proviso be stricken out? What will then be law? How will these men then be appointed?

Mr. BANKS. These places, Mr. Speaker, will be filled by warrant officers of the Navy. I make no question as to who shall appoint these men, if they be practical mechanics and men from civil life. My objection is to filling up the workshops of this country, so far as the Government can control them, with warrant officers of the Navy. Men wearing uniforms and shoulder straps, knowing nothing of the business they are to supervise, are appointed by the Government of the United States to control the mechanics of this country. If it be merely a question whether they shall be

appointed by the President or by the Secretary of the Navy I have not a word to say. I am quite willing that the Secretary of the Navy shall appoint them, if he will; but he will not. Therefore the proposition was made by the House that the President should be directed to appoint these men from civil life, and that they should be men skilled in the trades which they are appointed to supervise. If I have answered the question of the gentleman from Wisconsin, [Mr. ELDRIDGE,] I will not trespass further upon the courtesy of the gentleman from Illinois.

Mr. WASHBURNE, of Illinois. Now, Mr. Speaker, I may say, I presume, that there was no division of opinion as to the merits of this proviso. I raised the question, the gentleman will recollect, when this bill was under consideration in Committee of the Whole, and the ground I took then was that the proviso was entirely unnecessary, because the existing law contains such a provision. It was deemed unnecessary to reenact that provision, although the Secretary of the Navy may have refused, and probably has refused, to execute it, as he has refused to do a great many other things which he ought to have done. I will ask the Clerk to read, in the first place, the proviso which the Senate proposes to strike out, and afterward the provision of the existing law.

The Clerk read as follows:

*Provided*, That the civil engineer and naval storekeeper at the several navy-yards and the persons employed at the several navy-yards to superintend the mechanical departments, and heretofore known as master mechanics, master carpenters, master joiners, master blacksmiths, master boiler-makers, master sail-makers, master plumbers, master painters, master calkers, master masons, master boatbuilders, master sparmakers, master blockmakers, and the superintendents of the rope-walks, shall be appointed by the President, with the advice and consent of the Senate, and shall be men skilled in their several duties and appointed from civil life, and shall not be appointed from the officers of the Navy.

Mr. WASHBURNE, of Illinois. I now ask the Clerk to read the provision of the act of March 2, 1867.

The Clerk read as follows:

"For pay of superintendents and the civil establishment at the several navy-yards and stations under the control of the Bureau of Yards and Docks and at the Naval Asylum, \$153,967: *Provided*, That the civil engineer and naval storekeeper, when required at any of the navy-yards, shall be appointed by the President, by and with the advice and consent of the Senate, and the persons employed at the several navy-yards as master machinists, master carpenters, master joiners, master blacksmiths, master boiler-makers, master sail-makers, master plumbers, master painters, and master calkers, shall be men skilled in their several duties and appointed from civil life."

Mr. BANKS. Mr. Speaker, my apprehension is that this proviso may be construed as a condition appended to the appropriation made in that section, and that it is not in such language as is necessary to constitute a permanent law of the land. If I am in error in this—

Mr. WASHBURNE, of Illinois. I am willing that the House shall non-concur in this amendment, and that this matter should be considered by a committee of conference.

Mr. BANKS. I hope that may be done.

The amendment was non-concurred in.

Ninth amendment:

On page 5, after line seven, insert:  
For books for libraries for vessels of war and for books and stationery for naval apprentices, \$4,500.

The committee recommend concurrence.

The amendment was concurred in.

Tenth amendment:

In line nine strike out the word "six" and insert "three;" so that the paragraph will read:  
For binnacles, pedestals, and other appurtenances of ships' compasses, to be made in the yards, \$3,000.

The committee recommend concurrence.

The amendment was concurred in.

Eleventh amendment:

On page 6, in line twenty-one, after the word "offices," insert "and contingent expenses."

The committee recommend concurrence.

The amendment was concurred in.

Twelfth amendment:

On lines twenty-three and twenty-four, strike out the words "seventy-three thousand and one dollars,"

and insert in lieu thereof "seventy-six thousand seven hundred and six dollars."

The committee recommend concurrence.

The amendment was concurred in.

Thirteenth amendment:

In line twenty-six, strike out the word "five" and insert "three;" so that the paragraph will read:  
For contingent expenses, \$63,450.

The committee recommend concurrence.

The amendment was concurred in.

Fourteenth amendment:

On page 7, in line two, strike out the words "and so forth."

The committee recommend concurrence.

The amendment was concurred in.

Fifteenth amendment:

In line three, after the word "enginery," insert "and for pay of mechanics and laborers."

The committee recommend concurrence.

The amendment was concurred in.

Sixteenth amendment:

In line three, strike out "seven" and insert "five" in lieu thereof; so that the paragraph will read:  
For support of department of steam enginery, \$5,000.

The committee recommend concurrence.

The amendment was concurred in.

Seventeenth amendment:

Strike out all of line four, as follows:  
For pay of mechanics and others in the same, \$3,000.

The committee recommend concurrence.

The amendment was concurred in.

Eighteenth amendment:

In line seven, strike out "two" and insert "three;" so that the paragraph will read:  
For wages of one instrument-maker, one mes-songer, one porter, and three watchmen.

The committee recommend concurrence.

The amendment was concurred in.

Nineteenth amendment:

In line nineteen, strike out "one" and insert "two" in lieu thereof; so that the paragraph will read:  
For payment of expenses of Visitors to the Naval Academy, \$2,000.

The committee recommend concurrence.

The amendment was concurred in.

Twentieth amendment:

On page 8, in line eighteen, strike out the words "and so forth."

The committee recommend concurrence.

The amendment was concurred in.

Twenty-first amendment:

In line twenty-two, strike out the words "and so forth."

The committee recommend concurrence.

The amendment was concurred in.

Twenty-second amendment:

On page 9, in line seven, strike out the word "tools" and insert "tolls" in lieu thereof.

The committee recommend concurrence.

The amendment was concurred in.

Twenty-third amendment:

In line thirteen, strike out the words "and so forth."

The committee recommend concurrence.

The amendment was concurred in.

Twenty-fourth amendment:

Strike out all of line fifteen, as follows:  
For Naval Laboratory, \$20,000.

The committee recommend non-concurrence.

The amendment was concurred in.

Mr. WASHBURNE, of Illinois. I desire to enter a motion to reconsider the vote by which that amendment was concurred in. It is covered by another item.

The motion to reconsider was entered.

Twenty-fifth amendment:

In line seventeen, strike out "thirty-two" and insert "sixty" in lieu thereof; so that the paragraph will read:

For pay of civil establishment under this bureau at the several navy hospitals and navy-yards, \$60,000.

The committee recommend non-concurrence.

The amendment was non-concurred in.

Twenty-sixth amendment:

In lines twenty-three and twenty-four strike out "\$877,000" and insert "\$170,000;" so that it will read:

Marine corps:

For pay of officers, non-commissioned officers,

musicians, privates, clerks, messengers, steward, nurse, and servants, for rations and clothing for officers' servants, additional rations to officers for five years service, for undrawn clothing, \$170,000.

The committee recommend concurrence.

The amendment was concurred in.

Twenty-seventh amendment:

In line twenty-five, strike out "\$127,000" and insert "\$100,000;" so that it will read:

For provisions, \$100,000.

The committee recommend concurrence.

The amendment was concurred in.

Twenty-eighth amendment:

Line twenty-seven, strike out "\$102,000" and insert "\$100,000;" so that it will read:

For clothing, \$100,000.

The committee recommend concurrence.

The amendment was concurred in.

Twenty-ninth amendment:

On page 10, in line six, strike out "\$20,000" and insert "\$12,000;" so that it will read:

For transportation of officers, their servants, troops, and for expenses of recruiting, \$12,000.

The committee recommend concurrence.

The amendment was concurred in.

Thirtieth amendment:

In line seven, after the word "and" insert "for."

The committee recommend concurrence.

The amendment was concurred in.

Thirty-first amendment:

In line twenty strike out "etc."

The committee recommend concurrence.

The amendment was concurred in.

Thirty-second amendment:

In line twenty-three, strike out "etc."

The committee recommend concurrence.

The amendment was concurred in.

Thirty-third amendment:

In same line, strike out "etc."

The committee recommend concurrence.

The amendment was concurred in.

Thirty-fourth amendment:

On page 11, strike out lines one and two, as follows:

For necessary repairs of marine barracks, headquarters, Washington, District of Columbia, \$5,000.

The committee recommend concurrence.

The amendment was concurred in.

Thirty-fifth amendment:

In line five, strike out the word "including" and insert "excluding;" so that it will read:

That the number of persons authorized to be enlisted into the Navy of the United States, excluding seamen, ordinary seamen, landsmen, and mechanics, and including apprentices and boys, is hereby fixed and established at eighty-five hundred, and no more.

The committee recommend non-concurrence.

The amendment was non-concurred in.

Thirty-sixth amendment:

Add to section two the following:

Provided, That the number of apprentices and boys shall not exceed twelve hundred and fifty.

The committee recommend non-concurrence.

The amendment was non-concurred in.

Thirty-seventh amendment:

Add to the bill the following:

SEC. 3. And be it further enacted, That all unexpended appropriations existing on the 1st day of July next for any of the several heads of appropriation provided for in this act, shall be carried to the surplus fund, unless the same is necessary to pay expenditures made during the current fiscal year; and unless the same is necessary to execute contracts made before said date.

The committee recommend non-concurrence.

The amendment was non-concurred in.

Thirty-eighth and last amendment:

SEC. 4. And be it further enacted, That the Secretary of the Treasury is hereby directed in his next annual estimates of appropriations to state all the balances of appropriation made prior to the present session of Congress for each branch of the public service, and remaining unexpended on the 1st day of July next, and designate the amounts necessary to execute contracts or pay expenditures properly chargeable to each of said balances.

The committee recommend non-concurrence.

The amendment was non-concurred in.

Mr. WASHBURNE, of Illinois. I now desire the House to consider the amendment in regard to the Naval Laboratory and allow it to stand as recommended by the Committee on Appropriations.

The amendment was read, as follows:

Strike out all of line fifteen, as follows:  
For Naval Laboratory \$20,000.

The SPEAKER. The Senate proposes to strike this out. The Committee on Appropriations recommend non-concurrence. If there be no objection, the vote will be again taken on concurring.

Mr. WARD and Mr. ROSS objected.

The SPEAKER. Then the question will be on the motion to reconsider. The Chair, to save one vote, suggested that the question should be taken directly on concurring in the amendment.

Mr. WASHBURNE, of Illinois. I can explain this matter in one moment. The Senate proposes to strike out this item, but at the same time, in the next amendment, proposes an increase of the appropriation from \$32,000 to \$60,000. The Committee on Appropriations recommend non-concurrence in both these amendments, thereby reducing the amount appropriated about thirty thousand dollars. I ask the Clerk to read the twenty-fourth and twenty-fifth amendments.

The Clerk read as follows:

Twenty-fourth amendment:

Strike out line fifteen, as follows:

For Naval Laboratory, \$20,000.

Twenty-fifth amendment:

In line seventeen strike out "thirty-two" and insert "sixty;" so that the clause will read:

For pay of the civil establishment under this bureau at the several naval hospitals and navy-yards, \$60,000.

Mr. WASHBURNE, of Illinois. The committee propose that the House shall non-concur in both these amendments, that we may have some explanation from the Senate.

Mr. CHANLER. I would like to ask the gentleman a question. This laboratory is, as I understand, a scientific department, absolutely necessary to the conduct of naval matters. Do I understand the gentleman to state that the Committee on Appropriations are without any information in regard to the importance of this laboratory?

Mr. WASHBURNE, of Illinois. The Committee on Appropriations had such information in regard to it that they inserted in the bill an appropriation of \$20,000 for the laboratory. The Senate has stricken that out, but has added in the next appropriation an amendment changing the amount from \$32,000 to \$60,000. We propose that the House non-concur in both these amendments, and let them go to a committee of conference.

Mr. CHANLER. Will the gentleman explain why he connects the laboratory, a scientific department of our naval establishment, with these hospitals? What object has he in making that connection, which appears not to be reasonable or logical. Why should a laboratory go under because too much money has been appropriated to a hospital?

Mr. WASHBURNE, of Illinois. I did not say there was any necessary connection between them. The reason the Committee on Appropriations recommend non-concurrence in the amendment striking out the item of \$20,000 for a Naval Laboratory was that they believed the appropriation necessary to support that laboratory. The Senate has stricken out that appropriation, and hence we recommend non-concurrence. In the other amendment the Senator has added some thirty thousand dollars to what the House proposed to appropriate. We recommend non-concurrence in that also.

The motion to reconsider was agreed to.

The question then recurred on concurring in the twenty-fourth amendment.

The amendment was non-concurred in.

Mr. WASHBURNE, of Illinois. I move to reconsider the votes on these various amendments; and that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois. I move the appointment of a committee of conference on the disagreeing votes of the two Houses.

The motion was agreed to.

#### CONDUCT OF IMPEACHMENT MANAGERS.

Mr. BROOKS. Mr. Speaker, from the vote taken in the House yesterday, which I regret to say was altogether a party vote, I have drawn the inference that on the other side of the House there was objection to my resolution. In resubmitting the proposition, therefore, I have varied the form of the resolution while retaining the preamble as originally offered. I submit the following preamble and resolution:

Whereas it appears by the official reports of the high court of impeachment that after the House of Representatives, on the 24th of February, voted the impeachment of the President of the United States for high crimes and misdemeanors, and after the articles of impeachment were laid before the Senate, March 2, and after the summons served upon the President, March 7, some of the managers selected by the House to demand the conviction and eviction of that President for these high crimes and misdemeanors signed a letter laid before the accused, counseling or influencing him, while thus accused, to exert the war powers given him under the act of August, 1856, through the Navy, to seize the guano island, Alta Vela, off the coast of St. Domingo, valued at over a million dollars; and whereas such action upon the part of our managers is, to say the least, extraordinary and of a character to involve them in controversy, if not in suspicion; and whereas it is of high importance that the dignity and purity of this House be maintained through the managers chosen from among us, especially to represent us before the high court, and there to accuse the President of these high crimes and misdemeanors: Therefore,

Resolved, That a select committee be appointed to investigate all the facts of this case, and that said committee be directed to make the earliest possible report to this House, with such recommendations as the facts warrant.

The SPEAKER. The Chair thinks this is a question of privilege, as the rulings have been uniform that questions touching the official conduct of officers of the House are questions of privilege. The managers representing the House, of course, are subject to the orders of the House. It is, however, under the rules of the House, subject to the rule which is well known to members on both sides of the House as to whether the House will consider it. If no objection is made to its consideration at the present time it is before the House. The Chair hears no objection.

Mr. WASHBURNE, of Illinois. I desire to move to amend the resolution by striking out all after the word "Resolved" and inserting the following:

That consent is given to the managers and any other members of the House to be heard on any question of personal explanation connected with the trial of the impeachment of Andrew Johnson.

I submit to the gentleman from New York that before he introduces a resolution of the character which he has indicated this resolution should be passed. It is substantially what he offered himself yesterday.

Mr. ELDRIDGE. Oh, no; it is not.

Mr. BROOKS. The majority on the other side voted down that resolution by a party vote, and I therefore prefer to offer this resolution.

Mr. WASHBURNE, of Illinois. It was not voted down, nor did we refuse to consider it from any hostility to the consideration of the subject. We did not receive it for the reason that none of the managers were present.

Mr. BROOKS. There was one manager present yesterday.

Mr. WASHBURNE, of Illinois. But one or two.

A MEMBER. There were three here.

Mr. BROOKS. There were three of them, I am told, present yesterday, but the House refused to entertain the resolution, and, under the circumstances, I thought it better to move for a select committee. This resolution does not exclude the managers from making any personal explanation. When they desire it they will have the floor and may enter into the debate, and we shall hear all they have to say upon the subject.

Mr. Speaker, the reasons which have induced me to offer the resolution are set forth in part in the preamble, but the letter of March 9 referred to in that preamble is not set forth or yet entered on the Journal of the House, and, therefore, I propose to read that letter.

Mr. WASHBURNE, of Illinois. I understand the gentleman from New York to intro-

duce a resolution to have a committee of which, according to all parliamentary usage, he is to be the chairman. It is to be a *quasi* judicial investigation. I desire to know whether the gentleman proposes to forestall the case which he is going to examine by a preliminary speech here?

Mr. BROOKS. I propose only to state the facts and give an opportunity to the managers to reply to those facts. I propose to state the grounds only.

I was about to read the letter of March 9, submitted to and laid before the President of the United States on that day, addressed to Colonel J. W. Shaffer, counsel in the Alta Vela case. That letter is as follows:

WASHINGTON, March 9, 1868.

DEAR SIR: In answer to your question relating to the validity of the claim of the United States to the jurisdiction over the island of Alta Vela, upon considerable consideration of the subject I am clearly of opinion that under the claim of the United States its citizens have the exclusive right to take guano there. This is clearly indisputable both by the law of nations and by our municipal laws.

I have never been able to understand why the Executive did not long since assert the rights of the Government and sustain the rightful claims of its citizens to the possession of the island in the most forcible manner consistent with the dignity and honor of the nation.

I am, yours, truly, BENJAMIN F. BUTLER.  
Col. J. W. SHAFFER, Washington, D. C.

That is signed by Mr. BUTLER, one of the managers of the impeachment. On that letter follows this:

I concur in the opinion above expressed by General BUTLER.  
JOHN A. LOGAN.  
And I. J. A. GARFIELD.

This letter, with these three names, and these three only, was first laid before the President of the United States, and subsequently an exact copy of this letter, with the exact date, March 9, was, on March 16, laid before the President of the United States by the counsel in this case, and to those names were added the following:

I concur.  
W. H. KOONTZ,  
J. K. MOORHEAD,  
THADDEUS STEVENS,  
J. G. BLAINE,  
JOHN A. BINGHAM.

This makes in all four of the seven managers, a majority, who are appointed to conduct the impeachment on the part of this House. This letter was addressed to the counsel in the Alta Vela case, and laid before the President March 16.

Mr. BUTLER. Where do you find the address to the President?

Mr. BROOKS. This letter was addressed to Colonel Shaffer, the aide-de-camp of the honorable gentleman from Massachusetts, [Mr. BUTLER,] during the last war; his friend and counsel; his "particular friend," as he states in some remarks which he made in the Senate. And this letter was laid before the President of the United States by another counsel, Chauncey F. Black, a copy of which, dated March 16, I have in my hands, with the following address:

Mr. PRESIDENT: I have heretofore handed you a letter expressing the opinions of Generals BUTLER, LOGAN, and GARFIELD in respect to our claims to Alta Vela. Please find herewith a copy of the same, with the concurrence of THADDEUS STEVENS, JOHN A. BINGHAM, J. G. BLAINE, J. K. MOORHEAD, and WILLIAM KOONTZ.

I am, Mr. President, very respectfully, your obedient servant,  
CHAUNCEY F. BLACK.

And thus, through two of the counsel in this case, we have a letter directly reaching the President from four, a majority, of the managers in this case, March 16, after, as is stated in the preamble of this resolution, the articles of impeachment had been presented to the Senate. The resolution of impeachment was passed February 24; the articles of impeachment were laid before the President March 2; the summons to appear was served upon him March 7; and his appearance ordered to take place on the 13th of March.

Without intending any attack upon the honorable managers in this case, or to connect them with any corrupt transaction whatsoever, I have nevertheless felt it to be my duty as a

member of this House to say that a more improper time, a more improper place, or a more improper person in such a time and place could not have been chosen for laying the letters which were laid before the President of the United States, who was impeached before a high tribunal. For, however he might be organized; they were calculated to have upon his mind either the influence of intimidation or the influence of persuasion, or some other influence to be properly described by some stronger word than "persuasion." They were calculated to have such an influence over him as powerfully to control his action, or to threaten to control it, in the matter of this Alta Vela claim. The claim is very large, of vast magnitude, amounting to more than a million dollars, as some say to two or three millions. And the submission of such a letter as that from officers of this House, acting as its managers, at such a time as that, was calculated either to intimidate, influence, or persuade the President, and upon most men, or many men not constituted as he is, would have had a direct influence in some form or other.

Mr. HARDING. Will the gentleman allow me to ask him a question for information?

Mr. BROOKS. Certainly.

Mr. HARDING. I confess I desire a little information; I say it sincerely, although it may create a smile at my expense. But I desire to know where the gist of this offense is; how you distinguish this case from the case covered by the bill you passed a few days since, instructing the President to protect naturalized citizens abroad? I cannot understand that the recovery of this island to the jurisdiction of the United States can benefit any but the Government, if the Government has the title to it.

Mr. BROOKS. I do not wish to enter into the merits of the Alta Vela claim, for it would take too long to do so. If the honorable gentleman will look into it, he will perceive that it is not a claim on the part of the Government, but a claim on the part of private individuals to a large amount of property, of individuals, I believe, residing in the city of Baltimore. And the whole benefits of this claim, if successful, amounting to over a million dollars, are to accrue to those individuals.

And pending this claim, with the object apparently to influence the President of the United States, a letter, an opinion, signed by four of the managers, was, through the counsel in the Alta Vela case, laid before the President of the United States. Am I understood now by the honorable gentleman on the other side? Does he not see the difference between this case and that of an island to which the Government makes claim? for the act of August, 1856, specially provides that the Government shall have no title to an island claimed as this is, but that the island may be abandoned whenever it is stripped of its guano, that being the whole property involved in the claim. The act of 1856 leaves it optional with the Government at any time to abandon the title or eminent domain of the island thus claimed.

What I have said, Mr. Speaker, has been without any desire to cast upon the managers any insinuation whatever. It is my desire that the House shall maintain its position and its honor free from all suspicions. It has undertaken to arraign the President of the United States for high crimes and misdemeanors; and in that arraignment it is certainly its duty to stand before the Senate with clean hands, without any suspicion whatever resting upon it of any attempt to influence improperly the President of the United States; and when there is any appearance of an attempt to exert influence improperly or at an improper time the honorable managers to whom has been delegated the high and responsible and august trust of representing this House before the high court of impeachment will, I trust, explain any connection they may have had with the matter.

Mr. ASHLEY, of Ohio. If the gentleman will allow me, I desire to ask him to whom the letter signed by the managers is addressed.

Mr. BROOKS. I thought I had explained that matter very explicitly.

Mr. ASHLEY, of Ohio. I did not hear the letter read. I was not in my seat.

Mr. BROOKS. It is addressed to Colonel Shaffer.

Mr. ASHLEY, of Ohio. It is not addressed to the President of the United States at all?

Mr. BROOKS. It is addressed to Colonel Shaffer, one of the counsel for the claimants in the Alta Vela case, and it is laid before the President of the United States in a letter particularly addressed to the President by another one of the counsel, Chauncey F. Black, and it is laid before the President of the United States at two different times.

Now, Mr. Speaker, it is a matter well known to the country and to this House that Mr. Black, who was one of the counsel in this case, felt himself so delicately connected with the President of the United States, whom he was about to defend before the Senate, that he deemed it his duty to resign his position as counsel for the President because he might be supposed to have some possible interest in a great claim pending before the President. I have only to express my deep regret that our managers in similar circumstances, having expressed an opinion upon a case of such vast magnitude and amount, did not feel it their duty to imitate the wise and becoming example of Mr. Black and resign their places as managers, leaving the President of the United States free from all improper influence whatever in the impeachment they were about to conduct before the Senate of the United States.

Mr. Speaker, I move the previous question upon the resolution.

Mr. WASHBURN, of Illinois. I hope the gentleman will withdraw the call for the previous question, to allow me to offer the amendment I have indicated.

Mr. BROOKS. I would do so but for the fact that I want a vote on this question to-day, as the managers are about to reappear before the high court of impeachment. I will cheerfully yield to any gentleman upon the other side who wishes to speak on this subject, retaining, however, my right to the floor during my hour.

The SPEAKER. The gentleman from New York, [Mr. BROOKS,] as the Chair understands, withdraws the call for the previous question and proposes to yield to other gentlemen, retaining his right to the floor.

Mr. WASHBURN, of Illinois. I move the amendment I have indicated.

The SPEAKER. The gentleman from New York is still upon the floor.

Mr. BROOKS. Let me be understood. I propose to retain my right to the floor in order to obtain a vote to-day, because this process of impeachment is going on, and this matter should be promptly settled. I propose to yield the remainder of my hour to any of the managers for any explanation they may desire to make, retaining my right to the floor in order to move the previous question and have a vote to-day.

Mr. HIGBY. Mr. Speaker, I have not myself given much attention to this subject, except that I have heard broken portions of the arguments on the impeachment, and I confess I was laboring under the impression that the managers themselves had addressed a letter to the President direct upon this subject. Now, sir, all that I find is this—

Mr. WASHBURN, of Illinois. Mr. Speaker—

Mr. HIGBY. I cannot yield at present. All that I find is simply this: the member from New York has, I believe, introduced a resolution. I came into the House while he was speaking.

Mr. WASHBURN, of Illinois. Mr. Speaker—

Mr. BROOKS. I hope the gentleman will have patience. I have yielded now to the gentleman from California.

Mr. HIGBY. I believe I have the floor, and I do not wish to be interrupted if there



are any rules of the House governing debate. I know there was an attempt last evening to introduce a resolution, and I believe one has been introduced.

Mr. BROOKS. I have offered a resolution for a committee of investigation.

Mr. HIGBY. I find from the statement of the gentleman from New York, with reference to this subject, that the basis of his resolution is a letter claimed to have been addressed by some of the managers conducting the impeachment before the Senate to a gentleman by the name of Shaffer, who is said to be one of the counsel in this matter in reference to the island of Alta Vela. I wish to read that letter.

Mr. BROOKS. Well, I cannot give the gentleman time for the reading of the letter.

Mr. HIGBY. Very well; if it is well understood by the House I will not read it.

Mr. BROOKS. It has been read and has been in all the public prints.

Mr. HIGBY. I will simply say that I do not know why any member—I do not care what position he occupies before the House—cannot express an opinion such as is expressed in this paper to any individual, I care not whom, aside from the President of the United States, in respectful language and simply expressing an opinion. It strikes me as sheer nonsense for the House to occupy its attention about a matter of this kind, and I hope that the managers who are conducting the impeachment will not take the trouble to say one word on the subject. It now appears on the record simply what it is, and I hope the House will vote down the resolution.

Mr. BROOKS. The remarks of the gentleman from California demand a reply, for this matter begins to assume another aspect. I would like to know why it was that of the one hundred and fifty Republican members of this House, four were selected to address a letter to the President of the United States—why four and four only? Why not the honorable gentleman from Illinois, [Mr. WASHBURN?] Why did they not ask him? Why not the gentleman from Ohio, [Mr. SCHENCK?] Why were not other honorable members from Indiana and Iowa and Pennsylvania and New York asked to sign it? Why were four of the seven managers of the impeachment elected by this House appointed to address a letter to Colonel Shaffer, the counsel in the Alta Vela case, with the intention on the part of that counsel, as is proved by the facts, to lay that letter before the President of the United States and to have the influence of the names of these four managers? It is but an opinion, says the gentleman from California. It is true it is but an opinion. But upon a "high criminal," as he is characterized by the honorable gentleman from Ohio, [Mr. BINGHAM,] one of the managers not now in his seat, what effect was it calculated to have—what effect upon the President's mind would an address by the majority of the managers laid before him have? I do not say that the honorable managers knew this letter was to go before the President, but I do say that the letter did go before the President and it was laid before the President by the counsel of the claimants in this Alta Vela case to whom the letter was addressed.

Mr. ANDERSON. Will the gentleman allow me to ask him a question?

Mr. BROOKS. Certainly.

Mr. ANDERSON. To whom is that letter addressed? [Laughter.]

Mr. BROOKS. I have answered that question three times. [Laughter.] It was addressed, I repeat again, to the employed and paid counsel in the case, and the letter was by another counsel in the case laid twice, at two different times, before the President of the United States in a letter addressed to the President of the United States. This is but an opinion, says the gentleman from California. I have only to say upon that subject, Mr. Speaker, that upon all great claims whatsoever members of this House ought to be careful how they express their opinions upon matters upon which they are to vote, or to the Execu-

tive Departments of the Government, through letters like this one addressed to the counsel in this case, with the probability that those letters will be laid before the President of the United States.

There is some authority, a law of Congress, which forbids members of Congress appearing in certain cases before the Executive Departments and arguing them there. But here in this case is a letter, the whole force of which it is attempted to escape by saying that it is not addressed to the President of the United States, but to one of the counsel in the case.

Mr. HIGBY. Will the gentleman allow me to ask him a question?

Mr. BROOKS. Certainly.

Mr. HIGBY. I desire to ask the gentleman if he knows whether this letter was laid before the President by the consent of any of these managers?

Mr. BROOKS. I want this resolution passed for the purpose of ascertaining, by means of a committee of investigation, what connection these managers had with this matter. If a committee is appointed for investigation, we shall be able to ascertain whether the letter was written for this very purpose of being laid before the President of the United States or not. I do not know what will be the course of the majority upon this floor; whether they will direct or not that this investigation shall be had. But let me tell the majority of this House that the people will not look at this matter in a merely legal point of view. But with open practical eyes they will see the facts of the case; they will see that the letter was laid before the President of the United States, and they will judge of the motives with which it was laid before him. The managers may not be in fault.

Mr. HIGBY. Will the gentleman allow me to ask him another question?

Mr. BROOKS. Certainly.

Mr. HIGBY. Does it not appear, from the gentleman's own statement, that this letter was laid before the President by Chauncey F. Black?

Mr. BROOKS. Yes; and the inference is that that is what the letter was written for; to be laid before the President of the United States; that that was the whole object of writing the letter; that is the fair inference in the case.

Now, sir, from signs which I have seen on the other side of the House, I am doubtful whether this select committee is even to be appointed, but that this matter is to be allowed to go on without any further examination or inquiry whatever. I trust, however, that will not be the case. I trust that in a matter of this sort, involving a large amount of money in a claim before the executive department, the honor and dignity of this House will not rest quiet under this extraordinary proceeding. I say, sir, that in all the history of impeachments, both in this and in other countries, in all cases whatsoever where parallel trials have been had, there never has been an exhibition of this sort. And hence I pronounce it extraordinary, and a minority of this House, if not a majority, will demand such an investigation of it as can alone be obtained by the appointment of a select committee. The power of this House may be sufficient to crush the executive department through other branches of this Government. But I beg that the House will at least with dignity, with honor, with respect for itself and for its managers, pursue that course of inquiry which will enable the honorable managers—who in the other House have presented an entirely different view from that which they have presented here—I hope this House will at least pursue such an inquiry as will enable the managers to show what the facts are.

The deposition which was given by Mr. Chauncey F. Black, and which is set forth at length in the proceedings of the high court of impeachment, contains the following:

"General J. W. Shaffer having become associated with us in the case, and having learned that General BUTLER had become acquainted with the merits of the case, procured his legal opinion upon it, and also

a concurrence by General LOGAN. After receiving this opinion I inclosed it to the President. The time when this opinion was received, and whether it was dated, I do not recollect. The time that it was presented to the President by me can be established by the date of my letter inclosing it." \* \* \*

"Some considerable time after I had forwarded the original I sent this copy so signed to the President."

The issue which was made in the other House was not the issue which was made here. But it was denied in the other House that the letter was presented to the President after February 24, when the resolution of impeachment passed this House. The honorable gentleman from Massachusetts [Mr. BUTLER] said then:

"This I believe to have been in the early part of February; certainly before the act was committed by Andrew Johnson which brought on this impeachment."

The honorable gentleman from Illinois [Mr. LOGAN] says more explicitly:

"I merely wish to correct the gentleman from Tennessee, the counsel for the respondent, by saying that he is mistaken about this letter having been signed after the impeachment commenced by either General BUTLER or myself. I know well when I signed it, and the gentleman will find the correction, if he will examine thoroughly, and will certainly be kind enough to make it. I signed the letter long before there was anything thought of impeachment."

The issue in the other House was not the issue made here; for the letter was addressed to the counsel and sent by that counsel to the President. But the main issue, the whole body of the issue, was there denied; for it was averred that, while the letter was thus written, and though it was laid before the President, it was legally and legitimately written before February 24, when the resolution of impeachment was adopted in this House. Thus the fact was admitted that it was wrong—I will not say criminal—that it was wrong, after the impeachment had been instituted, for four managers on the part of the House to sign such a letter or opinion as that, to be laid before the President of the United States.

I now yield to the gentleman from Illinois, [Mr. MARSHALL.]

The SPEAKER. For how long?

Mr. BROOKS. Indefinitely.

Mr. WASHBURN, of Illinois. I object to the gentleman yielding indefinitely.

The SPEAKER. The gentleman holding the floor has a right, under the rule, to yield for an explanation of the pending measure.

Mr. ELDRIDGE. Mr. Speaker, is it proper for the gentleman from Illinois to take the floor as often as he does without leave.

The SPEAKER. The gentleman from Illinois has a right to raise a question of order, as the gentleman from Wisconsin [Mr. ELDRIDGE] often does, and arrest business until the Chair has decided the point of order.

Mr. ELDRIDGE. It was not a question of order which the gentleman raised.

The SPEAKER. The gentleman from Illinois made the point of order that the gentleman from New York [Mr. BROOKS] could not yield the floor indefinitely. The Chair decided that he could do so. The Clerk will read the rule.

The Clerk read as follows:

"While a member is occupying the floor he may yield it to another for explanation of the pending measure, as well as for personal explanation."

The SPEAKER. The gentleman from New York has a right under this rule to yield for an explanation of the pending proposition.

Mr. MARSHALL. Mr. Speaker, I regret very much that my distinguished colleague, [Mr. WASHBURN,] who rarely obtains an opportunity to speak on any subject, has not the floor entirely this afternoon for his own purposes. But still I imagine that, notwithstanding his extraordinary diffidence and modesty, he will, upon some occasion, have an opportunity to speak upon this question.

I have sought the floor, Mr. Speaker, for the purpose of saying but a word to explain the reasons which shall control my action and vote upon this question. The gentleman from California [Mr. HIGBY] and other gentlemen seem to take it for granted that as this commu-

nication was addressed to Colonel Shaffer it can have no significance whatever, and could not have been intended to influence the mind or action of the President.

Now, Mr. Speaker, no sane man acts without some motive. This letter was written for some purpose. It was written to influence the mind and action of some person—some person who had a right to exercise some influence with regard to the control of this island of Alta Vela. Colonel Shaffer was already counsel for the claimants, who are citizens of Baltimore. His mind was already made up. He had no power to control the action of the Government in regard to the seizure of this island and placing it in possession of the claimants. The letter, therefore, was not written, and could not have been written, for the purpose of influencing the mind or action of Colonel Shaffer. It must have been written to control or influence the action of some person who had some power over the course of the Government with regard to this island. Who was that person? Whose mind was it expected, by the managers and other gentlemen who signed this letter, to influence? Whose action was to be affected by their legal opinion in regard to the validity of the claim? It was not Colonel Shaffer. There is not a sane man in this House or in the country who will come to the conclusion that this letter was written for the purpose of influencing the opinion or the action of Colonel Shaffer. It was to influence the opinion or action of some other person.

The President of the United States was the only person whose mind and action it was important to influence. He was the only person whose mind and action the claimants could have desired to influence; and it must have been for the purpose of bringing to bear some influence upon the President of the United States that this letter was written and signed. The gentleman from California does not look at this transaction in its proper light when he says that it is of an entirely trivial character and has no significance whatever.

Now, whether for the managers on the part of the House, occupying the peculiar situation they did with reference to the House, with reference to the President, with reference to the country, to sign a letter which they must have known at the time was obtained for the purpose of influencing the action of the President upon so delicate a matter of State as that of seizing by force an island claimed by a foreign country, was a proper or an improper act is for the House and for the country to decide; and in deciding it members must act upon their own judgment and their own responsibility in casting the votes which they give upon this resolution. I think it will strike the sense of every man throughout the country that if this letter was written and signed after the articles of impeachment were ordered by the House it was highly improper on the part of the managers, and that it was an act which is highly censurable, and ought, at least, to be censured and condemned by the House. And for this reason I shall vote for the resolution offered by the gentleman from New York.

There is no question now before the House as to the justice and right of this claim to Alta Vela, or of the propriety of the action of either Judge Black or the President, or indeed of the correctness of the legal opinion given by these gentlemen who are managers on the part of the House. I am inclined myself to think that the claim is a valid one, and that these American citizens should be protected in their rights. Undoubtedly they should if they have rights in the premises. But that does not by any means settle the question now before us for consideration. Did these gentlemen, while acting as managers on the part of the House for the impeachment of the President, attempt, by means of the paper read, to influence by intimidation, persuasion, or otherwise, the President to use the power of the Government and by actual force to enforce against a foreign Government a claim of citizens (held by the State Department not to be a valid claim) to property worth

millions; and if they did so, was the act a proper one on their part, or was it not highly improper and censurable? Could they with propriety hold any communication with the President upon such matters while acting in their office of managers? These are questions affecting the honor of these gentlemen and the honor and dignity of the House. They cannot be covered up or hidden from view by idle declamation or general disclaimer. It is due to these gentlemen themselves and due to the House and the country that the real facts of the case should be developed and settled by proper evidence, and for these reasons I shall vote for the resolution. I think it ought to be adopted.

Mr. BROOKS. I yield now to the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. ELDRIDGE. I desire to say only a single word in reply to the gentleman from California, [Mr. HENRY.] He seems to think that this letter was not designed to operate upon the mind of the President. The letter bears evidence upon its own face that that was its purpose and object, and if gentlemen recollect the concluding words of the letter they must see it. General BUTLER says, in writing to Colonel Shaffer:

"I have never been able to understand why the Executive did not long since assert the rights of the Government to sustain the rightful claims of its citizens to the possession of the island in the most forcible manner consistent with the dignity and power of the nation."

Now, I insist that the letter shows upon its face the purpose and object for which it was written. But if that were not so, Mr. Speaker, if the letter did not bear that interpretation, the question has already arisen not only in the impeachment trial, but it is raised here in this House, and neither gentlemen on the other side nor the managers can escape the conclusion that it may possibly have been written for that purpose.

The newspapers of the country have already commented upon it, both upon the one side and upon the other; and the object, let it be remembered, of raising this committee is simply to inquire and ascertain the facts. If it shall not appear, when this committee shall have been raised and the testimony shall have been taken, that this letter was written for the purpose of influencing the mind of the President, it may go very far to exculpate the managers from any charge or inference of wrong against them growing out of the writing and indorsing of this letter. That is a material fact to be ascertained. That is a fact which they should desire to have ascertained. If they have acted honorably and honestly and uprightly in this matter it is for their interest; and I shall be very much surprised if they do not insist upon the passage of this resolution that inquiry may be made upon this subject; for their own honor and their own characters as individuals and as members of this House, as well as for the character of the House itself, they ought to rise in their seats and demand this investigation. They ought to do it for their own exculpation, if they can be exculpated, for the charge has been made. I make no remark that insinuates that any intention or purpose of theirs was wrong. It is not my purpose or desire. It is not necessary. But the resolution asks for a committee of inquiry to ascertain the truth of the charge in which the country is at this time particularly interested and in which I think gentlemen in this House, every member of it, and especially the managers, are particularly interested.

Mr. BROOKS. How much more time have I? The SPEAKER. The gentlemen has eighteen minutes remaining.

Mr. BROOKS. I will yield to my colleague, [Mr. CHANLER.]

Mr. BROMWELL. Will the gentleman first yield to me for an inquiry in reference to the date of the letter?

Mr. BROOKS. Certainly.

Mr. BROMWELL. I understand that the managers deny that this letter was written after the impeachment, and I would inquire

of the gentleman from New York what evidence there is that this letter was written after the impeachment? I understand that all the guilt or wrong in the matter would be in its having been written after the impeachment.

Mr. BROOKS. It is because there was in the Senate a dispute as to the date. It is for that very purpose that I desire the appointment of this select committee of investigation. In reply to the gentleman from Illinois [Mr. BROMWELL] I will say that there are two proofs, or three, or in point of fact there are four proofs that this is dated March 9. The first is the letter which I read, with only three signatures, those of the three generals, BUTLER, LOGAN, and GARFIELD; the other was that with the signatures of two other managers, and of other gentlemen, whose names I have read, and whose names were signed to it subsequently at a later period than March 9, which is shown by the letter of Chauncey F. Black, addressed to the President, which I also read in a former part of this debate. This was the third proof that the letter was written at that time. And in addition to all that, is the deposition of Chauncey F. Black, as set forth in the report of proceedings of the high court of impeachment, and an extract from which I read a short time ago. All of these things corroborate the fact that this letter was written on March 9.

The President has two letters dated March 9, the first signed by three gentlemen, the other signed by five other gentlemen, being a copy of the first letter, dated March 9, making the proof irrefutable that the letter was dated March 9.

Mr. CHANLER. Will my colleague yield to me for a few moments?

Mr. BROOKS. Certainly.

Mr. CHANLER. This is evidently a question of reputation. And as the managers are engaged in a similar investigation, a very delicate point presents itself to my mind, and that is in how far the House can challenge the character of its own officers, engaged in the discharge of a great public duty, until they have fulfilled the duty delegated to them. If the gentlemen managers, or the honorable managers are honorable managers, there will be no question left in the minds of the people of this country as to whether they have or have not faltered in their duty and endeavored to treat with the Executive. They have their own honor in their own hands; they have the honor of this House in their hands.

Therefore, if they propose to carry on this trial honestly and honorably, if they have begun it with that motive, then they will insist upon the appointment of this investigating committee. There is no question but that of reputation in the matter with which this House has anything to do, until a bill shall be brought in here to settle the question of title to that island, and to put it upon the law of nations, and to place the determination of it upon those to whom it belongs.

The question of investigation, therefore, is not a political question. Neither this side of the House nor the other side of the House have anything to do with this for the purpose of making political capital.

Now, sir, my object in rising at this time is to say that, so far as this Alta Vela claim is concerned, there are two sides to it; it is now in litigation. And in voting I do not wish to appear as taking sides with Mr. Black and his party, or with Mr. White and his party, or whoever the other party may be. I shall vote on this question as I voted on the demand of one of the managers [Mr. LOGAN] with regard to alleged frauds in the Printing Bureau of the Treasury Department. An investigation initiated in the Thirty-Eighth Congress by my colleague, [Mr. BROOKS.] and defeated in the House at that time, was opened again in this Congress by one of the honorable managers, from that high sense of honor which has hitherto guided him.

I have nothing more to say in regard to this question than this: as it is a question of reputation it is with the gentlemen of the majority

here to protect the reputation of the managers whom they alone elected to represent the House in this trial.

Mr. BROOKS. With a word or two more, I propose to call the previous question, unless some gentleman on the other side may desire to put some question to me. In the letter addressed by Chauncey F. Black to the President, which I will read again, is a collocation of names to which I wish to call the attention of the House, showing that it was intended to influence the President from the very collocation of the names of the managers:

"Mr. President, I have heretofore handed you a letter embracing the opinions of Generals BUTLER, LOGAN, and GARFIELD in respect to our claims to *Alta Vela*. Please find herewith a copy of the same, with the concurrence of THADDEUS STEVENS, JOHN A. BINGHAM, J. G. BLAINE, J. K. MOORHEAD, and WILLIAM KOONTZ."

In the letter, as signed, the name of Mr. STEVENS occurs after those of Mr. KOONTZ and Mr. MOORHEAD, and the name of JOHN A. BINGHAM is signed last; but in the collocation of the names in the communication addressed by the counsel in this case to the President the names of the managers, Messrs. STEVENS and BINGHAM, are taken out of their original places and put before the names of others who are not managers, showing an intent and design through the counsel in this case to influence the President.

One word further and I am done. I again ask the House for what other purpose than to influence the President were the names of four managers, a majority of those managers, selected for special prominence and those of no others? Why do we find put forward the name of the honorable gentleman from Pennsylvania, [Mr. STEVENS,] whom I now see before me, the ruler of this end of the Government, the autocrat, the dictator, the great power and authority in this country, before whom all other authorities must bow—the Jupiter Tonans not only of this House, but of the Republican party in this country—the man having power to overawe not only the Supreme Court of the United States, but the Senate of the United States? Why was his name taken from among those of many other gentlemen and sent to the President of the United States if not to influence and control him? I wish that the honorable gentleman from Pennsylvania [Mr. STEVENS] would avail himself of an opportunity to answer this question.

I move the previous question:

The previous question was not seconded; there being—ayes 24, noes 75.

Mr. WASHBURN, of Illinois. I now move the amendment I indicated, to strike out all of the resolution after the word "Resolved," and insert these words: "That consent is given to the managers and any other members of the House to be heard on any question of personal explanation connected with the trial of the impeachment of Andrew Johnson."

Mr. LOGAN. Mr. Speaker, I do not want it to be understood that I rise in obedience to any order or requirement of the House that I should answer for anything I have done; for, sir, I have done nothing but what I would do again. If the gentleman from New York [Mr. Brooks] is serious in bringing this matter before the House, if he is honest, if he is truly a gentleman, then I will say to him that he would not offer this resolution did he understand the facts as he professes to understand them. What are the facts? What is this grave and serious charge which the gentleman from New York has made against a portion of the managers on the part of the House? What crimes have we committed? Of what offenses have we been guilty against the law or against the well-being of the people of this country, that the gentleman should seek to arraign us at the bar of this House? From him ought else could have been expected than what he has done. The only defense that has been made for the greatest criminal this country has ever known has been just such a defense as is pretended to be made by those gentlemen who

have taken the floor here this evening, villainously attacking men who are as honest—

The SPEAKER. The Chair will state that the remark of the gentleman from Illinois [Mr. LOGAN] is not parliamentary.

Mr. LOGAN. Well, I withdraw the word.

Mr. NIBLACK. The gentleman must keep within the rules. I shall call him to order every time he transgresses them.

Mr. LOGAN. I am much obliged to the gentleman.

Mr. NIBLACK. I have the right to do it.

Mr. ELDRIDGE. I insist that the gentleman from Illinois shall take his seat, and that the disorderly language shall be reduced to writing.

Mr. LOGAN. I have withdrawn the offensive word.

Mr. ELDRIDGE. But I understand the gentleman's taunt.

The SPEAKER. The gentleman from Wisconsin makes his point too late.

Mr. ELDRIDGE. No business has transpired since the language was used.

The SPEAKER. There has been discussion between the gentleman from Illinois [Mr. LOGAN] and the gentleman from Indiana, [Mr. NIBLACK.] The point must be made immediately.

Mr. LOGAN. I withdraw the word "villainously," but will still use the word "attacking," if that will suit the gentlemen. I presume they will not object to it, for it does seem to me an attack—a combined, preconcerted attack—arranged, however, not in this House, for I have understood that it was arranged before. I was notified this thing would be done. I expected it would be done. I could have expected nothing else from gentlemen who have the honor of this country at stake, as they say they have; gentlemen who have voted against impeachment all the time. Nobody would have expected anything else. They wanted something on which to hang speeches to send before the country. They want to attack the reputation and character of some of the managers, who, I presume, stand equally as high as they do themselves; I will not say higher, but equally as high. They desire to bring them into disrepute, if they can, before the country.

But I will say this to the gentlemen: so far as I am concerned, I care nothing for these attacks. So far as I am concerned I can expect nothing else. I have never received anything else at the hands of these gentlemen except attacks, and I do not expect ever to receive anything else at their hands. Certainly, I never expect to receive kindness at their hands. But this attack made on this letter, this great bugaboo, this grand discovery made by some gentleman, was thrown into an argument in the Senate by a gentleman who is one of the attorneys of the President, dragged into an argument where it had nothing to do, when it was not in evidence and no part or parcel of the case whatever, suggested, I presume, from the fruitful brain and imagination of the President or somebody else.

Mr. PHELPS. Will the gentleman allow me to ask him a question?

Mr. LOGAN. Why, certainly.

Mr. PHELPS. Did the gentleman from Illinois hear, or not having heard, did he read, the argument of his colleague, [Mr. BOUTWELL?]

Mr. LOGAN. I did.

Mr. PHELPS. In that argument he charged upon the President that he had been abandoned by one of his counsel, Judge Black, the counsel for the claimants in this case; and it was in reply to that statement that this was brought in.

Mr. LOGAN. I understand that perfectly; and this letter had nothing in the world to do with the statement of Governor BOUTWELL, and had no connection with the case, and I will show the House that it had not.

But I was going to remark that it reminded me of a young man that I heard of once who, in his youthful days, thought he had made a great discovery; and in that, I presume, he

was like the gentleman from New York. He went to visit the Mammoth Cave. He stood there in front of it for some time, gazing in wonder and astonishment, and he commenced talking about the grandeur of it, and exclaimed:

"Great God Almighty, what a spot!  
In summer cold, in winter hot.  
Powers above, Great God, I wonder,  
General Jackson, hades and thunder."

The discovery on the part of that young man was like the discovery which the gentleman has made. What is it? When this matter was up in the Senate I said that I had done naught but what I would do again; nor have I. What did we do? General BUTLER wrote a letter to Colonel J. W. Shaffer, of Illinois, an old acquaintance of mine and a gentleman, too, stating that he thought the Government of the United States had a right to exercise its authority over the island of *Alta Vela* and to protect its citizens there under the laws of this country. That was all. It was an opinion which he gave to Colonel Shaffer. I said I concurred in that opinion. I would do the very same thing this day. That is our offense, and that is all. I did not sign it for the President; I did not direct it to the President; I did not expect the President would ever see it. The first I heard of it was when the President, before Mr. BOUTWELL had said a word, published this letter in the *New York Herald*, as he is in the habit of doing every letter which falls into his hands. I signed that letter giving a mere opinion as to the rights of this Government. When the gentleman from New York says that it is a claim for a million dollars, that is not true, and he knows it.

Mr. ELDRIDGE. I object to the words of the gentleman from Illinois, [Mr. LOGAN.]

The SPEAKER. The words will be taken down, and the Chair will rule upon them.

Mr. LOGAN. Well, I will withdraw them.

Mr. ELDRIDGE. I submit that it is too late for that to be done.

Mr. LOGAN. I will substitute the words "or ought to have known it."

Mr. ELDRIDGE. I insist that the Chair shall rule upon the words objected to by me.

The SPEAKER. The words having been taken down, will now be read by the Clerk.

The Clerk read as follows:

"That is not true, and he knows it."

The SPEAKER. The Chair thinks that those words are not unparliamentary. If the gentleman from Illinois [Mr. LOGAN] had made use of opprobrious words sometimes used, but which the Chair will not repeat, he would have been out of order. But any gentleman has the right to say that a proposition is not true, and possibly that the one making it knew it was not true. The Chair thinks the words used may be severe, but they are not offensive in that sense in which it is forbidden to members to use offensive language toward their fellow-members, and did not seem to be uttered in an offensive tone.

Mr. LOGAN. The gentleman from Wisconsin, [Mr. ELDRIDGE,] from some reason or other, is always very nervous when I am on the floor; perhaps because I pay so little attention to what he says. I said the statement made by the gentleman from New York [Mr. Brooks] was not true, and that he knew it. If it will be more agreeable to him, I will say that he ought to know it.

Now, why ought he to know it? There is no claim in this *Alta Vela* matter against this Government for one cent. If the gentleman knows anything about it, he knows there is no claim against the Government. He knows that statement is not true, or he ought to know it. He knows that this letter did not affect the claim; or, if he did not know it, he is as ignorant as a man can be. And he certainly is not ignorant; at least no one would think so, from the amount of talk he gives us occasionally.

Now, what is it? It is not a claim. The statement is not true that we recommended a claim. I will not say that the statement was made knowing it was untrue. But it has been



thrown before the country in a light to induce people to believe that we signed a recommendation for a claim, when the gentlemen who hatched this thing all knew there was no such recommendation.

Then what did we sign? A mere opinion as to the right of this Government to protect its citizens in taking guano from the island of Alta Vela. That is all there is in it. We had a right to give such an opinion. I did it, not as a member of Congress. The gentleman from New York [Mr. CHANLER] says we have to vote upon this matter. He knows that it is not so. He knew when he made that statement that it imported that which was not a verity; that he was suggesting to the country that which in itself was false; that there was no vote to be taken by this Congress upon any claim of this kind, or he ought to know it. Then why state things to the country in a false light?

Mr. BROOKS. I desire to get the gentleman right, if he will permit me.

Mr. LOGAN. I was speaking of the other gentleman from New York.

Mr. CHANLER. There was no "other gentleman from New York" who has spoken upon this subject but myself. I would ask the gentleman from Illinois if he referred to me.

Mr. LOGAN. I say that when the gentleman said we signed a document in reference to a claim upon which we would have to vote in this Congress he stated that which was not true, because there is no such claim before Congress.

Mr. CHANLER. I beg pardon; if the gentleman will allow me I will state what I did say.

Mr. LOGAN. I cannot yield.

Mr. CHANLER. I deny that I said any such thing. On the contrary, I said that this was a question not of title, but purely a question of reputation, and that we could not act upon any question relative to Alta Vela until a bill was brought in here based upon the law of nations to test the title. That is what I said.

Mr. LOGAN. Then I misunderstood the gentleman.

Mr. CHANLER. I wanted to avoid entering at all into this question. I simply desired to counteract the effect of the remarks made by the gentleman from California, [Mr. HIGBY,] which were calculated to induce gentlemen on the other side of the House not to speak in reply to this charge.

Mr. LOGAN. That is satisfactory. I misunderstood the gentleman. I thought he spoke of this as a question to be voted upon by Congress. Now, sir, if this is a question which is never to be acted upon by Congress, how could there be anything wrong in a member of Congress signing an opinion upon the subject? I have my opinions as a member of Congress and as an individual and as a lawyer. I may give my opinion as a lawyer, though not as an attorney in a particular case. I am not an attorney in this case; I never expect or intend to be. But, sir, I want to answer the insinuation of the gentleman from New York, [Mr. Brooks.] He has insinuated that this is a claim in which there is something corrupt, something wrong, and that therefore it should be investigated.

Mr. CHANLER. Will the gentleman from Illinois, when he speaks of the "gentleman from New York," please designate to which gentleman he refers?

Mr. LOGAN. I refer now to the gentleman's colleague, [Mr. Brooks.]

Mr. CHANLER. I only wanted to know if the gentleman was referring to me.

Mr. LOGAN. If these gentlemen will let me alone until I get through I shall finish much sooner; I am sure I did not bother either of them during the course of their remarks. But, sir, I understand this whole programme perfectly, and I think I shall explain myself so as to be understood by the country. I think they will be perfectly understood by the country, and I know I shall be.

Now, sir, so far as regards signing this letter with the view to its going before the President

of the United States, I deny it. I say I never signed it for the purpose of having it before the President. But I will tell the gentleman what, perhaps, he knows already, but has not stated: I never talked to Mr. Jeremiah Black about this case in my life. I do not think that during my whole life I have ever spoken to him. I would know him if I saw him on the street; but that is the extent of my knowledge of him. With his son, Chauncey F. Black, I had no acquaintance until recently, and the acquaintance I have formed with him has been merely casual.

Colonel Shaffer I know well; and he, as I have already remarked, came to me with this letter. I read it, and I signed it, not with any intention that it should go before the President, but upon the statement of Colonel Shaffer that he had an interest in the claim, and that he would like to have the opinion of persons who had examined the claim, as to the validity of the title of the Government, or whether the Government had a right to exercise jurisdiction. This explains my whole reason in signing that letter; this is all I intended when I signed it.

Let me state what Mr. Chauncey F. Black told me, and I have no doubt he will tell the same to the gentleman himself. After this letter was brought out before the Senate by Mr. Nelson I sent for Mr. Black. I sent Colonel Shaffer for him. I asked Mr. Black why he had sent that letter to the President? Mr. Black told me that he had done it without the knowledge of his father or of anybody else; but that the President had told him and his father over and over again that he would make the order they desired; he had promised to make such an order. And Mr. Black said to me, "Now, Mr. LOGAN, I thought that inasmuch as Colonel Shaffer had those letters, probably it might be of some advantage to send them to the President; and I did so. I did not think anything about the position you were in, or I would not have done so." This is the statement he made when I asked him why he had taken such a liberty as this. He said that he had done it without consulting with his father or with any one of us, which is certainly the fact, so far as I am concerned. Hence this letter went to the President without my knowledge, and I signed it with no intention that it should ever be laid before the President.

What else? Why, the President has acted in this case as he always acts. Mr. Black tells me that Mr. Johnson suggested to him to get the names of some members of Congress to a paper in order to authorize him to do this thing, and at that suggestion of the President Mr. Black came here and got Mr. GARFIELD and others to sign it. That is what Mr. Black told me, and I guess it is the fact. And the very minute he gets the names of these men to that paper, what does he do? He turns round and puts you forward as a catspaw in order to say to the country that these men are trying to influence him and publishes the letter. He himself, by a trick, got the names of the two other managers, Mr. BINGHAM and Mr. STEVENS. Mr. STEVENS and Mr. BINGHAM signed it long after Mr. BUTLER and I signed it, because Mr. Black told me himself that at the suggestion of the President he got the names of some members of Congress. He came down here himself and got these names to that paper without their knowing that it was to be used in any way whatever. These are the facts about it, and either it was a trick of the President, and your trick, or else you are a catspaw of the President.

Now, this is the conduct on the part of the President, and this is the conduct on the part of these gentlemen whom he is using here in order to try and attack the character of the members of the board of managers before the country. This, sir, is all there is in this case. This is all the connection I ever had with it, and all that I ever knew about it. I signed that letter without any intent whatever, without any knowledge whatever that it was to go

before the President, and I presume that was the case with every one of the managers who did sign it. Let me say to the gentleman from New York that I have refused for two years to sign any paper of any character whatever either for man or woman that was to go before the President when I knew it. No paper can be produced that I ever signed with any intention that it should go before him, because I did not want him to have my name to anything, and he never had it with my consent.

Mr. ROSS. I would like to know, for information, whom this recommendation was intended to influence?

Mr. LOGAN. Oh, I will explain to the gentleman. It was not intended to influence anybody, but merely to give Colonel Shaffer an opinion as to his rights or the right of the United States to protect the American citizens on the island of Alta Vela. That was all. It was merely for his satisfaction. That is all it was to influence. Is every letter that is written or everything that is signed to influence somebody? Does the gentleman from Illinois, the musical gentleman, the gentleman who gets up so much "laughter" in this House, presume that I could influence the President of the United States?

Mr. ROSS. I merely asked for information.

Mr. LOGAN. Ah! Why he knows that Andrew Johnson would not be influenced by what I might do any more than I would be by what the gentleman from Illinois might do.

Mr. ROSS. I did not know but that as you were prosecuting him you might have some influence.

Mr. LOGAN. Now, there is an insinuation that could come only from a base heart.

The SPEAKER. That remark, the Chair will state, is not parliamentary if the gentleman refers to his colleague.

Mr. LOGAN. Very well, sir, I withdraw it. But I will say this, that if I were to insinuate against a gentleman that because he was prosecuting a man he would sign a paper to influence him I would have a base heart. I will say that, sir.

Now, sir, I say to these gentlemen that they have made all out of this case that I presume they can make. They want a committee to investigate. Why, I am ready to be investigated at any time so far as I am concerned. But what do you want to investigate? Do you want to investigate the fact whether we signed the letter or not? We acknowledge that we signed it? Do you want to investigate the fact who the letter was addressed to? There it is on the face of it. What do you want to investigate? What do you want to know? For base party purposes these men would destroy the reputation of men as honorable as they are if they only had the power.

Mr. CHANLER. I ask the gentleman to yield. I do not want him to be always retracting and repeating. If he will recollect what he has just said—that "these men" have asked for this investigation, not from any personal regard for the President, nor from any regard for the managers themselves, or for the House whom the managers represent—he charges that "these men" would, if they had the power, destroy the reputation of some four persons; and when he says that he certainly does not know what he is saying or he does not mean what he says.

Mr. LOGAN. I cannot yield to the gentleman any longer.

Mr. CHANLER. The object of this resolution is to enable the managers to remove the suspicion which rests upon them.

Mr. LOGAN. I do not yield any longer. In conclusion, allow me to say this, so far as I am concerned: any insinuation that I have or ever had any interest in this Alta Vela matter, either directly or indirectly, remotely or in expectancy, or in any manner that mind can imagine, or that I signed that letter with any intent to influence the President, or that he would see it, or have any knowledge of it in any way whatever, is false, let it be stated by whom it may. I have stated the facts correctly, as they

exist in the case; and that is all that I desire to say.

Mr. BUTLER. Mr. Speaker, I think that a word of explanation as to the island of Alta Vela will be necessary in order to an exact understanding of this matter. By the act of August, 1856, it is provided that when any island is discovered having upon it valuable deposits of guano, if it is an unappropriated island, it shall exclusively belong to the discoverer, if he be a citizen of the United States.

Something more than a year ago I was in the office of the Attorney General of the United States, and at his request listened to a full discussion of the matter of Alta Vela. I there learned that Alta Vela is a small island lying south of Hayti, and belonging to that Government, if it belong to any other Government than our own; that the guano upon it had been discovered by two Americans; that the island had been long known as a beacon, but was supposed to be an unprofitable and worthless key; that these two Americans took the proper steps to file in the State Department the evidence of their title to the guano upon it by discovery, and had proceeded to work that valuable deposit; that some inhabitants of Dominica, under the lead of their chief, who afterward ran away, made an expedition to this island, captured the employes of the claimants to it, destroyed their works, and tore down the American flag, for which they ought to have been shot on the spot, and for which they would have been hanged under any just administration of international law. Having torn down our flag they took possession of the island, and after a considerable period of time the Dominicans leased the island to a New York company.

Then the original discoverers so despoiled came to our Government and asked that their employes might be liberated, and they were liberated. They also asked that they might be put back in possession of the island, and there they met with difficulty, because putting them in possession of the island would set aside the New York company. And whether rightfully or wrongfully, it has been very hard for some years past to touch New York firms through the State Department.

The question was, shall the Government interfere in this matter? The deposit of guano was a limited one, and this is almost the only island on this side of the continent containing such a deposit, and from its nearness to market it is very valuable. As soon as the New York firm got possession of it they ran ships there as fast as they could in order to carry the guano all off before this Government should take any steps in favor of the original discoverers.

After hearing the facts of the case, I said I thought it was a case in which the Government ought to send out a ship of war; not for the purpose of making war on anybody but for the purpose of saying, backed by sufficient force, "hands off; let no one carry away a load of that guano until the title to this matter is determined by the courts." In other words, I thought an injunction should be served on the parties who were carrying away this guano, and this could only be done under the circumstances by a vessel of war. I think while the question is delayed in the State Department those parties who had thus got possession, I will not even say wrongfully, as the other party claims, should not be allowed to carry off all that made the island valuable, and prevent any subsequent redress, if the others were in the right. To the opinion then expressed I still adhere.

This is the opinion which I expressed in the presence of the Attorney General after hearing the case discussed by Judge Black. I never heard or knew anything about Alta Vela from that time until some time last February—I think about the 9th or 10th of February, as near as I can remember—when my friend, Colonel Shaffer, the friend of Lincoln—a man whom I never saw until Mr. Lincoln sent him to me, and who proved himself the ablest quartermaster in any division of our Army—came to me and said, "I have taken some interest in

Alta Vela; I am not learned in the law to the extent which I wish I was; I am not so well known as a lawyer as you are; I have learned from Mr. Black that you have heard Alta Vela discussed. Did you come to an opinion about it?" I replied that I had done so. "Well," said he, "perhaps if I had your opinion upon the validity of the title and that of some others I might be able to convert my interest into cash or dispose of it, if it were understood that the Government might interfere, if there was a clear case in which the Government could assert its authority. Now, will you give me your opinion as a lawyer?" I replied, "Certainly. Sit down and write out an opinion yourself." He did so with pencil on a little piece of paper, which I now hold in my hand. When I read what he had written I said, "This will not quite do. Lawyers do not talk exactly so positively in this way." I then took my pen and scratched out the words which I thought were too strong and wrote in others. Anybody who examines this paper must see that it is the original rough draft. I then directed this to be copied, and when it had been copied I signed it. I had at that time no more thought or expectation that the President would be impeached immediately than I had of flying. I knew he would be ultimately, because I knew he never would lie still until he was impeached. [Laughter.] So far I had impeachment in my mind, but no further. From that hour until I saw this letter in the New York Herald I never heard of it, and I never spoke to anybody about it, and no man ever spoke to me about it. When I read it in the Herald I saw the President was publishing it as in some way connected with his quarrel with Mr. Black.

Now, sir, these are the facts as to the origin and purpose of the opinion. Let us see what is the accusation brought against me. It is that I have written a letter—which is not a letter after all, for it is a legal opinion, and I still think a pretty good legal opinion.

Mr. ROBINSON. Will the gentleman allow me to ask him a question?

Mr. BUTLER. Yes, sir.

Mr. ROBINSON. Did the gentleman from Massachusetts at that time know that the President had expressed a wish to have the opinion of some distinguished gentlemen on the other side in favor of the claim?

Mr. BUTLER. Not at all; I will explain all about that before I get through. I had not the slightest idea of the kind. The next time the matter was brought to my attention was when I read the letter in the Herald, and subsequently when Mr. Nelson brought it up in the Senate. I saw that Judge Black, whom I had not spoken with for months, had left the President's employment as counsel in the impeachment case, and that was the only thing that attracted my attention to the matter at all.

Now, then, what is the accusation? The accusation is that I wrote a letter. I did so; I gave an opinion. The gentleman from New York [Mr. Brooks] says I must not give opinions. Well, I agree it is a great deal the best not to give an opinion about other people's contests. I generally refuse to give opinions about other people's contests unless I am of counsel, and I very frequently refuse to give opinions and very frequently and, indeed, always, I refuse to undertake any lawsuits where I have a personal difficulty or personal difference with any of the parties, because I do not think it proper to carry on lawsuits to eke out personal revenge or carry on investigations to eke out personal revenge. Perhaps I can give an instance illustrating this rule of mine which may be interesting to the gentleman from New York. Some time ago there was a case where one Clark, if I remember his name aright, sued a fellow by the name of Erastus Brooks, who was the owner of a newspaper—a penny-a-line sheet called the Express, in New York. [Laughter.] And there was a difficulty between this Erastus Brooks and his other partner and this Clark about the division of the spoils of the partnership. And Clark brought a suit and some harpies in interest brought the

case to me. They showed me that two brothers—this Erastus Brooks he had a brother who was a partner—had robbed this Clark, and there was sworn testimony about it. They brought me the sworn oath of the brother of Erastus Brooks that he did not know enough to add up a column of figures, and therefore he did not know but what he had cheated his partner. Well, I said, "Now, you know that I have not any cause to love a portion of this firm and I will not take your retainer; I will have nothing to do with it; go away; it is a nasty mess anyhow, and I will not mix up with it, if you please." [Laughter.] No, not nastier than guano, as a friend asks me, but not half as fertilizing, I assure you. [Laughter.] Well, I saw this case go on in the courts. I saw that the holders of the Express got beat and had to pay costs and charges and all that, but I never knew which side was wrong. There was rascality there somewhere. The court settled it, and I have no doubt settled it right; the verdict shows that, and I suppose judgment followed the verdict.

Now, there was a case where I was wiser than I was now and where I did not give an opinion. I should probably have got into a scrape if I had and should have been abused by somebody or abused somebody about it—one or the other. [Laughter.]

Well, I gave an opinion in this matter and this has been the result. I have made some investigations about this opinion since it was given. I have made some examination since and I find this to be the state of facts, as accurately as I can learn them. I find that my letter was sent to the President inclosed in another letter by Mr. Chauncey F. Black. He states in his affidavit, which was read by the gentleman from New York, "after receiving this opinion I inclosed it to the President." That letter of inclosure never has made its appearance. It is kept back by the President or his friends or somebody. I should like to see that letter of inclosure because it might explain some of these matters; but it does not make for the President's case, either here or elsewhere, and therefore it is not produced, otherwise it would have been.

Mr. ELDRIDGE. I desire to inquire of the gentleman if it does not appear in the affidavit of Mr. Chauncey F. Black that this letter inclosed was a copy of the first letter sent to the President?

Mr. BUTLER. Oh, no, sir; no, no. Let me read it:

"After receiving this opinion I inclosed it to the President. The time when this opinion was received, and whether it was dated, I do not recollect. The time that it was presented to the President by me can be established by the date of my letter inclosing it. Learning from a mutual friend that it would be desirable for the President to receive the recommendations of other members of Congress I carried a copy of the opinion to the House of Representatives and procured the signatures of some of my personal friends and asked them to procure the signatures of others which were attached to the copy. Some considerable time after I had forwarded the original I sent this copy so signed to the President."

And here is the letter in which he sent the copy after he had procured the signatures:

March 16.

Mr. PRESIDENT: I have heretofore handed you a letter embracing the opinions of Generals BUTLER, LOGAN, and GARFIELD in respect to our claim to Alta Vela. Please find herewith a copy of the same with the concurrence of THADDEUS STEVENS, &c.

Showing that long before that, my opinion had gone to the President.

Now, then, I say I have made some further investigation, and I find that Judge Black did not know of the existence of either the original papers or of the copy until the President showed them to him himself, and as I am told said in substance to those interested about the case, "I believe you are right about Alta Vela; I believe I ought to do it; I am ready to do it; I should be glad to do it; but Seward will not let me; his New York friends are interested in this matter and he will not let me. Now, if you will get some other members of Congress to sign the letter, so as to stiffen me up, that they may stand by me against Mr. Seward,

so that he shall not go to the House and complain of me, I will be ready to do it."

And thereupon, without consulting me, or without consulting any of these gentlemen upon this coming to his knowledge, Mr. Chauncey Black says that he asked a few of his personal friends to sign it; his old neighbor from Lancaster county, Pennsylvania, [Mr. STEVENS;] his old professional friend from Ohio, [General GARFIELD,] to get others; and they signed it.

Now, what did they sign? They signed what has been put before the country as a claim. Now, I beg pardon of the House; there is no claim in this matter against this Government. This Government is not to be called upon to pay a dollar out of its Treasury in any way because of *Alta Vela*. When gentlemen say there is a million of dollars in it, all I can say is that I do not know whether there is or not; I never asked.

Mr. ROBINSON. Will the gentleman allow me to ask him a question?

Mr. BUTLER. Certainly.

Mr. ROBINSON. What is the interest which Colonel Shaffer said he could sell out or dispose of?

Mr. BUTLER. I suppose it is the interest in the guano on the island which belonged to him and his associates. It is nothing for which the United States Government has to pay a dollar, or for which in any event it will take a dollar out of its Treasury.

Now, the extent of our offending is this, and nothing more: that we have signed an opinion that it is the "duty of the Government of the United States in the most forcible manner consistent with the honor and dignity of the Government" to protect its citizens. That is the opinion which I signed. And I am ready to sign such an opinion now or hereafter whenever I am asked so to do.

Am I alone in this opinion? Sir, the Legislature of the State of Pennsylvania, without my knowledge, passed a resolution upon this very subject to the same effect as my own opinion. And the Legislature of New Jersey—Ah! my friends on the other side—the Legislature of New Jersey has just passed a resolution in favor of the claimants to *Alta Vela*, probably according to your theory to influence the President to do a wrong.

A MEMBER. A Democratic Legislature.

Mr. BUTLER. I did not say a "Democratic Legislature," because I supposed the gentleman on the other side knew that. There are so few of them that they can easily keep an account of them. [Laughter.]

Now, it is known everywhere that this question is a question of international law, upon which I may be either right or wrong. But as long as I exist I purpose to sign just such opinions as this whenever I think the occasion calls for it.

Now, I desire to make another observation. Governor BOWWELL mentioned in his argument the public notorious fact that there was a quarrel between Judge Black and the President. He said it showed that the President meant to strike down every man who disagreed with him. Thereupon Mr. Nelson, to show that Governor BOWWELL was right in that, came in and with this correspondence tried to strike down Judge Black, although he was the President's friend and had spent and been spent in his service. And this same Mr. Nelson, who represents the President in this attack, agreed with Judge Black as to the justice of the *Alta Vela* case, and pressed the duty of interference on the attention of the President, as I am informed, and verily believe, and said that the President ought to take the action requested of him. The whole question was whether the President would or would not do it, not whether he thought he ought to do it.

A single word further and I have done. I am not called upon to defend Judge Black; he is amply able to take care of himself upon the reasons why he left the case of the President. Now, I want gentlemen to say what they understand we proposed to influence the President

to do? To influence the President to protect American citizens in their rights. Do they say it was to make war on Dominica? Poh! We make war on Dominica! Shoot off a twenty-four pounder at a pig-sty? Not at all. No one expected any war. All that was asked was that the President should protect American citizens in their rights. That is all. We tried to influence him to do that; and in this it is thought we acted inconsistently with our duty. Do gentlemen on the other side dare to say that we conspired with Judge Black to prevent him from acting as counsel for the President in the impeachment? Is that what they mean to charge? Anybody who wants to make that issue must fight it out with Judge Black, for so far as I am concerned, I should rather have Judge Black opposed to me as counsel in the defense of the President, than to have a *soi disant* Republican put forward to defend him.

Mr. CHANLER. The gentleman from Massachusetts will permit me to say that he has now very adroitly touched the very point at issue. The suspicion has, I think, found a place in the public mind that such a conspiracy did exist; and it is very evident that if there is any merit in this resolution it is that it is calculated to draw from the gentlemen connected with the matter a denial that there was any such conspiracy.

Mr. BUTLER. Well, sir, I can say that Judge Black did not know, so far as I am aware, of the existence of the fact of the letters. I did not know any fact of that sort, and I have nothing further to say upon that subject than that it never was thought of, or known, by any manager that Black was to retire till he had done so. I desire to say nothing further now, but repeat, that so far from desiring that Judge Black should not defend Andrew Johnson, that I would much rather have a well-known, well-understood Democratic politician and lawyer, like Judge Black, defending the President to-day, than any man who claims to be a Republican doing so, thus "stealing the livery of the court of heaven to serve the devil in." [Laughter.]

Mr. ELDRIDGE. I did not intend, Mr. Speaker, to take any part in this discussion; but in consequence of the direction which has been given to the debate by the gentlemen who, in my judgment, are the only gentlemen who can have any personal interest in this question, I desire to make a few remarks.

The gentleman from Illinois [Mr. LOGAN] has said that he does not appear before the House because of any right on the part of the House to require him to appear, or because of any demand which the House has made upon him. That, Mr. Speaker, is a matter entirely with the gentleman from Illinois. The public has made something more of this question than he would seem to think when he tells us that he does not feel called upon to make any answer upon this question.

The gentleman from New York [Mr. CHANLER] has very well suggested the real gist of this question, and if I had drawn this resolution and made the remarks introducing it I should have stated that as the real question; for let gentlemen dodge and squirm and retreat and draw back as they may, yet there is a strange coincidence between the fact of this letter being sent to the President under the circumstances through which it was obtained and the fact that Judge Black withdrew from the defense of the President, and that immediately afterward the Republican papers throughout the country took up the matter, declaring that the President had been abandoned by his principal counsel because of the conviction in the mind of that counsel that the President was guilty of the crimes charged against him. Now, let us see how this letter originated.

Mr. WOODWARD. Will the gentleman from Wisconsin yield to me a moment?

Mr. ELDRIDGE. Yes, sir.

Mr. WOODWARD. In reply to the remarks of the gentleman from Wisconsin, [Mr. ELDRIDGE,] the gentleman from New York, [Mr. CHANLER,] and the gentleman from Massa-

chusetts, [Mr. BUTLER,] in regard to the suspicion that Judge Black was in conspiracy with somebody, I wish to say that Judge Black is a man of the very highest honor and integrity, and that a conspiracy on his part with anybody is an impossible supposition, and especially a conspiracy with the gentleman from Massachusetts, with whom, I assure the House, Judge Black will enter into no conspiracy on any subject. The idea is preposterous. I beg my friend from Wisconsin not to entertain for one moment any such suspicion with regard to Judge Black.

Mr. ELDRIDGE. If my friend from Pennsylvania had remained quiet for a moment I think he would have seen that I make no imputation upon Judge Black; nor do I enter into that question at all. I simply remark that there is a singular coincidence between the fact that he withdrew from the defense of the President at the time when he did, and that these letters from gentlemen having the management of the impeachment on the part of the House were, in view of the peculiar circumstances under which they were prepared, presented to the President just about the same time. Now, let us see whether the gentleman from Illinois is strictly correct.

If the House desires to adjourn I will yield for that purpose.

Mr. ROSS. I move that the House do now adjourn.

Mr. WASHBURN, of Illinois. Oh, no; I hope this matter will be settled to-night.

The question was taken, and the House refused to adjourn.

Mr. ELDRIDGE. Mr. Speaker, the gentleman from Illinois [Mr. LOGAN] claims that they had a right to write this letter at the particular time when it was written, and he says that he would do so again. And he tells us that the reason why he wrote that letter was to oblige his friend, Colonel Shaffer. Now, sir, that is in direct contradiction of the affidavit of Mr. Chauncey F. Black which was published in the *Globe*, and which the gentleman from Massachusetts [Mr. BUTLER] introduced in the trial of the impeachment. Mr. Chauncey F. Black says, in his affidavit:

"As such counsel, we have argued the cause to the Secretary of State, and also to the President, before whom the question has been pending since July 19, 1867."

"We have in various forms pressed the matter upon his attention, and he has expressed himself fully and freely satisfied with the justice of the claims of our clients and his conviction of his own duty to afford the desired relief, but had declined to act because of the opposition of the Secretary of State."

He adds, in another passage:

"Learning from a mutual friend that it would be desirable for the President to receive the recommendations of other members of Congress, I carried a copy of the opinion to the House of Representatives and procured the signatures of some of my personal friends, and asked them to procure the signatures of others, which were attached to the copy."

Now, Mr. Speaker, it appears that Mr. Chauncey F. Black brought that letter here and procured signatures to it.

Mr. PILE. A copy of the letter.

Mr. ELDRIDGE. I hope the gentleman will not interrupt me. A copy of the letter; it makes no difference. He brought the letter to the House of Representatives and procured signatures to it. He did not do it because Colonel Shaffer was a poor lawyer, as his friend, General BUTLER, would represent, not because he was not satisfied of the legality and justice of his case, but because he, Mr. Chauncey F. Black, understood that it would be desirable to the President to have members of Congress indorse this claim. That was the reason why he presented it. So that it appears from the affidavit itself that the object was to procure the signatures of members of Congress for the purpose of influencing the mind of the President. The affidavit shows that fact, and it shows that Mr. Chauncey F. Black procured the signatures, and not Colonel Shaffer. He says further:

"These signatures were procured upon personal application to the gentlemen severally, without any concert of action whatever on their part, and with-



out any reference to any proceedings then pending in the then present action of Congress in regard to the President whatever."

That is equivalent to swearing that the signatures were procured at a time when the impeachment proceedings were pending, because he says the signatures were not procured with any reference to the then pending proceedings. This goes to show conclusively that the letters were obtained at the time when they bear date, the 9th of March.

Mr. BUTLER. Will the gentleman allow me a single question?

Mr. ELDRIDGE. Yes; I will hear the question.

Mr. BUTLER. I would like an answer to this question: If any gentleman asks you to sign a recommendation to the President of the United States to protect the rights of citizens of the United States by all the means consistent with the honor and dignity of the country will you refuse to sign it?

Mr. ELDRIDGE. Why, Mr. Speaker, it makes all the difference—

Mr. BUTLER. Oh, answer yes or no.

Mr. ELDRIDGE. It makes all the difference in the world with what motive you sign any such paper, and it is that motive which it is desired by this investigation to ascertain, to see whether, as is charged in the country, these managers were influenced by corrupt and improper motives.

As I understand the *Alta Vela* case, the gentleman from Massachusetts [Mr. BUTLER] in his opinion represented only one class of citizens. Now, as I understand it, there are two classes of citizens, two sets of claimants to this island of *Alta Vela*. And, as I now understand it, the gentleman from Massachusetts was endeavoring to influence the President to interfere or interpose on behalf of those whom his friends represented. It is that fact which makes the signing of that letter either innocent or wrongful. It is that fact, the circumstances under which the letter was written, the purpose for which it was written, and the motive with which it was written, that gives character to the act, and that is what we desire to have ascertained by means of an investigating committee.

Mr. LOGAN. The purpose is to investigate whether there were corrupt motives or not. Now, I ask the gentleman from Wisconsin, as a member of this House and a gentleman, to state whether he charges that there were corrupt motives?

Mr. ELDRIDGE. If the gentleman had paid any attention to me he would understand that I do not undertake to impugn the motives of any man in this matter, neither do I upon any occasion make any such gross or ungentlemanly charges as are sometimes made by others upon this floor. I say that if the affidavit of Chauncey Black means anything at all, if he is entitled to any credit at all—and so far as the managers are concerned he is entitled to full credit, for he is their witness—it shows that these signatures were procured for the very purpose of operating upon the mind of the President. The President and the Secretary of State had the case before them; they had been considering it since July, 1867, and it was for the very purpose of influencing the President to act in accordance with the views of Judge Black and the party he represents that these signatures were procured, avowedly so.

Now, I care not what may be the character, or how high may be the position of Judge Black, I am not here to impugn or to defend him. I am not here to say that he is right and that the President is wrong in this matter. But I say that this matter, presented as it is, naturally raises a suspicion in the minds of the people and of all just men, that there is some connection between this letter and the action of Judge Black.

It has been put forth in the papers as a fact that Judge Black withdrew from the defense of the President because of a difference of opinion between him and the President upon the *Alta Vela* claim. Now, it may have been

entirely right and proper that he should withdraw. I do not express any opinion upon that question at all. But here stand the two great facts, that after the President had been summoned to the bar of the Senate, while the proceeding of impeachment was pending against him, one of his principal counsel—one whom the gentleman from Massachusetts [Mr. BUTLER] says he would rather have defending the President than any pseudo-republican—withdraw from the defense of the President.

At the same time we find that four of the managers of this House had given opinions in accordance with the views entertained by Judge Black and his firm of lawyers in regard to this *Alta Vela* question. We find that they give the opinion that they are surprised that the President has not before this enforced the claim of the party represented by Judge Black upon the island of *Alta Vela*, with all the power and force consistent with the honor and dignity of this nation.

Now, if these facts taken in connection, taken together as they stand, are not enough to raise suspicion, then I would ask any gentleman what facts would raise a question in the minds of honest men? But the gentleman from Massachusetts [Mr. BUTLER] has gone even further. He tells us that this claim is so great, is of such vast importance, that the Legislature of the State of Pennsylvania has passed a resolution indorsing it. He tells us, also, that the Legislature of the State of New Jersey has acted upon this claim, and by resolution has indorsed the validity of the position taken by the managers and by Judge Black and his firm of lawyers. How vast a claim must it then be that can exert such an influence in the country as this! How important a matter must it be, when it can command the influence of the House of Representatives or a portion of them, of a majority of the managers of impeachment, and obtain resolutions in its favor from the Legislatures of the States of Pennsylvania and New Jersey!

Is it then a matter of such light importance? Is it a matter of such little moment? Is it a matter to be laughed off and trifled with as gentlemen would trifle with it? Why do they not tell us that they did not expect this letter was to go to the President? The gentleman from California, [Mr. HIGBY], who knows nothing about the matter, tells us that the letter is not addressed to the President; but no such defense as that has been put in by the gentleman from Massachusetts [Mr. BUTLER] or the gentleman from Illinois, [Mr. LOGAN.] No such answer as that is made by either of the gentlemen.

Mr. LOGAN. If the gentleman will allow me, I desire to say that he is certainly mistaken. I said here in the presence of the House, and the gentleman heard it—whether he has forgotten it I do not know—

Mr. ELDRIDGE. I do not yield to the gentleman any further.

Mr. LOGAN. I stated most emphatically that—

Mr. ELDRIDGE. I do not yield to the gentleman. He never can be a gentleman in putting a question, and never can treat an opponent with any sort of courtesy. He never will be polite or civil. I do not wish, however, to do the gentleman any injustice.

The SPEAKER. The Chair will state that to say of a member of the House that he "never can be a gentleman" is not parliamentary.

Mr. ELDRIDGE. I did not say that, I believe.

Mr. LOGAN. I do not take any exception to the remark. You cannot expect anything else from a blackguard.

The SPEAKER. The remark of the gentleman from Illinois [Mr. LOGAN] is unparliamentary.

Mr. LOGAN. I do not take it back.

Mr. ELDRIDGE. I think the Chair misunderstood me. At all events, I had no intention of making such a remark as the Chair has stated. I did not intend to do the gentleman

from Illinois any injustice. If he did make the denial, it escaped my attention. But, sir, if the gentleman does deny it, we have the sworn affidavit of Mr. Chauncey F. Black that he procured the signatures, not for Colonel Chaffier, but for himself, and that he presented these signatures—

Mr. LOGAN. If the gentleman will allow me—

Mr. ELDRIDGE. I do not yield to the gentleman.

Mr. UPSON. Will the gentleman allow me to ask him a question?

Mr. ELDRIDGE. Yes, sir.

Mr. UPSON. I desire to inquire whether that affidavit of Chauncey F. Black has not reference to the second letter, which contained a copy of the first, and not to the one signed by General LOGAN or General BUTLER.

Mr. ELDRIDGE. No, sir. I think it refers to both.

Mr. UPSON. The gentleman will find, I think, if he reads the affidavit, that it refers only to the last letter.

Mr. ELDRIDGE. I have read it, and I think the gentleman is mistaken.

Mr. GARFIELD. Will the gentleman from Wisconsin [Mr. ELDRIDGE] yield to me for a moment, that I may make a few remarks, and also send to the Clerk's desk to be read a letter from Judge Black?

Mr. ELDRIDGE. I will yield to the gentleman for that purpose.

Mr. GARFIELD. Mr. Speaker, I wish to say in reference to my signature to this paper that I had seen the report in this case, (for there is a printed official report from the Secretary of State in regard to the island of *Alta Vela*), and either Mr. Black, junior, or Mr. Shaffer, or both together, (I forget which,) showed me an opinion written by General BUTLER and approved by General LOGAN, and asked me whether I felt at liberty to sign it. I glanced hastily over it and was of the opinion, as I still am, that it was good law, and I signed the paper. I cannot fix the date of that, but I am quite confident it was as early as, perhaps before, the 1st of March. But I am unable by any means to fix the date with precision. Some days after that (and I make this statement out of regard for two managers who are concerned in this case) a copy of that paper, which had been written by General BUTLER and signed by General LOGAN and myself, was brought to this House. Colonel Shaffer and Mr. Black, I think, were here together, and they, not having the privilege of the floor, asked me if I would not hand that to two or three gentlemen here for their signatures. I went to the gentleman from Ohio, [Mr. BINGHAM], a prominent man, and occupying a seat near the front, where the paper was given to me. I asked him to sign it. "What is it?" he said, in his apparently rather petulant way. I replied, "It is an opinion of General BUTLER in favor of asserting the right of some American citizens to a certain island." "Oh," said he, "you mean that *Alta Vela* matter; I do not know much about it." I let the paper lie on his table.

Probably in five minutes from that time I passed by there and said, "BINGHAM, have you signed that paper?" "Well, is it all right?" said he. "I think it is; I signed it myself," I replied; and he then signed his name. I should be surprised if Mr. BINGHAM, if he is not possessed of an extraordinary memory, would remember the transaction fifteen minutes.

I also passed the paper to Mr. STEVENS, who was sitting, I think, at the Clerk's desk. I said, "This is an opinion of General BUTLER, Mr. STEVENS, with regard to the claim of some of our citizens to an island." "Well," said he, "I know something about that; I think Seward has acted like a rascal," or some remark like that, [laughter,] and he signed the paper. That accounts for the signatures of the two managers; and so far from there being any concert of action, any purpose in that signing except such as appears on a hundred papers

that are on the desks of members every month, I am perfectly clear—my mind could not be clearer on any subject—that those two gentlemen had no notion whatever, any more than I had or any other man had, that they were a party to any scheme.

Now, I have received a letter from Judge Black, dated the day before yesterday, and I will ask the Clerk to read it, and that will end all I have to say.

The Clerk read as follows:

YORK, April 23, 1868.

MY DEAR SIR: The newspapers talk wildly about my retirement from the impeachment case. Some of them put Mr. Johnson in "the interesting predicament of an ill-used gentleman," because I am not defending him before the Senate. Mr. Nelson said very absurd things in his speech the other day. What is worse, they assert (by innuendo at least) that some of the Radicals in Congress had a mischievous purpose in expressing their opinion that justice ought to be done to the owners of *Alta Vela*. I want you to understand and remember two or three points.

1. I knew nothing about the paper until it went into the hands of the President. I never in my life spoke to any of the signers about the case except to you, and not to you until after the date of the paper.

2. You certainly could have had no design to make a breach between the President and me; for, when I told you that his conduct and the misconduct of Seward might compel me to decline acting as his counsel, you advised me not to decide hastily on a question of so much moment to my professional reputation.

3. I never saw or heard anything from which it could be inferred that you or any other member of Congress signed the paper in question for any reason except because it expressed your real convictions.

4. You know certainly that my retirement was not prompted by anybody. It was my own act, for which I alone am responsible, and it was done because I felt myself morally forced to it.

5. The story that I gave the President his choice between a decision of the *Alta Vela* case and the loss of my services as counsel is all false. From first to last I never asked him to do anything in it except on the ground of pure justice. I distinctly told him that I did not want it as a favor to me. When I found that Seward's policy was stronger than legal duty I was done. But Mr. Johnson did not know until he had given his last word that it would or might have the effect of dissolving our relations. I have nothing to say against the magnanimity and courage for which Mr. Nelson gives him credit, only this: that there was no necessity for showing those qualities to me; I did not put him to any test whatever.

I am, most respectfully, yours, &c.,

J. S. BLACK.

Hon. J. A. GARFIELD.

Mr. GARFIELD. Allow me one word more. The signatures that were added to the letter when the copy was in here were, so far as I know, all added within five minutes. At least I know of three signatures, the two that I have named and that of Mr. BLAINE, and they were added in the same unconcerted and hurried way in which we sign hundreds of papers here. I have had this letter read for a twofold purpose, for, whatever may be Judge Black's political opinions or his political status, I should feel myself very unworthy if I made an insinuation or, as far as I could help it, permitted an insinuation that he had done a dishonorable thing in this matter.

Mr. ELDRIDGE. Can the gentleman state the date of that?

Mr. GARFIELD. The letter is dated the day before yesterday.

Mr. ELDRIDGE. The gentleman said that all that occurred in the House in relation to the letter occurred within the space of five minutes.

Mr. GARFIELD. I spoke of the signatures.

Mr. ELDRIDGE. I understand that; but when was that?

Mr. GARFIELD. It was the copy bearing the same date as the original letter. It was some time in the month of March. I cannot tell the precise date. The original letter was copied entire, and the other signatures were added to the copy of the original letter.

Mr. ELDRIDGE. Was this after the date that the copy bore?

Mr. GARFIELD. I think it was about the 16th of March, but I cannot fix the precise date.

Mr. ELDRIDGE. That corresponds with the statement of Mr. Chauncey F. Black, and his letter inclosing the copy with the additional

signatures to the President would fix the date of the transaction.

Mr. BUTLER. Allow me to call your attention to that. He speaks not of the original letter, but of the copy, as you will see by his affidavit before you.

Mr. ELDRIDGE. The gentleman may read it.

Mr. BUTLER. He says:

"Some considerable time after I had forwarded the original I sent this copy so signed to the President."

Mr. ELDRIDGE. Now, the time when this copy was sent, I understand Chauncey F. Black in his affidavit to say, can be fixed by the date of the letter which inclosed that copy to the President.

Mr. BUTLER. The original?

Mr. ELDRIDGE. No; he states it in reference to the copy, as the gentleman will find. I cannot be interrupted further. I think the gentleman will find it so on examination.

Now, I intend to make no insinuation against either of these managers. My personal relations with them are such that I have no desire to cast any imputation upon them. But here stands before the country a grave charge in regard to them. And I say the same thing in regard to Judge Black. I know him well; I would be as unwilling to believe any wrong of him as can be his friend from his own State, [Mr. WOODWARD.] Therefore, as I have before said, I make no charges against him. But here stands the fact before the country, in regard to which a committee of investigation can satisfy the country. Here stands the charge against the managers: four of the managers writing a letter to the President, or writing a letter which was sent to the President, insisting upon the legal right which Judge Black and his firm of lawyers were endeavoring to enforce; Judge Black and his firm of lawyers asked that a vessel of war should be sent to enforce the claim of the parties whom they represented.

Here is the letter written (the gentleman says he thinks it was written in February) bearing the date of March 9, in which language is used which means, if it means anything, that the President ought to have done precisely what Judge Black and his firm of lawyers claimed that he should do, to wit: to have enforced, by all the power at his command, consistent with the honor and dignity of the nation, this claim of these parties upon the island of *Alta Vela*. The claim of the lawyers and that of Mr. Manager BUTLER are identical; both insisting that the rights of these parties should be maintained by the power of the Government—by all its power; the one asking that a war vessel, and the other asking that all the power of the Government should be used to maintain the claim of these parties upon *Alta Vela*.

There also stands before the country the fact that Judge Black had been engaged as one of the counsel of the President; that for some reason, personal to himself, he deemed it proper to withdraw from the defense of the President. Now, it matters not whether Judge Black himself knew what was to be done with this letter, whether he had anything to do with procuring it, or whether it was procured by Colonel Shaffer, or the younger Mr. Black for the purpose of operating upon the mind of the President. In either case, if the managers knew that such use was to be made of the letter, then their motives would be such as have been charged against them. If they did not know it; if they did not write the letter for any such purpose, then why do they resist an investigation by a committee? Why do they shrink from that?

They need not charge, as was charged by the gentleman from Massachusetts, [Mr. BUTLER,] and the gentleman from Illinois, [Mr. LOGAN,] that this matter was dragged before the country and into the impeachment case by the President. That is not so. All know that the first intimation in reference to the *Alta Vela* case was contained in the charge made in the speech of Governor BOUTWELL, that the President had

undertaken to ruin Judge Black, and drive him from the case. It therefore became necessary for Mr. Nelson to answer the charge thus made.

Mr. SCHENCK. Will the gentleman yield to me for a question?

Mr. ELDRIDGE. Certainly.

Mr. SCHENCK. Will the gentleman pair with me? I want to go away from here. [Laughter.]

Mr. ELDRIDGE. The gentleman always treats me with so much kindness and courtesy; he always expresses his opinions here with such a sweet and smiling face, and in such a kind manner that I am always willing to yield to anything he asks.

Sir, I say that this matter was dragged before the country by the managers themselves; for it is to be presumed that the gentleman from Illinois, [Mr. LOGAN,] and the other managers acted in concert in regard to the speeches which they put before the country; that Mr. BOUTWELL made such a speech as accorded with the views of the managers. This is the fair presumption; and it seems to me it should be the desire of every one of those managers that the facts should come out, that they may be exculpated from the charge which is made against them in the public prints.

Now, Mr. Speaker, in consequence of the interruptions I have experienced I have said much more than I had expected to say. Let me repeat, that there may be no mistake about this matter, that I have spoken from no personal ill-will toward any of the managers or toward Judge Black or toward any other person who may be connected with this case.

Mr. Speaker, I now yield fifteen minutes to the gentleman from New York, [Mr. BROOKS.]

Mr. ROSS. If the gentleman from New York will give way I will move an adjournment.

Mr. BROOKS. I prefer to go on now. Mr. Speaker, before I sit down, I desire to say a few words in reply to the honorable gentleman from Massachusetts, [Mr. BUTLER,] but in the first place I wish to refer briefly to the law bearing upon this case of *Alta Vela*. The act of August 18, 1856, contains this provision:

"That when any citizen or citizens of the United States may have discovered, or shall hereafter discover, a deposit of guano on any island, rock, or key not known within the lawful jurisdiction of any other Government, and not occupied by the citizens of any other Government, and shall take peaceable possession thereof, and occupy the same, said island, rock, or key may, at the discretion of the President of the United States, be considered as appertaining to the United States."

I also hold in my hand the acts of the republic of St. Domingo of 1844 and 1854. These two acts passed by that republic at two different times show clearly that this was not a newly-discovered island, but that it was recognized as within the legal jurisdiction of St. Domingo. The law of 1844 contains the following provision:

"ARTICLE 2. The province of Compostela de Azua is divided into nine communes, namely, Azua, (the capital of the province,) Neyba, San Juan, Hincha, Las Matas de Farfan, Banica, Caobas, San Rafael, and San Miguel. The military station of Barahona will be attached to the commune of Azua, as the nearest, and Petritu to that of Neyba. The adjacent islands depending on this province are Beata and *Alta Vela*."

In the law of 1854 it is provided as follows: "ARTICLE 4. The province of Compostela de Azua is divided into the following communes: Azua, (capital of the province,) Neyba, San Juan, Las Matas, Banica, Hincha, San Rafael, San Miguel, and Caobas. The military post of Barahona will depend upon the commune of Neyba. The adjacent islands depending on this province are Beata and *Alta Vela*."

Thus it clearly appears that these were not newly-discovered islands, but were islands annexed to the Government of St. Domingo and recognized as coming within its jurisdiction.

Now, sir, a few words in reply to the honorable gentleman from Massachusetts [Mr. BUTLER,] who, as well as the gentleman from Illinois [Mr. LOGAN] has chosen to assail me for the part which I have taken in this debate. In bringing this matter to the attention of the House I was actuated by good motives. I had no design to cast any imputation upon either of those honorable gentlemen, but simply to

demand an inquiry. I did not expect to draw from those gentlemen, and particularly the gentleman from Massachusetts, the volley of abuse to which it is impossible for me, having due regard for the amenities of debate, and the proprieties of this honorable body, to reply as it deserves. Such language, uttered in debate here, is more discreditable, if possible, to the House of Representatives than it is to the honorable gentleman from Massachusetts. I can see no reason why this question relating to the conduct of the managers should not have been properly met, instead of being made the occasion for denouncing me and bringing into this discussion matters which have no connection whatever with the question under consideration.

Sir, I never allow myself, unless provoked, to enter into any discussion of this sort with the honorable gentleman from Massachusetts or the honorable gentleman from Illinois or any other gentleman; I was not educated in any such school of debate. I have been taught to have more respect for the proprieties of this House and the proprieties of social and public intercourse than to enter into any such discussion.

Mr. BUTLER. Will the gentleman allow me to ask him a single question?

Mr. BROOKS. Yes, sir.

Mr. BUTLER. While I was in the military service of the country, did not the gentleman arise here and accuse me of being a "gold robber?"

Mr. BROOKS. I did; and it is because I did arise and on this floor accuse the gentleman of being a "gold robber" (and the fact was substantially established in the courts of New York) that he pursues me with the fire and fury exhibited upon all occasions when he and I come in conflict.

Sir, the honorable gentleman from Massachusetts will never, never forgive me because I extorted from him, or was the means of extorting from him through the Treasury Department here and through the courts in New York \$60,000 in gold which he had extorted from a New Yorker in New Orleans, when he had command there—a sum of money which he was obliged by the courts of New York to pay back, not exactly in the gold which he appropriated in New Orleans when it was at \$2 80, but in paper as legal tender. It is because of this act of mine upon the floor of this House when he was a commanding general and I as a public man exposed his acts here, that I am assailed, as I have been by him to-day, and upon other occasions elsewhere.

Sir, as a member of Congress upon the floor of this House when the subject-matter of the war was under discussion I had a parliamentary right to allude to the whole course of the honorable gentleman from Massachusetts and to dwell upon all his actions in New Orleans and elsewhere. He first, in order to deter me, sent an aid-de-camp of his, with epaulets, to my private chamber with a letter threatening me with something or other if I did not retract what I had then uttered; and because I chose to call the attention of the House to the subject of that letter, here, elsewhere, everywhere he has pursued me with volleys of abuse, with vituperation, with words and language of a character which I cannot properly here describe, but which would better befit Newgate or Billingsgate than the House of Representatives of the United States, and would better befit a representative from Billingsgate than a Representative from old Massachusetts.

The SPEAKER. The Chair will state that that remark is unparliamentary and out of order.

Mr. BROOKS. Billingsgate out of order! Why it is a gate in the city of London.

The SPEAKER. It is unparliamentary as applied by the gentleman from New York.

Mr. BUTLER. Then he did not mean it as uncomplimentary.

Mr. BROOKS. I yield, of course, to the admonition of the Chair.

Mr. CHANLER. I would like to ask, if my colleague will allow me a moment, if the assertion made by my colleague was thoroughly understood by the Chair? It was not directed—

The SPEAKER. The Chair will inform the gentleman that having made a decision it is presumed by all the members that he thoroughly understands it. If that decision is appealed from—

Mr. CHANLER. I do appeal from it, and I wish to make a statement.

Mr. BROOKS. Oh, no.

Mr. CHANLER. It is simply this: the application was not to the gentleman from Massachusetts. [Cries of "Order."]

The SPEAKER. The gentleman is out of order. The Chair decides that the remark made by the gentleman from New York, [Mr. Brooks,] in the presence of the House, was unparliamentary. From this decision the gentleman's colleague appeals.

Mr. CHANLER. I withdraw the appeal.

Mr. BROOKS. Sir, the gentleman from Massachusetts, in order to punish me for this discussion two Congresses since, has entered upon the subject of a lawsuit which I had in the courts of New York and which was amicably settled between the parties to the perfect satisfaction of all sides. Whatsoever he has stated here as fact has not even the merit of imagination and does not approach the domain of fact, and is not only without truth but is the very apogee and perigee from the truth in all respects whatsoever. But no matter what my lawsuits and controversies, I shall not choose to allude to his history in Massachusetts and elsewhere. I will not obtrude private affairs like that upon this House. My record is before my own people, my country, and my countrymen, and my people at home have sent me here by majorities of thousands; the most intelligent, the best educated, the most religious, the most cultivated, and the wealthiest of the districts of New York has indorsed my course and my character again and again, and I stand upon my constituency and upon that jury at home in utter refutation of whatever charges the honorable gentleman may choose to make against me without going into any particulars therefor.

I might if I chose enter into his history. Of what use would it be to me, when you often hear these things uttered to proclaim the glories of Big Bethel in his ear? [Laughter.] The gentleman is distinguished in war as in the arts of peace. Of what use would it be for me to speak of the "beauty and booty" of New Orleans, particularly of the booty of New Orleans which was of far more importance in his estimation than the beauty of New Orleans. I might dwell upon the "concussion" at Fort Fisher.

The SPEAKER. The Chair will remind the gentleman from New York that the question before the House is the resolution introduced by himself in regard to Alta Vela, and the Chair does not see exactly what this has to do with that.

Mr. BROOKS. Well, if the Chair had not been able to see it in the course of the discussion when the honorable gentleman from Massachusetts [Mr. Butler] alluded to a certain law suit of mine, I would be quite able to appreciate the inability of the Chair to see it now.

The SPEAKER. As the gentleman from New York [Mr. Brooks] casts an imputation upon the Chair, and intimates that he has not been fair in the decision which he has made, the Chair will state to the gentleman from New York that the remarks of the gentleman from Massachusetts [Mr. Butler] were in regard to legal opinions, which the gentleman from New York knows very well.

The gentleman from New York arraigned the gentleman from Massachusetts for signing a legal opinion. The gentleman from Massachusetts said that he had signed a legal opinion, though he sometimes refused to sign legal opinions in particular cases to which he re-

ferred. And he cited a particular case in which he refused to sign an opinion. He made no direct reference to the gentleman from New York, though he did use some language in regard to the parties in that case which may have had some connection with the gentleman. But the remarks of the gentleman from Massachusetts, as the gentleman from New York will find, if he reads the Globe, did not relate directly or in any offensive manner to the gentleman from New York. In admitting those remarks the Chair supposed he was stretching the rule quite as far as it could be stretched; but they were certainly legitimate in that line of argument. And if the gentleman from New York will now trace any connection between the remarks he was making about "beauty and booty" and the Alta Vela case and the conduct of the managers, the Chair will willingly modify or change his ruling.

Mr. BROOKS. The whole matter is a very dirty affair, relating to guano, as the gentleman from Massachusetts remarked while upon the floor. But under the ruling of the Chair—and I have no doubt the Chair is discharging to the best of his ability the duty incumbent upon him, to preserve order and decorum in this House—I have very little remedy for any personal attack made upon me here or elsewhere.

The gentleman from Massachusetts is not amenable either to the laws of debate or to the laws of courtesy. But I might do as he has done, perhaps. I might say that I, not as a lawyer, but as a journalist, having reference to journalistic matters connected with Alta Vela as a subject of public discussion, have been called upon to give an opinion in reference to some matters in connection with it.

And if I undertake to enter into that discussion I hope the Chair will observe carefully what I am saying and keep me within due bounds of order. I will say that there was a certain case in the State of Massachusetts where an honorable gentleman had come home from the glories of war, illustrious and renowned, with the keys of Richmond in his pocket, elevated, ennobled, and aggrandized by the glorious victories which he had won over the enemies of his country; yet he was attacked there by a common bricklayer for an onslaught upon him and soundly thrashed therefor. As he is capable of submitting patiently to a thrashing like that, I have no occasion here or elsewhere to vindicate myself from the personal assaults and attacks which the honorable gentleman from Massachusetts [Mr. Butler] makes upon me here.

Sir, no man can deprecate more than I these discourtesies of debate; and those who have observed my course in this House for years past will bear me witness that I never indulge in them unless I am provoked. But I allow no gentleman—no honorable or dishonorable gentleman—in any species of debate, unprovoked by any personal allusion from me, to attack me without using all the talents which God has given me in vindication of myself and in the way of proper retort.

I hope that now the honorable gentleman from Massachusetts is satisfied with the vengeance he has had for the exposure which I made of a gold transaction in the city of New Orleans. Wealthy as he is, abounding in all the resources of fortune, enjoying all the blessings of this life, and with, I trust, an anticipation of enjoying those of the life to come, he will, I hope, forgive me for having been the instrument of taking from his pocket, or from some one's pocket where he had deposited it, this large sum of money, and will no longer pursue this course of personal retort and vengeance upon me whenever an opportunity arises.

Mr. WASHBURN, of Illinois. I move that this whole subject be laid on the table.

Mr. ELDRIDGE. On that motion I call for the yeas and nays.

Mr. ROBINSON. Would it not be in order to refer the subject to a committee?



The SPEAKER. That motion would not be in order pending the motion to lay on the table, which has priority even of the previous question.

The yeas and nays were ordered.

The question was taken; and there were—aye 67, noes 25, not voting 97; as follows:

YEAS—Messrs. Anderson, Arnell, Beaman, Beatty, Benton, Blair, Brownell, Buckland, Reader W. Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dodge, Donnelly, Driggs, Eggleston, Ela, Ferriss, Ferry, Garfield, Gravelly, Halsey, Higby, Hill, Hopkins, Hunter, Judd, Julian, Kelsey, Laflin, George V. Lawrence, William Lawrence, Lincoln, Loan, Loughridge, Malloy, Maynard, McClurg, Mercer, Miller, Moore, O'Neill, Orth, Perham, Pike, Price, Scofield, Shanks, Spading, Starkweather, Thaddeus Stevens, Stokes, Taffe, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, and Windom—67.

NAYS—Messrs. Adams, Beck, Boyer, Brooks, Butler, Chandler, Eldridge, Fox, Getz, Holman, Hotchkiss, Johnson, Jones, Knott, Marshall, Moorhead, Mungen, Niblack, Phelps, Randall, Robinson, Sitgreaves, Stone, James F. Wilson, and Woodward—25.

NOT VOTING—Messrs. Allison, Ames, Archer, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baker, Baldwin, Banks, Barnes, Barnum, Benjamin, Bingham, Blaine, Boutwell, Broomall, Burr, Cake, Cary, Churchill, Sidney Clarke, Cornell, Dawes, Dixon, Eekley, Eliot, Farnsworth, Fields, Finney, Glosbrenner, Golladay, Griswold, Grover, Haight, Harding, Hawkins, Richard, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulbert, Humphrey, Ingorsoll, Jenckes, Kelley, Kerr, Ketchum, Kitchen, Koonin, Logan, Lynch, Marvin, McCarthy, McCormick, McCullough, Morgan, Morrill, Morrissey, Mullin, Myers, Newcomb, Nicholson, Nunn, Paine, Peters, Pike, Plants, Poland, Polesky, Pomeroy, Pruyn, Raum, Roberts, Ross, Sawyer, Schenck, Selye, Shellabarger, Smith, Aaron F. Stevens, Stewart, Taber, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Trichell, Van Anken, Van Trump, Van Wyck, Ward, William B. Washburn, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—97.

The SPEAKER. On this question the Chair votes in the affirmative, making a quorum, and the whole subject is laid on the table.

During the roll-call,

Mr. NIBLACK said: On this question I am paired with the gentleman from Ohio, [Mr. SCENCK;] otherwise I should vote no.

Subsequently Mr. NIBLACK said: As my vote is necessary to make a quorum, I vote no.

The result was announced as above stated.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Mr. DIXON obtained leave of absence for ten days.

And then, on motion of Mr. WINDOM, the House (at seven o'clock and thirty minutes p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. GARFIELD: The petition of citizens of Youngstown, Ohio, for the passage of the tariff bill which passed the Senate in 1867.

By Mr. EGGLESTON: The petition of citizens of Kentucky, praying for the establishment of a post route in said State.

By Mr. HALSEY: A memorial of the Board of Trade of the city of Newark, New Jersey, asking Congress to make an appropriation to remove obstructions to navigation in Newark bay and at the mouth of Passaic river.

By Mr. KITCHEN: The petition of Hiram Kerns and 50 others, citizens of Frederick county, Virginia, and Berkeley and Morgan counties, West Virginia, for the establishment of a mail route from Glengary, Berkeley county, West Virginia, to Unger's Store, Morgan county, West Virginia, by way of John Shokey's, in Frederick county, Virginia; and for the establishment of a post office at Third Hill on said route.

#### IN SENATE.

SATURDAY, May 2, 1868.

Prayer by Rev. E. H. GRAY, D. D.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Smithsonian Institution, representing that the usual annual appropriation of \$4,000 is wholly inadequate to the cost of preparing and preserving and exhibiting specimens, and praying that a further sum of \$25,000 be appropriated at this session of Congress toward the completion of the hall required for the Government collections; which was referred to the Committee on Appropriations, and ordered to be printed.

#### IMPEACHMENT OF THE PRESIDENT.

The President *pro tempore* vacated the chair that it might be occupied by the Chief Justice.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at six minutes past three o'clock p. m.

#### NAVAL APPROPRIATION BILL.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had concurred in some amendments and non-concurred in other amendments of the Senate to the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869, asked a conference on the disagreeing votes of the two Houses thereon, and appointed Mr. E. B. WASHBURNE of Illinois, Mr. N. P. BANKS of Massachusetts, and Mr. CHARLES E. PHELPS of Maryland, the conferees on the part of the House.

Mr. WILSON. I hope the Senate will act on that matter now and appoint a committee of conference.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves that the Senate now proceed to consider the bill.

The motion was agreed to; and the Senate proceeded to consider their amendments to the bill disagreed to by the House of Representatives.

Mr. MORRILL, of Maine. I should like to hear the amendments disagreed to by the House read.

The PRESIDENT *pro tempore*. The amendments will be read.

The Secretary read the first amendment of the Senate disagreed to by the House; which was to strike out the proviso commencing in line six and ending in line thirteen, as follows:

*Provided*, That all moneys now under the control, or subject to the order of the Secretary of the Navy, whether arising from appropriations or from sales of public property, or otherwise, which shall be unexpended on the 1st day of July, 1868, shall be covered into the Treasury, so that no amount hereby appropriated shall be expended or drawn while any other unexpended moneys shall be subject to the order of the Secretary of the Navy.

Mr. CONKLING. Is that the only amendment to which the House disagree?

The PRESIDENT *pro tempore*. That is the first of the amendments disagreed to. The question is on concurring in the action of the House on that amendment.

Mr. MORRILL, of Maine. I move that the Senate insist on its amendments disagreed to by the House, and agree to the conference asked for by the House.

The motion was agreed to.

The PRESIDENT *pro tempore*. How shall the committee be appointed?

Mr. MORRILL, of Maine, and others. By the Chair.

Mr. BUCKALEW. I should like to know what has become of the other amendments?

Mr. SHERMAN. They all go together.

Mr. BUCKALEW. I understood the motion was in reference to one amendment.

The PRESIDENT *pro tempore*. The motion was that the Senate insist on all its amendments disagreed to by the House of Representatives, and agree to the conference.

Mr. SHERMAN. Before that conference

is appointed I should like to have those amendments read, so that we may know what they are about. We may be able to agree to all except one or two of them.

The PRESIDENT *pro tempore*. The amendments will be read.

The SECRETARY. The next amendment of the Senate to which the House disagreed was to strike out the following proviso:

*Provided*, That the civil engineer and naval storekeeper at the several navy-yards, and that the persons employed at the several navy-yards to superintend the mechanical departments, and heretofore known as master mechanics, master carpenters, master joiners, master blacksmiths, master boiler-makers, master sailmakers, master plumbers, master painters, master calkers, master masons, master boat-builders, master sparmakers, master blockmakers, and the superintendents of rope walks, shall be appointed by the President, with the advice and consent of the Senate, and shall be men skilled in their several duties and appointed from civil life, and shall not be appointed from the officers of the Navy.

Mr. SHERMAN. I have no objection to the conference, and unless other Senators want the other amendments read, I do not call for their reading.

The PRESIDENT *pro tempore*. The reading of the amendments will be dispensed with unless called for by some Senator.

Mr. HENDRICKS. I do not like that system of legislation which refers a question to a committee of conference without its being considered at all in the Senate. I think there ought really to be a disagreement before a conference committee is raised, and the judgment of the Senate ought to be to some extent ascertained.

Mr. SHERMAN. I am told they are all amendments made by the Senate to which the House have disagreed. Consequently, we have acted upon the amendments themselves *seriatim*.

Mr. HENDRICKS. My object in rising was to say that the chairman of the Committee on Naval Affairs [Mr. GRIMES] seems not to be here this evening, and this bill ought not to be considered in his absence. I do not agree that the whole of these amendments shall be referred to a committee of conference until the Senate has considered them; and I think we ought to adjourn and let this bill come up in its regular order.

Mr. MORRILL, of Maine. I thought the Senate had agreed to the appointment of a committee of conference.

Mr. CONKLING. So it did.

The PRESIDENT *pro tempore*. It did, and there is nothing before the Senate at the present time.

Mr. HENDRICKS. If that is so, I move that the Senate adjourn.

The PRESIDENT *pro tempore*. There is nothing before the Senate except the appointment of the committee of conference, which will consist of Mr. MORRILL of Maine, Mr. CONKLING, and Mr. GRIMES.

Mr. HOWARD. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, May 2, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The reading of the Journal of yesterday was dispensed with by unanimous consent.

#### LEAVE OF ABSENCE.

Leave of absence, for an indefinite time, was granted to Mr. GLOSBERNER, on account of the death of a member of his family.

#### MINERAL RESOURCES.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting the report of James W. Taylor on the mineral resources of the States and Territories east of the Rocky mountains; which was referred to the Committee on Mines and Mining, and ordered to be printed.

Mr. KELSEY. I move that five thousand extra copies of this report be printed for the use of the members of this House.

The motion was referred, under the law, to the Committee on Printing.

#### ELECTION IN ARKANSAS.

Mr. PAINE, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the General of the Army be directed to communicate to this House a statement of the number of votes cast for and against the State constitution at the recent election in Arkansas.

#### MRS. KEZIE HOLMAN.

Mr. GARFIELD, by unanimous consent, introduced a bill (H. R. No. 1034) granting a pension to Mrs. Kezie Holman; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### JAMES L. KIERNAN.

Mr. SHANKS, by unanimous consent, submitted the following resolution; which was read, considered, and adopted:

*Resolved*, That the Committee of Claims be hereby instructed to examine the claim of James L. Kiernan, for services and expenses due him as consul at Chin-Kiang, in China, and report to this House by bill or otherwise, and that the accompanying papers be referred to the said committee.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At three o'clock and ten minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until Monday next at twelve o'clock m.

#### PERSONAL EXPLANATION.

Mr. DONNELLY. I ask unanimous consent of the House for a personal explanation. No objection was made.

Mr. DONNELLY. Mr. Speaker—

Mr. GARFIELD. Will the gentleman allow me to ask the Chair if there can be legislation? The SPEAKER. There cannot.

Mr. DONNELLY. I do not ask legislation. The SPEAKER. The gentleman rose and asked the consent of the House to make a personal explanation.

Mr. ELDRIDGE. Was notice given of this proceeding?

The SPEAKER. There was not, but no business is to be transacted. It is something personal to the gentleman.

Mr. ELDRIDGE. Very possibly the gentleman's remarks may relate to some gentleman who is not in the House and who is not here, because it was not expected that any business would be done.

Mr. DONNELLY. It is not a matter of business. It is a matter affecting my own personal reputation. I desire to answer an assault made upon me by the gentleman from Illinois [Mr. WASHBURN] in one of the papers of my own State. It is a matter affecting me alone, and I trust the gentleman from Wisconsin will not object.

Mr. ELDRIDGE. I do not, provided the gentleman will give the House notice of what time he expects to occupy, for as this is Saturday afternoon we all expected an early adjournment.

The SPEAKER. The gentleman from Wisconsin is familiar with the rule. The gentleman

has the unanimous consent of the House to make a personal explanation. The Chair stated the question and waited the usual time and no objection was made.

Mr. DONNELLY. Mr. Speaker, on the 20th of March last, I asked in this House unanimous consent to introduce a bill for a land grant to aid in the construction of a railroad from the town of Taylor's Falls, in the State of Minnesota, by the way of St. Cloud to the western boundary of the State; and asked that it be referred to the Committee on Public Lands, and printed. An objection was made by the gentleman from Illinois, [Mr. WASHBURN.] I did not hear any other objection at the time. It seems, however, that the gentleman from Indiana [Mr. HOLMAN] had also objected. I immediately went to the gentleman from Illinois and said to him that I was about to leave the city to go to the State of Connecticut to labor in behalf of the Republican party in that State, that I must leave the next day, and that I would be obliged to him as a personal favor if he would withdraw his objection and permit me to introduce the bill. His answer to me was, "Mr. HOLMAN has objected." Taking it for granted that he meant that he would not press his objection I went to Mr. HOLMAN. I made the same statement to him, and, although opposed to me in politics, he was still gentleman enough to say that he would not attempt to interfere with the mere introduction of the bill, and he rose, as you will recollect, Mr. Speaker, and said that although opposed to land grants, he was not opposed to the introduction and reference of the bill, and withdrew his objection. The Speaker again put the question, and stated that the bill would have its first and second readings, when the gentleman from Illinois rose in his seat and said, "I also object," and it was impossible for me to introduce the bill. I was filled, as any gentleman would be, with indignation at this course, at this seeming ill faith, and I sat down and wrote a letter to the gentleman most interested in that project, and who had written to me upon the subject, and stated merely the facts. I send that letter to the Clerk's desk to be read.

The Clerk read as follows:

Hon. W. H. C. FOLSOM, *Taylor's Falls, Minnesota*:

I have carefully prepared a bill for a grant of lands to the State of Minnesota, to aid in the construction of a railroad "from Taylor's Falls, via St. Cloud, to the western boundary of the State," as will appear by a copy of the Globe, which I will send you tomorrow. Mr. E. B. WASHBURN, of Illinois, twice objected, and prevented its introduction and reference to the Committee on Public Lands. As unanimous consent was necessary, the objection made by Mr. WASHBURN has delayed for the present all action upon the bill. I fear that this delay will throw the bill forward to a very late period in the session.

The introduction and reference of bills are so much "matters of course" in parliamentary proceedings, that I am at a loss to account for this action of Mr. WASHBURN. I should regret to think that his continual opposition to every measure of public and private nature in which I appear to be interested is due to a desire to utterly impair my ability to serve my constituents. I can scarcely think it possible for any respectable gentleman to indulge in such an illiberal and ungenerous policy; but the fact remains that he seems determined to resist in every way every measure which I deem important to my constituents. I propose to do my whole duty in spite of his opposition.

Truly, your friend,

I. DONNELLY

Mr. DONNELLY. Mr. Speaker, that letter, it seems, was printed in the local paper of the locality in question, and from that was disseminated over the entire State. It also seems that the gentleman from Illinois has in my district a brother who has been laboring for years to supplant me here in my seat in this body and come here as a member of Congress. The newspapers of the State, in commenting upon this action of the gentleman from Illinois, reflected somewhat upon the gentleman's brother. The result was that the gentleman from Illinois wrote and sent to one of the prominent papers of my State, the St. Paul Press, a letter which I undertake to say is without a parallel in the history of this Congress, without a parallel in the history of any parliamentary body on the face of the earth—a letter so shocking, so abusive, so outrageous in its character and in

all its parts that I should hesitate to offend the ears of this body with the reading of it, did I not feel that justice to my own reputation demands it. I ask the Clerk to read the letter, which I now send to his desk.

The Clerk read as follows:

HOUSE OF REPRESENTATIVES,  
WASHINGTON, D. C., April 10, 1868.

DEAR SIR: Some one has sent me a Minnesota newspaper containing a letter addressed to you by Mr. "I. DONNELLY." This Mr. "I. DONNELLY," seems to be in search of sympathy from his constituents, by making a whining complaint against me for objecting to the introducing of some bill which he pretended to be anxious to get before the House. He must place a very low estimate upon the intelligence of his constituents if he does not suppose they could see through his shallow device to make a little local capital under a pretense thoroughly false.

He says he had prepared a bill for a grant of land to construct a railroad "from Taylor's Falls, via St. Cloud, to the western boundary of the State," and that he attempted to introduce it into the House, and that I objected to it, and which objection he says "delayed for the present all action on the bill."

As he has addressed you on the subject, I will ask you to look, for a moment, at this jesuitical performance of your member in this regard. He knew, in the first place, that there was not the ghost of a chance for the passage of any such bill; and, in the second place, if such a bill should pass there would be little, if any, land between Taylor's Falls and St. Cloud to go to the State under the proposed grant, as nearly all the land is either taken up or included in former grants. And what would seem strange in the light of this extraordinary letter in regard to this very important matter, is that your member should have delayed the introduction of his bill for the long period of four months, for he could have introduced it, under the rules, on every Monday since Congress met, which was on the 21st day of November last. But he failed to bring it in until the 20th day of last month, when he attempted to get it in out of order. This was on Friday. On the succeeding Monday, the 23d ultimo, Minnesota was called for the introduction of bills, under which call this very bill could have been introduced by your member, regardless of any and all objections by myself or by any one else. But what will a constituency think of a Representative who, after parading before them the grievance that I objected to his introduction of his bill on Friday, the 20th of March, failed to introduce the same bill on Monday, the 23d of March, when there could have been no objection to it. As to the "delay" he speaks of, which will throw "the bill forward to a very late period in the session," it will be perceived that he alone is responsible for it.

The exploits of your member in this matter are akin to another jesuitical performance of his in the same line. On the 27th of January last he introduced a bill into the House granting, as I understand, (I have not seen the bill) two hundred thousand acres of land to improve the Mississippi river between St. Paul and Minneapolis. The object of this action undoubtedly was to antagonize this proposition to grant land for this purpose (a proposition almost unprecedented, and which he knew Congress would never agree to) with a proposition before the Committee on Commerce to make an appropriation of money for that purpose. By these means he supposed he might defeat aid for the object, and then have another opportunity to attribute the failure to me, as chairman of the Committee on Commerce.

How contemptible must any Representative of an intelligent and patriotic constituency appear, when found guilty of such a scandalous attempt to impose upon them!

Mr. DONNELLY says he is at a loss to account for my action in objecting to his bill, and he evidently intends to convey the idea that my official action is hostile to the interests of your State. I objected to the bill not only because he attempted to introduce it out of order, but I objected to it for the reason that from my knowledge of his character, and from his connection with legislation here, I have become extremely suspicious of everything that he proposes. And when your member arraigns me for hostility to the interests of your noble State, he seems to forget, what is known to all your older settlers, that I labored here for the interests of your State, by both voice and vote, long before he left Philadelphia, under suspicious circumstances, between two days, and long before he changed his name and politics; the latter from a Buchanan Locofoco to a Republican, and made his advent in Minnesota as an office beggar. It is not my opposition to Minnesota interests that excites the hostility of your member. It is my opposition to his schemes of plunder and aggrandizement that lead him to assail me. My congressional record for sixteen years is open to the public, and I challenge its severest scrutiny. I trust it will not be found to be stained with venality, corruption, and crime. I commend the examination of the record of your member to his constituents, and if they do not find that every corrupt, extravagant, and profligate measure ever brought before the House has received his support I will acknowledge myself mistaken.

It might be well for the constituents of your member to inquire what was his action in the matter of legalizing by act of Congress that most serious obstruction to the free navigation of the Mississippi river, the Clinton bridge? This bridge has been the means of inflicting untold injury upon the commerce and people of the upper Mississippi. It has been the terror of all lumbermen of Minnesota, and they have been damaged in various ways by the obstruction of the Clinton and Rock Island bridges hundreds and hundreds of thousands of dollars. Indeed, it is safe to say that the damage done by the breaking up of

rafts, the increased expense of running them, on account of the danger of passing these bridges, the increased price of freight and insurance on account of the bridges, costs the people of Minnesota \$500,000 a year. When the bill came up in the House to legalize the Clinton bridge and make it a post road, and was pressed to its passage by the unscrupulous agents of the corrupt railroad monopolies, whose object was to so impede the free navigation of the Mississippi as to compel their farmers to ship their products east over railroads at a vastly enhanced rate of freight, I resisted the passage of the bill in the interest of your people and the people of the upper Mississippi with all my might. The day before the bill passed Mr. DONNELLY voluntarily came to my seat and assured me of his hearty support, and urged me to keep up a vigorous opposition. You can well conceive my surprise and indignation the next day on finding him voting for the bill. I could only account for his sudden conversion on the hypothesis that he had been "seen" during the previous night. You know something of the Union Pacific railroad, which is likely to become one of the most monstrous monopolies the world has ever known. Though built by a subsidy from the Government, the oppressions and extortions of the company practiced upon the people have excited universal indignation. Mr. WINDOM, of your State, introduced two or three months since a joint resolution creating a board to limit the rate of passage and freight over this road. Passengers are now charged ten cents per mile fare, and freight is charged at the rate of fifteen cents per mile per ton. Mr. I. DONNELLY voted to lay this joint resolution upon the table. With a free annual pass over the road in his own pocket, he was willing to see every constituent of his who traveled over the road charged ten cents a mile fare.

I beg leave to commend your attention to another matter deeply affecting your member and the interests of your State. His predecessor, the ever faithful representative of Minnesota interests, Colonel Aldrich, by persistent effort, in conjunction with his colleague, Mr. WINDOM, secured an amendment to the Union Pacific railroad bill, which compelled the building of a road west from Sioux City to join the Union Pacific, which would have brought the head of Lake Superior one hundred miles nearer to the point of junction than Chicago. Yet it was stated in the House the other day by Mr. ALLISON, of Iowa, and it has not since been denied, that this Minnesota member secured a change in the law, by which the Union Pacific railroad was released from its obligation to build this branch, and a transfer to another company made, which other company built a road down the valley of the Missouri river, and has received over one million dollars in violation of law. Holding the important position he has occupied on the Pacific Railroad Committee, the constituents of the member will probably desire to be informed touching the consideration which induced this wanton betrayal of their interests.

But I have neither time nor inclination to pursue this matter further. Perhaps I should not now have taken this trouble had this been the first time your member, without any provocation whatever, had seen fit to send attacks upon me to his constituents. Instead of making his complaints here, with a degree of cowardice only equaled by his mendacity, he parades himself, like a whipped school-boy, before his constituents, and whines at me because I exercised a parliamentary right in objecting to the introduction of one of his bills into the House out of order. I need add nothing further.

Yours, respectfully, E. B. WASHBURN.

Hon. W. H. C. FOLSOM, *Taylor's Falls, Minnesota.*

P. S.—Papers in Minnesota that have published Mr. DONNELLY's letter are requested to publish this.

Mr. DONNELLY: Mr. Speaker, I think I am justified in the declaration I have made, that the annals of this Congress present no parallel to that letter. I think I shall establish here that there are in that letter twenty-three distinct statements which are twenty-three distinct falsehoods. I shall attempt to deal with them just as rapidly as possible, for my time is limited.

First, as to the introduction of this bill. I have here in my hand the letter of Mr. Folsom, inclosing the original draft of the bill, an imperfect copy, which I was obliged afterward to mature and write out in full. That letter is dated February 19, 1868. It came here while I was absent in the State of New Hampshire. Upon my return on the 1st of March I was here but twenty days before I again left the city to take part in the canvass in the State of Connecticut. During those twenty days I had upon my hands the entire accumulated business of the time that I had been absent. As rapidly as possible I got through it. I rewrote this bill; I endeavored to introduce and have it referred on the 20th of March. So much for the statement that I could have introduced the bill at any time since the commencement of the session.

Secondly, as to the statement that I could have introduced it upon the 23d of March, the succeeding Monday. I was then in the State of Connecticut. And, sir, the Journal of the House will show that at the date of the writing

of that letter, the 10th of that month, there had not been a single call of the States for the introduction of bills; so that it was beyond my power to introduce it but by the consent of the gentleman from Illinois.

Next, as to the statement that there is no land in this bill. I had supposed, Mr. Speaker, for I am of a merciful temper, that the gentleman's discourtesy had been dictated by some devotion to the public interest and had grown out of his abhorrence of land grants. I was willing to make in my own heart that excuse for the gentleman, but he tells us in that letter that he believed that that bill contained no land. I knew, Mr. Speaker, that on the subject of land grants the gentleman seems to have a very *delirium tremens* of economy; that he sees rats and snakes in everything; and that no wood-pile, however innocent, can be constructed that the gentleman does not see beneath it the form of a colored man. But in this case he tells us that he knew or believed that there was no land involved in that bill. Why, then, did he object to its introduction, if it was a mere mass of verbiage? If it gave nothing, if it included nothing, his objection must have sprung from personal and malicious motives. But, Mr. Speaker, the gentleman cannot speak the truth, even when the truth would best serve his purpose. As to that declaration that there is no land involved in that bill, I ask the Clerk to read a letter from the Commissioner of the General Land Office.

The Clerk read as follows:

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE, April 29, 1868.

SIR: In compliance with your request of yesterday, I have estimated the amount of vacant and unappropriated public lands designated by odd numbers within twenty miles on each side of a line from Taylor's Falls, via St. Cloud and Alexandria, to Georgetown, on the Red River of the North, and find about nine hundred and fifty thousand acres of this class of lands.

Very respectfully,

JOS. S. WILSON, *Commissioner.*

Hon. IGNATIUS DONNELLY, *House of Representatives.*

Mr. DONNELLY. Thus it appears, Mr. Speaker, that the gentleman from Illinois came within about a million acres of the truth. So much for that branch of the subject.

I turn to the second question, the charge that I have been false to my constituents in reference to a measure for the improvement of the innavigable waters of the Mississippi river between the city of St. Paul and the city of Minneapolis, in my district. The charge, you remember, which has just been read in your hearing, is that the gentleman was ready to make an appropriation in money for that great work of internal improvement that would connect the navigable waters of the Mississippi with the great water-power of St. Anthony; and that I falsely and treacherously had introduced a bill for a land grant to prevent him from carrying through that work. Mr. Speaker, I propose to have the Clerk read at the desk a letter from the Postmaster of the House of Representatives in reference to that subject.

The Clerk read as follows:

POST OFFICE HOUSE OF REPRESENTATIVES,  
WASHINGTON, D. C., May 2, 1868.

MY DEAR SIR: In compliance with your request I beg leave to state that in the month of December last, soon after the reassembling of Congress, I had a conversation with Hon. E. B. WASHBURN, of Illinois, with reference to the probability of procuring, through the recommendation of the Committee of Commerce, of which he is chairman, an appropriation of money for the improvement of the navigation of the Mississippi river between Fort Snelling and the Falls of St. Anthony.

In that conversation Mr. WASHBURN stated to me in the most emphatic manner that he was opposed to giving "one cent" for such purposes, unless it might be for the improvement of the "lower rapids," which he regarded as a national matter, stating at the same time that the financial condition of the country would not justify such appropriations, &c.

The result of this interview I at once communicated to you, and it was upon my advice that you introduced a bill for a grant of land to aid in making the improvement referred to, both of us believing there would be less objection to a land than to a money grant, and that a money grant was hardly possible in view of the opposition of the chairman of the Committee on Commerce.

You are aware, of course, that, as an officer of the House, I have no desire to take any part in personal controversies between members of the House, but I

cannot refuse, in justice to you, to answer your inquiry, as I have in the foregoing statement.

Very respectfully, &c.,

WILLIAM S. KING.

Hon. I. DONNELLY, *House of Representatives.*

Mr. DONNELLY. That letter tells the whole story. Coming here, disposed to obtain, if possible, a money grant for that work, I was met by the emphatic declaration of the chairman of the Committee on Commerce, [Mr. WASHBURN, of Illinois,] from which committee such a report must emanate, that he would not give one cent for that purpose.

Then on the 27th of January last I fell back upon a proposition for a land grant; I introduced a bill for that purpose, and the Committee on the Public Lands approved of that bill, and are now ready to report in its favor as soon as they can be heard.

And then another party enters this drama. The gentleman from Wisconsin, from the La Crosse district, [Mr. WASHBURN,] the brother of the gentleman from Illinois, mousing around, and discovering that this committee were prepared to report such a bill—

The SPEAKER. The Chair will state to the gentleman from Minnesota [Mr. DONNELLY] that such language is not parliamentary when addressed toward a member who is absent; and who is not, at least directly, involved in this controversy.

Mr. WASHBURN, of Illinois. I hope the party will be allowed to go on.

Mr. DONNELLY. I will say, then, Mr. Speaker, "making inquiry;" for I will change my language, as I have no desire to use any words which may offend the sense of decorum of this House—making inquiry, and discovering that the committee were prepared to report in favor of this bill a grant of two hundred thousand acres of land in the State of Minnesota; he then, in my absence from this city, while I was doing my part in the State of Connecticut, or the State of New Hampshire, I now forget which, for the success of the party in which this side of the House believe—the gentleman from Wisconsin [Mr. WASHBURN] entered into my district and without notice to or any consultation with me, after first soliciting my colleague [Mr. WINDOM] to introduce it, who refused, he then introduced a bill for a money grant for the improvement of an innavigable portion of the Mississippi river, surrounded on both sides by the territory of my district. Sir, if there was any bad faith here; if there was any attempt to prevent the passage of any appropriation; if there was any attempt to impede my efficacy here, and to compel the people of my district to send some other individual in my place, that bad faith surely does not emanate from me. The record is conclusive—the refusal to appropriate money and the fact that I only sought a land grant when I found a money grant was impossible. So much for that branch of the subject.

I turn now to the question in reference to the Clinton bridge. The gentleman states that I came to him and said to him that I was in favor of his course in that matter and told him to stand firm. Mr. Speaker, the history of that matter is simply this: one day in July, 1866, as I passed the gentleman's desk he stopped me and entered into a tirade against that bridge, and told me it would be destructive to the lumber interest of my region; and I assented to his statement. The bill came up next day—on the 13th of July, 1866—and I voted with the gentleman. The bill to legalize that bridge and make it a post road was defeated. Six months afterward, in the next session of Congress, the subject again came up. In the mean time I had been home among my constituents. I had given the matter reflection. I discovered that the gentleman from Illinois was opposed to all bridges across the Mississippi river into the State of Wisconsin. I discovered that his purpose was to compel the great grain trade of my State to go down the valley of the Mississippi, to pour its abundant stores, or some portion of them, into the lap of the district represented by the gentleman.



I discovered another thing, that the Mississippi river was the eastern boundary of my State, that we exported fifteen million bushels of wheat annually, that at least twelve million of those bushels sought their way by the most direct route to Chicago and Milwaukee, and that if there were no bridges across the Mississippi river that wheat would have to be re-handled, taken from the cars and put on boats and reloaded on the other bank of the river, which could not be done for less than three cents a bushel, making an aggregate in amount of \$360,000 per annum—an amount as great as the entire tax paid by the people of my State, an amount that in ten years would run up to \$3,600,000. This upon our present crop; but we are growing at the rate of twenty per cent. per annum. In ten years the annual tax so inflicted upon our crops would be equal to \$3,000,000, taken right out of the pockets of our farming community, our grain raisers.

The bill came up again in the next Congress. I heard the discussion. It was sustained by some of the leading men in this House: by Messrs. Alley of Massachusetts, Davis of New York, SCOFIELD of Pennsylvania, Farquhar of Indiana, and PRICE of Iowa. The vote on the passage of the bill stood 101 to 43. I voted for the measure. I so voted because I believed it was my duty to my constituents. I never supposed that any man would attempt to charge me with corruption upon such a vote as that. I knew, Mr. Speaker, that when my State asked for a bridge to the city of Winona across that river the gentleman from Illinois opposed it. The vote was 80 to 34. He spoke against it; he voted against it. The only exception in which the gentleman has not opposed bridges here was, I believe, the case of the bridge at La Crosse, where the gentleman's brother resides.

Now, Mr. Speaker, as to these millions of dollars of damages that have been inflicted by that bridge I can only turn to my distinguished and honored friend from Iowa, [Mr. PRICE,] who is here present, and who lives within forty or fifty miles of that bridge, and who tells me that from the day we passed that bill to the present time he has never heard of one instance where any damage has been inflicted by that bridge upon rafts or boats or merchandise. So much for that point.

I turn now to the Union Pacific railroad resolution. I find I have not time to read extracts from the law. I will tell the House what it was and leave it for further discussion to prove whether I speak truly or not. When this Congress passed the great Union Pacific railroad bill, they provided that whenever the entire line of the Pacific railroad was built, and it was apparent that the road was yielding ten per cent. on its capital stock over and above all expenses, then, and not till then, Congress might have the right to reduce or regulate the tariff of fares and charges upon that road. The Union Pacific railroad is not yet built; is not yet constructed. It will not be constructed probably until the Forty-Second or perhaps the Forty-Third Congress meets here.

And what is the proposition of which we have heard so much on this floor? Why, sir, it is to take out of the hands of the Forty-Second or the Forty-Third Congress that right which alone belongs to them under that law, and put it into the hands of three Cabinet ministers. What is the imputation? Why, that it is easier to buy up this entire Congress, in both its branches, than these three men who may then sit in the Cabinet. What right have we to anticipate the legislation of the future? What right have we to divest our Congress of this right, and do it before the road is completed, before we have any evidence that that entire road will yield ten per cent. over and above all expenses? I voted against it, and I did so boldly, fearing no man's insinuations.

Sir, I believed it to be one of the spasmodic outbursts of the gentleman which we have witnessed here Congress after Congress. Why, sir, I can look back and recall how at the opening of almost every Congress the gentle-

man has got up here, and—if the word was parliamentary I would say—howled against the railroad communication between New York and this city, and demanded an air-line railroad, splitting the very heavens with his outcries. Suddenly there came a dead calm,

"And silence, like a poultice, came  
To heal the wounds of sound,"

and we heard no more upon the subject until the next Congress met.

But he says I voted for this because I held an annual pass over the road. Ah! Mr. Speaker, this is almost too much for human contempt to reach. An annual pass upon a road that I have never seen; over which I have never traveled a mile; over which I do not expect to travel until that great day when a line of railroad communication shall extend unbroken from New York to San Francisco! On that day, standing on the Pacific coast, in sight of the Golden Gate, looking back over that mighty work, wedding in everlasting marriage the mightiest oceans of the globe, spanning the continent as God's great bow of promise spans the heaven, the glory of our nation, the marvel of our age, it will then, Mr. Speaker, be a consolation to know that that mighty work has been resisted and opposed by every blatant, loud-voiced, big-chested, small-headed, bitter-hearted demagogue in all this land.

I turn now to the Sioux City branch railroad charge. The charge is that I was false to my constituents, and destroyed their connection with the great Union Pacific railroad by wiping out that branch. Let me answer that as briefly as I may.

When I was in the Thirty-Eighth Congress, and by your kindness, Mr. Speaker, a member of the Committee on the Pacific Railroad, a proposition came before that committee presented by a gentleman from Iowa, Mr. HUBBARD, who lived at Sioux City, to turn that great branch, the Sioux City branch of the Union Pacific railroad, up the Niobrara river, in a westerly or northwesterly direction. If that bill had passed our people in that region never would have had any connection with the Union Pacific railroad. When they arrived at Sioux City they would find the railroad running up the valley of the Niobrara, and ending in the sand hills and sand plains which Mullins described in his wagon-road report. I resisted that; I prevented it. An amendment was got through, which, when you analyze it, (and I stand ready to analyze it to its narrowest confines, if the patience of this House would permit,) simply provided that, instead of the Union Pacific Railroad Company building that branch, any other company, to be selected by President Lincoln, might build it. It made no change in the route. It expressly provided that there should be no more expense; and the building of the branch was given to a company to be selected by the great and good man I have named. He selected a company, and that company built the road; so that now when a citizen of Minnesota reaches Sioux City he is in railroad communication with the Union Pacific railroad. That was the whole extent of the legislation. It did not change the route. An examination of the words of the law will show that. I would gladly yield to the gentleman from Iowa [Mr. PRICE] for his statement in reference to this subject; but as my time is limited I would be glad to hear his statement after I take my seat. The sole change was the change of the company. Instead of involving the Government in "millions of dollars of expense," that legislation saved the Government \$3,200,000, which would have been expended if the road had run in a more westerly direction, and for two hundred miles further.

One word, Mr. Speaker, as to the charge contained in my letter to Mr. Folsom, that this gentleman had opposed every measure in which my State was interested. When we asked for a land grant for the Northern Pacific railroad, a great enterprise most dear to our people, the gentleman opposed us and voted to lay our bill upon the table. At one time he helped to

defeat it, and it was finally passed over his opposition. When we asked for a subsidy for that road he opposed the proposition, making a violent speech against it and denouncing it on the floor of this House. When our land-grant railroads came here and asked for an extension on account of the war, the gentleman resisted that measure also and voted against it. Instead of having to-day four hundred miles of railroad and four hundred thousand people in the State of Minnesota, if the gentleman's policy had prevailed, we should not have to-day fifty miles of railroad nor two hundred thousand people. So much for the gentleman's devotion to our "noble young State."

But he says I am "an office-beggar." "An office-beggar!" and this from a gentleman bearing the name that he does! *Et tu Brute!* "An office-beggar!" Why, Mr. Speaker, when I entered the State of Minnesota it was Democratic. When I entered the county in which I reside it was two to one Democratic. I asked no office; I expected none. But, Mr. Speaker, the charge comes from such a quarter that I cannot fail to notice it. Why, sir, the gentleman's family are chronic "office-beggars." They are nothing if not in office. Out of office they are miserable, wretched, God-forsaken—as uncomfortable as that famous stump-tailed bull in fly time. [Laughter.] Why, this whole trouble arises from the persistent determination of one of the gentleman's family to sit in this body. Why, Mr. Speaker, every young male of the gentleman's family is born into the world with "M. C." franked across his broadest part. [Laughter.] The great calamity seems to be that God, in His infinite wisdom, did not make any of them broad enough for the letters "U. S. S." [Laughter.] There was room for U. S. "We, Us & Co.," the firm.

The SPEAKER. The Chair must state to the gentleman from Minnesota that these remarks are beyond the range of proper parliamentary debate.

Mr. WASHBURN, of Illinois. I hope the party will be permitted to go on.

The SPEAKER. The Chair endeavors to restrain debate, if possible, within proper limits.

Mr. DONNELLY. I would be sorry to overstep the proper limits of debate; but the House must perceive from the character of that letter that I must necessarily speak under some heat.

Mr. Speaker, I turn now to the charges against my personal character. The vile insinuation contained in that letter that I was a fugitive from justice, that I "fled from the city of Philadelphia under suspicious circumstances between two days," is an absolute, unqualified, unmitigated falsehood; and but for the respect I have for you, sir, and for this House, I would use stronger language. I left the city of Philadelphia on the 15th of May, 1857, in broad daylight, from the depot of the Pennsylvania Central railroad, accompanied to that depot by crowds of friends. For months before my departure I had advertised in the papers of that city (for I had many pecuniary transactions with different people) that I would leave upon the 1st day of May, and that all persons having claims against me must present them.

Now, sir, a friend of mine, General Le Duc, of Minnesota, who the other day was in Philadelphia, hearing of these slanders, examined the old files of the Philadelphia Ledger, and cut from them the advertisement which I send to the Clerk's desk to be read.

The Clerk read as follows:

PUBLIC LEDGER, May 12, 1857.

At a meeting of the Union Land and Homestead Association No. 1, held on Friday evening, the 8th instant, at Eighth and Locust streets, upon the presentation and acceptance of the resignation of Ignatius Donnelly, esq., from the office of secretary of the company, the following resolutions were offered by Dr. James Bryan, and unanimously adopted:

Resolved, That the thanks of this association are tendered to Mr. Ignatius Donnelly for his earnest, zealous, and untiring efforts in its behalf. We sincerely believe that most of its success has been due to his exertions. He has not only given to it his time

and his energy, but when it most needed assistance he has also advanced his means largely in its behalf.

*Resolved.* That he bears with him to his new home the best wishes of the members of this association for his prosperity and success.

*Resolved.* That these resolutions be published in one or more of the daily papers.

JOHN DUROSS, *Chairman.*

T. WILLARD GEORGE, *Secretary.*

Mr. DONNELLY. Mr. Speaker, that advertisement appeared in the most public paper in the city of Philadelphia, a paper with sixty thousand circulation. It appeared on the 12th of May, three days before my departure, so that it seems to me it is a sufficient answer to the charge that I fled from that city by stealth. That advertisement notices my intended removal and expresses the good wishes of that body for my prosperity in it, a prosperity which, I thank God, I have enjoyed despite the malicious and desperate opposition which has been made to me in some quarters.

Now, Mr. Speaker, on a subsequent occasion, when I was in the city of Philadelphia—for I want to leave nothing that the tongue of slander can touch upon unexplained—when I was in the city of Philadelphia, a man who belonged to one of these companies of which I had been secretary, after my absence from the city, during the crisis of 1857, either from poverty or other cause, was unable to pay up his installments upon the stock he held in it, and according to the rule of that society—the universal rule in all such bodies—he forfeited the stock he held. He had no remedy against the society; but hearing that I, who had formerly been its secretary and had settled up my affairs with it, was in Philadelphia and was a member of Congress, he thought, as such base natures think, that he might wring from my fears this money which he had no legal claim to, and he commenced proceedings against me. I now send to the Clerk's desk and ask him to read a letter—a letter from a gentleman well known to many members of this House personally, well known, I think, to all of them by reputation, the distinguished Benjamin Harris Brewster, of Philadelphia—a man whose learning, genius, and character have illuminated the profession of the law in that State, of which he is now Attorney General—the man under whom I studied law, and who knew me from my boyhood up. I ask the Clerk to read what he says in answer to this slander.

The Clerk read as follows:

COMMONWEALTH OF PENNSYLVANIA,  
OFFICE OF ATTORNEY GENERAL,  
HARRISBURG, April 28, 1868.

MY DEAR MR. DONNELLY: Your letter of yesterday is now before me. It is a surprise to me that any one should be so hardy as to assail your good name for acts done while a resident here.

To me you have been known for nearly twenty years. You were my student, and from 1849 to 1853 you were daily with me; and down to 1857 there was not a week that we were not in constant intercourse. For a year before you left it was publicly notorious that you were arranging your affairs to go west and reside there. Your departure was open, public, conspicuously public. You made a formal call on me to bid me good-bye.

Your character from your boyhood up was well known to me; your business affairs were known to me, as you advised with me, and from other sources my means of information were exact, and you were regarded by me, as by others, indeed, by all who ever spoke to me of you, as a man of uncommon energy, skill, and strict integrity.

After you had been absent for some years, and on an occasion when you were present in Philadelphia, my recollection is that it was in 1863 you came to me, and, to my surprise, you advised me that some person of the name of Porter had charged you with a conspiracy to defraud. As your counsel, the whole matter was committed to my exclusive charge. The case was heard before the magistrate, in my presence, and he discharged you, there being no proof of any kind against you.

My recollection is distinct; there was not the shadow of proof against you. The conviction impressed on my mind then was, and still is, that it was an attempt, under color of criminal proceedings, to frighten you into the payment of a debt you did not owe; and that there was also some personal and political ill-feeling at the bottom of the affair.

In that transaction you acted like a man of courage and high honor. You refused to plead the statute of limitations, and you also refused to plead your privilege as a member of the House of Representatives; and that refusal was publicly announced by me in open court, before the magistrate and all the bystanders. You also, being present, announced, through me, that no technical defense of any kind would be set up; that you challenged any one to come forward and make a charge, if they had any to

make; and, as representing you, I further said that, if notice were sent to me at any subsequent day, when you were absent, that you would forthwith be produced by me, at any time and from any distance; that you had been honored by a respectable constituency with a responsible office, and that you owed it to their honor and to your own honor to confront all accusers at all times and meet all such charges on their merits.

For my part, to me you have ever been dear as a friend and a pupil of whom I am proud.

You are known by me to enjoy a character for stern integrity, and by me you would be trusted to the utmost limit of human confidence.

Truly, as ever, more and more, your friend,

BENJAMIN HARRIS BREWSTER.

Hon. I. DONNELLY,

*House of Representatives, Washington, D. C.*

Mr. DONNELLY. Mr. Speaker, how noble, how beautiful do such utterances appear beside the base, leprous slanders that have been sought to be heaped upon me! I stand here reiterating the declaration I then made, that if anywhere on God's earth, down in the mire of filth and all nastiness, the gentleman can pluck up anything that touches my honor, let it come. I shall meet it on its merits. I have gone through the entire catalogue; I have analyzed the contents of the gentleman's foul stomach; I have dipped my hand in its gall; I have examined the half-digested fragments that I found floating in the gastric juice; but if it is possible for the peristaltic action of the gentleman from Illinois to bring up anything more loathsome, more disgusting than he has vomited over me in that letter, in God's name, let it come.

The SPEAKER. The Chair must say to the gentleman from Minnesota that these remarks are out of order.

Mr. WASHBURNE, of Illinois. Oh, I hope the party will be permitted to go on by unanimous consent.

Mr. DONNELLY. I am glad the gentleman is willing that I shall have unanimous consent to proceed.

Mr. Speaker, these charges are not original. One of the editors of the St. Paul Press, the paper in which the gentleman's letter appeared, a man named Driscoll, went to the city of Philadelphia and played the detective there. He stayed there for days hunting around to find something upon which slander could hang her crooked hands, and he came back with his hands empty. But that did not suffice. The gentleman's brother, four years ago, contesting with me the right to a seat in this House, repeated these slanders upon the streets of St. Paul until I was forced to come out in a card in the public papers of the State, and say that if they could prove anything against my honor I would withdraw from the contest for Congress and resign my seat in this body. I had thought, knowing the source from which these things spring, that that denial would have ended the matter. But it seems they are brought up here again. I shall not stop to amplify that splendid passage of Shakspeare which my friend from Iowa [Mr. PRICE] was compelled the other day to quote against the gentleman from Illinois, [Mr. WASHBURNE:]

"Who steals my purse steals trash; 'tis something, nothing;

'Twas mine, 'tis his, and has been slave to thousands;  
But he that filches from me my good name  
Robs me of that which nothing enriches him,  
And makes me poor indeed."

Why, Mr. Speaker, the cringing sneak-thief who picks your pocket or steals your overcoat is a Christian gentleman compared with that monster who would rob you of the precious mantle of your reputation and leave you shivering before the contempt of the world. The assassin who strikes you down in your blood leads at least your memory sacred among men, and your grave may be bedewed with the tears of affection; but he who would assassinate your reputation, who would strike at the life of your character, who would befoul you, who would cover you all over with night-soil, is a wretch whom "it were base flattery to call a coward." Beside such a man the memory of Booth grows respectable.

But the gentleman pauses not here. He tells us that I changed my politics. I am a very young man, Mr. Speaker. I became a Republican twelve years ago; I became a Republican

in that year when the Republican party nominated their first candidate for the Presidency. I am almost coeval with the birth of the party. What a vile insinuation is this! It is an insult to every Democrat who has joined the Republican ranks; to those hundreds and thousands of good and true men without whose aid we could not have triumphed.

I turn to another point. The gentleman states—

[Here the hammer fell.]

The SPEAKER. The hour of the gentleman has expired.

Mr. MILLER. I hope the time of the gentleman will be extended.

Mr. WASHBURNE, of Illinois. I hope the party will be permitted to go on.

The SPEAKER. The gentleman will be permitted to proceed if there be no objection. No objection was made.

Mr. DONNELLY. I thank this House and the other "party" for this courtesy. [Laughter.]

It is scarcely worth while, Mr. Speaker, to notice all the petty charges which crawl over the surface of this letter as vermin crawl upon the body of a beggar. But in justice to myself, lest there might be some improper meaning attached to it, I will call attention to one other personal charge, that I have changed my name. The intention of the gentleman is to give out not only that I was a fugitive from justice, but that I traveled under an *alias*. Mr. Speaker, I was IGNATIUS DONNELLY within a very few hours after my birth; I am IGNATIUS DONNELLY now; and with God's help I expect to remain IGNATIUS DONNELLY to the end of my career. If I should ever be inclined to change my name it seems to me I would take that of *Elihu*. [Great laughter.]

Mr. WASHBURNE, of Illinois. Then I would change it.

Mr. DONNELLY. If I thought the gentleman would abandon it it would be an inducement for me to retain it.

What is the meaning of this attack, Mr. Speaker?—because there must be some meaning to it. There was nothing in my letter to Mr. Folsom to provoke such a terrible outpouring of bile. What is the meaning of it? Why, it means this. As you know, Mr. Speaker, the gentleman has for a long time cracked his whip over the shoulders of the members of this House. He has been the natural successor here of those old slave-lords who used to crack their whips here.

But his vaulting ambition has at last overleaped itself. Not satisfied to assail us here, to vituperate us here, he is going to mold the next Congress; and he is going out into our districts to tell the people of the United States whom they shall select and whom they shall not select. Why, my friend from Iowa, [Mr. PRICE], as he tells me, meets in the newspapers of his district the assaults of the gentleman here.

He is ranging the whole vast amphitheater. Why does he do this? Why does he do it, Mr. Speaker? There is a very simple explanation which has come out in my district, and which is one of the great arguments why they should send to this House the brother of the distinguished gentleman. It is that he owns General Grant; that he carries Ulysses Grant in his breeches' pocket.

Why, sir, the gentleman already feels upon his shoulders the cares of empire. He is already forecasting Cabinets, dispensing foreign missions, setting men up and pulling men down. We can apply to him the language that Cleopatra used of Mark Antony:

"In his livery  
Walk'd crowns and crownets; realms and islands  
Were  
As plates dropp'd from his pocket."

Why, Mr. Speaker, has he not lived in the same town with General Grant? And should he not, therefore, perforce, be the Warwick, the king-maker, the power behind the throne? I never could account, Mr. Speaker, for the singular fact that the gentleman did live in the

same town with General Grant except by reference to that great doctrine of compensation which runs throughout the created world. The town of Galena having for so many years endured the gentleman, God Almighty felt that nothing less than Ulysses S. Grant could balance the account. [Laughter.] Josh Billings beautifully illustrates this doctrine of compensation when he says that it is a question whether the satisfaction of scratching will not pay a man for the pain of having the itch. [Laughter.] I leave the gentleman's constituents to apply the parable.

Mr. Speaker, I bow humbly before the genius of Ulysses S. Grant. I recognize him as the greatest, broadest, wisest intellect of this generation. I cannot believe that he will degenerate into a puppet to be pulled by wires held in the hands of the gentleman from Illinois; that he will degenerate into a kind of hand-organ to be toted around on the back of the gentleman from Illinois while his whole family sit on top of the machine grinning and catching pennies like a troop of monkeys. [Laughter.] I may mention here, as a friend suggests it to me, that I do not now allude to gentlemen of the same name who are fortunate enough not to be related to the gentleman by ties of consanguinity. [Laughter.] But if it were in my power to whisper anything in the way of advice into the ear of Ulysses S. Grant I would tell him to take counsel from that profound remark of Aminadab Slek when he said, "You all expect to get into heaven by hanging on to my coat tail; but I will fool you all. I will wear a monkey jacket."

Why, sir, we had General Grant up in Minnesota, and of course the distinguished gentleman from Illinois was with him, and when General Grant was serenaded the gentleman from Illinois stuck his head out of the window and thanked the crowd, [laughter;] and when they rode in an open barouche together, and the crowd hurraed, the gentleman from Illinois laid his hand upon his heart and bowed profound acknowledgments. [Renewed laughter.] Why, Mr. Speaker, my people up there were in great doubt which was Grant and which was WASHBURN. They naturally concluded that the quiet little gentleman must be the fourth-class politician, and that the pretentious, fussy individual must be the conqueror of Lee. Good old Jesse Grant, it is said, remarked on that occasion, "It 'pears to me that WASHBURN thinks he owns 'Lysses; but he don't own me, not by a long sight." [Laughter.]

Shall the two names go down in history together? Grant and WASHBURN! What a combination! Why, Mr. Speaker, the intellect of Grant is like some of those ancient warehouses in the great cities of the older Continent, where floor rises above floor and cellar descends below cellar, all packed full to overflowing with the richest merchandise. The intellect of the gentleman from Illinois is like some of those establishments we see on Pennsylvania avenue, where the entire stock in trade of the merchant is spread out in the front window and over it a label, "Anything in this window for one dollar." [Laughter.] Why, sir, he is the "Cheap John" of legislation. That he should sway General Grant is not consistent with the probabilities. Lord Dundreary was once asked why it was a dog wagged his tail. "Why," said his lordship, "the reason is because the dog is greater than the tail. If it were otherwise," said that profound thinker, "the tail would waggle the dog." [Laughter.] Here we have an instance, Mr. Speaker, where the smallest kind of a rat-terrier's tail attempts to waggle a Newfoundland dog. [Laughter.]

"Cromwell, I charge thee, fling away ambition;  
By that sin fell the angels; how can WASHBURN,  
then,  
Hope to win by 't?"

The gentleman should take counsel from that proverb of the Romans, *ex quovis ligno non fit Mercurius*, which may be liberally translated, you cannot make a statesman out of every demagogue.

Mr. Speaker, I tremble for my country. Is it true that eighty odd years of republican Government have reduced us so low that there is but one honest man in this House, but one Lot in all this Sodom? Does no voice but his ring out against cliques and conspiracies and rings? Will no voice but his be heard in all the future assuring this House that they are all a pack of knaves, that the country is going to the devil, and concluding with that favorite quotation of his launched at us from the vast stores of his erudition:

"Shake not thy gory looks at me,  
Thou canst not say I did it,"

given with a roar like that of a wounded gorilla, and ending with a rush to the cloak-room amid the shouts and laughter of the House. [Laughter.]

Mr. Speaker, that I may not appear to exaggerate let me read to you one or two extracts from the gentleman's speeches. On the 26th of March of the present year, the question under discussion being the Union Pacific railroad, the gentleman spoke thus of this House:

"The lobby mustered in its full force. I say nothing here of the shameful means which it is alleged—"

He hedges in his slander with an if—

"which it is alleged were used in a 'confidential way'—"

In quotation marks—

"to carry through this bill; but I do say that the scene was one of the most exciting and animated that I have ever witnessed in a service of nearly sixteen years. The galleries were packed with people interested in the measure, by lobbyites, male and female, and by shysters and adventurers, hoping for some thing to 'turn up.' Your gilded corridors were filled with lobbyists who broke through all rules and made their way upon the floor and into the seats of members."

This, sir, was not an attack upon any one man. It was an attack upon the virtue, the decency, the honesty of this entire House—a cowardly attack—because if he knew that "shameful means" were used it was his duty to lay them bare.

Again, sir, in speaking on the 19th of March last of smugglers, violators of the law of the land, he told the country, by insinuation, that they were potent in this Chamber. Listen to him:

"This is a great interest in the country, an interest which controls, I may say, hundreds of millions of dollars, an interest which goes through courts and juries—I would not say it ever goes through Congress; no, sir—[laughter]"

He made his point, [laughter]—

"an interest, I would not say, that controls New York city."

Why, Mr. Speaker, if all this be true, I tremble for my country. What, if God, in a moment of enthusiasm at one of the gentleman's speeches, were to pluck him to his bosom and leave this wretched nation staggering on in darkness to ruin! I do not wonder that the gentleman's family manifest such an intense desire to get into Congress. I fancy the gentleman—for what would be our loss would be heaven's gain—I fancy the gentleman haranguing the assembled hosts of heaven, cherubims and the seraphims, the angels and the archangels! How he would sail into them! How he would rout them, horse, foot, and dragons! How he would attack their motives and fling insinuations at their honesty! And how he would declare for economy, and urge that the wheels of the universe must be stopped because they consumed too much grease! [Laughter.]

One word in conclusion. The gentleman has assailed me, and it is but right that I should put his own character in the balance. What great measure, in his sixteen years of legislation, has the gentleman ever originated? What liberal measure has ever met with his support? What original sentiment has he ever uttered? What thought of his has ever risen above the dead level of the dreariest platitudes? If he lay dead to-morrow in this Chamber, what heart in this body would experience one sincere pang of sorrow? Who is there in this House he has not assailed?

Why, he told the gentleman from Vermont [Mr. Woodbridge] the other day, that every

corrupt and profligate measure that was pressed in this body met with his support; and when the gentleman from Vermont rose upon him he cringed out of it like a whipped spaniel! Did he not say to my friend from Philadelphia [Mr. O'NEILL] the other day, that he would not say—for that is the gentleman's way of making an insinuation—that he would not say that the gentleman was one of a ring to swindle this country? Has he not attacked my friend from Iowa, [Mr. PRICE], and aspersed his motives in his legislation in this body? He has sought to build himself up upon our dishonor, to glorify himself in our disgrace, to pollute and befoul and traduce the very body of which he is a member. Why, sir, his harangues are the staple of the newspapers of the Opposition. We meet his charges on the stump. By his wholesale reckless assaults upon the honor and integrity of members he has lowered the standard of this body. He has furnished argument for the wit of Dan Rice. He has furnished substance for the slanderers of the pot-house.

Mr. Speaker, I need enter into no defense of the Fortieth Congress. In point of intellect, of devotion to the public welfare, of integrity of personal character, it will compare favorably with any Congress that ever sat since the foundation of our Government. It is illustrated by names that would do honor to any nation in any age of the world.

And if there be in our midst one low, sordid, vulgar soul; one barren, mediocre intelligence; one heart callous to every kindly sentiment and every generous impulse; one tongue leprous with slander; one mouth which is like unto a den of foul beasts giving forth deadly odors; if there be here one character which, while blotched and spotted all over, yet raves and rants and blackguards like a prostitute; if there be here one bold, bad, empty, bellowing demagogue, it is the gentleman from Illinois.

The SPEAKER. The Chair will state to the gentleman from Minnesota that these remarks are not honorable to the House of Representatives, of which he is a member.

Mr. WASHBURN, of Illinois. I hope the party will be allowed to go on.

The SPEAKER. Although the House may tolerate such remarks, the Chair cannot consent to permit them to go upon the record without his protest.

Mr. DONNELLY. I beg pardon of the House; I have no desire to trespass upon its rules, and no desire to offend its sense of propriety. But members of the House will bear me out when I say that no man who ever sat in this body has met with so violent, so extraordinary, so cruel an assault as that of which I have been the object. The newspapers of this country, from one end of it to the other, are copying the charges made by the gentleman; they are going everywhere upon the wings of the wind. And I think that the members of this House who know that I have never in five years' service here said a discourteous word to any gentleman upon this floor; that I have never before this time had occasion to rise here to a personal explanation; that neither upon the other side of this House nor upon this side can any gentleman rise and say that I have ever treated him with discourtesy, unkindness, or incivility; I say the House, in view of these facts, will pardon the natural heat which I exhibit.

I give way now to the gentleman from Illinois, if he desires to follow me. All I desire to say is, that I am prepared to meet and answer any and every charge that he can make against me. I thank the House for its very patient attention.

Mr. WASHBURN, of Illinois. Mr. Speaker—

The SPEAKER. The gentleman from Illinois rises to a personal explanation. Is there any objection?

Mr. WASHBURN, of Illinois. I do not ask leave to speak in the way of a personal explanation. During all the time of my service



here I have never asked leave to make a personal explanation, and I never expect to do so. During the entire time I have been here, I repeat, I have never asked to be allowed to make a personal explanation.

The party from Minnesota has had the letter which I wrote to a gentleman in that State read to this House. It goes upon the records of the House, and upon the record of the country, and there it will remain for all time. Mr. Speaker, every assertion made in that letter is true. Whoever says that there is a statement in it that is not true states that which is false.

Sir, if I were to be called upon—and I desire to say only this—if, under any press of circumstances, I were ever to be called upon to make a personal explanation here, and in reply to a member, it would not be a member who had committed a crime; it would not be a member who had run away; it would not be a member who had changed his name; it would not be a member whose whole record in this House was covered with venality, with corruption, and with crime.

The SPEAKER. The Chair will state to the gentleman from Illinois that those remarks are not parliamentary.

Mr. WINDOM. I ask that the words just spoken be taken down in writing.

The SPEAKER. They will be taken down in writing and read by the Clerk.

Before the words were written out from the reporter's notes,

Mr. WINDOM said: If I may be allowed to do so, upon the advice of friends, I will withdraw my call to have the words taken down in writing, and after the gentleman from Illinois shall have concluded I will ask consent to offer a resolution.

The SPEAKER. The Chair cannot entertain any resolution even by unanimous consent, because it has been ordered that if the House shall return to this Hall from the Senate Chamber on any day after three o'clock no business shall be transacted unless previous notice shall have been given of the same.

Mr. WINDOM. I will ask unanimous consent of the House to introduce the resolution.

The SPEAKER. The Chair cannot ask unanimous consent of the House for that purpose to-day. The House returned to the Hall to-day after three o'clock. The gentleman from Minnesota [Mr. DONNELLY] stated to the Chair that he desired to make a personal explanation. The Chair replied to him that, as it was early in the afternoon, he would propound the question to the House, and if the House saw fit to allow any debate without any legislative action they could give their consent. The Chair did propound the question to the House, and the unanimous consent was given. The gentleman from Illinois will now proceed, in order, as the gentleman from Minnesota [Mr. WINDOM] has withdrawn his demand to have the words taken down.

Mr. WASHBURNE, of Illinois. I do not know what the point of order was. I said I would not reply to a member—

The SPEAKER. The Chair will answer the gentleman from Illinois now, or after he has concluded his remarks, as the gentleman pleases.

Mr. WASHBURNE, of Illinois. Of course I will yield to the Chair now.

The SPEAKER. The Chair will state to the gentleman from Illinois that the reason he ruled the words out of order was, that, by the attitude and gestures of the gentleman, they appeared to be directed specially to the gentleman from Minnesota, [Mr. DONNELLY], who had preceded him. Several times during the course of the speech of the gentleman from Minnesota the Chair notified him and the House that the remarks uttered were not parliamentary, and not in accordance with the decorum which this body should exhibit before the people we represent and before the world at large; and although the House did not see fit to follow up the statement of the Speaker by such action as may properly be taken when

the Chair announces language to be unparliamentary, yet as these remarks of the gentleman from Illinois were equally in violation of the rule the Chair felt it his duty to declare them out of order.

Mr. WINDOM. I do not desire to pursue this matter further at present; but I give notice that at the earliest possible time after the House has resumed business I will offer a resolution censuring the gentleman from Illinois.

The SPEAKER. The gentleman from Illinois will proceed.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I should certainly be very unwilling to be considered out of order, and I am sorry that the Chair should have supposed that I had violated any rule of this House. I was merely stating what I should do in a certain case.

The SPEAKER. The Chair will state to the gentleman from Illinois that, if his remarks were not intended to apply to the gentleman from Minnesota, toward whom he was looking, and to whom, apparently, he was addressing himself, the Chair will withdraw his ruling.

Mr. WASHBURNE, of Illinois. Well, sir, I will not look toward the member from Minnesota. But I will say (and this is all I desire to say) that if ever I should be called upon to make a personal explanation it will not be in reply to a member who is covered all over with crime and infamy, a man whose record is stained with every fraud—whisky, and other frauds—a man who has proved false alike to his friends, his constituents, his country, his religion, and his God.

On motion of Mr. EGGLESTON, the House (at four o'clock and forty-five minutes p. m.) adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By Mr. GARFIELD: The petition of Dr. E. W. Savage, late a contract surgeon, United States Army, for a pension.

By Mr. PRICE: The petition of Edward W. Savage, a soldier of the late war, asking for a pension.

#### IN SENATE.

Monday, May 4, 1868.

Prayer by Rev. WILLIAM HAGUE, D. D., of Boston, Massachusetts.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at three o'clock and fifty minutes p. m., when,

On motion of Mr. CONKLING, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

Monday, May 4, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The reading of the Journal of Saturday last was, by unanimous consent, dispensed with.

#### ORDER OF BUSINESS.

Mr. WINDOM. I rise to a question of privilege. I desire to offer a resolution.

Mr. DONNELLY. Mr. Speaker—

The SPEAKER. The gentleman from Minnesota states that he rises to a question of privilege and desires to offer the resolution of which he gave notice on Saturday. As some time will probably be consumed in that matter, it will have to be postponed until after the return of the House from the Senate.

Mr. WASHBURNE, of Illinois. I desire to ask leave to offer a resolution.

Mr. MILLER. Will business be transacted this afternoon?

The SPEAKER. As business will be trans-

acted on the return of the House from the Senate, gentlemen will withhold their resolutions and so forth until that time.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At three o'clock and fifty-five minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until to-morrow at twelve o'clock m.

Mr. WINDOM obtained the floor.

Mr. WASHBURNE, of Illinois. I would like to submit a resolution calling for information.

Mr. WINDOM. I will yield for that purpose.

#### PAYMENT OF CLAIMS.

Mr. WASHBURNE, of Illinois, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to inform this House what judgments of the Court of Claims have been paid by the Treasury Department, the amount of each judgment paid, in whose favor, at what time paid, and to whom paid, either principal or attorney.

#### ARKANSAS ELECTION.

The SPEAKER, by unanimous consent, laid before the House a letter from the General of the Army, transmitting, in compliance with the resolution of the House of the 2d instant, Brevet Major General H. E. Gillem's report of the recent election in Arkansas under the convention law; which was referred to the Committee on Reconstruction, and the letter ordered to be printed.

#### ADMISSION OF GEORGIA.

Mr. WINDOM. I yield for a moment to the gentleman from Michigan, [Mr. BEAMAN.]

Mr. BEAMAN. I ask unanimous consent to introduce a bill to admit the State of Georgia to representation in Congress.

Mr. ELDRIDGE. I object to the introduction of any such bill. The State of Georgia is in the Union now.

Mr. BEAMAN. At the proper time I shall move to suspend the rules to enable me to introduce it.

Mr. WINDOM. I yield for a moment to the gentleman from Missouri, [Mr. BENJAMIN,] provided what he proposes does not give rise to discussion.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. BENJAMIN. I ask the House to suspend the rules for the purpose of enabling the gentleman from New York, from the Brooklyn district, [Mr. ROBINSON,] and myself to record our votes on the resolution impeaching the President of the United States. We were both absent at the time the vote was taken, and paired. Since his return I have talked with him, and he desires his own vote recorded, and so do I mine.

The SPEAKER. The Chair would state to the gentleman from Missouri that the Journal of that period, and also the Congressional Globe of that period, are both printed. The entire editions of the Globe and of the Journal are printed. The gentleman can attain his object as well by stating how he would have voted if he had been here.

Mr. BENJAMIN. I presume it can be appended in a note to the Journal. The gentleman from New York would have voted against impeachment and I would have voted for it.

The SPEAKER. The gentleman asks unanimous consent to have this statement placed on the Journal.

Mr. ELDRIDGE. I object. I once asked in behalf of forty-seven members of this House the privilege of recording a protest and it was denied us. Besides, the gentleman ought to have changed his mind before now.

Mr. BENJAMIN. I move, then, to suspend the rules.

Mr. WINDOM. I cannot yield the floor for that purpose.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. WILLIAM J. McDONALD, its Chief Clerk, informed the House that the Senate insists upon its amendments to the bill of the House No. 601, making appropriations for the naval service for the year ending June 30, 1869, disagreed to by the House of Representatives, and agreed to the committee of conference asked by the House; and has appointed Mr. MORRILL of Maine, Mr. CONKLING of New York, and Mr. GRIMES of Iowa, to act as the conferees on the part of the Senate.

#### CHARGES AGAINST A MEMBER.

Mr. WINDOM. I gave notice on Saturday evening that I would, at the earliest possible moment, introduce a resolution of censure upon the gentleman from Illinois, [Mr. WASHBURN,] growing out of, or based upon, the letter which he had written concerning my colleague, [Mr. DONNELLY.] However, at the request of my colleague, and after full consideration of the matter myself, I have modified the resolution which I proposed to offer. It is still a resolution of privilege, in my opinion. I offer the modified resolution, because I think the resolution of censure I at first intended to offer does not reach the case. The resolution I hold in my hand is one calling for a committee of investigation. I offer it for this reason, that one or two gentlemen on this floor should be expelled from this House. If my colleague is guilty of the crimes charged—

Mr. ELDRIDGE. I object to debate before there is any subject before the House to be debated.

Mr. WINDOM. Then I offer the following preamble and resolution as being privileged:

Whereas ELIUB B. WASHBURN, a member of this House from the State of Illinois, did, on the 19th day of April, 1868, in the columns of a newspaper published in the city of St. Paul, Minnesota, styled the St. Paul Press, make a violent attack upon the character of IGNATIUS DONNELLY, a member of this House from the State of Minnesota, in which he charged him, among other things, with bribery and corruption, and with being a fugitive from justice, in the following words:

HOUSE OF REPRESENTATIVES,  
WASHINGTON, D. C., April 10, 1868.

DEAR SIR: Some one has sent me a Minnesota newspaper containing a letter addressed to you by Mr. "I. DONNELLY." This Mr. "I. DONNELLY" seems to be in search of sympathy from his constituents, by making a whining complaint against me for objecting to the introducing of some bill which he pretended to be anxious to get before the House. He must place a very low estimate upon the intelligence of his constituents if he does not suppose they could see through his shallow device to make a little local capital under a pretense thoroughly false.

He says he had prepared a bill for a grant of land to construct a railroad "from Taylor's Falls, via St. Cloud, to the western boundary of the State," and that he attempted to introduce it into the House, and that I objected to it, and which objection he says "delayed for the present all action on the bill."

As he has addressed you on the subject, I will ask you to look, for a moment, at this jesuitical performance of your member in this regard. He knew, in the first place, that there was not the ghost of a chance for the passage of any such bill; and, in the second place, if such a bill should pass, there would be little, if any, land between Taylor's Falls and St. Cloud to go to the State under the proposed grant, as nearly all the land is either taken up or included in former grants. And what would seem strange in the light of this extraordinary letter in regard to this very important matter, is that your member should have delayed the introduction of this bill for the long period of four months, for he could have introduced it, under the rules, on every Monday since Congress met, which was on the 21st day of November last. But he failed to bring it in until the 20th day of last month, when he attempted to get it in out of order.

This was on Friday. On the succeeding Monday, the 23d ultimo, Minnesota was called for the introduction of bills, under which call this very bill could have been introduced by your member, regardless of any and all objections by myself or by any one else. But what will a constituency think of a Representative who, after parading before them the grievance that I objected to his introduction of his bill on Friday, the 20th of March, failed to introduce the same bill on Monday, the 23d of March, when there could have been no objection to it? As to the "delay" he speaks of, which will throw "the bill forward to a very late period in the session," it will be perceived that he alone is responsible for it.

The exploits of your member in this matter are akin to another jesuitical performance of his in the same line. On the 27th of January last he introduced a bill into the House granting, as I understand, (I have not seen the bill,) two hundred thousand acres of land to improve the Mississippi river between St. Paul and Minneapolis. The object of this action, undoubtedly, was to antagonize this proposition to grant land for this purpose (a proposition almost unprecedented and which he knew Congress would never agree to) with a proposition before the Committee on Commerce to make an appropriation of money for that purpose. By these means he supposed he might defeat aid for the object, and then have another opportunity to attribute the failure to me, as chairman of the Committee on Commerce.

How contemptible must any Representative of an intelligent and patriotic constituency appear, when found guilty of such a scandalous attempt to impose upon them!

Mr. DONNELLY says he is at a loss to account for my action in objecting to his bill, and he evidently intends to convey the idea that my official action is hostile to the interests of your State. I objected to the bill not only because he attempted to introduce it out of order, but I objected to it for the reason that from my knowledge of his character, and from his connection with legislation here, I have become extremely suspicious of everything that he proposes. And when your member arraigns me for hostility to the interests of your noble State, he seems to forget what is known to all your older settlers, that I labored here for the interests of your State, by both voice and vote, long before he left Philadelphia, under suspicious circumstances, between two days, and long before he changed his name and politics; the latter from a Buchanan Locofoco to a Republican; and made his advent in Minnesota as an office beggar. It is not my opposition to Minnesota interests that excites the hostility of your member. It is my opposition to his schemes of plunder and aggrandizement that leads him to assail me. My congressional record for sixteen years is open to the public, and I challenge its severest scrutiny. I trust it will not be found to be stained with venality, corruption, and crime. I commend the examination of the record of your member to his constituents, and if they do not find that every corrupt, extravagant, and profligate measure ever brought before the House has received his support I will acknowledge myself mistaken.

It might be well for the constituents of your member to inquire what was his action in the matter of legalizing by act of Congress that most serious obstruction to the free navigation of the Mississippi river, the Clinton bridge? This bridge has been the means of inflicting untold injury upon the commerce and people of the upper Mississippi. It has been the terror of all lumbermen of Minnesota, and they have been damaged in various ways by the obstruction of the Clinton and Rock Island bridges hundreds and hundreds of thousands of dollars. Indeed, it is safe to say that the damage done by the breaking up of rafts, the increased expense of running them, on account of the danger of passing these bridges, the increased price of freight and insurance on account of the bridges, costs the people of Minnesota \$500,000 a year. When the bill came up in the House to legalize the Clinton bridge and make it a post road, and was pressed to its passage by the unscrupulous agents of the corrupt railroad monopolies, whose object was to so impede the free navigation of the Mississippi as to compel your farmers to ship their products east over railroads at a vastly enhanced rate of freight, I resisted the passage of the bill in the interest of your people and the people of the upper Mississippi with all my might. The day before the bill passed Mr. DONNELLY voluntarily came to my seat and assured me of his hearty support, and urged me to keep up a vigorous opposition. You can well conceive my surprise and indignation the next day on finding him voting for the bill. I could only account for his sudden conversion on the hypothesis that he had been "seen" during the previous night.

You know something of the Union Pacific railroad, which is likely to become one of the most monstrous monopolies the world has ever known. Though built by a subsidy from the Government, the oppressions and extortions of the company practiced upon the people have excited universal indignation. Mr. WINDOM, of your State, introduced two or three months since a joint resolution creating a board to limit the rate of passage and freight over this road. Passengers are now charged ten cents per mile fare, and freight is charged at the rate of fifteen cents per mile per ton. Mr. I. DONNELLY voted to lay this joint resolution upon the table. With a free annual pass over the road in his own pocket, he was willing to see every constituent of his who traveled over the road charged ten cents a mile fare.

I beg leave to commend your attention to another matter deeply affecting your member and the interests of your State. His predecessor, the ever faithful representative of Minnesota interests, Colonel Aldrich, by persistent effort, in conjunction with his colleague, Mr. WINDOM, secured an amendment to the Union Pacific railroad bill, which compelled the building of a road west from Sioux City to join the

Union Pacific, which would have brought the head of Lake Superior one hundred miles nearer to the point of junction than Chicago. Yet it was stated in the House the other day by Mr. ALLISON, of Iowa, and it has not since been denied, that this Minnesota member secured a change in the law, by which the Union Pacific railroad was released from its obligation to build this branch, and a transfer to another company made, which other company built a road down the valley of the Missouri river, and has received over one million dollars in violation of law. Holding the important position he has occupied on the Pacific Railroad Committee, the constituents of the member will probably desire to be informed touching the consideration which induced this wanton betrayal of their interests.

But I have neither time nor inclination to pursue this matter further. Perhaps I should not now have taken this trouble had this been the first time your member, without any provocation whatever, had seen fit to send attacks upon me to his constituents. Instead of making his complaints here, with a degree of cowardice only equaled by his mendacity, he parades himself, like a whipped school-boy, before his constituents, and whines at me because I exercised a parliamentary right in objecting to the introduction of one of his bills into the House out of order. I need add nothing further.

Yours respectfully, E. B. WASHBURN.

Hon. W. H. C. FOLSOM, Taylor's Falls, Minnesota.

P. S.—Papers in Minnesota that have published Mr. DONNELLY's letter are requested to publish this.

And whereas the said ELIUB B. WASHBURN did, on the 2d day of May, 1868, in his place on the floor of the House of Representatives, repeat said charges against the said IGNATIUS DONNELLY, in the following words:

"The party from Minnesota has had the letter which I wrote to a gentleman in that State read to this House. It goes upon the records of the House and upon the record of the country, and there it will remain for all time. Mr. Speaker, every assertion made in that letter is true. Whoever says that there is a statement in it that is not true states that which is false.

"Sir, if I were to be called upon—and I desire to say only this—if, under any press of circumstances, I were ever to be called upon to make a personal explanation here, and in reply to a member, it would not be a member who had committed a crime; it would not be a member who had run away; it would not be a member who had changed his name; it would not be a member whose whole record in this House was covered with venality, with corruption, and with crime."

"Well, sir, I will not look toward the member from Minnesota. But I will say (and this is all I desire to say) that if ever I should be called upon to make a personal explanation it will not be in reply to a member who is covered all over with crime and infamy, a man whose record is stained with every fraud—whisky, and other frauds—a man who has proved false alike to his friends, his constituents, his country, his religion, and his God." Therefore,

Resolved, That a select committee of seven be appointed by the Chair to investigate the truth or falsehood of the charges so made, with power to send for persons and papers, and with leave to report to this House at any time.

The SPEAKER. The Chair is of the opinion that this is a question of privilege, upon the ground, (as found upon page 155 of the Digest, and within the knowledge of all the old members of the House,) that "charges affecting the character of a member of Congress," when made distinctly, even by a person not a fellow-member, are regarded as questions of privilege. General charges and denunciations, vague and not specific in their character, are not usually regarded as questions of privilege. But when charges have been made in newspapers by persons not holding the relation to a member of Congress that a fellow-member does, imputing distinctly that affecting the honor and reputation of a member, they are regarded as questions of privilege. This, however, is subject to the rules of the House; and if objection is made to the consideration of this resolution at this time the Chair will submit to the House the question, Shall the resolution be considered at this time for its decision?

No objection was made.

Mr. WINDOM. Mr. Speaker—

The SPEAKER. Before the gentleman from Minnesota [Mr. WINDOM] proceeds with his remarks, the Chair desires the Clerk to read a portion of the sixty-first rule, to be found upon page 173. It is within the recollection of members of this House that the Chair repeatedly ruled the other day that remarks uttered of a personal character were unparliamentary. The Clerk will now read that portion of the rule which states what next occurs, when that ruling has been made by the Speaker.

The Clerk read as follows:

"If the decision be in favor of the member called to order he shall be at liberty to proceed; if otherwise,

he shall not be at liberty to proceed, in case any member object, without leave of the House, and if the case require it, he shall be liable to the censure of the House."

The SPEAKER. The Chair has had this rule read for the information of the House to show, what is familiar to many members, that when the Speaker declares words uttered in debate by a member to be unparliamentary and disorderly, if no other member objects to the member going on, the responsibility for debate proceeding in that line is upon the House. The rules do not clothe the Speaker with arbitrary power. They clothe him with power to stop a member in the midst of a speech, if he regards the remarks as personal and disorderly; and then, if any member objects, the member who has transgressed the rules cannot proceed except by the leave of the House. The Chair speaks of this now because he does not know what personal remarks gentlemen may propose to make to-day.

Mr. SPALDING. Will it be in order, with the permission of the gentleman from Minnesota, [Mr. WINDOM,] to offer a substitute for the resolution?

The SPEAKER. It will be, if the gentleman from Minnesota, [Mr. WINDOM,] who holds the floor, yields for that purpose.

Mr. WINDOM. I do not yield at present.

Several MEMBERS. Let the amendment be read for information.

Mr. WINDOM. I have no objection to allowing the amendment to be read for information.

Mr. SPALDING. I will say before the Clerk reads the amendment that I present it with the best feelings toward both the gentlemen concerned and toward the House. When a proper opportunity arises I will speak upon the proposition.

The Clerk read as follows:

Whereas the debates in this House of Saturday, the 2d instant, arising upon the personal explanation of the member from Minnesota, [Mr. DONNELLY,] and joined in by the member from Illinois, [Mr. WASHBURN,] are filled with personal invective of so gross a nature as to be highly prejudicial to the character of this body for dignity and decorum; and whereas the House was itself in fault in not checking such disorderly debate in its progress, especially as the honorable Speaker did repeatedly intervene in that behalf; Therefore,

Resolved, That it is the pleasure of this House that no part of said proceedings be published in the Congressional Globe.

Mr. WINDOM. I cannot yield for that proposition. It would be utterly impossible to carry it out, as the Globe is already printed.

Mr. SPALDING. This refers to the Congressional Globe, not the Daily Globe.

Mr. WINDOM. Mr. Speaker, I do not desire to interfere in this matter, and I shall make no speech on the subject. My reason for changing my resolution from one of censure upon the gentleman from Illinois to one of investigation of the charges made by that gentleman against the character of my colleague is that I believe one or the other of these gentlemen (I shall not now attempt to decide which) is not entitled to a seat on this floor. Certainly if my colleague is as guilty, or one hundredth part as guilty, as is charged here he should be expelled as early as possible. On the other hand, if the gentleman from Illinois fails to make proof of the charges he has made—and I believe that my colleague on Saturday proved to the satisfaction of every man in this House, excepting, it may be, the gentleman from Illinois, that those charges are not true—if he fails to make proof of those charges, I say that he should be expelled from this House for slander. I am in favor of going to the root of this matter. I have no feeling upon this subject; but I desire that this House, when such charges as these are made, shall thoroughly investigate them.

In conclusion, I desire to say, Mr. Speaker, that I would not, under any consideration, accept the position of chairman of this committee, if it shall be appointed, because being from the same State it might be charged that I had some prejudice in favor of my colleague. I therefore desire that some other member shall be placed in that position.

I now yield to my colleague for a single moment.

Mr. DONNELLY. Mr. Speaker, I have requested my colleague to present this resolution demanding an investigation into the truth or falsehood of the charges made by the gentleman from Illinois. I believe, Mr. Speaker, that I can conclusively demonstrate that there is no shadow of truth in any of those charges; and I want it to go to the country that if I am apparently placed here in the position of a defendant it is at my own request, and that I challenge investigation into my whole life and character.

One word further. I recognize, Mr. Speaker, the force and justice of the resolution offered by my distinguished friend from Ohio, [Mr. SPALDING.] I am aware, sir, that in that debate I transcended the rules of parliamentary discussion; and in so far as I offended against the sense of propriety of the Speaker or of the House I would make this my humble apology to the Speaker and to the House. And I would ask this House to remember the provocation under which I spoke—not the ordinary provocation to which men are sometimes subjected here, but provocation reaching right down to the life of my character—provocation based upon a wholesale charge of crimes. I would, however, ask the House to remember that even in the heat of passion, and in the vehemence of debate, I made no assault of that nature on the gentleman from Illinois. If the House will turn to the record of that debate they will find that what I said touched only his public character and his characteristics as exhibited here upon this floor. I made no assault upon his honesty, upon his integrity, upon his private character. I ask this fact to be remembered when the House forms its judgment upon my remarks.

I conclude, therefore, as I began, by saying that I demand investigation, I challenge investigation, and I shall ask, if these terrible and sweeping charges are not sustained before that committee by the gentleman from Illinois, that the full measure of the law shall be applied to him by this body.

Mr. WINDOM. I wish to add further, that, with the consent of the Speaker, I do not desire to be placed on the committee at all, either as chairman or otherwise, if one shall be raised. I call the previous question.

Mr. SPALDING. Will the gentleman allow me to say a word?

Mr. WINDOM. I yield to the gentleman for a moment.

Mr. SPALDING. Mr. Speaker, I regret I was not in the House on Saturday evening, for I think I should have interrupted some of this debate, which has so bad an aspect that it ought not to be permitted to go upon the lasting records of this House. But, sir, I was not here. Members who were here saw fit not to interfere, although I read in the report that the Speaker discharged his duty amply. I can only say that I regret the occurrence, for I have for both the gentlemen interested the highest respect, and if the gentleman from Minnesota [Mr. DONNELLY] had come into the House as he has come to-day, submitted his letters with his explanations, leaving out the vilification and abuse, and called for a committee, I should have had no hesitation in according it to him, because I thought that letter a very hard one—a very hard one. But if the gentleman sought for vengeance he has had it already fourfold; for, sir, as much as I have heard about Billingsgate and fish-market abuse, never could I find in either anything to compare with the language used on this floor.

Mr. WINDOM. I call the gentleman to order, and ask that his words be taken down. [Laughter.]

Mr. SPALDING. Being stopped by a call to order, I yield the floor.

Mr. DONNELLY. I would ask my colleague to withdraw the point of order, and then I will ask the gentleman from Ohio to yield to me for a moment.

Mr. WINDOM. There can be very little

doubt that the gentleman's words were out of order, but I withdraw the point and the demand that they be taken down.

Mr. ELDRIDGE. I renew the demand.

The SPEAKER. The Chair thinks the demand comes too late, and for the reason that the gentleman from Ohio stated that he had concluded his remarks while the other point was pending. It was then withdrawn by the gentleman from Minnesota, who alone had the right, having the point in his possession, it having been made by himself.

Mr. ELDRIDGE. I simply wanted to know what the rule of order is, for I stood ready to renew the demand at any time.

Mr. DONNELLY. Will the gentleman from Ohio yield to me for a moment?

The SPEAKER. The gentleman's colleague now has the floor.

Mr. WINDOM. I yield to my colleague.

Mr. DONNELLY. I would say that the gentleman from Ohio [Mr. SPALDING] has misinterpreted my motives. I have no desire for vengeance. I have asked for this committee of investigation because, after I produced what I believe to be the ample proofs of the falsity of the charges made against me, the gentleman from Illinois rose and reiterated them here.

I am willing to concede that he may possibly have spoken under the influence of intense excitement and heat. I can scarcely think he meant what he said in those concluding remarks. I have no desire for vengeance upon him, but my character is at stake, my reputation is involved. If the gentleman can stand up here and say in the face of this country that he retracts those charges, I ask that this matter go no further. But the House can readily perceive that when I am charged here with crimes I must follow it up. That is precisely my position.

Mr. WINDOM. I now yield for a moment to the gentleman from Massachusetts, [Mr. DAWES.]

Mr. DAWES. Mr. Speaker, I was present on Saturday and listened to the remarks that were made by the gentleman from Minnesota and the reply by the gentleman from Illinois. I take my full share of the odium which those remarks justly cast upon this body. It was my duty, which I failed to perform, to have striven, as well as I might, to interrupt and put a stop to them. I have nothing to say in my own justification for having sat here and listened to remarks of the character of which no man can find a parallel in the debates of the Congress of the United States from their beginning. Certainly in the time that I have been a member of this House I have never heard anything that compared with those remarks, both in their personal character and in the degrading and offensive language used on that occasion.

Mr. WINDOM. I call the gentleman to order, and ask that the words he has just uttered shall be taken down.

The SPEAKER. They will be taken down and read by the Clerk.

Mr. DAWES. I would like to know upon what meat my friend from Minnesota [Mr. WINDOM] has fed—

Mr. WINDOM. The gentleman is not in order. I called him to order, and I make a second point of order that his remarks do not relate to the resolution now under consideration.

The Clerk read the words objected to, as follows:

"Certainly in the time that I have been a member of this House I have never heard anything that compared with those remarks, both in their personal character and in the degrading and offensive language used on that occasion."

The SPEAKER. Those words, as the House will see, admit of two constructions. The first is that the remarks of the gentleman from Minnesota [Mr. DONNELLY] were degrading to himself; and secondly, that they were degrading to the gentleman at whom they were aimed, to the gentleman from Illinois, [Mr. WASHBURN.] The Chair thinks unquestionably that the speech of the gentleman from Minnesota,



if accepted by the House, does degrade the gentleman from Illinois. The Chair, therefore, thinks that, if those words should have that construction, the remarks of the gentleman from Massachusetts [Mr. DAWES] are not out of order.

The Chair, however, does not think the remarks of the gentleman from Massachusetts out of order. He is compelled to so decide upon his own sense of the language that was uttered upon Saturday. The Chair then said, as will be seen by reference to the Daily Globe:

"The Chair will state to the gentleman from Minnesota that these remarks are not honorable to the House of Representatives, of which he is a member."

If they are dishonorable to the House of Representatives, of which all of us are members, the gentleman from Minnesota, the gentleman from Illinois, the Speaker, and the rest of the members, then they are certainly degrading. The Chair said on Saturday that they were dishonorable to the House of Representatives; his statement was not then questioned; he is of that impression still.

If the gentleman has a right to defend himself when assailed in that tender point, his character, he should remember that he owes a duty to the House of Representatives, of which he is a member, and that if he does anything dishonorable or offensive the whole House is injured almost as much as himself.

The Chair, therefore, rules that the remarks of the gentleman from Massachusetts [Mr. DAWES] are not out of order, for they certainly are correct, in the first construction, that the language of the gentleman from Minnesota, [Mr. DONNELLY,] if correct, was degrading to the gentleman from Illinois, [Mr. WASHBURN.] Mr. DAWES. Mr. Speaker, it was furthest from any intention of mine to have transgressed any rules of debate in the remarks I was making deprecating what I believed to be a gross violation of the rules of debate on Saturday last.

I am not upon the floor at this time to defend either the gentleman from Minnesota or the gentleman from Illinois. It was not my purpose in rising to say one word in defense of either of them. The gentleman from Minnesota had a right to his defense against the severe letter which he had read at the Clerk's desk. I do not complain that he chose to defend himself upon this floor. But I have a word to say in reference to the phraseology of the resolution offered by his colleague, [Mr. WINDOM,] and to the remarks of the gentleman himself [Mr. DONNELLY] upon the floor this afternoon. The preamble of the resolution recites, as worthy of denunciation by this House, remarks made by the gentleman from Illinois in his place on Saturday last in reply to the gentleman from Minnesota. I now beg the attention of members of this House one moment, to see whether they are in a condition to pass any vote that by implication will censure the gentleman from Illinois for the remarks he made on Saturday.

Mr. WINDOM. Will the gentleman from Massachusetts allow me to ask him a question?

Mr. DAWES. Not quite yet; I am afraid, if I do, I shall be out of order.

The SPEAKER. The gentleman from Minnesota [Mr. WINDOM] is entitled to the floor whenever he chooses to resume it.

Mr. DAWES. The gentleman can take me from the floor when he pleases.

Mr. WINDOM. I wish the gentleman to answer a question.

Mr. DAWES. I will do so when I have concluded my remarks. I know I hold the floor subject to the gentleman from Minnesota, and he can resume it whenever he pleases.

The gentleman from Minnesota who made the remarks on Saturday [Mr. DONNELLY] has arisen in his place to-day and apologized to the Speaker and to the House for his unparliamentary remarks. Now, Mr. Speaker, although the gentleman from Minnesota puts his apology upon the ground that in the heat of the provocation he, as many of us might be, was led to say many things which, upon cool and calm

consideration of the subject, he would not have said; yet if you look over the Globe you will see that he has corrected his remarks in a cooler and calmer time than when upon the floor and under the provocation of the unjust letter, as he, no doubt, deemed it, which he had read at the Clerk's desk. He has corrected both the Associated Press report and the Globe report; and he has corrected the Associated Press report in some particulars and the Globe report in others. Hence I assume that the gentleman, having looked his remarks all over in his calm moments, has concluded to let them go to the country as we find them in the Globe. And his colleague objects to the resolution of my friend from Ohio [Mr. SPALDING] on the ground that it is now too late, because the debate has gone into the Globe, to relieve ourselves from the imputation of putting into our permanent records this debate of Saturday. Now, Mr. Speaker, before this resolution is acted on, let me ask the attention of this House to what the gentleman from Minnesota has chosen to leave in the Globe report, and afterward I propose to inquire whether his colleague, or any other member of this House who sat here and permitted him to utter even what is left in the Globe without calling him to order, did not by silence and acquiescence accord to the gentleman from Illinois the opportunity to reply in as severe language as he could command?

Mr. WINDOM. Will the gentleman give way a moment?

Mr. DAWES. When I get through.

Mr. WINDOM. I desire to say that the gentleman misapprehends entirely my resolution, and all his argument is based upon that misapprehension. He says that a portion of the resolution casts an imputation upon the gentleman from Illinois. I do not so understand it. It simply recites the letter of the gentleman from Illinois and the remarks which he made here, and proposes the appointment of a committee to investigate the truth of those charges. The House, by the adoption of that resolution, will not decide anything with reference to the truth or falsity of the charges. The resolution conveys no imputation whatever upon the gentleman from Illinois. I desire that there should be no such imputation. The resolution contains nothing to which the gentleman's remarks can apply when he speaks of its casting an imputation. Hence what he proposes to submit is not in order upon this resolution. He misunderstands my resolution, or else I do. For this reason I wanted to stop the gentleman a few moments ago.

Mr. DAWES. Let us see what the resolution says:

And whereas the said ELIHU B. WASHBURN did, on the 2d day of May, 1868, in his place on the floor of the House of Representatives, repeat said charges against said IGNATIUS DONNELLY in the following words—

I omit a part of the language quoted and pass on to read that which strikes me as justifying what I have said:

"Sir, if I were to be called upon—and I desire to say only this—if, under any press of circumstances, I were ever to be called upon to make a personal explanation here, and in reply to a member, it would not be a member who had committed a crime; it would not be a member who had run away; it would not be a member who had changed his name; it would not be a member whose whole record in this House was covered with venality, with corruption, and with crime."

I do not know for what reason this is inserted in the preamble if the sole object of the resolution is to have a committee appointed to investigate the charges of crime contained in the letter. What I wished to say was this: the gentleman from Minnesota [Mr. DONNELLY] has apologized to the House and to the Speaker for the language which he used, and put his apology upon the ground of the heat of debate and the provocation of the letter which was read. Now, I ask the House, before it votes upon this question, to listen—

Mr. WINDOM. I have yielded to the gentleman for a considerable length of time, but I desire now to say that I object to his pro-

ceeding in this line of remark for two or three reasons.

The SPEAKER. The gentleman from Minnesota [Mr. WINDOM] has the right to resume the floor.

Mr. WINDOM. The gentleman is very sensitive, as we all are, about spreading such remarks as these upon the record, yet he desires now to read the remarks, thus incorporating them a second time into the Globe and necessitating a second expunging resolution, if the gentleman's idea is correct.

But the gentleman says that there is an imputation against the gentleman from Illinois contained in this last clause which he has read from the gentleman's speech as quoted in the resolution. So far as that is concerned, if the gentleman's own letter and his own speeches, simply quoted without comment, convey an imputation upon him, then the gentleman from Massachusetts is correct. Otherwise he is entirely at fault in his construction of that resolution; for there is in the resolution nothing which in any way commits this House to the truth or falsity of the charges. Now, sir, I think that upon this resolution a discussion of my colleague's speech is not at all in order and should not be allowed here. I object to it because it has no connection whatever with the subject, and I wish to bring this matter to a conclusion as soon as possible.

Mr. DAWES. Will the gentleman take me from the floor?

Mr. WINDOM. I object to your reading the speech.

Mr. DAWES. The gentleman says that if the speech of the gentleman from Illinois is an imputation upon the gentleman from Illinois, well and good, for it is nothing but the speech which he has quoted in his resolution. I was remarking upon the very fact that he should arraign the gentleman's speech of Saturday. He attempted first, if you will recollect, to prevent the gentleman from Illinois from replying at all on Saturday, and then upon reflection withdrew his point of order. He has embodied in his resolution that speech which the gentleman from Illinois made, and I was about to say that the House permitted the gentleman from Minnesota, with or without what was in its judgment sufficient provocation, to utter upon this floor what they could not have permitted him to utter without according to the gentleman from Illinois permission to reply in just as severe language as he could employ. And I desire to satisfy the House that it must be so by reading the provocation given to the gentleman from Illinois, and which you yourselves allowed to be given.

Mr. WINDOM. I desire to ask the gentleman a question that we may understand one another, and to preface it by a remark.

The question at issue in this resolution is a question of fact—are these charges made against my colleague true or not? Now, does the gentleman propose to read here a portion of the speech of my colleague bearing upon that question? Nothing that my colleague said upon Saturday would justify the gentleman from Illinois in telling an untruth and publishing it. The gentleman's argument can have no other bearing than that. The gentleman from Illinois may have been justified in making severe remarks. If he wants to get up and do as my colleague has done, make an apology to the House for such remarks, he has my permission and yours to do so. But it certainly cannot bear upon this resolution, no matter what my colleague may have said. The question is, are these charges—which are charges of crime against my colleague—true or false? That is all there is in the resolution. I say that the speech of my colleague can have no bearing on that question, and hence I object to its being read.

Mr. DAWES. If the gentleman takes me from the floor, of course, I must stop.

Mr. WINDOM. I do so far as that is concerned.

Mr. DAWES. Well, now, I appeal to the gentleman from Minnesota if he proposes—

Mr. WINDOM. I have yielded several times to the gentleman from Massachusetts; I yield now to the gentleman from Vermont, [Mr. WOODBRIDGE.]

Mr. DAWES. Did the gentleman from Minnesota yield to me upon condition that I should subordinate myself to his views of my duty upon this floor?

Mr. WINDOM. I yielded to the gentleman as long as I thought he was entitled to it, and I now yield to the gentleman from Vermont.

Mr. DAWES. I hope the House will not second the previous question on this resolution.

Mr. WINDOM. If the gentleman is here acting as the friend of the gentleman from Illinois, I hope that because of my refusal to let him occupy my time the House will not refuse to investigate the charges which his friend has made.

Mr. DAWES. If the gentleman from Minnesota is willing to yield the floor to me long enough, I will say that I am here as no man's friend; I am not here to oppose any investigation, but I am not here to see in silence the gentleman from Minnesota to-day, as he did on Saturday, play *prochein amy* to his colleague and justify his colleague in any unparliamentary and vituperative language that he pleases to use and then shut off every one else from reply.

Mr. WINDOM. I will ask the gentleman on what grounds he makes any such charge?

Mr. DAWES. I will tell the gentleman. He sat here on Saturday and never opened his mouth while the speech of his colleague was made which he says here now has no justification whatever, and the moment the gentleman from Illinois opened his mouth in reply he called him to order, and was only persuaded to withdraw it by the intervention of his own friends. And to-day, the moment any comment is made upon the provocation for the severe language of the gentleman from Illinois, which language he has incorporated in his resolution, he asserts his prerogative to take the floor from the member who thus comments.

Mr. WINDOM. I acted as the *prochein amy* of my colleague no more than the gentleman from Massachusetts, who sat here and heard the language used.

Mr. DAWES. I did not undertake to stop either gentleman.

Mr. WINDOM. It was not my business more than his to call my colleague to order.

Mr. DAWES. The gentleman came to his sense of propriety very completely afterward. [Laughter.]

Mr. WINDOM. Well, then, I went further than he did. I called one gentleman to order; he did not call either of them to order. Therefore, in that respect, I stand better before the House than he does.

So far as the language of my colleague is concerned, the gentleman from Massachusetts says that I have condemned that language here to-day. Sir, if my colleague is guilty of what the gentleman from Illinois charges upon him, then I also shall condemn him. I condemn the language of my colleague, in so far as it may be considered in violation of good taste; on that ground it may be considered objectionable to the House. But I do not to-day condemn my colleague for using the severe language which he used against the gentleman from Illinois on Saturday; and I shall not condemn him until the gentleman from Illinois proves him guilty. Then I shall commend everything the gentleman from Illinois has written about him. But if the gentleman from Illinois shall fail, under this resolution, to prove the charges he has made against my colleague, then I shall expect every member of this House to use as strong language against him as my colleague has done. That is as far as my condemnation of my colleague goes.

I now yield to the gentleman from Vermont [Mr. WOODBRIDGE] for a few minutes.

Mr. WOODBRIDGE. I am quite happy that the little altercation between the gentleman from Massachusetts [Mr. DAWES] and the gentleman from Minnesota [Mr. WINDOM] has passed away so pleasantly. For at one

time it had assumed so serious an aspect that there was every prospect of another resolution of censure or of expulsion to be acted upon by the House.

Now, sir, I am not going to discuss the resolution of my friend from Minnesota. When the vote comes to be taken upon it I shall vote according to the dictates of my own judgment. I am rather pleased that this matter has come before the House, because with my education and my instincts I have thought, ever since I have been here, that it would be far more commendable in members of this House, and far more creditable to their constituencies and to the country, if they would conduct themselves in debate, and upon all occasions, with that spirit and that courtesy that become gentlemen. The efforts and the action of this House would have greater effect upon the country and we would be far more respected than we are to-day if we would observe in our debates and our discussions that courtesy and that politeness which ought to be in the nature of every man who has a seat here.

I rise merely to say a word or two, because my name was mentioned in the speech of the gentleman from Minnesota [Mr. DONNELLY] the other day. He is a personal friend of mine, and for him I entertain the highest respect. He said, in the course of his remarks:

"Why, he told the gentleman from Vermont [Mr. WOODBRIDGE] the other day that every corrupt and profligate measure that was pressed in this body met with his support."

Sir, if he had told that, and I had heard it—well, it may be improper for me to say that "I would meet him here or elsewhere." [Laughter.] But I should have taken that course which every true-hearted Yankee takes when his integrity is questioned and his personal character is aspersed. I know that my friend from Illinois did say what he ought not to have said, and I was irritated by what he did say. But I knew the gentleman; I knew the ruling motive for his conduct, that upon which he based his fame; it was economy. He was here as the faithful representative of the Government.

Now, I do not want to be misunderstood, because I say here, that it may go to the country, there could be no more useful man on the Committee on Appropriations than the gentleman from Illinois. His style is not my style. I am rather more liberal and free in the appropriations of the money that flows from the Treasury than the gentleman from Illinois, I have no doubt; still I do that which I deem to be right, and nothing more. I accord to the gentleman from Illinois the same credit that I claim for myself. Only it does seem to me that once in a while, when a poor woman comes here asking the payment of a debt which the Government owes her, or a poor orphan pleads for a few hundred dollars in payment of as just a debt as I should owe if you, sir, had loaned me money, the gentleman from Illinois should not get up in his seat and cry "robbery" and "peculation" and "destruction to the country." Such things do not accord with my taste, though they are in accordance with the taste of the gentleman from Illinois.

Mr. MULLINS. I rise to a point of order. I want to know whether it is now the order of this body that members shall have the privilege of getting up and slangwhanging each other at pleasure?

The SPEAKER. The Chair thinks that the remark of the gentleman from Tennessee [Mr. MULLINS] in regard to "slangwhanging" is not in order. [Laughter.]

Mr. MULLINS. I rise to another question of order. Is it the rule of this House that a member must speak to the subject under discussion, or may he brow-beat or lecture another member at pleasure?

The SPEAKER. It is the rule that in debate a member must confine himself to the question before the House.

Mr. MULLINS. That is what I supposed.

The SPEAKER. The Chair sustains the point of order.

Mr. MULLINS. I want it enforced.

The SPEAKER. The Chair sustains the point of order raised by the gentleman from Tennessee, [Mr. MULLINS,] that the gentleman from Vermont [Mr. WOODBRIDGE] must confine himself to the resolution, which proposes the appointment of a committee to investigate certain charges made against the gentleman from Minnesota.

Mr. WOODBRIDGE. I did not quite understand the point raised by the gentleman from Tennessee.

The SPEAKER. The point was that the official conduct of the gentleman from Illinois in relation to appropriation bills, &c., is not the subject of consideration before the House. The question is the resolution proposing an investigation of the charges made against the character of the gentleman from Minnesota.

Mr. WINDOM. I cannot yield to the gentleman from Vermont [Mr. WOODBRIDGE] for anything out of order.

Mr. DAWES. I am glad that the gentleman from Minnesota [Mr. WINDOM] has recovered his consistency.

Mr. WOODBRIDGE. It does seem to me, Mr. Speaker, that gentlemen who have listened to the speeches of other gentlemen will not consider me so far away from the subject as does my friend from Tennessee. That gentleman, in his remarks, is always pertinent to the subject, always lucid, always logical, always eloquent. I have never raised any point of order on him, because I always like to see a gentleman who gets up a good head of steam go through to the end.

But now I will come to the point, and will say, so far as I myself am concerned, that a month or two ago a question came up here in regard to increasing the pay of the employees of the House, which I favored. I naturally would do so.

Mr. MULLINS. Mr. Speaker, I again rise to a point of order. [Laughter.] I have already raised the point that the gentleman should address himself to the subject under discussion; but he is drifting away again upon a different matter, intimating, however, before he drifts away, that I from the South can raise the steam, while he from the far North cannot get steam enough, he is so frozen up. [Laughter.]

The SPEAKER. No point of order in regard to that remark was made at the time, and it is too late to make it now.

Mr. MULLINS. Well, I insist on the other point, that the gentleman shall confine himself to the subject under discussion.

The SPEAKER. The gentleman from Vermont must address himself to the resolution proposing an investigation of the charges against the character of the gentleman from Minnesota.

Mr. WOODBRIDGE. Will it be in order for me to say a word in regard to the reference made to me on Saturday by the gentleman from Minnesota, [Mr. DONNELLY?]

The SPEAKER. In the opinion of the Chair, it would not be, if a point of order should be raised, because the speech of the gentleman from Minnesota is not embodied in the resolution or in the pending amendment. Hence it cannot properly be made the subject of discussion.

Mr. WOODBRIDGE. I should like to say a word or two on that subject, if I thought my fervid friend from Tennessee [Mr. MULLINS] would not raise a question of order; but I suppose he would do so; and I may as well abandon the effort.

Mr. WINDOM. I am requested by gentlemen all around me to call the previous question, and with one additional remark I will do so.

Mr. WOODBRIDGE. Will the gentleman allow me to add a single sentence?

Mr. WINDOM. Yes, sir.

Mr. WOODBRIDGE. I will merely say, in justice to the gentleman from Illinois, that when he made a remark respecting me, which I thought at the time entirely improper, and to

which I replied, the gentleman, in the magnanimity of his heart—

Mr. MULLINS. I rise to a point of order. I insist that the rule shall be enforced. The gentleman has been three times ruled out of order, yet he persists in the same line of discussion.

The SPEAKER. The Chair will state to the gentleman from Vermont that if he persists in this line of remark, the point of order having been made three times, he will be in contempt of the rule. The gentleman from Tennessee insists on the point of order and will not waive it.

Mr. MULLINS. I will not.

Mr. WOODBRIDGE. Will the gentleman permit me to finish the sentence?

Mr. MULLINS. Not a bit; not a bit. [Laughter.]

Mr. WOODBRIDGE. I will merely say that the gentleman from Illinois and myself will never have any duel on account of what he may say of me. [Laughter.]

Mr. WINDOM. After a single remark I will call the previous question. It is a matter of no great importance to me whether the resolution passes or not. If this House believe that it is not worth investigating when a member charges another with venality, fraud, and corruption, of course they will vote accordingly. If the House believe that such charges, coming from where they will, should be investigated, without any reference to their conviction as to their truth or falsity, as a matter of course they will pass this resolution. If the House believe, on the other hand, that the vindication which my colleague made of himself on Saturday was so thorough and complete that, notwithstanding the reassertion of these charges by the gentleman from Illinois, they have no confidence in them and do not care about them, why then, as a matter of course, they will vote down this resolution. I call the previous question.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois. Mr. Speaker—

The SPEAKER. Does the gentleman from Illinois desire the consent of the House to speak?

Mr. WASHBURNE, of Illinois. I do.

The SPEAKER. Is there objection?

Mr. MUNGEN. I object.

Mr. GARFIELD. I move that the rules be suspended so as to allow the gentleman from Illinois to speak.

Mr. ELDRIDGE. As a question of order, I desire to inquire of the Chair whether the House cannot reconsider the vote by which the main question was ordered, and thereby give the gentleman from Illinois an opportunity to be heard?

The SPEAKER. They can, or they can suspend the rules, this being Monday, in regard to any matter actually before the House at the time.

Mr. WINDOM. Am I not entitled to the floor after the main question has been ordered?

The SPEAKER. That rule relates to a member reporting a resolution, a bill. This resolution is not reported.

Mr. WINDOM. I desired to yield the floor to the gentleman from Illinois.

The SPEAKER. The rule is that any gentleman shall be entitled to the floor after the main question is ordered upon any bill or resolution reported by him.

Mr. MUNGEN. At the suggestion of friends I will withdraw the objection and allow the gentleman from Illinois to go in.

Mr. GARFIELD. Then, of course, I withdraw the motion to suspend the rules.

Mr. WASHBURNE, of Illinois. Mr. Speaker, I thank my friend from Ohio for withdrawing his objection, and I thank the House for the expression of its sentiment in favor of hearing me. I do not propose, however, to make any lengthy speech upon this occasion.

You will bear me witness, Mr. Speaker, that

although somewhat impulsive in my nature, I am not very much in the habit of getting into personal collisions and personal quarrels with any man, and I never—so far as my temperament will permit me not to do it—violate the rules of the House. I know how important it is that those rules should be observed. I know how important it is not only to the character of the House, but to the character of individual members of the House, because, if they were confined to these rules and would not transgress them, they would not perhaps bring reproach upon themselves.

I have never, sir, on any occasion, transgressed the rules of the House even in the slightest particular without asking the pardon of the House for such transgression; and if I had transgressed them on Saturday—though the Speaker held, I think, that I did not—but if I had, I should have asked, what it would have been my duty as a Representative and as a man to ask, that I might be pardoned by the House.

I have nothing further to say in relation to the matter, which is, I am glad to say, if pressed by the gentleman from Minnesota, to become a matter of semi-judicial investigation; but as the gentleman from Minnesota [Mr. WINDOM] declined yielding to the gentleman from Massachusetts, [Mr. DAWES,] who does not speak here for me, although I am proud to number him among my dearest friends, a man who has served with me in this Hall longer than any other member here, who has been associated with me in a great deal of legislative business, and for whom I cherish the highest regard; as the gentleman from Minnesota declined to yield to him, and he desired to say something upon the subject, I now, sir, in accordance with the rules of the House, yield the floor to him.

Mr. DAWES. I am very much obliged to the gentleman from Illinois, [Mr. WASHBURNE,] but I could hardly take the floor under the circumstances. The gentleman from Minnesota [Mr. WINDOM] could have yielded the floor to me with great propriety; but he did not do so.

Mr. WINDOM. I certainly did yield the floor to the gentleman from Massachusetts for a quarter of an hour.

Mr. DAWES. It is apparent that I cannot take the floor under the present circumstances. While I am sincerely obliged to the gentleman from Illinois for his consideration and regard, I must decline the floor.

The question was upon adopting the preamble and resolution submitted by Mr. WINDOM.

Mr. ROBINSON. I ask unanimous consent to offer a resolution.

Mr. WINDOM. I object.

Mr. ROBINSON. I think it is in order, even pending the previous question.

The SPEAKER. Whatever the resolution may be it cannot now be in order, because the previous question has been seconded and the main question ordered upon the resolution of the gentleman from Minnesota.

Mr. ROBINSON. I ask that my resolution may be read.

The SPEAKER. It cannot be read except by unanimous consent.

Mr. WINDOM. I object.

Mr. ROBINSON. Is it in order to move to lay the pending resolution on the table?

The SPEAKER. That motion is in order. Mr. ROBINSON. Then I make that motion, and ask to have my resolution read, as it embraces the motion to lay on the table.

The SPEAKER. The motion to lay on the table is never put in the form of a resolution, but is simply a motion to lay on the table.

Mr. ROBINSON. Then I withdraw the motion to lay on the table.

The question was then taken upon the preamble and resolution offered by Mr. WINDOM, and they were adopted.

Mr. WINDOM moved to reconsider the vote by which the preamble and resolution were adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

# DEBATES OF SATURDAY, MAY 2.

Mr. SPALDING. I now offer the preamble and resolution which I had read at the Clerk's desk a short time since, as follows:

Whereas the debates of this House of Saturday, the 2d instant, arising upon the personal explanation of the member from Minnesota, [Mr. DONNELLY,] and joined in by the member from Illinois, [Mr. WASHBURNE,] are full of personal invective of so gross a nature as to be highly prejudicial to the character of this body for dignity and decorum; and whereas this House was itself in fault in not checking such disorderly debate in its progress, especially as the honorable Speaker did repeatedly intervene in that behalf: Therefore,

Resolved, That it is the pleasure of this House that no part of said proceedings be published in the Congressional Globe.

Mr. WINDOM. I rise to a question of order, and inquire of the Chair if the resolution just read involves a question of privilege?

The SPEAKER. The Chair rules that it is privileged, and will refer to a decision made in the Thirty-Seventh or Thirty-Eighth Congress, when, as a privileged resolution, the House adopted an order that anything that should be said by a member after being called to order by the Speaker—and members sometimes persisted in remarks after being called to order, in defiance of the rules—should not be incorporated in the Globe. That is the precedent which occurs to the mind of the Speaker at this moment, the ruling having been made by Mr. Speaker Orr.

Mr. HIGBY. Will the gentleman from Ohio [Mr. SPALDING] now yield for a motion to adjourn?

Mr. SPALDING. I decline to yield for that purpose. But I will yield to the gentleman from Massachusetts, [Mr. DAWES,] on condition that he shall call the previous question when he shall have concluded his remarks.

Mr. WINDOM. I would inquire if the ruling of the Chair can apply to the whole debate of Saturday last, or does it apply alone to those remarks to which the Speaker objected?

The SPEAKER. The subject is in the control of the House. If the House see fit, it may resolve that the whole of the day's proceedings shall not be incorporated in the Globe. That is a matter not for the Chair to rule upon, but for the House itself to decide.

Mr. ELDRIDGE. Does the Chair rule that all the proceedings of Saturday can be blotted out?

The SPEAKER. The Chair said nothing at all about blotting anything out. The Chair said he had no doubt about the power of the House to say that the proceedings of any day or of any hour should not be published in the Globe. That is subject to the order of the House.

Mr. ELDRIDGE. Does that ruling cover the Journal of the House?

The SPEAKER. It does not cover the Journal of the House. And yet the Chair would remind the gentleman from Wisconsin [Mr. ELDRIDGE] that upon the motion of the Senator from Missouri, [Mr. Benton,] after the lapse of many years, the Senate resolved that they had the right to expunge from their Journal the record of a portion of their proceedings.

Mr. ELDRIDGE. I think this House would be very glad to expunge very much of its proceedings.

The SPEAKER. The Chair cannot argue that point with the gentleman.

Mr. WINDOM. I rise to another question of order. If the resolution of the gentleman from Ohio [Mr. SPALDING] should be adopted, what will become of the resolution of investigation based upon those proceedings which the House has just adopted?

The SPEAKER. That is not a question for the Chair to determine, but it is one for the House to determine. But the Chair will state that the resolution does not propose to suppress the proceedings as published in the Daily Globe, for they have already been published. This refers to the Congressional Globe, which is not yet published. But the question raised is one for the House to determine; it



is not for the Chair to reconcile resolutions which the House may adopt.

Mr. WILSON, of Iowa. I rise to a point of order. By reference to page 70 of the Digest it will be seen that it is provided by the act of March 2, 1865, "that the proceedings of Congress shall be published in the Daily Globe of the day subsequent to the day such proceedings were had, and delivered to both Houses at their time of meeting," &c. I submit that these proceedings having been published in the Globe in accordance with the provision of the law, this House cannot, by a resolution, obliterate the record.

Mr. SPALDING. This resolution does not refer to publication in the Daily Globe.

The SPEAKER. The Chair sustains the point of order of the gentleman from Iowa, which he will see, however, does not affect this resolution. The statute provides "that the proceedings of Congress shall be published in the Daily Globe of the day subsequent to the day such proceedings were had, and delivered to both Houses at their time of meeting." That has been done; the law in this case has been complied with and executed.

Mr. WILSON, of Iowa. Mr. Speaker, there is, if I am not mistaken—I have not had an opportunity to place my hand upon the act—a provision of law that the proceedings as they appear in the Daily Globe shall be transferred to the Congressional Globe; and the reason for that is, to my mind, very plain.

The SPEAKER. The Chair, with due respect for the gentleman from Iowa, doubts whether he can find any such provision of law. The Clerk will read a single sentence from the Digest, page 100.

The Clerk read as follows:

"The House may judge what are and what are not proceedings."

The SPEAKER. This question as to what are and what are not proceedings is for the House to determine, just as under the Constitution it determines upon the qualifications and election of members.

Mr. WILSON, of Iowa. If the question be whether these were proceedings in the House, then that is a different question altogether; but I think there can be no doubt that they were proceedings.

The SPEAKER. The Chair cannot argue the point with the gentleman.

Mr. MUNGLEN. I arise to a point of order. I object to the Chair ruling that the resolution of the gentleman from Ohio [Mr. SPALDING] is in order, because the Chair decided that the gentleman, when they were talking on Saturday, were out of order. The House itself gave the gentleman from Minnesota half an hour additional by its own action, no one objecting. It was the action of the House by which this was done, not the consent of the Chair.

The SPEAKER. The Chair does not fully understand the point of order raised by the gentleman; but, so far as he does understand it, he overrules it. [Laughter.]

Mr. MUNGLEN. I will state my point again. The Chair ruled that the resolution of the gentleman from Ohio was in order, because the Chair had called the gentleman from Minnesota [Mr. DONNELLY] to order. I object to the ruling of the Chair, for the reason that the House consented unanimously to give the gentleman a half hour additional to go on with his speech. This was the action not of the Chair, but of the House, and the House having ruled upon this subject it is beyond the control of the Chair.

The SPEAKER. The Chair overrules the point of order. When the gentleman from Ohio [Mr. MUNGLEN] states that the Chair has ruled that this resolution is privileged because the Chair on Saturday called the gentleman from Minnesota to order, the Chair must be allowed to say that he has made no such decision. He does not base his decision on any such ground whatever, as the gentleman will find by reading the Globe to-morrow morning. The gentleman from Massachusetts [Mr. DAWES] will proceed.

Mr. DAWES. Mr. Speaker, as the House appears to be impatient—

Mr. CARY. Will the gentleman yield to me that I may have a resolution read?

Mr. VAN WYCK. I object to the gentleman from Massachusetts yielding.

Mr. DAWES. The House is impatient, and I do not feel at liberty to detain it more than a moment. I must therefore decline to yield.

Mr. Speaker, the gentleman from Minnesota [Mr. DONNELLY] has corrected his speech; he has apologized to the House for so much of it as violates the decorum of this body.

Mr. BENTON. I would like to ask the gentleman whether he understands that the gentleman from Minnesota has changed his speech essentially?

Mr. DAWES. I do not desire to go into that matter. I wish to call the attention of the gentleman from Minnesota [Mr. DONNELLY] to the fact that he asks this House to put into the permanent record of its proceedings what I propose to read to him and to the House. I dislike, as much as his fastidious colleague does, to reproduce here what his colleague thinks was so indecent on Saturday that it does not become us to have it repeated to-day; but it is due to the House, from the gentleman from Minnesota, after the House has appointed a committee of investigation upon the charges which the gentleman from Illinois has made against him, that he should get up here on the floor of the House and ask to have expunged from its permanent record what I propose to read, and I ask the House if the gentleman from Minnesota treats the House as he ought to do when he sits here silently and allows this to go into the record?

Mr. SPALDING. I would ask the gentleman if it will not become necessary for me to offer another resolution like this if he reads that speech on this occasion? [Laughter.] I am afraid it will.

Mr. DAWES. The gentleman from Ohio understands his own duty much better than I do.

I ask the gentleman from Minnesota to listen while I read:

"What, if God, in a moment of enthusiasm at one of the gentleman's speeches, were to pluck him to his bosom and leave this wretched nation staggering on in darkness to ruin! I do not wonder that the gentleman's family manifest such an intense desire to get into Congress. I fancy the gentleman—for what would be our loss would be heaven's gain—I fancy the gentleman haranguing the assembled hosts of heaven, cherubims and the seraphims, the angels and the archangels! How he would sail into them!"

Mr. SPALDING. I believe I shall have to resume the floor. [Laughter.] I appeal to the gentleman from Massachusetts whether he will not defeat the whole object of my resolution by reading that? However, I will yield further.

Mr. BLAINE. You strike it out of Saturday's proceedings and put it in in Monday's!

Mr. DAWES. I appeal to the gentleman from Minnesota whether he wants to leave that upon the record after the House has generously, *namine contradicente*, accorded him a committee of investigation into these charges?

Mr. DONNELLY. I will say, in answer to the gentleman from Massachusetts, that there is in this no charge of crime, nothing affecting the personal character of the gentleman from Illinois. In the flight of my imagination at that time I transported the gentleman to that realm where we all hope to go, and I not only did that, but I gave him a prominent and conspicuous place in that realm. [Laughter.] I cannot see, Mr. Speaker, what there is to offend the taste of men in such a paragraph as that. I can search the great records of oratory and find a thousand such instances. I think, Mr. Speaker, I did the gentleman from Illinois infinite honor to transport him to heaven. [Laughter.]

Mr. DAWES. I will take the floor now. [Laughter.] I will call the gentleman's attention, in the light of what he has just said, to this passage:

"If he lay dead to-morrow in this Chamber, what

heart in this body would experience one sincere pang of sorrow?"

Mr. DONNELLY. Does the gentleman ask me for an answer? I only say—

Mr. DAWES. I do not yield to the gentleman now. I am reading the gentleman's speech to him.

"How he would sail in! How he would rout them"—the cherubims and the seraphims, the angels and the archangels—

"how he would rout them, horse, foot, and dragons! How he would attack their motives and fling insinuations at their honesty! And how he would declare for economy, and urge that the wheels of the universe must be stopped because they consumed too much grease!"

Mr. WILSON, of Iowa. I rise to a question of order. It is this, that this language having been held to be out of order, or at least not fit for the Globe, and not parliamentary in character, it can only be introduced here as a part of the remarks of the gentleman from Massachusetts, and I therefore object to his using such language either from the paper or as his own, though I know he would not use it as his own.

The SPEAKER. The Chair thinks he probably decided on Saturday that the remarks which the gentleman from Massachusetts is now reading were out of order; but no gentleman objected, and therefore the gentleman from Massachusetts was allowed to proceed. The gentleman from Iowa now makes the point of order that these remarks are out of order, and the Chair sustains it.

Mr. DAWES. Then, the question is whether they were not so out of order that they ought not to go into the Congressional Globe? I do not pretend to state what they are.

The SPEAKER. The Chair will state that remarks which are not in order cannot be brought in and made in order by reading them from any printed document.

Mr. GARFIELD. May I ask the Chair if his decision is that it is not in order to read the words that it is moved shall be stricken out? My colleague moves to strike out from the Globe certain words. I ask if it is not in order that the words moved to be stricken out be read?

Mr. WINDOM. The motion is to strike out the whole speech, and not these particular words.

The SPEAKER. The gentleman from Ohio is not correct in his statement of fact. The resolution does not propose to strike anything out.

Mr. GARFIELD. It proposes to strike out the whole record.

The SPEAKER. It proposes that what was said in the House on Saturday last shall not be incorporated in the Congressional Globe.

Mr. ELDRIDGE. I wish to know if all of this—

Mr. DAWES. I yield to the gentleman from Minnesota, [Mr. DONNELLY.]

Mr. DONNELLY. There is a concluding paragraph of my remarks on Saturday last, upon which the Chair called me to order, and, as I think, very properly, and for which I immediately apologized to the House. I acquiesce in the sense of propriety manifested by the gentleman from Massachusetts, and I shall ask that that concluding paragraph be omitted from the Congressional Globe. And I will also say—for I desire to do no unfair thing—that if I publish those remarks for distribution in pamphlet form I shall also omit that concluding paragraph from them.

Mr. ELDRIDGE. I desire to ask a question of the Chair. I wish to know if all of this does not run on all-fours with the eleventh article of impeachment?

The SPEAKER. That is not a question to which the Chair can respond.

Mr. DAWES resumed the floor.

Mr. SCHENCK. Will the gentleman allow me one moment to direct his attention to a particular point involved?

Mr. DAWES. The gentleman from Minnesota [Mr. DONNELLY] has done what I think

he ought to have done, and I am very glad he has done it. I now desire to call his attention to one other paragraph, that he may set himself right before the House.

"Why, sir, I can look back and recall"—

Mr. WILSON, of Iowa. I would inquire of the gentleman from Massachusetts, [Mr. DAWES,] should the gentleman from Minnesota [Mr. DONNELLY] conclude to strike out the paragraph he is now reading, does the gentleman from Massachusetts intend to pre-serve it in the Globe by thus incorporating it in his remarks?

Mr. DAWES. Certainly not.

Mr. WILSON, of Iowa. Then I think the matter should be arranged privately between the gentlemen.

The SPEAKER. All questions of doubt can be submitted to the House, and if the House or any gentleman desires it the Chair will submit to the House whether this line of argument shall be continued.

Mr. DAWES. I do not desire to read any more, and, with the consent of the House, I will ask the reporters of the Globe to strike out from my remarks all I have read.

Mr. ELDRIDGE. I object to any remarks being stricken out; I object to gentlemen playing fast and loose in this matter.

Mr. DAWES. Very, well; I desire to call the attention of the gentleman from Minnesota [Mr. DONNELLY] to what seems to be a direct attack upon the gentleman from Illinois. He says:

"Why, sir, I can look back and recall how at the opening of almost every Congress the gentleman has got up here and—if the word was parliamentary I would say—howled against the railroad communication between New York and this city, and demanded an air-line railroad, splitting the very heavens with his outcries. Suddenly there came a dead calm,

'And silence, like a poutice, came  
'To heal the wounds of sound,'

"and we heard no more upon the subject until the next Congress met."

I would like to have the gentleman state to the House whether he intended to make a charge against the gentleman from Illinois, because that is doing precisely what he claims was done against him in the letter?

Mr. DONNELLY. I do not see that there is any charge there.

Mr. DAWES. There was none intended?

Mr. DONNELLY. Of course not.

Mr. DAWES. If the gentleman from Wisconsin [Mr. ELDRIDGE] objects to having stricken out from my remarks any of those improper passages from the speech of the gentleman from Minnesota which I have read, then I will ask unanimous consent of the House to have them stricken out.

Mr. ELDRIDGE. I object to any remarks being stricken out; I want them to go to the country just as they are, so that they may know precisely what we are doing.

Mr. DAWES. Then I give notice that as soon as this matter is disposed of I will move to suspend the rules in order that I may omit from my remarks, as published in the Globe, what I have indicated.

The SPEAKER. It is in order at this time to move to suspend the rules for any purpose connected with or growing out of the subject before the House.

Mr. DAWES. I now yield to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. SCHENCK. I do not desire to make any extended remarks.

Mr. SPALDING. I resume the floor, and call the previous question.

Mr. SCHENCK. I understood my colleague [Mr. SPALDING] to have yielded the floor altogether to the gentleman from Massachusetts [Mr. DAWES] on condition that he should call the previous question when he was through.

Mr. SPALDING. But he does not call it.

Mr. SCHENCK. I understand the gentleman from Massachusetts [Mr. DAWES] to consent to yield to me for an inquiry.

Mr. DAWES. Certainly.

Mr. SCHENCK. I want to call the attention of the House to a matter connected with

this, for fear we may involve ourselves in some great absurdity. I will not argue the question now before the House further than to say that it seems to me better to have an authentic official record of all we do and say here, for information or warning in the future, than to leave it entirely in the shape of such exaggerated and misrepresented accounts as will be sure to go forth. So much for the official record.

But sir there is something more than that in this case, to which I wish to call the attention of the House. We have just passed a resolution in which we cite from this debate, as the ground upon which that resolution is based, remarks made by the gentleman from Illinois, and now it is proposed to suppress that record, to wipe it out, to take away the very evidence upon which we have based the resolution which we have but a moment ago adopted. It seems to me that such action on the part of the House would be—I will not say absurd, lest the term may be considered disrespectful, and I may be called to order; but it would put us in a position which might possibly induce outsiders to say that we are acting absurdly, and endeavoring to "cover up our tracks." Whatever the character of the things said and done here, I hold it is better for us, better for the country, better in every sense that, such as they are, a record should be made of them, either for instruction or warning, as the case may be, hereafter—for praise or reproof as they may deserve the one or the other—than that we should be engaged in the idle attempt to wipe out history, leaving that history without the authentic and official record by which it should be perpetuated, and allowing it to be preserved in garbled accounts furnished by those who are not officially entitled to speak for us.

But, sir, I arose more particularly for the purpose of calling the attention of the House to the absurd attitude in which it seems to me we shall place ourselves if at one moment we pass a resolution based upon certain things set forth in the record kept by law in the Congressional Globe and the next moment turning around and wiping out the evidence upon which was based the resolution adopted by us.

Mr. GARFIELD. With the consent of the gentleman from Massachusetts, [Mr. DAWES,] I desire to say one word of explanation. In my remark a few moments ago I was actuated by the view that we should be doing badly to strike out the record, not that I wish to give an undue license to debate, or that the Speaker should make latitudinarian rulings and permit an undue range of discussion. I have been very sorry for my part that I did not interfere, as I think I ought to have done, on Saturday, and prevented a part at least of the improper remarks then made.

Mr. HIGBY. With the consent of the gentleman from Massachusetts I desire to make a single suggestion. It seems to me, Mr. Speaker, that in order to carry out the full intent and purpose of this resolution it should embrace the debate of to-day also. The gentleman from Massachusetts has been dwelling very lengthily upon the speech made on Saturday by the gentleman from Minnesota, and has been reiterating the most offensive portions of that speech.

Mr. DAWES. I now yield for a few moments to the gentleman from Minnesota, [Mr. DONNELLY.]

Mr. DRIGGS. I rise to a question of order. As I understand, the gentleman from Massachusetts [Mr. DAWES] received the floor from the gentleman from Ohio [Mr. SPALDING] on the condition that when he got through with his remarks he should call the previous question. He has not complied with that condition, and I do not see by what right he now holds the floor.

Mr. ALLISON. He has not got through yet.

The SPEAKER. The Chair cannot entertain this question as a question of order. The gentleman from Massachusetts must judge for himself as to the conditions on which he ob-

tained the floor and the right under which he holds it.

Mr. DAWES. I yield to the gentleman from Minnesota, [Mr. DONNELLY.]

Mr. DONNELLY. Mr. Speaker, I have been a member of this body for five years. I have never had the slightest collision with any member of the House. I have never, I believe, during my whole lifetime assailed with abuse any man. I think I can almost say, as good old Abraham Lincoln said, "I have never willingly planted a thorn in the breast of any man." If I have sinned in this case, Mr. Speaker, it is because I have suffered. I have the highest respect for the members of this House, and for none more than for my distinguished friend from Massachusetts, [Mr. DAWES.] Although I do not think my flight of imagination last Saturday, conveying the gentleman from Illinois to the realms of eternal bliss, was any imputation upon him or was in any sense a violation of parliamentary propriety, (and I think the Speaker has fallen unintentionally into a trifling error on this point, for I believe the Globe will show that he did not call me to order upon that branch of the subject,) yet, Mr. Speaker, in deference to the judgment of the gentleman from Massachusetts, and that there may be no further offense to the good taste of the House in this matter, I am willing to go a step further and strike out even that paragraph from the report of my remarks.

Mr. ROSS. I rise to a point of order. If the gentleman from Minnesota has got my colleague into the regions of bliss I object to his bringing him down. [Laughter.]

Mr. DAWES. Although I am under a pledge to call the previous question on this resolution, yet after the statement of the gentleman from Minnesota, I think it has answered its purpose, and I trust the gentleman from Ohio [Mr. SPALDING] will withdraw it. Before resigning the floor I will yield it to the gentleman from Illinois, [Mr. WASHBURN.]

Mr. WASHBURN, of Illinois. As the gentleman from Minnesota has withdrawn the offensive portions of his speech and his imputations, I withdraw entirely what I said in reply.

Mr. SPALDING. I withdraw the resolution.

Mr. DAWES. I now ask leave to withdraw from the Globe the extracts from the speech of the gentleman from Minnesota which I have incorporated in my remarks.

Mr. ELDRIDGE. We object to the Globe being mutilated.

Mr. VAN WYCK. I move that the House do now adjourn.

Mr. DONNELLY. Will the gentleman withdraw that motion for a moment?

Mr. VAN WYCK. I withdraw it.

Mr. DONNELLY. In the present temper of the House, I would ask whether it would be proper for the House to imitate the illustrious example that was set at the other end of the avenue and go out and take a drink? [Great laughter.]

Mr. WASHBURN, of Illinois. I belong, Mr. Speaker, to the temperance society. [Laughter.]

The SPEAKER. The Chair cannot answer the question of the gentleman from Minnesota, but he is always gratified at the settlement of such differences as these between members upon the floor.

Mr. VAN WYCK. I now renew the motion to adjourn.

The motion was agreed to; and thereupon (at five o'clock and thirty-five minutes p. m.) the House adjourned.

#### PETITION.

The following petition was presented under the rule, and referred to the appropriate committee:

By Mr. SCOFIELD: The petition of citizens of Venango county, Pennsylvania, praying for the removal of all taxes from rock oil.

## IN SENATE.

TUESDAY, May 5, 1868.

Prayer by Rev. J. G. BUTLER, D. D., of Washington, D. C.

## ADMISSION TO IMPEACHMENT TRIAL.

Mr. CAMERON. I desire to make a motion that the members of the United States Medical Association, now assembled in this city, be allowed seats in the gallery.

Mr. SUMNER. I hope so.

The PRESIDENT *pro tempore*. It is moved that the medical institution or society have leave to occupy the galleries.

Mr. SUMNER. Without tickets.

The PRESIDENT *pro tempore*. Is there any objection to the motion?

Mr. CONKLING. What is the motion?

The PRESIDENT *pro tempore*. The motion is to permit the members of the Medical Association to come into the galleries of the Senate without tickets.

Mr. MORRILL, of Vermont. I desire to know how many there are of the association, and whether it is possible that they can be accommodated in the galleries.

Mr. CAMERON. I will say in reply that the number will not amount to more than one or two hundred, and I am satisfied the Sergeant-at-Arms can accommodate them in the galleries.

Mr. FRELINGHUYSEN. They number six or seven hundred.

Mr. DRAKE. How are we to know who the members of that association are if they are to come in without tickets. I object to the resolution of the Senator from Pennsylvania in its present form.

Mr. SUMNER. It is too late to object.

Mr. DRAKE. I object to its adoption; I do not object to its being acted upon. The vote has not yet been taken upon it. If the resolution is to be adopted in its present form then every man who chooses to present himself at the doors of the Capitol and say that he is a member of that association can come in, and who is to prevent him? If they are to come in at all by the grace of the Senate it should be by tickets provided for them and given to them at their place of meeting. But, sir, they are to meet to-day, and this is probably the last day that the argument of this case will proceed. Of what avail is it to pass this resolution here when those gentlemen are to be at their own place of meeting during the very hours of the session of the Senate? I do not think it is expedient for us thus to throng the galleries with two or three hundred additional people when the whole number of tickets are given out to the extent that persons can be accommodated in the gallery. I have great respect for that association, but I do not see that we are to gain anything but confusion by granting them this privilege. The Senators and Representatives from the States from which these gentlemen come can furnish them with tickets so far as it may be necessary that they should have them.

Mr. CAMERON. The resolution, I believe, was passed prior to these remarks of my friend from Missouri.

Mr. DRAKE. The resolution has not passed. The negative was not put.

Mr. CAMERON. Then I think it would be better for him to devise some plan of getting them in. To my mind there is no difficulty about it at all. It can be done under the direction of the Sergeant-at-Arms, and he will give them tickets or devise some better mode. We shall not be obliged to accommodate more than two hundred, and why not let them come here?

Mr. GRIMES. I rise to inquire to what hour the Senate, sitting as a court of impeachment, adjourned.

The PRESIDENT *pro tempore*. I do not know that I understood the question of the Senator from Iowa.

Mr. GRIMES. I simply rose to inquire to what hour the Senate yesterday, sitting as a court of impeachment, adjourned to meet to-day.

The PRESIDENT *pro tempore*. Twelve o'clock. The question is upon the motion of the Senator from Pennsylvania.

The motion was not agreed to.

## IMPEACHMENT OF THE PRESIDENT.

The President *pro tempore* then vacated the chair that it might be occupied by the Chief Justice.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at four o'clock and nine minutes p. m.

## EXECUTIVE MESSAGES.

Several executive messages were received from the President of the United States, by Mr. W. G. MOORE, his Secretary.

On motion of Mr. CONKLING, the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, May 5, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The reading of the Journal of yesterday was, by unanimous consent, dispensed with.

## COMMITTEE OF INVESTIGATION.

The SPEAKER announced the following as the committee of investigation on charges against Hon. IGNATIUS DONNELLY, appointed under the resolution of the House of yesterday: NATHANIEL P. BANKS, of Massachusetts; FRANCIS THOMAS, of Maryland; LUKE P. POLAND, of Vermont; JOHN A. GRISWOLD, of New York; AUSTIN BLAIR, of Michigan; GEORGE W. WOODWARD, of Pennsylvania, and JAMES B. BECK, of Kentucky.

## CHARGES AGAINST A MEMBER.

Mr. DAWES. I rise to a question of privilege. I am requested by my colleague [Mr. BUTLER] to offer the resolution which I send to the Clerk's desk. I presume there will be no objection to it.

The SPEAKER. If the resolution gives rise to debate it will have to be postponed until the House returns from the Senate.

Mr. DAWES. If objection be made, I give notice that I will offer it on the return of the House from the Senate.

The Clerk read the resolution, as follows:

*Resolved*, That the select committee ordered by the House yesterday be also charged, under the authority then given them, with the investigation of the allegations made on Friday by the member from New York, Mr. BROOKS, in the words following:

"Sir, the honorable gentleman from Massachusetts [Mr. BUTLER] will never, never forgive me because I extorted from him, or was the means of extorting from him, through the Treasury Department here and through the courts in New York, \$60,000 in gold which he had extorted from a New Yorker in New Orleans, when he had command there—a sum of money which he was obliged by the courts of New York to pay back, not exactly in the gold which he appropriated in New Orleans when it was at \$2 80, but in paper as legal tender. It is because of this act of mine upon the floor of this House, when he was a commanding general and I as a public man exposed his acts here, that I am assailed, as I have been by him to-day, and upon other occasions elsewhere."

Which allegation, if true, with the innuendoes with which they were made, ought to affect the position of the member charged; and if the charge is false, and not known to be true by the member making it, the House may take such order as may be necessary and proper to protect members of the House from false charges.

The SPEAKER. The Chair rules that this is a question of privilege, as it affects the character of a member of the House. It is open, however, to objection to its consideration at the present time.

Mr. BROOKS. I do not object to the consideration of the resolution now, if—

Mr. ARNELL. I object to its consideration.

Mr. DAWES. Then I give notice that I will present it on the return of the House from the Senate, and I wish to say that I offer it at the request of my colleague, and not because I deem it necessary.

Mr. BROOKS. I do not object myself.

The SPEAKER. The gentleman from Tennessee [Mr. ARNELL] objects. The Chair gives notice that business will be transacted on the return of the House from the Senate.

Some moments afterward,

Mr. ARNELL said: I withdraw my objection to the consideration of the resolution of the gentleman from Massachusetts, [Mr. DAWES.]

The SPEAKER. If there be no other objection the question will be upon adopting the resolution.

Mr. BROOKS. I will not object if I can be permitted to add to it another question of inquiry in connection with the same matter.

Mr. DAWES. The gentleman from New York [Mr. Brooks] can present his as a separate matter at another time.

Mr. BROOKS. I prefer to do it in connection with this and now.

Mr. DAWES. I cannot consent to that.

Mr. BROOKS. Then I object to the consideration of the resolution now.

The SPEAKER. Objection being made, the matter will be resumed upon the return of the House from the Senate this afternoon.

## REPORT ON MINING.

Mr. SCOTFIELD, by unanimous consent, submitted the following resolution; which was read, and referred, under the law, to the Committee on Printing:

*Resolved*, That the same number of copies of the letter of the Secretary of the Treasury, inclosing a report by James W. Taylor upon gold and silver mines and mining east of the Rocky mountains, be printed for the use of the House of Representatives, as are ordered of the report of J. Ross Browne on the mineral resources of the Pacific States and Territories, and that said reports be bound together.

## IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper. There will be business to be transacted this afternoon upon the return of the House from the Senate.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At four o'clock and ten minutes p. m. the Committee of the Whole returned to the Hall, and the Speaker having resumed the chair,

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; progress has been made in the trial, and the Senate, sitting as a court of impeachment, has adjourned until to-morrow at twelve o'clock m.

## W. H. SHIRLEY.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report of the Quartermaster General on the claim of W. H. Shirley, in response to a request from the Committee of Claims; which was referred to the Committee of Claims.

## WRECK OF STEAMER SCOTLAND.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting, in compliance with a House resolution of the 2d of March, a report by a board of United States engineers on the condition of the wreck of the steamer Scotland, now lying in New York harbor; which was referred to the Committee on Commerce.

## MANUFACTURERS' NATIONAL BANK.

Mr. HILL, by unanimous consent, introduced a bill (H. R. No. 1035) to authorize the Manufacturers' National Bank of New York to change its location; which was read a first and second time, and referred to the Committee on Banking and Currency.

## PENSIONS.

Mr. KERR, by unanimous consent, introduced a bill (H. R. No. 1036) to amend the sixth section of the act of July 4, 1864, on the



subject of pensions, so as to authorize pensions to be granted in certain cases from the date of the discharge or death of the soldier; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### MESSAGE FROM THE PRESIDENT.

A message in writing from the President was delivered to the House by Colonel WILLIAM G. MOORE, his Secretary.

#### LEAVE OF ABSENCE.

Mr. HAWKINS asked and obtained leave of absence for four days.

#### LAND GRANT TO MINNESOTA.

Mr. DONNELLY, by unanimous consent, introduced a bill (H. R. No. 1037) making a grant of lands to the State of Minnesota to aid in the construction of a railroad from Taylor's Falls, via Saint Cloud, to the western boundary of said State; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

#### APPOINTMENTS IN INTERIOR DEPARTMENT.

Mr. MILLER. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved*, That the Secretary of the Interior be, and is hereby, requested to inform this House of the number and names of clerks appointed in his Department since the 1st of April last, and by whom recommended.

Mr. ELDRIDGE. I object.

Mr. WASHBURNE, of Illinois. I object to the form of the resolution.

Mr. MILLER. Then I give notice that I will offer it on Monday next.

#### CHARGES AGAINST A MEMBER.

Mr. DAWES. I call for the regular order.

The SPEAKER. During the proceedings to-day, before the House proceeded to the bar of the Senate, the gentleman from Massachusetts [Mr. DAWES] submitted the following resolution as a question of privilege:

*Resolved*, That the select committee ordered by the House yesterday be also charged, under the authority then given them, with the investigation of the allegations made on Friday by the member from New York, [Mr. BROOKS], in the words following:

"Sir, the honorable gentleman from Massachusetts [Mr. BUTLER] will never, never forgive me because I extorted from him, or was the means of extorting from him, through the Treasury Department here and through the courts in New York, \$60,000 in gold which he had extorted from a New Yorker in New Orleans, when he had command there—a sum of money which he was obliged by the courts of New York to pay back, not exactly in the gold which he appropriated in New Orleans when it was at \$2 80, but in paper as legal tender. It is because of this act of mine upon the floor of this House, when he was a commanding general and I was a public man exposed his acts here, that I am assailed, as I have been by him to-day, and upon other occasions elsewhere."

Which allegations, if true, with the innuendoes with which they were made, ought to affect the position of the member charged; and, if the charge is false and not known to be true by the member making it, the House may take such order as may be necessary and proper to protect members of the House from false charges.

Mr. ELDRIDGE. Does the Chair rule that that resolution is privileged?

The SPEAKER. The Chair has so ruled. The gentleman from New York [Mr. BROOKS] objected to the consideration of the resolution except on some conditions. The question, therefore, is, Will the House now consider it? If no objection is made, the gentleman from New York will be permitted to state briefly the reasons for his objection.

Mr. BROOMALL. Let him have five minutes.

No objection was made.

Mr. BROOKS. Mr. Speaker, I desire, in connection with this proposition of the gentleman from Massachusetts, [Mr. DAWES], to have also investigated other allegations made in the debate referred to. Among other charges which were made against me on that occasion was one involving a question of veracity between the gentleman from Massachusetts [Mr. BUTLER] and a person in New York to whom he referred as plaintiff in a certain lawsuit against me. The allegation was—

"Some time ago there was a case where one Clarke"

Mr. DAWES. I suggest that upon the question whether the House will consider the resolution the gentleman from New York [Mr. BROOKS] is not in order in debating the merits of something else.

The SPEAKER. The House has by unanimous consent allowed the gentleman from New York five minutes to state the ground of his objection. The Chair understood him this morning to object to the consideration of this resolution unless there should be added to it something which he did not then state.

Mr. ELDRIDGE. I suppose the time occupied by the gentleman from Massachusetts [Mr. DAWES] will not come out of the five minutes of the gentleman from New York?

The SPEAKER. The Chair will note the time, and will do full justice to the gentleman from New York.

Mr. BROOKS. The gentleman from Massachusetts [Mr. BUTLER] said in the debate the other day that—

"Some time ago there was a case where one Clarke sued a fellow by the name of Brooks for part ownership in the New York Express, and there was a difficulty between Erastus Brooks and the other partner about a division of the spoils. They brought him [BUTLER] the case and showed him that the two Brookses had robbed this Clarke. He [BUTLER] said he did not love the firm; he would have nothing to do with it; it was a nasty affair and not so forth as guano; he saw the case in court and saw the Brookses beaten."

I hold in my hand a telegram from Mr. Clarke to myself, which was transmitted to me yesterday, and I have also before me a letter addressed to my brother, Hon. Erastus Brooks, of New York. The letter reads as follows:

NEW YORK, May 4, 1868.

DEAR SIR: In regard to the "Express suit" alluded to by General BUTLER on Friday last, allow me to say that it was never offered to him by me, directly or indirectly, and that I never heard his name connected with it until Saturday last, on reading the debate of the day before. His entire statement has not the shadow of truth to rest upon.

Yours, truly, S. T. CLARKE.

HON. ERASTUS BROOKS.

In connection with this I desire to say that Mr. S. T. Clarke was the plaintiff in this suit against me; and I desire to say further, in justice to him and his honorable profession as a journalist, that he is a leading and large proprietor of the New York Tribune and is one of the editors—the money editor—of that paper. The telegram to which I have referred is to the same effect as the letter. It is in these words:

NEW YORK, May 4, 1868.

BUTLER's story about the Express suit is without a shadow of truth. It was never offered to him by me in any form. S. T. CLARKE.

What I want the committee now to investigate is the question of veracity between Mr. Clarke, an editor of the New York Tribune, and the honorable gentleman from Massachusetts, [Mr. BUTLER.] This question of veracity interests the honorable gentleman from Massachusetts far more than it does me. I would like to have it settled at the same time with the other question with regard to the gentleman.

I cannot comprehend why the honorable gentleman from Massachusetts, [Mr. DAWES], who has offered this resolution, should insist upon an investigation of the circumstances connected with the payment of the comparatively small sum of \$60,000, passing into the hands of a military commander amid the scenes of war during which there was very likely to be much rapacity—I cannot understand the logical distinction in the gentleman's mind which makes him demand an investigation in regard to that \$60,000, when the other day, upon a question involving the conduct of the same honorable member, his colleague from Massachusetts, [Mr. BUTLER], as a manager on the part of this House in the impeachment, he voted no upon my proposition to appoint a special committee to investigate the Alta Vela controversy, involving, as I then remarked, over a million of dollars. Why the gentleman should feel so deeply interested in this investigation as to \$60,000 and so indifferent as to a matter involving \$1,000,000, and at the same

time involving the character of the House and the character of the honorable member, his colleague, it is not within my power to determine. If this matter of the gold is to be investigated it seems to me necessary that it should be followed up by other investigations connected with the whole administration of General BUTLER as commander of the New Orleans or Louisiana department.

The SPEAKER. The time of the gentleman from New York has expired. He has occupied five minutes since the interruption of the gentleman from Massachusetts, [Mr. DAWES.]

Mr. BROOKS. I would like to have less than five minutes more to complete my explanation.

The SPEAKER. Is there objection to granting the gentleman from New York further time to complete his explanation?

Mr. ARNELL. I object.

Mr. MYERS. I move that the House adjourn.

The SPEAKER. The question is, Will the House now consider the resolution of privilege introduced by the gentleman from Massachusetts? This question is not debatable except by unanimous consent.

Mr. WILSON, of Iowa. I ask that the resolution be again reported.

Mr. CARY. I desire to offer an amendment to the resolution.

The SPEAKER. The resolution is not yet before the House. The question is, Will the House now consider it?

The resolution was again read.

Mr. MYERS. I move that the House do now adjourn.

Mr. DAWES. I wish to state to the House why I offer this resolution.

Mr. RANDALL. For five minutes?

Mr. DAWES. I do not want two minutes.

Mr. RANDALL. It is the same time allowed the gentleman from New York.

Mr. DAWES. I offered this resolution at the request of my colleague, upon whose character for integrity the charge cited reflects. It is for the House to say, when a member of the House makes a charge against a fellow-member, and that fellow-member asks for an investigation of the truth of the charge, whether they shall grant it. I do it entirely at the request of my colleague, and not because I myself or any of his colleagues believe there is any ground for that charge even sufficient for an investigation. I call for the previous question.

The SPEAKER. It does not need the previous question, as the question is not debatable.

Mr. ELDRIDGE. I do not wish to debate it unless the House gives unanimous consent. I ask for five minutes to make some suggestions, and I would rather have them now than after the House has declined to consider and act on the resolution. However, at one or the other points of time I desire to have a moment or two to make a remark on this subject. [Cries of "Go on!"]

The SPEAKER. The gentleman from Wisconsin asks for five minutes.

Mr. BENJAMIN. I object.

Mr. MYERS. If it be not distasteful to the House I insist on my motion to adjourn. I think that we had better adjourn.

#### SOUTH CAROLINA AND ARKANSAS ELECTIONS.

The SPEAKER. If there be no objection the Chair will lay before the House a brief message from the President of the United States. If it gives rise to debate it will be withdrawn and presented hereafter regularly.

Mr. WASHBURNE, of Illinois. Let me suggest to the gentleman from Pennsylvania to withdraw the motion to adjourn, so we may dispose of this matter to-day. It is the understanding, if this message gives rise to debate, it is to go over.

The SPEAKER. So the Chair has stated.

Mr. WASHBURNE, of Illinois. Very well.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting documents

relating to elections in South Carolina and Arkansas; which, on motion of Mr. FARNSWORTH, was referred to the Committee on Reconstruction, and ordered to be printed.

#### CHARGES AGAINST A MEMBER—AGAIN.

Mr. BROOKS. I wish to read a resolution I desire to offer.

The SPEAKER. The motion to adjourn is pending.

Mr. MYERS. I withdraw the motion to adjourn.

Mr. BROOKS. I wish to read a resolution which I consider necessary to a proper investigation.

Mr. DAWES. When the House decides to entertain my resolution I will have the control of it.

Mr. BROOKS. I presume there will be no objection to entertaining the resolution; there is none on this side.

The question was then put; and the House decided to receive and consider the resolution.

Mr. DAWES. I will now listen to the gentleman's resolution.

Mr. BROOKS. It is as follows:

*Resolved*, That the committee be directed to bring before them the report of the special commissioners, Major General William F. Smith and James T. Brady, esq., of New York, appointed by President Lincoln and Secretary Stanton to investigate the administration of the military government in New Orleans during the war, and especially for the testimony of B. T. Smith, Jacob Barker, and W. W. Watson relating to the administration of General Butler and his connection in the trade of Lakes Borgne and Ponchartrain with his brother, A. J. Butler.

Mr. DAWES. I consider it altogether unnecessary to instruct a committee of the character of the one announced this morning as to the mode and method of discharging their duties. I demand the previous question.

Mr. BOYER. I desire to make an inquiry which might influence my vote upon this question. Will the gentleman from Massachusetts withdraw the previous question to allow me to make an inquiry?

Mr. DAWES made a gesture of dissent.

Mr. CARY. I ask permission of the gentleman to offer an amendment.

Mr. DAWES again made a gesture of dissent.

Mr. ROBINSON. I call for tellers on seconding the previous question.

Tellers were not ordered.

The previous question was seconded—ayes 82, noes 21.

The main question was then ordered to be put.

Mr. ELDRIDGE. Has the gentleman from Massachusetts [Mr. DAWES] now an hour to discuss this question?

The SPEAKER. He has not, not having reported the resolution.

Mr. ELDRIDGE. I desire to make a few remarks to the House—not to exceed five minutes.

Mr. COVODE. I object.

Mr. ELDRIDGE. Well, we have made a great many mistakes by not allowing discussion.

Mr. BOYER. May I be allowed to make an inquiry of the Chair?

The SPEAKER. If it is a parliamentary question the Chair will answer it, but not otherwise.

Mr. BOYER. It is this: I desire to know whether, under the pending resolution, if adopted, in relation to the misappropriation of gold, it will be legitimate to inquire into the misappropriation of spoons or other plate, provided its material be silver? [Laughter, and cries of "Order."]

Mr. GARFIELD. I call the gentleman to order.

The SPEAKER. The gentleman is not in order, nor is that a parliamentary inquiry. The Chair stated that he would answer a parliamentary inquiry, but the gentleman did not make one.

Mr. ELDRIDGE. I ask the gentleman from Massachusetts to modify his resolution so as to cover the entire administration of his colleague [Mr. BUTLER] at New Orleans. There

is no reason why we should investigate a single subject.

The SPEAKER. The gentleman must first ask the consent of the House before he makes any remarks.

Mr. ELDRIDGE. I was asking that consent.

Mr. DRIGGS. I object.

Mr. DAWES. It is unnecessary to cover more than the charge made against my colleague.

Mr. ELDRIDGE. I demand the yeas and nays on the adoption of the resolution. I want a full investigation if we have any.

The yeas and nays were not ordered, only four members voting therefor.

The resolution was then adopted.

Mr. DAWES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TENTH ARTICLE OF IMPEACHMENT.

Mr. CARY. I rise to a question of privilege. I offer the resolution which I sent to the Clerk's desk.

The Clerk commenced to read the resolution, as follows:

Whereas this House, in the tenth article of impeachment, charged Andrew Johnson—

Mr. FARNSWORTH. I make the point of order that that is not a question of privilege.

Mr. VAN WYCK. I object to its consideration.

The SPEAKER. The gentleman from Ohio presents it as a question of privilege.

Mr. VAN WYCK. I object to its being read until the Chair determines that it is a question of privilege.

The SPEAKER. The resolution has to be read to the House. If it is a question of privilege, the question will then be whether the House will now consider it.

Mr. BENJAMIN. I move that the House adjourn.

The SPEAKER. The gentleman from Ohio [Mr. CARY] is on the floor with a question which has to be considered.

Mr. CARY. I simply ask that the resolution be read. If it is out of order, I do not want to press it.

The SPEAKER. It is to be read as the Chair has stated. The gentleman from Ohio is upon the floor and could have read it at his own seat, and no gentleman can make a motion to adjourn until it has been read.

Mr. VAN HORN, of New York. Is it not in order for the Speaker to examine the resolution and see if it is a question of privilege before it is read?

The SPEAKER. It is not. The usual custom, when a member states that he rises to a question of privilege, is for the resolution to be read at the Clerk's desk or at the member's seat, and then the Chair rules upon it. The Clerk will read the resolution.

The Clerk read as follows:

Whereas this House, in the tenth article of impeachment, charged Andrew Johnson, President of the United States, with a high misdemeanor in office, in that he had made intemperate, inflammatory, and scandalous harangues, which were peculiarly indecent and unbecoming:

*Resolved*, That in view of the exhibition on this floor on Friday, Saturday, and Monday last, the select committee report as speedily as practicable as to the propriety of ordering the managers to withdraw the tenth article from the further consideration of the high court of impeachment.

Mr. CARY. I mean the select committee ordered on yesterday. I drew the resolution in this form because I intended it as an amendment to the resolution authorizing the committee. I will modify the resolution by inserting after the words "the select committee" the words "announced this morning."

The SPEAKER. The Chair rules that this is not a question of privilege. If the gentleman from Ohio [Mr. CARY] had moved, in place of this, a resolution instructing the managers to withdraw any article of impeachment, there would be no question of his right to do

so, subject to the decision of the House, whether they would consider the resolution.

Mr. CARY. I will modify the resolution as suggested by the Chair.

The SPEAKER. The Chair will then hold that the resolution is privileged, subject to the order of the House.

Mr. PILE. I object to the consideration of the resolution.

The SPEAKER. The question then is, Will the House now consider the resolution?

Mr. ROBINSON. On that question I call for the yeas and nays.

Mr. SCOTFIELD. I move that the House now adjourn.

Mr. ROBINSON. I rise to a point of order. My point of order is, that the gentleman from Pennsylvania, [Mr. SCOTFIELD,] who has moved that the House adjourn, could not take the floor from the gentleman from Ohio, [Mr. CARY,] who still holds the floor.

The SPEAKER. The Chair overrules the point of order, from the fact, as the gentleman well knows, that no gentleman can hold the floor on an undebatable question. The question—Will the House now consider the resolution?—is undebatable, and therefore no gentleman is entitled to the floor.

Mr. BANKS. Will the gentleman from Pennsylvania [Mr. SCOTFIELD] withdraw his motion for a moment?

Mr. SCOTFIELD. Certainly.

Mr. BANKS. I ask consent to make a statement to the House. I have been notified by the Clerk of the House that I have been appointed upon the select committee—

Mr. ELDRIDGE. I object to any debate.

Mr. BANKS. I have a right to make the statement.

The SPEAKER. It cannot be made pending the question of privilege before the House, if objection is made.

Mr. ELDRIDGE. I withdraw any objection I have made. I will not be as illiberal as gentlemen were to me.

Mr. BANKS. I have been notified by the Clerk of the House that I have been appointed—

Mr. CARY. I object. I want my resolution considered and disposed of.

The SPEAKER. The question is, Will the House now consider the resolution? upon which the gentleman from New York [Mr. ROBINSON] has called for the yeas and nays.

The question was taken; and upon a division there were—ayes 22, noes 92; not one fifth voting in the affirmative.

Mr. RANDALL and Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. RANDALL and Mr. SCOTFIELD were appointed.

The House again divided; and the tellers reported that there were—ayes 25, noes 85.

So (one fifth voting in the affirmative) the yeas and nays were ordered.

Mr. FARNSWORTH. I move that the House now adjourn.

The motion was agreed to; and accordingly (at four o'clock and forty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CHURCHILL: The petition of John J. Wolcott, Samuel F. Case, Willis S. Nelson, and 207 others, citizens of Fulton, New York, asking for a reduction of the expenses of the Government and thereby of the burdens of taxation, and also for such readjustment of the revenue laws as to keep the balance of trade in favor of this country.

Also, the petition of Whitmore Kinyon and 49 others, individuals and firms, manufacturers and dealers in lumber in New York and Brooklyn, asking that the duties on imported lumber be changed from *ad valorem* to specific.

Also, the petition of J. Benedict & Son and others, lumber dealers in Albany, New York,

asking that duties on imported lumber be changed from *ad valorem* to specific.

By Mr. HUMPHREY: The resolutions of the Buffalo Board of Trade, recommending the constructing of a "straight cut" from Lake Michigan to Mohoake river.

By Mr. O'NEILL: A memorial of the Board of Trade of Philadelphia, urging the reduction of the tax upon whisky to fifty cents per gallon, and that the tax upon tobacco be levied upon the plant.

By Mr. SITGREAVES: The petition to establish a post route in New Jersey from Neshanic, via Pleasant Valley and Rock Mills, to Blamenburg.

#### IN SENATE.

WEDNESDAY, May 6, 1868.

Prayer by Rev. WILLIAM HOWE, of Boston, Massachusetts.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at four o'clock and forty-five minutes p. m.

#### ACCOUNTS OF SECRETARY OF SENATE.

Mr. CRAGIN, from the Committee to Audit and Control the Contingent Expenses of the Senate, who were directed by a resolution of the 15th of April to examine and investigate the accounts of John W. Forney, Secretary of the Senate, submitted a report, accompanied by testimony and tabular statements, which was ordered to be printed; and a motion by Mr. BUCKALEW to print five hundred extra copies was referred to the Committee on Printing.

On motion of Mr. RAMSEY, the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 6, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

By unanimous consent the reading of the Journal of yesterday was dispensed with.

#### COAST SURVEY REPORT.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting the Coast Survey report for the year 1867; which was laid on the table, and ordered to be printed.

Mr. LAWRENCE, of Ohio, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

*Resolved*, That there be printed twenty-five hundred copies extra of the report of the Superintendent of the United States Coast Survey for the year 1867, of which one thousand shall be for distribution by the Superintendent of the Coast Survey, and fifteen hundred for the use of the members of this House.

#### ORDER OF BUSINESS.

The SPEAKER. The pending question is, Will the House consider the resolution offered yesterday, as a question of privilege, by the gentleman from Ohio, [Mr. CARY?] On this question the yeas and nays have been ordered; and, as the taking of the yeas and nays will consume some time, it will be postponed till after the return of the House from the Senate.

Mr. WASHBURN, of Illinois. Then it is understood there will be business this afternoon?

The SPEAKER. Business will be transacted on the return of the House to its Hall.

Mr. WASHBURN, of Illinois. I desire to give notice that when the pending question shall be disposed of I shall move that the House resolve itself into the Committee of the Whole on the state of the Union to enable some gentlemen to make speeches.

Mr. STEVENS, of Pennsylvania. I desire to say that I propose this afternoon to make a personal explanation with reference to the sub-

ject embraced in the resolution of the gentleman from New York, [Mr. Brooks,] which was very properly laid on the table the other day.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The hour of twelve o'clock having arrived, the House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and acting Doorkeeper. There will be business to be transacted this afternoon upon the return of the House from the Senate.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At a quarter to four o'clock p. m. the Speaker resumed the chair.

The SPEAKER. The House of Representatives resumes its session.

Mr. WASHBURN, of Illinois. Mr. Speaker, I inquire whether it will be in order for me to make report as chairman of the Committee of the Whole?

The SPEAKER. The Clerk will report the rule under which the House has been acting. It will be found in the Journal of the House of March 20, 1868.

The Clerk read as follows:

"Mr. BOUTWELL, from the board of managers in the matter of the impeachment of the President of the United States, the rules having been suspended for that purpose, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That on the days when the Senate shall sit for the trial of the President upon the articles of impeachment exhibited by the House of Representatives the House, in Committee of the Whole, will attend with the managers at the bar of the Senate at the hour named for the commencement of the proceedings."

The SPEAKER. The Chair rules that under this resolution, the Senate having gone into secret session in their own Chamber for deliberation, and it being impossible for the managers and the House as in the Committee of the Whole to attend at the bar of the Senate, it is the duty of the House to return to its Hall, and here, as the House of Representatives, to transact business while waiting for any message from the Senate after the doors of that body have been reopened.

Mr. ELDRIDGE. I rise to a point of order.

The SPEAKER. It is the decision of the Chair as to the action of the House; does the gentleman from Wisconsin take an appeal?

Mr. ELDRIDGE. I do not appeal, although that decision covers a point of order that I desired myself to raise. I notice that that resolution prevents us from doing any business while the Senate is in session considering the question of impeachment.

Mr. WASHBURN, of Illinois. I make the point that the first thing to be done is to receive the report of the Committee of the Whole.

The SPEAKER. The Chair will decide one point at a time.

The Chair decides on the point raised by the gentleman from Wisconsin that the resolution says in express terms that the House shall attend with its managers at the bar of the Senate, which, of course, it can only do when the doors are reopened.

Mr. ELDRIDGE. Mr. Speaker, allow me for a moment.

The SPEAKER. Wait until the Chair has finished, and he will then allow the gentleman. The Chair gave notice before the House went to the Senate that on its return business would be transacted. The House of Representatives cannot be expected to be in an ante-room of the Senate. They are in attendance at the bar of the Senate or in their own Hall; and therefore the Chair rules that, as the doors of the Senate were closed upon the House and it was impossible for the House to be in attendance at the bar of the Senate, the House resumed its session in its own Hall.

Mr. ELDRIDGE. Allow me to suggest a fact; and, sir, I do so without any intention of any disrespect to the Chair, or any disposition

to resist any decision which the Chair may make, and without any purpose to appeal from the decision of the Chair. I was in the Senate when the order was made which convened them in secret session, and I understood it to be simply this, that the Senate would then consider in secret session the pending question. That question may be determined in five minutes, and the doors of the Senate may then be thrown open, and under the order of the House the House may then be required to be in attendance at the bar of the Senate. I insist, therefore, that this House cannot, under the circumstances, do any business now without violation of its own order.

The SPEAKER. The Chair will state to the gentleman from Wisconsin that he accepts his suggestion that the point is not made with any intent or desire to differ with the Chair. The Chair took some time to examine this resolution, and after consultation with others who are excellent parliamentarians he has no doubt of the fact in his own mind that while the Senate is engaged in secret deliberation for one or four and twenty hours it could not be expected or required of the House to remain in the Senate corridors, and the Speaker, as representing the House, could not consent to it without the direct order of the House. The Chair therefore thinks, the order having been made before the House proceeded to the Senate, that when the House returns business should be transacted; and the Senate having excluded the House from its Chamber, as it has a right to do under its rules, the House must therefore return to the Hall and await a message from the Senate.

Mr. ELDRIDGE. In case the Senate should open its doors again to the House, or if its doors should now be open, I would inquire whether this House can be considered as in session when by our own order we are supposed to be in the presence of the Senate.

The SPEAKER. That is exactly the point upon which the Chair differs with the gentleman—that the House cannot be supposed to be, even theoretically, at the bar of the Senate when it is excluded. The House of Representatives, if it exists at all, must be somewhere.

Mr. ROBINSON. I rise for the purpose of getting a ruling from the Chair. I move that we now adjourn. That will bring up the question upon which I desire the ruling of the Chair.

The SPEAKER. A motion to adjourn admits of no point of order; it must be decided by a vote of the House if the Speaker entertains it. But the Chair first entertains the report of the chairman of the Committee of the Whole.

Mr. ROBINSON. The chairman of the Committee of the Whole has the floor, I believe.

The SPEAKER. He has, and is waiting the conclusion of the point of order.

Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; and the argument having been closed and the Senate having ordered its doors to be shut for deliberation, the committee thereupon returned with the managers to the Hall of the House.

The SPEAKER. The Chair will now entertain the motion of the gentleman from New York, [Mr. ROBINSON.]

Mr. ROBINSON. For the purpose of raising the question whether we have a regular session of the House I move that we do now adjourn.

The SPEAKER. Pending that motion the Chair desires to lay before the House some executive communications.

#### UNION PACIFIC RAILROAD.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a report of the President of the Union Pacific Railroad Company, eastern division, for the years 1862, 1863, 1864, 1865, and 1866, in compliance with



House resolution of February 4, 1868; which was ordered to be printed, and referred to the Committee on the Pacific Railroad.

#### LIGHT-HOUSE ON DELAWARE BAY.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting a report from the Light-House Board, relative to the erection of a permanent light-house on Crossledge shoal, in Delaware bay; which was referred to the Committee on Commerce.

#### ORDER OF BUSINESS.

The SPEAKER. The Chair will state that if the House adjourns it could not respond to an invitation of the Senate to return, if the doors should be reopened. A majority of the House can, however, adjourn.

Mr. ROBINSON. At the request of several gentlemen I withdraw the motion to adjourn.

Mr. ROSS. Have we not executed the order of the House in regard to attending the impeachment trial?

The SPEAKER. That is not properly before the House now.

Mr. ROSS. I think we are through, myself.

The SPEAKER. The pending question before the House is, Will the House now consider the resolution of the gentleman from Ohio, [Mr. CARY?] but the gentleman from Pennsylvania [Mr. STEVENS] asks unanimous consent to make a personal explanation.

Mr. ELDRIDGE. For how long a time?

Mr. STEVENS, of Pennsylvania. I will not take long.

Mr. ELDRIDGE. I only desire to know how long.

Mr. STEVENS, of Pennsylvania. Say ten minutes.

Mr. ELDRIDGE. Yesterday I asked for five minutes and the House refused. But I will not insist upon any such rule.

Mr. RANDALL. I desire to ask a question. Yesterday when we adjourned the yeas and nays were ordered on the motion of the gentleman from Ohio [Mr. CARY] in reference to withdrawing the tenth article of impeachment. It seems to me this order cannot be interrupted.

The SPEAKER. The Chair so stated; but the gentleman from Pennsylvania asks unanimous consent to make a personal explanation.

Mr. RANDALL. I have no objection.

Mr. CARY. Will that carry over my resolution?

The SPEAKER. It will not. The motion of the gentleman from Ohio will be the next thing in order after the personal explanation. It will not lose its place. Is there objection to the gentleman from Pennsylvania having ten minutes for personal explanation? The Chair hears no objection.

#### PERSONAL EXPLANATION.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, personal explanations are not to my taste; but in the case of *Alta Vela*, my co-managers having deemed it their duty to explain, it may be thought a suspicious circumstance that I have not done so. When that question was before the House it was laid on the table before it reached me. I will now briefly state all I know of the matter.

Some time early in the session some person, whose name I do not recollect, asked me what was the law of nations in case the citizens of one country were in the quiet possession of an island and had been forcibly ejected by another nation in behalf of other claimants. I had not forgotten the heated discussion which took place relative to the Falkland islands, a pile of barren rocks of no value, except so far as the national honor was concerned; and I answered that the nation whose citizens had been forcibly ejected would be justified in reinstating them, so that they might settle their title in the ordinary way. I declined to give a written opinion, as I was not in the practice of the law. I heard no more of the subject until about two months ago. General GARFIELD called at my seat with a paper or letter which he said was a copy of the opinion I had given, and

asked me if I would sign it. I took it without reading and put my name to it with others. I did not then know its contents, but having since read it I have nothing to retract. I never heard of it any more until within a few weeks, when it was produced in the Senate by Mr. Nelson, one of the counsel for the President. At the time I signed it I had no idea it was to be taken to the President, nor had I any idea that Judge Black or his son had anything to do with it. Had I known that fact, however, it would not have altered my action. I have known Judge Black for more than thirty years, and, aside from his unfortunate politics, I have known him to be a very able and honorable lawyer and upright judge, who has hardly been equaled by any member of the bench.

This letter, I find, was written by General BUTLER to J. W. Shaffer; when written I do not know. I signed a copy sometime afterward. It simply gives his opinion as to the right of regaining possession of *Alta Vela*. It is no where addressed to the President or any of his counsel, or to any member of his Government. It makes no allusion to the impeachment, nor does it contain any insinuation of clemency on any condition. If it was ever shown to him, his counsel, or Cabinet, it was without the sanction of the writers, at least so far as I am concerned. What, then, had this letter to do with the prosecution which Mr. Nelson was discussing? It was not addressed to the President, his advisers, or kindred, did not make the most distant reference to any one of the charges in the articles of impeachment; nor could it be construed by any honest man to have any connection or bearing upon the prosecution. It had not been given in evidence, nor referred to until some days after the testimony was closed, and when counsel were summing up. I think no honorable man would have used it to assail the motives of brother counsel, as it was dragged in irrelevantly and illegally.

The SPEAKER. The Chair would state to the gentleman from Pennsylvania that parliamentary rules prohibit unfavorable discussion in regard to what transpires in the other Chamber—the Senate Chamber. The Chair, therefore, does not think that these remarks are parliamentary.

Mr. GETZ. I hope the gentleman will be allowed to proceed.

The SPEAKER. The Chair does this out of respect for the other branch of Congress, which might complain of personal strictures here on what occurred there.

Mr. BANKS. I would suggest to the Speaker that this is a matter which transpired in the presence of both Houses, and, therefore, may very properly be alluded to in this Chamber.

Mr. ELDRIDGE. I only hope some one will be allowed to respond in regard to such facts as they think are misstated.

Mr. STEVENS, of Pennsylvania. I hope so. I did not intend to misstate any facts.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] will proceed, there being no objection.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I was saying that when I look at the speech of the gentleman I can easily forgive him. His speech does not profess to touch the question of impeachment. It lumbers through two mortal days, and thinly veneers a very great number of subjects, lying in different hemispheres, but never touches the question at issue. How, then, could he avoid embarrassing us in his greasy career?

Mr. MUNGEN. Mr. Speaker—

The SPEAKER. The Chair does not think these remarks are within the parliamentary law.

Mr. BROOKS. Oh, let them go on.

Mr. RANDALL. They only hit back.

Mr. STEVENS, of Pennsylvania. I have nothing to say—

Mr. WILSON, of Iowa. Under the ruling of the Chair, I object.

Mr. ARNELL. And I object.

Mr. HIGBY. And so do I.

Mr. FARNSWORTH. I suggest to the Chair that this has nothing to do with the Senate or with anything that has taken place in the Senate, but in the court.

Mr. WILLIAMS, of Pennsylvania. I suggest that this thing did not take place in the Senate, but in open court.

The SPEAKER. As soon as the Chair can turn to the parliamentary rule in the Digest he will have it read.

Mr. ELDRIDGE. I suppose that the gentleman from Pennsylvania intends to withdraw the tenth article of impeachment.

Mr. STEVENS, of Pennsylvania. I intend to withdraw everything that is unparliamentary. This was an assault made upon us by a counsel, and not by a member of either branch of the Legislature. I therefore supposed I had a right to answer, as an individual, his attack as an individual upon me.

Mr. ELDRIDGE. I thought the language was very much like that referred to in the tenth article of impeachment against the President. It was for that reason I suggested what I did. His "greasy career" sounds to me a great deal like "swinging around the circle," and "on the verge of the Government."

The SPEAKER. The Chair will have the rule from page 77 of the Manual, in the Digest, read by the Clerk. The Chair desires to preserve the courtesy between the two branches of Congress. The Senate are sitting, under their constitutional power, as a court to try the pending impeachment. It is the Senate of the United States with a presiding officer called in, because the President himself is on trial. But as was held by the managers during the trial, and correctly in the opinion of the Chair, it is "still the Senate of the United States," though engaged in trying the President.

Mr. FARNSWORTH. Mr. Nelson is not a Senator.

The SPEAKER. The Clerk will read the rule.

The Clerk read as follows:

"It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majority on it there; because the opinion of each House should be left to its own independence, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses."

The SPEAKER. The object of this rule as laid down by Grey—the Chair has not May's Parliamentary Practice now before him to refer to—the object is that there may be a good understanding and courtesy between the two branches which together form the Congress.

Mr. MULLINS. Mr. Speaker, I desire—

The SPEAKER. If the gentleman can wait, the Chair will conclude what he was saying.

Mr. MULLINS. I can and will wait with pleasure.

The SPEAKER. This is a subject upon which the Chair is compelled to rule. The House will see at once that if remarks of this character can be made in the House of Representatives, in regard to what has transpired in the Senate, sitting for the trial of the President, remarks of equally as severe a character may be made by Senators as to the conduct of the House, its Speaker, its chairman, its managers, or any one else connected with this trial, the inevitable result of which would be, as Grey states, to make "misunderstanding between the two branches." The Chair therefore thinks that these remarks do not come within the parliamentary rule.

The Chair understands that the gentleman from Tennessee [Mr. MULLINS] desires to make some statement in connection with this subject, which he will have pleasure in hearing.

Mr. MULLINS. I have ever been an individual disposed to abide by rules, well knowing that no parliamentary body can be kept in bounds without rules; nor can any deliberative body, let alone any parliamentary body, be kept in bounds without rules. I am and ever have been willing to conform to them. And pardon me if I suggest an idea. [Laughter.] Mr. ELDRIDGE. I move that the gentle-

man from Tennessee have leave to express an idea.

The SPEAKER. The gentleman is about expressing it.

Mr. MULLINS. I asked pardon before I suggested the idea. I asked that I might be pardoned for suggesting an idea; and now you will have it. It is that I differ from the ruling of the Chair. If I may be allowed the expression, this is in my mind no attack upon the Senate, or anything the Senate has done. It is but a defense—

Mr. PILE. I object to this debate.

The SPEAKER. The Chair is willing to hear the remarks of the gentleman from Tennessee, and desires to hear them.

Mr. MULLINS. The remarks ruled out of order are but a defense of one of the members of this body against an attack made upon him and other managers by one of the counsel of the President, who, while appearing at the bar of the Senate, is not himself a member of the Senate. That, I think, constitutes this an exception from the rule. As I believe that attack was made by a counsel of the President, brought forward to defend his cause, directly assailing the character of a member of this House, I feel bound to stand by any member so situated, be he upon this or the other side of the House, in order that he may be able to defend his character against any outsider. Had it been a Senator who had spoken I would be the last man on the continent of America who would permit any invasion of his rights as a free man, or in his senatorial capacity, or allow his character to be brought into discussion, or to be made the subject of wanton attack. I think, therefore, there is a grand exception between a Senator and a counsel for the President. This is an attack made by the counsel for the President upon the character and veracity of one of our own body. Hence this is an exception to the general rule. I ask pardon for having differed to some extent with the Chair as to the parliamentary rule.

The SPEAKER. The Chair has listened to the remarks of the gentleman from Tennessee, [Mr. MULLINS.] On page 74 of Barclay's Digest the rule will be found laid down again, as follows:

"It is a breach of order in debate to notice what has been said on the same subject in the other House."

The Chair, therefore, still holds the opinion he has already expressed.

Mr. STEVENS, of Pennsylvania. I certainly do not desire to differ with the Speaker in his rulings. In this case there has been an attack by a counsel, not a member of either branch of Congress, upon one not a member of the body he was addressing. It was in answer to this attack that I prepared these remarks, which, however, I have no desire to introduce if they are thought to infringe at all the order of debate. I therefore withdraw them.

Mr. PILE. I would like to inquire whether the gentleman proposes to withdraw what has already been said and has been taken down by the reporters.

The SPEAKER. The House will understand that the only desire of the Chair in this matter is that no misunderstanding between the two Houses may grow up in consequence of strictures on the floor of the House in regard to the action of the Senate, or language which the Senate has allowed in the course of the prolonged trial in which it is at present engaged. The Chair in this, as he has on other personal questions recently, rules as he believes the ruling would be in the British House of Commons; for he finds the same rule laid down, but more elaborately, in May's Parliamentary Practice.

Mr. FARNSWORTH. May I be permitted to ask a question?

The SPEAKER. There is now no question before the House but the question, Will the House consider the resolution offered yesterday as a question of privilege by the gentleman from Ohio, [Mr. CARY?]

Mr. FARNSWORTH. Would it not be in order, in the Committee of the Whole, for any member of the House to review the speeches made in the Senate in the impeachment case?

The SPEAKER. The Chair will state a fact with which the gentleman from Illinois, [Mr. FARNSWORTH,] as one of the older members, is doubtless familiar, that members of each branch do sometimes refer in debate to what has transpired by not locating the scene where it has occurred. During the service of the gentleman from Illinois this has been done quite a number of times, and it has also been done in the Senate when Senators have been checked in debate by the Presiding Officer. But, of course, he does not suggest or recommend any such evasion of the rule.

Mr. FARNSWORTH. It seems to me that the real object of the rule is to prevent—

Mr. SCOFIELD. Is there any question before the House?

The SPEAKER. There is not.

Mr. SCOFIELD. I call for the regular order.

Mr. BANKS. If there is no question before the House I rise to make a statement in regard to the privileges of members.

Mr. ELDRIDGE. It was the expectation that some gentlemen on this side should be allowed to controvert any statements of fact made by the gentleman from Pennsylvania, [Mr. STEVENS,] and they desire to do so.

The SPEAKER. The gentleman from Pennsylvania has withdrawn most of his speech, and the Chair supposed that that desire would not be pressed.

Mr. ELDRIDGE. I wish to say that some of the statements which the gentleman has made are contrary to my understanding of the facts, and I desire to refer to those matters.

Mr. BANKS. They have been ruled out.

The SPEAKER. The gentleman from Pennsylvania has withdrawn them.

Mr. ELDRIDGE. Does he withdraw his whole speech?

Mr. STEVENS, of Pennsylvania. Yes; I withdraw the whole of it.

The SPEAKER. The gentleman from Massachusetts [Mr. BANKS] is seeking the floor on some matter personal to himself.

Mr. ELDRIDGE. I understand, then, that the gentleman from Pennsylvania makes no personal explanation whatever.

The SPEAKER. He withdraws his speech under the ruling of the Chair. The Chair cannot make the matter any plainer.

#### WITHDRAWAL FROM A COMMITTEE.

Mr. BANKS. Mr. Speaker, the rules of the House provide that a member appointed upon two committees may excuse himself from serving upon any other committee at the same time. I was notified yesterday by the Clerk of the House that I had been selected as a member of the committee appointed to investigate some matter appertaining to the transaction of business in the House. I desire that I may be excused from service upon that committee. I would not avail myself of this privilege accorded to a member of the House under these circumstances were it not that a committee of which I am a member has before it for consideration a very important matter which must be disposed of immediately. I refer to the question of the execution of the treaty with Russia. This question was deferred until about the time when the trial upon the impeachment articles commenced, with a view to give members all possible information that could be procured by themselves or by the Government upon that subject. We were, at the time the House suspended business, ready to consider and dispose of the question. During the intervening period we have not had an opportunity to dispose of it. It ought to be acted on without delay, because the honor of the Government is somewhat concerned in the matter. I hope, sir, for this reason I may therefore be excused from serving on the committee appointed yesterday morning.

I am notified that I am a member of some other committee appointed to consider another

matter appertaining to the business of the House. Although it is referred to the same committee it is substantially new matter and may be considered a new point. So, if I should accept them all, I would be upon four committees; at any rate a member of three committees beside that to which I was appointed the other day. I hope, therefore, the Speaker will receive the statement I make as a sufficient reason for excusing me from service on this committee.

The SPEAKER. The Chair thinks the gentleman from Massachusetts is correct in stating that he is on two committees. One is the Committee on the Rules, a position more honorary than laborious.

Mr. BANKS. I am also on a special committee of conference.

The SPEAKER. The gentleman has the right, being on two committees, to be excused. The Digest, page 50, states that any member may excuse himself from serving on any committee at the time of his appointment if he is then a member of two other committees. The gentleman is therefore excused.

#### TENTH ARTICLE OF IMPEACHMENT.

Mr. WASHBURN, of Illinois. What is the proposition now before the House?

The SPEAKER. Shall the House consider the resolution, submitted yesterday by the gentleman from Ohio, [Mr. CARY,] as a question of privilege at the present time?

The Clerk read as follows:

Whereas this House, in the tenth article of impeachment, charged Andrew Johnson, President of the United States, with a high misdemeanor in office, in that he had made intemperate, inflammatory, and scandalous harangues, which were peculiarly indecent and unbecoming:

Resolved, That in view of the exhibition on this floor on Friday, Saturday, and Monday last, the managers be ordered to withdraw the tenth article from the further consideration of the high court of impeachment.

Mr. WASHBURN, of Illinois. I give notice when that question is disposed of I shall move to go into the Committee of the Whole on the state of the Union.

The SPEAKER. The yeas and nays have been ordered.

The question was taken; and it was decided in the negative—yeas 29, nays 106, not voting 54; as follows:

YEAS—Messrs. Adams, Archer, Beck, Brooks, Cary, Eldridge, Getz, Golladay, Grover, Holman, Hotchkiss, Humphrey, Johnson, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Phelps, Randall, Robinson, Ross, Sitgreaves, Stewart, Stone, Taber, and Woodward—29.

NAYS—Messrs. Allison, Anderson, Arnell, Delos R. Ashley, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Blaine, Blair, Bromwell, Broomall, Buckland, Butler, Calkins, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Culom, Dawes, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laffin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Perham, Peters, Pike, Pile, Plants, Price, Robertson, Sawyer, Schenck, Seofield, Shanks, Spaulding, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—103.

NOT VOTING—Messrs. Ames, James M. Ashley, Axtell, Bailey, Barnes, Barnum, Bingham, Boutwell, Boyer, Burr, Chanler, Cook, Cornell, Dixon, Ela, Ferriss, Fields, Finney, Fox, Garfield, Glossbrenner, Haight, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Ingersoll, Jones, Kountz, Maynard, McCullough, Morrissey, Nicholson, Nunn, Paine, Poland, Polsley, Pomeroy, Pruyn, Raum, Selye, Shellabarger, Smith, Starkweather, Thomas, John Trimble, Lawrence S. Trimble, Van Auken, Robert T. Van Horn, Van Trump, Van Wyck, William B. Washburn, Thomas Williams, John T. Wilson, and Wood—54.

So the House refused to consider the resolution as a question of privilege at the present time.

#### ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. JENCKES. I ask the gentleman to yield to me.

Mr. WASHBURN, of Illinois. I agreed to yield to the gentleman from Rhode Island.

Mr. GETZ. I move that the House adjourn.

Mr. JENCKES. I hope not.

Mr. GETZ. Is it the understanding that if we go into committee there shall be no further business transacted?

Mr. WASHBURN, of Illinois. Yes, sir.

Mr. GETZ. I withdraw my motion for the gentleman from Rhode Island.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that that body had ordered that the Secretary inform the House that the Senate, sitting in the trial of the President of the United States on articles of impeachment, will notify the House when it is ready to receive them again at its bar.

#### DUELING.

Mr. JENCKES. I ask unanimous consent to submit the following resolution:

*Resolved, That the Committee on Foreign Affairs be instructed to inquire into the truth of the report that a duel has been fought in or near the District of Columbia, in pursuance of a challenge or arrangement made within this District, between a person in the diplomatic service of the United States and an attaché of one of the foreign legations, and if they find such an offense has been committed to report to this House whether a due respect for the laws of the United States does not require the House to take measures for the removal from office of the diplomatic officer and for the recall by his own Government of the attaché of the legation; and that for the purpose of this inquiry the said committee are empowered to send for persons and papers.*

Mr. RANDALL. I object.

#### DISTRICT COURT IN IOWA.

Mr. DODGE, by unanimous consent, introduced a bill (H. R. No. 1038) concerning the district court of the United States for the district of Iowa; which was read a first and second time, and referred to the Committee on the Judiciary.

#### CONSTITUTION OF SOUTH CAROLINA.

Mr. BECK, by unanimous consent, presented the remonstrance of the central committee of South Carolina against the recognition by Congress of the constitution of that State now presented; which was referred to the Committee on Reconstruction.

#### CONDITION OF SOUTH CAROLINA.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a communication from the General of the Army, covering a report made by General Canby, commanding the second military district, of the condition of that district, together with the views of the General of the Army and of General Canby on the question presented therein; which was ordered to be printed, and referred to the Committee on Reconstruction.

#### ORDER OF BUSINESS.

Mr. WASHBURN, of Illinois. The House has not been in session for so long that I would inquire of the Chair what will be the regular order of business to-morrow?

The SPEAKER. The first business in the morning hour of to-morrow, if it is a legislative session, will be reports from the Committee on Naval Affairs. After that the bill reported from the Committee on the Public Lands by the chairman, [Mr. JULIAN,] on which the gentleman from Michigan [Mr. DRIGGS] is entitled to the floor.

Mr. RANDALL. I would inquire whether now the next regular business will not be proceeded with?

The SPEAKER. It will until some other order is proceeded with in pursuance of a message from the Senate.

#### PRESIDENT'S MESSAGE.

Mr. WASHBURN, of Illinois. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of

proceeding to the consideration of the President's annual message.

Mr. ELDRIDGE. I understand that the gentleman from Ohio [Mr. SPALDING] is to speak. I would inquire if his speech is on the subject now pending before the Senate.

Mr. SPALDING. Not at all; I do not intend to advert to it. I intend to speak on the finances.

The SPEAKER. The Chair gives notice that to-morrow a business session will be expected.

The motion of Mr. WASHBURN, of Illinois, was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. TROWBRIDGE in the chair,) and proceeded to the consideration of the President's annual message.

Mr. SPALDING. Mr. Chairman, a traveler from the Old World, in surveying the magnificent country we inhabit, and in contemplating the recent origin of its Government, the steady growth of its population, the wonderful development of its resources, with the mighty exhibition of its energies, will be led to exclaim:

"'Tis strange—but true; for truth is always strange, Stranger than fiction."

The discovery of America was a great event in the history of the world. As such, it was heralded in by philosophers and poets, with more than the usual precision of prophecy, through the course of nearly nineteen centuries.

Seneca, the moralist, whose birth preceded that of our Saviour but three or four years, and who wrote during the first half century of the Christian era, says, in his "Medea":

"Venient annis secula seris,  
Quibus oceanus vincula rorum  
Laxet, et ingens pateat tellus,  
Tethysque novos detegat orbis;  
Nec sit terris ultima Thule."

Of the same tenor, though more strongly marked, was the prediction of Pulci, the Italian poet, who died at Florence in 1487:

"His bark  
The daring mariner shall urge far o'er  
The western wave, a smooth and level plain,  
Albeit the earth is fashioned like a wheel,  
Man was, in ancient days, of grosser mold,  
And Hereules might blush to learn how far  
Beyond the limits he had vainly set  
The dullest sea-boat soon shall wing her way.  
Men shall descry another hemisphere,  
Since to one common center all things tend;  
So earth, by curious mystery divine,  
Well balanced, hangs amid the starry spheres,  
At our antipodes are cities, States,  
And thronged empires, ne'er divined of yore.  
But see; the sun speeds on his western path  
To glad the nations with expected light."

The greatness of this western empire was also foretold by Bishop Berkly in these most beautiful lines, written in 1726:

"The Muse, disgusted at an age and clime  
Barren of every glorious theme  
In distant lands, now waits a better time,  
Producing subjects worthy fame."

"Westward the course of empire takes its way,  
The first four acts already past;  
A fifth shall close the drama with the day;  
Time's noblest offspring is the last."

Among the earliest recollections of John Adams is said to have been this couplet, which he was fond of repeating:

"The eastern nations sink, their glory ends,  
And empire rises where the sun descends."

In his preface to his "Defense of the Constitution," written in 1787, Mr. Adams says:

"Thirteen governments thus founded on the natural authority of the people alone, without a pretense of miracle or mystery, which are destined to spread over the northern part of that whole quarter of the globe, are a great point gained in favor of the rights of mankind."

Our national domain, exclusive of the purchase from Russia, runs through twenty-five degrees of latitude and fifty-eight degrees of longitude. Its mean length is twenty-four hundred miles, and its mean breadth is thirteen hundred miles. Its area is 2,963,666 square miles. At the breaking out of the war of the Revolution in 1775 the thirteen Colonies contained a population of two million eight hundred and three thousand, of whom five hundred thou-

sand were slaves. The United States has, at this time, a population of forty million souls, all of whom are free. We have endured the extremest test of nations—a civil war, with a cost of life and of treasure that will cause the "wars of the roses" and the "wars of the fronde" to pale on the page of history; but the "star spangled banner" waves in triumph "O'er the land of the free and the home of the brave."

I am led to these reflections of poets and sages upon the anticipated glory and greatness of our western nation, and also to take a cursory view of its vastness and resources in the hope that a feeling of patriotic pride may be enkindled in our bosoms, and that our most jealous susceptibilities may be aroused whenever and wheresoever the integrity of our glorious governmental system may be placed in jeopardy. It seems but a short time since the Government of our choice was assailed by an open enemy in the field, whose parricidal efforts, countenanced and encouraged by a more dangerous, because more deceitful, enemy in our midst, kept our national energies upon the tension for four long years. We passed through the trying vicissitudes of the most gigantic rebellion the world has ever known, but we did not triumph in the contest of arms without an awful sacrifice. We expended \$4,000,000,000 in money and consigned to premature graves two hundred and fifty thousand patriotic young men. Is not this price enough to be paid for stability of government?

But, now, before the wounds of our gallant sons are well cicatrized, the traitors to the Constitution of the United States and the earnest sympathizers with treason are endeavoring to accomplish by the ballot what they could not effect by the bayonet—the overthrow of the supporters of the Union. It may be interesting to inquire for a moment what pretensions the respective political parties of the day make to the confidence of the great body of the people. The great Republican party of the United States has vindicated its claim to loyalty and patriotism by its unswerving devotion to the cause of the Union through a long and bloody war. It acknowledges the supremacy of the General Government for all national purposes, but it upholds with equal tenacity the State government within its peculiar sphere of action, both being limited by the terms of the Federal Constitution.

It claims that the public faith, wheresoever pledged, shall be kept inviolate, and the public credit protected "like the apple of an eye." It favors equal rights in all classes of citizens, and this involves the most extended right of manhood suffrage. It demands ample protection for American products and industry, by the imposition of suitable rates of impost duties. It exacts the full and faithful payment of the national debt, and it wholly repudiates the payment of the rebel debt, as well as the payment of any sum as a compensation for emancipated slaves, or for damage to the property of rebels during the war. It calls for strict economy in the public expenditures, a less onerous system of internal taxation, and a moderate but surely gradual return to "specie payments." The party in the opposition secured for itself an unenviable distinction in the war of the rebellion by retarding the wheels of Government, refusing to vote supplies for our armies, opposing enlistments, and encouraging desertions of our soldiers, making light of our victories, and at all times becoming jubilant at our failures of success; by their open sympathy with and secret aid of the rebels, strengthening their hearts and stimulating them to prolong the contest; in fine, by contributing in every way that combined wickedness and cowardice could devise, to break up and destroy our great and prosperous Republic. This party that has for years insisted that nothing but "quarter-eagles," vulgarly called "mint-drops," should form our currency—this party that adhered so strongly to a metallic currency, in days gone by, as to be styled "the pot-metal party"—this party now demands that the circulating medium of the



United States shall be made up of \$2,500,000,000 in Treasury notes, and that this trash shall absorb the public bonds and the circulation of the national banks!

I can have some slight respect for the knave who has the courage to openly advocate the repudiation of the national debt; but the miserable craven who poisons the streams of the public prosperity when he dare not obstruct their flow is scarcely entitled to an honest man's contempt. This party stands opposed to equal manhood suffrage, notwithstanding it claims the privilege of being called "Democratic," the very signification of which word, according to our best lexicographer, is "one who favors the extension of the right of suffrage to all classes of men."

And here you are presented with the Democratic creed in two propositions; the one affirmative, the other negative.

1. They favor an unlimited extension of the paper currency.

2. They oppose an extension of the elective franchise.

The appeal of this party to the confidence of the country and to a participation in its offices of honor and trust is only equaled by the request of a pert sexton, recently made to a congregation of free-will Baptists, in the State of Rhode Island. An influential member of their communion had died, and his funeral obsequies were to be celebrated in the most approved style. As the body was being borne into the church, already filled well-nigh to repletion, the sexton deemed it his duty to give to the solemn scene an extra touch. Advancing through the porch, in front of the bearers, he cried with a loud voice, "Ladies and gentlemen, you will please to rise; the corpse wants to come in."

I have said that the political party now and at all times opposed to the patriotic party that adhered to the administration of Abraham Lincoln and carried on the war that saved the Republic proposes to increase the "legal-tender" paper currency to a sufficient extent to pay off the principal of the United States five-twenty bonds as fast as the Government shall have the legal option of making payment, and also to absorb the circulating notes of the national banks. Further, it is claimed by certain visionary theorists that additional railways from the Mississippi river to the Pacific ocean may and ought to be constructed by means of "legal-tender notes," to be issued by the United States, instead of bonds bearing interest. For purposes of argument it is fair for me to assume that the payment of the five-twenty bonds, the absorption of the bills of the national banks, and the aid to Pacific railroads, would altogether require an issue of \$2,500,000,000 in United States "legal-tender" notes, commonly called "greenbacks."

Let it be distinctly borne in mind that by express limitation of Congress no greater amount of United States "legal-tender" notes can now be issued than \$450,000,000. The language of the statute is this:

"Nor shall the total amount of United States notes issued or to be issued ever exceed \$400,000,000, and such additional sum, not exceeding \$50,000,000, as may be temporarily required for the redemption of temporary loans."—*United States Statutes-at-Large*, p. 219.

Repeat this highly valuable act of limitation and raise the floodgates of the Treasury for the emission of one thousand or two thousand million dollars in "greenbacks" in addition, and wherein would the United States differ from France in the early part of the eighteenth century, when the whole kingdom was thrown into convulsions by the operation of John Law's system of paying the debts of the nation with the notes of his bank? In 1720 it was forbidden by law that any payment should be made above a hundred livres except in paper. The result was that France was flooded with an irredeemable paper currency to the extent of six thousand millions of livres, or \$1,250,000,000. The whole scheme exploded to the infinite distress of the French people, and the grand finale was that the national debt

of the kingdom was doubled instead of being diminished.

It is my purpose to show that this cherished plan of paying off the interest-bearing bonds of the Government with United States "legal-tender" notes has no warrant in the Constitution of the United States, in the act of Congress of February 25, 1862, which first authorized their issue, neither is it justified by the plainest principles of political economy or the soundest precepts of common sense.

In the first place, I meet the whole question "without gloves," and affirm that there exists no constitutional power in the Congress of the United States to make paper money a "legal tender" in payment of debts. I admit that under the pressure of extreme necessity, and in order to save the life of the nation, Congress did, in the darkest hours of the rebellion, assume the right to impress on a limited amount of Treasury notes the quality of a "legal tender." And I admit that this extreme measure was justified by the extraordinary circumstances under which it was adopted, and that, under like circumstances, I should not hesitate to repeat the experiment; but I can yield nothing further. A measure of national defense under the weighty pressure of war that brings a strain upon the Constitution of the country is not to be continued, much less extended, as a principle of financial policy in times of peace, without seriously endangering the whole framework of our Government.

The wise men who, in 1787, constructed the great charter of our national rights, had experimental knowledge of the pernicious tendencies of an irredeemable paper currency, for in the year 1780 paper money issued to carry on the war of the Revolution had depreciated to such an extent that in the city of Philadelphia it was sold a hundred dollars in paper for one in silver. Hence it will be found that in framing the Constitution they sought in every possible way to guard against the evils incident to a circulating medium made up of "paper promises."

In article one, section eight, of the Constitution as adopted by the people, we find that the Congress is invested with power "to borrow money on the credit of the United States."

Referring to volume three of the Madison Papers, pages 1344, 1345, and 1346, we ascertain that when Mr. Rutledge, on the 6th of August, delivered the report of the Committee of Detail, this power "to borrow money" was placed in connection with a power that the Convention utterly refused to grant Congress, to wit, the power "to emit bills on the credit of the United States;" so that the paragraph read in this wise: "The Legislature of the United States shall have power to borrow money and emit bills on the credit of the United States."

On the 16th of August, 1787, the section being under consideration involving the power to borrow money, &c., Mr. Gouverneur Morris moved to strike out the words "and emit bills," for the reason, said Mr. Morris, that "if the United States had credit, such bills would be unnecessary; if they had not, they would be unjust and useless."

Mr. Madison inquired "if it would not be sufficient to prohibit the making them a tender."

Mr. Butler remarked that "paper was a legal tender" in no country in Europe. He "was urgent for disarming the Government of such a power."

On the motion for striking out the words "and emit bills" nine States, including Virginia, voted in the affirmative, and but two, New Jersey and Maryland, in the negative.

In a note, at the foot of page 1346, volume three, Madison Papers, are found these significant words:

"This vote in the affirmative by Virginia was occasioned by the acquiescence of Mr. Madison, who became satisfied that striking out the words would not disable the Government from the use of public notes, as far as they could be safe and proper, and would only cut off the pretext for a paper currency, and particularly for making the bills a tender for either public or private debts."

So the power "to emit bills" on the credit of the United States was refused to Congress, while the power "to coin money and regulate the value thereof, and of foreign coin," was expressly conferred by the Constitution.

It is in vain to contend, as some extravagant theorists have done, that this power "to coin money" carries with it the power to stamp paper and convert it into lawful money of the United States.

The lexicographer tells us that the verb "to coin" means "to stamp a metal and convert it into money."

Besides, I have already shown that the Convention that framed the Constitution settled the construction for all time, when they struck out the words, "to emit bills of credit," lest their retention might seem to justify the creation of "paper money" by the national Legislature.

In section ten of the first article of the Constitution it is provided that—

"No State shall coin money, emit bills of credit, or make anything but gold and silver coin a tender in payment of debts."

So that we find among the powers delegated to the Federal Government, "the power to coin money (that is, to imprint upon metals the character of money) and to regulate the value thereof." And among the powers denied to the States this very power "to coin money," so essential an attribute of sovereignty, and the power that was refused to Congress, "to emit bills of credit;" and the further power "to make anything but gold and silver coin a tender in payment of debts."

The conclusion of the matter is this: the power to make United States notes or bank bills "a tender in payment of debts" having been denied to the States, and never conferred upon the Government of the United States, remains an undelegated power in the hands of the people by virtue of the tenth article of the amendments of the Constitution:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

The opinions of Daniel Webster upon constitutional powers are commonly received by his countrymen with respect and confidence.

In his speech on "the specie circular," delivered in the Senate of the United States on the 21st of December, 1836, found in the fourth volume of Webster's Works, page 265, he says:

"Currency, in a large and perhaps in a just sense, includes not only gold and silver and bank notes, but bills of exchange also. It may include all that adjusts exchanges and settles balances in the operations of trade and business."

"But if we understand by currency the legal money of the country and that which constitutes a lawful tender for debts and is the statute measure of value, then, undoubtedly, nothing is included but gold and silver."

"Most unquestionably there is no legal tender, and there can be no legal tender in this country under the authority of this Government or any other, but gold and silver, either the coinage of our own mints or foreign coins at rates regulated by Congress."

"This is a constitutional principle, perfectly plain and of the very highest importance. The States are expressly prohibited from making anything but gold and silver a tender in payment of debts; and, although no such express prohibition is applied to Congress, yet, as Congress had no power granted to it in this respect, but to coin money and to regulate the value of foreign coins, it clearly has no power to substitute paper or anything else for coin as a tender in payment of debts and in discharge of contracts. Congress has exercised this power fully in both its branches. It has coined money, and still coins it; it has regulated the value of foreign coins, and still regulates their value."

The legal tender, therefore, the constitutional standard of value is established, and cannot be overthrown. To overthrow it would shake the whole system."

It was reserved for the Thirty-Seventh Congress of the United States to assert and exert a power, so obviously opposed to the wishes of the framers of the Constitution, to the letter and spirit of the instrument itself, and to its practical construction for three fourths of a century. But it was exerted in the darkest hour of the nation's conflict with treason and rebellion. It was exerted *ex necessitate*, to save the life of our glorious Republic.

In the nervous language of my honored namesake, [Mr. E. G. Spalding, of New York,] when he introduced from the Committee of Ways and Means the first bill authorizing the issue of "legal-tender" notes, the measure was one of war; said Mr. S.:

"The bill before us is a war measure—a measure of necessity and not of choice—presented by the Committee of Ways and Means to meet the most pressing demands upon the Treasury; to sustain the Army and Navy until they can make a vigorous advance upon the traitors and crush out the rebellion. These are extraordinary times, and extraordinary measures must be resorted to in order to save our Government and preserve our nationality."

Mr. Chairman, I now solemnly aver that if I had been a member of the Thirty-Seventh Congress I would have voted, under the pressure of circumstances, for the passage of the act entitled "An act to authorize the issue of United States notes, and for the redemption or funding thereof, and for funding the floating debt of the United States," approved February 25, 1862. And I affirm just as solemnly, that at no time since the surrender of Lee's army would I have felt justified in repeating that vote.

One of my fellow citizens in Ohio, Mr. George H. Pendleton, is perhaps the strongest competitor of the honorable member from the Marblehead district in Massachusetts, [Mr. BUTLER,] for the distinguished honor of originating the plan of paying Government bonds bearing interest with Government notes bearing no interest; in other words, they both insist that it is lawful and expedient for the Federal Government to pay its five-twenty bonds, bearing an interest of six per cent., at any time after five years from their date, with "greenbacks" or United States legal-tender notes, payable at the pleasure of the Government, and without interest. I can characterize this scheme, which, I am free to admit, has captivated a great many minds, in no better way than as a contemptible and cowardly mode of repudiating the public debt. Let us test it. At the commencement of the present session of Congress the six per cent. five-twenty bonds outstanding against the Government amounted to \$1,267,898,100. At the same time the "greenbacks" in circulation throughout the country amounted to \$357,164,844.

We will now suppose the five-twenty bonds to be paid by a new issue of "greenbacks" from the Treasury. There will then be in circulation an amount of "greenbacks" equal to \$1,625,062,944.

There is, however, a circulation of national bank notes to be taken into consideration, and, although not "legal tenders," they help to swell the volume of paper currency in the United States. The amount, at the time stated, was \$299,108,996.

With this sum added, the United States would have a paper currency of \$1,924,166,940.

With the present paper circulation of \$686,970,478 39, inclusive of fractional notes, prices are sufficiently inflated to place all the luxuries and very many of the necessities of life beyond the reach of the laboring and industrious classes. What would be their condition if this vaunted medium of exchange should be increased \$1,237,191,466 61?

The evils would be incalculable. In the language of a distinguished writer on political economy:

"The ills we now feel from an irredeemable paper circulation would be augmented to an insupportable extent. The floodgates of speculation would be thrown wide open. The value of the paper dollar would fall to twenty cents, to ten cents, or perhaps even lower. A financial earthquake, such as has never before been witnessed, or even conceived, would inevitably follow. The very foundations of the social fabric would be upheaved, and, perhaps, overturned. And all public and private indebtedness would finally be extinguished in the general catastrophe."

May a kind Providence, that has hitherto kept "watch and ward" over our beloved country, avert from us such direful consequences! Having shown, as I believe, very conclusively, that the "legal-tender" clause of the act of February 25, 1862, is in contravention of the letter and spirit of the Constitution of

the United States, I now proceed to make good my second proposition, to wit: that the act itself does not, either in express terms or by necessary implication, admit of the payment of the five-twenty six per cent. bonds in anything but the constitutional currency of the country, gold and silver. And I shall claim further that my construction of the act at this time is identically the same with that given to it by distinguished members of Congress at the time of its passage, while no one had the assurance then, nor until five years afterward, to claim for it the "Pendleton" construction of the present day.

The first section of the act authorizes the issue of \$150,000,000 of United States notes not bearing interest, payable to bearer at the Treasury of the United States in sums not less than five dollars each, which notes are made receivable in payment of all taxes, internal duties, excises, debts, and demands of every kind due to the United States, except duties on imports, and of all claims and demands against the United States of every kind whatsoever except interest upon bonds and notes, which shall be paid in coin; and also declares that said United States notes shall be lawful money and a "legal tender" in payment of all debts, public and private, within the United States, except duties on imports and interest as aforesaid.

Here we have created an anomalous currency of \$150,000,000, subsequently extended to \$450,000,000, in United States notes, payable to bearer, without interest, and with no fixed time for their payment. Moreover, these United States notes are, by a stretch of power on the part of Congress, about to be thrust into the channels of commerce as "lawful money" and a "legal tender" in payment of debts, as well those already contracted as those to be contracted *in futuro*. Is there no provision to be made for their ultimate payment? They are for the present a forced loan upon the people. That everybody admits. But will not the Government, in order to insure their circulation at some considerable part of their nominal value, give some assurance that they shall be funded and ultimately paid in the constitutional currency? Most unquestionably these notes will be comparatively worthless without some such provision.

Hence, in the second section of the act, Congress provided that, "to enable the Secretary of the Treasury to fund" these notes, he is authorized to issue, on the credit of the United States, coupon bonds or registered bonds to an amount not exceeding \$500,000,000, redeemable at the pleasure of the United States, after five years, and payable twenty years from date, and bearing interest at the rate of six per cent. per annum, payable semi-annually. And the Secretary of the Treasury has power to dispose of said bonds for the United States notes "that may be issued" under the provisions of said act.

Now, the case may be stated in this wise: the Federal Government, under the pressure of a mighty rebellion, placed in the field her gallant armies and upon the waters her heroic navies, but of money she was destitute. Her patriot sons had well-nigh exhausted their coffers in administering to her wants. The banking corporations of the States had loaned most liberally of their pecuniary means, but the demand for supply was continuous and increasing. The soldiers must be fed or constitutional government must fall.

In this emergency the Government manufactures paper money and compels its citizens to take it in payment of debts, at the same time holding out the assurance to the people that every dollar of this extraordinary currency may be absorbed in the funded debt of the United States, drawing interest at six per cent., payable semi-annually "in coin," and the principal sum payable at the pleasure of the Government at any time after five years and within twenty years, as all other public securities are payable when the mode of payment is not otherwise specified, in gold and silver coin. The Con-

gress of 1862 went still further in their enactment, as if to show clearly their intentment.

In section five they provided that all duties on imported goods should be paid in coin, the same to be set apart as a special fund:

1. For the payment of the interest on the bonds of the United States; and

2. For the payment of one per cent. of the entire debt of the United States each fiscal year after July 1, 1862, the same to be set apart as a sinking fund for that purpose.

I do not care to proceed further with this celebrated act of February 25, 1862, except to furnish the contemporaneous construction.

We find the "legal-tender" paper currency created. We find that this currency was to be absorbed by the five-twenty bonds, not the five-twenty bonds by the United States notes. We find that all import duties were to be paid in coin. We find this coin most solemnly pledged for the payment of these same five-twenty bonds, first, the interest semi-annually, as it accrued, and, lastly, the principal, as a part of the "debt of the United States," by means of a sinking fund made up each fiscal year of a part of the coin derived from the customs equal to one per cent. of the entire debt.

When the bill was under consideration in the House of Representatives Mr. PIKE, of Maine, in replying to the objection urged by members in the Opposition that the issuing of United States notes and declaring them a "legal tender" was a violation of the Constitution, said:

"This is no time for the exercise of constitutional pedantry. Let us act boldly and forcibly, and so discharge the high and solemn duty imposed upon us infinitely better than if we shrunk from action under fear of constitutional scruples. Nor need we fear that what we do will be used as a dangerous precedent, for the circumstances which form our justification must be duplicated before our action can be taken as an example for others."

Mr. George H. Pendleton, of Ohio, said: "I doubt whether there is any power in the Federal Government to issue the notes described in this bill, ('greenbacks,') whether they are made a 'legal tender' or not. They are intended to circulate as currency. They come within the definition of 'bills of credit.' I have shown that, if they do come within the definition of 'bills of credit,' the power to emit them was expressly, designedly withheld from Congress."

"But even if I believed this bill to be constitutional in both aspects, I yet see enough in it to merit, as I think, the hearty condemnation of the House. It provides that these notes shall be redeemable only at the pleasure of the United States. They do not bear a single characteristic of a 'demand note.' There is no time when the faith of the Government is pledged to their payment. They will inevitably depreciate. The wit of man has never discovered a means by which paper currency can be kept at par value, except by its speedy, cheap, certain convertibility into gold and silver. Unless convertible, they have always depreciated; they always will depreciate; they ought to depreciate, because they are only valuable as the representatives of gold and silver. You send these notes out into the world stamped with irredeemability. You put on them the mark of Cain, and, like Cain, they will go forth to be vagabonds and fugitives on the earth. It requires no prophet to tell what will be their history."

"The currency will be expanded, prices will be inflated, fixed values will depreciate, incomes will be diminished, the savings of the poor will vanish, the hoardings of the widow will melt away; bonds, mortgages, and notes, everything of fixed value, will lose their value; everything of changeable value will be appreciated; the necessities of life will rise in value; the Government will pay twofold—certainly largely more than it ought—for everything that it goes into the market to buy; gold and silver will be driven out of the country. What then? The day of reckoning must come. Contraction will follow, private ruin and public bankruptcy, either with or without repudiation, will inevitably follow."

This much from the Democratic aspirant for presidential honors when it was only proposed to issue \$150,000,000 in "greenbacks." Three hundred and fifty-six millions are now in circulation, with gold in the market at "one hundred and forty," and yet this speculator in political and financial theories urges upon the people the policy of paying off the Government debt with "greenbacks." Verily, the prediction of Mr. Pendleton, made in 1862, may be realized during the first decade after its utterance:

"Private ruin and public bankruptcy, either with or without 'repudiation,' will inevitably follow."

Mr. HOOPER, of Massachusetts, said:

"It is now proposed in this bill to limit the Secretary to par for six per cent. bonds, the principal and

interest to be payable in specie, or its equivalent. It is believed that there can be nothing more secure than these bonds, which thus become, as it were, a standard of value in reference to the currency.

Mr. THADDEUS STEVENS, of Pennsylvania, chairman of the Committee of Ways and Means, said:

"This bill is a measure of necessity, not of choice. No one would willingly issue paper currency, not redeemable on demand, and make it a 'legal tender.' The daily expenses of the Government are now about two million dollars. To carry us on until the next meeting of Congress will take \$600,000,000. The grave question is, how can this large amount be raised? The value of 'legal-tender' notes depends on the amount issued compared with the business of the country. [Here Mr. Thomas, of Massachusetts, inquired of Mr. STEVENS whether he expected to limit the amount of these notes to \$150,000,000, the sum named in the bill.] I expect," said Mr. STEVENS, "that is the maximum amount to be issued."

"Let me restate the various projects. Our's proposes United States notes secured at the end of twenty years to be paid in coin, and the interest raised by taxation semi-annually; such notes to be money and of uniform value throughout the Union. No better investment, in my judgment, can be had; no better currency can be invented. Here, then, in a few words, lies your choice. Throw bonds at six or seven per cent. on the market, between this and December, enough to raise at least six hundred millions, or issue United States notes (greenbacks) not redeemable in coin, but fundable in specie-paying bonds at twenty years."

And now, if it will add force to my proposition that the five-twenty bonds of the United States are, by the pledged faith of the nation, to be finally and fully paid in coin, the principal as well as the interest, I will call in the construction placed upon the loan by the head of the Treasury Department, under whose influence and advice the act of February 25, 1862, was framed and passed.

On the 3d of August, 1863, he wrote to his agents in the city of New York, in reply to an inquiry upon this very subject, made to satisfy persons who proposed to make investments in this class of public securities, as follows:

"All coupons and registered bonds forming a part of the permanent loan of the United States will be redeemed in gold. The five-twenty sixes, being redeemable at any time within twenty years after the lapse of five years, belong to the permanent loan."

His immediate successor, Mr. FESSENDEN, who, as chairman of the Finance Committee in the Senate, had been greatly instrumental in procuring the passage of the act, uniformly adhered to this construction of Mr. Chase.

In his last able report on the finances, Mr. Secretary McCulloch uses this language:

"Now, to what is the United States pledged in regard to the public debt? Is it not that it shall be paid according to the understanding between the Government and the subscribers to its loans at the time the subscriptions were solicited and obtained? And can there be any question in regard to the nature of this understanding? Was it not that, while the interest-bearing notes should be converted into bonds, or paid in lawful money, the bonds should be paid, principal as well as interest, in coin?"

"The bonds were negotiated with the definite understanding that they were payable in coin."

If I have not now satisfied all reasonable minds that the five-twenty six per cent. bonds of the United States are payable, both principal and interest, in gold, and that the faith of the nation is pledged to such payment, then I confess my inability to apprehend the force of reasoning.

But I claim that the soundest dictates of public policy are opposed to any further issue of "greenbacks."

On the 1st day of April, 1868, the amount in circulation was \$356,144,727. Of fractional currency there was \$32,588,689 94, making, of United States currency in paper, \$388,733,416 94. At the same time the amount of national bank notes in circulation I assume to be the same with that reported by the Comptroller of the Currency in November last, \$299,103,996, making the paper money of the United States, now filling the channels of commerce, \$687,837,412 94.

Is this not excessive? In the year 1860 \$800,000,000 of coin and bank notes convertible into coin were sufficient for all the legitimate business of the country. But, then, a ten dollar bank note was equivalent to a gold eagle. Now, a "gold eagle" is worth fourteen dollars in greenbacks, while a ten dollar "green-

back" is worth in gold but seven dollars and fourteen cents. Then the laboring man, with five or six dollars in his pocket, no matter whether specie or bank notes, could purchase a barrel of flour for his family. Now he must pay in "greenbacks" from twelve to fourteen dollars. And so with almost every article that enters into the family economy. Is not the paper currency sufficiently inflated now? More than five hundred millions of five-twenty six per cent. bonds of the United States are now, at the option of the Government, matured for payment.

It is insisted by Mr. Pendleton and others "of that ilk" that it will be both lawful and expedient to pay off and extinguish this portion of the national indebtedness by a new issue of "greenbacks," thus nearly doubling at one bound the whole paper currency of the United States, making the sum total \$1,102,837,412 94. Who is so blind as not to see that in this condition of things the forebodings of George H. Pendleton in 1862 will become fixed facts in the history of the United States?

"Prices will be inflated; fixed values will depreciate;" "the savings of the poor will vanish; the boardings of the widow will melt away;" "private ruin and public bankruptcy will inevitably follow."

How far, let me ask, is this state of things from "repudiation?"

I am fully sensible of the difficulties that environ us as a nation. With unexampled fortitude and heroism the loyal people of the United States carried on the war in support of this popular form of government. That war has cast upon us a great debt which necessarily brings with it heavy taxation. Our people are sometimes restive, but they are nevertheless patriotic; and they "never despair of the Republic." Politicians greatly mistake their temper if they presume that the American people will countenance, much less favor, any scheme for repudiating the public debt or impairing the purity of the public credit.

Our condition requires careful consideration, wise counsel, prudent statesmanship; but it is by no means of a hopeless or even a discouraging character. Our whole national debt may be set down at \$2,500,000,000; while the property of the nation in the hands of its citizens is fully \$20,000,000,000. The receipts and expenditures of the Government for the fiscal year ending June 30, 1867, were as follows:

Total of receipts.....	\$490,634,010 27
Total of expenditures.....	346,729,129 33

Of the receipts, there was derived from the customs, in gold, \$176,417,810 88. Of the expenditures, there was paid for interest on the public debt, in currency and coin both, \$143,781,591 91. In coin alone, \$99,760,000. The estimated receipts for the fiscal year ending June 30, 1869, are \$381,000,000. The estimated expenditures, \$372,000,000. The appropriations, however, for the next fiscal year will fall considerably below the sum of \$300,000,000, and it is confidently expected that by the introduction of a rigid system of economy into all branches of the public service the expenditures may be kept down to about that sum.

The internal taxes have been much reduced and will continue to be diminished until they shall no longer chafe the industrial energies of the people, but will be made to rest mainly upon luxuries and other superfluities.

With the public faith kept bright and unspotted as the sun; with the public debt funded on long time, and at moderate interest, the burdensome taxes removed, the slow but sure return to a specie paying currency kept steadily in view, the loom and the plow put into peaceful and profitable motion, and who can doubt that the United States will be

"Surer to prosper than prosperity  
Could have assured us."

Mr. COOK obtained the floor, but yielded it to

Mr. WASHBURNE, of Illinois, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. TROWBRIDGE reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the annual message of the President of the United States, and had come to no conclusion thereon.

And then, on motion of Mr. COOK, (at five o'clock and thirty-five minutes p. m.), the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CHURCHILL: A memorial of J. Benedict & Son, and 29 others, firms and individuals, manufacturers and dealers in lumber, at Albany, New York, in favor of changing the duty on imported lumber from *ad valorem* to specific.

Also, the petition of Smith, Craig & Co., and others, of West Troy, New York, to the same effect.

By Mr. GROVER: A memorial of the Board of Trade of the city of Louisville, Kentucky, praying a reduction of the tax on whisky and tobacco.

By Mr. KELSEY: A memorial of 125 citizens of Rochester, New York, praying that a bill be passed by Congress authorizing the construction of a railroad between New York and Washington.

Also, a memorial of citizens of the city of New York, praying Congress to pass a law authorizing the construction of an air-line railroad from New York city to Washington.

#### IN SENATE.

THURSDAY, May 7, 1868.

Prayer by Rev. E. H. GRAY, D. D.

#### IMPEACHMENT OF THE PRESIDENT.

THE PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at six o'clock and twenty minutes p. m.

On motion of Mr. EDMUNDS, the Senate adjourned to meet on Monday next at ten o'clock.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, May 7, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read.

#### CORRECTION OF THE JOURNAL.

Mr. FARNSWORTH. I rise to a correction of the Journal. The paper presented yesterday by the gentleman from Kentucky [Mr. BECK] is referred to in the Journal as the remonstrance of "the central committee of the State of South Carolina." It should read "the Democratic central committee of South Carolina."

THE SPEAKER. It is not so entitled in the papers.

Mr. BECK. It is not so styled in the papers, but that is correct.

THE SPEAKER. The Journal will be corrected accordingly.

#### WAR DEPARTMENT ESTIMATES.

Mr. WASHBURNE, of Illinois. I desire to present some letters from the War Department and some estimates, which I desire to have referred to the Committee on Appropriations, and ordered to be printed. It is a matter on which action must be taken very soon, and I desire to have the letters and estimates referred to the Committee on Appropriations, and ordered to be printed.

There was no objection; and the letters and estimates were referred to the Committee on Appropriations, and ordered to be printed.



## CONSTITUTIONS OF SOUTH CAROLINA, ETC.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That five hundred copies each of the constitutions of South Carolina and Arkansas be printed for the use of the House.

## COMMITTEE ON FREEDMEN'S AFFAIRS.

Mr. LAFLIN also, from the same committee, reported the following resolution:

*Resolved*, That five thousand extra copies of the report of the Committee on Freedmen's Affairs be printed for the use of the House.

Mr. WASHBURNE, of Illinois. I desire to inquire of the gentleman from New York how large a document that will be?

Mr. LAFLIN. It is a very small document; some twenty-five or thirty pages.

Mr. CHANLER. I would like to ask the gentleman what the estimated cost of it will be?

Mr. LAFLIN. It may cost two cents a copy.

Mr. CHANLER. Well, it may or it may not. It may cost ten cents a copy.

Mr. LAFLIN. It cannot cost more than two cents a copy, in my opinion, involving an expense of about ten dollars. I wished to put it at the extreme. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

## MRS. E. C. BRYANT.

Mr. MILLER, by unanimous consent, presented the memorial of Mrs. Emily C. Bryant and accompanying papers; which were referred to the Committee of Claims.

## MINERAL RESOURCES.

Mr. LAFLIN, from the Committee on Printing, also reported the following resolution; upon which he called the previous question:

*Resolved*, That there be printed for the use of the House fifteen thousand three hundred copies of the report of J. N. Taylor on the mineral resources of the country east of the Rocky mountains, and that the same be bound with the report of J. Ross Browne, previously ordered.

The question was upon seconding the previous question.

Mr. WASHBURNE, of Illinois. I hope this resolution will not be adopted. We print too many of these things.

Mr. SCOTFIELD. These reports were printed together last year, and they ought to be printed together this year.

Mr. LAFLIN. When some days ago our committee introduced a resolution to print a certain number of copies of the report of J. Ross Browne, the House indulged in considerable discussion upon the propriety of printing that report. This report of Mr. Taylor relates to the mineral resources of the country east of the Rocky mountains, and is of the same character with the report of J. Ross Browne, already ordered to be printed. Therefore the committee felt instructed, even though their judgment might not have approved the printing of this report, independently of this report of J. Ross Browne, the committee felt instructed to make the report which has just been submitted. I have no doubt that if the House had it in its power to examine the report of Mr. Taylor and ascertain its character, it would agree with the report of the committee.

Now, if there is any one here who desires to discuss this subject, I will yield the floor, and allow every opportunity for that to be done.

Mr. HIGBY. Will the gentleman yield for a question?

Mr. LAFLIN. Certainly.

Mr. HIGBY. I desire to ask the gentleman if the report of Mr. Taylor would not be too small to make a volume by itself? I understand it will amount to less than a hundred pages.

Mr. LAFLIN. It will make less than one hundred pages; about seventy-five or eighty pages; too small for a volume by itself.

The previous question was then seconded and the main question was ordered; and under the operation thereof the resolution was adopted.

Mr. LAFLIN moved to reconsider the various votes by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## REGISTERING AND RECORDING VESSELS, ETC.

The SPEAKER. The next business in order is resuming the call of committees for reports, under which the Committee on Naval Affairs is entitled to another morning hour. When the last morning hour expired there was pending a bill of the House No. 1023, to amend an act entitled "An act concerning the registering and recording of ships and vessels." The previous question was pending, no quorum having voted upon seconding it.

Mr. PIKE. I withdraw the call for the previous question, and ask that the bill be recommitted to the Committee on Naval Affairs, and I will again report it.

The motion to recommit was agreed to.

## PRINTING OF RECONSTRUCTION DOCUMENTS.

Mr. FARNSWORTH. The House ordered a day or two since the printing of a communication from the President, with the accompanying documents. The Committee on Reconstruction, after examination of those documents, think that it is not worth while to print them all. The committee has selected such portions of those documents as it thinks necessary to have printed. I therefore move that the order of the House be so modified as to cover only such portions as the committee have selected.

Mr. RANDALL. Will the gentleman from Illinois [Mr. FARNSWORTH] state the objection to printing the whole of the documents?

Mr. FARNSWORTH. I will state that in the opinion of the committee it is not worth while to print the large bundle of papers which have been referred to it. I think that is the unanimous opinion of the committee.

Mr. BECK. Many of the papers bear upon the expenses of the commissioners, and have nothing to do with the questions we are considering.

The motion of Mr. FARNSWORTH was then agreed to.

## PROTECTION OF AMERICAN FISHING VESSELS.

Mr. PIKE, from the Committee on Naval Affairs, reported back, with a recommendation that the same do pass, joint resolution (H. R. No. 254) for the protection of American interests in the Gulf of St. Lawrence.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was read at length. It requests the President to send a sufficient number of vessels of war to the fishing grounds in the Gulf of St. Lawrence, adjacent to the British Provinces, for the purpose of protecting American vessels in the exercise of their rights as recognized under the treaty of 1783, outside of one marine league of the shore line, and as it follows the indentations of the coast; and also for the purpose of taking care that valuable property in shipping shall not be confiscated for alleged infractions of provincial rights in the fishing grounds, and that whatever punishment for trespass is inflicted shall be in proportion to the pecuniary injury occasioned by the offense.

Mr. PIKE. This is a matter of some importance, and I will explain it to the House. This resolution provides that the President shall be requested to send a sufficient fleet to the waters of the Gulf of St. Lawrence for the purpose of protecting our fishermen. I do not know of how many the usual fleet of fishing vessels consists; but, perhaps, there are as many as a thousand vessels. They are now about sailing for the fishing grounds; and they go there at the mercy of this new dominion. During the time the reciprocity treaty was in force our people had the same right of fishing as the provincial men had. When that treaty was abrogated the provinces, before going into the new dominion, fixed a tax of half a dollar

per ton on our fishermen, that tax payable, of course, in gold. Our fishermen paid that tax. The next year the tax was increased to one dollar per ton. Our fishermen paid that. Just now I see it is reported from the Committee on Fisheries of the Parliament at Ottawa that the tax shall be four dollars a ton, and that a sufficient force shall be sent into those waters to collect it. The result will be that our fleet will be driven out of those waters. The question for the House is, whether we shall send our vessels down there to protect American interests in those waters.

The resolution refers to the treaty of 1783 and the convention of 1818. I will read the third article of the treaty of 1783, which recognizes the rights designated in the resolution.

Mr. BENJAMIN. Will the gentleman permit me to ask him a question?

Mr. PIKE. Certainly.

Mr. BENJAMIN. I desire to know whether the President of the United States has not the authority already to send vessels of war there for the protection of these fishing craft?

Mr. PIKE. This does not propose to confer upon the President any authority, but to request him to do it.

Mr. BENJAMIN. What is the necessity for requesting him to do it if he already has the authority?

Mr. PIKE. Because it has not heretofore been done, and probably will not be done now without the action of Congress.

Mr. BENJAMIN. Why not direct him to do it instead of requesting him?

Mr. PIKE. Because we lack authority in this branch of the Government to do that.

Article third of the treaty of Paris recognizes certain rights of our fishermen where they had theretofore been accustomed to fish. Under that treaty our men went, as they had before been accustomed to do, into those waters. They continued to do so until the convention of 1818. By the convention of 1818 we, for certain reasons specified in that convention, yielded the right to fish within three miles of certain coasts. The question has arisen, and has been considerably discussed, whether those three miles should run from headland to headland or follow the indentations of the coast. Mr. Webster, and our diplomatists since, have uniformly taken the ground that we should follow the indentations of the coast. This resolution merely adopts the ground which our diplomatists have uniformly taken.

A letter which I hold in my hand, addressed to the gentleman from Massachusetts, [Mr. BUTLER,] by one of his constituents, indicates the manner in which our men are treated, and I will send it to the Clerk to have it read. It shows more forcibly than anything I can say the necessity for the action proposed in the resolution.

The Clerk read as follows:

GLOUCESTER, May 1, 1868.

DEAR SIR: I was pleased to see the resolution offered by Mr. PIKE regarding matters in the Gulf of St. Lawrence. I have a case in point in regard to seizure, which occurred in 1853, which I will state as briefly as possible. The schooner Florida, Captain Pine, was lying within about three miles of Prince Edward's Island waiting for his boat, which had gone on shore for the purpose of buying potatoes. There were no fish in that place; but the boy, as all boys do, will try to fish. After lying about an hour one of the colonial cutters came along and sent an officer on board and, not without a remonstrance from Captain Pine, took the vessel to Charlottetown. She was there dismantled, the crew turned ashore, and the voyage broken up. By the courtesy of William B. Dean, esq., formerly of Boston, then a resident there, after a lingering suit, we recovered the vessel at a cost of \$1,500 in Charlottetown, the loss of all our outfit nearly, the expenses of getting the vessel home, the loss of the season's earnings to owners and crew, in all not less than three thousand dollars. There was no trespass committed and no harm done by the fishermen in this case. It was a gross outrage, and should not be repeated so long as we have a Government to protect us.

Truly yours,

E. W. MERCHANT.

Hon. B. F. BUTLER.

Mr. WASHBURNE, of Illinois. Will the gentleman from Maine [Mr. PIKE] yield to me a moment, that I may obtain an understanding of this matter?

Mr. PIKE. Yes, sir.

Mr. WASHBURNE, of Illinois. I understand that this is not a joint resolution.

Mr. PIKE. No, sir.

Mr. WASHBURNE, of Illinois. If it is merely a resolution of the House it would have no binding force or effect whatever. I think, and I believe the House will agree with me, that this is a matter which ought to be very fully considered before we pass upon it. It certainly implies that we shall get into a difficulty which may be a very serious one; for I see that the last part of the resolution provides that "whatever punishment for trespass is inflicted shall be in proportion to the pecuniary injury occasioned by the offense." Who is to be the judge of this? To whom shall this great authority be confided by this resolution of the House? These are questions which I think the House ought to consider very carefully indeed before we shall pass a resolution of this character. It is not a joint resolution; it has not the effect of law, and I myself doubt very much the propriety of passing a resolution of this character without knowing more about the subject and proceeding with more deliberation.

Mr. CHANLER. Will the gentleman from Maine allow me?

Mr. PIKE. For a question?

Mr. CHANLER. I wish to ask the gentleman from Maine for information and to make some statement in regard to this matter. If he will only yield to a question I will wait until I can submit some remarks.

Mr. PIKE. My time is limited, and I can only yield for a question.

Mr. CHANLER. My question, perhaps, might cover the ground; but, sir, it is not for the purpose of asking a question I have risen, but to show wherein this matter may be very objectionable. If the House will allow me, without taking it out of the gentleman's time, I would like to make a statement.

Mr. PIKE. I yield for five minutes.

Mr. CHANLER. My objection to this matter arises from two reasons principally. First, that the fishing along the coast of New England has ceased to be, as it formerly was, in the hands of the fishermen alone. It has fallen into the hands of certain monopolists, who, by means of large steam vessels, are absorbing the fishing interests of that region. That is the case round Cape Cod and throughout the country alluded to by the gentleman from Maine. The regular fishermen who have been in the habit of supplying the markets of the great cities by personal labor are now forced to give up the pursuit of their livelihood because they are forced into competition with large and wealthy monopolists. So far for that objection. We are called upon, in other words, to protect a fishing monopoly, organized into granted corporations, instead of American fishermen and the seamen who are furnished to the American Navy by that class. The fishermen are being swept from the coast, and the reason which heretofore existed for the reciprocity treaty has ceased to exist, that is, so far as the fishermen are concerned, as a source of our national strength.

This proposes to put power into the hands of the Executive. The resolution is to give an excuse to the Secretary of the Navy to exercise his power, and then to say to the country that it was the will and wish of Congress that he should involve us in a preliminary process which may bring on a war. The bureau of the Navy Department which may have charge of this matter has acted with the Secretary with great efficiency during the war, but there can be no doubt in the mind of any reflecting man that all connected with that Department have assumed the exercise of unwarranted power.

This is a most important question, in view of the reform inaugurated by the majority of the House in taking away executive power. Here we propose to clothe this Department with extraordinary power, with a capacity, indeed, to involve the country in war. This is the pending proposition.

The question involved is also one of expense. There is no doubt it will accrue to the advan-

tage of those contractors who are now buying, or have already bought up, our iron-clads and other vessels declared by our Navy Department to be useless. If this resolution be passed it will necessitate a larger naval force, and the Government may have to buy them back again. This is the limit in the resolution.

I myself do not desire at this time to undertake to instruct the Secretary of the Navy or the President. They have the power now, and the gentleman from Maine admits this House have already accorded this power. Yet under this resolution the Executive may encourage and protect upon our coast an established and growing monopoly in the fisheries, a business not in the hands of individual fishermen, but held by wealthy corporations, driving the original fishermen, in whose interest the reciprocity treaty was made, from our waters.

[Here the hammer fell.]

Mr. PIKE. I yield five minutes to the gentleman from Massachusetts, [Mr. BUTLER.]

Mr. BUTLER. Mr. Speaker, it is hardly possible to discuss this question in the limit of time allowed me. This resolution proposes simply to send a vessel of war, or more, as may be needed, according to the extent of the fishing ground, to see to it that our fishermen have fair play. It is not a declaration of war. There will be no trouble. The difficulty is this: the colonial authorities by their revenue service seize our vessels; they are taken into port, where there is collusion sometimes between the courts and the captors, and for catching a single mackerel or a single codfish our vessels are condemned. Now, it is only to see that we have fair play done that this resolution is offered. The President does not choose to interfere unless he can have some expression of Congress. This is not outside of any matter of diplomacy. It is in the usual course by which Great Britain and every other nation protect their subjects. They send ships of war to watch their interests. Great Britain has vessels of war stationed in the West Indies, and always has them wherever her commerce goes. It is not a menace; it is not a threat; it is nothing out of the usual course of assertion of national rights, and it is a matter of the highest consequence.

Now, sir, this resolution comes from a committee which has charge of this matter—which has charge of naval affairs. After consideration it has been duly reported. Now, if the House will not take time to discuss the matter fully—and I would like to have it fully discussed—they must follow the report of their committee. We ask for no increased expense; we ask no new vessels to be put in commission; we ask for nothing to be done out of the usual course.

In answer to my friend from Illinois, [Mr. WASHBURNE,] who says this resolution looks to the infliction of punishment, he wholly mistakes it. It only says that where the colonial authorities propose to inflict the punishment of confiscation of a vessel and cargo because of a simple involuntary trespass there shall be a proper interference. I will read that part of the resolution:

And that whatever punishment for trespass is inflicted by the colonial authorities shall be in proportion to the pecuniary injury occasioned by the offense.

Mr. WASHBURNE, of Illinois. I would ask what tribunal is to determine this?

Mr. BUTLER. The proper tribunal, before which it shall be brought.

Mr. WASHBURNE, of Illinois. What will that be?

Mr. BUTLER. There will be two. When the vessel is carried in there will be somebody representing the United States there, some naval officer, to see to the matter. But when one of our vessels of war sees a colonial cutter coming up to carry in a vessel for the simple offense of having caught a fish within three miles of the shore, the commander will say, "You cannot take that vessel for confiscation; I will accompany you into port and be responsible for whatever damage or wrong has been done." That is to say, a colonial vessel on

the one side undertaking to interfere will be met by a Government vessel on our side which will come in and see to the matter in court instead of having the poor fisherman taken and carried in where he has no redress. It is the usual, ordinary, common protection afforded to commerce by the armed vessels of the nation whose commerce needs protection.

[Here the hammer fell.]

Mr. PIKE resumed the floor.

Mr. BENJAMIN. Will the gentleman yield to me for a moment?

Mr. PIKE. I will yield for a question.

Mr. BENJAMIN. I desire three or four minutes to make a few remarks.

Mr. PIKE. There are other matters which the committee desire to report, and this must be closed up.

Mr. BENJAMIN. Give me three minutes.

Mr. PIKE. Very well.

Mr. WASHBURNE, of Illinois. I would like to know whether this is really a joint resolution or a simple resolution of the House?

The SPEAKER. It is really a joint resolution, and has been so treated by the House. It was read twice and referred to the Committee on Naval Affairs by the House.

Mr. WASHBURNE, of Illinois. The gentleman from Maine stated that it was simply a resolution of the House, and in the body of the resolution the word "joint" is stricken out. I only desired to know what it really was.

The SPEAKER. The title is upon the back, and it has been journalized previously as a joint resolution, and read twice.

Mr. BENJAMIN. I am unable to persuade myself of the necessity of the passage of this resolution. I am clearly of the opinion that it is inexpedient that we should pass it at this time. What is the state of the case? The President of the United States is Commander-in-Chief of the Army and of the Navy. It is his duty to see that our commerce upon the ocean is protected, and we have placed at his disposal a large naval force for that purpose. If, then, any necessity exists for sending naval vessels to these fishing banks, the authority is ample in the President to do it. If he refuses to do what the law requires at his hands, if he refuses to perform his duty, let us say by authority of law that the Navy shall be sent there, and not merely by a resolution request the Secretary of the Navy to send vessels there, so that in the event a difficulty grows out of it, he may shield himself behind us, the House of Representatives, by saying that it was upon our recommendation and at our request that this naval force was sent there. I object to it for the reason that we are not attempting to direct him by authority of law. If this is a joint resolution, as it appears to be from the decision of the Speaker, then the word "requested" certainly should be changed to "directed," and we should assume the responsibility and not request of the Secretary of the Navy that he discharge his duty when the law requires it at his hands.

The necessity for sending these vessels to the fishing banks may exist. I am not prepared to say whether it does or does not exist. But the presumption is that the President of the United States and the Secretary of the Navy know better on that subject than we possibly can know, know better than even the Committee on Naval Affairs can know, for I presume they have never attempted to investigate the condition of things up there, or to judge of the actual necessity of sending vessels there. I am opposed to placing this House in the position that the Secretary of the Navy in any event can shield himself behind us in anything that requires a discharge of his duty.

Mr. PIKE. I wish to say that until I heard the remarks of the gentleman from New York [Mr. CHANLER] I had supposed it was the duty of the Secretary of the Navy of the United States to protect our commercial interests; I had an idea that it was part and parcel of the duty of our naval establishment, which we keep up at an expense of from twenty to sixty

million dollars annually, to protect the mercantile interests of this country; and if the House of Representatives deliberately says that it is not of consequence to protect this large interest, because it may cost a little something to send ships down there, I hope they will follow it with a resolution abolishing the Navy of the United States. I have here figures, which I propose, if time enough is left in the morning hour, to present to the House, which show that we have no commerce abroad, with but trifling exceptions, besides this very respectable fishing fleet, a fleet owned by men of humble means. Three, four, eight, ten, fifteen, or twenty men associate themselves together to fit out a little fishing vessel; they go on board of her—you have taken away all bounties from her—and she goes out there to compete with the provincial fishermen on provincial shores. And the letter I had read to you shows how the provincial authorities treat those fishermen, seizing their vessels, bringing them into Charlotetown without authority of law, and, after a lingering suit, costing \$1,500, releasing the vessel as seized without authority of law. And then, at a cost of \$3,000 and the entire breaking up of the voyage, these humble, poor men get their vessel back again. Where is their redress? This was something that happened years ago. But it has been duplicated, and duplicated in fifty and a hundred instances, before the passage of the reciprocity treaty. From the convention of 1818 until the reciprocity treaty of 1854 there were several hundreds of these vessels seized. They were carried before the provincial authorities, where they were tried, and but one in ten was condemned. And in the instance to which I have referred the trifling offense was that while the vessel lay in the harbor, having sent her boat ashore for provisions and water, a boy threw a line overboard, but caught no fish. That was the whole offense—that a boy threw a line overboard without authority of anybody on board the vessel. A provincial vessel seized that vessel, carried her into Charlotetown, tried her, and she was rescued by her poor owners at an expense of \$1,500. They got her back at a cost to themselves of \$3,000. And there is no redress on the part of this great Government. Yet now, when we propose to send one or two of our vessels of war to protect our fishing interests—vessels for which we have no use to protect our commerce in other parts of the world, because it has been swept from the ocean by our laws—when we propose this, it is objected to. A small fisherman cannot fight the Government of Great Britain; a small fisherman cannot protect his rights, and the American Government should do it. War? Who is afraid of war? This resolution asks nothing but that your own laws shall be enforced. Are you afraid to enforce them? If you are, then I hope you will vote down the resolution. I call the previous question.

Mr. CHANLER. Will the gentleman yield to me?

Mr. PIKE. For a question.

Mr. CHANLER. I ask five minutes if the gentleman has time.

Mr. PIKE. I have not the time.

Mr. CHANLER. I ask consent to say a few words. I do not wish to be misunderstood in this matter.

Mr. FARNSWORTH. Will the gentleman from Maine [Mr. PIKE] allow me to ask him a question?

Mr. PIKE. I do not wish to press this matter without discussion; yet we have but little time for the Naval Committee, and they have other matters of importance before them.

Mr. FARNSWORTH. Does the gentleman from Maine think it fair, with but a few minutes' discussion, to pass a resolution through this House which involves the construction of treaties, and perhaps may involve the country in war, to do this with but half an hour's consideration?

Mr. WASHBURN, of Illinois. And under the operation of the previous question.

Mr. FARNSWORTH. Yes.

Mr. PIKE. I will yield to the gentleman from New York [Mr. CHANLER] for a question.

Mr. CHANLER. My object is to reply to the gentleman—

Mr. PIKE. I cannot yield for anything but a question.

Mr. CHANLER. The gentleman asked a question, and I want to answer it.

Mr. LAWRENCE, of Ohio. Has this matter been considered by the Committee on Foreign Affairs?

Mr. PIKE. It has not.

Mr. LAWRENCE, of Ohio. This resolution undoubtedly involves our foreign relations. I think it is a subject of sufficient importance to be considered by the Committee on Foreign Affairs.

Mr. PIKE. Which is to kill it.

Mr. WASHBURN, of Illinois. Why so?

Mr. PIKE. Because the Committee on Foreign Affairs cannot report.

Mr. WASHBURN, of Illinois. Why not?

Mr. PIKE. Because it cannot be reached for a long time, as the committee have other matters in their hands to be reported upon—matters of such importance that the gentleman from Massachusetts [Mr. BANKS] on yesterday felt obliged to withdraw his attention from all other committees. And this fishing fleet is just about being fitted out, and this protection is needed just at this juncture.

Mr. SCOTFIELD. How long has this wrong existed? How many years have our fishermen been so wronged? Yet the gentleman asks us to act upon the subject in five minutes.

Mr. PIKE. I will reply to the gentleman, and I wish the House to understand the reply. The reciprocity treaty was repealed in 1865. The provinces imposed a duty upon these fishing vessels of half a dollar per ton, which they paid. Then the next year they imposed a duty of one dollar per ton, which they paid. At the present time the Government at Ottawa is passing a bill, if the bill has not already passed, imposing a duty of four dollars per ton upon those vessels, (which they cannot pay,) and this is accompanied with a provision for sending sufficient force down there to enforce that tax upon our fishermen.

Mr. SCOTFIELD. When did the case to which the gentleman has referred occur?

Mr. PIKE. Before the reciprocity treaty. The reciprocity treaty gave us free rights of fishing for eleven years. And there were similar cases occurring before that treaty, cases of injustice, in which there was no redress. Now, the question for the House to determine (and I do not propose to argue it further) is whether within the treaty (for the resolution adopts no construction of a treaty except that which has already been maintained by our Government, and is maintained there to-day) whether within that treaty—

Mr. SPALDING. I would like to inquire when it was that we passed a resolution similar to this. It was about a year ago, was it not?

Mr. PIKE. About a year ago.

Mr. SPALDING. I desire to inquire whether the gentleman would not be willing to dispense with the latter part of the resolution, so as to provide simply that one or more vessels shall be sent out to look after our fishing interests. Would not such a provision answer the purpose?

Mr. PIKE. If that will satisfy the House I shall not object to it.

Mr. SPALDING. I hope the House will let the bill go through in that form.

Mr. WASHBURN, of Illinois. Let the resolution be referred to the Committee on Foreign Affairs.

Mr. SPALDING. Oh, no; let us pass it.

Mr. PIKE. The Committee on Foreign Affairs knows nothing more about this question, and will know nothing more about it after investigation, than the House knows to-day. Now, if the gentleman from Ohio proposes to move that amendment, I will permit it to be offered, and then I will call the previous question.

Mr. SPALDING. I move to amend the

resolution by striking out the concluding words, as follows: "recognized in the treaty of 1783, outside one marine league of the shore line as it follows the indentations of the coast, and also for the purpose of taking care that valuable property in shipping shall not be confiscated for alleged infraction of provincial rights in the fishing grounds, and that whatever punishment for trespass is inflicted shall be in proportion to the pecuniary injury occasioned by the offense;" and inserting in lieu thereof the words "indicated in subsisting treaties."

Mr. PIKE. I now call the previous question.

Mr. WASHBURN, of Illinois. I move to lay the whole subject on the table.

Mr. CHANLER. I desire to offer an amendment to the amendment.

The SPEAKER. There are two undebatable propositions now pending—the call for the previous question and the motion to lay on the table.

Mr. CHANLER. The amendment which I desire to offer is to provide that an additional fleet be sent by the President to the coast of Ireland to protect American citizens trading with Great Britain. I ask the gentleman from Ohio [Mr. SPALDING] whether he will accept this amendment?

Mr. SPALDING. I must decline to accept it as an amendment to my proposition.

Mr. CHANLER. I hope I shall have an opportunity to offer it.

Mr. RANDALL. Mr. Speaker, is there any motion pending to refer this subject to the Committee on Foreign Affairs?

The SPEAKER. There is not. That motion would not be in order during the pendency of the call for the previous question and the motion to lay on the table.

Mr. RANDALL. When will that motion be in order?

The SPEAKER. If the House should vote down both the pending propositions it would be in order.

Mr. WASHBURN, of Illinois. I withdraw the motion to lay on the table.

The SPEAKER. Does the gentleman from Maine [Mr. PIKE] withdraw the call for the previous question to allow the gentleman from Pennsylvania [Mr. RANDALL] to move to refer to the Committee on Foreign Affairs?

Mr. PIKE. I do not.

On seconding the call for the previous question there were—ayes 51, noes 34; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. PIKE and CHANLER.

The House divided; and the tellers reported—ayes 65, noes 40.

So the previous question was seconded.

The main question was then ordered to be now put.

The SPEAKER stated that the question first recurred on the amendment of the gentleman from Ohio, [Mr. SPALDING.]

Mr. BENJAMIN moved that the joint resolution and amendment be laid on the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 76, not voting 62; as follows:

YEAS—Messrs. Delos R. Ashley, Baker, Beck, Benjamin, Blair, Bromwell, Buckland, Chanler, Leader W. Clarke, Cullom, Driggs, Eldridge, Farnsworth, Getz, Golladay, Gravely, Grover, Harding, Hopkins, Humphrey, Hunter, Johnson, Judd, Ketcham, Knott, George V. Lawrence, Loan, Marshall, McCarty, McClurg, McCormick, Morgan, Mullins, Munger, Newcomb, Nunn, Orth, Robertson, Robinson, Ross, Scofield, Shanks, Thaddeus Stevens, Taffe, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Welker, James F. Wilson, Windom, and Woodward—51.

NAYS—Messrs. Ames, Anderson, Archer, A. A. Bell, James M. Ashley, Bailey, Baldwin, Beaman, Bently, Benton, Blaine, Broomall, Butler, Calkins, Cary, Churchill, Sidney Clarke, Cobb, Dawes, Dodge, Donnelly, Eggleston, Ela, Eliot, Ferriss, Ferry, Garfield, Higby, Hill, Holman, Hotchkiss, Chester D. Hubbard, Julian, Kelley, Kelsey, Ladin, William Lawrence, Lincoln, Loughridge, Mallory, Marvin, Maynard, Mercier, Miller, Moore, Morrell, Myers, O'Neill, Paine, Perham, Peters, Phelps, Pike, Pike, Plants, Poland, Price,



Sawyer, Sitgreaves, Smith, Spalding, Aaron F. Stevens, Stewart, Stokes, Taber, Taylor, Thomas, John Trimble, Trowbridge, Upson, Van Aernam, Van Wyck, Henry D. Washburn, William Williams, Stephen F. Wilson, and Woodbridge—76.

NOT VOTING—Messrs. Adams, Allison, Axtell, Banks, Barnes, Barnum, Bingham, Boutwell, Boyer, Brooks, Burr, Coburn, Cook, Cornell, Covode, Dixon, Eckley, Fields, Finney, Fox, Glossbrenner, Griswold, Haight, Halsey, Hawkins, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Ingersoll, Jencks, Jones, Kerr, Kitchen, Koontz, Logan, Lynch, McCullough, Moorhead, Morrissey, Niblack, Nicholson, Polsley, Pomeroy, Pruyn, Randall, Raun, Sehcnck, Selye, Shellabarger, Starkweather, Stone, Lawrence S. Trimble, Twichell, Van Auker, Burt Van Horn, Robert T. Van Horn, Ward, William B. Washburn, Thomas Williams, John T. Wilson, and Wood—62.

Mr. PIKE. I rise now to close debate under the rule.

The SPEAKER. The gentleman is entitled to an hour.

#### ADMISSION OF ARKANSAS.

Mr. STEVENS, of Pennsylvania. I ask the gentleman from Maine to yield to me for a moment. I have a bill which I am instructed to report from the Committee on Reconstruction, and I wish to report it for the purpose of having it printed and recommitted.

Mr. PIKE. I yield for that purpose.

Mr. MUGEN. I object.

The SPEAKER. The gentleman has the right to report from the Committee on Reconstruction at any time, and the gentleman from Maine has yielded the floor for that purpose.

Mr. STEVENS, of Pennsylvania, from the Committee on Reconstruction, reported a bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress; which was read a first and second time, ordered to be printed, and recommitted.

#### PROTECTION OF FISHING VESSELS—AGAIN.

Mr. PIKE. Mr. Speaker, in the discussion of the Navy appropriation bill, some days ago, in the Senate, it was said that we needed an increase of the Navy because of our increased commerce. I have no doubt that the gentleman who made that statement believed in its accuracy. Gentlemen familiar with the statistics of this country know that our population has increased with immense rapidity, varying little in percentage from decade to decade, running up each ten years more than one third in amount of the preceding ten years. The increase of general property in the country is very much more in proportion than the increase of our population, and our manufacturing interests everywhere, under the protection of wholesome laws, have been constantly springing up, using our numerous water powers throughout the land, and adding to their force the illimitable power of steam. Agriculture has pushed its energies into every locality and given duplicate and triplicate receipts year by year. Gentlemen familiar with the statistics of these great industries naturally supposed that commerce, the handmaid of agriculture, enriching both, has participated in the general prosperity. I wish it were so. But unfortunately it is far from being the case.

I have taken some pains to examine the statistics of the tonnage of this country as compared with that of Europe, and I will briefly submit the facts I have gathered to the House. I shall make but very few comments upon them; they speak in language much stronger than any that I can use. I hold in my hand a table exhibiting the tonnage owned by the United States and Great Britain at different periods. I have made it from the year 1810 up to the last published statement in 1867:

*Tonnage owned by the United States and Great Britain at different periods.*

	United States.	Great Britain.
1810.....	1,424,748	2,426,044
1820.....	1,280,167	2,648,593
1830.....	1,191,776	2,531,819
1840.....	2,180,764	3,311,538
1850.....	3,535,454	4,232,962
1860.....	5,353,868	5,710,968
1861.....	5,529,813	5,895,369
1862.....	5,112,105	6,041,358
1863.....	5,125,081	6,629,403
1864.....	4,986,401	7,103,261
1865.....	5,096,781	7,322,604
1866.....	4,310,778	7,297,984
1867.....	4,256,017	no returns.

It will be seen that for a long period we kept along with unequal steps with our great rival, annually increasing our proportion until the year previous to the war, 1860, when our tonnage nearly equaled that of Great Britain, and, as matters were then running, in a few years we should have reached and outstripped that country. The aggregate tonnage of these two great commercial nations in 1860 was eleven million sixty-four thousand eight hundred and thirty-six tons, divided about equally. At the last report for the year 1866 the aggregate tonnage of the two countries was about the same, but of it we owned four million three hundred and ten thousand seven hundred and seventy-eight tons and Great Britain seven million two hundred and ninety-seven thousand nine hundred and eighty-four tons.

Although we have a statistical bureau with a large force and amply paid, our statistics are exceedingly imperfect. They do not exhibit how much of this tonnage is engaged in the home trade and how much in the foreign trade, what proportion is in canal boats, what proportion is in river steamboats, and what proportion is in sea-going vessels. In these particulars our statistics are defective—much more so than those of Great Britain.

We changed our system of tonnage four years ago, and it is found on examination that we are carrying along the old balance, so that the four million two hundred and fifty-six thousand and seventeen tons includes an old balance of about three hundred thousand tons which exist nowhere except on paper. The result is, making the proper allowances, Great Britain to-day owns more than two tons to our one.

In addition to the statement I have made is the fact that our tonnage includes the whole of our immense canal-boat tonnage, and all the tonnage in the interior waters, while in Great Britain they have no corresponding figures; for the whole length of the canals of Great Britain is but about four thousand miles, and the whole tonnage in the "home trade" of that country at the last report is but nine hundred and sixty-one thousand one hundred and three tons, while our whole tonnage with but trifling exceptions, is engaged in the home trade. They have no inland commerce as compared with ours; and our canal tonnage with its six thousand miles of canals, of course greatly exceeds theirs. Then, in addition to that, we have an immense river commerce, of which Great Britain has but a trifling amount. So, then, this table shows the fact that whereas in the year before the war we had nearly overtaken Great Britain, and according to the rate of progress we were making, in a short time we should have passed her, to-day we have less than half the tonnage that Great Britain owns, and most of that is made up of canal, river, and lake boats, and coastwise tonnage.

I now give another table, which exhibits the exports and imports of the three great commercial nations of the world, England, France, and the United States. I exhibit this table for the purpose of showing the immense increase of exports and imports of these great countries:

#### Exports and imports of England, France, and the United States.

	England.	France.	United States.
1833.....	\$427,500,000	no returns.	\$198,235,000
1840.....	595,000,000	\$412,600,000	239,226,000
1845.....	675,000,000	485,400,000	231,899,000
1850.....	869,000,000	511,020,000	330,035,000
1855.....	1,301,170,000	865,380,000	536,538,000
1860.....	1,875,260,000	1,160,960,000	762,355,000
1865.....	2,250,000,000	1,465,720,000	872,208,000
1866.....	no returns.	no returns.	996,196,000

In this table the pound sterling is reckoned at five dollars, and the result given in round numbers.

This table shows the work there is for tonnage to do. The increase of business is not based upon population, for the population of these countries has increased but moderately between these dates; but rather based upon the increase of wealth, and that is in almost

arithmetical proportion to the increase of railroads in the several countries.

Now, I come to table No. 3, which is a very interesting table to every American citizen. It is a table exhibiting the Baltic and North sea trade with the United States. It gives our exports to them and our imports from them in American and foreign vessels:

#### BALTIC AND NORTH SEA TRADE.

##### Exports and Imports in American and Foreign Vessels.

	American.	Foreign.
1860.		
Russia.....	\$3,891,834	\$354,122
Prussia.....	186,744	36,461
Sweden and Norway.....	1,191,048	739,884
Denmark.....	2,778	78,855
Hamburg.....	415,701	13,709,364
Bremen.....	1,767,985	17,407,048
Holland.....	3,605,794	3,026,568
Belgium.....	4,677,668	651,498
Total.....	\$15,552,808	\$36,003,803

	American.	Foreign.
1866.		
Russia.....	\$1,048,319	\$2,629,144
Prussia.....	186,744	70,075
Sweden and Norway.....	43,323	537,439
Denmark.....	—	145,887
Hamburg.....	423,691	26,572,799
Bremen.....	1,632,199	23,960,407
Holland.....	991,675	4,193,788
Belgium.....	1,278,177	7,423,038
Total.....	\$5,604,128	\$85,523,577

I can give no later than 1866, because that is the latest published returns, and although I have applied for them, I have been unable to obtain later returns from the Bureau of Statistics. It is believed that the later returns are still worse.

I turn now to table No. 4, exhibiting the trade of the European Atlantic ports:

#### EUROPEAN ATLANTIC PORTS.

##### Exports and Imports in American and Foreign Vessels.

	American.	Foreign.
1860.		
England.....	\$177,858,454	\$142,303,069
Scotland.....	2,609,781	6,864,624
Ireland.....	3,413,883	1,807,429
France.....	90,278,254	7,012,968
Spain.....	1,228,125	451,061
Portugal.....	216,110	197,407
Total.....	\$275,604,607	\$158,636,548

	American.	Foreign.
1866.		
England.....	\$135,003,860	\$388,776,533
Scotland.....	468,341	9,818,915
Ireland.....	249,878	5,798,404
France.....	44,087,633	31,459,494
Spain.....	144,127	2,090,241
Portugal.....	70,059	675,084
Total.....	\$181,023,898	\$438,619,271

I believe the present exhibit would be still worse than that here given, and that now the imports from Europe to New York are nine dollars in foreign vessels to one dollar in American vessels, whereas forty years ago we had nine dollars in American vessels to one dollar in foreign vessels.

I now turn to the Mediterranean trade—the trade "up the Straits," as sailors call it—where we formerly had a class of small vessels of from two to three hundred tons engaged in the fruit trade, just as fine specimens of naval architecture as ever floated on the waters of the ocean. Let me show you the statistics of that trade to-day:

#### MEDITERRANEAN TRADE.

##### Imports and exports in American and foreign vessels.

	American.	Foreign.
1860.		
France.....	\$2,611,499	\$2,365,959
Spain.....	1,792,291	6,005,901
Italy.....	5,623,735	1,183,335
Sicily.....	1,677,696	1,191,121
Austria.....	1,102,236	517,239
Greece.....	—	71,754
Turkey.....	1,311,618	431,713
Total.....	\$14,118,175	\$11,767,942

1866.	American.	Foreign.
France.....	\$2,529,972	\$5,126,495
Spain.....	1,086,877	5,086,510
Italy.....	1,844,183	5,392,674
Sicily.....	733,455	1,109,608
Austria.....	55,363	1,070,123
Greece.....	—	76,576
Turkey.....	289,937	505,153
<b>Total.....</b>	<b>\$6,515,787</b>	<b>\$18,366,960</b>

Those are the three great European trades—a trade now done to some extent in steam. Formerly the Baltic and North Sea trade was against us, because in the Baltic, with their cheap timber and labor, they built vessels as cheaply, or cheaper, than we could do. But the trade of the European Atlantic ports and the Mediterranean trade was in our hands, and now, as you see, it is in the hands of Great Britain.

Let us go further. Here is the East India trade—a trade done exclusively then and now in sail vessels. It is a trade calling for a large amount of tonnage, because it takes vessels nearly two years to make a voyage:

## EAST INDIA TRADE.

<i>Imports and exports in American and foreign vessels.</i>		
1860.	American.	Foreign.
China.....	\$19,909,762	\$827,609
Japan.....	144,947	—
Australia.....	3,674,542	523,844
British East India.....	11,408,997	395,042
<b>Total.....</b>	<b>\$35,138,248</b>	<b>\$1,746,499</b>

1866.	American.	Foreign.
China.....	\$7,030,248	\$11,734,523
Japan.....	838,635	1,449,280
Australia.....	1,698,382	4,776,168
British East India.....	3,586,783	3,176,583
<b>Total.....</b>	<b>\$13,154,048</b>	<b>\$21,136,554</b>

The trade was nearly all formerly in our hands, and now two thirds of it is in British!

Mr. Speaker, let us come a little nearer home. Here is the West India trade—a trade right here, almost within sound of my voice, a trade that we had the whole of, a trade that is as much ours as the coasting trade, if your laws would permit us to do it:

## WEST INDIA TRADE.

<i>Exports and imports in American and foreign vessels.</i>		
1860.	American.	Foreign.
Danish West Indies.....	\$1,276,001	\$143,704
Dutch West Indies.....	668,341	40,968
British West Indies.....	4,824,028	2,335,645
French West Indies.....	419,353	66,517
Cuba.....	43,140,900	2,639,289
Porto Rico.....	4,884,512	1,146,200
San Domingo.....	154,655	284,497
Hayti.....	4,080,924	423,704
<b>Total.....</b>	<b>\$59,448,714</b>	<b>\$7,080,584</b>

1866.	American.	Foreign.
Danish West Indies.....	\$557,843	\$1,047,408
Dutch West Indies.....	149,806	920,549
British West Indies.....	3,666,282	7,259,137
French West Indies.....	343,081	628,182
Cuba.....	31,679,259	21,111,099
Porto Rico.....	4,516,990	4,080,863
San Domingo.....	88,055	35,451
Hayti.....	1,794,074	2,868,356
<b>Total.....</b>	<b>\$42,825,390</b>	<b>\$38,911,045</b>

And this winter I understand the sugars from Havana to New York were brought chiefly in British vessels.

Ay! without regard to race or color, the little island of Hayti, with whom we have diplomatic intercourse, sends her sugar and dye stuffs to us in British bottoms, and we send out to her the products of our great West in British vessels.

Here, again, is the South American trade—a trade that was ours, and one which one

would think we had a continental interest in retaining:

## SOUTH AMERICAN TRADE.

<i>Exports and imports in American and foreign vessels.</i>		
1860.	American.	Foreign.
New Grenada.....	\$5,919,460	\$165,899
Venezuela.....	3,653,609	286,105
Brazil.....	23,674,027	3,436,011
Uruguay.....	1,565,736	24,340
Buenos Ayres.....	4,479,441	270,413
Chili.....	4,706,870	211,267
Peru.....	1,085,282	92,941
<b>Total.....</b>	<b>\$44,464,444</b>	<b>\$4,536,976</b>

1866.	American.	Foreign.
New Grenada.....	\$4,911,956	\$512,358
Venezuela.....	410,209	3,373,084
Brazil.....	4,771,113	17,739,322
Uruguay.....	238,517	1,589,332
Buenos Ayres.....	1,740,275	6,831,963
Chili.....	941,149	1,030,756
Peru.....	781,397	1,170,096
<b>Total.....</b>	<b>\$13,797,706</b>	<b>\$32,247,412</b>

Before the war eleven to one in our favor, and now nearly three to one against us!

So all the great trades of the world are being done by Liverpool and London. They come across the Atlantic, and go to the West Indies, to Mexico, Guatemala, to Rio, around the Horn and up to Valparaiso, bringing the hides and iron and copper and everything else produced by South America away in British bottoms to American ports. And not only that, but they carry away in British bottoms the great annual products of this country, and distribute them among the South American countries.

I said that the figures speak stronger than any language I can use as to the present character of these great trades. I now submit to you that this is a matter not of interest to the coast merely, but to the whole country. Why, sir, the great West wants cheap transportation as much as the sea-board wants to afford it. There is no portion of the remotest State in the West which produces wheat for the market which does not find the price of its products at home measured by the price at Liverpool. And the price in Liverpool is composed of the cost of production, the price of transportation to the sea-board, and the price of transportation across the Atlantic to the market in Europe. And the cost of transportation bears a very large proportion to the cost of the article at the place of sale.

Now, the effect of the present condition of things is, that you exclude from this carrying trade all American competition. You will not allow us to come in and compete for this carrying trade. You say practically to our ship-owners, "Hands off! We want British vessels to come over here and carry these products, and we do not want any American competition in the business!"

I submit to you, sir, that if you will allow the ship-builders and the ship-owners to come in on fair terms they will compete for this transportation and will cheapen it. It cannot be otherwise. It is but a monopoly now, a monopoly made by our laws, in the hands of European merchants and European ship-owners. They have come over here; they have established themselves in New York. To-day the importing merchants of New York are foreigners. They have no interest whatever in your Government; they have no interest in the prosperity of your country. They import these goods and sell them to you. They export the goods you wish to export, and do it in vessels of their own nationality; and when they have accumulated their fortunes they will retire and enjoy them in the countries of their birth. Certainly, in that aspect of the case, this is a matter of national importance, of interest to all sections of this country, and it cannot by any logic or statesmanship be confined to the coast.

Another thought of importance is this: that this freight or cost of transportation is an important matter in making up the balance of

trade. Formerly, when this carrying trade was in our hands, we had the outward freight and the return freight. When we sent abroad our products we not only got pay for the products themselves, but we were also paid for the freight upon them. But now, when we import silks, or iron, or cotton, or woolen, or other goods—as we do now to the extent of \$300,000,000 annually, yes, in one year to the extent of \$500,000,000—we not only pay that \$500,000,000, but the freight on it, which is a very large percentage of the cost, and it all goes abroad together, and the whole sum is necessarily in gold; so that we are sending our gold abroad to pay for the freight on the goods we import; and the freight on the goods we export also goes abroad, and it forms a very large item in making up the balance of trade.

There is another consideration of very considerable importance in an economical point of view. There is in this country but little need for a navy in time of peace if you can so encourage our ship-yards that they can extemporize a navy in time of war. How is it now with us? The ship-yards capable of producing large vessels have gone to decay; the men are discharged and engaged in other pursuits. In the matter of producing vessels, either in the navy-yards or the commercial ship-yards of the country, we have nothing on this continent to compare with Europe. It is easy for us to boast—and we are accustomed to do it—about our Navy and our facilities for building ships; but what are the facts? Why, sir, the Millwall Dockyard Company on the Thames, in the neighborhood of London, a mere private enterprise, is capable to-day of producing more ships than any navy-yard in this country. It is so complete an establishment that it can take in the pig iron and the bar iron and out of them produce an iron-clad ship of war, every part and parcel of her, including, I think, even her armament. That establishment, with its erections, occupies fifteen acres, and it is rivaled by other establishments producing such immense ships as the Great Eastern, of twenty-three thousand tons burden, and those great iron-clad steamships of the British navy.

Such are the vessels produced in the private dockyards of England. Then there is Laird's great establishment at Birkenhead, where have been produced the Alabama and several of the large steamships of war now in the British navy. Then, again, the Clyde steamers are famous the world over. We have them plying to and from almost every seaport on the Atlantic coast. We have not only given up producing steamships in this country, but we hail with joy the enterprise of a foreigner if he will but introduce a steamship line anywhere upon this coast. The large city of Baltimore, with two hundred and fifty thousand inhabitants, celebrated in former days for its tonnage, producing that remarkable specimen of naval architecture formerly known as the Baltimore clipper, has to-day not only given up its efforts at foreign commerce, but celebrated a gala day a short time since, the day on which a Clyde steamer arrived in the harbor, as a precursor of a line established there to do the business of importing and exporting such goods as Baltimore might desire to buy or to send abroad. The citizens turned out in the street and welcomed the first arrival of steamers that the enterprising Liverpool firm had concluded to send to that imbecile port. They were as glad as Hong Kong might be at the arrival of the Pacific mail steamers first ship! That is the condition to which the great city of Baltimore is reduced to-day; and it is but a specimen of the position of the other cities of this continent. From the port of New York there sails on an average one sea-going steamship every day, built in Europe, and no one of them flies at her masthead the stars and stripes as her national emblem. The last of our American line, the Fulton and the Arago, were sold at auction the other day in New York, to be hustled off and broken up as old iron. In the place of those vessels we have from foreign ship yards magnificent specimens of naval

architecture sailing every day into and out of the port of New York, plying between that city and Liverpool, Queenstown, Southampton, Havre; and other European ports, every one of them under a foreign flag; and when any of our gentlemen tourists go abroad for pleasure, as many thousands of them do annually, they go under the foreign flag of course!

Well, sir, this was not so formerly. It should not be so now. Let me tell you what the Congress of the United States did at its very first session—that famous Congress which, as was claimed in the Senate, settled the question of the division of powers in this great Government. The very first public act of that Congress was an act embracing the protection of our shipping. Act No. 1 on our statute-book relates simply to oaths of officers. Act No. 2 is a tariff act, and, among other things, protects American shipping.

The act of August 10, 1790, provided that the tariff on all articles imported in American vessels shall be less than if imported in foreign vessels. The great East India trade that I have spoken of we determined to have in our hands. It was provided that the tax upon tea in American vessels should be six cents per pound, and in foreign vessels fifteen cents per pound. That was on Bohea tea. On other teas it was still more. On Hyson it was twenty cents per pound in American vessels, and forty-five cents in foreign vessels, making a protection of twenty-five cents per pound on tea in favor of American shipping.

On all other goods from China and India twelve and a half per cent. was afforded to American vessels in the way of protection; and on other articles from other countries there was a protection of five, seven and a half, ten, and fifteen per cent. in our favor, discriminating in the articles and the ports from which they came.

Mr. Speaker, that is the way we began in this Government, and as a consequence we raised our tonnage from two hundred thousand tons up, in the first twenty years of our existence, over one million four hundred thousand tons. After we began to get a respectable tonnage we commenced to discriminate with Great Britain and there was a war of statutes. We have upon our statute-books laws in favor of the various trades of the country. We determined to have those trades, the West India trade, the colonial trade, and the trade with Great Britain. During one period the statutes were so severe that we could not enter Nova Scotia to bring out merchandise from there, and we would not allow Nova Scotians to come in and take our articles. We could not import at all from Nova Scotia, and vessels in my neighborhood were obliged to meet on the line and clandestinely transfer the cargo from one vessel to the other. Such was the protection that Congress afforded in the early days to our shipping interest.

Now, sir, they did more than that. The very third act of Congress was an act expressly for the protection of our shipping and nothing else. The law of July 20, 1790, declared that on American vessels the tonnage tax should be six cents per ton and on foreign vessels the tonnage tax should be fifty cents per ton, making a very material difference.

This tonnage tax, after a series of years, was finally abolished, and we were free of it up to the time of our late war. At the time of our war we had a tax put upon our tonnage of ten cents.

A MEMBER. By what acts?

Mr. PIKE. By the act of 14th July, 1862, a tonnage duty of ten cents per ton, which was subsequently increased to thirty cents, and to-day it stands as an anomaly upon the statute-books of the country that you tax your own shipping interest at the rate of thirty cents per ton.

I ask you to consider for a moment how this tax upon our tonnage bears upon the shipping interests of the country. I have a letter from a constituent of mine, living in one of the small towns where the people get a living by going to sea, in which he says that in his town

forty vessels are owned, only two of which are fit to stand the inclement seas of winter and the others have to lay up in that season, being able only to go to sea in the pleasant summer months of the year. They follow the coasting trade, and participate in it for about six months of the year. They are taxed thirty cents per ton. He tells me that amount is in many instances three per cent. annually on a market valuation!

When I proposed to tax the property in our national bonds one per cent. annually. I was listened to by some who heard me with a kind of holy horror! The modest tax of one per cent. was called repudiation, but to tax poor humble men in my district three per cent. annually of the gross value of their property is all right!

That is the way in which Congress now protects the commerce and the shipping interests of this country. That is the way in which you tax the property of poor men who are dependent upon it for their livelihood. That is the way you tax them, while you relieve cotton from tax, and when you relieve the rich manufacturers of the country from \$80,000,000 of tax; while you do this for the rich manufacturers, you impose heavy taxes upon the humble men who bear your flag upon the high seas as far as they are able to go.

-And now I come to the reasons for the decline in our shipping. It is very easy to say that it has been occasioned by the war. The war stimulated our manufactures.

Mr. MYERS. If the gentleman will allow me, I do not know that I disagree with him in what he has said, but I do not like one of his arguments. Does he mean to tell this House and the country that the relief we have given from taxation is simply to certain rich manufacturers, and not to the laborers whom they employ throughout the whole country? If not why does he use such an unnecessary argument here in behalf of a just bill?

Mr. PIKE. I made a statement that cannot be contradicted, that we relieved from taxation the rich manufacturers of the country. It cannot be denied that we have failed to relieve the humble interests of the country that I have described. I know the argument of the gentleman from Pennsylvania, [Mr. MYERS.] It is familiar to me from my boyhood. It is that the incidental benefits that accrue to the manufacturer reach the employé. I have used that kind of argument ever since I learned to talk in public. I was a protectionist in my day, and I argued that in protecting the manufacturer we protected the employés; that manufacturing establishments would draw around them operatives who would receive the drizzle of protection that filtered through their employers. I am not so thoroughly imbued with the justice of that idea as I used to be.

I have come to the conclusion that the laws of the country need some reforming in this respect, and instead of going for a higher tariff I regard it as the interest of this country, all parts of it, that there should be a reasonable tariff, founded on reasonable principles.

Mr. PILE. With the permission of the gentleman from Maine, I desire to say that we at the West always entertained the doctrine which I understand him now to maintain on the subject of the tariff.

Mr. PIKE. I return to the question of the reason for the decline of American shipping. It has been the custom to say with great flippancy that American shipping has declined only because of the war. But, sir, the war quickened all the industrial interests of this country. It quickened manufactures, agriculture, and trade. Why did it injure commerce? Foreign pirates were let loose to prey upon our commerce. They seized our unprotected merchantmen on the ocean and confiscated them. The result was that few of our vessels would sail on the ocean for fear of being taken by pirates, and few sea-going vessels were built.

This was a serious loss. While benefiting the other great industries of the country it was hard that those who engaged in commerce

should be almost the only sufferers pecuniarily by the war. But great as it was it ended with the war. We lost some six or seven hundred thousand tons destroyed or sold abroad. We can easily replace it. Our ship-builders can replace it in a single year if you by your congressional laws will permit them to do it.

Steam is another reason given. It is said that the commerce of the world is changing into steam, and that consequently sail vessels do not bear the proportion and do the business that they did formerly. How is that? Why, of the whole tonnage of Great Britain, of the whole seven millions of tons they have but little rising half a million tons of steam tonnage. Of the great trades I have enumerated but one, the European-Atlantic trade, is done with steam. The great East India trade, the West India trade, the South American trade, the North Baltic trade, and the Mediterranean trade is done to-day, as it has always been done, with sail vessels. The only difference is that those sail vessels are owned in Liverpool instead of in this country, and carry at their masts-head the cross of St. George instead of the stars and stripes.

There is another reason, and that is your tariff. Under the operation of your tariff as it is enforced to-day it costs two dollars to build a vessel in an American port for every dollar which it costs in an English port. It costs \$100,000 to set afloat a ship of one thousand tons built in New York, and \$50,000 to set her afloat in St. John. Then, sir, there is another reason. This matter of tonnage is evanescent. The life of a vessel is but ten years on the average, and if we stop building for ten years our tonnage will run out. You must renew ten per cent. every year if you would keep your stock good. If Great Britain does not build seven hundred thousand tons a year she loses tonnage. If we, with our little tonnage, do not continue to build three hundred and fifty thousand tons a year we decline. We must build year by year or else shipwrecks and wear and tear will drive our vessels from the ocean.

Well, now, there is a way, and but one way, by which these two ideas of a protective tariff and a prosperous shipping interest may be reconciled. Continue to protect your manufactures; I have constantly voted for them; but give to your shipping the protection that Great Britain, under her protective policy, always gave to her shipping. The subtle idea of protection underlying British laws was to import the raw material free. And to-day, in Great Britain, not one dollar is paid on the material used in the construction of vessels, and never has been, and in that way they have grown up a tonnage of seven millions.

Mr. MILLER. Mr. Speaker, I desire to ask the honorable gentleman from Maine [Mr. PIKE] a question, and that is, that I hope the House is not to understand from his remarks that he is advocating "free trade." I should regret if my friend should go over to that party and advocate a system that is detrimental to American interest.

Mr. PIKE. I hope I have stated my position so clearly that there is no misunderstanding it. I constantly vote for tariffs—I do not advocate free trade—but we must have the articles that enter into ship-building free of duty or we cannot build ships. If it is an object to have ships built in this country you must allow the ship-builders to have their materials free of duty.

This is no new principle on our statute-book. We have had drawbacks ever since we had tariffs. Whenever we have exported an article of American manufacture where there was an American tax on it we have had a drawback on that article, as to-day we have upon the article of whisky and all the various articles covered by our internal tax law. Now, a ship is constantly exported, and on that principle is entitled to drawback. She goes abroad in competition with foreign vessels. She gets the same freights as Liverpool vessels, pays the same tonnage dues, the same port charges and



insurance, and is in every way on a par with her.

Why, Mr. Speaker, the policy I propose costs the Government nothing; it costs the manufacturing interests nothing. If this policy is not adopted we cannot build vessels, and consequently manufacturers cannot sell their articles to us. If you adopt this idea—which is the idea that prevails in other countries—then we can build vessels, then you can establish branches of trade, and in this way indirectly we shall assist manufacturers.

But, sir, further, in Canada, the very first thing done when the Parliament of the New Dominion came together—governing just about the same number of inhabitants that this Congress governed in 1790—the very first thing it did was to enter upon a career of protection to ship-building. It provided that every article entering into the construction of vessels, and every article used on board a vessel, should be free of duty. Under that law, in two decades, if not in one, that little Government of three million people will outstrip this great Government of forty millions upon the high seas if we continue acting under our present laws.

Mr. ELDRIDGE. Will the gentleman from Maine allow me to make an inquiry?

Mr. PIKE. Yes, sir.

Mr. ELDRIDGE. I understand him to be talking very much like a Western man this morning.

Mr. PIKE. I do not want any comments upon my speech now.

Mr. ELDRIDGE. I wish to make an inquiry of the gentleman.

Mr. PIKE. Very well.

Mr. ELDRIDGE. If free trade is good for the people of New England, who are engaged in building ships, why is it not good for the laboring masses of the West in procuring the necessities of life, those articles upon which they live, with which they clothe themselves, &c.?

Mr. PIKE. I do not propose to go into a discussion of the tariff now; I have not the time for it. When he asks for a drawback on western productions shipped abroad I shall assist him.

Let me resume my argument. The remedy for the state of things I have described will not be found in purchasing vessels. This country cannot stand, any more than any other commercial country, the free importation of vessels, and for the reason that your merchants do not own your ships. The men who build the ships, who create them, are they who own them. If you import ships free of duty you can import them only through the means of capitalists. If you create them it will be by the labor of your own citizens. My district is by no means wealthy, but it has been for a long time the largest ship-owning district in the country, because it is a ship-building district.

Now, we are no exception, in this respect, to the whole line of history. Commercial powers have arisen and fallen ever since the Phœnicians were the leading commercial Power of the globe, and every nation that could build ships better than other nations has, in its turn, been the leading commercial Power of the world. We know that the Phœnicians built their own ships, getting their wood from Mount Libanus, and it was because they could build them that they so long maintained their commercial supremacy. Venice, on the shores of Italy, built her own ships. Carthage did the same; Portugal and Spain took up the scepter in their turn; then the Dutchman came in, building vessels cheaper than any other country, and created a mercantile navy that, in the day their proud Admiral Van Tromp, expressed its strength by the emblem of a broom at the mast-head, to sweep from the sea all opposition.

We know that that supremacy was transferred from the Dutch to the English, and there, with varying fortunes, it remains until this day, so far predominating that no nation in the world approximates to them. And although for a time there was a formidable

rival here upon the American continent, yet now, in the very meridian of our strength, we give up the contest. After ninety years, and with a population of forty millions, we have culminated and grown old as to this branch of power, and no longer contest for the supremacy of the sea.

Mr. KELLEY. Will the gentleman allow me to ask him a single question?

Mr. PIKE. Very well.

Mr. KELLEY. I desire to inquire whether history does not prove that every nation, from Phœnicia down through the Hanseatic League to England, has not arisen by means of commercial supremacy and dependence upon trade, but rather from the development of agriculture and the material resources of the country, and its decline has dated from the establishment of its commercial ascendancy?

Mr. PIKE. Nations rise and fall, and there have been various reasons for it. I would commend the gentleman to the work of that learned historian, Gibbon, who has set forth at some length the reason for the decline and fall of the Roman empire. [Laughter.]

My argument was this: that in the meridian of our power, while with a strong arm we were striking out to the right and the left, while we were leading the nations of the world in agriculture and manufactures, and all the processes of civil life—ay, in military life, if we were called upon to try it—at this time we have begun to grow old, are willing to surrender all effort to obtain the control of the seas, and are willing to rest simply upon our national boast that when the time comes we can extemporize a Navy and build up a commerce.

I have shown by these tables that the British Government, through the subtle effect of wise laws, has been stealing away from us our wealth upon the seas.

Why, sir, I have here in my hand a letter sent to me by a sea captain in my district. He says:

"I have just received a letter from my London correspondent, dated December 30. It writes me: 'The prospect looks fair for British ship-owners. As long as your absurd navigation laws last we are not likely to have much competition from your flag.'"

That is the comment of a London ship-owner. I might go still further, and exhibit, in detail, the reasons I have but indicated generally. As to the matter of the tariff, I say there is no conflict between the tariff on the one side and commerce on the other if we will but act reasonably. With a wise administration of our laws we may cultivate our domestic interests, and our manufactures and commerce may go along hand in hand, *pari passu*; for commerce is the handmaid of manufactures and agriculture.

[Here the hammer fell.]

Mr. BLAINE. I hope that, by unanimous consent my colleague [Mr. Pike] will be allowed to conclude his remarks.

The SPEAKER. If there be no objection the gentleman will proceed.

There was no objection.

Mr. PIKE. I thank the House for its courtesy, and shall say but a word more.

I was remarking, Mr. Speaker, that commerce is the handmaid of manufactures and agriculture. France is and has been for a series of years a great manufacturing country. The exports and imports of France are nearly \$1,500,000,000. We annually send to that country large sums for the very excellent manufactures which we cannot as yet produce here. But France is not a commercial country. She never has been and she never will be, because she cannot build ships to compete with England or with us. We are come to be a great manufacturing country because our laws protect manufactures. We are a great agricultural country by force of our position, our climate, the fertility of our land. Thus we supply the material for the largest commerce that ever existed in the world. There is no need of sacrificing one dollar of the interests of either manufactures or agriculture, because without the great productions of

manufactures and agriculture we have no business for ships. With them, if you will but allow us, we will furnish the vessels, we will create the commerce upon the seas, we will make the ship-yards upon the coast that shall year by year enlarge themselves so that you may rest upon them securely in time of war, for then they can extemporize such a navy as shall be sufficient not only to protect your domestic interests but to bear your flag aloft in triumph in any foreign encounter. But unless you do all this our commerce will continue to decline until it fades into utter insignificance.

Mr. MYERS. Mr. Speaker, as the gentleman's time has been extended, I trust he will now yield to me for a few moments.

Mr. PIKE. I will.

Mr. MYERS. I do not care to discuss with the gentleman any of the propositions he has set forth. I have been listening for a long time to hear the gentleman speak upon the subject under discussion. Thus far, I presume the House has not been able to agree or to disagree with the gentleman. He has stated most elaborately and most handsomely a number of very good propositions; but I have not been altogether successful in my effort to see what he has been endeavoring to get at. There is, however, one remark of the gentleman which I wish to notice. In expounding one of his propositions he took occasion to say that this Congress had relieved the manufacturing interests—"the rich manufacturers of the country." I merely desire to say that I am here as a representative of the people, not of any special class of the community. I am in favor of imposing taxes where taxes should be imposed, and in favor of relieving taxes where relief should be given, no matter what branch of industry or what section of the country may be affected. We have relieved manufactures from taxation; but doing this, we can yet be in favor of the commercial interests of the country. In my own city there is, I know, much regret on account of the decline of commerce there; but while seeking to promote commerce we are not to refrain from giving relief in other directions.

My chief objection was to the manner in which the gentleman from Maine stated his proposition. Let me say to him that since the passage of the act taking off what is commonly known as "the five per cent. tax" a single manufacturing firm in my district had added two hundred to the men employed by it. So it will be with manufacturing establishments all over the country. I think it should not be assumed that our minds are so narrow, our capacities so limited, that we cannot legislate on all subjects coming before us. Thus far I have voted with the gentleman from Maine, and if he ever comes to a point I may vote with him again; and this much, sir, I have desired to say in justice to myself.

When I said that the gentleman was afraid to allow me to interrupt him I meant simply what the words imported, that is, that he seemed to be afraid of discussion. I am sure, from the gentleman's general good nature and from his pronounced ability, that he is not afraid of discussion, and I am glad that at last he has given me a moment of time to again say that I do not like the kind of assertion that he has made in his argument. His speech would have been a good one without it, and for one I was not willing to sit still and have it go to the country that our action was to relieve the rich at the expense of the poor. His case may be a good one, and I may vote for it, but I take exception to his assertion in respect to our action, the accuracy of which I utterly deny.

Mr. PIKE. I wish to say only one word in reply. In the heat of the moment I made a reply to the gentleman which I hope will not go into the Globe. I have had the most kindly relations with the gentleman from Pennsylvania, and I do not wish them broken. I apologize for the remark and beg pardon of the House for having used any expression which was not strictly proper.

The SPEAKER. The Chair did not hear the remark of the gentleman from Maine.

Mr. PIKE. I am glad of it.

Now, Mr. Speaker, I do not wish to antagonize the great shipping and commercial interests of the country with our great manufacturing interests, and I hope the gentlemen who particularly represent the manufacturing interests of the country will not consider me as wishing to do it. The remark I made was in relation to rich manufacturers. I am aware that there are poor manufacturers who also have been benefited by the abolition of the tax. I voted for the removal of the tax, and I do not wish to take that vote back or in any way to bring our great interests into conflict. I hope that the manufacturing interests, whose protection has been coeval with the Government itself, will now, in the plenitude of their power and affluence, aid to lighten the load which presses so heavily upon the shipping interests.

Mr. KELLEY. I ask the gentleman to yield to me for a moment. I am one who has identified himself somewhat with the manufacturing interests of the country.

Mr. PIKE. I am trespassing upon the time of the House myself, but I will yield to the gentleman, if there be no objection.

Mr. KELLEY. The gentleman from Maine suggested that he did not desire to antagonize the great interest he is representing with that of manufactures. I wish, as one who has identified himself somewhat with the manufacturing interest, to say that I indorse most heartily the great idea of his speech, and that I hope this Congress will not rise until it has repealed the tax upon the tonnage of the country carrying between home ports and adopted some of the wise provisions given to the English law by the Yankee boy who, having graduated in Harvard's first class, is known in history as Sir George Downing, the author of the navigation act and the wise promoter of the commercial navy of England. There is, and there can be, no controversy between commerce and manufacture in a well-governed nation. In such a country they are, like loving sisters, handmaiden to each other. That State which creates its commerce by developing its resources and promoting its manufactures may maintain its commercial rank eternally, if it endure forever; but the State which, having achieved commercial greatness or supremacy, sacrifices, as England is now doing, its mines and its manufactures to its carrying trade, must illustrate history's inevitable law that a nation lives by the products of its land yielded to the labor of its people and not by trade alone. In so far only I meant to qualify the gentleman's remarks, but not otherwise to dissent from them.

Mr. PILE. I ask the gentleman to yield to me.

Mr. ROBINSON. I rise to a point of order. The gentleman from Maine is now speaking with the consent of the House, his time having been extended to enable him to finish his speech. I do not object to his yielding to the gentleman from Missouri, but I will to his yielding further. I make the point he cannot yield.

The SPEAKER. The Chair is of the same opinion. The extension was simply given to the gentleman from Maine to close his remarks.

Mr. PILE. I only desire to say, with the permission of the House, that I did not understand the gentleman from Maine, [Mr. PIKE,] in saying that he had changed his opinion on the subject of the tariff, to mean that he was in favor of free trade, but only that he had changed his opinion as to the propriety of the very high prohibitory tariff that was generally advocated in New England some years ago. And, in welcoming the gentleman to the western platform on the subject of the tariff, I do not wish to be understood as indorsing the statement of the gentleman from Wisconsin [Mr. ELDRIDGE] that the West is in favor of free trade. As I understand the sentiment of

the West, at least that portion that I represent, they are in favor of reasonable protection to our manufacturing interests and a tariff for revenue, and are not in favor of a "high prohibitory duty," oppressive to the consumer and enriching the producer.

Mr. BANKS. Mr. Speaker—

Mr. PIKE. I hope that all discussion of this resolution will be ended now.

Mr. HARDING. Mr. Speaker—

The SPEAKER. The gentleman from New York [Mr. ROBINSON] having made the point of order at the conclusion of the remarks of the gentleman from Missouri, [Mr. PILE,] the Chair rules that debate has closed.

Mr. HARDING. I hope that the debate will not be all *ex parte*.

The SPEAKER. Debate is exhausted.

\*The pending question is on the amendment of the gentleman from Ohio, [Mr. SPALDING.]

The amendment of Mr. SPALDING was reported, as follows:

Strike out the concluding words and insert the words "including in existing treaties;" so that the resolution will read:

That the President be requested to send a sufficient number of vessels of war to the fishing grounds in the Gulf of St. Lawrence, adjacent to the British Provinces, for the purpose of protecting American vessels in the exercise of their rights as indicated in existing treaties.

The amendment was agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PIKE. I move the previous question on the passage.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays on the passage.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 92, nays 39, not voting 58; as follows:

YEAS—Messrs. Ames, Anderson, Archer, Arnell, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Beck, Benton, Blaine, Boutwell, Butler, Cary, Chanler, Churchill, Sidney Clarke, Cobb, Coburn, Donnelly, Eln, Eliot, Ferriss, Ferry, Fields, Garfield, Getz, Halsey, Higby, Hill, Holman, Hotchkiss, Chester D. Hubbard, Hulburt, Jencakes, Johnson, Julian, Kelley, Kelsey, Kerr, Kitchen, Lufkin, William Lawrence, Lincoln, Longbridge, Mallory, Marvin, Maynard, McCarthy, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Mungen, Myers, Niblack, O'Neill, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Price, Randall, Robinson, Sawyer, Sitgreaves, Smith, Spalding, Aaron F. Stevens, Stewart, Stokes, Taber, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Burt Van Horn, Van Wyck, Ward, Henry D. Washburn, Woodbridge, and Woodward—92.

NAYS—Messrs. Allison, Baker, Benjamin, Blair, Buckland, Reader W. Clarke, Cullom, Driggs, Eckley, Eggleston, Eldridge, Farnsworth, Golladay, Gravely, Grover, Harding, Hopkins, Humphrey, Hunter, Judd, Knott, George V. Lawrence, Loan, Marshall, McCormick, Morgan, Newcomb, Nunn, Orth, Ross, Scofield, Shanks, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Welker, William Williams, James F. Wilson, and Windom—39.

NOT VOTING—Messrs. Adams, Delos R. Ashley, Axtell, Barnes, Barnum, Bingham, Boyer, Bromwell, Brooks, Broomall, Burr, Cake, Cook, Cornell, Covode, Dawes, Dixon, Dodge, Finney, Fox, Glossbrenner, Griswold, Haight, Hawkins, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Ingersoll, Jones, Ketcham, Kootz, Logan, Lynch, McClurg, McCullough, Morrissey, Nicholson, Phelps, Polsley, Pomeroy, Pruyn, Raum, Robertson, Schenck, Selye, Shalabarger, Starkweather, Thaddeus Stevens, Stone, Taffe, Lawrence S. Trimble, Van Auken, Robert T. Van Horn, William B. Washburn, Thomas Williams, John T. Wilson, Stephen F. Wilson, and Wood—58.

So the joint resolution was passed.

Mr. PIKE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EXCUSE FROM SERVICE ON A COMMITTEE.

Mr. GRISWOLD. Mr. Speaker, I desire to be relieved from service on the special committee of investigation of charges against the gentleman from Minnesota, [Mr. DONNELLY.] My duties on the Committee of Ways and Means render it utterly impossible to devote

any time to any other committee. The Committee of Ways and Means are in session during the entire day.

No objection being made, the gentleman was accordingly excused from service.

IMPEACHMENT OF THE PRESIDENT.

Mr. ROBINSON. I rise to offer a resolution which I believe the Chair will rule to be in order at this time.

The SPEAKER. It is not in order unless it is a question of privilege.

Mr. ROBINSON. I present it as a question of privilege connected with the impeachment.

The SPEAKER. Then the resolution will be read.

The Clerk read the resolution, as follows:

*Resolved*, That the resolution adopted by this House on the 24th day of February, 1868, in the following words, to wit:

*Resolved*, That Andrew Johnson, President of the United States, be impeached of high crimes and misdemeanors in office—

Be, and the same hereby is ordered to be expunged from the Journals of the House, because the passage of said resolution was strictly a party measure, of evil example, and was adopted at a time and under circumstances to endanger the political rights and to injure the pecuniary interests of the people of the United States, and that the Secretary of the House, at such time as the House may appoint, shall bring the manuscript Journal of the session of 1867-68 into the House, and in the presence of the House, draw black lines round the said resolution and write across the face thereof, in strong letters, the following words, "Expunged by order of the House this day of \_\_\_\_\_, in the year of our Lord 186—."

*Resolved*, That a copy of these resolutions, with a fac simile of said impeachment resolution so expunged thereon, be engrossed and framed, and a copy thereof presented to Andrew Johnson, and to each of his living lineal descendants, and also one copy to each public library or reading room in the United States.

[Laughter.]

The SPEAKER. This is not, in the opinion of the Chair, a question of privilege. In the first place, it directs "the Secretary of the House," and there is no such officer. But it is not a question of privilege even if it were correctly drafted. The Journal of each day is read and approved, or else by unanimous consent it is received, which is the same as if it had been approved. This resolution proposes to amend the Journal. It is not a privileged question, for the privilege to amend the Journal ceases with the expiration of the day after the Journal is made up. It can be done by suspending the rules.

Mr. ROBINSON. Allow me to suggest that I meant the "Clerk" instead of the "Secretary."

The SPEAKER. The Chair rules that even if the resolution were correctly drafted it would not be a question of privilege. It is a resolution which the House might adopt if it saw fit to do so when regularly in order.

Mr. ROBINSON. I shall bring it up again, and it will be adopted either by this House or in the next Congress. It is a mere matter of time.

PUBLIC LANDS.

The SPEAKER. The regular order of business is the consideration of the bill (H. R. No. 370) to prevent the further sale of the public lands of the United States except as provided for in the preemption and homestead laws, and the laws for disposing of town sites and mineral lands, upon which the gentleman from Michigan [Mr. DRIGGS] is entitled to the floor.

Mr. DRIGGS. I yield for a few moments to gentlemen who desire to introduce bills and resolutions.

Mr. RANDALL. Can the gentleman yield for any business except what is in order?

The SPEAKER. The gentleman can yield, but unanimous consent has to be asked.

Mr. DRIGGS. I cannot yield for anything that gives rise to debate.

IRRIGATION, ETC., OF PUBLIC LANDS.

Mr. DODGE, by unanimous consent, submitted the following resolution:

*Resolved*, That the Commissioner of the General Land Office be directed to furnish this House with copies of the correspondence he has opened with a

view to procure information as to the most approved method of irrigation, and also to obtain data illustrative of the natural history and industrial and commercial capacities of the public lands.

Mr. BENJAMIN. That resolution should be addressed to the Secretary of the Interior, I apprehend.

The SPEAKER. It should be.

Mr. DODGE. I will modify it in that way. The resolution, as modified, was agreed to.

#### PHILADELPHIA AND EUROPEAN STEAMLINE.

Mr. MYERS, by unanimous consent, introduced a bill (H. R. No. 1040) to provide for an American line of mail and passenger steamships between Philadelphia and one or more European ports; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. WASHBURN, of Illinois. I move to reconsider the vote by which this bill was referred; and I move, also, to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### CROSS-LEDGE LIGHT-HOUSE.

Mr. O'NEILL. I have been instructed by the Committee on Commerce to move that that committee be discharged from the further consideration of a communication from the Secretary of the Treasury, transmitting reports of the Light-House Board, relative to the erection of a permanent light-house at Cross-Ledge shoal, in Delaware bay, and that the same be referred to the Committee on Appropriations.

The motion was agreed to.

#### ORRVILLE AND VIRGINIA CITY RAILROAD.

Mr. HIGBY, by unanimous consent, presented resolutions of the Legislature of the State of California, asking aid to build a railroad from Orville, in California, to Virginia City, in the State of Nevada; which was referred to the Committee on the Public Lands.

#### SAN DIEGO AND GILA RAILROAD.

Mr. HIGBY, by unanimous consent, also presented resolutions of the Legislature of the State of California, asking aid to build a railroad from San Diego, in California, to the Gila river; which was referred to the Committee on the Pacific Railroad.

#### WAGON-ROADS IN CALIFORNIA.

Mr. HIGBY, by unanimous consent, also presented resolutions of the Legislature of the State of California, asking Congress to donate lands to build wagon-roads in the counties of Humboldt and Trinity, in California; which was referred to the Committee on the Public Lands.

#### SOUTHERN PACIFIC RAILROAD.

Mr. HIGBY, by unanimous consent, also presented resolutions of the Legislature of the State of California, asking Government aid to construct the Southern Pacific railroad; which was referred to the Committee on the Pacific Railroad.

#### WATCHMEN FOR PUBLIC GROUNDS, ETC.

Mr. SHANKS. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved*, That the Committee on Public Buildings and Grounds be hereby instructed to inquire into the expediency of providing by law for organizing under the engineer department, instead of any and all laws now authorizing the employment of watchmen for public buildings and grounds, a corps of fifty, more or less, as may be necessary, maimed, wounded, or disabled Union soldiers of the late war, who have been honorably discharged from the military service, who shall act as watchmen in the grounds of the Capitol, Executive Mansion, Smithsonian Institute, Botanic Garden, Agricultural Department, Washington monument, La Fayette square, Franklin square, Lincoln square, Circle, and such other grounds and buildings as need protection.

Mr. RANDALL. I object. It proposes an additional expenditure.

#### WALLA-WALLA AND COLUMBIA RAILROAD.

Mr. FLANDERS, by unanimous consent, introduced a bill (H. R. No. 1041) granting the right of way to the Walla-Walla and Columbia River Railroad Company, and for other

purposes; which was read a first and second time.

Mr. FLANDERS. I move that the bill be referred to the Committee on the Territories.

Mr. JULIAN. I move to amend the motion so as to have the bill referred to the Committee on the Public Lands.

Mr. FLANDERS. This bill does not call for a grant of public lands, only for the right of way through the public lands. There is no donation of land asked for by the bill.

Mr. JULIAN. The principle is the same.

Mr. FLANDERS. There is one other matter embraced in the bill, else I would not object to its going to the Committee on the Public Lands. This bill asks that the county commissioners of the county of Walla-Walla be authorized to subscribe a certain amount of stock in that railroad. The Legislature of the Territory does not meet again for two years; and as the county of Walla-Walla proposes to take a certain amount of stock in that road, and cannot do it under any law now existing, although the company is incorporated, they ask Congress to authorize the county commissioners to subscribe a certain amount of stock toward building the road. For that reason, and that only, I ask that the bill may go to the Committee on the Territories. There is no land asked for by the bill except a strip fifty or a hundred feet wide for the right of way, and that does not pass over the public lands for more than five miles.

Mr. JULIAN. I will withdraw my amendment.

The motion to refer to the Committee on the Territories was then agreed to.

Mr. FLANDERS, by unanimous consent, also introduced a bill (H. R. No. 1042) to aid in the construction of a railroad from Walla-Walla to the Columbia river; which was read a first and second time.

Mr. FLANDERS. I move that the bill be referred to the Committee on the Pacific Railroad.

Mr. JULIAN. I move to amend so as to refer the bill to the Committee on the Public Lands.

Mr. FLANDERS. I would prefer that the bill should go to the Committee on the Pacific Railroad. It properly belongs there, and I hope the House will so refer it.

The amendment of Mr. JULIAN was agreed to, and the motion, as amended, was then agreed to.

The bill was accordingly referred to the Committee on the Public Lands.

Mr. FLANDERS. I move that the bill be printed.

The motion was agreed to.

Mr. UPSON. I move that the various votes referring bills, &c., be reconsidered; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### POST ROADS IN MARYLAND.

Mr. STONE, by unanimous consent, introduced a bill (H. R. No. 1043) to establish certain post roads in Howard, Anne Arundel, and Calvert counties, in the State of Maryland; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### COMMITTEE APPOINTMENTS.

The SPEAKER announced that he had appointed Messrs. JENCKES and POMEROY to fill the vacancies occasioned by the resignation of Messrs. BANKS and GRISWOLD upon the committee to investigate charges against Mr. DONNELLY.

#### SALE OF PUBLIC LANDS.

The House resumed as the regular order the consideration of the bill (H. R. No. 370) to prevent the further sale of the public lands of the United States except as provided for in the preemption and homestead laws and the laws for disposing of town sites and mineral lands, on which Mr. DRIGGS was entitled to the floor.

Mr. RANDALL. I desire to inquire of the Chair whether it is expected that this subject will occupy the rest of the day?

The SPEAKER. The Chair is apprised of five gentlemen who desire to speak upon it, but is not aware what course the gentleman from Indiana, [Mr. JULIAN,] who has charge of the bill, has determined upon.

Mr. JULIAN. I will say that there is no probability that the discussion upon this bill will be closed to-day.

Mr. DRIGGS. Mr. Speaker, the bill under consideration is simply a proposition in substance to withdraw from sale all the public lands of the United States. If my health will permit I propose to discuss this subject and to show why its provisions should not extend to the lumber and mineral regions of the country. Representing, as I do, a very extensive and comparatively new district, with hundreds of miles of forests of pine and other valuable timber, and my constituents being largely engaged in manufacturing lumber, I feel it a duty to them that I should state to the House the reasons why I think this bill ought not to pass, at least without an amendment or provision excepting northern Michigan from the effects of its operations.

It is simply a proposition to prevent any further cash sales of the public domain, but leaving the lands as formerly subject to entry by land warrants, land scrip, and under the homestead and preemption laws. These laws were resigned by Congress to secure "homes for the homeless and lands for the landless;" and they doubtless have, and will continue to fill, the good intentions of their authors in the agricultural sections of the country. But I can assure the members of this House that they do not work so well in the timber regions. The homestead law grants a patent after an occupancy of, or residence upon, the land of five years, or allows the occupant to pay for the land after a residence upon it of six months, and making proof as to improvements. This law also provides that an absence from the land of over six months at any one time shall work a forfeiture. Now, it frequently happens that persons who wish to secure one hundred and sixty acres, valuable only for timber, will enter the same, pay the ten dollars to Government, and two dollars fees, making twelve dollars, then leave the land for six months till the lumbering season comes on, when they will either remove the timber or sell it to other parties who will do it, and then abandon the land. It is true the law does not allow them to do this, or to cut or use any more timber than is necessary to fence, erect buildings, and improve the land, until the expiration of the five years; but in those distant, wild forests it is next to impossible to prevent it.

Now, Mr. Speaker, I will go as far as any gentleman in this House to protect the public domain from the hands of the grasping speculator and land monopolist, and to preserve it forever for the poor landless emigrant, or citizen who wants to secure a home, and who, in good faith, desires to live on and improve the lands he enters; but, while I would do this, I would be very careful not to ruin the vast lumber interest of the country, and not to open the door wider for the commission of the frauds to which I have alluded, by having the prohibitory provisions of this bill applied to the timber regions of the country. If it is done, I would like any gentleman to tell me how the lumberman, who does not own large bodies of pine, is to obtain the logs for his mill? It need not be replied that he can still enter lands for that purpose with agricultural college scrip, for let me tell the gentleman who urges the passage of this bill, that every foot of the one million acres allowed by that act to be located in my State was taken up with this scrip as early as last June. If the bill passes, as before stated, land warrants will be bought up, and placed beyond the reach of many. The homestead settler cannot sell the pine on his loca-



tion until he has resided upon it for five years; unless, under strong inducements, he does so in violation of the very law under which he holds his title.

Then, Mr. Speaker, I again ask where is the lumberman to obtain a supply of logs for his mill who does not own the land in sufficient quantities? He cannot do it at all; and hence he will be compelled to abandon the business to the large operators who own extensive bodies of pine, giving them the entire control of the market; and, as the lands they possess will thus be enhanced in value three or four hundred per cent., so will the price of lumber be increased from its present price to one hundred dollars per thousand to the consumer all over the country.

The House should look well to it, that in yielding to the popular cry of "Lands for the landless," it does not strike down the indispensable lumber interests and productions of the country and enhance the price of lumber one or two hundred per cent. to every man in the country who wants to build a house, barn, or fence. Not in all cases, but as a general rule, I believe it is true that a man in the northern States who has not the industry, economy and thrift to save money enough to pay the Government \$100 for a farm of eighty acres, will not improve, work, and keep one up if it is given to him free.

Mr. Speaker, by a careful collection of lumber statistics in the State of Michigan, it is ascertained that twelve hundred million feet of pine lumber is manufactured annually from the forests of that State, and more than one half of this enormous aggregate from my district. This, at the low average of fourteen dollars per thousand, produces annually \$16,800,000; and it is below the mark to place the receipts for staves and other lumber and timber, at \$3,200,000, making the total yearly value of manufactured lumber in Michigan \$23,000,000. It is a good average of pine lands which produces five million feet of lumber to the thousand acres, hence it takes over two hundred thousand acres of such lands to supply logs for the cut of the mills each year. One of these mills on the Saginaw river, owned by Messrs. Sage & McGraw, cut and manufactured in a single day of twelve hours, last summer, three hundred and seventy-six thousand feet; and during the season, I am informed, some twenty-five million feet were produced, requiring five thousand acres to supply a single mill for a single year with logs. Many other firms in the State are about as large as the one I have cited; and some of these mills with the docks, booms, and expenditures for clearing streams for running logs, teams, and camp equipage, have required an investment in cash of over a quarter of a million dollars, exclusive of the costs of the lands, vessels, and barges, to freight the lumber to market when manufactured.

These mills are built and this vast interest carried on on rivers and streams penetrating the wild forests of the interior, along a lake coast of a thousand miles, where there are no roads or means of access except those made by the enterprising lumberman; where no agriculturist would have ventured for years to come but for the advances of these pioneers of the forest, whose operations have been followed by permanent occupants of the soil.

These men do not buy the lands to withhold them from the seller; they only want the timber. They give employment to thousands of men at good wages, who frequently go into the lumber camp with their teams, their axes, and saws, to earn money enough to buy eighty or one hundred and sixty acres of land for a farm. The lumberman is anxious to and does sell to his hands at prices very often below that which he paid to the Government; and in this way has the settlement and permanent occupation of the soil followed the lumbermen twenty years in advance of sections where they have not been. Pass this bill, Mr. Speaker, and those who have the means—as before stated—will buy up land warrants and scrip, the only

considerations that can be given in exchange for land, and hold them until they obtain any price they see fit to ask. In this way large fortunes will be made out of the lumberman of small means, who must purchase small lots to keep his mill running or surrender to his more fortunate neighbor, whose wealth enabled him to own his thirty, forty, or fifty thousand acres. This is the way the bill will work in the lumber sections of the country, and thus will it work injury to all, both producer and consumer.

It requires but little sagacity to see that the effect will be not only to close out these small operators, but to increase the value of these lands now owned by the heavy lumbermen two or three hundred per cent., giving them a perfect monopoly of the business, and increasing the price of lumber to the consumer to an equal extent. I do not believe, Mr. Speaker, that this bill will prevent those wealthy men who desire from securing land in large quantities for speculation and to hold out of market, for there is said to be still afloat twenty millions of representative acres of warrants and scrip of various kinds, and it will be readily seen that they will be used instead of cash for entering land. This is the way it has been done in the past, and I do not believe a more unfortunate and ruinous grant of public land was ever made than the agricultural college grant. This scrip, covering a vast amount of the public domain, has been bought up by speculators at prices from one dollar down to as low as thirty-seven and a half cents per acre. I know of one instance where the whole allowance to a State of three hundred thousand acres was offered at the last-named price, and land warrants have been offered and sold nearly as low as scrip.

This is the way, Mr. Speaker, land monopolies have grown up, and not by cash purchases from the Government. How, let me ask, is the expense of United States land surveys and the entire expense of millions for carrying on the United States Land Office to be met if you prevent any further cash sales, the only source from which money has been derived in the past for this purpose. In the present condition of the national finances is it right to add another million or two to the taxes, when any man who desires can buy a farm for one hundred dollars cash, or enter one under the homestead law for twelve dollars? Cheap enough, one would suppose, to satisfy even the most earnest advocate of "lands for the landless." When this bill was brought up in the committee an amendment was added "excepting regions mainly valuable for pine." Without this the gentleman could not have received permission to report the bill to the House. But, being opposed to the proposition with or without the amendment, I, and those on the committee agreeing with me, consented to have the naked proposition submitted to the House, reserving, however, the right to add the amendment thus agreed upon in committee. In the House, if the bill should be likely to pass, I therefore shall offer the amendment to the bill, and hope the House will not force a measure of such ruinous tendencies upon my State without infracting this amendment upon it.

Thus far, Mr. Speaker, I have only discussed the proposition as it affects my State and the great lumber districts of the country, but I have no doubt the same reasons given why it should not apply to these localities will apply with equal force to the mineral lands. Neither the lumber or mineral lands will ever be entered to any extent for agriculture under the homestead law until the advances of the miner and lumberman have prepared the way and rendered it advantageous to do so. In the copper regions of Lake Superior, where many of the necessities of life are now produced from the soil, especially potatoes, which of the best quality are produced in such quantities as to be exported, not one bushel of wheat, potatoes, or corn would ever have been raised, or one plow or spade have entered the soil, but for the sale to, and the operations of, the men engaged in the iron and copper mining busi-

ness. There are now nearly forty thousand inhabitants in the upper peninsula of Michigan, where the soil would never have been touched by the agriculturist only on account of the mining interests. I have before me a letter from the Commissioner of the General Land Office, in which he states that there are about one billion four hundred and fourteen million five hundred and sixty-seven thousand five hundred and seventy-four acres of public lands in the United States unsold and unreserved or appropriated. This makes two million three hundred and sixty-six thousand five hundred and eleven sections of six hundred and forty acres each. Allowing one hundred and sixty acres to each preemption and four persons to each family, it will require a population to take up and occupy these lands under this bill of thirty-seven million eight hundred and sixty-four thousand one hundred and seventy-six. And if the same ratio of inhabitants shall become agriculturists in the future as in the past, it will require two hundred million inhabitants and two hundred years to settle this vast area of land.

Mr. Speaker, I do not think there is any necessity for the passage of this bill, nor do I think it would prevent those who wish from accumulating large bodies of land. The Government must, of course, respect the warrants and scrip already issued, but no more should ever be granted, and no more appropriations of land should be made except for public improvements. And such grants should be made of lands near the improvements, with provisions compelling the grantees to keep the lands in market at reasonable rates.

Much opposition has been manifested to railroad grants on the ground that they tend to monopolies, and perhaps this may have been true to some extent; but, after all, they have been of more real benefit to the people than any other grants ever made; and if the provision I have spoken of, requiring the lands to be kept in market at a fair price, be made a condition in future grants of this kind, no evil but much good will result from a similar policy in the future. This bill proposes to change the long-established land policy of the Government, and to prevent it in the future from ever receiving any pay for one foot of land, not even for the expense of conveying title. Every paper in northern Michigan except one, so far as I have heard, is opposed to this bill; and only those who own large bodies of timbered land and those who own land warrants and scrip, and another class who expect to enter and sell the timber without improving the land, are in favor of its passage. Mr. Speaker, I send to the Clerk's desk to be read one or two notices from the press of Michigan, showing how the people of that State feel on the subject. The first is from the pen of Hon. D. W. C. Leach, a former member of Congress, and now editor of the Grand Traverse Herald, and the other from the Detroit Post.

The Clerk read as follows:

"A NEW LAND POLICY.—Under the above head we last week published an extract from the Washington correspondence of the Detroit Post relative to a radical change in the land policy of the General Government. It was stated that Mr. JULIAN has been pressing upon the attention of the Committee on Public Lands, of which he is chairman, a bill that provides for the withdrawal from sale of every acre of Government land in the United States, and that the same shall be open to occupancy and settlement under the homestead and preemption laws."

"From our earliest acquaintance with political affairs we have been classed with Radicals. We have always favored preemption laws, homestead laws, exemption laws, and all other laws that were designed to protect the interests of the laboring classes, and to secure to them homes of which no man, under any circumstances, could dispossess them. But with all our radicalism we are not prepared to indorse the proposed change in the land policy of the Government. We oppose it because we believe it will fail to accomplish any good results whatever."

"We believe it would prove detrimental to the country generally, and especially to the poorer classes in whose behalf it is offered. Without going into an argument to prove this, let us suppose a case."

"The proposed bill becomes a law. No more land is to be sold. No man can for himself and minor children secure more than one hundred and sixty acres. And that he is obliged to take under the homestead law, and remain on it five years before he can become the owner of it. But as the land costs

nothing multitudes rush thoughtlessly into the forest and secure their homesteads. Soon a large settlement is formed. Roads become a necessity, but their lands cannot be taxed to build them. Nothing can be done except by voluntary contribution. A school-house is needed; no tax can be levied to build it. A township government is organized, but it can raise no funds to pay its officers. They must serve for nothing or not at all. Several towns are settled and a county organized. It is even in a worse situation than the townships. No taxes can be levied, no necessary public improvements made. Even under the present homestead law this exemption from taxation is found to be a serious evil, a source, in some towns, of great inconvenience, which a large portion of the homestead settlers would gladly see remedied.

If it is said that under this new policy some system of taxation might be devised, we admit the fact; but, if we are correctly informed, it is not provided for and is not designed to be. If the principle of taxation were incorporated in the bill it would be much less objectionable, and yet we could not favor it.

Multitudes of men—perhaps the land on which they build their houses—may make their improvements. Hence very many of those who take homesteads under the present law "prove up" and pay for the same as soon as they can raise the necessary funds. They do not wait for the five years to expire. They never feel quite at home, never feel quite satisfied with their situation, till they have their final papers from headquarters. Why should these men be prohibited from doing this?

"And, again, why should Mr. A and B, who wish to settle in the new portions of the country, be prohibited from purchasing land for their children, who will soon be old enough to occupy it, and whom they may wish to have near them? Where is the harm in this? Who is wronged thereby?

"A man with some capital would settle, for instance, in the Traverse region. He wants a larger farm than one hundred and sixty acres. And with his energy and capital he would be a valuable citizen. He would give employment to poorer men, and aid largely in developing the country. But the law says, 'No; you shall have no larger farm than your neighbor, who has not so much as a yoke of oxen to aid him in clearing up his land.' There may be wisdom in this, but we do not see it. There are thousands of farmers even in the heavily-timbered regions of the Northwest who have purchased and improved large tracts of land greatly to their own interests and the general benefit of the communities by which they are surrounded, and to the injury of no human being.

"Land monopoly is an evil. We do not deny it. But we would not remedy it by resorting to a greater evil. If the remedy is worse than the disease, better let the disease alone.

"The Government is generous, indeed, when it throws open all its lands to the people and says, 'Select your homes where you will'; but it is neither generous nor just when it says, 'You shall not, under any circumstances, have more than one hundred and sixty acres of the public domain. No matter to how noble a purpose you would devote it, though you would build mills or furnaces, though you would found villages or institutions of learning, you shall have no more land than your neighbor.' Away with all such folly. We trust a Republican Congress will find more important matters to occupy its attention than defining the size of a man's farm or prescribing the kind of buildings he is to erect thereon."

"A NEW LAND POLICY.—Mr. JULIAN, of Indiana, has been pressing upon the attention of the Committee on Public Lands, of which he is chairman, a bill that provides for the withdrawal from sale of every acre of Government land in the United States, and that the same shall be open to occupancy and settlement under the homestead and preemption laws. Under such a law no man could buy an acre of land of the Government, and he could only occupy, for his own use, one hundred and sixty acres. A measure of this kind might not operate unfavorably in the prairie States, but in the lumber and mineral regions it would have a most injurious effect. If one man or a single company could secure but one hundred and sixty acres of pine land in Michigan, and then be compelled to run the chance of getting logs of the actual settlers under the homestead act, not a mill of any size would be built in the State. The supply of logs would be too fickle and uncertain. As a result, the price of lumber would be enormously increased, and those who have pine lands enough already would reap a rich harvest. This result would be inevitable under Mr. JULIAN's bill. And in the iron mining region the result would be the same. Large iron works cannot be erected by a company unless a sufficient tract of land can be secured to furnish wood and charcoal for a series of years. If only one hundred and sixty acres could be got hold of, and no title obtained to that until after several years of occupancy and improvement, this great and important interest would be seriously checked and remain undeveloped for a long time in the new portions of the country. Men, in their devotion to an idea, which may be good enough in itself, are apt to lose sight of other considerations equally important to the welfare, progress, and prosperity of the country in all its varied interests. There is no congressional district in the Union so deeply interested in this question as the one Mr. DRIGGS represents; and Mr. FERRY's, perhaps, comes next."

Mr. JULIAN. Mr. Speaker, I desire to say, with the consent of the gentleman from Michigan, [Mr. DRIGGS,] that both those articles just read proceed upon a misstatement of facts, which I desire to correct. The bill before the House recognizes both the homestead

and the preemption laws of the United States, and under the latter any man can, if he chooses to avail himself of its provisions, acquire three hundred and twenty acres of land. All that is said in those articles as to the restriction to one hundred and sixty acres is misapplied as an argument.

Mr. DRIGGS. A man can take the quantity named by the gentleman from Indiana, [Mr. JULIAN,] provided he can get it in adjoining sections, not otherwise; and very frequently this cannot be done.

Mr. Speaker, the articles just read by the Clerk express the almost universal sentiment of the people in the timber sections of the country. In mineral regions they require a large amount of wood for blast furnaces and smelting works, and as the timber is small and very little hard wood grows in that high northern latitude of Lake Superior, thousands of acres are required every year to furnish a supply for these purposes. Besides this, the land is of volcanic formation and rocky where not composed of sand deposits, and hence generally unfitted for agriculture. But if every acre was good farming land and should all be entered under the homestead law, not one cord of the wood could be removed and sold by the preceptor until the expiration of five years from the date of entry, as that law does not allow any timber to be cut and removed until final patents are granted. In some cases it would no doubt be done, but it would be in violation of law, and I do not believe the law would be thus violated in a sufficient number of instances to furnish the wood from thousands of acres of land, annually, for the production of the iron and copper of Lake Superior. If it would be it is quite questionable, in my mind, whether Congress ought to pass laws designed or inevitably tending to produce such results.

Mr. Speaker, Congress has, by refusing to adequately protect the copper interest of this country against foreign competition, ruined this great national product and brought starvation to the very doors of hundreds of the miners of Lake Superior. The last papers from that distant part of my district bring the sad news of the closing up of several of the principal stamp mills, throwing hundreds of men out of employment, who, in the dead of winter, are entirely destitute of means to supply their families with the necessities of life. These men, under the strong demands of nature, have threatened to sack the stores of Houghton and Hancock, and have only been prevented by the kind liberality of the citizens, who, by subscriptions and short employment, at reduced wages, have kept their families from starving. Yet, instead of passing measures for the relief of this and other important American products by suitable duties on foreign importations, all kinds of schemes are devised and bills introduced to further cripple and embarrass them.

There is no necessity for the passage of this bill; every foot of the public lands are open to the operation of the homestead law now, and any one who desires can enter lands under it; then why should Congress prevent by law any who desire from buying land and paying for it, instead of waiting five years for a title, as they are required to do under the homestead law. There is no necessity for it, unless it exists in a desire on the part of some gentlemen to be known as the special friends of the poor by the introduction of eight hour labor bills, and bills to secure "homes for the homeless and lands for the landless," when more adequate and munificent laws for that purpose have been passed by Congress, than ever before passed by any Government on the globe; ample enough for all who desire free homes for an hundred years to come. Instead of passing such measures as the eight-hour bill, and the one under consideration, it would be much better to turn our attention to a reduction of the internal revenue taxes; to a proper protection of American industry by an increased duty on competing foreign importa-

tions; by rigid economy in all public expenditures, and by recommending to the whole people of the country economy and industry in every position until our national debt is paid. And to that end, for all of us to work in whatever calling we may find ourselves engaged, twelve hours a day, instead of reducing them from ten hours to eight, until, by a reduction of the debt and taxes, we can resume our former ease.

These, Mr. Speaker, are my views in reference to these extraordinary measures introduced in the present extraordinary condition of the country and its finances. The people understand these questions and what we are doing. They know that the receipts from the sale of the public lands keep their taxes down just so much. They want all the resources of the Government to be protected, and Congress not to give away its means of revenue fifty years in advance of any necessity. What they need is to have Congress lighten their burdens of taxation as far as possible and consistent. They want, and will have, protection to American industry against a ruinous foreign competition. Such full and ample protection it is our duty to give them. In conclusion I will say that when the nation is out of debt I for one am willing not only to give away every foot of Government land to the poor who will settle upon and improve it, but if they need it, and we can afford it, I would give them the means to build a house and barn upon the land, and to stock it also; but I do not think we are in a condition to do it now.

Since preparing the estimated value of manufactured lumber in my State for a single year I have received the statistics of lumber published in the Saginaw Enterprise; and by these figures I find that my estimates are entirely too low, there being manufactured about fifteen hundred million feet of pine, instead of twelve hundred millions; and the price has averaged fifteen instead of fourteen dollars per thousand feet, amounting to \$22,500,000; the value of staves, shingles, timber, lath, &c., amounting to at least \$7,500,000, making the aggregate value of lumber produced in a single year \$30,000,000. Now, sir, it has been my purpose to show and to prove to the House that the passage of this bill will go far to strike down this material and vital interest of my State and district; and if gentlemen will keep in view the facts in the case I am confident they will see that I am correct.

The gentleman from Indiana, [Mr. JULIAN,] in his remarks the other day, quoted the opinions of several distinguished gentlemen to prove that land monopolies have worked a great injury to the people of England, France, and Germany; and it seemed to be his chief object to prove that there is immediate danger of a similar evil in this country. Now, Mr. Speaker, this is a great mistake. There is no danger at all of such results in this country. As I have shown, there is land enough for two hundred years; and besides this, there can be at present no more speculation in lands than in horses, mules, or any other species of property. Why not? Because, sir, there are so many million acres subject to entry under the homestead law that an extravagant price cannot be demanded or secured for private lands. But I am not opposed to such legislation as is necessary to secure lands for all who desire to cultivate the soil at the lowest price. I do, however, contend that our land policy is ample and liberal in the extreme for all honest poor. Mr. Speaker, next to air and water, there is no gift of God to man as cheap as the public lands of the United States. Why, sir, all the Government demands for any of its broad acres is about the cost of surveys and the expense of giving title; and under the homestead law it only costs twelve dollars for a farm.

The gentleman has now in his possession a bill which has passed the Committee on Public Lands to allow all soldiers who desire to enter lands under the homestead law to do so without paying even the ten dollars to the Government as now required.

Mr. Speaker, much was said by the gentleman about the hardship to the poor man in being compelled to pay \$2 50 for the even sections retained by the Government along the line of railroads. The Government makes an appropriation of six or ten alternate odd sections of land through an uninhabited wilderness where no settler would think of locating for fifty years but for the grant and road. The road is built, and settlers flock in and enter all the lands near the reserved sections, and soon begin to complain of the monopoly of the Government and company because the lands, made three or four times more valuable by the grant and building of the road, cannot be still given away under the homestead law as before.

Sir, there is no justice in this complaint, for the complainer can still enter lands under these laws in regions, if he likes, just like the one in question before the road was built.

As well might the Government or a company expend \$2 50 in clearing or fencing a farm, and then give it away, as to thus add to its value by roads, and then do the same thing. There is, I repeat, no justice in this! So far as it relates to the strictly agricultural lands of the country, it is not so material whether this bill passes or not; but that it should not apply to the sections of which I have spoken is very material.

Mr. Speaker, I am in favor of compelling all recipients of land-grants to keep the same in market at fair and reasonable rates, and of the Government holding the reserved even sections open to the operations of the homestead law; and the Committee on Public Lands is now considering such a proposition for submission to the House. I have no doubt it will pass your committee, and I trust it may the House, and be made a condition in all future grants. If this is done, and all of the lands kept in market and open to settlement and cultivation, there can be no necessity for making this radical change in the land policy of the nation.

Sir, as I remarked a short time since, preventing cash sales of lands will not prevent land monopolies. To prove this I give the operations of the United States land office at East Saginaw, Michigan, for the month of February, 1868, furnished by H. C. Ripley, Esq., Register to the Enterprise, a paper published in that city.

It is as follows:

"GOVERNMENT LANDS.—Government land in the following amounts, and in the manner described, were located at the office in this city during the month of February, 1868:

With cash, acres.....	\$242 73
Land warrants, 1855 acres.....	2,800 00
Land warrants, 1850 acres.....	40 00
Under homestead act, acres.....	1,840 00
Total.....	\$4,922 73

Here, Mr. Speaker, we have the fact, that of about five thousand acres of lands entered at the United States land office, at East Saginaw, in the State of Michigan, in the month of February last, only a little over two hundred acres were entered with cash.

I have no doubt, sir, that a similar state of facts exists, in reference to cash entries, in all of the land districts of the country. This, then, shows more conclusively than any argument can prove that land monopolies have not, and will not occur through cash sales. Why then, Mr. Speaker, I again ask, should this bill pass? I have tried to show that it ought not, and I hope it will not, at least without ingrafting my amendment upon it.

The gentleman from Indiana produces considerable learned authority to show the evil effects of land monopolies in many parts of Europe; but I doubt not members will see that the opinion of those whom he quotes are of little value, and can have no forcible bearing in support of his bill.

If the public domain of the United States covered no larger area than Holland or Long Island, New York, and if the laws of primogeniture applied to this country, and landed estates descended from father to son; if we

had not a thousand million acres of forest for a hunting park, or if we had a nobility here who were likely to buy up and hold the public domain for the above purpose, with laws to hang men for poaching or trespassing, then there might be some force and pertinency in these learned opinions. But as these things do not exist in this country, and are not likely to very soon, I think the gentleman's fears and imaginations are groundless.

Finally, Mr. Speaker, let me earnestly beg of gentlemen to consider well the importance, of this measure to the interest of which I have spoken before they give their votes in support of the bill under consideration. Sir, what weight ought the opinion of these metaphysical European philosophers to have upon questions of which they know nothing, and upon which they are as ignorant as was another European writer on the geography of this country when he described Michigan as being a flourishing city in the State of Detroit. Why, sir, there are a great many philosophers not only in Europe, but in this country also; they put forth many fine-spun theories and write very learnedly on almost every subject, while they know nothing as to the practical matters of fact of which they write. I would rather have the opinion of any intelligent lumberman, miner, or farmer in my State who knows the effect this bill will have upon the prosperity of the country, than that of all the theorists of Europe. I hope their opinions will have little weight, and that the bill will not pass.

Mr. Speaker, I now give notice that I shall, when a suitable opportunity presents, offer the following amendment:

Add to the bill the following proviso:  
Provided, That the provisions of this act shall be held and taken as applying exclusively to such lands as are chiefly valuable for agriculture, and not to mineral or such other lands as are mainly valuable for pine and other timber thereon.

I now yield the remainder of my time to my colleague, [Mr. BLAIR.]

#### NAVAL VESSELS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, in reply to a resolution, relative to naval vessels; which was referred to the Committee on Naval Affairs, and ordered to be printed.

#### VESSELS TAKEN AS PRIZES.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Navy, in reply to a resolution, relative to vessels taken as prizes, &c.; which was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. O'NBILL. I move that there be printed for the use of the Navy Department five hundred extra copies of the document just presented.

The SPEAKER. The motion will be referred, under the law, to the Committee on Printing.

#### LEAVE OF ABSENCE.

Mr. ARCHER obtained leave of absence for one week.

Mr. MAYNARD and Mr. MULLINS obtained leave of absence indefinitely.

#### PUEBLO DE SANTA ANNA, NEW MEXICO.

Mr. JULIAN, by unanimous consent, moved that the Committee on the Public Lands be discharged from the further consideration of the papers relating to the Pueblo of Santa Anna, New Mexico, and that the same be reported to the Committee on Private Land Claims.

The motion was agreed to.

#### SALE OF PUBLIC LANDS—AGAIN.

Mr. BLAIR. Mr. Speaker, the bill under consideration here, as has already been said, looks to an entire change of the land policy of the Government since it was established. Certainly it will be agreed that this ought not to be done without good reason. The land policy of the country has, so far as we are able to see, been a very successful policy from the begin-

ning. Land has always been cheap, easily acquired by the people of the country, and I believe I may repeat what I had occasion to say once before here, that there is no man in the United States who can be benefited by a farm who has not been able to get it in the wilderness of this country. I do not believe any facts can be shown that will go to controvert this statement.

I ask, then, for what reason shall we now reverse this policy? What reason does the chairman of the Committee on the Public Lands [Mr. JULIAN] give us why we should change the entire land policy of the country and forbid hereafter any citizen of the United States from buying a foot of public land if he should wish to? I listened with attention to his speech made now some days ago on this question, and, if I understood him correctly, his whole argument was hinged upon the idea of land monopoly. He told us that we ought to provide lands so they may be had by the "landless poor." Now, I say that if there are any landless poor in the United States it is because they choose to be landless poor. The homestead law is in operation to-day, and it has been in operation for a long series of years. Whoever wishes to seek a home upon the public lands can find it now. The Government offers it freely. I make no quarrel with this policy. On the contrary, I disclaim it and am in favor of the policy; but I will not forbid any man who chooses to buy his farm and take possession of it at once instead of taking it from the Government and waiting for a series of years before he should have possession of it. Why should he do that? It is a characteristic of the American that he likes to own the ground upon which he lives and he likes to own the property upon it. I myself say that it is a most excellent characteristic, and I should be glad to encourage it. While I should give the landless poor his farm in the wilderness if he wishes it, I would not forbid any other man who chooses to buy and own his farm to get it in that way.

I cannot find in the gentleman's argument anything which militates against this, except that in the process of time we shall by and by arrive at a period when there will be no lands for this purpose, and we ought to begin to husband our lands at this time and prevent their sale. My objection to this is that it ties up the public lands and fetters the limbs of enterprise of the American people.

Mr. WASHBURN, of Wisconsin. Do I understand the gentleman to say that the bill would prevent the actual settler from purchasing any land?

Mr. BLAIR. I have certainly so understood the bill. I cannot conceive of anything the bill will do for anybody if that be not so.

Mr. LAWRENCE, of Ohio. Does not this bill provide that any man may select and acquire land under the preemption law?

Mr. BLAIR. I think the bill allows the preemption act to remain in force. If it does, it contradicts its own theories. Why should a man be allowed to get land under preemption and not be allowed to go and buy it and get his title at once? Why should he be put to the necessity of going upon the land and making a preemption instead of paying for it at once?

Mr. WASHBURN, of Wisconsin. I suppose the reason would be this: in one case the preëmptor is an actual settler, and in the other case he may not be.

Mr. BLAIR. Very true, sir.

Mr. WASHBURN, of Wisconsin. I do not wish to be understood in what I say as either indorsing or opposing this bill. I am merely in pursuit of information.

Mr. JULIAN. Will the gentleman allow me a single remark? Under the homestead law a settler may commute his settlement into a purchase, and as a matter of course become absolute owner.

Mr. BLAIR. Well, then, Mr. Speaker, I do not see what is to be gained by this bill. If we are after all to arrive by some process at the same right the citizen has already to purchase the land, then—



Mr. JULIAN. We gain the settlement and tillage of the land.

Mr. BLAIR. But the settler may go right away and take another piece of land, selling his first settlement as soon as he has got the land in his possession.

Mr. JULIAN. Not under the law.

Mr. DRIGGS. Will the gentleman allow me a word?

Mr. BLAIR. I would like to use all my time.

Mr. DRIGGS. I understand the gentleman from Indiana [Mr. JULIAN] to state that a settler cannot enter other lands after he has taken one piece. I understand, on the contrary, that when he has paid for his land at the end of six months he can enter other lands and get his patent.

Mr. JULIAN. No, sir; I understand the land office have ruled otherwise.

Mr. DRIGGS. I know of instances where it has been done.

Mr. BLAIR. I will let the gentlemen settle this dispute among themselves. I was about to say that I am opposed to the whole policy of this bill because it is calculated to fetter the enterprise of the country. Now, if there is any one thing which we have found to develop the resources of the country and add to its greatness it has been the fact that the people are free. As I have already remarked, an American does not wish to have anything that he cannot sell. He is more or less a migratory person. When he seeks to buy a farm he is not willing to get one that he cannot sell or trade away. Now, it has been the policy of our Government to allow the people entire liberty in all things, and I do insist that the same policy ought to be pursued in regard to the public lands. We should allow the people to take up homesteads as they choose and encourage them to go and settle on the public lands.

And now, as to the question of monopoly of the public lands, I undertake to say that there is no monopoly of those lands to-day that Congress itself is not entirely responsible for. That statement is not so broad but that the facts will bear me out in it.

If gentlemen will cast their eyes over the country and see who are the owners of the vast tracts of land, whether as corporations or individuals, they will find that they have become owners under congressional grants for railroad and other purposes. And all experience has proved that allowing the citizen to trade in the public lands, to buy and sell them as he chooses, does not cause monopoly. On the contrary, it destroys monopoly. There never was anything like as much danger of monopoly in the public lands as there is of monopoly in corn and the food of the people. Have we not seen, over and over again, a few rich people raising the price of food, the very life of the people? They frequently do it by combining together to purchase and hold it in large quantities. But this has not been the case with the public lands. It cannot be done with them, because the quantity is altogether too great for the accomplishment of any such purpose.

And then, again, whoever wishes to buy public land will buy it for the purpose of selling again. No man buys public land to hoard it. Sometimes, indeed, it is purchased with a view to hold it for a time; but in the main, those who go on the public lands go there to cultivate them, and it is for the benefit of the country. And it will be found that no new country under the sun ever developed as the United States has done. What is the reason? Because the lands are free and the people are free. They buy land, and when they own it they sell it as they choose. It is like horses and cattle; or, as my friend has well said, it is like grain and cotton. They sell and buy it when they like.

And this, I think, is an answer to all that the chairman of the committee has said, or rather quoted from the publicists in foreign countries. The difficulty there is that the lands are entailed. If you will just simply destroy

the law of primogeniture in England, it shall break up the entire land monopoly in that country in fifty years; as soon as a generation dies the land will all be divided as the great estates fall to the various heirs of the families that own them.

I repeat again, and I stand upon that ground here, that in this matter, as in all others, it is best to leave the people of the country to take care of themselves and let them buy land if they want to, keeping the benefits of both systems together. We not only have the benefits of the homestead system now, but we have the benefits of the other system along with it. They do not interfere with each other.

[Here the hammer fell.]

Mr. DONNELLY. Mr. Speaker, I think it proper in considering the bill now before the House to ascertain what has been the past history of the legislation of our country in reference to its public lands.

When the founders of our Government raised the banner of revolt and sought a separate existence among the nations of the earth, one of the counts in their immortal indictment of George III, the Declaration of Independence, read as follows:

"He has endeavored to prevent the population of these States, for that purpose obstructing the laws for the naturalization of foreigners, refusing to pass others to encourage their immigration hither, and raising the conditions of new appropriations of land."

The great men who founded the Government perceived clearly that the land of a country was the true foundation of all its prosperity, and that it was of the utmost importance that the soil should pass as speedily as possible into the possession and ownership of the actual cultivators.

They perceived that the growth of the Colonies was due in a great degree to the cheapness and abundance of the land within their limits. Thomas H. Benton, in a speech made in the United States Senate in 1828, said:

"Provinces which now form sovereign States were sold from hand to hand for a less sum than the Federal Government now demands for an area of two miles square. The State of Maine was sold by Sir Fernando Gorges to the proprietors of the Massachusetts Bay for twelve hundred pounds provincial money."

In many of the original colonies along the Atlantic coast the public lands were literally given away, the only price in most cases being the payment of "a penny" or a "peppercorn."

Those States which, after the Revolution, possessed in their own right large tracts of unsettled territory, pursued a like liberal policy; and the States of Kentucky, Tennessee, and ten millions of acres in the State of Ohio were under these State laws either donated outright to actual settlers, or given to them under homestead or preemption laws, or sold at two cents per acre.

Unfortunately, however, the General Government was at first neither so wise nor so liberal. It forgot that the settlement of the country was due, in the main, to poor men settling upon lands virtually given to them; it forgot that with enormous tracts of unsettled country its first duty was to encourage immigration and settlement; its sole thought was to derive revenue from the sale of the public lands.

That great man, Edmund Burke, had said, in the English House of Commons, in 1785:

"The principal revenue which I propose to draw from these uncultivated wastes is to spring from the improvement and population of the kingdom; events infinitely more advantageous to the revenues of the Crown than the rents of the best landed estates which it can hold. It is thus I would dispose of the unprofitable landed estates of the Crown; throw them into the mass of private property, by which they will come, through the course of circulation, and through the political secretions of the State, into well regulated revenue."

But the Government of the United States was not at first prepared to adopt the wise and liberal views of Mr. Burke. It was determined to wring revenue and direct revenue from the public lands without regard to their settlement. Hence they proscribed settlement; the settler was "stigmatized as a trespasser and repulsed

as a criminal," and the lands were exposed at public sale and sold to the highest bidder, excepting the salt lands and lead mines, which were retained by the Government and rented out on the most advantageous terms to private persons.

Slowly, gradually, the broad principle enunciated by Mr. Burke came to be more generally recognized. The legislators of the country began to perceive that the settlement and cultivation of the country were essential to the prosperity of the people, and the light slowly dawned upon them that the prosperity of the people was identical with the prosperity of the nation.

In this protracted struggle of just views against erroneous opinions the country was greatly indebted to the labors of Hon. Thomas H. Benton, of Missouri, and to the clear head and liberal heart of Andrew Jackson, President of the United States. President Jackson in 1832, in his message to Congress, announced his conviction that as soon as the revolutionary debt was paid (to the payment of which the public lands were pledged) "they should cease to be a subject of revenue, and be disposed of chiefly with a view to settlement and cultivation."

The history of the land legislation of the United States is a history of the gradual approximation of the laws of the nation to the wise standard set up by Burke, Benton, and Jackson.

First in order came the preemption laws. I need not enter into the details of these laws; they are familiar to the House; nor need I give the amendments which were from time to time urged and added to the original measure, and which were all more and more in favor of the actual settler.

Then followed for years the struggle to obtain the homestead law. Its principle was founded on "the universal belief" asserted by Mr. Hayne, of South Carolina, "that the conquest of a country, the driving out of the savage hordes and still more savage men," cutting down and subduing the forest and encountering all the hardships and vicissitudes necessarily incident to the conversion of the wilderness into cultivated fields, was fully worth the fee-simple of the soil."

Having once asserted, in the language of Jackson, the principle that the public lands "should be disposed of with a view to settlement and cultivation," the logical result was the homestead law.

In the meantime various other measures were adopted in reference to the public lands.

A fixed proportion of the lands in each township was donated by the General Government to the States for the support of public schools. No measure could have been better advised or productive of more beneficial results. I need not at this time enlarge upon the importance of general education under a form of government like our own, where the judgment of the citizen makes the laws and controls the destiny of the nation, and is the ultimate resort on all great questions which agitate the nation. I can conceive of a despotism resting securely upon an ignorant and degraded people; but it seems to me impossible to hope for the continuance of a republic where those who make the laws and control the Government bring neither intelligence nor enlightenment to the task. The beneficial influences of the public schools created or maintained by these grants of land will continue to be felt as long as our race continues to exist.

The grants of land made as bounties for services in the naval and military service of the country resulted in a large degree in contributing to the actual settlement of the country, the warrants in a great number of cases being purchased by preceptors and others in the actual occupancy of the land.

The policy of grants of public land for the support of agricultural colleges in all the States has proved to be a most unjust and calamitous one for the West. It is, in effect, a policy to create and support great institutions in the older and wealthier States by inflicting incal-

culeable injury upon the newer and poorer portions of the nation. The whole policy was nefarious, and has produced nothing but evils for the West, evils which will be more and more felt as time advances.

We come next to the subject of railroad land grants.

A good deal has been said here on this floor in opposition to grants of public land to aid in the construction of railroads, and it has been assumed that such grants were in some sense a pecuniary injury to the nation and against sound public policy. Nothing could be further from a just conception of the facts. The Government has in every case retained the alternate sections in the grant, and the construction of the road has everywhere doubled their price; so that it has received as much for the one half retained as it would have received for the whole area without a railroad; and no man familiar with the facts can doubt that in just so far as railroads develop and settle a country in so far does the demand for Government land increase.

The chief end and aim of railroad grants should be to furnish transportation for the productions of the actual settler and to induce men to go upon the public lands and occupy and cultivate them. If they are made properly subordinate to this great end they become a public blessing, even while they may be at the same time very properly a private benefit. It is no argument to say that in certain localities land grants have not secured the construction of railroads. If any particular road could not be built with a valuable grant of fertile public lands it follows, as a matter of course, that without such a grant its construction would have been still more impossible.

The importance of the railroad system to the West cannot be overestimated. The grain raised upon land forty miles from a railroad or any great water course is almost valueless save for home consumption, and a people so situated must continue in a poor, primitive, and unprogressive condition. Unable to exchange the surplus productions of their soil for agricultural implements, manufactured goods, or the manifold necessities and luxuries of life, they lapse in a generation or two into a semi-barbarous and wretched condition. Railroads mean to a new country population, commerce, enterprise, prosperity, cultivation, civilization, everything.

I doubt if the railroad system of the United States would to-day have reached the Mississippi river but for the aid afforded by land grants.

But, as I have said before, they are to be recognized by Congress only as aids to the actual settlement of the country, and where they can be reasonably expected to afford that aid they should be fostered and cherished by the General Government. At the same time, I am of the opinion that we should resort to all measures which will tend to lessen the evils which are necessarily incident to such gigantic corporations. The greatest of these evils is the withdrawal of large bodies of public land along the line of the road from settlement. It is believed that this evil can be averted by placing the lands so granted to any future railroad in the hands of the State as trustee for the corporation, with authority to sell the lands to actual settlers at a fixed price and deliver the proceeds of the lands to the railroad company. In this manner the State will sell the land instead of the company, and the sale will be made to actual settlers and not to non-resident speculators. The company will receive all it could reasonably expect, while the settlement of the country will not be for one moment interrupted. In this manner it is in the power of the Government to aid these great lines of intercommunication, assist the settlement of the country, and afford at a reasonable rate homes for thousands of industrious and deserving people. A bill is now pending before the Committee on Public Lands of the House which proposes to apply this principle to all future grants of public lands

to railroad corporations. This bill will, I trust, become a law. Should it be enacted it will remove, I think, the one great objection to railroad land grants. With such a law upon our statute-books we could afford to give railroad grants whenever reasonably demanded, for they would not for one moment interrupt the settlement of the country; the conversion of the land into farms and the construction of the railroad would proceed side by side; the farms would furnish business for the road, the road would furnish an outlet for the productions of the farms. Thus commerce and agriculture would meet on equal terms and mutually assist each other. It is in this marriage of the wisdom of legislation with the wants and necessities of the people that the highest statesmanship will be found to exist.

I come at length to the great crowning measure of all, the homestead law.

The preëmption law had grown steadily in scope and importance from its inception, as far back as 1801, down to the year 1841, when it became a permanent part of our system of laws.

The South always resisted the homestead law. The ruling class of the South were opposed to the subdivision of the land in the hands of the many. All their instincts were aristocratic. They desired that condition of things wherein the few should own all the lands and all the laborers. Hence it was not until the great rebellion left the seats of the southern Members and Senators vacant that the Republican party was able to procure the passage of the homestead law. It came at the same time with that other great measure, the Pacific railroad. They were joint assertions of those principles and ideas which are hereafter forever to rule in this nation, and which underlie alike republican institutions and the true prosperity of the human family.

The homestead law proceeds upon the principle that the lands should go to the actual settler without money and without price. It is founded upon the truth enunciated by Hayne, that the subjugation of the wilderness is payment in full of the fee-simple of the land. It is especially in the interest of the actual settlers and against the interest of the non-resident speculators.

Mr. Speaker, the homestead law does not need at my hands any defense.

If there is any one subject which the eye of philanthropy can contemplate with more satisfaction than all others it is the first settlement of a fertile and beautiful country. We there see humanity in its most attractive aspects. The emigrant goes forth with his family, his train of horses and cattle, his household goods, into the new land which lies open before his feet, the richest gift of the Almighty. He passes along by fenced fields and pleasant homes, where but yesterday the wilderness reigned supreme, and he looks forward,

"With all his future in his face,"

to that coming day when he, too, shall sit under his own roof-tree and look abroad over his own land; when he shall escape forever from the hard and grinding hand of poverty and from

"The oppressor's wrong, the proud man's contumely,  
The insolence of office, and the spurns  
Which patient merit of the unworthy takes."

When he strikes his plow into the earth it is the virgin earth, pure and sweet from the hands of its great Maker. The air that sweeps around him comes not freighted with the reeks of crowded and pestilential cities, the dreadful haunts of poverty and vice, but it blows from out the lips of heaven with health and beauty on its wings.

The first settler is the corner-stone of all future development; the entire structure of society and government must rest upon the foundation of his labors. His work shall last till doomsday. He first unites the industry of man to the capabilities of the fertile earth. The tide of which he is the forerunning breaker shall never recede—"Ne'er feel returning ebb, but keep due on"—until the wilderness is

densely populated; until every foot of land, however intractable, is subdued; until the factories cluster thickly in great knots upon every falling stream; until cities, towns, and villages dot the whole land; until science, art, education, morality, and religion bear the world forward to a development far beyond the farthest ken of the imagination, into that unknown future of the human race which we cannot prefigure even in our dreams.

How many beautiful traits gather around these homes snatched from the wilderness? How many fair women and noble men have seen the first light of heaven through the chinks of the log-house? How many heroes worthy to be embalmed in perpetual history have grown up in the sturdy independence of the forest and the prairie? By the side of such men the denizens of your cities are a dwarfed race. It needs pure air, pure sunshine, pure food, and the great stormy winds of heaven to produce the highest types of the human family, and to give to them that inflexible grain which is the first constituent of great characters.

Consider for one instant the part performed by the people of the West in the suppression of the rebellion. Their share of the great work was well done. Wherever they advanced they overcame the rebellion as they overcame the wilderness; they hewed it down, they outworked it, they chopped it to pieces, they overwhelmed it with energy and industry, they bridged it, they corduroyed it, they blazed and burned it out of existence. The men whom nature in all its hard and stubborn moods could not resist made easy victory over their misguided fellow-citizens fighting for slavery and against liberty and law.

They were types of thousands and tens of thousands of men through all the region from which they came, the great West: quiet, unpretending men, steadfast and earnest, patiently fulfilling the appointed work which God has given them to do. The great thinkers of England grieve that in their island this yeoman class has become extinct—ground to powder between the upper and nether millstones of a gorged and depraved aristocracy and a pauperized laboring class. England's finest scholar, Goldwin Smith, says:

"Those independent yeomanry, with high hearts and convictions of their own, who filled the ranks of the Ironsides, who conquered for English liberty at Marston, Naseby, and Worcester, in their native England, are now seen no more. Here they have left a great, perhaps a fatal gap, in the ranks of freedom. But under Grant and Sherman they still conquer for the good cause."

This nation needs more of such men. We must cherish the institutions which have produced them. Their price is richer than rubies. They are the salt of a nation. Some one said to Croesus when he showed him his treasures: "But if one should come along with more iron he would take all this gold." The prosperity of a people rests upon its manhood; the gold can only repose upon the iron. Without this a nation is but a conglomerate of sordidness and sensuality—a mixture of clay and brass which must fall to pieces the moment a strong hand is laid upon it.

Now, what is the root of all this? It is the pioneer driving his plow for the first time into the surface of the wilderness. The whole structure rests upon the occupancy and ownership of the land by the individual. Hence follow independence, self-respect, and all the incentives to labor; hence industry, intelligence, schools, society, development—not the hot-house development of the towns, but sturdy, healthy development, which has its roots in the earth, which expands in the family circle, and which brings strength and power to the best traits of human nature.

We cannot overrate the importance of the subdivision of the land among the people. Being the original parent of all wealth, its blessing should be wide-spread and should reach as many as possible; otherwise it will concentrate in a few hands, and then will follow plethora for the few and pauperism for the

many, until at last we realize the pitiful and lamentable condition of Europe, where the blood and tears and sweat of the afflicted cry from the earth like the blood of Abel.

Now, Mr. Speaker, we owe to every man who desires to possess it a reasonable portion of the unoccupied land of the nation. The right inheres in him and it inheres in the great mass of his fellow-men, because he and they are alike to be benefited—he directly, they indirectly. That right the homestead law recognizes and protects.

The history of human government is a history of errors gradually developing into truths. The further back we go in the development of the race the more powerful do we find error, and the fiercer and bloodier are the struggles with which it resists truth. Oceans of blood were necessary to wash out a single wrong; and when one wrong was obliterated the judgments of men moved sluggishly forward, a pace, to coagulate again into some new error.

The first great right struck at by the barbarism of man is the right of the individual to a share of the land. Conquest in the old time meant confiscation of the soil and its absorption into a few hands; hence serfdom, wretchedness, and degradation. Progress now means simply carrying into effect the plain, simple, benevolent rules which God meant for his earth. The earth is for man. As the race cannot exist without the support afforded by the productions of the soil, so the individual man cannot rest with safety upon any basis save his right to a share in that soil.

The great end of government is the improvement of the condition of the individual; and what can more tend to his welfare than a share in the great source of all wealth—the cultivable surface of the earth? For, when we consider it closely, civilization itself rests upon agriculture. The world's wealth has been taken from its bosom. This prolific mother, never wearied, has been giving of her strength and richness to her children through uncounted generations.

The word "Aryan," the name of the parent stock from which all the white races of the world originated, is derived from the root "ar," signifying to plow; because of all the barbarians this race alone, destined to rule the world, tore open the surface of the soil and planted therein the food-producing plants. And it is a striking fact that with this same root "ar" is derived the Latin "ars" or "artis," and our own word "art;" as if philology itself would bear testimony that the cultivation of the soil was the first great art and the parent of all the other arts.

The miner, while he delves into the bowels of the earth, is fed and clothed by the productions of its surface. The fleets which whiten the sea's broad surface are laden with the fruits of the soil. Our cities, our sciences, our luxuries, our learning, all rest upon this one grand basis: the power of the soil to multiply manifold the seed given into its charge.

Any policy, therefore, which sets the plow moving in new lands is a benefit to civilization and to the whole human family. The right to own and occupy the soil belongs, therefore, not alone to the individual who avails himself of it, but it is the right of his fellow-men that he should be able to avail himself of it.

There are two things which cannot be confined to the sources which beget them—good and evil. They are like the expansive gases—they will dilate until reduced to inappreciable quantities. No limit can confine them, no hands can fetter them. Hence when you put a man in the way of doing good you benefit all men around him; when you confine him to evil he gives off evil influences like a pestilence.

Let us reduce this to details.

The wilderness is barren; it is useless, save to the few wild creatures that range over its surface.

Set the plow moving, and the result is wealth. But wealth is only valuable as it is able to communicate and interchange itself with other wealth. Hence the necessity for roads. Where these roads converge there are

towns and cities, and these give birth to greater roads, increasing like the veins as you approach the heart of commerce. What next? Believe the primal animal necessities of man and his higher nature comes into play—it begins to dart out and reach at new subjects. It observes, it inquires, it reflects. New wants arise with new knowledge, and these again beget other wants. Give a man wealth, and civilization comes to him clad in a thousand attractive shapes and colors. It is said that the earth taken from the depths of mines, where it has slept for thousands of years, if exposed to the sun's rays will develop all manner of novel and singular plants. So when civilization beams upon the mind of man, it awakens the seeds of a multitude of new wants of which he was before unconscious. Society is the interchange of wants. Whenever you afford man the opportunity to improve his condition you widen the area of civilization. Every bushel of wheat grown is a contribution to the wealth of the world, and, therefore, to the comfort of the human family. Hence we may say that every plow set moving on the plains of the West is felt in its consequences through all the populations of Europe.

And how pitiful, Mr. Speaker, is the condition of those populations? They lie at the base of a column of injustices heaped high above them. How desolate is the cry which their wretchedness, their misery, their very sinfulness, sends up to heaven? How pale, how bloodless are their poor faces as they gather in the fetid alleys of the great cities of the Old World, or sit down patiently to their insufficient food in miserable cabins? The whole past of the human family seems to rest crushingly upon them. Conquests a thousand years old yet press upon their shoulders. The distinctions of race and caste and religion, and all the million forms of injustice growing out of these, yet hold them under their feet. They look to the laws and they are against them; they look to the land and it is occupied; they can only hope by the most cruel and unceasing toil to snatch a living more scant, more precarious than that which the gaunt wolf gathers in the depths of the forest.

What nobler task can we then assign ourselves than to make plain and smooth the path of these poor people to homes in the New World—to lead them out from suffering and want into abundance and prosperity?

Should not, then, the great natural rights of poor men in Europe and this country be protected by the passage of the bill now under consideration? Does not the welfare of the nation itself demand it? Who will be injured by such a measure?

When the speculator purchases large tracts of land in a new country, what is his purpose? He well knows that the wilderness never of itself rises in value. Any increase of value must be given to it by the actual work put upon it by human skill and industry. His purpose, then, is to enrich himself by the work of the poor man who may settle upon land near him. This, then, is capital increasing itself by the unrequited toil of the poor. The poor man struggles against hardships, he builds fences, he builds houses, he supports schools and churches, he creates roads, he establishes towns; and the wealthy speculator, looking on from afar off, quietly derives large profits from all these heroic exertions. Nay, more, he is an impediment to the actual settler. In just such proportion as the actual settler's improved land appreciates the value of the speculator's wild land in just such proportion does the speculator's wild land depreciate the value of the actual settler's improved farm. The non-resident's lands are the spots and blotches left of the original wilderness on the face of the settled country. They are blocks in the path of progress. They decrease the villages; they hinder settlements; they prevent schools and churches; they render population sparse; they are every way an injury and in no sense a benefit.

Let me refer for one instant to my own State. On the east side of the upper Mississippi

river large quantities of the public lands fell at an early day into the hands of speculators; on the west side but few speculators secured lands. Mark the result: Stearns county, on the west side, increased from 1860 to 1865 seventy-five per cent., while Benton county on the east side, immediately across the river, decreased over twenty per cent.; Wright county on the west side increased fifty-three and three fourths per cent., while Anoka on the east, immediately across the river, increased only seven per cent.; McLeod on the west side increased ninety-one per cent., while Sherburne, on the east side, increased only thirteen and three fourths per cent. The difference is summed up in this: the east side was cursed with speculators; the west side was blessed with actual settlers.

But it is said that the men who avail themselves of the homestead law are poor men. Be it so. Are they not, therefore, the very men who most need the bounty and aid of a generous Government? No higher testimony could be afforded to the justice and expediency of the measure, than that it helps those who most need help. If it will convert poor, honest, industrious men, with nothing but their brave hearts and willing hands, into a wealthy and prosperous population, it proves itself the very philosopher's stone of legislation. The great Napoleon said that the chief object of his administration was "to drive mendicancy out of France for ever." In that sentence he summed up the true end of Government; because to destroy "mendicancy" it would be necessary to lift up all the grades of society above that grade, and to do this he would have to improve the material condition of all his people. Every poor man relieved from poverty widens the opportunities of every other poor man, and so raises the standard of every member of the community.

I read the other day the history of the Shenandoah valley, and I learned that the aristocracy of that beautiful and fertile region were the descendants of the poor squatters who first won it from the wilderness.

Mr. Benton, in one of his speeches, said:

"I saw, in early life, in Tennessee, that the fortunes and respectability of many families were derived from the six hundred and forty acre head-rights, which the State of North Carolina had bestowed upon the first settlers."

The same statesman, in another speech in the Senate, gave a remarkable instance of this kind in the history of "Granny White," at that time well known to the people of Middle Tennessee. He said:

"At the age of sixty she had been left a widow, in one of the counties in the tide-water region of North Carolina. Her poverty was so great that when she went to the county court to get a couple of little orphan grandchildren bound to her, the justices refused to let her have them, because she could not give security to keep them off the parish. This compelled her to emigrate; and she set off with the two little boys upon a journey of eight or nine hundred miles to what was then called 'the Cumberland settlement.' Arrived in the neighborhood of Nashville a generous-hearted Irishman—his name deserves to be remembered, Thomas McCrory—let her have a corner of his land on her own terms, a nominal price and indefinite credit. It was fifty acres in extent, and comprised the two faces of a pair of confronting hills, whose precipitous declivities lacked a few degrees, and but a few of mathematical perpendicularity. Mr. Benton said he knew it well, for he had seen the old lady's pumpkins propped and supported with stakes to prevent their ponderous weight from tearing up the vine and rolling to the bottom of the hills. There was just room at their base for a road to run between, and not room for a house, for which purpose a part of the hill had to be dug away. Yet, from this hopeless beginning, with the advantage of a little piece of ground that was her own, this aged widow and two little grandchildren of eight or nine years old advanced herself, to comparative wealth: money, slaves, horses, cattle; and her fields extended into the valley below, and her orphan grandchildren were raised up to honor and independence. These were the fruits of economy and industry, and a noble illustration of the advantage of giving land to the poor."

The homestead law needs but one thing more; as it is founded upon the principle that it is more advantageous to the nation for the poor man to occupy the land without price than for the rich absentee to take it at the highest possible price, it is necessary that the prin-



ciple should be carried out to its logical conclusion, namely: that all the lands capable of cultivation by actual settlers should be given to the actual settlers, and that none should be sold to speculators. And this is the pending bill which we ask to enact into a law.

It is the logical sequence of all that has gone before it in the land legislation of our country. The preemption law and the homestead law both point inevitably in this direction. Having given these rights to the pioneer we must sweep the public lands clear of all impediments, and leave the field open to him alone.

I am aware, Mr. Speaker, that this measure will be strongly opposed. I am aware that its enactment may be long delayed, but like the preemption law and the homestead law it will eventually triumph.

It will be opposed on various grounds. By some it will be urged that we are depriving the Government of large revenues, to be derived from the sales of public lands. Let us examine this.

I find by the report of the Commissioner of the General Land Office that the estimated expenses of that bureau for the current year will be as follows:

For salaries of Commissioner, clerks, recorders, &c.....	\$236,600
For maps, diagrams, stationery, &c.....	10,000
For salaries of land officers, &c.....	232,200
For compensation of Surveyor General and clerks.....	88,108
For surveys of public lands.....	209,000
Total.....	\$775,908

Now, if we suppose the cash receipts of all kinds from the sale of public lands to reach during the current year the same amount they attained during the year ending June 30, 1866, namely, \$824,645 08, and if we deduct from this aggregate the estimated expenses, as set forth above, we will find that the sales of the public lands during the current year will net the Government just \$48,737! A mere pittance compared with the great interests at stake. It is apparent that the question of revenue from the sale of the lands need not therefore enter into the consideration of this case.

Let us turn to another aspect of the matter. If the sale of the public land yields so little direct revenue, what is the amount of the indirect revenue derived by taxation from the prosperity and wealth of the people? Let a few facts speak.

As long ago as 1832 Mr. King, of Alabama, summed up the experience of the Government upon this point as follows:

"The history of the public lands of the United States furnishes the most instructive lessons of the utility of sales, the value of cultivation, and the fallacy of large calculations. These lands were expected, at the time they were acquired by the United States, to pay off the public debt immediately, to support the Government, and to furnish large surpluses for distribution. Calculations for a fund of \$1,000,000,000 were made upon them. Yet, after an experience of nearly fifty years, it is found that the sales of the public lands, so far from paying the public debt, have barely defrayed the expenses of managing the lands, while the revenue derived from cultivation has paid both principal and interest of the debts of two wars, and supported the Federal Government in a style of expenditure infinitely beyond the conceptions of those who established it. The gross proceeds of the sales are but \$38,000,000, from which the large expenses of the system are to be deducted; while the clear receipts from the customs, after paying all expenses of collection, amount to \$36,443,830. This immense amount of revenues springs from the use of soil reduced to private property. The duties are derived from imported goods; the goods are received in exchange for exports, the productions of the farm and the forest."

Now, from that time to the present, the amount of receipts from the sales of public land over and above the cost of the system has been steadily decreasing, with the growth of our homestead and preemption laws, until it reaches in the current year less than \$50,000. Now, if we will suppose that in the past thirty-six years the entire receipts from the sales of public lands have reached an aggregate as great as that of the fifty years before 1832, we will have the sum of \$76,000,000—the grand total which the United States Government has derived from the sale of all its lands since its

foundation. From this is to be deducted the cost of the lands, as follows:

For the purchase of Louisiana Territory.....	\$14,984,872 28
Interest on \$11,250,000.....	8,529,358 43
For the purchase of Florida.....	4,985,599 82
Interest to September 30, 1832.....	1,489,768 66
Payment of compact with Georgia.....	1,065,484 06
Payment of settlement with Yazoo claimants.....	1,830,808 04
	\$32,885,891 29

From this is also to be deducted the many millions paid to the Indians in extinguishment of their titles, which amounted thirty years ago to about fifteen millions; and the many other millions paid to surveyors, land officers, and the horde of other officers who have been employed to prepare the lands for sale or to sell them.

I doubt if the entire sale of lands has yet paid one half the original cost of the same and the expenses of managing them. So far from being a source of revenue the Government has most assuredly not yet received back the money expended upon them.

Contrast this result with that revenue which is derived from the prosperity of the country, and is the measure of its productions.

In 1866 the total amount derived from internal revenue in the United States was \$310,000,000; from customs, \$132,000,000, making a grand total of \$442,000,000.

Thus the revenue derived from the productions of the lands in the hands of industrious cultivators was, in one year, \$366,000,000 more than the total amount derived from the sale of all our public lands since the foundation of the Government!

Take my own State—Minnesota. In 1866 the total amount received by the General Government from the sale of public lands in that State was but \$54,837 26, while the amount paid by the citizens of Minnesota as internal revenue was, in the same year, \$366,889 45.

But it is not necessary to pursue this subject further. Humanity and justice, as well as policy and statesmanship, all insist that we should sell the arable public lands of the nation to those who will live upon and cultivate them, and to those alone. In this way we shall advance the welfare of our citizens, add to the wealth of the country, open opportunities for the poor but enterprising, and build deep and wide the foundations of our prosperity upon the hearts of a happy and grateful people.

Mr. LAWRENCE, of Ohio. I desire to present three amendments to the bill, which I propose to offer at the proper time. I ask that they be read for information.

The amendments were read, as follows:

Add at the end of section one:

And provided further, That nothing herein contained shall prohibit the sale of such lands as may be unsuitable for homestead occupancy, by being incapable of cultivation, to be determined in such manner as the Secretary of the Interior may prescribe.

Second amendment:

Add a new section, as follows:

Sec. 3. And be it further enacted, That in all cases where any tract or tracts of land have thereon valuable deposits of gold, silver, quicksilver, or other minerals, and by reason thereof, in the opinion of the Secretary of the Treasury, it may be expedient to sell such lands at public sale, he shall be authorized to reserve such lands from sale under the laws now authorizing the sale of mineral lands, and cause them to be sold at such times, by public auction, as he may deem advisable.

Third amendment:

Add as section four:

Sec. 4. And be it further enacted, That every tract of land capable of cultivation which may hereafter be granted to railway or other companies, or to any State to aid in the construction of railways or other works, whether under existing law or laws hereafter enacted, shall be sold by such grantees only to actual settlers in quantities not greater than one quarter section to any one person, and at a price not exceeding two dollars per acre; and the Secretary of the Interior shall have power to prescribe rules and regulations for carrying this act into effect; and no person shall be deemed an actual settler who does not furnish evidence in such form as the Secretary of the Interior may prescribe, that it is his or her intention to enter upon, improve, and reside upon the lands he or she may purchase as for a homestead. And every tract of land of eighty acres shall be deemed capable of cultivation which has thereon ten acres suitable for cultivation or grazing.

Mr. HOPKINS obtained the floor, but yielded to

Mr. JULIAN, who moved that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and twenty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CHURCHILL: The petition of Smith & Post and other firms and individuals of Oswego and of Utica, New York, importers and dealers in lumber, asking that the duty on imported lumber be changed from *ad valorem* to specific.

By Mr. GARFIELD: The petition of citizens of Youngstown, Ohio, for an increase of duties on imports.

By Mr. HALSEY: The petition of Henry M. Pritchard, of Charlotte, North Carolina, asking Congress to remove his disability, so that he may vote and hold office.

By Mr. HUMPHREY: The remonstrance of Lieutenant Colonel John Nicholson and many others, officers of the volunteer service in the late war, now residing in Buffalo, New York, against the passage of a bill introduced into Congress by Senator WILSON, of Massachusetts, prohibiting the payment of claims of the volunteer officers for additional compensation now allowed them by law.

By Mr. MERCUR: The memorial of George Chorpenning, in regard to his claim under act for his relief approved March 8, 1857.

By Mr. MYERS: The petition of Anne E. Wing, mother of Charles A. Wing, deceased, late of company F, fifteenth New York volunteers, for arrears of pension.

By Mr. ROBINSON: The petition and papers of J. G. Belden, for use and loss of steamer Bayou by United States Navy.

By Mr. SPALDING: The petition of H. P. Sanford and others, citizens of Lake county, Ohio, for an increased tariff upon imports.

By Mr. VAN AERNAM: The petition of Almira H. Thompson, for compensation as nurse during the war and money expended.

By Mr. VAN HORN, of New York: The petition of citizens of Lockport, New York, asking a pension to the widowed mother of the late Colonel Donnelly, of the twenty-eighth New York volunteers.

Also, the petition of William Reynolds, asking to be reimbursed for expenses incurred in defending himself against unlawful arrest and prosecution as a deserter.

#### HOUSE OF REPRESENTATIVES.

FRIDAY, May 8, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

#### CORRECTION OF THE JOURNAL.

Mr. BUTLER. I desire to offer a resolution for the correction of the Journal.

The Clerk read the resolution, as follows:

*Resolved*, That the Journal of the House be, and hereby is, amended by striking therefrom all record of a resolution offered by Mr. ROBINSON, of New York, on the 7th of May instant, beginning "*Resolved*, That the resolution adopted by this House on the 28th day of February, 1863," said resolution being and intended to be a censure on the action of this House and not fit to be entered on the Journal thereof.

Mr. ELDRIDGE. I object to the resolution.

The SPEAKER. The Chair will state to the gentleman from Massachusetts that the resolution of the gentleman from New York [Mr. ROBINSON] was not entered on the Journal, according to the rule, which is to be found on page 100 of the Digest, which the Clerk will read.

The Clerk read as follows:

"All motions, however, to be entered on the Journal must be first entertained by the Speaker."

The SPEAKER. The Chair declined to

entertain the resolution of the gentleman from New York, [Mr. ROBINSON,] on the ground that it was not, as the gentleman alleged, a question of privilege. It could not, therefore, be entered on the Journal, and is not incorporated in the Journal.

Mr. BUTLER. Then I withdraw the resolution.

ADJOURNMENT TILL MONDAY.

Mr. WOODWARD. I move that when the House adjourns to-day it adjourn to meet at ten o'clock on Monday next.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from Pennsylvania that he modify his motion so that there may be a session to-morrow for debate only.

Mr. WOODWARD. No; I cannot do that. My reason for making the motion is that I feel the want of to-morrow, and I presume every member who is upon a committee feels the want of to-morrow to prepare committee business. Our attention has been so much occupied by the proceedings in the Senate that there has not been time to prepare committee business, and I think one day just now would be exceedingly acceptable to members for that purpose.

Mr. WASHBURN, of Illinois. So far as I am individually concerned I would be glad to concur in the proposition of the gentleman from Pennsylvania, [Mr. WOODWARD.] But there are many gentlemen here who have speeches which they desire to deliver. It does not require any of us to come here to hear them, but we can attend to our business just as well.

The SPEAKER. The motion of the gentleman from Pennsylvania, to adjourn till Monday at ten o'clock a. m., will require unanimous consent, as the hour of meeting is fixed by the rule of the House.

Mr. WOODWARD. I think it desirable for the House to meet before or at the time the Senate meet.

The SPEAKER. The Senate meet in secret session at ten o'clock.

Mr. WOODWARD. The order of the Senate fixing the hour of meeting on Monday does not provide for a secret session. The record in the Globe is as follows:

"On motion of Mr. YATES, it was  
"Ordered, That when the Senate adjourn it be to Monday next at ten o'clock a. m."

The SPEAKER. The Chief Justice, presiding in the Senate, has decided that, unless otherwise ordered, the Senate sitting for the trial must meet with the doors closed; and therefore the House could not be at the bar of the Senate at ten o'clock a. m. The House must meet at twelve o'clock m., unless otherwise ordered by unanimous consent.

Mr. WOODWARD. Very well; I will modify my motion so that when the House adjourns to-day it shall be until Monday next at twelve o'clock m.

The question was then taken upon the motion of Mr. WOODWARD, as modified; and upon a division there were—ayes 52, noes 35; no quorum voting.

Tellers were ordered; and Mr. WOODWARD and Mr. LAWRENCE, of Pennsylvania, were appointed.

The House again divided; and the tellers reported that there were—ayes 71, noes 27.

So the motion was agreed to.

Mr. ELDRIDGE moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONNECTICUT AVENUE AND PARK RAILWAY.

Mr. SPALDING. I call for the regular order of business.

The SPEAKER. To-day being private bill day, the first business in order is the call of committees for reports of a private nature, commencing with the Committee for the District of Columbia, who are entitled to another morning hour. At the expiration of the last morning hour, on the 27th of March last, the House was engaged in the consideration of the following bill, reported from the Committee

for the District of Columbia, namely, House bill No. 420, to incorporate the Connecticut Avenue and Park Railroad Company in the District of Columbia. The bill had been ordered to be engrossed and read a third time; but not then being engrossed, it was passed over. The bill being engrossed, it will now be read the third time.

The bill was then read the third time.

The question was upon the passage of the bill.

Mr. WASHBURN, of Illinois. This bill now provides that this company shall sell tickets at their offices at the rate of seventeen for a dollar. I ask consent to move an amendment, so as to require the company to sell tickets on their cars and at their offices at the rate of ten for fifty cents and twenty for one dollar.

Mr. VAN HORN, of New York. I have no objection to that amendment.

The SPEAKER. It requires unanimous consent, the bill having been read the third time.

No objection being made, the amendment was agreed to.

Mr. VAN HORN, of New York. I now call the previous question on the passage of the bill.

Mr. LAWRENCE, of Ohio. Will the gentleman from New York [Mr. VAN HORN] allow me to make a suggestion?

Mr. VAN HORN, of New York. I will hear it.

Mr. LAWRENCE, of Ohio. If I have heard the bill correctly, it does not contain any provision reserving to Congress the right to alter, amend, or repeal this act. I do not know that such a provision is absolutely necessary; but I believe it is usual to have such a provision in these bills.

Mr. VAN HORN, of New York. I think there is such a clause in this bill. If not, I will consent to such a provision being inserted.

The SPEAKER. The Clerk will read the sixth section of this bill.

The Clerk read as follows:

SEC. 6. *And be it further enacted*, That this act may at any time be altered, amended, or repealed by the Congress of the United States.

Mr. LAWRENCE, of Ohio. There is one thing further I desire to suggest to the committee. The bill ought to contain some provision requiring this company to make report of their receipts and expenditures.

Mr. VAN HORN, of New York. I will say to the gentleman from Ohio that we have required nothing of that kind from any of the roads heretofore chartered. If any such provision is to be adopted, it should be in the form of a general law, applicable to all the companies alike.

Mr. WASHBURN, of Illinois. The gentleman from New York will find that not only by the original act incorporating the Washington and Georgetown Railroad Company, but by an amendatory act, that company is obliged to make returns very full in details of all its operations. I do not know whether the company complies with the requirement; but such is the provision of the existing law.

Mr. VAN HORN, of New York. Has the company complied with that requirement?

Mr. WASHBURN, of Illinois. I do not know. If it has not done so its charter ought to be taken away.

Mr. VAN HORN, of New York. I will say that the company we now propose to charter has no objection to such a requirement as that proposed; and of course the committee do not object.

Mr. PRICE. Is the amendment in order without unanimous consent?

The SPEAKER. It is not.

Mr. PRICE. Then I object to the amendment.

Mr. VAN HORN, of New York. I have already said that the committee have no objection to the amendment.

Mr. PRICE. I can, in a few minutes, if the House will listen, give the reasons why this amendment ought not to go into the bill.

The SPEAKER. The bill is open to debate.

Mr. PRICE. Mr. Speaker, I know nothing further about this bill than the reading of it discloses to the House. But it will be observed that the bill provides that the company shall build their road from and to certain points, that they shall build their cars of a certain size, that they shall run at certain intervals of time, that they shall not charge more than a certain fare; and after we have prescribed every minutiae of regulation, it is proposed that the company shall be required to make a report of their doings to Congress. Such a requirement, after what is already provided in the bill, seems to me simply surplusage. As the company appear to have nobody here to take care of their interests, I propose to save them from at least this requirement, which can be of no possible use to the country.

Mr. WASHBURN, of Illinois. It is proposed that this company shall be authorized to build a horse railroad in this District, which is exclusively under the control of Congress, and in which all the people of the country are interested. Why should the gentleman from Iowa [Mr. PRICE] object to requiring the company to make report of their earnings and expenses? It is no hardship upon the company. Such a provision has been inserted, I believe, in every railroad charter heretofore granted in this District. If the gentleman would allow me a few moments, I think I could refer him to the original law and the amendatory act in relation to the railroads already incorporated.

Mr. PRICE. I think I understand this question thoroughly, and I must insist on the objection.

Mr. LAWRENCE, of Ohio. I will send to the Clerk's desk a provision which I think will cover the point.

The SPEAKER. As the gentleman from Iowa objects, no amendment is in order, except by reconsidering the vote ordering the bill to be engrossed and read the third time. The question is now on the passage of the bill.

Mr. LAWRENCE, of Ohio. I move that the bill be recommitted, with instructions to the committee to report it back with a provision requiring the company to make reports of their earnings and expenditures.

Mr. VAN HORN, of New York. I desire to say that the committee has no objection to inserting in the bill the amendment proposed by the gentleman from Ohio; but to recommit the bill will cause delay. I will promise the House that this clause shall be inserted as an amendment in the Senate. I hope the gentleman will withdraw his motion to recommit.

Mr. PRICE. If the committee are disposed to have this amendment adopted I certainly shall not object. The reason of my objection was that there seemed to be no discretion left to this company as to building their road, constructing and running their cars, regulating their fares, or in any other material respect. Still, if the committee do not object to the amendment, I will withdraw my objection.

Mr. LAWRENCE, of Ohio. The amendment which I propose is to add the following as a new section:

*And be it further enacted*, That all the provisions of the act incorporating the Washington and Georgetown railroad requiring reports of expenditures and earnings and otherwise shall be applicable to the company herein incorporated, which shall make reports as in said act required.

The SPEAKER. If there be no objection, this amendment will be considered as adopted.

There was no objection.

The bill, as amended, was passed.

Mr. VAN HORN, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. MERCUR asked and obtained leave of absence for next week.

WILLIAM M'GARRAHAN.

Mr. WILSON, of Iowa, from the Committee on the Judiciary, reported back House bill

No. 65, for the relief of William McGarrahan, with the recommendation that it do pass.

The bill was read *in extenso*. The first section provides that the tract of land known as the Panoche Grandé Rancho, in the State of California, granted by Governor Manuel Michelorena to Vicente P. Gomez in the year 1844, and by said Gomez conveyed to William McGarrahan on the 22d day of December, 1857, surveyed by the United States surveyor general for the State of California, and approved by him on the 11th of September, in the year 1862, and which said survey is now on file in the General Land Office, shall be in all respects hereby fully confirmed to said William McGarrahan, upon this condition, however, that the said McGarrahan shall, within twelve months after the passage of this act, pay into the Treasury of the United States the sum of \$1 25 per acre for the lands embraced within the said survey.

The second section provides that upon the payment of the said sum of money to the Treasurer of the United States by said McGarrahan, the said Treasurer shall give a certificate therefor, and upon the presentation thereof to the Commissioner of the General Land Office a patent shall be issued to said William McGarrahan for said lands.

Mr. WILSON, of Iowa. I now ask that the report of the committee be read. It will fully explain the matter.

The Clerk proceeded to read the report.

Mr. HIGBY. I move that the further reading of the report be dispensed with; and I should like to ask some questions of the chairman of the Committee on the Judiciary in reference to the material points in this case. I do not believe that the members of the House will understand much about it by the reading of the report.

Mr. WASHBURN, of Illinois. Has the reading of the report been finished?

The SPEAKER. It has not.

Mr. HIGBY. If any member wishes to hear the report read I will withdraw my motion.

Mr. WASHBURN, of Illinois. I want to hear it read.

The SPEAKER. It is with the chairman to say whether the report shall be read or not. It cannot be read as a matter of right.

Mr. WILSON, of Iowa. Gentlemen wish to hear it, and I ask that the reading shall continue.

The reading of the report was then continued, but before it was concluded the morning hour expired.

The SPEAKER. The further reading of the report will be dispensed with and it will be published in the Globe.

Mr. STEVENS, of Pennsylvania, rose.

Mr. WILSON, of Iowa. I desire to make a request of the House, and it is this: that this matter be continued and disposed of now, as I am anxious to leave the city after the conclusion of the impeachment for a few days. I would regard it as a great favor if the House would permit me by unanimous consent to go on with this report to-day. The report is nearly finished.

The SPEAKER. The gentleman from Pennsylvania has the floor on a privileged question.

Mr. SPALDING. And I desire to go into committee to consider two short appropriation bills.

Mr. WILSON, of Iowa. I make the request.

Mr. STEWART. I object.

The report was then ordered to be printed, and also printed in the Globe; and it then went over to the next morning hour on private bill day.

The report is as follows:

The Committee on the Judiciary, to whom was referred a bill for the relief of William McGarrahan, respectfully submit the following report:

The history of this case is composed of such a multitude of circumstances, spread over a period extending from the year 1844 to the present time, that to give it in detail would be to present a report so voluminous as to defeat the very object contemplated by the House in submitting it to the committee, that of information to its members.

It has, therefore, been deemed advisable to exhibit

leading and controlling facts rather than minute and unimportant particulars. The effort has been to give the present paper a synoptical rather than argumentative character, as it is believed a plain but abbreviated narrative will be sufficient to satisfy all inquirers that the bill herewith reported should pass.

An impartial statement of the facts and of prominent proceedings is, in the judgment of the committee, all that is needed to show that Mr. McGarrahan is entitled to the relief he seeks and to the land in question, as described in his original memorial presented to the House during the Thirty-Ninth Congress.

In the year 1844 Manuel Michelorena, the then Governor of Upper California, in accordance with a Mexican custom to confer lands upon deserving officials and citizens, granted to Vicente P. Gomez a tract of land, then, it would seem, considered almost valueless, and situate in the present counties of Fresno and Monterey, State of California. The property was then and is now known as "Panoche Grandé Rancho."

The making of this grant has been denied, and this denial constitutes the principal ground from which has sprung the prolonged and exhausting litigation in the case, extending over a period of more than thirteen years.

The proof of the existence of the grant is satisfactory. It is found mainly in the following facts:

I. The deposition of José Castro, who filled the office of political chief of California, and was also prefect and commandant general, which states that Gomez, with whom he was well acquainted, desired him (Castro) to inform him (Gomez) of a suitable place to petition for or secure, and that he recommended the Panoche Grandé.

II. The petition of Gomez to Governor Michelorena, March 13, 1844, requesting a grant of the rancho.

III. A marginal entry made by the Governor, March 14, 1844, on the petition of Gomez, that the proper secretary should cause the necessary investigations to be made and make report.

IV. A declaration of the same date, by Manuel Jimino, the secretary, that the petition of Gomez had been transmitted to the first justice of San Juan, in order that he should report what would be just in the matter.

V. The report of the justice, dated March 20, 1844, stating that the land was vacant, and that there was no reason why the same should not be granted.

VI. A map of the land, filed in pursuance of the justice's report.

VII. The affidavit of Valentine Gajola, employed in the Presidential Company of Monterey in 1848, showing that Gomez applied to him to make a map of the rancho, exhibited to him the title papers duly executed, and that he made the map as desired.

VIII. The deposition of José Abrigo, the head of the commissary department, and resident in Monterey, proving that Gomez was a clerk in his office, and that in 1845 he (Gomez) showed him a title to the land named, together with a map of the property; that the papers were signed by the Governor and secretary, and that he was well acquainted with the signatures of these officers, having often seen them write. That the archives in which their papers were passed into the possession of the American Army, July 7, 1846.

IX. The testimony of Abrigo, Dr. James L. Ord, a surgeon in the United States Army, and others, proving the destruction of the archives in Monterey, and the fact that such destruction is generally admitted.

X. The deposition of Oscar De Grandé Basque, stating that Gomez in 1845 showed him title papers for the rancho, and proposed a sale of the land to him.

XI. The affidavit of J. Marno Bonilla, secretary of the Superior Tribunal of Justice in Monterey, stating that Gomez in 1844 applied to him for stamped paper, to be used in procuring a title to lands; and that in 1845 he saw memoranda of grants of land, among which was that of Panoche Grandé to Gomez.

XII. The affidavit of Matias Moreno, secretary of State of Upper California, stating that in 1846 he knew Gomez had obtained a grant for Panoche Grandé, and that he saw the grant.

XIII. The affidavits of Marcio Gonzales, José Fernandez, Gabriel de la Torre, Joaquín S. Escamilla, and others, tending to prove the existence of the grant.

XIV. Statement of E. L. Gould, esq., before the Judiciary Committee, that he believed the petition of Gomez was a genuine document, and that he based his opinion on his knowledge of the facts and circumstances connected with the case of said Gomez against the United States, which involved the validity of the grant upon which this case is based. Mr. Gould was of counsel in said case in opposition to the grant, and appeared as a witness before the committee on behalf of the opposing parties.

XV. The grant by Governor Michelorena, in the year 1844, to Don Julian Ursua of the tract known as the Rancho "La Panoche de San Juan and Los Carrisaltos," wherein the tract is described as being bounded on the south by the mine of "Los Aguilas" and "La Panoche Grandé."

XVI. Statement of Henry D. Cooke, esq., that when he was in California, in the years 1847-48-49, it was common report that Gomez had received a grant of a rancho near San Juan from the Mexican Government.

XVII. In 1845 the Board of Land Commissioners, at the hearing on the evidence, as required by the laws of the United States, decided that Gomez had given satisfactory proof of the existence and loss of the grant.

1. In the treaty of Guadalupe Hidalgo, entered into between the United States and Mexico Febru-

ary 2, 1848, it was provided that property of every kind belonging to Mexicans should be inviolably respected, and that the United States should pass such laws as would give effect to the different stipulations of the treaty, and always thereafter regularly enforce them. This feature was introduced to secure all landed and other interests that might in any way be affected by a change of jurisdiction over the territory embraced in the treaty. (Statutes-at-Large, vol. 9, pp. 229-231.)

2. The law contemplated was passed March 3, 1851, (United States Statutes-at-Large, vol. 9, p. 631,) creating a Board of Land Commissioners, and declaring, among other things, "that each and every person claiming lands in California by virtue of any right or title derived from the Spanish or Mexican Government shall present the same to the said commissioners when sitting as a board, together with such documentary evidence and testimony of witnesses as the said claimant relies upon in support of such claims; and it shall be the duty of the commissioners, when the case is ready for hearing, to proceed promptly to examine the same upon such evidence and upon the evidence produced in behalf of the United States, and to decide upon the validity of the said claim, and within thirty days after the said decision is rendered to certify the same, with the reasons on which it is founded, to the District Attorney of the United States in and for the district in which such decision shall be rendered." (Sec. 3.)

3. February 9, 1853, Gomez, in accordance with the provisions of the act of March 3, 1851, presented his petition to the Board of Land Commissioners, praying a confirmation of his claim to the Rancho Panoche Grandé.

4. The board having fully heard the evidence of the grant, decided that the claimant had given satisfactory proof of the existence and loss of the grant, but had failed entirely to offer any proof whatever going to show that he ever occupied, improved, or cultivated any part of the land, or that any one ever did for him, or that he ever saw the land; and on the ground of non-occupancy decided the grant invalid.

5. In the case of Frémont vs. the United States, (17 Howard, 542,) decided at December term, 1854, the Supreme Court of the United States held that in the case of Mexican land grants omission to take possession of the land did not of itself forfeit the right or grant. Had this determination preceded the action of the Board of Land Commissioners the grant to Gomez would certainly have been pronounced valid, as the board decided against the grant on the ground that the grantee had not entered upon and possessed himself of the land granted.

6. The decision of the Board of Land Commissioners made an appeal necessary, which was accordingly taken by Gomez, and June 5, 1857, the district court for the southern district of California confirmed his claim, and a decree to that effect was pronounced. But through what is claimed to have been a clerical mistake, and which the party asserts was unobserved for some months, the decree was for three leagues of land instead of four, as claimed, and as proved by the deposition of José Abrigo, used before the Board of Land Commissioners, and in the court, to have been comprised in the grant, and was unsigned by the judge.

7. Thus, as Gomez, his counsel, and all interested might well have supposed, the question of title was settled, subject, of course, to the right of appeal. The records of the district court presenting Gomez as owner of the rancho in accordance with the finding of the Board of Land Commissioners, the decision of the said district court, and the decision of the highest court in the Frémont case, Mr. McGarrahan, December 22, 1857, bought the property from Gomez in good faith, and for a valuable consideration.

8. The alleged error in the quantity of land stated in the decree of June 5, 1857, being discovered, an application was made to the court to correct it; whereupon, February 8, 1858, an amended decree was entered *nunc pro tunc*, (that is as of June 5, 1857,) covering the four leagues, and duly signed.

9. About the time Mr. McGarrahan purchased from Gomez, some persons having prospected the land discovered mineral deposits, (a fact unknown to Mr. McGarrahan when he purchased,) and finding it had been sold by Gomez they, as "squatters," took possession of and held it, as they still hold it, either in person or by assignees, cognizant of the facts, and without title.

10. March 15, 1858, the United States appealed from the decree of the district court, as it seems was their practice to do in all cases adjudicated against them, and on July 8, 1858, thirteen months after the final decree of confirmation, a motion was made by special counsel of the United States in the case, as it seems, without notice to the claimant, to have the decree opened.

11. Mr. McGarrahan having been advised that the appeal to the Supreme Court had been taken by the Government, without examination as to its merits, in accordance with the uniform practice, made application through counsel to Hon. Jeremiah S. Black, the then Attorney General, (a certified transcript of the case being presented to him,) to have him examine the case and determine whether he would persist in the appeal.

12. After full argument before the Attorney General, that officer directed that the appeal should be docketed and dismissed; and on January 31, 1859, it was so entered upon the books of his office and upon the records of the Supreme Court. Whereupon, in March, 1859, the Supreme Court issued its mandate, which ordered and decreed the docketing and dismissal of the appeal entered in the Supreme Court, and commanded that "such proceedings be had in said case as, according to right and justice and the laws of the United States, ought to be had."

13. The said mandate was filed in the district court



May 4, 1859, whereupon the court ordered, adjudged, and decreed that the said mandate should be carried into effect, and that the said Gomez proceed under the decree of the court as under a final decree.

The effect of this was to perfect the title to said rancho in Mr. McGarrahan, as the grantee of Mr. Gomez.

At this stage of the case the most vigilant lawyer, consulted by client and required to examine records, could have given no other opinion upon the state of the records than that a fee-simple interest in the rancho was vested in Mr. McGarrahan.

From this time the parties occupying the property, without title or rightful claim, resorted to divers expedients to defeat McGarrahan's title: accordingly the "squatters" interest, so called, which vested in the New Idria Mining Company, appealed to controlling officers of the Government. This is shown by the following facts:

1. A consultation between Mr. E. L. Gould, counsel for the "squatters" upon the property alluded to, with the Attorney General, and immediately thereafter that officer making a motion in the Supreme Court to recall the mandate before spoken of, on the ground of fraud and want of jurisdiction.

2. The alleged fraud was declared to consist in the fact that a conveyance of an undivided half interest in the property had been made by Gomez to Pacificus Ord, then representing the United States as district attorney, and that he had consented to the propriety of the original decree of June 5, 1857.

3. It is shown that Mr. Ord, after his appointment to the office he held, not only revealed to the Government the fact that he was interested in the claim, but requested the Government to employ other counsel to attend to its interests.

4. This the Government did not do; the consequences of which was, that Mr. Ord, at the time of the original decree, having no evidence militating against the validity of the grant, acquiesced in its confirmation; and so far as this committee can discover the representation then made by Mr. Ord was in accordance with facts.

5. At this point in the proceedings it appeared that some influence, unknown to the committee, had caused the file marks and indorsements on the final order of the district court, made in obedience to the mandate of the Supreme Court, to be erased from the record, as well as the filing of the mandate itself. This seems to have been done on the 18th of January, 1860, more than eight months after the order had been filed. It also appears that certain entries in the books of the Attorney General's office respecting the original appeal in this case and the action of the Government in other appeals embraced in the same order, were not known to the court or to McGarrahan's counsel in time for them to avail themselves of the benefits thereof, on the hearing of the case in the Supreme Court, on motion by the Attorney General to revoke the mandate. It will be remembered that it was upon the conclusive evidence of his order that the Supreme Court had directed the proper entry to be made upon their record, and that that mandate was issued.

6. This failure to disclose the facts to the court by the Government undoubtedly had much to do in securing the order of the Supreme Court revoking their mandate of 1859, and which order was strangely withheld until June, 1862, when it was filed by the present claimant for the purpose of again lodging jurisdiction of the case in the court below.

7. But, in the meantime, (March 21, 1861,) the district court annulled its original decree. This extraordinary action on the part of the court seems to have been taken without notice, either to the claimant or his known counsel, and in the absence of both.

8. As soon as this condition of things was ascertained, an application was made to the court to restore the decree, and upon full hearing the order, as requested, was made on the 4th August, 1862.

9. Thus matters rested until the 25th August, 1862, when the then district attorney, contrary to express stipulations, entered into between himself and the counsel for the claimant, in their absence and without notice obtained an order of appeal to the Supreme Court.

10. The impropriety of this proceeding is made apparent for the reason that, in order to give the Supreme Court jurisdiction, a citation should have been first issued, signed by the judges, served on the claimant, and formal return made, with proof of service.

11. The law is very clear upon this point; the acts of 1793 and 1803, which regulate appeals, (the appeal not having been taken in open court at the June term in 1857, when the original decree was pronounced, nor at the December term in 1857, when the decree was entered *nunc pro tunc*, or, in other words, within five years as directed by the statutes,) demanded a notice to the opposite party, and the proceeding was therefore clearly wrong. The court upon a full hearing reached this determination, and accordingly decided, December 4, 1862, that the appeal allowed August 25, 1862, be vacated and set aside, and that an appeal on behalf of the United States to the Supreme Court be denied.

Here, for the second time, the record evidenced a perfect title in the claimant.

It having been twice judicially determined by the action of the courts, that Mr. McGarrahan was the legal owner of the Rancho Panoche Grandé, the aggressors upon his rights resorted to a new line of action.

1. As seen after nine years of litigation, Mr. McGarrahan, the present claimant, succeeded in acquiring two distinct confirmations of his title. It was then, in accordance with the act of Congress of June, 1862, he applied to the United States surveyor general of California for a survey of the said tract of land, and which officer caused the survey to be made and approved September 11, 1862. This survey was trans-

mitted immediately thereafter to the General Land Office, and a patent for the property was demanded. 2. Here, again, he was confronted by the New Idria Mining Company, before referred to. The Secretary of the Interior at that time, (Hon. Caleb B. Smith,) after argument in the case, ordered the patent to issue.

Thus, again, for the third time, the title to the Panoche Grandé was found to be in Mr. McGarrahan. Some unknown cause delayed the execution of this order, and the patent was not issued. This neglect, or refusal, was persisted in throughout the remainder of Mr. Secretary Smith's term. The matter was then brought to the notice of Mr. Usher, the new Secretary, before whom it was again argued, and by whom a patent was directed to be issued. Neither the order of Mr. Smith nor Mr. Usher was obeyed, for some reason not yet divulged or ascertained.

For the fourth time the title of Gomez and his grantee was decided to be good and available in law. A request was then made by the claimant of President Lincoln that he would make an examination of the case and determine it upon its merits. This he consented to do. Printed briefs were laid before him, and upon full consideration of all the facts and circumstances he directed the Secretary of the Interior to cause a patent to issue to Mr. McGarrahan. And thus, for the fifth time, Mr. McGarrahan was declared to be entitled to the property, or rancho, and that neither the United States nor any other person had lawful claim to the same.

In accordance with this order of the President of the United States to the Secretary of the Interior, a patent was actually made out, but for reasons not fully explained never delivered to him for signature.

To recapitulate.

1. The proof of a legal grant from the Mexican Government to Gomez and the transfer of title to McGarrahan are clearly and indisputably shown.

2. The district court of the United States for the southern district of California confirmed the grant.

3. The Attorney General of the United States declared the title to the lands to be in Mr. McGarrahan, and caused an entry to that effect to be made on the books of his office and in the Supreme Court.

4. Hon. Caleb B. Smith, Secretary of the Interior, after examination and consideration of the case, ordered a patent to be issued to Mr. McGarrahan.

5. Mr. Usher, the successor in office of Mr. Smith, similarly decided.

6. Mr. Lincoln, after inquiry, decided the grant to be genuine, and that a patent should be issued to Mr. McGarrahan.

From the time when the district court pronounced its decree of confirmation (June 5, 1857) and the President's action on the case, (in the fall of 1863,) it will be observed, over six years had elapsed, and, in consequence of the lapse of time, an appeal could not be had according to law, unless something should appear to avoid the limitation.

In December, 1863, a paper, purporting to be a transcript of proceedings as they appeared on the records of the district court, was prepared in the Attorney General's office in Washington, District of Columbia, forwarded to the district attorney in California, certified by him out of his district, without comparison with the record, and merely from memory, and from which transcript were omitted material parts of the record, and returned to Washington.

Upon the transcript thus made up the case was again brought before the Supreme Court, which being discovered by the claimant, a motion was made to strike off the appeal, which was refused, although it, as it seems to the committee, was out of time, and the transcript had been made up without reference to the actual records of the district court.

Notwithstanding the Supreme Court refused to strike off the appeal taken in the manner indicated, a new transcript was obtained, 1865, from the clerk of the district court, and filed at December term, 1865, eight years and a half after the decree of the district court confirming the title was first pronounced, and more than three years after the period had elapsed within which the law allowed an appeal to be taken in the case, unless some exception takes it out of the limitation. Upon this appeal the Supreme Court, in March, 1866, decided the case against the claimant, and thus matters now stand.

The committee have bestowed a great deal of time and labor upon this case, in order to arrive at its real facts and merits. The claimant and the parties resisting his claim have been heard patiently and at great length.

In presenting the conclusion at which the committee have arrived they do not wish to be understood as undertaking to review and reverse the action of the Supreme Court relative to the case. Under and by virtue of the right of petition the claimant has presented his case to Congress, and the House of Representatives directed this committee to inquire into the grounds of his complaint. This has been done. Many facts have been presented to the committee which were not placed before the court. Additional evidence has been submitted and circumstances disclosed which have induced your committee to conclude that the relief prayed for by Mr. McGarrahan ought to be extended to him; and this may very readily be done. The title to the land claimed, and which he asks that he may be allowed to purchase, is now vested in the Government of the United States, and it is merely a question whether he shall be permitted to secure that which, in the judgment of your committee, he acquired title to by virtue of the Mexican grant aforesaid, or it shall fall into the hands of a corporation known as the New Idria Mining Company, which has been resisting his claim for years and paying the expenses of the efforts of said company out of the proceeds of the mines, the title to which rests in the United States.

It is clear that McGarrahan purchased the prop-

erty in good faith, and for a valuable consideration, when it was regarded as of but little value. His interests have been attacked and his title resisted, nominally, by the United States, but really by the New Idria Mining Company. The name of the United States, their officers and money, have been used to resist his claim, and all to the end that this property, valuable as it now undoubtedly is, may pass into the hands of parties who are wholly unknown to the record of the proceedings had in the courts of the United States, respecting the title to the land in question, through all its years of transit from the Board of Land Commissioners to and through the Supreme Court of the United States.

The company aforesaid placed before the committee a memorial, in which the case is stated as follows:

"The real parties who contested the grant were your memorialists, for against them only were the efforts of the owners of the 'Panoche Grandé Rancho' directed. For the New Idria mines, and for the fruits of the labor of those who have developed them, the owners of the 'Panoche Grandé' are now seeking congressional interference in their behalf. It may well be doubted whether the 'Panoche Grandé' would ever have been heard of in the district court of the United States or in Congress but for the hope of robbing your memorialists of the fruits of their years of labor and vast expenditures of money."

This extract shows that the United States have no interest as between these parties beyond that of preserving its faith as pledged in the treaty made between this Government and that of Mexico. And as to the allegation of robbery, &c., made by said company, it may be remarked that one of its stockholders, of large interest, testified before the committee that after paying all of the expenses of said company, including every outlay, a balance would be left in its treasury on account stated.

The precedents are numerous where the Congress has afforded redress in cases of an analogous character. The following are referred to:

I. The Boscol act, 12 United States Statutes, page 808.

II. The Bolsa de Jomales act, 13 United States Statutes, page 136.

III. Ex-Mission San José act, 13 United States Statutes, page 531.

IV. Laguna de Santos Calle act, 13 United States Statutes, page 372.

V. Baron de Bastrop act, 9 United States Statutes, page 597.

In addition to which we have the act of June 21, 1860, and the act of March 1, 1861.

In view of all the facts developed in the case, and believing that justice and equity demand that the relief prayed for by the claimant be extended to him, the committee recommend the passage of the bill herewith reported.

#### ADMISSION OF ARKANSAS.

Mr. STEVENS, of Pennsylvania, from the Committee on Reconstruction, reported back House bill No. 1039, to admit the State of Arkansas to representation in Congress, with the recommendation that it do pass.

The bill was read *in extenso*. The preamble states that the people of Arkansas, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, have framed and adopted a constitution of State government which is republican in form, and the Legislature of said State has duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen.

The bill then declares that the State of Arkansas is entitled and admitted to representation in Congress, as one of the States of the Union upon the following fundamental condition: that the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at the common law, whereof they shall have been duly convicted.

Mr. ELDRIDGE. I would inquire of the gentleman from Pennsylvania [Mr. STEVENS] whether it is the purpose of the chairman of the Committee on Reconstruction to force action on this bill to-day without any opportunity of discussion?

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I have no objection to the gentleman's discussing it. It being a bill which, I think, is above all exception, more so than any other, I would like to hear if there is any objection to it, only I trust it will be presented as briefly as possible. I do not want to discuss a single paragraph of it, but I desire it should be acted on to-day.

Mr. ELDRIDGE. I would say to the gen-

tleman from Pennsylvania here is a report to the House which consists of fifty printed pages, and it is laid on our tables this morning, or rather, I believe, it is not laid on our tables generally; I was able only a moment ago to obtain a copy. The bill itself was also only handed, to me a moment ago, and I understand the gentleman's colleague on the committee [Mr. BECK] has had no opportunity to examine the evidence submitted in connection with the report. It is desirable it should be examined and discussed. We do not consider this bill so unexceptionable as the gentleman has intimated. We think it involves important principles that ought to be discussed; that the same principles are involved in this bill that were to some extent involved in the bill admitting Alabama; and we think, without having had an opportunity to examine the papers, that it is in gross violation of the Constitution, and we ought to be allowed reasonable time to discuss it.

Mr. STEVENS, of Pennsylvania. I certainly shall not object to the gentleman's having reasonable time to discuss it. The bill has been distributed, I believe, and all I can say is, if gentlemen want to speak I hope those who think there is no difficulty about it will not occupy the time, but let the doubting gentlemen occupy the time. With that understanding, as we have now some three hours before us to-day, I will move the previous question, agreeing that I will not say a word.

Mr. BAKER. Will the gentleman yield to me a moment?

Mr. BECK. Will the gentleman allow me to make a suggestion?

Mr. STEVENS, of Pennsylvania. Yes, sir.

Mr. BECK. This bill is just submitted, but the papers setting forth all the facts have not yet been considered. General Grant sent in a communication on Thursday last. That has not yet been laid before the House. Though advanced copies are now here, yet members have never seen it. It is a long, detailed report. The papers also which were sent to the House by the President relating to the southern elections are not yet before us. Now, if the gentleman from Pennsylvania will fix an early day, say Monday or Tuesday next, the House will have an opportunity to understand the facts and will be able to vote advisedly. I only ask that we may have these papers before us so as to be able to act intelligently. It will only require a delay of a day or two. The printers, I understand, will have them ready to-night or to-morrow morning.

Mr. BOUTWELL. I believe the gentleman from Kentucky [Mr. BECK] is in error in regard to the printing; as I understand it, all the papers which the gentleman wanted to have printed have been printed and are now on the desks of members.

Mr. BECK. I desired the affidavits accompanying the report to be printed but the committee were of opinion that they were so voluminous that it would take too long to print them. Therefore I consented that they might not be printed. But I hoped to have an opportunity to examine them if not printed.

Mr. BOUTWELL. I understood that all that the gentleman from Kentucky really thought important to be examined have been printed.

Mr. BECK. But I hoped, with those documents before us, we could have an opportunity to examine the affidavits and the exhibits referred to. On account of the delay in printing I consented that they should not be printed. I now only ask a day or two to enable us to examine the papers.

Mr. BOUTWELL. In reply to the gentleman I will say that the examination which I made of the papers leads me to the conclusion that they are numerous, voluminous, and unimportant. The affidavits are in regard to individual transactions, attempts to vote and voting alleged to be irregular. But all these papers, as I understand from the reports made to the House, were submitted by the general com-

manding in that district to Colonel Tourtelotte, who went to Little Rock, Arkansas, examined the whole matter, and made a report thereon, which is printed in these documents. It covers less than three pages. I believe it is a fair statement of the whole affair, which can be read from the Clerk's desk in less than fifteen minutes. I have no doubt, for the information of the House. It is represented on all hands as a fair and candid statement, and I may say that it is stated to the committee that Colonel Tourtelotte is not of the political opinions of the controlling party in the country. We are willing to accept his statement as a statement of the truth concerning the election in Arkansas.

Mr. ELDRIDGE. I desire to inquire if there are not here fifty printed pages, deemed of sufficient importance by the committee to have them printed and laid before us, and if it is possible for any gentleman to examine these fifty printed pages so as to discuss this bill? Ought not, then, the request of the gentleman from Kentucky, [Mr. BECK,] which is a reasonable one, to be granted by this House or by the gentleman having charge of this bill, to fix an early day next week when this bill shall come up for discussion. I certainly shall not then insist that the gentlemen who have made up their minds, who were referred to by the gentleman from Pennsylvania, shall discuss it; but those who desire it ought certainly to have an opportunity to read what the committee has considered of sufficient importance to have printed and laid before us, and no one can do that to-day.

Mr. BOUTWELL. In reply to that I have to say that much of this document of fifty pages is made up of official military orders relative to the election, and can furnish no instruction whatever to the House. They were printed, as I said before, at the suggestion of the gentleman from Kentucky, [Mr. BECK,] the committee being disposed to allow the printing of whatever he thought was desirable. But the substance of the whole matter is in the report of Colonel Tourtelotte, who reviewed the transactions in Arkansas after an examination made by him under official orders and continued through many days.

Mr. ELDRIDGE. Let me inquire if the committee have made any report in writing?

Mr. BOUTWELL. No, sir; we have not.

Mr. ELDRIDGE. Then I ask how the House is to get information? The gentleman tells us that these fifty pages do not contain any information of any importance, and he tells us the committee have brought in no report. And yet he has come to the conclusion that the House will be sufficiently informed and sufficiently wise to act upon this great question without any information whatever.

Mr. BOUTWELL. Well, the committee supposed that the gentleman from Wisconsin and his friends, who have been so anxious to have these States represented during the last three years, would consent to the bill at once.

Mr. ELDRIDGE. The gentleman cannot get off in that way by holding out that this is the kind of representation that we desire.

Mr. BAKER. Mr. Speaker, I certainly have no disposition to obtrude any obstruction in the way of speedy action in the matter of admitting Arkansas and these other States to representation. I wish, however, to say that this action is important, and ought, therefore, to be deliberative.

Now, some days ago the constitution of the State of Arkansas was ordered to be printed. I have applied to the Doorkeeper for a copy, and I am informed that it is not yet printed. I wish to see this constitution; I wish to read it; I wish to know what I am doing before voting upon so important a proposition. Now that the business is brought formally before the House, gentlemen may give their attention to the subject, may examine the constitution, and may be prepared to know what they are doing.

This bill certainly involves or raises a very grave constitutional question as to whether or

not this Congress, as a legislative act, can impose the fundamental condition provided for in the bill. Now, for myself, I like the fundamental condition. I am very much attached to the provision of liberty embodied in it; but with me it is a question of power in this Congress under the Constitution of the United States—a question of our power to impose such a condition upon the State.

Now, what I say is that business of this sort should not be taken up, in the absence of the printed constitution of Arkansas, without due consideration, and pressed to a vote. I really think that the best, the most harmonious, and the proper course to be taken is to allow this matter to go over until Monday. I do not wish to be understood as committing myself by anything I have now said to any final conclusion which I may reach in reference to the propriety of the bill proposed.

Mr. STEVENS, of Pennsylvania. I will now say what I have to say.

Mr. BECK. Will the gentleman allow me to make a statement?

Mr. STEVENS, of Pennsylvania. Certainly.

Mr. BECK. I desire to say that we of the committee never had before us the communication from the President of the United States which was communicated to us on Friday last, setting forth all the facts of the Arkansas election and the report of the commissioners who conducted the election. That document went directly from this House to the Government Printing Office, and the printed copies will be sent to us to-night. We have never yet seen it; we have seen only the communication from General Grant. The printed copies of the constitution of Arkansas will be ready to-night or to-morrow. And by Monday morning we will be in possession of the facts communicated by the President, being the reports of the commissioners who held the election and also the constitution itself.

Mr. STEVENS, of Pennsylvania. At the time the committee selected the papers which we deemed it necessary to have printed, we selected all that the gentlemen deemed important, for the others were merely formal papers and not necessary to be printed now. The only papers deemed important are now printed here, being the reports of the district commanders.

In regard to the constitution of Arkansas, I think, when it comes to be examined, when gentlemen have after a while picked out all its flaws, that everybody will see that there is not a single clause in that constitution to which any one can object, unless it be some one who is opposed to freedom.

Now, what I propose is to ask that we now proceed with the consideration of this bill; that gentlemen on the other side, if they choose to go on and discuss this bill, may find all the fault with it if they can. Then, if the House can find anything in it which deserves a further hearing, they can delay the bill if they choose to do so. There are reasons, which I do not think it proper and necessary to mention now, why this bill should be considered, passed, and sent to the Senate before next Monday.

I now ask the previous question, as that is the only way to get at this matter.

Mr. SPALDING. I hope the gentleman will not press the previous question; I certainly cannot support it.

Mr. ELDRIDGE. I understood the gentleman from Pennsylvania to say that he proposed to give a reasonable time to discuss this bill.

Mr. STEVENS, of Pennsylvania. I will do so.

Mr. ELDRIDGE. I hope the House will not take any such precipitous action upon this bill as is proposed.

Mr. BLAINE. I hope the gentleman from Pennsylvania [Mr. STEVENS] will insist upon the previous question. If there is any subject which has been talked to death in this country it is the subject of reconstruction. What is wanted now is action. I think Congress and

the people are tired of the talk both on this side of the House and the other. We want to act.

Mr. SPALDING. Does the gentleman expect us to vote upon this bill without knowing what the constitution of Arkansas is? I will not vote for it until I know what the constitution is. The whole pith of the matter is the constitution, and I want an opportunity to see what it is.

Mr. ROBINSON. The gentleman from Pennsylvania [Mr. STEVENS] suggests that it is important to have this bill acted upon and sent to the Senate before Monday. The Senate could not act upon the bill if sent to them, for they meet on Monday at ten o'clock for a certain matter, which will occupy the whole day.

Now, allow me to say that I shall vote for any bill or anything which will bring these States back without condition into the Union, because I believe that neither Jefferson Davis nor any one of his successors here or elsewhere ever could do anything to take them out of the Union. I believe they are in the Union now; and I will vote for anything that will acknowledge these States in their right position as equal States in the Union.

Mr. ELDRIDGE. Will the gentleman from Pennsylvania yield to me?

Mr. STEVENS, of Pennsylvania. I will yield after the previous question has been seconded.

Mr. ELDRIDGE. I desire the gentleman to yield to me in order that I may speak against the propriety of insisting upon the previous question at this time.

Mr. STEVENS, of Pennsylvania. There is no necessity for yielding to the gentleman; the House can determine that matter.

The question was taken on seconding the previous question, and upon a division there were—ayes 67, noes 43.

Before the result of the vote was announced, Mr. ELDRIDGE called for tellers.

Tellers were ordered; and Messrs. ELDRIDGE and BOUTWELL were appointed.

The House divided; and the tellers reported—ayes 66, noes 33.

So the previous question was seconded.

The main question was ordered.

Mr. ELDRIDGE. Mr. Speaker, is it in order now to move that the House adjourn?

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] is entitled to the floor.

Mr. STEVENS, of Pennsylvania. I want to say, in order that it may go to the country, that every member of this House had a copy of the constitution of Arkansas sent to him more than three weeks ago. Every member must have received a copy, or he must have missed it through the mails. I have seen copies lying around so thickly that I think some gentlemen must have thrown them away because they did not choose to keep them.

Mr. VAN WYCK. I ask unanimous consent to present a resolution which I have been unanimously directed by the Committee on Retrenchment to report, and which it is very desirable should be acted upon by the House immediately.

Several MEMBERS. Oh, no.

Mr. VAN WYCK. There will be no objection to the resolution when gentlemen hear it.

Mr. SPALDING. I object to the presentation of the resolution now.

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I rise to close the debate, and I will yield to other gentlemen a part of my time.

Mr. ELDRIDGE. The gentleman says he rises "to close the debate." Does he not rise to begin it also?

Mr. STEVENS, of Pennsylvania. I will give to the gentleman an opportunity to begin it, if he so desires. I will yield a part of my time to any gentleman who wishes to speak.

Mr. WOODWARD. Will my colleague yield to me for a moment?

Mr. STEVENS, of Pennsylvania. I yield to my colleague fifteen minutes.

Mr. ELDRIDGE. Will the gentleman from Pennsylvania [Mr. WOODWARD] yield to me that I may make a motion that the House adjourn?

Mr. WOODWARD. Yes, sir.

Mr. ELDRIDGE. I make that motion.

The SPEAKER. The gentleman from Pennsylvania [Mr. WOODWARD] cannot yield for a motion to adjourn without the consent of his colleague, [Mr. STEVENS, of Pennsylvania,] who is entitled to the floor.

Mr. WOODWARD. Mr. Speaker, I have no desire to make a speech at the present time; and my friend, whom I thank for his courtesy in yielding me the floor, need not give it to me for that purpose, because, sir, I am not prepared to discuss a constitution which I have never seen. I do not know whether or not I would vote for the admission of the State of Arkansas under the constitution recently framed; for I have not seen it. I now ask my colleague—and this was my object in rising—to explain how we are to guaranty to Arkansas a "republican form of government" when we are not permitted to see the fundamental law under which that State is to be organized. I have heard a great deal this session about the obligation resting upon us to guaranty to each State a republican form of government. Now, I do not mean to say that all I have heard on that subject has been wise; but I have heard so much on that topic that before a new State comes into the Union I wish to know whether it has a "republican form of government." I want to form my judgment upon this question from the constitution or the fundamental law of the State. My colleague will excuse me for saying that I will not take his opinion upon that question; I am not satisfied to take his testimony that Arkansas is a republican State. I want to see the constitution for myself.

Now, I appeal to my venerable friend that he give us time enough to inform ourselves about that constitution before he forces us to a vote. It would be extremely awkward for me to be found voting against a truly republican State. I have no disposition to do it. On the contrary, I am extremely anxious for the admission of Arkansas and all the other excluded States, and will vote for their admission with all my heart when they present themselves in a manner fitting them to be admitted. I am very sure that my very candid friend would not desire to place any of us in that position. I do not wish to be betrayed into voting against a State for the admission of which I would cheerfully vote if I could know the grounds upon which she is to come in. Therefore I maintain it is not a question for the House, but for the gentleman's own sense of fairness and honor that he will allow his colleagues to know what they are doing before they are called upon to vote. That is the appeal I make to him.

Mr. BECK. Do I understand the gentleman will yield to me?

Mr. STEVENS, of Pennsylvania. Certainly.

Mr. WELKER. Let me suggest to the gentleman from Pennsylvania that perhaps the best occupation of our time would be to hear the constitution of Arkansas from the Clerk's desk. It is alleged by a good many gentlemen to whom this constitution was sent three weeks ago that they never had an opportunity of reading it. I suggest that a part of the gentleman's hour be taken up with the reading of the constitution of Arkansas.

Mr. ELDRIDGE. The gentleman ought to know that it cannot be read in an hour.

Mr. BLAINE. How does the gentleman know that, if he never saw it?

Mr. STEVENS, of Pennsylvania. Nearly a month ago every gentleman upon this floor was furnished by the State of Arkansas with a copy of this constitution. If they have not seen proper to read and preserve it, it is not the fault of the State of Arkansas. It has been upon our tables. I do not expect my colleague to take my opinion on these questions, because

I know he is better acquainted with them than I am. I supposed he did see the constitution. Every gentleman ought to have read it. Every member ought to have informed himself of its contents. If they have not done so then I agree that a part of my hour may be taken up with the reading of the constitution of Arkansas.

Mr. BECK. What time does the gentleman from Pennsylvania allow me?

Mr. STEVENS, of Pennsylvania. What time does the gentleman ask?

Mr. BECK. I ask for a reasonable time.

Mr. STEVENS, of Pennsylvania. How much?

Mr. BECK. Twenty minutes.

Mr. STEVENS, of Pennsylvania. That is reasonable.

Mr. BECK. Mr. Speaker, while it would take more than an hour to state properly my objections to this bill, I will avail myself of the twenty minutes allowed me by the gentleman from Pennsylvania [Mr. STEVENS] to lay before the House as many of the more prominent objections to it as I can, fully convinced that I can do no more, and that it would be idle to attempt to make a speech. I desire to state now what I have endeavored to state before, that this House is not in possession of any of the facts necessary to base its action upon. The constitution of Arkansas is now in the hands of the printer, and I doubt whether a single member of this House, outside of the members of the Reconstruction Committee, ever saw it or know a single provision contained in it. The committee have made no report and furnished no data to the House outside of the bill itself; so that you are all groping in the dark.

On Wednesday last the President of the United States sent to this House the report of the commissioners who held the election in Arkansas, which, together with the accompanying papers, were at once ordered to be printed, and were sent direct to the printer by the Clerk, where they still are, and no member of this House, nor even of the Reconstruction Committee, has ever seen them, or knows a single fact therein contained. They may show such a state of fact relative to the vote on the ratification of the constitution as to satisfy this House that it was in fact rejected? Why not postpone action till they are received? The constitution and report will be returned by the printer to-night or to-morrow as I am informed.

On Tuesday last General Grant laid before the House the report of General Gillem and the accompanying documents; a part only of this was ordered to be printed by the House, and on yesterday morning, when the Reconstruction Committee met, we found that no portion of it had been sent. We selected out such portions of it as we regarded as of special importance to a proper understanding of the facts relative to the election, and by leave of the House obtained yesterday it was sent to the printer, without consideration or more than a mere cursory examination by the committee. It is just now being returned, a few of the advance copies only having been brought in, containing fifty pages of printed matter, which, of course, no member has yet been able to read, much less to consider and understand; besides all this, there are unprinted affidavits and other papers now before me, referred to in the report just printed, which I have had time only to read hurriedly, and about the facts stated in which this House knows nothing. Yet, under these circumstances, we are required to vote upon this bill to decide that this is a proper constitution and that it was ratified by the legal voters of Arkansas when we never saw the one and know nothing about the facts as to the other.

I am compelled to dissent from the majority of the committee on both the propositions embraced in the bill. First, because I regard the proposed constitution as so unjust and oppressive to the white race, and so flagrantly violative of the powers and duties conferred by the reconstruction acts of Congress, which I



assume will be considered as valid and binding, that it ought to be rejected, even if a majority of the votes permitted to be cast were cast in favor of its ratification; and second, because I am entirely satisfied that at the pretended election held as it was in a manner and under circumstances that ought to condemn and annul it, a majority of the votes cast were, in fact, cast against its ratification. I will state briefly the facts and reasons on which I rely in support of these propositions. I must, of course, confine myself to a few of the more prominent and glaringly outrageous provisions of the instrument itself, which seems to have been prepared specially to harass and oppress the native white population of the State. The convention doubtless considering that the more oppressive and vindictive they made it the more likely it would be to be acceptable here. No other State in the South has, so far, presented a constitution at all approaching this in its wholesale exclusion of white men from the right of suffrage, and none of them have had the audacity, the shameless audacity, to admit, as this does on the face of the paper itself, that all these exclusions and all this political ostracism is simply to force the white men of Arkansas to unite themselves with the Radical party, put its satellites in power and place, and like whipped spaniels on their bended knees lick the hand that scourged them. Let me here read article eight; title, Franchise:

## ARTICLE VIII.

## Franchise.

SECTION 1. In all elections by the people the electors shall vote by ballot.

SEC. 2. Every male person born in the United States, and every male person who has been naturalized or has legally declared his intention to become a citizen of the United States, who is twenty-one years old or upward, and who shall have resided in the State six months next preceding the election, and who at the time is an actual resident of the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector: *Provided*, No soldier or sailor or marine in the military or naval service of the United States shall acquire a residence by reason of being stationed on duty in this State.

SEC. 3. The following classes shall not be permitted to register or hold office, namely: first, those who during the rebellion took the oath of allegiance or gave bonds for loyalty and good behavior to the United States Government, and afterward gave aid, comfort, or countenance to those engaged in armed hostility to the Government of the United States, either by becoming a soldier in the rebel army, or by entering the line of said army, or adhering in any way to the cause of rebellion, or by accompanying any armed force belonging to the rebel army; or by furnishing supplies of any kind to the same. Second, Those who are disqualified as electors or from holding office in the State or States from which they came. Third, Those persons who during the late rebellion violated the rules of civilized warfare. Fourth, Those who may be disqualified by the proposed amendment to the Constitution of the United States known as article fourteen, and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Arkansas, under the act of Congress entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplemental thereto. Fifth, Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crimes punishable by law with imprisonment in the penitentiary, or bribery. Sixth, Those who are idiots or insane: *Provided*, That all persons included in the first, second, third, and fourth subdivisions of this section, who have openly advocated or who have voted for the reconstruction proposed by Congress, and accept the equality of all men before the law, shall be deemed qualified electors under this constitution.

SEC. 4. The General Assembly shall have the power, by a two-thirds vote of each House, approved by the Governor, to remove the disabilities included in the first, second, third, and fourth subdivisions of section three of this article, when it appears that such person applying for relief from such disabilities has in good faith returned to his allegiance to the Government of the United States: *Provided*, The General Assembly shall have no power to remove the disabilities of any person embraced in the aforesaid subdivisions who, after the adoption of this constitution by the convention, persists in opposing the acts of Congress and reconstruction thereunder.

SEC. 5. All persons before registering or voting must take and subscribe the following oath: "I, ———, (do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the constitution and laws of the State of Arkansas; that I am not excluded from registering or voting by any of the clauses in the first, second, third, or fourth subdivisions of Article VIII of the constitution of the State of Arkansas; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men, and agree not to

attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men; and, furthermore, that I will not in any way injure, or countenance in others any attempt to injure, any person or persons on account of past or present support of the Government of the United States, the laws of the United States, or the principle of the political and civil equality of all men, or for affiliation with any political party: *Provided*, That if any person shall knowingly and falsely take any oath in this constitution prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of the crime of willful and corrupt perjury.

SEC. 6. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest and civil process during their attendance at elections and in going to and returning from the same.

SEC. 7. It shall be the duty of the General Assembly to enact adequate laws giving protection against the evils arising from the use of intoxicating liquors at elections.

These provisions, excluding from registration and suffrage all men who were disqualified in the State from which they came, were used to exclude men who had moved from Tennessee and Missouri, although they had become citizens of the State of Arkansas. They were not allowed to register or vote, although they possessed all the qualifications required by the reconstruction laws, as the affidavits on file show.

Again, it makes it a fundamental principle that every man who will stand by the reconstruction acts and vote with the party in favor of ratifying this constitution and electing its supporters shall have the right to vote; but those who do not do it shall be forever disqualified, and shall never be forgiven by any act of the Legislature. It is only when they shall have united themselves with that party that they should have any rights and privileges in the State. A more disgraceful provision could not well be imagined.

Again, it requires, no matter what may be the condition of things hereafter, that the experiment of negro suffrage shall be forever fastened upon the people, with no power, even if they change their minds on that subject, to do away with it. I have heretofore expressed my opinion of this provision in the Alabama case. No man with proper self-respect can either swear or agree to such a provision. The reconstruction acts themselves permitted every man to register and vote who was not excluded from office by the third section of the fourteenth amendment to the Constitution, and yet the exclusion under this constitution goes far beyond, and disfranchises thousands of men who had all the qualification of electors under the reconstruction acts. The only exclusion therein contained being in the proviso to the fifth section, as follows:

"That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United States shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention."

"SEC. 6. And be it further enacted, That until the people of said rebel States shall be by law admitted to representation in the Congress of the United States any civil governments which may exist therein shall be deemed provisional only, and in all respects subject to the paramount authority of the United States at any time to abolish, modify, control, or supersede the same; and in all elections to any office under such provisional governments all persons shall be entitled to vote, and none others who are entitled to vote under the provisions of the fifth section of this act; and no person shall be eligible to any office under any such provisional governments who would be disqualified from holding office under the provisions of the third article of said constitutional amendment."

The third article of the constitutional amendment is as follows:

"SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States or under any State who, having previously taken an oath as a member of Congress or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability."

General Gillem issued his order on the 14th of February, 1868, declaring how the election

should be held and conducted, and how the registration should be corrected. It is as follows:

[General Orders No. 7.]

HEADQUARTERS FOURTH MILITARY DISTRICT,  
(MISSISSIPPI AND ARKANSAS),  
VICKSBURG, MISSISSIPPI, February 14, 1868.

I. The Arkansas constitutional convention, convened at Little Rock, Arkansas, pursuant to General Orders No. 37, series of 1867, from these headquarters, having framed a constitution and civil government in compliance with the laws of the United States known as the "reconstruction acts," and having provided for the submitting of said constitution to the registered voters at an election to be ordered by the general commanding the district, said election is, by authority of the above-stated laws, and in accordance with the provisions of the constitution, hereby ordered to be held in Arkansas, beginning the 13th day of March, 1868, and continuing until completed; at which election the registered voters may vote for or against the ratification of the constitution herein mentioned.

II. Commencing fourteen days before the election, boards of registrars will, at the county seat or most accessible place, after having given reasonable public notice of the time and place thereof, revise, for a period of five days, the registration lists, and, upon being satisfied that any person not entitled thereto has been registered, will strike the name of such person from the list, and such person shall not be allowed to vote. The board will also, during the same period, add to the registry the names of all persons who at that time possess the qualifications required by law and who have not been already registered. All changes made in the lists of registered voters will be immediately reported to these headquarters.

III. In order to secure as nearly as possible a full expression of the voice of the people, the election will be held at each precinct of every county of the State of Arkansas, and, as required by law, under the supervision of the county boards of registration. The method of conducting the election in each county will be as follows: At the meeting provided in the foregoing paragraph each board of registrars will divide the whole number of election precincts of their respective counties into three portions, as nearly equal in number as possible, and assign one of the shares thus made to each registrar, who will be responsible for the proper conduct of the election therein. Thereupon each registrar will appoint a judge and clerk of election, who, with himself, will constitute the "commissioners of election" for all the precincts of his district. Each registrar will provide himself with a ballot-box, with lock and key, and of sufficient size to contain the votes of all the registered voters in the largest precinct. Each registrar will give full and timely notice throughout his district of the day of election in each precinct, so that he, with his judge and clerk, can proceed from precinct to precinct of his district, and hold election on consecutive days, when the distance between precincts will permit, with a view to the early completion of the voting. The election will be by ballot, and will be conducted in all details, not herein prescribed, according to the customs heretofore in use in the respective States. Each ballot will have written or printed upon it, "For Constitution," or "Against Constitution." Each voter in offering his ballot must exhibit his certificate of registry, across the face of which the clerk of election will write his name in red ink, to indicate that a vote has been cast upon that certificate, at the same time the registrar will check off the voter's name on the precinct book serving as the poll-book. The polls will be opened by nine o'clock a. m. at each precinct, and will be kept continuously open until sunset, at which time the polls will be closed, the ballot-box opened, votes counted by the commissioners, and a written return thereof, under oath of the commissioners, immediately made to these headquarters in duplicate. The votes cast will then be securely inclosed and forwarded by mail to the acting assistant adjutant general at these headquarters, with a letter of transmittal setting forth the number of votes cast for and the number against a constitution, which letter will be witnessed by the deputy sheriff present in accordance with the requirements of paragraph five of this order.

IV. Judges and clerks of election will be selected by registrars preferably from among the residents of their respective districts; but if they cannot be obtained therein, competent and qualified under the law, then from among the residents of the county; and if not attainable in the county, then the State at large; they are required to take and subscribe to the oath of office prescribed by the act of Congress of July 2, 1862, which oath may be administered by the registrar. The oaths, properly subscribed, will be forwarded immediately for file in the office of the acting assistant adjutant general at these headquarters.

The pay of these officers will be six dollars per diem for each day they are actually employed on their legitimate duties, and their actual expenses of transportation within their district will be reimbursed.

V. The sheriff of each county is made responsible for the preservation of good order and the perfect freedom of the ballot at his various election precincts in his county. To this end he will appoint a deputy, who shall be duly qualified under the laws of the State, for each precinct in the county, who will be required to be present at the place of voting during the whole time the election is being held. The said deputies will promptly and fully obey every demand made upon their official services in preserving peace and good order by the commissioner of election. Sheriffs, in making their appointments, will exercise great care to select men whom they know to be in every way able to serve. Deputies appointed in

accordance with the foregoing will be paid five dollars for the day's service, on accounts approved by the registrar, out of the reconstruction fund.

VI. As an additional measure for securing the purity of the election each registrar, judge, and clerk is hereby clothed with all the functions of a deputy, sheriff, or constable, and is empowered to make arrests, and authorized to perform all duties appertaining to such officers under the laws of the State during the days of election.

VII. At every precinct on the days of election all public bar-rooms, saloons, or other places at which intoxicating or malt liquors are sold at retail, will be closed. Should any infraction of this respect come to the knowledge of the commissioners of election, or the deputy sheriff in attendance, they will immediately cause the arrest of the offending party or parties, and the closing of his or their place of business. All parties so arrested will be placed under bonds of not less than \$100 to appear for trial when required by proper authority, or, in case of failure to give the required bond, will be held in arrest to await the action of the general commanding.

VIII. Should violence or fraud be perpetrated at the election in any precinct, the general commanding will exercise to the fullest extent the powers vested in him for the purpose of allowing to all registered electors an opportunity to vote freely and fearlessly.

IX. No registrar, judge, or clerk will be permitted to become a candidate for office at the election for which he serves as commissioner.

X. Such further orders as may be deemed necessary by the general commanding upon the subject of elections for State or other officers, as may have been provided for by the convention, will, when the constitution, or ordinances of the convention relating to the subject, shall have been received, be issued.

By command of Brevet Major General A. C. Gillem:

JOHN TYLER,

First Lieutenant 43d Infantry,

Brevet Major U. S. A., A. A. General.

Official copy:

WILLIAM ATWOOD,

First Lieutenant 19th Infantry,

A. A. General.

The record shows that his order, as well as the reconstruction acts, was disregarded in almost every particular. He provided that no registrar, judge, or clerk should be permitted to become a candidate for office at the election at which he served as commissioner. And yet the fact was, in a large majority of the counties, the men who conducted the election were candidates for Congress, for members of the State Legislature, for county judges, for sheriffs, and other offices, and were themselves acting in direct violation of the order. They counted the votes and determined the legality of the voters who offered to vote for or against the constitution, when the very existence of the offices for which they were candidates depended altogether upon the ratification of the constitution; for if the constitution itself was not ratified their offices all fell to the ground. They struck from and added to the registration lists to suit their own purposes, not only up to the time the polls opened, but during the time the election was being held, as the proof clearly shows.

Look at the record of the vote as shown by General Gillem's report, which shows a majority of thirteen hundred and sixteen for the constitution. Take, for instance, the county of Pulaski. The majority in favor of the constitution in that county is thirty-nine hundred and twenty-two. The polls were kept open from the 13th to the 30th of March. There were eleven hundred and ninety-five more votes cast than were registered. And the proof submitted by General Gillem shows, as I think clearly, that they kept the polls open there, and in other counties where the blacks were in the majority, until they ascertained what number of votes were necessary to carry the constitution upon which their offices depended, and they allowed them to vote without certificates.

Mr. PAINE. Will the gentleman allow me a question? I believe he has made a mistake.

Mr. ELDRIDGE. Mr. Speaker, when gentlemen cut us off without debate and then ask to take part of the few minutes they graciously allow us, I object.

The SPEAKER. The gentleman from Kentucky [Mr. BECK] has the right to yield for explanation of the pending question if he sees fit to do it. If he declines he cannot be interrupted.

Mr. BECK. If I have made a mistake in the figures I will allow a question.

Mr. PAINE. I understood the gentleman to remark that it appeared that votes were cast

in Pulaski county without certificates of registration? Did he mean to state that?

Mr. BECK. I mean to say that the investigation failed to discover that a single man out of the eleven hundred and ninety-five in excess of the registered voters in Pulaski county was a legal voter anywhere.

An examination of the report of General Gillem, and of Colonel Tourtelotte, who was sent by him to examine into the alleged frauds, will show that the commissioners conducting the election in Pulaski, where, as stated, the vote was eleven hundred and ninety-five in excess of the registration, and in Jefferson, where seven hundred and thirty votes were cast by persons not registered in the county, except in very few instances, failed to swear the persons offering to vote that they had not voted elsewhere, failed to take their names or their residences, or the places where they claimed to have registered, the number of certificates, or any other facts whereby the fraud could be traced. The registrars themselves were wholly unable to give any information which even tended to show that these persons had not voted elsewhere, and the presumptions are all that they had, the votes being all received, not only in disregard, but in palpable violation of the plainest provisions of the law. There is a large mass of evidence and information accompanying the reports of General Gillem and Colonel Tourtelotte which the committee declined to have printed, partly because of the delay it would cause, and partly because a majority of the committee considered that it would not affect the result. I have these facts now before me. I have read and examined all of them, hastily, it is true, as I have had very little opportunity to do so, and it shows substantially the following state of the case in the few counties that could be reached, either in whole or in part, by the gentleman who undertook to get the evidence to base his report upon:

1. Johnson county: Russell B. Chitwood, registrar and superintendent of the election at Spadra precinct, reported the vote for the constitution there as being one hundred and nineteen for the constitution and ninety-nine against it. The fraud there was so palpable, and the precinct so small, that they determined to make that a specimen of the whole, and accordingly the affidavits of one hundred and seventy-seven gentlemen are taken, all properly signed and sworn to, showing that they each voted against the constitution in that precinct. It appears that the whole vote cast there was two hundred and eighteen, of which forty-one was for and one hundred and seventy-seven against the constitution—a majority of one hundred and thirty-six against it, instead of twenty majority in its favor, as returned. It is claimed that the majority in Johnson county was one hundred and ninety against the constitution instead of forty-two, as reported. Besides, the affidavits of the individual voters, the joint affidavits of Messrs. Connelly and Cravens, and the letter of W. W. Floyd to Hon. F. A. Terry, on file, sustain this state of fact.

2. Madison county: the affidavits of sixteen registered voters are filed, showing that they were not allowed to vote solely because they were opposed to the constitution, and other affidavits show that twenty-one citizens, having all the qualifications required by the reconstruction laws of Congress, were not allowed to register or vote because they were known to be opposed to the ratification of the constitution.

3. Izard county: it is shown by affidavits that in Union township fifty-seven registered voters were rejected, fifteen in White River township, seventeen in Conway township, and forty-two in Mill Creek township, in all one hundred and thirty-one, because they desired to vote against the ratification of the constitution. The affidavits of eight other registered voters show that they were rejected without cause other than opposition to the constitution. The report of General Gillem shows that the vote of that county was four hundred and

nine against the constitution and one hundred and forty-five for it; majority against it, two hundred and sixty-four. It appears satisfactorily that men who were opposed to it in many instances were not allowed to vote, while those who favored it were permitted to vote at their homes, on the highways, and elsewhere, as well as at the voting places designated either by law or the military orders.

4. Carroll county: in this county there are a number of separate affidavits taken; the result may be thus stated. Twenty-six registered voters swear that they, though duly qualified, were not allowed to cast their votes solely because of their opposition to the constitution; seven were rejected because they had been overseers on public roads, and one because he had come from Missouri some years before, and it was alleged that he could not have voted there if he had remained, making in all thirty-four illegally disfranchised in Carroll county.

There are also affidavits here showing that in the county of Washington more than fifty men were excluded who were known to be legal voters, many of whose votes were received and then taken by the registrars, who were candidates for various offices, and torn up in their presence and thrown on the ground. Of Pulaski and Jefferson I have spoken generally before. The greatest frauds were, perhaps, committed in these counties. There are affidavits here showing that women were permitted to vote, that minors were permitted to vote, and that the polls were kept in the hands of the registrars and executive committees, and never sent to the general commanding until there had been every opportunity to manipulate them to suit the purposes of the parties, they being themselves, in many instances, candidates for office under the constitution.

These facts are shown in this record, and I have the affidavits lying before me. General Gillem himself alleges that there are charges of fraud which ought to be investigated. The officer who was sent to make an investigation makes the same allegation, and says that it was asserted by those desiring to do so that it would take six weeks to make the investigation. He had not time to make a full investigation, but he reports all the facts that I have stated. General Gillem returns a letter to him from the Democratic Central State committee, which I will read, offering to prove all the alleged frauds if time is allowed. It is as follows:

LITTLE ROCK, ARKANSAS, April 13, 1868.

GENERAL: In your telegram of March 28, to Colonel F. A. Terry, you gave the assurance that "charges of fraud," in the late election, "preferred by either party," would be "impartially investigated."

Relying on that pledge, and with a view to afford a basis for making it effective, we, as the central committee of the Democratic party of Arkansas, do now allege that in many of the counties, if not in all, gross wrongs and frauds were perpetrated in the interest of the Radical party, making the election a mockery, and nullifying the legally expressed will of a large majority of the registered voters of the State, by whom the constitution was, in fact, overwhelmingly rejected, instead of being adopted, as its advocates falsely claim.

Among the acts fraudulent in themselves, or used to cover frauds, we specify the following:

I. That nearly all the registrars of the election were bitter Radical partisans, and were, in many counties, candidates for office, dependent for success on the ratification of the constitution—as in Pulaski, Jefferson, La Fayette, White, Little River, and others.

II. That at the revision of registration lists sundry registrars, disregarding the reconstruction laws, as well as orders from district headquarters, illegally and fraudulently erased the names of citizens entitled to vote, refused certificates to others similarly entitled, and granted certificates to persons having no right of suffrage whatever as in Yell, Carroll, Crawford, Washington, Independence, and other counties.

III. That, although the election began on March 13, it was not concluded in counties polling a heavy negro vote till after all the counties having white majorities had voted, enabling the Radicals to supply any number of votes needed to secure a fictitious majority—as in Jefferson, where the polls were not closed till March 28, and in Pulaski, where they remained open till the 30th.

IV. That large numbers of ignorant negroes were forced by threats of punishment or bribed by promises of pecuniary rewards to vote for the constitution—as in Phillips, St. Francis, Crittenden, Chicot, Desha, Jefferson, Pulaski, and elsewhere.

V. That many timid white men were deterred from voting against the constitution by savage menaces of members of the Radical party, backed by the

appearance of military support; as also by the tyrannical provisions of the constitution itself, disfranchising all persons voting against it, without regard to their personal or political antecedents.

V. I. That unjust discriminations were made against white men, and in favor of negroes, by allowing the latter to vote at any precinct in the State, but restricting the former, if Democrats, to the precincts of their actual residence—as in Arkansas, White, and other counties.

VII. That among the votes counted for the constitution (and far exceeding the majority claimed for it) many were illegally and fraudulently cast, by persons voting repeatedly at different precincts, or simulating dead or absent voters, or being non-residents of the State, minors, women, or otherwise disqualified; and many others were, in reality, not cast at all, but were corruptly placed in the ballot-boxes, either in addition to the votes actually cast, or else in lieu of them, these last being perjured and destroyed; all of which was done, wholly or in part, in Johnson, White, Phillips, Jefferson, Pulaski, Cross, St. Francis, and other counties.

We beg you to believe, General, that the foregoing charges and specifications are by no means extravagant. They are the mildest possible expression of the feelings and positive knowledge of the outraged white people of Arkansas, who, bent, but not yet crushed, by such monstrous frauds and villainies, appeal, through us, to you, as of their own race and blood, to give them the opportunity to establish the truth of all that is herein alleged. This we offer to do, before an impartial commission of honorable officers, by clear testimony, and in due form of law; and, after making good this engagement, we further beg the privilege of confirming the proofs adduced by our votes, at a free and fair election, to be held throughout the State on one and the same day, by judges and clerks taken equally from both parties, and with ample notice to all the people. In that way the true sentiment of the registered voters can be ascertained; which is the professed aim of the reconstruction laws, and must be your object as a soldier and gentleman.

Allow us to add the hope that your action on this, our solemn protest against injustice and fraud, and our humble petition for a redress of grievances, will not be long delayed, especially when it is considered that the Radical party, in contempt of all precedent and law, and as proclaimed by them before the election, have already installed their pretended Legislature and usurped by force the government of the State.

We have the honor to be, General, your most obedient servants.

R. A. HOWARD,  
FRANCIS A. TERRY,  
R. C. NEWTON,  
ARNOLD SYBERG,  
L. B. NASH,  
C. E. MOORE,

Committee.

Brevet Major General ALVAN C. GILLEM,  
Commanding Fourth Military District.

As will be observed, these gentlemen, who are men of the highest character and intelligence, offer to prove that the constitution was defeated by an overwhelming majority. And there is not a gentleman in the House who will look into the facts sworn to who will not say that it was so defeated. And yet in the face of all these facts, and in the absence of all the information which was sent to the House by the President, and which can be obtained in a day or so, in the absence of the constitution itself, and in ignorance of the facts reported by General Gillem, it is proposed to admit the State of Arkansas to representation here, and to swear in the men who are claiming the seats upon the ground that a majority of the people have voted for the constitution, when the information in the hands of the printer and the affidavits which I have before me, only a part of which I have had time to collate, show conclusively that the facts are not as stated in the bill.

Now, sir, I have not time to discuss the provisions of the constitution itself. Upon the question of education, upon the question of taxation, upon the power given to the commissioners appointed to control the election, and upon a variety of other questions, the constitution is, perhaps, the most objectionable that you ever saw. While they resolve in the ordinance attached to the constitution as follows:

"That this convention is utterly opposed to all amalgamation between the white and colored races, whether the same is legitimate or illegitimate.

"We would therefore recommend that the next General Assembly enact such laws as may effectually prevent the same."

they require that the school fund, of perhaps \$1,000,000, shall be kept for schools to which blacks and whites shall go together, and it compels a white man, if he is unable to educate his children otherwise, to send to the negro schools their sons and daughters between the ages of five and eighteen years for at least

three years. The constitution requires the Legislature to pass such laws as will compel them to go. Of course it will be a penal offense if they do not go. That part of the constitution reads thus:

"The General Assembly shall require by law that every child of sufficient mental and physical ability shall attend the public schools during the period between the ages of five and eighteen years for a term equivalent to three years, unless educated by other means."

Now, sir, I think this House, even now, after the previous question is seconded, in justice to itself, in justice to the truth of history, should postpone this matter and look into it, and I assert that you will find the facts to be as I have stated them, and that there are in this constitution provisions more obnoxious than are contained in any other constitution that has been sent up from these southern States; provisions that no one can, with proper respect for himself, submit to as the fundamental law of the State in which he lives.

We want time also to look into the way in which this vote was taken. It was, as I have shown, taken in great part by registrars who were themselves candidates for office, in violation of the order of General Gillem and the reconstruction laws. It was taken by men directly interested in the result, by men who excluded from the polls hundreds and thousands of men who were as much qualified to vote as they were, that allowed men, women, and children to vote to swell up a majority in favor of the constitution. These facts, I suppose, are to be altogether ignored, because the polls have been so manipulated as to show a majority for the constitution which is oppressive enough to suit the views of the majority here. Col. Tourtelotte shows that in one of the large counties, the county of Jefferson, the president of the board of registrars, who had charge of the votes of all the precincts in the county, instead of making the return to the proper officer, took the ballots of the county to Little Rock, got drunk, and kept them for several days, and they were not forwarded till the registrar, John A. Williams, was ordered by General Smith to forward them; that is the county where these seven hundred and thirty ballots were found to have been cast by persons not registered in the county, and whose names, residences, and everything whereby they can be traced, are unknown. The polls did not close in Jefferson till the 28th of March, and during the four days Williams was drunk at the radical headquarters at Little Rock the number of votes necessary to make the majority for the constitution safe, so as to secure the offices, was doubtless ascertained and provided against in part through his ballot-boxes.

All these things appear here. We cannot now tell what else is contained in the documents communicated to the House by the President and sent to the Government Printing Office. But if this matter shall be postponed until Monday we can then ascertain what is contained in those papers. By that time these unprinted papers, now before me, can be put in shape, so that the House can understand them. I have done it in part now, and will continue the work on it, if I am allowed the time. I have not yet had time to do it, because these papers cover two hundred pages. The facts will all be made to appear as I have stated, if the examination is made; and I want the country to understand that this House is without excuse if they fail to examine and understand them. Perhaps it is the knowledge of the undeveloped facts that makes those who know them so anxious to press the bill through to-day.

I have in my hand the letter of Hon. F. A. Terry to General Gillem, which he sends here, as follows:

LITTLE ROCK, ARKANSAS, April 22, 1868.

GENERAL GILLEM: Please find evidences of fraud from Washington, Madison, Izard, White, Carroll, Ouachita, and perhaps Woodruff counties. There is no county in the State where there has been no fraud. The election was held and returns made by registrars, pretty much all of whom were candidates for office, depending on the success of the constitution for lucrative places. We remonstrated with General Smith against letting candidates conduct the election, but instead of heeding our complaints

he encouraged registrars to be candidates by altering your order in that particular.

We have advice of affidavits having been sent us from many counties through the post office, which from some cause have failed to reach us. I have made complaint before the mail agents. With time we can show frauds by nearly every registrar in the State.

Yours,

F. A. TERRY.

And there are now other papers on file here with the report of General Gillem, which I have not time even to notice. Being printed now, members can examine them. They show that tremendous frauds were committed. The General himself shows that it was the 22d day of April before he could obtain the information from Arkansas to make up the statement which he forwarded. If, with all the means under his control, it took him all that time, by special agents, telegrams, and other facilities to get the information he has, how could it be expected that private citizens could in a few days, with all the officers of the election against them, develop the frauds they knew existed. The mails even were not free to them. It is only wonderful that they were able with such limited opportunities to develop as much as they have.

[Here the hammer fell.]

Mr. STEVENS, of Pennsylvania. I would inquire of the Chair how much time I now have.

The SPEAKER. The gentleman has thirty-three minutes of his hour remaining.

Mr. STEVENS, of Pennsylvania. My colleague [Mr. WOODWARD] desires twenty minutes' time. As we have time enough this afternoon to be able to give him twenty minutes without deducting it from the hour allowed to me, I hope the House will agree to give him that time, and I will apportion the hour among others.

The SPEAKER. That would require unanimous consent.

No objection was made.

The SPEAKER. The gentleman from Pennsylvania [Mr. WOODWARD] is entitled to the floor for twenty minutes.

Mr. PILE. I desire to say a few words, and I would suggest that the time for debate on this bill be extended thirty minutes instead of twenty minutes.

Mr. ELDRIDGE. I object to extending the time one single minute for the benefit of any gentleman who insisted upon the previous question unless the demand for the previous question shall be withdrawn.

Mr. WOODWARD. If the facts and circumstances which have been stated by the gentleman from Kentucky [Mr. BECK] will not induce this House to pause and give us an opportunity to see the constitution of Arkansas in print before we vote upon it, then they would not be persuaded though one rose from the dead. And I have not a word more to say on that point.

But if we are to be driven into voting blindfold upon this measure, I wish to state a few historical facts on which I expect to be contradicted by no sane man in this House. It is a fact that the State of Arkansas belonged to the Federal Union under a constitution which was republican in form, and it was one of the republican States of these United States. It is a fact that she repealed that ordinance of accession by which she became one of the United States, and adopted an ordinance of secession by which she claimed to have gone out of the Union. It is a fact that the Federal authorities, legislative, executive, and judicial, have decided and held that that ordinance of secession was void and null, and consequently that Arkansas was never out of the Union. It is a fact that Arkansas herself has repealed that ordinance of secession, of which itself, *ex proprio vigore*, revives her political ordinance of accession if she, indeed, ever was out of the Union. And thus to-day, in point of law and in point of fact, Arkansas is within the Federal Union as truly as she ever was.

Mr. STEVENS, of Pennsylvania. Will the gentleman allow me to ask him a question?



Mr. WOODWARD. No, sir; I cannot afford the time. If the gentleman will agree to open debate fully for my friends around here and myself I will yield.

Mr. STEVENS, of Pennsylvania. I ask pardon of the gentleman for asking him to give me back a crumb of the loaf which I gave to him.

Mr. WOODWARD. If the gentleman will take the responsibility of denying any of the facts I have stated he is at liberty to do so. I say this: if the State of Arkansas was ever out of the Union—and you decided long ago that she was not—the repeal of her ordinance of secession restores her to the Union under her old constitution which was republican in form, under which we always knew her, and under which we claimed her perpetual allegiance to the Union. Will any man stand up here to deny any of these facts? I trust not.

Then, sir, if these are undeniable facts, what are we doing to-day? We have sent an army into Arkansas; we have thrown open the ballot-box to negroes and to others who were not voters; and by the aid of Federal bayonets and test-oaths have excluded men who were voters. And now you propose to recognize a constitution, the work of those men under Federal bayonets, as the constitution of an existing State at all times within the Union, having already a constitution of her own; and this you call "reconstruction." Mr. Speaker, if that be reconstruction, there have been no revolutionary, subversive, and treasonable measures ever contemplated or perpetrated in this country which might not be called "reconstruction." If this be not the overturning of a sovereign State by Federal power and the forcing upon her of a fundamental law not of her own choosing, the boys in school in this country will need to be taught the first principles of common sense; for that is the way they will understand it; that is the way all plain men will understand it. That is according to the historical facts in the case.

Now, sir, at some time or other this whole question is to be passed upon by the courts; and when it comes under judicial review what will be found? Why, that the Congress of the United States has overrun States of the Union by the power of the Federal bayonet and forced upon them a constitution which is not of their choice. What may be the judicial conclusion from these facts I do not know, and do not undertake to predict; but that these facts will be judicially ascertained gentlemen must understand is as certain to occur as the future is to come. And how have you done it? Why, sir, when I had a discussion here the other day with my colleague [Mr. BROOMALL] about the power of Congress to force negro suffrage upon the State of Pennsylvania, I understood from several gentlemen on the Republican side of the House that they were as much opposed to that preposterous proposition as I was myself; and I presume they expressed their candid opinion. Now, I ask, if you have not the right to force negro suffrage upon the State of Pennsylvania at the point of the bayonet, on what principle can you force negro suffrage upon the State of Arkansas? These constitutions are all constructed upon the basis of negro suffrage—not suffrage voluntarily conceded by the States, a proposition which I have never combated, but for which, on the contrary, I have always contended; but they are constructed upon the basis of negro suffrage forced upon the States by the Federal bayonets of this Government. Will any gentleman deny that?

Now, then, if Arkansas has been in the Union all the time—if her act of secession was null and void, or, if being valid, it has been repealed, and thus her original accession revived by force of law—I demand by what authority you march your armies into such a State and make negroes adopt a constitution dictated here in Washington? Do you suppose the people of this country will sustain you in such conduct? Most assuredly they never will, if they understand it; and my main purpose now

in stating these facts is to call public attention to the condition in which this House is placing itself, forcing upon a sovereign State a fundamental law in violation of that principle of State suffrage which we have always recognized, which was so nearly conceded the other day, when my colleague brought forward his proposition, that in the evening, when it had been discussed all day, he was glad to hide it away in the tomb, not of the Capulets, but of the Judiciary Committee; and I suppose it will never be heard of again. Even the gentleman who brought forward the proposition did not dare to take the sense of this House upon it. How was that proposition any worse or better than this? If the House is now prepared to vote in favor of forcing such a military negro constitution upon Arkansas, my colleague will probably bring forward again his bill to-morrow; for the same majority will, no doubt, be equally ready to force a negro constitution on every State in this Union.

Mr. Speaker, I maintain that the reasons assigned by the gentleman from Kentucky [Mr. BECK] show overwhelmingly the propriety of delaying the vote on this question. Every consideration of public duty demands that we should have an opportunity to see the Constitution upon which we are asked to vote. If this opportunity be denied us, then I ask gentlemen to take notice that they are overrunning an existing State, subverting it by force of arms; and this is making war upon the State. Now the definition given to "treason" in most of our State constitutions is the levying of war against the State. If this be not the levying of war against the State of Arkansas I would thank the gentleman to expound the historical facts in some manner consistently with our innocence. If they admit the historical facts to which I have alluded, I say the conclusion must result as a necessary consequence that we are subverting government by force of arms, by the levying of war, and that comes up to the definition in our State constitution of treason.

Mr. STEVENS, of Pennsylvania. How much time have I left?

The SPEAKER. Thirty-three minutes.

Mr. STEVENS, of Pennsylvania. Some gentlemen desire to have some reading done, and I do not object. I think I can answer my colleague very shortly. He undertakes to prove that Arkansas has never been out of the Union, and he then takes twenty minutes to prove that she cannot come in. [Laughter.] I do not understand it; and I yield now for ten minutes to the gentleman from Wisconsin, [Mr. PAINE.]

Mr. PAINE. My colleague on the Committee on Reconstruction, the gentleman from Kentucky, [Mr. BECK,] made a statement, inadvertently I presume, which I wish to correct. I understood him to say these votes in Pulaski county, which were given in excess of the registration in that county, were given by men who had no certificates. That means, of course, certificates of registration. The House will bear in mind that in our last amendment of the reconstruction acts we authorized, as we had never before authorized, men who were registered in any county of Arkansas or the other unreconstructed States, or in any precinct, might vote wherever they happened to be residents at the time of and for ten days preceding the election. It appears by the report of General Gillem, dated April 22, 1868, and from the report of Colonel Tourtelotte of the same date, and they both concur in the statement, that these men who voted in the county of Pulaski presented their certificates showing that they had been registered somewhere in the State. There is no proof that persons voted anywhere in Arkansas, either in Pulaski county or elsewhere, without a certificate of registration.

But it does certainly appear that in the county of Pulaski a large number, fourteen or fifteen hundred, voted upon certificates of registration in other counties, as they were by law entitled to vote. I frankly admit that. I will

read from the reports of General Gillem and Colonel Tourtelotte on this point. I will read first from the report of Colonel Tourtelotte, who, under orders from General Gillem, investigated the alleged frauds in this election:

"The registrars of Pulaski county permitted (except in the precinct of Ashley, where the election was first held) all persons who presented certificates of registration showing that they had been registered at any precinct in the State to vote. They allowed many persons to vote where certificates showed that they were registered at other precincts and in other counties than the county and precinct where they did vote.

"Without any doubt, fourteen or fifteen hundred persons registered elsewhere voted in Pulaski. The registrars of Jefferson county pursued the same course, and allowed persons, wherever registered, to vote at any precinct where they presented themselves, taking no record of the same, and only checking such votes by marks upon the certificate of registration which was returned to the voters.

"No fraud by registrars appears to have been intended in this matter, as they allowed persons elsewhere registered to vote only after mutual consultation and consideration of act of Congress passed March 11, 1868, but their conduct was very unfortunate, as the registration law was thus virtually impaired."

Mr. BECK. If the gentleman will allow me for one minute, if he will read the next four lines he will see that they did not require them to take any oath, nor did they ascertain where they resided.

Mr. PAINE. If my friend from Kentucky wishes the residue of this section read, I am sorry that he did not read it when he himself held the floor. He now refers to certain passages relating to a different subject from that which I am now discussing. But I will come to it soon if I have time. I admit, of course, that many things not required by law to be done were not, in fact, done in that election. General Gillem says, in his report:

"Prior to the act of Congress passed March 11, 1868, and which was promulgated in General Order No. 14 from the War Department, dated March 14, 1868, there was no law or order in existence permitting voters registered in one county or precinct to vote in any other county or precinct. The act above referred to authorizes 'any person duly registered in the State to vote in the election district where he offers to vote when he has resided therein for ten days next preceding such election, upon his presentation of his certificate of registration, his affidavit, or other satisfactory evidence, under such regulations as the district commander may prescribe.'

"The order containing this law was not received until after the election, and the dispatch from the General-in-Chief containing no intimation of this provision, I was unaware of the existence of the law, and therefore prescribed no regulations for persons voting at other precincts than those in which they registered.

"It appears from the report of Colonel J. E. Tourtelotte (see Appendix C, No. 1, to which special attention is invited) that the registrars in Pulaski, Jefferson, and Washington counties, learning unofficially of this law, determined, on their own responsibility, to receive the votes of persons registered in other counties."

The fact is, Mr. Speaker, that this law which we enacted was not put in force to any great extent in Arkansas, and this constitution was, as a consequence, deprived of the votes of thousands of registered colored voters. If it had been promulgated I have no doubt the majority in favor of that constitution would have been from five to ten thousand instead of thirteen hundred. These people are, within their own States and districts, a migratory people, as everybody knows, and they were not generally permitted to vote because they did not happen to reside where they were registered. But in this district where they had learned, by telegraph or other means, that this law was in force, they voted without any military authority, as, of course, they had a right to do.

Now, General Gillem further says—and he is a man by no means prejudiced in favor of this constitution or its advocates and defenders:

"As there was no separate record kept of the nineteen hundred and twenty-five votes cast in Pulaski and Jefferson counties by persons not registered in those counties, there are no means of ascertaining whether or not they were cast for or against the constitution."

The gentleman, therefore, does not know on which side of the question the votes were cast in those counties by the men who were registered elsewhere but voted there. They had a right to vote, and to vote for or against the constitution. And my friend has no more right

to assert that these fifteen hundred votes were in fact cast for the constitution than I have to assert that they were cast against it. Nor has he any proof that, however cast, they were illegal votes.

General Gillem adds:

"And, therefore, if the reception of these votes by the registrars under a law, the existence of which they had no legal notification, is held not to invalidate the election in the two counties above named, the constitution appears to have been adopted by a majority of thirteen hundred and sixteen."

Thus General Gillem sums up and closes the whole case. It is his last report, and he declares that if the election in those counties is not invalidated by the mere fact that he did not officially communicate to them the information that this law had passed and become binding upon them, then the official majority for the constitution is thirteen hundred and sixteen. This covers the whole ground. This act was an act of Congress and took effect from its passage. General Gillem might in some details regulate but could not prevent its operation.

He farther states:

"Each party charges the other with frauds, those opposed to the constitution asserting that a large number of the votes cast in Pulaski, Jefferson, and Washington counties were by unauthorized persons, and in some instances that the same persons were permitted to vote several times. Those in favor of the constitution charge that force and intimidation were used to prevent legal voters from attending the polls, and that in one instance—that of Union county—armed parties were stationed on the roads for that purpose."

I have not time to read the evidence on this point. I will now refer to the report of Colonel Tourtelotte. After speaking of particular complaints, one of which was that "In Jefferson county a woman voted for constitution, presenting the certificate of registration of her husband, who was in jail," which is the only instance given to sustain the assertion of the gentleman from Kentucky that women were permitted to vote at this election, and which, for all we know, may have been one of the numerous instances in which rebels imprisoned colored men, on frivolous charges, to defraud them of their votes. Colonel Tourtelotte says:

"The remainder of the affidavits received contain matters of hearsay and secondary evidence, which if untrue could not be used as foundation for a charge of perjury, and which, true or untrue, cannot as they are taken to change the result of election. Besides these affidavits must be suspected when in some cases the original and direct testimony might have been produced. There is in Arkansas much interest in the election, and wagers to considerable amount are pending the announcement of the result. It is understood that returns show the constitution adopted, and the opponents thereof are very anxious to defeat it."

"To this end they promise that the constitution was adopted through fraud, and are now searching throughout the State for proof. Evidence thus, and for such purpose, obtained must certainly be suspected. It would have appeared much better if they had asserted fraud upon proof first obtained. Many respectable persons charge fraud and promise the proof, but admit they do not now know the facts which will be proven, and base their statements upon the fact that most of the commissioners of election were interested for the constitution, and many of them personally interested."

Now, one word as to this complaint that registrars were, in some cases, candidates for office. In his report Colonel Tourtelotte says:

"Registrars were candidates for office by virtue of permission of General Smith, commanding sub-district of Arkansas, copy of which permission is herewith respectfully transmitted."

I am informed—I cannot state it of my own knowledge, but I do state it upon information and belief—that at none of the polls where the candidates for office were voted for was any candidate a registrar. It must be remembered that there were two sets of polls or voting places. At one of these the elections were held under the reconstruction laws for the ratification or rejection of the constitution. At the other, elections were held under the constitution itself, at which the registered voters voted for or against the constitution, and also at the same time for the various civil officers provided for by the constitution. So there were two boards, and I am informed by gentlemen from that State that there was no registrar on any of the boards of the latter class who was a candidate for office.

One word further from the report of Colonel Tourtelotte:

"I further beg leave to state that I do not think the persons who have charged fraud in this said election have confidence in being able to prove it to the extent charged, and I believe said persons manifest an inclination to trifle with the military authorities."

This is from a man who, I am informed, was not a member of the Republican party, but who sympathized with our opponents. I believe we may take his report as a fair report of the result of that election.

[Here the hammer fell.]

Mr. STEVENS, of Pennsylvania. I now yield ten minutes to the gentleman from Missouri, [Mr. PILE.]

Mr. PILE. Mr. Speaker, quite a number of gentlemen, on each side of the House, say that they have not seen the constitution of the State of Arkansas, that they have not received it through the mail; or, if they have, it has been thrown aside, as many such pamphlets are thrown aside, and they have not examined it. As the best argument which can be made in answer to those who object to the constitution I send to the Clerk's desk that constitution and ask him to read the articles which I have marked.

Mr. SPALDING. Before that is done, I ask the gentleman if he will not advert for a moment to the proviso to the first section of the bill. We are not so much troubled about the admission of Arkansas under this constitution, but there is a proviso here that the constitution of Arkansas shall never be changed. I would like to have the gentleman expound that, for we feel a want of power in Congress to attach that proviso.

Mr. PILE. I leave that to the gentleman who has charge of the bill. I do not intend to discuss that feature of the bill, but only to answer the objection to the constitution based on the fact that gentlemen have not seen it, and do not know its provisions. I ask to have read the Bill of Rights, the article on the subject of franchise, and the article on the subject of education. These embrace the main features of the constitution, and are the provisions which have been specially attacked by those who have spoken against the bill.

The Clerk read as follows:

#### Preamble.

We, the people of Arkansas, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this constitution:

#### ARTICLE I.

##### Bill of Rights.

SECTION 1. All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter or reform the same whenever the public may require it. But the paramount allegiance of every citizen is due to the Federal Government in the exercise of all its constitutional powers as the same may have been or may be defined by the Supreme Court of the United States; and no power exists in the people of this or any other State of the Federal Union to dissolve their connection therewith or perform any act tending to impair, subvert, or resist the supreme authority of the United States. The Constitution of the United States confers full powers on the Federal Government to maintain and perpetuate its existence, and whenever any portion of the States, or the people thereof, attempt to secede from the Federal Union, or forcibly resist the execution of its laws, the Federal Government may, by warrant of the Constitution, employ armed force in compelling obedience to its authority.

SEC. 2. The liberty of the press shall forever remain inviolate. The free communication of thoughts and opinions is one of the invaluable rights of man, and all persons may freely speak, write, and publish their sentiments on all subjects, being responsible for the abuse of such right. In all criminal prosecutions for libel, the truth may be given in evidence to the jury, and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted.

SEC. 3. The equality of all persons before the law is recognized and shall ever remain inviolate; nor shall any ever be deprived of any right, privilege, or immunity, nor exempted from any burden or duty on account of race, color, or previous condition.

SEC. 4. The citizens have a right, in a peaceable manner, to assemble together for their common good, to instruct their representatives and to petition for the redress of grievances and other proper purposes.

SEC. 5. The citizens of this State shall have the right to keep and bear arms for their common defense.

SEC. 6. The right of trial by jury shall remain inviolate and shall extend to all cases at law without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases in the manner prescribed by law.

SEC. 7. Excessive bail shall not be required, nor shall excessive fines be imposed, nor shall cruel nor unusual punishments be inflicted, nor witnesses be unreasonably detained.

SEC. 8. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or judicial district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel in his defense.

SEC. 9. No person shall be held to answer a criminal offense unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases of petit larceny, assault, assault and battery, affray, vagrancy, and such other minor cases as the General Assembly shall make cognizable by justices of the peace, or arising in the Army or Navy of the United States, or in the militia when in actual service in time of war or public danger; and no person, after having been once acquitted by a jury, for the same offense, shall be again put in jeopardy of life or liberty; but if, in any criminal prosecution, the jury be divided in opinion, the court before which the trial shall be had may, in its discretion, discharge the jury and commit or bail the accused for trial at the same or the next term of said court; nor shall any person be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property without due process of law. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses, murder and treason, when the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when in cases of rebellion or invasion the public safety may require.

SEC. 10. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property, or character; he ought to obtain justice freely, and without purchase; completely, and without denial; promptly, and without delay; conformably to the laws.

SEC. 11. Treason against the State shall only consist in levying war against the same or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act or on confession in open court.

SEC. 12. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

SEC. 13. No bill of attainder or *ex post facto* law, nor any law impairing the obligation of contracts, shall ever be passed; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 14. No person shall be imprisoned for debt in this State; but this shall not prevent the General Assembly from providing for imprisonment or holding to bail persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale for the payment of debts or liabilities.

SEC. 15. Private property shall not be taken for public use without just compensation therefor.

SEC. 16. The military shall be subordinate to the civil power. No standing army shall be kept up in this State in time of peace; and no soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner prescribed by law.

SEC. 17. Suits may be brought against the State in such manner and in such courts as may be by law provided.

SEC. 18. The General Assembly shall not grant to any citizen or class of citizens privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 19. The right of suffrage shall be protected by laws regulating elections, and prohibiting, under adequate penalties, all undue influence from bribery, tumult, or other improper conduct.

SEC. 20. Foreigners who are or may become *bona fide* residents of this State shall be secured the same rights in respect to the acquisition, possession, enjoyment, and descent of property as are secured to native-born citizens.

SEC. 21. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion, and the mode of administering an oath or affirmation shall be such as shall be most consistent with, and binding upon, the conscience of the person to whom such oath or affirmation may be administered.

SEC. 22. Any person who shall, after the adoption of this constitution, fight a duel or send or accept a challenge for that purpose, or be aider or abettor in fighting a duel, either within this State or elsewhere, shall thereby be deprived of the right of holding any office of honor or profit in this State, and shall be forever disqualified from voting at any election, and shall be punished otherwise in such manner as may be prescribed by law.

SEC. 23. Religion, morality, and knowledge being essential to good government, the General Assembly

shall pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship; and to encourage schools and the means of instruction.

SEC. 24. All lands in this State are declared to be allodial, and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of land for a longer period than twenty-one years hereafter made, in which shall be reserved any rent or service of any kind, shall be held a conveyance in fee to the lessee.

SEC. 25. The action of the convention of the State of Arkansas which assembled in the city of Little Rock on the 4th day of March, 1861, was and is null and void. All the action of the State of Arkansas under the authority of said convention, of its ordinances or its constitution, whether legislative, executive, judicial, or military, was, and is hereby, declared, null and void; and no debt or liability of the State of Arkansas incurred by the action of said convention or of the General Assembly or any department of the government under the authority of either shall ever be recognized as obligatory: *Provided*, That this ordinance shall not be so construed as to affect the rights of private individuals arising under contracts between the parties, or to change county boundaries or county seats, or to make invalid the acts of justices of the peace or other officers in their authority to administer oaths or take and certify the acknowledgments of deeds of conveyance or other instruments of writing or in the solemnization of marriage.

#### ARTICLE VIII.

##### Franchise.

SECTION 1. In all elections by the people the electors shall vote by ballot.

SEC. 2. Every male person born in the United States, and every male person who has been naturalized or has legally declared his intention to become a citizen of the United States, who is twenty-one years old or upwards, and who shall have resided in the State six months next preceding the election, and who at the time is an actual resident of the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector: *Provided*, No soldier or sailor or marine in the military or naval service of the United States shall acquire a residence by reason of being stationed on duty in this State.

SEC. 3. The following classes shall not be permitted to register or hold office, namely, first, those who during the rebellion took the oath of allegiance or gave bonds for loyalty and good behavior to the United States Government, and afterward gave aid, comfort, or countenance to those engaged in armed hostility to the Government of the United States, either by becoming a soldier in the rebel army, or by entering the lines of said army, or adhering in any way to the cause of rebellion, or by accompanying any armed force belonging to the rebel army, or by furnishing supplies of any kind to the same. Second, Those who are disqualified as electors or from holding office in the State or States from which they came. Third, Those persons who during the late rebellion violated the rules of civilized warfare. Fourth, Those who may be disqualified by the proposed amendment to the Constitution of the United States known as article fourteen, and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Arkansas, under the act of Congress entitled "An act to provide for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplemental thereto. Fifth, Those who shall have been convicted of treason, embezzlement of public funds, malfeasance in office, crimes punishable by law with imprisonment in the penitentiary, or bribery. Sixth, Those who are idiots or insane. *Provided*, That all persons included in the first, second, third, and fourth subdivisions of this section, who have openly advocated or who have voted for the reconstruction proposed by Congress, and accept the equality of all men before the law, shall be deemed qualified electors under this constitution.

SEC. 4. The General Assembly shall have the power, by a two-thirds vote of each House, approved by the Governor, to remove the disabilities included in the first, second, third, and fourth subdivisions of section three of this article, when it appears that such person applying for relief from such disabilities has in good faith returned to his allegiance to the Government of the United States: *Provided*, The General Assembly shall have no power to remove the disabilities of any person embraced in the aforesaid subdivisions who, after the adoption of this constitution by the convention, persists in opposing the acts of Congress and reconstruction thereunder.

SEC. 5. All persons before registering or voting must take and subscribe the following oath: "I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States and the constitution and laws of the State of Arkansas; that I am not excluded from registering or voting by any of the clauses in the first, second, third, or fourth subdivisions of Article VIII of the constitution of the State of Arkansas; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men; and, furthermore, that I will not in any way injure, or countenance in others any attempt to injure, any person or persons on account of past or present support of the Government of the United States, the laws of the United States, or the principle of the political and civil equality of all men, or for affiliation with any political party: *Provided*, That if any person shall knowingly and falsely

take any oath in this constitution prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of the crime of willful and corrupt perjury.

SEC. 6. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest and civil process during their attendance at elections and in going to and returning from the same.

SEC. 7. It shall be the duty of the General Assembly to enact adequate laws giving protection against the evils arising from the use of intoxicating liquors at elections.

#### ARTICLE IX.

##### Education.

SECTION 1. A general diffusion of knowledge and intelligence among all classes being essential to the preservation of the rights and liberties of the people, the General Assembly shall establish and maintain a system of free schools for the gratuitous instruction of all persons in this State between the ages of five and twenty-one years, and the funds appropriated for the support of common schools shall be distributed to the several counties in proportion to the number of children and youths therein between the ages of five and twenty-one years, in such manner as shall be prescribed by law, but no religious or other sect or sects shall ever have any exclusive right to or control of any part of the school funds of this State.

SEC. 2. The supervision of public schools shall be vested in a superintendent of public instruction and such other officers as the General Assembly shall provide. The superintendent of public instruction shall receive such salary and perform such duties as shall be prescribed by law.

SEC. 3. The General Assembly shall establish and maintain a State University, with departments for instruction in teaching, in agriculture, and the natural sciences, as soon as the public school fund will permit.

SEC. 4. The proceeds of all lands that have been or hereafter may be granted by the United States to this State, and not otherwise appropriated by the United States or this State, also all mines, stocks, bonds, lands, and other property, now belonging to any fund for purposes of education, also the net proceeds of all sales of lands and other property and effects that may accrue to this State by escheat, or from sales of estrays or from unclaimed dividends or distributive shares of the estates of deceased persons, or from fines, penalties, or forfeitures; also any proceeds of the sales of public lands which may have been or may be hereafter paid over to this State, (Congress consenting); also all the grants, gifts, or devises that have been or hereafter may be made to this State and not otherwise appropriated by the tenure of the grant, gift, or devise, shall be securely invested and sacredly preserved as a public school fund, which shall be the common property of the State. The annual income of which fund, together with one dollar *per capita* to be annually assessed on every male inhabitant of this State over the age of twenty-one years, and so much of the ordinary annual revenue of the State as may be necessary, shall be faithfully appropriated for establishing and maintaining the free schools and the University, in this article provided for, and for no other uses or purposes whatever.

SEC. 5. No part of the public school fund shall be invested in the stocks or bonds or other obligations of any State, or any county, city, town, or corporation. The stocks belonging to any school fund or university fund, shall be sold in such manner and at such times as the General Assembly shall prescribe, and the proceeds thereof, and the proceeds of the sales of any lands or other property which now belong, or may hereafter belong, to said school fund, may be invested in the bonds of the United States.

SEC. 6. No township or school district shall receive any portion of the public school fund unless a free school shall have been kept therein for not less than three months during the year, for which distribution thereof is made. The General Assembly shall require by law that every child of sufficient mental and physical ability shall attend the public schools during the period between the ages of five and eighteen years for a term equivalent to three years, unless educated by other means.

SEC. 7. In case the public school fund shall be insufficient to sustain a free school at least three months in every year in each school district in this State, the General Assembly shall provide by law for raising such deficiency by levying such tax upon all taxable property in each county, township, or school district as may be deemed proper.

SEC. 8. The General Assembly shall, as far as it can be done without infringing upon vested rights, reduce all lands, monies, or other property, used or held for school purposes in the various counties of this State, into the public school fund herein provided for.

SEC. 9. Provision shall also be made, by general laws, for raising such sum or sums of money by taxation, or otherwise in each school district, as may be necessary for the building and furnishing of a sufficient number of suitable school-houses for the accommodation of all the pupils within the limits of the several school districts.

Mr. PILE. Mr. Speaker, I think, sir, that these provisions of this constitution are the best answer to the arguments against it. I only wish to say in addition that it is a little remarkable to find the gentlemen who have for two years been clamoring for the admission of the unreconstructed States and abusing this side of the House because we were unwilling to admit them to representation on this floor, on

what was alleged to be purely partisan grounds, should now oppose their admission for the simple reason that their constitution secures equal rights to all men, and that their State governments are in the hands of loyal instead of disloyal men.

Mr. STEVENS, of Pennsylvania. I now yield five minutes to the gentleman from Maine, [Mr. BLAINE.]

Mr. BLAINE. I desire merely to address an inquiry to the gentleman from Pennsylvania on the other side of the Chamber, [Mr. Woodward,] who made a very emphatic declaration in regard to the character of the constitution presented by the State of Arkansas and of the general movement there as being adverse of republicanism. He says the constitution bears no evidence of being republican in form. I desire to ask the attention of the honorable gentleman, whose memory extends much further than mine, to a circumstance that happened here about twenty-two years ago, when Arkansas was originally admitted into the Union, and when she was admitted with a State constitution tolerating slavery, and also forbidding the Legislature of that State, at any time, to take any measure toward the abolition of slavery. That was the constitution under which Arkansas was originally admitted. I desire to ask the honorable gentleman whether in his creed to-day he holds that that was a republican constitution?

Mr. WOODWARD. That question is not here for us to settle. The gentleman says it was decided twenty-two years ago. I submit that our ancestors decided it, and I suppose they decided that Arkansas had a republican constitution.

Mr. BLAINE. I did not ask what they decided. The gentleman was somewhat fierce in his criticism upon this side of the House, and I wanted to know what was his opinion of that constitution.

Mr. WOODWARD. I had no opinion on the subject. It was not a question for me.

Mr. BLAINE. Why, the gentleman was then in public life very honorably in his and my native State.

Mr. WOODWARD. The gentleman must ask me relevant questions if he asks me any. That question is not here.

Mr. BLAINE. Well, it is very relevant. Here are two constitutions of Arkansas—one under which she was admitted twenty-two years ago, and one under which we propose to admit her to-day. The gentleman has been very severe and caustic in his criticism upon the action proposed to be taken to-day. He contrasts with it the status of Arkansas, which he says has existed as a State under the Constitution, which we are making war on. I desire to ask him whether he considers that constitution which forbids the Legislature of the State to take any measures looking to the abolition of human slavery a republican constitution?

Mr. WOODWARD. In answer to the gentleman I would say that the Government of the United States, having admitted Arkansas into the Federal Union under a constitution with whose provisions I am not familiar, all question that she had a republican form of government was concluded then and there, has never been opened since, and is not open now.

Mr. BLAINE. If I were a lawyer I should say to the learned judge that he confesses and avoids, because the issue he has raised here to-day was that we had revolutionized Arkansas and made war upon it, and all to preserve that very constitution which upheld slavery.

Mr. WOODWARD. Slavery does not exist in Arkansas under that constitution to-day. Why? Because the Federal Constitution has been amended with the consent of Arkansas.

Mr. BLAINE. But the gentleman has advised us that there was to be a great exposure of these matters by the judiciary, that all these questions were to be ripped up; and the gentleman from New York [Mr. Brooks] told us that matters were to roll back, and roll back, and roll back, until the ancient status was reached. The gentleman cannot escape in that



way, because we do not know how far these judicial exposures and interpretations are to go; it may be to the extent of saying that the amendment to the Constitution abolishing slavery was not, after all, adopted.

Mr. ROBINSON. I rise to a point of order. This discussion is out of order, if the hour of the gentleman from Pennsylvania [Mr. STEVENS] has expired.

The SPEAKER. The hour of the gentleman from Pennsylvania has not yet expired.

Mr. BLAINE. I would suggest that the Chair does not need the monitions of the gentleman from New York [Mr. ROBINSON] to enable him to perform his duties.

The SPEAKER. The time of the gentleman from Maine [Mr. BLAINE] has expired.

Mr. BLAINE. I have done all I wanted.

Mr. ROBINSON. And I have done all I wanted.

Mr. STEVENS, of Pennsylvania. I did not expect my colleague [Mr. WOODWARD] to ask the questions he has asked. Has he forgotten Missouri, which was admitted into the Union upon a condition precedent, and she was to go out of the Union if that condition was ever violated? Has he forgotten Illinois, which, by express terms like those, was never to permit slavery to be introduced within her limits? Has he forgotten Michigan, which was admitted upon a condition precedent? Has he forgotten Texas? He is a lawyer and has been a judge, and yet he gets up here and tells us that this condition in this bill for the readmission of Arkansas, precisely similar to, though not so strong as, one of those I have mentioned, is a great objection to the readmission of that State. Sir, I have no pity for the gentleman; but if I had known he was going to make such an exposure of himself I would not have let him in at all. [Laughter.]

Now, all I have to say is this: this constitution of Arkansas has been before us for four weeks, fairly printed. Four weeks have those had who are vigilant and active; and all time would be of no importance to a sluggard, for he would require from now till eternity, and even eternity would find him unprepared.

I think that this constitution is above all suspicion, and I am a little scrupulous and particular about any constitution I am called upon to vote for. Now, with a constitution with which I can find no fault, after it has been so long before us, I cannot for a moment conceive that there has not been time enough allowed for all of us to become acquainted with it. And as in equity that is presumed to be done which should be done, which ought to be done, therefore it is to be presumed that there is not a man in this House who does not know all about this constitution. The law says so; equity says so; my learned colleague [Mr. WOODWARD] would tell you that was the equity of the case. I hope, therefore, that we shall vote upon this constitution, and that we shall readmit Arkansas into the Union.

I know there has been a great clamor raised against this side of the House for keeping out those non-reconstructed States. By whom has that clamor been raised? By gentlemen upon the other side. And the only reason I can conceive of why their voice now sounds so differently is that it comes out of the other side of their mouths. [Laughter.] They have been clamoring for months, because we refused to let these States in, because we would not admit their Representatives and Senators to participate with their friends and brethren in the legislation of the country, and help to carry into effect the great principles which they and all of us—for I hope these gentlemen on the other side are coming now to be in favor of liberty—the great principles which all of us do or ought to maintain.

I therefore cannot think that there is anything illiberal in disposing of this question to-day. Gentlemen on the other side have occupied nearly the whole time. I gave to my colleague [Mr. WOODWARD] nearly half an hour, which he laughed to scorn; for when I wanted a few minutes of the time I had given

him he said I should not have it. I trust that the vote will be taken, and that everybody will be satisfied. Representatives of freemen come here duly elected according to the certificates of the very men appointed by the present Administration, men who have been all along the friends of that Administration. Besides that, we have now here a certificate of the Secretary of State, in which he declares officially that Arkansas has adopted the fourteenth constitutional amendment. A few days ago official information was sent to him of the action of that State; but being a good deal concerned about his household and Cabinet affairs, [laughter,] and having also on hand, as a friend suggests to me, the Alta Vela matter, he could not find time to send down the certificate to us till I "took a rule on him," as we say in the courts, and the certificate was extracted from him. I was very sorry I had to treat him in the manner I did. I have that certificate now in my hand, and I send it to the Clerk's desk that it may be filed as a part of our proceedings. I now call for the vote.

The bill was ordered to be engrossed and read the third time; and being engrossed, it was accordingly read the third time.

Mr. ELDRIDGE. I believe it is now in order to move that the House adjourn. I make that motion.

The question being taken, it was declared decided in the negative.

Mr. ELDRIDGE. I call for the yeas and nays.

On ordering the yeas and nays there were—yeas 21, naves 91; less than one fifth voting in the affirmative.

Mr. ELDRIDGE. I call for tellers.

Tellers were not ordered.

So the House refused to adjourn.

Mr. ROBINSON. I rise to ask a question. I wish to know whether this bill, when we vote upon it, cannot be divided. I had not read the bill till a few moments ago; but I find that while the first part provides for the admission of the State, the last part provides for keeping it out; and unless the question can be divided I shall be compelled to vote against the whole bill.

The SPEAKER. A resolution is susceptible of division when it has two or more parts, each of which is capable of standing by itself; but a bill cannot be divided under any circumstances.

Mr. STEVENS, of Pennsylvania. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. SCOFIELD. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 110, nays 32, not voting 47; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Bailey, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Blaine, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravely, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Jenckes, Judd, Julian, Kelsey, Laffin, George V. Lawrence, William Lawrence, Lincoln, Loughbridge, Lynch, Marvin, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Morrill, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Poland, Price, Robertson, Sawyer, Schenck, Scofield, Shanks, Smith, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Aernam, Burd Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and the Speaker—110.

NAYS—Messrs. Adams, Baker, Bock, Cary, Eldridge, Golladay, Grover, Holman, Hotchkiss, Richard D. Hubbard, Humphrey, Kerr, Knott, Loan, Marshall, McCormick, Morgan, Mungen, Niblack, Phelps, Pruyn, Randall, Robinson, Ross, Sitgreaves, Spaulding, Stone, Taber, Van Auker, Van Trump, Thomas Williams, and Woodward—32.

NOT VOTING—Messrs. Archer, Delos R. Ashley, Axtell, Barnes, Barnum, Bingham, Boyer, Brooks, Burr, Chanler, Cornell, Dawes, Dixon, Fields, Finney, Fox, Getz, Glossbrenner, Haight, Hawkins,

Asahel W. Hubbard, Hubbard, Ingersoll, Johnson, Jones, Kelley, Ketcham, Kitchen, Koontz, Logan, Mallory, Maynard, McCullough, Morrissey, Mullins, Nicholson, Polsley, Pomeroy, Raum, Selye, Shellabarger, Starkweather, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, William B. Washburn, John T. Wilson, and Wood—47.

When the roll-call was concluded,

The SPEAKER said: The occupant of the chair, as a member of the House, votes in the affirmative.

The result of the vote was announced as above stated.

So the bill was passed.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ROBINSON. I desire to move an amendment to the title.

The SPEAKER. It is before the House.

Mr. ROBINSON. I move to amend it so it will read "a bill to keep Arkansas out of the Union as an equal and independent State." The people of Arkansas are not now admitted under this bill unless they submit to despotism and dictation.

Mr. FARNSWORTH demanded the previous question.

The previous question was seconded and the main question ordered.

The amendment was rejected.

The title was then adopted as already stated.

Mr. FARNSWORTH moved to reconsider the vote by which the title was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WARD, by unanimous consent, was allowed to print his speech in the Globe on the subject just disposed of. [See Appendix.]

#### LEAVE OF ABSENCE.

Mr. JONES and Mr. DAWES were granted leave of absence for one week.

#### GOVERNMENT OF SOUTH CAROLINA.

Mr. SHANKS, by unanimous consent, introduced a joint resolution (H. R. No. 255) declaring the officers-elect of the State of South Carolina to be the provisional government of said State; which was read a first and second time, and referred to the Committee on Reconstruction.

#### ADMISSION OF SOUTH CAROLINA.

Mr. PAINE, by unanimous consent, from the Committee on Reconstruction, reported a bill (H. R. No. 1044) to admit the State of South Carolina to representation in Congress; which was read a first and second time, ordered to be printed, and recommitted.

#### PUBLIC BUILDINGS IN ST. LOUIS.

Mr. PILE, by unanimous consent, introduced a joint resolution (H. R. No. 256) authorizing the Secretary of the Treasury to appoint a commission to examine certain buildings in the city of St. Louis, Missouri; which was read a first and second time.

Mr. PILE. I ask that the joint resolution be passed at this time. It directs the Secretary of the Treasury to appoint a commission of three competent persons to make the necessary examination and report, first, as to the necessity of new buildings for the purpose of post office and United States court room and necessary offices in the city of St. Louis, Missouri; second, as to the adaptability and suitability of the building known as the Polytechnic Institute, the cost at which it can be obtained, and what will be the probable cost of constructing a suitable building for the purpose above named.

Mr. HOLMAN. I object.

Mr. PILE. If I am allowed to make a brief statement, I think the objection will be withdrawn.

Mr. RANDALL. I object.

The joint resolution was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. HOLMAN moved to reconsider the references just made; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

FELIX A. SALTER, ETC.

Mr. GARFIELD, by unanimous consent, from the Committee on Military Affairs, reported back House bill No. 653, for the relief of Felix A. Salter, and joint resolutions of the Legislature of Minnesota relating to the New Ulm mill, and moved that they be referred to the Committee of Claims.

The motion was agreed to.

SALE OF IRON-CLADS.

Mr. VAN WYCK, by unanimous consent, from the Committee on Retrenchment, submitted the following preamble and resolution; which were read, considered; and agreed to:

Whereas the iron-clads *Oncota* and *Catawba* were sold by the Navy Department to Swift & Co. April 2, 1868; and whereas there is reason to believe said vessels were obtained by said Swift & Co. with the design to dispose of and deliver the same to the Government of Peru, then and now in a state of war with a Power friendly to this Government: Therefore,  
*Resolved*, That the President of the United States be requested to forthwith order the seizure and detention of said vessels until the matter can be investigated by Congress.

Mr. VAN WYCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RECONSTRUCTION DEFICIENCY BILL.

Mr. WASHBURNE, of Illinois, from the Committee on Appropriations, reported a bill (H. R. No. 1045) making appropriations to supply deficiencies in appropriations for the execution of the reconstruction laws in the third military district for the fiscal year ending the 30th of June, 1868; which was read a first and second time, and, with the accompanying documents, ordered to be printed.

The SPEAKER. Does the gentleman desire to make it a special order?

Mr. WASHBURNE, of Illinois. I do not.

The SPEAKER. Unless it is made a special order it allows unlimited debate.

Mr. WASHBURNE, of Illinois. Let it then be made a special order.

The bill was accordingly referred to the Committee of the Whole on the state of the Union, and made the special order for Monday next after the morning hour, and from day to day until disposed of.

BENEVOLENT INSTITUTIONS IN THE DISTRICT.

Mr. WASHBURNE, of Illinois. I desire to submit the views of the minority of the Committee on Appropriations on two bills, namely, House bills Nos. 541 and 859, in relation to appropriations for benevolent institutions for the District of Columbia, for the purpose of having the views printed. I desire to state that, before handing them to the Clerk to have them printed there are some blanks which I want to fill up.

No objection being made, the views of the minority were ordered to be printed.

Mr. SPALDING. I give notice that on Monday morning next, after the morning hour, I will move to go into the Committee of the Whole on those bills.

REUBEN DAILEY.

Mr. STOKES. I ask consent to report back from the Committee of Claims the petition of Reuben Dailey, of Memphis, Tennessee, and ask that the committee may be discharged from the further consideration of the same, and that it be referred to the Committee on the Judiciary.

Mr. WILSON, of Iowa. I object to the change of reference.

Mr. STOKES. If the gentleman will allow me I think I can satisfy him that it is proper to have the petition referred to the Judiciary Committee. It is a petition for compensation for services rendered as Attorney General of the United States court. It is a very little matter.

Mr. WILSON, of Iowa. It is nothing but a claim against the Government, and the Committee on the Judiciary have nothing to do with it properly. It belongs to the Committee of Claims.

Mr. HOLMAN. It is manifest, on examination of the paper, that it should go to the Committee on the Judiciary.

Mr. WILSON, of Iowa. I still object.

The question was taken on referring the petition to the Committee on the Judiciary; and it was decided in the affirmative.

Mr. STOKES moved to reconsider the vote by which the petition was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN H. HAYES.

Mr. HARDING, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of relieving Lieutenant John H. Hayes, of company I, eleventh Illinois cavalry, for the loss of one year's pay in the Union Army, and that they report to this House thereon.

AMERICAN COMMERCE.

Mr. PHELPS. I ask unanimous consent to make a brief statement by way of explanation and correction of the remarks by the gentleman from Maine [Mr. PIKE] yesterday.

The SPEAKER. Not personal?

Mr. PHELPS. No, sir; a correction of some statements concerning the city of Baltimore and its commerce.

Mr. WASHBURNE, of Illinois. How long?

Mr. PHELPS. Ten minutes.

Mr. WILSON, of Iowa. Is this a personal explanation?

The SPEAKER. The Chair understands it is not.

No objection was made.

Mr. PHELPS. In the course of his speech on the joint resolution before the House yesterday directing the sending of vessels of war to the Gulf of St. Lawrence for the purpose of protecting the New England fishermen in those waters, the gentleman from Maine [Mr. PIKE] made the following remarks:

"We have not only given up producing steamships in this country, but we hail with joy the enterprise of a foreigner if he will but introduce a steamship line anywhere upon this coast. The large city of Baltimore, with two hundred and fifty thousand inhabitants, celebrated in former days for its tonnage, producing that remarkable specimen of naval architecture formerly known as the *Baltimore* clipper, has to-day not only given up its efforts at foreign commerce, but celebrated a gala day a short time since, the day on which a Clyde steamer arrived in the harbor, as a precursor of a line established there to do the business of importing and exporting such goods as Baltimore might desire to buy or to send abroad. The citizens turned out in the street and welcomed the first arrival of steamers that the enterprising Liverpool firm had concluded to send to that imbecile port. They were as glad as Hong Kong might be at the arrival of the Pacific mail steamers first ship! That is the condition to which the great city of Baltimore is reduced to-day; and it is but a specimen of the position of the other cities of this continent. From the port of New York there sails on an average one sea-going steamship every day, built in Europe, and no one of them flies at her masthead the stars and stripes as her national emblem. The best of our American line, the *Fulton* and the *Arago*, were sold at auction the other day in New York, to be hustled off and broken up as old iron. In the place of those vessels we have from foreign ship-yards magnificent specimens of naval architecture sailing every day into and out of the port of New York, plying between that city and Liverpool, Queenstown, Southampton, Havre, and other European ports, every one of them under a foreign flag; and when any of our gentlemen tourists go abroad for pleasure, as many thousands of them do annually, they go under the foreign flag, of course!"

I regret that I was not in my seat when these remarks fell from the gentleman from Maine. Had I been I should have requested permission to correct him on the spot, inasmuch as they contain several statements which, no doubt inadvertently, the gentleman has made in contravention of the facts.

In the first place, the population of Baltimore, instead of being two hundred and fifty thousand, as the gentleman has stated, is estimated by those most familiar with the subject; and the best judges, to be over three hun-

dred thousand. Instead of the steamer which is spoken of here as being the cause of all this demonstration, being a Clyde steamer, owned by a Liverpool firm, it was a steamer belonging to a line established by the joint enterprise and joint capital of the North German Lloyd's and the Baltimore and Ohio Railroad Company, a corporation organized under the laws of the State of Maryland, and the most of whose capital is owned in that State. The Baltimore and Ohio Railroad Company has contributed one half to the capital of this line of steamers, the balance being contributed by the North German Lloyd's. They have already two first-class steamers of over two thousand tons burden plying between the ports of Bremen and Baltimore, and the occasion to which the gentleman refers was the arrival at the city of Baltimore of the pioneer steamer of that line. She has since been followed by her consort, and will be followed by two more vessels to be placed on the line, making in all four.

The gentleman is incorrect in saying that there is at this time no line of steamers plying between this country and Europe supported by American enterprise and capital. So far as the remarks apply to the port of New York, they are doubtless true. I am not aware that there is a line of steamers flying the American flag at their mastheads now afloat between the port of New York and any port in Europe; I am not aware that there is any such line afloat between any port in the United States and any European port except from this "imbecile port" of Baltimore. We have there a line of steamers plying regularly between the ports of Liverpool and Baltimore, the capital of which is exclusively owned in the State of Maryland by the same corporation to which I have referred. They have three first-class steamers—the *Worcester*, the *Somerset*, and the *Carroll*—running regularly, and so far as I know those are the only steamers plying between this country and Europe belonging to a company organized under American laws, and controlled by American capital and floating at their mastheads the American flag. And this line, dependent exclusively upon Maryland enterprise for its support, has never asked nor received a dollar by way of subsidy from the national Treasury.

Mr. PIKE. Where do those steamers run to?

Mr. PHELPS. To Liverpool.

Mr. PIKE. And the two you first referred to?

Mr. PHELPS. They run to Bremen.

Mr. PIKE. Are they American steamers or foreign?

Mr. PHELPS. The steamers were built in the Clyde, but they are owned in Baltimore.

Mr. PIKE. That is the very point I was making to this House, and I ask a few moments to reestablish the point in the minds of the House. The large city of Baltimore, which in 1860 had two hundred and twelve thousand inhabitants, and to-day I supposed had two hundred and fifty thousand—I am glad to hear it has three hundred thousand—has to send across the Atlantic and have its steamers built in the Clyde, because, under your laws, they cannot be built in Baltimore. If those steamers could have been built in Baltimore the enterprising merchants of that city would have built them there. But they could not. They were obliged to send their money across the Atlantic and have the steamers built in the Clyde and run under a foreign flag. It is the same in New York. I stated yesterday that foreign merchants located in New York, owning foreign vessels, were doing the importing business of this country and the exporting business of this country, and doing it under a foreign flag; and that artisans in Great Britain, the Millwall Company, the Lairds at Birkenhead—

Mr. PHELPS. I must decline to yield further. I do not take issue with the gentleman's general line of remarks in regard to the decay of the ship-building interest of the country, which I deplore as much as he does. On that question I agree with him entirely; but I object to his illustration; I object to his singling out the port of Baltimore to illustrate the de-

cline of the commerce of the country, when it is in point of fact the only American city that has a line of steamers owned in this country plying to a European port.

Mr. PIKE. If the gentleman will allow me a word further, I will say that I singled out the port of Baltimore for this purpose, because the enterprise of Baltimore was sufficient, under favorable laws, to produce one of the finest specimens of naval architecture that the naval history of this country has ever known; that was the Baltimore clipper, known in former days the world over, wherever the American flag was known. And to-day, if you will but allow it, the port of Baltimore, with its favorable situation as the *entrepot* of the whole trade of that section of the country watered by the Chesapeake and its inlets, would rival New York, and New York and Baltimore together, instead of succumbing to Liverpool and London in the great carrying trade of the world, would build you a fleet of ships that would go to Europe and do our carrying trade there; would go to the West Indies and do our trade there; go to Mexico, to South America, go everywhere where there is salt water, and do the carrying trade of the world. If you will but permit the enterprise of Baltimore and New York, and of my own State of Maine, to compete with foreigners, we will do the carrying trade of the world.

But, crushed down as they are to-day, laboring under the disadvantages imposed upon them, they cannot do it; and the imbecility which now characterizes the foreign trade enterprise of Baltimore characterizes also the cities of Philadelphia and New York, and all our efforts for the control of the seas. My remark had no special reference to the city of Baltimore.

[Here the hammer fell.]

The SPEAKER. The time of the gentleman from Maryland [Mr. PHELPS] has expired.

Mr. PHELPS. I ask for five minutes more. No objection was made.

Mr. PHELPS. After the explanation of the gentleman from Maine, [Mr. PIKE,] his recognition of the enterprise of the city of Baltimore, and the appreciation he has shown of its great natural advantages, which constitute it the natural depot of the South—and I may add of the great West and Northwest also—it is hardly necessary for me to say anything further.

As for the term "imbecile," which the gentleman is reported to have applied to the port of Baltimore, I attached no particular significance to it, for I rather supposed it must have been a mistake of the reporters or a typographical error. How the gentleman, coming from the section he represents, and speaking in behalf of the fishing interests, could stop to challenge attention to the imbecility of anything was more than I could understand. If there is anything upon the Atlantic sea-board that might properly be called "imbecile" the gentleman's fisheries, which have from time immemorial clamored for and obtained Government bounties, and were only yesterday asking through the gentleman from Maine himself, and receiving from the favor of this House, the protection of a fleet of national armed cruisers, might perhaps deserve that compliment. [Laughter.]

Mr. PIKE. I hope the House will allow me two minutes.

No objection was made.

Mr. PIKE. I placed it on the ground of imbecility; I applied that to all our foreign commerce and to the men engaged in foreign commerce; for however vigorous a man may be naturally he may have grown up to the full stature of a man, if you bind his arms and tie his legs with withes so that he can neither strike out nor walk, for all active purposes he is an imbecile. That is the condition of the merchants, of the ship-builders of Baltimore, to-day. That is the condition of the ship-builders of Philadelphia, represented here by my friend on my left, [Mr. MYERS.] Ay, it is the condition of the ship-builders of New York, where there is not to-day a single keel

laid in the ship-yards of Webb and others, for they are bound hand and foot by your infamous navigation laws.

#### ADMISSION OF ARKANSAS.

Mr. JOHNSON. I ask unanimous consent of the House to make a statement.

No objection was made.

Mr. JOHNSON. I was absent when the vote was taken this afternoon on the Arkansas bill. I ask leave to record my vote upon that bill.

The SPEAKER. The Chair will state, as he has repeatedly stated heretofore, that under the rules he cannot ask unanimous consent for the purpose of allowing any gentleman to record his vote. The object can be attained only by a suspension of the rules when a motion for that purpose is in order.

Mr. JOHNSON. I desire, then, to say that if I had been here I should have voted against the bill for the admission of Arkansas.

Mr. GETZ. I desire to say that I, too, was absent from my seat when that vote was taken. If I had been present I should have voted in the negative.

#### ORDER OF BUSINESS.

Mr. HOLMAN. I move that the House now adjourn.

Mr. WASHBURN, of Illinois. I would ask the gentleman from Indiana [Mr. HOLMAN] to withdraw his motion to adjourn for the purpose of enabling me to move to suspend the rules that the House may resolve itself into the Committee of the Whole for debate only. My colleague [Mr. Cook] desires to make a speech to-day.

Mr. HOLMAN. Is it understood that no business shall be transacted after the House goes into the Committee of the Whole?

Mr. WASHBURN, of Illinois. That will be the understanding.

Mr. HOLMAN. Is it proposed to make speeches in favor of impeachment?

Mr. WASHBURN, of Illinois. My colleague, when he makes his speech, can answer for himself as to what his subject is.

Mr. ELDRIDGE. I object to any speeches in this House on the subject of impeachment while the question is pending in the Senate.

Mr. HOLMAN. I believe I must insist on my motion that the House adjourn.

The question being taken on the motion to adjourn, there were—ayes 38, noes 54; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. HOLMAN and PERHAM.

The House divided; and the tellers reported—ayes 4, noes 64.

The SPEAKER. On this question no quorum has voted. In the opinion of the Chair, however, a quorum is in the Hall. The Chair will state that when members refuse to obey their own rules he can decide their conduct out of order, but he is powerless to enforce those rules. When members refuse to obey the rules it is, as the Chair has heretofore stated in rulings on other questions recently, a matter for the House to determine, not for himself.

Mr. HOLMAN. I understand that the gentleman from Illinois [Mr. Cook] desires to address the committee this afternoon because he is about to leave the city; and, if there is no objection, I will withdraw the motion to adjourn.

Mr. COOK. I will say that my speech is not on the question of impeachment, but only refers to it incidentally.

There being no objection, the motion to adjourn was withdrawn.

Mr. WASHBURN, of Illinois. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union upon the President's message.

The SPEAKER. It is the understanding that no business will be transacted to-day after the House has resolved itself into the Committee of the Whole.

The motion of Mr. WASHBURN, of Illinois, was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WILSON, of Iowa, in the chair,) and proceeded to the consideration of the President's annual message, on which Mr. Cook was entitled to the floor.

#### RECONSTRUCTION.

Mr. COOK. Mr. Chairman, I propose to discuss the disagreement between Congress and the President; to show how, after being elected by the same party as the representatives of the same political principles, they have come to occupy positions so irreconcilable. The Constitution provides that—

"The United States shall guaranty to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature or of the Executive (when the Legislature cannot be convened) against domestic violence."

In this language is implied the proposition that a State may be in this Union, and yet be without a republican form of government. The Union was made to be a perpetual Union, and yet some States might lose their republican form of government either by having the State government existing under the Constitution of the United States utterly overthrown or else perverted into some other form, and to prevent this possibility it was provided that the United States should guaranty to every State in this Union a republican form of government. The word "guarantee" means to warrant, to become responsible for, to undertake for another that if that other does not do the thing for which the guarantee is given the party guarantying will himself do it. The evident meaning of this clause of the Constitution is, that if any State in this Union fails to maintain a republican form of government the United States will take such steps as may be necessary to restore and maintain such republican State government.

When the people of the southern States, to secure and extend the great wrong and crime of human slavery, deposed and overthrew the State governments which had existed in those States under the Constitution of the United States, it became the duty of the United States to execute the guarantee given in the Constitution, either by causing the State governments which had been overthrown to be reestablished, or by providing for the creation of new State governments republican in form. In the execution of this guarantee the national Government had the right to put down by force the unconstitutional and usurping State governments which had been set up in the rebellious States. The national armies did not enter the rebellious States "to protect them against domestic violence upon the call of the Legislatures or the executive of such States." They went there to remove obstructions to the maintenance of constitutional republican governments within them. It is clear that when the rebellion was suppressed it was impossible to restore the constitutional governments that had existed in those States before the rebellion. Those governments had been so utterly overthrown that they could not be restored or reconstructed, because the men who held the executive, legislative, and judicial power under those States had themselves become traitors, renounced their allegiance to the United States, and sworn allegiance to the rebel confederacy, and even if they had continued loyal their tenure of office would have expired before the conclusion of the war. It is equally clear that no legal governments had been set up in their place. The governments in actual existence at that time in those States were governments in hostility to the Government of the United States. Their officers were sworn to support the constitution of the so-called Confederate States, or, in other words, to overthrow the Constitution of the United States, so far as they should have power to do so. Such State governments had no legal power to enact any law



which could rightfully bind any citizen of the United States; indeed, the very existence of those governments was an act of treason, and when the Constitution and laws of the United States were restored those rebel State governments were of necessity destroyed, so that when the war closed no State governments existed in those States, and the clamor which has been made that these rebel States have always been States in the Union, and therefore were entitled to immediate representation in Congress at the close of the war, if it means anything, means this: that Senators in the United States Senate might be selected from the State in which there was no Legislature to elect them, and members of the House of Representatives be elected from a State in which there was no Legislature to establish representative districts or to provide by law for the election of Representatives.

The fact that there were no legal State governments in those States at the close of the war was admitted by every one at the North. The President, in his proclamation in relation to the State of North Carolina, declared that the rebellion had, in its revolutionary progress, deprived the people of that State of all civil government. It was conceded by the entire South, for no Governor, judge, or legislator claimed the right to continue the exercise of the functions of any office which he had exercised under the so-called confederate government. The exigency contemplated and provided for in the Constitution had occurred. There were States in this Union which had not a republican form of government. They had no legal form of State government whatever. The United States were solemnly bound by the Constitution to guaranty to those States a republican form of government. The republican governments existing before the war could not be restored, for the reasons already stated. The Constitution then required that the United States should provide for setting up anew republican governments in the States which had by their rebellion destroyed their constitutional governments. The manner in which this constitutional duty should be performed, and the department of the national Government which should carry out this constitutional obligation, and in so doing should determine the manner of doing it, have been the questions that have divided the political parties of the country since the final suppression of the rebellion.

It has been agreed among all parties that the United States, when the rebellion was suppressed, had the right to intervene in the rebellious States for the purpose of setting up republican State governments in accord with the national Government under the Constitution. The first point of controversy was whether this should be done by the President of his own motion, and in accordance with his individual view of the manner in which it should be done, or whether the exercise of this great power should be under the control of the people through their representatives, and on this point the President chose to separate himself from the political party by whom he was elected, and to claim for himself the unqualified right to determine finally the manner in which, and the terms upon which, the governments of those States should be reconstructed, which included the power to determine what for all time to come should be the condition of the millions of persons made free by the proclamation of emancipation, and what should be the measure of protection afforded to them by the national Government which they had aided in preserving; to determine what should be the security provided for the Union men of the South who had arrayed against themselves the bitter hostility of those who had striven to overthrow the national Government, and whose only hope of protection was in the help of the Government which they had periled all things to maintain; to determine what measure of power in the reconstructed State governments, and in the Congress of the United States, should be placed in the hands of those men who had violated every obligation resting upon them to support

and defend the Constitution and laws of the nation, and who, by their causeless and wicked rebellion, had brought upon the country the terrible sacrifices and the long agony of the civil war.

These were grave questions. The future welfare and prosperity of the whole country, the national honor, the public faith were all involved in the right solution of them. The claim made by the President, of the right to decide these questions himself and according to his individual view of the justice and propriety of the course to be adopted, was the most monstrous claim of power ever put forth by any man since the foundation of our Government. The measures adopted by the President to assert and enforce this claim of power in himself have consequently been wholly without precedent in its history. He did not insist that the State governments then existing in fact were clothed with any authority, as did the Democratic party, but, on the 10th of May, 1865, General Canby telegraphed to General Warren, in Mississippi, by direction of the President:

"You will not recognize any officer of the confederate or State government within the limits of your command as authorized to exercise in any manner whatever the functions of their late offices. You will prevent by force, if necessary, any attempt of any of the Legislatures of the States in insurrection to assemble for legislative purposes, and will imprison any member or other persons who may attempt to exercise these functions in opposition to your orders."

In pursuance of this claim of power the President called upon a certain portion of the people of those States to elect delegates to form new State constitutions; he declared who should be entitled to vote and who should be eligible to office; he disfranchised one race who had been loyal during the war solely on account of their color; he permitted all paroled soldiers of the rebel army and all rebel officers under the rank of colonel and all soldiers and officers of the rebel navy under the rank of lieutenant to vote in reconstructing the State government provided they should take an amnesty oath prescribed by himself alone.

A careful examination of the proclamation of the President of May 29, 1865, for the institution of measures to reconstruct the State of North Carolina, and which was a model for all the proclamations issued by him in reference to the other States, will disclose this fact beyond all doubt or question: that in every State in which the majority of the white male citizens over twenty-one years of age had participated in the rebellion the power of reconstructing the State government would be left in rebel hands, and when reconstructed the power of the State in the national councils would be left with the enemies of the Government. It is also manifest the white Union men of the southern States who risked so much and suffered so much for their devotion to the country would be left in the power of their enemies, receiving no measure of protection other than might be accorded to them by the men who have been arrayed against them in deadly hostility for years, and that the freedmen who had been emancipated by the nation, and who had been in great numbers enrolled in our armies, would be placed without protection or security in the power of the men who had periled life and fortune in the effort to perpetuate and extend the slavery of their race, and who are now bitterly exasperated against them on account of their emancipation by force and their sympathy with the national cause.

It will not be contended by any one that the United States could interpose in a State for the protection of either Union men or freedmen after the State government should have been reorganized, and recognized as the rightful government of the State. No one will assert that the General Government can intervene to set aside the statutes of the State of New York or Illinois or the judgments of their courts, nor could such intervention properly be made in the States of South Carolina or Mississippi after they had resumed their relations to the Government of the United States.

The Union Republican party of the country,

by whose Representatives the measures were adopted and the forces set in motion by which the rebellion was crushed and the national life preserved, insisted that the claim of power thus put forth by the President was usurpation, and the principles of reconstruction adopted by him were unwise, unjust, and, so far as the Union men and freedmen of the South were concerned, were a plain violation of national faith and honor. They insisted that the guarantee of the Constitution should be executed by law, to be enacted by the people through their Representatives, and in executing this guarantee the measures of reconstruction should be such as to secure to the freedmen the equal protection of the laws; that if the southern States should deny to the freedmen the right of voting or of participating in the Government, that they should not be counted in determining the number of Representatives in Congress to which such States should be entitled; in other words, that the rebel States should not have greater power in the Government than they had before the rebellion by reason thereof. Three fifths of the slaves had been counted in a basis of representation; all the freedmen must now be counted; if, therefore, the freedmen should have no other voice in the Government than the slaves had, the white rebels would have increased their numbers and power in Congress by their rebellion.

The Republican party also insisted that no person who had taken an oath as a member of Congress or as an officer of the United States to support the Constitution of the United States, and had engaged in the rebellion, should again take his place in Congress to make laws for loyal men, or should hold office under the United States—in other words, that leading rebels who had violated an oath once solemnly taken should not again be trusted with the safety of the nation. It also insisted that before the rebellious States should again be admitted to an equal share in the Government that the validity of the public debt and the debt for the payment of the pensions and bounties of soldiers should not be questioned. These things were embodied in an amendment to the Constitution known as the fourteenth article, upon the adoption of which and the organization of the new State governments in conformity thereto it offered to receive into Congress the Representatives of those States.

The leaders of the rebellion have been the leaders of the Democratic party in the nation. By their influence and power in the party they have committed it to all those measures looking to the extension and perpetuation of slavery which have alienated so many of the northern members of the party as to secure the election of Mr. Lincoln. The defection of so large a portion of the Democratic party as that which went into rebellion, actively and openly, left that party in a minority, and deprived them of the political power which they had enjoyed so long, that it seemed almost an inalienable right. As the readiest means of securing a return to political power and party ascendancy they looked to a reunion with their former allies, who had now become rebels, and were willing to do anything to conciliate and nothing to exasperate them. At first they denied the constitutional power to coerce rebel States; or, in other words, they denied the right of the United States to guaranty constitutional republican governments in those States. This was the doctrine of Mr. Buchanan, the last Democratic President, after the conflict of arms actually began. They sought to carry it on in a way which should do as little damage to the enemy as possible. They refused to give refuge in our camps to the slaves of rebels, but returned them to aid in the service of the rebellion. They refused to allow negroes to fight in the armies of the nation. They opposed and denounced the proclamation of emancipation, that great measure of justice and policy which gave the final and decisive victory to our arms; and when it was proposed to secure forever to the negro that freedom which the nation had given him by the adop-

tion of an amendment to the Constitution forever prohibiting slavery the whole Democratic party voted solidly against the proposition. It was passed in the House of Representatives by the following vote: ayes 119, (over a hundred of whom were Republicans,) noes 56, (all Democrats.)

In looking back over the history of the last eight years we can now clearly see that if the Democratic party had been in power when the rebellion actually began it would not have been put down by force and the nation would have been divided. If that party had been in power when the contest was at its highest, when day by day hundreds of our bravest and best men were giving their lives for the country, it would have given up the contest and have allowed the nation to have perished rather than have overthrown the institution of slavery, for the day when the emancipation proclamation was issued was the day of extremest danger, and when the constitutional amendment was adopted in Congress it had become evident that the rebellion could only be subdued by depriving it of the great element of its strength—the unrequited labor of millions of slaves. After the negroes had shown their fidelity and attachment to the Union cause in innumerable forms, after they had protected, aided, and fed so many of our soldiers escaping from the hell of a rebel military prison; after we had enrolled them in the national armies, and after they had proven their manliness upon many well-fought fields, where thousands of them laid down their lives for the nation, the Democratic party would have surrendered them up once more to the tender mercies of their rebel masters. Entertaining these sentiments, it is not strange that the party should have rallied to the support of the policy of the President. It is true that his policy did not recognize the rebel State governments existing at the close of the rebellion as legal State governments as they would have done, but it placed the power in the hands of rebels and traitors to organize new State governments by which the same great end could be secured, namely, the reconstruction of the Democratic party at the South and its reinstatement in place and power. The President's policy did not actually return the negroes to a condition of chattel slavery—the constitutional amendment against which they had struggled so earnestly prevented that; but it placed them completely under the control of their former masters, denying them the civil rights of American citizens, and, what was more desirable still, it would add an additional two fifths to be counted as a basis upon which southern Democrats could be sent to Congress in greatly increased numbers. That policy did not in terms repudiate the debt of the nation and the payment of the bounties and pensions to soldiers and their families, but it did provide that rebels should have a voice in the determination of those questions greater in proportion to their numbers than loyal men should have, because they should not only represent the entire number of rebel whites, but should misrepresent the millions of loyal blacks.

The ends they sought could be attained by supporting the policy of the President, yet untried, equally well as by their own, which had been disastrously defeated, and so the Democratic party rallied with one accord to the defense and support of the President and his policy. The nuptial rites between the two were publicly solemnized at Philadelphia, where the corporal's guard of apostate Republicans who had abandoned their party and principles for presidential favor and patronage affiliated with the Democratic party, amid as much decorous weeping and unmeaning congratulations as are commonly found at the marriage ceremonies of parties whose aim is to substitute show for substance, and from this time the history of the conflict of parties is a record of the Republican Union party on one side and the President and the Democratic party in alliance on the other. The President has from that date been engaged in removing from office the Republicans who supported and elected him, and

filling their places with Democrats who derided and denounced him, in many instances removing maimed and crippled soldiers from office and replacing them with those who had no claim but faithfulness to the Democratic party.

This policy of the President, which is indorsed and supported by the Democratic party, is, first, the assertion of the power of the President to determine individually and finally all the grave questions embraced in the reconstruction of State governments in the southern States; to determine who should vote and who should be disfranchised; who should hold office and who should be ineligible; whether the government, when reconstructed, was republican in form; in short, to determine at his single will the great questions which should shape the destiny and control the condition of the inhabitants of those States for ages to come, and that the law-making power of the nation must be silent and powerless while he alone should determine the future history of the nation. Said the President in his proclamation of May 29, 1865:

"Whereas the fourth section of the fourth article of the Constitution of the United States declares that the United States shall guaranty to every State in the Union a republican form of government; and whereas the President of the United States is by the Constitution made Commander-in-Chief of the Army and Navy, as well as chief civil executive officer of the United States, and is bound by solemn oath faithfully to execute the office of President of the United States, and to take care that the laws be faithfully executed; and whereas the rebellion in its revolutionary progress deprived the State of North Carolina of all civil government; and whereas it becomes necessary and proper to carry out and enforce the obligations of the United States to the people of North Carolina in securing them in the enjoyment of a republican form of government; now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States, &c."

The proclamation then goes on to give minute directions how a republican government should be set up in North Carolina, and what portion of the people should have a voice in forming it. It will be seen that this claim of power is in substance this: that the President has the power by his own single will to carry into effect any provision of the Constitution which imposes a duty upon the Government of the United States. He claims the right to execute in his own way the clause requiring the United States to guaranty to every State a republican form of government; that for the purpose of executing this guarantee he is the United States. Let us compare this claim with the Constitution itself. The powers of the President are limited and defined in that instrument. He is Commander-in-Chief of the Army and Navy. He may, with the advice and consent of the Senate, make treaties, appoint public officers. He may appoint officers to fill vacancies happening in the recess of the Senate, who shall hold their offices until the end of the next session of the Senate. He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may on extraordinary occasions convene Congress, and in case of the disagreement between the Houses as to the time of adjournment he may adjourn them to such time as he shall think proper. He shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

Now, under which of these powers vested in the President by the Constitution does he derive the right himself to carry into execution that clause of the Constitution which requires the United States to guaranty to every State a republican form of government? Certainly under none of them. He must therefore claim that the President is under obligation to execute the Constitution as well as the laws; in other words, that where the Constitution has imposed a duty upon, or vested a power in, the United States, or the Government of the United States, that it becomes the duty of the President, either as "Commander-in-Chief of the Army and Navy" or as "chief civil executive officer of the United States," (for he does not

tell us in his proclamations upon which of these offices he rests the power,) to carry such power into execution. This seems to me to be a perfectly just and fair statement of the claim of power put forth by the President in his various proclamations for the establishment of new State governments in the southern States, and which power he has attempted to exercise in defiance of the Constitution and law—a power which, if it did exist as claimed by the President, would give him the absolute irresponsible power to mold and shape the institutions and destinies of those States for ages to come. If he had the constitutional power to require those States to adopt the constitutional amendment abolishing slavery, he had the same constitutional right to require them to refuse to adopt it. If he had the constitutional right to require them to repudiate the rebel debt, he had the constitutional right to require them to pay it. If he had the right to say that only those white voters who would take his amnesty oath should vote, he had the same right to determine that there should be impartial suffrage in the election of delegates to form new State constitutions.

But this whole claim of powers on the part of the President is in defiance of the Constitution and an usurpation of the powers of Congress. What does the President say in his proclamation is the foundation of the right to intervene in the way he has done in reconstructing the governments of these States? He derives the power expressly from the clause of the Constitution which requires the United States to guaranty to each State a republican form of government. That is a power not given to the President, but to the United States, and the Constitution provides, article one, section eight, that Congress—

"Shall have power to make all laws which shall be necessary and proper to carry into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States or in any department or officer thereof."

Language could not be used which would more plainly and distinctly confer upon Congress the right to make all laws necessary for the due execution of the power of the "United States to guaranty to the States in rebellion a republican form of government." The assumption of this power by the President was therefore an unqualified act of usurpation, and it was committed for the purpose of placing the political power of the southern States, and thereby of the whole nation, in the hands of the Democratic party, and of carrying out the statement made by him to Stanley Mathews, who testified before the Reconstruction Committee as follows:

"I had an interview with Mr. Johnson in February, 1865, at the Barrett House, in Cincinnati, where he was stopping, on his way to Washington, to be inaugurated as Vice President. In it he said that very great changes have taken place in Tennessee since I have been there; that many of those who at first were the best Union men had turned to be the worst rebels, and many of those who were originally the worst rebels were now the best Union men. I expressed surprise and regret at what he said in reference to the matter. We were sitting near each other on the sofa. He then turned to me and said, 'You and I were old Democrats.' I said yes. He then said, 'I will tell you what it is; if this country is ever to be saved it is to be done through the old Democratic party.' I made no reply."

When the Thirty-Ninth Congress met it was, of course, unwilling to sustain the President in an usurpation of power so gross and palpable and so dangerous in its tendencies; and although a very large majority of that body belonged to the political party which elected the acting President, yet it immediately appeared that it would neither sustain the President in the monstrous assumption of power which he had made, nor approve of the plan of reconstruction which he had adopted, which was, in truth, only the reorganization of the State governments in the hands of those who had been the armed enemies of the nation, and which State governments had proved themselves either incompetent or unwilling to afford security or protection to loyal men; and whose practical workings were illustrated at Memphis and New Orleans where men were slain in heaps for no

crime but loyalty to the country and hatred of treason.

The Congress proposed to the southern States as its plan of reconstruction that the States which had lost their legal State governments by rebellion should be admitted to representation again in Congress when they should have adopted an amendment to the Constitution which should provide for equal civil rights for all persons before the law; second, for equal representation, so that those men who were excluded from all voice in the Government on account of their color should not be counted in the basis of representation. In other words, that a rule should not be established which would, in a State where the white and colored population was equal, give representation and control in the Government to every voter just equal to that of two northern voters; that if the negro was of too inferior a race to vote he should not be allowed to control the Government; that if his name was used at all to determine affairs of national interest he should use it himself, and not another, who would use it contrary to his wishes; third, that perjured men, who, as members of Congress or public officers, had sworn to support the Constitution of the United States, and then had used their utmost endeavors to destroy it, should not again be intrusted with power either to make or execute the laws of the nation; and fourth, that the debt of the nation should be paid, and the bounties and pensions provided by law for soldiers and their families should be paid, and that the debt created to aid the rebellion should not be paid; and these views they embodied in amendment to the Constitution, which is as follows:

"SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

"SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

"SEC. 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two thirds of each House, remove such disability.

"SEC. 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

"SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

The Democrats, seeing that the second clause of this amendment would greatly lessen the strength which their old allies—the rebels of the South—could bring back to the Democratic party in the nation when they should be reconstructed, and finding that the aim of the President was identical with their own, joined with him to defeat this wise, equitable, and most moderate plan of reconstruction—the vote on the passage of the resolution submitting the amendment being in the House, ayes 128, all Republicans, nays 37, all Democrats;

and after the ratification of this amendment by the States of Ohio and New Jersey, Democrats, as soon as power has been placed in their hands, have formally repealed such ratification so far as they had power to do so. While the southern States were considering this necessary, just, and moderate proposition, its rejection by those States was secured by the direct and personal interference of the President himself. On the 17th day of January, 1867, Governor Parsons, of Alabama, and the President discussed the question by telegraph, as follows:

*Governor Parsons to the President, January 17, 1867.*

"Legislature in session. Efforts making to reconsider vote on constitutional amendment. Reports from Washington say it is probable an enabling act will pass. We do not know what to believe. I find nothing here."

*The President to Governor Parsons, January 17, 1867.*

"What possible good can be obtained by reconsidering the constitutional amendment? I know of none in the present posture of affairs, and I do not believe the people of the whole country will sustain any set of individuals in attempts to change the whole character of our Government by enabling acts or otherwise. I believe, on the contrary, that they will eventually uphold all who had patriotism and courage to stand by the Constitution and who place their confidence in the people. There should be no flinching on the part of those who are honest in their determination to sustain the several coordinate departments of the Government in accordance with its original design."

This dispatch had the effect to secure the rejection of the constitutional amendment, which was followed by the same action by the other rebellious States. Here, then, was the issue. The Democratic party and President Johnson, on one side, contended that the government of those States should be placed in the hands of those who had but lately been the armed enemies of the country, and that the Union men and the freedmen should be placed in their power without protection or defense; that the very result of the rebellion should give to the rebel States an additional power in Congress and in all national affairs equal to two fifths of the late slave population, and all this for the sole purpose of bringing back into the fold of the Democratic party the rebels of the South, who had once been the controlling and inspiring element of the party; and that such reconstruction should be based upon the exercise of the usurped power by the President to execute in his own manner and upon his personal will the guarantees of the Constitution.

On the other side of this issue was the Republican Union party of the country, maintaining that Congress should pass laws to carry into execution the guarantees of the Constitution, and that the obligation resting upon the United States to guaranty a republican form of government to the rebel States which had been left by the rebellion without any civil governments whatever, should be so carried into execution as to secure liberty to the freedmen by requiring that no State should make or enforce any law which should abridge the rights of citizens of the United States, nor deny to any one within its jurisdiction the due protection of the laws; that the rebels of the South should not have in addition to an equal representation with the North a representation based upon the negro population whom they did not permit to vote and whose wishes and interests they did not represent; that persons who had, like Jeff. Davis, Floyd, and Breckinridge held high office in the Government and betrayed and well-nigh ruined the Government whose Constitution they had solemnly sworn to support, should not again be intrusted with power over loyal men, and that the public faith should be preserved by paying the debt incurred to save the nation and the pensions and bounties which had been promised them by law. Upon this issue the parties appealed to the great tribunal of last resort, the American people, and the people responded by electing the Fortieth Congress, in which was a largely increased Republican majority, and elected by magnificent popular majorities largely increased over those of the previous Congress.

The people, to whom the President in his speeches always appeals, did decide against

the plan of reconstruction adopted by the President and against the power claimed by him. And this verdict, overwhelming and decisive as it was, was rendered after the President had been fully heard in his own person in support of his policy, after he had swung around the circle before the American people, haranguing them at the cross-roads; and this verdict could not have been given in ignorance of the Constitution, for the President had taken care to leave it with the people in every place where he had given his luminous interpretation of it to them. The people, by an immense majority of the whole, did express their desire that this amendment should be incorporated into the Constitution. If the President had acknowledged the doctrine that the will of the people is the supreme law of a republic the controversy would have ended. The people further expressed their will in this regard by electing Legislatures in twenty-three States that promptly ratified the amendment. On one side of the issue was ranged the entire number of States which had been united in the maintenance of the Union; on the other the northern Democratic party, the southern rebels, and Andrew Johnson. If the verdict of the people was to be carried into effect, the duty of the Fortieth Congress thus elected and on this issue was plain, so to legislate that the principles embodied in the constitutional amendment should become part of the fundamental law. This was the precise instruction of the people who elected this Congress. The Congress could not evade it without being recreant to the pledges its members had made and upon the strength of which it had been elected. In consequence of the bitter hostility of Andrew Johnson, aided by the Democratic party, to that amendment, a hostility which wielded the immense patronage of the national Government in its support, it became impossible to secure the adoption of the amendment by the rebels of the South, who, under the plan of the President, were left in full control of the States which had been in rebellion.

If the constitutional amendment must be accepted by three fourths of the States, including the States lately in rebellion and now without organized State governments, before it became a part of the Constitution, as the Democratic party and the President with one voice agree, then there remained but one mode by which this could be accomplished, and that was by submitting the question to all the people of those States, giving to a rebel no advantage over a loyal man on account of his color. The instruction of the people to this Congress, so emphatically given at the ballot-box, could in no other way be obeyed. In the meantime the lives and property of the Union men and freedmen of the South, under the working of the President's plan, had been denied any practical protection of the law, which was a necessary result of the fact that the law was made and administered by rebels.

Two courses of action were open to the Fortieth Congress. One was to disobey the instructions of the people by whom it was elected; to abandon the constitutional amendment; to afford no protection to the Union men and freedmen of the South; to leave them unprotected in the power of their enemies; to consent that those who had evinced such a desire to destroy this Government that no danger or suffering could deter them from making the effort, should again be permitted to hold seats in Congress, with an increase of the power which they had before the war, the use of which the country yet shudders to remember was sufficient to seize men and women under the free skies of the North and drag them into hopeless slavery; and to compel the free men of the North to join the hunt or be themselves incarcerated in prison; and with this increase of power to vote upon the question whether the debt incurred to put down the rebellion and the pledges made by the Government of bounties and pensions to its maimed and disabled soldiers and their families. Or to provide by law for the protection of the Union men



and freedmen by temporary military governments, and to submit the creation of a new State government to all the people of the South, the loyal blacks as well as the disloyal whites, and so secure State governments loyal to the Union, able and willing to protect Union men and freedmen, and so provide against any possibility of a renewal of the strife between the sections of the country, and secure the adoption of the amendment of the Constitution which had been approved by the people.

The Congress did not hesitate. Laws were passed over the veto of the President which have resulted in the creation of new State governments republican in form in most of these States; and not republican in form alone, but in spirit and in truth, which will be in entire harmony with the other portions of the country, and which will be able to prevent the possibility of future civil war by themselves taking proper care of the rebel element in their midst, which will afford adequate protection and security to Union men and freedmen, and which will secure the adoption of the constitutional amendment by a sufficient number of States to satisfy the scruples of Andrew Johnson himself. The passage of these laws of course excited the intense indignation of the President and his allies of the Democratic party. The one saw his claim to control the destinies of the nation by his single will and in accordance with his personal views and wishes scornfully brushed away by the Representatives of the people and his cherished policy set at naught. The other saw their party deprived of the strength and political power it was to have secured by the restoration of its old friends and allies to political influence, and they joined in the clamor raised to defame, and the efforts made to destroy the congressional plan of reconstruction.

The duty imposed upon the President by the Constitution was not to make laws or enforce policies of government, but to execute the laws; his practice has been to announce and endeavor to carry out his policy and to prevent the execution of the laws. He did prevent the ratification of the constitutional amendment by the southern States and thereby he did prevent the reconstruction of the Union, and however much the President or his allies may charge the Republican party or Congress with keeping the nation divided, the fact remains that if Andrew Johnson had not by the aid of the Democratic party opposed and prevented the ratification of the constitutional amendment by the southern States, the nation would have long ago been united upon a plan approved and ratified by the American people. Upon the passage of the reconstruction measures by Congress over his veto he addressed himself not to the task of executing them, as he was sworn to do, but to the task of evading and defeating their execution.

Time will permit me to refer to but few of the many acts done by the President in furtherance of this purpose: the open and avowed use of the patronage of the Government for the purpose of defeating the adoption of the State constitutions formed under the law of Congress, and for defeating the execution of the law, until such prostitution of patronage has resulted in an alarming decrease of the revenue through the frauds of corrupt officials so appointed; and retained in office after their incompetency and venality had been made apparent, contrary to the earnest and repeated appeals made for their removal by the Commissioner of Internal Revenue, until opposition to the reconstruction policy of Congress has taken the organized form of plundering the national Treasury.

Then followed the removal from command of officers of the Army, eminent for their public services, because they would not be made the instruments of violating the law they were bound to execute. What had General Sickles done that he should be relieved from his command and held unfit for the duties of his office? Why was General Pope relieved from his command, or what caused the removal from

his command of the gallant Phil. Sheridan, whose courage and conduct had again and again snatched victory from the very jaws of defeat, and called forth the warmest admiration and gratitude of the nation, in the solemn and eventful days when the life of the nation was staked upon the issue of the doubtful struggle? Yet he was removed, notwithstanding the earnest and repeated entreaty of the General of the Army that he should be continued in command.

Now, is it not certain that these officers would not have been removed if the President had been willing that the reconstruction laws should have been carried into execution; that the only reason why the President and General Grant could not agree upon the propriety of retaining General Sheridan in command was the fact that the President desired that the execution of the reconstruction laws should be obstructed, and General Grant desired that their execution should not be obstructed? Why was General Swayne removed from command in Alabama, but for the reason that he would not tolerate a practice of keeping voters from the polls by force or intimidation or fraud, and would insist upon the execution of the laws? His removal gave such encouragement to the rebel element in that State that they were enabled to keep voters from the polls in sufficient numbers to prevent a majority of the registered voters of the State from voting for the constitution; and so the President did succeed in obstructing the execution of the law which he had sworn to execute. In all these acts he has had the entire support of the Democratic party, their real object being to secure to their old allies, the rebels, the same power they had before the war; and to secure this end the main article in their creed has become an assertion that a visible admixture of negro blood should deprive a man of the right of suffrage; that the right of self-government depends not at all upon intelligence, not at all upon moral character, but wholly upon the faintest perceptible shade of color.

The President, in the further prosecution of his policy, attempted to control the entire Army in opposition to the congressional plan of reconstruction. He had beaten reconstruction in Alabama. Let him secure this entire military control, and the same results could be accomplished in the other States; and to secure this end it became necessary to remove the able and patriotic Secretary, whose personal efforts had done more to save the country from ruin than those of almost any other. But a law enacted under every constitutional form stood in the way of his purpose. His first attempt was to induce General Grant to violate the law. Hitherto his efforts had been directed to the evasion and obstruction of the law he had sworn to execute; now he openly solicited the General of the Army to flagrantly violate its provisions, promising to shield him from its penalty, as by the exercise of the pardoning power he could readily do. It would it have been for the country if the President had found in the commander of the Army a man as faithless and unscrupulous as himself. But he found a sense of public duty and a regard for law so strong as to thwart all his plans and to enkindle his bitter animosity. He then attempted to secure the coöperation of those other great commanders, Generals Sherman and Thomas, in aid of his schemes by offers of preferment and power, but the heroes who had proven their courage and skill in war illustrated no less their fidelity and patriotism in peace by rejecting with scarcely concealed contempt the tempting baits held out to them; and while the contest between the law and the man whose office and duty it was to execute it was being thus carried on, and while a Republican majority of more than two thirds in each House of Congress having the power to impeach and remove the President, (who was almost the only obstacle to the reconstruction of the Union,) magnanimously forbore to exercise that power in the belief that the law was more powerful than any man;

the President startled and shocked the country by claiming for himself, not only the prerogative of refusing to execute the law, and so to totally suspend its operation, which was the same claim of prerogative that cost Charles I his head and James II his throne, but also the right himself personally to violate the provisions of a law passed under all the most solemn forms of the Constitution, himself judicially to determine when a law is constitutional, to suspend its operation, to violate its provisions if he believes it to be unconstitutional, although two thirds of each branch of the representatives of the people, after hearing the President and considering his reasons, affirmed the constitutionality of the law upon their oaths. This arrogant claim of power to embody in himself the combined executive, legislative, and judicial functions of the Government is now for the first time in the history of our Government made by Andrew Johnson.

"On what meat hath this our Cæsar fed  
That he hath grown so great?"

The President of the United States has no greater immunity for a violation of the law than the humblest citizen. A reason which would justly shield the President from punishment for a violation of the tenure-of-office act would also justly shield any man from punishment for the violation of any law. Suppose a Mormon indicted for a violation of the law against polygamy, pleading that he was of opinion that the law is unconstitutional, because it interferes with the exercise of his religion; suppose a southern rebel indicted for treason, pleading that in his belief secession was a constitutional right; if such a plea may be accepted from Andrew Johnson or Brigham Young or Jefferson Davis it is the overthrow of all law, and if it is accepted in the one case it must be in the other. But it was not simply the violation of law on the part of the President, but such a usurpation of power as endangered the safety of the Republic. He claimed the right to remove from office, during the session of the Senate, and without its consent, any officer of the Government and to fill the place with one of his own creatures—a power plainly in conflict with the Constitution, because it swept away the right vested by the Constitution in the Senate to confirm or reject his nominations to office, and placed an uncontrolled power in his hands dangerous to the liberties of the people.

When we had vainly struggled for years to suppress the rebellion and not touch the institution of slavery, we were forced to this precise point—either give up your country or the institution of slavery. One final choice between them is yet permitted you; and accepting the choice which divine Providence had placed in our hands, our martyred President, imploring the favorable judgment of mankind and the gracious favor of Almighty God upon the act, "bade the slave be free;" and from that day victory perched upon our banner; our armies passed in triumph from Donaldson to Vicksburg, Altoona, Chattanooga, and to the sea; and from thence to join the other victorious army at Richmond, and to finally obliterate the last vestige of armed treason from the land. The gracious favor of Almighty God rested upon the nation.

When we strove to inaugurate loyal governments in the rebellious States, and at the same time deny all the rights of manhood to loyal men because they were not of an orthodox color, we were foiled at every step; we accomplished nothing; we were again brought fairly to face this question: will you give up the purpose of creating loyal State governments in the South, or will you agree to unqualified manhood suffrage there? Again we accepted the situation; called on loyal men as well as rebels to assist in forming those governments, and now we see Louisiana, Georgia, Arkansas, North Carolina, and South Carolina with loyal State governments already formed and only waiting our recognition. In those States true men are in power and all danger from treason has passed. Again we struggled to maintain

the purity of our institutions and the dignity and supremacy of our laws, and to bear with a bold, bad man in the presidential chair who endangered both.

Again we were confronted with the solemn question: will you give up your Constitution to be outraged, your laws to be violated and scorned, or will you again rise to the great urgency of the hour, and remove from power the man who sets himself above the law? and the answer has been given before the Senate and the nation, when our Representatives, in the name of this House and of all the people of the United States, solemnly impeached Andrew Johnson of high crimes and misdemeanors, and the issue remains with the Senate; and not with the Senate only, but far more with the people, the only sovereign tribunal. And upon the just decision of this solemn issue rest the questions:

Whether in this land of ours the President or the people have sovereign power?

Whether the irresponsible will of one man or the law of the land shall be supreme?

Whether the President shall seize and use the immense and increasing patronage of the nation to oppose the national will and obstruct the execution of the law, thereby corrupting the very fountains of order and public security; or whether this great nation, reunited, purged from her old stains, forever secure in the intelligence and public virtue of her people, shall stand forth among the nations the grandest illustration in human history of the triumph of liberty and of the vindication of law.

Mr. KERR obtained the floor, but yielded to Mr. ASHLEY, of Ohio, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. CULLOM reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the annual message of the President of the United States, had come to no resolution thereon.

#### CONSTITUTION OF SOUTH CAROLINA.

Mr. BOUTWELL. I ask unanimous consent that the constitution of South Carolina be ordered to be printed for the use of the House.

The SPEAKER. That would be business; and there was an understanding that no business should be transacted after the House had gone into the Committee of the Whole.

Mr. HARDING. I move that the House adjourn.

The motion was agreed to; and the House (at four o'clock and fifty minutes p. m.) adjourned till Monday next.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ADAMS: The petition of Mrs. Margaret Johnston, of Garrard county, Kentucky, praying for pension on account of the services of her husband, Captain David Johnston.

By Mr. JENCKES: The petition of C. B. Farnsworth and others, for removal of obstructions in Pawtucket river.

Also, the petition of Edward J. Mallett, for compensation for services as consular agent at Florence, Italy.

By Mr. LINCOLN: The petition of W. H. Gleazen and others, for a mail route between the coast of Florida and Nassau, New Providence.

By Mr. McCARTHY: The petition of Eleazer Clark and other firms and individuals of Syracuse, importers and dealers in lumber, asking that the duty on imported lumber be changed from *ad valorem* to specific.

By Mr. NUNN: The petition of Mrs. Frances Erickson, of Tennessee, asking relief for services rendered the Government by her late husband.

By Mr. STOKES: The petition of Susannah Thompson, of Kentucky, for a pension.

#### IN SENATE.

MONDAY, May 11, 1868.

Prayer by Rev. E. H. GRAY, D. D.

#### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate sitting for the trial of the impeachment having adjourned,

The President *pro tempore* resumed the chair at eleven o'clock p. m.

#### EXECUTIVE SESSION.

On the motion of Mr. CONNESS, the Senate proceeded to the consideration of executive business, and after some time spent therein, the doors were reopened; and

On motion of Mr. MORGAN, the Senate adjourned to meet at half past eleven o'clock a. m. to-morrow.

#### HOUSE OF REPRESENTATIVES.

MONDAY, May 11, 1868.

The House met at twelve o'clock m.

The Journal of Friday last was read and approved.

#### ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is calling the States and Territories (commencing with the State of Maine) for bills and joint resolutions for reference to appropriate committees, not to be brought back into the House by motions to reconsider; during which call resolutions and memorials of State and Territorial Legislatures are in order.

#### RIVER AND HARBOR APPROPRIATION BILL.

Mr. ELIOT introduced a bill (H. R. No. 1046) making appropriations for the repair, preservation, and completion of certain public works, and for other purposes; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

#### AMERICAN MANUFACTURES, ETC.

Mr. MILLER introduced a joint resolution (H. R. No. 257) declaring that it is inexpedient for this Government to enter into a treaty with any foreign Power which tends to discriminate against the manufactures or productions in any part of the United States and give such foreign Power an undue advantage over the industry of our country; which was read a first and second time, and referred to the Committee on Foreign Affairs.

#### CONSULAR OFFICERS.

Mr. KELSEY introduced a bill (H. R. No. 1047) to fix the compensation of certain consular officers, to provide for their supervision and the verification of their accounts, and to prohibit their collection of fees not authorized by law; which was read a first and second time.

Mr. KELSEY. I move that it be referred to the Committee on Commerce.

Mr. WELKER. The Committee on Retrenchment has that subject under consideration, and I suggest that the bill be referred to that committee.

Mr. KELSEY. I am willing it should be referred to that committee.

It was accordingly referred to the Committee on Retrenchment, and, with the accompanying documents, ordered to be printed.

#### PROTECTION OF LIFE.

Mr. WELKER presented joint resolutions of the Legislature of Ohio, relative to a request to Congress to take measures to prevent the loss of life on the waters under the jurisdiction of the United States; which were referred to the Committee on Commerce.

#### PROTEST AGAINST RECONSTRUCTION ACTS.

Mr. VAN TRUMP presented joint resolutions of the Legislature of Ohio, protesting against the reconstruction acts of Congress

and against the passage of certain bills now pending therein, and instructing their Senators and requesting their Representatives in Congress to vote for the repeal of the former and against the passage of the latter; which were referred to the Committee on Reconstruction, and ordered to be printed.

Mr. HOLMAN. I ask that the resolutions be read.

The SPEAKER. That is generally done only by unanimous consent.

Mr. ASHLEY, of Ohio. I object.

JUSTIN A. GOODHUE.

Mr. BEATTY introduced a bill (H. R. No. 1048) for payment to Justin A. Goodhue, company C, twenty-sixth Ohio volunteer infantry; which was read a first and second time, and referred to the Committee on Military Affairs.

#### TERRE HAUTE AND RICHMOND RAILROAD.

Mr. WASHBURN, of Indiana, introduced a bill (H. R. No. 1049) for the relief of the president and directors of the Terre Haute and Richmond Railroad Company; which was read a first and second time, and referred to the Committee of Claims.

#### INSPECTION OF CAVALRY.

Mr. PILE introduced a bill (H. R. No. 1050) providing for the appointment of an inspector of cavalry United States Army; which was read a first and second time, and referred to the Committee on Military Affairs.

#### GRANT OF ISLANDS TO WISCONSIN.

Mr. HOPKINS introduced a bill (H. R. No. 1051) to grant certain islands to the State of Wisconsin as swamp lands, and for other purposes; which was referred to the Committee on the Public Lands, and ordered to be printed.

#### RAILROAD LAND GRANTS IN WISCONSIN.

Mr. HOPKINS also introduced a bill (H. R. No. 1052) amendatory of an act entitled "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June 3, 1856; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

#### LAND GRANTS IN CALIFORNIA.

Mr. JOHNSON introduced a bill (H. R. No. 1053) to finally settle the title to Mexican land grants in the State of California; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

#### RAILROAD LAND GRANT IN MINNESOTA.

Mr. DONNELLY introduced a bill (H. R. No. 1054) to grant lands to aid in the construction of a railroad from the Mississippi river to Yaucon, on the Missouri river, and to amend an act entitled "An act for a grant of land to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State," approved May 12, 1864; which was read a first and second time, and referred to the Committee on the Public Lands.

#### POST ROUTE IN OREGON.

Mr. MALLORY introduced a bill (H. R. No. 1055) to establish a certain post route in the State of Oregon; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. MALLORY also introduced a bill (H. R. No. 1056) to establish a certain post road in the State of Oregon; which was read a first and second time, and referred to the same committee.

#### JUDICIAL DISTRICT.

Mr. FLANDERS introduced a bill (H. R. No. 1058) in relation to the judicial district of Washington Territory; which was read a first and second time, and referred to the Committee on the Territories.

#### MAIL SERVICE IN DAKOTA AND MONTANA.

Mr. CAVANAUGH introduced a joint resolution (H. R. No. 258) in regard to the mail service from Fort Abercrombie, Dakota Ter-

ritory, to Helena, in Montana Territory; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### PAYMENT OF MONTANA VOLUNTEERS.

Mr. CAVANAUGH also introduced a memorial from the Montana Legislature, asking an appropriation for paying debts created in raising Montana volunteers; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

#### SALE OF LANDS UNDER INDIAN TREATIES.

Mr. JULIAN introduced a joint resolution (H. R. No. 259) relative to lands purporting to have been sold under treaties with the Cherokee and other Indian tribes; which was read a first and second time, and referred to the Committee on the Public Lands.

#### ELIZABETH DESMOND.

Mr. PIKE introduced a bill (H. R. No. 1057) for the relief of Elizabeth Desmond, of the county of Washington, State of Maine, widow of Patrick Desmond; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### PORTRAIT OF PRESIDENT LINCOLN.

Mr. WARD introduced a joint resolution (H. R. No. 260) for the purchase of a full-length portrait of the late President Lincoln; which was read a first and second time, and referred to the Committee on the Library.

#### RESOLUTIONS.

The SPEAKER. The call of the States and Territories for bills and joint resolutions having been completed, the remainder of the morning hour will be occupied in calling the States and Territories for resolutions in the inverse order, commencing with the State of Indiana, where the call rested on the 23d of March last.

#### RECESS OF CONGRESS.

Mr. WASHBURN, of Indiana. I offer the following concurrent resolution, and demand the previous question thereon:

*Resolved by the House of Representatives, (the Senate concurring.)* That at the adjournment on Friday, the 15th instant, a recess be taken until Monday, the 26th instant.

Mr. SPALDING. I suppose that is in order to enable us to take up the carpets.

Mr. FARNSWORTH. Does it require ten days to take up the carpets?

Mr. ROBINSON. Is it to take up the carpet-baggers? [Laughter.]

The SPEAKER. Order.

Mr. UPSON. I move to lay the resolution on the table.

The question was put; and there were—ayes 54, noes 52.

Mr. WASHBURN, of Indiana. I call for tellers on that motion.

Mr. BEAMAN. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 62, nays 62, not voting 65; as follows:

YEAS—Messrs. James M. Ashley, Baker, Baldwin, Banks, Beaman, Blair, Boutwell, Broomall, Burr, Churchill, Cobb, Coburn, Cook, Donnelly, Driggs, Eli, Eliot, Farnsworth, Ferry, Golladay, Gravely, Grover, Harding, Hunter, Johnson, Julian, Kelsey, George V. Lawrence, William Lawrence, Loan, Loughbridge, Mallory, Marvin, Moore, Morgan, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Plants, Poland, Raum, Sawyer, Seofield, Shanks, Sitgreaves, Aaron F. Stevens, Thaddeus Stevens, Taylor, Trowbridge, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Windom, and Woodbridge—62.

NAYS—Messrs. Adams, Ames, Arnell, Beatty, Beck, Benjamin, Bingham, Blaine, Boyer, Brooks, Buckland, Cake, Cary, Reader W. Clarke, Sidney Clarke, Dodge, Eckley, Eggleston, Eldridge, Garfield, Getz, Hawkins, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Humphrey, Jencks, Judd, Kerr, Laffin, Lincoln, Logan, Marshall, McCarthy, Miller, Moorhead, Morrell, Mungen, Niblack, Nunn, Peters, Pile, Polsley, Price, Pruyn, Robinson, Smith, Spalding, Stewart, Stokes, Stone, Thomas, John Trimble, Van Aernam, Van Auker, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, James F. Wilson, and Woodward—62.

NOT VOTING—Messrs. Allison, Anderson, Archer, Delos R. Ashley, Axtell, Bailey, Barnes, Barnum, Benton, Bromwell, Butler, Chanler, Cornell, Covode, Cullom, Dawes, Dixon, Ferriss, Fields, Finney, Fox, Glossbrenner, Griswold, Haight, Halsey, Higby, Hill,

Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Ingersoll, Jones, Kelley, Ketcham, Kitchen, Knott, Koons, Lynch, Maynard, McClurg, McCormick, McCullough, Mercer, Morrissey, Mullins, Nicholson, Phelps, Pomeroy, Randall, Robertson, Ross, Schenck, Selye, Shellabarger, Starkweather, Taber, Taffe, Lawrence S. Trimble, Cadwalader C. Washburn, William B. Washburn, William Williams, John T. Wilson, Stephen F. Wilson, and Wood—65.

The Speaker voted in the affirmative.

So the resolution was laid on the table.

Mr. DRIGGS. I move to reconsider the vote by which the resolution was laid on the table; and to lay the motion to reconsider on the table.

The SPEAKER. The Chair will put that motion, but as the resolution is privileged it would not prevent it from being offered again.

Mr. DRIGGS. If the resolution can be renewed, I withdraw my motion.

The SPEAKER. The resolution is privileged, being in regard to adjournment.

Mr. DRIGGS. Then I withdraw my motion.

#### SOUTHERN ELECTIONS.

Mr. COBURN. I offer the following resolution, upon which I demand the previous question:

*Resolved,* That the General of the Army be directed to communicate to this House a statement of the number of votes cast for and against the constitutions of North Carolina, South Carolina, Georgia, Louisiana, and Alabama, respectively, at the recent elections in said States.

Mr. BROOKS. I suggest to the gentleman from Louisiana that the call should be made through the Secretary of War. That has hitherto been the usual course.

Mr. FARNSWORTH. It is right enough as it is.

Mr. COBURN. I decline to modify the resolution. The General of the Army has possession of this information.

Mr. BROOKS. Hitherto it has always been the custom to call for information, not upon military officers directly, but through the Department of War.

Mr. PAINE. I object to debate.

Mr. COBURN. I will say that this information is desired by the Reconstruction Committee.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to—ayes eighty-one, noes not counted.

Mr. COBURN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WATCHMEN IN PUBLIC GROUNDS, ETC.

Mr. SHANKS. I offer the following resolution for reference to the Committee on Public Buildings and Grounds, and upon it I demand the previous question:

*Resolved,* That the Committee on Public Buildings and Grounds be hereby instructed to inquire into the expediency of providing by law for organizing under the engineer department, instead of any and all laws now authorizing the employment of watchmen for public buildings and grounds, a corps of fifty, more or less, as may be necessary, maimed, wounded, or disabled Union soldiers of the late war, who have been honorably discharged from the military service, who shall act as watchmen in the grounds of the Capitol, the Executive Mansion, the Smithsonian Institution, the Botanic Garden, the Agricultural Department, the Washington monument, La Fayette square, Franklin square, Lincoln square, the Circle, and such other public grounds and buildings as need protection.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was referred to the Committee on Public Buildings and Grounds.

Mr. SHANKS moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### COLORADO EXPLORING EXPEDITION.

Mr. GARFIELD. I submit the following joint resolution for consideration at the present time, and upon it I call the previous question.

Mr. SPALDING. Is that in order?

The SPEAKER. It is in order, under the operation of the previous question.

The joint resolution (H. R. No. 261) authorizing the Secretary of War to furnish supplies to an exploring expedition was received, and read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was read at length. It authorizes and empowers the Secretary of War to issue such commissary and quartermaster stores to the expedition engaged in the exploration of the river Colorado, under direction of Professor Powell, as may be necessary to enable the expedition to prosecute its work; provided that such issue is not detrimental to the military service.

Mr. GARFIELD. In explanation of this joint resolution I would ask attention to the following letters in my possession:

ILLINOIS NATIONAL HISTORY SOCIETY,  
NORMAL, ILLINOIS, April 2, 1868.

GENERAL: A party of naturalists, under the auspices of the State Normal University of Illinois, wish to make a scientific survey of the Colorado river of the West. This work is to be a continuation of work done last year in north, middle, and south parks.

It is hoped that a survey of that river can be made from its source to the point where the survey made by Lieutenant Ives was stopped.

In addition to the general scientific survey a topographical survey of the region visited will be made. The services of two civil engineers have been secured for this purpose.

I most respectfully request that the proper officers be instructed to issue rations to this party while thus engaged, the party to consist of not more than twenty-five persons.

I need not urge upon your attention the importance of the general scientific survey to the increase of knowledge. It is believed that the grand cañon of the Colorado will give the best geological section on the continent.

Nor is it necessary to plead the value to the War Department of a topographical survey of that wonderful region, inhabited as it is by powerful tribes of Indians, that will doubtless become hostile as the prospector and the pioneer encroach upon their hunting grounds.

You will also observe that the aid asked of the Government is trivial in comparison with what such expeditions have usually cost it. The usual appropriation for such an exploration has been many thousands of dollars.

I transmit herewith a copy of my "preliminary report" to the Board of Education of the State of Illinois on last year's work.

Invoking your favorable consideration of this request, I am, with great respect, your obedient servant,

J. W. POWELL,

Secretary Illinois National History Society.

General U. S. GRANT, Commanding U. S. Army.

WAR DEPARTMENT, April 21, 1868.

A true copy. L. H. PELOUZE,  
Assistant Adjutant General.

I respectfully recommend that rations be ordered to be issued to Major Powell and his party of twenty-five men by Army commissaries whereon he may call for them while engaged in the exploration of the Colorado river of the West. The work is one of national interest.

April 3, 1868. U. S. GRANT, General.

OFFICE COMMISSARY GENERAL SUBSISTENCE,  
April 6, 1868.

Respectfully returned to the Secretary of War, with the remark that it is believed that "rations" cannot be "issued" to the party as requested without the sanction of law, as its members are not the employees of or in the service of the United States. It is respectfully suggested that the only facilities for their subsistence they, the party, can properly be accorded from the Army subsistence stores is the authority to purchase at the total cost to the United States, at the points of purchase, such subsistence stores as the party may require when they can, in the judgment of the commanding officer, be spared without detriment to the full and proper subsistence of the troops. If this is not deemed satisfactory to the principal of the party it is respectfully suggested that he should obtain the enactment of a law according him such other aid as he may seek.

A. B. EATON,

Commissary General of Subsistence.

WAR DEPARTMENT, April 21, 1868.  
L. H. PELOUZE,  
Assistant Adjutant General.

SMITHSONIAN INSTITUTION, April 21, 1868.

MY DEAR SIR: Permit me to introduce to your acquaintance the bearer of this note, Professor Powell, of the University of Illinois, and to commend his petition to your favorable consideration. He has organized a company of young men to explore the region of the Colorado of the West and desires some assistance from Government in the way of transportation and subsistence.

The expedition is purely one of science and has no relation to personal or pecuniary interests, but is intended to develop the geology, the natural history.



topography, and physical geography of one of the most interesting regions of our continent.

Though the object of the exploration is the advance of science, its results will be of much practical value. The professor intends to give special attention to the hydrology of the mountain system in its relation to agriculture.

The vapor from the Pacific ocean, which would otherwise fertilize the interior of the continent, is stopped on its passage east by the mountains, thus depriving the soil of an essential ingredient of productiveness; but this vapor, in the form of water, may again be reclaimed for the uses of the husbandman by a judicious system of irrigation, founded on a critical knowledge of the hydrology and topography of the country.

The expedition of Professor Powell has the entire approval of the Smithsonian Institution, and will be furnished by it with instructions and such facilities as its means will afford in the way of outfit.

The cost of the assistance which he asks from Government is nothing in comparison with the importance of the knowledge which we may reasonably expect will be obtained.

I am, with much respect, very truly your friend and servant,  
JOSEPH HENRY.

Hon. J. A. GARFIELD, *House of Representatives.*

The previous question was seconded and the main question ordered.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TARIFF

Mr. SPALDING submitted the following resolution, upon which he called the previous question:

*Resolved*, That the Committee of Ways and Means be instructed, in preparing a bill regulating the duties on imports, to have regard to an equalization of the amount imported from other countries with the amount exported from the United States, so far as the same can be effected by a judicious tariff.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. SPALDING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TREATMENT OF PRISONERS OF WAR.

Mr. MUNGEN. I submit the following resolution, upon which I call the previous question:

*Resolved*, That the powers and duties of the Committee on the Treatment of Union Soldiers and Prisoners be extended so that they shall inquire into and report upon the treatment of prisoners in the northern camps and prisons; also, upon the conduct of Union officers, civil and military, in relation to the exchange of prisoners; and, also, into any proposition made on the part of the Confederate authorities to our Government for the purpose of obtaining medicines to be sent under charge of Federal surgeons to Andersonville and other southern camps and prisons, and to be used exclusively for the benefit of Union prisoners in those camps and prisons.

Mr. GARFIELD. This information has been furnished by the Department and is now before the House.

The question was upon seconding the previous question.

Mr. BENJAMIN. I move to lay the resolution on the table.

Mr. ELDRIDGE. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 74, nays 43, not voting 72; as follows:

YEAS—Messrs. Ames, Arnell, James M. Ashley, Bailey, Baker, Beaman, Beatty, Benjamin, Bingham, Blair, Boutwell, Broomall, Broomall, Buckland, Calkins, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Culom, Donnelly, Eckley, Elia, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Halsey, Higby, Chester D. Hubbard, Judd, Kelsey, George V. Lawrence, William Lawrence, Lincoln, Loan, Marvin, McCarthy, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Perham, Peters, Pike, Plants, Price, Raum, Sawyer, Scofield, Spalding, Thaddeus Stevens, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Upson, Van Aernam, Van Wyck, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, Stephen F. Wilson, and Windom—74.

NAYS—Messrs. Banks, Beck, Boyer, Brooks, Burr, Cary, Eldridge, Getz, Golladay, Grover, Harding, Hawkins, Holman, Hopkins, Hotchkiss, Richard D.

Hubbard, Humphrey, Hunter, Jenckes, Johnson, Julian, Kerr, Knott, Ladin, Mallory, Marshall, McCormick, Morgan, Niblack, Nunn, Pruyn, Randall, Robinson, Ross, Shaanks, Sitgreaves, Stone, Taffe, Twichell, Van Auker, Burt Van Horn, Van Trump, and Woodward—43.

NOT VOTING—Messrs. Adams, Allison, Anderson, Archer, Delos R. Ashley, Axtell, Baldwin, Barnes, Barnum, Benton, Blaine, Butler, Chanler, Cornell, Dawes, Dixon, Dodge, Driggs, Eggleston, Fields, Finney, Fox, Glossbrenner, Gravely, Griswold, Haight, Hill, Hooper, Asahel W. Hubbard, Hulburt, Ingersoll, Jones, Kelley, Ketcham, Kitchen, Koonitz, Logan, Loughridge, Lynch, Maynard, McClurg, McCullough, Mercer, Morrissey, Mullins, Mungen, Nicholson, Paine, Phelps, Pile, Poland, Polsley, Pomeroy, Robertson, Schenck, Selye, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Stewart, Taber, Lawrence S. Trimble, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, William Williams, James F. Wilson, John T. Wilson, Wood, and Woodbridge—72.

So the resolution was laid on the table.

#### RECESS OF CONGRESS.

Mr. ECKLEY. I offer the following resolution, on which I demand the previous question:

*Resolved by the House of Representatives*, (the Senate concurring,) That at the adjournment on Saturday, the 10th instant, a recess be taken until Monday, the 25th instant.

Mr. HARDING. I move that this resolution be laid on the table.

On the motion there were—yeas 44, noes 53.

Mr. HARDING. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 69, not voting 68; as follows:

YEAS—Messrs. Ames, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benton, Blair, Boutwell, Broomall, Broomall, Burr, Churchill, Cobb, Coburn, Elia, Eliot, Farnsworth, Ferry, Garfield, Golladay, Grover, Harding, Higby, Hooper, Hunter, Julian, Kelsey, George V. Lawrence, William Lawrence, Loan, Loughridge, Mallory, Marvin, Moore, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Plants, Raum, Sawyer, Scofield, Aaron F. Stevens, Thaddeus Stevens, Taylor, Trowbridge, Twichell, Upson, Burt Van Horn, Van Trump, Van Wyck, Ward, and Woodbridge—57.

NAYS—Messrs. Adams, Arnell, Bailey, Beatty, Beck, Benjamin, Bingham, Blaine, Boyer, Brooks, Buckland, Butler, Calkins, Cary, Reader W. Clarke, Sidney Clarke, Covode, Dodge, Eckley, Ferriss, Getz, Halsey, Hawkins, Holman, Hopkins, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Jenckes, Johnson, Judd, Kerr, Ladin, Lincoln, Logan, Marshall, McCarthy, McCormick, Miller, Moorhead, Morrell, Mungen, Niblack, Nunn, Peters, Price, Pruyn, Randall, Robinson, Ross, Smith, Spalding, Stewart, Stokes, Stone, Taffe, Thomas, John Trimble, Van Aernam, Van Auker, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodward—69.

NOT VOTING—Messrs. Allison, Anderson, Archer, Delos R. Ashley, Axtell, Barnes, Barnum, Chanler, Cook, Cornell, Culom, Dawes, Dixon, Donnelly, Driggs, Eggleston, Eldridge, Fields, Finney, Fox, Glossbrenner, Gravely, Griswold, Haight, Hill, Asahel W. Hubbard, Hulburt, Ingersoll, Jones, Kelley, Ketcham, Kitchen, Knott, Koonitz, Lynch, Maynard, McClurg, McCullough, Mercer, Morgan, Morrissey, Mullins, Nicholson, Phelps, Pile, Poland, Polsley, Pomeroy, Robertson, Schenck, Selye, Shellabarger, Sitgreaves, Starkweather, Taber, Lawrence S. Trimble, Robert T. Van Horn, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, John T. Wilson, and Wood—63.

So the House refused to lay the resolution on the table.

The question then recurred on seconding the demand for the previous question upon the adoption of the resolution.

Mr. FARNSWORTH. Mr. Speaker, has not the morning hour expired?

The SPEAKER. The morning hour has expired; but this being a privileged resolution the expiration of the morning hour does not cut it off.

Mr. FARNSWORTH. I rise to a point of order. This resolution was offered under the call of States; and the States can be called only during the morning hour.

The SPEAKER. That is true; but a privileged resolution, when it comes before the House, has priority over other business. This resolution being properly before the House under the rules the expiration of the morning hour does not cut it off.

Mr. FARNSWORTH. It was not offered as a privileged question.

The SPEAKER. It was offered under the call of States; but being a privileged resolu-

tion it is before the House until disposed of, notwithstanding the expiration of the morning hour.

Mr. HARDING. Is it in order to move an amendment?

The SPEAKER. The gentleman from Ohio [Mr. ECKLEY] has called the previous question. Unless he withdraws the call no amendment is now in order.

Mr. HARDING. I would like to offer an amendment providing that we shall not receive any pay for the recess proposed in the resolution.

Mr. FARNSWORTH. I desire to make an inquiry of the Chair. If the previous question should not be seconded will the resolution go over?

The SPEAKER. It will not. It must be disposed of. If the previous question should not be seconded the resolution will be open for debate or amendment.

On seconding the previous question there were—yeas 64, noes 35.

So the previous question was seconded.

The main question was ordered.

The question being on agreeing to the resolution,

Mr. UPSON called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 67, not voting 54; as follows:

YEAS—Messrs. Adams, Anderson, Arnell, Bailey, Beatty, Beck, Benjamin, Bingham, Blaine, Boyer, Brooks, Buckland, Butler, Calkins, Cary, Reader W. Clarke, Sidney Clarke, Dodge, Eckley, Eggleston, Ferriss, Getz, Halsey, Hawkins, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Jenckes, Judd, Ladin, Lincoln, Logan, Lynch, McCarthy, Miller, Moorhead, Morrell, Mungen, Niblack, Nunn, Peters, Pile, Plants, Price, Pruyn, Randall, Robinson, Ross, Schenck, Smith, Spalding, Stewart, Stokes, Stone, Taffe, Thomas, John Trimble, Van Aernam, Van Auker, Henry D. Washburn, Welker, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodward—68.

NAYS—Messrs. Allison, Ames, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benton, Blair, Boutwell, Broomall, Broomall, Burr, Churchill, Cobb, Coburn, Culom, Driggs, Elia, Eldridge, Eliot, Farnsworth, Ferry, Garfield, Golladay, Gravely, Griswold, Grover, Harding, Higby, Hooper, Hunter, Johnson, Julian, Kelsey, Kerr, George V. Lawrence, William Lawrence, Loan, Loughridge, Mallory, Marshall, Marvin, McCormick, Moore, Myers, Newcomb, O'Neill, Orth, Paine, Pike, Raum, Sawyer, Scofield, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taylor, Trowbridge, Twichell, Upson, Burt Van Horn, Van Trump, Van Wyck, Elihu B. Washburne, William Williams, and Woodbridge—67.

NOT VOTING—Messrs. Archer, Delos R. Ashley, Axtell, Barnes, Barnum, Chanler, Cook, Cornell, Covode, Dawes, Dixon, Donnelly, Fields, Finney, Fox, Glossbrenner, Haight, Hill, Hopkins, Asahel W. Hubbard, Hulburt, Ingersoll, Jones, Kelley, Ketcham, Kitchen, Knott, Koonitz, Maynard, McClurg, McCullough, Mercer, Morgan, Morrissey, Mullins, Nicholson, Perham, Phelps, Poland, Polsley, Pomeroy, Robertson, Selye, Shellabarger, Sitgreaves, Starkweather, Taber, Lawrence S. Trimble, Robert T. Van Horn, Ward, Cadwalader C. Washburn, William B. Washburn, John T. Wilson, and Wood—54.

So the resolution was adopted.

#### MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. WILLIAM G. MOORE, one of his Secretaries.

#### CLERK TO COMMITTEE.

Mr. THOMAS. I ask unanimous consent to report a resolution from a select committee. The Clerk read the resolution, as follows:

*Resolved*, That the select committee directed to inquire into the truth of the charges made against Hon. I. DONNELLY by Hon. E. B. WASHBURN, and of the charges made by Hon. JAMES BROOKS against Hon. BENJAMIN F. BUTLER, be authorized to employ a clerk at a compensation of six dollars per day.

Mr. HARDING. I object.

Mr. THOMAS. I move to suspend the rules.

The House divided; and there were—yeas 72, noes 25.

So the rules were suspended, more than two thirds voting in favor thereof.

The SPEAKER. The resolution is now before the House.

Mr. THOMAS. I move to amend the resolution by providing that the committee shall be authorized to sit during the sessions of the House.

The amendment was agreed to.

Mr. FARNSWORTH. I desire to call the attention of the gentleman from Maryland and of the House to this fact that this resolution provides that this clerk shall receive two dollars a day more than other clerks.

Mr. GARFIELD. I was about to call attention to that fact myself.

Mr. FARNSWORTH. I would not object if all the other clerks received the same pay.

Mr. THOMAS. The reason for offering six dollars a day instead of four is to be found in the fact that this clerk will have a short time of service. He will have to make the necessary preparations to perform the duty and yet not be required to be in service more than thirty days. That was the reason for making it six dollars a day.

Mr. ROSS. I move to strike out "six" and insert "four."

Mr. THOMAS. I do not yield for that amendment. I will modify the resolution by striking out "six" and inserting "five."

Mr. ROSS. I think four dollars is enough.

Mr. VAN WYCK. I rise to inquire for information whether this resolution calls for a clerk independent of the stenographer furnished by the House to each committee?

Mr. THOMAS. It does.

Mr. VAN WYCK. There is a stenographer to be furnished and then a clerk beside?

Mr. THOMAS. There is not to be a stenographer especially appointed for this committee. There are stenographers appointed upon whom investigating committees can call when their services are required. This committee proposes to have a clerk to take charge of their papers and to keep a journal of their proceedings. That is the object of the resolution. The House will understand that the stenographer is no additional expense.

Mr. VAN WYCK. Is there not an expense for this clerk in addition to the stenographer furnished by the House to take testimony? I understand it is proposed to have a clerk independent of this stenographer.

Mr. THOMAS. I believe that every member of this House is familiar with this machinery, and each gentleman will vote most agreeably to himself. I demand the previous question.

Mr. VAN WYCK. I want the gentleman to give us information as to the necessity for the employment of this clerk.

The SPEAKER. Does the gentleman withdraw the demand for the previous question?

Mr. THOMAS. I do not.

Mr. VAN WYCK. The rules provide for each committee a stenographer to transcribe the evidence. This committee is appointed for a special purpose, to take testimony and report it to this House, and I can see no necessity for a clerk in addition to a stenographer.

Mr. GARFIELD. No stenographer acts as a clerk.

Mr. THOMAS. I do not suppose there is a member who does not understand the necessity for this clerk. I insist on the demand for the previous question.

The previous question was seconded and the main question ordered.

Mr. HARDING. I ask that the resolution be divided.

The SPEAKER. It is not susceptible of division.

The resolution was adopted.

Mr. THOMAS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RECONSTRUCTION.

Mr. BUTLER, by unanimous consent, presented a communication from the Governor of Texas; which was referred to the Committee on Reconstruction, and ordered to be printed.

#### NORTH CAROLINA AND LOUISIANA.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit to Congress the accompanying docu-

ments, which embrace all the papers that have been submitted to me relating to the proceedings to which they refer in the States of North Carolina and Louisiana.

ANDREW JOHNSON.

WASHINGTON, D. C., May 11, 1868.

On motion of Mr. FARNSWORTH, the message and accompanying papers were referred to the Committee on Reconstruction, and ordered to be printed.

#### SALE OF PUBLIC VESSELS.

The SPEAKER also laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit herewith reports from the Secretary of the Treasury and the Secretary of the Navy, prepared in compliance with a resolution of the House of Representatives of the 12th of December last, requesting information respecting the sale of public vessels since the close of the rebellion. No report upon the subject has yet been received from the Department of War.

ANDREW JOHNSON.

WASHINGTON, D. C., May 8, 1868.

On motion of Mr. PIKE, the message was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. PIKE. I move that five hundred extra copies be ordered to be printed.

The SPEAKER. That motion goes to the Committee on Printing.

#### DESTITUTE SEAMEN ABROAD.

The SPEAKER also laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit to the House of Representatives, in answer to their resolution of the 14th ultimo, a report from the Secretary of State, with accompanying papers.

ANDREW JOHNSON.

WASHINGTON, D. C., May 9, 1868.

The SPEAKER. The accompanying report is from the United States consul at London, Hon. Freeman H. Morse, in relation to the rights of destitute seamen.

The message and accompanying report were referred to the Committee on Commerce, and ordered to be printed.

#### WASHINGTON CITY CHARTER.

Mr. WELKER. I ask unanimous consent to take up from the Speaker's table Senate bill No. 475, to extend the charter of Washington city; also to regulate the selection of officers, and for other purposes.

The SPEAKER. The bill will be read, after which the Chair will ask for objections, if any.

The bill was read. It continues in force for one year, or until Congress shall by law determine otherwise, an act entitled "An act to continue, alter, and amend the charter of the city of Washington," approved May 17, 1848, and the several amendments thereof now in force.

Section two provides that it shall be the duty of the mayor of the city of Washington, District of Columbia, the board of aldermen, and the board of common council thereof, to assemble in joint convention at the City Hall in said city on the first Tuesday of the first month after the passage of this act, and proceed to select by ballot all officers whose appointments, upon the nomination of the mayor, are now authorized by the charter, or by any law of the United States, or act or ordinance of said city, or which may hereafter be authorized thereby, who shall hold their offices, respectively, for one year, and until a successor is appointed; and on the same day of the month in each year thereafter the joint convention shall proceed to a new selection, provided that no person shall be regarded as incompetent to hold any of said offices or be disqualified therefor who is a qualified elector in said District.

Section three provides that in all the meetings of the mayor of the city of Washington and of the boards of aldermen and common council for the purposes mentioned in the second section of this act the mayor or the president of either of said boards shall preside, and the secretaries of said boards shall act as tellers, and keep a record of the proceedings, and the mayor or any member of either of said

boards may nominate one or more persons for the offices required to be filled, and the person having the highest number of votes shall be publicly declared selected, and a certificate of his election shall within five days be made out and be signed by the presiding officer and secretaries and be transmitted to the persons selected, who shall within ten days thereafter enter on the discharge of the duties of his office, which shall be immediately vacated by any person then holding the same.

Section four provides that all questions arising in the joint convention authorized by this act shall be determined by a majority of the votes of the members thereof present at any of its meetings; and it shall have power to adjourn from time to time until all the duties imposed upon it shall be completed, and to require of the persons selected for any office such security as may be deemed necessary. And in the event of any vacancy from disability, death, or resignation, it shall be the duty of the mayor to call a meeting of the joint convention to select a successor for the unexpired term of service.

Section five provides that when the mayor, boards of aldermen, and common council shall be assembled in joint convention, as provided for in this act, they shall by a majority vote designate a bank in which the various moneys of the city of Washington shall be deposited; and they shall make such regulations in relation to the mode in which such funds shall be kept and paid out as shall be deemed advisable for the interests of the city; and within five days after such designation a certificate of the bank selected shall be made out and placed in the hands of the president or cashier thereof, and thereafter it shall not be lawful to retain or deposit the funds of the city, or any part thereof, in any other bank or place.

The last section repeals all acts and ordinances or parts thereof, or parts of the charter of the city of Washington, inconsistent herewith.

Mr. RANDALL. I object.

Mr. WELKER. I move to suspend the rules.

Mr. RANDALL. I understand it requires unanimous consent to take up the bill.

The SPEAKER. It requires unanimous consent to take it up out of its order, except on Monday, when it can be done by suspending the rules.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. WELKER. Is it in order to make a suggestion?

The SPEAKER. Only by unanimous consent.

Mr. WELKER. The charter of Washington city expires on the 14th of May, and it is important that action be taken now.

Mr. ELDRIDGE. I understand it is a very different motive that causes the gentleman to urge the passage of this bill. The object is to carry the coming election.

Mr. UPSON. Order.

Mr. MUNGEN. I wish to ask the gentleman from Ohio [Mr. WELKER] a question.

The SPEAKER. The gentleman from Michigan [Mr. Upson] objects.

Mr. MUNGEN. May I, then, ask a question of the Chair?

The SPEAKER. If it is strictly parliamentary in character.

Mr. MUNGEN. I desire to ask whether in this bill or in any existing law there is a provision creating the office of city treasurer; and if so, what is the necessity of providing in this bill for the deposit of funds in a bank?

The SPEAKER. The Chair cannot answer that question.

The question was taken; and there were—yeas 89, nays 27, not voting 73—as follows:

YEAS—Messrs. Allison, Anderson, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Beaman, Beatty, Benjamin, Blaine, Blair, Boutwell, Bromwell, Buckland, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Gravelly, Halsey, Harding, Hawkins, Higby, Hooper, Hopkins, Hunter, Jenckes, Judd, Julian, Kelley, Kelsey, Laffin, George V. Lawrence,

William Lawrence, Loan, Loughridge, Mallory, Marvin, McCarthy, Miller, Moore, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Price, Raun, Sawyer, Scofield, Spalding, Aaron F. Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, and Woodward—89.

**NAVS**—Messrs. Beck, Boyer, Brooks, Burr, Eldridge, Getz, Golladay, Grover, Hohman, Hotchkiss, Richard D. Hubbard, Johnson, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Pruyn, Randall, Robinson, Sitgreaves, Stone, Van Auken, Van Trump, and Woodward—27.

**NOT VOTING**—Messrs. Adams, Ames, Archer, Delos R. Ashley, Axtell, Banks, Barnes, Barnum, Benton, Bingham, Broomall, Butler, Cake, Cary, Chanler, Cornell, Corvado, Dawes, Dixon, Fields, Finney, Fox, Glossbrenner, Griswold, Haight, Hill, Asahel W. Hubbard, Chester D. Hubbard, Huburd, Humphrey, Ingersoll, Jones, Keicham, Kitchen, Koontz, Lincoln, Logan, Lynch, Maynard, McClurg, McCullough, Mercier, Moorhead, Morrissey, Mullins, Nicholson, Nunn, Phelps, Pile, Polstey, Pomeroy, Robertson, Ross, Schenck, Selye, Shanks, Shellabarger, Smith, Starkweather, Thaddeus Stevens, Stewart, Taber, Lawrence S. Trimble, Van Arman, Burt Van Horn, Robert F. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, John T. Wilson, Windom, and Wood—73.

So, two thirds voting in favor thereof, the rules were suspended, and the bill was taken up.

**Mr. WELKER.** I offer the amendments to the bill which I send to the Clerk's desk, and I demand the previous question on the amendments and the bill.

**Mr. RANDALL.** I rise to a question of order. I desire to have the bill considered by sections, if it be in order.

**The SPEAKER.** That can be done in Committee of the Whole, but not in the House, upon the demand of any member. It can, however, be done by unanimous consent. The bill is before the House as a whole, and is subject to an amendment and to an amendment to an amendment under parliamentary rules.

**Mr. RANDALL.** I move, then, to refer the bill to the Committee of the Whole, for the purpose of considering it by sections.

**The SPEAKER.** The gentleman from Ohio is on the floor, and has moved the previous question. If the previous question be voted down, the motion of the gentleman will be in order, but not otherwise. Are the amendments proposed by the gentleman from Ohio reported from the Committee for the District of Columbia, or are they individual amendments?

**Mr. WELKER.** They are individual amendments.

The amendments were read as follows:

**First amendment:**

In the second section, after the word "Tuesday," strike out the words "the first month after the passage of this act," and insert in lieu thereof "July, 1868."

**Second amendment:**

At the end of section five add the following, "unless by order of the board;" so that the clause will read:

And thereafter it shall not be lawful to retain or deposit the funds of the city, or any part thereof, in any other bank or place, unless by order of the board.

**Third amendment:**

After section five insert the following as an additional section:

**Sec. 6.** And be it further enacted, That the first section of the act entitled "An act to regulate the elective franchise in the District of Columbia," passed January 8, 1867, be, and the same is hereby, amended so as to require electors in the city of Washington to reside in the ward or election precinct in which they shall offer to vote fifteen days prior to the day of any election, instead of three months: *Provided*, That said section shall not be construed as conferring the elective franchise in said city on non-commissioned officers, soldiers, sailors, or marines, in the regular service of the United States, stationed on or duty in said city, except such as may have become actual residents with their families in said city for one year previous to any election: *And provided further*, That no person claiming to be a naturalized citizen shall be registered as an elector, nor shall the name of any such person be retained on the list of voters without the production of his naturalization papers or duly certified copies thereof or satisfactory proof of the loss of the same; and for the purpose of correcting said list as regards the aforesaid classes of persons and in all other respects, the judges of election shall meet in some proper place in said city between the hours of nine o'clock a. m. and seven o'clock p. m., on three days instead of two days as now required: *And provided further*, That all the original lists of voters, both before and after their correction, shall remain in the custody of the member of the board of judges first named in their appointment by the Supreme Court of the District of Columbia, and, in the event of his removal or resignation, in the custody of his regularly appointed successor, except when being copied for publication and for the use of the

commissioners of election, and said original lists shall at all times be open for the use and inspection of either of said judges: *And provided further*, That no property qualification shall be required for any of the offices of said city, and that three days prior to any election each board of commissioners of election shall appoint two clerks to assist them in registering the names of voters in their respective election precinct, and in making returns of the elections, who shall be sworn before the clerk of the supreme court of said District, truly and faithfully to perform their duties, and for any misconduct in office be subject to the same penalties to which said commissioners are now subject: *And provided further*, That it shall be the duty of the judges of election to make any regulation and give any notice which may be proper or necessary to carry out any provision of this section.

**Mr. MUNGEN.** I desire to ask a parliamentary question.

**The SPEAKER.** The gentleman will state his question.

**Mr. MUNGEN.** Will it be in order to move to refer this bill with the pending amendments to the Committee of the Whole?

**The SPEAKER.** If the call for the previous question shall be voted down, it will then be in order to move to refer the bill to the Committee of the Whole, or to the Committee for the District of Columbia. The gentleman from Pennsylvania [Mr. RANDALL] has already indicated his intention to move to refer this bill to the Committee of the Whole should the House refuse to second the previous question.

The question was upon seconding the call for the previous question.

**Mr. RANDALL.** I desire to ask the gentleman who has charge of this bill [Mr. WELKER] whether he will give us some explanation of the reasons and necessity for the passage at this time of a bill of this kind?

**Mr. WELKER.** I will do so, if desired, after the previous question shall have been sustained.

**The SPEAKER.** The gentleman from Ohio [Mr. WELKER] must speak upon this bill, if at all, before the previous question is seconded. The rule giving an hour for speaking after the previous question is seconded applies only to bills, &c., reported from committees.

**Mr. WELKER.** Very well; I will withdraw the call for the previous question.

**Mr. NIBLACK.** I desire to offer an amendment to this bill. I hope the gentleman will at least allow it to be read. I propose it in good faith.

**Mr. WELKER.** I will hear it read.

**Mr. NIBLACK.** I wish to move the following as an amendment to the amendment:

*And provided further*, That male persons of foreign birth over twenty-one years of age who may have resided one year in the District of Columbia and may have declared their intention to become citizens of the United States shall be entitled to vote at any election herein provided for.

**Mr. WELKER.** I cannot yield for any such amendment to be offered.

I will now explain briefly the necessity for the passage of this bill. The charter of the city of Washington will expire on the 17th day of this month. All of this Senate bill, excepting the first section, which extends the charter for one year, was contained in a bill which the House passed some time since on the report of the Committee for the District of Columbia. The Senate placed on the bill extending the charter the provisions of the bill already passed by the House.

One of the most important changes which the amendment I have offered to-day makes is in relation to the residence of voters in the different wards of the city. By the law as it now exists, regulating suffrage in the District of Columbia, a voter is required to have resided three months in the precinct or ward of the city in which he offers to vote. I propose by my amendment to reduce the time of residence to fifteen days. In most of the States the voter is required to have an actual residence in the township or election precinct for ten days. There are various reasons why, in the District of Columbia, the period of residence should be very much shortened from the period now required by law. Many of the housekeepers are renting their houses by the month. A large part of the population of the District are merely boarders, and their residence

in precincts or wards is very often changed, sometimes each month. In a city where residence is changed so frequently as in Washington it strikes me as important to reduce the residence to fifteen days in order to have a fair vote of all the voters here.

Another change proposed is in relation to the election of officers for the city; those that heretofore have been appointed on the nomination of the mayor and ratified or confirmed by the board of aldermen. The bill of the Senate provides that these council boards shall meet together with the mayor, and there, by ballot, elect those officers who heretofore under the law have been appointed.

**Mr. ELDRIDGE.** Will the gentleman yield to me for two or three minutes?

**Mr. WELKER.** I will yield for an inquiry.

**Mr. ELDRIDGE.** I do not wish to make an inquiry merely, though I wish to hear the gentleman upon a point which I will state. I would like to have three or four minutes.

**Mr. WELKER.** I will give the gentleman three minutes.

**Mr. BROOKS.** Could not the gentleman make it five?

**Mr. ELDRIDGE.** Oh, it would be very unreasonable for me to ask so much as five minutes.

**Mr. WELKER.** Three minutes was all the gentleman asked.

**Mr. ELDRIDGE.** I asked for three or four.

**Mr. WELKER.** I will say four.

**Mr. ELDRIDGE.** I am astonished at the gentleman's liberality, and thank him for his kindness and generosity.

I desire the gentleman, before he concludes his remarks in explanation of this bill, to give this House some information as to whether any provision has been made in this bill with respect to the places of holding elections. I am informed it is with very great difficulty that the people of this District find the opportunity to vote, owing to the small number of the election precincts and their consequent crowded condition on election days. I understand that in this whole city of Washington there are but three or four voting precincts in a ward.

**Mr. WELKER.** Will the gentleman allow me to answer him now?

**Mr. ELDRIDGE.** Not now. I hope the gentleman will not take any portion of my four minutes. I will yield to the gentleman, I think, one minute, when I am through.

**Mr. Speaker,** I was in this city at the time of the last election held here; and at first I was a little disposed to find fault with the white people of the city of Washington for not interesting themselves more in voting. I thought that, having become disgusted by the action of Congress, they were not disposed to do their full duty in exercising the right of suffrage. But on visiting two or three of the voting precincts of the city with a friend I became satisfied that the people could not, if they would, properly exercise the right of suffrage. The crowded state of the polls, the numbers there at five or six o'clock in the afternoon who had been unable to vote, satisfied me conclusively that it was impossible for all of the qualified voters of the city to vote with no more voting precincts than there then were. I think that, if we make any alteration in the charter or any provisions with reference to voting in this city, we ought to provide for the difficulty to which I have referred. There ought certainly to be an opportunity for all the legal voters who desire to cast their votes. And I do not believe that then it was possible for all to vote without greater facilities.

I am told that at the last election the negroes of this city, under command of the leagues and their officers, took possession of the polls before four o'clock in the morning and held them during almost the entire day. The negroes, after voting, would fall out of the ranks, then go back and fall in again; and when they again got near to the place of voting they would step out and allow some fresh one who had not voted to step in and cast his vote. I



understand that white men stood in the ranks from early morning till afternoon endeavoring to get an opportunity to cast their votes, but unable to do so, because of their inability to reach the window where they were to vote.

Now, I want the gentleman to put into this bill some amendment which shall give the people of Washington—the white people—a fair chance. I do not ask for any discrimination against the negro; I want them to be fairly dealt with and to have their rights; but I ask that in the legislation of this Congress a white man may be regarded as fully equal to his "colored brother." I mean the gentleman's brother, for I have never become fully satisfied that the negro is the brother of the white man. Now, this bill is being pressed, I understand, with reference to the election. The inspiring motive of gentlemen in suspending the rules and pressing this matter upon the House is based upon the fact that they think they will not be able to carry the elections unless they can place in the hands of the local officers the entire patronage of this District. It is proposed, I understand, to make a radical change, taking away all the patronage of the mayor and giving it into the hands of the local officers of the District. I suppose gentlemen regard this as the only way in which they will be able to elect their candidate for mayor recently nominated, and that they are pressing this bill for that very object. I would like to hear the gentleman upon this question, and I yield him one minute of my time that he may explain.

The SPEAKER. The gentleman's four minutes have just expired.

Mr. ELDRIDGE. I trust the gentleman will give me another minute, so that I may give it back to him for the purpose of explanation. I want to reward him for his liberality to me which I do really highly appreciate.

Mr. WELKER. I desire to say one word in reply to the suggestion of the gentleman from Wisconsin, [Mr. ELDRIDGE,] that this bill is pressed now in view of the election that will shortly take place in this city. I admit, Mr. Speaker, that is so; for if this bill is not passed the charter of the city of Washington will expire on the 17th day of this month, and, of course, after its expiration there can be no election for officers under the city charter.

In relation to the other objection that the gentleman makes as to the trouble voters of this District have in approaching the polls to cast their ballots, I have only to say in reply to the gentleman's inquiry that the city councils already have full power and control over that subject, and they have already provided for five precincts in each ward of the city, which will make thirty-five voting places in the city of Washington.

Mr. ELDRIDGE. When was that done?

Mr. WELKER. Within a very short time back.

Mr. ELDRIDGE. Was it done this morning?

Mr. WELKER. I do not know. It was within the last three or four days.

Mr. ELDRIDGE. I was informed to-day about twelve o'clock that it had not yet been done.

Mr. WELKER. I am informed that it has been done.

Mr. ELDRIDGE. Is that really so?

Mr. WELKER. It is.

Mr. ELDRIDGE. I am glad of it; but I fear the gentleman is mistaken.

Mr. WELKER. I assure the gentleman from Wisconsin that there is no disposition on the part of the city councils to prevent any person voting at the coming election.

Now, Mr. Speaker, I do not know of anything else which needs explanation; and I therefore demand the previous question.

Mr. ELDRIDGE. Where does the gentleman get his information that these precincts have been established? I really think he must be mistaken. I spoke with a prominent gentleman as I came into the Hall about twelve o'clock, and he assured me that it had not been done.

Mr. WELKER. I am sure that it has been done. It was so published in the newspapers.

Mr. ELDRIDGE. I understand that the councils positively refused to do it.

Mr. WELKER. If I could I would give the gentleman from Wisconsin a guarantee that the city councils will do nothing to prevent a fair election.

Mr. ELDRIDGE. Then the gentleman admits the justice of the provision I have suggested, that there should be more voting places than there were last year?

Mr. ROBINSON. I ask the Clerk to read the section disfranchising United States soldiers and naturalized citizens. I wish the attention of that class of the people called to it.

The SPEAKER. What is the number of the section?

Mr. ROBINSON. I do not know.

Mr. WELKER. There is no such section in the bill. I insist on the demand for the previous question.

The House divided; and there were—ayes 69, noes 21; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. WELKER and Mr. ROBINSON.

The House again divided; and the tellers reported—ayes 81, noes 19.

So the previous question was seconded.

The main question was ordered.

The amendments of the committee were adopted; and the bill, as amended, was ordered to a third reading; and it was accordingly read the third time.

Mr. WELKER demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. MUGEN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 92, nays 27, not voting 70; as follows:

YEAS—Messrs. Ames, Anderson, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Beaman, Beatty, Benjamin, Benton, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Covode, Cullom, Dodge, Driggs, Eckley, Ela, Eliot, Farnsworth, Ferriss, Garfield, Gravely, Halsey, Harding, Hawkins, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Jenckes, Judd, Julian, Kelley, Kelsey, George V. Lawrence, William Lawrence, Loan, Lynch, Mallory, Marvin, McCarthy, Miller, Moore, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Price, Raum, Sawyer, Scofield, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Elihu B. Washburne, Henry D. Washburn, Welker, James F. Wilson, Windom, and Woodbridge—92.

NAYS—Messrs. Adams, Beck, Boyer, Brooks, Burr, Cary, Eldridge, Getz, Golladay, Grover, Holman, Hotchkiss, Johnson, Kerr, Knott, Marshall, McCormick, Morgan, Mungen, Niblack, Pruyn, Randall, Robinson, Sitgreaves, Stone, Van Aukun, and Van Trump—27.

NOT VOTING—Messrs. Allison, Archer, Delos R. Ashley, Axtell, Banks, Barnes, Barnum, Bingham, Bromwell, Chanler, Cornell, Dawes, Dixon, Donnelly, Eggleston, Ferry, Fields, Finney, Fox, Glossbrenner, Griswold, Haight, Hill, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Ingersoll, Jones, Ketcham, Kitchen, Koontz, Lafin, Lincoln, Logan, Loughridge, Maynard, McClurg, McCullough, Mercer, Moorhead, Morrell, Morrissey, Mullins, Nicholson, Phelps, Pile, Polesky, Pomeroy, Robertson, Ross, Schenck, Selye, Shanks, Shellabarger, Starkweather, Taber, Lawrence S. Trimble, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, William Williams, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—70.

So the bill was passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RECONSTRUCTION DEFICIENCY BILL.

Mr. WASHBURNE, of Illinois. I call up the appropriation bill that I reported from the Committee on Appropriations on Friday, and which was made a special order for to-day. It is House bill No. 1045, making appropriations to supply deficiencies in the appropriations for

the execution of the reconstruction laws in the third military district for the fiscal year ending June 30, 1868.

Mr. HOLMAN. I wish to inquire whether this is to be considered in the House or in the Committee of the Whole?

Mr. WASHBURNE, of Illinois. I move to suspend the rules for the purpose of considering the bill in the House at this time.

The SPEAKER. Under the five-minutes rule?

Mr. WASHBURNE, of Illinois. No, sir. The motion to suspend the rules was agreed to—ayes 71, noes 27.

Mr. WASHBURNE, of Illinois. I would like to have the House pass this bill to-day. The documents which were sent to the committee, being the report of General Meade, showing all the items for which this appropriation is asked; also a letter from General Meade, together with a letter from the Secretary of War setting forth the necessity of passing this bill, were sent to the Printing Office on Friday last, and I expected they would be back here to-day, but from some cause or other they have not yet been printed. I hope, however, as the most urgent necessity exists for the passage of the bill, as General Meade is entirely without money, and large amounts are now due to the registrars and other parties in Georgia who have been employed by the Government, that the House will pass the bill at once.

Mr. ELDRIDGE. I desire to inquire of the gentleman whether this bill includes all the money that will be necessary for this purpose.

Mr. WASHBURNE, of Illinois. This is all that will be necessary up to the close of the present fiscal year. What may be necessary after that time perhaps will depend on the action of the gentleman from Wisconsin [Mr. ELDRIDGE] and myself in regard to admitting Georgia into the Union.

Mr. ELDRIDGE. So far as my action is concerned on this question, I consider Georgia in the Union, and therefore I consider every dollar that is taken out of the northern people to pay the expenses of reconstruction there as downright robbery. That is my opinion.

Mr. WASHBURNE, of Illinois. The gentleman has expressed his opinion, and I will now ask the previous question.

Mr. BROOKS. This deficiency appropriation is for but one military district, the third?

Mr. WASHBURNE, of Illinois. This comprises the third military district, and I may say that the expenses of the district have been much less than those of any district except the first, the district of Virginia. The expenses of the third district have not been, I think, quite half as much as the expenses of the fourth and fifth, comprising Mississippi and Louisiana.

Mr. BROOKS. Then, if I reason correctly, this being but one district, involving a deficiency of \$87,000, and there being four other districts, the deficiency in them would be \$348,000.

Mr. WASHBURNE, of Illinois. In reply to the gentleman I will say that we have no information of deficiencies from any other district. There may be, but the committee have no information on the subject.

Mr. BROOKS. But the gentleman says the expenses in one of the other districts are less than in the third.

Mr. WASHBURNE, of Illinois. But the total expenses have been less in the third district than in any other except the first.

Mr. BROOKS. Well, I will ask the gentleman if he is able to give us any information of the possible cost of these reconstruction acts. It is not submitted to us in any printed documents for our information.

Mr. WASHBURNE, of Illinois. I am not aware at the present time, although a statement was made, I think, when the former deficiency bill was up, which covers the inquiry of the gentleman from New York.

Mr. BROOKS. Let me reply to the honorable gentleman that when we have a deficiency

bill for one district for \$87,000, it leads to a very strong supposition that the appropriations which we made had very little basis of calculation, and that the deficiencies are likely to be equally large in the other districts and equally alarming to the Treasury.

Mr. WASHBURN, of Illinois. It is possible that may be so, but the committee have no information of any further deficiency. I do not say but that there may be other deficiencies.

Mr. BROOKS. Let me suggest, then, that it is unwise to act on large appropriations without some definite information, some official authority. I am surprised that a gentleman generally so careful of the Treasury, and who so well deserves the encomiums of our party, if not of his own, for his careful guardianship of the Treasury, should move in anything of this sort without that official information which we ought to have.

Mr. WASHBURN, of Illinois. I accede to the proposition of the gentleman from New York that the House is entitled to information, and, if the gentleman insists upon it, I shall postpone this bill until these documents can be printed. The documents are as I stated. I hoped gentlemen would take my word for it and pass the bill at the present time, because there is an urgent necessity for immediate action. General Meade has no money. He has sent his paymasters up here. The wheels of the Government down there are already stopped, and it is very desirable that action should be had at once. But if gentlemen desire it postponed for two or three days, until the documents come in, I shall certainly make no objection.

Mr. BROOKS. I am always loth to act on appropriation bills, or any other bills whatsoever, without official documents, and I am glad the gentleman assents to my proposition that we should abstain from any action until we have official information upon which to act.

Mr. ELDRIDGE. Will the gentleman from Illinois allow me to inquire how it is that a deficiency exists in this district and not in others? Was not the appropriation which we made divided among these districts so that this district was apportioned its proper share of the money? And why is it that a deficiency so large exists in this district, and yet the gentleman is not informed whether there will be any deficiency in other districts?

Mr. WASHBURN, of Illinois. The original estimates which were made for this district were not large enough to cover the absolute expenditures. The estimates for the other districts were larger than they were for this, and the expenditures have been greater than was expected.

If my friend from Wisconsin will pardon me, I do not wish to take up the time of the House at this time, because I hold the floor by the consent of the gentleman from Pennsylvania, [Mr. STEVENS.] If gentlemen insist on postponement I will ask that the bill be set down as the special order to come up after the morning hour on Wednesday, when we shall have all the documents before us.

Mr. ELDRIDGE. I do not ask for delay; I simply desire information. I cannot understand, from anything the gentleman from Illinois has said, how there should be a deficiency in this district, and yet the aggregate sum which we appropriated may yet be unexpended. If that sum remains unexpended, and the other districts are not in need of it, why cannot this district take whatever there may be of the unexpended aggregate sum for its use? It seems to me that the gentleman ought to know whether the whole sum which we appropriated has been expended or not. If any of that sum remains unexpended, why not let General Meade draw upon it, and pay the pressing necessities which are now upon him?

Mr. WASHBURN, of Illinois. There is a very simple answer to all that. The estimate made for this district was not nearly as large as the estimates for the other districts. The estimate has fallen short, and there is this

amount of deficiency, and we are under every obligation to pay these sums for which this deficiency occurs.

Mr. ELDRIDGE. What was the sum appropriated?

Mr. WASHBURN, of Illinois. I think the sum appropriated for this district was \$252,000. For the Louisiana district it has been over six hundred thousand dollars, and for the Mississippi district just about the same sum.

Mr. ELDRIDGE. Was that the last appropriation made?

Mr. WASHBURN, of Illinois. The whole of the appropriations.

Mr. BROOKS. I do not mean to press on the gentleman from Illinois a postponement of this bill if he does not desire it of his own accord, for it is not I but he that must take the responsibility of indefinite and unknown action. What I wanted to know is the printed items and details of this expenditure before the House votes upon them. And upon those items and details of how this money has gone, for what purpose it has been expended, I think—though it is not for me to think at all upon this matter—I think, however, that the House is entitled at least to some information on that subject. But I leave it to the honorable gentleman from Illinois [Mr. WASHBURN] to take what course he may deem proper.

Mr. WASHBURN, of Illinois. If the gentleman from New York [Mr. Brooks] desires further information I think it right and proper that he should have it before he is called upon to vote for an appropriation. If the gentleman says he desires to have this bill postponed until after the morning hour of Wednesday next I will not object.

Mr. BROOKS. I will leave the honorable gentleman to take his own course.

Mr. WASHBURN, of Illinois. As the gentleman does not seem to be very anxious about it I will call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. ELDRIDGE. I call for the yeas and nays upon the passage of this bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 27, not voting 74; as follows:

YEAS—Messrs. Ames, Arnell, James M. Ashley, Bailey, Baker, Baldwin, Bauman, Beatts, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Bulser, Calk, Cary, Churchill, Reader W. Clarke, Sidney, Clark, Cobb, Colburn, Cook, Culum, Donnelly, Driggs, Eckley, Ela, Eliot, Farnsworth, Ferriss, Garfield, Gravely, Halsey, Harding, Higby, Hopkins, Chester D. Hubbard, Hunter, Jencks, Judd, Julian, Kelley, Kelso, Ladin, George V. Lawrence, William Lawrence, Loan, Lynch, M. Mori, Marvin, McCauley, Miller, Moore, Moorhead, Morrell, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Platts, Poland, Price, Raum, Sawyer, Scofield, Spalding, Aaron E. Stevens, Stewart, Stokes, Thomas, John Trimble, Trowbridge, Twichell, Upson, Burt Van Horn, Ward, Elihu B. Washburn, Henry D. Washburn, Welker, William Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—88.

NAYS—Messrs. Adams, Beck, Boyer, Brooks, Burr, Chanler, Eldridge, Getz, Golladay, Grover, Holman, Hotchkiss, Johnson, Kerr, Knott, Marshall, McCormick, Mungen, Niblack, Prutz, Randall, Robinson, Sitgreaves, Stone, Van Auker, Van Trump, and Woodward—27.

NOT VOTING—Messrs. Allison, Anderson, Archer, Delos B. Ashley, Axtell, Banks, Barnes, Barnum, Broomall, Buckland, Cornell, Covode, Dawes, Dixon, Dodge, Eggleston, Ferry, Fields, Finney, Fox, Glossbrenner, Griswold, Haight, Hawkins, Hill, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Jones, Ketcham, Kitchen, Koonz, Lincoln, Logan, Loughridge, Maynard, McClurg, McCullough, Mercer, Morgan, Morrissey, Mullins, Nicholson, Nunn, Peters, Phelps, Pile, Polsey, Pomeroy, Robertson, Ross, Schenck, Selye, Shanks, Shellabarger, Smith, Starkweather, Thaddeus Stevens, Taber, Taffe, Taylor, Lawrence S. Trimble, Van Aernam, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, John T. Wilson, Windom, and Wood—74.

So the bill was passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was

passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADMISSION OF ARKANSAS.

Mr. KELLEY. I desire to say that I was absent from the Hall for a brief time on Saturday last, having been misled in consequence of the extension of the hour after the previous question had been ordered, and in that way I lost my vote upon the bill for the admission of Arkansas. I desire to say that if I had been present I should have voted for the admission of Arkansas.

Mr. BURR. I desire to say that I also was absent when that bill was passed. Had I been present I would have voted against the bill.

#### LEAVE OF ABSENCE.

Mr. SPALDING asked and obtained indefinite leave of absence after to-morrow.

Mr. VAN AERNAM asked and obtained indefinite leave of absence after to-morrow.

#### DUELING IN THE DISTRICT

Mr. STEVENS, of Pennsylvania, obtained the floor.

Mr. JENCKES. Will the gentleman yield to me for a moment?

Mr. STEVENS, of Pennsylvania. I will do so.

Mr. JENCKES. I ask leave to submit the following resolution for consideration at this time:

*Resolved*, That the Committee on Foreign Affairs be instructed to inquire into the truth of the report that a duel has been fought in or near the District of Columbia, in pursuance of a challenge or arrangement made within this District between a person in the diplomatic service of the United States and a secretary of one of the foreign legations, and if they find such an offense has been committed to report to this House whether a due respect for the laws of the United States does not require the House to take measures for the removal from office of the diplomatic officer and for the recall by his own Government of the secretary of the legation; and that for the purpose of this inquiry the said committee are empowered to send for persons and papers.

Mr. RANDALL and Mr. CHANLER objected.

Mr. JENCKES. I then move to suspend the rules.

Mr. STEVENS, of Pennsylvania. I cannot yield for that purpose.

#### READMISSION OF SOUTH CAROLINA, ETC.

Mr. STEVENS, of Pennsylvania, from the Committee on Reconstruction, reported a bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read the third time.

The preamble of the bill states that the people of North Carolina, South Carolina, Louisiana, Georgia, and Alabama have, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, framed constitutions of State government which are republican in form, and have adopted said constitutions by large majorities of the votes cast at the elections held for the ratification or rejection of the same.

The first section provides that the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama shall be entitled and admitted to representation in Congress as States of the Union when the Legislatures of said States respectively shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, upon the following fundamental conditions: that the constitutions of said States shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are now entitled to vote by said constitutions respectively, except by a punishment for such crimes as are now felonies at common law whereof they shall have been duly convicted; and no person shall ever be held

to service or labor as a punishment for crime in said States, except by public officers charged with the custody of convicts by the laws thereof.

The second section provides that if the day fixed for the meeting of the Legislature of either of said States by the constitution thereof shall have passed before the passage of this act such Legislature may be convened within thirty days after the passage of this act by the president of the convention which framed the constitution of such State.

The third section provides that the first section of this act shall take effect when the President of the United States shall officially proclaim the due ratification by the Legislatures of said States respectively of article fourteen of the amendments to the Constitution of the United States proposed by the Thirty-Ninth Congress.

The SPEAKER. This bill is printed, and can be obtained of the Doorkeeper.

Mr. ELDRIDGE. I would inquire by what authority this bill has been printed.

The SPEAKER. That is not a question for the Chair to answer; nor does the Chair know.

Mr. ELDRIDGE. I have sent two or three times for this bill, and have not been able to get it. I would like to know how a bill can be printed without the order of the House.

The SPEAKER. The Chair cannot answer the question. Nor is it a parliamentary inquiry. The bill will be considered as read a first and second time. The question is on ordering it to be engrossed and read a third time.

Mr. STEVENS, of Pennsylvania. Unless some gentleman desires to debate this question now, I move that the further consideration of the bill be postponed, and that it be made a special order for next Wednesday after the morning hour, and from day to day until disposed of.

Mr. ELDRIDGE. Does the gentleman from Pennsylvania [Mr. STEVENS] propose to allow debate on this bill when it shall be taken up on Wednesday? There are some gentlemen here who desire to debate the bill, and who wish to know whether it is the gentleman's intention, if the bill shall be made a special order, to allow debate, and to what extent? This information will govern us somewhat in the preparation of speeches. We know what the gentleman can do, if he desires, in the way of cutting off debate.

Mr. STEVENS, of Pennsylvania. I have moved the postponement for the very purpose of giving gentlemen an opportunity to debate it.

Mr. ELDRIDGE. We wish to know whether there has been fixed between the gentleman and his friends any time when he proposes to call the previous question.

Mr. STEVENS, of Pennsylvania. No, sir. I propose giving an opportunity for debate.

Mr. ELDRIDGE. That is satisfactory.

The SPEAKER. If there be no objection, the bill will be postponed and made a special order for next Wednesday after the morning hour, and from day to day until disposed of.

There was no objection.

Mr. BINGHAM. I desire to give notice of an amendment which I intend to offer to this bill. It is to amend by striking out the following words:

That the constitutions of said States shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are now entitled to vote by said constitutions respectively, except as a punishment for such crimes as are now felonies at common law whereof they shall have been duly convicted.

And inserting in lieu thereof the following: That civil and political rights and privileges shall be forever equally secured in said States to all citizens of the United States resident therein, as is now provided in said constitutions respectively.

I ask that this amendment be ordered to be printed with the bill.

The SPEAKER. If there be no objection, that order will be made.

There was no objection.

Mr. FARNSWORTH obtained the floor.

Mr. BECK. If the gentleman from Illinois, [Mr. FARNSWORTH] will yield to me a moment,

I desire to move that all the reports from the President, General Grant, and the Secretary of War relative to elections held in the States named in this bill be printed immediately, so that we may have them before us on Wednesday morning when the bill comes up.

Mr. FARNSWORTH. I think that order has already been made this morning.

Mr. BECK. All the documents have not yet come in.

Mr. FARNSWORTH. I have no objection to the order being made.

The SPEAKER. The Chair thinks that every document on this subject which has been upon the Speaker's table has been ordered to be printed. There may be other communications yet to come in.

Mr. BECK. General Grant has not yet made the report we have called upon him to make to-day.

Mr. FARNSWORTH. I believe that report has been presented to-day, and on my motion referred to the committee and ordered to be printed.

The SPEAKER. The Chair thinks that no communication from the General of the Army has come in to-day: A message from the President, with two accompanying constitutions, has been received and ordered to be printed; and the gentleman from Indiana [Mr. COBURN] has offered a resolution calling upon the General of the Army for a variety of information.

Mr. BECK. What I desire is that the reply of the General of the Army to that resolution shall be printed immediately upon its receipt.

The SPEAKER. It may be received to-morrow by the Speaker while the House is in the Committee of the Whole; and, if there be no objection, the Chair will regard it as ordered to be printed immediately upon its receipt.

There was no objection.

#### CLERKS IN INTERIOR DEPARTMENT.

Mr. MILLER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Interior be, and he is hereby, directed to inform this House of the number and names of clerks appointed in his Department since the 1st of April last, and by whom recommended.

#### REMOVAL OF POLITICAL DISABILITIES.

Mr. FARNSWORTH, from the Committee on Reconstruction, reported a bill (H. R. No. 1059) to relieve certain citizens of North Carolina of disabilities; which was read a first and second time.

The Clerk proceeded to read the bill *in extenso*.

Several members moved to dispense with the reading of the names of the persons who were to be relieved.

Mr. ROBINSON. I hope that will be done.

There was no objection; and it was agreed to accordingly.

Mr. ELDRIDGE. Are we going to pardon people by wholesale? Is this to be done, then, and are we to have no provision of general amnesty?

Mr. BROOKS. I hope the gentleman from Wisconsin does not object to that.

Mr. ELDRIDGE. I do not; but I wish to have in this bill a provision for general amnesty. If we do that, there will be an end of all quarrels, and we will again have restored an era of good feeling.

Mr. CHANLER. Has the further reading of the bill been dispensed with?

The SPEAKER. It has been done by unanimous consent.

Mr. CHANLER. I called for its reading, and I did not withdraw that request.

The SPEAKER. The gentleman did not object at the proper time.

Mr. ELDRIDGE. I wish to ask the gentleman from Illinois a question. I wish to know on what authority, on what information, on what recommendation these names have been placed in this bill for the purpose of amnesty? Has not the committee had recommendations from other localities? Is it not some information in regard to the politics of these men that

has caused their names to be reported in this bill? I wish to know whether these men have repented, or whether they have given any better evidence of repentance than the great mass of the southern people? Are not these the men who have fallen down upon their knees and given a pledge to support the political party to which the gentleman belongs? I should like to know about it.

Mr. FARNSWORTH. If the gentleman is through I will answer his questions. I was about to ask the House to dispense with the reading of the names, so that I might make an explanation. Mr. Speaker, I hold in my hand the information upon which the committee has acted; nearly all of these names were recommended by the constitutional convention of North Carolina. I hold in my hands the resolution of that convention recommending these names to Congress as the names of proper persons from whom disabilities should be removed. I will read:

STATE CONSTITUTIONAL CONVENTION,  
RALEIGH, N. C., March 17, 1868.

DEAR SIR: I have the honor of inclosing herewith a copy of resolutions as passed by this convention, also a report of the committee on political disabilities as adopted by this body.

I am, your obedient servant,  
T. A. BYRNES,  
Hon. SCHUYLER COLFAX, Secretary.

*Copy of the report of the committee on political disabilities as adopted by the State constitutional convention, March 12, 1868.*

Whereas the persons hereinafter named are disqualified to hold office by the fourteenth article of the Constitution of the United States, known as the "Howard amendment;" and whereas they have evidenced that they are in hearty accord with the reconstruction measures of Congress: Therefore,  
*Resolved*, That we petition the Congress of the United States to remove their disabilities, in accordance with the provisions of the aforementioned article of the Constitution.

#### COMMITTEE.

J. W. HOOD, Chairman, GEORGE W. GAHAGAN,  
A. W. TOURGEE, JAMES HAY,  
S. J. FALKNER, R. W. KING,  
C. C. JONES, WILLIAM NICHOLSON.

Then follow the names which are included in this bill.

The Committee on Reconstruction also called before them several gentlemen from North Carolina, including the members-elect of Congress from that State, who have evinced by their conduct and the fact that they have received the vote of the loyal people of that State that they are loyal and proper persons from whom disability should be removed. It is the best kind of information the committee could possess itself of, unless, indeed, a committee were appointed to go to North Carolina and inquire into each man's record and conduct during the war and since. That not having been done, we must take such testimony as we can get.

Mr. ELDRIDGE. Will the gentleman allow me?

Mr. FARNSWORTH. Not now. We believe the report and the resolution of the convention of loyal men of North Carolina, who recommend these men to Congress, to be very good evidence.

Mr. ELDRIDGE. Is Governor Holden's name in the list?

Mr. FARNSWORTH. It is.

Mr. ELDRIDGE. I ask whether there is not a good deal of evidence about his loyalty, as to whether he has not a bad character on that score?

Mr. FARNSWORTH. If that be so, then it would be a good recommendation to the gentleman from Wisconsin for his vote.

Mr. ELDRIDGE. Not at all. I would not go for one man who was rebellious any sooner than another.

Mr. FARNSWORTH. I am speaking now of the evidence either of loyalty during the war or of proper repentance since the war. I do not suppose anything I may say, or any evidence that the committee has in behalf of these men, will commend itself to my friend from Wisconsin.

Mr. ELDRIDGE. I would not take that confession, I must say, as very good evidence on that point.



Mr. FARNSWORTH. We have also in addition to the names recommended by the convention inserted a few other names; and so fearful were the committee, I may say, in passing with reference to the names recommended by the convention, that we scrutinized the entire list in connection with gentlemen from North Carolina who were acquainted with those names, and we have stricken out several of them. We struck out all persons with regard to whom we could ascertain that there was any doubt either as to their loyalty during the war or as to their conduct since the war, and have only put into our bill the names of those about whom there is no doubt. They are either men who were loyal during the war and incurred disabilities by reason of holding some office in the State or else they are men who have since the war accepted the reconstruction measures of Congress in good faith and are acting in hearty accord with the loyal people of the State in reconstructing the State government.

Mr. ELDRIDGE. Is there not some evidence against Mr. Holden?

Mr. FARNSWORTH. In addition to that we have incorporated in the bill the names of State officers elected in North Carolina, some of whose names are in the list and some are not. We have incorporated, for instance, the names of Mr. Caldwell, lieutenant governor, Mr. Adams, State auditor, Mr. Harris, superintendent of the public works, Judges Pearson, Dick, Settle, and Reade, of the supreme court, and Judges Thomas, Russell, Logan, and Mitchell, of the superior court; also the names of Nathaniel Boyden and Oliver H. Dockery, members-elect of Congress.

Now, I will state with regard to these State officers elected in North Carolina, that only one of them ever held any office in the rebel army. He was for a short time a captain, and only for a short time. The other gentlemen, whose names are included, incurred disabilities by reason of holding some State office. Mr. Boyden was a member of the Legislature of North Carolina during the war. He took no part in the war, and was known in his region of the State as a loyal man who opposed the war from first to last.

Mr. SPALDING. He lived at Salisbury.

Mr. FARNSWORTH. He lived at Salisbury, and was well known by all our prisoners there who knew anything of him to be in sympathy with the Union Army. He was known while a member of the Legislature as the author of what was called the Boyden personal liberty bill—so I think they styled it—which provided that any man conscripted into the rebel army should have the privilege of the writ of *habeas corpus*. One of the rebel officers threatened to break up the Legislature and prevent the passage of that bill. He incurred disability by reason of his being a member of the Legislature, and by no other act. He held no other office by which he was disabled. Mr. Dockery, another member-elect of Congress, incurred disability in a similar manner.

Now, Mr. Speaker, I have one other remark to make in regard to the State officers. By the constitution of North Carolina, which is now before the House, it is provided that the offices of the existing provisional State government shall be vacated within ten days after Congress shall have approved their constitution. They will have no State officers, therefore, after we shall have approved their State constitution and admitted them to representation, except the officers elected under that constitution. The officers whose names are in this bill cannot take the oath of office under that State constitution unless these disabilities are removed, and the State will therefore be left without officers to carry on the government unless a bill of this kind is passed.

Mr. BOYER. I desire to ask the gentleman, in order to test the impartiality of this bill, whether any of the persons named in this bill, from whom disabilities are removed, have been known to act recently with any other than the Republican party?

Mr. FARNSWORTH. Yes, sir; the gen-

tleman of whom I have just spoken, Mr. Boyden, from the Salisbury district, was elected to Congress on what was called the Conservative ticket; he ran against the Republican candidate for Congress.

Mr. BOYER. Can the gentleman name any other?

Mr. FARNSWORTH. Well, I do not know whether I can. I cannot tell whether A or B is with the Republican party, or any other party. I will say to the gentleman that the committee have not examined the names with reference to ascertaining with which party the men act.

Mr. BOYER. Can the gentleman inform the House how many names there are altogether included in the bill?

Mr. FARNSWORTH. I think about two hundred. I am not certain; there may be more or less.

Mr. ROBINSON. As the gentleman is answering questions, I would inquire whether all the members-elect of Congress from North Carolina who require this absolution receive it in this bill?

Mr. FARNSWORTH. I think the other members-elect of Congress from that State do not require it; they are not subjected to any disability.

Mr. ROBINSON. Mr. Boyden is a member-elect, and it is understood that he would require some absolution.

Mr. FARNSWORTH. It is understood that he is laboring under this disability, and so is Mr. Dockery, who was elected to Congress on what was known as the Republican ticket.

Mr. ROBINSON. I have another question to ask. Does this bill apply to all who need absolution?

Mr. FARNSWORTH. This bill, as I understand it, embraces all the members-elect of Congress from the State who require that disabilities should be removed.

Mr. ROBINSON. Who are elected to Congress?

Mr. FARNSWORTH. All who are elected to Congress.

Mr. ROBINSON. You understand that?

Mr. FARNSWORTH. I do.

Mr. ROBINSON. That being satisfactory, I will ask another question. The gentleman from Illinois has again and again said that these names are recommended for this purpose by the convention of North Carolina. Is the House to understand from him that it was a unanimous recommendation? How was that recommendation expressed, in what mode, and was it unanimous?

Mr. FARNSWORTH. If the gentleman had attended to the reading of the report and resolution from that convention he would have had no need to ask the question.

Mr. ROBINSON. I have been trying to attend. The gentleman can answer the question without referring to the report.

Mr. FARNSWORTH. I understand that it was unanimous; at least it does not appear that there were any votes against it. The resolution adopted by the convention was sent here to the House of Representatives with the list of names recommended.

Mr. HARDING. I would inquire whether any of the names on this list were formerly on the rolls of the Army or Navy of the United States?

Mr. FARNSWORTH. I think not any. I am not sure, but I think there is not a name upon this list that was formerly on the rolls of the Army or Navy.

This bill applies only to North Carolina. There are a good many names in the bill, because there are a few names from each county in the State. The different delegates in the constitutional convention handed in to the committee appointed to investigate this matter the names of such persons in their respective counties and districts as they felt sure were in hearty accord with the measures of Congress and were loyal men and deserved to have the disability removed. Those names were all referred to the committee appointed by the

convention and reported upon, and the convention adopted a resolution recommending them for relief from disability.

Mr. ROBINSON. Have you the yeas and nays on that resolution?

Mr. FARNSWORTH. No, sir.

Mr. ROBINSON. Have you any record of the number of votes for and against it?

Mr. FARNSWORTH. It is not customary when State conventions or Legislatures send resolutions to Congress to accompany them with a copy of the journal showing the yeas and nays upon their adoption.

Mr. ROBINSON. It would make all the difference in the world if this list came here unanimously. There is another question. I find that this bill provides in the beginning that we shall absolve these men from the difficulties they have got into, the proposed fourteenth amendment of the Constitution notwithstanding. Can that be entertained? Is that constitutional? Are you going to sweep away everything for these privileged few, even the amendment to the Constitution, which is not yet adopted, and which you are trying to adopt by the votes of these States?

Mr. FARNSWORTH. I do not suppose the House desires to discuss this question any further. This report is made unanimously, I believe, by the Committee on Reconstruction, without a dissenting voice.

Mr. BROOKS. If the gentleman from Illinois will permit me, I wish to say that I was not present at the session of the Reconstruction Committee when this long list of pardons was presented; but, so far as I am concerned, I am in favor of the general principle of pardon to all persons, whether they belong to my political school or not, and the only possible objection I could have to this bill would be that it selects men of one particular school of politics for pardon and omits all others, with one honorable exception, that of Mr. Boyden, member-elect of Congress, who, I see—and I hope the editor is misinformed—is claimed by the official organ of the gentleman's party as likely in all probability to vote with that party. It appears, therefore, that in a list of over two hundred names of those who are likely to be pardoned there is scarcely one doubtful Democrat included; while all of the other one hundred and ninety-nine belong to the political party to which the gentleman belongs. I am sorry to see this merciful feeling of pardon limited by political affiliations and associations. I hope that in due time—while I will vote for this bill—the heart and mind and judgment of honorable gentlemen upon the other side will at least be so enlarged as to be prepared to vote for a general amnesty.

While I am permitted to say, also, to the honorable gentleman from Illinois [Mr. FARNSWORTH] that, so far as I am able to judge from the list of persons whose names are submitted here for pardon, especially the State officers, from the Governor-elect down, they were leaders of the rebellion during the late war, more or less efficient throughout. I am gratified to see that so far as they at least are concerned this principle of pardon is extended, while it does not bestow a very high encomium upon the Union party of North Carolina that they have been obliged to resort to those who, if they were not rebels in arms, were rebels in council, even worse rebels than those in arms, often inspiring those who were in arms by providing for them the sinews of war. I say it is not very creditable to the Unionists of North Carolina that they have been obliged to elect as their State officers those who were prominent in the rebellion. And it is now necessary, in order that the State government shall be organized at all under the test-oaths and laws of the United States, to resort in the first instance to the two Houses of Congress for pardon.

I repeat, however, that I do not object to this. I do not wish to be understood as in any degree opposing the pardon of almost any person who presents himself here as willing to take the oath of fidelity to the Constitution of

the United States. Once more I say do not let the principle of pardon here established be confined to a particular party. I claim to ignore party in this matter, and acknowledge all who promise to be faithful to the Constitution of the United States.

Mr. BECK. Will my colleague on the committee [Mr. FARNSWORTH] yield to me for a few moments?

Mr. FARNSWORTH. Certainly.

Mr. BECK. I desire to state my position in regard to this bill. I declined to vote against it in the Committee on Reconstruction, saying that I would make no factious opposition to it, for I desired to see disabilities removed from all persons. But I declined to vote for it; I simply acquiesced in it, because, as I said on the floor of this House when this bill was up before, these men have already been pardoned. And admitting the right here to remove disabilities was admitting the right to impose them, which I do not at all admit. Nor do I believe in the principle of removing disabilities from men simply because they have joined a certain political organization. Now, while I entertain these views, I make no objection to the reporting of this bill. I did not vote against it in committee, and it is now before the House.

Mr. ROBINSON. I desire to offer an amendment to this bill.

Mr. FARNSWORTH. I cannot yield for that purpose.

Mr. ROBINSON. The gentleman will allow it to be read.

Mr. FARNSWORTH. Not at present. I wish to say a word in reply to the gentleman from New York, [Mr. Brooks,] a member of the Committee on Reconstruction. As I understand him, he complains that in reporting this bill the committee have provided for relieving only those who are acting with a particular political party. Sir, the committee have acted upon all the names that have been sent to them from North Carolina. It is not the fault of the committee, it is not the fault of the Republican party, if other men do not send up their names and ask for pardon. It is not the fault of the Reconstruction Committee or of the Republican party if the Democrats in North Carolina are all rebels. If there are none in North Carolina except Republicans who are fit and proper persons to receive this absolution that is not the fault of the Republican party. It is the fault of the men themselves that they do not repent. If they will still continue to act as rebels, of course they cannot expect that Congress will interpose in their behalf, and relieve them from their disabilities. They cannot expect the Committee on Reconstruction or the majority of this House to vote to relieve them from their disabilities if they are still acting in accord with the rebel element in the South and not with the loyal element of the nation. The fault, then, lies there, and not with us. We have acted, as I said before, upon all the names that have been sent us by the convention and the names that have been presented to us by the delegation from North Carolina, now in this city.

Mr. NIBLACK. With the permission of the gentleman from Illinois, [Mr. FARNSWORTH,] I desire to ask him one question. Does he regard the support of the reconstruction measures of Congress as a test of loyalty anywhere or everywhere?

Mr. FARNSWORTH. Mr. Speaker, I regard it as necessary that a man who acted with the rebels during the war shall give some evidence of repentance; and it is a very good evidence of repentance when he gives the reconstruction measures of Congress his cordial support. If he cooperates with the loyal people of his State, black and white, and helps in good faith and heartily to reconstruct and restore his State upon the basis of liberty and equality, he gives evidence of returning loyalty and repentance. If the gentleman can point out to me any better evidence than that I shall be willing to consider it; but without some

evidence of repentance and loyalty we are not willing that these men shall be washed and made clean.

Mr. WOODWARD. Will the gentleman permit me to ask him a question?

Mr. FARNSWORTH. Yes, sir.

Mr. WOODWARD. Does the gentleman consider opposition to negro suffrage evidence that a man is a rebel? I would like an answer to that question. I understand the gentleman to argue that these men must give evidence that they are no longer rebels before they can be admitted to political privileges. He regards it as necessary, if I understand him correctly, that they shall support the measures of Congress looking to negro suffrage. Now, I ask the gentleman whether all the men in the United States who are opposed to negro suffrage are to be denounced on this floor as rebels by the gentleman or anybody else.

Mr. FARNSWORTH. Mr. Speaker, I have not denounced as a rebel every man who is opposed to negro suffrage, either North or South; but if we find that all rebels oppose negro suffrage, it casts a little suspicion upon men who oppose it, whether you call them rebels or not. We do find in the South that all rebels oppose negro suffrage, and we also find there that all loyal men, generally speaking, are in favor of negro suffrage. I have not, however, argued here—the gentleman is the first to broach that point—that it is necessary that a man, to be loyal, should be in favor of negro suffrage. But, as I said a moment ago, we require that a man should give some kind of evidence of loyalty or repentance before we wash him and make him clean; and support of the reconstruction measures of Congress we regard as furnishing such evidence, and until gentlemen can point out some better evidence we consider it as pretty good evidence.

Mr. ROBINSON. Then the gentleman would be in favor of my amendment; and I trust he will allow me to read it.

Mr. WOODWARD. The gentleman from Illinois will, I trust, allow me a word further. I understood the gentleman to assert, with great distinctness, that the evidence of repentance for which we must look on the part of southern rebels is their support of the reconstruction measures of Congress. I need not tell so intelligent a gentleman as the gentleman from Illinois that the reconstruction measures of Congress are founded entirely upon negro suffrage; nay, that is the sole intent and purpose of those measures. I ask the gentleman, then, whether it is not a fair sequence from his argument that every man in the South who is opposed to negro suffrage is to be considered as a rebel. If that be so, then I want to know whether every man in Michigan who is opposed to negro suffrage is a rebel; I want to know whether every man in Maine, in New Hampshire, in Connecticut, in Illinois, in Ohio, who is opposed to negro suffrage, is a rebel. I want an explanation of the astounding fact that while the people of these northern States record their solemn decision, State after State, against negro suffrage, they yet send into this House Representatives who stand up here and make the support of negro suffrage the test of loyalty. What business have the Representatives of those States to come here and set up such a test of loyalty as that when their constituents are at home deciding that negro suffrage is not a thing fit for American constitutions?

Mr. FARNSWORTH. I must resume the floor. The gentleman is not discussing this subject. He has set up a man of straw which he is striking at. I have not argued that negro suffrage is the best test of loyalty in the South, nor touching negro suffrage as the best evidence of a return to loyalty, or of repentance. What I have said, and I will repeat it, is that in the reconstruction of these States, the basis of loyalty, of liberty and equality, of right is a good evidence of repentance. I do not say that we require a man should be in favor of negro suffrage.

The gentleman says that the reconstruction measures are based wholly and entirely upon negro suffrage. They are based, as I understand, upon the loyalty of the people, upon the equal rights of the people, upon the rights of all men who are not guilty of crime, upon their equal right to participate in the government of these States; and until gentlemen can point us to some evidence which is better than any evidence given to us of the loyalty of these men and of their repentance we will take such evidence as we have, to wit, that they are acting in hearty accord with the people of their State, whether black or white.

When the gentleman says he regards it as unfortunate that we are obliged to extend amnesty and relief from disabilities to all officers elected to carry on the State government there he is wrong in that. A number of officers did not require any resolution. Of those who did, as I have said before, only one of them was ever in the rebel army. The others incurred disabilities in the way I have related, not dreaming that by being members of the Legislature or judges they had incurred disability while their hearts were beating in sympathy and full unison with the loyal people of the North.

Now, Mr. Speaker, I do not think the House requires this should be discussed further, and I therefore call for the previous question.

Mr. ROBINSON. Will the gentleman hear my amendment read?

Mr. FARNSWORTH. I have no authority, as the organ of the committee, to accept any amendment.

Mr. ROBINSON. Let it be read.

Mr. FARNSWORTH. I call for the previous question.

Mr. ROBINSON. I will recollect the gentleman's courtesy.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. FARNSWORTH demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. FARNSWORTH. The bill requires a two-thirds vote, and I therefore demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken; and it was decided in the affirmative—yeas 90, nays 28, not voting 76; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Bailey, Baker, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Brooks, Broomall, Buckland, Butler, Cary, Churchill, Reader W. Clarke, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Garfield, Getz, Gravely, Halsey, Higby, Holman, Hooper, Hotchkiss, Chester D. Hubbard, Humphrey, Juckes, Judd, Kelley, Kelsey, Kerr, Ladin, George V. Lawrence, William Lawrence, Loughridge, Mallory, Marshall, Marvin, McCarthy, Moore, Moorhead, Morgan, Morrell, Mungen, Myers, Newcomb, Niblack, Nunn, O'Neill, Paine, Peters, Pike, Pile, Plants, Raum, Sawyer, Scofield, Smith, Spalding, Stewart, Taylor, Thomas, Trowbridge, Twichell, Upson, Van Auken, Elihu B. Washburne, Henry D. Washburn, Welker, James F. Wilson, Stephen F. Wilson, Windom, and Woodward—90.

NAYS—Messrs. Adams, Arnell, Calk, Sidney Clarke, Cobb, Coburn, Eldridge, Golladay, Harding, Hawkins, Hopkins, Hunter, Johnson, Julian, Knott, Lynch, Miller, Orth, Perham, Randall, Ross, Taffie, and William Williams—28.

NOT VOTING—Messrs. Archer, Delos R. Ashley, Axtell, Baldwin, Barnes, Barnum, Beck, Boyer, Burr, Chanler, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Fields, Finney, Fox, Glossbrenner, Griswold, Grover, Haight, Hill, Asahel H. Hubbard, Richard D. Hubbard, Hulburd, Ingersoll, Jones, Ketcham, Kitchen, Koonz, Lincoln, Logan, Loan, Maynard, McClurg, McCormick, McCullough, Mercur, Morrissey, Mullins, Nicholson, Phelps, Poland, Polesley, Pomeroy, Price, Pruyn, Robertson, Robinson, Schenck, Selye, Shanks, Schullabarger, Sitgreaves, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Stone, Taber, John Trimble, Lawrence S. Trimble, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, John T. Wilson, Wood, and Woodbridge—76.

So (two thirds having voted in favor thereof) the bill was passed.

## WHITEHALL AND PLATTSBURG RAILROAD.

Mr. SPALDING obtained the floor, but yielded to

Mr. GARFIELD, who asked unanimous consent to take up and put on its passage a bill to grant the right of way to the Whitehall and Plattsburg Railroad Company.

Mr. MÜNGEN. I object.

Mr. GARFIELD. I move to suspend the rules.

Mr. HARDING. I move that the House do now adjourn.

The SPEAKER. Pending that motion the Chair desires to make an announcement that to-morrow it is possible that business may be transacted by the House. The Senate have adopted a resolution saying that they will notify the House at what time they desire the House again to appear at the bar of the Senate. They have also adopted a resolution that to-morrow, at twelve o'clock, the vote on impeachment shall be taken, but the Chair is informed that it is possible that order may be rescinded. The House has not received any official notification to appear at the bar of the Senate to-morrow. Therefore, if the House now adjourns, business will be resumed to-morrow until some notification is received from the Senate.

Mr. STEVENS, of Pennsylvania. I move that when the House adjourns to-day it adjourn to meet on Wednesday next.

The SPEAKER. That motion is in order. The Chair will state, however, that it might interrupt another resolution, that when the Senate is engaged in the trial with open doors the House shall be in attendance.

Mr. STEVENS, of Pennsylvania. I withdraw the motion.

Mr. HARDING. I renew the motion to adjourn.

The motion was agreed to; and thereupon (at four o'clock and twenty minutes p. m.) the House adjourned.

## PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BURR: The petition of W. A. Green, Stilwell Silkwood, Henry F. Green, and David Green, for bounty.

By Mr. FARNSWORTH: The petition of Rev. Arnold Damen, pastor of the Church of the Holy Family, Chicago, Illinois, for remission of duties upon a church organ.

Also, the petition of the officers of the United States Army of the department of the Cumberland, for extension of the act of March 2, 1867, &c.

By Mr. LYNCH: The petition of citizens of Portland, Maine, for breakwater at Richmond's Island.

By Mr. STOKES: The several petitions of John Wells and Sarah Livingston, for relief.

Also, the petitions of Margaret Riley and Elizabeth Smith, for pensions.

By Mr. TWICHELL: The petition of J. M. Patten, for renewal of patent.

By Mr. VAN AERNAM: The petition of 206 citizens of Jamestown, New York, praying Congress to pass a law extending "impartial suffrage" throughout the United States, removing all distinctions and restrictions on account of property or color.

Also, resolutions adopted by the Republican electors of Salamanca, Cattaraugus county, New York, in relation to the rights of American citizens abroad.

By Mr. WELKER: The petition of the executive committee of the National Theological Institute and University, asking the grant of the use of lands of the Government situated at Arlington, Virginia, for the education of freedmen, under the direction of said institute, in the District of Columbia.

By Mr. WILLIAMS, of Pennsylvania: The petition of George S. Williams and others, citizens of Kentucky, praying for the division of that State into two judicial districts.

By Mr. WASHBURN, of Indiana: The

petition of 80 women of the District of Columbia, praying the extension of the elective franchise to them, accompanied by a bill to the same purpose.

Also, petitions from 99 citizens of Waterloo city, Indiana, and of 74 citizens of Henry, Marshall county, Illinois, to the same effect.

## IN SENATE.

TUESDAY, May 12, 1868.

The following prayer was offered by Rev. E. H. GRAY, D. D.:

O Thou great and incomprehensibly glorious Jehovah ruling in heaven, ruling on the earth, disposing of all the affairs and interests of angels and of men. In Thine august presence we desire to bow and worship this morning. We come to confess our sins, individual and national; to acknowledge our transgressions, social and civil; but in and through the name and the blood of the everlasting Son of God we ask pardon and pray for forgiveness and for the Divine power to be vouchsafed unto us. Men change, but Thou remainest the same forever more. Kingdoms and empires rise and fall, but the pillars of Thy throne are unmoved. Modes and measures fail, but Thy word, O Lord God, is settled forever in heaven. We invoke the Divine presence especially to-day to be in this high Council Chamber. Prepare, O Lord, the mind of the President for the removal of the suspense connected with this day's proceeding. Prepare the minds of the people for the momentous issues which hang upon the decisions of the hour. Prepare the minds of Thy servants, the Senators, for the great responsibilities of this hour. May they be wise in council; may they be clear and just and correct in judgment; and may they be faithful to the high trusts committed to them by the nation. And may the blessing of God be upon all the people. Everywhere may the people bow to the supremacy of law. May order and quiet and peace prevail throughout all our borders. And may the blessing of God rest upon the nation. God preserve the people; God preserve the Government and save it; God maintain the right, to-day and ever more! Amen.

## IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order and at once vacated the chair that it might be occupied by the Chief Justice.

The Senate, sitting for the trial of the impeachment, having adjourned,

The President *pro tempore* resumed the chair at eight minutes to twelve o'clock.

Mr. DRAKE. I move that the Senate adjourn.

Several SENATORS. Until when?

Mr. DRAKE. To-morrow, of course.

Mr. ANTHONY. I hope the Senate will not adjourn. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 27; as follows:

YEAS—Messrs. Bayard, Cameron, Cattell, Chandler, Cole, Conness, Corbett, Cragin, Drake, Edmunds, Frelinghuysen, Henderson, Howe, McCree, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Thayer, Tipton, Van Winkle, Vickers, and Williams—24.

NAYS—Messrs. Anthony, Buckalew, Conkling, Davis, Dixon, Doolittle, Ferry, Fessenden, Grimes, Harlan, Hendricks, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Ross, Saulsbury, Sherman, Sprague, Stewart, Sumner, Trumbull, Willey, Wilson, and Yates—27.

ABSENT—Messrs. Fowler, Howard, and Wade—3.

So the motion was not agreed to.

Mr. YATES. I move that when the Senate adjourns to-day it adjourn to meet on Friday next at twelve o'clock.

Mr. ANTHONY. It seems to me some of the Senators are very desirous of pushing this session into September or perhaps November. There is a great deal of business upon the table that we can just as well transact to-day as we can at any future time, and every day we sit now shortens the session by one day, and every day we adjourn over now prolongs it two or three.

Mr. RAMSEY. Well, we gain at this end. [Laughter.]

Mr. SHERMAN. I wish simply to make a remark in support of my friend from Rhode Island. Next week we probably shall have to take the usual adjournment to have the changes made for the summer in this room, and we might as well dispose of a good deal of business that lies upon our table, not of very great importance, but which might as well be disposed of before that ordinary recess. I hope, therefore, that the Senate will discharge what business it can during this week. We can take the vote on Saturday in the case that has been tried before us; and probably early next week we shall be compelled, in pursuance of the usual custom of the Senate, to take a recess of a few days at least, probably ten days, to enable this room to be put in order for the summer.

Mr. HENDRICKS. I desire to concur in the suggestions made by the two Senators who have spoken, and to add that the reason for not considering legislative business during the trial has substantially passed. We have heard the arguments and all the evidence, and it is to be presumed now that Senators have made up their minds, and there is no inconvenience in going on with legislative business. We have four or five days of this week which it is worse than folly in my judgment to waste, and the wasting of which will result in keeping us here during the hot days of July perhaps, possibly of August. I wish very earnestly to say that I think we ought to go on with business.

Mr. DRAKE. Mr. President, the very desire to have business transacted by the Senate under circumstances favorable to its transaction led me to make the motion that I did, to adjourn until to-morrow. It is perfectly manifest to me that no business can be properly done in the Senate this day.

Mr. SUMNER. Nor this week.

Mr. DRAKE. I am opposed to the motion of the Senator from Illinois. I think we ought to go at business just as soon as it can be done in the proper manner; that is, with the Senate in a proper condition to do business. I hope, sir, that the motion of the Senator from Illinois will not prevail, and that then the Senate will see fit to adjourn till to-morrow, by which time we shall probably be in a good trim to go at business again.

Mr. SHERMAN, and others. What is the matter?

Mr. DRAKE. Gentlemen ask me what is the matter. If there is no consciousness on the part of Senators of the condition of things in the Senate this day that should lead them to feel that the mind was not exactly in the balance that it ought to be for business I cannot impart that consciousness to them. [Laughter.] But, sir, when this nation is moved to its uttermost extremity by the expected events of this day, I should like to know whether the Senate is composed of men so entirely imbued with cool and calm philosophy that they partake not of the feeling that so moves it. If Senators are so imbued, all I have to say is that I am in a condition of great envy at their superior composure and philosophy.

Mr. ANTHONY. I should like to ask my friend from Missouri if he expects to get over this trouble by to-morrow.

Mr. DRAKE. Yes, sir; sleeping over it one night will cool it all down.

Mr. SHERMAN. Mr. President, I am surprised at the Senator from Missouri being disturbed by the proceedings of this day. This has been the most quiet, harmless day I have seen since the commencement of this trial. We heard eminent counsel discuss grave questions before us; we examined witnesses with composure; we heard opinions expressed by each other with composure; we met to-day, and to the disappointment of the galleries, on account of the sickness of one of our own members, we adjourned over the trial until Saturday. Certainly the excitement of to-day ought not to disturb the nerves of even my friend from Missouri. The Senate appears calm and quiet.



I have no doubt we can receive petitions and memorials from the people of the United States, present bills and resolutions, and probably hear speeches if any one desires to make a speech when he is so much disturbed as he is to-day. We may go on with our ordinary business. Amid the great events that are going on we must still discharge our duties. Whatever may be the result of this trial we still have the work of legislation for a great country to examine and to perfect, and I am sure our nerves are not in such condition to-day that we cannot go on with the simplest portion of that work, preparing business for the future.

Mr. DRAKE. That is so with the gentleman from Ohio.

Mr. YATES. Mr. President, I will state why I made this motion. I did not believe that during the pendency of this great trial there would be a disposition even to legislate; and that very suspense or anxiety which prevails throughout the land, referred to by the Senator from Missouri, comes up to us; it will mingle with us in our deliberations; and I do not believe that any wholesome legislation will take place while this suspense exists. The minds of Senators must be turned to that great question; it is the only question to which they can give their attention until it is finally decided. And, sir, for the purpose of giving that continued deliberation, that we may examine thoroughly and fully all the articles of impeachment, all the arguments of counsel on both sides, and weigh in our own minds the testimony fully, I think it is important that until the final decision takes place the Senate should adjourn. It is no use for Senators to tell me that we can legislate under existing circumstances. I am as desirous as any Senator that the business of the session should proceed; there are matters of vast importance before the Senate; but until this question is settled we cannot proceed deliberately and calmly with the investigation of those important matters. For this reason I have made the motion to adjourn over, and I believe it is a proper motion, and that we had better be delayed two days after the trial than to miss these two important days before the close of the trial.

Mr. DAVIS. Mr. President, I am sorry that some of the gentlemen are in such a perturbed state of mind that they cannot proceed with the ordinary business of the Senate. If that be the condition of some of us to-day before the final judgment in this great cause is taken, after that final judgment is rendered and pronounced they may be much more perturbed, in a worse state of mind to proceed with business than now. It may be my condition, or it may be the condition of others. Amid storms and earthquakes and all the throes of nature we have to proceed in the ordinary duties of life, and of official as well as private life. One of these ordinary duties of official life is to attend to the ordinary business of the Senate; and without regard to present disappointments or present hopes and fears or of a greater perturbation of mind that may be produced with some of us—myself probably or others—by the event that is anticipated to take place on next Saturday, I think we might as well proceed in the best state of composure that we can possibly command to the ordinary legislation of Congress.

Mr. CAMERON. Mr. President, I move that the Senate adjourn. There can be no debate about that. I make the motion so that we may get time to calm our nerves. Mine are not unsteady; they are as calm as they ever were; but I think it is very well to adjourn for to-day, and to-morrow, if we come here not prepared to go on with business, we can adjourn again. I move, therefore, that the Senate do now adjourn.

The PRESIDENT *pro tempore*. Before putting that motion the Chair will receive a message from the House of Representatives.

Mr. CAMERON. Very well.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives.  
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tives, by Mr. LLOYD, its Chief Clerk, announced that the House had passed the bill (S. No. 475) to extend the charter of Washington city; also, to regulate the selection of officers, and for other purposes, with amendments, in which the concurrence of the Senate was requested.

The message also announced that the House of Representatives had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 420) to incorporate the Connecticut Avenue and Park Railway Company, in the District of Columbia;

A bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress;

A bill (H. R. No. 1045) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws in the third military district for the fiscal year ending June 30, 1868;

A joint resolution (H. R. No. 251) authorizing the Secretary of War to furnish supplies to an exploring expedition;

A joint resolution (H. R. No. 254) for the protection of American interests in the Gulf of St. Lawrence; and

A concurrent resolution for an adjournment of the two Houses of Congress from Saturday, the 16th instant, until the 26th instant.

Mr. HARLAN. Mr. President, I will ask my friend from Pennsylvania to withdraw his motion for an adjournment, with a view of asking the Senate to take up the bill in relation to the extension of the charter of the city of Washington. Senators will remember that the charter expires on the 15th day of this month, and it is therefore important that that bill should be acted on now.

Mr. CAMERON. I withdraw my motion for the moment.

The PRESIDENT *pro tempore*. The question then recurs on the motion of the Senator from Illinois, [Mr. YATES,] that when the Senate adjourn, to-day it be to meet on Friday next.

Mr. CONNESS. I move for the present to lay that on the table. It can be taken up again.

Mr. SUMNER. Let it be laid aside informally.

Mr. YATES. I withdraw the motion for the present.

#### HOUSE BILLS REFERRED.

Mr. HARLAN. Then I move that the Senate proceed to the consideration of the bill I have mentioned.

Mr. MORTON. The Senator from Maine [Mr. MORRILL] desires to have certain bills referred; and after that I, for one, object to proceeding with ordinary business to-day. We did not come here for that purpose. I am sure that very few feel like it, and it would be better I think to adjourn until to-morrow. If to-morrow the Senate does not feel like going on with business it can adjourn over.

Mr. MORRILL, of Maine. I will ask my friend from Iowa to allow me to have the bill from the House providing for the deficiency in the appropriations for the reconstruction of the rebel States to be taken from the table and referred to the Committee on Appropriations, so that it can be acted upon at the earliest possible day.

The PRESIDENT *pro tempore*. The Chair will endeavor to lay all these bills before the Senate before the adjournment, if there is no objection. ["Agreed."]

The following bills and joint resolutions, received from the House of Representatives, were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 420) to incorporate the Connecticut Avenue and Park railway, in the District of Columbia—to the Committee on the District of Columbia.

A bill (H. R. No. 1045) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws in the third military district for the fiscal year ending June 30, 1868—to the Committee on Appropriations.

A joint resolution (H. R. No. 251) authorizing the Secretary of War to furnish supplies to an exploring expedition—to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 254) for the protection of American interests in the Gulf of St. Lawrence was read twice by its title.

The PRESIDENT *pro tempore*. This joint resolution will be referred to the Committee on Foreign Relations.

Mr. MORRILL, of Maine. It ought to go to the Committee on Commerce.

Mr. SUMNER. I beg the Senator's pardon; the Committee on Foreign Relations.

Mr. MORRILL, of Maine. Very well.

Mr. CONNESS. Is the object to indefinitely postpone it?

The PRESIDENT *pro tempore*. The joint resolution is referred to the Committee on Foreign Relations.

#### REPRESENTATION OF ARKANSAS.

The bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress was read twice by its title.

Mr. SHERMAN. I move that that bill lie on the table for the present. I desire to have it printed and acted on to-morrow.

Mr. CONNESS. I move that it be printed now.

The motion was agreed to.

#### PROPOSED RECESS.

The PRESIDENT *pro tempore* laid before the Senate the concurrent resolution of the House of Representatives providing for a recess from Saturday, the 16th instant, to Monday, the 25th instant.

On motion of Mr. SUMNER, the resolution was ordered to lie on the table.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting the documents received by him from the conventions held under the reconstruction acts in the States of South Carolina and Arkansas.

Mr. SHERMAN. I move that those papers lie on the table and be printed; it will be necessary to have them in the consideration of the Arkansas bill.

The motion was agreed to.

#### PETITION.

Mr. ANTHONY. I beg leave to present the petition of Edwin M. Chaffee, of Providence, setting forth that in 1836 a patent was issued to him for an important improvement in the manufacture of India rubber, reducing the raw material to a condition to be manufactured without the use of solvents, and that while a great many men have grown rich from the business he has never received an adequate compensation therefor; and he prays for the passage of an act authorizing the Commissioner of Patents to hear his application for an extension of his letters-patent, and to grant the same if it shall be deemed just and reasonable. I move the reference of the petition to the Committee on Patents and the Patent Office.

The motion was agreed to.

#### WASHINGTON CITY CHARTER.

On motion of Mr. HARLAN, the Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 475) to extend the charter of Washington city; also to regulate the selection of officers, and for other purposes.

The first amendment was in section two, to strike out "the first month after the passage of this act" and insert "July, 1868."

The amendment was concurred in.

The next amendment was to add to the fifth section the words "unless by order of the board."

Mr. JOHNSON. I should like to know from the honorable member from Iowa what is the operation of that last amendment?

Mr. HARLAN. I have not heard the amend-

ment read, I will say to my friend from Maryland. It might be well for the Secretary to read it in connection with the text of the bill.

Mr. JOHNSON. I think that should be done.

The fifth section of the bill was read, as follows:

SEC. 5. *And be it further enacted*, That when the mayor, board of aldermen, and common council shall be assembled in joint convention, as provided for in this act, they shall by a majority vote designate a bank in which the various monies of the city of Washington shall be deposited; and they shall make such regulations in relation to the mode in which such funds shall be kept and paid out as shall be deemed advisable for the interests of the city; and within five days after such designation a certificate of the bank selected shall be made out and placed in the hands of the president or cashier thereof, and thereafter it shall not be lawful to retain or deposit the funds of the city, or any part thereof, in any other bank or place.

The amendment was to add to the section the words "unless by order of the board."

Mr. SUMNER. That is a very proper amendment.

The amendment was agreed to.

The last amendment was to add to the bill the following additional section:

SEC. 6. *And be it further enacted*, That the first section of the act entitled "An act to regulate the elective franchise in the District of Columbia," passed January 8, 1867, be, and the same is hereby, amended so as to require electors in the city of Washington to reside in the ward or election precinct in which they shall offer to vote fifteen days prior to the day of any election, instead of three months: *Provided*, That said section shall not be construed as conferring the elective franchise in said city on non-commissioned officers, soldiers, sailors, or marines, in the regular service of the United States, stationed or on duty in said city, except such as may have become actual residents with their families in said city for one year previous to any election: *And provided further*, That no person claiming to be a naturalized citizen shall be registered as an elector, nor shall the name of any such person be retained on the list of voters without the production of his naturalization papers or duly certified copies thereof or satisfactory proof of the loss of the same; and for the purpose of correcting said list as regards the aforesaid classes of persons and in all other respects the judges of election shall meet in some proper place in said city between the hours of nine o'clock a. m. and seven o'clock p. m., on three days instead of two days as now required: *And provided further*, That all the original lists of voters, both before and after their correction, shall remain in the custody of the member of the board of judges first named in their appointment by the supreme court of the District of Columbia, and, in the event of his removal or resignation, in the custody of his regularly appointed successor, except when being copied for publication and for the use of the Commissioners of Election, and said original lists shall at all times be open for the use and inspection of either of said judges: *And provided further*, That no property qualification shall be required for any of the offices of said city, and that three days prior to any election each board of commissioners of election shall appoint two clerks to assist them in registering the names of voters in their respective election precincts, and in making returns of the elections, who shall be sworn before the clerk of the supreme court of said District, truly and faithfully to perform their duties, and for any misconduct in office be subject to the same penalties to which said commissioners are now subject: *And provided further*, That it shall be the duty of the judges of election to make any regulation and give any notice which may be proper or necessary to carry out any of the provisions of this section.

Mr. CONNESS. Mr. President, I would like to ask the chairman of the District Committee whether I am right in my impressions on hearing that section read, whether the amendment of the House provides for a reduction of the residence in the ward or election district from three months to fifteen days?

Mr. HARLAN. It does.

Mr. CONNESS. I do not know the origin of that amendment; but I undertake to say that under that provision a party having in a city a majority vote, taking the whole number of wards or districts together, may so equalize it as to carry the election in the entire city without any reference to the residents in the districts or wards at all; that temporary residences can be obtained and taken and had in districts for fifteen days in such a manner as to entirely put the vote of the permanent residents of that district at the mercy of what are called in common parlance colonizers. As I have said, I do not know what the origin of this amendment is; but I undertake to say that it is not to promote legal voting, nor the interests of the permanent residents of a city.

Mr. HARLAN. Mr. President, I suppose the object of the House in proposing this amendment will be manifest to every Senator. The election occurs in this city under existing laws on the 1st of June, and it is known to every one that a large per cent. of the population of every city change their residence in the spring or beginning of the summer months, and as the law now stands they will have to reside in their new homes three full months before they can vote, although they may have resided in the city a full year or for ten years for that matter; and it is to enable these persons that change their residence in the city from one part of the city to another, who otherwise are legal voters, to cast their votes at the regular election. There may be some objections to it; but there are certainly very serious objections to the disfranchisement of so many citizens as usually change their place of residence at the beginning of the summer months.

Mr. CONNESS. I do not think there is a provision in the election laws applicable to any State of the Union where the residence required is less than thirty days in the district, either in city or country; and the object of these provisions is clearly to prevent the manipulation of voters and the transfer of them fraudulently from district to district. Now, sir, I am in favor of keeping up to some extent the morale of our elections, and I ask of the Chair whether an amendment is in order to the amendment.

The PRESIDENT *pro tempore*. The amendment is susceptible of amendment.

Mr. CONNESS. I move, then, an amendment, to substitute thirty days for fifteen days.

Mr. HENDRICKS. Mr. President, I do not know that this amendment of the House of Representatives is so bad to this bill after all. I think that the fifth section of the bill as it passed the Senate is intended to favor some particular bank. It is a regulation by which some particular banking institution shall get the use of the funds of the corporation by the election of some board, instead of leaving the treasurer of the city to make his deposits wherever he thinks it may be safe to make them. The amendment of the House is simply to provide for the carrying of an election. As the voters now are in the District, I suppose there is some uneasiness as to the result of the election in June, as I understand from the Senator from Iowa it is to come off in June. Fearing that that election may not be satisfactory a proposition is made now, right upon the eve of the election, to change the election law, and to change it in a very important particular—not to make the integrity of the election more secure, but to make it more uncertain; to reduce the time of residence in the precinct from three months to fifteen days, so as to make it quite impossible that the people residing in the District shall know those who come here to vote. If we want fair elections in the District of Columbia certainly this amendment ought not to prevail, in my judgment. It is not consistent with the legislation which the experience of the States has proven to be necessary. I do not believe in this special legislation with a view to particular elections, nor this special legislation with a view to particular banks.

Mr. JOHNSON. Mr. President, I entirely concur with the honorable member from California as to the impolicy and the injustice of the amendment. It will, or to speak with perfect accuracy it may, certainly be used for a fraudulent purpose. This city now contains a population of several thousand colored men who are voters. I do not know in what particular wards they are now living, but of course they are living in some ward. It may be the object to carry all the wards, because it may be desirable not only to elect a mayor who may be approved of by the aggregate number of votes, but to elect a common council; and if that is the case, all that will be necessary to do, if the amendment of the House becomes a part of the law, will be to take those colored people

into the wards which are desired to be carried, and then for two weeks pay their board. How are the judges to ascertain that the movement is not a colorable one for the purpose of effecting a favorable result at the election?

Such a provision is not to be found in any of the cities with whose election laws I am acquainted; a much longer time than fifteen days is provided. It is not to be found in any of the States with reference to the counties into which they may be divided. There the residence required is generally six months. The object of making the term of residence a comparatively long one is to secure against frauds in the management of the election. It may be true that some might be disfranchised if a residence of three months is required, as far as the election in the particular ward is concerned; but the man is not disfranchised in the choice of a mayor; or if he were, it is much more important, I think, to the interest of good government that a few men should be disfranchised by their own act of moving from ward to ward or from county to county than that a law should pass which would enable those who desired to manipulate the election for their own purposes to perpetrate a fraud upon the election system. I shall vote, therefore, for the amendment suggested by the honorable member from California, to increase the period of residence to thirty days.

Mr. HARLAN. Mr. President, the only objection to this amendment that suggests itself to my mind is the necessity that would follow of returning the bill to the House of Representatives for their concurrence in our amendment to their amendment. That probably could be done if the House should not adjourn over.

Mr. JOHNSON. That can be done tomorrow.

Mr. HARLAN. Thirty days, perhaps, would not be too long if the question was an original question presented to the Senate. I will observe, however, in relation to the remarks of the Senator from Maryland, that I think it is hardly fair to impute an improper motive to the House.

Mr. JOHNSON. I did not say so.

Mr. HARLAN. I understood the Senator to say that it might have been the purpose of the authors of this amendment—

Mr. JOHNSON. If I did, I did not mean it. What I meant to say was that the law might be so used—not that the law was passed for the purpose of being so used. I never cast reflections on the House, or upon any member of either branch, designedly.

Mr. HARLAN. I know the Senator would not do so, and hence I called his attention to the phraseology he used.

I would make this additional remark, that if the result should follow which the Senator suggests, that by the removal from ward to ward a council or a board of aldermen should be elected a majority of whom would be in favor of the views of a majority of the inhabitants of the city, it would be more in accordance with my ideas of correct government than to have the law so framed as to enable a minority of the inhabitants of the city to control the board of aldermen or the board of councilmen. I therefore cannot agree with him in that reason suggested by him for agreeing to the amendment proposed by the Senator from California. I will not individually vote for the Senator's amendment; but if it should be the judgment of the Senate that it would be proper to extend the time to thirty days instead of fifteen days I shall not oppose it.

Mr. SUMNER. Mr. President, I must say that I doubt seriously the expediency of the Senate undertaking to amend the amendment of the House. I believe that that amendment is substantially according to the practice in other places and also according to the suggestions of good policy.

Mr. CONNESS. Will the Senator permit me to ask him what the rule in the city of Boston is under the laws of Massachusetts in reference to the residence of voters?

Mr. SUMNER. I wish I were able to answer the Senator accurately on that head.

Mr. CONNESS. I can answer the Senator as to my State.

Mr. SUMNER. I am not so well informed, perhaps, in regard to Massachusetts as the Senator is in regard to California.

Mr. CONNESS. Well, Mr. President, I am sorry to hear it.

Mr. SUMNER. I wish I were better informed in regard to Massachusetts. But I understand that in most of the considerable towns the requirement is of ten or fifteen days in a ward, at least I am so told by those who ought to know. Whether that is the requirement in Massachusetts I am not able to say. But it seems to me that we here in Washington ought to have the least requirement which is found in any State, and for this reason: Washington is composed, more than any other considerable town, of boarding-houses; people live for a short time in one place and then move to another; they may be one month in one ward and another month in another ward. I think that your legislation ought to take that into consideration; it ought to provide for that peculiarity of this place and allow persons who do change their residence—it may be month by month, or from three months to three months—to vote where they find themselves on the day of election, provided they have been there a reasonable number of days before. It seems to me the requirement of the House of Representatives is reasonable. I should like to appeal to the Senator from California under the circumstances to withdraw his proposition and not press it to a vote. I perceive, however, that he does not hear me.

Mr. CONNESS. I do.

Mr. SUMNER. I beg the Senator's pardon.

Mr. CONNESS. I always hear the Senator when he speaks.

Mr. SUMNER. It seems to me that it is hardly worth while on this account to send this bill back again to the House of Representatives. It has made one journey there, and now another journey to the Senate. Why send it back to the House, with the chance that perhaps they will reject our amendment to their amendment, and thus interpose another delay?

Mr. HENDRICKS. Will the Senator allow me to ask him a question?

Mr. SUMNER. Certainly.

Mr. HENDRICKS. I ask the Senator from Massachusetts whether that is a usual argument where the House attaches an amendment containing an original proposition in no way connected with the bill that the Senate considered and passed?

Mr. SUMNER. Sometimes it is and sometimes it is not. On some bills it is an excellent argument, and on other bills it is a very poor argument. With the present bill I consider it an excellent argument.

Mr. HENDRICKS. Then it depends, I understand, altogether on the purpose which somebody wants to accomplish.

Mr. SUMNER. Not precisely that; it depends upon the measure. Now, I think, all things considered, it is better that this measure should be acted upon at once and brought to a conclusion, without any more amendments, without any more journeys between the two ends of the Capitol.

Mr. PATTERSON, of New Hampshire. I have but a word to say, and that is in answer to the question the Senator from California put to the Senator from Massachusetts as to the custom in other cities. I have just been informed by a gentleman from the West that the custom in the cities of the West is to require a less time than fifteen days—ten days.

Mr. SUMNER. Even ten days.

Mr. PATTERSON, of New Hampshire. Even ten days, and I believe that in some of the eastern cities persons are only required to live in a ward four or five days, or time sufficient to register their names, instead of ten or fifteen days. I think the custom is to have a

less time than that named in this case, and it would hardly be worth while to delay the bill by making this amendment.

Mr. CAMERON. Mr. President, I have risen to say that the time in Pennsylvania is ten days. We find it ample, and I can see no reason why there should be more in this town than in the towns of Pennsylvania.

Mr. FESSENDEN. I am not quite positive as to what the practice is in the city in which I reside; but my strong impression is that a person living in the city, having his residence there, may register his name at any time before the registry is closed, and change it from one ward to another if he wishes a change of residence. The object is simply to inform those who receive the votes that he has a right to vote in the particular ward by finding his name on the list; and I believe that the practice is, even if he changes his residence before the time when he gives his vote, if his name has been entered on the list in a particular ward, he may vote there. I do not think any time is required except enough to make certainty as to the fact.

Mr. CONNESS. I do not entirely concur in these statements. In cities the rule, I think, will be found to be like this: first, it is necessary to divide the wards into many voting districts. In the city of New York there are ten or more districts in a ward, twelve or fifteen, as the case may be. The residence required in the county is an extended residence for a vote; in a ward a lesser amount of time; and in a sub-district of a ward still less; the rule being kept up for the purpose of preventing the system now commonly known as colonizing votes.

But my object, Mr. President, was not to delay the passage of this bill, nor to impute any such purpose as may be carried out perhaps under it; and it is not often, I believe, that the honorable Senator from Massachusetts, who appears to feel great interest in this bill and regards it as a special case, makes an appeal such as he has made to me, and when he has made it, I believe, I have never refused. So I will, at his instance, withdraw my amendment.

Mr. SUMNER. Very well.

Mr. BUCKALEW. I renew the amendment of the Senator from California, and I desire to make a remark upon it. In the first place, in the present stage of this bill, it can be returned to the House of Representatives and acted upon finally to-day without any difficulty. In the next place, a word as to the point made by the Senator from Iowa that an election is to be held early in the month of June. Why, sir, a limitation of thirty days before that time would allow the ordinary spring changes of residence; and therefore that argument would not apply to a limitation of thirty days, although it might have some force in regard to the original limitation of three months.

In our States ordinarily there is a long period of time required for residence in the State for citizenship in the State, and then, beside that, a residence in the election district. I do not know how it may be under the election laws of the District of Columbia; but if this three months' residence is all that is required in the District, if there is no longer period of time required of an elector to be an inhabitant and a citizen of the District of Columbia, we ought to be very careful in reference to what provision we make in this particular.

Mr. HARLAN. I will say to the Senator that I think the law now fixes the time of residence in the city at one year.

Mr. BUCKALEW. That is a reasonable provision as to that. Now, to change the present rule from three months down to thirty days, I think is but a reasonable proposition, one to which we ought to accede, because it accords with what has been done elsewhere in other sections of the country.

Mr. President, I venture to say that two thirds of all the frauds in our city elections arise from change of residence on the eve of

elections, what is commonly called colonization. I am confident that in the city of Philadelphia two thirds of all the election frauds that are there committed are from this source; and enlightened by my observation and experience in other places I am strongly of opinion that this limitation of thirty days in reference to the right of voting in the District of Columbia is necessary to preserve the purity of elections in this District; and as it is a change from ninety days to thirty days, reducing the amount at present required two thirds, I think we ought to concur with such an amendment. I therefore renew the amendment of the Senator from California, and I call for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. CORBETT. It seems to me that the necessity for a long residence in the election precinct where a man offers to vote is not so great in a community where there is a registry of the voters as in one where there is no registry. In this city there is a registration, and I think fifteen days' residence in the election precinct is enough to require. Fraudulent removals and false voting can be readily detected with a proper registry system. I see no good reason for changing this time from fifteen days to thirty days under the present law; there might have been some reason under the old law, when a registry of voters was not required.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania [Mr. BUCKALEW] to the amendment of the House of Representatives.

The question being taken by yeas and nays, resulted—yeas 15, nays 31; as follows:

YEAS—Messrs. Bayard, Buckalew, Davis, Dixon, Ferry, Hendricks, Johnson, McCreery, Norton, Patterson of Tennessee, Ross, Saulsbury, Sprague, Vickers, and Wiley—15.

NAYS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Corbett, Cragin, Drake, Edmunds, Fessenden, Harlan, Henderson, Howe, Morgan, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Williams, Wilson, and Yates—31.

ABSENT—Messrs. Anthony, Conness, Doolittle, Fowler, Frelinghuysen, Grimes, Howard, and Morrill of Maine—8.

So the amendment to the amendment was rejected.

The amendment of the House of Representatives was concurred in.

Mr. CAMERON. I now renew the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, May 12, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

### SPECIAL AGENTS OF THE POST OFFICE.

The SPEAKER laid before the House a communication from the Postmaster General, transmitting, in compliance with House resolution of the 19th of March, a list of special agents appointed, compensation received, those not receiving any compensation, &c.; which was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

### RATIFICATION OF STATE CONSTITUTIONS.

The SPEAKER also laid before the House the following letter from the General of the Army of the United States:

HEADQUARTERS ARMY OF THE UNITED STATES,  
WASHINGTON, D. C., May 12, 1868.

SIR: In compliance with resolution of the House of Representatives of May 11, 1868, I have the honor to submit the following statement of the number of votes cast for and against the constitutions of North Carolina, South Carolina, Georgia, Louisiana, and Alabama, as reported by the several district commanders:

North Carolina—Votes for constitution, 92,590; against constitution, 71,820.  
South Carolina—Votes for constitution, 70,758; against constitution, 27,238.  
Georgia—Votes for constitution, 89,607; against constitution, 71,309.



*Louisiana*—Votes for constitution, 66,152; against constitution, 48,739.

*Alabama*—Votes for constitution, 69,807; against constitution, 1,065.

Very respectfully your obedient servant,

U. S. GRANT, General.

Hon. SCHUYLER COLFAX,

Speaker of the House of Representatives.

On motion of Mr. PAINE, the letter was referred to the Committee on Reconstruction, and ordered to be printed.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. CARY for ten days after to-day.

#### NEW YORK POST OFFICE.

Mr. FERRY, by unanimous consent, presented the memorial of the Chamber of Commerce of the city of New York, on the subject of the New York post office, and moved its reference to the Committee on the Post Office and Post Roads.

Mr. BROOKS. I suggest that that is not the proper reference.

The SPEAKER. It is presented by a member of the Committee on the Post Office and Post Roads, and he moves to refer it to that committee.

Mr. BROOKS. I have presented a memorial of the same kind exactly. As it is only for an appropriation I think it had better go to the Committee on Appropriations.

The SPEAKER. The Chair is informed that the Committee on the Post Office and Post Roads are considering the subject of the appropriation also.

Mr. FERRY. That subject is before the committee, and it is proper that the memorial should go to the committee.

Mr. BROOKS. Whichever committee has custody of the appropriation ought to have the memorial referred to it.

Mr. FERRY. It is true the Committee on Appropriations has the custody of the appropriation of money, but the question of the construction of the building and its location is for the Committee on the Post Office and Post Roads.

Mr. BROOKS. Is this a memorial in relation to construction? Mine was for an appropriation only.

Mr. FERRY. I do not know what the gentleman's memorial is about. The one I presented, I suppose, has reference to the question of the propriety and necessity of construction and appropriation, and properly comes within the province of the Committee on the Post Office and Post Roads, and I therefore asked that it be referred to that committee.

Mr. BROOKS. Suppose we withdraw both memorials for a moment and confer together.

The SPEAKER. The Chair will say that while the Committee on Appropriations have charge of general appropriations the Committee on the Post Office and Post Roads could undoubtedly, when regularly called, report a specific appropriation for some specific object if they thought fit to do so.

Mr. BROOKS. The point of importance in this case is this: that the Committee on Appropriations has oftener an opportunity to report than the Committee on the Post Office and Post Roads, and in annexing an appropriation like this to a general bill they are far more likely to secure its passage.

Mr. FARNSWORTH. Allow me to suggest that the Committee on Appropriations only report bills appropriating money in pursuance of law. They cannot report an appropriation to build a post office in New York until Congress has passed a law authorizing the construction of the building.

Mr. BROOKS. Congress has passed a law to that effect.

Mr. FARNSWORTH. No; there is no such law now.

Mr. BROOKS. They passed a law providing for the selection of a site.

Mr. FARNSWORTH. Yes, for a site; but that has been paid for.

The SPEAKER. Does the gentleman from New York object to the reference?

Mr. BROOKS. No, sir; let both memorials go to the Committee on the Post Office and Post Roads.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from New York that the memorial had better go to the Committee on the Post Office and Post Roads.

Mr. FERRY. I still insist upon the reference I asked, and when the Committee on the Post Office and Post Roads consider and report upon the whole subject, then, if the gentleman sees fit, he can move to refer their report to the Committee on Appropriations, and take the sense of the House on that motion; but let the Committee on the Post Office and Post Roads first examine the matter and report upon it.

Mr. BROOKS. Very well; let the memorial go to that committee.

The memorial was referred to the Committee on the Post Office and Post Roads.

#### INTERNAL TAXATION.

Mr. SCHENCK, from the Committee of Ways and Means, reported a bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes; which was read a first and second time.

Mr. SCHENCK. I move that the bill be recommitted and printed.

The motion was agreed to.

Mr. SCHENCK. I give notice that having, under the rules, the right to report the bill back at any time from the committee, I will bring it back into the House within, perhaps, a week from this time, if there should be no recess. If the House and the Senate determine upon a recess of a few days I shall ask the House to take this bill up, to be considered and acted upon, and shall report it back for that purpose immediately after the recess expires; it may be perhaps eight or ten days hence.

As the bill is one much sought for, it is perhaps appropriate that extra copies should be furnished for the use of members. I will move, therefore, that five thousand extra copies of the bill be printed, and I will ask in doing so, as the application is principally to the members of the Committee of Ways and Means, that one hundred of the copies be for the use of the Committee of Ways and Means.

The motion to print extra copies of the bill was referred, under the law, to the Committee on Printing.

Mr. GARFIELD. I would ask my colleague if he will not indicate at this time to the House what his purpose is in regard to the discussion on the bill when it comes up; what time he proposes to allow for general discussion, so that members may make some calculation in regard to any general speeches on the bill they may wish to make.

Mr. SCHENCK. I have no objection to saying to the gentleman that it is not the purpose or desire of the committee to cut off unnecessarily discussion upon this bill. It is probable that some two, three, or more days may be allowed for general discussion; but after that we shall certainly ask that all debate be reduced to a mere business discussion, intending to afford the amplest opportunity for amendments and for debate upon the merits of the bill and all parts of it.

Mr. GARFIELD. That is entirely satisfactory.

Mr. SCHENCK. If we find, after some time has been occupied in debate, that it is likely to become almost interminable, to interfere with the transaction of other public business, to prolong the session, and to prevent the possibility of the bill getting through in reasonable time, it may become needful to put a stop to the debate. But we shall set out upon the discussion with the confident expectation that gentlemen upon either side will not abuse the opportunity offered them, but we shall have a fair, free, and liberal discussion of the bill.

Mr. KELLEY. Will the gentleman yield to me for a suggestion?

Mr. SCHENCK. I will hear it.

Mr. KELLEY. I will suggest to the gentle-

man to ask for an increased number of copies of the tax bill for distribution. Judging by the number of applications in advance for this bill, I think there will be a demand, and a legitimate demand, very largely beyond five thousand copies.

Mr. SCHENCK. Having offered my resolution, as instructed by the Committee of Ways and Means, for five thousand copies, I suppose it has gone, under the law, to the Committee on Printing. The Committee on Printing will have the power to report back a larger or a smaller number, as they may think best. I suggest to the gentleman to wait until the Committee on Printing shall make their report, and in the meantime he can try to influence the committee, if he thinks it necessary and can do it.

#### WHISKY FOR ARMY HOSPITALS.

Mr. SCHENCK. I ask leave to report from the Committee of Ways and Means, for consideration at this time, a joint resolution upon the subject of disposing of some whisky on hand belonging to the Government.

The SPEAKER. The gentleman has a right to report at any time for recommitment. But it will require unanimous consent to report any subject for action at this time.

Mr. SCHENCK. I will ask that the resolution be read, and then I think there will be no objection to it.

The title of the joint resolution was as follows:

A joint resolution (H. R. No. 262) authorizing certain distilled spirits to be turned over to the Surgeon General for the use of Army hospitals.

The joint resolution was read at length. It authorizes the Secretary of the Treasury to deliver to the Surgeon General of the Army all the distilled spirits produced during the experiments made by the late commission for testing meters for the internal revenue service, to be used for the Army hospitals, and to be paid for, at a reasonable cost, out of any money appropriated for the purchase of Army and hospital stores, the amount received to be applied toward the expenses of said commission.

No objection being made, the joint resolution was received and read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. SCHENCK. If any gentleman desires me to explain I will do so; if not, I will ask that the joint resolution be now put upon its passage.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SALE OF UNSERVICEABLE ORDNANCE, ETC.

Mr. SCHENCK. I ask permission to report a joint resolution which has the concurrence of all the members of the Committee on Ordnance.

The SPEAKER. The joint resolution will be read.

The title of the joint resolution was as follows:

A joint resolution directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores.

The joint resolution was read at length. It directs the Secretary of War to cause to be sold, in such manner and at such times and places, at public or private sale, as he may deem most advantageous to the public interest, the old cannon, arms, and other ordnance stores in possession of the War Department which are damaged or otherwise unsuitable for the United States military service, and to cause

the net proceeds of such sales, after paying the proper expenses of sale and of transportation to the place of sale, to be deposited in the Treasury of the United States.

Mr. CHANLER. I would inquire if there is any objection to having this property sold at public auction?

Mr. SCHENCK. The Secretary of War has now the right to sell at public auction, and has attempted to do so, but has received no bid.

The SPEAKER. Is there any objection to considering this joint resolution at this time?

Mr. ELIOT. Has the morning hour commenced?

The SPEAKER. It has not. This must first be disposed of, either by action upon it or by objecting to its reception.

Mr. ELIOT. I object to it, and call for the regular order of business.

#### ORDER OF BUSINESS.

The SPEAKER. The morning hour has now commenced. The first business in order is the call of committees for reports, beginning with the Committee on the Pacific Railroad.

#### IRON FOR THE PACIFIC RAILROAD.

Mr. PRICE, from the Committee on the Pacific Railroad, reported back, with a substitute, House joint resolution No. 180, declaring the meaning of the act relating to the Pacific railroad.

The substitute, which was read, provides that all acts and parts of acts authorizing the construction of a railroad or railroads to the Pacific ocean directing the use of American iron in the construction and equipment of such roads shall be so construed as to make it necessary to use only American iron for all rails, chairs, fishbars, bolts, and spikes in the relaying and repairing of such roads as well as in the construction thereof.

Mr. PRICE. The only object of this bill is to remove a doubt in the minds of a great many whether the original act intended that in the relaying and repairing of the Pacific road American iron only should be used. This resolution simply declares that fact. That is all there is in it.

The substitute was adopted; and the resolution, as amended by the adoption of the substitute, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. PRICE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CHARGES ON PACIFIC RAILROAD, ETC.

Mr. PRICE, from the Committee on the Pacific Railroad, reported back, with an amendment in the form of a substitute, joint resolution (H. R. No. 168) to regulate the tariff for freight and passengers on the Union and Central Pacific railroads and their branches.

The joint resolution, which was read, provides that the Secretary of War, the Secretary of the Interior, and the Attorney General of the United States be constituted a board of commissioners, whose duty it shall be, on the 1st day of July in each year, to establish a tariff for freight and passengers over the Union Pacific and Central Pacific railroads and their branches, which tariff shall be equitable and just and not exceeding double the average rates charged on the different lines of railroad between the Mississippi river and the Atlantic ocean, in latitudes north of St. Louis, Missouri; and it is declared unlawful for said railroad companies to charge any sum in excess of the rates so fixed and established.

The substitute, which was read, provides that for the purpose of carrying into effect the intent and meaning of section eighteen of the act of July, 1862, the Secretary of War, the Secretary of the Interior, and the Attorney General of the United States be constituted and appointed a board of commissioners, whose duty it shall be, on the 1st of July in each year,

to establish a tariff of prices for the transportation of freight and passengers on said Pacific railroads and branches, at which prices so established the said railroad company shall be compelled to transport the same; and the company is required to keep posted up in all their stations along the line of the road the bill of prices so established. It is provided, however, that this act shall not take effect until there shall be a continuous line of railroad completed and in running order from Omaha to Sacramento.

Mr. PRICE. This substitute is substantially the same as the joint resolution referred to the committee. It provides for a commission, consisting of the Secretary of War, the Secretary of the Interior, and the Attorney General, to fix the tariff of prices, and a limitation is provided as to the rates which may be fixed. I have no disposition to make a speech.

Mr. UPSON. Will the gentleman yield to me a moment?

Mr. PRICE. Yes, sir.

Mr. UPSON. Mr. Speaker, it seems to me that the proviso of the substitute is one calculated to retard rather than accelerate the completion of the road; for until the road is completed no regulation fixing the tariff for freight and passengers can take effect. I suggest to the gentleman from Iowa [Mr. PRICE] the propriety of allowing the proviso to be stricken out, for it will postpone indefinitely the time when the resolution shall take effect. It will tend to discourage the prosecution, or at least the actual completion of the work, for by delaying that the time for regulating the tariff of charges may be indefinitely postponed. Will the gentleman yield for a motion to strike out the proviso?

Mr. PRICE. The gentleman is not probably aware that the eighteenth section of the original act under which this road has been constructed provides expressly that when the road shall be finished certain supervisory powers may be exercised by Congress with reference thereto. It was in consequence of that eighteenth section that the committee felt bound to insert this proviso, which we deemed necessary in view of that provision of the original act.

Mr. UPSON. I will suggest to the gentleman that there is a provision in the act authorizing Congress to amend, alter, or add to the act at its pleasure; therefore we are not bound by that provision unless we consider it good policy.

Mr. PRICE. It will be remembered that when this question was before the House heretofore, and was discussed at some considerable length, I proposed that this joint resolution should go to the Committee on the Judiciary. I made that proposition because I thought then, as I think now, that a legal question of very great importance was involved in this very provision. After consulting the best lawyers they have been able to find the committee have been governed by their advice; and they have held, lawyers in the committee and lawyers out of the committee, that a resolution of this kind should embody a provision like this, so as to conform to and not be in conflict with the original act. These are the reasons which governed the committee in reporting the resolution as they have.

If there be no other questions to be asked, I shall demand the previous question.

Mr. JOHNSON. I ask the gentleman to yield to me to offer an amendment to the bill.

Mr. PRICE. I will hear the amendment read.

Mr. JOHNSON. I ask leave to offer the following amendment:

And provided further, That the tariff of prices so fixed shall not exceed eight cents per mile per ton for freight and six cents per mile for passengers.

Mr. PRICE. I have no authority to admit of any such thing as that. I have reported the matter as I was instructed to do by the committee, appointing a commission to fix the prices.

Mr. JOHNSON. If the gentleman will allow me, I will move the amendment and let

the House decide on it. I think there should be a restriction upon this commission.

Mr. WASHBURN, of Indiana. When will this resolution take effect?

Mr. PRICE. Judging the future by the past, in about two years.

Mr. WASHBURN, of Indiana. And not until then?

Mr. VAN WYCK. I ask the gentleman to yield to me.

Mr. PRICE. I will yield to the gentleman for ten minutes.

Mr. VAN WYCK. I trust that this debate will not be limited. I trust that we will have time enough to discuss this matter. There is no such haste that this should be disposed of in an hour.

Mr. PRICE. I would yield longer to the gentleman, but there are several other gentlemen who wish to say something on this resolution. I will yield to the gentleman for ten minutes.

Mr. VAN WYCK. Is it necessary only to give an hour to the discussion of this subject?

Mr. ELDRIDGE. I ask the gentleman to yield to me for five or six minutes.

Mr. VAN WYCK. I trust this House will insist that we shall have more than an hour to discuss this question. I protest against this attempted mode of legislation.

The SPEAKER. The gentleman from Iowa is entitled to the floor.

Mr. PRICE. I should prefer to get along with this matter quietly. I hope to get through with this in one hour; and I will yield to the gentleman from New York for ten minutes, if he wants them.

Mr. VAN WYCK. I will take what I can get, but I want more.

Mr. WASHBURN, of Illinois. Let him have fifteen minutes.

Mr. PRICE. I cannot yield for more than ten minutes.

Mr. VAN WYCK. Then I must take ten minutes.

Mr. Speaker, as the gentleman from Michigan [Mr. UPSON] has stated, Congress has reserved the right to change, alter, amend, or regulate. The chairman of the committee says that Congress has no power to interfere with this matter of the regulation of the tariff of prices for freight and passengers. This House will remember that after the law of 1862 this corporation came here and said that under the terms of that law they could not build the road; in other words, that Congress had not voted money enough. They asked Congress to recede, and it did. They gave them ten miles of land instead of five; and the loan from Government was made a second mortgage instead of the first. After all this it was then provided that Congress could alter, amend, or repeal without any limitation.

Let me say in the outset that it is sometimes claimed to be a hardship that these men have been compelled to put their hands into their pockets and take out their money to build this road. That is not so, and I will show it from the report of the company itself. The great benefits bestowed by the Government upon this company was upon the ground that the road was an expensive one and its building was opposed by great obstacles. If we consult the report of the company itself we will find that its construction has not been unreasonably expensive, and that the expense has mainly been met by the appropriations and subsidies from Congress.

The Government gave a subsidy of \$16,000 per mile and nineteen or twenty million acres of land. Now, what do we see from the company's report? That a road eleven hundred miles in length, by their own report, is to be built, which will cost, with all their fabulous prices for construction, \$82,000,000. That is the cost according to their report. And then they show what they have to build this road with. They have of United States bonds \$29,000,000; of first mortgage bonds, \$29,000,000; of capital stock paid in, \$3,000,000; of land grants, fourteen million eight hundred thousand acres,

which at \$1 50 per acre amounts to \$21,000,000—making in all \$88,000,000.

Now, mark; they say the cost of eleven hundred miles is \$82,000,000, and yet they have \$88,000,000 to build it. So they will have \$6,000,000 more in their treasury when the road is completed than they have resources to build it. Of that \$88,000,000, \$8,000,000 is money which they have put in their hands for building the road; so that when it is finished they will have paid out, according to their own figures, only \$2,000,000 to build it.

But this road does not cost \$82,000,000. These gentlemen have made contracts with themselves, whereby they pay double the amount to build the road than it ought to cost. They have contracted to build it for the first five hundred miles at \$50,000 per mile; and the Government commissioners, who certainly are not unfriendly to these parties, in speaking of this matter, dated July 8, 1865, say:

"In October, 1864, when we assumed the duties of our appointment, we found that in the months of August and September previous a contract had been arranged and consummated by the executive committee, in which are vested the powers of the board when not in session, for the construction and equipment of the first one hundred miles of the road west of the Missouri river at the rate of \$50,000 per mile payable \$5,000 per mile in the stock of the company and the balance in the currency bonds of the Government and the securities of the company. From the first the contract price appeared to us to be very high. At present, with the probable decline in the cost of labor and materials and advance in the value of the Government bonds it seems extravagant."

Another commissioner reports on the 26th of August, 1865, that the balance of the five hundred miles could be built at a small cost compared with the rate at which the first one hundred miles were contracted. And yet \$50,000 per mile has been paid for building the road which could not have cost over \$25,000. The eastern division, a more expensive road, cost less than \$30,000 to build it. The Atchison branch has cost less than that.

These men, then, do not go outside of their own corporation to make contracts. They have created a *credit mobilier*. They have created a ring inside of the corporation. Look. In 1864 there were one hundred and twenty-five stockholders in this Pacific railroad holding two thousand shares of stock. In January, 1866, there were one hundred and twenty-three stockholders, holding twenty-eight thousand shares of stock. In the report which these gentlemen were required to make they named the stockholders and the amount of stock held. In the last report the number of stockholders had dwindled down to fifty-three, and they do not state the number of shares they own. Only fifty-three stockholders, a year and a half ago, owning a road representing \$100,000,000 of capital! It takes twenty of these stockholders to make a direction, so that you have thirty outside.

The company have made a report of their operations. They say that in eight months, with three hundred miles of road completed, after paying interest on their mortgage and Government bonds, they have left \$500,000 to be put into their treasury. And now, when it is asked that the exorbitant rate of ten cents per mile for passengers and fifteen cents per ton per mile for freight shall be taken off that the people may have the benefit, they pitifully allude to the money they have expended!

Why, sir, do you believe for a moment that if a private company were building this road to the Pacific and this Congress had any power to interfere, even if the whole \$50,000,000 had been expended by that private company in the construction of the road, this Congress would allow those men to charge ten cents per mile for transportation and fifteen cents per ton for freight? You talk about waiting until the road is completed. Why, it will then control this Congress, if it does not do it to-day. The line between this city and New York controls every State through which it passes. The Central railroad in New York controls that State and buys up its Legislature year after year, so as to increase its tariff on passengers. You ask us to wait until we get

both our hands within the jaws of this lion, when we shall be powerless to control it. Sir, their report shows very conclusively that these men are making enormous sums of money out of their charge of ten cents per mile on way travel. Men living within forty miles of Omaha wagon their produce to market because they cannot afford to pay the charges on this railroad. That is true, sir.

Now, sir, I have only time enough left to protest against the previous question which limits debate to a few minutes, and against the wrong that is done the American people by the extortion of this railway company. The men who go in advance of civilization to make our plains fruitful are the men who are subjected to this extortion of ten cents a mile for transportation and fifteen cents a ton for freight. The men who go up into the mountains to dig out the hidden riches are the men from whom these extravagant charges are extorted.

Sir, they have demonstrated that the obstacles in the way of the construction of this road have passed away. The company is now drawing a triple subsidy of \$96,000 a mile for building what was said to be the most "difficult and mountainous" part of the road. From the foot of the Black hills, which are claimed to be the base of the Rocky mountains, they run about forty-five miles and then strike the Laramie plain and run one hundred miles almost on a level, and on these one hundred and fifty miles they are receiving the triple subsidy. Under these circumstances we have a right to provide that the people shall be benefited, and not fifty-three stockholders, by a reduction of the rates for passengers and freight on this route.

Mr. PRICE. I now yield fifteen minutes to the gentleman from New York, [Mr. BAILEY.]

Mr. BAILEY. Mr. Speaker, I was in hopes that the committee would report some substantial plan for regulating the tariff of charges upon these roads. I have no feeling nor wish in regard to the subject other than that Congress should assume its legitimate control over that question in regard to these roads. The resolution as reported strikes me as evading that duty. It is entirely unsubstantial. It postpones the whole matter, and leaves to a future contingency the matter of regulating these roads.

Now, sir, in my judgment it is very important that Congress should regulate the tariff of charges upon these roads. These corporations are now in their infancy. They will very soon have developed into full strength and power, and, although in their infancy, they already exert a marked influence upon legislation. They have already won the voices and votes of many of our best and ablest men. These roads will soon be finished. Some of them, at least, will be consolidated, and whether consolidated or not they will practically act together in all measures for extracting the last possible dollar from the public.

A great deal has been said, upon other occasions when this matter was up, in relation to motives. I wish it distinctly understood that in what I have said or may say I impugn the motives of no man, in or out of this House. I have nothing to do with motives; I speak of acts patent to every man who will open his eyes. I speak of future developments, which I predict, but the truth or correctness of which time only can determine. I feel a deep interest in this question, to which alone I speak, because I have seen in my own State such struggles as I think this country is yet to have. I have there seen a railroad influence practically controlling for years the legislation of the State upon all railroad interests. In vain the people protested; in vain they elected to the Legislature members pledged against these railroad schemes. I believe their bills were always passed; nothing but the veto of the Governor saved us; the people were practically powerless. We have seen the same thing in the State of New Jersey, as has been referred to already by some gentlemen. We remember that the people of that State some years ago thoughtlessly and recklessly surrendered some

of their rights and privileges to a corporation; and from that time to this they have been struggling in vain to free themselves from the incubrance.

Now, shall we take warning in regard to this matter? The corporations we are now talking about will soon be the greatest, the richest, the most powerful corporations upon earth, the British East India Company, probably, only excepted. They will command a business the extent of which the most vivid imagination cannot now conceive. They will possess a property which will have cost them literally nothing, a property more valuable than any similar property in the world. They will have an army of dependents everywhere ready to do their bidding. They will have an influence sufficient to subsidize all that is evil in the land which they may deem worth subsidizing.

Now, I may be asked if I am opposed to these various Pacific railroads. No, sir; I am as warm an advocate of the Pacific railroad as any man upon this floor; I am in favor of every one of them. And, what is more, had I been a member of Congress when the original acts under which they were chartered were passed by Congress I should have voted for them, with the modifications I am now advocating. Nay, more; I am not among those who deprecate the grant of lands or the subsidies given. It was a great undertaking; and those who undertook it should be richly rewarded. I trust I am incapable of envying the success that must crown the efforts of those men. I am proud of them; they are examples of the advanced American citizen. I glory in their achievements.

But, notwithstanding all that, I am not willing, in my admiration or gratitude, to commit the rights and the privileges of this whole country to the discretion and keeping of these men. We cannot trust them or any other body of men upon earth. There are no men upon earth good enough, wise enough, unselfish enough to possess such powers; and I am unwilling that they should be permitted to control at their discretion the rate of charges upon the travel and transportation between the Atlantic and the Pacific.

We are told that the original act authorized the fixing by Congress of the rate of charges when the roads are finished. But will any man tell me when those roads will be finished, if that is the sole regulation in regard to it? I say that the child is not yet born who will see those roads completed, "within the meaning of that act," as they will call it. Indeed, such a law as that will be no restraint whatever upon them. They will go around the law, and if necessary they will go right through the law. Railroad men understand this thing. We all have seen examples of this kind; probably there is not one of us who does not know instances of them. I do not believe there is one solitary instance in this country where an original restraining charter like this was ever effectual in limiting charges—was ever effectual against any corporation whatever, railroad, express, telegraph, or what not. You must fix it by law, if you would protect the public; there is no other way.

It may be said that the interests of the corporations will regulate this thing. No, sir; the interests of corporations never did and never will have such an effect. Men in their corporate capacity will act as they never would act individually. Every one of us knows, for instance, that while a corporation is bribing or trying to bribe a Legislature, each member of that corporation will nightly upon his knees ask God's blessing upon his enterprises, and daily read sermons inculcating virtue and religion. A corporation acts very much like a mob; nobody is responsible. We know that a mob will commit crimes for which no individual member will hold himself responsible.

I repeat, it is, in my judgment, absolutely essential that Congress should now, before these influences become too overshadowing, take upon itself the duty of regulating the fare



on these roads. I warn this House that, unless we do this, the time is not far distant when these roads, instead of being recognized blessings, will be a recognized curse. All the experience that we have had in a smaller way proves this.

Now, sir, I am in favor of these roads. I would give them any legislative assistance that they may ask consistent with the public interests; but I repeat that we should insist upon regulating their rates of charges now instead of providing for doing it at some indefinite time in the future. In the discussions of this subject heretofore some gentlemen have appeared to think that the people have no interest in this question. There seems to be on the part of some gentlemen a nervous anxiety for the rights of the corporation; but have the people no rights? The people have built substantially all that is now built of these roads. They have conferred upon the companies land sufficient to make an empire. They have mortgaged their own farms and houses and lots to raise the money to build these roads. For what have they done all this? Merely to enrich the corporators? Not at all; but to obtain for themselves and their children railroad facilities; and they are entitled to enjoy those facilities not as a favor but as a right, and at reasonable prices.

[Here the hammer fell.]

Mr. PRICE. I now yield to the gentleman from Indiana, [Mr. WASHBURN,] that he may offer an amendment.

Mr. WASHBURN, of Indiana. I move to amend the substitute by striking out the proviso.

Mr. PRICE. I now yield to the gentleman from California [Mr. JOHNSON] eight minutes.

Mr. JOHNSON. Mr. Speaker, I have no attack to make upon the Pacific railroad. I am as much in favor of properly fostering the interests of that enterprise as any gentleman on this floor. The constituency that I represent is as much benefited by that enterprise as any constituency represented in this House, provided that great enterprise is not allowed to remain an instrument of oppression, as it is at the present time. The Central Pacific division of that great road is now charging the people of the State of California fifteen cents a mile for freight, and ten cents a mile for passengers.

Mr. WASHBURN, of Illinois. In gold?

Mr. JOHNSON. In gold. The net proceeds of that road, which is only about ninety miles in length, were last year nearly one million and a half dollars. In a very short time that road, like a mighty vortex, will drink up all the wealth of our new and growing State. Now, sir, I am in favor of the passage of this bill, notwithstanding the fact that it creates a commission, which, in my judgment, is a humbug; and I will say, without any reflections upon the gentlemen composing this committee, that it seems to me the intention of the bill to sugar-coat this monstrous engine of oppression so that the people may be content to remain under it for a few years longer. Why should not the proviso be stricken out? Why should not the people of California be protected from this oppression? Why should not these companies be content? Why should not the friends of this bill be content with the amendment I desire to submit, limiting the charges to eight cents a mile for freight and six cents a mile for passengers—nearly twice as much as the charges of any other road in the United States or in the world? And we are paying gold at one end of the line, while at this end you are paying your paper trash.

Now, Mr. Speaker, if there is any honest intention on the part of this House to protect our people against this oppression, I ask that the demand for the previous question be voted down, and allow this amendment to be made, restricting this commission and not leaving them the latitude of the four winds.

Mr. WASHBURN, of Illinois. I hope the gentleman will suggest what his amendment is.

Mr. JOHNSON. It is to restrict the com-

mission in fixing their tariff to eight cents per mile for freight, and six cents per mile for passengers.

Mr. WASHBURN, of Illinois. If the gentleman will look at the original resolution, he will see that it contains a restriction. The gentleman from Kansas [Mr. CLARKE] has an amendment to offer to the substitute of the gentleman from Iowa, which covers, perhaps, the original resolution; and I think it will meet also the proposition of the gentleman from California.

Mr. JOHNSON. I was speaking of the substitute particularly. If there is such a clause in the original bill, to which I have paid no attention; I did not know it.

Mr. WASHBURN, of Illinois. The original resolution provides that the rates to be fixed shall not exceed double the average amount of the rates of fare for passengers and freight from the Mississippi to the Atlantic ocean in the latitude north of St. Louis, Missouri, which will bring it, I think, less than eight cents per mile.

Mr. JOHNSON. This is the simplest and the straightest proposition, but I will be satisfied with that proposition. If the chairman will agree to that I have no more to say.

Mr. CLARKE, of Kansas. I ask the gentleman from Iowa to let me move my amendment.

Mr. PRICE. I will yield for that purpose.

Mr. CLARKE, of Kansas. Before moving my amendment I desire to say a few words.

Mr. PRICE. How much time have I left?

The SPEAKER. Seventeen minutes.

Mr. PRICE. If the House will sustain the previous question I will have an hour which I will yield for debate.

Mr. JOHNSON. If the previous question be sustained will not the amendment be cut off?

Mr. PRICE. I have agreed that the amendment shall be offered.

Mr. CLARKE, of Kansas. I ask that my amendment be read.

The Clerk read as follows:

*Provided, That said tariff to be so fixed shall in no case exceed double the average rates charged on different lines of railroad between the Mississippi and the Atlantic ocean in latitude north of St. Louis.*

The SPEAKER. One amendment is already pending, and if there be no objection this amendment will be received.

There was no objection.

Mr. CLARKE, of Kansas. Mr. Speaker, by permission of the gentleman from Iowa I desire to say, as one of the members of the Committee on the Pacific Railroad, I did not agree to the bill reported to the House by the chairman. I believe that bill to be an evasion of the whole question submitted to the consideration of the committee; and, so far as I am concerned, I cannot give my consent to the proposition. The people along the lines of these roads, so far as my State is concerned, are oppressed as no people were ever oppressed before by railroad corporations in the prices charged for freight and passengers transported over these roads. I am informed the Kansas branch of the Pacific railroad charges far less for passengers and freight transported over its road than the Omaha line and the Central Pacific railroad of California. It seems to me that the people of the United States are building these roads. They are lending to those who are constructing these roads the credit of the Government. Yet, sir, in spite of that fact these corporations but oppress the people by imposing upon the people unreasonable charges for freight and passengers. The people of my State are crying out as one man against these unreasonable charges for freight and passengers transported over this Pacific railroad. I believe it to be the duty of Congress to give to this road sufficient aid to extend it through New Mexico and Arizona to the Pacific coast. At the same time I believe it to be the duty of Congress to relieve the people of the country from the oppression which these roads already in their infancy, as was well

remarked by the gentleman from New York, begin to exercise. I wish to say to you, Mr. Speaker, and this House, that the people of the western frontier already appeal to Congress to save them from these monopolies which are beginning even at this very early day to manifest themselves. Hence I have risen to say, by the permission of the gentleman from Iowa, [Mr. PRICE,] in the moment he has given me, that the people of my State protest and appeal as one man to the Congress of the United States to protect them from these charges, to protect them from the injustice that is heaped upon them.

[Here the hammer fell.]

Mr. PRICE. I yield three minutes to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. FARNSWORTH. I desire to make a motion to recommit the joint resolution and amendments to the Committee on the Pacific Railroad, with instructions to report a bill regulating the tariff of freight and fare.

The SPEAKER. Does the gentleman from Iowa yield for that motion?

Mr. PRICE. Yes, sir.

Mr. FARNSWORTH. I do not believe in the policy of deputing the power of Congress to regulate this tariff of freight and fare. I do not believe in putting the power into the hands of any three men who may be friendly or unfriendly to this road, nor in putting it into the hands of other railroads which may be friendly or unfriendly, by regulating their own tariff to regulate the tariff of this road. If a neighboring railroad is unfriendly, it may put its tariff very low; if it is friendly, it may put it very high. So that if the tariff on this road is to be regulated thereby you see it is no security to the people of the country nor to the road. I believe it is the duty of Congress to maintain its jurisdiction over this road by its own laws, and fix the tariff of fare and freight, and I will not consent by my vote to put this matter into the hands of any three men who may be friendly, who may be bought up, or who may be unfriendly. Congress should stand as a fair arbiter between the people of the United States and this corporation, securing all just rights of the people as well as of the corporation. That is all I desire to say on the subject.

Mr. PRICE. I now call the previous question; if the House sustains it gentlemen can have time to debate the question.

The previous question was seconded and the main question ordered.

Mr. PRUYN. I call the attention of the chairman of the committee to the fact that a resolution was agreed to in the committee providing for the appointment of two persons well skilled in railroad matters, in addition to the three Government officers named, making a board of five.

Mr. PRICE. At one meeting of the committee such a resolution was passed. At that meeting the gentleman from New York was present; but at a subsequent meeting that resolution was rescinded, and the joint resolution passed in the shape it is now reported to the House.

Mr. PRUYN. I was not aware of it. I hope the gentleman will yield me ten minutes.

Mr. PRICE. I will yield eight minutes.

Mr. PRUYN. I am very sorry to hear that the committee rescinded the resolution to add to the board two persons to be selected by the President of the United States, who should be well skilled in the construction and management of railroads. It is quite evident that of the Government officers named, one of them, at least, is not a person who, from his official position, would be likely to be fully informed in regard to matters of this kind—I mean the Attorney General—and that the duties of the other Government officers are so pressing and urgent that they probably never can give much time to the details which this matter necessarily involves. It was therefore proposed in the committee at one time that we should add the other two persons, forming a board of five for the purpose of determining from year to year the tariff of freight and fare, and that resolu-

tion was adopted. If it be in order I will move to amend the instructions proposed by the gentleman from Illinois by adding that the committee be instructed to make the addition to the board of two persons, well skilled in the construction and management of railroads. I do it for the purpose of testing the sense of the House on this subject.

With regard to the merits of the matter generally I can only say in the very few minutes that I have that it appears to me that on the whole it will better meet the interest of the public, and that the matter will be more thoroughly investigated, if it is committed to a board of five persons—two of them being such as I have named—than it would be likely to be by the two Houses of Congress with the immense details which are constantly pressing upon them. After all, we would have to act through a committee who would necessarily be burdened with many other matters, and who could not look into this subject with that thoroughness which the details attendant upon it necessarily require. I am in favor, therefore, of the principle involved in the original resolution.

Now, there is one other subject on which I have just time to say a word, and that is the question as to the standard to be adopted—whether we should adopt any or not, and as to the time when it should take effect.

Now, this standard named in the resolution, it will be seen, is a very imperfect, shifting, and uncertain one. It says double the rates of fares on roads east of the Mississippi above a certain latitude. But those rates are constantly changing. They are different on different roads. You cannot tell what they are. And it is a question in my mind whether any commission constituted in this way, with a maximum fixed, would not always lean to the extent of that maximum, and whether it is not better for us to leave the question open entirely, subject to the provision of the eighteenth section of the original charter, by which the profits are limited to ten per cent. on the amount of the cost of the road. It seems to me unfair to this company that before their road is completed, before it is known what it can accomplish, and what it can really earn, we should undertake to interfere with the tariff of fares and freights that they have established, so long as it cannot be shown that they come within the eighteenth section of the original act, which limits their net earnings to ten per cent. If it should appear on investigation by a committee of this House that they are already exceeding that limit, it would be right and within the power of Congress certainly to interfere. But until that time comes it seems to me that it is very unfair for us to step in and assume that a thing has happened which we really know nothing about, or, at any rate, that the information is not sufficient to enable us to judge with that certainty with which we should judge when we interfere with the earnings of a corporation of this kind.

Mr. JOHNSON. I desire to state to the gentleman and to the House that so far as California is concerned, so far as internal commerce over this road is concerned, the road is already built.

California granted large subsidies; all of her commercial cities that were to be benefited by the road contributed largely; the Legislature voted appropriations for this Central Pacific road, and it is built square across the State of California. We ask protection now. We have done our part, paid our money, and the road is now performing service for us. Why should we wait two, three, five, six, eight, or ten years before we receive any relief from the legislative body having the matter under its control?

Mr. PRUYN. I must resume the floor unless the gentleman from Iowa will allow me further time. I will simply say that, as I understand it, the California road is by no means completed. It is completed across the State of California, but they intend to run it to Great Salt Lake City, some six or eight hundred miles further.

Mr. PRICE. I yield now to my colleague

on the committee, from Minnesota, [Mr. DONNELLY.]

Mr. DONNELLY. Mr. Speaker, I deem it proper to say to the House that I have no interest whatever in the Union Pacific railroad or any of its branches; that a distance of many hundred miles intervenes between my residence and the road; that I am not subject, therefore, to the local influences which in some districts will control this question, and that I am, therefore, I think, prepared to look at it in an impartial light. As a member of the Committee on the Pacific Railroad my attention has necessarily been compelled to this subject.

With much that has been said here in reference to the grasping and evil tendencies of corporations and the necessity for cheap transportation I thoroughly coincide. Corporations, Mr. Speaker, have not only, according to the old maxim, no souls, but they have, as a general thing, but few votes; and perhaps we should all of us increase our personal popularity if we were to provide that this road should carry freight and passengers free of all charge whatever. But, sir, we cannot enter this region without entering at the same time the domain of established law and trenching upon the vested rights of individuals and corporations.

Now, I shall send to the Clerk's desk, and ask to have read, the first portion of the eighteenth section of the original act of 1862, upon which this legislation is proposed to be based. The Clerk will read the part I have marked.

The Clerk read as follows:

"Sec. 18. And be it further enacted, That whenever it appears that the net earnings of the entire road and telegraph, including the amount allowed for services rendered for the United States, after deducting all expenditures, including repairs and the furnishing, running, and managing of said road, shall exceed ten per cent. upon its cost, exclusive of the five per cent. to be paid to the United States, Congress may reduce the rates of fare thereon, if unreasonable in amount, and may fix and establish the same by law."

Mr. DONNELLY. It will be apparent, from the perusal of this section, that Congress clearly intended, when it made this grant in 1862, that we should not meddle with this subject of the tariff of freights and travel until "the entire road" was constructed. And there was a good and sufficient reason for this. Congress remembered that this road, during the greater portion of its course, during almost its entire course, would run through an almost uninhabitable region, a region of cactus and sand-plains, where cultivation is possible only by means of irrigation; a region without productions and without population; and hence it was provided that the road should not be interfered with until it was entirely constructed.

Mr. JOHNSON. Will the gentleman allow me to ask him a question?

Mr. DONNELLY. Certainly.

Mr. JOHNSON. Is not the gentleman aware that the law to which he has referred provides that this road shall be built and paid for in sections of a few miles each? The road is completed for ten miles when ten miles are built; that is so stated in the law.

Mr. DONNELLY. I do not see how that touches the question. The provision I have had read is clear that we cannot touch that question of the tariff of freights and charges for transportation of passengers until "the entire road and line of telegraph is completed," and it is proved that it is yielding fifteen per cent. upon its entire capital; that is to say, ten per cent. over and above the five per cent. which goes to the United States.

Now, sir, we have not yet reached that point of time. There have been seven hundred miles of this road constructed in a period of six years since the passage of the act. There is still very nearly one thousand miles of the road to be built. Yet we are here asked to legislate in direct contradiction to the terms of that act, or to pass this resolution, with a proviso such as the committee have appended to it, that it shall not take effect until the road is completed and fully constructed; which cannot

be, I take it, in less than three or four years from the present time.

I agree with my friend from Illinois [Mr. FARNSWORTH] that it is very improper for Congress to take this great power out of its own hands and vest it in the hands of any three men. If this Pacific railroad is to become, as is alleged here, a political power, you would by the passage of this joint resolution force it into the task of creating Cabinets for the purpose of reaching and controlling this subject. And you do it in anticipation of the time when in good faith you could properly have any power to act upon it.

It is true the bill of 1862 provides that Congress may alter or amend the act. But it provides so in these words:

"Congress may at any time, having due regard for the rights of said companies named herein, alter or amend this act."

And certainly those who have invested their money in the construction of that road, upon a table of profits, and upon their face in an act of Congress which declared that the tariff of charges should not be interfered with until the road was constructed and it became apparent that the road yielded a certain specified profit—those men could certainly complain of bad faith on the part of this Government if it stepped in and interfered with their investment and swept away the very foundation on which their investments were made.

We are not acting in this matter as indifferent parties. We have lent these companies our bonds; we are interested that they shall succeed. If we destroy them we destroy their capacity to repay us the loan advanced them. If, by our legislation, we now endanger the whole fabric of their credit and strike them down and prevent the construction of the intervening one thousand miles of railroad yet to be built we are imperiling the very bonds we have advanced to them, and we will be doing it in the presence of that declaration which I have had read at the Clerk's desk, and which most assuredly said to the capitalists of the world that they should not be disturbed until the road was finished, and then disturbed only when it was proved that the road yielded a profit of fifteen per cent. on the capital invested. We have no data here as to that point. There have been no proofs furnished here that the road yields any such percentage as that. We are legislating in the dark; we are legislating in direct contradiction of the terms of the law, and legislating to meet a contingency which may not arise for five years to come. If we have the right to fix this tariff in the face of that provision of law, then I approve the motion of the gentleman from Illinois, [Mr. FARNSWORTH,] that the whole subject be referred back to the Committee on the Pacific Railroad with instructions to frame such a tariff. I cannot see the propriety of this Congress "farming out" this great work to any set of men. If we cannot trust ourselves; if these imputations which are made upon this floor against the honesty of our motives have any foundation in fact; if we cannot trust our own honesty, what assurance have we that we can trust the honesty of any Cabinet, of any party, acting under any President?

[Here the hammer fell.]

Mr. PRICE. I yield to the gentleman from California [Mr. HIGBY] fifteen minutes.

Mr. HIGBY. Mr. Speaker, I do not know but that there is some reason to complain that too high prices are being charged for carrying passengers and freight on the Pacific railroad. I will say, however, right here, that I have no faith whatever in the method of legislation on this subject that has been attempted by this House. It was for this reason that I was desirous in the first instance to have this measure referred to the committee; and I wish to say here that the committee took action upon it when I was not present. I was not able to be present, and took no part in the action of the committee upon the bill reported today. But if any legislation is to be had in this line—that is, any such legislation as that pro-

posed in the bill introduced by the gentleman from Wisconsin, [Mr. WASHBURN,] which is a measure of the same species as this—I am certainly in favor of this bill with the proviso as reported by the committee. But, as I have already remarked, I have no faith at all in this kind of legislation.

Now, sir, I will say that while on one railroad in California a much lower percentage may answer than that now charged, upon another as much as it is charging or something near it is necessary. Let me state, for the information of the House, that on the railroad from San Francisco to San José, running a distance of fifty-five miles, the charge for passengers is \$2 50, a little less than five cents per mile, which, I believe, is more than is charged on eastern roads; and at the same time there is a competing line by steamer from San Francisco to San José.

Mr. PRUYN. The gentleman means \$2 50 in gold.

Mr. HIGBY. Yes, sir. Let me state further that, in my judgment, when the railroad is completed from Sacramento to intersect the San José road, or to reach San Francisco by some other route, passengers and freight can be carried as cheaply between Sacramento and San Francisco as they are carried between San José and San Francisco. But gentlemen must bear in mind the difference in the grades on different roads. For instance, between Sacramento and the Summit, a distance of a little over one hundred miles, there is an elevation of over six thousand feet. We all know that it costs more to carry freight and passengers over a road with such a grade than it does on a road with little or no grade. I presume that between San Francisco and San José the elevation is not more than two hundred feet in the fifty-five miles between those two points.

From this statement it must be obvious that different roads must have different charges. And I do not conceive that three men to be designated by Congress—fallible men like all others—can ever graduate satisfactorily the charges for passage and freight upon these several railroads. It is possible that on the Kansas branch freight and passengers can be carried for less money than on other parts of the Pacific railroad route. I do not know about that, and I do not profess to give an opinion. Certainly the further you get into the interior the more it will cost.

Now, sir, my proposition would be to get at a thorough investigation for proper legislation on this subject, either through the Committee on the Pacific Railroad or have a special committee for that purpose. Let them make a thorough examination, ascertain what these roads can carry freight and passengers for, and then let Congress fix the limitation for these different roads, that is, the amounts over which they shall not charge. If we would proceed in this way I would have great gratification in that line of legislation. It would have a far better effect than the way in which we are now proceeding. As I have said before, I have no faith in it.

Let Congress fix the price, and not individuals. I think this body is capable of getting information and settling the prices as well as any three men, more or less, outside of Congress.

I believe that the railroads are charging for freight and passengers about the same price paid upon our stages. Let me illustrate. We can go from San Francisco to Stockton by steamer, one hundred and twenty miles, and we have to pay five dollars for the passage, beside what we have to pay for meals and berth. We can go from San Francisco to Sacramento, another line, about one hundred and twenty miles, and the price for the passage is five dollars, beside the charges for meals and berth. When I get to Stockton I give five dollars for stage passage from that point to my residence, forty-five miles, a little more than ten cents per mile. When I get to Sacramento I pay seven dollars to go to my home, seventy miles by railroad and stage, which is ten cents

per mile exactly. We have had a railroad constructed on that line for almost ten years, over which we travel now. We have twenty-eight miles distance to go by stage. So the House can see that railroads charge about the same as the stages charged. On the Pacific railroad they charge about the same that the stages charged, no more, perhaps a little less. I think it is very much more than fifteen cents per mile.

I am willing to assume the responsibility of making this investigation, whether this House sees fit to have a committee on purpose to ascertain what these different roads can carry freight for or not. The reason why I am not in favor of the bill as it came from the committee, providing they make us act on this line, is because by it we are changing the railroad law itself. I am not disposed to change it and to pursue this method of leaving the matter to three men. If we are going to change it let us change it thoroughly and do justice. Let us understand the matter and not leave it to three men. If the House will assume this course and this direction I will readily join in that line.

I am not disposed, but I will not be loud-mouthed about it, to leave the railroads to charge enormous prices over and above what they should charge; but I am disposed when we do anything we shall do it with our eyes open and understandingly. That is the proper course. I am not going to limit the railroads simply because the companies will not carry freight and passengers for less than the expense of doing so. I am in favor of a proper adjustment as between the interests of the people and the railroad companies. This is the proper course to be pursued. If this be the course decided upon, if the subject be recommended, I ask that they shall have power to take testimony. Then let that committee report on the subject in the method proposed. If it be desired let the subject go to a special committee for investigation. What I desire is a thorough investigation and intelligent action. I have said all I desire to say on this subject.

Mr. COVODE. Mr. Speaker, I wish to say a few words on this subject, not only as a member of the Committee on the Pacific Railroad, but as having experience in connection with the working of railroads. I have organized one of the heaviest transportation companies which has ever been conducted or carried on on this continent. I understand fully the advantages and disadvantages of the situation as compared with the transportation company I have organized. In Pennsylvania we can carry tonnage for one third of what it can be carried on the Pacific railroad. One reason is that we have fuel along the line of our roads, while on the Pacific railroad there is neither coal or wood from the valley of the Missouri to the Laramie plains, a distance of seven hundred miles. and on a portion of this road the fuel has to be transported at least half that distance.

I looked at this question ten years ago and examined the valley of the Platte, and subsequently procured the passage of an act in the Legislature of Nebraska in view of getting a land grant to build a road in the Platte valley where it is now constructed. I organized a company there, and then went to the valley of the Kaw and examined the Republican fork down to Kansas City, at its mouth. Familiar with all this subject, and coming back to friends who had money and were ready to invest in railroad enterprises, they declared that they would not take the risk of this enterprise in a country where there was no population. They said there would not be tonnage enough to justify the expenditure.

Others have engaged in the enterprise. I am glad they have done so. I declined to take an interest in the present organization or put money into it or advise my friends, who were men of capital, to do so. But others, more patriotic probably, willing to sacrifice more for the benefit of the country than my friends were ready to do, have put their money into it. They have constructed this road. And now

what do we hear? The gentleman from Kansas, [Mr. CLARKE,] in his remarks, reflects upon the capitalists as a combination to control and fix the rates of fare and freight in his own State. Sir, if it had not been for the money of the East invested in constructing railroads, where would Kansas, particularly western Kansas, be to-day?

I ask gentlemen to look at this question fairly. The time has not come to fix the prices. The original bill provided that on the completion of the road Congress should fix the rates. Now, the proposition is made to take it out of the hands of Congress and put it into the hands of whom? Of three gentlemen. Why, if I owned the Pacific railroad, I would not hesitate to say, if I wanted to charge improper prices, I could buy three men cheaper than I could buy two hundred. [Laughter.] I know what can be done in the railroad business. Remember that these men are purchasable if members of Congress are; and who should know better than a Representative of the people what the wants of the people are? And yet, strange as it may appear, you propose to take this question out of the hands of the people's Representatives and put it into the hands of three men! I am against that folly; and gentlemen on this floor know I have already found Cabinet ministers were not always above the reach of improper moneyed influences.

[Here the hammer fell.]

Mr. PRICE. I yield ten minutes to the gentleman from Missouri, [Mr. PILE.]

Mr. PILE. Mr. Speaker, I have heard many speeches during this session of Congress on the subject of railroad monopolies, of the extortion of railroad companies in their charges for freight and passengers, of the enormous grants made to railroad corporations, and of the men who have enriched themselves by building railroads. I wish to say that, so far as my knowledge extends, in the western country, where I was born and raised, and where I claim to know something about railroads, that all this talk is bosh. With possibly two exceptions there is not a road in the West, so far as I know, that the original projectors—the men who first put their money in them—have not lost from fifty to seventy-five per cent. of all they invested. The exceptions are the Illinois Central railroad and Hannibal and St. Joseph railroad. Most of these roads have been sold out under their mortgage debts and passed into other hands in order to get money enough to run them and keep them up.

Sir, these railroads, which it seems so popular to denounce and decry, have made the West what it is. Gentlemen on this floor representing constituencies numbering ten or twenty thousand, whose districts would be trackless wildernesses at this hour but for these railroads, denounce these railroad companies. The towns, cities, villages, and farms all over the West are the product of these railroads. And while, in many instances, exorbitant charges are made by railroad companies, and the people of Kansas and along the line of the main branch of the Union Pacific railroad may suffer some inconvenience from the high tariff on freight and passengers; and while these corporations, which, I concede, have no souls, probably may ask more than they ought, I wish to enter my protest against this wholesale denunciation of the railroads of the West as being a disadvantage, and in all cases crushing out the energies of the people. Illinois has five hundred thousand inhabitants to-day, and the Government is collecting tax on millions of dollars of property that is the direct product of the Illinois Central railroad. The whole of north Missouri teems with a population that has been brought to that country by the Hannibal and St. Joseph railroad. There is no railroad in the West that has not made threefold compensation for all the State or national aid granted to them by the increase of wealth and population and the development of the country.

Mr. CLARKE, of Kansas. Will the gentle-



man from Missouri allow me to state a single fact?

Mr. PILE. I cannot yield. If I had more time I would.

Mr. CLARKE, of Kansas. One moment. I will say to the gentleman from Missouri and to the House that at this moment the merchants of the city of Topeka are transporting their freight by oxen and horse-teams to the city of Leavenworth, a distance of forty-five or fifty miles, instead of sending it by railroad, and at a cheaper price.

Mr. PILE. I will come to that in a moment. Now, sir, I do not believe that there is any practicability in this effort to regulate this matter by legislation. It is like attempting to regulate interest on capital and the price of bread and matters of trade and commerce. Such matters can only be regulated by the laws of supply and demand and the laws of trade. Men's ingenuity can always find means to evade statute laws that attempt to regulate them on questions of labor, the price of bread in cities, the rates of interest on money, or any kindred question.

As has been well said by the gentleman from Pennsylvania, [Mr. COVODE,] if you put this matter in the hands of three men you will be no safer than you are now. If you attempt to regulate it year by year, as suggested by the gentleman from California, [Mr. HIGBY,] the cost of transporting freight and passengers varies every year or probably every six months in proportion to the cost of the labor and materials that the road has to use in the transportation of passengers and freight, and what would be reasonable to-day would, perhaps, be very unreasonable either for the people or for the road six months hence, and the rates fixed six months from this time would, perhaps, be just as unreasonable six months afterwards. All such efforts to regulate such matters are, in my opinion, impracticable, and can produce no results favorable to the people. What we can do and what we ought to do, in my judgment, is to encourage the construction of competing lines, and by law prevent the consolidation of these competing lines into one or their control by one board of directors.

[Here the hammer fell.]

Mr. PRICE. I now yield five minutes to the gentleman from Illinois, [Mr. INGERSOLL.]

Mr. INGERSOLL. Mr. Speaker, while I am ready to concede reciprocal advantages to some extent as between railroad corporations and the people under our railroad system, yet we should not forget as legislators that great public interests are endangered by the immense accumulation of wealth—which is power—in the hands of railroad corporations in this country, which may at some day be wielded to the disadvantage of the masses of the people. While we are legislating for railroad corporations we must not forget nor neglect the rights and interests of the people. I am not inimical to this gigantic enterprise. I have been in favor from the commencement of the Union Pacific railroad and its various branches. I have voted for the various grants of lands and donations of money or bonds, and I am in favor to-day of the speedy prosecution of this road to completion, because I believe it will confer lasting and inestimable benefits upon the people of the United States. But while I am in favor of completing this great work at the earliest possible period of time, I am yet in favor of restricting its powers so that it shall at all times be operated not only to the advantage of the stockholders and the owners of the road, but to the advantage and benefit of the people.

Now, sir, it is time that Congress should seriously consider this most important subject. What amount of capital is already invested in railroads in the United States? It is probably not much less than \$2,000,000,000! Truly an enormous sum, and nearly equal to the bonded debt of the United States. The \$300,000,000 invested in national banks is but "a drop in the bucket" compared to the amount invested in railroad property. And yet we legislate

with reference to banks, to control them and to restrict their power, for fear they will aggrandize power by their great wealth, strike at and perhaps destroy some of the interests and rights of the people. Now, if we have reason to fear the power of bank capital we have a thousand times more reason for fearing the aggrandized power of the railroad monopolies of the country. Sir, look at New Jersey. Have we not an illustration there of the power of a railroad corporation, which controls the legislation of that State, and which holds in its vice-like grasp the political and commercial destiny of that Commonwealth. Look at the State of New York. In the consolidation act, passed by that State some years ago, it was provided as a condition precedent to the consolidation of the lines between New York and Buffalo, that the rate of fare for the transportation of passengers should not exceed the rate fixed in the act of consolidation. Here was an absolute limitation placed upon the power of the railroad corporations in the interest of the people. And what an immense and persistent struggle has been going on to repeal it from that day to this. What for? Was it for the benefit of the people? Was it to advance commerce or to promote the interests of the public? Not by any means. It was, and is, that they may put their hands deeper into the pockets of the people and enrich themselves at their expense.

But for that wise provision in the consolidation act the New York railroads would to-day have been a monopoly that would grind down that people and control them politically and otherwise, as the New Jersey railroads now control the political interests of that State. I now wish to call the attention of the House to a report made by the State engineer of the State of New York in 1855. I ask the serious attention of members to that report made to the Legislative Assembly of that State. They are words of wisdom, which appeal strongly, more strongly than any words of mine can, to the judgment of this House. It would be well if we, in our legislation, would follow the recommendation of that State engineer. I ask the Clerk to read the passages which I have marked.

[Here the hammer fell.]

The SPEAKER. The time of the gentleman from Illinois [Mr. INGERSOLL] has expired.

Mr. SPALDING. Let the extracts be read.

The SPEAKER. The gentleman from Iowa [Mr. PRICE] is entitled to the floor.

Mr. PRICE. I yield two minutes of my time to the gentleman from Illinois, [Mr. WASHBURN.]

Mr. INGERSOLL. Will the gentleman allow the extracts I have indicated to be read? It will take but two or three minutes.

Mr. PRICE. The gentleman can print them with his remarks.

Mr. INGERSOLL. I want to have them read now in order that they may influence the minds of members here.

Mr. VAN WYCK. Let the time of the gentleman from Iowa be extended sufficiently to make up for the time the gentleman from Illinois [Mr. INGERSOLL] desires.

The SPEAKER. That would require unanimous consent.

Mr. INGERSOLL. I think no objection will be made; this is an important matter, and we ought not to act hastily.

The SPEAKER. How much time does the gentleman propose?

Mr. WASHBURN, of Illinois. Five minutes.

No objection was made.

Mr. INGERSOLL. I ask the Clerk to read what I have marked.

The Clerk read as follows:

"Notwithstanding the vast advantages which the opening of so many new and improved lines of communication have conferred on the country, we cannot help thinking that these advantages might have been much greater, and that, in the instance of railway legislation, the public interests have been overlooked to a degree that is not very excusable. It is, we admit, no easy matter to decide how far the interference of Government should be carried in mat-

ters of this sort. But, at all events, this much is obvious, that when Government is called upon to pass an act authorizing private parties to execute a railway or other public work it is bound to provide, in as far as practicable, that the public interests shall not be prejudiced by such act, and that it should be framed so that it should not, either when passed or at any future period, stand in the way of the public advantage. We believe, however, that a little consideration will serve to satisfy most persons that this important principle has, in the case of railways, and indeed of most descriptions of public works, been in this country all but wholly neglected.

Within a few years past the railway interest has become one of the most important in this country, not only on account of the large pecuniary investments which have been made therein, but also on account of the effect which its development has had in increasing the value and changing the relations of property, trade, and commerce, and in modifying the social conditions of our people. These varied interests and the new circumstances which have been called into existence by the vast and rapid expansion of the railway system, have required additional legal enactments from time to time, but the same supervision and restraints of law which are considered necessary to guard and protect other public interests have not been imposed upon this one to an extent commensurate with its increasing importance. The railroad operations, in which there is a larger investment than in the banks, over which the law exercises supervision, are permitted to control an immense amount of capital, and interests of the greatest magnitude, with no other check than is afforded by an annual statement of their affairs, notoriously incorrect, and in many cases made so systematically, for the purpose of concealing from the stockholders and the public violations of law and want of fidelity to their trusts."

The SPEAKER. Three minutes of the five have now been occupied.

Mr. INGERSOLL. Will the gentleman from Iowa yield to me for a few moments?

Mr. PRICE. I have not the time.

Mr. INGERSOLL. I ask unanimous consent that ten minutes be given me on my own account.

Mr. HIGBY. I shall not object if the gentleman from Illinois will occupy the time himself. I think his remarks are much better than what he has had read of the remarks of others.

No objection was made.

Mr. INGERSOLL. Mr. Speaker, while I am in favor of restricting the power of these corporations for the public good, I am also willing that the legislative power of Congress shall not be used exclusively for the benefit of the people without regard to the rights and interests of the corporations. If a bill can be so framed that on the one hand the people can be protected against overcharges, and on the other hand the companies can be protected against a tariff which shall be too low, so that there shall be no remuneration to them, I will be satisfied. I do not rise here to oppose fair legislation in the interest of railroad corporations, but at the same time I am in favor of guarding and securing the rights and interests of the people.

Now, it is known that these great railroad corporations, bearing different names, and whose roads when completed are to make a continuous line of railway to the State of California, have the right to consolidate, and it is probable that they will do so; for the experience of the past warrants the assumption that roads whose interest it is to consolidate will consolidate. By this means they will greatly aggrandize their wealth and power, and they will become so omnipotent as to defy any State legislation. The State of California and the other States which are to be created out of the territory through which this road passes, and perhaps other States, will be absolutely under the control of this great monopoly; and when in this country so vast an amount of capital and power is concentrated in one grand aggregate is Congress itself free from the danger of being controlled by it? Now is the time to "put on the brakes." Now is the time to secure by legislative enactment the rights of the public. If we allow our zeal in behalf of this great work to blind us to the real interests of the people we may do that which we shall regret hereafter, when we shall not be able to undo it; we may perpetrate a wrong which it will be impossible for us to redress. It is well, then, that we proceed cautiously and wisely.

I know, and the chairman of this committee

will concede, that the grant to this railroad corporation has been most liberal; and I imagine that the cost of construction will fall much below the estimates which were made when this corporation induced Congress to issue to it United States bonds to the amount of \$16,000 per mile, and for a portion of it \$32,000, and a portion at \$48,000 per mile, and to make it, in addition to that, a magnificent land grant—magnificent, at any rate, as regards superficial measurement, and magnificent, I suppose, in its present and prospective value. I admit that the value of the land depends largely on the road; for wild land very distant from railroad communication is almost worthless. That I concede; and in that view of the case I have voted liberally for land grants, believing that both the Government and the people were the gainers thereby.

But, sir, by a comparison of the cost of constructing railroads throughout the United States, including California, I find that the average cost of building and equipping railroads in the State of Maine has been a trifle over \$33,000 per mile; in Alabama, \$25,000; in Arkansas, \$20,000; in Illinois, \$33,000; in Wisconsin, \$25,000; in Iowa, \$35,000; in California, \$34,000; showing that it is no more expensive to build and equip a railroad in California than it has been in Illinois.

Mr. HIGBY. Will the gentleman allow me to ask him a question?

Mr. INGERSOLL. Yes, sir.

Mr. HIGBY. Are not those estimates made upon the basis of gold in California and currency in the other States?

Mr. INGERSOLL. I presume so.

Mr. HIGBY. That explains the matter.

Mr. INGERSOLL. So far as I know, there was no difference worth mentioning between the value of gold and the value of paper at the time this estimate was made. So that does not explain the matter.

Mr. FARNSWORTH. Is there not a great deal of difference in the equipment of the different roads?

Mr. INGERSOLL. Most assuredly there is; and our roads in Illinois, as well as those in Iowa, may be taken as a fair average, perhaps better than a fair average, so far as equipments are concerned. They are well equipped roads. The highest average in the United States for construction and equipment has not exceeded \$75,000 per mile, except perhaps some few short-line roads in Massachusetts and Pennsylvania.

Mr. HIGBY. Will the gentleman allow me to make a statement?

Mr. INGERSOLL. I will yield to the gentleman for a minute. I have other facts which I wish to present.

Mr. HIGBY. The Central Pacific Company, in building its road, has paid Chinamen thirty-five dollars per month and their board, and other laborers at forty-five dollars per month and their board; and these prices have been paid in gold.

Mr. INGERSOLL. However that may be, the reports made to the Legislature of California show that the construction and equipment of the railroads in that State have cost on the average only \$34,000 per mile, while in seven of the northwestern States the average has been \$33,000 per mile. The entire average cost of the roads in the United States per mile has not exceeded \$35,000; that is, fully equipped, thoroughly equipped, for the transportation of freight and passengers.

These are the reports. I speak from the books, I speak from the figures, and it is really the best information we have on the subject. And when gentlemen tell us about railroads costing \$60,000, \$70,000, or \$80,000 per mile in this country, it is a mistake, an exaggeration, whether intentional or not I do not know. I have no idea that the road between Omaha and San Francisco will cost more than forty thousand dollars per mile.

Now, sir, I believe that the legislation in the United States with reference to railroad corporations has been more favorable to corpora-

tions and far less regard has been paid to individual and public interests than under any other Government; and the time will come, in my opinion, when this subject will be agitated and Congress will be compelled to act and take the control of this great and growing interest. I have no doubt that Congress has the right, under the Constitution, to regulate and control these great commercial highways under the power "to regulate commerce between the several States."

When the Government of Russia determined upon building a railroad from St. Petersburg to Moscow the Emperor issued a special ukase that the railway, which was to connect the two capitals of the empire should be built at the exclusive expense of the Government, in order to retain in the hands of the Government and in the general interest of the people a line of communication so important to the commerce and industry of the State. Let us learn a lesson from this. No man need tell me or the House that any railroad corporation is going to consult the interest of the people along its line. It will get the highest tariff that it can get unless the matter is regulated by act of Congress or State enactment. The only thing which has kept the tariff down between the East and the West, is the competing lines of transportation.

Suppose all these railroads are consolidated; when the West has grown large enough to furnish business for them all then they can fix what rates they please. The Erie Canal has done but little to cut down the tariff. Why? Because it has not the power to carry from Buffalo to New York one fourth of the freight that seeks an outlet to the ocean. We may presume, in the course of time, that the Pacific railroad will be overwhelmed with business. It is expected that it will be one of the greatest thoroughfares for the commerce of the world. It is anticipated that the Japan and China trade will pass across this continent. I hope that anticipation will be realized; but when that time comes this road will prove inadequate to the business. When you find this road now running into a wilderness pays a profit, what will it be when you have completed it, if Congress leaves it to fix its own prices, regulate its own tariff for freight and passengers? What then will be the competing line? What other line will there be between the Atlantic and the Pacific? It matters not how many lines there may yet be built. Congress owes it to the people to protect them in their rights against the power of the monopolies to oppress them or to act in disregard of their rights.

[Here the hammer fell.]

Mr. PRICE. I now yield two and a half minutes to the gentleman from Illinois.

Mr. WASHBURN, of Illinois. If I am to be put in the Procrustean bed of two and a half minutes I, of course, can say nothing of the merits of the subject.

Mr. VAN WYCK. Ask the House for an extension.

Mr. WASHBURN, of Illinois. I do not wish time should be taken up unnecessarily, and I also want the House to adjourn. Before proceeding I desire to say that the gentleman from Wisconsin [Mr. WASHBURN] has prepared a speech on this subject which he expected to deliver to-day, but he has been taken suddenly and severely ill, and I ask that he have leave to print it as part of the debates.

There was no objection, and it was ordered accordingly. [See Appendix.]

#### BENEVOLENT INSTITUTIONS IN THE DISTRICT.

Mr. SPALDING. Mr. Speaker, I intended to have pressed the consideration of the appropriation bills for benevolent institutions in this District to-day, but I will not do so, as the minority report has not yet been printed. I ask that a statement of appropriations also be printed, so they may be before the House when the question does come up for discussion and action.

No objection being made, it was ordered to be printed.

#### CHARGES ON PACIFIC RAILROAD, ETC.

Mr. WASHBURN, of Illinois. I will not abuse the generosity of the gentleman from Iowa.

Mr. PRICE. I will give the gentleman two hours if the House will extend the time.

Mr. WASHBURN, of Illinois. I do not wish it. I do not want to make a speech. The Committee on the Pacific Railroad have reported a substitute for the joint resolution which embraces the main proposition, that this commission shall be established to adjust the rates of freight and passengers. That we all agree to. Now, the other two pending propositions are the amendment of the gentleman from Indiana [Mr. WASHBURN] striking out the proviso that it shall not take effect until the road is finished; which time, I think, as the gentleman from New York [Mr. VAN WYCK] very conclusively shows, would never probably come in the contemplation of the resolution. If that is stricken out and then the very proper amendment offered by the gentleman from Kansas [Mr. CLARKE] is adopted, we will have substantially the original resolution, which I think we can all agree to. I think it is just and proper that we should pass it in the shape that it will be if we adopt those two amendments.

[Here the hammer fell.]

Mr. PRICE. Mr. Speaker, how much time have I left?

The SPEAKER. Ten minutes.

Mr. PRICE. I ask the House to extend it to fifteen minutes.

No objection being made, the time was extended accordingly.

Mr. PRICE. I now yield eight minutes to the gentleman from Vermont, [Mr. WOODBRIDGE.]

Mr. WOODBRIDGE. Mr. Speaker, of course I cannot undertake to discuss this question as its importance demands in the brief time allowed me.

In 1862 Congress chartered the Pacific railroad, and for the purpose of aiding a great national enterprise voted a subsidy of \$16,000 a mile and a grant of land. Capitalists hesitated to invest for a long while. The work finally commenced, but was soon stopped for want of funds, and it became necessary to bond the road in addition to the Government subsidy. What was the result? Although the bonds are payable principal and interest in gold, and bearing six per cent. interest, they have been on the market ever since they were issued at about ninety cents on the dollar, while Government bonds, which some gentlemen say are payable principal in greenbacks, have brought from 108 to 110. The stock of the company is now in the market at something over fifty cents on the dollar. Now, if the enterprise is so profitable; if the company are making as much money as gentlemen seem to suppose, how can it be accounted for that the bonds are at ninety and the stock at fifty? I am informed, sir, that within the last three years the entire work would have stopped had it not been for the patriotism and financial boldness of a gentleman who is a member of this House. The profits of the investment are entirely prospective. No dividend has ever been declared, and no one can predict whether, when the road is completed across the mountain, it will be remunerative, so enormous must be the outlay.

But independent of all this, Mr. Speaker, is it just to those who have invested their money in this great national undertaking to appoint this commission? The act of 1862 declares that after the road is completed, if Congress finds that the net income is over ten per cent. on the capital invested, in addition to the five per cent. payable to the Government, it may then regulate the tariff of freight and passengers. Sir, is not the faith of the Government pledged by this provision to the gentlemen who have invested in the company. Ought not Congress, in good faith, adhere to the obligations which it assumed at the time the act of incorporation was passed? It is not fair, and

✓ permit me to say we have no moral right, and I doubt if we have a legal right, to interfere with the matter now. It is true we may alter and amend the original act, but we can only alter and amend without violating the obligations which we assumed under the act itself. One of those obligations was that Congress should not interfere with the regulation of the tariffs of the company until after the entire road shall have been completed, and then only under particular circumstances.

Sir, I agree with the gentleman from Missouri [Mr. PILE] that supply and demand will ordinarily regulate the business of railroads as they regulate the other business of life, and hence that all legislation respecting their tariffs and internal arrangements is generally unwise. It is true that the State of New York has interfered with and limited the tariffs of some of its roads. The roads run between a succession of cities and through a thickly populated and highly developed country. It was found that their receipts were enormous, and moneyed monopolies were apprehended which might endanger the State. The Legislature was wise, and we find the stocks of some of these roads in the market at \$1 37. Those cases are not analogous to the one under consideration. Here no dividends have been paid and none for the present are expected. The only thought and struggle now is to complete the road.

The proposition to appoint a commission with power to act before the road is completed is unjust toward those who have invested in the undertaking, and in violation of the faith of the Government.

When the road is completed it will be our duty to interfere and regulate in case the income to the company exceeds that provided for by the act of incorporation.

Until that exigency arises we cannot properly and ought not to interfere. Were the company even now undertaking to exercise their power to the injury or oppression of the people the proposition for a commission to act at once might be excusable.

[Here the hammer fell.]

Mr. PRICE. Mr. Speaker, the committee, in reporting this joint resolution, were governed by what they conceived to be the legal aspect of the case as well as what they conceived to be the wish and intention of the House in referring the joint resolution to them; and in listening to the debate to-day my opinion has not been changed in reference to that legal part of the question. I did not believe then, and I do not believe now, that legally before the completion of the road this matter can be interfered with.

I will say right here that no gentleman upon this floor, from the East or the West, is more in favor of controlling railroad monopolies and keeping the prices of fares and freights within proper limits so as to benefit the public at large than myself. And I will say more, sir, that I believe the Congress of the United States has entire power and authority to control inter-State railroad communication. But, sir, there are other questions that present themselves just here in the consideration of this resolution.

Mr. MILLER. Will the gentleman allow me to ask him a question?

Mr. PRICE. The gentleman must excuse me. I think I have exhibited my good nature to an extent unexpected in this House by giving away all my time but seven minutes.

I was about to say that there are other questions connected with this subject that ought to be, in my judgment, considered by this House. We have under the law of 1862 authorized the construction of a railroad to connect the Atlantic with the Pacific. We have paid under that law the subsidies granted by it until now there remain to be completed but nine hundred or one thousand miles of the road right in the mountains where nobody lives. By the provisions of that law already referred to, it was understood by the parties contracting to build the road that no interference would be had on

the part of the Government until the completion of the road. I submit to gentlemen whether this is not a possible thing—whether if restrictions should be placed upon these companies which they consider onerous and burdensome, they may not cease to build the road? And if so what is the investment of the Government, that which has already been expended worth? I suggest that as a consideration for the House, a consideration which weighs somewhat upon my mind, for I am free to say here that I am exceedingly anxious that the road should be finished in as short a time as possible, so as to connect this side with the other side of the Rocky mountains.

In reference to the cost of the road, the gentleman from Illinois [Mr. INGERSOLL] is slightly mistaken. He need travel only to the State of Pennsylvania to find a road which, if I am not very much mistaken, cost \$132,000 a mile.

Mr. INGERSOLL. Was that the average cost of the road?

Mr. PRICE. The cost of constructing and equipping; I refer to the Reading road. I will not be positive as to the exact dollars and cents. But I remember very distinctly, when I was a citizen of Pennsylvania, and when railroads were building there, I heard it stated that the building and equipping of the Reading railroad cost \$132,000 per mile. I am very free to say that there are railroads in Pennsylvania, some of which cost over one hundred thousand dollars a mile. And I think it is equally true that roads built in California, since the time to which the statistics relate that were read by the gentleman from Illinois, [Mr. INGERSOLL,] have cost over one hundred thousand dollars a mile. And the most expensive part of the road to connect the Atlantic and the Pacific is yet to be built. And if every burdensome restriction is to be now placed upon the company, I would suggest that it is within the range of possibility that the construction of the road may stop, and the investment of the Government become good for nothing.

The committee were governed by these considerations. By these considerations my own judgment is now governed. I think, in view of the facts which already exist in reference to the law and the building of the road, as it has progressed up to this time, and the condition in which the road is to-day, you had better allow the restriction to commence to operate when the road is finished; or, if the House think that will tend to delay the completion of the road, let the time be fixed for the completion of the road. If it progresses in future at the rate it has progressed for the last two years, then two years more will see the road completed. I am not prepared now to say when the road will be completed; but judging of the future by the past, I think it is safe to say that the road will be finished in about two years. My opinion is that the committee, in reporting this resolution, has arrived at the nearest possible point of correctness; that the interest of the people and of the country will be better subserved by the passage of the resolution in the shape in which they have reported it than in any other.

The question was upon the motion of Mr. FARNSWORTH, to recommit the joint resolution with instructions to the Committee on the Pacific Railroad to report a bill regulating the tariff of freight and fare on the Pacific railroad.

The question was taken; and upon a division there were—ayes 50, noes 46.

Before the result of the vote was announced, Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

Mr. WASHBURN, of Illinois. Is it proposed that the committee shall have leave to report at any time?

The SPEAKER. It is not; that would require unanimous consent.

Mr. FARNSWORTH. I ask unanimous consent that the committee have leave to report at any time.

Mr. CHANLER. I object.

The question was again taken upon the motion of Mr. FARNSWORTH; and it was decided in the negative—yeas 62, nays 69, not voting 58; as follows:

YEAS—Messrs. Ames, Anderson, Delos R. Ashley, Beaman, Benjamin, Blair, Boyer, Bromwell, Brooks, Broomall, Buckland, Burr, Chanler, Reader W. Clarke, Covode, Dodge, Donnelly, Eliot, Farnsworth, Ferry, Golladay, Grover, Harding, Hawkins, Higby, Hill, Hooper, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Jencks, Kelley, Kelsey, George V. Lawrence, Mallory, Marvin, McClurg, McCormick, Moorhead, Mungen, Newcomb, Nicholson, Nunn, Perham, Pile, Poland, Polsley, Raun, Ross, Scofield, Smith, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stokes, Stone, Twichell, Van Aernam, Welker, Stephen F. Wilson, and Woodbridge—62.

NAYS—Messrs. Allison, Bailey, Baker, Beatty, Beck, Benton, Blaine, Butler, Calkins, Churchill, Sidney Clarke, Cobb, Coburn, Cullom, Eckley, Eggleston, Elia, Ferriss, Fields, Garfield, Getz, Glossbrenner, Halsey, Holman, Hopkins, Hunter, Ingersoll, Johnson, Judd, Julian, Kerr, Ketcham, Knott, Ladin, William Lawrence, Loughridge, Marshall, McCarthy, Moore, Morrell, Myers, Niblack, O'Neill, Orth, Paine, Peters, Pike, Plants, Price, Pruyn, Randall, Robertson, Sawyer, Shanks, Taber, Taylor, Trowbridge, Upson, Van Aiken, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, William Williams, James F. Wilson, Windom, and Woodward—58.

NOT VOTING—Messrs. Adams, Archer, Arnell, James M. Ashley, Axtell, Baldwin, Banks, Barnes, Barnum, Bingham, Boutwell, Cary, Cook, Cornell, Daves, Dixon, Briggs, Eldridge, Finney, Fox, Gravelly, Griswold, Haight, Asahel H. Hubbard, Hubbard, Jones, Kitchen, Keontz, Lincoln, Loan, Logan, Lynch, Maynard, McCullough, Mercer, Morgan, Morrissey, Mullins, Phelps, Pomeroy, Robinson, Schenck, Selye, Shellabarger, Sitgreaves, Spaulding, Starkweather, Taffe, Thomas, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, John T. Wilson, and Wood—38.

So the motion to recommit was not agreed to.

The SPEAKER. The next question is upon the motion of the gentleman from Indiana, [Mr. WASHBURN,] to amend the substitute by striking out the proviso.

Mr. BENJAMIN. I move that the bill and pending amendments be laid on the table.

Mr. WASHBURN, of Illinois. I hope that the gentleman from Missouri [Mr. BENJAMIN] will withdraw that motion and let us take the vote on the main proposition.

Mr. BENJAMIN. I decline to withdraw the motion. I am opposed to the bill and all the amendments.

The motion to lay on the table was not agreed to; there being—ayes 36, noes 64.

The question again recurred on the motion of Mr. WASHBURN, of Indiana, to amend the substitute by striking out the following words:

*Provided, however, That this shall not take effect until there shall be a continuous line of railroad completed and in running order from Omaha to Sacramento.*

Mr. HOLMAN. On this question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 75, nays 48, not voting 66; as follows:

YEAS—Messrs. Adams, Anderson, Bailey, Baker, Beaman, Beatty, Beck, Benton, Blair, Bromwell, Burr, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cullom, Eckley, Elia, Eldridge, Ferriss, Ferry, Fields, Getz, Glossbrenner, Golladay, Grover, Halsey, Hawkins, Holman, Hopkins, Chester D. Hubbard, Humphrey, Hunter, Ingersoll, Johnson, Julian, Kelsey, Kerr, Knott, William Lawrence, Loughridge, Lynch, Marshall, McCormick, Moore, Moorhead, Newcomb, Niblack, Nicholson, Nunn, Orth, Paine, Perham, Peters, Pike, Plants, Polsley, Randall, Robertson, Shanks, Stewart, Taylor, Trowbridge, Upson, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, William Williams, Stephen F. Wilson, Windom, and Woodward—75.

NAYS—Messrs. Allison, Ames, Delos R. Ashley, Baldwin, Boyer, Brooks, Broomall, Butler, Chanler, Covode, Dodge, Donnelly, Eggleston, Eliot, Farnsworth, Garfield, Harding, Higby, Hill, Hooper, Hotchkiss, Jencks, Judd, George V. Lawrence, Mallory, Marvin, McClurg, Miller, Morrell, Myers, O'Neill, Poland, Price, Pruyn, Raun, Ross, Schenck, Scofield, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taber, Thomas, Twichell, Van Aernam, Welker, James F. Wilson, and Woodbridge—48.

NOT VOTING—Messrs. Archer, Arnell, James M. Ashley, Axtell, Banks, Barnes, Barnum, Benjamin, Bingham, Blaine, Boutwell, Buckland, Calkins, Cary, Cornell, Daves, Dixon, Driggs, Finney, Fox, Gravelly, Griswold, Haight, Asahel H. Hubbard, Richard D. Hubbard, Hulburd, Jones, Kelley, Ketcham, Kitchen, Keontz, Ladin, Lincoln, Loan, Logan, Maynard, McCarthy, McCullough, Mercer, Morgan, Morrissey, Mullins, Mungen, Phelps, Pile,



Pomeroy, Robinson, Sawyer, Selye, Shellsbarger, Sitgreaves, Smith, Spalding, Starkweather, Stone, Taffe, John Trimble, Lawrence S. Trimble, Van Auker, Robert T. Van Horn, Van Trump, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, John T. Wilson, and Wood—66.

So the amendment was adopted.

The question next recurred on the amendment of Mr. CLARKE, of Kansas, to add to the substitute the following proviso:

*Provided*, That the said tariff to be so fixed shall in no case exceed double the average rates charged on the different lines of railroad between the Mississippi river and the Atlantic ocean in latitudes north of St. Louis.

The amendment was adopted.

The substitute, as amended, was agreed to. The joint resolution, as amended by the adoption of the substitute, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

Mr. RANDALL. I call for the reading of the joint resolution in full.

The joint resolution, as amended, was read.

The question being on the passage of the joint resolution,

Mr. WASHBURNE, of Illinois, called the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was passed.

The SPEAKER. The question now recurs on the amendment reported by the committee to the title. The amendment will be read.

The Clerk read as follows:

Amend the title so as to read as follows: A joint resolution to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862.

The amendment was adopted; and the title, as amended, was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the votes by which the joint resolution was passed and the title agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the amendments of the House to the bill (S. No. 475) to extend the charter of Washington city, also to regulate the selection of officers, and for other purposes.

#### WASHINGTON TERRITORY PENITENTIARY.

Mr. FLANDERS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Territories be instructed to inquire as to what further legislation is necessary to enable the Secretary of the Interior to provide a site and authorize the location of a penitentiary in the Territory of Washington, as already provided for by act of Congress; and that said committee be authorized to report by bill or otherwise.

#### LEAVE OF ABSENCE.

Mr. HULBURD and Mr. COOK were granted indefinite leave of absence after to-morrow.

#### OUTRAGES UPON AMERICAN CITIZENS.

Mr. CHANLER. I ask unanimous consent to submit the following resolution:

*Resolved by the House of Representatives, &c.*, That the President of the United States be, and hereby is, requested to inform this House of all the facts (when they come to his knowledge) in regard to the treatment of certain American citizens reported to have been unjustly and unjustifiably arrested, imprisoned, and flogged while in prison by authority of an officer of the Government of Mexico.

Mr. HARDING. I object.

#### PRIZE-MONEY CLAIMS.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That five hundred copies of the communication from the Secretary of the Navy relative to claims for prize money be printed for the use of the Navy Department.

#### INTERNAL TAX BILL.

Mr. LAFLIN, from the same committee, reported the following resolution; on which he demanded the previous question:

*Resolved*, That there be printed five thousand extra copies, in pamphlet form, one hundred being for the use of the Committee of Ways and Means, of the bill to reduce into one act and amend the laws relating to internal tax.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. LAFLIN moved to reconsider the vote by which the preceding resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BUTLER. I now move that the House adjourn.

Mr. WASHBURNE, of Illinois. I hope not. The gentleman from Pennsylvania desires to make his speech in the Committee of the Whole on the state of the Union this afternoon.

Mr. BUTLER. I withdraw my motion for that purpose.

Mr. MUNGEN. Allow me a few moments for a personal explanation.

Mr. WASHBURNE, of Illinois. That can be done in committee.

Mr. HOLMAN. If we go into committee it is with the understanding that no business is to be done.

The SPEAKER. That is the understanding.

Mr. WASHBURNE, of Illinois, moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WOODBRIDGE in the chair.)

Mr. BROOMALL took the floor.

Mr. MUNGEN. I ask the gentleman to yield to me for a personal explanation.

Mr. BROOMALL. I yield for that purpose.

Mr. MUNGEN. Mr. Chairman, I simply wish to put myself right upon the record. Yesterday I offered a resolution that the powers of the select Committee on the Treatment of Union Prisoners and Soldiers be enlarged so as to provide for an inquiry into certain matters. My colleague [Mr. GARFIELD] objected, and said that information was already before the House. That placed me in a false position before the House of asking for what was already before it. I now declare that information is not before the House nor the special committee, and I defy my colleague to prove his assertion of yesterday. He cannot do it.

When I had the honor last session—I think in July—to introduce a resolution on the same subject it was laid upon the table on motion of the gentleman from Wisconsin, [Mr. WASHBURNE.] It was then laid upon the table on the ground that there was no person to take the responsibility of saying there was ground for it. I now say, in the first place, if there is any such information of this kind before the House I do not know it; and in the second place, that I can prove by the testimony of officers of high position both of the United States and confederate troops that the proposition was made by the confederate government to pay three times the price in gold, cotton, and tobacco for medicines for our soldiers at Andersonville and other southern prisons; that those medicines should be put under charge of Federal surgeons, and be by them taken in person to the different southern prisons and used and distributed to and for the use of Union prisoners alone; that this offer was made by the so-called confederate government through the proper officers to the proper officers of our Government, and was communicated by these latter officers to the proper heads of our Government, and that no response nor attention was paid to the proposition, although our soldiers were dying in those prisons for want of medicine, and the confederate government informed the proper officers of this Government of that fact in connection with the proposition.

I can prove that these propositions were received by our officers when transmitted to the proper authorities, and that they never received any response. I want the blame to rest where it belongs. If any of our men are guilty let them suffer as well as others. If our soldiers were dying, as was certainly the case, for want of medicine, and it was thus placed in the power of our authorities to relieve them, why did they not do so? The confederates told them this was so; offered to pay three times the appraised value for medicines, send them with our own men, to be used for the benefit of our own sick soldiers exclusively. What I desire is to have these points established. I hold myself personally responsible to establish the truth of what I say. This House lays my resolution on the table. Why? Are gentlemen afraid of the truth? Will any gentleman say that if our authorities are answerable for the deaths of those brave fellows in the prisons of the South that our authorities should not bear the blame? Let justice be done though the heavens fall. I am satisfied that officers of our own Government are *particeps criminis* in the foul transaction. Let them be held up to public scorn; yes, let them receive the justice due to them. Better men have been hung. But this House stops investigation into this question. It has twice defeated my proposition to investigate this matter. By its overwhelming Republican radical power it has laid this matter on the table, smothered it, refused to allow the committee to investigate. If gentlemen on the other side can stand this I can. The people will inquire and must be answered.

#### POWERS OF THE SUPREME COURT.

Mr. BROOMALL. Mr. Chairman, the bill which I propose to consider is one presented by the gentleman from Pennsylvania, [Mr. WOODWARD,] bearing the ominous title of "A bill to test the constitutionality of questionable acts of Congress." It provides that whenever any act of Congress shall be vetoed by the President on the ground of the unconstitutionality of any of its provisions and shall afterward be enacted into a law by the vote of two thirds of both Houses, the President shall cause a fictitious case to be instituted in the Supreme Court of the United States to try the constitutionality of the same. It further provides that the Attorney General shall contest the act, or the questionable provisions of it, and the Speaker of the House, by himself or counsel, shall defend it; that the cost of the proceeding, including counsel fees, shall be paid out of the Treasury of the United States; that the judgment of the court, if in favor of the contestant, shall render the act, or the contested parts of it, null and void, and that until such judgment is pronounced the same shall be deemed constitutional and valid.

Before proceeding to discuss the purposes of the bill it may be well to remark that, having in view the provision last cited, it would be difficult to imagine a more questionable act of Congress than this if it should become a law. The theory, as I understand it, is that an unconstitutional law is not a law at all and never has been, and the power of Congress to make such a law valid up to the time of its being declared otherwise can neither be found in nor outside of the Constitution. If Congress can make such a law valid up to the time of the decision of the court, it is difficult to see why it may not make it valid forever. The author of the bill evidently considers the business of the Supreme Court to be repealing laws instead of pronouncing upon their validity and meaning.

No one acquainted with the antecedents of the learned gentleman would suspect him of an intention to increase the power of the Representatives of the people at the expense of a branch of the Government in no way dependent upon the people. Yet such might be the result of his proposed measure. He has no great faith in what he is fond of calling the "fragmentary bodies" now usurping, as he thinks, all power in the country. He believes them

capable of any enormity. Suppose these fragmentary bodies should enact a law abolishing the Supreme Court. It is true such a law would be unconstitutional. But up to the time of its being declared so, by the terms of his bill it would be valid. A decision of the Supreme Court would terminate its validity; but, in the meantime, there is no Supreme Court, and hence there can be no such decision. If this is what the gentleman means to bring about he must have more faith than anybody else has in the possible restoration of his own political party to power in Congress.

But, supposing the defect remedied, what are the purposes of the bill? The gentleman means to create a third branch of the national Legislature, a body wholly unknown to the Constitution. He means to enable a majority of the judges of the Supreme Court to convert the qualified veto of the President into an absolute one. It was a great stride toward the creation of unlimited power when the Constitution authorized the President to forbid the enactment of a law unless by two thirds of the Representatives of the States and people. But here is a proposition to enable the President, with the aid of three judges, appointed by him and in no way responsible to the people, to forbid the enactment of a law even by the unanimous vote of all the Representatives. What a monstrous proposition is this.

The power of the Supreme Court in treating as null and void an act of Congress is great, but it has its constitutional limits. It does not extend to all laws. There are certain questions upon which the power of Congress is supreme, upon which that body is the sole and final judge of the constitutionality of its own proceedings. What would be thought of the Supreme Court annulling an act of Congress declaring war? President Buchanan believed it to be unconstitutional to coerce States. If he had remained in power he would have vetoed the acts of Congress providing the means to put down the rebellion. With the help of the bill under consideration he would have sent John Doe and Richard Roe into the same tribunal which pronounced the Dred Scott decision, where his Attorney General would have been even too glad to back up his written opinions. The decision of that tribunal, as then constituted, is hardly even matter of conjecture. I am not willing to say the result would have been satisfactory to the learned author of this bill, but I will not risk my reputation for veracity or judgment by saying it would not.

The Supreme Court has already frequently held that it cannot decide political questions. It cannot determine whether a given organization is or is not a State. An act of Congress admitting a new member into the Union is not open to the supervision of the Supreme Court except for the mere purposes of construction. That tribunal may say in a proper case and between proper parties what Congress meant by the language used, but it cannot question the right of Congress to admit the State. What are and what are not States of the Union is to be declared by Congress, and from its decision in the premises there is no appeal and no possibility of reversal or revision of it.

The people of Arkansas, acting under the authority of an act of Congress, have formed themselves into a body politic to be called the State of Arkansas. Their frame of government is now before Congress for approval or rejection. The action of Congress in the premises, if in the shape of a bill, will be presented to the President. Andrew Johnson, if in power, will veto it for unconstitutionality. It will be passed by the requisite two thirds of both Houses over his veto. Under the gentleman's bill the President could invoke the aid of a majority of the judges of the Supreme Court to set at naught the will not only of the people of Arkansas, but of all the people of the United States, as expressed through their legally constituted Representatives. The mere statement of such a proposition is enough to condemn it unless, indeed, in the estimation of those who believe that communities and

individuals forfeit nothing by the commission of crime.

Great as is the power of the Supreme Court, I deny that in any case it extends to deciding laws to be unconstitutional. It decides the rights of parties in proper existing cases, but it can make no decree rendering void an act of Congress. To call forth its functions there must be a complainant and a defendant, by whatever names called. There must be something claimed on the one side and denied on the other; and the sole business of the court is to decide the particular question raised. In doing this it may refuse to consider that as valid law which purports to be so. It may base its refusal upon what it declares to be the unconstitutionality of the law; but that declaration is no part of the decision, no part of the judgment of the court. The judgment binds only the parties. The declared ground of the judgment binds nobody, not even the parties. It does not bind the court. That tribunal in the next similar case may hold the law valid, and if wrong be done by the vacillation it is without remedy.

In fact, declaring a law to be unconstitutional, and basing a judgment between parties upon that declaration, is nothing more than giving notice to the world that the court will probably decide other similar cases the same way.

How different is all this from the proposition of the gentleman from Pennsylvania. He would allow the Supreme Court upon the mere motion of the President, without parties, without argument by any one interested to sustain the law, to strike from the statute-books laws upon which the lives and property of millions depend without the possibility of their being heard in defense of their rights. The proposition is subversive of all the principles which govern courts of justice. What becomes of the right of trial by jury secured to me in the Constitution itself? What becomes of my right to be confronted with my accuser; my right to hear the testimony upon which my case hangs; my right to plead my own cause before the tribunal which judges me, if that tribunal may in my absence, without notice to me, at the instance of other parties unconnected with, possibly antagonistic to me, sweep from the statute-books the laws upon which my rights depend?

It is true my case may be hard if the Supreme Court should decide my neighbor's similar case against him after full hearing on the ground of the unconstitutionality of a law. But the decision does not conclude me. As to me the law still exists; I may present my case and invoke the law and be heard in its defense. The author of the bill has good reason to know that the minds of judges change, that judges themselves change. The same or other judges may hold the law to be valid. At the very least I will not be condemned in person or property without a hearing.

I have said that the minds of judges change. My colleague himself is a notable example of this. If any gentleman has the curiosity to see how slight a circumstance is required to produce the most surprising oscillations in the opinions of grave and learned men sworn to administer the law according to their consciences, let him refer to the case of Guthrie's appeal in 1 Wright's Pennsylvania Supreme Court Reports, and read on page 23 the able opinion of one of the judges. Some members of the bench examine questions, determine them, and adhere to the result arrived at. Others drift with the current like a log in a stream and are of precisely the same use in shaping the course of things around them.

Now, a bench composed in whole or in part of wooden judges might drift here and there with the changing wind and tide, and might hold a law null and void to-day which it held valid yesterday, and may hold so to-morrow. What provision does the learned gentleman's bill make for this state of things? The judges, at the instance of the President, may declare a law null and void. Presently a case may

come up between actual parties involving its validity, and may find the judges in the condition of those who decided Guthrie's appeal, swayed away from the moorings and on the opposite side of the stream. Can they reverse their former decree? If so, their business looks very like repealing and re-enacting laws; and if so, the project promises us very little advantage in the way of certainty and stability. If they cannot reverse themselves they must do injustice to the party relying on the law, and decide his case against their solemn convictions of duty.

But why is this extraordinary measure proposed? Have the instances of unconstitutional legislation been so frequent within the period of our country's history as to require some guard beyond that provided by the Constitution? In the eighty years of our existence, with legislation to the extent of volumes by every Congress, with litigation requiring the constant action of the Supreme Court, it is remarkable that so few cases can be found of acts declared void on this account. During the whole period no important act of Congress has been pronounced unconstitutional. Certainly there is nothing in the past which warrants the creating of so extraordinary a jurisdiction.

But why is this measure proposed at this time? What questionable acts of Congress are in the mind of the gentleman from Pennsylvania? Why does he desire to submit the action of the Representatives of the people to this peculiar supervision just now? An examination of his speeches during the present session will disclose the reason. He is aiming at the reconstruction acts. He thinks the States lately in rebellion are valid States of the Union, with all the rights and powers of other States. In his speech of March 23 last, alluding to the passage of the first of these acts, he says:

"The fact is that legal State governments did then exist in every one of these States, and had existed in some of them from the date of the Declaration of Independence; in others from the time of their being taken into the Union; State governments republican in form and fact; State governments that Congress had often recognized and acknowledged; State governments that are indestructible by any power less than the voice of the people, because that was the power that called them into being."

If this proposition were true then I agree with my colleague that the reconstruction acts are unconstitutional. But is it true? Are the organizations existing in the South States of the Union, and have they been so recognized by Congress? The latter part of this question is of easy solution when the former is answered. Organizations corresponding to some extent with these have been recognized as States of the Union; that is to say, organizations covering respectively the same territories and existing up to 1860. The question, therefore, resolves itself into this: are the present organizations identical with those? To determine this question certain principles upon which depend the identity of a succeeding Government with the former one present themselves. Every civilized Government contains within itself the elements of change under the operations of which it remains the same Government. The death of a monarch and the accession of his successor, the running out of a dynasty and the substitution of a new one, the change of constitutions under proceedings instituted in accordance with the provisions of the old ones, are familiar instances of this. Wherever the changed Government comes in by the operation of law, whatever the change may be, it is a mere continuation of the old Government. But where the change is by force and in violation of law, that is to say by revolution, the Government thereby formed is a new one to the extent of the change. Let me illustrate this. No one can pretend that the empire of France is the same Government with the republic of France which preceded it, nor that either is the same with the monarchy which gave place to the republic. Again, if the revolution in England which resulted in the accession of William of Orange was a true revolution, then his Government was a new one. This result is avoided in English history by

giving legal effect to the acts of Parliament which called that monarch to the throne and deposed his predecessor. I am not disposed to question the soundness of this view, nor the omnipotence of Parliament in the premises.

To apply these principles to the point in question it is only necessary for us to ascertain whether the organizations existing in the South succeeded to the former ones by the operation of law or by revolution. At the commencement of the rebellion a State government existed and was recognized by the United States in Georgia. Is the present one either that or its legitimate successor? Did the present one arise out of the former by any regular legal process, or was it raised up antagonistic to the former and upon its ruins? History alone can determine this question.

It is not necessary to my argument to maintain that the people of Georgia forfeited their State government by rebellion. I might even admit, though I do not, that that government survived the war and was in full legal operation, as a component member of the Union, at its close. It is sufficient for me to commence with the events of the summer of 1865. Shortly after the surrender of Lee the President, as Commander-in-Chief of the forces of the United States, took military possession of Georgia, deposed the executive, legislative, and judicial officers of the Government he found there, established a temporary organization and appointed a provisional governor.

Whether he did right or wrong in this, no one will pretend that it was done pursuant to the laws of Georgia. No one will pretend that the government he instituted was either the preëxisting one or its regular and legitimate successor. If matters had stopped there, at least, the old government was destroyed. But the President did more. He issued his proclamation to the people of Georgia, in which he declared that the rebellion in its consequences had left them entirely without civil government, and he called upon them to meet at times and places designated by him, and form a State government according to regulations which he prescribed. In those regulations he fixed the qualifications of voters, granting and withholding suffrage where he saw fit. Now, by whatever authority this was done, no one can pretend that it was done pursuant to the laws of Georgia. The result of all this is the organization existing there, and that organization is therefore the mere creature of the President's proclamation. It has no validity except what is derived from the fiat of the Executive. The constitution framed under the direction of the President was never even submitted to the votes of the people of Georgia. It is a fixed fact, not to be controverted by the advocates of the indestructibility of State governments, that the State government of Georgia which existed in 1860, and was recognized by the United States, was destroyed, and that the present one was founded upon its ruins. Grant that the destroying and recreating power had no legal right to do all this, still the stubborn historical fact remains that all this was done, and not alone in Georgia, but in all the other unreconstructed States.

Now, these creatures of executive legislation; these organizations which sprang up in the summer of 1865 where all civil government had been destroyed, have never been "recognized and acknowledged" by Congress. The proposition of my colleague, therefore, is not true.

The controversy about these organizations is simply this: the President and Congress both agree that upon the final surrender of the rebels no civil governments existed in the South which could be recognized as States of the Union. Both agree that it was proper and necessary that the inhabitants of that country should be empowered to create State governments; both agree that the prescribing of the time, place, and manner of doing this, the qualifications of electors and officers, and the general scope of the authority of conventions must be done in some way by the Government

of the United States. But here the difference of opinion begins. The President maintains that he alone can do this, and that in doing it he needs no law, that he is a law unto himself. On the other hand, Congress maintains that doing this is legislation; that forming State governments can only be done under enabling acts. The President has issued his proclamations, and under them his organizations have sprung up. Congress has passed its enabling acts, and under them the people of that country are forming new State governments. It is this latter process which my learned colleague calls unconstitutional.

It is remarkable that the gentleman has no word of complaint of the President's proclamations. It is strange that he should tacitly even indorse the executive usurpation which pronounced the original States destroyed and made new ones, fashioning them according to his own single will and pleasure, without consulting the people interested, without even submitting them to those people for adoption or rejection. It is strange that an ex-judge of the supreme court of Pennsylvania should accord to the President's proclamation more legal force than to an act of Congress. Let me ask him by virtue of what provision of the Constitution the Executive creates States at pleasure either in conquered territory or anywhere else?

Yet my amiable colleague frets and fumes because there are no representatives in either House of Congress from these presidential abortions. He even thinks we cannot legally impeach Andrew Johnson because those creatures of his are not represented. Hear him:

"Mr. Speaker, so sure I am that the American people will respect this objection that I will say, if I were the President's counselor, which I am not, I would advise him, if you prefer articles of impeachment, to demur both to your jurisdiction and that of the Senate, and to issue a proclamation giving you and all the world notice that while he held himself impeachable for misdemeanors in office before the constitutional tribunal, he never would subject the office he holds in trust for the people to the irregular, unconstitutional, fragmentary bodies who propose to strip him of it. Such a proclamation, with the Army and Navy in hand to sustain it, would meet a popular response that would make an end of impeachment and impeachers."

The foregoing delicious morsel of doubly distilled democracy is taken from the speech of my estimable colleague, delivered, or rather purporting to have been delivered, in the House of Representatives on the 4th of February last. The actual delivery of such sentiments in the House would probably have brought down its censure upon the person uttering them. It may not be known to the country that there is a mode of getting into the published proceedings words which it would not be safe to utter upon this floor. I say purporting to have been delivered with reason, for the eloquent remarks first found existence for the enlightenment of the world published in the *Daily Globe*.

The remarks themselves are a truthful exposition of the gentleman's political sentiments. As mere words they would do credit to a leader of the southern democracy in 1861, but they are mere words. There is no fight in the gentleman from Pennsylvania. This is a fair sample of the sayings of the Democratic leaders of his section at the breaking out of the rebellion, and I caution the President now not to be deceived by them. Let him take warning by the late rebels who listened to the same language from their political associates in the North, and found, to their sorrow, when too late, that northern professions and northern pledges of assistance were words, mere words.

I trust, therefore, that Andrew Johnson will not count on too much assistance from this quarter; that he will not be betrayed by democratic professions, which are sure to prove false, into using the Army and Navy "to make an end of impeachment and impeachers," and to hold by force his office against "the irregular, unconstitutional, and fragmentary bodies who propose to strip him of it."

If my colleague were the adviser of the President, he would counsel him to issue a proclamation. The gentleman has great faith in

proclamations. They have already created his ten pet States, and now he wants them to answer eleven articles of impeachment! Imagine the President establishing his military headquarters at the White House and defending his position with this species of artillery! See him, supported by his gallant Pennsylvania champion, intrenched behind a bulwark of foolscap and up to his knees in ink, firing proclamations at long range against the loyal millions of America. Probably they might be more effective than "the feeble javelin of aged Priam," but recent experiments with these things have not been encouraging. The "chief of the lost cause" tried them. He issued proclamations, and against the same enemy, but they did not save him.

Let it be fully understood that the gentleman is not here urging the claims of the State governments which existed in the South in 1860. These, as I have shown, have long ceased to exist. He is the especial advocate of those created by presidential usurpation after the destruction of the former ones. He justifies this usurpation because he sets up its results as legal. Any one unacquainted with his peculiar political principles would be at a loss to determine upon what ground he concedes to the President alone the right to create States. Does a knowledge of those principles solve the enigma? Is his preference for irresponsible executive power due to the fact that the President's attempts at reconstruction have placed the South in the possession of the late rebels? have effected a complete surrender to the enemy of all we gained by the expenditure of so much blood and treasure? Was he one of those, who during the entire war prophesied its ultimate failure on our part and are disappointed by the non-fulfillment of their prophecy? It would afford me pleasure to answer these questions in the negative, but I dare not.

The leading complaint of my colleague against the reconstruction acts is that they extend the right of suffrage to black men. He is afraid of negro domination in America, yet he professes to be a friend to the black man. For his own good he thinks the right of suffrage should be denied him. Possibly it might be better for us all to be well governed by a good monarch, but it is difficult to make us think so.

The granting of the right of suffrage to the loyal men of the South, without regard to race, was demanded by the loyal white men as a means of protection against the unrepentant enemies of the country, and it would have been an act of unparalleled baseness to refuse it. But there is a higher and holier reason. During the entire rebellion no black man was ever found willingly fighting in the ranks of the enemy. No Union soldier ever asked aid of a black man and was refused. No refugee from rebel oppression ever hesitated to trust his life to the black man, and in no single instance was the trust ever violated. True, when all around them were false, they fought nobly for the country to which they owed so little. If the black men of the South had been as traitorous as the white men, the flag of the country would never have reappeared upon Fort Sumter. The right to participate in the Government was purchased for their race by the blood of black men, shed upon every battle-field of the South, and he who would deny the right now is unworthy the name of an American citizen.

There is a still higher and holier reason. In the day of our trouble, when we invoked the aid of the Ruler of nations to remove the heel of the oppressor from our necks, we declared that all men are created equal, and that Governments derive their just powers from the consent of the governed. On ninety annual returns of the day we have solemnly reaffirmed these truths. Now, the blacks of America are men. They are among the governed. Thus, by our own solemn showing, they are created our equals, and their consent is necessary to the just powers of the common Government. This consent is something more than mere submission. The galley-slave submits; the victims of oppression everywhere submit. We



have established the ballot-box as the only sufficient means of conserting, and it is mocking Heaven's justice, to exclude from it any man merely because he is not of our lineage.

I am willing to concede the claim of my colleague, that he is actuated by no hostility to the black race. I will even admit, if he desires it, that he loves the negro as ardently as his old political friends of the South, the evidence of whose devotion you can see to-day in the very countenances of the southern negroes. Oh, no; my colleague does not dislike the negro. His position is plain enough. He is, and always has been, an earnest and consistent opponent of universal suffrage. He gives us his record. More than thirty years ago, when a member of the convention which formed the present constitution of Pennsylvania, he takes care to remind us he defined his position upon this subject. In his remarks of February 23 last he cites several pages from a speech which he delivered in that convention in favor of disfranchising the blacks. The quotation is learned, eloquent, and unanswerable from his stand-point. Voting is a privilege not to be thrown away upon the mere multitude. It should be reserved for those who are born to rule. But the quotation which the gentleman makes does not do his efforts to restrict the right of suffrage full justice. Probably the want of space in a single speech or modesty prevented him from quoting more of his doings in that convention. Out of my regard for him and to make the proof of his consistency more perfect I cite the following from the fifth volume of the published debates of that convention, page 443, which I find in the Congressional Library. My colleague asks to be judged by the record. We will judge him by the record.

A resolution was pending which provided for the appointment of a committee to inquire into the expediency of prohibiting the future immigration of blacks into Pennsylvania. Mr. Thomas, of Chester county, had proposed to include, also, foreigners. Now follows the quotation:

"Mr. WOODWARD moved to amend the amendment by adding thereto the words 'and that the said committee be also instructed to inquire into the propriety of so amending the constitution as to prevent any foreigners who may arrive in this State after the 4th day of July, 1841, from acquiring the right to vote or hold office in this Commonwealth.'"

This proposition my colleague supported in an able and earnest speech, in which he said:

"There are very many of those emigrants who know nothing of political privileges in their own country before they emigrate to this. The word is unknown to them, or if they hear of it at all they hear of it as something in which they have no participation. Is not this the fact? Sir, we all know that it is. We know that very many of these emigrants never enjoyed any political privileges themselves; that they have no knowledge of them; and, least of all, have they any knowledge of our people, our Government, or our institutions. The acquirement of this knowledge is not the work of a day. They have no sympathy in common with us; they have no qualifications to render them fit recipients of these high political privileges."

Again, he says:

"I would permit them to acquire wealth, to pursue objects of their own ambition. I would, in short, allow them to become, in all respects, equal citizens with us except only in this one matter of political privileges. All their natural and all their civil rights should be amply guaranteed and protected; and they should become citizens in common with us in relation to all objects except voting and holding office."

Let no man after this accuse my colleague of inconsistency in his opposition to universal suffrage. It is only fair toward the honorable gentleman, however, to say that he disowns some of these opinions now. Even he, within the last thirty years, seems to have learned something. He will let the Irishman vote now, and that, too, in Pennsylvania. The progressive tendency of the age has not entirely left him in the background. He has made some advance toward universal suffrage, very slow but very sure. This is hopeful. May we not predict a similar advance within the like period of the future? With the evidence of his capacity to learn which the last thirty years have exhibited, would it be too much to say that at the end of another thirty years he will not

deny the right of suffrage even to the black man?

I must not, however, promise too much for my worthy colleague. I meet with some passages in his speech of March 23d last, already referred to, which are not encouraging. He evidently does not like the leveling doctrine of the early fathers, and he is not alone in this. The great moral truths presented so forcibly in the earlier sentences of the Declaration of Independence have always been a stumbling-block to the admirers of class government in America. The doctrine of the equality of human rights is peculiarly unacceptable to those who by some fortunate chance have arisen from an obscure position of which they have the bad taste to be ashamed.

The principles laid down in 1776 by men who staked their lives upon the truth of what they uttered have been denounced as "a fanfaronade of nonsense." They have been called glittering generalities. Thus it is that the equality of man in the sight of his Maker is derided and repudiated, and by none more earnestly than by the puffed up offspring of those who blacked boots and swept sidewalks.

But it was saved to the Democracy of Pennsylvania to furnish the world with the ingenious if not lucid mode of explaining away the sublime utterances of the great fathers contained in the following paragraph. I cite from the speech last alluded to:

"The Declaration of American Independence is often misapplied to this subject. Thirteen English colonies were in the act of throwing off and abjuring the only civil Government under which they had ever lived. That Government set aside, they were re-committed to a state of nature; and in a state of nature, antecedently to the formation of civil government, the Declaration, copying Locke, declares—

"That all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness."

"But it goes on immediately to declare that 'to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.'"

"Thus that immortal instrument brings into sharp contrast the freedom and equality of a state of nature, and the restricted freedom of a state of government. It does not predicate absolute freedom and equality of a state of government, but of a state of nature before civil government has intervened or been set up. To secure these natural rights governments are formed, and government creates distinctions and inequalities, for some must rule and others obey, else you have no government at all. If I am too weak to defend and secure my natural rights standing alone, I will associate with others in like condition and give up some of my natural rights for the sake of forming with them a commonwealth that shall secure to us all the great rights of life, liberty, and the pursuit of happiness. For the sake of these great interests I will assent to a condition of inequality and subjection which nature never ordained. Such is the manner in which civil government supervenes upon natural rights, and the misconception which is so frequently made of the Declaration of Independence consists in applying to a state of government that which it predicates of a state of nature. The Declaration of Independence never became an article of the Constitution nor an institute of the Government. The colonies, I repeat, were passing from one Government to another, and in the transition they called to mind their natural rights, that the government about to be formed might secure those that are specified. But, while these rights are distinctly asserted as proper objects of governmental protection, neither the absolute freedom nor equality of individuals in a state of civil government is affirmed."

"I have groped among this collection of words for some time in search of the idea intended to be conveyed and have found it. It is this: by nature all men are equal. It is the province of Government to render them unequal. By nature they are endowed with certain inalienable rights. It is the province of Government to compel them to bargain these away."

Now, in my simplicity, I had thought that precisely the reverse of the former of these propositions is true. I had thought that by nature men are unequal—some being wiser and some stronger than others; and that Governments are intended to compensate these inequalities by bringing human actions under the operation of laws which are no respecters of persons, and thus preventing the strong and the wise from trampling upon the weak and the ignorant. My colleague admits that Government is or should be founded upon the consent of the governed. I never consented that anybody

should be above me in the eye of the law, and never asked that anybody should be below me. If society is formed by the voluntary surrender of equality, it is difficult to see how its lower ranks have become filled. I can understand the voluntary assumption of power, but not the voluntary abnegation.

A disposition to cavil about small matters might prompt the inquiry by what process inalienable rights are bargained away in the formation of government, and also why they should be bargained away, since Government is formed to preserve them; but let these things pass. The gentleman considers society as the foundation of inequality of human rights. In my simplicity I had thought that the arrangement by which some men are deputed to make and carry out laws no more makes these men higher or better than their neighbors than does the corresponding arrangement by which some men shave and others are shaved render the two classes unequal. The man who holds a law over my head may be in a position to be feared; so may the man who holds a razor at my throat, but I should be slow to acknowledge superiority on this account, either in the law-maker or the barber.

I had thought that public servants, like all other servants, are at least no better than those they serve; that the term usually applied to them is not a mere catchword to be used just before elections for the purpose of flattering and deluding the simple minded, but that it really contains an honest meaning. The gentleman thinks government makes men unequal by deputing some to rule and others to obey, and that the former are the superior and the latter the inferior class. If this should be found true in theory, I doubt very much whether practice, at least in this country, would not contradict it. The gentleman himself may be better, wiser, and nobler than those who sent him here. I am not competent to judge between him and his constituents, but I am not prepared to consent that the people of the rest of my native State should be judged by any such standard.

I have the most profound respect for the legal opinions of my learned colleague when I can be sure they are not influenced by his prejudices of rank and caste; but I must be permitted to doubt his capacity to judge or even comprehend a question which involves a comparison of himself with other men. Some people have a peculiar obliquity of moral vision which prevents them from looking upon other human beings in any other direction than downwards.

To return to the bill in question, I have probably said enough to satisfy my colleague that he must not expect my assistance in passing it; but I will venture a few suggestions for the purpose of perfecting his scheme. If his object is to curtail the power of the people by circumscribing that of their representatives and to place the Government in the hands of an irresponsible body, as may be reasonably inferred from the language of the bill, I can assure him the measure he proposes will only produce a partial success. True, with it the people can no longer through their representatives enact laws except with the permission of the President and the Supreme Court. But they can still, to some extent, control the President by choosing his electors once in four years. This is a fatal defect, but it is not without remedy. Let me suggest one. The Constitution provides no means to settle contested cases of elections of electors. That process would seem to be left to be devised by Congress, but as yet no legislation has been had on the subject. It is not impossible nor improbable that very soon there may be two antagonistic sets of electors from each of the ten States now undergoing reconstruction, and the Fortieth Congress may be called upon to decide, or provide the means for deciding, which in each case shall be counted. Indeed, if each political party shall nominate its leading general the determination of this question may make either Grant or Lee our next President. How admirably it would comport with the project now under consideration to submit this question to the decis-

ion of the Supreme Court. Why not add a section to the present bill empowering the Supreme Court to decide contested elections of electors? If with this additional aid the President and the Supreme Court do not at some time in the future achieve permanence in office and complete irresponsible and despotic power, then American ambition must be made of different material from that of the Old World in times past.

Mr. WOODWARD. Mr. Chairman, although I feel very competent to reply now and here to everything which has been advanced by my colleague, yet I think it would be indecorous in me to make an instant reply to an indictment which has been drawn so carefully and elaborately as that which he has read from his manuscript to these almost empty benches. I propose, therefore, after due deliberation, to put in my answer to this bill of indictment. I suppose the accusation and bill have some great object in view. I confess I do not see what that object is, but it does not become me to inquire. I propose at the next opportunity, when the House is in the Committee of the Whole, to make as formal a reply to the gentleman as he has made his attack on me.

Meanwhile, there is one single point in what he has advanced to which I wish to allude now. The gentleman insinuated, almost said, that in a late speech which I had the honor to submit in this House certain expressions that are found in the published report were not delivered. The insinuation is—and so I suppose it is intended to go out to the country—that I caused to be printed something that was not in the speech I delivered. Now, the gentleman's colleague, [Mr. MYERS,] who took some notice of the point at the time, had the candor to concede that every word that was printed was on the paper before me, and every word was delivered down to perhaps the very last sentence on that paper. When the Speaker's hammer fell, and my time was said to be exhausted, the gentleman and those who acted with him refused to allow me time enough to finish that sentence. The manuscript with that unfinished sentence was then passed over into the hands of the reporters, and I have never seen it since.

The intimation, therefore, is false and slanderous that something was inserted in the Globe that was not delivered here. Every word was delivered that my time allowed me to deliver, and every word that was not spoken was passed into the hands of the reporters, and has never been seen by me since except in print. That is the fact in regard to the delivery of the speech. It is, therefore, unkind and unjust in any gentleman to insinuate that I published in the Globe a speech that I did not deliver here. There was not a word of the speech published in the Globe that was not on my written manuscript, and nearly every sentence in it, certainly every paragraph in it, was actually delivered, and I was in the act of completing the last paragraph when I was cut off by the fall of the hammer.

Now, I trust, as my colleague from Philadelphia [Mr. MYERS] did me the justice at the time to concede the fact as I have stated it now, that my colleague from the Delaware district [Mr. BROOMALL] will not make himself unhappy in the future about the matter.

Mr. BROOMALL. Will the gentleman yield?

Mr. WOODWARD. Yes, sir.

Mr. BROOMALL. I will state that I listened to the speech of the gentleman. I certainly did not hear the part I have quoted; I am not quite sure that I listened to all he delivered, but my information on the subject was derived in this way: the remarks were not heard by many, and—

Mr. WOODWARD. They were not delivered. They were the very last words of the speech, and they were not spoken.

Mr. BROOMALL. That is my recollection. I was afraid I had done my colleague injustice. But I remember that the next morning there was considerable discussion on this side of the House about moving a resolution of

censure, and the answer was, "Why, those remarks were not delivered in the House, and we cannot censure him."

Mr. WOODWARD. The fact is just this: I had the last sheet of paper of my notes in my hand, and I was delivering it just as rapidly as I could deliver it when the hammer fell. The hammer fell, I think, in the middle of the last sentence on that page; certainly in the midst of the last paragraph.

Mr. BROOMALL. And before the remarks that I quoted.

Mr. WOODWARD. The remarks you have quoted were the very last remarks on the last page of my speech.

Mr. BROOMALL. And were not delivered.

Mr. WOODWARD. That was the reason why they were not actually pronounced. As I said before, the hammer fell while I was in the act of delivering them. I handed the notes over to the reporter, and I have not seen them since that time.

Mr. BROOMALL. I have not the smallest reason to call any of this in question.

Mr. WOODWARD. Now, as this is a small matter of fact, I would like to have it correctly ascertained. The truth is, as I understood—I am a new member here—the House frequently gives a member, when he has not time enough to finish his speech, leave to print it in the Globe. I supposed that under that general regulation I had a right to hand over to the reporters my entire notes. If my attention had been called to the subject at the moment I, perhaps, would have struck out that part of the paragraph which I had not yet actually got out of my mouth; but my attention was not called to it. In the course of business my notes passed over into the hands of the reporters, and I thought no more of the matter until my colleague from Philadelphia [Mr. MYERS] undertook to arraign me about it, and, upon an explanation, he admitted that it was all on the written paper, and if there is any doubt about it the reporters will verify it.

Mr. BROOMALL. I have no reason to question it.

Mr. WOODWARD. If you will look at the original notes, you will find that what I have stated is exactly the fact of the case.

Mr. BROOMALL. I have no reason to question it. I think I have said nothing in my remarks that would contradict that.

Mr. WOODWARD. Yes, your remarks insinuate that I got into the Globe that which I had not delivered here.

Mr. BROOMALL. Is not that the fact?

Mr. WOODWARD. Well, it is not true in the sense in which you put it forward. It is not true in that sense. If the full facts that I have explained had been stated I should have had nothing to complain of.

Mr. Chairman, I have explained this single point in the gentleman's remarks. On some future occasion I propose to refer to other things which he has said.

Mr. MYERS. I do not know that there is any necessity of my saying anything. My speech I suppose is what my colleague alludes to, and my speech is on record.

Mr. WOODWARD. I yield now for a motion that the committee rise.

Mr. BOYER. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and Mr. COVONE having taken the chair as Speaker *pro tempore*, Mr. WOODBRIDGE reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and had come to no conclusion thereon.

And then, on motion of Mr. PERHAM, (at four o'clock and twenty minutes p. m.,) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of the

Rocky Mountain Railroad and Telegraph Company, for aid in the construction of said road.

By Mr. BURR: The petition of J. D. Stockton, formerly sergeant company B, third regiment Arkansas cavalry, praying bounty.

By Mr. PHELPS: A memorial of iron manufacturers and civil engineers, of Baltimore, Maryland, praying for legislation to secure the engineer and other staff corps of the Navy against unjust discrimination.

By Mr. HUBBARD, of Connecticut: The petition of sundry citizens of Rochester, New York, in behalf of Dorrance Atwater, praying for his relief from conviction by court-martial.

#### IN SENATE.

WEDNESDAY, May 13, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday's legislative proceedings was read and approved.

Mr. RAMSEY. I move that the Senate adjourn until Saturday next at twelve o'clock.

Mr. EDMUNDS. Let us dispose of the morning business first.

Mr. MORRILL, of Maine. I wish the Senator from Minnesota would allow me to make some reports.

Mr. RAMSEY. I make the motion to adjourn.

The PRESIDENT *pro tempore*. The Chair will remark that he has an accumulation of documents on his table which he has had no opportunity to place before the Senate. They ought to be placed before the Senate at some time.

Mr. SUMNER. They can be presented at some other time.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Minnesota, that the Senate adjourn until Saturday next at twelve o'clock.

Mr. ANTHONY. That motion is debatable, I believe. I have a word to say about it.

Mr. EDMUNDS. We will vote it down.

Mr. ANTHONY. Very well.

The motion was not agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the following joint resolutions, in which it requested the concurrence of the Senate:

A joint resolution (H. R. No. 262) authorizing certain distilled spirits to be turned over to the Surgeon General for the use of Army hospitals;

A joint resolution (H. R. No. 180) declaring the meaning of the acts relating to the Pacific railroad; and

A joint resolution (H. R. No. 168) to amend an act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate the following communication from the General of the Army, which was read:

HEADQUARTERS ARMY OF THE UNITED STATES, WASHINGTON, D. C., May 7, 1868.

SIR: I have the honor to acknowledge the receipt of Senate resolution of date December 5, 1867, calling upon me for a statement of the number of white and colored voters registered in each of the States subject to the reconstruction acts of Congress, the number of white and colored voters voting for and against the calling of a convention, and as far as practicable the number of white and colored persons disfranchised and rendered incompetent by the reconstruction acts to vote for a convention, and the number of white persons entitled to be registered but who did not apply for registration. Not having the facts necessary to enable me to furnish the statement required, I referred the resolution to the several district commanders for the information called for so far as related to their several districts; and in answer thereto I respectfully submit herewith their several reports.

Very respectfully, your obedient servant,

U. S. GRANT, General.

Hon. B. F. WADE, President United States Senate.

The communication, with the accompanying

documents, was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a letter from the Secretary of War, communicating a report of the Quartermaster General of the Army, supplementary to the report communicated on the 6th of April, containing a list of cases of differences of settlement of claims between the Quartermaster General and the accounting officers of the Treasury; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior, of the 21st of April, communicating a letter of the Commissioner of the General Land Office, in relation to additional accommodations for the Patent Office; which was referred to the Committee on Patents and the Patent Office.

He also laid before the Senate a letter of the Secretary of the Interior, of the 17th of April, in relation to the necessity of providing additional accommodations for the use of the Patent Office; which was referred to the Committee on Patents and the Patent Office.

He also laid before the Senate a letter of the Secretary of the Interior, communicating a report of Special Indian Agent Alexander R. Banks, containing a statement of the destitute condition of various Indian tribes in Kansas; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter of the Secretary of the Interior, communicating copies of letters from Messrs. Stellawer & Osborn, relative to furnishing supplies to destitute friendly Indians; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from the Secretary of the Interior, recommending an appropriation to be made at an early day for the purpose of subsisting friendly Indians; which was referred to the Committee on Indian Affairs.

He also laid before the Senate a letter from the Secretary of the Interior, communicating information relative to the destitution prevailing among the Sioux Indians near Devil's Lake, Dakota Territory; which was referred to the Committee on Indian Affairs.

#### CONSTITUTIONS OF SOUTH CAROLINA, ETC.

The PRESIDENT *pro tempore* laid before the Senate the constitution of the State of South Carolina, and also the constitution of the State of Florida, adopted by the constitutional conventions recently held in those States under the reconstruction laws; which were referred to the Committee on the Judiciary.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a resolution of the Denver Board of Trade, Colorado Territory, praying for the right of way and a grant of lands to aid in the construction of the Denver, South Park, and Rio Grande Railroad and Telegraph Company; which was referred to the Committee on Public Lands.

He also presented a memorial of the Denver, South Park, and Rio Grande Railroad and Telegraph Company, praying for the right of way and a grant of land to aid in the construction of their road; which was referred to the Committee on Public Lands.

He also presented a memorial of the Rocky Mountain Railroad and Telegraph Company, praying to be allowed the right of way through the public lands and a donation of lands to aid in the construction of their railroad; which was referred to the Committee on Public Lands.

He also presented a resolution of the Legislature of Ohio, in favor of further provisions of law for the security of life in vessels and steamboats navigating the lakes and rivers within the jurisdiction of the United States; which was referred to the Committee on Commerce.

He also presented a letter of the Governor of Pennsylvania, communicating a copy of an act of the Legislature of that State entitled

"An act supplementary to an act to incorporate the Soldiers' National Cemetery, approved March 25, 1864," providing for ceding that cemetery to the United States; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of Mrs. Emma M. Moore, widow of Lieutenant John W. Cox, of the United States Navy, and of the late Senior Captain E. W. Moore, of the late Texas navy, praying that her name may be restored to the pension list; which was referred to the Committee on Pensions.

He also presented a petition of Albert Woodcock, praying that pensions be granted to the surviving soldiers in the war of 1812; which was ordered to lie on the table.

He also presented a memorial of Gottlieb Oesterle, praying payment of bounty, back pay, and clothing, which he alleges to be due him; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of Samuel F. Crawford, praying to be granted a land warrant for certain land in Michigan; which was referred to the Committee on Public Lands.

He also presented a petition of citizens of Alabama, praying the admission of Alabama as a State into the Union; which was ordered to lie on the table.

He also presented resolutions of the Legislature of Ohio, protesting against the acts of Congress commonly called the reconstruction acts, and against the passage of the bill requiring the concurrence of two thirds of the judges of the Supreme Court of the United States to pronounce an act unconstitutional, and the bill to take from the Supreme and other courts of the United States jurisdiction in cases arising under the reconstruction acts; which were referred to the Committee on the Judiciary.

He also presented a petition of W. F. Durisoe, praying to be relieved of civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a memorial of E. G. Platt, remonstrating against the Pawnee school fund being placed in the hands of the Methodist conference; which was referred to the Committee on Indian Affairs.

He also presented a petition of commissioners to manage the Yosemite valley and the Mariposa Big Tree Grove, protesting against the action of the Legislature of California in granting a certain portion of the Yosemite valley to J. C. Lamon and J. M. Hutchins; which was referred to the Committee on Public Lands.

He also presented a resolution of the Mechanics' State Council of California, in favor of the passage of the bill fixing eight hours as a legal day's work; which was referred to the Committee on Naval Affairs.

He also presented a petition of Stewart Harrison, praying to be relieved of civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a memorial of a committee of the American Medical Association, praying the enactment of a law which will secure to the members of the medical and surgical staff of the Navy an equal distribution of prize money; which was referred to the Committee on Naval Affairs.

He also presented a petition of W. O. Law, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. POMEROY presented the petition of citizens of Washington, in the District of Columbia, praying that the Center market may be removed from the present location to the space between Tenth and Twelfth streets north of the canal; which was referred to the Committee on the District of Columbia.

Mr. MORGAN presented the memorial of the Chamber of Commerce of the State of New York, on the subject of inadequacy of the post office building in the city of New York; which was referred to the Committee on Post Offices and Post Roads.

Mr. YATES presented a petition of members of the bar at Salt Lake city, in the Terri-

tory of Utah, praying for the passage of an act to provide for holding a term of the United States district court for that Territory in that place; which was referred to the Committee on the Judiciary.

Mr. WILLIAMS presented a petition of citizens of Oregon, praying for the establishment of a mail route with daily service from Portland, via Taylor's Ferry, Dayton, Amity, Richereal, and Monmouth, to Corvallis; which was referred to the Committee on Post Offices and Post Roads.

He also presented the memorial of Quincy A. Brooks, special agent of the Post Office Department, recommending the establishment of a post route from Dallas to Grand Round, in Oregon; which was referred to the Committee on Post Offices and Post Roads.

Mr. TRUMBULL presented a memorial of citizens of Chicago, praying for an appropriation for the enlargement of the St. Mary's ship-canal; which was referred to the Committee on Commerce.

Mr. WILLEY presented petitions of citizens of Virginia, producers, dealers, and consumers of articles required in tanning and dyeing, praying that a small specific duty be imposed on sumac imported from foreign countries; which were referred to the Committee on Finance.

Mr. VAN WINKLE presented the petition of A. L. Core, late collector of the second internal revenue district of Virginia, praying that the Commissioner of Internal Revenue may be authorized to settle with him on equitable principles; which was referred to the Committee on Finance.

Mr. CORBETT presented a petition of citizens of Boise City, in the Territory of Idaho, praying the passage of an act confirming the entry heretofore made of the land which is the site of that city, and otherwise confirming the title of individual owners of lots in that city; which was referred to the Committee on Public Lands.

Mr. SHERMAN. I present a joint resolution of the General Assembly of the State of Ohio. I ask that it be read.

The Chief Clerk read as follows:

Joint resolution relative to requesting Congress to take measures to prevent the loss of life on the waters under the jurisdiction of the United States.

Whereas the frequent appalling disasters on our lakes and rivers, by explosions and conflagrations, whereby the loss of human life in its most terrible forms has become absolutely shocking; Therefore,

Resolved by the General Assembly, That our Senators in Congress be instructed, and our Representatives requested, to make further provisions by law, at as early a period as practicable, for the security of life in vessels and steamboats navigating the lakes and rivers within the jurisdiction of the United States.

Resolved, That copies of the foregoing resolution be sent by the Governor to each of our Senators and Representatives in Congress.

JOHN F. FOLLETT,

Speaker of the House of Representatives.

Adopted April 25, 1888.

T. J. GODFREY,

President *pro tempore* of the Senate.

Mr. SHERMAN. I move that that resolution be referred to the Committee on Commerce.

The motion was agreed to.

Mr. SHERMAN. I present another resolution from the General Assembly of the State of Ohio, and ask that it be read and lie on the table. It is rather an extraordinary resolution, but I feel it my duty to present it.

The Chief Clerk read as follows:

Joint resolution protesting against the reconstruction acts of Congress and against the passage of certain bills now pending therein, and instructing our Senators and requesting our Representatives in Congress to vote for the repeal of the former and against the passage of the latter.

Whereas the Congress of the United States has enacted laws and is now considering measures which if enacted into laws are, in the opinion of this General Assembly, in direct conflict with the plainest provisions of the Constitution; Therefore,

Be it resolved, 1. That this General Assembly doth protest against the acts of Congress commonly called the reconstruction acts, because the same are subversive of the rights of the States, the liberty and prosperity of the people, and the constitutional powers of the executive and judicial departments of the Federal Government, and our Senators in Congress are hereby instructed, and our Representatives in



Congress requested, to vote for the repeal of all said acts.

2. That this General Assembly doth protest against the passage of the bill now pending in Congress requiring the concurrence of two thirds of the judges of the Supreme Court of the United States to pronounce an act of Congress unconstitutional, because said proposition is plainly unconstitutional, and is an attempt to destroy the judicial department of the Government.

3. And this General Assembly doth also protest against the passage of the bill now pending in Congress, to take from the Supreme Court and other courts of the United States jurisdiction in cases arising under said reconstruction acts, because said bill proposes to deny to the people any redress for wrongs and injuries they may suffer, to destroy the just and necessary powers of the judicial tribunals, and to subject the country to an uncontrolled and uncontrollable military despotism; and our Senators in Congress are hereby instructed, and our Representatives in Congress requested, to oppose and vote against the passage of said bills.

4. That the Governor is hereby requested to forward a copy of these resolutions to each of our Senators and Representatives in Congress, and to each of the judges of the Supreme Court of the United States.

JOHN F. FOLLETT,  
Speaker of the House of Representatives.  
J. C. LEE,  
President of the Senate.

Adopted April 13, 1868.

The resolution was laid on the table.

Mr. COLE presented a resolution of the General Assembly of the State of California, in favor of an appropriation for the improvement of the harbor of San Diego, in that State; which was referred to the Committee on Commerce.

He also presented a concurrent resolution of the General Assembly of the State of California, praying Congress to grant aid to the Orville and Virginia City Railroad Company in the building and completion of its road from Orville, in the county of Butte, California, up Feather river, by the way of Beckworth's pass, to Virginia City, in the State of Nevada; which was referred to the Committee on Public Lands.

Mr. CRAGIN presented the vote in the nature of a memorial of the town of Littleton, New Hampshire, in favor of taxing United States bonds and of applying the proceeds of the tax in payment of the national debt; which was referred to the Committee on Finance.

Mr. THAYER presented a petition of Hannah Cook, widow of Lyman N. Cook, a pensioner of the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. PATTERSON, of Tennessee, presented a joint resolution of the General Assembly of the State of Tennessee, in favor of an appropriation for the purpose of improving the navigation of the Tennessee river; which was referred to the Committee on Commerce.

#### NOTICES OF BILLS.

Mr. DAVIS. I wish to give notice that on some future day I shall ask leave to introduce a bill to enable the people of the Territory of Colorado to form a constitution, with a view to the admission of that Territory as a State into the Union.

I also give notice that I shall ask leave to introduce a bill for the same purpose in relation to the Territory of Montana.

#### RESIGNATION OF SECRETARY FORNEY.

The PRESIDENT *pro tempore* laid before the Senate the following letter; which was read:

WASHINGTON, May 12, 1868.

MY DEAR SIR: I have the honor to resign the office of Secretary of the Senate, to take effect the moment my successor is elected.

Yours, very respectfully, J. W. FORNEY.  
Hon. B. F. WADE, President *pro tempore* of the Senate of the United States.

Mr. SUMNER. I move that that paper lie on the table.

The PRESIDENT *pro tempore*. It will lie on the table unless objection be made.

Mr. CAMERON. I object to that course. I move that the resignation be accepted.

Mr. SUMNER. My motion, I think, is in order. I move that it lie on the table.

Mr. HENDRICKS. I suppose there is no objection to its going on the table, and then I have a resolution to offer on the subject.

The PRESIDENT *pro tempore*. The ques-

tion is on the motion of the Senator from Massachusetts, that the paper lie on the table.

The motion was agreed to.

Mr. HENDRICKS. I offer the following resolution:

*Resolved*, That the resignation of the Secretary of the Senate be accepted, and that until a successor be elected William J. McDonald discharge the duties of the office.

Mr. SUMNER. I object to its consideration.

The PRESIDENT *pro tempore*. The letter of resignation was laid on the table. It must be taken up before anything can be done with it.

Mr. SUMNER. I object to the consideration of the resolution.

Mr. HENDRICKS. It does not make any difference where the resignation is; it is a fact; that fact does not disappear from the knowledge of the Senate.

Mr. SUMNER. Is debate in order now? I objected to the consideration of the resolution.

The PRESIDENT *pro tempore*. If any objection is made, the resolution cannot be considered at this time.

Mr. HENDRICKS. I am not debating; I am making a suggestion on the question of order ruled by the Chair that the fact of the resignation having gone upon the table has some effect, what, I did not understand, upon the resolution.

Mr. SUMNER. But I objected to the consideration of the resolution.

The PRESIDENT *pro tempore*. Objection being made, the resolution goes over under the rules.

#### REPORTS OF COMMITTEES.

Mr. HENDRICKS, from the Committee on the Judiciary, to whom was referred the bill (S. No. 262) concerning district judges, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (S. No. 230) authorizing writs of error from the circuit to the district courts of the United States in certain criminal cases, reported it with an amendment.

Mr. STEWART. I am instructed by the Committee on the Judiciary, to whom was referred the bill (S. No. 178) to remove the disability of certain citizens of Alabama, to report it back with an amendment in the nature of a substitute containing one hundred and six names of persons recommended to be relieved from disabilities. In making this report I am further instructed by the committee to state that those names which are omitted from the substitute were not passed upon adversely, but were omitted because it was impossible to get sufficient information in regard to them on which to found any action. I will state that there is great difficulty in obtaining information with regard to persons who ought to be relieved from disabilities in those States. However, when those States shall be represented here we can more readily get information; but it is believed that the persons whose names are contained in the substitute are deserving of the action of Congress relieving them from disabilities, and it is presumed that there are many others in Alabama equally entitled, but not having the facts before us we were unable to pass upon them.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 251) authorizing the Secretary of War to furnish supplies to an exploring expedition, to report it back without amendment and recommend its passage. A similar resolution was introduced in the Senate some time ago, but failed to pass; and I ask to have this resolution put upon its passage. The parties are waiting to have the work done. The resolution has the approval of the Secretary of War, and I ask to have it put upon its passage.

Mr. RAMSEY. Will not that lead to some debate?

Mr. WILSON. No; not at all.

Mr. RAMSEY. There is some other morning business that ought to be disposed of.

Mr. WILSON. This will not take a moment. The PRESIDENT *pro tempore*. It requires

unanimous consent to consider the joint resolution at the present time. Is there any objection?

Mr. BUCKALEW. I object.

The PRESIDENT *pro tempore*. Objection being made, it goes over under the rule.

Mr. MORRILL, of Maine. The Committee on Appropriations, to whom was referred the bill (H. R. No. 1045) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws in the third military district for the fiscal year ending June 30, 1868, have considered the same and instructed me to report it back without amendment, and if there is no objection I will ask the present consideration of the bill. There seems to be an urgent necessity, as represented by General Meade, that the bill should be immediately acted upon.

Mr. HENDRICKS. I would rather see it. Let it lie over.

Mr. MORRILL, of Maine. Objection being made, of course it goes over.

The PRESIDENT *pro tempore*. It goes over under the rule.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution to print five hundred additional copies of the report upon the accounts of the Secretary of the Senate, have instructed me to report it back and recommend its passage. The papers have gone to the Printing Office, and I am not able to present them with the report; but the cost will be about twenty-five dollars.

The resolution was agreed to.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 406) providing for the holding of courts in the Territories belonging to the United States, reported adversely thereon.

He also, from the same committee, to whom were referred resolutions of the Legislative Assembly of the Territory of New Mexico, in favor of the removal of Robert B. Mitchell from the position of Governor of that Territory, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred the following petitions, memorials, and resolution, asked to be discharged from their further consideration; which was agreed to:

A petition of the Virginia constitutional convention, praying the adoption of measures that will protect loyal men in the exercise of the elective franchise;

A memorial of delegates in the Georgia State constitutional convention, praying that the convention may be authorized to institute a civil provisional government in that State;

A resolution of the constitutional convention of Georgia, urging Congress to authorize that body to declare vacant the chief executive office of that State, and to fill the same;

A memorial of the constitutional convention of the State of Mississippi, asking Congress to authorize that body to declare vacant all civil offices in the provisional government of that State, and to fill the same;

A petition of citizens of Boston and Roxbury, Massachusetts, praying an amendment to the Constitution abolishing the Presidency;

A petition of citizens of Michigan, praying the abolition of the Presidency;

Two petitions of citizens of the United States, praying the abolition of the Presidency; and

A memorial of members of the constitutional convention of Arkansas, praying that the reconstruction conventions in the several States be empowered by act of Congress to organize a provisional government.

He also, from the same committee, to whom was referred the letter of the Attorney General in relation to the case of Lucius P. Bryan, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of Ohio, praying a change in the mode of appointments and removals of officers selected to execute the laws for the collection or disbursement of

moneys, asked to be discharged from its further consideration, and that it be referred to the joint select Committee on Retrenchment; which was agreed to.

#### CODIFICATION OF THE LAWS.

Mr. TRUMBULL, from the same committee, reported the following resolution:

*Resolved*, That the commissioners appointed under the act of June 27, 1866, "to provide for the revision and consolidation of the statute laws of the United States," be requested to report to the Senate what progress has been made by them and how much time will be required to complete the work.

Mr. SUMNER. Is that resolution from a committee?

Mr. TRUMBULL. From the Judiciary Committee, asking the revisers to report to the Senate. I think we ought to have some information on the subject.

Mr. SUMNER. I think so.

The resolution was considered by unanimous consent, and agreed to.

#### REPORT ON MINING.

Mr. RAMSEY. I offer a resolution, which I desire to have referred, under the rules, to the Committee on Printing:

*Resolved*, That the same number of copies of the letter of the Secretary of the Treasury, inclosing the report of James W. Taylor upon gold and silver mines and mining east of the Rocky mountains, be printed for the use of the Senate as are ordered of the report of J. Ross Browne on the mineral resources of the Pacific States and Territories; and that said reports be bound together.

Mr. CONNESS. I wish to say a word in regard to that resolution. There has been no resolution yet presented in the Senate, that I know of, for the printing of J. Ross Browne's report. Indeed, the report has never been sent in to this body by the Secretary of the Treasury. That officer does not appear to regard this body as of sufficient consequence to receive the report. I am in hopes that we shall get it at some time.

Mr. HENDRICKS. I should like to ask the Senator from California how it comes to be the duty of the Secretary of the Treasury to present that report to the Senate.

Mr. CONNESS. The law provides that the report shall be made under his direction; and if it is to be printed by the Senate it cannot be taken cognizance of by the Senate unless sent here officially.

Mr. HENDRICKS. I do not understand that he was responsible for it at all.

Mr. CONNESS. The honorable Senator need not be in such haste to defend his Secretary. If my purpose was to attack that honorable functionary I should do it on more salient points than the failure to send in a report. That was not my purpose this morning; but it was simply to state a fact. I hope the resolution will go to the Committee on Mines and Mining, where the report itself will go when it shall be sent in.

Mr. RAMSEY. I was under the impression that the report had been received here. It has certainly been received in one of the Houses; I suppose the House of Representatives.

Mr. CONNESS. There are two Houses. I move that the resolution be referred to the Committee on Mines and Mining.

Mr. RAMSEY. Of course I have no objection to that if the paper is not here.

Mr. JOHNSON. It is very desirable, I think, that both reports should be published; and if the one made by Mr. Browne has not been sent to us, I think it would be better to pass a resolution calling on the Secretary of the Treasury to transmit it. As the law now stands I do not think he is under any obligation to send it to us; and if he is not under any obligation to send it, of course he is not liable to censure for not having done so. But it ought to be before us, and I submit to my friend from California that he had better offer a resolution calling upon the Secretary to send the paper.

Mr. CONNESS. I do not offer that resolution. I agree with the honorable Senator that the Secretary of the Treasury does not feel obliged to send that report here. I have a recollection of a somewhat memorable occasion

in which he denounced this body as a body of Constitution-tinkers. Nevertheless, I hope to get the report in some way or other, when I will take steps to have it printed.

The PRESIDENT *pro tempore*. It is moved by the Senator from California that the resolution be referred to the Committee on Mines and Mining.

Mr. RAMSEY. There seems to be no propriety in that, as it has reference entirely to printing; but if the report is not here, the resolutions may lie on the table.

Mr. JOHNSON. I will offer a resolution, if the Senate will indulge me, calling on the Secretary of the Treasury to send the paper to us. The Clerk can put it in writing.

Mr. SHERMAN. I object to that. It has already been sent to the other House.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from California, to refer the resolution to the Committee on Mines and Mining.

The motion was agreed to.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 135) to restore Alabama, North Carolina, South Carolina, Georgia, Louisiana, and Florida to representation in Congress; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 134) authorizing a change of mail service between Fort Abercrombie and Helena; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 478) to amend an act entitled "An act for the removal of the Sisseton, Warpeton, Medawakanton, and Warpekata bands of Sioux or Dakota Indians, and for the disposition of their lands in Minnesota and Dakota," approved March 3, 1863; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 479) to authorize the establishment of ocean mail service by American steamships between the United States and the north and south of Europe, and between the United States and the Mediterranean ports of Asia and Africa; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 480) to provide for the change of name or location of national banking associations; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

#### REPRESENTATION OF ARKANSAS.

Mr. SHERMAN. I now move that the Senate proceed to the consideration of House bill No. 1039, to admit the State of Arkansas to representation in Congress.

The motion was agreed to.

Mr. HARLAN. I ask the consent of the Senator from Ohio, and the unanimous consent of the Senate, to allow me to have taken up a bill supplementary to an act entitled "An act to establish the office of register of deeds for the District of Columbia," and I will state the reason why I make this request. There is no officer in existence who can perform the duties of that office, the incumbent having died, and the law not providing for any substitute in any way. The bill provides for a temporary appointment until a permanent appointment can be made. I make this statement because I do not wish to take the personal responsibility of the confusion that may arise in that office on account of there being no person legally qualified to perform its duties.

Mr. SHERMAN. I understand that the register has been dead about six months, and

that there really is but very little difference whether the deeds are recorded now or a few days hence; while I regard the passage of the bill which has been taken up on my motion as indispensable to the safety and peace and order of society in Arkansas, which now is in a peculiar state, with a Legislature in session without authority. I think we ought not to delay for a moment action upon this bill. I therefore would not be willing to consent that it should be laid aside. I hope it will pass with very little debate, and without opposition. The people of Arkansas have complied with every condition required of them, and they are entitled, according to the terms of existing law, to admission.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The bill mentioned by the Senator from Iowa can be proceeded with only by unanimous consent.

Mr. SHERMAN. I object.

The PRESIDING OFFICER. The bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress is before the Senate as in Committee of the Whole, and will be read.

The bill was read. The preamble recites that the people of Arkansas, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, have framed and adopted a constitution of State government which is republican in form, and that the Legislature of the State has duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen. The bill therefore proceeds to enact that the State of Arkansas is entitled and admitted to representation in Congress as one of the States of the Union upon the fundamental condition that the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted.

Mr. TRUMBULL. Mr. President, I desire merely to make an inquiry. I see that this bill states several facts, such as the ratification of the constitutional amendment by the Legislature and the adoption of a republican constitution. I suppose it is so; I think I have understood from the papers that such is the fact. It is very gratifying to me that it is so, and I shall be very glad not only to see Arkansas, but all the other States that were recently in rebellion, represented in this body at the earliest practicable moment consistent with the safety of the country. I do not know that I have any sort of objection to this bill. I suppose that I am for it. I, however, have not looked at the bill; but it is a very important measure, and I rose merely to inquire whether the Committee on Finance, of which the Senator from Ohio is chairman, has examined this bill. I was not aware that that committee had had the matter under consideration; and if not, what committee does it come from, and whether it has been examined at all, or whether the Senator from Ohio proposes on the statement of an individual Senator to pass a bill of this kind. I have no doubt if that Senator makes any statement it will be entirely correct; but I desire to know if he proposes to establish in this body as the proper mode of proceeding that so important a measure as the recognition of a State government in one of the rebel States that we have been disturbed about for several years should be passed by this body without a reference to any committee or any examination as to the facts. I should myself be entirely satisfied with any statement the Senator from Ohio made; but I submit to him whether the practice is one that had better be adopted in the Senate of passing so important a bill as this without a reference to any committee. He knows as well as any member of the Senate how disagreeable it is for any one to object to

the statements made by a Senator. The Senator from Ohio may be entirely accurate in the statements he proposes to make, and if he makes them he will think that he is; and yet it is barely possible, where a matter has not been investigated, that he may labor under a mistake. It is a very important measure, and I suggest to him whether it is proper to pass such a bill without a reference to some committee of the body.

Mr. SHERMAN. I do not propose to ask the passage of this bill on any statement of mine. There are only two facts that a committee could ascertain if the bill was referred. This bill has not been referred in the Senate to any committee, certainly not to the Committee on Finance. The ordinary reference would be to the Committee on the Judiciary; and if the Senate are of opinion that this bill ought to be referred to the Committee on the Judiciary to ascertain the facts stated, the reference may be made; but there is no necessity for such a reference. I have two official documents before me, one of which contains the proceedings of the Legislature of Arkansas upon the ratification of the fourteenth article of amendment to the Constitution of the United States. In this document the proceedings of the Legislature are set out in form, and there was a unanimous vote of both Houses of the Legislature. That one fact is proved to us by a document before us coming to us in the ordinary way.

Mr. EDMUNDS. Where is that document?

Mr. SHERMAN. It is miscellaneous document No. 118. It shows that the constitutional amendment was adopted on Friday, April 3, 1868, in the Hall of Representatives, Little Rock, Arkansas, and in the Senate chamber on the same day, and by a unanimous vote.

Mr. EDMUNDS. Is that a Senate document?

Mr. SHERMAN. No; a House document. That was more than a month ago. I have here also a document containing the official copy of the constitution submitted to us by the President of the United States. I have read the constitution over carefully, and any Senator can do so also. There are only one or two points in it on which even Senators could disagree. I think, then, there is no occasion for a reference to ascertain whether this constitution is republican in form. I have here also a letter from the General of the Army, certifying to the election, giving the details of the vote, the controversy about it, and the report of an officer who examined into its regularity.

These are all the facts that any Senator can have upon a reference to the Judiciary Committee, and they rest upon official documents, and not upon any statement I could make. I could, from the paper I hold in my hand and from personal information derived from private sources, make statements in regard to the condition of affairs in Arkansas to show the indispensable necessity of immediate action on this bill; and that is the only point on which I would detain the Senate for a moment. The official reports communicated to us by the General of the Army show a condition of society in Arkansas, in the absence of civil law, of local law, of authorized constables, sheriffs, &c., demanding immediate action. The Legislature of Arkansas is now in session, but their statutes have no force until Congress approve and ratify the constitution under the reconstruction acts.

Mr. JOHNSON. What is the date of the letter?

Mr. SHERMAN. May 4, 1868. I will not stop to give these facts to the Senate unless there is a necessity for them; but, so far as the facts upon which we admit Arkansas are concerned, they are of record here before us by documents coming to us from the President of the United States, from the General of the Army, and from the Legislature of Arkansas showing their approval of the constitutional amendment. If there is any other fact stated in the preamble or in the body of the bill that is not established by the highest official record, I do not know what it is.

Mr. JOHNSON. When did the President send it here?

Mr. SHERMAN. May 4, 1868.

Mr. JOHNSON. Mr. President, if the course advised by my friend from Ohio is adopted it will be the first instance in which a measure of that kind has been passed by the Senate in that way. I suppose there are not a dozen members of the Senate who have read the constitution which came to us, as the Senator says, by a message dated on the 4th of this month. At that time we were engaged in the trial which is still undecided. That trial occupied, and I believe engrossed, the attention of almost every member of the Senate. Little other business was done or thought of, and, speaking for myself, little other business of any importance is thought of now. It may be true that a state of things exists in Arkansas which it would be very desirable to have changed for the better; but a knowledge of that fact we only get, as he tells us, from a letter from the commander of our armies there, in whom I have the greatest confidence both as a gentleman and as a patriotic soldier; but it is not, as I think, advisable, nor do we properly discharge our duty, if we take the statement of any officer as actually true. It may be also true that the constitution adopted by the people of Arkansas conforms to the provisions of the reconstruction acts. It may, therefore, be true that that constitution is republican in form; but these are questions about which gentlemen may well differ, and the only way, as it seems to me, to arrive at a conclusion that would be satisfactory to the Senate and to the country would be to refer it, as has been done in other cases, to the Committee on the Judiciary or to some other committee, if any other committee should be preferred by the Senate.

The bill came before us yesterday for the first time, and now we are asked to ratify a constitution of which very few, if any, members of the Senate, except the honorable member from Ohio, know anything. What possible harm can result from a delay of a few days? Suppose it is postponed to the middle of next week; this, I believe, is Wednesday; suppose it goes over until next Wednesday; does the honorable member suppose there will be many murders perpetrated between now and Wednesday that the adoption of this constitution would prevent; that there will be any acts of injustice to person or to property that the adoption now of the constitution would prevent? I do not see how it can be possible for him to entertain any such apprehension; but I think the country will be surprised if the Senate admit now upon its floor two additional Senators, because, whatever may be the result in the end, the public will say, and have perhaps some reason to speculate upon the result, that those Senators are to constitute a part of the court of impeachment. I take for granted that no member of the body contemplates such a state of things; but if they are admitted they may claim it as a constitutional right, and claiming it as a constitutional right they may be able to satisfy a majority of the Senate that they have that right; and if they succeed in that then their votes are to be heard on that trial.

I repeat that I have no idea, I can have no idea, that any member of the Senate, or any man controlled by a sense of justice, controlled by any, the least, sense of propriety, would have Senators brought in now to take part in the issue of that proceeding; but I only mention it for the purpose of showing that the admission of the State now would cause the public to suspect that that was the purpose, and if they did, such a suspicion would, in my judgment, be derogatory to the character of the Senate. I mention it now only because it may turn out that the Senators themselves will insist upon their right, and they may be able to satisfy, against the wish, against the desire of a majority of the Senate, that they have that right, and thus participate in the judgment. Those dangers are much more pregnant, I think, than any delay of a few days; and why, there-

fore, can it not be postponed until Tuesday or Wednesday next?

I have nothing more to offer, Mr. President. I submit these considerations with perfect sincerity and with a desire to maintain unsuspected the credit of the Senate and to avoid what, if it does happen, will in the judgment of the country be considered a gross wrong. With this view I oppose the passage of this bill at this time.

Mr. DIXON. Mr. President, I agree with the Senator from Ohio that it is important that this bill should be acted upon at as early a day as the public interests may require, and as the ordinary, usual course of legislation will permit; but I will say to him that I think the bill can more readily and at an earlier day be acted upon finally if it should come here reported by a committee after a reference had been made; for I need not tell him that if action upon it and the consideration of it should be forced on us at this time it would be necessary for Senators to examine it and to discuss it at much greater length than they would be compelled to do if it were reported by a committee. We should then have authentic and official information in regard to it; whereas if it comes up now, we shall be compelled to examine it for ourselves, and to debate it for ourselves, for the purpose of ascertaining the character of the constitution, and also the character of the bill. I must say that I see something in this bill which, I think, would require from me some remark if it were to be acted upon at this time. I should feel desirous of discussing that clause of the bill which provides that no amendment to the constitution shall be made under certain circumstances. I do not know but that that is right; perhaps it is; but I wish to consider whether we can impose a condition precedent in that way prohibiting a State for all time from making what that State may consider a necessary amendment in its constitution with regard to the right of suffrage. I do not know what may be the result of the experiment of universal suffrage of colored men without any limitation of education. In my own State they are not even permitted to vote with education; and it may possibly turn out that it will not seem to be advisable in the southern States to permit them all to vote without being educated in any manner whatever; the proposed constitution may require some amendment. I do not feel at this time prepared to vote on such a proposition. I should like to hear from the committee; I desire to consider it.

Then I have another word to say. The Senator from Maryland has suggested a consideration that these Senators may be called upon to act in the matter of impeachment. He says he has no idea that there is any such intention; but the difficulty is this: I do not know that Senators admitted here now can be prevented from voting; I do not know but that it would be their duty to vote. I cannot say how that would be. They might feel called upon to claim the right. It is said, to be sure, that in this particular case it will make no difference, because the two Senators are said—so I have been told by what I believe to be reliable authority—to differ on that subject. Their vote might make no difference; but how that is I do not know. They may vote on one side; they may vote on the other; they may vote to acquit; they may vote to convict. I have some doubt whether, if they were admitted as Senators, they could be prevented from voting; whether it would not be their duty to act.

Mr. GRIMES. They are not sworn to try the case.

Mr. DIXON. They may ask to be sworn. I do not think we ought to place ourselves in a position where any question of that kind can be raised. We ought not, until this trial is decided, to admit new members of this body and have the question raised whether they ought to be permitted to vote or not. The case is to be decided in a day or two; and it seems to me it would be more decent, more proper for us to delay action upon this bill, if



there were no other reason, rather than raise a question as to what may be the duty of the Senators. Of course I do not allude to the side on which they would vote; I do not know; they might vote to acquit; they might vote to convict; they might divide. That is immaterial; that is not the question. If we pass this bill now, and afterward admit these Senators, we are raising a question which ought not to be raised. If that were done perhaps it would be the duty of the new Senators to vote; perhaps we should not have the power to prevent them. In view of that question, therefore, if there were no other reason, I think it would be proper for the Senate to say that this bill should not pass till that great trial is decided. Then justice will be done, of course, by the action of the Senate; the verdict will be acquiesced in; the public will be satisfied, and will presume everything to be right; and, whatever may be the result, peace, I trust, may pervade the whole country. If there were no other reason than that I should be opposed to the passage of this bill at this time. I think it had better be referred to a committee.

Mr. SHERMAN. I wish very positively to disclaim all purpose of calling up this bill to gain two votes on the impeachment trial. I have no idea that the passage of this bill to-day—and I hope the Senate will pass it—would have that effect, because, as we all know, the President of the United States could retain this bill for ten days. In all human probability we shall take a recess on next Monday, and my only purpose in having the bill passed to-day was this: the people of Arkansas would know then that the existing Legislature is a lawful power, that its enactments must be respected, and that they may be enabled, even in anticipation of the final vote on the passage of this bill, with or without the approval of the President, to make the necessary arrangements to preserve law and order in Arkansas. The condition of affairs there now is peculiar. The military authorities are totally inadequate to protect life and property in Arkansas on account of the insufficiency of the force. The present local authority there, growing out of the old *debris* of civil government, has ceased to have any power whatever. It is not regarded or respected by anybody. Those who formerly adhered to it do not now regard it as having any weight, while the present authority, through the new movement and the existing Legislature, have no legal authority under the reconstruction acts. The reconstruction acts provide that the Legislature shall have no power whatever to pass laws until Congress pass upon their constitution and admit the State; so that there is now an absence of all local authority.

The reports of the registers and judges of election, which are to be found in the report which has been laid upon our tables, disclose a condition of lawlessness and violence in Arkansas such as we ought not to perpetuate for a single day. I have no doubt that every day in Arkansas, in the absence of local authority, murders and outrages are being committed. The official document from General Grant shows, from the reports of officers of the Government, the constant outrages that are being committed there, simply because there is no law, no officer, no constitutional agency to protect the peace and quiet of the people. But the very moment an act is passed by Congress recognizing the existing Legislature as valid, even although it may not be approved by the President, although it may be withheld by him for a time, it will give to their enactments a kind of moral sanction, by the aid of which they will be able to preserve peace and quiet.

If there was any fact disputed or doubted I should be in favor of sending this bill to the Committee on the Judiciary; but there is not. Their proceedings seem to have been regular. The only question that arises is as to the legality of the votes in two counties, Jefferson county and Pulaski county; and that would not change the result. There is no doubt that upon the

law the vote was legal, and the officer who was sent to examine into the matter so reported. They acted in those two counties, being populous counties, within easy reach of the telegraph, upon the last amendment of the reconstruction act, and allowed all persons to vote, whether they were registered in those counties or in other counties of the State. In that I think they acted according to the strict letter of the law, and it was perfectly right and proper.

Under these circumstances, to prolong this matter seems to me unwise. I was in hopes that the Senate would, without objection, with great unanimity, pass this bill. It cannot effect any political object. These men cannot come here to vote upon impeachment. It can do no harm. It may protect life and property a little sooner. There is no doubt at all, I think, of the passage of this bill within a week or two. I see no reason why the Senate, which is proverbial for delay, should in this case, where no good can come from delay and a great deal of harm may come, delay this matter until next week or the week after. It is for the Senate to say. I think we ought to act upon it now. I feel the more anxious on this subject because persons whom I know, who have cast their fortunes in Arkansas, write to me that the condition of society there absolutely demands some moral support at least from a local government.

Mr. EDMUNDS. I hope this bill will be referred to the proper committee in the regular way. I have looked at the constitution casually, and I believe it to be right; I believe it will turn out on investigation that every step has been regular under the law, and that this people may properly and rightly and legally, according to the constitution and the reconstruction laws, be received: but I believe that it is of great consequence as a rule for the orderly administration of government, that the usual course as to a bill of this importance, not merely to this people, but to the whole country, as a precedent of the method of readmitting old States or reorganizing and admitting new ones, should be adhered to with regularity. It is undoubtedly true, as my friend from Ohio says, that there is a state of things in the State of Arkansas that earnestly appeals to our sense of such expedition as we can consistently and properly make; and the same state of things exists, I am sorry to say, in most of the other southern States, according to my information; and as to them, too, I would make all the haste consistent with justice and consistent with security. But I believe it will be an unparalleled and unprecedented step for this body to take, looking back to the records of the worst "Democratic" times—I use the word Democratic in its modern and not in its proper signification—for us to admit a State into this Union, or readmit an old one whose relations have been disturbed, which is practically the same thing, without any reference to a committee, without having before us in the regular and proper way those official and other facts upon which the body are to act. It is true that by the courtesy between the two Houses we have had sent to us in an informal manner the print of this constitution, the print of the letter to the President, and of his message to that body.

Mr. SHERMAN. I got them from our document room.

Mr. EDMUNDS. I say we have had them sent to us in the regular way of the courtesy between the two Houses; that is, when one House orders a document printed for its own use, as it does under the rules, a certain number of copies are sent to the other House for distribution among its members for their information; but in an official sense they are not here. That, I admit, is a technical objection; but I say when we are entering upon legislation of this character, which affects so many interests and such wide areas of country, we ought to be careful, even for the sake of public opinion, in order to defy the criticism of our opponents, that every step of regularity shall be adhered to; and we ought not to be told, when

those who complain of our action go back to the people, that we have hastied a measure through here without any reference to a committee, in plain violation of and departure from the spirit of our rules and without a precedent or a parallel.

I say, therefore, looking at it in the mere sense of party expediency, and in what some would call that narrower party sense that appeals to the political wisdom of Republicans, that we ought to put ourselves in a position to defy criticism here or elsewhere. If it be claimed by anybody on this floor that there is any doubt about the regularity of these proceedings, let them go to a committee, and let him be challenged to produce his objections and his evidence, if he has any; and then, in a day or two or three, your committee will report back the facts, and then we can pass the bill.

Suppose it were passed to-day, Mr. President, and suppose—I think I shall not be guilty of any impropriety if I refer to it, because it is within the range of probabilities—suppose it should happen that passing this bill to-day it should be sent to the President to-morrow, and that on Saturday that President should be removed from office, has his successor a constitutional right, or is he bound by constitutional duty, to examine and approve that bill? According to my judgment, by no manner of means. Therefore, I think we can subserve no practical purpose, we can subserve no legal or regular purpose, by hastening a bill of this importance, the first of the series of bills which is to operate upon these States, and also upon Territories, through in this way. I hope it will be sent to a committee.

Mr. BUCKALEW. I simply desire to call attention to one question of fact. I shall vote to refer this subject to a committee, because I desire a report from them on the question arising from the face of these papers of whether this Constitution was in fact adopted or not.

The Senator from Ohio seems to rest under a mistake in regard to the time when information of the act of the 11th of March reached the State of Arkansas so as to be acted upon at an election. We passed an act, the Senate will remember, which bears date the 11th of March, authorizing persons registered in one part of the State to vote in other parts of the State, being there, I believe, a period of ten days. The law before that was understood not to permit that. The Senator seemed to think that information of that law had reached the State of Arkansas and was acted upon in the two counties where there were a large number of surplus votes, and although they had no official copy of the law, they had information by dispatch from the General-in-Chief upon which, in point of fact, they acted, and these votes were taken. Now, sir, the fact is not so, as I understand the report of General Gillem. He says:

"The order containing this law"—

Meaning the law of the 11th of March—

"was not received until after the election."

Mr. SHERMAN. Received by him.

Mr. BUCKALEW. He says:

"The order containing this law was not received until after the election, and the dispatch from the General-in-Chief containing no intimation of this provision"—

To wit, the provision permitting electors to vote in a different part of the State—

"I was unaware of the existence of the law, and therefore prescribed no regulations for persons voting at other precincts than those in which they registered."

The paragraph above is as follows:

"Prior to the act of Congress passed March 11, 1868, and which was promulgated in General Order No. 14 from the War Department, dated March 14, 1868, there was no law or order in existence permitting voters registered in one county or precinct to vote in any other county or precinct."

And he goes on then and explains the law. He states, I believe, in another part of his report, that there was a dispatch from General Grant announcing the fact of the passage of the law, but he says that in the first informa-

tion which he received there was no intimation of this particular provision.

Mr. SHERMAN. Will my friend allow me to read the information upon which I base my statement?

Mr. BUCKALEW. Certainly.

Mr. SHERMAN. He reads from the report of General Gillem, who has been all the time at Vicksburg, but the report of the officer, Colonel Tourtelotte, who was sent by General Gillem to examine into the regularity of this election, shows as follows, on page 23:

"No fraud by registrars appears to have been intended in this matter, as they allowed persons elsewhere registered to vote only after mutual consultation and consideration of act of Congress passed March 11, 1868, but their conduct was very unfortunate, as the registration law was thus virtually impaired."

But the registrars acted upon consultation in obedience to the law, having received intelligence of it before the election came off, and I think they acted clearly right.

Mr. BUCKALEW. I think that the statement to which the Senator refers ought to be compared with the other official information in this document. I shall not take the time of the Senate to refer to several other points, as I have not had leisure and opportunity to collate and compare the different matters; but, clearly, upon this dispatch of the general, who is responsible for his report, and who is the authorized officer to communicate to us the result, it would seem that in point of fact there was no order or authority by which votes could be taken under the act of the 11th of March, and if any election officer proceeded to take such votes it was without any legal regulation or any legal authority.

Now, sir, another statement which is made by one of the subordinate officers, and, I believe, adopted by the general, is that it cannot be ascertained on which side these surplus voters in the two counties cast their ballots. It will be seen by referring to the table of returns that the number of negative votes in Pulaski county is a great deal less than these surplus votes. I believe the whole number of negative votes given in that county is not more than about one half the total number of surplus votes recorded in the two counties. Certainly, sir, some committee ought to examine these matters of fact and report to us that there is a satisfactory showing that this constitution was in point of fact adopted by a majority of the electors of that State.

Mr. MORTON. No one, Mr. President, is more anxious than myself to have the Senators and Representatives from Arkansas admitted without further delay. There are two very excellent gentlemen present to-day elected Senators from Arkansas, whom I shall be very glad to take by the hand and welcome into this body. The evidence in the hands of the Senator from Ohio, and referred to by him, I take to be entirely satisfactory and sufficient to show that the conditions provided in the reconstruction acts have been fully complied with by Arkansas; that she has formed a constitution that is republican in its character and form; that her Legislature has ratified the constitutional amendment; and that Arkansas is now in a condition to be represented in Congress again.

Nor do I see the necessity of referring this matter to a committee. The evidence is in a nutshell. It is a matter of public notoriety with which we are all acquainted. The official evidence is present in the Senate, and can be read in twenty minutes. But feeling as I do, I think there is, perhaps, an impropriety in attempting to pass this bill to-day; and, for one, I should prefer to see it lie over until Monday, and then I think it can be passed in a very short time. The character of the argument made this morning by the Senator from Maryland shows to me what use will be made of the passage of the bill to-day, or an attempt to pass it to-day.

Mr. JOHNSON. The honorable member does not mean to say that I would use it for any such purpose, but that it would be used.

Mr. MORTON. I did not understand the Senator from Maryland as saying that it would be used for such a purpose, but that it might be; and the character of the speech was certainly calculated to make that impression upon the country. The same thing was substantially reiterated or stated by the Senator from Connecticut. Now, sir, as a simple matter of fact, the admission of Arkansas to-day, or the passage of the bill, could not be used upon the question of impeachment one way or the other; and I am sure there is no intention of that character. But, sir, in view of the present condition of affairs and of the events that are impending, I am opposed to any legislation in the Senate to-day, and I am in favor of adjourning the Senate over until next Saturday at half past eleven o'clock.

Mr. SUMNER. Make that motion.

Mr. MORTON. If it is in order, I will make the motion that when the Senate adjourns to-day it adjourn until half past eleven o'clock on Saturday; and if that is adopted, I shall then move to adjourn.

The PRESIDENT *pro tempore*. The motion can only be entertained by unanimous consent. Is there any objection to putting the question?

Mr. DAVIS. I want to say a word on the reference of this subject.

Mr. CONNESS. Let that motion be first put.

The PRESIDENT *pro tempore*. The motion to adjourn to a certain time is not in order now. The Senator from Kentucky.

Mr. SUMNER. I would ask if a motion to postpone the pending order, in order to put that motion, would not be in order.

Mr. CONNESS. There is a Senator on the floor.

The PRESIDENT *pro tempore*. There is a question before the Senate, and another motion cannot be entertained except by unanimous consent until that is disposed of.

Mr. CONNESS. I understand the Senator from Kentucky is willing to have the question put.

Mr. DAVIS. I do not understand by what right the Senator from Massachusetts gets up to deprive me of the floor.

Mr. SUMNER. Not at all; I beg the Senator's pardon; it was a misunderstanding.

The PRESIDENT *pro tempore*. The Senator from Kentucky has the floor.

Mr. DAVIS. If we are to have a vote now I am willing to omit saying anything on the question of adjournment, or any other question.

Mr. SUMNER. Very well.

Mr. DAVIS. But I do not consult the Senator from Massachusetts. [Laughter.] I will take my seat with a view to the vote being taken.

Mr. HARLAN. I shall not oppose the reference of this bill to a committee if it be thought desirable by any considerable number of the members of the Senate; but I wish to submit a remark or two in relation to points that have been suggested. One is that the votes cast in Arkansas may have been irregular on account of the law not having been published in that State preceding the election. I do not think that that position is tenable. I suppose the moment the bill was approved it became the law of the land; and if the electors in Arkansas acted in pursuance of its provisions their conduct was legal; their votes were legal, whether they knew of the existence of the law or not. It was not necessary that they should know of the existence of the law in order to secure the legality of their conduct. If they had violated a criminal statute they could not have pleaded ignorance of the existence of the law, much less could it be alleged that their conduct, in a civil point of view, as citizens of Arkansas, would be void in the absence of a publication of the law, when there is nothing, either in the law or in the Constitution of the United States, requiring such publication.

Another observation that I desire to make, and the only one, is that if this bill should be passed, and representation from Arkansas be

admitted at once, it could only operate favorably to the President of the United States in the trial of the impeachment. It is impossible that it could operate adversely to the party accused if they were admitted to their seats instantly, and should participate in the decision of that question. There are now fifty-four Senators in a full Senate, of which thirty-six affirmative votes are necessary to a conviction and nineteen negative votes are necessary to an acquittal. If two other Senators were admitted there would be fifty-six Senators. One third of fifty-six would be eighteen and two thirds; twice eighteen and two thirds would be thirty-seven and one third; and so it would require thirty-eight votes to convict. One third of fifty-six being eighteen and two thirds, it probably would require nineteen to acquit, and nineteen votes against these articles would acquit the President now. So it is impossible that the admission of Arkansas and the Senators-elect to their seats could operate adversely to the President. I make this statement, which is based on figures that anybody can make, in order to set aside any inference that might possibly be drawn from the suggestions dropped by the Senator from Maryland.

Mr. MORTON. Mr. President—

Mr. HARLAN. I desire to make one further remark, and then I will give the floor to the Senator from Indiana, and that is, that there would seem to be a propriety in admitting these States as rapidly as the law and the facts will permit; for I remember very distinctly one of the President's attorneys complained of the absence of representation from ten States of the Union during the pendency of this trial. Now, to this extent that complaint would be obviated by the admission of representatives from Arkansas before the trial shall have been decided; it would diminish the objection at least one tenth.

Mr. MORTON. The Senator from Kentucky had the floor and yielded for the purpose of having the motion made, and I now make the motion that when the Senate adjourns to-day it adjourn to meet at half past eleven o'clock on Saturday next; and if that is adopted I will then move an adjournment.

Mr. JOHNSON. Will the honorable member waive that motion for a moment to enable me to move to refer this bill to the Committee on the Judiciary? That ought to be done.

The PRESIDENT *pro tempore*. There is a motion pending, and no other motion can be entertained until that is disposed of, unless by unanimous consent.

Mr. CONNESS. I hope we shall have a vote on the pending question first.

The PRESIDENT *pro tempore*. If there be no objection the Chair will put the question on the motion that when the Senate adjourns to-day it adjourn to meet on Saturday next at half past eleven o'clock.

Mr. SHERMAN. I object until we have a vote on this question.

The PRESIDENT *pro tempore*. The objection prevents that motion being put now.

Mr. SUMNER. Then I suggest to my friend from Indiana that he move to postpone the pending order in order to make his motion.

Mr. MORTON. I make that motion.

The PRESIDENT *pro tempore*. It is moved to postpone the bill under consideration until to-morrow.

Mr. CONNESS. I ask for information whether a motion to refer or one to postpone has precedence.

The PRESIDENT *pro tempore*. The motion to postpone takes precedence.

Mr. SHERMAN. If the Senate are disposed to acquiesce in postponing this bill until Monday with the understanding that it shall then be taken up and disposed of, I will withdraw my objection to that proposition.

Mr. EDMUNDS. Let the bill be referred; it can be reported by that time.

Mr. SHERMAN. The trouble is that to refer it will create delay.

Mr. JOHNSON and others. Oh, no.

Mr. SHERMAN. A single objection puts

it over when it is reported: I certainly have no desire not to refer it; but if we adjourn until Saturday it cannot be reported until Saturday, and then a single objection will postpone it beyond the recess.

Mr. EDMUNDS. There will not be any recess.

Mr. POMEROY. It can be reported on Saturday.

Mr. TRUMBULL. I will say to the Senator from Ohio that when I suggested the propriety of a reference it was not with any view to delay. I certainly have no desire to have the bill postponed until Monday. It was because I thought so important a bill as this should not, for the sake of the example, be permitted to pass this body without a reference to any committee. I will say now to the Senator from Ohio that if this bill be referred I will endeavor to have a meeting of the committee so as to examine it and report it back by the earliest day.

Mr. SHERMAN. By Saturday?

Mr. TRUMBULL. Yes; I should think so.

Mr. SHERMAN. With that suggestion, I have no objection to allowing the bill to be referred.

Mr. ANTHONY. Why not meet on Friday? Several Senators. We cannot meet on Friday.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts withdraw his motion to postpone?

Mr. SHERMAN. Let the bill be referred.

Mr. SUMNER. Very well, if that is the desire of the Senate.

The PRESIDENT *pro tempore*. The motion is withdrawn.

Mr. JOHNSON. I move, then, to refer the bill to the Committee on the Judiciary.

The motion was agreed to.

#### ADJOURNMENT TO SATURDAY.

Mr. MORTON. Now I move that when the Senate adjourns to-day it adjourn to meet on Saturday next at half past eleven o'clock.

Mr. ANTHONY. I hope the Senator will modify his motion so as to say until Friday. The committee can meet to-morrow or to-day and consider this subject and report to us if we want to act upon it before the week expires. There is a great deal of business on the table. The Senator from Maine, the chairman of the Committee on Appropriations, [Mr. MORRILL,] has a bill that he desires very much to pass. I have heard this body called a great many times an august body, but I believe some of the Senators want to make it a September body, if they can, for this session. [Laughter.] This continual delay, postponing, adjourning over, and doing no business, is crowding us not only into the summer, but beyond it.

Mr. POMEROY. If we could have an executive session to complete some matters which the Committee on Indian Affairs have reported, and which are pending before the Senate, it would very much promote the public business and the public interest. ["No!" "No!"]

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana.

Mr. ANTHONY. I move to amend the motion by substituting "Friday at twelve o'clock" for "Saturday at half past eleven o'clock."

Mr. SUMNER. I hope not.

The amendment was not agreed to.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Indiana that when the Senate adjourns to-day it adjourn to meet on Saturday next at half past eleven o'clock.

The motion was agreed to.

#### HOUSE BILLS REFERRED.

The following joint resolutions, received from the House of Representatives, were severally read twice by their titles, and referred as indicated below:

A joint resolution (H. R. No. 168) to amend an act entitled "An act to aid in the construc-

tion of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862—to the Committee on the Pacific Railroad.

A joint resolution (H. R. No. 262) authorizing certain distilled spirits to be turned over to the Surgeon General for the use of the Army hospitals—to the Committee on Military Affairs and the Militia.

A joint resolution (H. R. No. 263) to declare the meaning of the acts relating to Pacific railroads—to the Committee on the Pacific Railroad.

Mr. MORTON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 13, 1867.

The House met at twelve o'clock m. Prayer by Rev. GEORGE P. VAN WYCK, of New York.

The Journal of yesterday was read and approved.

#### EXPENSES OF COAST SURVEY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a statement of expenses of the Coast Survey for the fiscal year ending June 30, 1867; which was referred to the Committee on Commerce, and ordered to be printed.

#### GAUGERS FOR PHILADELPHIA.

Mr. O'NEILL, by unanimous consent, introduced a bill (H. R. No. 1061) providing for the appropriation of four additional gaugers for the port of Philadelphia; which was read a first and second time, and referred to the Committee on Commerce.

#### ARREST OF A REVENUE COLLECTOR.

Mr. SCHENCK. I ask permission of the House to make a brief statement in behalf of the Committee of Ways and Means.

No objection was made.

Mr. SCHENCK. I ask the Clerk to read a telegraphic dispatch which appears in the papers this morning, and which I have marked and now send to the Clerk's desk.

The Clerk read as follows:

#### Arrest of a Revenue Collector.

NEW YORK, May 12.—Collector Joseph F. Bailey, of the fourth revenue district of this city, was brought before Justice Dodge, of the Jefferson Market police court, this afternoon, and held to answer to the charge of perjury, preferred by George B. Davis, a detective in the employ of the secret service of the Ways and Means Committee.

Mr. SCHENCK. I desire to say that I know nothing, and the Committee of Ways and Means, I believe, know nothing in regard to the merits of any complaint that may have been made against Collector Bailey. But we do know that we have nobody employed in any secret detective service whatever. We neither claim to have the authority, nor have we had the disposition to enter into any service of that kind, through the agency of Mr. Davis or anybody else. All that is known to the committee about Mr. Davis is, that in the course of our investigations he appeared before us as a witness on one occasion; and my recollection is that we did not attach any particular importance to the testimony he gave.

#### WHITEHALL AND PLATTSBURG RAILROAD.

Mr. GARFIELD. I ask unanimous consent to introduce for consideration at this time a bill for which I asked unanimous consent on Monday last, in regard to the Whitehall and Plattsburg Railroad Company. I do not think it will give rise to any debate.

Mr. HOLMAN. Let the bill be read.

The bill was read. It authorizes the Whitehall and Plattsburg Railroad Company to locate, construct, and operate its railroad across the land belonging to the United States at Plattsburg, in the State of New York, upon a line commencing in the highway leading from

Plattsburg to Peru, at a point one hundred feet from the north line of the inclosure surrounding the Government building, running thence in a northeasterly direction about one thousand six hundred feet to the bank of Lake Champlain, thence northward along the banks of the said lake to the north line of the land of the United States, such line being designated on a map of survey of the same made by James P. Campbell, and now on file in the office of the Secretary of War; provided that the right of way herein granted shall be subject to such restrictions as the Secretary of War may think necessary to protect the interest of the United States; and provided farther, that no more than four rods in width of the Government land shall be occupied under the provisions of this act.

No objection was made; and the bill (H. R. No. 1062) to grant the right of way to the Whitehall and Plattsburg Railroad Company was received and read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. GARFIELD. This bill needs no explanation at all. The War Department approves of it, but has no authority to allow this road to be located across the public grounds. The bill gives the authority.

Mr. MILLER. Will this do any damage to the public property?

Mr. GARFIELD. Not at all; and there is a provision that it shall be subject to such restrictions as the Secretary of War may deem necessary to protect the interests of the United States. The following letter from the engineer department gives all the information that is necessary:

ENGINEER DEPARTMENT, June 19, 1867.

SIR: I have the honor to return herewith the petition, with accompanying papers, from the board of directors of the Whitehall and Plattsburg Railroad Company, asking for a grant to the company of the right to occupy and use four rods in width of the United States grounds at Plattsburg, along the line shown on plat herewith, for the purpose of building and using said road, and for no other purpose whatever.

Colonel Blunt, the senior engineer officer in that quarter, reports as follows:

OSWEGO, NEW YORK, June 6, 1867.

SIR: I have the honor to report that in my opinion there exists no special objections to granting to the Plattsburg and Whitehall Railroad Company the right of way over the public land near Plattsburg, New York, under the ordinary restrictions as to removal of track when the United States, by their proper officers, shall require such removal for the public interest, and a requirement that such fences, retaining walls, bridges, &c., shall be constructed and maintained by the company as may be judged necessary by the engineer or other officer under whose supervision the matter may be placed.

The proximity of the Saranac river on the west forces the line of the road upon the public land, and the particular course indicated seems as unobjectionable as any. It will require a ten or twelve feet cutting for the greater part of the distance.

The petition of the company, with map, received with department letter of May 21, were returned by me on the 24th May.

Very respectfully, sir, your obedient servant,

C. E. BLUNT,

Lieutenant Colonel of Engineers,

Brevet Colonel U. S. Army.

General A. A. HUMPHREYS,

Chief Engineer, United States Army, Washington City.

The opinion of Colonel Blunt is concurred in, and it is recommended that his suggestions be adopted as to the conditions to be imposed upon the company if the privileges they ask be granted.

In this connection I respectfully submit the following remarks:

It is considered that as public land can only be acquired through the joint agency of the legislative and executive departments, so no permission for the occupation of the public lands, except for governmental uses, can be valid without the consent of the legislative department. If this view be correct, it will be necessary to inform the directors of the Whitehall and Plattsburg railroad that recourse should be had by them to Congress for the passage of a law granting the privilege they desire.

The public lands at Plattsburg have never been occupied by permanent defenses, nor is it probable that such works will ever be required there. An occasion might arise when this would be a convenient point for the accumulation of supplies and the concentration of troops, when temporary defenses might be deemed necessary.

This statement is made to account for the fact that the engineer department has not for many years, if ever, had the care of the public lands at Plattsburg. It is among those places the care of which is supposed to belong to the Quartermaster General of the Army under paragraphs one thousand and sixty-one and



one thousand and ninety-five of the regulations, and it is respectfully recommended that the papers in this case be referred to his office.

A. A. HUMPHREYS.

Chief of Engineers, Major General.

Hon. E. M. STANTON, Secretary of War.

HEADQUARTERS CORPS OF ENGINEERS.

WASHINGTON, February 10, 1868.

THOMAS LINCOLN CASEY,

Major of Engineers and Lieut. Col. U. S. Army.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELECTIONS IN SOUTHERN STATES.

Mr. BECK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War and the General of the Army be severally directed to communicate to this House the reports of the several district commanders of the elections held for and against the ratification of the proposed constitutions in the States of Georgia, North Carolina, South Carolina, and Louisiana, and for the election of officers thereunder in said States, together with all the accompanying papers forwarded by them or any of them touching said election or the revised registration authorized by the reconstruction acts of Congress.

Mr. BECK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY BARRICKLOW.

Mr. HOLMAN, by unanimous consent, introduced a bill (H. R. No. 1063) for the relief of Henry Barricklow; which was read a first and second time, and referred to the Committee of Claims.

AGRICULTURAL REPORT FOR 1867.

Mr. TROWBRIDGE, by unanimous consent, submitted the following resolution; which was referred under the law to the Committee on Printing:

*Resolved*, That there shall be printed, for the use of the members of the House of Representatives, one hundred and eighty thousand copies of the annual report of the Commissioner of Agriculture for the year 1867, to be distributed in equal numbers to each of the congressional districts of the United States.

PUGET SOUND, ETC., RAILROAD COMPANY.

Mr. PRICE called for the regular order. The SPEAKER. The regular order is the call of committees for reports, commencing with the Committee on the Pacific Railroad, that committee being entitled to another morning hour.

Mr. PRICE, from the Committee on the Pacific Railroad, reported back, with amendments, a bill (H. R. No. 184) to incorporate the Puget Sound and Columbia River Railroad Company.

The bill was read.

Mr. PRICE. I am instructed by the committee to offer several amendments. The first is to add to the names of the corporators the following: R. R. Haines, F. T. McElroy, Joseph Cashman, George A. Barnes, T. J. McKinney, Frederick A. Clark, S. D. Home, Marshall F. Moore, G. A. Meigs, Arthur A. Spinney, G. V. Calhoun, Cyrus Walker, A. A. Denny, P. D. Moore, C. E. P. Wood, Philip Ritz, D. S. Baker, E. L. Fowler, Hazard Stevens, Philip Keach, P. Becher Van Trump.

The amendment was agreed to.

Mr. PRICE. I am also directed by the committee to offer the following amendment:

In the seventeenth and eighteenth lines of the first section strike out "the town of Steilacoom" and insert "some point;" so as to read, "beginning at some point on Puget sound."

The amendment was agreed to.

Mr. PRICE. I also submit on behalf of the committee the following amendment:

In the eighteenth line of the first section strike out the words "Pierce county."

The amendment was agreed to.

Mr. PRICE. I am also directed by the committee to submit the following amendment:

In the eighth line of the second section insert after the word "said" the words "right of;" so as to read, "said right of way is granted to said railroad," &c.

The amendment was agreed to.

Mr. PRICE. I also offer on behalf of the committee the following amendment:

In the ninth line of the second section strike out "two" and insert "one;" so as to read, "to the extent of one hundred feet in width," &c.

The amendment was agreed to.

Mr. PRICE. The committee has also directed me to submit the following amendment:

At the end of the second section strike out the following words: "And the right of way shall be exempt from taxation."

The amendment was agreed to.

Mr. PRICE. I also submit, by direction of the committee, the following amendment:

In the eighth line of the third section strike out "twenty" and insert "ten;" so as to read, "ten alternate sections."

The amendment was agreed to.

Mr. HOLMAN. I ask the gentleman to allow me to offer an amendment to this third section.

Mr. PRICE. I prefer that the amendments of the committee should first be acted on. Some of them may accomplish the object desired by the gentleman.

I am directed by the committee to offer a further amendment:

In the twenty-third line of the third section strike out "fifty" and insert "thirty;" so as to read, "thirty miles."

The amendment was agreed to.

Mr. PRICE. I move, on the eighth and ninth pages, to strike out these words:

And said commissioners in their assessment of damages shall appraise such premises at what would have been the value thereof if the road had not been built.

The motion was agreed to.

Mr. PRICE, I move, on page 11, to strike out these words:

But in case no claimant shall appear within six years from the time of opening said road across any land, all claims to damages against said company shall be forever barred.

The amendment was agreed to.

Mr. PRICE. I move, on page 12, section eleven, line two, to strike out the word "proceedings;" and in lieu thereof to insert "receipts;" so it will read as follows:

SEC. 11. And be it further enacted, That the directors of said company shall make an annual report of their receipts and expenditures, verified by the affidavits of the president and at least three of the directors; and they shall, from time to time, fix, determine, and regulate the fares, tolls, and charges to be received and paid for transportation of persons and property on said road, or any part thereof.

The amendment was agreed to.

Mr. PRICE. I move on the fourteenth page, line ten, after the word "territory," to insert "and by mailing a copy of said notice to such stockholder;" so it will read:

Sixty days' previous notice shall be given of the payments required and of the time and place of payment, by publishing a notice in one newspaper in Washington Territory, and by mailing a copy, &c.

The amendment was agreed to.

Mr. PRICE. I move, after the word "pay," in line eleven, same page, to insert "within thirty days, after the expiration of said sixty days."

The amendment was agreed to.

Mr. PRICE. I now move, on page 15, line twelve, to strike out "assume;" and insert "issue," a mere verbal amendment.

The amendment was agreed to.

Mr. PRICE. I move, on page 15, line nineteen, to strike out the words, "and all sales of stock bonds that may be made at less than par value shall be good and binding upon the company as if such bonds had been sold for the full value thereof."

Mr. PRUYN. I should like to inquire of the chairman of the committee whether the previous clauses of the bill say that less than par would be valid, or is it his intention to make it invalid if sold at less than par?

Mr. PRICE. This makes the section conform to the rest of the bill if it be adopted. The object of the committee was to prevent the company putting the bonds upon the market and buying them at less than par.

Mr. PRUYN. If I understand the chairman correctly, the effect of other portions of the bill is that they may sell to other parties under par. I am not familiar with the bill.

Mr. PRICE. That is not the intention, and that would not be the effect.

Mr. PRUYN. If that is the intention, to prevent the directors purchasing at less than par, it ought to be in the nature of a prohibition, and not general.

The amendment was agreed to.

Mr. PRICE. I move after the word "working," in the sixteenth section, line four, to insert "order," a verbal amendment.

The amendment was agreed to.

Mr. PRICE. At the end of the bill I move to add the following:

*Provided, however*, That the lands hereby granted to said railroad company shall be sold on application to actual settlers in quantities not greater than one quarter section to any one person, and at a price to be fixed by the company which shall build the road not exceeding three dollars per acre; and all sales so made by said company shall be made on the following terms, to wit: One fourth of the amount thereof shall be paid in cash at the time of purchase by the actual settler, and the balance in three equal annual payments, with interest not to exceed seven per cent. per annum until paid.

Mr. PRUYN. I ask the gentleman to modify it so it will read "with the privilege to the purchaser to pay in full."

Mr. PRICE. I have no objection to that.

Mr. LAWRENCE, of Ohio. I desire to offer an amendment.

Mr. PRICE. I will hear it read.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Iowa will allow me to offer a few amendments.

Mr. LAWRENCE, of Ohio. I move to strike out all after the word "provided" and insert the following:

That all lands which may be granted to said company to aid in the construction of said railway shall be sold by said company only to actual settlers, in quantities not greater than one quarter section to any one person, and at a price not exceeding \$1 25 per acre; and the Secretary of the Interior shall have power to prescribe rules and regulations for carrying this act into effect; and no person shall be deemed an actual settler who does not furnish evidence in such form as the Secretary of the Interior may prescribe that it is his or her intention to enter upon, improve, and reside upon the lands he or she may purchase as and for a homestead.

I hope the amendment I submit will meet the approval of the House. I trust my efforts in behalf of actual settlers have done some good. On the 20th of January I introduced a bill substantially in the words of the amendment I have now submitted. I am not aware that any such provision was made at any prior time, and the gentleman from Iowa [Mr. PRICE] has only adopted in part, by his amendment, the principle of my bill. In any event I will not commit myself in favor of this bill until I see some greater necessity for it.

Mr. PRICE. I cannot yield to allow that amendment, for reasons which I will state in a word. The lands retained by the Government are to be sold at \$2 50 per acre, and this amendment proposes to compel the company to sell their lands at \$1 25. That reason is easily understood. Then there is another reason, which I presume the gentleman does not consider. Immediately along the track of the railroad the lands are much more valuable than from five, ten, or fifteen miles from it. By the terms of the bill, as amended, the company cannot ask more than three dollars per acre for any of their lands. That is the most they can get for lands lying immediately on the track, and for land lying beyond they will, of course, be obliged to take a great deal less. They can, therefore, only get fifty cents per acre more for any of their land than the Government gets for its land. Now, if you adopt the amendment of the gentleman from Ohio, [Mr. LAWRENCE], of course the land grant will be worth next to nothing.

In this connection I want to say to the House

that this is a grant of land for the continuation of a road for which a grant of land was made in the Thirty-Ninth Congress, running from some point on the Pacific railroad, in the Sacramento valley, to Portland, in Oregon. That road is about four hundred miles long, running parallel with the coast, and about one hundred miles from the coast. This road from Vancouver to Puget sound is about one hundred miles long. The Senate passed a bill at the same session continuing that same land grant from Vancouver, six miles from Portland, to Puget sound, making a continuous road from Puget sound to the Central Pacific railroad, where it strikes it in the Sacramento valley. That bill came to the House and was referred to the Committee on the Pacific Railroad, was by them considered, and I was directed to report it without amendment. But the committee was not called, and, of course, it did not get before the House. This bill covers the same ground precisely; and if the House has attended to the amendments made they will observe that all the amendments are restricted, and we have made the bill conform precisely in every respect, so far as the land grant is concerned, to the act in regard to the road with which it is to form a connection.

Mr. ALLISON. If I understand the provisions of the bill as reported, the even sections not granted to the company are open to homestead settlement under the preemption and homestead law.

Mr. PRICE. Of course.

Mr. ALLISON. They are open to actual settlement without the payment of any money by the settlers.

Mr. PRICE. I so understand it.

Mr. ALLISON. But a person who desires to purchase these even sections in large quantities may pay \$2 50 per acre.

Mr. PRICE. That is as I understand it.

Mr. ALLISON. I think it would be just to the actual settler to allow him to purchase the odd sections.

Mr. WASHBURNE, of Illinois. Will the gentleman yield?

Mr. PRICE. There are only twenty minutes left, and I desire to yield to the gentleman from Washington Territory, [Mr. FLANDERS.] If the House sustains the previous question, gentlemen will have an opportunity to offer such amendments as they think proper.

Several members asked Mr. PRICE to yield.

Mr. PRICE. I cannot yield to a dozen gentlemen at the same time, and now I say to gentlemen, once for all, that I will yield to the gentleman from Washington Territory, [Mr. FLANDERS,] if he claims the floor.

Mr. WASHBURNE, of Illinois. All I desire is to ask the gentleman from Iowa—

Mr. PRICE. I cannot yield now. If the House will second the previous question there will be one hour for debate.

Mr. WASHBURNE, of Illinois. We can not amend the bill then.

Mr. INGERSOLL. If we do not second the previous question we can have all the time we desire for debate.

Mr. HOLMAN. I rise to a question of order. When I sought an opportunity of offering an amendment to the third section of the bill I understood the gentleman from Iowa to state distinctly that an opportunity would be given.

Mr. PRICE. That is true, and I will allow the gentleman to offer his amendment now.

Mr. HOLMAN. I move to add to the third section the following:

And said railroad shall be and remain a public highway for the use of the Government of the United States, and said company when required shall transport on the same any property or troops of the United States free from charges.

Mr. VAN WYCK. I rise to ask information of the Chair. I desire to know whether an opportunity will be offered to propose amendments that are germane to the bill and to take the sense of the House upon them, or whether it is the prerogative of the chairman of the committee himself to determine the propriety of amendments, and whether he will consent

that amendments may be acted on by the House?

The SPEAKER. The Chair will answer that that is a matter for the House to determine. If the previous question is sustained no other amendments will be in order. If it is not sustained, then amendments will be in order when the pending amendments are disposed of.

Mr. PRICE. I will waive the previous question to allow the gentleman from Illinois to ask a question.

Mr. WASHBURNE, of Illinois. I rise to a question of order. It is that this bill is not properly reported from the Committee on the Pacific Railroad; that it properly belongs to the Committee on the Public Lands, as this is not a railroad running east and west, but running north and south.

The SPEAKER. The Chair overrules the point of order on two grounds. In the first place, the House referred the bill to the Committee on the Pacific Railroad for examination and report, and they have reported it back; and in the second place, if the point were a good one, it is made too late.

Mr. PRICE. I now yield to the gentleman from Illinois [Mr. WASHBURNE] to suggest an amendment.

Mr. WASHBURNE, of Illinois. I desire, if this bill is going to pass, as I hope it will not, to have it amended in the eleventh section by inserting after the word "directors," in line four, the following: "which report shall be transmitted to Congress;" and by adding after the word "thereof," at the end of the section, the words, "subject to the control of Congress."

The section will then read:

SEC. 11. And be it further enacted, That the directors of said company shall make an annual report of their proceedings and expenditures, verified by the affidavits of the president and at least three of the directors, which report shall be transmitted to Congress; and they shall, from time to time, fix, determine, and regulate the fares, tolls, and charges to be received and paid for transportation of persons and property on said road, or any any part thereof, subject to the control of Congress.

Mr. PRICE. Individually I have no objection to those amendments, and I do not suppose the committee have any.

The amendments were agreed to.

Mr. VAN WYCK. I ask to have the consideration of the House to the amendments which I send to the Clerk's desk. Probably the gentleman from Iowa will not object to them.

The first amendment proposed by Mr. VAN WYCK was to insert in section eleven, after the words "annual report of their receipts and expenditures," the following:

And the names of the stockholders, residences of the same, amount of stock held by each, and the money actually paid by each of said stockholders, the kind of said stock, the names and residences of the directors and all other officers of the company, the amount received from passengers on the road, the amount received for freight thereon, and a statement of the indebtedness of said company, setting forth the various kinds thereof.

The second amendment was to insert in section eleven, after the words "verified by the affidavits of the president and at least three of the directors," the following:

Which reports shall be presented to the Secretary of the Interior on or before the 1st day of July in each year.

Mr. PRICE. The second amendment of the gentleman from New York [Mr. VAN WYCK] is covered by an amendment offered by the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. VAN WYCK. Very well; I will withdraw that amendment.

Mr. PRICE. As to the first amendment proposed by the gentleman from New York, it is only particularizing what the section already provides for. I suppose there will be no objection to it.

The amendment was agreed to.

Mr. BAILEY. I ask the gentleman to allow me to offer an amendment.

Mr. PRICE. I will hear it.

Mr. BAILEY. I propose to amend section eleven by adding to it the following:

Subject to such restrictions and regulations in re-

gard to the same as Congress may at any time prescribe.

Mr. WASHBURNE, of Illinois. I think that is a better provision than the one that was adopted on my motion. I would ask, therefore, that it be adopted in lieu of the one I offered.

Mr. PRICE. I have no objection.

The amendment of Mr. BAILEY was then adopted in lieu of the amendment adopted on the motion of Mr. WASHBURNE, of Illinois.

Mr. JULIAN. I desire to move an amendment to section three of this bill.

Mr. PRICE. I will hear it read.

The amendment was read as follows:

Strike out of section three the following: And whenever prior to said time any of said sections shall have been granted, sold, reserved, occupied by homestead settlers, preempted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof under the direction of the Secretary of the Interior, in alternate sections and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections: *Provided*, That all mineral lands be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands, in odd-numbered sections, nearest to the line of said road, and within thirty miles thereof, may be selected as above provided: *And provided further*, That the word "mineral," where it occurs in this act, shall not be held to include iron or coal.

Mr. PRICE. I cannot yield to allow that amendment to be offered, and for this reason: and I think the gentleman from Indiana [Mr. JULIAN] will understand it fully when I say to him that the Committee on the Pacific Railroad have so modified this section as to reduce the amount of the land originally proposed by one half. Now, if the amendment proposed by the gentleman shall be adopted, then every acre of land taken up by settlers between this time and the time the company makes its selection under this grant would be so much lost to the company, and the grant probably would not amount to anything. This grant conforms exactly to one made to a similar road running exactly as this does.

Mr. JULIAN. I wish to say generally in regard to this bill, that it is not only an extraordinary, but an unprecedented bill in this House. We create by it a corporation in the distant Territory of Washington, and then grant this immense amount of land to that corporation directly.

Mr. WASHBURNE, of Illinois. How much?

Mr. JULIAN. It proposes to grant a belt of twenty miles wide, with the liberty to go ten miles further on each side of the road for selections, and where there are mineral lands to go fifty miles on either side of the road for the purpose of making up the deficiency in an equal amount of agricultural lands. Sir, there is no precedent for such legislation. Besides, this bill is open to this fundamental objection: that it is a grant of land to a corporation created by ourselves within the limits of the Territory of Washington. Now, this grant should be made to the Territory of Washington, in trust for such corporation as the Legislature thereof may designate. It is in opposition to the whole policy of Congress in reference to railroad grants. This bill is so lengthy, it is so important in its startling provisions, and belongs so properly to the Committee on the Public Lands, that I hope the gentleman from Iowa [Mr. PRICE] will allow it to be referred to that committee, so that we may scrutinize it, and make its provisions conform to the ordinary legislation of Congress upon this subject.

Mr. PRICE. I agree that it was on the part of this House a very great lack of foresight to send anything to the Committee on the Pacific Railroad which has any land in it.

Mr. JULIAN. This bill, at all events, properly belongs to the Committee on the Public Lands. It has nothing to do with the Pacific railroad.

Mr. PRICE. Now, I want to reply to my friend from Indiana [Mr. JULIAN] in reference to two positive declarations which he has made. In reference to the precedents, if the gentleman will look at an act passed by the Thirty-Ninth

Congress granting lands to the Oregon and California Railroad Company he will find precisely such a provision as I have stated. Here is the document; I appeal to "the law and the testimony."

Mr. JULIAN. Read it.

Mr. PRICE. I have not time in four minutes to read four pages of this book.

Mr. JULIAN. It is a very different provision.

Mr. PRICE. Then, again, in the act granting lands to the Atlantic and Pacific railroad the corporators are named, there being about one hundred of them. Here are two precedents established in reference to this matter. Yet my friend from Indiana says that this bill is without a precedent, unparalleled in the history of the legislation of this country. I offer the record against his declaration. The House can accept whichever they please.

Mr. JULIAN. In the case of the Pacific railroad the grant could not be made to the States, because that road was to pass through different States and through territory not organized.

Mr. PRICE. I am not speaking of the Pacific railroad; I am speaking of the Atlantic and California railroad, commencing at Springfield, Missouri, and running by way of Albuquerque to the Pacific ocean. There the corporators are named individually, there being something like one hundred. In the act incorporating the Oregon and Pacific railroad, running from Portland, in Oregon, to the Central Pacific railroad, precisely such a grant as this is made. This bill is for a continuation of that road, as gentlemen will see when they examine the matter.

Mr. JULIAN. The roads to which those grants were made passed through different States. In the present case the road is wholly in the Territory of Washington, and there is therefore no necessity for granting the land to a corporation. It would be, as I have said, an exception to our policy in making these grants.

Mr. PRICE. And we have covered that exception by a provision not embraced in any railroad grant made by the Thirty-Eighth, the Thirty-Ninth, or the Fortieth Congress. This bill is better guarded than any land grant ever passed by the Congress of the United States. We have guarded it for the purpose of protecting the public against a monopoly of this kind. Learning as we go on, we propose to make each bill a little better than its predecessors, so that eventually we may arrive at something like perfection in this branch of business.

Now, sir, I notice that my time is about to expire. I do not know what may be the disposition of the House in regard to this matter. I should be glad if my friend from Washington Territory [Mr. FLANDERS] should be allowed an opportunity to submit some remarks upon this subject, I believe, however, I must demand the previous question.

Mr. WASHBURN, of Illinois. I hope the previous question will not be seconded.

Mr. PRICE. Mr. Speaker, if I withdraw the demand for the previous question, and the morning hour expires, what will be the condition of the bill?

The SPEAKER. It will go over till to-morrow.

Mr. PRICE. I wish to conform to the wishes of the House. I will call the previous question, and the House can sustain it, if it wishes to close up this matter in an hour. If it does not, it will vote down the previous question.

On seconding the call for the previous question there were—ayes 34, noes 66.

So the previous question was not seconded.

Mr. JULIAN. I move that the bill and pending amendments be referred to the Committee on the Public Lands, and on that motion I demand the previous question.

Mr. FLANDERS. I hope the motion of the gentleman from Indiana [Mr. JULIAN] will not prevail.

The SPEAKER. If there be no objection the gentleman from Washington Territory [Mr.

FLANDERS] will be permitted to make a brief statement.

There was no objection.

Mr. FLANDERS. I have prepared some remarks on this subject which I would like to submit. I think if the merits of this bill were fairly presented to the House; if gentlemen here understood the importance of this land-grant railroad to Washington Territory as you, Mr. Speaker, understand it, and as some other gentlemen on this floor who have traveled over that part of the country understand it, I do not believe they would refuse to give us this land-grant to enable us to build this line of railroad.

The SPEAKER. The gentleman must suspend, as the Chair thinks the time allowed him for explanation has expired.

Mr. FLANDERS. I only wish to say the whole length of the road does not exceed one hundred miles; and it passes through lands which have not yet been surveyed and which are unoccupied, where we now have no road. I hope the motion to refer to the Committee on the Public Lands will not be agreed to.

Mr. WASHBURN, of Illinois. I hope the gentleman from Washington Territory will be permitted to print his remarks.

The SPEAKER. If there be no objection the Chair will recognize the gentleman from Washington Territory.

Mr. FLANDERS. Mr. Speaker, I propose very briefly to state some of the reasons why Congress should pass this bill and extend the aid asked for, by giving to this company a grant of land to enable them to build a railroad from Puget sound to the Columbia river. The distance from Steilacoom, on Puget sound, (the probable starting point,) to Vancouver, on the Columbia river, is about one hundred miles. The proposed route of this railroad is for the most of that distance over a comparatively level country, running through the Cowlitz valley, crossing the Chehalis river and valley, also the Nesqualla valley, passing a large portion of the distance not only over unoccupied but unsurveyed lands—and as beautiful and fertile as any on this continent, but now unoccupied, uncultivated, and almost unknown, but which will in a few years, if this and other lines of communication are open, support as dense a population as is found in any of the older States. The importance of a road across this isthmus, which separates the largest river that empties in the Pacific ocean from the most beautiful inland sea on the globe, cannot be overestimated, connecting, as it will, the Columbia river, which drains that vast region of country which lies between the Rocky mountains on the east, the Cascade mountains on the west, extending almost to the Arctic Circle on the north, and into which flow the waters of western Utah and northern Nevada on the south, and which then breaks through the Cascade range of mountains, and receives on its way to the ocean the waters of Willamette, then flows on through an almost still unbroken forest for one hundred and thirty miles, and pours its immense volume into the Pacific. This is the river which this bill proposes to connect by railroad with the waters of Puget sound.

It is doubtless known to every member of this House that Washington Territory, which contains about seventy thousand square miles, is divided by the Cascade mountains into two nearly equal parts, what may properly be called eastern and western Washington.

It may not, however, be known that we have no road connecting those distant portions of our Territory. Neither have we any road from the Columbia river to the sound, with the exception of a military road which was built by the Government about fifteen or sixteen years ago from the Cowlitz river, at a point six miles above its junction with the Columbia, to Olympia, about ninety miles. This road, bad at all times, is nearly impassable for four months in the year. Not only is our Territory nearly equally divided, but the population of the eastern and western portions is about equal.

The present means of communication be-

tween those two portions of the Territory, and the only route by which the people of those counties east of the mountains can reach Olympia, the capital, is to go down the Columbia river to the Cowlitz, thence overland by the road which was just spoken of. Over this road during the past winter it has been found impossible to carry the mails for weeks together. And to show the delay to which the mails are liable on this route I will state that my letters from Olympia and other points on Puget sound, which should reach me in from twenty-two to twenty-four days, have been since last November from forty-two to sixty-four days on the way.

It will therefore be seen that the people of the eastern portion of the Territory are practically cut off from attending the sittings of the Legislature or of the supreme court. Give us this road, and by it and the Columbia river the eastern and western portions of the Territory are brought, by steamboat and railroad, into easy and speedy communication with each other. The building of this road is important, as it will open and make available much of the best land of the Territory. As I said before, it runs through the Cowlitz valley, which does not contain less than five hundred thousand acres of good land, now almost wholly unoccupied. It crosses the Chehalis river and valley, a valley equally as large as the Cowlitz, and which, perhaps, contains more good land. The Chehalis river, which runs through this valley and empties into the Pacific ocean at Gray's harbor, is navigable for small steamers for a distance of about ninety miles from its mouth, and to a point near where this railroad would cross that stream. All the land along this river and in this valley would be taken up and improved as soon as this road is built. This road also crosses the Nesqualla valley, but little less in extent than either of the others, and which is equally as fertile.

Not only will it open up these three large valleys which I have named and cause the land in them to be immediately taken up and improved, but it will open almost innumerable smaller valleys along its entire length and on either side, lands which are now unoccupied and valueless to the Government and to the people, and which will remain so until this or some similar road is built. Let me state some further reasons why this road should be built. There was shipped during the last year from Walla Walla valley to San Francisco and New York not less than two thousand tons of flour. And that while the mill-owners on Puget sound were actually buying their flour in San Francisco, flour which was made in Washington Territory and shipped from there to the sound, so that it was found cheaper to transport this flour from Portland to San Francisco and from San Francisco back to Puget sound, a distance of not less than fourteen hundred miles, and to pay two commissions and the cost of reshipment, than to transport it less than one hundred miles over any road we now have.

It must be remembered that the great interests of Puget sound is the lumber business, and that the flour and grain thus shipped were to supply those engaged in the manufacture of lumber.

I wish to state in this connection that there was shipped during the last year from Puget sound more than two hundred million feet of manufactured lumber and spars, and not less than twenty thousand tons of coal. From Puget sound we are in part or wholly supplying not only the Pacific coast with lumber, south from San Francisco to Valparaiso, but large quantities are shipped to Australia, the Sandwich islands, and all the islands of the Pacific. Also large quantities of manufactured lumber and spars are shipped every year to China. And the dockyards of Europe are supplied with spars from our forests. This trade, now in its infancy, will in a few years become of national importance. We possess here and in our recent purchase of Alaska the last great forests of the world, and, if the



supply is unlimited no limits can be placed upon the future demand. The importance and extent of this immense inland sea, the number and beauty of its numerous harbors, the value of the magnificent forests by which it is surrounded, and its inexhaustible coal beds along its shores, are but little understood or appreciated by those who have not seen and examined for themselves; possessing, as it does, more than seventeen hundred miles of inland shore lines, having in every channel, bay, or harbor sufficient depth of water for the largest ship that floats in any navy in the world, channels unobstructed by rocks or sand bars, with an entrance so broad and safe that no pilots have been or ever will be needed.

Let me say a word in regard to a very important branch of business now in its infancy, but which at no distant day is destined to become of the first importance to our whole country. I speak of ship building. The board of underwriters of San Francisco have been engaged during the past year, through their president, Mr. Hopkins, in collecting all the information possible in regard to the cost of building ships in New York, Massachusetts, and Maine, and they have satisfied themselves that ships can be built for less money on Puget sound than they can in any of the places named, notwithstanding the higher cost on the Pacific coast of labor and some of the material used, such as iron, copper, and cordage, yet the facilities for getting good lumber and spars are so much greater on Puget sound than on any part of the Atlantic coast that it more than makes up for the difference in the price of labor and the material named. Already many vessels have been built there, and among them some large ships, so that this business can no longer be said to be an experiment.

I will give, in this connection, a list of sixteen vessels built on the Pacific coast north of San Francisco, their cost in gold, with their tonnage and cost per ton, which I obtain from a report recently made to the board of marine underwriters of San Francisco by C. T. Hopkins, esq., president of the California Insurance Company, and secretary of the board of marine underwriters and Chamber of Commerce:

Name.	Tons.	Cost.	Where built.	When.	Cost per ton.
Sarah.....	147	\$14,000	Puget sound.....	1861	\$95
Dreadnought.....	183	21,600	Puget sound.....	1866	118
Yolo.....	123	14,300	Puget sound.....	1867	116
Good Templar.....	123	11,800	Puget sound.....	1867	94
Advance.....	205	20,000	Coos bay.....	1862	97
Hesperian.....	241	22,300	Humboldt.....	1865	93
Sue Merrill.....	148	19,000	Novo.....	1865	128
Pacific.....	148	18,000	Umpqua.....	1865	122
Mary Cleveland.....	122	12,000	Umpqua.....	1861	98
W. F. Byrne.....	147	16,000	Umpqua.....	1864	109
Montana.....	92	12,000	Oakland.....	1866	130
Blanco.....	200	16,000	Coos bay.....	1861	75
Occident.....	297	23,000	Coos bay.....	1865	77
Argo.....	186	13,000	Coos bay.....	1859	70
Enterprise.....	189	18,000	Coos bay.....	1863	95
Melancthon.....	288	25,000	Coos bay.....	1867	84

#### This report states:

"It is evident from an inspection of this table that small vessels have been and are being built on our coast good enough to rate as well as the average of similar eastern-built vessels, and furthermore, they can be constructed here at a cost in gold no greater than the present gold cost in New York. This may seem to be a startling statement, but it will be seen from the letter of Henry Steers that the present cost of building vessels of one hundred tons in New York is \$115 currency, or \$82 80 gold; of vessels of two hundred tons, \$112 currency, \$80 64 gold. Now, four vessels, Occident, Argo, Melancthon, and Blanco, cost respectively only \$77, \$70, \$84, and \$75 in gold per ton."

In regard to our ship timbers this same report says:

"RED AND YELLOW FIR.—These trees, which constitute about one half of the dense growth of timber of Oregon and Washington Territory, have become celebrated throughout the world for their magnificent proportions and the serviceable quality of spars and lumber supplied from them. They frequently furnish sticks one hundred and fifty feet long, eighteen by eighteen and even a twenty-four by twenty-four inches square, without a particle of sap, without a rent or check, perfectly sound and straight. Planks from this timber sixty and ninety feet long are readily obtained." \* \* \* "As to the strength of these timbers, many mechanics think it fully equal to that of eastern white oak."

This timber can be furnished at our mills on Puget sound in exhaustless quantities at ten to twelve dollars per thousand feet. We also have many other valuable timbers for ship building, such as tide-land spruce, yellow cedar, white cedar, and laurel. The western section of Washington Territory, between the ocean and the Cascade mountains, is about three hundred and fifty miles in length from north to south, with an average width of about one hundred miles from east to west, and contains more than eleven million acres, being as large as the States of Massachusetts and New Hampshire, and there is nothing that would do so much for settlement of those vast tracts of land as the building of this road. It would not only assist in developing the agricultural resources of our Territory, but it would stimulate our commercial and manufacturing interests, and assist to bring into use the magnificent water-power of our Territory, equal in extent to all the water-power of New England.

The building of this railroad is also very important in a military point of view. It will at once be seen how valuable as a means of communication this line would become in case of a war with any maritime Power, especially in a war with England. Such a war I trust may never come, but our Government should wisely provide in time of peace for all such exigencies which cannot be foreseen, but which may at any time be precipitated upon us.

It is also one link in that line of railroads which is to connect the great lakes with the waters of the Pacific at Puget sound. In this respect its importance should not be overlooked, and cannot be overestimated. As has already been seen it connects with the Columbia, whose navigable waters reach far into the interior of the continent, therefore assisting in the construction of that next great national work, the building of the Northern Pacific railroad, connecting with that road as well as with the Union Pacific—those two great iron arteries which are destined to carry the travel and the commerce of the two hemispheres across our continent. According to the report of the Commissioner of the General Land Office for 1867, Congress by different enactments have granted land in aid of railroad enterprises in different States, as follows:

Illinois.....	2,595,053
Mississippi.....	2,062,240
Alabama.....	3,729,130
Florida.....	2,360,114
Louisiana.....	1,578,720
Arkansas.....	4,804,271
Missouri.....	3,745,160
Iowa.....	6,751,207
Michigan.....	5,327,930
Wisconsin.....	5,378,360
Minnesota.....	7,783,403
Kansas.....	7,753,000
California.....	3,720,000

Pacific railroads "estimated"..... 57,588,578  
Wagon-Roads..... 124,000,000

Wisconsin.....	250,000
Michigan.....	1,718,613
Oregon.....	1,256,800

3,225,413

Total number of acres..... 184,813,991

Of these one hundred and eighty-four million eight hundred and thirteen thousand nine hundred and ninety-one acres of land granted to aid in building different lines of railroad but twenty-one million five hundred and sixty-one thousand six hundred and fifty-four acres have been certified under these grants. All

the balance is to be certified to after the conditions upon which the grants are made to the different companies are complied with. The regret is not that the Government has parted with this magnificent domain to encourage those different railroad enterprises, but that it had not been done twenty years sooner.

We have to-day in the United States not less than thirty-seven thousand miles of railroads in complete running order, the cost of which is estimated at \$1,855,000,000. In addition to this, there are, by estimates, seventeen thousand six hundred and eighty-five miles of railroad in process of construction. Had all these grants of land been made twenty years ago, and were these seventeen thousand miles of projected railroads now in process of construction an accomplished fact, will any gentleman assert here or elsewhere that our Government or our country would have been the poorer for having given these lands to aid in building these railways? I think not; for every acre of land given for this purpose the Government receives its full equivalent by the enhanced value of the land which is retained, and every acre of land brought under cultivation, and which, from improvements put upon it, is increased in value from one dollar and a quarter an acre to two, five, or ten dollars an acre, is so much added to the permanent wealth of the nation.

Take as an example the county of Walla Walla, in my own Territory; twelve years ago there was not a dozen settlers in that county. The white population is now between five and six thousand. Walla Walla county will pay to our Government this fiscal year of 1868 not less than \$50,000 internal revenue tax alone. Had these projected lines of railroad been completed ten years ago my Territory, instead of a white population of less than forty thousand, as it now has, would have had four hundred thousand; and where we now contribute but one dollar toward the expense of our Government we should contribute ten. And what is true of Washington Territory is equally true of all the other Territories; it is especially true of Idaho and Montana. Had these projected railroads been built ten years ago the standing army that it is now necessary to keep on the "Plains," at an annual cost of, perhaps, \$20,000,000, to hold in check a few roving bands of Indians, who traverse the "Plains" from New Mexico to British Columbia, would no longer be needed. For before the advancing tide of civilization the Indian and the buffalo will disappear together. By the building of these railroads the expense of the Government is greatly lessened, while its resources are greatly increased.

If there is anything that will give new life and vigor to our commercial and manufacturing towns and cities, if there is anything that will lessen the present burden of taxation, that will assist us in the payment of our enormous national debt, it is the completion of our present projected lines of railroads, and by extending them in every direction. To accomplish this it is only necessary that Congress should pursue the same liberal policy which it inaugurated a few years since, and which has already accomplished so much. Less than thirty years ago almost all our vast empire west of the Mississippi, and much of that on this side, was as wild and as unknown as the country between the Pacific ocean and the Cascade mountains and north of the Columbia river now is. Our Government has generously and wisely extended its protection and its aid to the pioneer and settlers, and those vast prairies, so recently but unknown solitudes, are now the home of millions of free and happy people. And let me say just here that the men who ask this charter and this grant of land will, if they obtain it, build this road. Every one of these gentlemen named in this bill as corporators live in Washington Territory, men who have made that their home, and who are now actively engaged in all the enterprises carried on there. So far there has never been an acre of land granted by the Government to the people of Washington Territory in building any road of

any description. We ask this aid not of money or of bonds, but of land, fully believing and expecting that it will be given us.

And let me remind the gentlemen on this floor that the people who ask this still regard themselves as your constituents. They have left their old homes in New England, New York, Pennsylvania, Ohio, Illinois, Indiana, Kentucky, Tennessee, Missouri, and all the other States, and have made their new homes in what was until recently the most northern and western portion of this Union. But they have not forgotten their old friends or their old homes; they appeal to you to aid them in this enterprise; to extend to them the same assistance that you have heretofore given to other States and Territories; and they do not believe that Congress will refuse or withhold its aid in building this railroad when its importance to our Territory is appreciated or understood.

Washington Territory has asked but little and has received but little from the General Government; heretofore our claims for assistance have been almost entirely overlooked or disregarded. The oldest Territory, or the oldest but one, in the United States, we feel that we have not received that consideration from the General Government to which we are justly entitled. Of this, however, we do not complain. We understand and appreciate the sacrifices that our Government has had to make during the last seven years for its very existence. And we do not now forget the enormous debt that still hangs over us, or the heavy taxation to which the people of this country are now subjected. Therefore the people of my Territory only ask that Congress will extend such aid to us as will enable us to develop the resources of our Territory, that we may fairly start in that career of prosperity which lies before us. No State or Territory in this Union has a brighter future than has Washington Territory. It possesses within itself more of the elements of future wealth and greatness than any State or Territory in the Union. Its mild and healthy climate, its productive and fertile soil, its magnificent forests, its immense beds of coal, its known mineral wealth, its numerous bays and harbors, with the Columbia river running through the Territory from north to south, and then along its southern boundary for four hundred miles, which is navigable with its branches for a thousand miles; with three hundred miles fronting on the Pacific ocean, and two good harbors, Shoal Water bay and Gray's harbor, between the mouth of Columbia river and the Straits of Fuca; all this points with unerring certainty to its future wealth and greatness. With the completion of the Northern Pacific railroad our Territory becomes a central point on the map of the world, and on the shores of Puget sound will rise a city which will not only contend with San Francisco for the control of the commerce of the Pacific, but which is destined to become one of the great commercial centers of the world, halfway from Western Europe to Eastern Asia. Nearer than San Francisco to New York by five hundred miles, and nearer by seven hundred miles to Yokohama and Hong-Kong than is San Francisco, what shall prevent its growth?

If the progress of our Territory heretofore has been slow, it is only for the lack of what this bill under consideration is intended to supply, at least in part, by furnishing one line of communication from the Columbia river to Puget sound.

Mr. JULIAN. Do I understand that this matter has been disposed of?

The SPEAKER. It has not.

Mr. JULIAN. I have no hostility at all to this general proposition if it be put in a less objectionable form. Let it go to the Committee on the Public Lands and be examined by the proper committee. I now insist on the demand for the previous question.

The House divided; and there were—ayes 52, noes 43.

Mr. WASHBURN, of Indiana, demanded tellers.

Tellers were not ordered.

So the previous question was seconded.

The main question was ordered.

The bill and amendments were referred to the Committee on the Public Lands.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill and amendments were referred to the Committee on the Public Lands; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LOYAL CREEKS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter from the acting Commissioner of Indian Affairs, asking for an appropriation of \$6,800 for the expense in taking a census of loyal Creeks, &c.; which was referred to the Committee on Appropriations.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. CHURCHILL.

#### ADMISSION OF SOUTHERN STATES.

The SPEAKER stated the first business in order was House bill No. 1058, to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress, on which the gentleman from Pennsylvania [Mr. STEVENS] was entitled to the floor.

Mr. STEVENS, of Pennsylvania. I offer an amendment to the constitution of the State of Georgia.

The SPEAKER. There is a substitute pending submitted by the gentleman from Ohio, [Mr. BINGHAM.]

Mr. STEVENS, of Pennsylvania. My amendment is to the constitution of Georgia. I move to insert the following:

*And be it further enacted, That the provisions of section seventeen, article five, of the constitution of Georgia shall not apply to a debt due to any person who, during the whole time of the rebellion, was loyal to the United States and opposed to secession.*

Mr. ROBINSON. Is this Congress going to set itself up to amend these State constitutions?

The SPEAKER. That is for the House to determine and not the Chair.

Mr. STEVENS, of Pennsylvania. I propose that amendment for this reason: The constitution of Georgia nullifies all debts due before a certain period, as well those due to loyal men as to rebels. My amendment is that it shall nullify only those due to rebels and not those due to loyal men.

Mr. ROBINSON. How is the gentleman going to pick out the loyal and the disloyal debtors?

Mr. STEVENS, of Pennsylvania. I am not going to do it. Anybody who claims to be loyal will, I presume, pick himself out.

Mr. PAINE. Mr. Speaker, I merely interrupt the gentleman from Pennsylvania for the purpose of inquiring whether this proposed amendment is his individual amendment or whether it comes from the Committee on Reconstruction?

Mr. STEVENS, of Pennsylvania. It is an individual amendment. I discovered this morning that the provision in regard to debts applied to loyal men as well as to rebels. That, of course, I thought wrong.

Mr. ROBINSON. Mr. Speaker, I rise to a privileged question or a point of order.

The SPEAKER. The gentleman from Pennsylvania cannot be taken off the floor except by a point of order.

Mr. ROBINSON. I rise to make a motion which will take him from the floor.

The SPEAKER. No motion can take him from the floor.

Mr. ROBINSON. I move that the House do not now consider this subject, for the reason that there are a thousand things exactly like what the gentleman indicates, which I have found in these constitutions, which we ought to have time to read over.

The SPEAKER. The Chair overrules the

point. The motion is not made at the right time. This bill has been considered by the House already. It was reported day before yesterday, postponed, and made the special order for to-day after the morning hour, and from day to day until disposed of. The question should have been raised when the bill was introduced.

Mr. ROBINSON. I think it would be well to let this go over.

The SPEAKER. The motion is not in order.

Mr. ROBINSON. Then, will the gentleman from Pennsylvania [Mr. STEVENS] allow me to say that I think the constitution of South Carolina and of the other States included in this bill have similar defects, which it would be well to have amended?

Mr. PRUYN. I rise to a question of order. I ask the Chair to rule that the House has no right to legislate or attempt to legislate so as to interfere with the provisions of the constitution of any State in the Union.

The SPEAKER. The Chair overrules the point of order. He declines to rule as the gentleman from New York desires, because if that were his prerogative he might be called to rule thus on bills which many members regard as unconstitutional, and which even the President vetoes as not being constitutional. The Speaker has no right in any legislative body to rule whether a proposition is constitutional or not, only whether it is parliamentary. Its constitutionality affects its merits, and such questions are to be decided by the House, and not by the Chair.

Mr. RANDALL. Will my colleague yield for a question?

Mr. STEVENS, of Pennsylvania. Certainly.

Mr. RANDALL. I ask him where he gets authority, either in the Constitution or elsewhere, to amend the constitution of a State?

Mr. STEVENS, of Pennsylvania. I find it in the Constitution, which says that Congress may admit new States. I hold that under that provision Congress may admit them in just such a shape as it pleases. That power being fully granted, we have a right to exercise it. I do not find any difficulty about it.

Mr. RANDALL. I would like the gentleman to go on and give us his argument on that point, because there are some of us who do find great difficulty.

Mr. STEVENS, of Pennsylvania. Anybody who needs argument on that point I cannot enlighten. [Laughter.] I now will proceed to say—

Mr. BOYER. Will my colleague allow me to ask a question?

Mr. STEVENS, of Pennsylvania. Certainly.

Mr. BOYER. I see one paragraph of the section referred to applies to the taxation of debts, judgments, and causes of actions. I desire to know of my colleague whether he intends his amendment shall prevent the taxation of debts, judgments, and causes of action due to loyal men?

Mr. STEVENS, of Pennsylvania. I expect them to modify the constitution according to the provisions of this act. Now, sir, we have introduced this bill. I stated when it was postponed that it was for the purpose of allowing full discussion. For my part I do not wish to discuss it. I intend to reserve to myself only the closing hour, and only a small part of that, probably. I intend to give to others—the rest of the time, merely remarking that I intend before we adjourn to-day to call the previous question, so that we may take the vote to-morrow morning, allowing, however, just as late discussion to-day as gentlemen may think proper.

Mr. BECK. Will the gentleman allow me to make a suggestion?

Mr. STEVENS, of Pennsylvania. Yes, sir.

Mr. BECK. It is not intended to take a vote till to-morrow. I hope, therefore, the gentleman will not call the previous question

to-morrow until he sees the returns of the district commanders relative to these elections which the House has directed to be printed, sent by the Secretary of War. They will be in this evening or to-morrow morning. Perhaps there may be something there that the House will like to see.

Mr. STEVENS, of Pennsylvania. It will depend altogether upon the condition of things just before we adjourn. I think I can accommodate the gentleman by holding the floor and calling the previous question to-morrow morning if he desires longer time. And now if any gentleman wishes to occupy the floor I will yield to him.

The SPEAKER. The gentleman suggests that this afternoon be devoted to debate on the bill, as the Chair understands, by gentlemen representing the minority, the gentleman himself to be entitled to the floor at the close of the session, so that he can move the previous question to-morrow after the morning hour.

Mr. STEVENS, of Pennsylvania. Or to-night.

The SPEAKER. Then the gentleman proposes to close the debate this afternoon.

Mr. BROOKS. This is not done by unanimous consent?

The SPEAKER. It is not. The gentleman only asks to be entitled to the floor at the close of the session to-day, and, under the usage of the House, the Chair will recognize him.

Mr. STEVENS, of Pennsylvania. I will only say now that I do not desire to debate this bill, and if any gentleman of the minority desires it I will yield to him.

Mr. BECK obtained the floor.

Mr. BROOKS. Will the gentleman allow me a moment to offer an amendment?

Mr. BECK. Certainly.

Mr. BROOKS. At the proper time I shall move to add to the substitute the following section:

SEC. 4. And be it further enacted, That on and after the passage of this act all citizens of the United States in the States hereinbefore named shall be admitted to equal rights of suffrage.

Mr. BECK. Mr. Speaker, I do not expect to be able to make a speech upon the merits of these constitutions; but as a member of the minority of the Committee on Reconstruction I propose, at the request of the senior member of it, [Mr. Brooks,] to state the objections which we have to them. There are five of them in all. By the provisions of this bill all have to be considered together, and they are so varied in their provisions that it is almost impossible to consider them properly in one bill or in a single argument. By the provisions of the constitution of Louisiana, for example, very many men have been excluded from the right of suffrage by the constitution framed by the convention who, by the reconstruction acts of Congress, are authorized to register and vote, and at the election held in the State of Louisiana on the ratification of the constitution all those men were excluded from the right of suffrage under the constitution framed by the convention in spite of the provisions of the reconstruction laws. In North Carolina and Georgia, on the other hand, by the action of the conventions of those States the right of suffrage is extended beyond what is permitted under the reconstruction acts; and yet, although the conventions of those States gave them permission to vote for officers under the constitution, they were not allowed to do so. So that every one of the officers elected from those States were elected because thousands of men were excluded from voting who under the constitutions framed by the conventions of those States were legal voters. Hence the difficulty of considering them altogether; but I will endeavor to do so as rapidly as I can.

I understand, of course, sir, from what occurred in regard to the Arkansas constitution the other day, that it is useless for me to attempt to stay the action of the House on this bill by any objections I may make. I thought it was demonstrated to this House in regard to Ark-

ansas that its constitution had been rejected by the people of that State beyond all peradventure, and that even the partial investigation which had been made, and the papers which were in the possession of the House, showed the frauds so conclusively that no man on the other side could doubt for a moment that the majority of the people of that State had, in fact, voted against the ratification of the constitution; yet the bill was passed in hot haste, and I presume this omnibus bill will be passed in like manner from political necessity or some other cause.

There is another difficulty at this time about this matter. No gentleman upon either side of the House fully understands the merits of the bill. On yesterday the gentleman from Indiana [Mr. COBURN] had a resolution passed calling upon the General of the Army for the returns of the elections in these States. The General of the Army makes a return to-day in some ten or twelve lines, as follows:

HEADQUARTERS ARMY OF THE UNITED STATES,  
WASHINGTON, D. C., May 12, 1868.

Sir: In compliance with resolution of the House of Representatives of May 11, 1868, I have the honor to submit the following statement of the number of votes cast for and against the constitutions of North Carolina, South Carolina, Georgia, Louisiana, and Alabama, as reported by the several district commanders:

<i>North Carolina.</i>	
Votes for constitution.....	92,590
Votes against constitution.....	71,820
<i>South Carolina.</i>	
Votes for constitution.....	70,758
Votes against constitution.....	27,238
<i>Georgia.</i>	
Votes for constitution.....	89,007
Votes against constitution.....	71,309
<i>Louisiana.</i>	
Votes for constitution.....	66,152
Votes against constitution.....	48,739
<i>Alabama.</i>	
Votes for constitution.....	69,807
Votes against constitution.....	1,005

Very respectfully, your obedient servant,  
U. S. GRANT, General.  
Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

There are no reports from the district commanders or the commissioners who conducted the election sent to us by the General. Nothing to show whether the registration was altered—they had power to extend or curtail it under the reconstruction laws—and nothing to show how the elections were conducted, whether fairly or fraudulently.

Seeing that this report did not contain the information needed, this morning, by the unanimous consent of the House, I offered a resolution, which was adopted, calling upon the Secretary of War and the General of the Army to furnish to this House the reports of the district commanders in these States, and all the accompanying papers relative to the elections and registration, and the changes made therein. When these papers are received the House will better understand what has been done in each of these States. I hope they will be here to-morrow; and it was for that reason that I requested the gentleman from Pennsylvania not to call the previous question until to-morrow morning, so that members of the House may be able to see and examine those reports and act intelligently upon them; because I assume that it is the interest of all of us to know exactly the facts upon which we are basing our action. Those facts are not before the House, which, had they been, it would have devolved upon me, as a member of the minority of the committee, to have presented to the House. Not being here, and being unable now to obtain them, I cannot present them to the House as I ought and am, perhaps, expected to do.

The gentleman from Pennsylvania, [Mr. STEVENS,] in the motion he made a few moments ago, to amend the constitution of the State of Georgia, has boldly avowed the true position of the majority in regard to the constitutions of the southern States. I say in all candor that his proposition to amend the constitution of the State of Georgia, because it does not suit this House, is presenting the

issue fairly and clearly. This House made that constitution; it ordered how it should be made, selected or rather appointed the men to frame it; and all the others excluded from or admitted to the polls whom they pleased, and under the pretense of an election not only told the people of these States what their constitutions should be and remain, but that none but adherents of the dominant party should have any part or lot in the administration of the governments under them, no matter how odious they might be to the people there.

These constitutions do not represent the action of the people of any of those States, but they represent, in fact, the will and the orders of Congress. This House has just as much power—I do not say right, but power—to alter, amend, and make those State constitutions what they please, to say what they shall and what they shall not contain, who are elected and who are not elected, who shall and who shall not be admitted to seats on this floor and on the floor of the Senate, and who shall and who shall not occupy the State offices, as they have to do what they have done, and it would be more manly to avow it boldly at once.

The papers now presented here as State constitutions are in fact but the action of Congress, and the amendment offered by the gentleman from Pennsylvania, [Mr. STEVENS,] or any other amendment, is just as legitimate, valid, and binding on the people of the South as the papers now presented are, and it would be no more the action of this House if adopted than are these papers now before us as constitutions of these southern States are. By the adoption of such amendments now, the people of the country would understand clearly what is the undoubted fact, that Congress has framed constitutions and appointed officers to govern these States, and men to represent them here without their consent and against their will. The sooner they understand and appreciate these facts the better, as the remedy will be the sooner applied.

It will be observed that this bill sets forth in its preamble that the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama have framed and adopted these constitutions by "large majorities of the votes cast at the elections held for the ratification or rejection of the same." Now, so far as Alabama is concerned—and I will speak of that first—all the facts are known to this House. We all know that the constitution of Alabama was defeated, and defeated in the mode permitted by the laws passed by this Congress, and this House has so decided; yet we are called upon to impose that constitution upon the people of Alabama, a constitution which they themselves have rejected, which we have said they have rejected. The people of Alabama having discarded that constitution, it is now brought forward in an omnibus bill, along with constitutions of other States, and we are asked to declare that they have adopted that constitution. But for my brief experience here, I would say that such a proposition was too monstrous to be entertained for a moment.

And what is the object of this? Simply to put certain persons in power over the people of Alabama upon the floor of this House and upon the floor of the Senate, who will sustain the policy and execute the will of the majority here; to put over that State a Governor and other officers, and to place it under the control of a Legislature composed of men whom we know, as we have admitted by our votes, have been rejected by the people under the very provisions of laws which we laid down for them to vote under.

Mr. BINGHAM. Will the gentleman allow me to make a suggestion?

Mr. BECK. Certainly.

Mr. BINGHAM. I desire to inquire of the gentleman, in order that it may be well understood by the House, whether he does not know that the amendment presented by the gentleman from Pennsylvania, [Mr. STEVENS,] to restrict the operation of the constitution of



Georgia touching debts, has not received the approval of any member of the Committee on Reconstruction?

Mr. BECK. The gentleman from Pennsylvania asserted that fact himself; he stated that it was his individual proposition. But I say this: that if it does not meet the approval of this House it will be the first time that any proposition has been seriously presented and maintained and pressed by the distinguished gentleman from Pennsylvania that the members of his party have not come up to its support, whether they liked it at first or not. And I fear that the honorable gentleman from Ohio [Mr. BINGHAM] himself, before we get through, notwithstanding his present objection, will yet have to yield to the dictates of his great leader.

Mr. BINGHAM. I must correct the gentleman. The statement he now makes is certainly contradicted by the record in innumerable cases. The gentleman ought not to make such statements here, for they do injustice.

Mr. BECK. I merely assert on the floor of this House and before the country that the positions taken by the gentleman from Pennsylvania [Mr. STEVENS] are followed by his party in almost every instance, whether at first they liked them or not. That gentleman was the first on the floor of this House to claim that these States were outlying territories, conquered provinces, and subject to the dictation of this Congress; that we here were their masters and had a right to dictate terms to them. At first the majority of the party opposed the gentleman; but now they have marched up to him, and I presume they are now ready to impose constitutions upon the people of these States, when it is admitted by the gentleman from Pennsylvania himself in his speech when the Alabama bill was up before, and by the action of this House in adopting the substitute proposed by the gentleman from Ohio, [Mr. SPALDING,] that the constitution sought to be imposed on Alabama had not been adopted by the people of that State.

I hope the distinguished gentleman from Ohio will now take ground more conservative. He has good reason for doing so; for on the floor of the House his colleague [Mr. VAN TRUMP] on Monday last presented—perhaps the gentleman has not seen it—a joint resolution of the Legislature of Ohio protesting against the reconstruction acts of Congress and against the passage of certain bills now pending therein, and instructing their Senators and Representatives in Congress to vote for the repeal of the former and against the passage of the latter; which was referred to the Committee on Reconstruction, and ordered to be printed. I hope that these conservative resolutions, which I have been unable to get, (for they are still in the hands of the printer,) may induce gentlemen to obey the mandate of the great State of Ohio, which he has the honor in part to represent.

But I was remarking that the State of Alabama has rejected this constitution now sought to be imposed on her, and has said that she did not want the services of the men sought to be placed over her. General Meade, in his report, which is before this House, which was brought in on the very day on which we took the vote upon the first Alabama bill, but brought in after the vote had been cast, says:

The constitution failing of ratification, the measures to be adopted become questions of importance. I have deemed it my duty to turn over to the president of the convention the returns of the election for members of Congress, State and county officers, but I have not authorized the issue of certificates of election till the questions connected with the constitution are definitely settled.

I have received and transmit herewith a letter (marked XI) from several prominent members of the Republican organization in Alabama urging a recommendation on my part of the immediate admission of the State by Congress, and maintaining that the recent election, when properly explained, will show a majority of the registered voters as being in favor of this measure.

I regret extremely that it is not in my power to coincide with these gentlemen, and cannot concur with them in their views. Acknowledging the importance of the State being at the earliest moment restored to her proper relations in the Union, I cannot but look on the result of the recent election as an

expression of opinion that the registered voters do not desire to be restored under the constitution submitted to them, and in view of the recent act of Congress giving ratification to a majority of the votes cast, I would prefer seeing the convention reassembled for a revision of the constitution, and the revised constitution submitted to the people under the new law. In support of this recommendation I would refer to the letter of Governor Patton, (marked VII.) and the letters of J. T. Cantwell, one of the registrars, (marked XII.) of Dr. Moore, (marked XIII.) and of H. Reed, candidate for Governor in Alabama, (marked XIV.)

I am of the opinion that a revised constitution, more liberal in its terms and confined to the requirements of the reconstruction laws, would in Alabama, as I have reason to expect it will in Georgia and Florida, meet with the approval of the majority of the registered voters; and I beg leave to call your attention to the difficulty of carrying on a government in a State where so small a proportion of those qualified to take part in the government are in favor of the organic law, and to insure a larger proportion of what must be the governing class a more acceptable constitution should be presented to them for adoption.

Very respectfully, your obedient servant,  
GEO. G. MEADE, Major General.

General U. S. GRANT, Commanding United States Army, Washington, D. C.

And on the floor of this House, when we were discussing the bill for the admission of Alabama, the gentleman from Pennsylvania, [Mr. STEVENS,] at the close of the debate, rose and said:

"After a full examination of the final returns from Alabama, which we had not got when this bill was drawn, I am satisfied, for one, that to force a vote on this bill and admit the State against our own law, where there is a majority of twenty odd thousand against the constitution, would not be doing such justice in legislation as will be expected by the people. With that view of the case, I shall vote for the motion to recommit, and on that motion I demand the previous question."

And when the bill came up for action the amendment offered by the gentleman from Ohio [Mr. SPALDING] was adopted. By it the people of Alabama were put under a provisional government, and the constitution was ordered to be resubmitted to the votes of the people, thereby admitting that it had been rejected. Yet this bill now before us assumes that the people want that constitution; that they have already adopted it. We are now to impose upon the people that constitution which we have admitted they have rejected. And the only fact that we have before us, in addition to those before us when we acted on this subject a few weeks ago, is the report of General Grant, which has been laid on our tables this morning, showing a thousand less votes in favor of the constitution than there appeared to be the other day, when we decided that the constitution had been rejected. It was then said that seventy thousand eight hundred votes had been cast in favor of the constitution; and it now appears by the report of General Grant that there were sixty-nine thousand eight hundred and seven votes in favor of it.

That is the position in which Alabama stands. She is certainly under a government severe enough to satisfy the malice of her bitterest enemies. Only the other day seven highly respectable young men, for a mere assault and battery on a fellow by the name of Hill, were sent to the Dry Tortugas, four of them for two years and three for one year. The offense with which they were charged was a simple assault upon a man who, as the public journals assert, was known and proven to be a thief, who had not only been stealing himself, but inciting negroes to steal. He was not seriously injured. The offense was a mere assault and battery such as occurs upon the streets of your cities almost every day. Yet these men in Alabama for such an offense are sent to the Dry Tortugas, where they are under no law except the will of their keepers, where they are treated cruelly or humanely just as the commanders there see fit, compelled to labor with shaved heads and balls and chains on their legs under the heat of a tropical sun, and all this by the order of a military tribunal, in time of profound peace, without the intervention of a jury or any of the forms of law known to the Constitution.

It is no doubt part of the programme that the people of that State shall be treated in such manner as to make them do something

which will give an excuse to crush them down still more, and to put them more thoroughly under the iron heel of military despotism. But they have thus far peaceably submitted to it all. They are enduring all the oppressions heaped upon them, and they are looking for relief to the free white men of the northern and western States, when the great appeal shall be made to them this fall, and when the members of this House will be called upon to give an account of their stewardship. They are looking to the sovereign people for relief, and they will get it.

So much for Alabama. I do not believe there is a man in this House who can now conscientiously vote for that provision of the bill. Let me look hurriedly at the provisions respecting the other States. There is one general fact which illustrates the character of the whole. The men who composed the conventions in those States were men who had no substantial interest in the community, mere adventurers and negroes, a majority of whom could neither read nor write. They knew no more about the fundamental laws they were called upon to frame than so many horses or mules; a few managers and political tricksters, who monopolized the lucrative offices, controlled the whole. The fact appears in all the publications of the day, and is true beyond all peradventure, that hundreds and thousands of negroes who came to the polls to vote for the constitutions and the officers under them came from the plantations with halters in their hands, that they might lead home the mules they expected to receive; for forty acres of land and a mule were promised to every ignorant negro who would vote for the constitutions. They knew no more what they were doing than the mules they expected to lead home from the ballot-box. The men who made these constitutions had no interest in the welfare of those States, and they have in most instances imposed upon the people such regulations and such restrictions on their rights and liberties as no member of this House would submit to, or would allow to be imposed upon the humblest of his own constituents.

Take the case of South Carolina, for example, and I can only state a few prominent points. Of the men composing that constitutional convention seventy were negroes and about fifty white men. Of the men composing the present Legislature of that State seventy-one are colored and fifty-four white. One item of taxation alone in that State—the taxation for the support of free schools—amounts to \$1,000,000. It is provided that the white race shall never have any public school exclusively for themselves; that the white and the black children, male and female, shall be playmates and schoolmates together; that if the white citizens do not send their boys and their girls to the schools attended by the negroes they shall suffer such penalties as a negro Legislature may see fit to impose. Who are the men thus imposing these conditions upon the people of that State? As I have already said, they have no interest in the affairs of the State, no interest in its property, no interest in its taxation, and compose no part of its intelligence, wealth, or respectability. While they are spending millions of the property of other people, they do not themselves bear one dollar of the burden. I hold in my hand and propose to read an abstract, to which, I trust, members will give their attention, and then let them say whether these are men fit to make constitutions for or impose laws upon a people.

The following statement exhibits an analysis of the taxes paid by the members of the convention and of the Legislature recently elected in South Carolina, according to the tax returns in the comptroller's office:

The total amount paid by members of the Legislature.....	\$700 63
Of this amount six members pay.....	391 62

Leaving a balance paid by all other members, \$309 01

Executions were issued for \$140 76 of this balance, whether or not paid is not ascertained.

The total amount paid by the members of the constitutional convention.....\$379 54  
Of this amount one member (a conservative Democrat) pays.....\$508 85  
And three members pay.....210 50

719 35

Balance paid by all other members.....\$160 19

Executions for \$77 75 of this balance; whether or not paid not ascertained.

I have the full lists of the members of both these bodies, giving their names, the districts they represent, their color, and the taxes assessed to each, which I intended to publish with my remarks, but they would occupy too much space. I will retain them at my desk, where they can be examined by any member who desires to do so. Fifty-six of the negro delegates to the convention are not even on the assessor's books. With three or four exceptions the others only pay poll tax, and in a few instances tax on a dog—very likely a sheep killer—and the white delegates are in the same condition. Twenty-three of their number were unknown even to the assessor. Poll tax is not charged against them, and most of the others pay a mere nominal tax; and the same may be said in regard to the State Senators and members of the Legislature, as the detailed list in my possession shows. These lists are at the service of members, so that the accuracy of the statements I make may be tested.

What is here shown in reference to South Carolina is but a sample of all. I am informed by the best men in Alabama that all the white men in that State who voted for the constitution did not property enough in it to enable them to execute the bond required by law from the State treasurer.

These South Carolina papers were prepared for the purpose of laying them before this House, and to show what manner of men they were who made this constitution for that people, and to show how impossible it is for this House or any member of it, Republican or Democrat, to go before his own constituency and justify the imposing upon the people of South Carolina such a constitution as that, thus forced upon them by adventurers who hate them, and by degraded and ignorant negroes who knew nothing of what they were doing.

There were very few free negroes in South Carolina before the war; nearly all were slaves, as you know. There is not one in a hundred of them who can read or write, and yet under the constitution of South Carolina they are not only a majority of the electors, but they have elected men of their own race and color to fill three fourths of the offices in the State. Over seventy of them are in the State Legislature, and doubtless the other State offices are held by them in like proportion. Intelligence and virtue are crushed out by ignorance and vice. The proud race to which we all belong, and of whose civilization we are proud, is trampled in the dust by the debased African. Taxation without representation for the white man, and representation without taxation for the negro is the rule now in South Carolina.

"Shade of the mighty, can it be  
That this is all remains of thee?"

Under that constitution the negro magistrate may, for any offenses a negro Legislature may create, fine white men any sum not exceeding \$100 and imprison him not exceeding thirty days, and repeat it as often as he pleases. Speaking disrespectfully of the race, color, or integrity of the magistrate, refusing to send his children to school with negroes, refusing to sleep in the same bed with him—anything may be made the pretext for arbitrary fine and imprisonment. A more convenient mode of depopulating the State of South Carolina of her white race could not well be devised.

The Legislature has power to maintain a standing army in time of peace. This and the militia provision will enable a sufficient number of profligate negroes to be maintained as soldiers at the expense of the white tax payers to keep the white race in perfect subjection, and to eat out their substance.

The whole spirit of the proposed constitution is shown in section eight of article eight, which reads thus:

"SEC. 8. The General Assembly shall never pass any law that will deprive any of the citizens of this State of the right of suffrage, except for treason, murder, robbery, or dueling, whereof the persons shall have been duly tried and convicted."

These are crimes of which white men may be guilty, hence disfranchisement may be part of the penalty. Perjury, burglary, clandestine theft, arson, rape, the specialties of the negro race, shall never deprive the perpetrator of the right of suffrage, no matter how flagrant or oft repeated. The gentleman who prefers to settle his difficulties in private single combat rather than bring them in noisy brawl before a crowd is forever disfranchised, while the convicted perjurer, the thief, and the negro who destroys the home or the child of the white man, may, and perhaps would, in honor of the crime, be elected Governor of the State or sent to these Halls as soon as he leaves the penitentiary.

On behalf of the Democratic State central committee of South Carolina, I laid before this House a remonstrance against this constitution, which was referred to the Reconstruction Committee, and by permission of our chairman [Mr. STEVENS] Colonel Thomas, of South Carolina, advocated the views and principles therein set forth with a modesty and ability that seemed to impress even our distinguished chairman. I have that paper here. I wish I had time to read it to the House. I have not. I can only make a few extracts from it, and urge the members on both sides, if they want to understand the true state of feeling in South Carolina, and the evils this constitution would bring upon that people, to read and ponder well on the facts therein contained. Starting out by saying that the paper was prepared by the Hon. B. T. Perry, one of their best men, they present among other objections to the constitution the following, to some of which I have alluded:

"Article one, section nineteen of the Declaration of rights, gives justices of peace jurisdiction of all offenses less than felony, and in which the punishment does not exceed a fine of \$100, or imprisonment for thirty days. This is a gross invasion of that boast and bulwark of Anglo-Saxon liberty, the trial by jury. Any one may be arrested and 'tried summarily,' before a justice of the peace or other officer authorized by law, on information under oath, without indictment or intervention of a grand jury."

"Can anything be more despotic or alarming, than the power of an ignorant, vicious negro justice to fine and imprison any and every man in the State?"

"Section twenty-four enables the Legislature to authorize and empower any one, a police or military officer, to suspend the laws of the State, or the execution of the laws! The Constitution of the United States limits the suspension of the writ of *habeas corpus* by Congress, even to cases of rebellion or invasion. But here the whole laws of the State, in time of peace, may be suspended by some worthless minion, authorized by the Legislature."

"Section twenty-eight clearly and distinctly empowers and authorizes the Legislature to keep up and maintain a standing army in time of peace! This alarming power is given, too, most adroitly, under the pretense that armies being dangerous to liberty, ought not to be maintained in time of peace 'without the consent of the General Assembly!' The purpose of this section is to enable the Legislature to keep up a regular force of five or ten thousand negro soldiers, to suppress and keep in subjection the white race, after the United States forces are removed from South Carolina! The Constitution of the United States especially prohibits any State keeping troops or ships of war in time of peace."

"Section thirty-three takes from the Legislature all discretion as to the adoption of the proposed amendment of the Federal Constitution disfranchising the people of South Carolina. This amendment, repudiated by Ohio, California, New Jersey, and even Massachusetts, was submitted by Congress to the several State Legislatures for their adoption or rejection, as to them should seem proper. They were to judge of its merits and decide for themselves. But this section swears them beforehand to adopt it, whether wise or unwise, just or unjust!"

"Section two of article eight enfranchises every male negro over the age of twenty-one, whether a convict, felon, or a pauper, and disfranchises every white man who has held office in South Carolina. Intelligence, virtue, and patriotism are to give place, in all elections, to ignorance, stupidity, and vice. The superior race is to be made subservient to the inferior. Taxation and representation are no longer to be united. They who own no property are to levy taxes and make all appropriations. The property-holders have to pay these taxes, without having any voice in levying them! The consequences will be, in effect, confiscation. The appropriations to sup-

port free schools for the education of negro children; for the support of old negroes in the poor-houses, and the vicious in jails and penitentiary, together with a standing army of negro soldiers, will be crushing and utterly ruinous to the State. Every man's property will have to be sold to pay his taxes."

After stating many other grave questions, the committee add:

"We have thus suggested to your honorable body some of the prominent objections to your adoption of this constitution. We waive all argument upon the subject of its validity. It is a constitution *de facto*, and that is the ground upon which we approach your honorable body in the spirit of earnest remonstrance. That constitution was the work of northern adventurers, southern renegades, and ignorant negroes. Not one per cent. of the white population of the State approves it, and not two per cent. of the negroes who voted for its adoption understand what his act of voting implied. That constitution enfranchises every male negro over the age of twenty-one, and disfranchises many of the purest and best white men of the State. The negro being in a large numerical majority as compared with the whites, the effect is that the new constitution establishes in this State negro supremacy, with all its train of countless evils. A superior race—a portion, Senators and Representatives, of the same proud race to which it is your pride to belong—is put under the rule of an inferior race; the abject slaves of yesterday, the flushed freedmen of to-day. And think you that there can be any just, lasting reconstruction on this basis? The committee respectfully reply, in behalf of their white fellow-citizens, that this cannot be. We do not mean to threaten resistance by arms. But the white people of our State will never quietly submit to negro rule. We may have to pass under the yoke you have authorized, but by moral agencies, by political organization, by every peaceful means left us, we will keep up this contest until we have regained the heritage of political control handed down to us by an honored ancestry. This is a duty we owe to the land that is ours, to the graves that it contains, and to the race of which you and we are alike members—the proud Caucasian race, whose sovereignty on earth God has ordained, and they themselves have illustrated on the most brilliant pages of the world's history."

Mr. Speaker, no man can read the remonstrance from which these extracts are taken and lay his hand on his heart and say that he honestly believes he is doing justice to his country and his race by forcing such a constitution on that people.

Now, sir, as I said in the outset, it is impossible to discuss the merits of these constitutions in an hour. I merely took up some of the provisions in the South Carolina constitution as specimens of what will be found in all of them, with this difference: Georgia, South Carolina, and North Carolina have been far more liberal toward the white race in the right of suffrage than Arkansas, Alabama, or Louisiana have been. Arkansas and Alabama have been before the House heretofore; let me look for a moment at the provisions governing suffrage in the proposed constitution of Louisiana. They are as follows:

#### "TITLE VI.—General Provisions.

"ART. 98. Every male person, of the age of twenty-one years or upwards, born or naturalized in the United States, and subject to the jurisdiction thereof, and a resident of this State one year next preceding an election, and the last ten days within the parish in which he offers to vote, shall be deemed an elector, except those disfranchised by this constitution, and persons under interdiction."

"ART. 99. The following persons shall be prohibited from voting and holding any office: all persons who shall have been convicted of treason, perjury, forgery, bribery, or other crime punishable in the penitentiary, and persons under interdiction. All persons who are estopped from claiming the right of suffrage by abjuring their allegiance to the United States Government, or by notoriously levying war against it, or adhering to its enemies, giving them aid or comfort, but who have not expatriated themselves, nor have been convicted of any of the crimes mentioned in the first paragraph of this article, are hereby restored to the said right, except the following: those who held office, civil or military, for one year or more, under the organization styled 'the Confederate States of America'; those who registered themselves as enemies of the United States; those who acted as leaders of guerrilla bands during the late rebellion; those who, in the advocacy of treason, wrote or published newspaper articles or preached sermons during the late rebellion; and those who voted for and signed an ordinance of secession in any State. No person included in these exceptions shall either vote or hold office until he shall have relieved himself by voluntarily writing and signing a certificate setting forth that he acknowledges the late rebellion to have been morally and politically wrong, and that he regrets any aid and comfort he may have given it; and he shall file the certificate in the office of the Secretary of State, and it shall be published in the official journal: *Provided*, That no person who, prior to the 1st of January, 1868, favored the execution of the laws of the United States popularly known as the reconstruction acts of Congress, and openly and actively assisted the loyal men of the State in their

efforts to restore Louisiana to her position in the Union, shall be held to be included among those who are herein excepted. Registrars of voters shall take the oath of any such person as *prima facie* evidence of the fact that he is entitled to the benefit of this proviso.

"ART. 100. Members of the General Assembly and all other officers, before they enter upon the duties of their offices, shall take the following oath or affirmation: I, A. B. do solemnly swear (or affirm) that I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men; that I will support the Constitution and laws of the United States, and the constitution and laws of this State, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as according to the best of my ability and understanding; so help me God."

The reconstruction acts allowed all men to register and vote who would not be disqualified from holding office by the third section of the fourteenth amendment to the Constitution. Neither editors, preachers, guerrilla leaders, registered enemies, nor persons who voted for secession are excluded, yet this constitution excludes them all unless they become political renegades. Who is to decide as to the character of the editorials written or the sermons preached seven years ago. But it is useless to elaborate. The whole thing is in a nutshell. Everybody is disqualified who will not indorse the conduct and vote for the elevation to offices of honor and profit of the men who controlled the negro vote and were using it for their own selfish purposes under the specious pretense of loyalty. When men did that all their sins were forgiven, and they were allowed to come in and vote on every question; the men who had taken control of the negro vote, who were determined to be elected to this Congress and to go to the Senate of the United States, to be elected Governors, judges, and legislators, also determined that there should be no free vote unless it was cast for them; and whenever it was signified that one of these excluded men would vote for them and sustain their policy, no matter how obnoxious he may have been or how false his pretenses might be, no matter whether he honestly agreed with or had sold himself out to them, all his disabilities were removed, and he stood purified and washed clean by reason of supporting them for the offices they are seeking.

That is the political history of the franchise clause in the constitution of Louisiana. Substantially the same provision in regard to education prevails there as in South Carolina. Taxation the most enormous, compulsory education of girls and boys at the same school with the negroes. They are all mixed together. A poor man cannot help himself. It is made a penal offense, or the Legislature has the power, and it is its duty to make it a penal offense, to refuse to allow them to associate together at the common schools. The man who is rich enough may employ a teacher of his own choice, and if he does so the compulsion ceases. But such has been the impoverishment at the South, as gentlemen well know, that few of the most intelligent and respectable people are really able to afford the means of education such as they used to afford, and they will therefore be compelled to send their children, whether they are willing to do so or not, to these mixed schools. I can scarcely conceive of a more despotic, galling, and degrading provision in the fundamental law of a State pretending to be free.

A MEMBER. Nine tenths of them will have to do it.

MR. BECK. Perhaps nine tenths; I do not wish to speak extravagantly.

But the clock warns me that I must hasten on. In the States of North Carolina and Georgia the conventions that framed the constitutions removed the disabilities from all men except such as the Constitution of the United States prohibits from voting. They made the franchise universal. And yet when they came to elect the officers provided for by that Constitution large numbers of men who were qualified by the Constitution itself were prohibited from voting. Every man who had not been

able to register last October was excluded from the right of suffrage. Thousands of men in both these States who had a right to vote for or against these officers were kept away from the polls by the managers controlling them, although the Constitution itself provided that they should have the right to vote. Why? Simply because it was known that if they were permitted to do so they would vote for the men who controlled the negro vote of these States. To show that I am not making reckless assertions I call attention to a letter which I have in my hand—and I suppose many of the members of the House have it also—written by Hon. Daniel R. Goodloe to Hon. CHARLES SUMNER, setting forth all these facts as existing in the State of North Carolina. I use it in preference to similar information from Georgia, because he himself, as he avows, was an original abolitionist, and was in favor of the largest civil and political rights of the freedmen, and therefore entitled to the confidence of the majority on the other side of this Hall. Yet in this letter he confesses the fact to be that such have been the frauds in carrying on the elections under the constitution in North Carolina that none of the candidates who have been elected to any of the offices, either as Governor, State officers, members of the Legislature, or of this House, are entitled to their seats or ought to be allowed to take them, because they were only elected by having excluded thousands of qualified voters from the polls.

I will read a few sentences from that letter, preferring it to any statement of fact that I might be able to make.

After speaking of his own position and his desire to elevate the negro as far as it could be consistently done, and of the many objections to intrusting all the emancipated slaves with the right of suffrage, especially if many intelligent whites were disfranchised, he adds:

"Meantime I doubt not that your *a priori* reasonings on the subject will bring you to the conclusion that the intelligent property holders of North Carolina ought not to be denounced as incorrigible traitors for having voted against a constitution which is so well calculated to place them at the mercy of depraved and ignorant demagogues."

"The military commander is a gentleman for whom I entertain great respect. I doubt not he intended to perform his duty merely; and I have no suspicion that he was a conscious party to the scheme for depriving a large body of the most intelligent qualified voters of their rights. The plan was probably regarded by him as a mere form, and was doubtless concocted here in Raleigh, in order to make sure the election of certain aspirants to office. Without it they were doomed to certain defeat. With it they had reasonable grounds to anticipate success. By a general order the convention ordinance was approved; and it further directed that the votes for ratification for Congressmen, and for State officers, should all be written or printed on one ballot and cast into one box. This arrangement, though highly inconvenient and admirably calculated to prevent a fair expression of the popular will, might nevertheless have been legitimate, or at least bearable, if the voters qualified by the constitution were identical with those qualified by the reconstruction acts. But such is not the case, as appears from the following article of the new constitution:"

After quoting the suffrage article in the constitution, which I need not read, he goes on to say:

"I see not how any man of ordinary candor can read the foregoing article without being forced to the conclusion that the convention, by giving a superficial construction to the last amendatory act of Congress, has authorized the holding an election for Congressmen and State officers in violation of the Constitution—the work of their own hands. The body was doubtless betrayed into this course by certain cunning party leaders, who, failing, after the most earnest efforts, to ingraft their proscriptive principles in the Constitution, determined to cheat a large part of the voters out of their franchise until they could be provided with snug offices for a long term of years. It will be noticed that the terms of office of the Governor and other State officials is four years, which is twofold longer than heretofore, with the latter half of the present year thrown in to the first term. Thus, while the people are enfranchised in the constitution, they are defrauded of their rights for the first four years. Our disinterested patriots have thus 'held the word of promise to the ear, but broken it to the hope.'"

He thus speaks of the operation of the reconstruction acts in North Carolina:

"They embrace the constitutional amendment as a part of the policy of reconstruction; and to insure its adoption, and to secure a loyal majority in the

States, two other conditions were annexed to the terms of restoration. The right of suffrage, as well as the right to hold office, was taken away from the governing class, and at the same time every negro and person of African descent in the ten States was enfranchised. I confess I thought these hard conditions. The utter incapacity of the negroes to exercise the elective franchise with discretion and for the best good of the State was manifest. But it was believed that at least they would be true to themselves, and that they would vote for none but avowed friends to their rights. I never doubted them on this point, even when the demagogues who now lead them on to the destruction of whatever was venerable and valuable in the institutions of the past were afraid to trust them, and opposed their enfranchisement. The trouble is that they will vote for any man who makes a noisy demonstration of devotion to their rights, without the slightest regard to his past public career or to his private character; and the result is, that they have placed the control of the State and its affairs in the hands of men who rose to eminence or notoriety as the champions of slavery and secession, or to wealth as dealers in slaves. I regret to say, also, that they elected quite a number of their own race to the late convention, and again to the Legislature, most of whom could not stand an examination before a Massachusetts committee empowered to ascertain the educational qualification of voters. Men have been elected as judges of the circuit court who obtained their licenses to practice law within six months past. One of the "judges" is said never to have been licensed as a lawyer; and others, on account of character and qualifications, would be regarded as presumptuous if they should aspire to the office of justice of the peace in a well ordered and enlightened community. Still others, of both races, have been elected to office, who have been either convicted of or indicted for murder and other infamous crimes. The number of felonious aspirants for office, with their success and failure, would form a curious statistical inquiry. The vindictive partisan may exclaim that the rule of such men will be good enough for rebels. But the statesman, whose reputation for all time will rest upon the wisdom and success of his measures, must act on more generous principles, if he would have his name held in honor by future generations."

He quotes from Mr. Burke this sentence, which this House would do well to consider:

"There is no qualification for Government but virtue and wisdom, actual or presumptive. Wherever they are actually found they have, in whatever state, condition, profession, or trade, the passport of heaven to human place and honor. Woe to the country which would madly and impiously reject the service of the talents and virtues, civil, military, or religious, that are given to grace and to serve it; and would condemn to obscurity everything formed to diffuse luster and glory around a State. Woe to the country, too, that, passing into the opposite extreme, considers a low education, a mean contracted view of things, a sordid, mercenary occupation, as a preferable title to command."

I will make only one other quotation:

"But the new constitution of North Carolina guarantees equal civil and political equality to both races. None are disfranchised, except such as have been or may be convicted of crimes. The injured people, therefore, have a right to ask and to expect that the elections for State Legislature, State officials, and members of Congress be set aside, on the ground that they were not held in accordance with the national and State constitutions, and are therefore null and void. In the name of violated constitutions and outraged rights they demand that a new election be ordered in which the whole body of qualified voters shall be allowed to participate."

"THE POLL-KEEPERS AND REGISTRARS."

"I have thus far made no allusion to the character of the persons selected to hold the elections, nor to the method of their appointment. You are aware that the whole proceeding has been conducted under military supervision; and that the choice of registrars and poll-keepers was necessarily confined, under the law, to the class of persons who can take the 'iron-clad' test-oath. There are few counties in the whole South where such citizens of intelligence and character could be found to perform these duties. The consequence has been that soldiers, transiently doing duty here or recently discharged, strangers who have come in since the war, and illiterate freedmen, have been called upon. They are almost invariably of the dominant party and strongly prejudiced against those who oppose the policy of Congress. It would be a miracle if an election held under such circumstances were fairly conducted. The poll-keepers and registrars should be of the people, and each party should be represented at each polling place, in order to secure honesty and fairness. It is impossible that strangers, if we suppose them to be honest and intelligent, can know the people sufficiently well to prevent fraudulent registration and voting. If I am correct in these views, they go to prove that the military regulation of elections should be carried no further than is absolutely necessary; and that the initial step of ratifying the constitution being completed the intervention should cease as a matter of public right and expediency, apart from the considerations above stated, which demonstrate the unconstitutionality of State elections held by order of the General Government."

I have read this much to call the attention of the House to a paper written by a man who not only opposes the Democratic party, but is as true a Republican as any man in this House



can pretend to be, setting forth all these facts and calling upon the House to come to the relief of the people of North Carolina and reject the men who have thus been foisted into office. If you will frame a constitution for them—as the gentleman from Pennsylvania [Mr. STEVENS] by his amendment in one particular proposes to do—frame a constitution yourselves under which they can live, and treat them as civilized men, and do not surrender them over to a horde of adventurers and barbarians who are wholly unfit to exercise any political rights.

Now, sir, nothing is more pregnant of the fact that you know that these men under whom you have put the South are not fit to exercise political rights and privileges than the fact that there are two bills before this House, one of which was passed the other day removing disabilities from five hundred and sixty rebels in North Carolina whom you had to pardon in order to fill the offices in the State. You had not men enough—intelligent men, men who can read and write—to put the machinery in motion until you passed a bill pardoning five hundred and sixty rebels who have been elected to office by your political friends because they could not do without them. And there is another bill printed and on your tables proposing to pardon five hundred and forty-one rebels in the State of Georgia, which you must pass before the machinery of the State government can be put in motion there, because there are not intelligent men enough there who are capable of filling the offices who are not under these disabilities.

Mr. BROOKS. Does not my colleague make a mistake in saying that there were five hundred and sixty names in the bill which we passed? Why, it was announced on apparent authority on the floor of the House that there were only two hundred.

Mr. BECK. There are the names of five hundred and sixty men included in that bill which we passed the other day. I have counted them.

Mr. FARNSWORTH. When I was asked how many names there were in the bill I said I thought two hundred, more or less. I did not state the exact number.

Mr. BECK. I know that I am correct, for I have counted them myself. And, independent of that, this additional fact stands out: that General Schofield, in his address to the Virginia convention, and General Meade and General Canby have all declared that if you adhere to the test-oath and require men to swear that they will for all time maintain the political equality of the races, the governments cannot be carried on in any of these southern States, and that your whole plan is a failure. The outrage is so great that these commanders themselves, placed there for the very purpose of carrying out these measures, have to appeal to the rulers here to remove disabilities from these men. Little wonder the intelligent Legislature of Ohio instructed their Senators and Representatives to take the back track on all these measures.

In the few minutes I have remaining I desire to say that while in accordance with the requirements of the reconstruction acts the proposed constitutions all fasten universal, unlimited, and perpetual negro suffrage on that people, I submit to members whether they can now, as faithful Representatives of the popular will, with any sort of propriety, force negro suffrage on the people of the South as a condition precedent to their restoration to civil and political rights after they have received such emphatic instructions from their own constituents everywhere that it is abhorrent to all their ideas of American civilization. In March, 1867, it was, perhaps, uncertain whether the American people, or at least the Republican portion of them, represented by an unprecedented majority in these Halls, did not desire, or would at least consent, to establish universal suffrage, regardless of race, color, or previous condition, and Congress determined to make the experiment, imposing it by power and force on the southern States under the specious pre-

text of its necessity to insure and perpetuate loyalty there, though they knew that it was not only repugnant and abhorrent to the whole white population, but was, because of the great number of blacks, actually putting the whole machinery of the Government into the hands of a body of men as unfit to exercise political powers as so many horses or mules would be. Congress then knew that even if the black race was by nature the equals of the white, their ignorance, their past condition of slavery, which had utterly deprived them of all means or desire for obtaining knowledge of any sort, especially all knowledge of self-government or the government of others, rendered them wholly unfit to be the depositories of political power; and so knowing, they placed their Freedmen's Bureaus, their military satraps, and all the machinery of party over them and the whites alike, making the poor, degraded, and ignorant negro, under the pretense of exercising his newly-acquired rights, the mere agent and tool to carry out their will and purposes. The men they send to these Halls will be in no proper sense either their representatives or the representatives of the States from whence they come, but the mere puppets of Congress, looking to it, and to it alone, for a continuance of their powers, and therefore subservient followers of the dominant majority, to whom they are indebted for all they are and all they hope to be.

All this, of course, was in a mere party sense considered an element of power, and it was doubtless thought, and not without a show of reason, that the Republican party in the country would adopt and indorse the action of Congress and carry out the principles in the northern States wherever the party was in the majority. The question was therefore made in many of the northern States. Ohio was considered Republican to the core; Kansas, Minnesota, and Michigan were unquestionably so. The number of negroes in each was so small that there could be no possibility of danger that they would ever control the party. Many of the negroes there had been born free. They had had all the advantages of education and association among a people who sympathized with and endeavored to elevate them. Every man thus made a voter would, they knew, certainly vote for and sustain the Republican party and its candidates. The strength thus acquired might, in closely contested elections, turn the scales and secure the offices. Yet, with all these inducements, each and all of these Republican States, by majorities not to be misunderstood, rejected the proposed amendments to their constitutions, rejected negro suffrage, spurned the proffered accession to their ranks, and preferred to suffer defeat and the overthrow of all mere measures of party policy on which their organization depended by their Democratic opponents rather than recognize the right of the negro race to take part in the political affairs of the country. They have declared in thunder tones that this is a white man's Government, was so from the beginning, and that the white people of the country, disregarding all other differences, are determined that it shall continue so through all time. All the animosities engendered in the terrible war through which we have passed, and which have been fostered and kept alive by the Radical party for partisan purposes, are discarded and spurned by the people when the negro is sought to be put on a level with the white man, and so it will always be whenever and wherever men are free and determined to remain so. I am almost ashamed to quote authority on such a proposition, but the great debate between Judge Douglas and Mr. Lincoln brought out their views so sharply on this question that I will quote them:

"Judge DOUGLAS. I hold that this Government was made on the white basis, by white men, for the benefit of white men and their posterity forever, and should be administered by white men, and none others. I do not believe that the Almighty made the negro capable of self-government.

"Mr. LINCOLN, in reply. I am not, nor ever have been, in favor of making voters or jurors of negroes, nor of qualifying them to hold office, nor intermar-

rying them with white people, and I will say, in addition to this, that there is a physical difference between the white and black race which, I believe, will forever forbid the two races living together on terms of social and political equality; and inasmuch as they cannot so live, while they do remain together there must be a position of superior and inferior, and I, as much as any other man, am in favor of having the superior position assigned to the white race."

Mr. HIGBY. Will the gentleman allow me to ask him a question?

Mr. BECK. I have no time.

Mr. HIGBY. Only a question.

Mr. BECK. If I had time I would do so; but I really have not the time. If I am allowed five minutes more after my time is out I will answer the question.

Mr. HIGBY. I wanted to ask the gentleman what he would do with the negro.

Mr. BECK. I will tell the gentleman what I would do with the negro. I would protect him as a free man, as I would protect our women and children, or any other person who had not the capacity for exercising political rights. I would hold the negro unfit for political rights, as we do the Indian and the Chinaman, for a great variety of reasons. His whole race has shown itself in all time unfit for self-government. The Caucasian race alone has developed that power, and that only under favorable circumstances, by the growth of centuries and by education up to a point which we think we have reached. Many of the races even upon the continent of Europe and Asia are yet unfit for self-government. And to say that the negro, inferior in all time past, shall be taken from the rice, cotton, and sugar plantations of the South in absolute ignorance, degraded, as the Republicans always claimed, to the level of the mule he drove—to take him from that condition and place him above his former master, degrade, debase, and disfranchise the white man, and put above him a man who has not an idea what to do except to follow the bidding of the demagogue who seeks to use him—to do that is an outrage upon the white race to which we belong, and one which the people of this country never will permit.

I would protect the negro in all his rights, but I would hold him unfit to exercise political rights. I will go as far to protect him in his civil rights as any gentleman from New England will go. And the men of my State, as much as they have been slandered upon that subject, will and do go as far in protecting and defending him as any set of men in America. If gentlemen will go there now they will see the negro as happy and better protected and better cared for than in any other State, North or South, in spite of all the efforts of demagogues to make it otherwise.

Mr. WARD. Will the gentleman yield to me for a question?

Mr. BECK. I cannot yield further. When Michigan, Minnesota, Kansas, and Ohio refused to give the negroes any political rights, how can gentlemen representing those States now seek to fasten that policy upon the people of the South?

Having made the experiment under the most auspicious circumstances and fairly tested it in the free States—I mean in the States where men were free to act and to decide—and your own people having everywhere discarded your attempt to establish negro suffrage, with all the inducements and temptations you could hold out to them, it does seem to me that as faithful Representatives of the people, whose will you know and whose instructions you have received, after a full and fair submission of the question to them by yourselves, you have no right to place the white men of the South under the domination of the negro, no right to use the coerced and ignorant negro vote in the South to neutralize the free, intelligent vote of the northern and western States, for this is really not a vote, but an indirect and efficient mode of stuffing the ballot-boxes of the North, as flagrant, when fairly looked at, as burning up all the ballot-boxes in the States of New York, Pennsylvania, and Indiana would be. These three great States having about the same electoral votes as the five military dis-

tricts in the South, would it not be more manly, equally just, and present your claims more intelligently, if you would allow the ten States embraced in those districts to remain, as the distinguished gentleman from Pennsylvania [Mr. STEVENS] says they now are, waste, outlying provinces, conquered territories, till after the November election, and send your bureau agents or other suitable emissaries into the States of New York, Pennsylvania, and Indiana, on the first Tuesday in November next; and in the presence of all the people thereof burn up the ballot-boxes and ballots, on the claim that you have a right to deprive the Democratic candidate for the Presidency of that number of votes, to set off the political power of these territorial dependencies which you claim to own and control by right of conquest. The people would understand that issue and have something to say about it; yet that is precisely what you are doing now in an indirect way, and the people are beginning to open their eyes to the truth of it.

I know this Congress thinks it is omnipotent. It is nearly so. It has acted as though it was, in spite of the decision of the highest judicial tribunal in the land; a tribunal made coördinate in power and authority with Congress by the Constitution; a tribunal erected as a barrier against legislative usurpation on the rights of the States and the people; a tribunal whose exposition of the Constitution has always been deemed to be binding and conclusive on all the departments of the Government. Congress in these so-called reconstruction acts, in time of profound peace, nearly two years after the last hostile arm had been raised, and long after it, by its own legislation, recognized the war as ended, subordinated the civil to the military power, suspended the *habeas corpus*, struck down the trial by jury, declared all civil government at an end, and in all things civil and political substituted its will and orders, and the will and orders of its agents for the will and the acts of the people themselves. It can impeach the Chief Executive Magistrate, elected by the people, without cause or because he is an obstruction in its onward march to power. It can withdraw the authority from the Supreme Court to question any act of outrage committed by its servants on any of the people of the South. In short, it is almost omnipotent, or seems to be so. But there is one appeal left. Presidents, courts, States, and citizens may be stricken down by those in power, but the servant is not above his master; he has to retire after a term from these Halls, and give an account of his stewardship to those who sent him. The majority here will then find before that court of last resort that all their acts will be reversed and annulled; that the Constitution is still the supreme law; that all their doings here are known and disapproved; that this is a white man's Government, and because they have sought to subvert it they have been weighed in the balances and found wanting. The handwriting is upon the wall, the *Mene, mene, tekel, upharsin* is seen and understood; and the guilty Belshazzar did not tremble more at the recorded verdict of offended Heaven than do the Radical leaders now, when called to face an indignant and outraged people whose trusts they have betrayed, whose liberties they have sought to subvert, and whose rights they have trampled under foot in violation of their known and expressed will.

The people will take the matter into their own hands. They will want to know why ten States of this Union are kept under a military despotism and prevented from contributing their share toward the revenue of the country. They will want to know why millions of white people are disfranchised and millions of dollars are taken out of the Treasury for the purpose of holding them in armed subjugation to the ignorant negroes. They will do away with your reconstruction laws, your conquered provinces, and your disjointed Union. They will remove the obstructions from these Halls. They will insist upon the restoration of the equality, liberty, and fraternity, of a white

man's Government, from whose administration the negro and all his advocates shall be excluded.

I see that my time is out. I have stated my objections imperfectly, for the reason, first, that we are without the information called for from the Secretary of War and the General of the Army; secondly, because of the great mass of matter and the short time in which I have been compelled to consider it.

Mr. FARNSWORTH. Will the gentleman let me ask him a question?

Mr. BECK. I have surrendered the floor, but I will answer the question.

The SPEAKER. The gentleman has three minutes left.

Mr. FARNSWORTH. I understand the gentleman to base his argument chiefly on his denial of the right of the black man to participate in the Government. I ask him if the black men were to vote the Democratic ticket whether he would not somewhat mollify his objection to their participation in the Government?

Mr. BECK. No, sir; not in the slightest.

Mr. GARFIELD. Mr. Speaker, I do not rise to discuss the main topic now under consideration, but to notice a reference to Ohio made by the gentleman who has just taken his seat, [Mr. BECK.] He claims that it is obligatory on the Ohio delegation in this House to take his view of this bill, because our Ohio Legislature has lately sent resolutions here instructing or at least requesting all the Ohio members of this House to vote against all the reconstruction bills. Now, I admit we ought to pay great deference to the expressions of opinion of our State Legislatures, provided those Legislatures are by their conduct entitled to our respect. While I repudiate the doctrine that a State Legislature has a right to give any binding instructions to the members of this House, I still admit that we ought to listen with respect to all respectable Legislatures. But in answering the gentleman's argument, I raise the question whether the present Democratic Legislature of Ohio is entitled by its character and conduct to instruct any Representative in Congress. In order to settle that question, I beg leave briefly to cite a few of the leading acts of that body. We will then be able to see whether they are entitled to the confidence or contempt of this body and of the country.

By some strange inscrutable dispensation of Providence—perhaps to make the victory of the party of freedom more certain at the next election—for the first time in ten years the State of Ohio has been cursed by a Democratic Legislature, and it became Democratic by a very small majority. Although the Republicans carried the Governor and State officers, yet, by the arrangement of representation provided for in the State constitution made by the Democratic party when they were in power, it so happens that they were enabled to get a majority in the Legislature this year. That Legislature assembled, and one of its first acts was to take from the Lieutenant Governor the power which that officer has exercised for many years, of appointing committees in the the State Senate, and put the appointment of all the committees into the hands of the Senate itself, thus making all the committees very strongly Democratic. Of course, they also made all the committees in the House strongly Democratic, so that every committee in the General Assembly now speaks only the voice of the Democracy of the State.

The first legislation of any importance was an act pretending and attempting to withdraw the consent of the State of Ohio to the fourteenth article of amendment to the Constitution which, among other things, prohibits forever the assumption of any part of the rebel debt, and the repudiation of any part of the Federal debt. Of course, the act is a nullity, but it nevertheless exhibits the temper, spirit, and character of that Democratic Legislature.

The next thing of any considerable importance that they did was to remodel the muni-

cipal laws of the leading Republican cities of the State so as to force upon them a Democratic police. For instance, the city of Cleveland, with an overwhelming Republican majority, has been compelled by that Legislature to receive a police system not of its own choosing, but in the highest degree offensive to its citizens.

Mr. MORGAN. I rise to a point of order. The gentleman's remarks, not being pertinent to the question before the House, are not in order. The Legislature of Ohio represent the people of that State.

Mr. UPSON. I call the gentleman to order. A point of order is not debatable.

The SPEAKER *pro tempore*, (Mr. BOYER in the chair.) The Chair sustains the point of order.

Mr. GARFIELD. This subject was really the wire on which the gentleman from Kentucky [Mr. BECK] strung his speech. I am, therefore, directly responding to the gentleman's argument. After foisting upon these Republican cities an unwelcome and partisan police the Legislature proceeded to act upon this very subject of colored suffrage which is now under discussion.

Mr. MORGAN. I insist that the gentleman shall confine himself to the subject-matter before the House.

The SPEAKER *pro tempore*. The Chair sustains the point of order. The gentleman should confine his remarks to the subject before the House.

Mr. GARFIELD. I will undertake to do that. The chief point that has been discussed by the gentleman from Kentucky [Mr. BECK] is the question of negro suffrage in the southern States, and he has illustrated his argument by reference to the action of the Legislature of Ohio on that very subject. Now, I want to say what that legislative action has been on the question of voting, and negro voting, too, and that certainly cannot be out of order. The Legislature of my State has sent instructions to me and to my colleagues in regard to the subject of negro suffrage. Now, that Legislature has passed a law on the subject of negro voting, which shows the temper, spirit, and meaning of our instructors. To discuss that law, I hold, is strictly in order.

Mr. MORGAN. I call the gentleman to order. I shall be happy at the proper time to discuss the action of the Ohio Legislature with my friend, but this is not the proper time.

The SPEAKER *pro tempore*. The Chair thinks the point of order is not well taken, inasmuch as the gentleman from Kentucky [Mr. BECK] made allusions in the course of his speech which justify the remarks of the gentleman from Ohio.

Mr. GARFIELD. I am much obliged to the Chair. It has long been the undisputed decision of the supreme court of Ohio that any person who has more white blood in his veins than black blood is entitled to vote under our constitution, in which the word "white" occurs as limiting the suffrage. That decision was made in the better days of the Democracy by a Democratic bench, and has been, I believe, undisturbed and unquestioned for thirty years.

Now, the present Legislature passed a law known as "The visible admixture law," which provides that any man having a visible admixture of African blood shall not be permitted to vote; and in order to test who it is that has a visible admixture of African blood in his veins, that not being a fact which always appears on the surface and to the naked eye—since complexions differ so much—that law provides:

"That it shall be the duty of the judges of election to challenge any person offering to vote at any election held under any law of this State, having a distinct and visible admixture of African blood, and shall tender to him the following oath or affirmation: 'You do solemnly swear (or affirm) that you will, to the best of your knowledge and belief, full and true answers make to such questions as may be put to you touching your qualifications as an elector; and thereupon the said judges, or one of them, shall put to him the following questions: 1. What is your age? 2. Where were you born? 3. Were your parents married, and did they live together as man and wife? 4. Had your parents, or either of them a visible and

distinct admixture of African blood? 5. In the community in which you live, are you classified and recognized as a white or colored person, and do you associate with white or colored persons? 6. Are there schools for colored children in operation in the township, village, or ward in which you live, and if you have children do they attend such schools, or do they attend the common schools organized for white children under the law of the State?

Sec. 2. After the examination of the person challenged, as provided in the preceding section, the judges of election shall, unless the vote of said person is rejected, require him to produce before them two credible witnesses, to whom shall be tendered by said judges the following affirmation: "You and each of you do solemnly swear (or affirm) that you will fully and truly answer all such questions as may be put to you, touching the qualifications of (the name of the person challenged) as an elector." Thereupon the judges, or one of them, shall put to each person respectively the following questions: 1. Are you acquainted with (the name of the person challenged); if so, for how long a time have you known him? 2. Do you know when, where, and in what State he was born? 3. Where you acquainted with his parents, or either of them? If yes, did such parents, or either of them, have a distinct and visible admixture of African blood, and were they married, or did they live together as man and wife?"

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Sec. 4. No evidence shall be received as to the admixture of white blood which is based on the opinion of the person challenged or of the witness testifying in his behalf, founded merely upon appearance, unless the facts are fully stated as to the parentage of the person challenged; and no evidence of reputation as to the parentage shall be received, unless the parties about whom such reputation exists are proved to have been married."

Now, after this inquisitorial test, which may be applied to every citizen of the State, black or white, if he is enabled to trace his pedigree, if he is able to do more than wise children usually can, and say, not only who was his father, but who were his paternal and maternal ancestors; if he can pass this ordeal safely he may then be permitted to deposit his vote.

But the Democracy of Ohio did not stop there. Knowing very well that wherever patriotism and education are paramount there is but small hope for them, they passed a law forbidding any student in the college and academies of Ohio, if not a permanent resident of the place where the institution is located, the right to vote. Now, there are twenty-nine or thirty colleges in the State of Ohio, and it is very well known that nine tenths of the students in all the colleges, academies, and high schools in the State are Republicans, and vote with the Union party; and this Democratic Legislature have attempted to put out the light by depriving the mass of Ohio students of all share in the legislation of the State.

As a fit companion to this law, that Legislature passed another which every member of this House ought to know. The General Government has located at the city of Dayton, Ohio, a Soldiers' Home, in which we have gathered, not only from Ohio but from neighboring States, a large number of crippled, disabled soldiers. There are now nearly one thousand such soldiers at that Home, sustained by the Government of the United States because of wounds and disabilities incurred in the late war for the Union.

Now, knowing very well that these men would vote as they fought, that they would stand with the same party when they came to the ballot-box that they stood with when they were in the field, this Democratic Legislature has passed a law forbidding any inmate of the Soldiers' Home from voting at any election in the State. The Soldiers' Home is to be their home for life; it is not a mere temporary residence. They are disabled pensioners of the Government—kept there in the Government asylum; and this Democratic Legislature of Ohio says that not one of them shall ever vote at any election in the State. And the managers of that Soldiers' Home, one of whom sits near me, are receiving letters from soldiers in other States of the Union, saying that they had intended to apply for admission to that home in Ohio; but since this law has passed they would prefer to beg their bread from door to door rather than have their rights as loyal voters of this country thus trampled upon by a Democratic Legislature.

Mr. VAN TRUMP. Will my colleague allow me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. VAN TRUMP. I would ask my colleague if he knows a single State in this Union that permits students at college to acquire a residence and a vote simply from being such students at college?

Mr. GARFIELD. I will say to the gentleman that so far as I know for the last twenty years students in the colleges of Ohio have been permitted to vote.

Mr. MORGAN. Yes, sir; and they have voted in violation of an express statute every year they have so voted there.

Mr. GARFIELD. That question will probably come up in the gentleman's own election case, and I will postpone any argument upon it until that time.

Mr. PAINE. Will the gentleman yield to me for a remark upon this point?

Mr. GARFIELD. I will.

Mr. PAINE. Having myself been a citizen of the State of Ohio, and having been a student in that State, I know of my own knowledge that the laws of the State of Ohio have been construed so as to allow students to vote. That is, where a student enters a college for four years he acquires, under the laws of the State of Ohio, that sort of residence that entitles him to a vote.

Mr. MILLER. Will the gentleman from Ohio [Mr. GARFIELD] allow me to say a word upon this point?

Mr. GARFIELD. Very well.

Mr. MILLER. I will also say that it has been decided in several States of this Union that students going to college for the purpose of getting an education there have the right to vote.

Mr. MORGAN. May I interrupt the gentleman for a moment?

Mr. GARFIELD. Certainly.

Mr. MORGAN. I understand my honorable friend to say that a student does not acquire the right to vote when he is attending college merely for the purpose of obtaining an education.

Mr. GARFIELD. I will ask my colleague—

Mr. MORGAN. I beg my colleague's pardon. I have propounded him a question. Will he answer it?

Mr. GARFIELD. I say this: that if the chief business of the student is to get an education, and he has been at the college long enough to acquire a residence as prescribed by the law, he is a voter there. That has been the practice in the State of Ohio for twenty years.

Mr. MORGAN. Another question.

Mr. GARFIELD. Very well.

Mr. MORGAN. Does not the law require an actual *bona fide* residence at the election precinct to become a voter?

Mr. GARFIELD. Certainly.

Mr. MORGAN. Very good. If the simple object of the residence is to acquire an education, with the intention to leave the place when the education has been acquired, is the student then a legal voter?

Mr. GARFIELD. That is according to the intention of the student. I now wish to ask the gentleman, if his view of the law be correct, then what was the object of passing the law of this year?

Mr. MORGAN. Because certain persons have heretofore set the law at defiance; and to prevent that willful and deliberate violation of law we have passed an act which they cannot evade.

Mr. GARFIELD. Mr. Speaker, I am very glad to hear my colleague's explanation of this matter. This new-born zeal of the Democratic party for the purity of elections is one of the most beautiful chapters in the history of that party. Viewing the whole question of the "visible admixture" law, the soldiers' asylum law, the students' voting law, and the accompanying acts ancillary thereto, it is certainly one of the most striking and characteristic chapters in modern Democratic history.

Now, in order to secure all the benefits of these laws for the next election, so that the

supreme court may not remove them from the statute-book on account of their unconstitutionality, a law is now pending in that same Democratic Legislature forbidding the supreme court to take up any case out of its regular order; in other words, forbidding the supreme court to advance a case on the docket; for if the court should exercise this right which it has exercised ever since the State was founded, of advancing an important case on the docket, the gentleman's party know right well that the students' voting law, or at least the visible admixture law, would be swept at once from the statute-book as unconstitutional. By this means that Democratic Legislature proposes to tide over the coming presidential election, well knowing that both the law and the makers of it will be swept away when our next election takes place.

Mr. MORGAN. I desire to ask my colleague one question. If the Republican party, of which the gentleman is so distinguished a light, desires that the elective franchise shall be conferred upon the negroes—that the negroes of the South shall exercise political domination over the white men there—how comes it that the people of Ohio, the Republican party being in the majority there, have by a majority of fifty-five thousand decided that the negro is unfit to exercise the elective franchise, and refused to extend it to him?

Mr. GARFIELD. Mr. Speaker, I am very glad that my colleague has called my attention to that point. A few timid members of the last Legislature of Ohio, who had not quite nerve enough to meet a great question on its merits, framed that constitutional amendment in such a shape that the suffrage question was not squarely before the people. They tacked on a clause proposing to disfranchise deserters and those who ran away from the draft. It so happened that a great many soldiers who were borne on the rolls as deserters were only technically deserters, not really so. Such men felt the injustice of the disfranchising clause; and this single fact, I have no doubt, turned the scale on that question.

But I call the gentleman's attention to the fact that, notwithstanding all the clogs attached to that amendment, nearly two hundred and twenty thousand of the citizens of Ohio voted for it; and I have no more doubt that a provision guarantying equal suffrage in that State will be ultimately adopted by Ohio than I have that we shall carry through the great measures now before this body.

Mr. MORGAN. My distinguished colleague has said that the reason a majority of fifty-five thousand votes was polled in the State of Ohio against negro suffrage was that there were so many deserters. By that remark I understand him to imply that there were in the Republican party fifty-five thousand deserters who would not vote in favor of negro suffrage, because thereby they would disfranchise themselves. [Laughter.]

Mr. GARFIELD. I say no such thing; but I am perfectly free to say, Mr. Speaker, that the Republican party, like all other parties of virtue and progress, has in its ranks here and there weak and timid men, who cannot quite come up to the measure of a great, bold, righteous issue. If the world were a little better than it is, if we had a little more enlightenment throughout the State of Ohio, if we had fewer men unable to read and write, if we had more men who have been in the Army and drawn in the inspiration of the great war through which we have passed, if we had fewer Democrats to appeal to the prejudices and interests of the people, fewer George H. Pendletons to whisper in their ears flattering financial schemes, fewer men to offer them the bribe of indirect repudiation as the prospect of a Democratic future, I admit that, with such advantages, we should have carried the recent election and secured impartial suffrage in our State in spite of all the obstacles which impeded it.

Mr. VAN TRUMP. I ask the gentleman for the proof that George H. Pendleton is in favor of repudiation. Where is the proof?



Mr. GARFIELD. I will not go into that discussion now. I did not say that he was.

I have only one more thing to say. To make "assurance doubly sure" this Democratic Legislature of Ohio has introduced and is trying to pass—and I expect the telegraph will soon bring us the news of its passage—a bill to take from the hands of the Governor and adjutant general of the State the arms and ammunition of the State and intrust them to the hands of a committee of this Democratic Legislature of the State of Ohio. All these operations are going on in that State, and there is no doubt that the next election will be sure to give us our old overwhelming majority.

Mr. VAN TRUMP. That is a thing I am in favor of myself. I second that bill.

Mr. GARFIELD. I supposed so. Who ever doubted our distinguished judge from Ohio would not indorse all these measures? Their work in Ohio and their work here are parts of the same great scheme. They are all of one piece.

Mr. ROBINSON. Mr. Speaker, whatever may be said upon these occasions; whatever may be done now in the heat of passion or of party spirit; whatever subterfuges may be resorted to on the other side to secure party supremacy in the future, I believe that all these unconstitutional measures, these mere partisan measures, these efforts to keep up a party condemned and repudiated by the people, will fail and fail forever; and that hereafter the march of that grand army of the people, the true Republicans of this country, now surging on toward Washington, will brush away all these partisan subterfuges and place the Government under the control of a party that is in precept and example true to the great interests of the country. Then, sir, the wicked schemes planned and matured for the degradation of the South and the destruction of our constitutional liberty will vanish and "leave not a rack behind." Then, sir, all your impeachment proceedings will be expunged from the record. You and I, and all here upon this floor, will see the manuscript Journal produced in this Hall and black lines drawn around the articles of impeachment; and deep condemnation will be set upon those who aimed that deadliest blow at our system of Government. I have no more doubt that will take place than I have of the existence of the gentlemen around me.

Mr. Speaker, what are we doing? We are here now called upon to vote several of the old States into the Union. When did those States get out of the Union? Was it Jeff. Davis that took them out, or have the gentlemen on the other side dared to do what he failed to accomplish? Who can restore a State which is not out of the Union? Every one of these States mentioned in this bill has been and is now in the Union. The Constitution expressly declares that every State is entitled to representation upon this floor; and South Carolina is as much entitled to representation as any other State. She is now as much entitled to representation here as New York, Massachusetts, or Pennsylvania. The Constitution says that every State shall be—not may be—entitled to at least one representative upon this floor; and shall be entitled to two representatives in the Senate. If seven years ago any man had prophesied that we would be legislating now to bring back these States into the Union; if, when the hearts of the people, Democrats and Republicans, were beating in unison to preserve the Constitution and defend the Union, any one had said that in six or seven years we would be legislating to bring these States back into the Union, he would have been looked upon as a fool or hanged as a traitor. Billions of money and hundreds of thousands of lives were sacrificed upon the gory field of battle rather than that one star should fade from our flag, or one State should ever be torn from our Union.

Sir, it was not to abolish slavery that the war was fought; and I say that the Republican party have no claim upon the colored popula-

tion of this country for anything they ever did for them. I deny to them any credit on that score. I stand here to-day maintaining the same principles that I always maintained as a Whig—a Henry Clay Whig—while I can go around this Chamber and put my hand on members A B and C who were anti-negro Locofocos of the worst stripe, who were persecuting the negro when I was advocating the rights that belonged to him. I was opposed to slavery when these men who are now trampling down our institutions and shouting for the negro were in favor of slavery.

Mr. WILSON, of Pennsylvania. Will the gentleman allow me a question?

Mr. ROBINSON. Certainly.

Mr. WILSON, of Pennsylvania. Who has changed, you or the other gentlemen?

Mr. ROBINSON. It is hardly fair for the gentleman to put that question, for I do not know what were his former politics. If he will tell me whether he voted for Clay or Scott, I shall be prepared to answer his question.

A MEMBER. He was a Democrat.

Mr. WILSON, of Pennsylvania. Have the Democrats changed or have you?

Mr. ROBINSON. There is no doubt that the Democrats now on the Republican side have changed, and the gentleman among them. Sir, I can illustrate this matter by saying that I went to Massachusetts on one occasion to speak for Robert C. Winthrop, formerly Speaker of this House, who, when "Richelieu," of the New York Tribune, was expelled from this floor by Democrats, very many of whom have since turned Radicals, for describing the eating of sausages, voted against the expulsion. In addition to that, at the very next session he moved that "Richelieu" should be readmitted to the floor, which was carried. Mr. Winthrop was running for Governor of Massachusetts, and I went up there as an old Clay Whig to speak in favor of his election. I found running against him the distinguished gentleman from Massachusetts, [Mr. BOWEN,] who at that time had not traveled into infinite space, but was living quietly at Groton. His principal manager was B. F. BUTLER. I suppose we all have heard of him, [laughter,] now one of the managers of this House, and a badly managed crowd we are. [Laughter.]

In the city of Lowell Mr. BUTLER and myself agreed to meet and discuss the questions at issue in that gubernatorial contest. We met in wordy, not deadly, conflict. As a great many people wanted to see and hear him and, perhaps, me, on the occasion, it was necessary to have a large hall to accommodate them. They took the railroad depot for that purpose. Two chairmen, one chosen by each, were to preserve order. I chose Dr. Huntington, a venerable Clay Whig, then mayor of the city of Lowell; Mr. BUTLER chose Mr. Hildreth, then sheriff of the county. We got into the railroad depot, chairmen and combatants, and they put us on a platform car. There was a great crowd and great noise. I was afterward informed that two or three groceries had been open and free drinks had been given, and there was the happiest and noisiest crowd you ever saw. [Laughter.]

Mr. VAN WYCK. I rise to a question of order. Time cannot be given when matters are to be discussed in this House which merit discussion. I would like to know of the Chair what is the question before the House for consideration.

The SPEAKER *pro tempore*. A bill relating to the admission of certain States to representation.

Mr. VAN WYCK. Then I ask if the gentleman's remarks are in order?

Mr. ROBINSON. If my colleague objects, I must decline to answer the question of the gentleman from Pennsylvania, [Mr. WILSON.] I was endeavoring to answer him, and for that purpose alone got somewhat away from the strict question before the House.

I was saying that they were the happiest looking lot of individuals you ever saw; they

could scream louder and were more locofocoish and locomotivish than any meeting I had ever before attempted to address.

Mr. VAN WYCK. Did the Chair decide that the gentleman is in order?

The SPEAKER *pro tempore*. The Chair decided that the gentleman from New York might proceed in order.

Mr. VAN WYCK. Was he in order in the remarks he was making when I raised the question?

The SPEAKER *pro tempore*. The Chair thinks he was not out of order.

Mr. VAN WYCK. Very well; I only wanted to know the ruling of the Chair.

Mr. ROBINSON. I do not wish to trespass, but I understood I might go on by general consent to finish this recital by way of answer to the gentleman from Pennsylvania. [Cries of "Go on."] We got on the platform car, and this happy crowd that had consumed the contents of two or three groceries—I do not charge that upon the gentleman from Massachusetts; it was the first time I ever had the pleasure of seeing his smiling face—pushed this car up against one end of the depot. There were India-rubber springs at the end of the car—I do not know what you call them. My distinguished friend from Massachusetts, [Mr. AMES,] who knows all about railroads, can tell me the technical name.

A MEMBER. Bumpers.

Mr. ROBINSON. Well, bumpers. They "bumped" the car from one end of the depot to the other, so that we, the two combatants, and the mayor, and the sheriff had to leave the building through a window.

I have told this story to say that Robert C. Winthrop and I were then Whigs, and both are to-day with this side of the House in favor of what I call the doctrine of Heaven: forgiveness, mercy to the fallen; and that the other party, who were then all locofocos, are on the other side of the House, advocating what I call the doctrines of hell—yelling for vengeance and screaming for blood. If Henry Clay, and Daniel Webster, and Willie P. Mangum, and J. J. Crittenden, and John M. Clayton, and all the great and good leaders of the old Clay Whig party of that day, were here now, they would be against these partisans who, with their eyes shut and their ears closed against all reason, are running a race of destruction which if not checked by the people will end in the total destruction of all free republican institutions in this country.

The SPEAKER *pro tempore*. The Chair will say that he could not perceive, when the point of order was made by the gentleman from New York, [Mr. VAN WYCK,] whether the gentleman was in order or not until he made the application of his remarks. The Chair thinks the gentleman should confine himself a little more closely to the bill before the House.

Mr. HIGBY. I desire to ask the gentleman, who seems to be very full of forgiveness, if he is willing to forgive the prince of darkness for carrying away a third part of heaven in rebellion?

Mr. ROBINSON. No, sir; nor would I like to have him pardoned by a two-thirds vote, as seems to be the rule here. But if the prince of darkness had to be taken back or restored, as is now proposed to be done with our rebellious States, he would be forgiven. I do not see the application of the question, and it is not out of any want of respect if I fail to answer it more at length.

If the gentleman from Pennsylvania, [Mr. WILSON,] who asked me a question, is not fully answered, I have before me a book which will show who has changed and who are traitors to their formerly avowed principles.

Mr. PILE. I insist that this discussion is out of order, and that the gentleman must confine himself to the bill.

Mr. ROBINSON. This is entirely germane to the subject, as gentlemen on the other side will see. They are too impatient. We are in no hurry at all on this side of the House. We

can wait and listen to truth. Now, let us see who has changed. We have a bill before us which, among other things, provides that South Carolina, North Carolina, Louisiana, Georgia, and Alabama shall be admitted to representation in Congress as States of the Union when the Legislatures of said States shall respectively duly ratify the amendment to the constitution, &c.

We will admit them as States hereafter when they do something as States which must be done before they become States. I know nothing so ridiculous as that, except a series of resolutions drawn up at some western meeting. It was first unanimously resolved that a new jail should be erected for the accommodation of the people of the whole county. Then they resolved unanimously that the materials of the old jail should be used in the erection of the new one. And then, lest the prisoners should escape while the new jail was being erected out of the materials of the old one, it was unanimously resolved that the old jail should stand until the new one was constructed. Here it is proposed that these States shall not be States until they have done that which States alone can do. We will admit them as new States when they act as old States, needing no admission. They are the new States to be erected out of the materials of the old States, and the old States shall stand and act till the new ones are constructed!

The very language of this bill recognizes them as old States now competent to do an act which only States can do, to wit, to ratify an amendment to the Constitution of the United States. And then it says they shall not be States until they do that which they cannot do until they are States.

Now, I hold that the change of principles in public men upon those subjects, notwithstanding the objection upon the other side, is very pertinent to the issue. I have before me the *Tribune Almanac*, published by Horace Greeley, whom I saw with pleasure on the floor of this House a few minutes since. It gives the platform of the Republican party—of the Lincoln party. Mr. Lincoln, had he lived, might not have changed as radically as some of his political friends, and would probably be under impeachment about this time. This platform was adopted at Chicago in 1860, and I make the suggestion to the other side, kindly and with the best intention in the world, to embody what I now read in the platform of their party, to be adopted on the 20th of this month at this same Chicago. I will read the fourth resolution, from page 30 of the *Tribune Almanac* for 1861:

"That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions"—

Which the bill now under consideration proposes to wipe out completely—

"according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends; and we denounce the lawless invasion by armed force of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes."

That was adopted by the party which nominated Mr. Lincoln. Who are now the deserters from the Lincoln standard? Where are now the hosts who marched with him under that banner, saying *in hoc signo vinces*? They have not left a shred of that banner or a splinter of that platform under and upon which, by false pretenses, they obtained the votes of the people.

I have here another illustration of the same fact. Andrew Johnson was a Senator of the United States at one time, and so was Jefferson Davis; and we are now trying Andrew Johnson while we are letting Jefferson Davis go. You cannot kick the party in power into coming to time on the trial of Davis. The restless leaders of that party know that Jefferson Davis was the originator, or at least the champion, of the idea that a State can be taken out of the Union. They feel an interest in him because they are but his successors in

that respect. With all the crimes they charge upon him, they do not want to try him, much less to hang him. And why? Because he was the originator of their principles, and they do not want to become parricides. He was the first man to defend in arms the treason that a State can go or be out of this Union. I said it was treason in him. What name shall we call it in those who openly proclaim that doctrine which we hope had fallen with him, but which is revived in this bill?

Andrew Johnson, faithful now and ever true to the people against disunion, stood up for the Union when others were unfaithful—when the "carpet-baggers" and the "trooly loil" fellows now figuring in the South were joining Jefferson Davis in the crusade against the Union. One of the men who now take a prominent place among the Radicals of the South, I am informed, drew up the ordinance purporting to take one of these States out of the Union. Radicals of this character have all gone over to join a party apparently doomed "to believe a lie, that they may all be damned together."

Sir, when the masses of the people, upon the firing on Sumter, were aroused and hung out their flags upon their house tops and from their windows; when they rallied to go down to the South to fight for the salvation of the Union, their object was not to secure to the negro the right to vote, nor was it to punish the South. It was simply to maintain that no State should ever be taken by any means out of the Union, and therefore should never need readmission. Sir, I will say—and this will serve as a further answer to the question, who has changed?—that if at any of the meetings in the North any one speaking by authority had dared to proclaim the sentiments embodied in this bill not a half dozen men could have been found in the whole North to come down to save Washington from destruction.

And, sir, I will say that if Jefferson Davis had been elected President at the time when Abraham Lincoln was chosen he would not have proposed such extensive alterations in the Constitution as have been made by those who were placed in power upon the pledge of preserving the Constitution. I say deliberately that if Jefferson Davis had succeeded, even through rebellion, in getting possession of the Government, and had been installed as President, the Constitution of the United States would not have been so much mangled and trampled in the dust as it is to-day. And, sir, it is a sorrowful thing for those who supported the measures claimed to be necessary for the preservation of the Union, and only justified by that object, to find that a political party has got into power by false pretenses, and that the instrumentalities which should be used to preserve the Union are exerted to crush it, and that above the graves of our fallen heroes it should be proclaimed that their blood, shed to keep every State in the Union, had been shed in vain.

Sir, in 1861 a resolution was offered in both Houses of Congress simultaneously, or almost so. It was presented in the Senate by Andrew Johnson, and in this House by a distinguished son of Kentucky, John J. Crittenden. And it was adopted, only one man opposing it, he doing so silently. Sometimes "silence gives consent," but this gentleman, a distinguished Senator from Massachusetts, says that in his case it did not. He has acknowledged, in replying to a remark made by Hon. Mr. Dixon, of Connecticut, that he was in his seat when the resolution was passed and that he did not vote against it.

I will read the resolution that was then adopted on motion of Mr. Crittenden. It is resolved—

"That the present deplorable civil war has been forced upon the country by the disunionists of the southern States, now in arms against the constitutional Government, and in arms around the capital; that in this national emergency Congress, banishing all feelings of mere passion and resentment, will collect only its duty to the whole country."

The resolution was divided, and that was the first branch of it. The next is as follows:

"That this war is not waged on their part in any spirit of oppression, or for any purpose of conquest or subjugation, or purpose of overthrowing or interfering with the rights or established institutions of those States"—

That, of course, referred to the institution of slavery in the southern States—

"but to defend and maintain the supremacy of the Constitution and to preserve the Union"—

Including South Carolina and these other States which it is now proposed to admit into this Union, States which I hold have never been out of the Union—

"and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; and that as soon as these objects are accomplished the war ought to cease."

But we are told now that this was not the object of the war; that union was not what we sought to preserve, but that the object was to perpetuate the sway of the party in power; that every other interest of the people and the country should give place to the necessities of its supremacy; that it was not the supremacy of the Constitution, but the supremacy of the Radical party.

Now, who voted for the second branch of that resolution? I find the names of FERNANDO C. BEAMAN, SCHUYLER COLFAX, and ROSCOE CONKLING. They can be found on page 125 of the House Journal for the first session of the Thirty-Seventh Congress. I find the name of HENRY L. DAWES. I think I have heard that name somewhere. I think he is the same gentleman who, in conjunction with a distinguished gentleman in the other end of the Capitol, heard "a lion in the lobby roar" precisely at the same time. I have heard a gentleman, who was skilled in acoustics, and who examined these lobbies, say that it was not a lion that made the noise but another animal, and that after all, such are the deceptive acoustics of this building, that it was only the echo from either Hall that was heard. [Laughter.]

But to proceed. I find the name of James F. English. He is a Democrat, and he stands to-day where he stood then. Do the others so stand?

Next comes the name of WILLIAM D. KELLEY; a name I have heard before. FRANCIS THOMAS. That is another name not unfamiliar. Charles H. Upton, BURT VAN HORN, CHARLES H. VAN WYCK. They all declared that the war was waged to defend and maintain the supremacy of the Constitution and to preserve the Union, and yet here we are with ten States out of that poorly preserved Union.

I find here a resolution that is pertinent to this question. It was adopted by the Republican State convention of New York in 1865, which I will read from the *Tribune Almanac* of 1866, page 44. It is as follows:

"Resolved, That while we regard the national sovereignty over all the subjects committed to it by the Constitution of the United States as having been confirmed and established by the recent war, we regard the several States in the Union as having the jurisdiction over all local and domestic affairs reserved to them by the same constitutional authority."

"Resolved, That we approve, as eminently wise and just, the sentiments of kindness and confidence which President Johnson has evinced toward those of the communities and individuals lately in rebellion." "That we approve the initial steps which he has taken toward relaxing the bonds of military authority in the southern States;" "and that we confidently look forward, under his wise and patriotic administration, to the establishment of more cordial relations, of greater mutual respect, and of a stronger interest to each others welfare between the northern and southern States than have hitherto prevailed."

Similar resolutions of confidence in Andrew Johnson, and in favor of State rights under the Constitution, were passed by Republican State conventions held in 1865 in the States of Ohio, Wisconsin, California, Nevada, &c., as will be found in the same *Almanac*—all this after the war was over, and after President Johnson had indicated his policy. Now, who has changed? Those who vote for this bill of abominations which takes away all power from the States "over their local and domestic affairs," or we

who vote against this bill, and stand by principles written in numerous Republican platforms?

Mr. PAINE. I ask the gentleman to yield to me to say, as the question has been put to me, that it is the intention of the chairman of the Committee on Reconstruction to call for the previous question on this bill to-morrow after the morning hour.

Mr. ROBINSON. We have heard a great deal said here on the subject of negro suffrage. I have already said I do not yield to those who have sloughed off from the Democratic party the right to dictate to me as a true republican. I deny the authority of any man spotted over with the worst kind of locofocoism to dictate to me anything on this subject.

Mr. WILSON, of Pennsylvania. I would like to have the gentleman tell us whether the Democratic party now is the same Democratic party that existed in the days of Henry Clay, to whom he has referred.

Mr. ROBINSON. No, sir; I know all about it. Most of the leaders of the Radical party were in the Democratic party in the days of Henry Clay.

Mr. WILSON, of Pennsylvania. Then I would like the gentleman to answer the question I put some time ago: whether he has changed or the Democratic party?

Mr. ROBINSON. It is evident that the leaders of the Radical party have changed. I have said so already. I have just shown by authentic documents that they are not only deserters from the Democratic party, but deserters from their own platforms.

Mr. WOODWARD. I protest that I belonged to the Democratic party in the days of Henry Clay, and I belong to it now.

Mr. ROBINSON. That is true; but the worst part of the party turned away and left it so pure that the Whig party had no difficulty in joining it. I see my distinguished friend from Kentucky [Mr. BECK] and another distinguished friend over on this side, [Mr. BROOKS,] and I see all around me those who belonged to the Whig party. Indeed, I rather think the majority on this side are old Whigs. Then on the other side you find the very worst set of locofocos. [Laughter.]

A MEMBER. Not all.

Mr. ROBINSON. Not all, to be sure. There are a few righteous, straight old Whigs among the Radicals, but the leaders are the deserters from the Democratic party. Sodom would not have been destroyed if there had been a few righteous. [Laughter.]

Perhaps I cannot better illustrate the change of parties on these questions than to read for the edification of some of my friends on the other side from a speech of the distinguished gentleman from Tennessee, [Mr. MAYNARD,] made on the 6th of February, 1861, page 165, Appendix to Congressional Globe, second session Thirty-Sixth Congress:

"Mr. Speaker, I do not design to be unkind. I shall try to be serious, and I mean to be respectful. I beseech you, gentlemen, to look at your own party."

A MEMBER. What was he then?

Mr. ROBINSON. I do not know. He is, I believe, a truthful man. I will not take as much liberty with his name as if he were here. He says he acted with the constitutional party. I believe he was an old Whig. He says:

"I beseech you, gentlemen, to look at your own party, if you have never done so, and see of what heterogeneous elements it is composed. Old Whigs and old Democrats; followers of Thomas Jefferson, admirers of Alexander Hamilton; friends of Jackson, friends of Clay; masons, anti-masons."

Sir, if I had time to branch off here, I could give a chapter on anti-masons, who got us into a great deal of trouble, because a great deal of feeling is gotten up against some masons.

A MEMBER. What about Thurlow Weed?

Mr. ROBINSON. He is nearer your party than ours, and perhaps among the best of yours.

The SPEAKER *pro tempore*. The gentleman should address the Chair.

Mr. ROBINSON. I am trying to address the Chair, but as I have to reply to gentlemen

behind me it is in a round-about way. [Laughter.] But let me proceed with the reading of the speech of the gentleman from Tennessee, [Mr. MAYNARD:]

"Barnburners," "hunkers," "renters," "anti-renters," "wooly heads," "silver greys," "Know-Nothings," "Americans, foreigners, Catholics, protective-tariff men, free-trade men, bank men, bullion men, Radicals, Conservatives, and so on."

A MEMBER. Go on.

Mr. ROBINSON. Very well:

"Men of all grades of political sentiment, all shades of political opinion, all bedded together, heads and heels, covered by a single blanket, and that woven of African wool. Such is the dappled hue of the party that has inaugurated itself to the head of public affairs, and is about to take the Government into control."

That was the opinion of the distinguished gentleman from Tennessee.

Mr. VAN HORN, of New York. When was that?

Mr. ROBINSON. February 6, 1861. I presume he was as truthful a man then as he is now. I do not want to say anything against the gentleman from Tennessee, but how it is that he has got to be pulling at the bizarre corner of the "African wool" blanket and crawling under it himself I do not stop to inquire; but there he is.

I shall only read one more extract to show what this party is and what a distinguished gentleman thinks of it who went up to convert New England Puritans, and who is now in this city; he is a personal friend, a distinguished man, who deserves well of his country, having served it faithfully; I refer to Daniel E. Sickles. In the House of Representatives on January 17, 1861, (Appendix to the Congressional Globe, second session Thirty-Sixth Congress, page 88,) he said:

"The Government of the United States has become Puritan and proscriptive; it has ceased to be catholic and tolerant, as it was formed, and has continued from the administration of Washington down to the election of Lincoln. The vital element of our political system has ever been the equality of the States."

If that were admitted now we would not be talking on this bill to-day—

"and from this follows the corresponding duty of non-interference with their local institutions, and the recognition of the right of every citizen to equal privileges in the Territories. The essential characteristic of Puritanism is the employment of the powers of Government to compel a uniform recognition of the opinions of the majority in all things. The Constitution of the United States imposes no test upon the institutions of a State or Territory except that they shall be republican. It was designed for a confederation, embracing every element of civilization which could be developed under republican institutions."

Here comes the point that I wanted particularly to refer to:

"The triumph of the Puritan element of the North involves the probable destruction of the federative principle of the Constitution and the consolidation of the Government under the absolute power of a majority, which is one of the forms of despotism."

That was the opinion of Daniel E. Sickles since the war commenced.

Mr. VAN HORN, of New York. No; the gentleman is mistaken.

Mr. ROBINSON. Yes, sir.

Mr. VAN HORN, of New York. That speech was made before Abraham Lincoln was inaugurated, in January, 1861.

Mr. ROBINSON. That may be; but at what date did South Carolina go out of the Union?

Mr. VAN HORN, of New York. In April, 1861.

Mr. ROBINSON. If that is so I am mistaken; but I thought, and still think, it was before that. But, at any rate, everybody knew what was coming.

Mr. NIBLACK. South Carolina seceded on the 20th of December, 1860.

Mr. ROBINSON. I thought it was earlier than my colleague stated. Now, whether General Sickles was right or wrong in these views I do not mean to say. I have no prejudice against the Puritan element any more than I have against the negro element. And upon this subject of the negro element, let me say that I heard yesterday the gentleman from Pennsylvania [Mr. BROOMALL] say, and he

said it with the emphasis of ten thousand decisions of the Supreme Court, that the negro had fought nobly for the country that owed him so little, and did not aid the rebellion. Where does he get his knowledge on that subject? I want to read an extract on that point to show that the negro stood up for what he considered right; and let me say that I honor him for it. I do not mean to say, as gentlemen upon the other side of the House insinuate, that the negroes have not the feelings of men. If I had belonged to a party that had insulted the negroes as the Republican party has done, I never would open my lips on that subject until I had gone for seven years into sackcloth and ashes and mourning. Sir, the gentlemen on the other side induced the negroes to come into the war for the suppression of the rebellion, and, as the gentleman from Pennsylvania says, they flocked to our standard by thousands and tens of thousands.

Did our Government ever permit one single negro to get an honor upon the battle-field? What colored man upon the field of battle was ever raised to the rank of captain or breveted colonel or brigadier general or major general? What colored man has ever received that stamp of approbation? Do they treat him thus because the negro race is inferior? That is the deduction from the course of the Republicans on this question, because if the negro is not inferior to the white man he would have stood a chance for preferment upon the field of battle. But did they let him have it? Was not his blood, when poured out upon the battle-field of liberty, as red as theirs? Yet the leaders of that party now in power, with that hatred of the negro race which was born in their flesh and bred in their bones, would not allow them to give a star or a badge, or even a ribbon, upon the battle-field to the negro. Nay, more; this Republican party did not even allow one of these negroes to command a company of themselves. And when the thousands and tens of thousands of negro troops went forth to battle for the Union, the leaders of that party would not give to the negro even the poor privilege of leading them, as captain or colonel, to the deadly breach in which they fell.

Now, I say that if I was so deeply damned with hatred and injustice to the negro as the party who did this thing, I would go into sackcloth and ashes for seven years and repent, before I would commence to blarney him.

And I say now that the gentleman from Pennsylvania, [Mr. BROOMALL,] who spoke yesterday, declaring that these negroes were all upon the side of the Union, said that which was not a historical fact. He might have learned better from the distinguished gentleman from Massachusetts, who lives in Lowell, [Mr. BUTLER,] but who does not represent that district—I forget what district he does represent—

Mr. LAWRENCE, of Pennsylvania. The State at large.

Mr. ROBINSON. That is very good; may I not add the country at large.

Mr. HIGBY. Will the gentleman allow me to ask him a question?

Mr. ROBINSON. Certainly.

Mr. HIGBY. Does the gentleman want to know why the Republican party did these things?

Mr. ROBINSON. I know why: they did not care anything for the negro. They only wanted their own party brought into power by the blood of the negro.

Mr. HIGBY. No; it was not that. They yielded somewhat to the great hue and cry of the Democratic party against the negro.

Mr. ROBINSON. Well, should the negro love them for that? I have no doubt that to accomplish his ends the gentleman will try and "blarney" the negroes, and make some sort of explanation why the Republicans heaped this indignity upon them. I go in for doing justice as I go along. Now, about this matter of brevets. It was owing either to the injustice of those managing the war or the inability of



the race that the negroes did not obtain distinction in that way.

Mr. WILSON, of Pennsylvania. Will the gentleman allow me to ask a question?

Mr. ROBINSON. Certainly.

Mr. WILSON, of Pennsylvania. Has the gentleman himself recommended any colored man for a brevet?

Mr. ROBINSON. No; because you would not let any colored man be in a position where he could be breveted. They were to fight and die, and you were to get the loaves and fishes and honors.

Mr. WILSON, of Pennsylvania. I understand that there were colored officers in the first negro regiments. I ask the gentleman if he ever recommended to Andrew Johnson to brevet one of them? If he will do so, I will sign such a recommendation with him.

Mr. ROBINSON. I think the recommendation would not amount to anything, for the nominations from one end of the avenue stand no chance of confirmation at the other. I will now read for the benefit of the gentleman from Pennsylvania [Mr. BROOMALL] some extracts from a history of the rebellion by Mr. McPherson, another Pennsylvanian, (page 282,) in relation to the conduct of the negroes during the war:

"A dispatch from Charleston, dated January 1, 1861, from R. B. Riordan to Hon. Perry Walker, at Mobile, describes the preparations for war, and contains this closing paragraph:

"Large gangs of negroes from plantations are at work on the redoubts, which are substantially made of sand-bags and coated with sheet-iron."

A Washington dispatch to the Evening Post says:

"A gentleman from Charleston says that everything there betokens active preparations for fight. The thousand negroes busy in building batteries, so far from inclining to insurrection, were grinning from ear to ear at the prospect of shooting the Yankees."

The Charleston Mercury of January 3, 1861, announced—

"We learn that one hundred and fifty able-bodied free colored men of Charleston yesterday offered their services gratuitously to the Governor to hasten forward the important work of throwing up redoubts wherever needed along our coast."

In April, 1861, the Republican, published in Lynchburg, Virginia, announced—

"We learn that about seventy of the most respectable free negroes in this city have enrolled themselves, and design tendering their services to the Governor to act in whatever capacity may be assigned them in defense of the State. Three cheers for the patriotic free negroes of Lynchburg."

A letter in the Petersburg (Virginia) Express, dated at Norfolk, April 23, 1861, says:

"The negroes in all this section of the country, slave and free, are as loyal as could be desired. They freely proffer their services to the State and zealously contend for the privilege of being allowed to work on the batteries. Yesterday General Gwynn declined the services of three hundred from Hampton who solicited employment on the batteries, and twice and thrice that number could be obtained in this city and vicinity in a single day, if it was thought advisable to accept them. Indeed the entire fortifications of this harbor might be constructed by the voluntary labor of negroes, who would claim no higher reward than the privilege of being allowed to contribute their share toward the defense of the State and the protection of their masters and mistresses, who had always extended a sheltering hand over them."

So I might go on reading from the work which I hold in my hand—McPherson's History of the Rebellion—and show that the negroes were singing songs in the streets of the southern cities and shouting what short work they would make of the Yankee invaders. Yet the gentleman from Pennsylvania [Mr. BROOMALL]—I do not know for what end—said yesterday that "no black man was ever found willingly fighting in the ranks of the enemy."

Now, sir, I do not blame the negro for taking part in the rebellion. If there are any men in the world whom I despise, they are the men in the South who hid under beds and behind petticoats when a fight was going on. The southerners were fighting for a wrong idea, but one in which they heartily believed; and the negroes, like other men in similar circumstances, flocked to their standard, fought with them, and would have conquered with them, had that been possible.

Mr. Speaker, when I arose I intended to

make some remarks with reference to the absorption of all the powers of the Government in Congress. The executive and the judicial branches of our Government have been pretty nearly reduced to nothingness. And, sir, an illustration occurs to me. When, during the riots in the city of New York, that gallant Irishman and Democrat, Captain O'Brien, in defending the stars and stripes, was struck down by the mob—a mob almost as savage as a radical mob—he appeared to be dead, the blood gushing from his mouth and nostrils; but the mob watched to see whether there was breath enough in his body to raise a bubble about his face; and whenever the slightest sign of lingering life appeared the big boot of some brutal fellow struck him again in the face so as to insure his death. And, sir, I have frequently been reminded of this when I have seen the blows dealt by the Radical party at the executive branch of our Government. When this, one of the most honored parts of our institutions, has, by virtue of repeated blows, lain apparently lifeless, this party has watched for the slightest bubbling of breath, and if any appeared has dealt another and more deadly blow to guard against any lingering of life.

This party has invaded also the judiciary department, the Supreme Court of the United States. If a judge ventured to whisper an opinion antagonistic to the party in power a committee has been appointed to investigate the matter and take measures for his impeachment. And when that gallant soldier, whose sword during the battles of the late war shook more glory from its flashing blade than any of all the others who poured their beams upon the battle-fields from the beginning to the end of the war—the soldier whose sword was the lightning flash dancing through and illuminating the thunder-cloud of war—dared to express an opinion which was patriotic, this House jumped like the murderers of O'Brien to kick the life out of him. Whenever there is any sign of life in favor of the old Constitution this party eagerly steps forward to crush it out. What will be the next step? The executive and the judicial departments, both of which were designed by the creators of our Government to be checks upon the legislative will, have been annihilated. These departments were formed for the very purpose of being checks or obstructions upon the power of Congress. So were the two Houses formed to be checks upon each other. How long will it be till the Senate shall receive the attack of the Radical party as an obstruction to the will of the people's more direct Representatives?

It was not supposed that anybody would be so wild as to say they would remove the check, take off the "drag" from the Democratic coach, and let it sweep down hill into a wild carnival of Radicalism. But this Radical spirit will not pause on the destruction of the executive, judicial, and other balances of our institutions. The infuriated animal which once tastes blood thirsts for more; when this Radicalism has absorbed the executive and judiciary the Senate may prepare itself as the next victim.

[Here the hammer fell.]

Mr. ROBINSON. I supposed I had more time. I have only answered objections, and was proceeding to more important matters which I wish to discuss concerning the southern States, and which must now be reserved for some other occasion.

Mr. BROOKS. Mr. Speaker, I suppose it is too much to ask the majority of this House, as it is now our usual hour for adjournment, to let this question go over until to-morrow, when I should much prefer to say what I have to say than now. I do not want more than half an hour.

Mr. STEVENS, of Pennsylvania. Let us go on for half an hour this evening. It is now only four o'clock.

Mr. PRUYN. I should like to have ten minutes.

Mr. BROOKS. I will give them to the gentleman out of my time.

The SPEAKER *pro tempore*. The Chair does not understand there was any formal understanding that the vote should be taken to-morrow after the reading of the Journal, or that the previous question should be called this evening. When that was proposed the gentleman from New York stated that any such arrangement was not with the consent of his side of the House.

Mr. STEVENS, of Pennsylvania. When the gentleman from New York is through I will call for the previous question, and the vote can be taken in the morning.

Mr. WASHBURN, of Illinois. If the gentleman from New York will yield to me, I will move that the House do now adjourn.

Mr. BROOKS. I yield for that purpose.

Mr. WASHBURN, of Illinois. I make that motion.

The motion was agreed to.

Pending the adjournment,

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a list of clerks appointed since April 1, by whom recommended, &c.; which was laid on the table, and ordered to be printed.

And then (at four o'clock and five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The remonstrance of A. Kilbourn and 4 others, citizens of Glastenburgh, Connecticut, against the erection of a railroad bridge over the Connecticut river at Middletown and Portland.

By Mr. ALLISON: The petition of Mary E. Berry and Louisa Berry, asking for increase of pension.

Also, a memorial of Joseph A. Rhoneberg, accompanied by draft of a bill, asking for relief.

By Mr. DRIGGS: The petition of Jay A. Hubbell, H. McKenzie, C. E. Raymond, and 150 others, of Lake Superior, praying Congress for an appropriation to deepen the channel of the Sault Ste. Marie river between Lake Superior and Lake Huron so as to admit the passage of large class vessels.

By Mr. GARFIELD: The petition of Henry Russell, praying that he may be allowed to continue to occupy a house at Harper's Ferry belonging to the United States.

By Mr. McCARTHY: The remonstrance of Colonel Edwin Jenny, Lieutenant Colonel J. M. Gere, and other officers who were in the Union service during the late rebellion, against Congress passing laws as to the commutation of servants' wages, now before the Supreme Court.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, May 14, 1868.

The House met at twelve o'clock m. Prayer by Rev. GEORGE P. VAN WYCK, of New York.

The Journal of yesterday was read and approved.

#### JUDGMENTS OF COURT OF CLAIMS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with a resolution of the House, statements of judgments obtained in the Court of Claims and paid by the Treasury Department, the amount of each judgment, when paid, &c.; which was referred to the Committee of Claims, and ordered to be printed.

#### IOWA AND MINNESOTA LAND GRANTS.

Mr. DONNELLY, by unanimous consent, introduced a bill (H. R. No. 1064) to extend the limits of certain land grants in Iowa and Minnesota; which was read a first and second time, and referred to the Committee on the Public Lands.

## POST ROAD.

Mr. VAN AUKEN, by unanimous consent, introduced a bill (H. R. No. 1065) to establish a post road; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

## DUTIES OF GLOBE REPORTERS.

Mr. CHANLER. I ask unanimous consent to submit the following resolution for reference to the Committee on the Rules. It is not done for the purpose of complaint against the reporters for the Globe, but in order to define their duties, which are not now defined by any strict rule upon the records of this House.

The Clerk read as follows:

*Resolved*, That it shall be the duty of the reporters for the Congressional Globe to report in full each distinct proposition, motion, resolution, or bill, and each amendment or modification thereto, or substitute therefor, offered for the consideration of this House by any Member or Delegate.

There was no objection; and the resolution was received and referred to the Committee on the Rules.

## SALE OF SITE OF FORT COVINGTON.

Mr. GARFIELD. I ask unanimous consent to report from the Committee on Military Affairs a joint resolution (H. R. No. 264) to provide for the sale of the site of Fort Covington, in the State of Maryland.

There was no objection; and the joint resolution was received and read a first and second time. It authorizes and directs the Secretary of War to sell, after thirty days' notice in two daily papers of the city of Baltimore, a certain tract of land belonging to the United States, situate within the limits of Baltimore city, on the Patapsco river, Maryland, known as Fort Covington, containing about two and three quarters acres, more or less, with all the tenements, rights, and privileges pertaining thereto; and that the proceeds of such sale, after first defraying the expenses of the same, shall be paid into the Treasury of the United States.

Mr. GARFIELD. That joint resolution is based upon the following letter of General Grant:

WAR DEPARTMENT,  
WASHINGTON CITY, January 8, 1868.

SIR: I have the honor to send herewith, for the consideration of the proper committee, a draft of a joint resolution having for its object the sale of the site of Fort Covington, in the city of Baltimore, Maryland, and to recommend its passage by Congress.

Very respectfully, your obedient servant,

U. S. GRANT,

Secretary of War ad interim.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

Mr. GARFIELD. This recommendation was made by the War Department, and the committee have reported it unanimously. The property is not now in use, and is of no value whatever to the Government, but will sell for some money.

Mr. PAINE. I wish the gentleman to inform the House how long since this property has been in use.

Mr. GARFIELD. It really has never been in use by the Government. It has been owned by it for a long time, and the Government does not want to use it. The War Department say they have no expectation that they will ever need it. The resolution as sent from the War Department by General Grant provided that the money should be taken by the War Department for use in any fortifications that hereafter might be built for Baltimore, but the committee have modified it by providing that the money be paid into the Treasury. The joint resolution directs that thirty days' notice of the sale shall be published in the daily papers of Baltimore. The Government never built any fort on the land. It was the intention to build one, and the intended fort was named in advance Fort Covington. The site is a sand beach running out into the water, and it is sometimes covered by water. No buildings have ever been erected on it. Gentlemen best acquainted with the property are entirely satisfied that it ought to be sold.

Mr. CHANLER. I would ask the gentleman

why it is not offered at public auction instead of being sold at private sale, as directed in the resolution.

Mr. GARFIELD. It is not a private sale; it is to be advertised. The committee are of opinion that the waste lands which the military department of the Government does not need had better be sold.

Mr. CHANLER. I am only asking why the manner of sale is not made at public auction, whereby the value of the property can be tested by competition.

Mr. GARFIELD. I would be entirely willing to have that modification.

Mr. CHANLER. I offer that amendment.

Mr. GARFIELD. But I think thirty days' notice given in two daily papers will call all the public attention necessary. The War Department and the committee believe that the proposed arrangements for the sale are ample.

Mr. CHANLER. Does the gentleman mean to say that the House is expected to receive the proposition made by the War Department as a perfect thing? I think the resolution should be modified so as to meet the usual practice in the sale of lands.

Mr. GARFIELD. The committee have modified the proposition as made by the War Department.

Mr. CHANLER. Why not modify it as I suggest?

Mr. WASHBURN, of Illinois. I think it had better be modified. In the first place, I would strike out the directory part of it, and then authorize the sale to be made at public auction to the highest bidder.

Mr. GARFIELD. Very well; I am entirely willing.

Mr. CHANLER. I would like to know if the gentleman is sure there is no guano deposit on the sand bank? [Laughter.]

Mr. GARFIELD. I cannot tell about that.

Mr. CHANLER. We have had some very serious questions about that.

Mr. WASHBURN, of Illinois. The amendment that I propose is to strike out the word "directed," so as simply to authorize the Secretary of War to sell, and then to insert the words "at public auction to the highest bidder."

Mr. GARFIELD. I accept the modification.

Mr. WASHBURN, of Illinois. I ask the gentleman to modify it in another respect, so that it may come within the provisions of the act of March, 1849. It provides that all the proceeds of the sale shall be paid into the Treasury "after defraying the expenses of the sale." I propose to strike out the latter words.

Mr. GARFIELD. I accept that modification.

The SPEAKER. If there is no objection the joint resolution will be modified accordingly.

No objection was made.

Mr. PHELPS. I wish to suggest to the chairman of the Committee on Military Affairs, as it is no doubt his desire and the desire of the House that a proper price shall be obtained for this property, that the resolution be so modified as to authorize this tract of land to be sold in parcels, if that mode of sale would result in obtaining the largest amount of the whole tract.

I would also suggest that it be so modified as to require the advertisement of the sale to be inserted in five daily papers instead of two, including the German paper of the largest circulation in the district, the object being to give the sale as much publicity as possible among that class who would be glad to compete for the property.

Mr. GARFIELD. I think that to advertise the sale in so many papers would be to incur unnecessary expense. It seems to me that two papers would be sufficient.

As to selling the tract in parcels, I think that may safely be left to the Department, who have no other interest than to obtain the largest amount they can from the sale. If that is the best method, they can adopt it; but that may not be the best way.

Mr. PHELPS. I only want to leave it discretionary with the Department.

Mr. GARFIELD. It is discretionary now.

Mr. PHELPS. Let the resolution be read.

The Clerk read the resolution, as amended, as follows:

*Resolved*, &c., That the Secretary of War be, and he is hereby, authorized to sell at public auction, to the highest bidder, after thirty days' notice in two daily newspapers in the city of Baltimore, a certain tract of land belonging to the United States, situate within the limits of the said city, on the Patapsco river, Maryland, known as the site of Fort Covington, containing about two and three quarter acres, more or less, with all tenements, rights, and privileges pertaining thereto, and that the proceeds of such sale shall be paid into the Treasury of the United States.

Mr. PHELPS. I move to insert after the word "sell" the words "in entirety or by subdivisions."

Mr. GARFIELD. I hope the House will consent to that amendment.

The amendment was agreed to.

Mr. PHELPS. I now move to strike out "two" and insert "five," so as to provide that the advertisement shall be inserted in five newspapers.

Mr. GARFIELD. I hope the gentleman will not press that amendment.

Mr. PHELPS. On the general principle that governs business men in all large transactions, I think the greatest publicity should be given to this sale.

Mr. GARFIELD. If the gentleman will make his amendment "three daily papers, including one German paper," I will not object.

Mr. PHELPS. I will accept that modification.

The amendment, as modified, was agreed to.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## POST ROUTES IN OHIO.

Mr. BEATTY, by unanimous consent, introduced a bill (H. R. No. 1066) to establish post routes in Ohio; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

## TELEGRAPH LINE TO PUGET SOUND.

Mr. PILE, by unanimous consent, introduced a bill (H. R. No. 1067) to establish telegraphic communication between military posts, and for the construction of a telegraph line to Puget sound; which was read a first and second time, and referred to the Committee on Roads and Canals.

## LEAVE OF ABSENCE.

Leave of absence was granted indefinitely to Mr. HAWKINS after to-morrow.

## GEORGETOWN AND WASHINGTON RAILROAD.

Mr. VAN WYCK, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee for the District of Columbia be directed to inquire into the expediency of requiring the Georgetown and Washington Railroad Company to run their cars at greater speed, and to report by bill or otherwise.

## RAILROAD GRANTS.

Mr. ECKLEY, by unanimous consent, from the Committee on the Public Lands, reported back, with the recommendation that it do not pass, the bill (H. R. No. 1029) to repeal a portion of an act entitled "An act to revive and extend the provisions of an act granting the right of way and making a grant of lands to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi river opposite the mouth of the Ohio river, via Little Rock to the Texas boundary near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river," approved July 28, 1866.

Mr. ECKLEY. I will simply say that the bill provides for repealing that provision of the

act referred to which requires the company to carry the property and troops of the United States free of charge. The committee report against it. I move that the bill be laid on the table.

The motion was agreed to.

#### ORDER OF BUSINESS.

Mr. ELIOT. I call for the regular order of business.

The SPEAKER. The regular order of business being called for, reports are in order from the Committee of Claims.

#### TAX SALES IN SOUTH CAROLINA.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported adversely upon Senate bill No. 79, to confirm certain sales made by the direct tax commissioners for South Carolina to persons in the Army, Navy, and Marine corps, and for other purposes; and the bill was laid on the table.

#### WILLIAM WEHLE.

Mr. WASHBURN, of Massachusetts, from the same committee, reported adversely upon a memorial in the case of William Wehle; and the same was laid on the table.

#### TIMOTHY LYDEN.

Mr. WASHBURN, of Massachusetts, from the same committee, reported back, with a recommendation that the same do pass, House bill No. 445, for the relief of Timothy Lyden, of Parkersburg, West Virginia.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Treasury to pay to Timothy Lyden, of Parkersburg, West Virginia, out of any money in the Treasury not otherwise appropriated, the sum of \$302, in compensation of services rendered the quartermaster's department, and for a period of captivity in rebel prisons.

Mr. WASHBURN, of Massachusetts. I ask that the report accompanying the bill be read.

The report was read. It states that the petitioner is a loyal citizen of Western Virginia, and on the 1st of May, 1864, was employed as a teamster in a Government wagon train with supplies for troops at Winchester, West Virginia. The train was attacked by an armed body of rebels, who captured the petitioner as well as the train. He was held in captivity as a citizen employé of the United States Army by the so-called confederate government, first at Danville, Virginia; next at Andersonville, Georgia; and finally at Florence, South Carolina, from which place he was sent to Charleston, South Carolina, and exchanged on the 15th of December, 1864. From Charleston he was sent to the hospitals at Annapolis, Maryland, and Washington, District of Columbia, by the United States military authority, for treatment for diseases contracted in confederate prisons, and was finally discharged March 2, 1865.

The report further states that when the train was captured the teamsters and employés captured therewith were not reported to the quartermaster, who thereby failed, either from neglect or want of knowledge of the fact, to report their names on the proper rolls with his monthly return to the Quartermaster General. The petitioner, as a teamster, was therefore never taken up nor paid as the regulations of the War Department provide, and his only relief is by a special act of Congress. The claim of the petitioner is for thirty dollars per month from date of employment to his discharge from the hospital at Washington. It is presumed that the medical department would not have placed him in the hospital at the time of his exchange if his condition had not demanded it. It is not a violent presumption that an imprisonment of nearly eight months in rebel prisons would so reduce a teamster physically that he could not drive a six-mule team and Army wagon with safety. Thirty dollars per month was the compensation allowed for that service by order of the War Depart-

ment. In reporting the claim of the petitioner the Committee of Claims remark that it appears that the petitioner is an honest and loyal person, with capacity and experience as a teamster; that the service upon which he was engaged was a necessary and patriotic duty, for which good men were as necessary as for line of battle; that, being captured while actually performing his duty, he suffered the horrors of eight months' imprisonment, and was consequently sick and disabled for two months longer.

The report further states that by the regulations of the War Department he cannot be paid in the quartermaster general's department, where his service was rendered. The committee therefore recommend that the sum of \$302 be appropriated for the payment of his claim, and to that end report the accompanying bill.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### GEORGE CALVERT.

Mr. WASHBURN, of Massachusetts. I am instructed by the Committee of Claims to report adversely upon the memorial and accompanying papers of George Calvert, of Prince George's county, Maryland, praying relief and compensation for the destruction of his ferry at the village of Nottingham, on the Patuxent river. This is a claim which was reported upon favorably in the Thirty-Seventh and Thirty-Eighth Congresses. Upon a reexamination of those papers the Committee of Claims find that the statements in the report made to the House were not correct, but wholly erroneous. The committee evidently made a mistake before. They now report adversely upon the claim. I ask that the report be read.

The report, which was read, states that it is claimed that on the 11th of September, 1861, Lieutenant Hoag, with nine men and seven horses of a Kentucky regiment of cavalry in the service of the United States, undertook to cross the river by the memorialist's ferry, the boat being managed by Richard Canter, a colored man and an indentured servant of the memorialist; that by reason of the overloading of the boat and the plunging of the soldiers' horses, when about midway of the stream, the boat was damaged, the ferryman drowned, and the business of the ferry injured by the accident.

The apprenticeship of the ferryman was to expire in thirty-three months thereafter; and the memorialist claims the sum of \$538, or at the rate of sixteen dollars per month, for loss of his services, and for damages to the boat and ferry \$250; making a total of \$788.

The committee state their belief that the officer in command of this squad of cavalry, and who was also drowned, was in the line of duty, and that he neither exceeded his authority nor acted indiscreetly in attempting to pass over his command in the manner represented. The accident was owing as much to the weakness and ill repair of the boat as to its being overloaded. Had the deck beams of the boat been sufficiently sound to withstand the stamping of the cavalry horses, it is reasonable to suppose the whole party would have gone over safely. As a common carrier, the memorialist is, therefore, as justly responsible for the accident as any party in the transaction. The committee are not of the opinion that the Government is either legally or equitably obliged to make good the loss of the possible services of the colored apprentice. The evidence supporting this extraordinary claim was not of such weight and distinctness as to convince the committee that there is the least merit in any portion of the claim, and therefore they recommended that the memorial and accompanying papers be laid on the table.

The memorial and accompanying papers were laid on the table.

#### AARON B. RYNO.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported adversely upon the petition of Aaron B. Ryno, of Gains, Genesee county, Michigan, for relief or remuneration for losses during the war; which was laid on the table.

#### MRS. MARY GEARY.

Mr. WASHBURN, of Massachusetts, also, from the Committee of Claims, reported adversely upon the petition of Mrs. Mary Geary, claiming compensation for commissary supplies furnished to the United States Army; which was laid on the table.

#### JAMES W. BUTLER.

Mr. WASHBURN, of Massachusetts, also, from the Committee of Claims, reported adversely upon the petition of James W. Butler, claiming compensation for services as a detective under L. C. Baker; which was laid on the table.

#### MRS. ELLEN CRAIG.

Mr. WASHBURN, of Massachusetts, also, from the Committee of Claims, reported adversely upon the petition of Mrs. Ellen Craig, claiming compensation for damages; which was laid on the table.

#### CAPTAIN A. F. ROCKWELL.

Mr. WASHBURN, of Massachusetts, also, from the Committee of Claims, reported adversely upon the petition of Captain A. F. Rockwell, for change of date of muster; which was laid on the table.

#### JOHN G. COX.

Mr. WASHBURN, of Massachusetts, also, from the Committee of Claims, reported adversely upon the petition of John G. Cox, asking reimbursement for seventy-seven dollars sent by him through the mails and lost in course of transmission; which was laid on the table.

#### CLAIMS ON AGRICULTURAL DEPARTMENT.

Mr. WASHBURN, of Massachusetts, reported back certain claims against the Department of Agriculture, accompanied with a bill (H. R. No. 1068) to provide for certain claims against the Department of Agriculture; which was read a first and second time.

The bill, which was read *in extenso*, appropriates the sum of \$47,000 out of the Treasury of the United States, from which shall be paid such indebtedness and claims against the Department of Agriculture contracted prior to the 1st of July, 1867, and included in the report of the Committee of Claims herewith, as shall be submitted to the Fifth Auditor of the Treasury, with sufficient evidence under oath as to the origin and validity of the same respectively, and decided by the Fifth Auditor and the final accounting officer of the Treasury to be due to the respective claimants according to the rules of law and equity.

Mr. WASHBURN, of Illinois. Read the report.

Mr. WASHBURN, of Massachusetts. I will explain it. It will be recollected that this matter was first referred to the Committee on Appropriations. These are claims arising from the fact that the appropriations for the Department of Agriculture were exhausted, and accordingly when these bills were presented to that Department, after the death of the commissioner, there were no funds out of which they could be paid. The various bills were referred to the Committee of Claims. There are some fifty or seventy-five different bills, and it is utterly impossible, as the House will see, for that committee to examine into these different claims. So far as we can judge they appear to be fair and honest claims, ranging in amount from two or three dollars up to fifteen or eighteen thousand. So far as the management of the Agricultural Department is concerned, there seems to have been no reference to the different appropriations, but all purchases have been



made and charged to the Agricultural Department account without reference to the appropriations for the specific purposes. What I mean is this: Congress appropriates one amount of money for the purchase of seeds, yet money is used for the purchase of seeds that is taken out of appropriations for other purposes, and money for the purchase of seeds is used for other purposes of that Department. As it is impossible for the committee to examine all of these claims, we have simply reported them all back, putting upon each claimant the necessity of going before the proper accounting officer and there subjecting each one to the same proof he would be subjected to before a court to substantiate the justice of his claim. If it be proved to the satisfaction of the proper accounting officers of the Treasury then it is provided each one of these claims shall be paid; and if not so proved, then these claims are not to be paid. We thought it was the best course we could take.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. WASHBURN, of Massachusetts, from the same committee, made adverse reports in the following cases; and the same were laid on the table:

Petition of E. Kipp, of the city of Washington;

Petition of James Keenan;

Petition of Captain G. H. Bonebrake;

Petition of J. W. Martin; and

Petition of Nancy Russell.

MICHAEL M'CANN.

Mr. BROOMALL. I move that the case of Michael McCann be recommitted, so as to correct an error.

The motion was agreed to.

EDWARD E. SHEAD.

Mr. STOKES, from the Committee of Claims, reported a joint resolution (H. R. No. 265) for the relief of Edward E. Shead, of Eastport, Maine; which was read a first and second time.

The joint resolution directs the Secretary of the Treasury to issue to E. E. Shead, of Eastport, in the State of Maine, two six per cent. coupon bonds for the sum of \$500 each, in lieu of two bonds destroyed by fire, bearing date August 18, 1864, numbered 19747 and 19748, payable in 1881.

It appears from the report that the sworn statement of the claimant and others shows that he was the owner of certain seven and three tenths United States securities, and placed them in the hands of E. H. Wadsworth, of Eastport, who employed Spencer, Vila & Co., of Boston, to convert them into six per cent. coupon bonds due in 1881. It further appears from the proof that they were sent about the 23d of June, 1864, and that he received in exchange three \$500 six per cent. coupon bonds, numbered 17746, 19747, and 19748, bearing date 18th August, 1864. The same were delivered to E. H. Wadsworth, who delivered the last two to the claimant, who shut them up in his safe. They were there at ten o'clock p. m. on the 22d October, 1864; but at about one o'clock of the same night a fire broke out and destroyed the building in which the safe was kept. The proof is clear that after the fire ceased an examination was made by opening the safe, and the bonds were plain to be seen in their charred condition, and were distinctly recognized, but on handling them they fell to pieces.

Mr. PRICE. Where are the charred remains?

Mr. STOKES. I have the remains of a portion of them in my room at this time, which were handed to me by the gentleman from Maine. The case is as clear a one as can be

made out. Mr. Shead was the owner of the bonds, and they were destroyed by fire.

Mr. ROSS. I would ask what evidence there is besides the statement of the applicant. There are a great many bonds in the country that have been burned lately. I understand from the report that the case rests mainly upon the evidence of the applicant. I would like the gentleman to inform the House whether there is complete and satisfactory evidence that these bonds were burned, and, if so, where that evidence is.

Mr. STOKES. I have already stated that we have the affidavit of Mr. Shead himself, of his clerk, and of Mr. Wadsworth. We have also the certificate of the firm of Spencer, Vila & Co., of Boston, who received from Mr. Shead, through the hands of Mr. Wadsworth, the seven-thirty notes, and converted them into the bonds which were destroyed.

Mr. PIKE. This case does not depend upon the affidavit or testimony of the claimant alone, but on the testimony of those who saw the bonds in the safe the night before at ten o'clock and those who saw them the next morning after the safe was opened. I know these parties. I have known them from my youth up. I know that those who testify in this case do so as honestly as any man in this House can testify. The fire that destroyed these bonds was one that not only consumed this store but the whole business part of the town. The reason why this safe was not rescued from the flames was because the claimant, Shead, was a member of a fire company, and was engaged in extinguishing the fire in another part of the town, not dreaming that it would reach his store. But the town was built of wood, a side-wind sprung up and blew over the quarter where this store was situated, and, unexpectedly to him and everybody else, consumed it. While he was protecting other peoples' property he failed to protect his own. It is as honest a case as ever was presented.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STOKES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHARLES N. GOLDING.

On motion of Mr. WASHBURN, of Massachusetts, Senate bill No. 251, for the relief of Captain Charles N. Golding, late quartermaster of volunteers, was taken from the Speaker's table, read a first and second time, and referred to the Committee of Claims.

CHARLES B. TANNER.

Mr. COBB, from the Committee of Claims, reported a bill (H. R. No. 1069) for the relief of Charles B. Tanner, late first lieutenant sixty-ninth Pennsylvania volunteers; which was read a first and second time.

The bill appropriates \$144 92, to be paid to the claimant as first lieutenant and aid-de-camp, to cover a period of service from November 8 to December 15, 1864, inclusive, at which time he actually performed duty and was regularly commissioned in the sixty-ninth regiment Pennsylvania volunteers, but was not mustered in.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed unanimously.

Mr. COBB moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. WILSON, of Ohio, Mr. HILL, and Mr. MILLER.

LAND GRANTS IN MICHIGAN AND WISCONSIN.

Mr. HOLMAN obtained the floor, but yielded to

Mr. DRIGGS, who asked unanimous consent to report back from the Committee on the Public Lands the amendments of the Senate to joint resolution of the House No. 95, concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin, with an amendment.

Mr. WASHBURN, of Illinois. Let the amendments be read.

Mr. HOLMAN. I ask that the joint resolution and amendments be read, reserving the right to object.

Mr. DRIGGS. Let me make a very brief explanation. This joint resolution passed the House by a very large majority, and went to the Senate. The Senate amended it. When it came back here I objected to the amendment; I wished to look into it a little closely, and it was referred to the Committee on the Public Lands. The committee have examined it and have placed a restriction on the grant, and with that restriction they ask to have the amendment of the Senate concurred in.

Mr. WASHBURN, of Illinois. I ask that the joint resolution and both the amendments be read.

The Clerk read the joint resolution, as follows:

*Be it resolved, &c.* That a failure to grade twenty miles of the road within two years from the passage of the act entitled "An act to extend the time for the completion of certain railroads to which land grants have been made in the States of Michigan and Wisconsin," approved on the 3d of March, 1865, and twenty miles additional thereof in each year thereafter, as required by said act, shall not cause any forfeiture or reversion to the United States of any lands granted to the said States, or either of them, to aid in the construction of the railroads described: *Provided*, That said companies, or either of them, shall fully complete their said railroads in the manner required by law on or before the 31st of December, A. D. 1872, at which time a failure shall forfeit the lands to the United States.

*Sec. 2. And be it further resolved*, That the Commissioner of the General Land Office be, and he is hereby, authorized and directed to cause a patent, in due form of law, to be issued to the Chicago and Northwestern Railway Company, in pursuance of a resolution passed by Congress granting the same to the State of Wisconsin, approved April 25, A. D. 1862, and an act of the Legislature of Wisconsin approved June 16, A. D. 1862, granting the same to said company, for eighty acres of land of the Fort Howard military reserve, as the same was surveyed and approved by the said commissioner on the 11th of June, A. D. 1864.

The amendment of the Senate was read, as follows:

On page 2, after line one, insert:

*Provided*, The provisions of this section shall apply only to the chartered and projected line of railway from the city of Fond du Lac, in the State of Wisconsin, northerly to Escanaba, in the State of Michigan, and the chartered and projected line of railway from Marquette, in the State of Michigan, westerly to Ontonagon, in the same State.

The amendment to the amendment reported by the Committee on the Public Lands was then read, as follows:

*And provided further*, That if the said Marquette and Ontonagon Railroad Company, in the State of Michigan, shall not have completed according to law ten additional miles of their railroad on or before the 1st day of January, 1869, and shall not in like manner complete ten miles of said railroad in each and every year thereafter, then it shall be lawful for the Legislature of the said State of Michigan to declare the grant of lands to said company to be forfeited and to confer the said grant of lands upon some other company in the same manner as if the said grant was now for the first time made to said State of Michigan.

Mr. HOLMAN. I will reserve the right to object until the gentleman from Michigan has made his statement.

Mr. DRIGGS. As the joint resolution has passed the House, and the amendment of the committee is merely a restriction, I will ask for the question.

Mr. HOLMAN. I shall have to object to the joint resolution unless the gentleman can give us some explanation of its effect. It is impossible to tell from the reading of the joint resolution and the amendments exactly what it provides. What is the effect of the joint resolution? Does it increase the land grant?

Mr. DRIGGS. It does not increase the grant at all. It is simply an extension of eighteen months on the time of the original grant, and provides for a perfect forfeiture at the end of the extended time if they fail to

complete the road. I pledge my word to the gentleman that it makes no additional grant of lands; and that it places further restrictions on the company.

The clause in reference to the Fort Howard reserve simply authorizes the Commissioner of the General Land Office to issue a patent, under the law already passed, giving that land in the Fort Howard reserve for depot purposes to the railroad company. Does the gentleman want any further explanation?

Mr. HOLMAN. I understand, then, that the effect of the joint resolution is simply to extend the time within which the road shall be completed.

Mr. DRIGGS. Yes, sir.

Mr. HOLMAN. It does not increase the grant?

Mr. DRIGGS. There is no increase.

Mr. HOLMAN. How long is the time extended?

Mr. DRIGGS. Eighteen months. The grant does not expire until 1870, and this extends it to 1872. It is an extension of less than two years. I call the previous question.

Mr. LAWRENCE, of Ohio. I hope the gentleman will allow me to suggest an amendment.

Mr. DRIGGS. I cannot do that. The gentleman wants to make the company hold these lands in market, and that would embarrass it for so brief a time. I therefore cannot consent.

Mr. HOLMAN. I must say to the gentleman from Michigan that this matter was allowed to come up by my yielding the floor to him with a view to accommodate him if possible. I cannot allow the joint resolution to come before the House if there is any substantial objection to it. If the effect of the joint resolution is simply to extend the time, I certainly shall not raise any objection; but I must insist that the gentleman from Ohio shall be heard.

Mr. DRIGGS. Very well; I will hear him.

Mr. LAWRENCE, of Ohio. I ask that the amendment I send to the Clerk's desk be read for the information of the House.

The Clerk read as follows:

That all lands which may be granted to said company to aid in the construction of said railway shall be sold by said company only to actual settlers, in quantities not greater than one quarter section to any one person, and at a price not exceeding \$1 25 per acre; and the Secretary of the Interior shall have power to prescribe rules and regulations for carrying this act into effect; and no person shall be deemed an actual settler who does not furnish evidence in such form as the Secretary of the Interior may prescribe that it is his or her intention to enter upon, improve, and reside upon the lands he or she may purchase as and for a homestead.

Mr. WASHBURN, of Illinois. I ask that the amendment proposed by the Committee on the Public Lands be again read.

The amendment was read.

Mr. WASHBURN, of Illinois. I decidedly object to the last part of that amendment, and I do not think the gentleman from Michigan [Mr. DRIGGS] should insist upon it. It asks Congress to delegate our power to the State of Michigan to dispose of the public lands.

Mr. DRIGGS. I do not think my friend understands fully the bearing of that amendment. It has been customary to confer these grants of land upon the States for the benefit of roads. This extension would give the land to the company, and withdraw the control of the State of Michigan from the company, were it not for the very amendment to which the gentleman objects. It is this very restriction which gives the State authority over the land should the company fail. The committee thought that would certainly be satisfactory to the gentleman from Illinois, knowing his views upon the subject; so that the State may compel the building of this road by this company, or give the grant to some other company. As I suppose I may be regarded as having the management of this bill, I will call the previous question.

Mr. HOLMAN. I believe I reserved the right to object.

The SPEAKER. Does the gentleman object to the bill being considered?

Mr. HOLMAN. I have no objection to the previous question being seconded, with the understanding that the amendment of the gentleman from Ohio [Mr. LAWRENCE] and the amendment of the gentleman from Illinois [Mr. WASHBURN] be voted upon.

Mr. DRIGGS. What amendment?

Mr. HOLMAN. I understand the gentleman from Illinois [Mr. WASHBURN] to propose to amend by striking out the last clause of the amendment reported from the Committee on the Public Lands.

Mr. HOPKINS. Permit me to state to the gentleman from Indiana [Mr. HOLMAN] that the amendment proposed by the gentleman from Ohio [Mr. LAWRENCE] would not, from the very nature of the case, be operative upon this bill, even if adopted. This bill does not propose to grant any lands; none at all. The amendment of the gentleman from Ohio provides that all lands granted to this company by this bill, or which may be granted hereafter, shall be disposed of as provided by the amendment.

And allow me to state another reason why it will be impossible for the amendment of the gentleman from Ohio to operate upon this bill. The principle of that amendment was considered by the Committee on the Public Lands. The lands now in the possession of these railroad companies are subject to land mortgages, and therefore it is impossible for this amendment to apply to them, and we cannot make it operative, even if we should adopt it.

I am in favor of the amendment of the gentleman on general principles, and I assure the gentleman from Indiana [Mr. HOLMAN] that, in my opinion, no bill will hereafter be reported by the Committee on the Public Lands granting an acre of land for the construction of railroads without having incorporated in it a provision even more strongly guarded than this amendment. But I insist that this amendment should not be applied to this bill.

Let me say further, that this bill was fully discussed and thoroughly considered when it was up in the House at the time of its passage, and it was passed by a vote of three to one. In the Senate it was passed without any opposition at all. The amendment of the Senate has been thoroughly considered by the Committee on the Public Lands. At the request of the gentleman from Michigan [Mr. DRIGGS] we have recommended the putting a new restriction in the bill; and I can see no reason why any gentleman should oppose its passage in the form in which it now comes before the House.

Mr. DRIGGS. Before proceeding further, I would like to know just how this matter stands. I took the floor by the consent of the gentleman from Indiana [Mr. HOLMAN] to report this bill, and it now would seem that I am not entitled to the floor.

The SPEAKER. The Chair will say to the gentleman from Michigan [Mr. DRIGGS] that the Chair is not himself very certain who has the floor. The gentleman from Michigan asked the gentleman from Indiana [Mr. HOLMAN] to yield to him to report a bill from the Committee on the Public Lands. The gentleman from Indiana said he would do so, reserving to himself the right to object after the bill and proposed amendments had been read. When they had been read the gentleman from Indiana said he would still reserve his right to object until certain amendments proposed by members had been read. After those amendments had been read the gentleman said he would waive his objection if the amendments were submitted to a vote of the House.

The Chair thinks this has been a continuing right to object. If the gentleman from Indiana [Mr. HOLMAN] should now resume his seat without making further objection the bill would be before the House.

Mr. HOLMAN. I will yield to the gentleman from Ohio, [Mr. LAWRENCE.]

Mr. LAWRENCE, of Ohio. I desire to say a single word in reply to the gentleman from Wisconsin, [Mr. HOPKINS.] He says my

amendment cannot be made applicable to this railroad company, for the reason that the grant has already been made to them. In reply to that suggestion, I wish to say that this bill proposes to relieve this railroad company from a forfeiture of the lands which have been granted to the company. Now, sir, we can make it a condition of relieving this company from the forfeiture that the company shall be required to sell the lands upon any terms and at any price which we may prescribe.

Mr. HOPKINS. Let me say to the gentleman right here that the lands have never been forfeited.

Mr. LAWRENCE, of Ohio. The object of this bill is to relieve the company from a forfeiture, and we can annex as a condition of that relief the requirement that the company shall sell these lands upon any terms we may prescribe.

Mr. HOPKINS. But it is not a question of forfeiture. These lands have never been forfeited.

Mr. LAWRENCE, of Ohio. The time has not expired; but it will expire before this company can complete the road; the forfeiture will occur in the future unless we pass this bill. The object of the bill is to relieve the company from the forfeiture. Now, sir, we can make it a condition of the relief that the company shall sell these lands at any price we prescribe. The gentleman says he is in favor of the general principle involved in the amendment I have submitted. If that be so, then I hope he will aid us in carrying this amendment.

Mr. HOPKINS. I would do so if it were in our power to impose such a requirement; but it is not. This question was thoroughly considered in committee, and we decided that under the circumstances Congress has not the power to impose such a requirement.

Mr. LAWRENCE, of Ohio. But, Mr. Speaker, I think I am showing that we can annex this as a condition upon which we will relieve the company from the forfeiture. I know, Mr. Speaker—

Mr. DRIGGS. If I am entitled to the floor, I call the previous question.

Mr. LAWRENCE, of Ohio. I believe I have the floor.

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] is entitled to the floor, he having continued to claim his right to it. He has yielded to the gentleman from Ohio.

Mr. DRIGGS. I hope that in fairness to me, if I am to have no voice in the control of this measure, I may be allowed to withdraw it.

Mr. HOLMAN. I will make no objection to the consideration of this bill; but I hope that the previous question will not be sustained, and that the gentleman from Ohio [Mr. LAWRENCE] will be allowed an opportunity to submit his amendment. The soundness of the proposition as a general principle is not questioned.

The SPEAKER. The bill is before the House, and the gentleman from Michigan [Mr. DRIGGS] is entitled to the floor.

Mr. DRIGGS. I will simply say that these lands are not agricultural lands, and will not be taken up for many years to come. I call the previous question.

The previous question was seconded; there being—ayes 64, noes 34.

The main question was ordered, which was first upon agreeing to the amendment reported by the Committee on the Public Lands to the amendment of the Senate.

The amendment was agreed to.

The Senate amendment, as amended, was concurred in.

Mr. DRIGGS moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES ROCK.

Mr. WARD, from the Committee of Claims, reported a bill (H. R. No. 1070) for the relief of James Rock, of Saginaw, in the State of

Michigan; which was read a first and second time.

The bill, which was read, provides that there be appropriated for the payment of the traveling expenses of James Rock, late corporal of company C, seventh regiment Michigan volunteer cavalry, from Great Salt Lake City, in the Territory of Utah, where he was mustered out of service on the 30th of November, 1865, to the place of his enrollment, a sum sufficient to allow him \$325, deducting therefrom the amount, if any, paid to him for commutation of travel, pay, and subsistence by the Government when thus mustered out; and that the account be settled and paid under the direction of the Secretary of War.

Mr. HOLMAN. If there is no written report I hope the gentleman from New York will state the facts.

Mr. WARD. There is a unanimous report, which I ask to be read.

The Clerk read the report. It appears that the petitioner on the 27th of February, 1864, was mustered into the United States military service as a private in the seventh Michigan cavalry for the term of three years or during the war; that on or about the 31st of October, 1865, the petitioner with other enlisted men and non-commissioned officers of said regiment were at Fort Bridger for the purpose of being consolidated with the first Michigan volunteer cavalry; that the consolidation took place according to the orders of the War Department in the month of November, 1865, at which time and place it was found the petitioner was the only man in excess of the proper quota necessary to fill up the regiment as consolidated to the maximum strength. The petitioner was thereupon ordered to Great Salt Lake City, and on the 30th of November following was mustered out of the service and compelled to return to his home at Saginaw, Michigan, at his own expense, and without being furnished with transportation. These facts are sufficiently proved by the papers from the War Department.

On the 8th of July, 1866, in the Thirty-Ninth Congress, it was provided by law that transportation should be furnished to the first Michigan cavalry from Utah Territory to the place of enlistment of said regiment, in the State of Michigan. The petitioner is entitled to have that provision of law extended to him, the benefit of which he has been deprived by the consolidation of the seventh with the first regiment of Michigan cavalry.

Mr. WARD. The report contains all the facts in the case, and the bill is presented by direction of the Committee of Claims unanimously. I trust there will be no objection to it. I apprehend there can be none. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WARD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. HOLMAN, from the same committee, made adverse reports on the following cases; and the same were laid on the table:

Petition of Frederick J. Jones, praying appropriation for relief; and  
Petition of Amelia Ann Whittaker.

The SPEAKER stated that the morning hour had expired.

#### LEAVE OF ABSENCE.

Mr. TABER, on account of sickness in his family, was granted leave of absence. Mr. STONE was also granted indefinite leave of absence.

#### GRANTS OF LANDS TO NEVADA.

Mr. ASHLEY, of Nevada, by unanimous consent, from the Committee on the Public

Lands, reported back Senate bill No. 190, further to provide for giving effect to the various grants of public lands to the State of Nevada, with amendments; which were ordered to be printed, and recommitted.

#### IDAHO LAND OFFICERS.

Mr. ASHLEY, of Nevada, from the same committee, reported back House bill No. 652 to increase the compensation of registers and receivers in the Territory of Idaho; which was ordered to be printed, and recommitted.

#### UNDERVALUATION OF IMPORTATIONS.

Mr. WOODBRIDGE, by unanimous consent, introduced a bill (H. R. No. 1071) to further prevent undervaluation of merchandise imported into the United States, and for other purposes; which was read a first and second time, and referred to the Committee on Commerce.

#### NEW YORK POST ROUTE.

Mr. HUMPHREY, by unanimous consent, introduced a bill (H. R. No. 1072) to declare a post route from Lake View, Erie county, New York, by way of North Evans, Eden Valley, Eden, Collins, and Shirley; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### ADMISSION OF SOUTHERN STATES.

The SPEAKER stated the first business in order was House bill No. 1058, to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress, on which the gentleman from New York [Mr. BROOKS] was entitled to the floor.

Mr. BROOKS. I yield ten minutes to my colleague.

Mr. PRUYN. Mr. Speaker, after the experiences of the past I have no hope that anything which can be said on this side of the House will affect legislation on the bill now under consideration. But it is due to the great interest which attaches to the matter from the constitutional and other general considerations which it involves, that we should follow up our opposition to the reconstruction acts by the most unqualified objection to the pending measure.

The bill now before us is the legitimate result of that legislation which has already taken place in regard to the reconstruction of the southern States. On adopting the views of the majority I ought, perhaps, to say in regard to certain territory recently acquired by a war of subjugation and conquest waged by the United States against several millions of its own citizens. The repugnance of a large portion of the Republican party and of its Representatives to the extreme doctrines promulgated in the Thirty-Eighth Congress by the gentleman from Pennsylvania [Mr. STEVENS] yielded to the strong radical opinions of their leaders, and, as has always been the case in all such struggles, the weakness of the timid and vacillating soon gave way before the arguments and demands of those of stronger nerves and bolder views. The whole party has thus for some years past moved together in regard to these measures, headed by those whose opinions were denounced and whose positions as leaders were contested in the days of President Lincoln, and one more of the measures "outside of the Constitution" is now before us.

The brief time for which I am entitled to the floor does not permit me to enter into any examination of the provisions of the several constitutions. Indeed, no sufficient time has been afforded to us for that purpose, as they were only laid on our tables yesterday. The gentleman from Kentucky [Mr. BECK] called the attention of the House yesterday to several most objectionable provisions which some of them contained, especially as to the compulsory education of whites and blacks together. But I must leave this part of the subject, and content myself with referring to some historical facts connected with the origin of the reconstruction measures.

The gentleman from Pennsylvania [Mr. STEVENS] is entitled to the credit, or must bear the odium of these measures according to the light in which they may be viewed.

But it is to be said to his honor that he has at all times boldly expressed his views, and maintained them with all the ability for which he is distinguished. He has admitted that these measures are outside of the Constitution, and he has brought his party friends up to his standard. In voting articles of impeachment against the President they seem quite to have overlooked their own disregard of the fundamental law of the Commonwealth, but this is very likely to happen with those who forsake the paths of political rectitude, and look forward only to party success and to party supremacy.

In the few minutes left to me I will call attention to a discussion which took place in the Thirty-Eighth Congress on what was called the confiscation bill, when the gentleman from Pennsylvania [Mr. STEVENS] propounded views to the House which not only excited much attention here but produced a profound impression throughout the country. Those views were to a great extent entirely novel. They had been hinted at, they had been broached, but they never had been fully placed either before Congress or the country until the memorable debate of January, 1864, when the distinguished gentleman from Pennsylvania rose in his place and defined his position. In most of its aspects it was so entirely novel that it startled his own political friends. But although they then disavowed his views they afterward fully came up to them and have acted with him for more than two years past.

You, Mr. Speaker, (Mr. BROOMALL in the chair,) were here, and will recollect the interest excited by that debate. You may remember how members of the House, on both sides, clustered around the gentleman from Pennsylvania, and the deep interest with which they listened to his remarks. His position was, that by the acts of our own Government in exchanging prisoners, but, above all, by the proclamation of blockade, which was intended as a measure on our part to aid in suppressing the rebellion, we had acknowledged that the southern States were belligerents, in the full sense of that word, under the law of nations, and henceforth the struggle was between two nationalities, and not a struggle on our part to suppress a rebellion. On that theory he based those views which have resulted in measures which now bring before us the constitutions of these southern provinces—for such they are, according to his theory—for our acceptance and approval, and for us to say whether these States, all of which, I believe, except one, were original members of the confederacy, shall be again recognized as States of the Union.

I need not remind you that that theory was received with marks of strong disapprobation by President Lincoln's Cabinet, for it was in fact a direct censure upon the President. It was a declaration that an act which he had approved had changed the struggle from an attempt to put down rebellion to a recognition of belligerent rights on the part of the rebel States. We all know how much that doctrine was controverted at the time and how strongly and earnestly it was denounced by gentlemen holding positions connected with the administration of President Lincoln. But, sir, the views were boldly carried out and we have the result now before us as far as it has been reached in this direction in the shape of these constitutions now presented for our approval.

I refer to these facts for their historical interest as showing the entire change of front which has taken place in the Republican party on this great vital point, and how the bold views and the bold manner in which they were urged by the gentleman from Pennsylvania, have induced that party, all of its members here, I believe, without exception, to come over to his position and to act upon his principles.

At a subsequent stage of that debate I attempted, as well as my feeble ability would



allow me, to show how entirely the gentleman from Pennsylvania misunderstood and misconstrued the proclamation of belligerency which was issued by President Lincoln. It was a proclamation which on its face declared the existence of the rebellion as a rebellion, and that was put forward as one of the measures for the suppression of that rebellion.

[Here the hammer fell.]

Mr. PRUYN. Will my colleague allow me a moment or two longer?

Mr. BROOKS. Yes, sir.

Mr. PRUYN. I referred then to the language of that proclamation, and especially to the concluding clause of it, which declared that any attempt on the part of any persons on the high seas claiming authority under this pretended confederation to disturb the commerce of the United States would be treated as piracy, for the purpose of showing that the construction put by the gentleman from Pennsylvania on that proclamation was not one warranted either by its terms or by its meaning as derived from the face of the proclamation itself.

Mr. Speaker, I should have liked to say some things more upon this subject and others collaterally connected with it, but my time has expired, and I yield the floor to my colleague.

Messrs. BROOKS and PAINE addressed the House. [Their remarks will be published in the Appendix.]

Mr. BINGHAM. It is not my purpose to delay the House with this discussion. I desire to say in the outset that it does seem to me that the public interest requires the speedy restoration of the States lately in insurrection to political power in the Union. That is the general object of the bill, and in so far it has my entire approval. It is my purpose to support the bill, not because I am satisfied with all its details; I desire to amend it, not because I am satisfied with the provisions of these constitutions; I would wish to see them amended, but because, under the circumstances, it is the best that can be done for the public interest.

And I desire to say in this connection that it ill becomes gentlemen who represent what is called the Democratic party to be saying one word about the constitutions of these several States, for if there is any fact more clearly established in the history of the Republic than another it is the fact which has drenched this land in blood, that constitutions on the side of despotism, never to be repealed by the action of their people, even in the interest of the rights of a common humanity, received upon this floor the united vote of the Democratic party that come here to make this howl against free constitutions. Let gentlemen go back and read their records on the constitutions of the past and be silent, especially their record on the constitution of the State of Arkansas and the infamous Leecompton constitution. Let them go back and read their record upon the fugitive slave act of 1850 and be silent. Let them go back and read the resolution pronounced at Baltimore in 1852, wherein they undertook to dispose of the reserved rights of all the people of this country as a party organization and be silent. I have nothing but contempt for the pretenses of these apostles of constitutional liberty at this time of day, neither have the American people.

Mr. WOODWARD. It is reciprocated.

Mr. BINGHAM. The gentleman says it is reciprocal. Reciprocity implies equality, and thank God it is not reciprocal; for there is no equality in the case.

Mr. WOODWARD. I said it was reciprocated.

Mr. BINGHAM. Well, no matter. The constitutions of these several States, in accordance with the spirit and letter of the Constitution of the United States as it stands amended by the act of the American people, secure equal political and civil rights and equal privileges to all citizens of the United States, native born and naturalized. Time was in this Republic when that was Democracy. If the utterance of Jefferson ever meant any-

thing—and I think it signified a great deal—it meant precisely that when he declared for equal and exact justice to all men; equality of rights to all. This is all I desire to say on that subject.

I now desire to call the attention of the House very briefly to the amendment which I offered to the bill as reported by the committee, and it is to strike from the bill as reported these words:

That the constitutions of said States shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are now entitled to vote by said constitutions respectively, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted.

One reason why I desire to strike that provision out is this, that these constitutions are in conflict with each other.

Mr. PAINE. I understood that the gentleman's amendment was to strike out those words and insert certain others.

Mr. BINGHAM. Certainly, and I am going to read what I propose to insert, but I desire first to explain what I want to strike out and why. My statement to the House is—and I desire the attention of the House to it—that this provision, as it stands reported by the committee, expressly declares that no person now authorized to vote by the several constitutions of the States named in this bill shall by any amendment to these constitutions ever be deprived of that right.

What I desire to say further in this connection is that that perpetuates the conditions of franchise in each of these constitutions precisely as they stand recorded this day, and those conditions of franchise in the several constitutions presented are in direct conflict with each other. They can hardly all be right, if right be involved in any conditions imposed by States upon the elective franchise. For example, the constitution of North Carolina, on page 49 of the report, requires thirty days' residence in the county in which the party shall offer to vote. The constitution of Louisiana, on the other hand, on page 29, requires ten days' residence in the parish. By your bill you declare that Louisiana shall not increase the term of residence to thirty days, and you declare just as well that North Carolina shall not increase the term to forty days. In other words, like the laws of the Medes and Persians, these constitutions are to be perpetual in this behalf; because, if North Carolina should change its constitution so that a party voting should be required to have a residence of forty days instead of thirty days, it would violate this fundamental condition; and if Louisiana should change its constitution so as to make it like that of North Carolina and require a residence of thirty days instead of ten days, it would violate this condition.

Now, who is there here who is ready to say that a State shall not be at liberty at its pleasure to make these changes, provided it does not discriminate?

One word further and I have done. In one of these cases the constitution provides that a mere declaration of intention shall entitle a party resident in the State for a period of twelve months, and in the county thirty days, to vote, while the other constitutions declare that there must be actual naturalization and citizenship. Are you going to say that the State which has thus provided shall not be permitted to so amend its constitution as to put it in harmony with nine tenths of the constitutions of the States of this Union, and say that the elective franchise, which is the final power of the Republic, shall only be exercised by citizens of the Republic? This amendment in spirit prohibits any such change in the constitution of the State, for the simple reason that the constitution itself secures to persons who have declared their intentions to become citizens the right to vote. Your prohibition is that they shall never so amend the constitution as to take the right to vote away from any person who is now invested with that power by the constitution as it now stands.

Mr. FARNSWORTH. Will the gentleman allow me to interrupt him for a moment?

Mr. BINGHAM. Certainly.

Mr. FARNSWORTH. I desire to call the attention of the gentleman to what seems to me to be a misstatement by him of the provision of this bill; an unintentional misstatement, of course. The provision is not that the constitution shall never be amended so as to deprive any person of the right to vote, but so as to deprive any citizen of the right to vote who is now entitled to it.

Mr. BINGHAM. Admit that; it does not alter the force of my argument at all. It only shows the inconsistencies of this bill.

Mr. FARNSWORTH. A foreigner not naturalized is not a citizen.

Mr. BINGHAM. Agreed. But how does that answer my argument about the provisions requiring ten days' and thirty days' residence?

Mr. FARNSWORTH. It does not.

Mr. BINGHAM. And also the provisions requiring six months' and one year's residence? One constitution declares that a person residing in the State one year, and in the election district thirty days, shall be entitled to vote; and according to this bill that provision is never to be changed. Another constitution prescribes only six months' residence in the State and ten days in the parish, and that is never to be changed. Why not?

Mr. STEVENS, of Pennsylvania. Permit me to say to the gentleman that the bill does not provide that the constitution shall not be changed in that respect, but that it shall not be changed so as to deprive a person of the right to vote who is now entitled to vote.

Mr. BINGHAM. Yes; this is the provision of the bill:

That the constitution of said State shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are now entitled to vote by said constitutions respectively.

Mr. STEVENS, of Pennsylvania. Yes; that is the provision of the bill.

Mr. BINGHAM. As the constitution of one of these States now provides, a man residing in the State for six months and in the parish for ten days is entitled to vote. But if the constitution is so changed as to require twelve months' residence in the State instead of six months, or thirty days in the parish instead of ten days, then he is deprived of the right to vote, and there is no escape from it.

Now, the object of this provision of the bill I believe to be good; that is, to prevent class legislation and discrimination against the poor; to prevent such amendments of the constitution as would put the elective franchise in the hands of a favored class, to the exclusion of the body of the people, especially to the exclusion of those lately in slavery. But that object I submit is secured by the amendment which I have offered. I move to strike out of the bill the following:

That the constitutions of said States shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are now entitled to vote by said constitutions respectively, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted.

The remainder of the section I propose to leave in the bill, as follows:

And no person shall ever be held to service or labor as a punishment for crime in said States, except by public officers charged with the custody of convicts by the laws thereof.

That I do not touch. I move to substitute for the words stricken out the following:

That civil and political rights and privileges shall be forever equally secured in said States to all citizens of the United States resident therein, in so far as is now provided in said constitutions respectively.

That all citizens shall be forever equal, subject to like penalties for like crimes and no other. I leave to the people the right to amend their State constitutions, subject to the requirements of the Federal Constitution. The civil and political rights and privileges of citizens of the United States of like age, sex, and residence, shall be equally enjoyed; they shall be

equally subject to the same disabilities and to no others.

I venture to say here to-day that the amendment I have offered corresponds with all the traditions of the Republic, and with that great Missouri provision which was enacted by Congress in 1819, under the lead of the first men of this Republic. That provision, gentlemen will remember, was a limitation imposed upon the State of Missouri in the very words of the Constitution itself, to wit: that its constitution never should be so construed, and never should be so enforced, as to deprive any citizen of the United States of the rights and privileges of a citizen of the United States within the limits of that State.

The fourteenth article of the amendments of the Constitution secures this power to the Congress of the United States. Your fundamental condition would not be worth the paper upon which it is printed but for the new grant of power which has come to Congress through the fourteenth article of the amendments, which enables the people in Congress assembled to enforce this condition. It ought to be enforced. I desire equality of right, equality of civil right, if you please, and of privilege, which is the word of the Constitution itself. And, sir, if the words "civil and political rights and privileges of citizens" do not embrace the elective franchise, it is a new discovery to the American people. They do embrace everything pertaining or belonging to the citizenship of this country. "Civil and political rights and privileges!" The word "privileges" is the original word of the Constitution. Some gentlemen have contended that the elective franchise is a right rather than a privilege. In order to accommodate their views—and perhaps they are right—I have used the words "civil and political rights and privileges." I propose to declare that the civil and political rights and privileges under these several constitutions shall be forever equally enjoyed by all citizens of the United States in so far as the same are now secured by said constitutions respectively—I have modified the printed text by inserting these words—in so far as the same are now secured by those several constitutions; thus leaving the people still the privilege of amending their constitutions, enlarging, if they choose, the liberties of the people, or removing restrictions, as the public exigencies may require and the public interest may demand.

Mr. STEVENS, of Pennsylvania. I now rise to close the debate.

Mr. WOODBRIDGE. Will the gentleman yield to me for the purpose of offering an amendment?

Mr. STEVENS, of Pennsylvania. What is the amendment?

Mr. WOODBRIDGE. It is to strike out the word "Alabama;" and if the gentleman will permit me I will in a few words give my reasons for offering this amendment.

Mr. STEVENS, of Pennsylvania. How long does the gentleman wish to speak?

Mr. WOODBRIDGE. Not over two or three minutes.

Mr. STEVENS, of Pennsylvania. I yield to the gentleman three minutes.

The SPEAKER. If there is no objection the amendment will be entertained, although it is not in the form of an amendment to either of the pending amendments.

There was no objection.

Mr. WOODBRIDGE. Mr. Speaker, in the act passed at the last session for the government of the rebel States it was provided that any of those States, under certain conditions, might call a convention, which should have power to frame a constitution and civil government under the provisions of the act of Congress; that the constitution, when formed, should be submitted to the people of the State for their ratification, and that if the majority of the registered voters declared in favor of the constitution, and that constitution, when submitted to Congress, should be approved by it, the State should then be admitted to rep-

resentation. In the State of Alabama a convention assembled in pursuance of the act of Congress, a constitution was framed, and was submitted to the people. A vote upon its ratification was taken, and a majority of the registered voters did not vote for that adoption of that constitution.

Now, sir, all just government is based upon the consent of the governed, and I do not deem it either morally or legally or constitutionally right for Congress now to impose upon the State of Alabama a constitution which under the law of Congress itself they rejected, as they had the right to do. Something must be done in addition to what has already been done before we can with propriety admit the State of Alabama. To admit her in the present posture of affairs and impose upon her people a constitution which they have not adopted would not be consistent with the principles of republican institutions, and would inflict a serious wrong upon the people of that State. I hope that so far as this bill applies to Alabama it will not meet the favor of the House; and hence I have offered my amendment.

[Here the hammer fell.]

Mr. RAUM. I ask the gentleman to yield to me a moment to offer an amendment.

Mr. STEVENS, of Pennsylvania. I will hear it.

Mr. RAUM. I move to add to the third section the following:

It is hereby made the duty of the President, within ten days after receiving official information of the ratification of said amendment by the Legislature of either of said States, to issue a proclamation announcing that fact.

Mr. STEVENS, of Pennsylvania. I agree that that shall be considered as a part of the bill.

Mr. FARNSWORTH. I ask for a few minutes to reply.

Mr. STEVENS, of Pennsylvania. I will yield to the gentleman five minutes; and as soon as he has concluded I intend to ask for the vote on striking out "Alabama." After that I shall submit what I have to say.

Mr. FARNSWORTH. Mr. Speaker, it was anticipated that a motion would be made to strike out "Alabama," perhaps on account of the discussion heretofore had on its admissibility and the objection of the House heretofore taken. Now I will say to the House and to the gentleman from Ohio [Mr. WOODBRIDGE] that I deny the reconstruction acts of Congress required at the time Alabama voted that a majority of the registered voters of that State should cast their votes for that constitution before the State should be admitted. No such construction can be put upon that act of Congress. It provides that if Congress is satisfied that a majority of the people are in favor of it the State shall be admitted.

Mr. INGERSOLL. Read it.

Mr. FARNSWORTH. It has been read here a hundred times, for aught I know.

Mr. INGERSOLL. If the gentleman has it at hand let him read it.

Mr. FARNSWORTH. If the law requires that a majority of the registered voters shall cast their votes for it, what does that other language mean: that if Congress shall be satisfied a majority of the voters are for it then the State shall be admitted?

Mr. WOODBRIDGE. Read it.

Mr. FARNSWORTH. I am willing the gentleman shall read it if my time can be extended.

I wish also to call the attention of the House to the fact that a larger proportion of the registered voters of Alabama voted for that constitution than in any other one of these States.

Mr. HIGBY rose.

Mr. FARNSWORTH. I cannot yield.

Mr. Speaker, even if the law is as is contended for by the gentleman from Vermont, does he deny the power of Congress to rescind or repeal that law, as we afterward passed a law which applied to the other State constitutions? I repeat that a larger proportion of

the registered voters of Alabama voted for that constitution than voted in these other States for these other constitutions. What nonsense it is, then, when Alabama has polled over seventy thousand votes for her constitution and only one thousand against it, a larger proportion than any other, you shall deny her admission and admit the others? There is neither reason nor good sense in the distinction. I say it without any reflection on my friend from Vermont. He is always a reasonable and sensible gentleman. I apply it to his argument. Three times the Committee on Reconstruction have examined this matter, and three times they have reported in its favor.

Mr. PAINE. With the gentleman's permission, I will read that part of the law which applies to this point. It is to be found in section five. The first clause of the section authorizes the presidents of the conventions in certain cases to forward the constitutions to the President of the United States. The section then proceeds as follows:

"And if it shall, moreover, appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said Constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided."

Mr. FARNSWORTH. One word further, Mr. Speaker. Congress has repeatedly admitted States upon petition. Here are seventy thousand voters of Alabama petitioning Congress to admit that State. Why apply an iron rule to Alabama you do not apply to any other State?

[Here the hammer fell.]

Mr. LOAN. I ask the gentleman to yield to me for a question.

Mr. STEVENS, of Pennsylvania. I fear I shall not have time. I must decline to yield further.

Mr. BENJAMIN. I ask leave to offer the following amendment:

In lines nine, ten, eleven, and twelve, section one, amend so it will read as follows:

That the constitutions of said States shall never be so amended or changed as to discriminate in favor of or against any citizen or class of citizens of the United States in the right to vote who are now entitled to vote by said constitutions respectively, except as a punishment for such crimes as are now felonious at common law, whereof they shall have been duly convicted; and no person shall ever be held to service or labor as a punishment for crime in said States, except by public officers charged with the custody of convicts by the laws thereof.

Mr. STEVENS, of Pennsylvania. I decline to accept it.

Mr. BINGHAM. I will accept it because it is the same thing that I am aiming at in my amendment. I accept it as a part of my amendment.

The SPEAKER. The gentleman has a right to modify his amendment by accepting this.

Mr. STEVENS, of Pennsylvania. I now call the previous question, and wait till the vote is taken on striking out Alabama, because the result of that vote might modify my speech. I suppose I can then have the floor?

The SPEAKER. Certainly. The previous question exhausts itself on that amendment.

The previous question was seconded and the main question ordered.

Mr. WOODBRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 60, nays 74, not voting 55; as follows:

YEAS—Messrs. Delos R. Ashley, Baker, Baldwin, Beck, Blair, Boyer, Brooks, Burr, Coburn, Driggs, Eldridge, Ferry, Garfield, Getz, Hopkins, Hotchkiss, Grover, Hawkins, Higby, Johnson, Julian, Humphrey, Ingersoll, Jencks, V. Lawrence, Loan, Kerr, Ketchum, Knott, McCormick, Morgan, Mungen, Marshall, Marvin, McGormick, Poland, Myers, Niblack, Nicholson, Orth, Phelps, Poland, Pruyn, Randall, Robertson, Robinson, Ross, Saw-

yer, Sitgreaves, Smith, Stewart, Stone, Taylor, Van Auker, Van Trump, Ward, Elihu B. Washburne, William B. Washburn, Woodbridge, and Woodward—60.

**NAYS**—Messrs. Allison, Ames, Anderson, Arnell, James M. Ashley, Bailey, Beaman, Beatty, Benjamin, Benton, Bingham, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Corvode, Cullom, Eckley, Ela, Farnsworth, Ferriss, Fields, Gravelly, Harding, Chester D. Hubbard, Hunter, Judd, Kelley, Kelsey, Kitchen, Koontz, William Lawrence, Lincoln, Loughridge, Mallory, McCarthy, McClurg, Miller, Moore, Morrill, Newcomb, Nunn, O'Neill, Paine, Perham, Peters, Pike, Pile, Platts, Ponsley, Price, Raum, Schenck, Seofield, Shanks, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Thomas, John Trimble, Trowbridge, Twichell, Upson, Burt Van Horn, Van Wyck, Henry D. Washburn, Welker, William Williams, Stephen F. Wilson, and Windom—74.

**NOT VOTING**—Messrs. Adams, Archer, Axtell, Banks, Barnes, Barnum, Blaine, Butler, Calk, Cary, Chandler, Churchill, Cook, Cornell, Dawes, Dixon, Dodge, Donnelly, Eggleston, Eliot, Finney, Fox, Griswold, Haight, Halsey, Hill, Holman, Hooper, Isabel W. Hubbard, Richard D. Hubbard, Hubbard, Jones, Ladin, Logan, Lynch, Maynard, McCullough, Mercer, Moorhead, Morrissey, Mullins, Pomeroy, Selze, Shellabarger, Spalding, Starkweather, Taber, Lawrence S. Trimble, Van Arman, Robert T. Van Horn, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, and Wood—55.

So the amendment was disagreed to.

Mr. PAINE moved to reconsider the vote by which the amendment was disagreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. STEVENS, of Pennsylvania. I now move the previous question on the bill and pending amendments.

The previous question was seconded and the main question ordered.

Mr. BROMWELL. Will the gentleman yield to me a few moments?

Mr. STEVENS, of Pennsylvania. I will yield five minutes.

Mr. BROMWELL. Mr. Speaker, the space of five minutes is very little time to say anything on this question. Therefore I shall confine myself simply to two or three reflections. The gentleman from New York [Mr. Brooks] has assailed these constitutions on account of the provisions they contain. Sir, how long has it been a Democratic principle to assail a constitution on the ground that the people of the State have made it different from the judgment of members of Congress? One of his objections is that they contain confiscation provisions, and that in some way they create inequality in the distribution of the public wealth. Sir, what was the character of the former constitutions which these have superseded? Were the gentleman and his Democratic associates ever heard speaking against a constitution which confiscated not only the goods and chattels, but the bodies and souls of a majority of the people of South Carolina, which sold them, fathers, mothers, and children, to the highest bidder under the hammer of the auctioneer? Was that Democratic? Yet, if it was not, when did the Democratic party or a Democratic orator lift a voice against the enormity? Nay, when did they fail to have jails in every northern State under the fugitive slave law, which was the second gospel of the party—jails yawning for the flesh of the hunted fugitive when the bloodhounds were on his track in the swamps and marshes of the South and over the very hills of the State which the gentleman represents. And this whether they were black, mulatto, or white; for so long as the Democratic law made a slave of the mother, the children were confiscated slaves forever.

Mr. MUNGEN. Did General Washington ever sign such a bill as that?

Mr. BROMWELL. I never was with General Washington, and I cannot testify as to his acts.

Mr. ELDRIDGE. You never will be with him. [Laughter.]

Mr. BROMWELL. The next ground of complaint is that common schools are provided for in this constitution. That, of course, awakens a double measure of wrath in this Democratic orator. We are asked if the Czar of Russia allows his serfs to take charge of the Government. Who expects the Czar of Russia

to put either serfs or nobles in control of any portion of the Government in that absolute despotism? Is it then, indeed, true that the Democratic party, under Andrew Johnson, is so completely assimilated to the despotism of Russia as to be in favor of a reproduction of the principles of Russia here? It is most likely so; for it is only yesterday they have been compelled to lay down the whip and the auctioneer's hammer, those Democratic scepters over the souls and blood of men, because when the slave power they defend was hunted to its last defense, the battlements of Vicksburg and Atlanta and Richmond went down amid dust and flame and fire beneath the stunning thunders of republican and loyal power.

[Here the hammer fell.]

Mr. STEVENS, of Pennsylvania. Mr. Speaker, I do not expect to be heard all over this House, but what I say will be said in such a way that those who choose to be quiet can hear it.

Our friends on the other side have to-day pursued the tactics which partially, though not to the same extent, they have pursued in what they have been pleased to call arguments for the last eight or ten years. It is not arguing the question, but arguing the man. For ten years no man on that side of the House has risen and spoken on any important question but what if a person were to enter the gallery he would think that I was on trial—that "the gentleman from Pennsylvania" was on trial for some offense. Four fifths of the time, and I believe a little fraction more than that of the time of the gentleman from New York [Mr. Brooks] to-day was consumed in attacks, if you choose to call it so, on "the gentleman from Pennsylvania"—not upon his measures or upon that which he may be advocating. And why? I call upon every high-minded man here to say whether that course of argument, so long and persistently pursued, is an honorable or a dishonorable course of argument.

Gentlemen need not flatter themselves by supposing that I take to myself their remarks as "flattering unctio to my soul," or suppose that they intend them for the purpose of exalting me. I say to my brethren, all of us being equal, that it is intended as a disgrace to them. It is intended, under the pretense of exalting me, to degrade all others. Does the gentleman believe—for such is his argument—that by appealing to the envy, the ambition, of gentlemen around me, he can excite them to action because I happen to be in a particular course? Does he suppose that this excessive and unnecessary and unjustified praise of one individual is so to excite the ambition, or rather the envy, of the rest of the House as to induce them to forget the arts, the low arts, of low cunning, of low arguments—not in a low gentleman, but in a gentleman who uses low slang?

Now, sir, I, once for all, the first time in the course of ten years, have alluded to this unfair, this offensive line of argument on the part of gentlemen on the other side of the House. Excuse me, therefore, if, when I have said this, I shall pass it over and pretermit three quarters of an hour of the same kind of what the gentleman from New York thought was argument—I have no doubt did not know but it was argument—in his exaltation of one individual and his depression of one hundred and forty.

Now, then, a single word as to the bill. We have for some months past been listening to the clamor of outside gentlemen, sometimes known as "Copperheads," transformed for the worse from Democrats into crawling things called "Copperheads;" we have heard from them for months and months past loud complaints because the Republican party refused to admit these rebel States to participation in this Hall and in Congress, and we have been told that in consequence of their being outside our acts were illegitimate, and would be so declared. So much so that, fearing this Government would fail, our most patriotic and

radical head of the Government—for he was as radical as I was, the last time I talked with him, just before his speech of the 22d of February—I have not seen him since, and I take no reports about what he has been doing since that time—so much so that that radical friend of ours, obeying their clamor, and yielding to the popular wish, established eleven military governments in those outlying States. Congress, some time after, not exactly liking the kind of men he appointed to rule there, took upon itself to assert its prerogative, and passed the laws known as the reconstruction laws. It made use of certain military men in carrying those laws into execution. And we have heard to-day the most bitter denunciations against Congress for establishing military despotisms in these subjugated States. How consistent all that is I leave to others to judge; it does not require much argument.

But there is great complaint that negroes are to be allowed to take part in the Government of this country. And it is said that in adopting these constitutions there were riots in some places, and in other places there was stuffing of ballot-boxes. I regret that this voting did not take place before the testimony was taken, and published in the contested-election case of Dodge vs. Brooks; for that testimony showed precisely the same course of conduct in that district which the gentleman from New York [Mr. Brooks] has declared took place in these States down South.

Mr. BROOKS. But in that case they turned me out of Congress; and now they propose to admit all these States. That is the difference.

Mr. STEVENS, of Pennsylvania. They turned the gentleman out because I suppose—I do not know, but I hope not—because he either did or did not head those mobs. They let these States in because the legal voters did not head the mobs; but they were headed by men who were afraid of negro rule.

The gentleman protests against these constitutions because black men were allowed to vote. Now, I advise the gentleman to become dramatized, to become the hero of a second play like that of Rip Van Winkle, which is now so well played by that admirable actor, Mr. Jefferson. Has the gentleman from New York been asleep for the last few years? Does he not know that when he went to sleep this country was a country of slavery and governed by a despotism? Let him now wake up; let him call his little dog "Schneider," [laughter,] or anything else that will enable him to recollect that he is still the same man. He will find no despotism; he will find no slavery; he will find no bondage within the broad limits of this fair land, which God made free, but which we made slave. God has again made this land free, through the agency of the infernal regions, by means of war and bloodshed. And I trust the Almighty Ruler of nations will never again permit this land to be made slave; or, in other words, that He never will permit the Democratic party to gain the ascendancy. For just so much as the Democratic party shall again gain the ascendancy, just so much will that same spirit of despotism run riot which has disgraced this nation for a century. That spirit is rank in the breast of every man of them; and should they ever again obtain power despotic institutions will again be reestablished over every man whom they call their inferior, and who would be made inferior to them if they could wield the lash upon his back.

I trust, therefore, the gentleman will find that we do mean that every man in this Republic, whether he be black or white or mixed, whether he come from the East or from the West, from the North or from the South, from the rising sun or from the setting sun, is as free and as much his own governor as the gentleman from New York or myself. And I am sure there is no one who is not as worthy so to be as either of us. Let it never again be heard in these Halls that we object to institutions because they allow beings, allow all beings with immortal souls in their bodies, to take part in the Government under which they



are to serve, under which they are to live, under which they are to rear their children, and under which they are to die.

I therefore say at once that I have no apology to make for the admission that we intend that these men shall have the right to compete in intellect, in science, in religion, with the gentleman from New York and his constituents of the Five Points, with myself and the honest yeomanry who are my constituents, and with all the people of this nation. And let him who is the most worthy, who climbs the highest upon the ladder of merit, of science, of intellect, of morality—let him be the ruler, according to law, of all his sluggish neighbors, no matter what may be their color, no matter who they are, whether they be men of nobility or whether they be of common rank. Indulge no longer that vain idea that any man of sufficient age and intellect is to be excluded from the governing power of this country. Never again I trust—never again I believe—will that infamous day appear for which the gentleman from New York so ardently prays.

Now, sir, what is the particular question we are considering? Five or six States have had submitted to them the question of forming constitutions for their own government. They have voluntarily formed such constitutions, under the direction of the Government of the United States. They have sent those constitutions here, backed, in every instance, even in that of Alabama, by a majority of all the voters within the State. And when I say "all the voters" I mean all the voters, black and white, whether they come from New York or South Carolina or elsewhere. They have sent us their constitutions. Those constitutions have been printed and laid before us. We have looked at them; we have pronounced them republican in form; and all we propose to require is that they shall remain so forever. Subject to this requirement, we are willing to admit them into the Union.

I know that by delaying thus far the admission of these States a great object has been gained. Some gentlemen on the other side were fearful that some of the Senators from those States would be admitted before we had ousted the first military despot of that region. There is not much danger now; and those gentlemen might afford to let these States come in. They know, I suppose, whether that gentleman is to remain longer in the White House; I do not. But, at any rate, we can admit no Senators in time to operate upon that question.

The gentleman from Ohio [Mr. BINGHAM] has moved an amendment against which I most earnestly protest. He proposes, against the recommendation of the committee, to leave each of these States free after its admission to amend the provisions with reference to the elective franchise, as it may deem proper, with regard to its own citizens. All of those States have now adopted the principle of universal suffrage. This country has adopted that principle so far as it has spoken of late. What we desire is to secure in these States the maintenance of this principle which they have adopted, so that every person of requisite age within those States shall be entitled to vote. The very amendment which the gentleman from Ohio proposes is what the protestants from South Carolina, who appeared before us, asked should be inserted in the bill. And they did not hesitate to give as their reason that if they should be allowed to amend their constitution in this respect, after the State had been admitted they could adopt a property qualification which would exclude from the elective franchise all the poor men; and when I asked them distinctly whether such a provision would not be intended to reach the negroes they had too much manliness to deny it. If the amendment proposed by the gentleman from Ohio should be adopted, they could adopt a property qualification, applicable to all classes alike, which would reach down to just about the black line, depriving the negroes of the privilege of voting and again subjecting them to oppression. It would not be long before, by

means of vagrant laws and other laws of similar character, the colored race would be again reduced to bondage even worse than the patriarchal.

The amendment of the gentleman from Ohio would be taken advantage of to inflict wrong upon the colored race, just as the constitutional amendment abolishing slavery has been evaded by taking advantage of the clause, "except as a punishment for crime whereof the party shall have been duly convicted." In Florida, as I learn from two gentlemen connected with the Freedmen's Bureau, a law has been enacted providing that persons convicted of assault and battery may be sold for twenty years into bondage. If a white man runs against a negro on the pavement it is called an assault and battery, and the white man takes the negro into the court-house and in fifteen minutes has him convicted and sentenced to bondage for twenty years. These two gentlemen told me that they had witnessed the sentence of six negroes under just such circumstances. The negroes were sold into slavery for twenty years because white men had jostled them, or, as was said there, they had jostled white men. So if we leave the door open these colored people may all be made slaves again. I do not propose to leave any such door open.

As to the proposition to let the States make the time of residence required of voters a month longer or a month shorter, that is a matter of no particular importance. What is it if men are required to wait nine months before voting, when in my own State a much longer residence is required?

Mr. Speaker, I desire the vote to be taken before gentlemen become weary, and I will not occupy further time. I ask that the vote may be taken.

The question recurred first on the amendment of Mr. STEVENS, of Pennsylvania, as follows:

Add to the end of the first section as follows: That so much of the seventeenth section of the fifth article of the constitution of the State of Georgia as gives authority to the Legislature or courts to repudiate debts contracted prior to the 1st day of June, 1865, and similar provisions in the other constitutions mentioned in this bill, shall be null and void as against all men who were loyal during the whole time of the rebellion, and who, during that time, supported the Union, and they shall have the same rights in the courts and elsewhere as if no rebellion had existed.

Mr. KERR demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 50, not voting 61; as follows:

YEAS—Messrs. Adams, Ames, Anderson, Arnell, James M. Ashley, Beaman, Beatty, Benjamin, Benton, Blair, Bromwell, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Fields, Gravelly, Harding, Higby, Hill, Holman, Hooper, Hopkins, Chester D. Hubbard, Hunter, Julian, Kelley, Kelsey, Kitchen, Koonz, George V. Lawrence, William Lawrence, Loan, Loughridge, Marvin, McCarthy, McClurg, Miller, Morrell, Myers, Newcomb, Nunn, O'Neill, Orth, Price, Raum, Robertson, Sawyer, Shanks, Smith, Thaddeus Stevens, Stewart, Stokes, Taffe, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Wyck, Ward, Welker, William Williams, Stephen F. Wilson, Windom, Woodbridge, and Woodward—78.

NAYS—Messrs. Allison, Delos R. Ashley, Bailey, Baker, Banks, Bingham, Boutwell, Boyer, Cullom, Elia, Eldridge, Eliot, Ferriss, Ferry, Garfield, Getz, Glossbrenner, Golladay, Grover, Ingersoll, Johnson, Judd, Kerr, Ketcham, Knott, Laffin, Lincoln, Logan, Mallory, McCormick, Moore, Morgan, Munger, Niblack, Nicholson, Paine, Pike, Prunty, Randall, Ross, Schenck, Sitgreaves, Aaron F. Stevens, Taylor, Van Auker, Bart Van Horn, Van Trump, Elihu B. Washburne, Henry D. Washburn, and William B. Washburn—50.

NOT VOTING—Messrs. Archer, Axtell, Baldwin, Barnes, Barnum, Beck, Blaine, Brooks, Burr, Butler, Cate, Cary, Chanler, Churchill, Cook, Cornell, Covode, Dawes, Dixon, Dodge, Finney, Fox, Griswold, Haight, Halsey, Hawkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jenckes, Jones, Lynch, Marshall, Maynard, McCullough, Mercier, Moorhead, Morrissey, Mullins, Phelps, Pike, Poland, Pomeroy, Robinson, Scofield, Selye, Shellabarger, Spalding, Starkweather, Stone, Taber, Lawrence S. Trimble, Van Aernam, Robert T. Van Horn, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, and Wood—61.

So the amendment was adopted.

The question next recurred on Mr. BING-

HAM's amendment as modified by Mr. BENJAMIN, as follows:

Strike out the following:

That the constitutions of said States shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are now entitled to vote by said constitutions respectively, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted; and no person shall ever be held to service or labor as a punishment for crime in said States, except by public officers charged with the custody of convicts by the laws thereof.

And in lieu thereof insert the following:

That the constitutions of said States shall never be amended or changed so as to discriminate in favor of or against any citizen or class of citizens of the United States in the right to vote who are now entitled to vote by said constitutions respectively, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted; and no person shall ever be held to service or labor as a punishment for crime in said States, except by public officers charged with the custody of convicts by the laws thereof.

The House divided; and there were—yeas 57, nays 46.

Mr. STEVENS, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were not ordered.

So the amendment was adopted.

The question next recurred on Mr. Brooks's amendment, to add the following:

And be it further enacted, That on and after the passage of this act all citizens of the United States in the States heretofore named shall be entitled to equal rights of suffrage.

Mr. JOHNSON demanded the yeas and nays.

The yeas and nays were not ordered.

The amendment was disagreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS, of Pennsylvania, called for the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 109, nays 35, not voting 45; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blair, Boutwell, Bromwell, Broomall, Buckland, Butler, Cate, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Dodge, Donnelly, Driggs, Eckley, Eggleston, Elia, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravelly, Harding, Higby, Hill, Holman, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Kelsey, Ketcham, Kitchen, Laffin, George V. Lawrence, William Lawrence, Lincoln, Logan, Loughridge, Mallory, Marvin, McCarthy, McClurg, Miller, Moore, Morrell, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Pike, Plants, Polsley, Price, Raum, Robertson, Sawyer, Shanks, Smith, Thaddeus Stevens, Thaddeus Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Bart Van Horn, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, James F. Wilson, Stephen F. Wilson, and Windom—109.

NAYS—Messrs. Adams, Baker, Beck, Boyer, Brooks, Burr, Eldridge, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Humphrey, Johnson, Kerr, Knott, Loan, Marshall, McCormick, Morgan, Munger, Niblack, Nicholson, Phelps, Prunty, Randall, Robinson, Ross, Sitgreaves, Stone, Van Auker, Van Trump, Thomas Williams, and Woodward—35.

NOT VOTING—Messrs. Archer, Axtell, Baldwin, Barnes, Barnum, Blaine, Cary, Chanler, Churchill, Cook, Cornell, Cullom, Dawes, Dixon, Finney, Fox, Griswold, Haight, Halsey, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Jones, Koonz, Lynch, Maynard, McCullough, Mercier, Moorhead, Morrissey, Mullins, Poland, Pomeroy, Selye, Shellabarger, Spalding, Starkweather, Taber, Lawrence S. Trimble, Van Aernam, Robert T. Van Horn, Cadwalader C. Washburn, John T. Wilson, Wood, and Woodbridge—45.

So the bill was passed.

During the roll-call,

Mr. ROBINSON stated that his colleague [Mr. TABER] had been compelled to leave on account of sickness, but wished it understood that he would have voted "no" had he been present.

The result having been announced as above recorded,

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INDIAN APPROPRIATION BILL.

Mr. BUTLER, from the Committee on Appropriations, reported a bill (1073) making appropriations for the current and contingent expenses of the Indian Department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869; which was read a first and second time, ordered to be printed, referred to the Committee of Ways and Means, made the special order for Saturday next, and from day to day until disposed of.

#### LEAVE OF ABSENCE.

Leave of absence after to-morrow was granted to Mr. ECKLEY.

#### EXPENSES OF LEGAL SERVICES.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, transmitting, in compliance with House resolution of the 11th of February, statements of amounts paid during each year since 1860 for legal services, &c.; which was ordered to be printed, and referred to the Committee on the Judiciary.

#### CIVIL SERVICE.

Mr. JENCKES. I ask consent to report back from the joint Committee on Retrenchment a bill (H. R. No. 948) to regulate the civil service of the United States and promote the efficiency thereof. I wish to submit some remarks to the House in favor of the bill with the understanding that no action shall be taken except to postpone its further consideration to the 3d day of June next after the morning hour.

No objection was made.

Mr. WELKER. I desire to say that perhaps the minority of the committee desire to make a report. I mention it now so that it may be understood that we reserve that right.

Mr. JENCKES. I ask that the bill may be printed in the Globe.

No objection being made, it was ordered accordingly.

Mr. BENTON. I desire to state that I understood there was a division in the committee on this bill, and I received notice to attend a meeting of the committee to-morrow.

Mr. JENCKES. I call for no action this afternoon.

Mr. BENTON. I desire to make a motion to recommit, so as to give an opportunity for reexamination in the committee.

Mr. JENCKES. I will make that motion at the close of my remarks.

Mr. BENTON. Very well.

Mr. JENCKES, from the joint select Committee on Retrenchment, then reported a bill to regulate the civil service of the United States and promote the efficiency thereof.

The bill is as follows:

A bill to regulate the civil service of the United States and promote the efficiency thereof.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the passage of this act there shall be created a new department of the Government of the United States, to be called the department of the civil service; that the head of said department shall be the Vice President of the United States, or in case of a vacancy in said office, the President of the Senate for the time being, who shall be a member and president of the board of commissioners hereinafter created, and shall perform all the duties pertaining thereto.

SEC. 2. *And be it further enacted,* That hereafter all appointments of civil officers in the several Departments of the service of the United States, except postmasters and such officers as are or may be by law required to be appointed by the President by and with the advice and consent of the Senate, shall be made from those persons who shall have been found best qualified for the performance of the duties of the offices to which such appointments are to be made, in open and competitive examinations, to be conducted as herein prescribed.

SEC. 3. *And be it further enacted,* That there shall be appointed by the President, by and with the advice and consent of the Senate, a board of four commissioners, who shall hold their offices for the term of

five years, to be called the civil service examination board, among whose duties shall be the following:

*First.* To prescribe the qualifications requisite for an appointment into each branch and grade of the civil service of the United States, having regard to the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter.

*Second.* To provide for the examinations and periods and conditions of probation of all persons eligible under this act who may present themselves for admission into the civil service.

*Third.* To establish rules governing the applications of such persons, the times and places of their examinations, the subjects upon which such examinations shall be had, with other incidents thereof, and the mode of conducting the same, and the manner of keeping and preserving the records thereof, and of perpetuating the evidence of such applications, qualifications, examinations, probations, and their result, as they shall think expedient. Such rules shall be so framed as to keep the branches of the civil service and the different grades of each branch, as also the records applicable to each branch, distinct and separate. The said board shall divide the country into territorial districts for the purpose of holding examinations of applicants resident therein and others, and shall designate some convenient and accessible place in each district where examinations shall be held.

*Fourth.* To examine personally, or by persons by them specially designated, the applicants for appointment into the civil service of the United States.

*Fifth.* To make report of all rules and regulations established by them, and of a summary of their proceedings, including an abstract of their examinations for the different branches of the service, annually, to Congress at the opening of each session.

SEC. 4. *And be it further enacted,* That all appointments to the civil service provided for in this act shall be made from those who have passed the required examinations and probations in the following order and manner:

*First.* The applicant who stands highest in order of merit on the list of those who have passed the examination and probation for any particular branch and grade of the civil service shall have the preference in appointment to that branch and grade, and so on, in the order of precedence in examinations and merit during probation to the minimum degree of merit fixed by the board for such grade.

*Second.* Whenever any vacancy shall occur in any grade of the civil service above the lowest, in any branch, the senior in the next lower grade may be appointed to fill the same, or a new examination for that particular vacancy may be ordered, under the direction of the department, of those in the next lower grade, and the person found best qualified shall be entitled to the appointment to fill such vacancy: *Provided,* That no person now in office shall be promoted or transferred from a lower to a higher grade unless he shall have passed at least one examination under this act.

*Third.* The right of seniority shall be determined by the rank of merit assigned by the board upon the examinations, having regard also to seniority in service; but it shall at all times be in the power of the heads of Departments to order new examinations, which shall be conducted by the board, upon due notice, and according to fixed rules, and which shall determine seniority with regard to the persons ordered to be examined, or in the particular branch and grade of the service to which such examinations shall apply.

*Fourth.* Said board shall have power to establish rules for such special examinations, and also rules by which any persons exhibiting particular merit in any branch of the civil service may be advanced one or more points in their respective grades; and one-fourth of the promotions may be made on account of merit, irrespective of seniority in service, such merit to be ascertained by special examinations, or by advancement for meritorious services and special fitness for the particular branch of service, according to rules to be established as aforesaid.

SEC. 5. *And be it further enacted,* That said board shall also have power to prescribe a fee, not exceeding five dollars, to be paid by each applicant for examination, and also a fee not exceeding ten dollars, to be paid by each person who shall receive a certificate of recommendation for appointment or for promotion, or of seniority, which fees shall be first paid to the collector of internal revenue in the district where the applicant or officer resides or may be examined, to be accounted for and paid into the Treasury of the United States by such collector; and the certificates of payment of fees to collectors shall be forwarded quarterly by the commissioners to the Treasury Department.

SEC. 6. *And be it further enacted,* That said board shall have power to prescribe, by general rules, what misconduct or inefficiency shall be sufficient for the removal or suspension of all officers who come within the provisions of this act, and also to establish rules for the manner of preferring charges for such misconduct or inefficiency, and for the trial of the accused, and for determining his position pending such trial.

SEC. 7. *And be it further enacted,* That any one of said commissioners may conduct or superintend any examinations, and the board may call to their assistance in such examinations such men of learning and high character as they may think fit, or, in their discretion, such officers in the civil, military, or naval service of the United States, as may be designated from time to time, on application of the board, as assistants to said board, by the President or heads of Departments; and in special cases, to be fixed by rules or by resolutions of the board, they may delegate examinations to such persons, to be attended and presided over by one member of said board, or by some person specially designated to preside.

SEC. 8. *And be it further enacted,* That the said

board may also, upon reasonable notice to the person accused, hear and determine any case of alleged misconduct or inefficiency, under the general rules herein provided for, and in such case shall report to the head of the proper Department their finding in the matter, and may recommend the suspension or dismissal from office of any person found guilty of such misconduct or inefficiency; and such person shall be forthwith suspended or dismissed by the head of such Department pursuant to such recommendation, and from the filing of such report shall receive no compensation for official service except from and after the expiration of any term of suspension recommended by such report.

SEC. 9. *And be it further enacted,* That the salary of each of said commissioners, and the additional salary of the Vice President for performing the duties required of him by this act shall be \$5,000 a year, and the said board may appoint a clerk at a salary of \$2,500 a year, and a messenger at a salary of \$900 a year, and these sums and the necessary traveling expenses of the commissioners, clerk, and messenger to be accounted for in detail and verified by affidavit, shall be paid from any money in the Treasury not otherwise appropriated. The necessary expenses of any person employed by said commissioners, as assistants, to be accounted for and verified in like manner, and certified by the board, shall also be paid in like manner.

SEC. 10. *And be it further enacted,* That any officer in the civil service of the United States, at the date of the passage of this act, other than those excepted in the second section of this act, may be required by the head of the Department in which he serves to appear before said board, and if found not qualified for the place he occupies he shall be reported for dismissal, and be dismissed in the manner hereinbefore provided, and the vacancy shall be filled in manner aforesaid from those who may be found qualified for such grade of office after such examination.

SEC. 11. *And be it further enacted,* That all citizens of the United States shall be eligible to examination and appointment under the provisions of this act, and the heads of the several Departments may, in their discretion, designate the offices in the several branches of the civil service the duties of which may be performed by females as well as males, and for all such offices females as well as males shall be eligible, and may make application therefor and be examined, recommended, appointed, tried, suspended, and dismissed in manner aforesaid; and the names of those recommended by the examiners shall be placed upon the lists for appointment and promotion in the order of their merit and seniority, and without distinction, other than as aforesaid, from those of male applicants or officers.

SEC. 12. *And be it further enacted,* That the President, and also the Senate, may require any person applying for or recommended for any office which requires confirmation by the Senate to appear before said board and be examined as to his qualifications, either before or after being commissioned; and the result of such examination shall be reported to the President and to the Senate.

SEC. 13. *And be it further enacted,* That until the confirmation by the Senate of the commissioners authorized to be appointed by this act, the head of said Department is hereby authorized to appoint persons to perform the duties of commissioners temporarily, with the same powers and at the same rate of compensation as hereinbefore provided.

Mr. JENCKES. The proposition submitted to the House by the bill now reported is, in effect, that the Government shall adopt better means than it now uses for obtaining the services, in its subordinate offices, of the best talent it can obtain for the money it pays. The number of persons now employed by the Government in its civil service as officers exceeds not only the whole number of officers in the military and naval service, but also the total of the rank and file of both the warlike services. To these persons is intrusted the entire administrative business of the Government; they are the eyes and the hands of every branch of the service; they constitute the whole clerical force of the executive and administrative departments, the agencies through which the public lands are disposed of and the Indian affairs are managed; the commercial intercourse with foreign nations regulated; the execution of the postal system conducted. They control the issuing of pensions, patents, and land warrants; the examination and allowance or rejection of all accounts or claims against the Government; the collection and disbursement of all the revenues and public moneys. There are responsible heads to all these Departments, and chiefs of bureaus and of divisions responsible to the heads of Departments; but the work is done by the "interior officers," and the responsible heads and chiefs seldom do more than adopt the acts and ratify the examinations and conclusions of their subordinates.

#### SCOPE OF THE MEASURE.

When we consider the great number of these officers, the magnitude of the affairs intrusted

to their care, the importance of the faithful performance of their duties, and become aware that the life of the Republic depends upon the honesty, fidelity, integrity, and ability with which these servants of the people transact their business, we at once inquire why is it that some system has not been devised and put in operation by which the people can obtain the best talent in their service for the money appropriated for it? These administrative offices are the nervous system of the Republic, and through them its vital energies must be made known. Every one who has studied the political history of this country and of that from which its laws and customs have been derived can furnish his own answer to the question just stated. However each answer might be phrased, they would all concur in the great fact, that for the money it pays there is no Government in the world more poorly served than ours. Without elaborating the matter, the evidence taken by the committee proves, what every one believes, that these subordinate officers are appointed in the main from political or personal considerations, to which the qualifications of merit, integrity, skill, fidelity, and patriotism are compelled to yield. If any one were to undertake to devise a system by which the greatest amount of inexperience and incompetency should be brought into the public service, he could not invent one which would supersede the present in that bad eminence.

#### SUCCESS IN OTHER COUNTRIES.

This subject attracted the attention of thoughtful men long before it was acted upon in any of the western civilized nations. Boswell, in his life of Johnson, records the following conversation a hundred years ago:

"Sir Alexander [Macdonald] observed that the chancellors in England are chosen from views much inferior to the office, being chosen from temporary political views.

"Johnson. Why, sir, in such a Government as ours no man is appointed to an office because he is the fittest for it; nor hardly in any other Government, because there are so many connections and dependencies to be studied. A despotic Power may choose a man to an office merely because he is the fittest for it. The king of Prussia may do it."

This result has been achieved not only in Prussia, but, so far as regards the minor offices, in England also; and the success in these Governments is so great and so beneficial as to encourage the attempt to obtain the same end in our own. The science of government is progressive; and statesmen should not overlook the fact that great discoveries have been made in the laws that govern nations, as well as in those of nature, and that improvement and development are common to both.

#### LEADING FEATURES OF THE BILL.

As the evil which the bill now reported is designed to remove is of such great magnitude, so the remedy for it is thoroughly radical, in the best sense of that word. It does away with all personal influence; bribery of all kinds, either by personal recommendation or political reward, becomes impossible. It destroys all political or personal patronage. Zeal in pushing the claims of a friendly politician is not admitted to be evidence of fitness for an appraiser's place in a custom-house. Activity at primary meetings or in party conventions is not to be considered conclusive evidence of fitness for handling the people's money. Skill in using money at elections is not to be deemed the best proof of capacity for collecting the revenues. Vigilance in canvassing registration or alertness in challenging voters at the polls will not weigh much in favor of an applicant for a clerkship in the Pension Bureau or in the Quartermaster General's department. In short, the bill proposes a means of discovering the absolute fitness of the person desiring to enter the public service for the particular branch of the service to which he wishes to devote himself.

The bill does not exclude or interfere with the constitutional power of the heads of Departments to make appointments to their subordinate offices. It limits that power to selections from a class of persons whose fitness for such employment shall be decisively

ascertained. In the Army and Navy such questioning is had, not only at the outset, but at each stage of the novitiate's career; and the beneficial result is shown in the great names that have illustrated each branch of the warlike service. But what renown has ever blazoned the name of any person who has entered and continued in the subordinate civil service of the Government? Vital as the efficiency of that service is to the conduct of the Government, who seeks employment in it from motives of patriotism, who enters upon it as a career, who, when once engaged in it, feels that his place is as sure as his merit?

#### PRESENT VICIOUS MODE OF APPOINTMENT.

I might multiply these questions, to which none but disheartening answers could be given. To make the subject more clear take a single custom-house as an example. Each considerable custom-house has three officers of presidential appointment, the collector, the naval officer, and the surveyor. Each of these must receive confirmation from the Senate. We will admit that none but competent persons can pass that ordeal. But in the great majority of cases the men who receive these appointments have not received the education, and have not had the experience to qualify them for the performance of the duties of their offices. But suppose them to be capable of learning and to have learned the duties of their offices, for the performance of all these duties they are entirely dependent upon their subordinates; and each and all of them are, under the law, to be appointed by the Secretary of the Treasury or by the collector of the port. It may be assumed that both the Secretary and the collector are politicians, and prefer to have their political friends in office; and that under the custom that has prevailed since President Jackson's time, they will strain some points in favor of their friends. The result is that the collector is an autocrat, so far as concerns the appointment of all his subordinates. A very pleasant thing for the partisans of an Administration in power; but how does the Government fare under such a system? How are the revenues collected by which the more direct taxes upon the people are lightened? Let us see.

#### ITS EVILS ILLUSTRATED.

In the theory of the revenue laws every ship entering any one of our ports is, with her cargo, in the custody of the revenue officers until the duties upon all dutiable goods in her cargo are paid or secured according to law. The surveyor of the port and his subordinates first take possession of the ship and cargo and hold possession or supervision of them till the duties are paid or the goods are deposited in the bonded warehouses. All the dutiable goods that enter the ports of the United States are for at least twenty-four hours in the charge of these subordinates of the surveyors of the customs. And the evidence which the committee has taken shows that these subordinates are the creatures of the collector, almost uniformly politicians of the lowest grade, appointed to these posts of inspectors and night watchmen for their political services at ward or primary meetings, and too often from their relationship to prominent politicians, and that, with here and there a rare exception, they have no peculiar fitness for the duties they undertake or skill in the performance of them. They are liable to be removed and persons wholly inexperienced appointed in their places at any moment. So prevalent has been the propensity to make changes within the last two years that some surveyors testify that they do not know at the close of one day what men their force will be composed of for the performance of their duties on the next. During every night, in every port and at every wharf in the United States, every cargo of dutiable goods is, theoretically, in the charge of these inspectors and night watchmen. Imagine a steamship with a cargo which ought to pay a million in duties lying at a wharf patrolled by one of these inspectors just appointed for his meritorious services in some local election where

money had been freely used to control votes; or a fraudulent invoice submitted to the scrutiny of a clerk who had obtained his office as a reward for his skill in disposing of the same corruption fund. Why should smuggling be resorted to at out-of-the-way places when it can be accomplished at little risk or cost by some gentle persuasion upon these vigilant servants of the country? Now and then the really vigilant revenue officers make a seizure of some smuggler's goods among the bays and inlets of the intricate sea-coast of Maine, or along the northern frontier, or the vast coast line of the Gulf; but in the great ports a steamer's cargo can be run through in safety; not the entire cargo of any one ship, but enough of the cargoes of all the steamships in port to make the cargo for one. It was testified before the committee that on two occasions of inspection less than half of the inspectors and watchmen on the Hudson river side of New York were at their posts, and that when roundsmen were appointed to look more closely after these delinquents, one was waylaid and mortally beaten after he had made reports of their absence from their stations, and another by a similar assault was made a cripple for life.

#### HOW THE GREAT FRAUDS ARE ACCOMPLISHED.

The bold operator in contraband goods chargeable with high duties does not use the low schooner, or many oared boat of the traditional smuggler, but sails or steams boldly into the large ports, and watches for or buys his opportunity for landing them. When the slave trade was profitable the slavers were fitted out in the port of New York. The great highway robbers of the present day do not waylay travelers on barren heaths or along lonely highways as in the olden time, but they pounce upon their game amid the crowds that throng Wall street, or at the bank counters and in brokers' offices in that neighborhood, where people, with money in their hands or pockets, are constantly going and coming. The whisky excise is not materially diminished by the product of small stills in unfrequented places, in the swamps or among mountains, but the great illicit distilleries are found intrenched in the compact portions of large cities, and they have recently been found so strongly fortified in some places in and near the city of New York, and so well defended, that they have had to be taken by assault. So, the great frauds and thefts upon the customs' revenue are accomplished in the great ports; and now that the importation of certain articles which are charged with high duties has fallen almost altogether into the hands of foreigners, who never intend to become citizens of the United States, and who owe no allegiance to and have no respect for our Government, but consider it a legitimate object of plunder, the wonder is that we collect as much revenue as we do on that class of articles. The ingenuity of this class of smugglers almost surpasses belief; but the great fact of the existence of this smuggling, which causes a loss of millions annually to the Government, is fully proved. And the evidence warrants my saying that this great amount of smuggling could not be accomplished without connivance on the part of some of the officers of the Government.

#### EVIL EFFECT OF THIS SYSTEM ON EMPLOYÉS.

The report will show some of the curiosities of the business. We do not seek to disguise the cause of the inefficiency (to use the mildest term) of these officers. They are all appointed upon political or personal grounds, and as their tenure of office is insecure, and they may be removed at any time without previous notice and without cause, they do the least they can to earn their salaries. To use a favorite phrase with them, they "make the most of their time." Indeed, if any one should prove faithful and vigilant, and not only see that persons dealing with the Government act fairly, but also report any delinquencies of their fellows, their tenure of office would be more insecure, and any reputation of such fidelity to the Government would



be the occasion of their removal. One of the worst, if not the very worst, feature in the present condition of the service is that good and faithful officers are unwilling to testify as to what they know of the "irregularities" (to use the fashionably mild term) of their associates. For there are many good and faithful servants who do the work of these unfaithful politicians. Men of character, of families, of long service, who have been unwilling to have their names go upon the record as witnesses to the faults of their associates, lest they should be immediately dismissed by their superiors, or lest their places should be made so uncomfortable by their "irregular" associates, that they would be compelled to resign. Nothing has impressed me more with the rottenness and corruption of our present want of system than the tears of these old and faithful servants, who begged that they might not be placed upon the record as witnesses to the faithlessness of their associates, and that it might not even be known that they had been called to be witnesses. Nothing but the assurance of secrecy and the protection given by law to persons giving such testimony, could procure us evidence of how the people were being plundered instead of being served.

The testimony with regard to the inefficiency of the internal revenue service comes from so many other sources that it is not necessary to state the substance of the evidence taken by this committee. The report collates it into a clear result.

#### NO ENCOURAGEMENT FOR FIDELITY.

Under the present practice all of these inferior officers, many thousands in number, are appointed by some superior officer, and their tenure of office, as well as their appointment, depends entirely on his will and pleasure. With few exceptions all these officers are well paid for the services they render, but with rare exceptions they do not render the services of which they are capable. One report says of these politicians who are quartered upon our customs that they consider the custom-houses as "eleemosynary institutions where the faithful can be at rest." Another speaks of a clerk in one of the Departments, (appointed upon the urgent solicitation of a member of Congress,) who was reminded from day to day that his work was not an equivalent for his salary. "Work," said he; "I worked to get here; you surely do not expect me to work any longer." All speak of the inefficiency of persons so nominated. And all of this vast army of persons in the civil service, more than twenty thousand, excluding postmasters, live and perform the semblance of working, under that anomaly, that great solecism in our republican institutions, that curse upon him that gives and him that partakes, partisan patronage. It works not only a blight upon those who become bound by its toils, but it repels the ingenious youth, who would, if the field were open, gladly compete for places in the public service. A person who gains a place under this practice has no inducement to excel in the performance of his duties. His place may be taken to-morrow for some more powerfully-backed competitor; nay, his very excellence may be a reason why his less industrious companions should urge his removal. But all, the excellent—and there are many of them—the incompetent, the lazy, the vicious, the unworthy—for such are to be found in the service—all work or pretend to work under the blighting influence of favor and patronage. To those who in arms serve the Republic a glorious career and great rewards are open; they serve in the eyes of their superiors and of the nation, and when success crowns their skill and daring, some ray of glory falls upon their swords and some reward or the sure promise of it makes lightsome their arduous services. Their exploits are the theme of the orator's eloquence, and their names the people delight to honor. But to the poor drudge in the civil service there never comes one ray of hope; glory and honor are never named to him; fame and fortune do not lure him to his daily toil; and he is not even sure of the daily toil which

will bring to him and his family daily bread. He is but a hanger-on upon fortune and favor; no career is open to him; no incentive to noble or even faithful action. He may at any moment be disgraced without cause, and with the highest merit be turned adrift to starve. No service that he can perform is distinguished by public notice; no report ever gives his name to be honored by his countrymen; his lifetime is a dreary routine of drudgery; his career unknown to fame, his death unnoticed. How, then, can we expect virtue and fidelity among our civil servants? We may well apply the indignant query of the Roman satirist:

*Quis enim virtutem amplectitur ipsam, Præmia si tollis?*

What hope of faithful service if it is to be without honor or reward?

It is not to be denied that this disease has penetrated every part of our political system. Unless it is thoroughly eradicated it must end in political death. This Government cannot be carried on so long as those who receive the people's money are studying how little they can render for what they receive, instead of giving the most they are capable of to the people's service. And it is doubtful whether this Government can endure many changes of administration when fifty thousand persons, more than the entire *personnel* of the Army and Navy, are liable to be dismissed from the public service for mere opinion's sake. Such shocks are like the repeated explosions of ordnance, which must, sooner or later, end in the disruption of the firmest metal.

#### NECESSITY FOR MAKING THE CIVIL SERVICE RESPECTABLE.

Every law requiring service originates in some necessity of the Government, and it must be so framed as to provide sufficient motive power for its execution. No such energizing element is infused into any of our statutes governing the civil service. Not even the quality of respectability is bestowed upon our civil servants. A certain degree of suspicion, of distrust, of depreciation, even though it be born of prejudice, is suffered to remain over all of them. There is not sufficient requirement of discipline, or encouragement of emulation, to create an *esprit de corps*, in any department of this service. Indeed, it would seem that by a system of studied depreciation of each other, the officers of each branch and grade of the civil service were striving to cultivate their own dishonor. They congregate or separate according to their partisan affinities; and cultivate no patriotic feeling in common as servants of the Republic. Social standing and consideration by reason of such employment is not thought of by any one of them. The Administration is always saying, in effect, to each of its civil servants, "Your skill, your experience, your long and faithful service are as nothing to us; we can discharge you to-morrow, and at once find a hundred others who will answer our purposes as well." Each one thus suffers a standing discredit. His place is due to accident, and gives him no title to respect. It implies, rather, a damaged reputation and a character that can be tampered with. A tide-waiter can be nothing more, nor is he sure of even being that, although he proves to be the most faithful and capable of tide-waiters. If he does not bury his talent himself, it is buried for him, and his possible skill in making usance by it can avail him nothing. No grades, no promotions, no hopes, no honors, no rewards, are open to the most faithful, diligent and honest officer, and while the incentive to excellence in service which these might give is wholly lost, his office itself gives him no character or social position. But if by merit and fidelity the tide-waiter can win the higher places in the customs, his place, himself, and the service itself, acquire respectability. The cadet of either of the warlike services has a prestige in this regard over even the higher grades of the civil service. All doors may be open to him, for his uniform is evidence of his education, character, and of an opening career. Although the lowest subaltern, he may become a general or an admiral. A lieutenant or an ensign has

a standing in society, by virtue of his being in the service of the Government, but there is no element of respectability in the service of a clerk, inspector, or special agent, which would entitle him to be recognized, even by a member of Congress. I cannot believe that the reason of this is that the civil service is in itself less worthy of respect than the military, but it is not because the element of honor, which is inherent in the one, has not hitherto been added to the other? All serve alike under the flag, and while the glory cannot be equal, no discredit should be cast on either class of public servants by reason of their service.

We propose to lay to the root of this great corruption not only the ax but the spade, and to leave neither seed nor succulent root of these vicious practices. As a general rule it may be stated that very few candidates for the public service have presented themselves who have succeeded in other business. Not that this rule is universal, or, if universal, that it has not provided the Government with many good officers; but every one knows that men who prosper in the active business pursuits of life are seldom candidates for Government offices. If any young man in a family of influential political connections has not shown sufficient talent to justify the belief that he can earn a living in business, or in any of the learned professions, or if any one who has not succeeded in the career which he may have chosen, happens to have political friends, we are quite sure to find his name mentioned as being a suitable person to fill some Government office. The appointing power has too often yielded to such solicitations. Men of this negative reputation for talent, whose indolence, indecision, and want of character, or whom even positive vice, have disqualified for success in the open competition of life, seek and obtain shelter under Governmental patronage.

#### BETTER RECRUITS TO BE OBTAINED FOR THE SERVICE.

While giving credit to the ability, the integrity, and the patriotism of many whom we find in the public service, how can we prevent the ingress of the ignorant, the incompetent, the indolent, the corrupt, the vicious, and the positively criminal? How can we dislodge those of these classes who have already secured places in the service? They seem to feel themselves safely intrenched, so as to defy attack. The pressure of the investigations authorized by this bill will dislodge many, but the certainty of the remedy is in its future application. The new system will not admit of recruits to the public service from any of those classes of persons. The service is to be supplied from the educated, earnest, patriotic, and ingenious youths among the American people. We propose to cleanse the stalls of political corruption, as the stable of the Grecian king was said to have been cleansed of old. The pure, fresh stream of a river turned from its course washed away the unclean accumulations of a generation; and we now propose to turn into our Augean stable the vigorous, uncorrupted life of the youth of America, and, when the corruptions are swept away, to open to it a career in which the patriotic heart can take pride. We cannot expect this proposed change of system to become at once a perfect success. Many will become stained in contact with the existing corruptions and fall dishonored and disgraced; many more will become appalled and disheartened at the task they have undertaken, but their places will be filled with better and braver men, whose final triumph will be assured and certain. Many who listen to me have seen our brave youths by hundreds fall in their assaults upon the fortresses within which the enemies of the Republic have stood intrenched. And so in the renovation of the public service many will go down and perish morally in the attempts to overcome by assault the Vicksburgs, the Port Hudsons, the Fort Fishers of our customs and revenue departments, where the thieves and their associates now sit intrenched and feel secure.

But this stream of vigorous, honest manhood will soon cleanse and reinvigorate the

service of the Republic. The intelligent and patriotic youth who have aspired to serve their country have never yet had a fair chance. The class of men who seek these offices, and the mode by which they attain them, is well known to us. And one of the great vices of the present practice is that few besides persons of such exceptional description can hope to gain these appointments. There must be some political associations, some service rendered by the applicant or his friends to the party of the Administration, and perhaps some personal and social relations combined with the political to enable the applicant to obtain even a hearing. Every one of us knows the characteristics of these mendicants for office. It is not necessary to picture them by description. It is enough to know that it is not with such persons that the business of the world is to be accomplished. Never have the young men of the country or the faithful and deserving soldiers had an opportunity to have their merits for the public service considered. - What chance has the intelligent son of a mechanic who has shown signs of promise at the free schools, or of a farmer in Illinois or Kentucky, who has gained a knowledge of business in the intervals of toil, to get into the public service? None whatever, unless he consents to learn and perform all a politician's tricks, or to seek the aid of those accomplished in such arts. He must in some degree lose or seem to disregard a character for integrity, straightforwardness, and manly, upright conduct before he can be acknowledged as a suitable candidate for office. All the qualities that would make a good officer he must in some way have seemed to have lost. Perhaps not an inapt training for the melancholy service they enter upon, but it is not one that is sure to produce good public servants.

It is proposed to change all this. The entrance to the public service is to be thrown open to all. The intelligent son of the mechanic, the hopeful child of the family of the farmer, the young soldier, the youth of talent from any sphere of life, and from every part of the country, may boldly and freely enter the presence of the examining officers and require them to test his fitness for the Government service. Personal, social, or political influence, patronage in all its corrupting forms, can no longer introduce their favorites and push back the poor and worthy, unknown and unfriended, at the doorways. Qualification and merit, equal and exact justice to all, are what we are to seek and to do. *Palmas qui meruit ferat* should be, and I hope I may be able to say shall be, the motto of our service. Let every smart boy in the country know that he has a fair chance for employment under the Government and we shall soon have a different class of servants from those into whose hands the public business has now fallen. Under the proposed system the interest of the Government will be identical with that of its servants; its protection and assurance of employment will cause its service to be one of pleasure and not of pain and anxiety; its honors and rewards will make it a service of love and not of unappreciated toil. He will hold an assured position under the Government, which his superiors must recognize with the same respect that he yields to the experience and ability by which they hold their higher places.

#### PROPOSED REFORM DESTROYS BUREAUCRACY AND PATRONAGE.

It has been most strongly objected to this salutary reform that it is in its tendency bureaucratic, exclusive, aristocratic, and that the system was formed under monarchic institutions. Nothing could be said more calumnious. It is our present system that is borrowed from that of monarchies, and gives us the will and choice of the person having the appointing power, and not merit, as the passport to office, as under monarchies the king is the fountain of honor and the giver of employment. No measure could be more republican than that which we now present. The gates of the avenues to the public service are thrown open to all. Merit only can enter, and merit only

can keep its place. No head of a bureau or even of a Department can protect his favorites or keep his friends or partisans in comfortable sinecures; no collector of the customs can play the autocrat in his little demesne. The whole service will be alive to its responsibilities. It will be part of the duty of an officer to see that every other performs his. No customary derelictions will be permitted to demoralize the service, and no local peculiarities to interfere with the unity of performance of duty.

In monarchic Governments, with hereditary aristocracies, where allegiance is due to the crown, and the great houses are the bulwarks of the throne, patronage, through which alone the children of the people can enter the public service, is a natural if not a necessary element of administration. In the theory of those Governments everything depends from the throne, descending through every social and political relation, until the chain ends before the people are reached. No one can ascend within the charmed circle except through the influence or patronage of some one of the privileged classes, and the gratitude of those who receive these favors, and the hopes of those who expect them, tend to strengthen the Government amid all changes of administration. Those who have attained official position feel secure, while those who seek it continue to cultivate the favor of the reigning favorites and governing families. But here, where the Government is of the people and for the people, and the administration should always endeavor to carry into effect their will, as expressed at the polls and through the laws, in the best and most effectual manner, this system of patronage is not a mere solecism, but a positive evil. It reverses the whole theory of popular government. That Government should be administered for the benefit of the whole, with the best instruments, at the least expense, without regard to the interests of any classes or class, or of persons or partisans. Yet we see at every change of administration over fifty thousand persons removed from office to make way for others of a different partisan creed, every one of whom will owe his appointment to something other than personal merit. And again all these are liable to be removed, and a similar class of successors appointed at the next change of party. If patriotism ever prompted the desire for office such a system would tend to eradicate that sentiment. It tends to weaken all the obligations of society for the purpose of strengthening a mere party; it elevates private interests above the welfare of the State; it tends to disintegrate the political fabric; and at last, as we have felt in our bitter experience, it destroys allegiance itself. That element which invigorates a monarchy corrupts the life of a republic.

#### THE NEW DEPARTMENT TO BE MADE FIRM AND STABLE BY HAVING THE VICE PRESIDENT AS CHIEF.

But I hear the question that arises in the minds of all that listen to me: how can the result you promise be accomplished with such machinery as Congress can create? How can a mere board of commissioners, a bureau, stand at the door of all the Departments and say who are sufficiently qualified to enter into the public service therein? How can a combination of the appointing officers be prevented which would crush such a subordinate, though independent, bureau? What is to prevent your statute from becoming as dead a letter as the provisions of the act of 1853 requiring the examination of all candidates for clerkships?

The objection is a grave one, and has deserved and received serious deliberation. It has been met by the proposition contained in the bill as reported, to create a new and independent administrative department which shall have charge of the business of selecting the candidates for these offices, whose head shall be the Vice President of the United States. So grave, so important, and yet so delicate are the duties of those charged with this selection, that it has been deemed best to place them under the protection and sanction of this great office. No Department can feel humiliated at receiv-

ing its novitiates with certificates from the ordeal of a trial department of which their superior is the chief. And it is time, and we believe that this is the occasion for causing this officer to perform some useful functions in this Government. The presidency of the Senate, as the sole duty of this officer, is rather by way of diversion and ornament than of usefulness; and no man's self-respect is heightened by feeling that his only importance in the Government is, that while he holds the second office in the Republic, his single title to respect is in the fact that by fatal accident to the first officer he will accede to the first place. A distinguished citizen, the grandson of a Vice President and President, and the son of a President, and himself once, and perhaps hereafter again a candidate for the office of Vice President, has written that no office could be so easily lopped off and dispensed with in our Government as that of the Vice Presidency. Madison called it an "unprofitable dignity," and Jefferson, when he accepted the place, did not attempt to disguise his contempt for its insignificance in every respect except that of being the stepping-stone to the first place in the Republic.

Once when President Washington started upon his tour through the southern States in 1791, he requested the Vice President to attend and to preside at the Cabinet meetings that might be held in his absence, and this was the first and has been the last recognition of the Vice President as a possible adviser of the President, or of having any right to take part in the Administration. Although elected upon the same ticket as the President, and thus committed to the policy of the presidential administration, and in case of the succession, presumed to intend to carry it out, he has been excluded hitherto from all voice in shaping that policy, and except in the instance cited has never been admitted to the council board. We have had sufficiently severe lessons of the impolicy and injustice of this course; and although this bill does not give him the right to a seat in the Cabinet, yet it adds weight to the reasons why he should be invited to become a member of that council. It will also have another important effect. It imposes upon the incumbent of that office some of the gravest and most delicate duties in the administration of this Government. The people, and their representatives in the nominating conventions, will be careful to whom they offer the chance of election to this high office. They will not throw it away, as at many times hitherto, to a mere chief of a faction, whose disaffection the party may desire to conciliate; nor to a neophyte, nor to a renegade, nor to an apostate, whose nomination may divide the adversary. But they will find it to their interest to nominate a person qualified not only to administer the mild rules of the Senate, but also to preside in trials for impeachment, and have the learning and experience in administration which will qualify him to be the chief of the department of the civil service, and not only to select the best candidates for that service, but also to try with justice and impartiality all the cases that may arise whereby any of these subordinates may lose their places. Not the least of the advantages of the proposed measure is that the people may obtain candidates for the Vice Presidency of a higher grade of talent and character than many that they have been compelled to vote for or against heretofore.

#### ECONOMIC CONSIDERATIONS FOR THIS REFORM.

But the economic considerations for this measure are the main grounds upon which it is urged by the Committee of Retrenchment. What has been said is but the repetition of axioms. All will agree that good servants in office are more desirable than poor ones; that the good are more likely to be obtained by care in the selection; that a wise choice and judicious approval will secure the fit and reject the unfit; that such means of choice with beneficial results are attainable; and that a system thus constructed and operated is better than the no system which we now have. But, every one will ask, how about the cost of

it? Will not the expense increase with the admitted benefit, and the proportion be the same in the end? To these questions we are prepared to give explicit answers. And these answers are based not upon conjecture, or inference, or concurrence of opinion, but upon the direct and positive testimony of the greater number of the chief officers in the civil service. The preponderance of evidence in favor of the proposed reform is so great that there can hardly be said to be a minority.

The committee have received reports from four hundred and forty-six (446) officers confirmed by the Senate, in all branches of the civil service, whose subordinates within the operation of this act number twelve thousand eight hundred and nineteen, (12,819;) and of these officers, three hundred and sixty-two, (362,) having eleven thousand five hundred and sixty-one (11,561) subordinates, express themselves decidedly in favor of the proposed reform. Of the residue, twelve (12) officers, having one hundred and forty-three (143) subordinates, express a decided opposition to it, and the remainder either do not answer the vital questions at all, or answer them evasively, or express the opinion that the proposed measure would be either inapplicable or ineffectual in their districts. This minority consists chiefly of postmasters in small towns and collectors in decayed ports or in internal revenue districts which yield an insignificant revenue. Wherever the business of the Government is large there is a call for active, energetic, intelligent men for these subordinate offices, and the measure is favorably considered.

It is a pleasure, also, to recognize in their reports the uniform and unqualified testimony in favor of the female employés of the Government. This bill proposes to give them an assured position in the service, and all who testify upon the subject agree that their numbers may be increased under the proposed system with profit to the Government. These reports show that they are diligent in the performance of their duties, and that they are not speculators or thieves. In the grades of offices to which they have been assigned, as an experiment and upon sufferance hitherto, there are no more honest, faithful, and capable persons in the service.

The answers to the questions submitted by the committee support the propositions in every view, and especially in the economic. We can state the result of this evidence in the brief proposition, that by adopting this system the Government can obtain double the amount of the present service at two thirds of the present expense. The immediate cost of the staff of the new department is but a trifle to the great saving to be achieved by the proper performance of their duties. The losses by defalcations which this system would prevent have been annually hitherto more than tenfold the proposed cost of the entire department. Besides, the fees prescribed for examinations and certificates will make this department nearly, if not quite, self-sustaining. But the great saving will be in the increase of the collections. If this Government had its dues the national debt would soon be extinguished. Why is there a deficit of tens of millions in the tax on spirits? Why is it that whole cargoes elude the customs? Why is it that smugglers are the chief importers on our extended frontier? It may as well be admitted and stated in sharp popular phrase; the smugglers are too smart for the revenue officers. I omit here designedly the element of corruption, and assume that honesty is a quality of all the servants of the Government. But talent does not necessarily prefer unlawful courses to the lawful; and the design of this measure is to secure it on the side of the Government. It has been announced here by the highest authority, the chairman of the Committee of Ways and Means, that there are few frauds upon the internal revenue which are accomplished without the connivance of some official, and we now seek to make it the interest as well as the duty of every official to refuse such connivance, and to become wholly devoted to the service of the Government. Finance and revenue are being

developed into a science, and the fiscal service should become a profession. When competent men shall be trained to the assessment and collection of taxes and customs, and when it shall be made their duty to report the results of their experience to their departments and to Congress, the burdens of taxation may be more wisely apportioned; and, if not actually lightened, may be so distributed as to be less severely felt.

#### THE REFORM PRACTICABLE.

I do not fail to hear the scoffs of the enemies of this Government at the statement of these propositions. They affect to believe that virtue in the public service cannot exist. They are continually declaiming that the Government cannot collect the taxes on whisky and tobacco, nor the duties on articles of luxury. Their reason for their pretended belief, freely offered, is that the infirmity of human nature is such that it cannot resist the temptations to dereliction of duty offered by those whose interest it is to defraud the revenue. Oaths, they say, will not prevent this corruption; bonds will not furnish sufficient obligation or security; and this defiant boast has been almost warranted by the history of our civil service. Many have been the defalcations, and few the recoveries from sureties. Many have been the omissions to collect the Government dues, and few the removals in consequence. Thousands are now drawing their salaries from the Treasury who know that their delinquencies have cost that Treasury a hundredfold the amount they are paid. But is it so with the other branches of the public service? Who ever loads his declamations with cases of peculation among the officers of the Army and Navy? Who ever charges them with connivance at stealing? Who thinks of exacting bonds of an admiral, or sureties from the commander of a department? And why? Because their honor and the good of the service are one. The admiral of a fleet may disburse more than the collector of a port receives; but how different is the position of each in the national service! I desire to see the collector of a port or of a district raised to an equal position to that of a general or a commodore, but it can only be by introducing into the civil service the same *esprit de corps*, and the same element of honor, that dignifies and secures from reproach the service of arms.

In all revolutions, revolts, and civil commotions, from the most ancient times to the present, historians have remarked that the chief causes of these evils were to be found in the civil administration, and that the soldiers stood aloof until the necessities of the State required them to intervene. The cause for this has been found not so much in their discipline as in their patriotism; the State had made their service honorable, and their honor became a bulwark to the State. Even the imperial historian of our times has recorded that in the tumultuous period that preceded the fall of the liberties of Rome, as in those that preceded his own reign, honor and patriotism had fled from the civil service and were only to be found under the flag.

I have such faith in the intelligence and patriotism of the American people that I believe the result can be attained in the service and arts of peace as well as in those of war; and under the instructions of the committee I urge this measure as one great step to that desired end. When I say that we estimate the saving in the expense of the collection of the revenues at one half of the present cost, the total of which is fifteen millions annually, and that the additional amount that can be collected from the subjects of taxation proposed to be retained by the Committee of Ways and Means is at least fifty millions in the internal revenue and twenty-five millions in the customs, and that we have the evidence to show that our estimates are within the mark, it will need no figures of speech in addition to these figures of arithmetic to commend to our heavily-taxed constituents the merits of the measure we propose.

To insure complete and immediate success it would be necessary to expel all the thieves at once from the public service. This must be a work of time. The thieves infest every department. They are to be found in the small post offices as well as in the great custom-houses. They are like the trichinæ in the animal system, not only injurious when first introduced, but capable of infinite reproduction to the danger of fatal results. There is no branch of the service where they are not to be found, and their example is so contagious that honesty becomes the exception instead of the rule. There is no cure but one for such a disease. No new pests must be introduced. Those who have effected a lodgment may be killed or excised. The honest and intelligent young men who will enter the service will soon drive out many who are lazy and corrupt, by exposure of their delinquencies. We may not even be without the hope that some of the thieves may be transferred from the custom-houses to the penitentiaries. But prevention is the only sure cause of cure. While the doorways are thrown open to all comers, let the preliminary ordeals and the subsequent probations be such that the incompetent and unworthy shall all be turned back. When that result can be accomplished every citizen will feel that his property, and even his liberty and his life, will be more secure.

#### THE MEASURE ENTIRELY IN HARMONY WITH REPUBLICAN INSTITUTIONS.

In short, Mr. Speaker, this measure is intended to complete and perfect the great idea of the Republic. Before the people, for every elective office in which conformance to the policy of an Administration is a qualification, there is always an open competition. The people judge of the qualifications of every candidate for political office, and decide, for the time being, peremptorily. The officers so elected by the people are accountable to the people, and their supervision is constant, severe, and, in the main, accurate. But, with regard to administrative officers, the aids of the people's servants, there is no such criticism, accountability, or judgment. It is proposed to create a tribunal which shall accomplish all that could be attained from the wisest popular judgment. When this shall be done the idea of the Republic will be complete; the people will elect to political office those with whom they are best satisfied, and will secure in the administrative offices the services of the best talent and the highest integrity and patriotism they can obtain. Certainly the result is to be desired; and the proposed measure may prove to be the means of securing its accomplishment.

#### NOT OF A TEMPORARY OR PARTISAN CHARACTER.

It is not urged as a measure of temporary expediency, or to promote any partisan interest: its purpose is to place the administrative departments of this Government in the hands of skillful and honest men, and thus to renew the health and life of the Republic. Above all others, it is a measure *ad firmandam rempublicam*. The structure of our Government is satisfactory to all, and whatever difference of opinion there may be about the first proposition in the well-known couplet respecting the forms of government, we can all agree, granting us the Republic, upon that expressed in its last line:

"That which is best administered is best."

I now move to postpone the further consideration of the bill till Wednesday, the 3d day of June, after the morning hour.

The motion was agreed to.

Mr. JENCKES. I now move, in accordance with the request of my colleague on the committee, [Mr. BENTON,] to recommit the bill.

Mr. HOLMAN. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at five o'clock and fifteen minutes p. m.) the House adjourned.



## PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ELA: The petition of J. T. Elliott, of the eleventh Michigan volunteers, for extra pay, due as a clerk in the department of the Cumberland.

By Mr. ELIOT: The petition of James G. B-nnett, jr., for change of name of the yacht l'Hirondelle to Dauntless.

By Mr. McCARTHY: The petition of J. W. Barker and 200 others, citizens of Syracuse, New York, asking for a reduction of the expenses of the Government to a peace basis, a corresponding reduction of taxes, and an adjustment of the revenue laws, so as to keep our gold and silver at home and give employment to the labor of the country.

By Mr. ROBINSON: The petition of the manufacturers of morocco in the cities of New York and Brooklyn.

By Mr. TWICHELL: A memorial of Beardslee Magnetic Electric Company, for claim as set forth in said memorial.

## HOUSE OF REPRESENTATIVES.

FRIDAY, May 15, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

## PERSONAL EXPLANATION.

Mr. HOLMAN. I desire to say that at the time the vote was taken yesterday on the motion to strike out the word "Alabama" from the bill proposing to admit that State with others to representation in Congress, I was called out of the House by a constituent and lost my vote. If I had been present I should have voted in the affirmative.

## ACTION OF THE MISSOURI DELEGATION.

Mr. WOODWARD. I rise to what I suppose is a question of privilege. I offer the following resolution:

Whereas a letter has been published purporting to be addressed by members of this House to a Senator from the State of Missouri, with a view of influencing his vote upon articles of impeachment preferred by this House against the President of the United States, and now pending in the Senate of the United States, sitting as a court of impeachment, which letter, as published, is as follows:

WASHINGTON, May 12, 1868.

SIR: On a consultation of the Republican members of the House of Representatives from Missouri, in view of your position on the impeachment articles, we ask you to withhold your vote on any article upon which you cannot vote affirmatively. This request is made because we believe the safety of the loyal people of the United States demands the immediate removal of Andrew Johnson from the office of President of the United States.

Respectfully,  
GEORGE W. ANDERSON,  
WILLIAM A. PILE,  
C. A. NEWCOMB,  
JOSEPH W. McCLURG,  
BENJAMIN F. LOAN,  
JOHN F. BENJAMIN,  
JOSEPH J. GRAVELLY.

Hon. JOHN B. HENDERSON, United States Senate.

And whereas such a communication, if addressed to a Senator sitting in judgment upon a President of the United States, is a gross breach of the privileges of the Senate, calculated to degrade the House of Representatives and to obstruct the course of public justice; Therefore,

*Be it resolved*, That a select committee of seven be appointed to inquire if the above communication has been addressed by members of this House to Hon. JOHN B. HENDERSON, and if it has, what is the legal character of the offense, and what penalty, if any, the House ought, in vindication of its own dignity, to inflict, as well as what provisions of law are necessary to prevent a recurrence of such wrongs, with power to send for persons and papers; and to report by bill or otherwise.

Mr. GARFIELD. I object to the reception of the resolution.

Mr. NEWCOMB and Mr. LOAN addressed the Chair.

The SPEAKER. The Chair is about to decide whether this is or is not a question of privilege. In the opinion of the Chair it is not a question of privilege. The wording of the resolution expressly shows that it is not. The charge is that this was an infringement of the privileges of the Senate. It has not yet

occurred, in the recollection of the Chair, that the House of Representatives has been recognized by the Senate as the protector of its privileges. If the privileges of the Senate are assailed, that body is competent to protect its own privileges; nor would the House consent that the Senate of the United States should assume to protect its privileges. The Chair, therefore, does not think that it is a question of privilege.

Mr. ELDRIDGE. There is another clause that—

The SPEAKER. Does the gentleman appeal from the decision of the Chair?

Mr. ELDRIDGE. No, sir; but I wish to call the attention of the Chair to another clause in the resolution; and if the resolution be modified it may then be a question of privilege. There is a clause of the resolution which says that the action of these gentlemen was calculated to degrade the House.

The SPEAKER. The Chair rules that it is not a question of privilege.

Mr. WOODWARD. I wish to say that I will modify the resolution by striking out the allusion to the privileges of the Senate. That is not at all essential to the purpose of the resolution. If that is the only reason why it is not a question of privilege I will strike out those words.

Mr. GARFIELD. I demand the regular order of business.

Mr. LOAN. I desire to say that all the communication had by the members of this House from Missouri with the Senator, so far as I am advised, was at his special instance and request, and that paper was signed at his instance and request.

Mr. ELDRIDGE. So much the worse.

Mr. NEWCOMB. That was the remark I was about to make.

The SPEAKER. The gentleman from Pennsylvania has modified the resolution by striking out what the Chair had supposed to be the most important part of it. The Chair is still of the opinion that it is not a question of privilege. From a hurried examination of the precedents to be found in the Digest, the Chair cannot see on what ground it could be held to be a question of privilege, unless it were "an alleged corrupt combination." But it does not appear that any corruption is charged in this case upon members of the House. As to the intercourse between members of the House and Senators, whether oral or written, the Chair cannot see that that properly involves a question of privilege, unless corrupt influences were used.

Mr. WOODWARD. Then I ask unanimous consent to offer that resolution for consideration at this time.

Mr. UPSON and others objected.

## ORDER OF BUSINESS.

Mr. GARFIELD. I call for the regular order of business.

The SPEAKER. This being private bill day, the first business during the morning hour is the call of committees for reports of a private nature, commencing with the Committee on the Judiciary, which committee is entitled to another morning hour. At the expiration of the morning hour on last private bill day the pending question was upon the engrossment of House bill No. 65, for the relief of William McGarrahan, reported from the Committee on the Judiciary. Upon this question the gentleman from Iowa [Mr. WILSON] is entitled to the floor.

## QUESTION OF ORDER.

Mr. WOODWARD. Will the gentleman from Iowa [Mr. WILSON] yield to allow me to propound an inquiry to the member from Missouri, [Mr. PILE?]

Mr. WILSON, of Iowa. I cannot yield now.

Mr. WOODWARD. I wish to inquire what that member means by his motions and gesticulations, which are worthy of the ring rather than of this House?

The SPEAKER. That language is certainly not parliamentary. If the gentleman

from Pennsylvania [Mr. WOODWARD] has any charge to make against a member of the House he must present it in the usual form. The Chair did not see what the gentleman complains of, and does not know what it was.

Mr. PILE. I intended no insult; nothing of the kind.

Mr. WOODWARD. The gentleman stood there making cabalistic signs. [Laughter.] As he belongs to a party that claims to have all the moral sense and decency of the country, I wish to inquire what he meant by standing on this floor, and, in the presence of the Speaker, making offensive gestures toward me?

The SPEAKER. If the gentleman has any charge to make against any member he must reduce it to writing and present it in proper form.

Mr. O'NEILL. I desire to inquire of the Chair if the remarks which have been made here by the gentleman on the other side go into the Globe as part of the debates and proceedings of this House?

The SPEAKER. They do. The gentleman from Pennsylvania [Mr. WOODWARD] rose in his place and claimed that the gentleman from Missouri [Mr. PILE] had improperly treated him. But the gentleman from Pennsylvania used language which the Chair ruled to be out of order. If he has any complaint to make against a member of this House it should be done in the shape of specific charges presented to this House for its action. The Chair will again say that he did not see the action complained of by the gentleman from Pennsylvania.

## WILLIAM MCGARRAHAN.

The House resumed the consideration of House bill No. 65, for the relief of William McGarrahan.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. The first section provides that the tract of land known as the Panoche Grande Rancho, in the State of California, granted by Governor Manuel Micheltona to Vincente P. Gomez in the year 1844, and by said Gomez conveyed to William McGarrahan on the 22d day of December, 1857, surveyed by the United States surveyor general for the State of California, and approved by him on the 11th day of September, in the year 1862, and which said survey is now on file in the General Land Office, be, and the same is, in all respects, hereby fully confirmed to said William McGarrahan, upon this condition, however, that the said McGarrahan shall, within twelve months after the passage of this act, pay into the Treasury of the United States the sum of \$1 25 per acre for the lands embraced within the said survey.

The second section provides that upon the payment of the said sum of money to the Treasurer of the United States by said McGarrahan, the said Treasurer shall give a certificate therefor, and upon the presentation thereof to the Commissioner of the General Land Office a patent shall be issued to said William McGarrahan for said lands.

Mr. WILSON, of Iowa. This subject was examined by the Committee on the Judiciary for several days and weeks. Eight members of the committee took part in the examination, seven of whom concurred in the report; one of them, my colleague on the committee, [Mr. BOWWELL,] did not concur in the report.

The Committee on the Judiciary, charged with the investigation of this claim, have devoted to it more time and care, I presume, than is usually extended to such cases. The case came before the Thirty Ninth Congress on the memorial of McGarrahan, asking for the confirmation of a grant made by the Mexican Government to one Vincente P. Gomez in the year 1844. Under the act of Congress of 1851, establishing a board of commissioners for the settlement and adjustment of land claims in California, this grant was presented before the commissioners by Gomez. After a hearing of the case the commissioners decided that

sufficient proof had been presented to establish the validity of the grant; but, inasmuch as no proof of occupancy or possession had been submitted, they decided against the confirmation of the grant.

The case was taken on appeal to the United States district court for California. Before it was heard in that tribunal, the celebrated *Frémont* case was decided by the Supreme Court of the United States, in which it was held that possession was not necessary to a valid claim. Thereupon the decision of the land commissioners was reversed, and a decree pronounced confirming the grant in Gomez. An appeal was taken to the Supreme Court of the United States, and at the instance of the present claimant, who, after the confirmation by decree of the Supreme Court, had purchased this grant from Gomez, a transcript was sent up to the Supreme Court, placed before the Attorney General, and upon argument he decided to ask the court to dismiss the appeal, which was done. Subsequently it was represented to the Supreme Court that there had been some fraudulent practices upon the part of the United States district attorney, and the mandate which had been issued by the Supreme Court to the district court of California in pursuance of the dismissal of the appeal was recalled. A considerable amount of difficulty was placed in the way of this claimant by the adverse parties—nominally the United States, but really a mining company—thus preventing the reaching of a conclusion in the case until the year 1866, when the Supreme Court decided not to dismiss the appeal which had been taken by the United States and ruled the case against the claimant, McGarrahan. He alleges (and the committee is entirely satisfied of the fact) that the case has never been properly before the court; that the court never has passed upon the case which has been submitted to the committee; and of this there can be no doubt upon an examination of the record. Hence he has made his application to Congress for the confirmation of his grant.

The committee, in view of all the circumstances and equities which have been developed in this case, have recommended the passage of the bill which has been read at the Clerk's desk, and which is to this effect: that the claimant be permitted to purchase the land embraced within the limits of the survey of the grant now on file in the General Land Office, at the rate of \$1 25 per acre, which will amount in the aggregate to \$23,040. The contesting party—really the New Idria Mining Company—claims to be permitted to enter under the act of 1866 certain portions of this land, embracing what there is of mineral, within the limits of the grant. If they should be permitted thus to enter, the amount which the Government would receive would be \$9,500; so that in point of dollars and cents, considering the worthless character of most of this grant, the advantage to the Government lies in the passage of this bill.

I have made a brief statement of the case. I will now yield ten minutes to my colleague on the committee, the gentleman from Massachusetts, [Mr. BOUTWELL,] who does not concur in the report of the committee; and I shall present in conclusion such argument as may be necessary on my part.

Mr. BOUTWELL. Mr. Speaker, it has happened in regard to this application that I have differed with the other members of the committee; and I wish to state very briefly the grounds on which my opinion is based. The mining occupancy involved in this case is undoubtedly of great value, ranking as third or fourth in value of the quicksilver mines that have been opened. This matter was fully investigated before the committee several weeks or months ago; and although I then formed an opinion as to the merits of the case, some of the facts have in the intervening time disappeared from my recollection, so that I may not now be able to recall all those which might be of interest in the discussion; but I can state to the House, if it will give me its attention for a

few minutes, the reasons which, in the beginning, controlled me in the opinion I formed adverse to the application of this claimant.

The Supreme Court of the United States, in the *Frémont* case, which has been the basis, to a large extent, of all subsequent decisions, held, as I understand the report of the case in 22 or 23 Howard, that where all the papers necessary to a perfect record title were found in the Mexican archives the possession of the estate granted by the Mexican Government is not indispensable to the recognition of the title by the courts of the United States. But that court in a subsequent case, the case of *Castro*, in 24 Howard, page 350, has laid down a rule which is applicable to the case under consideration, and which seems to me to be sound. As this rule is stated very clearly in the report of the case, I beg the attention of the House while I read it. The court declare that it should appear in such cases—

"First, that the grant was obtained and made in the manner the law required at some former time and recorded in the proper public office; secondly, that the papers in that office, or some of them, have been lost or destroyed; and thirdly, the applicant must support this proof by showing that within a reasonable time after the grant was made there was a judicial survey of the land, and actual possession by him by acts of ownership exercised over it."

Now, admitting all the papers produced here to be genuine, the facts proved in the case are these: that the petition, the map, the request of the general authorities to the local government for information, and the report of the local government, are according to the usual form of proceedings in such cases, but that final decree of the General Government confirmed by the provisional assembly is wanting. Therefore, this case fails to come within the rule laid down by the Supreme Court in the *Frémont* case, to wit, the record title is imperfect.

In all those cases the court has held there must be actual possession in order to confirm the title. There was no actual possession in this case; and therefore the Supreme Court—my opinion being somewhat different from that of the chairman of the committee in reference to the opinion of the court in the case of *Gomez vs. the United States*—the Supreme Court of the United States, as I believe, in this report distinctly declared upon the merits of this case that this case could not be confirmed. Therefore, upon investigation, I am of the opinion that this House should adhere to the rule established by the Supreme Court. It seems to me to be a safe and sound rule, where the papers necessary to perfect the record title of a grant have been found in the Mexican archives, possession is not indispensably requisite to the recognition of title by our courts; but in those cases where the record title is imperfect, and is made up by secondary testimony from the outside, that possession on the part of the claimant under the grant is indispensably requisite to the recognition of the title by the courts of the United States. I hold that to be a safe, a sound, a wise judicial rule, which will stand the test under all circumstances.

Since the examination by the committee in the investigation which I have given to the decisions of the courts in California and to the decisions of the Supreme Court of the United States, I am satisfied there are other valid reasons why this claim should not be recognized by this House. This claimant, McGarrahan, claims under a grant made, or claimed to have been made, to one Vincente P. Gomez. Now, I find upon an examination of various land cases in California and in the Supreme Court of the United States that the testimony of this man Gomez has been as effectually destroyed as a witness as it is possible for that of any witness to be destroyed in any court of justice; and though this fact does not show Gomez may not have been an honest man in this transaction, yet, taken in connection with another fact developed before the committee, that Gomez, since he testified before the land commissioners in the California courts as to the validity of his title—his testimony going to the support of his title—has repudiated, as I believe, the testimony then given by him.

Mr. WILSON, of Iowa. Gomez has not testified in any court touching this grant.

Mr. BOUTWELL. I accept the correction of the chairman of the committee, though my recollection was otherwise; but he was the grantee, a clerk, as it was understood, in one of the Mexican departments, and his claim to this grant was based upon his services there. In *1 Hoffman*, in the case of the *United States vs. Limantour*, this man Gomez is spoken of in this manner:

"The *expediente* in the *Yerba Buena* case is found in 1852, in an office which was not its proper place of custody, by a person whose own confession in another case shows him to have been engaged in fabricating titles, and whose character to this court, which has so often been called on to pass upon his credibility, no attempt has been made to vindicate."

In several other cases to which I have reference, but which I will not trouble the House with, his character for veracity in matters of this kind is also impeached.

Now, then, the remaining fact which is essential to the establishment of this title is the testimony, as I understand, of one José Abrigo, who testifies, according to the report of the committee:

"That Gomez was a clerk in his office, and that in 1845 he (Gomez) showed him a title to the land named, together with a map of the property; that the papers were signed by the governor and secretary, and that he was well acquainted with the signatures of these officers, having often seen them write; that the archives in which these papers were passed into the possession of the American army, July 7, 1846."

Now, if I understand the case, the remaining fact essential to the perfection of this title, namely, that the grant was actually made by the Mexican Government, rests upon the testimony of this José Abrigo.

The SPEAKER. The gentleman's ten minutes have expired.

Mr. WILSON, of Iowa. I yield five minutes more.

Mr. PRUYN. I would like to ask the gentleman how it happens that this question has not been decided by the courts, and why it is brought to Congress?

Mr. BOUTWELL. The court by two separate decisions at least, by one on the merits, and a decision based upon the technical proceedings, have refused to confirm this title, and it is brought here on its equity.

Now, then, calling the attention of the House to the standing of José Abrigo, who is spoken of in *Hoffman's Reports*, (vol. 1, 424,) the second witness on whom reliance is chiefly placed by the claimant to prove the consideration for which this grant was made to José Abrigo, they go on and give his testimony, and then say:

"It is proved beyond all doubt that nearly all the foregoing statements of José Abrigo are false."

Then, again, speaking of this same witness, the court say:

"If any explanation of the evidence, apparently conclusive of the falsehood of Abrigo's testimony, were possible, it would surely have been offered by that witness himself. Since the discovery and production of his books he has not been recalled to the stand, nor has any attempt been made to show that there were other books or accounts in this office which in any respect corresponded to the description given by him of the mode in which they were kept, or their contents."

Such is the character given to Abrigo in another case by the court before which a claim for land was pending. This same Abrigo, as I understand it, is the only witness relied upon to prove the existence of the grant finally.

Mr. WILSON, of Iowa, signified his dissent.

Mr. BOUTWELL. I so understood it. At any rate, whether he be the sole witness or not, he is a witness reported by the committee as having testified to the title, and I am not aware of its having been testified to by anybody else, although I may be in error about that.

Now, in conclusion, I wish to say I believe from all the testimony presented that this McGarrahan is an upright, honest man. I have seen nothing and heard nothing disclosed by the investigation to the contrary. It is also probably true that there were frauds practiced in one establishment of that title on the part of the district attorney of the United States, who was himself the owner in part of the land

now claimed by Mr. McGarrahan, when he was acting district attorney of the United States, and consented to the proceeding in court; and the Supreme Court finally, in passing upon this title, condemned that proceeding and set it aside.

Mr. FERRISS. I would like to ask the gentleman a question. I understand him to say that this cause was once decided upon its merits in the courts of law and equity. I desire to know what relief can this Congress give to a party that cannot be granted by a court of equity?

Mr. BOUTWELL. I do not care to dwell upon all the questions that may arise in this case. I may have been in error in some of the statements I have made, but I am not in error, I believe, upon the main fact, and that is that this case does not come up to the rule established by the Supreme Court, which rule seems to me to be a reasonable one.

I may also say, I believe, that from the testimony disclosed on the part of the New Idria Mining Company there was possibly on the part of the officers of the United States improper if not corrupt proceedings. I am not sure but that is true on both sides. On the side of the claimant previous to the time when he came into possession of the claim there were improper proceedings, as I am pretty sure there have been by his opponent since he has been engaged in this expensive controversy.

The SPEAKER. The gentleman's additional five minutes have expired.

Mr. WASHBURN, of Illinois. I hope the gentleman will be allowed to go on. It is a very important matter.

Mr. WILSON, of Iowa. I yield a minute or two more.

Mr. BOUTWELL. I have said there is no evidence disclosing any wrongdoing on the part of Mr. McGarrahan. But he holds under a title which was established in the courts of California by a proceeding which seems to me improper, and which was condemned by the Supreme Court of the United States as improper, to wit, that Pacificus Ord, who was himself the then owner of this claim, appeared before the judge of the district court and assented to proceedings to which perhaps he would not have assented if he had been entirely disinterested. If, then, this title was in any way imperfect in the hands of Gomez, of course McGarrahan has taken it upon himself with its imperfections; and if it is his misfortune to be a claimant under an imperfect title, I do not know that is within the just province of Congress to give him assistance. I deem him an unfortunate man in this matter. There can be no doubt about that, and he is contesting with a company which has accumulated probably a large sum of money out of this mine, which is in itself very valuable. And this leads me to say that the act of 1866, by which claimants are allowed to take the mineral lands of this country for five dollars an acre, is very bad policy, in my judgment, for this Government. Here is the third or fourth mine in the world for the production of quicksilver, which is to be sold, and it must go one way or the other, either to this McGarrahan for \$1 25 an acre upon the equity of the case, or to this New Idria Company for five dollars an acre, yielding to the Government ten, fifteen, or twenty thousand dollars, more or less, for property which would probably sell in the market for hundreds of thousands of dollars, if not half a million or a million.

Mr. WILSON, of Iowa, resumed the floor.

Mr. WASHBURN, of Illinois. I would ask if the title to this mine is not in the United States to this day?

Mr. WILSON, of Iowa. It is.

Mr. WASHBURN, of Illinois. Then I would ask what justice there is or what right we have to give it away to this man or to othermen?

Mr. WILSON, of Iowa. I will answer that question before I conclude the case.

Mr. WASHBURN, of Illinois. Let us repeal the law and keep this property, worth millions of dollars, for the Government.

Mr. WILSON, of Iowa. I hope the gentleman will hear what the case is. I desire to have this bill disposed of to-day. I intend to yield most of my time, and perhaps all of it, in the first hour, to other gentlemen who desire to be heard, reserving what I may have to say in reply until the second hour. I wish to have the previous question seconded before the expiration of the morning hour, so that I can have an hour afterward to close the case.

Now, Mr. Speaker, the gentleman from New York [Mr. VAN WYCK] wishes to be heard in opposition to the bill, and I will yield to him for fifteen minutes.

Mr. VAN WYCK. I may have to ask the indulgence of the House for a little more time. This matter has been before the courts in some shape or other for nearly fifteen years, and to-day this body is sitting in the capacity of a court of appeals upon the decision of the Supreme Court. We are sitting to-day as jurors to judge and determine the validity of a claim to seventeen thousand acres of land, as I understand it, which claim is disputed upon two grounds. First, that the grant itself never existed at all; that the claim is a fraud by reason of being founded upon no title; and in the next place, that it is a fraud by reason of the fraudulent location of the Panoche Grande, which was originally located some forty or fifty miles above the spot where they now locate it for the purpose of securing this quicksilver mine.

Mr. Speaker, this man Gomez, who was the patentee, who claims to have been the original owner of this Panoche Grande, has been proven to be and decided by the courts to be a man who manipulated other fraudulent patents for lands in Mexico, in the Limantour case, involving nine hundred and forty square leagues of land. Gomez is the main witness in McGarrahan's case; and another witness in the fraudulent Limantour case was Abrigo, who is the only living witness who undertakes to swear that he ever saw this patent of Gomez under which McGarrahan claims. Therefore Gomez, the man who claims this seventeen thousand acres of land, Abrigo, the main witness to this claim, both stand convicted by the courts, both have been decided by the Supreme Court of the United States to have been engaged in that magnificent fraud to appropriate to themselves nearly a thousand square miles of land; that cannot be gainsayed; and Limantour, with as much propriety, might have come to this Congress and asked Congress to reverse the decision of the Supreme Court as for this man, McGarrahan, to come here and ask Congress to sustain this claim of Gomez.

And let me call the attention of the House to one fact which, if there was no other fact in the case, would show the character of this claim as established by the committee themselves. The committee in their report say, or they mean to say, that the title of McGarrahan is complete. They say that McGarrahan bought this land in good faith. In their report the committee say that Gomez owned this land; that Gomez had a patent for it; that Gomez was the legal owner, and that he transferred that title in good faith to McGarrahan. Now, if that be so, then I ask was not Gomez the legal owner of this land? and if he was, is not McGarrahan now the legal owner of the land? and if this title be good, then does not McGarrahan hold his title against the world?

Now, if it is true, as the committee have said in their report, that that grant was good, then what right have we to say that McGarrahan shall pay \$1 25 an acre for his own land? Yet that is what the committee say, and that gives character to this whole transaction—I mean character to the claim. The report says:

"The title to the land claimed, and which he asks that he may be allowed to purchase?"

What! Purchase his own land? If Gomez had a good title to the land, then it is McGarrahan's own land; and why should he purchase it? If the title to the land as held by Gomez was not valid, then this claim is a base fraud, and it cannot be consummated in the hands of

McGarrahan any more than in the hands of Gomez. And if McGarrahan owns the land, then what right have the committee to say that he shall pay \$1 25 an acre for it? No, sir; his title is not good for anything—

"The title to the land claimed, and which he asks that he may be allowed to purchase, is now vested in the Government of the United States, and it is merely a question whether he shall be permitted to secure that which, in the judgment of your committee, he acquired title to by virtue of the Mexican grant aforesaid, or it shall fall into the hands of a corporation known as the New Idria Mining Company, which has been resisting his claim for years, and paying the expenses of the efforts of said company out of the proceeds of the mines, the title to which rests in the United States."

If the Gomez title is good, then the land now belongs to McGarrahan; if it is not good, then it belongs to the Government of the United States. The committee say in their report that the title does belong to the Government of the United States. If it is in the Government of the United States, then it is because this claim is a fraudulent one; it is because these men sought by fraud and forgery to build up a claim against this Government. And then the committee step in and say that they will allow McGarrahan to buy this land. Now, why should they say so in face of the facts in the case?

As I understand it, the only question is really as to this title of Gomez, and that the committee concede to be bad. Gomez said he got his title from the Mexican Government. Now, mark: this claim came before the board organized by Congress in 1851 to settle these private land claims seven or eight years after the date of the grant. He came before the board and asked them to establish this grant, but the board said there was no proof of occupancy, and they dismissed his claim. The law provided an appeal from that tribunal to the Supreme Court of the United States, and the case was carried up there. And let me say right here: Gomez makes his petition for three leagues of land; takes the judgment of the Supreme Court and an order for three leagues of land at one time, which I will refer to hereafter. And then he modifies his claim so as to embrace four leagues of land. What is the proof that Gomez brought before the land commissioners in 1851? Only this man Abrigo, who stands not only convicted of perjury, but of a perjury parallel to this. Gomez and Abrigo, being clerks of some sort in one of the departments of the Mexican Government, had facilities of access to the records, and facilities for making patents, which they did. They made up this Limantour case, as I said. They were witnesses in the Limantour case, and were convicted of perjury and forgery by the Supreme Court of the United States. In this case Gomez was the claimant, and Abrigo, his partner in the fraud, was a witness. In a report submitted by the Committee on the Judiciary at the first session of this Congress, they say that Abrigo gives this testimony:

"In the year 1845 the said Gomez showed to me a title to the land called La Panoche Grande, near the rancho of San Luis Gonzaga, belonging to Francisco Panoche, issued by Governor Micheltorena in the latter part of 1844 or the beginning of 1845. I do not recollect which. Said Gomez was at that time one of the clerks of the commissaries general of California, of which office I was the chief. After showing me the said title papers the said Gomez placed the same for safe-keeping among the papers belonging to the archives of said office, where it remained until the said archives were taken possession of by the American forces July 7, 1846, to the best of my recollection."

He does not swear to the boundaries in that description which he pretends to have seen. He does not swear as to the location of that patent; no one swears to it. He merely swears that he saw a claim in the land office. Yet, strange as it may appear, although those records were lost, no other records of Mexico make the most distant allusion to this claim or the granting of this patent. This man Abrigo, a man who was convicted of forgery and perjury, swore thus in this case.

Another man, José Castro, also figures in this transaction. He testifies that at one time he was on the Panoche Grande; that he knows it is the land in question in this case, because



he camped on it fifteen days. Yet the truth is that the Panoche Grande, as claimed in the original description, is entirely destitute of water, unless it be alkali water. There is no place on those three leagues of land, if located where it was supposed to be in the outset, where a man could camp fifteen days. So that Castro must be guilty of perjury in making the statement that he camped on this Panoche Grande for fifteen days.

But there is another fact to which I want to call attention. This man Gomez was poor. He says in the petition which he pretends to have presented to the Governor of Mexico that he wants this land—for what? For agricultural purposes. Yet you cannot raise a hill of corn on that which they pretended in the first place was this tract of land. Hear what he says:

"Desiring to devote myself to the interesting pursuit of agriculture, which is of such vital importance to this department, and which, as yet, is in its infancy, I pray your excellency to be pleased to concede me in property the place known by the name of Panoche Grande," &c.

"In view of what I have set forth, I pray your excellency to be pleased to take my petition into consideration, in order that in this way I may obtain the means necessary for the support of my large family."

Yet on these three or four leagues of land you would not be able to raise white peas. And the proof is that from 1844 down to 1852-53 he never saw it, never thought of this thing, until there was supposed to be some value attached to it.

Now, these are substantially the points in this case: first, that there is fraud in the claim; and next, that there is fraud in its location. The map which I have before me shows where the northern boundary of the Panoche Grande is as they first claimed it; and where they claim it now, to cover these quicksilver mines, is forty miles south of where the location should have been according to the original description.

Now, these are the facts. It may be disputed upon the other side, but still it is conceded substantially that this patent is a fraud, because if it be not a fraud, then, as I have already said, the legal title is in Gomez or his heirs. Besides, the committee keep out of view one point, which shows that there was fraud in the inception of this patent and fraud in its consummation. This case went from the board authorized by the act of 1851 to settle these claims into the Supreme Court of the United States. At that time Mr. Pacificus Ord was the United States district attorney in the State of California. Mr. Ord becomes half owner of these four leagues of land; and after that commences another fraud. I call it a fraud, because the Supreme Court of the United States say that Ord was guilty of a fraud. He goes into the courts and winks at the reversal of the decision of this board of commissioners; and this is the decision referred to by gentlemen of the committee when they say that there was a decision at one time in his favor. It was a decision obtained without argument. The United States was not represented, because the district attorney, the officer whose duty it was to represent the United States, was interested against the United States, he being the owner of one half of this land. The title for one half was in Ord; yet gentlemen do not think it necessary that these parties should even go through the formality of getting Ord to reconvey the title to Gomez.

Notwithstanding one half of the title was conveyed to Pacificus Ord, the United States district attorney, in utter disregard of the title conveyed by Gomez to Pacificus Ord, this man Gomez sold the title to the whole grant to McGarrahan for \$1,100. If I thought it proper, I might state what was the consideration for which this grant was conveyed by Gomez to McGarrahan.

Here is another evidence of fraud. Gomez could not hold one half of the grant and Pacificus Ord could not hold one half of the grant and at the same time Gomez could not convey the whole grant to McGarrahan. It is all pretense and nothing else.

After this thing had slept for four or five years, the attention of the Attorney General of the United States was called to it. Proceedings were instituted. They battled for years, until finally this case was decided on its merits. For fifteen years it baffled the courts of the United States. The Supreme Court of the United States finally decided against the grant.

Now, what do the committee say in their reports. In the first session of the Fortieth Congress, the Judiciary Committee say, as a general rule, the decisions of the court should be final. I suppose so.

The SPEAKER. The gentleman's time has expired.

Mr. VAN WYCK. I ask for five minutes more.

Mr. WILSON, of Iowa. I yield five minutes more to the gentleman.

Mr. VAN WYCK. They say that as a general rule the decisions of the Supreme Court should be final. I suppose in all cases where the rights of property are concerned we all acknowledge the decisions of the Supreme Court should be final. Whatever we may think of the decisions of the Supreme Court on political questions, I suppose their decisions upon the rights of property and other questions are binding upon the American people. They say as a general rule that the decisions of the Supreme Court should be final; they should be binding upon questions of the rights of property.

Now, the Supreme Court has said that this is a fraud. They say that the conduct of Pacificus Ord was fraudulent. Let us see what is the record. The court examined fully into the merits of the case, having all the facts before them, and what do they say? I will read it from the Supreme Court reports:

"Regarding the case as regularly before the court, it becomes necessary to examine the merits of the claim. Some suspicion attaches to the claim because it is made for four leagues of land, whereas the only document introduced in support of it, which is of the least probative force, represents the original claimant as having asked for but three leagues. Document referred to purports to be the petition of the claimant to the Governor, and there is appended to it the usual *informe*; but there is no concession or grant, nor is there any satisfactory evidence that any title of any kind was ever issued by the Governor to the claimant. He states in his petition to the land commissioners that he obtained the map in the record from the proper officers of the department; but the alleged fact is not satisfactorily proved. Four witnesses were examined by the claimant before the land commissioners, but only one of the number pretended that he had ever seen the grant; and his statements are quite too indefinite to be received as satisfactory proof.

"Instead of proving possession under the grant it is satisfactorily shown that he never occupied it at all; and it is doubtful if he ever saw the premises during the Mexican rule. Land commissioners rejected the claim, but before it came up for hearing in the district court his attorney had been appointed district attorney of the United States; and the proofs show that he conveyed two leagues of the land to the district attorney. Circumstances of the confirmation of the claim in the district court are fully stated in the opinion of this court, given when the mandate was revoked and recalled. Comment upon those circumstances is unnecessary, except to say that the confirmation was fraudulently obtained."

Now briefly, Mr. Speaker, these are the facts of the case. We have fraud on the part of Gomez; fraud on the part of Pacificus Ord, the United States district attorney; fraud on the part of all the persons mixed up with this matter, and on the decision of the case by the court of last resort on its merits the whole grant was repudiated.

[Here the hammer fell.]

Mr. WILSON, of Iowa. I now yield for five minutes to the gentleman from California, [Mr. JOHNSON.]

Mr. JOHNSON. Mr. Speaker, I regret very much that I have to take the responsibility of casting a vote in this case. It is a contest between citizens of the State from which I am a Representative. It is one of a class of cases which have given more trouble in our State than anything else which has ever annoyed our people. But I cannot "dodge" my responsibility. I am here as a Representative, and I must do my duty.

The Committee on the Judiciary have ex-

tended the courtesy to me to allow me to attend in the committee-room to hear the argument; and I have come to the conclusion that the claimant, Mr. McGarrahan, is right in his claim; and so I shall have to vote. In answer to remarks which have been made I say that, whether Gomez was the owner of this land or not, he gave to the claimant a deed for a valuable consideration. As lawyers understand it, that makes him the owner against all parties, except the Government of the United States. That deed was obtained by McGarrahan long before the New Idria mine was discovered or taken possession of. Then as against that company and that class of claimants McGarrahan's claim is a *bona fide* one, leaving the United States out. So far as the Government of the United States is concerned, it simply gives McGarrahan his title as it would give it to any other claimant. So that question is disposed of.

Now, in answer to the gentleman from Massachusetts, [Mr. BOUTWELL.] I do not know whether the departmental assembly has affirmed the claim of Gomez. I do not think that it is pertinent to the question. It is in evidence, as I understand from the report, that the archives were taken by the Americans at Monterey and destroyed, so that the proof could not be made. I apprehend, however, that sufficient proof was given before the commission to satisfy that commission that the departmental assembly had confirmed the title, because they especially rejected the claim, not upon the ground which was considered a good and sufficient one at that time, but upon the ground that Gomez had never taken possession. They say that his claim is valid; that he has complied with all the requirements of the law in all things except in the one particular of taking possession. That is evidence to my mind that the claim had been confirmed by the departmental assembly. That is enough to satisfy me on that point.

Then as to the district attorney. The gentleman last on the floor [Mr. VAN WYCK] makes the statement that the district attorney, while in the vindication of the rights of the United States against this claim, corruptly took one half of the claim and confirmed the whole. Now, such a statement does not accord with the facts in the case. Mr. Ord was not district attorney when he made this purchase, but he took one half of the claim, as the evidence discloses, for his attorney fees and other considerations, some four or five years before he became district attorney of the United States. And when he was made district attorney he notified the Attorney General that he was an owner in this claim and could not prosecute it. He therefore requested the appointment of special counsel in the case. The Attorney General was satisfied that Mr. Ord would do right in the matter, and told him to go ahead. He refused to remove him. So Mr. Ord went into court and the judgment was affirmed. Now, sir, there is no corruption about that.

[Here the hammer fell.]

Mr. JOHNSON. One minute more.

Mr. WILSON, of Iowa. I desire to have the previous question seconded, as the hour is about out.

Mr. WASHBURN, of Illinois. I ask the gentleman to allow me to move to recommit.

Mr. WILSON, of Iowa. I demand the previous question. I will yield to gentlemen after that.

Mr. WASHBURN, of Illinois. If the gentleman will hear me perhaps he will allow my motion.

Mr. WILSON, of Iowa. The gentleman proposes to recommit.

Mr. WASHBURN, of Illinois. With instructions.

Mr. WILSON, of Iowa. I decline.

Mr. HIGBY. Will the gentleman yield me a part of his hour.

Mr. WILSON, of Iowa. Certainly.

On seconding the previous question, there were—ayes 55, noes 33; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. WILSON, of Iowa, and WASHBURN, of Illinois.

The House divided; and the tellers reported—ayes 55, noes 43.

So the previous question was seconded.

The main question was then ordered.

#### ENROLLED BILLS.

Mr. WILSON, of Pennsylvania, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and joint resolutions of the following titles, when the Speaker signed the same:

An act (S. No. 475) to extend the charter of Washington city, also to regulate the selection of officers, and for other purposes;

An act (S. No. 416) for the relief of John S. Cunningham, paymaster United States Navy;

An act (S. No. 358) providing for the restoration of Lieutenant Commander Trevett Abbott, of the United States Navy, to the active list of the Navy;

An act (S. No. 462) making appropriations for the expenses of the trial of the impeachment of Andrew Johnson and other contingent expenses of the Senate for the year ending June 30, 1868, and for other purposes;

Joint resolution (S. R. No. 126) for the relief of George W. Doty, a commander in the United States Navy on the retired list; and

Joint resolution (S. R. No. 118) for the appointment of a commission to select suitable locations for powder magazines.

#### TRADE WITH THE BRITISH PROVINCES.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a supplemental report on trade with the British North American provinces; which, with the accompanying report, was referred to the Committee of Ways and Means, and ordered to be printed.

#### POTTAWATOMIE INDIANS.

The SPEAKER, also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the acting Commissioner of Indian Affairs, with estimates of appropriations required to carry out treaty stipulations with the Pottawatomie Indians; which were referred to the Committee on Appropriations, and ordered to be printed.

#### THE SOUTHERN ELECTIONS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the General of the Army, in answer to the resolution of the House of the 12th instant, transmitting the reports of the several district commanders of the recent elections held in the States of Georgia, North Carolina, South Carolina, and Louisiana; which, with the accompanying documents, was referred to the Committee on Reconstruction, and ordered to be printed.

#### WILLIAM M'GARRAHAN—AGAIN.

The SPEAKER. The gentleman from Iowa [Mr. WILSON] is now entitled to the floor for one hour to close the debate on the bill.

Mr. JOHNSON. Will the gentleman allow me half a minute?

Mr. WILSON, of Iowa. Certainly.

Mr. JOHNSON. I simply desire to state that the reasons which I gave in the five minutes allowed me are not the only reasons I have for voting for this bill. The frauds by the New Idria Mining Company and other parties alleged in the report of the committee furnish additional considerations to influence my mind in my action.

Mr. WILSON, of Iowa, resumed the floor.

Mr. HIGBY. I will say to the gentleman from Iowa that I would like, in the course of his hour, to have fifteen minutes, if he will let me.

Mr. WILSON, of Iowa. I will do so now.

Mr. HIGBY. I would prefer to hear the gentleman speak first.

Mr. WILSON, of Iowa. Very well. Mr. Speaker, this report has been attacked as one involving a great fraud. I have, in reply to

that charge, to say that the Committee on the Judiciary have examined this case with great care and at great length. If there is a feature of the case on either side thereof which has not been brought to the attention of the committee the fault lies with the parties contesting for this property.

Patiently and for days the committee listened to the proofs and arguments presented by the claimant in whose favor this report is made, and by a party unknown to the record of the case in the courts, who has pursued this claimant relentlessly during the past twelve or thirteen years. The report proposes no new steps in legislation. It does not look to the establishment of a new precedent. It does not ask the House to sit as a court of review upon the decisions of the Supreme Court. Nothing of the kind is involved in this case. If the gentleman from New York, [Mr. VAN WYCK,] who brings this charge of fraud, had examined the report of the committee, he would have found five cases of precedents there referred to, to wit: 1. The Soscol act, 12 United States Statutes, page 808; 2. The Bolso de Jornales act, 13 United States Statutes, page 136; 3. Ex-Mission San José act, 13 United States Statutes, page 534; 4. Laguna de Santos Calle act, 13 United States Statutes, page 372; and 5. Baron de Bastrop act, 9 United States Statutes, page 597.

Those precedents involve the same principle upon which this bill is based, though the character of each particular case may vary somewhat from this one.

Now, sir, having found the precedents, I wish to call the attention of the House to the nature and character of this case; and I may here say that in passing upon this case the committee and the House are entitled to exercise those broad principles of equity which would lift this proceeding out of the narrow rule which the gentleman from Massachusetts [Mr. BOUTWELL] has quoted from the decisions of the Supreme Court, even though he had correctly understood those decisions. But, sir, I undertake to say that in the case to which he referred, which carried this contest into the Supreme Court of the United States, there was no consideration of the real merits of the case as they were presented to the committee, nor has there been in any other proceeding in the Supreme Court.

I wish now briefly to pass over the history of the case. Vincent P. Gomez claimed that he had received a grant of lands from the Mexican Government four square leagues in extent, and after the treaty of Guadalupe Hidalgo, by which the United States was bound to protect such rights and interests, and after the passage of the act of 1851 establishing the board of land commissioners in California, he presented his petition for an adjustment of his claim and a confirmation of his grant.

The board of land commissioners decided that he had produced evidence sufficient to prove the existence and validity of the grant; but, inasmuch as he had not proved occupancy, they rejected his petition and refused to confirm the grant. Now, let it be remembered that, so far as the genuineness of the grant was concerned the board of land commissioners did not challenge it, and only held adversely to the prayer of the claimant's petition on the technical question of possession.

During these proceedings one Pacificus Ord was the attorney for the claimant Gomez.

Mr. VAN WYCK. Will the gentleman allow me to make an inquiry of him?

Mr. WILSON, of Iowa. Certainly.

Mr. VAN WYCK. My question is this: suppose the board of commissioners had ratified the claim of Gomez; was it not competent to appeal from their decision to the Supreme Court of the United States and have it reversed, if possible?

Mr. WILSON, of Iowa. Undoubtedly, first appealing to the district court.

Mr. VAN WYCK. Very good. Then the whole thing in regard to this matter as to the absence of occupancy being taken into con-

sideration by the board was all presented to the consideration of the Supreme Court of the United States.

Mr. WILSON, of Iowa. If the gentleman has examined this case he knows just as well as I do, without asking the question, that an appeal would lie. As I was saying when interrupted at that point of this case, Pacificus Ord was an attorney for Gomez. Some time afterward, and during the same year, Ord was appointed United States district attorney for the southern district of California. The then claimant, Gomez, appealed to the district court of the United States, not because the land commissioners had decided his grant to be invalid, but because they had decided that it was necessary for him to prove occupancy. Upon that state of record and finding of the commissioners the case went into the district court of the United States.

In the proceedings had in the United States district court we find the commencement of this charge of fraud against this claim. Now, what are the facts? It is in proof in the case—it is in proof in the very case the gentleman from New York [Mr. VAN WYCK] has read from, but from which he did not read the explanatory affidavit of Ord—that Ord notified the Attorney General of the United States of his interest in certain land cases in California, and requested him to select special counsel to take charge of the interests of the Government. The Attorney General paid no attention to this notification. The case came on for hearing. After having waited for the Attorney General to act, and he having neglected to act, Ord himself procured another attorney to appear in the case. When the case was called, the Supreme Court of the United States having in the meantime decided in the Fremont case that occupancy was not necessary to the establishment of the validity of a grant, Ord said that he knew of no objection to the confirmation of the grant. The board of land commissioners had approved of the validity of the grant, and only ruled Gomez out on the question of occupancy. There was no fraud in this, as it seems to the committee; for it was in harmony with what we consider, after careful examination, the legal rights of the party claimant.

But it is said, in the opinion of the Supreme Court referred to, that Ord had received his share of this land covered by this claim for the nominal consideration of one dollar. It is true that is the consideration stated in the conveyance. But the real consideration was the services of Ord, as attorney for Gomez, in presenting the case before the board of land commissioners prior to the time that he was appointed United States district attorney. It may be said that one half of the land was a very large fee for the service rendered. But it must be remembered that it was not then known that this land embodied any mineral deposits whatever, and was regarded as of very little value. The great body of land was regarded as worthless, and one half of it was sold for the beggarly sum of \$1,000; so that in the worst feature of the case Ord really received, in payment for his services, an interest which he might chance to sell for \$1,000, but which had no fixed value, for attending to the case before the land commissioners, not a very large sum, I apprehend, to be paid for such services in California at that time. It was upon this action of Ord—of which, by the way, it seems, this present claimant, McGarrahan, knew nothing whatever—that this case turned in the Supreme Court of the United States, and not on the merits of the case. The real merits of the case have not been there, nor has the great body of the testimony presented before the Committee on the Judiciary been in the Supreme Court or any other court of the United States, or before the board of land commissioners.

Mr. TAFFE. Will the gentleman allow me to interrupt him a moment?

Mr. WILSON, of Iowa. Certainly.

Mr. TAFFE. There seems to be some con-

fusion about this case. The gentleman from New York [Mr. VAN WYCK] said something several times about a "patent." It seems to be well settled that a patent cannot be attached in an action of ejectment. I understand the gentleman from Iowa [Mr. WILSON] to say that the equity of this case has never been passed upon. I would like, for my part, to know about that.

Mr. WILSON, of Iowa. This case, Mr. Speaker, is not an attack upon a patent. The United States have never issued any patent in the case at all. A patent was once prepared, but its execution was stopped in a peculiar manner, as was explained in the hearing before the committee.

Now, as I have stated, the great body of the evidence presented to the Committee on the Judiciary has never been in any court whatever; and when the gentleman from Massachusetts [Mr. BOUTWELL] undertakes to say, reading from Judge Hoffman's opinion in the case referred to in Hoffman's Reports, that Gomez has there been impeached, and that Abrigo stands in the same situation, and that this case rests upon no other testimony, it only shows that the gentleman was right when he stated that it has been so long since he investigated the case that many of the facts have passed from his mind. For Gomez has not testified at all; Abrigo testified before the land commissioner; but we have in the case the evidence of some six or eight witnesses who testify to a group of facts and circumstances which make the case stronger than it was while resting on Abrigo's testimony. Some of these witnesses swear to the perfection of the grant, and to having seen it before it was finally filed among the archives, which were, it is alleged, destroyed. Several witnesses testify to the fact of having seen the papers and that Gomez had the grant.

Mr. ELDRIDGE. If the gentleman will allow me, I would like to suggest another point. It doubtless has not escaped the gentleman's attention, but I have not heard him mention it. It appears by the affidavit of J. Marno Bonilla, secretary of the superior tribunal of justice in Monterey, that Gomez, in 1844, applied to him for stamped paper, to be used in procuring a title to lands; and that in 1845 he saw memoranda of grants of land, among which was that of Panoche Grande to Gomez.

Mr. WILSON, of Iowa. That is referred to in the report as one of the evidences of the genuineness of this grant.

Mr. ELDRIDGE. And other grants founded upon this grant are found among the records.

Mr. WILSON, of Iowa. It appears from the testimony presented before the committee that in two grants, one of which, certainly, has been confirmed, the Panoche Grande is referred to as their boundary, and the Panoche Grande refers to them as one of its boundaries.

Mr. ELDRIDGE. And those grants have been confirmed?

Mr. WILSON, of Iowa. At least one of them. I do not recollect as to the other.

After the confirmation of this grant by the district court, McGarrahan purchased, in good faith and for a valuable consideration, the title from Gomez. Ord held an interest in it; but McGarrahan, who was warred against by the New Idria Mining Company in the name of the United States, and was put to great expense, paying all the outlay himself, finally required Ord to transfer to him his interest by way of remunerating McGarrahan for what he had expended, and now holds and owns the entire title.

I have said that the party warring against McGarrahan was the New Idria Mining Company, a party not known to the record in any of the tribunals before which this case has been tried until it reached the Judiciary Committee. Before the committee the New Idria Mining Company appeared as the real party, filing its memorial; and from this memorial I have incorporated into the report the following paragraph:

"The real parties who contested the grant were

your memorialists, for against them only were the efforts of the owners of the Panoche Grande rancho directed. For the New Idria mines, and for the fruits of the labor of those who have developed them, the owners of the Panoche Grande are now seeking congressional interference in their behalf. It may well be doubted whether the Panoche Grande would ever have been heard of in the district court of the United States or in Congress but for the hope of robbing your memorialists of the fruits of their years of labor and vast expenditures of money."

Here we find first developed upon the record the real party who, in the name of the United States, has been resisting the claim of McGarrahan; and, as is stated in the report of the committee, that hidden party has used the officers of the United States, the tribunals of the United States, and the money of the United States to crush this man, to whom, as the committee believe, this property should pass, even without the payment of any money at all, under the obligations imposed upon us by the treaty of Gaudaloupe Hidalgo.

Mr. PRUYN. Will the gentleman allow me to ask why, then, do the committee propose to require this man to pay \$1 25 per acre for the land?

Mr. WILSON, of Iowa. I will state the reason. The claimant asked to be permitted, in pursuance of precedents heretofore established by Congress, to purchase the land; and the committee thought this arrangement proper enough, inasmuch as it avoids completely the position assumed by the gentleman from New York [Mr. VAN WYCK] and the gentleman from Massachusetts, [Mr. BOUTWELL,] that we are attempting to review and reverse the decisions of the Supreme Court. We say, notwithstanding the decisions of the court on this case as imperfectly presented, we will not put Congress in the position of reversing one of its decisions; and, therefore, in view of the great equities of the case, we propose to permit this party to come in and purchase at \$1 25 per acre the land embraced in this grant, thus doing at least partial justice, and avoiding every appearance of attempting to reverse the decisions of the court.

Now, sir, I have no doubt, as I have stated—and I do not think there is a doubt in the minds of six other members of the Judiciary Committee—that under the treaty of Gaudaloupe Hidalgo this claimant is entitled to this property.

Mr. PRUYN. Without \$1 25 per acre?

Mr. WILSON, of Iowa. Without \$1 25 per acre; but we have recommended the relief presented by the report for the reasons therein stated.

I propose, inasmuch as we have got rid of these parties to the record of the Supreme Court of the United States, to call attention of the House to the testimony with regard to the case quoted by my colleague on the committee from Massachusetts, [Mr. BOUTWELL,] He says the Supreme Court laid down a rule by which every party claiming under these Mexican grants must prove by record testimony his entire chain of title. I do not go understand it; but if it be so ruled by the court it is no rule for us to follow; for who ever heard of a rule being so respected which deprives a party, after he has explained the absence of primary evidence and his inability to produce it, the privilege of substituting the next best? and that is what he has done in this case; but his case does not rest entirely on the testimony outside of the record. He has presented from the Spanish archives, duly certified by the keeper of the archives, the original petition for this grant; the direction of the Governor that the necessary investigation be made; the report of the officer to whom that was directed to make investigation; the report of the officer having charge of the land department that there were no reasons why the grant should not be made. This all comes from the Spanish archives now in the keeping of the United States; and the remaining papers of the title were, it is alleged, destroyed when a great portion of the archives were destroyed by the troops of the United States when they took possession of Monterey. Therefore he has given the best sec-

ondary evidence he can command, and proves by several witnesses that the grant was complete; that they had seen the grant; that Gomez had once mortgaged the grant to one of the witnesses for a certain sum of money, and that it was finally placed in the archives at Monterey, and presumed to have been destroyed when the greater part of the archives at Monterey were destroyed by our Army, as I have already stated.

That is, in brief, the evidence upon which the claimant rests his case. No matter how bad Gomez is now; no matter how improperly Ord may have acted; if Ord acted fraudulently and Gomez was a rascal, if the grant was made as alleged, and this claimant has acted honestly, he is entitled to the property.

Mr. ELDRIDGE. Let me call the gentleman's attention to the fact that no one disputes the archives were destroyed by fire.

Mr. WILSON, of Iowa. So I understand. And furthermore, I may say in that connection, that one of the counsel for the New Idria Mining Company, who had been attorney for years in this contest, was introduced before the Committee on the Judiciary, and he testified that he believed the petition of Gomez was a genuine document, and that he based his opinion on his knowledge of the facts and circumstances connected with the case of said Gomez against the United States, which involved the validity of the grant upon which this case is based. That is the statement of a gentleman, under oath, who had experience of years, himself attorney on behalf of the contesting party.

I will not occupy the time of the House in going over all the circumstances of this case. It is a most remarkable case; one that is full of romance, I might say, from beginning to end. I have never in all my experience known a party, single-handed and alone, so persistently to assert his rights in opposition to what seemed to be a combination between the United States and this quicksilver monopoly, the interest controlling the production of quicksilver on the Pacific coast. It appears in the testimony and statements made before the committee that one of the great reasons why the New Idria Mining Company has been so persistent in its attempts to control this property was that they had made an arrangement with other parties by which all the quicksilver produced in California should be controlled by the parties to the arrangement. And in this they have been successful. And now that that arrangement is about expiring, I am informed another has been or is about to be entered into by which this scheme shall be carried on in the future, so that monopolists, if they succeed in defeating this claim and in getting possession of the property under their claim filed in the land office of California, will control indefinitely the product of quicksilver and its price.

Mr. HIGBY. Will the gentleman allow me a question?

Mr. WILSON, of Iowa. Certainly.

Mr. HIGBY. I understand by the report that the committee find that the title to this land is in the Government of the United States.

Mr. WILSON, of Iowa. Undoubtedly.

Mr. HIGBY. Well, then, why not let the Government of the United States control it, if it is so valuable?

Mr. WILSON, of Iowa. I will tell the gentleman why. Under the act of 1866 it was provided that persons may enter mineral lands at the rate of five dollars per acre. This New Idria Company is made up of sundry individuals. They have filed, according to representations made to the committee, claims to this land under that act, covering three thousand feet of the quicksilver lode, and, as we were informed, embracing nineteen hundred acres of land. Now, how did they do that? The mining company is an artificial person—but one person—and under the act of 1866 would be entitled to only two hundred feet of that lode, and a small amount of land adjoining. But it seems they have divided this artificial person into as many persons as there are stock-



holders in the corporation, and have filed their separate claims upon this land, seeking in this way to get possession of three thousand feet instead of two hundred.

Now, under this proceeding of the New Idria Mining Company, if they should succeed in getting possession of what they are claiming, the Government of the United States would receive \$9,500 from all that valuable property, while under the bill we have reported from the committee on behalf of the claimant, the United States would receive \$23,040. The corporation of the New Idria Mining Company have taken all the mineral land and added thereto a few hundred acres of the adjacent lands, leaving all the worthless portion of the tract embraced in the boundaries of the grant for the Government to dispose of as it can, while McGarrahan comes in and proposes to take the entire body, which gives the United States more than double what it would receive from the mining company contesting this grant. Defeat this bill and no benefit results to the Government, for under existing laws the stockholders of the mining company would demand land under the claims by them filed in spite of any repealing acts you may pass. In no event can a defeat of this bill inure to the benefit of the Government.

Another thing. These parties have complained that they have expended large sums of money, and great injury will be done them if this bill passes. Sir, the sworn statement of one of the principal stockholders, Mr. Mills, of the Bank of California, an institution which is backing up this fight with its five millions of capital, is that out of the product of that mine this company had now more than paid all of its expenditures. They have taken a large amount of mineral from this mine, worth hundreds of thousands of dollars, covering all expenses, and leaving a balance of profit to the company. The enterprise required them to make some advances in the first instance; but after the mine was put in active operation they paid all expenses out of the product of the mine, and, as the gentleman referred to testified, if a balance were now to be struck it would be found in favor of the company. They have had their profit for nothing and have no just grounds of complaint against this bill.

I now yield fifteen minutes to the gentleman from California, [Mr. HIGBY.]

Mr. HIGBY. Mr. Speaker, I know nothing in regard to the details of this struggle between two sets of claimants to the tract of land here in question. Yet, sir, knowing something in regard to the character of titles that were once involved in this land question, knowing the many great and grievous evils that have grown out of it in our State, I feel a great interest so far as the public is concerned, this Government, and the government of my own State. So far as the contestants with McGarrahan are concerned, how many they are, who they are, how great their wealth is, I know nothing about it, except what may appear in a pamphlet that has been laid on my desk—by whom I do not know, but I presume it came from some one in the interest of this New Idria Mining Company.

But, sir, I understand this bill to be in its purport this: that after there has been a struggle to make this Mexican grant title to the lands good in the courts, which has failed, an opportunity shall be given to this man McGarrahan to assume the same rights there which he would have under the Mexican title that was conveyed to him by Gomez. That I understand to be the purport and intent of this bill. Pass it and he can go on to this grant, as it is alleged to be, and go anywhere within its exterior bounds, whether it includes twenty or five hundred leagues, and locate his four leagues of land.

Mr. WILSON, of Iowa. I desire to correct the gentleman in that regard. The bill provides that this claimant shall be entitled to purchase the land which is embraced within the limits of the survey under the grant now on file in the General Land Office.

Mr. HIGBY. Mr. Speaker, that survey was

made in accordance with the terms of the old Mexican grants. The whole thing has been done with reference to that survey. The location of this piece of land has been made under the rules established by the court with reference to Mexican titles, and that is to go anywhere within the exterior bounds of the grant, no matter whether it be forty, fifty, five hundred, or a thousand leagues, and locate the two, three, or four leagues, and this very location has been made in accordance with those rules established by the court. It is true that under this bill he is to have the four leagues as surveyed, but they were surveyed under the rules established. And this land was located, as I learn from the committee and from the papers, where this New Idria mine is, which is worth, I know not how much; some say \$1,000,000, some \$500,000, and others \$100,000. I have never been there, and know nothing about it except what I pick up from outside information. I presume the committee have more information on that subject than I have.

Now, Mr. Speaker, that is precisely the position of this case. Pass this bill, and you perpetuate that very system which has been the curse of our State. I hope there never will be any legislation in this body that will perpetuate one single case of that kind.

Mr. WILSON, of Iowa. I desire to ask the gentleman from California whether he understands that under this bill any additional survey can be made?

Mr. HIGBY. No, sir; and I do not care whether it can. I say the survey has been made according to these rules, and this bill is to settle the question and let this man go and take his land where it was surveyed under the old system of the Mexican grant. He has located it. He located it while they were contesting in the courts; he located it before they went into court, and the object of this bill is to give him that land thus located. There was a great deal of land within the exterior bounds of this grant, but he selected this land and went into court and failed to get it.

The report of the committee refers to five or six cases which are cited as analogous cases. I wish to call the attention of the House to certain of the cases they have cited and to show the difference between these cases and this case. I have a positive knowledge as to three of them and of the passage of the bills through Congress. I have knowledge as to the facts in another case from outside information, for the law was passed before I became a member of Congress.

The Socol case has been cited. Now, I wish, before I say anything in regard to that, to have the Clerk read the extract which I have marked, from one of the decisions in that case of the United States vs. Gomez.

The Clerk read as follows:

"Regarding the case as regularly before the court, it becomes necessary to examine the merits of the claim. Some suspicion attaches to the claim because it is made for four leagues of land, whereas the only document introduced in support of it, which is of the least probative force, represents the original claimant as having asked for but three leagues. Document referred to purports to be the petition of the claimant to the Governor, and there is appended to it the usual *informe*; but there is no concession or grant, nor is there any satisfactory evidence that any title of any kind was ever issued by the Governor to the claimant. He states in his petition to the land commissioners that he obtained the map in the record from the proper officers of the department; but the alleged fact is not satisfactorily proved.

"Four witnesses were examined by the claimant before the land commissioners, but only one of the number pretended that he had ever seen the grant, and his statements are quite too indefinite to be received as satisfactory proof. Instead of proving possession, under the grant, it is satisfactorily shown that he never occupied it at all; and it is doubtful if he ever saw the premises during the Mexican rule. Land commissioners rejected the claim, but before it came up for hearing in the district court his attorney had been appointed district attorney of the United States, and the proofs show that he conveyed two leagues of the land to the district attorney. Circumstances of the confirmation of the claim in the district court are fully stated in the opinion of this court, given when the mandate was revoked and recalled. Comment upon those circumstances is unnecessary, except to say that the confirmation was fraudulently obtained."

Mr. HIGBY. That opinion of the Supreme Court in this very case shows conclusively that this Gomez was never in possession of this tract of land, and probably never saw it under the Mexican rule.

Now, in the Socol case the parties who came here had bought what they supposed was the Mexican title, and some of them had been in possession of the title for twelve or fifteen years, and had established an extended business and had their buildings on the land. That is the difference between this case of Gomez, who, according to the opinion of the court, had never been in possession of and probably never had seen this land, and the parties in the Socol case.

Now, in reference to the other case referred to, there were parties who had been for years in possession of the Mexican title, and there was no contestant whatever. I got that case through Congress myself. The proof was undoubted; there was no contestant. The Government of the United States let the parties in possession have the land upon entering it and paying the Government price. Such were the facts in regard to those three cases; so that the parallel does not run through the cases of this character brought in here.

I must say, as was said by the chairman of the Committee on the Judiciary, [Mr. WILSON, of Iowa,] that this is an extraordinary case. I cannot say a word to impeach the character of that committee, whose members embrace some of the best members of this House. But it does seem to me that they have failed to get hold of some things which they ought to have understood before they presented this bill to the House and asked Congress to perpetuate this system. I hope that this House will assist in no such measure. I would have been glad if we never had had one of those claims, for they have already done us incalculable injury.

Mr. ELDRIDGE. Will the gentleman permit me to make an inquiry?

Mr. HIGBY. I will, certainly.

Mr. ELDRIDGE. I understand the gentleman from California [Mr. HIGBY] to place his objection to this claim not upon the injustice of the claim, but upon the injustice of the system. Now, I ask the gentleman if this is not a parallel case with those to which he has referred, and if in those cases we did not in like manner perpetuate the system of which he complains?

Mr. HIGBY. No, sir; this is a very different case. The chairman of the Committee on the Judiciary has said that these parties of the New Idria Mining Company have located mining claims upon this land. Well, sir, if they have gone there under the mineral-land law which we passed three years ago what will be the consequence if we pass this bill? Will they not come to Congress and say you have given away to others land which under the mineral land law you authorized us to take, and ask for compensation?

The gentleman says the Government will get more money into its Treasury by permitting McGarrahan to take this land at \$1 25 an acre than by letting the New Idria Mining Company have it at five dollars an acre. It seems to me that if they will give us five dollars an acre, that will be more than the Government would get otherwise. Now, I apprehend that besides the danger of perpetuating this system there is danger that some party will ask indemnity of the Government if this bill is passed. It has been shown conclusively that this Government has given in one case a patent for one hundred and sixty acres of land. Now, I think I will be able to show by evidence that such is the condition of things that this Government will be called upon to make indemnity to some one or other if this bill is passed. I think we will be in better condition if we do not pass this bill.

[Here the hammer fell.]

Mr. WILSON, of Iowa. As to the matter of survey, my information is that it was made under the act of May 30, 1862, an act to reduce the expenses of surveys and sales of the public

lands of the United States. That is the law under which I understand this survey to have been made, and not, as the gentleman from California [Mr. HIGBY] says, under the old Spanish rule. But no matter under what regulations this survey was made, they were the regulations controlling and governing all such cases in the United States. The parties were required to locate their surveys within exterior boundaries of the grant and in a compact body, which has been done in this case.

Now, a word in reply to one other remark of the gentleman from California, [Mr. HIGBY,] that there is no parallel between this case and the Socol case. Why, sir, I did not introduce that for the purpose of claiming that this case is precisely like that, but for the purpose of showing that the principle involved in this bill has been acted upon heretofore. That is all there is of it. The precedent, so far as the principle is concerned, is pertinent.

Now, the gentleman from California says he does not know by what motive the committee has been controlled.

Mr. HIGBY. No, sir. I did not say that.

Mr. WILSON, of Iowa. The motive by which the committee has been controlled is the desire to do exact justice in this case. And when the gentleman says that there are some facts which the committee ought to have known, I repeat what I have said before that, if there is a single fact connected with this case that has not come to the knowledge of the committee, it is the fault of the parties contending for this property—they had ample opportunity to place everything before the committee, and I have no doubt they did so.

Mr. HIGBY. I did not wish to cast any reflection upon the committee, but I think there are other facts in this case which, if they had been properly presented, would have induced the committee to come to a different conclusion.

Mr. WARD. Will the gentleman from Iowa [Mr. WILSON] allow me to ask him a question?

Mr. WILSON, of Iowa. Certainly.

Mr. WARD. I desire to ask the gentleman whether this is not really a controversy between private parties; and if that be so, why is the matter brought here? Why not leave the parties to their remedy at law?

Mr. WILSON, of Iowa. I will answer the gentleman. The United States is somewhat involved in this controversy. The person claiming under that grant insists that he has not had his rights protected under the treaty between the United States and Mexico; that the United States have failed in this case to carry out their obligations under that treaty; and although the matter has, as is alleged, been in the Supreme Court, the committee affirm that the case has not been there upon its real merits, and as fully as it was presented to the committee. The claimant, therefore, asks that by this mode of proceeding the United States shall fulfill their obligations under the treaty, avoiding the appearance of an attempt to reverse the judgment of the Supreme Court by permitting him to have the preference in the purchase of that property.

Mr. WARD. Then are we to understand that this is a mode of reviewing the action of the Supreme Court?

Mr. WILSON, of Iowa. Why, sir, cannot the gentleman understand my language? I have expressly said that it is not a mode of reviewing the decision of the Supreme Court, and that for the purpose of avoiding the appearance of any such thing, we have recommended, in view of the equities in favor of the party, that he be allowed to purchase the land, the title of which is now in the United States, but which we believe ought to be in this claimant.

Mr. Speaker, I now yield five minutes to my colleague on the committee, the gentleman from Illinois, [Mr. MARSHALL.]

Mr. MARSHALL. Mr. Speaker, in the brief time allotted to me it is impossible for me to review the evidence bearing upon this case; but the gentlemen who are opposing the

measure now before the House manifestly do so because they do not know anything about the peculiar facts of the case or the principles involved in the bill.

By this bill the United States does not grant and will not lose one cent. The United States will, in fact, get more money from this man McGarrahan than it would from this combination of capitalists, who have for six, eight, or ten years been keeping him out of the property to which he is, if not legally, beyond all question equitably entitled.

This matter has been before the Committee on the Judiciary, who have examined it very carefully and at great length. Those who are interested in the defeat of the measure now before the House are made up of a body of capitalists controlling hundreds of thousands of dollars. They have come before that committee; they have had a hearing. They have brought their counsel there; they have produced their evidence. They have brought before that committee every fact that they deemed of importance to invalidate the claim of McGarrahan; and the deliberate conviction to which the committee has arrived is that McGarrahan, if not entitled to this land absolutely and legally, has such an equitable claim to it that it would be a great wrong on the part of the United States Government not to concede to him a right of preemption; and that is all that is claimed by the measure now before the House.

Suppose we refuse this, what is the result? Under the claim set up under existing law these capitalists who have taken possession of this land of Mr. McGarrahan and used all the means which they could bring to bear for the purpose of defeating his title in the courts, will have the right to enter that land and secure the title to all thereof that is of any value, and that, too, without paying much more than one half what Mr. McGarrahan will pay for the land under the provisions of this bill and we are not giving away one single acre. We are not giving away anything. We are not granting anything. We are only giving a right of preemption to a man whom the Judiciary Committee believe has already an equitable title thereto, and which would have been confirmed years ago if it had not been for the extraordinary efforts made by a combination of capitalists who have succeeded in defeating the claim of an honest and meritorious citizen, who in fact never would have had any difficulty in procuring his patent to said lands if valuable mineral deposits had not been discovered thereon after the title had been acquired by McGarrahan.

This is the secret of the whole opposition to the confirmation of the title of this man McGarrahan, who, solitary and alone, without backing, for years has been prosecuting a right that, in my judgment, ought to be confirmed. The legal question has indeed been decided against him on technicalities, and the title is now in the Government of the United States; but, inasmuch as the equity is unquestionably in him, we merely, without impugning the action of the courts, propose to give him the right to purchase and acquire title to the land.

Mr. HIGBY. Allow me to ask a question?

Mr. MARSHALL. Certainly.

Mr. HIGBY. Does not the court decide that the grant was fraudulently obtained?

Mr. MARSHALL. That has been explained by the chairman of the committee; and if the gentleman from California had given any attention to the question he would have known, if he had examined the facts bearing on this question, that the decision of the court cannot have any rightful bearing upon the matter now under consideration before the House.

Mr. HIGBY rose.

Mr. MARSHALL. I cannot yield further, as I have only five minutes.

Mr. HIGBY. Only for a question. Does the gentleman mean to say that the court did not give attention to it?

Mr. MARSHALL. I do mean to say that there has been no charge, and there can be no

charge, of fraud upon the part of Mr. McGarrahan. It has been conceded by the lawyer, Judge Gould, who has been employed on the part of the New Idria Mining Company, that there is no doubt about the genuineness of this Gomez grant.

Mr. VAN WYCK rose.

Mr. MARSHALL. I cannot yield; I have not the time. It is impossible that gentlemen understand this case, or they would not make opposition to it. McGarrahan has never been charged with fraud.

The SPEAKER. The gentleman's time has expired.

Mr. WILSON, of Iowa. I will yield the gentleman three minutes more.

Mr. MARSHALL. Mr. McGarrahan has never been charged by any one with fraud. He bought this land in good faith after the title of Gomez was confirmed by the decree of the proper tribunal under the laws of the United States. He bought it without notice of any contest or dispute in regard to the validity of the title; but these monopolists took possession of his land and set up, in the name of the United States, a claim which has been litigated for years. McGarrahan will now have to pay for this land to obtain a title, the title which we believe he ought to have had confirmed long ago. And, as I have already said, he would have long since have had the title if it had not been for the extraordinary efforts made to defeat it by men possessing unlimited means, who have pursued him for years. The Government will lose nothing, for it must go to one or the other, and all the equities are with McGarrahan.

And, sir, I am not surprised at the opposition to the measure now before the House. I do not question the integrity of a single gentleman who is opposing the measure here; but it would be most extraordinary if men commanding the influence, the talents, and capital that these men do, could not by printed, partial, or garbled statements of facts, or other means, bring forward plausible arguments to influence the minds of gentlemen who have not had an opportunity to examine this question thoroughly, and make them believe that the claim of McGarrahan is without any just foundation. And for the manner in which he has been pursued before the courts, Legislatures, and everywhere, it would be strange, indeed, if they did not succeed in misleading even the most intelligent members of the House who have not had an opportunity of examining the question in all its bearings.

Mr. BOUTWELL. Will the gentleman yield?

Mr. MARSHALL. Yes, sir.

Mr. BOUTWELL. I understand the gentleman in his remarks to reflect upon gentlemen on this floor who have opposed this claim as though they were representatives of the New Idria Mining Company.

Mr. MARSHALL. Oh, not at all.

Mr. BOUTWELL. For myself, I have had no intercourse with them except what I have had in the committee. The gentleman has no right to impugn the action of those who oppose this claim.

Mr. MARSHALL. I am very sorry the gentleman understood me so to do. I certainly intended nothing of the kind.

Mr. BOUTWELL. I think I do not misunderstand the force of language.

Mr. HIGBY. Whom does the gentleman mean, if not the member from Massachusetts?

Mr. MARSHALL. In what, sir?

Mr. HIGBY. In speaking about commanding their forces.

Mr. MARSHALL. I said it would be most extraordinary if men of influence should not make an impression on the minds of honest and intelligent gentlemen, and make them believe that there are reasons why this measure should not be passed. I did not intend—and if I was so understood I now entirely disavow it—to cast any reflection upon any gentleman who opposes this measure. I did not think anything of the kind.

Mr. BOUTWELL. I accept the gentleman's explanation, but in consequence of his remarks I wish only to say this: I have received a letter from Mr. Shepherd asking that the matter might be recommitted to the committee, which I am perfectly willing the gentleman or any one else should read. Two gentlemen outside of the committee-room have spoken to me upon this matter and I declined to hear their statement. In the statements I have made and the course I have taken I have been governed wholly by my convictions of duty, based upon the testimony taken before the committee.

Mr. MARSHALL. Mr. Speaker, I would be the last man on this floor that would either directly or indirectly wantonly impugn the motives of my brother members upon this floor, and especially of the gentleman from Massachusetts. [Mr. BOUTWELL,] for whom I have personally a very high regard. Not the slightest idea of improper motives on the part of members has crossed my mind. All I intended to say was that it would be extraordinary if these gentlemen who have been fighting this claimant through the courts of the United States for years could not bring some facts and arguments to bear that would influence honest and intelligent gentlemen who had not thoroughly examined the case to oppose the measure before this House. That is what I said, and I do not think my language or my purpose in using it can be misunderstood. I should regret to see the case recommitted. It would be doing great injustice to McGarran to give it that direction. The committee have already given weeks to its investigation. They have patiently listened to all parties interested, and heard all the evidence they thought proper to submit. There is not the slightest probability that the case will ever be better understood than it is at this time. Members not of the committee cannot and will not give it a thorough investigation. The report is before the House; and if we are determined to refuse this man this simple act of justice he had better know his fate at this time. Delay can do no good to any one.

[Here the hammer fell.]

Mr. WILSON, of Iowa. Mr. Speaker, I am satisfied that every member of the committee and of the House has endeavored to consider this question fairly and in accordance with its merits, and it resolves itself into this: shall the Government of the United States observe its treaty obligations, protect the rights of property involved under this grant, and permit this claimant, who has been reduced from affluence to poverty in this fight, to get that which justly belongs to him, or whether it shall permit this valuable property to pass into the hands of persons who are organized and known as the New Idria Mining Company, thereby receiving less from it than it will receive from this claimant, and thereby perpetuating a completely close monopoly of the production of this mineral on this continent. That is the simple question. That the title is a good one I do not doubt. That the title is a good one the other members of the committee concurring in this report do not doubt. The question, I repeat, reduces itself to this: whether this Government will protect its citizens, observe its obligations under the treaty, and give to this man the poor privilege at least of purchasing land which of right belongs to him. I have no more to say.

The SPEAKER. Debate is exhausted on the bill.

Mr. HIGBY. Is it in order to move that the bill be recommitted?

The SPEAKER. It is not. The previous question has been operating for the past hour. The question is on the engrossment of the bill.

Mr. WASHBURNE, of Illinois. Is it not in order to move to reconsider the vote by which the previous question was seconded for the purpose of moving to recommit the bill, with instructions to the committee to report a bill repealing all laws permitting these mineral lands to be purchased at five dollars an acre?

The SPEAKER. The motion to reconsider is in order, and if carried will divest the bill of the operation of the previous question.

Mr. WASHBURNE, of Illinois. Then I make the motion to reconsider.

Mr. ROBINSON. Is it in order to say that we reconsider for the purpose of making a general rule to operate on all cases?

The SPEAKER. It is not.

Mr. ROBINSON. I understood the gentleman from Illinois to make that statement.

The SPEAKER. The gentleman from Illinois, who is hostile to the bill in its present shape, moves to reconsider the vote by which the main question was ordered, and if that motion be carried he will then be entitled to the floor, under the usage of the House, to make the motion which he has indicated, to recommit the bill.

Mr. ROBINSON. I hope it will not be reconsidered for any such purpose.

Mr. WASHBURNE, of Illinois. I will withdraw the motion to reconsider, and ask the yeas and nays on ordering the main question to be put.

The SPEAKER. The main question has been ordered.

Mr. WASHBURNE, of Illinois. Then I insist on my motion.

Mr. WILSON, of Iowa. Take the yeas and nays on the passage of the bill.

Mr. WASHBURNE, of Illinois. No; I want to recommit the bill and save this amount of land to the Government.

Mr. WILSON, of Iowa. You cannot do it in that way, because it will fall directly into the hands of the other party, the New Idria Company.

Mr. ELDRIDGE. I move that the motion to reconsider be laid on the table.

The question was taken; and the motion was agreed to—yeas 56, nays 42.

Mr. HIGBY. I move to lay the bill upon the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 73, not voting 61; as follows:

YEAS—Messrs. Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Beatty, Benjamin, Blaine, Boutwell, Bromwell, Buckland, Reader W. Clarke, Cobb, Coburn, Cullom, Ela, Farnsworth, Ferriss, Ferry, Fields, Higby, Hopkins, Hunter, Judd, Kelsey, Ketchum, Lincoln, Logan, Maynard, McCarthy, Moore, Nunn, Paine, Perham, Plants, Polsley, Raun, Sawyer, Shanks, Sitgreaves, Thomas, John Trimble, Trowbridge, Upson, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburn, William B. Washburn, and Stephen F. Wilson—55.

NAYS—Messrs. Adams, Allison, Ames, Anderson, Beaman, Beck, Bingham, Blair, Boyer, Brooks, Broomall, Burr, Chanler, Sidney Clarke, Covode, Dodge, Donnelly, Driggs, Eldridge, Eliot, Garfield, Getz, Glossbrenner, Golladay, Gravely, Grover, Harding, Holman, Hooper, Hotchkiss, Humphrey, Ingersoll, Johnson, Julian, Kelley, Kerr, Kitchen, Knott, Koontz, Ladin, William Lawrence, Loughbridge, Marshall, Marvin, McCormick, McCullough, Morgan, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Orth, Pike, Price, Pruyn, Robertson, Robinson, Ross, Schenck, Scofield, Smith, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, Twichell, Van Auker, Van Trump, James F. Wilson, Windom, Woodbridge, and Woodward—73.

NOT VOTING—Messrs. Archer, Axtell, Banks, Barnes, Barnum, Benton, Butler, Cary, Churchill, Cook, Cornell, Covode, Dawes, Dixon, Eckley, Eggleston, Finney, Fox, Griswold, Haight, Halsey, Hill, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Jones, George V. Lawrence, Loan, Lynch, Mallory, McClurg, Mercier, Miller, Moorhead, Morrell, Morrissey, Mullins, Peters, Phelps, Pile, Poland, Pomeroy, Randall, Selye, Shellabarger, Spalding, Starkweather, Stewart, Stone, Taber, Taffe, Lawrence S. Trimble, Van Aernam, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, John T. Wilson, and Wood—61.

So the House refused to lay the bill upon the table.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. WILSON, of Iowa. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 78, nays 49, not voting 62; as follows:

YEAS—Messrs. Adams, Allison, Ames, Anderson, Beaman, Beck, Bingham, Blair, Boyer, Broomall, Burr, Cake, Chanler, Sidney Clarke, Covode, Dodge, Donnelly, Driggs, Eldridge, Garfield, Getz, Glossbrenner, Golladay, Gravely, Grover, Halsey, Harding, Holman, Hooper, Hotchkiss, Humphrey, Ingersoll, Jenckes, Johnson, Julian, Kelley, Kerr, Knott, Koontz, Ladin, William Lawrence, Loughbridge, Marshall, Marvin, McCarthy, McClurg, McCormick, McCullough, Morgan, Mungen, Myers, Newcomb, Niblack, Nicholson, O'Neill, Orth, Pike, Pile, Price, Pruyn, Robertson, Robinson, Ross, Schenck, Scofield, Smith, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taylor, Twichell, Upson, Van Aernam, Van Trump, James F. Wilson, Windom, Woodbridge, and Woodward—78.

NAYS—Messrs. Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Beatty, Benton, Blaine, Boutwell, Bromwell, Buckland, Reader W. Clarke, Cobb, Coburn, Cullom, Ela, Farnsworth, Ferriss, Ferry, Fields, Higby, Hopkins, Hunter, Judd, Kelsey, Ketchum, Kitchen, George V. Lawrence, Lincoln, Logan, Maynard, Nunn, Paine, Perham, Polsley, Raun, Sawyer, Shanks, Sitgreaves, Thomas, John Trimble, Trowbridge, Burt Van Horn, Van Wyck, Ward, Elihu B. Washburn, William B. Washburn, and William Williams—49.

NOT VOTING—Messrs. Archer, Axtell, Banks, Barnes, Barnum, Benjamin, Brooks, Butler, Cary, Churchill, Cook, Cornell, Dawes, Dixon, Eckley, Eggleston, Eliot, Finney, Fox, Griswold, Haight, Hawkins, Hill, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Jones, Loan, Lynch, Mallory, Mercer, Miller, Moore, Moorhead, Morrell, Morrissey, Mullins, Peters, Phelps, Plants, Poland, Pomeroy, Randall, Selye, Shellabarger, Spalding, Starkweather, Stewart, Stone, Taber, Taffe, Lawrence S. Trimble, Van Auker, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, John T. Wilson, Stephen F. Wilson, and Wood—62.

So the bill was passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and that the House now resolve itself into the Committee of the Whole on the state of the Union.

Mr. SCHENCK. Will the gentleman withdraw that motion for a few moments?

Mr. WASHBURNE, of Illinois. Certainly.

#### EXTRA COPIES OF TAX BILL.

Mr. SCHENCK. Many gentlemen have been inquiring about the extra copies of the internal tax bill. I am enabled to inform the House that the bill, in bill form, is now ready for delivery to members; probably it has already been laid upon the tables of members. But the Government Printer says he will not be able to furnish the five thousand additional copies (which are to be published in pamphlet form for convenience of distribution) until next Monday. In the mean time I will ask unanimous consent of the House, if that can be obtained—and if not I will ask to have the motion referred to the Committee on Printing—to have five hundred additional copies, beyond the five thousand already ordered, published in pamphlet form for distribution by members of the Committee of Ways and Means. Under the present order the members of that committee will receive no more copies than other members of the House, while they receive hundreds of applications for them. I have received, yesterday and to-day, as many as sixty applications for copies. I therefore move that while the Government Printer is printing the five thousand copies in pamphlet form for the use of the House he be ordered to print five hundred additional copies for the use of the Committee of Ways and Means.

The SPEAKER. By unanimous consent five hundred copies of the five thousand already ordered can be given to the Committee of Ways and Means.

Objection was made by several members.

Mr. SCHENCK. We do not ask to have these five hundred copies taken from the copies already ordered for the use of the House.

The SPEAKER. Any additional order for printing extra copies must go to the Committee on Printing under the law.



The motion to print five hundred additional copies of the internal tax bill was accordingly referred, under the law, to the Committee on Printing.

Mr. GARFIELD. The committee can be prepared to report on that matter to-morrow morning.

The SPEAKER. It is possible that at twelve o'clock to-morrow, when the House meets, our presence may be desired at the bar of the Senate. That would, perhaps, prevent action at that time upon this resolution.

Mr. JULIAN. I desire to inquire whether any business will be done to-day after we come out of Committee of the Whole?

The SPEAKER. No business will be transacted, unless the Committee on Printing shall be ready to report upon the resolution to print five hundred additional copies of the internal tax bill in pamphlet form.

#### LAW DEPARTMENT.

Mr. LAWRENCE, of Ohio, by unanimous consent, reported back from the Committee on the Judiciary House bill No. 765, to establish a law department, together with a substitute; which substitute was ordered to be printed, and with the bill was recommitted to the Committee on the Judiciary.

Mr. HOLMAN moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### IRON-CLADS ONEOTA AND CATAWBA.

Mr. BENJAMIN, by unanimous consent, submitted the following resolution:

*Resolved*, That the Secretary of the Navy be directed to communicate to this House copies of all correspondence that has taken place between the Navy Department and any other parties in relation to the sale of the iron-clads Oneota and Catawba.

Mr. ROBINSON. Will not the gentleman modify the resolution so as to include also an inquiry with regard to the sale of the Illinois?

Mr. WASHBURNE, of Illinois. That inquiry would more properly be addressed to the Secretary of War.

Mr. ROBINSON. In view of the suggestion of the gentleman from Illinois, I will not insist on the modification.

Mr. CHANLER. I would like to know what is the object of the gentleman from Missouri [Mr. BENJAMIN] in offering the resolution?

Mr. BENJAMIN. The Committee on Retrenchment has been charged with the investigation of the sale of these iron-clads. Some correspondence on the subject has been had between certain parties and the Navy Department. We want to get that correspondence. This resolution is offered for that purpose at the instance of the Committee on Retrenchment.

The resolution was adopted.

#### TRADE WITH BRITISH PROVINCES, ETC.

Mr. INGERSOLL. I ask unanimous consent to submit the following resolution for reference to the Committee on Printing:

*Resolved*, That forty-five hundred extra copies of the letters of the Secretary of the Treasury, dated March 30 (Ex. Doc. No. 240) and May 14, 1868, together with the reports of Mr. George W. Brega upon trade with the British Provinces of North America, therewith transmitted, be printed for the use of the House, and five hundred for the use of the Treasury Department.

Mr. WASHBURNE, of Illinois. I think this resolution ought not to pass, but I will not object to its reference to the Committee on Printing.

There being no objection, the resolution was referred, under the law, to the Committee on Printing.

#### HARRIS STEAM ENGINE COMPANY.

Mr. INGERSOLL, by unanimous consent, introduced a bill (H. R. No. 1074) to incorporate the Harris Steam Engine Company of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### IMPROVEMENT OF CAPITOL GROUNDS.

Mr. ELA, by unanimous consent, submitted

the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Buildings and Grounds be instructed to inquire whether any further appropriation is necessary to cause the removal of the half dozen loads of rubbish which have lain for the last fifteen months about the west front of the Capitol, and to complete the grading now suspended, requiring about twenty days' labor.

#### PRINTING OF INTERNAL TAX BILL.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed in pamphlet form five hundred copies of the bill "to reduce into one act and to amend the laws relating to internal taxes," reported from the Committee of Ways and Means, for the use of the committee.

#### LEAVE OF ABSENCE.

Mr. MCCARTHY asked and obtained indefinite leave of absence after to-day.

#### ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois, moved that the rules be suspended and that the House resolve itself into the Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. LAWRENCE, of Ohio, in the chair.)

#### FINANCIAL POLICY OF THE COUNTRY.

Mr. GARFIELD. Mr. Chairman, I am aware that financial subjects are dull and uninviting in comparison with those heroic themes which have absorbed the attention of Congress for the last five years. To turn from the consideration of armies and navies, victories and defeats, to the long array of figures which exhibit the debt, expenditure, taxation, and industry of the nation, requires no little courage and self-denial; but to those questions we must come, and to their solution Congresses, political parties, and all thoughtful citizens must give their best efforts for many years to come. Our public debt, the greatest financial fact of this century, stands in the pathway of all political parties and, like the Egyptian Sphinx, propounds its riddles. All the questions which spring out of the public debt, such as loans, bonds, tariffs, internal taxation, banking, and currency, present greater difficulties than usually come within the scope of American politics. They cannot be settled by force of numbers nor carried by assault, as an army storms the works of an enemy. Patient examination of facts, careful study of principles which do not always appear on the surface, and which involve the most difficult problems of political economy, are the weapons of this warfare. No sentiment of national pride should make us unmindful of the fact that we have less experience in this direction than any other civilized nation. If this fact is not creditable to our intellectual reputation, it at least affords a proof that our people have not hitherto been crushed under the burdens of taxation. We must consent to be instructed by the experience of other nations, and be willing to approach these questions, not with the dogmatism of teachers, but as seekers after truth.

It is evident, that both in Congress and among the people, there is great diversity of opinion on all these themes. He is indeed a bold man who, at this time, claims to have mastered any one of them, or reached conclusions on all its features satisfactory even to himself. For myself, I claim only to have studied earnestly to know what the best interests of the country demand at the hands of Congress. I have listened with great respect to the opinions of those with whom I differ most, and only ask for myself what I award to all others, a patient hearing.

#### THE HARD TIMES.

The past six months have been remarkable for unparalleled distress in the commercial and industrial interests of half the civilized world. In Great Britain, the distress among the laboring classes is more terrible than the people of those islands have suffered for a

quarter of a century. From every city, town, and village in the kingdom, the cry of distress comes up through every issue of the press. The London Times of December 11, says:

"Last winter the demands on the public were unprecedented. The amount of money given to the poor of London beyond that disbursed in legal relief of the poor, was almost incredible. It seemed the demand had reached its highest point, but if we are not mistaken the exigencies of the present season will surpass those of any former year in British history."

The London Star, of a still later date, says:

"Men and women die in our streets every day of starvation. Whole districts are sinking into one vast, squalid, awful condition of helpless, hopeless destitution."

From many parts of continental Europe there comes a similar cry. A few weeks since the Secretary of State laid before this body a letter from the American minister at Copenhagen, appealing to this country for contributions for the relief of the suffering poor of Sweden and Norway. A late Berlin paper says "business is at a stand-still, and privation and suffering are everywhere seen." The inhabitants of eastern Prussia are appealing to the German citizens of the United States for immediate relief. In Russia the horrors of pestilence are added to the sufferings of famine. In Finland the peasants are dying of starvation by hundreds. In some parts of France and Spain the scarcity is very great. In northern Africa the suffering is still greater. In Algiers the deaths by starvation are so numerous that the victims are buried in trenches like the slain on the battle-field. In Tunis eight thousand have thus perished in two months. The United States consul at that place writes that on the 27th day of December two hundred people starved to death in the streets of that city, and the average daily deaths from that cause exceed one hundred. Our sadness at the contemplation of this picture is mingled with indignation, when we reflect that at the present moment, in the eight principal nations of Europe, there are three million men under arms at an annual cost of nearly a thousand million dollars, an expense which, in twenty years, would pay every national debt in Christendom; and this only the peace establishment! While Napoleon is feeding fifty thousand starving Frenchmen daily from the soup-kitchens of the imperial palace he is compelling the French Legislature to double his army. Whatever distress our people may be suffering, they have reason to be thankful that the bloody monster called the "balance of power" has never cast its shadow upon our country. We have reason, indeed, to be thankful that our people are suffering less than the people of any other nation. But the distress here is unusual for us. It is seen in the depression of business, the stagnation of trade, the high price of provisions, and the great difficulty which laboring men encounter in finding employment. It is said that during the past winter seventy-five thousand laborers of New York city have been unable to find employment. The whole industry of the States lately in rebellion is paralyzed, and in many localities the cry of hunger is heard. It is the imperative duty of Congress to ascertain the cause of this derangement of our industrial forces, and apply whatever remedy legislation can afford. The field is a broad one, the subject is many-sided; but our first step should be to ascertain the facts of our situation.

I shall direct my remarks on this occasion to but one feature of our legislation. I propose to discuss the currency and its relation to the revenue and business prosperity of the country.

#### OUR INDUSTRIAL REVOLUTION.

In April, 1861, there began in this country an industrial revolution, not yet completed, as gigantic in its proportions and as far reaching in its consequences as the political and military revolution through which we have passed. As the first step to any intelligent discussion of the currency it is necessary to examine the character and progress of that industrial revolution.

The year 1860 was one of remarkable pros-

perity in all branches of business. For seventy years, no Federal tax-gatherer had ever been seen among the laboring population of the United States. Our public debt was less than sixty-five million dollars. The annual expenditures of the Government, including interest on the public debt, were less than sixty-four million dollars. The revenues from customs alone amounted to six sevenths of the expenditures. The value of our agricultural products for that year amounted to \$1,625,000,000. Our cotton crop alone was two billion one hundred and fifty-five million pounds, and we supplied to the markets of the world seven eighths of all the cotton consumed. Our merchant marine engaged in foreign trade amounted to two million five hundred and forty-six thousand two hundred and thirty-seven tons, and promised soon to rival the immense carrying trade of England.

#### FROM PEACE TO WAR.

Let us now observe the effect of the war on the various departments of business. From the moment the first hostile gun was fired, the Federal and State governments became gigantic consumers. As far as production was concerned, eleven States were completely separated from the Union. Two million laborers, more than one third of the adult population of the northern States, were withdrawn from the ranks of producers and became only consumers of wealth. The Federal Government became an insatiable devourer. Leaving out of account the vast sums expended by States, counties, cities, towns, and individuals for the payment of bounties, for the relief of sick and wounded soldiers and their families, and omitting the losses, which can never be estimated, of property destroyed by hostile armies, I shall speak only of expenditures which appear on the books of the Federal Treasury. From the 30th of June, 1861, to the 30th of June, 1866, there were paid out of the Federal Treasury \$3,340,996,211, making an aggregate during these four years of more than eight hundred and thirty-six million dollars per annum.

From the official records of the Treasury Department it appears that from the beginning of the American Revolution in 1775, to the beginning of the late rebellion, the total expenditures of the Government for all purposes, including the assumed war debts of the States, amounted to \$2,250,000,000. The expenditures of four years of the rebellion were nearly \$1,100,000,000 more than all the other Federal expenses since the Declaration of Independence. The debt of England, which had its origin in the revolution of 1688, and was increased by more than one hundred years of war and other political disasters, had reached in 1793 the sum of \$1,268,000,000. During the twenty-two years that followed, while England was engaged in a life and death struggle with Napoleon, (the greatest war in history save our own,) \$3,056,000,000 were added to her debt. In our four years of war we spent \$300,000,000 more than the amount by which England increased her debt in twenty-two years of war; almost as much as she had increased it in one hundred and twenty-five years of war. Now, the enormous demand which this expenditure created for all the products of industry, stimulated to an unparalleled degree every department of business. The plow, furnace, mill, loom, railroad, steamboat, telegraph—all were driven to their utmost capacity. Warehouses were emptied; and the great reserves of supply, which all nations in a normal state keep on hand, were exhausted to meet the demands of the great consumer. For many months, the Government swallowed three millions per day of the products of industry. Under the pressure of this demand, prices rose rapidly in every department of business. Labor everywhere found quick and abundant returns. Old debts were canceled and great fortunes were made.

For the transaction of this enormous business an increased amount of currency was needed; but I doubt if any member of this House can be found, bold enough to deny that

the deluge of Treasury notes poured upon the country during the war, was far greater than even the great demands of business. Let it not be forgotten, however, that the chief object of these issues was not to increase the currency of the country. They were authorized with great reluctance and under the pressure of overwhelming necessity, as a temporary expedient to meet the demands of the Treasury. They were really forced loans in the form of Treasury notes. By the act of July 17, 1861, an issue of demand notes was authorized to the amount of \$50,000,000. By the act of August 5, 1861, this amount was increased \$50,000,000 more. By the act of February 25, 1862, an additional issue of \$150,000,000 was authorized. On the 17th of the same month an unlimited issue of fractional currency was authorized. On the 17th of January, 1863, an issue of \$150,000,000 more was authorized, which was increased \$50,000,000 by the act of March 3, of the same year. This act also authorized the issue of one and two years' Treasury notes, bearing interest at five per cent., to be a legal tender for their face, to the amount of \$400,000,000. By the act of June 30, 1864, an issue of six per cent. compound-interest notes, to be a legal tender for their face, was authorized, to the amount of \$200,000,000. In addition to this, many other forms of paper obligation were authorized, which, though not a legal tender, performed many of the functions of currency. By the act of March 1, 1862, the issue of an unlimited amount of certificates of indebtedness was authorized, and within ninety days after the passage of the act, there had been issued and were outstanding of these certificates, more than one hundred and fifty-six million dollars. Of course these issues were not all outstanding at the same time, but the acts show how great was the necessity for loans during the war.

The law which made the vast volume of United States notes a legal tender operated as an act of general bankruptcy. The man who loaned \$1,000 in July, 1861, payable in three years, was compelled by this law to accept at maturity, as a full discharge of the debt, an amount of currency equal in value to \$350 of the money he loaned. Private indebtedness was everywhere canceled. Rising prices increased the profits of business, but this prosperity was caused by the great demand for products, and not by the abundance of paper money. As a means of transacting the vast business of the country, a great volume of currency was indispensable; and its importance cannot be well overestimated. But let us not be led into the fatal error of supposing that paper money created the business or produced the wealth. As well might it be alleged that our rivers and canals produce the grain which they float to market. Like currency, the channels of commerce stimulate production, but cannot nullify the inexorable law of demand and supply.

#### FROM WAR TO PEACE.

Mr. Chairman, I have endeavored to trace the progress of our industrial revolution in passing from peace to war. In returning from war to peace all the conditions were reversed. At once the Government ceased to be an all-devouring consumer. Nearly two million able bodied men were discharged from the Army and Navy and enrolled in the ranks of the producers. The expenditures of the Government, which for the fiscal year ending June, 30, 1865, amounted to \$1,290,000,000, were reduced to \$520,000,000 in 1866, to \$346,000,000 in 1867; and, if the retrenchment measures recommended by the Special Commissioner of the Revenue be adopted, another year will bring them below \$300,000,000.

Thus during the first year after the war the demands of the Federal Government as a consumer, decreased sixty per cent.; and in the second year the decrease had reached seventy-four per cent., with a fair prospect of a still further reduction.

The recoil of this sudden change would have produced great financial disaster in 1866, but

for the fact that there was still open to industry the work of replacing the wasted reserves of supply, which in all countries in a healthy state of business, are estimated to be sufficient for two years. During 1866, the fall in price of all articles of industry, amounted to an average of ten per cent. One year ago a table was prepared at my request, by Mr. Edward Young, in the office of the Special Commissioner of the Revenue, exhibiting a comparison of wholesale prices at New York in December, 1865, and December, 1866. It shows that in ten leading articles of provisions there was an average decline of twenty-two per cent., though beef, flour, and other breadstuffs remained nearly stationary. On cotton and woolen goods, boots, shoes, and clothing, the decline was thirty per cent. On the products of manufacture and mining, including coal, cordage, iron, lumber, naval stores, oils, tallow, tin, and wool, the decline was twenty-five per cent. The average decline on all commodities was at least ten per cent. According to the estimates of the Special Commissioner of the Revenue in his late report, the average decline during 1867 has amounted at least to ten per cent. more. During the past two years, Congress has provided by law for reducing internal taxation \$100,000,000; and the act passed a few weeks ago, has reduced the tax on manufactures to the amount of \$64,000,000 per annum. The repeal of the cotton tax will make a further reduction of \$20,000,000. State and municipal taxation and expenditures have also been greatly reduced. The work of replacing these reserves delayed the shock and distributed its effects, but could not avert the inevitable result. During the past two years, one by one, the various departments of industry produced a supply equal to the demand. Then followed a glutted market, a fall in prices, and a stagnation of business by which thousands of laborers were thrown out of employment.

If to this it be added that the famine in Europe and the drought in many of the agricultural States of the Union have kept the price of provisions from falling as other commodities have fallen; we shall have a sufficient explanation of the stagnation of business and the unusual distress among our people.

This industrial revolution has been governed by laws beyond the reach of Congress. No legislation could have arrested it at any stage of its progress. The most that could possibly be done by Congress was to take advantage of the prosperity it occasioned, to raise a revenue for the support of the Government, and to mitigate the severity of its subsequent pressure, by reducing the vast machinery of war to the lowest scale possible. Manifestly nothing can be more absurd than to suppose that the abundance of currency produced the prosperity of 1863, 1864, and 1865, or that the want of it is the cause of our present stagnation.

#### THE FUNCTIONS OF CURRENCY.

In order to reach a satisfactory understanding of the currency question, it is necessary to consider somewhat fully, the nature and functions of money or any substitute for it.

The theory of money which formed the basis of the "Mercantile system" of the seventeenth and eighteenth centuries, has been rejected by all leading financiers and political economists for the last seventy-five years. That theory asserted that money is wealth; that the great object of every nation should be to increase its amount of gold and silver; that this was a direct increase of national wealth.

It is now held as an indisputable truth that money is an instrument of trade and performs but two functions. It is a measure of value and a medium of exchange.

In cases of simple barter, where no money is used, we estimate the relative values of the commodities to be exchanged, in dollars and cents, it being our only universal measure of value.

As a medium of exchange, money is to all business transactions, what ships are to the transportation of merchandise. If a hundred vessels of a given tonnage are just sufficient to

carry all the commodities between two ports, any increase of the number of vessels will correspondingly decrease the value of each as an instrument of commerce; any decrease below one hundred will correspondingly increase the value of each. If the number be doubled each will carry but half its usual freight, will be worth but half its former value for that trade. There is so much work to be done and no more. A hundred vessels can do it all. A thousand can do no more than all.

The functions of money as a medium of exchange, though more complicated in their application, are precisely the same in principle as the functions of the vessels in the case I have supposed.

If we could ascertain the total value of all the exchanges effected in this country by means of money in any year, and could ascertain how many dollars worth of such exchanges can be effected in a year by one dollar in money, we should know how much money the country needed for the business transactions of that year. Any decrease below that amount will correspondingly increase the value of each dollar as an instrument of exchange. Any increase above that amount will correspondingly decrease the value of each dollar. If that amount be doubled, each dollar of the whole mass will perform but half the amount of business it did before; will be worth but half its former value as a medium of exchange.

Recurring to our illustration: if, instead of sailing vessels, steam vessels were substituted, a much smaller tonnage would be required; so, if it were found that \$500,000,000 of paper, each worth seventy cents in gold, were sufficient for the business of the country, it is equally evident that \$350,000,000 of gold substituted for the paper would perform precisely the same amount of business.

It should be remembered, also, that any improvement in the mode of transacting business, by which the actual use of money is in part dispensed with, reduces the total amount needed by the country. How much has been accomplished in this direction by recent improvements in banking, may be seen in the operations of the clearing-houses in our great cities.

The records of the New York clearing-house show that from October 11, 1853, the date of its establishment, to October 11, 1867, the exchanges amounted to nearly one hundred and eighty thousand million dollars; to effect which, less than eight thousand millions of money were used; an average of about four per cent.; that is, exchanges were made to the amount of \$100,000,000 by the payment of four millions of money.

It is also a settled principle that all deposits in banks drawn upon by checks and drafts, really serve the purpose of money.

The amount of currency needed in the country depends, as we have seen, upon the amount of business transacted by means of money. The amount of business, however, is varied by many causes which are irregular and uncertain in their operation. An Indian war, deficient or abundant harvests, an overflow of the cotton lands of the South, a bread famine or war in Europe, and a score of such causes entirely beyond the reach of legislation, may make money deficient this year and abundant next. The needed amount varies also from month to month in the same year. More money is required in the autumn, when the vast products of agriculture are being moved to market, than when the great army of laborers are in winter-quarters, awaiting the seed time.

When the money of the country is gold and silver, it adapts itself to the fluctuations of business without the aid of legislation. If, at any time, we have more than is needed, the surplus flows off to other countries through the channels of international commerce. If less, the deficiency is supplied through the same channels. Thus the monetary equilibrium is maintained. So immense is the trade of the world that the golden streams pouring from California and Australia into the specie circulation,

are soon absorbed in the great mass and equalized throughout the world, as the waters of all the rivers are spread upon the surface of all the seas.

Not so, however, with an inconvertible paper currency. Excepting the specie used in payment of customs and the interest on our public debt, we are cut off from the money currents of the world. Our currency resembles rather the waters of an artificial lake which lie in stagnation or rise to full banks at the caprice of the gatekeeper.

Gold and silver abhor depreciated paper money, and will not keep company with it. If our currency be more abundant than business demands, not a dollar of it can go abroad; if deficient, not a dollar of gold will come in to supply the lack. There is no Legislature on earth, wise enough to adjust such a currency to the wants of the country.

#### RELATION OF CURRENCY TO PRICES.

Let us examine more minutely the effect of such a currency upon prices. Suppose that the business transactions of the country at the present time require \$350,000,000 in gold. It is manifest that if there are just \$350,000,000 of legal-tender notes, and no other money in the country, each dollar will perform the full functions of a gold dollar, so far as the work of exchange is concerned. Now, business remaining the same, let \$350,000,000 more of the same kind of notes be pressed into circulation. The whole volume, as thus increased, can do no more than all the business. Each dollar will accomplish just half the work that a dollar did before the increase, but as the nominal dollar is fixed by law, the effect is shown in prices being doubled. It requires two of these dollars to make the same purchase that one dollar made before the increase. It would require some time for the business of the country to adjust itself to the new conditions, and great derangement of values would ensue; but the result would at last be reached in all transactions which are controlled by the law of demand and supply.

#### INCREASE OF THE CURRENCY IS TAXATION.

No such change of values can occur without cost. Somebody must pay for it. Who pays in this case? We have seen that doubling the currency finally results in reducing the purchasing power of each dollar one half; hence every man who held a legal-tender note at the time of the increase, and continued to hold it till the full effect of the increase was produced, suffered a loss of fifty per cent. of its value; in other words, he paid a tax to the amount of half of all the currency in his possession. This new issue, therefore, by depreciating the value of all the currency, cost the holders of the old issue \$175,000,000; and if the new notes were received at their nominal value at the date of issue, their holders paid a tax of \$175,000,000 more. No more unequal or unjust mode of taxation could possibly be devised. It would be tolerated only by being so involved in the transactions of business as to be concealed from observation; but it would be no less real because hidden.

#### ITS CHIEF BURDEN FALLS ON THE LABORER.

But some one may say, "This depreciation would fall upon capitalists and rich men who are able to bear it."

If this were true it would be no less unjust. But unfortunately the capitalists would suffer less than any other class. The new issue would be paid in the first place in large amounts to the creditors of the Government; it would pass from their hands before the depreciation had taken full effect, and, passing down step by step through the ranks of middle men, the dead weight would fall at last upon the laboring classes in the increased price of all the necessities of life. It is well known that in a general rise of prices, wages are among the last to rise. This principle was illustrated in the report of the Special Commissioner of the Revenue for the year 1866. It is there shown that from the beginning of the war to the end of 1866, the average price of all commodities had

risen ninety per cent. Wages, however, had risen but sixty per cent. A day's labor would purchase but two thirds as many of the necessities of life as it would before. The wrong is therefore inflicted on the laborer long before his income can be adjusted to his increased expenses. It was in view of this truth that Daniel Webster said in one of his ablest speeches:

"Of all the contrivances for cheating the laboring classes of mankind, none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's field by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation, these bear lightly on the happiness of the mass of the community, compared with a fraudulent currency and the robberies committed by depreciated paper."

The fraud committed and the burdens imposed upon the people, in the case we have supposed, would be less intolerable if all business transactions could be really adjusted to the new conditions; but even this is impossible. All debts would be canceled, all contracts fulfilled by payment in these notes—not at their real value, but for their face. All salaries fixed by law, the pay of every soldier in the Army, of every sailor in the Navy, and all pensions and bounties would be reduced to half their former value. In these cases the effect is only injurious. Let it never be forgotten that every depreciation of our currency results in robbing the one hundred and eighty thousand pensioners, maimed heroes, crushed and bereaved widows, and homeless orphans, who sit helpless at our feet. And who would be benefited by this policy? A pretense of apology might be offered for it, if the Government could save what the people lose. But the system lacks the support of even that selfish and immoral consideration. The depreciation caused by the over issue in the case we have supposed compels the Government to pay just that percent. more on all the contracts it makes, on all the loans it negotiates, on all the supplies it purchases; and to crown all, it must at last redeem all its legal-tender notes in gold coin, dollar for dollar. The advocates of repudiation have yet been bold enough to deny this.

#### DEPRECIATED CURRENCY STIMULATES SPECULATION AND OVERTRADING.

I have thus far considered the influence of a redundant paper currency on the country when its trade and industry are in a healthy and normal state. I now call attention to its effect in producing an unhealthy expansion of business, in stimulating speculation and extravagance and in laying the sure foundation of commercial revulsion and wide-spread ruin. This principle is too well understood to require any elaboration here. The history of all modern nations is full of examples. One of the ablest American writers on banks and banking, Mr. Gouge, thus sums up the result of his researches:

"The history of all our bank pressures and panics has been the same in 1825, in 1837, and in 1843; and the cause given in these two simple words—universal expansion."

There still remains to be considered the effect of depreciated currency on our trade with other nations. By raising prices at home higher than they are abroad, imports are largely increased beyond the exports; our coin must go abroad; or, what is far worse for us, our bonds which have also suffered depreciation and are purchased by foreigners at seventy cents on the dollar. During the whole period of high prices occasioned by the war, gold and bonds have been steadily going abroad, notwithstanding our tariff duties which average nearly fifty per cent. *ad valorem*. More than five hundred million dollars of our bonds are now held in Europe, ready to be thrown back upon us when any war or other sufficient disturbance shall occur. No tariff rates short of actual prohibition can prevent this outflow of gold while our currency is thus depreciated. During these years also, our merchant marine steadily decreased, and our ship-building interests were nearly ruined.

Our tonnage engaged in foreign trade, which amounted in 1859-60 to more than two and a half million tons, had fallen in 1865-66 to less



than one and a half millions—a decrease of more than fifty per cent.; and prices of labor and material are still too high to enable our shipwrights to compete with foreign builders.

From the facts already exhibited in reference to our industrial revolution, and from the foregoing analysis of the nature and functions of currency, it is manifest:

1. That the remarkable prosperity of all industrial enterprise during the war was not caused by the abundance of currency, but by the unparalleled demand for every product of labor.

2. That the great depression of business, the stagnation of trade, the "hard times" which have prevailed during the past year, and which still prevail, have not been caused by an insufficient amount of currency, but mainly by the great falling off of the demand for all the products of labor compared with the increased supply since the return from war to peace.

#### HOW MUCH CURRENCY IS NEEDED?

I should be satisfied to rest on these propositions without further argument, were it not that the declaration is so often and so confidently made by members of this House, that there is not only no excess of currency, but that there is not enough for the business of the country. I subjoin a table, carefully made up from the official records, showing the amount of paper money in the United States at the beginning of each year from 1834 to 1868, inclusive. The fractions of millions are omitted:

Millions.	Millions.
1834..... 95	1852..... 150
1835..... 104	1853..... 146
1836..... 140	1854..... 205
1837..... 149	1855..... 187
1838..... 116	1856..... 196
1839..... 135	1857..... 215
1840..... 107	1858..... 135
1841..... 107	1859..... 193
1842..... 84	1860..... 207
1843..... 59	1861..... 202
1844..... 75	1862..... 218
1845..... 90	1863..... 529
1846..... 105	1864..... 636
1847..... 106	1865..... 948
1848..... 129	1866..... 919
1849..... 115	1867..... 852
1850..... 131	1868..... 767
1851..... 155	

To obtain a full exhibit of the circulating medium of the country for these years, it would be necessary to add to the above, the amount of coin in circulation each year. This amount cannot be ascertained with accuracy, but it is the opinion of those best qualified to judge, that there were about two hundred million dollars of gold and silver coin in the United States at the beginning of the rebellion. It is officially known that the amount held by the banks from 1860 to 1868 inclusive, averaged about ninety-seven million dollars. Including bank reserves, the total circulation of coin and paper never exceeded \$400,000,000 before the war. Excluding the bank reserves the amount was never much above \$300,000,000. During the twenty-six years preceding the war the average bank circulation was less than one hundred and thirty-nine million dollars.

It is estimated that the amount of coin now in the United States is not less than \$250,000,000. When it is remembered that there are now \$106,000,000 of coin in the Treasury, that customs duties and interest on the public debt are paid in coin alone, and that the currency of the States and Territories of the Pacific coast is wholly metallic, it will be seen that a large sum of gold and silver must be added to the volume of paper currency in order to ascertain the whole amount of our circulation. It cannot be successfully controverted that the gold, silver, and paper, used as money in this country at this time, amount to \$1,000,000,000. If we subtract from this amount our bank reserves—which amounted on the 1st of January last to \$162,500,000, and also the cash in the national Treasury, which at that time amounted to \$134,000,000—we still have left in active circulation, more than seven hundred million dollars.

It rests with those who assert that our present amount of currency is insufficient, to show that one hundred and fifty per cent. more currency is now needed for the business of the

country than was needed in 1860. To escape this difficulty, it has been asserted, by some honorable members, that the country never had currency enough; and that credit was substituted before the war to supply the lack of money. It is a perfect answer to this, that in many of the States a system of free banking prevailed; and such banks pushed into circulation all the money they could find a market for.

#### RELATION OF CURRENCY TO FINANCIAL PANICS.

The table I have submitted shows how perfect an index the currency is, of the healthy or unhealthy condition of business, and that every great financial crisis, during the period covered by the table, has been preceded by a great increase, and followed by a great and sudden decrease in the volume of paper money. The rise and fall of mercury in the barometer is not more surely indicative of an atmospheric storm, than is a sudden increase or decrease of currency indicative of financial disaster. Within the period covered by the table there were four great financial and commercial crises in this country. They occurred in 1837, 1841, 1854, and 1857. Now, observe the change in the volume of paper currency for those years.

On the 1st day of January, 1837, the amount had risen to \$149,000,000, an increase of nearly fifty per cent. in three years. Before the end of that year, the reckless expansion, speculation, and overtrading which caused the increase, had resulted in terrible collapse; and on the 1st of January, 1838, the volume was reduced to \$116,000,000. Wild lands, which speculation had raised to fifteen and twenty dollars per acre, fell to one dollar and a half and two dollars, accompanied by a corresponding depression in all branches of business. Immediately after the crisis of 1841 the bank circulation decreased twenty-five per cent., and by the end of 1842 was reduced to \$58,500,000, a decrease of nearly fifty per cent.

At the beginning of 1853 the amount was \$146,000,000. Speculation and expansion had swelled it to \$205,000,000 by the end of that year, and thus introduced the crash of 1854. At the beginning of 1857 the paper money of the country reached its highest point of inflation up to that time. There were nearly two hundred and fifteen millions, but at the end of that disastrous year the volume had fallen to \$185,000,000, a decrease of nearly forty per cent. in less than twelve months. In the great crashes preceding 1837 the same conditions are invariably seen—great expansion, followed by a violent collapse, not only in paper money, but in loans and discounts; and those manifestations have always been accompanied by a corresponding fluctuation in prices.

In the great crash of 1819, one of the severest this country ever suffered, there was a complete prostration of business. It is recorded in Niles's Register for 1820 that in that year an Ohio miller sold four barrels of flour to raise five dollars, the amount of his subscription to that paper. Wheat was twenty cents per bushel and corn ten cents. About the same time Mr. Jefferson wrote to Nathaniel Macon:

"We have now no standard of value. I am asked eighteen dollars for a yard of broadcloth which, when we had dollars, I used to get for eighteen shillings."

#### DOES THE HIGH RATE OF INTEREST INDICATE AN INSUFFICIENT AMOUNT OF CURRENCY?

But the advocates of paper-money expansion answer us:

"It makes no difference what your reasoning may be, we allege the fact that there is great stringency in our money market, great depression in business, and the high rate of interest everywhere demanded, especially in the West, proves conclusively that an increase of currency is needed."

The relation of business to the supply of money and to the rate of interest, has never been so strikingly illustrated as in the financial and business history of Europe during the past two years. At the beginning of 1866 there was great activity and apparent prosperity in the business of Europe. It was a period of speculation and overtrading. About the middle of that year the depression commenced, which

has continued and increased till now, when the distress is greater and more widespread than it has been for a quarter of a century. From May, 1866, to the present time, the rate of interest in the principal money centers of Europe has been steadily decreasing. The following table, collated from the London Economist, exhibits the fact that the average decline in nine kingdoms of Europe is fifty per cent.:

#### RATE OF INTEREST.

	May, 1866.	March, 1868.
	per cent.	per cent.
London.....	7	2
Paris.....	4	1½
Berlin.....	5	3
Vienna.....	7	4
Frankfort.....	6	2½
Amsterdam.....	6½	3
Turin.....	6	5
Madrid.....	9	5
Brussels.....	5	2
Hamburg.....	7	2
St. Petersburg.....	7	8

It will be noticed that the rate is lowest in specie-paying countries, and highest where there is a large volume of depreciated paper money, as in Russia, Spain, and Italy. But the important fact exhibited in this table is, that as commercial distress has increased, the rate of interest has decreased, and that the hard times have been accompanied with an abundant supply of money.

It would be as reasonable for an Englishman to assert that the distress and stagnation of business there has been caused by the plethora of money and the low rate of interest, as for us to claim that our distress is caused by an insufficient currency and a high rate of interest. There, as here, the distress was caused by overproduction and overtrading.

England thought to grow rich out of our misfortunes, and, in her greed, overreached herself and brought misery and ruin upon millions of her people. As a specimen of her crazy expansion of business, witness the fact that in the years 1863, 1864, and 1865, in addition to all other enterprises, there were organized eight hundred and thirty-two joint-stock companies, with an authorized capital of £363,000,000 sterling. During 1866 and 1867, there were organized but seventy-one such companies, with an authorized capital of less than sixteen million five hundred thousand pounds sterling.

The Bankers' Magazine of London, for May, 1867, says that—

"In the vaults of the Bank of England, the Bank of France, and in Amsterdam, Frankfort, Hamburg, and Berlin, there are £75,000,000; the rate of discount averages three per cent., and tending downward; yet in each and every one of these cities complaints of the scarcity of money were never more rife."

At the end of 1867, the same magazine, of a later date, says there were £23,500,000 sterling gold in the Bank of England, besides £14,000,000 of coin and paper reserves, but "not the slightest life in trade."

The London Times of December 20, 1867, says:

"We are now paying the penalty of wild speculation and overtrading. For eighteen months, all but the ordinary business of the country is at a standstill." \* \* \* "Millions on millions are lying useless in the various banks of the country because the owners of the money cannot yet prevail upon themselves to trust it in any of the ordinary investments."

From these facts it is evident that those who attribute our hard times to a reduction of the currency will find themselves unable to explain the hard times in Europe.

We are constantly reminded that the country was prosperous at the beginning of 1866, before the currency was reduced, but is now in distress since the reduction, and these two facts are assumed to sustain the relation to each other of cause and effect.

Now, let it be observed that since January, 1866, the volume of paper currency has been reduced sixteen and a half per cent., but during the same time there has been an average decline in prices of not less than twenty per cent.; that is, eighty cents in currency will purchase as many commodities now as a dollar would two years ago; and there are eighty-three and a half

cents in currency now to every dollar then. The gold value of our whole volume of currency in January, 1868, was but three and two thirds per cent. less than the gold value of the whole volume in January, 1866. The advocates of expansion should prove that there has been a reduction in the purchasing power of our currency before they deplore the fact.

#### SCARCITY OF CURRENCY IN THE WEST.

That there is an apparent stringency in our money market generally, and a relative scarcity of currency in the West cannot be doubted. During the past winter, especially, it has been and still is very difficult in the West to obtain money on good business paper. The causes of this are to be found in the improper adjustment of our financial machinery and in the great uncertainty attending our financial legislation. It is a well-settled principle that a currency, not redeemable, tends to find its way to the money centers and stay there.

Most unfortunately for the interest of the country, the national banks have been allowed to receive interest on the deposits they make in the banks at the great money centers. Most of the country banks, therefore, send all their surplus funds to New York, and will not loan money unless they can receive a higher rate than is paid them there. For all practical purposes their notes are equal to greenbacks, and they are never called upon to redeem them. Thus we have a plethora of money in New York and a few other cities, and a scarcity in the country. We are financially in the condition of a sick man suffering with congestive chills; the blood rushes to the heart and leaves the extremities chilled and paralyzed.

The fluctuation of values, caused by the uncertainty of our situation, offers a great temptation to engage in stock and gold speculation, and hence men, who would otherwise be honest producers of wealth, rush to the gold room or the stock market and become the most desperate of gamblers, putting up fortunes to be lost or won on the chances of a day. These men pay enormous margins on their purchases and extravagant interest on their loans. There are tons of paper money at the great commercial centers, to which it flows from all quarters to meet the insane demands of Wall street. Recently a clique of these operators locked up \$25,000,000 of greenbacks, and upon them, as a special deposit, borrowed \$20,000,000 more for the purpose of creating a sudden stringency in the money market and placing gold and stocks at their mercy.

The vast amount of money daily loaned on call in Wall street, at a high rate of interest, shows how the currency of the country is being used. So long as the national Government takes no steps toward redeeming its own paper, so long will there be nothing to call the notes of the country banks back home; so long will there be no healthy and equal circulation of the currency. If \$200,000,000 more currency were now issued, I do not doubt that within two months there would be the same want of money in the rural districts that now prevails. The surplus would flow to the money centers, and the increased prices would make our condition worse than before. It ought not to be forgotten that while the capitalist and speculator are able to take advantage of fluctuations in prices, the poor man has no such power. The necessities of life he must buy day by day, whatever the price may be. He offers for sale only his labor. That he must sell each day, or it will be wholly lost. He is absolutely at the mercy of the market.

#### INCONVERTIBLE PAPER MONEY HAS NO FIXED VALUE.

But the most serious evil growing out of the condition of our currency is the fact that we have now no fixed and determinate standard of value. It is scarcely possible to exaggerate this evil. If a snow-ball, made at the beginning of winter and exposed to freezing and thawing, snowfall and rainfall, and weighed every day at noon, were made the lawful pound avoirdupois for this country during the winter, we can hardly conceive the confusion

and injustice that would attend all transactions depending on weight. The evil, however, would not be universal. Linear, liquid, and many other measures would not be affected by it. But a change of the money standard reaches all values. No transaction escapes. The money unit is the universal measure of value throughout the world. Since the dawn of civilization the science, the art, the statesmanship of the world have been put in requisition to devise and maintain an unvarying and, as far as possible, an invariable standard. For thousands of years gold and silver of a certain weight and fineness have been adopted as the nearest approach to perfection; but even the slight variation in value to which coin is subject from clipping and wear has brought nations to the verge of revolution. No one can read Macaulay's account of the recoinage in England, in the days of William and Mary, without perceiving how directly the happiness and prosperity of a nation depend upon the stability of its money unit. He says:

"It may well be doubted whether all the misery which had been inflicted on the English nation in a quarter of a century by bad kings, bad ministers, bad Parliaments, and bad judges, was equal to the misery caused in one year (1695) by bad crowns and bad shillings."—*Hist.*, vol. 4, chap. 21.

To rescue the nation from the evils of bad shillings, Newton was called from his high realm of discovery, Locke from his profound meditations, Somers and Montague from their seats in Parliament, and these illustrious men spent months in most devoted effort to restore to the realm its standard of value. What could now be of greater service to our country than to direct its highest wisdom and statesmanship to the restoration of our standard? For three quarters of a century the dollar has been our universal measure. A coin containing 23 $\frac{3}{4}$  grains of pure gold, and stamped at the national Mint, has been our only definition of the word dollar. The dollar is the gauge that measures every blow of the ax; every swing of the scythe; every stroke of the hammer; every fagot that blazes on the poor man's hearth; every fabric that clothes his children; every mouthful that feeds their hunger. The word dollar is the substantive word—the fundamental condition of every contract, of every sale, of every payment, whether from the national Treasury or from the stand of the apple-woman in the street. Now, what is our situation? There has been no day since the 25th of February, 1862, when any man could tell what would be the value of our legal-currency dollar the next month or the next day. Since that day we have substituted for a dollar the printed promise of the Government to pay a dollar. That promise we have broken. We have suspended payment, and have by law compelled the citizen to receive dishonored paper in place of money. The value of the paper standard thus forced upon the country by the necessities of the war, has changed every day, and almost every hour of the day, for six years. The value of our paper dollar has passed by thousands of fluctuations from one hundred cents down to thirty-five, and back again to seventy. During the war, in the midst of high prices and large profits, this fluctuation was tolerable. Now that we are making our way back toward old prices and more moderate gains, now that the pressure of hard times is upon us, this uncertainty in our standard of value is an almost intolerable evil. The currency, not being based upon a foundation of real and certain value, and possessing no element of self-adjustment, depends for its market value on a score of causes. It is a significant and humiliating fact that the business men of the nation are in constant dread of Congress. Will Congress increase the currency or contract it? Will new greenbacks be issued with which to take up the bonds; or will new bonds be issued to absorb the greenbacks? Will the national banking system be perpetuated and enlarged, or will it be abolished to enable the General Government to turn banker?

These and a score of kindred questions are agitating the public mind and changing our

standard of value with every new turn in the tide of congressional opinion. Monday is a dangerous day for the business of this country while Congress is in session. The broadside of financial resolutions fired from this House on that day, could have no such effect as it now produces if our currency were based on a firm foundation.

Observe how the people pay for this fluctuation of values. Importers, wholesale merchants, and manufacturers, knowing the uncertainties of trade which results from this changeable standard, raise their prices to cover risks. The same thing is done again by retail dealers and middle men, and the whole burden falls at last upon the consumer—the laboring man. And yet we hear honorable gentlemen singing the praises of cheap money!

The vital and incurable evil of an inconvertible paper currency is that it has no elasticity—no quality whereby it adjusts itself to the necessities and contingencies of business.

#### PAPER MONEY DELUSIONS.

But there is one quality of such a currency more remarkable than all others—its strange power to delude men. The spells and enchantments of legendary witchcraft were hardly so wonderful. Most delusions cannot be repeated; they lose their power after a full exposure. Not so with irredeemable paper money. From the days of John Law its history has been a repetition of the same story, with only this difference: no nation now resorts to its use except from overwhelming necessity; but whenever any nation is fairly embarked, it floats on the delusive waves, and, like the lotus-eating companions of Ulysses, wishes to return no more.

Into this very delusion many of our fellow-citizens and many members of this House have fallen. Hardly a member of either House of the Thirty-Seventh or Thirty-Eighth Congress spoke on the subject who did not deplore the necessity of resorting to inconvertible paper money, and protest against its continuance a single day beyond the inexorable necessities of the war. The remarks of Mr. FESSENDEN, when he reported the first legal-tender bill from the Finance Committee of the Senate, in February, 1862, fully exhibit the sentiment of Congress at that time. He assured the country that the measure was not to be resorted to as a policy; that it was what it professed to be, a temporary expedient; that he agreed with the declaration of the chairman of the Committee of Ways and Means of the House that it was not contemplated to issue more than \$150,000,000 of legal-tender notes. Though he aided in passing the bill, he uttered a warning, the truth and force of which few then questioned. He said:

"All the opinions that I have heard expressed agree in this, that only with extreme reluctance, only with fear and trembling as to the consequences can we have recourse to a measure like this of making our paper a legal tender in the payment of debts."

"All the gentlemen who have spoken on the subject, and all who have written on the subject, except some wild speculators in currency, have declared that as a policy it would be ruinous to any people, and it has been defended, as I have stated, simply and solely upon the ground that it is to be a single measure standing by itself and not to be repeated."

"Again, sir, it necessarily changes the values of all property. It is very well known that all over the world gold and silver are recognized as money, as currency; they are the measure of value. We change it here. What is the result? Inflation, subsequent depression, all the evils which follow from an inflated currency. They cannot be avoided; that they are inevitably the consequence is admitted. Although the notes, to be sure, pass precisely at par, gold appreciates, property appreciates—all kinds of property."

This, I repeat, was the almost unanimous sentiment of the Thirty-Seventh Congress; and though subsequent necessity compelled both that and the Thirty-Eighth Congress to make new issues of paper, yet the danger was always confessed and the policy and purpose of speedy resumption were kept steadily in view. So anxious were the members of the Thirty-Eighth Congress that the temptation to new issues should not overcome them or their successors, that they bound themselves by a kind of financial temperance pledge, that there never should

be a further increase of legal-tender notes. Witness the following clause of the loan act of June 30, 1864:

"SEC. 2." \* \* \* \* "Provided, That the total amount of bonds and Treasury notes authorized by the first and second sections of this act shall not exceed \$400,000,000 in addition to the amounts heretofore issued; nor shall the total amount of United States notes, issued or to be issued, ever exceed \$400,000,000, and such additional sum, not exceeding \$50,000,000, as may be temporarily required for the redemption of temporary loan."

Here is a solemn pledge to the public creditors, a compact with them, that the Government will never issue non-interest-paying notes beyond the sum total of \$450,000,000. When the war ended, the Thirty-Ninth Congress, adopting the views of its predecessors on this subject, regarded the legal-tender currency a part of the war machinery, and proceeded to reduce and withdraw it in the same manner in which the Army and Navy and other accompaniments of the War were reduced. Ninety-five gentlemen who now occupy seats in this Hall were members of this House on the 18th of December, 1865, when it was resolved by a vote of 144 yeas to 6 nays—

"That this House cordially concurs in the views of the Secretary of the Treasury in relation to the necessity of a contraction of the currency with a view to as early a resumption of specie payments as the business interests of the country will permit; and we hereby pledge cooperative action to this end as speedily as practicable."

Since the passage of that resolution the currency has been reduced by an amount less than one sixth of its volume, and what magic wonders have been wrought in the opinions of members of this House and among the financial philosophers of the country? A score of honorable gentlemen have exhausted their eloquence in singing the praises of greenbacks. They insist that, at the very least, Congress should at once set the printing presses in motion to restore the \$70,000,000 of national treasure so ruthlessly reduced to ashes by the incendiary torch of the Secretary of the Treasury. Another, claiming that this would be a poor and meager offering to the offended paper god, introduces a bill to print and issue \$140,000,000 more. The philosopher of Lewiston, the Democratic Representative of the ninth district of Illinois, [Mr. Ross,] thinks that a new issue of \$700,000,000 will for the present meet the wants of the country. Another, perceiving that the national bank notes are dividing the honors with greenbacks, proposes to abolish these offending corporations and, in lieu of their notes, issue \$300,000,000 in greenbacks, and thus increase the active circulation by over one hundred millions, the amount now held as bank reserves; and finally the Democratic masses of the West are rallying under the leadership of the coming man, the young statesman of Cincinnati, who proposes to cancel with greenbacks the \$1,500,000,000 of fifty-two bonds, and with his election to the Presidency usher in the full millennial glory of paper money! And this is the same George H. Pendleton who denounced as unconstitutional the law which authorized the first issue of greenbacks, and concluded an elaborate speech against the passage of the bill in 1862 with these words:

"You send these notes out into the world stamped with irredeemability. You put on them the mark of Cain, and like Cain, they will go forth to be vagabonds and fugitives on the earth. What, then, will be the consequence? It requires no prophet to tell what will be their history. The currency will be expanded; prices will be inflated; fixed values will depreciate; incomes will be diminished; the savings of the poor will vanish; the hoardings of the widow will melt away; bonds, mortgages, and notes, everything of fixed value, will lose their value; everything of changeable value will be appreciated; the necessities of life will rise in value." \* \* \* "Contraction will follow. Private ruin and public bankruptcy, either with or without REPUDIATION, will inevitably follow."

#### REAL CAUSE OF THE REACTION.

The chief cause of this new-born zeal for paper money is the same as that which led a member of the Continental Congress to exclaim:

"Do you think, gentlemen, that I will consent to load my constituents with taxes when we can send to the printer and get a wagon load of money, one quire of which will pay for the whole!"

The simple fact in the case is that Congress went resolutely and almost unanimously forward in the policy of gradual resumption of specie payments, and a return to the old standard of values, until the pressure of falling prices and hard times began to be felt; and now many are shrinking from the good work they have undertaken, are turning back from the path they so worthily resolved to pursue, and are asking Congress to plunge the nation deeper than ever into the abyss from which it has been struggling so earnestly to escape. Did any reflecting man suppose it possible for the country to return from the high prices, the enormous expansion of business, debt, and speculation occasioned by the war, without much depression and temporary distress? The wit of man has never devised a method by which the vast commercial and industrial interests of a nation can suffer the change from peace to war, and from war back to peace, without hardship and loss. The homely old maxim, "What goes up must come down," applies to our situation with peculiar force. The "coming down" is inevitable. Congress can only break the fall and mitigate its evils by adjusting the taxation, the expenditures, and the currency of the country, to the changed conditions of affairs. This it is our duty to do with a firm and steady hand.

Much of this work has already been done. Our national expenditures have been very considerably reduced, but the work of retrenching expenditures can go and should go much further. Very many, perhaps too many, of our national taxes have been removed. But if this Congress shall consent to break down the dikes, and let in on the country a new flood of paper money for the temporary relief of business, we shall see all the evils of our present situation return after a few months with redoubled force.

It is my clear conviction that the most formidable danger with which the country is now threatened is a large increase in the volume of paper money.

#### OUR PAST EXPERIENCE—COLONIAL PAPER.

Shall we learn nothing from experience? Shall the warnings of the past be unheeded? What other nation has so painfully spelled out, letter by letter and word by word, the terrible meaning of irredeemable paper money, whether known by the name of colonial bills, continental currency, or notes of dishonored banks? Most of the colonies had suffered untold evils from depreciated paper before the Revolution. Massachusetts issued her first bills of credit in 1690 to meet a war debt, and after sixty years of vain and delusive efforts to make worthless paper serve the purposes of money, found her industry perishing under the weight of colony bills equal in nominal value to \$11,000,000, which, though made a legal tender and braced up by the severest laws, were worth but twelve per cent. of their face; and under the lead of Hutchinson, a far-sighted and courageous statesman, in 1750, resumed specie payment, canceled all her bills, and by law prohibited the circulation of paper money within her borders and made it a crime punishable by a fine of £100 for any Governor to approve any bill to make it a legal tender.

For the next quarter of a century Massachusetts enjoyed the blessings of a sound currency. Rhode Island clung to the delusion many years longer. More than one hundred pages of Arnold's history of that Colony are devoted to portraying the distress and confusion resulting from this cause alone. The history of every Colony that issued bills is a repetition of the same sad story.

#### CONTINENTAL CURRENCY.

The financial history of the Revolution is too familiar to need repetition here, but there are points in that history, of which an American Congress cannot be too often reminded. Nowhere else were all the qualities of irredeemable paper money so fully exhibited. From the first emission of \$2,000,000, in 1775, till the last in 1781, when \$360,000,000 had been

issued, there appeared to be a purpose, perpetually renewed but always broken, to restrict the amount and issue no more. Each issue was to be the last. But notwithstanding the enormous volume reluctantly put in circulation, our fathers seemed to believe that its value could be kept up by legislation. They denounced in resolutions of Congress the first depreciation of these bills as the work of enemies; and in January, 1776, resolved—

"That if any person shall hereafter be so lost to all virtue and regard for his country as to refuse to receive said bills in payment, &c., he shall be treated as an enemy and precluded from all trade or intercourse with the inhabitants of these Colonies."

But they found before the struggle ended that the inexorable laws of value were above human legislation; that resolutions cannot nullify the truths of the multiplication table.

The bills passed nearly at par until the issues exceeded nine millions. At the end of 1776 they were worth seventy-five per cent. of their nominal value; at the end of 1777, twenty-five; at the end of 1778, sixteen; at the end of 1779, two and a half; and at the end of 1780 they were worth but one cent on the dollar. Four months later \$500 in continental bills were selling for one dollar in specie. Peletiah Webster, in 1790, said:

"The fatal error that the credit and currency of continental money could be kept up and supported by acts of compulsion, entered so deep into the minds of Congress and all departments of administration through the States, that no consideration of justice, religion, or policy, or even experience of its utter inefficiency, could eradicate it; it seemed a kind of obstinate delirium, totally deaf to every argument drawn from justice and right, from its natural tendency and mischief, and from common justice, and even from common sense." \* \* \* "This ruinous principle was continued in practice for five successive years, and appeared in all shapes and forms, i. e., legal-tender acts, limitation of prices, in awful and threatening declarations, and in penal laws." \* \* \* "Many thousand families of full and easy fortune were ruined by these fatal measures, and lie in ruins to-day. (1790.) without the least benefit to the country or to the great and noble cause in which they were then engaged."

In summing up the evils of the continental currency, after speaking of the terrible hardships of the war, the destruction of property by the enemy, who at times during its progress held eleven out of the thirteen State capitals, Mr. Webster, who had seen it all, said:

"Yet these evils were not as great as those which were caused by continental money and the consequent irregularities of the financial system. We have suffered from this cause more than from every other cause of calamity; it has killed more men; pervaded and corrupted the choicest interests of our country more, and done more injustice than even the arms and artifices of our enemies."

But let it never be forgotten that the fathers of the Revolution saw, at last, the fatal error into which they had fallen, and even in the midst of their great trials restored to the young nation then struggling for its existence its standard of value, its basis for honest and honorable industry.

In 1781 Robert Morris was appointed Superintendent of Finance. He made a return to specie payments the condition of his acceptance; and on the 22d of May Congress declared "That the calculation of the expenses of the present campaign shall be made in solid coin;" and—

"That experience having evinced the inefficiency of all attempts to support the credit of paper money by compulsory acts, it is recommended to such States where laws making paper bills a tender yet exist to repeal the same."

Thus were the financial interests of the nation rescued from dishonor and utter ruin.

#### PAPER MONEY AFTER THE REVOLUTION.

The state of the currency from the close of the war to the establishment of the Government under the Constitution was most deplorable. The separate States had been seized with the mania for paper money, and were rivaling each other in the extravagance of their issues and the rigor of their financial laws. One by one they were able, at last, to conquer the evils into which paper money had plunged them. In 1786 James Madison wrote from Richmond, to General Washington, the joyful news that the Virginia Legislature had, by a majority of 84 to 17, voted—

"Paper money unjust, impolitic, destructive of pub-



lie and private confidence, and of that virtue which is the basis of republican government."

The paper money of Massachusetts was the chief cause of Shay's rebellion. The paper money of Rhode Island kept that State for several years from coming into the Union.

Nearly half a century afterwards, Daniel Webster, reviewing the financial history of the period now under consideration, said:

"From the close of the war to the time of the adoption of this Constitution, as I verily believe, the people suffered as much, except in loss of life, from the disordered state of the currency and the prostration of commerce and business as they suffered during the war."

With such an experience, it is not wonderful that the framers of our Constitution should have undertaken to protect their descendants from the evils they had themselves endured.

#### PROVISIONS OF THE CONSTITUTION IN REFERENCE TO PAPER MONEY.

By reference to the Madison Papers, volume three, pages 1343-6, it will be seen that in the first draft of the Constitution there was a clause giving Congress the power "to borrow money and emit bills on the credit of the United States."

On the 16th of August, 1787, during the final revision, Gouverneur Morris moved to strike out the clause authorizing the emission of bills. Mr. Madison declared that he voted to strike it out so as to "cut off the pretext for a paper currency, and particularly for making the bills a tender either for public or private debts." Mr. Billsworth "thought this a favorable time to shut and bar the door against paper money. The mischief of the various experiments which had been made were now fresh in the public mind and had excited the disgust of all the respectable part of America." Mr. Read "thought that the words, if not struck out, would be as alarming as the mark of the Beast in Revelation." Mr. Langdon had rather reject the whole "plan than retain the three words 'and emit bills.'"

The clause was stricken out by a vote of nine States to two. Twelve days later Roger Sherman, remarking that "this is a favorable crisis for crushing paper money," moved "to prohibit the States from emitting bills of credit, or making anything but gold and silver coin a tender in payment of debts." This clause was placed in the Constitution by a vote of eight States to two. Thus our fathers supposed they had protected us against the very evil which now afflicts the nation.

#### THE EXPERIENCE OF GREAT BRITAIN.

The doctrines which I am advocating in reference to the evils of an inconvertible currency are strongly corroborated by the financial experience of Great Britain. One of the ablest of English writers on finance thus sums up the history of panics and commercial distress:

"From the undue or unnecessary increase of the currency, which could not take place if the whole were metallic, we have the origin and sole cause of general speculation and overtrading, which proceed with its increase, and in their progress demand or require new additions to the circulation and credit; and from this consequent facility of obtaining credit, may far outstrip the actual increase of the currency, a state of things that cannot be prolonged beyond the safety of the bank, which again depends on the stock of the treasure. The issues are then contracted; this is followed by the contraction of the country circulation, credit is destroyed, and suddenly our market assumes the appearance of low prices, overproduction, or indefinite supply. If this principle is applied to the contraction of our currency in 1815 and 1816, with the low prices that followed; its extension in 1817 and 1818, and the general speculation, overtrading, and high prices that succeeded; and again to its contraction in 1819, 1820, 1821, and 1822, and the general complaint of abundance of foreign and home products, and low prices that continued through these years; and lastly, to the increase of the currency in 1824 and part of 1825 with the accompanying rage of speculation, overtrading, and high prices that followed, we see the establishment of the principle in all its forms."—*Musket on Money*, p. 182.

#### NECESSITY OF A SETTLED POLICY.

To review briefly the ground traveled over; we have seen that the hard times and depression of business which the country is now suffering was caused in the first instance by the great industrial revolution which grew out of the war, and that its evils have been aggravated

and are in danger of being indefinitely continued by the unsettled condition of our currency and by the uncertainty of congressional legislation; that we have not now, and, without decisive legislation, cannot have a fixed standard of value, and therefore all trade and business are at the mercy of political sensations and business intrigues, the evils of which fall heaviest upon the laboring man; that the greatest financial danger which threatens us is that some of the schemes now before Congress may result in a large increase of irredeemable paper money, for which there can be no defense except such an overwhelming necessity as compelled Congress to use it, in the moment of supreme peril, to save the life of the nation; that history is full of warnings against such a policy; that during our colonial period, during the war of the Revolution, and after the war, our fathers tested and practically exploded the very theories now in vogue respecting paper money, and attempted so to frame the Constitution as to shield us from the calamities they suffered; and finally, that these views are fully confirmed by the financial history of England. From these considerations it appears to me that the first step toward a settlement of our financial and industrial affairs should be to adopt and declare to the country a fixed and definite policy, so that industry and enterprise may be based upon confidence; so that men may know what to expect from the Government; and, above all, that the course of business may be so adjusted that it shall be governed by the laws of trade, and not by the caprice of any man or of any political party in or out of Congress.

#### WHAT HAS THE FORTIETH CONGRESS DONE IN REFERENCE TO THIS SUBJECT?

Thus far, nothing has been done, except to abandon the policy which we have been pursuing for the past two years. By joint resolution of January 16, it was ordered that there should be no further contraction of the currency; but the Committee of Ways and Means not only did not indicate what policy they should recommend, but they gave no reasons for the measure they reported, nor did they allow any debate or question by others. I voted against that resolution, not because I was in favor of continuing without change the policy we were then pursuing, but because I believed, as has since been manifest, that a large party in this House intended not to stop there, but to make that resolution the first step toward inflation. Against that policy I made the only protest left to me, by voting against the first measure in the programme.

#### THE CONTRACTION POLICY.

That contraction of the currency tended toward specie payments, few will deny; but that there were serious evils connected with it, is also manifest. The element of uncertainty was the chief evil. It was never known whether the Secretary of the Treasury would use the power placed in his hands, during any given month, or not; and the stringency caused by contraction was always anticipated and generally exaggerated. The actual contraction had far less influence on business than the expectation of it. In connection with this policy the efforts of the Secretary to keep the gold market steady, by sales from the Treasury, increased the uncertainty and led to a very general feeling that it was unwise to put the control of business and prices, to so great an extent, in the hands of any one man; especially of one so involved in the political antagonisms of the hour as the present Secretary.

The financial schemes and plans now before Congress are so numerous and so contradictory, as to give us little hope that any comprehensive policy can be agreed on at present. For myself, I have but little faith in panaceas; in remedies which will cure all evils; in any one plan which will reach all the difficulties of our situation.

Above all, it seems to me unwise to complicate the questions that are pressing for immediate solution, with those which refer to subjects not yet ripe for action. For example, I have

not yet seen the wisdom of making the redemption of the five-twenty bonds—not one of which is payable for fourteen years to come—a prominent element in our legislation at this time. In the midst of so many difficulties, it is better to do one thing at a time, and to do it carefully and thoroughly.

#### PLAN FOR RESTORING THE STANDARD OF VALUE.

On the 10th of February I introduced a bill which, if it should become a law, will, I believe, go far toward restoring confidence and giving stability to business, and will lay the foundation on which a general financial policy may be based, whenever opinions are so harmonized as to make a general policy possible.

As the bill is short, I will quote it entire, and call attention for a few moments to its provisions:

**A bill to provide for a gradual return to specie payments.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That on and after the 1st day of December, 1868, the Secretary of the Treasury be, and he is hereby, authorized and directed to pay gold coin of the United States for any legal-tender notes of the United States, which may be presented at the office of the Assistant Treasurer, at New York, at the rate of one dollar in gold for one dollar and thirty cents in legal-tender notes. On and after the 1st day of January, 1869, the rate shall be one dollar in gold for one dollar and twenty-nine cents in legal-tender notes; and at the beginning of and during each succeeding month the amount of legal-tender notes required in exchange for one dollar in gold shall be one cent less than the amount required during the preceding month, until the exchange becomes one dollar in gold for one dollar in legal-tender notes; and on and after the 1st day of June, 1871, the Secretary of the Treasury shall exchange gold for legal-tender notes, dollar for dollar: *Provided*, That nothing in this act shall be so construed as to authorize the retirement or cancellation of any legal-tender notes of the United States.*

To all plans hitherto proposed it has been objected that the vast amount of public debt yet to be funded, and the still larger amount of private indebtedness, the value of which would be changed in favor of the creditor and against the debtor, made it impossible to return to specie payments without great loss both to the Government and to the debtor class.

I have no doubt that an immediate or sudden resumption of payments would prove a heavy shock to business and very greatly disturb the present scale of values. These objections are almost wholly avoided in the bill I have proposed, by making the return gradual; and the time when the process is to begin is placed so far ahead as to give full notice and allow the country to adjust its business to the provisions of the act.

By the 1st of December next, the floating and temporary debt of the United States will be funded, in accordance with laws already in operation; the excitement and derangement of business incident to a presidential election will be over, and we ought to be ready at that time, if ever, to take decisive steps toward the old paths.

I do not doubt that, in anticipation of the operation of this measure, should it become a law, gold would be at 130, or lower, by the 1st of December, and that very little would be asked for, from the Treasury, in exchange for currency. At the beginning of each succeeding month, the exchange between gold and greenbacks would be reduced one cent, and specie payments would be fully resumed in June, 1871. That the country is fully able to resume by that time, will hardly be denied.

With the \$100,000,000 of gold now in the Treasury, and the amount received from customs, which averages nearly half a million per day, it is not at all probable that we should need to borrow a dollar in order to carry out the provisions of the law.

But taking the most unfavorable aspect of the case, and supposing that the Government should find it necessary to authorize a gold loan, the expense would be trifling compared with the resulting benefits to the country. The proposed measure would incidentally bring all the national banks to the aid of the Government in the work of resumption. The banks are required by law to redeem their own notes

in greenbacks. They now hold in their vaults, as a reserve required by law, \$162,000,000, of which sum \$114,000,000 are greenbacks. Being compelled to pay the same price for their own notes as for greenbacks, they would gradually accumulate a specie reserve, and would be compelled to keep abreast with the Government in every step of the progress toward resumption. The necessity of redeeming their own notes would keep their circulation nearer home, and would more equally distribute the currency of the country which now concentrates at the great money centers, and produces scarcity in the rural districts.

This measure would not at once restore the old national standard of value, but it would give stability to business and confidence to business men everywhere. Every man who contracts a debt would know what the value of a dollar would be when the debt became due. The opportunity now afforded to Wall street gamblers to run up and run down the relative price of gold and greenbacks would be removed. The element of chance, which now vitiates our whole industrial system, would, in great part, be eliminated.

If this measure be adopted it will incidentally settle several of our most troublesome questions. It will end the war between the contractionists and the inflationists—a war which, like that of Marius and Sylla—may almost prove fatal to the interests of the country whichever side may prevail. The amount of paper money will regulate itself, and may be unlimited, so long as every dollar is convertible into specie at the will of the holder.

The still more difficult question of paying our five-twenty bonds would be avoided—completely flanked by this measure. The money paid to the wounded soldier, and to the soldier's widow, would soon be made equal in value to the money paid to all other creditors of the Government.

It will be observed that the bill does not authorize the cancellation or retirement of any United States notes. It is believed that, for a time at least, the volume of the currency may safely remain as it now is. When the measure has been in force for some time it will be seen whether the increased use of specie for purposes of circulation will not allow a gradual reduction of the legal-tender notes. This can be safely left to subsequent legislation. It will facilitate the success of this plan, if Congress will pass a bill to legalize contracts hereafter made for the payment of coin. If this be done, many business men will conduct their affairs on a specie basis, and thus retain at home much of our gold that now goes abroad.

#### ENGLISH PRECEDENT.

I have not been ambitious to add another to the many financial plans proposed to this Congress, much less have I sought to introduce a new and untried scheme. On the contrary, I regard it a strong commendation of this measure, that it is substantially the same as that by which Great Britain resumed specie payments, after a suspension of nearly a quarter of a century.

The situation of England at that time was strikingly similar to our present situation. She had just emerged from a great war in which her resources had been taxed to the utmost. Business had been expanded and high prices prevailed. Paper money had been issued in unusual volume, was virtually a legal tender, and had depreciated to the extent of twenty-five per cent. Every financial evil from which we now suffer prevailed there, and was aggravated by having been longer in operation. Plans and theories without end were proposed to meet the many difficulties of the case. For ten years the Bank of England and the majority in Parliament vehemently denied that paper money had depreciated, notwithstanding the unanswerable report of the Bullion Committee of 1810, and the undeniable fact that it took twenty-five per cent. more of notes than of coin to buy an ounce of gold.

Many insisted that paper was a better stand-

ard of value than coin. Some denounced the attempt to return to specie as unwise; others as impossible. William Cobbett, the famous pamphleteer, announced that he would give himself up to be broiled on a gridiron whenever the bank should resume cash payments; and for many years kept the picture of a gridiron at the head of his Political Register, to remind his readers of his prophecy. Every phase of the question was discussed by the best minds of the kingdom in and out of Parliament for more than ten years; and in May, 1819, under the lead of Robert Peel, a law was passed fixing the time and mode of resumption.

It provided that on the 1st of February, 1820, the bank should give, in exchange for its notes, gold bullion in quantities not less than sixty ounces, at the rate of \$1s. per ounce; that from the 1st of October, 1820, the rate should be 79s. 6d.; from the 1st of May, 1822, 79s. 10½d.; and on the 1st of May, 1823, the bank should redeem all its notes in coin, whatever the amount presented. The passage of the act gave once more a fixed and certain value to money; and business so soon adjusted itself to the measure in anticipation, that specie payments were fully resumed on the 1st of May, 1821, two years before the time fixed by the law. Forty-seven years have elapsed since then, and the verdict of history has approved the wisdom of the act, notwithstanding the clamor and outcry which at first assailed it. So plainly does this lesson apply to us, that in the preface to one of the best histories of England, recently published, the author, who is an earnest friend of the United States, says:

"It seems to me that no thoughtful citizen of any nation can read the story of the years before and after Peel's bill of 1819, extending over the crash of 1825-26, without the strongest desire that such risks and calamities may be avoided in his own country, at any sacrifice. There are several countries under the doom of retribution for the license of an inconvertible paper currency; and of these the United States are unhappily one. This passage of English history may possibly help to check the levity with which the inevitable 'crash' is spoken of by some who little dream what the horrors and griefs of such a convulsion are. It may do more if it should show any considerable number of observers that the affairs of the economic world are as truly and certainly under the control of natural laws as the world of matter without, and that of mind within."

This testimony of a friend is worthy our profoundest consideration. I will make no apology for the length to which I have extended these remarks. The importance of the subject demanded it. The decision we shall reach on this question will settle or unsettle the foundations of public credit, of the public faith, and of individual and national prosperity. The time and manner of paying the bonds; the refunding the national debt; the continuance or abolition of the national banks, and many other propositions, depend for their wisdom or unwisdom on the settlement of this question. I know we are told that resumption of specie payments will increase the value of the public debt, and thus add to the burden of taxation; and we are told, with special emphasis, that the people will not tolerate any increase of their burdens; that they demand plenty of money and a return of high prices. But, sir, I have learned to think better of the American people than to believe that they are not willing to know the worst and to provide for it. I remember that after the first defeat at Bull Run many officers of the Government thought it not safe to let the people know, at once, the full extent of the disaster; but the news should be broken gently that the nation might be better able to bear it. Long before the close of the war, it was found that Cabinet and Congress and all the officers of the United States needed for themselves to draw hope and courage from the great heart of the people. It was only necessary for the nation to know the extent of the danger, the depth of the need, and its courage, faith, and endurance were always equal to the necessity. It is now, as ever, our highest duty to deal honestly and frankly with the people who sent us here, in reference to their financial and industrial affairs; to assure them that the path of safety is a narrow and rugged one; that by economy and prudence,

by much patience and some suffering, they must come down, by slow and careful steps, from the uncertain and dangerous height to which the war carried them, or they will fall at last, in financial ruin more sudden and calamitous than any yet recorded in the history of mankind.

For my own part, my course is taken. In view of all the facts of our situation; of all the terrible experiences of the past, both at home and abroad; and of the united testimony of the wisest and bravest statesmen who have lived and labored during the last century, it is my firm conviction that any considerable increase of the volume of our inconvertible paper money will shatter public credit, will paralyze industry and oppress the poor; and that the gradual restoration of our ancient standard of value will lead us, by the safest and surest path, to national prosperity and the steady pursuits of peace.

Mr. ASHLEY, of Ohio. I move that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. VAN HORN, of New York, having taken the chair as Speaker *pro tempore*, Mr. LAWRENCE, of Ohio, reported that the Committee of the Whole on the state of the Union, having had under consideration the state of the Union generally, had come to no conclusion thereon.

And then, on motion of Mr. ALLISON, (at four o'clock and forty minutes p. m.,) the House adjourned.

#### PETITIONS ETC.

The following petitions were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of citizens of Cameron county, Texas, for a division of said State; also of Darker county, against the same.

By Mr. FIELDS: The petition of Mathew C. Griswold, of Norwich, Chenango county, New York, asking Congress to pass a special act by which his name will be placed on the pension-rolls, to date from the day of his discharge, January 1, 1865.

By Mr. KELLEY: A memorial of the sugar refiners of Philadelphia, asking a new classification of sugars and an increased duty thereon.

By Mr. LINCOLN: The petition of Joshua R. Sands, in reference to the pay of officers in the Navy.

By Mr. PERHAM: The petition of W. H. Gardner, assistant surgeon United States Army, and others, of Fort Ransom, Dakota Territory, praying for a pension to William Smith, late a corporal in the tenth United States infantry.

#### IN SENATE.

SATURDAY, May 16, 1868.

Prayer by Rev. E. H. GRAY, D. D.  
Mr. POMEROY. Mr. President, as the Legislative Journal is very long, I move that the reading be dispensed with.

The motion was agreed to by unanimous consent.

#### PETITIONS AND MEMORIALS.

Mr. YATES presented a resolution of the Legislative Assembly of Colorado Territory, in favor of an additional appropriation for the purpose of building a penitentiary in that Territory; which was referred to the Committee on Territories.

#### REPRESENTATION OF ARKANSAS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred House bill No. 1039, to admit the State of Arkansas to representation in Congress, have had the same under consideration, and instructed me to report it back without amendment and recommend its passage.

Mr. HENDRICKS. Mr. President, as a member of the Judiciary Committee I have not been able to agree to that report; and, if I can

do so before the subject is considered in the Senate, I may desire to present my views in a written report.

Mr. TRUMBULL. Before that passes from the consideration of the Senate, lest there should be some misapprehension hereafter, the Senator from Indiana having indicated that he may desire to present his views in the shape of a report, I wish to suggest that as no written report is made by the majority of the committee I suppose it would hardly be regular to make a minority report. Of course the Senator will be permitted to present his views; but it could hardly be in the shape of a report, I take it.

Mr. HENDRICKS. Should I be able to prepare my report before the Senate considers the bill, when it is presented I suppose the question suggested by the Senator from Illinois will arise.

The PRESIDENT *pro tempore*. There is nothing before the Senate at present.

Mr. DRAKE. Mr. President, I have in my hand an amendment to that bill, which I desire to offer when it comes up for consideration. I wish that it may be printed in advance of that time.

The PRESIDENT *pro tempore*. The amendment will be received informally and ordered to be printed, if there be no objection. The order to print will be entered.

#### BILLS INTRODUCED.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 481) to confirm the title to certain lands in the State of Nebraska; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 482) to quiet the title to lands in the town of Santa Clara, in the State of California; which was read twice by its title, and referred to the Committee on Public Lands.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had concurred in the amendments of the Senate to the joint resolution of the House No. 91, concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 445) for the relief of Timothy Lyden, of Parkersburg, West Virginia;

A bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress;

A bill (H. R. No. 1059) to relieve certain citizens of North Carolina of disabilities;

A bill (H. R. No. 1062) to grant the right of way to the Whitehall and Plattsburg Railroad Company;

A bill (H. R. No. 1068) to provide for certain claims against the Department of Agriculture;

A bill (H. R. No. 1069) for the relief of Charles B. Tanner, late first lieutenant sixty-ninth Pennsylvania volunteers;

A bill (H. R. No. 1070) for the relief of James Rock, of Saginaw, in the State of Michigan;

A joint resolution (H. R. No. 264) to provide for the sale of the site of Fort Covington, in the State of Maryland; and

A joint resolution (H. R. No. 265) for the relief of Edward E. Shead, of Eastport, State of Maine.

#### ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

An act (S. No. 475) to extend the charter of

Washington city, also to regulate the selection of officers, and for other purposes;

An act (S. No. 416) for the relief of John S. Cunningham, paymaster United States Navy;

An act (S. No. 358) providing for the restoration of Lieutenant Commander Trevett Abbott, of the United States Navy, to the active list of the Navy;

An act (S. No. 462) making appropriations for the expenses of the trial of the impeachment of Andrew Johnson and other contingent expenses of the Senate for the year ending June 30, 1868, and for other purposes;

Joint resolution (S. R. No. 126) for the relief of George W. Doty, a commander in the United States Navy on the retired list; and

Joint resolution (S. R. No. 118) for the appointment of a commission to select suitable locations for powder magazines.

#### RAILROADS IN WISCONSIN AND MICHIGAN.

Mr. HOWE. One of the bills which has just come from the House of Representatives has an amendment to it. If there is no sort of objection, and there is nothing else to do, I would like the Senate to consider it and concur in the amendment.

Mr. CONNESS. Can they not be taken up for the purpose of referring them, and when we come to that act upon it?

Mr. HOWE. The Chief Clerk has that bill now.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves to proceed to consider the amendment of the House of Representatives to the amendments of the Senate to the joint resolution (H. R. No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the amendment of the Senate to House joint resolution No. 91.

The amendment was to add to the Senate amendments the following proviso:

And provided further, That if the said Marquette and Ontonagon Railroad Company, in the State of Michigan, shall not have completed according to law ten additional miles of their railroad on or before the 1st day of January, 1869, and shall not in like manner complete ten miles of said railroad in each and every year thereafter, then it shall be lawful for the Legislature of the said State of Michigan to declare the grant of lands to said company to be forfeited and to confer the said grant of lands upon some other company in the same manner as if the said grant was now for the first time made to said State of Michigan.

Mr. EDMUNDS. Mr. President, I hope this may be permitted to go over. It is a bill in which I had some concern when it was in the Senate before; and it appears to me that the effect of this amendment, from just hearing it read once, will be that if this Marquette and Ontonagon Railroad Company shall not build the road it will be open to the State of Michigan to give the lands to any other railroad company in any part of the State of Michigan; whereas the lands ought to be devoted, if they are devoted to that purpose at all, to the construction of the line between those two places, which, of course, was the spirit as well as the letter of the law that Congress has already passed upon the subject. I therefore hope my friend from Wisconsin will permit it to lie on the table. It can be taken up at any time. I move that it be postponed until to-morrow.

The motion was agreed to.

#### HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives, were severally read twice by their titles, and referred as indicated below:

The bill (H. R. No. 445) for the relief of Timothy Lyden, of Parkersburg, West Virginia—to the Committee on Claims.

The bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress—to the Committee on the Judiciary.

The bill (H. R. No. 1059) to relieve certain citizens of North Carolina of disabilities—to the Committee on the Judiciary.

The bill (H. R. No. 1062) to grant the right of way to the Whitehall and Plattsburg Rail-

road Company—to the Committee on Military Affairs and the Militia.

The bill (H. R. No. 1068) to provide for certain claims against the Department of Agriculture—to the Committee on Agriculture.

The bill (H. R. No. 1069) for the relief of Charles B. Tanner, late first lieutenant sixty-ninth Pennsylvania volunteers—to the Committee on Claims.

The bill (H. R. No. 1070) for the relief of James Rock, of Saginaw, in the State of Michigan—to the Committee on Claims.

The joint resolution (H. R. No. 264) to provide for the sale of the site of Fort Covington, in the State of Maryland—to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 265) for the relief of Edward E. Shead, of Eastport, State of Maine—to the Committee on Claims.

#### IMPEACHMENT OF THE PRESIDENT.

The hour of twelve o'clock having arrived, the President *pro tempore* vacated the chair that it might be occupied by the Chief Justice of the United States.

The Senate, sitting for the trial of the impeachment, having adjourned, the President *pro tempore* resumed the chair and called the Senate to order at seven minutes past one o'clock p. m.

#### PROPOSED RECESS.

Mr. WILLIAMS. Mr. President, I move that the Senate proceed to the consideration of the concurrent resolution of the House of Representatives in reference to an adjournment.

The motion was agreed to; and the Senate proceeded to consider the following concurrent resolution of the House of Representatives:

Resolved by the House of Representatives, (the Senate concurring.) That at the adjournment on Saturday, the 10th instant, a recess be taken until Monday, the 25th instant.

Mr. CONKLING. I demand the yeas and nays on that resolution; and, besides making that demand, I should like to hear from some Senator who advocates it the reason for this proposition that the Senate take a recess until the 25th instant.

Mr. DAVIS. I think the reason is they want to go home.

Mr. CONKLING. My friend from Kentucky is always obliging. He volunteers to give me a reason.

Mr. DAVIS. My reason is that I want to go home.

Mr. CONKLING. I think that is a very poor reason, Mr. President. I did not intend to say a word about this resolution, but I beg to make one remark. The House of Representatives is far in advance of the Senate in legislative business. I refer now particularly to appropriation bills and to the bills relating to the lately rebel States. It is now far in the season, and the House of Representatives for nearly three months has been substantially at large, its members going without let or hindrance, and the truth being that for a large part of the time only a small fraction of a quorum of the House has been here. At the end of that time of vacation and relief they propose a further adjournment of ten days, or whatever it may be. I see no reason why we should agree to it out of regard to the convenience of the House; and as to our own convenience, although Senators may like to go to the Chicago convention, I think they will not like to stay here through the dog-days, and that certainly is to be the result if we are to go over practically until the 1st of June. We are to commence, then, in the summer months to dispose of the large residuum of legislation which remains; and the more postponement we take now the longer in point of actual duration will be the remainder of the session, I submit to Senators.

I have no doubt my personal convenience and disposition would be consulted as much as that of almost any other Senator by being exempted from labor and attendance here for some time to come; but, looking to the real convenience of everybody, it seems to me that we ought at once to address ourselves to the



remaining legislation of the session, to the end that we may finish at the earliest day—at a day which shall carry us as little way as possible into the hot season. I shall vote against this order, and I ask for the yeas and nays upon it, even if we are to hear no reason why it should be adopted.

Mr. MORTON. Mr. President, if there be good reasons for the proposed adjournment I should like to hear them; I am not advised of them now. There is a large amount of business to be done, and that must be done before this Congress finally adjourns. We have lost some sixty days in this trial; the summer is approaching, and if we shall make this adjournment it will keep us at least that much longer in the hot weather. I do not want to stay here through the months of July and August, but if we shall waste our time as we now propose to do we shall probably stay here all summer, unless we adjourn without having transacted the necessary and important business of the country. If there are Senators here who are delegates to the Chicago convention and want to go, let them go. I believe the number is very few. They will certainly be excused for going under the circumstances; but the number is small, and there will be remaining here a Senate to transact business. If there be any good reasons why the Senate should adjourn let them be stated.

Mr. VAN WINKLE. Mr. President, the gentlemen who have spoken seem to forget the fact that an adjournment at least of a few days at this season of the year has always been necessary in order that the Chambers of the two Houses may be cleansed and put in their summer garments, the carpets taken up and matting put down. That is usual at this season in order to prepare for the hot weather, of which some gentlemen have so much dread; and it is for that reason, as I suppose, that this adjournment is asked.

Besides, when an exciting convention to prepare for an approaching campaign was about to be held, and gentlemen wished to be absent to go to it, I do not know that there has ever been a refusal to extend that privilege. But if there were no convention at Chicago, these Chambers need cleansing in order to be fitted for our comfortable use during the summer, and I think that is abundant reason for the resolution.

Mr. DAVIS. Mr. President, I assure the Senate that it is not from any desire to go to the Chicago convention that I vote for this recess, [laughter;] but, according to the suggestion of my honorable friend from West Virginia, ever since I have had any knowledge of Congress, during the long session it has been usual to make arrangements for the hot months by the readjustment of the halls of legislation, putting down matting and other summer clothing instead of the hot carpets and all that sort of thing. My honorable friend from New York invited any Senator who had a reason for voting for this recess to give it. I did not volunteer my reason to him. It was only in obedience to his polite invitation that I gave it, and I think he ought to have accepted it with as much politeness. It was the best reason I had; indeed, it was the only reason I had. I have another one now, because it has been suggested to me by my honorable friend from West Virginia; but when a man gives all that he has he cannot be expected to give any more. I want to go home, and for that reason I want this recess of ten days.

Mr. HENDRICKS. Mr. President, I think some respect should be shown to the House of Representatives. That body has expressed a desire to take a week's recess, and on a question of this sort I think that respect, certainly, ought to be extended to the House. They have not been engaged in as fatiguing duties as have required our attention here from day to day; notwithstanding that members of the House ask this recess, and I suppose in part for the reasons suggested by the Senator from West Virginia. For myself, I will say that I feel like taking a rest from legislative duties

of a few days. We have been confined here from day to day now for many weeks, and it has been the most fatiguing service I have ever been called upon to discharge—very much more fatiguing than the ordinary legislative duties which call us here; and I do not think really that the business that will occupy our attention will suffer by taking this recess. Although I do not expect to go to Chicago myself, I expect to go to a place very much dearer to me than Chicago; but if there are Senators or members of the House who wish to attend that convention my vote shall not be given to hinder them.

Mr. THAYER. Mr. President, I am inclined to favor this proposition, and for another reason. I appreciate the generosity of my friend from Indiana; but I think there is another reason, and I desire to present it here. My friend from Indiana is a candidate for Governor of Indiana, and he desires to visit his constituents. I am anxious to accommodate him also. [Laughter.]

Mr. MORRILL, of Vermont. Mr. President, if I supposed we could gain anything by remaining in session, I should be in favor of remaining; but usually at the long session we have to devote some little time to trimming up the Halls of the two Houses for the summer, and we shall be compelled to give some time for that purpose at all events. My experience also has been that, whenever these presidential conventions take place, those of us who remain are compelled to come here, and we find Houses so thin that it is almost impossible to do business, and we adjourn, sometimes for one day and sometimes for three days. In effect we shall gain nothing by remaining, in my opinion. I shall, therefore, vote to adjourn, and I may add that I shall go home (not to Chicago) whether the Senate adjourns or not.

Mr. WILSON. Mr. President, I propose to vote against the adjournment, and for this reason: the House of Representatives, as has been stated, are very far ahead of the Senate in their business, and they have sent us several very important bills that are now before us. We had a report this morning from the Judiciary Committee in favor of the House bill for the restoration of Arkansas. The House has also sent us a bill for the restoration of five other States. I think we had better stay here and pass these bills. Besides, the House of Representatives have sent us a resolution which, unless amended, allows only that House to adjourn. If the members of the House wish to go to Chicago, I certainly am willing that they should do so. I take it there are very few members of the Senate who will go there if we adjourn, and it does seem to me that we had better stay here and attend to the pressing business before us.

It is said that it is necessary to trim up these Halls. I think this Chamber is well enough for us to finish this session in, and we can get along very comfortably in it. I think we ought to stay here and work every day until we do up the public business. Now, for two months we have been engaged in this trial, and we have a vast accumulation of business. It will take us two weeks at least to put ourselves even with the House of Representatives, and I agree with the Senator from New York that we had better stay here and do our work, and I shall so vote.

Mr. MORTON. Mr. President, one other consideration I want to mention. If we adjourn over ten days on account of the Chicago convention we can do no less on account of the New York convention, as a matter of course. Therefore an adjournment until next Monday week, as proposed, is equivalent to an adjournment for twenty days, nearly one month lost, and here we are on the eve of summer.

Mr. BUCKALEW. Mr. President, my experience is that legislative bodies like Congress always adjourn about the same time, no matter what has happened previously during the session, and I have no doubt that we shall get about as early an adjournment if we pass this resolution as we shall get without it.

As to the point made by the Senator from Indiana, as I understand, there is nothing in it. The gentlemen of the minority, in either House of Congress, do not contemplate asking an adjournment in the month of July. This is the time when the adjournment ought to take place. It is the usual time. It is asked by the House of Representatives, charged with the initiation of money bills and of business generally. I perceive no reason why we should not accept it. I do not believe that the session will be protracted or that public business will be delayed by accepting it.

Members know very well, with reference to a very large number of important questions, that they cannot be settled this year. They will necessarily go over until the next session of Congress, and until after the people of the country have, to some extent, expressed their deliberate opinions upon them. All that we can expect during the present session of Congress is some measures of palliation and of financial convenience. While the two Houses are taking this short recess of a few days, and their Halls are being prepared, the business members of each House, who prepare the work in committees and who mature bills and measures of legislation, will be engaged in that duty to a great extent. There are a few men always in each House who may be classed as working men, who do not desire to go home, and who devote themselves to the preparation of business while the others are absent in the case of such an adjournment as this.

Mr. MORRILL, of Maine. Mr. President, it is said that the House of Representatives is much in advance of the Senate in the business of the session. The House of Representatives I conceive to be a proper judge of its own business, and it has concluded that that business is in such a condition as to allow it to take the recess proposed. It is not a proposition for both Houses to adjourn; it is a proposition that the Senate agree to a recess on the part of the House. What possible objection can there be to it?

Mr. ANTHONY. It always comes up in that form, and we always amend it. We certainly could not think of parting with our friends of the House and letting them go unless we go also.

Mr. MORRILL, of Maine. I was not anticipating that. As the proposition stands, I can see no possible objection to it. Let the House take their recess if it is true that they are in advance of the Senate in the business of the session, and then I should hope that the Senate might find it convenient to stay during the week and transact some business. As the resolution stands, I see no objection to it.

Mr. ANTHONY. Mr. President, the House of Representatives is not in advance of the Senate in business. The House is behind the Senate: that is to say, the business which must be originated in the House before it comes to us is a great deal behind. The House will have a bill under consideration five or six months, send it over to us, and then because we do not pass it in a fortnight they say they are greatly ahead of us in their business. I think the business before us is more nearly closed up than the business before the House. The Senator from Maine, who is at the head of the Committee on Appropriations, knows that his business is nearly closed up. So I think he told me the other day. He suggested that he had nothing to bring up. I move to amend the resolution in the usual form so as to apply to both Houses. The Clerk has the amendment.

The PRESIDENT *pro tempore*. The amendment of the Senator from Rhode Island will be read.

The amendment was read. It was to insert after the word "adjournment" the words "of the two Houses;" so as to make the resolution read:

That at the adjournment of the two Houses on Saturday, the 16th instant, a recess be taken until Monday, the 25th instant.

Mr. WILLIAMS. Mr. President, I do not

generally favor adjournments, and ordinarily vote to economize time; but I doubt very much whether if we now continue in session without any adjournment we shall expedite the transaction of business. Every member of the Senate feels to some extent exhausted by the excitement and length of the trial which has just occurred; and the mind of every Senator is filled with the subjects connected with that trial; and it appears to me that if the Senate now adjourn for a week our bodies and our minds will be relieved and refreshed, and we can come back here at the expiration of that time and transact more business before the 1st of July than we shall if we continue in session. I do not urge this resolution for the purpose of accommodating persons who desire to go to the Chicago convention; but that convention will be in session, and it is of such consequences in the country that it will attract the attention of Senators, and of other persons who are interested in the political affairs of this country, and that matter will, to some extent, absorb our attention. And then the continuance of this trial until the 26th instant keeps that subject, to some extent, before our minds if we remain here, and will occupy, no doubt, a large share of our discussions.

I understand that it has been customary at this season of the year to adjourn as proposed by this resolution, and I can see no particular reason why we should depart from the precedent in this respect. I think we shall do as much business if we adjourn for a week as we shall if we continue in session, for some of the members will necessarily be absent attending the convention, others will be thinking about the proceedings of the convention or about this trial, and the business of the Senate will drag itself along here for a week or two, and we shall not succeed in doing very much. In view of all the circumstances, as well as the necessity of refurnishing the room, I favor this adjournment, and hope the resolution will be adopted.

Mr. EDMUNDS. Mr. President, I am sorry to disagree with my friend from Oregon, because it usually turns out in the end that if I do I am wrong; but we have here now on our Calendar three hundred and ninety-nine matters depending in the regular order of business. This, of course, is exclusive of resolutions and joint resolutions, and is exclusive of all matters that lie upon the table. It is simply the regular Calendar. Now, I do not see why we cannot, for the week to come, supposing the House of Representatives to adjourn itself—it does not concern us particularly—go forward with the regular ox-work (if I may be permitted to use a country term) of legislation and endeavor to forward business so as to get an early adjournment or an early cessation of business before the hot weather comes on. Here is work enough on our tables, certainly, to occupy us, selecting from these four hundred cases those upon which action is indispensable, matters of detail, matters of ordinary legislation of one kind and another, action upon which is practically indispensable to the orderly progress of affairs. A large portion of this business has been sent to us by the House of Representatives already: why should we not act upon and dispose of it when we have nothing else really to do?

These considerations press upon me heavily that we ought to make some diligence in disposing of this large mass of business, and I do not know any better time when we have something to do than to do it now. It is true a political convention is to be held; it is true that the question of impeachment is not disposed of; that the minds of Senators and others are to some extent interested in those questions; it is true that we have postponed the question of the final determination of the matter that is before us in order to give judges an opportunity to make up their minds—all that is true; but here we have now upon our table a press of legislative business upon which we ought to act, upon which we can be as ready to act to-day and Monday and through the next week

as at any other time. Therefore, Mr. President, it appears to me, speaking, of course, only for myself, that we had better take hold manfully of this great arrear of business and try to bring it up.

Mr. TIPTON. Mr. President, I am clearly of opinion that our constituents are already disgusted at the number of adjournments we have recently had, and I think that as the majority with which I am identified are responsible for these adjournments it is high time that we began to look them in the face. If we adjourn now for one week, we then have a precedent for adjourning for the New York convention. We know that the fall campaign will occupy the attention especially of members of the House of Representatives who are to be reelected, and we know the interest that Senators will take in that campaign, and consequently we are to have a short summer session. The result of an adjournment now is to cut off the maturing and consummating of private bills and bills of a local character, dearer to some of our constituents than matters of general legislation, and more needed in their estimation. It is on our part, therefore, I think, a relinquishment of the private bills and bills of a local character to take this adjournment now and the consequent additional adjournment which will follow hereafter. For this reason, as the summer session must necessarily be short, I am utterly opposed to an adjournment at this time. I am especially opposed to that adjournment from the fact that the reconstructed States of which we have talked so much, and in whose introduction here we are undoubtedly so deeply interested, are waiting at our doors to be admitted; and when a bill for their admission shall pass it has to run the gauntlet of the veto, and we do not expect its return here under ten days from the time of its consummation, and then it is to be passed over the veto again, as has been the history heretofore. Consequently, if we are to admit these States at this session, it is high time that we act upon the question, and act promptly. Every interest that appeals to us as individuals and as representatives of the party that is responsible to this country for its legislation at the present time imperatively demands that we be found at our posts continuously until we adjourn for the session.

As to putting the Hall in better trim for the summer, I see nothing in that suggestion. If we remain here now, we shall have a session of but perhaps six weeks, and there is no remodeling necessary either for our comfort or our health. In no view which I can take of the question can I see any reason whatever why we should adjourn now after the repeated adjournments we have so recently had, and which have worked out such marvelous results as they have in the consummation of the vote of this morning.

Mr. HENDRICKS. There is, Mr. President, one suggestion which I think I ought perhaps to answer. It is that if an adjournment be now taken for a week a like adjournment will be asked for when the Democratic convention sits in New York. I think I may say for my friends of the same political faith with myself that we shall desire no adjournment for the purpose of attending the New York convention. We think that convention will be able to take care of itself without any aid from us. I will suggest, further, that in the last Democratic national convention, it was refused by the convention to allow special attendance on the part of members of Congress in that body; so that we should hardly feel free to go unless we were delegates appointed by the people, so strict is the convention likely to be. So I think I may say that there will be no desire to take a recess at that time; as far as I am concerned, there will be none; but at this time I do desire that there should be a recess.

There is much more zeal to-day for the transaction of public business than there was last Tuesday. We all had to remain here during the week because the court of impeachment had adjourned over to this day. It was

suggested, and very earnestly suggested, on Tuesday, that we might meet from day to day and transact ordinary business, such as was not much contested, but yet we adjourned from Tuesday of this week, I think, to to-day, spending three days in this city with no profit to ourselves or the country. Why this zeal just now to go on with work when there was such a disinclination in the early part of the week? I think, sir, there is no impropriety in taking this adjournment, the usual one which enables the employés of the Senate to put the Hall in condition for the pleasant transaction of business thereafter.

Mr. CONKLING. Mr. President, if there is any one subject upon which the Senator from Indiana ought not to ask any of us to attach the slightest importance to his opinions, it is in reference to what will or will not be required at the New York convention. According to the almost universal testimony of the newspapers, the Senator from Indiana, on that occasion, is to be "in the hands of his friends." [Laughter.] He is to do what they think it best he shall do; and no adjournment will be asked then, nor will the asking of an adjournment be omitted upon any counsel or advice of his. He will doubtless be in the hands of a committee, and not in a condition to influence that question.

Mr. HENDRICKS. The Senator is very much mistaken about all that.

Mr. CONKLING. Well, sir, the wisest and best of men have thought, as the Senator now thinks, beforehand, that they would be adequate to judge upon such an occasion, and experience has demonstrated the fallacy of that idea.

Now, Mr. President, I wish to say a few words about this resolution. The Senator from Indiana says that there is great zeal just now to proceed with business, and he seems to think that all those who feel it have in some way experienced this zeal since Tuesday last. I beg to say to the Senator, for one, that his indisposition on Tuesday last to adjourn was no greater than mine. I speak for myself; the adjournment of Tuesday last did not take place by my vote nor by my accord in any way. I thought we should have gone on and improved the time, as I think we should now go on and improve the time.

I suppose this resolution is to prevail. The personal convenience of one Senator in one direction, and another in another, always enters so far into the average expression of judgment upon resolutions of this sort that such a proposition always starts with immense advantage and immense chances of success. If the purpose of the resolution had been to gangle the ingenuity and invention of Senators in debate I think it would be admirable, because we have seen a large assortment of reasons produced here in favor of adjournment, and I wish to submit that if there be one more utterly preposterous than all the rest it is that an adjournment is necessary to deck this Chamber in the habiliments of summer. In the first place, I should like to know how it concerns the convenience of anybody to have this carpet taken up now (staring and uncomfortable to the eye as it is at all seasons of the year) any more than it has done any other day during which we have sat? But, sir, I have a prejudice, an inveterate prejudice, against this suggestion, because I have heard it in the other House until it has become so hackneyed, it has served so many years, as every member of that House knows, as a mere make-shift, a mere stereotyped excuse for every gentleman to assign who does not care to assign his own personal convenience as the reason of his vote. Now, I undertake to say that everything which will be done in this Chamber in the way of change between winter and summer appointment and decoration, can be done just as well in the adjournment that takes place from Friday until Monday as it could be in a time as long as it took to fight the Trojan war. There is no doubt about it. What is there to do here? Take up this carpet and put down matting;

and, forsooth, we are to adjourn ten days for that!

Mr. President, with great respect to every Senator, I say we all know better than that. If we want to adjourn in order that we may go home for our convenience, according to the example of those men described in Scripture who had each his personal errand to do on that day, let us say so and adjourn, but do not let us put it on this ground—

Mr. HENDRICKS. Any ground.

Mr. CONKLING. The Senator from Indiana, accommodating as he always is, is willing to put it on that ground. I knew that all the time. He wants to go home, like my friend from Vermont, [Mr. MORRILL,] whom I heard declare that he meant to go home, and no doubt he is determined to go home at all events; and I suppose on the principle that "misery loves company" he would like the rest of us to go home because he does. Let every Senator go who wants to do so; and if the House of Representatives, having enjoyed a substantial relaxation, want to go, let them go, but let us stay here now on the most opportune of all occasions and do up that business, be it more or less, which remains and pertains to us.

The honorable Senator from Rhode Island [Mr. ANTHONY] went into some distinction which I did not understand to show whether, philosophically and metaphysically, we were before or behind the other House in the advance of legislative business. I take the practical fact that here lies bill after bill of that description which we cannot fail to recognize and to entertain, complete so far as the action of the House is concerned, and awaiting our action. Now, I submit to my honorable friend that it is perfectly idle to say that the House may have dawdled over these measures six weeks or six months; they have finished their consideration, and here they are—appropriation bills among others—for we are not so far up in that regard as the Senator suggested; and then there are the bills relating to the admission of the southern States. It is a work of time, it is a work of gravity, and before this session comes to an end we must consider them. Now, why should not gentlemen go who have, I have no doubt, paramount and obligatory reasons for going? but let the rest of us, who choose to stay here and make a quorum, carry forward the business of the session, so that by and by, when our convenience and the convenience of all parties concerned requires it, we may be discharged without day from this Chamber and permitted to return home before the hot season really commences.

I hope, Mr. President, that if this resolution is to pass it will be put on the real ground; but I trust that Senators will accept as a compromise the option of going themselves, which they will be able to do without breaking up a quorum, leaving those who choose to remain to make such progress as they can with the business of the session.

Mr. TRUMBULL. I will say but a single word on this subject. Personally it makes very little difference to me whether the Senate takes this recess or not; but the public interests do require that some legislation should be transacted. I reported this morning from the Committee on the Judiciary a bill for the recognition of the State government in Arkansas. Those newly-organized State governments have no validity until they are recognized by Congress. I understand that there is now a Legislature assembled in Arkansas, which has ratified the constitutional amendment and has complied, as the committee thought, and as the House of Representatives, which sent us the bill, thought, with all the provisions necessary to authorize its recognition. If that is to be done, it ought not to be delayed for two or three weeks. The Legislature in Arkansas should not be kept at Little Rock waiting to hear from Washington; and if it is not to be recognized, let that be decided. They are entitled to a decision upon that question.

I think that bill ought to be taken up and disposed of. I believe that the public inter-

ests require it; that the peace and good order of the people in the State of Arkansas require it. We have been struggling here for the last two years to have governments organized in the rebel States; complaints have come here from time to time of disorder and violence; and now after a great deal of difficulty, after a convention has been called in pursuance of our law, after two elections, one a vote of the people calling a convention, after that convention has met, has adopted a constitution, and the people have voted upon it, and we have got their returns, we stand here and adjourn over the session perhaps for ten days at this season of the year, and take no action on such a bill. I think we should not adjourn until we act on that bill. I should be glad to take it up to-day and act upon it; and I do not know that there is any reason why we should not take it up to-day; but at any rate I think it would be a hardship that would hardly justify us, unless there is some imperative necessity, in adjourning Congress for ten days and passing over a measure like that. I speak of that because it is a measure that I have been looking into since it was referred to the Committee on the Judiciary. There are other measures, I have no doubt, of equal importance requiring the attention of Congress. I shall therefore vote, not to accommodate my personal convenience, but as a matter of public duty, against an adjournment that postpones the public business of the country.

Mr. WILSON. I will say to the Senator from Indiana, [Mr. HENDRICKS,] who thinks we show a great deal more zeal now in favor of attending to the public business than we did two or three days ago, when we had immediately pressing upon us a great question, that I have an earnest and special desire to stay here and to take up two or three very important bills; and the events that are transpiring about us make me more earnest in that wish. I desire to see the bill for the restoration of Arkansas to her practical relations to the Union passed at the earliest possible moment; I desire also to see, further, the bill which restores five other southern States passed; and I should like to see them passed within the next three or four days, so that those States that have made and voted upon constitutions and elected officers can put the rebel officers out of power and put loyal and true men into power, and aid in restoring peace and order and law and liberty and justice in that portion of the country. For that reason I am specially anxious that the Senate shall stay here, and, as early as possible next week, pass these bills. Then we have two or three very important appropriation bills before the Senate, some of which, I think, will take two or three days. I think we had better now go to work in sober earnest and pass these measures, and make the Senate as far advanced as the House of Representatives in business.

Mr. HENDRICKS. I wish to suggest to the Senator from Illinois, and also to the Senator from Massachusetts, whether they think it is right to present to the President of the United States very important bills upon contested questions while there are articles of impeachment held over his head in the Senate. Is the President placed in such an independent position at such a time as he ought to occupy when, under the Constitution, he comes to consider a legislative measure presented for his approval or disapproval?

I can say to the Senator from Illinois and to the Senator from Massachusetts that I am as desirous as they can be that the southern States shall, in some way or other, pass into some other form of government than that which now rules them. No subject of greater importance can occupy the attention of the Senate, in my judgment. I will read an extract from a letter that I have received within a few days as illustrating the kind of government that is now prevailing in ten of the States. I read from a letter written by an old friend, an early friend, a young man who was raised in the same town with myself, who was always a Republican,

who went into the war, commanded a company, fought it through, and then remained in Alabama, not as a "carpet-bagger," to obtain office and to filch from the people their hard-earned gains, but as a lawyer, to practice his profession in the town of Selma; and of the condition of affairs down there he writes me thus:

"This week seven citizens of Green county, who were tried by military commission at this place on the charge of assault and battery and an attempt at riot, were sent to the Dry Tortugas, four of them for one and three of them for three years. I will send you a paper containing the order of sentence."

And then he goes on to give an account of still another trial that is in progress there, in which he fears his client will fare still worse than these seven who have already been banished. Why, Mr. President, under the present form of government in these States we have gone back to the days of Rome and of Greece, when a system of punishment was allowed in those enlightened countries that is revolting to the civilization of the present age—the punishment of banishment—of banishment to a horrible island, where there is no green thing to look upon, where the hot sun of an almost torrid zone beats down upon the unfortunate victim. To such a punishment men are now subjected for an assault and battery with an intent, as it was averred, of committing a riot! Sir, while we have such a system of punishment as that, of course I feel the great necessity and importance of some change. Scarcely any change can be worse than that.

Again, as such frequent allusions have been made in the Senate to wrongs committed upon the freedmen in the southern States, I will read a short extract from the Chronicle, published in this city—a telegraphic dispatch of last month. It says:

"This evening at four o'clock, John P. Howard, a one-armed ex-confederate soldier, was shot from his horse and instantly killed, about four miles from this city, on the Burnsville road. The assassin has not been apprehended. This is the fifth white man that has been murdered in that immediate locality since the war. No one of the murderers has been arrested."

Murders without arrest, without trial, without conviction—murders of white men going on unpunished! Of course I am as anxious as any Senator to favor any just and proper legislation that will pass away from such a system of government, and adopt some other better and safer system for the people.

But, Mr. President, I think when it is proposed to send to the President of the United States a bill to reorganize the government of a State, and in connection with that bill there is a proposition which every Senator must know is bitterly contested—the proposition that Congress, by legislation, shall make irrevocable and unchangeable some feature of a State constitution—when such a proposition is sent to the President of the United States it ought to be under such circumstances that he can, without let or hindrance, exercise his judgment upon the measure. It may be that it will command the approval of his judgment. It may be that it will not. Whether it does or not, it ought to be sent to him when there is no legislative or impeachment sword pending over him; it ought to be when, in the spirit of the Constitution, he can consider it and communicate to the Senate and the House of Representatives his matured, unbiased, unfettered judgment upon so important a question; and I submit to Senators if this is not the very period of all the periods in our country's history, when we ought not in hot haste to pass a bill of that sort and send it to the President for his approval or disapproval. Let the measure wait. There has been no such haste in the past three years for restoring the southern States to representation in Congress as will now justify a demand that we shall consider that bill immediately. There has been a very earnest demand in this country that there should be representation from those States, and it has been delayed from month to month and year to year; but now we are told that because a peculiar and special measure has



come before Congress, a delay of but a few days may work great damage to the country. Sir, I do not feel it so. Although I desire to pass from the military government that prevails down there into some other form of government, yet I desire that it shall be under such circumstances that the Senate can deliberately and in the proper spirit consider the measure which is brought before it; and also that the President of the United States, in the spirit of the Constitution, may be enabled to consider it without any embarrassment.

Mr. NYE. Mr. President, in the little experience I have had in this body I have found it but very little use to oppose an adjournment, either for a single day or for a week or ten days. When that mania pervades the body it is useless to resist it. I do not think that the question of adjournment is so material at this time, and I would not have said a word if it had not been for the extraordinary remarks of the distinguished Senator from Indiana, who has just taken his seat. On no occasion, where it is at all consistent with his sense of propriety, (and his is as keen as anybody's,) does he let an opportunity pass to arraign the Congress of the United States for their action for the last two or three years on this question of reconstruction; especially does he regard it as important now, as there is a very important convention to convene now, and within a month or so another important convention.

I sympathize with the Senator from Indiana in the sufferings of his friend's client at the Dry Tortugas. But, sir, there have been more flagrant outrages than that committed in those States; there have been crimes before which that pales into a simple misdemeanor, that have not aroused the sympathies of the other side of this Chamber. Those crimes are legion, and they have been going on for the last three years, while Congress has been struggling with all its power to prevent them, meeting at every step of the way the unmitigated opposition of the distinguished Senator from Indiana and those who act with him from the day that the measures were instituted to the present time. Now, the honorable Senator is moved with a holy sympathy because these military tribunals have convicted some men. What was the charge? Assault and battery with an attempt to kill.

Mr. HENDRICKS. No.

Mr. NYE. What was it?

Mr. HENDRICKS. With intent to commit a riot.

Mr. NYE. That is just as bad; for we know that "riot" means "murder" there. I am not judge in that case; neither is the distinguished Senator from Indiana judge in that case; but when we are told here that one hundred and fifty-three persons have been killed in the State of Texas since Hancock assumed command and obeyed the directions of the Commander-in-Chief of these United States there is no sympathy awakened in the breasts of gentlemen on the other side by those terrible outrages.

Mr. DRAKE. Many more than one hundred and fifty-three.

Mr. NYE. Yes, sir. When we are told by citizens of the southern States that they are literally wading through blood, spilled by the men with whom the honorable Senator and his compeers act, it arouses no sympathy on his part. His sympathy is only excited when some military tribunal, rightfully or wrongfully, may have convicted a man and sent him to the Dry Tortugas. Sir, Indiana and its borders have been a little unfortunate with its inmates at the Dry Tortugas. They got one man from a neighboring State that the Dry Tortugas would not have—a prominent candidate, a leading man in the Democratic party, who "went to his own and his own received him not." [Laughter.] There is a holy horror in that region for the Dry Tortugas. I will tell the honorable Senator the remedy. Do nothing that you deserve to go there for, and let him advise his constituents to do nothing that they would deserve to go to

the Dry Tortugas for, and they will not go there. Sir, what does "riot" mean in the South now? It means murder.

Mr. EDMUNDS. Organized assassination.

Mr. NYE. Yes, sir; organized assassination. It means the outrages of your Ku-Klux-Klan, by means of which the man who is clothed with the habiliments and garb of an American citizen is compelled to find hiding-places in your mountains and to run for his life, and on every turn he meets the Ku-Klux-Klan or the left wing of the Democratic party. They are the skirmishers of the Democratic party. They are the living rebellion that now exists. No sympathy is roused on the honorable Senator's part by the wrongs thus committed. He can sit calmly by and laugh at the idea of the Ku-Klux-Klan while every inch of the highways is reddened with human blood. But it is colored blood there generally, that is not quite as red as the blood of the honorable Senator's constituent who goes to the Dry Tortugas. Sir, I am sick of this paltering with this thing.

But the honorable Senator in conclusion, in a spirit peculiar to himself, and with a manner as meek as a cross between Job and Moses, [laughter,] tells us that it is not just to the President to send any bill to him that will embarrass him. Oh, no! The honorable Senator has reached a point now, and from the height on which he stands he can see nothing that should bear any possible phase of embarrassing the President who has embarrassed the nation for three years more than the honorable Senator can remedy with all his power.

I have no particular reason that operates on my mind to vote for an adjournment to save the tender feelings of the honorable Senator on this score; and I guess Mr. Johnson will take care of himself. Amid those by whom he is surrounded, and the new recruits that he is getting daily, he will take care of himself. Oh, how tenderly we ought to regard him! Oh, how tenderly has he regarded these southern States! Sir, these military tribunals would not have been sitting there now had the honorable Senator's President joined himself with us in perfecting these laws of reconstruction. I am not quite content, even after the vote of to-day, to take that gentle whipping over the head which the honorable Senator has seen fit to administer. Oh, what a gushing of humanity he has over the Dry Tortugas! Sir, I am sick of it. If the honorable Senator is in earnest and wants to get the State of Arkansas in, why did he oppose it the other day? What was the necessity of referring the bill to the Committee on the Judiciary to observe the high rule of form?

Mr. SHERMAN. It is ready now to be passed.

Mr. NYE. It has come quicker from there than anything else ever did, [laughter,] and would not have come now if this peculiar pressure had not been put on; there would have been kinks in it, and somebody would have wanted to send it back. But, sir, as an offset, we have got the report. Why not act upon it now, this minute? and then I will vote to adjourn with the honorable Senator.

But he says he never can consent to have a constitution so framed in any particular that it cannot be altered. Would the honorable Senator consent to have a constitution framed that permitted the idea of putting slavery again into one of these States? Would he rewrite the history of the wrongs of the past; or, in view of the impending danger, would he not provide in the strongest possible terms against there ever being a reënactment of those wrongs?

But the Senator tells us it may embarrass the President. Sir, I think a little embarrassment would not be unprofitable to him. He ought to be embarrassed. Ever since these reconstruction measures have been started, not one of them has met with the favor of the distinguished Senator from Indiana, not one provision of them has he voted for; but as constant as the sun is to its position every hour he has gone with the President of the United States in obstructing not only their

passage but their execution; I mean that he has done that by sustaining the President in every vote that has been given upon these questions; and, sir, the records of the Senate will show it.

I therefore am led to doubt the sincerity of these men when they seek to put off this measure upon some little quibble. Let Arkansas come in to-day. Let us have one birth with a death. Let us have some offset; and I do not know of anything that would make me feel better than to see a State that was dead and buried resurrected again in the spirit of the law that Congress has passed. Sir, it should be the duty of Congress before it adjourns to rebaptize, by virtue of its own law, the State of Arkansas into the Union. Though her sins be as scarlet we will make her whiter than snow. That is the business we had better be engaged in to-day instead of talking of adjourning for any convention. She is here, washed clean in the laws of Congress. She stands here to-day with her garments purified. Let her come in.

I hope that the honorable Senator whose sympathies are so moved in view of the outrage that he claims has been committed, will be the first to join with us, even though there be some little technical objection, in rebaptizing the State of Arkansas; and before we adjourn I hope it will be done. We have had work of destruction enough. The work of rebuilding has now commenced. Let us put the first corner-stone in to-day, upon which the structure will be rebuilt and firmly stand. Let us do one thing in vindication of Congress, instead of adjourning out of respect to the embarrassing position of the President. Sir, I would have begged him on my bended knees, not only for months, but years, to stop embarrassing the progress of Congress, but he would not. He would not hearken to the charmer, charm he never so wisely. He was as deaf as the adder to the cries of suffering humanity in the South; deaf to the cries of the murders of the whites; ay, sir, and, in my judgment, upon the evidence *particeps criminis* to the most terrible slaughter that ever this earth has seen, under the sanction of law, in New Orleans; and yet, in deference to the sensitiveness of that man who dared to charge that massacre back upon this body and the other branch of Congress, we are asked to postpone this measure. No, sir; we can postpone it in deference to no man's sensibility; but in obedience to the law of eternal justice, in obedience to our own mandate, we bade the Senators and Representatives from Arkansas to come here. They are here, and we should admit them.

I can relieve the honorable Senator of his embarrassment in regard to sending the bill to the President. There is no use of sending it to him. Let us pass the measure as a concurrent resolution, which does not need his sanction, and that will relieve him from embarrassment and admit the State of Arkansas at once. I am sensitive, too. I do not want the bill to slumber at the Presidential Mansion for ten days and come back ridden by another veto. We have had a series of them and a series of experiences from which we should learn. If we send the bill for the admission of Arkansas to the President, after keeping it ten days, he will throw it back defiantly into our faces, hoping and expecting that we shall be unable, under the peculiar circumstances, to pass it over his head; and then Arkansas will lie at your doors where she is waiting; but that arouses no sympathy in the distinguished Senator's mind.

Now, Mr. President, I hope we shall not adjourn. I hope that before the sun goes down to-night we shall admit Arkansas, or put the bill for her admission through all the forms that are necessary. Let the President have another sweet morsel to roll under his tongue. Let him veto it and we will meet it. For one, sir, I should deem it discreditable to Congress to look in the face of these men whom they have bid come here, while they are subjected to further exclusion.

I rose simply to say that I desire to enter my protest against the common and usual practice, upon every motion to adjourn, to arraign us here and before the public, just before the adjournment, as being engaged by any possibility in any scheme to keep Arkansas or any other State that is ready to come in out of the Union, or that we desire to perpetuate for a single hour the military tribunals in Alabama. Sir, Alabama would have had no tribunal of that kind to-day within her borders if the Democratic party from Maine to California had not advised their rebel friends there to resist the adoption of the new constitution; she would have been safely within the folds of this Union and here to-day; and I protest that the honorable Senator from Indiana is estopped from bringing up these tears of sympathy as prejudicial to the opposing party, at least upon that score. Therefore, sir, I insist upon it that before we adjourn we shall pass the bill for the admission of Arkansas. The President, I think, will waive the peculiar circumstances which he is in and admit her. I have no doubt the message is written already.

Mr. WILLEY. I move to lay the resolution on the table, and upon that motion I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 26; as follows:

YEAS—Messrs. Cameron, Chandler, Conkling, Cragin, Ferry, Fessenden, Frelinghuysen, Harlan, Howe, Morgan, Morrill of Maine, Morton, Nye, Pomeroy, Ramsey, Ross, Sherman, Stewart, Tipton, Trumbull, Wade, Willey, Wilson, and Yates—24.

NAYS—Messrs. Anthony, Bayard, Buckalew, Cattell, Cole, Connors, Corbett, Davis, Dixon, Doolittle, Drake, Edmunds, Henderson, Hendricks, Johnson, McCreery, Morrill of Vermont, Norton, Patterson of New Hampshire, Patterson of Tennessee, Saulsbury, Sprague, Sumner, Van Winkle, Vickers, and Williams—26.

ABSENT.—Messrs. Fowler, Grimes, Howard, and Thayer—4.

So the Senate refused to lay the resolution on the table.

The *PRESIDENT pro tempore*. The question is on the amendment to the resolution proposed by the Senator from Rhode Island.

Mr. EDMUNDS. I move to amend the amendment by striking out the words "two Houses" and inserting the words "House of Representatives," so as to make the resolution a mere consent that the House of Representatives may adjourn if they wish to do so.

Mr. ANTHONY. That is just what they sent us.

Mr. EDMUNDS. I am not at all certain that that is the construction of it.

The *PRESIDENT pro tempore*. The amendment to the amendment will be reported.

Mr. BUCKALEW. I submit that the proposed amendment to the amendment is not in order. It is simply putting the original proposition over again. It cannot be in order to offer the same thing that we have before us already as an amendment to an amendment.

The *PRESIDENT pro tempore*. It is in order. It is an amendment to an amendment. It will be reported.

Mr. DRAKE. I ask for the reading of the original proposition and the amendment, and also the amendment to the amendment.

The *PRESIDENT pro tempore*. They will be read.

The *CHIEF CLERK*. The resolution of the the House of Representatives is as follows:

*Resolved by the House of Representatives, (the Senate concurring.)* That at the adjournment on Saturday, the 16th instant, a recess be taken until Monday, the 23th instant.

The Senator from Rhode Island [Mr. ANTHONY] moved to amend the resolution by inserting after the word "adjournment" the words "of the two Houses."

The Senator from Vermont [Mr. EDMUNDS] proposes to amend the amendment by striking out the words "two Houses" and inserting "House of Representatives;" so that, if amended as proposed, the resolution will read:

*Resolved by the House of Representatives, (the Senate concurring.)* That at the adjournment of the House of Representatives on Saturday, the 16th instant, a recess be taken until Monday, the 23th instant.

Mr. TRUMBULL. I suggest to my friend

from Vermont that if the House of Representatives is permitted to adjourn it will defeat the passage of the Arkansas bill, because we could not perfect it; nor could we perfect any bill; it would be impossible to have the bill signed and become a law. So far as that measure is concerned, it would be just as much defeated by the House adjourning as if both bodies adjourned.

I wish to say one word in reply to the Senator from Indiana—I do not see him in his seat, however—who objected that it was improper to send bills to the President, under the circumstances, while these articles of impeachment are pending. That state of things has existed for two months. That objection would stop all legislation. I do not think that can be the intention.

Mr. SUMNER. Mr. President, I believe I have uniformly voted against what are called adjournments over and recesses. I do not recall an instance in which I have voted for them. I shall, however, vote for this, and I am moved to do it from a consideration to which the Senator from Illinois has called attention. The Senator alludes to the President of the United States, and reminds us that he is on trial before us. He also goes further, and reminds us that during the protracted trial we have been in the habit of receiving messages from him and transmitting messages to him. He makes no criticisms upon that conduct. I have always felt from the beginning that it was unworthy of the Senate. I have always felt, from the first moment he was arraigned at our bar, that it was unbecoming the Senate to continue to transact business with him. I have felt that it was the same as if the judge on the bench should continue to transact business with the criminal in the dock, or, if the Senate prefers that term, with the culprit in the dock.

However, Senators thought otherwise. The trial proceeded. The evidence and the argument are now closed. Nothing more remains except the judgment of the Senate. And now, between the closing of the case and the judgment of the Senate it is proposed that the Senate shall continue its former relations with the accused President, inviting messages from him and transmitting messages to him. I object to the proceeding. I object to it as unworthy of the Senate.

If business can be transacted and sufficiently matured without communication with the President, possibly the Senate might proceed with its consideration; and yet all must see that it would proceed under a certain constraint, knowing that it ought not to communicate with the President at this time. I submit the conscience of the Senate ought to rise in judgment against any such communication. Profoundly believing the President of the United States guilty of high crimes and misdemeanors—and I have now no hesitation in declaring it, for I have voted to-day on one important article—having that proof and conviction, and knowing that there are other articles which still await the judgment of the Senate, how can I, as a Senator, consent to continue in communication with him on important public business?

It may be, when these proceedings are brought to an end, that he may come forth with a nominal acquittal by one vote. Condemned by a majority of the Senate, as he has already in advance been condemned by two thirds and more of the House of Representatives, and, as is unquestionable, condemned by the great body of the American people, it may be, I say, that he may go forth from this Chamber with a nominal acquittal; but he must go forth as a blasted public functionary. That is his inevitable destiny. But until that acquittal is entered of record, I think the Senate will consult its own character by abstaining from any further interchange of messages with him. It is therefore that I shall vote for the proposed adjournment till the week after next, that public business involving communications with the President may not be sandwiched between the different stages of our judgment.

Mr. MORTON. Mr. President, it is now

nearly or quite three months since the articles of impeachment were found against the President by the House of Representatives, and during that time the Senate has continued to do official business with the President; and it is rather too late now to talk about protecting our conscience or our dignity by not doing business with a President who has been impeached. Sir, it is a vain proposition. We are now on the very approach of summer; a vast amount of important business remains unfinished, and if we do not attend to our business, and do what the country requires should be done, we shall have a settlement to make. The business of this country cannot be allowed to suffer on account of the punctillios referred to by the Senator from Massachusetts; and, as we have gone on for three months transacting business with the President, it seems to me too late in the day to argue these punctillios.

There has been no reason offered as yet for this adjournment. I understand that the effect of the amendment is to allow the House of Representatives to adjourn while the Senate remains in session. I protest against any proposition of that kind. Let Congress remain here, not simply one House. If anybody needs recreation it is the Senate, and not the House of Representatives. They have had but little to do for the last four or six weeks, while we have been almost constantly engaged here; and yet I am satisfied that neither our health nor anything else requires that we shall adjourn over for a week or ten days. The pretext that we must adjourn for the purpose of having these carpets taken up and the fleas shaken out, it seems to me, amounts to nothing. These fleas will get into somebody's ears and leave the carpet if we do not stay here and attend to our business. [Laughter.]

Mr. YATES. Mr. President, I am opposed to this adjournment, but for a reason different from that which was offered by the Senator from Indiana [Mr. HENDRICKS] in favor of adjournment. It is also different from that offered by the Senator from Massachusetts, [Mr. SUMNER.] I wish to send to the President of the United States precisely such a bill as that to which the honorable Senator from Indiana refers—a bill with a proviso that none of these rebel States which are hereafter to be admitted shall deprive any person made in the image of God of his equal rights. I wish to send him such a bill as that. I wish to send it to him in the interim between now and the final vote upon impeachment. I wish we could send him any proposition in favor of human liberty. I wish we could send him any measure for the relief of the suffering people of the South. I wish we could send him any measure which would go to protect the loyalists of the South, any measure which would stay the tide of crime and assassination there; so that we might have for our Republican colleagues, our Republican friends, a new veto upon human rights and upon the best interests of our country.

I thank the honorable Senator from Indiana for his sweet reminder as to the action of the President of the United States when he shall not have the ghost of impeachment before him; when that order which he laid away until after the trial of the impeachment can be acted upon; when the President of the United States with his Adjutant General and Secretary of War, Lorenzo Thomas, shall have power in this country. Sir, we shall then find that no republican measure, no measure which will bring these States into the Union on the reconstruction policy of Congress, or upon the true policy for the prosperity and happiness of the Union, will ever receive the sanction of the President of the United States, and never again, I fear, receive a constitutional majority of two thirds over the veto message which he will send here to Congress.

I should not have referred to the subject at all but for the sweet reminder of the Senator from Indiana. I believe in some respects it would be as well for Congress to adjourn and for members to go home and breathe the

breath of popular opinion among their constituents, and understand how a great people feel outraged and indignant at the verdict which has been pronounced here to-day on this most important trial.

But, sir, I cannot favor an adjournment. There is important business before the Senate. There is the business of the Committee on Territories, whose business is not advanced at all, and of other committees. I shall therefore vote against this adjournment. I trust that in the meantime we shall be able to hear from the country and feel the effect of popular opinion. I do not mean upon the votes of members; but I mean if that opinion can in any way influence our decision, it will be for the best interest of the country.

Mr. DOOLITTLE. Mr. President, I voted against the adjournment of the Senate sitting as a court of impeachment for the reason that we had been in session as a court of impeachment for six weeks or two months, the trial had been concluded, every Senator had formed his judgment, every Senator was present, and we were in the process of pronouncing the judgment of the court in the case which had been tried—a case of great interest, which has attracted the attention of every Senator and weighed upon him for a long time. But a majority of the Senate concluded to adjourn, and to adjourn over until the 20th instant. I thought it was an unheard of thing in a court in any civilized country before; but it may be that the majority is right and that I am wrong in the views which I have of it.

But, inasmuch as the Senate, sitting as a court of impeachment, have determined to adjourn, it seems to me it would be better that the Senate, as a Senate, should also adjourn. I shall not go into the question as to what considerations may have moved gentlemen to adjourn the court of impeachment; but it seems to me, that being the very important, pressing business which was upon us, and we were just ready to come to a conclusion upon it, if there were any reasons which should adjourn such a weighty and pressing matter as that the reasons are still stronger for putting aside, for the present, at all events, these other matters.

Besides, sir, we need not discuss the fact that this convention which is to sit at Chicago during the coming week will engross not only the public mind, but will engross, to a very great extent, the attention of the Senate as well as of the House of Representatives. It will be very doubtful whether upon any contested question a quorum of the two Houses will be present in the transaction of business; and, practically, it seems to me we may as well consent to the adjournment which the House of Representatives have asked. While I have opposed the adjournment of the court and wished to close that business—and had it been closed I would have voted against the adjournment of the Senate—yet, under these circumstances, the court having been adjourned just as it was in the conclusion of a most important matter, I now consent to give my vote for the adjournment of the Senate.

Mr. HENDERSON obtained the floor.

Mr. POMEROY. If the Senator from Missouri will allow me, I should like to ask the Senator from Wisconsin a single question.

Mr. HENDERSON. Certainly.

Mr. POMEROY. I understood the Senator from Wisconsin to say that he thought it to be an unheard of thing for a court to adjourn while it was rendering its verdict. If I recollect rightly, the Senator from Wisconsin voted in the court to adjourn over until July, on the motion of the Senator from Missouri. [Laughter.]

Mr. DOOLITTLE. I voted for an amendment to the proposition to adjourn. If we adjourned at all I proposed to give a long adjournment, so that we could do business in the meantime.

Mr. POMEROY. Then it would not be an unheard of thing to have a long adjournment.

Mr. DOOLITTLE. If we were to have any I preferred a long one.

Mr. POMEROY. The Senator from Wisconsin voted for an adjournment to July, when it was an unheard of thing with him for a court to adjourn for a week!

Mr. DOOLITTLE. I voted to adjourn *sine die* also. I am still willing to vote to adjourn it altogether.

Mr. HENDERSON. Mr. President, I have no feeling upon this question of adjournment. I do not care what the Senate does upon that subject. I am utterly indifferent upon it. But, sir, I do object, under a motion to adjourn, to Senators taking occasion to comment upon the action of their associates here in another capacity.

The Senator from Massachusetts [Mr. SUMNER] says that he never before voted for an adjournment. I believe I can bear him witness to the truth of his assertion, if he needed any, that never since I came here has he voted for an adjournment upon any occasion, scarcely ever willingly until after five or six o'clock in the afternoon, but never for any length of time. I do not think I ever knew the Senator since I have been in the Senate to vote for an adjournment *sine die*, even in July or August.

Mr. SUMNER. Never.

Mr. HENDERSON. Never, I believe. If the Senator had his way he would remain here forever and ever. [Laughter.] Never would he leave this body; and, as a Senator says, I suppose he would have some objection to leaving this world even.

Now, Mr. President, I do not see any use in some of the remarks made by the Senator. For instance, he said that the President, a great criminal, had been acquitted by one vote, and that that matter now had been adjourned over, and that while that adjournment was pending he wanted to have no communication with him whatever, notwithstanding some of the Senators here desired to have it. Mr. President, I have no more communication with Mr. Johnson than has the Senator from Massachusetts. I have not seen Mr. Johnson since January last. I have had no personal communication with him, and desire to have none, especially until we get through with this trial. As we have adjourned the court, and the Senator voted for it, and thereby made an excuse for his voting, against his custom, for an adjournment of the Senate; inasmuch as this thing has occurred, partly by the Senator's own fault, is it not wrong, in the midst of this trial, to comment upon the action of other Senators or to make any reflection upon the accused? It is enough to do it in our capacity as jurors and judges. I do think that we should abstain from it while in the Senate. If nothing else requires it, a decent self-respect should demand it. That is my opinion, and I express it freely, not that I have any sympathy with the political course of Andrew Johnson; for I abhor it as much as the Senator from Massachusetts does. But the question presented to my conscience is not a political question under the articles of impeachment. I have to find according to the law and the evidence; and no Senator in this body has a right, either in the Senate or in the court, to reflect upon my conduct or upon the conduct of any other of his associates on that subject.

If the question of political action is to be brought into consideration, then I have the same feeling in reference to the political conduct of Mr. Johnson that the Senator from Massachusetts has. I have no doubt that we should agree on that point; but that is not the question.

The Senator from Illinois [Mr. YATES] desires that we should adjourn this body and go before our constituents and snuff the breeze that we will there find prevailing. Why? Will that enlighten us in the discharge of our duty under the obligations of an oath? Perhaps it would be well, upon the trial of a great crime, to turn the jury loose from their rooms in the court-house and let them snuff the breeze in the court yard; but the Senator from Illinois, I apprehend, would not advocate such a policy. He desires that we should adjourn this body

and go among our constituents and ascertain what is doing there, and let the voice of our constituents come up and enlighten us in the discharge of our duty.

No man has a higher regard for his constituents than I have for mine; they have been generous and kind to me; and no man loves them better than I do, I presume, or has a higher degree of confidence in their judgment; but, Mr. President, they cannot enlighten me on this subject. I hope they will not desire it. They can enlighten me on all political questions; but this is not a political question. It is one that appeals to my conscience; it is one that I am bound to decide according to the charges as framed by the House of Representatives and according to the law and the evidence adduced upon them; and I have felt it my duty, so far as I possibly could, to decide justly, and having decided I am in the hands of my constituents, and if they object to my decision I tender most freely the resignation of the place that I now hold. Sir, I would not hold this place here to violate the obligations of an oath at the dictation of all the people of this world; and all the reflections that can be cast upon my conduct, all the opprobrium that may be heaped upon me now, and all the odium in the future that the Senator from Massachusetts and the Senator from Illinois, or all the Senators that ever existed, or ever can exist, can cast upon me, shall not drive me from the discharge of an honest duty. I like this place as well as the Senator from Massachusetts; and perhaps the time may come, when I have been here as long as he and grown so great as he, if that be possible, that I may possibly desire to sit in my chair day and night and never adjourn, as he does. But, sir, I do not love it so well, nor shall I ever love it so well as to forget the obligations of duty when they are imposed upon me by the solemnity of an oath.

Now, sir, I have said this much; and I do hope that from this day to the end of the trial we shall hear no more reflections of this character, and that when we leave this body after the adjournment we shall be able to go before the people in the coming canvass as we would have done if this trial had not occurred, and not be told that this is a great political or party question. Sir, the institutions of our country are involved in it; the construction of the Constitution is involved in it; the construction of the laws upon our statute-books from 1789 down to the present day is involved in it; and I am not to be told that my duty as a politician or partisan requires that I shall turn my back upon the honest convictions that I entertain upon the construction of the Constitution and the laws of the land. Sir, there is no use of such talk as this. We can leave here, as we have been, friends. There is no use of exciting party hatred against any man. There is no use of claiming that this is a party question, for it is not; and the day that our party shall commit itself to the awful proposition that a man, in order to be in full standing with it, must be perjured before God and man, that day the party crumbles, as it ought to crumble, into the dust.

I love the Republican party as well as my friends. I expect to act with it, notwithstanding what may be said of my course here. I have not lost my fealty to it. Newspapers may say that I am an apostate; newspapers may demand that I take my place in another party; but that requires the consent, I apprehend, of another; it requires at least my own consent; and that consent, so far, has not been obtained. Sir, I expect to act as I have ever acted in the discharge of duty; and if I vote to acquit the President upon every charge, as I expect to do now, unless I shall change my mind, I yet have not lost my party fealty, for it is no party question; and I expect to go from this Chamber in the discharge of my party duty as I would have discharged it if this case had never been brought here; and I have ever regretted that it was brought here. It never should have been; or, if brought here, it should not have been under the charges under which it is brought. That is my judgment.



Now, Mr. President, if the Senate desires to adjourn, let it do so. If it desires to remain, and perhaps that would be the better policy, the President is not yet convicted,\* and we must have intercourse with him. If the Senator from Massachusetts desired none he ought to have gone on and voted on the other articles this morning. We are bound to have intercourse with him. We must send our bills to him if we remain here. The strong probability is that when we again meet—or the possibility is, if any Senator objects to the term “probability”—the possibility is when we meet again he will be acquitted, and then we must have intercourse with him from that time on.

The Senator from Illinois speaks of bloodshed in the southern States. I do not see much of it. But have we not majorities in all those States now? We have the Legislatures; we have the Governors; we have constitutions securing equal rights. If these are not sufficient, if the President commits any wrong in the future, if we find bloodshed there, I will go with my friend as far as he dare go on that subject. We have that all secure.

Mr. WILSON. You have when you pass these bills; not till then.

Mr. HENDERSON. Why not sit here, then, and pass them?

Mr. WILSON. I am for that.

Mr. HENDERSON. Then the Senator has no objection to having intercourse with this “great criminal?”

Mr. WILSON. I am in favor of sending them to him.

Mr. HENDERSON. The Senator is in favor of sending the bills to the President. The Senator does not seem to be in danger of becoming a leper because he sends a bill to a man who is not yet convicted. The Constitution requires that he shall be convicted by two thirds of the Senate, and until that conviction takes place the law presumes him innocent. Therefore we need not think that we do very great harm to ourselves or to the institutions of the country by sending bills to him. Let us then go on and pass these bills. I have no objection to that. I want them passed.

As regards this idea that the South is suffering so much, as I have before stated, our friends are able to vindicate themselves with these majorities in their behalf; and if not, what is General Grant about? Has he not the Army at his command? The President cannot issue an order except through him. If he has not men enough at his command, can we not give him more? I will go as far as any man toward raising troops for the purpose of placing them in the hands of General Grant to protect the people of the South.

Mr. EDMUNDS. But that act is unconstitutional, the President says.

Mr. HENDERSON. Has the President ever interfered with the act? Has he done any act in contravention of it? Does the Senator now say upon his honor as a Senator that the President has ever interfered with it by act.

Mr. HOWE. What act?

Mr. HENDERSON. The act requiring all orders of inferior officers to go through General Grant.

Mr. SUMNER. Is it not in evidence that he tampered with an officer of the United States?

Mr. HENDERSON. Why, Mr. President, no.

Mr. JOHNSON. Directly the reverse.

Mr. EDMUNDS. I do not say that the President has interfered with that particular act. I do not propose to enter into that question. I only suggest to my friend when he alludes to the power of General Grant that the President of the United States has declared—there is no dispute about that—that that act is a plain and palpable violation of his rights, and therefore I thought it right to suggest to my friend himself, not in the way of complaint, but to suggest to his mind whether there was not a difficulty in relying a great deal on General Grant on that point.

Mr. HENDERSON. General Jackson

thought the Bank of the United States unconstitutional.

Mr. EDMUNDS. And he removed the deposits accordingly.

Mr. HENDERSON. Yes, he removed the deposits accordingly. Chief Justice Marshall, in the Supreme Court of the United States, thought it constitutional. The Senator from Vermont believes the tenure-of-office act to be constitutional. So do I. James Madison, equal to either one of us—not superior to the Senator from Vermont, but very far superior to me—thought that this act was unconstitutional.

Mr. EDMUNDS. He thought both ways.

Mr. HENDERSON. He never thought but one way that I know of. The Senator perhaps has a little more intimacy with his opinions than myself. I never heard of an opinion of Mr. Madison on that subject on the other side.

Mr. EDMUNDS. Then my friend is not as well informed—I feel obliged to confess at the expense of vanity—as I am, for the evidence of history shows Mr. Madison on both sides on that identical question.

Mr. HENDERSON. Perhaps my friend from Vermont, if he lives to be as old as Mr. Madison, will be on the other side of this question.

Mr. EDMUNDS. Perhaps so; we will wait and see about that.

Mr. HENDERSON. The mere fact that the President of the United States thinks some law is unconstitutional does not prove that he is going to interfere with the law. That does not follow as a matter of course. But let us see whether he does interfere with the law or not. I am willing to give General Grant all the troops that he demands for the protection of the people of the South; and I will vote for such a bill to-day if there is any necessity for it.

Now, Mr. President, I have said just so much in vindication of the course which some of us thought proper to pursue upon the trial of this case. It would be better, I suggest to Senators, to let the proceedings of the court alone when we are legislating, and when we are in the court to let legislation alone.

Mr. DRAKE. Before my colleague takes his seat, I should be very glad to make an inquiry of him.

The PRESIDENT *pro tempore*. Does the Senator from Missouri [Mr. HENDERSON] give way?

Mr. DRAKE. He has given way, sir. I was not aware that any Senator here had in the session this afternoon assailed my colleague on account of his action in the court of impeachment.

Mr. SUMNER. Nobody.

Mr. DRAKE. Will my colleague state if anybody has so assailed him, because I wish to assure him that his honor is quite precious to me, and I should like to know who it is that ventures to assail the honor of my colleague. I ask for information of my colleague who it was that assailed him?

Mr. HENDERSON. Is my honor so precious in the eyes of my colleague that he will take care of it under all circumstances, let me ask?

Mr. DRAKE. I have generally been accustomed for several years past, at home and among our people, to take care of the honor of my colleague, and I am prepared to do it now.

Mr. HENDERSON. No further than I have taken charge of his, I apprehend. I reciprocate the sentiment. Mr. President, if there was nothing intended by the remarks of Senators to reflect upon the action of their Republican colleagues in the vote cast a little while ago, then, of course, what I have said is not pertinent. If I drew an erroneous inference, there is no harm done. If, however, I be correct, then I hope my colleague will, as he has always done, be ready and willing to vindicate me. Inasmuch as he has risen and given me the assurance upon this occasion, I am perfectly willing to leave my honor now in his hands.

Mr. DRAKE. And, Mr. President, I am perfectly willing—

Mr. MORTON. Mr. President, I rise to a question of order.

The PRESIDENT *pro tempore*. The Senator from Indiana rises to a point of order. He will state the point of order.

Mr. MORTON. I rise to a question of order that ought to have been made some time ago; and that is, that the impeachment trial not being over, but being simply adjourned to another day, it is not proper, in my judgment, to assail members of the Senate for having voted one way or the other, or to make a justification of votes that may have been given. I think on either side it is premature and improper.

Mr. DRAKE. I suggest, when the Senator rises to call another Senator to order, that he do it at the time when the disorderly words are spoken, and not undertake to take another Senator off the floor who has not done any such thing in order that he may make his point of order. I merely rose to make the inquiry that I did of my colleague; but I must confess my very great surprise that my colleague, under the supposition that some general aspersion had been made upon the seven Republican Senators who voted this morning for the acquittal of the President, should have felt that it called upon him individually to defend himself from that general aspersion.

Mr. HENDERSON. There was a remark made by one Senator, at least, that the Senate ought to adjourn, that they could not afford to have any intercourse whatever with this great criminal that the Senate had voted to acquit this morning. That was the statement.

Mr. SUMNER. I certainly never thought of the Senator from Missouri except in kindness, and in the few remarks I made a few moments ago I beg to assure him I did not have him in my mind, nor did I have any Senator in my mind. But listening to the Senator, he will pardon me for saying, I was reminded of a maxim which comes up often in the language of another country, and which seemed to me to be very applicable to his case as he presented it. It is this: “Whoso excuses himself accuses himself.” The swiftness with which he rushed to self-defense brought to my mind this ancient maxim. It may not be at all applicable; still it did occur to me. That is all I have to say with regard to the remarks of the Senator.

But I now go further and repeat what I said before. I said that I did not think it was becoming in the Senate to continue an interchange of messages with a person accused at its bar; that it was the same as if a court should send letters and transact business with a prisoner in the dock. So it seems to me; and on the present occasion the impropriety is increased, I may say that it is aggravated, when we consider that we are in the midst of our judgment. A vote has been taken on one article of impeachment; but there are ten others which remain to be acted upon; and on the one article upon which the vote has been taken, as Senators well know, the acquittal was only by one vote. There is a familiar saying that a man is saved by the skin of his teeth; and so to-day on that eleventh article the President was saved by the skin of his teeth. He was saved by one vote. I called it a nominal acquittal. There is on that one article—I do not now allude to the others, but I freely allude to that because it has been acted upon—a moral judgment against him, a judgment—

Mr. HENDRICKS. I wish to inquire what decision the Chair made on the point of order made by my colleague?

The PRESIDENT *pro tempore*. The Chair did not make any.

Mr. HENDRICKS. Then I ask for a decision on the point of order as applicable to the argument now being made by the Senator from Massachusetts.

Mr. SUMNER. I beg the Senator to note down the words which I have used to which he objects. That is the rule.

The PRESIDENT *pro tempore*. If there is objection the words must be put in writing.

Mr. SUMNER. If the Senator objects, I ask him to put in writing the words to which he objects.

Mr. HENDRICKS. I make the point of order that the line of argument of the Senator is not in order. I am not making a point of order on particular words.

The PRESIDENT *pro tempore*. No discussion is in order until the words objected to are put in writing. If the Senator objects to words used in debate they must be written down.

Mr. HENDRICKS. I am not objecting to words. I am objecting to an argument that does not relate to the subject before us, but is a criticism on the judgment of the Senate sitting in another character. I want to know if the Senator from Massachusetts has a right to review the judgment of the Senate sitting in another character, on a motion to adjourn?

Mr. SUMNER. I made no review and no criticism about it.

Mr. HENDRICKS. I think it was.

Mr. DOOLITTLE. I desire—

Mr. SUMNER. Have I not the floor?

The PRESIDENT *pro tempore*. A question of order has been made, which must be decided before there can be any argument.

Mr. DOOLITTLE. I rise to a point of order.

Mr. EDMUNDS. You are not in order until the other question is decided.

The PRESIDENT *pro tempore*. There is a point of order pending which must be settled by the Chair without further debate.

Mr. DOOLITTLE. On that point of order I wish to make a suggestion.

Several SENATORS. Debate is out of order.

The PRESIDENT *pro tempore*. That is not debatable. The Senator from Indiana objects to the course of argument pursued by the Senator from Massachusetts. I know of no rule that dictates how a man shall speak or what course of argument he shall pursue in this body. He has the whole range of his own imagination, [laughter,] and the Chair is no judge of the relevancy to the point in question of his argument. The question now is on adjourning the body.

Mr. SUMNER. Now, my argument is simply this—

Mr. DOOLITTLE. Mr. President—

Mr. SUMNER. I object to being interrupted.

Mr. DOOLITTLE. I rise to a question of order, and I desire to state it.

The PRESIDENT *pro tempore*. The Senator from Wisconsin will state his point of order.

Mr. DOOLITTLE. My point of order is, that the rule does not require the words to be taken down, unless it be a personal matter between Senators.

Several SENATORS. That is not a question of order.

Mr. DOOLITTLE. The Senator from Massachusetts demanded that the words should be taken down. I desired to make that suggestion to the Chair, and rose for that purpose.

Mr. JOHNSON. That has been disposed of.

Mr. DOOLITTLE. Disposed of or not, I desire to make the suggestion.

The PRESIDENT *pro tempore*. The Chair has disposed of the question of order that was up.

Mr. SUMNER. I think the remarks of my friend from Wisconsin were not very much to the point.

Mr. DOOLITTLE. Mr. President—

Mr. SUMNER. I hope the Senator will excuse me now. I shall be through in one minute, and then he can have the floor as long as he pleases.

Mr. DOOLITTLE. I did not ask to take the floor.

Mr. SUMNER. Of course not.

Mr. JOHNSON. I hope the Senator from Massachusetts will go on.

The PRESIDENT *pro tempore*. The Sen-

ator from Massachusetts has the floor, and must not be interrupted unless a point of order is raised.

Mr. SUMNER. Mr. President, I have stated my point, and that was all I desired. I do not wish to argue it; but I was trying to say that under the peculiar circumstances of this case, with this great trial pending, with the judgment on one article carried by only one vote, and with the judgment on ten other articles still pending, it was not becoming in the Senate during this period to continue to transact business with the accused at our bar. I do not know how it impresses other Senators; but I have a sentiment that all such relations are indelicate and improper. I know that there are Senators who, since the impeachment of the President has been agitated, have continued in personal relations with him. I have understood that there are some who have sought official appointments at his hands, and some who have frequented his house. I have no criticism for them. I could not have done it myself. But now I am not speaking of what individual Senators should do, but of what the Senate should do; and on that point it seems to me all should unite, whether, like myself, they believe the President guilty, or, like the Senator from Missouri, they believe him not guilty. It seems to me that all equally, during the pendency of this judgment, should feel that it was unworthy of the Senate to continue this interchange of messages.

Mr. STEWART. Mr. President, I have voted so as to indicate that I did not want an adjournment. I have listened to this debate, however, and I am satisfied that we had better adjourn over, and for the reason that the legislation which is pressing upon the country is so intimately connected with the questions involved in this impeachment that it is manifest from what has been said that at every step we shall discuss it, not incidentally, but on its merits. From the time the Senator from Indiana [Mr. HENDRICKS] alluded to the position that the President would be in if a bill were now sent to him until the Senator from Massachusetts has taken his seat, the subject-matter has been either directly or indirectly connected with this great trial. I simply wish to make this further remark: it has been said here that this was a purely judicial question. From that—

Mr. WILLEY. I rise to a question of order, and I can do so now with propriety.

The PRESIDENT *pro tempore*. The Senator from West Virginia will state his question of order.

Mr. WILLEY. My question of order is, that the subject of impeachment and the trial is out of order to be alluded to in any manner or form in any discussion on any question on this floor while sitting as a Senate.

Mr. JOHNSON. That is clear.

The PRESIDENT *pro tempore*. There is no rule limiting debate or the range or course of debate that any Senator may take on any question. It is left to his own sense of propriety.

Mr. JOHNSON. I appeal from the decision of the Chair, and upon that question I ask for the yeas and nays.

Mr. EDMUNDS. Let the question of order be reduced to writing, so that we shall know exactly what we are voting upon.

The PRESIDENT *pro tempore*. The Senator from Maryland takes an appeal from the decision of the Chair.

Mr. CONKLING. Let us hear what the decision of the Chair is.

The PRESIDENT *pro tempore*. The decision of the Chair is, that in the Senate of the United States there is no limit to debate, and no course of debate can be dictated by any questions of order or rules of order recognized by this body.

Mr. STEWART. Am I at liberty to inquire what is the point of order? I have not alluded to the merits of impeachment.

The PRESIDENT *pro tempore*. The Sen-

ator from West Virginia raises the point of order that any allusion to the trial is out of order. If particular words are objected to, the Senator must put the words in writing; but he objects to the course of debate making allusions to the impeachment trial; and the Chair decides that that is in the discretion of the Senator upon the floor, and therefore the member is in order in alluding to that or anything else that he thinks proper to illustrate the reason why we ought to adjourn or not to adjourn. The Senator from Maryland appeals from that decision, and the question is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. HENDRICKS. I suggest to my friend from West Virginia that perhaps he has not the exact point made by the Senator from Nevada, if I can have the indulgence of the Senate to make the statement. The Senator from Nevada was pursuing an argument, as I think, germane to the question. It was that we cannot discuss any of these bills without being involved in the discussion, directly or indirectly, of the impeachment question.

The PRESIDENT *pro tempore*. There can be no debate on any subject except upon the appeal from the decision of the Chair.

Mr. WILLEY. The Senator from Nevada, as I understood him, was proceeding to depart from that line of remark, and to say that one thing he must controvert; that it had been said on this floor that this was simply a judicial proceeding; and he was going on, as I understood him, to discuss the reason why it was not a judicial proceeding, and in doing so must necessarily enter more or less into the merits of the case.

While I am up I beg to say, with all possible respect for the Senate, that it is shocking to my feelings, in my capacity as a Senator, aside from our obligations as judges under oath, in any manner or form to involve that question within the line of our remarks or criticisms or consideration.

Mr. HARLAN. Mr. President—

Mr. STEWART. I have not yielded the floor. I want to know whether I am in order?

The PRESIDENT *pro tempore*. That is the very question before the Senate. The Senator will take his seat until that is disposed of.

Mr. HARLAN. I rise for the purpose of asking the Senator from West Virginia to indicate what rule of the Senate he thinks has been violated, in order that it may be read at the Secretary's desk before I record my vote. I know there are rules on this subject. There is one which prohibits allusions to discussions in the House of Representatives, and I think there is another rule that restricts improper use of language in relation to the President of the United States; and there may be some rule in the code that governs this body that has been violated here. If so, I should be glad to have the Senator from West Virginia indicate it in order that it may be read.

Mr. EDMUNDS. If my friend from Iowa will pardon me, I think he is mistaken in supposing there is anything in the express rules of the Senate which provides against alluding to the House of Representatives or its action or to the President of the United States.

Mr. JOHNSON. We cannot hear the Senator on this side.

Mr. EDMUNDS. I say I think the Senator from Iowa is mistaken in supposing there is anything in the express rules of the Senate as written on the topics to which he has alluded. That rule rests in the general principles of parliamentary law and propriety, just as the objection of the Senator from West Virginia, if a sound one, rests.

Mr. MORTON. I will inquire if a motion to adjourn is in order?

The PRESIDENT *pro tempore*. It is.

Mr. MORTON. Then I move that the Senate do now adjourn.

Several SENATORS. Let us settle this question first.

The motion was not agreed to.

Mr. SUMNER. Now, let us have the question on the resolution.

The PRESIDENT *pro tempore*. The question now is, Shall the decision of the Chair stand as the judgment of the Senate?

Mr. JOHNSON. I misunderstood what had fallen from the Senator from Nevada, and, therefore, withdraw the appeal.

Mr. SUMNER. Now, let us have the question on the resolution.

Mr. STEWART. I wish to make a single remark.

The PRESIDENT *pro tempore*. The appeal from the decision of the Chair is withdrawn, and the Senator from Nevada is entitled to the floor.

Mr. STEWART. I was about to remark that I wholly dissented from the position that this was an ordinary trial, only involving judicial issues and consequences. If there had been any doubt on that point this discussion, which immediately took a wide range, involving the admission of the States and the reconstruction of the States, and the condition of the people of the South, alluded to by all the Senators who had taken part in the discussion, calling for the reading of accounts of military trials in the South, and replies of assassination, &c., shows me most conclusively that if we are to discuss with any freedom the great question of admitting these new States, we must be at liberty to survey the whole field; and I should feel exceedingly embarrassed, in view of my ideas of the propriety of this case, in getting upon the floor to discuss it as I think it ought to be discussed. Therefore I am thoroughly satisfied that we should adjourn. So far as the propriety of discussing these questions now is concerned I fully concur with the Senator from West Virginia; but I say I am trammelled from the range this case must take when the bill is passed and the veto comes to us, which we must discuss; because, when that veto comes, as we have had a warning that it will come, we must then discuss it in all its bearings. We are in no condition to do so now. I hope the Senate will adjourn until the final action on the impeachment.

Mr. CAMERON. Mr. President, I move that the Senate do now adjourn.

Several SENATORS. Oh no. Let us vote.

Mr. CAMERON. I withdraw the motion if a vote can be taken.

Mr. EDMUNDS. Mr. President, I will not occupy the time of the Senate; but inasmuch as I have moved an amendment; I think I have a right to say one word in favor of it. The amendment is based upon the idea—

Mr. CAMERON. My motion to adjourn is before the Senate. I merely waived it in order that the vote might be taken.

The PRESIDENT *pro tempore*. The Chair understood the Senator to withdraw his motion.

Mr. CAMERON. Only for a moment.

The PRESIDENT *pro tempore*. Then the Chair will put the question on the motion.

Mr. EDMUNDS. The Senator from Pennsylvania is mistaken in supposing that he did not withdraw his motion. I am sure I heard him say that he withdrew it.

Mr. CAMERON. I withdrew it for a special purpose, to let the vote be taken.

Mr. EDMUNDS. But my friend from Pennsylvania cannot withdraw a motion to adjourn conditionally.

The PRESIDENT *pro tempore*. There is a mistake about it. The Chair supposed the Senator withdrew his motion, but if he says he did not the Chair will put the question. The motion is that the Senate do now adjourn.

The motion was not agreed to.

Mr. EDMUNDS. Mr. President, now if there is no pending motion but my amendment I will say a word upon it. The amendment is based upon the idea that if we are to pass this resolution at all it shall be passed only in such a form as shall permit the House of Representatives, if it sees fit, under the Constitution to take this adjournment that it wants, and still leave this body to go on with the great amount of business that it has in hand and perfect it.

My friend from Massachusetts [Mr. SUMNER] will permit me to say in this connection that it does not necessarily imply any communication with the President of the United States one way or the other. There are a dozen important bills upon your table, sir, that will need days and days of work to bring them into a state of perfection to send them even to the House of Representatives. There is, therefore, no necessity for an adjournment over on the ground that we must necessarily communicate with the President, if that were an objection. I do not enter into that because it involves other considerations to which I do not wish to allude.

Then the question simply is this: the House of Representatives are desirous, for their own purposes and for reasons which we are bound to suppose are good to them, to adjourn for a week; and they send a resolution here which, it is said, is intended merely to ask our consent. The language of the resolution is a little vague because it does not say which House is to adjourn. Now, my proposition simply is that if we are to pass it at all we shall confine it to the House of Representatives as it was said it was intended to be. That is my amendment.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Vermont to the amendment of the Senator from Rhode Island.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Rhode Island, [Mr. ANTHONY,] to insert after the word "adjournment" the words "of the two Houses."

Mr. CONKLING. So that if this amendment prevails both Houses are to adjourn?

Mr. ANTHONY. Yes.

Mr. CONKLING and Mr. EDMUNDS called for the yeas and nays, and they were ordered.

Mr. MORTON. I should like to inquire if the resolution as it came from the House of Representatives only provided for the adjournment of that House.

The PRESIDENT *pro tempore*. That appeared to be the import of it.

Mr. MORTON. And the amendment proposes to extend it to the Senate also?

The question being taken by yeas and nays, resulted—yeas 29, nays 20; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Cole, Conness, Corbett, Davis, Dixon, Doolittle, Drake, Hendricks, Johnson, McCreery, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Saulsbury, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Vickers, Wade, Williams, and Yates—29.

NAYS—Messrs. Cameron, Chandler, Coaling, Cragin, Edmunds, Ferry, Fessenden, Fowler, Harlan, Howe, Morgan, Morrill of Maine, Nye, Ramsey, Ross, Sherman, Thayer, Tipton, Willey, and Wilson—20.

ABSENT—Messrs. Cattell, Frelinghuysen, Grimes, Henderson, and Howard—5.

So the amendment was agreed to.

The question recurring on the adoption of the resolution, as amended,

Mr. EDMUNDS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 24, nays 25; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Cole, Conness, Corbett, Davis, Dixon, Doolittle, Fowler, Hendricks, Johnson, McCreery, Morrill of Vermont, Norton, Patterson of New Hampshire, Patterson of Tennessee, Saulsbury, Sprague, Stewart, Sumner, Van Winkle, Vickers, and Williams—24.

NAYS—Messrs. Cameron, Chandler, Conkling, Cragin, Drake, Edmunds, Ferry, Fessenden, Harlan, Howe, Morgan, Morrill of Maine, Morton, Nye, Pomeroy, Ramsey, Ross, Sherman, Thayer, Tipton, Trumbull, Wade, Willey, Wilson, and Yates—25.

ABSENT—Messrs. Cattell, Frelinghuysen, Grimes, Henderson, and Howard—5.

So the resolution was rejected.

Mr. MORRILL, of Maine. I move that the Senate take up for consideration the deficiency bill of the House of Representatives.

The motion was agreed to.

Mr. CONKLING. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, May 16, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### LEAVE OF ABSENCE.

Mr. NIBLACK was granted indefinite leave of absence on account of sickness in his family.

### MESSAGE FROM THE SENATE.

The following message was received from the Senate:

IN THE SENATE OF THE UNITED STATES,

May 16, 1868.

Resolved, That the Secretary be directed to inform the House of Representatives that the Senate, sitting for the trial of the President upon articles of impeachment, is now ready to receive them in the Senate Chamber.

Attest:

J. W. FORNEY,

Secretary.

By W. J. McDONALD,

Chief Clerk.

### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and Door-keeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At one o'clock and twenty minutes p. m. the Committee of the Whole returned to the Hall; and the Speaker having resumed the chair, Mr. WASHBURNE, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; and the respondent has been declared to be not guilty on the eleventh article, by a vote of 35 in the affirmative to 19 in the negative; and that then the Senate, sitting for the said trial, had adjourned until Tuesday, the 20th instant, at noon.

Mr. MAYNARD. That is, thirty-five voted he was guilty and nineteen that he was innocent?

Mr. WASHBURNE, of Illinois. Yes, sir.

### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. ARNELL, Mr. BECK, and Mr. WILSON of Pennsylvania.

### ACTION OF THE MISSOURI DELEGATION.

Mr. ELDRIDGE. I rise to what I suppose is a question of privilege. I offer the following resolution:

Whereas it appears by the following letter, purporting to have been written and addressed by seven members of this House to one of the Senators of the United States, which is published in the daily National Intelligencer, published in the city of Washington, to wit:

WASHINGTON, May 12, 1868.

Sir: On a consultation of the Republican members of the House of Representatives from Missouri, in view of your position on the impeachment articles, we ask you to withhold your vote on any article upon which you cannot vote affirmatively. This request is made because we believe the safety of the loyal people of the United States demands the immediate removal of Andrew Johnson from the office of President of the United States.

Respectfully,

GEORGE W. ANDERSON,  
WILLIAM A. PILE,  
C. A. NEWCOMB,  
JOSEPH W. McCLURG,  
BENJAMIN F. LOAN,  
JOHN P. BENJAMIN,  
JOSEPH J. GRAVELLY.

Hon. JOHN B. HENDERSON, United States Senate.

that an indecent and corrupt combination of the Representatives aforesaid has been entered into to improperly influence the Senator aforesaid in his judgment and decision in the impeachment now pending and undetermined in the Senate: Therefore,

Resolved, That a select committee of seven be appointed to investigate the matter of the writing of said letter, the motive and purpose of said members in writing said letter, whether the same was written to corrupt or improperly influence the judgment and decision of said Senator, and what action the House ought to take with reference thereto, and that said committee be authorized to send for persons and papers,



Mr. MAYNARD. Is that a question of privilege?

The SPEAKER. The gentleman from Wisconsin presents it as a question of privilege, under the rules and the usage of the House.

Mr. COVODE rose.

The SPEAKER. The Chair will decide the question, and the gentleman from Pennsylvania will suspend until the Chair decides the question. The evident object of the language of this resolution is to charge that the letter written by the Representatives from Missouri to their Senator appears to be an indecent and corrupt combination of the Representatives aforesaid, but without a direct charge to that effect. In the opinion of the Chair it is not a corrupt combination, and the Chair will state the reasons for his opinion.

If the conversations and the interviews between members of the House and those representing the same State in the Senate in writing are corrupt, then the same conversations in regard to matters pending before the Senate sitting as a court orally are corrupt. If the gentleman from Wisconsin had charged directly that that was a corrupt combination, the Chair would be disposed to submit the question to the House for them to decide whether it is or is not a question of privilege, as the rules allow him to do in doubtful cases, and he intends to do it, even as the resolution reads. In the opinion of the Chair it is not a corrupt combination. There does not appear on the face of it anything corrupt in its character.

Mr. ELDRIDGE. That is the very inquiry we desire to have made, so that the members may be exculpated or convicted, as the facts warrant.

The SPEAKER. The Chair will state, although the resolution says "it appears" corrupt, the gentleman does not charge directly, on his responsibility as a member, that the writing of such a letter is corrupt.

Mr. ELDRIDGE. I think the letter shows the character.

The SPEAKER. That is for the House to determine. The Chair will submit the question to the House itself, whether this is or is not a question of privilege, as the rule on page 154 of the Digest authorizes him thus to submit it.

Mr. BLAINE. Is it in order to move that the resolution be not received?

The SPEAKER. The first question is whether it is a question of privilege. If the House should decide that it is, then the rule to be found on page 77 of the Digest would operate, namely: Will the House now consider it? But that question cannot be raised until the House decides whether it is or is not a question of privilege.

Mr. HOLMAN. I demand the yeas and nays on the question.

Mr. INGERSOLL. I call for the reading of the rule to which the Speaker referred.

The SPEAKER. The Clerk will read the rule which authorizes the Speaker to submit the question to the House, on page 154 of the Digest. The Clerk read the rule, as follows:

"And when a proposition is submitted which relates to the privileges of the House it is his duty to entertain it, at least to the extent of submitting the question to the House as to whether or not it presents a question of privilege."

Mr. BLAINE. A single question, if it is in order. I do not know whether I understood the resolution correctly. Does it charge that there is an indecent and corrupt combination?

The SPEAKER. "It appears" is the language.

Mr. BLAINE. I suggest whether it is competent for the gentleman to charge an indecent and corrupt combination? It seems to me it would be raising a question of privilege upon himself.

Mr. ELDRIDGE. The gentleman will allow me to take care of myself. I do not make the charge any further than it appears in the letter. And the gentleman cannot intimidate me, either.

Mr. MAYNARD. Would it be in order to ask the Speaker to restate the parliamentary law, as was done a few moments ago?

The SPEAKER. The Chair is of opinion that the letter referred to does not on its face show a corrupt combination. The fact that the gentleman from Missouri, [Mr. LOAN,] when the question was before the House yesterday, stated that the letter was written at the request of the Senator himself, seems to exclude the idea that it was corrupt in its character.

Mr. ELDRIDGE. That must be properly a part of the evidence.

The SPEAKER. It is a question for the House to determine, it having been stated in their presence.

Mr. VAN AUKEN. I would inquire whether the Chair has a right to argue against the question of its being a question of privilege?

The SPEAKER. The Chair has a right, under the rules, to speak upon questions of order in preference to every other member—in preference even to the member from Pennsylvania; and he has the right to allude to what has occurred in the presence of the House.

Mr. WOODWARD. I understood the Chair to state that yesterday a member from Missouri stated that the letter was written at the request of the Senator from Missouri. Now, of course it is entirely proper for the Chair to make that statement, but—

The SPEAKER. The Chair stated it as a reason why he was of opinion that it did not present a question of privilege, but will be glad to hear the gentleman if he desires to make a statement.

Mr. WOODWARD. I wish to say that it was also stated at the same time, in answer to the statement of the gentleman from Missouri, that when these gentlemen worried the Senator from Missouri he asked them to put their names to the letter.

The SPEAKER. The Chair was willing the gentleman from Pennsylvania should make his statement, as his recollection seems to differ from that of the Chair as to what was said in the House yesterday. It was said in the presence of the whole House, and is on the record of the House in the Daily Globe.

The yeas and nays were ordered.

Mr. BANKS. Mr. Speaker, I wish the question may be stated by the Chair whether this is a question of the privileges of this House, because that is the question upon which we are to vote. We cannot vote whether it is a question of privilege for the Senate, but whether it is a question of the privileges of this House; and I hope the Chair will so state the question.

The SPEAKER. The Chair held yesterday, in ruling on the resolution offered by the gentleman from Pennsylvania, [Mr. WOODWARD,] that the House had no power over the privileges of the Senate, nor would the Senate allow them to have any; nor have the Senate any right to interfere with the privileges of the House. But the gentleman from Wisconsin has so drafted the resolution as to have it relate to the privileges of the House. The question is, Will the House entertain the resolution as a question of privilege?

The question was taken; and it was decided in the negative—yeas 28, nays 82, not voting 79; as follows:

YEAS—Messrs. Beck, Boyer, Brooks, Burr, Chandler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Holman, Humphrey, Johnson, Jones, Kerr, Marshall, McCullough, Morgan, Niblack, Phelps, Prayn, Robinson, Ross, Sistravies, Stewart, Van Auker, Van Trump, and Woodward—28.

NAYS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Beaman, Beatty, Blaine, Blair, Boatwell, Broomall, Buckland, Butler, Cake, Reader W. Clarke, Cobb, Coburn, Covode, Cullom, Eggleston, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Halsey, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Ketcham, Kitchen, William Lawrence, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, Moore, Myers, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Poland, Polsley, Price, Ramm, Sawyer, Scofield, Shanks, Aaron F. Stevens, Thaddeus Stevens, Stokes, Thomas, Trowbridge, Upson, Burt Van

Horn, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, Welker, William Williams, John T. Wilson, and Stephen F. Wilson—82.

NOT VOTING—Messrs. Adams, Ames, Anderson, Archer, Axtell, Baldwin, Barnes, Barnum, Benjamin, Benton, Bingham, Brownell, Cary, Churchill, Sidney Clarke, Cook, Cornell, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Finney, Fox, Gravely, Griswold, Haight, Hawkins, Hill, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburt, Kelley, Knott, Koontz, Laflin, George V. Lawrence, Lincoln, Loan, McCarthy, McClurg, McCormick, Mercier, Miller, Morehead, Morrell, Morrissey, Mullins, Munger, Newcomb, Nicholson, Pile, Pomeroy, Randall, Robertson, Schenck, Selye, Shellabarger, Smith, Spalding, Starkweather, Stone, Taber, Taffe, Taylor, John Trimble, Lawrence S. Trimble, Twichell, Van Aernam, Robert T. Van Horn, Cadwalader C. Washburn, William B. Washburn, Thomas Williams, James F. Wilson, Windom, Wood, and Woodbridge—79.

So the House refused to entertain the resolution as a question of privilege.

#### ORDER OF BUSINESS.

Mr. GARFIELD. I move that the House do now adjourn.

The SPEAKER. The Chair will state that the Senate is now considering the concurrent resolution in regard to a recess.

Mr. WASHBURN, of Illinois. I hope we shall proceed with the regular order of business until we hear from the Senate.

Mr. GARFIELD. I withdraw the motion.

Mr. BENJAMIN. I ask the unanimous consent of the House to make a brief personal explanation, not exceeding five minutes.

Mr. ELDRIDGE. The gentleman from Missouri the other day made an objection to me, and he has now refused to have the same subject come in as a privileged question, and I shall object.

#### LEAVE OF ABSENCE.

Indefinite leave of absence after to-day was granted to Mr. STOKES, Mr. CLARKE of Kansas, and to Mr. LOGAN.

#### RECESS OF CONGRESS.

Mr. WARD. I desire to inquire whether it would be in order to introduce a resolution recalling the concurrent resolution which was sent to the Senate providing for a recess.

The SPEAKER. The Chair will state that the time for reconsideration has expired. A resolution can be reconsidered upon the same or a succeeding day. The resolution can be entertained only by unanimous consent.

Mr. WARD. Is not a resolution to recall that resolution from the Senate in order?

The SPEAKER. It would be in order if the State of New York were called regularly for reports; but it can only be offered at the present time by unanimous consent.

Mr. WARD. Then I ask unanimous consent. Mr. WASHBURN, of Indiana, and Mr. PETERS objected.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. ROBINSON. I desire to give notice that on the next assembling of the House I shall move, as a question which has already been ruled to be privileged by the Chair, to withdraw the articles of impeachment, and another resolution expunging the impeachment proceedings from the Journal.

The SPEAKER. The Chair will rule on that question when it comes up.

Mr. ROBINSON. I only desire to give notice.

The SPEAKER. The Chair is not foreclosed by the statement of the gentleman that he has settled the question.

#### READMISSION OF SOUTHERN STATES.

Mr. JONES. I ask consent of the House to record my vote upon the bill for the admission of Arkansas, and upon the bill for the admission of North Carolina, South Carolina, and other States.

The SPEAKER. The Chair will state to the gentleman from Kentucky, [Mr. JONES,] as he has stated to other members on many occasions, that the Chair cannot even ask unanimous consent for that purpose. The object of the gentleman can be attained only by suspending that rule entirely. The gentleman can state how he would have voted, had he been present, and his statement will be recorded in the Globe.

Mr. JONES. Then I will state that, had I been present when the bills to which I have referred were passed, I would have voted in the negative.

#### LEAVE OF ABSENCE.

Mr. MUNGEN asked and obtained leave of absence for an indefinite period after to-day.

Mr. ELA asked and obtained indefinite leave of absence after to-day.

Mr. ROSS. In view of the onerous labors of my colleague from the Galena district [Mr. WASHBURN] during the impeachment trial, I move that he be granted leave of absence during the coming summer to travel in Europe, and that his expenses and mileage be paid the same as they were last summer.

The SPEAKER. The Chair will state that it is not in accordance with usage for a member to ask leave of absence for another member, who is in his seat, except at his own request. The gentleman from Illinois [Mr. WASHBURN] is present, and will doubtless make the request for himself should he desire it.

Mr. WASHBURN, of Illinois. I will attend to my own affairs, and not call upon a Knight of the Golden Circle to attend to matters for me.

Mr. ROSS. I hope my colleague will take no offense. We all know that he was absent from the country last summer, and as he has had very onerous duties to perform of late I thought it but proper to give him leave to tramp for his health during the coming summer.

#### ORDER OF BUSINESS.

The SPEAKER. This being private bill day, the first business during the morning hour, which has now commenced, is the call of committees for reports of a private nature, commencing with the Committee on Revolutionary Claims.

No reports were made from that committee, and the Committee on Private Land Claims were called for reports.

#### LAND CLAIM NO. 45, NEW MEXICO.

Mr. ORTH, from the Committee on Private Land Claims, reported, with a recommendation that the same do pass, a bill (H. R. No. 1075) to authorize the adjudication of claim No. 45 in the report of the surveyor general of the Territory of New Mexico; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. The first section provides that it shall be lawful, at any time within two years after the date of this act, and not thereafter, for José Sutton, or any of his assignees or legal representatives, to commence proceedings against the United States in the supreme court of the Territory of New Mexico, for the purpose of adjudicating the title to the land specified and embraced in claim No. 45 in the report of the surveyor general of said Territory, and on the records of the Commissioner of the General Land Office.

The second section provides that upon instituting such proceedings notice of the pendency thereof shall be given to and served upon the district attorney of the United States for said Territory at least thirty days prior to the first day of the then ensuing term of said court; and makes it the duty of said attorney to enter his appearance and defend the interests of the United States in and to the land embraced in said claim.

The third section provides that the court or courts in which said case may be pending shall be governed by the provisions of the treaty of Guadalupe Hidalgo, the laws of nations, so far as applicable to the case, the laws, usages, and custom of the Government from which it is claimed that such title is derived, and by the decisions of the Supreme Court of the United States, so far as applicable; provided, however, that if the decision of the supreme court of said Territory shall be adverse to the title of such claimant or claimants he or they shall have the right at any time within six months

after the rendition of such decision, and not thereafter, to take an appeal from such decision to the Supreme Court of the United States; and provided further, that if such decision shall be adverse to the United States then it shall be the duty of said district attorney, as soon as thereafter practicable, to take an appeal from such decision to the Supreme Court of the United States.

The fourth section provides that if no such suit be instituted within the time specified in the first section of this act said claim shall be presumed to have been abandoned, and said lands shall be held and deemed public lands belonging to the United States, to be surveyed and sold as other lands; provided, however, that if such proceeding be instituted and prosecuted as herein provided, and the title to said lands adjudged to be in such claimant or claimants by the Supreme Court of the United States, it shall then be the duty of the Commissioner of the General Land Office to cause said lands to be surveyed and platted at the expense of said claimant or claimants, conforming as near as may be in such survey to the surveys of the United States in said Territory; and said Commissioner, upon the return and filing in his office of such survey and plat, shall then issue a patent therefor to such claimant or claimants.

Mr. ORTH. Mr. Speaker, this claim is one of a series of claims referred to the committee of which I am chairman, arising out of our Mexican and Spanish grants and embraced within the provisions of the treaty of Guadalupe Hidalgo. The committee have examined the claim and are not willing to recommend its confirmation by Congress, although its confirmation is recommended by the surveyor general of the Territory of New Mexico. The committee find what they conceive to be a glaring defect in the title, that is, that the grantee never took possession of the grant as required by the colonization laws of Spain and Mexico. We therefore provide he shall be authorized at any time within two years to file a claim in the United States court in the Territory of New Mexico for adjudication of this claim; we provide furthermore that the district attorney for the Territory shall enter his appearance to guard the rights of the United States in the premises. If decision is had in the case for the claimant or the United States provision is made for appeal to the Supreme Court of the United States; and when the Supreme Court of the United States finally decide in favor of the claim, then the Commissioner of the General Land Office is authorized to issue a patent for it. I ask that the bill be put on its passage, and demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ORTH moved that the accompanying report be ordered to be printed.

The motion was agreed to.

Mr. ORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HELEN M. SMITH.

Mr. WELKER, by unanimous consent, introduced a bill (H. R. No. 1076) for the relief Helen M. Smith; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### QUIETING LAND TITLES IN MISSOURI.

Mr. WOODWARD, from the Committee on Private Land Claims, reported back House bill No. 237, to quiet doubts in relation to the validity of titles to four tracts of land in the State of Missouri, with a substitute.

The Clerk read as follows:

And be it enacted, That the act of Congress entitled "An act in regard to claims in land within the State of Missouri and the Territory of Arkansas, and to institute proceedings to try the validity of claims," approved May 23, 1834; and the act of Congress en-

titled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the States of Mississippi and Alabama south of the thirty-first degree of north latitude, and between the Mississippi and Perdido rivers," approved the 27th of June, 1844, be, and the same are hereby, revived and extended for a period of five years from the date of this act so far as said acts relate to land claims within the State of Missouri, and proceedings may be taken and carried on under the provisions of said acts as to land within the State of Missouri with the same effect and in the same manner as if said acts had not expired by their own limitation.

Mr. WOODWARD. Mr. Speaker, for the information of members I will state that the House referred to the Committee on Private Land Claims a bill having reference to four Spanish grants. The effect of that bill was to validate the title of the heirs and legal representatives of these Spanish grantees. The committee have investigated the subject as fully as the papers submitted to them would enable the committee, and are satisfied that the bill referred to them ought not to pass. They have great doubts on the exhibition made whether the legal representatives of these grantees have any title whatever in the lands they claim; but supposing they may have a title the committee are of the opinion the most they can ask from Congress is the revival of certain general statutes designed to give to all parties an opportunity to come into the courts of the United States and litigate their title. The bill, therefore, which is laid upon the table, and which I have reported by direction of the committee, has for its object the revival of two statutes—one passed in 1834 and the other passed in 1844—both of which have expired by their own limitations. Our bill has for its object the revival of these two statutes, in order that these legal representatives and all other parties may go into the Federal courts and test their titles, if, indeed, they have any in point of fact. The report fully explains the ground upon which the committee has proceeded.

Mr. JOHNSON. Where is the land located?

Mr. WOODWARD. In the State of Missouri.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WOODWARD moved that the accompanying report be ordered to be printed.

The motion was agreed to.

Mr. WOODWARD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DENNIS M'CANN.

Mr. HARDING, by unanimous consent, from the Committee of Claims, reported that in the matter of the claim of Dennis McCann, based upon the charter of the United States, of the bark Charles Warner, the proper Department of the Government should be charged with its proper settlement, and that the papers and vouchers received from the War Department be returned to said Department, and that the committee be discharged from the further consideration of the subject.

The report was adopted, and it was ordered accordingly.

EDWARD D. ALLEN.

Mr. WASHBURN, of Indiana. I ask unanimous consent from the Committee on Military Affairs to report a bill for the relief of Edward B. Allen. It merely pays him the full amount of pay and emoluments of a captain of infantry from the 18th of August, 1862, to 1st of November, 1862.

Mr. ROSS. That had better be investigated a little further, and I object.

CHARLES E. CAPEHART.

Mr. GARFIELD. I move, by unanimous consent, to take from the Speaker's table Senate bill No. 473, for the relief of Charles E. Capehart. It has been considered by the Committee on Military Affairs.

The bill was read *in extenso*. It directs the Paymaster General of the Army, out of any moneys in his possession appropriated for the payment of the Army, to pay to Charles E. Capehart, late captain of company A of the first regiment of West Virginia cavalry volunteers, the pay and allowances of a captain of cavalry from July 2, 1862, to March 1, 1863, after deducting from the amount of said pay and allowances any sums of money heretofore paid Capehart by the pay department for his services for that time; provided that Capehart present the usual certificates required by the rules of the pay department upon final payment of volunteer officers.

Mr. HOLMAN. Is the motion to refer the bill?

The SPEAKER. It is that it be put on its passage.

Mr. CHANLER. I reserve the right to object.

Mr. GARFIELD. I will make a statement of the facts in the case. The bill was passed by the Senate on a printed report which lies upon your table, Mr. Speaker, from a Senate committee, and the only point involved is this: Captain Capehart was mustered into the service by a colonel of volunteers, and he supposed, as everybody at that time supposed, it was a proper muster. But when he came to make his final settlement it was decided that a colonel of volunteers had no right to muster; that it should have been done by an officer of the regular Army. Therefore his pay was stopped because he was not mustered by a regular officer. He did duty, commanded his company, and was mustered, as he supposed, properly and regularly. We desire to cure that defect of muster. The colonel of volunteers mustered him in in good faith. There was good faith in the whole transaction. The bill is carefully guarded, so that nothing can be paid except for service actually rendered. It amounts to only three or four hundred dollars.

Mr. CHANLER. I do not object to this special case, but I do object to all special legislation. There are many cases exactly like this, and all ought to be provided for in a general bill. Every member who has had any experience in the Thirty-Ninth Congress knows there are many such cases.

Mr. GARFIELD. The gentleman from New York suggests we had better bring in a general bill. We thought it wise not to bring in a general bill on the subject. In the first place, a great many cases might get through under the terms of a general act which ought not to pass.

In the next place there are but few such cases. Indeed, the committee has never before had a case before it like it. This man was mustered in, but objection was raised that the officer was a volunteer and not a regular. This case, so far as I know, stands alone. If there are others they certainly must be few. We thought it safer, therefore, to pass a special bill, and if there be other cases let each stand on its own merits. Of course I would prefer general legislation if we could do it safely and not let too many cases through.

Mr. HOLMAN. I do not desire to object to this. On the contrary, I think it ought to pass; but I renew the objection of the gentleman from New York, and desire to say further that there are more cases of this kind. I have two cases exactly like it in principle before me. There must necessarily be cases where service has been actually performed by officers and no pay can be given. It is a most laborious and tedious process to make up a case and get it before Congress for special relief. It does seem to me to be necessary to have a general law, properly guarded, providing for the payment of officers who have actually performed duty, and are unable to receive any other pay than that of a private.

Mr. GARFIELD. There is now a general law that meets the case where a man was not mustered at all, or was not mustered until he had served more than one month. But this is a different case, in which, after the man was mustered, the muster was declared irreg-

ular. If the gentleman has the cases he mentions, and will send them to the committee, I have no doubt they will pass upon them in the same way as we have upon this.

The bill was then ordered to be read a third time; and it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. JUDD and Mr. MOORE.

HOTEL AT FORTRESS MONROE.

Mr. GARFIELD, from the Committee on Military Affairs, reported a joint resolution (H. R. No. 286) to authorize the enlargement of the Hygeia Hotel at Fortress Monroe; which was read a first and second time.

The resolution authorizes the Secretary of War to grant permission to Henry Clarke, proprietor of the Hygeia Hotel at Fortress Monroe, to enlarge the site of the same in such manner as may be compatible with the interest of the United States, provided that such enlargement on any building hereafter erected by any person or persons on the land of the United States at Fortress Monroe shall be at once removed at the expense of the respective owners whenever the Secretary of War shall deem such removal necessary, and no claim for damages therefor shall be made upon the Government of the United States.

Mr. GARFIELD. A bill was passed precisely similar in character to this, allowing another person to build a hotel on the grounds occupied by one recently burned. This stands on precisely the same merits, but we have added a clause to cover both this and the other case, that no claim for damages shall be brought in case the Government orders the buildings to be removed, and that they are to be removed at the expense of the owners whenever the necessities of the Government require it.

Mr. CHANLER. Does this pass any title to land?

Mr. GARFIELD. Oh, no; it simply permits the building to be erected, subject to removal.

Mr. CHANLER. Do the buildings remain liable to taxation?

Mr. GARFIELD. I suppose so; they are private property.

Mr. CHANLER. If we are granting privileges they should certainly pay taxes.

Mr. GARFIELD. We only allow them the privilege of putting up the building. When it is up of course it is taxable like any other building.

Mr. CHANLER. I ask whether Government property is taxable?

Mr. GARFIELD. This is not Government property. We only let the party use the land and put up a private building upon it, which is just as much taxable as any other private property.

Mr. CHANLER. I hope the gentleman will inquire into the fact whether under this bill this property would escape taxation. That is an important question.

Mr. GARFIELD. I call the previous question.

The previous question was seconded and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was put on the passage of the joint resolution, and no quorum voted.

Tellers were ordered; and Messrs. Ross and GARFIELD were appointed.

The House divided; and the tellers reported—ayes fifty-nine, noes not counted.

Mr. GARFIELD. I ask unanimous consent to add to the joint resolution a proviso "that nothing in this joint resolution shall exempt the property from taxation."

Mr. LAWRENCE, of Ohio. Would it not be better to provide expressly that the property shall be subject to taxation?

Mr. GARFIELD. I have no objection to that.

Mr. LAWRENCE, of Ohio. I suggest the addition of this proviso:

*Provided*, That the building to be so enlarged shall be subject to taxation under State and national authority.

Mr. ROSS. You had better add the words, "the same as other property."

Mr. LAWRENCE, of Ohio. I have no objection.

The amendment was agreed to by unanimous consent.

The joint resolution was then passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CHANGE OF REFERENCE.

On motion of Mr. GARFIELD, the Committee on Military Affairs was discharged from the further consideration of the petition of Martha S. Woodward, and the same was referred to the Committee of Claims.

STEAMBOAT PINE BLUFF.

Mr. JONES, by unanimous consent, introduced a joint resolution (H. R. No. 267) to change the name of the steamboat Pine Bluff to that of Endora; which was read a first and second time, and referred to the Committee on Commerce.

O. P. SHIRAS.

Mr. ALLISON, by unanimous consent, introduced a bill (H. R. No. 1077) for the relief of O. P. Shiras; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. ROSS moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REPRESENTATIVES OF AGATHA HUBER.

Mr. HUMPHREY, by unanimous consent, introduced a bill (H. R. No. 1078) to grant a pension to the representatives of Agatha Huber, deceased; which was read a first and second time, and referred to the Committee on Invalid Pensions.

STEPHEN F. CARVER.

Mr. HUMPHREY also, by unanimous consent, introduced a bill (H. R. No. 1079) to grant a pension to Stephen F. Carver; which was read a first and second time, and referred to the Committee on Invalid Pensions.

EDWARD B. ALLEN.

Mr. WASHBURN, of Indiana, from the Committee on Military Affairs, reported a bill (H. R. No. 1080) for the relief of Edward B. Allen; which was read a first and second time.

The bill directs the Paymaster General of the Army to pay to Edward B. Allen, of the State of Indiana, out of any money appropriated for the pay of the Army, the full amount of the pay and emoluments of a captain of infantry from the 18th of August, 1862, to the 1st of November, 1862.

Mr. WASHBURN, of Indiana. I call the previous question on the bill, unless some gentleman desires an explanation.

Mr. ROSS. I would like to know what object there is in passing a bill of this kind?

Mr. WASHBURN, of Indiana. Let the report be read.

The report was read.

Mr. ROSS. I merely desire to make a suggestion. It appears to me that this is rather extraordinary legislation. This man, it appears, was elected captain of a company in Indiana, and went into the service; but he held the office of auditor in the meantime at home, and drew the compensation of auditor, and his patriotism was so weak that he was not willing



to give up his civil office of auditor, and left the Army and went home for the purpose of retaining his civil office and receiving its emoluments. And after he got out of the office of auditor I understand that he went back into the Army as a private, and I suppose received his pay as such.

Now, it is proposed by this bill to give this man the compensation of a captain during the time that he was holding the office of auditor, a very valuable office in the State of Indiana, and also a portion of the time drawing the pay of a private in the service. It is stated in the report of the committee that this claim is put upon political grounds. As a matter of course there is no reasonable expectation that the House will refuse to concur in the request of the gentleman, as he has in his report appealed to party considerations.

Mr. Speaker, I have become tired and weary of these continual applications in behalf of the officers of the Army. They never appear to be satisfied with their pay. We increase their compensation; we give them additional compensation. And yet where is the man who has arisen in his place in this House and made application in behalf of the man who carried a musket on the field of battle? In my judgment it would be much wiser for the people to elect a few privates as members of Congress, and not have so many officers here; for then the interests of private soldiers would be looked after. But as it is now, with so many shoulder-straps here, only the interests of the officers are attended to, while the poor private is neglected. Of all the applications which have come before Congress, it appears to me that this is the least meritorious; for it proposes that a man may hold a civil office at home, may receive pay as a private, and then come here for the pay of a captain. And the gentleman from Indiana [Mr. WASHBURN] says it must be done for the good of the party. I hope my worthy friend will reconsider his views upon this subject, and in the future try to do something for the private soldier, who bore the heat and the burden of the day.

Mr. WASHBURN, of Indiana. I do not know whether the people of my district will take the advice of the gentleman, and send a private soldier here in my place. But I must say that if the advice should be recommended to his own district, and they should act upon it and send us even a private soldier, in my opinion the complexion of this House might be benefited thereby. I care nothing about whether shoulder-straps or private soldiers are here. This bill involves a question of right. The gentleman from Illinois [Mr. ROSS] misunderstands this case entirely. This man was mustered in service as a captain, went into battle and fought for the flag. The military authorities decided that he could not be a captain because he was the auditor of his county, and he was mustered out. The courts decided that he could not be auditor of the county, and then he went back into the service as a private. The courts of the State, being Democratic, decided that he could not be auditor, and prevented him from getting his pay as auditor, and he has failed to receive his pay as captain for the time he served as such. Now, all that this bill proposes is that this man shall receive the compensation he has earned. He commanded his company as captain, and served as such in the Army. The Committee on Military Affairs recommend that he be paid for that time and no more.

I now ask the gentleman from Illinois [Mr. ROSS] to point to a case where a private soldier was spurned by our committee in favor of shoulder-straps?

Mr. ROSS. When I offered a proposition to increase the pay of the private soldier to twenty dollars per month.

Mr. WASHBURN, of Indiana. Yes, twenty dollars in gold per month, knowing very well that it could not be done.

Mr. ROSS. No; in greenbacks.

Mr. WASHBURN, of Indiana. The proposition was offered for the very purpose of

breaking down the Government by injuring its credit.

Mr. ROSS. Would it not have been as well for the private soldier to have a little of the gold, as for the bondholders to have it all?

Mr. WASHBURN, of Indiana. Yes; but you do not reach me there at all. The nation's life was at stake, and the gentleman was willing to burden it with additional expenses in order to break it down by his proposition to pay twenty dollars in gold per month to each private soldier, knowing very well that it could not be done.

Mr. ROSS. The Government was not broken down by giving the officers two months' extra pay.

Mr. WASHBURN, of Indiana. I call the previous question on the bill.

The previous question was seconded and the main question was ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURN, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ROBERT L. LINDSAY.

Mr. PILE, from the Committee on Military Affairs, reported a bill (H. R. No. 1081) for the relief of Robert L. Lindsay; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Paymaster General to pay to Robert L. Lindsay, late of the fiftieth Missouri volunteers, the full pay and allowances of a second lieutenant of infantry from the 3d day of August, 1864, to the 30th day of November, 1864.

Mr. PILE. I will explain this bill in a few words. Captain Lindsay was appointed a second lieutenant and recruiting officer for the forty-seventh regiment of Missouri infantry, and ordered to report to the colonel of that regiment, Colonel Thomas E. Fletcher, now Governor of that State. By Colonel Fletcher he was ordered to Pilot Knob to fill up his company. Captain Lindsay proceeded to recruit his company, and just at the time when it was full the battle of Pilot Knob occurred. He went into that battle with his company, who were then not mustered into the service. He himself was not mustered in, save as second lieutenant and recruiting officer; but it was intended that he should be the captain of the company. In that battle the company suffered severely, losing a large number of men in killed and wounded. Captain Lindsay was complimented in general orders for his bravery on that occasion. The company was so cut up in that battle that it could not be mustered into service as a company of the forty-seventh regiment. Captain Lindsay went to work to fill up his company again, in another part of the State, distant from the headquarters of the forty-seventh regiment. That regiment was filled by putting in it another company. The company of Captain Lindsay, when again filled up, was transferred to the fiftieth regiment of Missouri volunteers, and he was mustered with his company into that regiment, and served with it as captain until the close of the war. Now, because of the fact that his commission as recruiting officer and second lieutenant was in the forty-seventh and not in the fiftieth regiment, where he finally served, the paymaster decided that he could not pay him as second lieutenant and recruiting officer for the fiftieth regiment for the time intervening between the battle of Pilot Knob and the period when his company was mustered into the fiftieth regiment. This bill is to give him his pay for that intervening time as second lieutenant.

My colleague [Mr. McCORMICK] is well acquainted with all the facts of the case, and I will yield to him to make a statement.

Mr. McCORMICK. This case is a very meritorious case. Lieutenant Lindsay had his company ready to be mustered into the forty-seventh regiment, and the mustering officer had been ordered to Pilot Knob to muster it in. The battle of Pilot Knob came on, and he went with his company into that battle. The company was so reduced in numbers by the casualties of that battle that it could not be mustered in at that time. It was some months before it was again filled up, and then it was mustered into the fiftieth regiment. Captain Lindsay only asks for pay from the time of the battle of Pilot Knob until he and his company were mustered into the fiftieth regiment. I think it is a just claim.

Mr. PIKE. I now call the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PILE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN A. NEUSTAEDTER.

Mr. PILE, from the Committee on Military Affairs, also reported a bill (H. R. No. 1082) for the relief of John A. Neustaedter; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Paymaster General of the Army to pay to John A. Neustaedter, late a captain of artillery, out of any money now appropriated or that may hereafter be appropriated for the pay of the Army, the full pay and emoluments for a captain of artillery in the Army of the United States, from March 25, 1862, to August 28, 1862.

Mr. ROSS. I would inquire of the gentleman from Missouri [Mr. PILE] why it is that this man has not received his pay as an officer if he was in the Army?

Mr. PILE. I will state the facts of the case if it be desired.

Mr. ROSS. If there be a report let it be read.

Mr. PILE. I have no formal report, but I will state the facts and the official orders upon which they are based.

Mr. Speaker, while Major General Frémont was in command of the department of Missouri, as is known to all gentlemen who understand the history of that command, a large number of provisional commissions were issued to various officers in that department. They served under these commissions until some time after General Frémont was removed from that department, and were paid by the disbursing officers or paymasters of the Army. After his removal an order from the War Department mustered out all such officers as were not specially retained by order issued from competent authority. All these officers under that order were discharged, and there was quite a number of them, twenty-five or thirty of them, I do not know the number exactly.

Now, this officer was appointed on the 31st of August, 1861, by General Frémont, and he was ordered to Paducah, Kentucky. At the time of the issue of the order directing these officers to be mustered out he was serving as captain of artillery on the staff of General C. F. Smith, and he continued to serve until the latter date named in the bill. All the orders directed to him are here upon file and accompany the bill. They show that he was constantly under orders, and that he rendered service under them. Orders were issued to him as captain of artillery. He was chief of staff to General Smith and other officers. By some oversight in the order issued for the retention of officers his name was omitted. He was neither mustered out under the order mustering

these officers out, nor was his name mentioned as of those who were to be retained. He knew nothing of the order for four or five months, he being in the field in good faith rendering service to the Government. He was in constant service and in receipt of his pay until it was discovered that his name was not among those who were retained.

Mr. ROSS. Let me ask the gentleman a question.

Mr. PILE. Certainly.

Mr. ROSS. What authority had General Frémont to appoint a civilian as an officer?

Mr. PILE. I presume this order of General Frémont and this action of General Frémont appointing provisional officers was without any direct warrant of law. I know of no law giving him that authority; yet it was in an early part of the war when department commanders from very necessity issued these commissions, and the men to whom they were given entered upon their duty and did the service which their commissions called for, and the disbursing officers of the Government paid them. Nearly every department commander in the country exercised this authority and commissioned these officers, to a greater or less extent, so far as I know. I know that it was done at Memphis, at New Orleans, and at various other places, even at a still later period of the war.

This man, whatever may have been the technical authority, the legality or illegality of his commission, when issued under the authority of the department commander it was sufficient authority for him, and under it he entered the Army of the Union and periled his life, rendering good service to the country. Therefore, sir, I think he ought to be paid.

Mr. HOLMAN. I understand that this man's commission was issued by General Frémont. Now, is not the gentleman himself aware of the fact that a great many of the men to whom commissions were issued by General Frémont during the hundred days he commanded in the West never rendered any service at all? Does he not know that Mr. Simon Stevens, appointed to the commission of major, and Mr. K. N. Corwin, of Cincinnati, Ohio, holding a still higher commission, never did any duty? These commissions were scattered broadcast, and the innumerable persons who held them rendered no military service. In the fall months of 1861 General Frémont had an army of officers, from brigadier generals down to lieutenants, round his headquarters, with commissions like that held by this man.

Mr. PILE. I know that General Frémont issued a large number of commissions which he had no authority to issue. I know that a large number of officers were appointed by him who did no service, and who ought not to have been paid and have not been paid, and I would be the last man to ask this Congress or any Congress of which I was a member to pay them. Those men that hung around headquarters and towns and cities and did no service ought not to be paid. But this is not such a case. He was appointed by General Frémont and has the letter of authority appointing him, dated August, 1861. He was ordered on duty in Kentucky. Some twenty or thirty orders, all of them issued in the field by General C. F. Smith and other officers with whom he served, show that service was rendered by him in the field at the front in the presence of the enemy. He was not in any town, city, or village, loafing or idling away his time, but was rendering service to the country and periling his life to defend it. Some twenty of these original orders were preserved. After the paymaster refused to pay him he collected and preserved the original orders, which are on file before the committee and have been examined by them. They are the orders of officers under whom he served, directed to him at the front in the presence of the enemy.

Mr. HOLMAN. One further question. There was a countermanding, I believe, of some of these orders made by General Frémont by the War Department or some sufficient authority.

For what period after the issuing of the order does the resolution propose to pay this officer?

Mr. PILE. The order that the gentleman refers to simply directed that this class of officers, except such as were retained by competent authority, should be mustered out. The question is about the competent authority, as to how this man was retained. He was at the front in the service. Those who were hanging around St. Louis were discharged, but in the confusion and imperfection of the papers at military headquarters at that early period his name was overlooked, and he was neither discharged nor was an order issued retaining him in service.

Mr. HOLMAN. Were not all the officers dismissed except those regularly appointed?

Mr. PILE. No, sir, they were directed to be mustered out. Many of them had been mustered in, and the order of the War Department directed that they should be mustered out, and orders were accordingly issued mustering them out. But this man was not mustered out and no order was made retaining him. His case was simply ignored. I demand the previous question.

Mr. HARDING. I desire to make a motion to recommit the resolution, with instructions to bring in a general bill providing for all who were irregularly appointed.

Mr. WASHBURN, of Illinois. I hope that will not be done.

Mr. CHANLER. Mr. Speaker, is there a quorum present?

The SPEAKER. That can be decided on the passage of the bill; the point will then arise.

Mr. CHANLER. Would not a count be necessary?

The SPEAKER. It will, if upon the passage of the bill any gentleman desires it. The Chair does not understand that the gentleman desires to shut off debate.

Mr. HOLMAN. I call for a division on seconding the previous question.

The SPEAKER. The morning hour has expired, and the bill goes over until the next morning hour for private bills.

JOHN McILVAINE.

Mr. GARFIELD. I ask leave to withdraw from the files of the House the papers in the case of John McIlvaine.

The SPEAKER. Without leaving copies?

Mr. GARFIELD. Without leaving copies.

Mr. ROSS. I object, unless copies are left.

Mr. GARFIELD. Then let copies be left. Leave to withdraw was accordingly granted, copies being left.

ACTION OF MISSOURI DELEGATION.

Mr. BENJAMIN. Mr. Speaker, I understand the gentleman from Wisconsin [Mr. ELDRIDGE] will not further object to my making a personal explanation that I asked leave to make some time ago.

Mr. ELDRIDGE. As the gentleman promises to be a good boy and a clever fellow hereafter, I withdraw my objection.

The SPEAKER. If there is no objection the gentleman will be allowed five minutes.

No objection was made.

Mr. BENJAMIN. Yesterday morning, on the presentation of the resolution by the gentleman from Pennsylvania, [Mr. WOODWARD,] I was not in my seat, and was not aware of the action on the matter until I saw the Globe this morning. When I entered the Hall this morning the same question was before the House upon the resolution introduced by the gentleman from Wisconsin, [Mr. ELDRIDGE.] The House, by a vote taken by yeas and nays, refused to entertain that resolution as a question of privilege. The impression may go abroad and be received by the country that the refusal to receive that resolution was at the instance of the delegation from Missouri, who had signed the letter which was read at the Clerk's desk. I am not satisfied that that impression should so go abroad, and I wish to state here for myself, and I believe I speak for my colleagues who signed the paper referred to, that we desire the fullest investigation, not only into

the facts contained in that letter, but of all the facts in relation to the matter referred to in the letter. We ask that a committee of this House may be appointed for that purpose. And I will say here that there are other facts within my own knowledge and within the knowledge of many others that will enter largely into the question of the privileges of one Senator, the Senator referred to. We desire that it should all be investigated. We will not only interpose no objection to the investigation, but we will render it every aid and assistance that the House and the committee may require, to the end that a full investigation may be had and all the facts in connection with the matter may go to the country. We know very well that we have nothing to fear from that investigation. We know very well that we have neither done nor said anything dishonorable in connection with this matter or anything that will not bear the light before this House and the country. Hence, I say, we interpose no objection to a full investigation of the facts.

Mr. ELDRIDGE. Will the gentleman allow me to ask him a question?

Mr. BENJAMIN. Certainly.

Mr. ELDRIDGE. I desire to know of the gentleman if he thinks that it was right and proper for the whole delegation of the State of Missouri on the other side of the House to call upon one of the Senators who was then considering a case judicially and ask of him in his judgment to withhold his vote upon one of the questions before the court?

Mr. BENJAMIN. In view of the circumstances that preceded the writing of that letter I say it was, and I say it most emphatically; and those circumstances will be brought out by the investigation.

Mr. ELDRIDGE. Then the gentleman, I suppose, bases that remark upon the fact that such was the state of the negotiations between him and the Senator or such a state of facts existed between them as justified it. But on principles of justice and right, without regard to the individuals themselves, was it proper for them to interfere with the decision of the court when this question was pending before it.

Mr. BENJAMIN. I apprehend that the committee that will be appointed by this House—if one shall be appointed at all—will give their opinion upon that question, and that the House will either sanction or dissent from the opinion of the committee. I want the House to pass on that very question in the light of all the facts that an investigation may elicit.

Mr. HIGBY. I would ask the gentleman if he did not think that such an intercession as they made was proper if they supposed there was going to be a corrupt decision?

Mr. BENJAMIN. I am not prepared to say—

Mr. CHANLER. I rise to a point of order. I ask that the words of the gentleman from California in regard to the action of the Senate be taken down.

The SPEAKER. The reporter is not exactly certain as to all the words, as the gentleman from California was not distinctly heard; but the Clerk will report them as taken down.

Mr. ELDRIDGE. Is it not the privilege of the gentleman from New York to repeat the words to which he excepts?

The SPEAKER. He has the right to repeat the words; but it is customary for the words to be taken down from the notes of the reporters for the Globe.

Mr. CHANLER. I will waive any such right if the gentleman from California will restate the words exactly as he uttered them, to the best of his ability.

Mr. HIGBY. I asked the question if he did not think that such intercession as they made through that letter was right if they supposed there was to be a corrupt decision. These were the words.

The SPEAKER. The Chair thinks those words do not come within the parliamentary law, and for this reason: that the Senate of the United States, forming a part of Congress, is sitting for the trial of the impeachment, and

the Chair thinks it is still the Senate, although presided over by the Chief Justice. The rule expressly prohibits any remarks of an offensive character toward the other branch of Congress; and although these words are hypothetical, the Chair thinks they do not come within the parliamentary law, and are out of order, the presumption being in the mind of the gentleman from California that the Senate could make a corrupt decision.

Mr. HIGBY. That was not the intent of the language I used. It was whether the Missouri members acted upon the supposition that there might be a corrupt decision. I did not charge anything of the kind.

Mr. ELDRIDGE. The gentleman from Missouri [Mr. BENJAMIN] has made no such charge.

The SPEAKER. The Chair thinks that remarks of that character in the Senate, in regard to the action of the House of Representatives, would be ruled out of order by the Presiding Officer there, on the ground of the comity between the two branches of Congress.

Mr. CHANLER. Will the Chair direct that the rule of the House be carried out in this case?

The SPEAKER. The gentleman from California has taken his seat.

Mr. BENJAMIN. Allow me to say further that the members from Missouri alluded to by the gentleman from Wisconsin, [Mr. ELDRIDGE], and whose names are appended to the paper which has been read, had no idea in the world that the Senator therein spoken of would act corruptly, or that any influence at all, beyond what the evidence disclosed, was brought to bear upon him. I state here that we expressly negated the idea that any such influence had been brought to bear. We charge nothing corrupt upon him; nothing in the world.

It will be ascertained in the course of the investigation, if one is had, why that letter was written, who were the parties to it, and the design of it. I knew nothing of it myself until it was presented to me by one of my colleagues and I was requested to sign it. At the same time my colleague stated that the Senator himself requested the signatures of the members of the Missouri delegation in this House and the presentation of the paper to him; that it was signed at his instance, and got up at his request, and for his benefit.

[Here the hammer fell.]

Mr. ELDRIDGE. I ask the House to allow me to make a single remark in reference to what the gentleman from Missouri [Mr. BENJAMIN] has said.

Mr. BINGHAM. I rise to a privileged question.

Mr. ELDRIDGE. Will the gentleman yield to me for a moment?

Mr. BINGHAM. Not now.

The SPEAKER. It requires unanimous consent.

#### IMPEACHMENT TRIAL—CORRUPT PRACTICES.

Mr. BINGHAM. I have been directed by the managers on the part of the House of Representatives, in the matter of the impeachment of Andrew Johnson, to report the following preamble and resolution for consideration at this time:

Whereas information has come to the managers which seems to them to furnish probable cause to believe that improper or corrupt means have been used to influence the determination of the Senate upon the articles of impeachment exhibited to the Senate by the House of Representatives against the President of the United States: Therefore,

*Be it resolved*, That for the further and more efficient prosecution of the impeachment of the President the managers be directed and instructed to summon and examine witnesses under oath, to send for persons and papers, to employ a stenographer, and to appoint sub-committees to take testimony, the expenses thereof to be paid from the contingent fund of the House.

Mr. CHANLER. I rise to a question of order. I would inquire of the Chair if we have any power to try Senators?

The SPEAKER. So far as the point of order goes made by the gentleman from New York, [Mr. CHANLER,] the Chair sustains it.

Mr. ROSS. That is the effect of this resolution.

Mr. BINGHAM. That is not the effect of the resolution at all. I call the previous question on the preamble and resolution.

Mr. ROBINSON. I rise to a point of order. These managers were appointed by this House to conduct the prosecution against the President on the part of the House. The managers having discharged their duty, they have nothing more to do. Judgment has in part been rendered by the Senate.

Mr. BINGHAM. Is it in order for the gentleman to argue that proposition?

Mr. ROBINSON. I am not arguing it.

The SPEAKER. The gentleman will state his point of order.

Mr. ROBINSON. The managers having discharged their duty, they have nothing more to do with the case than counsel have to do with a case after it has been submitted to the court.

The SPEAKER. The Chair overrules the point of order upon two grounds. The first is, that the managers have not yet discharged their duty in the case, for the case has not yet been fully decided. The second ground is, that in presenting the case to the Senate the House expressly reserved to itself the right to take further action.

Mr. CHANLER. I rise to another point of order, that the proposition of the gentleman from Ohio [Mr. BINGHAM] charges corrupt motives upon the part of the Senate, and this House cannot entertain such a proposition.

The SPEAKER. The Chair cannot entertain that point of order; that is a question for the House to determine.

Mr. ROBINSON. I desire to appeal from the Chair on my point of order.

The SPEAKER. The gentleman is too late to take an appeal, another point of order having been made.

Mr. ELDRIDGE. Does the Chair entertain the point of order made by the gentleman from New York, [Mr. CHANLER?]

The SPEAKER. He does not.

Mr. ELDRIDGE. I rise to a point of order involving the same question. I make the point that, as this resolution reflects upon the Senate, it is not proper that it should be entertained.

The SPEAKER. The Chair overrules the point of order.

If there be no further points of order the Chair will state that this resolution is open to the same objection made to the resolution of the gentleman from Wisconsin himself, that there is no direct charge of corruption. It uses almost the same language, "that it appears," "that reports have been made," "that it appearing that corruption has been used," &c.

The rulings in regard to questions of privilege have been uniform so far as the Chair has examined them. Vague charges cannot be considered as questions of privilege, but specific charges alleging corruption upon the responsibility of any member can be. The Chair therefore stated to-day to the gentleman from Wisconsin that while his resolution was not a question of privilege, as it recited that whereas it appeared there was a corrupt purpose on the part of certain gentlemen of the delegation from Missouri to influence the Senator from Missouri, still if the resolution had made the direct charge of corruption on his responsibility as a member, for which he would be responsible to the House if it proved not true, the Chair would entertain that as a question of privilege.

The Chair decides that the managers, under the order of the House, have the right to report resolutions, not as a question of privilege, but as a matter of right. This resolution is open to the same objection as to its consideration which has been repeatedly made of late under the rule to be found on page 71 of the Digest. If there be objection to its present consideration the question then will be put to the House whether it shall be considered or not.

Mr. CHANLER. The ruling of the Chair

as to corruption being used in forming a decision in the court of impeachment does not come within the ruling which affects and attacks one of the coordinate branches of the Government.

The SPEAKER. The Chair will repeat the ruling that he made before. The gentleman cannot change the language of the Chair by quoting it as he does.

Mr. CHANLER. I do not wish to—

The SPEAKER. The gentleman will suspend. If the gentleman will look at the Globe he will find that the decision of the Chair is in the same language that the Chair has just stated it. He decided that vague charges of corruption cannot be entertained as questions of privilege, and the Chair now reaffirms that decision; but he has also decided that the managers have the right to present for the consideration of the House whatever proposition they may see fit, and the House of Representatives has also the right to say whether they will or will not consider it. The gentleman has the right to say the House shall not consider it if he thinks it ought not to be considered.

Mr. CHANLER. I make that motion, and demand the yeas and nays.

Mr. BINGHAM. I desire to make a statement.

The SPEAKER. It is not debatable. Is there objection?

Mr. CHANLER. I object.

Mr. BROOKS. I hope the gentleman will be allowed to make his statement.

Mr. MUNGEN. I object.

Mr. JOHNSON. I wish to ask the gentleman from Ohio a question.

Mr. MUNGEN. I do not want any Star Chamber tribunal organized here.

The yeas and nays were ordered.

Mr. BAKER. Is the question whether the House will consider this resolution at all, or consider it as a question of privilege?

The SPEAKER. The question is, Will the House now consider it?

Mr. BROOKS. How long a time have these managers the right to make these reports?

The SPEAKER. Until the impeachment is ended.

Mr. BROOKS. Is it not now ended?

The SPEAKER. It is not. The report of the chairman of the Committee of the Whole was that two thirds of the Senate not having voted for the eleventh article, the Chief Justice declared the President was acquitted on that article, and that thereupon the Senate, sitting for the trial of the President, adjourned until the 26th of May. The trial is not ended.

Mr. PHELPS. I listened very carefully to the resolution when it was read, and it distinctly charges that corrupt considerations have entered into the verdict of the Senate.

Mr. KELSEY. I object to debate.

Mr. PHELPS. Is not that out of order?

Mr. BINGHAM. It contains no such insinuation.

The SPEAKER. The Chair thinks that the gentleman from Maryland is presenting an argument. If he is of the opinion he has indicated he has his remedy by his vote.

Mr. ROBINSON. I wish to ask a parliamentary question.

Several MEMBERS. Question!

The SPEAKER. Debate is not in order, and objection is made.

The question was taken; and it was decided in the affirmative—yeas 79, nays 26, not voting 84; as follows:

YEAS—Messrs. Allison, Archer, Delos R. Ashley, James M. Ashley, Bailey, Baker, Beaman, Beatty, Benjamin, Bingham, Blaine, Blair, Broomall, Butler, Cake, Reader W. Clarke, Cobb, Coburn, Covode, Cullom, Donnelly, Driggs, Eggleston, Eli, Eliot, Ferriss, Ferry, Fields, Garfield, Gravelly, Halsey, Harding, Higby, Hooper, Hopkins, Hunter, Ingersoll, Julian, Kelsey, Kitchen, Mallory, Maynard, Lawrence, Lougbridge, Lynch, McAllister, McNeill, McClurg, Mercer, Moore, Myers, Newcomb, O'Neill, Orth, Perham, Peters, Pile, Platts, Polesley, Price, Raum, Sawyer, Schenck, Scofield, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taffie, Thomas, Trowbridge, Twichell, Upson, Burt Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Thomas Williams, James F. Wilson, and Windom—79.



**NAYS**—Messrs. Adams, Boyer, Brooks, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Humphrey, Johnson, Jones, Kerr, Knott, McCormick, Mungen, Nicholson, Phelps, Robinson, Ross, Sitgreaves, Stewart, Van Auker, and Woodward—26.

**NOT VOTING**—Messrs. Ames, Anderson, Arnell, Axtehl, Baldwin, Banks, Barnes, Barnum, Beck, Benton, Boutwell, Brownell, Buckland, Barr, Cary, Churchill, Sidney Clarke, Cook, Cornell, Dawes, Dixon, Dodge, Eckley, Farnsworth, Finney, Fox, Griswold, Haight, Hawkins, Hill, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulbard, Jenckes, Judd, Kelley, Ketcham, Laffin, George V. Lawrence, Lincoln, Loan, Logan, Marshall, Marvin, McCarthy, McCullough, Miller, Moorhead, Morgan, Morrell, Morrissey, Mullins, Niblack, Nunn, Paine, Pike, Poland, Pomeroy, Pruyn, Randall, Robertson, Selye, Shellabarger, Smith, Spalding, Starkweather, Stokes, Stone, Taber, Taylor, John Trimble, Lawrence S. Trimble, Van Aernam, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Welker, William Williams, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—84.

So the House resolved to consider the resolution.

**The SPEAKER.** The resolution is now before the House, and the gentleman from Ohio [Mr. BINGHAM] is entitled to the floor.

**Mr. BINGHAM.** Mr. Speaker, it is my purpose to delay the House but a moment or two in regard to this resolution. I desire to say, however, inasmuch as questions of order have been raised here, and intimations made that this is an attempt to exercise power, on the part of the House, not warranted by the Constitution, that I speak for myself, and, I believe, for every one of the managers appointed by the House, when I say that resolution is a resolution, as its words expressly declare, for the more efficient prosecution of the impeachment against the President of the United States heretofore presented by the House made upon information communicated to the managers that corrupt influences have been employed to prevent the successful prosecution of the impeachment by the House.

**Mr. MUNGEN.** I rise to a point of order.

**The SPEAKER.** The gentleman will state it.

**Mr. MUNGEN.** My point is this, that the managers having been appointed to conduct the articles of impeachment against the President, I hold it is improper now to introduce a resolution for investigation into the alleged corruption of a Senator or Senators, that being a matter for the Senate itself.

**The SPEAKER.** The Chair overrules the point of order, upon the ground that the House of Representatives have resolved to consider this resolution reported from the managers, and the resolution is before the House by the order of the House itself.

**Mr. JOHNSON.** Will the gentleman yield to me?

**Mr. BINGHAM.** For a question.

**Mr. JOHNSON.** I desire to ask the gentleman if the committee have the consent of the high court of impeachment to reopen the case and offer new evidence; and if they have not the consent of that court, whether they intend to open it up and offer evidence anew at all events?

**Mr. BINGHAM.** The gentleman ought to understand, if he had attended to the prosecution of this case in the Senate, that when the question was asked of the managers by the counsel for the President after the formal close of the testimony during the trial, that on behalf of the managers and of the House, I notified the counsel and the Senate that the House of Representatives, according to the uniform practice in such cases, did not surrender its right at any time before judgment to present additional testimony. And they have already been notified on the record of the reservation of that right, placed there in writing, to be presented at any time before judgment.

And having stated this, I desire to state in regard to the other matter which has been raised here, that the Constitution having vested in this House the "sole power of impeachment" has clothed this body with power unto the day of judgment to investigate all corruptions by any man or any men, with a view to prevent the decision of this case according to the law and the evidence.

**Mr. JOHNSON.** That answers my question. It has not been answered before.

**A MEMBER.** To impeach Senators?

**Mr. BINGHAM.** I am not talking of impeaching Senators. But, sir, at an early day in the history of the country nobody challenged the right to do it. The House proceeded to the bar of the Senate and demanded the sequestration of the seat of a Senator and it was done. This House is clothed with full power to do this thing and no man can challenge it here, or anywhere else, successfully.

**Mr. ELDRIDGE.** Will the gentleman yield to me?

**Mr. BINGHAM.** No, sir. I desire to state that we are acting within the scope of the authority conferred upon us. We have no doubt that the House, when they undertook this impeachment, intended, as they solemnly declared by their resolution, that all the power with which the Constitution clothed them for the just and legal prosecution of this impeachment should be employed from time to time, as the occasion might require. That is all that this resolution contemplates—to prevent the obstruction of justice—to see whether the rightful power of this House to prosecute impeachment is attempted, wrongfully and corruptly, to be interfered with, and controlled by anybody, either by the President or by the President's hired agents! It is a power, I say again, that no man can successfully challenge in any tribunal of this country; a power that even *habeas corpus* cannot control; a question that has been ruled solemnly upon in the Supreme Court forty years ago, and never questioned by any man since. I do not say that it will turn out that the information that has been brought to the managers will be sustained by the facts, but I do say that we have a right, on the showing here, to an investigation.

**Mr. BROOKS.** What course do the managers intend to pursue?

**Mr. BINGHAM.** Simply to pursue the line indicated by this resolution.

**Mr. BROOKS.** Open doors or shut doors?

**Mr. BINGHAM.** Open doors or shut doors! We intend to obey the order of the House?

**Mr. BROOKS.** Is it to be an *ex parte* proceeding—what is sometimes called an inquisition—or a public examination?

**Mr. BINGHAM.** The gentleman need not inquire of me any further. He seems to be in search of knowledge under difficulties. [Laughter.]

**Mr. BROOKS.** Very great. [Laughter.]

**Mr. BINGHAM.** Very great difficulties. Nearly ever since he was born this thing he calls an inquisition was practiced by that party of which he professes to-day to be the chief leader without challenge. Out of his own mouth I condemn him. [Laughter.] Never did your Democratic organization, when it controlled this House, proceed with an investigation touching the privileges of the House or the rights of the people in any other mode than we propose to proceed with it to-day.

**Mr. ELDRIDGE.** I rise to a point of order. I insist that the gentleman from Ohio shall not address this side of the House, but the Chair. He is looking over heres so savagely that he has nearly driven us all out of our seats. [Laughter.]

**The SPEAKER.** The gentleman from Ohio must address the Chair.

**Mr. BINGHAM.** Well, I should be glad, if I have that privilege without violating the rules of the House, to look at the gentleman's smiles. [Laughter.]

**Mr. ELDRIDGE.** I would like to see the gentleman smile once. I have not seen him smile since he commenced this impeachment matter. [Laughter.]

**Mr. BINGHAM.** The gentleman's point of order is as weak as his case.

**The SPEAKER.** The gentleman from Wisconsin withdraws the point of order.

**Mr. ELDRIDGE.** No, I do not. I do not want the gentleman to look at us in that way any more.

**Mr. BINGHAM.** It is what is called "point no point." [Laughter.]

**Mr. Speaker,** I believe I have said very nearly or quite all that it is needful for me to say. I will merely add that the managers on the part of the House, by the leave of the House, propose to prosecute this impeachment in good faith, in accordance with the power conferred upon the House by the Constitution, unto the day of judgment.

**Mr. JOHNSON.** And upon all the articles?

**Mr. BINGHAM.** I do not answer any more questions. I call the previous question on the resolution.

**Mr. CHANLER.** I ask the gentleman, before he takes his seat—

**The SPEAKER.** The gentleman has already taken his seat.

**Mr. CHANLER.** I appeal to his courtesy—

**The SPEAKER.** The gentleman from New York cannot violate the rules of the House.

**Mr. CHANLER.** I do not wish to violate any rule whatever.

**The SPEAKER.** The gentleman from Ohio refused to yield further.

**Mr. CHANLER.** I merely wish to ask the Chair a question.

**The SPEAKER.** That is not in order except by the consent of the House.

**Mr. CHANLER.** Certainly the House cannot object to a question relative to the matter before it; that is not personal to any one.

**Mr. KELSEY.** I object to anything out of order.

**Mr. ROBINSON.** I move to lay the resolution upon the table, and on that motion I demand the yeas and nays.

**Mr. ROSS.** I move that the House do now adjourn, and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

**Mr. WARD.** I rise to a question of order. I want to know if, under the rules, this is not a dilatory motion?

**The SPEAKER.** The Chair will answer that question by having read the last part of the rule adopted by the House on the 25th of February last.

The Clerk read as follows:

"And that during the pendency of resolutions in the House relative to said impeachment thereafter no dilatory motions shall be received except one motion on each day that the House do now adjourn."

**The SPEAKER.** The question is on the motion that the House do now adjourn, on which the yeas and nays have been ordered.

The question was taken; and it was decided in the negative—yeas 22, nays 79, not voting 88; as follows:

**YEAS**—Messrs. Adams, Boyer, Chanler, Eldridge, Getz, Golladay, Grover, Holman, Hotchkiss, Humphrey, Johnson, Jones, McCormick, Mungen, Nicholson, Pruyn, Robinson, Ross, Sitgreaves, Stewart, Van Auker, and Woodward—22.

**NAYS**—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Butler, Calkins, Reader W. Clarke, Cobb, Coburn, Covode, Cullum, Donnelly, Driggs, Ela, Eliot, Ferriss, Ferry, Fields, Garfield, Gravelly, Halsey, Higby, Hooper, Hopkins, Hunter, Ingersoll, Julian, Kelsey, Ketcham, Kitchen, Koonz, Laffin, William Lawrence, Loughbridge, Lynch, Mallory, Maynard, McClurg, Mercer, Myers, Newcomb, O'Neill, Orth, Perham, Peters, Pile, Plants, Polesie, Price, Raum, Sawyer, Schenck, Scofield, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taffe, Thomas, Trowbridge, Twichell, Upson, Burt Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Thomas Williams, William Williams, James F. Wilson, and Windom—79.

**NOT VOTING**—Messrs. Ames, Archer, Arnell, Axtehl, Baker, Baldwin, Barnes, Barnum, Beck, Boutwell, Brownell, Brooks, Broomall, Buckland, Burr, Cary, Churchill, Sidney Clarke, Cook, Cornell, Dawes, Dixon, Dodge, Eckley, Eggleston, Farnsworth, Finney, Fox, Glossbrenner, Griswold, Haight, Harding, Hawkins, Hill, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulbard, Jenckes, Judd, Kelley, Kerr, Knott, George V. Lawrence, Lincoln, Loan, Logan, Marshall, Marvin, McCarthy, McCullough, Miller, Moore, Moorhead, Morgan, Morrell, Morrissey, Mullins, Niblack, Nunn, Paine, Phelps, Pike, Poland, Pomeroy, Randall, Robertson, Selye, Shellabarger, Smith, Spalding, Starkweather, Stokes, Stone, Taber, Taylor, John Trimble, Lawrence S. Trimble, Van Aernam, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Welker, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—88.

So the House refused to adjourn.

## LEAVE OF ABSENCE.

Indefinite leave of absence after to-day was granted to Mr. FERRY, Mr. HALSEY, Mr. HUBBARD of West Virginia, Mr. MALLORY, Mr. WASHBURN of Indiana, Mr. SHANKS, and Mr. BROOMALL.

## IMPEACHMENT—CORRUPT PRACTICES.

**THE SPEAKER.** The question now recurs upon the motion to lay the preamble and resolution upon the table, upon which the gentleman from New York [Mr. ROBINSON] has called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 10, nays 86, not voting 93; as follows:

**YEAS**—Messrs. Chanler, Getz, Golladay, Holman, Johnson, McCormick, Phelps, Pruyn, Robinson, and Woodward—10.

**NAYS**—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Broomall, Butler, Cake, Reader W. Clarke, Cobb, Coburn, Covode, Cullom, Donnelly, Driggs, Eggleston, Eta, Eliot, Ferriss, Ferry, Fields, Garfield, Gravelly, Halsey, Harding, Higby, Hooper, Hopkins, Hunter, Ingersoll, Julian, Kelsey, Ketcham, Kitchen, Koontz, Laffin, William Lawrence, Loughbridge, Lynch, Mallory, Maynard, McClurg, Mercer, Moore, Myers, Newcomb, O'Neill, Orth, Perham, Peters, Pike, Pile, Plants, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Aaron F. Stevens, Taffe, Thomas, John Trimble, Trowbridge, Twichell, Upson, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Thomas Williams, William Williams, James F. Wilson, and Windom—86.

**NOT VOTING**—Messrs. Adams, Ames, Archer, Arnell, Axtell, Baldwin, Barnes, Barnum, Beck, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Churchill, Sidney Clarke, Cook, Cornell, Dawes, Dixon, Dodge, Eckley, Eldridge, Farnsworth, Finney, Fox, Glossbrenner, Griswold, Grover, Haight, Hawkins, Hill, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hubard, Humphrey, Jenckes, Jones, Judd, Kelley, Kerr, Knott, George V. Lawrence, Lincoln, Loan, Logan, Marshall, Marvin, McCarthy, McCullough, Miller, Moorhead, Morgan, Morrell, Morrissey, Mullins, Mungen, Niblack, Nicholson, Nunn, Paine, Poland, Pomeroy, Randall, Ross, Selye, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stokes, Stone, Tabor, Taylor, Lawrence S. Trimble, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Welker, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—87.

So the preamble and resolution were not laid on the table.

The question recurred upon seconding the previous question.

**MR. ROBINSON.** Will the gentleman from Ohio [Mr. BINGHAM] allow me to make a suggestion to him. Let this question go to a select committee, or at all events to a committee which will have upon it some representative of the minority of this House. It is a mockery to send this to a committee which has no member upon it of the Democratic party, which we claim to represent a majority of the people of the United States.

**MR. BINGHAM.** I insist upon my demand for the previous question.

The question was taken upon seconding the previous question; and upon a division there were—yeas 75, no 1; no quorum voting.

**MR. WASHBURN**, of Illinois. I ask that the rule be read requiring members to vote.

**THE SPEAKER.** The Clerk will read the rule, after which the Chair will appoint tellers.

The Clerk read the rule, as follows:

"Every member who shall be in the House when the question is put shall give his vote unless the House shall excuse him."

**THE SPEAKER.** The Chair will state, as he has often stated, that he cannot compel members to vote, as they are required to do by their own rules. If members refuse to vote, they are in contempt of the House of Representatives and of their own rules. No quorum having voted on the last vote, the Chair will appoint tellers, and requests every member to vote.

**MR. BROOKS** and **MR. BROOMALL** were appointed to act as tellers.

The House again divided; and the tellers reported that there were—yeas 82, noes 14.

So the previous question was seconded.

The main question was then ordered, which

was upon the adoption of the preamble and resolution.

**MR. HOLMAN.** Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 88, nays 14, not voting 87; as follows:

**YEAS**—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Banks, Beaman, Beatty, Benjamin, Benton, Bingham, Blaine, Blair, Boutwell, Broomall, Butler, Cake, Reader W. Clarke, Cobb, Coburn, Covode, Cullom, Donnelly, Driggs, Eggleston, Eta, Eliot, Ferriss, Ferry, Fields, Garfield, Gravelly, Halsey, Harding, Higby, Hooper, Hopkins, Hunter, Ingersoll, Julian, Kelsey, Ketcham, Kitchen, Koontz, Laffin, William Lawrence, Loughbridge, Lynch, Mallory, Maynard, McClurg, Mercer, Moore, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Peters, Pike, Pile, Plants, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shanks, Aaron F. Stevens, Thaddeus Stevens, Taffe, Thomas, Trowbridge, Twichell, Upson, Burt Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Thomas Williams, William Williams, James F. Wilson, and Windom—88.

**NAYS**—Messrs. Adams, Getz, Glossbrenner, Holman, Hotchkiss, Johnson, Knott, Mungen, Nicholson, Phelps, Robinson, Ross, Sitgreaves, and Stewart—14.

**NOT VOTING**—Messrs. Ames, Archer, Arnell, Axtell, Baker, Baldwin, Barnes, Barnum, Beck, Boyer, Brooks, Buckland, Burr, Cary, Chanler, Churchill, Sidney Clarke, Cook, Cornell, Dawes, Dixon, Dodge, Eckley, Eldridge, Farnsworth, Finney, Fox, Golladay, Griswold, Grover, Haight, Hawkins, Hill, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hubard, Humphrey, Jenckes, Jones, Judd, Kelley, Kerr, George V. Lawrence, Lincoln, Loan, Logan, Marshall, Marvin, McCarthy, McCormick, McCullough, Miller, Moorhead, Morgan, Morrell, Morrissey, Mullins, Niblack, Nunn, Poland, Pomeroy, Pruyn, Randall, Selye, Shellabarger, Smith, Spalding, Starkweather, Stokes, Stone, Tabor, Taylor, John Trimble, Lawrence S. Trimble, Van Aernam, Van Auker, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Welker, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—87.

So the preamble and resolution were adopted.

**MR. WARD** moved to reconsider the vote by which the preamble and resolution were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

**MR. HOLMAN.** I rise to a question of order, that the vote has not been taken on the preamble.

**THE SPEAKER.** The Chair stated the question to be on the preamble and resolution, and they were read together. No gentleman called for a division of the question, and it is now too late to raise the point.

## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had disagreed to the concurrent resolution of the House providing for an adjournment from the 16th to the 25th instant.

## LEAVE OF ABSENCE.

**MR. TWICHELL** asked and obtained indefinite leave of absence on account of sickness in his family.

**MR. HOTCHKISS**, **MR. TAFTE**, and **MR. CAKE** asked and obtained indefinite leave of absence.

And then, on motion of **MR. WASHBURN**, of Illinois, the House (at four o'clock and ten minutes p. m.) adjourned.

## PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By **MR. JULIAN**: The petition of 15 citizens of Wayne county, Indiana, praying a reduction in the expenditures of the different departments of the Government.

By **MR. POLAND**: The petition of S. H. Edwards and others, citizens of Guilford, Vermont, praying Congress to establish a line of steamships between the United States and the Republic of Liberia.

By **MR. TAFTE**: The petition of B. F. Perkins and others, citizens of Nebraska, asking an amendment of the homestead law so as to secure certain portions of the public land occupied as homesteads as sites for school-houses.

## IN SENATE.

MONDAY, May 18, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Saturday's legislative proceedings was read and approved.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 237) to revive and extend certain acts of Congress relative to land claims in the State of Missouri;

A bill (H. R. No. 1075) to authorize adjudication of claim No. 45 in the report of the surveyor general of the Territory of New Mexico;

A bill (H. R. No. 1080) for the relief of Edward B. Allen;

A bill (H. R. No. 268) for the relief of Robert L. Lindsay;

A bill (H. R. No. 65) for the relief of William McGarrahan; and

A joint resolution (H. R. No. 266) to authorize the enlargement of the Hygeia Hotel at Fortress Monroe.

## EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of contracts made by the quartermaster's department during the month of March, 1868; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of War, communicating a letter of Major General Canby, and its inclosures, relating to an ordinance of the South Carolina convention providing for the assembling of the General Assembly, the temporary organization of each house, the installation of Governor and the Lieutenant Governor, and the continuation of the president of the convention in office until after installation for the purpose of administering oaths; which was referred to the Committee on the Judiciary, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of War, communicating a corrected copy of the constitution framed by the Virginia convention, as furnished by Brevet Major General J. M. Schofield, commanding the first military district.

**MR. WILSON.** I move the reference of that document to the Committee on the Judiciary.

**MR. DRAKE.** I suppose it ought to be printed, and I make that motion.

The PRESIDENT *pro tempore*. It will be referred to the Committee on the Judiciary, and ordered to be printed, if there be no objection.

**MR. WILSON.** Not the documents with it, but the constitution.

**MR. DRAKE.** The constitution is the only document.

## COAST SURVEY REPORT.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in obedience to law, a report of the Superintendent of the United States Coast Survey, stating the operations and progress in the survey of the coast during the year ending November 1, 1867.

**MR. ANTHONY.** I offer the usual resolution for the distribution of that document:

*Resolved*, That there be printed two thousand extra copies of the report of the Superintendent of the Coast Survey for 1867, of which one thousand copies shall be for the use of the Senate, and one thousand copies shall be for distribution by the Superintendent of the Coast Survey.

That resolution under the rule goes to the Committee on Printing. It has, however, been considered by the committee, and I am instructed to ask for its present consideration and passage. It provides for the printing of the usual number that has always been voted.

The resolution was considered by unanimous consent, and agreed to.

## ORDER OF BUSINESS.

Mr. HARLAN. I move that the Committee on Appropriations be discharged from the further consideration of Senate bill No. 170, to provide for deficiency of expenses incurred in the survey of Indian reservations, and that it be taken up for consideration. I have conversed with the chairman of that committee. He is not now in his seat; but the committee have considered it informally, and there is no objection in that committee—as I learn from him and other members of the committee—to the passage of the bill; and some of my constituents are very much interested in it, and I should be very glad if the Senate would consent to take it up.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to take it up at this time.

Mr. FESSENDEN. I should like to present some memorials.

Mr. HARLAN. I will not object to memorials coming in.

Mr. EDMUNDS. I object. Let us go on with the regular order of business. We shall get along faster by adhering to that.

The PRESIDENT *pro tempore*. One objection carries it over at this time.

Mr. HARLAN. Would not my motion to discharge the committee be in order?

Mr. EDMUNDS. Not yet.

The PRESIDENT *pro tempore*. It will be after the morning business is through. By a new rule the morning business must be taken in its order.

## LAWS OF COLORADO.

The PRESIDENT *pro tempore* laid before the Senate the laws passed by the Legislative Assembly of the Territory of Colorado; which were referred to the Committee on Territories.

## LEAVE OF ABSENCE.

Mr. EDMUNDS. I am requested by the Senator from Iowa, [Mr. GRIMES,] who is absent from illness, to move that he have indefinite leave of absence, as the period of his ability to return to the service of the Senate is uncertain. I make that motion.

The PRESIDENT *pro tempore*. It is moved that Mr. GRIMES, the Senator from Iowa, have indefinite leave of absence.

Mr. CONNESS. Is that in order until petitions are disposed of?

Mr. EDMUNDS. That is a question of privilege.

The PRESIDENT *pro tempore*. It is a privileged question, I suppose.

The motion was agreed to.

## PETITIONS AND MEMORIALS.

Mr. WILSON presented a memorial of underwriters and merchants of Boston, Massachusetts, requesting that no means be adopted by Congress to lessen the full efficiency of the Coast Survey; which was referred to the Committee on Appropriations.

He also presented four memorials of officers of the Army, protesting against the passage of the bill which deprives all retired officers of the Army of their longevity or service rations; which were referred to the Committee on Military Affairs and the Militia.

Mr. CATTELL presented a memorial of Robert Shoemaker, president of the Philadelphia Drug Exchange, praying the reduction of the tax on distilled spirits to fifty cents per gallon; which was referred to the Committee on Finance.

Mr. FESSENDEN presented five memorials of underwriters and merchants of Portland, Maine, protesting against the adoption of any means that will lessen the efficiency of the Coast Survey; which were referred to the Committee on Appropriations.

Mr. DOOLITTLE presented a memorial of the Legislature of Wisconsin, in favor of a grant of land to aid in the construction of the Wisconsin River Valley railroad; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. STEWART presented the petition of Valentine H. Voorhees, praying compensation for services rendered as second lieutenant from March 1 to November 30, 1864; which was referred to the Committee on Claims.

Mr. WILLEY presented the memorial of Joseph Nock, praying the passage of a law requiring all patentees and assignees of patents to cause to be stamped or engraved on every patented article offered for sale the date of the patent; which was referred to the Committee on Patents and the Patent Office.

Mr. CONNESS presented a petition of citizens of California, praying for an extension of mail route No. 14725 from Havilah to Independence, in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. COLE presented a resolution of the Legislature of California, in favor of the establishment of a tri-weekly mail route from Cheyval Peak, Nevada, to Summit, in California; which was referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the Legislature of California, praying that the lands of the Mendocino Indian reservation may be subject to settlement and preemption; which was referred to the Committee on Indian Affairs.

Mr. MCCREERY presented the petition of Robert Gibson, praying compensation for subsistence stores supplied to the Army of the United States; which was referred to the Committee on Claims.

Mr. SUMNER presented the petition of George Sibbald, asking an appropriation to aid him in testing an invention in the nature of a caloric engine; which was referred to the Committee on Commerce.

He also presented the petition of Catharina Eckhardt, praying that her eldest daughter be admitted to the benefit of the pension act of July 25, 1866; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Washington, praying for the appointment of a board of colored commissioners of education; which was referred to the Committee on the District of Columbia.

## BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 483) relative to the repayment of fees paid on canceled homestead entries; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

## HOUSE BILLS REFERRED.

The following bills and joint resolution, received from the House of Representatives, were severally read by their titles and referred as indicated below:

The bill (H. R. No. 237) to revive and extend certain acts of Congress relative to land claims in the State of Missouri—to the Committee on Public Lands.

The bill (H. R. No. 1075) to authorize adjudication of claim No. 45 in the report of the surveyor general of the Territory of New Mexico—to the Committee on Public Lands.

The bill (H. R. No. 1080) for the relief of Edward B. Allen—to the Committee on Claims.

A bill (H. R. No. 268) for the relief of Robert L. Lindsay—to the Committee on Claims.

The joint resolution (H. R. No. 266) to authorize the enlargement of the Hygeia Hotel at Fortress Monroe—to the Committee on Military Affairs and the Militia.

## WILLIAM M'GARRAHAN.

The bill (H. R. No. 65) for the relief of William McGarrahan was read twice by its title.

Mr. STEWART. I move that that bill be referred to the Committee on the Judiciary.

Mr. CONNESS. I hope that bill will go to the Committee on Private Land Claims. The bill relates to a certain Mexican grant in the State of California. It is a private question in all respects. Besides, the Committee on

Private Land Claims is composed in part of some of the most distinguished lawyers in this body. If some of them were not present, I would mention their names. I move that the bill be referred to the Committee on Private Land Claims.

Mr. STEWART. I hope that that motion will not prevail, because this case involves the review of a decision of the Supreme Court. The bill came from the Committee on the Judiciary in the House of Representatives, and it seems to me very proper that it should be examined by the Judiciary Committee of the Senate. No doubt there are some very good lawyers upon the Committee on Private Land Claims; but the questions to be determined in this matter are of a legal character, and were examined in the House by the Committee on the Judiciary. I think that the Committee on the Judiciary of the Senate is the proper committee to take jurisdiction of it.

Mr. CONNESS. Mr. President, I regret that my friend from Nevada insists on sending this bill to the Committee on the Judiciary. It is a question upon the merits of which I will say that I have not come to any opinion whatever, and I only desire that it shall have the fullest and most thorough investigation; and according as the committee to which it shall be sent shall report so shall be my vote upon it. My friend, I understand, is very directly and positively against the bill, and he proposes to send it to a committee of which he is a member. I hardly think that that is just the thing.

Mr. TRUMBULL. Will the Senator from California be kind enough to state again what the bill is?

Mr. CONNESS. It is a bill for the relief of Mr. McGarrahan, involving the title to a Mexican grant in the State of California. The case has gone through the courts, and a decision has been made against the title represented by the party in whose favor this bill is. I was under the impression when that decision was made that it was a righteous one; I do not know to the contrary now; but Mr. McGarrahan comes to Congress claiming that he has been very badly treated in the case, and that the facts, when fully investigated, show that his title was a good one; and he asks to be allowed to perfect his title by paying the Government of the United States \$1 25 an acre for the amount of land within the grant; and upon its reference to the Judiciary Committee of the House and full investigation that body passed the bill. Knowing that the Judiciary Committee of this body has a great deal of work to do, and knowing also that there is a Committee on Private Land Claims in this body, which has for its members such Senators as the Senator from Oregon, [Mr. WILLIAMS,] and my friend from Connecticut, [Mr. FERRY,] and the Senator from Michigan, now absent, [Mr. HOWARD,] and believing that they will give it a close, thorough, and full investigation, I prefer its reference there, not because my friend from Nevada belongs to the Judiciary Committee and may vote against the bill. I say that in justice to him, for I have no feeling on that subject; but I wish the reference to the Committee on Private Land Claims, because I believe it will get there such an investigation within a reasonable time as it ought to have. Besides, I think my friend ought to allow the Senators from the State of California to have something to say about their own business.

Mr. STEWART. Mr. President, I do not propose to interfere with any jurisdiction of my friend from California, and I do not wish to be placed in a position of desiring to bring before the Judiciary Committee, or any committee of which I am a member, a measure to which I am thoroughly opposed. The Senator has truly stated that I am opposed to this bill, thoroughly opposed to it, believing that the Supreme Court was entirely right; but my reason for making the motion to refer the bill to the Committee on the Judiciary is this: it is a bill for the relief of William McGarrahan, not indicating at all by its title the nature of the



bill; it was before the Judiciary Committee of the House, and I supposed, as a matter of course, it would go to the Judiciary Committee of the Senate. The report of the Judiciary Committee of the House is a review of the action of the Supreme Court, and, as I understand, Mr. McGarrahan complains principally of the action of that tribunal and comes to Congress for relief, saying that great injustice has been done to him in that court. For that reason the House of Representatives referred the matter to the Judiciary Committee of that body, and it seemed to me that it should have the same reference in the Senate, and I had no other desire but to have it reviewed here by the proper committee. What the party complains of is a want of fair dealing in the Supreme Court.

Now, I do not wish to interfere with California matters, but I think this a public question, one with regard to the public lands.

Mr. CONNESS. The Senator will, perhaps, allow me to make a correction of one of his statements. What this Mr. McGarrahan complains of is not the decision of the Supreme Court, but it is that his case went to the Supreme Court on technical questions not involving the merits, and that he was deprived of his rights in the court below. That is the real statement which he makes.

Mr. STEWART. All that matter as to how it got to the Supreme Court is reviewed by the Supreme Court. Mr. McGarrahan—and that is the very matter that is to go before the Judiciary Committee—attempted to rely upon a technicality as against the merits, and the Supreme Court say his case had no merits. This bill is a review of the action of the Supreme Court with regard to this matter, and allows Mr. McGarrahan to buy out a mining district at \$1 25 per acre. There are large mining interests involved in this matter. The land which he claims is not a piece of agricultural land, but he desires to buy at \$1 25 an acre a mining district. It is not like other relief that has been had. If that is to be allowed to be done, the consequences will be very important. It seems to me that as it involves a complete review of the action of the Supreme Court, and if that court were right he had no claim, and he ought not to have any relief, it would certainly be proper to refer it to the Committee on the Judiciary for examination.

Mr. HOWE. Who were the parties to the litigation in the Supreme Court?

Mr. STEWART. Mr. McGarrahan and the Government of the United States. He claimed under a Mexican grant.

Mr. HOWE. And if the petitioner does not own the land the United States does?

Mr. CONNESS. No; that is not the case.

Mr. STEWART. If the petitioner does not own the land the United States has got the fee; but it is settled upon by miners who claim under the laws of Congress legalizing their possession. Portions of the land are claimed in that way, preempted, as it were, under the mining rules, and other portions are public land. The controversy in the Supreme Court was between Mr. McGarrahan and the United States.

Mr. TRUMBULL. Mr. President, I know nothing about this case; never heard of it until it was mentioned in the Senate, and therefore I do not care to what committee it goes, except that I happen to be upon the Committee on the Judiciary, and I would say to the Senator from Nevada that the fact that this bill went to the Committee on the Judiciary of the House does not seem to be a reason why it should go to that committee here. Our committees are organized somewhat differently from the House committees, and we have a committee on purpose to look up private land claims. It is called the Committee on Private Land Claims. I understand from the Senator from California that this is precisely that case—a private land claim about which there is some controversy, which I do not propose to go into and do not understand enough of to go into. If this bill does not go to the Committee on Private Land

Claims, I should like to know what bill should go there? It seems to me that that committee is organized for the consideration of just such a bill.

Mr. CONNESS. And it has good lawyers upon it.

Mr. TRUMBULL. Lawyers are always put upon it, and those who are supposed to be somewhat familiar with the private land grants in different parts of the country. It has always been a very able committee ever since I have been a member of the body; and it really seems to me that that is the appropriate committee to which to refer this bill. I think all bills should go to their appropriate committees. That is the only suggestion I have to make about it. It strikes me, as this is clearly a private land claim, that that is the appropriate committee to which it should be referred.

Mr. STEWART. Very well. If the chairman of the Committee on the Judiciary thinks it does not legitimately belong to that committee, I will let it go to the Committee on Private Land Claims; but inasmuch as it has been stated that I was opposed to the bill, I wish to say that I believe there is no foundation whatever for it. I want to reiterate that; I do not think there is any foundation for it; and the Senator from California was right in stating my position with regard to it.

Mr. CONNESS. I have no doubt in the world that whatever opinions my friend from Nevada entertains on the subject are honestly and fairly entertained; and I will now say, to conclude, that the parties in interest against Mr. McGarrahan in this case are mostly my personal friends, and that my only desire in the case is that it shall have a full and thorough investigation, because I will not stand here to do more than justice even to my friends.

The PRESIDENT *pro tempore*. The question is on the motion to refer the bill to the Committee on the Judiciary.

Mr. CONNESS. No, sir; that is withdrawn.

The PRESIDENT *pro tempore*. Then the question is on referring the bill to the Committee on Private Land Claims.

The motion was agreed to.

#### WHITEHALL AND PLATTSBURG RAILROAD.

Mr. WILSON. I am directed by the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 1062) to grant the right of way to the Whitehall and Plattsburg Railroad Company, to report it back without amendment, and I ask that it be put upon its passage. It has the approval of the War Department.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It authorizes the Whitehall and Plattsburg Railroad Company to locate, construct, and operate its railroad across the land belonging to the United States at Plattsburg, in the State of New York, upon a line commencing in the highway leading from Plattsburg to Peru, at a point one hundred feet north from the north line of the inclosure surrounding the Government buildings, running thence in a northeasterly direction about sixteen hundred feet to the bank of Lake Champlain, thence northwardly along the bank of the lake to the north line of the land belonging to the United States, such line of road being designated on a map of survey made by James P. Campbell, and now on file in the office of Secretary of War; but the right of way herein granted is to be subject to such restrictions as the Secretary of War may think necessary to protect the interests of the United States; and no more than four rods in width of the Government land is to be occupied under these provisions.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### RAILROADS IN WISCONSIN AND MICHIGAN.

Mr. CHANDLER. I move that the Senate proceed to the consideration of the amendment of the House of Representatives to the amendment of the Senate to the joint resolution (H.

R. No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin.

The motion was agreed to.

The amendment of the House was to add to the amendment of the Senate the following proviso:

And provided further, That if the said Marquette and Ontonagon Railroad Company, in the State of Michigan, shall not have completed according to law ten additional miles of their railroad on or before the 1st day of January, 1880, and shall not in like manner complete ten miles of said railroad in each and every year thereafter, then it shall be lawful for the Legislature of the said State of Michigan to declare the grant of lands to said company to be forfeited and to confer the said grant of lands upon some other company in the same manner as if the said grant was now for the first time made to said State of Michigan.

Mr. CHANDLER. I move that the Senate concur in the amendment of the House to the amendment of the Senate.

Mr. EDMUNDS. I want to call the attention of the Senate to a peculiarity in that amendment, so that they will vote upon it understandingly. In 1856 Congress made sundry grants of land for the benefit of specific railroads in the States of Wisconsin and Michigan. Some of those grants were taken up and the roads have gone on. This particular grant for a road from Marquette to Ontonagon, in the northern part of Michigan, has not been taken up and the road built in compliance with the act of Congress. That act of Congress provided that in case of non-compliance with the terms of the grant the lands should revert to the United States, to be granted again, of course, with its other public lands to such purposes as Congress in its wisdom should think advisable. We passed a House joint resolution with a Senate amendment a month or two ago, which provided for reviving these grants in favor of the very same railroads to which they were given before; that is, extending the time for completing the roads. Now, the House of Representatives send that resolution back to us with a provision that if this particular railroad, the Marquette and Ontonagon line, fails to build its road within a certain new specified time, the lands, instead of reverting to us, the whole people, shall belong to the State of Michigan, to be dispensed out to whatever railroads it may think advisable, the same as if we had now granted these lands for the first time to the State of Michigan.

I object to that altogether. If we make conditional grants for the construction of specific lines of railroad the lands ought, in the first place, to be devoted to the construction of those specific lines for the local and public benefit both of the parties who reside along the line and for the general benefit of the people, and we ought not to confide, in such a case of failure, these lands to any State, to be given to other corporations, which may, for aught we know, be located in other parts of the State, and whose interest may not subserve the general interest that we all have in view; but we ought to hold, as we always hitherto have held, the right, if these grants are not complied with, the conditions upon which they are given are not fulfilled, to have the control and disposition of the lands remain in ourselves; and therefore it is that I object, for one, to agreeing to this amendment of the House of Representatives as it stands. I do not object to the particular extensions of time that are provided for this railroad, because that is a mere matter of detail; but the principle of giving up these lands to the control of the State of Michigan, if this particular railroad company fails to comply with those terms, is a principle that I decidedly object to.

Mr. HOWE. I wish I could touch the generosity of my friend from Vermont—

Mr. EDMUNDS. You can touch it through his justice.

Mr. HOWE. But if I fail on that I hope to get the justice of the Senate. This grant was made to the State of Michigan to build a certain road within the time mentioned by the Senator from Vermont. The State of Michigan

made a certain railway company its trustee to administer the grant and build the road. The company has made some progress, but has not completed the road. Some time since a joint resolution came to the Senate from the House of Representatives proposing to extend the time to Michigan to complete this road, and at the same time, and in the same resolution, to extend the time to Wisconsin to complete one of her roads on which progress has been made. The honorable Senator from Vermont took exception to that resolution, urging that while it said it only provided for these two roads, the Northwestern and the Ontonagon roads, yet he thought by its language it might be extended to other roads, and therefore he drew an amendment, to which I assented, to confine the extension of time simply to these two roads. That was his purpose, and that was mine. He thought the resolution as it came here might operate on other roads. I thought it did not, but he drew an amendment to satisfy himself; the Senate agreed to it, and it went back to the House. In the meantime some of the Representatives from Michigan had become a little distrustful that the company which now stands as the trustee of Michigan was not likely to make that progress with the road that they wished to have made, and they have proposed this amendment to oblige that company to go on and build ten miles this season and then ten miles year after year upon the forfeiture of their interest in the grant; and if they forfeit the grant under that, it would belong to Michigan, not to be appropriated to any other road, but that Michigan may provide some other company, or go on and build the road itself. We agreed to extend the time to Michigan. Michigan now wants the privilege of selecting another trustee if this trustee does not behave; and, as I understand, the Senator from Vermont says that the time shall not be extended to Michigan unless Michigan will continue this same trustee. Is that right?

Mr. EDMUNDS. Mr. President, I must appeal, not to the generosity of my friend from Wisconsin, but to his memory. I have not maintained any such proposition. I do not insist upon the State of Michigan continuing this trustee, as my friend is pleased to call it; I insist upon adhering to the same line of legislation that we have always adhered to: that if the conditions upon which we grant these lands are not complied with they shall revert to the United States instead of being left at the disposal of the Legislature of the State of Michigan. That is what I insist upon.

Mr. HOWE. Upon that principle, if we ever have adhered to it, these lands would be gone; but it is because we do not wish to adhere to that that we agreed to this amendment extending the time to Michigan.

Mr. EDMUNDS. My friend is mistaken about that. We did not agree to it upon any such reason at all, so far as I am concerned. We were willing not to take advantage of the lapse of time under the peculiar circumstances that have existed for the last few years arising from the failure of this company to comply with the legislation of 1856 and again of 1864. We did agree to extend the time by the amendment that we adopted, confining it to this specific line, as to which the application it was said really was made; and then we left the law by our express provision in the bill as we passed it, that if they failed to conform to the new time granted the lands should again revert to us, just as the act of 1856, which originally granted these lands, provided. I will read the provision; it is not new or unusual; it is in all the grants; this is the first time, to my knowledge, when there has been any attempt to change it. The fourth section of the act of June 3, 1856, provided: "And if any of said roads is not completed within ten years no further sales shall be made and the lands unsold shall revert to the United States." Now, the proposition is—and it is impossible to disguise it if we only listen to the language as it comes from the other House—that instead of, on non-compliance upon the part of this com-

pany, the lands reverting to the United States or being subject to the control of the United States, they shall be subject to the control of the Legislature of the State of Michigan, to dispose of to such railroads as it shall deem fit. I ask, Mr. President, that the Secretary again read the House amendment.

The PRESIDENT *pro tempore*. The House amendment will be again read.

The Chief Clerk read as follows:

And provided further, That if the said Marquette and Ontonagon Railroad Company, in the State of Michigan, shall not have completed, according to law, ten additional miles of their railroad on or before the 1st day of January, 1869, and shall not in like manner complete ten miles of said railroad in each and every year thereafter, then it shall be lawful for the Legislature of the said State of Michigan to declare the grant of lands to said company to be forfeited and to confer the said grant of lands upon some other company in the same manner as if the said grant was now for the first time made to said State of Michigan.

Mr. EDMUNDS. There you have it, Mr. President. It shall be lawful for the Legislature of the State of Michigan to forfeit this grant at the end of the year if ten miles be not built, and so on, and then to confer it on such other company as it may please, not necessarily for the purpose of building that identical line. That is to be guessed at. It may give it in aid of any railroad that it likes, so far as the language of the law goes. And then you will notice the additional peculiar provision, "having the same powers and rights as if this grant to the State of Michigan were now for the first time made." That sweeps out from under it all the prior legislation that imposes conditions and limitations and regulations as to the manner of sale and disposition of these lands. So that all you have, if you take this statute (if it shall become a law) as it stands, will be the provisions of this bill alone, which simply grants them to the State of Michigan, by inference derived from the very last line of it, these lands for the use of this particular railroad, with a right to declare a forfeiture at the end of the year, and then to dispose of the lands to such railroad as it pleases. I submit to my friend from Wisconsin that that is quite a different proposition from any to which we have hitherto been invited.

Mr. HOWE. I submit to my friend that the statute-book is not stuffed full, but stuffed largely of bills just like it.

Mr. FESSENDEN. Let us see one. I should like to see one with a provision such as that which has been inserted here by the House of Representatives.

Mr. MORTON. Mr. President, I voted against the bill to which this is an amendment. I had no particular objection to that bill, but I am opposed to the whole system. Now, however, it comes to us in a tenfold worse form. These lands were granted originally to Michigan to construct a railroad line pointed out in the bill, of which Congress was informed at the time. It is now intended by this amendment to put these lands in the hands of the State of Michigan to be applied to the construction of a railroad of which this Congress has never heard and which has never been pointed out. Under the concluding language of this amendment, these lands can be applied to the construction of a railroad between two other points that have not been named, and perhaps running in an entirely different direction.

Mr. HOWE. Mr. President, we ought not to make any mistake about a point as plain as this. It does seem to me that there is no need of making such a mistake as the Senator from Indiana has just made, or as I have made. He says that if we agree to this amendment, this grant can be applied to building any road between any other two points. If that is so, I do not know what force there is in language. The grant went to Michigan to build a specific line of road marked out in the grant, and Michigan made this company her trustee to execute that trust and build that road. Michigan, feeling now that that company are not going along fast enough, wants to hurry them up. When you agreed to the original amendment drawn by the Senator from Vermont, you

agreed to extend the time of Michigan, but it is no object to have that time extended unless the company will execute the trust, and Michigan wants the privilege, if this company does not go on with the trust, to vest it in somebody else, as if the grant was now made to Michigan for the first time. What is that? To build another road? Surely not.

Mr. MORTON. I should like to call the attention of my friend from Wisconsin to the phraseology, and it can easily be seen where the trouble of this amendment is. The amendment provides that the State of Michigan may "declare the grant of lands to said company to be forfeited," and may "confer the said grant of lands upon some other company in the same manner as if the said grant was now for the first time made to said State of Michigan." Does it say "to some other company to construct the road between the same points?" Not a bit of it.

Mr. HOWE. No, Mr. President, but I ask the Senator from Indiana if there was a company on the footstool to which this grant could have been assigned in 1856 that would not have been compelled to apply the grant to this very road, because that is the road marked out in the act making the grant?

Mr. MORTON. Mr. President, this amendment provides in plain terms that the State of Michigan can assign the grant to some other company. It does not say "to build a road between the same points," but to assign it to some other company as if the grant was made to that company in the first place, as if it had been originally granted to build a road between two other points.

Mr. HOWE. Will the Senator from Indiana answer me this question: when the grant was made to Michigan it was made in trust to build that line of road, and if Michigan had assigned it to the New York Central Railway Company would not the New York Central Railway Company have been compelled to build that road with it? That is the question.

Mr. MORTON. Why, Mr. President, if it was intended to apply these lands to the construction of a road between the same points mentioned in the original bill it would have been the easiest thing in the world to have said so; but I maintain, as a construction of law, that under this phraseology the State of Michigan could apply them to the construction of a railroad running in a different direction and between different towns. There certainly can be no doubt of it.

Mr. CONKLING. Why not agree to the amendment with an amendment inserting words to make that clear?

Mr. MORTON. The question now is on concurring in the amendment of the House.

Mr. CONKLING. Why not concur in the amendment with an amendment inserting words to make the meaning clear?

Mr. MORTON. I am not in favor of the bill at all. I voted against it originally.

Mr. DOOLITTLE. Will the honorable Senator from Indiana allow me to make a single suggestion?

Mr. MORTON. Certainly.

Mr. DOOLITTLE. If I understand this proviso of the House, the substance of it is that if the company to whom the State has granted the lands for the purpose of building the road shall fail, then the State of Michigan shall have the power to "transfer the said grant" to another company. Now, what is meant by "transferring the said grant?" What is the grant? The grant is that which is contained in the original bill, which provides that Congress grants to the State of Michigan the alternate sections of land upon a given line, and allows the State of Michigan to give those lands to a company which will undertake to build the road. This bill extends the time to the State of Michigan to complete the road; but the House of Representatives, for greater security, have inserted a proviso to enable the State of Michigan to complete the building of the road, that if this company shall fail to build its first ten miles within a certain time the State of

Michigan can "transfer the said grant." What is the meaning of "the said grant?" It is the grant contained in the original act—a grant of lands to build a road on that line. It does not extend the time beyond the time specified in the bill itself. It seems to me there is no ambiguity about this.

The *PRESIDENT pro tempore*. The morning hour having expired, the unfinished business of Saturday is before the Senate, which is House bill No. 1045.

Mr. HARLAN. I move that the special order be postponed, with a view of taking up the bill mentioned by me this morning.

Mr. SHERMAN. The unfinished business will not take five minutes. It is a bill making an appropriation for one of the military districts of the South; and I have official information from General Meade stating that it is of the utmost consequence that the money should be immediately appropriated. One of his aids is here waiting now for the money. It is absolutely indispensable to carry on his operations in the third military district.

The *PRESIDENT pro tempore*. The bill (H. R. No. 1045) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws in the third military district for the fiscal year ending June 30, 1868, is the unfinished business.

Mr. HARLAN. With the Senator's statement I will withdraw my motion.

Mr. MORTON. I should like to have permission, before the unfinished business is taken up, to offer a resolution, to be laid on the table.

The *PRESIDENT pro tempore*. The resolution will be received if there be no objection.

BRIDGES ON OHIO AND MISSISSIPPI RIVERS.

Mr. MORTON. I offer the following resolution:

*Resolved*, That House bill No. 384, to authorize the building of a railroad bridge across the Ohio river at Paducah, Kentucky, be recommended to the Committee on Post Offices and Post Roads, and that the said committee be requested to consider, and if in their judgment thought best to report, a general bill authorizing bridges to be constructed over the Ohio and Mississippi rivers upon such terms and conditions as will not materially interfere with navigation.

\*As I want to make a statement on that resolution before the vote is taken upon it, I ask that it lie on the table for the present.

The *PRESIDENT pro tempore*. It will lie on the table, no objection being made.

#### RECONSTRUCTION EXPENSES.

Mr. CHANDLER. I move that the unfinished business be laid aside informally. I think we shall soon come to a vote on the bill we have been discussing.

Mr. SHERMAN. The unfinished business will not take three minutes, and the Senator's bill will then come up again. This is a matter of public business and public necessity.

Mr. CHANDLER. Very well, then, I shall not object; but I shall move to take this up afterward.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1045) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws in the third military district for the fiscal year ending June 30, 1868. It proposes to appropriate, for the expense of carrying into effect the act to provide for the more efficient government of the rebel States, for the third military district, the sum of \$87,701 50.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### RAILROADS IN WISCONSIN AND MICHIGAN.

Mr. CHANDLER. I now move that the Senate resume the consideration of the joint resolution which was just laid aside.

Mr. TRUMBULL. Before the vote is taken upon that motion I desire to say to the Senate that I consider it my duty to press the bill for the recognition of the State government in Arkansas. The matter was discussed somewhat on Saturday, and I hope the Senate will

consent to take it up. It is regarded by all as an important matter. The representatives are here waiting, and although I have no objection to this particular business coming up if it is not to lead to debate, if it does I shall make a motion to lay it aside with a view of taking up the bill I have named.

The *PRESIDENT pro tempore*. The question is on the motion of the Senator from Michigan.

The motion was agreed to; and the Senate resumed the consideration of the amendment of the House of Representatives to the Senate amendment to the joint resolution (H. R. No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin.

Mr. EDMUNDS. I move to amend the amendment proposed by the House of Representatives by striking out the last words that have been referred to, all after the word "then" in the sixth line from the bottom, and inserting the words "the said lands shall be forfeited to the United States as provided in section one of this act," so that if this amendment be adopted the bill will be left to stand exactly as it passed the House of Representatives originally on that point, giving the extended time that the House of Representatives desired.

Mr. HARLAN. The Senator's motion is evidently not in order. This is a House bill amended by the Senate, to which Senate amendment the House of Representatives has proposed an amendment.

Mr. EDMUNDS. Allow me to suggest to my friend from Iowa that the rule about amendments on amendments does not apply to propositions pending between the two Houses at all. We can amend any proposition the House of Representatives send here if it is in the fortieth stage.

The *PRESIDENT pro tempore*. The Chair is of opinion that it is in order to amend the amendment of the House of Representatives.

Mr. EDMUNDS. With this amendment the proposition will read:

*And provided further*, That if the said Marquette and Ontonagon Railroad Company, in the State of Michigan, shall not have completed, according to law, ten additional miles of their railroad on or before the 1st day of January, 1869, and shall not in like manner complete ten miles of said railroad in each year thereafter, then the said lands shall be forfeited to the United States as provided in section one of this act.

Section one, it will be borne in mind, is the House section, and that section, which was agreed to here, provided originally as follows:

That the said companies or either of them shall fully complete their said railroads in the manner required by law on or before the 1st day of December, 1872, at which time a failure shall forfeit the lands to the United States.

That part was so agreed to here, so that it now stands, so far as the two Houses are concerned, as the law. All that the Senate did was to add a proviso to limit the general language of the descriptive part of the section to two railway lines specially named. Now, the House of Representatives, to add a further proviso giving a specific time a little different to one of these railways, with a provision at the end that if they fail to comply the State of Michigan shall take the lands to be disposed of in the way named by this bill instead of reverting to the United States as the original section already agreed to provides. All that my amendment now does is to strike out these last words and to leave it exactly as the House left it in the first place, that in the case of failure the United States shall have control of the lands; and that is in accordance with all the legislation we have passed heretofore. I hope there will be no objection.

Mr. CHANDLER. The effect of this amendment, as will be seen at a glance, would be, in case this company fail to take the lands from the State, to make them revert back to the Government. All the State of Michigan asks in this particular is that in case the company she has now selected as her agent to build this road shall fail she may be permitted to select another agent who she believes will complete

the road. It is a mistake to suppose this is really a donation from the Government. There are six or seven hundred miles of vacant lands entirely worthless to-day to the Government in the northern portion of the State of Michigan, certain alternate sections of which are given to the State of Michigan to finish this road. These lands are utterly worthless to the Government until the road is built. The moment the road is built the half belonging to the United States immediately becomes valuable to the Government, so that the Government has just as much interest as has the State of Michigan in the completion of this road. The company promised to build the road in accordance with the provisions set forth in the amendment. The country is entirely wild, with not a habitation at present for one hundred miles, and yet the lands when opened are valuable. It is as greatly for the interest of the United States as it is for the interest of the State of Michigan that this road should be built and these lands opened up to settlers. If the Senate desire to take back the grant in case this company fails, and not permit the State of Michigan to build the road, of course they will vote for the amendment proposed by the Senator from Vermont; but, if the Senate desire that the road shall be built, they will concur in the amendment of the House of Representatives, which, in my judgment, will insure the building of the road. I hope the amendment of the Senator from Vermont will not prevail, and, if it does, I should prefer that the bill should fail.

Mr. JOHNSON. Mr. President, I believe I understand the bill; I speak under the correction of those who have attended to it more particularly than I have. These lands were given in the first instance to the two States for the purpose of being appropriated by them to the service of the companies to make the two roads in question. That was done. It was then proposed, and is now proposed to extend the time within which the companies are to make the road. That is done by the bill as it now stands in part; but the House have provided that in the event that the companies do not make the road within the extended time the lands shall still be the lands of the two States, and be appropriated by them to the service of some other companies who will make the road. We want the road; that we desire to have made, and it was provided for by the original bill. If Congress thought it was right that these roads should be made in the first instance, and have not changed that opinion, why should not the amendment of the House of Representatives be acceded to? I suppose the effect would be this if we adopted the proposition of the honorable member from Vermont: he proposes that on the contingency of the companies not making the roads within the extended time the lands shall revert to the United States. The two States would come here again and ask that the lands be regranted to those States in order that the roads in part constructed should be completed, so that the improvement, which it is the policy of the United States to provide for, shall be executed. I should think that under these circumstances, therefore, it would be useless to adopt such a provision, and it would be contrary to the policy which governed Congress in the first instance when they granted the lands.

Mr. MORTON. As I before remarked, I have no special interest in this matter; but I have opposed from the first, and I shall continue to oppose, the system of granting away the public domain to railroad companies. The argument of my friend from Michigan and of the Senator from Maryland, who has just spoken, misses the point entirely. It is not whether a railroad shall be built through this vast waste of unoccupied lands in northern Michigan, but the question is this: this proviso allows the State of Michigan to apply the lands to another road between different points. If it be intended that the new company to whom these lands are to be given should construct the road between the same points, why not say so? That is the



point. It clearly leaves the State of Michigan at liberty to build another road between different towns running in a different direction.

Mr. DOOLITTLE. Mr. President, it seems to me that my honorable friend from Vermont is laboring under a great misapprehension if he supposes there is anything contained in the House amendment which would convey these lands absolutely to the State of Michigan, whether the railroad is built or not within the time prescribed. I think it has no such effect, and if gentlemen will give their attention to the statutes I think I can satisfy them of it. All the grant is contained in the original act of 1856, and the words which grant the lands are, "That there is hereby granted to the State of Michigan to aid in the construction of railroads" alternate sections of land, six to the mile, and one of the railroads for which this grant is "from Little Bay de Noquet to Marquette and thence to Ontonagon," with a proviso that the road is to be constructed and completed within ten years.

The State of Michigan has granted the lands to a company to build the road, and the road is not built. Now, Michigan and the railroad company both ask Congress to extend the time, and Congress have passed an act by which they declare not that they grant any new lands, but that the lands already granted shall not be forfeited on account of the road not being completed within the time specified in the statute of 1856, and then the Senate have added one proviso, and the House have added another. The Senate made a provision that this extension of time should be confined to two certain roads that are mentioned within this act, and now the House add a proviso that if the company to whom the State of Michigan have already granted the right to build this railroad shall fail to do it the State of Michigan may give it to another company, which shall build it under this "said grant." What grant? The grant contained in the act of 1856—a grant to build the road and to receive for the building of the road six sections of public land on each side. This provision is not a provision which grants; it is a proviso of limitation. The grant is all contained in the act of 1856, and there is no further power given in this except the extension of time, and the further power given to the State of Michigan, that if this one company to whom she has promised the grant shall fail to comply Michigan may give it to another company; but this other company takes no grant beyond the powers which are contained in the original act except as to time.

Mr. EDMUNDS. Will my friend permit me to ask a question?

Mr. DOOLITTLE. Certainly.

Mr. EDMUNDS. I wish to ask my friend from Wisconsin if the act of 1856 does not provide that on a non-compliance with the conditions of the gift by the railroad company the land shall revert to the United States?

Mr. DOOLITTLE. It does.

Mr. EDMUNDS. I ask what the reason is for making any change from that provision?

Mr. DOOLITTLE. There is no change made from the provision. The lands will revert to the United States unless the railroad be completed within the time to which we extend the period in which the company is to build the road. These lands do not go absolutely to the State of Michigan; that is not the construction of these acts; they only go to the State of Michigan conditioned that the road be built within a certain time. Here is the original grant requiring it to be built within ten years from 1856; but now they come in and ask Congress to extend the time. The Senate passed this bill, extending the time to 1872, and declaring that there should be no forfeiture of the lands under the original act if the road were completed by 1872. To that extension of time the Senate imposed one proviso, and now the House imposes another, to wit: that if the company to whom the grant has already been made shall not go on and build ten miles this year the State may declare it forfeited and

give it to another company who will go on and build the road within the time, so as to secure the building of the road by 1872; and if the road is not built by 1872, by the terms of the original act—and there is nothing in these provisos, to the contrary—the lands will revert to the United States.

Mr. EDMUNDS. Will my friend permit me to ask him a question, as he seems to have great facility in answering?

Mr. DOOLITTLE. Certainly.

Mr. EDMUNDS. I want to know what these last words in this House proviso mean, "may be granted by the State of Michigan to some other company in the same manner as if the said grant was now for the first time made to said State of Michigan."

Mr. DOOLITTLE. I will state to my honorable friend what I think that language means. It means that the said grant may be transferred to another company. What grant? It is this: the act of 1856 provided that "there be granted to the State of Michigan, to aid in the construction of railroads," one of which was "from Little Bay de Noquet to Marquette, and thence to Ontonagon," lands in alternate sections, "for six sections in width on each side of said roads," describing this road and others, with a proviso that they shall be built within ten years. That proviso that they shall be built within ten years is by the act which passed the Senate amended so as to extend the time as to this road to 1872, making, instead of ten years from the original grant, sixteen years; and the proviso that it may be given to another company is only on condition that the company to whom the grant is already made shall fail to do it. The State may then step in and give it to another company to comply with the terms of the act, precisely as if the grant was now made to the State of Michigan for the period, if you please, of six years. Michigan can grant it to one company or grant it to another, or, if one company fails, take it away from that company and give it to another, extending the time not at all beyond six years. My friend cannot claim that there is any extension of time beyond 1872 in these words. It is all limited.

Mr. HARLAN. I desire to ask the Senator from Wisconsin if he will not consent that this bill, with the various amendments, shall go to the Committee on Public Lands?

Mr. DOOLITTLE. My honorable friend will allow me to say that I am not in charge of the bill. My colleague can answer the question. I think it can be disposed of in a moment. ["Vote," "Vote."]

Mr. HOWE. I think we had better take a vote.

Mr. CHANDLER. I think we can dispose of it in a very few moments.

Mr. HOWE. If the Senator from Iowa, the chairman of the Committee on Public Lands, thinks it is important that—

Mr. HARLAN. I am not, I will inform my friend, chairman of that committee, nor am I a member of it; but it occurred to me, as there was a conflict of opinion among the ablest lawyers of the Senate, that it would be well to refer the matter to a committee.

Mr. HOWE. We will settle that in a very few minutes.

Mr. HARLAN. I wish to make a further suggestion. I have a bill that I desire a vote upon, which I think will not elicit debate; and there is another bill of great importance to be pressed; and, as there is a conflict of opinions as to the meaning of phraseology, I think it best to settle it in committee. I will not, however, press my motion if the vote can be taken soon.

Mr. CHANDLER. I think we can vote in five minutes. I think there is nothing more to be said.

Mr. SHERMAN. I will submit a motion that this bill be referred to the Committee on Public Lands. I think that is the most rapid way.

Mr. CHANDLER. I hope not. It is a clear case.

Mr. SHERMAN. I know nothing about the bill.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to refer the bill to the Committee on Public Lands.

Mr. CHANDLER. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 9, nays 26; as follows:

YEAS—Messrs. Anthony, Edmunds, Fessenden, Frelinghuysen, Harlan, Morton, Sherman, Willey, and Wilson—9.

NAYS—Messrs. Buckalew, Cattell, Chandler, Conkling, Conness, Davis, Dixon, Doolittle, Ferry, Henderson, Howe, Johnson, McCreery, Morgan, Norton, Ramsey, Ross, Sprague, Stewart, Sumner, Tipton, Trumbull, Vickers, Wade, Williams, and Yates—26.

ABSENT—Messrs. Bayard, Cameron, Cole, Corbett, Cragin, Drake, Fowler, Grimes, Hendricks, Howard, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Saulsbury, Thayer, and Van Winkle—19.

So the motion to refer was not agreed to.

Mr. EDMUNDS. My friend from Wisconsin [Mr. DOOLITTLE] says that what he wants, if I understand him, is that these lands at the expiration of the time, 1872, shall revert to the United States unless the road is built. That, he thinks, is the construction of it now—that certainly is what the original House bill said; and now all that my amendment proposes to do is to say exactly that; to say that if they do not complete these spaces of road of ten miles in a year, at the end of the time granted, the land shall revert to the United States. What I propose to add in the place of what is said in the House proviso is the words, "the said lands shall be forfeited to the United States, as provided in section one of this act, at the expiration of said time." That is exactly, if I understand my friend from Wisconsin, what he says he wants and what he thinks the language means now. If it does mean that now, where is the objection to adding words which shall make it certain? We have had recent experience, and we shall have a good deal more if things go on, of the danger of leaving uncertain language in a bill when you can provide words that will make it certain; because, if you do that thing, a year or two hence the Congressional Globe will be looked at to find out what the law means instead of the statute itself.

Now, I put it to my friend from Wisconsin, where is the objection, on his own statement, to saying in distinct terms that if this company fails to build its ten miles a year in the regular way up to the last time, 1872, if that be the year, the lands shall then revert to the United States, just as the section of the House bill as it was sent to us in the first place said; just as we agreed to it; just as it stands in the section now, and just as all the laws have provided? If there is any objection to it I should like to have it stated. I understood him to say that that is what it means now.

Mr. DOOLITTLE. Mr. President, I do understand that the lands will revert to the United States if the road is not completed at the end of 1872. The House of Representatives have put on the bill this amendment, which will authorize the Legislature, in case the company from year to year fail to construct any one section of ten miles, to forfeit the rights of the company to whom the grant has been given, and to give the grant to a new company; and I suppose the House put that proviso in for the purpose of enabling the State of Michigan to compel the building of the road, as if one company do not build it they can give it to another. That I suppose to be the purpose of that amendment, and the amendment being that, it seems to me it is perfectly right and proper to pass the bill as it comes from the other House. If an amendment is now added, it must go back to the House again, and it is doubtful if there is any quorum of the House. There are various reasons why it is desirable to finish legislation of this kind at some reasonable time. I understand that the true construction of all the acts and amendments put together is not to extend the grant to the State of Michigan beyond 1872.

Mr. CHANDLER. Mr. President, the Sen-

ator from Wisconsin has stated this case precisely as it stands. Not one inch of these lands accrues to the State of Michigan until the road is built. As the road is built the lands accrue to the State of Michigan, and at the end of the time to which this grant is extended of course they revert to the United States if the road be not constructed, because they never come in possession of the State of Michigan until the road is built. I hope the vote will be taken now, and that the amendment of the House will be concurred in.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont to the amendment of the House of Representatives.

Mr. CHANDLER. I hope that will not prevail.

Mr. EDMUNDS called for the yeas and nays, and they were ordered.

Mr. HOWE. Let the amendment be read.

The PRESIDENT *pro tempore*. The amendment to the amendment will be reported.

The CHIEF CLERK. The Senator from Vermont [Mr. EDMUNDS] proposes to strike out of the amendment of the House of Representatives the words "it shall be lawful for the Legislature of the said State of Michigan to declare the grant of land to said company to be forfeited, and to confer the said grant of land upon some other company in the same manner as if the said grant was now for the first time made to said State of Michigan," and in lieu thereof to insert "the said lands shall be forfeited to the United States, as provided in section one of this act, at the expiration of said time."

Mr. WILLIAMS. I think it is a little difficult to understand exactly the meaning of the amendment attached to the bill by the House of Representatives. I should judge that, so far as the time is concerned, the State would have as much time to construct the road after it declares a forfeiture as it had when the original act was passed. Suppose in 1869 the company named in this bill fails to complete ten miles of road, and the State declares the grant to that company forfeited, then I understand that the State may give this land to another company, and that company will have the same time from that date for the completion of the road as the State had from the time when the original bill was passed.

Supposing that to be the meaning of the amendment, I do not know that I have any particular objection to it; because I do not conceive it to be very material as to the time in which these roads are constructed, further than that they ought to be constructed as soon as they conveniently can be for the good of the public, and there ought to be inducements for the construction of the roads with all possible expedition, and there ought to be penalties incurred if a company to whom lands are committed does not construct the road with as much dispatch as possible.

So far as the other question made by the Senator from Indiana is concerned, it seems to me that the amendment may be construed as the Senators from Wisconsin say; but it would be much more definite if the words "for the same purpose" were inserted in that amendment; so as to read "in the same manner and for the same purpose as specified in the original act." Then, of course, if the Legislature of that State, in case the company now constructing the road should forfeit the lands, should confer the grant on another company, they would be bound to use the lands for the same purpose for which the present company are bound to use them; and I would much rather have that amendment made to this section proposed by the House, if there be no objection. Of course that requires further action by the House; but this amendment as it stands now is indefinite, both as to time and as to object, and if there be any way in which more particularity can be attained I should think it would be very desirable, for as it now is it leaves this question open to a lawsuit that may hereafter arise between the conflicting companies under the legislation of the State.

Mr. POMEROY. I only wish to reply in a word to the Senator from Oregon, that if this line of road is not completed the State cannot take alternate sections and use them for the construction of any other line, because the alternate sections are from a definite line, and they will not know what sections to take if they build the road somewhere else. There is no alternate section to count from a given line, unless there is a line and unless a road is on that line. We cannot take a land grant where the sections are not named. The grant is only of alternate sections from a given line, and you cannot take those sections unless there is a line by which to designate the sections. Therefore these lands cannot be used for a road anywhere else.

Mr. EDMUNDS. Mr. President, I wish to say a word in reply to my friend from Oregon, and I shall occupy the time of the Senate but for a moment. This original act did not give these lands to the State of Michigan for the benefit of any specific railroad company, as would seem to be implied in this last House proviso, which is to give the State of Michigan the right to dispose of them to some other company. It gives them to the State of Michigan for the purpose of constructing a particular line of railway from one point to another; that is to say, so far as this part of the act is concerned, a railroad from Marquette to Ontonagon in that State. That was our grant to the State of Michigan, of land for a purpose and not of land for a party.

Now, the House of Representatives come in with this last proviso after we have passed their original bill providing for extending the time within which this purpose shall be accomplished, still leaving it to the State to select their own agents to do it with, and providing that if a particular company do not make use of that grant within a specified time then the State of Michigan shall have a right to dispose of the land to some other company at her free will and pleasure.

My friend from Oregon, therefore, will see that his remarks do not apply to the case as it really exists under the original grant. And all I ask the Senate to do is to provide that when at last they reach the ultimate period of time which Congress has consented to go to for the devotion of these lands to the purpose, Congress shall then have it in its power to provide what shall be done with the lands; and that, my friend from Wisconsin says, is exactly what he wants to accomplish, and hence I hope he will vote for my amendment.

Mr. CHANDLER. I do not wish to occupy the time of the Senate, but the State of Michigan has no power to use one inch of the land except upon that particular line. All there is reserved in this bill to the State is that if their agent does not do this work she may select another. But should the amendment of the Senator from Vermont prevail, then I should desire that the bill might be defeated. The lands cannot be taken except upon that particular line, and not an inch of them can be taken except when the road is completed. This simply gives the State of Michigan power to compel that company who now have the grant to build the road, or, if they fail, to give it to some other company.

Mr. WILLIAMS. I should like to ask the Senator one question for information. How much time will the State of Michigan have in which to complete this road from the time of the forfeiture of this grant to the company that is now engaged in the construction of the road? Suppose in 1869 this company fails to make ten miles of road, and the lands then revert to the State under this amendment, how long from that time will the State have in which to complete the road? That is the question.

Mr. CHANDLER. Eighteen months—a year and a half.

Mr. WILLIAMS. Is that all?

Mr. CHANDLER. That is all. Sir, I ask for a vote.

The PRESIDENT *pro tempore*. The ques-

tion is on the amendment proposed by the Senator from Vermont to the amendment of the House of Representatives.

Mr. MORTON. I should like to ask the Senator from Wisconsin or the Senator from Michigan how much time was allowed for the construction of this road when the grant was first made in 1856?

Mr. CHANDLER. Ten years.

Mr. MORTON. I ask whether if this grant is now to be considered as having been just made to a new company by the State of Michigan that company will not have ten years within which to complete it?

Mr. CHANDLER. No, sir. The time is extended eighteen months; one year and a half only.

Mr. JOHNSON. That is all.

The question being taken by yeas and nays, resulted—yeas 8, nays 28; as follows:

YEAS—Messrs. Anthony, Conkling, Edmunds, Ferry, Frelinghuysen, Morgan, Morton, and Williams—8.

NAYS—Messrs. Buckalew, Cattell, Chandler, Conness, Cragin, Davis, Dixon, Doolittle, Drake, Harlan, Henderson, Howe, Johnson, McCreery, Norton, Patterson of Tennessee, Ramsey, Ross, Sherman, Sprague, Sumner, Tipton, Trumbull, Van Winkle, Vickers, Wade, Willey, and Wilson—28.

ABSENT—Messrs. Bayard, Cameron, Cole, Corbott, Fessenden, Fowler, Grimes, Hendricks, Howard, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Saulsbury, Stewart, Thayer, and Yates—18.

So the amendment to the amendment was rejected.

Mr. CONKLING. Mr. President, as one of this small and hopeless minority, I beg now to ask a question of the Senator having this bill in charge and having special knowledge. Is it the understanding of the Senator from Wisconsin [Mr. Howe] that the amendment, as it is, confines the ultimate application of this land to the construction of a road between the termini now existing?

Mr. CHANDLER. Certainly.

Mr. HOWE. I have not the slightest question about it. The Senator from Maryland, who has looked at the phraseology, has not the slightest doubt about it. The chairman of the Committee on Public Lands says the same thing.

Mr. CONKLING. Then I ask the Senator whether there is any objection to inserting in the amendment words appropriate to render that meaning visible and unmistakable?

Mr. HOWE. All the objection I see to that in the world is, that if we experiment with new words there will be danger of meeting objections from somebody. If the Senator from New York would look at the phraseology used in the amendment and say that it was possible for the State of Michigan to apply that land to a new grant, then, he being a lawyer, I should admit there was propriety in trying some other words and seeing whether they were objected to; but I cannot think, if he will look at this language, that he will see it is possible to have any doubt.

Mr. CONKLING. The Senator from Wisconsin, by informing me that he has no doubt himself and that the Senator from Maryland has no doubt, presents to me an alternative which I certainly ought not to accept when he proposes that I should presume to differ from such authority; and it seems to me that it is not practically very important that any member of the Senate should feel more or less confident on this subject. Certainly for abundant caution words can be inserted there which admit of no mistake whatever and will be open to no criticism except that they are surplusage. Now, if by the insertion of these words the concurrence of the Senate can be obtained and no right shall be impaired, I do not see why we should not amend in that way; and therefore I beg the Senator from Wisconsin, who knows so much more about it than I do and who can make the suggestion in better form than I can, to propose, without striking anything from the bill, to insert after the language, whatever it may be, allowing the State of Michigan to re-dispose of these lands, a proviso that that ultimate devotion of the lands shall be to this

same purpose of constructing a road between these same termini. I do not think there can be any objection to that; and if the Senator will be kind enough to suggest such words as will be appropriate to that, I shall be glad; if he does not, I shall endeavor to do it myself, but the Senator can do it a great deal better.

Mr. HOWE. I will say to the honorable Senator from New York that I have been more or less familiar with statutes for a good many years, and in all that time I have never discovered any words that cannot be criticised, and therefore I should not like to undertake myself the task that he proposes, and I should ask him as a particular favor that he would not attempt it. But if the Senate are dissatisfied with this language, and if the Senate think that under this amendment the State of Michigan could take this grant and apply it to any road in the universe except the road provided for in the original grant, let them non-concur in this amendment, and let it go to a committee of conference. I wish they would concur; but if they will not, that is the cheaper way. All I care about its not going to a committee of conference is the loss of time, because we do not seem to be running very smoothly.

Mr. CONKLING. Mr. President, I have so much confidence, not only in the judgment of the Senator, but in the correctness of his intentions always, that I will not propose any amendment about this matter, in deference to his expression of a wish on that subject. But if I may, without interfering with this bill, make the motion that was suggested for a committee of conference, with the understanding that I shall not be on that committee—I have no knowledge of the subject, and I should be very sorry to be on such a committee—I shall be very glad to submit that motion; for it seems to me that, having been doubted as to its meaning, that fact alone, which will appear upon the records, makes it worth while to put an end to all cavil when it is so easy by a slight variation, perhaps, to remove all doubt. I move, therefore, that the Senate non-concur in the amendment of the House of Representatives and ask for a committee of conference, with the understanding, as I said, that I am not myself to be a member of the committee.

The PRESIDENT *pro tempore*. It is moved that the Senate non-concur in the amendment of the House.

Mr. CHANDLER. I hope not. I hope the Senate will concur.

Mr. DOOLITTLE. The precise question before the Senate is on the motion that we concur with the House amendment. That is the question pending. A motion to non-concur is only putting the same question in another form.

Mr. CONKLING. That is all true; but everybody understands that a double motion to non-concur and confer with the House is a very different thing from simply non-concurring and then leaving the bill to the mercy of the winds and waves after that. Therefore for brevity, and at the suggestion of the Senator from Wisconsin, if any motion is to be made, it seems to me that is the true one.

Mr. HOWE. The Senator from New York misunderstands me. I did not mean to suggest that motion at all; I asked him to consent that the Senate should come to a vote on the question of concurring; and if the Senate would not concur, as I hoped they would, then I said we could non-concur and let a committee of conference do what he asked me to do, which I did not like to do.

Mr. DOOLITTLE. I suggest that the first vote is on concurring. If we do not concur we can then non-concur and ask for a committee of conference.

The PRESIDENT *pro tempore*. That is the natural order.

Mr. CONKLING. I certainly withdraw the motion if Senators prefer it in that form. The only difference is that it gives us two votes to accomplish the same result.

The PRESIDENT *pro tempore*. The ques-

tion is on concurring in the amendment of the House of Representatives.

The amendment was concurred in.

#### SURVEY OF INDIAN RESERVATIONS.

Mr. HARLAN. I move now that the Committee on Appropriations be discharged from the further consideration of Senate bill No. 170, and that the Senate proceed to consider it.

Mr. CONKLING. What is the title of the bill?

Mr. HARLAN. It is a "bill to provide for deficiency of expenses incurred in the survey of Indian reservations."

Mr. HOWE. I understand that this is a motion to discharge the Committee on Appropriations from the consideration of this bill.

The PRESIDENT *pro tempore*. That is the motion.

Mr. HOWE. I wish to say, in justice to the Senator from Maine, [Mr. MORRILL,] who is chairman of that committee, that he is not able to be in the Senate to-day by reason of ill health; and as I do not know anything about this matter myself, I shall have to ask the Senator from Iowa to justify his motion to the Senate.

Mr. HARLAN. I conferred with the Senator from Maine on Saturday, and have his full concurrence in making this motion. The bill, in the first place, was examined by the Committee on Public Lands, reported on favorably, was considered in the Senate for some time, and on the suggestion of the Senator from Maine, the chairman of the Committee on Appropriations, I consented that it should go to that committee for reconsideration, and it was sent to that committee last January. They have had it in their possession up to this time. They see no objections to the body of the bill; but they have written out some amendments—a trivial amendment, I believe, to the body of the bill, and some amendments to the amendments that the Senate agreed to when it was under consideration before. I do not make this motion, therefore, to disparage that committee in any way, but with the full concurrence of the chairman of that committee. It is a bill of some interest to people living in my State who have done this work, and the money is in the Treasury, the proceeds of the sales of the lands they surveyed, to pay for the work in pursuance of the provisions of treaties under which the surveys were made; but the First Comptroller has decided that he cannot make payment for this work until an appropriation shall be made.

Mr. TRUMBULL. Mr. President, I hope this will not be done. We have bills upon our table that are pressing upon us, and here is a bill not before us; a motion is made to discharge a committee which has under its consideration a bill relating to appropriations to pay for surveys. I know nothing of the particular bill, and have no objection to it, because I know nothing about it; but it has not been reported by the appropriate committee. Here we have a bill that is pressing upon us, and which everybody in the Senate, I believe, agreed on Saturday ought to be acted upon, and I hope the committee will not be discharged, but that we may proceed to consider the bill to admit the State of Arkansas to representation in Congress.

#### PROPOSED RECESS.

Mr. DRAKE. I rise to what I believe is regarded as a privileged question at all times in the Senate. I move to reconsider the vote of the Senate on Saturday last upon the resolution of the House of Representatives to take a recess.

Mr. HARLAN. I suppose the Senator has a right to enter that motion as a privileged question; but I shall object to its consideration until the question is taken on the motion that I have made.

Mr. DRAKE. I will state as a reason why my friend from Iowa should not object to its consideration at this time, that in order to get the resolution before the Senate it is necessary to send a message to the House of Represent-

atives asking them to return it to us. I doubt if there will be much objection in the Senate to reconsidering it for that purpose, for the purpose of bringing it back here; and I ask my friend from Iowa to withdraw his objection to it.

Mr. SUMNER. I would inquire if the resolution is out of the custody of the Senate?

The PRESIDENT *pro tempore*. It is out of the custody of the Senate. It has gone to the House. I suppose a motion requesting the return of the resolution would be in order.

Mr. DRAKE. I move, then, that the House of Representatives be requested to return the resolution to us.

Mr. TRUMBULL. That is not in order when another matter is pending.

Mr. DRAKE. We cannot reconsider it without that.

The PRESIDENT *pro tempore*. The motion is not a motion to reconsider, but to request the return of a paper. The Chair is of opinion that that is always in order.

Mr. TRUMBULL. Then I suggest to the Senator from Missouri that, according to my recollection of the matter, the time fixed for adjournment by that resolution has already transpired.

Mr. SUMNER. It can be amended.

Mr. TRUMBULL. What object is there in getting that particular resolution? If it is desirable to take a recess, and you are going to amend that resolution, why not adopt a resolution here? I see no object in sending to the House to bring back a resolution which fixes a time already expired. We gain nothing by that. If the object of the Senator from Missouri is to move a recess, it can be attained just as well by passing a resolution without sending to the House for the other resolution.

Mr. DRAKE. Very well; I withdraw that motion, and move that when the two Houses adjourn this day they adjourn to meet on next Monday.

Mr. TRUMBULL. That will not be in order now.

The PRESIDENT *pro tempore*. That is not a privileged motion.

Mr. SHERMAN. The Senator from Missouri may be misled by what was stated by the Senator from Illinois, because a new resolution cannot be introduced and acted upon on the same day against a single objection, and therefore the only mode to reach the question, if it is desired to reach it, is in the mode originally suggested.

Mr. TRUMBULL. I will say to the Senator from Ohio that I do not wish to make a single objection.

Mr. DRAKE. I will return to my original proposition, and move that a message be sent to the House of Representatives requesting the return to the Senate of the resolution providing for a recess.

The motion was agreed to.

Mr. DRAKE. Is it now in order, before the resolution comes back, to move the reconsideration?

The PRESIDENT *pro tempore*. No; that motion cannot be made until the resolution is here.

Mr. DRAKE. Then I will await its return.

#### EXPENSES OF INDIAN SURVEYS.

Mr. HARLAN. I hope the question will now be put on the motion I made a few moments ago.

The PRESIDENT *pro tempore*. The question is on discharging the Committee on Appropriations from the further consideration of the bill mentioned by the Senator from Iowa.

The motion was agreed to.

Mr. HARLAN. I now move that the bill be taken up for consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 170) to provide for deficiency of expenses incurred in the survey of Indian reservations.

The PRESIDENT *pro tempore*. The bill will be read.



Mr. HARLAN. The bill has been read through and amended heretofore.

The PRESIDENT *pro tempore*. The bill will not be read unless the reading is called for by some Senator.

Mr. POMEROY. It has been read. I desire to move an amendment to the amendment agreed to by the Committee on Appropriations.

The PRESIDENT *pro tempore*. The amendments heretofore made have all fallen by the recommitment of the bill, and consequently the Senate are acting on the original bill.

Mr. EDMUNDS. I dislike to interfere with this bill or any other, because it seems to disturb our equable relations here; but I wish to suggest to the Chair that I do not know of any rule of parliamentary law by which an amendment agreed to, which becomes a part of a bill, goes out of it when it is referred. I beg the Chair to reconsider that question. I do not know that it is of any consequence on this particular bill.

The PRESIDENT *pro tempore*. The Chair is of opinion that all amendments made to a bill, when it is recommitted, fall with the recommitment.

Mr. EDMUNDS. After they have been agreed to?

The PRESIDENT *pro tempore*. After they have been agreed to. The whole question is open to the committee, and when they report it back it is without amendment unless they make amendments anew.

Mr. POMEROY. This bill was reported from the Committee on Public Lands, and under one of the new rules of the Senate went to the Committee on Appropriations, and I apprehend it is not true under our new rule, when we send a bill which has been agreed to in committee to the Committee on Appropriations, that then the amendments that have been agreed to fall. This sending of a bill to the Committee on Appropriations is a new feature of our legislation, and has been required only a short time by a rule. It is a mere matter of form, for the general protection of appropriation bills, that all bills, whether they are reported from one committee or another, if they appropriate money, shall now go to the Committee on Appropriations. This bill was referred, under the rule of the Senate and upon a motion to that effect, to the Committee on Appropriations. The committee have had it before them for some time, and have agreed to certain amendments to the amendments that were sent to them. Now, if the amendments fall by the reference to that committee, how can you report from this Committee on Appropriations amendments to those amendments, which they have done?

The PRESIDENT *pro tempore*. I suppose the object of sending the bill to the committee was to leave it all open to them to adopt the amendments or amend them as they saw fit. It is all open to the committee, in the opinion of the Chair.

Mr. EDMUNDS. As this is a question of considerable practical importance, I hope the Chair will permit me to make a suggestion, although the Chair has suggested its opinion. It appears to me to be plain—and I think the Chair will find the parliamentary law is so—that after an amendment is adopted it ceases to be an amendment and becomes a part of the text of the bill. An amendment that is not adopted, on a reference of course falls, and the committee can report anything that it pleases; but when an amendment is once agreed to it becomes just as much a part of the bill as if it had been written in the bill itself. When sent to a committee I do not deny but what the committee can make an amendment to that, which is an entirely different thing. I say this with all respect to the Chair; but I think I am right.

The PRESIDENT *pro tempore*. There is a rule on that subject. Perhaps the Chair may be mistaken in the construction of the rule; but that is the idea of the Chair.

Mr. HARLAN. No appeal has been taken from the decision.

Mr. POMEROY. The rule relates to all general appropriation bills. My own opinion is, although it was not the opinion of the Senate, that this bill did not properly come under that rule, because it was not a general appropriation bill, but a sort of special appropriation bill for a distinctive service—surveys. This being a special appropriation bill, I think it did not come under the rule relating to general appropriation bills; but the Senate, when the bill was up before, thought otherwise, and sent it to the Committee on Appropriations. Now, I apprehend it was proper for that committee, after the bill had been sent to them amended, to suggest any other amendment, and I have one which is an amendment to an amendment heretofore agreed to.

Mr. HARLAN. This bill is in Committee of the Whole, and, as I understand it, we can gain time by reoffering the amendments, if the Senate should think it advisable to put them on, though I hope the amendments may all fail that were put on in the Senate when the bill was under consideration heretofore. If it is in order, I move to amend the bill as indicated in the paper which I send to the Chair.

The PRESIDENT *pro tempore*. It is the desire of the Chair that the question which has been raised should be set right.

Mr. POMEROY. I should like to have a distinct understanding, in the first place, whether the amendments agreed to by the Senate heretofore are a part of the bill?

The PRESIDENT *pro tempore*. That is what we wish to ascertain, and we wish to have it decided right by the rules. I do not think this matter is provided for in the written rules of the Senate, but it is in the general principles of parliamentary law, as the Chair understands, that the reference of a bill with amendments to a committee opens the whole subject to the consideration of that committee, and they can report it back with those amendments or any others that they see fit to make. They are not bound by the amendments that were even agreed to at the time it was referred.

Mr. POMEROY. This bill does not come under that rule, because it has not been reported back. The committee have been discharged from its further consideration by a vote of the Senate.

The PRESIDENT *pro tempore*. That may change it.

Mr. POMEROY. And it comes to us now in precisely the same shape that it was before it went to the committee at all.

The PRESIDENT *pro tempore*. Let the rule be read.

The CHIEF CLERK. On page 90 of Jefferson's Manual is found the following:

"After progress in amending a bill in quasi committee, a motion may be made to refer it to a special committee. If the motion prevails it is equivalent in effect to the several votes that the committee rise, the House resume itself, discharge the Committee of the Whole, and refer the bill to a special committee. In that case the amendments already made fall."

Mr. EDMUNDS. There is no doubt about that, because the amendments were adopted there in committee and not by the body. Here these amendments were agreed to by the body itself.

The PRESIDENT *pro tempore*. The Chair did not take into consideration one circumstance: in this case the committee were discharged from the further consideration of the bill, which left it probably as it went to them. The Chair will consider the amendments as standing, because the committee have been discharged, have had nothing to do with the bill. It therefore comes back in the same form that it went to them; but, if they had reported it back, it would have been subject to their remodeling from its foundation.

Mr. POMEROY. That being the case, the bill being before the Senate as in Committee of the Whole and open to amendment, I desire to move an amendment.

The PRESIDENT *pro tempore*. The amendment will be read. The amendments heretofore made will be considered as adopted.

Mr. HARLAN. Before that amendment is

put I desire to amend the text of the bill as originally introduced.

Mr. POMEROY. I have no objection to that.

Mr. HARLAN. I move to amend the bill in section one, line five, by striking out "\$26,862 93" and inserting "\$27,980 51"; so that the section will read:

That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$27,980 51, or so much thereof as may be necessary, to pay balance due for the survey of lands embraced in the Osage Indian reservation and the Cherokee neutral lands, in the State of Kansas, under contracts dated respectively August 14 and 16, 1866, the said sum to be returned to the Treasury out of the proceeds of the sale of said lands, as provided by treaties with said Indians.

I make this motion in pursuance of a letter written by the Commissioner of the General Land Office. If it should be adopted it will be the exact amount found to be due.

The amendment was agreed to.

Mr. POMEROY. I move to amend the bill in section three, lines two and three, by striking out "\$62,015" and inserting "\$39,014 63." The amount appropriated by this section as it was adopted by the Senate I have found is too large, and this amendment reduces it about one half. All this money is to be paid out of the proceeds of the sales of the lands, and there has been received up to this time from the sales of the lands \$23,000. I offer this amendment, reducing the sum appropriated from \$62,015 to \$39,014 63.

Mr. SHERMAN. I should like to have the third section read as it will stand if amended.

The Chief Clerk read as follows:

SEC. 3. And be it further enacted, That the sum of \$39,014 63, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not heretofore appropriated, to pay for the survey of the Osage Indian trust lands ceded to the United States under treaty concluded September 29, 1865, upon a contract made with the General Land Office under date of September 18, 1866, and another contract for another portion of said trust lands, dated May 28, 1867; which survey is according to the provisions of the second article of treaty concluded with said tribe September 29, 1865.

The amendment was agreed to.

Mr. RAMSEY. I move further to amend the bill by adding the following as an additional section:

SEC. 4. And be it further enacted, That there be, and is hereby, appropriated out of any money in the Treasury not otherwise appropriated, the sum of \$3,362 04, to pay the balance due for the survey of lands embraced in the Omaha and Winnebago Indian reservations in the State of Nebraska, under contract dated August 14, 1866, as provided by a treaty with the Omaha Indians, and authorized by the act of Congress approved July 28, 1866.

The Senate will remember that this matter was before them some time ago when this bill was under consideration, previous to its reference to the Committee on Appropriations. They have agreed to it, and I think the Senate has no objection to inserting it.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. EDMUNDS. I hope I shall not be thought as interfering with a matter that does not belong to me if I ask the chairman of the Committee on Public Lands how much of the money that is appropriated by this bill is due to these contractors now by force of the contract, and how much of it is due and payable out of the proceeds of sales which have not yet been made?

Mr. POMEROY. I understand it all to be due to the contractors now; that is, the work is all done, and their accounts are in.

Mr. EDMUNDS. My friend does not understand my question. My question is, how much of this money, by contract with the surveyor, was to be paid out of the proceeds to be derived from the sales of the lands where the lands have not yet been sold and the proceeds have not come into our possession.

Mr. HARLAN. I can answer the Senator's question, with the leave of my friend from Kansas. Nearly all of it will be paid ultimately from the proceeds of the sales of the lands. A large part of it is now in the Treas-

ury. This embraces several tracts of land. It embraces what are known as the Cherokee neutral lands, and there is in the Treasury now, and has been for nearly two years, \$25,000 from the proceeds of the sale of those lands. It also embraces a tract of land on the east end of the Osage reservation. Sales of those lands have been made to a sufficient amount to pay the whole amount included in this appropriation bill.

Then, with regard to another item, the second section of the bill, being an amendment which was agreed to by the Senate some time since, a considerable portion has been paid out of the proceeds of the sale of the lands, which induced the Senator from Kansas to make the amendment which he has suggested. There is no mode of paying the money included in the last amendment suggested by the Senator from Minnesota for paying for the Omaha reservation. It is a direct appropriation from the Treasury, and there is no means of restoring it to the Treasury again; but ultimately the whole of the residue will be paid from the proceeds of the sales of the lands that belong to the Indians.

Mr. EDMUNDS. Do I understand my friend from Iowa to mean that this appropriation, all of it, is now payable out of the proceeds already received, except the amendment offered by the Senator from Minnesota?

Mr. HARLAN. No, sir; not the whole of it.

Mr. EDMUNDS. What I asked was to get what share of it was being advanced by the Government now and what share is already received from the proceeds of sales, which, by the contracts, are to furnish the money to pay with.

Mr. HARLAN. All that part of it included in the original bill is now in the Treasury as proceeds from the sales of the lands, as I understand from the Commissioner of the General Land Office, and they are receiving from day to day from the sales of the lands to cover the expenses included in the second section of the bill. A part of it has been received and part has not been, but is coming in as proceeds of the sales of lands. For the last section I believe nothing ever will come in.

Mr. EDMUNDS. How much money do we appropriate, then, for which as yet we have received nothing?

Mr. HARLAN. I suppose about thirty or forty thousand dollars.

Mr. EDMUNDS. And that money by the contract with the contractors was payable out of the proceeds of the sales of the lands, was it?

Mr. HARLAN. The contracts run in this way, to be paid out of the proceeds of the sales of these lands unless sooner appropriated by Congress.

Mr. EDMUNDS. Then Congress was not obliged to appropriate?

Mr. HARLAN. Not at all, if they choose not.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made in Committee of the Whole. Shall the vote be taken on the amendments collectively or separately. ["All together."]

The amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### PERSONAL EXPLANATION.

Mr. HARLAN. I rise to a personal explanation, and I ask the general consent of the Senate to make it. I desire the Secretary to read a paragraph from the newspaper which I send to the desk.

Mr. POMEROY. What newspaper?

Mr. HARLAN. The Baltimore Sun.

Mr. CONNESS. Is it an editorial or correspondence?

Mr. HARLAN. Correspondence.

The Chief Clerk read as follows from the Baltimore Sun of to-day:

"While the doubt and anxiety existed on Friday night about the position of Senator WILLEY upon

impeachment Senator HARLAN telegraphed Bishop Simpson, of Philadelphia, in these words: 'I fear Brother WILLEY is lost.' To which the bishop replied: 'Brother WILLEY professes to be a Christian. Brother WILLEY has a soul to be saved. He cannot barter away his soul and imperil the country. Pray with Brother WILLEY.' And it is said Brother HARLAN prayed with Brother WILLEY."

[Laughter.]

Mr. HARLAN. Mr. President, I have never, since I have had the honor of occupying a seat here, noticed anything said of myself in the newspapers, and I would not now if I alone were referred to. I do not refer to this now on account of my friend from West Virginia, [Mr. WILLEY,] for he knows, as I do, that there is not a word of truth in this statement; but I wish to say a word in justice to the eminent gentleman referred to by this correspondent of the Baltimore Sun. I have had no communication, either orally or in writing or by telegraph, with that distinguished citizen since the impeachment investigation began, and never on that subject at any time or place.

Mr. JOHNSON. You do not suppose anybody believes it?

Mr. HARLAN. I supposed no one did believe it; but I feared it might wound his feelings.

#### NATIONAL LIFE INSURANCE COMPANY.

Mr. PATTERSON, of New Hampshire. I move that the Senate take up Senate bill No. 286 and act upon it at this time. It will take but a few moments.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 286) to incorporate the National Life Insurance Company of the United States of America.

The Chief Clerk commenced the reading of the bill, but was interrupted by

Mr. TRUMBULL. Before the further reading of the bill I move to postpone its consideration with a view of proceeding to the consideration of the bill which I indicated this morning, to admit the State of Arkansas to representation in Congress. I have sought all the morning to obtain the floor to move to take up that bill. There certainly was a disposition on Saturday to take action upon it, and there is every reason why we should act upon it. The bill that is now under consideration is for the incorporation of a company. There can be no special urgency about it. It may wait. But there is an urgency that a Legislature assembled at Little Rock, in Arkansas, and awaiting our action, should have some recognition. We informed the people of Arkansas that if they would organize a State government in conformity to certain conditions which we proposed, we would recognize that State government. They have undertaken to form one, have been engaged in it for months, have called a convention, have formed a constitution, have submitted that constitution to the people, and it has been ratified. The Legislature has assembled. It has elected Senators and has also ratified the constitutional amendment. Now, can we refuse to take action in regard to that state of things? The House of Representatives have acted. They have sent us a bill upon the subject. It was referred to the Committee on the Judiciary. It has been reported back by the committee favorably. The Senator from Ohio [Mr. SHERMAN] the other day sought to pass the bill without a reference at all, such was the urgency; and now, after it has been referred and considered and reported upon, I do not know what excuse there is for non-action.

Mr. CONNESS. Let us get a vote.

Mr. TRUMBULL. Well, I move to postpone the bill under consideration and proceed to the consideration of the bill which I have indicated.

Mr. PATTERSON, of New Hampshire. I trust that will not be done. The bill which I have called up has been a long time upon our table. I reported it some six weeks or two months ago from the Committee on the District of Columbia. The parties who are interested are deeply concerned to have the bill passed at once. It will take but a few minutes to dis-

pose of it, I think. It cannot lead to much discussion, if any; and I suppose the gentleman from Illinois knows very well that the bill which he urges is of such a nature that he will hardly get it through in one or two days. It is not to be passed in a hurry; it is not to be passed in an hour; he will find opposition to the bill; and it seems to me that we might as well pass this little bill and then take up his bill.

Mr. TRUMBULL. In reply to that suggestion I desire to say, if there is opposition let us meet it. There has always been opposition to these reconstruction measures. But if there is to be opposition to this bill, to last an hour or two hours, or a day or two days, for one I am ready to begin at once. Let us see what the opposition is. If the bill is not perfect, perfect it; but let us commence it and adhere to it until we finish it. I certainly think it is a measure that Congress is committed to, to give consideration to at least; and I will say that the Senator from New Hampshire is bound to support it. I have no opposition to the bill which he has called up. I would not have made this motion if I could have obtained the floor to move to take up the bill before. I have made several efforts this morning to obtain the floor, but was unfortunate; and this is the only way by which I could submit the motion to the Senate. It seems to me that we are committed before the country. The condition of things in Arkansas is such, as we understand it, that disorders prevail; the people do not know what government to recognize; do not know whether this Legislature which is assembled and has elected Senators is the legitimate Legislature of the State; that Legislature is waiting; the members elected by the people to the House of Representatives and by the Legislature to this body are here in Washington. What reason can be given for non-action on this bill? In my judgment it affords no reason to say that this measure will encounter opposition. I have no reason to suppose that there will be any less opposition to-morrow than to-day; and having been from the beginning earnestly in favor of an early reconstruction of these States, believing it the most desirable and important business upon which Congress can enter, for one I am unwilling to lay it aside on the suggestion that opposition is to be made to it.

During the course of Mr. TRUMBULL's remarks a message was received from the House of Representatives, by Mr. LLOYD, its Chief Clerk, returning, in accordance with the request of the Senate, the resolution providing for a recess of Congress from the 16th to the 25th instant.

Mr. DRAKE. I think, sir, that in the matter of the resolution which has just been returned to us by the House of Representatives there is a very good and sufficient reason why the motion of the Senator from Illinois should not prevail at this moment of time. I ask him, therefore, to withdraw his motion for the moment to let us determine what our action shall be upon this resolution just returned to us. If we shall not agree to the resolution, then we shall have full opportunity for taking up the bill to which the Senator from Illinois refers; and if we do agree to it, of course that bill cannot be taken up now with any advantage during the remainder of this day's session. I ask the Senator from Illinois to withhold his motion for the moment until we can determine what we will do about that resolution.

Mr. TRUMBULL. That would only be taking the vote in another form. Let us take up the bill to admit Arkansas, or take the vote upon that motion. If that is voted down, then, of course, the Senator from Missouri can call up his motion. If the Senate takes up the Arkansas bill it will be an indication that they are disposed to go on with it, and, of course, that they will not adopt the resolution referred to.

The PRESIDENT *pro tempore*. The question is on postponing the bill now before the Senate until to-morrow.

Mr. PATTERSON, of New Hampshire. I

am as anxious as the Senator from Illinois to have Arkansas come into the Union as one of the States and be represented here, provided it can come in properly; and I trust that it will meet with no opposition in the Senate when it is properly presented; and I trust especially that it will find no opposition from the Senator from Illinois; but the bill which I have called up might have been passed during the time in which he has been speaking here and urging his bill. It will not take five minutes to dispose of this bill, and the parties interested are exceedingly earnest that it should be passed. Let us get it out of the way and then take up the bill of the Senator from Illinois; it will then be unobstructed.

Mr. DIXON. Mr. President, the Senator from Illinois states that it is important that the bill admitting the State of Arkansas should be passed as soon as possible, and his statement is to me sufficient evidence of the truth of the fact alleged by him; but I would say to him as a practical man that, in my judgment, the bill would become a law at an earlier period if it should be postponed until next week and not acted upon now. He knows perfectly well that if the bill is now brought up before the Senate it will require some consideration. There will be, I presume, no factious opposition to it; I have no disposition to make any; but of course it is a bill which will require examination and discussion. It will take a day or two probably to pass it at the shortest. Then it goes to the President. He has ten days within which to consider it, if he sees fit to take them. What he will do I do not know; but I have no doubt that if this bill were to be postponed until next week and then passed, as it probably would be after not more than one day's examination, it could immediately become a law and the State of Arkansas could be admitted, and those evils of which the Senator speaks could at once come to an end. In my judgment he will accomplish the purpose which he has in view at a more early day by allowing this subject to pass over for a week.

The Senator must know perfectly well—it cannot have escaped his attention—that the question alluded to last week, mentioned as an important question by the distinguished Senator from Maryland, [Mr. JOHNSON,] the question whether Senators from Arkansas, provided they are admitted on this floor, can become members of the court of impeachment, is a question which may be raised.

Mr. SUMNER. Of course they can be.

Mr. DIXON. I know there are Senators here who think they cannot be prevented from voting; that they would have a right to take the oath as members of that court of impeachment. There are Senators who do not think they ought to do it; who think it would be an improper and indelicate act, but still that it would be out of the power of the Senate to prevent it. That is the opinion, I know, of some Senators. Under these circumstances it does seem to me it is not safe to press the measure at this time, and I think the Senator will gain nothing in point of time by doing so, but, on the contrary, would produce a favorable practical result by postponing it until next week.

Mr. CONNESS. The honorable Senator from Connecticut has proved to his own satisfaction, if not to that of others, what I thought was an impossible proposition, that the way to hasten the passage of a bill was to postpone it, not to take it up. I had thought sometime since, after this discussion went on, that the Senate ought to be allowed to vote upon it; that they sufficiently understood whether they should go on with the consideration of a bill to organize a corporation in the District of Columbia or take up a bill to admit a State to representation in Congress; and I hope we shall be allowed to vote upon that proposition. I am in favor of taking up the Arkansas bill and working upon it. When it shall be taken up it may be temporarily laid over to consider this adjournment resolution and let the Senate vote upon that. Then

the Arkansas bill will be the order of business until it is finished, and when we adjourn to-day, if we meet to-morrow it will be the business in order then, and if we adjourn for a week it will be the business in order when we meet then.

The question of whether the Senators from this new State should vote upon the trial that has just passed or is yet pending has been, as I think, very irregularly intruded upon the Senate heretofore, and the honorable Senator from Connecticut continues it to-day, although it is an established fact that the admission of those Senators could make no change whatever in the result. Besides, it is almost impossible that they should get here at all or be received until that vote shall have been taken. I hope that that view of the case will be kept out of the discussion entirely. Nobody contemplates such a thing.

Mr. DIXON. The Senator says it is impossible that the votes of those two Senators, if they were admitted and sworn as members of the court of impeachment, should affect the result. I desire to inquire of him how it is impossible that those votes should affect the result?

Mr. CONNESS. I refer the Senator, for I will not repeat them, to the remarks of the Senator from Iowa [Mr. HARLAN] when this subject was last up. I think they were conclusive in the case.

Mr. DIXON. The Senator will find that it is false arithmetic when he comes to look at it. The PRESIDENT *pro tempore*. The question is on postponing the bill under consideration until to-morrow.

Mr. FESSENDEN. I believe now that the two propositions that are antagonized to each other are a proposition in reality, though not in form, for an adjournment over for a week, which the honorable Senator from Missouri intends to bring forward, and the proposition to take up the Arkansas bill and proceed to its consideration. Now, sir, I should like to know why, when we have once settled this matter of an adjournment, and I thought upon a very full discussion, that took up several hours, if I recollect aright, the proposition for adjournment over is again brought forward. What is the object of it? It was sufficiently stated on Saturday that the business of the body was very much in arrear. Everybody knows that it is very late in the season. Everybody knows that we are considerably behind the House of Representatives in our business, and that if we would get through in any decent season we must be doing business. The idea that we cannot do business this week on account of the excitement of our minds, and that we can do it next week, when we shall have had an additional dose of excitement, is a little remarkable to me. I am apprehensive that we shall have just as much excitement next week as we have had this and as we have now. If this matter of impeachment is to go forward with an adjournment from week to week, acting upon one article and then adjourning over for another week to act upon another article, and so on to the end of the eleven, I apprehend it will take some time before we get through with the business sufficiently to get rid of the excitement under which we are said to be laboring.

Now, sir, I hope that we shall proceed with the business of the Senate. I am in the condition that the honorable Senator from Massachusetts [Mr. SUMNER] described himself to be the other day, and that is, always opposed to these adjournments over. We had one at the beginning of the session for ten days or a fortnight; I do not remember the length of it.

Mr. MORTON. Twenty days.

Mr. FESSENDEN. Twenty days. That was to adjourn over the Christmas holidays.

Mr. CONNESS. Sixteen days.

Mr. FESSENDEN. And we now propose at this very late period, in the latter part of May, to adjourn over again. When are we to conclude business, or are we to conclude nothing at all? Everybody knows that the Calendar is encumbered now just as much as it ever

was at a long session with most important bills. Hardly any of the appropriation bills have passed this body. I do not consider myself particularly responsible about it one way or the other, for I have been here in my seat every day and ready to proceed with business; but gentlemen must consider that we are getting into very warm weather, and that it is important to make progress in the business of the country.

What will be the result if we continue to act in this way? Why, sir, we all know we have a presidential election coming on in the fall. Very soon members will be anxious to be at home. It is hard enough to do business in the long session preceding a presidential election at any time; and now we have got to be so late in the session that gentlemen will find themselves exceedingly crowded, and the result will be that all the important legislation of this session will go over, and we shall do none at all, substantially. We may pass the appropriation bills, because it will not do to adjourn until they are passed; but if there is anything else of any consequence that gentlemen have on hand they will find that business cannot be attended to.

I hope, Mr. President, that we shall adhere to the resolution we adopted on Saturday, and that is, refuse to adjourn, if for nothing else for appearance sake, to look as if we were disposed to do something in the way of business for the benefit of the country, whether we are or not; at any rate to hold out the appearance of a disposition to labor and to let things stand before the country in their proper shape.

As to this Arkansas bill, I am not particularly interested in its being taken up to-day or at any other day. I think we ought to act upon it. But, sir, as it pleases some gentlemen to refer to me as an obstructionist always, I should like to see how the anti-obstructionists vote in this business. We have been told that it is very important to act upon the bill for the admission of Arkansas, and I accede to the importance of it. My honorable friend from Nevada [Mr. Nye] made a most eloquent speech here the other day on the subject of acting now, instantly, on the admission of Arkansas without a moment's delay; and we have heard from gentlemen time after time the extreme importance of getting these States into the Union just as quick as possible. I should like to see some action in that direction, and not an adjournment over for a week the moment we touch the point where there can be some action. Why, sir, it has been said, I have no doubt with very great truth, that the condition of these States is such as requires that they should be under a regular government at once, have a government in operation, in force. We know that there can be no protection afforded by any government until it is admitted into the Union and recognized as the legal and constitutional government of the State, and every day that that is put off they are left precisely in the same condition that they are now. Why not, then, take up the bill, if gentlemen are so anxious, and act upon it?

As to the other question which my honorable friend from Connecticut suggests, I have no apprehension about it one way or the other. I should not envy the condition of that member of the Senate who should propose to administer the oath as a member of the court of impeachment to either of those gentlemen if they should come here as Senators from Arkansas. Still less should I envy the condition of any one who proposed to take the oath and to act as a member of the court under such circumstances. It may be. We see strange things every day, and that may present itself; but I have no apprehension about it, for I have not the slightest question there is no power, no constitutional right of any kind, that would allow members, admitted under such circumstances, after a trial was had and over, passing into a judgment, to vote; and I have no apprehension that any man will so commit his reputation, if it is of any value to him, as to propose himself to take the oath under such circumstances.



Mr. CONNESS. If the honorable Senator will allow me to say so, nobody in this body has yet suggested such a thing.

Mr. FESSENDEN. I am answering the honorable Senator from Connecticut.

Mr. CONNESS. Yes; and it will be observed, if the Senator will permit me to say it, that all the suggestions which have been made on that subject have come from a certain side of that case.

Mr. FESSENDEN. Precisely; and I am saying that I do not believe that any such proposition will be made. I cannot believe it for a moment. I do not impute it to anybody. I said I should not envy the position of any member of this court who should propose such a thing, and still less should I envy the position of any man who should propose himself to act in such a case as that. Why, sir, the country would cry shame upon the very suggestion of the proposition. I have not the slightest apprehension of anything of the kind.

Therefore, if Senators are desirous that the State of Arkansas should come in here, as I am and as I suppose we all are, why not take up that bill and act upon it, instead of proposing at once to adjourn over a week, and have no question or delay in the matter; or if Senators do not choose to take up that bill—I do not speak of that particularly—take up some other; take up this question of the organization of an insurance company in the District of Columbia, which is so important that my honorable friend from New Hampshire thinks no delay can be had upon it because the gentlemen interested in it want to be active in their insurance business?

Mr. CONNESS. And the Senator has a jail to construct.

Mr. FESSENDEN. I have got a bill here that would have saved the country some thousands of dollars if it had been passed before, when it was defeated by one objection and I could not bring it up, and that is, for the erection of a jail in the District of Columbia. We are losing time every day, if we are to proceed with it. It is under contract; the contract has been delayed; and we have a bill here to set that right and to proceed with that matter at once. I have asked the Senate once to consider it. I propose to ask them again. We can do it this week. Our minds are not so dreadfully excited that we cannot pass a good bill for the erection of a jail in the District of Columbia, and also the bill of my friend from New Hampshire for the organization of an insurance company in the District of Columbia. We can pass them both this week, notwithstanding this intense excitement which it is said unfits us for business; and I dare say there are several other bills as important as either that we could act upon if we will not take up the case of Arkansas and act upon that. Therefore, I appeal to Senators again to go on with the business of the session and let us do something at any rate, or manifest a disposition to do something at least.

The PRESIDENT *pro tempore*. The question is on postponing the bill under consideration until to-morrow.

Mr. WILLIAMS. What bill is that?

The PRESIDENT *pro tempore*. "A bill to incorporate the National Life Insurance Company of the United States of America."

Mr. DIXON. I have only one word to say in regard to the subject to which I alluded, called forth by the comments of the Senator from California. I was not the first to introduce it. It was introduced by a Senator who knows better than I do what is proper in this body; and inasmuch as he had introduced it I made some remarks following him; but I thought, I must confess, that it was perfectly proper for him to say what he did and for me to say what I did about it.

I agree entirely with the Senator from Maine, who has just spoken, that there would be no right on the part of members admitted as members of the Senate subsequent to this time to be sworn as members of the court of impeachment. I agree with him that it would be a

shame and a disgrace, and it would be so considered by the whole people of this country; but still, as a legal question, I do know that there are Senators in this body, able and distinguished men and lawyers of ability, who think that if these Arkansas gentlemen were admitted as Senators of the United States there is no power here to refuse them the oath; and moreover there are some Senators who believe they would be compelled to act. That being the case, it seems to me improper that such a question as that should ever be raised; but still I am so far satisfied with the declaration of the honorable Senator from Maine on this subject of his opinion, and so far believing that that opinion would, to a very great extent, control the opinion of the Senate, I am, for myself, willing to drop that subject. I have accomplished the purpose that I had in view.

Mr. CONNESS. I am very glad that the Senator is willing to drop that subject. I was just about to say that I had thought the days of belief in ghosts and hobgoblins had passed away; that in this day of railroads and steam it was no place for belief in them; but the honorable Senator from Connecticut seems to be frightened at the ghosts of two Arkansas Senators, and he will continue to discuss them. I hope we have heard the last of that subject. I do not know why it should have been introduced at all.

Mr. DRAKE. I do not feel that it would be proper at this moment of time to respond to the remarks of the honorable Senator from Maine, for the question upon which the most of his remarks were made is not now before the Senate. The question simply is, whether the bill presented by the Senator from New Hampshire, which was in process of being read, shall be laid aside to take up the bill which the Senator from Illinois proposes to take up, and upon that I appealed to the Senator from Illinois to withhold his motion until we could act upon the matter of the resolution returned to us from the House. The Senator from Illinois did not see fit to accede to that request; and now the simple question is, whether the Senate will decline at this moment to sustain the resolution of the Senator from Illinois in order to enable us to determine a matter of mere proceeding between the two Houses, which is now lying upon the table; and the Senator seeks to supplant the action upon that, as I understand it, by taking up the Arkansas bill and to throw out the bill of the Senator from New Hampshire, too. I do not wish to discuss the matter. I am perfectly ready to vote upon the proposition of the Senator from Illinois, and I think the sooner we vote upon it the better, for the reason that I understand it is extremely difficult to keep a quorum in the House of Representatives, and we had better act upon the other proposition speedily and let them know what we say.

The PRESIDENT *pro tempore*. The opinion of the Chair is, that these double motions are not in order. Postponing one bill for the purpose of taking up another is well enough in argument, but I believe there is no rule for it. The question is on postponing the bill now under consideration.

Mr. TRUMBULL. For the purpose I announced.

Mr. DIXON. The Senate will excuse me for saying one word more. The Senator from California, when he was up the last time but one, said that the subject was introduced by what he was pleased to call "the other side," I suppose meaning those who voted—

Mr. CONNESS. I beg the Senator's pardon; I did not say "the other side."

Mr. DIXON. That was the substance, perhaps not the very words; but the idea was that they introduced it.

Mr. CONNESS. I said "a certain side."

Mr. DIXON. That he said in reply to the Senator from Maine. Now, I wish to remind the Senator from California that two of the leading newspapers of the country which have taken up this subject and assumed to them-

selves the power of judging in this case, and I will name them—the New York Tribune and the Washington Chronicle—have both, if I am not very much mistaken, suggested the idea that these Senators should be admitted, and that they should be sworn as members of the court of impeachment and act upon this case.

Mr. CONNESS. It is very evident that the honorable Senator has been frightened from some source or other. I am very sorry to find that at this time his fears are so much stronger than his courage.

Mr. DIXON. I do not claim to have the courage of that Senator, but I have sufficient to do my duty.

Mr. SHERMAN. This discussion shows the folly of attempting to arrange the order of business by a motion to postpone, because this motion to postpone, if it is carried now, would lead to a struggle between two other motions, both of which would be pressed upon us, one by the honorable Senator from Illinois and the other by the Senator from Missouri. Now, if there is no objection to the passage of the bill before us, it does seem to me the most orderly way would be to dispose of the bill in which the Senator from New Hampshire takes an interest, and which is undoubtedly for a good object, the organization of an insurance company. I see no objection to going on and passing that bill. We should have passed it in one fourth the time which has been occupied in debating the motion as to whether we shall take up two other subjects.

Mr. FESSENDEN. That is always the case.

Mr. SHERMAN. It is always the case on a motion to postpone a bill, unless it is made in antagonism to the bill itself. If a Senator is opposed to a bill a motion to postpone is a legitimate mode of opposition; but where all are willing to have the bill pass it seems to me a motion to postpone to take up another bill creates confusion. I am in favor of the bill the Senator from Illinois desires to take up, and wish to vote upon it, and should like to vote upon it this evening; but it seems to me the better way would be to go on and finish the bill before us, and then vote with him to take up his bill, and stand by it.

Mr. TRUMBULL. Mr. President, a long practice in the Senate since I have been here has prevailed to move to postpone one bill for the purpose of taking up another, and it has been understood that when the one bill was postponed the other would come up. I do not think ordinarily the two motions have been put, but doubtless they may be. There was no other way to get a vote upon taking up the Arkansas bill. The Senator from Ohio says he will vote to take it up when this bill is disposed of. I sought to get it up when the bill was disposed of which the Senator from Michigan [Mr. CHANDLER] had in charge, but the Senator from Iowa [Mr. HARLAN] obtained the floor and moved to take up another bill. I waited until that was through. I struggled for the floor again, but the Senator from New Hampshire [Mr. PATTERSON] obtained the floor and moved to take up another bill. If I wait until that is through the Senator from Missouri [Mr. DRAKE] will move to take up another subject. There is no assurance that we can ever get at a bill under such circumstances, and in order that the Senate might indicate by its vote whether it was disposed to consider the bill in reference to Arkansas I moved, as the only means by which I could get the floor, to postpone the bill before us after its reading had been proceeded with for some time. As I was entitled to the floor upon that bill, after obtaining the floor I moved to lay it aside, and announced the purpose to be to take up the bill for the recognition of the State government of Arkansas. Now, it is for the Senate to decide whether it will postpone the bill before it or not, my purpose being to call up the bill for the recognition of the State of Arkansas, which I suppose will be the next question, if this motion prevails, provided the Chair should think it necessary to put the additional motion.

The PRESIDENT *pro tempore*. The question is on postponing the present bill until to-morrow.

Mr. TRUMBULL. I should like to have the yeas and nays on that question, to see whether we can get up the Arkansas bill.

The yeas and nays were ordered; and being taken, resulted—yeas 27, nays 17; as follows:

YEAS—Messrs. Anthony, Cattell, Chandler, Conkling, Connors, Cragin, Drake, Edmunds, Ferry, Fessenden, Fowler, Frelinghuysen, Henderson, Howe, Johnson, Morgan, Morton, Ross, Stewart, Sumner, Wilson, Trumbull, Van Winkle, Wiley, Williams, Ripston, and Yates—27.

NAYS—Messrs. Buckalew, Cole, Davis, Dixon, Doolittle, Harlan, McCroery, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Sherman, Sprague, Vickers, and Wade—17.

ABSENT—Messrs. Bayard, Cameron, Corbett, Grimes, Hendricks, Howard, Morrill of Maine, Morrill of Vermont, Saulsbury, and Thayer—10.

So the motion to postpone was agreed to.

#### REPRESENTATION OF ARKANSAS.

Mr. TRUMBULL. I now move to take up the Arkansas bill, if it needs another motion.

Mr. DRAKE. I hope that that motion will not be adopted. I hope that we shall at least tell the House of Representatives what we will do on the resolution they sent us back here.

Mr. EDMUNDS. That is right.

Mr. SUMNER, (to Mr. DRAKE.) Why not move your resolution?

Mr. DRAKE. A motion is already pending.

The PRESIDENT *pro tempore*. The bill proposed to be taken up will be read by its title.

Mr. DOOLITTLE. I suggest that the honorable Senator from Missouri can amend the motion of the Senator from Illinois.

Mr. DRAKE. Is it in order to move an amendment to that motion?

The PRESIDENT *pro tempore*. There is nothing in order until the Senate know what the bill is that is to be taken up.

The Chief Clerk read the title of the bill, as follows:

A bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress.

The PRESIDENT *pro tempore*. The question is on taking up that bill at this time for consideration.

Mr. DRAKE. I ask whether it is in order to amend the motion of the Senator from Illinois?

The PRESIDENT *pro tempore*. What is the amendment proposed?

Mr. DRAKE. I move to amend it by substituting the taking up of the resolution returned to us from the House of Representatives this day.

The PRESIDENT *pro tempore*. The Chair is of opinion that that is not in order.

Mr. DRAKE. Very well.

Mr. HOWE. I ask for the yeas and nays on the motion to take up.

The yeas and nays were ordered.

Mr. ANTHONY. I understand the Senator from Illinois says that if this bill is taken up he will give way for the resolution of the Senator from Missouri, and if that is the case I suppose there is no objection to taking it up.

Mr. DRAKE. If the honorable Senator from Illinois says that, I will withdraw any opposition to the coming up of this bill now.

Mr. TRUMBULL. I do not wish to make any agreement by which to favor this adjournment. I cannot prevent the Senator from Missouri, after this bill is up and under consideration, moving to lay it aside and take up his resolution. It is not in my power to do so.

Mr. DRAKE. Then, if the Senator will not do that, I hope the motion will not prevail.

Mr. TRUMBULL. Very well. If the Senate refuse to consider the Arkansas bill I cannot help it. I want a vote upon it.

Mr. EDMUNDS. The Senator from Illinois has no right to say that the Senate will not consider the Arkansas bill because they think that a matter which is really a question of privilege should be first decided. It is due to the House of Representatives, as we have sent to them to recall this resolution, that we should act upon it and inform them what we really

mean to do; and it ought not to be taken as any evidence of opposition to the Arkansas bill that we prefer to do the other thing first. I shall, therefore, vote against taking up the Arkansas bill until we settle the other question.

Mr. CHANDLER. I move to lay the motion of the Senator from Illinois on the table, for the purpose of proceeding to the consideration of the resolution of the House.

Mr. TRUMBULL. Is that in order? Is it in order to move to lay such a motion on the table?

The PRESIDENT *pro tempore*. The question is on taking up the bill. There is nothing to lay on the table. It is all on the table. The question is on taking it up.

Mr. DOOLITTLE. As the question was not discussed at all and the Chair decided instantly, I apprehend the Chair fell into an error in saying that it was out of order when a motion is made to take up one bill for a Senator to move to amend that motion by taking up another bill; for in that way we antagonize the one against the other, and the Senate decides which it will take up. I understand the Chair to hold that when a bill is pending the only motion that can be made is to postpone that bill; but you cannot make a motion to postpone that bill and take up another bill.

Mr. SHERMAN. The Senator is not in order unless he takes an appeal from the decision of the Chair.

The PRESIDENT *pro tempore*. The questions are entirely independent of each other, and the rule is in such cases that the first made is the first put. They are independent motions entirely. One is not an amendment of the other.

Mr. DOOLITTLE. I understand the proposition is to antagonize the one against the other for consideration.

Mr. ANTHONY. I think the Senate all have the same purpose. We wish to dispose of the question of a recess, and the Senator from Illinois, although he does not wish to have the recess, I take it does not desire to prevent the Senate passing judgment on that question.

Mr. TRUMBULL. Of course not.

Mr. ANTHONY. Then I suggest that we allow the Arkansas bill to be taken up, and then, by general consent, it be laid aside long enough to dispose of the recess resolution. Then, whether that prevails or not, the Arkansas bill will be the order of business; it will be the order of the day for to-morrow, or on the meeting of the Senate after the recess, if a recess should be had.

Mr. MORTON. There is manifest propriety under the circumstances in disposing of the resolution of the House of Representatives, which we have just recalled; and I hope that this waste of time will be stopped by the Senator from Illinois allowing the question of adjournment to be taken up. We are frittering away time here by the hour.

Mr. SUMNER. It seems to me the most direct and practical way would be for the Senator from Illinois to withdraw his motion; but if he perseveres in it the next direct and practical way is for the Senate to vote it down in order to proceed with the consideration of the House resolution. That being disposed of, then the way would be clear for the consideration of other business.

Mr. TRUMBULL. Being myself opposed to a recess, thinking it the duty of the Senate to go on with its business, I do not propose to enter into any arrangement to bring it about. It would be a very strange proceeding in the Senate if those in favor of a measure were to consent to lay it aside to bring up a measure which would defeat it, for the present at any rate. The Senate has ordered the yeas and nays upon the motion to take up the bill to recognize the State government in Arkansas, and let us vote upon it. I shall be entirely content with whatever vote the Senate gives in reference to it. If the Senate does not think it proper to take it up, very well. If it does take it up, it will still be competent for the

Senator from Missouri to interpose his motion. I can enter into no agreement for it; but, after this bill is up, whenever he obtains the floor, he can move to lay it aside and bring up any other measure that he desires to consider. I do not propose to occupy the floor except when the bill is called up to have it read. I do not propose to make any speech upon it further than in explanation, and to give such information as I may be in possession of in regard to the manner of the adoption of the constitution, and answering such questions as may be asked by any member of the Senate in regard to it, as far as I can.

Mr. WILLEY. I am exceedingly anxious that the Senate shall proceed to the consideration of the Arkansas bill. I desire beyond measure that that question should be settled; that representation from the State of Arkansas should be admitted into both Houses; but I am very unwilling to sit here for a whole week and listen to any discussion that may ensue, not wholly with a view to enlighten the Senate on the subject before it, but to postpone any final action upon this bill, if it shall be taken up, until after the Senate, sitting as a court, shall meet on to-morrow week. If those who are opposed to the representation from the State of Arkansas would say to the Senate that they would not exercise the power, which they have the right to do, to bring about such a postponement, then I should know how to vote intelligently on this subject. It is perfectly within the power of those who are opposed to the admission of these States by discussing the matter for eight or ten days to postpone it beyond the period to which I have alluded and to detain the Senate upon this single subject, not with the view of discussing the question or obtaining light upon the matter actually in issue, but with a view of postponing it beyond a certain day, and in the meantime we shall have had an idle discussion amounting to nothing but a waste of time. I admit the right of those who are opposed to the admission of the representation of this State so to act; it is their perfect right; there can be no fault found with gentlemen if they do resort to it; but if I could know exactly whether they intend to do so I should know how to vote upon the subject actually before the Senate. I do desire that this question should be settled; certainly this State is entitled to it; but if the discussion is to amount to nothing for a week what is the use of entering upon it?

Mr. HENDERSON. Mr. President, this is May, 1868. The war closed in April, 1865. The seceding States are still without any representation in this body or in the other, with the exception of Tennessee. The President, a short time after the suppression of the rebellion, undertook to reconstruct the southern States on his own plan. He organized governments during the summer of 1865, prescribing the qualifications of voters, fixing the qualifications of office-holders, &c. Those governments were presented to us in the winter of 1865, and we did not choose—and I voted with the majority—to admit their representatives. I thought that we did right. But the Senate ought to remember that we let the long session of 1865–66 pass away, having adjourned late in July, according to my recollection, without having passed any bill for reconstruction at all. We did nothing. In January, 1866, I offered an amendment to the Constitution here, in regard to which nothing was done, for the purpose of fixing a basis upon which reconstruction could be afterward had—an amendment declaring that suffrage for black and white should be upon equal terms throughout the United States. That was voted down, or rather was not acted on. A constitutional amendment was adopted, however, and it was to be submitted to all the States—an amendment called the fourteenth article. I voted for that ultimately, though I did not like it so well as my own; but that was submitted to all the States, including the Legislatures of the southern States set up by the President. We met here in the winter of 1866 and we passed

no measure on the subject of reconstruction until March 2, 1867. Nearly two years had elapsed before we undertook any plan upon our own responsibility.

We have professed ourselves exceedingly anxious to have these States represented, but our objection has been to the plan of the President. This whole war since January, 1866, between the executive and legislative departments of the Government has been based upon this difference in regard to reconstruction. Congress has expressed a desire again and again to readmit these States the very moment that reconstruction was accomplished upon its plan. Now, sir, after the passage of a supplementary act about the 23d of March, 1867, and afterward one in July, for which we were called here specially, on account of an opinion of the Attorney General—

Mr. CHANDLER. Mr. President, I call the Senator to order. This is a motion to take up a bill, and I make the question of order that this general debate is entirely out of order on a motion to take up a bill.

The PRESIDENT *pro tempore*. The Chair can prescribe no limitation to debate; but it is evident that debate on a motion to take up a bill ought to be confined to the question of taking it up, and should not extend to its merits at large.

Mr. FESSENDEN. General reasons may be assigned why a bill should or should not be taken up.

Mr. EDMUNDS. The new rules expressly provide that on a motion to take up a bill debate on the merits of the question proposed to be considered is not in order.

Mr. HENDERSON. I am not debating the merits of that question, but another one. [Laughter.]

Mr. EDMUNDS. That is still worse.

The PRESIDENT *pro tempore*. The new rules specially provide that debate on such a motion shall be confined to reasons for taking up or not taking up the measure proposed to be considered.

Mr. FESSENDEN. That is precisely what the Senator from Missouri is doing. He is giving his reasons why the bill should be taken up.

Mr. HENDERSON. Yes, sir; and the Senate will see that all I am saying is quite pertinent to the question under consideration.

The PRESIDENT *pro tempore*. The Senator will proceed. It is very difficult for the Chair to prescribe limits to debate.

Mr. HENDERSON. I have to use more words than some people in order to express an idea. I was saying that Arkansas and the other States have been organized under the plan of Congress. After ninety days has been expended here upon an impeachment trial, and every time the court adjourns it is utterly impossible for us to do any business connected with legislation, if the Senate is to adjourn now for ten days what will be the result? I will not say that the ninety days spent upon the impeachment might have been better spent on other business; but I will say that perhaps that time might have been much better spent in the legislation that the country demands upon financial questions, upon commercial questions, and upon internal revenue questions. However, I make no complaint. The Senate sitting as a court of impeachment has, against my vote, adjourned until the 26th instant. That left us from the time of that adjournment about ten days for legislative business; and now we are approaching the heat of the summer, and it is coolly proposed to adjourn the Senate also. What for?

We were told here the other day that in Arkansas and the other southern States murders by the wholesale were being committed; that there was perfect anarchy, confusion, disorder, and that these States ought to be immediately admitted. These statements were somewhat surprising to me; but it is possible that Senators who made them will now consent to leave the public business of the country, and when the heats of summer are approach-

ing run home or else go to their rooms and leave the business of the session undone? Has not this State been reconstructed upon the congressional plan? Have not equal rights been secured to the blacks in Arkansas? I understand so. I understand that this reorganization has been entirely in accordance with the acts of March 2 and March 23, 1867, and that the people of Arkansas have complied with every condition imposed by Congress, and that disorder, confusion, and wild anarchy exist there simply because their government is not recognized by Congress, and the Union people there demand immediate admission. And yet, Mr. President, are we to run away from our duty, neglect to discharge it, and adjourn? For what purpose? I suppose for some of our members to attend the Chicago convention.

Now, Mr. President, if Senators desire to go, I suppose that a quorum will remain here to attend to business, or if the members of the House desire to go I do not wish to put any obstacle in their way. I am perfectly willing to so vote as to enable the House to adjourn until that time. But where is the necessity of the Senate leaving? The Arkansas bill has been passed by the House, and it is here for our consideration. On next Tuesday, I suppose, we shall again be employed in the decision of the impeachment matter, and I cannot tell how long it will last. Perhaps we shall have another adjournment of it; perhaps new articles of impeachment will be presented, and we may again be detained perhaps for a month or longer. Are we to do no legislation at all? Are we to abandon the whole thing, and say that we cannot compose our minds to the duties incumbent upon us here as legislators, and that there is only one thing we can attend to, and that is impeachment?

Mr. President, if Senators desire to take that responsibility, I for one shall submit; but I have looked at the subject, and have concluded that it is our duty to remain. If members of the other House desire to go to Chicago or anywhere else—if they desire to visit their homes, or if Senators desire to go home in order to ascertain the feeling of their constituents on the subject of impeachment, or on the subject even of the admission of these States, I am perfectly willing that they shall do so; but certainly a quorum will remain to discuss this Arkansas matter and the introduction of the other States. The Senator from Massachusetts [Mr. WILSON] has a bill for the admission of six other of these States. Is it possible that we shall shrink from our duty, that we shall run away and leave it undone? When are we to act on this subject? Can we satisfy the people who are so often appealed to in this Chamber, now that these States are reorganized and reconstructed upon the plan which we ourselves imposed upon them; can we satisfy the people that we are doing our duty, when they ask for admission and we ourselves say that disorder and confusion exist because they are not represented, by going away and leaving this business unattended to? I think not. Mr. President, let these gentlemen take the responsibility of adjournment; I shall vote against it.

Mr. SUMNER. Mr. President, I desire to make simply one remark suggested by what has just fallen from the Senator from Missouri. He says that disorder and confusion exist in these States because we do not act.

Mr. HENDERSON. Mr. President, I stated no such thing.

Mr. SUMNER. What was it?

Mr. HENDERSON. I stated that Senators here had said on Saturday that disorder and confusion did exist there because they were not in the Union.

Mr. SUMNER. Because they were not in the Union. The whole reason why there is disorder there, and why there is bloodshed and a menace of bloodshed, is because Andrew Johnson is now President of the United States. That is the reason; none other.

Mr. DRAKE. Mr. President, I would ask whether the motion of the Senator from Illi-

nois has been reduced to writing. If it has been I should like to have it read.

The PRESIDENT *pro tempore*. There is no motion except to take up a bill for consideration.

Mr. TRUMBULL. It is never reduced to writing.

The PRESIDENT *pro tempore*. There is no rule requiring that to be in writing.

Mr. DRAKE. I understood that the Chair decided that it was not in order to amend that motion.

The PRESIDENT *pro tempore*. The Chair did decide that the two motions were independent of each other, and that the first moved was to be first put.

Mr. DRAKE. Then, sir, let us take the vote. The yeas and nays have been ordered, and the roll-call must commence.

The PRESIDENT *pro tempore*. The question is on taking up the bill.

The question being taken by yeas and nays, resulted—yeas 16, nays 24; as follows:

YEAS—Messrs. Conkling, Conness, Cragin, Fessenden, Fowler, Harlan, Henderson, Johnson, Morgan, Pomeroy, Ross, Sherman, Tipton, Trumbull, Wiley, and Wilson—16.

NAYS—Messrs. Anthony, Buckalew, Cattell, Chandler, Cole, Davis, Dixon, Doolittle, Drake, Edmunds, Ferry, Howe, McCreery, Morton, Norton, Patterson of New Hampshire, Patterson of Tennessee, Ramsey, Sumner, Van Winkle, Vickers, Wade, Williams, and Yates—24.

ABSENT—Messrs. Bayard, Cameron, Corbett, Frothingham, Grimes, Hendricks, Howard, Morrill of Maine, Morrill of Vermont, Nye, Saulsbury, Sprague, Stewart, and Thayer—14.

So the motion of Mr. TRUMBULL was not agreed to.

#### CAPTURED AND ABANDONED COTTON.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Treasury, communicating, in compliance with a resolution of the Senate of the 27th of January last, information in relation to sales of captured and abandoned cotton.

Mr. TRUMBULL. I think that is in response to a resolution which was offered by me some time ago inquiring when the money was covered into the Treasury that was received from captured and abandoned property. I move that the communication lie on the table, and be printed.

The motion was agreed to.

#### ENROLLED BILLS.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the Speaker had signed the following enrolled bills and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 473) for the relief of Charles E. Capehart;

A bill (H. R. No. 1045) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws in the third military district for the fiscal year ending June 30, 1868;

A bill (H. R. No. 1062) to grant the right of way to the Plattsburg and Whitehall Railroad Company; and

A joint resolution (H. R. No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin.

#### IMPEACHMENT OF THE PRESIDENT.

The message also announced that the House had passed a resolution requesting of the Senate a certified copy of the proceedings of the last two days of the trial of the impeachment of the President of the United States.

#### PROPOSED RECESS.

Mr. DRAKE. I move now that the Senate take up the concurrent resolution returned to the Senate by the House of Representatives this morning.

The motion was agreed to.

Mr. DRAKE. I move now that the Senate reconsider the vote on the resolution taken last Saturday.

Mr. FESSENDEN. I should like to inquire of the Senator from Missouri if he voted with the majority before?



Mr. DRAKE. I voted with the majority. The PRESIDENT *pro tempore*. The resolution will be read.

The Chief Clerk read as follows:

*Resolved by the House of Representatives, (the Senate concurring.) That at the adjournment on Saturday, the 16th instant, a recess be taken until Monday, the 25th instant.*

The PRESIDENT *pro tempore*. The question is on reconsidering the vote by which the resolution was rejected.

Mr. FESSENDEN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 26, nays 17; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Chandler, Conness, Davis, Dixon, Doolittle, Drake, Edmunds, Ferry, Howe, Johnson, McCrery, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ramsey, Stewart, Sumner, Van Winkle, Vickers, Wade, and Williams—26.

NAYS—Messrs. Cole, Conkling, Cragin, Fessenden, Fowler, Frelinghuysen, Harlan, Henderson, Morgan, Morton, Ross, Sherman, Tipton, Trumbull, Willey, Wilson, and Yates—17.

ABSENT—Messrs. Bayard, Cameron, Corbett, Grimes, Hendricks, Howard, Morrill of Maine, Morrill of Vermont, Saulsbury, Sprague, and Thayer—11.

So the motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The question recurs on the adoption of the resolution.

Mr. DRAKE. I move now to amend the resolution by striking out the words "on Saturday, the 16th instant," and inserting "of the two Houses this day;" so as to make the resolution read:

That at the adjournment of the two Houses this day a recess be taken until Monday, the 25th instant.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the resolution, as amended.

Mr. CONKLING and Mr. TRUMBULL called for the yeas and nays; and they were ordered.

Mr. MORTON. As it is now too late to go to the Chicago convention if the adjournment takes place, I would like to know the reason for it.

The PRESIDENT *pro tempore*. The question is on the resolution, as amended.

Mr. EDMUNDS. Mr. President, as I voted the other day in favor of continuing the session of the Senate through this week, and made a speech which everybody who heard me is bound by, according to the rules of law as administered here, who did not dissent on the spot, I wish to state my reasons for voting the other way now, and to give notice that everybody will be bound by these reasons on the same principle unless they dissent forthwith. [Laughter.]

I did believe, Mr. President, the other day that we should succeed in accomplishing business in the regular, methodical way this week. I am satisfied from my observation since that I was in error; and like other brave and conscientious men, when I see that I have made a mistake I am willing to correct it. I see that everybody is tired and indisposed to give that attention and devotion to business which usually characterize this body; and I believe, therefore, that an adjournment over for one week at this time will be a useful thing. It is quite evident to me that the notion of our going home early this season may as well be abandoned now as at any other time. It will be quite probable that there are public reasons, good public reasons—if it will not be considered as reflecting on anybody I will say public considerations—which should induce us to attend to the interests of our constituents here. And in that view I am disposed to reconsider my determination of last week and to take my resting spell now. These are my reasons.

Mr. DRAKE. Mr. President, as I voted against this resolution when it was here last Saturday and have moved its reconsideration to-day, I feel justified in a brief statement of the reason why I have done so.

I am equally satisfied with the honorable Senator from Vermont that it is hardly worth while to attempt to transact public business at this particular juncture of time. Two or three times this morning there has been a call of the other House, with great difficulty to keep a quorum there; and I do not believe it can be

kept there; and we in the Senate have been sitting here as we never sat before since I have known anything of the history of the Senate, except at the close of the session. Day after day for two months we have been wearing down the system completely by close confinement. A number of Senators have gone away; a number of others wish to go away; some are so far indisposed that they feel it a necessity that they should leave; and why should we punish ourselves by staying here to transact business with the Senate in that condition and with the other House in the condition that I have depicted? These are my reasons for the course which I have taken about this matter.

The question being taken by yeas and nays, resulted—yeas 23, nays 19; as follows:

YEAS—Messrs. Anthony, Buckalew, Cattell, Chandler, Cole, Conness, Davis, Dixon, Doolittle, Drake, Edmunds, Ferry, Howe, Johnson, Norton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Stewart, Sumner, Van Winkle, Vickers, and Williams—23.

NAYS—Messrs. Conkling, Cragin, Fessenden, Fowler, Frelinghuysen, Harlan, Henderson, Morgan, Morton, Pomeroy, Ramsey, Ross, Sherman, Tipton, Trumbull, Wade, Willey, Wilson, and Yates—19.

ABSENT—Messrs. Bayard, Cameron, Corbett, Grimes, Hendricks, Howard, McCrery, Morrill of Maine, Morrill of Vermont, Saulsbury, Sprague, and Thayer—12.

So the resolution, as amended, was agreed to.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. EDMUNDS. Mr. President, I hope my friend from Illinois will move now to take up the Arkansas bill.

Mr. HARLAN. Mr. President, there is a resolution on the table from the House that seems to me ought to be acted upon in relation to a certified copy of a record.

The PRESIDENT *pro tempore*. The question is on taking up the resolution.

The motion was agreed to; and the Senate proceeded to consider the following resolution of the House of Representatives:

#### IN THE HOUSE OF REPRESENTATIVES,

May 13, 1868.

*Resolved*, That the Senate are hereby requested to direct that a certified copy of the proceedings for the last two days of the trial of the impeachment of the President of the United States be sent to the House of Representatives.

Mr. SUMNER. Mr. President, I move that a certified copy of the proceedings mentioned in that order of the House of Representatives be sent to the House.

Mr. JOHNSON. Mr. President, the proceedings I suppose are furnished to the other House regularly; they are laid on the desk of each member. Is there anything accompanying that resolution; any reason given for their desiring to have a certified copy? I only want to know the fact?

Mr. POMEROY. No reason is given. They only ask for a certified copy.

Mr. JOHNSON. Let them have it; I have no objection to their having it; but I cannot imagine why they want it.

Mr. SUMNER. There can be no conceivable objection to it if the House ask for it.

Mr. JOHNSON. I was going to say that I have no objection to their having it; but it is rather a singular request.

Mr. BUCKALEW. Mr. President, I observe by the official proceedings of the other branch of Congress that they are not overburdened with business as was supposed. They have an abundant leisure not only for taking care of those interests which are committed to them by the Constitution and for protecting the dignity and honor of their own House, but also for extending their action and taking in charge business and interests which pertain to the Senate; and they have openly, in the face of the nation, authorized a certain number of their members to investigate questions which have relation to the transactions and to the character of the Senate of the United States. They propose to enter upon an investigation of the influences, as I think the resolution expresses it, which have been exerted and have operated upon the members of the Senate sitting in their judicial capacity as a court of

impeachment. It occurs to me, Mr. President, that if the House of Representatives, a coördinate branch of the legislative department with us, or any of its members, have information which affects the character of Senators or the integrity of those proceedings in which the Senate has been engaged, it is their business to communicate that information to the Senate in order that it may take such action as in its judgment pertains to its dignity, to its character, and to the transaction of its business; and I take it for granted that if such information were conveyed, this Senate has yet enough of vigor and of brain to meet and to discharge all the duties which would become obligatory upon it in consequence of such information.

I understand that when this Senate is charged by the Constitution with a duty, and is proceeding to perform that duty, it has all the authority and power requisite to take charge of, to take care of all collateral questions connected with its jurisdiction. I understand that the House have now sent us a resolution asking an official transcript of the record of what the Senate has done, not for the mere purpose of informing that body, because it was present during all our open proceedings, and it has official published copies of all that was done when we were in private session, but I infer for the purpose of having this body recognize by a deliberate vote the proceedings upon which they have entered. What business has the House with the records of this Senate in connection with any such volunteer proceeding as that upon which some committee or some number of their members is about to enter?

Mr. EDMUNDS. Mr. President, I rise to a point of order; and that is, that the Senator from Pennsylvania has no right to refer to any proceeding of any committee of the House whatever.

Mr. FESSENDEN. That is a new idea.

Mr. EDMUNDS. It is not a new idea.

Mr. BUCKALEW. Sir, I shall await the decision of the Chair.

The PRESIDENT *pro tempore*. The Clerk will read the rule about referring to the House, and let us see what it is.

The Chief Clerk read as follows:

"No person is to use indecent language against the proceedings of the House; no prior determination of which is to be reflected on by any member, unless he means to conclude with a motion to rescind it. But while a proposition under consideration is still *in fieri*, though it has even been reported by a committee, reflections on it are no reflections on the House."—*Barclay's Manual*, page 74.

Mr. EDMUNDS. That is not the rule to which I referred. It is in Jefferson's Manual and relates to the proceedings of the two Houses, that it is contrary to parliamentary propriety for a member of either House to comment upon the proceedings of the other; not that House. That which the Clerk has read relates to the proceedings of our own body only.

The PRESIDENT *pro tempore*. There is another rule which the Clerk will read.

The Chief Clerk read as follows:

"It is a breach of order in debate to notice what has been said on the same subject in the other House, or the particular votes or majorities on it there, because the opinion of each House should be left to its own independence, not to be influenced by the proceedings of the other; and the quoting them might beget reflections leading to a misunderstanding between the two Houses."—*Barclay's Manual*, page 77.

The PRESIDENT *pro tempore*. What words of the Senator from Pennsylvania does the Senator from Vermont think exceptionable?

Mr. EDMUNDS. I have nearly forgotten the words it is so long ago; but what the Senator was proceeding to do was to allude to the proceedings of the House of Representatives by one of its committees in inquiring into certain matters which he was commenting upon. That, as it appears to me, is a plain breach of the rule which has been read.

Mr. FESSENDEN. Mr. President, I should like to inquire where that rule leads to? According to that the House might do anything or everything with reference to this body, pass any resolution that it chose, and send that to us, and in discussing that resolution we

could not speak of the proceedings in the other body. That is the proposition of the honorable Senator from Vermont in plain terms. Nothing has been said disrespectful of that body. The honorable Senator from Pennsylvania was proceeding simply to discuss the question of what this was probably wanted for, what the object was; and speaking of that object and that purpose it is very singular that in a matter of an application to us nobody here can speak of what has been done in the other House at any time with the matter under consideration. I submit that the rule has no application to the question raised by the Senator from Vermont.

The PRESIDENT *pro tempore*. The Chair is of opinion that it would be a breach of order to say anything that would cause misunderstanding or any contention between the two bodies. I suppose that would not be proper; but really the rule is only where the House have made use of certain language, it seems, or where the votes have been censured, or something of that kind. I do not think the Senator from Pennsylvania was out of order as far as he had gone; and so the objection is overruled. The Senator from Pennsylvania will proceed.

Mr. BUCKALEW. Mr. President, I was nearly through with my observations. The House of Representatives have not informed us, on the face of their resolution nor by a message, of any object for which they desire the copy of our record; and the only supposition which can reasonably be made upon what we know, is that this information is required for the purpose of investigating the Senate of the United States or "the influences," as I believe the resolution expresses it, to which this Senate has been subjected. They have the official report which is published in the Globe and laid upon our tables daily, the publication of which is paid for out of the public moneys.

Mr. DOOLITTLE. If the Senator will allow me to interrupt him, in order to get the precise language of the resolution, I will read it.

Mr. BUCKALEW. I will give way for that.

Mr. DOOLITTLE. I will read the preamble.

Mr. JOHNSON. What is the date?

Mr. DOOLITTLE. It is the Globe laid on our tables to-day. It is in Saturday's proceedings in the House of Representatives:

"Whereas information has come to the managers which seems to them to furnish probable cause to believe that improper or corrupt means have been used to influence the determination of the Senate upon the articles of impeachment exhibited to the Senate by the House of Representatives against the President of the United States: Therefore,

"Be it resolved, That for the further and more efficient prosecution of the impeachment of the President the managers be directed and instructed to summon and examine witnesses under oath, to send for persons and papers, to employ a stenographer, and to appoint sub-committees to take testimony, the expenses thereof to be paid from the contingent fund of the House."

Mr. BUCKALEW. Mr. President, I rise not because the resolution of this House touches me in the remotest particular or awakens any feelings in my mind other than those of regret that the House should have gone beyond what I think is its appropriate jurisdiction, and have encroached upon what I cannot but think to be a prerogative of the Senate, and that is to vindicate itself and its own proceedings, if it thinks proper, from any imputation which would affect them injuriously with the public. I rise to object to the consent proposed that these proceedings may be transmitted to the House in the interests of the body and of no particular member of it, myself or any other one. If we are to sit quietly by and allow everything to take place which may be inspired by temporary hostility or by temporary excitement with regard to the Senate and to its proceedings, we shall justly incur public reprobation; we shall fall below the standard which we ought to maintain for ourselves; we shall lower the dignity of this branch of Congress, and we shall have no right hereafter to object to any impertinence or to any insult which may be directed against the Senate by a member of the House of Representatives, or by some

inadvertent, thoughtless, passionate, or excited action of the House.

I insist that if there be any cause for an investigation of this description the information should be laid before the Senate itself, and it should act, and that we ought to resent or at least to oppose a transfer of our just authority and powers in reference to questions of this kind to the House of Representatives, or to the President, or to the courts, or to any other power upon earth. We are competent to vindicate ourselves; we are competent to preserve pure and unsullied the course of public justice so far as we are concerned in it, and for one I am disposed to uphold the dignity and rights of the Senate. For this object alone have I spoken.

Mr. SUMNER. Mr. President, the remarks of the Senator from Pennsylvania proceed on a singular theory; nothing less than this, that by this inquiry the Senate is assailed. What reason is there to believe that the House have any such purpose in the inquiry? Nothing but the imagination of the Senator; nothing in the text of the resolution; and if you look still further at the debate—and after the allusion that has been made to the resolution I shall be justified in calling attention to it—if you look at the very statement of Mr. BINGHAM, the chairman of the committee of managers, you will find that he stated that it was—

"To see whether the rightful power of this House to prosecute impeachment is attempted, wrongfully and corruptly, to be interfered with and controlled by anybody, either by the President or by the President's hired agents!"

Mr. JOHNSON. Is that in the resolution?

Mr. SUMNER. That is the speech of Mr. BINGHAM sustaining the resolution, and I take it that is the reason of the resolution; it is to ascertain whether or not on the part of the President, the respondent at your bar, or any agents representing him, there has been an attempt which justifies the inquiry of the House.

Now, sir, I have no knowledge of these proceedings beyond what appears in the report; nothing at all; I have heard nobody speak of it; but looking at the report it seems to me that it is a proceeding with which the Senate cannot in any way interfere.

Are we not now engaged in trying the President of the United States on articles of impeachment, and do not those articles conclude with a statement that the House of Representatives reserves to itself at all times hereafter the right to exhibit further articles of impeachment? Suppose, now, the House have found that the President, or agents of the President, have been engaged in an attempt of a corrupt character, would they not be justified in making an inquiry into the character of that attempt? Would the Senate venture at this stage to throw itself in the path of that inquiry? We know from the evidence before us something of the character of the President of the United States; we know how utterly unprincipled and wicked he is; it is in evidence. We also know what some of his agents and representatives, or those who speak in his defense, not, of course, in this Chamber, have openly said. I have in my hands a brief extract from the New York World, a paper which I understand has throughout this trial sustained the President day by day, insisting that he was not guilty of those articles on which he has been arraigned. What does this paper say; a paper sustaining the cause of the President? I quote it as a part of history and as showing the character of some of the President's defenders. It is as follows.

Mr. DIXON. Mr. President, I desire to ask if it is editorial.

Mr. SUMNER. Editorial.

Mr. DIXON. Is it editorial?

Mr. SUMNER. I understand so.

Mr. DIXON. I say it is not.

Mr. EDMUNDS, (to Mr. Dixon.) You do not know what he is going to read yet.

Mr. SUMNER. It is from the New York World:

"There are fourteen Radical Senators whose terms of office expire in 1869. Beyond that time

they are sure of no political position; so far as they know now they are certain of no 'paying place.' Surely as many as eight of these men would far rather be sure of a million each in hand than to wait for the uncertainty of a \$5,000 office by and by. Let us buy their votes at their own price."

Mr. BUCKALEW. Mr. President—

Mr. SUMNER. Excuse me; I shall be done in a moment.

Mr. BUCKALEW. I want to put you right on that point.

Mr. SUMNER. These are words proceeding from a defender of the President. Are they not calculated to arouse the inquiry on the part of the House?

Mr. DIXON. Will the Senator allow me to ask him a question?

Mr. SUMNER. Wait one moment. Especially if the committee of the House are able to say, as they do in the resolution, that they report that "information has come to the managers which seems to them to furnish probable cause to believe"—mark!—"probable cause to believe that improper and corrupt means have been used to influence the determination of the Senate upon the articles of impeachment exhibited to the Senate by the House of Representatives against the President of the United States." Now, on that suggestion of the House I have nothing to say. I await the result of the inquiry; but I insist that the Senate at this stage cannot interpose itself in the path of that inquiry. Whichever way it may end, whether by the further impeachment of the President of the United States or in any other direction, let the inquiry proceed.

Mr. CONNESS obtained the floor.

Mr. FESSENDEN. I should like to ask the honorable Senator from Massachusetts one question, and that is whether he is one of the fourteen whose terms expire in 1869?

Mr. SUMNER. I am.

Mr. FESSENDEN. He has not seen anything of the million, I suppose. [Laughter.]

Mr. SUMNER. I did not vote "not guilty."

Mr. FESSENDEN. But there are several articles left yet to vote on. [Laughter.]

Mr. SUMNER. I would say, however, to the Senator from Maine that I am not afraid of investigation; I welcome it.

Mr. FESSENDEN. I suppose nobody else here is afraid of it.

Mr. SUMNER. Very well. I have given my reply to the Senator from Pennsylvania.

Mr. CONNESS. Mr. President—

Mr. BUCKALEW. I will say to the Senator from California that I rose to make an explanation during the speech of the Senator from Massachusetts, and he requested me to wait until he was done. I want to make a reply by way of explanation to his reference to what he read from the New York World.

The PRESIDENT *pro tempore*. Does the Senator from California give way for the explanation?

Mr. CONNESS. Not at this time; the Senator from Pennsylvania will excuse me. I will just say in passing, in regard to what I did give way for, that it is entirely possible that those persons discovered that the honorable Senator from Massachusetts could not be purchased for less than a million and a quarter or a million and a half, [laughter,] and the fund would not hold out.

Mr. President, I rose to say that I regret very deeply that the honorable Senator from Pennsylvania, for whom I have a profound respect, and for whose judgment I have an admiration, should have introduced this topic or given the debate the turn it has taken in connection with the resolution before us; and I regret still further that the honorable Senator from Massachusetts should have seen fit to proceed in the same direction, and then to read for us what I will characterize as a villainous article from one of the public papers of the country.

Mr. DIXON. Will the Senator allow me a moment, by way of explanation, to put a single question to himself, and that is whether he knows that this article is a communication and not an editorial?

Mr. CONNESS. I neither know nor care.

Mr. DIXON. I ask the Senator whether he does not know, also, that the editor stated that it was intended to be ironical?

Mr. CONNESS. I neither know nor care.

Mr. DIXON. He ought to have added that statement of the editor.

Mr. CONNESS. I reply again that I neither know nor care. I rose to suggest that the resolution before us, and action upon it, has no necessary or legitimate connection with the proceedings of the House of Representatives that have been read from the Globe. The House does not state in its resolution, which simply asks for a copy of certain of our proceedings, for what it requires them or wants them. It was not called on to do so. When we send to the House for a bill which has left our custody and got into theirs we never state why we send for it. Our requests and requests of the House of this character are never refused. They are based upon not a right, but a comity that amounts to a right, and it is always obeyed. I care nothing about the investigation going on; I care much less about the newspaper article that has been read. I have lived long enough in public life to know that every public man, no matter how pure he may be, is regarded by not a very virtuous part of the community or society in which he lives as a target for abuse. I would not dignify the article referred to by its introduction here.

But I rose, Mr. President, to say that I regretted the direction the debate had taken; that I cannot see how we can refuse, no matter for what purpose the House requires it, (and it is not for us to inquire,) a certified copy of certain of our proceedings. If they should, in the progress of any investigation that they propose making, trench upon the prerogative of the Senate, I should be as ready as any Senator here to resent and resist such an encroachment. But we are not to assume that they want it for any purpose of that kind. Nor will I discuss the question whether, under the constitutional power of the House to impeach, and while an impeachment is pending, they have a right to inquire in the direction they have proposed to inquire or not. I think all we have to do is simply to respond to the House by giving them a copy of the record called for.

Mr. DIXON. Mr. President, I agree fully with the Senator from California. I think we ought to give them anything they ask, for I would not stand upon ceremony; I would welcome any investigation. I think this is—but perhaps I had better not characterize it, and I will not; but, at any rate, whatever that body ask for I shall vote to give them.

Mr. DOOLITTLE. Mr. President, I agree with the Senator from California that this is a question of courtesy or comity between the two Houses; but the resolution under which the other House are acting is a resolution which in its very terms, it seems to me, speaks of the Senate in language that forbids us to look upon this question as one of mere comity. In the resolution under which they claim to act they assert that "information has come to the managers which seems to them to furnish probable cause to believe that improper or corrupt means have been used to influence the determination of the Senate upon the articles of impeachment." There is an allegation that corrupt means have been used. What is the meaning of these words?

Mr. CONNESS. Will my friend permit me a single word?

Mr. DOOLITTLE. Certainly.

Mr. CONNESS. It is only to say that I do not see the necessary connection between the request they make here and that proceeding. There is none stated. I hope the Senator will agree with me in this.

Mr. DOOLITTLE. Since the House have passed a resolution in which they assert that they have information which seems to them to furnish probable cause for believing that corrupt means have been used to influence the determination of the Senate, I think that it requires us, the Senate of the United States, to ask the House of Representatives to furnish

us the information upon which they are proceeding to act, and not call upon us for testimony or what may be used by them as testimony; for they ask a certified copy of our proceedings, which could only be used as evidence to be introduced in court or before some committee. As they have made that allegation in the resolution which they have adopted, it seems to me it is not a mere question of comity, and therefore I think there is great force in the suggestion made by the honorable Senator from Pennsylvania.

Mr. President, I cannot take my seat without making a single remark in reply to what has fallen from the honorable Senator from Massachusetts, [Mr. SUMNER.] I know that the honorable Senator, whenever he speaks upon this question, speaks with a great advantage over me and over many other members of the Senate, for he feels himself entirely at liberty in his place as a Senator to speak of the President of the United States, although this impeachment is still pending undetermined in the court, in the most unmeasured terms of denunciation; and others who are here sitting in this court of impeachment feel constrained not to speak, not even to open their mouths, upon the questions which are involved in the impeachment so long as that case is pending here. I therefore feel constrained even now to keep my mouth closed from entering into anything like a defense of the President as connected with anything involved in the impeachment trial.

But aside from that, and outside of the impeachment trial or anything contained in the articles, upon which I am not at liberty to speak, and shall therefore say nothing, I say to that honorable Senator that he never in his life has done more injustice to a human being than he has done in standing here and speaking of Mr. Johnson as unprincipled and a wicked man. He may have his mistakes; he may err in judgment; but I say to that honorable Senator from perhaps an acquaintance more familiar with the President than he has had during the last three years, a constant acquaintance with him, that, if I am any judge of a man when put in high place, or in any trying position, as to the integrity of the motives by which he is governed, I never in my life have met a more honest man than Andrew Johnson. And I say to that honorable Senator that although he may make great mistakes, and I confess that he has; although he may err in judgment, as no doubt he has; although he may err in matters of taste, in matters of rhetoric, he may err in making public speeches and *extempore* speeches, (which, in my judgment, no President should ever make at all,) still, when we come to the question of the integrity of his motives—I speak not now of any matter which is involved in this prosecution, because there are distinct charges and articles brought against him, and I speak not upon that subject; but outside of that, I say, Mr. President, in answer to the Senator, that I believe him to be an upright and an honest man. His whole life has demonstrated it. I know he has not had the advantages of the honorable Senator from Massachusetts; neither of learning, nor of education, nor of opportunity; but, sir, he has that which neither wealth can bestow nor universities of learning confer; he has that which belongs to those who come into this world, whether in a palace or in a manger, with their souls lighted with celestial fire, with nature's stamp as one of God's nobility, an honest man.

And, sir, I have another thing to say to the Senator from Massachusetts, that upon him personally more than upon any other man rests this very controversy between the President of the United States and the Congress of the United States which for the last three years has agitated the country. Was it not the Senator from Massachusetts, in his place here, who, before any controversy had ever begun, rose in his place, when the President of the United States sent in a message, with a report of General Grant accompanying it, and denounced it as a whitewashing message? He was the one that made the attack. He began that warfare

which led to this breach; and from that day to the present moment he has never let slip an occasion to denounce Mr. Johnson whenever he could get an opportunity.

Mr. President, I do not refer to newspaper reports with any great degree of reliance; I know how much they are liable to be misled; but information came to me the other day since the vote which occurred in the impeachment trial, stating that a certain Methodist conference, I think, or some Christian denomination, assembled in Chicago, receiving information that there had been some corrupt practices in the Senate of the United States, resolved to hold a day of fasting and prayer upon the subject of the corruption of Senators, or words to that effect. To us, who know the men with whom we are associated; to us, who know the honorable Senators here who have been denounced for separating from their political associates in the votes they have given, this is of no consequence; it would only excite a smile of derision to talk about the use of money and corruption in reference to the votes which have been given by Senators in this body. We know the men who are here. But at a great distance, a thousand miles away, all may not know them; and when the House of Representatives pass a resolution which seems to say that they have information going to show probable cause to believe that corrupt means have been used in the Senate, I think, Mr. President and Senators, it is a question for the Senate to enter upon; it is for the Senate and not for the House of Representatives; and therefore I think that great force should be given to the observations of the Senator from Pennsylvania, and as this evidence is called for in pursuance of that resolution of the House, I think the Senate should hesitate before yielding what would be yielded as a matter of comity under ordinary circumstances until we can have some explanation from the House in relation to the resolution which has been passed by that body.

Mr. YATES. Mr. President, I cannot view this subject in the light in which the Senator from Wisconsin views it. I cannot for the life of me see that there is any reflection upon the Senate in the action of the House of Representatives; and even if there was a reflection upon the Senate, I cannot see that the Senate should refuse any investigation which may be suggested by the House.

Mr. DOOLITTLE. I will ask my honorable friend if he proposes to have the Senate investigated by the House?

Mr. YATES. I will answer the Senator's question. I propose that the Senate of the United States shall defy investigation from any source or quarter, and if the Senator from Wisconsin is afraid of investigation, I am not.

Mr. DOOLITTLE. I am not afraid of investigation; but I would not submit for one, as a Senator, to have the Senate investigated by the House. We might just as well investigate the House.

Mr. YATES. Mr. President, if the Senator had waited until I had made my introductory remarks, at least he would have seen upon what ground I based the first sentence I uttered.

The House of Representatives is a party to this impeachment proceeding. By the Constitution of the United States the House of Representatives is prosecutor in the case. The people of the United States, through the House of Representatives, have laid the indictment before us; and if the House of Representatives or any member of that House is satisfied that there is probable cause to suppose that money, that bribery, that corruption in any shape or form, has been used to influence the deliberations of the Senate, that House or that member of the House would be derelict in his duty and a disgrace to the country in which he lived if he did not introduce a resolution of inquiry on the part of the House as prosecutor in the case.

Will the honorable Senator from Wisconsin pretend to say that when attorneys designated by law to prosecute in the case, the prosecuting attorneys, the people's attorneys, have heard of the use of corrupt and illegal means by



which to influence the verdict in the trial of a cause of great importance, affecting the interests of the people deeply and broadly, it is not their duty to bring the question to an investigation?

Mr. President, I say that the Senate should demand that this investigation proceed. I, as a Senator, wish to vindicate that purity to which the honorable Senator from Pennsylvania has so beautifully and so eloquently referred; but, sir, you cannot do it by obstructing investigation; you cannot do it, as the Senator from Wisconsin would do it, by saying that the House of Representatives is severely reflecting upon the Senate.

I do not propose to follow the Senator from Wisconsin in his defense of Andrew Johnson, or in his response to the honorable Senator from Massachusetts; but if I were the defender and apologist of Andrew Johnson, I would not attempt to smother investigation; I would not reflect upon the coordinate branch of this Congress because they propose to investigate these charges. The air is full of rumors; the public press and the minds of the people are alive with the charges that have been made, whether true or false—and, sir, I am not here to say that they are true; I am not here to say that the palm of any man's hand has been soiled with the thirty pieces of silver; I am not here to say that any political ambition, any desire for office, or any hope of future rewards has influenced the vote of a single individual. But I say the atmosphere around us and all over the country is rife with charges and rumors of this kind, and I desire an investigation to vindicate the purity of the Senate; that every Senator may feel that he is free and exculpated from these charges so detrimental to his honor and to the standing of the Senate. In this view I can see no impropriety whatever in the action which has been taken by the House of Representatives, and I would say that instead of opposing investigation the Senate should do everything which it can to encourage investigation.

Mr. DIXON. Mr. President, I have precisely the same opinion of the proceedings of the House of Representatives, and of the charges implied or directly brought in the resolution of the House which has been submitted to us, that has been expressed by my friend from Wisconsin. I consider the charges as base and as baseless as he does; but I think a more proper mode of investigation would be by the Senate. I think it might be proper, and perhaps it would be proper, for the Senate to ask the House to furnish this body with the testimony before them for the purpose of enabling us to proceed with an investigation, if an investigation is necessary, and I do not know but that such a resolution ought to accompany our compliance with their request. But still, sir, I am of opinion, when I consider what the Senator from Illinois [Mr. YATES] has said, that the air is full, and has been for six weeks full, not only of charges against this body but of menaces and threats, that we ought to lay aside all questions of dignity, and we ought to say to the House and to everybody else: "We are perfectly willing to furnish anything that you may ask for which will enable you to substantiate your charges, if you have any charge to make."

That is my opinion, and I am sorry to differ with my friend from Wisconsin and the Senator from Pennsylvania. I believe that if we should take any other ground it might be made use of; it might be said that we feared investigation. For myself I utterly condemn and despise this charge. I know these Senators about me too well. Why, sir, the idea deserves nothing but utter contempt that there is a Senator in this body who could be influenced in the manner intimated by the House of Representatives. You, sir, know well, and I know well, that there is not a man in the Senate who could be approached in the manner which has been intimated. But, sir, it is rather late for this body to put itself on its dignity after what we have submitted to. Here, in this

very Hall, one of the managers of impeachment, on the part of the House of Representatives, dared to tell this Senate that the Senate dared not acquit the accused President. One of these managers dared to say that everlasting obloquy would pursue any Senator who voted to acquit. He said the same before in the House. What else have you submitted to? Your own Secretary day after day has heaped calumny and insult upon this body, and you have permitted it. And now, sir, my friend from Wisconsin will excuse me for saying that it is too late for this body to stand upon its dignity. We have been insulted; we have been brow-beaten; we have allowed the press of this country—no, sir; I will not use the epithet which I was about to employ—we have allowed this trial to be taken out of our hands. We have allowed editors to come here upon this floor to indite their insulting epistles. We have given seats—an honor which I could not get for the Governor of Connecticut—upon this floor to editors of newspapers who have written to their papers letters insulting to the Senate and attempting to influence the action of the Senate. Now, I say, it is too late to stand upon our dignity. If anybody wishes to accuse Senators here of receiving bribes, furnish all the evidence he may ask for; I would give him our proceedings; I would give him all the papers, and let him do his worst.

Mr. HARLAN. Mr. President—

Mr. HOWE. Will the Senator give way to a motion to adjourn?

Mr. HARLAN. I think this resolution ought to be acted upon. I have but one or two observations to make. I agree fully with the Senator from California that there is no apparent connection between the request made by the House of Representatives and what Senators suppose may be the purpose of the House in asking for this certified record. But, sir, if the two are to be taken together, I do not think that they imply any censure or reflection upon any Senator. The resolution, if I heard it read correctly by the Senator from Wisconsin, states that they have reason to believe that corrupt means have been attempted to influence the Senate, and they deem it to be their duty to look into it. Doubtless, if in the progress of that inquiry the House should ascertain that any Senator was improperly implicated, they would notify the Senate of that fact, just as the Senate had done heretofore when a member of the House had been supposed to be guilty of an impropriety in relation to a member of the Senate. Since I have had the honor of a seat on this floor I remember that it was alleged that a member of the House had made an assault on a member of the Senate. The matter was investigated by a committee of this body; the facts were ascertained, showing that, in the opinion of the Senate, this member of the House was implicated in an improper act. The House was notified, and appointed a committee to investigate the matter, and the House inflicted a certain punishment.

Now, the House say that they have reason to believe that improper means have been used to influence the conduct of the Senate. No one, surely, will pretend that the House is not a competent tribunal to investigate the conduct of civil officers of the Government, for the Constitution has conferred on that body the right to arraign civil officers of the Government before the Senate. Their inquiry may be in relation to civil officers of the Government, and I think they name one in their resolution. If, therefore, they should find that officers of this Government have been attempting to use improper or corrupt means to influence the decision of this body, it may be ground of impeachment of that officer, and they may, therefore, with great propriety proceed to investigate it without reference to any connection it may have with members of this body. But, as before remarked, if they should ascertain that some member of this body may have been improperly connected with any such transaction, it will be then time for members of the Senate to com-

plain of a discourtesy on the part of the House if the House should proceed to attempt to inflict punishment on that member of the Senate. Then, doubtless, they would report the facts to the Senate and the Senate would proceed to vindicate its own honor.

Taking, therefore, the past history of the two bodies as this history has come to my knowledge, I can see no necessary reflection on a member of the Senate in the course pursued by the House if this request of theirs must necessarily be connected with the resolution to which reference has been made; but I see personally no necessary connection between the two, and I hope that before an adjournment shall be had the Senate will grant this courtesy to the House and give them a certified copy of our proceedings as they request. I ask for the yeas and nays on the resolution.

The yeas and nays were ordered.

[A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House had laid on the table the concurrent resolution providing for a recess, and had also laid on the table a motion to reconsider the same.]

Mr. CONKLING. Mr. President, the resolution before us seems to me to present a novel and somewhat complex question—the question whether in any case or for any reason it pertains to the House of Representatives to investigate a matter concerning the conduct of this body or any member of it. I do not agree at all with the honorable Senator from Iowa [Mr. HARLAN] that there is the slightest doubt of the connection between this order lying upon the table and that resolution which has been read as adopted by the House. It seems to me there is no doubt that this resolution before us is a continuance of that proceeding inaugurated by the resolution which was read by the honorable Senator from Iowa.

Yet I think he answers fairly the objection which arises at this point, by saying that we are bound to suppose, if it is necessary to suppose in order to acquit the House of any blame, that the aim of this investigation is to lay the information in the end, should it be gained, before the Senate for its action. That answer alone, perhaps, is sufficient to any criticism which might here arise. Nevertheless, the general question seems to me to remain, how it is that the House of Representatives gets possession, gets jurisdiction of a question like this; and if that jurisdiction can be found at all, I think it must be found in the direction pointed out by the honorable Senator from Illinois. Embracery of the jury is a term and an offense not unknown to the common law; and the mode of dealing with that offense is not unknown to the usages of the common law. Therefore, perhaps, all Senators who are willing to take this view of the subject may for the time being content themselves, as my honorable friend from Connecticut is able to content himself, and other Senators have declared they are content, to allow this investigation to proceed.

But, sir, there is another view of the subject which has rested for several days in my mind, and which addresses itself to me now as the graver and the more interesting consideration connected with it. The land rings with accusations, with imputations upon Senators named and unnamed, grave and polluting in their character. I shall be glad to see some investigation, any investigation, I care not what, for this purpose, which will give to every man entitled to it, every man to whom it is important, his day in court to show cause for these statements, scandalizing as they do not only the Senate and the country, but the age I might almost say; and whenever the time shall come as a period in this proceeding now carried on by the House, or as a mere day or hour in the experience of this body, it will, I think, behoove us to consider what, looking to the fitness of things and looking to the privileges of the Senate, its Constitution, and its obligations, it befits us to do in regard to persons, if there shall turn out to be such, who, without its

being founded on fact, without the existence of probable cause, or of any other thing in morals, in ethics, or in decency defending or extenuating the engendering and putting afloat of such accusations, has been bold enough to do it?

Sir, the annals of this body go back, not in the twilight of fable, or even of remote antiquity either, to times when the Senate reached out its arm to a distant city and brought here the correspondent of a newspaper who had soiled the name and the reputation of the Senate, and punished him with degradation and severity for what he had done. I say, without dilating upon it, that the question may be an interesting one when the time comes that it is in order; what it will belong to the Senate to do to those who have darkened the whole air about us with accusations which, if they be founded upon fact or upon probable cause, will, upon the demonstration of the foundation upon which they stand, be able to vindicate themselves against all comers, but accusations which, if they turn out to be the product of the heat, the licentiousness, the lawlessness of this time, will call, I think, loudly upon somebody to see to it that such steps are taken as it is proper to take to teach to all the world that even though a man be a member of one or the other House of Congress he is not thereby consigned to a position which entitles every one to shovel upon him all the filth which his inclination may lead him to fling.

This is no new matter, sir; and I speak of it, perhaps, with a feeling which does not come entirely from this time or this occasion. I have been present in the other House of Congress when, from motives such as I have alluded to and which I do not of course affirm have prevailed in this instance or appeared at all in this case, when from motives of a malicious character, men speaking from the outside of the Chamber have seized upon some occasion, some period of excitement, some streak of venomous feeling which happened to be afloat at the time, to strike at a particular man or particular men, and attempt to affix to them some stigma which should last, and that in punishment, in resentment for something, or to carry some collateral and distinct end. I do not mean to say at all, let me repeat, that I have any reason to suppose that to be true in this case; but I say as one of the alternatives here that if it shall turn out that in some or all instances this enormous flood of imputation which has gone out has had its origin in that sort of recklessness which is to be imputed to every man who, without knowledge of the truth of it, has declared it in newspapers or otherwise, it will present a proposition of much more interest to me than the particular question upon which this debate has arisen.

If there be any doubt of the jurisdiction of the House in this case, I think it concerns the practical profit of the occasion at least that that doubt should be resolved in favor of the House, that we should interpose nothing technical or otherwise until, as the Senator from Iowa suggested, some proposition shall be made that shows clearly an intention to attempt an infraction of the privileges of this body. I content myself with that for the present; but I say again that if in the progress of this investigation the time shall come when we shall see that these allegations have originated not in fact, not in a disposition honestly to pursue the truth, but on the sort of disposition which has heretofore exposed members of both Houses to this species of attack and aspersion, then I shall hold myself at liberty, waiving nothing here, to do as an original question what I think will pertain to the dignity of this body if it is able to lay its hands upon the man or the men guilty of the offending.

Mr. DAVIS. Mr. President—

Mr. RAMSEY. If the Senator will give way I will move an adjournment; it is now five o'clock.

Mr. RAMSEY. Mr. President, I will make only a few remarks on this extraordinary proceeding.

Mr. DAVIS. The Senator from Pennsylvania wishes the floor for a moment to make an explanation, as I understand. I give way to him to make an explanation.

Mr. BUCKALEW. Mr. President, I have delayed some time making the explanation I promised when the Senator from Massachusetts was upon the floor. The extract which he read from the New York World is part of a communication from a correspondent, as has been a number of times stated since; that communication was drawn and was published with a special object; it was to expose the character of the arguments which had prevailed in a rival newspaper in regard to the proceeding of impeachment in the Senate. That rival newspaper had insisted that the trial of impeachment was not so much a judicial as a political question, and that Senators should take into account political interests and their own interests in the future. Ironically a correspondent publishes an article suggesting that a certain amount, \$1,000,000 apiece, should be raised for a certain number of members of the Senate. The trap laid for the rival newspaper was successful; it at once denounced that proposition as perfectly outrageous; and then the World, which had published this communication, "came back" upon it in return, and it said, "You perceive now the outrageous character of your proposition that Senators should vote with reference to political considerations and their own personal interests as members of a party. You perceive that that is precisely of a class with a proposition to bribe members of the Senate." This has been so fully explained in the World, in which the communication appeared, that I think it strange it should have escaped the attention of the Senator from Massachusetts. I make this explanation as he has repeated it.

Mr. DAVIS. Mr. President—

Mr. SPRAGUE. If the Senator will give way I move that the Senate adjourn.

Mr. SUMNER. I hope the Senator will withdraw it that we may adjourn over to Thursday.

Mr. SPRAGUE. I move that the Senate do now adjourn.

The motion was not agreed to; there being on a division—ayes 11, noes 16.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) There is not a quorum voting.

Mr. SUMNER. If the Senator from Kentucky has no objection I will move that when the Senate adjourns to-day it be to meet on Thursday next.

Mr. WILLEY. I hope not.

Mr. DAVIS. I have no objection to that question being put.

The PRESIDING OFFICER. The Senator from Massachusetts moves that when the Senate adjourns to-day it adjourn to meet on Thursday next.

Mr. WILLEY. I hope not. I trust we shall not adjourn over. It does seem to me that this is trifling with the public business. We declined to adjourn over so as to give members time to go home to see their families. Now, sir, there is a great deal of business upon the docket besides the bill for the admission of Arkansas, which the Senate seems to be opposed to pressing for action now.

Why should we adjourn over from day to day at this period of the year, when we have so much business pressing upon us for action—private bills, public bills, appropriation bills, bills demanding action; bills upon which the country demands action? Why shall we, for side purposes, by this kind of indirection, shirk the responsibilities resting upon us as Senators? Let us take up the business of the country, and discharge our duty here as we ought to do. I do not know whether the other House will tomorrow reconsider its vote laying the resolution which went over to them upon the table. I understand that it cannot be done. There is no necessity, then, it seems to me—

Mr. HOWE. I rise to inquire whether this debate is in order. I understand there is no

quorum here. We are debating another question, as I understand.

The PRESIDING OFFICER. A motion was made by the Senator from Massachusetts, that when the Senate adjourns to-day it adjourn to meet on Thursday next.

Mr. HOWE. But the division just before had shown that there was not a quorum, as I understood the Chair to say.

Mr. WILLEY. If there is no quorum I have nothing more to say.

Mr. DRAKE. There is a quorum present now.

Mr. HOWE. I should like to know whether there is or not.

Mr. EDMUNDS. Let the Chair ascertain by a count.

Mr. BUCKALEW. I suggest that the point must be made at the time. We have gone on with other business and it is to be presumed that we have a quorum.

Mr. HOWE. I do not know but that the presumption will overcome the record. [Laughter.]

Mr. CONNESS. Let us vote on the resolution that is before us, and then adjourn.

The PRESIDING OFFICER. According to the vote there was no quorum.

Mr. CONNESS. I call for the yeas and nays on the resolution before us. That will demonstrate whether there is a quorum.

Mr. SUMNER. The question is on the adjournment over.

Mr. EDMUNDS. But that motion cannot be entertained without a quorum.

The PRESIDING OFFICER. The yeas and nays are called for.

The yeas and nays were ordered.

Mr. HOWE. I take it the yeas and nays are ordered on the motion to adjourn, are they not?

The PRESIDING OFFICER. The motion before the Senate on which the yeas and nays have been ordered is the motion that when the Senate adjourns to-day it adjourn to meet on Thursday next.

The question being taken by yeas and nays resulted—yeas 16, nays 14; as follows:

YEAS—Messrs. Anthony, Buckalew, Cole, Conness, Davis, Doollittle, Drake, Edmunds, Howe, Nye, Patterson of Tennessee, Stewart, Sumner, Van Winkle, Wade, and Yates—16.

NAYS—Messrs. Conkling, Cragin, Harlan, Henderson, McCreery, Morgan, Norton, Pomeroy, Ross, Sprague, Tipton, Trumbull, Willey, and Wilson—14.

ABSENT—Messrs. Bayard, Cameron, Cattell, Chandler, Corbett, Dixon, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Hendricks, Howard, Johnson, Morrill of Maine, Morrill of Vermont, Morton, Patterson of New Hampshire, Ramsey, Sherman, Thayer, Vickers, and Williams—23.

So the motion was agreed to.

Mr. SPRAGUE. There are a good many speeches to be made on this matter, and I think time will be saved by an adjournment. I may want to make a speech myself. I move, therefore, that the Senate do now adjourn.

Mr. CONNESS. I hope not until we vote on this subject.

The Senate refused to adjourn—ayes ten, noes not counted.

Mr. CONNESS. Now I ask for the yeas and nays upon the resolution before the Senate.

The yeas and nays were ordered.

Mr. DAVIS. Mr. President, I intend to make a very few remarks on the subject now before the Senate. I understand it to be a parliamentary law that when anything happens directly relating to a member of one of the Houses, and which affects in any manner the other House, and the other House is in possession of the information, it is the duty of the House that has the information on the subject, and that intends to make complaint of it, simply to communicate the information to the House of which the member complained of is a member, and let the House of which he is a member take what course it may please on the subject.

I understand this to be the strict parliamentary law in relation to the matter. The House of Representatives have preferred articles of impeachment against the President; those articles

have been under trial before the Senate sitting as a court of impeachment; it appears that members of the House and managers of the impeachment have been furnished with some information the tendency of which would be to establish improper approaches to some of the members of the court, and it appears that the House is now engaged in the matter of investigating that imputation. The question is, what is the duty of the House in relation to this matter, and what is the present duty of the Senate in relation to it? We cannot consider the resolution for the information asked for apart from the preamble and resolution which have been read in the Senate this evening. They both necessarily have to be considered together, and they establish this proposition: that the House is now engaged in investigating imputations of improper conduct on the part of members of the Senate sitting as a court of impeachment for the trial of the President, and the House asks of the Senate extracts from its record, the obvious tendency of which is to assist them in the prosecution of the allegation of improper approaches to members of the court. If that be the matter for the consideration of the Senate, in my opinion the Senate ought to withhold the information. It is the duty of the House, according to the courtesies that subsist between the two bodies, according to parliamentary law, if the House is in possession of any information that tends to inculpate any members of the Senate sitting as a court of impeachment, to communicate that information to the Senate and leave the Senate to act on the communication as it may think proper.

Now, sir, under that operation of what I consider to be the parliamentary law and the courtesies existing between the two Houses, the Senate ought not to proceed to take any notice whatever of the resolution except to lay it upon the table until they receive a communication from the House informing them of such information as they may have in relation to the charges imputed to members of the Senate.

It resolves itself into this question: the House of Representatives are engaged in an inquiry of charges affecting the proper conduct of members of the Senate sitting as a court of impeachment; it is prosecuting that inquiry before one of its committees; and it asks for extracts from the records of the Senate sitting as a court of impeachment, to enable it to prosecute that inquiry. Is it consistent with the rights and the dignity of the Senate that it should sit still, and not only permit this investigation of the House of Representatives in relation to the conduct of its members to continue, but also give facilities to the members of the House who are engaged in the prosecution of that inquiry?

Mr. BUCKALEW. Will the Senator permit me to call his attention to one point?

Mr. DAVIS. Certainly.

Mr. BUCKALEW. The House of Representatives are not asking any assistance from the Senate in prosecuting an inquiry about the proceedings of an outsider, of the President, or of a presidential agent, or anybody else. They are asking for a record which contains only the proceedings of Senators themselves. They are taking our own record, which shows nothing but the proceedings of the Senate itself.

Mr. DAVIS. I ask the Clerk to read the resolution.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The resolution will be again read.

The Chief Clerk read the resolution of the House of Representatives, as follows:

*Resolved*, That the Senate are hereby requested to direct that a certified copy of the proceedings for the last two days of the impeachment of the President of the United States be sent to the House of Representatives.

Mr. DAVIS. Mr. President, I am considering that resolution in connection with the preamble to the resolution of the House which was read by the Senator from Wisconsin. The subjects are so intimately connected that their

consideration, in my judgment, cannot be separated. They must be considered together, and I am considering them together. It seems to me that the plain purpose of the House, and the information of the Senate in relation to its proceedings, as published in the newspapers, is, that they are engaged now in investigating certain charges against members of the Senate. They have no right to enter upon any such inquiry. If any information comes to the House touching the misconduct of any Senator in relation to the matter of impeachment, as I said before, the parliamentary law and the rule of courtesy between the two Houses would require and demand of the House simply to communicate the information it had upon the subject to the Senate, and to leave the Senate to its own action in relation to it.

The idea that has been suggested by some Senators, and, if I mistake not, by my honorable friend from New York, [Mr. CONKLING,] that there are newspaper charges and imputations against members of the Senate that ought to be investigated, in my judgment deserves no sort of consideration. If every newspaper in America was freighted with charges of that kind against members of the Senate I should be for folding my arms and treating them with silent contempt. But when the House of Representatives takes up a matter of that kind and commences an investigation of it, it assumes more of consequence, and probably a form that deserves the attention of the Senate. The matter has been communicated to the Senate by that simple resolution which has been sent to us; but we cannot shut our eyes and minds to the fact that that resolution is connected intimately with the inquiry that is now being prosecuted before a committee of the House, under the authority and order of the House, in relation to the proper conduct of members of the Senate, and in my judgment the Senate ought to give no countenance, no facility whatever, to the further prosecution of that investigation; on the contrary, I believe they ought to enter up a resolution of remonstrance against any such inquiry by the House being prosecuted in relation to members of the Senate, connected with another resolution requesting them if they have any information calculated to inculpate members of the Senate to communicate it to the Senate itself.

Now, I will make a single remark in relation to the denunciation of the President of the United States by the Senator from Massachusetts. The Senator from Massachusetts is a member of the court of impeachment. The President of the United States is under trial before that court, and is presumed by law and by reason to be innocent until his guilt is established by proof. It was proposed, when the Constitution was formed, that the court of impeachment should not be the Senate, but should be the Supreme Court. Suppose that had been the provision of the Constitution, and the Supreme Court were now sitting as a court of impeachment for the trial of the President of the United States, and the Chief Justice had made such expressions as to his guilt and had denounced him in the terms in which the honorable Senator from Massachusetts, a member of this court of impeachment, has denounced the President of the United States, I ask the Senate if the country, the Senate itself, the world, would have tolerated for a moment any such indecent and outrageous conduct on the part of the Chief Justice of the Supreme Court, that body sitting as a court of impeachment for the trial of the President? No, sir; instead of its being tolerated for a moment the voice of the Senate and the land, so far as it was upright and honest, would have demanded the instant impeachment of the Chief Justice of that court for the expression of such an opinion in relation to the case of a party charged upon articles of impeachment that were under trial. If a member of a court could ever merit impeachment and the condemnation and scorn of the world, it would be the Chief Justice of the Supreme Court so acting and so expressing himself.

I can myself see no difference between what would have been the culpable and execrable conduct of the Chief Justice of the Supreme Court in the case which I have supposed and the course and condemnations and denunciations of the Senator from Massachusetts. I believe that for that conduct that Senator deserves richly, and ought to receive, the sentence of expulsion from the Senate of the United States. Certainly, if the Chief Justice who has been presiding over this trial with so much dignity and impartiality had been the chief presiding officer of the Supreme Court under the proposition to make that court the court of impeachment, and he had expressed himself in the very terms in which the Senator from Massachusetts has expressed himself as a member of the Senate, I would feel myself bound, if he were impeached by the House of Representatives, to depose him from the high position which he had so thoroughly degraded and disgraced.

Now, Mr. President, I think that the resolution of the House of Representatives ought to be laid on the table. If the House, as the impeachers of the President of the United States, or if the managers of that impeachment, or any members of the House have such information in relation to any members of the Senate as would inculpate them in regard to their conduct as members at the court of impeachment, it is the duty, it is the courtesy, it is the universal custom between the different Houses of all legislative bodies, that the House that has in its possession the information, and feels itself deeply grieved, should only communicate to the other the information with the names of the guilty parties, and leave the other House to its own rightful and perfectly free judgment to act as it pleases in the premises. I think the Senate ought to take that course now.

Mr. DOOLITTLE. I shall propose the following resolution—

The PRESIDING OFFICER. This question being before the Senate, no other resolution is in order.

Mr. DOOLITTLE. I propose this as an amendment.

The PRESIDING OFFICER. An amendment is in order.

Mr. EDMUNDS. Let us hear it first, and see whether it is or not.

Mr. DOOLITTLE. I will read it myself:

Whereas the House of Representatives, by a resolution passed on Saturday last, have recited the following preamble, to wit:

"Whereas information has come to the managers which seems to them to furnish probable cause to believe that improper or corrupt means have been used to influence the determination of the Senate upon the articles of impeachment exhibited to the Senate by the House of Representatives against the President of the United States: Therefore,"

*Resolved*, That the House of Representatives be requested to furnish the Senate any information which has come to the said House or the managers thereof, tending to show that improper or corrupt means have been used to influence the determination of the Senate on said impeachment, that the Senate may take proper order thereon in the premises.

Mr. DRAKE. I would inquire of the honorable Senator from Wisconsin how the Senate knows that any such preamble has been adopted by the House of Representatives?

Mr. DOOLITTLE. I have read it from the published proceedings of the House of Representatives in the Globe to the Senate.

Mr. DRAKE. I have understood from Senators, upon inquiry this afternoon—

The PRESIDING OFFICER. Does the Senator from Wisconsin yield the floor?

Mr. DOOLITTLE. I had not yielded; but if the Senator desires to ask a question I will do so.

Mr. DRAKE. I was simply desiring to make an inquiry of the honorable Senator from Wisconsin. I asked the question of some Senators here this afternoon whether it was not customary and proper for each House to take cognizance officially of the proceedings of the other House as published in the official organ of both Houses, the Globe, and I was answered that it was not. If that is correct, about which I defer with great respect to the



senior Senators here, then I believe the fact to be that the preamble which the honorable Senator from Wisconsin recites in his resolution is not before us in any official form. It is only here, to our knowledge, in the columns of the Globe. If that is so, then I submit to the honorable Senator that it is not proper for us to take any notice of that which has been transacted in the House except simply as it is presented to us in official form by the House itself.

Mr. DOOLITTLE. The simple question is whether the fact has been brought to the attention of the Senate? It may be brought to the attention of the Senate by the statement of a Senator; it may be brought to the attention of the Senate by reading from a newspaper; and especially it can be brought to the attention of the Senate from that newspaper which is published under the authority of Congress, and which contains the official proceedings of both bodies.

I do not know the precise motion which has been made in relation to the resolution which came from the House of Representatives, and I will inquire of the Presiding Officer before I go on what is the precise motion pending?

The PRESIDING OFFICER. The pending question is on the passage of the resolution of the House.

Mr. EDMUNDS. No; the House sent no resolution. The motion merely is to furnish the document asked for by the House.

Mr. SUMNER. That is all. It was my motion.

Mr. DOOLITTLE. My motion is to amend that resolution by sending to the House of Representatives the resolution which I have sent to the Chair.

Mr. CONNESS. Upon that let us take a vote.

Mr. DOOLITTLE. We can take a vote when we get to it, if the honorable Senator from California will allow me.

Several SENATORS. Let us adjourn.

Mr. DOOLITTLE. No; I do not propose to adjourn; I am perfectly willing to remain here; but still there are some things that I desire to say in relation to this matter. I think the Senate will make a very great mistake the day that it shall once submit itself to the examination of the House of Representatives, after having passed a resolution that they have information going to show probable cause for believing that corrupt means have been used to influence the Senate in its judgment in the impeachment or in its judgment in any other matter.

The truth is, the independence of this body requires, if it would be independent of the House, that it should take its own members into its own keeping; and if there have been corrupt means used to influence the determination of any member of the body it is for the Senate to investigate, for the Senate to examine, and not for the House. Therefore I submit the resolution requesting the House of Representatives to furnish us the information of which they speak. Let it come to the Senate, and we can appoint a committee to investigate the subject and ascertain the facts.

If the House volunteer to go on and take *ex parte* testimony, we not assenting at all, it would be a simple breach of courtesy on their part to the Senate; but I think we shall rue the day if we ever consent to furnish the very means which they wish to show that one or more of the Senators have been corruptly influenced in their determination in this high court. I speak with no disrespect to the House of Representatives; but we know the tendency of all bodies is to enlarge their powers and jurisdiction, especially the larger, popular, and more numerous branches over those less numerous, less popular, less in condition to defend themselves. Therefore I think we should meet this right here, meet it on the threshold.

I know it is said they ask as a matter of comity on our part that we furnish them certain information. In a matter of comity I will go as far as any man in the world; but I never

go upon the principle of comity when there is an imputation made upon me, and a man desires me to be courteous to him when he is making an imputation that I am influenced by corrupt motives.

Mr. President, there are other things connected with this matter that perhaps ought to be investigated by a committee of this body; and if a committee should be raised on this question of what kind of corrupt influences have been sought to be used with this body, we might go outside of this particular charge. We know very well, and all the world knows, that from this city of Washington telegrams have been sent all over the country by men in position calling upon the people to denounce Senators as recreant to their trust—a direct appeal from the court to the mob outside. When the time comes that an appeal can be made from the highest court of the land to the mob outside to influence its determination, mob-law is to govern and control courts as well as legislative bodies. Sir, it will be a day of sorrow and anguish to the American people if such kind of appeals can be tolerated and justified and sent broadcast, as they have been, all over the land, to undertake to manufacture public opinion and gather it here to influence the conduct of Senators—threats of assassination, threats of personal violence, threats of intimidation of every form!

Mr. President, I can speak with some feeling on this subject, for I have had occasion within the last three years sometimes to vote upon my own responsibility in the midst of denunciation and threats of personal violence, and even attempts to mob me in my own town, because I would not consent to violate what I understood to be my oath. I may have been mistaken; I claim no infallibility; I claim simply an honest purpose; and because I have done it I have been mobbed in my own town and State. Therefore, sir, I can speak with some feeling on this subject. I know that these appeals are made for the purpose of influencing men in these high places. Newspapers are denouncing Senators everywhere, and telegrams are being sent for the purpose of intimidating and influencing men from following the dictates of their own judgment in the determination of this as well as other matters.

Mr. President, I think it is for the Senate to stand upon its own dignity, to defend itself, not to make the first step of concession toward the House so long as the House says in its own resolution that it has information showing that the determination of the Senate has been influenced by corrupt means. It is for us to investigate this matter and not furnish the means to other men to prosecute before another tribunal an investigation which belongs to us.

Gentlemen speak of my desiring to prevent investigation. No, sir; never. I do not wish to prevent any investigation or the fullest investigation in relation to any Senator in this body; and I venture to say that when the investigation takes place, whenever it may be authorized by this body, which has jurisdiction over it, it will show that there is not a particle or shadow of foundation for this alleged rumor. It is all rumor.

Now, Mr. President, I desire that the Senate should act upon this matter. It belongs to us to act.

Mr. EDMUNDS. Could we impeach any official who might be implicated?

Mr. DOOLITTLE. No, sir.

Mr. EDMUNDS. What can we do about it?

Mr. DOOLITTLE. This resolution speaks of no officials as being implicated.

Mr. EDMUNDS. It does not speak of any Senator.

Mr. DOOLITTLE. It speaks of the Senate being influenced in its determination by corrupt means.

Several SENATORS. No; it does not say that.

Mr. DOOLITTLE. That is precisely what it says.

Mr. CONKLING. An attempt.

Mr. DOOLITTLE. No; it does not say an attempt.

Mr. YATES. "Means were used."

Mr. EDMUNDS. Let us have it read.

Mr. DOOLITTLE. It says they have good cause to believe that the determination of the Senate has been influenced by corrupt motives.

Mr. EDMUNDS. Let us have it read and see.

Mr. DOOLITTLE. I call on the Clerk to read it.

Mr. SUMNER. I have it here.

Mr. DOOLITTLE. Let the Clerk read it.

Mr. SUMNER. I have it here, and will read it:

"Whereas information has come to the managers which seems to them to furnish probable cause to believe that improper or corrupt means have been used to influence the determination of the Senate upon the articles of impeachment exhibited to the Senate by the House of Representatives against the President of the United States."

Mr. EDMUNDS. It does not say that they have been influenced. It looks as though it might apply to the officials that the Senator from Wisconsin seems so anxious to guard.

Mr. DOOLITTLE. The Senator says that it may apply to officials that I am anxious to guard. Sir, I repel the imputation.

Mr. POMEROY. The resolution of the Senator from Wisconsin is not in order. Not being germane to the original motion, it cannot be entertained by the Senate while the other motion is pending.

Mr. DOOLITTLE. Mr. President, I do not like to have Senators say to me that I desire to guard officials or anybody else from investigation.

Mr. CONNESS. The Senator will allow this question of order to be settled first.

The PRESIDING OFFICER. The Chair is not certain what it was. Let us see what the motion is.

Mr. POMEROY. The motion of the Senator from Massachusetts was that the request of the House of Representatives be granted, and upon that motion the Senator from Wisconsin brings in the resolution which has just been read.

Mr. DOOLITTLE. The resolution may not be in order; but I supposed I was.

Mr. POMEROY. The Senator was speaking upon a resolution not in order before the Senate.

Mr. DAVIS. I suggest to the honorable Senator one question. How could these corrupt means be used unless the overtures were accepted?

Mr. EDMUNDS. By giving them to an agent and employing him to approach a Senator, who refused to be approached.

Mr. DAVIS. There would be no use in that. It would be a mere attempt to use them.

Several SENATORS. That is what the resolution says.

Mr. DOOLITTLE. The resolution avers that the House of Representatives have good cause to believe that corrupt means have been used to influence the determination of the Senate.

Several SENATORS. No, no!

Mr. DOOLITTLE. I wish honorable Senators would get the resolution and read its language for themselves. Certainly it reads in that way to me.

Now, Mr. President, I desire not to trespass upon the time of the Senate. I have never done so in my life. But I am speaking on this subject because I earnestly believe that it is our duty on such information to examine this matter for ourselves, and not to give over the examination to the House of Representatives. ["Question!" "Question!"]

The PRESIDING OFFICER. On this question the yeas and nays are ordered; and the Clerk will call the roll.

Mr. DOOLITTLE. I move my resolution as a substitute.

Mr. EDMUNDS and others. It is not in order.

Mr. DOOLITTLE. I will ask the opinion

of the Chair on that subject. Gentlemen say it is not in order; but I supposed that in place of one resolution I could offer another.

Mr. EDMUNDS. Not necessarily.

The PRESIDENT *pro tempore*. If they are independent resolutions, the one first offered must be first acted upon.

Mr. POMEROY. The first offered was the resolution proposing to answer the request of the House of Representatives.

The PRESIDENT *pro tempore*. The pending question will be read.

The CHIEF CLERK. The pending question is on the following resolution:

*Resolved*, That the Secretary be directed to communicate to the House of Representatives a certified copy of the proceedings of the Senate, sitting for the trial of the President of the United States upon articles of impeachment, for the last two days of the trial, as requested in the resolution of the House of Representatives of the 18th instant.

The PRESIDENT *pro tempore*. Now the resolution of the Senator from Wisconsin will be read, and then we will endeavor to understand what it is.

The CHIEF CLERK. It is proposed to amend the resolution just read by inserting before the word "Resolved" the following preamble:

Whereas the House of Representatives, by a resolution passed on Saturday last, have recited the following preamble, to wit:

"Whereas information has come to the managers which seems to them to furnish probable cause to believe that improper or corrupt means have been used to influence the determination of the Senate upon the articles of impeachment exhibited to the Senate by the House of Representatives against the President of the United States: Therefore."

And after the word "Resolved" it is proposed to insert:

That the House of Representatives be requested to furnish to the Senate any information which has come to said House, or the managers thereof, tending to show that improper or corrupt means have been used to influence the determination of the Senate on said impeachment, that the Senate may take proper order thereon in the premises.

The PRESIDENT *pro tempore*. The question is on the resolution offered by the Senator from Massachusetts, on which the yeas and nays have been ordered. The Clerk will call the roll.

Mr. DOOLITTLE. Do I understand the Chair to decide that my resolution moved as a substitute is not in order?

Mr. EDMUNDS. Clearly not.

The PRESIDENT *pro tempore*. The propositions are entirely independent, having no connection with each other, and the resolution of the Senator can be offered afterward.

Mr. DOOLITTLE. I will modify my resolution so as to read:

*Resolved*, That the Senate decline to furnish the information requested, and that the House be respectfully requested to furnish the information, &c.

My proposition is to decline to send them the information asked for, and request them to send us the information they have.

The PRESIDENT *pro tempore*. The question is on that amendment.

The amendment was not agreed to.

The PRESIDENT *pro tempore*. The question recurs on the resolution.

Mr. DAVIS. I ask for the yeas and nays on the proposition of the Senator from Wisconsin.

Several SENATORS. It is too late.

The PRESIDENT *pro tempore*. It is too late.

The Chief Clerk proceeded to call the roll on the resolution of Mr. SUMNER, with the following result:

YEAS.—Messrs. Cattell, Cole, Conkling, Conness, Cragin, Drake, Edmunds, Harlan, Howe, Morgan, Nye, Pomerooy, Ross, Stewart, Sumner, Tipton, Wade, Wilson, and Yates—19.

NAYS.—Messrs. Buckalew, Davis, Doolittle, McCreery, and Patterson of Tennessee—5.

ABSENT.—Messrs. Anthony, Bayard, Cameron, Chandler, Corbett, Dixon, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Johnson, Morrill of Maine, Morrill of Vermont, Morton, Norton, Patterson of New Hampshire, Ramsey, Saulsbury, Sherman, Sprague, Thayer, Trumbull, Van Winkle, Vickers, Willey, and Williams—30.

The PRESIDENT *pro tempore*. There is not a quorum voting.

Mr. CONNESS. I move that the Sergeant-at-Arms—

Mr. BUCKALEW and Mr. DAVIS. Let the vote be announced by the Chair first.

The PRESIDENT *pro tempore*. On this question the yeas are 19 and the nays 5; no quorum voting.

Mr. CONNESS. I now move that the Chair direct the Sergeant-at-Arms to find and bring in Senators.

The PRESIDENT *pro tempore*. It is moved that the Chair be directed to send the Sergeant-at-Arms for the absentees.

Mr. BUCKALEW. I believe the usual motion, and the more decorous, is that the Sergeant-at-Arms be directed to request the attendance of Senators.

Mr. CONNESS. Very well.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Sergeant-at-Arms is directed to request the attendance of absent Senators.

Mr. BUCKALEW. I move that the Senate adjourn.

The motion was not agreed to.

After a pause,

Mr. YATES, (at six o'clock and two minutes.) I think we shall have to wait here all night to get a quorum, and if it is in order I move that the Senate do now adjourn.

The motion was not agreed to, there being on a division—yeas 3, noes 10.

Mr. COLE, (at six o'clock and five minutes.) I think some of the Senators who voted on the first call have since absented themselves from the Chamber, and it will be impossible to get a quorum, I think, to-night. I therefore move an adjournment.

Mr. SUMNER. I think there is no use in our staying here.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

MONDAY, May 18, 1868.

The House met at twelve o'clock m.

The Journal of Saturday last was read and approved.

ADJOURNMENT TILL THURSDAY.

Mr. MAYNARD. I move that when the House adjourns to-day it adjourn till Thursday next.

Mr. WASHBURN, of Illinois. Oh, no.

The SPEAKER. If there be no objection, the Chair will go through the call of States for bills, &c., before putting the question on the motion of the gentleman from Tennessee, [Mr. MAYNARD.]

Mr. MAYNARD. I have no objection to withdrawing the motion for the present, with the understanding it shall be renewed hereafter.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order during the morning hour is the call of States and Territories for the introduction of bills and joint resolutions for reference to their appropriate committees, not to be brought back by a motion to reconsider. During this call resolutions of State and territorial Legislatures may be presented.

ABANDONED PROPERTY IN REBEL STATES.

Mr. POLAND introduced a bill (H. R. No. 1082) construing an act for the collection of abandoned property and for the prevention of frauds in insurrectionary districts in the United States, approved March 12, 1863; which was read a first and second time, referred to the Committee on Revision of Laws of the United States, and ordered to be printed.

ELIGIBILITY TO PRESIDENCY.

Mr. ROBINSON introduced a joint resolution (H. R. No. 269) proposing an amendment to the Constitution of the United States; which was read, as follows:

*Be it resolved, &c.*, (two thirds of both Houses concurring.) That the following article be proposed

to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of the Constitution; namely:

That article two, section one, subdivision four, be amended so as to read:

No person, except a citizen of the United States, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen years a resident within the United States.

The joint resolution was read a first and second time.

Mr. ROBINSON. I ask that this resolution be referred to the Committee on Foreign Affairs.

The SPEAKER. Joint resolutions proposing amendments to the Constitution of the United States are, according to the general usage, referred to the Committee on the Judiciary. But unless that reference be moved, this resolution will be referred, as the gentleman suggests, to the Committee on Foreign Affairs.

Mr. ROBINSON. I prefer the latter reference.

The joint resolution was referred to the Committee on Foreign Affairs.

THANKS TO CAPTAIN DAVID M'DOUGALL.

Mr. COBURN introduced a joint resolution (H. R. No. 270) tendering the thanks of Congress to Captain David McDougall, of the United States Navy, and for other purposes; which was read a first and second time, and referred to the Committee on Naval Affairs.

TELEGRAPH FROM NEW YORK TO WASHINGTON.

Mr. WASHBURN, of Illinois, introduced a bill (H. R. No. 1083) for the construction of a Government telegraph, under the direction of the Post Office Department, between New York and Washington; which was read a first and second time, and, with the accompanying papers, referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

IMPROVEMENT OF OSAGE RIVER.

Mr. McCLURG presented a joint resolution of the General Assembly of Missouri, memorializing Congress for a grant of land for the improvement of the Osage river; which was referred to the Committee on the Public Lands, and ordered to be printed.

POST ROUTES IN IOWA.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 1084) to establish a post route from Leonion to Unionville, in the State of Iowa; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

Mr. LOUGHRIDGE also presented a joint resolution and memorial of the Legislature of Iowa, in relation to the establishment of certain post routes; which were referred to the Committee on the Post Office and Post Roads.

DISTRIBUTORS OF REVENUE STAMPS.

Mr. LOUGHRIDGE also presented a memorial of the Legislature of Iowa, asking for the passage of a law making postmasters agents for the distribution of revenue stamps; which was referred to the Committee of Ways and Means.

J. KNAPP.

Mr. LOUGHRIDGE also presented a joint resolution of the Legislature of Iowa, relative to J. Knapp, company H, fifteenth regiment Iowa volunteers; which was referred to the Committee on Military Affairs.

WISCONSIN RAILROAD LAND GRANTS.

Mr. WASHBURN, of Wisconsin, introduced a bill (H. R. No. 1085) to amend an act entitled "An act to aid in the construction of certain railroads in the State of Wisconsin," approved May 5, 1864; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

IOWA RAILROAD LAND GRANT.

Mr. HOPKINS introduced a bill (H. R. No. 1086) to amend an act entitled "An act for a

grant of lands to the State of Iowa in alternate sections to aid in the construction of a railroad in said State," approved May 12, 1864; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

#### MISSISSIPPI AND YANCTON RAILROAD.

Mr. HOPKINS also introduced a bill (H. R. No. 1087) to grant lands to aid in the construction of a railroad from the Mississippi river to Yancton, on the Missouri river, and to amend an act entitled "An act for a grant of lands to the State of Iowa in alternate sections to aid in the construction of a railroad in said State," approved May 12, 1864; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

#### AMENDMENT TO THE CONSTITUTION.

Mr. COBB introduced a joint resolution (H. R. No. 271) proposing an amendment to the Constitution of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### ORRVILLE AND VIRGINIA CITY RAILROAD.

Mr. JOHNSON. I present the memorial of the Legislature of California, asking for a grant of lands to aid in the construction of a railroad from Orrville to Virginia City, which I move be referred to the Committee on the Pacific Railroad. I move that reference be made I understand there is a bill now before that committee for this grant of lands. That is the only reason I have for asking it should go to that committee.

Mr. HIGBY. Is not that bill before the Committee on the Public Lands?

Mr. JOHNSON. I believe not. I will, however, ask the chairman of the Committee on the Public Lands for information.

Mr. JULIAN. It is already before the Committee on the Public Lands, and I move this take the same reference.

The motion was agreed to; and the memorial was referred to the Committee on the Public Lands.

#### AMENDMENT OF THE HOMESTEAD LAW.

Mr. DONNELLY introduced a bill (H. R. No. 1088) amendatory of an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, and the acts amendatory thereof, approved March 21, 1864, and June 21, 1866, and for other purposes; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

#### RELIEF OF SETTLERS ON PUBLIC LANDS.

Mr. CLEVER introduced a bill (H. R. No. 1089) for the relief of the inhabitants of towns and villages in the Territories of New Mexico and Arizona who settled upon public land; which was read a first and second time, ordered to be printed, and referred to the Committee on the Public Lands.

#### POST ROUTES IN NEW MEXICO.

Mr. CLEVER also introduced a bill (H. R. No. 1090) to establish certain post offices and post roads in the Territory of New Mexico; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### JOHN A. WHITALL.

Mr. CLEVER also introduced a bill (H. R. No. 1091) for the relief of the legal representatives of Major John A. Whittall, late paymaster in the United States Army, on account of lost or stolen vouchers; which was read a first and second time, and referred to the Committee of Claims.

#### DENVER AND SANTA FÉ RAILROAD.

Mr. CHILCOTT introduced a bill (H. R. No. 1092) for the right of way and a grant of land to aid in the construction of a railroad and telegraph line from Denver, in the Territory of Colorado, to Santa Fé, in the Territory of New Mexico; which was read a first

and second time, and, with the accompanying papers, referred to the Committee on the Territories.

#### LAWS OF COLORADO.

The SPEAKER presented a copy of the laws of the Territory of Colorado; which was referred to the Committee on the Territories.

#### REBELLION RECORD.

Mr. ASHLEY, of Ohio, introduced a joint resolution (H. R. No. 292) relative to the rebellion record; which was read a first and second time, and referred to the Committee on the Library.

#### SARAH E. HERRING.

Mr. ANDERSON introduced a bill (H. R. No. 1093) for the relief of Sarah E. Herring; which was read a first and second time, and referred to the Committee of Claims.

#### DEAN ADDISON WILLS.

Mr. HOLMAN introduced a bill (H. R. No. 1094) granting a pension to Dean Addison Wills; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### POST ROUTE IN INDIANA.

Mr. KERR introduced a bill (H. R. No. 1095) to establish a certain post route in Indiana; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### PURCHASE OF ALASKA.

Mr. BANKS. I ask unanimous consent that the further proceedings of the morning hour be waived to allow the Committee on Foreign Affairs to report upon the treaty for the purchase of Alaska, in order that the report may be referred to the Committee of the Whole, to be taken up at such time hereafter as the House may see fit.

Mr. ROBINSON. I hope the regular order will be proceeded with.

The SPEAKER. The gentleman from New York objects.

Mr. ROBINSON. There will be plenty of time.

#### RESOLUTIONS.

The call of the States for bills having been completed, the House proceeded, as the next business in order, to the call of the States and Territories for resolutions, commencing with the State of Ohio, where the call rested last Monday morning.

#### ACTION OF MISSOURI DELEGATION.

Mr. EGGLESTON. I offer the following preamble and resolution, and demand the previous question thereon:

Whereas it appears by the following letter, purporting to have been written and addressed by seven members of this House to one of the Senators of the United States, which is published in the daily National Intelligencer, published in the city of Washington, to wit:

WASHINGTON, May 12, 1868.

SIR: On a consultation of the Republican members of the House of Representatives from Missouri, in view of your position on the impeachment articles, we ask you to withhold your vote on any article upon which you cannot vote affirmatively. This request is made because we believe the safety of the loyal people of the United States demands the immediate removal of Andrew Johnson from the office of President of the United States.

Respectfully,  
GEORGE W. ANDERSON,  
WILLIAM A. PILE,  
C. A. NEWCOMB,  
JOSEPH W. McCLURG,  
BENJAMIN F. LOAN,  
JOHN F. BENJAMIN,  
JOSEPH J. GRAVELLY.

Hon. JOHN B. HENDERSON, United States Senate.  
that a combination of the Representatives aforesaid has been entered into to improperly influence the Senator aforesaid in his judgment and decision in the impeachment now pending and undetermined in the Senate; Therefore,

Resolved, That a select committee of five be appointed to investigate all the circumstances of the writing of said letter, whether the same was written to corrupt or improperly influence the judgment and decision of said Senator, and to report what action, if any, the House ought to take with reference thereto; and that said committee be authorized to send for persons and papers, that they be authorized to sit during the sessions of the House, and that the committee be instructed to report, without unnecessary delay, at any time.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. Is not this the same resolution as the one I introduced as a question of privilege?

The SPEAKER. It is not exactly the same. The Chair will state to the gentleman from Wisconsin that although the Chair ruled that it was not a question of privilege, yet when the States are called regularly for resolutions the gentleman has a right to offer the resolution, whether it is a question of privilege or not.

Mr. ELDRIDGE. I want to ask the gentleman from Ohio to add to his resolution a provision for an investigation relative to the telegram sent by his colleague, [Mr. SCHENCK,] the chairman of the Committee of Ways and Means. Let that be investigated at the same time.

Mr. EGGLESTON. This resolution, I will say, has been introduced at the request of the members from Missouri, and I do not wish to interfere with it by getting any Ohio member mixed up with it.

Mr. ELDRIDGE. I supposed the gentleman introduced it for the purpose of getting to be chairman of the committee, so as to get just such a report as he thinks would be agreeable to his side of the House.

The SPEAKER. The resolution is not debatable.

Mr. MAYNARD. I desire to make a suggestion to the gentleman from Ohio, who offered this resolution.

Mr. EGGLESTON. I observe that in drafting the resolution the words "it is alleged" have been omitted.

Mr. MAYNARD. That is what I was about to suggest.

Mr. EGGLESTON. I will modify the resolution by inserting the words "it is alleged that" before the words "it appears."

Mr. ELDRIDGE. I object to the gentleman mangling my resolution. He is mistaken in supposing that the words "it is alleged" are necessary. It should read "it appears."

The SPEAKER. The gentleman from Ohio did not present an exact transcript of the resolution of the gentleman from Wisconsin.

Mr. UPSON. I wish to inquire if the words "it appears" are still in the resolution?

Mr. PAINE. The words "it appears" are still in the resolution.

The SPEAKER. The resolution, as it has been modified, will be read.

Mr. ELDRIDGE. Allow me to suggest that the words "it is alleged" would apply to the letter, and the Chair ruled that the letter did not allege any such thing.

The SPEAKER. The Chair did not so rule. The gentleman will please quote the Chair correctly. The gentleman stated that the letter did show corruption, and the Chair stated that in his opinion the letter did not show it, but that he would submit the question to the House.

Mr. ELDRIDGE. I understood that to be the opinion of the Chair.

The SPEAKER. The Chair did not rule it. He stated it as an expression of his opinion.

Mr. ELDRIDGE. Well, I will modify my statement, and say that the Chair so expressed his opinion.

The SPEAKER. The Chair left it for the House to determine.

Mr. PAINE. I move to reconsider the vote by which the main question was ordered.

The motion to reconsider was agreed to.

The question recurred upon ordering the main question to be put.

Mr. PAINE. I move to lay the resolution on the table.

Mr. ELDRIDGE. On that motion I demand the yeas and nays.

Mr. EGGLESTON. And so do I.

The yeas and nays were ordered.

The Clerk proceeded to call the roll.

Mr. ROSS. I presume the Missouri delegation can vote on this question, can they not?

The SPEAKER. The roll-call cannot be interrupted. The Clerk will proceed with the call.



The question was taken; and it was decided in the negative—yeas 15, nays 84, not voting 90; as follows:

**YEAS**—Messrs. Butler, Hooper, Kitchen, George V. Lawrence, Maynard, Orth, Paine, Peters, Poland, Robertson, Scofield, Thaddeus Stevens, Upson, Cadwalader C. Washburn, and Elihu B. Washburne—15.

**NAYS**—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baker, Baldwin, Banks, Beaman, Beatty, Benjamin, Blaine, Blair, Boutwell, Boyer, Brownell, Brooks, Burr, Chanler, Reader W. Clarke, Cobb, Donnelly, Driggs, Eggleston, Eldridge, Eliot, Ferriss, Ferry, Fields, Garfield, Glossbrenner, Golladay, Gravely, Grover, Higby, Holman, Hopkins, Humphrey, Hunter, Ingersoll, Johnson, Jones, Julian, Kelley, Kelsey, Kerr, Knott, Koontz, William Lawrence, Loan, Marshall, McClurg, McCormick, Mercor, Miller, Morgan, Morrell, Mungen, Myers, Nicholson, O'Neill, Perham, Phelps, Pile, Plants, Polsley, Pruyn, Robinson, Ross, Sawyer, Schenck, Sitgreaves, Stewart, Taffe, Lawrence S. Trimble, Trowbridge, Burt Van Horn, Van Trump, Van Wyck, William B. Washburn, Thomas Williams, James F. Wilson, Windom, and Woodward—84.

**NOT VOTING**—Messrs. Adams, Archer, Arnell, Axtell, Barnes, Barnum, Beck, Benton, Bingham, Broomall, Buckland, Cake, Cary, Churchill, Sidney Clarke, Coburn, Cook, Cornell, Covode, Culom, Dawes, Dixon, Dodge, Eckley, Ela, Farnsworth, Finney, Fox, Getz, Griswold, Haight, Halsey, Harding, Hawkins, Hill, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Halburd, Jenckes, Judd, Ketcham, Laflin, Lincoln, Logan, Loughridge, Lynch, Mallory, Marvin, McCarthy, McCullough, Moore, Moorhead, Morrissey, Mullins, Newcomb, Niblack, Nunn, Pike, Pomeroy, Price, Randall, Raum, Selye, Shanks, Shellabarger, Smith, Spalding, Starkweather, Aaron F. Stevens, Stokes, Stone, Taber, Taylor, Thomas, John Trimble, Twichell, Van Aernam, Van Auker, Robert T. Van Horn, Ward, Henry D. Washburn, Welker, William Williams, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—90.

So the preamble and resolution were not laid on the table.

Mr. EGGLESTON. I have modified the preamble, and upon the preamble and resolution I renew the call for the previous question.

The preamble and resolution, as modified, were read, as follows:

Whereas the following letter has been written and addressed by seven members of this House to one of the Senators of the United States:

WASHINGTON, May 12, 1868.

Sir: On a consultation of the Republican members of the House of Representatives from Missouri, in view of your position on the impeachment articles, we ask you to withhold your vote on any article upon which you cannot vote affirmatively. This request is made because we believe the safety of the loyal people of the United States demands the immediate removal of Andrew Johnson from the office of President of the United States.

Respectfully,

GEORGE W. ANDERSON,  
WILLIAM A. PILE,  
C. A. NEWCOMB,  
JOSEPH W. MCCLURG,  
BENJAMIN F. LOAN,  
JOHN F. BENJAMIN,  
JOSEPH J. GRAVELY.

Hon. JOHN B. HENDERSON, United States Senate.

and whereas it is alleged that a combination of the Representatives aforesaid has been entered into to improperly influence the Senator aforesaid in his judgment and decision in the impeachment now pending and undetermined in the Senate: Therefore,

*Resolved*, That a select committee of five be appointed to investigate all the circumstances connected with the writing of said letter, whether the same was written to corrupt or improperly influence the judgment and decision of said Senator, and to report what action the House ought to take with reference thereto, and that said committee be authorized to send for persons and papers, that they be authorized to sit during the sessions of the House, and that the committee be instructed to report without unnecessary delay and at any time.

The previous question was seconded and the main question ordered; and under the operation thereof the preamble and resolution were agreed to.

Mr. EGGLESTON moved to reconsider the vote by which the preamble and resolution were agreed to; and also moved that the latter motion be laid on the table.

The latter motion was agreed to.

Mr. EGGLESTON. In consequence of my being under the necessity of leaving the city within a day or two, I must ask to be excused from serving on the select committee just ordered.

CUSTOM-HOUSE AT TOLEDO, OHIO.

Mr. ASHLEY, of Ohio, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to inform this House of the condition of the custom-house and post office at Toledo, Ohio, and

what appropriation is needed for such additions and repairs to said building as have been reported necessary for the safety of the public property and the safe conduct of the public business therein; also whether the interests of the Government would not be better subserved by selling the present building and erecting a new one.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### IMPEACHMENT TRIAL—CORRUPT PRACTICES.

Mr. BOYER submitted the following preamble and resolution:

Whereas the managers of the impeachment of the President, in addition to their original and proper powers and duties as such managers, have, by a resolution of the House on Saturday last, been converted into a committee of investigation, and have been authorized and instructed to investigate whether improper or corrupt influences have been used to influence the determination of the Senate upon the articles of impeachment exhibited by the House of Representatives against the President of the United States, and for that purpose have been instructed to summon and examine witnesses under oath, and to appoint sub-committees to take testimony; and whereas it is in accordance with common usage, as well as obviously proper and essential to a fair and impartial investigation of the truth, that upon every committee of investigation selected by a deliberative body the minority should to some extent be represented; and whereas the managers of the impeachment were originally appointed solely for the purposes of prosecution, and consist altogether of avowed political enemies of the President of the United States, and are instructed as prosecuting officers to convict him, if possible, of high crimes and misdemeanors: Therefore,

*Resolved*, That the Speaker be authorized and instructed to appoint from among those members of the House who voted against the impeachment of the President two persons to be added to the committee of managers, while acting as a committee of investigation for the purposes aforesaid, and who shall be authorized to be present and participate in the examination of witnesses in relation to the aforesaid charges of corrupt and improper influences alleged to have been used to influence the determination of the Senate upon the articles of impeachment.

Mr. SCHENCK. Mr. Speaker—

The SPEAKER. If the resolution gives rise to debate, it must go over under the rules.

Mr. BOYER. I call for the previous question.

Mr. WARD. I move that the resolution be laid on the table.

Mr. SCHENCK. I wish to put a question to the Chair.

The SPEAKER. The Chair will answer any parliamentary inquiry.

Mr. SCHENCK. This resolution, I believe, is offered under the call of States.

The SPEAKER. It is.

Mr. SCHENCK. Cannot the question of its reception be raised?

The SPEAKER. The question of consideration can be raised upon any resolution.

Mr. SCHENCK. I desire to raise that question. Among the recitals of the resolution it is stated that the managers were selected as "avowed political enemies of the President of the United States," and are "instructed to convict him if possible."

Mr. ROBINSON. Is this question debatable?

The SPEAKER. It is not. The Chair sustains the point of order of the gentleman from Ohio, [Mr. SCHENCK,] that the question can be raised on the consideration of the resolution. The Clerk will read the rule.

The Clerk read as follows:

"When any motion or proposition is made, the question, Will the House now consider it? shall not be put, unless it is demanded by some member, or is deemed necessary by the Speaker."

The SPEAKER. In accordance with this rule the Chair will, on the demand of the gentleman from Ohio, [Mr. SCHENCK,] put the question, Will the House now consider the resolution?

Mr. BOYER. I hope the House will allow me five minutes to explain the resolution.

The SPEAKER. No debate is in order without unanimous consent.

Mr. SCHENCK. I object.

Mr. BOYER. I demand the yeas and nays on the question, Will the House now consider the resolution?

The yeas and nays were ordered.

The question was taken; and it was decided

in the negative—yeas 27, nays 69, not voting 93; as follows:

**YEAS**—Messrs. Boyer, Brooks, Burr, Chanler, Eldridge, Glossbrenner, Golladay, Grover, Holman, Humphrey, Johnson, Jones, Kerr, George V. Lawrence, Marshall, McCormick, Morgan, Mungen, Nicholson, Phelps, Pruyn, Robinson, Ross, Sitgreaves, Lawrence S. Trimble, Van Trump, and Woodward—27.

**NAYS**—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Bailey, Baldwin, Beaman, Beatty, Benjamin, Benton, Bromwell, Reader W. Clarke, Cobb, Coburn, Donnelly, Driggs, Eggleston, Eliot, Ferriss, Ferry, Fields, Gravely, Harding, Higby, Hooper, Hunter, Ingersoll, Julian, Kelley, Kelsey, Ketcham, Kitchen, Koontz, William Lawrence, Loan, Loughridge, Maynard, McClurg, Mercor, Morrell, Myers, Nunn, O'Neill, Orth, Paine, Perham, Peters, Pike, Plants, Polsley, Robertson, Sawyer, Schenck, Scofield, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Thomas, Trowbridge, Upson, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, Thomas Williams, and Windom—69.

**NOT VOTING**—Messrs. Adams, Archer, Arnell, Axtell, Baker, Banks, Barnes, Barnum, Beck, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Sidney Clarke, Cook, Cornell, Covode, Culom, Dawes, Dixon, Dodge, Eckley, Ela, Farnsworth, Finney, Fox, Garfield, Getz, Griswold, Haight, Halsey, Hawkins, Hill, Hopkins, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Jenckes, Judd, Knott, Laflin, Lincoln, Logan, Lynch, Mallory, Marvin, McCarthy, McCullough, Miller, Moore, Moorhead, Morrissey, Mullins, Newcomb, Niblack, Pile, Poland, Pomeroy, Price, Randall, Raum, Selye, Shanks, Shellabarger, Smith, Spalding, Stewart, Stokes, Stone, Taber, Taylor, John Trimble, Twichell, Van Aernam, Van Auker, Burt Van Horn, Robert T. Van Horn, Henry D. Washburn, Welker, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—93.

So the House refused to consider the resolution.

#### PURCHASE OF ALASKA.

Mr. BANKS. I ask consent of the House that the Committee on Foreign Affairs have leave now to report a bill relative to the execution of the treaty with Russia for the purchase of Alaska, together with a majority report, and also that the minority have leave to present at this time a report on the same subject. My desire is that the bill be referred to the Committee of the Whole on the state of the Union. I do not expect that it will be called up before some time in the month of June. I expect to be absent during the first week of that month.

The SPEAKER. Is there objection to the proposition of the gentleman from Massachusetts, [Mr. BANKS?]

Mr. WILLIAMS, of Pennsylvania. I object.

Mr. BANKS. I move that the rules be suspended.

Mr. WILLIAMS, of Pennsylvania. I withdraw my objection.

Mr. BANKS, by unanimous consent, from the Committee on Foreign Affairs, reported a bill (H. R. No. 1096) making an appropriation of money to carry into effect the treaty with Russia of March 30, 1867; which was read a first and second time, recommitted, and, with the accompanying report, ordered to be printed.

Mr. BANKS. I now ask unanimous consent to present a communication from the Secretary of State, giving the correspondence as to the extension of time, and to move that it be referred to the Committee of Foreign Affairs, and ordered to be printed.

There was no objection, and it was ordered accordingly.

#### ST. PAUL'S ISLAND FISHERIES.

Mr. BANKS, by unanimous consent, presented a letter from the Secretary of State, in response to a resolution of the House, concerning contracts entered into, or proposed by private citizens, for the occupation of St. Paul's island, in Behring's sea; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

#### ALASKA—AGAIN.

Mr. PRUYN. I rise for information. I understand the chairman of the Committee on Foreign Affairs to give notice that he will call up the bill in reference to Alaska in the second week in June.

Mr. BANKS. I desire to be absent until the first week in June. The bill cannot be considered this month.

## PRINTING OF REPORTS.

Mr. CHANLER. From the importance of the subject of the treaty with Alaska, would it not be proper to have extra copies of the reports from the Committee on Foreign Affairs ordered to be printed? I move that extra copies of the majority and minority reports, together with the papers sent to us from the Secretary of State, be printed for the use of the House.

The SPEAKER. The minority report has not yet been presented.

Mr. WASHBURN, of Wisconsin. I present the minority report, and move that it be ordered to be printed with the majority report.

The motion was agreed to.

Mr. CHANLER. I move that five thousand extra copies of the majority and minority reports be ordered to be printed.

The SPEAKER. That motion, under the law, will be referred to the Committee on Printing.

## REPORT OF CHARLES S. BULKLEY.

Mr. BANKS. I ask unanimous consent to present to the House the report of Charles S. Bulkley, chief engineer, in regard to the Territory of Alaska, from his own personal observation. I suppose it embraces twenty-five or thirty pages in print. He was an officer of the Army, one of the ablest engineers of the Army, and is a man of great integrity and great energy. I move that the report be referred to the Committee on Foreign Affairs, and ordered to be printed.

There was no objection, and it was ordered accordingly.

Mr. BANKS moved to reconsider the votes just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## LEAVE OF ABSENCE.

Mr. BOYER. I move that Mr. VAN AUKEN be granted leave of absence for two weeks.

The SPEAKER. Leave of absence is also asked for Mr. PETERS, Mr. JENCKES, and Mr. MAILLOREY.

Mr. STEVENS, of Pennsylvania. I object.

## PERSONAL EXPLANATION.

Mr. INGERSOLL. I ask unanimous consent of the House for five minutes, for the purpose of personal explanation.

There was no objection.

Mr. INGERSOLL. Mr. Speaker, I will read from an article in the New York Tribune, furnished by its Washington correspondent, in the issue of Saturday last, the following paragraph:

"TRUMBULL is accused of recreancy and treachery on every side by Republicans. INGERSOLL is the only man of the Illinois delegation and the only member of the House who follows him, so far as I have been able to gather."

I wish to say, in regard to that correspondent, whoever he may be, that he labors under a misapprehension in reference to my position. I am not following Senator TRUMBULL or any other Senator in reference to impeachment.

I also wish to make a remark concerning a communication in the New York Herald of Saturday last, written by its Washington correspondent. I read as follows:

"There is considerable indignation at E. C. INGERSOLL among his colleagues from Illinois, because he is understood to sympathize with Senator TRUMBULL on the impeachment proceedings. INGERSOLL is the only member of the Radical delegation in the House from Illinois who has taken this course, and his motives are freely impugned."

The only ground upon which this can be based, in my opinion, is from some action of the Illinois delegation, had four or five days ago, to which, perhaps, I may be allowed to refer. The Illinois delegation held a meeting, that is, the Republican members of that delegation, and a proposition was submitted, which, perhaps, I have a right to state, as there was no secrecy about it.

I shall not name the particular members, as none but my own name has been referred to. A proposition was submitted to send a letter to Senator TRUMBULL, expressing the views

of the Illinois delegation on the subject of impeachment, with a view to influencing his vote for conviction, or with a view of inducing him to withhold his vote, if he could not vote for conviction. I objected to sending such a letter, and so did three or four of my colleagues. I will not name them, as I have no authority to use their names in this connection. There were at least four, and perhaps five, of the Illinois delegation who objected to signing any letter directed to Mr. TRUMBULL upon the subject of his vote. That is all that was said or done, one way or the other, in reference to Senator TRUMBULL, and no letter was sent, to my knowledge. There is no feeling of indignation on the part of any of my colleagues in the House toward me, and there is no reason why there should be. So far as I know, I am on cordial relations with all of them. The writer proceeds to state that—

"Mr. INGERSOLL is the only member of the Radical delegation in the House from Illinois who has taken this course, and his motives are freely impugned."

The writer is mistaken with regard to that. Upon that question four Republican members in this House from Illinois viewed the propriety or impropriety of that course precisely as I did. The article then proceeds to state that—

"He [INGERSOLL] voted for impeachment, but explains his action now by saying he was compelled to do it, though he felt at the time that it was a party blunder."

In answer to that I wish to state, in justice to myself, that I voted for impeachment for the reason that the managers presented to my mind a *prima facie* case against the President. I voted for the articles of impeachment because I believed it was my duty to do so. I have never since felt that it was a blunder; neither have I ever had reason to change my views on that subject, nor have I expressed any change of views. The writer goes on to say:

"The board of managers are after his committee clerk with a view to ascertain whether any outside pressure was brought to bear to make him adopt TRUMBULL'S opinions."

The assumption of this writer to which I wish to call attention is this: that some outside pressure has been brought to bear which has caused me to adopt Senator TRUMBULL'S opinions. I do not know what Senator TRUMBULL'S opinions are. I never asked him for them, neither have they ever been communicated to me. I have never had a conversation with him on the subject of the impeachment of the President or how he intended to vote on any article, and I never expect to. How he intends to vote on the remaining ten articles I have no knowledge. I might assume from the vote he has already given how he will vote, but I know nothing about it. I have not adopted Senator TRUMBULL'S opinions or any other Senator's opinions, and for that matter I have no reason to expect to. So far as any outside pressure is concerned, I know nothing about it. I have not felt it. I have endeavored to discharge my duty and to mind my own business, and I think I have succeeded reasonably well thus far.

[Here the hammer fell.]

Mr. ROBINSON. Will the gentleman allow me to ask him a question?

The SPEAKER. The gentleman's time has expired.

## IMPEACHMENT.

Mr. WASHBURN, of Illinois, obtained the floor to move that the House resolve itself into the Committee of the Whole on the state of the Union, but yielded to

Mr. JONES, who rose to a privileged question, and presented the following preamble and resolution:

Whereas this House did, in bad judgment and hot haste, pass a resolution and articles of impeachment against Andrew Johnson, President of the United States, and appointed managers to conduct the suit before the high court of the Senate; and whereas it has been abundantly proven that there was no cause or plausible pretext for the same; and whereas the Senate and the country labor under great excitement and embarrassment: Therefore,

Be it resolved, That said managers be instructed forthwith to withdraw said suit, that the House may be redeemed, the Senate relieved, and the country given repose.

Mr. WASHBURN, of Illinois. I do not yield for that.

The SPEAKER. The Chair will rule on the question. He thinks this is not a question of privilege. The preamble contains a reflection on the House. It is unparliamentary on the part of any member to reflect upon the action of the House in the language used in the preamble.

Mr. JONES. There was no intention to reflect on the House.

The SPEAKER. It does, however, in express language.

Mr. JONES. I understood that the Speaker ruled that anything relating to impeachment was a privileged question. If the Chair did not so rule I am mistaken.

The SPEAKER. The Chair has ruled in regard to impeachment probably a hundred times. His rulings are all consistent, and will be found in the Congressional Globe. The gentleman stated the ruling more broadly than the Chair ever stated it himself.

Mr. JONES. Does the Speaker now rule that it is not a privileged question?

The SPEAKER. The Chair rules that it is not. On the contrary, that it is not a parliamentary preamble and resolution for the consideration of the House, not being respectful in its terms to the House.

## ARTIFICIAL PROPAGATION OF FISH.

Mr. MYERS. I ask the gentleman from Illinois to yield to me to introduce a joint resolution, and if there is any objection to its passage I will move its reference to the Committee on Appropriations.

Mr. WASHBURN, of Illinois. I yield for that purpose.

Mr. MYERS. I ask that the resolution be read.

The Clerk read the resolution, as follows:

*Resolved by the Senate and House of Representatives, &c.* That the sum of \$2,500 be, and the same is hereby, appropriated from the Treasury of the United States to defray the necessary expenses of the experiments by Seth Green in the artificial propagation of shad and other fish in the rivers of the United States, and that the money hereby appropriated shall be expended under the supervision of F. E. Spinner, Treasurer of the United States.

Mr. WASHBURN, of Illinois. Let it go to the Committee on Appropriations.

Mr. MYERS. I desire to have read a letter from General Spinner in regard to this matter.

Mr. ELDRIDGE. Oh, no; I object. We have a great deal too much shad in this city now, any way. [Laughter.]

Mr. MYERS. I ask, then, that the joint resolution, with the letter of General Spinner, be referred to the Committee on Appropriations.

There was no objection; and the joint resolution (H. R. No. 273) making an appropriation for the expenses of experiments in the propagation of fish was read a first and second time, and, with the letter of General Spinner, referred to the Committee on Appropriations.

Mr. MYERS. I ask that the letter of General Spinner may be printed in the Globe.

There was no objection, and it was so ordered. The letter of General Spinner is as follows:

TREASURY OF THE UNITED STATES,  
WASHINGTON, May 17, 1868.

MY DEAR SIR: Our little experiment is a perfect success. From the half teaspoonful of impregnated shad spawn that you brought me on Wednesday evening there are now—Sunday evening—hundreds of lively young shad in the tumbler that we placed in my wash-basin. Now, if we can hatch hundreds of shad in a half-pint tumbler in four days, would you not be able to put thousands of millions in our rivers if Congress would only give your plan the encouragement that it deserves? If Congress will make an appropriation for the purpose, my word for it, in three years all the rivers thus cared for would literally swarm with this valuable fish. It would greatly lessen the price of fish and of other food to a degree, and would greatly add to the wealth of the country. Congress could do no better act than follow the example of France and other enlightened nations; and if they are really the friends of the poor should make an appropriation for the purpose of restocking our fish-exhausted streams.

Very truly, yours,  
F. E. SPINNER.

SETH GREEN, esq., Washington, D. C.

## IMPEACHMENT OF THE PRESIDENT.

Mr. STEVENS, of Pennsylvania. Will the gentleman from Illinois yield to me to offer a resolution.

Mr. WASHBURN, of Illinois. Certainly. Mr. STEVENS, of Pennsylvania. I offer the following resolution, upon which I demand the previous question:

*Be it resolved*, That the Senate are hereby requested to direct that a certified copy of the proceedings of the last two days in the trial of the impeachment of the President of the United States be sent to the House of Representatives.

Mr. BROOKS. Have we not a copy in the Globe—a certified, official copy?

Mr. STEVENS, of Pennsylvania. I believe not; I think not.

Mr. ELDRIDGE. What proceedings is the resolution intended to cover?

Mr. STEVENS, of Pennsylvania. I propose to ask for the last two days' proceedings.

Mr. ELDRIDGE. Have they not been published in the ordinary reports such as they have furnished to us at each day's session of the court?

Mr. STEVENS, of Pennsylvania. I only ask for the proceedings of two days.

Mr. ELDRIDGE. I inquire of the gentleman if the House has not been furnished day by day with the ordinary reports of the proceedings in the Senate.

Mr. STEVENS, of Pennsylvania. I do not know; I have not had them.

Mr. CHANLER. I would ask the gentleman from Pennsylvania if he has any objection to add a call for the report of the testimony taken before the committee of investigation for the impeachment. I understand that there are no copies left, and it will be very valuable.

The SPEAKER. That would not be germane to this resolution. This is a resolution asking the Senate to send certain matters to the House.

Mr. ELDRIDGE. Does this resolution relate to the secret sessions of the Senate?

The SPEAKER. The Chair does not know.

Mr. ELDRIDGE. I would inquire of the gentleman from Pennsylvania if it relates to the secret sessions of the Senate?

Mr. STEVENS, of Pennsylvania. It relates to everything that took place on the last two days of the session.

Mr. ALLISON. That will not cover Monday.

Mr. ELDRIDGE. It does not seem to me that the House is justified in calling for the proceedings of the secret sessions of the Senate.

The SPEAKER. The Chair thinks there has been no secret session of the Senate for the last two days.

Mr. ELDRIDGE. Then we have the proceedings already before us.

Mr. BOYER. I rise to a question of order. It is this: that it is not competent for this House, by a resolution of this kind, to compel the Senate to furnish these proceedings except under an order of their own.

The SPEAKER. The Chair sustains the point of order as stated by the gentleman from Pennsylvania, [Mr. BOYER;] that is, that this House has no power to compel the Senate to do it. But the two Houses very often ask each other for matters which are subject to the action of that House. For instance, the House often asks the Senate to return a bill which has been sent to it, but that request is not at all mandatory.

Mr. ELDRIDGE. I desire to ask the gentleman from Pennsylvania [Mr. STEVENS] to state what particular thing he expects to get from the Senate? Does he want something not disclosed in the resolution or does he really want the whole proceedings?

Mr. STEVENS, of Pennsylvania. I wish to get from the Senate the vote as given by the different Senators upon the articles of impeachment we have sent to that body. I have no other object than to get a certified copy of that vote.

Mr. ELDRIDGE. That is published in the Globe, is it not?

Mr. STEVENS, of Pennsylvania. I do not know whether it is or not. There is no certified official record that I know of published in the Globe. I have no particular objection to modify my resolution in such way as members may

think proper. If there can be language employed that would be more respectful, I will use it; but I do not know of any.

Mr. BROOKS. I do not think there is any objection to allowing the gentleman to have anything he wants of the proceedings of the Senate. We all like to know what is going on there.

The SPEAKER. Does the gentleman from Wisconsin [Mr. ELDRIDGE] object to the resolution?

Mr. ELDRIDGE. I do not, though I think it is entirely useless, for the same information has been furnished through the Globe.

Mr. STEVENS, of Pennsylvania. I desire to have it for the plain reason that the record of those votes has never come to this body in an official shape, and I desire it in that shape. There will undoubtedly be some further proceedings had in regard to this impeachment; what those proceedings will be I do not know. I suppose that we shall be asked in some way or other to vote upon the articles which are still before the Senate. I suppose we shall yet be called upon, in some way or other, to give our votes upon the different questions which are before the Senate of the United States at present. I know that there are questions of great importance; I know that there are questions of great value still before the Senate, sitting as a court of impeachment.

While I have no desire to make a speech upon the question, which is now a bygone question, yet I do not suppose that anybody believes that the question which was passed upon on Saturday last is to remain a defunct question. I do not suppose that anybody believes that that question is to be carried to the country in its present condition. And hence it is that I suppose that everybody ought to desire to see exactly how it is. I presume that the vote which will be taken upon that will come before this body within a few days in such shape as shall develop and unfold the great acts and truths which have been enacted, and which have transpired within the last week.

I make no accusations; I charge nobody with anything. But to me it seems amazing that a body of that kind, having before it a body of men of the highest character, will give to themselves and to others the character which they have given, and which they feel disposed to stamp upon the country. This body of men being about to see this proud people looking down upon them as men never before were gazed upon by a disappointed world, I think that it is right that all these things should be laid before the community.

I do not suppose for a single moment that there is anywhere to be found a body of men who have determined to prosecute the great criminal, who was so charged to be and is yet, from his position by anything but fair and legitimate means. We are, therefore, asking that, as these matters have been sent before the Senate for the purpose of being investigated, every opportunity shall be allowed for the purpose of ascertaining who have been willing to listen and who have refused to listen to the instruction of the accused. That there has been great, manifold, deep damnation, and that there is somewhere to be found the greatest of all mysteries, the mystery of this great prevalence of evil, no one can doubt. Let us therefore have the whole matter in such a shape that there may be every opportunity to investigate, so that all men may see who it is that is wrong, and who it is that is right.

I call for the previous question.

Mr. ROSS. Will the gentleman from Pennsylvania [Mr. STEVENS] permit me to ask him a question?

Mr. STEVENS, of Pennsylvania. Yes, sir.

Mr. ROSS. I ask the gentleman whether he thinks Senators would be justifiable in perjuring themselves for the purpose of procuring the conviction of the President?

Mr. STEVENS, of Pennsylvania. Well, sir, I do not think it would hurt them much. [Laughter.]

Mr. PIKE. I wish to inquire of the gentleman

from Pennsylvania whether he offers this resolution on behalf of the board of managers or on his own responsibility?

Mr. STEVENS, of Pennsylvania. It is my own individual action.

Mr. WOODWARD. I ask my colleague [Mr. STEVENS] to allow me five minutes on this question.

Mr. STEVENS, of Pennsylvania. I have no five minutes to yield.

Mr. WOODWARD. Then I ask the House to give me five minutes.

Mr. VAN WYCK. I object.

Mr. ELDRIDGE. Is it in order to move to give the rules for the purpose of giving the gentleman from Pennsylvania an opportunity to speak?

The SPEAKER. That motion is in order.

Mr. VAN WYCK. I withdraw my objection.

Mr. MAYNARD. I renew the objection.

Mr. ELDRIDGE. Then I move to suspend the rules.

Mr. UPSON. Is that motion in order pending the call for the previous question?

The SPEAKER. It is, as the gentleman will find by reference to that part of the Manual relative to suspension of the rules.

Mr. WOODWARD. If my colleague will withdraw the call for the previous question, he can yield me the floor for five minutes.

Mr. STEVENS, of Pennsylvania. I have no objection to granting my colleague five minutes if he desires it.

Mr. ELDRIDGE. I rise to a question of order. The gentleman from Pennsylvania [Mr. STEVENS] had moved the previous question and taken his seat; and I object to his farming out the floor in this way. I want fair dealing.

The SPEAKER. The Chair overrules the point of order. The gentleman from Pennsylvania, having offered this resolution, was entitled to the floor to speak for one hour; and if he withdraws the call for the previous question he can either occupy the hour himself or yield it to other gentlemen.

Mr. ELDRIDGE. After he has demanded the previous question and taken his seat?

The SPEAKER. No vote has been taken on seconding the call for the previous question, and the gentleman withdraws the call, as he has the right to do, and resumes the floor. If the previous question had been seconded the gentleman could not have resumed the floor. The gentleman yields five minutes to his colleague, [Mr. WOODWARD.]

Mr. WOODWARD. Mr. Speaker, I would not have said anything on this subject but for the remarks of my colleague. If I had not heard those remarks I would have voted for his resolution; but after hearing them, it is impossible for me to do so. And I wish to take this opportunity to say that in my judgment this whole thing is in the highest degree indelicate and improper. Whatever may be the technical difficulties about considering the Senate as a court in the matter of impeachment, there can be no doubt in the mind of my colleague or any other man that Senators are sitting under the obligations of a judicial oath, and for all practical purposes they are sitting as judges in a case which is peculiarly judicial. They have heard the evidence, they have heard the argument of counsel, they have decided one count in the indictment, and now, while they are deliberating on their judgment on the remaining articles of impeachment, I say it is in the highest degree indelicate—I mean no personal offense when I add indecent—for the prosecutor to come in with resolutions calculated to influence the judgment of that court. Why, where in this broad land has the like before ever been witnessed, that a party may institute a prosecution and go before a judge, present his case, and while that judge is deliberating upon that case, set in operation a series of influences intended to bear upon the judgment of that court in that case? Where have you ever witnessed that before? Where has the venerable gentleman ever seen anything of the kind before? His professional life



has been spent in Pennsylvania, and where did he ever hear before of a party approaching a judge or court where a case was committed to that court and advising or threatening them or promising them or in any manner attempting to influence the judgment of the court in that case? Why, with all of his experience, he never before heard anything of the kind.

Now, I ask, in all seriousness, is this House prepared to place itself before the world, a party having submitted his case to a constitutional tribunal, as worrying that judge, as annoying that judge, as threatening that court with uncomfortable consequences unless he decides that case in our favor? Are we prepared to place ourselves in that position? There is not a man who, approaching a court and threatening a court of justice in that spirit and manner, would not be committed to prison for contempt.

Mr. STEVENS, of Pennsylvania. My colleague will allow me to say that I do not propose to use the material which we shall get in any way injurious to the court now in session.

Mr. WOODWARD. I said that I was in favor of the resolution itself. In my opinion it is unnecessary and unmeaning; but I do not object to the resolution. It is to the gentleman's speech with which he expounded that resolution that I am making this objection. If I understand the gentleman, he wants the information for the purpose of "exposing these Senators to the world," "holding them to their responsibility." I cannot recover all his language; but his language implies that there is to be some sort of discipline used upon these Senators upon the information this resolution calls for.

Now, sir, against that sentiment, whether coming from gentlemen in support of the resolution or coming from correspondence with a Senator or coming from a conversation with a Senator—come I care not how—against all that meddling with that tribunal while deliberating upon this high and important case I enter my earnest and solemn protest as a thing indecible in the highest degree and indecent.

Mr. LYNCH. Will the gentleman yield to me for a question?

Mr. WOODWARD. Yes, sir.

Mr. LYNCH. The gentleman speaks of the Senate as a constitutional tribunal. I ask him if he considers the Senate now a constitutional tribunal? I think he questioned that once in this House.

Mr. WOODWARD. If the House will yield to me five minutes more I will answer that question.

The SPEAKER. The gentleman's five minutes are about expiring.

Mr. WOODWARD. I am aware of that.

Mr. ROBINSON. I hope the House will give the gentleman five minutes.

The SPEAKER. That depends upon the gentleman from Pennsylvania, who has the floor.

Mr. STEVENS, of Pennsylvania. I cannot yield, though I should be glad to. I have not the time.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] is entitled to the floor, and will now state whether he demands the previous question or what action he desires.

Mr. STEVENS, of Pennsylvania. I yield to the gentleman from Ohio [Mr. SCHENCK] if he will call the previous question at the close of his remarks.

Mr. SCHENCK. If it is required of me I will do so. Mr. Speaker, I would like to hear the resolution read which has been pronounced by the gentleman from Pennsylvania [Mr. WOODWARD] to be indecent.

Mr. WOODWARD. I beg the gentleman's pardon; he may not put words into my mouth. So far from pronouncing the resolution indecent I said expressly that I would vote for it.

Mr. SCHENCK. I heard the word "indecent."

Mr. WOODWARD. Yes, sir; but that was applied to the speech my colleague made in support of the resolution.

The SPEAKER. The Chair did not so understand the gentleman. If he applied the word "indecent" to his colleague it would be unparliamentary. The Chair understood him to say that some supposed action of the House might be indecent.

Mr. WOODWARD. The Chair is right. I did not intend anything unparliamentary or uncivil to my colleague. I intended to characterize the purpose for which this information was wanted. I meant to characterize the use that was to be made of this information as highly indelicate, and, I might say, without intending personal offense, indecent.

Mr. SCHENCK. I have not yielded my time. If the gentleman says he did not charge that the proceeding of his colleague was indecent then I was mistaken, and I will not assume that he did. I heard the word distinctly twice, either as applied to what was said by the gentleman's colleague in support of his resolution or as applied to the proceeding which the gentleman from Pennsylvania [Mr. STEVENS] sought to institute. In either case it comes with a very bad grace from a man who should not be upon this floor unless sustained here by a degree of assurance which I can hardly think possible to exist in any case—justifying in his opinion his presence here—a man who has denounced this as no Congress, as a fragmentary body, a usurping body.

Mr. WOODWARD. I beg to call the gentleman to order.

Mr. SCHENCK. I am not using exactly the language of the gentleman, but I will give his language so that he will see whether I overstated it.

Mr. WOODWARD. The gentleman not only does not use the exact language, but he does not use anything like the language.

Mr. SCHENCK. I am willing to be corrected by the gentleman. I have his language in my hand.

Mr. WOODWARD. Mr. Speaker—

The SPEAKER. The gentleman cannot argue the question.

Mr. WOODWARD. I do not propose to argue it. I am only rising to correct the gentleman in his statement. What the gentleman alludes to is an argument made by me on this floor as fully as the rules of the House would allow me to make it, in which I held that neither this House nor the Senate—

Mr. SCHENCK. I am going to read the gentleman's language; I do not want his gloss upon it. And I am the more disposed to do this because I had prepared a resolution of expulsion for the use of this language, and was only prevented from offering it by the expectation that another gentleman who had taken a share in the debate would proceed against him.

On the 24th of February last, when this subject of impeachment was under discussion, the gentleman from Pennsylvania [Mr. WOODWARD] said:

"I conclude all the legislation we have done does not constitute us the court to originate and try impeachments which the Constitution contemplates."

"Mr. Speaker, so sure I am that the American people will respect this objection that I will say, if I were the President's counselor—which I am not—I would advise him, if you prefer articles of impeachment, to demur both to your jurisdiction and that of the Senate, and to issue a proclamation giving you and all the world notice that while he held himself impeachable for misdemeanors in office before the constitutional tribunal, he never would subject the office he held in trust for the people to the irregular, unconstitutional, fragmentary bodies who propose to strip him of it. Such a proclamation, with the Army and Navy in hand to sustain it, would meet a popular response that would make an end of impeachment and impeachers."

That man, professing to be himself a member of the American Congress and drawing pay as such—he takes care of that, I presume—stands here and denounces the proceeding under the Constitution by this House to impeach and by the Senate to try that impeachment as proceedings not legitimately to be entered upon by either, because he says of both that they are but fragmentary bodies, and declares that he, if he were the adviser of the President, would

disperse them by force, for that is virtually what his threat amounts to. I do not wish any gentleman here or outside of this House to take my representation of his language as being a proper or improper interpretation of that language, and therefore I have read what he said, and from the official report of the proceedings of this Congress. I aver that he dared to stand here and denounce this as no House of Representatives entitled to find articles of impeachment and present them, and the Senate as no body entitled under the law to try the impeachment, and that he went further, and gave notice, in the shape of a threat, that if he were the President he would step in and disperse these two fragmentary bodies, and thus put an end to the impeachment and the impeachers also. Sir, I repeat what I said. I had prepared a resolution to expel that member from this floor as unworthy of a seat in the body of which he thus speaks, and was only prevented from doing it—

Mr. MARSHALL. I rise to a question of order. The gentleman is not discussing the question before the House.

Mr. SCHENCK. Is he not?

Mr. MARSHALL. I object, unless it is understood that the gentleman from Pennsylvania [Mr. WOODWARD] shall have an opportunity to reply to his attacks upon him, which is nothing but a personal attack.

The SPEAKER. The Clerk will report the resolution; and, under the rules, the gentleman from Ohio must confine his remarks to the resolution, since the point of order is made.

The Clerk again read the resolution.

The SPEAKER. That is the subject before the House, and the debate must be confined to it, now the point of order is made.

Mr. SCHENCK. Mr. Speaker, I hold that what I have been saying is entirely pertinent to this proceeding; and if the gentleman would follow out the position that he has taken, and declare that we, being no House of Representatives, have no right to make that request of the Senate, and that the Senate, being no legal body, can have kept no record of their proceedings when acting either in a legislative or any other capacity, he would be consistent with what he has said before. But he puts his opposition to the resolution upon an entirely different ground, and shrinking, perhaps—although I do not know whether he does or not—from the bold assurance with which he advanced revolutionary doctrines like that, he now prefers to content himself by speaking disparagingly either of the resolution or what it proposes to do, or of the remarks of his colleague, by which that resolution was sought to be sustained; and I say, and therefore I am pertinent in this debate, that it comes with an ill grace, to say the least of it, from the gentleman from Pennsylvania to oppose that resolution upon any such ground as that, when he has heretofore taken that high, audacious position, which he stands recorded as having maintained heretofore in debate upon this subject of impeachment, that we have no power to impeach, we have no power to inquire into these matters, that there is no Senate of whom to make inquiry, and that the Senate and the House alike ought, if the President were properly advised, as he feels capable of advising him, to have been dispersed. I did not rise for any purpose of discussing the remarks of the gentleman from Pennsylvania or their tendency. If there ever occurs a time when it may be proper to do so I shall be glad to enter on that point.

The SPEAKER. The Chair will state to the gentleman from Ohio that, notwithstanding his argument, the Chair thinks that this is beyond the scope of the resolution before the House. The former speech of the gentleman from Pennsylvania is not in review before the House. The remarks then made by him could have been excepted to at the time by any member, and the Chair would have ruled upon them. The point of order being made by the gentleman from Illinois, the Chair rules that the remarks are not in order.

Mr. KELLEY. The remarks referred to by the gentleman from Ohio [Mr. SCHENCK] were never made in the House, if the gentleman will permit me to say so; they were printed in the Globe, but were never uttered upon this floor.

Mr. SCHENCK. Yes; I remember that as one of the circumstances.

Mr. WOODWARD. I trust, Mr. Speaker—

Mr. SCHENCK. I was on the floor, I believe. As I understand the ruling of the Chair, it is not competent to show the inconsistency between positions heretofore taken by the member from Pennsylvania [Mr. WOODWARD] and the position now taken by him upon this resolution.

The SPEAKER. The Chair thinks it is not competent to do so.

Mr. SCHENCK. Very well; then I shall have to return the floor, with thanks, to the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. WOODWARD. I ask my colleague to allow me the floor long enough to reply to the personal remarks of the gentleman from Ohio, [Mr. SCHENCK.]

Mr. STEVENS, of Pennsylvania. I do not know whether, under the ruling of the Chair, there have been personal remarks or not. I understand the Chair to rule personal remarks out of order.

The SPEAKER. The Chair suggests to the gentleman from Pennsylvania [Mr. WOODWARD] that the continuance of his remarks, in the line in which they were made before, would be beyond the scope of the resolution. If the gentleman from Pennsylvania [Mr. STEVENS] yields to his colleague, and any gentleman objects to his remarks, the Chair must rule upon them.

Mr. SCHENCK. If the gentleman from Pennsylvania [Mr. WOODWARD] comments upon this speech of his I will desire to follow out my remarks.

The SPEAKER. The Chair must rule the same as before if any one makes the point of order.

Mr. STEVENS, of Pennsylvania. I do not very well see how I can yield, if my colleague [Mr. WOODWARD] is going to answer what has been said by the gentleman from Ohio, [Mr. SCHENCK.] I shall be very glad to give them a fair fight. [Laughter.] They are an admirable couple; about the same size. But I can not see, under the circumstances, but what I would be giving one the advantage of the other by thus pulling the gentleman from Ohio off and letting my colleague up.

Mr. WASHBURN, of Illinois. I hope the gentleman from Pennsylvania [Mr. STEVENS] will yield to his colleague the same amount of time that the gentleman from Ohio [Mr. SCHENCK] had, and upon the same subject, and that no point of order will be taken upon him.

Mr. MAYNARD. I desire to give notice that I shall insist upon the debate being confined to the resolution. This is not the first time that the proceedings of this House have been characterized as indecent; and I will not sit in my place here and hear it done again by the same man, if I can help it.

Mr. STEVENS, of Pennsylvania. I decline to yield unless the gentleman from Ohio [Mr. SCHENCK] can be allowed to reply.

Mr. WOODWARD. I desire to have the floor to reply to the gentleman from Ohio.

Mr. ROBINSON. I want to move to suspend the rules, if the gentleman from Pennsylvania [Mr. STEVENS] will yield to me, so as to allow the gentleman from Pennsylvania [Mr. WOODWARD] to have the floor for thirty minutes.

Mr. STEVENS, of Pennsylvania. I cannot see very well how I can give way to one gentleman without I do it to both. I should be very willing to yield to both, for I feel very much in the mood to see a little contest this afternoon [laughter] between my respectable colleague from Pennsylvania and my equally respectable friend from Ohio. But I cannot see how I can do it.

Mr. BLAINE. If the gentleman from Penn-

sylvania [Mr. STEVENS] will allow me, I would suggest to the gentleman from Illinois [Mr. MARSHALL] to withdraw his point of order upon the remarks of the gentleman from Ohio, [Mr. SCHENCK,] because it is that point of order that prevents the gentleman from Pennsylvania [Mr. WOODWARD] from speaking. I am desirous that the gentleman from Pennsylvania [Mr. WOODWARD] shall have an opportunity to reply, but he cannot do so until the point of order is withdrawn from the gentleman from Ohio.

Mr. STEVENS, of Pennsylvania. I have not yet got half through. And I will now say—

Mr. ROBINSON. When can I get the floor to move a suspension of the rules?

The SPEAKER. Not while the gentleman from Pennsylvania [Mr. STEVENS] is on the floor.

Mr. STEVENS, of Pennsylvania. Very well; I now call the previous question.

Mr. ROBINSON. I now move to suspend the rules, in order to give the gentleman from Pennsylvania [Mr. WOODWARD] fifteen minutes to reply to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. ALLISON. Let the vote be taken upon this resolution first.

Mr. ROBINSON. Will it be in order for me to move a suspension of the rules after this resolution has been disposed of?

The SPEAKER. The Chair will recognize the gentleman from New York [Mr. ROBINSON] to make that motion at that time.

Mr. ROBINSON. Then I will withdraw the motion for the present.

The SPEAKER. The question recurs upon the call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 1045) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws in the third military district for the fiscal year ending June 30, 1868; and

A bill (H. R. No. 1062) to grant right of way to the Whitehall and Plattsburg Railroad Company.

Mr. ROBINSON. I now move that the rules be suspended, to allow the gentleman from Pennsylvania [Mr. WOODWARD] fifteen minutes to reply to the observations that have been made concerning him by the gentleman from Ohio, [Mr. SCHENCK.]

Mr. ASHLEY, of Ohio. And fifteen minutes to my colleague, [Mr. SCHENCK.]

Mr. ROBINSON. My motion is intended to include only the gentleman from Pennsylvania.

Mr. CHANLER. Say fifteen minutes also for the gentleman from Ohio.

Mr. ROBINSON. That is giving the gentleman from Ohio more time than the gentleman from Pennsylvania; but I accede to the suggestion, and modify my motion so as to allow fifteen minutes to the gentleman from Pennsylvania, fifteen minutes to the gentleman from Ohio, and two minutes to the gentleman from Pennsylvania in conclusion.

Mr. SCHENCK. I have not asked for fifteen minutes, and it will depend entirely upon what the gentleman from Pennsylvania may say whether I shall occupy any time in reply.

Mr. WASHBURN, of Illinois. I desire to make a proposition which I think will be satisfactory all around. The gentleman from Massachusetts, [Mr. BUTLER,] who has charge of the bill making appropriations for the Indian

service, is not new in the House; and I propose to move that the House resolve itself into the Committee of the Whole on the state of the Union on this bill for general debate. Then all these gentlemen can be heard.

Mr. ROBINSON. With the understanding that, if the motion of the gentleman from Illinois be adopted, the gentleman from Pennsylvania will be entitled to the floor, I will withdraw my motion.

Mr. WASHBURN, of Illinois. That is the understanding.

#### LEAVE OF ABSENCE.

The SPEAKER. Before putting the question on the motion of the gentleman from Illinois the Chair must submit to the House the question of granting leave of absence to several gentlemen, objection having been made by the gentleman from Pennsylvania, [Mr. STEVENS.] The gentleman from Pennsylvania [Mr. BOYER] asked leave of absence for his colleague [Mr. VAN AUKEN] for two weeks, and the Chair asked indefinite leave of absence for the gentleman from Rhode Island, [Mr. JENCKES,] the gentleman from Maine, [Mr. PETERS,] and the gentleman from Oregon, [Mr. MALLORY.]

Mr. STEVENS, of Pennsylvania. I do not know whether I am at liberty to say anything.

The SPEAKER. The question is not debatable.

Mr. STEVENS, of Pennsylvania. All I can say is, that if leave be granted to these gentlemen it will break up the House.

A MEMBER. These gentlemen are gone already.

Mr. STEVENS, of Pennsylvania. Then they ought to be punished. That is a good reason for voting against granting them leave.

Mr. ELIOT. Mr. Speaker, how many more than a quorum are now in attendance?

The SPEAKER. Three or four only.

Mr. ELIOT. Then if leave of absence be granted to these gentlemen we shall be left without a quorum.

The SPEAKER. Several of these gentlemen are now absent. The Chair will submit the question. Will the House grant leave of absence for two weeks to the gentleman from Pennsylvania, [Mr. VAN AUKEN,] and indefinitely to the gentleman from Rhode Island, [Mr. JENCKES,] the gentleman from Maine, [Mr. PETERS,] and the gentleman from Oregon, [Mr. MALLORY?]

Leave was granted.

The SPEAKER. The Chair understands this objection as giving notice to members of the House that future requests for leave of absence may be objected to.

#### ISSUING OF MILITARY ORDERS.

Mr. ROBINSON. I ask unanimous consent to submit the following resolution:

*Resolved,* That the Secretary of War be directed to inform this House whether any order from the War Department has been issued, directed to any military or other officer, without having gone through the General of the Army, since the passage of the act of March 2, 1867, which requires all orders and instructions relating to military operations issued by the President or Secretary of War shall be issued through the General of the Army, and in case of his inability through the next in rank.

Mr. GARFIELD. I object.

Mr. ROBINSON. I move to suspend the rules.

The SPEAKER. The gentleman from Illinois has the floor to move to suspend the rules, and two motions to suspend the rules cannot be entertained at the same time.

Mr. ROBINSON. That law is being violated.

#### ADJOURNMENT OVER.

Mr. MAYNARD. I renew the motion, that when the House adjourns to-day it adjourn to meet on Thursday next.

The motion was disagreed to.

#### INVESTIGATING COMMITTEE.

The SPEAKER announced the following as the committee of investigation ordered this morning: Mr. SCOFIELD of Pennsylvania, Mr. LAWRENCE of Ohio, Mr. ELDRIDGE of Wisconsin.

sin, Mr. COBURN of Indiana, and Mr. FERRISS of New York.

#### INDIAN APPROPRIATION BILL.

Mr. WASHBURN, of Illinois, moved that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union to consider the Indian appropriation bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and proceeded to consider House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869.

Mr. WASHBURN, of Illinois. I move that the first reading of the bill for information be dispensed with.

Mr. BROOKS. I object. I want the bill read through.

Mr. HARDING. I hope we will proceed with the business of the House.

The Clerk proceeded with the reading of the bill.

#### ADJOURNMENT OVER.

The committee informally rose; and a message was received from the Senate, by Mr. HAMLIN, one of its clerks, requesting the House to return the resolution for adjournment over until the 25th instant, disagreed to by the Senate.

The request was granted.

Mr. SCHENCK. The resolution for adjournment over having been sent for, and as it is likely it will be acted on in a few minutes, if gentlemen desire to vote on it, it is desirable they should remain here, so as not to leave the House without a quorum. There is barely a quorum present now. The Senate will have to amend the resolution as it reads now, "shall adjourn from Saturday, the 16th instant, to Monday, the 25th instant," and it will be necessary for a quorum to be here to concur in that amendment.

#### INDIAN APPROPRIATION BILL—AGAIN.

The committee resumed its session.

The Clerk proceeded with the reading of the bill.

Mr. ROBINSON. I move that the committee rise in order to get out of this difficulty.

Mr. CHANLER. Is it in order to make that motion during the reading of the bill?

The CHAIRMAN. It is.

The committee divided; and there were—ayes 11, noes 19; no quorum voting.

The CHAIRMAN. No quorum voting, under the rules, the Clerk will call the roll.

The roll having been called, the following members failed to answer to their names:

Messrs. Anderson, Archer, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Baldwin, Banks, Barnes, Barnum, Beaman, Beatty, Beck, Benjamin, Bingham, Blair, Boutwell, Boyer, Bromwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Sidney Clarke, Cook, Cornell, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Ela, Finney, Fox, Getz, Gravely, Griswold, Haight, Halsey, Hawkins, Hill, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburt, Ingersoll, Jenckes, Judd, George V. Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, Marshall, Marvin, McCarthy, McClurg, McCulloch, Miller, Moore, Moorhead, Morrissey, Mullins, Mungen, Newcomb, Niblack, Perham, Peters, Poland, Pomeroy, Price, Randall, Raum, Sawyer, Selye, Shanks, Shellabarger, Smith, Spalding, Thaddeus Stevens, Stokes, Stone, Taber, Taylor, John Trimble, Twichell, Van Aernam, Van Aukon, Robert T. Van Horn, Van Wyck, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, F. Wilson, Wood, and Woodbridge.

The committee then rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union, having under consideration the Indian appropriation bill, and finding itself without a quorum, had caused the roll to be called, and had directed him to report the names of the absentees to the House.

The SPEAKER. Only eighty-one members

having answered to their names. No quorum having answered, the only motions in order are that there be a call of the House and that the House adjourn.

Mr. BANKS. I move that there be a call of the House.

Mr. ELDRIDGE. I move that the House do now adjourn.

#### SURVEY OF THE POTOMAC RIVER.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report of the chief of engineers, covering a report by General Michler on the examination and survey of the Potomac river; which was referred to the Committee on Commerce, and ordered to be printed.

J. M. BEST.

On motion of Mr. TRIMBLE, of Kentucky, leave was granted for the withdrawal from the files of the House of the papers in the case of Dr. J. M. Best, of Paducah, Kentucky, copies of the same being left on file.

#### ORDER OF BUSINESS.

The question being taken on the motion of Mr. ELDRIDGE, to adjourn, it was disagreed to.

The question recurred on the motion for a call of the House.

Mr. ROBINSON. Would it be in order now to hear the gentleman from Pennsylvania, [Mr. WOODWARD?]

The SPEAKER. By unanimous consent it would be. Is there objection?

Mr. HARDING. I object.

Mr. ROBINSON. I ask the gentleman to withdraw the objection.

Mr. HARDING. I do not want any more debate.

The question being taken on the motion for a call of the House, it was agreed to—ayes 60.

The Clerk then proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Anderson, Archer, Arnell, Axtell, Baldwin, Barnes, Barnum, Beck, Bingham, Boutwell, Boyer, Broomall, Buckland, Butler, Cake, Cary, Churchill, Sidney Clarke, Cook, Cornell, Cullom, Dawes, Dixon, Dodge, Eckley, Ela, Finney, Fox, Getz, Gravely, Griswold, Haight, Hawkins, Hill, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburt, Jenckes, Judd, Lincoln, Logan, Mallory, McCarthy, McCulloch, Miller, Moore, Moorhead, Morrissey, Mullins, Mungen, Niblack, Peters, Poland, Pomeroy, Price, Randall, Selye, Shanks, Shellabarger, Smith, Spalding, Thaddeus Stevens, Stokes, Stone, Taber, Taylor, John Trimble, Twichell, Van Aernam, Van Aukon, Robert T. Van Horn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge.

The SPEAKER. One hundred and four members having answered to their names, a quorum is now in attendance.

Mr. ROBINSON. I move that all further proceedings under the call be dispensed with. The motion was agreed to.

Mr. ROBINSON. If there is any objection now to allowing the gentleman from Pennsylvania [Mr. WOODWARD] to proceed, as was agreed all around, I shall move to suspend the rules. I hope there will be none.

Mr. HARDING. Mr. Speaker, the House was in the Committee of the Whole, and the order to go into the Committee of the Whole has not been vacated.

The SPEAKER. The House came out of the Committee of the Whole, finding itself without a quorum; the roll was then called, and the House finding a quorum in attendance the gentleman from New York [Mr. ROBINSON] moved to suspend the rules to allow the gentleman from Pennsylvania to speak.

On suspending the rules there were thirty-eight ayes.

Mr. ROBINSON. I demand the yeas and nays.

Mr. HOLMAN. Is it in order to move to go into the Committee of the Whole?

The SPEAKER. If the motion of the gentleman from New York is voted down the House immediately resolves itself into the Committee of the Whole by the rules.

The yeas and nays were not ordered. So the House refused to suspend the rules.

#### INDIAN APPROPRIATION BILL—AGAIN.

The House, under the rules, resolved itself into the Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of the special order, being House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869.

The CHAIRMAN. The Clerk will resume the reading of the bill.

Mr. ROBINSON. Would it not now be in order, before proceeding with the further reading of the bill, to move that the gentleman from Pennsylvania [Mr. WOODWARD] be allowed to proceed?

The CHAIRMAN. The reading of the bill cannot be interrupted.

Mr. ROBINSON. Then I shall give up all efforts to get the floor for the gentleman from Pennsylvania.

Mr. HOLMAN. Mr. Chairman, as this bill will be read by sections for amendment, the present reading will be of no great value. I hope, therefore, there will be no objection to dispensing with the first reading.

The CHAIRMAN. The gentleman from Indiana renews the request that the first reading of the bill be dispensed with, which requires unanimous consent.

Mr. MAYNARD. I object.

The CHAIRMAN. The Chair takes occasion to state that the roll-call having just revealed the presence of a quorum, he hopes members will remain in their seats in anticipation of a message from the Senate. It would be very awkward to find the House without a quorum when the committee rises.

Mr. RAUM. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the Chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the bill of the House No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1869, and had come to no conclusion thereon.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, informed the House that the Senate had passed a bill (S. No. 170) to provide for deficiency of expenses incurred in survey of Indian reservations, in which he was directed to ask the concurrence of the House.

The message further announced that the Senate had agreed to the amendments of the House to the amendment of the Senate to the joint resolution of the House No. 19, concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin.

#### PURCHASE OF ALASKA.

Mr. LOUGHRIDGE. I desire to offer a preamble and resolutions on the subject of Alaska, and to have them referred to the Committee of the Whole on the state of the Union and printed, so that they may be considered when the bill comes up which was referred to the committee this morning.

Mr. ELDRIDGE. I reserve the right to object until the preamble and resolutions are read.

The Clerk read the preamble and resolutions, as follows:

Whereas the treaty of purchase with Russia of March 30, 1867, having been communicated by the President to the House; and it being necessary, before the stipulations of such treaty can be carried into effect, that laws for that purpose should be enacted by Congress; and it appearing by the stipulations of said treaty that the cession with right of possession was to be deemed complete upon the exchange of ratifications; and it appearing further that the President of the United States has already taken possession



sion of said territory without authority from Congress so to do; thus, by the provisions of the treaty and by such subsequent acts thereunder, apparently denying the right of this House to exercise its discretion in relation to the passage of the laws necessary to carry the treaty into effect; to the end that the opinion of the House in relation to its powers and prerogatives may be understood, and that no action in relation to this treaty may be misconstrued:

1. *Resolved*, That as the Constitution delegates to the President, with the advice and consent of the Senate, the treaty-making power, the House of Representatives claims no agency in making treaties. Yet as the Constitution provides that no money shall be drawn from the Treasury but in consequence of appropriations made by law, and provides further that all bills for raising revenue shall originate in the House of Representatives, where a compact made by the treaty-making power with a foreign Government stipulates for the purchase of territory from such foreign Government, and for the payment of money by the United States therefor, such stipulation for the payment of money cannot be carried into effect without an act of Congress making an appropriation for that purpose, and that it is the constitutional right and duty of the House of Representatives in such case to deliberate upon the expediency or inexpediency of making such appropriation, and to determine and act thereon as in their judgment will be most conducive to the public good, and to that end either to make such appropriation or refuse it, in their discretion.

2. *Resolved*, That the President, with the advice and consent of the Senate, has not the constitutional power by treaty to extend the area of this Government, and bring within its jurisdiction foreign territory, without the consent of Congress; and until such consent is given no compact to that end is valid or binding upon the Government of the United States; and no officer of the United States has any right or authority to take possession of such territory for the Government until authorized by law of Congress so to do.

3. *Resolved*, That having taken into consideration the treaty of purchase between the United States and the Emperor of Russia, communicated by the President, in the opinion of the House it is expedient to pass the laws necessary to carry the treaty into effect.

Mr. ELDRIDGE. I object to the resolutions.

Mr. LOUGHRIDGE. I ask, then, that the resolutions be referred to the Committee on Foreign Affairs.

Mr. ROSS. I move to lay the resolutions on the table.

The SPEAKER. The resolutions are not yet before the House.

Mr. ELDRIDGE. I have no objection to the resolutions being received and referred to the Committee on Foreign Affairs.

There being no objection, the preamble and resolutions were received, and referred to the Committee on Foreign Affairs.

Mr. ELDRIDGE moved to reconsider the vote by which the resolutions were reported; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILL SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. No. 473) for the relief of Charles E. Capehart; when the Speaker signed the same.

#### CHARLES O. M'CREARY.

Mr. HOLMAN, by unanimous consent, introduced a bill (H. R. No. 1097) for the relief of Charles O. McCreary; which was read a first and second time, and referred to the Committee of Claims.

#### SAN FRANCISCO AND HUMBOLDT BAY RAILROAD.

Mr. HIGBY, by unanimous consent, introduced a bill (H. R. No. 1098) to aid the San Francisco and Humboldt Bay Railroad Company in the construction of a railroad from San Francisco to the town of Humboldt Bay, in the State of California, and to secure to the Government of the United States the use of the same for postal, military, and other purposes; which was read a first and second time, and referred to the Committee on the Public Lands.

Mr. ALLISON moved to reconsider the various votes of reference; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

#### THOMAS H. DIXON.

Mr. O'NEILL. I move that the Committee of Claims be discharged from the further consideration of the bill for the relief of Paymas-

ter Thomas H. Dixon, and that the same be referred to the Committee on Naval Affairs.

Mr. WASHBURN, of Massachusetts. I would inquire the reason of that motion?

Mr. O'NEILL. It is a bill for the relief of a paymaster of the Navy, and comes properly within the jurisdiction of the Committee on Naval Affairs, and not the jurisdiction of the Committee of Claims.

Mr. WASHBURN, of Massachusetts. I do not know that the Committee of Claims have any objection to that reference. But there are now pending before the Committee of Claims several claims of this nature, relating not only to paymasters of the Navy, but to paymasters of the Army.

Mr. O'NEILL. I make this motion because there are several bills of a similar character before the Committee on Naval Affairs.

Mr. WASHBURN, of Massachusetts. I have no objection.

Mr. UPSON. I object.

Mr. O'NEILL. Very well; I withdraw the motion.

#### LADIES' MOUNT VERNON ASSOCIATION.

Mr. BLAINE. I move that the Committee on Appropriations be discharged from the further consideration of the memorial of the Ladies' Mount Vernon Association, and that the same be referred to the Committee of Claims.

Mr. SCHENCK. I hope that change of reference will not be made. I ask that the memorial be read before the House acts upon the motion.

The Clerk read the memorial, as follows:

Memorial of the Ladies' Mount Vernon Association of the Union.

The undersigned, ladies appointed as a committee by the Grand Council of the Ladies' Mount Vernon Association, held on the 3d of December last, to present to your honorable body a claim for compensation on account of losses sustained by reason of the stoppage, during the war, of the boat plying between Washington and Mount Vernon, would respectfully urge that its loss of income derived from the boat forced the association to call in and expend all their available investments and to incur debt beside, in order to maintain Mount Vernon during the war, and that at present their treasury is empty, and that it is only by obtaining further credit that the place is now sustained.

They would also respectfully state that the home and last resting-place of the Father of his Country was secured from the hands of speculators by the exertions of women from all sections of the Union, and they now appeal confidently in the name of your countrywomen to your sympathies and sense of the justice of their claims, feeling that the appropriation of means to contribute to the preservation of "our country's shrine" would proceed appropriately from the honorable body which represents this Union.

They respectfully state that Mount Vernon was secured by the ladies of the Mount Vernon Association after the patient labor of seven years.

They hold it now as a resort for our countrymen and the patriots of the whole world.

During the desolating war which has passed they guarded it in peace and security, and they would not now be suppliants to your honorable body but for the heavy losses sustained by the interruption, during that period, of the tide of travel to it, from which they derived the means to keep the place.

Military necessity, no doubt, made this restriction imperative; but it was peculiarly unfortunate to the association, for the soldiers and others who thronged the city of Washington at that time would, in addition to its usual number of visitors, have greatly increased the revenue of Mount Vernon and placed the association in a position to make good their pledge to the public: "To keep and to guard the home of Washington as he left it," until the return of an auspicious period for renewing their labors and securing an invested fund to place their sacred charge beyond all future contingencies. But in their present necessities the committee of the Ladies' Mount Vernon Association of the Union are led to make this appeal to your honorable body, confident that you will regard their claim for indemnity as valid as any that have been hitherto submitted to you and received your favorable consideration.

Your memorialists would represent that the loss inflicted on the Mount Vernon Association of the Union by the causes herein enumerated amounted to \$9,000, and they respectfully urge that that sum be appropriated for their relief.

Mrs. SWEAT,  
Vice Regent for Maine.  
Mrs. BROOKS,  
Vice Regent for New York.  
Mrs. MORSE,  
Vice Regent for Louisiana.

WASHINGTON CITY, May 12, 1863.

Mr. SCHENCK. I am sorry the Committee on Appropriations has felt it its duty to ask the House to relieve them from the further

consideration of this memorial and to refer it to the Committee of Claims. I had hoped the House would be ready to act at once upon a matter which so commends itself to the consideration and favor of us all, and which asks for so little in reference to the objects which are contemplated by the memorial. I am of the opinion that usually everything of this kind, everything of any kind where a claim is set up against the Treasury, ought to be investigated by the proper tribunal, the Committee of Claims. But in reference to all such things there are exceptional cases, and it seems to me this is one of them. Here is a matter which lies immediately under our own observation. We all know that the Mount Vernon Ladies' Association of the Union, some ten or twelve years ago, united together, had themselves incorporated, elected vice regents, as they are termed, from their number, to aid the regent as the chief of the association, these vice regents being one from each State of the Union. And they collected from the patriotic people of this country money enough to buy Mount Vernon from its then owner, one of the Washingtons, and to secure it forever as a place of public resort to the people of the United States and the people of the world. They paid for it, I think, some two hundred thousand dollars. The condition of the conveyance was such that if it should ever cease to be kept up as such place of public resort it should revert to the State of Virginia.

Under these circumstances, having obtained possession of the property, put it in repair, provided for a custodian to be there all the time, and established a boat to run between Washington and Mount Vernon, making daily trips for the convenience of those who desire to visit a spot so sacred, they were going on prosperously until interrupted by the war. Everybody, at least in this vicinity, knows the great injury to the interests of the association. Besides those general inconveniences arising from being cut off from communication between Washington and Mount Vernon from the general progress of the war, they had special damage from the fact that their boat, upon which they relied entirely for an income, was necessarily stopped running by order of the War Department for a succession of years.

Now, what they ask is that, to enable them to go on in the execution of this interesting and sacred trust which they have undertaken, we shall make up to them in some degree at least the loss sustained by them in consequence of the stopping of the passenger boat upon which they relied for the means of keeping up that property in good condition. I think while that unfinished mass of marble and granite stands at the other end of the city as a witness against the people of the United States and their Congress, for want of due respect to the memory of Washington, it is little enough for us to make some small appropriation to keep up at least an interest in that which was his home during his life-time, and to which pilgrimages are being made by all patriotic citizens of the United States from every quarter and by all patriots and lovers of republican liberty from every part of the world. I would much rather see a bill passed at once in compliance with this request and from the sense which the House entertains of the propriety of the measure, than to keep these ladies waiting with their claim, to be bandied between any two or three of the committees of this House.

I do not criticize the action of the Committee on Appropriations, because I admit that, regularly and appropriately, the memorial should go to the Committee of Claims. But I submit to the House the question whether it would not be a graceful and proper thing, and one which would meet the approval of all our constituencies, if we should meet the claim at once by granting it?

While the Clerk has been reading the memorial I have endeavored to prepare a bill in such a shape as I would prefer. I ask the House to listen to the reading of the bill which I send

to the Clerk's desk, and then to give unanimous consent that we may take it up and act upon it now.

The SPEAKER. The bill will be read as a part of the remarks of the gentleman from Ohio, [Mr. SCHENCK.]

The Clerk read as follows:

A bill for the relief of the Mount Vernon Association.

*Be it enacted, &c.,* That the sum of \$7,000 be, and the same is hereby appropriated out of any money in the Treasury not otherwise appropriated for the relief of the Mount Vernon Association.

Mr. PRUYN. Let me suggest that the bill just read does not state correctly the title of the association.

The SPEAKER. Is there objection to the introduction of the bill just read for consideration at the present time?

Mr. LAWRENCE, of Ohio. I object.

Mr. ELDRIDGE. I desire to inquire of the gentleman from Ohio [Mr. SCHENCK] whether the sum named in the bill is the sum stated in the memorial?

Mr. SCHENCK. No; these ladies in their memorial ask for \$9,000; but, after looking over their memorial and some letters in my possession and ascertaining the exact time during which the boat was stopped, I have come to the conclusion that \$7,000 is about right.

Mr. ELDRIDGE. I think \$9,000 is a very reasonable amount.

Mr. SCHENCK. I have no particular objection to that amount, and am willing that an amendment shall be offered to increase the sum named in the bill.

Mr. BLAINE. I withdraw the motion to discharge the Committee on Appropriations.

Mr. ELDRIDGE. I believe there is no objection to considering at the present time the bill presented by the gentleman from Ohio, [Mr. SCHENCK.]

The SPEAKER. The gentleman from Ohio [Mr. LAWRENCE] objects.

Mr. SCHENCK. I move, then, to suspend the rules, to allow me to introduce the bill for consideration at the present time.

Mr. ELDRIDGE. I hope the gentleman will make the amount \$9,000.

Mr. SCHENCK. I will allow an amendment to be offered to increase the amount to \$9,000.

On the motion to suspend the rules there were—ayes fifty, noes not counted.

Mr. BROOKS demanded tellers.

Tellers were ordered; and Mr. BROOKS and Mr. HARDING were appointed.

The House divided; and the tellers reported—ayes forty-four.

The SPEAKER. Not two thirds of a quorum.

Mr. HOLMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 38, not voting 94; as follows:

YEAS—Messrs. James M. Ashley, Bailey, Beatty, Blaine, Boyer, Brooks, Burr, Chanler, Reader W. Clarke, Driggs, Eggleston, Eldridge, Ferry, Garfield, Golladay, Gravely, Grover, Halsey, Higby, Holman, Hooper, Humphrey, Hunter, Johnson, Jones, Julian, Kerr, Knott, Koonz, Ladin, George V. Lawrence, Marshall, Maynard, McCormick, Morgan, Morrell, Newcomb, Nicholson, O'Neill, Orth, Paine, Perham, Polesley, Pruyn, Raum, Robinson, Ross, Schenck, Scofield, Sigreaves, Stewart, Taffe, Thomas, Lawrence S. Trimble, Van Trump, Windom, and Woodward—57.

NAYS—Messrs. Allison, Ames, Delos R. Ashley, Baker, Baldwin, Beaman, Benjamin, Benton, Blair, Cobb, Coburn, Covode, Eliot, Farnsworth, Ferriss, Fields, Harding, Hopkins, Ingersoll, Kelley, Kelsey, Ketcham, William Lawrence, Loughbridge, Lynch, McClurg, Mercer, Pike, Robertson, Sawyer, Starkweather, Aaron F. Stevens, Trowbridge, Upson, Burt Van Horn, Ward, Cadwalader C. Washburn, and William B. Washburn—38.

NOT VOTING—Messrs. Adams, Anderson, Archer, Arnell, Axtell, Banks, Barnes, Barnum, Beck, Bingham, Boutwell, Bromwell, Broomall, Buckland, Butler, Cake, Cary, Churchill, Sidney Clarke, Cook, Cornell, Cullom, Dawes, Dixon, Dodge, Donnelly, Eckley, Ela, Finney, Fox, Getz, Glossbrenner, Griswold, Haight, Hawkins, Hill, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hubbard, Jencks, Judd, Kitchen, Lincoln, Loan, Logan, Mallory, Marvin, McCarthy, McCullough, Miller, Moore, Moorhead, Morrissey, Mullins, Mungen, Myers, Niblack, Nunn, Peters, Phelps, Pile, Plants,

Poland, Pomeroy, Price, Randall, Selye, Shanks, Shellabarger, Smith, Spalding, Thaddeus Stevens, Stokes, Stone, Taber, Taylor, John Trimble, Twiehell, Van Aernam, Van Aiken, Robert T. Van Horn, Van Wyck, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—94.

The SPEAKER. The Chair votes in the affirmative to make a quorum; but, two thirds not having voted in the affirmative, the rules are not suspended.

EXCUSED FROM COMMITTEE SERVICE.

Mr. ELDRIDGE. I ask to be excused from service on the committee of investigation announced to-day by the Speaker.

It was ordered accordingly.

The SPEAKER appointed Mr. BURR to fill the vacancy.

ENROLLED BILLS.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

An act (H. R. No. 1045) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws in the third military district for the fiscal year ending June 30, 1868; and

An act (H. R. No. 1062) to grant the right of way to the Whitehall and Plattsburg Railroad Company.

ADJOURNMENT OVER.

Mr. ASHLEY, of Ohio. I move that the House do now adjourn.

The SPEAKER. The Chair feels it to be his duty to state for the information of the House that the Senate have passed the resolution for adjournment over with an amendment.

A message was received from the Senate, by Mr. HAMLIN, one of its clerks, notifying the House that that body had concurred in the resolution of the House to adjourn over, with an amendment, that when the two Houses adjourn to-day they adjourn to meet on Monday, the 25th instant.

Mr. ASHLEY, of Ohio. I insist on the motion to adjourn.

The House divided; and there were—ayes thirty-eight, noes not counted.

Mr. BUTLER. Oh, no! Do not adjourn. The managers have a report to make.

Mr. ASHLEY, of Ohio. Very well; I withdraw the motion to adjourn.

Mr. BUTLER. I rise to a privileged question.

Mr. WARD. I call for the regular order.

Several members called for the vote on the amendment of the Senate to the concurrent resolution of the House for the adjournment over.

Mr. BUTLER. I desire to state the reason why the House should not concur in that resolution. I wish to say, Mr. Speaker, that in the investigation with which the managers are charged it may be necessary, and is now necessary, to have the action of the House to compel the attendance of witnesses.

Mr. ROBINSON. Is it in order to discuss the motion to adjourn over?

The SPEAKER. The question is open to debate, but to a very limited degree. It is in order for the gentleman from Massachusetts to state, as one of the managers of the impeachment, why the House should not concur in the amendment of the Senate. It is within the proper range of debate to state what public business requires our attendance here.

Mr. BUTLER. I will endeavor to proceed in order. It is quite necessary that the House should be in session to enforce its process. There have been, I have authority to say, acts of recusancy on the part of witnesses that came very near making it necessary that they should be brought before the House, and there is on the part of one or more witnesses such a desire manifested to escape all investigation that I think it will be necessary to have the House in session. I am now instructed by the managers to report a resolution for the purpose of bringing a witness who has refused to—

Mr. ROBINSON. I raise a point of order, and I leave it to the Chair entirely. I object to all this.

The SPEAKER. The gentleman is himself out of order, for the ruling of the Chair stands as the judgment of the House unless it is appealed from. The gentleman from Massachusetts [Mr. BUTLER] has not transgressed the rules; he has limited himself to a statement of the reasons why the House should not remain in session.

Mr. ROBINSON. A point of order, then, and I have done. The gentleman has already indicated that he wishes to present another resolution pending the resolution under consideration.

The SPEAKER. The Chair ruled that that was not in order at the present time, because the House is now considering the amendment of the Senate to the resolution of the House.

Mr. BLAINE. I desire, within the most limited range, to give the reasons why the House should not adjourn over. It was telegraphed all over the country, as the conclusion of the Senate on Saturday, that no recess should be taken. To my personal knowledge more than one member, and the presumption is that a great many members, are on their way hither on the presumption that there is to be a continued session of Congress.

Several MEMBERS. Oh, no.

Mr. BLAINE. Well, sir, I think almost all gentlemen intending to go have already gone. Certainly the great bugaboo, the Chicago convention, which was to have called away so many members, in the apprehension of our friends on the other side, has taken away all that are likely to go. There is to be no further draft in that direction. We have had a quorum in the House to-day, and we shall have a larger number present to-morrow and the next day, and in my judgment it will be a very poor trade to give up a cool fortnight in May for one in the dog-days in August. I think it would be very unwise to make that trade. Committees are ready to report, and the call is going on regularly.

Mr. ELDRIDGE. Why did not the gentlemen have their convention in dog-days, so as to save the time now?

Mr. BLAINE. We did not want to run in competition with your convention in the dog-days.

Mr. ELDRIDGE. I do not know about that.

Mr. ROSS. It is apparent to me, Mr. Speaker, that there will be nothing done, and as an outside consideration I will state that there is an important convention now being held in Chicago, and there is great danger of its being broken up or disrupted unless we go and look after it. I think, therefore, it is our duty to go *en masse* as a body to Chicago and see if we cannot heal the breach that is apparently overshadowing the great national party of this country. [Laughter.]

Mr. KELSEY. I demand the previous question on concurring in the amendment of the Senate to the resolution of the House.

Mr. ALLISON. I move to lay the resolution and amendment on the table.

The question being taken, there were—ayes 62, noes 33.

The SPEAKER. The Chair votes in the affirmative, making a quorum.

Mr. ROBINSON. I demand the yeas and nays.

The yeas and nays were refused.

So the resolution and amendment were laid on the table.

Mr. ASHLEY, of Ohio, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RECUSANT WITNESS.

Mr. BUTLER. On behalf of the managers on the part of the House on the impeachment I offer the following preamble and resolution:

Whereas a summons was heretofore in due form

issued by the committee of managers under the authority of the resolution of the House, directed to Charles Woolley, in the words and figures following, that is to say:

*By authority of the House of Representatives of the Congress of the United States of America.*

To NEEHEMIAH G. ORDWAY, Esq., Sergeant-at-Arms, or his special messenger:

You are hereby commanded to summon Charles Woolley, of Cincinnati, to be and appear before the managers on the part of the House of Representatives of the United States, of whom the Hon. JOHN A. BINGHAM is chairman, to conduct the impeachment of Andrew Johnson, President of the United States, in their Chamber, in the city of Washington, on Monday, May 18, instant, at the hour of eleven o'clock and thirty minutes a. m., then and there to testify touching matters of inquiry committed to said managers, and he is not to depart without leave of said managers.

Herein fail not, and make return of this summons. Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 17th day of May, 1868. JOHN A. BINGHAM, Chairman.

Attest: B. D. WILTNEY, Clerk, commanding said Woolley to appear at the time and place therein named, in obedience to the order of the House, which summons was duly served upon said Woolley, in the city of Washington, on the 17th day of May instant, as appears by the return of the deputy sergeant-at-arms thereof, in the words and figures following, that is to say:

WASHINGTON, D. C., May 17, 1868.

I certify that, by direction of the Sergeant-at-Arms of the United States House of Representatives, I have this day, about the hour of four o'clock in the afternoon, at Willard's Hotel, in the city of Washington, given in hand to the within Charles Woolley a true and attested copy of this subpoena.

M. H. ALBERGER, Special Messenger.

yet the said Woolley, well knowing the premises and in contempt of the powers of the House and its authority, neglects and refuses to appear in obedience thereto, and eluded himself and left the city of Washington in avoidance of the same and in contempt of the authority of the House and its process: Therefore,

*Be it resolved*, That a warrant under the hand of the Speaker be issued in due form commanding the Sergeant-at-Arms to arrest said Woolley and bring him to the bar of the House, to answer for his contempt of authority, and to be further dealt with as the House may order.

Mr. ROBINSON. What is the date of the return of the Sergeant-at-Arms?

The CLERK. The 17th.

Mr. ROBINSON. Sunday!

Mr. HOLMAN. I rise to a question of order. My question of order is that the House is called upon by this resolution by extraordinary process of attachment to bring this witness before the bar of the House, for contempt of the authority of the House, when in fact the resolution shows upon its face that no valid subpoena has ever been served upon the witness, for a subpoena can only issue by authority of the House of Representatives, signed by the Speaker of the House.

The SPEAKER. The Chair sustains the point of order made by the gentleman from Indiana. By the rule, which will be found on page 191 of the Digest, "All subpoenas issued by order of the House shall be under the hand and seal of the Speaker, attested by the Clerk." The resolution is still before the House, however, and the House can take any action in regard to it that they may determine on. It is for the House to decide questions of contempt of its own rules. In the opinion of the Chair all subpoenas, to be legal, so that you can bring a person to the bar of the House for contempt in refusing to obey them, have, according to the uniform usage of the House in its whole history, to be signed by the Speaker and attested by the Clerk. This subpoena appears to have been signed by the chairman of the managers and attested by their clerk. It is, however, for the House to determine the authority they have given the managers, and whether it differs from the authority given to previous committees to send for persons and papers. The House have certainly a right to pass any resolution they please in regard to the matter.

Mr. ELDRIDGE. It appears also on the face of the resolution that the subpoena was not valid because of the fact that it was served on Sunday.

The SPEAKER. That is a question for the House to determine.

Mr. BUTLER. I call the previous question on the resolution.

Mr. COVODE. Will the gentleman from Massachusetts yield to me to make a statement?

Mr. BUTLER. I yield to the gentleman.

Mr. COVODE. I desire to state what has been the practice of this House and its committees for the last twelve years, and I believe the gentleman from Indiana [Mr. HOLMAN] voted to aid in inaugurating the practice. When Mr. Orr, of South Carolina, was engaged in investigating the supposed corrupt practices that were carried on in the Thirty-Fourth Congress, the House gave the committee, of which he was chairman, authority to subpoena witnesses. Under that authority the committee carried on an investigation and subpoenaed hundreds of witnesses and never asked the Speaker to sign one of the subpoenas until they were compelled to come into the House to ask the authority of the House to bring witnesses under arrest. And from that day to this I have never known a single instance—and I have been engaged on different investigating committees—where the chairman of the committee has not been allowed to issue subpoenas, only coming into the House when a contumacious witness refused to answer.

The SPEAKER. The gentleman will suspend until the Clerk reads three paragraphs from page 191 of the Digest. The gentleman from Pennsylvania may not have complied with the rules of the House, and he states that he has not, but the Digest will settle the question:

"Witnesses are summoned in pursuance of an order of the House, usually by virtue of its authority conferred upon a committee 'to send for persons and papers.'"

"All subpoenas issued by order of the House shall be under the hand and seal of the Speaker, attested by the Clerk."

"The Sergeant-at-Arms shall execute the commands of the House from time to time, together with all such process issued by authority thereof as shall be directed to him by the Speaker."

Mr. COVODE. It so happens, then, that this is a new enforcement of the rule.

The SPEAKER. The Chair is not aware that the point has ever before been raised. But he has no doubt that, had it been raised, it would have been ruled as the Chair now rules.

Mr. ELDRIDGE. I desire to ask of the Chair a parliamentary question.

The SPEAKER. The gentleman from Massachusetts [Mr. BUTLER] is entitled to the floor, and cannot be taken from it except by a point of order.

Mr. ELDRIDGE. I think my question involves a point of order. I desire to ask what is the ruling of the Chair in sustaining the point of order raised by the gentleman from Indiana, [Mr. HOLMAN]? I understood the point raised by the gentleman to be that the subpoena was void, and that the witness could not be in contempt of the House; and I understood the Chair to sustain the point.

The SPEAKER. The Chair ruled that the eighth and twenty-second rules of the House, and the decision of the House upon those rules, as found in the Digest, require subpoenas ordered by the House to be signed by the Speaker and attested by the Clerk. But the Chair stated that the House has the power, as a matter of course, to construe its own rules, in cases of alleged contempts, without any arbitrary power on the part of the Speaker to prevent it.

Mr. BUTLER. Mr. Speaker—

Mr. ROBINSON. Will the gentleman allow me to say a word?

Mr. BUTLER. I have not had a chance to say anything myself yet. The House, by a resolution, gave the managers power to send for persons and papers, and directed them, as a committee, to make an investigation. Following what was understood to be the practice, the committee sent out their subpoena, that subpoena being signed by the chairman of the committee. That, I am informed, is the practice of the House, a practice of many years' standing. This witness, Woolley, has refused to obey the subpoena, for the reason that the House had no power to have a summons served on Sunday. He grew suddenly

religious, and thereupon notified the deputy Sergeant-at-Arms that he would wait until this morning, if the House wanted anything of him. But, instead of doing so, he left the city on the train last night for New York, as we are informed by a telegram from New York. Now, I suppose it is in the power of the House to pass a resolution to send for any person at any time without any preliminary subpoena. If the subpoena of the committee was not a good one, or if it could not be served on Sunday, that may be a good reason why the House will not punish Mr. Woolley when he comes here, and a good reason why he should not be mulcted in costs or any other punishment, provided he stayed away for that reason. But if he stayed away for any other reason it was a contempt of the authority of the House, just as much as though he had had a good summons. We have a right to send for him in any form. But the House would have said to us, Why not notify him before you call upon us to act? We have notified him, and he objected because it was Sunday. Now, let me say that I do not know any law, parliamentary or ordinary, which forbids this House exercising its powers and duties on Sunday when the necessities of the case require it. If anybody does I should like to see the law.

Mr. ROBINSON. Will the gentleman yield to me a minute on that subject?

Mr. BUTLER. I will yield for a question.

Mr. ROBINSON. I would inquire of the Speaker if it is in order for me now, as a privileged question, to move that the managers be censured by this House for their open violation of the Sabbath in this city without any necessity?

The SPEAKER. The Chair thinks not. A resolution of censure cannot now interrupt the action of the House upon this matter, unless it should be to censure a member for words uttered in debate upon this resolution.

Mr. ROBINSON. I thought it would be in order to do so now; for this is a terrible and open violation of the Sabbath by the gentleman from Massachusetts, [Mr. BUTLER,] utterly inconsistent with Puritanism.

Mr. COVODE. Will the gentleman from Massachusetts yield to me for a moment?

Mr. BUTLER. I will, certainly.

Mr. COVODE. There is one point which I neglected to mention. During the time I was engaged in what was called the "Covode investigation" I had occasion to subpoena members of Mr. Buchanan's Cabinet. Among the rest I subpoenaed his Attorney General, Mr. Black. They all came before the committee, and never thought of protesting against my authority to summon them.

I will also state that in the case of the committee on the conduct of the war, a joint committee of the two Houses of Congress, in no single instance did we ever send a subpoena signed by any other person than the chairman of that committee. I think gentlemen on the other side might well act upon the course pursued by their Attorney General, who did not even enter a protest against the action of the committee.

Mr. ROBINSON. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. ROBINSON. My point of order is that the gentleman is attempting to controvert and overrule the decision of the Chair, and is not treating the Chair with proper respect.

The SPEAKER. The Chair is able to protect his own rights.

Mr. ROBINSON. But can I not make a suggestion?

The SPEAKER. The gentleman from Pennsylvania, when on the floor before, stated the usage of a committee of which he was formerly a member. The Chair remarked that he had no doubt that if the point had been made at that time the ruling of the Speaker would have been the same as the ruling of the Chair to-day. The gentleman is now referring to the case of a joint committee—an entirely different question.

Mr. ROBINSON. My point of order is



this: after the Speaker has decided a question, ruling it over and over again, is it in order for any gentleman to discuss and attempt to controvert that decision?

The SPEAKER. The Chair is very glad to find the gentleman from New York [Mr. ROBINSON] objecting to gentlemen doubting the decision of the Chair. [Laughter.] The Chair will state, by way of explanation, that he did not rule out the resolution. He stated that, in his opinion, such a subpoena as that recited in the resolution was not in accordance with the rules of the House; but he also remarked that it is for the House to construe its own rules, and, as the gentleman from Massachusetts [Mr. BUTLER] has argued, the House can determine upon whatever action it may deem proper.

Mr. ROBINSON. Is it not the proper course for any gentleman who doubts the decision of the Chair to take an appeal?

The SPEAKER. The Chair rules that the resolution is in order, being presented by the managers, who have authority to report at any time.

Mr. ROBINSON. I am not objecting to the resolution. I am objecting to gentlemen arguing—

The SPEAKER. The gentleman is not in order. He has raised a point of order, which has been overruled.

Mr. FARNSWORTH. I desire to propound an inquiry to the Chair; for this matter raises what is a new question to me, if not to the House. What means the authority given to a committee "to send for persons and papers" if the subpoenas must after all be issued by the authority of the House, through the officers of the House? In other words, cannot the House give to a committee authority "to send for persons and papers?" and if such authority be given, and the committee sends for a person, is it not contempt of the authority of the House for that person to refuse to appear?

The SPEAKER. That is a question for the House to determine; but the Chair, in answer to the parliamentary inquiry, will say that the Speaker of the House and the Clerk of the House sign no subpoena except where a committee has been authorized to send for persons and papers. It has been the ordinary practice of Speakers—certainly of the present occupant of the chair—to sign subpoenas in blank for the use of committees that have received such authority. Sometimes he has signed them by the hundreds when committees have been about to go to the southern States, so that, under the signature of the Speaker, they might execute the authority of the House. The rule on this subject is laid down as follows in the Digest, under the head of "Witness:"

"Witnesses are summoned in pursuance of an order of the House, usually by virtue of its authority conferred upon a committee 'to send for persons and papers.'"—*Journal*, 1, 35, pp. 88, 175.

All subpoenas issued by order of the House shall be under the hand and seal of the Speaker, attested by the Clerk."—*Rule 8*.

"The Sergeant-at-Arms shall execute the commands of the House from time to time, together with all such process issued by authority thereof as shall be directed to him by the Speaker."—*Rule 22*.

Mr. ROBINSON. I hope that settles the question.

Mr. BUTLER. I yield for a moment to the gentleman from Ohio, [Mr. EGGLESTON.]

Mr. EGGLESTON. Mr. Speaker, as the witness whom it is now proposed to pursue is one of my constituents, I suppose I ought to make an apology for not defending him; but after hearing the excuses which have been made on the other side—one that the subpoena was served on the Sabbath, and the other that the witness had important business in New York—I simply desire to say that I have no apology to offer for him. I hope he will, by some process, be brought before the board of managers and compelled to divulge all he knows with reference to the matter under investigation.

Mr. BUTLER. In order to obviate all difficulty in regard to this question I modify the resolution by striking out so much as asserts

that Woolley is in contempt of the House, so that the resolution will then simply order the Sergeant-at-Arms to bring him here forthwith.

Mr. HOLMAN. Is it proposed to arrest a citizen who is not charged with any contempt of the House?

Mr. BUTLER. We omit the clause charging him with contempt of the House.

Mr. ELDRIDGE. I raise the question of order that this House has no power to send for a person without some process, and that we cannot issue a warrant to arrest a party and bring him before the House unless he is in contempt of the rules of the House.

The SPEAKER. The Chair overrules the point of order upon the ground that the Speaker is not required to decide such questions. They are for the House to determine. The Clerk will read the rule as laid down on page 104 of Jefferson's Manual.

The Clerk read as follows:

"Were he permitted to draw questions of consequence within the vortex of order he might usurp a negative on important modifications, and suppress instead of subserving the legislative will."

The SPEAKER. The point suggested by the gentleman from Wisconsin is in the nature of argument, and is not a point of order.

Mr. STEWART. I ask the gentleman from Massachusetts to yield to me.

Mr. BUTLER. I cannot yield further.

Mr. STEWART. I wish to make a statement in regard to Mr. Woolley. I understand that Mr. Woolley is at Willard's Hotel; that he went last evening to Baltimore and returned this morning.

Mr. ROBINSON. And Mr. Woolley knows nothing why they are after him.

Mr. BUTLER. How does the gentleman from Brooklyn know that?

Mr. ROBINSON. When I am subpoenaed I will answer. I am prepared to meet the gentleman here or in the Lowell railroad depot. [Laughter.]

Mr. BUTLER. I would like to hear the statement of the gentleman from New York.

Mr. STEWART. I was informed within three minutes, by a gentleman in whom I have every confidence, that Mr. Woolley is at Willard's Hotel, and that he has no idea of disobeying the subpoena issued by the committee.

Mr. BUTLER. He left in the train last night and went to New York.

Mr. STEWART. No, sir; only to Baltimore, and he returned this morning. He stated to the gentleman who served the subpoena that he would be at the service of the committee whenever they informed him he was needed. He intended to go to New York, but changed his mind and went to Baltimore. He is in this city now.

Mr. STEVENS, of Pennsylvania. This discussion is all unnecessary, and the better way is to vote. I hope my colleague will call for the previous question.

Mr. BUTLER. On the assurance of the gentleman from New York [Mr. STEWART] that Mr. Woolley is here intending to respond to the subpoena, I will withdraw the resolution for the present.

#### ENROLLED JOINT RESOLUTION.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House joint resolution No. 91, concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin; when the Speaker signed the same.

#### ADJOURNMENT OVER—AGAIN.

Mr. PILE. Is it in order to move to reconsider the vote by which the subject of adjournment over was laid on the table?

The SPEAKER. That motion has already been made and laid on the table.

Mr. PILE. The Senate is waiting for our action, and they ought to be notified of it.

The SPEAKER. It is not usual to notify the other House of the action of the House in laying a subject on the table, but as the Senate

are waiting for our action the Chair will have them notified.

Mr. FARNSWORTH. I move to suspend the rules in order to take the resolution from the table.

The motion was disagreed to.

And then, on motion of Mr. PIKE, (at four o'clock and thirty-eight minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. DRIGGS: The petition of E. G. Merrick, W. H. Sprague, and 50 others, of Detroit, praying Congress for an appropriation to deepen the Sault Ste. Marie river and ship-canal, so as to admit of the passage of the largest class of vessels from Lake Huron to Lake Superior.

By Mr. FERRISS: The petition of John Plankey, for an additional sum of twenty-five dollars to aid him in purchasing an improved artificial arm.

By Mr. INGERSOLL: A memorial of the Universal Franchise Association of the District of Columbia, asking the enfranchisement of women in the District.

By Mr. KERR: The application of John L. Menangle and others, for a new post route in Washington county, Indiana.

By Mr. PAINE: The petition of William H. Pettit and 130 others, citizens of Kenosha, Wisconsin, for an appropriation for the harbor of Kenosha.

By Mr. SCHENCK: A memorial of Malcolm Seaton, administrator of the estate of the late W. W. Seaton, for claim on account of one hundred copies of the annals and debates of Congress.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, May 19, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### PERSONAL EXPLANATION.

Mr. MORGAN. I ask unanimous consent of the House to make an explanation which will require but a few moments.

The SPEAKER. For what length of time?

Mr. MORGAN. From three to five minutes.

Mr. WASHBURNE, of Illinois. Let the morning hour commence and I have no objection. I desire to get into the Committee of the Whole on the state of the Union to take up the Indian appropriation bill.

The SPEAKER. The gentleman, then, objects, and the morning hour has commenced. Reports from the Committee of Claims are in order. Does the gentleman from Massachusetts [Mr. WASHBURN] yield to the gentleman from Ohio for five minutes?

Mr. WASHBURN, of Massachusetts. If the committee do not take up the whole of the morning hour I will then yield to the gentleman from Ohio, [Mr. MORGAN.] I now yield to my colleague on the committee.

#### ADVERSE REPORTS.

Mr. HARDING, from the Committee of Claims, reported adversely on the following cases, and the same were laid on the table:

The petition of Mrs. Joseph Gales, of the District of Columbia, praying restoration of or compensation for certain fencing on her property, destroyed by United States soldiers in 1861;

The petition of Roxanna Evans;

The petition of James E. Wharton, of Parkersburg, West Virginia, asking compensation for damages sustained by him in the destruction of his property by United States troops in July, 1864; and

The claim of Little B. Madding, for property lost in the rebellion.

WAIT TALCOTT.

Mr. HARDING also, from the same committee, reported a bill (H. R. No. 1099) for the relief of Wait Talcott; which was read a first and second time.

The bill directs the Secretary of the Treasury to credit to the claimant, an internal revenue collector of the second district of Illinois, of the 18th of February, 1865, \$556 93, in consideration of the loss of that sum by the robbing of that amount from his deputy, Captain Richard A. Smith.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HARDING moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DONNELLY AND COMPANY.

Mr. HARDING also, from the same committee, reported adversely on the motion in behalf of Donnelly & Co., of Wilmington, North Carolina, asking compensation for liquors furnished to the United States hospital.

Mr. HOLMAN. I desire to state that I was not aware of this adverse report being made. There are certain additional papers presented in the case which I forgot to lay before the committee, and I therefore ask to have the memorial recommitted to the committee.

The report was accordingly withdrawn and ordered to be printed.

CHARLES BUTTERFIELD.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported adversely on House bill No. 402, for the relief of Charles Butterfield, a Chippewa half-breed Indian; and the same was laid on the table.

BENJAMIN GRATZ.

Mr. WASHBURN, of Massachusetts, also, from the same committee, reported adversely on the memorial of Benjamin Gratz, praying compensation for property taken by the Army and burned while in its possession; and the same was laid on the table.

HEIRS OF GIDEON WALKER.

Mr. WASHBURN, of Massachusetts, also, from the same committee, reported adversely on House bill No. 477, for the relief of the heirs of Gideon Walker, of Indiana.

Mr. HUNTER. Will the gentleman from Massachusetts yield to me about ten minutes on this case?

Mr. WASHBURN, of Massachusetts. Not to exceed ten minutes.

Mr. HUNTER. I object to the report of the committee in this case, and I desire to present some reasons why it should not be adopted. This claim, as I understand it, is founded on the following state of facts: Mr. Walker, in 1792, was enlisted as a soldier of the United States to serve for the period of three years. In August following he was mustered into the United States service. Some two or three days afterward he was placed on detached service, and drew from the Government six months' clothing and some eight months' rations. He was away from his command during the entire time of the three years' service. During that time he never was mustered for pay, and never received from the Government a single cent of pay in any way for all the service he rendered. When his time of service expired, not being with his command, he was mustered out of service. His discharge was delivered to him by his captain with a promise from the captain that, as there was no paymaster there to pay him, in a short time after that he, the captain, would go to the capital of the nation for the purpose of settling his own accounts, and he would then see that Mr. Walker should receive his pay. Relying upon that promise, and supposing as a matter of course that it would all be right, he did not give it the attention that he other-

wise would have done. A short time after that his captain removed to parts unknown, and supposing that the evidence of his captain was necessary, he let his claim lay until he could ascertain his whereabouts. In the mean time he removed to Indiana and settled in the county where I now reside. After waiting a number of years to hear from his captain he appealed to Congress to have his claim allowed. It has been reported upon favorably, I believe, by two committees of this House, and passed the House quite a number of years ago, but failed to pass the Senate because there was no one there to look after it.

Now, I understand from the committee that there is really no objection to this claim, except that it is a stale one, and that the records of the United States having been burned many years ago the Government now has nothing to show the condition of this claim, except a record containing a list of all soldiers that did not receive their pay, and Mr. Walker's name not being on that list they take it for granted that he or some one for him received his pay. Now, in answer to that, Mr. Walker stated that the reason his name was not on the pay-roll was that he never was mustered for or received any pay during the time he was in the service and his name never was placed on any pay-roll, and this statement fully explained to the satisfaction of the committees who have reported favorably upon this claim heretofore the reason that his name did not appear upon that record.

Now, I desire to say to the House that I knew Mr. Walker well, and knew him to be a gentleman who would not tell a lie, let alone swear to one, for the purpose of recovering money from the Government or from any individual; and when Mr. Walker has stated that he never received from the United States Government a single cent of pay as a soldier for the three years that he served, from 1792 to 1795, I believe the statement and know that it is true; and I do hope this House will not adopt the report of the committee and refuse to pay this claim because it appears to be a stale one and the probability might be that some other person received the money on it instead of Mr. Walker.

One of my colleagues, [Mr. HOLMAN,] who is a member of the Committee of Claims, knows some of the witnesses in this case, who testify as to the character and standing of Mr. Walker, and knows them to be gentlemen of the greatest integrity.

Now, a man whose character is above reproach, and who served the Government and proves his service, and then makes oath that he never received from the Government a single cent for that service, unless the Government has some record showing that he has been paid, it seems to me that the Government ought not to refuse to allow and pay his claim.

Mr. Walker tried for some thirty years to get his claim from the Government, but failed because, like all claims of this character, it has been kept in the hands of the committee until it was too late to pass through Congress. I do hope, now that he is dead and gone, that at this late day the Congress of the United States will not refuse to pay the heirs of this man for services rendered many years ago, and for which he nor they have ever received one cent.

I am as thoroughly satisfied that Mr. Walker never received one cent for the services embraced within this bill as I am that I am now addressing this body, and being so convinced, I appeal to members to pass this bill, and thereby extend to these heirs that justice which was so long denied their father.

I desire now to hear from the committee, and if there are any valid objections raised to this claim I will ask two or three minutes to reply to those objections.

Mr. WASHBURN, of Indiana. Will the gentleman yield to me for a moment?

Mr. WASHBURN, of Massachusetts. For what purpose?

Mr. WASHBURN, of Indiana. For a

motion to refer this claim to the Committee on Military Affairs.

Mr. WASHBURN, of Massachusetts. I cannot yield for that purpose. This claim is an old customer, and has been before the Committee of Claims for some fifty years; and the Committees of Claims of different Congresses for more than fifty years having had charge of this claim and acted upon it I do not think it is now necessary to take it from that committee, to which it properly belongs, and refer it to the Committee on Military Affairs, which has properly no jurisdiction over it. I wish to call the attention of the House to a peculiarity of this claim. It seems that no claim against the Government of the United States is ever outlawed. Here is a claim for services from the years 1792 to 1795, upon which the Committee of Claims now make an adverse report. This claim has been pressed for the last fifty years before different Congresses, and never yet has succeeded in passing through Congress.

Mr. HUNTER. Will the gentleman allow me to interrupt him for a moment?

Mr. WASHBURN, of Massachusetts. I will state what I suppose the gentleman wishes to state. There have been one or two times when the House Committee of Claims have made a favorable report upon this claim, and I believe that favorable report has been adopted by the House, but it has never yet passed the Senate. One of the peculiarities of this case is this: Mr. Walker served in the Army, as he claims, for the period named; but he made no application to this Government, so far as the record shows and so far as he testifies, for any pay until after the year 1814. Now, it is very strange that no effort was made to recover his pay until after that time, until after the year 1814, after the records of the Government had been burned.

Mr. PAINE. Does it appear from his statement or affidavit that he made no application for his pay until after 1814?

Mr. WASHBURN, of Massachusetts. That fact appears from his own statement and affidavit; he states that he did not present any claim until after the year 1814.

Mr. HUNTER. State the reason why.

Mr. WASHBURN, of Massachusetts. The case was not presented until after the burning of the public buildings by the enemy in 1814, prior to which time access could have been had to the rolls of the paymaster's department, by which all the facts could have been ascertained. But after those papers were destroyed it was not possible for the department to ascertain the facts in regard to the claim from those papers. But the books were preserved upon which were entered all the names of those who served at that period, but who had not been paid by the paymaster. That book did not contain the name of Gideon Walker, showing conclusively to the accounting officer that if Mr. Walker had not been paid, as he claimed, his name would appear upon this book. I wish to state here, so that no discredit may attach to Mr. Walker, that he might have been perfectly honest in his claim, and still his pay might have been drawn on an order given by him on some previous occasion, while he himself did not receive it personally.

Now, I do not wish to take up much time with this case, because the House will understand that the claim extends back for seventy-eight years, that the records are burned, and that the claimant died years ago. Now, is it necessary for us to go back, under all the doubts and difficulties connected with this case, and revive it to make a favorable report? I will ask the Clerk to read a letter from the Third Auditor to a former Committee of Claims upon this case, which, I think, settles the matter.

The Clerk read as follows:

TREASURY DEPARTMENT.

THIRD AUDITOR'S OFFICE, December 20, 1845.

SIR: With regard to the case of Gideon Walker, whose papers you left with me on the 12th instant, and who claims pay for services rendered in Captain Spark's company of riflemen, from 1792 to 1795, I

have the honor to inform you that the subject of his claim has, upon the depositions of W. C. Foster and Abram Buskirk, now produced, been reexamined. These depositions only set forth the facts connected with the services, &c., of Mr. Walker, as have been related to the deponents by himself, and cannot, in my opinion, be considered sufficient to remove the objections heretofore made to an allowance of his claim. With respect to that part of my letter to you of the 29th January last, which you underscore, and call my attention to the words, I have to state that a paymaster would as readily receive a credit for a payment to a duly authorized attorney, as he would for a payment to a soldier himself; hence the remark, "if not paid to himself, as he alleges, it has been paid to some one on his authority." The books of balances due to dead and discharged soldiers, heretofore referred to, were prepared for the express purpose, and embrace balances due to soldiers from the year 1790 to the year 1814, inclusive; and upon the settlement of every paymaster's account, a credit alone of so much only as was paid on the rolls was allowed, and the balances remaining unpaid were immediately entered to the credit of the soldiers in those books, awaiting application therefor, when payment would be made.

The absence of the name of Gideon Walker from those books, to my mind admits of the strongest inference that he has been paid for his services, and that some paymaster, whose accounts have been destroyed in the burning of the public buildings, has received a credit for the payment, otherwise he would be returned for whatever might have been due him. Under these circumstances, therefore, I should not, without legislative interference, feel authorized to allow his claim. The papers are herewith returned.

With great respect, &c.,

PETER HAGNER, Auditor.

Hon. JOHN W. DAVIS, House of Representatives.

Mr. HOLMAN. With the permission of my colleague on the committee, I desire to say a word. I knew Dr. Walker by reputation for many years of his life. His integrity was unquestioned. He was a gentleman of very high character, as has been stated by my colleague from that district, [Mr. HUNTER.] In acting upon this case the committee, I believe, has been influenced not only by the principles laid down in the letter which has just been read, but also by the fact that of late years it has not been customary for Congress to grant relief in such cases, because their antiquity renders it almost an utter impossibility to get a knowledge of the true state of the case, and because of the danger of establishing precedents for such allowances after such an extraordinary lapse of time, especially where a claim is not presented to Congress for consideration until many years after the claim against the Government has accrued. In this case the claim accrued in 1795 and was not presented till 1814. The committee, in rejecting this claim, acted, I believe, upon the principle that it must be fairly presumed after such a lapse of time that the claim has been adjusted, not from any doubt of the integrity of Dr. Walker.

Mr. WASHBURN, of Massachusetts. Mr. Speaker, I do not care to occupy any more of the time of the House. I think the case is fully understood.

Mr. PAINE. I ask the gentleman to yield to me for a moment.

Mr. WASHBURN, of Massachusetts. I will do so.

Mr. PAINE. I have no knowledge of this case; but upon examining the authority just read at the Clerk's desk I think I can see a possibility, if not a probability, that this gentleman may not after all have been paid; for, as I understand that letter written by the Third Auditor, this book was made up in this way: when paymasters' accounts were presented unpaid balances were carried into this book to the credit of the soldiers who were not fully paid. Now, if a soldier happened to be detached from his company or regiment, he would not, under the system of payment then in vogue, be entered upon the roll of any paymaster who may have paid the regiment or company to which he belonged. It was very natural that his name should not be found on this book, because, according to the showing of the Third Auditor, there is no reason why it should be. He not being on the roll of the paymaster who paid the company, there would be no balance in his favor to be transferred to that book. If he was at that time detached from his company, I do not see how his name could appear on that book, if the book was

prepared as the letter of the Third Auditor would indicate.

Mr. WASHBURN, of Massachusetts. But he says he received six months' pay and rations. That should appear.

Mr. PAINE. As I understand, that was paid him during the time he was ordered upon detached service, so that, of course, there would be no entry of that on any paymaster's roll. If the paymaster was called upon to pay a company with which he was not serving, his name would not appear on the pay-roll.

Mr. WASHBURN, of Massachusetts. But the names of the company appear on the papers, and the names of those who were not paid were transferred to this book; and the name of every other individual who has claimed pay, except Mr. Gideon Walker, appears on this book. Now, the difficulty is this: the rolls which contained his name and the other papers which would furnish evidence of payment were all burned; and though he may have been paid it cannot be shown from the fact that the records were destroyed prior to any application being made. The application might have been made prior to that time and the money paid. Mr. Walker, however, says that he did not make any application, and he now applies for his pay. The presumption is, that as his name does not appear on the record which gives an account of the different men in said company who had not been paid, his name was upon the roll, and if it had been he would have been paid previous to the destruction of these papers. Under all these circumstances and with all these doubts the committee were clearly of opinion, a delay having taken place for so many years, and as the presumption was strongly against it, that we should not report a bill favorable to a claim of this kind seventy-eight years afterward.

Mr. HUNTER rose.

Mr. WASHBURN, of Massachusetts. I have given to almost the whole of the Indiana delegation an opportunity to put themselves upon the record in favor of this good old gentleman, and now, as we have just commenced our reports, I must call for the previous question.

Mr. HUNTER. I wish to explain how it is possible his name may not have been put upon the muster-roll.

Mr. WASHBURN, of Massachusetts. I yield for a moment.

Mr. HUNTER. When a man is placed upon detached service it is of frequent occurrence that he is not mustered when the others are mustered for pay, and in that way his name may have been dropped from the roll. He explains and shows that he was never with his company, and that he was placed upon detached service three days after he was mustered into the service of the United States. His name was upon the pay-roll, but he never did receive a cent. And the point now is this: whether this House will not take the sworn statement of an honest man and allow him what is due to him instead of defeating the claim by an inference that he was paid, and that if he was not paid it was paid to somebody else.

Mr. WASHBURN, of Massachusetts. When an individual's name gets upon the roll it does not get off, and the only difficulty is that the roll has been burnt up and we are not able to produce the roll. That being the fact, I do not think it should be binding upon the Government.

The report was laid upon the table.

STEAMBOAT CHAMPION NO. 3.

Mr. MERCUR, from the Committee of Claims, submitted an adverse report on the memorial of the officers and crew of the steamboat Champion No. 3, for compensation while prisoners of war; which was laid on the table.

PALEMON JOHN.

Mr. MERCUR, from the same committee, reported back House bill No. 433, for the relief of Palemon John, with the recommendation that it do pass.

The bill directs the Commissioner of Internal Revenue to allow Palemon John a credit for some seven hundred and sixty-nine dollars and thirty-seven cents for that amount of revenue stamps lost or stolen from the mail while the same were in transition to said commissioner from Palemon John, late a stamp agent.

Mr. SCOTFIELD. Is there any report?

Mr. MERCUR. There is, and I ask that it be read.

The report of the committee was read *in extenso*, from which it appears that Palemon John in 1866 was an assessor of internal revenue for the thirteenth district of Pennsylvania and acted as agent for the sale of revenue stamps. Soon after the termination of his office as assessor the Commissioner of Internal Revenue notified him that his agency for the sale of stamps necessarily ceased under law, and requested him to return to the office any balance of stamps. At that time Mr. John had \$769 33 worth of stamps of different denominations, which on the 7th of December, 1866, he deposited in the post office in a package addressed to Hon. E. A. Rollins. It was fully proved that the package was lost or stolen, and that Mr. John had acted honestly.

Mr. MERCUR. If gentlemen have no further questions to ask I will call for the previous question.

Mr. LAWRENCE, of Ohio. Is there any regulation of the internal revenue department authorizing these stamps to be sent by mail?

Mr. MERCUR. Most of the stamps were sent by mail, but there was no fixed rule.

Mr. LAWRENCE, of Ohio. I undertake to say no prudent man would send by mail a package of that description. Now, if the Government chose to send out stamps in that mode, and incur the risk of loss, that was the risk of the Government; but that did not authorize this man to adopt the same mode, and in the absence of any instruction he had no right to do so. The claim, in my judgment, ought not to be paid.

Mr. MERCUR. Mr. Speaker, the stamps were at all times the property of the Government. The agents of the Government, when they sent them to him, sent them by mail. When they ordered him to return them I think he had a right to assume that they wished them sent in the same manner in which he had received them, in the absence of any intimation that they desired them sent in any other way.

Mr. KELLEY. I desire to ask the gentleman from Ohio [Mr. LAWRENCE] how valuable matter is to be transmitted in this country if no prudent man will intrust a package of three or four hundred dollars in value to the United States mail, even though he may take the precaution to register? What condition of things is that?

Mr. LAWRENCE, of Ohio. My answer to the gentleman is this: we have abundance of express companies in this country, and every prudent man sends valuable packages by express rather than by mail. Now, we know that the Government has paid large sums of money for sending packages by express between Washington and New York. They do not send by mail because they know it is unsafe. A registered letter is simply a notice to every dishonest man in the Post Office Department that there is something valuable in it which can be stolen. No prudent man sends a registered letter, containing money or stamps unless he expects to incur the risk of loss.

Mr. KELLEY. I desire further to say that if the condition of the mail service is such as is described by the gentleman from Ohio, it is due that this Congress should give notice to the public that the Department is in the hands of thieves so palpably that the man brands himself as a fool or wanting in common prudence who trusts a valuable letter to the charge of the Post Office Department of the United States. I am not speaking of the merits of this case; but it seems to me, in this connection, that if the agent returned the property by the conveyance through which he had received it



from the revenue department he ought not to be held responsible. And I aver again that, on the statement of the gentleman from Ohio, Congress should give notice that instead of the Post Office Department or the mail service of the country being reliable it is in the hands of thieves, to whom a three cent stamp may not safely be intrusted.

Mr. MERCUR. I yield to my colleague on the committee.

Mr. WASHBURN, of Massachusetts. I wish to state one fact to the House in order that there may be no misunderstanding in reference to this case. I understand the regulations of the internal revenue department now require stamps to be returned by express. We have had various applications before the committee to relieve individuals who have returned their proceeds by mail since the regulation required them to be returned by express, and we have refused to grant that relief on the ground that they have not followed the regulations of the internal revenue department. But in this case, at the time this transaction took place, there was no settled regulation by the department requiring them to be returned by express. Accordingly this individual received his stamps by mail; and being ordered to return them he sent them in the same channel by which he received them. The committee thought it was fair and equitable to this person, under those circumstances, that relief should be granted; and it was upon that basis that this bill has been reported.

Mr. MAYNARD. I desire to ask the gentleman this question: whether the internal revenue department has made any regulation in connection with the return of stamps requiring them to be returned uncanceled or undefaced, so that even if they were unstolen they would be valueless in the hands of anybody. To the Government we know these stamps are of the value of so much paper, printer's ink, and labor. By putting some mark of cancellation on them and then returning them to the Government it would discharge the agent of his liability to loss. Is there any such regulation by the department?

Mr. WASHBURN, of Massachusetts. I do not understand that the department has any such regulation.

Mr. BLAINE. I would ask the gentleman from Massachusetts if it is now a regulation of the internal revenue department that no valuable matter may be transmitted by mail.

Mr. WASHBURN, of Massachusetts. No, sir; I do not understand that; but I understand that money for the receipt of stamps they require to be sent by express, or stamps themselves.

Mr. BLAINE. Well, that is the only thing of that kind they have to transmit. It is a most extraordinary thing that one department of this Government should officially discredit to the whole country another department, and all that the gentleman from Pennsylvania [Mr. KELLEY] says is more than justified if that be the case.

Mr. MERCUR. I yield for a moment to the gentleman from Ohio, [Mr. LAWRENCE.]

Mr. LAWRENCE, of Ohio. I desire to make a single remark in reply to the gentleman from Pennsylvania, [Mr. KELLEY.] The inference which the gentleman drew from my remarks is entirely unauthorized and unwarranted by what I said. I do not undertake to say, and I hope no gentleman will draw that inference from what I did say, that the Post Office Department is in the hands of thieves. But I do say, what every one knows, that there are men in the Post Office Department who are not honest and who will steal letters when they have money or other valuables in them. It may be that there are but few of such men; but the very fact that this package was stolen proves that there is somebody in the Department who will steal. Now, the gentleman from Pennsylvania is a lawyer and has been a judge, and able in both capacities, and will undertake to say that if a lawyer should remit money

by mail without instructions from his client and it should be lost in the mail that lawyer would be relieved from responsibility to his client? Not at all, sir. Then let us apply the same rule to the agents of the Government that is applied to the agents of private individuals.

Mr. MERCUR resumed the floor.

Mr. HIGBY. I desire to ask the gentleman from Ohio [Mr. LAWRENCE] a question.

Mr. MERCUR. I must decline to yield further.

Mr. HIGBY. I wish only to ask one question.

Mr. MERCUR. Well, I will hear it.

Mr. HIGBY. It is, if the Government of the United States can repudiate its own carrier? That is the question I wished to ask the gentleman from Ohio.

Mr. MERCUR. There is no reason why the Government of the United States should steal from its citizens and then seek to hold them responsible for the loss.

Mr. BROMWELL. I would like to ask the gentleman a question.

Mr. MERCUR. I will yield for a single question; but it must be the last.

Mr. BROMWELL. I would like to know if the Government of the United States insures money and other valuables sent through the mails for all persons? If it does not, it seems to me that this officer can ask no more of the Government in carrying his package than any other persons who send their money through the mails.

Mr. MERCUR. That question hardly needs an answer. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. MERCUR moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### STEAMBOAT J. H. CHEESEMAN'S CREW.

Mr. MERCUR, from the Committee of Claims, made an adverse report on the memorial of the officers and men of the steamboat J. H. Cheeseman, claiming compensation for services while prisoners of war, and moved that the same be laid on the table.

Mr. MAYNARD. I think we ought to hear some reasons why this claim is rejected. It does not follow because the committee thinks it deserves rejection that the House would so think. If these men were prisoners of war I do not see why they should not be paid.

Mr. MERCUR. They were officers and men on board a steamboat, and were in the employment of the captain or master of the steamboat. That steamboat was hired by the Government, and while it was in the employment and service of the Government these men were taken prisoners. Although they were never in the employment of the Government directly, never had any claim against the Government, they now ask that the Government shall pay them for that period of time during which they were held as prisoners. That is the case in a nutshell.

Mr. MAYNARD. I would inquire if these men are entitled to compensation from any one? or were the terms of the contract which they made such as to require them to take that risk upon themselves? or was it one of those unavoidable calamities for which there is no relief?

Mr. MERCUR. They were employed by the master of the boat. What the terms of the contract were do not appear. The Government made no contract, either express or implied, with any of these officers or men.

The motion to lay on the table was agreed to.

#### WILLIAM P. QUINN.

Mr. HOLMAN, from the Committee of Claims, reported adversely upon the petition of William P. Quinn; which was laid on the table.

#### P. H. CARDWELL.

Mr. HOLMAN, from the same committee, also reported adversely upon the memorial of

P. H. Cardwell, praying compensation for damages to property; which was laid on the table.

#### HENRY BARRICKLOW.

Mr. HOLMAN, from the same committee, reported back, with a recommendation that the same do pass, House bill No. 1063, for the relief of Henry Barricklow.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. The preamble states that on the 28th of March, 1859, by the sinking of the steamboat Nat Holmes in the Ohio river, near the city of Aurora, Indiana, Henry Barricklow lost twenty-three land warrants, each for one hundred and sixty acres, and that duplicates of said warrants have been issued by the commissioner and delivered to said Barricklow.

The bill accordingly authorizes the said Henry Barricklow to locate or sell the said duplicate land warrants in the same manner as if they had been issued in his name, and directs the Commissioner of the General Land Office to issue patents of their location as in the case of other land warrants.

Mr. WASHBURN, of Illinois. Were these land warrants owned originally by different parties?

Mr. HOLMAN. They were issued originally to different parties.

Mr. WASHBURN, of Massachusetts. This Mr. Barricklow was the owner of them at the time they were lost?

Mr. HOLMAN. He was.

Mr. WASHBURN, of Illinois. The case of Mr. Barricklow seems to be very well made out. The only objection to it, I should think, would be in the mind of the gentleman from Indiana, [Mr. HOLMAN,] that this man was a carpet-bagger, for it appears the warrants were in a carpet bag when lost.

Mr. HOLMAN. He seems to have been a carpet-bagger; but that was before carpet-bagging became a political institution. I now call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOLMAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SAFETY OF STEAMBOAT TRAVEL.

Mr. O'NEILL, by unanimous consent, reported from the Committee on Commerce a bill (H. R. No. 1100) to amend an act entitled "An act to regulate the carriage of passengers in steamboats and other vessels, and for other purposes;" which was read a first and second time, ordered to be printed, and recommitted to the Committee on Commerce.

#### JOHN SEDGWICK.

Mr. MERCUR, from the Committee of Claims, reported back House joint resolution No. 96, for the relief of John Sedgwick, collector of internal revenue in the third district of California, together with a substitute, with a recommendation that the substitute be adopted.

The question was upon agreeing to the substitute.

The substitute was read. It directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to John Sedgwick, collector of internal revenue in the third district of California, the sum of \$3,500, or so much thereof as the proper accounting officer shall, from satisfactory vouchers, determine to be necessary to secure to him a salary of that amount for the fiscal year ending June 30, 1864, in addition to the amount he necessarily paid out in currency in the discharge of his official duties for said year.

Mr. WASHBURNE, of Illinois. I call for the reading of the report.

The Clerk read the report.

The SPEAKER. The morning hour has expired, and this bill goes over till the next morning hour.

#### IRRIGATION OF PUBLIC LANDS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Treasury, transmitting, in answer to a resolution of the House of the 7th instant, information furnished by the Commissioner of the General Land Office, relative to the most approved methods of irrigation of the public lands, &c.; which was referred to the Committee on Agriculture, and ordered to be printed.

#### LEAVE OF ABSENCE.

The SPEAKER. The gentleman from Illinois, [Mr. BAKER,] who has been unexpectedly called away, desires indefinite leave of absence.

Leave was granted.

Mr. BENJAMIN asked and obtained indefinite leave of absence on account of sickness in his family.

Mr. WOODWARD asked and obtained indefinite leave of absence.

#### ADJOURNMENT TILL FRIDAY.

Mr. FARNSWORTH. I move that when the House adjourns to-day it adjourn to meet on Friday next.

Several MEMBERS. Oh, no.

Mr. THOMAS. I would like to offer an amendment to the motion.

Mr. FARNSWORTH. I will hear it.

Mr. THOMAS. It is to add the words, "and the Speaker shall, after the Journal has been read on Friday next, adjourn the House to meet on Monday."

Mr. FARNSWORTH. I am willing to accept that amendment.

The SPEAKER. The proposition of the gentleman from Maryland [Mr. THOMAS] cannot be adopted without unanimous consent. The House cannot, in the opinion of the Chair, order what shall be done on Friday next, except by unanimous consent.

Several members objected.

Mr. FARNSWORTH. Then let my motion be put in its original form.

On the motion of Mr. FARNSWORTH there were—ayes 45, noes 44; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. FARNSWORTH and WARD.

The House divided; and the tellers reported—ayes 51, noes 45.

Mr. WARD. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 50, nays 52, not voting 87; as follows:

YEAS—Messrs. Adams, Bailey, Baldwin, Beaman, Beatty, Benjamin, Benton, Blair, Bromwell, Brooks, Burr, Chanler, Eldridge, Farnsworth, Garfield, Glossbrenner, Golladay, Grover, Haight, Harding, Higby, Holtman, Ingersoll, Johnson, Jones, Julian, Kelley, Knott, Lynch, Marshall, Maynard, McCormick, Morgan, Morrell, Myers, Nicholson, O'Neill, Pile, Pruyn, Robinson, Ross, Schenck, Sitgreaves, Stewart, Thomas, Lawrence S. Trimble, Van Trump, Henry D. Washburn, James F. Wilson, and Windom—50.

NAYS—Messrs. Anderson, Ames, Delos R. Ashley, James M. Ashley, Blaine, Boutwell, Butler, Cobb, Coburn, Driggs, Eggleston, Eliot, Ferriss, Ferry, Fields, Hooper, Hopkins, Hunter, Kelsey, Ketcham, Kitchen, Koontz, Laffin, George V. Lawrence, William Lawrence, Loan, Loughridge, Marvin, McClurg, Mercur, Nunn, Orth, Paine, Perham, Pike, Poland, Raum, Robertson, Sawyer, Scofield, Starkweather, Aaron F. Stevens, Taffe, John Trimble, Trowbridge, Upson, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, William B. Washburn, and Thomas Williams—52.

NOT VOTING—Messrs. Anderson, Archer, Arnell, Axtell, Baker, Banks, Barnes, Barnum, Beck, Bingham, Boyer, Bromall, Buckland, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Covode, Culison, Dawes, Dixon, Dodge, Donnelly, Eckley, Ela, Finney, Fox, Getz, Gravely, Griswold, Halsey, Hawkins, Hill, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hubbard, Humphrey, Jencks, Judd, Kerr, Lincoln, Logan, Mallory, McCarthy, McCullough, Miller, Moore, Moorhead, Morrissey, Mullins, Mungen, Newcomb, Niblack, Peters, Phelps, Plants, Polesley, Pomeroy,

Price, Randall, Selye, Shanks, Shellabarger, Smith, Spaulding, Thaddeus Stevens, Stokes, Stone, Taber, Taylor, Twichell, Van Aernam, Van Auker, Robert T. Van Horn, Van Wyck, Welker, William Williams, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—87.

So the motion of Mr. FARNSWORTH was rejected.

Mr. ORTH. I move to reconsider the vote by which the motion was rejected; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ELDRIDGE. Cannot that motion be renewed?

The SPEAKER. It is a privileged motion, and can be renewed.

#### INDIAN APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, to take up the Indian appropriation bill.

Mr. MORGAN. I ask leave to make a statement.

Mr. WASHBURNE, of Illinois. I will state to the gentleman that after the bill is read I will yield any time he desires.

Mr. ELDRIDGE. I understood the gentleman from Illinois to agree this morning that after the morning hour the gentleman from Ohio should have the floor to make his explanation.

Mr. WASHBURNE, of Illinois. I do not wish to keep the gentleman from Ohio from making his explanation, but I would prefer to have it as I have suggested.

Mr. ELDRIDGE. I hope the gentleman will let him make his explanation now.

Mr. WASHBURNE, of Illinois. How much time does he want?

Mr. ELDRIDGE. Five minutes.

Mr. WASHBURNE, of Illinois. I will yield for that time; but I will first ask that the first reading of the Indian appropriation bill be dispensed with. It will have to be read section by section for amendment.

Mr. WINDOM. I object. My reason is that I do not desire to have the bill taken up now. It has just been printed and laid upon our tables.

#### LEAVE OF ABSENCE.

Mr. STEWART was granted indefinite leave of absence.

#### EXPLANATION.

Mr. MORGAN. Mr. Speaker, yesterday the gentleman from Massachusetts, [Mr. BUTLER,] one of the managers on the part of the House, asked that a warrant might be issued by order of the House for the arrest of Mr. Charles Woolley, of Cincinnati, Ohio, stating that in contempt of the writ of the House that gentleman had absented himself from the city.

Mr. UPSON. Is that a personal explanation?

Mr. MORGAN. I did not rise to a personal explanation.

Mr. ELDRIDGE. I so understood it.

The SPEAKER. When the floor is given to a gentleman for explanation, if he is not limited to a specific subject, he is alone the judge, keeping himself within the parliamentary rules.

Mr. MORGAN. More than two hours before the proceeding in the House to which I have referred Mr. Woolley, who was at Willard's Hotel, sent the following telegram to my colleague, [Mr. BINGHAM:]

May 18, 11.15 a. m., 1868.

To Hon. JOHN A. BINGHAM, Committee-room of the Judiciary, House of Representatives:

I will esteem it a favor if you will inform me by telegraph the exact time when you can examine me.

C. W. WOOLLEY.

Willard's.

It is due to Mr. Woolley to say, Mr. Speaker, that no gentleman in the community in which he lives is more highly esteemed than he is; and I feel the more called upon to make this statement because of the statement of the gentleman

who represents his district yesterday, that he had no apology to make for Mr. Woolley. Nor do I feel called upon to make an apology for him: the facts are the best apology.

Mr. EGGLESTON. I said, as apology had been made on that side of the House, I would make none. What was in the morning papers, excepting the Globe, I did not say.

Mr. MORGAN. I am happy to be corrected. I am happy to know that he has been misrepresented. I also hold in my hand the subpoena served upon Mr. Woolley, and it shows the fact that although it bore the date "17th of May," it had been corrected to the 18th, making it dated the day after it was served. Consequently it was impossible for Mr. Woolley to know, with this mistake upon an irregular and unauthorized proceeding, what time he was really to be called upon.

I am not the only person in the House that knows Mr. Woolley. I am happy to know that one of my colleagues on the other side of the House is well acquainted with him, and I will yield to him for a moment.

Mr. SCHENCK. I know Mr. Woolley very well, and said yesterday to the manager presenting the case that whatever had been done, I was of the belief that Mr. Woolley, properly notified, would return to the city and submit to any examination demanded. I think the facts will turn out to be something like these: that Mr. Woolley being served on Sunday with a summons, and having an impression, on account of the day of the service, and perhaps because, as it is claimed, that it was dated on the 18th while it was served on the 17th, that it was not a summons which in any sense he was bound to obey, started off to New York, intending to go to Cincinnati, under that impression; but being advised by a friend at some point on the way that he might get himself in trouble, no matter whether the summons was regular or irregular, thought he had better return. I have no doubt, from my knowledge of the character of Mr. Woolley, that in any case, being served with process, he would make his appearance here. So I said yesterday to the managers, and so I suppose now.

Mr. ELDRIDGE. I would inquire of the gentleman from Ohio whether Mr. Woolley was not in the city at six o'clock yesterday morning?

Mr. SCHENCK. That is more than I know. I never knew of his return to this city until it was mentioned here.

Mr. ELDRIDGE. Had you no such information?

Mr. SCHENCK. No, sir.

Mr. ELDRIDGE. I understood that to be so.

Mr. SCHENCK. The gentleman asks if I was informed of it. The first I knew of it was the remark made by the gentleman from New York, [Mr. STEWART,] who said yesterday, in explanation to the managers, that he had heard that Mr. Woolley had returned. Up to that time I supposed him to be probably in New York, at the Fifth Avenue Hotel.

#### INDIAN APPROPRIATION BILL.

Mr. WASHBURNE, of Illinois. I move that the rules be suspended, and the House resolve itself into the Committee of the Whole on the state of the Union, for the purpose of taking up the Indian appropriation bill.

Mr. WINDOM. Will the gentleman yield to allow me to make a statement in reference to this bill?

Mr. WASHBURNE, of Illinois. I decline to yield.

On agreeing to the motion of Mr. WASHBURNE, of Illinois, there were—ayes 50, noes 32; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. WASHBURNE, of Illinois, and WINDOM.

The House divided; and the tellers reported—ayes 56, noes 24; no quorum voting.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 66, nays 19, not voting 104; as follows:

**YEAS**—Messrs. Allison, Anderson, James M. Ashley, Bailey, Beaman, Benjamin, Benton, Blaine, Blair, Chanler, Cobb, Covode, Driggs, Eliot, Ferriss, Ferry, Fields, Garfield, Glossbrenner, Gravely, Haight, Hooper, Hopkins, Hunter, Ingersoll, Johnson, Jones, Kelley, Kelsey, Ketcham, Kitchen, Loan, Loughridge, Lynch, Marshall, McClurg, McCormick, Mercer, Morgan, Morrell, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Plants, Poland, Robertson, Sawyer, Scofield, Starkweather, Aaron F. Stevens, Stewart, Taffe, John Trimble, Trowbridge, Upson, Burt Van Horn, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, and William B. Washburn—66.

**NAYS**—Messrs. Delos R. Ashley, Baldwin, Beatty, Grover, Harding, Higby, Holman, Julian, Koontz, George V. Lawrence, William Lawrence, Marvin, Maynard, Pile, Pruyn, Robinson, Sitgreaves, Van Trump, and Windom—19.

**NOT VOTING**—Messrs. Adams, Ames, Archer, Arnell, Axtell, Baker, Banks, Barnes, Barnum, Beck, Bingham, Boutwell, Boyer, Bromwell, Brooks, Broomall, Buckland, Burr, Butler, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cook, Cornell, Cullom, Dawes, Dixon, Dodge, Donnelly, Eckley, Eggleston, Elia, Eldridge, Farnsworth, Finney, Fox, Getz, Golladay, Griswold, Halsey, Hawkins, Hill, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburt, Humphrey, Jencks, Judd, Kerr, Knott, Ladin, Lincoln, Logan, Mallory, McCarthy, McCullough, Miller, Moore, Moorhead, Morrissey, Mullins, Mungen, Niblack, Nicholson, Peters, Phelps, Polesley, Pomeroy, Price, Randall, Raum, Ross, Schenck, Selye, Shanks, Shoelabarger, Smith, Spaulding, Thaddeus Stevens, Stokes, Stone, Taber, Taylor, Thomas, Lawrence S. Trimble, Twichell, Van Aernam, Van Auken, Robert T. Van Horn, Van Wyck, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—104.

The **SPEAKER**. No quorum having voted, there is no decision by the House.

Mr. **WASHBURN**, of Illinois. I move that the House do now adjourn.

Mr. **HOLMAN**. Is it in order to move that when the House adjourns it adjourn to meet on Friday next?

The **SPEAKER**. It is not; it requires a quorum to do that.

The motion to adjourn was agreed to; and thereupon (at two o'clock and five minutes p. m.) the House adjourned.

#### PETITIONS.

The following petitions were presented under the rule, and referred to the appropriate committees:

By the **SPEAKER**: The petition of the Workingmen's Union of Tennessee, for the abolishment of the national banks and the payment of the principal of the United States bonds in greenbacks.

By Mr. **HIGBY**: The petition of John H. Garges, for compensation.

By Mr. **ORTH**: The petition of H. S. Mayo and others, of La Fayette, Indiana, praying for reduction of Government expenses and consequent reduction of national taxes.

Also, the petition of Robert Simpson, in reference to foreign emigration.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 20, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### MERCHANT MARINE.

Mr. **ELIOT**, by unanimous consent, introduced a bill (H. R. No. 1101) in relation to the merchant marine of the United States; which was read a first and second time, and referred to the Committee on Commerce.

Mr. **CHANLER** moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MOUTH OF THE MISSISSIPPI.

Mr. **EGGLESTON**, from the Committee on Commerce, by unanimous consent, reported back the bill (H. R. No. 594) to take possession of the bar known as Pass à l'Ouvre, at the entrance of the Mississippi river, and to construct a canal without any expense to the Gov-

ernment, and moved that the same be recommended to the Committee on Commerce, and printed.

Mr. **CHANLER** moved to reconsider the vote by which the bill was recommended; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ALBERT ST. ORES.

Mr. **PAINÉ**, by unanimous consent, introduced a bill (H. R. No. 1102) to reimburse Albert St. Ores, of Guallala, in the State of California, for certain expenditures in the recruiting service in the year 1862; which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. **CHANLER** moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NATIONAL CAPITAL PUBLISHING COMPANY.

Mr. **INGERSOLL**, by unanimous consent, introduced a bill (H. R. No. 1103) to incorporate the National Capital Publishing Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

Mr. **CHANLER** moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MENDOCINO INDIAN RESERVATION.

Mr. **HIGBY**. I ask unanimous consent to present the resolutions of the Legislature of California, asking that the Mendocino Indian reservation be abandoned and the lands be opened for preemption.

Mr. **ROSS**. I object.

Mr. **WASHBURN**, of Illinois. I call for the regular order of business.

#### ADJOURNMENT TILL SATURDAY.

The **SPEAKER**. The Chair desires to state that the officers of the House have informed him that they have the matting and chairs, &c., ready to put the Hall in the usual summer garb. The Chair is doubtful if there is a quorum of the House in the city.

Mr. **CHANLER**. I move that the House do now adjourn.

Mr. **WASHBURN**, of Illinois. I hope the gentleman will first hear the statement of the Chair.

Mr. **CHANLER**. Very well.

The **SPEAKER**. The Chair was about to state that he is doubtful if there is a quorum of the House in the city, and it is therefore for the House to determine as to what action it will take, whether it will adjourn from day to day or adjourn over.

Mr. **HIGBY**. I move that when the House adjourns it adjourn to meet on Saturday next.

Mr. **THOMAS**. Why not move to adjourn till Monday?

The **SPEAKER**. That cannot be done under the Constitution. Saturday is the longest time to which the House can adjourn.

Mr. **PILE**. Can we adjourn till Saturday without a quorum?

The **SPEAKER**. If it is the pleasure of the House, it can be done by unanimous consent.

Mr. **ELDRIDGE**. Would it not be in order to have the same understanding that was suggested yesterday by the gentleman from Maryland, [Mr. **THOMAS**,] that immediately on the meeting of the House on Saturday it shall adjourn till Monday?

The **SPEAKER**. If the motion of the gentleman from California [Mr. **HIGBY**] shall be agreed to, the Chair will then state that suggestion by itself. Less than a quorum can, however, adjourn from Saturday to Monday; but it requires unanimous consent to adjourn from to-day till Saturday without a quorum.

Mr. **KELSEY**. I hope the House will not adjourn over.

The **SPEAKER**. The gentleman from New York [Mr. **KELSEY**] objects.

Mr. **KELSEY**. It is intimated that we shall have business here coming from the managers, important business to transact.

Mr. **INGERSOLL**. We had better notify the managers that we are sitting here ready for business, and not keep the House waiting.

Mr. **HIGBY**. I insist upon my motion.

The question was upon the motion of Mr. **HIGBY**, that when the House adjourns to-day it be to meet on Saturday next.

The question was taken; and upon a division there were—ayes 42, noes 15; no quorum voting.

Tellers were ordered; and Mr. **HIGBY** and Mr. **KELSEY** were appointed.

The House again divided; and the tellers reported that there were—ayes 52, noes 28; no quorum voting.

Mr. **KELSEY**. I call for the yeas and nays on the motion to adjourn over.

Mr. **WASHBURN**, of Illinois. I move that the House now adjourn.

The **SPEAKER**. The motion of the gentleman from California [Mr. **HIGBY**] is first in order, being a motion to fix the day to which the House shall adjourn. Upon that motion the yeas and nays have been called.

The yeas and nays were ordered.

Mr. **WASHBURN**, of Illinois. I moved to adjourn because I am satisfied that we cannot get a quorum here to do business to-day. I am as anxious as any man can be to get at work on the appropriation bills, but we cannot do it without a quorum.

The question was taken upon the motion of Mr. **HIGBY**; and there were—yeas 44, nays 42, not voting 103; as follows:

**YEAS**—Messrs. Anderson, Bailey, Baldwin, Beaman, Beatty, Blair, Bromwell, Brooks, Chanler, Reader W. Clarke, Donnelly, Eldridge, Glossbrenner, Golladay, Grover, Haight, Higby, Holman, Johnson, Jones, Julian, Kelley, Knott, George V. Lawrence, McCormick, Mercer, Morgan, Morrell, Nicholson, Nunn, O'Neill, Poland, Robinson, Ross, Schenck, Sitgreaves, Thomas, Lawrence S. Trimble, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, John T. Wilson, and Windom—44.

**NAYS**—Messrs. Allison, Delos R. Ashley, James M. Ashley, Blaine, Cobb, Covode, Driggs, Eggleston, Eliot, Ferry, Fields, Gravely, Harding, Hooper, Hopkins, Hunter, Ingersoll, Kelsey, Ketcham, Kitchen, Koontz, Ladin, Loughridge, Marvin, McClurg, Newcomb, Paine, Perham, Pike, Pile, Plants, Polesley, Raum, Robertson, Sawyer, Starkweather, Aaron F. Stevens, Taffe, Trowbridge, Upson, Burt Van Horn, and William B. Washburn—42.

**NOT VOTING**—Messrs. Adams, Ames, Archer, Arnell, Axtell, Baker, Banks, Barnes, Barnum, Beck, Benjamin, Benton, Bingham, Boutwell, Boyer, Broomall, Buckland, Burr, Butler, Cake, Cary, Churchill, Sidney Clarke, Coburn, Cook, Cornell, Cullom, Dawes, Dixon, Dodge, Eckley, Elia, Farnsworth, Ferriss, Finney, Fox, Garfield, Getz, Griswold, Halsey, Hawkins, Hill, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburt, Humphrey, Jencks, Judd, Kerr, William Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, Marshall, Maynard, McCarthy, McCullough, Miller, Moore, Moorhead, Morrissey, Mullins, Mungen, Myers, Niblack, Orth, Peters, Phelps, Pomeroy, Price, Pruyn, Randall, Scofield, Selye, Shanks, Shoelabarger, Smith, Spaulding, Thaddeus Stevens, Stewart, Stokes, Stone, Taber, Taylor, John Trimble, Twichell, Van Aernam, Van Auken, Robert T. Van Horn, Van Wyck, Ward, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—103.

The **SPEAKER**, upon announcing the vote, said, the motion to adjourn till Saturday next is lost, because it requires a quorum to adjourn over one day.

Mr. **COVODE**. Is it in order, in order to make up a quorum, to count those members who are absent on committees authorized to sit during the sessions of the House?

The **SPEAKER**. It is not. They have a right to vote at any time before the result of the vote is announced whether they were present before the last name on the roll was called or came in afterward; but they must be present and vote in order to be counted.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. **BAILEY** and Mr. **ROBINSON**.

Indefinite leave of absence was also granted to Mr. **LINCOLN** and Mr. **PRUYN**, on account of sickness; to Mr. **HOLMAN**, on account of



sickness in his family; and to Mr. KELLEY, on account of indisposition.

#### ADJOURNMENT.

Mr. WASHBURN, of Illinois. I insist now upon my motion to adjourn.

Mr. PILE. I move a call of the House.

The SPEAKER. The motion to adjourn takes precedence of any other motion but one to fix the time to which the adjournment shall be made.

Mr. PIKE. I suppose we can adjourn with the general understanding that no business shall be done to-morrow, but that we shall meet and adjourn from day to day until the matting is put down in the Hall.

The SPEAKER. That would require unanimous consent, and the gentleman from New York [Mr. KELSEY] has objected. The Chair is informed that it will take about three days to put down the matting.

Mr. PIKE. I hope the gentleman from New York will withdraw his objection. It is evident no business can be done even if we do meet.

Mr. KELSEY. I do not withdraw my objection.

Mr. WASHBURN, of Massachusetts. I call for the yeas and nays on the motion to adjourn. The yeas and nays were ordered.

The question was taken; and there were—yeas 33, nays 59, not voting 97; as follows:

YEAS—Messrs. Allison, Anderson, Bailey, Beaman, Blair, Boutwell, Bromwell, Chanler, Reader W. Clarke, Donnelly, Driggs, Garfield, Glossbrenner, Grover, Higby, Holman, Jones, Julian, Kelley, George V. Lawrence, McCormick, Morgan, O'Neill, Poland, Ross, Schenck, John Trimble, Lawrence S. Trimble, Van Trump, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, and John T. Wilson—33.

NAYS—Messrs. Ames, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beatty, Blaine, Brooks, Butler, Cobb, Covode, Eggleston, Eldridge, Eliot, Ferry, Fields, Golladay, Gravely, Haight, Harding, Hooper, Hopkins, Hunter, Ingersoll, Kelsey, Ketchum, Kitchen, Koontz, Laffin, Loughridge, Marvin, McClurg, Mercur, Morrill, Newcomb, Nicholson, Nunn, Orth, Paine, Perham, Pike, Pile, Plants, Polley, Raum, Robertson, Robinson, Sawyer, Sitgreaves, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Taffe, Thomas, Trowbridge, Upson, Burt Van Horn, William B. Washburn, and James F. Wilson—59.

NOT VOTING—Messrs. Adams, Archer, Arnell, Axtell, Baker, Barnes, Barnum, Beek, Benjamin, Benton, Bingham, Boyer, Bromall, Buckland, Burr, Cake, Cary, Churchill, Sidney Clarke, Coburn, Cook, Cornell, Cullom, Dawes, Dixon, Dodge, Eckley, Ela, Farnsworth, Ferriss, Finney, Fox, Gelz, Griswold, Halsey, Hawkins, Hill, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jencks, Johnson, Judd, Kerr, Knott, William Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, Marshall, Maynard, McCarthy, McCullough, Miller, Moore, Moorhead, Morrissey, Mullins, Mungen, Myers, Niblack, Peters, Phelps, Pomeroy, Price, Pruyn, Randall, Seifield, Selye, Shanks, Shellabarger, Smith, Spalding, Stewart, Stokes, Stone, Taber, Taylor, Twichell, Van Aernam, Van Aiken, Robert T. Van Horn, Van Wyck, Ward, Welke, Thomas Williams, William Williams, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—97.

The SPEAKER. The House refuses to adjourn, and no quorum has voted.

Mr. PILE. I move a call of the House.

The motion was agreed to—yeas twenty-one, noes not counted.

Mr. WASHBURN, of Illinois. Now, I wish to submit a proposition by unanimous consent. There is no quorum here. I understand the managers do not expect to ask the intervention of the House in any matters before them, and the only question is whether we are to go away or meet here from day to day to do nothing but pass on dilatory motions.

Mr. PILE. How many do we lack of a quorum?

The SPEAKER. Six members.

Mr. WASHBURN, of Illinois. I will state further, that if we adjourn over the House can be put in its summer trim. If we do not, we shall have to take three or four days at a time when we are engaged in business.

Several MEMBERS. Say till Monday.

The SPEAKER. Under the Constitution the House cannot adjourn till Monday.

Mr. HIGBY. Let it be understood, by unanimous consent, that the Speaker shall adjourn the House from Saturday till Monday.

The SPEAKER. Less than a quorum can

adjourn from Saturday till Monday, being but one legislative day. If there is no objection, the motion of the gentlemen from Illinois [Mr. WASHBURN] will be considered as agreed to. The Chair hears none.

Mr. WASHBURN, of Illinois. I hope there will be an understanding that there will be no business on Saturday, so that the door-keepers may not be interrupted.

The SPEAKER. Is there objection to the understanding that no business shall be transacted on Saturday except to entertain a motion to adjourn?

Mr. GARFIELD. Is it necessary that any resolution should be passed now to secure a settlement of the Hall?

The SPEAKER. It is not.

Mr. DRIGGS. I do not object to the understanding, but I suggest that there might possibly be a quorum here.

Several MEMBERS. Oh, no; we are all going away.

Mr. DRIGGS. I make no objection.

The SPEAKER. The Chair hears no objection.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. HARDING.

#### SALE OF IRON-CLADS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Navy, transmitting, in answer to a House resolution of the 15th instant, copies of all correspondence between the Navy Department and any other parties relative to the sale of the iron-clads Oneota and Catawba; which was referred to the joint Committee on Retrenchment, and ordered to be printed.

#### PERSONAL EXPLANATION.

Mr. INGERSOLL. I ask the courtesy of the House to be allowed not more than five minutes to make a statement personal to myself.

The SPEAKER. Is there objection? The Chair hears none.

Mr. INGERSOLL. Mr. Speaker, if the feeling in the country in reference to impeachment and the result of the vote on last Saturday were an ordinary one I should not feel called upon to notice any assaults made upon myself in connection with that subject; but, much as I am opposed to personal explanations, I do not feel that I can, in justice to myself and to the constituency that I represent, allow an assault to be made upon myself which is scandalous and, perhaps, malicious. It is certainly without the slightest foundation, and seems to demand some notice from me. I cannot consent to sit here in my seat in the House and allow the public journals of the country to traduce me and attempt to blacken my character without some notice at my hands.

I hold in my hand a copy of the Chicago Republican of the date of Monday, May 18. In an editorial in that paper reviewing an article from the Chicago Tribune of the day previous, the 17th, among other things it is stated, in substance, that it is not surprising that the Chicago Tribune should have received news in advance of other journals of that city in reference to what the vote on impeachment would be, as it had means of information denied to the other journals at Chicago; that I took a "night trip" from Washington to Chicago to carry this news to the Tribune, and that the "TRUMBULL-GRIMES plot" was made by me. I state the substance of the charge, as the language of the Republican is intemperate and indecent. I should care but little about the language or the article if it had reference to any other subject than impeachment. What particular opinion the Chicago Republican may entertain of myself is a matter of perhaps small consequence, although it is better to have the good opinion of all, and I have in my life endeavored to merit it.

This article charges, in substance, that there is a plot between certain Senators and others to secure the acquittal of the President; that I am in that plot; that the Chicago Tribune is

in the plot, and that I took a trip from here to Chicago to give the Tribune information. What particular advantage there could be in that, if true, to the Tribune I cannot yet see. But I wish to state, and do state most emphatically, that the whole charge, from beginning to end, so far as concerns myself, is absolutely and unqualifiedly false. There is not even a shadow of truth to base it upon. On the 2d of this month I left this city for my home in Peoria with the view of attending the congressional convention, which was held in Galesburg on the 5th instant, and also the State convention, which was held in Peoria on the 6th instant. I left Washington for the purpose of attending those two conventions, and took the usual route home by way of Baltimore, Harrisburg, and Chicago to Peoria. I arrived in Chicago on Monday, the 4th, and left there the next morning for Peoria. During the time I was in Chicago it so happened that I never met no one of the editors of the Tribune or anybody in any way associated with that paper; neither did I speak on the subject of the impeachment to any human being who had any interest or connection with the Tribune to my knowledge.

This article, from beginning to end, in so far as it refers to me, has not the slightest tint of truth in it. I knew no more with regard to the vote on impeachment or how any individual Senator intended to vote than any other and all the other members in this House. I want to make this statement distinctly that, since the commencement of the impeachment trial, I have never spoken one word to any Senator on the subject of his vote. I have abstained from expressing an opinion in the presence of Senators, feeling that I had no right to attempt to influence their judgments or to control their votes.

This much I have said in self-defense from what I know to be an unjustifiable assault.

#### REFERENCE OF BILLS.

The SPEAKER. Some of the committees of this House will meet during the recess; and as there are a number of bills from the Senate upon the Speaker's table, if there be no objection the Chair will lay them before the House so that they may be referred to their appropriate committees. Should the reference of any bill be objected to by any member it will remain on the Speaker's table.

No objection was made.

#### NAVAJO INDIANS.

The first business on the Speaker's table were amendments of the Senate to House bill No. 733, for the relief of the Navajo Indians at the Bosque Redondo, and to establish them on a reservation; which were referred to the Committee on Appropriations.

#### SCHOOL PROPERTY IN THE DISTRICT.

The next business on the Speaker's table were amendments of the Senate to amendments of the House to Senate bill No. 389, exempting property in the District of Columbia held and used for school purposes from local taxation; which were referred to the Committee for the District of Columbia.

#### PRESENTATION OF BILLS TO PRESIDENT, ETC.

The next business on the Speaker's table was Senate bill No. 366, regulating the presentation of bills to the President of the United States and the return of the same.

Mr. BROOKS. I do not know what is in that bill. I think it had better be left on the Speaker's table.

#### GOLDSMITH BROTHERS.

The next business on the Speaker's table was Senate bill No. 151, for the relief of Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers.

Mr. ROSS. I think that bill had better be allowed to remain on the Speaker's table.

Mr. ALLISON. Let it be referred to the Committee of Claims.

Mr. ROSS. Very well; I have no objection if it is not to be brought back by a motion to reconsider.

The SPEAKER. None of these bills will be brought back by motions to reconsider, if that is the general understanding.

The bill was then read a first and second time, and referred to the Committee of Claims.

JAMES HOOPER.

The next business on the Speaker's table was Senate bill No. 436, for the relief of James Hooper.

The SPEAKER. This bill is in regard to vessels captured by rebels during the late war.

The bill was read a first and second time, and referred to the Committee of Claims.

#### FILING REPORTS OF RAILROAD COMPANIES.

The next business on the Speaker's table was Senate bill No. 450, relative to filing reports of railroad companies; which was taken up and read a first and second time.

Mr. GARFIELD. I move that the bill be referred to the Committee on Roads and Canals.

Mr. ALLISON. This bill relates to the Pacific railroads, and I think it should be referred to the Committee on the Pacific Railroad.

Mr. GARFIELD. I have no objection.

The bill was accordingly referred to the Committee on the Pacific Railroad.

#### PARKER QUINCE.

The next business on the Speaker's table was Senate bill No. 452, for the relief of Parker Quince; which was taken up, read a first and second time, and referred to the Committee of Claims.

#### QUALIFICATION OF JURORS.

The next business on the Speaker's table was Senate bill No. 464, in relation to the qualification of jurors; which was taken up, read a first and second time, and referred to the Committee on the Judiciary.

MOSES F. SHINN.

The next business on the Speaker's table was Senate bill No. 467, to confirm an entry of land by Moses F. Shinn; which was taken up, and read a first and second time.

Mr. JULIAN. I move that this bill be referred to the Committee on the Public Lands. The motion was agreed to.

CAPTAIN DAN. ELLIS.

The next business on the Speaker's table was Senate bill No. 474, for the relief of Captain Dan. Ellis; which was taken up, and read a first and second time.

The SPEAKER. This is a bill in relation to services as a scout.

Mr. PILE. I move that the bill be referred to the Committee of Claims.

The motion was agreed to.

H. D. M'KINNEY.

The next business on the Speaker's table was Senate bill No. 476, for the relief of H. D. McKinney; which was read a first and second time.

The SPEAKER. This is a claim for balance due on a wood contract.

The bill was referred to the Committee of Claims.

CHARLES C. O'NEILL.

The next business on the Speaker's table was Senate bill No. 477, for the relief of Charles C. O'Neill; which was read a first and second time, and referred to the Committee of Claims.

GEORGE B. HALSTEAD.

The next business on the Speaker's table was Senate joint resolution No. 128, for the relief of George B. Halstead; which was read a first and second time.

The SPEAKER. This is for pay as lieutenant.

The resolution was referred to the Committee on Military Affairs.

#### CLAIMS FOR A VESSEL IN JAPAN.

The next business on the Speaker's table was Senate joint resolution No. 123, authorizing the Secretary of State to adjust certain

claims, and directing the payment thereof; which was read a first and second time.

The SPEAKER. This is about a vessel in Japan.

The resolution was referred to the Committee on Foreign Affairs.

#### SURVEY OF INDIAN RESERVATIONS.

The last bill on the Speaker's table was Senate bill No. 170, to provide for deficiency of expenses incurred in the survey of Indian reservations; which was read a first and second time.

On motion of Mr. ALLISON, the bill was referred to the Committee on Appropriations.

Mr. CHANLER moved to reconsider the votes by which the various bills and joint resolutions were referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INDIAN PEACE COMMISSION.

Mr. WARD, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Interior be requested to inform the House what, if any, extra compensation, allowances, or emoluments, either as mileage, commutation, or expenses, or in any other form, have been allowed to civil and military officers who were authorized by the act of Congress approved July 20, 1867, to act as a commission to establish peace with certain hostile Indian tribes, or to clerks in their employ who were at the same time receiving a fixed salary as clerks in any executive department.

Mr. WARD moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. DRIGGS, (at one o'clock p. m.), the House adjourned till Saturday next.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. DRIGGS: The papers of James H. Foster, asking an appropriation to pay him for balance of salary due as agent of the Government, with copy of a bill which passed the Thirty-Ninth Congress.

By Mr. GARFIELD: The petition of Emily H. Reed, for compensation for quartermaster stores taken for the use of the United States Army.

By Mr. GRAVELY: The petition of Mr. Stoops, praying that a certain road in North Carolina and Virginia be declared a post route.

By Mr. PERHAM: The petition of E. S. J. Nealley and 35 others, of Bath, Maine, for improvement of Richmond Island harbor, adjacent to Cape Elizabeth, on the coast of Maine.

By Mr. WASHBURN, of Massachusetts: The petition of Emily Miller, for compensation.

#### IN SENATE.

THURSDAY, May 21, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. CONKLING, and by unanimous consent, the reading of the Journal of Monday last was dispensed with.

#### PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had, on the 19th instant, signed the following bills and joint resolutions:

A bill (S. No. 416) for the relief of John S. Cunningham, paymaster United States Navy;

A bill (S. No. 462) making appropriations for the expenses of the trial of the impeachment of Andrew Johnson and other contingent expenses of the Senate for the year ending June 30, 1868, and for other purposes;

A bill (S. No. 473) for the relief of Charles E. Capehart;

A bill (S. No. 358) providing for the restoration of Lieutenant Commander Trevett Ab-

bott, of the United States Navy, to the active list of the Navy;

A joint resolution (S. R. No. 118) for the appointment of a commission to select suitable locations for powder magazines; and

A joint resolution (S. R. No. 126) for the relief of George W. Doty, a commander in the United States Navy on the retired list.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of the 14th of April last, information relative to any application by any party for exclusive privilege in connection with hunting and trading and the fisheries in Alaska; which was referred to the Committee on Territories, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, communicating a copy of the constitution of the State of Georgia, framed under the reconstruction laws; which was referred to the Committee on the Judiciary, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, communicating all the papers that have been submitted to him relating to the formation of constitutions under the reconstruction laws in the States of North Carolina and Louisiana; which was referred to the Committee on the Judiciary, and ordered to be printed.

He also laid before the Senate a message from the President of the United States, communicating, in compliance with a resolution of the Senate of December 17, 1867, information in reference to the seizure and confiscation of property under the act of July 17, 1862, entitled "An act to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes;" which was ordered to lie on the table, and be printed.

#### IMPEACHMENT OF THE PRESIDENT.

Mr. DAVIS. I rise to a matter of privilege of the Senate, and ask to offer a resolution.

Mr. DRAKE. I suppose that petitions and memorials are first in order.

The PRESIDENT *pro tempore*. They are in order, but the Senator from Kentucky rises to a question of privilege, which supersedes all other things.

Mr. DAVIS. I ask that the resolution that I offer be read, and then I will let it lie until the morning business is over.

The Chief Clerk read as follows:

Whereas there is reason to believe that some persons have been and are engaged in violating the rights or privileges of the Senate by the use of threats, intimidation, and other unlawful and improper means toward its members to constrain them in their consideration, action, and judgment in the matter of the articles of impeachment against the President of the United States now pending before the Senate as a court of impeachment: Therefore,

*Be it resolved*, That a committee of three, to be chosen by the Senate, do proceed to inquire into the facts of such imputed threats, intimidation, and other unlawful and improper means aforesaid, and the names of the persons, if any, using or that have used them; and that said committee have power to send for persons and papers, to take evidence, employ a stenographer, and report the facts to the Senate.

Mr. DAVIS. I feel it my duty to offer the resolution, but I am willing that it should lie over informally in order that the morning business may be disposed of.

The PRESIDENT *pro tempore*. It will be so passed over unless objection be made.

#### PETITIONS AND MEMORIALS.

Mr. CONKLING presented a memorial of underwriters and merchants of New York, praying that no means be adopted to lessen the efficiency of the Coast Survey; which was referred to the Committee on Appropriations.

He also presented a petition of Barney Carney, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a petition of Seymour White, praying to be relieved from civil disabilities imposed by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a memorial of officers of the New York Produce Exchange, praying an additional appropriation for the improvement of the harbor of Buffalo; which was referred to the Committee on Commerce.

He also presented a memorial of the Board of Trade of Buffalo, New York, praying that the city of Milwaukee be reimbursed for money expended by that city in constructing a straight cut from Lake Michigan to the Milwaukee river; which was referred to the Committee on Commerce.

Mr. DRAKE presented a memorial of the Board of Trade of St. Louis, Missouri, praying Congress to order a survey of Bayou Manchac and its connections between the Mississippi river and the Gulf of Mexico, and to clear out the obstructions in the sound; which was referred to the Committee on Commerce.

Mr. JOHNSON presented the petition of iron manufacturers and engineers, of Baltimore, praying that the rank assigned the engineers and other staff officers by the Navy Department be confirmed by law of Congress, and in favor of a continuation of the system of education of our naval engineers at the United States Naval Academy; which was referred to the Committee on Naval Affairs.

He also presented a petition of John H. Russell, praying that a patent may be issued to him for certain land in Arkansas; which was referred to the Committee on Public Lands.

Mr. FERRY presented a petition of Dorence Atwater, praying compensation for pay withheld from him, and for loss of time and health in prisons, and for preparing a list of dead soldiers at Andersonville; which was referred to the Committee on Claims.

He also presented a petition of manufacturers of goods, in whole or in part, of ivory, praying a repeal of the duty on ivory; which was referred to the Committee on Finance.

Mr. POMEROY presented the petition of Baptiste Peoria, chief of the Peoria tribe of Indians, praying compensation for a horse taken from him by United States forces; which was referred to the Committee on Claims.

He also presented a petition of Lucien Birdseye, praying compensation for the use and occupation of his property known as Point Lookout; which was referred to the Committee on Claims.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, Chief Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1099) for the relief of Wait Talcott;

A bill (H. R. No. 483) for the relief of Palcom John; and

A bill (H. R. No. 1063) for the relief of Henry Barricklow.

#### DISTRICT OF COLUMBIA BUSINESS.

Mr. HARLAN. I offer the following resolution:

*Resolved*, That, until otherwise ordered, Friday of each week be set apart for the consideration of bills on the Calendar relating to the District of Columbia.

The PRESIDENT *pro tempore*. Does the Senator ask for the present consideration of the resolution?

Mr. HARLAN. Yes, sir.

Mr. FESSENDEN. I think that had better lie over. There have been one or two days set apart for the business of the District of Columbia, and there are a great many other matters that ought to be attended to. I do not think it would be wise to adopt the resolution at this time.

The PRESIDENT *pro tempore*. Objection being made, it goes over under the rule.

#### BRIDGES ON OHIO AND MISSISSIPPI RIVERS.

Mr. HARLAN. If there is no further morning business, I move that the unfinished business of the last day's session be taken up.

Mr. JOHNSON and Mr. MORTON. What is the motion?

The PRESIDENT *pro tempore*. The mo-

tion is to proceed to the consideration of the unfinished business, which will come up at one o'clock.

Mr. MORTON. If it is in order, I will move to take up for reference the resolution I offered the other day in reference to bridging the Ohio and Mississippi rivers.

The PRESIDENT *pro tempore*. Does the Senator from Iowa withdraw his motion?

Mr. HARLAN. Yes, sir.

The PRESIDENT *pro tempore*. Then the question is on the motion of the Senator from Indiana.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. MORTON on Monday last:

*Resolved*, That House bill No. 384, to authorize the building of a railroad bridge across the Ohio river at Paducah, Kentucky, be recommitted to the Committee on Post Offices and Post Roads, and that the said committee be requested to consider of, and if in their judgment thought best, to report a general bill authorizing bridges to be constructed over the Ohio and Mississippi rivers, upon such terms and conditions as will not materially interfere with navigation.

Mr. MORTON. Mr. President, I should like the indulgence of the committee and of the Senate for a short time in making a statement on this subject and laying before the Senate and before the committee certain facts which I have collected.

The subject is one of great interest and importance to the people of the Northwest, and to all, in fact, who are interested in the navigation of the Ohio and Mississippi rivers. Ten bridges have already been authorized by act of Congress across the upper Mississippi, which, I undertake to say, if constructed, will substantially destroy the navigation of the upper Mississippi. This bill, which I propose to refer back to the Committee on Post Offices and Post Roads, has passed the House of Representatives, authorizing the construction of a bridge across the Ohio river at Paducah, and another bill is now in possession of the same committee authorizing the construction of a bridge on similar terms across the Ohio at Cincinnati. I will state briefly the terms of the bill which I propose to refer back to the committee.

The bill itself does not prescribe the character of the bridge, but it refers to the act of 1866, authorizing the construction of a bridge across the upper Mississippi at Quincy, Illinois, and those provisions are made applicable to this bridge. That act first authorizes the construction of a draw, to be a pivot draw, and to be one hundred and sixty feet in the draw; or, it authorizes the construction of a high bridge, the spans to be two hundred and fifty feet in length, and the central span over the current to be three hundred feet in length. It gives the company in the case of the Paducah bridge, as is done in regard to all the bridges on the upper Mississippi that I have referred to, the privilege of constructing a draw of only one hundred and sixty feet in width. These draws will substantially destroy the navigation of those rivers, because boats and tows, large steamboats, cannot pass them in safety except in the day time, and cannot pass them in safety then with high winds or high waters; but with rafts and tow boats they cannot be passed at all except under the most favorable circumstances.

The privilege in this bill of constructing a draw-bridge ought to be absolutely withdrawn, for reasons which I will present to the committee, and the privilege of constructing a high bridge with a span of only three hundred feet over the center or current of the river ought to be denied, and the span should not be less than five hundred feet. The bridge authorized at Steubenville, and which has been constructed, has demonstrated beyond all question the fact that a bridge with a span of only three hundred feet is a great impediment to navigation, and that a few such bridges constructed over the Ohio river would virtually destroy its navigation. One bad bridge becomes the protection of another, and if these obstructions are multiplied they will become too great for any power of removal, and the substantial navigation of

the river will be gone for ever. It is, therefore, Mr. President, of the utmost importance that without delay there should be some general law enacted in reference to the bridging of the Ohio and Mississippi rivers, some general law enacted which will protect the interests of navigation.

We must foster the railroad interest also. The interests of navigation and of the railroads are not incompatible; they are not antagonistic, but both may exist together. But, sir, the navigation of the great rivers is of the first importance to the people of the United States, and it is the duty of Congress to protect the navigation of those streams against the construction of improper bridges.

The Ohio river is one thousand and fifty miles in length. The extent and value of the freights that pass up and down it are almost incalculable. I have seen one estimate that the freights on the Ohio river are equal in extent and value to all the freights carried by all the railroads in the United States. I will not vouch for the truth of this statement; but I have seen it presented as having been carefully made. Freight upon the great rivers is cheaper from four fifths to one half than it can possibly be on railroads; and it is, therefore, to the interest of all the people living near these rivers, or whose commerce or trade passes upon them, that the navigation of them shall not be impaired by the construction of bridges.

Now, sir, one single item in regard to the Ohio river in reference to the coal trade. The coal which supplies the river towns and the country bordering on the river from Pittsburg to New Orleans, a distance of twenty-one hundred miles, passes down the Ohio river from Pittsburg and from the neighboring towns. The coal trade of the city of Cincinnati alone, it is said, requires twenty-three million bushels annually; but when we estimate the vast lumber business, the salt business, and the iron business that is carried on upon that river, in connection with all the ordinary produce business of that vast valley, we can but faintly comprehend the importance of protecting the navigation of the Ohio river.

Mr. President, I want to read, in the hearing of the Senate, the opinion that has been given by fifty-eight licensed pilots of the Ohio river. Opposite the name of each pilot is placed the length of time he has served as a licensed pilot, and the average is over twenty years:

CINCINNATI, May 6, 1868.

We, the undersigned, licensed pilots on the Ohio river, hereby declare that it would be difficult and dangerous for us to navigate large and heavily laden steamboats and boats with tows of barges between the piers of a bridge having a span of only three hundred feet between the piers over the channel, even though the bridge was built at right angles to the current, and the piers in a line with the current.

While this danger and obstruction at a low stage of the river would be comparatively small, it would be increased with the rise of water in the river, until at a stage of twenty feet and upwards, when the heavy business, especially in towing, is done, it would be very serious. We regard it as clear to the mind of any sensible river man and navigator that the placing of five or six piers within the banks of our narrow river will, by dividing the water at the piers, create "cross currents" and "eddies" dangerous to navigation. The water above the piers will be higher than below, and the force of the current materially increased, varying, of course, with the stage of water. To be reasonably safe the length of span should be five hundred feet.

This, I repeat, is the testimony of fifty-eight licensed pilots of the Ohio river, whose average experience is over twenty years. It is the best testimony that can be offered in regard to the dangerous character of these obstructions. In connection with these obstructions and the increased dangers of navigation, delay, and so on, is the question of insurance. The insurance of steamboats, flatboats, barges, and the insurance of their cargoes is now a necessary element in all commercial calculations of profit and loss. I now present resolutions signed by the agents and officers of forty-four insurance companies, to show that by the construction of bridges having only a span of three hundred feet over the current of the river the rates of insurance must be increased, and that this increase of the rates



of insurance must increase with the construction of every new bridge; and therefore, if one bridge at Steubenville is a great obstruction, twenty bridges of the same kind would make an obstruction twenty times as great, and in this way, by the gradual multiplication of these bridges, the navigation of the river will be destroyed. The following is the statement made by the underwriters representing forty-four insurance companies:

CINCINNATI, April 20, 1868.

GENTLEMEN: In reply to your letter of April 18, asking the opinion of the Board of Underwriters of this city if the construction of a pier bridge across the Ohio with three hundred feet space between the piers would so obstruct the navigation as to require an advance rate of premium on boats and their cargoes plying between Cincinnati and Pittsburg, at a meeting of the board held at their rooms April 20, 1868, the following resolutions were unanimously adopted by the board, and are herewith inclosed as an answer to your communication:

*Resolved*, That it is the deliberate and settled opinion of the Cincinnati Board of Underwriters that a bridge built across the Ohio river between the cities of Cincinnati and Newport, Kentucky, with piers in the river three hundred feet apart, would prove a serious and dangerous obstruction to the navigation of the river; and that all underwriters, in justice to their stockholders, will be obliged to charge increased rates for the insurance of property passing these piers.

*Resolved*, That it is the judgment of the members of this board that where bridges are built over the Ohio river, that in order to leave the navigation of the river reasonably safe, there should be a main span over the channel not less than five hundred feet long."

Respectfully, yours, JOHN BURGOYNE,  
President pro tempore.

JOHN J. HOOKER, Secretary.

MESSRS. ROBERT HOSEA & SON, TRABER & AUBERY, BABBITT, HARKNESS & CO., M. GREENWOOD, DAVID GIBSON & CO., WILLIAM GLENN & SONS, R. M. BISHOP & CO., WILLIAM RESOR & CO., and others.

I will simply say, in addition to this evidence on the part of these insurance companies, that the carrying trade is in the hands of the insurance companies in this way: by increasing the rate of insurance the carrying trade can be controlled as to particular ships or channels. It was not the Alabama in herself that drove the carrying trade into British ships during the war and drove American ships out of the trade, but it was the insurance companies that so increased the rate of insurance upon American ships and cargoes in American ships that shippers could ship far more cheaply in British bottoms; and thus it was that the carrying trade of our country was virtually destroyed during the war by one or two rebel cruisers. The same thing will operate in the case of obstructions placed upon any navigable river. They increase the rates of insurance to such an extent that the rates of transportation are greatly increased, and thus transportation is driven from the river into other channels, and the people who consume the produce thus transported have to pay the additional cost.

I desire to present in this connection the testimony of the city council of Cincinnati. The city council of Cincinnati has recently adopted the following:

"Whereas by an act passed April 3, 1868, certain parties have organized for the purpose of building a bridge at Cincinnati; the main span of said bridge is to be but three hundred feet over the main channel of the Ohio river; and whereas said span is entirely inadequate to the wants of the boating and commercial interests of our State, and dangerous to life and property, by obstructing the channel of said river: Therefore,

*Be it resolved*, By the city council of the city of Cincinnati, that our members of the General Assembly be requested to use all honorable means to cause said law to be amended as proposed in the bill now pending before the Legislature, making said span not less than five hundred feet."

Mr. President, in order to explain briefly how it is that a span of three hundred feet is not sufficient, I will state in what mode the heavy freights upon the Ohio river are transported. It is done now chiefly by what are called barges and tug-boats. They have some sixty tug-boats going out from Pittsburg for the purpose of towing coal-boats only. These coal-boats are fastened upon each side of the steam tug. Sometimes these tows on the upper Ohio are one hundred and fifty feet in width, as I am informed.

Mr. JOHNSON. All lashed together.

Mr. MORTON. All lashed together, and shoving perhaps four or six coal-barges before them. By towing the coal-boats in this way the transportation is made very cheap as compared with the old way of floating a flat-boat down the river; and this has become the received method of transporting heavy freights on the Ohio river. Some of these tows when thus lashed together are one hundred and fifty feet in width, and when they approach the Steubenville bridge, if the wind is high and the current strong, they are compelled to wait. They can never safely pass that bridge in the night time. The delay is a matter of heavy cost to them, at the rate of one hundred and fifty or two hundred dollars a day, as the case may be. They must lie by until the daylight in order to pass the bridge; and if the wind is high it is very difficult to pass without a collision. It is an immense mass of freight, sometimes as much as one hundred thousand bushels of coal being in the tow. It is, of course, very hard to steer a collection of boats of that kind; and great losses have occurred.

On the lower Ohio below the falls these tows are made wider than above. With a strong current or with a high wind they cannot safely pass any bridge with only a span of three hundred feet, they are so unwieldy. It is therefore a matter of the first importance that the piers of the bridges shall be so far apart that these steamboats and tug-boats with the barges attached shall be able to pass even in the night time without delay, and shall be able to pass without danger even when there are winds and strong currents. This is impossible with any bridge having a span of only three hundred feet.

Now, sir, I will read a single resolution adopted by the Chamber of Commerce of the city of Cincinnati:

*Resolved*, That every bridge over the Ohio river should be required to have at least one span of not less than five hundred feet over the main channel; and that piers which shall narrow the navigation more than this will be a serious and unjustifiable obstruction and danger. We therefore ask the General Assembly of Ohio and the Congress of the United States to provide that all bridges over this river shall be required to have at least one span of not less than five hundred feet over the main channel."

Some question may be asked as to whether bridges of five hundred feet are practicable. I have evidence here that perhaps will be satisfactory to every member of the Senate that they are not only practicable, but that they are of very little more cost than bridges of three hundred feet span. In the advance of engineering science it is found that bridges of five hundred feet span can be constructed to bear any burden that may be put upon them, and that the cost is very little greater, and some engineers, say no greater than those with a span of three hundred feet. I will ask the Secretary to read a letter from John A. Roebling, who constructed the suspension bridge at Niagara and the suspension bridge at Cincinnati, and who is now constructing a bridge of sixteen hundred and twenty feet over the Hudson river just above the city of New York, and who, I believe, will construct a bridge over the East river at New York, which has a span amounting to I do not know what; I believe, in the neighborhood of fifteen hundred feet.

Mr. JOHNSON. Does the honorable Senator say he is constructing a bridge above the city of New York?

Mr. MORTON. Yes, sir; at the Highlands, some sixteen miles above, with a span of sixteen hundred and twenty feet.

Mr. JOHNSON. A suspension bridge?

Mr. MORTON. Yes, sir. I will read the letter of Mr. Roebling on that subject, which is short, and to which I invite the attention of the Senate:

OFFICE OF JOHN A. ROEBLING,  
TRENTON, NEW JERSEY, April 7, 1868.

MY DEAR SIR: In your note of the 4th you request me to state some of the facts relating to the practicability of large span railroad bridges. The following railway bridges, all on leading lines and doing a heavy business, are constructed on different plans, and have all stood the test of time:

The Niagara bridge, in this country, with one clear span of eight hundred and twenty feet.

The Steubenville bridge, over the Ohio, three hundred and twenty feet.

The Britannia bridge, in England, spans of four hundred and sixty feet.

The Saltash bridge, over the Tamar, England, spans of four hundred and fifty-five feet.

The Rhine bridge, at Cullinburg, in Holland, spans of five hundred feet.

The Disnaw bridge, over the Weichsel, in Prussia, three hundred and ninety feet.

The Hogat bridge, in Prussia, three hundred and twenty feet.

The Rhine bridge, at Cologne, Prussia, three hundred and twenty feet.

The Rhine bridge, at Coblenz, Prussia, three hundred and twenty feet.

The Rhine bridge, at Mayence, Prussia, three hundred and thirty-two feet.

I might extend this list, but if this number is not sufficient to establish "practicability," no number and no argument will. When I recommended five hundred feet spans I was fully aware that bridge builders and railroad men generally would object, because the erection of large spans certainly involves a little more cost and also a little more skill. But by combining the suspension principle with the truss, as I have often recommended, a considerable saving will be effected. Spans of five hundred feet on this plan will not cost more than ordinary lattice or truss spans of three hundred and fifty feet.

For the Cincinnati and Newport bridge I would recommend a trussed suspension bridge, with a middle span of seven to eight hundred feet, and two half spans of three hundred and fifty to four hundred feet, as the best and also the cheapest in the end. The various stories circulated about the Niagara bridge are all nonsense. That bridge will admit of the highest practicable speed for passing trains, but it would be madness to permit it over that fearful chasm.

Truly, yours, JOHN A. ROEBLING.  
THEODORE COOK, esq.

Mr. President, in this connection I will read a very important letter from Captain Eads, who is the engineer constructing the bridge across the Mississippi river at St. Louis, which has a central span of five hundred and eighteen feet:

St. Louis, April 7, 1868.

DEAR SIR: In reply to your letter I beg to say that no published official report of this bridge has yet been made. I am at present engaged in the preparation of one, and as the company expect to ask our citizens to make a loan of the city's credit to the extent of \$4,000,000 in aid of the enterprise at the next election, the report will be an elaborate one. It will not, however, be published for nearly a month, as it will contain several diagrams and illustrations now in the hands of the engravers. I am glad to see the friends of river navigation moving so earnestly to prevent the destruction of our great marine highways. After the able letter of Mr. Roebling, recently published in one of our city papers, and which you have doubtless seen, I feel that I can say nothing to add to its force.

By the principle of the arch, either suspended or upright, we are enabled to construct much larger spans without increasing the cost of the structure than is possible by any of the methods of trusses yet devised. Being placed in possession of the calculations made for the truss bridge at this city, (by the consolidation of the two companies,) I am able to prove that the bridge I am constructing, with three spans of about five hundred feet each, can be more cheaply built than the truss bridge designed for the rival company, with two spans of but three hundred and sixty-four feet, (or a clear water-way to each of three hundred and fifty feet,) and the remaining spans of two hundred and forty feet.

The greater strength of cast steel makes its cost considerably less than that of iron in long spans; and as its compressive strength is greatly in excess of its tensile strength, it seems peculiarly fitted for the construction of upright arches. There is nothing to prevent the spanning of your river at Cincinnati with arches of one thousand feet with entire safety, and at a cost not greatly in excess of three hundred and fifty feet trusses. In every form of truss there must be an upper and lower chord, one for compression and one for tension. The arch alone, of all forms of bridging, requires but one of these members. The suspended arch requires the tension member only, and the upright arch the compression one. The anchors of the suspension bridge supply the place of the upper or compression member of the Fink truss, by preventing the points of support from being pulled together, the strain at the points of support (or towers) being transferred directly to the anchors. In the upright arch the abutments supply the place of the tension chord in the bow-string girder. The same principle pervades every form of truss known, and as there is no great difference in the weight or cost of one or the other of these members, if one or the other be dispensed with, we have at least the cost of it to invest in masonry before we incur any additional expense by substituting the arch. As, however, the cost of the truss rapidly augments as the span is increased, while the arch does not, in the same ratio we are enabled to construct large spans in that form with much greater economy.

In the short limits of a letter like this I cannot explain why the arch is so much more economical, except in the brief manner above stated: nor would it, perhaps, be becoming in me to attempt to do so here. When my report is published I shall be happy to send you a copy.

Very truly, &c., JAMES B. EADS.  
Mr. THEODORE COOK.

Even, Mr. President, if a bridge of five hundred feet span was more costly, yet the railroad companies should be required to incur the cost. If they cost three times as much, what is that cost compared to the permanent obstruction of a great river like the Ohio or the upper Mississippi? The cost of a bridge can hardly be taken into calculation in determining the question of how a bridge should be built. If a proper bridge cost three times or four times as much, still they should be required to build a bridge that will not materially interfere with navigation. It is a permanent and continuing injury, doubled every time a new bridge is built, one bridge becoming a protection for another, until these obstructions are too powerful to be removed.

I therefore ask the committee to consider this question, and report to the Senate a general law to provide for bridging the Ohio and Mississippi rivers, to the provisions of which all bridges shall be required to conform; that these bridges shall be high enough, say sixty feet above high water, to enable steamers to pass without obstruction; and that they shall have spans of not less than five hundred feet. Bridges with this span can be built. We know that. They have been. They have been in use for years in other countries. Engineering science has greatly advanced. They can be built with very little more cost than the ordinary bridges; and thus the railroad interest can be protected and fostered at the same time that the navigation of these great rivers is not impaired.

I know, sir, that this is rather a tame question to be considered now in connection with the exciting and stirring events by which we are surrounded; but the question is of vast importance to all the northwestern States, and I invite the attention of this committee to it. I hope if they are not satisfied that they will call engineers, experienced and scientific men, before them, and examine them as to the feasibility of constructing bridges with spans of five hundred feet; and if they are not satisfied that a bridge of three hundred feet span over the Ohio and Mississippi rivers is an obstruction, let them call witnesses upon that subject.

I have here, Mr. President, resolutions adopted by a meeting of the manufacturers and principal business men of Pittsburgh, the meeting being presided over by the mayor, all to the same effect with what I have read; and also resolutions of the Coal Exchange of Pittsburgh and various bodies of business men to the same effect. I will not detain the Senate this morning by reading these resolutions. I will, however, lay them before the committee, and I have deemed it my duty to present the matter to the Senate in this way, because from the attention and examination I have given to it I am satisfied it is of the first importance to the people of the northwestern States.

I hope that this Paducah bridge bill will not pass in its present form, and that the Cincinnati bridge bill will not pass; and I hope that the law authorizing the construction of ten bridges on the upper Mississippi will be repealed. None of them have yet been constructed, but if built in accordance with the law by which they are authorized they will utterly destroy the navigation of the river. I hope the law authorizing them will be repealed, or at least so modified as to require the companies authorized to build those bridges to build them with central spans of not less than five hundred feet. The railroad companies can do this with very little more cost, and their interests will be protected, while the navigation of these great rivers will be preserved.

That is all I have to say this morning, Mr. President. I ask that the documents which I submit may be referred to the committee with the resolution.

Mr. POMEROY. I should like to make a few remarks on those documents before they are referred.

The PRESIDENT *pro tempore*. The morning hour having expired, it is the duty of the

Chair to call up the unfinished business of the last sitting.

Mr. POMEROY. I only desire to say a very few words. My friend from Indiana will find the subject surrounded with a great many difficulties, and I want to point out some of those difficulties before it goes to the committee. That is all.

Mr. MORTON. I shall be glad to hear the Senator.

Mr. SUMNER. I wish my friend would give way, that I may make a motion that when the Senate adjourns to-day it be to meet on Monday next.

Mr. POMEROY. I have no objection to considering this matter any other day.

Mr. SUMNER. Let my motion be put.

The PRESIDENT *pro tempore*. The motion of the Senator from Massachusetts may be entertained by unanimous consent.

Mr. HENDERSON. I object.

The PRESIDENT *pro tempore*. Objection being made, the motion is not in order. The unfinished business is regularly before the Senate, but it can be passed over by unanimous consent, if that is the wish of the body.

Mr. JOHNSON. I move that that be done.

The PRESIDENT *pro tempore*. If there be no objection the unfinished business will be waived for the present, that the Senator from Kansas may make his remarks on the matter brought before the Senate by the resolution of the Senator from Indiana.

Mr. HOWE. Does the Senator from Kansas desire to consider that subject this morning?

Mr. POMEROY. Not at any length; only for five or ten minutes.

Mr. HENDERSON. What subject is it?

Mr. POMEROY. The subject of bridges on the Ohio and Mississippi rivers, to which the Senator from Indiana has directed the attention of the Senate.

Mr. HOWE. Then the unfinished business, I understand, will be laid aside informally.

The PRESIDENT *pro tempore*. It will be laid aside informally if that is the desire of the Senate. No objection being made, the Senator from Kansas will proceed.

Mr. POMEROY. I was only about to say that the subject is surrounded with difficulties. There are great difficulties in making a general law applicable to all places and all rivers. I admit that it is very desirable, so far as the river navigation is concerned, that there should be no piers and to have suspension bridges everywhere; but the practical question is can such bridges be erected everywhere. The engineers, from whom letters have been read, say that there should be no spans short of five hundred feet in the center of the river. Now, sir, there are no five hundred feet spans in this country or any country where the bridge rests upon piers. That is not practicable. I admit that a suspension bridge may be built one thousand feet or twelve hundred feet wide, and they are supported every five or ten feet from the vast cable that forms the arch, and I do not know but that they could be built two thousand feet. But we are passing laws to enable railroad companies to bridge the rivers upon piers in the form of truss bridges, and no truss bridge in this country or any country has been deemed safe over one hundred and fifty feet, or what they call three hundred feet span. The Senate, I suppose, are aware that if a pivot draw is used and the span is three hundred feet the draw itself must be six hundred feet besides the width of the pier on which the draw stands. If Senators who have had their attention directed to this matter will conceive of a draw six hundred feet long to be turned up and down the river upon a pivot in the wind they will see the almost utter impossibility of a draw of that character being that length even; and yet the Senator and these engineers insist that it should be five hundred feet, and if five hundred feet span the draw must be one thousand feet besides the width of the pier on which it stands.

Mr. MORTON. The Senator from Kansas perhaps did not understand me correctly. I

am opposed, as I understand this question, to all draw-bridges across the river. It would be perhaps impracticable to have a draw of five hundred feet on each side of the pivot, which would make it one thousand feet. That is not contended for by anybody, but the draw-bridge which is authorized by this bill has a draw of only one hundred and sixty feet, which would not even admit many of the tows. They cannot get into it at all, because they are ten or twenty or thirty feet wider than the draw. I do not contend for any draw-bridge of that size. I do not know that it is practicable.

Mr. POMEROY. I was about to say, Mr. President, that it is not practicable in every place upon every river to make a suspension bridge. It becomes a question whether the public interests require and demand any bridge at all. If a bridge of any character and of any dimensions is demanded by the public interest and by the necessity of making a connection with railroads from each side of the river, then it is a serious question for those who legislate to determine what kind of a bridge is necessary. I admit, as the Senator from Indiana says, that a suspension bridge is the better bridge where it can be constructed; but suppose you have low banks and no bluffs on either side, no quarry, no rock to fasten your cables to, and it is impossible to get a train up ninety or one hundred feet, what are you to do? The Senator from Indiana says he wants the bridge fifty or sixty feet above high water. The Ohio river rises and falls from thirty-seven to forty feet. Put your bridge sixty feet above that, and your train will be one hundred feet in the air above low water, and you are expected to build up piers one hundred feet above low water and run a train over them. Mr. President, it is impracticable—it is impossible.

In the next place I wish to say that on the Ohio and the Mississippi and the Missouri rivers, where my attention has been called to it, there are places where a suspension bridge is entirely impracticable and out of the question, where it will be next to impossible to elevate the train so high; and then you cannot fasten in the banks on either side your cables, because there is nothing but what is known in this country as bottom ground on each side, and therefore the bridge must, from the nature of the case, be placed upon piers; and if upon piers it must have a draw; and if a draw, then I say it is impossible from any engineering known in this country or any country to make the span over three hundred feet. That has never yet been done. There is going to be an effort to try to accomplish it; but a bridge resting upon piers with a span of three hundred feet has not been accomplished yet. I do not know what may be done with a truss bridge combined with the suspension principle; but the experiment has not yet succeeded with a bridge simply resting upon piers, although it has been attempted in two or three places.

I rose simply to say that this subject is surrounded with difficulties if we intend to make a general law applicable to every river and to every place. Each point where a river is to be bridged must be judged of by itself, and that character of bridge must be adopted in the law which is adapted to the necessities of the particular case. I know there are some places where the banks themselves are not five hundred feet, and yet the Senator would have a general law compelling all spans to be five hundred feet when five hundred feet may be more than the entire width of the river.

So you will see, Mr. President, the entire fallacy, in fact the utter inutility, of making a general law applicable to all rivers and all places. The committee have had this matter under consideration at various times, and have not yet found it practicable to report a general law, but only to report each individual case according to the circumstances of the place and the river where the bridge was to be built.

The Senator says that these barges are one hundred and fifty feet in width. We have had a contest or two before the committee on that

subject, and that width of barges to a steamboat was never proved yet. I do not know but that they could make them one hundred and fifty feet in width by tying enough of them together; but I have known a number of contested cases of this kind; and they have not yet got up to one hundred and fifty feet in width. They never pretended it in those cases where the trouble originated, in Iowa. The Senator will find that if he attempts to pass a general law applicable to all these rivers he will be met with this difficulty, that in some places it is impracticable, it will prevent the bridging of the river at all, and in other places the general law will not be adapted to the wants of the railway company. I have no objection to the reference of the subject to the committee, but the Senator will find it impossible to pass through such a bill if the committee shall report it.

Mr. HENDERSON. I rise, Mr. President, to a question of privilege.

Mr. POMEROY. Let this matter be referred to the committee.

Mr. MORTON. I want to say a word in reply to the Senator from Kansas.

Mr. HENDERSON. Very well.

Mr. MORTON. Mr. President, I think that the Senator from Kansas, perhaps, is laboring under some misapprehension in regard to the exact idea which I endeavored to bring before the Senate. I should like to know, in the first place, what he means by saying that a span of three hundred and twenty feet cannot be sustained with piers. The Steubenville bridge is a pier bridge, not a suspension bridge, and that has a span of three hundred and twenty feet. Many other bridges that have a span of three hundred and twenty feet are pier bridges simply. There is no difficulty in combining the suspension and the truss. I happen to have here the plan of the bridge at St. Louis, which is now being constructed, which is a pier bridge with three piers in the river, and each span is five hundred and eighteen feet in length.

Mr. POMEROY. A suspension bridge?

Mr. MORTON. It is a combination of the two, and it turns out not to be more costly than the ordinary truss bridge with a span of three hundred feet.

Mr. POMEROY. I said by combining the two it could be done.

Mr. MORTON. There is no difficulty in the combination. Mr. President, it is true that you cannot build bridges across the Ohio and Mississippi rivers at every point anyhow. There must be favorable ground upon each side, or else you would have to build a bridge right on the surface of the river that would cut off the navigation at once. The ground must be favorable. I do not ask a general law to be passed in regard to the navigation of small rivers, where they employ boats of a small class, and where the tow system is not in use, but I am speaking of two great rivers, the upper Mississippi and the Ohio. It will be found that the character of the two streams is about the same, and that the character of the navigation is about the same, and that a system of bridges which is good for one is good for the other.

Now, Mr. President, I want the committee to examine this whole question. I want them to send for engineers, for persons of skill, and ascertain what can be done to protect the railroad interest and extend it, and at the same time protect the navigation of these great rivers. It is a matter of the first importance to all the northwestern States, and legislation should be brought about before this Congress adjourns. Ten bridges are authorized; the building of some of them is about to commence, and it is important that this action be taken before they commence building those bridges. The injury to the navigation of the upper Mississippi by the bridges already authorized would be incalculable, amounting, in fact, to its destruction. I ask now to have the resolution adopted and the papers referred to the committee.

The resolution was agreed to.

#### HOUSE BILLS REFERRED.

The following bills, received from the House of Representatives, were severally read by their titles, and referred to the Committee on Claims:

A bill (H. R. No. 1099) for the relief of Wait Talcott;

A bill (H. R. No. 433) for the relief of Palemon John; and

A bill (H. R. No. 1063) for the relief of Henry Barrieklow.

#### ADJOURNMENT TO MONDAY.

Mr. SUMNER. I now renew my motion, that when the Senate adjourns to-day it adjourn to meet on Monday next.

Mr. FESSENDEN. I hope not. The Senator from Iowa made a motion that Fridays be set aside for the consideration of District business, which, I suppose, is pressing. That was not agreed to; it was objected to; but it shows that there is business to be done. I really hope the Senate will not agree to this motion. I do not see the object of adjourning over Friday and Saturday. We have already had a two days' adjournment over this week.

Mr. SUMNER. I submit it to the vote of the Senate, Mr. President.

The motion was agreed to.

#### IMPEACHMENT OF PRESIDENT—PRIVILEGE.

Mr. HENDERSON. Mr. President, I rise to what I regard a question of privilege. It is one that concerns not only myself equally with every member of this body, but it concerns the Senate itself.

On Saturday last after a vote had been taken in the court of impeachment on the eleventh article, and the members of the House had retired to their own Chamber, one of the managers offered and the House adopted the following resolution:

Whereas information has come to the managers which seems to them to furnish probable cause to believe that improper or corrupt means have been used to influence the determination of the Senate upon the articles of impeachment exhibited to the Senate by the House of Representatives against the President of the United States: Therefore,

Be it resolved, That for the further and more efficient prosecution of the impeachment of the President the managers be directed and instructed to summon and examine witnesses under oath, to send for persons and papers, to employ a stenographer, and to appoint sub-committees to take testimony, the expenses thereof to be paid from the contingent fund of the House.

It was advocated by its mover, one of the managers, on the ground that base and corrupt motives had determined the judgment of the Senate; and another one of the managers being asked during a debate on Monday last in the House if he would have Senators perjure themselves, replied that "perjury would not hurt them much."

On Tuesday, the 19th instant, I received the following notice from the managers:

Fortieth Congress United States.  
House of Representatives.  
Washington, D. C., May 19, 1868.

SIR: A question has arisen in the course of our investigation wherein your testimony will tend to instruct the House of Representatives and aid its inquiry.

Will you do the committee of managers the courtesy to attend at the earliest possible moment at the Judiciary Committee-room of the House, where they are in waiting to receive you.

By direction of the managers.

Your obedient servant, B. D. WHITNEY, Clerk.

Hon. J. B. HENDERSON.

To which I replied as follows—the reply not being delivered, however, till the next morning:

WASHINGTON CITY, May, 1868.

GENTLEMEN: Yours of this date is received. You say "a question has arisen in the course of our investigations wherein your (my) testimony will tend to instruct the House of Representatives and aid its inquiry," and thereupon you request my early attendance before the managers as a witness.

This request, I take it, is intended to answer the purposes of a subpoena, and is issued under authority of a resolution adopted by the House on Saturday last in the following words, to wit:

I have already read the resolution.

A prosecution by impeachment against the President is set on foot, and now when the evidence and arguments have been fully submitted and the Senate as a court is deliberating on its judgment a second prosecution is instituted against the Senate itself.

Whatever may be the purpose of this inquisition—and I use the word in no offensive sense—it is, in my judgment, not only a direct insult to the body of which I am a member, but a proceeding of most dangerous tendency in the future. A large part of our proceedings has been conducted in secret, the managers, counsel, and reporters being excluded. If a member of the court can now, before the rendition of judgment, be withdrawn from consultation and subjected to the inquisition of the prosecutors, that inquisition may reach to all proceedings, and thus subvert the dignity and independence of the Senate. If it be to purge corruption from the Senate, the Senate is the proper body to guard and protect its own honor.

Personally, I have no objection to appearing and testifying before you to all matters within my knowledge on the subject of impeachment. And were I to refuse, I know a new shower of calumny, base and grievous enough already, would certainly be poured upon me. But in my judgment this proceeding rises above personal considerations. It concerns public justice and affects the character, honor, and dignity of the Senate.

I am engaged to appear before another committee of your body to-day, and on the meeting of the Senate to-morrow I shall submit this question for its consideration and be governed accordingly.

Yours, respectfully, J. B. HENDERSON.  
To the managers of impeachment on the part of the House of Representatives.

The Senate will observe that I make no objection as an individual to appearing and testifying on any and all matters within my knowledge on this subject of impeachment. If in the midst of the unreasonable and unreasoning excitement heretofore prevailing, but now happily subsiding, I should avail myself of any personal right or privilege to decline or refuse an examination, I am well aware that my refusal would be accepted by many as conclusive evidence of the truth of all imputations contained in every irrelevant or impertinent question that ingenuity could devise. As I have stated in the letter read, the falsehood and calumny heaped upon a few of us in the progress of this proceeding have surely been sufficient to pain our friends and to gratify our worst enemies. For us personally it would be better that the conduct of all Senators from the origin of this proceeding down to its consummation should be subjected to the most thorough examination—even the most inquisitive scrutiny.

So far as I am concerned, it is proper for me in this connection to say that I have already been subjected to this scrutiny. On Monday last a resolution was adopted by the House of Representatives in the following words, to wit:

Whereas the following letter has been written and addressed by seven members of this House to one of the Senators of the United States:

WASHINGTON, May 12, 1868.

SIR: On a consultation of the Republican members of the House of Representatives from Missouri, in view of your position on the impeachment articles, we ask you to withhold your vote on any article upon which you cannot vote affirmatively. This request is made because we believe the safety of the loyal people of the United States demands the immediate removal of Andrew Johnson from the office of President of the United States.

Respectfully,  
GEORGE W. ANDERSON,  
WILLIAM A. PILE,  
C. A. NEWCOMB,  
JOSEPH W. McCLURG,  
BENJAMIN F. LOAN,  
JOHN F. BENJAMIN,  
JOSEPH J. GRAVELLY.

Hon. JOHN B. HENDERSON, United States Senate.

and whereas it is alleged that a combination of the Representatives aforesaid has been entered into to improperly influence the Senator aforesaid in his judgment and decision in the impeachment now pending and undetermined in the Senate: Therefore,

Resolved, That a select committee of five be appointed to investigate all the circumstances connected with the writing of said letter, whether the same was written to corrupt or improperly influence the judgment and decision of said Senator, and to report what action the House ought to take with reference thereto, and that said committee be authorized to send for persons and papers, that they be authorized to sit during the sessions of the House, and that the committee be instructed to report without unnecessary delay and at any time.

According to notice given I appeared on yesterday before the committee appointed under this resolution, and after stating all the facts connected with the subject-matter of inquiry embraced in its terms, interrogatories were propounded and answered touching conversations and consultations between other Senators and myself on the subject of impeachment. I frankly answered also all questions propounded



in reference to the conduct of Chief Justice Chase, the reported organization of a new party, the rumors of new Cabinet appointments, reported presidential pledges of protection to what is foolishly termed Conservative Senators, dinner-table talk with friends, and even my own private opinions.

I disclosed all that I knew on these subjects, and it is, perhaps, enough to say that my knowledge of the facts referred to scarcely extends beyond the every-day rumors of the public press. And I remember now nothing more than I have already stated before one committee. That committee was a lawful committee, appointed for a lawful purpose—the investigation of the conduct of its own members by the House. It is true its duties were confined to that one purpose. Its jurisdiction extended no further. I fully knew my rights when before it, but lest my motives might be misunderstood or impugned I answered fully every question asked, and only entered my protest when the examination had been closed.

I refer to this thing to show that I cannot be actuated by any personal considerations in calling the attention of the Senate to this other extraordinary proceeding. If I were called before the managers I could only repeat what I have already stated, and what I am willing to state anywhere, and what I shall often repeat before those who, at least in my opinion, try with even-handed justice not only Presidents, but Senators and Congressmen.

I object to the present proceeding, first, because it originates under a resolution which in its language is a direct insult to the Senate as a body—an insult which it must now meet and resent or tamely submit in the future to that just contempt and ignominy which must follow from a base surrender of its dignity and its privileges; second, because it assumes control over the conduct of members of the Senate and takes from its custody and jurisdiction, which, in my judgment, is exclusive, an examination into the private character and integrity of its members; and third, it takes from the consultation room, before the conclusion of the trial, a judge and a juror and subjects him to a secret inquisition, not before a committee appointed under the rules of parliamentary law, but before the prosecutors, to testify, perhaps, to what may have transpired in secret session of the Senate and even to what he may have thought and done. If this right be granted the member may be imprisoned for contempt and removed beyond the jurisdiction of the court, thereby depriving him of his right further to consult with his colleagues or to cast his vote on the final decision.

I therefore submit this matter to the Senate, confidently believing the time has come when it should vindicate its own honor and independence as a body as well as the manhood and self-respect of its members. Whatever may be your decision I shall respect it. If the minority of the Senate is to be left thus defenseless we shall submit still further. But if not only our private consultations, but our most secret thoughts are to be scrutinized and dragged before the public under the tortures of an inquisition based on temporary frenzy, harsh and cruel as that which in past days sought the blood of the heretic and dissenter, I shall not murmur. But remember this humiliation once permitted may hereafter visit yourselves. "Whatsoever ye would that men should do to you, do ye even so to them, for this is the law and the prophets." We have differed with the majority in this great proceeding. Against the purity of their motives not one of us is yet so base as to breathe insinuation. We love not the President nor his policy, but we hope we love the country. In our judgment the defeat of this proceeding on the articles, as presented, will yet redound to the honor and glory of that country. If we are mistaken, it is, at least, we trust, an honest delusion, and we cherish it with all the ardor of truthful devotion.

And now, Mr. President, it is my duty to say that since these remarks were prepared a

paper from the managers has been placed in my hands, which the Clerk will read, and I will leave this matter entirely with the Senate.

The Chief Clerk read as follows:

WASHINGTON, D. C., May 20, 1868.

SIR: The managers have the honor to acknowledge your communication of 19th instant in answer to their request, which was not intended to serve the purpose of a subpoena, but as a courteous intimation to you that you could aid them in the investigation with which they have been charged.

If it had occurred to them to speculate upon the topic they would have supposed you might do them the justice to believe that they would have asked no question indecorous or improper, certainly not as to anything which occurred in the secret sessions of the Senate. They were not aware at the time they sent their note to you that the Senate was in session for "deliberation on its judgment" or otherwise, and they also believed that if they so far transgressed the limits of propriety as to make any inquiry which you deemed improper you would certainly have the efficient remedy of declining to answer.

Accepting the theory of your note, that you are a judge, they do not perceive on that account any objection to your answering as to matters pertinent in a further prosecution of the respondent on trial before the Senate for other and different offenses, because it is well known among lawyers that in both civil and criminal trials the presiding judge may be, and, when occasion requires, is, sworn as a witness in the very case then pending.

Jurors, in like manner, are called from their seats and sworn during the trial; and either, during the adjournment of the court, might legally and properly be called before a grand jury to give evidence on which to find an indictment against the prisoner at the bar for other and different offenses.

They bring these considerations to your notice in order that, seeing the theory upon which they have acted, you will acquit them of any discourtesy either personal to yourself or to the honorable Senate. Without indicating any opinion upon the question whether a Senator is liable to examination as a witness before a committee of the House, they desire to add that they did not intend to assert such claim in their communication to you of 19th instant. They had no purpose other than to avail themselves of your knowledge of facts, if agreeable to you, to give them the benefit of your knowledge, to aid them in pursuit of justice and right.

By direction of the managers.

Your obedient servant,

B. D. WHITNEY, Clerk.

Hon. J. B. HENDERSON.

MR. CHANDLER. I move that the Senate do now adjourn.

MR. POMEROY. I ask the Senator to withdraw that motion for a moment to enable me to make a single remark.

MR. CHANDLER. If the Senator will renew it, I will do so.

MR. POMEROY. I will yield the floor to the Senator from Michigan after I have made my remarks, and he can renew it if he desires to do so.

MR. CHANDLER. Very well; I withdraw it.

MR. POMEROY. I desire to say, in a single word, that I received the same kind of invitation from the managers that has been received by the Senator from Missouri. I obeyed it; I gave my testimony; and I did not know that I had been insulted, or that the Senate had been.

MR. SUMNER. I desire to add that though I have not received a formal notice, nor have I been before the managers, I was told by one of the managers that they would expect me to testify to certain matters they understood were within my knowledge. I confess that I had no sensibility on the question. I did not feel that the character of the Senate or my own character was involved because the managers proposed to examine me in order to ferret out corruption.

I also was aware of the rules of the Senate. I have them in my hand, and here is one relating to impeachments:

"If a Senator is called as a witness he shall be sworn and give his testimony standing in his place."

Therefore, by the rules of the Senate, a Senator may be called as a witness.

MR. JOHNSON and MR. HENDERSON. That is in the court.

MR. SUMNER. Very well; I do not follow out the rule. The question raised by the Senator from Missouri is whether, being allowable to be called as a witness in the case, the managers are shut out from those powers—not to say prerogatives—which belong to them with regard to other persons who may be witnesses. I believe that it is usual for them in advance

to confer with the witnesses or to examine them in order to ascertain whether it may be desirable to present them as witnesses. In the case which is before us, knowing as we do from public report that it is among the possibilities that a further article of impeachment may be exhibited against the President, it does seem to me a work of superfluity at least, which I cannot comprehend, that any Senator should seek to throw in its way the dignity of the Senate or any claims of its own. Sir, let justice have a free course and take its way. The way of justice cannot be stopped. Technicalities are out of place; they do not belong to a case like this, especially when the managers, through their resolution, have declared to the House the nature of the offense which they seek to ferret out.

MR. HOWE. Mr. President, I do not feel my sensibilities as a Senator at all wounded by the invitation which is sent to the Senator from Missouri. But a suggestion fell from the Senator from Kentucky [MR. DAVIS] some time since, and a resolution was submitted upon it, which interests me. I conceive that the managers of the House of Representatives may invite any Senator before them for the purpose of getting information, or call on him, or a committee of the House perhaps might subpoena him as a witness, and yet not touch the honor of the Senate. The Senator from Kentucky has made a suggestion of a different kind. He has offered a resolution by which he proposes to ascertain the truth or the falsity of such a statement, and that resolution I should be glad to see the Senate take up and adopt, and give him the committee and enable him to give us and the country and the world, if the world care to listen, the facts; and so I ask the Senate to proceed to the consideration of the resolution offered by the Senator from Kentucky, now lying on the table.

THE PRESIDENT *pro tempore*. It is moved that the Senate now proceed to the consideration of the resolution mentioned by the Senator from Wisconsin.

The motion was agreed to.

MR. EDMUNDS. Let the resolution be read.

The Chief Clerk read as follows:

Whereas there is reason to believe that some persons have been, and are, engaged in violating the rights and privileges of the Senate by the use of threats, intimidation, and other unlawful and improper means toward its members to constrain them in their consideration, action, and judgment in the matter of the articles of impeachment against the President of the United States, now pending before the Senate as a court of impeachment; Therefore, Be it resolved, That a committee of three, to be chosen by the Senate, do proceed to inquire into the facts of such imputed threats, intimidation, and other unlawful and improper means aforesaid, and the names of the persons, if any, using, or that have used, them; and that said committee have power to send for persons and papers, to take evidence, employ a stenographer, and report the facts to the Senate.

MR. FESSENDEN. I suggest to the honorable Senator from Kentucky whether it would not be better to strike out the words "to be chosen by the Senate," and to substitute the words "to be appointed by the Chair," in the ordinary way.

MR. DAVIS. I have no objection to that modification of the resolution, and will so modify it.

MR. SUMNER. I hope the resolution will pass; and I hope the committee appointed by the Chair—it is three, I believe—will be three Senators.

MR. JOHNSON. That is for the Chair to decide.

MR. SUMNER. I beg the Senator's pardon.

MR. JOHNSON. That is for the Chair to decide.

MR. SUMNER. The Senator will excuse me. I am expressing an opinion in advance. I hope that they may be three Senators who are already on the record as having voted "not guilty" for the President of the United States.

MR. FESSENDEN. The Chair receives its instructions now, and I suppose will obey them!

Mr. SUMNER. I hope the Chair will.

Mr. HARLAN. I shall not vote against the resolution; but, so far as my knowledge extends, the recitation that precedes the resolution is not true. There may be reason to believe this; but I know of no such reason. I know of no fact that justifies such an allegation. I do remember, it is true, that the attorneys for the President threatened Senators, as I thought, with the fate of the accusers of Daniel, if they should vote against the President; but I supposed that that was a mere flourish of rhetoric. I did not believe that they intended really to have us thrown into a lion's den or afflicted in any such severe manner if on our consciences we should vote differently from their judgment of what was required by the law and the testimony. There may have been such loose remarks as these dropped by gentlemen outside of this prosecution and outside of the Senate Chamber; but that anybody has seriously attempted to intimidate a Senator I do not believe. I cannot believe it from any facts that have come to my knowledge. Therefore I hope that the language used in the preamble of the resolution will be modified.

Mr. DRAKE. I take it for granted that the honorable Senator from Kentucky does not expect the Senate to adopt this resolution with the preamble affirming that there is good reason to believe this thing, unless he first states to us the grounds upon which he desires the Senate to affirm that fact. It may be that the honorable Senator from Kentucky knows matters which, when he comes to state them to the Senate, may induce the Senate to adopt the resolution with the preamble as it is. Of course it is the privilege of the Senator from Kentucky to sustain his resolution and to state his knowledge to the Senate, and then we shall be able to judge whether we ought to adopt the resolution with that preamble.

Mr. DAVIS. I have no objection to a change of the phraseology of the preamble or of the resolution itself, or that it should have no preamble. However, on the suggestion of gentlemen, I will ask leave to modify the preamble so as to read, "Whereas it is represented that," instead of "Whereas there is reason to believe that." I suppose that will be satisfactory.

Mr. HARLAN. That would be satisfactory to me.

The PRESIDENT *pro tempore*. The preamble to the resolution will be so modified.

Mr. DAVIS. I will say a single word in relation to that resolution. It is a mere resolution of inquiry; and if it should turn out upon investigation that there is no foundation whatever for it I shall certainly be very much gratified. I trust there is none. In offering the resolution it was not expected by me that I should be a member of the committee. I do not desire to be a member of that committee. I do not think that I ought to be, having presented the resolution; and I trust that the President of the Senate will appoint some other gentleman who could more fitly serve upon the committee and with more ability than myself. I trust that the Chair will receive the suggestion that I now make in the earnest spirit in which it is made, and will not think of appointing me a member of that committee.

Mr. FERRY. Mr. President, I regret the introduction of this resolution at this time. I regret the adoption by the House of Representatives of the resolution which was read by the Senator from Missouri. I cannot but feel that the preamble to that resolution is in derogation of the privileges of the Senate, because that preamble sets forth distinctly that there is probable cause to believe that evil or corrupt influences have been employed to affect the action of the Senate in its judgment upon articles of impeachment preferred before it; and it is my opinion that if the managers of the impeachment had any facts warranting an allegation of that kind in the preamble of a resolution of inquiry they should have been submitted to the Senate, and the Senate called upon to preserve its own purity and dignity.

Mr. EDMUNDS. Will my friend from Connecticut permit me to ask him a question?

Mr. FERRY. Certainly.

Mr. EDMUNDS. Suppose the fact the managers had ascertained to have been that some official of the Government, a person subject to impeachment, had approached Senators with offers of bribes which the Senators refused to receive, would it not have been proper for the House of Representatives to make an inquiry with a view to the punishment of these persons?

Mr. FERRY. Then I think it would have been proper for the House of Representatives to pass a resolution of inquiry setting forth the fact that an officer of the Government had attempted to commit an impeachable offense. But this resolution is a declaration that the Senate has been controlled by corrupt motives and corrupt influences.

Several SENATORS. No! no!

Mr. SUMNER. Not at all.

Mr. FERRY. I ask for the reading of the preamble to the resolution which was read by the Senator from Missouri. Let us see what the preamble is.

Mr. HENDERSON. I gave the letter to the reporter. The reporter has it.

Mr. FERRY. The preamble to that resolution states that there is probable cause to believe that corrupt influences have operated upon the Senate. ["No!" "No!"]

Mr. HENDERSON. Influenced the judgment of the Senate.

Mr. EDMUNDS. "Have been used to influence." That is the language, I think.

Mr. CONKLING. The words are, "have been employed to influence the determination of the Senate"—that they have been employed, not that they have been effectuated.

Mr. SUMNER. "Used" is the word.

Mr. FERRY. Well, sir, it seems to me to be a distinction without a difference. I do think, and have thought from the beginning, that if probable cause for such a charge as that existed it should have been brought to the knowledge of the Senate, and the Senate left to act upon it; and I must say that I, as a Senator, had I been requested, with the utmost courtesy, to appear before the managers of the impeachment upon a resolution based on such a preamble as that, should have felt it my duty as a Senator not to comply with the request. Now, sir, we have before us, in the midst of the trial of an impeachment, before the final vote has been taken upon the great mass of the articles of impeachment, an inquiry as to influences or intimidations or menaces which it is represented have been employed to influence the votes of Senators.

Mr. HOWE. Will the Senator allow me to ask him a question?

Mr. FERRY. Certainly.

Mr. HOWE. Does the Senator know of any constitutional method by which the Senate can direct the action of the House of Representatives or prevent them from attending to any branch of business they see fit?

Mr. FERRY. None whatever; but I do know that the House cannot constitutionally trench upon the privileges of the Senate; and I do regard the resolution referred to by the Senator from Missouri, under the preamble of that resolution, as trenching upon the privileges of the Senate. Other Senators differ from me. Such is my view of the character of that resolution.

Now, sir, the court of impeachment has adjourned until Tuesday next. We all expect and hope that on that day the final determination of that cause will be made by this body; and after such final determination, it seems to me, the appropriate time will come, if ever, for such an investigation as is proposed by the resolution before us. But, sir, ought we, upon the resolution before us as it now stands, and at this time, or at any time, indeed, to appoint such a committee? It is represented that certain means have been used? By whom? Are we, every time that a partisan newspaper casts imputation upon the action of the Senate, to

appoint a committee of investigation to inquire into the truth of such imputations? All that there is before us now is an averment in the preamble to this resolution of inquiry that "it is represented" that certain things have taken place.

But, sir, my main objection is to proceeding with resolutions of this kind at all until the trial has been brought to an end so far as the articles of impeachment which are now pending before us are concerned. Let us finish that trial, record our judgment, and then if Senators have brought to their knowledge any substantial facts upon which a resolution of inquiry ought to be based, let us preserve the purity and dignity of the Senate by an appropriate investigation; but I dislike exceedingly the interpolation of inquiries of this kind in the midst of the trial, and when we are only awaiting the day to pronounce our final judgment.

With these views, in order, at any rate, that my vote may be recorded in accordance with my views on this subject, I move that the further consideration of the resolution be postponed to this day week.

Mr. EDMUNDS. Mr. President, the great question, if there is any great question about this matter, is, what does the resolution adopted by the House of Representatives, or said to have been adopted there, (because we have no official information on the subject, the House has not communicated to us any such information and we have not asked any,) mean? When it was introduced into this body three or four days ago I exhausted the small amount of parliamentary ingenuity that I possessed to exclude it from consideration here, because it appeared to me to be a new thing in the line of courtesy, as well as legislation, for us to be reviewing any resolution that the House of Representatives had adopted in respect to the government of its own affairs and the instruction of its own committees, at least until we should have sent to that body and invited them to send us a copy of it, if we thought, unofficially, that it infringed our privileges. But I was not successful; and, therefore, by the order of the Senate, acting through the Chair, the resolution was spread upon our records; and now that we have it here the question is, what does it mean?

My friend from Connecticut [Mr. FERRY] supposes it to mean a reflection upon Senators, and as having for its object some proceeding against Senators. If my friend is right about that, I should agree with him entirely in the conclusions to which he comes. If, on the other hand, it means only that the House of Representatives have reason to believe that the very person who is being tried has been using means to influence (not successfully, necessarily, by any means) the determination of the Senate, then I say that it is a perfectly proper subject for the House of Representatives to inquire into in this very impeachment; and if they discover that the President of the United States, or any agent of his, has even approached a Senator improperly, to file another article and try the question before the Senate again, whether that is within the constitutional prerogatives of the President of the United States. I take it, no Senator will disagree with me, if that is the fair meaning of the investigation that the House of Representatives set on foot. Now let us see whether it is or not. Here it is:

Whereas information has come to the managers which seems to them to furnish probable cause to believe that improper or corrupt means have been used to influence the determination of the Senate upon the articles of impeachment exhibited to the Senate by the House of Representatives against the President of the United States: Therefore,

Be it resolved, That for the further and more efficient prosecution of the impeachment of the President the managers be directed and instructed to summon and examine witnesses under oath, to send for persons and papers, to employ a stenographer, and to appoint sub-committees to take testimony, the expenses thereof to be paid from the contingent fund of the House.

Now, can any true, intelligent men, taking that resolution all together, differ fairly as to

what its scope and purport are? It begins, as I have said, by a simple recital that there is some reason to believe that—

Mr. DRAKE. That it "seems to them."

Mr. EDMUNDS. Yes; but I put it in the strongest light, that improper or corrupt means have been made use of—"used," in the language of the resolution—to produce an influence. The House of Representatives, in the preamble taken alone, do not undertake to hint that these means have produced an influence; but is any Senator so ignorant of law or of history or of common sense as not to know that the use of means frequently happens without producing the result desired? If so, we must have all lived in vain, because there is not one of us, I take it, who has not in the course of his lifetime—I was about to say every day—made attempts and efforts to accomplish something that utterly and totally failed; and of course we can make no attempt unless we employ means, as my friend from New York [Mr. CONKLING] very properly suggests.

And if that were open to doubt by any refinement of criticism the body of the resolution explains itself. It says on account of this information the managers are authorized, for the further prosecution of the impeachment against the President, to send for these witnesses and ascertain these facts; and my friend from Massachusetts [Mr. SUMNER] says that it was explained in debate; but no matter for that. I am not accustomed to look to debates much to ascertain what the meaning of resolutions and bills is. It does not need any explanation. It explains itself upon the face of it. All that preamble is, like every other preamble, the mere inducement to that which the House order and direct, and from that inducement they think it wise to instruct the managers to make further inquiry. Against whom? Against the President of the United States, the person against whom this impeachment is now depending, and to summon witnesses and examine them for the purpose of prosecuting an impeachment that is now pending.

How is any Senator, I should be glad to know, to torture that into an attack upon the privileges of the Senate, to torture that into bringing into accusation any Senator? Is it within the privileges of a Senator to be so absolutely wrapped up in the majesty of this body as to be incapable of telling the truth? Is there any constitutional privilege that belongs to this body that should seal the mouths of its members, if they know any truth which relates to the impeachment? I do not know of any. Possibly, as this trial develops, we may discover some; but I think not.

Where, then, is this great difficulty? The House of Representatives have said, it seems, to their own committee that there is some reason to suspect that improper and corrupt influences have been resorted to, in order to produce a result that has not yet been produced, and therefore, looking to the party from whom they suspect these improper and corrupt influences have emanated, they instruct their agents to inquire as to his further prosecution, and to summon witnesses to attend before them for that purpose. Has my friend from Missouri any privilege to refuse an invitation of that kind? Is there anything, as I said before, in the constitution of this body which should seal his mouth, if he had been one of the objects of that influence? Of course I know he would spurn it.

I beg him and I beg Senators not to suppose that I have the remotest suspicion that he has been tainted or soiled in the slightest degree. But if any agent of the President has come to him and offered him improper or corrupt reasons for voting one way or another, have not the House of Representatives the right to know that as well as us? The Constitution has committed to them the power to originate impeachments and to us to try them; and if any agent of the President has not done this thing, is there any harm in my friend from Missouri saying so? And his word would settle the question.

Wherefore, then, is it, Mr. President, that we have this large degree of sensitiveness and unhappiness that seems to be produced among us at this simple fact that, for the further prosecution of a case that the Constitution and laws permit them to prosecute, the House of Representatives have thought fit to authorize their agents to send for witnesses, persons, and papers, and those agents, in the discharge of that duty, have thought it right and reasonable to address a respectful application to Senators to come and state before them if they know anything about it; and that is the whole of the story. I do not regard that as an insult to this body. I do not regard it as any reflection upon this body. Of course as to what its prospects are, what its foundation is, I have no knowledge, information, or belief. I reserve all that. But as to the simple proposition that the House of Representatives have thought fit in their own way to make further inquiry into the conduct of the President of the United States, I think they have a perfect right to do it as a matter of taste as well as a matter of constitutional law.

Mr. BUCKALEW. Mr. President, the only propriety of this resolution presented by the Senator from Kentucky lies in the fact that the House of Representatives has adopted the other resolution, and that its managers are proceeding under it to call members of the Senate before them, and, besides that, also to investigate directly the conduct of particular members of this body. The Senator from Vermont may expend the whole of his ingenuity upon the face of the resolution adopted by the House, and may, as an adroit and astute lawyer, as we know he is, endeavor to convince us, against the plain facts of the case, that the House are in no way and in no sense intending to touch upon the Senate or upon any of its members. But, sir, he will lose his labor. The facts are plainly against him from the beginning of this very singular transaction of the House of Representatives down to the present moment, and the facts which have transpired to the public as well as to the members of the Senate give them as well as us complete information on this point.

Now, sir, the adoption of the resolution of the Senator from Kentucky will announce to the House of Representatives and to the public that the Senate itself will investigate and examine matters relating to the conduct of its members or to the attempt to apply influence to them. It is an enunciation that, in view of what has been done by the House and by the managers of the House, the Senate proposes to take this matter in charge and look into it; and if there be any occasion for any investigation whatever the proper tribunal shall undertake it, under those assurances of propriety and those guarantees of power which ought to surround and accompany any investigation of this kind, in which character is involved, in which the administration of public justice is involved, in which the position and dignity of one of the two branches of Congress is involved.

It is only with reference to considerations of this kind that I bring my mind to the point of voting for the resolution of the Senator from Kentucky. If these matters out of which proceedings have arisen rested merely in newspaper correspondence, in the loose and thoughtless and reckless assertions of men who write what we do, and sometimes what we do not do, I should be very much averse to adopting a resolution to dignify out-door, vague, uncertain, unauthentic, uncorroborated reports by leveling against them a resolution of this body. But, sir, the associate branch of Congress itself has moved; it has declared in the face of this nation that its managers have information which constitutes probable cause for believing that corrupt influences have been used—not purposed, not intended merely; but used to influence the decision of the Senate upon the trial of impeachment. Therefore, say the House, the managers are authorized, in secret, by their whole number and by sub-committees

down to one of their number, in private, employing the whole power of the House, to call anybody before them and to explore this question of the use of corrupt means upon members of the Senate. The object also is announced; and what is that? That the managers may further and successfully prosecute the impeachment. What impeachment? The one pending before the Senate and about to be decided by it—not some future impeachment hereafter brought. There is no reference to that in the resolution, although there is a reference to it here in debate in order to get away, I suppose, from the pinch of the argument.

Mr. EDMUNDS. If my friend will excuse me, I made no reference to any future impeachment. An impeachment is one thing; and if my friend is acquainted with parliamentary proceedings, as he is, he knows it is perfectly competent for an impeaching body to file additional articles at any time before the impeachment is disposed of.

Mr. BUCKALEW. An impeachment may be single or double. I am not going into nice discriminations of that sort, because if I get upon points of technicality I shall be sure to be worsted by my friend from Vermont.

Mr. EDMUNDS. You will, if you are not right, clearly.

Mr. BUCKALEW. Now, then, Mr. President, this resolution thus adopted by the House, and bearing the character which I have assigned it, is the foundation of the proceedings now going on. The public papers announce to us that the managers have called witness after witness and asked them all the questions that could possibly be asked in the investigation of a criminal before them for trial, and applied it all to a member of this body. They have inquired about what he has done; where he has been; who have called upon him; who have conversed with him; entire conversations in which he was one party and the witness another. They have asked directly all those questions which point to a corrupt use of money. Ay, and I understand they have gone into the banks of Washington to ascertain how the accounts of witnesses stand there, all leveled and directed to the one purpose. Why? The whole country understands it, and we understand it, and it is idle to get away from it upon any technical suggestions such as those which have been submitted to us by the Senator from Vermont.

Mr. President, I think after the adjournment of the court of impeachment, it would have been a wise thing for the two Houses of Congress to adjourn also; because it was inevitable that if they remained in session this subject of impeachment would intrude itself into both Houses constantly, and that nothing else could be done; no general or public business could be transacted. I am very sorry indeed that the two Houses did not adjourn, and that all these matters, which are only, after all, productive of scandal and mischief in the country, could not have been avoided; that we should have heard nothing of impeachment in the legislative session of the Senate until the final judgment was pronounced.

The only practical point that I desired to be heard upon or that I intended to speak upon this morning, was this, after hearing the statement of the Senator from Missouri, that the Senate, in view of what has taken place, should adopt a resolution which should give directions to its own members and should express its own opinion upon this proceeding by the managers of the House. Whether the resolution of the Senator from Kentucky be adopted or not, I think we ought to adopt a resolution directed to that end. We ought to say, and to declare now once for all, whether the members of the Senate are to be taken before the managers or a committee of the House, and examined with reference to anything which concerns the impeachment; whether the Senate considers that its privileges extend to the entire immunity of its own members pending this trial. If we do not do that, we cannot foresee what will take place hereafter. It seems that two members



of the Senate at least have already been examined by the managers of the House on some matters relating to impeachment:

Mr. POMEROY. Only one.

Mr. HENDERSON. I was examined by another committee, and not before the managers.

Mr. EDMUNDS. That was a personal question between the Senator from Missouri and his colleagues from that State.

Mr. HENDERSON. I was examined upon everything that I could imagine.

Mr. EDMUNDS. I am speaking of what the committee were authorized to do. Of course I do not know what happened when my friend and his colleagues were together.

Mr. BUCKALEW. Now, if this resolution be adopted this morning it will not necessarily follow that this committee will make any report before the impeachment is over. It would, perhaps, be improper that they should throw in a report on these matters to disturb us before we take our final vote upon the articles of impeachment; but I see no objection to forming the committee now and enabling them to go on, so that they shall be able to report to us at an early date after the final vote is taken.

Mr. President, if this resolution be adopted, or whether it is adopted or not, I shall offer a resolution based upon the statement made this morning by the Senator from Missouri.

Mr. HOWE. Mr. President, the resolution before the Senate is not the one sent here from the House of Representatives. The resolution which is pending is the one offered by the Senator from Kentucky. That is the one that will pass, if any passes just now. The one under debate seems to be the one sent here some days ago from the House of Representatives. I have been interested in the course of the debate because I had resolved in my own mind, if the Senate should adopt the resolution offered by the Senator from Kentucky, that I would then ask the Senate to consider and adopt, or refuse compliance with, the request made by the House of Representatives. First, I wished to have the Senate pass upon the resolution offered by the Senator from Kentucky, because I thought that resolution more intimately concerned us all. That contained a direct suggestion that improper influences or means were being employed to intimidate the Senate in its action upon a grave question not yet disposed of by the Senate. It comes from a single Senator, but he is a Senator, and therefore I thought it concerned us to know the facts, to know the truth about it.

The Senator from Connecticut [Mr. FERRY] suggests that this is too early to consider it; it had better be postponed; the trial is yet undisposed of; the final judgment is not pronounced; and, therefore, we had better not take up this inquiry. Sir, I know of no time so fit to meet an assault upon my character as the time when it is made; and if it be believed by anybody that efforts are being made to intimidate the Senate it is a suggestion which reflects upon my character and upon the character of my friend from Connecticut, and upon all of us. I do not understand that the inquiry asked for here is directed against any individual of the Senate; but it is an inquiry to determine whether such means are being employed or not. So I want to know how the fact is in reference to that as much as the Senator from Kentucky or anybody else; and, animated by that desire, I hope the Senate will agree to this resolution; and then I hope that the Senate will either consent to answer the request made by the House of Representatives the other day or refuse to grant that request. That request comes to us from a coordinate branch of the Congress of the United States. It is couched in respectful terms. It does not tell us what disposition it proposes to make of the evidence it seeks. It simply asks to be furnished with a certified copy of two days' proceedings of the tribunal sitting for the trial of the impeachment of the President; and the Senate must meet that request, either comply with it or refuse it.

To stimulate the Senate to a refusal a newspaper is brought in here and a debate and certain proceedings had in that House are read, from which I gather that the House of Representatives have made some suggestions similar to those made by the Senator from Kentucky, and they want light equally with the Senator from Kentucky; and I know of nothing in the Constitution of the United States which forbids the House of Representatives from seeking light in any way that any other body or agent or officer of the Government may seek it. They are seeking light, and because they have professed in a resolution their want of light, that profession is construed into an attack upon the whole Senate. They do not say that they have information which involves the character of any Senator. But I think it is almost too late in the experience of the Government for the Senate to hold itself responsible for the character or the conduct of any individual; and if the House had therefore directed its purposed inquiry against any individual of the Senate, if it had been myself, I should be the last man to want the Senate to stand forward for my protection. If I cannot defend my own character, I know the Senate cannot do it.

But it is suggested that we ought to monopolize this privilege of investigating the characters of our own members. Mr. President, I do not like monopolies anyway, and I am less ambitious of that particular monopoly than any I ever heard. If anybody in God's universe knows anything more of our conduct than I do myself, I wish them joy of it; and if they can make any profitable use of it, I hope they will. I know of nothing just now touching the conduct of individuals of the Senate or of the Senate itself of which I could make any use that I suppose would be particularly advantageous to the country. I want this resolution adopted, and I want the Senate then to acquiesce in the request made by the House of Representatives.

Mr. ROSS. Mr. President, I do not know that it is now in order to offer an amendment to the resolution pending; but if so, I wish to offer one.

The PRESIDENT *pro tempore*. It is in order to amend the resolution.

Mr. ROSS. Then I move to amend it by adding:

And that the board of managers on the part of the House be requested to furnish to said committee a transcript of all testimony that has been or may be taken by them in the case of the impeachment of the President.

I hope the amendment will be adopted, and that the resolution will pass.

Mr. EDMUNDS. That request should be addressed to the House of Representatives, I take it.

The PRESIDENT *pro tempore*. The proposition of the Senator from Kansas is not germane to the resolution. Such a request would have to go to the House of Representatives. The original proposition is a Senate resolution. I do not think they can be joined together. They are independent.

Mr. JOHNSON. I suppose the honorable member from Kansas offers this as an amendment to the resolution proposed by the Senator from Kentucky.

The PRESIDENT *pro tempore*. Is it offered as a substitute?

Mr. ROSS. It is designed as an amendment to the resolution offered by the Senator from Kentucky, as an addition to it.

Mr. JOHNSON. So I supposed.

The PRESIDENT *pro tempore*. In the opinion of the Chair the proposition of the Senator from Kansas may be substituted for the original resolution, if that should be the desire of the Senate; but it is not germane as an amendment.

Mr. JOHNSON. I ask for the reading of the resolution.

The PRESIDENT *pro tempore*. The original resolution will be read, and also the amendment.

The CHIEF CLERK. The original resolution reads as follows:

Whereas it is represented that some persons have

been and are engaged in violating the rights and privileges of the Senate by the use of threats, intimidation, and other unlawful and improper means toward its members to constrain them in their consideration, action, and judgment in the matter of the articles of impeachment against the President of the United States now pending before the Senate as a court of impeachment: Therefore,

Be it resolved, That a committee of three, to be appointed by the Chair, do proceed to inquire into the facts of such imputed threats, intimidation, and other unlawful means aforesaid, and the names of the persons, if any, using, or that have used, them; and that said committee have power to send for persons and papers, to take evidence, employ a stenographer, and report the facts to the Senate.

It is proposed to add to the resolution the following:

And that the board of managers on the part of the House be requested to furnish to said committee a transcript of all the testimony that has been or may be taken by them in the case of the impeachment of the President.

Mr. MORRILL, of Maine. Mr. President—

Mr. EDMUNDS. Before the Senator proceeds let us ascertain whether that amendment is considered in order or not. I do not know what the ruling of the Chair was.

The PRESIDENT *pro tempore*. In the opinion of the Chair the amendment might be in order if modified so as to provide that the committee be authorized to request the House, &c.

Mr. ROSS. I will make that modification. The PRESIDENT *pro tempore*. Does the Senator so modify his amendment?

Mr. ROSS. Yes, sir.

The PRESIDENT *pro tempore*. Then, in the opinion of the Chair, it will be in order. The question is on the amendment.

Mr. DRAKE. I submit the question whether a committee of the Senate can address a request to the House of Representatives; whether it ought not to come from the Senate?

Mr. SUMNER. Of course it must.

Mr. JOHNSON. They can request it.

Mr. FESSENDEN. All the committee will have to do will be to communicate that resolution, if passed, to the managers, and they will understand it.

Mr. SUMNER. I should like to have the amendment read again.

The PRESIDENT *pro tempore*. It will be read as modified.

The Chief Clerk read as follows:

And that said committee be authorized to request the board of managers on the part of the House to furnish said committee a transcript of all the testimony that has been or may be taken by them in the case of the impeachment of the President.

Mr. HENDERSON. I suggest that the words "board of" be omitted, so as to say "the managers" simply.

Mr. ROSS. I accept that modification.

Mr. MORRILL, of Maine. Mr. President, as I understand this matter, I am opposed to the resolution and to any proceedings upon the subject, or the cognate subject, at the present time. In the first place, it occurs to me that the grounds for this resolution, as I have heard them stated, are too slight to challenge the action of the Senate. As the resolution now stands it says, "it has been represented"—and the Senator from Kentucky rises here and says it has been represented—that certain things have been done or attempted to be done. Represented by whom? Who has represented that certain persons have attempted to do certain things we are not informed. The honorable Senator from Kentucky does not inform us who represents these things, whether they are parties inside or outside, parties of responsibility or of no responsibility. Sir, it is new to me that it can properly be the foundation of proceedings in the Senate of the United States that somebody, somewhere, may have said certain things, and it is consequently the duty of the Senate of the United States to rush into an inquiry as to the truth of these representations.

As the resolution stands it is a simple recital that it has been represented that certain things have been done or attempted. That is all there is of it. What are the grounds of the belief of the Senator from Kentucky? If the Senator from Kentucky will say that he has exam-

ined this question and has reason to believe, and does believe, that certain persons have been engaged as is supposed in this resolution, that will present another question altogether. If my honorable friend will rise in his place and say that he has given this subject consideration; that he has heard representations of this character from persons of high respectability and standing, and believes, or has reason to believe, in their truth, then I think he will have gone far enough to lay the foundation for an examination. But I object altogether to the adoption of a resolution which has no other foundation than a representation, which representation has no local habitation; or, in other words, cannot be traced to any responsible source. It seems to me that it does not become the character or the dignity of the Senate to start off on an examination into charges resting upon that foundation. I speak of the resolution as it stands, as the Senator from Kentucky chooses to leave it. For that reason I am opposed to the adoption of the resolution at the present time.

It is hardly worth while, perhaps, to notice what is said to have been accomplished or attempted to be accomplished by other parties. But the resolution then proceeds to say that "some persons"—what persons? Who? Where? Inside or outside of the Senate Chamber? In the city or elsewhere? "Some persons have been, and are," at the present time, "engaged"—in what?—"engaged in violating the rights and privileges of the Senate by the use of threats," &c. Of course, that would be an offense. If that were so, and if the Senator from Kentucky has reasonable grounds to believe that it is so of his own knowledge, or it has come to his knowledge so that as matter of belief he thinks that state of things exists, then I agree it is a proper matter for inquiry; but as at present advised, it seems to me, it would be very likely to turn out, after all, that these representations could be traced to no reliable source whatever, and it would end in a fruitless investigation.

Mr. HOWE. Will my friend allow me to ask him a question?

Mr. MORRILL, of Maine. Certainly.

Mr. HOWE. I wish to ask, if it should turn out just as he suggests, which I am very much inclined to think will be the case, which I earnestly hope will be the case, and believe will be the case, what then?

Mr. MORRILL, of Maine. Then the Senate would have been engaged in what turned out to be a fruitless inquiry, and upon representations which had no foundation, and which, as I said, ought not to put us upon the inquiry.

Now, Mr. President, what I am saying is connected with some other things that have been said here, about which I wish to make a remark or two. I deprecate altogether the personal sensitiveness which has been exhibited here this morning by my very esteemed friend who sits near me, [Mr. HENDERSON.] He makes use of language here which I do not think particularly well guarded in his explanation this morning. He says that there has been in the country a great deal of unreasoning and unreasonable criticism of the Senate of the United States. I do not use his precise phraseology, but that was the idea. That may be so; it is not unlikely that it is so; but is that a question of privilege? Are we to rise here in our places, one after another, until the whole fifty-four Senators have paid their personal respects to this unreasonable and unreasoning sentiment supposed to obtain in the country?

The Senator from Missouri seems to think that he above all others has been the peculiar object of this assault and attack. I do not so understand it. I do not understand that that is the case at all. Does he not know that he has been lauded and commended for his course throughout the country in certain quarters? Does he not know of that vindication of his opinions, his sentiments, and his position? Does he not know, also, that other Senators who took different views of this subject have been subjected to as fierce denunciation as he,

or those with whom he stands? Does he think it is at all peculiar to him and the dissenting Senators here to be assailed? And by "dissenting" I mean simply those who differ with the majority. If the majority of this court are supposed to stand in the same relation that the majority in any other court do, then we are supposed to give the opinion, or should have been, if it had not failed, while the minority would have been the dissenting Senators.

No, sir; the fiercest and bitterest denunciations have fallen, not alone, to say the least of it, upon the minority, but upon the majority, who have been denounced here from the beginning to the end of the session in language (to use the term which has been applied to what has been said outside) unreasoning and unreasonable.

That is the way we stand, all of us here, standing on our opinions, on our convictions, on our consciences, and on the opinions that we choose to send to the country. We must abide by them; and that is the only remedy we have. Investigations by committees will not help us; and in my judgment they are uncalled for so far as I have seen, so far as I have had any evidence. We had better be self-possessed and composed and attend to the duties of the session and allow these criticisms upon us, unless it should turn out as the honorable Senator from Kentucky seems to have intimated, although from his entire reticence on the subject I very shrewdly suspect he has not a great deal of evidence on the subject. If he will say that he has good grounds to believe, and does believe that there are evil disposed persons who are using efforts to intimidate Senators, then certainly I am perfectly free to vote for the resolution; but otherwise, for the reasons I have stated in a general way, I should be disinclined to do it.

Mr. DAVIS. I was very much struck by a suggestion of the Senator from Connecticut, [Mr. FERRY,] that the imputations *pro* and *con* in relation to this matter against Senators were a proper subject for the investigation of the Senate, and that the fittest time to make that investigation would be when the trial of the articles of impeachment was over. I was struck with the good sense and the propriety of that suggestion. For myself I never would have thought of violating that course of procedure if it had not been for the manner in which the Senate has been presented by the extraordinary course of the House of Representatives.

Now, in response to the honorable Senator from Maine, I will make simply this suggestion: I believe that the intimidations referred to in the preamble have been attempted; I believe they are still continued; and I believe they can be established by an investigation by the committee proposed to be raised.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas.

Mr. SUMNER. Mr. President, I think I shall follow out practically the suggestion of the Senator from Kentucky and also of the Senator from Connecticut, if after this discussion, at this stage, I move an adjournment. I therefore move that the Senate adjourn.

Mr. JOHNSON. Will the honorable member withdraw his motion for a moment?

Mr. SUMNER. If the Senator desires it.

Mr. JOHNSON. I only desire to say a few words.

Mr. SUMNER. Very well.

Mr. JOHNSON. Mr. President, the honorable member from Wisconsin, by a remark which fell from him, although I take it for granted he did not intend it, could be construed as intimating that the honorable member from Missouri was exceedingly unwilling to be examined by the House of Representatives or any of its committees. He could not have heard what that member said. He stated, as the Senate will recollect—

Mr. HOWE. Will the Senator allow me a word of explanation?

Mr. JOHNSON. Certainly.

Mr. HOWE. I can only say that I had not, while I was speaking, the honorable Senator from Missouri in my mind one single moment as far as I remember. I did not make use of a word that had any reference to him—that I intended to have any reference to him. I was speaking in reference to the two resolutions, the one offered by the Senator from Kentucky and the resolution of the House of Representatives.

Mr. JOHNSON. I said, knowing the honorable member so well, that I was sure he had no such intention; but what he did say was calculated, if not explained, to make the impression upon the country that the member from Missouri was apprehensive of some unfavorable result to him, and that he wished to place between himself and those who were seeking to examine him the defense of the Senate. He told us, and of course we know it to be true, that although the committee before whom he appeared yesterday had no authority whatever by the resolution under which they were organized to make such inquiries as they did make of him relative to the impeachment, he answered them all, at once and frankly. He unbosomed himself, as far as he had anything to disclose in relation to the impeachment and his course in regard to it. He protested after having done so, not before, against the power of the committee to conduct him through such an examination. It is not, therefore, from any fear on his part that the public shall know, either by him or by others, what has been his conduct on this impeachment. We who know him in this Chamber know—and I hope he will pardon me for saying it as he is present—that he is incapable of acting from any other than a fair, honest, and patriotic motive. Now, Mr. President, what he desires—and that is all that he has done—is to place himself in the hands of the Senate as regards his obligation, or the propriety of his complying with the request made by the managers of the impeachment.

The honorable member from Vermont [Mr. EDMUNDS] and the honorable member from Massachusetts [Mr. SUMNER] seem to suppose that that inquiry is not intended to assail any member of the Senate.

Mr. EDMUNDS. Which inquiry are you alluding to?

Mr. JOHNSON. By the managers.

Mr. EDMUNDS. I did not know which you were alluding to, as you had been speaking of the other committee.

Mr. JOHNSON. If I know, Mr. President, what are the legitimate conclusions to be drawn from facts as to which there is no controversy, that is the sole purpose. Now, what are the facts? On Saturday, somewhere, I believe, between the hours of three and four, a vote was taken in the court of impeachment upon the last of the series of articles, and it was rejected by a constitutional majority.

Mr. EDMUNDS. A constitutional minority!

Mr. JOHNSON. A constitutional vote, which is a constitutional majority. The moment it was done a proposition was made by my friend from Oregon [Mr. WILLIAMS] to postpone the further consideration of the case as it stood until the 26th of the month, and that motion prevailed. The managers and the House retired, and as soon as they reassembled in their own Chamber the resolution was offered which is now the subject of debate. What did it mean? What was the reason for offering it? It meant to say that the judgment of the Senate, from some cause or other, upon the eleventh article, had been brought about by corrupt or improper influences.

Mr. EDMUNDS. Exercised by whom?

Mr. JOHNSON. Exercised by somebody, no matter by whom. The honorable member seems to suppose that all they meant or all they may have meant was that it was by the President of the United States. Why did not they say so?

Mr. EDMUNDS. They did in the resolution.

Mr. JOHNSON. They have not said any such thing, begging my friend's pardon. They have said nothing like it.

Mr. FOWLER. Nothing like it.

Mr. JOHNSON. No; nothing at all like it. What they do say—if they mean what their words imply—is that the judgment which the Senate had then pronounced on the eleventh article had been brought about by corrupt influences.

Mr. EDMUNDS. Do they not point out by whom they think that had been brought about, if that is the meaning of it?

Mr. JOHNSON. No. By whom? Not by officers, not by the President, but leaving it in the general; or no matter by whom, whether President or officers, what they meant to say was, and what they have said is, that the judgment was brought about by the corruption of some Senator. Now, the honorable member supposes that because the resolution proceeds to state that an investigation ought to be conducted with a view to the more efficient prosecution of the impeachment, all that they meant was that they wished to see whether they could obtain at the hands of the House and present to the Senate an additional article. There is not a word of the kind in the resolution. It is true that the House may, at any time before final judgment, present additional articles of impeachment; but that, if the resolution is to be understood in its ordinary sense, is not the purpose. It is to make effectual the impeachment then pending; in other words, if they can prove that any of the nineteen who voted against the eleventh article, one or more, was corrupted, to insist upon their expulsion from this Chamber.

Mr. EDMUNDS. Would you not vote for it?

Mr. JOHNSON. Certainly I would; unquestionably I would; but that is not the inquiry with them. That is a business which concerns our own honor; and I never can agree that the Senate of the United States, pending a trial, should permit, if it has the power to prevent, any of its body proceeding before these managers or the House of Representatives for the purpose of assailing any members of the court. It is a matter with which the House has nothing to do. They cannot impeach a Senator. That was decided in the beginning of the Government in the case of Blount. They desire, therefore, evidently to impeach the honor of some of the individual members of this body, and they seek to accomplish their object by forcing before them, if they can do it, the members of the body itself. Why is the honorable member from Missouri summoned, or requested in the nature of a subpoena, to appear before them? He was one of the nineteen. He was one who might have been corrupted; he was one who might have been embraced within the information upon the authority of which the House passed the resolution; and they seek to bring him before them.

Mr. MORRILL, of Maine. Mr. President, if the honorable Senator will allow me, I should like to ask him upon what assumption it is, or what reasoning it is, or what facts stated, he assumes that the investigation relates to the nineteen other than the majority?

Mr. JOHNSON. For this very plain reason: I do not suppose the managers desired to prove that the majority had not voted from honest motives; it was not their vote that defeated the impeachment; it was the vote of the nineteen; and the burden of their complaint is that the impeachment was defeated.

Mr. MORRILL, of Maine. But the general charge is one of corruption. Certainly that might apply as well to one class of Senators as another.

Mr. JOHNSON. Not at all, if the honorable member will think for a moment. The charge is that the impeachment had been a failure because of the corruption of the members. My friend and those who voted with him, having voted in favor of the eleventh article, certainly never could have been contemplated by that resolution.

Now, Mr. President, there is another thing. What do they want with the certified or authenticated copy of our proceedings for the two last days of the court? Evidently to get au-

thentic evidence of the vote, and for nothing else. They knew what the vote in fact was, but they desired to have such testimony before them as could be the foundation of some proceedings against any Senator whom they might be able to involve through the instrumentality of perjured or other testimony.

Mr. EDMUNDS. Will my friend permit me to call his attention to what I believe is contained in the letter read by my friend from Missouri from the managers themselves to him, in which (although I have not got it before me) I understood them to state that they wanted his evidence with a view to the further prosecution of the impeachment against the President?

Mr. JOHNSON. Yes.

Mr. EDMUNDS. Would not that fairly imply the exhibition of an additional article accusing him of an attempt to bribe?

Mr. JOHNSON. Not at all, necessarily; but that they do not say in the resolution. I am speaking now of the resolution. What effect the letter of the honorable member from Missouri may have had upon the managers it is not for me to inquire. When the House passed the resolution, what they designed was to make effectual the then articles of impeachment.

Mr. EDMUNDS. But you were attempting to make that out by extrinsic evidence derived from other circumstances.

Mr. JOHNSON. Now before us.

Mr. EDMUNDS. If you do that you should refer to the other evidence also, in which they expressly state that they have no such purpose.

Mr. DAVIS. That is an afterthought.

Mr. JOHNSON. Evidently I do not mean an afterthought on the part of the member from Vermont, but an afterthought on the part of others. My friend, the member from Kansas, [Mr. Ross,] offered an amendment to the resolution proposed by the member from Kentucky, [Mr. DAVIS.] I hope it will be adopted. If it is, and we get the evidence taken before the managers, we shall then see what were the questions that they propounded to his colleague from Kansas.

Mr. POMEROY. I can give that myself.

Mr. JOHNSON. I have no doubt you would give it. I suspect that there was nothing in that evidence touching the President. I suspect there was nothing in that evidence implicating any officer of the Government. I suspect, although I am sure the honorable member would be the last to involve his colleague, that they sought, through the instrumentality of his evidence, to involve that colleague. And now what appears in the public press? for we have a right to refer to it. What examination have they been conducting? One of them, it is said, has been spending hours and hours in one of the banks of this city for the purpose of ascertaining the accounts of some of the depositors. What for? It is answered by the character of the examination which they are said to have made upon the authority of that first examination. To prove that money was used. Used how? Used to what end? Used to corrupt somebody. Who? Some one or more of the nineteen. The telegraph offices (judging from the same public rumor) have been searched and all the dispatches sent from this city for three or four days preceding Saturday taken possession of. If my friend from Vermont or any member of the Senate sent any dispatches during that period, which is highly probable, they are now in the possession of the managers. What for? To assail us or some of us; to make good the imputation that the impeachment has failed by means of corrupt and improper influences.

The honorable member from Massachusetts tells us that he is ready to go before the managers and tell all that he knows. What does he know? Anything that does not bear upon some Senator? They want it for that purpose. They suppose he has some information which will affect some individual members of the body; and he is willing to go and tell all that he does know. We have no right to restrain

him. I invoke him to go, and then we shall have his testimony; and when it shall be made public, it will appear that he is examined with regard to certain individual Senators.

Mr. President, I am the oldest member of the body I believe, if not in point of service, in point of age. Its honor is as dear to me as the Government itself. I seek, as I have always sought, to vindicate it; and never while I have a voice to protest against it will I consent to place that honor in the keeping of the other branch, and particularly at this time, in relation to this impeachment. We are able to defend ourselves, to purge from our midst any member who may be corrupt. We may pardon prejudice, dark and destructive of the intellect, prejudice which can see no innocence and nothing but guilt, or prejudice that can see no guilt and nothing but innocence. That may be; but I trust in God, as I believe that there is not in the body on either side a man who can be corrupted, and that the intimation that such is the fact contained in the resolution to which I have referred, is, whether designed or not, a clear and palpable insult to the body.

Mr. HOWE. Mr. President, I have just a word to say, not particularly in reply to the Senator from Maryland; but I wish to say a word in the hope of bringing the Senate to some action.

Mr. POMEROY and others. Let us vote.

Mr. HOWE. That is what I want to get, a vote. I think it is very evident, as the Senator from Maryland says, that somebody has been whispering to the House of Representatives that improper means were used by which there were nineteen who voted against impeachment the other day; and it is very evident that somebody has been suggesting to the Senator from Kentucky that some means have been used, and are being used, to prevent more than nineteen from voting in the same way. My deliberate conviction is, Mr. President, that we cannot hush any of those whisperings by good speeches. I do not believe we can put an end to any of these rumors or allegations, silence them in any way, by stopping investigation. I do not believe the honor of the Senate, or the honor of any man in the Senate, is to be helped a particle by standing in the way of the freest and fullest investigation that either House has an appetite for. One of these committees is asked for in the Senate. I want to see it granted. It is said another committee is at work in the House. I do not know about that, except I know the House has sent here for some testimony. I wish the Senate would give the Senator from Kentucky the committee that he asks for; and then I wish the Senate would give the House the evidence it asks for; and I reserve my speech on the question of guilt or innocence, if ever I make one, until that time when I have the evidence before me.

Mr. YATES. Mr. President, I do not see any reason to change the views which I took of this question the other day. This debate has arisen upon remarks made by the honorable Senator from Missouri on his request to be permitted to make a personal explanation, a privileged question. I understood the Senator to say that he considered the request made of him in the nature of an insult from the House of Representatives to the Senate.

Mr. HENDERSON. No; the resolution adopted by the House.

Mr. YATES. Then I misunderstood the Senator. I should not have risen, however, but for the purpose of replying to a suggestion of the honorable Senator from Maryland, who expressed the hope that the Senate would adopt some resolution by which Senators should not be permitted to go before the managers to be examined as to what they might know upon this subject of attempted bribery or corruption. I take a different view of it entirely. I think that the Senator from Missouri is over sensitive in this matter. I think that he, above all others, should be willing to give the benefit of any knowledge which he may have upon this subject to the managers. This is a great trial; the parties are high; the accused stands high;



the interests involved are great; the time at which the issue is made is important. It is proper that the trial should be conducted upon fair principles. There should be no attempt to smother investigation from any quarter.

The knowledge of the Senator from Missouri may, in the estimation of the managers, be of exceeding great importance, not that they would suspect that gentleman of being capable of yielding to a bribe. His integrity is unquestioned at home and here. His character is entirely too high for suspicion. No man can for a moment suppose that he has ever soiled his hands with money to influence his vote. But at the same time the knowledge which he may have may, in the estimation of the managers, be of the highest importance in the decision of this case. For instance, he may have been approached. It is not intimated that he has yielded to seduction in this respect. I think that communication to him was most courteous; it was circumspectly so on the part of the managers, respecting his feelings, respecting his position. But, sir, it may turn out that offers were made to him, for it seems that in these days of political corruption even the highest may be approached for political ends and purposes.

Now, sir, shall we establish a rule that a Senator who may possess important information which is to decide this case is not to impart that information to the managers or to the House of Representatives who are prosecuting the impeachment? As I stated the other day, the House of Representatives are proper parties to this proceeding. They are the prosecutors. It is not only their privilege and right, but it is their duty, if they have information, as they say they have in their resolution, which justifies them in believing that money has been corruptly used to bribe Senators to cast their votes contrary to what they might otherwise have done, to investigate the facts. Are we to surround the Senate with a Chinese wall and say that Senators shall not communicate for the benefit of the public any knowledge which they may possess? I think, sir, notwithstanding the high character of the Senator from Maryland, this Senate could not commit an act which would so degrade it, which would commit it to imperishable infamy as to pass a resolution saying that a Senator who might possess information important to the decision of this case should be relieved from communicating that information.

Mr. FOWLER. I should like to ask the Senator from Illinois a question, with his permission.

Mr. YATES. Certainly.

Mr. FOWLER. It is whether the managers of the House of Representatives believe that the Senator from Missouri possesses such knowledge as he now describes?

Mr. YATES. Of course, I cannot answer.

Mr. FOWLER. And whether that is the object of the House of Representatives?

Mr. YATES. I will state, in reply to the Senator from Tennessee, that I suppose they think so; they say they do. They so state in their communication to the Senator from Missouri. They say to him that they believe his testimony is very important; that he is in possession of information which is important to the proper decision of this case.

I might object to the resolution which is offered by the Senator from Kentucky upon same ground that the Senators object to the resolution which was passed by the House of Representatives. It was objected by the Senator from Pennsylvania, I believe, the other day, and perhaps this morning, that that resolution reflected upon the Senate in the fact that it charged that corrupt means had been used to influence Senators. So I might say in reply, that the resolution of the Senator from Kentucky is a reflection upon the House of Representatives. It says that the House of Representatives, through its managers, by intimidation and threats, is attempting to influence the decision of the Senate in this impeachment trial. Could anything be more insulting

than that? Could anything cast a more serious reflection upon a deliberative body than is cast by this resolution, declaring that the House of Representatives, through its managers, by intimidation and threats, is attempting to influence the decision of the Senate in this case?

Mr. BUCKALEW. The Senator will allow me to interrupt him for a moment. He will see by referring to the resolution that it does not mention the House at all. I understand him to speak on the face of the resolution. The House is not named in the resolution of the Senator from Kentucky.

Mr. YATES. I understand that; but the managers are the representatives of the House in the case, and are supposed to speak the will of the House in this matter. Now, all that I have to say in summing up this whole matter is that nobody should refuse investigation. These charges have been made; they are made all over the country; the air is full of them; the newspapers are full of them; and already opinions have been formed. Reports prejudicial to the character of certain Senators have already gone abroad. Now, as an act of justice to those Senators, that they may exculpate themselves, that this may stand fair before their country, their friends, instead of opposing this investigation, should court it, demand it, insist upon it, by the appointment of committees of investigation, and by resorting to every mode and measure which would induce a proper consideration of the whole subject. I should consider that it was for me, for my vindication, that this investigation should be prosecuted. Is it not a serious charge? Does not the resolution of the House of Representatives say that there is reason to believe that corrupt means have been used? Is not the distinguished Senator from Missouri informed that his testimony is important in this regard? I know not what he may say; I only know, as I repeat again, that he is innocent, so far as the use of money is concerned, at all events, and innocent of any other improper or corrupt motive, I believe. But, sir, his testimony may be of the utmost importance; and it may be of importance, although he may not know now what is the point which they wish to prove by him. It may be one of a series of facts that they wish to establish by his testimony, a circumstance which of itself is immaterial, but which, when connected with other evidence, may be of the utmost importance.

It is not, sir, that the President may be convicted, it is not that any Senator may be found guilty of these charges, that I demand investigation; but it is that they may be exculpated; that the highest officer known to our laws, the Chief Magistrate of the nation, may exculpate himself, may vindicate himself before the American people.

It is for that reason that I want investigation, that I demand investigation; and it is in behalf of the Senate of the United States to vindicate its purity, to sustain its dignity, to show that it is above corruption, and that in a matter involving such gigantic interests, and in this tremendous hour of the Republic, we shall show that in this sacred Hall corruption has never entered, and that no Senator has been tainted by a bribe to give a dishonest vote.

These are the motives which influence me, and while I do think that the resolution of the Senator from Kentucky reflects upon the House of Representatives, or at all events upon its Representatives, the managers, yet I think investigation so important, so necessary, so demanded by the circumstances of the case and by the expectations of the country, that it ought not to be refused, and I trust will not be refused, by any Senator.

Mr. CONKLING. Mr. President, I move that the Senate do now adjourn.

Mr. HARLAN. I will ask the Senator if he will withdraw that for a moment. I think there ought to be an executive session of two or three minutes at least for the purpose of referring some papers. If the Senator from New York will withdraw his proposition, I will make that motion.

Mr. CONKLING. I will withdraw my motion for that purpose.

Mr. HARLAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

SATURDAY, May 23, 1868.

The House met at twelve o'clock m.

By unanimous consent, the reading of the Journal of Wednesday last was dispensed with.

On motion of Mr. WINDOM, the House adjourned.

## MEMORIAL.

The following memorial was presented under the rule, and referred to the appropriate committee:

By Mr. SCHENCK: A memorial of Alexander C. Blount and 9 others, citizens of Florida and attorneys practicing before the United States district court, praying for the passage of a bill now pending before the Committee on the Judiciary.

## IN SENATE.

MONDAY, May 25, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. MORTON, and by unanimous consent, the reading of the Journal of Thursday last was dispensed with.

## EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, communicating an estimate of appropriations required to carry out the stipulations of the third article of the treaty of November 15, 1861, with the Pottawatomie Indians, as modified by the treaty of March 29, 1866; which was referred to the Committee on Indian Affairs, and ordered to be printed.

## PETITIONS AND MEMORIALS.

Mr. MORTON. I present a petition signed by some seventy-nine steamboat captains and pilots on the Ohio river and living at Pittsburgh, in which they represent that the railroad bridge over the Ohio river at Steubenville is an obstruction to navigation, and protest against the construction of any more bridges having a settled span less than five hundred feet in width.

I also present a memorial signed by nearly two hundred of the principal merchants and manufacturers of Pittsburgh to the same effect, in which they state that the result of the Steubenville bridge has been a great obstruction to navigation, and that in order to preserve the navigation of the Ohio river no more bridges should be allowed to be built with a span of less than five hundred feet over the current. I move the reference of these petitions to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. COLE presented resolutions of the Legislature of California, in favor of aid to Captain Thomas Truesworthy in improving the navigation of the Colorado river; which were referred to the Committee on Commerce.

He also presented a resolution of the Legislature of California, in favor of an appropriation of \$100,000 for the survey of the public lands in California; which was referred to the Committee on Appropriations.

He also presented the memorial of the Legislature of California, in favor of the payment of damages for property destroyed by the Indians in the counties of Humboldt, Klamath, Del Norte, and Trinity, in that State, in the years 1861, 1862, and 1863; which was referred to the Committee on Indian Affairs.

He also presented resolutions of the Legislature of California, denouncing the arrest of American citizens in Great Britain, and pledging the people of that State to the support of

measures for their protection; which were referred to the Committee on Foreign Relations.

He also presented resolutions of the Legislature of California, in favor of the establishment of a weekly mail route from Stockton to Millerton, and the establishment of post offices at Tuolumne City, Welch's Store, and Apple's, in that State; which were referred to the Committee on Post Offices and Post Roads.

He also presented a resolution of the Legislature of California, in favor of a reduction of the tax on brandy made from native wine or grapes, to the end that the production of the grape may be encouraged; which was referred to the Committee on Finance.

He also presented resolutions of the Legislature of California, in favor of granting aid to the Southern Pacific railroad; which were referred to the Committee on the Pacific Railroad.

He also presented a resolution of the Legislature of California, praying the passage of an act to authorize that State to invest the proceeds of the sale of agricultural college lands in productive real estate; which was referred to the Committee on Public Lands.

Mr. HARLAN presented a joint resolution of the Legislature of Iowa, in favor of the passage of a law by Congress making postmasters special agents for the sale of revenue stamps; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

He also presented two memorials of honorably discharged officers of the Army, citizens of Iowa, remonstrating against the passage of the bill prohibiting the commutation for pay of officers' servants; which were referred to the Committee on Military Affairs and the Militia.

Mr. SHERMAN. I present the proceedings of the Cincinnati Board of Underwriters in regard to the Cincinnati and Newport bridge, and also the opinion of Western river pilots in regard to bridging the Ohio river. They represent that the construction of a bridge of less than five hundred feet span over the lower part of the Ohio river would be detrimental to the interests of commerce. I move that these petitions take the course of the petitions already presented by the Senator from Indiana on this subject.

The PRESIDENT *pro tempore*. They will be referred to the Committee on Post Offices and Post Roads.

Mr. WILSON presented the petition of Thomas C. Moody, of South Carolina; the petition of James M. Martin, of South Carolina; and the petition of James M. Calhoun, of Atlanta, Georgia, praying the removal of the political disabilities imposed on them by acts of Congress; which were referred to the Committee on the Judiciary.

He also presented the petition of Ellen Simms, of Baltimore, Maryland, praying to be allowed the bounty due her nephew, York Williams, late of company D, thirty-eighth regiment United States colored troops; which was referred to the Committee on Claims.

He also presented a petition of citizens of Massachusetts, praying that Indians who took part in the late rebellion, whose annuities have been restored to them, may be compelled to pay out of future grants of money debts due by them to loyal citizens of the United States; which was referred to the Committee on Indian Affairs.

Mr. MORGAN presented the petition of F. A. Merrill and others, of New York, praying that an American register be granted to the American built bark Carlotta; which was referred to the Committee on Commerce.

Mr. TRUMBULL presented the petition of A. Sidney Robertson, of Louisiana, praying to be relieved from civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. SUMNER. I present a memorial from the American Geographical and Statistical Society, in which they set forth that having closely

studied the existing authentic sources of information, both official and private, concerning the northwestern territory recently ceded to the United States by the Russian Government, they find eminent reason to believe that the territory possesses resources of much greater value and importance than has heretofore been generally supposed, and whose rapid development by explorations in geodesy and natural history is highly necessary to the general interests of our country, of science, and of commerce. Therefore they ask Congress that the earliest possible action may be taken by the Government of the United States to secure a proper survey and examination upon the coast and within the Territory of Alaska, by officers of the United States Coast Survey and other gentlemen of competent scientific ability and experience. I hardly know to what committee I should have this memorial referred; but on consideration I conclude that it is best to move its reference to the Committee on Appropriations. I make that motion.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 431) to authorize the construction of a railroad and telegraph line from New Orleans, in the State of Louisiana, to Mobile, in the State of Alabama, and to secure to the Government the use of the same as a military and post road, and for other purposes, reported adversely thereon, and moved the indefinite postponement of the bill; which was agreed to.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 274) providing for holding a circuit court at the city of Erie, Pennsylvania, have directed me to report it back adversely, and to ask its indefinite postponement. That subject has been disposed of, and the committee would like to get it off the Calendar by taking the question on the report now.

The PRESIDENT *pro tempore*. The question is on the indefinite postponement of the bill.

The motion was agreed to.

Mr. TRUMBULL, from the same committee, to whom was referred the bill (S. No. 304) to provide for holding terms of the United States district court for the western district of Missouri at St. Joseph, in said State, reported adversely thereon.

He also, from the same committee, to whom was referred the bill (H. R. No. 361) relating to the Supreme Court of the United States, reported it with an amendment.

#### CHANGE OF MAIL SERVICE.

Mr. RAMSEY. The Committee on Post Offices and Post Roads, to whom was referred the joint resolution (S. R. No. 134) authorizing a change of mail service between Fort Abercrombie and Helena, have instructed me to report it back without amendment and recommend its passage; and, as there is nothing else particularly occupying the attention of the Senate, I should be very glad if they would proceed to the consideration of the resolution now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It proposes to authorize the Postmaster General to change the character of the mail service from Fort Abercrombie, Dakota Territory, to Helena, Montana Territory, to post-coach service.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 484) to aid the San Francisco and Humboldt Bay Railroad Company in the construction of a railroad from the city of San Francisco to the town of Humboldt Bay, in the State of California; which was read twice by its title,

referred to the Committee on Public Lands, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 485) providing for the examination of the claim of J. Marino Bonilla to the rancho "La Cuesta," in the State of California; which was read twice by its title, referred to the Committee on Private Land Claims, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 136) for the relief of Jacob P. Leese; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 486) to facilitate the settlement of certain prize cases in the southern district of Florida; which was read twice by its title, referred to the Committee on Naval Affairs, and ordered to be printed.

#### BRIDGES ON OHIO AND MISSISSIPPI RIVERS.

Mr. RAMSEY. I wish now, if it be in order, to move to reconsider a resolution that was passed at the instance of the Senator from Indiana [Mr. MORRIS] on Thursday last, proposing to recommit a certain bridge bill, proposing to construct a bridge on the Ohio, to the Committee on Post Offices and Post Roads, with instructions.

The PRESIDENT *pro tempore*. It is in order, if there be no further morning business.

Mr. RAMSEY. I make the motion with a view of calling the attention of the Senator to what I think, as a member of that committee, would be the wiser course in regard to the proposed bridges upon the Ohio river, about which there seems, from the number of petitions presented recently, to be considerable feeling in the city of Cincinnati and other towns upon the river. In the appropriation bill for rivers and harbors, approved June 27, 1866, an appropriation was made, among other things, "for examining and reporting upon the subject of constructing railroad bridges across the Mississippi river between St. Paul, in Minnesota, and St. Louis, in the State of Missouri, upon such plans of construction as will offer the least impediment to the navigation of the river."

In pursuance of this authority the engineer bureau of the War Office have since been making surveys and examinations with a view of determining the kind of bridge that the interests of navigation and the interests of the railroads proposing to cross the river would mutually allow. I would respectfully suggest to the Senator from Indiana that in the appropriation bill making appropriations for river and harbor improvements now pending a similar clause be inserted in regard to the Ohio river; and if it is the desire of the people of the Ohio valley and of the railroads who seek to cross that river that action should be deferred till such a report is made, the committee to whom this bill is recommitted need take no action until a report be had from the engineer bureau.

Mr. MORTON. I should like to inquire of the chairman of the Post Office Committee whether, under the provision of the statute to which he has referred, any survey or examination of the Ohio river is to be made, or is it confined to the upper Mississippi?

Mr. RAMSEY. It is confined to the upper Mississippi. The character of the two rivers differs very much. The Ohio river rises thirty, forty, or fifty feet at times. I think I have never known the Mississippi to rise more than ten feet at St. Paul, certainly, and I think not more than that at any point between there and St. Louis.

The motion of the Senator from Indiana, however, had reference to but one bill. There is another bill pending. House bill No. 725, proposing to bridge the Ohio river. It is entitled a supplement to an act approved July 24, 1862,

entitled "An act to establish certain post roads." It proposes, I think, a general bridge bill for all railroads across the Ohio river above the mouth of the Licking. It might be well to recommit that, also, with instructions to await such a report as the Senator may get by the plan I suggest from the War Office. I think there is even another bill, but the title of it I do not now recollect.

I can say to the Senator from Indiana that when the subject of bridging the upper Mississippi river at some half a dozen points was before the Post Office Committee the committee consulted the best engineers who had turned their attention to that subject—one of the engineers of the War Office and others—and had correspondence with a number of persons interested in the navigation of that river. The committee kept up their inquiry during several months, obtaining all the information they possibly could upon the subject. They did not rashly and inconsiderately stipulate the terms upon which the bridges were to be erected. A span of three hundred feet was all that was asked for by the interests of navigation then. The board of commerce and other persons, who devoted themselves especially to the interest of navigation in the city of St. Louis, asked for but a span of three hundred feet; and the size of draw-bridge for which we provided is larger even than was asked for by that interest. Our action was taken considerably and upon the best information that could be obtained by the committee. I do not think it would be wise to modify what was then agreed upon, or to take any further steps in the matter until the information which has been called for from the War Office shall have been obtained. I would respectfully suggest to the Senator that he also call upon the War Office for some proper plan of constructing bridges upon the Ohio river.

The two interests are antagonistic to each other. The railroads require a bridge inexpensive and without regard probably to the preservation of the navigation of the river. Upon the other hand the river interest would almost deny a bridge at all crossing the stream. A compromise somewhere between the two antagonistic interests must be struck. Where it can be done is of course a question of science. The engineer bureau of the War Office had better be consulted so as to give us the best data on the subject. I have moved the reconsideration so as to bring the matter to the notice of the Senate again, and the Senator from Indiana, if it is agreeable to him, can propose to recommit the other bill.

Mr. MORTON. I will move to recommit the other bill. Does the Senator withdraw his motion to reconsider the recommitment of the Paducah bill?

Mr. RAMSEY. I will if the Senator wishes it.

Mr. MORTON. Before that is done I desire to lay before the Senate some additional papers that I have received since last Thursday. It was remarked by the Senator from Kansas, [Mr. POMEROY,] I believe, on that occasion, in speaking of what I had alleged as to the great width of tows of coal boats, salt boats, and iron boats, that there was no evidence that they were one hundred and fifty feet wide. I have here several affidavits from coal and salt men of Pittsburg and along the Ohio river in which this method of shipping is described. First I will present one from Mr. Willock:

PITTSBURG, May 22, 1868.

SIR: In answer to your inquiry as to what size tows we take out with the tow-boat Diamond, I would say that our tows usually are as follows:

When hitched up in three lengths, five hundred and thirty feet long and ninety-six feet wide (530×96).  
When hitched up in two lengths, four hundred feet long by one hundred and forty-four feet wide (400×144).

Or, in other words, say from one hundred and twenty to one hundred and fifty thousand bushels coal.

Yours, truly,  
JOHN S. WILLOCK,  
For Hays's Coal Company.

JOHN F. DRAW, esq.

Sworn to and subscribed before me this 22d day of May, A. D. 1868.  
[Notarial seal.] JOSEPH SNOWDEN,  
Notary Public.

I next submit the deposition of Mr. Fawcett:

PITTSBURG, May 22, 1868.

DEAR SIR: In compliance with your request, I would state that the steamer Boaz left here in January last with a tow of coal consisting of nine coal boats and two fuel boats, the space in width covered by this fleet being about one hundred and forty feet and in length, including steamboat, say four hundred and ninety feet. Total amount of coal two hundred thousand bushels.

Yours, truly,  
THOMAS FAWCETT.

JOHN F. DRAW, esq., President Coal Exchange.

Sworn and subscribed before me this 22d day of May, A. D. 1868.  
[Notarial seal.] JOSEPH SNOWDEN,  
Notary Public.

The next deposition is that of Mr. Brown:

PITTSBURG, May 22, 1868.

DEAR SIR: In answer to your inquiries as to the dimensions of coal tows shipped by me, I have to reply as follows:

Steamer Shark, fourteen barges: length of tow five hundred and eighty-five feet, width one hundred and twenty-five feet, contents one hundred and sixty thousand bushels.

Steamer Mary Alice, twelve boats: length of tow five hundred and forty feet, width one hundred and fifty feet, contents two hundred and forty thousand bushels.

These are among our largest tows, and require a favorable stage of water and wide spans to insure safety.

Also, my losses by detention occasioned by Steubenville bridge, without taking into account contact with piers, amounts to over eight thousand dollars annually.

Yours, truly,  
WILLIAM H. BROWN.

JOHN F. DRAW, President Coal Exchange.

Sworn and subscribed before me this 22d day of May, A. D. 1868.  
[Notarial seal.] JOSEPH SNOWDEN,  
Notary Public.

I wish to call the especial attention of the Senate to the contents of that deposition. In one tow they take two hundred and forty thousand bushels of coal, equal to eight thousand five hundred and seventy-two tons, or five hundred and seventy-three car loads. This coal operator states that his losses from simple detentions at the Steubenville bridge in one year, independent of collision or destruction produced by contact with the bridge, was \$8,000.

The Steubenville bridge has furnished us an experience that river men never had before. It has been shown by absolute experience at Steubenville, which is a point in the river favorable to building a bridge, perhaps as favorable a point as could be found with a view to the current, the river being straight, it has been shown by the Steubenville bridge that navigation must be seriously and dangerously obstructed by a bridge with a span of only three hundred feet. This is not mere theory, but it is the result of absolute experience. Before that time a three hundred feet span had not been tried on the Ohio, but now it has been tried, and this is the result. In this connection I desire to present some further testimony:

PITTSBURG, May 22, 1868.

SIR: In reply to your inquiries concerning the size of tows of coal taken down the Ohio river by our tow-boat, we would say that the steamer Coal Hill, on the 1st of May, 1868, took fourteen barges of coal, the length of the same being five hundred and forty feet, including the steamboat, and the width of the same being one hundred and twenty feet. Also on the 3d of May, 1867, the same steamer took eleven (11) barges, the length of which was four hundred and twenty feet and the width of the same was one hundred and sixty feet.

GEORGE LYSLE, SONS & CO.

JOHN F. DRAW, esq., President of Coal Exchange.

CITY OF PITTSBURG, ss.:

Before me, an alderman in and for said city, personally came A. Lysle, one of the firm of George Lysle, Sons & Co., who, upon oath duly administered according to law, says that the above statement is just and correct.

ADDISON LYSLE.

Sworn and subscribed before me this 22d day of May, A. D. 1868.

ANDREW HUMBERT,  
Alderman and Justice of the Peace.

PITTSBURG, May 23, 1868.

DEAR SIR: In compliance with your request we would state that the tow-boats Simpson Horner, Mary Ann, and Stella, have taken out the following tows:

March 11, 1868.—Tow-boat Simpson Horner, six (6) coal boats, four (4) barges, and one (1) French Creek, containing one hundred and seventy-two thousand eight hundred and eighty-eight (172,888) bushels. Length of tow, including steamboat, four hundred and eighty-five (485) feet; width of tow one hundred and fifty (150) feet.

April 18, 1868.—Tow-boat Mary Ann, two (2) coal boats, five (5) barges, one (1) hull, and one (1) French

Creek, containing one hundred and thirty-seven thousand nine hundred and ninety-seven (137,997) bushels. Length of tow, including steamboat, four hundred and sixty-seven (467) feet; width of tow one hundred and thirty-seven (137) feet.

May 7, 1868.—Tow-boat Stella, five (5) coal boats, two (2) barges, three (3) French Creeks, containing one hundred and fifty-one thousand nine hundred and ninety-nine (151,999) bushels. Length of tow, including steamboat, five hundred (500) feet; width of tow one hundred and twenty-five (125) feet.

Yours, &c.,  
HORNER, WOOD & CO.,  
Per Barrows.

JOHN F. DRAW, President Coal Exchange, Pittsburg, Pennsylvania.

STATE OF PENNSYLVANIA, Alleghany county:

Before me, a notary public in and for said Alleghany county and city of Pittsburg, State of Pennsylvania, personally came Richard Barrows, who, being duly sworn according to law, doth depose and say that the foregoing statements are true.

RICHARD BARROWS.

Sworn to and subscribed before me, May 25, 1868.

Witness my hand and notarial seal.

[Notarial seal.] LEONARD S. JOHNS,  
Notary Public.

I shall be glad to have the motion to reconsider prevail, and then have all the bills that appertain to bridging the Ohio river recommitment to the committee, that they may have the whole subject under consideration; and then I will offer a resolution calling on the Secretary of War to have a survey made and a report from engineers on the subject. There is a commission of that kind already in existence in regard to the upper Mississippi, and I shall ask to have it extended to the Ohio.

Mr. RAMSEY. Of course, Mr. President, we who live on the Mississippi river would be very glad if bridges could be dispensed with entirely, but that is not likely to be the case, and we cannot expect that the bridge interest shall be entirely sacrificed. When this matter was before the Post Office Committee some two years since we thought we made a very fair compromise; we got terms out of the railroad interest that we did not at first expect to succeed in obtaining when we commenced our investigation.

The legislation on the subject of bridges in charge of the Committee on Post Offices and Post Roads, as is witnessed by the act of July 25, 1866, was intended to be, and really was, highly protective of the interests of navigation. For the first time in our history the span of the main channel was required to be three hundred feet; the height of the span above high-water mark was first fixed at fifty feet; the piers were required to be parallel with the current, to guard against the mischief occasioned by the misconstruction in this respect of the piers of the Rock Island bridge. If the bridge should be a draw, as might be required in certain localities, then two open spaces of one hundred and sixty feet on either side of the pivot pier were insisted on. All of these details were the suggestions of engineers and others representing the river interest, and the spans and elevations were invariably greater than the railroad interests desired. And that the interests of navigation might be entirely secured the act of July 25, 1866, concluded in the thirteenth section as follows:

"That the right to alter or amend this act so as to prevent or remove all material obstructions to the navigation of said river by the construction of bridges is hereby expressly reserved."

So, Mr. President, the Senate may congratulate itself upon its watchful care over the interests of the great rivers of the continent.

But bridges will be erected, railroads will be constructed, and the rivalries of these interests must be harmonized; the pilots upon our rivers must be up to the march of the times, and by their alertness and skill learn to carry the crops in their charge as safely through a span of three hundred or five hundred feet, as in more primitive times, when bridges on the great rivers were unknown; they navigated then in the full face of the river. Times change and men must change with them.

I have already stated that the bridge policy contained in our legislation of July 25, 1866, was regarded as a great advantage to the navigation interest; in fact, in that legislation the



navigation interest secured much better terms than I at one time thought could be obtained. To show that I am not mistaken on this point let me read from a pamphlet, issued at that time in St. Louis on behalf of the navigating interest, embodying their views:

"The width of passage between piers embracing the channel is a matter of most serious moment. Commerce, navigation, is making giant strides; due provision should be made therefor. On the high seas, on the lakes, where billows roll and craft must have her own means of propulsion and steering; increase the size as you can or will, each must have her own rig and appurtenances.

"On the western rivers the conditions are different. Step by step, point by point, we have advanced till we have the Ajax, a tow-boat, successfully navigating fifteen barges with three hundred thousand bushels coal, equivalent to eleven thousand four hundred tons, manned by a crew of twenty-five. Still more has been accomplished. So far as wheat, corn, and other cheap bulky commodities are concerned, they can be carried as readily as coal.

"The current is mainly the motive power when loaded—a cheap one, the gift of the Almighty—the benefit of which we earnestly pray you will in no wise rend from us. Up the stream, the barges being simply strong shells, merely skimming the surface of the water when unloaded, a greater number can be towed if offered.

"Below are given dimensions of barges now built and owned at St. Louis and above, remarking that with us this mode is yet in its infancy, and we trust will by you be carefully nurtured, not willfully or unnecessarily crushed in the bud:

*Part Northwestern Packet Company's Barges at Dubuque.*

Duke, length 155 feet; beam 26; depth 7; 20,000 bushels capacity.

Duchess, length, 155 feet; beam 26; depth 7; 20,000 bushels capacity.

*Part Mississippi Valley Transportation Company's Barges.*

	Length.	Beam.	Depth.
No. 13.....	177 5-10 feet;	31 3-10 feet;	5 2-10 feet.
No. 14.....	177 4-10 feet;	31 4-10 feet;	5 5-10 feet.
No. 17.....	175 feet;	30 feet;	5 3-4 feet.
No. 19.....	175 feet;	30 5-10 feet;	5 3-4 feet.
No. 20.....	174 5-10 feet;	30 2-10 feet;	5 1-3 feet.

"These may be towed and controlled by a powerful tow-boat in lines three or four abreast and four or five deep, the tow-boat always in the rear, steering accomplished by putting the fleet back till in such position that the current carries all in the required direction. The line of a fleet of barges five tier deep will be eight hundred and seventy-nine feet, exclusive of spar room; a fleet of four tier deep, seven hundred and five feet. During a side wind three hundred feet water-passage between piers is a confined space wherein to handle such a fleet with safety, it being impossible to keep the line of barges perfectly straight with the current; yet, as under fair contingencies a fleet can there be handled with ordinary safety, the navigation interest are willing three hundred feet be the limit. As bridges can and have repeatedly been constructed with three hundred feet water-passage, we claim that portion of the public right be imperatively insisted on.

Mr. Griffin, who spoke on behalf of this great interest, then told the committee this:

"The three hundred feet span and fifty feet altitude should be enforced, that steamers, particularly those having large fleets of barges in tow, have sufficient space to navigate at all hours; in darkness, storms, and bad weather, when they can navigate ordinary portions of the river. They should be located where the channel and current in approach and through is in a direct line with the piers at all seasons of the year; fifty feet altitude gives the pilot sight at an acute angle whereby he can correctly calculate how best he can obviate the difficulties he must encounter in expert steering in close places."

Mr. MORTON. What is the date of that pamphlet?

Mr. RAMSEY. It bears no date, but it was issued in 1866.

Mr. POMEROY. The remarks I made the other day in reference to the examination that was had before the Committee on Post Offices and Post Roads related to an investigation with regard to the upper Mississippi and not in regard to the Ohio. I do not know that the committee have ever been in the possession of any very definite information as to what the span should be on the Ohio, nor in regard to the width of the boats that were towed. We had particular reference to the character of the service as performed on the upper Mississippi, not on the Ohio. The Senator from Indiana may be entirely correct so far as relates to the boats on the Ohio, and I presume he is.

Mr. MORTON. Mr. President, I do not wish the railroad interest to be sacrificed or seriously damaged. By the system that I am asking for, in regard to the bridging of the

Ohio river, the railroads and the navigation of that river can exist in harmony and each can be protected. But I make this proposition, and I think it cannot be successfully met, that if it is shown that by an increased cost—it may be of one half, or even if it should be as much again—the rivers can be bridged by bridges with a span of five hundred feet, which will not interfere with navigation, railroad companies should be required to build bridges of that character. Even if it costs as much again, or three times as much, the increased cost of a bridge that will not interfere with navigation is a mere bagatelle when compared with protecting the navigation of such a river as that. If the navigation is obstructed it is a continuing obstruction, a continual loss to the whole country. The increased cost of a bridge with a span of five hundred feet is a mere drop in the bucket when compared with the continuing damage done to the country by obstructing the navigation. I insist that it has been shown that a bridge of five hundred feet span can be built as readily as one of three hundred feet. In the advance of engineering science it has been done. It has been done repeatedly, and it can be done again.

Mr. POMEROY. Where they combine the suspension with the truss?

Mr. MORTON. Yes, sir. At St. Louis, from which I believe the pamphlet read by the chairman of the committee emanates, they were willing three years ago to have a bridge with a span of three hundred feet when they were discussing the bridge question, but they have since determined by absolute experience that they will have none with a span of less than five hundred feet.

Mr. RAMSEY. They are required by law to have a bridge with five hundred feet span. Two years ago we passed a bill requiring them to construct a bridge of that span.

Mr. MORTON. That, I believe, was upon a showing that a bridge with a span of less than five hundred feet would be an obstruction to the navigation of the river. Therefore, the bridge at St. Louis has three spans, one of five hundred and eighteen feet and two of four hundred and ninety-seven feet.

Mr. POMEROY. A suspension bridge?

Mr. MORTON. A combination of the suspension and truss, and I believe it will turn out that a bridge built in that way will be at very little increased expense over one built in the ordinary way. Thus the navigation is protected, the railroad interest is protected, and all the great interests in the country flourish together.

I move now to recommit to the Committee on Post Offices and Post Roads all the bills before the Senate on the subject of bridging the Ohio river.

Mr. DAVIS. Mr. President, my State is interested in the navigation of the Ohio river to the extent of eight or nine hundred miles of its shore, and consequently it has a very deep interest in the subject of bridging that river. I have been asked by a friend of mine, a member of the other House, to look to the interests of this bridge constructing over the Ohio river. I have listened with much attention to the remarks and the documentary evidence produced by the honorable Senator from Indiana in support of his views, and he expresses the very views that I have always entertained in relation to bridging the Ohio river; and I return my thanks to him for the facts he has presented, and the energy and ability with which he has maintained them on the present occasion. In my judgment, the question does not admit of any serious doubt. No bridge ought ever to be permitted to be erected over the Ohio river with a span of less than five hundred feet; and the same is true of the Mississippi river. I admit that this matter of bridging streams is a question to be decided by the size and navigable capacities of the river. In relation to these streams those facts and capacities are well known. When the Steubenville bridge bill was before the Senate I then voted in favor of the proposition of

a five hundred feet span, if I recollect aright. But, sir, the relative superior importance of the river navigation of such streams as the Mississippi and the Ohio was well stated, and not overstated, on a former day when this subject was up, by the Senator from Indiana. He said that it was a fact according to his information, though he had not verified it, and therefore could not vouch for its truth, that the amount of freight upon the Ohio river was greater than the aggregate amount of freight on all the railroads of the United States.

Mr. RAMSEY. That cannot be possible.

Mr. DAVIS. Whether it is possible or not, there is a very great preponderance in favor of the river trade. When the bounty of Nature has given to this great country such channels of international commerce and communication as these streams, and their navigation is sought to be impeded or interrupted seriously by the erection of bridges, and it is perfectly demonstrable and undeniable that the erection of bridges of the span of three hundred feet will produce serious impediment and obstruction to the transportation on the Ohio river, it seems to me that it ought not to admit a moment's doubt to proscribe such bridges and to require a greater amount of span. Why, sir, if the people who are interested in the navigation of the Ohio river had the question propounded to them would they give up that stream if it was possible, or all the railroads that could be constructed across it, they would not hesitate to accept the latter proposition.

Mr. RAMSEY. Is not that the river that Randolph said was frozen up one half the year and dried up the other half? [Laughter.]

Mr. DAVIS. That was one of John Randolph's sarcasms. He would like to have had a few more such, at any rate. No, sir; it is a great stream. It washes one of the most fertile sections of the United States. There is a vast amount of agricultural products and of the products of manufactures, and of growing manufactures immediately contiguous to it, all of which find their transportation to market upon its beautiful bosom. When there is a proposition to obstruct seriously that stream by a bridge with such a span as three hundred feet it ought not to be entertained for a moment; and I am rather surprised at the pertinacity with which gentlemen will continue to make propositions to erect numerous bridges of so short a span as three hundred feet. I believe, as the honorable Senator from Indiana said on Thursday, there are numerous bridges chartered and in contemplation of construction over this stream to the number, he said, of twelve, that are yet to be undertaken.

Mr. RAMSEY. Where?

Mr. DAVIS. On the Ohio river.

Mr. RAMSEY. Oh, no; ten on the Mississippi.

Mr. DAVIS. I do not know; I take the facts of the honorable Senator from Indiana; but, ten or one, I am against any bridge that has a less span than five hundred feet. Whether it is one or fifty, I should be equally opposed to such a restrictive span as that. I have no doubt from the facts and documents which the honorable Senator from Indiana read and stated, that by a combination of the two principles of a trusswork bridge and the wire or suspension bridge and by an inconsiderable addition to the cost of each bridge, a bridge of five hundred feet span could be erected at every needful point across that river.

I therefore hope that this subject will be re-committed to the Committee on Post Offices and Post Roads, and I should like the honorable Senator from Indiana to introduce a positive proposition instructing that committee peremptorily to report not only that all future bridges should be constructed with a span of five hundred feet, but that those bridges now in existence and operation should be taken down and the span extended to five hundred feet. Gentlemen need not expect to construct bridges across that stream with that narrow span which will not be resisted perseveringly now and in the future, and the resistance will

accumulate until it prevails over narrow-span bridges and requires that they shall be extended; and that principle had better now be adopted, as the honorable Senator from Indiana said, before so many of these bridges are undertaken. It is easier and less expensive to build bridges upon that principle than to have them demolished after they are built and larger bridges upon the plan and of the extent now proposed erected. I think, sir, it is a plain question in which the whole country bordering and contiguous to those two great streams, the Mississippi, the Father of Waters, and the Ohio, are interested, and in which their interests demand that bridges of not less extent than five hundred feet span shall be required to be constructed.

The PRESIDENT *pro tempore*. The question is on recommitting all the bills on the subject of bridges across the Ohio river to the Committee on Post Offices and Post Roads.

The motion was agreed to.

#### POLITICAL DISABILITIES OF R. R. BUTLER.

Mr. TRUMBULL. I move to take up for consideration House bill No. 870, to remove political disabilities from Roderick R. Butler, of Tennessee. It is a matter that has been pending for some time, and it ought to be disposed of.

The PRESIDENT *pro tempore*. If the morning business is through, the joint resolution can be taken up on a motion.

Mr. MORRILL, of Maine. I should like to inquire of the Senator from Illinois whether it is likely to occupy much time?

Mr. TRUMBULL. I hope not. It relates to a member of the House of Representatives. It has been pending here for a long time, and it is a question that ought to be disposed of at the earliest opportunity. I cannot say, but I hope it will take only a little time.

Mr. MORRILL, of Maine. I wish to finish the Army appropriation bill to-day. It was considered some time ago and amended.

Mr. TRUMBULL. I think we can do both. I imagine this bill is not going to take long.

Mr. MORRILL, of Maine. With that understanding I will not interfere.

Mr. DAVIS. I will remark to the honorable Senator from Illinois that the Senator from Pennsylvania [Mr. BUCKALEW] was in the midst of a speech in opposition to the passage of the bill that he moves to take up. He went home a few days ago, and I understood from him that he would be back to-day. I have no particular opposition to the bill myself, but I hope the honorable Senator will extend the courtesy to the Senator from Pennsylvania to await until to-morrow or some subsequent day of the session.

Mr. TRUMBULL. I supposed the Senator from Pennsylvania had concluded his remarks on this bill. The Senator from Kentucky will recollect that the bill was recommitted, on some suggestions which were made by the Senator from Pennsylvania, to the Committee on the Judiciary. They have taken some testimony since, and it has been printed and laid upon our tables; and I was not advised that the Senator from Pennsylvania would pursue the matter any further. It was in reference to some testimony contained in the report of the testimony taken in the House of Representatives which the Senator from Pennsylvania supposed showed that Mr. Butler had, in the prosecution of guerrillas, or in the prosecution of the war, been guilty of acts that were not proper in civilized warfare. Mr. Butler himself has been examined under oath, and Colonel Stokes also, and that testimony has been printed, which explains those transactions; and I was not aware that the Senator from Pennsylvania designed further to oppose the bill. If the Senator from Kentucky is advised that he does, it may go over.

Mr. DAVIS. In answer to the Senator I will simply state that Mr. BUCKALEW remarked to me at the time he ceased to speak on that subject that he had not concluded his remarks upon it. That is all I know in relation to it.

I have no doubt that he contemplates making still further remarks upon that bill.

Mr. MORTON. The Senator from Pennsylvania, [Mr. BUCKALEW,] on the evening of our last adjournment, said to me that he had not concluded his speech upon the Arkansas bill.

Mr. TRUMBULL. This is not the Arkansas bill. It is a House bill in reference to the removal of the political disabilities of a member of the House, Judge Butler, of Tennessee.

Mr. MORTON. I understood him as speaking about the Arkansas bill. He may have referred to the matter in Tennessee; but he said he had not concluded his speech, and he hoped the bill would not be pressed to-day. I presume he referred to the Tennessee matter, but I understood him as speaking of the Arkansas matter.

Mr. TRUMBULL. I will state that the Senator from Pennsylvania spoke to me in regard to the Arkansas bill, and although I should be very glad now to call up that bill, it was not my intention to call it up, because I supposed it would be impossible to get consideration definitely upon it. I wish, however, to give notice to the Senate that the day after to-morrow I shall make an effort to call up and dispose of the bill recognizing the State government in Arkansas. In reference to that bill the Senator from Pennsylvania spoke to me. However, I am not disposed to do any discourteous act to anybody, and if the Senator from Kentucky supposes that the Senator from Pennsylvania desires to be heard further in reference to this matter I shall not press my motion, and withdraw it.

#### PENSION APPROPRIATION BILL.

Mr. EDMUNDS. I ask the unanimous consent of the Senate at this time to move that Mr. GRIMES be excused from serving as one of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 678) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1869. He is ill and unable to complete the duties of his appointment. The conference has not made any report. I move that he be excused in order that some gentleman may fill his place.

The PRESIDENT *pro tempore*. That order will be made if there be no objection. No objection being made, the Senator from Iowa is excused.

Mr. EDMUNDS. The place will need to be filled by the appointment by the Chair.

The PRESIDENT *pro tempore*. The Chair will appoint Mr. MORRILL, of Maine, on that committee in place of Mr. GRIMES.

#### HARBORS IN CALIFORNIA.

Mr. COLE. I move to take up Senate joint resolution No. 46, for the purpose of moving an amendment to it.

The motion was agreed to; and the joint resolution (S. R. No. 46) in relation to a harbor at or near Point Sal, on the coast of California, was read the second time, and considered as in Committee of the Whole. It requires the Secretary of the Treasury to cause investigation to be made, as soon as practicable, by the officers of the United States Coast Survey in California, as to the existence of a harbor in the vicinity of Point Sal, on the coast of California.

Mr. COLE. I move as an amendment to the joint resolution to add the following:

Also, to cause an examination to be made of the mouth of Bel river, in Mendocino county, in that State, with a view to its improvement for navigation; and also to cause to be examined the harbors of New San Pedro or Wilmington, San Diego, and Santa Cruz, with a view to their improvement.

Mr. FESSENDEN. I should like to hear the resolution read again.

The Chief Clerk read the original resolution.

Mr. FESSENDEN. I think it would be better to refer that to the Committee on Commerce and let it be examined into.

Mr. COLE. It has been before the com-

mittee and reported back. I suppose there can be no objection to it, and I ask for its consideration now.

Mr. FESSENDEN. Was the amendment before the committee?

Mr. COLE. No, sir.

Mr. FESSENDEN. Then I think it had better go there, because it will involve very considerable expense.

Mr. COLE. The only objection I have to that reference is the loss of time it would occasion. The joint resolution merely directs the Secretary of the Treasury to cause an investigation or examination of these harbors on that coast. The growing commerce of these harbors, owing to the increased agricultural productions there, renders it quite necessary that they should be examined with this view. However, if there is any objection to its consideration now, I shall not insist upon it.

The PRESIDENT *pro tempore*. Does the Senator from Maine move a reference of the resolution?

Mr. FESSENDEN. No, sir; I withdraw the motion.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, and was read the third time.

Mr. TRUMBULL. Before the resolution is passed I desire to inquire if it comes from a committee.

The PRESIDENT *pro tempore*. It does. It is reported from the Committee on Commerce, but an amendment has been made to it in the Senate.

Mr. TRUMBULL. If the amendment has the assent of the committee, I have no objection.

Mr. FESSENDEN. The amendment has not the assent of any committee at all.

Mr. TRUMBULL. I know nothing about it; but such resolutions as this inadvertently passed often lead to very large expenditures of money. This may not be one of that kind. I know nothing about it; but it seems to me it ought to have the sanction of some committee; it ought to have been investigated or else explained to the Senate.

Mr. CONNESS. Mr. President, this resolution proposes certain surveys which have been asked for by the Legislature of California in joint resolutions presented here, and some of which are recommended also by the admiral stationed on the Pacific coast. The resolution, embracing a part of what it now contains, has already had reference to the Committee on Commerce. It has been amended so as to extend the examination, at the instance of my colleague. The work proposed to be done will not be done, as a matter of course, unless the appropriation already made and provided for the coast survey on the coast of California admits of its being done. If so, there can be no possible objection. I would have suggested that the War Department be given the charge of these surveys; but, as I supposed that that point was considered in the committee, and has been considered by my colleague also, I did not make the suggestion or propose any amendment of that kind.

Senators may content themselves, I think, so far as the matter of appropriation is concerned. The importance of the surveys and the importance of some of these improvements can scarcely be estimated, and certainly can not be overestimated; as, for instance, the harbor of Wilmington, south of San Diego, where there is no port into which one of our national vessels can go in case of bad weather. The subject has been very thoroughly considered and explained by the admiral stationed on that coast, Admiral Thatcher, a very intelligent and able man. I have in my possession reports from him recommending and urging that some steps be taken with a view to the preparation of the port of San Pedro or Wilmington for the reception of our national vessels and the establishment of a coaling depot there, so as to render it unnecessary to make an expensive trip for many hundred miles to San Francisco to coal our national vessels. I

hope, sir, that no step will be taken to prevent these investigations being made.

Mr. THAYER. I understand that this resolution does not make any appropriation.

Mr. CONNESS. There is no appropriation made by this resolution.

Mr. FESSENDEN. It is not directory to the Secretary of the Treasury; but it only authorizes him to have this work done, as I understand. Let the first part of the resolution be read.

Mr. CONNESS. If it did not direct him I should hope it would be amended; for otherwise I should have no hope that that officer would do anything.

The CHIEF CLERK. The resolution reads:

That the Secretary of the Treasury be, and he is hereby, authorized and required to cause investigations to be made, &c.

Mr. TRUMBULL. Mr. President, I dislike to be put in the position of opposing this matter; but still I think the Senate ought to consider, before passing resolutions of this kind, what is the history of these surveys and what is the mode adopted to obtain appropriations for improvements of this kind.

The PRESIDENT *pro tempore*. The morning hour having expired, it is the duty of the Chair to call attention to the unfinished business of the last sitting, which is the resolution of the Senator from Kentucky, [Mr. DAVIS,] proposing the appointment of a select committee.

Mr. COLE. I move the postponement of the unfinished business until this resolution can be disposed of. I think it will take only a few minutes longer.

Mr. CONNESS. I hope the Senator from Kentucky will consent to his resolution going over for the moment until this matter is disposed of.

The PRESIDENT *pro tempore*. The unfinished business will be passed over by common consent, if there be no objection. No objection being made, Senate joint resolution No. 46 is before the Senate, and the Senator from Illinois will proceed.

Mr. TRUMBULL. I shall detain the Senate but a moment. I simply rose to call attention to the mode of proceeding which is used to obtain appropriations out of the Treasury of the United States to improve all sorts of harbors and all sorts of rivers. There are a few harbors and rivers in the country that, perhaps, the Federal Government is justified in improving; but they ought to be of a national character and of very great importance. I do not myself believe in the appropriation of money by the Federal Government to improve every stream in every State in the nation that the locality may ask for. The usual mode of proceeding is this: in the first place a resolution is introduced authorizing the survey of a harbor or creek with a view to its improvement. That seems to be a small matter; no one objects to it. Oftentimes this survey is to be paid for out of appropriations which have already been made. The money, however, comes out of the Treasury. Then an officer, perhaps some lieutenant of engineers, is detailed, in pursuance of this resolution, to go and examine the harbor or river with a view to its improvement. The Government does not pass upon the propriety of its improvement; but this officer goes out charged with ascertaining how that harbor can be improved. He makes his examination and reports it to the War Department. Then the War Department is called on for the report of this engineer in regard to such a harbor, and it is sent in, in which he asks so much money to improve the particular harbor. It comes in from the War Department. That is regarded as an indorsement by the War Department, and then it is put into an appropriation bill so much money, so many hundred thousand or million dollars to improve such a harbor. The question is asked, "Is this recommended by the War Department?" "Oh, yes; it is communicated by the Secretary of War," and some lieutenant of engineers has made the examination, reported that

this can be done, and the money is appropriated. Now, I do not say that these harbors are of that character; I do not know—

Mr. CONNESS. Do not say they are "creeks."

Mr. TRUMBULL. No; I do not say that they are creeks or small rivers; but if the Senator from California will look over some of the appropriation bills for the improvement of rivers and harbors, unless his knowledge of geography is very much better than mine, he will find appropriations made for the improvement of rivers that he never heard of. There are some not a thousand miles from where I live that would not reach to California, that I never heard of until I saw the bill making appropriations for their improvement. I think Congress should be careful in the initiation of these measures, because if you once initiate them it is very difficult to stop afterward; and I think that all bills of this character, proposing to survey a particular harbor with a view to its improvement, should first be examined by some committee.

Mr. COLE. Mr. President, if the Senator from Illinois had designated some other way of getting information touching these matters, he would have relieved the Senate, I have no doubt, considerably. I know of no other way to get at the facts than through the regular constituted officers of the Government. This resolution provides that officers of the United States Coast Survey in California shall make this examination. These officers, I presume, are now engaged there, and the examination can be made without additional expense, as was stated by my colleague, as I believe. The question as to whether Congress will hereafter make large or small appropriations for improving these harbors is a question that will come up when the appropriations are asked for; it is not a question before the Senate now. Congress is not bound by this examination in any sense. It is simply a method of getting at information which has been asked for by the concurrent resolutions of the Legislature of the State of California touching these several localities. I ask that the vote be taken upon it.

Mr. FESSENDEN. Mr. President, I understood this to be a mere direction to the Coast Survey, and I do not anticipate the difficulties from it that my friend from Illinois seems to anticipate. My objection to it was that it directed specifically that this thing should be done, as I found when it was read. I was disposed to let it go in the first place, and I do not feel disposed to make any particular opposition to it now; but it has not been usual to pass resolutions of Congress directing the part of the country the Coast Survey should pay their attention to. They are going on regularly making surveys. They are on the Pacific coast I take it now.

Mr. CONNESS. This does not relate to the Coast Survey—

Mr. FESSENDEN. Yes. I know that the Coast Survey have surveyed harbors up and down the Atlantic coast.

Mr. CONNESS. If the Senator will permit me, I will say that this does not direct the officers of the Coast Survey to continue the coast survey, but to make certain specific examinations with reference to particular places and with reference to their usefulness for the purpose of harbors.

Mr. FESSENDEN. This will come, I take it, within the survey of the Pacific coast, will it not?

Mr. CONNESS. It is more specific than the general coast survey and with regard to particular usefulness.

Mr. FESSENDEN. That may be; but can it be that I do not understand where these harbors are? Are they not on the Pacific coast?

Mr. COLE. Yes, sir, on the coast of California; all of them.

Mr. FESSENDEN. If they are there, the Coast Survey in the progress of their inquiries will survey these harbors.

Mr. COLE. But they are harbors that have

not been brought particularly to the attention of the Coast Survey, which has been general in reference to the navigation up and down the coast. It is for the convenience of the local commerce that these examinations are asked; the commerce of the particular localities which are localities that are now producing grains, &c., to a great extent.

Mr. FESSENDEN. Either the honorable Senators or I are mistaken in the scope of the design of the Coast Survey. The design of that establishment is to survey the whole coast of the United States accurately, closely, specifically, and to leave no part of it unsurveyed either on the Atlantic or the Pacific. It is only a question of time, because it takes time, whether particular harbors are surveyed this year or the next, or the year after. That is the real truth about the matter. They have completed the survey of the Atlantic coast, and I suppose in the process of time they will complete the survey of the Pacific coast, and these very harbors will be surveyed.

All the objection I have to the resolution is that the Legislature of California or ourselves, at their request, should undertake specifically to point out what the Coast Survey should do first. They are going upon a system, and it may be a very inconvenient thing for them, and may interfere with their regular system of surveys, to knock off and examine particular places at this time. I do not know how the fact is; but that is my objection to the proposition. I think the Secretary of the Treasury ought not to be required to do it; but it would be as well to authorize him, calling the matter to his attention. Then he can call the attention of the Coast Survey to it, and they will do what they can do, undoubtedly, as rapidly as possible.

Mr. CONNESS. The coast of California is sufficiently extensive to occupy the force of the Coast Survey, now located there and engaged in surveys, for the next fifty years to come. In the meantime, commerce and trade have their immediate demands and necessities; and what we ask in this resolution is that these demands pointed by these immediate necessities shall be first attended to. The Senator from Maine says that the Secretary of the Treasury should not be directed to do this. Well, sir, it is not a very fast Department, particularly in reference to California affairs. In 1864, now four years ago, Congress appropriated \$300,000 to build a mint at San Francisco, where the largest extent of coinage in the United States is being done, and where it is all being done by gaslight, for want of daylight being able to shine through the miserable cavern in which the work is done. And yet, sir, the first stone has not been laid over another. It took a long time for the honorable gentleman at the head of the Treasury Department now to determine that we wanted a building at all. Indeed, his declaration on one occasion was that all we wanted there was a big blacksmith shop for a mint, and it has been procrastinated and procrastinated until we do not know when we shall get a mint. And yet there is objection to directing that officer to do things that the admiral on the coast has recommended as essential for our national uses and that involves no expense.

But the honorable Senator from Illinois is opposed to collecting facts or getting information, and he reduces, in his presentation of this subject to the Senate, its importance; he dwarfs it by comparing it to the surveys of creeks and other small streams, the survey of which has been heretofore directed, and says that some of these are located near his own home. Well, sir, he should have attended to that. The honorable Senator—I wish he would note what I say—has not been always up to the period in which he lives. When we proposed to aid the establishment of a great line of steamships between San Francisco and Japan and China, the result of the establishment of which now is challenging not only the admiration of our own people but that of the entire world, that Senator rose in his place here and



denounced it as an extravagant appropriation of public funds. And now he puts his stakes down against the examination of a harbor on that coast. Sir, I hope the Senate will order this to be done.

Mr. CORBETT. Mr. President, it seems to me that this resolution only requires the Secretary of the Treasury "to cause an examination to be made as soon as practicable." It does not say this year or next, but "as soon as practicable," and in the course of their investigations and surveys the Coast Survey will examine these harbors at the most convenient time. It seems to me a reference to the language of the resolution obviates the objection of the Senator from Maine, for it does not require that the action shall be done immediately, but that it shall be done as soon as practicable. It seems to me that that is very clear. I am in favor of the resolution.

The joint resolution was passed.

Mr. COLE. I move to change the title of the resolution to conform to the amendment made, so as to read, "a joint resolution in relation to certain harbors on the coast of California."

The amendment was agreed to.

#### ARMY APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move that all prior orders be postponed, and that the Senate proceed to the consideration of the Army appropriation bill, being House bill No. 658.

Mr. SHERMAN. What is the unfinished business?

The PRESIDENT *pro tempore*. The unfinished business is the resolution of the Senator from Kentucky, [Mr. DAVIS,] to provide for the appointment of a select committee.

The question is on the motion of the Senator from Maine.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes.

Mr. MORRILL, of Maine. The bill was once passed by the Senate, and afterward reconsidered. There are only a few amendments.

The amendments of the Committee on Appropriations were read. The first amendment was after the word "source," in line twenty-three, to insert "except appropriations made by act of March 2, 1867," and after the word "Treasury," in line twenty-five, to insert "at the close of the current fiscal year;" so as to make the clause read:

For medical and hospital department, \$200,000: *Provided*, That all sums that have accrued to the credit of the medical and hospital department from the sale of medical and hospital stores, or from any other source, except appropriations made by act of March 2, 1867, are hereby covered into the Treasury at the close of the current fiscal year.

Mr. ANTHONY. I do not understand that amendment, and I should like to have the chairman explain it. Does it apply to the naval appropriation bill also?

Mr. MORRILL, of Maine. No, sir.

Mr. ANTHONY. Only to this appropriation bill?

Mr. MORRILL, of Maine. Only to this bill. It is not general.

Mr. ANTHONY. Then I have no objection to it.

Mr. DRAKE. I would suggest to the honorable chairman of the committee a little change in the phraseology of the amendment, so as to read "hereby directed to be covered into the Treasury." I do not know that it is exactly proper to say that money shall be covered into the Treasury under this act, and by force of this act. It has to be done by a warrant of the Secretary of the Treasury, I believe.

Mr. MORRILL, of Maine. I hardly know what the phrase ought to be, but I am told this is the usual language.

Mr. DRAKE. My suggestion is to insert the phrase "hereby directed to be;" so as to read "are hereby directed to be covered into the Treasury."

Mr. MORRILL, of Maine. My understanding of it is—those who are better informed will know if I am not correct—that by operation of the law, not by the act of the Secretary of the Treasury, these sums will be regarded as in the Treasury if this provision be passed.

Mr. DRAKE. I will state to the Senator from Maine that I have been informed—his colleague can tell whether I am correct—that money is covered into the Treasury by a warrant issued by the Secretary of the Treasury upon the Treasurer of the United States for that purpose.

Mr. FESSENDEN. That is the fact. The fifth section, I think, of the original act establishing the Treasury Department specifically requires a warrant to be drawn in order to put money into the Treasury. It has to go through certain forms.

Mr. MORRILL, of Maine. I accept the suggestion of the Senator from Missouri, so as to make the amendment read, "hereby directed to be covered into the Treasury."

Mr. DRAKE. I move that amendment.

The amendment to the amendment was agreed to; and the amendment, as amended, was agreed to.

The next amendment was to strike out lines thirty-two and thirty-three, in the following words:

For expenses of the signal service of the Army, \$5,000.

The amendment was agreed to.

The next amendment was to strike out all of the second section after the enacting clause, as follows:

That the sums appropriated for each of the several items contained in this act shall be made up only by computing the unexpended balance for such item which may remain in the Treasury on the 30th day of June, 1868, and adding thereto so much more from the Treasury as will give the sum for each of such items appropriated by this act: *Provided, however*, That this shall not be construed to prevent the payment from the proper appropriation of expenditures made during the current fiscal year after said year shall have closed.

And in lieu thereof to insert:

That from the sums appropriated for each of the several items contained in this act, there be deducted the unexpended balance for such item which may remain in the Treasury on the 30th of June, 1868.

The amendment was agreed to.

The next amendment was to insert as an additional section:

SEC. 3. And be it further enacted, That of the appropriation of \$60,000 for publishing the medical and surgical history of the rebellion and the medical statistics of the Provost Marshal General's office, made in an act approved July 28, 1866, \$30,000 shall be devoted to the preparation and publication of five thousand copies of the medical statistics of the Provost Marshal General's Bureau, and that the work shall be compiled and completed by Assistant Medical Purveyor J. H. Baxter, under the immediate direction of the Secretary of War, and without the interference of any other officer.

Mr. ANTHONY. There was a proposition made to change that appropriation and to make it applicable to the preparation of the whole work. I believe, as the resolution was passed by Congress originally, this money was made applicable to the publication of the work; at any rate it was so construed by the Congressional Printer; and I have been trying for months to get a resolution passed through Congress to make the appropriation applicable to the preparation of the work, so that the ordinary appropriation for printing may be applicable to the publication of it. If those who have charge of this matter—I have not—have taken it into consideration, I do not wish to interpose any objection.

Mr. CONKLING. If the Senator from Rhode Island will allow me, I desire to suggest to him that this proposition has no effect one way or the other upon the idea which he now submits. This does not touch at all the question whether money shall be appropriated to the preparation and not to the printing of the work, or whether it shall be applicable alike to the preparation and the printing. That question is left entirely untouched and open for the resolution of the Senator or any other treatment which the Senate may see fit to bestow upon it. This is simply a proposition that the

appropriation shall be divided. It is directory in its nature and divides the appropriation precisely as I have the evidence in my hand to show both Houses intended that it should be divided originally as between the two works, namely, the statistics of the Provost Marshal General's Bureau, and the medical and surgical history of the war being separate things, and the purpose being to devote half of the appropriation to one and the other half to the other; but the language of the bill left it, as it was supposed, obscure, and this is simply to draw the dividing line.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

#### REPRESENTATION OF ARKANSAS.

Mr. SHERMAN. I move that the bill for the admission of the State of Arkansas be taken up.

Several SENATORS. No, no.

Mr. SHERMAN. I was not here on Thursday, but the Senator from Maine [Mr. FESSENDEN] now informs me that the Senator from Pennsylvania [Mr. BUCKALEW] desired that this bill should not come up in his absence.

Mr. FESSENDEN. The matter was mentioned this morning, and the Senator from Indiana stated that the Senator from Pennsylvania requested him, if this bill came up, to have it postponed.

Mr. SHERMAN. I thought it was the bill in reference to Mr. Butler.

Mr. FESSENDEN. This one, also. I will ask the Senator from Indiana if he did not understand that the Senator from Pennsylvania desired to be present when the Arkansas bill should be taken up?

Mr. MORTON. The Senator from Pennsylvania spoke to me on the evening of our last adjournment, which I think was on Thursday, and said he wanted to finish his speech on the admission of Arkansas, as I understood him. From what was said to me this morning, however, I suppose that I was mistaken, and that he had reference to the Tennessee matter; but I understood him to refer at the time to the Arkansas bill, and to say that he wanted to be present when that matter should be discussed, as he wanted to finish or to make a speech.

Mr. DRAKE. Before the bill is laid aside for the present, I desire to offer the amendment which I submitted on the 16th instant, and which was then ordered to be printed.

The PRESIDENT *pro tempore*. The amendment will be read, if there be no objection.

Mr. SHERMAN. I will not press a vote on this bill in the absence of the Senator from Pennsylvania, but perhaps other Senators would like to speak on the bill, and, if there is no other business pressing, I think we may as well go on with the debate.

The PRESIDENT *pro tempore*. The bill has not yet been taken up.

Mr. DRAKE. I suppose my amendment cannot be offered regularly until the bill is up.

Mr. SHERMAN. I move that it be taken up.

The PRESIDENT *pro tempore*. The bill will be taken up, if there be no objection.

Mr. CONKLING. I should like to inquire of the Senator from Missouri whether it is in accordance with his convenience to go on today and discuss his amendment?

Mr. DRAKE. It would be in accordance with my convenience, Mr. President; but I think that this is a bill which should be discussed when the Senate is as full as we can expect to get it. There are questions of great gravity involved in it, and I very much desire that there should be a free and full expression of the opinions of Senators in regard to it, especially in regard to the principles which I conceive to be involved in the amendment which I have sent to the Clerk's table just now. I would, therefore, myself prefer that

the bill should go over to another day, for that reason and that alone.

Mr. CONKLING. Let me suggest, as there is to be no vote to-day—nobody seems to anticipate that—if the Senators who intend taking part in the discussion are not ready to go on now not much will be gained by taking up the bill.

Mr. CONNESS. If this bill is not to be proceeded with—

Mr. SHERMAN. Let the amendment be read that we may hear what it is.

The PRESIDENT *pro tempore*. The amendment submitted by the Senator from Missouri will be read for information.

The Chief Clerk read the amendment of Mr. DRAKE, as follows:

Strike out all after the enacting clause and insert the following:

That the State of Arkansas, under and with the constitution thereof adopted in convention on the 11th day of February, 1868, and subsequently ratified by the people of said State, shall be entitled to be admitted to representation in Congress as one of the States of the Union, whenever the Legislature of said State shall pass an act agreeing, on behalf of said State, to the following fundamental condition of such admission, to wit: That the said constitution shall never be so amended or changed as to deprive any one of the right to vote at all elections held in said State by the people for Representatives in Congress, or for State, county, or municipal officers, or for any other purpose, who now is or may hereafter become, according to the present terms of said constitution, entitled to vote; unless such deprivation be imposed as a punishment for such crimes as are now felonies at the common law, whereof the party shall have been duly convicted under laws equally applicable to all the inhabitants of said State; that the third section of the first article of said constitution, in the words following, to wit: "The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor exempted from any burden or duty on account of race, color, or previous condition," shall never be repealed or changed; that any violation by said State of the terms of this condition shall authorize the exclusion of said State from representation in either House of Congress so long as such violation continues; and that all laws or ordinances enacted or ordained in said State in contravention of this fundamental condition shall be wholly inoperative therein.

SEC. 2. And be it further enacted, That upon the passage of such an act by the Legislature of said State, legally authenticated copies thereof shall be transmitted to the President of the Senate and the Speaker of the House of Representatives, and by them laid before the Congress, and if declared by a concurrent vote of both Houses to be in accordance with this act, the said State shall be admitted to representation in Congress as one of the States of the Union.

Amend the preamble by striking out of lines five and six the words "which is republican in form," and inserting in line five after the word "constitution," the words "and republican form."

#### LINCOLN MONUMENT ASSOCIATION.

Mr. CONNESS. The amendment having now been read, and no further action being about to be had on the measure to-day, I move that the Senate proceed to the consideration of House joint resolution No. 216.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 216) to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association damaged and captured ordnance, the pending question being on the amendment of Mr. CONNESS to insert the word "bronze" after the word "captured."

The amendment was agreed to.

Mr. MORRILL, of Vermont. It seems to me that the last clause of that resolution is rather unlimited. There may be some very valuable pieces of ordnance that are captured, which are not damaged, and yet which would go to this association under the resolution as it reads.

Mr. CONNESS. I desire to offer an amendment. Let the Secretary read the last clause again.

Mr. CONKLING. I ask that the whole of the resolution be read.

The PRESIDENT *pro tempore*. It will be read through.

The joint resolution was read, as follows:

Resolved, &c., That the Secretary of War be, and he is hereby, authorized to place at the disposal of the Lincoln Monument Association, incorporated by an act of Congress entitled "An act to incorporate the Lincoln Monument Association," approved March 30, 1867, damaged and captured bronze guns

and ordnance, out of which to cast the statues of the principal figures surmounting and to be incorporated in said structure: *Provided*, That no metal as aforesaid shall be thus appropriated until the voluntary contributions for said purpose actually in the hands of the treasurer shall amount to \$100,000.

Mr. MORRILL, of Vermont. There may be some pieces that are captured that would be held to be valuable by the Government and which they would desire to retain as trophies, or which some of the States might desire to retain. To make over the entire amount of all such captured property to this association it seems to me is going rather too far. There ought to be some limitation about it. There ought to be some opportunity for the Secretary of War to exercise some discretion about it. There may be pieces that ought not to be given up to be melted over for any such purpose.

Mr. CONNESS. I move to amend the resolution by inserting after the word "authorized" the words "at his discretion," and after "1867" inserting the word "such," and after the word "captured" inserting "bronze and brass;" so as to make the resolution read:

That the Secretary of War be, and he is hereby, authorized at his discretion to place at the disposal of the Lincoln Monument Association, incorporated by an act of Congress, entitled "An act to incorporate the Lincoln Monument Association," approved March 30, 1867, such damaged and captured bronze and brass guns and ordnance, out of which to cast the statues of the principal figures surmounting and to be incorporated in said structure, &c.

I wish to put the whole matter in the discretion of the Secretary of War. Of course no valuable ordnance will be granted.

The amendment was agreed to.

Mr. SHERMAN. I should like to have some explanation in regard to this association. The object is a very good one.

Mr. CONNESS. The Senator ought to be informed that Congress passed an act to incorporate an association for the erection of a national monument, in this city in memory of Mr. Lincoln, and at the head of that association, I believe, stands the Senator from Iowa [Mr. HARLAN] as its president. It has a board of directors. Its proceedings are all made public. It is now collecting moneys, and has recently received respectable subscriptions of money from my own State, California. The provision is that this grant of damaged and captured ordnance shall be made only when a certain amount of money is subscribed sufficient to guaranty the construction and erection of the monument.

Mr. EDMUNDS. What weight of metal will be required?

Mr. CONNESS. I cannot answer that question.

Mr. EDMUNDS. Ought we not to know?

Mr. CONNESS. I do not think that is necessary.

Mr. JOHNSON. I ought to recollect, but I have forgotten, when the association was incorporated; and I rise for the purpose of asking the honorable member from California to give me the information. I should like to know who they are, and when they were incorporated. I understand no capital is provided for. They are not obliged to raise any capital. They may or may not raise it. Is the monument to be erected here?

Mr. CONNESS. I will refer the honorable Senator to the president of the association, the Senator from Iowa, who will give him the information.

Mr. JOHNSON. I did not doubt that they were all respectable gentlemen, but this resolution would give all the ordnance that has been captured.

Mr. CONNESS. No.

Mr. HARLAN. The act of incorporation was passed last March, I think, and the names of the parties incorporated are mentioned in the act itself. They do not occur to me at this time. They are gentlemen who have been selected in various parts of the country. I remember one from the Senator's own State, Mr. Thomas.

Mr. JOHNSON. I have no doubt the association is composed of respectable gentlemen,

but I did not know who they were. The honorable member from Iowa is, I understand, himself one of them, and the Postmaster General for the time being is another.

Mr. HARLAN. Yes; I think my name is mentioned in the bill.

Mr. JOHNSON. But this provision gives all ordnance that may be found necessary.

Mr. HARLAN. It was intended only to give a sufficient amount out of which to cast the principal figures.

Mr. JOHNSON. I should like to know how much of the ordnance will be necessary for that purpose. How many figures are to be provided for?

Mr. HARLAN. Twelve or fifteen figures, I think.

Mr. JOHNSON. It may take all we have got.

Mr. CONKLING. I see the name of the honorable Senator from Iowa is the second on this list of highly respectable gentlemen; and as he seems to be very good-natured in giving information, I should like to know two or three things about this matter. Has any part of this work been commenced, may I inquire?

Mr. HARLAN. None whatever. Money is being collected, as I understand. The treasurer of the association is the Treasurer of the United States, Mr. Spinner, and I understand from him that money is coming in to him almost daily from various parts of the country.

Mr. CONKLING. And this damaged ordnance is to be devoted to the manufacture of fixtures, being melted and cast again?

Mr. HARLAN. For nothing else, as I understand; no other object.

Mr. CONKLING. The Senator says ten or fifteen figures, are to be made?

Mr. HARLAN. I think about that number.

Mr. CONKLING. That is all the information the Senator has as to the quantity of metal that will be needed, or as to the time when it will be needed?

Mr. HARLAN. I do not know that it ever will be needed. The resolution itself provides that no part of it shall be used until \$100,000 shall have been contributed voluntarily for this purpose. If that amount of money should never be received by the treasurer, I suppose no demand will ever be made for the metal, unless the law should be modified hereafter. I do not know when that will occur; it is impossible for any one to know; but I hope it will be at no very distant day.

Mr. CONKLING. And is the whole scope of the work to cast these figures?

Mr. HARLAN. No, sir; the plan of the monument that is now being contemplated requires the erection of a granite column some sixty feet high, large enough to receive various figures. The main monument will be erected of granite, if the plan that is now under consideration should be adopted, and this metal will be needed merely for the figures of the persons to be represented.

Mr. CONKLING. And the collections made are to be devoted mainly to raising this shaft and casting these figures?

Mr. HARLAN. Yes, sir.

Mr. CONKLING. I hope the Senator will excuse me for being a little inquisitive. I have been looking at some of the recent works of art about here, and I wanted to find out that this has no relation to some of them. I did not know anything about it except that I saw the act of last year, and the Senator's name among the incorporators. I am much obliged to the Senator for the information he has given me.

Mr. MORRILL, of Vermont. I offer this amendment to come in at the end of the resolution:

And no more metal shall be thus appropriated than what shall be actually used for the purpose of casting the figures as herein mentioned.

Mr. CONNESS. What would the association want with more?

Mr. MORRILL, of Vermont. They might sell it.

Mr. HARLAN. There can be no objection to the amendment.

Mr. CONNESS. None at all.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the resolution to be read a third time. The resolution was read the third time, and passed.

#### POWELL'S COLORADO EXPEDITION.

Mr. WILSON. I move to take up House joint resolution authorizing the Secretary of War to furnish supplies to an exploring expedition.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 251) authorizing the Secretary of War to furnish supplies to an exploring expedition.

It proposes to empower the Secretary of War to issue such commissary and quartermaster stores to the expedition engaged in the exploration of the river Colorado, under direction of Professor Powell, as may be necessary to enable the expedition to prosecute its work, if such issue is not detrimental to the interests of the military service.

Mr. EDMUNDS. I want to inquire a little into this business. Who is Professor Powell, and under whose authority is he prosecuting a survey of the Colorado river? Is he a Government officer? Is this a military expedition?

Mr. WILSON. I will tell the Senator who Professor Powell is. I do not personally know him; but I understand that he is a gentleman of capacity and character, a learned man, and that he is making a survey of the Colorado river. He received last year, while making this survey, the aid of the Government to a certain extent, but he cannot go any further now without some vote of Congress. The application made by him has been investigated, and is recommended strongly by the head of the engineer corps, General Humphreys, and has the approval of the Secretary of War. It is to furnish this small party engaged in this important business, deemed important to the country, some rations. The War Department are entirely satisfied with it, and want the work to go on. It will cost the Government but a small sum.

Mr. EDMUNDS. Mr. President, it is not my business, it belongs to my friend from Ohio, [Mr. SHERMAN,] to guard the Treasury; but it seems to me that this is entering on rather a novel legislative expedition. Here is a private party. We have had Government explorations of this river already. Here is a private party, for some purpose, undoubtedly a good one—I have nothing to say about that, for I do not know anything about it—who are engaged in surveying this river, as it is said, or exploring it, and it is now proposed, without our knowing anything more about it except that my friend from Massachusetts believes that the chief of the corps of Engineers and the Secretary of War think it would be a good thing, to furnish them with quartermaster's and commissary stores, which I believe—he will correct me if I am wrong—include pretty much all that a man may want except gunpowder and ordnance, and we have given all that away just now to another expedition. Now, it does seem to me that, while to be sure it is a small matter, it is legislating rather loosely.

I appeal to my friend from Massachusetts if he does not think that the taxpayers of the country will be a little averse to having private parties sent out for exploring expeditions of any of the rivers of Massachusetts, and then call on the War Department, by act of Congress, to furnish quartermaster's stores, which include all transportation and commissary stores, which include all food, to carry on the expedition. I think we ought to hesitate a little before we go into such a movement. To be sure it is a picayune matter, but the people who pay taxes have to pay them in small sums and in large ones, and every drop that is taken out of the Treasury somebody has got to pay for. But,

as I said, I turn it over to my friend from Ohio who knows whether we can afford it.

Mr. SHERMAN. This is a foray on the commissary department, and therefore does not fall within my province. I have no doubt the supplies furnished to this party will cost about six times as much as they would in Massachusetts. I have heard within the last year of two of corn costing ten dollars a bushel at the head of Colorado river above the rapids. I have no doubt it will cost eight or ten times as much as corn in Ohio. I do not know anything about this matter; but there is one fact of which I wish to remind Senators. The Government of the United States explored the whole western country for a Pacific railroad route. The publication of the Pacific railroad reports, if I am correctly informed, cost between one and two million dollars; perhaps more. They were of no practical service whatever in the building of the railroad. It so happens that the railroads are now being built on lines not explored by that survey. The road that is being built along the valley of the Platte and then through the Cheyenne Pass goes over a line that was not surveyed at all. All these surveys are got up either for the purpose of furnishing jobs or of scientific display, and their reports are generally of very little practical value. I shall not vote for any bill of this kind. The eastern division of the Pacific railroad, as it is called, is now engaged in exploring its route under a very competent man, General Palmer, from Santa Fé or Albuquerque, westward. These surveys cannot be of any service to it because it is now engaged in the actual work of exploring and surveying its route which crosses the Colorado river.

Mr. TRUMBULL. Mr. President, I have some information in regard to this matter, not very extensive it is true, but I will give to the Senate such as I have.

Professor Powell spent the last year in explorations in the country beyond Colorado. He is a scientific man of eminence, and is making surveys in a part of the country where the Government itself has been intending to make explorations. I have understood that the War Department designed organizing last year a company to explore the very region of country where Professor Powell was. He proposes this year to survey the Colorado river. The Colorado river, as laid down upon our maps, for some six or seven hundred miles has never been seen by a civilized man.

Mr. SHERMAN. It was run recently, during the last fall, I believe, by three men to escape the Indians, and one of them got through alive.

Mr. TRUMBULL. The whole distance?

Mr. SHERMAN. Yes; to the Great Cañon.

Mr. TRUMBULL. I was not aware of it. Is that authenticated?

Mr. SHERMAN. Yes; the man lives. He went in at one end and came through at the other.

Mr. TRUMBULL. It has been laid down on all our maps for several hundred miles hypothetically, without any actual knowledge of where the river was. This gentleman with a private party, at considerable expense, spent the last year in surveying where none of the Government parties have been.

Mr. EDMUNDS. In what Territory?

Mr. TRUMBULL. West of Colorado.

Mr. EDMUNDS. What territory?

Mr. TRUMBULL. It would be perhaps embraced in New Mexico. Last year he received some assistance from the commissary or quartermaster's department, or perhaps both, receiving from them some supplies, but paying for them what they cost. I understood General Sherman, who favored this expedition and indorsed it, as also does the War Department, was anxious to assist, so far as he could, this year.

Mr. EDMUNDS. Have you any official report from the War Department?

Mr. TRUMBULL. Yes, sir; this comes from the War Department, with the sanction of the War Department.

Mr. EDMUNDS. Where?

Mr. TRUMBULL. I do not know whether it is on the files or not. I presume the chairman of the Committee on Military Affairs has a communication from the War Department in reference to it. I know the fact that the Secretary of War has desired and intended to organize a party at the Government expense to make this very exploration which is now being made by scientific men without any expense to the Government except such assistance as they having supplies in that country may be able to furnish. The difficulty, as Senators will see at once, of a private party in that country taking along the necessary provisions would be very great. Professor Powell does not ask any guard or any protection from the Government. His knowledge of the Indians and his acquaintance with that country is such, and the strength of his party such that he is willing to take care of himself; but he wants the opportunity to apply to some of our posts there which may be nearest to him to obtain supplies.

Mr. EDMUNDS. How small is his party?

Mr. TRUMBULL. I am not sure, but I think about twenty. It is a saving to the Government. It is a matter that the Government probably would itself undertake, as I understand the Secretary of War has had it in contemplation for some time. This is a gentleman who was there last year and had the benefit, as I was informed, of obtaining supplies from our military posts on paying what they cost. I should be satisfied with that this year; but it would be a great convenience, and perhaps an absolute necessity, that he should be permitted to draw supplies from these posts in order to make the exploration.

Mr. EDMUNDS. Under whose auspices does he do this?

Mr. TRUMBULL. He is a professor connected with the Normal University of the State of Illinois, and the State has appropriated several thousand dollars in aid of this exploration as a scientific matter; I do not remember the precise sum.

Mr. EDMUNDS. He is a geologist, is he not?

Mr. TRUMBULL. Yes, sir; he is in connection with that institution, and it is under the auspices of the State that he has been out there. All that he wants is to have the assistance of the Government to this extent; he does not ask any guard or protection of that kind; and it will be obtaining information, scientific information, which the Government ought to have in regard to its territory, in regard to this great river, and it will be obtaining it cheaper than in any other way we can get it. He has the indorsement of the scientific men of the country. That is the extent, I believe, of his application.

Mr. EDMUNDS. Then, as I understand, this gentleman is not paying his expenses out of his own pocket, but he is employed by the university of the State of Illinois.

Mr. TRUMBULL. He has some position there.

Mr. EDMUNDS. He is a salaried professor in that institution.

Mr. TRUMBULL. I cannot say whether he is or is not a salaried professor in that institution.

Mr. CONNESS. He is.

Mr. TRUMBULL. I think the appropriation made by the State is only some three or five thousand dollars. I am not sure as to the amount, but it would not anything like pay the expenses incident to it.

Mr. EDMUNDS. Well, Mr. President, of course, as everybody says, this is a very small matter, and, as to-day seems to be a dull day, it is the best time to pass through all the small matters we have on hand. It seems, from the exposition of my friend from Illinois, that this expedition, now supposed to be in some *terra incognita* out there, trying to find the course of the Colorado river, is a geological one, acting under the auspices of a university in the State of Illinois, the State having also aided



it, with a view to the interests of science. All that is very well; it is commendable; it is praiseworthy. I for one am glad to know that the State of Illinois is not only able but willing to send expeditions of that kind. They are useful to the country. But the question after all is, whether what you might almost call this back-door way of organizing expeditions for this Government and its people to pay the taxes for, if they are small, is quite right?

My friend says that last year the only application that was made, and that was granted, was to obtain supplies from the Army posts, paying the cost for them. Now, it is proposed this year that the Secretary of War shall place at the disposal of the expedition quartermaster's stores and commissary stores to the extent that may be necessary to enable the expedition to prosecute its work, and that work is the exploration of the river Colorado; and my friend tells us, and truly, I dare say, that there are five or six hundred miles of that river that are as dubious as the sources of the Nile used to be; that they are laid down by imagination on the map. Here are five or six hundred miles of survey to be done by this party, it is now proposed, practically at the expense of the United States. That is the long and the short of it. If the United States wish to explore that river—and my friend says they do, but that, I take it, would be for Congress to determine—we have plenty of Army officers to do it, so that it would cost us no more than this will cost. All that we should have to supply them with, as we pay them, would be commissary and quartermaster's stores. I confess I do not like the principle of it. It is altogether probable that these rations and things that are supplied will not cost us over \$25,000; but that, to a State as small and as poor as the one I come from, is of some consequence; and if we do not stop somewhere in making these small appropriations the aggregate of our civil list, if we can call it such, will be a great deal swollen in the end.

This is all I have to say. Of course I sympathize with the object of the expedition; but I do not think the United States ought to pay for it.

Mr. CONNESS. Mr. President, the importance of this expedition and of the results of it is very great.

Mr. EDMUNDS. Is it expected that the river will be proved to be navigable beyond the cañon?

Mr. CONNESS. No, sir; I do not think that will be demonstrated at all. I think there is a sufficient knowledge of it now to know that it is not a navigable river to its source, and that there are many hundred miles of it not navigable; but it is nevertheless important to ascertain and determine the course of the river, and not only that but to determine the country adjacent to it. The State of Illinois, in encouraging the prosecution of this work, is entitled to very great credit. It is under the direction of one of the best men in the nation.

It was stated by the honorable Senator from Ohio, when up, that General Palmer had made a reconnaissance in connection with what is called the eastern division of the Pacific railway route. So he has, sir; but not of this country. He crossed the country from Albuquerque to the Colorado river. He was not in this region at all. But it is very essential to their further operations that they ascertain as much as they can of this region that is now being explored under the direction and by the personal superintendence of Professor Powell. I had some conversation recently with General Palmer on the subject, and he furnished me with an article contributed to a magazine, giving an account of what is known of the Colorado river, of the upper part of it, and also an account of the progress of the three men spoken of through a portion of the cañon of the river. Now, what is asked for is not extensive at all. Such quartermaster's and commissary's stores as this party will require will be some flour and pork and probably a few mules; nothing beyond that. The whole

expenditure under the direction of this expedition would probably not exceed a few thousand dollars, and it would be a contribution to knowledge which the whole country is interested in obtaining.

I know it is difficult for gentlemen who live in the East to understand or sufficiently estimate the extent of the West, and the extent of that West belonging to their own country which is not yet understood. It is only twenty-five years since Colonel, now General Fremont was authorized to explore what is at this day as well understood as the city of Washington, but was then unknown to this country. Now portions of it may be said to be teeming with population, industry, and civilization, and it is the result in part of the explorations that he made, and that were made at that period of time. Certainly, sir, we should not be too economical, too close, when work of this kind is to be done, and will be done so well. If the Government should organize an expedition to make the exploration in which Professor Powell is engaged it would probably cost \$100,000 before it were done, while in all human probability the expenditures to be made under this resolution, if it shall pass, will not reach more than a few thousand dollars.

Mr. HOWE. Mr. President, if this resolution passes, it seems to me there should be some amendment made in it limiting the amount of these supplies to be furnished.

Mr. CONNESS. You would give them as much as they wanted if they had any at all, would you not?

Mr. HOWE. The commissary department and the quartermaster's department make their estimates every year for what they want for the supply of those branches of the service.

Mr. CONNESS. Will the Senator allow me to read the proviso which covers that:

*Provided, That such issue is not detrimental to the interests of the military service.*

Mr. HOWE. The military service cannot be damaged by the amount of supplies furnished. The military service would be taken care of all the same. The only effect would be that there would be a deficiency bill when we get together in December next, and what the amount of that deficiency bill would be would depend upon the character of this exploration. If the exploration is really conducted in the interests of science, pure science, probably the supplies would not be very heavy, and the deficiency therefore would not be very great. But this river, I understand, runs through a territory supposed to be rich in mines and not very much explored, and if enterprising mining companies should take it into their heads that this was a good opportunity to employ Professor Powell to make surveys in their interest, undoubtedly Professor Powell, having instructions to the quartermasters and commissaries to furnish him all the transportation he wanted, and all the subsistence he wanted, could conduct such examinations to great advantage, so far as the companies were concerned. I think he could do it more cheaply than anybody else, probably.

You see that this little resolution, no bigger than a grain of mustard seed apparently to look at, is, after all, an unlimited appropriation of commissary and quartermaster's stores. It is that in effect. That it would be so used of course I cannot know. That it would not be so used nobody can know who does not know thoroughly the character of Professor Powell. There can be no sort of objection to limiting the amount of this appropriation, I take it; and those who know what the character of the survey is, what the particular purpose to which it is directed is, can best suggest the amount that is wanted. I do not know, and therefore I cannot offer an amendment; but I certainly should not be willing to vote for the resolution as it stands.

Mr. TRUMBULL. I have before me now communications which will explain very fully this whole transaction if Senators will pay attention. First is a communication from Pro-

fessor Powell himself stating what this expedition is, and addressed to General Grant:

ILLINOIS NATIONAL HISTORY SOCIETY.  
NORMAL, ILLINOIS, April 2, 1868.

GENERAL: A party of naturalists, under the auspices of the State Normal University of Illinois, wish to make a scientific survey of the Colorado river of the West. This work is to be a continuation of work done last year in north, middle, and south parks. It is hoped that a survey of that river can be made from its source to the point where the survey made by Lieutenant Ives was stopped.

In addition to the general scientific survey a topographical survey of the region visited will be made. The services of two civil engineers have been secured for this purpose.

I most respectfully request that the proper officers be instructed to issue rations to this party while thus engaged, the party to consist of not more than twenty-five persons.

I need not urge upon your attention the importance of the general scientific survey to the increase of knowledge. It is believed that the grand cañon of the Colorado will give the best geological section on the continent.

Nor is it necessary to plead the value to the War Department of a topographical survey of that wonderful region, inhabited as it is by powerful tribes of Indians, that will doubtless become hostile as the prospector and the pioneer encroach upon their hunting grounds.

You will also observe that the aid asked of the Government is trivial in comparison with what such expeditions have usually cost it. The usual appropriation for such an exploration has been many thousands of dollars.

I transmit herewith a copy of my "preliminary report" to the Board of Education of the State of Illinois on last year's work.

Invoking your favorable consideration of this request, I am, with great respect, your obedient servant,

J. W. POWELL,  
Secretary Illinois National History Society.

General U. S. GRANT, Commanding U. S. Army.

General Grant's indorsement is upon it to this effect:

I respectfully recommend that rations be ordered to be issued to Major Powell and his party of twenty-five men by Army commissaries whereon he may call for them while engaged in the exploration of the Colorado river of the West. The work is one of national interest.  
U. S. GRANT,  
General.

The action of the Commissary General is this:

OFFICE COMMISSARY GENERAL SUBSISTENCE,

April 6, 1868.

Respectfully returned to the Secretary of War, with the remark that it is believed that "rations" cannot be "issued" to the party as requested without the sanction of law, as its members are not the employees of or in the service of the United States. It is respectfully suggested that the only facilities for their subsistence they, the party, can properly be accorded from the Army subsistence stores is the authority to purchase at the total cost to the United States, at the points of purchase, such subsistence stores as the party may require when they can, in the judgment of the commanding officer, be spared without detriment to the full and proper subsistence of the troops. If this is not deemed satisfactory to the principal of the party it is respectfully suggested that he should obtain the enactment of a law according him such other aid as he may seek.  
A. B. EATON,  
Commissary General of Subsistence.

Then follows a letter of Professor Henry:

SMITHSONIAN INSTITUTION, April 21, 1868.

MY DEAR SIR: Permit me to introduce to your acquaintance the bearer of this note, Professor Powell, of the University of Illinois, and to commend his petition to your favorable consideration. He has organized a company of young men to explore the region of the Colorado of the West and desires some assistance from Government in the way of transportation and subsistence.

The expedition is purely one of science and has no relation to personal or pecuniary interests, but is intended to develop the geology, the natural history, topography, and physical geography of one of the most interesting regions of our continent.

Though the object of the exploration is the advance of science, its results will be of much practical value. The professor intends to give special attention to the hydrology of the mountain system in its relation to agriculture.

The vapor from the Pacific ocean, which would otherwise fertilize the interior of the continent, is stopped on its passage east by the mountains, thus depriving the soil of an essential ingredient of productivity; but this vapor, in the form of water, may again be reclaimed for the uses of the husbandman by a judicious system of irrigation, founded on a critical knowledge of the hydrology and topography of the country.

The expedition of Professor Powell has the entire approval of the Smithsonian Institution, and will be furnished by it with instructions and such facilities as its means will afford in the way of outfit.

The cost of the assistance which he asks from Government is nothing in comparison with the importance of the knowledge which we may reasonably expect will be obtained.

I am, with much respect, very truly, your friend and servant,  
JOSEPH HENRY.  
Hon. J. A. GARFIELD, House of Representatives.

These communications show the object of the expedition and what its character is. I rose merely for the purpose of reading them to the Senate that they might see the character of the expedition. It is indorsed by General Grant, who recommended that the rations be supplied as asked, but it seems the Commissary General thought it could not be done without some resolution of Congress. That is what has led to the introduction of this joint resolution.

Mr. CONNESS. Mr. President, I am very glad that the Senator from Illinois has presented these documents, and I am very glad to find that the Senator is in favor of this appropriation for the West. I take it that hereafter he will be in favor of every such appropriation of public means, when knowledge is to be contributed as the result, particularly if the investigation is placed under the direction of a distinguished citizen of Illinois.

I hope that we shall not discuss it longer, but allow this small amount of public supplies to be given for this great use. It is steps of this kind that bring that great country forward, that bring the populous regions of the West and the capital with the West in connection with the great unknown West and make them one. I but express the hope now, in conclusion, that my friend from Illinois will remember that there are many such expeditions organized and conducted by able, honest, enterprising men who are not residents of his great State, and I hope hereafter to have his aid on such occasions.

Mr. TRUMBULL. Mr. President, I should certainly be disposed to aid persons engaged in the pursuit of scientific knowledge that is of practical benefit to the country where it can reasonably be done; but I hope the Senator from California will not consider me as committed to the improvement of all the rivers and harbors and creeks, because an unexplored region of the West is a matter which may properly engage the attention of the Government in this small way, and it is a very small way. The fact seems to be made by the Senator from Vermont an objection that it is undertaken by private parties, by the assistance of the State of Illinois. He thinks we might organize a Government expedition of engineers and officers for ourselves.

Mr. EDMUNDS. I said if the expedition were necessary to the Government.

Mr. TRUMBULL. We have organized many such expeditions by the Government. As the Senator from Ohio said sometime ago, they have cost us a great deal of money. Now, when other parties have undertaken them, I see no reason why the Government of the United States should say "We will not aid you at all," and insist upon doing the whole work itself at a much larger expense. It seems to me that it is the duty of this Government to foster every expedition of this kind. I do not suppose any application would have been made for any assistance at all but for the peculiar character of this expedition. The Senator from Vermont knows that it would be very difficult if not impossible to carry on this expedition by a private party unless that party could apply to our military posts stationed near them, from time to time, for such assistance as might be necessary. No private citizen can have established depots of provisions all through that country from which he can draw. It is an unexplored region. He wants the privilege of applying at the nearest posts which may be most convenient for such aid in the way of provisions as may be necessary for this small party. That is the extent of the matter. I do not suppose it will cost \$5,000. I have not the least idea it will cost that much.

Mr. EDMUNDS. Mr. President, the great question with me is where the process of economy that we have been preaching about so long is going to begin. If a large grant is proposed of money or land, or whatever it may be, if you undertake to oppose it you are overawed by the majesty of the undertaking, and you find yourself at once in a hopeless minor-

ity in attempting to suspend any large expenditure. If a small application is made for a draft on the Treasury, then you are almost laughed at for descending to so low a business as undertaking to stop expenditures. And so it really becomes a matter of some curiosity with me to know when and on what bills and under what circumstances it is that we are really, as a matter of fact, to say, "We will not expend the money proposed." We have failed to begin yet. All parties for the last year have been crying through the country economy, retrenchment, diminution of expenses, in order to reach a diminution of taxes which are the burdens that bear heavily on the labor and industry of the country. But when we come to put the thing in practice it so happens that there is never a bill to which we find that it ought to be applied in that particular case. It is always some other bill, some abstraction that may come up hereafter that we are to be economical about.

My motive in raising the question about this proposition was, more than anything else, to see if there was a conceivable case in which the Senate would be willing to say, "We feel at liberty to reduce this little drain upon the Treasury." Now what does this turn out to be? As is stated in the communication of Professor Henry and Professor Powell, whom I respect and admire as much as my friend from Illinois does—that is not what I am combating by any means—the Colorado river was explored at Government expense about 1851, I think, by Lieutenant Ives, who began at its mouth and prosecuted his explorations as far as a small boat could be got to go, until he came to the cañons; and he gives us in his book, which was printed and distributed at the expense of Congress—I remember as if it were yesterday almost, now that it comes back to recollection—a picture of what might be called the tip-end, the jumping-off place, where his explorations of the Colorado river stopped; a gorge in the mountains that was scarcely wide enough to drive a wagon into, if there had been a floor at the bottom instead of a roaring torrent, where his explorations ended perforce. He had gone as far up the Colorado as it seemed to be useful to the interests of man or of Government that anybody should go.

Now, it is proposed to begin at its mountain springs and follow it down to that point, which, in a geological sense, which in the interests of natural history and geology, is a very good thing to do. There is no mistake about that; and I should be very glad, if it were not for the Indians and the poorness of the rations, to be one of the party myself. But the question is, whether this is not one of those instances in which we can justly and fairly at this present moment save this \$5,000, if it be \$5,000, or \$10,000, if it be \$10,000, or whatever the sum may be, without doing injustice to anybody.

It is not claimed that we are under any obligation to do this. The Colorado will be there five years hence, when taxation is reduced and when the quantity of money in our Treasury, I hope, will be largely increased. The cañons will be there, the geology will be there, and it can be done then, if need be.

But, sir, I do not know that it is of any use to object to this measure. There is one thing very noticeable about it, however. Professor Powell, with that accuracy and modesty which almost always characterize learned men and true men, merely applies to the War Department for rations for twenty-five men, which is a trifling thing. Of course you can see that and know what it is. That is the whole of his application, rations for twenty-five men while engaged in making this survey. General Grant thinks that is a trifling matter, which can be furnished, and he recommended it. It turns out, however, in point of law, that it cannot be furnished unless he pays cost price. Then, what kind of a bill do we get here? We get a bill which says that the War Department is authorized and directed to, furnish to the expedition, without limit as to the number of

men, all the quartermaster's stores and commissary stores, which include a great deal more than the rations, that may be necessary for the expedition to prosecute its work. Out of a very small, modest, and, I should be almost inclined myself to say, a proper application for that which they cannot very well get anywhere else—twenty-five rations—there grows up a bill from the House of Representatives to put the whole commissary and quartermaster's department, without limit of any kind as to the number of persons who are to receive its benefits, or as to the benefits to be conferred, at the disposal of this expedition, and there is no explanation of that given.

My friend from California says it is not "directed." My friend is too old a legislator as well as lawyer not to know that an authority of this kind conferred upon a Department is equivalent to a command. It is useless to refine upon the distinction here between authority and direction when you are telling a Department how it may or shall do a particular thing.

I have occupied more time, Mr. President, than I desired. I do not know but that the Senate has cost the United States more in talking about this bill than it would to have given the rations, but I thought it fit to say, once for all, that I want to see the time come when on some bill or other the Committee on Appropriations and the Committee on Finance and all the rest of us who represent tax-paying constituents will be willing to say, "Here is something that can be dispensed with for the time being," however appropriate or necessary it may be in and of itself.

Mr. CONNESS. Why, Mr. President, that is said every day, and said very often in a most damaging condition to the public service.

Mr. EDMUNDS. Give an instance.

Mr. CONNESS. I will give the honorable Senator an instance: the appropriations for the Indian service in the Territory of Arizona. There has been a war with the Indians for many years at an expense of millions of dollars annually. There are, I think, four regiments there now, and have been, but they are so reduced that unless they are more sufficiently provided, the war now suppressed will break out again with redoubled force. The superintendent of Indian affairs in that Territory is here now in this city. He is a gentleman of character and integrity; he is a relative of General Grant. I know him personally, and know him to be what I state, and he comes here to state facts that he knows. At an annual salary of \$2,000 in greenbacks he gets the agreeable service of traveling through the entirety of that extensive Territory managing Indian affairs.

Mr. EDMUNDS. The law does not compel that.

Mr. CONNESS. His duty compels him, and that is the highest form of compulsion to an honest man. He has organized Indian laborers to the extent of seventeen hundred, and planted corn to the extent of four thousand acres, and Congress, just as his work is beginning, in the frame of economy without intelligently investigating and ascertaining the facts, cuts off the appropriation. Now, while it is a virtue to be economical, and we all know it or ought to know it, it is not a virtue in Government, nor is it wise to strike at every public appropriation. There ought to be a limit to that as well as to expenditure.

Mr. MORRILL, of Maine. It is a little difficult for me to see on what principle this measure can be justified. This is not an expedition authorized by the Government, or over which the Government has any control, or to which it can give the slightest direction. I submit that it is a very novel proceeding that the Government shall be called upon to support an expedition over which it has no control, and in whose researches it cannot by any possibility have the slightest interest except in that general way which would result from any enterprise tending to develop the country. We have methods by which what is here con-

templated may properly be done under the sanction of the Government; and under such circumstances that the Government would have some voice in it, and give some direction to it.

I submit for that reason that we ought to hesitate before passing this measure; but that is not the point to which I rose to say a word. It is in regard to the unlimited character of this resolution. The Secretary of War is authorized and empowered to issue indefinitely commissary stores for this expedition, and in addition quartermaster's stores to an unlimited amount. Who can tell what it is to be? The expedition is for the survey of the Colorado river. How extensive? The whole river as far as I know, a thousand miles, more or less; and there is not the slightest limitation; all the resources of the Government put at the command of this expedition. It is not even limited to the discretion of the quartermaster's or commissary department or the War Department. "As may be necessary to enable the expedition to prosecute its work." Under whose direction? Under Professor Powell's direction, not under the quartermaster's department or commissary department or the War Department, but as much of the commissary stores and quartermaster's stores of this Government as, in the judgment of Professor Powell, over which the Government has not the slightest control, as may be deemed to be necessary. How much that may be nobody here sees, and nobody can know, of course. How well defined the expedition is I do not know, and I have not heard it stated. Any one can see that if the expedition is to expand to the extent of exploring that entire river on a grand scale with a view of giving information of that river, then I concede that your quartermaster's stores and commissary stores will be called upon to a very great amount. What will it cost? I have heard no estimate, but the supplies in that region of country must be very expensive. It costs, I believe, some ten dollars a bushel to furnish corn on the frontiers where we fight the Indians. Nobody can tell to what extent this goes. I should say, if this resolution passes, instead of a deficiency bill for \$12,000,000, as we had at the commencement of this session, you will have at the commencement of the next session a very much larger deficiency bill for commissary and quartermaster's supplies.

Mr. WILSON. I move to amend the resolution by striking out the words "such commissary and quartermaster's stores to" and inserting "rations for twenty-five men of;" and in lines six and seven by striking out the words "as may be necessary to enable the expedition to prosecute its work" and inserting "while engaged in that work;" so that it will read:

That the Secretary of War be, and he is hereby, authorized and empowered to issue rations for twenty-five men of the expedition engaged in the exploration of the river Colorado, under direction of Professor Powell, while engaged in that work: *Provided*, That such issue is not detrimental to the interests of the military service.

The amendments were agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time.

Mr. SHERMAN. I ask for the yeas and nays on the passage of the resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 25, nays 7; as follows:

YEAS—Messrs. Anthony, Chandler, Cole, Conkling, Conness, Corbett, Cragin, Davis, Dixon, Doollittle, Drake, Fowler, Harlan, Morrill of Vermont, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Stewart, Thayer, Trumbull, Wade, Willey, Wilson, and Yates—25.

NAYS—Messrs. Ferry, Fessenden, McCreery, Morgan, Morrill of Maine, Sherman, and Sprague—7.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cattell, Edmunds, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Howe, Johnson, Morton, Norton, Nye, Patterson of New Hampshire, Saulsbury, Sumner, Tipton, Van Winkle, Vickers, and Williams—22.

So the joint resolution was passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed a bill (H. R. No. 1117) to supply partial deficiencies in the appropriations for the service of the fiscal year ending on the 30th of June, 1868, in which the concurrence of the Senate was requested.

#### MONUMENT TO GENERAL SEDGWICK.

Mr. WILSON. I move to take up Senate joint resolution No. 129, donating certain captured ordnance for the completion of a monument to the memory of the late Major General John Sedgwick.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It requires the Secretary of War to place in charge of Major General H. G. Wright, Major General Frank Wheaton, Major General George W. Getty, and Major General Truman Seymour, three bronze cannon, captured by the sixth Army corps in battle, for the construction of a statue of the late Major General John Sedgwick, to be placed on a monument erected to his memory by the sixth corps of the Army of the Potomac.

Mr. WILSON. I hope nobody will oppose this resolution. It proposes simply to donate three cannon for this purpose.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### JOHN M. PALMER.

On motion of Mr. WILLEY, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 218) for the relief of John M. Palmer, the pending question being on the amendment reported by the Committee on Claims, to add as an additional section:

SEC. 2. *And be it further resolved*, That the chief quartermaster of the military department of the Cumberland, in addition to the contract price of ninety cents for each coffin manufactured by the said John M. Palmer, under his contract aforesaid, of the date of the 27th of August, 1866, cause to be paid out of any money under his control unto the said John M. Palmer the further sum of \$12,716 30 for manufacturing and delivering said coffins: *Provided*, That the said John M. Palmer shall, in conformity with the provisions of his contract aforesaid, well and truly manufacture and deliver all the coffins which he is thereby still required to manufacture and deliver.

The amendment was agreed to.

Mr. CONKLING. Mr. President, when this joint resolution was under consideration before I intended to call attention to two or three things in regard to it which are not, of course, as fresh in my mind at this moment as they were then. I have been looking for a memorandum which I made at the time the report was read; but I do not lay my hand on it. I content myself, therefore, with making a general remark or two. I have no doubt of the merits personally of the claimant, for they have been avouched by Senators who are acquainted with him. The objection which occurs to me is entirely separate from any question relating to this particular man; but I venture to say that the principle upon which the three items—for I believe there are three entering into this claim—are to be allowed is a principle which would beggar this or any other nation. I undertake to say that claims for damages and compensation which would dizzy all arithmetic can be found and will come out of this war which will fall strictly within any principle upon which this bill can be defended. Let me see if I am right in one thing, and I beg the honorable Senator from West Virginia to set me right if I fall into an error. Here is a proposition to give to this man extra compensation for digging post-holes across a ridge or a hill upon the ground that it turned out to be more slanting than he thought it was; the ground was harder, but especially it was more slanting and very difficult to stand on when these holes were being dug. I ask the Senator if I am not right in that.

Mr. WILLEY. The Senator is certainly not right in regard to the merits of that part of the claim.

Mr. CONKLING. I beg pardon; I did not intend to cover anything by my remark but that one thing. I pick that out now and specify it as one of the ingredients, one of the elements entering into this claim; and I should like to ask the lawyers who pay any attention to this matter for the principle upon which such a benefaction, such a compensation, such a rendition as that (whatever it may be called), can be justified for one moment. Here is a man who makes a contract with an individual or with the Government to build a fence along a certain line, to dig post-holes, or set posts over a hill, and he goes on and does precisely what he bargained to do; and he then comes to the other party to the contract and says: "In the first place this ground was harder than I thought it was; a crow-bar was not as easily put into it as I thought it would be; the spade did not go in as easily as I thought it would. But in the next place, when I came to dig these holes I was much more inconvenienced by the slant of the ground than I expected to be, and therefore I ask you to pay me extra for doing this service." Is there any court of law; is there any court of equity; is there any tribunal under heaven where justice is administered in which such a claim as that would stand for one moment? Just look at it in its relations to other things which may be said, which will be said, and should be said, if this principle is to be established. It may be that here is a man of unusual energy; a man of unusual merit. The honorable Senator in front of me [Mr. SHERMAN] indorsed him as such the other day; but that does not affect the principle. Instances make order. It is an old maxim. Precedents are very weighty, especially in proceedings of this sort; and unless this man has a case which in and of itself can stand, and stand in such a forum as this, we have no right, sitting here as trustees, as directors in a corporation, if I may so say, to vote to pay trust money for any such thing.

Now, Mr. President, if it were worth while—and I think I meant the other day to do it—I could relate some cases falling within my own observation which I think would put in a very striking light the inconsistency in which we involve ourselves. I know a man whose case occurs to me at this moment who received a contract from the Government during the war which he did not seek, I believe, to make and deliver certain wares specified in the contract, a sample being furnished to him. He took his sample. He made his wares. He delivered them. In the meantime a commission was convened here; by precisely what authority I do not know; which commission, without giving any notice to him, reduced, I believe, about fifty per cent. the price to be paid on this contract for these articles. In the meantime he had altered his machinery and made considerable outlay for the purpose of fulfilling this contract. He went on and fulfilled it and delivered the commodity, and tells me (and I have no doubt of the truth of the statement, because he is a man I have known all my life, an honest man) that he has actually lost about twenty thousand dollars; that the actual cost of production and of laying down the commodity where he was directed to put it amounts to \$20,000 more than he received according to this reduced price. There is no remedy so far for that man nor for the class of men to whom he belonged. He was a contractor, and because he was a contractor, in company with almost all other contractors, a sort of stigma is fixed upon him, going with the name of contractor; and up to this time, as far as he knows and as far as I know, there is no remedy for him, nor for a great many other men who were substantially treated in the same way.

But here is the case of a man who received every farthing—I speak still of the particular part of the resolution which I am talking about—which it was bargained he should re-



ceive. Nothing in the world has occurred known to any principle of law or equity to absolve him from his contract; and the proposition is now to add arbitrarily a certain gross sum to what it was agreed he should have, and what he did in truth have, for doing precisely that and nothing else, which he bargained to do.

Well, sir, there are other parts of this resolution. Another part relates to compensation to be paid him in spite of his default upon a contract to make coffins, I think. That brings to every lawyer's mind the hardship of the law; the law in both countries; the law under which a sailor ships for a voyage and he sickens and dies before the voyage is performed, but there is no *quantum meruit* for him; there is nothing in the world for his representatives except to be turned out of court with the statement that the contract was an entirety; he has failed to perform it, and there is no remedy for him; and in England to this day there never has been an exception to this rule. Even the case of servants in London was never an exception to it, because they recovered a *quantum meruit*, if they did not serve the entire period for which they bargained, only by the custom of London; local there. So that in the whole British realm this was the law always, and is the law now. It is the law in this country, in every State, except so far as the courts have been able to make war upon it in excepted cases growing out of special facts.

Now, here is a man who makes a contract which is to be executed by running a saw-mill. His saw-mill takes fire and burns up. Agreed, it is a great misfortune. It belongs to that catalogue the length of which no man can measure, of misfortunes in consequence of which men fall short in the performance of their contracts. But thereupon the default is to be disregarded, and this claimant is to be paid the amount which it was bargained to pay him for all that he did deliver in fact, and then in addition, as I understand it, to be relieved from all forfeitures besides; and then, in the third place, looking to the future, a price is to be added to the contract price, and he is to go on and fulfill the contract under this added price. That was excused the other day as a matter of fact upon some computation that the coffins were needed and that it would be cheaper to bargain with him than to make a contract *de novo* with a new man. If that be so it is to be treated as an independent proposition standing in that way. That is the amendment on which we have just voted. It is a bare matter of fact, a mere matter of calculation as to that. If this man cannot execute his contract, and cannot be made or should not be made to execute the residue of his contract, and if as to that residue it is cheaper to contract with him at the figure stated in the resolution than with another person it is perfectly defensible as an original proposition for that reason.

But how are these other two elements of this resolution to be defended? I do not see. It may be that in my statement of it I have fallen into some error of detail, as I commenced by saying it is rather out of my mind, as I relied upon a memorandum, and did not intend to carry it in my memory, and that memorandum has passed out of my drawer in the mean time, but in general terms the proposition is as I state it; and I repeat, I believe it to be in defiance of the precedents and the principles upon which we have legislated heretofore in these cases; and I believe it to be so broad and loose a foundation that if adopted now, upon the heels of this war, it will lead to claims which, I repeat, would beggar any nation. I have talked myself with a man who told me he happened to hear Mr. Monroe say that the damages arising from the war of 1812 were greater than the cost of the war itself. A bill was passed, it will be remembered, after the war, which continued in force, I believe, but a single year, and which let in such a flood of claims of all sorts, restricted and carefully guarded as Senators will see that bill was, as

terrified the whole nation, and it was repealed and abandoned.

Now, here is a proposition, not, to be sure, for a general act, but to take up a case certainly conspicuous for the length to which it goes, and establish a precedent which it seems to me would bring in almost anything, unless it be such a bill as was postponed the other day after being considered, in which it was proposed to pay some man for trampling down his grass, and for scarring his fruit trees, and for drilling on his land, which made it so hard that it was very difficult to plow it up, and the computation was that he was to receive the price of the land as if upon purchase for that. Perhaps it would not go so far as to embrace a case of that sort, but it goes an immense distance, so far that I feel the Senate will forgive me for calling attention briefly, and perhaps not in a very instructive manner, to the nature of the bill.

Mr. WILLEY. Mr. President, I do not attempt to deny that there is much force in the general remarks of the Senator from New York, and the suggestions he makes ought to inspire us with a reasonable degree of discretion, and ought to require us to examine these claims, when they are made, with care. But, sir, this claim, like every honest claim, must stand upon its own individual merits. The scope of the remarks and the reasoning of the Senator from New York would exclude all claims whatsoever. If they are to apply, we shall be troubled with none of them. If no claims are to be entertained by Congress but such as are strictly legal claims, and such as, if the Government could be sued as a party, might be enforced in a court of law or a court of equity, we shall have very few claims presented to us. As I remarked the other day, it is not pretended that this claimant has any legal claim against the Government or a claim in the nature of a legal claim; it is not contended that he has such a claim as, if the Government could be sued, he could enforce it in a court of law; but he comes and addresses the Senate upon his claim on the broad principles of equity and justice.

Now, sir, inasmuch as the Senator from New York propounded a question to me which I answered, I hope he will pardon me for propounding a question to him which I trust he will answer. It is this: suppose I, as a contractor with the Senator from New York, had undertaken, upon certain specified terms reduced to writing, to erect him a mansion in which to live, and in the prosecution of my contract I had been so unfortunate as that the enemies of the country and my enemies had by fire destroyed the means upon which I relied to construct it, and that in making the contract I had been honestly mistaken upon his representations as to the expense it would require to build that house, and when it was done, and he had moved into it, and found that it answered his purpose, upon counting the cost and settling for the cost of the construction, he found from the figures and the facts, utterly undeniable, that he was secure in his home, with his family protected from the weather and the storm, at his ease and enjoying his comfort, with a mansion around him that had beggared me, and turned my wife and children out upon the charities of the world, perhaps for support, enjoying a mansion that had cost me three times, nay, by comparison with the evidence in this record four times as much as I contracted to build it for, would he, as an honest man, sit down quietly and sleep in that mansion until he had made some compensation to me for erecting it? Upon the broad principles of justice between man and man, upon those principles upon which we shall like to stand when we have to give an account of our actions finally to the great Judge of us all, would he feel himself authorized to dwell in that mansion erected for his benefit at one third of the price which it actually cost? I am sure he would not. I will not ask an answer. His own sense of equity

would give the answer. He would not allow himself to abide by the letter of the law. He would not repeat the old test and demand of me the pound of flesh because it was so nominated in the bond. He would not feel easy, he would not feel honest until he had at least made some fair compensation for the consideration which he received at my hands.

Now, sir, as a great and magnanimous and just and generous Government, how should we demean ourselves? We have received here, according to the evidence, honest consideration. The contract which we made with this man has been honestly fulfilled. It is in evidence that he is a high-minded and honorable man; that he has striven with all his ability and with all his means to fulfill the contract made on his part; that he has been economical, according to the testimony; that he has not been wasteful; that he has acted with all possible discretion and with all possible fidelity to the Government; and yet it turns out according to the incontrovertible evidence in this record, according to the assertion of every officer with whom he had to do from General Thomas down to the quartermasters and officers immediately in charge of the work, he has incurred expenses three times greater than the amount which he received from the Government in the performance of his contract. Sir, it is not like a contract entered into in the ordinary way. Here were the contractors on both sides, the officers upon the part of the Government and the contractor himself, away from the places where the work was to be done, making certain representations to him of the character of the work and of the character of the country, for instance, where these cemeteries were to be erected. Acting upon a general knowledge of affairs, without any particular description before him, he undertook to build the fences around these cemeteries according to certain specifications at a certain price.

Now, sir, the House of Representatives have settled, so far as this resolution is concerned, that whole question. They have sent to us a joint resolution allowing him extra pay to the amount of some seven thousand dollars for the erection of these works around the cemeteries; but they declined to make any additional compensation for the coffins. Now, let us look at the facts. The evidence, I think, in this record will justify any man in saying that the House, in making the additional allowance, which they do make, fall very far short of compensating him entirely for the cost of the erection of these works; but they allow a certain sum in addition to that which he contracted to build them for.

The second question in this resolution to which the honorable Senator refers is as to what are called stoppages. By the contract Mr. Palmer was to make fifty-two thousand coffins at the specified price of ninety cents per coffin. It turns out that a great many more than fifty-two thousand will be required. By the terms of the contract, unless these coffins are delivered at a certain time and at a certain place, the quartermaster, or the officer in charge of the work, has a right to deduct from even this limited price of ninety cents per coffin a certain percentum called stoppages. Mr. Palmer went on and made about forty thousand coffins. Many of them were not delivered in time, and for failure to deliver and fulfill the stipulations of the contract within the time specified stoppages were held back out of his limited pay to the amount of about fifteen thousand dollars. The second provision of this resolution is to allow these stoppages to be paid; that is to say, that he shall be allowed the full sum of ninety cents per coffin for all that he has made. It would be an unconscionable hardship upon him if the Government of the United States should not only hold him to his contract to make these coffins at ninety cents, but for failure to deliver some of them in time should withhold payment, even to the amount of nearly one half, to the amount of \$15,000. The resolution provides that these stoppages

shall be paid, that that part of the contract shall be annulled; and that the officers of the Government shall be authorized and directed to pay him to the full extent of ninety cents per coffin.

But the amendment reported by the Committee on Claims of the Senate proposes to pay him an additional amount of \$12,716 30. It seems that he has still, in completion of his contract, to make from seventeen to twenty thousand coffins in addition to those which he has already made. Now, what are the facts shown? That upon his failure to deliver coffins at Vicksburg and Memphis the Government went on to construct coffins itself by its own officers, and the evidence is, from the officers themselves who had these coffins made, that at Memphis it cost the Government two dollars each coffin, and that at Vicksburg it cost \$2 50 when the Government constructed these coffins itself. Part of these coffins were constructed also of old lumber already owned by the Government, and yet it cost at Memphis two dollars per coffin to make them.

What will be the result unless this additional allowance is made? To say nothing of the equity of the case; to say nothing of the obligation resting upon a just Government to make due compensation to its citizens for services actually rendered; to say nothing of the inadequacy of the price of ninety cents per coffin for those already constructed, what will be the result? Why, sir, it is made known to the committee, and it is a fact which will not be controverted, that unless this additional compensation is made to Mr. Palmer, he will have to throw up his contract; he will be obliged to go down under its weight and to be a ruined man; and the consequence will be that the Government will have to make the additional coffins by its own officers and out of its own means. The committee considered that it would be an advantage even in dollars and cents on the part of the Government if they should make this additional allowance, because unless they do Mr. Palmer will have to throw up his contract and the Government will have to make the coffins itself and they will cost it from two dollars to two dollars and fifty cents per coffin, and this additional cost on the seventeen or twenty thousand coffins yet to be made and delivered will be more, or at least as much as the additional compensation which this resolution proposes to give Mr. Palmer, provided he shall fulfill his contract.

Upon the question, therefore, of economy, looking nothing to the equity of the case, nothing to the obligation of the Government to do justice to its citizens, looking to the interests of the Government in a pecuniary point of view, it will make money, perhaps, by passing the resolution as it is, and I trust it will be the pleasure of the Senate to make this allowance to this man. I am aware of the dangerous character of things that will be presented to us from the sources indicated by the Senator from New York; but then it will only devolve upon the Senate the necessity of looking strictly into each claim. It will not do, Mr. President, by these general kind of rules to sweep away and drive from our doors all memorialists. We must look at the claims and examine them when they come. The remarks of the Senator from New York are relevant to enforce scrutiny and rigid examination into every claim that comes, but certainly ought not to be extended so far as to operate to the rejection of all claims upon general principles.

Mr. CONKLING. I should like to answer the question, the answer to which the honorable Senator waived. He put to me the case of building a house for me upon a contract which turned out to be losing and hard to him, and then by way of inquiry he said, "Would the Senator, as an honest man, live in that house and leave the contractor to his loss?" As I understand, Mr. President, the party to such a contract would not be called upon, in the character of an honest man, to decide any such question as the Senator proposes. He

could not, in the character of an honest man, be called upon to decide that, because the question would address itself, not at all to his integrity, but to his generosity, his liberality, his humanity. And there, Mr. President, is the gulf which can never be properly passed dividing us in the character in which we sit here from an individual disposing of his own money.

Now, by way of reversing that illustration, let me inquire of the Senator how he proposes to treat all the cases of men contracting to cast cannon and to do other large services to the Government whose contracts, owing to the fluctuation and the fall of gold, among other things, turned out to be twice as good as they should have been or as they were intended to be? Does he propose to have those men refund to the Government the extraordinary profits that they made? Not at all. Why? Because the law governing contracts estops him and puts an end to any such proceeding.

But, Mr. President, this I conceive to be the true rule in these cases: not what is generous; not what a man might be moved to do with his own money taken out of his own pocket; but what is it proper for us to do, sitting here as trustees, as directors of a corporation—for that is all the Government of the United States is, for the sake of this illustration—a great corporation, the board of directors of which consists of the two Houses of Congress. It happens, in our organism, that this corporation is too great to be sued. Its supremacy, its sovereignty—to use the favorite word in this connection—exempts it from liability to be sued. What does that render necessary in ethics and in law? That there should be some process of answering to demands which will level this distinction, which will remove out of the pathway of claimants the injustice which they would suffer if the Government were really unapproachable. Very well. How far do we go before we meet the requirement of this exigency? I beg to tell the Senator precisely how far; and it is a rule which can never be mistaken. We go far enough when we subject the Government of the United States to all the liabilities, legal and equitable, which would devolve upon an individual, subject as he is to being called into the courts. What is the province, I should like to know, of Congress passing private bills except to see to it honestly that the claimant loses nothing by the fact that his claim is against a party whom he cannot make defendant in a bill in equity or in an action at law. When we have done that; when we have subjected the trust funds which we administer to every liability which could be imposed upon them were they private trust funds, then I inquire again upon what principle it is, short of an arbitrary and blameable discretion, that we go further?

The Senator says that the remarks which I made before show the propriety of scrutinizing these cases individually. I submit to him with great respect and with great confidence, because I know his candor and the fairness with which he has treated this, as he treats all other matters that he has in charge, that that is not the point and the strength of this argument, that we are to sit here trusting to our industry and our penetration in each particular case to spell out of an arbitrary matter its merits as a mere question of morality or generosity; but that, on the contrary, we are to adopt the more simple, the more uniform, the more approved process of seeing, when a case presents itself to us, whether it falls within or without the general principles upon which we act, whether it is included or shut out by the lines of demarkation dividing those claims which we have a right to allow from those claims which, however much they may excite our compassion or our sympathy, we have no right to allow. That, I submit, is the true rule; and if we are to sit auditing each particular account or claim, ungoverned by any principle except the great principles of good-heartedness, whatever they may be, we undertake an administration utterly hopeless, utterly endless,

utterly impossible; and at the same time we adopt a rule certain, if in nothing else, to work great injustice; because then it must depend upon the mood and temper of the Senate; it must depend on how far, at the time, the Senate is in haste; as somebody has said, it would depend very much upon whether the question were raised before or after dinner; very much upon whether some Senators to whom I might refer were engaged at that time in pointing to the clock and anxious to refresh themselves upon more nourishing provender than that which is found in the Senate; so that that would be very uncertain.

Now, Mr. President, to conclude, I submit to the honorable Senator this other proposition: if a man has a claim upon him, or if he has no claim upon him, he has a right to put his hand in his pocket, in his generosity, and lend or give just what he pleases; but when he is acting as trustee, which I conceive to be our precise character here in its highest estate, voting away money not his own, determining a question which he has no right to have any feeling about, which he has no right to regard as a question arising between a friend of his and some one that is not his friend, but to be determined entirely by the considerations which determine its belonging or its not belonging to the class of claims which in a court of law or a court of equity, as the case may be, would be respected—I submit to him that, sitting here in that character, he has nothing to do in this case except to determine whether in the abstract it and all other such claims could be defended or not. That is the question. If it could not be, if this man had made this contract with a bank, and if any court of law or any court of equity would turn him out of court, saying this is a case of hardship, just such hardships as you can see a thousand of in Walnut street or State street or Wall street every day in the week, where a man is reduced from affluence to beggary, depending on whether he takes one view or the other of the up or down in the market—if, I say, a court of equity would turn him out, saying that, then we have no right to pay this claim. Certainly we have no right to pay it unless I am wrong in supposing that we, as the representatives of the Government of the United States, do our whole duty when we reduce the Government to the precise footing of an individual amenable to all the processes of law; and really I think I cannot be mistaken in that. If I am right in that, then the Senator must admit that this joint resolution is wholly indefensible.

Mr. President, it is a small matter in a certain sense. In these times of large sums we come to regard such things as this as small. It involves, I think, something more than \$35,000. We know what it is. If it were to stop with this one case, it might be treated as a matter small enough to be made exceptional if any distinction could be drawn. But I look upon it as one of a class, a sample of contracts of which the country is full, and amounting to a sum which it would be difficult to overstate. I have only to say that if it is to be allowed, if one, at least, of the elements of this resolution be sanctioned, I do not know who is not to be paid, or upon what claim, so long as it is founded in sincerity and anything that looks like hardship, a man cannot recover under the precedent which we shall set.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed and the joint resolution to be read a third time. It was read the third time.

Mr. CONKLING. I ask for the yeas and nays upon the passage of the resolution.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 7; as follows:

YEAS—Messrs. Anthony, Chandler, Cole, Corbett, Cragin, Fowler, Harlan, Howe, Morrill of Maine, Morrill of Vermont, Patterson of Tennessee, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Thayer, Tipton, Trumbull, Wade, and Wiley—22.  
NAYS—Messrs. Conkling, Dixon, Ferry, Fessenden, McGreevy, Morgan, and Wilson—7.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Cattell, Conness, Davis, Doolittle, Drake, Edmunds, Frelinghuysen, Grimes, Henderson, Hendricks, Howard, Johnson, Morton, Norton, Nye, Patterson of New Hampshire, Saulsbury, Sumner, Van Winkle, Vickers, Williams, and Yates—25.

So the joint resolution was passed.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1117) to supply partial deficiencies in the appropriations for the service of the fiscal year ending on the 30th June, 1868, was read twice by its title, and referred to the Committee on Appropriations.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a report from the Secretary of State, with accompanying documents, in relation to recent events in the empire of Japan; which was referred to the Committee on Foreign Relations.

#### REPORT ON MINERAL RESOURCES.

The PRESIDENT *pro tempore* also laid before the Senate a letter from the Secretary of the Treasury, transmitting the report of J. Ross Browne on the mineral resources of the States and Territories west of the Rocky mountains.

Mr. STEWART. We shall probably desire to print some extra numbers of that report.

Mr. COLE. I was going to offer a resolution on that subject. With the permission of the Senator, I offer the following resolution:

*Resolved*, That fifteen thousand copies of the report of J. Ross Browne, on the mineral resources of the States and Territories west of the Rocky mountains, be printed for the use of the Senate.

I suppose the resolution goes to the Committee on Printing.

The PRESIDENT *pro tempore*. It goes to the Committee on Printing under the rule.

Mr. RAMSEY. Then I hope that the resolution I offered the other day may also go to the Committee on Printing for publication along with that report, to be bound in the same volume, of James W. Taylor's report on the gold regions east of the Rocky mountains.

The PRESIDENT *pro tempore*. Is that resolution on the table?

Mr. RAMSEY. No, sir. I move it anew. It was referred to the Committee on Mines and Mining at the instance of the Senator from California [Mr. CONNESS] the other day. It will be lost there. I move that the same number of copies of the letter of the Secretary of the Treasury, inclosing the report of James W. Taylor upon gold and silver mines and mining east of the Rocky mountains, be printed for the use of the Senate.

Mr. COLE. I should like to inquire if the report of Mr. Taylor has been published by the other House?

Mr. RAMSEY. It is there, I think.

Mr. COLE. The report of Mr. Browne, I understand, has been published, and has been stereotyped, and the only expense will be the paper and press work.

Mr. RAMSEY. I understand that Mr. Taylor's report has been published by the House.

Mr. TRUMBULL. Both ought to be published.

Mr. COLE. I have no objection to both going to the committee.

Mr. RAMSEY. Then you accept that as a modification of your resolution?

Mr. COLE. Let it go as a separate resolution.

The PRESIDENT *pro tempore*. The question is on referring the resolution of the Senator from Minnesota, also, to the Committee on Printing.

Mr. CONKLING. It must be referred by law.

The PRESIDENT *pro tempore*. It goes to the Committee on Printing, as a matter of course.

Mr. WILSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, May 25, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of Saturday last was read and approved.

The SPEAKER. This being Monday, the first business in order is the call of the States and Territories for bills and joint resolutions for reference to their appropriate committees, not to be brought back into the House by a motion to reconsider, commencing with the State of Maine.

#### COLORADO TROOPS.

Mr. PHELPS introduced a bill (H. R. No. 1105) for the reorganization of the United States colored troops, their instruction and colonization; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

#### BARK CARLOTA.

Mr. KERR introduced a bill (H. R. No. 1106) to authorize the registration of the bark Carlota as an American vessel; which was read a first and second time, and referred to the Committee on Commerce.

#### JACOB ATLEE.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 1107) for the relief of Jacob Atlee; which was read a first and second time, and referred to the Committee of Claims.

#### CONSTRUCTION OF PENSION LAWS.

Mr. PAINE introduced a bill (H. R. No. 1108) to construe an act entitled "An act supplementary to several acts relating to pensions," approved June 6, 1866; which was read a first and second time, ordered to be printed, and referred to the Committee on Invalid Pensions.

#### CHARLES MAY, OF WISCONSIN.

Mr. PAINE also introduced a bill (H. R. No. 1109) for the relief of Charles May, of Milwaukee, in the State of Wisconsin; which was read a first and second time, and referred to the Committee on Private Land Claims.

#### CREEK INDIANS.

Mr. WINDOM introduced a bill (H. R. No. 1110) to carry out certain treaty stipulations with the Creek tribe of Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

#### MRS. CHRISTINA DICKEY.

Mr. KOONTZ introduced a bill (H. R. No. 1111) granting a pension to Mrs. Christina Dickey; which was read a first and second time, and referred to the Committee on Invalid Pensions.

#### WASHINGTON BENEVOLENT LIFE ASSOCIATION.

Mr. KOONTZ also introduced a bill (H. R. No. 1112) to incorporate the Washington Benevolent Life Association; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### POST ROUTE IN CALIFORNIA.

Mr. HIGBY introduced a bill (H. R. No. 1113) to establish a post route in the State of California; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### NEW MEXICO.

Mr. JULIAN introduced a bill (H. R. No. 1114) to provide for annexing certain territory to the Territory of New Mexico; which was read a first and second time, and referred to the Committee on the Territories.

#### SAMUEL HYER, OF MISSOURI.

Mr. PILE introduced a bill (H. R. No. 1115) for the relief of Samuel Hyer, of Rolla, Missouri; which was read a first and second time, and referred to the Committee of Claims.

#### NATIONALIZATION OF STEAMSHIPS.

Mr. PILE also introduced a bill (H. R. No. 1116) authorizing the nationalization of certain steamships; which was read a first and

second time, and referred to the Committee on Commerce.

#### COMMERCIAL COMMISSIONER.

Mr. PILE also introduced a joint resolution (H. R. No. 274) authorizing the appointment of a commercial commissioner; which was read a first and second time, and referred to the Committee on Commerce.

#### "THIS IS A WHITE MAN'S GOVERNMENT."

Mr. CHANLER. I introduce the following preamble and resolutions declaring that this is a white man's Government, and that the right of suffrage absolutely and exclusively belongs to the white race:

Whereas it is the sacred duty of every people to preserve its posterity free from evil influences, bad government, and demoralization, by a wise foresight and a firm maintenance of established principles of truth, justice, and liberty; and whereas, from motives of self-preservation during the late civil war between the States of this Union, it became the policy of the Administration to array the black race against the white by putting arms in the hands of the slaves and by promising them freedom and the right to vote: Therefore,

*Resolved*, That now we deem it the duty of Congress to declare: that the original, absolute, and exclusive dominion in and over these United States and the Territories thereof is lodged in and of right belongs to the people in the respective States of this Union, and is derived by descent from their European ancestors, the original discoverers of this continent, by subsequent conquest, by long-established law, and by the customs of a liberal civilization.

*Resolved*, That all inhabitants of any State or Territory of the United States, other than the people aforesaid, who may now or hereafter exercise the right of suffrage, do so on sufferance under the franchise granted by the white race, who may lawfully hereafter, for good cause shown, at any time revoke the privilege or privileges so granted to the mixed races of African or Asiatic descent.

*Resolved*, That the Committee of Elections be, and hereby is, authorized to bring in a bill embodying the principle that this is a white man's Government, as established by the Constitution, and limiting the right of representation to the white race.

Mr. UPSON. I object; that is a House resolution.

Mr. CHANLER. I introduce it as a joint resolution.

The SPEAKER. The last resolution is not a joint resolution.

Mr. CHANLER. I withdraw the last resolution.

The joint resolution (H. R. No. 275) was read a first and second time, and referred to the Committee on Commerce.

The call of the States and Territories for bills and joint resolutions having been concluded,

The SPEAKER next proceeded to call the States and Territories in their inverse order for resolutions, commencing with the State of Pennsylvania, where the call was arrested at the expiration of the morning hour on the 18th of May.

#### NATIONAL BANKS.

Mr. RANDALL submitted the following resolution, upon which he demanded the previous question:

*Resolved*, That the Comptroller of the Currency be requested to furnish to this House a statement of the amount of dividends declared by the national banking associations since their organization under the present national banking act; the amount credited to the real estate account distinct from the capital expended therefor; the amount credited to the surplus account; the amount of their undivided profits and all losses, each respectively per annum. If such information be not in his possession, he is further directed to take prompt measures to procure and transmit the same to this House.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

#### MILITARY TRIALS, ETC.

Mr. SITGREAVES. I offer the following preamble and resolution, upon which I demand the previous question:

Whereas by an act of Congress, approved March 2, 1867, it was enacted, "That all acts, proclamations, and orders of the President of the United States, or acts done by his authority or approval, after the 4th of March, A. D. 1861, and before the 1st day of July, A. D. 1866, respecting martial law, military trials by courts-martial or military commissions, or the arrest, imprisonment, and trial of persons charged with participation in the late rebellion against the United States, as aiders or abettors thereof, or guilty of any disloyal practices in aid thereof, or of any violation of the laws or usages of war, or of



affording aid and comfort to rebels against the authority of the United States, and all proceedings and acts done or had by courts-martial or military commissions, or arrest or imprisonment made in the premises by any person by the authority of the orders and proclamations of the President, made as aforesaid, or in aid thereof, are hereby approved in all respects, legalized and made valid, to the same extent and with the same effect as if said orders and proclamations had been issued and made, and said arrests, imprisonments, proceedings, and acts had been done under the previous express authority and direction of the Congress of the United States, and in pursuance of a law thereof previously enacted and expressly authorizing and directing the same to be done: And no civil court of the United States, or of any State, or of the District of Columbia, or of any district or Territory of the United States, shall have or take jurisdiction of, or in any manner reverse any of the proceedings had or acts done as aforesaid; nor shall any person be held to answer in any of said courts for any act done or omitted to be done in pursuance of or in aid of any of said proclamations or orders, or by authority or with the approval of the President, within the period aforesaid, and respecting any of the matters aforesaid; and all officers and other persons in the service of the United States, or who acted in aid thereof, acting in the premises, shall be held *prima facie* to have been authorized by the President, and all acts and parts of acts heretofore passed inconsistent with the provisions of this act are hereby repealed; and whereas it is alleged that citizens of the United States were arrested and imprisoned between the 4th day of March, A. D. 1861, and the 1st day of July, A. D. 1866, under the alleged authority of the aforesaid acts and proclamations and orders, and afterwards discharged without trial either in the civil or military courts; and whereas it is alleged that many citizens so arrested and imprisoned then were, and ever have been, loyal to the Constitution and the Union, and were unjustly arrested and imprisoned, but by reason of said discharge without trial and the aforesaid recited act they cannot establish their innocence, and their characters are tainted with the suspicion of treason; and whereas it is reasonable and just that for every wrong there should be a remedy provided by law: Therefore,

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of reporting a joint resolution authorizing the appointment of commissioners or courts of inquiry duly authorized to inquire into and report the causes of said arrest and imprisonment of a citizen in every case where such citizen shall demand such inquiry by petition, verified by the oath or affirmation of the petitioner.

The question was put upon seconding the previous question, and there were only eighteen in the affirmative.

So the previous question was not seconded. Mr. WASHBURNE, of Illinois. I rise to debate the resolution.

Debate arising, the resolution went over.

#### DUELING IN THE DISTRICT.

Mr. JENCKES. I offer the following resolution:

*Resolved*, That the Committee on Foreign Affairs be instructed to inquire into the truth of the report that a duel has been fought in or near the District of Columbia in pursuance of a challenge or arrangement made within this District between a person in the diplomatic service of the United States and a secretary of one of the foreign legations, and, if they find such an offense has been committed, to report to this House whether a due respect for the laws of the United States does not require the House to take measures for the removal from office of the diplomatic officer and for the recall by his own Government of the secretary of the legation; and that for the purpose of this inquiry, the said committee are empowered to send for persons and papers.

Mr. BANKS. I have only to say that the Government has taken action on this subject, and has done all that can be done already. Therefore no inquiry is necessary.

Mr. JENCKES. Then let the committee so report.

The resolution was agreed to.

JAMES H. BIRCH.

The SPEAKER. The next business in order during the morning hour of to-day is the consideration of resolutions lying over, under the rule, in consequence of debate arising thereon, the first of which is a resolution offered on the 9th of March by the gentleman from Missouri, [Mr. McCORMICK.] The Clerk will report the resolution.

The resolution was read as follows:

*Resolved*, That there be paid to James H. Birch, of the State of Missouri, out of the contingent fund of the House, \$2,500, in full for time spent and expenses incurred in prosecuting his claim to a seat in this House.

The question was upon adopting the resolution.

Mr. WASHBURNE, of Illinois. Has that resolution the recommendation of the Committee of Elections?

The SPEAKER. The Chair thinks it was offered individually by the gentleman from Missouri.

Mr. McCORMICK. I have no objection to the reference of the resolution to the Committee of Elections; and I make that motion.

The resolution was accordingly referred to the Committee of Elections.

#### COMPENSATION OF COMMITTEE CLERKS.

The next resolution lying over, under the rule, was as follows:

*Resolved*, That the resolution of the House passed March the 3d instant, in the following words:

*Resolved*, That the clerks to the committees in the House of Representatives shall receive the same additional compensation as the other employes of the House.

Shall be so construed as to increase the compensation of those committee clerks now receiving four dollars per day twenty per cent.; and the Clerk of the House of Representatives is hereby authorized to pay them at the rate of \$4.80 per day during the sessions of the Fortieth Congress.

The question was upon agreeing to the resolution.

Mr. WASHBURNE, of Illinois. It will be recollected that I opposed this addition of twenty per cent. to the compensation of other employes, but the House passed it. I think it would be manifest injustice to make any discrimination between the different employes of the House. I think the resolution should be passed, and upon it I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The States will be again called for resolutions, as on the last call many of them were not reached.

#### TRIBUTE TO ABRAHAM LINCOLN.

Mr. VAN TRUMP submitted the following resolution:

*Resolved*, That the Committee on Printing be, and the same are hereby, instructed to report to this House at as early a day as may be convenient: *First*. The number of copies heretofore printed of what is known as "Tributes of the Nations to Abraham Lincoln," in relation to his assassination and the attempted assassination of William H. Seward, Secretary of State, and Frederick W. Seward, Assistant Secretary, under and by virtue of the authority of a joint resolution of the Senate and House of Representatives, passed March 2, 1867. *Second*. The number of copies of said work bound in full morocco and full gilt; the number bound in morocco, marbled edge, and the number of copies in any other style of binding or unbound. *Third*. The cost per copy of those bound in full morocco and in full gilt; the cost per copy of those bound in half morocco, marbled edge; and the cost per copy of those in any other style of binding or unbound. *Fourth*. The cost of engraving and of steel or copper-plate printing of the entire edition of said work. *Fifth*. The number of copies distributed in the United States and the number sent abroad. *Sixth*. The entire aggregate cost of the whole edition of said work, including transportation and all other costs and charges.

The question was upon agreeing to the resolution; and being taken, upon a division there were—ayes 31, noes 47; no quorum voting.

Tellers were ordered; and Mr. VAN TRUMP and Mr. PERHAM were appointed.

The House again divided; and the tellers reported—ayes thirty, noes not counted.

Mr. VAN TRUMP. I call for the yeas and nays upon adopting the resolution.

The yeas and nays were ordered.

Mr. MAYNARD. I move to lay the resolution on the table.

Mr. VAN TRUMP. Upon that motion I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 21, noes 69.

So (one fifth voting in the affirmative) the yeas and nays were ordered.

The question was then taken; and it was decided in the affirmative—yeas 71, nays 33, not voting 85; as follows:

YEAS—Messrs. Anderson, Arnell, Delos R. Ashley, Baldwin, Banks, Beaman, Benton, Blaine, Blair,

Boyer, Bromwell, Cate, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Dixon, Dodge, Donnelly, Driggs, Eliot, Ferriss, Ferry, Fields, Garfield, Gravely, Higby, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenekes, Julian, Ladin, William Lawrence, Loan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercer, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Plants, Polsey, Raum, Robertson, Sawyer, Seefeld, Smith, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, William B. Washburn, and Windom—71.

NAYS—Messrs. Adams, Allison, Ames, Baker, Brooks, Burr, Cary, Eldridge, Getz, Glossbrenner, Golladay, Grover, Harding, Johnson, Jones, Kelsey, Kerr, Knott, Kootz, George V. Lawrence, Lynch, McCormick, Morgan, Pike, Pruyn, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, Van Trump, Ward, and Elihu B. Washburne—33.

NOT VOTING—Messrs. Archer, James M. Ashley, Axtell, Bailey, Barnes, Barnum, Beatty, Beck, Ben- jamin, Bingham, Boutwell, Broomall, Buckland, Butler, Chanler, Cook, Cornell, Cowdy, Culum, Dawes, Eckley, Eggleston, Elia, Farnsworth, Finney, Fox, Griswold, Haight, Halsey, Hawkins, Hill, Holman, Hooper, Hotchkiss, Asahel W. Hubbard, Richmond D. Hubbard, Hulburd, Humphrey, Judd, Kelley, Ketchum, Kitchen, Lincoln, Logan, Marshall, McCullough, Miller, Moore, Moorhead, Morrell, Morrissey, Mullins, Mungen, Niblack, Nicholson, Peters, Phelps, Pile, Pomeroy, Price, Robinson, Schenck, Selye, Shanks, Shellabarger, Spalding, Twichell, Van Aernam, Van Auker, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—35.

So the resolution was laid on the table.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HAMLIN, one of its Clerks, notifying the House that that body had passed a joint resolution (S. R. No. 134) authorizing the change of mail service between Fort Abercrombie and Helena, in which he was directed to ask the concurrence of the House.

#### PAYMENT OF FIVE-TWENTY BONDS.

Mr. CARY submitted the following preamble and resolution, on which he demanded the previous question:

Whereas the national honor requires the payment of the public indebtedness in the utmost good faith to all creditors at home and abroad not only according to the letter, but the spirit of the law under which it was contracted:

*Resolved*, That neither the letter nor the spirit of the laws under which the five-twenty bonds were issued require the payment of the principal in coin, and it will be in the utmost good faith to the holders thereof, both at home and abroad, to pay them in the same money with which the Government paid the soldiers who fought the battles of the war, and with which it settles the claims of widows and orphans of our fallen heroes, the same that laborers are required to receive as wages and that which is legal tender for the payment of all debts, public and private, except customs duties and interest on the public debt.

The previous question was not seconded.

Mr. VAN HORN, of New York, moved that the preamble and resolution be referred to the Committee of Ways and Means, and demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. CARY demanded the yeas and nays.

The yeas and nays were ordered.

Mr. ROSS moved that the preamble and resolution be laid on the table, and demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 7, nays 92, not voting 90; as follows:

YEAS—Messrs. Baldwin, Beaman, Blair, Dixon, Jenekes, Mallory, and William B. Washburn—7.

NAYS—Messrs. Adams, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Benton, Blaine, Boyer, Bromwell, Brooks, Burr, Cate, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Dodge, Driggs, Elia, Eldridge, Eliot, Ferriss, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Grover, Harding, Higby, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jones, Julian, Kerr, Knott, Kootz, Ladin, George V. Lawrence, William Lawrence, Loan, Loughridge, Lynch, Marshall, Marvin, McCarthy, McClurg, McCormick, Mercer, Morgan, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Polsey, Pruyn, Randall, Raum, Ross, Sawyer, Seefeld, Sitgreaves, Starkweather, Aaron F. Stevens, Stokes, Taber, Taffe, John Trimble, Lawrence S. Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Elihu B. Washburne, William Williams, and Windom—92.

NOT VOTING—Messrs. Allison, Archer, Arnell, Axtell, Bailey, Barnes, Barnum, Beatty, Beck, Ben-

jamin, Bingham, Boutwell, Broomall, Buckland, Butler, Chanler, Cook, Cornell, Covode, Cullom, Dawes, Donnelly, Eckley, Eggleston, Farnsworth, Finney, Fox, Griswold, Haight, Halsey, Hawkins, Hill, Holman, Hooper, Hotchkiss, Asahe W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Judd, Kelley, Kelsey, Ketcham, Kitchen, Lincoln, Logan, Maynard, McCullough, Miller, Moore, Moorhead, Morrell, Morrissey, Mullins, Mungen, Niblack, Nicholson, Nunn, Peters, Phelps, Poland, Pomeroy, Price, Robertson, Robinson, Schenck, Selye, Shanks, Shellabarger, Smith, Spalding, Thaddeus Stevens, Stewart, Stone, Taylor, Thomas, Twichell, Van Aernam, Van Auker, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, Woodward, and Woodward—90.

So the preamble and resolution were not laid on the table.

The question next recurred on referring the preamble and resolution to the Committee of Ways and Means; and being taken, it was decided in the affirmative—yeas 74, nays 27, not voting 88; as follows:

**YEAS**—Messrs. Ames, Arnell, James M. Ashley, Baldwin, Banks, Beaman, Benton, Blaine, Blair, Boutwell, Brownell, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Dixon, Ela, Eliot, Ferriss, Ferry, Fields, Garfield, Harding, Hooper, Hopkins, Chester D. Hubbard, Jenckes, Julian, Kelsey, Ladin, George V. Lawrence, Loan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, McCormick, Mercier, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Poland, Poirley, Pruyn, Raum, Robertson, Sawyer, Scofield, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, John Trimble, Twombledge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburn, William Williams, Windom, and Woodbridge—74.

**NAYS**—Messrs. Adams, Baker, Boyer, Brooks, Cary, Chanler, Cobb, Eldridge, Getz, Glossbrenner, Goldaday, Gravely, Grover, Hunter, Ingersoll, Johnson, Jones, Knott, William Lawrence, Marshall, Morgan, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, and Van Trump—27.

**NOT VOTING**—Messrs. Allison, Anderson, Archer, Delos R. Ashley, Axtell, Bailey, Barnes, Barnum, Beatty, Beck, Benjamin, Bingham, Broomall, Buckland, Burr, Butler, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Dodge, Donnelly, Driggs, Eckley, Eggleston, Farnsworth, Finney, Fox, Griswold, Haight, Halsey, Hawkins, Higby, Hill, Holman, Hotchkiss, Asahe W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Judd, Kelley, Kerr, Ketcham, Kitchen, Koontz, Lincoln, Logan, McCullough, Miller, Moore, Moorhead, Morrell, Morrissey, Mullins, Mungen, Niblack, Nicholson, Peters, Phelps, Pomeroy, Price, Robinson, Schenck, Selye, Shanks, Shellabarger, Smith, Spalding, Thaddeus Stevens, Stewart, Stone, Thomas, Twichell, Van Aernam, Van Auker, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—88.

So the preamble and resolution were referred to the Committee of Ways and Means.

Mr. WASHBURN, of Illinois, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CIVIL SERVICE.

The SPEAKER. The gentleman from Rhode Island, [Mr. JENCKES,] some days since, made a report in regard to the civil service which the Chair supposed was ordered to be printed, but no memorandum has been made of such an order. If there is no objection the report will be ordered to be printed.

No objection being made it was ordered accordingly.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. FARNSWORTH on account of sickness.

#### REMOVAL OF DISABILITIES.

The SPEAKER laid before the House a resolution of the constitutional convention of Mississippi, asking that political disabilities may be removed from certain persons therein named; which was referred to the Committee on Reconstruction.

#### INDIAN PEACE COMMISSION.

The SPEAKER also laid before the House the following communication from the Secretary of the Interior:

DEPARTMENT OF THE INTERIOR,  
WASHINGTON, D. C., May 21, 1868.

SIR: I have the honor to acknowledge the receipt of a resolution of the House of Representatives of the 20th instant, as follows:

*Resolved*, That the Secretary of the Interior be requested to inform the House what, if any, extra compensation, allowances, or emoluments, either as

mileage, commutation, or expenses, or in any other form, have been allowed to civil and military officers who were authorized by the act of Congress approved July 20, 1867, to act as a commission to establish peace with certain hostile Indian tribes, or to clerks in their employ who were at the same time receiving a fixed salary as clerks in any executive department.

In response to the foregoing resolution I have respectfully to state that the appropriation referred to was by act of Congress placed under the control of the commission, and I am informed has been disbursed and accounted for by their bonded agent, General J. B. Sanborn, to the proper Auditor of the Treasury without supervision of the Department.

I am, very respectfully, your obedient servant,

O. H. BROWNING,  
Secretary.

Hon. SCHUYLER COLFAX,

Speaker of the House of Representatives.

On motion of Mr. WARD, the communication was referred to the Committee on Appropriations.

#### ELECTION CONTEST—DELANO VS. MORGAN.

Mr. SCOFIELD, from the Committee of Elections, submitted a report in the case of Columbus Delano, contesting the seat of G. W. Morgan from the thirteenth congressional district of Ohio; which was laid on the table, and ordered to be printed.

The report concludes with the following resolutions:

*Resolved*, That GEORGE W. MORGAN is not entitled to a seat in the Fortieth Congress from the thirteenth congressional district of Ohio.

*Resolved*, That COLUMBUS DELANO is entitled to a seat in the Fortieth Congress from the thirteenth congressional district of Ohio.

Mr. KERR. I present a minority report in the same case, and ask that it be printed with the report of the majority.

The report of the minority was also laid on the table, and ordered to be printed.

Mr. SCOFIELD. I propose to call up the report soon after it is printed.

#### SALE OF THE STONEWALL.

Mr. BANKS. I ask unanimous consent to present for immediate action a joint resolution (H. R. No. 276) relative to the sale of the war vessel Stonewall.

The joint resolution was read a first and second time. It authorizes the President to hold possession and control of the steam war vessel Stonewall, according to the laws and regulations of the naval service, until a time when in the President's opinion she can be restored to the Japanese Government without danger to the interests of the United States; provided that the expense incurred pursuant to this resolution shall be paid out of the Japanese treaty fund, to be reimbursed on or after the redelivery of the vessel to the Government of Japan.

Mr. BANKS. If the House will allow me, I will explain in one moment the facts in connection with this case. The Government of the United States, under the authority of the Navy Department, sold the steamer Stonewall to the Japanese Government. It was to be delivered here. It has been delivered to that Government, but is under the command, at the request of that Government, of an American officer with a Japanese crew. After it was delivered the rebellion occurred in Japan, both parties claiming possession of this steamer. The Americans in Japan believe that if either party has it in its possession, it being of great power, it will be used against the American citizens and American interests in Japan. The officer having command of it retains possession of the steamer. Both of the Japanese parties in the rebellion agree that the American Government shall retain possession of it. Both parties in Japan are satisfied that for the present, or until their difficulties are settled, the American Government shall retain possession of it. The State Department has given orders to that effect, but inasmuch as there is no authority for it under the law they ask that a resolution may be passed authorizing the Government to retain for the present possession of this steamer, the expense of retaining it being paid out of the Japanese indemnity fund by the agreement of all the parties.

Mr. BROOKS. Is it not rather hard on the

Japanese to make them pay for the retention of the ship?

Mr. BANKS. They agree to it.

Mr. BROOKS. Both parties?

Mr. BANKS. Yes, sir.

Mr. WASHBURN, of Illinois. I would like to know what the Japanese fund is?

Mr. BANKS. It is an indemnity fund agreed by the Japanese Government to be paid to the American Government for depredations upon our commerce. The expense of retaining possession of this vessel until July will be \$4,000.

Mr. WASHBURN, of Illinois. Is there a specific proviso that there shall be no expense to the United States in this matter?

Mr. BANKS. There is. Will the Clerk read the last proviso?

The Clerk read as follows:

*Provided*, That expenses incurred pursuant to this resolution shall be paid out of the Japanese treaty fund, to be reimbursed one year after the redelivery of the vessel to the Government of Japan.

Mr. PRUYN. I would like to make a suggestion to the chairman of the Committee on Foreign Affairs.

Mr. BANKS. I will hear it in a moment. The steamer was sold for \$400,000. Three hundred thousand dollars have already been paid to the Government, and \$100,000 lay over according to the terms of the treaty.

Mr. PRUYN. I would suggest to the gentleman that under the circumstances he ought to embody a brief statement in the resolution that this action is taken with the assent of the authorities of Japan; otherwise it might look like a high-handed assumption of power on our part.

Mr. WASHBURN, of Illinois. I think this resolution ought to be considered a little further. If the gentleman from Massachusetts will give way, I will move to refer it to the Committee on Foreign Affairs, with leave to report it back at any time. I think a further provision is needed to provide against any possible expense being incurred to the United States.

Mr. BANKS. That is perfectly satisfactory to me.

The joint resolution was referred to the Committee on Foreign Affairs, with leave to report at any time.

Mr. BANKS moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BANKS. There is some correspondence on this subject which I desire to present, and I move that it be printed.

The motion was agreed to.

#### GOVERNMENT DEPOSITS ABROAD

Mr. HUNTER, by unanimous consent, submitted the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to inform this House what amount of money in gold is deposited by the Treasury or State Department with bankers or brokers, giving the names of each, in London or elsewhere outside the boundaries of the United States, stating also the amount of such deposits on the first day of each month since the year 1860, the rate of interest paid thereon, if any, and what rate of commission is charged for keeping the accounts and paying the drafts of the United States drawn against such deposits, and what disposition has been made of such interest.

Mr. BLAINE. I suggest to the gentleman from Indiana that in calling for that statement for every month from 1860 it will involve immense labor at the Treasury Department. If he will only call for it annually or semi-annually it will answer all the purpose.

Mr. HUNTER. I will modify the resolution by inserting semi-annually instead of on the first of each month.

The resolution, as modified, was agreed to.

#### NEW YORK POST OFFICE.

Mr. FERRY, by unanimous consent, from the Committee on the Post Office and Post Roads, reported back the memorial of the Chamber of Commerce of the city of New York on the subject of the New York post office, and moved that it be recommitted to the committee, and printed.

The motion was agreed to.

## PACIFIC RAILROAD.

Mr. GARFIELD, from the Committee on Military Affairs, presented a report upon the Union Pacific railroad, eastern division; which was ordered to be printed, and referred to the Committee on the Pacific Railroad; also, sundry papers, which were referred to the Committee on the Pacific Railroad without being printed.

## PARTIAL DEFICIENCY BILL.

Mr. WASHBURNE, of Illinois. I now ask unanimous consent of the House to take up and consider a bill to supply partial deficiencies in the appropriations for the service of the fiscal year ending on the 30th of June, 1868. I have the bill before me, and in it there are some items which are included in the general deficiency bill now before the Committee on Appropriations. There is, however, such an urgent necessity for the passage of these items that I have been directed by the committee to report them to the House in a separate bill. I ask unanimous consent of the House that the bill may be considered in the House at this time. If that consent is given, I will then make a full explanation of all the items. And then, if any good reason can be shown by any one why the bill should be postponed any longer, I will not object to a short postponement.

Mr. BROOKS. Mr. Speaker—

Mr. WASHBURNE, of Illinois. I will say to the gentleman from New York [Mr. Brooks] that there is nothing about reconstruction in this bill.

Mr. BROOKS. Is there anything about impeachment in it?

Mr. WASHBURNE, of Illinois. There is nothing about impeachment in it. I ask that the bill be read.

Mr. BROOKS. Is the bill printed?

Mr. WASHBURNE, of Illinois. It is not. But there are only four or five items in the bill, and they can easily be understood from their reading.

The bill was read at length. It appropriates \$12,960 to supply deficiencies for the compensation of the officers, clerks, messengers, and others receiving an annual salary in the service of the House of Representatives; \$25,000 for folding documents, including mails; \$10,000 for miscellaneous items; \$1,800,000 to supply a deficiency in the appropriation for the expense of collecting the revenue from customs for the half year ending June 30, 1868; \$60,000 to facilitate the payment of soldiers' bounties in accordance with the provisions of acts of July 28, 1866, and March 19, 1868, for salaries of fifty clerks of class one; and \$5,000 to supply a deficiency in the office of the Paymaster General for blank books, stationery, binding, and other contingent expenses; total amount appropriated by the bill, \$1,912,960.

Mr. BROOKS. I think a bill like this ought to be printed, so that the House may have an opportunity to consider it.

Mr. WASHBURNE, of Illinois. If objection is made I shall have to move to suspend the rules.

Mr. BROOKS. This bill proposes to appropriate nearly two million dollars.

Mr. WASHBURNE, of Illinois. I understand that; but I have the papers here before me which will explain all those items.

Mr. BROOKS. That may be; but there are a hundred or a hundred and twenty members here who have not those papers.

Mr. MAYNARD. I would suggest to the gentleman from New York [Mr. Brooks] to first hear the explanation of the gentleman from Illinois, [Mr. WASHBURNE.]

Mr. WASHBURNE, of Illinois. If the gentleman shall not be satisfied with the explanation I may make, but shall desire to have the bill postponed, printed, and made a special order for some day near at hand, I will not object to a short postponement.

Mr. BROOKS. Very well; I will hear the explanation, and reserve my right to object.

Mr. WASHBURNE, of Illinois. If members have listened to the reading of the bill,

they will have perceived that there are but few items in it. The first item to which I will call attention is one of \$12,000 to pay the messengers and employes of the House, who were ordered to be retained in service by resolution of the House, of July, 1867. That is a debt which is due to the employes of the House. I ask the Clerk to read a letter from the Clerk of the House upon the subject.

The Clerk read as follows:

CLERK'S OFFICE,  
HOUSE OF REPRESENTATIVES, UNITED STATES,  
WASHINGTON, D. C., December 12, 1867.

SIR: There will be required to be appropriated to supply deficiencies in the appropriations "for compensation of the officers, clerks, messengers, and others, receiving an annual salary in the employ of the House of Representatives," for the present fiscal year, the following sums, namely, \$12,960, this amount having been paid to the messengers and employes ordered to be retained in the recess by resolutions of the House of March 20 and July 9, 1867.

Under the joint resolution of March 30, 1867, the sum of \$900 was paid, on or about the 10th of April, 1867, to Rev. C. B. Boynton, Chaplain of the House, which has exhausted the usual annual appropriation for this purpose; and it will be necessary to appropriate an additional \$900, if an additional payment is to be made to the Chaplain, before the 30th of June next.

Very respectfully,

EDWARD McPHERSON,  
Clerk of the House of Representatives, United States.  
Hon. THADDEUS STEVENS, Chairman, &c.

Mr. WASHBURNE, of Illinois. Another item of the bill is for folding documents, \$25,000. I ask the Clerk to read a letter from the Clerk of the House upon the subject.

The Clerk read as follows:

CLERK'S OFFICE,  
HOUSE OF REPRESENTATIVES, UNITED STATES,  
WASHINGTON, D. C., April 8, 1868.

SIR: I have the honor to report that the appropriation made for "folding documents" for the fiscal year ending June 30, 1868, has been exhausted, and that there will be required for this purpose, to meet accrued obligations and to continue the work from this date to the 30th of June next, the sum of \$25,000. I may add that the folding done and to be done is much in excess of the ordinary amount.

I respectfully ask the attention of the committee to my letter of 12th of December last, a copy of which is enclosed, and request that the deficiency on the messenger account therein stated be supplied at the earliest convenient period.

Very respectfully, your obedient servant,

EDWARD McPHERSON,  
Clerk of the House of Representatives, United States.  
Hon. THADDEUS STEVENS, Chairman, &c.

Mr. WASHBURNE, of Illinois. That amount is necessary to defray the expenses of sending out documents. I believe both political parties have their rooms in the Capitol, and are sending out a vast number of documents. The employes in the folding-room have been kept out of their money for some two months, as there is nothing to pay them.

Mr. BROOKS. Will the gentleman inform the House what has been the expense of the folding-room for this fiscal year?

Mr. WASHBURNE, of Illinois. I cannot inform the gentleman of the exact expense. The last appropriation we made was for \$50,000. The expense is very heavy, much more than I like to see it, and I should be glad to keep it down.

Mr. BROOKS. It is over seventy-five thousand dollars.

Mr. WASHBURNE, of Illinois. The gentleman from New York may be more accurate than I am; but the facts are as I have stated.

Mr. BROOKS. We are entitled to information from the chairman or acting chairman of the Committee on Appropriations.

Mr. WASHBURNE, of Illinois. This is for a deficiency for work already done, and the question is whether, when these people have done this work for us in sending off our speeches and documents, they shall be paid.

Mr. BROOKS. The theory of the gentleman has been, and it is a true one and I hope it will be maintained, that when an appropriation is exhausted the work ought to be stopped; and if speeches and documents ceased to be folded when the appropriation was exhausted then no money would be due.

Mr. WASHBURNE, of Illinois. I should be glad to adhere to that theory even though it should necessitate the not sending out the speeches of the gentleman from New York.

Mr. BROOKS. I will pay for my own when other gentlemen are willing to pay for theirs.

Mr. WASHBURNE, of Illinois. There is another item of \$10,000 for miscellaneous items. It was not expected that such item was demanded, and we called the deputy clerk of the House for some explanation. We made an appropriation of ten or fifteen thousand dollars not a great while ago for these miscellaneous items. He said that at one fell swoop \$10,000 were taken to pay contestants of seats upon this floor; that the fund is nearly exhausted, and that this appropriation will be required for the present fiscal year.

The next item, and I will call the attention of the gentleman from New York and other gentlemen to it, is to pay the salaries of clerks employed under the resolution of the House to facilitate the payment of soldiers' bounties under the act of 1866. It will be recollected that some months ago we passed a joint resolution to facilitate the payment of soldiers' bounties and authorizing the appointment of fifty clerks. Those clerks have been employed in conformity to the terms of the resolution, persons who had been in the military or naval service, and they have not had one dollar of pay. Some of them have been to see me, and they say that they have been obliged to sell their pay for a month at fifteen per cent. discount. I do not think when these men have been employed under existing law that they should compel them to raise money.

Mr. PILE. During the time the bill was pending in the House and in the Senate forty-seven temporary clerks were appointed, and they were intended to take the place of the fifty clerks authorized by the bill. They were selected mostly from civilian applicants, and when the bill passed requiring these fifty clerks to be appointed from applicants who had been in the military or naval service the Secretary of the Treasury appointed fifty additional clerks from soldier and sailor applicants, retaining the forty-seven temporary clerks. So instead of fifty there are now ninety-seven clerks nominally employed under the authority of the bill. I have the authority of the Second Auditor himself for this statement; and these clerks not only do not facilitate, but they embarrass the adjustment of these claims. I hope the committee will provide for the discharge of these temporary clerks.

Mr. WASHBURNE, of Illinois. This appropriation is for the payment of clerks appointed under and by virtue of this law. What the gentleman states I have no knowledge of. If they have been appointed it has been under another authority, and they are paid out of another fund. It may be true, as the gentleman states, but it has no connection with this appropriation. This appropriation applies only to the clerks employed under the law I have alluded to. I ask the Clerk to read the letters I send up. It will be seen that we do not report in favor of \$11,000 asked for, but only sufficient amount to pay these clerks' salaries.

The Clerk read as follows:

TREASURY DEPARTMENT, March 26, 1868.

SIR: I am informed by Hon. R. W. Taylor, First Comptroller of the Treasury, that the act entitled "An act to facilitate the payment of soldiers' bounties under act of 1866," passed by Congress and approved by the President, fails to make an appropriation for the expenses to be incurred by the employment of additional clerks and the procuring of proper rooms for the same, as directed in sections one and two of the said act.

It will be necessary that some action be taken in the matter as soon as possible, and for that reason I respectfully call the attention of the House to the subject.

I am, very respectfully, H. McCULLOCH,  
Secretary of the Treasury.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

TREASURY DEPARTMENT, May 16, 1868.

SIR: In answer to a communication received from Robert J. Stevens, secretary to your committee, dated 15th instant, asking for information of the amount needed to carry out the requirements of an act to facilitate the payment of soldiers' bounties under act of 1866, approved March 19, 1868, I reply, as the act referred to can only exist one year without further legislation, the expenses to be incurred under it will be for salaries of fifty clerks of class one at \$1,200 per an-



num. \$60,000; and for other necessary expenses of carrying said act into effect, as explained below, \$11,600, making a total of \$71,600:

Fifty desks at forty-five dollars.....	\$2,250
Fuel and gas.....	700
Carpeting.....	2,000
Fitting up house, cases, &c.....	500
Rent.....	1,200
Fifty chairs.....	350
One messenger.....	1,000
Three laborers.....	2,160
Two watchmen, (night,).....	1,440
	<b>\$11,600</b>

Very respectfully,

H. McCULLOCH,  
Secretary of the Treasury.

Hon. THADDEUS STEVENS, Chairman Committee on Appropriations, House of Representatives.

Mr. WASHBURNE, of Illinois. It will be perceived that the committee have not reported any of those items, many of which they deemed extravagant, but only a sufficient amount to cover the salaries of those clerks who have been employed under existing law.

Now, sir, the last item on the list is a small amount of \$5,000 for the contingent expenses of the paymaster's department. The work has been so great there that the appropriation has given out. I will read a letter from General Brice on this subject:

WAR DEPARTMENT,  
PAYMASTER GENERAL'S OFFICE,  
WASHINGTON, December 16, 1867.

SIR: I have the honor to transmit herewith a deficiency estimate of \$5,000, indispensably necessary to meet the contingent expenses of this office during the remainder of the current fiscal year ending July 1, 1868.

In my estimate for contingencies for the current fiscal year, dated and transmitted September 6, 1866, I stated as necessary the sum of \$15,000. That estimate was regarded a close one in view of the large additional expenses for stationery growing out of the adjustment and payment of claims for the additional bounty. Congress reduced the amount to \$10,000, and now the fund is exhausted.

You will please ask that an appropriation of \$5,000 be made at as early a date as practicable.

I am, General, very respectfully, your obedient servant,

B. W. BRICE,

Paymaster General,

General U. S. GRANT, Secretary of War ad interim.

I have a further note from General Brice, in which he says:

"I desired to ask them at the same time to put through the deficiency appropriation for contingent expenses of the Paymaster General's office (\$5,000) for the current year. I am absolutely embarrassed for want of it. Will you please call attention to it."

Now, sir, the large amount of \$1,800,000 is an item that I do not desire to press very hard upon the House. I desire that the House shall hear read from the Clerk's desk letters from the Secretary of the Treasury explaining in relation to that deficiency, which is a very large one. That deficiency exists, and he says he cannot carry on the Department unless the appropriation is made.

The Clerk read as follows:

TREASURY DEPARTMENT, March 6, 1868.

SIR: The appropriation for collecting the revenue from customs is, I am sorry to say, very nearly exhausted. On account of increased expenditures necessarily incurred both at the North and the South from causes too well known to require enumeration at this time, the standing appropriation for this object has proved inadequate. This condition of affairs was, during the last Congress, urged by myself as a motive for creating a distinct appropriation for the revenue-cutter service, at present provided for from the general appropriation now in question. The suggestion was favorably received, but the close of the session prevented final action upon it. A similar proposition applicable to the coming fiscal year has been lately submitted by me to the House, and if it meets a favorable response I hope to be able to administer the customs service, so relieved, within the limits of the existing appropriation, though it may be necessary to ask a permanent increase notwithstanding.

For the current year, however, ending June 30, 1868, I am reluctantly compelled to ask an additional appropriation of \$1,800,000.

The balance now to the credit of the customs fund being hardly sufficient to meet the demands of the current month, permit me to invite early attention to the matter.

Very respectfully,

H. McCULLOCH,  
Secretary of the Treasury.

Hon. SCHUYLER COLFAX,  
Speaker House of Representatives.

TREASURY DEPARTMENT, April 20, 1868.

SIR: The appropriation for collecting the revenue from customs is so far reduced that the Department will be unable, in default of an additional appropriation, to meet the expenses of the current month. I beg therefore to call your attention to my request, sometime since communicated to the House, for an

additional appropriation of \$1,800,000 to meet deficiencies arising in the current fiscal year under that head.

Hoping that an early opportunity may offer to append it to some appropriate bill, I am, sir, very respectfully,

H. McCULLOCH,

Secretary of the Treasury.

Hon. THADDEUS STEVENS, Chairman Committee Appropriations, House of Representatives.

Expenses of collecting revenue from customs for year ending June 30, 1868.

Standing appropriation, per joint resolution 3d May, 1866.....	\$4,200,000
Fines, &c., storage, &c., fees—usually about \$500,000—this year reaching about.....	600,000
By transfer from other appropriations in excess.....	1,200,000
	<b>6,000,000</b>

The expenses of the current month will more than exhaust the balance now on the books, and it is estimated that there will be required for the remainder of this year until the 30th June next.....

1,800,000

Total.....\$7,800,000

This is the amount for the current year. It is somewhat greater than usual because there were a considerable number of debts outstanding at the beginning of the year which were paid from the amounts above specified.

Mr. WASHBURNE, of Illinois. That embraces the whole explanation as it comes from the Secretary of the Treasury. I trust it is satisfactory to the gentleman from New York.

Mr. BROOKS. This is an enormous expense for collecting revenue, \$7,800,000, and the deficiency is enormous—\$1,800,000. Now, I suggest to the chairman of the Committee on Appropriations that the Committee of Ways and Means have the subject of the revision and change of the tariff before them, and, it seems to me, the question of the expense of collecting customs is more properly connected with that subject than with the subject of appropriations. I suggest, therefore, that this item be referred to the Committee of Ways and Means, to be considered by them in connection with the revision of the tariff.

Mr. WASHBURNE, of Illinois. This is a deficiency of an appropriation, and, if the gentleman has listened to the reading of the letters of the Secretary of the Treasury, he will see what the condition there is at the present time.

Mr. BROOKS. I think they can exist without this.

Mr. WASHBURNE, of Illinois. If the gentleman insists, I do not wish to urge the bill through the House without a full consideration and understanding. If the gentleman from New York or any other gentleman says he is not prepared to act upon it, I will move to postpone the bill and make it the special order for to-morrow after the morning hour.

Mr. BLAINE. I desire to make a single suggestion. The gentleman from New York speaks of changing the law in reference to the mode of collecting the customs. Well, if that is to be done, it is a matter for the Committee of Ways and Means, of course. But this is an appropriation that is asked for an expense that has been incurred under existing law. And no matter what change you may make in the law for the future, it cannot alter the expenditure called for now by the Secretary of the Treasury. I hope the Committee of Ways and Means will change the law so as to insure greater economy, and certainly the Committee on Appropriations will second most heartily any such measure. But this is a provision that is necessary whether the law be changed or not.

Mr. BROOKS. I am satisfied, as a Representative of a commercial city with one of the largest custom-houses in the country, that the expenses of collecting the revenue are far beyond what they ought to be.

Mr. BLAINE. There is no doubt about that.

Mr. BROOKS. I am very loth to vote a deficiency of \$1,800,000 upon the bare information we have before us here.

Mr. MAYNARD. Will the gentleman inform us whether the percentage on collections is as great or greater now than it was

previous to the war, when we collected annually some sixty or seventy millions?

Mr. BROOKS. I have not looked into that.

Mr. BLAINE. I can answer the gentleman from Tennessee. The percentage is very much less; but I agree with the gentleman from New York, that the sum total is more than it ought to be. I presume the percentage is not more than one half or, perhaps, one third what it was.

Mr. BROOKS. I do not know how that is; but the expenses ought not to be so enormous.

Mr. BLAINE. I quite agree to that.

Mr. WASHBURNE, of Illinois. As the gentleman from New York objects to the consideration of the bill at present, I move that it be made the special order for to-morrow after the morning hour, and that it be printed.

Mr. BROOKS. No man in twenty-four hours can possibly look into the subject.

Mr. WASHBURNE, of Illinois. Then I will say Wednesday.

Mr. SCHENCK. Before any special order is made for Wednesday I desire to notify the House that I propose upon that day to report back the tax bill, and to ask immediate or very early action upon it with a view to pressing it continually until the end.

The SPEAKER. Does the gentleman propose to ask action on the bill or consideration of it on the same day he reports it?

Mr. SCHENCK. Yes, if the House will consent to it.

The SPEAKER. If the bill is changed at all from the bill as originally reported it will have to be reprinted.

Mr. WASHBURNE, of Illinois. The gentleman from New York is satisfied, I believe, that this bill shall go through.

Mr. BROOKS. No, I am not satisfied, but I will interpose no objection to its passage.

The bill (H. R. No. 1117) to supply partial deficiencies in the appropriations for the service of the fiscal year ending on the 30th June, 1868, then received its several readings, and was engrossed and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE PRESIDENT.

A message, in writing, from the President of the United States was communicated by WILLIAM G. MOORE, his Private Secretary, who also announced that the President had approved and signed a joint resolution (H. R. No. 91) concerning certain lands granted to railroad companies in the States of Michigan and Wisconsin; also a bill (H. R. No. 1062) to grant the right of way to the Whitehall and Plattsburgh Railroad Company.

#### TAX BILL—ORDER OF BUSINESS.

Mr. SCHENCK. I give notice that on Wednesday, being possibly the first legislative day, I will report the internal tax bill back from the Committee of Ways and Means. I do not know that it will be necessary to ask time before proceeding to its consideration, as is usually done, because there will not be many amendments proposed by the committee that are material; they are principally verbal, and these we have thought we would offer for the consideration of the House, as the bill is read section by section, as amendments coming from the committee. I will say this: I will report the bill back on Wednesday and ask the House to take it up for consideration on Thursday and proceed with it, unless the House shall on Wednesday otherwise order. I apprehend that most members will have returned to their seats again before the session of Thursday.

Mr. BUTLER. The gentleman from Ohio will allow me to make a single suggestion. The Indian appropriation bill lies before the House as a special order, and I should desire that it might be passed before his bill is taken up.

Mr. SCHENCK. Well, I will report the bill back on Wednesday, and ask the House to

take it up on the next day or at the earliest possible moment.

Mr. BLAINE. I suggest to the gentleman from Ohio that although his bill is printed and has been for some days on the desks of members, yet when the House goes into Committee of the Whole upon it any single member may demand that it be read through at the Clerk's desk unless by unanimous consent its first reading be dispensed with. The first reading can be dispensed with by a suspension of the rules, and therefore I suggest that the matter had better be settled to-day.

Mr. SCHENCK. I am very much obliged to the gentleman for his suggestion, because I should think it would be almost a mischief for any one to insist upon the first reading of the bill in full. I have already advised the House that it is the purpose of the Committee of Ways and Means to afford the fullest opportunity for amendments and for the discussion of amendments to the bill; and as that is the course we propose to pursue in our treatment of the bill, I will ask that the House shall be equally courteous to us, and for the purpose of expediting the consideration of the bill the House shall now agree that when this bill shall be taken up in the Committee of the Whole the first reading of the bill shall be dispensed with, and that we shall proceed to read it section by section. If there is any objection to that course I will move to suspend the rules in order that such an order be made.

Mr. ELDRIDGE. I do not know that there will be any objection to the course suggested by the gentleman from Ohio [Mr. SCHENCK] when the bill comes up, but I should certainly think it was not best to make such an arrangement at this time. For one, I cannot consent to such an agreement now.

Mr. MAYNARD. I will make the further suggestion that when the bill is taken up in the Committee of the Whole debate shall be confined to the bill; otherwise, under the general rule, debate can be extended to almost any subject.

Mr. BLAINE. The House can limit the debate to that extent at any time.

Mr. SCHENCK. I do not think it is necessary to make such an order now; but, as chairman of the Committee of Ways and Means, I shall insist that the debate all the way through shall be confined to the bill. As the gentleman from Wisconsin [Mr. ELDRIDGE] objects to making this order now, and as I deem it so important, I will take the opportunity of this being Monday to move a suspension of the rules, so that it may be ordered that the first reading of the bill shall be dispensed with. Before making that motion I desire to state my reasons for it. This bill consists of two hundred and eighty-nine sections and some three hundred and sixty bill pages. If any gentleman should insist, as he has the right to do under rules of the House, upon the bill being read through for general information, before it shall be taken up and read section by section and clause by clause, something like a week will be consumed in the preliminary reading of the bill. Now, I do not think that is necessary in case of a bill which is in print and has been upon our tables for two weeks past.

Mr. ELDRIDGE. Does the gentleman from Ohio say it will take a week to read this bill through?

Mr. SCHENCK. Pretty nearly.

Mr. ELDRIDGE. I should think it could very easily be read through in a day.

Mr. SCHENCK. No, sir.

Mr. RANDALL. I could read it through in two hours.

Mr. ELDRIDGE. I do not wish to be understood as saying now that I shall object to the course suggested by the gentleman from Ohio when the bill comes up. I simply object to the order being made now.

Mr. SCHENCK. The difficulty is this: the gentleman reserves his objection to be made at a future time. When that time comes, if the objection is made, I will not be able to move

to suspend the rules. But to-day being Monday I can move to suspend the rules, and I prefer to do it now, so as to make a sure thing of it.

Mr. CHANLER. I rise to a point of order. Can the House bind its action on a future day in this way?

The SPEAKER. If this was a resolution offered by the gentleman from Ohio when the State of Ohio had been called, it could not be adopted except by unanimous consent. But the gentleman moves to suspend the rules so that a certain order shall now be made by the House.

Mr. SCHENCK. I move that the rules be suspended, and that it be now ordered that when the internal tax bill shall be reported back from the Committee of Ways and Means the preliminary or first reading of the bill in Committee of the Whole shall be dispensed with.

Mr. CHANLER. On that motion I will call for the yeas and nays.

Mr. ELIOT. I desire to ask a question of the gentleman from Ohio before the vote is taken.

The SPEAKER. The motion to suspend the rules is not debatable.

Mr. ELIOT. I ask unanimous consent to ask the question.

No objection was made.

Mr. ELIOT. Before the House commences the examination of this bill, which the chairman of the committee states will occupy perhaps a week in its first reading, if that reading should be insisted on, I wish to put two inquiries to the chairman. The first one, for information from him, is as to the probable length of time which would be required for the House to consider reasonably, act upon, and finally pass the bill in the shape in which it has been reported from the committee? Of course, Mr. Speaker, I know very well the chairman of the committee can give no definite, exact answer to such an inquiry; but I also know the familiarity he has with the general subject of the bill will enable him to form a judgment on that question, which will be of importance, as I think, to the members of the House.

One other inquiry is this, whether it be not reasonably practicable for the Committee of Ways and Means to report to the House such amendments as in their judgment the interests of the country require respecting the tax upon whisky and upon tobacco as would answer the purposes of the Treasury, without its being necessary for us at this period of the session to commence the work of examining and passing this bill in full; and whether it may not be that such report could not be made by the committee as would enable the House to act on that, leaving the general subjects of the bill for our consideration at the next session?

These are the two questions I wish to bring before the chairman of the committee. I believe, Mr. Speaker, that the time which we would occupy would be so long that the interests of the country would be better promoted if the course I have suggested could be taken than that the whole bill should be at this time discussed.

Mr. SCHENCK. Mr. Speaker, I answer with pleasure the inquiries of the gentleman from Massachusetts, and first, as to the time to be occupied. I spoke of this bill taking, perhaps, weeks to read; of course I meant that with reference to the two or three hours of each day we give to the consideration of any particular subject. If the bill be taken up without preliminary reading, and we apply ourselves in good faith and in a business way to its consideration, I have no doubt myself that in less than three weeks we can perfect the bill with full opportunity to all parties in the House to take a share in that action on the bill. And, perhaps, we might even abridge that time if night sessions shall be held; and if I find at any time it would expedite the progress of the bill through the House to ask for night sessions I shall certainly ask for them.

Now, as to the second question. The committee, I beg the House to believe, have taken a

great deal of pains—with what success the House and the country must hereafter judge—to get a bill as perfect as they could make it for the general interests of the country, and to make that bill a unity, an entirety. It is not practicable, I think, with advantage, to separate from the bill particular provisions in relation to the collection of tax on distilled spirits and tobacco. Provisions of a general nature for the enforcement of the law, for the reduction of the number of officers, for increasing the responsibility of officers, run through the body of the bill. They are as essentially necessary to enforce the collection of these taxes upon which we must rely as the peculiar provisions which relate to this subject of taxation itself; and unless we can adopt some general, wholesome, administrative changes, and some general, wholesome provision of penalty and of forms of proceeding, to secure the responsibility of officers and compel them to the discharge of their duty under the various subjects which are in the body of the bill passed along with particular provisions in relation to these subjects of taxation, I do not feel disposed to assure the House that our work will have accomplished that which we intended by it. I do not believe we can go through the whole bill in all its parts in a little more time than we could get through with the discussion of these particular subjects. I prefer to report back the bill as an entirety and to have it considered as a whole by the House, and I think I can assure no unreasonable protraction of the session will ensue if they set to work with a will, which the committee hope they will bring to the work on their part. They will have at least the earnest cooperation of the committee.

Mr. WASHBURN, of Illinois. Will the gentleman give us any information in regard to the length of time a former tax bill of about one third the size of this took in the Committee of the Whole? My recollection is that it took three weeks of very diligent consideration.

Mr. SCHENCK. It might be invidious for me to undertake to assign reasons why there might be greater delay on one bill or less delay on another, but I will say this much: I think there are some three or four special points which will occasion a great deal of discussion, but when these have been disposed of we shall be able to run along with this bill without anything like the delay which the gentleman refers to in other cases; and especially for this reason, that the committee will present, I think, upon pretty much every question an undivided front in this House. Questions of difficulty and dispute among themselves have been for the most part, if not entirely, settled in the committee-room in advance.

Mr. GARFIELD. Will the gentleman allow me to ask this question? Is it not true that a very large portion of this very large bill is merely a codification and simplification of the law without changing its substantive provisions, so that it would really not need to take very much discussion except upon the few points the gentleman refers to?

Mr. SCHENCK. I can readily answer the question. A great deal of the bill is of that character. We have codified, simplified, and brought together provisions scattered through different portions of the law, but in some instances we have inserted new, and, as we think, important matter; as a whole, we trust, cohering together.

Mr. GARFIELD. It seems to me that should very much facilitate action on the bill. It will relieve the minds of members to a great degree and save an immense amount of time.

Mr. SCHENCK. I yield to my colleague on the committee.

Mr. ALLISON. I only desire to say a word in reply to the suggestion of the gentleman from Illinois. The tax bill of 1866 that he refers to took three weeks in this House; but the gentleman will remember that then we exempted special articles from taxation. The committee reported, I think, one hundred and twenty articles to be excepted, but every mem-

ber had special articles which he wanted to except, and nearly all the debate that arose on the bill arose from the fact that everybody wanted to get rid of taxation. Now, fortunately, in this bill we have exempted nearly everything except luxuries. Therefore I think the discussion would take a much smaller range than in the bill of 1866.

Mr. PRUYN. I desire the attention of the chairman of the committee for a moment. I have heard it suggested, in view of the great magnitude of this bill and the immense amount of labor involved in going through with the whole of it in the Committee of the Whole—not on this side of the House, but on the other—that it was not likely that such a bill could pass this Congress at the present session. Now, there are points of interest and importance in regard to the revenue of the country which ought to be provided for by special legislation at this time; and I wish to ask the chairman of the committee whether the committee could not frame a brief bill which would meet these important points and enable us to pass upon them and dispose of that much of the matter at this time, even if we cannot get through with the whole? I suggest whether it is not desirable to have a draft of another bill before us for that purpose.

Mr. SCHENCK. If the gentleman had heard my reply to the gentleman from Massachusetts, he would have found that his inquiry has been answered.

Mr. PRUYN. I was not here.

Mr. ELIOT. I desire to ask the gentleman a question.

Mr. SCHENCK. I prefer to finish my reply to the gentleman from New York.

Mr. ELIOT. Go on.

Mr. SCHENCK. I have explained to the House, and will repeat for the benefit of the gentleman from New York and others who have not heard me, that our bill hangs together, as we think, in all its different parts, so that its various general provisions—those which relate to the administration of the Department, those which relate to the penalties to be imposed, and those which relate to the responsibility of officers—are necessary to be passed in connection with what refers to special subjects of tax. Hence we would not willingly separate them, but prefer the House should consider them all together. I do not myself believe there is anything reasonably to be apprehended in the suggestion that we cannot pass this bill as an entire bill through the House within a reasonable time for adjournment at the present session.

Mr. ELIOT. I was desirous of asking the gentleman from Iowa, [Mr. ALLISON,] with the information that he has as a member of the Committee of Ways and Means, whether, in his judgment, he believes that this House can do justice to that bill, and consider and pass it as it comes from the committee without remaining in our seats here until some time in the month of September?

Mr. ALLISON. Mr. Speaker, that is a question that depends upon so many contingencies that I could hardly undertake to prophesy with regard to it. It depends, in the first place, on the length of time occupied by this House, which will depend upon the fact whether we hold night sessions; and then it depends on the length of time occupied by the Senate on the bill. My own impression is that it will take considerable time for this bill to pass both Houses—say till the middle of July or the 1st of August, or perhaps longer.

Mr. ELIOT. Before it gets through the House?

Mr. ALLISON. No; through both Houses. It depends, of course, on the action of the Senate.

Mr. WASHBURNE, of Illinois. Considering the late period at which this bill is reported, I was desirous that the Committee of Ways and Means should group together a few of the most important items in it, and pass them in a separate bill, because I state it as my deliberate judgment, from my knowledge of the way in which the House and the Senate do business,

that we cannot get through the tax bill till the middle of August. Gentlemen talk about the bill going through in two or three weeks. Why, sir, with a very small tax bill it took three weeks of diligent labor to pass it through this House. If the gentleman from Ohio thinks that his bill has not got to run a gauntlet here, which he little dreams of, he is very much mistaken. I know the way in which these bills are met here. I know something of the way in which appropriation bills that have been reported unanimously by the Committee on Appropriations, and which we did not expect would be attacked at all, have been attacked and have dragged on for weeks and weeks before we could reach a determination in regard to them. Sir, when we have passed this bill and it goes to the Senate, where they have no previous question, does anybody suppose that a bill of this vast importance—a bill of three hundred and sixty pages—will get through the Senate in less than six weeks, if at all?

Sir, I believe we cannot pass this bill at this session of Congress, and we had better make up our minds to that in the first instance and let the Committee of Ways and Means report another bill, embracing the most important objects, and pass it, and then let us go home. I will say further in regard to the other business—that with which the Committee on Appropriations is particularly charged—that we have only two bills behind—the Indian appropriation and the deficiency bills. Those two bills can be passed at any time in three or four days. Of the other appropriation bills some have already passed the Senate and have become laws; and if the gentleman from Ohio and the Committee of Ways and Means would agree to the course I have suggested we could very easily get through all our business and adjourn by the 1st of July.

Mr. SCHENCK. Mr. Speaker—

Mr. BUTLER. I must claim the floor.

Mr. ELDRIDGE. Is there any question before the House?

The SPEAKER. The gentleman from Massachusetts [Mr. BUTLER] obtained the floor for the purpose, as the Chair supposed, of reporting some matter from the managers, but he yielded to the gentleman from Ohio, [Mr. SCHENCK,] to enable him to test the sense of the House on dispensing with the first reading of the tax bill.

Mr. BUTLER. I cannot yield for further discussion. I am willing that a vote shall be taken.

The SPEAKER. If any gentleman raises the question of order debate is not in order.

Mr. ELDRIDGE. It seems to me, as gentlemen say that we cannot get through before September, that it is best to stop this sort of filibustering. [Laughter.]

Mr. SCHENCK. I will ask, then, that a vote be taken on the motion that I make to suspend the rules so as to dispense with the preliminary reading of the tax bill in the Committee of the Whole on the state of the Union; and I will add to it that the bill be made the special order in the Committee of the Whole on the state of the Union from day to day after the morning hour until disposed of.

The SPEAKER. On that motion the gentleman from New York [Mr. CHANLER] demanded the yeas and nays.

The yeas and nays were not ordered.

The question was taken; and two thirds voting in the affirmative the rules were suspended, and the order was made.

#### LEAVE OF ABSENCE.

Leave of absence for ten days was granted to Mr. LINCOLN on account of sickness, and to Mr. KITCHEN for four days.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by WILLIAM J. McDONALD, its Chief Clerk, informed the House that the Senate had passed, with amendments, in which the concurrence of the House was requested, the following bill and joint resolutions of the House:

A bill (H. R. No. 658) making appropria-

tions for the support of the Army for the fiscal year ending June 30, 1869, and for other purposes;

A joint resolution (H. R. No. 216) to authorize the Secretary of War to place at the disposal of the Lincoln Monument Association damaged and captured ordnance; and

A joint resolution (H. R. No. 251) authorizing the Secretary of War to furnish supplies to an exploring expedition.

The message further announced that the Senate had passed the following joint resolutions, in which the concurrence of the House was requested:

A joint resolution (S. R. No. 46) in relation to certain harbors on the coast of California; and

A joint resolution (S. R. No. 129) donating certain captured ordnance for the completion of a monument to the memory of the late Major General John Sedgwick.

The message further announced that the Senate had excused Mr. GRIMES from serving on the committee of conference on the bill of the House No. 678, making appropriations for invalid and other pensions of the United States for the fiscal year ending June 30, 1869, and had appointed to serve in his place Mr. MORRILL, of Maine.

#### RECUSANT WITNESS.

Mr. BUTLER. I am instructed by the managers to lay before the House a report and an accompanying resolution for the purpose of invoking action of the House as against a witness who has put himself in contempt of the House. I ask that the report be read, and the resolution agreed to.

The report was read as follows:

The committee of managers, acting under the authority of the resolution of the House of Representatives of the 16th of May instant—

"That for the further and more efficient prosecution of the impeachment of the President, the managers be directed and instructed to summon and examine witnesses under oath, to send for persons and papers, to employ a stenographer, and to appoint sub-committees to take testimony; the expenses thereof to be paid from the contingent fund of the House."

have attended to their duty so far as they have been able, because of the matters hereinafter stated, and ask leave to report in part as follows:

In pursuance of the resolution, having appointed a sub-committee, of which Mr. BUTLER was the first named, to take testimony, Charles W. Woolley, of Cincinnati, Ohio, appeared before the committee on Tuesday, the 19th of May, in answer to its subpoena, after various objections on his part and an admitted attempt to avoid. Woolley was examined by the sub-committee with very considerable delay, because of his refusal to answer some questions, his evasion of others, and interposition of claimed rights and privileges, which he attempted to sustain by argument, until the time of the session of the committee was exhausted for the day. During that day Woolley did not finally refuse to answer any question put to him.

He was ordered to appear before the committee again at half past ten o'clock on the morning of the next day (20th) for further examination. He did not appear, however, until about one o'clock, and after the House had adjourned until Saturday, (23d.) and thence, without further business, till Monday. After the adjournment he could not be brought before the House for contempt in refusing to answer until now.

At the second appearance of Woolley before the committee, a majority of the managers being present, Mr. BOUTWELL was chosen chairman *pro tempore*, during the absence from illness of Mr. BINGHAM. The examination being then about to be continued before the whole committee, an oath was again administered to him by the chairman, and the inquiry attempted to be proceeded with. Upon being asked whether upon reflection he desired to change or alter anything in his testimony given yesterday, Woolley declared that he did not consider he was under oath the day before; or that he had given any testimony whatever. He was then asked if what he had stated to the committee the day before was true, to which he declined to answer, alleging, in substance, that the oath administered by the chairman of the sub-committee was not binding. He was thereupon asked what disposition he had made of the sum of \$20,000 or \$25,000, or thereabouts, which had been referred to in his testimony of the day before, and which the committee had reason to believe had been raised for the purpose of corruptly influencing the trial of the President. To this he refused to answer, and to every question which would tend to show where the money was obtained, the purposes for which it was obtained, by whom it was furnished, and in what manner it was used, and to whom it was paid, he declined answering, alleging only that it was not deposited with him or used for any purposes connected with the impeachment of the President, and that he would answer no such question whatever in any way but by declaring it had nothing to do with the impeachment.



of the President, when in his (the witness's) own judgment it was not material to the investigation.

It was obvious to the committee that if this course was a proper one there was an end to all investigation, because every witness, not seeing the materiality of his testimony, could make the same answer, and no case dependent upon circumstances or detached facts to be made out by different witnesses could under such an admitted claim of rights be ever successfully prosecuted. The committee were, therefore, obliged to stop the examination at that point upon most of the matters material to be inquired of the witness; but as the House was not present, and the witness, by not appearing and objecting until after the House had adjourned—which the committee believe was a contrivance on his part that he might not be held for contempt—and as other portions of the investigation might be much embarrassed if his examination went no further, the committee, unwilling to lose any time, proceeded to examine the witness further as to the genuineness of certain writings and telegraphic dispatches made by him in his own name or under assumed names. Here again your committee were met by the refusal of the witness to answer as to the genuineness of his own signature, in some cases admitting it only where it was to telegrams in which the impeachment or trial of the President was distinctly mentioned, and to others, where it was alluded to in cipher or accompanied by such expressions as convinced the committee the telegrams had reference to some corrupt combinations in regard to the trial of the President, he declined to answer. The witness was thereupon, after consultation, dismissed and ordered to appear before the committee for examination on Thursday, the 21st instant, at half past ten o'clock a.m. On Thursday, at the hour appointed, the witness did not appear, but about one o'clock in the day the committee received a certificate of his physician, which is as follows:

WASHINGTON, D. C., May 21, 1868.

I hereby certify that Colonel C. W. Woolley is under my professional care, and unable to leave his apartments, and confined to his bed by reason of irritative fever, sequellar of gastric derangement.

D. W. BLISS, M. D.

This was accompanied by a statement of the witness that he was ill, together with a long argument upon his rights, privileges, and constitutional exemptions.

The committee, accepting the truth of this claimed illness, did not send for the witness, but went on their investigation in another direction. Your committee have since learned, however, that Woolley was well enough on that day to take, and did take, the evening train for a night ride to New York, and he has not appeared before your committee since, but has sent a telegraphic certificate of some physician in New York that he is there sick. It will be thus seen that Woolley, the witness, has thus far baffled and hindered the investigation ordered by the House by contumacy in refusing to answer questions, by evasion and by avoidance.

The ground taken by the witness in refusing to answer questions put to him assumes that he was to judge of the materiality of the testimony and of each question put; that all inquiry upon every topic was to be shut off by his own *ipse dixit* that it was not material to the subject of inquiry, of which materiality he was the sole judge, and about which the committee and the House could have nothing to say. He claimed that if a witness avers that a given question is not material, whether that averment is true or false, from such decision there can be no appeal. For example, if the committee could show abundantly that a certain person had received \$20,000 or \$25,000 stolen notes of a given bank, Mr. Woolley claims the right to decline to answer the question whether he drew the notes from the bank on his own check which were delivered to the receiver, and thus destroy the connecting link in the chain of testimony showing the theft. Of course this claim cannot be permitted for a moment; for, to state the claim in other words, it is that the witness and not the tribunal is to judge of the materiality of the facts to be elicited.

Not for the purpose of showing the materiality of the questions put to Woolley, but to show the contumacy of the witness, his corruption and untruthfulness, and to justify the committee in asking that severe and exemplary punishment be imposed on him for his contempt of the authority of this House and the justice of the nation, the committee beg leave to report the facts and circumstances so far as they have been developed connecting Charles W. Woolley with the subject-matter of the inquiry with which the committee is charged, showing how necessary it is to public justice that the House should have from Woolley the frankest and fullest statement of every fact known or believed by him to be true.

It appears from the evidence that Charles W. Woolley is a lawyer not in general practice, but attending to cases before the Bureau of Internal Revenue generally arising out of alleged frauds in whisky, or, in the language of Judge Danleavy, a witness before the committee, and Woolley's associate counsel in these cases, "He is a lawyer by profession, a speculator, trader, does a good deal in stock speculations, in fine horses, &c. He is a Kentuckian, conceals himself a Kentucky gentleman, and has Kentucky habits. His wife has a large property, and he has a good deal of money."

The language of Judge Danleavy aptly describes a person fitted to be, and from the evidence it appears to the committee that he, Woolley, is, the manager, or one of the managers, of the concerns of that body of men who are deriding the Government, popularly known as the "whisky ring." His first appearance as connected with the impeachment case, so far as the evidence fixes the date, is on the 4th of May, by a telegram sent to New York from one of the Pres-

ident's secretaries, W. W. Warden, ("Data," of the Baltimore Sun.)

EXECUTIVE MANSION, May 4.

WILLIAM W. WARDEN:

Dispatch me your opinion of the situation. Will see you Wednesday morning.

(Copy.)

WASHINGTON, D. C., May 4, 1868.

C. W. WOOLLEY, Fifth Avenue Hotel, New York City:

More assured to-day than ever that the President will be acquitted. Such is the opinion of many well-posted men of both parties. Several Radicals, close observers, who have heretofore felt sure of conviction, inform me that they now have doubt of the result, and that this change of opinion has taken place since Friday. The only persons who assert unqualifiedly that Johnson will be removed are those who know least of the *inner working*, &c. The best informed either admit that there will be acquittal or are in doubt. (Answer.) W. W. WARDEN.

Woolley next appears about the same time at a meeting in the room of Thurlow Weed, at the Astor House, New York, at which were present Mr. Weed, Mr. E. D. Webster, Mr. Sheridan Shook, and Mr. Woolley. To appreciate the importance of this meeting it is convenient to describe the persons present and their connection with the exterior and "inner workings" of the Government, as it will be observed Warden's dispatch says "the only persons who assert unqualifiedly that Johnson will be removed are those who know least of the *inner working*," &c. Mr. Thurlow Weed's relation to the high officers of the Government, and connection with (all manner of) operations not official are too well known to need description to the House.

Mr. E. D. Webster was for a long time connected with the State Department, is a confidential friend of the Secretary and of Mr. Weed of many years, was afterward sent commissioner or commercial agent to England, and is now deputy surveyor of the custom-house, New York.

Mr. Sheridan Shook is collector of internal revenue of the thirty-second district, New York city; a man of large reputed wealth, and whose appearance and answers before the committee were such as not to enhance our opinion of his integrity or truthfulness.

The object and purposes of the meeting are best given in the words of the witness who described it, Mr. Thurlow Weed, omitting the names of the Senators of whom he speaks.

To the nineteenth question and the following Mr. Weed answers as follows, namely:

Question. I hold in my hand a telegram from Charles W. Woolley—May 7, 1868. "To Hon. Thurlow Weed, New York. When will the Albany party be on hand for business?" C. W. Woolley, Willard's Hotel."

Answer. That is the telegram in reference to Hastings.

Question. Did you understand this telegram when you received it?

Answer. I understood no more than anybody else would have understood from it. I understood that it asked when Hastings would be in Washington.

Question. Nobody else would have understood that it meant (Albany party) Hugh Hastings?

Answer. I did because I had received a previous telegram.

Question. What business did it relate to?

Answer. I understood the trial for impeachment.

Question. Did you send Hugh Hastings?

Answer. Yes.

Question. Why should Woolley telegraph you to send an "Albany party," which you understood to be Hastings?

Answer. A previous telegram named Hastings.

Question. From Woolley?

Answer. I think so. I may be mistaken. At any rate, I received a telegram requesting me to send Hastings to Washington.

Question. That was from Webster, was it not?

Answer. Perhaps it was.

Question. Here is one. "May 6, 1868. To Thurlow Weed, Astor House, New York. He will do it. Telegraph Hugh Hastings to come right away. E. D. Webster, Willard's. Who is 'he'?"

Answer. I have no knowledge respecting such a telegram, but I do not say that I did not receive it.

Question. Who is "he," and what was "he" to do?

Answer. I do not know who "he" was and what "he" was to do.

Question. Do not you understand that you have already told us that Hastings was to do something about the impeachment business?

Answer. Yes.

Question. It would seem that "he" could not refer to Hastings because he is mentioned in the next sentence. Did you make any inquiry what "he" was and what "he" was to do?

Answer. No, sir.

Question. Did not you understand what "he" meant?

Answer. No, sir; but I can tell you, if you will allow me to do so.

Question. I want to understand who "he" was.

Answer. I have no knowledge of who "he" was, nor did I then understand what "he" meant, if I understood anything about it.

Question. "He will do it." What did you understand by that, whoever "he" was?

Answer. I did not understand who "he" was or what "he" was to do, although I have no doubt that I understood that whoever the telegram related to it was the subject of impeachment.

Question. Then you did receive this telegram on the 6th of May?

Answer. Yes.

Question. And on the 7th of May this one: "To

Hon. Thurlow Weed, New York. When will the Albany party be on hand for business?"

Answer. Yes, sir.

Question. That you understood to refer to Hastings, and the business to be relating to impeachment?

Answer. Yes, sir.

Question. Then on the 8th of May I find this telegram from Woolley to Sheridan Shook: "Go to the Astor House and get from our friend"—who says that meant you—"an answer to my dispatch to him yesterday." Did Sheridan Shook call on you, in obedience to this telegram?

Answer. He either called or sent the telegram. I saw the telegram.

Question. "And get from our friend"—that means you?

Answer. That means me. "And get an answer to my dispatch of yesterday." That was, "When will the Albany party be on hand for business?"

Question. What answer did you send?

Answer. I do not think I sent any, because I had not received any from Hastings at that time. Subsequently Hastings came to New York, and came also to Washington.

Question. Then on the 13th I find Mr. Webster telegraphs to you that "the acquittal of the President is a fixed fact." Did he not write to you the grounds upon which he put his opinion?

Answer. I think not.

Question. Did you know in any way?

Answer. I did not.

Question. Now, then, on the same 13th of May Mr. Cox telegraphed to you, "If you cannot come over send Sheridan Shook. Important." Mr. Cox has testified that that was written at Woolley's request. What was the important business that you understood you were either to come or to send Sheridan Shook upon on the 13th of May?

Answer. Something in connection with impeachment.

Question. Something important that you was to do?

Answer. I do not know what.

Question. You understood the telegram you sent Shook, did not you?

Answer. I think he came. It was for me to come or send Shook. I told him I was not coming.

Question. What was that important thing that you were to do when you got here?

Answer. I do not know.

Question. What did you understand it to be?

Answer. I understood it related to the impeachment. I could explain what my understanding of it was, if you think proper.

Question. You can give the explanation in direct answer to the question. What was the important matter which you or Shook were to do when you got here in relation to impeachment?

Answer. I do not know. I know nothing more than what the telegram states.

Question. Let us put this together and see. On the 6th of May Webster telegraphed to you, "He will do it." Telegraph "Hugh Hastings to come here right away." You have forgotten who "he" is, or do not know?

Answer. I do not know.

Question. On the 7th Woolley telegraphed to you, "When will the Albany party be on hand for business?" and you understood that to mean Hastings. On the 8th Woolley again telegraphs to Shook, under the cipher "Hooker." "Go to the Astor House and get from our friend"—which you say means you—"an answer to my dispatch of yesterday." When Shook called on you to get an answer you do not remember what answer you sent?

Answer. I did not send any answer.

Question. Then on the 13th Mr. Cox says—the 13th being the day after the adjournment of the Senate—"If you cannot come over send Sheridan Shook. Important. S. S. Cox." Now, it would seem, when the telegram was shown you, you understood who "Hooker" was, and you know that Woolley wanted you or Shook should come and do something that was important about impeachment.

Witness. Excuse me, if you assume that language is mine. I said it related to impeachment; not that there was something to be done; but what I did not know. I knew that the whole subject related to impeachment.

Question. But doing "business" shows that something was to be done?

Answer. Yes.

Question. "He will do it" shows that something was to be done; "Come yourself or send Shook" shows that something was to be done which you or Shook could do. Now, pray what was to be done?

Answer. I have answered that I do not know.

Question. What did you understand was to be done?

Answer. I do not know that I understood anything, and perhaps you will find out that I do not. If you will allow me, I will say that from all I heard on the subject of impeachment I had no confidence in the schemes that were talked about, and I declined to have anything to do with them.

Question. What were the schemes?

Answer. They were to get the votes of Senators against conviction.

Question. How?

Answer. As I understood, by purchase by money.

Question. Who were engaged in those schemes?

Answer. I have heard the subject mentioned by a number of parties.

Question. Tell me who?

Answer. I think the first person I heard talk on the subject was a General Adams.

Question. Formerly in the confederate army?

Answer. For anything I know, formerly in the confederate army, though I supposed not.

Question. What is his other name?

Answer. I am not sure about that.

Question. Were you intimate with him?

Answer. No.

Question. How did he come to you, a stranger, to talk to you about purchasing Senators' votes?

Answer. Because, I think, he had talked on the subject with another gentleman who, in the course of the conversation, said he would consult me.

Question. Who was that other gentleman?

Answer. The collector, Smythe; I think in that conversation my name was mentioned, and in passing out of the custom-house, by the way, I advised the collector—and I think the advice concurred with his own view—not to have anything to do with the subject; I met with this person passing out of the custom-house, and he introduced him to me.

Question. When?

Answer. I think three weeks ago.

Question. Had the collector talked with you before?

Answer. No.

Question. Did you advise the collector not to have anything to do with the subject before or after you saw Adams?

Answer. Both before and after.

Question. Did you introduce the subject to him—a subject that you never had heard of?

Answer. I have just stated that the collector told me of this conversation with General Adams.

Question. Then the collector told you?

Answer. Yes.

Question. What did he tell you?

Answer. That Adams proposed for a certain sum of money to get the votes of certain Senators against conviction.

Question. What Senators?

Answer. Of course I am under your direction, I do not voluntarily introduce anybody's name. The names mentioned to me were Senator —, Senator —, and I cannot with certainty indicate the other names.

Question. —?

Answer. I am not sure.

Question. —?

Answer. Here I want to answer you very unequivocally. Inasmuch as — voted against impeachment, my mind has been a good deal turned to that, and I can say that I never heard his name mentioned by anybody as one of the persons to be influenced.

Question. Anybody else?

Answer. Yes. I understood arrangement was to be made for four votes, but I cannot state positively who except — and —.

By Mr. WILSON:

Question. Did you remember any reason being stated why but four votes were to be provided for in that way?

Answer. No. I do not remember that there was any reason. I had no faith in it; I advised against it.

By Mr. BUTLER:

Question. Was it made apparently in good faith to you?

Answer. I made the conversation with Mr. Adams rather a brief one.

Question. I speak of the conversation with Smythe?

Answer. Smythe told me what Adams had said.

Question. Was Smythe apparently in earnest about it?

Answer. Smythe was asking my advice in regard to the degree of confidence to be placed in this man Adams. I said I did not know him. I did not like the looks of it in any way, and thought not best to have anything to do with it.

By Mr. WILSON:

Question. Do you know who this man is?

Answer. If General BUTLER had not made me hesitate about it I should have said he was a man in our Army, originally from the county of Onondaga. I got that impression. I know that I believed that he was a man in the Union Army, and formerly from the county of Onondaga.

By Mr. BUTLER:

Question. That was about three weeks ago?

Answer. Yes.

Question. Who was the next man that talked with you about purchasing votes?

Answer. The subject was often talked about in New York.

Question. By whom to you?

Answer. I suppose, to answer your question in the spirit it was put, the next conversation I had was with Webster, Woolley, and Shook. They came to my room at the Astor House.

Question. When?

Answer. I think a week after Adams was there.

Question. Shook, Woolley, and Webster?

Answer. Yes, sir; and my impression is, though I am not very confident, that that was the first time I ever saw Woolley.

Question. What was there said about it?

Answer. Substantially what Adams said. It was said that there was a proposition made for votes and for money.

Question. What sum was mentioned?

Answer. Thirty thousand dollars, I think.

Question. For one vote or more?

Answer. For three votes. But three names were mentioned that I remember.

Question. Who were they?

Answer. —, —, and —.

Question. That was about a week after the first; about two weeks ago?

Answer. Yes, I think so.

Question. Cannot you fix the date any nearer?

Answer. I cannot.

Question. Was Hastings in the matter then?

Answer. No, sir; Hastings had not been spoken of then.

Question. Who first spoke to you of Hastings?

Answer. The telegram to me.

Question. Did you speak of Hastings then?

Answer. After I got the telegram.

Question. How did you understand a telegram from

Webster, "He will do it"—Hastings never having been spoken of? "Tell Hastings to come right away." How did you understand it to relate to impeachment unless Hastings had been previously spoken of?

Answer. Because the subject had been previously spoken of at my room by these three gentlemen.

Question. Now, did not you understand that "he" referred to some party whose vote was to be purchased?

Answer. I had no distinct understanding at all. It was an enigma to me; and I do not know that I tried to understand it. I had forgotten that there was any such telegram. I know that the telegram, whatever it was, referred to the subject of impeachment.

Question. Then, in accordance with the request of this party, Webster, you did send for Hastings "right away?"

Answer. I telegraphed to Hastings, saying he was wanted at Washington.

Question. And you telegraphed knowing he was wanted to aid in purchasing votes?

Answer. Is that quite fair?

Question. I think so.

Answer. Then I answer distinctly that I do not know that he was wanted for any purpose except relating to impeachment, and it did not occur to me what he was wanted for.

Question. Then he came to New York and hesitated about going. I want to repeat it, so that you may understand exactly what I am asking you. You have testified that one Adams called on you, or met you, about purchasing votes; that when Smythe consulted with you about purchasing votes, that—

WITNESS. I am sorry to interrupt you, General BUTLER, but you do not state the question fairly. I did not say that Smythe spoke to me about purchasing votes. I told you he repeated to me what had been said to him, and asked me what I thought of the matter.

Mr. BUTLER. I want to treat you with perfect personal respect, and I want to get exactly all that there is in your mind; and as you have already told us that you had forgotten some of the telegrams, and as you have already said that you did not know the purport of certain matters in those telegrams, I have endeavored, and purpose still to endeavor, to bring the train of circumstances to your mind so as to see if, upon the whole, your own mind does not go back to the conclusion as to what these telegrams mean. Therefore I am putting these questions in this form.

WITNESS. Excuse me for saying to you here, I am glad to receive your explanation. I think there can be no need of misunderstanding where frankness is desired. I have no desire to conceal anything; nor do I desire to be embarrassed by any of the technicalities which may be always resorted to by a long cross-examination, which my health does not permit. Nevertheless, you shall have a frank answer to every question.

Question. Now, then, the question I propose to put to you is this: Some three weeks ago you had some conversation with a man by the name of Adams upon the subject of purchasing votes. Either just before or after it Mr. Smythe also had spoken to you on the subject, and repeated what Mr. Adams had said to him.

Answer. All that occurred within an hour on the same day.

Question. About a week after Shook, E. D. Webster, and Woolley, whom you did not know, called at your room and had a further conversation on the same subject. Up to that time Mr. Hugh Hastings' name had not been mentioned. Then on the 6th of May, which would be about two weeks ago, Mr. Webster telegraphed to you, "He will do it; telegraph Hugh Hastings to come here right away." You further said that you did telegraph Hastings to come to Washington, and he did come; and that you understood that he was to come relating to impeachment. Now, what I want to call your attention to and to ask you to reply is, did you not understand and believe, when you received this telegram from Webster, that Hastings was to go to Washington upon the same subject which Webster had consulted you upon in your room in the Astor House?

Answer. Yes, sir; I supposed it was on the same subject.

Question. Did Hastings make any report when he came back to you?

Answer. Yes; he told me he had been in Washington.

Question. Excuse me. I do not ask what the report was.

Answer. If you ask me literally if he reported to me when he came back, I say no.

Question. Did he see you after he came back?

Answer. Yes.

Question. Did he make any statement upon his visit to Washington?

Answer. Yes.

Question. How soon did he return?

Answer. My impression is, in about two days. I am not quite sure.

Question. Within three days?

Answer. Yes.

Question. Having returned within three days I now find a telegram on the 13th for you to come yourself or to send Shook, who was one of the party who were in your room. You understood that you were wanted to come on this same business?

Answer. I did.

Question. But if you could not come you understood that Shook was wanted on this same business?

Answer. Yes.

Question. And that it was important "that either he or you should come?"

Answer. It was so expressed in the telegram.

Question. And you thought it at least so important that you sent him, did you not?

Answer. No, sir. He did go, but I did not send him.

Question. Did you not go to him and tell him to come?

Answer. No. I think he came to me and asked me about it, and I told him I should not go.

By Mr. WILSON:

Question. Did you inform him about the contents of the telegram?

Answer. I think it was to him.

By Mr. BUTLER:

Question. No, sir. It was "To Thurlow Weed, Twelfth street and Fifth avenue, New York city. If you cannot come over send Sheridan Shook. Important. S. S. Cox."

Answer. My impression was it was to Shook. I showed him the telegram and told him I could not or should not come, and he doubted first whether he would, but finally did.

Question. And remained here how long? Do you know?

Answer. I cannot say, but my impression is not more than a day or two.

It will thus be seen that Woolley was in New York with Webster and Shook proposing to Thurlow Weed a corrupt scheme to buy the votes of certain Senators, a proposition which Mr. Weed declined, giving no reason for so doing except that he did think the enterprise a feasible one. By his testimony he does not show a word of discouragement to the parties in the business, because of its corruption and dishonesty, but only declines to take part in it (so far as appears) because he doubts whether it can be made a success; but, as he testifies, informs the party if it were feasible funds could easily be raised to carry it out.

Woolley then leaves New York and comes to Washington, apparently to see if the enterprise could be made a success, and of that success we have some evidence to which we will hereafter advert. Before doing so, however, it will be instructive to see what facilities he had of reaching the friends of the President, and how far he enjoyed their confidence. He opens parlor No. 6, at Willard's Hotel, at which room Mr. S. S. Cox testifies he met one or more of the counsel of the President, and going from thence to the Senate Chamber he was directed to telegraph the result of the vote to Woolley and company, room No. 6, which direction he obeyed, he himself riding up to the Capitol with Mr. Everts on that occasion. Woolley gives at Welker's very lavish entertainments, "throwing his money right and left," as he testifies, in so much that he attempts to account for an expenditure of more than three thousand dollars from the 10th to the 17th of May in this way. His room is frequented by Major Perry Fuller, contractor of the Indian Bureau; Ralph W. Newton, a New York gold broker; J. B. Craig, attorney-at-law, New York city. Samuel Ward, a gold speculator in Washington, who testifies before your committee that he infers from conversations with the Secretary of the Treasury when he intends to sell gold, and thereupon telegraphs to his associates in New York, as follows:

May 18, 1868.

Potter will be quiet all this week. Advocate my cause. Measure low enough.

PRESCOTT.

CHARLES H. WARD, 54 Wall street, New York.

Which being interpreted, as he testifies, should be read:

May 18, 1868.

McCulloch will not sell gold all this week. Buy me \$50,000. Gold is low enough.

SAM WARD.

CHARLES H. WARD, 54 Wall street, New York.

Colonel Edmund Cooper, the President's late Private Secretary, and now First Assistant Secretary of the Treasury *ad interim*; Mr. Sheridan Shook, a New York collector of internal revenue; Washington McLean, editor of the Cincinnati Enquirer; S. G. Cox, minister nominated to Austria; H. A. Smythe, collector of customs New York; E. D. Webster, the aforementioned friend of Thurlow Weed and of Secretary Seward; H. L. Hastings, editor of the Knickerbocker of Albany, and now engaged on the Commercial Advertiser with Thurlow Weed; J. C. Tweed, a banker of Wall street, New York; General Hancock, of the United States Army; J. S. G. Burt, a leading speculator now or lately of Cincinnati, Ohio; Judge Dunlevy, attorney to the "whisky ring;" and to these must be added W. S. Groesbeck, esq., and William M. Everts, esq., of the counsel for the President.

To show the degree of intimacy existing between Woolley and the parties above named the committee have only to refer to the telegrams that have passed between several of them and Woolley, and the testimony of Woolley himself of the parties who dined together at Welker's on the Friday evening before the vote.

Question. Give the names of the other gentlemen at that dinner.

Answer. General William Preston, S. S. Cox, W. M. Everts, W. S. Groesbeck, Colonel McDonald of Maine, I think Colonel Cooper, the Private Secretary that was, myself, Sam Ward, and Craig.

Woolley further testifies that he had been able to command the appointment of an internal revenue assessor for the district of Cincinnati from the President.

With these relations and associations, coming to Washington with the corrupt purposes which he avowed at Mr. Weed's room at the Astor House, of procuring the President's acquittal, and for the purpose, also, of controlling the settlement of whisky seizures, and also to aid the nomination of Mr. Pendleton, as he (Woolley) swears, both which last-mentioned purposes would be largely promoted if he could compass the first by purchase, bribery, or otherwise.

We find the first evidence of his success in a tele-

gram of the 6th of May to Sheridan Shook, signed Hooker, as follows:

"My business is adjusted. Place ten to my credit to-day with Gilliss, Harney & Co., No. 24 Broadstreet. Answer."

That this telegram was not about an honest business transaction is sure from the cipher and from the fact that Sheridan Shook denies any knowledge of what it means. Although he admits that he received it from Woolley, Shook further denies that he placed any money to Woolley's credit at Gilliss, Harney & Co., as the telegram directed, yet the committee find, from the testimony of Woolley himself, as well as from other facts, that \$10,000 were placed to his credit with that banking house in New York, against which he drew and received the \$10,000, in ten bills of \$1,000 each, from the First National Bank of this city in a day or two after the telegram.

As showing that this was done by Shook according to the telegram, we find that E. D. Webster, his associate, dispatched a telegram the same night from Willard's to Shook, saying, "All right;" i. e., your answer has been received. Contemporaneous with the procurement of this money by Woolley we find the dispatches heretofore recited of the 7th of May, from Woolley to Weed, asking, "When will the Albany party be on hand for business?" It will also be observed that the word "business" is the same word which Thurlow Weed swears means "procuring votes for acquittal by purchase," and is the same word "business" Woolley uses when he telegraphs to Shook. "My business is adjusted, place ten to my credit."

Again, showing impatient haste, "Hooker" (Woolley), Hastings not coming, sends a telegram to Sheridan Shook on the 8th, "Go to the Astor House and get from our friend an answer to my dispatch of yesterday."

On the same day, the 8th, E. D. Webster telegraphs to S. Shook, "See W." (i. e., Weed) "immediately, and ascertain if that letter has been delivered; if not, have it done at once."

Weed does not tell us what was in that letter. He testifies in this connection that he telegraphed to Albany to Hugh S. Hastings, and sent him to Washington on the business that was conversed about by Woolley, Shook, and Webster at the Astor, i. e., purchasing the votes of Senators. The course of the cars brought Hastings to Washington on the 10th of May. The effect of Hastings's appearance here on that day is shown by the telegram of Woolley to his friend J. S. G. Burt, May 11, "President's stock above par;" and again, to D. W. Ives, New York, "Impeachment gone higher than a kite." But on the 12th "Hooker" (Woolley) telegraphs to Sheridan Shook, "The five should be had, may be absolutely necessary." On the same day Woolley drew \$5,000 more on Gilliss, Harney & Co., through the First National Bank, Washington, which was duly honored by Gilliss, Harney & Co. in New York. It is not difficult to see who placed the money there for Woolley or divine the purpose for which it was so placed. That this was not for an honest business is shown by his testimony, although it refers to "the five which must be had;" and Shook denies he knows what the telegram means, although he admits he received it.

These sums of \$10,000, \$5,000, and the \$5,000 drawn on Cincinnati and paid there for Woolley the same 12th of May, as evidenced by the following telegram:

"HAMILTON, OHIO, May 12.

"To Woolley from P. S. Clinch:

"I paid your draft. How is Andy? Got home this morning," makes the \$20,000 that Woolley wanted for his purpose, and the same he has refused to account for, or rather has accounted for in four different ways, each of which account is false:

1. By saying he had expended it in his own private business.
2. That he had paid it out in his clients' business.
3. That he had sent it to his client in Cincinnati by a check on a bank there, forgetting that sending his own check on a bank in Ohio would not get ten one thousand dollar bills out of his pocket in Washington.
4. That he had given between sixteen and seventeen thousand dollars of this money to Sheridan Shook to keep, which Sheridan Shook denies upon oath, and Woolley now refuses to testify to your committee what he has done with it, and it is one of the objects of this report to have him brought to the bar of this House and forced to disclose.

Meanwhile there seems to have been a little difficulty which Woolley could not arrange or Hastings make smooth, and which required the masterhand of Thurlow Weed or that of his scarcely less able or less skillful lieutenant, Sheridan Shook, to adjust.

It will be remembered that opinions were delivered in the Senate on the 11th by some Senators; that on the 12th it was public rumor that a Senator or Senators would resign or vote for the eleventh article. Something—whether it was that rumor or what—disturbed the associates of Weed's room at the Astor House. It would not be well for the committee at present to disclose what evidence they may have affecting other parties; but that something had happened which interfered with their calculations on that day is most certain, because Mr. J. B. Craig telegraphs from New York on the 12th of May in answer to an inquiry from Samuel Ward, "I leave at seven thirty; will see you early." He arrived here, of course, on the morning of the 13th, and telegraphed on the same day, as he swears (by direction of Woolley) to Sheridan Shook, "Come on by first train. Very important."

What was it that was so important, that the third or fourth member of the Astor House Association for the purchase of votes should be there to attend to it? Let that telegram should not find Shook at the Fifth Avenue Hotel, on the same day and hour Craig tel-

ographed to Shook, by order of Woolley, "You must come here and untangle a snarl between friends at once." What "snarl" had happened "between friends" Craig swears he does not know. Shook swears he does not; and although he came in obedience to the telegram, he never inquired or was told after he got here what this important "snarl" was. Sheridan Shook did come, but not until S. S. Cox had telegraphed by direction of Woolley, to Thurlow Weed, but, as Cox swears, without knowledge of its import. "If you cannot come over send Sheridan Shook. Important." This telegram, Thurlow Weed testifies, related to the subject of impeachment as talked over in his room at the Astor House; and as he could not come Shook did come by the morning train of the 15th, so the "snarl," whatever it was, was about purchasing the votes of Senators. Shook's deputy, Shafer, telegraphed to Craig, at 11.42 a. m. of the 14th, that Shook would leave New York to-morrow morning. Hastings, in the meantime, had returned to New York; and the matter for which Weed and Shook were wanted seems not to have been fully arranged until after Shook got to Washington, the "snarl between friends untangled," because Wash. McLean, on the 13th, telegraphed to Woolley this inquiry: "Will Johnson be deposed? When will you be here?" Instead of replying to him with the assurance of certainty he had used to some of his friends on the 14th, Woolley does not seem to have that confidence "that impeachment had gone higher than a kite," and that certainly which he had expressed before the "snarl" took place, but in answer telegraphed as follows, under date of the 14th May, to Wash. McLean, New York: "Johnson stood at par; managers examining witnesses as to corruption of Senators. HENDRICKS, VAN WINKLE, WILLEY, TRUMBULL, JOHNSON met at Chase's house last night to form a new party. We have them demoralized and bitter. Do not leave New York until I see you; say by Sunday certainly."

It would seem, therefore, that at this time the Astor House Association were rather relying upon the political situation in aid of their efforts, as Webster telegraphed to Thurlow Weed on the 13th as follows: "The acquittal of the President is a fixed fact. Already crimination and recrimination is indulged in between the impeachment leaders, and Forney has been compelled to resign. The present plan of the impeachers is to adjourn again on Saturday without taking a vote." Thus it is seen with what care Mr. Weed was privately kept informed upon the subject of impeachment, and how scrupulously he watched every varying phase of the trial. But Sheridan Shook, his associate, who had been sent for by three different telegrams, Important. Come by next train, to untangle the snarl between friends "who was to take the place of Thurlow Weed;" who was to "be sure to come or send Shook, Important," did arrive on the night of the 15th.

Weed, as will be seen by his testimony, expressly swears this telegram to send S. Shook related to the matter talked over at his room at the Astor House, i. e., how Senators' votes might be purchased to secure acquittal.

Sheridan Shook, on the contrary, testifies to your committee that he did not know to what subject all these telegrams referred, although, after an interview with Weed, he obeyed them and came; and that when he arrived here no business was stated to him, that no entanglement was shown him, and he did not even inquire why he should have come, or why he had been sent for, or what was the important business he was expected to do, now he was here, and the only ostensible errand he disclosed to the committee was to bring two hundred Regalia cigars for which Woolley had telegraphed him on the 14th.

If, in the light of the evidence above reported and telegraphed information disclosed, any member of the House believes this statement of Shook, "him have your committee offended" by asking that Woolley be brought to the bar for contempt of its authority and his interference with the course of public justice.

Whatever entanglement or difficulty might have existed before the coming of Shook, or doubts upon the minds of the associates as to the President's acquittal, they all vanished during the night after his arrival, for long before the time when the friends of the Union had any knowledge upon the subject, while the whole country was waiting in breathless anxiety for the verdict of the Senate, where the dread award of guilt or innocence was actually trembling in the balance, the very judgment itself, nay, the very number of votes and the men who would cast them, were known to the members of this corrupt association and their confederates. Of this no other evidence is wanting but a single controlling fact.

H. S. Hastings, "the Albany party who was ready for business," and had come on at the solicitation of Woolley, sent through Weed, was anxiously waiting at the place of business of Shook, the office of the collector of internal revenue, thirty-second district, New York, 83 Cedar street, to learn what had been the effect of the machinations of Sheridan Shook, whose office he was keeping during Shook's absence, at the telegraphic request of Woolley, enforced by the command of Weed. Listen to the magnificent diapason of triumph with which Woolley announces to Hastings the assured success of the association under the able lead of Shook by telegram sent from Washington at nine o'clock and thirty-five minutes on the morning of the 16th May, four hours before the vote could be taken, and announced in the Senate: "H. S. Hastings, care Sheridan Shook, 83 Cedar street, New York. We have beat the Methodist Episcopal Church North, 11ell, George Wilkes and impeachment. It is believed a vote will be had to-day. I doubt it."

Again, so assured was Woolley that his work was well done, and that there was nothing more for him to do in Washington, that at eight a. m. of the same morning (the 16th) he telegraphs his friend, J. S. C.

Burt, New York, "Where's Wash? I will dine with Hancock to-night, or be at Fifth Avenue Sunday morning. Andy all right."

In view of all this evidence the committee have reported the accompanying resolve. They have forbore to state any other evidence which they have taken, confining themselves to that which seemed to affect and cluster around Woolley in this report, because his case is alone the present subject of inquiry before the House. There is other and most important evidence bearing upon the subject of attempted interference with the course of public justice in this greatest of all trials, the nature and extent of which the committee do not deem it proper or just even to indicate until their final report shall be made, lest they might do injustice and the indication of the evidence might cause the avoidance of the witnesses, more than one of whom they have not yet been able to reach by the summons of the House.

The committee are of opinion that not only this but all other investigations by the House in the future depend for their efficiency upon the action of the House in this case. If Woolley can thus defy by evasion and false swearing the solemn investigations of the House of Representatives in matters of the very highest concernment, it is difficult to see how the House can ever hereafter hope with any success to investigate, detect, and provide against any other attempted corruption in governmental affairs.

By the committee:

BENJAMIN F. BUTLER.

The resolution was read, as follows:

*Resolved*, That Charles W. Woolley, a witness heretofore duly summoned before the committee of managers of this House, and who, as appears by the report of the managers, has refused to answer proper inquiries put to him in the course of the investigation ordered by the House, and who has not attended upon the sessions of the committee according to its order, but has, in contempt thereof and of the orders of this House, left the city of Washington, and remains absent and has not yet reported himself to the committee, be forthwith arrested by the Sergeant-at-Arms, and be brought before the House at its bar by the orders of the House, duly issued by the Speaker, under his hand and the seal of the House; and that said Woolley be detained by virtue thereof by the Sergeant-at-Arms until he answer for his contempt of the order of the House, and abide such further order as the House may make in the premises.

Mr. BUTLER. I now propose to call the previous question upon this resolution.

Mr. BROOKS. Does the gentleman propose to press this matter through without debate after making these serious charges?

Mr. BUTLER. I will withdraw the call for the previous question for the present if the gentleman desires.

Mr. BROOKS. I wish to correct a statement of fact in the resolution.

Mr. BUTLER. How long a time does the gentleman want?

Mr. BROOKS. I do not know; a reasonable time.

Mr. BUTLER. I will yield for a question simply.

Mr. BROOKS. I wish to correct the gentleman in point of fact. This resolution is based upon an erroneous statement of fact, in regard to which, I suppose, the gentleman desires to be corrected. The gentleman has fallen in the same error to-day that he fell into the other day, when he stated positively that Mr. Woolley had left the city. Mr. Woolley is now in the city, as he was the other day.

Mr. BUTLER. I desire to say, first, that Mr. Woolley left town on the night train, and, after he went off, sent us a dispatch that he had gone; so I know he went; that is, if he is to be believed at all.

Mr. BROOKS. Is the gentleman from Massachusetts so little versed, after all his experience in telegraphing, in the skill with which men could fool him with telegraphic dispatches? When it was found that he was hunting up telegraphic dispatches as freely as he was he might receive a dozen telegraphic dispatches from New York stating that Mr. Woolley was there, when he had not left Willard's Hotel.

Mr. BUTLER. I understand this to be the state of facts: Mr. Woolley went away to New York, in defiance of the committee, stayed until last night, and then came back again.

Mr. BROOKS. The resolution states that Mr. Woolley left the city of Washington, and has not yet returned.

Mr. BUTLER. No, it does not; it says he has not reported to the committee.

Mr. BROOKS. Let the resolution be again read.

The resolution was read.

Mr. BROOKS. "Remained absent" is the



phrase; and that means he is not here. I wish the gentleman, therefore, before he presses his resolution, to put it in a form so we can all vote for it. For, sir, we do not intend to array ourselves in opposition to any inquiry which the honorable gentleman or his committee wish to make.

I wish to say further that I hope he will strike out the words "proper" and "proper inquiries," for if he has been inquiring into the private affairs of Mr. Woolley I doubt whether it is a "proper inquiry." The majority of this House is invested with power, with certain privileges and prerogatives, beyond all question, but with no privilege or prerogative which will enable them to investigate into the private affairs of anybody. And, sir, when the committee put questions to a witness relating to his personal and private affairs or private business, they are, in my judgment, traveling beyond the parliamentary right of the House in making an investigation, particularly when, as in this case, the witness swears positively he has used none of this twenty or twenty-five thousand dollars for any purpose connected whatsoever with the impeachment of the President.

Before I go further I wish to ask the gentleman from Massachusetts [Mr. BUTLER] to fill the blanks with the names of the two Senators mentioned by the witness.

A MEMBER. Three.

Mr. BROOKS. Two, as I understand; because the country has the right officially to know, what everybody unofficially knows, that the two Senators are Mr. POMEROY, of Kansas, and Mr. NYE, of Nevada, whom it seems were to be purchased if this money was contemplated for that purpose. And I wish to add, further, that these facts corroborate the testimony of Mr. Cooper, that there were like negotiations for the purpose of reaching Mr. POMEROY and Mr. NYE. I do not charge anything corrupt in regard to them, but I only know that it is stated in the public papers that these blanks are to be filled with the names of Senator POMEROY and Senator NYE, and not with any of the names of the seven Senators.

Mr. ELDRIDGE. I rise to a question of order.

The SPEAKER. On the remarks of the gentleman from New York?

Mr. ELDRIDGE. No, sir. I thought he had got through.

Mr. BROOKS. I wish to say, in answer to the gentleman from Massachusetts, that in justice the managers should have carried their investigations further and investigated a caucus held by a large number of Senators, at one time a list of thirty-five names was indicated and at another thirty-six. I say as a matter of justice, as a matter of equity, it should be inquired into, whether thirty-five Senators, acting as judges or jurors, have not, as members of a caucus, attempted to force the impeachment of the President?

Grateful to the member from Massachusetts, from whom I did not expect so large a courtesy, I wish he would give me an opportunity to present my opinion as a member of the press and a member of the press largely connected with the telegraph. I protest against this whole series of *ex parte* investigations, so far as my honorable profession is concerned. I claim as a journalist, and I claim it as our right, holding a position as respectable as ours is, that of Senators not higher because they are in the Senate—I claim the right as a journalist, whenever in private or social intercourse, at public dinners or elsewhere, in the line of our profession strictly we obtain information particularly relating to our profession, that it is as privileged, if not in the eye of the common law, in the eye of moral law and equity and justice, as the consultation of lawyers, of which profession the gentleman from Massachusetts is a member, or the office of the priesthood; and in behalf of my profession here I hope at any time, preferring imprisonment and death, they will never report private conversations or information communicated to them, except before the highest courts

of law on a *subpoena duces tecum*, with a specification of the particular fact alleged to be derived. And in behalf of that profession, and in behalf of the whole community, I proclaim this seizure of telegrams, this wholesale seizure without any specification whatever, is an outrage upon private life and liberty, the like of which has never been known in any country whatever in a time of peace, and which would never be submitted to under any despotism in Europe without outcry and rebellion, almost if attempted in the form in which it has been attempted here; and the only wonder to me in this case is, that in the freedom with which the telegraph has been used by all parties, more or less, relating to the most intimate commercial and business affairs as well as to affairs of social life, involving property, honor, character, and the most sacred domestic relations, they have not been able to disclose more facts than they have exhibited here. I have no doubt they have suppressed hundreds of telegrams, while they have used only those that are useful for their purposes here in this debate.

The privileges and prerogatives of this House I know very well, but they are not those of a court of law. They are limited by parliamentary rule and parliamentary precedent. I undertake to say that the whole history of parliamentary law of no country ever showed an invasion like this, and that the surrender of telegrams to this managerial committee is one of the most disgraceful surrenders which has ever been made by a corporation in the whole history of the world, and in my judgment ought to damn them to everlasting infamy.

With these remarks let me be understood. I intend to throw no obstacle whatsoever in the way of any investigation such as the gentleman from Massachusetts, on behalf of the committee, may desire to make. Go on; seek everything in which you may find that anybody has been in any way corrupted in these proceedings. None of our people have as yet been touched. The whole array of names, without exception, so far as I know—Woolley, Shook, Weed, Hastings—are not of the party with which I am associated. Mr. Shook received his office from President Lincoln, not from us. He has been a Republican, and is a Republican at the present time, so far as my information goes. What may be the politics of Mr. Woolley I do not know, nor do I know the politics of Mr. Adams. He is mentioned as an officer of the confederate army. I do know something in regard to that. He never was in the confederate army, if he ever belonged to any army whatsoever, which I very much doubt. If he had any office which entitled him to be called general it was nothing beyond quartermaster general, and if he belongs to any party whatsoever it is that to which the gentleman from Massachusetts belongs and not to that with which I am associated.

I am grateful to the gentleman from Massachusetts for the courtesy extended me in allowing me to make these few remarks.

Mr. BUTLER. Mr. Speaker, I propose now, having heard from the other side, to call the previous question.

Mr. ELDRIDGE. I rise to a question of order. I call the attention of the Speaker to the Digest, page 192, second paragraph, which provides that—

"Any person summoned as a witness by authority of the House to give testimony or to produce papers upon any matter before the House or any committee thereof who shall willfully make default, or who, appearing, shall refuse to answer any question pertinent to the matter of inquiry in consideration before the House or committee by which he shall be examined, shall, in addition to the pains and penalties now existing, be liable to indictment as for a misdemeanor. And when a witness shall fail to testify as above, and the facts shall be reported to the House, it shall be the duty of the Speaker to certify the fact, under the seal of the House, to the district attorney for the District of Columbia."—*Statutes-at-Large*, vol. II, pp. 155, 156.

I insist that that is a provision which should govern this case, and not the application of the gentleman from Massachusetts. Certainly the witness should be, in the first instance, arrested.

It is contrary to all law and all precedent that he should be brought before us without an opportunity to show cause why he has not answered a certain question. Many of the questions put to him are of the nature described by the gentleman from New York, [Mr. Brooks.] They are such as, in my judgment, the committee had no right to ask, and such as no witness would be compelled in a court of justice to answer.

Mr. BUTLER. I understand this to be a point of order and not an argument.

The SPEAKER. The gentleman from Wisconsin was going on to indicate the point. The Chair thinks he has stated it.

Mr. ELDRIDGE. The Chair may think so, but he is quite mistaken. [Laughter.]

The SPEAKER. The gentleman may continue till he has made his point of order.

Mr. ELDRIDGE. I say it is contrary to the practice of any court of justice.

The SPEAKER. That is not a point of order. The Chair does not know what is the practice of courts of justice; the only point of order upon which he can rule is in relation to the practice of the House of Representatives or of parliamentary bodies.

Mr. ELDRIDGE. The Chair cannot, of course, decide until he has heard my statement.

The SPEAKER. The Chair cannot sustain a point of order based upon the practice of a court of justice.

Mr. ELDRIDGE. I insist that the parliamentary practice is that the witness is not to be arrested and brought before the House until he has had an opportunity to show cause why he has not answered the questions propounded by the committee.

The SPEAKER. The Chair overrules the point of order on the ground that the uniform usage of the House from the Twelfth Congress down to the present time has been that where a witness is before a committee of the House that is authorized to send for persons and papers and refuses to testify he is first to have an opportunity to explain to the House of Representatives why he refuses to testify; he cannot be held to answer until the committee shall present the question to the House, and the House shall, at its bar, through the Speaker, present to him the question and ascertain why he has refused to answer it. The very Statute-at-Large quoted by the gentleman from Wisconsin, on page 192 of the Digest, was enacted subsequent to the refusal of a witness before a committee to testify after having been imprisoned by the order of the House for his persistent refusal. The committee who had the subject under consideration reported this law, which is to be found on page 155, volume eleven of the Statutes-at-Large. It reads as follows:

"Shall, in addition to the pains and penalties now existing, be liable to indictment as for a misdemeanor."

Previous to that time there had been no power of punishment except the power of the House of Representatives, and that power ended whenever the House adjourned. If, therefore, a witness, just at the close of a constitutional term of Congress, on the 3d of March, should refuse to testify, the House of Representatives could not imprison him for a longer time than until the 4th of March, when their term expired. The bill reported by that committee was passed with the general assent of all parties in Congress, was signed by the President, and became a law. And it goes on to provide that—

"When a witness shall fail to testify as above, and the facts shall be reported to the House, it shall be the duty of the Speaker to certify the fact, under the seal of the House, to the district attorney for the District of Columbia."

This law was enacted. The Chair does not remember the exact year.

Mr. KELSEY. In 1857.

The SPEAKER. In 1856 or 1857. The Chair was a member of the House at the time, and remembers the enactment of the law, because a witness not only refused to testify before

the committee, but when brought to the bar of the House refused still further to testify.

The previous question was then seconded and the main question ordered.

Mr. BUTLER. Mr. Speaker—

The SPEAKER. Does the gentleman desire to speak further?

Mr. BUTLER. Yes, sir.

The SPEAKER. The gentleman will proceed; he is entitled to one hour under the rule.

Mr. BUTLER. Mr. Speaker, there are one or two matters which I desire to have set right before the country, in reply to what has fallen from the gentleman from New York, [Mr. Brooks.] In the first place, in regard to the names of Senators, which he says are unofficially known, I can only say that there are other names in our evidence than those he has mentioned, but I shall not be drawn—for I am not instructed to do it—into any statement upon that subject. There is one statement, however, which I propose to make in justice to everybody and with the assent of the managers, and that is that, so far as names recollected by the witness, Thurlow Weed, were disclosed, they were names of Senators who had voted for conviction. But, sir, is it of any consequence to this House, or to the country, which side has been attempted to be bribed, or whether Mr. Cooper, the President's late Private Secretary—for his name has been brought in here, I have not brought it in—whether Mr. Cooper attempts to bribe Mr. A or Mr. B? Is it of any consequence to the justice of the nation whether he has succeeded or fails in his attempts to bribe Senators? Has it come to this, that if one only fails in bribing one has full liberty to attempt it? The honorable gentleman from New York states himself, as I understand him, that he understood that Mr. Cooper was engaged in such negotiations.

Mr. BROOKS. The honorable gentleman will permit me to correct him, unless he means by "such negotiations" that he declined to receive an offer that was made him for such negotiations and refused to negotiate in the matter?

Mr. BUTLER. I take what is on the record; and I pray that the record may not be changed. I have seen some accounts of testimony which it has been supposed was given before the managers. Now, I want to say here, once for all, that not one word as to the testimony given before the committee to my knowledge has ever gone out from the committee of managers to any public paper. All such stories in the papers are the stories of men who either did not know about what they were telling, or of witnesses themselves who are attempting to prejudice the investigation. This being an *ex parte* investigation, we thought it due to the rights of all that everything should be kept secret unless it was necessary to have it disclosed for the purpose of public justice. I for one, and in that I know I speak for my associates, have ever refused to give out a single item of any kind of information, although the attempt has been made to cross-examine me by gentlemen of the press in their ardor and enterprise after news.

But I do want to say here that of the testimony given so far before the committee there is not one substantial word of truth in the reported testimony of Colonel Cooper, as published in the National Intelligencer. I do not say what he did testify. But I do say that he did not upon his oath testify what is there reported in substantial fact.

One thing further. Your committee have been attacked because of what has been claimed to be a wholesale seizure of telegrams. Sir, no such wholesale seizure of telegrams has been made. We have done this, which is, in my judgment, exactly according to the law of the land, exactly within the power of this House; exactly within the power of any court of justice; we sent our subpoena *duces tecum* to the telegraph offices, asked them to bring their dispatches, and asked the managers of the offices, either at our rooms or at home, and

select certain telegrams of parties named or unnamed, as well as we could designate them.

The reason why we had to go pretty broadly in our selection was that the corrupt rascals engaged in this nefarious business used all manner of feigned names; "Hooker," "Bismarck, jr.," "Prescott," "Potter," &c. "Hooker" means sometimes Woolley; "Bismarck, jr." sometimes means Woolley; "Prescott" means Sam Ward, and "O" means Sam Ward; "Potter" means McCulloch. And there were a dozen other *aliases*, ciphers, which we had to investigate.

And allow me to say it was not necessary so to do—but if it had been necessary, in my judgment it was the right, nay, it was the duty of the House of Representatives—to take in every telegram in every office in the country and examine it for the purposes of justice, and of that no honest man would complain. There is a couplet of my namesake, Anthony of H-dibras, I believe, applicable here:

"No rogue e'er felt the halter draw  
With good opinion of the law."

Therefore, when we struck these telegrams there was a great fluttering. Among whom? Among the gold gamblers; among the whisky gamblers; among the corrupt confederates who admit that they met and consulted how Senators' votes could be bought. No honest, true man complains or fears the investigation.

Sir, whatever may be the result of this investigation, one thing is quite certain: we have now demonstrated to this country that there has been a corrupt conspiracy to buy Senators. And if it has failed, it has failed not for want of the corrupt purpose and intent of the people I have named, but because there was too much virtue in the Senate. But upon the question of that failure or success it does not become me here and now to express any opinion. The people of the country must and will form their opinions for themselves.

The unfortunate result, a result humiliating to every American, of this investigation has been to show that there were men ready, high Government officials, to meet together, to receive, and to entertain propositions, to consult upon the question, and to reply to the question how Senators could be bought; that state of things is shown by the evidence reported beyond all peradventure, beyond all doubt. How far they have succeeded in their corrupt designs may or may not be shown; that is another portion of this investigation which is not yet concluded. We may be able to show it; if so, we can find what this man Woolley did with his money.

Let me now call the attention of the House to where this money of Woolley's came from. Mr. Woolley and Mr. E. D. Webster and Mr. Sheridan Shook met at the Astor House about the 4th day of May, and they advised with Mr. Thurlow Weed, upon Thurlow Weed's own testimony, as to how Senators' votes could be purchased by money. Mr. Weed said that he did not think much of the scheme. He does not tell us that he advised against it upon any ground except that it was not feasible. Weed, Sheridan Shook, Webster, Woolley are there in consultation on this subject. Woolley is in correspondence with Warden, the President's Private Secretary. Woolley comes here and on the 6th of May telegraphs to Shook. What? "My business is adjusted; put ten to my credit at Gilliss, Harney & Co." Ten what? He swears it was \$10,000. He sent for it under the name of "Hooker," a cipher, to Shook. Somebody does put \$10,000 to the credit of Woolley at Gilliss, Harney & Co., in New York, and Woolley draws against it. He takes \$10,000 in \$1,000 bills. On the same day he draws on Cincinnati and gets \$5,000 more. Two days afterward he draws on Sheridan Shook by the name of Hooker, saying to him "Five more must be had—may be absolutely necessary." At the same time he telegraphs to Thurlow Weed, "Is the Albany party ready for business," and Thurlow Weed sends down the Albany party for business. They got their money through Gilliss, Harney & Co. by the efforts of Shook, and the Albany party comes

to Washington ready for business, whereupon we have the telegram from Woolley that goes, "Impeachment has gone higher than a kite."

Now then, sir, under those circumstances we looked at these telegrams, which were brought us and we found this remarkable state of facts: that every gambler, every gold speculator, every one plundering the public knew what the votes of Senators would be and that no man who was an honest friend of the country did know what the votes would be.

Mr. ELDRIDGE. Will the gentleman allow me?

Mr. BUTLER. For what?

Mr. ELDRIDGE. I wish to make an inquiry of the gentleman from Massachusetts. I desire to know whether one of the witnesses sworn before the committee, and to whom reference is made in the report read to the House, did not telegraph that "the impeachment was lost;" that the verdict would be for the President; and whether the witness did not base his opinion solely upon the length of the face of Manager BUTLER? [Laughter.] That that face indicated defeat, and he based his telegram upon that alone? Was not that the character of these telegrams? [Renewed laughter.]

Mr. BUTLER. Mr. Speaker, I will answer the question of the gentleman from Wisconsin. There is one Sam Ward, who, it is in evidence, dined with Woolley and Evarts and Groesbeck on Friday night, and at Welker's, who telegraphs to his son in New York on the 18th that "Potter," meaning McCulloch, would be quiet all this week, *i. e.*, would not sell gold all this week; "defend my cause;" that is, buy me \$50,000 in gold; "measure low enough;" that is, gold is low enough. Sam Ward, the morning of the vote in the Senate, telegraphs in these words—and perhaps I had better read them from the telegram. [Laughter.] I will read from the telegram of this man which has been brought out. He first telegraphed on the 4th of May, when "these men are consulting how to buy Senators in New York." "S. W. to Edmund Cooper. Will see you to-morrow early. S. W. to W. R."—somebody, I do not quite read the name, who had bet for conviction—"Hedge your bets."

On the 6th of May, the day that Woolley said his business was arranged, Sam Ward telegraphs S. M. Barlow, one of the later party associates of the gentleman from New York, [Mr. Brooks:]

"All O. K., I think. Twice eleven sure."

That is, twice eleven makes twenty-two Senators sure. J. D. C. telegraphs to Sam Ward, same date, May 6:

"Are you quite positive the statement contained in your letters relative to particular person is correct?"

And Sam Ward telegraphed back on the same 6th of May:

"J. C. CRAIG: I have it from such various reliable sources that I would go to the bottomless pit for my belief."

And there is where he will go. [Laughter.]

On the morning after Sam Ward telegraphed to his brother gold gamblers in Wall street: "President's acquittal certain." This was at twelve o'clock and five minutes exactly, before the Senate had voted. He also sent this piece of important information:

"I just met BUTLER going along the corridor with a face as long as if Fort Fisher was not taken."

Now, I want to assure the gentleman from Wisconsin and the gentleman from New York that I felt when I learned the result just as I did when Fort Fisher was not taken. I felt that as great a calamity had befallen to this country by the efforts of this corrupt conspiracy, by purchasing of the judges of the highest tribunal of the land or other influences which prevented conviction, as when my army failed to take that stronghold of the rebellion; and my face, I have no doubt, had the same overcast of grief on both occasions. I felt as badly the failure of the one as the other, and I am as willing hereafter to be twitted by anybody for the failure of the one as of the other.

I did my duty to the best of my ability in both cases, and in both cases, in my belief, was overcome by the joint efforts of rebel enemies, corruption, imbecility, and fraud. Fort Fisher would have been taken and the President convicted, both equally necessary for the security of this country, but for the efforts and appliances of those equally the enemies of the country.

I was about saying, when I was interrupted by the gentleman from Wisconsin, that all these men seemed to know the fact of these votes for acquittal. The whole air was redolent with charges of corruption against the Senators. They taint the air. They flow over upon everybody. They flow even upon the Chief Justice. This Woolley expressly declares, in a telegram to his associate, that on the night of the 13th a meeting of Senators who voted for acquittal was held in Chief Justice Chase's house for the purpose of forming a new party. I had supposed that it was equally corrupt to have party bribes as to have money bribes for Senators' votes. I suppose a Senator can be as well bribed by being offered a Secretaryship of the Treasury under Andrew Johnson as by being paid \$20,000 by Mr. Woolley under the darkness of night. Each might be a bribe to swerve either from his duty; therefore I desire that there should be an investigation as full, ample, and complete as the gentleman from New York can desire; so that the good name and fame of every true man may be cleared, and the guilt, if guilt there be, fasten itself upon the wicked and corrupt.

One word further in behalf of the committee upon the question of our use of the telegraph. No telegram that does not relate to this impeachment, directly or indirectly, as we believe, has been or will be published to the world.

Mr. BROOKS. Will the gentleman permit me to ask a question?

Mr. BUTLER. Certainly.

Mr. BROOKS. Has the gentleman brought up here George Wilkes's telegrams or Theodore Tilton's? Has he called for them? Has he got them?

Mr. BUTLER. To that I say, sir, I have never known any such act of disloyalty or dishonesty on the part of Theodore Tilton or George Wilkes as to lead me to investigate their affairs in any way or form. Every man is known by the company he keeps; and I only investigated, so far as I was concerned, the cases of those who from the very suspicious company they kept I thought were disloyal, and were willing to buy Senators or do anything else that God will permit bad men to do. Whenever I heard of such a man I wanted to see his telegrams, and the result is before the House.

Now, sir, I say again there need be no fear of any telegrams being exposed that ought not to be exposed. Let me say further, in justice to the committee, that every Government on earth has always held for itself the right to examine papers for its own protection. The British Government held to that right during the Chartist excitement, even to examine letters in its post office.

Mr. ELDRIDGE. Will the gentleman allow me to ask another question?

Mr. BUTLER. Yes, sir.

Mr. ELDRIDGE. I wish to know if he ever knew an instance in any parliamentary body where an investigation was had in which all the members of the committee were on one side of the question? In this case here is a question of impeachment. That, perhaps, is the central idea with which the gentlemen are pursuing the investigation. It is so said, at all events. Now, did the gentleman ever know an investigation in any parliamentary body where both sides were not represented? And can it be expected that a full and fair investigation should be had where all the members of the committee are of one way of thinking, where all of them believe, for instance, that Theodore Tilton is an upright and pure man

and that Mr. Woolley is a disloyal and corrupt man? Would it not have been fairer if there had been somebody on the committee on the other side who was a friend of Mr. Woolley?

Mr. BUTLER. I desire to ask the gentleman from Wisconsin a single question. The question here is as to the bribery of Senators. Which side of that question is he on? Is he for bribery or against it? Yes, or no? [Laughter.]

Mr. ELDRIDGE. The gentleman is not quite fair in not answering my question first; but I will answer the gentleman's question as I understand it. I do not understand that this question is simply that which the gentleman states, because, if it were that, then the committee of managers would not be the proper committee to investigate it. The resolution which authorized them to do this work was put upon the ground that they were investigating still with reference to a further impeachment or trial.

Mr. BUTLER. I did not yield for a speech. I want an answer to my question. Which side are you on on the bribery question?

Mr. ELDRIDGE. If the gentleman asks me whether I am in favor of bribery, I do not suppose he is serious in asking the question. No one, I believe, ever made such a charge—

Mr. BUTLER. I do not charge it.

Mr. ELDRIDGE. I do not suppose the gentleman means by implication to impute to me any such charge.

Mr. BUTLER. No, sir.

Mr. ELDRIDGE. Then I do not think the gentleman desires that his question shall be answered. I certainly think that he would feel himself indignant and insulted if I put the question to him "Are you in favor of bribery?" I have made no imputation against the committee. I simply asked if it was fair to have a committee all upon one side of the question of impeachment.

Mr. BUTLER. Allow me now to answer exactly as I supposed the gentleman would answer. He is not in favor of bribery; I never supposed he was. Therefore all the committee are on the same side of the questions under investigation he is, every one. [Laughter.] And if we took the gentleman on the committee we should only have an enlarged committee all on one side of this question. [Laughter.]

Mr. ELDRIDGE. Well, now, the gentleman has answered his own question; I wish he would answer mine.

Mr. BUTLER. I cannot yield further. I was about saying simply this in regard to this idea of want of power for the seizure of telegrams, that we have done no more than may be done by every justice of the peace in the country; he may issue his subpoena *duces tecum* to the telegraph operator and call for such telegrams as he designates, whether by name or otherwise.

Mr. BAKER. Will the gentleman allow me one minute?

Mr. BUTLER. Yes, sir.

Mr. BAKER. Mr. Speaker, I am impelled by a profound sense of duty to say one word, and that is that in my opinion it is a violation of public justice, where the object is to make an inquest of improper conduct or of corruption in regard to a high State trial, to deposit that inquest wholly in the hands of one party. I declare here that in my opinion it is a violation of the instincts of the Anglo-Saxon race and of the traditions of Anglo-Saxon liberty! I want corruptions exposed. I want them ferreted out. I want them brought to the light of day, and the men who are guilty of them scourged as they merit.

Mr. BUTLER. Will the gentleman allow me?

Mr. BAKER. One word more and I am done. The investigation, so long as there is any inculpation existing, should be carried on. I am in favor of its going on. But in opposition, if need be, to all my party friends or to

as many millions as could uplift their hands under the face of heaven, I protest against an *ex parte* inquest into great public transactions of this character. [Slight applause.]

Mr. BUTLER. Has the gentleman finished?

Mr. BAKER. Yes, sir; I have done.

Mr. BUTLER. Will the gentleman now answer me a question? Does he believe himself capable of conducting an investigation fairly?

Mr. BAKER. I should hope I would be capable of doing so if I were a member of an investigating committee.

Mr. BUTLER. I then have to say to the gentleman that if he thinks he can conduct an investigation fairly, he will accord to his associates here the same purpose and power of fairness. By the very stand he takes on this question he shows that he can do so, and will he not believe that his associates can do the same thing?

If this was a mere party matter, if this investigation affected party only, I would agree to ask party to come into the matter. But this rises above and beyond party. Sir, I have heard enough, and more than enough of charges about party in this matter. Whenever we on our side do anything about impeachment, the cry of "party" is at once raised; whenever they on the other side do anything about impeachment, it is "conscientious judgment." Whenever they vote against impeachment in solid phalanx, as they always do on every question, never failing, although some of their bread-and-butter is dependent upon their votes, that is "conscientious judgment." Whenever we vote for impeachment, to save the country and protect the liberties of the people, whether in this or the other House, that is "party." Whenever we investigate fraud, we are told we cannot do it because of "party." Whenever we propose to look after corruption, they get up and insist that their party will be injured unless they can have a representative of their party on their side of that question.

Mr. BAKER. Will the gentleman yield for an interruption?

Mr. BUTLER. I will yield no further.

Mr. BAKER. I wish to correct a misrepresentation.

Mr. BUTLER. I have made no misrepresentation.

Mr. BAKER. I only say I wish to lift this proceeding above party.

Mr. BUTLER. I ask that the vote be now taken.

The question was upon the resolution; and being taken, the resolution was adopted.

Mr. BINGHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had passed the joint resolution (H. R. No. 218) for the relief of John M. Palmer, with amendments, in which he was directed to ask the concurrence of the House.

#### HOOR OF MEETING TO-MORROW.

Mr. BINGHAM. I move that the rules be suspended, and that it be ordered that the hour of meeting to-morrow be eleven o'clock a. m. I make this motion in order that if the warrant of the Speaker shall reach the witness Woolley he may be heard at once at the bar of the House without any delay. At twelve o'clock precisely the House will be called upon to attend at the bar of the Senate.

The question was taken; and (two thirds voting in the affirmative) the motion was agreed to.

#### SEIZURE OF PRIVATE PAPERS.

Mr. ELDRIDGE. I ask unanimous consent to offer a resolution for consideration at this time.

Mr. BEAMAN and others objected.



Mr. ELDRIDGE. Then I move that the rules be suspended, in order that I may submit for consideration the following resolution:

*Resolved*, That it was not the purpose or intention of this House to authorize the committee of managers, and it hereby denies the power or authority of said managers, under the Constitution, to require persons called before them as witnesses to produce or give evidence with reference to their personal and private papers; and that, in the opinion of this House, private and personal telegrams are within the provision of article four of the amendments to the Constitution, which provides that—

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

And that any violation of the rights intended to be secured by said article is an outrage upon personal liberty which no free people can tolerate or submit to.

The question was upon the motion to suspend the rules.

Mr. BLAINE. I move that the House now adjourn.

Mr. TROWBRIDGE. If the House shall now adjourn, will this motion to suspend the rules come up to-morrow?

The SPEAKER. It will come up on Monday next after the morning hour.

Mr. ELDRIDGE. Is it in order to move to adjourn pending a motion to suspend the rules?

The SPEAKER. Pending a motion to suspend the rules a motion to adjourn is in order.

#### CONSTITUTION OF GEORGIA.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, concerning the constitution of the State of Georgia; which was ordered to be printed, and referred to the Committee on Reconstruction.

#### ONEOTA AND CATAWBA.

The SPEAKER also, by unanimous consent, laid before the House a message from the President of the United States, in regard to the sale of the Oneota and Catawba; which was referred to the Committee on Retrenchment, and ordered to be printed.

Mr. ELDRIDGE demanded the yeas and nays on the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 21, not voting 87; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Beaman, Benton, Blaine, Blair, Boutwell, Bromwell, Cake, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Dixon, Dodge, Driggs, Ela, Eliot, Ferriss, Ferry, Fields, Garfield, Gravely, Hardin, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Julian, Kelsey, Kitchin, Koontz, Ladin, George V. Lawrence, William Lawrence, Loan, Loughridge, Lynch, Mallory, McCarthy, McClurg, Mercer, Myers, O'Neill, Orth, Paine, Perham, Pike, Polesy, Raum, Robertson, Sawyer, Schenck, Scofield, Smith, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, William B. Washburn, William Williams, James F. Wilson, Windom, and Woodbridge—81.

NAYS—Messrs. Adams, Boyer, Brooks, Burr, Eldridge, Getz, Glossbrenner, Golladay, Grover, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Pruyn, Randall, Ross, Taber, and Lawrence S. Trimble—21.

NOT VOTING—Messrs. Anderson, Archer, Axtell, Bailey, Barnes, Burnum, Beatty, Beck, Benjamin, Bingham, Bromall, Buckland, Butler, Chanler, Cook, Cornell, Covode, Cullom, Dawes, Donnelly, Eckley, Eggleston, Farnsworth, Finney, Fox, Griswold, Haight, Halsey, Hawkins, Hill, Holman, Hotchkiss, Asahel H. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Judd, Kelley, Ketcham, Lincoln, Logan, Marvin, Maynard, McCullough, Miller, Moore, Moorhead, Morrill, Morrissey, Mullins, Mungen, Newcomb, Niblack, Nicholson, Nunn, Peters, Phelps, Pile, Plants, Poland, Pomeroy, Price, Robinson, Selye, Shanks, Shellabarger, Sitgreaves, Spalding, Thaddeus Stevens, Stewart, Stone, Thomas, John Trimble, Twiehell, Van Aernam, Van Auker, Van Trump, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Welker, Thomas Williams, John T. Wilson, Stephen F. Wilson, Wood, and Woodward—87.

So the motion was agreed to; and thereupon (at four o'clock and forty minutes p. m.) the House adjourned until to-morrow at eleven o'clock a. m.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. ANDERSON: The petition of Sarah E. Herring, asking the passage of an act authorizing the Second Auditor to consider the public property chargeable to her husband, Captain George L. Herring, deceased, late captain company E, third regiment Missouri State militia, as properly accounted for.

By Mr. BANKS: The memorial of the American Geographical and Statistical Society of New York city, praying that the earliest possible action be taken to secure a proper survey of the coast and territory of Alaska by the officers of the Coast Survey and others.

By Mr. CAKE: The petition of 56 miners and citizens of Schuylkill county, Pennsylvania, praying for additional protective duties.

Also, the petitions of 348 coal-miners in Schuylkill county, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 111 workers in Weimer's Machine Works, Lebanon, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 68 iron-workers in Lebanon county, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

By Mr. ELIOT: The petition of Niles Tilden and others, cigar manufacturers of New Bedford, Massachusetts, relating to tax on cigars.

By Mr. GARFIELD: The petition of Mrs. Mary A. Lovel, widow of Colonel R. S. G. Lovel, for an increase of pension.

By Mr. GETZ: The petition of John Shaffer and 77 others, iron-workers at Reading, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed, and praying for additional protective duties.

Also, the petition of 97 iron-workers in Reading, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of A. C. Oaks and 64 others, iron-workers in Reading Hardware Works, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 92 iron-workers at Birdsborough, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 116 iron-workers in Berks county, Pennsylvania, complaining of the depression of industry, and praying for additional protective duties.

Also, the petition of 19 iron-workers of Berks county, Pennsylvania, praying that Congress will resume consideration of the tariff bill which failed in the House March, 1867, and enact it into a law at the earliest practicable moment.

By Mr. GLOSSBRENNER: The petition of 53 workers in iron at Pine Grove furnace and forge, in the State of Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of their trade are out of employment, and praying for additional protective duties.

Also, a memorial of 23 cigar manufacturers, journeymen cigar-makers, and dealers in cigars, citizens of York county, Pennsylvania, remonstrating against the proposed change of rate

of tax upon cigars from five dollars to ten dollars per thousand.

By Mr. INGERSOLL: The protest of R. L. Wilson and 50 others, late officers in the Army, against the passage of a certain bill respecting bounties.

Also, the petition of Z. Jones and several others, late employés in the commissary department of Washington, District of Columbia, praying for the additional pay of twenty per cent.

Also, the petition of Catharine Bauman, of Washington, District of Columbia, praying for the payment of \$17,800 for damages to her property for which she claims the United States Government is liable.

By Mr. JOHNSON: A memorial of the Legislature of the State of California, asking an appropriation for the improvement of the harbor of San Diego.

Also, a memorial in relation to the Mendocino Indian reservation.

Also, a joint resolution in regard to the illegal arrest of American citizens.

Also, a memorial asking an appropriation to complete the survey of the public lands in California.

Also, a joint resolution asking the removal of the tax on California grape brandy.

Also, a memorial asking indemnity for property destroyed by Indians.

Also, a memorial asking that railroad lands in California be open to settlement.

Also, a memorial praying the erection of a light-house, &c.

Also, a memorial asking a grant of lands in the construction of a southern railroad to the Pacific.

Also, a memorial asking aid in the construction of a railroad in California.

Also, a memorial asking aid in the construction of certain roads in California.

By Mr. JULIAN: The petition of sundry postmasters in Wayne and Randolph counties, in Indiana, praying a change in mail route 12064, with corresponding mail service.

By Mr. KERR: A memorial of L. H. Willard, F. A. Merrill, and Joseph Holland, for a bill to authorize the registry of the bark Carlotia as an American vessel.

By Mr. KOONTZ: The petition of 95 iron-workers in Hopewell, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 79 coal-workers at Six Mile Run, Pennsylvania, setting forth that, owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 85 workers in Caledonia iron works at Graeffenburg, Adams county, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of John Hanna, and 59 others, citizens of Harnetsville and vicinity in Somerset county, Pennsylvania, engaged in farming and other trades, complaining of the depression of industry, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

By Mr. LAWRENCE, of Pennsylvania: The petition and document of Bryan Tyson, for additional allowance for carrying mails.

By Mr. MERCUR: The petition of 105 workers in iron, in Columbia county, Pennsylvania, setting forth that, owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 111 iron-workers in Danville, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of

employment, and praying for additional protective duties.

Also, the petition of Michael Treacy and 106 others, iron workers in Bloomburg, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and praying for additional protective duties.

By Mr. PAINE: A memorial of Charles May, relating to certain lands in the city of Milwaukee.

By Mr. PERHAM: The petition of Thomas C. Chick, colonel first Massachusetts cavalry, for pension.

Also, the petition of Frederick Denning, father of William F. Denning, late second lieutenant company F, ninth regiment Maine infantry, for pension.

By Mr. RANDALL: The petition of 101 workers in brass and iron in Philadelphia, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of William Bagshaw and 18 others, workers in various industries in Philadelphia, praying for additional protective duties.

Also, the petition of 44 paper manufacturers of Philadelphia, Pennsylvania, praying for additional protective duties.

Also, the petition of 42 factory-workers in Philadelphia, Pennsylvania, praying for additional protective duties.

Also, the petition of W. W. Steel and others, workers in sheet-iron and tin in Philadelphia, complaining of the depression of manufacturing industry, and praying for additional protective duties.

Also, the petition of J. W. Loraine and 41 workers in the Vulcan Iron Works at Philadelphia, Pennsylvania, complaining of the depression of industry, and praying for additional protective duties.

By Mr. SCOFIELD: The petition of Gustave A. Ebish and 42 others, workers in iron at Erie, Pennsylvania, praying for additional protective duties.

Also, the petition of W. J. Watkins and 34 others, citizens of Erie, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

By Mr. WILLIAMS, of Pennsylvania: The petition of 228 workers in the manufacture of soda in Alleghany county, Pennsylvania, setting forth that, owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 50 workers in Alleghany City Works, in Alleghany county, Pennsylvania, praying for additional protective duties.

Also, the petition of William Hughes and 40 others, iron-workers, in Armstrong county, Pennsylvania, setting forth that, owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 93 citizens of Freeport, Pennsylvania, setting forth that the productive interests of the country are suffering and its industry paralyzed for want of efficient protection against the cheaper labor and capital of other countries; that much of the distress now prevalent and daily increasing would be relieved by the tariff bill (as passed by the Senate) which failed in the House, March, 1867, for want of time, and praying that Congress will resume reconsideration of that measure and enact it into a law at the earliest practicable moment.

Also, the petition of 49 operatives in the Anchor cotton mills of Alleghany city, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 55 workers in the Craigsville and Buffalo woolen mills, at Worth-

ington, Armstrong county, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of iron-workers in Pittsburgh, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of workers in Singer, Nimick & Co.'s steel works, West Pittsburgh, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 54 workers in Lindsay and McClutcheon's rolling mill, Alleghany, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of Milton Maxwell and 52 others, citizens of Butler county, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity in the country.

Also, the petition of William R. Hamilton and 43 others, citizens of Mahoning township, Armstrong county, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of Robert A. Nesbit and 120 others, employes in the iron works of Lewis Bailey, Dalzell & Co., at Sharpsburg, Alleghany county, Pennsylvania, complaining of the depression of industry, and praying for such increase of protective duties as will relieve their distress, secure a home market for the products of their industry, and aid them in their unequal contest with the unpaid labor of Europe.

## IN SENATE.

TUESDAY, May 26, 1868.

Prayer by Rev. E. H. GRAY, D. D.

### IMPEACHMENT OF THE PRESIDENT.

The PRESIDENT *pro tempore* called the Senate to order, and at once vacated the chair that it might be occupied by the Chief Justice. The Senate sitting for the trial of the impeachment having adjourned,

The PRESIDENT *pro tempore* resumed the chair at eight minutes before two o'clock p. m.

Mr. DOOLITTLE. I move that the Senate do now adjourn.

The motion was not agreed to.

### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of War, communicating, in obedience to law, a statement of contracts made by the quartermaster's department during the month of April, 1868; which was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior, communicating information in relation to recent raids and outrages upon citizens of Texas and in the Chickasaw nation by bands of Indians belonging to the Kiowa and Comanche tribes; which was referred to the Committee on Indian Affairs.

Mr. JOHNSON. I move that the Senate adjourn.

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 19, nays 31; as follows:

YEAS—Messrs. Bayard, Buckalew, Cameron, Dixon, Doolittle, Edwards, Henderson, Hendricks, Johnson, McCreery, Norton, Patterson of Tennessee, Ramsey, Saulsbury, Sumner, Tipton, Trumbull, Van Winkle, and Vickers—19.

NAYS—Messrs. Anthony, Cattell, Cole, Conkling, Conness, Corbett, Cragin, Davis, Drake, Ferry, Fes-

senden, Fowler, Frelinghuysen, Harlan, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ross, Sherman, Sprague, Stewart, Thayer, Wade, Willey, Williams, and Wilson—31.

ABSENT—Messrs. Chandler, Grimes, Howard, and Yates—4.

So the Senate refused to adjourn.

### PETITIONS AND MEMORIALS.

Mr. EDMUNDS presented the petition of Mary C. Lane, praying compensation for property taken from her by the military forces of the United States; which was referred to the Committee on Claims.

Mr. WILLEY presented a petition of citizens of Texas, praying the removal of the political disabilities imposed upon Horace Taylor, of that State, by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of John Sheets, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a petition of Washington J. F. Martin, praying to be allowed arrears of pension; which was referred to the Committee on Pensions.

Mr. MORTON presented a memorial of members of the General Assembly of the State of Ohio, protesting against the erection of bridges across the Ohio river having a span less than five hundred feet; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILSON presented a petition of officers and members of the constitutional convention of Mississippi, praying the removal of civil disabilities imposed upon Joseph Lemby, a citizen of that State, by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented a petition of colored citizens of South Carolina, praying a removal of the political disabilities imposed upon James Johnson and Hugh Craig, citizens of that State, by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. RAMSEY presented the petition of Antoinette Darling, praying compensation for damages sustained in consequence of Indian depredations in Minnesota; which was referred to the Committee on Indian Affairs.

### NOTICE OF A BILL.

Mr. DAVIS gave notice of his intention to ask leave to introduce a bill to facilitate the trial of questions of conflict of jurisdiction between the Government of the United States and the governments of the States; and questions of the constitutionality of all acts of Congress and of the Legislatures of any State by the Supreme Court of the United States.

### DISTRICT OF COLUMBIA BUSINESS.

Mr. HARLAN. I move that the Senate proceed to the consideration of a resolution offered by me a few days since in relation to fixing a day for the consideration of District of Columbia business.

The PRESIDENT *pro tempore*. The resolution will be read for information.

The Chief Clerk read the following resolution submitted by Mr. HARLAN on the 21st instant:

*Resolved*, That, until otherwise ordered, Friday of each week be set apart for the consideration of bills on the Calendar relating to the District of Columbia.

Mr. CONNESS. I move to amend that by fixing one Friday. I think one day a week is a little too much. I will say Friday of this week.

Mr. MORTON. Mr. President, I desire to take advantage of the discussion of this resolution to propound a question to the chairman of the Committee on the District of Columbia in the hearing of the Senate. I wish to inquire what the law or the understanding is in reference to the duty of Congress to keep Pennsylvania avenue in order; whether it is to be done by Congress or by the city of Washington; and if it is to be done by Congress or the nation, whether the committee have any measure in contemplation for repairing that street?

Mr. HARLAN. Mr. President, in reply to

the Senator from Indiana, I will say that the jurisdiction over the avenues in Washington city has never been conferred on the corporation of Washington; consequently, I suppose, the control of Pennsylvania avenue is under Congress. There are, I believe, petitions before the Committee on the District of Columbia of the Senate for the repair of Pennsylvania avenue; I am sure there are for the repair of several other avenues; and one member of the committee has a bill under consideration now contemplating the paving of one or two of the avenues. There is, however, nothing fully matured on that subject, I think.

The *PRESIDENT pro tempore*. The question now is on taking up the resolution of the Senator from Iowa for consideration.

Mr. MORTON. I desire to make one statement in this connection. I believe that that street, the principal street in this city, one used to a greater or less extent by all persons connected with the Government and visitors, is, when you consider its length, the worst street in the United States. Certainly between here and the Treasury Department it is a torture to ride over it in a carriage, and there is no comfort in passing over it except in the street cars. It seems to me that if the jurisdiction belongs to the Government of the United States, and the city of Washington is under no obligation or has no right to repair that street, it would be proper that some measure should be presented for the purpose of having it put in repair. It is now full of holes, endangering the springs of any carriage to pass over it faster than a walk; and by next spring, another winter intervening, it will be almost impassable.

The *PRESIDENT pro tempore*. The question is on the motion of the Senator from Iowa, to take up for consideration the resolution submitted by him.

The motion was agreed to; and the Senate proceeded to consider the resolution.

The *PRESIDENT pro tempore*. The question is on the amendment of the Senator from California, [Mr. CONNESS.]

Mr. VAN WINKLE. Will an amendment to that resolution be in order now?

The *PRESIDENT pro tempore*. There is an amendment pending.

Mr. VAN WINKLE. That was offered before it was taken up. I will suggest my amendment, however, and the Senator from California will see whether it conforms to his views. It is, instead of his amendment, to insert after the words "bills relating to the District of Columbia," the words "and private bills;" so that each Friday will be set apart for the consideration of bills relating to the District of Columbia and private bills.

Mr. CONNESS. That would not be enough of time; because nine tenths of the business we do here would be regarded as private bills, and it would be a proposition to change the whole practice of the Senate.

The *PRESIDENT pro tempore*. Let the amendment be reported. It does not seem to be germane to the proposition as it stands. The pending amendment will be read.

The *CHIEF CLERK*. It is moved to amend the resolution so as to read:

That Friday next be set apart for the consideration of bills on the Calendar relating to the District of Columbia.

The *PRESIDENT pro tempore*. The question is on this amendment.

The amendment was agreed to.

The *PRESIDENT pro tempore*. Now, does the Senator from West Virginia offer an amendment?

Mr. VAN WINKLE. I cannot offer mine now because the resolution sets apart only one Friday.

The resolution, as amended, was adopted.

#### PERSONAL EXPLANATIONS—IMPEACHMENT.

Mr. ANTHONY. Mr. President, you will bear me witness that I very seldom deem it necessary to obtrude upon the Senate anything of a personal nature; and I should not do so now were it not that my name has been very

improperly connected with a charge brought against another person, a personage of the highest character and the incumbent of a great office. My attention has been called to an article in a Washington newspaper that ought to know better, copied originally, I believe, from a New York paper, in which it is stated that latterly I dined with the Chief Justice, and that thereafter he was closeted with me for three hours plying me with arguments against the conviction of the President. Whether for a Senator to dine with the Chief Justice is an offense of sufficient magnitude to call down the animadversions of the press, and whether it be a crime for a Senator who is a trier in a case to consult with the Chief Justice whom the Constitution makes the presiding officer in the trial, are questions not necessary to be considered in this connection, inasmuch as the whole story is a fabrication without the slightest possible foundation. I have not had the honor to dine with the Chief Justice during all this session of Congress, nor have I been closeted with him, nor have I had any consultation, nor has he adduced any argument whatever to influence my vote in the trial just concluded.

Mr. President, I have been a journalist for a great while, from a period that antedates the service of almost all those who are now engaged in that honorable profession. Familiar with all its vexations, than which perhaps there is none greater than the difficulty, often almost the impossibility of verifying statements of fact in season to be available, and experienced in the trouble which an editor or a correspondent often has, even with the best intentions and with the most painstaking care in avoiding grave misstatements of fact, I am quick to extend to the errors of others that charitable construction which I have often required for my own; but for a statement of this kind, utterly without foundation, I can find no excuse; and as I hold the profession of journalism in high honor and esteem, I am mortified at the uses to which it has been degraded in certain quarters, where better things might have been expected, during this trial. That kind of journalism, Mr. President, that penetrates into dining-rooms and listens at keyholes should at least have the merit of a tolerable degree of accuracy in its statements. It is sufficiently offensive to all decent men even when it does not season impertinence with calumny and add falsehood to malignity.

Mr. WILLEY. Lest my silence, after the remarks which have been made by the Senator from Rhode Island, should be misconstrued, I deem it proper to make a remark. So far as I am individually concerned, although I have been the recipient of a liberal share of misrepresentation and misrepresentation for a great many years, I have never deemed it proper to notice it; but since my name has been connected with that of the honorable Senator from Rhode Island in several of those interviews, and a great deal of that dining and private conference with the Chief Justice, lest it should be inferred by my silence that there was some truth in it with respect to me if I did not rise and deny it, I desire to say that in reference to myself there is not one word of truth in it from the beginning to the end. It is due to the Chief Justice to say that he never had a word of conversation with me upon this trial, nor I with him directly or indirectly; that I have not been inside his house since this trial commenced; that there has been no overture, directly or indirectly, on his part to me or on my part to him. I not only have not been there myself, and I have not only had no conference with him, but I know of no Senator who has. Lest that distinguished gentleman may be implicated in some manner or form by my silence on this subject, under existing circumstances, I have thought it necessary to make this statement. So far as I myself am concerned, I hold in utter contempt all that fraternity that cut these falsehoods out of the whole cloth.

Mr. VAN WINKLE. I wish to say, since

this subject has been broached, that I have never exchanged a single word with the Chief Justice of the United States on the subject of the impeachment trial; that I have not dined at his house nor been within his doors certainly for more than a year and a half, and that I have received no letters from him in relation to the subject. The only conversation I had with him was when we met in the corridor, during the recess, when he said "How do you do?" [Laughter.]

#### NATIONAL LIFE INSURANCE COMPANY.

Mr. PATTERSON, of New Hampshire. If these personal explanations are through, I move to take up Senate bill No. 286.

Mr. JOHNSON rose.

The *PRESIDENT pro tempore*. Let the bill be read by its title.

Mr. JOHNSON. If the honorable member will permit me to say a word after the bill is taken up, of course I have no objection.

Mr. PATTERSON, of New Hampshire. Certainly.

The Chief Clerk read the title of the bill, as follows:

A bill (S. No. 286) to incorporate the National Life Insurance Company of the United States of America.

The motion was agreed to.

#### PERSONAL EXPLANATIONS—IMPEACHMENT.

Mr. JOHNSON. With the permission of my friend from New Hampshire, in consequence of what has fallen from my honorable friend from Rhode Island, I deem it proper, not with a view to vindicate myself, but for the purpose of doing justice to others, that I should say a word in relation to some of those calumnies—whether designed or not, still calumnies. On the day when we were in conclave deliberating among ourselves upon the case of the President, it so happened that upon my expressing a wish to return in the car to the honorable member from Missouri, [Mr. HENDERSON,] and receiving an answer from him that he had been invited by the Chief Justice to go in a carriage with himself and the member from Rhode Island behind me [Mr. SPRAGUE] he invited me with the consent, or rather the Chief Justice invited me through one of the party, and we went together in an open barouche, drove down the avenue until we got to Sixth street, I believe, and up Sixth street. When we reached the house of the Chief Justice, he very politely asked me to stay and dine. The Senate had adjourned to meet at half past seven. I was so situated at home, having some persons there whom I wished to see who were going off in the cars, that I declined, and declined with regret, his invitation to partake of a family dinner. The honorable member from Missouri, however, having no family now, was able to stay, and I take it for granted that he dined there. The next morning, or I think that day, as I understand, from this Senate Chamber, a journalist who indulges in a sporting magazine writes home, either by mail or by telegram, that on that day there dined with the Chief Justice the honorable member from Illinois, [Mr. TRUMBULL,] the honorable member from Maine, [Mr. FESSENDEN,] I think the honorable member from Tennessee, [Mr. FOWLER,] the honorable member from Missouri, [Mr. HENDERSON,] and myself, and the subject of conversation was not only the disposition to be made of the impeachment, but the necessity, looking to the public good, of organizing a new party. Now, I do not know what organization my friend behind me [Mr. SPRAGUE] and the Senator from Missouri [Mr. HENDERSON] made; but so far as relates to the others who were alleged to be present, there was not one word of truth in it. The man who wrote the letter fancied, I understand, that immediately in the rear of the carriage of the Chief Justice—I believe the carriage belongs to the honorable member from Rhode Island behind me—there was a hack, engaged by the Chief Justice to take these would-be conspirators who were aiming to defeat both parties by organizing some new



party; that that was the object of the dinner. Four of them were in one, and four of us in another, which made eight, a comfortable dinner party. [Laughter.]

Now, Mr. President, all joking apart, it is due to the credit of the Senate, to the reputation of the nation, that men who indulge in such slanders should receive the reproof of all honorable men, wherever they may be, and never be suffered to pollute this Chamber by their presence.

As to the opinions of the Chief Justice, they are not better known to me than they are to everybody else. What his opinions were in relation to the impeachment, if he had any decided opinions, and what were the reasons which led him to adopt such opinions, are unknown to me. I had my own. I had no desire to consult with him; and I know the gentleman to whom I have referred so well as to be satisfied that they not only needed no consultation with him, but that they would not have invited any or permitted any if he had asked it for the purpose of influencing their judgment.

A paper here in our midst, edited by one of the officers of this body, a gentleman of whom I do not desire to speak unkindly, because he has always, so far as I know, spoken kindly of me, has assailed, with a bitterness that I have never seen equaled, the members of the Senate, and denounced the body in advance if they should dare to pronounce the President not guilty of these charges. They have dared; and whatever may be the excited feeling of the hour, without meaning to call in question the rectitude of the Senators who differed from us, I have no doubt that hereafter—and a hereafter soon to come—the public judgment will be pronounced at least to the extent of saying that what they did they did from conscientious conviction; that what they did was the result of their calm and deliberate consideration of the law and the evidence; and that they were bold enough, defiant enough of all efforts to control them in the discharge of a judicial duty, finally to decide as they did decide, and the result of which has been the termination of this prosecution.

Mr. CONNESS. If this is to be a general debate I should like to know what the question is that is before us.

The PRESIDENT *pro tempore*. The Senator from Maryland rose to a privileged question.

Mr. CONNESS. If the honorable Senator is engaged in a personal explanation, of course he has a right to make that; but I do not understand his to be a personal explanation.

Mr. JOHNSON. I do not know that the Senator has the right to call me to order. I am not out of order. The Senate can decide whether the debate is out of order. What I have said, and it is all I propose to say, is to denounce—that cannot be out of order; I am sure with that the honorable member from California (if he values his own honor, as I am sure he does, as highly as I value mine) would not find fault—to denounce all efforts, coming from whatever quarter they may, designed to call in question the honor and the parity of any member of this body.

Mr. FESSENDEN. I desire to say a word, sir, not for the purpose of explaining anything with regard to myself, for I have no explanation to make and no apologies to offer to anybody. I have noticed a great many articles in the newspapers with regard to myself, in the course of this trial, charging me with divers things. All I have to say about them is that they are all false, every one of them; I have not seen a truth among them, or anything approaching a truth; and inasmuch as on a careful examination of the newspapers of my State I find that they do not, in the columns of any paper of any party, meet with the slightest credit or the slightest attention in any way, it is unnecessary for me to make any explanation about them. I stand upon my character, and I suppose that will take care of itself.

I wish, however, to say a word in regard to

a particular story, and that is this story about the dinner at the Chief Justice's. I should be very happy to dine with him on any occasion, and I have received many invitations at one time and another to dine with the Chief Justice, some of which I have accepted in years gone by; but it so happens that at this session I have not had the honor of dining with the Chief Justice at all, nor have I had any consultation with him, directly or indirectly, with reference to this trial, nor have I had one word with him on the subject of any political party or on the subject of his being a candidate for the Presidency. The only thing that the Chief Justice ever said to me with regard to his being a candidate was said when I was Secretary of the Treasury—I think it was about that time or just before—when he said he had no desire to be a candidate for the office of President of the United States. What his own private wishes may be I do not know; but they were never communicated to me in any shape, and I never had any conversation with him—for what reason I do not know, if he had any such; perhaps because it was perfectly well known that I have always from the beginning been in favor of the nomination of the distinguished officer who is now the nominee of the Republican party; perhaps because there was no desire that I should take any sort of interest in the matter one way or the other; perhaps because the Chief Justice entertained no such wishes; it is not for me to say; but it so happens that, although personally intimate with him, and having been so for a long time, he never opened his mouth to me on the subject of the Presidency at all.

Now, sir, with regard to that story, I do not know how it arose, but I wish simply to say, as other gentlemen have said, that there is not one particle of truth in it from beginning to end; and what I rose for was to clear him of any imputation of having in any way had any conversation with me at any time upon that or any kindred subject or the subject of this trial. Having said thus much, I have nothing to say for myself.

Mr. HOWE. I rise simply to say that I am quite sure the country will hear with unfeigned satisfaction that the honorable Senator from Maine has ceased dining with the Chief Justice, and that he is to-day, as he has been all along, in favor of the election of the very distinguished officer who has recently been nominated for President of the United States.

Mr. RAMSEY. I move that the Senate do now adjourn.

The question being put, there were on a division—yeas 23, noes 21.

Mr. ANTHONY. I call for the yeas and nays on the motion.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 21; as follows:

YEAS—Messrs. Buckalew, Cameron, Cattell, Cole, Conness, Davis, Doolittle, Drake, Frelinghuysen, Henderson, Hendricks, Howe, Johnson, McGreevy, Norton, Nye, Patterson of Tennessee, Ramsey, Saulsbury, Sumner, Tipton, Van Winkle, and Vickers—23.

NAYS—Messrs. Anthony, Conkling, Corbett, Graggin, Ferry, Fessenden, Harlan, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Ross, Sherman, Sprague, Stewart, Thayer, Wade, Willey, Williams, Wilson, and Yates—21.

ABSENT—Messrs. Bayard, Chandler, Dixon, Edmunds, Fowler, Grimes, Howard, Morton, Pomeroy, and Trumbull—10.

So the motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

TUESDAY, May 26, 1868.

The House met at eleven o'clock a.m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

### PROTECTION OF AMERICAN CITIZENS IN HAYTI.

Mr. CHANLER. Mr. Speaker, if in order, I should like to offer these resolutions for executive information.

The Clerk read as follows:

*Resolved*, That the President be, and hereby is, requested to inform this House why a competent naval force was not cruising in the neighborhood of

Port-au-Prince, Hayti, to protect the flag of the United States from insult and our citizens from the outrages committed against them by the Government of Hayti in the last revolution, reported by telegraph as having taken place there.

*Resolved*, That the thanks of this House are due to Admiral Philimore, of the British navy, for the prompt relief afforded by him to our minister resident at Hayti, as also for the protection given our flag.

Mr. WASHBURN, of Illinois. Those resolutions should go to the Committee on Foreign Affairs.

Mr. CHANLER. I have no objection that they should take that reference if the chairman of the committee will act upon it at once. For, sir, it is a matter of great importance that this House and the country should know why this Government is at the mercy of the British navy for the protection of our flag and our citizens at Port-au-Prince. I do not think delay is consistent with the honor or the interest of this Government. I do not see the advantage to be gained by delay. I hope the gentleman will withdraw his motion and let the resolutions be acted on at once.

The SPEAKER. It has not been the usage to pass a vote of thanks without reference to some committee.

Mr. WASHBURN, of Illinois. I have no objection to the first resolution, but the second ought to be referred to the Committee on Foreign Affairs.

The first resolution was adopted, and the second one was referred to the Committee on Foreign Affairs.

J. M. HUTCHINGS AND J. C. LAMON.

Mr. JULIAN, from the Committee on the Public Lands, by unanimous consent, reported a bill (H. R. No. 1118) to confirm to J. M. Hutchings and J. C. Lamon their preemption claims in the Yosemite valley, California; which was read a first and second time, ordered to be printed, and recommitted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### RECUSANT WITNESS.

The SERGEANT-AT-ARMS appeared at the bar of the House, accompanied by Mr. Charles W. Woolley, and said: I have executed the warrant of the House upon the body of Charles W. Woolley, and now have him at the bar of the House.

The SPEAKER. The Sergeant-at-Arms reports that he has executed the order of the House, and that the person named in the warrant is now at the bar of the House.

Mr. BUTLER. I desire that the Speaker shall ask the witness whether he is now ready to testify fully and truly all that may be asked of him.

Mr. ELDRIDGE. I insist that that is not the proper course to be taken with reference to the gentleman now at the bar of the House. The question should not be whether he is now prepared to answer. I suppose the proper question to be whether he has any excuse to render for the conduct for which complaint was made against him.

The SPEAKER. The Clerk will read the precedent, to be found on page 430 of the Journal of the second session of the Thirty-Fifth Congress, Mr. Orr, Speaker.

The Clerk read as follows:

"Mr. George Taylor submitted the following resolution; which was read, considered, and agreed to, namely:

*Resolved*, That John Cassin, esq., of the city of Philadelphia, now in custody of the Sergeant-at-Arms on an attachment for a contempt in refusing or neglecting obedience to the summons requiring him to appear and testify before a committee of the House, be now arraigned at the bar of this House, and that the Speaker propound to him the following interrogatories:

1. "What excuse have you for not appearing before the select committee of this House, in pursuance of the summons served on you on the 7th day of February, 1859?"

2. "Are you now ready to appear before said committee and answer such proper questions as shall be put to you by said committee?"

The SPEAKER. This is a case where a

witness refused to appear: and a case where the witness refuses to testify is governed by the same rule. The usage is for the House to adopt a resolution covering the two points specified in the resolution just read from the Journal. If the gentleman from Massachusetts [Mr. BUTLER] offers a resolution of that character the Chair will submit it to the House.

Mr. BUTLER. I will offer a resolution following the precedent which has been read.

Mr. WOOLLEY. May I not be heard in my defense?

The SPEAKER. If the House should adopt the resolution the Chair will propound the questions to the person at the bar. He cannot be heard till the House adopts some resolution upon the subject.

Mr. BUTLER. On behalf of the managers I offer the following resolution, on which I demand the previous question:

*Resolved*, That Charles W. Woolley, esq., of the city of Cincinnati, Ohio, now in custody of the Sergeant-at-Arms on an attachment for a contempt in refusing or neglecting obedience to the summons requiring him to appear and testify before the committee of managers of the House, be now arraigned at the bar of this House, and that the Speaker propound to him the following interrogatories:

1. What excuse have you for refusing to answer before the managers of impeachment of this House, in pursuance of the summons served on you for that purpose?

2. Are you now ready to appear before said managers and answer such proper questions as shall be put to you by said managers of impeachment?

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

The SPEAKER. Mr. Charles W. Woolley, in accordance with the order of the House, I propound to you the following questions:

What excuse have you for refusing to answer before the managers of impeachment of this House, in pursuance of the summons served on you for that purpose?

Are you now ready to appear before said managers and answer such proper questions as shall be put to you by said managers of impeachment?

Mr. WOOLLEY. I am charged, Mr. Speaker, with being in contempt. I believe that is the charge against me. I wish to submit this paper to the House.

The SPEAKER. The answer is in writing, and will be read by the Clerk.

The Clerk read as follows:

*To the honorable the House of Representatives of the United States:*

Charles W. Woolley respectfully represents: That he was on the evening of yesterday, the 25th instant, between the hours of seven and nine o'clock, taken in custody by the Sergeant-at-Arms of the House; that he has not been informed of the cause of his arrest otherwise than by hearing read to him the resolution of the House, by direction whereof the warrant for his arrest was issued, and that he has been unable to obtain a copy of the report of the managers, to which said resolution refers, as containing the specific "inquiries put to him in the course of the investigation," the alleged refusal to answer which is made the basis of the charge of contempt on which he is now arraigned at the bar of the House; that by the terms of said resolution said report is referred to as containing the specifications of the charge made against him, and without an opportunity to examine the same he is unable to answer in the premises.

Protesting, therefore, that he has in nothing been guilty of any contempt to this honorable body, but demeaned himself in regard thereto with proper courtesy and respect, that he has not evaded nor attempted to evade its process, and that he has fully answered all inquiries made of him by the committee of managers in regard to these matters with the investigation of which said committee was charged by the House, he humbly submits that he be allowed such reasonable time as the House may deem proper and just to examine said report and consult with counsel, in order that he may submit a full, explicit, and suitable answer in the premises.

C. W. WOOLLEY.

Subscribed and sworn to before me, this 25th day of May, 1868.

THOMAS J. WILLIAMS,  
*Justice of the Peace.*

The SPEAKER. The answer of the witness is now before the House.

Mr. BUTLER. I respectfully submit that this is no answer to either of the interrogatories. It is an evasive argument—an argument evading the question, and, I believe, trifling with the House and with the committee.

Mr. ELDRIDGE. I move that a copy of the report of the managers be furnished to the witness, Woolley, and that he have till to-morrow at twelve o'clock to answer. I make the motion to take till to-morrow because I suppose the House will be engaged after twelve o'clock to-day at the bar of the Senate. It is possible that an earlier period might answer. I think, however, that is no more than a reasonable time, and certainly it seems to me that the witness has stated a sufficient reason for not answering more fully than he has. It is apparent to those who heard that long report read that the particular question which he declined, or which the committee supposed he declined, to answer, will be found very difficult to be ascertained. I listened to the report, and I must say now that, notwithstanding I paid careful attention to it, I could not myself put my finger upon the particular thing which the gentleman is alleged to have refused to answer. I thought the report insufficient and that the resolution was wrong in itself at the time it was offered in requiring the witness to be arrested and brought before the House to answer, without having any opportunity of knowing what the particular default was that was charged against him.

Now, it is perfectly apparent that if he has labored under the belief that he has answered fully and fairly and has kept back nothing except such matters as he thinks he may have a right to withhold, he cannot answer without a knowledge of the facts stated in that report. It seems to me that it ought to have stated distinctly the particular question which he refused to answer, and that the report ought to have been given to him so that he might know wherein he was in contempt of this House. I should have suggested this yesterday, but the gentleman from Massachusetts persisted in demanding the previous question and allowing only such particular things to be said as he deemed proper. In all cases wherever I have known a witness to be arrested for contempt of court or of any parliamentary body, he has been allowed to know the precise thing which he refused to answer; and it seems to me now that the witness ought, at least, to have this report in order that he may gather, if possible, from the great mass of statements there made wherein he is in default. It is no more than reasonable that he should have that report, and have twenty-four hours within which to answer.

There is another fact suggested to me by the gentleman from Indiana, [Mr. KEAR,] that under our law a witness is not bound to criminate himself under any circumstances, and that if he be in the position which the gentlemen upon the committee charge this witness with being, of having been guilty of bribery or of an attempt at bribery, he has a right to have counsel upon that question in order that he may know just how far he is obliged to answer. The presumption of innocence applies, I apprehend, to a witness quite as much as it does to a criminal charged at the bar of a court. Sir, I know nothing of this case. I never spoke to this gentleman in my life. I have no acquaintance with him whatever. But I hope the House will give him the opportunity which any criminal at the bar of a court would have of preparing his answer, that he may answer advisedly and truly; that he may know the precise charge made against him, and answer, as he submits that he is ready and willing to do, when he shall be advised of what he is required to answer.

Mr. BUTLER obtained the floor.

Mr. GARFIELD. I desire to propound a question, or rather make a suggestion, to the honorable manager. Now, I grant that it is entirely beyond the power of a committee of this House to demand of any witness that he shall answer any and all questions that they may put to him. I do not think the managers have claimed or intend to claim that power, for I hope there is no American citizen who would not instantly and at all hazards resist so sweeping a demand by a committee of this House; but any and all questions pertaining

directly or indirectly to any matter which the committee has been authorized by the House to investigate the witness must answer, and this House will not fail to punish a contumacious refusal. We are now asked to pass judgment upon the person at the bar of the House for refusing to answer. I desire to suggest that the manager shall state definitely, as I have no doubt he can, that specific question or general question which has been propounded to this witness and which he has refused to answer, but the House may judge both of the propriety of the question, and of the contumacy of the witness. For myself, I have no doubt of the propriety of the questions as reported yesterday by the managers, and if he refuses to answer I hope the House will punish him for contempt of its authority; but I am anxious that we shall at the same time vindicate the authority of this House and not assert a doctrine which will be oppressive to the individual citizens. I hope the honorable manager will state the specific question which the witness has refused to answer.

Mr. BUTLER resumed the floor.

Mr. ELDRIDGE. Will the gentleman from Ohio [Mr. GARFIELD] allow me to ask him a question in regard to what he has been saying?

Mr. BUTLER. The gentleman from Ohio put a question to me, and I will endeavor to answer it. There seems to be some misapprehension in the mind of the gentleman, first as to the power of the House; secondly, as to the privileges of the witness; and thirdly, as to the course which, in my judgment, it is proper for the House to take. In the first place, the witness is called upon to answer any proper question—"proper" is the word; but I by no means concede, although it is not necessary for this purpose, that the House of Representatives have not a right to ask of any citizen, for the purpose of investigation, any question whatever, and the only party to be judge of the propriety of the question is the committee of this House subject to the order of the House. It is not for the witness to say "I will not answer, because it is not a proper question." Judgment must be with the committee in the first instance and with the House in the last. Therefore any question may be asked, and it is only to be met by the witness in a given way—not by refusing to answer—and that way, undoubtedly, will be advised.

Now, to the gentleman from Wisconsin, [Mr. ELDRIDGE.] He says the witness cannot be bound to criminate himself by his answer. To that I reply that in 1857 a witness put himself upon this privilege in the case of the tariff investigation, as to bribery in the case of the tariff law, and Congress passed a law that it should be no excuse to any witness that his answer might tend to criminate him, and that he should never be indicted as to the subject-matter of which he was inquired of. Under that law Floyd, the defaulting Secretary of War, escaped indictment. Therefore, in 1863, Congress altered the law, providing that while the party may be indicted his answer shall not be given in evidence, and no paper which he produces and no testimony which he gives can be used against him, but he must answer.

Now, my friend from Ohio asks for the specific question, and the gentleman from Wisconsin asks that a copy of the report of his testimony may be given to the witness, in order that he may find out what questions he refused to answer. Does not he know as well as anybody on earth what he refused to do? Does he need a copy of anybody's report to tell him what he did?

In order, however, that the House may understand this matter, not admitting that it is at all necessary, and also that they may require the witness to answer specifically, I will read a portion of the testimony of Mr. Woolley:

"Question. Have you sent any telegrams from this city under a feigned name?"

"Answer. I have, sir; but not to—yes, I have.

"Question. What was that name?"

"Answer. I sent one under the name of 'Hooker,' and some under the name of 'Bismarck, junior,'

"Question. Under that feigned name did not you telegraph to have \$10,000 put to your credit with the firm of Gilliss, Harney & Co., 24 Broad street?"

"Answer. Not that I recollect of."

"Question. To Sheridan Shook?"

"Answer. In regard to the impeachment trial? I decline to answer as to any dispatches not relating to the President's impeachment trial."

At this point the statute relating to the obligation of a witness to testify was read to the witness—the same statute to which the Speaker referred yesterday—making the refusal to testify punishable by a fine and imprisonment. The witness replied:

"Answer. I am willing to take the penalty. I refuse to answer, because I have sent no dispatch for Sheridan Shook to place \$10,000 to my credit in New York, to be used in regard to the impeachment trial."

"Question. Do you still refuse to answer?"

"Answer. That is the answer. I say I have sent no dispatch to Sheridan Shook to place \$10,000 to be used in the impeachment trial."

"Question. Did you on or about the 7th day of May, send a dispatch to Sheridan Shook, under the feigned name of 'Hooker,' to put \$10,000 at your credit in the banking house of Gilliss, Harney & Co.?"

"Answer. Not for the purpose of being used in the impeachment trial."

"By Mr. WILSON:

"Question. Do you refuse to make any other answer than that which you have made?"

"Answer. I am willing to answer any question concerning the impeachment of the President. I have sent no dispatch to Sheridan Shook relating to the impeachment or conviction of the President of a criminal character."

"Question. Do you refuse to make any other answer than that?"

"Answer. I refuse to answer any question that does not relate—"

"Question. I ask you if you refuse to make any other answer?"

"Answer. I cannot say whether I refuse."

"Question. Will you make any other answer?"

"Answer. I do not say that I refuse."

"Question. Have you sent anything respecting impeachment at all?"

"Answer. Nothing at all, except as information; but nothing that looked directly or remotely to the purchase of any Senator."

"By Mr. BOUTWELL:

"Question. Will you read this dispatch aloud, if you please?"

"Answer. (Witness, looking at the dispatch.) That is not my dispatch, sir."

"Question. What do you say to the dispatch shown you?"

"Answer. I have no recollection of having sent it."

"Question. Did you send a dispatch to Sheridan Shook substantially of the purport of that?"

"Answer. Not to my recollection."

"By Mr. BUTLER:

"Question. Did you not, on the next day, draw on Gilliss, Harney & Co for the sum of \$10,000?"

"Answer. Not to my recollection."

"Question. Have you not testified that you did so draw?"

"Answer. I do not think that I testified yesterday that I did."

"Question. Did you not state to the committee yesterday that you did so draw?"

"Answer. I deny your right to ask the question as to what I stated. I do not know what I stated yesterday."

"Question. Is not that dispatch in your handwriting?" [Dispatch exhibited.]

"Answer. Yes, sir; it is."

The dispatch was as follows:

May 6, 1868.

To SHERIDAN SHOOK, 83 Cedar street, New York:

My business is adjusted. Please ten to my credit to-day with Gilliss, Harney & Co., No. 24 Broad street.

HOOKER, Willard's.

"Question. What does the word 'ten' stand for?"

"Answer. As it does not relate to impeachment, I decline to answer."

"Question. Is this dispatch in your handwriting?" [Dispatch exhibited.]

"Answer. As that does not relate to impeachment, I decline to answer; as it does not relate to anything connected with the purchase of a senatorial vote in connection with impeachment, I decline to answer."

The dispatch was as follows:

May 16, 1868.

To JOHN S. C. BURT, St. Nicholas Hotel, New York:

Where is Washington? I will dine with Hancock to-night, or be at Fifth Avenue Hotel Sunday morning. And all right.

Answer. C. W. WOOLLEY.

I have given to the House these questions and answers to show how the witness treated the committee. I will now yield to my colleague, [Mr. BOUTWELL.]

Mr. BOUTWELL. I desire, if it be in accordance with the rules of the House, that the Speaker propound specifically to the party arraigned the last branch of the inquiry contained in the resolution adopted by the House, and upon his refusal to answer or upon any evasive answer whatever I shall offer the res-

olution which I send to the Chair, and thereupon shall demand the previous question.

The SPEAKER. The pending resolution is that of the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. BOUTWELL. I move that that resolution be laid on the table.

Mr. ELDRIDGE. On that motion I demand the yeas and nays.

Mr. PRUYN. Mr. Speaker—

The SPEAKER. The motion to lay on the table is not debatable.

Mr. PRUYN. I did not propose to debate it. The yeas and nays were ordered.

The SPEAKER. The resolution of the gentleman from Wisconsin, which was not reduced to writing, provides that a copy of the report be furnished to the witness and—

Mr. BOUTWELL. I rise to a question of order—whether, under the rules of the House, a resolution not in writing can be entertained.

The SPEAKER. It is too late now to raise that question. The resolution is before the House for consideration. The Chair was about to state orally the purport of the resolution. It is that a copy of the report be furnished to the witness, and that he be allowed till twelve o'clock to-morrow to answer, remaining in the custody of the Sergeant-at-Arms.

The question was taken on the motion to lay on the table; and it was decided in the affirmative—yeas 98, nays 29, not voting 67; as follows:

YEAS—Messrs. Allison, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Beaman, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Dawes, Donnelly, Driggs, Elia, Eliot, Ferriss, Ferry, Fields, Garfield, Halsey, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelsey, Ketcham, Kitchen, Koontz, Ladin, George V. Lawrence, William Lawrence, Logan, Loughbridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrill, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Poland, Polsley, Raum, Robertson, Scofield, Smith, Starkweather, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Woodward—98.

NAYS—Messrs. Adams, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, and Van Trump—29.

NOT VOTING—Messrs. Ames, Archer, Arnell, Axtell, Bailey, Banks, Barnes, Barnum, Beatty, Beck, Benjamin, Buckland, Cook, Cornell, Cullom, Dixon, Eckley, Eggleston, Farnsworth, Finney, Fox, Gravely, Griswold, Hawkins, Hill, Holman, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Hubbard, Humphrey, Jencks, Kelley, Lincoln, Loan, Maynard, Miller, Morrissey, Mullins, Munger, Myers, Newcomb, Niblack, Nunn, Peters, Pomeroy, Price, Robinson, Sawyer, Schenck, Selye, Shanks, Shellabarger, Spaulding, Thaddeus Stevens, Stewart, Stone, Taffe, Van Aken, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Stephen F. Wilson, Wood, Woodward, and Woodward—67.

So the resolution of Mr. ELDRIDGE was laid on the table.

Mr. BOUTWELL. I wish to give notice that on the return of the House from the Senate I shall ask the House to resume this business, if it should not be disposed of before twelve o'clock to-day. I offer the following resolution, on which I demand the previous question:

Resolved, That the Speaker of the House again propose to C. W. Woolley the questions contained in the resolution this day adopted, and that said Woolley be informed that the House requires definite and explicit answers to the questions propounded to be made forthwith.

Mr. ROSS. I move that this resolution be laid on the table, and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 28, nays 94, not voting 67; as follows:

YEAS—Messrs. Adams, Boyer, Burr, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Hotchkiss, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, and Van Trump—28.

NAYS—Messrs. Allison, Ames, Anderson, Arnell,

Delos R. Ashley, James M. Ashley, Baker, Baldwin, Beaman, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Dawes, Dixon, Dodge, Donnelly, Driggs, Elia, Eliot, Ferriss, Ferry, Fields, Garfield, Halsey, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Kelsey, Ketcham, Koontz, Ladin, George V. Lawrence, William Lawrence, Logan, Logan, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercur, Moore, Morrill, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Poland, Polsley, Raum, Robertson, Scofield, Smith, Starkweather, Aaron F. Stevens, Stokes, Taylor, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, and Woodward—94.

NOT VOTING—Messrs. Archer, Axtell, Bailey, Banks, Barnes, Barnum, Beatty, Beck, Benjamin, Brooks, Buckland, Cary, Cook, Cornell, Cullom, Eckley, Eggleston, Farnsworth, Finney, Fox, Gravely, Griswold, Hawkins, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hubbard, Humphrey, Jencks, Kelley, Kitchen, Lincoln, Loughbridge, Miller, Moorhead, Morrissey, Mullins, Munger, Niblack, Nunn, Peters, Pomeroy, Price, Robinson, Sawyer, Schenck, Selye, Shanks, Shellabarger, Spaulding, Thaddeus Stevens, Stewart, Stone, Taffe, Thomas, John Trimble, Twichell, Van Aken, Van Aernum, Van Auker, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Stephen F. Wilson, Wood, Woodward, and Woodward—67.

So the House refused to lay the resolution on the table.

The SPEAKER. This subject will be resumed upon the return of the House from the Senate.

#### IMPEACHMENT OF THE PRESIDENT.

The SPEAKER. The House will now resolve itself into the Committee of the Whole, according to order, and proceed to the bar of the Senate, following the managers and preceded by the chairman of the Committee of the Whole, who will be attended by the Clerk and Door-keeper.

The House then resolved itself into the Committee of the Whole, in obedience to the order, and proceeded to the bar of the Senate.

At two o'clock p. m. the Committee of the Whole returned to the Hall; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, made the following report: The Committee of the Whole have, according to order, attended the managers to the bar of the Senate, sitting as a court of impeachment for the trial of Andrew Johnson; that the respondent has been declared to be acquitted on the second and third articles severally preferred by the House; and that then, without action on the other articles, the Senate, sitting as a court of impeachment, adjourned *sine die*.

#### RECUSANT WITNESS.

Mr. GETZ rose.

The SPEAKER. The Chair will state the proposition before the House. The pending question is the motion of the gentleman from Massachusetts, [Mr. BOUTWELL,] reported before the House went to the bar of the Senate.

Mr. GETZ. I move that the managers be discharged from the further consideration of the subject of impeachment.

Mr. ELDRIDGE. I rise to a question of order, that with the adjournment of the court *sine die*, and the order made to enter judgment of acquittal in the case of the President's impeachment, does by its own force dissolve the committee of managers, and that they have no further power to examine witnesses or exercise any other authority or function which this House has conferred upon it, either the right to make privileged motions or to perform any other duty, to move to suspend the rules or any other extra power conferred upon them by this House.

The SPEAKER. The gentleman from Wisconsin raises the question of order, as the Chair understands it, as it is not in writing, that the adjournment of the Senate, sitting as a court of impeachment, ends the service of the managers and discharges the witness at the bar.

Mr. ELDRIDGE. I did not say anything about the witness at the bar.

The SPEAKER. Then the point of order is not made at the proper time.

Mr. ELDRIDGE. My point was made on the motion of Mr. BOUTWELL, which the Chair announced was the question now pending before



the House; and with reference to that I say that Mr. BOUTWELL has no right to present such motion to the House, the functions of the managers having ended. I mean by that that all of the duties of the committee and all of the special powers conferred upon them ceased with the adjournment of the court of impeachment. There is now no impeachment pending, and, of course, no committee of managers.

The SPEAKER. The gentleman will perceive that if the Chair sustains his point of order he would then be compelled to rule that he acted improperly in entertaining the motion of the gentleman himself before the House proceeded to the bar of the Senate to-day. The gentleman rose when the witness was arraigned and made a motion, and the Chair recognized that motion as in order, although it was not made by one of the managers. This is a question of contempt of the authority of the House. The gentleman from Wisconsin, as a member of the House, or any other member, has a right to make a motion. The motion of the gentleman from Massachusetts [Mr. BOUTWELL] is therefore in order. The point the Chair supposed the gentleman rose to make is another one, but he is not desirous of anticipating a point of order. The Chair overrules the point raised by the gentleman. The resolution is now properly pending before the House.

Mr. ELDRIDGE. The Chair has not ruled, at all events, on the latter question which I presented.

The SPEAKER. The Chair did not exactly understand the further point. The gentleman will now present it.

Mr. ELDRIDGE. I will first ask to have the resolution read.

The Clerk read the resolution, as follows:

*Resolved*, That the Speaker of the House again propose to C. W. Woolley the question contained in the resolution this day adopted, and that said Woolley be informed that the House requires definite and explicit answers to the questions propounded, to be made forthwith.

The SPEAKER. In order to cover the whole ground clearly, the Chair will rule that when a question of contempt of the authority of the House in refusing to answer questions propounded by a committee is before it by its own order, it is the privilege of any member, whether a member of the committee or not, to make motions relative to it.

Mr. ELDRIDGE. I will now present the point. It is this: that the resolution presented by the gentleman from Massachusetts requires the Chair to propound these questions and inform the witness that he must appear and give a response to them before this committee, the duties of which committee by the action of the Senate, by the adjournment of the court of impeachment *sine die*, are ended.

The SPEAKER. That is a question for the House to determine. The House of Representatives must decide it for itself. It is a question of coherence, covered by the rule to be found in the Manual, often quoted by the Chair, that it is not the privilege of the Chair on a question of order to decide a question of coherence. For, to use the language of the Digest, "Were he permitted to draw questions of consistency within the vortex of order, he might usurp or negative an important modification and suppress instead of subserving the legislative will."

Mr. VAN TRUMP. I rise to a question of order. I wish to state—

The SPEAKER. It cannot be debated.

Mr. VAN TRUMP. I wish to state a point of order. The resolution of the gentleman from Massachusetts has no reference to past contempt, but to future testimony of the witness.

The SPEAKER. The Chair overrules it on the ground that the question of contempt is before the House by its own order. It is taken up and must be determined by the action the House shall take upon it.

Mr. BLAINE. As the gentlemen are arguing questions of order—

The SPEAKER. The gentleman must raise a question of order.

Mr. BLAINE. I only wish to refer to the same question the gentleman from Wisconsin has argued.

Mr. ELDRIDGE. I have not argued the question of order. The gentleman should state what is true. I call him to order.

Mr. BLAINE. The managers must continue as managers on the part of the House until they report and are discharged. The action of the Senate cannot discharge a committee of the House. No action of the Senate can affect the position of a committee of the House.

The SPEAKER. Although the gentleman may differ very widely from the Chair, yet the Chair thinks it is not now a proper time to test that question.

Mr. BLAINE. I was replying to the gentleman from Wisconsin, and not to the opinion of the Chair.

The SPEAKER. The question of contempt of the authority of the House is now before it. That does not affect the question whether the managers are now in existence as such or not.

The previous question was seconded and the main question ordered.

The question being put on agreeing to the resolution, it appeared to be carried.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 95, nays 28, not voting 66; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Baker, Baldwin, Banks, Beaman, Benton, Bingham, Blaine, Blair, Boutwell, Bronwell, Brown, all, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Corvode, Dawes, Dixon, Dodge, Donnelly, Driggs, Eila, Eliot, Ferriss, Ferry, Fields, Garfield, Halsey, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Kelsey, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercer, Moore, Moorhead, Morrell, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Pike, Pile, Plants, Poland, Polsley, Raun, Robertson, Sawyer, Seefeld, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, John T. Wilson, Windom, and Woodbridge—95.

NAYS—Messrs. Adams, Boyer, Brooks, Burr, Chandler, Blaridge, Getz, Glessbrenner, Golladay, Grover, Haight, Hotchkiss, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Nicholson, Phelps, Pruyn, Randall, Ross, Taber, Lawrence S. Trimble, and Van Trump—28.

NOT VOTING—Messrs. Anderson, Archer, James M. Ashley, Axtell, Bailey, Barnes, Barnum, Beatty, Beck, Benjamin, Buckland, Cary, Cobb, Cook, Cornell, Cullom, Eckley, Eggleston, Farnsworth, Finney, Fox, Gravelly, Griswold, Hawkins, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hubbard, Humphrey, Julian, Kelley, Kitchen, Lincoln, Millor, Morrissey, Mullins, Mungen, Niblack, Perham, Peters, Pomeroy, Price, Robinson, Schenck, Selye, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Stewart, Stone, Thomas, John Trimble, Twichell, Van Aernam, Van Auken, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, James F. Wilson, Stephen F. Wilson, Wood, and Woodward—68.

So the resolution was agreed to.

Mr. BOUTWELL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. Charles W. Woolley, by the order of the House, I am instructed to propound to you the following interrogatories, and to inform you that the House requires definite and explicit answers to the questions propounded, to be made forthwith. First, what excuse have you for not answering the questions propounded to you by the managers of impeachment? Second, are you now ready to appear before said managers and answer such proper questions as shall be put to you by said managers?

Charles W. Woolley, the witness at the bar of the House, made answer in writing, as follows:

The answers of Charles W. Woolley to the resolution of the House of Representatives of the United States passed this day.

To the first question in said resolution, which is as follows, to wit:

"1. What excuse have you for refusing to answer

before the managers of impeachment of this House, in pursuance of the summons served on you for that purpose?" This respondent says that he was summoned to appear before the managers of impeachment on Sunday, the 17th day of May, by a process signed by the chairman of said managers; and that on the following day, to wit, Monday, the 18th of May, he telegraphed the chairman that he was at Willard's Hotel, in this city, awaiting the commands of the managers. That on Tuesday, the 19th, he was served with a summons duly issued and signed by the honorable Speaker of the House of Representatives, and that he did thereupon forthwith obey the mandate of said summons and appear before the managers. That, in obedience to the order of the managers, he again appeared before them on the following day, to wit, Wednesday, the 20th day of May, and was subjected to an examination and required to report for a further examination on Tuesday, the 21st of May; on said last-mentioned day, he was unable to comply with said requirement to appear, because of physical indisposition, and thereupon sent to the said managers the following certificate from his medical adviser, to wit:

WASHINGTON, D. C., May 21, 1868.

I hereby certify that Colonel C. W. Woolley is under any professional care and unable to leave his apartments and confined to his bed by reason of irritative fever, sequel of gastric derangement.

D. W. BLISS, M. D.

And this respondent further says that, impressed with the belief that the managers, in the course of the examination to which they had subjected this respondent, had transcended the powers conferred on them by this House and violated his rights and privileges as a citizen of the United States, entitled to the protection of its Constitution and laws, he submitted to said managers, to be reported for the consideration of the House, the following protest:

WILLARD'S HOTEL, May 21, 1868.

To the Honorable the Managers on the part of the House of Representatives of the United States to conduct the impeachment of Andrew Johnson, President of the United States:

Charles W. Woolley respectfully sheweth unto your honorable body that he is now confined to his bed by severe indisposition, as appears by the accompanying certificate of his medical attendant, Dr. D. W. Bliss, residing at 244 F street. That your petitioner is ready and willing at all times to yield obedience to the constituted authorities and to answer all legal inquiries which may be propounded to him; but he is advised by counsel that while he is bound to furnish all the information in his power as a witness touching any specific charge affecting any named person that may be pending before the honorable committee, and pertinent thereto, yet he is not bound by the law of the land to submit to a scrutiny into his private affairs, which may result in needless exposure of matters which are purely personal and ought to be sacred.

Such an ordeal no citizen should shrink from when it becomes relevant to the elucidation of any pending charge; but the undersigned solemnly protests, under the advice of his counsel, against all further general inquiries touching the disbursement of his private funds, and which assume no tangible or specific form whatever; and he humbly prays that this paper may be considered and regarded as his respectful refusal to answer vague general inquiries involving his private and personal transactions only, and he begs leave to place this protest on the language of the fourth amendment of the Federal Constitution, which guarantees "the right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures," and which declares that "no warrant shall issue but on probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized." Your petitioner cannot but regard himself as within the pale of this great charter of the rights of an American citizen; for if his papers could not be lawfully seized or searched, except by "virtue of a warrant issued on probable cause, supported by oath," &c., "particularly describing the place to be searched or things to be seized," he cannot see how he can be compelled to furnish private papers and accounts for the public inspection, without the requirement, at least, of some specific complaint on oath. But in thus presenting this constitutional shield against vague general and unsupported inquiries, your petitioner intends no disrespect to the House of Representatives or its managers, and tenders himself ready and willing to comply with any resolution or order that may be passed by the House of Representatives in the premises, and in the meantime he humbly prays that this, his protest and refusal, may be presented to the House for their consideration and action. In conclusion, your petitioner declares that he is impelled to this course because he feels that the rights of the citizen are involved in this matter, and not because he is unable to meet the proposed inquiry into his private transactions, or to explain any and all the statements heretofore made by him in his previous examination.

Very respectfully yours, C. W. WOOLLEY.

That since submitting the foregoing to the managers he has kept them informed of his movements, that they might at any time give him notice of any action taken upon the foregoing paper, and has since then held himself ready in every particular to respond to the commands of the House.

This respondent, therefore, says that he has not "refused to answer in pursuance of the summons served on him for that purpose."

To the second question in said resolution, which is as follows, to wit:

"2. Are you now ready to appear before said committee and answer such proper questions as shall

be put to you by said managers of impeachment?" this respondent says that he is now ready to appear before said committee and answer such proper questions as may be put to him by said managers—protesting and asseverating again, as he has heretofore explicitly and fully testified, that he was in no way connected with any association or combination having as its object the use of corrupt influences in respect to the trial of the President of the United States on the articles of impeachment preferred by this House, and also solemnly asseverating and protesting that no money drawn by this respondent from any bank in this city or owned or held by him, or subject to his authority and control, or in his possession, was in any way used in connection with the said trial.

Respectfully submitted, C. W. WOOLLEY.

Mr. BOUTWELL. Mr. Speaker, I have another resolution which I propose to submit, but before submitting it I yield to my colleague, [Mr. BUTLER,] to offer a resolution which, perhaps, may be proper at this time.

Mr. BUTLER. Mr. Speaker, in order that there may be no misunderstanding upon this subject, and in order that there may be no doubt as to whether the House desires that the fountains of public justice shall be shown to be pure or corrupted, as the case may be, and in order to meet all objections as to the power of the managers I desire to submit to the House the resolution which I send to the Clerk's desk, upon which I demand the previous question.

Mr. ELDRIDGE. I wish to hear the resolution read, and then I propose to raise a question of order.

The SPEAKER. Of course no question of order can be raised until the resolution has been read. The question of contempt is before the House, and the gentleman from Massachusetts or any other member of the House has a right to offer a resolution, subject to points of order. The resolution will be read.

The Clerk read the resolution, as follows:

*Resolved*, That the managers, as a committee, be empowered and directed to continue the investigation ordered by the resolution of the House of the 16th instant, with all the powers and rights conferred thereby, and to make such full investigation as will determine the truth of the matters and things set forth in the preamble to said resolution.

Mr. ELDRIDGE. I suppose that resolution is subject to the ordinary objection. The managers admit by this resolution that they have no longer any rights or privileges before the House as managers, and they have no right to introduce resolutions any more than any other members of the House, and therefore a single objection to the resolution must prevent its present introduction.

The SPEAKER. The gentleman from Wisconsin makes the point of order that a single objection prevents the House from considering the resolution. The Chair overrules the point of order, and he does so upon the following grounds: the question of contempt is now before the House. It is a question which the House has ordered to be brought before itself. The managers reported that the witness refused to answer questions, submitting the questions and the answers to the House, and the House ordered the witness to be brought to its bar and arraigned. That question is before the House. The question then arises, what will the House do in the premises? Any resolution naturally growing out of this question of contempt would properly be in order. For instance, it would be in order to require the witness at the bar to answer any question propounded to him by the gentleman from Massachusetts [Mr. BUTLER] or the gentleman from Wisconsin [Mr. ELDRIDGE] or, as they have done this day, by the Speaker.

The Chair is clearly of the opinion that the managers of the impeachment are not now in office; that their duties and rights as managers terminated with the termination of the trial in the Senate. Unquestionably the House, having committed to them previously to the end of this trial matters for special investigation, could, by so stating it in the resolution, have continued their existence until that investigation was completed. But the preamble and resolution adopted for the purpose of conducting the investigation clearly limited it to the

recent trial of impeachment. The preamble is as follows:

"Whereas information has come to the managers which seems to them to furnish probable cause to believe that improper or corrupt means have been used to influence the determination of the Senate upon the articles of impeachment exhibited to the Senate by the House of Representatives against the President of the United States: Therefore."

The preamble often limits and defines the scope of the resolution, and in this case shows that the investigation was to be in regard to alleged corruption, or the use of improper or corrupt means to influence the action of the Senate upon the articles of impeachment. But the resolution is still more clear. It is as follows:

"*Be it resolved*, That for the further and more efficient prosecution of the impeachment of the President the managers be directed and instructed to summon and examine witnesses under oath, to send for persons and papers, to employ a stenographer, and to appoint sub-committees to take testimony, the expenses thereof to be paid from the contingent fund of the House."

This is a clear and distinct limitation that the investigation is "for the further and more efficient prosecution of the impeachment of the President." During that investigation the witness now at the bar of the House appeared before the managers and refused to answer. By the report of the managers yesterday, he again appeared before them, and, as the managers allege, gave evasive answers. The investigation is delayed for several days by the House not being in regular session. On the first day that it is again in session since Wednesday last the managers presented the case to the House for their adjudication. The House ordered the witness to be arrested by the Sergeant-at-Arms and presented to the bar of the House this day. It may have been possible that, but for the refusal of this witness to answer, this investigation would have been terminated before this time. It certainly has been delayed by the refusal of the witness to answer, and now the power of the managers has ceased by the adjournment of the Senate, *sine die*, sitting for the trial.

The managers on yesterday brought the case of contempt before the House. The House can now refer the investigation to the Committee on the Judiciary or to the gentlemen who were the managers or to any one or more members of the House, as they may see fit; or they can order the Speaker, as they have done today, to conduct the investigation here, in the presence of the House and the reporters and the spectators. That is a matter for the House to determine. Their power is unquestionable. The Chair, therefore, rules that, as this naturally grows out of this question, it is a privileged resolution.

Mr. ELDRIDGE. The resolution, if the Chair will permit me to say, does not in any manner relate to the contempt by this witness. It provides for the managers continuing the investigation which they have commenced. It is, therefore, an independent resolution, not growing out of this particular contempt. According to the very position the Chair has stated, that the House might refer this matter to the Committee on the Judiciary or to any other committee, this is a proposition to raise a new committee or to continue the managers for a new purpose.

The SPEAKER. Clearly this question does not present itself to the mind of the gentleman from Wisconsin [Mr. ELDRIDGE] and the mind of the Speaker from the same stand-point. The investigation by the managers was in regard to alleged corrupt means used to influence the determination of the Senate on the articles of impeachment. The managers state in their report that that investigation has been delayed, hindered, to some extent frustrated, by the action of the witness in refusing to answer the questions propounded to him by them, and that they were prevented by the prolonged adjournment of the House last week from bringing the matter before the House last week. But upon the first day when the House held a session for business the managers brought the matter be-

fore the House for their action. The Chair thinks most clearly, and he does not see how the gentleman from Wisconsin can differ with him, that this is a privileged resolution growing directly out of the investigation, which has been delayed by the action of the witness. It is for the House now to determine whether they will continue the investigation, and, if so, to what extent they will limit it; and they may limit it, if they see fit, to this one witness. The House may authorize the committee to investigate matters growing out of the testimony of this witness, if he testifies before them, or may vote down the resolution and decide that this matter shall end here.

Mr. ELDRIDGE. My point is that the resolution does not refer to this subject at all. It is an independent resolution proposing to continue this committee.

The SPEAKER. It certainly proposes to continue the committee in the investigations already ordered by the House.

Mr. ELDRIDGE. And, therefore, I say I have the right as an individual member to object to the resolution, because it is not now in order under the rules of the House.

The SPEAKER. The Chair differs with the gentleman, and thinks the resolution is clearly privileged, growing out of the matter now before the House.

Mr. ELDRIDGE. With great respect for the Speaker, I appeal from the decision of the Chair.

The SPEAKER. The question then is, Shall the decision of the Chair stand as the judgment of the House?

Mr. RANDALL. Before that question is taken I would like to ask the Chair whether an opportunity will be presented to amend this resolution.

The SPEAKER. If the House should sustain the Chair in deciding the resolution to be in order, and if the previous question should not be seconded, the resolution would be open to amendment. The Chair has already stated, in ruling upon the point, that the House might, if it should see fit, limit the examination to this witness, or might require it to be extended further, so as to embrace all the allegations as to the employment of corrupt means to influence the votes of Senators.

Mr. RANDALL. So far as the impeachment is concerned this board of managers has ceased to have any powers.

The SPEAKER. The Chair has so held.

Mr. RANDALL. This resolution now proposes to give them fresh powers as a committee of the House.

The SPEAKER. It does.

Mr. RANDALL. My wish is to offer an amendment. It will be observed that the managers are composed of gentlemen representing but one side of the House; the minority have no representation on the board whatever. It seems to me that there should be no objection, if this committee is to be continued, to allowing some representation to the minority.

Mr. PILE. I object to debate.

The SPEAKER. Debate is not in order without unanimous consent, and objection is made. The pending question is, Shall the decision of the Chair stand as the judgment of the House?

Mr. WASHBURN, of Illinois. I move that the appeal be laid on the table.

Mr. PRUYN. Before that question is put I would like to make a suggestion.

Mr. PAINE. I object to any further debate.

The SPEAKER. Debate is not in order. The Chair rules that it is in the power of the House, the question being properly before it, to decide that the Speaker, or any one member of the House, or any five members, or any committee of the House, may continue this investigation already ordered by the House. From that decision the gentleman from Wisconsin [Mr. ELDRIDGE] appeals, and the gentleman from Illinois [Mr. WASHBURN] moves that the appeal be laid on the table.

The motion of Mr. WASHBURN, of Illinois, that the appeal be laid on the table, was agreed to.

Mr. BROOKS. I rise to a point of order. My point is that the common parliamentary law of all civilized nations (to say nothing of the higher law of decency and propriety) requires that the minority of a parliamentary body shall have a representation on all its committees.

The SPEAKER. The Chair will suggest to the gentleman from New York [Mr. Brooks] that the "higher law of decency" is not properly a part of the point of order. The Chair does not rule upon the "higher law," but upon parliamentary law. [Laughter.]

Mr. BROOKS. The point of order which I make is that the parliamentary law of all civilized nations requires that the minority of a legislative body shall be represented on all committees.

The SPEAKER. The Chair rules that the question as to the representation to be allowed the minority on a committee is subject to the determination of the House. The Chair has already stated that the House might commit an investigation to the Speaker or any other single member of the House, and in such a case it would be very difficult to represent both sides, whoever the member might be.

Mr. RANDALL. I desire to move an amendment.

The SPEAKER. The gentleman from Massachusetts [Mr. Butler] is entitled to the floor. Does he yield to the gentleman from Pennsylvania, [Mr. Randall,] who desires to offer an amendment?

Mr. BUTLER. I do not propose to yield.

Mr. PRUYN. I would like to offer a substitute.

Mr. BUTLER. I decline to yield for a substitute.

Mr. PRUYN. Let it be read.

Mr. BUTLER. No, sir.

The SPEAKER. The gentleman from Massachusetts called for the previous question when he moved the resolution.

The previous question was seconded and the main question ordered.

The question then recurred on agreeing to the resolution.

#### NATIONAL BANKS.

Mr. HOOPER, of Massachusetts. I ask to enter a motion to reconsider the vote by which the following resolution was adopted:

*Resolved*, That the Comptroller of the Currency be requested to furnish to this House a statement of the amount of dividends declared by the national banking associations since their organization under the present national banking act; the amount credited to the real estate account distinct from the capital expended therefor; the amount credited to the surplus account; the amount of their undivided profits and all losses, each respectively per annum. If such information be not in his possession, he is further directed to take prompt measures to procure and transmit the same to this House.

Mr. RANDALL. The motion was made to reconsider, and it was laid upon the table.

The SPEAKER. It is a privileged question and will be entered. Neither the Globe nor the Journal states that the motion to reconsider was made and laid upon the table. The question can be raised when it comes up.

#### RECUSANT WITNESS—AGAIN.

Mr. RANDALL. I wish to know whether it is in order to refer the resolution pending before the House in reference to the recusant witness at the bar to the Committee on the Judiciary, where both sides have a representation?

The SPEAKER. It will not be in order pending the previous question.

Mr. RANDALL. This is a most unparalleled thing.

Mr. KERR and Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 91, nays 30, not voting 68; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R.

Ashley, James M. Ashley, Baldwin, Beaman, Benton, Bingham, Blaine, Blair, Boutwell, Brownell, Broomall, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Dixon, Dodge, Donnelly, Driggs, Eila, Elliot, Ferriss, Ferry, Fields, Garfield, Gravelly, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Koontz, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Lynch, Mallory, Marvin, Maynard, McCarthy, McClurg, Mercer, Moore, Morehead, Morrell, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Pike, Plants, Polsey, Raum, Sawyer, Seofield, Smith, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, Trowbridge, Upson, Burr Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, Welker, Thomas Williams, William Williams, John T. Wilson, and Windom—91.

NAYS—Messrs. Adams, Boyer, Brooks, Burr, Cary, Chandler, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haigh, Hotchkiss, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Morgan, Nicholson, Phelps, Pruyn, Randall, Ross, Sigreaves, Taber, Lawrence S. Trimble, and Van Trump—30.

NOT VOTING—Messrs. Anderson, Archer, Axell, Bailey, Baker, Banks, Barnes, Barnum, Beatty, Beck, Benjamin, Buckland, Cook, Cornell, Cullom, Eckley, Eggleston, Farnsworth, Finney, Fox, Griswold, Halsey, Hawkins, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hubbard, Humphrey, Kelley, Ketchum, Kitchen, Lufkin, Lincoln, Miller, Morrissey, Mullins, Mungen, Myers, Niblack, Peters, Poland, Pomeroy, Price, Robertson, Robinson, Schenck, Selye, Shanks, Shellabarger, Spaulding, Thaddeus Stevens, Stewart, Stone, Thomas, John Trimble, Twichell, Van Aersum, Van Aiken, Van Wyck, Cadwallader C. Washburn, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—68.

So the resolution was adopted.

Mr. BUTLER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BOYER. I rise to a privileged question.

Mr. BOUTWELL. I rise to submit a resolution.

The SPEAKER. The gentleman from Massachusetts rises to a privileged question, and he will be recognized, as the managers have been authorized to continue this investigation.

Mr. ELDRIDGE. I desire, before that question is disposed of, to have determined the question involved in that statement.

The SPEAKER. If the gentleman makes a point of order the Chair will rule on it after the resolution is reported.

Mr. ELDRIDGE. My point of order is on the statement of the Speaker that the managers have been revived. This committee the Speaker has declared to be defunct, and that it is now revived. I make the point that it is now a new committee, and they have no more charge of this witness than the Judiciary Committee. I desire to make the motion to refer this to the Committee on the Judiciary.

The SPEAKER. The Chair overrules the point of order on the ground, with which the gentleman is familiar as an old member of the House, that the continuance of any committee will revive all of its business. This has been the uniform decision of all Speakers and Congresses. For example: a special committee, which expires with a session, revived at a succeeding session of that Congress, has all of its business revived, and has the same jurisdiction of questions as was authorized by the original resolution.

The gentleman from Massachusetts [Mr. Boutwell] offers for adoption the following resolution:

The Clerk read as follows:

*Resolved*, That the said Charles W. Woolley be committed to and detained in close custody by the Sergeant-at-Arms in the Capitol during the remainder of the session, or until discharged by the further order of the House, to be taken when he shall have purged the contempt upon which he was arrested, by testifying before the committee authorized to continue the investigation which the managers were conducting when the contempt was committed by said Woolley.

Mr. BOUTWELL. Before demanding the previous question, which I propose to do without much debate, I desire to state to the House that it seems to me—and I make this remark on account of what has been said on the other side of the House—that this is a case clearly within the jurisdiction of the House, and that

in none of the steps that have been taken, or in the step which I now ask the House to take, is there any, even the least, departure from the well-settled principles and rules of proceeding? This witness was guilty of a contempt of the House by refusing to answer explicitly and properly questions put to him by a committee of this House. He cannot escape responsibility or punishment for that conduct, even though it be true that the committee before which he was testifying, when he was guilty of that contempt, has ceased to exist. He is at this moment not in the custody of a committee, but he is in the custody of this House, because he is charged and properly charged, arraigned and properly arraigned here, being in contempt of this House by refusing to answer questions put to him by a committee of this House, and it is wholly immaterial whether that committee has ceased to exist or not. Now, then, the resolution which I offer affords to the person accused an opportunity to purge himself of that contempt, not by answering before that committee the questions which were proposed to him by the committee, but by answering those questions before another committee, which, by the resolution of the House just adopted, is charged with the duty of pursuing this investigation. It is for the House to judge how and by what means he shall purge himself of that contempt; and neither he nor any person else, here or elsewhere, except speaking the voice of the House, can decide how or when he shall purge himself of contempt.

Mr. ELDRIDGE. I wish to call the gentleman's attention to a matter which I think he has overlooked. If I understand the case correctly, as it is now presented, the witness has purged whatever contempt he may have committed. He has answered the questions propounded to him by the Speaker by saying that he is now ready to appear before the committee—precisely in the language of the resolution introduced by the other gentleman from Massachusetts, [Mr. Butler]—and to answer all proper questions.

Mr. BOUTWELL. Ah! Mr. Speaker—

Mr. ELDRIDGE. Will the gentleman hear me through?

Mr. BOUTWELL. The witness refuses to answer only such questions as the accused himself judges to be proper. Thus by his sole judgment he interposes his opinion, or his will, or his prejudice, or his passion, or his corruption between the power of this House and the ends of justice; and the gentleman from Wisconsin asks that we put into the hands of this man, on his own testimony implicated in the grossest corruption of the age, the power to stay the justice of the nation seeking to ascertain, if possible, by what means its authority has been arrested.

Now, then, the answer which the witness has made to the second question proposed by the Speaker is evasive in that he offers to answer all proper questions. It is not enough. The committee, when it puts a question, speaks the voice of the House. The House puts the question to the witness; it is for the time being, until overruled by the House, the judgment of the House.

Mr. ELDRIDGE. Will the gentleman recollect that the word "proper" is in the resolution, so that the witness has answered precisely in the language of the resolution?

Mr. BOUTWELL. I understand the word "proper." Proper, in the sense in which we use the word, is the question put by the committee, which for the time being utters the judgment and the wish of the House; and it is not for the witness upon the stand to say that a question put by this House is an improper question. He is to accept the question as a proper one and answer it.

Mr. MORGAN. Will the gentleman yield?

Mr. BOUTWELL. No, sir; I do not wish to be interrupted at this moment, because I want to read an authority on this point. Judge Black was summoned before the Judiciary



Committee on the 14th of March, 1867. The committee put this question to him:

"Did you prepare or have any part in the preparation of the message of the President vetoing the bill 'to provide for the more efficient government of the rebel States' sent into the House of Representatives near the close of the last session?"

To this Judge Black answers, and it is to that that I desire to draw the attention of gentlemen upon the other side of the House:

"There have been several communications between the President and me entirely private and confidential, some of them relating to the subject indicated by your question. I do not think you ought to insist upon that question. I wish simply to enter a protest against your right to demand an answer. I am on record for this opinion, that a witness sworn to testify before any tribunal is bound in conscience to answer a question which that tribunal declares he ought to answer; that he is himself not the judge of what he ought to answer and what he ought not."

That, I take it, is good law, uttered by a person who, I suppose, is good authority upon the other side of the House.

The Committee on the Judiciary accepted that view of Judge Black, and also pressed the question, and he answered it.

Mr. ELDRIDGE. Did the gentleman understand Judge Black to say that the committee itself was the tribunal to decide, or did he understand him, as I did at the time, when he answered the question in the committee, that he submitted himself to the House, whose committee was examining him?

Mr. BOUTWELL. No, sir; he submitted himself to the committee.

Mr. ELDRIDGE. And if a question should arise before the committee where a witness refused to answer, would it not be the duty of that committee to report the question to the House, and let the House determine between the witness and the committee, whether he should answer it or not? This committee of managers arbitrarily require the witness to answer any and all questions, and decides the matter without submitting it to the House, and the witness has had no opportunity of declining to answer a question which the House deems proper.

Mr. BOUTWELL. We all know perfectly well that it is for the committee to determine what questions they will put. If the witness chooses not to answer, of course it is not in the power of the committee to arrest the witness; but it is in the power of the committee to do as we have done in this case, bring the matter before the House.

Mr. ELDRIDGE. Why, then, I ask in all candor, should not the House, before punishing the witness for contempt, pass upon each question and the propriety of that question, and of the excuse which the witness renders for not answering and the substance and sufficiency of that excuse?

Mr. BOUTWELL. Of course it is not in the power of the House to consider and determine upon each question which may be put to this witness or to any other. If the power of the House is to be maintained, it can only be maintained by maintaining the just authority of its committees. I demand the previous question on the resolution.

Mr. MARSHALL. Will the gentleman from Massachusetts allow me a few moments?

Mr. BOUTWELL. No; I do not wish to protract debate.

Mr. MARSHALL. Allow me a very short time. [Cries of "No!" "No!" on the Republican side of the House.] I think that courtesy will not be denied me.

Mr. BOUTWELL. I will hear the gentleman's question.

Mr. MARSHALL. It is not a question. I just wish to make a very few remarks, which I think will not be deemed improper by any gentleman on the other side of the House. [Cries of "No!" "No!" "No!"]

Mr. BROOKS. Why not?

Mr. MARSHALL. Why not? I am not in the habit of troubling the House much.

Mr. BOUTWELL. Will five minutes suffice?

Mr. MARSHALL. I think that will do; I want a very few minutes.

Mr. BOUTWELL. I yield to the gentleman for five minutes.

Mr. MARSHALL. Mr. Speaker, I take it for granted that neither the gentleman from Massachusetts nor the House is disposed to make this House an instrument of oppression or to deprive any citizen of the United States of his constitutional rights and privileges. I deny that the witness—a gentleman whom I do not know personally, and never saw until he appeared here to-day—has placed himself in contempt of the House, and I say that it would be an act of oppression on the part of the House to proceed against him at this time as for a contempt.

What are the facts as shown by the managers and by the witness himself? Certain questions were propounded to him which he thought, and which I think, were improper, and which no citizen ought to be compelled to answer in regard to his own private affairs, unless the inquiry is in relation to some matter properly under investigation before them at the time.

But believing that to be his constitutional privilege to refuse to answer these questions, he did not, as shown by his answer, act in a factious spirit or place himself in contempt of the House, or even of the committee, but submitted a respectful protest and asked that that protest be brought before the House, stating to the committee at the same time that he would submit to the direction of the House in regard thereto.

Mr. BUTLER. Will the gentleman yield for a moment?

Mr. MARSHALL. I have but a few words more to say.

Mr. BUTLER. For a question merely.

Mr. MARSHALL. Very well.

Mr. BUTLER. Where is the evidence that the protest was submitted to the committee, or asked to be laid before the House?

Mr. MARSHALL. The evidence is contained in the answer of the witness made here to-day, which answer is not denied by the managers, and I imagine will not be. This witness submitted a respectful protest, stating that all the funds in his possession were used by him in his own private business and without any relation whatever to the impeachment question before the Senate, that they were used without any reference thereto whatever, and that he deemed it improper for the committee to investigate his private affairs, and claimed his rights under the Constitution and laws of the United States in regard thereto. But the witness also said to the committee that he wished to have the question submitted to the House, and that he would submit to the direction of the House. How could he in any more respectful manner raise a question as to his rights and privileges in the premises.

Now, where is the contempt of the House or of its committee in all that? What has this witness done to give this House the right to order him into custody as a prisoner of this House? I say that the managers have wholly failed to show any contempt on the part of the witness, and that the retaining of the witness any longer, or to order him into custody until he has shown himself in contempt of the House and has refused to obey the directions of the House, would be an act of oppression which ought to condemn the House as guilty of an act most unjust, arbitrary, and oppressive, and every American citizen should rise up and protest against such tyranny on the part of the House. When you have decreed that he must answer any and every question in regard to his private affairs, whether such decision be correct or not, and he has refused to do so, then he will be in contempt of the House, and not until then. He has not yet placed himself in any such position.

I ask gentlemen on all sides of the House not to commit themselves to an act which would be so unjust, and which on reflection they themselves must condemn. This is all I have to say, and I have said it in no captious spirit, but in justice to the House, and for the pur-

pose of inducing members to reflect before committing themselves to an act not justified by precedent or principle, and which, in my judgment, is a most dangerous, arbitrary, and alarming invasion of the rights of an American citizen.

Mr. PRUYN. Will the gentleman from Massachusetts [Mr. BOUTWELL] yield to me for five minutes?

Mr. BOUTWELL. I cannot yield further.

Mr. ELDRIDGE. I hope this House will not order a man to be imprisoned during the rest of the session without allowing him to be heard.

The SPEAKER. No debate is in order.

The question was upon seconding the previous question upon the resolution of Mr. BOUTWELL.

Mr. DRIGGS. I ask that the second answer of the witness to-day be read.

Mr. BOUTWELL. I have no objection.

Mr. MORGAN. Let the whole answer be read.

Mr. BOUTWELL. I cannot yield for that.

Mr. DRIGGS. My object in asking to have that answer again read is simply to see whether the witness agrees to answer such questions as he himself deems to be proper, or such questions as the committee may deem proper.

The answer of the witness was read.

Mr. WOOLLEY [at the bar of the House] then said: Mr. Speaker, I ask leave to make a statement to the House.

The SPEAKER. The witness at the bar asks, through the Speaker, permission to make a statement.

Mr. BOUTWELL. I have no objection.

The SPEAKER. It requires unanimous consent.

No objection was made.

Mr. WOOLLEY. I desire to say, Mr. Speaker, that I expect to answer such questions as the House may judge to be proper.

Mr. BOUTWELL. It is only necessary to say that that is substantially—

Mr. WOOLLEY. In other words, Mr. Speaker, if the committee and myself differ as to the propriety of a question, I will ask them, as I did on my first examination, to bring me to the bar of the House and ask the order of the House upon it, and I will abide by the order of the House.

Mr. BOUTWELL. This House must see that its power, through its committees, will be at an end if a person summoned as a witness may demand and receive from the House an arrangement which will destroy the just authority of the committee, and render every effort at investigation utterly useless; for whatever may be demanded and received by this witness may be demanded and received by any other witness that any other committee of this House may call before it. I insist upon the previous question.

Mr. ELDRIDGE. Will the gentleman yield to me for a moment?

Mr. BOUTWELL. No, sir; I insist on the call for the previous question.

On seconding the call for the previous question, there were—ayes 75, noes 27.

So the previous question was seconded.

The main question was ordered; which was on agreeing to the resolution.

Mr. BOYER called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 28, not voting 80; as follows:

YEAS—Messrs. Allison, Ames, Arnell, James M. Ashley, Baldwin, Beaman, Benton, Bingham, Blaine, Boutwell, Bromwell, Broomall, Butler, Calkins, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Corode, Dodge, Donnelly, Driggs, Eli, Eliot, Ferriss, Ferry, Fields, Garfield, Halsey, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Judd, Julian, Kelsey, Ketcham, Koontz, Lakin, George V. Lawrence, William Lawrence, Loan, Logan, Mallory, Maynard, McCarthy, McClurg, Mercer, Moore, Moorhead, Morrill, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Plants, Polkley, Raum, Sawyer, Scofield, Starkweather, Aaron F. Stevens, Stokes, Taylor, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, John T. Wilson, and Windom—81.

**NAYS**—Messrs. Adams, Boyer, Brooks, Burr, Cary, Eldridge, Geiz, Glossbrenner, Golladay, Grover, Haight, Hotchkiss, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Nicholson, Phelps, Pruyn, Randall, Ross, Sitgreaves, Taber, Lawrence S. Trimble, and Van Trump—28.

**NOT VOTING**—Messrs. Anderson, Archer, Delos R. Ashley, Axtell, Bailey, Baker, Banks, Barnes, Barnum, Beatty, Beck, Benjamin, Blair, Buckland, Chanler, Cook, Cornell, Cullom, Dawes, Dixon, Eckley, Eggleston, Farnsworth, Finney, Fox, Gravely, Griswold, Hawkins, Hill, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Kelley, Kitchen, Lincoln, Loughridge, Lynch, Marvin, McCullough, Miller, Morrissey, Mullins, Mungen, Niblack, Nunn, Peters, Pile, Poland, Pomeroy, Price, Robertson, Robinson, Schenck, Selye, Shanks, Shellabarger, Smith, Spalding, Thaddeus Stevens, Stewart, Stone, Taffe, Thomas, John Trimble, Twichell, Van Aernam, Van Auken, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William Williams, James F. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—80.

So the resolution of Mr. BOUTWELL was agreed to.

Mr. BOUTWELL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BOYER. I submit the following resolution, which I believe to be privileged:

*Resolved*, That two members of the House of Representatives who voted against the impeachment of the President of the United States be added, by appointment of the Speaker, to the committee authorized to investigate the alleged corrupt influences employed to influence the determination of the Senate upon the impeachment of the President.

The SPEAKER. The Chair rules, in accordance with his former ruling, that this resolution, relating to the question now before the House, is privileged. It can therefore be entertained, subject to the rules of the House.

Mr. BOYER. I call for the previous question on the resolution.

Mr. BUTLER. I move that the resolution be laid on the table.

Mr. RANDALL. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 60, nays 51, not voting 78; as follows:

**YEAS**—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Beaman, Benton, Blaine, Boutwell, Bromwell, Broomall, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Covode, Donnelly, Driggs, Elia, Ferriss, Fields, Harding, Chester D. Hubbard, Hunter, Judd, Julian, Koontz, William Lawrence, Loan, Logan, Mallory, Maynard, McCarthy, McClurg, Mercur, Moore, Moorhead, Morrell, Newcomb, O'Neill, Paine, Perham, Pile, Plants, Raum, Sawyer, Seolfield, Starkweather, Stokes, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, and Windom—60.

**NAYS**—Messrs. Adams, Baker, Baldwin, Banks, Blair, Boyer, Brooks, Burr, Cary, Dawes, Dixon, Eldridge, Eliot, Ferry, Garfield, Geiz, Glossbrenner, Golladay, Grover, Haight, Higby, Hopkins, Hotchkiss, Ingersoll, Jenckes, Johnson, Jones, Ketcham, Knott, Ladin, Marshall, Marvin, McCormick, McCullough, Morgan, Nicholson, Orth, Phelps, Pike, Poland, Pruyn, Randall, Robertson, Ross, Sitgreaves, Taber, Taffe, Lawrence S. Trimble, Van Trump, Elihu B. Washburne, and William B. Washburn—51.

**NOT VOTING**—Messrs. Anderson, Archer, Axtell, Bailey, Barnes, Barnum, Beatty, Beck, Benjamin, Bingham, Buckland, Chanler, Coburn, Cook, Cornell, Cullom, Dodge, Eckley, Eggleston, Farnsworth, Finney, Fox, Gravely, Griswold, Halsey, Hawkins, Hill, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Kelley, Kelsey, Kerr, Kitchen, George V. Lawrence, Lincoln, Loughridge, Lynch, Miller, Morrissey, Mullins, Mungen, Myers, Niblack, Nunn, Peters, Poisley, Pomeroy, Price, Robinson, Schenck, Selye, Shanks, Shellabarger, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stewart, Stone, Taylor, Thomas, John Trimble, Twichell, Van Aernam, Van Auken, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—78.

So the resolution was laid on the table.

Mr. BUTLER. I move to reconsider the vote by which the resolution was laid on the table; and also move that the motion to reconsider be laid on the table.

Mr. ELDRIDGE. I demand the yeas and nays.

Mr. BUTLER. I withdraw it.

Mr. ELDRIDGE. I renew it.

The SPEAKER. The gentleman cannot do so, as he did not vote with the majority.

#### LEAVE OF ABSENCE.

Leave of absence was granted indefinitely to Mr. JOHNSON, Mr. ANDERSON, Mr. CAKE, and Mr. KELSEY.

#### SUFFERERS BY RAID ON WASHINGTON.

On motion of the SPEAKER, by unanimous consent, leave was granted to withdraw from the files of the House, on leaving copies, the papers of the sufferers by the rebel raid on Washington in July, 1864.

#### NATIONAL BANKS—AGAIN.

Mr. RANDALL. I call up the motion to reconsider the vote by which the House adopted a resolution offered by me yesterday, in reference to the national banks.

The SPEAKER. That can only be called up by the gentleman from Massachusetts, who moved it, and on some other day.

#### INDIAN OUTRAGES IN TEXAS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a letter of the acting Commissioner of Indian Affairs, relative to recent outrages by certain tribes on citizens of Texas; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### SUBSISTENCE OF INDIANS.

The SPEAKER, by unanimous consent, also laid before the House a letter from the Secretary of War, transmitting a communication from Lieutenant General Sherman, relative to subsistence of certain Indian tribes by the War Department for a time; which was referred to the Committee on Appropriations, and ordered to be printed.

#### QUARTERMASTER'S DEPARTMENT CONTRACTS.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting, in compliance with law, a statement of contracts made by the quartermaster's department for the month of April, 1868; which was laid on the table, and ordered to be printed.

#### ORDER OF BUSINESS.

Mr. BUTLER. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union on the Indian appropriation bill.

Mr. PILE. What becomes of the morning hour?

Mr. WASHBURNE, of Illinois. The Committee on Commerce is the first committee to be called.

The SPEAKER. After the pending bill from the Committee of Claims shall have been disposed of—

Mr. WASHBURNE, of Illinois. The Committee on Commerce are not prepared to go on at this late hour, and I hope the motion to go into committee will prevail.

#### SPANISH INDEMNITY.

Mr. BANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the President of the United States be requested, if not inconsistent with the public interest, to inform the House what measures have been taken to obtain indemnity from the Spanish Government for spoiliations on the commerce of American citizens during the late war with the South American republics, and to transmit to this House any correspondence which may have taken place on this subject between the United States and the Spanish Government.

#### RIGHTS UNDER TREATIES.

Mr. ASHLEY, of Nevada, by unanimous consent, from the Committee on the Public Lands, reported a bill (H. R. No. 1119) to restore to certain parties their rights under certain treaties and laws of the United States; which was read a first and second time, ordered to be printed, and recommitted.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### INDIAN APPROPRIATION BILL.

Mr. BUTLER. I now ask for the vote on my motion, and pending that I move that all general debate in Committee of the Whole on the state of the Union shall terminate in thirty minutes.

The motion was agreed to.

The motion to go into committee was then agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1869.

Mr. BUTLER. I move that the first reading for information be dispensed with.

Mr. BROOKS. I object.

The Clerk resumed the first reading of the bill at the point where he left off when the committee rose on a former day when the same was under consideration, but before completing the reading.

Mr. BROOKS said: I withdraw my objection to dispensing with the first reading, with the understanding that we may adjourn and come prepared to act upon it to-morrow.

Mr. BUTLER. I did not propose to press it to a vote to-day.

Mr. BROOKS. I do not want to have it read at length if I can take it home with me and examine it in detail.

Mr. BUTLER. But to-morrow I may be met with an objection from somebody else.

The CHAIRMAN. The committee may, by unanimous consent, have an understanding on the subject.

Mr. BROOKS. I will consent to waive the further reading with the understanding that the committee now rise.

Mr. GARFIELD. I move that the further reading be dispensed with.

Mr. SCOFIELD. Is that with the understanding that the committee shall rise?

The CHAIRMAN. The Chair cannot put the additional motion, but the committee can understand it as they please.

Mr. SCOFIELD. Then I shall object.

Mr. BROOKS. Unanimous consent will be given.

The CHAIRMAN. If there is no objection the further reading of the bill will be dispensed with. The Chair hears none.

Mr. GARFIELD. I now move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1869, and had come to no resolution thereon.

Mr. GARFIELD. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at three o'clock and fifty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BALDWIN: The petition of Ethan Allen, of Worcester, Massachusetts, for compensation for the use, by the Government of the United States, of certain machines invented by him, and of which he owns the patent right.

By Mr. BOYER: The petition of 14 iron-workers at Limerick Station, Montgomery county, Pennsylvania, setting forth that owing to foreign competition their industry is greatly

depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 95 workers in machinery at Norristown, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 51 workers in Riverside paper-mills, Montgomery county, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 31 workmen of Conshohocken, Pennsylvania, praying for additional protective duties.

Also, the petition of 105 workers in rolling-mills and iron-works at Allentown, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 45 iron-workers in Conshohocken, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

By Mr. CHANLER: A memorial of William Whiting, to amend patent laws.

By Mr. COVODE: The petition of sundry citizens of Westmoreland county, Pennsylvania, for increase of tariff on imports.

By Mr. COBB: A memorial of Mrs. Harriet R. Clinton, widow of Charles W. Clinton, late lieutenant first regiment Wisconsin volunteer cavalry, for back pay.

By Mr. ELDRIDGE: The petition of Abner Kirby and 200 others, citizens of Wisconsin, for an appropriation for the improvement of the harbor at the mouth of Menomonee river.

By Mr. LAWRENCE, of Ohio: Five several remonstrances of officers, non-commissioned officers, and privates of Ohio troops who served in the late war, against the passage of the bill to prevent payment of bounty to honorably discharged soldiers in certain cases.

By Mr. McCLURG: The claim of Lieutenant Benjamin F. Lutman, of Missouri.

By Mr. MOORHEAD: The memorial of manufacturers and merchants of Pittsburg and Alleghany, Pennsylvania, praying that Congress will authorize the enlargement and deepening of the St. Mary's canal.

By Mr. MORRELL: The petition of 109 iron-workers and others, of Titusville, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 38 workmen of Cooperstown, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 87 iron-workers of Clarion county, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 42 citizens of Clarion county, Pennsylvania, praying for additional protective duties.

Also, the petition of 28 workmen in machine works at Meadville, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 152 workmen at Westerman Iron Works, Sharon, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 50 coal-workers in Hickory township, Mercer county, Pennsylv-

vania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of William Gates and 45 others, citizens of Rockland, Venango county, Pennsylvania, complaining of the depression of manufacturing industry, and praying for such increase of protective duties as will restore prosperity to the country.

Also, the petition of C. G. Dempsey and others, oil producers and refiners, of Venango county, Pennsylvania, representing that the depression of the manufacturing industry of the country affects disastrously every form of production and business, and must reduce the revenues and impair the credit of the Government, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of Patrick Hogan and 1700 others, workmen in the iron mills and mines of the Cambria Iron Company, at Johnstown, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 322 workers in furnaces and forges, of Blair county, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of Thomas P. Himush and others, workers in Roaring Spring paper-mill, Blair county, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 550 workers in iron and steel, machinists and merchants, of Blair county, Pennsylvania, praying for additional protective duties.

Also, the petition of John Clark and 24 others, citizens of Catharine township, Blair county, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of M. Orlady and 49 others, farmers, of Woodcock valley, Huntingdon county, Pennsylvania, representing that the depression of manufacturing industry affects disastrously every form of production and business, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of 54 mechanics and others, citizens of Woodcock valley, Huntingdon county, Pennsylvania, complaining of the depression of industry, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of D. R. P. Flenner and 26 others, miners in Woodcock valley, Huntingdon county, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of Theo. R. Brunell and 50 others, iron-workers of Lewistown, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of George McCombs and 89 others, workers in Juniata Iron Works, of Huntingdon county, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and praying for additional protective duties.

Also, the petition of William Hoover and 68 others, iron-workers at Mill Creek, Huntingdon county, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 88 workers in Barree and

Colerain Forges, Huntingdon county, Pennsylvania, praying for additional protective duties.

Also, the petition of 21 workmen in ax manufactory at Lewistown, Pennsylvania, praying for additional protective duties.

Also, the petition of A. McAllister and 54 others, iron-workers of Springfield Furnace, Blair county, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of W. P. Mendenhall and 137 others, workers in iron and other metals, at Altoona, Pennsylvania, complaining of the depression of manufacturing industry, and praying for additional protective duties.

Also, the petition of P. Van Devander and 45 others, citizens of Williamsburg, Blair county, Pennsylvania, complaining of the depression of manufacturing industry, and praying for such increase of protective duties as will restore prosperity to the country.

Also, the petition of Augustus Troxell and 52 others, workmen of Lewistown, Pennsylvania, praying for additional protective duties.

Also, the petition of 66 coal-miners in Carbon township, Huntingdon county, Pennsylvania, praying for additional protective duties.

Also, the petition of Samuel McVitty and 44 others, citizens of Clay township, Huntingdon county, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

By Mr. MYERS: The petition of Louis Sonntag, for bounty due him under act of July 28, 1866.

Also, a memorial of Joseph Nock, praying Congress to reenact the repealed sixth section of the act of 1842 in relation to patents.

Also, the petition of Ellen Baird, mother of James Baird, deceased, company M, twenty-first Pennsylvania cavalry, for arrears of pension.

Also, the petition of Mary Groogan, widow of James Groogan, deceased, company B, ninth Pennsylvania volunteers, for arrears of pension.

Also, the petition of Mary Baskerville, mother of James Baskerville, deceased, company H, second regiment Pennsylvania reserves, for arrears of pension.

By Mr. O'NEILL: The petition of 82 workers in paper factory and other branches of industry in Philadelphia, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 110 workers in Pascal iron-works of Philadelphia, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 54 glass-workers in Philadelphia, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 22 citizens of Philadelphia, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of 108 workers in the Harrison boiler works of Philadelphia, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of George Banks and 15 others, workers in the Howard machine works Philadelphia, Pennsylvania, praying for additional protective duties.

By Mr. WELKER: The petition of Rosalinda McCabe, widow of Barney McCabe, late of company I, tenth New York cavalry, for a pension.

Also, the petition of Chaney D. Rose, for a pension.



## IN SENATE.

WEDNESDAY, May 27, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday's legislative session was read and approved.

## PETITIONS AND MEMORIALS.

Mr. ANTHONY. I offer the memorial of Governor Ambrose E. Burnside, John Carter Brown, Robert H. Ives, William Goddard, T. P. I. Goddard, and others, praying for an appropriation for deepening the St. Mary's canal. The memorialists represent that when the first grant of public lands was made to the State of Michigan for this canal its capacity was sufficient for the transit of the largest vessels then employed on the lakes, of about six hundred tons burden. Since that time it has been found advantageous to employ vessels of a much larger burden, and the interests of commerce require very much that a grant should be made for deepening that work. I move its reference to the Committee on Commerce.

The motion was agreed to.

Mr. DRAKE. I present the petition of Isaac M. Couch, a private in company E, forty-fourth Missouri volunteer infantry, praying pay for one hundred and nineteen days' service rendered after the discharge of his regiment. I do not know whether this petition should go to the Military Committee or the Committee on Claims. I will move its reference to the Committee on Claims.

The motion was agreed to.

Mr. NYE presented the petition of Lonisa J. Simpson, widow of Major George Simpson, late paymaster in the Army of the United States, praying for an increase of pension; which was referred to the Committee on Pensions.

He also presented additional papers in support of the claim of Lieutenant Valentine H. Voorhes, for pay for services in the Army from March 1, 1864, to November 30, 1864; which were referred to the Committee on Claims.

Mr. MORRILL, of Vermont, presented a memorial of officers of the United States Army, remonstrating against the passage of the bill which deprives all retired officers of the Army of their longevity or service rations; which was referred to the Committee on Military Affairs and the Militia.

Mr. ROSS presented the petition of John A. Wilcox, captain fourth regiment United States cavalry, praying to be relieved from all liability on account of Government funds stolen from him on the 14th of February, 1867; which was referred to the Committee on Claims.

## FUNDING BILL.

Mr. SHERMAN. I am directed by the Committee on Finance either to ask the Senate to take up Senate bill No. 207, called the funding bill, and postpone it until Tuesday next, or to give notice, which I prefer to do, that on next Tuesday, at one o'clock, I shall move to take up that bill with a view to dispose of it, so that it may not stand in the way of other matters.

Mr. POMEROY. Give the notice.

Mr. SHERMAN. I therefore give notice that on next Tuesday, and I hope it will be noted and Senators will try to be prepared, I shall endeavor to get up that bill and have it disposed of one way or the other.

## REPORTS OF COMMITTEES.

Mr. HARLAN, from the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 420) to incorporate the Connecticut Avenue and Park Railway Company, in the District of Columbia, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 344) to incorporate the Washington Target-Shooting Association, in the District of Columbia, reported it without amendment.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 287) granting the right of way and lands to the Pecos and Placer Mining and

Ditch Company of New Mexico, reported it with an amendment.

Mr. NYE, from the Committee on Territories, reported a bill (S. No. 487) to disapprove an act of the Legislative Assembly of Washington Territory redistricting the Territory and reassigning the judges thereto; which was read, and passed to a second reading.

Mr. NYE. I should like the immediate consideration of that bill, if there be no objection.

The PRESIDENT *pro tempore*. That can only be done at this time by the unanimous consent of the Senate.

Mr. HARLAN. I prefer that this bill should go over. I understand that it will affect the work of some of the judges, and one of them originally came from my State, and he has written me a letter on the subject. I am not sure but that I shall vote for the bill; but I wish to look into it first, and therefore I prefer that it should go over.

The PRESIDENT *pro tempore*. Objection being made, the bill will go over, under the rule.

Mr. WILLEY. The Committee on the District of Columbia, to whom was referred the resolution of the board of common council of the city of Washington, asking the passage of an act to compel the mayor of the city to pay to each member of the board of council and board of aldermen the amount due them for their services as such members, have considered the same, and being of opinion that the proper redress for these gentlemen is in the courts of the District, by *mandamus* or otherwise, have instructed me to report it back and ask to be discharged from the further consideration of the subject.

The report was agreed to.

Mr. STEWART, from the Committee on the Judiciary, to whom was referred the petition of Alexander J. Atocha, reported a bill (S. No. 488) to amend an act entitled "An act for the relief of Alexander J. Atocha," approved February 14, 1865; which was read, and passed to a second reading.

Mr. FESSENDEN, from the Committee on Public Buildings and Grounds, reported an amendment to the bill (H. R. No. 818) making appropriations for sundry civil expenses of the Government for the year ending June 30, 1869, and for other purposes; which was referred to the Committee on Appropriations, under the rules.

Mr. MORGAN. The Committee on Finance, to whom was referred a letter of the Secretary of the Treasury in regard to the claim of John Bullfinch and others, owners of the brig Ocean Belle, have had the same under consideration, and have directed me to report in writing. The committee believe the claim to be an equitable one; but they believe also that it should go to the Committee on Claims. I ask, therefore, that the report be printed, and that the whole matter, with all the papers, be referred to the Committee on Claims.

Mr. HOWE. The Committee on Claims is crowded with business that it is really unable to dispose of as promptly as the rights of suitors would seem to demand. Now, it does not seem to me that there is any necessity that any one of these claims should be considered by more than one of the committees of the body. I know nothing about this claim; but as it has undergone the examination of the Committee on Finance, I do not see why that should not be just as satisfactory as to have the recommendation of any other committee of the body. I do not understand that there is anything in the constitution of the Senate or in the constitution of the Committee on Claims that requires absolutely that everything in the nature of a private claim should go to that committee. It is, as I suppose, a committee created for the purpose of considering those matters, unless they are, at the pleasure of the Senate, referred to another committee. This matter having been considered by one committee, I hope the Senator from New York will not insist on his motion, for I cannot conceive that it would tend to promote the public

interests, and it clearly would not the interests of the claimant. I hope the motion will not be insisted on.

Mr. MORGAN. It was the opinion of the Committee on Finance, after full consideration, that this was really a matter that belonged to the Committee on Claims; but if the Committee on Claims object to its being referred to them, it having been fully examined by the Committee on Finance and a written report presented, I shall not press it any further.

Mr. FESSENDEN. I understand that as it now stands there is a favorable report from the Committee on Finance; or is that report taken back by that committee?

Mr. MORGAN. There is a favorable report; but there is no bill connected with it, because we supposed the Committee on Claims would report a bill.

Mr. FESSENDEN. Then it had better be returned to the committee. I know something about the claim, and that is the reason of my inquiry. I should like to have the Finance Committee take it back and report a bill.

Mr. MORGAN. I will report a bill, then, without its being referred.

The PRESIDENT *pro tempore*. Does the Senator move that the report be printed?

Mr. MORGAN. Yes, sir; I move that the report be printed.

The motion was agreed to.

## RAILROAD IN CALIFORNIA AND OREGON.

Mr. WILLIAMS. I move that the Senate proceed to the consideration of Senate bill No. 216.

The PRESIDENT *pro tempore*. It can only be done at this time by unanimous consent.

Mr. POMEROY. I desire to offer a resolution.

Mr. WILLIAMS. I should like to get up the bill. It will take but a few minutes to pass it.

Mr. POMEROY. What is it?

Mr. WILLIAMS. A little bill extending the time for constructing a railroad. It simply extends the time, nothing more.

The PRESIDENT *pro tempore*. The Senator from Oregon asks the unanimous consent of the Senate to proceed to the consideration of the bill named by him. Is there any objection?

Mr. TRUMBULL. Let us hear the title of the bill.

The PRESIDENT *pro tempore*. The title of the bill will be stated.

The CHIEF CLERK. The bill proposed to be taken up is the bill (S. No. 216) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon."

By unanimous consent, the bill was considered as in Committee of the Whole. It proposes to amend section six of an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon," as to provide that as to so much of that railroad and telegraph line as is or may be located within the State of Oregon, instead of the times now fixed in the first section of twenty miles of the railroad and telegraph shall be completed within three years from the date of that act, and at least twenty miles in each three years thereafter, and the whole on or before the 1st day of July, 1880.

The Committee on Public Lands reported the bill with amendments. The first amendment was in line six, after the word "Oregon" to insert "approved July 25, 1866."

The amendment was agreed to.

The next amendment was in line seven, after the word "that," to strike out the words "as to so much of said railroad and telegraph line as is or may be located within the State of Oregon."

The amendment was agreed to.

The next amendment was in line eleven, to strike out the word "two" before the word "years" and to insert "three."

The amendment was agreed to.

The next amendment was in line twelve, to strike out the word "date," and to insert the word "passage;" and also to strike out the word "said" and insert "this."

The amendment was agreed to.

The bill, as thus amended, reads as follows:

*Be it enacted, &c.,* That section six of an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon," approved July 25, 1866, be so amended as to provide that, instead of the times now fixed in said section, the first section of twenty miles of said railroad and telegraph shall be completed within two years from the passage of this act, and at least twenty miles in each three years thereafter, and the whole on or before the 1st day of July, A. D. 1880.

Mr. FESSENDEN. I should like to inquire of the Senator from Oregon whether this is anything more than a mere extension of time; whether it affects any other rights or not?

Mr. WILLIAMS. I will state, for the information of the Senator from Maine, that it does not. It simply extends the time without affecting any right whatever. It does not take a dollar from the Treasury of the United States, or a foot of land from the United States; but it simply extends the time. The road has been commenced. Of course in a new country like Oregon it is very difficult to commence the construction of a road of this description; but it has been commenced in good faith, and the company are now progressing with the work, and they simply desire a little extension of this time, so that there shall be no forfeiture of what land they may have under the act.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### CREEK INDIANS.

Mr. POMEROY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved,* That the Secretary of the Interior be directed to inform the Senate, at as early a day as practicable, the reasons why a large number of persons enrolled as Creek Indians by the Creek agent in the spring of 1867, were stricken from said rolls and payment of their *per capita* dividend refused.

#### DEPARTMENT OF ARKANSAS.

Mr. DRAKE submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved,* That the Secretary of War be directed to communicate to the Senate a copy of the report of Inspector General Marcy, made in 1864, and the condition of the department of Arkansas and the Indian territory.

#### WILLIAM H. HARMAN.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of Senate bill No. 183.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 183) for the relief of William H. Harman. It directs the Secretary of the Treasury to remit and release to William H. Harman the internal revenue tax assessed on five hundred and six gallons of whisky of his manufacture, the same having been destroyed by fire before removal from the distillery, and before its sale.

Mr. VAN WINKLE. I beg leave to state to the Senate that this bill passed, after a very considerable discussion, during the session of the winter a year ago, went to the House, and failed there for want of time. It has twice passed the Finance Committee, and I apprehend it will not take long to consider it.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and read the third time.

Mr. HOWE. What committee does that claim come from?

Mr. MORRILL, of Vermont. The Committee on Finance.

The bill was passed.

#### ADJOURNMENT SINE DIE.

Mr. MORRILL, of Maine. I ask the Senate to take up for consideration House bill No. 786. It will take but a moment, I think, to pass it.

The motion was agreed to.

Mr. CONKLING. While the Secretary is looking for that bill, I ask my friend to allow me to offer a resolution, to lie on the table. I ask that the resolution be read; I will not ask any action upon it now, but will call it up hereafter.

The resolution was read as follows:

*Resolved by the Senate of the United States, (the House of Representatives concurring.)* That the President of the Senate and Speaker of the House of Representatives adjourn their respective Houses *sine die* on Saturday, the 13th of June next, at twelve o'clock m.

#### MEDICAL HISTORY OF THE WAR.

Mr. ANTHONY. As there seems to be some difficulty in finding the bill of the Senator from Maine, I ask the Senate to take up the joint resolution providing for the publication of the medical and surgical history of the war. If we are going to publish it at all it should be provided for now.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 97) to provide for the publication of the medical and surgical history of the rebellion and the medical statistics of the provost marshal general's bureau.

The resolution provides that the appropriation made in an act approved July 28, 1866, for publishing the medical and surgical history of the rebellion and the medical statistics of the provost marshal general's bureau may be expended under the direction of the Secretary of War, for the purpose of preparing those works for publication, and directs the Congressional Printer to print the same, under the direction of the Secretary of War.

Mr. ANTHONY. This appropriation was passed at the last Congress in a general appropriation bill. It did not come from the Committee on Printing, and the original measure never was under the consideration of that committee. The appropriation is so worded that the Congressional Printer thinks it must be applied to the ordinary cost of the publication, setting the type, paper, binding, &c. This resolution transfers the whole of the appropriation to the preparation of the work, engraving plates, &c., leaving the publication to be provided for, as all other publications are, and as I suppose this was intended to be, out of the general appropriation for the public printing. This work, Senators are aware, is an exceedingly expensive one; and I think it is a very valuable one. I do not wish the Senate to pass upon the question without understanding what it is.

Mr. RAMSEY. What is the work, may I ask?

Mr. ANTHONY. It is the "Medical and Surgical History of the Rebellion," prepared under the direction of the Surgeon General.

Mr. RAMSEY. I should like to ask the chairman of the Committee on Printing what has become of a resolution that I offered, and which was referred to that committee some three months since, providing for the printing and circulation of a large number of copies of the report of the Commissioner of the General Land Office? That document is very much wanted by the people in all the land States, and, indeed, it is sought for in Europe. Many persons are writing for it; but it is impossible to obtain it.

Mr. ANTHONY. I do not think that is exactly pertinent to this subject, but still I will answer the question very cheerfully. We have been engaged in the impeachment trial for the last three months, and have attended to no legislative business. It has been impossible to bring a report before the Senate or to get up any subject which could engage its attention; and on days when we have tried to do legislative business some Senators—I know the Senator from Minnesota is not of that number—were constantly voting for adjourning very early. [Laughter.]

Mr. RAMSEY. I desire to ask the chairman a further question: whether it is probable, now that impeachment is over, as I am told it

is, that this matter will engage the attention of the committee, and we can soon look for a report?

Mr. ANTHONY. If there is time to consider the subject between the end of this impeachment and the beginning of another we shall certainly bring it up.

Mr. POMEROY. Does the Senator know what the expense would be?

Mr. ANTHONY. Of this work?

Mr. POMEROY. Of this work.

Mr. ANTHONY. I do not suppose this work will cost less than one hundred and fifty or two hundred thousand dollars when completed. I presume it will take two or three years to complete it. I think that is the estimate which the Senator from Massachusetts, [Mr. Wilson,] who introduced the measure, put upon it.

Mr. CONKLING. Mr. President—

The PRESIDENT *pro tempore*. As this resolution is leading to debate, the Chair feels under obligation to lay it aside and call up the bill which the Senate agreed, on the motion of the Senator from Maine, to consider.

Mr. MORRILL, of Maine. That bill, I understand, is now before the Senate.

The PRESIDENT *pro tempore*. It is regularly before the Senate.

Mr. ANTHONY. I hope this resolution will be allowed to come up next. I want it disposed of.

Mr. MORRILL, of Maine. I shall not object to that.

#### PORTS OF DELIVERY.

The PRESIDENT *pro tempore*. The bill (H. R. No. 286) declaring St. George and Boothbay, in the State of Maine, and San Antonio, Texas, ports of delivery, and authorizing the establishment of bonded warehouses at Bucksport and Vinalhaven, in the State of Maine, is before the Senate as in Committee of the Whole, and will be read.

The bill was read.

The Committee on Commerce proposed to amend the bill by inserting after the word "Saluria," in line six, the words "and Bucksport and Vinalhaven and North Haven, in the State of Maine, in the district of Castine and Belfast, respectively."

The amendment was agreed to.

The Committee on Commerce further proposed to amend the bill by striking out the following clause, from line nine to line eighteen:

And that the privileges and provisions of the act entitled "An act to extend the warehousing system by establishing private bonded warehouses, and for other purposes," approved March 28, 1854, be, and the same are hereby, extended to the said ports, under such regulations as may be prescribed by the Secretary of the Treasury; and that the Secretary of the Treasury be, and he is hereby, authorized to establish private bonded warehouses at Bucksport and Vinalhaven, in the State of Maine.

The amendment was agreed to.

The bill, as amended, reads as follows:

*Be it enacted, &c.,* That St. George and Boothbay, in the State of Maine, in the collection districts of Waldoboro and Wiscasset, respectively, and San Antonio, Texas, in the collection district of Saluria, and Bucksport and Vinalhaven and North Haven, in the State of Maine, in the district of Castine and Belfast, respectively, be, and the same are hereby, declared ports of delivery: *Provided,* That nothing in this act contained shall occasion additional expense to the Government of the United States.

The bill was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

On motion of Mr. MORRILL, of Maine, its title was amended to read: "A bill declaring St. George, Boothbay, Bucksport, and Vinalhaven, in the State of Maine, and San Antonio, Texas, ports of delivery."

#### NATIONAL LIFE INSURANCE COMPANY.

Mr. PATTERSON, of New Hampshire. I move that the Senate now proceed to the consideration of the unfinished business of yesterday. The reading of the bill then under consideration was nearly completed, and I

think it will take but a few moments to dispose of it.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the bill (S. No. 286) to incorporate the National Life Insurance Company of the United States of America.

Mr. CONNESS. I suppose that will be in order at one o'clock. The Senator now proposes to consider a private corporation bill in the morning hour.

Mr. PATTERSON, of New Hampshire. I understand that there is great anxiety in the Senate to consider the Arkansas bill after the morning hour, and I should like to have this bill out of the way. It will lead to no discussion.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 286) to incorporate the National Life Insurance Company of the United States of America.

By its provisions John D. Defrees, William E. Chandler, Samuel Wilkeson, E. A. Rollins,\* Nathan G. Starkweather, John A. Wills, Frank Turk, Adam S. Pratt, Henry C. Swain, and all the other persons who shall hereafter become stockholders in the company incorporated, are to be created a body politic and corporate, by the name and style of the National Life Insurance Company of the United States of America, for the purpose of carrying on the business of insurance on lives, and to make all and every insurance appertaining thereto or connected therewith; and to grant, purchase, and dispose of annuities in the city of Washington, in the District of Columbia, and elsewhere, with a capital stock of \$1,000,000.

Mr. DAVIS. I move to amend the bill by adding to the tenth section the words "subject to the laws of the States respectively in which they may be established;" so as to make the section read:

That the office of the company shall be located in the city of Washington, in the District of Columbia, and said company may establish branches or agencies elsewhere, subject to the laws of the States respectively in which they may be established.

Mr. PATTERSON, of New Hampshire. There is no objection to that.

The motion was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time, and passed.

#### BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 489) to relinquish the interest of the United States in certain lands to the city and county of San Francisco; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### UMATILLA INDIAN RESERVATION.

Mr. CORBETT. I move that the Senate proceed to the consideration of the bill (S. No. 215) to vacate and sell the Umatilla reservation in the State of Oregon.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to authorize the Secretary of the Interior to negotiate with the Indians upon the Umatilla reservation, in the State of Oregon, for the relinquishment to the United States of all their claim or right to that reservation, and for their removal to other reservations in that State or Washington Territory; and to defray the expenses of the negotiation the sum of \$2,000 is appropriated; but all expenses incurred and all payments made or promised to these Indians in acquiring their right or claim shall not exceed the probable proceeds of the sale of the reservations.

By the provisions of the second section the Commissioner of the General Land Office, under the direction of the Secretary of the Interior, after the negotiation is completed and ratified, is to cause the reservation to be surveyed into tracts of one hundred and sixty acres each, and, after giving notice for three

months in two papers in the State having the largest circulation, to cause the same to be sold at auction, in tracts of not more than three hundred and twenty acres, to the highest and best bidder therefor.

The bill had been reported from the Committee on Indian Affairs with amendments, the first of which was to insert after the word "appropriated" in line eleven of section one the words "or so much thereof as may be necessary, and the agent of the Umatilla reservation in Oregon and the agent of the Yakama reservation in Washington Territory are hereby appointed to act with one commissioner, to be appointed by the President, for such negotiations."

The amendment was agreed to.

The next amendment was after the word "therefor" in line nine of section two to insert:

*Provided*, Said lands shall not be sold for less than \$1 25 per acre.

The amendment was agreed to.

Mr. SHERMAN. I ask for the reading of that provision which limits the cost of the negotiation, &c., to the proceeds of the land.

The Chief Clerk read as follows:

*Provided*, That all expenses incurred and all payments made or promised to said Indians in acquiring their said right or claim shall not exceed the probable proceeds of the sale of said reservations as hereinafter provided.

Mr. SHERMAN. I certainly would object to a bill so indefinite as that. The cost of this transfer of these Indians from this reservation in Oregon to another portion of the country is unlimited substantially. The commissioners, or whoever may make the treaty, are to estimate the probable value of this land, and that is the only limit. I do not know the extent of the reservation or the number of Indians upon it, or any facts that would justify me in proposing a limit; but it is usual always to appropriate a fixed sum of money to pay the expense of negotiating a treaty with Indians for the sale of their lands and their transfer from one section of country to another. But this gives them the whole value of the land, and the only limit is the estimated amount of money which will probably be received from the land, not the actual proceeds of the land. I must object to a bill of that kind. It should be more definite.

Mr. HARLAN. I desire to hear the first section of the bill read that authorizes the appointment of a commission.

The Chief Clerk read the first section of the bill.

Mr. HARLAN. I now desire to inquire whether it was the purpose of the committee in framing this bill to place the power in the hands of the Secretary of the Interior and the other officers named to make a final disposition of this land, or whether the phraseology "negotiate" means the negotiation of a treaty which will come before the Senate for ratification?

Mr. CORBETT. The design of the bill, and it so provides, is that when this negotiation shall have been made and ratified the arrangement shall go into operation.

Mr. CONNESS. Ratified by whom?

Mr. CORBETT. Ratified by the Senate. If not, it will not go into operation; \$2,000 is appropriated to defray the expenses of this commission in making the negotiation. It is provided, also, that the expense of the removal to this other reservation shall not exceed the probable amount of receipts from the lands which we propose to negotiate for and on which the Indians are now situated. It is proposed to sell these lands at auction, provided they shall not be sold for less than \$1 25 per acre, and the commission is to take into consideration in removing these Indians whether the expense of it will cost more than the probable receipts from the sale of the lands. I will state to the Senate that this reservation lies in the direct line of travel from California and Oregon to Idaho and the mining region, and the miners passing through the reservation create some little trouble with the Indians, and it is liable

to bring on a war. It is the desire of the people that the Indians should be removed, and I suppose the Indians are willing to remove provided a satisfactory arrangement can be made with them. If such an arrangement can be made, the treaty will be ratified by the Senate if they consider it a satisfactory treaty; otherwise it would be rejected and would be of no effect, and the only result would be the expenditure of \$2,000 for this negotiation. It is the desire of the people of Oregon to have these Indians removed from the reservation to avoid trouble for the future, which might cost hundreds of thousands of dollars if we should be involved in a war by the miners passing through this country. There is a road directly through this Indian reservation as now situated. It is proposed to remove them entirely from that route where the miners pass, away from the temptation and the trouble that may be involved by this travel.

Mr. SHERMAN. How large is the reservation?

Mr. CORBETT. About twenty by twenty-five miles. A portion of it is situated in a valley, and a portion upon the Blue mountains.

Mr. NYE. Allow me to ask the Senator whether any evidence has been taken in regard to the desire of these Indians to remove.

Mr. CORBETT. I was upon the reservation myself, and consulted with the agent there, and it was his opinion that there had better be such a negotiation made with the Indians and to have them removed.

Mr. NYE. I did not know but that this came within the rule we had just established, that the President could remove by order. [Laughter.] I have only one suggestion to make in regard to this bill, and that is in relation to the appointment of this commission. I desire to enter my protest against authorizing the Secretary of the Interior to appoint commissioners for every purpose. The Government already have officers on the spot who can act as commissioners. The superintendent of Indian affairs for the State of Oregon is probably as good a man as can be found to ascertain the wishes of the Indians, and it is entirely within the purview of his official duties to know all about this matter. That can be done without the expenditure of \$2,000; but the rule is to send out some pet from here and pay his expenses liberally to negotiate with Indians that it is impossible he should know anything about. These pet commissionerships, I think, we have had enough of.

Mr. CORBETT. I will state that I am personally acquainted with the agent upon this reservation and the one upon the Yakama reservation; and I will make a motion to amend, by inserting the superintendent of Indian affairs for Oregon as the third commissioner.

Mr. NYE. Then strike out your appropriation, for the matter is within his duties. It is his duty to ascertain the wishes of the Indians.

Mr. SHERMAN. If the Senator from Oregon is through, I desire to submit a motion that the bill be recommitted.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Senator from Oregon has submitted an amendment.

Mr. SHERMAN. Pending the amendment I move to recommit the bill, and I will give my reasons very briefly. This bill, if it excites the attention of the Senate sufficiently to enable them to judge of it, contains several new features. It has been usual in negotiating Indian treaties to provide a small appropriation to authorize a negotiation of a treaty. That is the first step. When that treaty comes in it is ratified or rejected as the case may be. This bill contains several new features. It makes an appropriation of \$2,000 and all the proceeds of this land. I am told the reservation is twenty miles by twenty-five, or five hundred square miles; so that the commissioners authorized by this bill would proceed to negotiate upon the basis of paying the Indians the entire cost of the land and \$2,000 besides, and this in anticipation of the confirmation of the treaty.



It also makes a different mode of selling the public lands from what is provided by law in all other cases. It provides for a different mode of sale, contains a limit, and cuts off all scrip, warrants, and everything of that kind. It does seem to me that the Indian Committee have not sufficiently considered this matter, and I therefore move to recommit this bill to the Committee on Indian Affairs. I believe that motion takes precedence of any motion to amend.

Mr. CORBETT. I think I made the motion to amend previous to that.

Mr. SHERMAN. But a motion to recommit precedes a motion to amend.

Mr. CORBETT. I should like to state my amendment before that question is put.

Mr. SHERMAN. I have no objection to that.

Mr. CORBETT. I desire to strike out in line fourteen, after the word "with," the words "one commissioner to be appointed by the President for such negotiation," and to insert "the superintendent of Indian affairs of Oregon." I desire to state before the question is put that it is not the fair interpretation of this bill, nor the intention that they shall expend this amount of money.

The PRESIDING OFFICER. The Chair deems it his duty to state that this amendment is not now strictly in order, it being an amendment to an amendment which has been agreed to; but it will be in order when the bill shall be considered in the Senate. We are now acting as in Committee of the Whole.

Mr. CORBETT. I am speaking in opposition to the commitment of the bill.

The PRESIDING OFFICER. The Senator is in order.

Mr. CORBETT. I will state to the Chair that it is not the intention to expend this entire amount of money; but that in providing new reservations in negotiating with the Indians upon the Yakama reservation and the Warm Spring reservation, which are the reservations to which they will probably be removed, the expense of negotiating shall not exceed the probable amount of money that this reservation will fetch when it is placed upon the market and sold at auction; and if the lands do not bring \$1 25 per acre, they will be withdrawn from the market.

Mr. WILLIAMS. Mr. President, I think the Senator from Ohio is somewhat mistaken in saying that this bill is without any precedent, for I prepared the bill and I drew it from acts that I found on the statute-books, and particularly one in reference to the sale of a reservation in the Territory of Utah. Although this bill does not in every particular conform to the provisions of that bill, yet in substance it is like that and some other enactments upon the subject.

This bill provides that a negotiation shall be made with these Indians for the purpose of purchasing this reservation. The reservation belongs to the Indians. It is their property. It is located in the midst of a thickly-settled country. Every man who has any experience on the subject knows that whatever treaty stipulations there may be, when the whites and the Indians are brought in contact, as they are when the Indians are located in the midst of a thickly-settled country, disturbances ensue, and it is desirable for the sake of the Indians and for the sake of the country that they should be removed if possible to some other localities.

The object of this bill is to provide, in the first place, that negotiations may be made with these Indians for the purpose of purchasing this reservation, and \$2,000 are appropriated for that purpose. That is to provide the ways and means by which these commissioners may assemble the Indians together in council and attend the meetings of the Indians. Of course it will be attended with some expense. This inconsiderable amount, or so much thereof as may be necessary, is to defray those expenses. Then the bill provides that they may negotiate for the purchase of this reservation from these Indians and for their removal, but they are not

to pay any more for the reservation, nor agree to pay any more, than the probable proceeds of the sale of the reservation; so that the Government of the United States shall lose nothing by this transaction. This land does not belong to the Government of the United States at this time. It belongs to these Indians; it is their property; and the object of this bill is simply to enable the United States, through commissioners, to purchase this property from the Indians and to obtain their consent to go upon other reservations in the neighborhood in Washington Territory and Oregon, and to do that without subjecting the United States to any expense more than the proceeds of the sale of this reservation.

I do not know how the bill can be framed in a more satisfactory manner. It does not appropriate anything; it simply provides that these commissioners shall not agree, when they negotiate with these Indians, to pay more than the probable proceeds of the sale of this reservation; not that they shall agree to pay anything out of the Treasury of the United States to these Indians for this reservation; but if the Indians will consent to go upon other reservations for the amount that these lands will probably bring when exposed to sale, then they are authorized to complete the negotiations.

As to the mode in which it is proposed to sell these lands, what other mode can be adopted? There is no such thing as a preemption right to these lands, because they belong to the Indians, and when the Indians are removed they are exposed to public sale; competition is invited from all quarters, and men go there and bid for the lands, and they are allowed to bid and pay as much as they please, not less than \$1 25 per acre. So that this mode of selling the land is of more advantage to the Government than any other mode of sale that has been adopted. I believe this is the mode adopted in reference to the sale of reservations for military purposes. Time and again bills have passed the Senate providing that where reservations for military purposes are exposed to sale they shall be sold in parcels of land at public auction and bring as much as people are disposed to pay for them; and so in reference to this reservation.

There is no reason that I can see why this bill should be recommitted, why there should be any particular objection to this negotiation. It is of great consequence to the people of the State of Oregon that this negotiation should be made. This reservation lies right upon the great thoroughfare between Oregon and Idaho Territory. There is a public road through the reservation, and hundreds of people are passing right through the heart of this reservation all the time with their teams, and they are brought into contact with the Indians, and disturbances spring up, and the whole community is kept in a state of commotion in consequence of difficulties that grow out of the contact of these teamsters, and transient persons and other people, with the Indians. This is simply a proposition to remove the Indians, if possible, to other reservations. If the negotiation does not succeed, there will be no great loss to anybody; but if it does succeed, it will be of great benefit, in my judgment, to the country; it will bring that valuable tract of land into use for agricultural purposes; and it will be a benefit to the Indians, because it will remove them to the Simcoe reservation, the Warm Spring reservation, or some other reservation in the immediate neighborhood, I suppose, on satisfactory terms, on which they are willing to go.

Mr. TRUMBULL. I hope this measure will be disposed of. I was waiting for a vote on this motion to recommit it. I gave notice on Monday that to-day I should endeavor to call up the bill to recognize the State government of Arkansas, which is an important matter; and, unless a vote can be taken at once, I move that the bill under consideration be postponed with a view to proceed to the consideration of the bill of the House of Repre-

sentatives to recognize the State government in Arkansas.

Mr. SHERMAN. I hope the vote will be taken on the motion to recommit by common consent.

Mr. TRUMBULL. I withdraw my motion if we can take a vote at once on this.

Mr. SHERMAN. I desire to make some remarks on this bill if it is to be pressed now; but I have no objection to its recommitment to the committee, and if they, on reexamining the points to which I call attention, find nothing in them, I shall have no objection to the bill; but I wish to secure that reexamination.

Mr. TRUMBULL. I withdraw my motion with a view to take a vote on the motion to recommit.

Mr. SHERMAN. I do not wish to speak upon it if the Senate will recommit the bill. I only wish to have it examined again.

The PRESIDENT *pro tempore*. The question is on the motion to recommit the bill to the committee that reported it.

The motion was agreed to.

#### SECRETARY OF THE SENATE.

Mr. SUMNER. I offer the following resolution:

*Resolved*, That the resignation of Mr. Forney, as Secretary of the Senate, is hereby accepted, and Mr. McDonald is authorized to act as Secretary *ad interim* until the choice of a successor.

I ask the action of the Senate upon it now.

Mr. DRAKE. I object.

Mr. HARLAN. Does one objection carry the resolution over?

The PRESIDENT *pro tempore*. It does.

Mr. HARLAN. I object to its consideration.

Mr. NYE. I merely want to ask the Senator from Massachusetts if he could not use some other word than "*ad interim*." [Laughter.] I do not like it.

Mr. SUMNER. It is applicable to this case.

The PRESIDENT *pro tempore*. Objection being made, the resolution goes over under the rule.

#### ARMY APPROPRIATION BILL.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and has appointed Mr. J. G. BLAINE of Maine, Mr. J. A. GARFIELD of Ohio, and Mr. C. E. PHELPS of Maryland, managers at the same on its part.

#### THE ALABAMA CLAIMS.

Mr. MORTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Secretary of State be requested to lay before the Senate, if not inconsistent with the public interest, copies of all negotiations and correspondence between the British Government and the Government of the United States in relation to what are commonly called the Alabama claims.

#### IMPEACHMENT OF PRESIDENT—PRIVILEGE.

Mr. TRUMBULL. I move now that the Senate proceed to the consideration of House bill No. 1039, to admit the State of Arkansas to representation in Congress.

The motion was agreed to.

Mr. DAVIS. I wanted to arrest that subject. I got up and addressed myself to the Chair before the vote was taken.

The PRESIDENT *pro tempore*. If the Senator addressed the Chair before—

Mr. DAVIS. Certainly I did.

The PRESIDENT *pro tempore*. The Chair did not recognize him until after the announcement.

Mr. DAVIS. I move to take up the resolution in relation to the privileges of the Senate that I introduced a few days ago. I ask for the reading of the resolution.

The Chief Clerk read the resolution, as follows:

Whereas it is represented that some persons have been and are engaged in violating the rights and privileges of the Senate by the use of threats, intimidation, and other unlawful and improper means toward its members to constrain them in their consideration, action, and judgment in the matter of the articles of impeachment against the President of the United States now pending before the Senate as a court of impeachment: Therefore,

*Be it resolved*, That a committee of three, to be appointed by the Chair, do proceed to inquire into the facts of such imputed threats, intimidation, and other unlawful means aforesaid, and the names of the persons, if any, using, or that have used, them; and that said committee have power to send for persons and papers, to take evidence, employ a stenographer, and report the facts to the Senate.

The PRESIDENT *pro tempore*. The question is on taking up the resolution just read for consideration.

Mr. DAVIS. On that question I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 14; as follows:

YEAS—Messrs. Anthony, Buckalew, Cole, Davis, Doolittle, Edmunds, Ferry, Fessenden, Fowler, Frothingham, Henderson, Howe, Johnson, McCreery, Morgan, Norton, Patterson of Tennessee, Ross, Sherman, Sprague, Trumbull, Vickers, and Wiley—23.

NAYS—Messrs. Cameron, Conness, Corbett, Cragin, Drake, Harlan, Howard, Pomeroy, Ramsey, Stewart, Sumner, Tipton, Wade, and Williams—14.  
ABSENT—Messrs. Bayard, Cattell, Chandler, Conkling, Dixon, Grimes, Hendricks, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Saulsbury, Thayer, Van Winkle, Wilson, and Yates—17.

So the motion was agreed to.

The PRESIDENT *pro tempore*. There is an amendment pending to the resolution.

Mr. EDMUNDS. Let the amendment and resolution both be read.

Mr. DAVIS. Before the amendment is read I ask to modify the resolution. The amendment offered is an additional resolution.

The PRESIDENT *pro tempore*. The Senator can modify his original proposition.

The CHIEF CLERK. The resolution, as proposed to be modified, reads as follows:

*Resolved*, That a committee of three be appointed to inquire into and report the facts in relation to any threats, intimidation, or other improper influences that were used or offered to be used, directly or indirectly, to control or influence the consideration or decision of the Senate, or any Senator, in the matter of the impeachment of the President of the United States, lately pending before the Senate as a court of impeachment. Also, to inquire into and report the facts in relation to any overture or offer of an improper character to any person by or in the name of any Senator in connection with said impeachment trial, and the names of any persons connected with said transactions, or any of them. Said committee to have power to send for persons and papers, to summon witnesses, to take their evidence, and employ a stenographer, and to report as early as practicable.

Mr. CONKLING. I ask that the last clause of the resolution be read again, beginning with the words "also to inquire."

The Chief Clerk read the last clause of the resolution.

Mr. CONKLING. The purport of that seems to be, and I inquire of the honorable Senator whether the intention is, to limit the investigation to overtures made by a Senator or by some person professing to act for a Senator.

Mr. DAVIS. I will make an explanation. The second branch of the resolution proposes it in both forms, whether an overture was made by any Senator or if and in his name, and the names of the persons who made the overture or offer in the name of the Senator.

Mr. CONKLING. Then I inquire of the honorable Senator, if he will allow me, whether the other part of the resolution extends the inquiry to similar overtures made by some person other than a Senator, or some person not professing to act in the name of a Senator?

Mr. DAVIS. I do not know that it does. I have no objection to it in that form and in the simplest form in which it can be put. My object is to probe the whole subject.

Mr. JOHNSON. I ask for the reading of the resolution again.

Mr. DAVIS. With the permission of the honorable Senator from Maryland I will make one statement. In making this proposition I have no reference to any Senator whatever.

On the contrary, when I saw published in the papers and heard in conversation implications of a certain Senator, I then avowed my utter disbelief that he was at all complicated in the matter. I am still firmly of that opinion; but I desire to have the matter thoroughly explored and every man who is criminal exposed—I care not who he is—whether a Senator, a correspondent, or anybody else. My object is to make an inquiry into the purity of the Senate, and in relation to every approach that was made to any Senator during the progress of this trial, come from what quarter it may.

I will make another remark in reference to a suggestion that was made by the honorable Senator from Maine [Mr. MORRILL] a few days ago. He expressed his doubt whether there were any grounds upon which to introduce this resolution, whether there were any threats. It seems strange to me, when the Senator made that declaration, that he did not remember the declaration made by his colleague to the Senate some days ago. That Senator said that he was receiving many letters upon the subject of the trial, many of them of a threatening character, some of them threatening his assassination, and that one of those letters threatening assassination was either written or indorsed in the Senate. I did not understand him particularly upon that point. [Mr. FESSENDEN shook his head.] If I did not understand the Senator, I will ask him for an explanation.

Mr. FESSENDEN. I made no allusion, and intended to make none, to any Senator whatever.

Mr. DAVIS. I understood so.

Mr. FESSENDEN. I had heard of a remark made in the Senate by an outside person that was something of the same character, and it struck me rather as an indorsement of the idea. I did not state what it was, and I did not state who the individual was; and I should not care to state, because it might have been and probably was a hasty remark made in passion by somebody who might not have intended to convey the impression that the remark might naturally have conveyed in time of excitement to anybody's mind. It was not a Senator, but some person outside.

Mr. DAVIS. I understand the honorable Senator from Maine substantially now as I did previously. Indeed, I understood him to disclaim expressly on that occasion that there was any indorsement of any such threat by a Senator; but I understand the Senator to state distinctly that it was made in the Senate, and my inference was that it had been made by an officer of the Senate.

Mr. FESSENDEN. No, sir.

Mr. DAVIS. That, I admit, was a mere inference, and I am gratified that I was mistaken in it.

Mr. FESSENDEN. A person not connected with the Senate in any way.

Mr. DAVIS. But that there have been threats, intimidation, and improper influences attempted upon various Senators in connection with the trial, I have no doubt under the sun.

Mr. MORRILL, of Maine. Will the honorable Senator allow me to say one word?

Mr. DAVIS. Certainly.

Mr. MORRILL, of Maine. The Senator certainly misunderstood me. I did not rise on the former occasion to say that there had been no threats, but rather to call upon the Senator from Kentucky to state the grounds upon which he offered his resolution, whether he had information which authorized him to offer such a resolution. That was my proposition, and I think I said in the same connection that there had been threats, doubtless. I had received them myself, but they were idle; they did not disturb me. I did not suppose that I was going to be assassinated. I had no belief of it, and they did not amount even to intimidation. They were anonymous in all cases so far as I am concerned, and I passed them by as utterly worthless, not worth a moment's consideration or attention. And that was the manner in which I was disposed, with all respect,

of course, to treat the Senator's proposition—as not worth the consideration of the Senate, unless somebody somewhere knows something more than has come to my knowledge. It was in that sense that I called upon the honorable Senator from Kentucky to state whether the threats to which he referred were of this trivial character as I regarded those which I had received myself, as other gentlemen had, or whether he knew of something so grave and menacing and really threatening as should justify the Senate in an investigation into it.

Mr. DAVIS. Mr. President—

Mr. CONKLING. If the Senator will allow me, I wish he would either strike out those words confining the inquiry to what has been done in the name of a Senator, or else add "any other person," so as to remove that restriction.

Mr. DAVIS. I will insert the words "or other person" in the proper place. I desire to make one single remark in connection with the remarks of the honorable Senator from Maine. I have received some letters, as the honorable Senator himself has received them. I have regarded them precisely as he does, and I want no inquiry in relation to my affairs—none whatever. But, at the same time, I know not of my own personal knowledge, but upon the most creditable information, that Senators were approached and were threatened and intimidated, face to face, and I want to get at that sort of influence and invasion of the privileges and rights of the Senate.

I desire, sir, that the purity and independence of the Senate shall be vindicated. With that view, I have asked simply for a committee to inquire into and report all the facts to the Senate, and, when the facts are laid before the Senate, that the Senate shall take what course it may please in relation to the matter. That is its right and its privilege, and the right and privilege of nobody else.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution as modified by the mover.

Mr. HOWARD. I wish it may be read.

The Chief Clerk read as follows:

*Resolved*, That a committee of three be appointed to inquire into and report the facts in relation to any threats, intimidation, or other improper influences that were used or offered to be used, directly or indirectly, to control or influence the consideration or decision of the Senate or any Senator in the matter of the impeachment of the President of the United States lately pending before the Senate as a court of impeachment. Also, to inquire into and report the facts in relation to any overture or offer of an improper character to any person by or in the name of any Senator or other person in connection with said impeachment trial, and the names of any persons connected with said transactions or any of them. Said committee to have power to send for persons and papers, to summon witnesses, to take their evidence, and employ a stenographer, and to report as early as practicable.

Mr. SHERMAN. I move to amend so as to have the committee appointed by the Chair.

Mr. MORTON. I suggest a further amendment, that the committee consist of five instead of three.

Mr. DAVIS. I have no objection to that. I accept that suggestion.

The PRESIDENT *pro tempore*. The modification suggested by the Senator from Indiana is agreed to by the mover of the resolution.

Mr. ROSS. Mr. President, since the vote taken in this Chamber on the 16th instant, which resulted in the acquittal of the President of the charge of a high misdemeanor in office, set out in the eleventh article of impeachment, the whole country has been filled with rumors of bribery and corruption on the part of members of this body. Were these rumors confined to street or bar-room gossip they might not be worthy the notice of the Senate; but the House of Representatives has deemed them of sufficient importance to predicate official action on them, and since the date of that vote the board of managers have been in daily session, prosecuting investigations on this subject.

These charges are calculated to affect the honor of the Senate, and as they have received from the House of Representatives such marked

and protracted attention it is becoming in the Senate to take notice of them. An investigation is due from the Senate to its own high character, to its accused members, and to the American people.

If there be on this floor a Senator who has received or offered, or agreed to take a bribe of any nature whatever to convict or acquit the President, let him be proven guilty before a committee of his peers and expelled.

If there be one who has yielded his convictions to threats, let us expose the coward to the merited contempt and scorn of a courageous people.

If there be one who has attempted to bully or bribe a fellow-Senator, let us know the fact, and determine whether he is a fit associate for us in this high council chamber.

But if none of these offenses have marred the dignity of this great trial, let the calumnies which the tongues and pens of ten thousand slanderers have scattered broadcast over the land be dispelled, and let the purity and dignity of the American Senate, and of the humblest as well as of the highest of its members be vindicated by its own act.

I have borne in silence until now assaults on my character and motives as a member of the court, such as few, if any, of my associates have endured. I do not allude to the fierce storm of party denunciation which burst over the heads of the seven Republicans who voted "not guilty," for that was anticipated, and I was prepared for it. The peltings of that storm I have borne with equanimity, conscious that I had performed a just and worthy act, and confident that the development of time would bring an ample vindication of my conduct against the charges of infidelity to my party and the country. I allude to the charges of bribery in its various forms, now being examined by the managers of the impeachment in secret session. I allude to scandals which have been deliberately concocted by those urging the cause of impeachment, and repeated threats of assassination, all brought with the view of affecting my action in favor of the conviction of the President.

Believing the trial would soon end, I have thus far submitted in silence to these accusations and assaults, rather than provoke a controversy in the Senate as to matters then pending before the court. But the trial is now ended, and I have something to say in vindication of my conduct during it, which it is both my right and my duty to say.

At the beginning of the trial of this cause I was sworn by the Chief Justice of the Supreme Court of the United States, as a member of the court of impeachment, to do "impartial justice to Andrew Johnson, President of the United States, according to the Constitution and laws." I had been, and still am, an earnest opponent of the reconstruction policy of his Administration. I thought, as I still think, that policy in many most important particulars, unwise and injurious to the best interests of the country. I longed, and still long, for such changes in the administration of the Government as would conform it to the views of the dominant party of the country, and to the reconstruction policy of Congress. But I could not, with the light then before me, declare the President guilty of high crimes and misdemeanors on mere differences as to governmental policy. I sought to divest my mind of all party prejudice, hear the accusations and the evidences, and endeavored to cast my vote in the cause with the candor and courage of an honest judge.

In this spirit I discharged my duty as a member of the court of impeachment. I voted to admit all the evidence offered by both the prosecution and the defense, so that the Senate, sitting as a court and jury, as judges of law and fact, might sift it all and determine the cause with no fact shut out by technical rule which bore on the guilt or innocence of the accused; and when I voted on the several articles of impeachment I cast out of the scale, as far as I was able, all mere party considera-

tions, and weighed the cause as the Constitution and laws and my oath demanded.

I do not claim the attention of the Senate to-day in order to vindicate the wisdom of my votes. The law and the evidence applicable to the several articles have been ably discussed by the managers on the part of the House, by the counsel for the President, and by the lawyers of the Senate, and any argument from me would be egotistic, superfluous, and now out of time. I ask the attention of the Senate to assert the integrity of my conduct as one of the judges in the trial; to denounce falsehoods set afloat affecting my honor as a Senator; to demand of the Senate that all charges of improper influences brought to bear on Senators during the late trial be openly and thoroughly investigated by the Senate and not be committed to the secret investigation, but public criticism of the board of prosecutors appointed by the House. I challenge any man or board to appear before this Senate or its committee and exhibit accusations or evidence against me; and, finally, to give notice that when that committee is appointed, I shall move the Senate to call on the House for copies of all the testimony taken by its board of managers under the resolution of the 16th instant, so that if any evidence of corrupt practices by or toward any Senator, whether he be one of those voting for or against conviction, be in possession of the board, it may not fail to be brought to the attention of the Senate.

As a foundation for the charge of bribery brought against me it is claimed that I assured my colleague repeatedly, and up to the day of the vote, that I would vote for conviction on the eleventh article; that he had my pledge in writing to that effect, together with that of thirty-five other Senators; and that I suddenly and unaccountably, except upon the supposition of bribery, changed my determination in a single night. If the assertion of fact were true, the inference were monstrously unfair. Who among you, Senators, anxious to keep his oath and do impartial justice, was at all times free from doubt? The honorable Senator from West Virginia, [Mr. WILLEY,] in a card published on the 25th instant in the papers of this city, says that he and his colleague were in doubt as to the eleventh article until the week of the judgment, and that he was led by the announced opinion of the Chief Justice on the manner of taking the vote on that article to vote for conviction, while his colleague was led by the same opinion to vote for acquittal. I confess, as I am sure a large part of this Senate might truthfully do, to having entertained doubts about that and other articles until a few days before the vote was taken, and I then resolved the question in my own mind by giving to my country the benefit of my doubts. I do not deny that it has been my intention to support a portion of the articles of impeachment, nor that I have given numbers of those who approached me on that subject to understand that such was my intention. But, sir, does that debar me from changing that purpose when I become convinced that a wrong is to be perpetrated by carrying it out? Is it an uncommon thing for men's minds to be changed with the lapse of time and the further development of the questions at issue?

But no man ever had from me a positive assurance that I would vote either for conviction or acquittal on that article, or either of the other articles voted on, prior to Thursday, the 14th instant.

That my colleague had no such assurance, but was fully informed of my position upon those articles, will be amply shown upon the investigation contemplated by this resolution by the testimony of Senators on both sides of the question of impeachment.

Mr. President, I have been no summer soldier, no sunshine patriot. I was baptized in politics in the old Abolition party of 1844, when but seven thousand men in the United States dared to say that they were the friends of the slave, and bore my share of the whips and scorn which fell to the lot of its members

before anti-slaveryism became a popular and lucrative profession. I led a colony to Kansas in 1856, and there struggled with success to check the spread of slavery; and again, when rebellion threatened the nation's life, I entered the ranks of the Union Army as a private soldier and carried the flag until slavery was destroyed and the authority of the national Government reestablished. I have never labored or fought for plunder. My hands have no dishonorable stain upon them. No man can point to a single instance where I have wavered in the maintenance of my convictions, whether in the battle's front or the polemics of the forum. Always poor in this world's goods, I have contentedly worked and fought for the establishment of principles which I believed to be beneficent to my fellow-man and to my country; and without egotism I may challenge any honorable Senator here to produce a record of service, in civil or military life, freer to this moment from all stains of selfishness or blot of dishonor than that which I now proudly look back upon and call my own.

Mr. President, I feel that this charge is heralded over the land and evidence ostentatiously sought to sustain it to make me a scapegoat for the egregious blunders, weaknesses, and hates which have characterized this whole impeachment movement; itself a stupendous blunder from its inception to the present time. I have been singled out as the object of assault, doubtless, because I am a new member here, unskilled in debate, unknown to national politics, and comparatively without the means of self-defense possessed by abler and more experienced members. I am conscious of these disadvantages, as well as of the strength and malignity of my accusers. They have to-day at their back a large majority of the great patriotic party to which they and I belong, with nearly all its machinery of vengeance; while I have but a feeble voice here, backed, however, by that never-failing source of strength, my own consciousness of rectitude and patriotic, honest purpose. Let them do their worst. There is a just people behind us all who constitute the court of last resort, in which all our acts are tried and judged. Dear as I value my hard-earned reputation—the chief property of myself, my wife, and my children—profoundly as I appreciate my weakness and the strength of my accusers, I am upheld by a consciousness of rectitude which no power can shake, and I bid defiance to them and their calumnies.

Mr. President, I desire to offer a substitute for the resolution now pending.

The PRESIDENT *pro tempore*. The amendment will be read.

The Chief Clerk read the amendment, which was to strike out all after the word "Resolved" and insert:

That a committee be appointed by the President of the Senate, to be composed of three Senators, whose duty it shall be to inquire whether improper or corrupt means have been used, or attempted to be used, to influence the votes of the members of the Senate in the trial of the impeachment of the President; and that the said committee be authorized and empowered to send for persons and papers, and to do all things that in their judgment may be necessary for the furtherance of the object of the resolution.

The PRESIDENT *pro tempore*. The question is on the amendment.

Mr. ROSS. In conformity with the suggestion acceded to in regard to the other resolution I will modify it so as to make the committee five instead of three members.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas as modified.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the resolution as amended.

The resolution, as amended, was agreed to.

EXECUTIVE SESSION.

Mr. WILSON. Mr. President, I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. There is a bill pending; I think the Arkansas bill.



The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts, [Mr. WILSON.]

The motion was agreed to; and after a short time spent in executive session, the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 198) to reestablish the boundaries of the collection districts of Michigan and Mackinac, and to change the names of the collection districts of Michilimackinac and Port Huron;

A bill (H. R. No. 875) to repeal an act approved March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes," and to amend certain acts for the prevention and punishment of frauds on the revenue and for the prevention of smuggling;

A bill (H. R. No. 1119) for the registration or enrollment of certain foreign vessels;

A bill (H. R. No. 1120) to authorize the Secretary of the Treasury to change the names of certain vessels; and

A joint resolution (H. R. No. 96) for the relief of John Sedgwick, collector of internal revenue third district, California.

#### REPRESENTATION OF ARKANSAS.

On motion of Mr. TRUMBULL, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress, the pending question being on the amendment of Mr. DRAKE, to strike out all of the bill after the enacting clause, and in lieu thereof to insert:

That the State of Arkansas, under and with the constitution thereof adopted in convention on the 11th day of February, 1868, and subsequently ratified by the people of said State, shall be entitled to be admitted to representation in Congress as one of the States of the Union whenever the Legislature of said State shall pass an act agreeing, on behalf of said State, to the following fundamental condition of such admission, to wit: That the said constitution shall never be so amended or changed as to deprive any one of the right to vote at all elections held in said State by the people for Representatives in Congress, or for State, county, or municipal officers, or for any other purpose, who now is or may hereafter become, according to the present terms of said constitution, entitled to vote; unless such deprivation be imposed as a punishment for such crimes as are now felonies at the common law, whereof the party shall have been duly convicted under laws equally applicable to all the inhabitants of said State; that the third section of the first article of said constitution, in the words following, to wit: "The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor exempted from any burden or duty, on account of race, color, or previous condition," shall never be repealed or changed; that any violation by said State of the terms of this condition shall authorize the exclusion of said State from representation in either House of Congress so long as such violation continues; and that all laws or ordinances enacted or ordained in said State in contravention of this fundamental condition shall be wholly inoperative therein.

SEC. 2. And be it further enacted, That upon the passage of such an act by the Legislature of said State legally authenticated copies thereof shall be transmitted to the President of the Senate and the Speaker of the House of Representatives, and by them laid before the Congress, and if declared by a concurrent vote of both Houses to be in accordance with this act, the said State shall be admitted to representation in Congress as one of the States of the Union.

Mr. DRAKE. Mr. President, I deem it proper to say a few words in explanation of this amendment. I do not propose to go into any extended remarks upon it, nor in any way to occupy the attention of the Senate for any length of time in connection with it or with the original bill.

I desire it to be understood, sir, in the outset, that the amendment is not offered in antagonism to the bill, but for the purpose of putting the bill, as I conceive, in a better shape. As it came from the House of Representatives the bill contains a fundamental condition intended to secure a certain great object in connection with the admission of Arkansas to representa-

tion in Congress. The reason of my offering the amendment now before the Senate is that the bill as it came from the House of Representatives seems to me to be inefficient in accomplishing the object which it bears upon its face.

I make these remarks, sir, in order that the Committee on the Judiciary, to whom the bill was referred here, and who reported it back without amendment, may understand my purpose in offering the amendment.

In the first place, Mr. President, on the general ground of imposing fundamental conditions on the admission of States to representation in Congress, I take it for granted that the practice of the Government for more than fifty years on that subject establishes the right of Congress to impose such conditions, and that that right can hardly become the subject of argument here in connection with this bill. A prominent and well-known instance in which that was done in reference to the constitution of a State to be admitted was in 1821, in regard to Missouri; and again it was done when the State of Nevada was admitted, and again within the last eighteen months when the State of Nebraska was admitted.

In view of these precedents, I do not undertake to make any remarks further upon the right of Congress to impose fundamental conditions to the admission of any State; and I proceed now to show very briefly wherein this bill as it came from the House of Representatives appears to me to be insufficient for the purpose it was intended to subserve.

In the first place, the fundamental condition is imposed on the State of Arkansas without, as in previous instances of a like kind, the assent of that State being required to be signified to it. If the State shall be admitted without signifying by formal act its assent to the fundamental condition, the door will be left open in the future for it to deny that it ever did assent to the fundamental condition or that it is in any wise bound by it. I do not wish to leave that door open for future difficulty; and therefore the amendment which I propose requires the Legislature of that State, as in the case of Nebraska, to assent to the fundamental condition precedent to her admission to representation in Congress.

Again, the bill as it stands says "that the constitution of Arkansas shall never be so amended or changed as to deprive any citizen, or class of citizens, of the United States of the right to vote who are entitled to vote by the constitution herein recognized." Now, let us look at that constitution. The bill as it stands protects only citizens of the United States. The constitution adopted by Arkansas provides for persons who have declared their intention to become citizens of the United States being entitled to the right to vote; therefore the bill offers no protection whatever to them. Hence it may be considered as in some sense antagonistic to the very constitution which it is intended to affirm.

Again, it applies only to "citizens of the United States" when the Constitution says that "every male person born in the United States;" it does not say "citizens" of the United States, but "every male person born in the United States, and every male person who has been naturalized," &c. I wish that the act admitting the State into the Union should be in its terms coextensive with the constitutional provision of Arkansas with regard to the elective franchise; and when the people of that State say that every male person born within the United States shall have the right to vote, I do not wish that the act itself should confine its terms to persons comprised within the class of those known as citizens, because if we restrict it to citizens of the United States the question may be sprung in that State hereafter whether colored people born in the United States are citizens, and I do not wish to leave any such question open.

If it be answered that an act of Congress declares that they are citizens, I reply that that act of Congress will be of no avail what-

ever before the State courts of Arkansas if that State should ever come under the control of those who were engaged in the rebellion. I do not wish to leave that question open; and, therefore, sir, the amendment that I have drawn says that the constitution "shall never be so amended or changed as to deprive any one of the right to vote," &c. That comports with the language of the Arkansas constitution. The act as it stands, in my opinion, does not.

But, sir, there is another objection to the condition contained in the bill, and that is that the condition says that the constitution shall not be so amended or changed "as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized." That phraseology, "who are entitled to vote," may be held to mean those that are now entitled to vote, and not those that may hereafter become so entitled. In order to obviate the difficulty which may grow out of the attempt to disfranchise men there who become voters after this bill shall pass, my amendment provides that the protection shall extend to all those who may hereafter become by this constitution entitled to vote, as well as to those now entitled.

There is still another objection to the condition as expressed in the bill, and that is in the exception as to the punishment for crime. The bill authorizes men to be deprived of the right to vote "as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted." There is one fundamental defect in that, and that is that there is no requirement that the laws under which men shall be duly convicted of these crimes shall be equally applicable to all the inhabitants of the State. It is a very easy thing in a State to make one set of laws applicable to white men, and another set of laws applicable to colored men. I saw it stated in a paper recently in such an authoritative manner that I have no doubt of its truth, that in the State of Florida, at this time, a negro who commits an assault and battery upon a white man may be sold into slavery for a period of twenty years, and that negroes have been sold into slavery there for jostling white men upon the sidewalks of the streets.

Mr. CONKLING. Was that a felony?

Mr. DRAKE. They may declare it to be a felony or they may make other offenses felonies. I only cite this as an illustration of the spirit of the legislation of these States if they ever come under rebel control again, that one punishment is to be meted out to a white man and another punishment to a negro. I wish to guard against that, and that is guarded against in the amendment which I propose by declaring that those laws shall be equally applicable to all the inhabitants of the State.

These, Mr. President, are the points on which I object to this bill as it stands; but there is one very much greater point than any of these, behind the whole, and that is, that there is no sanction whatever to this fundamental condition. If you pass the bill as it stands now, and the State of Arkansas chooses to violate the fundamental condition, what are you going to do to it? Where is the recourse? Will you go into the courts of that State if they should have fallen under rebel control again? What rights would any loyal man get in the courts of that State? If you look at it as a political question, what recourse has Congress or the nation for a violation of this fundamental condition? There is the great defect of the bill, in my judgment. I wish to guard that thing, and therefore it is that the amendment which I propose provides "that any violation by said State of the terms of this condition shall authorize the exclusion of said State from representation in either House of Congress so long as such violation continues." That is the only guarantee I know of that Congress has it in its power to impose now for the observance of this fundamental condition. If any other can be presented by any Senator that will be more efficient I will most gladly adopt

it; but that we ought not to pass a bill containing a fundamental condition which must look forward to the long future to protect the rights of men without having some means of enforcement of the condition, or in the absence of the means of enforcement of it by penalty, that we should have some means of making the State of Arkansas feel that it must stand up to its engagements, I trust that every Senator on this floor will agree with me.

There is another feature in the amendment which I have offered that I think should become a part of the condition, and that is, that the third section of the first article of the constitution of Arkansas shall never be changed or repealed. That section is in the declaration of rights, and declares that—

"The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor exempted from any burden or duty on account of race, color, or previous condition."

The people of Arkansas have laid the foundations of their new government upon that cornerstone, and I hold that it is one which the Congress of the United States should have so planted within the constitution of that State that it can never be removed, that it should be the sheet-anchor of the safety of all the colored race in that State in all the future.

These, Mr. President, are the features of the first section of the amendment. The second section prescribes merely the manner in which the assent of this State shall be brought to the knowledge of Congress, by sending a copy of the act of the Legislature assenting to this fundamental condition to the Presiding Officers of the two Houses of Congress; and then, when the fundamental condition shall have been agreed to and made known to Congress in that way, the two Houses, by a concurrent resolution requiring no presidential sanction, shall admit them to their seats in the two Houses.

Mr. EDMUNDS. Will my friend permit me to ask him a question?

Mr. DRAKE. Certainly.

Mr. EDMUNDS. I wish to inquire of my friend from Missouri whether the only powers that the Legislature have are not derived from this very constitution now adopted by the State of Arkansas?

Mr. DRAKE. I suppose so.

Mr. EDMUNDS. That being so, as of course it is, what authority have the Legislature to agree to any change or fundamental condition touching that constitution?

Mr. DRAKE. I do not propose, sir, in this amendment that the Legislature of the State of Arkansas shall assent to any change of the constitution. The proposition is that certain features of the constitution shall not be changed.

Mr. EDMUNDS. What is the difference?

Mr. DRAKE. A great deal of difference. One is to sweep away and the other is to make fast.

Mr. EDMUNDS. Is not the principle the same?

Mr. DRAKE. I think not by any means. Now, sir, if the question of the honorable Senator from Vermont looks to the matter of denying the capacity of Congress here in this manner to make any contract or agreement with the State of Arkansas about this matter—

Mr. EDMUNDS. Oh, no; not by any means.

Mr. DRAKE. If it looks to denying the capacity of Congress to make any agreement, or any such agreement as is contemplated in the original bill, and as is contemplated in my amendment, then all I have to say is that if the two Houses of Congress should take that view of it and refuse to impose this condition I shall then insist upon it, so far as my action is concerned, that the State of Arkansas shall not be again admitted to representation in the two Houses of Congress.

Mr. EDMUNDS. My friend will permit me to say, so that I may not be misunderstood, that I agree with him as to the propriety of imposing such conditions as we think are wise, and I agree with him as to the power of

Congress to impose them. The only difficulty I had was as to the question whether the assent of the Legislature of Arkansas, being a mere creature of the constitution, would make it any stronger. I do not know but that it would; and I rose for the purpose of getting information about that point.

Mr. DRAKE. The constitution of Arkansas says that the whole "legislative power in this State shall be vested in a General Assembly." I take it that there is nothing clearer in constitutional law than that the Legislature of a State, the body having the whole legislative power of the State, has the right to bind the State by compact or agreement.

Mr. EDMUNDS. In violation of its constitution?

Mr. DRAKE. Not in violation of its constitution; of course not; but in support of its constitution; and that is exactly the thing that I wish that Legislature to do now, to support its constitution; not to violate it or take out of it any of its provisions, but to declare that those provisions there which protect the colored man, which guarantee his civil and political rights to him, shall remain inviolate; shall not be open to repeal.

Mr. STEWART. I would like to inquire of the Senator from Missouri if we have not a precedent where a provision in a State constitution was virtually abrogated by a compact of this kind, in the case of his own State? There, I believe Congress admitted the State upon condition that a certain provision of its constitution which provided that no persons of color should come within the State, should never be enforced, and the Legislature of Missouri were required to pass an ordinance agreeing to that condition upon the admission of the State, if I recollect aright.

Mr. DRAKE. Yes, sir; the Senator is correct; and as the discussion seems to be drifting in that direction, though I do not wish to prolong it, I will read the resolution for the admission of Missouri into the Union:

*"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Missouri shall be admitted into this Union on an equal footing with the original States in all respects whatever, upon the fundamental condition that the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said State to Congress shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto by which any citizen of either of the States in the Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States: Provided, That the Legislature of the said State, by a solemn public act, shall declare the assent of the said State to the said fundamental condition, and shall transmit to the President of the United States, on or before the fourth Monday in November next, an authentic copy of the said act; upon the receipt whereof the President, by proclamation, shall announce the fact; whereupon, and without any further proceeding on the part of Congress, the admission of the said State into this Union shall be considered as complete."*

And now, Mr. President, that that matter is up, I may as well refer to the act to enable the people of Nevada to form a constitution and State government, wherein it is provided:

*"Whereupon the said convention shall be, and it is hereby, authorized to form a constitution and State government for said Territory: Provided, That the constitution, when formed, shall be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence: And provided further, That said convention shall provide, by an ordinance irrevocable, without the consent of the United States and the people of said State: First, That there shall be neither slavery nor involuntary servitude in the said State, otherwise than in the punishment of crimes whereof the party shall have been duly convicted. Second, That perfect toleration of religious sentiment shall be secured, and no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship."*

Similar provisions were required to be incorporated in the constitution of Nebraska, and after that constitution was adopted and presented here an act was passed admitting Nebraska upon condition that a certain matter should be agreed to by the Legislature of that State. Unfortunately I have not that act before me at this moment; but it is quite familiar to all the members of the Senate.

Then, sir, the requirement upon a State to agree, through its Legislature, to a fundamental condition, and the recognition of the right of the State, through its Legislature, to agree to that fundamental condition, is a thing that has been heretofore established by the practice of the Government, and it does not seem to me now to be open to question.

As I said, Mr. President, I do not desire to go into any extended debate upon this subject. I have stated the points of objection to the original bill, all of which I have endeavored to obviate in the amendment which I propose, and I will finally now call the attention of the Senate to one single view. That is, that if there is any objection whatever made to the right of Congress to impose a fundamental condition upon this State in the form in which I have stated it in my amendment, the objection lies equally well to the original bill. The whole object of my amendment is to put that in a firm and grappling and enduring condition, which now seems to me in the original bill to be at loose ends, without any sanction and without any effective power.

Mr. TRUMBULL. Mr. President, I do not understand that the Senator from Missouri [Mr. DRAKE] offers his amendment in any hostile disposition toward this bill; but rather that he is in favor of the recognition of the State government in Arkansas which has recently been organized. The effect of his amendment, however, will only be delay; and, as I think, it will accomplish no great good, and I may say no good. This thing of imposing conditions upon States which are to be admitted into the Union when new States are formed out of Territories, or imposing conditions upon State governments which are now being organized in States where the old State governments were overthrown and destroyed by the rebellion, is attended with great difficulties. The Senator from Missouri supposes that he obviates these difficulties by putting into his amendment a sanction to the law which he proposes to enact now on recognizing this State government in Arkansas; but the Congress of the United States would have as much power without this sanction as with it. It is impossible by any act of Congress passed now to give to a Congress which shall assemble hereafter any other powers than it would have without it. And this provision in the Senator's amendment, "that any violation by said State of the terms of this condition shall authorize the exclusion of said State from representation in either House of Congress so long as such violation continues," gives no additional power to a subsequent Congress. Any Congress would have just as much power to deny representation to any of these States without this enactment as with it.

The Senator proposes to make valid and forever binding this clause in the constitution of Arkansas:

*"The equality of all persons before the law is recognized, and shall ever remain inviolate; nor shall any citizen ever be deprived of any right, privilege, or immunity, nor exempted from any burden or duty on account of race, color, or previous condition."*

That is a clause in the constitution as made in convention by the people of Arkansas. It is a clause in the constitution as ratified by a popular vote of the people of that State, and now the Senator from Missouri says, "I am not satisfied with that; I want the Legislature to sanction it." Why, sir, the Legislature which assembles under this constitution is bound by that; it cannot, if it would, pass any law in violation of it which would have the least validity. It would be no sanction to ask the Legislature to ratify it!

Mr. STEWART. I should like to inquire of the Senator his opinion upon the compact that was made between the United States and Missouri as to one clause in the constitution of Missouri providing that persons of color should not enter the State. The resolution read by the Senator from Missouri, by which Missouri was admitted, provided that the State should be admitted upon the express condition

that the Legislature should pass a resolution declaring that that provision of the constitution should be in effect a nullity. That was to put out of the constitution a provision that was in. I should like to inquire of the Senator whether he regards that compact as binding?

Mr. TRUMBULL. Mr. President, as I said, this thing of imposing conditions upon States is attended with a great deal of difficulty, and has never had a practical demonstration as to how it is to operate. If the Senator from Nevada wishes my opinion, it is that that clause in the constitution of Missouri was utterly void under the Constitution of the United States, which gives to every citizen of every State the rights and immunities belonging to citizens in each State.

Mr. EDMUNDS. But *Groves vs. Slaughter*, the Mississippi case, decided that each State had a right to exclude a particular class of individuals. The Supreme Court is against you on that point.

Mr. TRUMBULL. I do not understand the case to which the Senator from Vermont refers; I am not aware that the Supreme Court of the United States has ever decided that a State has a right to exclude citizens of another State.

Mr. EDMUNDS. The case that I allude to is the Mississippi case, where they said that the Legislature of a State, by its laws, had a right to exclude such class of persons as it thought the immigration of would be injurious to its policy, and, therefore, that the Legislature of Mississippi had a right to exclude the introduction of persons who were held to servitude in another State. It did not turn there upon the question of citizenship, it is true.

Mr. TRUMBULL. It did not turn upon the question of citizenship, but it turned rather upon the question of a State's right to regulate its own affairs. I suppose it has that power to keep out paupers or convicts.

Mr. EDMUNDS. They are citizens.

Mr. TRUMBULL. It did not turn upon the question of citizenship. You may deprive a citizen of his liberty for crime. The decision there—although I am not familiar with it—I apprehend, did not turn at all on the question of the rights of citizens.

Mr. CONNESS. My impression of the decision is that it held that the State was to be the judge of who should live within its limits and who were dangerous to the peace of its society; that under the police power, of which it made the State the judge, citizens might be excluded.

Mr. TRUMBULL. But we have a clause now which is much larger in its operation than the clause in the original constitution, and the Senator from Missouri will see that it is a perfect answer to one of his suggestions. He suggested that the question might hereafter arise whether colored people were citizens in Arkansas. That question is settled by the fourteenth amendment. We are only recognizing these State governments on condition of the fourteenth amendment being ratified; and, whether it is already ratified or not, practically the Senator from Missouri knows, as all do, that it will shortly be ratified by the requisite number of States. Some think it is already ratified, and I am not prepared to say that they are not correct in that opinion; but, whether so or not, we are only recognizing these State governments in the rebel States now on the express condition of their giving their sanction to the fourteenth amendment. The fourteenth amendment contains this clause, which forever settles the question of citizenship throughout the United States:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside."

That settles that question.

Mr. DRAKE. Will the Senator allow me to suggest one point to him there not covered by his remark? The constitution of Arkansas extends the right of suffrage to aliens who have declared their intention to become citizens of

the United States, and as the bill stands now it gives them no protection while my amendment does.

Mr. TRUMBULL. I will reply to that by asking the Senator from Missouri if he really wants to put as a fundamental condition in the constitution of the State of Arkansas, which can never be changed, that aliens on a six months' residence shall vote? I hope they will change it. I do not believe it is a wise provision to put in the constitution. I think that citizenship should be required as a requisite to the right of suffrage. The right of suffrage is a great right. I am not prepared to say that it was not a wise policy in the early settlement of the Territories, and perhaps in some of the new States, to allow persons to vote who had declared their intention to become citizens. That was formerly a provision of the constitution of my own State; but twenty years ago the people of Illinois held a convention and remodeled their constitution, and they changed this feature from a six months' residence of a foreigner to citizenship. Now, no one votes in the State of Illinois who is not a citizen of the United States. And, if for no other reason, I should be opposed to the amendment of the Senator from Missouri for the very reason that it imposes a condition upon the people of Arkansas which will forever compel them to allow a foreigner on a six months' residence to vote. I should not want to impose such a condition.

Now, sir, as to these fundamental conditions as they are called, I shall express no decided opinion in regard to them one way or the other. "Sufficient unto the day is the evil thereof." When the time comes that any of the States of this Union so change their constitutions as to set up something different from a republican government, the Government of the United States may interfere; but the State of Arkansas, when admitted to representation here, will be admitted to representation on the same terms and conditions that the State of Illinois was admitted to representation; on the same terms and conditions as the State of Missouri and all the other States of this Union. These States, all of them, under the Constitution, regulate suffrage for themselves. We can provide, and we have wisely provided, in my judgment, in the reorganization of State governments in the recently rebellious region, that all the male citizens of those States twenty-one years of age should participate. We had the right to do that, and we have a right to refuse to recognize these State governments until they come here with constitutions acceptable to Congress. I agree to that; and if this constitution is not acceptable in the shape they have presented it here, there is no obligation on us to recognize this State government. If it were a Territory; if the Territory of Colorado or Utah or any of the other Territories comes and asks for admission into the Union as a State on equal terms with the original States, it is for Congress in its discretion to admit them or not. The language of the Constitution is that Congress may admit new States into the Union. Congress is not bound to do it; but when they are admitted, then they assume the position of States on an equal footing with the other States; and I think very little is to be gained by inserting these clauses which we have inserted of late years in the various laws admitting new States.

I am not prepared to say what steps should be taken in case the State of Nebraska should hereafter change its constitution, and in that change adopt a different rule in regard to suffrage from that which was recognized at the time the State was admitted. Perhaps we could find some way to compel the State of Nebraska to allow the same persons to vote that it agreed it would allow to vote when it was admitted into the Union; but we should have to find that way out then; we cannot provide for it now.

If I were to consult my own views entirely, Mr. President, I should be willing to recognize the government which has been set up in Arkansas, or the constitution as they have framed

it. They have provided in that constitution for equal suffrage to all the inhabitants of the State, without reference to color or class, or anything of the kind. I am satisfied with that provision. It will require a change of their constitution to alter it, and I do not think any law we may now pass will be likely to prevent the people of Arkansas from changing their constitution. What will prevent it? What is the safety against a change of the constitution in Arkansas and the subjection of the colored people of that State to slavery again? What is the real protection? The real protection is to be found in the freedom we have given them, and the ballot we have given them in the organization of the State government. They have got it now, and they will not give it up. They will protect themselves. There is where the real protection is to be found. We have struck the shackles from all these slaves; we have made them freemen; we have armed them with the ballot. They have gone to the polls; they have helped to frame the constitution; they have ratified it when framed.

They constitute a large portion of the population in all these States. And, sir, their real protection is in their own hands and in these constitutional amendments which have been adopted that protect them in their freedom, protect them in their citizenship; and Congress will have such power as under the Constitution belongs to it, whether you undertake to reserve it in this act of admission or not.

I am aware that the bill as it came from the House contains the principle of declaring a fundamental condition, and I am not objecting to it. I do not mean to be understood in the Senate as objecting to it, because I expect to vote for the bill. I merely say that I have very little faith in these provisions. I am willing, however, to let the provision remain in the bill, and let us have such benefit as can be derived from it. But I do not think we are to gain a sufficient advantage to justify us in sending the bill back to the House of Representatives in order to get the Legislature of Arkansas to ratify what the Constitution has already provided and the people have already adopted!

The bill, as it came from the House of Representatives, provides "that the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution" which has been framed. We declare that in the law.

Mr. DRAKE. Suppose they change it?

Mr. TRUMBULL. Suppose they do change it, what then? The Senator from Missouri says, "Let us get the Legislature to agree that they will not change it; that it shall be a fundamental condition." Suppose the Legislature does change it, or that the people change it hereafter, notwithstanding the declaration of the Legislature, what are you going to do about it? The Senator from Missouri says, "I will put it in the bill that Congress shall have the power to deny them representation." Would Congress not have the power without your putting it in the bill?

Mr. DRAKE. That is not certain.

Mr. TRUMBULL. If they have it by your putting it in the bill they would have it without. Really, then, I do not see that we are to gain anything particularly by the amendment of the Senator from Missouri. I have no very special objection to it. The Senator from Missouri will not understand me as supposing that it presents any insurmountable objection to my mind; but the value of it does not strike me as so great as to justify us in delaying the bill to incorporate it.

Mr. MORTON. Mr. President, I should like to inquire what is to be the practical advantage to result from the amendment of the Senator from Missouri. He seeks to impose a fundamental condition upon the people of Arkansas, that they shall never amend their constitution in regard to suffrage so as to take it away from any class of persons who have it by the constitution as now framed. This is



emphatically a fundamental condition by which all future generations are to be denied the power of amending their constitution in that way. I should like to ask that learned Senator how the Legislature of Arkansas, that is not an organic body, but is merely the creature of this same new constitution, can impose a fundamental condition upon the people of that State. Sir, it is not possible; a fundamental condition can only be imposed, if they otherwise have the power, by the people in their primary capacity, acting in the form of a constitutional convention, or in some other primary way. A Legislature that has merely the ordinary powers of legislation, that is not a primary body, but is the creature simply of the constitution, cannot impose a fundamental condition upon the people of the State.

Now, sir, how does this very constitution provide for amending itself? It provides that in order to adopt an amendment it shall be voted by the Legislature by a two-thirds majority, and then it shall be advertised three months before the next election, and then the succeeding Legislature shall also pass it by a two-thirds majority, and after that it shall be submitted to the people, and if ratified by a majority of the electors it shall then become a provision of the constitution. That is the only way it can be amended according to its own provisions; but the amendment of the Senator from Missouri would provide for attaching a fundamental condition more binding than any other part of that constitution, because it is to be obligatory for all time, by a mere Legislature which is a creature of the constitution and has no other powers than those of ordinary legislation. Sir, any compact formed in that way is not worth the paper it is written on. It seems to me, with all due respect to my learned friend, that it is too plain a proposition to argue.

Mr. President, while these States were in their deranged and disordered condition, resulting from the rebellion, their governments gone, we had a right to come in and reconstruct republican governments by any means that were necessary and proper for that purpose. We had a right to use the instrumentality of the colored vote for that purpose, to enfranchise that race as a means of reconstructing and establishing governments there. We have done that; but when these States are admitted, when they have complied with all our conditions and come back and are received, then they stand upon the same platform with every other State in the Union; they have every right and every power that belongs to every other State.

The right to regulate the question of suffrage belongs to the States under the Constitution. It has been recognized as belonging to the several States ever since the foundation of the Government. And, sir, another right belongs to the States; and what is that? It is that the States have a right to alter and amend their constitutions at pleasure, so that they do not change their republican character. The State of Arkansas will have the same right to assemble the people in convention from time to time and to alter and amend their constitution as they see proper that Illinois and New York have; and the State of Arkansas will have the same power to regulate the question of suffrage that the State of New York has, unquestionably. If these rights belong to the State when she comes in under the Constitution of the United States, I ask how can they be taken from her by a compact agreed to by her State Legislature?

Mr. CONKLING, How can they be taken from her at all?

Mr. MORTON. I am just coming to that question. I say the idea of their being taken from her by a compact made by her State Legislature, it seems to me, cannot be argued successfully for a moment; and I now come to the question of fundamental conditions in general. I have always had a very decided opinion upon that subject ever since I have been a student of the Constitution; and that is, that this Government has no right, and it

has no power, to impose a fundamental condition on any State by which that State parts with any right which it has under the Constitution of the United States. A State cannot alienate her rights under the Constitution of the United States any more than a man can alienate those great natural rights that belong to him. What nature is to us in regard to our rights the Constitution is in regard to artificial States; and if a State has a right under the Constitution of the United States to regulate the question of suffrage that right cannot be alienated, bartered, or compacted away by any State. I contend that every State has the right to regulate the question of suffrage and to amend her Constitution in any particular from time to time, so that it does not cease to be republican in its character.

Mr. EDMUNDS. Who is to judge of that?

Mr. MORTON. I suppose that is a question to be judged of by Congress. There is nothing peculiar in that regard in respect to suffrage; but the question is, how can any State by compact part with any constitutional right without destroying the equality of the States before the law. You make it a condition on Arkansas that she shall part with the right to regulate the question of suffrage in a certain way; you make it a condition on Colorado that she shall part with another right; you make it a condition with Montana, when she comes in, that she shall part with some other right that would belong to her under the Constitution, and thus you have one State that is not equal to the others because there is right compacted away, and another State unequal to the rest because another right is compacted away, and thus the equality of the States before the Constitution and the law is destroyed.

Sir, there is but one security and there is but one regulation on this subject, and that is that the several States shall not so alter or amend their constitutions as to cease to be republican in form. That is provided in the Constitution itself.

Mr. STEWART. Mr. President, I have some faith in these compacts. I believe that certain things may be contracted between the General Government and the States. In the first place, we have the uniform practice of the Government in favor of that idea. In the admission of nearly all the new States there are certain conditions; one which is common to all of them is that the property of non-residents shall not be taxed higher than the property of residents.

Mr. MORTON. If the Senator from Nevada will allow me, I should like to say one word on that point. I intended to mention it—it was in my mind—but that is certainly not a parallel case, because the question of taxation is one that is legitimately within the control of the Legislature, and it is not a fundamental condition that goes to any question of forming a constitution. After being in the Union the Legislature can perhaps make a contract with the General Government on the question of taxing certain property, as any other contract can be made. The Legislature has the power to make contracts in regard to matters within legislative control, and the question of taxation is within legislative control, but the question of saying that a State shall never amend its constitution upon a certain question fundamental in its character is not within legislative control.

Mr. STEWART. Mr. President, I know of no quality of sovereignty of a higher character than the power to tax. I believe that is one of the highest attributes of sovereignty—the power to tax the people; to take their property for public use; and that has been regulated by compact with regard to a great many States. There are other things that have been regulated by compact. The instance of Missouri which has been referred to was a regulation by compact. I concur with the Senator from Indiana to this extent—I wish to be understood—that any compact which is within the purview of the Constitution of the United States, which is in harmony with its principles

and provisions that the State and the General Government agree to, may be carried out. The compacts which have been made heretofore have been carried out for years. When a State has made any one of these arrangements with the General Government she has never attempted to violate it. Missouri did not; and none of the other States have violated the compacts made in regard to taxation. A contract in violation of the Constitution of the United States or that would impair the legitimate functions of a State, of course would not be binding. A compact that would make the Government anti-republican in form, a compact between the State and the General Government which would allow the State to set up a king and become a monarchy, would of course be a nullity; but a compact that it should be intensely republican in form, in the full spirit and meaning of that term, and should ingraft on its fundamental law the principles of the Declaration of Independence, would be so in harmony with the spirit of the Federal Constitution that, if both parties agreed to it, it seems to me, it would be likely to be recognized and enforced as these other compacts have been. It would be a pledge of good faith such as no State has hitherto seen fit to violate or thought itself degraded by accepting with regard to taxation and with regard to a great many other questions.

Such compacts have been made with regard to the question of slavery, which was peculiarly a State institution. Before the abolition of slavery by the constitutional amendment, Congress imposed upon several States, as a fundamental condition in their constitutions, that slavery should never be tolerated. That was done in regard to Nevada before the abolition of slavery by the constitutional amendment, and was acquiesced in. A compact of this kind, which is in favor of liberty and humanity, is not likely to be violated.

I do not know that any provision we may make now would materially increase the remedy that Congress would have over the question, because if the Government of the United States must guaranty to each State a republican form of government, the general power being granted to the Government of the United States to do this, and Congress having authority to carry into execution the general powers granted to the Government, Congress in carrying out the general power must be the judge of the means to be employed. If one of these compacts should be violated, and violated in such a manner as to render the State anti-republican, or to overthrow the republican principle, Congress then would have power to interfere with or without such a fundamental condition being inserted in the act of admission. But if the State, on being admitted to representation, had pledged the honor of the State not to violate that principle, it might be a more marked case. Their attention having been thus particularly called to it, Congress might be justified in acting more rapidly and upon less evidence than it would if the fundamental condition had been omitted originally.

Upon the question of suffrage, I think that almost everybody is a little wrong as to the power of the States. I do not believe that it is exclusively with Congress or exclusively with the States. I believe the power to regulate suffrage is with the States; the mere matter of regulating it has been with them in practice; but if you mean by the power of regulating it the power to take it away and create an oligarchy, that power is not with the States. When they attempt that, the Government of the United States is bound to interfere. I concur fully that the power to regulate suffrage is with the States; but the power to create an oligarchy is not in the States. The power of regulation may be abused by the States so as to call on Congress to interfere. So with any other power that a State may have; it may be so abused as to destroy the republican form of its government, and in that case Congress should interfere.

As to these compacts, I say if they are in

harmony with the Constitution and carry out the general principles of free government it is well to declare them, well to put them in, because they have been universally respected; they never have been violated, and will not be violated. It is not the question what remedy you are to have, but the fact that they have been universally respected is some guarantee that they will be hereafter respected; and a proper fundamental condition, calling the attention of the State at the time it is admitted, to the fact that the Government of the United States expects that it will maintain good faith toward all its citizens as a compact with the General Government, is certainly of some use as a declaration of a principle. I do not know; however, that the amendment of the Senator from Missouri is materially better than the original bill.

Mr. CONKLING. Will the Senator allow me to ask him a question?

Mr. STEWART. Certainly.

Mr. CONKLING. Do I understand him to say that in the history of what he terms fundamental compacts it has never occurred that States have refused to recognize them and to be bound by them?

Mr. STEWART. I think it has occurred in the case of the rebellion.

Mr. CONKLING. No; I speak of long before the rebellion. Does not the Senator remember that States have utterly refused to be bound by such compacts, have denied that they had any validity whatever; and does he not know that the question thus made has been carried to the courts?

Mr. POMEROY. In the Missouri case.

Mr. STEWART. The Missouri case was not carried to the courts. I know that under the doctrine of secession the States in the South have violated their compacts.

Mr. CONKLING. I do not speak of the doctrine of secession, but take for example the Alabama case—

Mr. JOHNSON. Pollard's Lessee vs. Hagan.

Mr. CONKLING. The Mobile case, Pollard's Lessee vs. Hagan, and the other cases of the same kind, for that is not the only one; are they not cases where States have refused entirely, after becoming States, to be bound by such compacts, taking the ground that all preliminary arrangements of this kind expired and were dissolved by the fact of statehood accruing?

Mr. EDMUNDS. The case of Pollard's Lessee vs. Hagan did not raise the question necessarily.

Mr. CONKLING. But they discussed the question in that case. I should like to know, if the Senator from Nevada will be good enough to inform us, where the case is that has been treated by the courts, in which it has been said that such a compact could be enforced anywhere.

Mr. STEWART. I do not think that the matter has generally gone before the courts. These questions have not gone before the courts, because in a majority of cases the compacts have been carried out. There may be one or two exceptions in the South under the strong States' rights notions there prevailing, where they denied the binding validity of a compact made on coming into the Union, or indeed their binding obligation to the Union at all. But I am speaking of most of the western States, where they have admitted the validity of these compacts and have acquiesced in all their conditions. In the case of Missouri the question did not come before the courts; it was not raised. The propriety of these conditions was generally acquiesced in, and the precedent is of some value for that reason.

Mr. CONKLING. The Senator from Nevada will pardon me for interposing again. I do not wish to interfere with him; but we are discussing this matter for the sake of light, no doubt, and it is a question upon which a great deal can be said on both sides. The Senator affirms that there are many instances, old and new, in which this has been done, and in which respect has been paid to it when done. He

says that was true in the case of Missouri. Now, I think I cannot be mistaken in my recollection that the provision in the Missouri case which he refers to was defended upon the ground that without any such provision such a law as was inhibited would be void because repugnant to the Constitution of the United States; and the argument was, "This is only an assertion, it is only an affirmation, of the force and effect of the Constitution of the United States." Passing by the Missouri case, until we come to a very recent period, I know of no compacts in our history of this sort except those compacts relating to the public lands, for a reason special there which the courts pointed out and which we can all point out, and those relating to the taxation of non-residents, distinguishable entirely from this case for reasons which have also been pointed out in the decisions to which I make reference. Except these cases—the Missouri case, special in the way I suggest, and the other cases, special for their own reasons—I recollect no example of this sort until we come down to the State represented by the Senator himself; I think that came first.

Mr. STEWART. Nebraska.

Mr. CONKLING. No; Nebraska followed; that was later. In these cases—I speak now of Nebraska particularly—there was such a fundamental compact as we are talking about. The question has never been raised as to its validity; but my recollection is, speaking of this body, that the oldest lawyers in it denounced the proposition, I might say vehemently, and those lawyers of the Senate who are known in the phraseology of the day as being Radical especially, if I remember, were among those who scouted the idea of imposing upon Nebraska any valid obligation by what was there adopted and termed a fundamental compact. So that in these two cases, Nevada and Nebraska, which in my recollection stand alone as illustrations of what we are discussing, we have the assertion of a large number of the members of this body that it was mere blank paper, and we have a debate in the two Houses which certainly is not calculated to give confidence to the proposition or to prove that confidence was felt by those who attempted it, and we have nothing in the courts or anywhere else recognizing it. So that I think the Senator ought to subtract a little from what he says when he speaks of the respect due to the usage in this particular of the Government—the respect due to the fact that this has been done and repeated and gone unchallenged, receiving at least that measure of respect. I confess I do not so understand it.

Mr. STEWART. I should like the Senator, before he takes his seat, to state the particular point of the exception he alludes to in Alabama. I think the rule is more general than the exception. I should like to know what was the particular point in the Alabama case, as the Senator recollects it.

Mr. CONKLING. The general point, as I recollect it, in the Alabama case—I have not looked at it recently—was this: the State of Alabama came in upon a compact agreeing, among other things, that the navigable waters in the State should forever remain public highways; and a question arose between individuals afterward whether, by virtue of that, anybody took or anybody lost a right; and although there were other points in judgment, although the case may be criticised, yet the judges, in writing, (and several of them wrote), discussed the question very fully, and held that such an agreement as that was dissolved and determined by the acquisition of statehood for the reason stated—I think with great clearness—just now by the honorable Senator from Indiana, [Mr. MORRIS,] that the equality of the States forbade any such hampering, and that a State burst the ligaments of that sort by which in its territorial condition it had been bound the moment it acceded to the condition of a State.

Mr. HENDERSON. With the permission of the Senator, I have the case in my hand and

will read an extract from it. The condition in the case of Alabama was in these words:

"That all navigable waters within the said State shall forever remain public highways, free to the citizens of said State and of the United States, without any tax, duty, impost, or toll therefor imposed by said State."

The decision of the Supreme Court is in these words:

"The provision of the Constitution above referred to shows that no such power can be exercised by the United States within a State. Such a power is not only repugnant to the Constitution, but it is inconsistent with the spirit and intention of the deeds of cession."—*Pollard's Lessee vs. Hagan et al.*, 3 Howard, p. 224.

Mr. EDMUNDS. Which opinion are you reading from?

Mr. HENDERSON. The opinion of Mr. Justice McKinley, who delivered the opinion of the court.

Mr. CONKLING. While the Senator from Nevada is looking at the book, let me make an inquiry of my honorable friend from Missouri, [Mr. HENDERSON.] He does not intend that we shall understand that the court did not say in its opinion very distinctly that the fundamental compact there was for that purpose void?

Mr. HENDERSON. That it could not take away any of the rights of a State enjoyed under the Constitution of the United States; that each and every State was upon an equal footing, and must be, after admission.

Mr. CONKLING. So that by parity of reasoning, in this case, if, by the Constitution of the United States, the regulation of suffrage is one of the functions and prerogatives of a State, a fundamental compact impinging upon that would be on all fours with the fundamental compact there discussed.

Mr. HENDERSON. That is the inference the Senator draws from it.

The PRESIDENT *pro tempore*. The Senator from Nevada [Mr. STEWART] is entitled to the floor.

Mr. EDMUNDS. If my friend from Nevada will permit me, while he is looking at that case, to come into this ring—

Mr. STEWART. I shall come in after a while. [Laughter.]

Mr. EDMUNDS. I do not want to interrupt the Senator.

Mr. STEWART. It is no interruption.

Mr. EDMUNDS. I want to call the attention of the Senate and of my friends from New York and Missouri, who have rather strange notions about this case, to what the case really was. In the first place, the territory was ceded by the State of Georgia and some of the other States to the United States, and one of the conditions of that cession was as follows:

"Upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent of territory, not less than one hundred nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit, and the States so formed shall be republican States and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence as the other States."

That was the original compact between the State of Georgia, which made the cession, and the United States. The Supreme Court decided that any regulation of Congress or agreement between Congress and the authorities of a new State, formed in that territory, limiting the powers of the State, would be in violation of that original compact; and therefore they held that if any such regulation had been made it would have been void; but they proceeded to decide that no such regulation had been made; that the compact between the United States and the State of Alabama, when she was admitted, retaining jurisdiction over the navigable waters, was one that by the Constitution of the United States was reserved to the United States as a power to regulate commerce; and therefore that the question did not arise, what was the effect of a compact of that kind independent of the act of cession, because the power which was contained in the act of admission they expressly decided was a power which, by the Constitution, belonged to Con-

gress, and therefore it was not, and could not, be taken away. That was the effect of that decision.

Mr. HENDERSON. They decided that it was not only against the deed of cession, but also against the Constitution of the United States.

Mr. STEWART. I do not see the force of that case. It has not been very well stated by the Senator from Vermont, and I will not pursue it further. But even if the Supreme Court had at that day made a decision from which an inference of that kind could be drawn I do not think it should be strictly followed, inasmuch as it made other declarations about the same time and subsequent to that which are as much in conflict with the present theories of government. If we were to follow its *dicta* outside of the question that arose in that case or in the *Dred Scott* case we should find quicksands plenty. I think I was substantially right in my assertion that Congress has been in the constant habit, both before the case mentioned and since the admission of Alabama, in the admission of other States, of putting in more or less conditions. I looked into that question last year, and I believe a compact of some kind was entered into in the admission of every State which I examined, and I examined them all. If it had been so clear a proposition that Congress could make no conditions at the time of admission, or that if made they were of no value, it seems to me that putting conditions in would be an idle thing, and yet each Congress admitting new States has been repeating this matter of conditions. If the Supreme Court had held that there could be no compact made at the time of admission, if that case had covered the whole ground, it seems to me we have been acting in plain violation of it ever since. In the case of Nevada there were substantial fundamental conditions; and so in the case of Missouri; so in the case of Nebraska, relating to the same subject-matter, to the question of personal liberty; and cases with regard to the question of taxation are very numerous.

While I did not see that the amendment of the Senator from Missouri is so materially better than the original bill, I could not allow it to be said that there was no propriety in putting declarations of principle in the acts admitting States; that there was no propriety in them; that they were a perfect nullity, and that they bound nobody, when I know that as a general rule they have been respected; and hence it is of some value to make such declarations. Although I admit, with the Senator from Indiana, that it might not authorize Congress to interfere, it would be notice to the State not to violate these principles, or Congress might be compelled to interfere. It would be a notice to the State of what was expected of it; that is, good faith to the citizens that organized the constitution. Thus far I think it would be valuable. I undertake to say that the State might go so far in the way of denying suffrage to its citizens as to substantially change the form of government, and then it would be the duty of Congress, under that clause of the Constitution which requires the Government of the United States to guaranty to each State a republican form of government, to interfere.

Mr. BUCKALEW obtained the floor.

Mr. CONKLING. If the Senator from Pennsylvania will pardon me for one moment, I wish to read a very brief extract from this opinion, as a question of fact has arisen here. I read from the opinion of the court, page 222 of the volume in my hand, in the case of *Pollard's Lessee vs. Hagan et al.*:

"When Alabama was admitted into the Union on an equal footing with the original States she succeeded to all the rights of sovereignty, jurisdiction, and eminent domain which Georgia possessed at the date of the cession, except so far as this right was diminished by the public lands remaining in the possession and under the control of the United States, for temporary purposes provided for in the deed of cession and the legislative acts connected with it. Nothing remained to the United States, according to the terms of the agreement, but the public lands. And if an express stipulation had been inserted in the agreement, granting the municipal

right of sovereignty and eminent domain to the United States, such stipulation would have been void and inoperative, because the United States have no constitutional capacity to exercise municipal jurisdiction, sovereignty, or eminent domain within the limits of a State or elsewhere, except in the cases in which it is expressly granted."

That is, granted by the Constitution of the United States, of course. But again:

"The right of Alabama and every other new State to exercise all the powers of government which belong to and may be exercised by the original States of the Union must be admitted and remain unquestioned, except so far as they are, temporarily, deprived of control over the public lands."

Reading from the opinion of the court still, I will only intrude upon the Senator long enough to read another brief passage.

Mr. STEWART. What page?

Mr. CONKLING. Page 402, although this is the condensed report, and hence the paging may rather mislead than aid the Senator.

Mr. BUCKALEW. What is the marginal page?

Mr. CONKLING. The marginal page is 229:

"The declaration, therefore, contained in the compact entered into between them when Alabama was admitted into the Union, that all navigable waters within the said State shall forever remain public highways, free to the citizens of said State and of the United States, without any tax, duty, impost, or toll therefor imposed by the said State, would be void if inconsistent with the Constitution of the United States. But is this provision repugnant to the Constitution? By the eighth section of the first article of the Constitution power is granted to Congress to regulate commerce with foreign nations and among the several States." If, in the exercise of this power, Congress can impose the same restrictions upon the original States in relation to their navigable rivers as are imposed by this article of the compact on the State of Alabama, then this article is a mere regulation of commerce among the several States, according to the Constitution, and, therefore, as binding on the other States as Alabama."

Now, I think that that is pretty much to the purpose, and it is thus applied to this case: if the Congress of the United States have the right, speaking for all the States, to make a general regulation *quoad* suffrage or *quoad* navigable streams, then they may make it in the case of any State, but no more because that State is a recent comer than in the case of a State long a dweller within the Union. I think the reasoning of the court must be conceded to mean that. As I said before, (for I do not wish to mistake this authority,) the effect of it is impaired by the fact that there were points in judgment upon which the court could have made the case turn without deciding this particular proposition; but there it is imbedded in the reasoning of the judge who gave the opinion, speaking for the whole court except those judges who dissented, as the report shows.

Mr. STEWART. I shall trouble the Senate but a moment longer. I think the portion of the decision read by the Senator from New York bears out precisely the declaration that I made at the outset, that compacts in harmony with the Constitution of the United States had usually been observed in good faith. Of course, a compact made in conflict with the Constitution would be entirely void, and the judge in this *obiter dictum* says:

"The declaration, therefore, contained in the compact entered into between them when Alabama was admitted into the Union, that all navigable waters within the said State shall forever remain public highways, free to the citizens of said State and of the United States, without any tax, duty, impost, or toll therefor, imposed by the said State, would be void if inconsistent with the Constitution of the United States."

He says a compact of this kind, inconsistent with the Constitution of the United States, would be void; and in another part of the decision that the Senator read he says that the municipal jurisdiction properly belonging to a State could not be ceded. Of course not.

Mr. CONKLING. Then, if my friend will allow me, does not that confront this question of law, or fact, or both, to wit: whether the question of suffrage and its control is one that the State can cede away, as he expresses it; in other words, a subject-matter of which the Constitution gives the Congress of the United States jurisdiction. Do we not come back to that question at last?

Mr. STEWART. If the Senator had paid a little attention to my remarks he would have seen that my position is perfectly consistent with the Constitution and with this authority on that subject. I say that the regulation of suffrage is with the States. That is clear; but the exclusion of all men from suffrage is not within that regulation by the States.

Mr. CONKLING. Why not?

Mr. STEWART. Because the Constitution expressly delegates to the Government of the United States the power to secure to each State a republican form of government; and whenever they abuse any of the functions which are legitimately State functions so as to be in conflict with that provision of the Constitution, it is the duty of the Congress of the United States to interfere. Therefore I say that neither the question of suffrage nor any other question is exclusively within the power of a State. It may be abused to such an extent as to require the General Government to interfere.

Mr. CONKLING. If the Senator will permit me further, I think now he is making a very logical argument, whatever it may be worth, that the guarantee clause of the Constitution finds a time and a place to which it applies. The question is, whether that helps him here. If it be said that Congress, under the guarantee clause, is bound to interpose when black men, for example, are excluded unless they are worth a certain sum of money, because that government has ceased to be republican, then I wish to know why this is not true: suppose a certain State coming here has in its constitution a provision that all women with black eyes and black hair shall vote, but no others, why, as a question of power, have we not the same right to interpose and say, "this is anti-republican; here is a distinction wholly arbitrary, wholly oppressive; there is no reason why a person with a certain colored hair or eyes should vote rather than another, and we must interpose for that reason?" Why is it, in other words, that we find the particular point at which the guarantee clause begins to operate when we come to a point where a State is inclined to say "men of a certain color shall not vote in this State unless they are freeholders to the amount of \$250," for example? Why does that, more than the other case which I put, demand action under the guarantee clause?

Mr. STEWART. We do not pretend to determine at what point Congress should interfere under the authority of the guarantee clause. That will be for a future Congress when the question comes up. That there are times when it should interfere the Senator from New York now admits.

Mr. CONKLING. Certainly.

Mr. STEWART. Every man who reads the Constitution must admit that there may be times when the Congress should interfere upon the question of suffrage. I do not pretend to say that the insertion of this declaration in the bill will alter either the constitution of the State or of the General Government. It is a notice, however, to these parties; it is a compact; it is a declaration of principle, which has generally been respected. Such a declaration has not been decided to be unconstitutional or void, except upon the ground that a provision could be put in which would be in conflict with the Constitution of the United States. A provision of this kind is certainly not in conflict with the Constitution of the United States, and cannot be declared void. A principle of this kind, a compact in harmony with the Constitution, has never been declared void. Such compacts have been respected to some extent; and they would only be declared void by reason of conflict with the Constitution of the United States, because that is the only instrument by which the laws of the United States are to be tested. A compact that is in harmony with the Constitution of the United States, I say, is valuable as a declaration of principle, as a notice to these States that they shall not deprive their citizens of the right of suffrage. I do not say that it gives Congress an additional power to interfere, but it might be an additional reason for inter-



fering if they broke the faith of the pledge that the State made when it came in. As it is customary to put these provisions in constitutions, as they were put in the constitution of my State and of other States, it would certainly be an additional reason for interfering.

I see no objection to the declaration in the bill as it came from the House or to the amendment of the Senator from Missouri. I am not so particular as to the form, because I believe, after all, if Congress does interfere, it will be because it has the fundamental right to do so under that clause of the Constitution which says that the Government of the United States shall guaranty to each State a republican form of government. Therefore, I think, for the purpose of serving notice, for the purpose of good faith, that perhaps the bill as it came from the House is just as well as it stands.

Mr. HENDERSON. Before the Senator concludes, I desire to ask him a question. I observe that the second section of the fourteenth amendment to the Constitution is in these words:

"SEC. 2. Representatives shall be apportioned among the several States, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

Now, we make it a condition-precedent to the admission of Representatives upon this floor and in the other House from the State of Arkansas that the Legislature of that State shall have adopted this constitutional amendment. This amendment clearly permits the State to exclude, for any reason whatever, the male inhabitants of the State from the suffrage. It only requires that, if they are excluded, the State shall lose proportionately its representation in Congress. That is the penalty. If we impose a fundamental condition requiring that everybody shall vote, and also another fundamental condition that the State shall adopt, before it is admitted to representation, a constitutional amendment, which, in words, permits them to discriminate between individuals, let me ask the Senator what sort of a condition we shall be in, and which is to be the paramount authority?

Mr. STEWART. I will reply to that in one word.

Mr. BUCKALEW. I gave way some time since to the Senator from New York and the Senator from Nevada to settle the question of the decision of the Supreme Court upon the case of Alabama. I understand that now a new question is about to be debated, and I am inclined to claim the floor.

Mr. STEWART. I ask the Senator to give way for a moment to enable me to answer the Senator from Missouri.

Mr. BUCKALEW. If the Senator wants to make a single remark, I will do so.

Mr. STEWART. I wish merely to answer that question, and I do it for the purpose of enlightening the Senator from Missouri, because I feel abundantly able to do it. I suppose that that provision in the constitutional amendment was not intended to authorize any State to deny all its citizens the right of suffrage. I do not suppose that that provision of the constitutional amendment imposing a penalty in case the right of suffrage should be abridged, intended to sanction the denial of the suffrage altogether in any State.

Mr. HENDERSON. It expressly grants the power.

Mr. STEWART. It does not do it expressly; but only by implication. It only imposes a penalty in case that there is a denial of suffrage.

Mr. CONKLING. What class of case does it give them power to deny it in?

Mr. STEWART. It does not give them power to deny it to any class. It says that in case of a denial there shall be a certain punishment. You might as well say, because there is a law on the statute-book, that if a man committed murder he should be hung; therefore that it gives him a right to commit murder. That is about a parallel case. I do not think, therefore, that it affirmatively disposes of that provision in the Constitution which authorizes the Government of the United States to interfere in case a State government is subverted by denying the right of suffrage to a majority of its citizens. It only adds one remedy in case the republican principle is violated with regard to any class. I do not think it changes the general principle that the Government of the United States must see that each State has a republican form of government.

Mr. BUCKALEW. Mr. President, I feel no interest in the question which is under debate between the amendment of the Senator from Missouri and the bill as reported by the Committee on the Judiciary. In either form I am against this proposed imposition of a disqualifying or disabling clause upon a State of this Union. What I desire to speak to, however, is a very important question, and I shall say but a few words upon it. I understand that the two vital, legal conditions upon which States are admitted into this Union are these: first, that the State admitted shall have a republican form of government, and in the next place that it shall be admitted on an equal footing (as the old and familiar expression is) with all the other States.

Mr. DRAKE. Will the honorable Senator from Pennsylvania allow me to make an inquiry of him at that point?

Mr. BUCKALEW. If the Senator will excuse me, I shall be done in a few moments, and will then answer his question.

Now, sir, these propositions have largely undergone debate in Congress and in the courts, and I had thought, until within a few years past, that they were so well established in our political system, so fixed and certain, that nobody would be found hardy enough to question them. But, sir, a mischievous precedent was put upon the statute-book when Missouri was admitted, which has been misconceived, and therefore it is that within a few years past we have had two cases where Congress has made what I must regard as invalid compacts with States about being admitted; I mean the cases of Nebraska and Nevada.

The resolution of Congress when Missouri was admitted was adopted for the purpose of putting that State upon an equality with the others. Why, how manifest that is! If the State of Missouri, under her constitution, could exercise authority to prohibit the free entrance of citizens of other States within her borders, she would enjoy a right and a power that no other State enjoyed. She would, therefore, come into the Union with a privilege or power denied to all the rest by the Constitution of the United States. That was one view. The other view was, that if the Constitution of the United States instantly upon her admission operated fully upon her case this provision of her constitution was, so far as it interfered with citizens of other States, null and void. Therefore, what Congress did by their resolution was one of two things: either to strike from the constitution of Missouri, upon her admission, a clause which would have made her position unequal with that of the other States, or to do what was of no consequence, what was perfectly harmless, but the doing of which was justifiable under the circumstances of great public excitement which then existed, as a measure of peace and safety. It was regarded in this latter view by its author and by others; but by all those who supposed that there was anything material in that resolution of Congress its effect was held to be to place Missouri upon an equal footing with the other States of the Union into whose companionship and association she was about to be admitted.

Now, sir, that is no precedent for what was

done in the case of Nevada or in the case of Nebraska, or for what is proposed in the pending bill. In this case the proposed action of Congress is to put Arkansas upon a different footing from that occupied by all the other States within the Union, whether those that composed the original thirteen or those which have been admitted since the Government was formed. I say, then, that the precedent in the Missouri case has been misconceived, and that in accepting it as an example and an authority for what is proposed in this bill, and for what has been done under extraordinary circumstances in recent years, we fall into gross error and depart from those well-settled constitutional principles which shaped the practice of the Government in former times.

This is the first one of a series of bills which will be considered in Congress with reference to the readmission of States from the South, and I think it very desirable that this important question of State equality should now be once more looked at and determined. We should do upon this occasion what was always done in the admission of States before we were disturbed by the war into certain departures from the well-settled practice of the Government. Let us stand where Congress stood from the foundation of the Government down to the outbreak of the war in 1861, and maintain as a settled, as an invaluable principle, that each State, under the legislation of Congress, shall stand the peer and equal of every other. And let us not be misled by this reference to the Missouri case, which is no example and no precedent for the legislation now proposed. If a constitution sent here, that of Arkansas or of any other State, contains matter which is objectionable; or if upon grounds of public policy it is inexpedient to accept it; or if there be temporary considerations which should induce delay, let those matters be duly considered and influence the action of the Senate; but whenever you admit the State to representation do not admit her with an improper check upon her sovereign power; do not admit her as an inferior member of the sisterhood of States; for if you attempt thus by congressional legislation to mold the political institutions of the States that are to be rehabilitated, and of the new States that are to be admitted, you will enter upon a policy fraught with infinite mischief and one, too, forbidden by the Constitution.

As to the cases which have undergone judicial investigation regarding the reservation of property rights by the United States in the admission of new States and limiting the taxation of settlers upon the public lands therein, they raise questions in quite a different field of investigation from that in which we are now employed.

I rose, Mr. President, for the purpose of speaking to this question, because this is the first bill of the session which has directly and clearly raised it. It is one of a most important character, and should be correctly decided.

Mr. SHERMAN obtained the floor.

Mr. DRAKE. I should like to ask the honorable Senator from Pennsylvania now the question which he declined to allow me to ask before.

Mr. BUCKALEW. Certainly.

Mr. DRAKE. The Senator from Pennsylvania bases his remarks largely upon the equality of the States and upon their coming into the Union upon an equal footing. I should like to inquire of the honorable Senator from Pennsylvania whether he meant to intimate that there is anything in the Constitution of the United States that requires States to be admitted on an equal footing with the other States?

Mr. BUCKALEW. Mr. President, I will answer the Senator by referring him to the debates in Congress, most elaborate and exhaustive, upon that very question in former times. It is not a question to be answered in a sentence, or I should gladly answer it.

Mr. DRAKE. It does not meet my question for the gentleman to refer me to the de-

bates in Congress. I wish to know whether the gentleman meant himself to intimate that this equal footing of the States with each other upon their admission is a thing that is required by the Constitution?

Mr. BUCKALEW. I will answer the Senator if he asks my opinion. I say most certainly I think so.

Mr. DRAKE. I ask the honorable Senator, then, to point me to the clause of the Constitution which requires it.

Mr. SHERMAN. I believe I have the floor. Mr. President, I shall follow the example of the Senator from Pennsylvania in making my remarks upon this bill very brief, because I hope there will be a vote to-day, so that we may have the question disposed of. My view of this case is confined simply to regarding it as a sequence or appendix to the act of March 24, 1867. By the terms of that act, commonly known as the military reconstruction bill, we provided for certain acts to be done by these rebel States. Those acts were clearly defined. All of them were expressed in legal language. For the purpose of ascertaining whether the people of the State of Arkansas have complied with these conditions I will read the fifth section of that act, which provides:

"That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the United States in all respects, framed by a convention of delegates elected by the male citizens of said State twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its Legislature, elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-Ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress."

And then we provide that these Senators and Representatives shall be admitted. Now, sir, every condition, every qualification imposed by the act which authorized the loyal people in these States to form a constitution and government for themselves has been complied with, and you have no right, in justice or honesty, to add additional qualifications. These qualifications were prescribed after the most careful deliberation. You took all the guarantees, all the guards, and all the securities that you deemed advisable. You had the undoubted right then to prescribe terms and conditions to these people. They were at your mercy. Their governments had been overthrown by war. Congress, as the law-making power of the country, had the right to impose terms and conditions upon these people; and you did it, and they have complied literally with every qualification and condition you imposed upon them. Now, sir, it is not right, in my judgment, even if we had the power, to add additional terms or qualifications.

What is the proposition of the Senator from Missouri? After these people have done all we have required of them, after their constitution is perfect, so far as there are any statements here made, when by its provisions it secures liberty, equality, and justice; when the whole machinery of the government is in the control of the loyal people, when no distinction is made by that constitution on account of color; when the constitution itself has been ratified by the people and is approved by Congress, what right have you to impose upon them additional conditions, and say that unless their Legislature subsequently elected shall do so and so we will not admit them? You did state, as a condition of their admission, that their Legislature elected under the constitution should meet together and adopt the constitutional amendment called article

fourteen. What right have you to go further now, and say that the Legislature shall again meet and shall again adopt—

Mr. CONKLING. It was provided that the other States should also adopt the constitutional amendment before any of them should come in.

Mr. SHERMAN. But that is a matter we may waive if we choose. If Senators say that none of these States shall be admitted until all of them, or a sufficient number of them, have adopted the constitutional amendment, that is one thing. I can see that that ground may be technically tenable; but it is a sufficient answer even to that that a bill has come to us, and I believe is now in the Judiciary Committee, which provides for the admission of a sufficient number of States to comply with that condition, and unless we put the two bills together we must take one before the other. It seems to me, therefore, that that is a new point suggested by the Senator from New York not now made in the case.

Mr. CONKLING. If the Senator will pardon me for one moment, I do not make it as a point; I merely suggest it to him. If this was put on the ground that the State was entitled to admission because the conditions precedent had been complied with, we then should find, scrutinizing the bill, that one important thing provided for in the act of March 2, 1857, had not, in fact, occurred. I did not make it as a point.

Mr. SHERMAN. It may be that that technical objection could be made; but, as a matter of course, if we act upon these constitutions severally, one by one, we must act in anticipation of the action of a sufficient number to adopt the constitutional amendment. But practically this is of no consequence, because we know that a sufficient number of States have either already adopted the constitutional amendment or are in process of doing it; and we must take, therefore, the facts as they are likely to arise. Now, I say, it is not right or just, after the people of this State, in all forms, by their convention and by their Legislature, have agreed to comply with every term, and condition you have imposed upon them, to impose any others.

In regard to the bill as it came from the House I see no objection to it, because I think the stipulation or "fundamental condition," as stated by the House, substantially comes within the meaning of the Missouri condition, as stated by the honorable Senator from Pennsylvania. I believe that when a class of people have the right in a State government to vote, a portion of the people cannot deprive them of that right; that it would be wrong to change the constitution in that particular. It would be very difficult indeed to limit the power of a State to change its constitution, and I agree with what was said by the Senator from Illinois that the mode and manner of enforcing these stipulations would be very difficult indeed. Congress may, or either House may, deny the admission of members from a State that has absolutely refused to comply with the fundamental conditions attached to its admission; but that is a question neither here nor there.

I should be willing to vote for the bill with the qualification; I should be willing to vote for the admission of Arkansas without this qualification. They have already put this provision in their constitution, and I want no more guarantee. I do not believe it is possible in the nature of things ever to deprive the colored people of any of these southern States of the right to vote. To attempt to do it would be so great an outrage that it would create civil war, contention, and strife; and I do not fear it at all. But I do not object to this bill because it contains that stipulation, for it is in harmony with the precedents. It simply guarantees to the people there who now form this government and their descendants the right to participate in that government now and hereafter. I do not believe that right is in danger; but if, in the opinion of any Senator, this additional clause will give an additional

guarantee to the people there that the government shall not be so changed as to deprive a portion of the people who have participated in framing that government of the right to vote, I am willing to give it to them by an act of Congress. It is in accordance with the precedents, and it comes within the meaning of the very rule so clearly stated by the Senator from Pennsylvania; that is, that the purpose of this Union is to secure to each State equality.

If any of the older States should attempt to deprive any portion of the people who participated in the formation of their State government of the right to vote, that would be an infraction, as I believe, of the spirit of the Constitution; it would be anti-republican. But that case has not arisen. From the foundation of the Government to this time the tendency has always been toward the extension of the elective franchise, and to broadening the basis of all the State governments. From the framing of the Constitution no step backward has been made; and I do not fear that any of us will live to see the time when any portion of the people of any State will be deprived of a right which is given to them by the constitution of the State. The tendency in this country is all the other way, and until we turn our course backward and go up stream toward despotism, there is no danger of any portion of our people now possessing the right of suffrage being deprived of that right by the action of a State. Local jealousy or a spirit of caste may prevent a State from extending the elective franchise when it is demanded by common sense and by the march of events; people may pause and hesitate in conferring the elective franchise; but there is no step backward in this process, and there is no danger at all, in my judgment, of any portion of the people of the United States now possessing the elective franchise being deprived of the right of suffrage.

I shall vote against the amendment of the Senator from Missouri as unjust in itself, delaying the admission of this State until this matter is sent back to the Legislature to comply with new conditions, and then when they have sent them back here we shall probably impose others, and they will be denied the right which we have tendered them. It seems to me it is unjust. The clause as sent to us by the House seems as unobjectionable as any we are likely to have. Although this clause may not be very effective, if in the opinion of any Senator it will tend to secure to the people of these States and their descendants the right to participate in their government, I am willing to vote for it.

Indeed, it seems to me that we ought promptly to act upon the admission of all these States, and let them all in. We have done all we can possibly do, and I believe we have successfully secured to the loyal people of the southern States the control of the political power in those States. Eventually that political power will rest in the majority of the voters there, without any disqualification on account of rebellion or caste or color. We must depend upon that. But for the present we have done all we could to secure to the loyal people the supremacy in the State governments, and we ought, in accordance with the spirit and in harmony with our form of government, to leave to those people their local government, and withdraw the superintending control and power of the national Government, except as to such matters as are by the Constitution placed within the sole and exclusive authority of the national Government.

Mr. FERRY. Mr. President, disapproving both of the amendment offered by the Senator from Missouri and of the condition attached to the original bill, I desire at this time, if it be in order, to perfect the text of the original bill by moving an amendment to that bill in order to obtain a vote, before the question shall be finally had, upon the principle of attaching any condition whatever.

Mr. DRAKE. Before the honorable Senator from Connecticut offers that, I desire to

modify my amendment, as it may make some difference in the judgment of Senators.

The PRESIDENT *pro tempore*. The amendment will be reported as modified.

The Chief Clerk read the first section of the amendment, as modified, as follows, the second section being unchanged:

That the State of Arkansas, under and with the constitution thereof adopted in convention on the 11th day of February, 1868, and subsequently ratified by the people of said State, shall be entitled to be admitted to representation in Congress as one of the States of the Union, whenever the Legislature of said State shall pass an act agreeing on behalf of said State to the following fundamental condition of such admission, to wit: that within the said State there shall be no denial of the elective franchise in all elections by the people or of any other rights to any person by reason of race or color, excepting Indians not taxed; and that any violation by said State of the terms of this condition shall authorize the exclusion of said State from representation in either House of Congress so long as such violation continues; and that all laws or ordinances enacted or ordained in said State in contravention of this fundamental condition shall be wholly inoperative therein.

Mr. FERRY. The proposition made by the Senator from Missouri is a substitute for the entire bill. What I propose to do is to perfect the text of the bill by a motion to strike out a part of the original bill, which I suppose to be in order.

The PRESIDENT *pro tempore*. It is in order to amend the original bill before the vote is taken on the substitute.

Mr. FERRY. The motion which I wish to make is to strike out all of the original bill after the word "Union" in the fourth line.

Mr. JOHNSON. How will it read then?

Mr. FERRY. It will read as follows:

*Be it enacted, &c.* That the State of Arkansas is entitled and admitted to representation in Congress as one of the States of the Union.

Sir, I am of opinion that it is not in the power of the Congress of the United States, nor in the power either of the Legislature or a convention chosen for the express purpose, of the people of a State to make a compact whereby the people of that State in future times shall be prohibited from altering or amending their constitution. I do not wish to argue the question; but I desire by my vote to express the opinion which I thus entertain upon the original condition in the bill as sent to us from the House. If the Senate shall, upon such vote, decide to retain the original condition, I may then feel constrained by the present situation of public affairs to vote for the bill even as it stands, although the Senate shall have decided, against my opinion, to keep it in its present condition. Such vote, however, will be based in my own mind upon the conviction that the "fundamental condition," as it is termed in the original bill, is simply waste paper, and utterly void.

Mr. CONKLING. Mr. President, I expect to vote in such form as the bill shall assume, under the prevailing judgment of the Senate, for the admission of Arkansas; not, however, with that faith which seems to inspire the honorable Senator from Ohio, and I rise because I was struck with one or two observations made by him. He consoles himself by saying that we have gone far enough to place the political power in this and the other southern States in the hands of those deserving protection. I content myself now with saying that I hope and trust events will bear him out.

Passing that, he proposes a ground upon which we may consistently vote for this proposed condition; and whether the vote I give upon this condition is favorable to it or adverse to it, I should like to know; and I should be glad that we might all know the grounds upon which we are proceeding. Really, I submit to the Senator that the most ingenious, at least, of all devisable theories upon which this condition may be imposed, is that which he has suggested, namely, that it answers the purpose sought in the Missouri condition and raises up this State to an equality with the older States, or reduces her to an equality, for otherwise she would be above it. He says, if I understand him, that no State would have the right by the action of a portion of its peo-

ple to deprive any other portion of the right of suffrage which theretofore they had enjoyed, and in that way he says equality is conferred by these words, "Upon the following fundamental condition: that the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes," &c. It might, perhaps, be a sufficient answer to this proposition to say that if in truth and in law no State in this Union possesses that right or prerogative now, nothing is to be accomplished by inserting this condition, and verily, then, it would be in its utmost extent, as the Senator from Connecticut said, blank paper.

But, Mr. President, let us see whether in another light such one proposition as this can stand for a moment. In the State of Indiana, for example—I think I am not mistaken in the fact—all men otherwise entitled enjoy the elective franchise upon a residence of ten days, and only ten days, within that State. Does the honorable Senator from Ohio doubt that the Legislature of Indiana may say to-morrow that hereafter a year of residence shall be an indispensable condition precedent before the elective right shall ensue? And yet this proposition beyond all question would apply precisely to such legislation as that. If Indiana has that right; if New York has the right to say, as she does say, that no man shall vote unless he has resided a year in the State, four months in the county, thirty days in the district, and ten days in the precinct in which his vote is cast; and if every other State has the right to regulate these provisions just as it pleases, changing them with the shifting sands of public opinion or public exigency, how can we say, when we tie up the State of Arkansas and say to her that in no one of these respects shall she exercise a legislative discretion, that we thereby confer upon her the prerogative of equality, and that in that way we liken this case to the case of Missouri.

Mr. President, I submit with great deference to the Senator that that will not do, and that no man can wink so hard as not to see that this is the plain proposition of imposing upon a particular State a condition peculiar to it; not a condition precedent, which beyond all question we have the right to impose—a right which in the older debates was always conceded—but a condition to continue to adhere to that State not only during its minority, not only during its territorial experience, but to stick to it forever, like the tunic of Nessus. That is this proposition, and I think, with the honorable Senator from Pennsylvania, that we should meet it fairly, meet it as the pioneer case of these deranged and disordered States, and meet it as a question likely to be of still more importance than heretofore it has ever assumed.

Mr. President, one other remark made by the Senator from Ohio attracted my attention. He takes the ground, if I understand him, that Arkansas has acquired a vested right, so to speak, in admission at once to the Union. Why, and how? Because, said the Senator, we imposed with all the circumspection and caution that we could observe in advance certain prerequisites, the understanding being that compliance with these should be consummated by admission, and that compliance having occurred the consummation should follow. If that be so it leaves really very little discretion of any sort to the Senate. Certainly it seems to me it does not leave us at liberty to impose this condition, as I understand it. It leaves us at liberty to do it as the Senator understands it; because it would be a mere flourish of trumpets, a mere piece of rhetoric or of verbiage, as the case might be.

But can it be true that we stand in any such condition as to Arkansas, that she is to be admitted upon that ground at all? I pointed out to the Senator one respect which seemed to me important, in which no compliance has

taken place with the premises presupposed in the reconstruction act. That act, which is not before me, says, in substance—I will not venture to give the language—that this admission shall occur after the fourteenth article of amendment to the Constitution has been not only voted upon approvingly by the State itself, but when, and not until, that article has become imbedded in the imperishable bulwarks of the Constitution itself. The Senator says that is technical. Why, sir, is that technical? I am one of those who believe up to this time—I have never been reformed in that respect—that the best, the wisest, the most effectual, the most all-sufficient plan and proposition of reconstruction that we ever had, that the ingenuity of any man ever suggested, is comprised and bound up within this very constitutional amendment, the fourteenth amendment of the Constitution; and I conceive that nothing is more substantial, nothing is more radically important, nothing is better entitled to be called the Aaron's rod of this whole matter, swallowing up all other things, than the consummation of that constitutional amendment.

The Senate may answer it as matter of fact in this case by saying, so many other States are coming here in an omnibus bill as is stated in the newspapers, which the other House has passed; so many States are going to enter in, that even according to all men's arithmetic, three fourths of all the States will have voted affirmatively, and then the consummation will be reached. Grant that, if you please, as a matter of fact; but do not let us say that the absence of that consummation is a mere technical, a mere formal, a mere superficial defect. I submit that the word "fundamental," which has entered so often into this debate, is applicable to nothing more than to that.

Mr. President, I do not believe that we are bound to admit the State of Arkansas. I do not believe there is any one of these States that stands in such an attitude as to demand admission, foreclosing us from exercising a wise discretion, an unrestricted discretion, within the limits of the Constitution, upon the whole question. As I said, I expect to vote for the admission of Arkansas, and I expect to do it for reasons which I will not intrude upon the Senate, but which I hope may approve themselves by time. This has been an experiment all the way. It seems to me the admission of this State is an experiment; it seems to me that the admission of the other States is an experiment which may result in such a way as to put to confusion the faith of those gentlemen who believe that we have already insured in the hands of the loyal men of the South the political power of that region. But, sir, I will not go into that. I rose chiefly for the purpose of distinguishing between what I conceive to have been the argument in the Missouri case and any arguments which can successfully be made to vindicate this proposition.

Mr. WILSON. I move—

Mr. SHERMAN. I ask the Senator to yield to me for two or three minutes.

Mr. WILSON. I propose now to move an adjournment.

Mr. SHERMAN. I have no objection to an adjournment after I reply to one or two observations of the Senator from New York.

Mr. WILSON. Very well.

Mr. SHERMAN. Mr. President, I desire to make one or two observations in reply to the Senator from New York, and I prefer to make them now, because otherwise I shall forget them before morning.

The Senator from New York, with a good deal of ingenuity, endeavors to compare this case with the case of the State of Indiana, which, although not quite so liberal as he says, is very liberal in allowing persons to vote there who have resided in that State six months. There is nothing in this clause that would prevent the State of Arkansas or any other State from changing its constitution in this or any other particular that did not amount to class



legislation; and the distinction between the case provided for by this clause and the case he illustrates it by is the difference between a general provision applying to all classes of voters and a provision applying to a particular class of voters. For instance, suppose the State of Indiana should undertake to say that a white man who resided in the State six months should vote, but that a negro should be required to live there two years before he should vote, that would clearly be class legislation. It would be aimed at a portion of the people, a portion of the electors, a portion of the citizens. The State of Arkansas requires one year's residence by the constitution laid upon our table; but they might, if they choose, more liberalize their constitution by requiring but six months' residence; and there is nothing in this fundamental condition to prevent them from doing it. They might require a residence of two years, and if that requirement was applied to all electors, white and black, who came into that State, it would be clearly constitutional.

Mr. CONKLING. Is not the language of the bill "individual or class?"

Mr. SHERMAN. The language is:

That the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote.

If that was aimed against a citizen or a class of citizens it would be unconstitutional; but if it was aimed at all persons who had not resided within the State for a certain length of time it would be clearly constitutional. There is the distinction which I know my ingenious friend from New York will perceive at once.

Again, he says that the act of last year has not the binding force I give it. I do not say that it is binding upon us, because nothing is binding upon us. We have the power, if we choose, to exclude these States for all time to come, because we have the power and control of Congress, and without the consent of the Senate no Senator can ever come into this body from the State of Arkansas.

But it is not a question of power; it is a question of right, of duty, of fair play. We have said to the people of Arkansas, "If you will do so and so, a matter that is a great deal of trouble to you, if you will call a convention, hold elections, go through the various forms and processes which we require of you"—and we required the people of Arkansas to toil day after day and night after night to be registered, to be enrolled, to vote half a dozen times—"if you will do all these things we will let you in." When they have done all that they could do, is it right for us now to impose additional conditions on the ground that we have the power to do it? I think not.

I agree fully with what the Senator from New York says in regard to the fourteenth constitutional amendment. I have always thought that that was the best, safest, and surest basis of reconstruction; and had it not been for the evil genius of Andrew Johnson I think this question would have been settled long ago on the basis of the fourteenth amendment to the Constitution. If Senators are really fearful that Arkansas will be admitted here, and that the other States will refuse to ratify the constitutional amendment, I would not vote for the admission of Arkansas. If I supposed that the fourteenth amendment would not be adopted by the process of reconstruction that is now going on in the southern States, I should refuse to vote to admit these States, or any of them, until that amendment was adopted, because that is our great safety and bulwark. But I take it we can all act in view of common faith in men; and while these States are going on organizing their governments we know that they will adopt the constitutional amendment as a part of the necessary process. If I feared that sufficient States would not adopt it, I would go with other Senators and postpone the admission of Arkansas; but I have no doubt of it. They will eagerly adopt it.

Mr. DRAKE. Will the honorable Senator

from Ohio be so good as to state how many States now stand as having adopted the constitutional amendment; I mean the whole number?

Mr. SHERMAN. I think twenty-three or twenty-four; I cannot say exactly; but the Senator knows as well as I.

Mr. DRAKE. No; I appeal to the honorable Senator for information.

Mr. SHERMAN. My impression is that twenty-three or twenty-four have adopted it.

Mr. DRAKE. Since Ohio and New Jersey retracted?

Mr. WILSON. Twenty-three States.

Mr. SHERMAN. I do not think the withdrawal of New Jersey or Ohio is at all valid. I think it is the opinion of the best lawyers of the country that having once performed a constitutional power they cannot withdraw it. I do not think it is necessary to have these constant interruptions. I wish to close what I have to say, and I desire simply to say that I shall vote for the admission of Arkansas with the expectation that it will go far to promote the admission of the other States and facilitate the prompt settlement of this whole question on the basis of the constitutional amendment and universal suffrage.

Mr. WILSON. I move that the Senate adjourn.

#### PRIVILEGES OF SENATORS.

Mr. BUCKALEW. Before the Senator submits his motion to adjourn I ask the unanimous consent of the Senate to submit a resolution that may go over.

Mr. EDMUNDS and others. Let us hear what it is.

Mr. BUCKALEW. I simply wish to present it and let it go over.

The Chief Clerk read as follows:

*Resolved*, (as the sense of the Senate,) That any enforced attendance of a member of the Senate before a Committee of the House of Representatives to be examined as a witness upon any question or matter relating to the impeachment trial would be a flagrant breach of the privileges of the Senate, and that any voluntary attendance of a Senator before such committee for such purpose would be highly improper.

The resolution was laid over.

The PRESIDENT *pro tempore*. It is moved that the Senate do now adjourn.

#### INDEX TO IMPEACHMENT REPORT.

Mr. SHERMAN. I wish to offer a resolution providing for an index to the report of the impeachment trial, which I should like to have adopted before an adjournment, if no Senator objects.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts withdraw his motion to adjourn for that purpose?

Mr. WILSON. Yes, sir.

Mr. SHERMAN. No one will object to it, I know. I offer the following resolution:

*Resolved*, That a suitable index be made by the Secretary of the Senate for the official report of the proceedings in the impeachment trial.

Mr. ANTHONY. An index has been already prepared.

Mr. SUMNER. I think there is no occasion for that for a particular reason which I should like to state.

Mr. SHERMAN. Very well; I withdraw it.

Mr. SUMNER. It is within my knowledge that the proprietors of the Globe have taken special pains with regard to the index of the report of the impeachment trial. I speak from knowledge on the subject.

Mr. SHERMAN. Very well; I withdraw the resolution.

Mr. WILSON. I renew the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 27, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

#### BRIDGES OVER THE OHIO.

Mr. CARY, by unanimous consent, offered

the following preamble and resolution; which were read, considered, and agreed to:

Whereas several bridges are in progress of construction over the Ohio river; and whereas the navigation of this great highway of commerce should not be obstructed:

*Resolved*, That the Committee on the Post Office and Post Roads be requested to consider the propriety of a general law providing that no bridge shall be constructed over said river with a span over the channel of less than five hundred feet; and that they report by bill or otherwise.

#### ARMY APPROPRIATION BILL.

Mr. BLAINE. I hold in my hand the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1868, and for other purposes, which has come from the Senate. It has been informally considered by the Committee on Appropriations. There are some half a dozen amendments made by the Senate, one or two of which are of some importance; the rest are unimportant. The committee have instructed me to move to non-concur in the amendments and ask for a committee of conference, as the easiest way of adjusting the matter.

Mr. SCOTFIELD. Let the amendments be read.

The amendments were reported, as follows:

Page 1, line two, after the word "source," insert as follows: "Except appropriations made by act of March 2, 1867."

Same line, after the word "hereby," insert "directed to be."

Same line, after the word "Treasury," insert "at the close of the current fiscal year."

Page 2, lines seven and eight, strike out: "For expenses of the signal service of the Army, \$5,000."

Strike out all of section two after the enacting clause, as follows:

That the sums appropriated for each of the several items contained in this act shall be made up only by computing the unexpended balance for such item which may remain in the Treasury on the 30th day of June, 1868, and adding thereto so much more from the Treasury as will give the sum for each of such items appropriated by this act; *Provided, however*, That this shall not be construed to prevent the payment from the proper appropriation of expenditures made during the current fiscal year after said year shall have closed.

And in lieu thereof insert:

That from the sums appropriated for each of the several items contained in this act there be deducted the unexpended balance for such item which may remain in the Treasury on the 30th of June, 1868.

Insert as an additional section the following:

Sec. 3. And be it further enacted, That of the appropriation of \$50,000 for publishing the medical and surgical history of the rebellion and the medical statistics of the Provost Marshal General's office, made in an act approved July 28, 1866, \$30,000 shall be devoted to the preparation and publication of five thousand copies of the medical statistics of the Provost Marshal General's Bureau, and that the work shall be compiled and completed by Assistant Medical Purveyor J. H. Baxter, under the immediate direction of the Secretary of War, and without the interference of any other officer.

Mr. PAINE. If it is in order I wish to move to concur in that Senate amendment which strikes out the appropriation for the Signal corps.

The SPEAKER. The question of concurrence is before the House. It arises naturally, and if the gentleman insists on a separate vote on that amendment the Chair will put the question on concurrence.

Mr. PAINE. The gentleman from Maine [Mr. BLAINE] says that he will be in favor of concurring in that amendment as a member of the committee of conference, and I therefore withdraw my request.

The question was taken on Mr. BLAINE's motion, and it was agreed to.

#### CANADIAN FISHERIES.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting a communication from Mr. George W. Brega, relative to the Canadian fisheries and the regulations of the Canadian Government in regard thereto; which was referred to the Committee on Naval Affairs, and ordered to be printed.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I desire, as authorized by the House, to report back from the Committee of Ways and Means the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes. It was my in-

tention to move to commit the bill to the Committee of the Whole on the state of the Union and have it made the special order for to-day and thence on, as the House authorized, from day to day until disposed of; but after some conference with the Committee on Appropriations with reference to the state of business I have agreed to submit a motion that it be referred to the Committee of the Whole on the state of the Union and made the special order for to-morrow after the morning hour and from day to day until disposed of. And before that motion is put I desire to explain to the House that under the instructions of the Committee of Ways and Means I report the printed bill back without amendments. The committee have been revising the bill and will have a number of amendments—not a very great number, however—to submit as the sections shall be read in their order. They are mostly of a verbal character, giving greater precision and exactness to the bill, and I am instructed to offer them as the reading proceeds.

The SPEAKER. The Chair will state that under a suspension of the rules on Monday this bill was ordered to be made the special order in Committee of the Whole on the state of the Union every day after the morning hour until disposed of, and it is now the special order.

Mr. SCHENCK. Then I ask that it be postponed until after the morning hour.

Mr. BLAINE. What will be the result of referring the bill to the Committee of the Whole on the state of the Union? Will it have precedence of the Indian appropriation bill?

The SPEAKER. The Indian appropriation bill was made a special order at an earlier day than the tax bill and must be the first disposed of, unless the Committee of the Whole on the state of the Union should lay it aside.

The bill was referred to the Committee of the Whole on the state of the Union.

#### DECORATIONS OF SOLDIERS' GRAVES.

Mr. FERRY, by unanimous consent, submitted the following resolution; which was read, considered, and unanimously adopted:

Whereas the 30th day of May instant is designated for the purpose of strewing flowers upon the graves of those who died in defense of their country during the late rebellion; and whereas public and private duties forbid many citizens of the nation from personal participation, and circumstances render it impracticable for many to visit with their offerings the graves of their heroic dead who rest in national burial places distant from home and kindred consecration; Therefore, in behalf of this body and the people represented who unavoidably are deprived of the sacred memorial of personally responding to this patriotic homage:

*Be it resolved*, That General N. Michler, Superintendent of Public Grounds, be, and he is hereby, instructed to prepare and transmit, so far as practicable, to each of the national Union soldiers' cemeteries, selections of flowers from all the public gardens, to be intermingled with like touchingly beautiful offerings of other citizens who, upon that hallowed occasion, gather to cast floral tributes of grateful devotion to the memory of fallen braves who, in defense of universal liberty, cheerfully and nobly died that the Republic might live.

#### DOCUMENTS FOR NATIONAL ASYLUM.

Mr. SCHENCK. I ask unanimous consent to submit the following resolution for consideration at this time:

*Resolved*, That there be placed under the direction of the Secretary of the Interior one copy of each of the following documents, namely, the Journals of each House of Congress at each and every session, the laws of Congress, the annual messages of the President, with accompanying documents, and all other documents or books which may be printed or bound by order of either House of Congress, including the Congressional Globe, to be sent to the national asylum for disabled volunteer soldiers at Dayton, Ohio, for the library connected therewith.

No objection was made.

The question was upon adopting the resolution.

Mr. GARFIELD. I will ask my colleague [Mr. SCHENCK] to modify his resolution so as to include each of the national asylums; that is, to add to the national asylum at Dayton, Ohio, the branches at Augusta, Maine, and at Milwaukee, Wisconsin.

Mr. SCHENCK. I wish to submit a single word of explanation. The reason why I sub-

mitted the resolution in its present shape is simply this: the national asylum for disabled volunteer soldiers is in fact and by law one institution. It has, however, three establishments, the central asylum, as it is termed, at Dayton, Ohio, and two branches, one at Augusta, Maine, and the other at Milwaukee, Wisconsin. The soldiers at Dayton, Ohio, have established for themselves, with the aid of the contributions of the benevolent, the beginning of a very good library. There are nearly a thousand inmates of that asylum now; there are but some two hundred or thereabouts at each of the other branches. Upon visiting these soldiers I find that they are ready, willing, and desirous to read anything in the shape of information, and political information particularly. I have no objection to the amendment suggested by my colleague, [Mr. GARFIELD,] and will modify the resolution by inserting the words "and branches at Augusta, Maine, and Milwaukee, Wisconsin," after the words "at Dayton, Ohio." There are no other asylums of a national character.

Mr. SCOFIELD. I would inquire of the gentleman whether it was the soldiers at this asylum that the Legislature of his State has recently disfranchised, as reported in the papers?

Mr. SCHENCK. Yes; these very soldiers; and nobody understands it better, or will make stronger comments upon it in due time, than the soldiers themselves.

The resolution, as modified, was then adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REPORTS FROM NATIONAL BANKS.

Mr. BARNES, by unanimous consent, introduced a joint resolution (H. R. No. 277) calling for reports of national banks; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JOHN SEDGWICK.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

The SPEAKER. The first business in order during the morning hour is the consideration of a substitute reported from the Committee of Claims by the gentleman from Pennsylvania [Mr. MERCUR] for House joint resolution No. 96, for the relief of John Sedgwick, collector of internal revenue in the third district of California.

The question was upon agreeing to the substitute.

The substitute was read. It directs the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, to John Sedgwick, collector of internal revenue in the third district of California, the sum of \$3,500, or so much thereof as the proper accounting officer shall, from satisfactory vouchers, determine to be necessary, to secure to him a salary of that amount for the fiscal year ending June 30, 1864, in addition to the amount he necessarily paid out in currency in the discharge of his official duties for said year.

Mr. MERCUR. So many days have elapsed since the report of the Committee of Claims upon this joint resolution was read that perhaps the facts of the case may have passed out of the recollection of members who may have heard that report.

This joint resolution is for the relief of John Sedgwick, who was the collector of internal revenue in the third collection district of the State of California, and proposes to allow him a compensation of \$3,500 for the fiscal year ending the 30th of June, 1864. Prior to that time, under the legislation of Congress, the

Secretary of the Treasury was limited to the allowance of the gross sum of \$10,000, to be paid to the collector of each district, which sum included not only all the expenditures which are paid to the assistants in the various sub-districts, but also the compensation for his services. This third district in California is one of a very large territory composed of twenty-one counties. And according to the custom of that country the collector paid his assistants in coin, and the \$10,000 were substantially absorbed in the payment of the necessary expenses of the district, leaving nothing to be retained for the collector. Since that time the law of Congress has been changed, and the Secretary of the Treasury has been authorized and empowered to make an additional allowance to the collector; and in pursuance of that authority he has, since the fiscal year ending June 30, 1864, allowed and paid the collector for his services the sum of \$3,500. This bill proposes to pay him for his services during that year precisely the same amount which he has annually received for his services since that time.

This matter was brought to the attention of the House during the Thirty-Ninth Congress, and a joint resolution intended to give Mr. Sedgwick the relief asked for was then passed. I ask the Clerk to read that resolution:

The Clerk read as follows:

Joint resolution authorizing the Secretary of the Treasury to audit and settle the accounts of John Sedgwick, collector of internal revenue for the third collection district of California.

*Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized to audit and settle the accounts of John Sedgwick, collector of internal revenue for the third collection district of California, for the fiscal year ending June 30, 1864, as to him may appear just and equitable.

Approved, March 2, 1867.

Mr. MERCUR. I ask the Clerk to read also the letter from the Treasury Department which I send to the desk.

The Clerk read as follows:

TREASURY DEPARTMENT, March 11, 1867.

SIR: I transmit herewith a copy of a private resolution, No. 22, approved March 2, 1867, authorizing the Secretary of the Treasury to audit and settle the account of John Sedgwick, esq., late internal revenue collector for the third collection district of California.

I will thank you to give the matter your consideration, and advise the Department of your views relative thereto.

Respectfully,

J. F. HARTLEY,  
Assistant Secretary.

Hon. E. A. ROLLINS, Commissioner Internal Revenue.

TREASURY DEPARTMENT,  
OFFICE OF INTERNAL REVENUE,  
WASHINGTON, March 12, 1867.

SIR: I have the honor to acknowledge the receipt of yours of the 11th instant, transmitting copy of a private resolution No. 22, authorizing the settlement of the account of John Sedgwick, collector of internal revenue for the third district of California, for the fiscal year ending June 30, 1864.

When the recommendation was made for an increase in the allowance to collectors on the Pacific coast, it was intended that Mr. Sedgwick should realize a personal salary of \$3,500. This, however, he was unable to do, owing to the great expense attending the administration of his office and the provision in the law of 1863 limiting the gross amount to be paid any collector to \$10,000.

I now recommend that an order be issued under which the Auditor and Comptroller will be authorized to allow Mr. Sedgwick a personal salary of \$3,500 for the fiscal year ending June 30, 1864, exclusive of necessary and proper expenses as shown by satisfactory vouchers.

Very respectfully,

THOMAS HARLAN,  
Acting Commissioner.

Hon. H. McCulloch,  
Secretary of Treasury, Washington, D. C.

TREASURY DEPARTMENT, June 20, 1867.

SIR: Your letter of March 12, recommending an allowance of \$3,500 for the fiscal year ending June 30, 1864, to collector John Sedgwick, of the third district of California, was referred soon after its receipt to the First Comptroller for an estimate of the amount required.

The Comptroller's reply, a copy of which is herewith inclosed, after stating the difficulties in the way of making such an estimate, discusses the question of power in the premises, and reaches the conclusion that the Secretary of the Treasury is not authorized, either by the special act referring to this case or by any other law, to make Mr. Sedgwick an allowance for compensation.

I concur with the Comptroller in the view which he

takes of the law, and am, therefore, constrained to decline making the order suggested by you.

I adopt this course with regret, as the case would seem to be a meritorious one.

Very respectfully,

H. McCULLOCH,  
Secretary of the Treasury.

Hon. E. A. ROLLINS, *Commissioner Internal Revenue.*

Mr. MERCUR. In addition to the letters which have been read, I hold in my hand a letter from the Commissioner of Internal Revenue, recommending this allowance; but I am unwilling to occupy further the attention of the House.

The substitute was agreed to.

The joint resolution, as amended by the adoption of the substitute, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The question was on the passage of the bill.

Mr. HIGBY. Mr. Speaker, I desire to say that although the collection district of Mr. Sedgwick is not wholly within my congressional district, yet I know that it embraces a large extent of territory, and I know something about the expense of doing business there. During the session of Congress of 1864-65 the California delegation had their attention called to this very subject. On a conference with the Secretary of the Treasury it clearly appeared, from an investigation by that Department, that an allowance of this kind was due to Mr. Sedgwick. There was no question upon that point. The only question was as to the law passed in 1863, which limited the amount allowed for salaries, &c., in each collection district to \$10,000. As the expenses in the district of Mr. Sedgwick were great, the \$10,000 allowed by law was all expended in the payment of the deputies, and there was nothing left for the salary of the collector himself. The Secretary of the Treasury did not feel authorized to make this payment, and for that reason a joint resolution was passed at the last session of the last Congress. It is found, however, by the Department that the resolution does not go far enough to permit this payment to be made. For that reason this subject has been presented and the bill is now asked to be passed. Mr. Sedgwick should undoubtedly have this money. He has laid out of it from that time to this. He has received no salary for that year.

The bill was passed.

Mr. MERCUR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER stated the next business in order to be the call of the Committee on Commerce for reports.

#### CLEVELAND INSURANCE COMPANIES.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported back the petition of sundry insurance companies and insurance agents in the city of Cleveland, Ohio, asking for the passage of a law making provision for insurance, &c., and moved that the same be referred to the Committee on the Judiciary.

The motion was agreed to.

#### BENJAMIN MAILLEFERT.

Mr. WASHBURNE, of Illinois, from the same committee, also reported back the petition of Benjamin Maillefert, for compensation for blasting in Hurlgate, &c., and moved that the same be referred to the Committee of Claims.

The motion was agreed to.

#### ADVERSE REPORTS.

Mr. WASHBURNE, of Illinois, from the same committee, reported adversely on the following, and the same were laid on the table:

Petition of citizens of Clinton, asking that the city of Clinton, Iowa, be created a port of entry;

A bill (H. R. No. 1003) to declare the Iowa river, in the State of Iowa, innavigable above the city of Wappello, Louisa county, Iowa;

Memorial and joint resolution of the General Assembly of the State of Iowa, asking that the

Iowa river be declared not navigable from the city of Wappello north;

Petition of Dr. J. C. Mackenzie, geologist, in favor of an increased duty on copper;

Petition of Joseph H. Scranton and others, citizens of Pennsylvania, for the repeal of all laws establishing bonded warehouses;

A bill (H. R. No. 297) to remit the duties upon certain goods, wares, and merchandise destroyed by fire; and

Joint resolution (H. R. No. 89) explanatory of certain acts in relation to the armory and arsenal at Rock Island, in the State of Illinois.

#### RIVER AND HARBOR APPROPRIATION BILL.

Mr. ELIOT. I am directed by the Committee on Commerce to report back House bill No. 1046, asking appropriations for the repair, preservation, and completion of certain public works, and for other purposes, and to ask that the bill may be considered in the House as in Committee of the Whole on the second Tuesday of June after the morning hour.

Mr. WASHBURNE, of Illinois. I object.

Mr. ELIOT. Then I suppose the necessary course of the bill will be to have it referred to the Committee of the Whole.

The SPEAKER. The bill appropriating money, if objection be made, must be referred to the Committee of the Whole on the state of the Union.

Mr. ELIOT. Before that is done, I wish to say that, being referred to the Committee of the Whole on the state of the Union, I will, on Monday one week from next Monday, ask the House to suspend the rules, so that it may be withdrawn from the Committee of the Whole on the state of the Union, and assigned for action as soon as it can conveniently be done.

The SPEAKER. The bill will be referred to the Committee of the Whole on the state of the Union.

Mr. WASHBURNE, of Illinois. I ask consent of the House to report a bill from the minority of the committee, to take the same course as the one of my colleague on the committee.

The SPEAKER. The rule declares that when the views of the minority are accompanied by a resolution or a bill such resolution or bill is not thereby brought before the House for action, but must be submitted by some member. The bill will be printed, and the gentleman gives notice he will offer it.

Mr. WASHBURNE, of Illinois. I also desire to submit the views of the minority.

Mr. ELIOT. I wish to say that the majority of the committee having reported this bill but not having submitted any report in writing, the minority of the committee, composed of my excellent friend the chairman of the committee, has reported a bill, and now proposes to submit a written report. I do not remember—unless the committee has sanctioned such a course, which has not been done in this case—that a written report has ever been made by the minority when no written report has been made by the majority. In this case it is a very excellent way of having the speech of my friend printed by the House in the form of a minority report. I have said this much in order to let the House know how this matter stands.

Mr. CHANLER. Excuse me; will the gentleman inform the House what this bill is?

The SPEAKER. It is the river and harbor bill.

Mr. CHANLER. What rivers and harbors? Is it a general bill?

The SPEAKER. Various rivers and harbors. The bill has been printed.

Mr. ELIOT. I do not desire to make any point of order on the chairman of the committee, nor, indeed, do I know that he has not a right to submit his views in writing, although it is a right I have never known to be exercised except by the action of the committee. I have said all I desire. I shall not interpose any objection.

Mr. WASHBURNE, of Illinois. I desire to say, in reply to my colleague, that this is a very common practice. Only a few days ago the

minority of the Committee on Appropriations made an adverse report upon two bills reported by the gentleman from Ohio, [Mr. SPALDING,] a member of the Committee on Appropriations, in regard to benevolent institutions in the District of Columbia.

The SPEAKER. The only usage is to allow a committee, when they report a bill, to accompany it with a report in writing, or, if it is considered by the House, to allow the member reporting it to be heard by a speech at the time it is considered by the House. The rule on page 55 of the Digest states that—

"A minority of a committee cannot make a report, a minority not being the committee."—*Journal*, 1, 24, p. 562. [The common practice, however, is to permit the minority to submit their views in writing, which are usually printed and considered with the majority report.]

Mr. ELIOT. What is the practice when there is no report by the majority? Is it the practice for a minority of one to submit a report in writing?

The SPEAKER. The minority can only do so by the consent of the House, even if the majority do make a report in writing. If the majority do not make a written report, as they have a right to do, that should not preclude the minority from presenting their views in writing. The majority of the Committee of Elections, for instance, can simply report in a contested-election case a resolution, with no written explanation by the chairman or the member reporting it. The question then would be whether the House would preclude the minority from submitting their views, if they should desire to do so.

Mr. MAYNARD. I desire to offer an amendment to this bill in behalf of the delegation from my own State, to be printed.

The SPEAKER. The bill is not now before the House; it is now in Committee of the Whole.

Mr. MAYNARD. I understand that; I only introduce the amendment in order that it may be printed.

Mr. CHANLER. I shall ask that the bill be read if any action is taken.

The SPEAKER. The bill is not before the House; the single objection of the gentleman from Illinois refers it to the Committee of the Whole, where it is now.

Mr. CHANLER. I hope no action will be taken *ex parte*; it appropriates a large amount of money for the improvement of harbors.

The SPEAKER. No action can be taken in the House except by unanimous consent, the gentleman from Illinois having objected to its consideration in the House.

Mr. CHANLER. Unless it is open to all parties I will object.

Mr. ALLISON. I object to the consumption of more time.

Mr. MAYNARD. I give notice that at the proper time I shall offer the following amendment to the first section of the bill:

For the improvement of the Tennessee river, according to the report of the survey made in compliance with the provisions of the act of March 2, 1867, and the recommendation of the chief of engineers, \$615,000.

Mr. ELIOT. I yield now to the gentleman from Illinois [Mr. BAKER] for the same purpose.

Mr. BAKER. I desire to give notice that I will at the proper time offer the following amendment, to come in after line eighty-four:

For the improvement of the harbor at Alton, Illinois, \$61,000.

Mr. VAN HORN, of New York. I give notice that at the proper time I will offer the following amendment, to come in after line eighty:

For the improvement of the harbor at Wilson, Niagara county, New York, \$10,000.

Mr. CHANLER. Is it necessary to go through this process in order to have amendments offered?

The SPEAKER. It is not. They can be offered in Committee of the Whole on the state of the Union, but gentlemen desire to give preliminary notice.



## REGISTRATION OF FOREIGN VESSELS.

Mr. ELIOT, from the same committee, reported a bill (H. R. No. 1119) for the registration or enrollment of certain foreign vessels; which was read a first and second time.

The bill directs the Secretary of the Treasury to issue certificates of registry or enrollment and license to certain vessels built in the British provinces but owned by citizens of the United States, and at all times employed upon the waters of the lakes, provided that there shall be paid upon each of said foreign-built vessels a tax equal to the internal revenue tax upon the materials and construction of similar vessels of American build.

Mr. ELIOT. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## CUSTOMS REGULATIONS.

Mr. ELIOT, from the same committee, reported back, with amendments, the bill (H. R. No. 735) to repeal an act approved March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes."

The bill was read. The first section provides that the seventh section of an act approved March 3, 1863, entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes," and the thirty-ninth section of an act approved July 18, 1866, entitled "An act further to prevent smuggling, and for other purposes," shall be so amended that the warrant or warrants therein required to be issued by the judge of the district courts of the United States shall be directed to the marshal of the district within which the merchandise, in respect to which alleged frauds have been committed or attempted, was imported or entered, or his deputy, instead of the collector of the port, as therein provided. And the warrant so issued, with full report of service and proceedings thereon, shall be returned by the officer serving the same as other warrants are returned, to the court of the district within which such judge resides.

The second section provides that whenever the collector or other chief officer of the customs of any port shall be notified in writing by the owner or consignee of any vessel or vehicle arriving from any port or place of a lien for freight on any merchandise legally imported in such vessel or vehicle and remaining in his custody, such collector or other officer is authorized and empowered to refuse delivery of such merchandise from any public or private bonded warehouse, or other place in which the same shall be deposited, until proof to his satisfaction shall be produced that the freight due thereon has been paid or secured, but the rights of the United States shall not be prejudiced thereby, nor shall the United States nor its officers be liable for losses consequent upon such refusal to deliver. And the Secretary of the Treasury may prescribe all needful regulations to carry the provisions of this section into effect.

The third section repeals the seventeenth section of the act approved July 18, 1866, and the act approved March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes."

The Committee on Commerce reported the following amendment to the bill:

In line sixteen of the first section, after the word "entered" insert "or within which the invoices, books, or papers relating to the same may be thought to be."

The amendment was agreed to.

The committee reported the following amendment to the title of the bill:

Amend the title by adding "and to amend certain acts for the prevention and punishment of frauds on the revenue, and for the prevention of smuggling."

The amendment to the title was agreed to.

Mr. ELIOT. I move the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

## CHANGING NAMES OF PLEASURE YACHTS.

Mr. ELIOT. I am directed by the Committee on Commerce to report for the action of the House the bill which I send to the Clerk's desk and ask to have read.

A bill (H. R. No. 1120) to authorize the Secretary of the Treasury to change the names of certain vessels was received, and read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It authorizes the Secretary of the Treasury to change the name of the yacht W. W. Abell, owned by James Lloyd Greene, of Norwich, Connecticut, administrator of the estate of Benjamin B. Greene, late of Norwich, deceased, and John Jeffries, jr., of Boston, Massachusetts, to that of Ethel; and also to change the name of the yacht l'Hirondelle, owned by James Gordon Bennett, jr., of New York city, to that of Dauntless; and to grant to said vessels registers in said respective names, the said vessels being pleasure yachts only, and not engaged in commercial business.

Mr. PRUYN. I understand this bill to be one for changing the names of certain vessels. Am I right?

Mr. ELIOT. The gentleman is right as far as he goes.

Mr. PRUYN. Some time ago, when I presented a request from some of the leading merchants of New York, under very peculiar circumstances, for the change of the name of a vessel, I understood that the Committee on Commerce had never reported in favor of such an application, and that there was no chance that they would ever make such a report. The gentleman from Massachusetts [Mr. ELIOT] so told me, and I therefore did not press the application. I understand now that the committee have changed their views on the subject. Is that so?

Mr. ELIOT. That is not so. I have heard very distinctly what the gentleman said; but I will state to him what the fact is, and what the course of the committee has been. The fact is that these two vessels are mere pleasure yachts, owned by private individuals for pleasure purposes. They are not engaged in any commercial business, or in the carriage of either freight or passengers; they are pleasure boats exclusively. The committee has not for some six or seven years past, to my knowledge, reported any bill changing the name of any vessel which was engaged in the commerce of the country, or in the carriage of freight or passengers, and so long as I am on that committee they will never do so with my consent, for reasons which I need not speak of now in detail. It was because of that action of the committee, which has been sustained over and over again by the House, and which I hope will be again upon the facts being stated to them, that I said to the gentleman from New York [Mr. PRUYN] what I did in regard to the vessel of which he speaks. The committee have been entirely consistent in their action.

Mr. PRUYN. I desire to say simply that pleasure boats have the advantage over the regular commerce of the country.

Mr. ELIOT. I now call the previous question.

Mr. PRUYN. I have no objection to the bill.

Mr. MAYNARD. What reason is there for encumbering the statute-books of the country with such legislation as this, if there is any reason for it?

Mr. ELIOT. The only reason is that this is entirely a private matter. There are private reasons operating upon the minds of the gentlemen owning these boats, just as other gentlemen are interested in the names of horses, dogs, &c. Now, though it may somewhat cumber the statute-books of the country, yet the committee have been very careful in these matters. I believe this is but the fourth or fifth case within the last five or six years that the committee has reported.

Mr. MAYNARD. I think we had better allow people to name their own private horses, dogs, and boats as they please.

Mr. PIKE. They cannot rename them after having done so once.

Mr. MAYNARD. Let them name them aright in the first place.

The previous question was seconded and the main question was ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## COLLECTION DISTRICTS IN MICHIGAN.

Mr. ELIOT, from the Committee on Commerce, also reported back, with amendments, House bill No. 198, to reestablish the boundaries of the collection districts of Michigan and Michilimackinac, and to change the names of the collection districts of Michilimackinac and Port Huron, with a recommendation that the same do pass.

The bill was read at length. The first section provides that the collection district of Michigan shall be extended so as to embrace all the territory and waters of the State of Michigan lying west of the principal meridian, and south of the latitudinal line dividing township No. 43 from township No. 44, north of the base line of said State, including the island of Bois Blanc.

The second section provides that the collection district of Michilimackinac shall hereafter be called the district of Superior, and shall embrace all that part of the upper peninsula of the State of Michigan lying east of the principal meridian; all the islands in and bordering upon the Saint Marie river; and all that part of the State of Michigan lying west of the principal meridian and north of the latitudinal line dividing township No. 43 from township No. 44, north of the base line of the said State, together with all the islands, waters, and shores of Lake Superior and the adjacent territory unto the head-waters of all the rivers and streams tributary thereto, and within the jurisdiction of the United States.

The third section provides that the collection district of Port Huron, in the State of Michigan, shall hereafter be called the district of Huron.

The amendments reported by the committee were read, as follows:

## First amendment:

After the word "State," in the eighth line of the first section, add "including the territory bordering Green bay;" so as to make the section read as follows:

Be it enacted, &c., That the collection district of Michigan shall be extended so as to embrace all the territory and waters of the State of Michigan lying west of the principal meridian, and south of the latitudinal line dividing township No. 43 from township No. 44, north of the base line of said State, excluding the territory bordering Green bay, and including the island of Bois Blanc.

The amendment was adopted.

## Second amendment:

After the word "State," in the ninth line of the second section, insert "including the territory bordering Green bay;" so as to make the section read as follows:

SEC. 2. And be it further enacted, That the collection district of Michilimackinac shall hereafter be called the district of Superior, and shall embrace all

that part of the upper peninsula of the State of Michigan lying east of the principal meridian; all the islands in and bordering upon the Saint Marie river; and all that part of the State of Michigan lying west of the principal meridian, and north of the latitudinal line dividing township No. 43 from township No. 44, north of the baseline of the said State, including the territory bordering Green bay, together with all the islands, waters, and shores of Lake Superior and the adjacent territory unto the head-waters of all the rivers and streams tributary thereto, and within the jurisdiction of the United States.

The amendment was adopted.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

Mr. TROWBRIDGE. I would like to propound a question to the chairman of the committee. Does this bill change the boundaries of the districts as created by the law passed two or three years since?

Mr. ELIOT. It changes the boundaries in this respect: that it takes from one district and puts upon another. If the gentleman desires special information upon this point I refer him to his colleague, [Mr. FERRY.]

Mr. FERRY. Mr. Speaker, there was a misapprehension of existing laws when the Huron district was organized, as well as the district of Michigan. By the terms of that statute all the territory east of the principal meridian was included in the district of Huron, by which that district extends into the upper peninsula, as there is Michigan territory east of the meridian north of the straits, and, in fact, takes in the port of entry of the district of Michilimackinac, thus leaving that district without its port of entry and transferring it to the district of Port Huron. The object of this bill is to place that port of entry where it properly belongs, back into the district of Michilimackinac, now proposed by the pending bill to be named Superior, and not changing the boundaries of the Port Huron district, except in that regard. So that south of the upper Peninsula the boundaries of the district of Huron are in no way affected by the proposed bill and amendments. I will also state, with regard to the district of Michigan, that by the same misapprehension the boundaries of Michigan were not fixed by the statute of 1866, as was intended. This bill is designed to correct that error by extending this district west of the principal meridian to the latitudinal line dividing townships forty-three and forty-four north, so as to cover all the territory of Michigan bordering Lake Michigan, and also to change the name of Michilimackinac district into Superior, and that of Port Huron to Huron, to correspond with the name of the other district—Michigan; so that each shall more appropriately be designated by names corresponding with the lakes they border.

Mr. ELIOT. I will only say that the provisions of the bill receive the concurrence of the Treasury Department.

The bill was passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table. The latter motion was agreed to.

#### PROMOTION OF AMERICAN COMMERCE.

Mr. ELIOT. I am authorized by the Committee on Commerce to report back a bill (H. R. No. 929) to promote American commerce, with an amendment in the nature of a substitute.

The Clerk read the substitute, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section four of an act entitled "An act amendatory of certain acts imposing duties upon foreign importations," approved March 3, 1865, and section fifteen of an act entitled "An act increasing temporarily the duties on imports, and for other purposes," approved July 14, 1862, be, and the same are hereby, amended so that the tonnage tax therein imposed shall be collected only from vessels arriving from foreign ports.

*Sec. 2. And be it further enacted,* That a drawback equal to the duties paid be allowed to shipbuilders on lumber cordage, iron, copper, chains, and anchors actually used and employed by them in the building and rigging of any ship, steamer, or other vessel built within the limits of the United States; the amount of drawback in all cases to be ascertained and paid in such manner and under such regulations as may

be prescribed by the Secretary of the Treasury: *Provided,* That five per cent. on the amount of all drawbacks so allowed shall be retained for the use of the United States by the collectors paying such drawbacks respectively.

*Sec. 3. And be it further enacted,* That the fifth section of an act entitled "An act concerning the registering and recording of ships or vessels," approved December 31, 1792, is hereby repealed.

*Sec. 4. And be it further enacted,* That hereafter boats or other vessels of the United States less than twenty tons burden shall not be enrolled, and no certificate of registry shall be required of them. Such boats or vessels shall be licensed, and shall, in every other respect, be liable to the rules and regulations and penalties now in force relating to registered and enrolled vessels.

*Sec. 5. And be it further enacted,* That the provisions of the act entitled "An act authorizing the Secretary of the Treasury to issue registers to vessels in certain cases," approved December 23, 1852, are hereby extended to vessels built within the United States, provided the same were not transferred during the rebellion to foreign owners.

Mr. ELIOT. I call for the previous question.

The SPEAKER. The substitute will be regarded as adopted; and the question will be on the engrossment and third reading.

Mr. SCOTFIELD. Is it the intention that the bill shall pass without explanation?

Mr. WASHBURN, of Illinois. I wish to say that I do not give my assent to this bill.

Mr. CHANLER. I ask the gentleman from Massachusetts how far this interferes with the former law in regard to licensing vessels under twenty tons; whether that will remain the established law, or is this an innovation of the law?

Mr. ELIOT. It alters no further the existing law than as is contained in the provisions of section four, that vessels less than twenty tons shall not be enrolled. It does not alter the provision in regard to licenses.

Mr. CHANLER. They are now enrolled.

Mr. ELIOT. They are now enrolled. This requires they need not be enrolled if less than twenty tons. No certificate of registry is required, but in regard to the charge for license and in all other respects the laws are left as now in force.

Mr. ALLISON. I ask the gentleman in charge of this bill whether he proposes to pass a measure of this importance now?

Mr. ELIOT. I want to do it now.

Mr. ALLISON. I want some little time to examine the bill and make some remarks on it. It is a most extraordinary bill to come from the Committee on Commerce.

Mr. ELIOT. This bill comes rightfully from the Committee on Commerce, although it does not come with the authority of the majority of the committee. I will state the manner in which it comes here. I have no objection to discussion, for this is an important bill; the most important bill reported from the Committee on Commerce; the most important bill which will be reported in promotion of the true commercial interests of this country. I do not desire the House should be taken by surprise; but I do expect to satisfy members on the floor of this House that this bill is rightfully here and rightfully ought to be passed. Whether I am compelled to do that in the short morning hour, or the House will assign the time when I can be heard on the bill and when the gentleman from Iowa can make such statements as he desires, I am myself indifferent. If the gentleman from Iowa desires to discuss it I have no objection to its being postponed until—

The SPEAKER. Before the discussion of the question of postponement the Chair will state that if there be an ordinary postponement it might not be reached this session.

Mr. ELIOT. I was going to move that it be made a special order.

Mr. SCOTFIELD. I rise to a point of order. I understood the gentleman to say that the Committee on Commerce have not instructed him to report this bill, but that, on the contrary, they have not instructed him to report it.

Mr. ELIOT. The gentleman's understanding is inaccurate, which is rarely the case. I will state how the bill is here.

Mr. SCOTFIELD. My point is that if the

gentleman says he is not instructed by the committee to report the bill it is not now before the House.

The SPEAKER. If the gentleman makes that point the Chair must submit it to the House. Where objection is made to the reception of a bill the question must be submitted to the House.

Mr. ELIOT. The fact is that the Committee on Commerce have permitted me to report the bill to the House, not intending by this report to commit themselves to the support of the bill. It is brought to the attention of the House as a great many other bills have. It has not had the committee's sanction except so far that I should report it. I hope and expect the chairman will sustain the bill, although he has not yet given his assent to it. But I am here with the united authority of the committee to report the bill and bring it before the House for their action. That is the way it stands.

The SPEAKER. The Chair thinks, upon that statement, that the bill is properly before the House. The gentleman has authority to report it.

Mr. MAYNARD. I do not understand him to say he reported it from the committee, but for himself.

Mr. ELIOT. No, sir.

Mr. BLAINE. The committee authorized him to report it.

The SPEAKER. The committee can authorize a bill to be reported in two different ways. It can be simply reported to the House, or it can be reported with a recommendation that it do pass. This is reported by the committee.

Mr. WASHBURN, of Illinois. I have no doubt of the truth of whatever statement my colleague on the committee makes, although I have no recollection of ever having agreed to the reporting of this bill. I do not know but that I gave my consent that it should be reported with a distinct understanding that I should not support it.

Mr. BLAINE. You are not bound by it.

The SPEAKER. That is allowable under parliamentary law.

Mr. SCOTFIELD. The gentleman says the committee authorized him to report the bill to the House, but not with a recommendation that it do pass. I raise the point of order that that is a negative recommendation, and unless there is an affirmative one—and the gentleman informs the House there is not an affirmative recommendation—it is not properly before the House.

The SPEAKER. That is the recollection of the Chair when the gentleman reported the bill; but although a committee should report a bill recommending that it do not pass, the House might still pass the bill if it saw fit. The gentleman from Massachusetts has authority to report the bill.

Mr. SCOTFIELD. I do not know but I may vote for the bill, but it is a very important one, and should not be put through under the previous question without allowing any debate.

Mr. ELIOT. Of course, if my friend had asked no explanation, the previous question would have been seconded; but if he asks an explanation I am not only bound to make it, but most desirous that he should have it at length.

Mr. SCOTFIELD. The gentleman was going to have it passed without discussion.

Mr. ELIOT. Of course, if no discussion is wanted I desire to have it acted upon. We have passed one or two important bills where no discussion was asked. Perhaps some gentlemen will be surprised when they come to examine those bills to find that they overlooked them.

Mr. PILE. I desire to make a suggestion that this had better be printed with the substitute and made a special order. I regard it as a very important bill, and I am heartily in favor of it. Whatever will promote the efficiency and increase the commerce of the United States ought certainly to have the support of this House; and unless we have something to

revive our declining and dying commerce we shall soon have no foreign commerce at all.

Mr. SCOFIELD. I ask the gentleman from Massachusetts to give way and allow me to move that the bill be referred to the Committee of Ways and Means.

Mr. ELIOT. No, sir; I will not.

Mr. SCOFIELD. That committee has authority to report at any time.

Mr. ELIOT. I decline.

Mr. SCOFIELD. As it is a free-trade bill it strikes me it ought to go before that committee.

Mr. MOORHEAD. I make the point of order that this bill provides for the refunding of duties, which is a subject that properly belongs to the Committee of Ways and Means. It provides that drawbacks shall be allowed on duties, and that is a subject that belongs to the Committee of Ways and Means.

The SPEAKER. It belongs to the Committee on Commerce if the House refers it to that committee.

Mr. PIKE. This very bill was referred to the Committee on Commerce.

The SPEAKER. The Chair overrules the point of order on the ground that the House has a right to refer any bill to any committee it thinks has proper charge of the subject. This bill was referred on the 16th of March to the Committee on Commerce.

Mr. ELIOT. Now I propose that the bill be postponed till—

Mr. ALLISON. I ask the gentleman to withdraw—

The SPEAKER. The morning hour will expire in two minutes.

Mr. ELIOT. I ask unanimous consent to move to postpone the further consideration of the bill till the second Wednesday in June next after the morning hour, and make it the special order from day to day until disposed of, and that it be printed.

Mr. PIKE. I object.

Mr. ELIOT. Well, if the gentleman from Maine takes the responsibility of objecting—

Mr. PIKE. The bill is now before the House for action, and it will go over until the morning hour to-morrow.

Mr. ELIOT. The bill has not been printed as it now stands. There are two sections of the bill which were not contained in the bill as it was referred to the committee. I do not feel disposed after what has been said to press a bill of this importance through the House until the House have had a fair opportunity to examine and discuss it. I make the proposition for postponement again, and I hope the gentleman from Maine will not object.

Mr. PIKE. The important sections of the bill have been printed, and members will find them in House bill printer's number 310. The other two sections added by the committee are of very slight importance, indeed, and for one I should be perfectly willing to have them stricken out. Mean time the bill will go over until to-morrow, and it can be printed to-night, so that gentlemen may examine it.

Mr. ELIOT. The gentleman may have his own views about the importance of portions of the bill. Perhaps I should differ with him. At any rate I make the proposition, and I hope the gentleman will not object.

The SPEAKER. Is there objection?

Mr. HARDING. I object.

Mr. ELIOT. Then I must go on and discuss the bill now. How much is there left of the morning hour?

The SPEAKER. One minute.

Mr. ELIOT. It is hardly worth while to commence its discussion now. I hope the gentleman from Illinois [Mr. HARDING] will withdraw his objection.

Mr. HARDING. I cannot consent that other business shall be obstructed for the purpose of exempting articles of import from duty.

Mr. ELIOT. It is no exemption. I simply desire to enable the House to transact other public business.

Mr. HARDING. I want to transact other

business, and never to transact business of this kind.

Mr. ELIOT. I think the gentleman speaks without sufficient knowledge. The result of his objection will be that the bill will come up to-morrow.

Mr. HARDING. Well, I withdraw the objection.

The SPEAKER. Is there further objection to the proposition of the gentleman from Massachusetts?

Mr. PIKE. What is it?

The SPEAKER. That the bill be assigned as a special order for the second Wednesday in June.

Mr. PIKE. I object to that.

The SPEAKER. The morning hour has expired, and the bill goes over until the next morning hour. If there is no objection, the bill will be ordered to be printed.

There was no objection, and the order was made.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed the bill (H. R. No. 786) declaring St. George Boothbay, in the State of Maine, and San Antonio, Texas, ports of entry, and authorizing the establishment of bonded warehouses at Bucksport and Vinalhaven, in the State of Maine, with amendments, in which he was directed to ask the concurrence of the House.

The message further announced that the Senate had passed a bill (S. No. 216) to amend an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon;" and a bill (S. No. 183) for the relief of William H. Harman; in which he was directed to ask the concurrence of the House.

#### INDIAN APPROPRIATION BILL.

Mr. BUTLER. I move that the House resolve itself into Committee of Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869.

The CHAIRMAN. The first reading of the bill has been dispensed with, and the House yesterday ordered that all general debate on the bill be limited to thirty minutes.

Mr. BUTLER. Mr. Chairman, I was instructed by the Committee on Appropriations to report the bill which is now under consideration. It has been prepared by the committee with great labor, which the extreme complication of the bill rendered necessary. The committee labored under very great embarrassments. They could only deal with the appropriations under existing laws; and while they were convinced that many of these appropriations ought not to be made, so far as the propriety of the action of the Government is concerned, yet being required by law they felt themselves constrained to report the appropriations.

I think I speak the unanimous opinion of the committee when I say that the whole system of Indian affairs, as at present administered, is wrong in principle, unjust to the Indian, and a source of the very greatest corruption and fraud by the agents of the Government. At the present day our manner of dealing with the Indian tribes has not advanced upon that established by William Penn. We treat with them as with independent nations, sovereign powers, allowing them all the rights and privileges of the first Powers of Europe, and using all the forms with which we treat with those Powers. It is true that William Penn made a treaty with the Indians. But he made a treaty, not as between Great Britain and an Indian

tribe, but between an expedition of colonists and powerful tribes of Indians. We now keep up the same system, except that this great nation of ours makes solemn treaties with tribes that have no written language, and who cannot read the treaties which it is supposed their chiefs signed with their marks. But those treaties bear upon their face the evidence that they are made in the interest of the officers and employes of the United States, and not in the interest of the Indians.

Now, to give the Committee of the Whole an illustration of how this is done, I have only to refer to the whole class of treaties, in which it is stipulated that there shall be wagoners, blacksmiths, tinsmiths, armors, carpenters, mill-wrights, engineers, &c., employed by the Indians. It may be said that that is in favor of the Indians. But what do you think of a provision in a treaty between two great nations, that the houses of these employes shall be kept in repair and that their furniture shall be kept up? Let me illustrate; suppose a treaty was made with Great Britain in which the United States agreed that United States officers should do something, and you expect that Great Britain would put a provision in the treaty that the houses of the employes of the United States should be kept in repair and that their furniture should be kept up.

Now, that shows clearly that these treaties with the Indians are made by the agents of the United States in favor of the employes of the United States. It evidences to any man who will investigate the subject that the whole system of dealing with the Indians is one of fraud and wrong. John Randolph once said, many years ago, in his caustic manner, that to be an Indian agent would corrupt the angel Gabriel. I do not think there has been any improvement since that time, and until Congress shall adopt some method of bringing the Indian tribes into the condition either of wards of the nation or of citizens of the soil with qualified rights, so long our whole Indian system must continue one of wrong, of fraud, and of corruption.

Why, sir, there are estimates for thousands of dollars' worth of goods to be given to these Indians under treaty stipulations; and there are estimates of as many dollars to carry these goods to the Indians as the goods themselves are worth. It is a well-ascertained fact before the committee from many sources, that not more than one half, sometimes, perhaps, not one quarter are ever sent to or received by the Indians. There have been appropriations made year after year for goods for Indians; and those appropriations have been exhausted when the Indians themselves testify that in some cases they have received nothing for years, and in other cases very little. Contracts have been made for goods to be delivered at prices less than the goods can be purchased for in St. Louis. It may be asked how can that be done? It may be done, and it is done, because not one half of the goods are ever delivered to or received by the Indians, but all of them are always paid for. There has been one instance come to the knowledge of the committee where large contracts of hundreds and thousands of dollars' worth of expenditures have been made for feeding the Indians; and the only voucher on which that money has been paid out has been that of the party who was appointed to acknowledge the receipt of the goods; and that party so acknowledging the receipt of the goods was, prior to the time of his appointment, and I have no doubt is now, a clerk in the house of the firm who were to deliver the goods, the delivery of which this clerk was to certify. It is not within the province of the Committee of Appropriations to deal with this matter. I have called the attention of the House to the matter only in order that they may see the difficulties under which we labor; and in the hope that there may be some legislation recommended by which the whole system can be changed.

The Indians now bear to us very much the same relation as nearly a century ago the Highlanders of Scotland bore to the kingdom



of Great Britain. They were families having chiefs, and were treated by that Government in some degree as independent tribes. So long as they were so treated the Highlands of Scotland were scenes of unthrift, wrong, devastation, war, and all manner of expense to the Government. But the British ministry of that day broke up substantially the chieftain system of the highlands of Scotland; and from the hour the tribal or chieftain system was substantially broken up the highlands of Scotland, instead of being a source of weakness, a source of expense, a source of wrong and injury and devastation to the rest of the kingdom, have been a nursery of soldiers for the kingdom of Great Britain. Until we break up this tribal system in regard to our Indians; until we abolish this treaty system; until Congress refuses to appropriate any more money for treaties of this description, so long our Indian system will be a disgrace to the Government and a source of the greatest injustice to the people.

Allow me to give another illustration. Our treaties provide that the Indian girls shall be taught domestic economy. How do you suppose that provision of our treaties is carried out? Why, the Indian girls are taken by the Indian agents into their kitchens, where they do the housework; and the Government pays the Indian agents ten dollars a month for employing those girls as servants to do their housework. In that manner the treaty stipulation for teaching Indian girls domestic economy is carried out.

There is one other matter which I propose to suggest to the committee, and if it should meet the approval of the House I hope it will be appended to this bill. Almost all the fraud connected with this Indian system arises substantially out of the purchases and transportation of goods; and I suggest to the committee whether it would not be best to provide that all the purchases for the Indians shall be made by the Commissary General of the Army in open market, as purchases for the Army are made. Mr. GARFIELD. Will the gentleman allow me to ask him a question?

Mr. BUTLER. Certainly.

Mr. GARFIELD. I desire to ask the gentleman whether the committee has considered, or, if not, whether he himself has considered, the propriety of transferring the Indian Bureau entirely to the War Department, as was proposed in a bill which was once passed by this House—a bill which, if I had any encouragement, I would report from the Committee on Military Affairs and try to get passed again.

Mr. BUTLER. In answer to the question of my friend from Ohio, [Mr. GARFIELD,] I will say that I think it is the unanimous opinion of the Committee on Appropriations that the management of our Indian affairs should be transferred to the War Department. Certainly the purchase and transportation of goods for the Indian department should be effected through requisition upon the War Department. During the whole of the late war there was, I think, hardly a murmur of wrong or corruption on the part of the commissary department of the Army. Being in a situation where I was likely to have heard it if there had been any such thing, I do not know that I ever heard an intimation that in the purchase of provisions there was any substantial fraud or wrong; and as to the cost of transportation, except in the matter of providing the means, I have never heard of any substantial complaint. I think there could be saved to the Government \$1,000,000 a year by requiring by law that purchases shall be made by the Commissary General in open market, under the inspection of competent officers of that department, and transportation furnished by the War Department. Already much of the transportation has to be furnished by that Department. Why, sir, if I were to believe, as I do believe, stories which have been told to me, it has been a not unfrequent thing that the cattle of friendly Indians have been stolen, turned over to a contractor, and then sold back for food, under

treaties, at twenty, thirty, and fifty cents a pound, to the very Indians from whom the cattle had been stolen.

Mr. WINDOM. Will the gentleman yield to me for a few moments?

Mr. BUTLER. Yes, sir.

Mr. PRUYN. I should like to have five minutes.

Mr. BUTLER. How much time have I left?

The CHAIRMAN. Fifteen minutes.

Mr. BUTLER. I will yield five minutes to the chairman of the Committee on Indian Affairs.

Mr. WINDOM. Mr. Chairman, I am not here to defend any wrongs or frauds which may exist in the Indian department. Some two or three years ago I introduced a bill here and urged its passage which I am entirely satisfied would have prevented these wrongs and frauds; but it was voted down by the gentlemen who desired the transfer of the Indian Bureau to the War Department.

Now, sir, what I rose for was to answer the remarks of the gentleman from Massachusetts [Mr. BUTLER] in reference to the cheapness of this War Department. The entire amount appropriated in this bill by the Committee on Appropriations, as stated in the note, is \$2,214,283; that is for the entire Indian service of the country. Now, sir, there are in the Territory of Arizona alone less than three regiments of soldiers, which are costing this Government today more than a million dollars each. These three regiments of soldiers alone, in Arizona, cost more to this Government than the entire appropriations for the Indian service. I make no excuse or defense for the wrongs committed in this Indian department; but when gentlemen stand upon this floor and hold up the military as so pure and so cheap I wish to state that these three regiments in Arizona are more expensive than all the Indians in the country. A gentleman in high position in that Territory told me that the people there were more afraid of the soldiers in Arizona than they were of the Indians. Half a dozen soldiers start out on a scout and capture horses which are never again heard of. He told me whenever he travels he "dodges" the soldiers, for the reason that if he has better horses than they have they will take them under the pretense that they are necessary for the purposes of the expedition. I say that it is a known fact that each regiment in that Territory costs more than one million dollars, and you appropriate for these regiments more than all the expense of the country for Indian affairs. That there is a vast amount of fraud and wrong in the Indian department I doubt not; but the gentleman who propose to turn over Indian affairs to the War Department had better take a warning by the facts in Arizona and New Mexico. I am one of those who opposed the transfer before and am still opposed to the argument which looks to it now. I say, if you want to double and treble the expenses of the Indian department, act on the suggestion just now made. I will join with the gentleman in cutting down to the utmost extent we can appropriations for Indian affairs; but I will not join with him or anybody else in the violation of treaties made with the tribes of Indians. A single violation of a treaty whereby you save \$10,000 will cost you, Mr. Chairman, more than a million dollars to put down the war caused thereby. And, sir, nine tenths of the wars we have had have originated on this floor and in the Senate by reason of not complying with our agreements with the Indian tribes. The massacre in my own State, eight hundred in my own district having been killed, originated from the fact that Congress was behind hand in making appropriations, and the Indians, who waited upon their reservation for payment and thereby lost their spring hunt, were in a starving condition. The money had reached St. Paul, but they did not know it. They commenced hostilities and murdered our people. Let us keep faith with these Indians and they will keep faith with us. If we do not, we will expend from ten to twenty millions in putting

down Indian wars when a few hundred thousands would carry out treaty stipulations.

Mr. PRUYN. I ask the gentleman to yield to me a few minutes.

Mr. BUTLER. I yield five minutes.

Mr. PRUYN. It is not often that I agree with the gentleman from Massachusetts, but I am very glad on this occasion to hear most of the views he enunciated in regard to our Indian policy. It has been my conviction for a long time past that an essential and fundamental change should take place in our Indian policy. We must treat the Indians as our wards, as the gentleman has said; we must treat them justly, fairly, and honestly, as the gentleman from Minnesota [Mr. WINDOM] urges; and it is my intention at some future day, if some other disposition is not made by the House of the matter, to move to refer it to some appropriate officer of the Government or to some appropriate committee of the House to devise and report to this Congress at its next session some plan for this purpose. I think it is high time we set about it earnestly and thoroughly. Just before this debate took place this matter was the subject of conversation among several gentlemen on this side of the House, in my neighborhood, in which essentially this view was taken. Now, sir, if no proper amendment can be made to this bill which looks in the direction of some essential and thorough change in regard to the matter, I trust it will be brought about in some other way; that hereafter our good faith with the Indians may be better maintained than it has been heretofore, and that some policy more effective and more beneficial to the Indians will be adopted by this Government.

Mr. WINDOM. If the gentleman will allow me, a policy has been suggested and will probably be presented hereafter to put all the Indians in two reservations, one at the North and the other at the South, destroying their tribal relations and putting them under the control of the Government. The peace commission which was recently appointed have recommended such a policy, and I doubt not it will be eventually adopted, if it is found practicable.

Mr. PRUYN. It is suggested from another quarter that the result might resemble that of the Kilkenny cats if you try to force relations of this kind upon tribes that do not agree with each other in their modes of life. I doubt very much whether you could get along in that way. Still, that is a subject to be discussed hereafter.

Mr. WINDOM. It is very difficult to suggest any plan that is not liable to objection.

Mr. BUTLER. Mr. Chairman, I trust none of the House will understand me as asking that we shall break faith with the Indians by not appropriating money where we have made treaties with them. But I shall ask at some time or other that we abolish the whole treaty system, as well in the present as in the past, and bring all of them within the territorial jurisdiction of the United States, under the control of this Government and amenable to our laws, and none other. I trust at some time Congress will take this subject in hand and abolish this idea of treaties between a hundred or a hundred and fifty unclothed, untaught, uncivilized, incoherent families. Putting them by such treaties upon the same ground as we do Russia or Great Britain, treaties which they do not understand, which they cannot comprehend, which are made under the influence of whisky administered by employes, who hope to profit thereby, and treaties, the non-fulfillment of which, either by accident or by design, cause the murders and devastation of which my friend, the chairman of the Committee on Indian Affairs, [Mr. WINDOM,] has brought to our notice. But for the present we must deal with the system as it is, and we have endeavored in this appropriation bill to do so, cutting off everything that we could that was not provided for by treaty and endeavoring to carry out treaties wherever they were made.

Now, sir, I have said nothing about the

cheapness of the War Department. I think they are a very expensive Department, but I think that they have an element of honesty in carrying out their operations.

Mr. WINDOM. I desire to say that I have been informed that in Arizona the Indians sell their corn for one cent a pound, while the commissary department buys it at twelve cents per pound.

Mr. BUTLER. Very possibly. I do not say that all men in the War Department are honest, but I do not think that all the men are dishonest. I think if the goods were purchased here and were transported there by the War Department more of them would get there; and it could be done with more promptness, more efficiency, and certainly with no greater expense than it is done now.

[Here the hammer fell, the thirty minutes allowed for general debate having expired.]

The Clerk then proceeded to read the bill by paragraphs for amendment.

Mr. CHANLER. Is further debate in order?

The CHAIRMAN. Five minutes' debate on amendments is in order.

Mr. CHANLER. I understand from the general debate which preceded the reading of the bill by clauses that the object is to transfer this Indian Bureau to the military Department of the Government.

The CHAIRMAN. No debate is in order except upon amendments.

Mr. CHANLER. Very well; then I move to strike out the words "for current and contingent expenses of the Indian department."

The CHAIRMAN. That part of the bill has been passed.

Mr. CHANLER. I move, then, to strike out the following clause:

Superintendents of Indian affairs:  
Three superintendents for the tribes east of the Rocky mountains; one for Oregon; one for Washington Territory; one for the Territory of New Mexico; one for the Territory of Utah; one for California.

It is the same thing. The object is to discuss the bill as it stands. The question is whether the superintendents of Indian affairs shall stand in this bill or not.

The CHAIRMAN. That amendment is in order. The gentleman from New York will understand the Chair. General debate was limited by the House to thirty minutes, which have expired. The gentleman can speak five minutes in support of his amendment.

Mr. CHANLER. I am speaking on striking out "superintendents of Indian affairs." I will say this with regard to the treatment of the Indians, that if the angel Gabriel was liable to corruption, it is a very dangerous position to put an officer of the Army in. There are a great many superintendents of Indian affairs who probably never did know and never will know the angel Gabriel, although they may have fulfilled all their duties toward the Indians.

But, sir, the object of this bill is to provide for a wise and just administration of our affairs with the Indians, and not for the purpose of transferring from one set of men to another the patronage of this department. In order to do justice to the Indians we shall have to detail this work in accordance with the characteristics of the different tribes, and any allusion to the Scottish nation has as little parallel with the Indian tribes as if you were to quote the nations of all Europe under the head of Europe. We should treat each Indian tribe just in accordance with established treaties. There is as great a diversity among the different tribes of Indians on this continent as there is between the different nations of Europe. Some live in houses, some live in cities, some engage in manufactures, and are as capable of carrying on their own government as a great many peoples who do carry on independent Governments on the face of the earth. And to sweep them all into one category, in order to transfer the patronage of this department, in the name of protecting the Indians, to the military Department—in other words, giving them military governments instead of civil governments—is a fundamental change in the policy of our Government toward the Indians which ought to

be discussed more broadly than could be done in the thirty minutes allowed for general debate upon this bill. If the policy is to strike at the whole system of superintendents of Indian affairs, then the whole subject should be referred and discussed. It is not a mere matter of dollars and cents. It is a question of justice to distinct peoples, as distinct in their national organizations as the people who now govern this country are distinct from the people from whom they took the soil which we now govern.

The past policy of the Government has been to adopt the Indian as a ward. I believe that is no new term in the administration of our Indian affairs. I believe that has been the past policy of this Government, and to say that they shall be hereafter the wards of the Government is merely to say that we intend to continue the policy which has been pursued from the beginning with regard to the Indians.

It is, sir, impossible to meet and discuss this question in all its branches upon the mere matter of superintendents of Indian affairs. There should be left in the hands of the Executive—a civil officer of the Government—as there is now full power, and there should be full responsibility upon him with regard to the administration of Indian affairs. A transfer of it to the military Department is in direct antagonism to the idea that these people are ever to be brought into civilization. It means extermination if it means anything. It means that death and destruction are to be dealt out to the Indians by the commanders of the different posts under military law, and that the shield of the civil law is to be removed from these semi-barbarians. Sir, I look upon it as a cruel policy, unless it is justified by a direct attack of the Indians upon ourselves, and unless that attack by the Indians on white men is unjustifiable. But the history of this country proves that the white man has been the aggressor. From the moment he first put his foot upon the soil he has been attacking and driving the Indian from his home. To give the Indian any home in this country you must leave in him the right and title to the land, and endeavor to civilize him upon the spot. But drive him from his home and you make him a vagabond. Array the armies of this country against him and you make him a pariah and a bandit.

Whatever the policy of the country is to be, I hope the whole system of our Government, so far as the Indians are concerned, will be revised, and their treatment based not upon the idea of the Indians constituting one nation, but distinct nationalities, having peculiar customs dear to themselves.

[Here the hammer fell.]

Mr. CHANLER. I withdraw my amendment.

The Clerk read the following paragraph:

Superintendents of Indian affairs:  
Three superintendents for the tribes east of the Rocky mountains; one for Oregon; one for Washington Territory; one for the Territory of New Mexico; one for the Territory of Utah; one for California.

Mr. WINDOM. I move to amend the paragraph just read by inserting after the words "one for California" the words "one for Nevada, and one for Arizona." I have been requested by the Department of the Interior to present a large number of amendments to this bill, but a small portion of which I shall offer. Those amendments have not been considered by the Committee on Indian Affairs. But I shall present some on my own responsibility, and I think the sense of the House should be tested upon this as one of them.

I would ask the gentlemen of the Committee on Appropriations why they have omitted an appropriation for superintendents for Nevada and Arizona and have made one for Washington Territory? This bill makes appropriations for the Indians of both Nevada and Arizona, and it seems to me there should be some authorized agent of the Government there to make the payments of the money which the bill itself proposes shall be given to the Indians. I therefore move that the superintendents be

continued in office and paid in Arizona and Nevada. There are already superintendents there, and I know of no reason why they should not be continued.

Mr. BUTLER. In answer to the gentleman from Minnesota, [Mr. WINDOM,] I will say that the Committee on Appropriations examined the law, and where they found a provision of law requiring a superintendent, in every case, unless there has been an omission by accident, the committee have recommended an appropriation for that purpose. But where the only foundation for an Indian agency or an Indian superintendency has been the fact that in some former appropriation bill there had been an appropriation for one, we assumed that that was temporary only, and we struck it out.

Mr. WINDOM. How is the money to be applied? Who is to pay it out if there is no agent for the purpose?

Mr. BUTLER. There are agents. But it will be observed that Oregon, Washington, California, Utah, and New Mexico are so large in territorial extent, and the tribes of Indians are so scattered, that there seems to be a necessity for superintendents. But we thought Indian agents could do all that was necessary in well organized Territories, as they do in Kansas and Minnesota.

Mr. WINDOM. You make no appropriations for Indian agents in these Territories.

Mr. BUTLER. We make appropriations for agents for tribes east of the Rocky mountains. The theory upon which we have gone is this: that wherever we were required by law to appropriate we have appropriated; where ever we could get rid of an appropriation in any way we have not made it; when we could cut down we did; when we could not we did not.

Mr. WINDOM. I have no feeling in this matter; I only present it to the Committee of the Whole for its action.

Mr. LAWRENCE, of Ohio. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. LAWRENCE, of Ohio. My point of order is that these agencies are not authorized by law; this amendment is therefore independent legislation, and not in order to an appropriation bill.

Mr. WINDOM. I think the point of order is made too late.

The CHAIRMAN. The Chair would overrule the point of order, even if made in time. But it is made too late.

The question was upon the amendment of Mr. WINDOM; and being taken, it was not agreed to.

The Clerk resumed the reading of the bill, and read the following:

Indian agents:  
One for the tribes in Oregon; four for the tribes in New Mexico; one additional for Indians in New Mexico; one for the tribes in New Mexico; one for the tribes in Utah; one additional for the Indians in Utah; one for the tribes in the Territory of Utah, (and the pay of the three agents in Utah shall hereafter be \$1,000 each per annum;) eleven for the tribes east of the Rocky mountains; two for the tribes east of the Rocky mountains, namely, Sioux and Seminoles, the Omaha, Kickapoo, Kansas, and Neosho agencies; three for the tribes east of the Rocky mountains; one for the Indians in the State of New York; one for the Delaware Indians; one for Green Bay, Wisconsin; one for the tribes in Washington Territory; one for the Wichitas and neighboring tribes west of the Choctaws and Chickasaws; one for the tribes east of the Rocky mountains; one for the Indians in the Territory of New Mexico; one for the Ponca tribe; one for the Pawnees; one for the Yankton Sioux; three for the tribes in the Territory of Washington; one for the Grand River and Uintah bands of Indians in the Territory of Colorado; two for the upper Missouri and the country adjacent thereto; one for the Ottawas, Chippewas of Swan creek and Black river, and Christian Indians in Kansas; four agents for the State of California; one for the Kiowa, Apache, and Comanche Indians; one for the Sisseton and Warpeton bands of Dakota or Sioux Indians; one for the bands of Sac and Foxes of the Mississippi, now in Tama county, Iowa.

Mr. PAINE. I move to amend by striking out in the paragraph just read the words "eleven for the tribes east of the Rocky mountains." I make this motion for the purpose

of ascertaining from the gentleman who reports this bill how it happens that so many provisions are reported for Indian agents east of the Rocky mountains. In line twenty-four the bill provides for eleven for the tribes east of the Rocky mountains; then in lines twenty-four and twenty-five, two for the tribes east of the Rocky mountains; in lines twenty-five and twenty-six, four for the tribes east of the Rocky mountains; in line twenty-eight, three for the tribes east of the Rocky mountains; in line thirty-three, one for the tribes east of the Rocky mountains. I am at a loss to understand why such language is used in this paragraph, and why there is no provision for agents west of the Rocky Mountains. If there is really any occasion for five different provisions for agents for tribes east of the Rocky mountains, I should be glad to have the gentleman from Massachusetts explain it.

Mr. BUTLER. I will state the reason why this phraseology was adopted by the committee. These several clauses correspond with the several provisions of law establishing these agencies and follow the language of the law. We have sought to make each particular appropriation correspond with the specific provision authorizing it. Therefore we have said, "eleven for the tribes east of the Rocky mountains." The law establishing that agency will be found in the ninth volume of the Statutes-at-Large, page 586. Each of these clauses corresponds with some special enactment. In line twenty-five we have inserted the clause, "for the Indians east of the Rocky mountains, namely, Sioux and Seminoles, the Omaha, Kickapoo, Kansas, and Neosho agencies." There we cut down the number, because it was unfixed in the estimates. When we provide for the agencies west of the Rocky mountains it will be found that the several tribes are named.

From this explanation the gentleman will, I think, understand why this very cumbersome and apparently illogical language is used. It is that the appropriate salaries may be affixed to each of these agencies. The salaries for the different agencies differ in some cases. By the phraseology adopted we avoid confusion and difficulty.

Mr. MAYNARD. Would it not have been better to refer to the statute under which each appropriation is made, saying, for instance, "eleven for tribes east of the Rocky mountains, as per such a section of such a statute?"

Mr. BUTLER. It might have been convenient, except that it would lumber the statute-book uselessly. If the gentleman will look at the book of estimates, he will find the exact statute specified in each case. For instance, the provision for "eleven for tribes east of the Rocky mountains" is in pursuance of a section of the law to be found on page 586, volume nine, of Statutes-at-Large; the clause providing for "two for tribes east of the Rocky mountains" is in accordance with a provision on page 332, volume ten, Statutes-at-Large. Six for the Indians east of the Rocky mountains, (Statutes-at-Large, vol. 9, p. 586, sec. 4,) and so on, and so on. By this designation it is precisely as accurate, though, I agree, not as elegant.

Mr. PAINE. I withdraw the amendment.

Mr. LAWRENCE, of Ohio. I move to strike out these words on page 2, lines nineteen and twenty:

Four for the tribes in New Mexico; one for the tribes in New Mexico.

Mr. Chairman, it will be seen that the section reads as follows:

Indian agents:

One for the tribes in Oregon; four for the tribes in New Mexico; one additional for Indians in New Mexico; one for the tribes in New Mexico.

We have "four for the tribes in New Mexico," and immediately following it "one for the tribes in New Mexico." If there are five why draw it out in this lengthened form; why not say "five for the tribes in New Mexico at once?" I cannot comprehend it. The object, or at least the effect, is to deceive the House.

Mr. BUTLER. Mr. Chairman, I am glad

my friend from Ohio has called the attention of the House to this. In volume nine Statutes-at-Large, page 587, section five, four Indian agents are provided for the tribes in New Mexico, passed February 27, 1851. Their salary was fixed at \$1,550. Then, again, the Statutes-at-Large, volume eleven, page 169, section one, March 3, 1857, provides "one additional for Indians in New Mexico," at \$1,500 per annum. If I put in five, which should have the \$1,500 and which the \$1,550? I have put them, therefore, to conform to the various statutes, so that each set of Indian agents may get their appropriate salaries. The one additional for the Indians in New Mexico is at the rate of \$1,500. If gentlemen will take the "estimates" and follow the bill, they will then know why we have had to use this cumbersome language. I agree that it is not the best language to use. It is not as neat and as compact as I hope we could use in drawing a bill, but it is the best we could do with the materials we have. The laws are so arranged, and to meet these laws we have to make the appropriations in this form.

The amendment of Mr. LAWRENCE, of Ohio, was disagreed to.

Mr. CAVANAUGH. I desire to ask the gentleman from Massachusetts who reported this bill as to the salaries of the various Indian agents.

The CHAIRMAN. Has the gentleman an amendment to offer?

Mr. CAVANAUGH. I will offer it before I get through. I find in line twenty-three it is provided that the pay of the three agents in Utah shall hereafter be \$1,000 per annum. Now, with the permission of the committee, I desire to submit a question to the gentleman who reported this bill. He quoted the language of John Randolph relative to the scoundrelism of Indian agents. His remarks were true for the simple reason that the Indian agents and other employes on the frontier do not receive sufficient compensation to make them honest. I ask any gentleman upon the floor of this House who has ever lived upon the frontier whether he thinks any Indian agent, or any other agent, in the discharge of official duty, can live on \$1,500 per annum? I move, therefore, Mr. Chairman, in line twenty-three to strike out "one" and insert "three," so it will read \$3,000 per annum; and also to add that this provision shall apply to the agents of the several Indian tribes.

Mr. BUTLER. I raise the point of order that this is new legislation, and is not in order to this bill.

Mr. PILE. These salaries are fixed by law, and they cannot be changed in this bill.

The CHAIRMAN. The Chair overrules the point of order. The "Digest" says it is in order to move such an amendment.

The amendment was rejected.

Mr. WINDOM. In line eighteen I move to strike out "one" and insert "three," so it will provide three Indian agents for the tribes in Oregon; and I do it for the purpose of stating the facts with reference to that State. There are in the State of Oregon four agencies and one sub-agency. I do not see how it is possible that these Indians scattered over so large a Territory can be properly attended to by only one agent. There are a large number of Indians in Oregon, and to fairly and honestly make distribution there must be a larger force. Hitherto there have been three in the State of Oregon. I do not know why the committee have decided to strike out three and insert one. It seems to me utterly impossible that the duties should be performed by one agent. I therefore move to insert three.

Mr. BUTLER. Mr. Chairman, the committee in making the appropriation struck out two for Oregon for this reason: we found we were not obliged to have them by existing law, as we understood the law, and we thought that if three Indian agents could do the business for those tribes in Oregon in 1850, eighteen years ago, before the Territory contained hardly

any white men, two could do the business now. Therefore we have provided one agent and one sub-agent, and as a measure of economy \$3,000 were all we thought we ought to recommend.

Mr. HIGBY. I desire to ask the gentleman a question. Are there not so many reservations in that State, separate and apart, with Indians on each one of them?

Mr. BUTLER. Since this provision was made in 1850, I can say speaking from memory, though this subject has been out of my mind for a short time past, that one third of the reservations have been broken up in Oregon—certainly one fourth.

Mr. WINDOM. I do not know what have been broken up. I know there are four reservations there now. These Indians are very much scattered. I make this amendment as a matter of economy, because I know money will be saved by it.

Mr. BUTLER. We cannot save or lose any more money, because the agents will spend all we appropriate anyhow.

The amendment was disagreed to.

Mr. BUTLER. There is an amendment which should be made in consonance with the theory upon which the committee have acted. In looking back, in lines twenty-two and twenty-three, it will be observed that the words included in the parentheses are as follows:

And the pay of the three agents in Utah shall hereafter be \$1,000 each per annum.

Upon looking back at the law referred to we found the old law allowed \$1,000 per annum. We found the estimate made for \$1,500 per annum, and we could find no law for it; therefore we cut the salaries down to \$1,000. Since that time I found tacked to the end of an appropriation bill (Statutes-at-Large, vol. 12, 793) a law which gives these agents \$1,500 per annum. That statute was not referred to in the estimates by the Department, and that led to the error on the part of the committee. Therefore I think I shall have to move to amend by striking out the words within the parentheses.

The amendment was agreed to.

Mr. LAWRENCE, of Ohio. I move to amend the section by adding at the end the following proviso:

*Provided, That it shall be the duty of the President to dispense with the services of such Indian agents herein mentioned as may be practicable, and where it is practicable he shall require the same person to perform the duties of two agencies for one salary.*

Mr. WINDOM. I rise to a point of order. This proposes new legislation.

The CHAIRMAN. The Chair sustains the point of order.

Mr. LAWRENCE, of Ohio. I hope the gentleman will allow me to be heard.

Mr. WINDOM. The gentleman raises points of order very freely himself, but I will withdraw it.

Mr. LAWRENCE, of Ohio. I hope the gentleman from Minnesota and the gentleman from Massachusetts and other members of the committee will see the propriety of this proviso. It must be apparent that if it be practicable to dispense with the services of any of these Indian agents we ought to do so, and if it be possible for one person to perform the duties of two in the same service it should be done. I understand the gentleman from Massachusetts to say that this bill makes appropriation for more agents than are necessary. We all understand how the number of these officers is increased from time to time while the Indians are dwindling away and the necessity for the same number of agents does not exist now that did years ago. This amendment only proposes to place in the hands of the President power to dispense with such agents as he may deem practicable. I am not able to specify particular cases in which agents may be dispensed with, but I think that this provision will strike the common sense of the House at once as so manifestly just that there will be no objection to it, and I hope it will be unanimously agreed to.

The amendment was agreed to.



Mr. ASHLEY, of Nevada. I move to insert at the end of line forty-five the words "one for the Indians in the State of Nevada."

Mr. Chairman, the State of Nevada is larger than the State of Oregon, and it is more than half as large as the State of California, which has four Indian agents and one Indian superintendent. We have had a superintendent and we have had agents there, and although I have not the law at hand I am quite certain that the Committee on Appropriations must have overlooked some provisions of law, as they make no provision whatever for the Indians of Nevada.

Now, I care very little whether this amendment is adopted or not. I happen to be one of the "sanguinary" border men, and if the Congress of the United States will appropriate money enough for the military forces out our way we care very little for Indian agents and superintendents. I offer the amendment for the benefit of those people who wish to have agents to look out for the Indians. Unless you mean to leave the Indians of Nevada entirely at the mercy of our population, you had better have some one authorized to look out for them there. I have no doubt the law does provide for it. For our population, for our size, we have more Indians relatively than they have in California. I suggest this amendment simply for the benefit of those people who are so careful of the interests of the Indians.

Mr. BUTLER. If the gentleman from Nevada will look at the bill he will find that we provide for a large number of agents for Indians east of the Rocky mountains, and a large number for Indians west.

Mr. ASHLEY, of Nevada. Where are they?

Mr. BUTLER. If you look you will find the various tribes that are provided for.

Mr. ASHLEY, of Nevada. I would like to have the gentleman point out the tribes in Nevada that are provided for. The bill provides for a great many of the Oregon Indians, but I do not see any in Nevada at all.

Mr. BUTLER. To that I answer, first, that I do provide in this bill for every agent and sub-agent authorized by law. The gentleman will find provision for four Indian sub-agents in Oregon at an annual salary of \$1,000, and two Indian sub-agents in Washington Territory, referring to the statute authorizing those agents to be appointed. If there is no provision for Nevada—which, I think, cannot be the case—the gentleman must get a law passed establishing an Indian agency there, and then the Committee on Appropriations will put in a clause appropriating for it. But this amendment is not provided for by law, and I call upon the Chair to say whether it is in order.

The CHAIRMAN. It is too late to raise the point of order on the amendment, and debate is exhausted upon it.

The question was put on the amendment; and there were—ayes 28, noes 20; no quorum voting.

Mr. BUTLER. Let the amendment be agreed to. We can have a decision on it in the House.

The amendment was agreed to.

Mr. WINDOM. I move to insert after line fifty the words "for temporary clerks to superintendents, \$5,000." This amount is estimated for by the Indian Bureau. I believe that the superintendents, with the exception of two or three named, have no clerks. They have sometimes half a dozen agencies under their charge, and generally three or four. They are required by law to visit those agencies, and hence must be absent from their offices. I know of no means by which the business of their offices can be attended to during their absence. They have to send in their reports, and they need, as I am informed at the Department, clerks to attend to the business of the offices during their absence and for various purposes in connection with the offices. I think it is important that this amount should be allowed. I offer the amendment at the request of those who know more about the matter than I do, and I leave it to the House to insert it or to leave

it out. I have no feeling in the matter whatever.

Mr. BUTLER. By a statute of June 19, 1860, provision was made for temporary clerks, apparently for a particular purpose, and that has gone on ever since. There is no law for these temporary clerks now; the necessity for them has long since ceased, and they ought no longer to be estimated for. I therefore raise the point of order that the amendment of the gentleman is independent legislation, establishing the office of clerk where there was none before.

The CHAIRMAN. The point of order is made too late.

The question was upon the amendment of Mr. WINDOM; and being taken, it was not agreed to.

The Clerk read the following clause:

For contingencies of the Indian department, \$20,000.

Mr. LAWRENCE, of Ohio. I move to strike out the clause just read; and I desire to say only this: that the expenses of the Government are being swelled enormously by contingent funds, which are expended corruptly, very frequently extravagantly, and, if possible, still more frequently in a manner entirely unnecessary. Here is an appropriation of \$20,000 for contingencies of the Indian department. I do not know how this money is to be expended; but I know the Departments have gone systematically to work to print costly books, to be paid out of the appropriation for contingent expenses. I do not know any reason for this appropriation, and I hope it will be stricken out.

Mr. BUTLER. I will state the facts. The estimate for contingencies was \$36,500. After very careful examination of the exhibits the committee thought that the Indian department could get along with \$20,000 for a contingent fund, and we therefore cut it down from \$36,500 to \$20,000. The Committee of the Whole can cut it down as much as they please without hurting my feelings at all.

Mr. LAWRENCE, of Ohio. I will withdraw the motion to strike out, and move to reduce the appropriation from \$20,000 to \$10,000.

The amendment was not agreed to.

The Clerk resumed the reading of the bill.

The paragraph was read, ending as follows:

And also for pay of head chief, soldier chiefs, second chief, and Pierre Gavneaux, for his services to the Arickarees, \$40,000.

Mr. PAINE. I move to amend the paragraph just read by striking out the words "and Pierre Gavneaux, for his services to the Arickarees." I am at a loss to understand why Congress should be called upon to legislate for the purpose of settling any dispute between Pierre Gavneaux and a tribe of Indians. Why not appropriate the money to the Indians, and let them settle their own debts, if there are any?

Mr. BUTLER. I can easily explain. When this treaty was made Pierre Gavneaux undertook to act for the Arickarees, and in the treaty provision was made that he should have so much annually.

Mr. PAINE. How much?

Mr. BUTLER. Only two or three hundred dollars. That treaty was solemnly ratified, and the sum has heretofore been paid, and this is the second installment. It is but a small amount, and it is provided for by treaty.

Mr. PAINE. That explanation does not satisfy me. This seems to have been one of the very cases to which the gentleman referred some time since, as a provision for the benefit of a man engaged in negotiating the treaty. Here is a provision that the man who assisted in negotiating the treaty shall be paid out of the fund the United States is to give to this Indian tribe. It seems to me that this is exactly a clause of the treaty which this House should not be very careful to carry out.

The question was taken upon the amendment of Mr. PAINE; and upon a division there were—ayes 17, noes 25; no quorum voting.

Mr. PAINE. If the gentleman from Massachusetts [Mr. BUTLER] will permit this amendment to be regarded as adopted, or will consent to my offering it in the House, I will not ask for any further division.

Mr. BUTLER. Permit me to state why I cannot consent to the adoption of this amendment. There is no way of preventing the payment of the money to this man, Pierre Gavneaux, that I can see. It is required by a provision of the treaty; it is for but a small amount. If you strike out the words proposed you still appropriate the money, and Pierre Gavneaux will get it. If you strike out the entire \$40,000, that embraces the entire appropriation under the treaty for medical stores, agricultural implements, &c. This is only for two or three hundred dollars. There are plenty other instances of the same sort. The difficulty is that such a treaty never should have been ratified. But it has been ratified, and the House of Representatives has approved it by appropriating money under it, and we cannot now go back of it; I wish we could.

Mr. PAINE. I do not desire to hinder gentlemen in their efforts to get this bill into the House to-day, and I will not, therefore, call for a further division upon my amendment. But I wish the amendment to be passed formally, so that we may have a vote upon it in the House, or permission given for it to be moved in the House. This is evidently one of those scandalous frauds which we are not bound to carry out. It has been placed in there by the fraud of this man himself. The Indians have no interest in the matter; the Government has no interest in it. This man himself negotiated the treaty, and the provision is a scandalous fraud upon us, which I hope we shall not carry out.

Mr. WASHBURNE, of Illinois. Does the gentleman know the circumstances under which the treaty was negotiated?

Mr. PAINE. I know nothing about the matter except what appears from the explanation of the gentleman from Massachusetts [Mr. BUTLER] himself.

I withdraw the call for a division.

The amendment was declared not agreed to.

The Clerk read the following:

Apaches:

For thirty of forty instalments, to be expended under the direction of the Secretary of the Interior, according to the terms of the second article treaty, October 17, 1865, \$10,000.

Mr. WINDOM. As I understand, the treaty under which this paragraph is reported requires an appropriation of twenty dollars per head for each of the Indians. I therefore move to amend by striking out "ten" and inserting "sixteen," so as to make the appropriation \$16,000. According to the census of that tribe, it comprises eight hundred Indians.

Mr. BUTLER. The difficulty is this: I sent to the Indian Bureau a letter asking for the census which had been taken under these treaties. The bureau declined or neglected to send the statistics until after this bill had been reported. In the absence of that census, I consulted the best sources of information within my reach. I found, in the first place, that we were not obliged to appropriate anything under the conditions of the treaty, because we are only required to appropriate according to a census to be returned by the Indian Bureau, and no such census had been returned. After the best inquiry I could make I came to the conclusion that there are not honestly in that tribe more than five hundred souls.

Mr. WINDOM. The statement which I have made is based upon the statement of the Indian department.

Mr. BUTLER. When was it furnished to you?

Mr. WINDOM. Three days ago.

Mr. BUTLER. The gentleman has a statement furnished three days ago. The committee have had this bill under consideration since the 1st of December, and I could get no such

statement. Besides, I very much doubt the accuracy of the statement. The census is only taken by the Indian agent, and the more souls he can return the more money he can get. [Laughter.] Hence I cannot agree to appropriate more than \$10,000 for this tribe. We are not actually bound by treaty to appropriate anything.

The CHAIRMAN. Debate is exhausted on this amendment.

The amendment was not agreed to.

The Clerk read the following:

For insurance, transportation, and necessary cost of delivery of annuities and provisions for Chippewas of Lake Superior, \$3,000.

Mr. PAINE. At the request of my colleague, [Mr. WASHBURN,] who is now necessarily absent from the House, I move to amend by adding at the end of the paragraph just read the following:

And also for the purchase of twine for nets and kettles for making sugar, \$4,000; for guns and ammunition, \$2,000; for provisions and cattle, \$2,000; for running saw-mill, \$1,500; for blankets, cloth, &c., \$5,500.

My colleague placed in my hands Executive Document No. 246 of the present session, containing, among other things, a letter from L. E. Webb, formerly the agent in charge of these Indians, and now, I believe, superintendent of Indian affairs in New Mexico. I ask the Clerk to read this letter, which contains all the information I have on this subject.

The Clerk read as follows:

WASHINGTON, March 7, 1868.

SIR: I desire, respectfully, to call your attention to the condition of the Chippewa Indians of Lake Superior. They number (exclusive of the Boisé Fort Indians, who made the treaty of 1866) about five thousand three hundred souls, and are scattered over a large extent of country in northwestern Wisconsin and Minnesota.

The treaty of 1842 expired in 1866, and under the provisions of the treaty of 1854 they received annually \$5,000 in money and \$6,000 in goods, which is about two dollars *per capita*. Many of them have adopted the habits of civilized life and are endeavoring to subsist themselves by agricultural pursuits, but their country is not well adapted to agriculture, in consequence of the shortness of the seasons; they are compelled, therefore, to subsist chiefly upon fish, of which the supply is very abundant.

These Indians have always been loyal toward the Government, and during the late rebellion large numbers of their young men rendered valuable service in the cause of the Union. They are, therefore, justly entitled to liberal treatment at the hands of Congress.

Seven reservations are set apart for the various bands by the provisions of the treaty of 1854, but they are so poor that they cannot subsist upon them without assistance from the Government. As a consequence, many of them are constantly roaming about the settlements on the St. Croix, Chippewa, and Black rivers, to the annoyance of the settlers, and numerous petitions are yearly presented to the Legislature of Wisconsin asking for their removal to their respective reservations. They would willingly comply with their treaty stipulations, and reside upon the reservations set apart for their use, if sufficient assistance were afforded to them by the Government to enable them to improve their lands and provide themselves with the necessary agricultural implements. They have a saw-mill, but no means have been provided to run it. Their fish nets are worn out, as are also their sugar kettles and guns.

I would, therefore, respectfully ask that you lay this subject before Congress, and, if possible, procure for these Indians such assistance as their necessities imperiously demand. In my judgment the necessary relief could be provided by the judicious expenditure of the following sum for the various objects named below, namely:

For the purchase of twine for nets and kettles for making sugar.....	\$4,000
For guns and ammunition.....	2,000
For provisions and cattle.....	2,000
For running saw-mill.....	1,500
For blankets, cloth, &c.....	5,500
Total.....	\$15,000

It is perhaps proper that I should here say that I have acted as agent for these Indians during the past seven years, but, as I have recently been appointed to another position, I can have no other interest in this matter than a desire to contribute, as far as I can, to the amelioration of the condition of a worthy tribe of Indians, who are entitled to just and liberal treatment at the hands of the Government.

Very respectfully, your obedient servant,

L. E. WEBB.

Hon. C. C. WASHBURN,  
Member of Congress, Washington, D. C.

Mr. PAINE. I will state that that letter, addressed to my colleague, has been sent to this House by the Secretary of the Interior.

Mr. BUTLER. I wish simply to call the

attention of the House to the fact that for fourteen years we have every year been appropriating for these Chippewas of Lake Superior over thirty-four thousand dollars under these heads:

For fourteenth of twenty installments in coin.

For fourteenth of twenty installments in goods, household furniture, and cooking utensils.

For fourteenth of twenty installments for agricultural implements, cattle, carpenters' and other tools, and building materials.

For fourteenth of twenty installments for moral and educational purposes, \$300 of which to be paid to the Grand Portage band to enable them to maintain a school at their village.

For fourteenth of twenty installments for six smiths and assistants.

For fourteenth of twenty installments for support of six smiths' shops.

For twelfth of twenty installments for the seventh smith and assistant and support of shops.

For the support of a smith, assistant, and shop for the Boisé Fort band during the pleasure of the President.

For the support of two farmers for the Boisé Fort band during the pleasure of the President.

For insurance, transportation, and necessary cost of the delivery of annuities and provisions for Chippewas of Lake Superior.

And we have got to do it for six years longer. I do not see why these Indians should have a gratuity of \$6,000. Let them go to work. They pay no tax, and are simply paupers upon the Government.

The amendment was rejected.

Mr. DONNELLY. On page 14, line three hundred and twenty-six, I move to strike out "one" and in lieu thereof to insert "three;" so it will read:

For fourteenth of twenty installments for purposes of education, per third article treaty 22d February, 1855, \$3,000.

Mr. Chairman, these Indians are located in my district, and the treaty under which this appropriation is made provides that a sum not exceeding \$3,000 shall be appropriated annually for the purposes of education. The committee have reported in the bill only \$1,000. Every year since 1855 Congress has appropriated \$3,000. It seems to me that it is a false economy to strike down the appropriations for education. If we ever expect to civilize these Indians it must be by the aid of education. It seems to me, therefore, I repeat, a false economy to reduce the educational fund contemplated in the treaty. I make the motion to increase the appropriation to \$3,000, the amount that has been appropriated every year since 1855.

Mr. BUTLER. This matter was discussed in the committee in order to get exactly at what should be done, and we came to the conclusion that we had the right to cut this down under this language, "such sum as may be useful" "not to exceed \$3,000 in any one year, for the purpose of education." We have the right to cut it down to nothing. On examination we found that there are not as many scholars receiving the benefit of this educational fund as it would have supported in any one of our cities. In other words, we came to the conclusion that the more money the less education.

The amendment was disagreed to.

The Clerk read as follows:

For fourteenth of fifteen installments for support of two smiths and smiths' shops, per third article treaty 22d February, 1855, \$1,240.

Mr. DONNELLY. I move to amend by striking out \$1,240 and inserting \$2,120, being the amount designated in the estimate. I would state in this connection that in all the paragraphs in this bill which relate to these particular Indians a similar reduction of the wages of the employes has been made. I desire to read to the House a portion of a communication on this subject coming from the Bureau of Indian Affairs to the chairman of the Committee on Indian Affairs.

"Suitable and efficient employes cannot be engaged to go into the Indian country and reside permanently, giving all their time and attention to the Indians, for less than is asked for in the estimate. Men of no character and of little if any knowledge of the business for which they are employed may possibly be had for the prices proposed to be paid in the bill. They will, however, prove injurious rather than beneficial to the service, and it would be far better for all concerned to furnish no employes than to

send men among the Indians with no knowledge of their duties and no character to lose. This applies equally well to all cases where reductions have been made in the pay of employes."

I am able to fully confirm the statement made in that communication. These Indians are located at a great distance from our settlements. A man who goes among them must be prepared to lead a life of isolation, almost of exile, and it is difficult to get the proper kind of men—respectable and worthy men—for less than the prices named in the estimates. I therefore trust that the amendment will prevail. In this particular case the provision is for two blacksmiths and their shops. The amount proposed by the committee is \$1,240. That would be \$620 for each smith and shop. Out of this sum the smith has got to support himself and his family in that country, and furnish all the materials that are required in the work of his shop. Then he has to bring the provision upon which he lives a distance of hundreds of miles. I think the amount contained in the estimate is as little as we should allow.

Mr. BUTLER. The gentleman is quite right in saying that we have adopted a rule about these wages. We found this remarkable condition of things: some treaties provide how much shall be paid for the blacksmith or the miller or the engineer, and some do not. Wherever the treaty provides for the amount that shall be paid you can always get one for that amount, but wherever the amount is unprovided for there you cannot get one without paying half or two thirds more. So we came to the conclusion that if, wherever the treaty provided for the employment of a blacksmith, miller, or mechanic at a given price, they could readily be had, they might always be had at the same price, provided Congress insisted that no more should be paid. In other words, wherever it is left to discretion the price runs up; wherever it is fixed by treaty there you can always get your blacksmith, miller, or mechanic as you want them. You find that running through all these provisions. Many years ago—I think in 1844—Congress fixed by law what should be paid to these Indian employes. I think it was \$600 a year. Now, in every case where it is fixed by Congress an employe can be got for that sum. But if you want another blacksmith right alongside of the one employed at \$600 you cannot get him for less than \$900 or \$1,200 a year.

My friend from Minnesota [Mr. DONNELLY] is mistaken in regard to the blacksmith's shop and materials being included. His shop is built for the blacksmith; his tools, iron, steel, and everything are given to him; and he eats out of the Indian provisions. We thought, therefore, he could afford to work for \$620 a year. He pays no taxes. He is away from the temptations of society. He has no servants to provide for; the Indians are always ready to help him. If he had any servant to provide for, if he should take a girl into his family, he would charge ten dollars a month for feeding her. That would be domestic economy. We came to the conclusion that he would be better off at \$620 than one here at \$1,200. For that reason we have made a uniform scale. Now, if you desire to raise the pay of all these employes do so; if not, let this remain as it is.

Mr. DONNELLY. I move to amend the amendment so as to make the amount \$2,220. I would say, in reply to the gentleman from Massachusetts—

Mr. BUTLER. I make the point of order that the gentleman cannot offer two amendments to the same paragraph.

Mr. SCOFIELD. It is a modification of his amendment.

Mr. DONNELLY. I hope the gentleman will not make that point of order until I can reply to his remarks.

The CHAIRMAN. The gentleman from Minnesota offers an amendment to an amendment, and that is in order.

Mr. DONNELLY. I have no doubt that in former treaties, made many years ago, when the commerce and condition of the country

were very different from what they are at the present time, very moderate amounts were stipulated for the pay of employes. But we are in the midst of a different condition of things. Now, the gentleman has said that where a small amount of compensation is fixed you can always get an employe ready to perform the work. I have no doubt of that. I have no doubt that you would find men ready to take our seats here in Congress for half or one fourth the pay we receive. I doubt not you could put them up at auction and sell them to the highest bidder, and I am under the impression that in some branches of the Government very large sums would be offered for a place, if we are to be guided by the revelations of the last two or three weeks. That, however, is not the question. We have taken charge of these Indians. We have made ourselves to some extent their custodians. We must see that they are properly taken care of. We must furnish sufficient remuneration to induce good and respectable men to go and settle down in their midst. We must not throw open the door and invite the ruffians of the frontier to come in by offering compensation that no decent man can live upon. Now, as to the facts of the case, this communication from the Indian Bureau to which I have referred says:

"The treaty provides that two blacksmiths, with the necessary shops, iron, steel, and tools, shall be furnished. This certainly cannot be done for \$1,240."

Mr. BUTLER. We do not require it to be done for that.

Mr. DONNELLY. It is the understanding of the Indian Bureau, as shown in this statement, that the blacksmiths are to furnish the materials for their shops.

Mr. BUTLER. Will the gentleman look at the last item in the estimates, just below that: "For insurance, transportation, and iron and steel for blacksmiths, \$10,000." That is for Chippewas of Red Lake and Pembina tribes—the ones we are dealing with.

Mr. DONNELLY. The gentleman is in error. We are dealing with the Pillager and Lake Winnebagoish Chippewas. The Indians to whom he refers are an entirely different set. It is certainly understood by the Indian Bureau that the cost of the materials is to come out of this sum, and I trust my amendment will become an exception to the rule here and be adopted.

The CHAIRMAN. Debate is exhausted on the amendment to the amendment. Does the gentleman from Minnesota insist upon it?

Mr. DONNELLY. No, sir; I withdraw the amendment to the amendment and ask for a vote on the amendment.

The question was taken, and the amendment was disagreed to.

Mr. DONNELLY. I now move to insert the following as a new paragraph, to come in after line three hundred and sixty-five:

For pay of female employes to teach Indian women habits of domestic economy, \$1,000.

I would say that this item is provided for in the treaty.

Mr. BUTLER. Is that in the estimates?

Mr. DONNELLY. I have the treaty before me. Article thirteen of the treaty of May 7, 1864, with the Chippewa Indians, reads as follows:

"The female members of the family of any Government employe residing on a reservation who shall teach Indian girls domestic economy shall be allowed and paid a sum not exceeding ten dollars per month while so engaged; *Provided*, That not more than \$1,000 shall be so expended during any one year; and that the President of the United States may suspend or annul this article whenever he may deem it expedient to do so."

The President has not suspended or annulled this provision of the treaty; and we are under an obligation to those Indians to make an appropriation for that purpose. Now, Mr. Chairman, it is not necessary for me to enlarge upon the important part which the female plays in the civilization, cultivation, and improvement of the race. It is, however, evident that if we are to civilize the Indians, one of the most important points to be secured is to teach the Indian women habits of domestic economy akin

to those practiced by civilized beings—to instruct them in the arts of civilized life. I think, therefore, this amendment should be adopted. It is to carry out an existing treaty under which the faith of the nation is pledged.

Mr. BUTLER. Mr. Chairman, I am very glad that my friend from Minnesota [Mr. DONNELLY] has brought this article of the treaty to the attention of the House. It is a beautiful illustration of the manner in which these treaties are made. Let me read the provision:

"The female members of the family of any Government employe residing on a reservation who shall teach Indian girls domestic economy shall be allowed and paid a sum not exceeding ten dollars per month while so engaged."

Thus the Indian agent or blacksmith or other Government employe not only gets himself employed, but has a treaty stipulation that his wife or his mistress or whoever else he has with him shall also be employed at ten dollars per month. And nobody can teach domestic economy to these Indian girls and get pay for it except "the female members of the family of any Government employe." That is what they call making treaties in this country! Why not throw open to everybody this business of teaching domestic economy to these Indian girls? If the wife of a missionary going upon the Indian reservation undertakes to teach the Indian girls domestic economy she cannot have any pay for it. But the wife or sister of other females belonging to the family of a Government employe can obtain ten dollars a month for such services. Now, sir, what is meant by "teaching Indian girls domestic economy?" It means taking Indian girls into the kitchen of the Indian agent to do the housework, and instead of paying them wages, obtaining from the Government ten dollars a month for exercising the privilege of so employing them. And this is secured by treaty between two independent nations! This illustrates better than anything else can the rotten and infernal character of this whole business of making treaties with the Indians.

This article further provides that "not more than \$1,000 shall be so expended during any one year." I do not mean that there shall be any more than \$1,000 expended. Therefore we struck out the appropriation for this purpose.

It is further provided that "the President of the United States may suspend or annul this article whenever he may deem it expedient to do so." So he may; and I hold that Congress is not bound to appropriate a single dollar. It is simply provided that no more than \$1,000 shall be appropriated. We may cut the appropriation down to one dollar if we choose. The provision does not require that no less than \$1,000 shall be appropriated. The whole effect of the article is that the Government pays its employes among the Indians a gratuity for engaging the Indian girls to do their housework.

Mr. DONNELLY. I move to amend the amendment by making the amount \$1,500.

Mr. Chairman, the gentleman from Massachusetts seems to forget that in the Indian country there are not, or are not supposed to be, any females of the white race, except those who are the members of the families of Government employes—their wives and daughters. It is true there are in that country females belonging to the families of missionaries; and I should certainly have had no objection if the treaty had extended to the wives and daughters of missionaries; but I suppose that these were omitted by an oversight.

The truth is the only white females who can properly and fitly be within the limits of an Indian reservation are the wives and daughters of Government employes; and certainly they could not be better employed than in teaching the habits of civilized life to the Indian women around them; and if such instruction be given I see no reason why this great, generous Government should not be willing to pay for it, especially when we have solemnly stipulated under the hand and seal of the nation to make such payment.

Now, sir, my distinguished friend from Mas-

sachusetts does not, it seems to me, fairly represent the meaning of this article. It does not contemplate that this House may in its own judgment refuse to appropriate a dollar for this purpose. The language of the treaty clearly requires that those who give this instruction shall be paid for their services; but that not more than \$1,000 per annum shall be so paid. It is our duty to provide for the payment of this amount, if services equivalent to this sum are rendered.

Mr. Chairman, there are two classes of subjects which a western man on this floor is very often called upon to touch. One relates to the interests of his constituents as connected with land grants; the other embraces questions concerning Indian affairs. Yet a member cannot touch either of these classes of questions without subjecting himself to suspicion in the estimation of many good and true men on this floor.

I have to-day offered two or three amendments to this bill. The first, which looked to the education of these Indians, was rejected by the House. The second was designed to place among the Indians respectable Government employes, instead of the "scalliwags" who too often resort to those reservations for a living. The third amendment, which I have now offered, provides for carrying out a treaty stipulation that the wives and daughters of Government employes may teach the Indian women habits of civilization and receive pay therefor. The House has voted down both the amendments I have already offered; and I have no doubt that, in the face of the existing treaty stipulation, this amendment will also be rejected. I at least shall have done my duty.

I withdraw my amendment to the amendment.

The amendment was not agreed to.

The Clerk read the following:

For fifth of fifteen installments to defray the expenses of a board of visitors, to consist of not more than three persons, to attend upon the annuity payments of the said Chippewa Indians, whose pay shall not exceed five dollars per day each, and for not more than twenty days, and ten cents per mile for traveling expenses, and not to exceed three hundred miles, per sixth article treaty October 2, 1863, \$250.

Mr. WINDOM. I move to amend the paragraph just read by striking out "two hundred and fifty" and inserting "four hundred," so as to make the appropriation \$400. In a preceding paragraph, lines three hundred and fifty-seven to three hundred and sixty-five, \$400 have been appropriated for a similar purpose in connection with another tribe. In that case it is provided that "a board of visitors, to consist of not more than three persons," shall be paid five dollars a day for not more than twenty days' service in any one year, and ten cents per mile for not more than three hundred miles' travel. The paragraph to which I refer is as follows:

For pay of services and traveling expenses of a board of visitors, to consist of not more than three persons, to attend the annuity payments to the Indians, and to inspect the fields, buildings, mills, and other improvements, as stipulated in the seventh article treaty May 7, 1861, not exceeding, any one year, more than twenty days' service, at five dollars per day, or more than three hundred miles' travel, at ten cents per mile, \$300.

The provision in the paragraph just read by the Clerk is precisely the same as to business, the number of days, the amount to be paid, &c., but in one case the committee report \$400 and in the other \$250, the only difference being that in the latter case the board of visitors are further removed from civilization than those for whom they report \$100.

The amendment was agreed to.

Mr. WINDOM. On page 19, line four hundred and forty-three, I move to strike out "four" and insert "six," so it will read:

Confederated tribes and bands of Indians in middle Oregon:  
For fourth of five installments, second series, for beneficial objects, at the discretion of the President, per second article treaty 25th June, 1855, \$6,000.

I will call the attention of the gentleman from Massachusetts to the fact that my amend-



ment is strictly in accordance with the treaty, and that the bill is not. The treaty is to be found on page 965 of the twelfth volume of the Statutes-at-Large. Eight thousand dollars per annum is to be paid for five years, commencing the 1st of September, 1856, "or as soon thereafter as practicable." I call attention to those words, "as soon thereafter as practicable." Six thousand dollars per annum for six years next succeeding the first five. For the second series it is \$6,000. I turn to another clause, page 9 of the same volume, and I find that the first appropriation made under this treaty was made in 1860, and the second series, therefore, does not terminate until 1870. In 1860, page 9, I find an appropriation for the first of five installments, \$8,000, under the treaty. The first five terminated in 1865, and the second series commenced then and have five years to run, that is, according to this treaty. There can be no doubt about that; and the second series is for \$6,000. I suppose the matter was overlooked by the committee, because the treaty says it was to commence on the 1st of September, 1856, or as soon thereafter as practicable. It did not commence until 1860, as the treaty was not ratified until 1859.

Mr. BUTLER. If this is four, then the gentleman is right; but the article of the treaty is that it shall commence on the 1st of September, 1856:

Mr. WINDOM. Or as soon thereafter as practicable.

Mr. BUTLER. The third series commenced in ten years, that is 1866. We are now making an appropriation for the fiscal year ending the 30th of June, 1869.

Mr. WINDOM. The treaty was not ratified until 1859, and the payments did not commence until 1860.

Mr. BUTLER. To that I say that I do not know. I have reported here in five or six different instances payments under treaties made last year that have not yet been ratified, for the reason that I was told by the Indian commissioners that the Indians were waiting for the money, and if they did not get it the war would be renewed. Therefore it is no sure ground to go upon that because the treaty was not ratified until 1859 therefore no appropriation was made before that.

Mr. WINDOM. Let me call the gentleman's attention to this fact: that the appropriation in 1860 says it is for the first of five installments.

Mr. BUTLER. Under this treaty?

Mr. WINDOM. Under this treaty. The first began in 1860.

Mr. BUTLER. That being so, the gentleman is right, and they are entitled to the other \$2,000.

The amendment was agreed to.

The Clerk proceeded with the reading of the bill.

Mr. WINDOM. On page 31, line seven hundred and thirty, I move to strike out "\$1,000" and in lieu thereof to insert "\$1,200;" so it will read:

Nisqually, Puyallup, and other tribes and bands of Indians:

For fourteenth installment, in part payment for relinquishment of title to lands, to be applied to beneficial objects, per fourth article treaty 26th December, 1854, \$1,200.

Mr. Chairman, this appropriation is based on article four, page 1133, tenth volume Statutes-at-Large: "for six years after the ratification shall be \$3,200; for the next two years, \$3,000 each year; for the next three years, \$2,000 each year; for the next four, \$1,600." That is ten. For the next five, \$1,200. Until fifteen years it is for the last five \$1,200. According to the bill itself this is only the fourteenth year, and it should be \$1,200 according to the treaty.

Mr. BUTLER. The gentleman is right.

The amendment was agreed to.

The Clerk read as follows:

For ninth of twenty installments for pay of a physician, per fifth article treaty June, 1855, \$1,000.

Mr. HIGBY. I move to amend by adding \$400, so as to make the sum \$1,400. I do it in order that the gentleman from Massachusetts may give us information why there is a difference in the appropriation between last year and this.

Mr. BUTLER. The reason is this: it was proposed to bring all these physicians down to \$1,000. That provision runs through a class of these physicians. There is no pay fixed by treaty, and Congress has a right to fix the pay where it pleases. Now, the physician is provided with his building, his hospital, his furniture, and his medicine. This is mere salary, and we thought \$1,000 was enough.

Mr. HIGBY. I withdraw the amendment. The Clerk read as follows:

For salary of two subordinate chiefs, as per fifth article treaty of June 9, 1833, \$400.

Mr. WINDOM. I move to strike out "\$400" and insert "\$1,000." This appropriation is made under article five, page 650, Statutes-at-Large, which reads as follows:

"The United States further agree that in addition to a head chief the tribe shall elect two subordinate chiefs, who shall assist him in the performance of his public service, and each subordinate chief shall have the same amount of land plowed and fenced, with comfortable houses and necessary furniture, and to whom the same salary shall be paid as is already provided for the head chief in article five of the treaty of June 11, 1855."

The article of the treaty referred to, which I need not read, provides that the salary shall be \$500—

Mr. BUTLER. Can the gentleman turn to the page of the estimate?

Mr. WINDOM. I cannot. The appropriation is made under the fifth article.

The CHAIRMAN. If there is no objection this paragraph will be passed over for the present, with the privilege of returning to it again.

The Clerk read as follows:

Osges:

For interest on \$300,000, at five percent per annum to be paid semi-annually, in money or such articles as the Secretary of the Interior may direct, as per first article treaty of September 29, 1855, \$15,000.

Mr. WINDOM. I move to insert at the end of the foregoing paragraph the following:

And for interest on \$69,120, at five per cent., being value of fifty-four sections of land set apart for educational purposes, \$3,456.

By the terms of an article of treaty found in volume seven, page 242, this land is to be sold for the purpose of raising a fund to be applied to the support of schools for said Indians. On the 19th of January, 1838, the Senate passed a resolution in effect that on the relinquishment by the Indians of their interest in said land an amount equal to the value of the land, or two dollars per acre, should be invested for them. Such relinquishment was executed by the Indians on the 7th of March, 1838, and instead of investing the amount in stocks it was placed to their credit and interest at five per cent. paid thereon. The first appropriation of the interest was made by act of July 7, 1838, and it has been appropriated annually since that time. The following is a copy of the Senate resolution:

"Resolved, That the President of the United States be requested to disregard altogether the selections made by the agents appointed for that purpose of the Indian school lands under the sixth article of the treaty made at the city of St. Louis, in the State of Missouri, on the 2d of June, 1825, between William Clark, esq., commissioner on the part of the United States, and the chiefs, head men, and warriors of the Great and Little Osage nations of Indians; and also that he disregard all selections of Indian school lands by the commissioners appointed for that purpose for the Delaware Indians, under the provisions of the supplementary treaty concluded on the 24th of September, 1829, and ratified on the 31st of March, 1831; and that he be requested to negotiate through their agents and give them two dollars an acre for the land in money, to be invested in State stocks in the manner aforesaid, to induce them to take other land, in lieu of their reservations, in tracts of one mile square each, to be located on any vacant and unoccupied land of the United States to which the Indian title is extinguished; the said tribe relinquishing on their part all claims under the treaties of 1825 and 1829 to the reservation for education."

I read this as furnished me by the Indian Bureau, and I have examined into the matter

and believe it to be correct. I think this sum should be appropriated. If the money is in our hands for lands which we agreed to purchase from the Indians for two dollars an acre, I can see no reason why the appropriation should not be made.

Mr. BUTLER. Mr. Chairman, while the committee agree that the President, by a treaty ratified by the Senate, can bind the United States to pay any sum, the committee do not agree that the Senate, by a resolution, can bind the United States as a law for all time to pay money to anybody. If the gentleman will show me any law that requires this sum to be appropriated I will support the appropriation. But when he shows me a simple Senate resolution, not concurred in by the House, and without the force of law, I cannot, consistently with my duty as a member of the Committee on Appropriations, recommend such an appropriation. The fact that the money has been taken for so many years without law is only a reason why it should stop now.

Mr. WINDOM. I ask to be allowed to make a single remark in reply. I am aware that this has not all the sanction of law; but the proposition was made to the Indians, the lands were purchased, the money went into our pockets, and it seems to me not quite honest to refuse to pay the interest that we promised to pay.

The question was taken on the amendment, and it was agreed to.

Mr. BURR. I move that the Committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1869, and had come to no resolution thereon.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had passed a bill (S. No. 286) to incorporate the National Life Insurance Company of the United States of America; in which the concurrence of the House was requested.

#### PROTECTION OF AMERICAN COMMERCE.

Mr. PIKE. I made an objection this morning when the gentleman from Massachusetts [Mr. ELIOT] asked that a bill which he reported from the Committee on Commerce should be made the special order for the second Wednesday in June. I desire to withdraw that objection.

The SPEAKER. The Chair will restate the proposition. The gentleman from Massachusetts [Mr. ELIOT] asks unanimous consent that the bill (H. R. No. 929) to protect American commerce, reported during the morning hour from the Committee on Commerce, be assigned for the second Wednesday in June after the morning hour and made the special order. Is there objection?

No objection was made, and it was so ordered.

#### LEAVE OF ABSENCE.

Leave of absence for an indefinite period was granted to Mr. BANKS and Mr. PRYNN.

#### PAYMENT OF AN APPROPRIATION.

Mr. THOMAS, by unanimous consent, introduced a bill (H. R. No. 1121) to prevent an appropriation therein mentioned from lapsing because of delay in adjustment; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

Mr. BURR. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at four o'clock and twenty-five minutes p. m.) the House adjourned.

## PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CARY: A memorial of 48 members of the Ohio Legislature, praying that Congress may pass a law to prevent the construction of bridges hereafter across the Ohio river having a less span across the main channel thereof than five hundred feet.

Also, the action of the merchants, manufacturers, and others, citizens of Cincinnati, on the same subject.

Also, the opinion of 58 Ohio river pilots, on the same subject.

Also, the proceedings of the Cincinnati Board of Underwriters, on the same subject.

Also, a memorial of 90 cigar-makers of Cincinnati, protesting against any increase of tax on cigars.

By Mr. DAWES: The remonstrance of Hinsdale Smith and others, against a change in the tax on cigars.

By Mr. GROVER: The petition of Eli Long.

By Mr. HALSEY: The petition of cattle brokers of Hudson county, fifth district New Jersey, asking Congress to reduce the tax on their business.

By Mr. HOTCHKISS: The petition of William H. Coen and others, of Waterbury, Connecticut, in reference to tax on cigars.

By Mr. LAWRENCE, of Pennsylvania: The petition of 25 workers in Brighton paper-mill, in Beaver county, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed, and praying for additional protective duties.

Also, the petition of 42 workingmen of New Castle, Pennsylvania, praying for additional protective duties.

Also, the petition of David Beal and 44 others, farmers and mechanics of Hanover township, Beaver county, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of Captain Daniel Dawson and 51 others, farmers and mechanics of Ohio township, Beaver county, Pennsylvania, complaining of the depression of industry, and praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

By Mr. LYNCH: The petition of cigar-makers, relating to the tax on cigars.

By Mr. McCARTHY: The petition of 150 cigar manufacturers, journeymen cigar-makers, and dealers of Syracuse, New York, against an increase of taxation on cigars, and in favor of a revenue stamp instead of the present inspector's stamp.

By Mr. MOORE: The petitions of 114 glass workers, in Millville, New Jersey, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 39 workers in glassware at Bridgeton, New Jersey, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 138 workers in Camden iron works, at Camden, New Jersey, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 49 workers in Clayton glass works, New Jersey, setting forth that owing to foreign competition their industry is greatly depressed, and praying for additional protective duties.

Also, the petition of 28 workers in Gibbsboro white lead works, Camden county, New Jersey, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 110 workers in Whitney glass works, Glassboro, New Jersey, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of John J. Githens and 25 others, glass-blowers, of Ateo, New Jersey, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of John W. Farrell and 31 others, workers in Nesocochague paper-mill, Atlantic county, New Jersey, complaining of the depression of industry, and praying for additional protective duties.

By Mr. MOORHEAD: The petition of 756 iron-workers in eleven iron-mills in Pittsburg, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of John Winton and 68 others, glass-blowers in Birmingham, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 208 glass-workers in Pittsburg, Pennsylvania, setting forth that, owing to foreign competition, their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 64 citizens of Pittsburg, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of 65 workers in Fulton machine works and Enterprise foundry, at Pittsburg, Pennsylvania, praying for additional protective duties.

Also, the petition of William Adams and 174 others, workingmen of Alleghany county, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 466 workers in iron and steel and brass at Pittsburg, Pennsylvania, representing that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of John Cleland and 48 others, coal-workers at Braddock's Fields, Pennsylvania, praying for additional protective duties.

Also, the petition of 52 brushmakers and others, workers in Pittsburg, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of Christopher Deemer and 83 others, workingmen of Alleghany county, Pennsylvania, praying for additional protective duties.

Also, the petition of Samuel Tretheway and 20 others, workers in the Crescent steel works of Pittsburg, Pennsylvania, praying for additional protective duties.

Also, the petition of 37 workers in queensware and other factories of Pittsburg, Pennsylvania, praying for additional protective duties.

Also, the petition of Thomas I. Christian and others, operatives in Hope cotton-mills, at Pittsburg, Pennsylvania, complaining of depression of industry, and praying for additional protective duties.

By Mr. MYERS: The petition of cigar manufacturers, journeymen cigar-makers, and dealers in leaf tobacco, of Lehigh county, Pennsylvania, against altering the present system of taxing cigars.

By Mr. NICHOLSON: The petition of

Samuel Etchelle and 30 others, workingmen of New Castle, Delaware, praying for additional protective duties.

By Mr. PERHAM: The petition of John W. Harris, for pay as pilot from November, 1862, to April 20, 1863.

By Mr. PRUYN: The remonstrance of M. Strasser and 56 others, of Albany, New York, against any increase in the internal revenue tax on cigars.

By Mr. STARKWEATHER: The petition of John B. Sizer and others, of New London, Connecticut, cigar manufacturers, cigar dealers, &c., against increasing the tax on cigars.

By Mr. STEWART: A memorial of the New York Produce Exchange, for an appropriation for the improvement of the harbor of Buffalo.

Also, a memorial of the American Geographical and Statistical Society, of New York, requesting a scientific expedition to Alaska.

## IN SENATE.

THURSDAY, May 28, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

## IMPEACHMENT OF PRESIDENT—PRIVILEGE.

The PRESIDENT *pro tempore* appointed as members of the committee provided for by the resolution of the Senate of yesterday, Mr. BUCKALEW, Mr. MORRILL of Maine, Mr. CHANDLER, Mr. STEWART, and Mr. THAYER.

## HOUSE BILLS REFERRED.

The following bills received from the House of Representatives yesterday were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 198) to reestablish the boundaries of the collection districts of Michigan and Mackinac, and to change the names of the collection districts of Michilimackinac and Port Huron;

A bill (H. R. No. 375) to repeal an act approved March 2, 1867, entitled "An act to regulate the disposition of fines, penalties, and forfeitures received under the laws relating to the customs, and for other purposes," and to amend certain acts for the prevention and punishment of frauds in the revenue, and for the prevention of smuggling;

A bill (H. R. No. 1119) for the registration or enrollment of certain foreign vessels; and

A bill (H. R. No. 1120) to authorize the Secretary of the Treasury to change the names of certain vessels.

The joint resolution (H. R. No. 96) for the relief of John Sedgwick, collector of internal revenue third district, California, was read twice by its title, and referred to the Committee on Finance.

## PETITIONS AND MEMORIALS.

Mr. DOOLITTLE. Mr. President, I have received and been requested to present to the Senate an appeal addressed to the Senate of the United States in behalf of the conservative people of South Carolina, against the adoption by Congress of the new constitution proposed for that State. It is signed by the State Central Executive Committee representing those people in South Carolina. It is a well written paper, and discusses among other things the Constitution in reference to certain statistics and facts on the subject of taxation. The memorial I desire to have referred to the Committee on the Judiciary, who have the matter in charge, and I beg to call the attention of the committee to its statements. It seems to be calmly written and a very able document so far as I can judge. I believe the statement therein contained will be found to be entirely accurate.

The memorial was referred to the Committee on the Judiciary.

Mr. JOHNSON presented the petition of Mrs. Emma M. Moore, widow of Lieutenant John W. Cox, of the United States Navy, and of the late Senior Captain E. W. Moore, of

the late Texas navy, praying that her name may be restored to the pension-list; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Cambridge, Maryland, praying that that town may be made a port of entry or delivery; which was referred to the Committee on Commerce.

He also presented a petition of Anthony Nagle, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. YATES presented a petition of citizens of Illinois, praying for such an amendment to the Constitution of the United States as will fully acknowledge the obligations of the Christian religion; which was referred to the Committee on the Judiciary.

Mr. RAMSEY presented the memorial of Edward D. Neill, praying the publication of the records of the Virginia Company of London, now in the Library of Congress; which was referred to the Committee on the Library, and ordered to be printed.

Mr. CAMERON presented a memorial of underwriters and merchants of Philadelphia, against the adoption of any measures that will lessen the efficiency of the Coast Survey; which was referred to the Committee on Appropriations.

He also presented a memorial of the Philadelphia Board of Trade, praying a reduction of the tax on whisky and tobacco; which was referred to the Committee on Finance.

He also presented the petition of Thomas E. Williams and John Montgomery, praying compensation for the destruction of property by the military forces of the United States; which was referred to the Committee on Claims.

He also presented the petition of Amanda Stackhouse, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented five memorials of the Philadelphia Typographical Union No. 2, remonstrating against the passage of an international copyright law; which were referred to the Committee on the Library.

He also presented a memorial of the sugar refiners of Philadelphia, asking for an increase of the duty on clarified sugar; which was referred to the Committee on Finance.

He also presented the petition of James McMurray, praying an increase of pension; which was referred to the Committee on Pensions.

Mr. CAMERON. I also desire to present the petition of John Potts, chief clerk of the War Department, who asks for compensation as disbursing agent of that Department, and I desire to say in presenting it that this office of disbursing agent was created by the Secretary of War in the beginning of the war in 1861. He has disbursed some nine or ten million dollars without any compensation at all. The petition, together with the documents accompanying it, I move to refer to the Committee on Military Affairs.

The motion was agreed to.

Mr. FRELINGHUYSEN presented the petition of James F. Armstrong, Captain United States Navy, praying to be restored to the active list; which was referred to the Committee on Naval Affairs.

Mr. COLE presented a petition of citizens of California, praying an appropriation of \$30,000 for turning San Diego river into False bay; which was referred to the Committee on Commerce.

Mr. HARLAN presented a memorial of citizens of Iowa, in relation to the erection of a bridge over the Mississippi river at Rock Island; which was ordered to lie on the table.

Mr. HARLAN. I present the memorial of Charles A. Nichols and others, asking for the erection of a bridge over the Anacostia or eastern branch of the Potomac river at Washington, with a resolution. I ask that the resolution may be read for information, and I give notice that I will call it up to-morrow.

The PRESIDENT *pro tempore*. The resolution will be read for information.

The Chief Clerk read as follows:

*Resolved*, That the Commissioner of Public Buildings and Grounds be directed to make a survey of the lower bridge, known as the navy-yard bridge, across the Anacostia, and report a plan for a permanent structure across the same, at or near the present site, capable of sustaining a railway track and cars with a foot way on each side of the carriage track, with an estimate of the cost of the same.

The PRESIDENT *pro tempore*. The resolution will lie over until to-morrow.

#### ARMY APPROPRIATION BILL.

On motion of Mr. MORRILL, of Maine, the Senate proceeded to consider its amendments to the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, disagreed to by the House of Representatives.

On motion of Mr. MORRILL, of Maine, it was

*Resolved*, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The President *pro tempore* appointed Messrs. MORRILL of Maine, Howe, and Wilson.

#### REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (H. R. No. 867) for the relief of Jonathan Jessup, postmaster at York, Pennsylvania, reported it without amendment, and submitted a report, which was ordered to be printed.

Mr. MORGAN, from the Committee on Finance, reported a bill (S. No. 490) for the relief of the owners of the brig Ocean Belle; which was read, and passed to a second reading.

Mr. HARLAN, from the Committee on the District of Columbia, reported a bill (S. No. 491) to provide for the appointment of register of deeds in the District of Columbia, and for other purposes; which was read, and passed to a second reading.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the joint resolution (H. R. No. 246) directing the Secretary of State to present to George Wright, master of the British brig J. and G. Wright, a gold chronometer, in appreciation of his personal services in saving the lives of three American seamen wrecked at sea on board the American schooner Lizzie F. Choate, of Massachusetts, reported it without amendment.

#### BRIDGE OVER THE DAKOTA RIVER.

Mr. FERRY. The Committee on Territories, to whom was referred the bill (H. R. No. 650) to amend the act of 3d March, 1865, providing for the construction of certain wagon-roads in Dakota Territory, have instructed me to report the bill back with a recommendation that it pass; and I am instructed to request that the bill be put on its passage now. It will take but a moment, I think, as it is merely to appropriate the balance of an unexpended appropriation to finish a bridge begun but not completed.

The PRESIDENT *pro tempore*. The Senator from Connecticut asks the present consideration of the bill reported by him. It requires unanimous consent. Is there any objection?

Mr. EDMUNDS. Let it be read for information.

The Chief Clerk read the bill, which proposes to apply the unexpended balance of an appropriation made March 3, 1865, for the construction of certain wagon-roads in the Territory of Dakota, or so much thereof as may be necessary, to the completion of the bridge over the Dakota river, on the line of the Government road leading from Sioux City, in the State of Iowa, to the mouth of the Cheyenne river, in Dakota Territory.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. EDMUNDS. How much is that balance?

Mr. FERRY. I will state it in a moment.

The bill was reported to the Senate without amendment.

Mr. FERRY. The appropriation made by the act of March 3, 1865, for the construction of certain wagon-roads in Dakota Territory, has, as I am informed by a letter from the Secretary of the Interior, remaining an unexpended balance of \$12,157 70. On the road from the mouth of the Big Cheyenne to its intersection with the Niobrara river there is a bridge over the Dakota, the material of which has been collected, but the bridge itself not completed. The Secretary of the Interior informs me in the same letter that the cost of the completion of the bridge will be about one thousand five hundred dollars. The bill appropriates the unexpended balance, or so much thereof as may be necessary, to the completion of this bridge.

Mr. EDMUNDS. How much is the unexpended balance?

Mr. FERRY. Twelve thousand one hundred and fifty-seven dollars and seventy cents.

Mr. EDMUNDS. You had better limit it so as not to exceed \$2,500, as the Secretary says it will only cost \$1,500.

Mr. FERRY. I should have no objection to that amendment except that it would send the bill back to the House, and the completion of the bridge is to be under the charge of a superintendent already appointed by the Secretary of the Interior.

Mr. EDMUNDS. I move to amend the bill—the Clerk can insert it in the proper place—so as to provide that the amount to be expended in completing this bridge shall not exceed \$2,500. That is \$1,000 more than the Secretary of the Interior says it will cost. I am altogether opposed to leaving an open appropriation of \$15,000 to be expended under the direction of anybody in the Territory of Dakota that I am acquainted with.

Mr. FERRY. I should regret to have this amendment placed on the bill, because the bill passed the House of Representatives some months ago, before the commencement of the impeachment trial, and it is necessary to have the matter acted upon immediately in the Territory in order to the completion of this bridge. It seems to me the expenditure of the appropriation is perfectly controlled by the superintendent who has already in charge the construction of the wagon-roads under the act of March 3, 1865. I prefer that the amendment should not be made.

Mr. EDMUNDS. I hope my friend will not oppose this amendment. It is an objection which ought not to be made to amendments that are proper in themselves that the bill has to go back to the House of Representatives. I think it is not a proper objection at all. And then my friend knows perfectly well that when a bill goes back to the House of Representatives with an amendment it always comes up in a day or two. We are interchanging bills with amendments all the time. It seems to me to be unwise—but of course the gentleman in charge of appropriations and the finances know better—to put \$15,000 under the control of some superintendent of roads out in the Territory of Dakota to do what the Secretary of the Interior reports will only cost \$1,500, and still say that we will now reappropriate the whole unexpended balance of \$15,000, or so much thereof as shall be necessary, and that is left to the superintendent to have the control of to do that small piece of work. It is unsafe and unsound legislation as it appears to me. I have no hostility, of course, to the completion of that bridge; but I submit to the Senate that my friend from Connecticut ought not to oppose an amendment which can only limit within fair and proper bounds the sum of money which is to be applied to that purpose, instead of leaving it to the unlicensed and unbridled discretion of some superintendent out there who may be changed at the will of any Secretary of the Interior or whoever



has charge of it. It will not delay the passage of the bill.

Mr. CONNESS. If this bill is to be amended at all with the view suggested by the Senator from Vermont, it is certainly improper to extend the sum, if it is to be limited, beyond what the Secretary declares is enough.

Mr. EDMUNDS. I was willing to give a little margin for extras.

Mr. CONNESS. Yes, Mr. President; but it is as much of a crime to expend \$1,000 more unnecessarily as it would be to expend the whole amount. If the Secretary says \$1,500 is enough, if you are going to amend the bill at all it should be limited to that.

Mr. RAMSEY. The danger further would be that the parties who have the management of this fund might consider this as an instruction to expend \$2,500.

Mr. EDMUNDS. Then the bill as it stands is an instruction to expend the whole.

Mr. CONNESS. I move to amend the amendment by inserting \$1,500 instead of \$2,500.

Mr. EDMUNDS. I have no objection to that if it suits my friend better.

Mr. CONNESS. I was not in favor of amending the bill, but I think if it is to be amended it should be amended in that way.

The PRESIDENT *pro tempore*. The Senator from Vermont modifies his amendment so as to provide that the appropriation shall not exceed \$1,500.

Mr. EDMUNDS. Yes, sir; to satisfy my friend from California.

Mr. FERRY. I trust the amendment in this shape will not prevail. The original act provides that the balance remaining after the construction of all these roads and bridges shall be applied to another road from Sioux City, Iowa, to the Big Cheyenne, Dakota Territory, and in the original act the expenditures were under the direction of the superintendent appointed by the Secretary of the Interior, and this balance has remained as yet unexpended. Now, it is desired to complete this bridge, and if of the balance now in hand a portion, as will undoubtedly be the case, shall remain after the completion of the bridge, it is already appropriated by the act of March 3, 1865. It seems to me it would embarrass the bill unnecessarily to insist upon the amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Vermont.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time, and passed.

#### BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 492) to extend the time for the construction of the Southern Pacific railroad in the State of California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 493) providing for a reduction of the interest on the public debt; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 137) extending the time for the completion of the Northern Pacific railroad; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

#### J. ROSS BROWNE'S REPORT.

Mr. STEWART. I ask leave to present an amendment to be offered to the resolution of the Senator from California, [Mr. CONNESS,] with regard to the printing of J. Ross Browne's report. I ask that it be read and referred with the resolution to the Committee on Printing. I am not particular as to its being read, but I wish to have it referred to the committee.

Mr. POMEROY. I want to hear it read.

The PRESIDENT *pro tempore*. It will be read for information.

The Chief Clerk read the proposed amendment, as follows:

That one thousand additional copies of the said report be furnished to Mr. Browne for distribution, and that he be allowed, for such time as may be necessary, the use of the stereotype plates, after the copies called for by Congress shall have been printed, for the purpose of having printed, at his own expense, any additional number of copies he may desire.

Mr. STEWART. I will state to the committee that Mr. Browne obtained a great deal of the information that is embodied in the report from third parties, who have assisted him in it, and he feels under obligation to give them some copies of the report; and inasmuch as it contains this valuable information, the use of the stereotype plates for a time would be no great detriment to the Government, but would aid in the general object of diffusing information.

The PRESIDENT *pro tempore*. The proposed amendment will be referred to the Committee on Printing.

#### THANKS TO SECRETARY STANTON.

Mr. EDMUNDS. I offer the following resolution, and ask for its present consideration:

*Resolved by the Senate, (the House of Representatives concurring.)* That the thanks of Congress are due, and are hereby tendered, to Hon. Edwin M. Stanton, for the great ability, purity, and fidelity to the cause of the country with which he has discharged the duties of Secretary of War, as well amid the open dangers of a great rebellion as at a later period when assailed by the opposition inspired by hostility to the measures of justice and pacification provided by Congress for the restoration of a real and permanent peace.

The PRESIDENT *pro tempore*. The Senator from Vermont asks unanimous consent for the consideration of the resolution at this time. Is there any objection?

Mr. HENDRICKS. Let it be read again. I did not hear it.

The Chief Clerk read the resolution.

Mr. HENDRICKS. I object to the consideration of that, sir.

The PRESIDENT *pro tempore*. Objection being made, it goes over under the rules.

#### POSTAL TREATY WITH GREAT BRITAIN.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be, and he is hereby, respectfully requested to communicate to the Senate, if in his judgment not inconsistent with the public interest, copies of any correspondence recently had with the authorities of Great Britain in relation to a new postal treaty.

#### DIPLOMATIC UNIFORM.

Mr. ANTHONY submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the President of the United States be requested, if in his opinion not incompatible with the public interest, to communicate to the Senate copies of all correspondence with persons in the diplomatic service of the United States relating to the act of Congress approved March 27, 1867, prohibiting them from wearing any uniform or official costume not previously authorized by Congress.

#### INDEX TO IMPEACHMENT REPORT.

Mr. SHERMAN. I now offer a resolution which I find to be necessary, and which I offered yesterday in a slightly different shape:

*Resolved*, That the Committee on Printing are hereby authorized and directed to provide for a proper index to the official copy of the proceedings of the Senate, sitting for the trial of the President upon articles of impeachment.

By unanimous consent, the Senate proceeded to consider the resolution.

Mr. SUMNER. I would make an observation on that. I said last night that it was within my knowledge that a particular effort was made to have a good index to the edition published by the Globe. I was in the way of seeing a portion of that index as far as it has gone, and it promises well. I think it will be a very useful one. The question with me was whether the labor that has been put into the Globe index could not in some way be utilized at the Government Printing Office in the preparation of

the index to this other edition of the trial. For instance, the Globe index might be taken and the paging of the Government edition supplied instead of the paging of the Globe edition. I merely make this remark now by way of suggestion to my friend, the chairman of the committee, that he may bear it in mind in any instructions that he may think it advisable to give. On the whole, I think the resolution should pass.

Mr. SHERMAN. I think it ought to be left to the Committee on Printing rather than to the Secretary of the Senate, and therefore I have put the resolution in that form.

Mr. ANTHONY. I believe the original resolution directing the publication of an edition of the impeachment trial provided for an index. I am not certain upon that; but whether it did or not, it was so absolutely necessary that the Committee on Printing directed an index to be prepared as the publication went on, but it is as yet incomplete, and as the Senator from Massachusetts suggests that the one prepared at the Globe office is very perfect it may be unnecessary to complete the other.

Mr. BUCKALEW. I desire to make one remark. I understand it has been proposed to have the index published three times; that is, that it be included in each one of the three volumes constituting the proceedings. I hope the committee will only publish it once, at the end of the last volume. This is a book for libraries, and it ought to be published in the usual manner. We ought not to duplicate matter and swell this publication, which is very large anyhow, by publishing three times over the same matter. In libraries, when works consisting of more than one volume are used, the index in the last volume, which is always referred to, is sufficiently convenient. I suppose this idea of having the index in each volume arises from the fact that that is the manner of publishing the Globe, but that is a very different kind of work, and is very bulky. As this is a library publication, and will be in the hands of gentlemen who are careful of books and accustomed to their use, I hope we shall have the index published only once, and in the ordinary manner, at the end of the concluding volume.

Mr. ANTHONY. I think the resolution had better be referred to the Committee on Printing.

Mr. SHERMAN. I have drawn the resolution that the Committee on Printing be directed to provide for an index.

Mr. ANTHONY. Very well.

The resolution was agreed to.

SAMUEL N. MILLER.

Mr. WILLEY. I move that the Senate proceed to the consideration of the bill (S. No. 454) for the relief of Samuel N. Miller, reported from the Committee on Patents and the Patent Office.

The motion was agreed to; and the bill was read the second time, and considered as in Committee of the Whole. It proposes to authorize Samuel N. Miller, who obtained a patent for an improved compound anchor, dated June 29, 1852, for fourteen years, which expired on the 29th of June, 1866, to apply to the Commissioner of Patents for the extension of the patent for seven years, under the regulations now in force in relation to the extension of patents. The Commissioner of Patents is to investigate and decide the application for extension on the same evidence and in the same manner as other applications for extension are decided; but the application is to be made within sixty days after the approval of the act, and the decision of the Commissioner to be rendered within ninety days from the filing of the application in the Patent Office; no person who may have manufactured or used the improved compound anchor between the expiration of the patent and the approval of the act is to be held responsible in damages.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

## LEAVE OF ABSENCE.

Mr. McCREERY. I have just received a letter from my colleague, [Hon. GARRETT DAVIS,] informing me that he has been summoned home by a letter informing him of sickness in his family, and requesting me to make an application that the Senate will grant him indefinite leave of absence. I make that motion.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that his colleague [Mr. DAVIS] have indefinite leave of absence.

Mr. DRAKE. When I asked leave of absence last year I was informed by the senior Senators here that that was a thing never done in the Senate; that Senators had the right to go and come as they pleased without asking leave of the Senate; and I suppose there is no necessity for formal leave of absence being granted in this case.

Mr. McCREERY. I will remind the Senator from Missouri that indefinite leave of absence was granted to Mr. GRIMES the other day, and I make this application on behalf of Mr. DAVIS at his request.

Mr. FESSENDEN. There is no rule on the subject. It is entirely unnecessary.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Kentucky, that his colleague have indefinite leave of absence from attendance on the Senate.

The motion was agreed to.

## DISTRICT JAIL.

Mr. FESSENDEN. I ask the Senate to take up for consideration a bill to which I called its attention some time ago, which it is very necessary to pass soon, if it is to pass at all, in reference to the erection of a jail in this city. I think it can be passed in a few minutes. I move to take up House bill No. 784.

The motion was agreed to; and the bill (H. R. No. 784) to amend the act entitled "An act authorizing the construction of a jail in and for the District of Columbia," approved July 25, 1866, was considered as in Committee of the Whole.

The bill was read.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is regularly before the Senate.

Mr. FESSENDEN. I ask the Senator from Illinois [Mr. TRUMBULL] to allow this bill to be disposed of. It has been read through; there are a few amendments reported by the Committee on Public Buildings and Grounds, and there is an amendment agreed upon between that committee and the Committee on the District of Columbia which I think will settle the matter in a few minutes. I think it will occasion no debate, because both committees have agreed on it.

Mr. TRUMBULL. I have no objection to the Arkansas bill being laid aside informally for a few minutes.

The PRESIDENT *pro tempore*. If there be no objection, the unfinished business of yesterday will be laid aside informally. The Chair hears no objection to that course. The amendments reported to House bill No. 784 will be read.

Mr. FESSENDEN. Before the Clerk proceeds to read the amendments, I wish to make a statement which I suppose will be satisfactory to the Senate. This bill was originally passed by the House of Representatives. Certain amendments to it were agreed on by the Committee on Public Buildings and Grounds. Those amendments were submitted to the chairman of the committee on the part of the House. They were not read to him, but it was stated to him what they would be, and he said they would be entirely satisfactory to him. I think they put the bill in better shape. Afterward the bill, when reported to the Senate, was taken up by the Committee on the District of Columbia, and I am informed by the member of that committee who has the subject in charge, so far as that committee are concerned, that they have examined it also, and are perfectly satisfied with it with the exception that they desire

to make one or two amendments which have been submitted to me and which I have agreed to. So I think the bill will be in as good a shape as we can put it.

The PRESIDENT *pro tempore*. The amendments will be read.

The amendments were read in their order. The first was to strike out the first and second sections of the bill, in these words:

That the act entitled "An act authorizing the construction of a jail in and for the District of Columbia" be, and is hereby, amended so as to read as follows, to wit: that the contracts heretofore attempted to be made under the act of which this is amendatory, by the Secretary of the Interior on behalf of the United States, with W. H. Allen and others, for the building of the new jail for the District of Columbia, be, and hereby are, declared null and void, and shall thenceforth be treated as of no force or effect, and no money shall be paid nor any work done thereunder; and that the plans and specifications made by E. Faxon, and upon which said contracts were attempted to be made, be, and are hereby, rejected and abandoned as unsuitable for the purpose for which they were designed and not in accordance with existing laws.

SEC. 2. And be it further enacted, That Bartholomew Oertly, Sayles J. Bowen, and J. M. Edmunds be, and hereby are, appointed a board of commissioners for the construction of the new jail in the District of Columbia, and they are hereby authorized and directed to immediately select a suitable site on some of the public grounds belonging to the United States in the city of Washington on which to erect said jail, and as soon as said selection shall be made they shall report the same to Congress for approval or disapproval, and whenever Congress shall approve a selection made by said board the ground so selected shall thenceforth be set apart for said jail, and until its completion be under the control of said board. And the said board at the earliest possible period after such approval shall procure plans and specifications of a jail suitable for the accommodation of three hundred persons, or as near that number as practicable, which said plans and specifications shall be in all respects complete and perfected; and if, on examination of the same, they shall be approved and adopted, certificates of such adoption and approval shall be entered thereon, signed by each member of the board, or a majority thereof, and be carefully preserved by them.

And in lieu thereof to insert three sections, in these words:

That the selection of a site for the erection of a jail in the District of Columbia made by the Secretary of the Interior, under and by virtue of laws heretofore enacted, be, and the same is hereby, suspended; and that any plan or plans heretofore approved by the said Secretary for the erection of such jail be, and the same are hereby, rejected; and that any and all contracts heretofore entered into by the said Secretary for the construction of such jail be, and the same are hereby, declared null and void, and not in accordance with the laws authorizing the adoption of plans and the execution of contracts for the purpose aforesaid.

SEC. 2. And be it further enacted, That the Committees of the Senate and House of Representatives upon Public Buildings and Grounds, acting in conjunction, be, and are hereby, authorized to select a site for the erection of a new jail in the District of Columbia upon some of the public grounds in the city of Washington belonging to the United States, and when said site shall be so selected a certificate of such selection shall be filed in the Department of the Interior, which certificate shall be signed by the chairman of said committees. In case said committees shall be of opinion that no suitable site can be designated upon any of the aforesaid public grounds, they shall so report to the respective Houses, and recommend such further measures in relation thereto as they may judge expedient.

SEC. 3. And be it further enacted, That in case a site should be selected as provided for in the preceding section, the Secretary of the Interior shall forthwith give notice thereof to the architect of the Capitol extension, whose duty it shall be, in conjunction with the architect of the Treasury Department and the officer of engineers in charge of the public buildings and grounds, to prepare suitable plans and specifications for the construction of such jail upon the site so selected, of sufficient dimensions to accommodate not less than two hundred persons, and so designed that said jail may, if necessary, at some future time, be so enlarged as to accommodate not less than three hundred persons without interfering with the harmony of the general design; and the plans and specifications made in pursuance of the foregoing provisions shall be submitted to the Committee on Public Buildings and Grounds of the two Houses of Congress, and shall be subject to their approval; and said plans and specifications, when approved by said committees, shall be certified by the chairman of said committees and deposited in the Department of the Interior.

Mr. HARLAN. I have no objection to the amendment proposed, except one. It provides for a selection by this committee of a site for a jail on public grounds. I am satisfied personally that this will be a waste of labor. There are but three spots of ground within the limits of Washington city, and as far as I know within the District of Columbia, that would be at all eligible. Two of these have heretofore been

selected, and each rejected by Congress. One was selected near two years ago in the northeast corner of the city plot, and rejected by a joint resolution of Congress. Now we propose to reject the second one, which I am sure, personally, was the only eligible place remaining. I think it would be better to give this committee discretion to make a selection at once without requiring them to report to the two Houses. I make this suggestion, and, if it is acceptable to the Senator who has the bill in charge, I should like to have it adopted; if not, I will make no further objection.

Mr. FESSENDEN. I will simply say that on the examination we made of the subject it did not appear to me quite so desperate a case as my friend supposes; and I am satisfied that if we do what he suggests we shall have difficulty in passing the proposition through the other House.

Mr. HARLAN. Very well.

Mr. FESSENDEN. I have provided in this amendment that if no site is found that is considered eligible we shall then report to Congress and get an additional act.

Mr. JOHNSON. Can that be done during the session?

Mr. FESSENDEN. It may possibly.

The amendment was agreed to.

The next amendment was in line three of section four, [three,] to strike out the words "said board" and insert "the Secretary of the Interior."

The amendment was agreed to.

The next amendment was after the word "site," in line five of the same section, to insert "under the superintendence and direction of the architect of the Capitol extension, who shall furnish all necessary working plans, but shall not be entitled to receive any additional pay for his services."

The amendment was agreed to.

The next amendment was in the same section, after the word "purpose" in line eight to insert "the board of officers named in the preceding section."

The amendment was agreed to.

The next amendment was in line twenty-two of the same section, to strike strike out "said" and insert "the."

The amendment was agreed to.

The next amendment was to add to the section the words "and said contracts, when completed, shall be filed in the Department of the Interior."

The amendment was agreed to.

The section, as amended, reads:

And be it further enacted, That, as soon as said plans and specifications shall have been adopted and certified as aforesaid, the Secretary of the Interior shall cause a jail, in accordance therewith, to be constructed on said site, under the superintendence and direction of the architect of the Capitol extension, who shall furnish all necessary working plans, but shall not be entitled to receive any additional pay for his services; and for that purpose the board of officers named in the preceding section shall publish a notice for proposals for the construction thereof for at least thirty days in a leading newspaper in the city of Washington, which notice shall specify a place in the said city where the plans and specifications can be seen and a time when the contract shall be let; and said board shall let the whole work in one contract to the lowest and best bidder, who shall give satisfactory bond in the penal sum of \$100,000, with sufficient sureties, to be approved in writing by said board, for the faithful completion of the work according to contract and to the satisfaction of said board: *Provided, however,* That said board may reject all bids if they deem them unreasonably high or unworthy of acceptance, and shall reject all that are above the sum of \$200,000; *And provided further,* That no bid shall be considered unless it be accompanied with a satisfactory bond in the sum of \$10,000, conditioned that the bidder shall enter into the contract if it be awarded him, and give the security required by this act for the completion of the work, or pay to the United States the difference between his bid and the one on which the contract shall be finally awarded and let. In the event of the rejection of all the bids new advertisements shall immediately be published as herein directed, and new bids be received by said board. And said contracts, when completed, shall be filed in the Department of the Interior.

The next amendment was in line nine of section five, [four,] to strike out "on the order of said board" and insert "by the Secretary of the Interior;" and in line nineteen, to strike

out "they are" and insert "the Secretary of the Interior;" so as to make the section read:

SEC. [4] 5. *And be it further enacted*, That the unexpended portion of the appropriation heretofore made by the act of July 25, 1866, for the purpose of building a jail in said District of Columbia is hereby continued and renewed for said purpose, and in addition thereto such sum as shall be necessary to make the sum of \$200,000 is hereby appropriated out of any money in the United States Treasury not otherwise appropriated, to be drawn by the Secretary of the Interior; and the contract price shall be paid in monthly installments, according to contract, as the work progresses, upon the certificate of the supervising architect having direction of the work, except that twenty per cent. of all estimates shall be retained as security until the completion of the entire work. It shall be the duty of said board to insert in the contract all such reasonable and usual provisions, conditions, and safeguards as they shall deem necessary for the protection of the United States, without specifying the same in the advertisements for proposals; and the Secretary of the Interior is authorized, after the new jail is completed, to sell at public sale, on reasonable notice thereof, the materials of the old jail, now located on Judiciary square, and to pay the proceeds into the Treasury of the United States.

The amendment was agreed to.

The next amendment was to strike out the fifth section, in the following words:

SEC. 5. *And be it further enacted*, That after the contract for said jail shall be let, the said board shall select one of their number to superintend and direct, under the control and supervision of said board, the work of said jail; and the expense of said superintending, and of plans and specifications, shall not exceed the rates that are customary for similar work when done for individuals; and the price of the plans and specifications shall be paid, when they shall be approved, and that of the superintendent, as the work progresses, on the order of said board, out of any moneys in the Treasury not otherwise appropriated.

The amendment was agreed to.

The next amendment was to strike out the seventh section, in these words:

SEC. 7. *And be it further enacted*, That each member of the board of commissioners shall receive, as full compensation for his services under this act, \$1,000; and the sum necessary to pay the said board and the architect is hereby appropriated, to be paid, on the order of said board, out of any moneys in the Treasury not otherwise appropriated. A majority of the said board shall have power to do anything which is required of said board in this law.

The amendment was agreed to.

Mr. PATTERSON, of New Hampshire. Mr. President, it may be remembered that this subject was committed to a joint sub-committee from the two committees on the District of Columbia of the House of Representatives and of the Senate for examination in the first part of the session. While they were examining the contract for the building of a jail, the chairman of the Committee on Public Buildings and Grounds in the House of Representatives introduced a resolution, which was passed, which authorized that committee also to investigate the same subject. After we had completed the work of investigation, I was called away to New Hampshire, and was gone three weeks. When I returned I found that the Committee on Public Buildings and Grounds had introduced a bill and a report in the House of Representatives upon this subject. The committee of which I am a member—the Committee on the District of Columbia—met and considered that report and bill, and concluded that they were perfectly satisfied with the bill which had been reported by the chairman of the committee, the Senator from Maine, or would be with a few amendments which they authorized me to propose. I therefore move in the second section, third line, after the word "grounds" to insert the words "and the District of Columbia;" so as to read "that the committees of the Senate and House of Representatives upon Public Buildings and Grounds and the District of Columbia," &c.

The amendment was agreed to.

Mr. PATTERSON, of New Hampshire. I move to substitute the word "committees" for "committee" in line fifteen of section three; and after the word "grounds," in the same line, to insert the words "and District of Columbia."

The amendment was agreed to.

Mr. PATTERSON, of New Hampshire. In the ninth line of the fourth section, after the

word "section," I move to insert "may contract with William H. Allen, whose agreement under the law of July 25, 1866, is hereby set aside, to construct the jail as stipulated in this act, provided he will abandon all claims under the former contract except for materials furnished and work actually done, and will bind himself, as hereinafter set forth, to complete said jail on such terms as the board may deem advantageous to the Government, but failing in this they."

I wish to say just one word in relation to this matter which I deem it my duty to say. In the report which was made to the House of Representatives by the chairman of the Committee on Public Buildings and Grounds there are some pretty severe and serious reflections made in relation to certain parties who were connected with this jail, and among others Mr. Faxon, who was the architect. I feel it my duty to say that the testimony as it was given to the Committee on the District of Columbia will not justify, in my judgment, the severity of the remarks made in regard to Mr. Faxon in this report. The report says:

"One witness, Mr. Gibbon, testifies that Mr. Faxon made corrupt proposals or suggestions to him, in connection with the jail, and talked to him of 'let ups,' &c. It is true Mr. Faxon denies much of what Mr. Gibbon has testified to; but apart from the fact that Mr. Gibbon, who is at present engaged in constructing the agricultural college, is a man of admitted good character, the circumstances detailed by him, as well as other facts in the investigation, go to corroborate his testimony."

Now, sir, I wish to say that the testimony given by Mr. Gibbon I think ought not to weigh very heavily against Mr. Faxon, inasmuch as in the testimony which he gave he stated that he himself had offered \$3,000 to Mr. Ewing of this city if he would secure to him this same contract; and a man who himself makes proposals to other parties for a corrupt contract certainly is not the party to reflect upon other persons. I will say, furthermore, that when this gentleman came before the committee he on one occasion was so intoxicated that he interrupted all business in the committee, and we found it necessary to say to him that he must either keep order or leave the committee-room. This is the gentleman who reflects on Mr. Faxon's character as an architect and upon his moral character as a man! Mr. Faxon is dead, and it seems to me it is nothing more than justice to the dead that I should say that this report is not borne out by the testimony which was presented to our committee.

I stated, sir, early in the session, when I introduced a resolution asking that the work upon the jail might be suspended for forty days, that an individual had been before the committee stating that evidence would be placed before the committee of corruption on the part of certain Government officers, and that he intimated pretty strongly that the Secretary of the Interior was mixed up with this matter. Now, sir, I feel that I ought to say that the testimony, when it was given before the committee, did not bear out that statement of this gentleman. There was no evidence whatever that the Secretary of the Interior practiced any corruption or any dishonesty in letting the contract to Mr. Allen. The only point on which the committee could reflect upon the Secretary of the Interior, or even upon Mr. Faxon, was that they threw out the five lowest bids on the ground that they were irregular; and the ground of irregularity was that the parties who made the bids did not state the material of which they would build the jail. In the specification it was provided that the jail should be built either of marble or of granite or of Seneca stone, a kind of red sand stone; and in the contract with Mr. Allen it was stipulated that the jail should be built of Seneca stone, the cheapest of the three kinds of stone. The parties who made those original bids could have been held to either of the kinds of stone if they did not stipulate which they would build the jail of in their bids; so that the committee did not see that their bids were irregular. It was recommended to the Secretary of the Interior

by Mr. Faxon, who was the architect of the jail, that these bids should be thrown out, because they were irregular; he acquiesced in that recommendation of Mr. Faxon, and that is the extent of his offending.

There was no evidence before the committee that Mr. Allen was in any way derelict in the securing of this contract, that he did anything wrong or was in any way censurable; and it seems but just that he should not suffer on account of the setting aside of this contract. He will probably come in for damages if he does not secure the contract for the jail which is hereafter to be built, and it will ruin him if he does not receive pay for what he has expended thus far on the jail. It seems, therefore, but just that if the Government can employ him without detriment he should be employed.

Mr. FESSENDEN. I have no objection to the amendment now proposed. I accede to the force of the suggestions made by the Senator from New Hampshire in relation to it. I am not satisfied, having read the report, that Mr. Allen is in any particular fault in reference to his work so far as he has gone. I do not know how that is. There was an irregularity undoubtedly in the letting originally, and it has become perfectly manifest that that contract, whatever may be the consequences, must be broken up; that it will not do to build a jail upon the place selected and of the character which the first act provided for. Still Mr. Allen has made all his preparations and has been at some expense. I understand that he is very anxious to secure the contract now for the jail as we propose to build it, for the reason stated by the Senator from New Hampshire, that he will be exceedingly injured, if not ruined, if he does not secure the contract on account of the expense he has been at in his preparations, &c. In addition to that, so far as we are concerned, as we undertake from reasons of necessity to vacate that contract entirely, it is very questionable in my mind whether Mr. Allen might not have a pretty severe claim for damages against the Government for breaking up the contract. Therefore, if a new contract can be made according to the amendment proposed by the Senator from New Hampshire with Mr. Allen on the terms stated—and I understand that Mr. Allen is perfectly willing to give up all claims for damages if he can have the contract—if it can be made with him upon satisfactory and proper terms, it is evidently very much for the advantage of the Government that it should be made with him, there being no dispute about the fact that he is a competent person; and it should be borne in mind also that the jail is to be built under the direction of a very competent man, Mr. Clark, the architect of the Capitol extension, who will see that it is properly executed. I think, therefore, it is no more than right and proper that this clause should be introduced; that if the gentlemen whom we appoint commissioners for the purpose can make a proper contract with Mr. Allen they shall do so; if not, that they shall put out bids for the completion of the work.

Mr. EDMUNDS. Who are the commissioners?

Mr. FESSENDEN. I will state. The bill originally proposed the erection of a jail capable of containing three hundred people for the sum of \$200,000. That was the limit. It became perfectly manifest to the committee that it was impossible to erect a jail of that size for that amount. It cannot be done. It will cost not less probably than \$300,000 or \$350,000. But a jail which is large enough to accommodate two hundred people can be built for the original sum of \$200,000. We therefore thought it better, and we agreed upon that, and the chairman of the House committee agreed to it also, that it was better to erect a jail large enough to accommodate two hundred people for \$200,000, on a plan that would admit of extension hereafter, if it should be found necessary to extend it, without impairing the plan and proportions of the whole building. We therefore made that alteration in the House bill.



The House bill provided for a commission of three persons, consisting of Mr. Bowen, Mr. Edmunds, our postmaster, and a gentleman who is a subordinate officer in the office of the architect of the Treasury Department, to select a site and to make contracts and to do the work, and to pay them a salary of \$1,000 each for doing it. We thought that that was entirely unnecessary. In the first place, we knew that there would be great difficulty as to the selection of a site, and we thought the only way we could settle that matter, without a quarrel all around, was to have it selected by Congress. We therefore thought that the Committees on Public Buildings and Grounds of the two Houses, to whom the subject has been referred, would be the proper persons to make the selection, and to them have been added, on motion, the Committees on the District of Columbia. I think they are large enough, and any site they agree upon will, no doubt, be approved. If we can agree upon a site on any of the public grounds it will be such as Congress will concur in.

Mr. EDMUNDS. Who, then, lets the contract?

Mr. FESSENDEN. Then we provide that the persons to prepare a plan and submit it to the committees shall be the architect of the Capitol extension, (Mr. Clark,) the architect of the Treasury Department—both gentlemen of high reputation and unquestioned integrity, with whom we have had connection—and General Michler, or whoever may have charge of the public buildings and grounds. These three gentlemen are to have the direction. After the plan has been made by them and approved by the committees, then the jail is to be built by the Secretary of the Interior, under the superintendence of the architect of the Capitol extension, Mr. Clark.

Mr. EDMUNDS. Does the Secretary of the Interior let the contract?

Mr. FESSENDEN. No; this commission are to let the contract. It is provided that the gentleman who is to oversee the building, the architect of the Capitol extension, shall prepare the working plans, but shall receive no additional pay. I took pains to inquire of Mr. Clark, and he said he could do it as well as not. He is already receiving a salary. He will have time enough to attend to it and oversee and direct the erection of the building. Thus we save the expense of the salaries proposed to be paid by the House bill, and we have plans prepared under men of ascertained ability and the building erected under a gentleman in whom we all have confidence.

These are the alterations we have made in the bill. As I said before, I talked with the chairman of the committee on the part of the House and told him what we proposed to do, and he said he thought it was an improvement of the bill. Whether the House of Representatives will approve of this provision in regard to Mr. Allen I do not know, but I think it only just and proper. If agreed to, it may save the Government a considerable claim for damages. I understand that there is another case where a contract was set aside because it was not supposed to be let according to law, and damages to the amount of about forty thousand dollars have been recovered in the Court of Claims against us. I think the honorable Senator from Iowa [Mr. HARLAN] knows something about it; it was in regard to the Library. We wish to avoid that, if possible; but if we cannot avoid it we must meet it. It is evident that the plan hitherto agreed upon and the contract made cannot be carried out.

Mr. HOWE. Let me ask the Senator a question. I wish to know who is to determine whether a proper contract can be let with Mr. Allen or not?

Mr. FESSENDEN. These commissioners.

Mr. HOWE. The architects?

Mr. FESSENDEN. The architects and General Michler.

Mr. EDMUNDS. It ought to be subject to the approval of the committees.

Mr. HOWE. Have they discretionary au-

thority to make such a contract with him as they please?

Mr. FESSENDEN. They have discretionary authority to make a contract with him not exceeding the amount that is appropriated, of course. If they cannot make one that is satisfactory to themselves then they must advertise for proposals.

Mr. HOWE. There is no restriction upon their authority to contract with Mr. Allen.

Mr. FESSENDEN. None at all.

Mr. HOWE. But if they cannot contract with him then they must let it to the lowest bidder.

Mr. FESSENDEN. Then they must let it to the lowest bidder. We thought there was no danger about that, because Mr. Allen will know that if he does not submit proposals such as are satisfactory and reasonable he cannot get it and it will be let to others. For myself, I have such entire confidence in the capacity of these men to judge of what the building ought to cost, and in their integrity also, from my knowledge of them, that I suppose it would be perfectly useless to have anybody to review their decision. I think their decision is more likely to be satisfactory than that of anybody else. They are public officers receiving salary, and their own reputation would be at stake, and I think it is perfectly safe to leave it to them. I do not know to whom an appeal could be made from them with any prospect of doing better.

Mr. CORBETT. As I was a member of the committee of investigation on the subject of this jail, I should like to make a brief statement. As I understood it the evidence presented to our committee was that there were thrown out from the bids as informal a bid of D. M. Martin & Co. for \$143,000; one from C. H. Merrill for \$150,000; one from Samuel Wright for \$154,000; one from H. Lamar & Co. for \$166,000; one from J. W. Parish & Co. for \$178,000; one from Francis A. Gibbon for \$193,000, and one from Nicholas Acker, for \$195,000, all coming within the limitation of \$200,000 prescribed by Congress. The Secretary of the Interior decided to let the work out in detail, while the act of Congress contemplated letting it out in an entire contract to come within \$200,000, and in that it would appear that the Secretary of the Interior did not act according to the contemplation of the act.

The fact is, and I think it should be stated in justice to Mr. Gibbon, although perhaps it does not modify the statement of my friend from New Hampshire, that Mr. Gibbon put in his bid for \$193,861, and after he ascertained that the contract was to be let in detail he went to some lawyers whom he understood had influence, and whom some others parties had employed to obtain this contract, and offered, provided he could get the contract for his bid of \$193,000, to pay them \$3,000. That offer was made after he had put in his bid for the work, and not previously. I thought it due to Mr. Gibbon to state this fact.

Mr. JOHNSON. When this subject was before the Senate several weeks since, seeing by the report which was then before us that reflections were cast upon the contractor, Mr. Allen, I thought it proper to state, from my knowledge of him after an acquaintance of some ten or fifteen or twenty years, that I was satisfied injustice had been done him; and I am glad to hear that the examination which has been made since by the committee, of which the honorable member from New Hampshire was chairman, has brought him, at least, if not all of the committee, to the same conclusion.

The policy of this particular amendment would seem to me to be obvious. As the case now stands, no one pretends that Mr. Allen was to blame. The motive, and almost the exclusive motive for abandoning the contract, if I understand it, is because of the site which was selected by the Secretary. There is no reflection now upon the honesty of the contractor. With the selection of that site he had nothing to do; and if we now, as this bill

does, put an end to the contract after he has expended a good deal of money in preparing to execute it, and has done a good deal of the work, and has lost what—but for his engaging in this work—he could have had, other employment in the erection of other buildings, he will have, I think, a claim upon the Government, and that claim undoubtedly he will attempt to enforce, and the chances are, if the law is with him, that very heavy damages may be the result of a suit. I concur, therefore, with the honorable member from Maine, as well as the honorable member from New Hampshire, that looking at it as a mere matter of policy, looking at the interest of the Government, it is very desirable that this amendment should be adopted.

Mr. HARLAN. I do not rise to object to this amendment, in fact I shall vote for it; but to say that, from the testimony taken by the Committee on the District of Columbia, I am able to verify the statements that have heretofore been made in relation to Mr. Allen. I have not examined the testimony that may be supposed to bear on other gentlemen whose names have been mentioned, but I have examined that part of the testimony to some extent, and I am satisfied that nothing appears that disparages him as a gentleman and as a capable builder.

The matter referred to by the Senator from Maine is a little overstated by him. A contract for constructing the library had been made and was rescinded, and a new contract let for a considerable sum of money less than the original contract—I think some twenty-five or twenty-six thousand dollars less than the old contract—but I have learned incidentally from the solicitor of the Court of Claims, that the old contractor brought a suit in that court and recovered about the amount of money that was supposed to have been saved on the new contract, about twenty-six thousand dollars, I think; though the solicitor has taken an appeal to the Supreme Court—the question is not finally settled—and I am not of the opinion that the contractor will recover, ultimately, anything, though he may.

I do believe, however, that this contractor, Mr. Allen, would be entitled to just compensation for any losses that he may have sustained on account of the change of the location of this jail. I mentioned this when the subject was up before, and I sustained the motion for the inquiry and now sustain this bill, not on account of anything that appears in relation to the contract or the manner of its execution, but purely because I think the location is not a suitable one. It is too near the Capitol, and I am quite sure that every Senator and member would regret to see a jail erected on those grounds. I therefore sustain this bill and the amendment as proposed.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The question is on the amendment of the Senator from New Hampshire.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time; it was read the third time, and passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 448) to change the name of the ship Golconda;

A bill (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia, so as to include the whole consolidated city of Philadelphia; and

A joint resolution (H. R. No. 278) to supply books and public documents to the national asylum for disabled volunteer soldiers.

#### WITHDRAWAL OF PAPERS.

Mr. CONKLING. I move that the heirs

of Joshua Chamberlain have leave to withdraw from the Senate files papers which are here relating to their case, that they may be used for reference in the House of Representatives. There has been no adverse report.

Leave was granted.

#### IMPEACHMENT OF PRESIDENT—PRIVILEGE.

Mr. ROSS. I offer the following resolution, and ask for its present consideration:

*Resolved, That the House of Representatives be requested to furnish to the Senate, for the use of the Senate committee appointed for the investigation of charges of corruption in connection with the trial of the impeachment of the President, all testimony in relation thereto which has been taken by the managers of the impeachment on the part of the House.*

The PRESIDING OFFICER. Is there any objection to the consideration of the resolution?

Mr. CONNESS. It would be manifestly improper to send for a part of that testimony. When the House of Representatives shall have concluded their investigation they will undoubtedly send the testimony to us.

The PRESIDING OFFICER. Does the Senator object?

Mr. CONNESS. Yes, sir.

Mr. SUMNER. I object to its consideration to-day.

Mr. CONNESS. Or to-morrow either.

Mr. SUMNER. I think we should reflect upon it.

The PRESIDING OFFICER. Objection being made, the resolution lies over, under the rule.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. No. 448) to change the name of the ship Golconda; and

A bill (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia so as to include the whole consolidated city of Philadelphia.

The joint resolution (H. R. No. 278) to supply books and public documents to the national asylum for disabled volunteer soldiers was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

#### REPRESENTATION OF ARKANSAS.

Mr. TRUMBULL. I call for the order of the day.

The PRESIDING OFFICER. The order of the day is before the Senate, having been laid aside informally.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress.

Mr. DRAKE. Mr. President, the debate on which the Senate entered yesterday satisfied me that the amendment which I had offered to the bill ought to be modified further. The fact brought to the attention of the Senate by the honorable Senator from New York, [Mr. CONKLING,] that in the act of March 2, 1867, one of the conditions precedent to the admission of any of the rebel States to representation in Congress was that the pending amendment of the Constitution of the United States, known as article fourteen, should first have become a part of the Constitution of the United States, was a fact that had escaped my recollection. The bill having been passed before I came into the Senate, that feature of it was not fresh in my mind. I am satisfied, upon reflection, that not one of those States should be admitted to representation in Congress until that constitutional amendment shall have become a part of the constitution; and, therefore, to present that point distinctly for the consideration of the Senate in connection with the other matter, I ask leave again to modify the amendment of the bill which I presented in the shape in which I now send it to the Clerk.

The PRESIDING OFFICER. The modification the Senator proposes will be in order

when the amendment of the Senator from Connecticut [Mr. FERRY] shall have been disposed of. The question now is on the amendment of the Senator from Connecticut. The modification, however, will be read for the information of the Senate, and will be considered at the proper time.

The Chief Clerk read the amendment of Mr. DRAKE as modified, which was to strike out all of the bill after the enacting clause and to insert in lieu thereof the following:

That, upon the fundamental condition hereinafter expressed, the State of Arkansas, under and with the constitution thereof adopted in the year 1863, shall be entitled to be admitted to representation in Congress as one of the States of the Union as soon as the amendment of the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, shall have become a part of that constitution: *Provided*, That the Legislature of said State shall have first passed an act agreeing on behalf of said State to the following fundamental condition of such admission, to wit: that there shall never be in said State any denial or abridgment of the elective franchise or of any other right to any person by reason or on account of race or color, excepting Indians not taxed; and that any such denial or abridgment shall authorize the exclusion, while it continues, of said State from representation in Congress.

The PRESIDING OFFICER. The question before the Senate is upon the amendment moved by the Senator from Connecticut.

Mr. FERRY. I call for the yeas and nays upon that question.

The yeas and nays were ordered.

Mr. MORTON. I should like to hear the amendment reported.

The Chief Clerk read the amendment, which was to strike out all of the bill after the word "Union" in the fourth line, in the following words:

Upon the following fundamental condition: that the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognised, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted.

So as to make the bill read:

*Be it enacted, &c.*, That the State of Arkansas is entitled and admitted to representation in Congress as one of the States of the Union.

Mr. SUMNER. I hope most earnestly that the proposed amendment will not be adopted. I think that the bill, if that amendment is adopted, would be worse than nothing, and a source of peril to this Republic.

Mr. FERRY. Mr. President, the bill as proposed to be amended by the amendment now under consideration is in exact accordance with the reconstruction laws passed by Congress during the last year and a half, and is in fulfillment of the pledge given over and over again by this Congress that upon compliance with certain conditions these States should be admitted to representation in Congress and to all Federal functions; and it is because, among other things, I do not wish to see the plighted faith of Congress, the plighted faith of the great party to which I belong, and connected and bound up with which I believe are all the interests of this country, broken by this same Congress, that I wish to have the bill passed without imposing further conditions than our former legislation had imposed.

In addition, I cannot but regard the condition as it came to us from the House of Representatives as violative, not simply of the spirit of the Constitution of the United States, but violative of the fundamental principles upon which republican governments rest everywhere; for it is a binding of all posterity, or an attempting to bind all posterity, in the State of Arkansas from altering, amending, or abolishing their constitution, even within the limitations and restrictions imposed by the Constitution of the United States; and, as I said yesterday, I believe that not even the people of Arkansas, in convention assembled, can make a compact with the Government of the United States to prevent the future change of the constitution of that State by the people thereof in the prescribed mode and within the limitations and restrictions of the Constitution of the United States. Because, then, I am of

opinion that the imposition of this condition at the present time is a breach of the faith which Congress has given not only to those States, but to the people of the entire United States; and because I believe the condition sent to us is violative of the spirit of the Constitution and of the fundamental principles of republican government, I desire to see this amendment adopted.

Mr. DRAKE. Mr. President, I am very much surprised at the evident mistake of fact into which the honorable Senator from Connecticut has fallen with regard to these States. I confess that I do not understand how it is that the Senator has overlooked the fact that in the act of March 2, 1867, which was the initial point of all this work of reconstruction under the authority of Congress, there were several facts required to exist before any of these States could be admitted into the Union, and that among these facts was, that the pending constitutional amendment, known as article fourteen, should have become a part of the Constitution.

Mr. FERRY. Arkansas has ratified that amendment.

Mr. DRAKE. Yes, sir; and the law required that each of these States should have ratified it; and it required further that it should have become a part of the Constitution; and so it is that we are invoked now, at the very time of all others when, in my judgment, we should not be invoked to do it, to let in these States one by one before that fundamental condition precedent has been complied with, to wit: the adoption of the constitutional amendment and its becoming a part of the Constitution of the country. Twenty-eight States are needed to ratify that amendment in order to make it a part of the Constitution. Twenty-one only, including Arkansas, have ratified it.

Mr. TRUMBULL. Do you hold that to be so?

Mr. DRAKE. I hold it to be so, that but twenty-one have ratified it.

Mr. FOWLER. Does it require twenty-eight?

Mr. DRAKE. It does require twenty-eight, in my judgment. At any rate, you never can get it declared in any such way as to give satisfaction and peace to the people of this country, and the conviction that it is rightfully done, until twenty-eight have ratified it. If Ohio and New Jersey had let their ratifications stand, twenty-three would be the number now; but they have revoked their ratifications, as, in my judgment, they had the undoubted right to do at any moment before the requisite number had been obtained. Therefore, we are standing here now with the ratifications of only twenty-one States. Suppose that others may differ with me about the right of those States to withdraw their ratification, at any rate it is a question, and we ought not to proceed one step in this case leaving any debatable ground behind us. Seven more States have to ratify this constitutional amendment before it becomes a part of the Constitution; and now the proposition of the Senator from Connecticut is to ignore and throw away utterly that particular condition of the admission of these States and to let them in, one by one, before that great amendment has been adopted. Mr. President, I will not vote to admit one of them, under any circumstances whatever, until that amendment is a part of the Constitution. It is to incorporate that feature in the admission of this State that I have modified my amendment so as to allow the admission when that amendment shall have become a part of the Constitution, and not before.

Sir, I do not understand this precipitancy about this matter. We have done without representation from these States in Congress for seven years, and certainly we can do without them for seven months to come; ay, sir, we can do just as well without them for seven years to come; and in my opinion it would be better for the interests of the whole country that they should not be admitted until loyal

supremacy in every one of them and over every foot of every one of them shall have been reasserted and reestablished. What are we to gain, what is the country to gain, by pushing these States back into the places that they pushed themselves out of by war and bloodshed? Where is the benefit? Where is the benefit in a national point of view? Where is the benefit in a party point of view, if you choose to speak of it in that respect? You are hastening back States here where rebelism is pervading them from end to end; and what kind of men are you going to have in Congress when you do get them back here? Sir, you had better look at that. What do you know about the Senators and Representatives that are to come here? What do you know about the men that are to come here from States all steeped as they have been for years in treachery and treason? Do you think they will all send men here who do not know how to be treacherous, too? Why this haste? Other Senators have stuck here for months past upon the conditions of the reconstruction acts, and now you want to rush these States in in violation of those conditions.

Sir, I stand by those acts. I oppose with all my might the admission of a single one of these States until that fourteenth article is a part of the Constitution. I will not vote for the admission of one of them till that event occurs.

Mr. MORTON. I shall say but a few words, Mr. President. I should like to inquire what is to be gained by keeping the State of Arkansas out until all the other States are prepared to come in with her, and to come in, as intimated by the Senator from Missouri, in an omnibus bill, all at once? What is to be gained by keeping the State of Arkansas under a non-descript government which is principally rebel, with rebel State officers, with rebel county officers, and with no protection to Union men except that which is furnished by the military, and which is very slight and only goes to protection against the principal outrages that may be committed?

Mr. President, is it not better for the interest of the Government, the interest of the Union men of these several States, to admit them as fast as they are prepared to come in under a loyal State government, with loyal officers, under constitutions guarantying equal rights to all men, to receive them one by one as they are ready to come? Can any benefit be suggested by keeping Arkansas under her present form of government and in her present condition until, if you please, Virginia, which is perhaps in the worst condition of any of these States, is prepared to come in along with her? No, sir; I say bring them in, one at a time, just as fast as they are prepared and qualified to come in. It is due to the Union men of those States to admit them, and the Union party in the whole land will be strengthened.

The Senator from Missouri refers to the reconstruction act of March 2, 1867, which I believe contains the following language:

"And when they shall have adopted the amendment of the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States."

When it shall have become a part of the Constitution of the United States, then these States may be admitted. I should like to ask the Senator how it can become a part of the Constitution of the United States unless these States are first admitted, because their vote of ratification cannot be counted until after the admission of the State. Therefore, in order to give effect to it they must first be admitted, because their votes of ratification go for nothing while they occupy their present condition. Do not all admit that? Therefore, to construe this provision literally, it is impracticable—except upon the doctrine of the Senator from Massachusetts, [Mr. SUMNER,] that these States are not to be counted as States in determining the question of ratification, and that we shall simply look to two thirds of those that were

in an organized condition at the time of the passage of the constitutional amendment, according to which proposition it is already ratified.

But, sir, to give it a liberal construction, and to suppose that it means until enough of these States shall have ratified the constitutional amendment in advance, so that when admitted afterward the number will be sufficient to make it a part of the Constitution, and thus the amendment becoming a part of the Constitution after their admission and by effect of it, giving it that liberal construction, I still ask what is to be gained? If South Carolina, North Carolina, Georgia, and Arkansas are ready to come in, have organized their new State governments, shall we keep them out one, two, three, or seven years, as the Senator says, until Virginia is ready to come in? Shall we keep these States under their present unfortunate governments, in their present disorganized and disorderly condition, instead of giving the people the benefit of a regularly organized loyal State government? If Arkansas has organized that kind of government, let us give her the benefit of it at once. If Georgia has done the same thing, give her the benefit of it; first, of course, requiring the State Legislature to ratify the constitutional amendment, so far as Georgia is concerned, and so on.

Now, sir, how are we to construe this provision? Giving it a literal construction, it is inoperative altogether. To give it a liberal construction in the way I suggest, which is not the one given to it by the Senator from Missouri, still we have a right to waive it. The same Congress that made the law can waive it; and when there is no possible advantage to be gained, but every disadvantage may be suffered by delay, let us take these States by the hand, one at a time, as they shall come to us. Sir, the loyal State government of Arkansas has been organized under great difficulties. The Union men there have made great sacrifices and have incurred great labor. Shall they keep up the present organized condition of the Union party there from year to year until such time as we choose to admit them and all the rest are prepared to come in at the same time? Sir, they cannot sustain themselves. The State government is in the hands of their enemies. It would be a matter of gross, of criminal injustice to them, in my opinion, to say, "You must wait until Old Virginia"—a State over which the people of Arkansas have no power—"shall be ready to come in along with you." No, sir, let us take these States by the hand, one by one, when they shall be prepared to come in.

Mr. McCREERY. Mr. President, as one of the representatives of the State of Kentucky, I am unwilling to cast a vote upon the measure now under consideration without attempting to assign some of the reasons for my opposition.

When I entered the Senate I expected that many months would elapse before I would take an active part in its deliberations. But the public servant who does not raise his voice in the present crisis may find himself and his constituents as voiceless as the tomb before the expiration of a single year. The current of events is deep and turbid, and sweeps on rapidly to destruction. The glorious past, with its sunshine and its safety, fades from the mind, and the dread future, with its darkness and its danger, rises before us. In less time than it took our ancestors to achieve their independence the Republican party have uprooted the fundamental principles of our system. The safeguards which were thrown around the rights of the citizen, as well as the landmarks which were erected to protect the different departments in the exercise of their delegated powers, have been obliterated and destroyed; and, instead of the symmetry and simplicity of our old republican institutions, the nation this day groans under the weight of a compound Radical iniquity, which may be denominated a civil, circumspect, military, despotic, represented,

and unrepresented confederation of States, principalities, and powers.

The wise and good men who framed our Constitution were careful to mark the lines of power and to place limitations upon its arbitrary exercise. The controlling purpose of their minds was to promote the general welfare, to place every citizen and every State on a footing of perfect equality of right and privilege with every other citizen and every other State. Taxation, representation, and, in fact, all the burdens and blessings of civil government, were arranged, as far as it was practicable and possible, upon this basis of equality. If I may be pardoned for the utterance of an unwelcome truth, the rights and privileges of citizenship were confined, and were intended to be confined, to the white people of the United States; and negroes and Indians were excluded, and intended to be excluded, from their exercise. The negro was the subject of taxation as well as of representation, but the white man paid for him and voted for him; and, as far as my reading has gone, I do not remember that any statesman of that day made any claim of social and political equality in his behalf. The Constitution recognized him as property, and that recognition has been repeatedly confirmed by judicial sanction. Our Constitution, then, was made by white men, and established a perfect equality of right among white men.

Its general provisions and its positive declarations were designed to preserve and maintain this sacred principle of equality intact and inviolate. The basis of representation was settled, uniformity of taxation established, and to avoid the possibility of undue advantage it was solemnly affirmed that exclusive privileges should never be granted to any man or set of men. Such is the true intent and meaning of the Constitution; and I submit the question whether or not the present revenue laws of the United States are in accordance with these wise, salutary, and just provisions? For by that ordeal, in my humble judgment, they must stand or fall. I would also inquire whether or not a contract entered into between the Government and individuals exempting the latter from their obligation to pay their just and equal proportion of taxation has any binding force? whether the taxation is present or prospective, is or is not such a contract unconstitutional, null, and void? Can a loyal man bargain with his Government for such an advantage over his fellow-citizens? Can the Government itself divide our people into two distinct classes, informing one class that they are to pay all taxes and the other that they are to pay none? If the Government has such powers, the limitations and restrictions of the Constitution are the idlest and emptiest vanities that ever deluded or amused mankind.

The Constitution is and must remain the supreme law of this land until revolution, civil or military, shall establish a higher law in its stead. With me there is no law higher than the Constitution. I admire its precepts; I desire to live in obedience to its requirements and to die under its protection, leaving it in full force and vigor as an inheritance to my children and to posterity. We have been free, happy, and prosperous under its influence, and we turn with pleasure from the rash and reckless radicalism of the present hour to the cherished memories of the patriots who spent their lives in its defense. The mortal remains of Daniel Webster have passed to the grave, but he has left a fame which passeth not away. By common consent in intellectual majesty he stood peerless and alone. In Senate and in Cabinet, at home and abroad, by land and by sea, he received the homage of the literate and the illiterate of every country and of every clime. Tyrants respected him as their most powerful foe, and the friends of civil and religious liberty throughout the world acknowledged him as their champion. Although he was five thousand miles from the scene, his tongue was as potent in the cause of Greece as the sword of Bozzaris. His patriotism was not



sectional and confined to certain degrees of latitude and longitude, but it embraced the United States of America and received the Constitution as the bond, and the sole bond, of their Union.

The ardor of youth, the strength of manhood, and the maturity of age were industriously employed in studying and unfolding the harmony and beauty of our complex system. His mission was a success, and he won a crown more honorable than the laurel worn by the Roman conqueror. When the African race shall have become extinct on this continent; when all the Radicals here and elsewhere shall be dead and forgotten; when the stones which mark their resting-places shall have crumbled into sand, even then, and for ages afterward, the granite hills and the green valleys of Massachusetts and New Hampshire will be associated in grateful hearts with the name and the fame of Daniel Webster, the great expounder of the American Constitution. Would that Massachusetts and New Hampshire, or all New England combined, could furnish another Webster; that Clay could rise from the shades of Ashland, or that Jackson could emerge from the solitudes of the Hermitage—one or all—for an effort such as they, and they only, could make to save the Constitution.

But the subjects of discussion have greatly changed of late. Constitutional issues are no longer in vogue, but questions of finance are the engrossing topics of the day. The Government requires a vast amount of finance, and from the present scale of taxation it appears to be seeking the precise point at which the laborer can subsist, intending to appropriate the balance of his means to its own purpose. That point is not only reached, but it is passed already. During the last fiscal year more than five hundred million dollars were expended. This entire sum has to be raised by taxation. The tax collected by State governments for State purposes, and to pay interest on State bonds, is about half as much, or \$250,000,000, and the county and city taxes collected for county and city purposes, and to pay interest on county and city bonds, is probably equal to the last sum of \$250,000,000. Casting these three amounts together, it is clear that \$1,000,000,000 is drawn yearly from the pockets of the people in the shape of taxation; and a hundred millions more may be added for the cost of assessment and collection. It then rises to the grand total of \$1,100,000,000.

Now, it is a question well worthy of the calm and sober reflection of the farming and laboring classes of community, whether their industry can thrive and prosper under the influence of such a drain upon their resources. For, I suppose, by this time, it will be admitted by most men that productive labor pays all taxation, and the laboring man who is of opinion that he pays no taxes is making a great mistake and practicing a gross deception upon himself. Is it not manifest that the policy of the Government will compel the association of capital, and the formation of huge monopolies, whose interest and inclination will prompt them to drive every man of slender means from the trade? The cash capital of the country will be concentrated in the hands of chartered companies and monopolies. What chance, then, will labor have in the struggle, crushed to earth by an annual tax of more than a thousand million dollars? Fettered and powerless, it will become the slave of capital, with every avenue to wealth, to independence, to comfort closed in its face. The lapse of a dozen years under the present policy will develop an amount of ruin and destitution without a parallel in history. A man will not work when his labor enriches not himself but another. The swarms of beggars who infested this city during the last winter, obstructing your passage at every corner, and intercepting you at every crossing, were only the pioneers of the hungry hordes who will marshal themselves on your highways to win a support from voluntary or involuntary contribution.

The plea of necessity is sometimes urged even by a Government as a justification of the exercise of unauthorized power, and famine will put the same plea in the mouth of a wretch impelled by despair to the commission of crime. Instances of this description will multiply with fearful rapidity. Your jails and your prisons will be insufficient to accommodate the throng who will actually seek them for shelter and for food. The gentleman who has charge of the Kentucky penitentiary is growing prematurely gray from anxiety and apprehension. [Laughter.] The idle herd of vagabonds consigned by the law to his keeping are eating out his substance, and poverty and bankruptcy are before him. Every county in the State is a recruiting station for his forces, and the same causes which swell his numbers are reducing his sales and enhancing his losses. But why do I refer to the keeper, when keeper and convict are alike the victims of a policy, the inevitable tendency of which is to strike down all labor of every character and place it at the feet of a few favored capitalists of the country?

But this process of centralization is not confined to wealth; it extends also to the powers of government. The rights of the sovereign States have been disregarded and trampled upon, until derision is the only reply that is made to their assertion. My own district in Kentucky, which sent several regiments of white soldiers and a brigade or so of negroes to the Union Army, has been disfranchised, and is to-day unrepresented in the other end of the Capitol. That vacant seat is even more eloquent than the gifted Representative who was elected to fill it. It speaks of the past, and recalls the time when every sentinel from our noble State stood at his post. It points to the ballot-box which has been spurned, to the principles of representative government which have been outraged, and to a heartless affront to a friendly sovereign through an accredited ambassador. But we are left to form our own opinion as to the merits or demerits of the transaction. The chief importance of the matter arises from the fact that such proceedings are relied on as precedents, and, taken in connection with other assumptions, it seems to be the settled purpose of the legislative to absorb the executive and judicial departments, as well as to assail the elective franchise, which is the source of power in a republican government.

If the Radical party can concentrate the capital of the country in a few hands, and centralize the powers of government in Congress, where will be the guarantees of life, liberty, and the pursuit of happiness?

The bill under consideration is a novelty in American legislation. From what article or clause in the Constitution is the power derived to establish a government over a sovereign State, and to maintain it against the wishes of the people, by military force? When did Arkansas get out of the Union? Has she been out of the Union at all, and can such laws be rightfully imposed upon her if she has never been out; and whether in or out where is the warrant? If she is out, when and how did she get out?

From the action of Congress, and from the action of each and every department of this Government, it is clearly deducible that she never was out. We look in vain for a recognition of her separate existence, unless it may be found in the hostile legislation of Congress, which seems to be designed for her degradation and oppression. In common with the other southern States, by an ordinance of secession, she attempted to withdraw her allegiance from the flag and the Government of the United States; but was that attempt successful? Was the right of secession admitted or denied? After an effort for negotiation and peaceful settlement on the part of the South which was refused, the question was adjourned from the council to the field, and in characters red as blood and hot as fire the award has been rendered.

During the progress of the war that ensued, and speaking directly of the point at issue in the contest, the Supreme Court use the following language:

"Several of these States have combined to form a new confederacy, claiming to be acknowledged by the world as a sovereign state. Their right to do so is now being decided by wager of battle."

The question in dispute, the point in controversy, cannot be stated with greater clearness and precision, and no statement can have a superior weight of authority. It was not whether the southern people should be shorn of all rights; but whether they had the right to form a new confederacy. The obstinate struggle, the sacrifices, privations, and hardships endured on either side will be regarded by candid men as some evidence that both parties were satisfied of the justice of their cause. The integrity of the Government, the life of the nation, the union of the States, were the rallying cries on one side, and independence and resistance to oppression on the other. While such a purpose was never openly avowed by either at the beginning, still many reflecting men entertained a suspicion that slavery would be abolished or established, as the one or the other should prevail in the contest. Whether that suspicion was true or untrue is a matter of little practical consequence now, and the information would poorly compensate the labor of the investigation.

However that may be, the blast of the bugle fell upon willing ears, and strong arms and brave hearts responded to the call. The chivalry of America stood forth in proud array, and never since creation's dawn did such hosts assemble to desolate a Christian or a heathen land. Never did the demon of war hold high carnival amid such a scene of pomp and slaughter, feast and famine, revel and wretchedness. The sulphurous smoke darkened the sky and the bosom of the earth was marked with deep lines and furrows. She still wears the scars as the sad mementoes of civil strife. Midnight echoed the wail of the widow, and sun and stars were the silent witnesses of the tears and cries of her orphan children. I was opposed to that war. Its terrible consequences rest not at my door, and my soul is free alike from its glory or its guilt. I would not exchange this consciousness of innocence for the tall plume and the gilded spurs of the knight of Appomattox.

I was opposed to the war because I believed then, as I do now, that the difficulties might have been adjusted without the loss of a life or the shedding of one drop of blood; that our Union and our Constitution, blended in the affections of the people, might have been transmitted to future ages, gathering strength and vigor as experience should demonstrate their mutual dependence upon each other. The relation between them is so intimate and so delicate, that when you inflict a mortal wound upon one you slay the other.

Having called your attention to the view expressed by the Supreme Court, let us pursue the inquiry, and ascertain the purpose of Congress in making war upon the southern States. In 1861 Congress, by a vote almost unanimous, passed a resolution solemnly affirming—

"That the war then existing was not waged on the part of the Government in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of the States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired, and that as soon as these objects should be accomplished the war ought to cease."

Such Congress declared to be the purpose and the sole purpose of the war; but now when it is over, and peace is restored, the monstrous doctrine is advanced that by the laws of war the conqueror holds by conquest, and may extend his own terms to the vanquished. Was the union of these States established upon the laws and usages of war, or was it founded upon the guarantees of a written Constitution? Did the framers of that instrument ever contemplate that the larger States might wage war upon

the weaker, and make lawful prize of the people and their territory?

One of the ablest defenders of this doctrine admits that, owing to the relations between the belligerents in this instance, no treaty can be formed as a basis of settlement; and hence the conclusion is unavoidable that the arbitrary edicts of military governors are the only measures to be known to the South as long as the North may desire the infliction. Is this "maintaining the supremacy of the Constitution?" Is this "preserving the Union with all the rights of the several States unimpaired?" Were such the views of the great Senator from Kentucky when he penned the resolution which bears his name? No, sir. Crittenden was the soul of honor and of truth, and had a lofty scorn for trickery, deception, and fraud. The laws of war cannot be relied on, for in this case, to use a phrase which has been much revived of late, Congress has made a law unto itself. I appeal to Senators not to repudiate their own action in a matter which involves the rights and privileges of seven or eight million citizens, not to wage a warfare more cruel, vexatious, and intolerable than an invading army upon men born to the same heritage with ourselves, not to stifle in their breasts the last hope of liberty and leave them to the sullen gloom of despair.

We will now proceed to examine the conduct of the President of the United States. On the 8th day of December, 1863, Abraham Lincoln issued a proclamation offering amnesty and pardon to certain persons who had been engaged in rebellion. Within less than four months afterward, on the 26th day of March, 1864, he issued another proclamation more liberal than the first, making exception of certain classes who were excluded from the benefits of its provisions, but clearly intimating that the excepted classes were still within contemplation of special clemency. In the last annual message which he ever sent to Congress he says that "special pardons have been granted to individuals of the excepted classes, and no voluntary application has been denied."

After the death of Mr. Lincoln Andrew Johnson was qualified as his successor, and among his early official acts was a note to the Attorney General calling for a legal construction of the proclamations of his predecessor. The reply of the Attorney General bears date May 1, 1865, and is of importance because, from his intimate relations and great admiration of President Lincoln, it may be considered as a reflection of his views upon the subject now under consideration. The Attorney General condemns reconstruction, urges restoration, and says emphatically that "mercy must be largely extended."

On the 29th day of the same month, and in accordance with the suggestions of his law adviser, Andrew Johnson issued his first proclamation of amnesty and pardon, excepting fourteen classes of persons from its benefits, providing, however, that special applications might be made in their behalf, and that clemency would be liberally extended according to the facts of the case.

Finally, on the 7th day of last September, Andrew Johnson, in order that full and beneficial pardon might be extended to a large number of persons excluded by former exceptions, issued a proclamation with only three classes embraced in the exceptions. The liberality, the justice, and the ability of this State paper are so conspicuous that I shall quote a few sentences that the country may mark the satisfactory reasons assigned for the general pardon it proclaims:

"And whereas there no longer exists any reasonable ground to apprehend, within the States which were involved in the late rebellion, any renewal thereof, or any unlawful resistance by the people of said States to the Constitution and laws of the United States; and whereas large standing armies, military occupation, martial-law, military tribunals, and the suspension of the privilege of the writ of *habeas corpus* and the right of trial by jury, are, in time of peace, dangerous to public liberty, incompatible with the individual rights of the citizen, contrary to the genius and spirit of our free institutions, and exhaustive of the national resources, and ought not,

therefore, to be sanctioned or allowed, except in cases of actual necessity for repelling invasion or suppressing insurrection or rebellion; and whereas a retaliatory or vindictive policy, attended by unnecessary disqualifications, pains, penalties, confiscations, and disfranchisements, now, as always, could only tend to hinder reconciliation among the people and national restoration, while it must seriously embarrass, obstruct, and repress popular energies and national industry and enterprise."

After adducing the above and other considerations, the proclamation proceeds to pronounce full pardon to the southern people, excluding—

*First.* The president, vice president, heads of departments of the confederate government, its agents in foreign countries, and such as held military rank above brigadier general or naval rank above captain, and also Governors of States.

*Second.* Those who treated otherwise than as prisoners of war persons employed in the military or naval service of the United States.

*Third.* Persons confined or held to bail before or after conviction, and every one engaged, directly or indirectly, in the assassination of President Lincoln.

The number included in these exceptions is so inconsiderable that the pardon and amnesty may be considered as general, especially when it is remembered that not one in a hundred of the excepted classes has been indicted and prosecuted before the courts, which is the only means of punishing crime known to our Constitution and laws.

A question may arise in some minds as to the force and effect of these pardon and amnesty proclamations. I shall attempt to show that the President had ample authority to issue them, and that they operated as a positive absolution from guilt and an undertaking on the part of the Government that it should be forgotten and remembered no more. This pardoning power belongs to the executive branch of every well regulated Government upon earth. It is a power which is derived from the government and attributes of the Eternal God himself, and the man who has never been the subject of its influence is fit food for the worm that never dies.

The late Governor of my own State has been much censured for his liberal exercise of the pardoning power, but his slumbers will be as sweet and his carriage as erect as though his heart and his hand had never moved to the supplications of mercy. This gentle disposition is not confined to the good, the wise, and the great, but it pervades all classes and conditions of men. The savage thirsting for slaughter, with his victim writhing at the stake, has caught the inspiration from Divinity, and rushed, at the peril of his own life, to the rescue. Even the lower animals furnish us abundant proof that they are not insensible to the emotions of pity and compassion—a principle which the Creator, for beneficent purposes, has thus infused into all his creatures, was well worthy of an incorporation into the organic law of the land. The Constitution clothes the President with the "power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment."

Radicalism itself has acknowledged the humanity and the justice of this wise provision. By an act of Congress passed and approved in July, 1862—

"The President is authorized, at any time hereafter, by proclamation to extend to persons who may have participated, in the existing rebellion, in any State or part thereof, pardon and amnesty, with such exceptions, and at such time and on such conditions as he may deem expedient for the public welfare."

This section of the law is simply a reenactment of the Constitution. It conferred no additional powers upon the President, nor did the supplemental act of the 19th of last July strip him of his pardoning power. That power is delegated to him by the Constitution, and Congress can neither enlarge nor restrict its exercise. These laws are, therefore, wholly unimportant, except as they furnish evidence of the change which peace has wrought in the

radical sentiment of the country. While the war was raging proclamations of amnesty and pardon were freely offered, but in a time of profound peace the fountain of mercy and justice is closed. We could offer pardon to the rebel who stood with arms in his hand, but for the harmless civilian we have no commiseration.

The clause cited from the Constitution empowers the President to grant reprieves and pardons, except in cases of impeachment, and the act of 1862 was, at least, a popular indorsement of its exercise in this instance, without limitation as to time, exception, or condition. A proclamation under such circumstances has the very highest sanction, and all the authority, the force, and vitality of positive law. What effect has it, then, upon those who may have been accused or convicted of public offenses? Without the aid of a law dictionary I undertake to say that it expunges the guilt, restores rights and privileges, and hides the crime forever under the mantle of oblivion. The Government says, in effect, to the rebel: "We wash you of every stain; we restore you to your country and to society without a blemish upon your character; we not only forgive, but we forget the past." Proclamations of pardon and amnesty are as old as the world's history. Their purpose has been the same in all countries. At all times and everywhere it would have been a shameful breach of faith to have violated their provisions. The world is to be deluged with waters no more, and as often as the bright and beautiful colors of the rainbow encircle the sky we read the proclamation. The clouds were dark and the storm was long, but the loveliest hues of heaven and earth were blended into a sign of its termination.

One of the properties of a proclamation of pardon and amnesty is that it is irrevocable, and may be relied on in any court as a bar to any criminal prosecution. The fettered captive may languish in a dungeon where no light greets his eyes and no sound save the clank of his chain breaks the solemn silence around him; the halter may be prepared for his neck and the scaffold for his execution, but there is a power which can open his prison doors, knock off his irons, and restore him to light and to liberty.

The rebellion through which we have passed is not the first plot or conspiracy that ever was set on foot against the Federal authority. There have been a whisky insurrection, a Hartford convention, a South Carolina nullification, and a Dorr rebellion. But neither Washington nor Madison nor Jackson nor Tyler ever thought of inflicting the pains and the penalties, the confiscations and disfranchisements which follow in the train of modern reconstruction. Reconstruction, like some men of great prominence, was a very common word before the war; but it is now one of the most stupendous and terrible phrases of the English language. It has arraigned a President at the bar of the Senate; it has suspended the writ of *habeas corpus*; it has abolished trial by jury; it has subjected ten sovereign States to military domination; it has impoverished communities, depopulated districts, disfranchised an entire section, and now sweeps the South like the poisonous wind of the African desert, smiting and destroying everything that is good or valuable in the land. War, pestilence, and famine are calamities which have been endured, but the problem is yet to be solved whether the southern people can survive the horrors of reconstruction. Well may they pray for strength and fortitude to support them in the hour of their trial.

Why was it that the Presidents of former times treated rebellion and treason so mildly? Perhaps they were not inclined to persecute and oppress their fellow-citizens; perhaps they regarded kindness and forbearance as the best means of reconciliation; and perhaps they were of opinion that the Constitution gave the General Government no authority to disfranchise a State or an individual in a State. From the foundation of the Government to the end

of the war the question of suffrage was a matter of State control, placed there by the Constitution and held there without controversy for three quarters of a century. Never was the contrary doctrine asserted until negro suffrage became necessary to sustain Radical supremacy. To secure ten States in the interest of Radicalism it was essential to franchise all the blacks and to disfranchise a large proportion of the white population. This revolution in our social and political system has been intrusted to a dictator at Washington, who is making rapid progress through the instrumentality of his subalterns in the southern States. Military boards and not civil officers are enrolling and registering the voters, deciding all points touching their qualifications. The dictator doubtless has the troops at his disposal to enforce the arbitrary judgments of his subordinates; but we are not discussing a question of force, but a question of right.

From what provision of the Constitution does this military board derive its existence or its extraordinary powers? What right has that board or any other military tribunal to bestow suffrage or to withhold suffrage from any man? Have the people become weary of attending to their own affairs and desirous of transferring their best interests to the safe keeping of a dictator? The theory of our governments, State and Federal, has been that the military should be subordinate to the civil; but a Radical Congress, composed of the representatives of a single section, and a standing army of sixty thousand men, have reversed the rule. The well settled usages of the country and the authority of four presidential proclamations, each of which was a pledge of the national faith, have been disregarded. Every man embraced by the terms of these proclamations is in law as completely restored to his rights as though he had never committed an offense, and nothing but a conviction of crime can deprive him of such rights. If the people of Kentucky are more unanimous in any one sentiment than any other, it is in the wish that the animosities and hostilities of the war may be buried and forgotten, and that a proclamation of general pardon and amnesty may be issued without delay restoring rights to all the citizens and peace to the whole country.

If I have been correctly understood, my position is: that the proclamations of Lincoln and Johnson placed the southern people not excluded by the exceptions in precisely the same attitude with respect to franchises and immunities that they occupied before the war; and while they do not recognize slavery they leave all other rights of property untouched and unimpaired. This is the fair construction and the legal operation of the papers themselves. Pains, penalties, disqualifications, and disfranchisements are wholly removed by pardon and amnesty. Transgressions red as scarlet are cleansed of their guilt, and the robe of innocence obliterates them from the memory.

My own attainments in the law are too slight and too superficial to claim any weight for my opinions, however thorough my convictions may be of their justice. But there are Senators in this body who have devoted their lives and their energies to legal pursuits, and honors and eminence have been the rewards of their toils and perseverance. They are the high priests of the profession, who have gone within the veil, and made their sacrifices in the holy of holies. Let these oracles declare the law, and say if my positions are not fairly deducible from the precepts engraven upon the Ark of the Covenant. If pardon and amnesty may be followed by pains, penalties, and disqualifications, let them so declare.

If I am wrong, I have the satisfaction of knowing that some of the ablest and truest men of the country concur in the opinions expressed; and that, while I have not adopted the language of the Supreme Court, I have at least presented an outline of their views. If I am right, pardon and amnesty restored the people of the southern States to the enjoyment of every civil right possessed by them anterior

to the war. If they were entitled to trial by jury before the war, they are entitled to trial by jury now; if they could vote then, they can vote now; if they had the right of representation then, they have it now; and if, in fine, they lived in a sovereign State at that time they live in a sovereign State to-day; and no department of this Government can legitimately treat them otherwise than as the equals of the other citizens of the Republic. If Congress can hold the rights of the people of ten States in suspense may it not by war or by legislation increase the number until all the powers of Government are centralized in a single State or district, which may sit, like Rome, the arbitrary mistress of a hemisphere, with prætors and proconsuls governing and plundering the subject provinces?

It is difficult to conceive anything more unjust, unconstitutional, and impolitic than the exclusion of a State or a part of a State from its rights of representation. Such a power, in Congress or elsewhere, is subversive of every principle of representative republican government, and must precipitate the overthrow of our system. If you exclude now, does it not become a precedent for your own exclusion hereafter? Will not every repetition of the outrage produce alienation, dissension, anarchy, and strife, and hasten the day when laws shall issue from camps, and when grape and canister shall expound and enforce them?

Men change their political views, and, for reasons satisfactory to themselves, denounce and condemn the very measures which have met their sanction and approval. The Radical party, which was omnipotent a few years ago, is rapidly losing its strength, and in a short time will find itself in a hopeless minority. Neither the ingenuity of demagogues, nor the craft of wire-workers can prevent this inevitable result. Their doom is fixed, and military prestige cannot even grant them a respite. They may franchise the blacks and disfranchise the whites, they may strike down the Supreme Court, that great bulwark which was erected as a sure defense against usurpation; they may consolidate all the powers of Government, State and Federal, in a single department, or in the hands of a single person; they may maintain the present military establishment of sixty thousand men, with no enemy to encounter, to intimidate the people and compel their acquiescence. But all these contrivances, and twice as many more, are only calculated to swell the sum of their enormities and hasten the hour of their final overthrow.

In the brief space of time which is yet allotted to them let them employ themselves sedulously and prayerfully in efforts to restore the Constitution, to lessen the burdens and to build up the prosperity of the people, under the pious hope that retributive justice may fall less heavily upon themselves. If they continue to persecute others they may expect one day to become the subjects of persecution; if they inflict pains and penalties without authority of law, pains and penalties may be visited upon them; if they sow the wind, a voice from above declares that they will reap the whirlwind.

In view of the mutations and changes constantly transpiring in the country, it is morally impossible for any party long to retain the reins of power. Let those who now hold them reflect seriously upon these things and act as though there was at least a possibility that soon or late other hands may direct the helm of state. The worst fate that could befall the country would be that parties should become so intensified in their hostility that the true interests of the people would be overlooked until retribution and revenge should glut their insatiate appetites. At every change proscription would be rendered more ruthless and bloody, until force and fraud would usurp the management of our affairs and the control of our destinies. It is the province of patriotism to interpose its good offices at this crisis, to remove all cause or occasion for crimination and recrimination, and to establish peace and confidence in the place of distrust and discord. If the

attainment of these objects is worthy of effort, let oblivion rest upon the past, and let a restored Constitution recognize and enforce that equality of right and of privilege which is the common inheritance of the freemen of this land.

Why are the people of ten States debarred from their rights under the Constitution? Is this ostracism in the interests of the Radical party, or is it designed to promote the welfare of the country? In abundant charity, let us admit that apprehended danger is the true ground of exclusion. But is it not a fact that three fourths of the alarms which convulse society are purely fanciful? The mind of the Know-nothing was kept in continual agitation by his fears of the Pope. At night the dread specter invaded his chamber, driving sleep from his pillow, and filling his heated imagination with phantoms of danger and despair. At early morning he sallied forth, appealing to the people to come to the rescue, and exhorting them to make a dying struggle to save the country from Papal machinations. In order to do this we were assured that it was necessary to disfranchise a large number of our citizens. Whenever an outrageous wrong is to be perpetrated, military necessity or the perils of the hour afford a convenient plea in justification.

Now, I never was afraid of the Pope, for I never believed that he had any designs against our institutions; and I am not afraid to admit the southern States to their constitutional right of representation. I will never consent to admit them under the conditions and limitations of reconstruction acts, but will always contend that they have the same rights upon this floor that belong to the other States of this Union.

If any man will seriously contend that our institutions would be imperiled by the admission of their representatives, that they are still plotting the destruction of the Government, I would refer him to the civil pursuits of the leaders of the rebellion and to the destitute and ruined condition of the country. Jefferson Davis, after being indicted by a grand jury, chained and imprisoned for months, is now at large upon a bond signed by northern and by southern men, undertaking that he will abide by and perform the judgment of the court. Stephens lives quietly and peaceably at his home in Georgia, Breckinridge wanders a voluntary exile in foreign lands, Lee has charge of a college, Hill of a newspaper, Johnston of a railroad, and a plain marble slab at Lexington, Virginia, with no inscription but his name, marks the resting-place of Stonewall Jackson. Such is the situation of the men who led the councils and the armies of the rebellious States. If there is a single circumstance connected with the conduct of one of them which indicates even a disposition to raise further disturbances I have neither seen it nor heard it. Besides, they are men of sense, and fully comprehend the hopeless character of an enterprise undertaken with no resources to support it, when it is assailed by the wealth and power of the United States. Without men, without money, without the means of subsistence, with their recent experience before their eyes, no honest man can charge them with the folly and the madness of attempting another revolution. If they have been guilty of crime and have not been pardoned, prosecute them before the courts, convict and punish them; but in the name of justice and mercy, do not yourselves become the law-makers, the judges, and the executioners. There are three departments in the Government; let not the legislative usurp all the powers of the other two.

The facts connected with the formation and submission of the Arkansas constitution have been so ably presented in speeches and reports at the other end of the Capitol, and the fraud and injustice of the measure so thoroughly exposed by the honorable member from the Ashland district and by others, that a repetition by myself would be almost entirely useless.

There is a condition-precedent and a con-



dition-subsequent to the admission of the southern States. The first requires the performance of an act concerning which the other States have been left to their own discretion, and the second ordains the omission of an act which the other States may omit or not at will. The condition-precedent requires the southern States before admission to adopt the fourteenth amendment to the Constitution; and in case of their failure or refusal to do so their exclusion would be certain. They are not left to deliberate upon the propriety and expediency of the measure, and to adopt or reject it as their judgments may approve or condemn; but Congress, by the exercise of power wholly unauthorized by the Constitution, has established this new test of admission to the Union.

The condition-subsequent is incorporated into the act to admit the State of Arkansas to representation in Congress; and provides that the constitution shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized except as a punishment for crime.

This last condition was inserted to perpetuate negro suffrage and Radical rule, and is probably the most flagrant example of unconstitutional and partisan legislation to be found upon our records. A negro cannot be deprived of the right of suffrage unless he is convicted of a crime which is a felony at common law; and yet there are thousands of white men who are stripped of this privilege who have never been convicted of any offense whatever. Those who favor impartial suffrage cannot support this bill.

Negro suffrage is an experiment, and there is a great diversity of opinion as to the propriety of conferring such a privilege upon a large class who have been unaccustomed to and who are deemed unfit for its exercise. Many of the northern States in their recent elections have refused to accord this right to the negroes in their own borders, but still they do not hesitate to place the southern States under their control. If experience shall demonstrate the fact that the negro is unworthy of the trust reposed in him by this constitution; if the white people are to pay an annual tax of twenty millions to support him in idleness; if, instead of progress, ignorance and superstition should cast their dark shadows over his feeble understanding; if, spurning our religion and our laws, he should erect the standard of revolt and inaugurate another rebellion, still you could not deprive him of his right of suffrage under the "fundamental condition" of this bill until you had convicted him of a crime which amounts to a felony at common law.

Though your Constitution, your laws, and your liberties must perish in the storm, negro suffrage must be saved from the wreck. The other articles of the Arkansas constitution may be amended as time and experience may demonstrate the propriety or necessity; but negro suffrage, being the highest achievement of Radical philosophy, must stand pure, unchanged, and immaculate. Our ancestors, who were at least as wise as ourselves, chose to withhold suffrage from the negro; and if you shall change their practice and bestow it, upon what principle will you fasten your judgment upon posterity in the shape of an irrepealable law?

Congress may admit new States, but I deny any authority to readmit the old States into the Union, especially when, by a fair computation, as in this instance, it appears that a decided majority of the people voted against the constitution.

A reference to the report of the officer appointed to investigate the frauds clearly shows that the election was conducted in violation of the express orders of the general commanding the district and in conflict with the registration law of Congress.

The majority for the constitution was 1,316 votes. In Pulaski county the vote exceeds the registration by 1,195. In this county few oaths

were administered and no questions were asked concerning the residence of the voters. The negroes seem to have voted as often as they desired in the same or in different precincts. In Jefferson county seven hundred and thirty persons were allowed to vote who were registered elsewhere, and the election was conducted on the same liberal principles as in Pulaski, and even more so, as voting by proxy was permitted. A negro woman, whose husband was in jail, cast a vote for the constitution. The registrar neglected to forward the polls and carried them to Little Rock, where he spent several days in a state of intoxication; and it may have been that during that period the vote of his county swelled to such enormous proportions. The revision of the registration was continued until the close of the polls, which enabled the judges to make and unmake votes as the necessities of the case might require. The general commanding the district, to secure a fair and impartial expression of public sentiment, ordered that no registrar should be a candidate for office; but a subaltern reversed the order, and the registrars were generally candidates in their respective counties.

In Spadra precinct, in Johnson county, one hundred and fifty registered voters made oath that they individually voted against the constitution, while by the official returns only ninety-nine votes were cast against the constitution. This discrepancy, however, was explained by the testimony of two witnesses, that the votes were changed in the ballot-box during the night between the two days of election. If votes were surreptitiously taken out on one side, a very slight suspicion might arise that others were put in at the same time. One of the judges of election voted twice, but stated, when the spurious vote was afterward withdrawn from the ballot-box by his associate, that he was in fun. How far the sportive disposition of the judge may have been imitated by his friends and admirers does not appear.

These are only a few of the most prominent facts elicited by the investigation which lasted only four days, when it should have been, at least, twice as many weeks, if the whole truth were at all desirable. Respectable men pledged themselves to establish frauds in every county in the State, and, considering the amount of evidence arrayed in four days, it is difficult to conceive what the proof would have been if time had been allowed. From the evidence adduced grave doubts are justly entertained as to the justice, the fairness, and the impartiality of the election. I hope that Senators, under the circumstances, will feel disposed to afford ample opportunity for taking proof in order that our action may be based upon a knowledge of all the facts. A constitution framed and adopted as this was, by congressional dictation and under military orders and in disregard of law, can hardly be said to reflect the wishes or to protect the true interests of the people of Arkansas.

If the new constitution of Arkansas is republican in form, it is republican in nothing else. The first principles of republicanism have been violated in its formation and submission, and truth itself has been put to shame by the pretense of its adoption. It is neither the child nor the adopted child of Arkansas. She spurns it from her presence and appeals to the Government and the world to save her character from the stigma of having given birth to such a monster. She is willing to submit to any rule, to bow to any despotism, to suffer any humiliation that malice can invent or that tyranny can inflict; but in the wreck of all else she desires to guard the sanctuary of her innocence; and if she must fall, like the Roman matron, she is resolved that nothing short of a combination of treachery and violence shall accomplish her ruin.

The people of Arkansas are innocent of this constitution. They have had little, if any, agency in its formation. Those who framed and fashioned it were born and educated beyond the borders of that State. The conditions and qualifications were imposed by men whose

homes were remote and whose feelings were unfriendly to the most cultivated and intelligent classes of southern society. It was the deliberate purpose of those who had charge of the business to place the whites under the domination and control of the blacks. But with all the aid of partisan legislation and fraudulent registration, supported by the strong arm of the military, this contrivance against the peace and happiness of a prostrate and powerless people, frauds deducted, has been frustrated and defeated by the action of the very agents who had been chosen and selected to ratify and confirm it. Condemned by the tribunal to which it was referred, literally slaughtered in the house of its friends, an act of Congress is invoked to give it vitality, and the General of our armies, at the head of his troops, sword in hand, is to enforce it. The present and past condition of Arkansas will not be materially changed by the Government sought to be established under this constitution. Chained to the chariot wheels of the victor, a captive and a slave, she swells his triumph, but speaks, moves, and breathes only by his permission.

Will some member of the Senate be kind enough to point his finger to some clause in the Constitution which authorizes the overthrow of ten State governments, the registration of their votes by military officers, and the transfer of all their powers to the despotic will of a single man? Will he be good enough to indicate some provision which gives sanction, or even the semblance of sanction, to the extraordinary pretensions of General Grant, who governs without any civil restraint eight millions of our people? It may be asserted without fear of contradiction that a more absolute monarch never despoiled a nation of its liberties. He is the Warwick of America, and kings, satraps, and military governors rise and fall at his bidding.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bill and joint resolutions; in which it requested the concurrence of the Senate:

A bill (H. R. No. 788) to regulate the appraisement and inspection of imports in certain cases, and for other purposes;

A joint resolution (H. R. No. 215) relative to the Louisville Bridge Company; and

A joint resolution (H. R. No. 279) in relation to the breakwater at Portland, Maine.

#### EXECUTIVE SESSION.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and, after two hours spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, May 28, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### PENSION LAWS.

Mr. PAINE, by unanimous consent, introduced a bill (H. R. No. 1122) to construe certain laws relating to pensions; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### BOUNTIES.

Mr. PAINE also, by unanimous consent, introduced a bill (H. R. No. 1123) to construe the law granting additional bounties; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

#### REMOVAL OF SUITS.

Mr. POLSLEY, by unanimous consent, introduced a bill (H. R. No. 1124) to provide for the removal of certain suits from the State

courts to the circuit court of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

JAMES M. WARREN.

Mr. RAUM, by unanimous consent, introduced a bill (H. R. No. 1125) to authorize James M. Warren to transfer or locate a certain military land warrant therein named; which was read a first and second time, and referred to the Committee on the Public Lands.

#### DOCUMENTS FOR NATIONAL ASYLUMS.

Mr. SCHENCK. I offered a resolution yesterday, which was adopted, to supply public documents to the national asylum for disabled soldiers. The resolution was drawn in the Clerk's office, and I find that it was not made a joint resolution, as it should have been. I ask leave to offer a joint resolution in substance the same as the resolution adopted.

The SPEAKER. The joint resolution will be read; after which the Chair will ask for objections.

The joint resolution was read at length. It provides that there shall be placed under the direction of the Secretary of the Interior, in addition to the number of public documents now distributed by him, to be sent to the national asylum for disabled volunteer soldiers at Dayton, Ohio, and the two branches at Augusta, Maine, and Milwaukee, Wisconsin, each, one copy each of the following documents, namely: the Journals of each House of Congress at each and every session, all laws of Congress, the annual messages of the President, with accompanying documents, and all other documents or books which may be printed or bound by order of either House of Congress, including the Congressional Globe.

The question was upon granting leave to introduce the joint resolution.

Mr. SCHENCK. I have just learned that the Clerk's office has again made a mistake; the second mistake of the Clerk's office; that these documents should be placed under the control of the Secretary of the Senate and the Clerk of the House, instead of the Secretary of the Interior. I will, therefore, modify the joint resolution accordingly.

Mr. UPSON. Is the Congressional Globe to be supplied from its commencement?

Mr. SCHENCK. Oh, no.

Mr. UPSON. I think as the joint resolution now reads it covers the whole of them.

Mr. ALLISON. As I understand the effect of this joint resolution it provides for furnishing to each of these three asylums one copy of each public document that has been printed by order of Congress.

Mr. SCHENCK. If these documents are to be spared, I think they should be sent. But the joint resolution is not so drawn.

Mr. ALLISON. I have no objection to that.

Mr. WASHBURNE, of Illinois. To save all question, let it apply to those to be published hereafter.

Mr. SCHENCK. I would suggest that it go back to the commencement of the war.

Mr. UPSON. Say beginning of the Thirty-Seventh Congress.

Mr. SCHENCK. Very well; I will modify the resolution so as to cover the documents published since the commencement of the Thirty-Seventh Congress. These books are for men who would take a special interest in reading every document published by Congress since the commencement of the war.

No objection being made, the joint resolution (H. R. No. 278) to supply books and public documents to the national asylums for disabled soldiers was received and read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

Mr. COBURN. We have a soldiers' home in the State of Indiana, with one hundred and twenty inmates, erected at large expense, and now just finished. I would like to have this resolution amended so as to include the soldiers' home in Indiana.

Mr. UPSON. That is unnecessary. The members from that State can supply all the documents needed there.

Mr. SCHENCK. These soldiers' homes have been established in a number of States. I have confined this joint resolution to the national asylum and its branches chartered by Congress. I hope no gentleman will attempt to introduce these State local asylums or homes, for there is a large number of them. Now I call the previous question.

The SPEAKER. The Chair will state to the gentleman from Ohio [Mr. SCHENCK] that, as he is informed, some of these documents can be procured only at the book stores at a high price, having been all distributed by members.

Mr. SCHENCK. Then I will modify it so as to apply only to such documents as can be procured otherwise than by purchase, and now call the previous question.

The previous question was seconded and the main question ordered.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### HEIRS OF GEORGE FISHER.

Mr. SCHENCK, by unanimous consent, introduced a bill (H. R. No. 1126) for the relief of the heirs and legal representatives of George Fisher, deceased; which was read a first and second time, and referred to the Committee of Claims.

Mr. ALLISON. I move to reconsider the various votes by which bills have been referred to committees this morning; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The morning hour has commenced, and the first business in order is the presentation of reports from the Committee on Commerce.

#### BREAKWATER AT PORTLAND, MAINE.

Mr. WASHBURNE, of Illinois, from the Committee on Commerce, reported a joint resolution (H. R. No. 279) in relation to the breakwater at Portland, Maine; which was read a first and second time.

The joint resolution, which was read, provides that so much of the unexpended balance of the appropriation for the breakwater in Portland harbor, Maine, as the chief engineer shall deem proper, may be expended under his direction in excavating the "middle ground" near said breakwater and in otherwise protecting the channel from injury by filling and improving the same.

The joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADJOURNMENT OVER ON FRIDAY.

Mr. BROMWELL. I ask unanimous consent to submit the following resolution:

*Resolved*, That Saturday, the 30th instant, being the day set apart for decorating the graves of Union soldiers in the national cemeteries, this House, when it adjourns on Friday next, will adjourn until Monday following at twelve o'clock m.

The SPEAKER. To adopt this resolution now would require unanimous consent, as it proposes to fix the order of business for a future day.

Several members objected.

#### COLLECTION DISTRICT OF PHILADELPHIA.

Mr. O'NEILL, from the Committee on Com-

merce, reported back a bill (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia, so as to include the whole consolidated city of Philadelphia.

The bill, which was read, provides that the collection district of Philadelphia be so extended as to include within its boundaries the whole consolidated city of Philadelphia.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. O'NEILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SHIP GOLCONDA.

Mr. O'NEILL, from the Committee on Commerce, reported back adversely a bill (H. R. No. 448) to change the name of the ship Golconda; which was laid on the table.

#### APPRAISEMENT, ETC., OF IMPORTS.

Mr. GGGLESTON, from the Committee on Commerce, reported back, with amendments, a bill (H. R. No. 788) to regulate the appraisement and inspection of imports in certain cases, and for other purposes.

The bill, which was read, provides in the first section that whenever any merchandise shall be imported into any port of entry of the United States, and it shall appear by the invoice and bill of lading, or either of them, and the manifest that such merchandise is consigned to and destined for another port of entry, it shall be lawful for the collector at the port of arrival to permit the owner, agent, or consignee of such merchandise to make entry for warehouse and transportation, and on the execution of a bond, as in case of withdrawal for transportation, in a sum equal to double the amount of the invoice value of such merchandise, the same is to be delivered to the owner or consignee to be transported to the port of its destination, and such merchandise is not to be subject to appraisement at the port in which it was landed; but the same examination and appraisement is to be required and had at the port of destination as if such merchandise had been entered for consumption, and the duties paid at the port in which it first arrived and was landed.

The second section provides that such merchandise shall only be forwarded by established transporting companies who shall become responsible to the United States as common carriers for the delivery of such merchandise to the collector at the port of its destination, and any person who shall interfere to prevent or delay the delivery of such merchandise or any part thereof shall be liable to a fine equivalent to double the value of such merchandise, and imprisonment at hard labor for not less than one year or more than five years.

The third section provides that the Secretary of the Treasury is hereby authorized and instructed to make such rules and regulations as may be necessary (not inconsistent with law) to carry into effect this act.

The fourth section provides that the State of Missouri shall be one collection district, to be called the district of Missouri, of which the city of St. Louis shall be the sole port of entry, and a collector shall be appointed to reside at said port of entry.

The fifth section provides that all that portion of the State of Ohio bordering on the waters and shores of the Ohio river shall be one collection district, to be called the district of Ohio, of which the city of Cincinnati shall be the sole port of entry, and a collector shall be appointed to reside at said port of entry.

The sixth section provides that an appraiser of imported merchandise shall be appointed, to reside at each of said ports of St. Louis and Cincinnati, who shall be paid a salary of \$2,000 per annum.

The seventh section provides that the salary of each of the collectors for the ports aforesaid shall be \$2,000 per annum, and fees and commissions not exceeding in all a maximum

yearly compensation of \$4,000; and that all fees and commissions, from whatever source collected, exceeding the compensation of said collectors aforesaid, shall be paid into the Treasury for the use of the United States.

The amendments of the committee were then reported as follows, and agreed to:

**First amendment:**

After the word "entry" in section one, line seven, insert "in the interior;" so it will read "ports of entry in the interior."

**Second amendment:**

In section one, line eight, strike out the word "to" and insert "shall," so it will read "collector of the port of arrival shall permit," &c.

**Third amendment:**

Section one, line fourteen, after the word "to" insert "examination or;" so it will read "shall not be subject to examination or appraisement."

**Fourth amendment:**

Section three, line one, after the word "that" insert the following:

The transportation bonds required by the first section of this act may be executed at the port of destination before the collector of customs thereat, who shall certify to the sufficiency of the sureties for the amount of the penalty named therein, and who shall transmit the said bond and justification to the collector of the port of original importation; and that said bond shall be executed by two or more sureties who shall justify by affidavit to be attached to said bond in at least double the amount of the penalty of the bond.

**Fifth amendment:**

Section six, line three, after word "said" insert "the."

**Sixth amendment:**

Section six, line three, after word "of" insert "Chicago," so it will read "ports of Chicago, St. Louis, and Cincinnati."

**Seventh amendment:**

Section seven, line two, after the word "ports" insert "of Chicago, St. Louis, and Cincinnati."

**Eighth amendment:**

At the end of section six add the following:  
And also at any other port of entry wherein the judgment of the Secretary of the Treasury such appraisers shall be needed, with such salary not exceeding \$1,000 per annum as may be established.

Mr. EGGLESTON. I call for the previous question.

Mr. ALLISON. I desire to offer an amendment.

Mr. EGGLESTON. What is it?

Mr. ALLISON. I will state the substance of it. It is for another port of entry and another collection district.

Mr. EGGLESTON. I must object to that, because this provides for all the smaller ports.

Mr. ALLISON. I should like to understand this bill. As I understand it, the bill provides for three ports of entry at Chicago, St. Louis, and Cincinnati.

Mr. EGGLESTON. They are already ports of entry.

Mr. ALLISON. Missouri is established as one collection district, with St. Louis as the sole port of entry for that district. The State of Illinois is made one collection district, with Chicago as the sole port of entry. I think there will be no objection to my amendment.

Mr. WASHBURNE, of Illinois. If we are going to extend these ports, we shall have to do so indefinitely, and include such towns as Burlington and St. Paul.

Mr. EGGLESTON. I demand the previous question.

Mr. BOUTWELL. I hope the gentleman will give me the floor a few minutes.

Mr. EGGLESTON. I will yield five minutes.

Mr. BOUTWELL. I have not had an opportunity to examine this bill, but I think I see it is but a repetition of a feature in the internal revenue system which has been the source of immense frauds—a system of transportation of goods through the country in bond, the duties not being paid. I have not had an opportunity to inform myself so as to explain to the House the way in which these frauds will be accomplished, but I have not the least doubt that it is a plan which will result in great frauds.

Mr. EGGLESTON. In reply to the gentleman, I will say that the committee have con-

sidered this bill deliberately, and it has the entire sanction of the Treasury Department. All that part of the bill which relates to the transportation of goods has been duly considered, and the object of the bill is to give to the people of the West an equal chance with those in the East to get their goods by paying the duties at home.

Mr. BOUTWELL. One moment more. My objection is not that the bill has not received the consideration of the committee. Perhaps it may have been approved by the Treasury Department, but this experiment in this country under the internal revenue system has been tried of allowing the transportation of goods in bond, the duties to be paid elsewhere. Under that system worthless bonds have been taken over and over again in the internal revenue department. Public officers have been corrupted, have received bonds that were entirely worthless, and have knowingly consented to misrepresentation as to the character and value of the goods transported. I do not see why the same evil should not grow up under this system.

Mr. EGGLESTON. I yield five minutes to the gentleman from Illinois, [Mr. JUDD.]

Mr. JUDD. I think my friend from Massachusetts has entirely mistaken the character of this bill. The only purpose of the bill is, as stated by the gentleman from Ohio, [Mr. EGGLESTON,] to prevent the examination, appraisement, and handling of goods imported from abroad intended for interior cities at the port of arrival, and thus avoid all the loss, injury, and damage that accrues to goods that are so imported. Now, if the gentleman from Massachusetts had paid attention to the law he would see that to-day goods arriving at Boston go through the State of Massachusetts to Canada and other portions of the country under the provisions of similar law. So also with goods that go to the western States and pass through Canada, and it is intended to prevent the monopoly that exists at the port of arrival and the wrong that is done to the importer residing and doing business in the interior. I would say to the members of the House that there is no civilized country on the globe, no country where commerce is carried on and protected, that has not provisions for transportation and intercommunication between different States and kingdoms. I know from my own experience that through all the nations of Europe goods are transported over and through territories to their places of destination in the interior subject to the payment of duties at the place of their destination. I have had occasion to send goods in that form through two or three kingdoms. The Government prescribes the arrangements under which this transportation takes place, and this bill requires the Secretary of the Treasury to make all necessary regulations. There is no sort of analogy to the system that the gentleman from Massachusetts speaks of. And I am informed by the gentleman from Maine, [Mr. BLAINE,] in corroboration of what I have said, that three fourths of the imports of Portland go through that State under bond in the same form that is proposed in this bill. There is no opportunity for fraud any more than there is in the ports of arrival. It is one of those necessities that the business of the interior cities absolutely demand, and it is about time that our interior commercial cities should cease to be treated as colonies. It is simply a system to prevent the paying of cartage and storage and avoiding the examination, repackaging, destruction, and loss of goods. The revenue of the Government is not placed by this action in any sort of danger. All of our interior cities now are becoming large importing cities, and there is no reason in the world why, when their goods arrive on board the vessels, they should be stored in New York, carted to warehouses, stored for awhile, and then carted back again, examined, packed, and repacked, and reshipped to their port of destination, with all this addition of costs, fees, and charges, and, more than all, the delays attendant upon the

present system. No reason can be given except the privilege of feeding at the ports of arrival a few officials at the expense of the interior cities.

Mr. EGGLESTON. I yield now for five minutes to the gentleman from Missouri, [Mr. PILE.]

Mr. PILE. Mr. Speaker, at present goods are transported from any original port of entry on the Atlantic sea-board to St. Louis, Cincinnati, or Chicago, they being ports of delivery, without the payment of duties. The only difference upon that point between the provisions of this bill and the present law is that the goods are now examined and appraised and the duties assessed at the ports of original entry and bonds given for the payment of the duties on the arrival of the goods at the place of destination. The provisions of this bill, as stated by the gentleman from Illinois, [Mr. JUDD,] are that this examination and appraisement, instead of being made at New York, or at New Orleans, or at Boston, or at the place where the goods arrive originally, shall be made at St. Louis, Cincinnati, or Chicago, and that the same bonds shall be given at the port of original entry for the safe transportation of the goods to the city of Chicago, Cincinnati, or St. Louis, and for the payment of the duties when they arrive there, as is now required by law. This will save the importing merchants at those cities the expense of cartage to the bonded warehouse at the original port of entry and from the warehouse to the transportation company. It will save the delay in forwarding goods that now embarrass the importers in these cities. I wish to say that this measure is essential for the importing business of those cities. When I was at the city of St. Louis during the holidays one of the leading firms of that city showed me a shipment of goods worth between twelve and fifteen thousand dollars—holiday goods, intended for holiday purposes. Early in the fall the goods were shipped and arrived in New York, and went into a bonded warehouse. They wrote to their commission merchant in New York, sent telegrams, and finally sent on a man, and yet, after all their efforts, those goods had been mixed up with other goods and their shipment delayed so that they did not arrive at the city of St. Louis until four days after the season for which they were intended was over. Those goods have got to be kept till next winter; styles change, and there is the loss of interest and the decline of prices. This is only one instance of many, and unless the importing merchants of these cities get this relief they cannot compete, in these days of decline of prices, small margins, and great competition, with the importing merchants of the sea-board.

I think there can be no reasonable objection to the passage of this bill. The revenue of the country will not be imperiled any more than at present. There will be no more opportunities for fraud than there are at present, and I hope the bill will pass.

Mr. EGGLESTON. I will now yield five minutes to the gentleman from Pennsylvania, [Mr. O'NEILL.]

Mr. O'NEILL. I do not think I shall require five minutes to explain the bill as I understand it, and to explain its necessity. It may not be known to gentlemen of the House that for years past there have been great complaints at ports of delivery at the delay of the officers of the customs in forwarding goods from the port of entry. The ports of New Orleans, Baltimore, Philadelphia, New York, and Boston, being the principal ports of entry on the sea-board, are crowded with goods which are arriving daily, and there has been a great want of facilities for transmitting them to their places of destination. This bill seeks to afford those facilities, and we have been solicited to grant them from all parts of the country where the delays have been experienced. During the last Congress the Board of Trade of Philadelphia sent a petition here asking for the passage of such a bill as this. Upon the presentation of that petition my col-



league from the third district [Mr. MYERS] introduced a bill on the subject. Immediately after that the Board of Trade of Boston took action on it, and recommended the passage of a bill to secure the facilities needed; following in the wake of Philadelphia and Boston the boards of trade of other cities took up the question and asked for legislation in which the principles running through the proposed measure might be adopted. There is scarcely any detail in the bill, excepting for the protection of the revenue to the Government; but hereafter we hope to perfect a system which we are confident will work to the benefit of the customs and the great interests of commerce. The only object now sought to be accomplished is a more rapid passage of merchandise from the port of entry to the warehouses of our merchants, and while we have had many memorials from commercial organizations and business people, both inland and sea-board, no remonstrance against the passage of so just a proposition has ever reached us, although the subject has been before Congress several sessions, and ample opportunity given in all our business communities for discussion and objection. Importations, as is well known, are made to comparatively few of our ports, and the custom-houses of some of them are so overcrowded with goods that the importer at a distance must wait months before he can get them to his storehouse. This bill provides, under certain regulations, and with proper security to the Government, for their immediate transmission to the locality of the merchant to whom they belong, whose losses, under existing laws, have been heavy and ruinous. The Committee on Commerce has examined the subject thoroughly, and with the favorable opinion of the officers of the Treasury Department interested in the collection of the customs urge the House to pass the bill. I hope it will pass.

Mr. EGGLESTON. I now yield five minutes to the gentleman from Massachusetts, [Mr. Hooper.]

Mr. HOOPER, of Massachusetts. I think that the general principle embraced in this bill may be a very good one. But I see that in the details, while provision is made for facilities to the merchant to get possession of his goods, the precautions for the security of the revenue have been entirely disregarded. I hope the gentleman from Ohio [Mr. EGGLESTON] will permit this bill to be referred to the Committee of Ways and Means, postponing action upon it at the present time.

There is one point to which I would particularly call attention. Perhaps the gentleman in charge of this bill will allow an amendment which would remove one objection to the bill as it now stands. In the early part of this session we found it necessary, in consequence of the monstrous frauds on the revenue, to put a stop to the transportation of distilled spirits of domestic manufacture. This bill now opens the whole subject for the transportation in bond of distilled spirits of foreign manufacture, and allows the transportation in any direction. I think that at least distilled spirits and wines should be excepted, by inserting after the word "merchandise" the words "other than distilled spirits or wines."

Another great objection I have to the bill is, that on the arrival of goods at a port of entry in the United States they are to be delivered to the person claiming to be the owner or consignee for transportation by him without any examination of the packages or verification of the invoices. There is no provision to verify the contents of packages or the correctness of the invoice, nothing by which the goods can be afterward identified, nothing to prevent other packages from being substituted. Under the present law all goods, on arrival, are subject to inspection and appraisement.

Mr. PILE. Does not this bill provide for the same examination on the arrival of goods at St. Louis, Cincinnati, and Chicago that there is now at the place of entry? Are not the officers as competent and as honest to

approve and assess this duty at those ports as at the city of New York or New Orleans?

Mr. HOOPER, of Massachusetts. My objection is that this examination does not take place on the arrival of the goods at the port of entry.

Mr. PILE. I think it does.

Mr. HOOPER, of Massachusetts. Not on their arrival at the port of entry, but after being transported to their place of delivery; whereas under the present system everything on arrival is examined at the custom-house.

Mr. PILE. What is the peril under this bill?

Mr. HOOPER, of Massachusetts. I think there is a great deal of peril to the customs revenues. There is one other amendment which I think should be made. In the last section it is provided that the compensation of the officers shall be deducted before payment into the Treasury. That is entirely opposed to our present system, which requires all duties collected to be paid into the Treasury of the United States, and the compensation of the officers to be withdrawn from the Treasury by an appropriation made by Congress.

Mr. EGGLESTON. I now yield five minutes to the gentleman from Pennsylvania, [Mr. MYERS.]

Mr. MYERS. I believe I first introduced a bill embodying the principles contained in the one before the House. The mercantile interests all over the country demand the passage of such a bill. Boards of trade and chambers of commerce in many of the States have petitioned for the relief which it proposes, and merchants all over the country have asked for it. The Philadelphia Board of Trade first presented petitions for this purpose, and in pursuance of its suggestion I proposed the measure after a full examination of its merits.

I think the principle involved commends itself at once to the common sense of the House. What is the object of the bill? Simply this: that when goods arrive at a port of entry they shall be forwarded to the port of destination as rapidly as possible. The chief objection to the present plan is this: when goods arrive at a port not that of destination, and are detained there, as happens constantly, through the immense amount of importations, very frequently the whole business season is lost to the importer, besides the expenses of cartage and loss by breakage for want of care, before the merchant can get his goods. The proposed law, however, is not only for the interest of those who are to receive the goods at a different port, but of those residing at or near the port of entry, because their goods, also, are detained there by reason of the great amount of merchandise collected there preventing prompt delivery in any case. It is for the accommodation of those who are importing or receiving imported goods in New York, Philadelphia, Cincinnati, New Orleans, and elsewhere. And the reasons for this bill have been stated so plainly that no words of mine can add any force to them.

There may be objection to the amendment proposed by the gentleman from Massachusetts [Mr. Hooper] excepting the transportation of distilled spirits, yet I hope the gentleman from Cincinnati [Mr. EGGLESTON] will consent to it. This bill is to facilitate the delivery of goods arriving from abroad and aid the purposes of commerce. We do not wish to interfere with the internal revenue laws in relation to distilled spirits; and I do not think there is any fear of such a result even if this bill should pass as reported; but, as delays are not so likely to create loss in this particular, I would rather accept the amendment than endanger the passage of the bill.

Mr. EGGLESTON. Mr. Speaker, I am very sorry that the article of distilled spirits has entered into the discussion of this bill. I will say to my distinguished friend from Massachusetts, [Mr. Hooper], who has been upon the Committee of Ways and Means ever since I have been in Congress, that if this bill is to have no more success than the legislation of

his committee has had with regard to distilled spirits it will come out very badly before we get through. If I thought there were the least chance that the Government would be defrauded by the passage of this bill I would not advocate it; but when a committee, which ought to stand at least half as well as the Committee of Ways and Means, has thoroughly investigated the subject; when we have received memorials and letters from boards of trade and business men generally urging the passage of such a measure as this; when the entire western country demands some such legislation, I cannot understand why gentlemen should undertake to oppose the measure by lugging in the article of ardent spirits. Why, sir, as matters stand at present, the people of the West have to pay an expert at the city of New York three per cent. to get their goods passed through the custom-house there. More than that, they have to pay in gold or its equivalent the entire invoice of the goods before they can remove one package. The object of this bill is that on the giving of a proper transportation bond the goods may be sent to any point in the western country for which they may be destined. When they arrive there, the merchant can pay the duty on his sample package, and when he finds a purchaser he can pay the duty upon the whole invoice. Thus he will be placed on an equal footing with merchants in the city of New York. We find the city of Philadelphia pleading for the passage of this bill; we find Buffalo, we find every city in the West anxious that a bill of this kind should pass.

Mr. FARNSWORTH. Will the gentleman yield to me that I may ask him two or three questions?

Mr. EGGLESTON. Certainly.

Mr. FARNSWORTH. If this is a good bill for Cincinnati, Chicago, and St. Louis, why not extend it to every port of entry around the lakes and all along the Mississippi river?

Mr. EGGLESTON. The provisions of this bill extend to every port in the United States. Certain cities are named because they are among the larger cities, and the salaries of the revenue officers there will have to be somewhat increased.

Mr. FARNSWORTH. Then comes the next question: when the provisions of this bill have been extended to every port in the United States, how much will the salaries of our revenue officers be increased? It will be necessary to have at all these smaller ports all the different grades of officers employed in New York or Boston. Appraisers, storekeepers, weighers, measurers, examiners, &c., will be required at every one of these small ports just as though it were a first-class seaport. The salaries of the collectors will have to be increased, because they will have more duties to perform. When all these increased expenses are incurred, what will be the additional outlay from the Treasury?

Mr. EGGLESTON. I am sorry, Mr. Speaker, that so much ignorance on this subject should be displayed by my friend from Illinois, [Mr. FARNSWORTH.] Living, as he does, in the neighborhood of the great city of Chicago, let him make inquiry of the Chamber of Commerce of that city. Let him go to the city of Milwaukee and make the same inquiry which he has put to me this morning.

In answer to the gentleman's question, I will say that just as we increase the force in the West we diminish the force required in New York city. Under the system proposed in this bill we shall get rid of hundreds of men who now make their living in New York by exacting bribes of experts for passing through the custom-house goods destined for the West. Besides, it is in only such cities as are ports of delivery or entry that any officer is appointed; and these officers are paid in proportion to the business done—the Secretary of the Treasury regulating such matters.

Mr. COVODE. I wish to ask the gentleman from Ohio whether this bill does not give permission to transport foreign spirits through the country in bond, and whether the legislation we have been inaugurating this session

does not prevent domestic spirits being transported in bond? And I should like to know what excuse western men will give their constituents for tolerating the transportation of foreign spirits while they deny them the right to transport domestic spirits in bond?

Mr. Speaker, I am certainly astonished that gentlemen from the West should be found to oppose a bill of this kind. I am also astonished that they should try to "ring in" this thing of distilled spirits. We will have that up in a few days, and I wish to hear the explanations of the gentleman from Massachusetts [Mr. Hooper] and the Ways and Means Committee I wish to know how they have been managing this matter of spirits. But so far as that matter is concerned it never entered into the minds of the Committee on Commerce; that is, the transportation of foreign spirits. Certainly there is no doubt if there is any imported it will go over the country as any other kind of merchandise. I see no objection to it, but I will consent to have it struck out of the bill. I will accept the gentleman's amendment.

The SPEAKER. That cannot be done, as the bill comes from the committee.

Mr. HOOPER, of Massachusetts. I move after the word "merchandise" to insert the words "other than distilled spirits and wines."

The amendment was agreed to.

Mr. EGGLESTON. I call for the previous question.

Mr. SCHENCK. I hope that the previous question will not be seconded, as this bill ought to be referred to the Committee of Ways and Means.

The House divided; and there were—ayes 60, noes 41.

So the previous question was seconded.

The main question was ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. BOUTWELL demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 66, nays 64, not voting 56; as follows:

YEAS—Messrs. James M. Ashley, Beatty, Blaine, Brownell, Burr, Cary, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cullom, Dawes, Dixon, Donnelly, Eggleston, Eliot, Ferry, Harding, Hill, Hopkins, Chester D. Hubbard, Johnson, Jones, Judd, Julian, Koontz, George V. Lawrence, Loan, Loughridge, Mallory, Marshall, McClurg, McCormick, Miller, Moore, Moorhead, Morgan, Morrill, Myers, Newcomb, Nicholson, Nunn, O'Neill, Orth, Paine, Pike, Pile, Plants, Poland, Polsley, Robertson, Ross, Sawyer, Seofield, Shellabarger, Aaron F. Stevens, Taffe, Taylor, Trowbridge, Robert T. Van Horn, Van Trump, Elihu B. Washburne, Weiker, William Williams, and Windom—66.

NAYS—Messrs. Ames, Archer, Arnell, Delos R. Ashley, Baker, Baldwin, Barnes, Beaman, Beck, Benton, Blair, Boutwell, Boyer, Brooks, Broomall, Churchill, Covode, Briggs, Eldridge, Farnsworth, Ferriss, Fields, Getz, Glossbrenner, Golladay, Grover, Haight, Higby, Hooper, Hotchkiss, Hunter, Jenckes, Kerr, Ketcham, Knott, Lallin, William Lawrence, Lynch, Marvin, McCarthy, McCullough, Mercer, Niblack, Perham, Phelps, Price, Randall, Raum, Schenck, Selye, Sitgreaves, Starkweather, Stewart, Stokes, Taber, Thomas, John Trimble, Lawrence S. Trimble, Upton, Van Auken, Burt Van Horn, Ward, William B. Washburne, and Wood—64.

NOT VOTING—Messrs. Adams, Allison, Anderson, Axtell, Bailey, Banks, Barnum, Benjamin, Bingham, Buckland, Butler, Cake, Cook, Cornell, Dodge, Eckley, Ella, Finney, Fox, Garfield, Gravelly, Griswold, Halsey, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburt, Humphrey, Ingersoll, Kelley, Kelsey, Kitchen, Lincoln, Logan, Maynard, Morrissey, Mullins, Mungen, Peters, Pomeroy, Pruyn, Robinson, Shanks, Smith, Spalding, Thaddeus Stevens, Stone, Twichell, Van Aernam, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—59.

So the bill was passed.

Mr. EGGLESTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LOUISVILLE BRIDGE COMPANY.

Mr. EGGLESTON, from the Committee on Commerce, reported back House joint resolu-

tion No. 215, relative to the Louisville Bridge Company, with an amendment.

The joint resolution authorizes and directs the Secretary of War to cause an inquiry and examination to be made by a competent and impartial officer of engineers to ascertain whether the Louisville Bridge Company has located and is constructing a bridge across the Ohio river at the head of the falls of said river in accordance with the provisions of acts of Congress approved July 14, 1862, and February 17, 1865, and to have the same done and reported to Congress at as early a period as practicable, to the end that the interests of the public may be protected and no injustice done by delay or otherwise to said company.

The amendment reported by the committee was to insert the following:

And the Secretary of War is hereby instructed to cause an examination by a competent engineer of all other bridges erected, or in progress of erection, across any of the navigable waters of the United States, and report to Congress any and all violations of the law under which said bridge or bridges are being or have been erected.

Mr. EGGLESTON. I will state that this joint resolution was introduced by the gentleman from Indiana, [Mr. KERR.] I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to, and the joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. EGGLESTON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House was requested:

An act (S. No. 454) for the relief of Samuel N. Miller.

The message further announced that the Senate had passed House bill of the following title, with an amendment, in which the concurrence of the House was requested:

An act (H. R. No. 650) to amend an act of 3d March, 1865, providing for the construction of certain wagon-roads in Dakota Territory.

#### INDIAN APPROPRIATION BILL.

Mr. ELIOT. I move to proceed to business on the Speaker's table.

Mr. WASHBURN, of Illinois. I move that the rules be suspended, and the House resolve itself into Committee of the Whole for the purpose of considering the appropriation bills.

Mr. SCHENCK. Which bill has precedence?

The SPEAKER. The Indian appropriation bill, unless it is laid aside by a majority of the committee.

Mr. ELIOT. The object of my motion is to take up a bill from the Senate and refer it.

Mr. WASHBURN, of Illinois. Let us first get through with the Indian appropriation bill.

The SPEAKER. The motion to suspend the rules precludes the motion to proceed to business on the Speaker's table; because it suspends that rule.

Mr. FARNSWORTH. Let us clear off the Speaker's table. There is not a great deal there.

Mr. WASHBURN, of Illinois. There are several bills on the table that will cause a good deal of debate. When we get out of committee I will then make no objection.

The motion of Mr. WASHBURN, of Illinois, was agreed to—ayes seventy, noes not counted.

The House accordingly resolved itself into Committee of the Whole on the state of the

Union, (Mr. BLAINE in the chair,) and resumed the consideration of House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869.

Mr. SCHENCK. I move that the Indian appropriation bill be laid aside, and that the internal tax bill be taken up.

Mr. BUTLER. I trust not.

The motion of Mr. SCHENCK was disagreed to.

The Clerk resumed the reading of the bill, and read as follows:

#### Onk-pah-pah band:

For third of twenty installments, being thirty dollars for each lodge or family, (three hundred lodges,) to be paid in such articles as the Secretary of the Interior may direct, as per fourth article of treaty of October 20, 1865, \$9,000.

Mr. TAFTE. I move to amend the foregoing paragraph by adding the following proviso:

*Provided*, That said payment shall not be made unless the Secretary of the Interior shall be satisfied that said tribe has observed its treaty stipulations; or in case a portion of said tribe shall have observed their obligations, payment shall be made to such individuals *pro rata*.

The reason I offer the amendment is this: I notice by the Yankton papers, and learn from parties directly from the upper Missouri, that these Onk-pah-pah Indians have recently made a raid upon a camp of Yankton Sioux near Fort Randall, and also upon the stock of that post. They captured several head of horses and made warlike demonstrations generally. The garrison was out in line of battle—too weak to assume the offensive—and the officers, as I learn, complimented and congratulated themselves upon the fact that the post was not taken. These Indians walked leisurely away with their booty, and complained that the Government kept such poor stock. I wish the attention of the Secretary of the Interior directed to these facts, and, as the terms of the treaty and bill are peremptory, there should be a discretion lodged somewhere, so that payment may not be made to those parties who have been guilty of these flagrant acts of war.

Mr. BUTLER. I do not rise to oppose the amendment; or rather, I rise to oppose it in a technical sense, but not actually. The committee thought of putting in such a proviso, to extend to all these bands of Indians; and, if the gentleman will withdraw the amendment and modify it so as to include two or three more tribes which, since we reported the bill, have gone into raids and spoiliations in defiance of treaties, I shall be very glad.

Mr. TAFTE. I withdraw the amendment.

Mr. PAINE. I renew the amendment for the purpose of expressing the hope that the amendment may be put in such general terms as to cover all the bands mentioned in the bill which may have violated their treaty stipulations, and exclude them from the right to appropriations under this bill. I withdraw the amendment.

Mr. HIGBY. I move to strike out "\$5,000," in line thirteen hundred and forty four, and to insert "\$7,500" in lieu thereof; so that the paragraph will read: "For the general incidental expenses of the Indian service in California, including traveling expenses of the superintending agents, \$7,500." I find that the appropriation for last year was \$7,500. I know something in regard to these expenditures. There are four reservations in the State, and it is necessary, for their proper administration, that the superintendent should visit them at least twice a year, and the distance between the two extreme reservations is at least five hundred miles. I know that these estimates for last year and the year before were made by a man whose integrity no man can impeach, and of whom one whose voice is now hushed, but whose name this whole nation honors—no other than Abraham Lincoln—said that no purer or honest man lived upon the earth than Charles Maltby; he used those words in my presence. The estimates made for the two last years are \$7,500, and I know that these

traveling expenses and the other incidental expenses mentioned here are great.

I do not know but that the committee may have some information within their own reach that can enlighten us on the question why the expenses should be reduced \$2,500. I find by looking at the close of the bill that the whole amount appropriated in it is \$2,214,283 01, and I think that nearly or quite two millions of that is appropriated by these treaties which the member who has charge of this bill has, in my estimation, so justly denounced. I fully agree with him that the amount fastened on the country by our treaty system is an outrage upon it. But, sir, with relation to California, the matter is entirely within the grasp of the Government, and every dollar that is expended can be known. It is subject to the closest investigation, and we find that only the small amount of \$64,000, I believe, is appropriated by this bill for the Pacific coast, and especially for the State of California, with some four or five thousand Indians that are under the jurisdiction of the Government upon these reservations.

Now, I say that the estimate of last year was made by as pure a man as ever lived, and that was Charles Maltby, and \$7,500 was only considered sufficient for this purpose. I wish to understand whether the committee have any information within their knowledge which induces them to reduce the amount, or is it cut down on the general economical system on which the committee have entered?

Mr. BUTLER. The original estimate, I grant, was \$7,500. I do not mean to say anything, nor am I instructed to say anything, against the purity or the propriety of conduct of the superintendent of Indian affairs in California.

Mr. HIGBY. I do not mean the present superintendent, but the one who made the estimate for last year, not this year.

Mr. BUTLER. Yes, sir; and I wish to assure him that we mean no imputation upon his friend, if he is so, by reducing his estimates. But what was controlling upon the minds of the committee was this: in examining what was to be done after the salaries were paid, and seeing what was necessary for incidental expenses, we came to the conclusion that \$5,000 was enough; and we made like reductions all through the bill in these incidental expenses. For instance, in the general Indian department there was a call by estimates for \$30,000. Upon examination we cut it down to \$20,000. In various other divisions of this service we have cut down the incidental expenses. And from what examination we could make we concluded that the Indian service in California could get along with \$5,000 for traveling expenses and rent for the superintendent. He has an extra clerk more than others have, and he has a large salary.

Mr. HIGBY. Not very large.

Mr. BUTLER. In comparison with others.

Mr. HIGBY. No, sir.

Mr. BUTLER. We thought that \$5,000 for traveling expenses and office rent quite as much as the country could afford, and we can try the experiment for one year at least with \$5,000.

Mr. HIGBY. I will say to the member from Massachusetts [Mr. BUTLER] that I am not so strenuous upon this point as I shall be upon some other points that are more vital. But I wanted to know why this reduction was made.

Mr. BUTLER. I have stated the reasons.

The question was then taken on the amendment of Mr. HIGBY, and it was not agreed to. The Clerk read the following paragraph:

For the general incidental expenses of the Indian service in Montana Territory, presents of goods, agricultural implements, and other useful articles, and to assist them to locate in permanent abodes and sustain themselves by the pursuits of civilized life, to be expended under the direction of the Secretary of the Interior, \$15,000.

Mr. CAVANAUGH. I move to amend the paragraph just read by striking out "\$15,000" and inserting "\$20,000." I find by reference to the bill that for Colorado Territory there

is an appropriation of \$20,000; for Dakota, \$15,000; for Idaho, \$15,000; for Nevada, \$20,000. Now, there are three times as many Indians in Montana Territory as there are in any other Territory in the United States; at least three times as many as there are in Colorado. I have lived in both Territories, and know that of which I am speaking. I do not think there ought to be any discrimination made between these Territories; but there is. I do not charge that the discrimination is for party purposes. But I find that for the Republican State of Nevada and for the Republican Territory of Colorado the sum of \$20,000 is appropriated; while for the Democratic Territories of Dakota, Idaho, and Montana only \$15,000 is appropriated. Now, I would say, with all respect to the gentleman from Massachusetts and to other gentlemen who represent eastern and middle States, that they cannot know as much about these Indians as the two Representatives from Minnesota, the Representative from Colorado, and the Representative from Utah, men who have lived among these Indians for the last ten or fifteen years. Now, I sincerely wish that the Indian policy of the Government at the present day was entirely abolished, was taken entirely from the civil service, taken out of politics, and placed where it legitimately belongs, in charge of the War Department.

I hope the gentleman who has charge of this bill will consent to my amendment; I think it is but right and proper. We have in Montana the largest Indian population of any Territory in the United States; and yet this bill proposes to give that Territory less than is given to Colorado or Nevada.

Mr. BUTLER. The gentleman from Montana [Mr. CAVANAUGH] has so well and properly put his case that he almost persuaded me to consent to his amendment. But the only ground I can see for consenting to the amendment is the very proper and able manner in which it has been presented; its merits I cannot see. The gentleman claims for Montana Territory a larger Indian population than any other Territory. I have the statistics here, showing that in Montana there are 18,683 Indians; in New Mexico, 19,979; in Utah, 17,600; and in Dakota, 24,440 Indians. These figures come from the report of the Indian Bureau made last year, and unless the Indians in Montana Territory have been exceedingly fruitful within the last year, I do not think that Territory can have as many Indians as these other Territories.

Mr. CAVANAUGH. Ignorance prevails in all the Departments relative to the far West; and I take it the Indian department is not an exception. Now, I know that there are more Indians in Montana than in any other Territory, the official statements of the Indian department to the contrary notwithstanding.

Mr. BUTLER. It is claimed that in Dakota Territory alone there are 24,440 Indians; yet only \$15,000 is appropriated for that Territory, the same that is given to Montana Territory.

Mr. CAVANAUGH. How many Indians are there in Colorado?

Mr. BUTLER. I am informed by one gentleman that there are 24,000 Indians there; the official report says there are only 7,000. That shows how difficult it is to get anything from an official report. In the estimates of the Interior Department is a note that \$25,000 is not too much to take care of the Indians in Colorado. The ground upon which that large sum is put for Colorado is that the mining interests there are very much scattered, and this is necessary for their protection. It will be observed that all this is for presents and civilization. I think it would be better for them to have fewer presents and less civilization. True, I cannot know as much about this matter, I do not pretend to know as much about it, as gentlemen who live out there; but I ask the gentleman from Montana [Mr. CAVANAUGH] himself whether he does not think that this whole Indian system, outside of the Territory of Montana, (for I will not ask him to say a word about his own Territory,) is a system of corruption and wrong?

Mr. CAVANAUGH. If the gentleman will give me five minutes I will answer him.

Mr. BUTLER. I have no time to give.

The CHAIRMAN. Debate is exhausted upon the amendment.

Mr. CAVANAUGH. I move to amend the amendment so as to make the amount \$25,000. Now, sir, I will answer the inquiry of the gentleman from Massachusetts, [Mr. BUTLER,] although I did not expect this discussion to come up. I will say frankly that, in my judgment, the entire Indian policy of the country is wrong from its very inception. In the first place, you offer a premium for rascality by paying a beggarly pittance to your Indian agents. The gentleman from Massachusetts may denounce the sentiment as atrocious, but I will say that I like an Indian better dead than living. I have never in my life seen a good Indian (and I have seen thousands) except when I have seen a dead Indian. I believe in the Indian policy pursued by New England in years long gone. I believe in the Indian policy which was taught by the great chieftain of Massachusetts, Miles Standish. I believe in the policy that exterminates the Indians, drives them outside the boundaries of civilization, because you cannot civilize them. Gentlemen may call this very harsh language; but perhaps they would not think so if they had had my experience in Minnesota and Colorado. In Minnesota the almost living babe has been torn from its mother's womb; and I have seen the child, with its young heart palpitating, nailed to the window-sill. I have seen women who were scalped, disfigured, outraged. In Denver, Colorado Territory, I have seen women and children brought in scalped. Scalped why? Simply because the Indian was "upon the war-path," to satisfy his devilish and barbarous propensities. You have made your treaties with the Indians, but they have not been observed. General Sherman went out a year ago to Colorado Territory. He made a treaty; and in less than twenty-four hours after the treaty was made the Indians were again "upon the war-path." The Indian will make a treaty in the fall, and in the spring he is again "upon the war-path." The torch, the scalping-knife, plunder, and desolation follow wherever the Indian goes.

But, Mr. Chairman, I will answer the gentleman's question more directly. My friend from Massachusetts [Mr. BUTLER] has never passed the barrier of the frontier. All he knows about Indians (the gentleman will pardon me for saying it) may have been gathered, I presume, from the brilliant pages of the author of "The Last of the Mohicans," or from the lines of the poet Longfellow in "Hiawatha." The gentleman has never yet seen the Indian upon the war-path. He has never been chased, as I have been, by these red devils—who seem to be the pets of eastern philanthropists.

Mr. Chairman, I regret that I have not prepared myself with statistics as to Indian atrocities. I desire to answer the gentleman from Massachusetts fairly. I repeat that the Indian policy of the Government from beginning to end is wrong. If the management of the Indians is to continue as a part of the civil service, then there ought to be a bureau of Indian affairs, under the charge of a Cabinet officer, who should be responsible for all matters connected with the management of the Indians.

[Here the hammer fell.]

Mr. CAVANAUGH. I withdraw the amendment to the amendment.

The amendment of Mr. CAVANAUGH was not agreed to.

The Clerk read the following:

California:

For the purchase of cattle for beef and milk, together with clothing and food, teams, and farming tools for Indians in California, \$30,000.

Mr. HIGBY. I move to amend by striking out in the clause just read "\$30,000" and inserting "\$75,000," so as to make the appropriation \$75,000.

Mr. Chairman, I find that the amount appro-



appropriated last year for this item is \$55,000. As I understand from the Indian department the sum of \$75,000 is asked to be appropriated this year. In offering this amendment I do not wish to be understood as approving the present system of conducting Indian affairs; and I may as well say that before the expiration of the Fortieth Congress I will, unless some other member should do so, bring in a bill to revolutionize entirely our present Indian system. I think we should have nothing to do with the Indians except upon the stipulation that they shall be placed upon reservations; shall be no longer wild and roaming. When put upon reservations and made in a great measure dependent upon the Government they become disarmed of the war power which they otherwise possess; the tribes are broken up, and the Indians become harmless. In California, in 1864, more than a million dollars were expended in making prisoners of some three hundred Indians. Those Indians are now upon one of our reservations, and cost us but a small annual appropriation. We had better make these appropriations for fifty years than have even a small band like that roaming about and marauding upon the community. The department has asked that there shall be appropriated for this item \$75,000. I do not know but the committee may have some information showing the propriety of some reduction of this amount; but I am sure that they have no information justifying the cutting down of the appropriation to \$30,000, as is proposed in the bill. It can only be done under the system of the cleaver or the guillotine by which every appropriation proposed, however necessary or just it may be, must be cut down. That is the only rule that can possibly justify such a reduction. If the committee have any information justifying a reduction below \$75,000, I shall be glad to hear it; but I give the committee warning that, unless the means be provided for keeping the Indians upon those reservations, they will break away and we shall be obliged to exert the military power of the Government to subdue them, involving, perhaps, an expense of one or two million dollars. When wild Indians are placed on these reservations they are in process of time rendered peaceable and industrious. The parsimony of the Government in withholding twenty or thirty thousand dollars necessary for these Indians on reservations may involve us hereafter in an expenditure of one or two millions.

Mr. Chairman, I shall not stickle for an appropriation for the full amount asked, \$75,000; but I shall insist that we ought to make a larger appropriation than \$30,000. The latter amount will not, I am confident, meet the requirements of the department. I yield the floor that we may hear any information that the committee may have upon this subject.

Mr. BUTLER. Mr. Chairman, I want the committee to observe exactly the object for which this appropriation is made. It is "for the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools for Indians in California." How many of these Digger Indians of California ever had milk till the Government provided it for them? That is a question I would like the committee to think of for a moment. Then these Indians have "farming tools." Let us see what they do with the farming tools. I hold in my hand the report made by a commissioner sent out in 1866, now our clerk of the Committee on Appropriations, and he says:

"It is true that the women of almost all of these Indians do, at the proper season, dig the edible bulbs and roots of which certain portions of the State are so prolific. It is true, also, that the men hunt the grizzly, the puma, the deer, elk, and antelope, and that, until recently, with no other weapon than those of their own manufacture, ash bows, the backs of which are strengthened by a veneering made of the sinews of the deer, and arrows headed with obsidian."

Now, then, sir, that is the description of the general character of the Indians of California. In addition we have been asked to appropriate as follows:

For the purchase of cattle for beef and milk, to-

gether with clothing and food, teams and farming tools for Indians in California, \$75,000.

For pay of one physician, one blacksmith, one assistant blacksmith, one farmer, one carpenter, and one teacher upon each of the four reservations in California, and one herdsman, one miller, and one clerk upon each of the Round Valley and Hoopa Valley reservations, \$25,920.

For this amount, or so much thereof as may be necessary, to purchase a saw and grist mill for the Round Valley reservation, \$5,000.

For amount to pay the settlers of Hoopa Valley for their personal property, \$4,367 25.

For amount necessary for the purchase of the Tule river Indian farm, containing twelve hundred and eighty acres of land, with all improvements, at the rate of ten dollars per acre, in United States gold coin, \$12,800.

We are asked to pay all this to the Indians of California. Last year we found they got along with \$55,000 worth of milk and beef; and they got along so well with \$55,000 we propose now to try \$30,000. If that does well we will then try \$20,000 next year as an experiment. We see nothing in what has been stated to raise this to \$75,000, but, on the contrary, it should be cut down to \$25,000. It is all voluntary, it is all a gift; and I want to say here once for all that I do not understand why it is that the Indian alone, of all the people on the globe, should be exempted from the penalty of the primeval curse of man to earn his bread by the sweat of his brow. We have to tax our constituents to feed lazy Indians; and that would not be so bad, but we have to feed still lazier Indian employes. Where we have made treaties we cannot help it; but where it is voluntary I am going to ask the committee how many gentlemen will put their hands into the pockets of their constituents and take out money for the purpose of supplying with milk and beef the Digger Indians of California. Thirty thousand dollars is as far as I am willing to go.

The amendment was rejected.

Mr. HIGBY. I move to amend by inserting \$70,000, for I do not intend to let this go on only a five-minutes debate.

Mr. Chairman, I have been on all these reservations and seen these Indians, and the gentleman from Massachusetts need not bring any such report as that he has read from, for I know better. And, sir, I will say more, that before I get through I will show a letter from the gentleman of whom I have spoken, of whom Abraham Lincoln said he was "one of the purest men who lives," and it will show how much it is in conflict with the report which the gentleman from Massachusetts has read to the committee. I know, sir, that they have to have subsistence; and, whether they get it or not, I say it is within the power and reach of Congress to know whether these appropriations are carried out in good faith or not, while there is a difficulty in reference to these very treaties against which the gentleman so ably and so truthfully, in my judgment, has inveighed. I know that they have beef cattle. I know that the Indians labor. I saw them laboring on each one of these reservations. The testimony was that they labored well and faithfully, although they could not do the labor of white men. I saw them laboring; and when the gentleman from Massachusetts reads a report that these Indians use bows and arrows for the purpose of procuring their living, I say that report falsifies what is the truth in reference to the Indians in that State. I will not allow this matter to go off with such an imputation, standing, as I do here, as a Representative of the State of California.

I was on the committee in 1865 for the purpose of examining into the condition of these reservations. I visited every one of them and stayed several days on each and made critical examinations there. I could ascertain near the number of the Indians on each reservation, for they were gathered that they might be seen. I went to the fields where they were working. I saw them harvesting and using the various implements of husbandry. They do it upon every one of these reservations. It is true, they are simple and rude. They do not understand doing things like white men; if they did they could be entirely self-supporting. In

time I think they can be made so, but it will take a term of years to do it. I think it is the only system upon which we can enter with reference to the Indians. The policy of wholesale slaughter that the delegate from Montana [Mr. CAVANAUGH] talks about is one which will never do in this country.

Mr. RAUM. I desire to ask the gentleman what obligation this Government is under to appropriate money for the support of these Indians?

Mr. HIGBY. None; only they have been taken on to these reservations with the understanding that the Government will do it, and they stay there with that expectation, and when the Government refuses they leave the reservation and go out and prey upon the population, and human slaughter is the consequence. That is the condition of things now. In the northern portion of the State they are now importuning Congress on this subject. Those who suffered in 1864 think that the Government should make reparation to them for the depredation of Indians at the time the military had to be used at an expense of more than a million dollars, though there were only three hundred men employed. The Indians are now on the reservations submitting to that understanding. Refuse this appropriation, and I tell you you will have millions to pay in consequence of their depredations. As I said before, I do not pretend to say that \$75,000 is the exact sum required, but I want some information from the committee, more than has been given by the gentleman from Massachusetts, for this reduction to \$30,000. I shall name the amount before I get through. I have moved to make it \$70,000, in order that I might have an opportunity to debate this question.

Again, the proposition to turn over the Indians to the control of the War Department is as great a mistake as the present system of management.

[Here the hammer fell.]

Mr. BUTLER. Mr. Chairman, I have only to use such sources of information as I have. I cannot say anything from my own knowledge, therefore I give to the gentleman, in reply, the evidence which came before the committee. I by no means mean to impugn any gentleman from California, either his authority or his character or his judgment; but I desire to read for a moment from the financial statement of this report of 1866:

"In my letter of instructions the commissioner says:

"It is the policy of this department to make the Indians self-sustaining. Those in California have reservations that are represented as being very fertile and producing abundant crops, and it is thought that with proper management and due economy the expense to the Government of sustaining them would not be considerable; that nothing but clothing and agricultural implements need be purchased."

"After a pretty thorough investigation I must acknowledge concurrence in the above opinion."

"All the improvements, repairs, fencing, and materials used on the reservation are mainly the product thereof and the labor, that of the employes and Indians, with the horses, mules, oxen, and teams of the Government, so that very little expense would seem to accrue on this head."

"The subsistence is in large excess. The property returns from July 1, 1866, to the close of the year show the produce of wheat to be 1,605,156 pounds; this, at three cents per pound, would be \$48,154 65. About the time of my visit to the Tule river farm 100,000 pounds of wheat were sold to Mr. D. R. Douglas, a merchant of Visalia, deliverable at the farm, for \$2,500. This was a portion of the surplus products of that farm from the last harvest."

Then, in speaking of the expenditures, he says:

By this it would seem that the entire amount available for the year's service is \$100,000 currency. Of this is expended for salaries of superintendent and clerk, agents and employes—omitting pay of physicians where none are employed—exact—\$23,400 00

For the purchase of cattle for beef and milk, supposing a considerable natural increase and considering the quantity of fish and other food, the apparently small amount of beef killed and the few Indians to eat—estimated—10,000 00

For clothing, in view of the naked condition of the Indians generally and the character of that worn by those who were tolerably dressed (cast-off white)—estimated 10,000 00

The amendment of Mr. HIGBY was then disagreed to.

Mr. JOHNSON. Mr. Chairman, I now move to amend the same paragraph by striking out \$30,000 and inserting \$60,000. I make the proposition in good faith, hoping that the House will agree to the amendment. I hold in my hand the report of the superintendent of the State of California to the Commissioner of Indian Affairs, in which he insists that an appropriation of \$128,620 is absolutely necessary to enable him to carry on that department. And he itemizes the sums required, showing where every dollar will go. In addition to that amount, which will be laid out in absolutely necessary expenditures, he foots up \$17,000 for other appropriations which he says will be necessary, \$4,000 of which is for the purchase of farms in Hoopa Valley, which the committee have recommended. Now, I undertake to say that the Commissioner, in cutting down this sum, was guided by strict economy and put it as low as in his belief the service could be rendered. In fact I have seen the Commissioner, and he has informed me that in his opinion the Indians of California could not be taken care of upon these reservations for a quarter of a dollar less than \$75,000. That report he has sent to the House, and it is the evidence and the only evidence that the gentlemen of the committee base their report upon. Now, I say to the gentleman from Massachusetts, and I wish him to understand me, when he speaks of the evidence upon which they base their report, that their report to this House is based upon the report of the superintendent for California, recommending \$120,000, and report of the Commissioner recommending only \$75,000. If that justifies the committee in saying that the appropriation shall be \$30,000 then let the House so vote, but I do not think that justifies the report.

Again, there is \$20,000 absolutely necessary, as the superintendent says, in addition to the appropriation of last year, for the purpose of enabling him to furnish materials, agricultural implements, beef cattle, &c., at these reservations. Now, it may be that we can get along without that \$20,000. That is the view the Commissioner takes. And then there was another item of \$13,000 which the Commissioner thought we could get along without. So he leaves off both of these items, bringing the sum down to \$75,000. The balance of the report of the superintendent he takes literally and he reports to the committee, and upon that they base their report to the House. He reports that every one of these items is correct, and that every one of these appropriations must be made, and \$30,000 would be of no more account in carrying on this service than thirty cents. The committee must evidently know that. The offices are all established by law and the salaries fixed, the provisions for the support of these Indians are all provisions of law. And how can this service be performed without appropriations? It cannot be performed at all. And the committee might as well ask the House to make no appropriation for California as ask them to appropriate \$30,000. I hope the amendment will prevail.

The question was taken on the amendment; and there were—ayes 22, noes 33; no quorum voting.

Mr. JOHNSON. I withdraw the amendment.

Mr. HIGBY. I move to amend so as to make the amount \$55,000.

Mr. Chairman, I have placed the amount now where it was last year. My object is to have some opportunity to debate this question before the committee, as there is no other opportunity to say anything in regard to it. I call the attention of the committee who have charge of this bill to another branch of the subject. There are a great many Indians in the State of California who were on the Catholic missions in the southern portion of the State. There are several thousands of them. They are harmless Indians. I do not apprehend any danger of hostilities from them as I do from those that are now upon the reservations. They have been considerably educated, but the lands that they had when we first took possession of

the State they do not now possess. They are a landless people, although they were accustomed to agriculture when we became possessors of that country. Why, sir, in years gone by, portions of this very amount here specified have been used by the Indian department to make some provision for these Indians. I know there was distributed by Mr. Maltby, the former superintendent, quite a large amount, I do not now remember how much; but I recollect receiving a letter from him in which he said that he had then just returned from the southern part of the State, and that is a part of the incidental expenses of the superintendent and his agents. We have nearly one thousand miles of coast from San Diego to Crescent City, and the duties of the superintendent carry him not only upon these reservations, but also among these Indians. Either the General Government or the State of California has to make some provision for that class of Indians. They are not upon reservations. They do not desire to go upon reservations. I am inclined to the opinion that if they could have a portion of lands given to them for homesteads by the Government, as is given to others, they would go upon those lands and cultivate them and live in the manner of civilized people. But they are in no such condition. They are dependent in great measure, more or less, upon the Government, and a portion of this very sum that is asked to be appropriated—how much I cannot say, but more or less of it—will be used in that way at the discretion of the Indian department.

Now, sir, I am not to be driven from the position which I take upon this question. I say that it is the duty of this Government and that it is economy to keep these Indians upon reservations and even at what seem to be large expenditures, but which are nothing in comparison with what we are expending every year upon the wild Indians throughout the wilderness portion of the country. I say it is policy, I say it is economy, for this Government to make these expenditures. I think that this Committee of the Whole should place this appropriation where it was last year, and that is \$20,000 less than what the department asks. I have no doubt that the requisition for an appropriation of \$75,000 was made not only in good faith, but in all honesty.

Mr. BUTLER. Do I understand the gentleman to say that he believes a requisition has gone forward for this amount?

Mr. HIGBY. No, sir; I am only speaking of what the department asks. I do not mean to be understood that that amount of money has been called for from the Treasury.

Mr. BUTLER. I simply want to repeat that we are under no treaty obligation, no legal obligation, no obligation whatever, except our own good-will and discretion, to appropriate one dollar here. Now, to show how things have changed, I will state that in 1864, in this same Hoopa Valley, wheat was purchased costing four dollars in coin per bushel, or twelve cents per pound, and the Indians were fed on wheat at that price. But things have so changed in California since 1864 that California wheat is now feeding the people of Genesee Valley, from whence, thirty years ago, we got all our flour for the East. With this immense fertility it cannot cost as much to keep these Indians in California now as it did a few years ago.

Again, let me repeat that I can see no reason why, if these Indians will work as well as my friend says they will, they cannot and should not earn their own living in a State where everything grows almost spontaneously and where everybody else earns a living. Why must we be taxed to take care of these Indians after having stocked their farms, given them physicians, blacksmiths, superintendents, and everything else men need have?

Mr. HIGBY. I move to amend the amendment, so as to make the sum appropriated \$56,000. The gentleman from Massachusetts [Mr. BUTLER] has cited a portion of a report which, I think, is correct in regard to the amount paid for a certain quantity of wheat in

the Hoopa Valley in 1864. From an investigation I made there I am inclined to the opinion that it was worth that amount. Any man who will take the traveled route to that valley, the only one by which one can get to that reservation, and consider the time when the wheat was sold and the expense of getting it there, I think would be satisfied that the price paid for the wheat at that time was not more than a fair price for that locality. There are forty miles of travel over two ranges of mountains three thousand feet high, and I supposed that was charged for. It is two days' travel on a good animal to get over there; and you must ride an animal, for you cannot go there with a carriage. I know there was some question in the department about that transaction; and I gave it as my opinion that the wheat was probably worth that much at the time and under the circumstances.

As to the Indians supporting themselves, I have this to say: the gentleman, with his brains, which are of the highest order, may be able to get a good living anywhere; but I think he knows very little about handiwork. What the Indians can raise from the soil is not all they want or all they must have. The gentleman tells us that California is furnishing bread to the Genesee valley. But to put that bread on this reservation would cost more for transportation across the mountains than it would to bring the wheat from California to the Genesee valley. If they raise an abundance of wheat on the reservation, then they are secure and safe; but if they do not, then it would cost more to transport it to them from the region in California where it is raised than it would to bring it around Cape Horn, sixteen thousand miles by water, to the Genesee valley. I know there is a report that the Hoopa Valley extends for sixteen miles on each side of the Trinity river. But the truth is that it does not extend more than a rifle-shot's space, and in some places not more than a good stone's throw. All the good arable land of the Hoopa reservation amounts to not more than twelve or fifteen hundred acres. Yet it is reported here that the reservation extends for six or eight miles along the Trinity river. I know better from personal examination and observation. I withdraw the amendment to the amendment.

On agreeing to the amendment of Mr. HIGBY there were—ayes 18, noes 34; no quorum voting.

Tellers were ordered; and Messrs. HIGBY and BUTLER were appointed.

The committee divided; and the tellers reported—ayes 37, noes 59.

So the amendment was not agreed to.

Mr. JOHNSON. I move to amend the pending paragraph, by striking out "thirty" and inserting "fifty-four;" so as to make the paragraph read as follows:

For the purchase of cattle for beef and milk, together with clothing and food, teams and farming tools for Indians in California, \$54,000.

Mr. Chairman, I am aware of the fact that the United States has no treaty obligations to fulfill with the California Indians. We have heard that very often from the gentleman who manages this bill; and it is a fact. The gentleman has asserted nothing but what is true in telling the House that treaties with the Indians are frequently made in fraud of the rights of the people. I know that such treaties are often conceived and executed in fraud. I know, also, that the gentleman from Massachusetts on the committee has filled this bill from the first page to the last with appropriations for the purpose of carrying out these Indian treaties in good faith. I know that he has reported upon the concluding page of the bill a recommendation that nearly two million dollars be taken out of the Treasury to fulfill treaty obligations with a handful of Choc-taws and Chickasaws. I have no objection to that if it is really necessary to carry out treaty obligations.

But some years ago the Government of the United States saw the difficulty in which it was constantly involving itself by means of

these treaties. It was seen that the Indians upon the border were depredating upon the property of the laboring people of the country; and when the Government took possession of California as American territory, finding that these treaties with the Indians had been a sham and a fraud upon the people, resolved to have none of them with the Indians there. It took away from the Indians their hunting grounds that the white people might settle there in peace and till the soil. The Indians were driven upon reservations, not for their own good particularly—although it was hoped that they might be benefited—but mainly for the good of the settlers.

Now, fifty-five or sixty thousand dollars is necessary to be appropriated to keep those Indians upon the four reservations in the State of California; otherwise they will be turned loose upon the community, and do precisely what they always do when the Government fails to provide for them. They will roam over the country, depredating upon property, and murdering women and children.

I know gentlemen are in the habit of speaking with contempt about the Digger Indians of California; but, sir, of the sixty thousand Indians in that State there are not two thousand Digger Indians. There are nine tribes at the head of the Sacramento river not located upon any reservation; and they are committing depredations every day upon the property of our people. Ever since I have been in Congress I have been trying to get some legislative action which would provide reservations for these nine tribes, all of whom are warlike people.

Mr. Chairman, shall the Indians now upon reservations, after we have expended so much money to make them self-sustaining, be turned loose that they may prey upon the property of our people and murder our women and children? I ask gentlemen whether they will inflict this great wrong upon the people of California. If the Government of the United States had not assumed the charge of these Indians, the people of California would long since, on their own motion, have taken care of this business. But as the Government has taken the matter in hand, and as these reservations have so nearly reached the point when they will be self-sustaining, is it not bad policy to refuse this appropriation, and allow those reservations to be broken up, subjecting the Government to an annual expense of millions of dollars for the subjugation of these Indians until they shall all be killed off? Humanity rebels against such a thing. I appeal to the gentleman to give us this appropriation or else make no appropriation at all, for I tell you in all frankness that your appropriation of \$30,000 is an insult to the people of the State of California, an insult to the Commissioner of Indian Affairs, an insult to the superintendent of Indian affairs in California, all of whom ask for \$128,000. It is foolish, it is nonsense, to appropriate \$30,000. If we do not get any more than that there is no use in getting anything.

Mr. WARD. I ask the gentleman from California, if we appropriate this money, what assurance we will have that the Indians will ever get any of it?

Mr. JOHNSON. I can give the gentleman no assurance except that contained in the force of the law under which the appropriation is asked. If our officials in the State of California, none of whom I helped to get into place, are honest men, it will go to the proper persons.

The committee divided; and there were—ayes 32, noes 35; no quorum voting.

The Chairman ordered tellers; and appointed Mr. JOHNSON and Mr. WASHBURN, of Illinois. The committee again divided; and the tellers reported—ayes 36, noes 60.

So the amendment was rejected.

Mr. HIGBY. I move to strike out "\$30,000" and insert "\$50,000."

The gentleman from New York [Mr. WARD] asked my colleague, a few moments ago, what assurance he had that the Indians would ever

get any of this appropriation, and I wish he would listen to what I have to say. There is not an appropriation made by this Government where any fraud upon it is more easily detected than the appropriation for the keeping of Indians upon a reservation. I make the distinction between the Indians placed there, because they are under perfect and absolute surveillance of the Government. They are located in certain places and the appropriation has to go through certain channels. There is no difficulty in making an investigation and finding out whether there is any fraud.

I will say to the gentleman from New York that I know several of the agents upon these reservations, and I know them to be good, upright men. If these funds are appropriated there will be no difficulty in making the investigation as to how they have been expended and ascertaining whether frauds have been committed or not. I hope that the House will allow us a little something more than the Committee on Appropriations have reported. I know one thing, that if this is not done we will have deficiencies for the next session of Congress. If that be so, I tell the Committee on Appropriations that they can neither have my vote now nor hereafter. I know if the ratio upon which they are disposed to deal with this matter is such as we have here indicated in this bill, then we are going to have a deficiency bill.

Mr. ELDRIDGE. Is it not for the purpose of "bridging over" the coming election that this is done? [Laughter.]

Mr. HIGBY. I am not on the gentleman's side, and this is a little talk we are having among ourselves.

Mr. NIBLACK. I will suggest to the gentleman that the difficulty about this appropriation is that it is for Indians. They are not dark enough. If their complexions were a little darker the gentleman could get all the money he wanted for them. [Laughter.] But they are too light in color.

Mr. HIGBY. I will not yield further. That is not a part of my argument. It belongs to the convention which is to meet in New York in a few days, and will, perhaps, be a "motley crew." [Laughter.] I do not wish to weary the patience of the House. That is not my object. I hope we shall be able to get more than the committee allow us, for if the appropriation is to be limited to that in this bill then nothing at all might as well be voted. The committee divided; and there were—ayes 31, noes 28; no quorum voting.

Mr. HIGBY. Let us have the vote in the House.

Mr. BUTLER. I cannot agree to that.

Tellers were ordered; and Mr. ELDRIDGE and Mr. PERHAM were appointed.

The committee again divided; and the tellers reported—ayes 36, noes 60.

So the amendment was rejected.

Mr. HIGBY. I move to make it "\$45,000," instead of "\$30,000."

The committee divided; and there were—ayes 36, noes 33; no quorum voting.

Tellers were ordered; and Mr. NIBLACK and Mr. FERRY were appointed.

The committee again divided; and the tellers reported—ayes 30, noes 63.

So the amendment was rejected.

Mr. HIGBY. I move another amendment. I do not wish to weary the patience of the House, if the member from Massachusetts will allow a vote in the House on an amendment to strike out \$30,000 and insert \$40,000.

Mr. BUTLER. I will agree to that.

The CHAIRMAN. The amendment will be considered as adopted, to be voted upon in the House.

The Clerk read as follows:

For pay of one physician, one blacksmith, one assistant blacksmith, one farmer, one carpenter, upon each of the four reservations of California, at the rate of fifty dollars per month, \$12,000.

Mr. HIGBY. I move to amend by inserting after the word "carpenter" "one school teacher," and also by striking out \$12,000 and inserting \$15,600. This is allowing \$900 each

to the teachers. I ask the Clerk to read a portion of a letter received from the agent of one of these reservations.

The Clerk read as follows:

"I have endeavored since my connection with the department to pursue that course which would be to the interest of the Government and for the benefit and amelioration of the condition of the Indians under my charge. I look upon them as a helpless, dependent portion of humanity, entitled to our sympathies, and think that the efforts of those placed in charge over them should be directed to their improvement and education. That much can be done for them in that direction I am fully persuaded, and the more I become acquainted with the condition and the peculiarities of the Indians the more I am convinced it is for the interest of the Government, the citizens of our State, and the Indians that a portion of the means appropriated by the Government should be applied for their moral and intellectual improvement and elevation. Mrs. Maltby has continued her school, and with more success than anticipated. She has on an average twenty-five scholars, all Indian girls, very regular in their attendance, attentive, and interested, and in their appearance and deportment much improved. An appropriation for the pay of teachers on this reservation should be made for a male and female teacher—say \$1,800, and for other reservations in the State the same, and a school for the boys and girls established. Seventy-five dollars per month would be a fair compensation, and the services of a competent person for that amount could be obtained. I would like to have the school continued and that provision be made for the pay of the teacher."

Mr. HIGBY. This letter is from Mr. Maltby, a gentleman of whom I have spoken, who was formerly superintendent, and whom the immortal Lincoln recommended so highly, being an old acquaintance. Every word he says here is true. Now, sir, there is already a school there, the wife of Mr. Maltby is teaching it, and without any compensation. If this Government never pays her I do not know but she may continue to do as she is doing now. I know, sir, not only from my own observation and examination, but from ample testimony, that this Government can do no better, as a mere matter of economy, than to educate the children upon all these reservations. When I was there in 1865 they were under no restriction whatever and were receiving no instruction; but the universal testimony was that they were susceptible of improvement; and I received the same testimony in regard to Oregon from gentlemen who had the custody of children and were instructing them.

Now, here is the testimony of Mr. Maltby upon this subject. I think this amount of money can be expended in no better way than in the education of children on these reservations. He says there ought to be two teachers. I have asked for an appropriation for one on each reservation. There are from seventy-five to one hundred children on each of them. I have asked for \$900 as the pay of each teacher. It is the least amount for which good instruction can be obtained. So this gentleman says, and I know that to be the common price paid to teachers. I hope the committee will make this allowance. It is something that ought to have been done earlier, and I think the sooner we initiate this policy the better.

[Here the hammer fell.]

The amendment was agreed to.

Mr. BUTLER. I move that the committee rise.

The motion was disagreed to.

The Clerk read as follows:

Navajo Indians in New Mexico: For subsistence for the Navajo Indians, and for the purchase of sheep, seeds, agricultural implements, and other articles necessary for breaking the ground on the reservation upon the Pecos river, \$100,000.

Mr. BROOKS. This is rather a large appropriation for the Navajo Indians—" \$100,000 for the purchase of sheep, seeds, implements, and other articles necessary for breaking the ground." I would like to have some explanation of this, and for that purpose I move to strike out the paragraph.

Mr. BUTLER. The House have already passed an appropriation of \$100,000 for the Navajo Indians. That appropriation has passed the Senate and come back to this House, and the appropriation of \$100,000 in this bill is to take the place of an appropriation already passed.



Mr. CAVANAUGH. I desire to ask the gentleman from Massachusetts what this \$100,000 is appropriated for, and if it is not for the removal of the Navajo Indians from one point in New Mexico and their location upon a new reservation in New Mexico?

Mr. CLEVER. This appropriation, I understand, is for the support of the Navajo Indians while they are at Bosque Redondo, not for removal. A special provision has been made heretofore appropriating the sum of \$150,000 to remove these Indians to the old Navajo country. That bill has been amended in the Senate by providing that the Navajo Indians shall be removed to the country known as the Indian territory. In case the Indian commissioners now on the Plains shall come to the conclusion that these Indians are to be removed from their reservation, then that amount—the \$150,000—will be required for the purpose of effecting their transportation to the Indian territory. But this \$100,000 in this bill, I understand, is for the purpose of supporting these Indians while they remain at Bosque Redondo. I think the amount should be much more than has been reported by the committee; but, inasmuch as all of the appropriations for the present are cut down, I have not said anything to the insufficiency of the amount.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. BROOKS. I withdraw the amendment.

Mr. CAVANAUGH. I renew the amendment. I desire now to ask the gentleman from Massachusetts who has reported this bill, and I desire to ask the Delegate from New Mexico, why it is necessary to give \$25,000 to New Mexico while the other Territories get a mere pittance? Will the gentleman from Massachusetts tell me that it requires \$100,000 to support them? I deny it. I have had too much experience in these Indian matters. I have seen too much of them. It is a job, not got up by the gentleman from Massachusetts, not got up by the Delegate from New Mexico, but got up by other parties. I would like to know how many Indians \$150,000 will remove? I would like to know the distance they have to be removed? I would like to know to what part of New Mexico they are to be removed; whether in the vicinity of Santa Fé; whether in the vicinity of Taos; whether in the vicinity of Albuquerque? I do not desire to oppose this appropriation only. I simply desire that this Indian policy should be ventilated from the beginning to the end, because it is a fraud upon the Government from its inception to the present hour. I ask the Delegate to what point in New Mexico the Navajo Indians are to be removed, and what is the distance from their present reservation?

Mr. CLEVER. I understand the intention to be that the Indians shall be removed from Bosque Redondo, the present reservation where they have been placed by order of the War Department, afterward approved by the Congress of the United States, to what is called the Indian territory, west of the Arkansas river, altogether outside of the Territory of New Mexico.

Mr. CAVANAUGH. What is the distance?

Mr. CLEVER. I suppose it to be between four and five hundred miles.

Mr. CAVANAUGH. Now, I desire to ask the gentleman what is the number of Indians to be removed?

Mr. CLEVER. The number of Indians at Bosque Redondo is from seventy-three hundred to eight thousand souls.

Mr. CAVANAUGH. And it requires \$150,000 to remove seven or eight thousand Indians four or five hundred miles? I repeat that it is a job, put up not by the gentleman from Massachusetts nor by the Delegate from New Mexico. I repeat that this Indian policy from the beginning of the Government to the present hour is wrong. It is a system of robbery upon the Government. I remember well when the Menomonees and Winnebagoes were removed. Three hundred thousand dollars were paid for the removal of the Winnebagoes from Iowa to

Minnesota. I remember well the treaty of Prairie du Chien, signed by a distinguished gentleman now in the Senate, under which these Indians were removed. Take the Indians, as I said this morning, from the civil service of the Government. Take them out of politics. Place them where they legitimately belong, under the War Department, and you will have less swindling of the Government.

[Here the hammer fell.]

Mr. BUTLER. I desire simply to state to the Committee of the Whole what I have learned in regard to these Navajo Indians. Our Army caught them and put them upon the Bosque Redondo reservation, where they cannot even dig anything to live upon. They were kept there by order of the War Department, at more or less expense, until December last, when they were turned over to the Department of the Interior. It has cost the Department of the Interior \$171,000 to keep these Indians from that time until the 1st of April. In the course of another investigation I have had occasion to look at the check that has been drawn for that amount of money. The Secretary of the Interior wanted \$350,000 to take care of them for a year longer. The Committee of Appropriations brought in a bill containing an appropriation of \$100,000 for the purpose of removing these Indians under the charge of the Indian commission. When that bill got into the Senate they increased the amount, if I remember aright, to \$150,000. When the bill came back here, in my absence, it was sent to the Committee on Indian Affairs, where it now remains. In the mean time there is no money to keep these Indians.

Mr. WINDOM. The gentleman is mistaken; it was another bill which was referred to the Committee on Indian Affairs.

Mr. BUTLER. I believe the gentleman is right; but the bill has not yet been passed upon. There must be some means of feeding these Indians, wherever they may be. And this amount is put in this bill for the year ending June 30, 1869; only about one third of the amount which was asked for by the department. Now, I have no objection personally to having this stricken out. But gentlemen must recollect that these Indians have been taken from where they were supporting themselves, by agriculture and manufactures of a simple kind, and have been put where they cannot earn their living. Having done that, we must take care of them.

Mr. CHANLER. I desire to ask the gentleman from Massachusetts a question.

Mr. BUTLER. Very well.

Mr. CHANLER. The question I wish to ask is this: Was it the military power that removed these Indians from their former place and put them where they now are?

Mr. BUTLER. Yes, sir.

Mr. CHANLER. Then, all I have to say is, that that is a fair specimen of what the Indian administration would be under the War Department.

[Here the hammer fell.]

Mr. CAVANAUGH. I withdraw the amendment.

Mr. CHANLER. I renew the amendment for the purpose of saying that I consider the case of these Indians a practical illustration of this whole matter. These Navajo Indians were industrious and noted for their manufactures, warlike in their habits, a terror to their enemies, and a defense to themselves. They were the most industrious Indians on this continent. The War Department came forward and took them from their homes and put them where they had to starve or become the beneficiaries of this Government. Hundreds of thousands of dollars have been expended by the Government for the simple purpose of feeding a people who, when left alone, were capable of maintaining themselves, clothing themselves, and carrying on all the machinery of their own government.

Mr. CAVANAUGH. Will the gentleman yield to me for a moment?

Mr. CHANLER. Certainly.

Mr. CAVANAUGH. I would like to ask the gentleman from New York [Mr. CHANLER] what kind of manufactures the Navajo Indians were engaged in other than the making of a very inferior article of blankets to cover themselves with?

Mr. CHANLER. It is immaterial to me what manufactures they were engaged in. It is the fact, at all events, that they were able to manufacture a cheap blanket, and that proves that they were capable of manufacturing as good clothes as those worn by the gentleman from Montana [Mr. CAVANAUGH] with proper care and instruction.

The difficulty with the Indian tribes is to find a nation that is industrious. Here was a nation that was industrious. They were taken by the military power of this Government and made beggars upon the face of the earth. We are now told that the system which we have heretofore pursued with regard to this people should be changed, and that they should be given over for their care and civilization to the military arm of this Government. There has never been a better instance in the whole history of American legislation than that brought up in this debate to prove that if we wish to advance these people in the cause of civilization we must adapt our treatment of them to their peculiar capacities. Each tribe of Indians has within itself a system of government peculiar to itself, and possesses qualifications for civilization peculiar to itself. A wise, a just, a noble-hearted people, such as the American nation, should seek rather the development of what is good in these semi-barbarians than to crush them by military despotism, and starve them out by thrusting them into such a barren and miserable corner of the earth as the place which has been described so graphically in previous debates upon this bill.

Mr. CAVANAUGH. Did the gentleman ever know a tribe of Indians that had any form or shape of government?

Mr. CHANLER. Yes, sir. If the gentleman wants to ascertain facts in regard to this matter, I refer him to Lieutenant Ives's very able report of his explorations of the Colorado, by which it appears that there are now living among the Indians of that region tribes which, from their first discovery by the Spaniards in 1520, have been living in cities, carrying on all the departments of government. The reports of the first discoverers are identical with that of Lieutenant Ives.

[Here the hammer fell.]

Mr. ROSS. I desire to say a word or two in relation to the Navajo Indians. They were, as has been properly said by the chairman of the committee, brought out from their own country by force of arms by the military of the United States. In Arizona, where they originally lived, they were in a flourishing condition. They were self-supporting; they had good farming lands and orchards. They were in a prosperous condition when the Army of the United States in midwinter transported them hundreds of miles, subjecting women and children to the severity of a violent snow storm, and placed them upon a barren waste on Pecos river called the Bosque Redondo. It became my duty a few years ago, in connection with a commission, to visit these Indians, and they begged that they might be permitted to return to their native land. They were held upon the reservation by force of arms, under a military despotism which, in my judgment, was intolerable and disgraceful to civilization.

The chairman of the committee complains of the amount of the appropriations asked by the Interior Department for the support of these Indians. I call his attention to the fact that for three years, while these Indians were under the charge of the military, the expense of their support upon the reservation on Pecos river averaged \$100,000 a month. Now, sir, in my opinion, great injustice has been done toward these Navajo Indians. In hearing their statements of the injustice and despotism to

which they had been subjected, my sympathies were greatly excited in their behalf. Their fields of corn were destroyed by the military; their towns were burned; their women and children were pursued and hunted down by the military like wild wolves upon the prairie. These Indians were taken from their homes and placed upon a barren waste where no one could subsist unless fed by the Government.

Now, in my judgment, the better policy would be to permit these Navajo Indians to return as they desire to their native land, where they were self-supporting, and whence for some reason which I do not understand they were forcibly taken, to be placed upon this miserable reservation where they can neither fish nor hunt nor raise provisions, and where their support has cost the Government \$100,000 a month unnecessarily.

Mr. MILLER. I wish to ask the gentleman a question.

Mr. ROSS. Very well.

Mr. MILLER. I ask the gentleman from Illinois what the Indians had been doing that the whites committed depredations upon their property and carried off their wives?

Mr. ROSS. I will tell the gentleman. New Mexicans had run down to Arizona and stole their children and then sold them into slavery. In retaliation these Indians went to New Mexico and stole horses and cattle.

Mr. MILLER. And murdered the whites?

Mr. ROSS. And I suppose they did murder. The facts show that there were hundreds of Navajo Indian women and children stolen by New Mexicans and sold into slavery, and that they are held to this day by New Mexican officials as slaves.

[Here the hammer fell.]

Mr. ROSS. I withdraw my amendment.

Mr. WINDOM. I renew it for the purpose of making a reply to the gentleman from Massachusetts, [Mr. BUTLER,] who yesterday so eloquently told us of the very great saving the Government would make by turning over the care of the Indians to the military authorities. In this case, Mr. Chairman, we have an illustration of how little ground there is for this theory of his, and I wish to present it to the House. These Navajo Indians were taken possession of by the military and turned over to the military authorities absolutely. Now, during the time they were under their care they cost the Government over one million two hundred thousand dollars. The proofs I have heretofore presented to the House, and can do so again if it be desired. They were left upon the same reservation, but Congress at the last Congress turned them over to the civil authorities and \$100,000 was appropriated. They cost \$200,000 under military authority and \$100,000 under civil authority. This will show the extraordinary cheapness with which the military can take care of the Indians as compared with the civil authorities.

I withdraw the amendment.

Mr. WARD. I move to amend by inserting \$50,000. I see, by looking over this paragraph, that it is proposed to appropriate \$100,000 for the purpose of starting these Indians in farming, purchasing seeds, sheep, agricultural implements, &c. I think, in the present condition of our finances, that \$50,000 is sufficient to give one tribe of Indians for the purpose of starting it in the agricultural business.

Mr. CLEVER. Mr. Chairman, the idea of noble qualities belonging to the Indians known as the Navajo Indians exists only in the imagination of those who know nothing about those Indians. If you went to New Mexico, as you passed over the highways, you would find on every side crosses set up, where for the last one hundred and fifty years the people of New Mexico have been ruthlessly murdered by the Navajo Indians. Even since New Mexico has belonged to the United States our troops have been at war with the Navajo Indians; and yet parties who have never lived in that Territory and know nothing about that Territory say they are a self-sustaining people. Go to the Indian Bureau, and there you will find claims

of citizens of New Mexico amounting to \$13,000,000 for property stolen by the Navajo Indians. That is the way the Navajo Indians are self-sustaining! Is that the way you desire your Indians shall be fed? If you want us to feed the Indians tell us so and we can do it.

Let me tell the gentlemen who have always something to say in favor of the Indians that they had better take care of their security when they travel west of the Missouri river. The question will be nearly reversed; it will no longer be shall the white man be protected, but it will hereafter be will the Government of the United States protect these Indians, or shall they be annihilated? Thank God we are getting strong enough in the West to soon protect ourselves. If the Government of the United States does not desire to carry out the ideas of humanity and civilization and do for these Indians what civilization dictates, if the Government of the United States will not take care of these Indians, keep them, and show them how to make their living by the sweat of their brow, then we shall be compelled to protect ourselves, and that self-protection may result rather disadvantageously to the Indians.

I say that there are on the American continent no more ferocious Indians than the Navajos. Look at our military forces in New Mexico, and ever since that Territory belonged to the United States, what do you find? You find that a continued war in the Territory of New Mexico was waged against the Navajo Indians; and yet they were peaceable tribes, a self-sustaining people! So they say in the East, where they have never seen an Indian, except when brought here by an Indian agent and fed in a hotel, who shakes hands with everybody and says "How-de-do," those being all the words he has learned of the English language. "Oh! what a beautiful fellow that Indian is!" [Laughter.] Because he is here in Washington he behaves himself; here he cannot take a scalp from a poor white man. I think the cry ought to be reversed. I believe Congress should do everything to protect the Indians, place them on the reservations and feed them.

Mr. ROSS. I wish to ask the gentleman whether the ladies in Santa Fé wore portions of Indian scalps as ornaments on their persons at the theater after the Chivington raid.

Mr. CLEVER. I do not know with whom the gentleman from Illinois, when he visited the Territory of New Mexico, associated while he was there. [Laughter.] I can assure him I never did see a lady who was decorated in any way by anything that manifested that she had a great liking for an Indian. [Laughter.]

But, Mr. Chairman, as regards this question of Indian slavery, I do not believe there is any one on this floor who deprecates more than I do the custom which heretofore has existed all over the country where the Spaniards have dominion to take Indians and make them slaves; and I believe every American who has gone to the Territory of New Mexico has exerted himself to the utmost to do away with that kind of practice.

[Here the hammer fell.]

The amendment to strike out "\$100,000" and insert "\$50,000" was disagreed to.

The question recurred on the amendment to strike out the paragraph.

Mr. BUTLER. Mr. Chairman, there are some other matters necessary to be attended to, as I am informed. I therefore now move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1869, and had come to no resolution thereon.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. TABER on account of sickness in his family, and to Mr. ELIOT.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, informed the House that the Senate had passed the bill of the House No. 784, to amend the act entitled "An act authorizing the construction of a new jail in and for the District of Columbia," approved July 25, 1866, with an amendment, in which the concurrence of the House was requested.

A subsequent message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate insisted upon its amendments to the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, disagreed to by the House of Representatives, had agreed to the conference asked for by the House on the disagreeing votes of the two Houses thereon, and had appointed as conferees on the part of the Senate Messrs. MORRILL of Maine, HOWE, and WILSON.

#### GUARD-ROOM AT THE CAPITOL.

Mr. BINGHAM. I am instructed by the select committee charged with the investigation of alleged corruption in the matter of the impeachment of the President to report the following resolution and put it on its passage:

*Resolved*, That rooms No. A and B, opposite the room of the solicitor of the Court of Claims in the Capitol, be, and are hereby, assigned as guard-room and office of the Capitol police, and are for that purpose placed under the charge of the Sergeant-at-Arms of the House, with power to fit the same up for the purpose specified.

I desire to say that there are no rooms at present assigned by order of the House in which to detain persons ordered into the custody of the Sergeant-at-Arms. There is such an order now in process of execution. The person Woolley is at present detained in the room of the Committee on Foreign Affairs, and the resolution was that he be detained in custody in the Capitol. The committee are satisfied that a room ought to be assigned to the use of the Sergeant-at-Arms, so that this witness may be detained beyond the power or possibility by trick or circumvention on the part of any person to defeat the administration of justice. The reasons which have moved the committee to take this final step will more fully appear in another resolution which I shall offer after the House shall have disposed of this, in which the House and the country will be informed by the sworn testimony of this witness himself and by sworn testimony of one of his confederates that he has trifled with justice in the present House of Representatives and in defiance of the settled law of this country; and having thrown down the gauntlet, I for one want to test the power of the people through their Representatives to determine whether a recalcitrant witness of this character shall defy the whole people and the law as it has been solemnly ruled and settled unchallenged in this country for forty years. I call the previous question.

Mr. BROOKS. I hope the gentleman will not press the previous question on that resolution.

Mr. BINGHAM. Yes, sir; I call the previous question on that resolution.

Mr. BROOKS. Mr. Speaker—

The SPEAKER. It is not debatable.

Mr. BROOKS. I know it is not.

Mr. ELDRIDGE. Why does the gentleman from Ohio insist on cutting off debate if the resolution is a proper one?

The SPEAKER. No debate is in order.

The question was put upon seconding the previous question; and there were—ayes 82, noes 22.

Mr. BROOKS. I demand tellers.

Tellers were ordered; and Messrs. Brooks and BINGHAM were appointed.

The House divided; and the tellers reported—ayes 80, noes 20.

So the previous question was seconded.

The question recurred upon ordering the main question to be put.

Mr. WOOD. I demand the yeas and nays.

Mr. BROOKS. That is the only way we have to debate.

The yeas and nays were ordered.

Mr. ELDRIDGE. I move that the House do now adjourn; and on that motion I demand tellers.

Tellers were ordered; and Messrs. ELDRIDGE and BUTLER were appointed.

The House divided; and the tellers reported—ayes 21, noes 63; no quorum voting.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. ROSS. I move that there be a call of the House.

The SPEAKER. That motion is not in order pending the motion to adjourn. A motion to adjourn has priority over all motions.

The question was taken on Mr. ELDRIDGE's motion; and it was decided in the negative—yeas 18, nays 95, not voting 76; as follows:

YEAS—Messrs. Barnes, Beck, Boyer, Burr, Cary, Chanler, Getz, Golladay, Haight, Hotchkiss, Johnson, Knott, McCormick, Nicholson, Ross, Stone, Lawrence S. Trimble, and Wood—18.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Broomall, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dawes, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Farnsworth, Ferriss, Ferry, Fields, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, McClurg, Mercer, Miller, Moore, Moorhead, Morgan, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Polesy, Price, Raum, Robertson, Sawyer, Schenck, Selye, Smith, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Upson, Burt Van Horn, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Windom—95.

NOT VOTING—Messrs. Adams, Anderson, Archer, Axtell, Bailey, Baldwin, Banks, Barnum, Benjamin, Boutwell, Bromwell, Brooks, Buckland, Cake, Cook, Cornell, Eckley, Eldridge, Eliot, Finney, Fox, Garfield, Glossbrenner, Gravely, Griswold, Grover, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jenckes, Jones, Kelley, Kelsey, Kerr, Kitchen, Marshall, Marvin, Maynard, McCarthy, McCullough, Morrissey, Munger, Niblack, Peters, Phelps, Pike, Plants, Poland, Pomeroy, Prun, Randall, Robinson, Scofield, Shanks, Shellabarger, Sitgreaves, Spaulding, Thaddeus Stevens, Stewart, Taber, Thomas, Twichell, Van Aernam, Van Auker, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, James F. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—76.

So the House refused to adjourn.

The question recurred upon ordering the main question, upon which the yeas and nays had been ordered.

Mr. KERR. I move that there be a call of the House.

The SPEAKER. The Chair declines to entertain that motion, as the rule prohibits him from doing it after the previous question has been seconded when a quorum is present. A quorum has just answered on a call of the roll.

Mr. NICHOLSON. I move that when the House adjourns it adjourn to meet on Saturday next.

Mr. ELDRIDGE. I demand tellers on that motion.

Tellers were ordered; and Messrs. KERR and ASHLEY, of Ohio, were appointed.

The House divided; and the tellers reported—ayes 19, noes 84.

Mr. NICHOLSON. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 13, nays 84, not voting 92; as follows:

YEAS—Messrs. Barnes, Boyer, Burr, Chanler, Getz, Hotchkiss, McCormick, Morgan, Niblack, Nicholson, Stewart, Stone, and Wood—13.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, James M. Ashley, Baker, Beaman, Beatty, Benton, Bingham, Blair, Broomall, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cullom, Dixon, Dodge, Donnelly, Eggleston, Ela, Farnsworth, Ferriss, Ferry, Fields, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Judd, Julian, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence,

Lincoln, Loan, Logan, Lynch, Mallory, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Polesy, Price, Robertson, Sawyer, Schenck, Selye, Smith, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, John Trimble, Upson, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Windom—84.

NOT VOTING—Messrs. Adams, Anderson, Archer, Axtell, Bailey, Baldwin, Banks, Barnum, Beck, Benjamin, Blaine, Boutwell, Bromwell, Brooks, Buckland, Cake, Cary, Cook, Cornell, Covode, Dawes, Driggs, Eckley, Eldridge, Eliot, Finney, Fox, Garfield, Glossbrenner, Golladay, Gravely, Griswold, Grover, Haight, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jenckes, Johnson, Jones, Kelley, Kelsey, Kerr, Kitchen, Knott, Loughridge, Marshall, Marvin, Maynard, McCarthy, McCullough, Morrissey, Munger, Peters, Phelps, Pike, Plants, Poland, Pomeroy, Prun, Randall, Raum, Robinson, Ross, Scofield, Shanks, Shellabarger, Sitgreaves, Spaulding, Thaddeus Stevens, Taber, Thomas, Lawrence S. Trimble, Trowbridge, Twichell, Van Aernam, Van Auker, Burt Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—92.

So the motion of Mr. NICHOLSON, that when the House adjourns to day it be to meet on Saturday next, was not agreed to.

Mr. GETZ. I move that the House take a recess till this evening at seven o'clock.

The SPEAKER. The Chair declines to entertain that motion for two reasons. The first is, that the House is acting under the operation of the previous question; and the second is, that by the resolution of the 25th of February—

Mr. ELDRIDGE. I move that the House adjourn.

The SPEAKER. The Chair declines to entertain that motion, for the second reason which he was about stating with regard to the motion of the gentleman from Pennsylvania, [Mr. Getz,] that on the 25th of February the House, under a suspension of the rules, adopted an order that upon resolutions reported by the managers there should be allowed but one dilatory motion—one motion to adjourn on each day. The House, on the day before yesterday, adopted a resolution continuing the managers as a committee, and clothing them with all the powers and rights which they had possessed by previous resolution. This is a resolution reported by the managers, and—

Mr. ELDRIDGE. I rise to a question of order.

The SPEAKER. The gentleman will suspend. He cannot speak on points of order in preference to the Chair. The Chair has not concluded his statement.

Mr. ELDRIDGE. I beg the pardon of the Chair.

The SPEAKER. The Chair has entertained not only one motion that the House adjourn, but also a motion that when the House adjourns it be to meet on Saturday next, so that gentlemen representing the minority might have full opportunity to test the sense of the House on those propositions. But under the rule adopted by the House the Chair cannot entertain any further dilatory motions.

Mr. ELDRIDGE. The question of order which I desire to raise is this: that the board of managers were not continued with the privilege of moving to suspend the rules or with any other powers than those of an ordinary committee. They certainly are not managers now. There is no impeachment to manage. They are simply an ordinary committee with the ordinary powers of a committee.

The SPEAKER. The resolution adopted by the House, which governs the Speaker, reads as follows:

"Resolved, That the managers"—

It recognizes them as managers—

"Resolved, That the managers, as a committee, be empowered and directed to continue the investigation ordered by the resolution of the House of the 16th instant, with all the powers and rights conferred thereby, and to make such full investigation as will determine the truth of the matters and things set forth in the preamble to said resolution."

The Chair ruled that as they had the right to introduce this resolution by order of the House one objection would not prevent its consideration. From that ruling the gentleman

from Wisconsin [Mr. ELDRIDGE] appealed, and the appeal was laid upon the table, the House thereby affirming the decision of the Chair and making it their own decision.

Mr. ELDRIDGE. I suppose the authority we gave to the managers by the resolution of Tuesday related to their authority to investigate the particular matter in reference to corruption, and had no further reference.

The SPEAKER. The gentleman may so understand it, but the resolution declared explicitly that they should have "all the powers and rights" conferred by the former resolution.

Mr. PAINE. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. PAINE. My point of order is that it is not in order to discuss a question of order after it has been decided by the Chair.

The SPEAKER. The Chair is always willing to have any gentleman fully state his point of order, so that the Chair may be in full possession of it.

Mr. ELDRIDGE. I must take an appeal from that portion of the decision of the Chair which holds that the managers have now the same powers that they had while the impeachment was in progress. I make this appeal with no disrespect to the Chair, but because I differ with the Chair on this ruling.

Mr. BUTLER. I move to lay the appeal on the table.

Mr. ELDRIDGE. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 22, not voting 83; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Broomall, Butler, Churchill, Reader W. Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ferriss, Ferry, Fields, Harding, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Ketcham, Koontz, Laffin, George V. Lawrence, William Lawrence, Loan, Logan, Lynch, Mallory, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Polesy, Price, Raum, Robertson, Sawyer, Schenck, Selye, Smith, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Windom—84.

NAYS—Messrs. Barnes, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Getz, Golladay, Haight, Hotchkiss, Johnson, Kerr, Knott, Morgan, Niblack, Nicholson, Stone, Lawrence S. Trimble, Van Auker, and Wood—22.

NOT VOTING—Messrs. Adams, Anderson, Archer, James M. Ashley, Axtell, Bailey, Baker, Baldwin, Banks, Barnum, Benjamin, Boutwell, Bromwell, Buckland, Cake, Sidney Clarke, Cook, Cornell, Dawes, Eckley, Ela, Eliot, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Gravely, Griswold, Grover, Halsey, Hawkins, Higby, Holman, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jones, Kelley, Kelsey, Kitchen, Lincoln, Loughridge, Marshall, Marvin, Maynard, McCarthy, McCormick, McCullough, Morrissey, Munger, Nunn, Peters, Phelps, Plants, Poland, Pomeroy, Prun, Randall, Robinson, Ross, Scofield, Shanks, Shellabarger, Sitgreaves, Spaulding, Thaddeus Stevens, Stewart, Taber, Thomas, Twichell, Van Aernam, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—83.

So the appeal was laid on the table.

The SPEAKER. The Chair, while this appeal was pending, having obtained the Congressional Globe, he desires to read in the presence of the House that portion of the resolution of the 25th of February last on which he has based his decision, which decision the House has affirmed:

"And that during the pendency of resolutions in the House relative to said impeachment, thereafter no dilatory motions shall be received except one motion on each day that the House do now adjourn."

That declares, if the Chair understands the force of the English language, that when resolutions are pending in the House "relating to impeachment"—not resolutions of impeachment, but relating to impeachment—dilatory motions shall not be received.

The House has still further acted so as to settle this question. While the impeachment was still progressing in the Senate, the House



adopted a resolution, the preamble of which reads as follows:

"Whereas information has come to the managers which seems to them to furnish probable cause to believe that improper or corrupt means have been used to influence the determination of the Senate upon the articles of impeachment exhibited to the Senate by the House of Representatives against the President of the United States: Therefore," &c.

The day before yesterday, after the impeachment had ended in the Senate, the House adopted a resolution that the managers as a committee shall be empowered and directed to continue the investigation ordered by the House on the 16th instant, with all the powers and rights conferred thereby to make such full investigation as to determine the truth of the matters and facts set forth in the preamble and resolution. The preamble refers to one subject and one subject alone, and that is alleged corrupt means used to influence the Senate upon impeachment then pending before that body. A case of contempt arises and a resolution is offered growing out of the refusal of a witness to testify as to alleged corruption. The committee had no right to consider any question except as to alleged corruption touching the impeachment. If they had exceeded that they would have been subject to the censure of the House; and the Chair then ruled that there could be no dilatory motion.

Mr. NIBLACK. This resolution does not pertain to impeachment, but to setting apart a room for recusant witnesses.

The SPEAKER. This witness refused to testify on a matter referred to this committee.

The question was taken on ordering the main question; and it was decided in the affirmative—yeas 79, nays 22, not voting 88; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Beaman, Beatty, Benton, Bingham, Blair, Broomall, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Driggs, Eggleston, Ferriss, Ferry, Fields, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Jencks, Judd, Julian, Ketcham, Kootz, George V. Lawrence, Lincoln, Loan, Logan, Mallory, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Polsley, Price, Raum, Sawyer, Selye, Shellabarger, Smith, Aaron F. Stevens, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Windom—79.

NAYS—Messrs. Barnes, Beck, Boyer, Burr, Cary, Chandler, Getz, Golladay, Haight, Hotchkiss, Johnson, Kerr, Knott, McCormick, Morgan, Niblack, Nicholson, Stewart, Stone, Lawrence S. Trimble, Van Auker, and Wood—22.

NOT VOTING—Messrs. Adams, Anderson, Archer, James M. Ashley, Axtell, Bailey, Baker, Baldwin, Banks, Barnum, Beck, Benjamin, Blaine, Boutwell, Bromwell, Brooks, Buckland, Cake, Cook, Cornell, Dawes, Donnelly, Eckley, Ela, Eldridge, Eliot, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Golladay, Gravely, Griswold, Grover, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Kelsey, Kitchen, Knott, Lafin, William Lawrence, Loughridge, Lynch, Marshall, Marvin, Maynard, McCarthy, McCullough, Morrissey, Mungen, Myers, Nunn, Peters, Phelps, Pike, Plants, Poland, Pomeroy, Pruyn, Randall, Robertson, Ross, Scofield, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Taber, Thomas, Twichell, Van Aernam, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Woodward, and Wood—88.

So the main question was ordered to be now put.

Mr. ELDRIDGE. I move the House adjourn.

The SPEAKER. The Chair declines to entertain the motion.

Mr. KERR. Inasmuch as the resolution does not relate to impeachment or to the conduct of this witness, I take an appeal from the decision of the Chair.

The SPEAKER. The Chair declines to entertain it.

Mr. ELDRIDGE demanded tellers on the resolution.

Mr. ORTH demanded the yeas and nays.

The yeas and nays were ordered.

Mr. BURR moved that the resolution be laid on the table.

Mr. WARD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 4, nays 82, not voting 103; as follows:

YEAS—Messrs. Barnes, Burr, Hotchkiss, and Johnson—4.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Broomall, Butler, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Ferriss, Ferry, Fields, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jencks, Judd, Julian, Ketcham, Kootz, George V. Lawrence, Lincoln, Loan, Logan, Lynch, Mallory, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Pike, Polsley, Price, Raum, Robertson, Sawyer, Selye, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Windom—82.

NOT VOTING—Messrs. Adams, Anderson, Archer, James M. Ashley, Axtell, Bailey, Baker, Baldwin, Banks, Barnum, Beck, Benjamin, Boutwell, Boyer, Bromwell, Brooks, Buckland, Cake, Cary, Chandler, Reader W. Clarke, Cook, Cornell, Dawes, Eckley, Eggleston, Ela, Eldridge, Eliot, Farnsworth, Finney, Fox, Garfield, Getz, Glossbrenner, Golladay, Gravely, Griswold, Grover, Haight, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Kelsey, Kerr, Kitchen, Knott, Lafin, William Lawrence, Loughridge, Marshall, Marvin, Maynard, McCormick, McCullough, Morgan, Morrissey, Mungen, Myers, Niblack, Nicholson, Nunn, Peters, Phelps, Plants, Poland, Pomeroy, Pruyn, Randall, Robinson, Ross, Schenck, Scofield, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Stewart, Stone, Taber, Thomas, Lawrence S. Trimble, Twichell, Van Aernam, Van Auker, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Wood, Woodbridge, and Woodward—103.

The SPEAKER. No quorum has voted.

During the roll-call,

Mr. ROSS stated that he was paired with his colleague, Mr. INGERSOLL.

Mr. CHANLER said that his colleague, Mr. TABER, had been called away suddenly by sickness in his family.

Mr. NEWCOMB said that his colleague, Mr. GRAVELY, was sick.

The result having been announced as above recorded,

Mr. BUTLER moved that the House do now adjourn.

The SPEAKER. The Chair declines to entertain the motion; the rule prohibits him from entertaining it.

Mr. BROOMALL. I move a call of the House.

The SPEAKER. The rule authorizes a call of the House whenever a quorum is not found to be present.

Mr. WARD. Suppose there is a quorum and gentlemen do not answer?

The SPEAKER. That is a subject of contempt of the House, contempt of its rules.

Mr. WARD. I believe there is a quorum present.

The SPEAKER. The Chair has repeatedly stated that gentlemen who refuse to vote are in contempt of the House, subject, of course, to the action of the House.

The motion for a call of the House was agreed to.

The roll was then called; and the following members failed to answer to their names:

Messrs. Adams, Anderson, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Benjamin, Boutwell, Bromwell, Buckland, Cake, Reader W. Clarke, Cook, Cornell, Dawes, Eckley, Eliot, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Gravely, Griswold, Grover, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Kelsey, Kitchen, Lafin, Marshall, Marvin, Maynard, McCullough, Moorhead, Morrissey, Mungen, Nunn, Peters, Phelps, Poland, Pomeroy, Pruyn, Randall, Robinson, Scofield, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Taber, Thomas, Twichell, Van Aernam, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Woodward, and Woodward.

The SPEAKER. One hundred and thirteen members have answered to their names, being a quorum.

Mr. BROOMALL. I move that the further proceedings under the call be dispensed with.

Mr. ELDRIDGE. I object to that.

The question was put, and it appeared to be carried.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. INGERSOLL. Is it in order to move that the House take a recess till to-morrow at some time?

The SPEAKER. It is not, in the opinion of the Chair.

Mr. INGERSOLL. Is it not by unanimous consent?

Mr. LOGAN and several others objected.

The question was taken; and it was decided in the negative—yeas 29, nays 60, not voting 100; as follows:

YEAS—Messrs. Baker, Beaman, Blair, Cary, Churchill, Dixon, Ela, Fields, Hooper, Ingersoll, Jencks, Julian, Ketcham, Lincoln, Loan, McClurg, Mercer, Moorhead, Myers, Pike, Price, Raum, Robertson, Sawyer, Schenck, Lawrence S. Trimble, Welker, William Williams, and John T. Wilson—29.

NAYS—Messrs. Allison, Ames, Archer, Arnell, Delos R. Ashley, Beatty, Benton, Bingham, Boyer, Broomall, Burr, Butler, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dodge, Donnelly, Eggleston, Ferriss, Ferry, Halsey, Harding, Higby, Hill, Hopkins, Hotchkiss, Chester D. Hubbard, Hunter, Johnson, Judd, Kootz, George V. Lawrence, William Lawrence, Logan, Lynch, Mallory, McCarthy, Miller, Moore, Morrell, Mullins, Nicholson, O'Neill, Orth, Paine, Perham, Polsley, Selye, Aaron F. Stevens, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Upson, Burt Van Horn, Ward, and Thomas Williams—60.

NOT VOTING—Messrs. Adams, Anderson, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Beck, Benjamin, Blaine, Boutwell, Bromwell, Brooks, Buckland, Cake, Chandler, Reader W. Clarke, Cook, Cornell, Dawes, Driggs, Eckley, Eldridge, Eliot, Farnsworth, Finney, Fox, Garfield, Getz, Glossbrenner, Golladay, Gravely, Griswold, Grover, Haight, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Kelsey, Kerr, Kitchen, Knott, Lafin, Loughridge, Marshall, Marvin, Maynard, McCormick, McCullough, Morgan, Morrissey, Mungen, Newcomb, Niblack, Nunn, Peters, Phelps, Pike, Plants, Poland, Pomeroy, Pruyn, Randall, Robinson, Ross, Scofield, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Stewart, Stone, Taber, Thomas, Twichell, Van Aernam, Van Auker, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—100.

So the motion was disagreed to.

The SPEAKER. The roll having been called twice, the Doorkeeper will now close the doors, including the doors of the cloak-rooms, and the Clerk will call the names of the absentees for excuses.

The Clerk proceeded to call the names of the absentees.

GEORGE M. ADAMS. No excuse offered.

GEORGE W. ANDERSON.

Mr. VAN HORN, of Missouri. Mr. ANDERSON is absent by the leave of the House.

JAMES M. ASHLEY. No excuse offered.

SAMUEL B. AXTELL.

Mr. HIGBY. Mr. AXTELL is absent by the leave of the House.

ALEXANDER H. BAILEY.

Mr. MCCARTHY. My colleague, Mr. BAILEY, has leave of absence.

JOHN D. BALDWIN. No excuse offered.

NATHANIEL P. BANKS. No excuse offered.

WILLIAM H. BARNUM. No excuse offered.

JOHN F. BENJAMIN.

Mr. LOAN. Mr. BENJAMIN is absent by the leave of the House.

GEORGE S. BOUTWELL. No excuse offered.

HENRY P. H. BROMWELL. No excuse offered.

RALPH P. BUCKLAND.

Mr. EGGLESTON. Mr. BUCKLAND is absent by leave of the House.

HENRY L. CAKE. No excuse offered.

READER W. CLARKE. No excuse offered.

BURTON C. COOK.

Mr. JUDD. I believe Mr. Cook is absent by leave of the House.

The SPEAKER. Does the gentleman know that he has leave? The Chair does not remember.

Mr. JUDD. That is my impression.

The SPEAKER. The clerks are under the impression that he has leave of absence.

THOMAS CORNELL.  
Mr. LINCOLN. I think that my colleague, Mr. CORNELL, has indefinite leave of absence. The SPEAKER. The Chair is under that impression.

HENRY L. DAWES. No excuse offered.  
EPHRAIM R. ECKLEY.  
Mr. BINGHAM. My colleague, I believe, has leave of absence. He is not in the city.

THOMAS D. ELIOT.  
The SPEAKER. Leave of absence was granted to Mr. ELIOT to-day.

JOHN J. FARNSWORTH.  
Mr. HARDING. My colleague, Mr. FARNSWORTH, is absent on leave, on account of indisposition.

A MEMBER. He was here to-day.  
The SPEAKER. He has indefinite leave of absence on account of illness.

DARWIN A. FINNEY. No excuse offered.  
JOHN FOX. No excuse offered.  
JAMES A. GARFIELD. No excuse offered.  
ADAM J. GLOSSBRENNER. No excuse offered.

JOSEPH J. GRAVELY.  
Mr. NEWCOMB. My colleague, Mr. GRAVELY, is detained from the House by sickness. I move that he be excused.  
The motion was agreed to.

JOHN A. GRISWOLD. No excuse offered.  
A. P. GROVER. No excuse offered.

ISAAC R. HAWKINS.  
Mr. STOKES. My colleague, Mr. HAWKINS, has leave of absence.

WILLIAM S. HOLMAN.  
Mr. KERR. My colleague, Mr. HOLMAN, is absent on leave.

ASAHEL W. HUBBARD.  
Mr. DODGE. My colleague, Mr. HUBBARD, is sick at home. I move that he be excused.

Mr. ELDRIDGE. I object to his being excused, and demand the yeas and nays.

Mr. DODGE. I withdraw the motion.  
Mr. ELDRIDGE. Is it not too late to withdraw it?

The SPEAKER. It is not; before the vote is taken a gentleman can withdraw his motion or he can modify it.

Mr. BURR. I move that Mr. HUBBARD, of Iowa, be excused on account of sickness.

The SPEAKER. Is there objection?  
Mr. ELDRIDGE. I object, and call for the yeas and nays on excusing him.

Mr. BURR. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. BURR and PRICE were appointed.

Mr. HUNTER. I rise to a question of privilege. I was informed by my colleague, Mr. WASHBURN, that he was paired with a Democrat who is voting. [Cries of "Name him."]

The SPEAKER. That is not a question of privilege. It has been ruled repeatedly that the House can take no cognizance of a violation of a pair. It is a matter of honor only.

The House divided; and the tellers reported twenty-two in the affirmative.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 90, nays 5, not voting 94; as follows:

YEAS—Messrs. Archer, Arnell, Delos R. Ashley, Baker, Barnes, Beaman, Beatty, Beck, Benton, Blair, Boyer, Brooks, Broomall, Burr, Butler, Cary, Churchill, Cobb, Coburn, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Eldridge, Ferriss, Ferry, Fields, Getz, Golladay, Haight, Halsey, Harding, Higby, Hill, Hopkins, Hotchkiss, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Johnson, Judd, Julian, Kerr, Ketcham, Knott, Kountz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Mallory, McClure, McCormick, Mercer, Miller, Moore, Morgan, Morrell, Mullins, Myers, Nicholson, O'Neill, Orth, Perham, Phelps, Pils, Price, Robertson, Schenck, Selye, Aaron F. Stevens, Stewart, Stokes, Stone, Taffe, John Trimble, Lawrence S. Trimble, Upson, Van Auker, Robert T. Van Horn, Ward, Thomas Williams, William Williams, John T. Wilson, and Woodward—90.

NAYS—Messrs. Ames, Bingham, Sidney Clarke, Niblack, and Taylor—5.

NOT VOTING—Messrs. Adams, Allison, Anderson, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Benjamin, Blaine, Boutwell, Bromwell,

Buckland, Cake, Chanler, Reader W. Clarke, Cook, Cornell, Covode, Cullom, Dawes, Eckley, Eliot, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Gravelly, Griswold, Grover, Hawkins, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hubburd, Humphrey, Jones, Kelley, Kelsey, Kitchen, Ladin, Lynch, Marshall, Marvin, Maynard, McCarthy, McCullough, Moorhead, Morrissey, Mungen, Newcomb, Nunn, Paine, Peters, Pike, Plants, Poland, Polsey, Pomeroy, Pruyn, Randall, Raum, Robinson, Ross, Sawyer, Scofield, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Taber, Thomas, Trowbridge, Twichell, Van Aernam, Burt Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Woodward—94.

So the motion to excuse Mr. HUBBARD, of Iowa, was agreed to.

Mr. LOGAN. I desire to inquire of the Chair if, under the rules of the House and the order of the Speaker, the doorkeepers have a right to allow members to enter the Hall?

The SPEAKER. They have not.

Mr. LOGAN. The gentleman from Pennsylvania [Mr. BOYER] was permitted to enter, and he voted on the last call.

Mr. BOYER. I answered to my name when the roll was called on the order that there be a call of the House.

The SPEAKER. It has been the universal custom of the House pending a call of the House to permit members who have answered to their names to retire from the Hall for a few minutes and to return again.

Mr. KERR. I now move that all further proceedings under this call be dispensed with.

Mr. ELDRIDGE. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. HIGBY. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. HIGBY. My point of order is that the motion of the gentleman from Indiana [Mr. KERR] is a dilatory motion, and therefore not in order.

The SPEAKER. The Chair overrules the point of order on the ground that in no other way can the House relieve itself from its present situation so as to proceed with business except by dispensing with further proceedings under the call.

Mr. ELDRIDGE. The gentleman from Ohio [Mr. BINGHAM] has submitted a proposition to me which is satisfactory to me, and which, if agreed to by the House, I have no doubt will be satisfactory to this side of the House. We are not struggling for the purpose of delay merely.

The SPEAKER. The gentleman from Ohio will state his proposition to the House, if there be no objection.

Mr. BINGHAM. Mr. Speaker—

Mr. LOGAN. I object.

The SPEAKER. Objection being made, no debate is in order. The question is upon the motion of the gentleman from Indiana, [Mr. KERR,] that further proceedings under the call be now dispensed with; upon which the yeas and nays have been ordered.

Mr. SCHENCK. We are all in good health now, and we may as well go through with this matter.

The question was then taken; and it was decided in the negative—yeas 38, nays 54, not voting 97; as follows:

YEAS—Messrs. Baker, Beaman, Beck, Benton, Boyer, Burr, Cary, Dixon, Donnelly, Getz, Golladay, Haight, Hotchkiss, Ingersoll, Jenckes, Johnson, Julian, Ketcham, Knott, George V. Lawrence, Loughbridge, Lynch, Mallory, Mullins, Myers, Phelps, Pils, Robertson, Sawyer, Aaron F. Stevens, Stone, Lawrence S. Trimble, Twichell, Upson, Robert T. Van Horn, Ward, John T. Wilson, and Woodward—38.

NAYS—Messrs. Ames, Archer, Arnell, Delos R. Ashley, Beatty, Blair, Butler, Churchill, Cobb, Coburn, Covode, Cullom, Dodge, Driggs, Eggleston, Ela, Ferriss, Ferry, Fields, Halsey, Harding, Higby, Hopkins, Chester D. Hubbard, Hunter, Judd, Kerr, Kountz, Lincoln, Loan, McCarthy, McClure, Mercer, Miller, Moore, Morgan, Morrell, O'Neill, Orth, Paine, Perham, Polsey, Price, Raum, Schenck, Stewart, Stokes, Taffe, Taylor, John Trimble, Van Auker, Welker, Thomas Williams, and William Williams—54.

NOT VOTING—Messrs. Adams, Allison, Anderson, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Benjamin, Bingham, Blaine, Bout-

well, Bromwell, Brooks, Broomall, Buckland, Cake, Chanler, Reader W. Clarke, Sidney Clarke, Cook, Cornell, Dawes, Eckley, Eldridge, Eliot, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Gravelly, Griswold, Grover, Hawkins, Hill, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hubburd, Humphrey, Jones, Kelley, Kelsey, Kitchen, Ladin, William Lawrence, Logan, Marshall, Marvin, Maynard, McCormick, McCullough, Moorhead, Morrissey, Mungen, Newcomb, Niblack, Nicholson, Nuzz, Peters, Pike, Plants, Poland, Pomeroy, Pruyn, Randall, Robinson, Ross, Scofield, Selye, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Taber, Thomas, Twichell, Van Aernam, Burt Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Woodward—87.

So the motion to dispense with further proceedings under the call was not agreed to.

Mr. KERR. I rise to make a parliamentary inquiry. I desire to know whether it is in order for any member to leave the Hall and go into any of the cloak-rooms for any purpose during the call?

The SPEAKER. The Chair has ordered that the doors be closed and no member allowed to leave. The Chair has granted to three gentlemen permission to leave the Hall for not exceeding two minutes, but not to leave the floor on which the Hall is located.

Mr. BROOMALL. I rise to a question of privilege. I desire to give notice that when the House is in a condition to entertain such a proposition I intend to introduce a resolution censuring the gentleman from Wisconsin, [Mr. ELDRIDGE,] who refused to vote on both the votes upon dispensing with further proceedings under the call, although he was within the Hall on both occasions, and although the Speaker had previously announced that it was the duty of all members to vote, and that those who refused to do so would be liable to the censure of the House.

The SPEAKER. The Chair cannot entertain such a proposition at this time, because a call of the House is now in progress.

Mr. BROOMALL. I merely desire to give that notice.

Mr. ELDRIDGE. I was engaged in reading the papers which I hold in my hand, and I do not know whether I voted or not.

Mr. BROOMALL. The gentleman was not so engaged during the first call.

Mr. ELDRIDGE. I do not know whether I was or not.

The SPEAKER. The Clerk will resume the call of absentees.

The Clerk resumed the call of the names of absentees.

RICHARD D. HUBBARD. No excuse offered.

CALVIN T. HULBURD. No excuse offered.

JAMES M. HUMPHREY. No excuse offered.

THOMAS L. JONES. No excuse offered.

WILLIAM D. KELLEY.

The SPEAKER. The gentleman from Pennsylvania [Mr. KELLEY] has leave of absence.

WILLIAM H. KELSEY.

Mr. WARD. I believe my colleague, Mr. KELSEY, has leave of absence.

The SPEAKER. Does the gentleman so state?

Mr. WARD. I cannot state the fact positively, though I think it is so.

Mr. BUTLER. The gentleman from New York [Mr. KELSEY] stated to me that he had leave of absence.

The SPEAKER. That is sufficient.

BETHUEL M. KITCHEN.

Mr. HUBBARD, of West Virginia. My colleague, Mr. KITCHEN, has leave of absence.

The SPEAKER. That is the fact.

ADDISON H. LAFLIN. No excuse offered.

SAMUEL S. MARSHALL.

Mr. KERR. The gentleman from Illinois, [Mr. MARSHALL,] when he left the Hall, said he was indisposed, and left on account of indisposition. I therefore move that he be excused.

Mr. BURR. I object.

The SPEAKER. Objection being made, the question is on excusing the gentleman from Illinois, [Mr. MARSHALL.]

Mr. ELDRIDGE. I call for the yeas and nays.

Mr. HIGBY. I raise the question of order that that is a dilatory motion.

The SPEAKER. The gentleman from California [Mr. HIGBY] states that in his opinion this is a dilatory motion. The Chair will submit the question to the House for its decision.

Mr. ELDRIDGE. Has not the Chair ruled upon that question once?

The SPEAKER. The Chair has entertained several propositions moved by gentlemen of the minority, although he himself doubted the propriety of doing so. The Chair is doubtful whether he should have entertained the motion of the gentleman from Illinois [Mr. BURR] to lay the resolution on the table. The Chair thinks that under the circumstances it was a dilatory motion. The Chair also thinks that the proposition in regard to excusing an absent member was not a *bona fide* application, because the colleague of the gentleman absent who had moved for his excuse on account of illness had previously withdrawn the application. But the Chair will let the House decide the question, and for this reason: when a call of the House is ordered it is because less than a quorum is present. The object, under the Constitution, is to enforce the attendance of absent members. If those who are present and object to the call demand the yeas and nays on excusing every absentee, as they would have the right to do if this is entertained by the House, then no roll-call would culminate for days, at least for a day. The question is whether the constitutional right of a majority to enforce the attendance of absent members shall be accorded without dilatory proceedings. That question the Chair puts to the House.

Mr. ELDRIDGE. The same point of order was raised once, and the Chair decided that it was not a dilatory motion.

The SPEAKER. The Chair decided that the motion to dispense with further proceedings under the call was not a dilatory motion, as it was the only way in which it could be dispensed with.

Mr. ELDRIDGE. I believe the Chair is right.

Mr. NICHOLSON. The same motion has been put and voted on by the House.

The SPEAKER. That was entertained by the Chair. The question now is whether the House of Representatives will entertain it, and the House of Representatives is of higher power than the Speaker, and a decision by the House would be more satisfactory to both sides of the House.

The question then recurred on sustaining Mr. HIGBY's point of order.

Mr. KERR demanded tellers.

Mr. BUTLER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 17, not voting 88; as follows:

YEAS—Messrs. Ames, Arnell, Delos R. Ashley, Baker, Beaman, Beatty, Benton, Bingham, Blair, Broomall, Butler, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Ella, Ferriss, Ferry, Fields, Halsey, Harding, Higby, Hill, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Ketcham, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, McCarthy, McClurg, McCormick, Mercer, Miller, Moore, Morrell, Myers, O'Neill, Orth, Paine, Perham, Pile, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Seelye, Aaron F. Stevens, Stewart, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, and John T. Wilson—84.

NAYS—Messrs. Archer, Barnes, Boyer, Burr, Eldridge, Getz, Golladay, Haight, Hotchkiss, Johnson, Knott, Morgan, Nicholson, Phelps, Stone, Lawrence S. Trimble, and Van Auker—17.

NOT VOTING—Messrs. Adams, Allison, Anderson, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Beck, Benjamin, Blaine, Boutwell, Bromwell, Brooks, Buckland, Cake, Chanler, Reader W. Clarke, Cook, Cornell, Dawes, Eckley, Eggleston, Eliot, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Gravelly, Griswold, Grover, Hawkins, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Jones, Kelley, Kelsey, Kerr, Kitchen, Laffin, Marshall, Marvin, Maynard, McCullough, Moorhead, Morrissey, Mullins, Mungen, Newcomb, Niblack, Nunn, Peters, Pike, Plants,

Poland, Pomeroy, Pruyn, Randall, Robinson, Ross, Scofield, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Taber, Thomas, Twichell, Van Aernam, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—88.

So the point of order was sustained, and it was declared to be the judgment of the House.

The SPEAKER. The question now is what action shall be taken in reference to the absentees?

Mr. PILE. I move that the Sergeant-at-Arms be sent for them.

The SPEAKER. That will be entertained under the thirty-sixth rule.

Mr. ELDRIDGE. That is in violation of a standing rule of the House.

The SPEAKER. What rule?

Mr. ELDRIDGE. That the absentees shall be called for excuses.

Mr. WOOD. And the call of the absentees has not been concluded.

The SPEAKER. The Chair will remind the gentlemen from New York and Wisconsin that the ruling on the resolution growing out of the impeachment referred to the committee of managers was decided in the affirmative; that dilatory motions could not be entertained. It follows as a consequence that the House has the right to decide any question growing out of it. The call of the House has grown out of it, and the House, by a vote of 84 to 17 have decided that this is covered by the rule adopted on the 25th of February last. The House has affirmed that on appeal from the decision of the Chair. The House again affirms that the demand of the yeas and nays on excusing absentees is a dilatory motion; that although provided for by the thirty-sixth rule, adopted some years ago, it is prohibited by the rule adopted on the 25th of February last.

Mr. WOOD. The Chair has misunderstood my point of order. It was this: that until the Clerk has concluded the call, except by a motion to suspend proceedings, no other question can be raised.

The SPEAKER. The Chair has just replied as distinctly as he could to the precise point of order, and that the House have decided that the resolution submitted to-day was a resolution from a committee which had charge of nothing but impeachment and could report nothing but matters relative to impeachment, and therefore their resolution was covered by the rule of the 25th of February last. Upon an appeal the House sustained the decision of the Chair—yeas 84, nays 17. The Chair is never called upon to explain resolutions of the House of Representatives; he sometimes explains his own ruling.

Mr. ELDRIDGE. The point of order is, that whenever a temporary rule like the one we have adopted, which the Chair holds to be a rule governing the House, conflicts with a standing rule of the House, the standing rule must govern.

The SPEAKER. The Chair regards them both as of equal dignity, though upon legal principles, the latter would repeal the former. If there were any differences it would be in favor of the last; but the Chair does not so hold. He regards both as of equal dignity.

The question being put on the motion of Mr. PILE, it appeared to be carried.

Mr. KERR. I demand tellers.

Mr. PILE. I demand the yeas and nays.

Mr. JOHNSON. I desire to ask if all the names of the absentees are handed to the Sergeant-at-Arms?

The SPEAKER. If the motion of the gentleman from Missouri [Mr. PILE] is adopted, that will be the order of the House.

The question was taken; and it was decided in the affirmative—yeas 77, nays 23, not voting 89; as follows:

YEAS—Messrs. Ames, Arnell, Delos R. Ashley, Baker, Beaman, Beatty, Benton, Blair, Broomall, Butler, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dodge, Donnelly, Driggs, Eggleston, Ella, Ferriss, Ferry, Fields, Halsey, Harding, Higby, Hill, Hopkins, Chester D. Hubbard, Hunter, Johnson, Judd, Julian, Ketcham, Koontz, George V. Law-

rence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, McCarthy, McClurg, Mercer, Miller, Moore, Morrell, Mullins, Myers, O'Neill, Orth, Paine, Perham, Pile, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Seelye, Aaron F. Stevens, Stewart, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Welker, and William Williams—77.

NAYS—Messrs. Archer, Barnes, Beck, Boyer, Brooks, Burr, Cary, Eldridge, Getz, Golladay, Haight, Hotchkiss, Jenckes, Kerr, Knott, McCormick, Morgan, Nicholson, Phelps, Stone, Lawrence S. Trimble, Van Auker, and Wood—23.

NOT VOTING—Messrs. Adams, Allison, Anderson, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Benjamin, Bingham, Blaine, Boutwell, Bromwell, Buckland, Cake, Chanler, Reader W. Clarke, Cook, Cornell, Dawes, Dixon, Eckley, Eliot, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Gravelly, Griswold, Grover, Hawkins, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Ingersoll, Jones, Kelley, Kelsey, Kitchen, Laffin, Marshall, Marvin, Maynard, McCullough, Moorhead, Morrissey, Mungen, Newcomb, Niblack, Nunn, Peters, Pike, Plants, Poland, Pomeroy, Pruyn, Randall, Robinson, Ross, Scofield, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Taber, Thomas, Twichell, Van Aernam, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Woodward—89.

So the motion was agreed to.

During the roll-call,

Mr. KOONTZ said: I desire to state that my colleague, Mr. STEVENS, is sick.

Mr. ELDRIDGE and Mr. BURR objected to any excuses.

The SPEAKER. The Chair declines to entertain it by order of the House.

Mr. NIBLACK. I desire to state that I understand my colleague, Mr. WASHBURN, who left the city some days ago, considered himself as paired with me. My colleague, Mr. HUNTER, has so informed me. I did not know until recently that he was absent. But as I am informed that he considers himself paired with me I am willing to recognize the pair. Therefore I shall decline to vote hereafter unless compelled by order of the House.

Mr. KERR. I move that all further proceedings under the call be dispensed with.

The SPEAKER. That cannot be done till the absentees are brought in.

Mr. ELDRIDGE. I desire to move that all further proceedings in the call be dispensed with.

The SPEAKER. The Chair declines to entertain that motion, as the House has ordered an arrest of members.

Mr. ELDRIDGE. Then I must take an appeal from the decision of the Chair.

The SPEAKER. The Chair declines to entertain the appeal.

Mr. JOHNSON. Is it in order to move to take a recess?

The SPEAKER. The Chair declines to entertain that motion.

Mr. ELDRIDGE. Does the Chair decide that the House must remain in perpetual session?

The SPEAKER. The Chair does not so decide.

After a considerable interval the Sergeant-at-Arms appeared and reported that he had arrested and now had at the bar of the House Mr. JAMES K. MOORHEAD, Mr. LUKE P. POLAND, Mr. PHILADELPH VAN TRUMP, Mr. GLENNI W. SCOFIELD, and Mr. READER W. CLARKE.

Mr. PILE. I move that the members now at the bar be allowed to take their seats, subject to the further order of the House.

Mr. WOOD. Is it in order to move that they be committed to the same bastille that Mr. Woolley occupies?

The SPEAKER. The Chair doubts if it would be.

Mr. WOOD. I did not know whether the Chair would entertain the motion.

Mr. ELDRIDGE. I demand the yeas and nays on the motion of the gentleman from Missouri, [Mr. PILE.]

The yeas and nays were ordered.

Mr. SCHENCK. I ask unanimous consent that on account of his advanced age, the gentleman from Pennsylvania [Mr. MOORHEAD]



be allowed to be seated during the call of the roll. [Laughter.]

The SPEAKER. The gentleman has a right to be seated.

The question was taken on Mr. PILE's motion; and it was decided in the affirmative—yeas 98, nays 5, not voting 86; as follows:

YEAS—Messrs. Allison, Ames, Archer, Arnell, Delos R. Ashley, Baker, Beaman, Beatty, Beck, Benton, Bingham, Blair, Boyer, Brooks, Broomall, Burr, Butler, Cary, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Eldridge, Ferriss, Ferry, Getz, Golladay, Haight, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Johnson, Judd, Julian, Kerr, Ketcham, Knott, Koontz, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, McCarthy, McClurg, McCormick, Mercur, Miller, Moore, Morgan, Morrill, Mullins, Myers, Nicholson, O'Neill, Orth, Paine, Perham, Phelps, Pile, Plants, Raum, Robertson, Sawyer, Schenck, Selye, Starkweather, Stewart, Stokes, Taffe, Taylor, John Trimble, Trowbridge, Upson, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Wood—98.

NAYS—Messrs. Paine, Aaron F. Stevens, Stone, Lawrence S. Trimble, and Van Auker—5.

NOT VOTING—Messrs. Adams, Anderson, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnes, Barnum, Benjamin, Blaine, Boutwell, Bromwell, Buckland, Cake, Chanler, Reader W. Clarke, Cook, Cornell, Dawes, Eckley, Eliot, Farnsworth, Fields, Finney, Fox, Garfield, Glossbrenner, Gravely, Griswold, Grover, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Kelsey, Kitchen, Knott, Laffin, Marshall, Marvin, Maynard, McCullough, Morrissy, Mungen, Newcomb, Niblack, Nunn, Peters, Phelps, Pike, Plants, Poland, Pomeroy, Pruyn, Randall, Robinson, Ross, Schofield, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Taber, Thomas, Twichell, Van Aernam, Burt Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Woodward—86.

So the motion was agreed to; and the members at the bar of the House accordingly resumed their seats.

Mr. ELDRIDGE. Has not the hour for the Republican caucus, of which notice was given, arrived?

Several MEMBERS. It is postponed.

The SPEAKER. The Chair cannot answer that question.

Mr. WOOD. Is it in order now to move to dispense with further proceedings under the call?

The SPEAKER. It is in order now. The Chair will state that some little time since he ruled this motion out of order for the reason that the House had ordered him to sign a warrant of arrest. The Clerk was preparing it, but the Chair had not then had an opportunity of executing the order of the House and no business could be transacted until the Speaker had obeyed the order devolved on him by the House. The motion is now in order.

Mr. WOOD. Then I move that all further proceedings in the call be dispensed with.

Mr. BUTLER. If the House should suspend further proceedings would not that open the doors and allow our friends on the other side to go home?

The SPEAKER. It would.

Mr. BUTLER. Then I hope that the motion will not be adopted.

Mr. PILE. I move to lay the motion of the gentleman from New York [Mr. Wood] on the table.

The SPEAKER. The motion cannot be laid on the table. The question must be taken directly on the proposition.

Mr. ELDRIDGE. I call for the yeas and nays on the motion of the gentleman from New York.

On ordering the yeas and nays there were—yeas 21, nays 89; less than one fifth voting in the affirmative.

Mr. UPSON. I observe that on this question the gentleman from Ohio [Mr. VAN TRUMP] has voted. I submit that he has no right to vote, being in contempt of the House.

The SPEAKER. The Chair thinks the gentleman has the right to vote, he having been discharged subject to the further order of the House.

Mr. ELDRIDGE. I call for tellers on ordering the yeas and nays.

Tellers were ordered; and Messrs. BURN and PILE were appointed.

The House divided; and the tellers reported—yeas twenty-four, nays not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 7, nays 104, not voting 78; as follows:

YEAS—Messrs. Cary, Haight, Hotchkiss, McCormick, Stewart, Lawrence S. Trimble, and Van Auker—7.

NAYS—Messrs. Allison, Ames, Archer, Arnell, Delos R. Ashley, Baker, Barnes, Beaman, Beatty, Beck, Benton, Bingham, Blair, Boyer, Brooks, Broomall, Burr, Butler, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Eldridge, Ferriss, Ferry, Fields, Getz, Golladay, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Johnson, Judd, Julian, Kerr, Ketcham, Knott, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morgan, Morrill, Mullens, Myers, Nicholson, O'Neill, Orth, Paine, Perham, Phelps, Pile, Poland, Polsley, Price, Raum, Robertson, Schenck, Seofield, Selye, Starkweather, Aaron F. Stevens, Stokes, Stone, Taffe, Taylor, John Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Wood—104.

NOT VOTING—Messrs. Adams, Anderson, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Benjamin, Blaine, Boutwell, Bromwell, Buckland, Cake, Chanler, Reader W. Clarke, Cook, Cornell, Dawes, Eckley, Eliot, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Gravely, Griswold, Grover, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Kelsey, Kitchen, Laffin, Marshall, Marvin, Maynard, McCullough, Morrissy, Mungen, Newcomb, Niblack, Nunn, Peters, Pike, Plants, Pomeroy, Pruyn, Randall, Robinson, Ross, Sawyer, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Taber, Thomas, Twichell, Van Aernam, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Woodward—78.

So the House refused to dispense with further proceedings under the call.

Mr. WOOD. Mr. Speaker, is it in order to move that the House adjourn?

The SPEAKER. The House has decided that that motion would not be in order. Therefore the Chair cannot entertain it.

Mr. WOOD. The question, I think, has not been submitted to the House.

The SPEAKER. It has been, upon an appeal from the decision of the Chair.

Mr. WOOD. We have no means, then, of extricating ourselves from the difficulty in which this question is involved? There is no way in which we can reach a vote upon the resolution, nor can we adjourn.

The SPEAKER. According to the resolution adopted on the 25th of February but one motion to adjourn can be made pending the consideration of a resolution reported from the board of managers.

Mr. WOOD. We cannot adjourn, and we cannot do anything.

Mr. UPSON. I call the gentleman to order.

The SPEAKER. It is not even debatable, though the Chair was willing to hear the remark of the gentleman from New York.

The Sergeant-at-Arms then appeared, and reported that in pursuance of the order of the House he had arrested, and now had at the bar of the House Mr. FRANCIS THOMAS, of Maryland, Mr. JOHN D. BALDWIN, of Massachusetts, and Mr. TOBIAS A. PLANTS, of Ohio.

Mr. PILE. I move that the members now at the bar be allowed to take their seats, subject to the further order of the House.

Mr. ELDRIDGE. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 2, not voting 87; as follows:

YEAS—Messrs. Allison, Archer, Arnell, Delos R. Ashley, Baker, Barnes, Beaman, Beatty, Benton, Bingham, Blair, Boyer, Brooks, Broomall, Burr, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Eldridge, Ferriss, Ferry, Fields, Getz, Golladay, Haight, Halsey, Higby, Hill, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hunter, Ingersoll, Johnson, Julian, Kerr, Ketcham, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, McCarthy, McClurg, Mercur, Miller, Moore, Moor-

head, Morgan, Mullins, Myers, Nicholson, O'Neill, Orth, Paine, Perham, Pile, Poland, Polsley, Price, Raum, Robertson, Sawyer, Schenck, Seofield, Selye, Starkweather, Stewart, Stokes, Taffe, Taylor, John Trimble, Lawrence S. Trimble, Trowbridge, Upson, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Wood—100.

NAYS—Messrs. McCormick and Stone—2.

NOT VOTING—Messrs. Adams, Ames, Anderson, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Beck, Benjamin, Blaine, Boutwell, Bromwell, Buckland, Cake, Chanler, Cook, Cornell, Dawes, Eckley, Eggleston, Ela, Eliot, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Gravely, Griswold, Grover, Harding, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jenckes, Jones, Judd, Kelley, Kelsey, Kitchen, Knott, Koontz, Laffin, Marshall, Marvin, Maynard, McCullough, Morrissy, Mungen, Newcomb, Niblack, Nunn, Peters, Phelps, Pike, Plants, Pomeroy, Pruyn, Randall, Robinson, Ross, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Taber, Thomas, Twichell, Van Aernam, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Woodward—87.

So the motion of Mr. PILE was agreed to.

Mr. GETZ. Is it in order for me to ask leave of absence until to-morrow morning?

The SPEAKER. It requires, in order to grant leave of absence to a member, a quorum of the House and an open session of the House. As soon as further proceedings under this call shall have been dispensed with it will be in order to grant leave of absence.

Mr. SCHENCK. Would it be in order, by unanimous consent, to permit the gentleman from Pennsylvania [Mr. Getz] to leave the Hall and go away.

The SPEAKER. It would be in order.

Mr. SCHENCK. Then I ask unanimous consent of the House for the gentleman to absent himself at this time.

Mr. ELDRIDGE. I object.

Mr. WOOD. I object, unless permission is also given to some twenty other members on this side.

Mr. ELDRIDGE. Is it in order now to move that all further proceedings under this call be dispensed with?

The SPEAKER. That motion would be in order.

Mr. ELDRIDGE. Then I make that motion, and on it I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—yeas 23, nays 88.

So (one fifth voting in the affirmative) the yeas and nays were ordered.

The question was then taken; and it was decided in the negative—yeas 6, nays 103, not voting 80; as follows:

YEAS—Messrs. Cary, Haight, Hotchkiss, Stone, Lawrence S. Trimble, and Van Trump—6.

NAYS—Messrs. Allison, Archer, Arnell, Delos R. Ashley, Baker, Baldwin, Barnes, Beaman, Beatty, Beck, Benton, Bingham, Blair, Boyer, Brooks, Broomall, Burr, Butler, Churchill, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Ferriss, Ferry, Fields, Getz, Golladay, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Johnson, Judd, Julian, Kerr, Ketcham, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, McCarthy, McClurg, McCormick, Mercur, Miller, Moore, Morgan, Morrill, Mullins, Myers, Nicholson, O'Neill, Orth, Paine, Perham, Phelps, Pile, Plants, Poland, Polsley, Price, Raum, Robertson, Schenck, Seofield, Selye, Starkweather, Aaron F. Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Upson, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Wood—103.

NOT VOTING—Messrs. Adams, Ames, Anderson, James M. Ashley, Axtell, Bailey, Banks, Barnum, Benjamin, Blaine, Boutwell, Bromwell, Buckland, Cake, Chanler, Reader W. Clarke, Cook, Cornell, Dawes, Eckley, Eggleston, Eliot, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Gravely, Griswold, Grover, Halsey, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Kelsey, Kitchen, Knott, Laffin, Marshall, Marvin, Maynard, McCullough, Morgan, Morrissy, Mungen, Newcomb, Niblack, Nunn, Peters, Pike, Plants, Pomeroy, Pruyn, Randall, Robinson, Ross, Sawyer, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Taber, Twichell, Van Aernam, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Woodward—80.

So the motion to dispense with further proceedings under the call was not agreed to.

Mr. SCHENCK. I desire to say that some four or five gentlemen whom I could name, Republicans as well as Democrats, answered at the first roll-call and then went away. As I understand there is no mode of reaching them except by dispensing with all further proceedings under this call, and then having another one, I suggest we had better dispense with all further proceedings under this call and then have a new call of the House.

Mr. ELDRIDGE. Is it in order for the gentleman to make that motion?

Mr. SCHENCK. I shall move to censure these gentlemen when it is in order to do so.

The SPEAKER. The Chair could not entertain that motion at the present time, as it has just been voted down. The usual parliamentary course is that some business must intervene.

Mr. CULLOM. I wish to say that my colleague [Mr. WASHBURN] went home on account of sickness.

Mr. ELDRIDGE. Is that dilatory?

The SPEAKER. It is not.

Mr. BURR. I move that he be excused.

The SPEAKER. The House has decided that that is a dilatory motion.

Mr. BINGHAM. I ask by common consent that we now take a direct vote on the resolution.

The SPEAKER. That can be done by unanimous consent.

Mr. EGGLESTON. I object.

Mr. BROOKS. We do not object on this side of the House.

Mr. WOOD. There is no objection here to our coming to a direct vote on the proposition.

Mr. EGGLESTON. I withdraw my objection.

Mr. LOGAN. I desire to understand the proposition. Is a direct vote to be taken on the proposition immediately?

The SPEAKER. That is the proposition, and the Chair hears no objection.

Mr. ELDRIDGE. The proposition is that the vote shall be taken on the resolution at this time, and that a motion shall be entered to reconsider that, and the other resolutions shall be introduced *pro forma*, ordered to be printed, and that to-morrow we shall have two hours' debate. That would be satisfactory.

Mr. LOGAN. I will object for four weeks before any agreement is made at all. I was kept here two days and not permitted to open my mouth on the proposition of impeachment, and I do not intend—

Mr. ELDRIDGE. I do not believe there was ever a time when that gentleman's mouth was kept shut so long. [Laughter.]

Mr. LOGAN. So far as that is concerned, the gentleman's mouth is always shut. He never talks in this House. He is a gentleman of few words, and the few there are have nothing in them. [Laughter.]

The SPEAKER. Is there objection to the proposition?

Mr. LOGAN. I object.

Mr. BUTLER. Is it understood there is no condition annexed to this?

The SPEAKER. It was so stated by the Chair.

Mr. BUTLER. I do not object.

Mr. ELDRIDGE. I object unless we shall have an opportunity to debate this resolution.

Mr. LOGAN. Then you cannot debate it.

Mr. MORGAN. I will withdraw the objection I made if Mr. Manager BINGHAM will allow me to ask him a question.

The SPEAKER. Is there objection?

There was no objection.

Mr. MORGAN. The question I wish the honorable gentleman to answer is whether it is true that the committee have refused Mr. Woolley's counsel opportunity to communicate with him?

Mr. BINGHAM. I do not know that under the rules of the House it is in order for me to state anything the committee has done in session except by order of the committee, and, therefore, I am not at liberty to answer the gentleman's question.

The SPEAKER. The Chair thinks, that,

business having transpired, it is now in order to renew the motion that all further proceedings under the call shall be dispensed with.

Mr. LYNCH. I make that motion.

The motion was disagreed to.

The SPEAKER. The Chair is not aware that there is any other motion that can be made at this time.

Mr. BINGHAM. Mr. Speaker—

Mr. ELDRIDGE. I object to the gentleman from Ohio making any statement or speech.

Mr. BINGHAM. I am not going to make any speech. I am only going to say—

Mr. ELDRIDGE. I object to the gentleman stating anything unless he makes some point of order which is in order.

The SPEAKER. The Chair would state that all points of order made in the House are not in order, but the Chair will hear the point of order of the gentleman from Ohio as he hears the points of order of the gentleman from Wisconsin.

Mr. BINGHAM. I was only going to say that, if in order, I will answer the inquiry made by my colleague, [Mr. MORGAN,] after consulting with the majority of the committee in regard to the action of the committee. That is all.

Mr. ELDRIDGE. I object.

Mr. BROOMALL. Would it be in order for me at this time to call up my question of privilege in regard to the non-voting of the gentleman from Wisconsin, [Mr. ELDRIDGE?]

The SPEAKER. The Chair thinks it would not be in order, as the doors are closed and the House is acting under a call of the House. It can, however, be taken up by unanimous consent.

Mr. BROOMALL. Well, I ask unanimous consent.

Mr. VAN AUKEN. I object.

Mr. ELDRIDGE. At the suggestion of the gentleman from Ohio, [Mr. MORGAN,] I withdraw the objection to the gentleman from Ohio [Mr. BINGHAM] making his statement.

Mr. BINGHAM. I am instructed by the majority of the committee to make answer to the interrogatory of my colleague, [Mr. MORGAN,] My answer is this.

Mr. SELYE. What was the question?

Mr. BINGHAM. His inquiry was whether the committee had resolved that Woolley should not have an opportunity of consulting his counsel.

Mr. MORGAN. I beg the gentleman's pardon. That was not the inquiry.

Mr. BINGHAM. Well, sir, what was it?

Mr. MORGAN. I did not ask if the committee had resolved, but if Mr. Woolley was not denied communication with his counsel.

Mr. BINGHAM. By whom?

Mr. MORGAN. By the committee.

Mr. BINGHAM. Exactly.

Mr. MORGAN. Directly or indirectly.

Mr. BINGHAM. Very well.

Mr. MORGAN. Or some one of them.

Mr. BINGHAM. I do not desire to misrepresent the gentleman. He adds to the question now, "Some one of them." I cannot answer for some one of them; but, so far as I know, no member of the committee made any such denial except as I shall state hereafter; nor did the committee make any such denial except this, that when the witness was brought before the committee, under the order of this House, to answer the interrogatories put to him, he declined, as will be shown by the record which will be presented if ever we reach the second resolution, which is pending here, and, among other things, insisted that he should not answer the question until his counsel was brought into the presence of the committee and consultation was had with him. So far objection was made, but there was no denial of his communicating with his counsel at his own chamber where he is held in custody, nor was there any action of the committee to that effect.

I may be allowed to state further that I understand from what little was said by the witness that he had had an interview with his counsel, and that the evasive answer which he

made was given under the direct instructions and advice of his counsel.

A MEMBER. Written?

Mr. BINGHAM. Yes, written. And not only that, but he has had intercourse with whomsoever he pleased since his arrest and while he was in custody and up to this hour.

Mr. MILLER. I would like to ask the gentleman who is his counsel?

Mr. BINGHAM. I believe the witness himself gave Mr. Merrick as the name of his counsel, if I am not mistaken.

Mr. MORGAN. Do I understand the gentleman to say that Mr. Merrick has been allowed free access to the prisoner?

Mr. BINGHAM. I do not use the word "free." I only state what the witness said himself. He did not intimate that his counsel had been denied access to him; but, on the contrary, he said that he had had an interview with his counsel, and gave the evasive answer under the instruction and direction of his counsel, whom he named as Mr. Merrick.

The SPEAKER. The Chair will explain the matter for the satisfaction of the gentleman from Ohio. The Sergeant-at-Arms submitted the question to the Speaker whether close confinement would prevent the witness from having access to his counsel, and the Chair answered in the negative—that the right of counsel was a right guaranteed to a prisoner, and no power could take it from him except an order of the House to place him in solitary confinement. He is now in close confinement exactly as if in jail, where he would have the right to confer with counsel, and the Chair directed that he should have a right to confer with him at any time.

Mr. MORGAN. I am happy that the Chair has overruled the committee. [Laughter.]

Mr. BUTLER. No such thing.

Mr. BINGHAM. Certainly not.

The SPEAKER. The Chair did not understand that the committee had ruled anything contrary to his own ruling.

Mr. MORGAN. Mr. Speaker, I desire to ask—

Mr. UPSON. I object to the gentleman from Ohio asking any more questions.

The SPEAKER. The question was referred by the managers themselves and the Sergeant-at-Arms to the Speaker for his decision, and he never heard any objection to his decision until now.

Mr. MORGAN. My further question is this: when the committee of managers—

Mr. UPSON and Mr. HIGBY objected to any further questions.

The SPEAKER. It can only be entertained by unanimous consent.

Mr. BROOKS. I ask consent to make a statement.

A MEMBER. I think the witness should answer and not the committee.

Mr. BROOKS. I move that the witness be allowed to come in here and answer for himself.

Mr. HIGBY. I object.

Mr. SCHENCK. I rise to a question of order. I find that at least four gentlemen of this House, namely, Messrs. PIKE, ROSS, BLAINE, and CHANLER, answered to their names after proceedings here had been commenced, then left the Hall and are now staying away. I ask whether it will be in order to take some public notice of that fact by mentioning it as I do now. [Laughter.]

The SPEAKER. The Chair thinks by unanimous consent it could be mentioned. [Laughter.]

Mr. SCHENCK. I now ask unanimous consent of the House to send for those gentlemen as we sent for others under the call.

The SPEAKER. That can be done by unanimous consent.

Mr. WOOD. I object.

The SPEAKER. The House, by unanimous consent, can order that there be a special call for those members.

Mr. SCHENCK. They cannot be sent for, I understand, except by unanimous consent under this call?

The SPEAKER. Or by dispensing with this call and ordering another.

Mr. SCHENCK. I ask unanimous consent to have them called for.

The SPEAKER. The gentleman from New York [Mr. WOOD] objects.

Mr. JOHNSON. I rise to ask a parliamentary question. Yesterday I was granted indefinite leave of absence. Am I not entitled now to leave the Hall and go home?

The SPEAKER. The Chair thinks the gentleman is so entitled. When the House grants such leave of absence it is for the member to avail himself of it or not.

Mr. JOHNSON. It was my intention to have left last evening or this evening, but as I did not get ready yesterday I have been detained here this evening.

The SPEAKER. When the House grants indefinite leave of absence the member has a right to take advantage of it, and leave or continue in the Hall as he sees fit.

Mr. SCHENCK. Is it in order to ask leave of absence for members?

The SPEAKER. It is in order only to grant leave of absence where a member desires it.

Mr. SCHENCK. I ask unanimous consent that indefinite leave of absence be granted to all the gentlemen on the other side.

The SPEAKER. They have not asked it, and the Chair cannot ask it for them. It is for the members themselves to ask it or to authorize it to be asked for them.

Mr. WOOD. Is the gentleman willing we shall all retire from the Hall?

The SPEAKER. That was the object, as the Chair understood it, but the Chair will not entertain the proposition.

Mr. WOOD. We will absent ourselves if it is desired.

The SPEAKER. The gentleman from New York [Mr. WOOD] states that he will take advantage of the request if it is granted. The Chair, therefore, thinks the request can be made for the gentleman from New York.

Mr. WOOD. The Chair misunderstands me. I do not desire leave of absence for myself. If I go, I go with my friends; not without.

The SPEAKER. If the gentleman feels authorized to ask leave of absence for all of them, the Chair will entertain the proposition.

Mr. WOOD. We will stay here until morning.

Mr. SCHENCK. I want it understood that there is no objection on this side.

After some minutes,

Mr. COVODE said: I wish to ask unanimous consent of the House to make a few remarks at this time for the purpose of edifying and instructing the gentlemen on the other side of the House. [Laughter.]

Mr. WOOD. We have no objection on this side of the House.

Mr. ALLISON. I object.

Mr. COVODE. All I can say is that I am sorry that objection is made.

Some minutes afterward,

Mr. BINGHAM said: I desire again to ask the unanimous consent of the House that a vote be taken on the pending resolution. If that is granted, and that resolution is acted upon, then I propose to offer the other resolution, and have it printed, so that it may come up to-morrow. The House will remember that when I opened this question this afternoon, before this controversy arose, I stated that there was no disposition on the part of the committee to prevent discussion on the general resolution.

The SPEAKER. The proposition of the gentleman from Ohio [Mr. BINGHAM] requires unanimous consent.

Mr. HIGBY. I object.

Mr. BUTLER. Was there any condition attached to the proposition?

The SPEAKER. There was none.

Mr. BUTLER. Then I hope there will be no objection.

Mr. HIGBY. I object.

Mr. ELDRIDGE. And I also object to the proposition, unless it contains also a propo-

sition that there shall be some debate on the resolution.

Some time subsequently,

Mr. BUTLER said: I ask unanimous consent to make a statement.

Mr. VAN AUKEN. I object.

The Sergeant-at-Arms here appeared and reported that, in pursuance of the order of the House, he had arrested, and now had at the bar of the House, Mr. SAMUEL J. RANDALL, of Pennsylvania, and Mr. DAVID A. NUNN, of Tennessee.

Mr. PILE. I move that the members now at the bar of the House be allowed to take their seats, subject to the further order of the House.

Mr. ELDRIDGE. On that question I call for the yeas and nays.

The question was taken on ordering the yeas and nays; and upon a division there were—yeas 21, noes 89.

Before the result of the vote was announced, Mr. VAN AUKEN called for tellers upon ordering the yeas and nays.

The question was taken upon ordering tellers; and there were twenty-two in the affirmative.

So (one fifth of a quorum voting in the affirmative) tellers were ordered; and Mr. TRIMBLE of Kentucky, and Mr. HOOPER of Massachusetts were appointed.

The House again divided; and the tellers reported that there were—yeas 24, noes 93.

So (one fifth voting in the affirmative) the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 112, nays 2, not voting 75; as follows:

YEAS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Baker, Baldwin, Barnes, Beaman, Beatty, Beck, Benton, Bingham, Blair, Brooks, Broomall, Burr, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Eldridge, Ferriss, Ferry, Fields, Getz, Glossbrenner, Golladay, Haight, Halsey, Harding, Higby, Hill, Hopkins, Hotchkiss, Chester D. Hubbard, Hunter, Ingersoll, Jencks, Johnson, Judd, Julian, Kerr, Ketcham, Knott, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, McCarthy, McClurg, McCormick, Mercur, Miller, Moore, Moorhead, Morgan, Morrill, Mullins, Myers, Newcomb, Nicholson, O'Neill, Orth, Paine, Perham, Pile, Plants, Poland, Polesley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shellabarger, Starkweather, Aaron F. Stevens, Stewart, Stokes, Taft, Thomas, John Trimble, Lawrence S. Trimble, Trowbridge, Upson, Van Auker, Robert T. Van Horn, Van Trump, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Wood—112.

NAYS—Messrs. Archer, and Boyer—2.

NOT VOTING—Messrs. Adams, Anderson, James M. Ashley, Axtell, Bailey, Banks, Barnum, Benjamin, Blaine, Boutwell, Bromwell, Buckland, Cake, Chanler, Cook, Cornell, Dawes, Eckley, Eliot, Farnsworth, Finney, Fox, Garfield, Gravely, Griswold, Grover, Hawkins, Holman, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Kelsey, Kitchen, Laffin, Marshall, Marvin, Maynard, McCullough, Morrissey, Mungen, Niblack, Nunn, Peters, Phelps, Pike, Pomeroy, Pruyn, Randall, Robinson, Ross, Shanks, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Stone, Taber, Taylor, Twichell, Van Aernam, Burt Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Woodward—75.

So the motion of Mr. PILE was agreed to, and the members at the bar accordingly resumed their seats.

The Sergeant-at-Arms here reported that, in accordance with the order of the House, he had arrested Mr. DAWES, Mr. WASHBURN of Massachusetts, Mr. MARVIN, Mr. WOODBRIDGE, and Mr. SMITH, and brought them to the bar of the House.

Mr. ALLISON. I move that they be allowed to take their seats, subject to the further orders of the House.

Mr. ELDRIDGE. I demand the yeas and nays.

Mr. LOGAN. I move an amendment that all brought in hereafter shall have liberty to take their seats subject to the orders of the House.

The SPEAKER. That can be done by unanimous consent. What is present can be decided at once, but in regard to future action

unanimous consent or a suspension of the rules is required.

Mr. BEAMAN. I move that all further proceedings under the call be dispensed with.

The SPEAKER. That has priority.

Mr. SCHENCK. I wish to reserve the right as to the four members to whom I have already alluded.

The SPEAKER. The only reservation under parliamentary law is to be found on page 32 of the Digest:

"By an adjournment pending a call all proceedings in the call are terminated; but where the House has previously passed an order specially directing otherwise such special direction should doubtless be executed."

This is the precedent in the Twenty-Seventh Congress, reaffirmed afterward by a decision which does not appear in the Digest. It is within the recollection of the Chair where a quorum was present in the House all further proceedings were dispensed with under the call, with the condition that those still absent should be brought to the bar by the Sergeant-at-Arms at the opening of the House the next day.

Mr. SCHENCK. I want the reservation as to these four.

The SPEAKER. The only way that can be done is to vote down the motion to dispense with all further proceedings under this call.

The House divided; and there were—yeas 45, noes 51.

So Mr. BEAMAN's motion was rejected.

The yeas and nays were ordered on Mr. ALLISON's motion.

The question was taken; and it was decided in the affirmative—yeas 117, nays 3, not voting 69; as follows:

YEAS—Messrs. Allison, Ames, Archer, Arnell, Delos R. Ashley, Baker, Baldwin, Barnes, Beaman, Beatty, Beck, Benton, Bingham, Blair, Boyer, Broomall, Burr, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Eldridge, Ferriss, Ferry, Fields, Getz, Glossbrenner, Golladay, Haight, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hunter, Ingersoll, Jencks, Johnson, Judd, Julian, Kerr, Ketcham, Knott, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, McCarthy, McClurg, McCormick, Mercur, Miller, Moore, Moorhead, Morgan, Morrill, Mullins, Myers, Newcomb, Nicholson, Nunn, O'Neill, Orth, Paine, Perham, Phelps, Pile, Plants, Poland, Polesley, Price, Randall, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shellabarger, Starkweather, Aaron F. Stevens, Stewart, Stokes, Taft, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Trowbridge, Upson, Van Auker, Burt Van Horn, Robert T. Van Horn, Van Trump, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Wood—117.

NAYS—Messrs. Brooks, Haight, and Stone—3.

NOT VOTING—Messrs. Adams, Anderson, James M. Ashley, Axtell, Bailey, Banks, Barnum, Benjamin, Blaine, Boutwell, Bromwell, Buckland, Cake, Chanler, Cook, Cornell, Dawes, Eckley, Eliot, Farnsworth, Finney, Fox, Garfield, Gravely, Griswold, Grover, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Kelsey, Kitchen, Laffin, Marshall, Marvin, Maynard, McCullough, Morrissey, Mungen, Niblack, Peters, Pike, Pomeroy, Pruyn, Robinson, Ross, Shanks, Sitgreaves, Smith, Spalding, Thaddeus Stevens, Taber, Twichell, Van Aernam, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and Woodward—69.

So the motion was agreed to.

Mr. BROOMALL. I submit the following resolution:

*Resolved*, That the Sergeant-at-Arms be directed to bring the absent members to the bar of the House to-morrow at one o'clock p. m., there to abide the order of the House; and that all further proceedings under the call of the House be dispensed with except for the enforcement of this order.

Mr. BUTLER. I think there is now a quorum of the friends of good order in the Hall.

Mr. WOOD. I rise to a point of order.

Mr. BUTLER. I hope everybody will remain.

Mr. MULLINS. I move to insert "then," so it will read "then and there abide."

The amendment was agreed to.

The question was put; and there were—yeas 92, noes 24.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.



The question was taken on agreeing to the resolution of Mr. BROOMALL; and it was decided in the affirmative—yeas 97, nays 27; not voting 71; as follows:

**YEAS**—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Baker, Baldwin, Beaman, Beatty, Benton, Bingham, Blair, Broomall, Butler, Cary, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Ferriss, Ferry, Fields, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Ketcham, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrill, Mullins, Myers, Newcomb, O'Neill, Orth, Paine, Perham, Pile, Plants, Poland, Polesley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, and John T. Wilson—97.

**NAYS**—Messrs. Archer, Barnes, Beck, Boyer, Burr, Eldridge, Getz, Glossbrenner, Golladay, Haight, Hotchkiss, Johnson, Kerr, Knott, Niblack, Peters, Randall, Stone, Lawrence S. Trimble, Van Auken, and Van Trump—21.

**NOT VOTING**—Messrs. Adams, Anderson, James M. Ashley, Axtell, Bailey, Banks, Barnum, Benjamin, Blaine, Boutwell, Bromwell, Brooks, Buckland, Cake, Chanler, Cook, Cornell, Dawes, Eckley, Eliot, Farnsworth, Finney, Fox, Garfield, Gravely, Griswold, Grover, Hawkins, Holman, Asabel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Kelsey, Kitchen, Laffin, Marshall, Maynard, McCormick, McCullough, Morgan, Morrissey, Mungen, Nicholson, Nunn, Phelps, Pike, Pomeroy, Pruyn, Robinson, Ross, Shanks, Sigreaves, Spalding, Thaddeus Stevens, Taber, Twichell, Van Aernam, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, Wood, Woodbridge, and Woodward—71.

So the resolution was adopted.

The SPEAKER. Further proceedings under the call are dispensed with, subject to the conditions of the resolution. The question now recurs on the motion of the gentleman from Illinois, [Mr. BURR,] that the resolution reported by the select committee be laid on the table, on which no quorum voted. The Doorkeeper will open the doors.

Mr. BURR. Further proceedings under the call having been dispensed with, I move that the House do now adjourn.

The SPEAKER. The Chair declines to entertain the motion. Under the rule adopted this afternoon it cannot be entertained until the resolution is disposed of.

Mr. BARNES. I desire to offer a resolution which I send to the Chair.

Mr. MULLINS and others objected.

Mr. WOOD. Is it in order to move to postpone?

The SPEAKER. It is not, under the rule adopted by the House. Two propositions are pending, namely, on agreeing to the resolution, and on laying the resolution on the table. The Clerk will again call the roll.

The question was again taken on laying the resolution on the table; and it was decided in the negative—yeas 28, nays 97, not voting 64; as follows:

**YEAS**—Messrs. Archer, Barnes, Beck, Boyer, Brooks, Burr, Cary, Eldridge, Getz, Glossbrenner, Golladay, Haight, Hotchkiss, Johnson, Kerr, Knott, McCormick, Morgan, Nicholson, Phelps, Randall, Sigreaves, Stewart, Stone, Lawrence S. Trimble, Van Auken, Van Trump, and Wood—28.

**NAYS**—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Baldwin, Beaman, Beatty, Benton, Bingham, Blair, Boutwell, Broomall, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Cullom, Dixon, Dodge, Donnelly, Driggs, Eggleston, Ela, Ferriss, Ferry, Fields, Garfield, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Ketcham, Koontz, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrill, Mullins, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pile, Plants, Poland, Polesley, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Ward, Welker, Thomas Williams, William Williams, John T. Wilson, and Woodward—97.

**NOT VOTING**—Messrs. Adams, Anderson, James M. Ashley, Axtell, Bailey, Baker, Banks, Barnum, Benjamin, Blaine, Bromwell, Buckland, Butler, Cake, Chanler, Cook, Cornell, Eckley, Eliot, Farnsworth, Finney, Fox, Gravely, Griswold, Grover, Hawkins, Holman, Asabel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jones, Kelley, Kelsey, Kitchen, Laffin, Marshall, Maynard, McCul-

lough, Morrissey, Mungen, Myers, Niblack, Peters, Pike, Pomeroy, Pruyn, Robinson, Ross, Shanks, Spalding, Thaddeus Stevens, Taber, Twichell, Van Aernam, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, and Woodward—61.

So the House refused to lay the resolution on the table.

The SPEAKER. The question recurs under the operation of the previous question. Will the House agree to the resolution?

Mr. BURR. I renew the motion to adjourn.

The SPEAKER. The Chair declines to entertain that motion on the grounds already stated.

Mr. MULLINS. Is not this a contempt of the House?

The SPEAKER. The Chair declines to entertain it on the further ground that the House has decided on an appeal that that decision was correct. The yeas and nays have been ordered on the resolution if they are insisted on.

Mr. ELDRIDGE. We feel that we are subdued. We cannot resist any longer. We have resisted to the utmost of our ability.

The SPEAKER. Then, if there be no objection, the call of the yeas and nays will be dispensed with. The Chair hears no objection.

The resolution was then adopted.

Mr. BINGHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RECUSANT WITNESS.

Mr. BINGHAM. I wish now to report the second resolution to the House, and I desire to say, in the hearing of the House, that I wish to report the resolution *pro forma*, have it passed *pro forma*, and printed in the Globe, and a motion to reconsider entered, with the further statement that on to-morrow, after the reading of the Journal, I shall claim my hour under the rules to discuss the resolution on the motion to reconsider—and I hope the House will not deny it to me—with the intention of allowing such gentlemen as desire to engage in the discussion on both sides of the House to occupy a portion of my time, so that the case may be heard.

The SPEAKER. The Chair will state to the gentleman from Ohio that under the rules, if the motion to reconsider is pending when the House adjourns, he will be entitled to one hour, whether the House consents or not. It is his right.

Mr. BINGHAM. There is no condition obligatory upon me in regard to this matter further than this, that I stated when the discussion arose—and, I believe, with the general consent of the committee—that it was our purpose to allow some discussion on the second resolution, because it is in accordance with the universal practice and usage in this country, inasmuch as it protects the liberties of the citizens of the Republic. And it ought to be apparent to gentlemen that there is this advantage in having the resolution thus presented now and passed upon and the motion to reconsider entered, that it will appear in the Globe to-morrow morning, so that gentlemen can come to the discussion of the question with some fair understanding of the recitals of the preamble touching the testimony taken, not only of the witness in question, but of others whom he himself named and referred to, as well as others with whom he was in association in regard to this whole question.

Mr. ELDRIDGE. I want to raise the same question of order with reference to this resolution that I raised with reference to the other, that the committee have no right to report the resolution.

The SPEAKER. The Chair has decided, and the House have sustained that decision on an appeal and by the yeas and nays, that the House having given the committee all the rights and privileges which were granted to the man-

agers they have a right to report resolutions. The Chair makes the same decision now.

Mr. ELDRIDGE. I supposed that would be the decision.

Mr. BURR. I wish to ask the gentleman from Ohio whether the course proposed by him limits all discussion on the resolution to one hour?

Mr. BINGHAM. It does, unless the House shall allow the time to be extended, and for my own part I think the House would be satisfied if the final vote should be taken, without any delay, on the resolution at two o'clock to-morrow.

Mr. BUTLER. No; that would break up the whole day.

The SPEAKER. The Chair will say to the gentleman from Ohio that under the order made by the House at one o'clock to-morrow the members who were absent on the call of the House, and who have not been excused, are to be brought to the bar of the House.

Mr. BINGHAM. I shall not insist on it; I only made the suggestion. An hour is allowed me under the rules, and that is all I can say about it.

The SPEAKER. The Chair understands the gentleman to propose that the resolution shall be considered as agreed to and a motion to reconsider pending, whereupon he will move that the House adjourn.

Mr. BINGHAM. Yes, sir.

The SPEAKER. Is there objection?

Mr. WOOD. Let the preamble and resolution be read.

Mr. BINGHAM. There is no necessity for that at this late hour. It will appear in the Globe to-morrow.

Mr. WOOD. I will withdraw my call for the reading of the resolution.

Mr. INGERSOLL. I desire to hear it read.

The Clerk read the preamble and resolution, as follows:

Whereas Charles W. Woolley has been brought before the committee and the following questions proposed to him by the committee, to wit:

"Question. The committee desire to know whether on the 6th of May you telegraphed over the signature of 'Hooker' to Sheridan Shook, 'My business is adjusted. Place ten to my credit with Gillis, Harney & Co., No. 24 Broad street?'"

"Question. Did you also telegraph to Sheridan Shook, over the signature of 'Hooker,' on the 12th of May, 'The five should be had. It may be absolutely necessary?'"

Which questions Woolley declined to answer, in the words following, to wit:

"This is a private and confidential communication, passing between counsel and client. It has reference to business in that relation and to nothing else, and has no reference whatever to the trial of the President on the articles of impeachment preferred against him, nor to the conduct or result of the trial, nor the vote of any persons on the trial, nor any allusion thereto whatever. That is my answer."

And whereas Sheridan Shook, the party to whom said supposed confidential and privileged communications are alleged to have been sent, has been examined by your committee and testified as follows in regard to the money mentioned in said telegram:

"By Mr. BUTLER:

"Question. Do you know Charles W. Woolley?"

"Answer. I do.

"Question. How long have you known him?"

"Answer. I do not think I have known him over a year."

"Question. Have you had business relations with him?"

"Answer. Very little, if any. I do not know that I ever had any transaction with him."

"Question. Did he deposit in your hands last Sunday night any sum of money?"

"Answer. No, sir.

"Question. Or during the day Sunday?"

"Answer. No, sir.

"Question. Has he ever deposited any sum of money in your hands?"

"Answer. I may have borrowed fifty or a hundred dollars of him at a time; but he has placed no sum of money in my hands."

"Question. Have you seen him lately?"

"Answer. I have not seen him since the Sunday of which you speak."

And whereas upon the same subject the said Woolley has testified before your committee as follows: [From the testimony of C. W. Woolley, May 19, 1868.]

"By Mr. BUTLER:

"Question. Have you deposited any money, and where, since that time, i. e., May 8?"

"Answer. Not in any bank."

"Question. Have you with any individual?"

"Answer. No, sir.

"Question. Then why do you say 'not in any bank'?"

"Answer. Because it is not to my credit in any bank."

"By Mr. WILSON:

"Question. What do you mean by that answer?

"Answer. I mean to say that I have not put it in a bank. I gave it to an individual who was owing me in New York and told him to keep that money until I arrived there.

"By Mr. BUTLER:

"Question. Who was that individual?

"Answer. Sheridan Shook.

"Question. How much money did you give Sheridan Shook?

"Answer. I think between sixteen and seventeen thousand dollars, as near as I can get it.

"Question. In what?

"Answer. Greenbacks, I think.

"Question. What denomination of greenbacks?

"Answer. Big bills; I cannot tell you. There may have been some \$500 bills. I think in one package I gave him some small bills.

"Question. When did you give this to Sheridan Shook?

"Answer. Sunday.

"Question. At what time?

"Answer. In the afternoon; I cannot tell the hour.

"Question. Before or after you were summoned here?

"Answer. Before, I think.

"Question. For what purpose did you give it to Sheridan Shook?

"Answer. For safe keeping for me as an individual. Let me correct myself there. I gave that money to Shook to take over to New York to keep for me till a day or two, when I intended to go to New York. Then Dunleavy came and asked me to go West and I thought I had better go. I made up my mind to go there instead of going to New York, and I let him carry it along.

"Question. Well, you gave it to him finally?

"Answer. He kept it from the time I gave it to him.

"Question. Has he got it now?

"Answer. I guess so, unless he spent it.

"Question. Did you take any memorandum for it?

"Answer. No, sir; I did not want it.

"Question. Supposing he should have been killed?

"Answer. I would have taken my chance.

"Question. Did you go on with Sheridan Shook in the same train?

"Answer. Yes, sir.

"Question. What sort of a package was the money in?

"Answer. No package at all.

"Question. Did you count it?

"Answer. I do not recollect exactly. I kept what I thought I would want myself, and gave him the parcel. If I were to state closely it was about sixteen thousand one hundred dollars. It was not seventeen thousand dollars, I am satisfied.

"Question. Where did you get that money that you sent by Sheridan Shook?

"Answer. That is a part of the money that came out of the bank."

And whereas your committee believe the reasons given by the witness in declining to answer are wholly untrue and evasive, and the refusal to answer is a deliberate contempt of the authority of the House, and done for the purpose of concealing the fact and embarrassing public justice: Therefore,

Resolved, That said Woolley, for his repeated contempt of the authority of the House, be kept until otherwise ordered by the House in close confinement in the guard-room of the Capitol police, by the Sergeant-at-Arms, until said Woolley shall fully answer the questions above recited, and all questions put to him by said committee in relation to the subject of the investigations with which the committee is charged, and that meanwhile no persons shall communicate with said Woolley, in writing or verbally, except upon the order of the Speaker.

The SPEAKER. The proposition of the gentleman from Ohio [Mr. BINGHAM] is, that this preamble and resolution shall be regarded as agreed to, the motion to reconsider entered, and the House shall then adjourn. Is there any objection?

Mr. ELDRIDGE. I suppose that is with the understanding that the question upon the motion to lay the motion to reconsider on the table shall be taken by yeas and nays.

Mr. BINGHAM. Of course, for that will be the test question.

The SPEAKER. No objection being made, the proposition will be regarded as agreed to by unanimous consent.

The House accordingly (at five minutes past ten o'clock p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BROOMALL: Thirteen petitions numerously signed by citizens of Pennsylvania residing in the seventh congressional district, iron-workers and operators in cotton and woolen mills, setting forth the depression of their industry by reason of foreign competition, and praying for additional protective duties.

Also, the petition of citizens of Pennsylvania, manufacturers and dealers in cigars and tobacco, remonstrating against an increase of taxation, and recommending a change in the stamps.

By Mr. CULLOM: A petition, signed by a large number of citizens of Springfield, Illinois, praying that the tax on cigars be retained as heretofore; also, praying that the tax be collected by the use of revenue instead of inspectors' stamps.

By Mr. DRIGGS: The petition of R. W. Updegraph and 127 others, residents of Keweenaw county, Michigan, praying Congress for protection on American copper.

Also, from same and 117 others, for same object.

Also, from Alexander English, of East Saginaw, Michigan, and 125 others, for the removal of special tax on refined petroleum.

Also, from William P. Raley and 56 others, for an appropriation to improve Saint Mary's river and canal in Michigan.

Also, from same and 66 others, for same object.

By Mr. ELA: The petition of Ichabod Goodwin and 19 others, of Portsmouth, New Hampshire, interested in shipping, for an appropriation for the construction of a breakwater in the vicinity of Cape Elizabeth, Maine.

By Mr. HOOPER, of Massachusetts: The memorial of J. M. Forbes and others, citizens of Boston, Massachusetts, in favor of the improvement of the St. Mary's canal and river in Michigan.

By Mr. KETCHAM: The remonstrance of L. Higley and 67 others, manufacturers of and dealers in cigars, of Hudson, New York, against proposed increase of tax on cigars.

By Mr. MARVIN: The remonstrance of cigar manufacturers, journeymen cigar-makers, dealers in cigars, growers of and dealers in seed leaf tobacco, of Schenectady, New York, against any change in the present rates of taxation on those articles.

By Mr. MILLER: The petition of 54 workmen and citizens of Ickesburg, Perry county, Pennsylvania, praying that Congress will resume the consideration of the tariff bill which failed in the House March, 1867, and enact it into a law at the earliest practical moment.

Also, the petition of 41 iron-workers in Mid-dletown, Dauphin county, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 81 iron-workers at Cholaskey, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 234 workers in cotton mills at Harrisburg, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed, and praying for additional protective duties.

Also, the petition of A. G. Cummings and other workers in the Pennsylvania steel-works at Harrisburg, Pennsylvania, complaining of the depression of industry, and praying for additional protective duties.

Also, a memorial of cigar manufacturers, journeymen cigar-makers, dealers in cigars, growers and dealers in seed-leaf tobacco, of the county of Dauphin, Pennsylvania, protesting against the increase of revenue tax on said articles, and asking Congress to try the system of collecting the revenue on cigars by making the stamp a revenue stamp instead of an inspector's stamp, sold only to licensed manufacturers, with suitable checks to prevent frauds and counterfeits.

By Mr. MOORE: The petition of 15 manufacturers and makers of cigars of Camden, New Jersey, praying that no change be made in the present tax on the manufacture of cigars.

By Mr. MOORHEAD: A memorial of underwriters of Pittsburg, Pennsylvania, pray-

ing for the passage of a law making all vessels and water-craft registered under the law of the United States subject to a lien in admiralty for all premiums for insurance thereon.

Also, from soldiers of Birmingham, Pennsylvania, asking that all soldiers, sailors, and marines who served during the war be placed on an equality in regard to bounties.

By Mr. MYERS: The petition of Mary McDevitt, mother of James C. McDevitt, late of company I, twenty-eighth Pennsylvania volunteers, for pension.

Also, the petition of William C. Mayer, guardian of minor child of Christian Simon, late of twenty-sixth Pennsylvania volunteers, for pension.

Also, the petition of Anna Burneice, widow of William Burneice, late gunner United States Navy, for pension.

Also, the petition of Eva Harbauer, widow of Louis Harbauer, late private company C, first regiment District of Columbia cavalry, for pension.

Also, the petition of Emeline Posey, widow of Edward Posey, late corporal company O, twenty-third regiment Pennsylvania volunteers, for pension.

By Mr. STEWART: A memorial of Captain Daniel S. Hart, late assistant commissary of subsistence, praying for relief.

By Mr. STOKES: The petition of Hon. L. D. Evans, of Texas, asking relief for moneys lost.

By Mr. WASHBURNE, of Illinois: The petition of cigar manufacturers and dealers, in Illinois, asking that the tax on cigars be collected by means of revenue stamps.

By Mr. WILLIAMS, of Indiana: The remonstrance of W. J. Campbell and others, tobacco and cigar manufacturers of Huntington, Indiana, against the increase of taxation on the same.

#### IN SENATE.

FRIDAY, May 29, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. WILSON presented the petition of John H. Finlay, late of company G, second Illinois cavalry, for a pension; which was referred to the Committee on Pensions.

He also presented a memorial of citizens of Milledgeville, Georgia, and vicinity, protesting against the removal of the State capital from that city to Atlanta, and praying that the clause in the new constitution of Georgia, now before Congress, authorizing such removal, be stricken out; which was referred to the Committee on the Judiciary.

He also presented the petition of Charles L. Bradwell, a free man of color, resident at Savannah, for compensation for four bales of cotton taken by the Government under orders issued by General Sherman in 1865; which was referred to the Committee on Claims.

Mr. WILSON. I present the petition of A. G. Mackey, president of the constitutional convention of South Carolina, requesting action to have the Legislature of that State convened. By the provisions of the constitution of that State the Legislature was to meet on the 12th day of May, but the commanding general of the department issued an order to prevent the assembling of the Legislature until after Congress should have approved the constitution. I move the reference of this petition to the Committee on the Judiciary.

The motion was agreed to.

Mr. STEWART presented the petition of Margaret Doyle, praying compensation for damages sustained by reason of the United States failing to comply with a certain contract entered into November 28, 1863, for the delivery of saw logs; which was referred to the Committee on Claims.

Mr. HOWARD. I present the petition of

J. A. Hammer and numerous other citizens of Lynchburg, Virginia, respectfully representing that William L. Saunders is now and has been for many years acting justice of the peace in that city; that his experience and efficiency in that capacity render his services of great value to the community, and stating that he is under certain legal disabilities, and asking that those disabilities may be removed by act of Congress, in order that he may be elected to that office and exercise its functions. I move that the petition be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. HOWARD presented the petition of members of the Michigan bar, praying that the existing United States court of the eastern district of Michigan may be abolished and the judge thereof retired upon his salary; which was referred to the Committee on the Judiciary.

Mr. FERRY presented a memorial of cigar manufacturers and cigar-makers, dealers in cigars, growers of and dealers in seed leaf tobacco, for a change in the rate of taxing cigars; which was referred to the Committee on Finance.

Mr. WILLEY presented additional papers in relation to the claim of Margaret A. Laurie; which, with the papers heretofore presented in the same case, were referred to the Committee on Claims.

Mr. COLE presented a petition of citizens of California, praying that Congress will pass an act making eight hours a legal day's work in all works under the control of Government; which was referred to the Committee on Finance.

Mr. SUMNER. I offer the petition of citizens of Boston, Massachusetts, setting forth the importance of improvements of the great lakes, and particularly at St. Mary's falls, and asking for assistance in the enlargement of the St. Mary's canal. I move the reference of this petition to the Committee on Commerce; and I hope my friend the chairman of that committee will give the subject attention.

The motion was agreed to.

#### REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Private Land Claims, to whom was referred a resolution directing them to inquire into the propriety and necessity of taking such steps as shall be found necessary to restore to the body of the public domain the tract of land in California known as the Gabillan grant, asked to be discharged from its further consideration; which was agreed to; and he submitted a report thereon, which was ordered to be printed.

Mr. SHERMAN. I am directed by the Committee on Finance to report certain amendments to the bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, and also to report several letters from the Comptroller of the Currency on the subject. I ask that the amendments be printed, together with the letters, and I give notice that I shall call the bill up at an early day.

The PRESIDENT *pro tempore*. The order to print will be entered, no objection being made.

#### NORTHERN PACIFIC RAILROAD.

Mr. HOWARD. The Committee on the Pacific Railroad, to whom was referred the joint resolution (S. R. No. 137) extending the time for the completion of the Northern Pacific railroad, have had the same under consideration, and directed me to report it back and recommend its passage. I venture to ask the Senate to take it up at the present time. I do not think it will lead to any discussion or to any consumption of time. It requires no appropriation.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It provides to amend section eight of an act entitled "An act granting lands to aid in

the construction of a railroad and telegraph line from Lake Superior to Puget sound on the Pacific coast," as to read as follows:

That each and every grant, right, and privilege herein are made and given to and accepted by said Northern Pacific Railroad Company, upon and subject to the following conditions, namely: that the said company shall commence the work on said road within five years from and after the second day of July, A. D. 1868, and shall complete not less than fifty miles per year after the second year thereafter, and shall construct, equip, furnish, and complete the whole road by the 4th day of July, A. D. 1883.

Mr. SHERMAN. I do not wish to defeat the passage of this measure; but I think it goes far beyond what was asked for by the persons interested in this road. I was not present in the committee when this matter was decided on, but I think it goes beyond what was asked. If the Senators from Minnesota and Oregon, representing the portion of country through which this road is to go, are willing to defer all improvements in that section of country for five years, and to tie up forty million acres of their public lands until 1883, it is a serious question. I did not understand that the persons who were interested in this road claimed so long an extension. I am willing to vote for a reasonable extension; but this proposes to allow them five years within which to build the first section of the road, and then only requires them to construct fifty miles each year, and they are not bound to complete the whole road for fifteen years, and in the meantime they hold their grant of forty million acres of public lands, and they are pressing every day upon us the question of subsidy and bounty.

Mr. RAMSEY. I will simply say to the Senator from Ohio that this company is in the process of surveying the country; and it has already gone to considerable expense, having probably spent during the last season more than one hundred thousand dollars in surveys extending westwardly from the head of Lake Superior, and eastwardly across the chain of mountains in Washington Territory. The time required for the commencement of the work has almost expired, and they want some extension of time. Whether they want precisely five years, I am not able to say. I am willing to compromise with the Senator from Ohio, so far as I can, with the consent of the chairman of the committee who reports this resolution, by saying four years instead of five. Besides, the lands on the line of this road are not so immediately wanted for agriculture as those in many other parts of the country.

Mr. SHERMAN. This road commences on Lake Superior, a region of country that is rapidly growing now, and passes through the State of Minnesota. The company is not even bound to get into the State of Minnesota under five years. Under this provision, they would not reach St. Paul, which is one hundred and thirty or one hundred and forty miles west of the eastern terminus of the road, for about eight years. Surely this land ought not to be tied up so long as that. I shall not oppose a reasonable extension of time, but I hope this measure will lie on the table until other members of the committee have an opportunity to look into it. I was not able, and several other Senators were not able to attend the meeting of the railroad committee to-day on account of the sitting of other committees, and I think, therefore, it had better lie on the table at present.

Mr. RAMSEY. I have no objection to that course, if it is desired.

The joint resolution was ordered to lie on the table.

#### BILL INTRODUCED.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 138) to appoint a board of examiners for claimants against the United States in the State of Nevada; which was read twice by its title, and referred to the Committee on Claims.

#### COMMERCE ON THE LAKES.

Mr. CHANDLER. I move that the Senate

now proceed to the consideration of Senate bill No. 266.

Mr. HENDRICKS. I think we ought to take up the resolution which I offered some days since, proposing to accept of the resignation of the Secretary of the Senate.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan. The Chair hears no objection, and the motion is agreed to.

Mr. EDMUNDS. I ask my friend from Michigan to let this bill be laid aside informally for a moment, that I may move to take up the resolution I offered yesterday of thanks to Mr. Stanton.

Mr. CHANDLER. Certainly, if the bill can be laid aside informally, so that it will come up afterward.

Mr. HENDRICKS. If the resolution that I have named is not before the Senate now, I ask that it be taken up.

The PRESIDENT *pro tempore*. The Senator from Indiana is next in order. It would be much more convenient if Senators would permit the morning business to be gone through with before interposing motions to take up bills and resolutions.

Mr. HENDRICKS. I was going to do that; but I noticed that bills in regard to railroads and so on were being called up, and I saw no prospect of reaching the resolution unless I submitted the motion now.

The PRESIDENT *pro tempore*. The Senator from Indiana asks the unanimous consent of the Senate to take up the resolution indicated by him.

Mr. CHANDLER. Is not Senate bill No. 266 now before the Senate?

The PRESIDENT *pro tempore*. That bill is before the Senate, having been taken up by unanimous consent.

Mr. HENDRICKS. I should like to hear what bill that is. I do not believe it was heard on this side of the Chamber.

Mr. JOHNSON. I ask that it be read by its title.

The CHIEF CLERK. "A bill (S. No. 266) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes."

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole.

Mr. HENDRICKS. If the bill is up it is idle to object to it, perhaps, and I do not know that I would object. I am not much given to objecting; but I had not heard the bill called up at the time I moved to take up the resolution I offered a week ago. I do not object to the proposition of the Senator from Michigan; but if mine has priority of right before the Senate, then I should like to call it up. Mine is a resolution in relation to the organization of the Senate itself, and I submit to the Chair that it is business of a prior right.

The PRESIDENT *pro tempore*. Neither of them was in order until the regular morning business was disposed of; but the motion of the Senator from Michigan was made, and no objection was made to it. That brought the bill before the Senate.

Mr. HENDRICKS. Then I understand from the Chair that all business occupies the same relation toward the body. If so, then the Senator from Michigan has the start.

The PRESIDENT *pro tempore*. The Senator from Michigan is prior in time; that is all.

Mr. EDMUNDS. Now, I ask my friend from Michigan to let this bill be laid aside informally, that I may take up the resolution I have named.

Mr. CHANDLER. I have no objection, if this bill will not lose its place.

Mr. HENDRICKS. That is a sort of bargaining I should not like to be a party to. I was trying to get up a resolution that I introduced a week ago, and I do not like that sort of bargaining. If the Senator from Michigan wants the floor he can claim it as his right, but not to make a bargain.



Mr. CHANDLER. Then, Mr. President, as this bill will not occupy much time, I ask that it be passed. It has been read at length, and will occupy but very little time, and I ask my friend from Vermont to allow it to pass first.

Mr. EDMUNDS. Very well.

The PRESIDENT *pro tempore*. The bill is before the Senate as in Committee of the Whole, and the question is on the amendment, in the nature of a substitute, reported by the Committee on Commerce.

Mr. FESSENDEN. I should like to have the bill read, so as to know exactly the bill which is before the Senate.

The PRESIDENT *pro tempore*. The bill will be read.

Mr. CHANDLER. I ask that the amendment, in the form of a substitute, be read.

The PRESIDENT *pro tempore*. The Senator from Maine calls for the reading of the whole bill.

Mr. CHANDLER. Very well.

The CHIEF CLERK. The Committee on Commerce reported the bill with an amendment, to strike out all after the enacting clause and to insert in lieu thereof the following:

That the master of every vessel enrolled or licensed to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States shall, before the departure of his vessel from a port in one collection district to a port in another collection district, present to the collector at the port of departure duplicate manifests of his cargo, or, if he have no cargo, duplicate manifests setting forth that fact, which manifests shall be subscribed and sworn or affirmed to by the master before the collector, who shall indorse thereon his certificate of clearance, retaining one for the files of his office, the other he shall deliver for the use of the master. And in case such vessel should touch at any intermediate port in the United States, and there discharge cargo taken on board at an American port, or at such intermediate ports shall take on board cargo destined for an American port, the master of such vessel shall not be required to report such lading or unloading at such intermediate ports, but shall enter the same on his manifest obtained at the original port of departure, which he shall deliver to the collector of the port at which the unloading of the cargo is completed, within twenty-four hours after arrival, and shall subscribe and make oath (or affirm) as to the truth and correctness of the same. And the master of such vessel shall, before departing from a port in one collection district to a place in another collection district where there is no custom-house, file his manifest and obtain a clearance in manner aforesaid and make oath or affirmation to the manifest aforesaid, which manifest and clearance shall be delivered to the proper officer of customs at the port at which said vessel next arrives after leaving the place of destination specified in said clearance: *Provided*, That the master of any vessel with cargo, passengers, or baggage from any foreign port or place, shall obtain a permit and comply with existing laws before discharging or landing the same: *And provided further*, That nothing in this section contained shall exempt masters of vessels from reporting, as now required by law, any goods, wares, or merchandise destined for any foreign port: *And be it further provided*, That no permit shall be required for the unloading of cargo brought from an American port.

Sec. 2. *And be it further enacted*, That the master of any vessel enrolled or licensed as aforesaid, destined with cargo from a place in the United States at which there may be no custom-house, to a port where there may be a custom-house, shall, within twenty-four hours after arrival at the port of destination, deliver to the proper officer of the customs a manifest, subscribed by him, setting forth the cargo laden at the place of departure, or laden or unladen at any intermediate port or place, to the truth of which manifest he shall make oath or affirm before such officer: *Provided*, That if said vessel have no cargo the master shall not be required to deliver such manifest.

Sec. 3. *And be it further enacted*, That steam-tugs duly enrolled and licensed to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, when exclusively employed in towing vessels, shall not be required to report and clear at the custom-house: *Provided*, That when said steam-tugs shall be employed in towing rafts or other vessels without sail or steam motive power, not required to be enrolled or licensed under existing laws, they shall be required to report and clear in the same manner as is hereinbefore provided in similar cases for other vessels.

Sec. 4. *And be it further enacted*, That the manifests, certificates of clearance, oaths or affirmations provided for by this act, shall be in such form, and prepared, filled up, and executed in such manner as the Secretary of the Treasury may from time to time prescribe.

Sec. 5. *And be it further enacted*, That if the master of any enrolled or licensed vessel as aforesaid shall neglect or fail to comply with any of the provisions or requirements of the foregoing sections of this act, such master shall forfeit and pay to the United States the sum of twenty dollars for each and every failure or neglect, and for which sum the vessel shall be liable, and may be summarily proceeded

against by way of libel in any district court of the United States.

Sec. 6. *And be it further enacted*, That in case the master or owner of any vessel shall willfully and falsely swear or affirm to any of the matters or facts herein required to be sworn or affirmed to, said master or owner shall be deemed to be guilty of perjury, and shall be liable to all the fines and penalties imposed by existing laws punishing such offenses.

Sec. 7. *And be it further enacted*, That from and after the passage of this act the following fees shall be levied and collected from the owners and masters of vessels enrolled or licensed on the northern, northeastern, and northwestern frontiers of the United States, and none others shall be received than those herein specially enumerated: for the admeasurement of any vessel the fees prescribed by section — of an act entitled "An act —," approved May 6, 1864; for certificate of enrollment, including bond and oath, \$1 10; for granting license, including bond and oath, if not over twenty tons, forty-five cents; for granting license, including bond and oath, above twenty and not over one hundred tons, seventy cents; for granting license, including bond and oath, above one hundred tons, \$1 20; for certifying manifest, including master's oath, and granting permit for vessel, to go from district to district, under fifty tons, twenty-five cents; for certifying manifest, including master's oath, and granting permit for vessels to go from district to district, over fifty tons, fifty cents; for receiving manifest, including master's oath, on arrival of a vessel from one collection district to another, whether touching at foreign intermediate ports or not, under fifty tons, twenty-five cents; for receiving manifest, including master's oath, on arrival of a vessel from one collection district to another, whether touching at foreign intermediate ports or not, over fifty tons, fifty cents; for certifying a manifest, including master's oath, and granting permit to a vessel under fifty tons, laden with a cargo destined for a port or place in another district at which there is no custom-house, twenty-five cents; for certifying a manifest, including master's oath, and granting permit to a vessel above fifty tons, laden with a cargo destined for a port or place in another district at which there is no custom-house, fifty cents; for the entry of a vessel of fifty tons or under direct from a foreign port, \$1 50; for the entry of a vessel above fifty tons direct from a foreign port, \$2 50; for the clearance of a vessel of fifty tons or under, direct to a foreign port, \$1 50; for the clearance of a vessel above fifty tons direct to a foreign port, \$2 50; *Provided*, That vessels departing to or arriving from a port in one district to or from a port in an adjoining district and touching at intermediate foreign ports are exempted from the payment of the entry fees. For a post entry of such vessel, two dollars; for permit to land or deliver goods, twenty cents; for a bond taken officially, not otherwise provided for, forty cents; for permit to load goods for exportation entitled to drawback, thirty cents; for debenture or other official certificate not otherwise provided for, twenty cents; for recording all bills of sale, mortgages, hypothecations, or conveyances of vessels, fifty cents; for recording all certificates for discharging and canceling any such conveyances, fifty cents; for furnishing a certificate setting forth the names of the owners of any registered or enrolled vessel, the parts or proportions owned by each, and also the material facts of any existing bill of sale, mortgage, hypothecation, or other incumbrance, the date, amount of such incumbrance and from and to whom made, one dollar; for furnishing copies of such records for each bill of sale, mortgage, or other conveyance, fifty cents; for receiving manifest of each railroad car or other vehicle laden with goods, wares, or merchandise, from a foreign contiguous territory, twenty-five cents; for entry of goods, wares, or merchandise for consumption—warehouse, re-warehouse, transportation, or exportation, including oath and permit to land or deliver, fifty cents; for certificate of registry, including bond and oath, \$2 25; for indorsement of change of masters on registry, one dollar.

Sec. 8. *And be it further enacted*, That section one of an act entitled "An act to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontiers, and for other purposes," approved July 14, 1862; and section six of an act entitled "An act to prevent smuggling, and for other purposes," approved June 27, 1864; and so much of an act entitled "An act to regulate the fees of custom-house officers on the northern, northeastern, and northwestern frontiers of the United States," approved March 3, 1865, and all other acts or parts of acts conflicting with or supplied by this act be, and the same are hereby, repealed.

Sec. 9. *And be it further enacted*, That the Secretary of the Treasury shall have authority to ascertain the facts upon all applications for remission of fines or penalties incurred under the provisions of this act, where the amount in question does not exceed \$1,000, in such manner and under such regulations as he may deem proper, and he may thereupon remit or mitigate such fines or penalties, if in his opinion the same shall have been incurred without willful negligence or intention of fraud in the person or persons incurring the same, and all fines and penalties imposed or recovered by this act shall, after deducting proper costs and charges, be disposed of as provided by section ninety-one, act of March 2, 1799.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

Mr. JOHNSON. I know practically very little of the laws as they are in relation to the coasting trade. I ask the honorable member from Michigan whether any serious inconvenience has resulted from the laws as they now stand, and whether it is not probable that the

regulations proposed by this bill may increase the opportunity for smuggling on the frontier?

Mr. CHANDLER. I will answer the Senator that very great inconvenience is suffered by the shipping interests of the Northwest under the present law. I made this statement a few days ago, and, therefore, it is a mere repetition. The Senator from Maryland was not present. At present, a vessel taking on cargo at Buffalo for Chicago, for example, is in the habit of taking cargo for all, or many, of the intermediate ports between Buffalo and Chicago. The present law requires a vessel to take out a manifest at every port which she touches. If a vessel, for example, bound for Chicago arrives at Cleveland in the night—and these are all steam vessels—she must wait during the night for the custom-house to open to get out a manifest to proceed on her voyage. The first section of this bill changes that; and allows the shipper to state in the manifest the points at which a vessel is to deliver her cargo, and requires her simply to take out one manifest, for example from Buffalo to Chicago; and she may land at Cleveland, at Detroit, at Milwaukee, or at any of the intermediate ports, deliver the cargo which appears on her manifest, without delay or detention, and proceed on her voyage, reporting at Chicago what she has done.

Mr. JOHNSON. Is that delivery marked on the manifest?

Mr. CHANDLER. Yes, sir; the deliveries are marked on the manifest. The expense of steam vessels is, perhaps, two hundred dollars a day, and sometimes they are detained for ten or twelve hours for nothing except to take out a useless manifest. That is section one. It will be a great saving of time and a great saving of expense.

I hold in my hand a paper signed by nearly the entire shipping interest, in these words:

"We, the undersigned vessel-owners, have examined the bill to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes, and highly indorse the provisions therein, and earnestly ask that immediate action be taken thereon by Congress."

The entire shipping interests of the lakes are to be benefited, the Government not injured, and a very earnest desire is manifested on the part of the shipping interest that the bill shall pass at once.

Mr. FESSENDEN. Mr. President, I might this morning have applied a rule which the honorable Senator from Michigan has applied to me on two several occasions, when he has interposed a single objection to the taking up of a bill which was of considerable importance in one case to my own constituents, and in another case to the country generally; but I did not see fit to do so, inasmuch as I do not feel inclined, for the gratification of any feeling I may have, to interpose a single objection to prevent particular business being done.

As the bill is up, however, I will state that in my judgment it ought to be recommitted to the Committee on Commerce. I inquired of the honorable Senator from Michigan on a former occasion if the bill had been submitted to the Treasury Department for its opinion. He replied that it had. He did not, however, see fit to state the fact—he said afterward that he was not obliged to do so—that the Treasury Department entirely disapproved of it, and thought it was a bill that ought not to pass. The honorable Senator also stated when he was up before that this bill had been thoroughly considered and unanimously agreed to by the Committee on Commerce. I have inquired of the members of the Committee on Commerce, and three of them tell me that they never heard of it before, and the other three say they did not know anything about it, except that the Senator himself said it was all right and they allowed him to report it. If that is what the Committee on Commerce regard as a thorough consideration of a bill, it is different from any practice of any committee to which I belong or have belonged heretofore. It seems, then, that the bill has been reported without the

knowledge of the committee except the chairman. I do not mean that it has been reported without their knowledge of the fact, but without a full knowledge on their part of the provisions of the bill. I think, therefore, that it ought to be recommitted to that committee, because it involves very important changes in the revenue laws on the western and northwestern lakes.

I think it very likely, as the Senator from Michigan has stated this morning, that there are some inconveniences in the present regulations as applied to the commerce of the lakes, and I have no doubt that this bill will be approved by the ship-owners or those engaged in navigation on the lakes, because it would relieve them from difficulty and inconvenience. The same may be said of the Treasury regulations or the commercial regulations on the coast. They are all inconvenient. They subject the owners of vessels and freighters to inconvenience, but they are found necessary in order to secure the collection of the revenue, prevent frauds upon the revenue, and for all those purposes which are subserved in those cases where individuals must submit to inconvenience in order to the advancement of the public good. I suppose in the case the Senator mentions, where vessels start on one of the lakes taking in cargoes for different points, it may be inconvenient to await the necessary entries at the custom-house and to change their manifests. Perhaps some provision ought to be made in reference to that, if any can be made consistently with the revenue. But, nevertheless, if that can be done, the same necessity does not involve a very large and serious reduction of the fees which are exacted by law for the operations of navigation upon the lakes as elsewhere, for they are the same all over the country.

This bill goes on to make a very large and serious reduction. It in fact changes the law so that all the regulations with regard to fees which are applicable to other sections of the country are reduced on the lakes to about one half what they are elsewhere. The answer which the honorable Senator made the other day was that it only has a tendency to reduce the profits of the custom-house officers; but we are all aware that the salaries of the custom-house officers are paid out of the fees, and if you reduce the fees so that they do not reach the amount the officers are allowed by law to take, I suppose it must be made up out of the Treasury.

There are other objections to the bill, but my great objection to it is that it has not been considered by the committee. I do not believe that it is proper or safe to legislate upon a matter of so much importance, on a bill brought in here simply by permission of the committee, when the committee itself has not examined it. Therefore, sir, I move that it be recommitted to the Committee on Commerce, in order that the committee may have a chance to examine it, and consider the objections, which are numerous, that are made at the Treasury Department against the bill itself.

Mr. CHANDLER. Mr. President, the Senator from Maine brings a very grave and serious charge against myself as chairman of the Committee on Commerce. He says that he has been around to six members of that committee and got a statement from them, and that I stated what was not true when I said that this bill had been carefully considered by the Committee on Commerce. The Senator can make his own deduction and state it in his own language. I shall take no offense at anything he may say. I stated, sir, that this bill had been carefully considered by the Committee on Commerce; and it had been carefully considered by that committee. It was before the Committee on Commerce for, I think, about three months, and every member of that committee will bear me witness that I brought it to their attention at every meeting, or nearly every meeting, after we had received the opinion from the Secretary of the Treasury. It is true

that the committee deferred somewhat to my knowledge of the wants of western commerce. It was familiar to me, and more familiar to me than to any one else, I having been connected with it and engaged in it for more than thirty years past. If the bill should be now recommended to the Committee on Commerce, I presume there is not a single member of the committee who will give it any more attention than was given to it during the three months it was before them. They certainly listened to the reading of the whole bill once, if not twice, and perhaps three times, and approved of it unanimously, as I stated; but they said to me, "You understand this thing better than we do." Well, sir, I do; and I understand it better than the clerk at the Treasury Department who wrote the opinion, for he knows nothing about it—nothing whatever.

Our commerce is different from that of the Atlantic ocean. Our ports are, perhaps, every fifteen or twenty miles along Lake Erie. You yourself, sir, know very well that vessels leaving Chicago touch, perhaps, ten times during the day. Would you compel a vessel stopping ten times a day, perhaps to discharge a single barrel or two or three barrels of freight, to pay the same custom-house fees that you would charge a foreign ship that takes in a full cargo for a foreign port and touches at no place for, perhaps, thirty days? The proposition is an absurdity. Here is a great burden upon the commerce of the lakes. I hold in my hand a statement showing something of this great burden. There is a little steamboat called the Reindeer, upon which my colleague has ridden very often, which is worth, I should think, about ten thousand dollars—no more than that. She runs from Detroit seventy miles north. She makes frequent landings; and last year this little boat, worth \$10,000, paid \$1,140 for manifests alone, or one ninth of her whole value.

The Senator says that we must protect the custom-house officers. Why, sir, the custom-house officers in the State of Michigan say that this is a just and proper bill and ought to be passed. True, they say it may cut down their fees, but it is justice. We give our custom-house officers on the lakes a salary of \$1,000 per year, and then give them the fees up to the maximum of \$2,500 a year. The Senator says that great reductions in the fees are made by this bill. I can inform him that the reductions are exceedingly small, and they are so small that they are hardly worth noticing. I have the old fee bill in my hand and that here provided for, and the average will not vary five per cent., in my judgment. For example, "for certifying manifest, including master's oath, and granting permit for vessels to go from district to district, over fifty tons," the old price was fifty cents, and the new price fifty cents; under fifty tons, twenty-five cents now, twenty-five cents before; "for granting license, including bond and oath," \$1 50 was the old fee. This is reduced to \$1 20. The reductions are exceedingly small, and, in my judgment, four fifths of the items are not changed at all. Some are increased and some diminished. The opinion of not only our mercantile men but our custom-house officers is that the bill is an eminently just and proper one and ought to pass. It is a bill that interests no section of the country except the lakes. It touches no other commerce but the commerce of the lakes; and I hope, in accordance with the unanimous request of the mercantile interests of the Northwest, that this bill will be permitted to pass.

Mr. MORRILL, of Vermont. This bill certainly touches largely the interests of my constituents, as Lake Champlain borders the entire length of the State; and if it is to be a convenience to anybody it will be a convenience to the people of Vermont. But, Mr. President, I think it also reaches to other portions of the country than merely the northwestern lakes. I found that the language of the bill is—

That the master of every vessel enrolled or licensed in the foreign or coasting trade on the north-

ern, northeastern, and northwestern frontiers of the United States shall, &c.

That clearly embraces our coasting trade throughout New England or the northeast, where the practice of coasting vessels to touch from port to port is at least as great as it is on the lakes of the Northwest. When the bill was under consideration before I had a copy of it before me and made several annotations upon it, but that bill I am unable to find at the present moment. It seems to me, however, that if we pass this bill allowing masters of vessels to touch at any port they please, leaving no track or sign behind them, discharging and receiving cargo either at ports where there is a collection district or where there is not, we are about to open the door for an indefinite amount of fraud.

Then allow me to call the attention of the Senate for a moment to another feature of the bill contained in the third section:

That steam-tugs duly enrolled and licensed to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, when exclusively employed in towing vessels, shall not be required to report and call at the custom-house.

On Lake Champlain this may embrace a very large amount of the business that is transacted. We have steam-tugs that are constantly plying through to Montreal and to the upper waters of the St. Lawrence, to Ottawa, and other places, coming back with lumber and with various other articles; and it is also the same at the upper end of the lake. If these vessels are not required to stop and report and be examined by revenue inspectors, they may carry any amount of concealed merchandise and defraud the revenue daily to the amount of thousands and thousands of dollars. Vessels and boats not touching at ports of entry have been detected within the last three or four years in transporting such articles as tobacco, carrying it into Canada, and then bringing it back in order to avoid the internal revenue tax. If this bill passes, and they are thenceforward to go without any inspection, without any notice, it is not difficult to see that any amount of fraud will be practiced. I am free to say that the evil complained of by the Senator from Michigan should be corrected if any practicable mode can be adopted by which we can grant facilities to the masters of vessels to stop at ports without duplicating and reduplicating manifests. But I am unwilling that a bill of this character, which seems to me to open very widely the door for any amount of fraud, tempted as our people are now by the high rates of duty we are compelled to impose upon foreign merchandise in order to support the Government. I am unwilling that such a bill should pass, not only without the consideration of the committee, if that be so—and I know nothing about that fact, but it seems to be a controverted point—but without the full consideration of the Treasury Department, of the officers there having charge of such matters, and the head of the Treasury. We ought to know what their suggestions are, what the fault is that they find with the bill, and what amendments they may desire to propose. I hope, therefore, that the motion of the Senator from Maine will be adopted, and the bill be recommitted.

Mr. TRUMBULL. Mr. President, I feel somewhat interested in this bill, because I know something of the inconveniences suffered by men engaged in commerce upon the lakes. I have heard of these complaints. I do not pretend to be familiar with this branch of business, and I cannot answer the objections that are made by the Senator from Vermont and the Senator from Maine as to this bill not being sufficiently guarded. Nobody, I apprehend, wants a bill to pass that will encourage smuggling or prevent the collection of the revenue. I apprehend that the Senator from Michigan is just as much opposed to that as the Senator from Vermont. Now, we have a bill prepared by one of our committees, that comes in here to correct what I am satisfied is a very great inconvenience, and I think that some bill of this

kind ought to pass. I have heard of these complaints at Chicago; and I do not know how we are to legislate if we are not to consider such a bill, when one of our committees having charge of the matter has had it under consideration for months, has investigated the subject, has been in correspondence with the Treasury Department in regard to it, has ascertained what the views of the Treasury Department were in reference to it, and then framed the bill.

Mr. FESSENDEN. I have those views; they are in writing; they can be read at the Clerk's desk if the Senator wants to hear them.

Mr. TRUMBULL. I presume the committee have seen them.

Mr. CHANDLER. Certainly.

Mr. FESSENDEN. But it was not communicated to the Senate that the views of the Department were against the bill, as a very dangerous one, and one which ought not to pass.

Mr. TRUMBULL. Certainly, I have no objection to proper amendments, so far as I am concerned. I have not charge of the bill. I am only speaking of what is admitted to be an evil and a great inconvenience that certainly can be corrected to some extent by legislation, and ought to be corrected. When a bill is brought in for that purpose, and the Treasury Department have been consulted about it, and a committee has acted upon it, I do not know when we are ever to have any legislation if you are to refer it back to the same committee which has considered the matter. I think it ought to be properly considered, and this is the appropriate committee. If the Senator having the bill particularly in charge thinks any further investigation is needed, or supposes that there is any new information to be obtained in regard to it, I have no objection to its going back to the committee; but I would not vote to recommit this bill to the same committee that has had it under consideration unless something new is to be brought to their attention. We had better try to amend the bill in the Senate if it needs amendment; let the Senator from Maine propose such amendments as are necessary to guard the revenue. Certainly the object of the bill is not, I am sure, to avoid the collection of the revenue.

Mr. FESSENDEN. I will say, so far as I am concerned, that I have not the slightest objection, if there are these inconveniences there and they can be avoided by legislation, to having that done. I have not the slightest objection to that. My attention was called to the bill early. I happened to look at it, and it struck me that it was a dangerous bill; that it made very serious and important changes in the revenue laws; and that was the reason of the inquiry I made of the honorable Senator from Michigan, whether it had been submitted to the Treasury Department. His answer, not intentional perhaps, was that it had; and he stopped there, and I rested satisfied with it, until the bill not being passed, I made some inquiry with regard to it, and found that it had been submitted to the Department, and that they had given a decided opinion against it in detail. The Senator from Michigan says that the men who gave that opinion know nothing about it, and that he does know about it. That may be, but still we are in the habit of believing that the Treasury Department have some knowledge of matters committed to their charge. Labor is divided there, and these matters are under the charge of intelligent men who make them their study and endeavor to ascertain what the good of the community requires with reference to them; and I am in the habit, and shall continue in that habit until I see good reason to the contrary, of believing that they do know something about the matters to which they give their daily attention. It is probable that they may not know the inconveniences of which the Senator speaks so well as he knows them; but it is also probable that they know what the effect would be of certain provisions in this bill; and anybody may see that a reduction of fees reduces

the revenue, and anybody may see that facilities afforded to smuggling reduce the revenue much more. That does not require any very particular experience or knowledge to ascertain.

Now, sir, if it is considered that the examination of the subject by the honorable Senator from Michigan is sufficient, and that we are to pass the bill upon his view of what the interests of commerce require, and his view alone, I have nothing to say. I did not mean to charge the honorable Senator with stating an untruth, as he supposes; but I meant simply to say that I was informed by members of the committee that they had left the matter entirely to their chairman, relying upon his examination and his knowledge of the subject. That was all. I do not think that in a case where a gentleman represents a particular section of the country, and a bill presented by him affects more particularly his section of the country, it ought to be passed by Congress into a law without examination by more individuals than the single Senator who brings it forward, because he may naturally be influenced very much in his views by the wishes of those he represents.

I send to the Chair, and should like to have read, a copy of the letter addressed by the Department to the chairman of the Committee on Commerce.

The PRESIDENT *pro tempore*. The Chair feels bound to arrest further proceedings on this bill by announcing that, the morning hour having expired, the unfinished business of yesterday is regularly before the Senate.

Mr. FESSENDEN. Very well, sir.

#### ORDER OF BUSINESS.

Mr. HARLAN. I think by resolution some days since the Senate decided to devote to-day to the consideration of bills on the Calendar pertaining to the District of Columbia. If it requires a motion to proceed to the consideration of those bills, I will submit it.

Mr. TRUMBULL. I hope not. I hope we shall go on with the bill in reference to Arkansas. The Senator from Iowa himself will see the propriety of finishing that bill. We certainly ought to dispose of it. It has been under consideration one or two days, and I hope the Senate will not adjourn to-night until we get a final vote upon it.

Mr. HARLAN. I make the motion, in order that my remarks may be in order, that the present and all prior orders be postponed with a view of proceeding to the consideration of bills on the Calendar pertaining to the District of Columbia. On this motion I wish to make a few remarks—

Mr. SUMNER. Will my friend allow me to ask whether a motion is necessary, whether the business of the District of Columbia does not come of course at this hour on Friday?

Mr. HARLAN. I will abide the decision of the Chair on that point.

Mr. SUMNER. I supposed there was an order of the Senate setting apart this day for District of Columbia business.

The PRESIDENT *pro tempore*. The interpretation the Chair puts upon the rule is that the unfinished business supersedes the appropriation of a day to particular business. The rules provide that the unfinished business shall be in order at one o'clock, and take precedence of all other business; and I suppose it requires, even when the day is set apart for particular business, that that be proceeded with, and it supersedes any special order. That is the interpretation of the rule that the Chair has put upon it.

Mr. HARLAN. I then submit the motion, and I wish to make a remark or two in relation to it. I feel the importance of disposing of the Arkansas bill perhaps as fully as any Senator on this floor; but the Senate has not given even one day to the consideration of the business of this District. Senators will remember that there is no other legislative body in the District competent to make laws for the gov-

ernment of this people, who have now grown to be a large community. By the authority of the Senate I am a member of that committee, and have been made chairman; I suppose, therefore, that it is my duty to bring to the attention of the Senate the business that has been referred to that committee by the body itself. The Senator from Maine [Mr. FESSENDEN] a few days since said that a day or two had been heretofore set apart for the consideration of business pertaining to this District. One day was set apart, and then I yielded to the solicitation of friends to permit other business to be considered until nearly the whole day was exhausted. I will not now take the personal responsibility of doing so. If it should be the will of the Senate that this business should be postponed for the consideration of the bill pending, let the Senate take the responsibility. I make the motion, and will abide by the decision of the Senate in relation to it.

The PRESIDENT *pro tempore*. The Senator from Iowa moves that the unfinished business and all prior orders be postponed for the purpose of proceeding to the consideration of the bills reported by the Committee on the District of Columbia.

Mr. TRUMBULL. Mr. President, I certainly cannot complain of the course taken by the Senator from Iowa, who is chairman of the Committee on the District of Columbia, because he considers it his duty to press that business; but I am not aware that there is any very great urgency for any particular District bill, nor does he so state; and I trust that the Senate, after we have commenced and spent two or three days in considering the bill to recognize the State government in Arkansas, will not lay it aside for any other business. My experience in the Senate is that when you take up a bill and progress with it for a day or two in this way and then lay it aside to take up other business, you lose the whole time; you will have to go over it all again. But, not to take up time, sir, I merely wish to appeal to the Senate, as the most expeditious way of transacting its business, to stand by the bill we have under consideration; and also to do so in consequence of the importance of that measure. I trust, therefore, the motion of the Senator from Iowa will not prevail.

Mr. SUMNER. Mr. President, as I have the honor to be upon the Committee on the District of Columbia, I hope I shall be pardoned if I express a hope that the business of that committee will not be entirely neglected. The Senator from Illinois hopes that the Senate will stand by a bill which he has reported. Now, I like his phrase; I hope the Senate will stand by the order it made a few days ago, to give at least one day to the business of this District. Owing to the condition of affairs in this Chamber for the last two months we have have not been able to attend to the affairs of this District. Meanwhile questions have accumulated. There are bills in charge of the chairman of that committee, my excellent friend, the Senator from Iowa, which ought to be attended to. The necessities of this District will suffer if they are not attended to. I think, therefore, he was wise when, the other day, he asked the Senate to set apart Friday for that business, and I may add that it seems to me that it is entirely vain for us in advance to set apart a day for the business of that particular committee if we do not adhere to that order. What is the meaning of the order? It is that this coming Friday, putting aside all other things, we will attend to the business of that committee. Now, it seems to me the Senate is pledged to that conclusion.

Then there is another consideration in connection with the Arkansas bill. It is within my knowledge that one of our honorable friends desires to address the Senate at some length on that measure and is not able to go on to-day. Of course I do not allude to myself, for I have no such purpose, but one of our number whom we all respect I know desires to be heard upon it, and he is not ready to go on to-day. There



is, therefore, a consideration founded on the actual condition of the Arkansas bill which comes in to support the motion of my friend, the Senator from Iowa. I hope, therefore, that the Senate will proceed with the District business until such time as it may find itself disposed to go to the consideration of executive business.

Mr. WILSON. I rise, Mr. President, to express the hope that the Senate will proceed with the consideration of the bill for the admission of Arkansas; and I hope, when we have done that, we shall immediately proceed to the consideration of a bill to admit the other six States that are now prepared for and are asking admission here. It seems to me there can be no business of this District, or of any other kind that can come before us, which can be compared in importance one moment with the completing of this work of restoration and reconstruction. Sir, we profess—and we are in possession of facts that require us to proclaim it here and elsewhere—that the protection of the loyal people of those States requires our action; and I hope that we shall allow nothing, I care not what it is, to put aside the consideration of this bill and the immediate consideration of the bill relating to the six other States which have made constitutions and have elected Legislatures. They can do nothing until we act, and it is important, therefore, that we at once attend to this business and that we relieve the people of those seven States from the rebel officers who now rule and dominate over them, and put those States under the control of men who are loyal to the country and true to liberty and justice and humanity. Therefore, sir, while I should be very glad to adhere to the vote of the Senate to set apart this day for matters relating to this District, I know that matters relating to this District are of minor importance when compared with the great work of completing the reconstruction of this Government.

Mr. MORTON. Mr. President, if I remember correctly about the business of the Senate for the last six months, the District of Columbia has had its fair share of the time. The business connected with this District may be behind somewhat, and perhaps it is, but the business of the whole country is sadly behind, and the affairs of this District are certainly very trivial in importance when compared with the affairs of reconstruction and the importance of settling the question of reconstruction; and I hope that the affairs of the District of Columbia will at least be allowed to give way to such questions as this.

Mr. President, whenever it is proposed by the District Committee to consider some measures for the improvement of the horrible condition of the streets of this city, especially Pennsylvania avenue, I shall perhaps feel more indulgently inclined to give way and set apart a day for that business.

Mr. BUCKALEW. Mr. President, I desire to ask, when the occasion presents itself, unanimous consent of the Senate to consider a resolution of inquiry, calling upon the General of the Army for a supplemental report of papers in the case of Arkansas. Until within a day or two I was not aware that there were additional papers relating to the recent election in that State, although the fact that such were about being transmitted is mentioned in the report sent by the General of the Army to the House of Representatives. I am now informed that those papers are probably in the War Department, and that they are very important in their character. Whether there is or is not a formal report accompanying them from General Gillem, I cannot say. If I can get the ear of the Senate, and can get my resolution adopted, I propose to have it sent up to-day and get these papers, if possible, by to-morrow.

I mention this in connection with this question of the order of business, because it is my opinion that we ought to have before us, when the debate on the Arkansas case proceeds, all the official information which is within our reach in Washington, as the debate, whenever we reach the bill itself and get rid of the ques-

tions of amendment, will turn principally upon matters of fact which are contained in the report already transmitted to the House of Representatives by General Grant. In discussing these matters of fact we ought to have possession of all the information which is now within reach in this city. I shall vote to postpone that bill and take up other business to-day, with the idea that we shall proceed again with the Arkansas question to-morrow, and I mention this matter as a reason for my vote.

I will only add that I have no desire to protract debate upon this question, or consume any unnecessary time; but I suspect that by the adoption of my resolution, and by delaying the consideration of the cause until to-morrow, we shall probably make better progress than if we take it up now.

Mr. TRUMBULL. Mr. President, I do not know what information the Senator from Pennsylvania refers to; he has not indicated what it is. We have a report from the General of the Army containing the report of the officer in command in the district of which Arkansas forms a part, and that report shows the election, the result of the election, and all the information, I suppose, that is to be obtained about it. Certainly we ought to have the information that is accessible that bears upon this question; but unless the Senator from Pennsylvania indicates what it is that he wants it seems to me we should not postpone this matter in order that we may fish after testimony. What is it, upon what subject is it, to what does it relate? We have the constitution of Arkansas here; that is one thing we wish. We have the evidence of its ratification by the people; that is another thing. Now, what more do we want? What further is necessary for our action than these facts? If there is anything in relation to these facts not embodied here let us know what it is.

But, sir, I should regret very much if the Senate should agree to lay aside this important measure. It is the great question that this country has been engaged in since the close of the war—the reorganization of the rebel States. We listened yesterday to a two hours' speech, made by the Senator from Kentucky, [Mr. McCREERY,] deploring the sad condition of things in the rebel States, telling us of the military rule, of the despotism, of the disorder, and of the violence there. Then let the Senator from Kentucky, and all other Senators, join and recognize a civil form of government in Arkansas, and in the other rebel States, that shall dispense with what you call a military despotism. Congress is pledged, the country is pledged, we are all pledged to the earliest re-establishment of civil government in the rebel States that is practicable with safety to the Union people there, and safety to the Union itself. Every consideration impels us to this. Justice requires it—justice to the loyal people there, whom we have encouraged to labor for the last twelve months in the organization of a State government. When they have made that government complete, complied with your laws, gone through all this labor of registration, of elections once and twice, of conventions to form constitutions, and have complied with every provision which you have prescribed that they could comply with, have done every act that it was possible they could do under your law, with what face can we sit here and lay aside this question, which we have all sought to bring to an early settlement, when they present themselves here in this condition. They having complied with every requisition that has been imposed, what will you say to the loyal people of Arkansas, whom you have encouraged to form this government?

And how, let me ask, is a government ever to be established? Why, sir, suppose you were to impose new conditions, were to reject this constitution, refuse to act upon it, will you pass another law and tell the people of Arkansas to form another State organization? When they have done it will they be in any better condition than they are to-day? Will the Congress

then in session consider itself under any more obligation than we are under to carry out the measures which we have inaugurated?

I do trust, sir, that this measure is not to be put over on any suggestion by the Senator from Pennsylvania that he wants some other evidence, unless he will tell us specifically what that evidence is, and where it is, and what bearing it has upon the question under consideration. We have here the constitution officially communicated. We have here the evidence of its ratification officially communicated. What is it that the Senator from Pennsylvania wants? He has heard that some other papers have been communicated. I know not what they are; I have no knowledge that any such exist; but surely, when the evidence is complete as it lies upon our tables, we should not delay this most important of all questions that can come before Congress, unless there is some specific statement showing that there are other documents important to the consideration of this question which can be had by delay.

Mr. BUCKALEW. Mr. President, of course it is impossible for me to recite the contents of those documents without examining them, or without having made some further inquiry. It seems from the official report made by General Gillem that he does not report that the constitution was adopted. He makes no declaration upon that subject. He states that, according to the returns sent to him, a particular result is reached, and he proceeds to say that without waiting further he forwards all the papers and evidence in his possession upon this subject of the adoption of the constitution. That is perfectly true. It seems that he sent an officer to Little Rock who made some informal inquiries there, who reported to him on the 22d of April. He waited apparently for his report, because the communication to General Grant is dated the 23d, the day following, but before the additional evidence which was in course of preparation could reach him. It does not seem that he chose to wait for that, but sent on what he had at the time. What I propose is that the additional evidence submitted to General Gillem, and any additional report by him upon the subject of this election, shall be called for and immediately obtained. I do not propose that the Senate shall be delayed by waiting too long a time for this report, or for printing it. I presume we can get it by to-morrow.

On page 29 of the report I have referred to, the Senator from Illinois will find two dispatches from a gentleman who was active in accumulating the evidence which is reported, some of it, in this document by General Gillem. He informs him that he is about sending on additional papers. I understand that those papers and that evidence are partly official and partly made up of affidavits showing the proceedings of the registers, who had control of the election; showing the manner in which the returns were made up. I believe one paper is a circular from this board of commissioners, which was appointed by the convention for holding the State election. Other papers relate to the manner in which returns were made up. In the case of one of the counties, where there were surplus votes, there are proofs that there were never any precinct returns made, but simply a general return for the country—additional proof to that which is already contained in the document with reference to the officer who had control of those returns. That was a case of alleged fraud; and there is a dispatch from him inquiring how many more votes were needed from a particular county which he had returned, and saying that they should be made up. In this report it seems an excuse is made for that officer that he was intoxicated, and that the general return, which was in his possession, was delayed some time by reason of incapacity arising from drunkenness. This evidence, showing his dispatches about that time, will show the business in which he was engaged and will bear strongly upon the general return of that county, the papers from which were

in his charge, and will show the Senate that, so far as that county is concerned, no reliance can be placed on this report which was transmitted to the General.

I have mentioned these two or three points simply to illustrate the general character of this testimony. It is of the same general description as that contained in the former report of General Gillem and additional to it, and would, doubtless, have been transmitted by him in connection with his former report to General Grant if he had had possession of the documents at the time.

Mr. SHERMAN. Mr. President, the state of public business is such, and we have now arrived at such a stage of the session, that we must begin to husband our time. I think the Senate is not disposed to lay aside important business that it has partly discussed with a view to take up other bills, and then invite another struggle on Monday as to the order of business, and I therefore suggest to the Senator from Iowa that he allow the Arkansas bill to be settled and disposed of before we take up any new business. If he will consent I will move that the District business be continued the special order for Monday instead of to-day.

Mr. CONNESS. Not Monday, but Friday next; give them the next Friday.

Mr. SHERMAN. If the Senator from Iowa is willing to say Friday, that will suit me. On Tuesday I desire to take up a bill which I think ought to be acted on, and if he will be satisfied to take Monday for District business, I will move that it be continued as the special order for Monday.

The PRESIDENT *pro tempore*. There is a motion now pending.

Mr. SHERMAN. I ask the Senator from Iowa to allow me to make the motion I have indicated.

Mr. EDMUNDS. The Arkansas bill is before the Senate, and the pending motion is to postpone it.

Mr. SHERMAN. But if that motion is lost the District business is lost with it. I desire to give the Committee on the District of Columbia a day for their business, and I will propose next Monday, or next Friday, as the chairman desires.

Mr. HARLAN. If that is the judgment of the Senate, it will be agreeable to me to substitute Monday.

Mr. SUMNER. But I ask my friend why make a special assignment of Monday for the District business. This day has already been set apart for District business, and if the Senate breaks its faith for Friday, what assurance have we that it will not do the same thing on Monday or the next Friday?

Mr. SHERMAN. The rules of the Senate, as the Senator very well knows, declare that the unfinished business shall take precedence of anything else. Now the Senator wishes to violate the faith of the Senate expressed in its rules, which declare that the unfinished business shall be finished before a special order is taken up.

Mr. SUMNER. The Senator will pardon me; I do not so interpret the rules. Of course I submit cheerfully to the decision of the Chair; but my judgment is that under the rules of the Senate, when a day is specially set apart for a particular class of business, that overrides even the rule with regard to unfinished business. It is not in the nature of a special order. The Senator makes a mistake. He supposes that there is a special order for to-day. It is not so. This day has been set apart for this work. I remember that during the first two years I was in the Senate every other Friday was set apart for private bills. Nobody ever sought to interfere with that. Nobody supposed they could interfere with it. When that Friday came around private bills had their day. It was familiarly called by many of us at the time, I remember, a day of justice. It could not be interfered with. It was set apart in advance, and became in the nature of a rule. Unfinished business dropped before it.

Mr. SHERMAN. It was a rule then just as

it is in the House of Representatives, where the rule requires Friday to be set apart for private business.

Mr. SUMNER. I understand that the other day when the Senator from Iowa moved that Friday be set apart for the consideration of District business, it was in the nature of a rule for that occasion. It was not a special order; and there is the mistake of my friend; he treats this as a special order, and he wishes to brush it aside. He lets the unfinished business play the part of the broom to brush it aside. Well, he must allow me to say that his interpretation of the rules is not applicable to this case. I consider that under the rules at this moment the District business is in order, and I hope my friend from Iowa will proceed with it.

Mr. CONNESS. Mr. President, it must be interesting sometimes to an observer in the Senate, if there were nothing else to observe that was peculiarly interesting, to see the combinations made up here—Senators will pardon me for saying it—and the direction and indication that take place here. This morning we have a joining hands, if not hearts, between the Senator from Pennsylvania [Mr. BUCKALEW] and the Senator from Massachusetts, [Mr. SUMNER.] Ostensibly the Senator from Pennsylvania opposes considering the Arkansas bill to-day, strongly, powerfully, as is always the case with him. Dealing indirectly, the Senator from Massachusetts opposes it by wanting to give the day to some other business. Mr. President, a day was agreed to be given to the District of Columbia business, and I am disposed always to keep faith—at least I think I am—but if the Senator having charge of that business is willing that it shall go over to another day, then I think every obligation which can bind this side of the Senate—I mean this political side of the Senate; I do not mean now to include my friend from Pennsylvania on the other side—demands that we should go on to the end with the Arkansas bill and with like bills that are before us. As has been stated recently by other Senators in the Chamber, I do not know nor understand how the Republican or Union members of this Senate, after organizing governments in the South against such powerful influences as they have met, can now refuse final action for the admission of the States named and here making application for admission. By no process, by no means, not even by the seductive influences of my friend from Pennsylvania, who upon all other subjects generally manages to govern me, can any cooperation be obtained from me against those bills. The documents that are said to have been sent to the War Department can throw no light upon this subject that I, at least, am willing to wait to receive. We understand the business affecting the reconstructed States which are here applying for admission, and I hope we shall walk up squarely to the work of their admission. I am willing to say plainly that I want their votes for the national candidate for President of the United States, and I want them in the Union for that purpose; and I hope, sir, that on our side of the Senate, at least, there will be no impediments placed in the way.

Mr. STEWART. Mr. President, I think time is of the essence of this whole proceeding, so far as admitting these States is concerned. If we are to admit them at all, we must immediately take them out of their present state of suspense, or we destroy all they have done. We are doing a great deal of harm by allowing this matter to drag. We agreed that if they would do certain things we would receive them. They have done those things substantially; they have struggled manfully against power and patronage and influence, and they have substantially complied with all we demanded. If we do not intend to let them in at once we had better say so, and stop the business altogether. This process of delay is most terrible to them, after having organized their governments; it leaves them in a state of disorganization, uncertainty,

paralyzing business, paralyzing Union sentiment, and has a tendency to convince them that they have no friends anywhere who are willing to sustain them.

However we may cavil, whatever we may think, or whatever we may desire, matters very little; we are committed to a certain course of conduct, and there is no varying from that. We must do what we have agreed to. We must keep faith with these people. If we do, I believe that there is good ground to hope that they can sustain themselves against the combined elements that are against them; certainly without our action they cannot; with it, they may. There is no hope but to go forward with this work; and when we have admitted them, as we shall, and shall promptly; when they are recognized here as States, when their State governments are set up, let any man attempt to tear them down! If he does, let him bear the responsibility; let the hand that is raised against lawful authority there set up be seen; let us know who it is that will take the responsibility to inaugurate anarchy in those States after we shall have admitted them. I believe in Congress doing its duty, and if there be any power in this Government that dare interfere with the legitimate functions of these States when they shall be recognized by Congress, let the people of the United States know who it is and from whence it comes. I am for going forward on the supposition that the laws of this Government will be executed; I am going to take it for granted that they will be executed, although we may have had some warning to the contrary. We have no right to act upon the hypothesis that the laws will be denied. Let us pass the laws, doing our duty, and the people will hold the authorities of this Government responsible for their execution. I am in favor of proceeding at once with this business.

The PRESIDENT *pro tempore*. It is moved and seconded that the unfinished business and all prior orders be postponed for the purpose of proceeding to the consideration of the business of the District of Columbia.

Mr. HARLAN. I ask for the yeas and nays. The yeas and nays were ordered.

Mr. HENDRICKS. I do not know that I understand just what the question is.

The PRESIDENT *pro tempore*. The question is on postponing the unfinished business of yesterday, being the Arkansas bill, and proceeding to the consideration of the District of Columbia business, for which this day was set apart by a resolution.

Mr. HENDRICKS. The Chair will indulge me in asking whether the District of Columbia business was made the special business for this afternoon by any order of the Senate?

The PRESIDENT *pro tempore*. To-day was set apart by an order of the Senate for District business; but that is superseded, under the rules, by the unfinished business of yesterday.

The question being taken by yeas and nays, resulted—yeas 12, nays 35; as follows;

YEAS—Messrs. Buckalew, Corbett, Doolittle, Fowler, Harlan, Hendricks, McCreery, Norton, Patterson of New Hampshire, Patterson of Tennessee, Sumner, and Vickers—12.

NAYS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Howard, Howe, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Tanager, Tipton, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—35.

ABSENT—Messrs. Bayard, Davis, Dixon, Grimes, Henderson, Nye, and Saulsbury—7.

So the motion was not agreed to.

INVITATION TO MOUNT VERNON.

The PRESIDENT *pro tempore*. Before proceeding with the Arkansas bill, the Chair will lay before the Senate an invitation from the regent of the Mount Vernon Ladies' Association, which will be read.

The Chief Clerk read as follows:

MOUNT VERNON, THURSDAY, May 28, 1868.  
The regent of the Mount Vernon Ladies' Association of the Union tenders to the Senate an invitation to visit Mount Vernon on Saturday next.

The steamer Arrow will be waiting at the wharf, (foot of Seventh street,) setting out at four p. m. The Senators will have an opportunity to see Mount Vernon and its surroundings toward sunset, and to return by moonlight.

#### HOUSE BILLS REFERRED.

The PRESIDENT *pro tempore*. The Chair will also lay before the Senate some bills from the House of Representatives, for reference.

The bill (H. R. No. 788) to regulate the appraisement and inspection of imports in certain cases, and for other purposes, was read twice by its title, and referred to the Committee on Finance.

The joint resolution (H. R. No. 215) relative to the Louisville Bridge Company, was read twice by its title, and referred to the Committee on Commerce.

#### BREAKWATER AT PORTLAND.

The joint resolution (H. R. No. 279) in relation to the breakwater at Portland, Maine, was read twice by its title.

Mr. MORRILL, of Maine. I should like to have that resolution acted on now.

Mr. TRUMBULL. I hope the Senator from Maine will not ask that now.

Mr. MORRILL, of Maine. It will take but a moment.

Mr. FESSENDEN. There is no objection to it.

Mr. TRUMBULL. It can be passed in the morning hour to-morrow.

The PRESIDENT *pro tempore*. Objection being made to the present consideration of the bill, it will be referred to the Committee on Commerce.

Mr. MORRILL, of Maine. The committee have already informally considered it. Let it lie on the table.

Mr. FESSENDEN. I believe the Senator from Illinois is now willing to withdraw his objection and let the resolution pass. It is important that it should be passed early.

Mr. TRUMBULL. I will not object to taking a vote on it if no time is to be consumed.

Mr. FESSENDEN. There is no dispute about it; the committee have examined it.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It provides that so much of the unexpended balance of the appropriation for the breakwater in Portland harbor, Maine, as the chief engineer shall deem proper, may be expended under his direction in excavating the middle ground near the breakwater, and in otherwise protecting the channel from injury by filling and improving the same.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

#### WASHINGTON CITY CHARTER.

A message from the President of the United States, by Mr. W. G. MOORE, his Secretary, announced that the bill (S. No. 475) to extend the charter of Washington city; also, to regulate the selection of officers, and for other purposes, having been presented to the President on the 16th day of May, 1868, and not having been approved by him or returned to the Senate, in which it originated, within ten days, (Sundays excepted,) it has become a law under the provisions of the Constitution.

#### EXECUTIVE COMMUNICATION

The PRESIDENT *pro tempore* laid before the Senate a message of the President of the United States, communicating papers which have been submitted to him relating to the proceedings for the formation of a constitution in the State of Florida under the reconstruction acts; which was laid on the table, and ordered to be printed.

#### REPRESENTATION OF ARKANSAS.

The PRESIDENT *pro tempore*. The bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress is before the Senate as in Committee of the Whole; and the pending question is on the amendment of the Senator from Connecticut, [Mr. FERRY,] to

strike out all of the bill after the word "Union" in the fourth line.

Mr. BUCKALEW. I now ask the unanimous consent of the Senate to offer the resolution of inquiry, which I mentioned before, in order that it may be sent to the Department at an early hour.

The resolution was read as follows:

*Resolved*, That the General of the Army be requested to transmit to the Senate any reports and papers received by him since the 4th instant in relation to the late election in Arkansas upon the adoption of a constitution.

Mr. TRUMBULL. I feel myself bound to object to that if it is to delay proceeding. I have no objection to the resolution, but I do not want it to be urged as a reason for postponing action. If the Senator wants to call for other information I certainly have no objection, but I am not willing to lay aside the Arkansas bill with a view of waiting to get information, and for that reason I object to the resolution on the present occasion. Let it go over.

The PRESIDENT *pro tempore*. Being objected to, the resolution goes over under the rule.

Mr. BUCKALEW. Mr. President, I wish to answer the Senator's question, and say that I want the information, whether it comes before or after the bill is disposed of, and it will be for the Senate itself to judge whether the information is of a character to produce delay. I am not asking it to delay the bill.

Mr. TRUMBULL. Well, I have no objection to its being passed if it is not to be urged as a reason for continuing the bill. I withdraw the objection.

The PRESIDENT *pro tempore*. The objection being withdrawn, the question is on agreeing to the resolution.

The resolution was agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Connecticut [Mr. FERRY] to the bill.

Mr. EDMUNDS. It is of considerable consequence, Mr. President, to have no misapprehension as to what the powers of Congress are over questions of this kind. I have taken occasion hitherto, on another subject, to express my opinions on this question, but as Senators who desire to have this amendment adopted have in this debate maintained with a great deal of vigor and with great ingenuity the proposition that we have no power at all in admitting a new State, either by way of fundamental condition or by way of compact with the people of that State, to limit the exercise of powers which otherwise as a sovereign State they might exercise, I think it right to occupy a short time in restating my opinion, because the fashion is getting to be that everybody who does not state his opinion on every question is supposed to agree to what everybody else says, and is estopped afterward.

Mr. CONNESS. I do not understand that to be so.

Mr. EDMUNDS. I do not understand it to be so, but it has been urged very stoutly in some arguments that have been addressed to us within my recollection.

Mr. President, the Constitution gives to Congress the power to admit new States. It gives to Congress the power to suppress rebellion; I believe that, even, is agreed to by gentlemen on the other side. It makes it the duty of Congress to guaranty republican forms of government in the several States. It enables Congress to make war and to conclude peace. Now, whether the condition of the State of Arkansas (because it is not necessary to go beyond that at present) is that precisely of being a new State admitted into the Union is, of course, a subject of dispute; and, therefore, in what I have to say I do not put it entirely or mainly upon that clause of the Constitution. My friends on the other side of the Chamber contend that this is no admission of a State, either new or old; that she is in the Union as she always was, and is here with her old laws; and that all the matter with her is

that we unconstitutionally refuse to permit the Senators and Representatives who were elected under the authority of Andrew Johnson in 1865, or thereabouts, to come in. That is their proposition. Our proposition is the one so well stated by my honorable friend from Indiana [Mr. MORRIS] during this present session, which I need not restate; but the substance, the effect, and result of it is that we are clothed with plenary and absolute power to reorganize the governments of these States upon such fundamental republican forms as to us shall seem fit.

If that be our power, saying nothing for the moment as to the precise authority that the Constitution gives us over the Territories and the admission of new States—if we have power to reorganize the governments of these States upon such republican grounds as will make their constitutions conform to the general rule provided in the Constitution under which we live, that is of republicanism, I fail to see the logic which reaches the result that my friend from Indiana seems to reach, that we are unable to put that government in such a form that it shall "stay put," as the homely language of the North is, in that kind of republicanism which cannot be overthrown.

I did not fail to understand the point of my friend from Indiana—and that is what my friend from Massachusetts would call a technical point—that the people of no State or community can disentitle themselves to any faculty of sovereignty; and therefore he says that if these people to-day consent to strip themselves of any of the faculties and attributes that are adherent in their sovereign nature, the people to-morrow or next day, having the same unimpaired sovereign powers, can recede from any such agreement. That is the substantial ground of the argument. That proposition I deny as a matter of public law, as a matter of constitutional law, and, if I can use the phrase, also as a matter of municipal law. The history of the world is full all over of instances where peoples are depriving themselves of the exercise of powers that otherwise would be sovereign and complete, by compact and agreement, by conquest, or by cession. One of the faculties of sovereign power is dominion over the territory in which that sovereign power exists, and yet we all know that sovereign power disposes of its territory and of the people that are contained in it, and having disposed of it a people who succeed in the same sovereign State have no power to retake the ceded territory.

We all know, Mr. President, to come down to our own municipal and constitutional history, that the people of every single State in this Union have time and again from the foundation of the Government parted with rights which were the inherent and necessary faculties of sovereignty as it respected the private citizens and corporations within their own limits. They have granted charters of incorporations (which will illustrate the whole question) in which they have agreed that the incorporated companies should bear no taxation, sometimes for a limited period, sometimes for an unlimited period; and it has been decided, until it has become as familiar law as the spelling-book is to the school-boy, that, although it be true as is always conceded, that the power to tax is one of the highest faculties of sovereign power, yet the State binding itself by such a compact cannot recede from the engagement, and cannot therefore constitutionally impose a tax which it had agreed that it would not impose. Is not that thus far a limitation of the exercise of sovereign power? The courts of the United States that have decided this question have always held and admitted that it was, but they say that there is nothing in the inherent nature of sovereign power which cannot, if the sovereign power chooses for special objects or the public good to part with it, be parted with.

Is not the power to regulate the administration of justice within the territory of a State a sovereign power? Most clearly it is. There



is no faculty of sovereign power which so essentially sustains the public good, which is so indispensable to that power which governs a State as the administration of justice; and yet my friend from Indiana and my friend from Illinois [Mr. TRUMBULL] cannot fail to know that more than forty years ago the Supreme Court of the United States decided that the State of Kentucky, having by compact parted with the sovereign power in an agreement with the State of Virginia to regulate the administration of justice as it respected a certain class of claims, was thereby forever estopped and prohibited from making any change of her laws that would affect that class of claims or the remedies upon them. That is the case of *Green vs. Biddle* reported in 8 Wheaton, and it is worth looking at; for the history of the nation concerning sovereign attributes in the Supreme Court of the United States, that was referred to the other day, is really, when you trace it down, a history of the political changes of opinion that have happened to exist in the breasts of the particular judges who composed that court, just so far as these so-called inalienable and ilimitable faculties became needful to the aggressive interests of slavery.

Mr. TRUMBULL. Will the Senator give the date of that agreement between Virginia and Kentucky?

Mr. EDMUNDS. I will give it in a moment if the case gives it.

Mr. TRUMBULL. Was it not before the Constitution was adopted?

Mr. EDMUNDS. I rather suspect, inasmuch as it was an agreement with Kentucky, which was not admitted until after the Constitution was adopted, that it must have been afterward.

Mr. TRUMBULL. Was it with Kentucky as a State?

Mr. EDMUNDS. Yes.

Mr. TRUMBULL. That was what I wanted to know.

Mr. EDMUNDS. I am going to show what the case was. It was brought before the Supreme Court of the United States at the February term, 1823, upon a certificate of division, and the following were the questions:

"1. Whether the acts of the Legislature of the State of Kentucky, of the 27th of February, 1797, and of the 31st of January, 1812, concerning occupying claimants of land are constitutional or not; the demandants and the tenants both claiming title to the land in controversy under patents from the State of Virginia, prior to the erection of the district of Kentucky into a State.

"2. Whether the question of improvements sought to be settled under the above act of 1797, the suit having been brought before the passage of the act of 1812, although judgment for the demandant was not rendered until after the passage of the last-mentioned act."

The opinion of the court was delivered by Mr. Justice Story, who said:

"The first question certified from the circuit court of Kentucky, in this cause, is whether the acts of Kentucky of the 27th of February, 1797, and of the 31st of January, 1812, concerning occupying claimants of land, are unconstitutional?"

"This question depends principally upon the construction of the seventh article of the compact made between Virginia and Kentucky, upon the separation of the latter from the former State, that compact being a part of the constitution of Kentucky. The seventh article declares that all private rights and interests of lands, within the said district, derived from the laws of Virginia, shall remain valid and secure under the laws of the proposed State, and shall be determined by the laws now existing in the State, (Virginia.)

"As far as we can understand the construction of the seventh article of the compact contended for by those who assert the constitutionality of the laws in question, it is that it was intended to secure to claimants of lands their rights and interests therein, by preserving a determination of their titles by the laws under which they were acquired. If this be the true and only import of the article, it is a mere nullity; for, by the general principles of law, and from the necessity of the case, titles to real estate can be determined only by the laws of the State under which they are acquired. Titles to land cannot be acquired or transferred in any other mode than that prescribed by the laws of the territory where it is situate. Every Government has, and from the nature of sovereignty must have, the exclusive right of regulating the descent, distribution, and grants of the domain within its own boundaries; and this right must remain until it yields it up by compact or conquest. When once a title to lands is asserted under the laws of a Territory, the validity of that title can be judged of by no other rule than those laws furnish, in which it had its origin; for no title can be acquired contrary to those

laws; and a title good by those laws cannot be disregarded, but by a departure from the first principles of justice. If the article meant, therefore, what has been supposed, it meant only to provide for the affirmation of that, which is the universal rule in the courts of civilized nations, professing to be governed by the dictates of law."

Then he goes on to show that the language of the article does not mean that, but means that not only all land rights but all remedies affecting the merits which had been granted by Virginia should be determined by the laws of Virginia in force at the time of the compact. The act of the State of Kentucky to which objection was made was what we in the North call a betterment act; that is, it provided that on a recovery in ejectment by a plaintiff against a defendant, the defendant should have a rebate or recovery over from the plaintiff of the value of the improvements that had been put upon the land. It did not touch the question of the original title to the land, because, as Mr. Justice Story says, the laws of all countries agree in holding that the title to land must always depend upon the law of the State under which the title originated; but the question was whether the State of Kentucky, under the Virginia grants, could pass a law that the squatter of Kentucky should make the owner of land, when his title came to be asserted in court, pay to him the value of the improvement that he had bestowed upon the land. If there was no limitation to the sovereign power of Kentucky to provide these betterment acts, as they are called, then most clearly Kentucky could pass them; but Kentucky had agreed that all questions relating to land, as I have said, should be determined according to the laws of Virginia and not according to the laws of Kentucky.

Mr. Justice Story went on to define what the question was, and to declare that these were sovereign rights; that they must remain sovereign rights until the State of Kentucky should give them up either by compact (and he uses that very term) or by conquest, which is perhaps the term that my friends on the other side of the Chamber would say is applicable to the State of Arkansas. Then he goes on to show, in an opinion too elaborate for me to venture to trespass upon the time of the Senate to read, that this compact between the State of Virginia and the State of Kentucky was one which Virginia and Kentucky had a right to make as between themselves, and that Kentucky had thereby surrendered a portion of her sovereign rights to regulate the administration of justice in her own courts according to her own laws and had bound herself to administer justice upon an existing case according to the laws of another State, and that her attempt by legislation to recede from that compact was a violation of the compact and was therefore void under the Constitution of the United States, which held every State to its compacts, that it could pass no law impairing the obligation of a compact into which it had entered.

Then, it was said that this compact between Virginia and Kentucky was void, because the United States had not assented to it, there being a clause in the Constitution that no compact should be made between States without the assent of Congress. His answer to that was one which will be very pertinent here to this people of Arkansas, if they choose to organize, on the fundamental condition which we impose upon them; and it was this, that inasmuch as after Kentucky was separated from the territory of Virginia, Congress upon that compact and that new constitution had passed an act admitting Kentucky into the Union; it was a tacit assent to the ground-work and basis upon which she stood; and therefore, if Kentucky existed at all, she must exist by force of the very organic compact and terms under which she was admitted. The language of the court upon that subject is, perhaps, worth recurring to:

"Now, it is perfectly clear"—

And I am now reading from the opinion of Mr. Justice Washington, by whom the opinion upon the rehearing was delivered.

Mr. CONKLING. What page?

Mr. EDMUNDS. Page 362 of 5 Curtis.

The case was decided, as I have said, by Mr. Justice Story; but after it was decided upon the principles I have named, Mr. Henry Clay, upon whom we have heard a just eulogy passed very lately, addressed the court and asked that the case might be continued for reargument, because it affected so many interests in the State of Kentucky, and the court granted the request; and it was again argued, although the court were unanimous in the first instance, and on the second argument Mr. Justice Washington delivered the opinion. Upon this point, to which I am now calling attention, of implied assent by acting under a condition or compact, Mr. Justice Washington proceeds to say this:

"Now, it is perfectly clear, that, although Congress might have refused their consent to the proposed separation, yet they had no authority to declare Kentucky a separate and independent State without the assent of Virginia, or upon terms variant from those which Virginia had prescribed. But Congress, after recognizing the conditions upon which alone Virginia agreed to the separation, expressed, by a solemn act, the consent of that body to the separation. The terms and conditions, then, on which alone the separation could take place, or the act of Congress become a valid one, were necessarily assented to; not by a mere tacit acquiescence, but by an express declaration of the legislative mind, resulting from the manifest construction of the act itself. To deny this, is to deny the validity of the act of Congress, without which Kentucky could not have become an independent State; and then it would follow that she is at this moment a part of the State of Virginia, and all her laws are acts of usurpation. The counsel who urged this argument, would not, we are persuaded, consent to this conclusion; and yet it would seem to be inevitable, if the premises insisted upon be true."

Here, then, Mr. President, we have a case decided in the earlier days of the Supreme Court, and a case which, as it related merely to rights of land, and not to rights in slaves or rights of suffrage, was a case which appealed to no political prejudice of the court; indeed, I may almost say that at that day the court had not learned to have political prejudices; and that case, if I rightly understand it, is the solemn adjudication of the highest judicial tribunal in the land of two things: first, that a State of the Union may make a compact with another State which shall strip her of certain sovereign rights; second, that if that compact is made with the assent of Congress under the Constitution, it is one from which she cannot recede, and that any act attempting to recede from it upon her part is absolutely null and void. Now, why does not that apply to this case? And it further proceeds to declare as plainly as language can declare anything, that if a State comes into existence upon a compact or condition of that character, the very act which created her existence is the one which contains, as a part of its very essence and nature, the condition of things under which she was created, and therefore, if she repudiates that act of creation, she repudiates herself. She only exists, in the language of Mr. Justice Washington, by force of the act of Congress which admitted her into the Union upon those terms, and if that act of Congress imposing those terms is invalid, then she has not been in the Union at all, and all her laws passed in the mean time, in the language of the court, are acts of usurpation merely. And yet gentlemen contend that there is something so peculiar about our republican organization in this country that a sovereign State, more than anybody else, has a legal right to play fast and loose with her bargains and contracts; first, that she has no faculty at all to surrender any quality or privilege of sovereignty, which I have shown to be an entire error as applied to the whole class of instances which have arisen under our history; and, second, that if she does enter into any such engagement she has a perfect right to recede from it at any time, because it was a compact she had no right to make.

If every State may declare, as I have shown, and declare so as to bind her through all time, that her courts of justice shall administer the laws of a foreign State, and not her own, over a given class of subjects which otherwise she

might have administered, why may she not declare that a particular class of her citizens who are now citizens of the United States, and who are entitled to exercise all the faculties of citizenship, shall never be deprived of the right to exercise those faculties. Is there anything anti-republican in that? Is there anything dangerous to the sovereignty of the State to declare that she shall maintain her institutions forevermore up to the full standard of republicanism as it existed when her constitution was formed? I think not.

But, as I was saying, Mr. President, this is not all the course of decision in this matter. We have another class of cases of compacts between a State and the United States, which, so far as the literal form of agreement goes, would be precisely analogous to this; and the cases that I now refer to are those between the United States and Maryland and Ohio and, I believe, Virginia, touching the old turnpike known as the Cumberland road. When that road was given up to those States by Congress they entered into an engagement that they would surrender the sovereign faculty of taxation upon any of the property of the United States or any mail coaches that were carrying the property of the United States over those roads. After they had got the property they concluded that it would be a wise thing, inasmuch as they could not surrender the faculties of sovereignty, to impose the tax, and so they undertook it; and the Supreme Court, in cases coming up from each one of those States—because after one State had tried it the others did not give it up, for they thought they might have better luck next time—involving the same question of the right of those States to be bound by a contract not to impose taxes upon a particular class of property that otherwise confessedly they might have imposed taxes upon, and that by force of the contract they had entered into with the United States not to do, in each case and at each time solemnly decided that they were bound by the contracts, and that the Constitution of the United States, whether it affected sovereignty or whatever it affected, prevented them from passing any law or act which should impair the obligation of that contract into which they had entered; and so another faculty of sovereignty was found to be one which could be given up by a State if she chose to give it up.

The same thing took place at first in respect to these Alabama land cases, upon which the case of Pollard's Lessee *vs.* Hagan was cited the other day. There, for the first time, as read by my friend from Missouri, not now in his seat, [Mr. HENDERSON,] the dogma that there was any inherent sacredness in the faculties of sovereignty that a State could not give up for any purpose, or under any circumstances, came into light, although on the very same questions as touching those same Alabama lands, as will be found in the dissenting opinion of one of the judges in that same case—I think it is in the same case—the previous decisions of the Supreme Court of the United States had been constantly and uniformly, in three or four instances, exactly the reverse, to wit, that the State of Alabama was bound by the compact that she entered into in respect to those lands, that the lands were fairly within the scope of the compact, and the compact was upheld, and the title of the United States given to its patentees was held to be the valid title. Now, as it is true that in this case that was read the other day, the judges in giving their opinions, or rather one of them, Mr. Justice McKinley, declared this doctrine that is now asserted on the floor of the Senate, but in the same breath he declared that it was not necessary to the decision of the case, because he decided, and a majority of the other judges concurred with him, that after all the question did not arise on account of the fact that the compact did not cover the land.

But I admit, Mr. President, that in a later case, one that occurred as late as 1857, in 20 Howard—I have forgotten the name of it—which was a case from the State of Mississippi,

a judge of the Supreme Court, speaking for his associates, again speaking on this question of inherent sovereign rights which States possessed, which they could not part with, did say, in the most formal and solemn manner, that the State of Mississippi could not give up her right to control the navigable waters on the borders or within the territory of that State, to Congress by assenting to the conditions upon which she was admitted into the Union, and, therefore, that the provision in the bill by which the State of Mississippi was admitted into the Union, that the waters of the Mississippi should remain forever free to the navigation of all the inhabitants and citizens of the United States, was an obligation that she was not bound by. To be sure, Mr. President, it is due to the judge to say that they again dodged the question. They asserted the abstract doctrine, but immediately proceeded to decide that in that particular case the State of Mississippi had not attempted to do any such thing. But I confess that the doctrine which is now contended for was boldly announced; and it was carried at that same time, as you well know, sir, to an extent much greater even than that in the Dred Scott case, where the whole case turned upon the decision of the court, that by force of the Constitution touching the Territories Congress could pass no act which should prevent the introduction of slaves into those Territories; that the ordinance of 1787 was nothing but waste paper; that the constitutional provision which gave Congress the power to make all needful rules and regulations relating to the Territories had no applicable force; and that no act of Congress could be made which could prohibit a citizen of Mississippi, or of any other slaveholding State, from taking his property which he might hold by the laws of his own State into that Territory on this same ground of State sovereignty and equality.

And this leads me to allude (because I can, of course, only touch upon these subjects in the time which I feel justified in using) to what has been stated in the debate here about the phrase admitting a State "upon an equal footing with the other States" of the Union, and to the argument advanced, that if we impose any conditions or limitations upon the right of this State which are not imposed as it respects our own States, she cannot be admitted upon an equal footing. In the first place, there is no such provision in the Constitution. The language touching the "equal footing" of the States is borrowed from the acts of cession of Virginia and Georgia of the southwestern territory to the United States, which proceeds to declare that the inhabitants of those territories shall be erected into States of convenient size, and, when the proper time comes, shall be admitted upon an "equal footing" with the other States of the Union; and in one of these Alabama cases to which I have referred the judges of the court seize hold upon that expression in the compact between the State of Virginia and the State of Georgia and the United States in giving up the territory, as the grant which gives those States which are formed out of that territory the right to come in on an equal footing; in other words, that a compact which is made between the United States and Virginia and Georgia may bind the United States; but when we ask to have Virginia and Georgia bound by it, then it is quite a different thing. That is where the phrase comes from.

The equal footing to which each State is entitled under the Constitution is just such an equal footing, and no more, as that which the Constitution itself prescribes. What is that equal footing? It is that the representation of that State, like the representation of all others, shall be apportioned upon the total number of its inhabitants. It is that each State shall have two Senators in Congress. It is that each State shall have the same faculties in respect of those enumerated rights which are given to them, and those enumerated prohibitions which are asserted against them, which the Constitution contains, that every other has. That is the equal footing of the

States which the Constitution has provided for, and it only relates, as you will perceive, to their relations as to each other, and does not relate to the extent of their territory, the number of their inhabitants, or the particular detailed nature of their republican institutions at all. Therefore, to maintain that you cannot admit a State upon any terms which will not make her in every respect politically like every other State is to assert a proposition that you can never fulfill.

Take the very constitution of Arkansas which is before you. You will find that that constitution narrows the faculties of that people in many respects and enlarges them in many others, as distinguished from the constitution of the State of Massachusetts or of Vermont or of New York; and therefore you would find, by a comparison, an instant demonstration of the fact that these people, if you have no condition at all, are not to be admitted upon an equal footing with those States, if by "equality" you mean the having institutions that are just alike. And if by "equality" you mean that they cannot be permitted to make an engagement which in any respect is different from the engagements the other States have made as the terms upon which they were to come in, on the ground that they could not part with a sovereign right, then I say you oppose yourself to the voice of all human experience, that all sovereignties do part with sovereign rights every day, as the State of Ohio has done as between herself and private persons, in limiting her faculty to tax banks, and as she and other States have done as to taxing mail coaches, &c., as the Supreme Court has decided; as the State of Kentucky has done in the case I have referred to.

Mr. MORTON. Ohio has the right to change her constitution in that particular, as any other State has, so that she still occupies the same position.

Mr. EDMUNDS. Yes, Ohio has the right to change her constitution, but if she were to change her constitution and declare by her new constitution that the particular bank she engaged should not be taxed should be taxed, my friend then would find that Ohio had still the manacles of the law upon her limbs, and that her constitution would have no more power than the law she had passed.

Mr. CONKLING. Do you refer to the Piqua Bank and Knoop case?

Mr. EDMUNDS. I refer to the tax cases; I do not know what the names of the banks were; and I might refer to the bridge cases of Massachusetts and many others. So there is nothing in the difference between a constitution and a law which makes a distinction in the right of a State to limit her sovereign faculties one way or the other, if she binds herself by a law which impairs her right of sovereignty to impose taxes upon a particular person, then she is bound to stand by that compact, and if she chooses to change her constitution in order to violate the compact, the compact is just as valid as it was before. I should suppose my friend from Indiana would scarcely contest that.

But I have not time, Mr. President, and I am sure the Senate have not the patience to continue this branch of the discussion.

Mr. MORTON. I should like, with the permission of the Senator from Vermont, to ask him a question.

Mr. EDMUNDS. Certainly.

Mr. MORTON. Supposing, for the sake of the argument, that the people of a State have the power to bind themselves in perpetual compact with the General Government, by which they surrender some right, I want to ask the Senator whether that must be done by the people in their primary capacity or may be done by an ordinary Legislature?

Mr. EDMUNDS. That is quite a different question from the one I have been so far arguing. I have been, in the first place, endeavoring to combat the proposition advanced the other day, that it was not within the power of the people as a body, acting through the high-

est form of action that they could possibly act in, to deprive themselves of a right which belonged to sovereignty, and as we all know that every political and civil right is inherent in and belongs to sovereignty, and that it only exists because of sovereignty, the proposition is simply that a State cannot deprive herself of any right except that which relates to private property which she owns as an individual.

Now, my friend from Indiana comes to another and quite a different question.

Mr. MORTON. No, sir; I argued that same question.

Mr. EDMUNDS. But, I say, you now come in your inquiry to another and quite different question. I will attend to that if the Senator will have a little patience. I agree with my friend from Indiana that where a Legislature derives its powers solely from a constitution that creates it, so far as that Legislature has any relation to the constitution in what it is to do, it, of course, has no power to exceed the powers the constitution has given it; but where a Legislature represents a people which are not yet in a state of sovereign existence, as is the case with the State of Arkansas, and where the representatives of that people agree to a fundamental condition upon which that State is to have a sovereign existence, and the people of that State choose to acquiesce by upholding and continuing the form of government which is thus given to them, it becomes just as much the act of the whole people as it would have been if they had met in convention and agreed to it in form; and that very point is decided, I repeat, in the case I have alluded to, by Judge Story and Judge Washington.

There it was necessary that the State of Kentucky should have had the assent of Congress to making a compact with the State of Virginia, and the argument on the part of Kentucky was that Congress had never given its assent. What was the answer of the court? I have read it to you: that inasmuch as Kentucky received her existence by force of that compact, and by force of the act of Congress which admitted her afterward, to contend that the act of Congress which admitted her was not an agreement to that compact would be to contend that the State of Kentucky had no existence at all. So that, I say, whether the Legislature of Arkansas agree or disagree to a fundamental condition which we choose to impose as the very ground upon which we pass a bill of admission, when that fundamental condition is broken the bill falls; it becomes as if there had never been a bill to admit the State, and the State falls with it if we choose to enforce the forfeiture of the condition. That is my position.

I do not contend that any special force, if my friend will allow me to use a law expression, *proprio vigore* necessarily arises from the mere act of the Legislature under the constitution in assenting to the condition. I only say that if we put into a bill which gives a State or a corporation life, a condition upon which that life is to depend, if that people choose to accept that condition by acting upon that which we give to them, and go on with their State organization, they take it with the whole burden of the condition, and that it does not lie in their mouths afterward to say, "We assented to only half the law," or "We choose to accept the law without the condition," because the condition is an inseparable part of the law. If the State of Arkansas does not constitutionally exist to-day in an organized form without our will, can we not, as a part of that will, say that only upon certain terms shall that organization be permitted to be set up? And if it is set up, is it not necessarily a tacit agreement to those terms? Is it not necessarily, as was said by the court in the case to which I have referred, an express agreement to the terms, because they are working under the authority, and the authority only, that the law gave to them, which declared that it should be exercised upon, and only upon, certain conditions.

If this was applied to a private corporation, my friend from Indiana would not dispute with

me for a moment, I take it; but the difficulty into which he has fallen is in supposing that there is something so sacred and so supreme in the usual attributes of a political community that is invested with the rights of sovereignty, that none of those rights could be parted with under any circumstances whatever. There is the fault in the argument. As it respects us, as it respects coming into the fellowship of States upon terms that we choose to impose, these communities are exactly in the same condition that a private corporation is that wishes a charter from us, subject of course to the provision of the Constitution which declares that they shall always have two Senators and a certain share in the Representatives, &c.

So much for that, sir. I am taking more of the time of the Senate than I feel justified in doing upon this important question of law. Now I wish to say a few words upon the general question.

We have proposed, in the first place, a constitutional amendment, to which I wish to ask the attention of the Senate. This was proposed on the 16th of June, 1866, and is known as the fourteenth article. The second section provides, as we all know, for a diminution in the representation of a State when any part of its male inhabitants shall be denied the right of the elective franchise; and we all know that it was intended as the foundation safeguard of this whole question of restoration. We all know that it was considered as of the most vital importance to the future welfare and prosperity of the whole country, as well as to the social order in the southern States, that that article should become a part of the Constitution of the United States, because then it would be above the temporary excitements and changes of party; it would be beyond the changes of administration; it would be beyond all changes of policy; it would be above any overt act by State authority in the localities where it applied. It was regarded, and justly regarded, as the key which should finally hold safe the great treasure of liberty and equality that we had wrung from the rebellion. I regard it so yet, not merely in that respect, but in the respect provided in the fourth section, which is as follows:

"The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States, nor any State, shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims, shall be held illegal and void."

I regard that still as of great importance, as of the highest importance at this moment, higher than any temporary injury, or suffering or inconvenience that can happen to the people of Arkansas, by waiting for a month or six weeks before they are admitted to representation in this body.

Now, what do we propose to do? We propose to admit the State of Arkansas; and I do not say by alluding to these considerations that I shall finally vote against the admission of that State; I hold that in reserve. I only allude to it now to show what appears to me to be the very high importance of not forgetting in our zealous haste the very groundwork upon which we have undertaken to establish this restoration. What do we propose to do? We propose to admit Arkansas, although we gave notice to that people that they must first have a convention and frame a constitution, must submit it to their people, must send it to us, must have it in such a condition that it shall meet our approval, and that then and afterward, before they should be entitled to a complete State organization and to representation as a State, this fourteenth article to which I have called your attention should become a part of the Constitution of the United States; not that the people of Arkansas alone should agree to it, which, to be sure, as my friend from Illinois [Mr. TRUMBULL] says, was all they could do, but we told them in unmistakable terms that they must do all that, and then they must wait until that article should

have become irrevocable beyond the chances of fortune, beyond the chances of violence, beyond the chances reconsideration. Has it become so? I ask my honorable friend from Illinois has it become so? My friend is unwilling to say that it has. I do not know what his individual opinion is. I can scarcely say that I know what my own is.

To be sure, it is contended by some statesmen and by some jurists that three fourths of the States which must assent to this article of the Constitution means three fourths of the States which had legal and loyal and represented governments at the time the article was proposed. It is contended by another class of statesmen and jurists, whose purity is not to be questioned, that the Constitution plainly means that three fourths of the States are three fourths of all the States, and, therefore, in order to have it become a part of the Constitution, you must have twenty-eight States assent to it, instead of nineteen, or whatever the number otherwise would be. I confess, Mr. President, that the inclination of my mind is, if it is of any value to anybody to know it, in favor of the latter proposition. I hold myself ready to change my opinion if I shall be convinced, or that inclination if it shall turn out to be wrong. But inasmuch as it is a subject of dispute at least, of fair and honest dispute, are we to throw over to the mere chances of futurity the fourteenth article upon such a doubt and dispute? That is the question. Is there so little of value and of virtue and of security to the peace of this country in the years to come in this article which we framed with so much care and submitted to the States, as to make it worth our while to hazard it upon any chance whatever?

Mr. MORTON. I should like to ask my learned friend one question.

Mr. EDMUNDS. I will hear it with pleasure.

Mr. MORTON. It is, how the final adoption of the fourteenth article is put in peril by the admission of a State that has already ratified it itself?

Mr. EDMUNDS. I will answer you presently. I am now merely endeavoring to call the attention of Senators to the transcendent importance to the country that we should make no mistake and run no hazard on this question. That is as far as I have gone so far.

And now I wish to call the attention of Senators and the country once again to the fact that we are not guilty of any want of faith whatever to the people of Arkansas, or of any other southern State, in saying to them, as we said in 1867 when we passed the law under which they have organized, "when you have organized and have adopted, so far as you can, that fourteenth article, you shall then wait until enough of your fellows have adopted it to make it absolutely secure." Where is the injustice in that? Where is the bad faith in that? Have we held out any other inducement to them? Have we invited them to organize and to arrange their State affairs and to come here upon any other terms? By no means. What, then, is meant by Senators when they say, "Why are you keeping them out; have they not done all you asked them to do? You are committing bad faith against them." Is it bad faith, in a matter of this grave importance, to say to these people when they have taken one of the steps that we require as a condition precedent, to wait until the other shall be taken also? I fail to see it.

Now, my friend from Indiana inquires (and I hasten to that because I do not wish to occupy time) where is the danger, where is the hazard of losing this constitutional amendment any more by letting this State in than by keeping her out? I will tell my friend where it appears to me to be; and I trust my friend will believe me when I tell him that, if I know myself, I am as sincerely anxious to restore these people, and all the other people of the South, to their primal relations to this Union as he is, or as any other gentleman on this floor; but I am anxious, at the same time, to do it so that it will be a restoration and remain a restoration.



My fear is this—and I confess that it is not to my mind a light fear—I hope it will not happen—that when the State of Arkansas, which is, perhaps, a fair sample of all the others, shall have been admitted to representation, and shall have then put on the full robes of statehood, as my friend from New York [Mr. CONKLING] very happily expressed it the other day, she will have then become entirely free from the operation of our military government, she will be no more the subject of military control, of military surveillance or military aid, than the State of Vermont or the State of Indiana is. Her only rightful aid in preserving the new institutions which she has set up against the opposition that we know exists there from those who have been in rebellion against the Government will be the aid and support that she gets from the President of the United States. We all know that. My friend knows that. By the Constitution and the existing laws the State of Arkansas will have no anchor to tie to and no rock to lean upon but that of Andrew Johnson, the President of the United States, the moment she ceases to be in the condition she now is and becomes a State of the Union.

It is therefore worth a little while to inquire what is the position of the President of the United States as it respects this State government that we are about to set up in Arkansas. How does he feel toward it? What are his views of its legality? Sir, we are not left in the dark about that. We know that in his opinion the whole scheme of restoration, as it exists in the laws of Congress, is totally and grossly unconstitutional; and we know that it is the opinion of many Senators on this floor that if he believes that he may set those laws at defiance with impunity; that there is no power in the land to punish him for it; that there is no power in the land to hold him to the execution of them, so long as acting in good faith, he believes he is doing his duty by undertaking to overturn them!

Now, therefore, when the government of Arkansas under this bill is set up, and the bill is passed over the veto of the President of the United States—if he should still be of the opinion that he has been, that all this is unconstitutional, and should act upon that opinion—what will be the condition of affairs? He will be bound to believe that this government thus set up is a usurped government, and that the true government of Arkansas is the one he instituted in 1865, and that the true voters of Arkansas are the white men and rebels, and nobody else. If he has that belief as an officer of the Government, what will he believe it to be his duty to do? His friends must answer for him; I cannot. I only mean to say that I have great fear in trusting to the President of the United States, and I am not now impeaching his motives in the least degree; I am only alluding to his opinions as they are represented to us by himself—I have great fear in trusting to the President of the United States to uphold this new government of Arkansas against the rebels that are in it and around it and of it.

Now then, to follow my friend's question a little further, suppose it should happen that there should be a domestic tumult in Arkansas, or there should be such a pressure against the organization of this new government, when it is first organized, as to make it impossible for it to go on without military aid, and the new Governor should call upon the President for that aid, what would the President say? If he is true to his history and true to his opinions, as he has represented them to us, he will say "Go away; I know you not; you are a usurper yourself; you do not represent any State of Arkansas; it is another man who is the Governor of that State, and not you." Suppose he fails to say that; suppose he only yields to that Governor a slow, dilatory, reluctant support, such as he has yielded—if he has yielded any—to the reconstruction measures that we have passed, where will the new State government of Arkansas find itself then

do you suppose? I fear, Mr. President, that it will find itself upside down. If it does find itself upside down, and a new Legislature comes in elected by what they call "the white man's party of Arkansas," which is another name for "the rebel party," before this article becomes a part of the Constitution, and then they retract, as Ohio and New Jersey have done, where are you then? You have her Representatives here, very good men I dare say; but like Ohio and New Jersey, whose Representatives you have, very good men here, she has taken the back track.

I know it is said by good lawyers that a State having once assented, cannot retrace her steps. I doubt that, Mr. President. That is one of the debatable questions which remain to be decided, and if there is any value in prophecy, I assume to prophecy that the Supreme Court of the United States, as it is now organized, will, as certainly as the day comes, decide that they have a right to take back their assent at any time before the assent of three fourths of the States finally closes the thing into the Constitution. My fear, therefore, is that the haste we are making in reconstruction, in the way that we are now proposing to make it, will be a haste that will prove to be a haste backward; and that is the kind of haste I do not wish to make.

Not to be misunderstood, Mr. President, I repeat that the developments of a few days may satisfy me that this risk is worth taking; but I am not satisfied of it yet. I wish Senators to think of it seriously, to prognosticate as far as they can the future, and before they set up a State government in any of these States, let them feel assured as far as they well and safely can be, that that government has either in itself the power of self protection, as perhaps some of these States have, or else that they will receive it from the source from which they are entitled to receive it, the United States. I do not know that either of these propositions is true now.

Therefore, Mr. President, what I desire to do—I do not know that it will meet the approving opinion of a single other Senator—is to put the government of Arkansas as now elected immediately into the hands of the persons who were elected to administer it, but to put it into their hands under the same military protection and aid that exists there now, so that the hand of Congress and the law will uphold that government as it has upheld order there hitherto, to be administered by those loyal men who are elected, and not by the rebels who are appointed by the President, until they shall have had time to get themselves into practical working order; until, as the shipbuilders say, they shall have made a trial trip; and in the mean time this constitutional amendment being adopted by the Legislatures of the other States, as to whom I would make the same provision, will have become a part of the Constitution of the United States, and then we can admit their Senators and Representatives to these Halls without any fear of the consequences; because then if a State government is overthrown there will be the hard-pan of the Constitution of the United States under their feet, and you will touch bottom somewhere. These being my fears, and having taken more time than I ought to have done, I make this motion, which expresses my opinion: that the bill be recommitted to the Committee on the Judiciary with instructions to report the same so amended as to provide for the immediate inauguration of the officers elected under the new constitution in Arkansas, and for the immediate termination of the functions of all persons now and heretofore exercising civil duties in said State, and so as to provide for the continuance of the present military government in aid of said officers until said State shall be admitted to representation in Congress, and to provide for the admission of said State when the article proposed as article Fourteen shall become a part of the Constitution of the United States.

Mr. CONKLING and Mr. WILSON addressed the Chair.

The PRESIDENT *pro tempore*. The Senator from New York.

Mr. CONKLING. May I inquire of the Senator from Massachusetts his purpose in seeking the floor?

Mr. WILSON. My purpose was to follow the example of some of my associates here, and say a few words on the general question.

Mr. CONKLING. I beg pardon of the Senator. I thought he wished to make a motion touching another matter, in which case I would yield.

Mr. President, if any member of this body should discuss such a question as the Senator from Vermont has been treating without some examination and reflection, certainly I ought not to do it. Nevertheless, in view of the allegations we have heard from the Senator from Vermont as to the lessons taught by the legislative and judicial history of the country concerning the pending proposition and the grave question it involves, I venture without meditation to express my dissent from his understanding of the precedents and authorities.

I deny that the history of the Government in any of its branches warrants the assertion that a condition such as is now before us imposed by Congress on a State is authorized or binding after the State assumes her statehood in the Union. I venture to go farther, and to affirm that there is but one single instance in the history of the country, and that a very recent instance, in which the experiment has been tried. The other day, when some allusions were made to this subject, it was said that there were several instances of this sort; two, at all events, precisely in point and of recent occurrence. It was suggested that the case of Missouri, as the first case in time, furnished an example, and shed light directly upon this question. I pause a moment to comment first upon the proviso in the act admitting Missouri. I do not mean to repeat what was said so clearly by the honorable Senator from Pennsylvania, [Mr. BUCKALEW;] but passing beyond the point he stated, I wish to call attention to the fact that no attempt was made there to do any part of what is here proposed. There was no attempt to change the constitution of Missouri, or to interfere with the people of Missouri in any change they might in future propose. No attempt was made to contract or dictate as to any matter pertaining to the rights or powers of Missouri. But falling short of all this, and of a different character altogether, was a provision that a certain construction should not be put upon a specified clause of the constitution, which construction was forbidden by the Constitution of the United States.

Not having the language at hand, I state that the resolution in the case of Missouri provided simply that a provision in the proposed constitution should never be construed to mean, nor should any law in pursuance of it be passed, that any citizen of the United States should be deprived of any immunity or right to which he was entitled by the Constitution of the United States. If the Senator from Wisconsin has it under his eye, I ask him whether I am not right.

Mr. DOOLITTLE. Substantially.

Mr. CONKLING. I will ask the loan of the book one moment, if the Senator will oblige me.

Let us observe that it was not a proposition that Congress should obliterate one line or letter of that constitution, nor that Congress should change the constitution in any respect; nor was it a proposal that the people of Missouri, in their legislative capacity, or in their primary capacity, sitting in convention, or in any other way, should assent to a change of the constitution which they proposed; nor that they should submit to any part of the constitution being made unchangeable, but it was that a particular provision pointed out—

"Shall never be construed to authorize the passage of any law, and that no law shall be passed in con-

formity thereto, by which any citizen of either of the States of this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States."

I take it that, with or without this provision, the Congress of the United States, the United States themselves, speaking through any appropriate Department of the Government, had the same right to insist upon this that they had to exist as a Government.

The requirement was that a State should do nothing depriving any citizen—leaving the question entirely open who was and who was not a citizen—of any right to which that citizen was entitled by the Constitution of the United States. The whole scope of the enactment was, that in all cases, to be legally ascertained, of citizens of the United States entitled as such by the Constitution of the United States to given rights or immunities, no law of Missouri should come between the Constitution of the United States and the objects of its operation and protection. I submit, then, upon the bare statement of the provision, aside from the reasons for it, clearly assigned by the honorable Senator from Pennsylvania, the Missouri case does not aid us in support of the pending proposition.

The Senator from Pennsylvania well said that the object aimed at in the case of Missouri was not to destroy, but to establish her equality with the other States. I go still further, and say that in pursuit even of this object Congress did not resort to the means here proposed, or to means in any sense equivalent or similar.

But then we come—and I am following the legislative and judicial precedents together—to a class of cases to which the Senator from Vermont has so elaborately alluded; and we are told that they reflect light upon the question whether you can admit a State into the Union, and in the same breath pronounce a perpetual prohibition against her exercising functions falling exclusively within State power and prerogative. We are told, inferentially, at least, that the Supreme Court of the United States as long ago as 8 Wheaton decided in the case of *Green vs. Biddle*, reviewed with so much apparent minuteness by the Senator, that such an anomaly was supposable, and could be legally consummated. I wish to call attention to that case, and see whether, indeed, it decides anything in the direction of the argument of the Senator from Vermont. In the first place, let me read two or three brief paragraphs of the head note to show what it was the court was talking about:

"The compact between Virginia and Kentucky was a contract within the eighteenth section of the first article of the Constitution of the United States."

Here is a misprint, one of various things showing that this case is loosely reported, and was, in the first instance at least, rather loosely treated in court; I may as well say just here, it was an *ex parte* case, argued only on one side. The landlord alone appeared in the case; the tenant did not appear at all, and no argument whatever was made in the first instance, which led Mr. Clay, as *amicus curiæ*, being present, to request a reargument, not as I understand the Senator from Vermont to think, for fear the prerogatives of the State of Kentucky would suffer, but because he said confusions were likely to arise in land titles. This led Mr. Clay to request that the case might be argued on both sides before it was finally decided, and it was so argued. The head note is a misprint in referring to the eighteenth section of the first article of the Constitution. There is no such section. The reference undoubtedly is to the tenth section, ordaining that States shall not make compacts without the consent of Congress. But to proceed with the head note:

"The compact between Virginia and Kentucky was a contract, within the eighteenth section of the first article of the Constitution of the United States."

"It is not necessary that the consent of Congress to a compact between two States should be expressed in any particular form; and when Congress consented to the separation of Kentucky, and its erection into a State, it must be taken to have consented to the

compact by which the separation was agreed to be made.

"It is not a valid objection to the compact that it restricts the exercise of the legislative power of Kentucky in certain particulars."

There were two questions certified by the circuit court, and the case was argued, no counsel appearing for the defendant, and Judge Story says, in the outset of his opinion:

"This question depends principally upon the construction of the seventh article of the compact made between Virginia and Kentucky upon the separation of the latter from the former State, that compact being a part of the constitution of Kentucky. The seventh article declares," &c., "reciting it."

Let me say at this point the bearings of the case. A compact had been made between two States which related to the title to lands and to betterments, (the court say it is impossible to separate the two elements,) and the objection was made, first, that States could not be parties to contracts, and that, if they made compacts with each other, the consent of Congress was necessary, and that such consent had not been obtained. The court held a provision as to contracts applied to States; that these two States had made a compact to which the consent of Congress had been given—not formally and specifically given at the time, but sufficiently given by the act being ratified and affirmed. Now, turn to the opinion of Mr. Justice Washington, and see whether I am right:

"1. The first objection, says the judge, is founded upon the allegation that the compact was made made without the consent of Congress, contrary to the tenth section of the first article, which declares that 'no State shall, without the consent of Congress, enter into any agreement or compact with another State or with a foreign Power.' Let it be observed, in the first place, that the Constitution makes no provision respecting the mode or form in which the consent of Congress is to be signified, very properly leaving that matter to the wisdom of that body, to be decided upon according to the ordinary rules of law and of right reason."

Having disposed of that, he says:

"A slight effort to prove that a compact between two States is not a case within the meaning of the Constitution, which speaks of contracts, was made by the counsel for the tenant, but was not much pressed."

Disposing of this second suggestion, he comes to the conclusion of his opinion. How can it be argued from this case that the court decided or intended to intimate anything on the question whether Congress may fasten shackles upon a State in advance and have them remain there. The only thing in the whole opinion to which the honorable Senator from Vermont referred, that I can find is this casual expression of Judge Story, which, as I read it and understand it, does not make in the direction in which the Senator argued:

"As far as we can understand the construction of the seventh article of the compact contended for by those who assert the constitutionality of the laws in question, it is that it was intended to secure to claimants of lands their rights and interests therein by preserving a determination of their titles by the laws under which they were acquired. If this be the true and only import of the article it is a mere nullity; for, by the general principles of law, and from the necessity of the case, titles to real estate can be determined only by the laws of the State under which they are acquired. Titles to land cannot be acquired or transferred in any other mode than that prescribed by the laws of the territory where it is situated. Every Government has, and from the nature of sovereignty must have, the exclusive right of regulating the descent, distribution, and grants of the domain within its own boundaries."

And now come the words which the Senator read:

"and this right must remain until it yields it up by compact or conquest."

Taking the passage together as far as it is a declaration of anything except by way of preface to the utterance the judge was about to make, it seems to me a declaration against the inference derived from it by the Senator from Vermont. Suffice it to say there was no point in judgment like the point here, and the case did not, and could not, decide anything material to this discussion.

But the Senator referred to a variety of other cases. He referred to what the State of Ohio had done, and although he did not name the

case, I conclude he referred to the case of the *Piqua Bank vs. Knoop*, the treasurer of Miami county, Ohio, which was argued on one side in the Supreme Court in recent years by one of the oldest members of the other House, Mr. SPALDING, of Ohio. What was that case? I understood the Senator from Vermont to argue that it tended to show that in some way a State may be divested of its constitutional sovereignty, or of a portion of it. I have just sent for the case, and will read the head note:

"In 1845, the Legislature of Ohio passed a general banking law, the fifty-ninth section of which required the officers to make semi-annual dividends, and the sixtieth required them to set off six per cent. of such dividends for the use of the State, which sum or amount so set off should be in lieu of all taxes to which the company, or the stockholders therein, would otherwise be subject."

That was the case; and the question upon which the struggle occurred was this—a point even more remote than that suggested by the part of the head-note I have read—whether, having granted a charter containing the provision stated, and the stockholders having accepted it and gone into operation under it, and set aside their six per cent. in lieu of taxes, vested rights had ensued inasmuch that they were protected by that provision of the Constitution of the United States which says that no State shall pass any law impairing the obligation of contracts. That was the point in the case, because the Legislature of Ohio sought to recall this stipulation and to subject the banks, like other individuals and corporations, to a discretionary taxation, and the banks said, "No; we have accepted this charter, and the charter, together with our acceptance, completes a contract, which is sacred, according to the Constitution of the United States, and until the charter has run out, and we have derived its benefit, you cannot lay your hands upon us;" and they went to the Supreme Court upon that ground, and the court held that they were right in saying that it was a contract and they were protected by the provision of the Constitution to which I have referred.

But, sir, does this case shed any light upon the question of fundamental compacts or conditions embracing political powers imposed by the Government of the United States upon particular States? I submit not; and yet it leads to a class of legislative precedents supposed to be in the line of this discussion. It leads to those cases like the Maryland case and several others—the Cumberland road, I believe, is one; I speak from general recollection—where Congress said and the State said that certain property, land in some instances, in some instances stage coaches running over certain lines, should not be taxable by the State, or should be taxable only in one way or another. There are many of those cases, and they go back to a principle as old as Maryland *vs. McCulloch*, in 4 Wheaton, where the court said, as they have always said to this day, without any compact, without any act of Congress, that by the Constitution of the United States, a State could not tax the mint, could not tax the custom-house, could not tax the property and instrumentalities owned by the United States, by which the Government of the United States carried on its affairs. Upon somewhat analogous reasoning it was that when stage coaches ran on certain lines and carried the mail, the suggestion was made that they ought not to be taxed, and should not be taxed, and it became a matter of contract and understanding. So of the public lands. All this is, however, upon a principle distinguishable from this case, and presenting a question the elements of which do not enter into the question we are now discussing.

So the cases referred to by the honorable Senator from Nevada, [Mr. STEWART,] where acts of admission have said that non-residents should not be taxed invidiously, more onerously than the residents of the State, they are just like the case in that respect of the *Piqua Bank* and the Treasurer of Ohio. The power

of taxation is undoubtedly one of the high illustrations of sovereignty; but in certain quantities, in particular instances, in its application to particular subjects, it may be regulated or exercised by contract, and so the Supreme Court has held over and over again. I recollect a case argued by the honorable Senator from Maryland before me, [Mr. JOHN-SOX,] a case to which, if I mistake not, he referred not a great while ago in the debate in the case of Nebraska. I will read a remark made by the Senator from Maryland. The Senator from Vermont on that occasion suggested "but taxation is a sovereign power." The Senator from Maryland said:

"A right, too. She had a right to tax. She is to judge herself whether she will execute the power; but the power necessarily involves the support of the State. The State government must be supported, and the only mode of supporting it is through some form of taxation. It was contended in the two cases to which I have referred, that the State could not part with the taxing power. The answer which the Supreme Court gave, and the answer was satisfactory to the whole bench on each occasion, was, that the State could enter into a contract in relation to any subject which did not impair her sovereignty and take away her ability to hold an equal place among her sister States; and as she could do it in relation to the two subjects to which I have adverted after she came in, she could do it the moment of coming in."

That is, she can agree to say to a particular corporation, or class of corporations, or individuals, "In lieu of undetermined and fluctuating taxes, we will accept so much," or she may say to a certain class of individuals, as the State of New York has said: "If you will enlist as soldiers and form uniformed companies, your property to the extent of five hundred or one thousand dollars shall be exempt for seven years, or forever." Does anybody doubt that the State of New York had the power to say that? The question arose there as it did in the case of Ohio, whether having said it, and a subsequent Legislature having repealed the act, the act of repeal was constitutional or not; in other words, whether the transaction had become a contract which was sacred by the Constitution of the United States; but as to the power of the State—

Mr. BUCKALEW. How was it decided?

Mr. CONKLING. Well, sir, I regret to tell the Senator how it was decided, as I made a very long struggle myself in the case and succeeded until we reached the court of appeals, and the court of appeals held that it was not a case falling within the principle of the Ohio case, but that it was an act constantly subject to revision and repeal, and that although the militiamen were exempt, while the law stood, from taxation, as everybody admitted they were, a subsequent Legislature having stepped in and repealed it, all after the repeal fell under the ordinary obligation to pay taxes. But in that case no man, judge, or counsel, ever challenged the right or power of the State to part in so far, while it chose, with its right to tax these individuals, or this class of individuals. It is an illustration which never occurred to me in this connection until this moment, but it brings out, it seems to me, the distinction between the cases of which the Senator from Vermont has been speaking, and such cases as he must find in order to vindicate the position assumed for the pending proposition.

Now, Mr. President, I wish to say a word more, particularly about other passages in the legislative history of the country. It was said the other day by some Senator that Nevada was an instance, if Missouri was not, of the imposition of fundamental conditions like this. Sir, that is an entire mistake. The statement was accepted at the time; but I have looked, and I find the case of Nevada was simply this: an enabling act for Nevada was passed, which act provided that, upon a constitution being presented, and other things being done, the President of the United States should issue a proclamation, upon which the State should be deemed admitted to the Union; and such became the historical fact. The enabling act provided as a condition-precedent—mark the distinction; there are other distinctions, but this one is abundant for the purpose—that the

constitution—no, sir, I beg pardon; not even the constitution; it did not go so far—that the convention, by an ordinance, should declare first, second, and third, specifying, among other things, that involuntary servitude, except as a punishment for crime, should not exist in the State. There, you perceive, was an enabling act giving notice to these people, "If you wish to be admitted you must come with a constitution declaring so and so." If the ordinance in that case is to be treated as equivalent to the constitution, and, for the sake of argument, I will admit that it is, "You must come with a constitution which, at the time it speaks to us, holds this language in these respects;" but not "You must come with a constitution which Congress decrees shall, like the laws of the Medes and Persians, be immutable forever in such respects as Congress shall point out." There was no such language as that, although had that been done it would not present this precise question. But that was the case of Nevada, and that is all of it in this behalf.

Now, we come to the next case in the order of history, and nobody has referred to it in this debate. I suggest it to the attention of the honorable Senator from Massachusetts, [Mr. SUMNER.] Sometime ago the State of Tennessee, which had been in the category of these other States—there are ten now; there were eleven then—came here for admission, and this same proposition was presented, of imposing upon Tennessee fundamental conditions identical in substance with the fundamental condition here proposed, and the honorable Senator from Massachusetts offered such a proposition which I have before me. These are its words:

"Provided, That this shall not take effect except upon the fundamental condition that within the State there shall be no denial of the electoral franchise or of any other rights on account of color or race, but all persons shall be equal before the law, and the Legislature of the State, by a solemn public act, shall declare the assent of the State to this fundamental condition, and shall transmit to the President of the United States an authentic copy of such assent whenever the same shall be adopted, upon the prompt receipt whereof, he shall, by proclamation, announce the fact, whereupon, without any further proceedings in the part of Congress, this joint resolution shall take effect."

The Senate was then intent upon a very interesting juncture, a very grave measure; Tennessee was the pioneer returning State of the eleven which had been deranged. The form of substance of her restoration to relations with the Union was very fully discussed upon its merits, both of law and fact; and how think you, Mr. President, the judgment of the Senate stood then upon the propriety, the power, the wisdom of attempting to impose such a provision? Four Senators, and four only, voted in the affirmative, and thirty-four voted against it on a call of the yeas and nays. I have no idea that the argument in truth is any stronger now than it was then, nor have I any idea, without any disrespect to the State of Tennessee, that any greater risk, if risk there be, is to be run in the case of Arkansas, looking to the ultimate future, than was incurred in the case of Tennessee.

Mr. MORTON. I should like, with the permission of the Senator from New York, to ask him a question which I shall be glad to have him answer.

Mr. CONKLING. I shall be glad to do it if I can.

Mr. MORTON. Suppose, when Florida comes here for admission, being small in population and without prospect of very rapid increase, we should say to Florida, "These small States have too much power in the Senate and we will agree to admit you only upon condition that you shall never send but one United States Senator here." I ask if she would not have as much right to agree to that condition of admission as to agree that she will surrender her right to regulate the elective franchise.

Mr. CONKLING. Mr. President, I make this response: the Senator need add but one element to his question to make it a self-evident proposition. He need only include in his

premises the supposition that the Constitution of the United States gives to a State the right to control the elective franchise as clearly as it confers equal representation in the Senate and the demonstration is absolute. The only way to avoid the logic of his inquiry, it seems to me, is to deny that the right to regulate the elective franchise is one of the prerogatives of a State. This is my answer. If it be true that regulating the right to vote within certain limits, which I will endeavor to define in a moment, falls within the province of a State, then I should be compelled to answer that any argument which would prove the right and the validity of the condition here proposed would prove the possibility, if not the propriety, of the encroachment suggested by the honorable Senator from Indiana.

Mr. President, as I have no secrets about this matter in any of its phases, although I had no intention of saying anything about it, I have no hesitation in stating my opinion upon the whole matter of the question of the Senator from Indiana. Without going back of the fourteenth amendment of the Constitution, be it ratified now or about to be ratified, it seems to me clear that by the unmistakable force of its language the regulation of suffrage in the States belongs to the States themselves. I know there are Senators who differ with me; I know there are Senators here who believe that the guarantee clause of the Constitution goes so far as to justify them in differing with me, and their argument, if I understand it, is this: the Constitution of the United States provides that the United States shall guaranty to every State a republican form of government; ergo, whenever Congress sees in a State such a regulation of suffrage as, in the judgment of Congress, is anti-republican, Congress may interpose as it pleases; in this instance, of course, by means of what is called a fundamental compact, to correct the evil. Now, sir, in all instances it is easy to put extreme cases; and the advocates of this doctrine, with very little ingenuity, can put cases which, I think we should all agree, sustain their proposition. Suppose, for example, some State should enact that voting at elections should be confined exclusively to men worth \$5,000, 000 and upward, or should establish some other test of the right to vote which palpably would exclude the great mass of mankind in that State, would leave in the State of New York, for example, twenty men to exert the whole elective power of the State; there would be a case so strong, not because it related to suffrage necessarily, but because of the practical effect produced, as to enable a fair tribunal to say, "this is anti-republican; it is a condition of things which calls upon the United States to interfere, not because it relates to the suffrage necessarily, but because the practical effect of it is to transform this Government from a republican Government, operating by general suffrage, into an aristocracy so extreme and odious that its character is unmistakable." In such an event I think my honorable friend from Indiana will agree with me, a case would arise to which the guarantee clause of the Constitution would apply, but not, I repeat, necessarily because the particular instrumentality resorted to to subvert republican government and establish aristocracy was the elective franchise, but because by some reason, by some means, no matter what, that effect had been produced and that end had been accomplished.

But, Mr. President, I was proceeding with the legislative history of the country, which we have been told in the course of this debate has sanctified the bill before us; which, we have been told, has repeatedly affirmed the power now insisted on, and which, one Senator added, had always been treated with respect and received with acquiescence. I have been endeavoring to show, coming down to the case of Tennessee, that no such thing appearing in the annals of the country as far down as I have traced them, has been maintained successfully, except in reference to questions



of taxation, public property and the like which, for obvious reasons have no bearing upon this case. I wish to come now to the case of Nebraska, which, as I understand it, constitutes the solitary exception to the proposition I affirm. In the case of Nebraska there is a condition, between which and that in this bill there is a very general similarity, although it resembles more nearly, I think, the amendment proposed by the honorable Senator from Missouri.

Mr. DRAKE. That amendment of mine is in terms the same as the Nebraska act.

Mr. CONKLING. My recollection was that the terms were alike or equivalent. Mr. President, I wish to say a few words about the Nebraska case. While it has stood, it has been treated with respect, no doubt, in so far as a precedent is treated with respect which is very modern and which has never been drawn in question one way or the other; I have no memory of the Nebraska case being quoted as authority anywhere except in the hurried debate which sprang up the other day in the House of Representatives upon this very bill, or one like it. The Nebraska bill was in charge of the honorable Senator from Ohio who sits now as the Presiding Officer of this body. It was reported from the Committee on Territories without any such proviso or condition. The fundamental condition, as it is so often called, came in that case originally from the then Senator from Missouri, Mr. Brown, although in the way in which it was eventually adopted it was offered, I think, by the Senator from Massachusetts, [Mr. WILSON.] It led to a very animated and very searching debate, which I have traversed rapidly since, in which many Senators took part, and took part repeatedly, and no man can read it and doubt the earnestness and sincerity of those who conducted it. The honorable Senator from Michigan, not now in his seat, [Mr. HOWARD,] was among those who, in the strongest language, which I have before me and which I think would repay the reading if I had not occupied so much time, with great diversity of illustrations scouted the idea that this compact was to be of any, the slightest, obligation upon the State of Nebraska. So did the honorable Senator from Ohio, the present Presiding Officer of this body, and in language as strong as he could command demonstrated, as I think, that the same principle which would enable this to be done would lead to results just as anomalous and startling as those now suggested by the honorable Senator from Indiana in the question he asked a moment ago.

The bill went to the House of Representatives, and was there denounced by the chairman of the Judiciary Committee, Mr. WILSON of Iowa, and by Mr. BINGHAM of Ohio, by Mr. SHELLABARGER of Ohio, and by the first lawyers in the House who discussed it; and that the proposition, thoroughly assailed as it was, was defended by only one member in either House except upon very general considerations of expediency, no one undertaking to argue it upon the law, as far as I have observed, except the honorable Senator from Vermont, who then stated views similar to those which he has delivered to the Senate to-day. I think no man can read this debate and not see that the balance of argument and the balance of authority was altogether against the proposition. It passed eventually upon the declaration of several Senators, very much in the language employed by the honorable Senator from Connecticut [Mr. FERRY] a day or two ago in reference to the condition in this bill, that they deemed it mere waste paper, and that they would let it pass as such.

Mr. President, that is a very convenient argument. I have had it addressed to me in private several times in reference to this bill, and I have made an effort, I confess, to entertain it and be satisfied with it, thinking that if a sufficient number of doubts could so accept it the bill need not go back to the House of Representatives, and we might relieve ourselves and the other House of the embarrass-

ment and trouble of a disagreement. But I am inclined to think it will hardly do for the Congress of the United States to make a blank motion, and not only to make a blank motion, but to do a thing, confessedly in the estimation of those who are thus called upon to yield their convictions, in violation of the Constitution of the United States. It may be said that this phrase, "upon an equal footing with the other States," is borrowed from some act of Congress; phraseology picked up from some source not of high or commanding authority. No matter, sir; usage makes law, and I do not stop to inquire the origin of this phrase. We all know that inwrought with the genius of our Government, imbedded in our organism, written in the Constitution again and again, is the equality of the States in all the attributes attaching to States as such.

I hardly see, with the convictions I have on this subject, how I can give a vote, the logic of which, as I understand it, affirms, in this instance, only that we may require that the elective franchise shall not be regulated, that the term of residence of a voter is not within the power of a State Legislature, but which to-morrow may affirm, in the case of another State, that in other particulars equally vital, if particulars equally vital can be found, we will withdraw perpetually from the State still other portions of its sovereignty.

And let me say here I am reminded of a remark made the other day by the honorable Senator from Ohio, [Mr. SHERMAN,] a remark that the proposed condition, as it stands, would not prevent the State of Arkansas from lengthening the residence of those entitled to vote; and he read the provision that no citizen or class of citizens, now entitled to vote, shall ever be deprived of that right; and he said that persons living in Arkansas now under a provision that six months of residence should suffice would not be a "class" within this language, nor would they be citizens whose case would fall within it. I will not stop to argue that; but I differ entirely with the Senator. This bill provides in the first place that no citizen whatever entitled to vote when this constitution speaks, and that is all the time, shall be deprived of the right. I take it a constitution is not like a will which speaks at a certain moment, when the testator dies, and its meaning is fixed by that, but it talks all the time; it speaks continuously. How, then, can the Senator say that no citizen entitled to vote at any time while this constitution lasts shall ever be deprived of that right, and no class of citizens shall ever be deprived of it, and yet at the same time contend that the Legislature of Arkansas may, the day after she comes in, repeal the provision that six months' residence shall suffice, and say that hereafter a man must live in the State two years before he can vote? I assume then, for this purpose, that that very case would be clearly within the provision, and passing beyond the legal question, making it a mere consideration of practical safety and utility, I confess that it seems to me most objectionable to provide, even if we had the power, that no State, no matter what be her exigencies of advantage or necessity, shall be permitted to regulate by length of residence in the State or in the county or in the precinct, or by any other one of the numerous tests or elements which enter into the qualifications of voters, the rights of citizens, or classes of citizens as to their right to vote.

I see in a vote for this proposition a vote the logic of which affirms that it is optional with Congress to select the State and to select the subjects of State prerogative and sovereignty upon which conditions, fetters, and prohibitions should be imposed.

There is one other suggestion about this. Three views are presented as affirmative views upon this proposition. One is that Congress may require the people of an incoming State, represented by the Legislature or in organic convention, to agree to a given thing, and that it then becomes a compact. Another view is that Congress may, by its own act alone, oblit-

erate or expunge a certain portion of a constitution, or change it as it pleases. And the third proposition is that Congress, without changing, may, by its own act alone, provide forever against such changes as the people may wish to make. It is enough to say of the original proposition before us that it does not even rest upon the theory embraced by the honorable Senator from Missouri. He, excepting that he makes the Legislature the representative of the people, adopts the idea that consent is to be given by the State, and that in virtue of that consent the arrangement is to be binding. The bill before us does not do that; but it trusts to the *ipse dixit* of Congress alone this future binding obligation.

I can dispose sufficiently of all my own views on this subject in very few remaining words. I have no doubt that Congress has the power in all instances of a State applying for admission to make objection to the constitution presented, and to refuse upon that constitution to admit the State, and then the people applying for admission at their peril must go back and reform their constitution, and adapt it to the requirements of Congress. I have no doubt of that power. I have no doubt of the power of Congress to say, as it said in the case of Nevada, we offer you an enabling act under which you may organize, but we give you notice in advance that it will be idle for you to knock at the door of the Union unless your constitution, in addition to being republican in form, in a general sense, contains this provision, and another provision, and a third or fourth provision, or as many as you choose. I have no doubt, as a question of power, that Congress may do that. But, sir, I have yet to hear the argument which convinces me that Congress has power to make a constitution for a State in any form, either *pro tanto* or *in toto*. I do not believe that Congress has the right to take up the constitution of Arkansas and say, first, we treat you as if you had never been in the Union—granting, for the sake of the argument, that Arkansas stands on all fours with Colorado, for example, in this respect—you have made a constitution under which we will not admit you; and, second, we say that we will make a constitution for you as to all parts which we deem objectionable, or, as in this case, you have made a constitution very well as far as it goes, but we will now say to you, for your benefit and for ours, that that constitution shall never be changed in all such respects as we choose to specify.

I do not believe we have the right to say that if experience shall demonstrate the fallacy or improvidence or misfortune of this constitution, in any respects which we choose to specify, or in all respects, (because it is a question of power; if you can do it as to one thing falling within the power of the State, you can do it as to all,) no matter how ill-devised you find these provisions, no matter how onerous they become, when the people of Arkansas reassemble in organic convention and present a new constitution, and all the people in the State of Arkansas vote to ratify it, that constitution shall be paralyzed and null in advance. I do not see why it is not a power just as high as that of making a constitution partial or total for the State. As a question of power I see no distinction. The whole force of the objection to it is that to the people of Arkansas, and to no other earthly tribunal, belongs the right, so long as they continue their government republican in character, to modify it, to change it, to rearrange it, to adapt it, as they please, to the wants which, from time to time, present themselves.

If you are going to invade and deny this power it seems to me you may just as well do it by introducing into their constitution new provisions, as by striking out the provisions which they contain, or by providing that the provisions with which they began shall stand immutable forever. It is a different exertion, a different application; but it is the same power all the time.

And, Mr. President, that I need not be mis-

understood upon this matter, let me say that if a State should come as Missouri came, if a State should come as it will be found one of these States has come, with matter in its constitution repugnant to the Constitution of the United States, adequate action may, no doubt, be taken. It may be said that it is unnecessary to do it, but I can see no objection to giving notice in advance, as was done in the Missouri case, to providing in advance in any form that may be deemed appropriate that this portion of the State constitution, because repugnant to the higher authority of the Constitution of the United States, will not be recognized, and that the understanding must be on the threshold that no attempt is to be made to give vigor or effect to that part of the State constitution. I can see how that can be done, and for a reason palpable and distinguishable from the reasons which enter into the present consideration.

So, too, we may send such a constitution back altogether by refusing to accept it until it is reformed.

It may be said, as was said of the Missouri case, it is unnecessary to say anything about it; if they ever attempt to do it Congress and the courts and all other tribunals will put the seal of disapprobation upon it; it will be null, because the Constitution of the United States makes it so; and when you declare by act of Congress that it is so, you do not insure its condemnation when the time comes any more certainly than that would be insured without an act. That is a criticism in substance that such a congressional provision would be surplusage; but it cannot be criticised upon the grounds which I am arguing here.

So that, Mr. President, to leave this question, (begging pardon, as I do, of the Senate for the time which I have occupied,) I am constrained to think that the judicial history of the country affords no warrant for this, that the legislative history of the country affords no warrant for it except in the recent example of Nebraska, and the force and value of that precedent is greatly impaired in my estimation by the fact that it has been in no way approved or tested since, and that the debate at the end of which it occurred, along with the avowals of the grounds on which Senators allowed it to become law in form, leaves it upon a precarious footing; and turning from the past to the future, looking at this as a question of practical wisdom and utility, it seems to me that it is the inauguration of a practice which may be greatly perverted, which is likely to be of no benefit, but which is introducing a new element of disturbance and of danger into the Commonwealth.

Mr. YATES. Will the Senator allow me to make a suggestion?

Mr. CONKLING. Certainly.

Mr. YATES. I wish to ask the opinion of the Senator from New York on a point which I think is pertinent. The ordinance of 1787, styled the Jeffersonian ordinance, required slavery to be prohibited in all the States to be formed out of the Northwest Territory, and the five States formed out of that Territory came into the Union with constitutions, each of which declared that it was consistent with the ordinance of 1787. Thus each of those States came into the Union under the condition imposed by Congress that slavery, except as a punishment for crime, should never exist therein. Afterward petitions were sent to Congress, and especially a petition from the Territorial Legislature of Indiana, praying a suspension of this provision of the ordinance for ten years, so that slavery might be introduced in Indiana during that period; but all these applications were refused by Congress, and I think it is a part of the history of the country that we are indebted to that condition imposed by Congress in the ordinance of 1787 for those five free, flourishing, and prosperous States. But for it slavery would have as inevitably gone into Illinois as into Missouri. They have the same climate, the same kind of soil, and everything was as inviting to slavery

in Illinois as in Missouri; but here was a condition imposed by Congress that the States formed out of the Northwest Territory should come into the Union with a prohibition of slavery. It seems to me that the same principle applies here.

While I am up, if the Senator from New York will allow me, I would refer to the Missouri compromise of 1820 as another instance of a condition imposed by Congress, under which all the territory north of the parallel of 36° 30' north latitude was to be forever free, and to that we are indebted for the free State of Kansas and the free State of Nebraska. What is the difference in principle between the condition thus imposed on the States of Illinois, Ohio, Kansas, and Nebraska, and which actually kept slavery out of those States, and the condition which is now proposed in this bill as to Arkansas? I should like to have the Senator's response on that point.

Mr. CONKLING. Mr. President, if my honorable friend from Illinois and I were discussing this question before a jury, and I did not know him as well as I do, I should almost suspect him of that of which I acquit him now, namely, a disposition to get up a question which, although it has not much to do with the real point, appeals so far to the prejudices of the hearers as to be useful for that reason. I know the danger in this body, and everywhere else, of discussing questions relating to slavery in their abstract relations, because it is impossible to separate the moral qualities from the other qualities of the question; but let me see. The Senator refers to what is sometimes called the Jeffersonian ordinance—the ordinance drawn in 1784 by Nathan Dane, anterior to the Constitution of the United States.

Mr. SUMNER. In 1784 by Jefferson; 1789 by Nathan Dane.

Several SENATORS. Seventeen hundred and eighty-seven.

Mr. SUMNER. Seventeen hundred and eighty-seven I meant.

Mr. CONKLING. When all the scholars and critics of the Senate agree upon the particular matter on which I should be set right, I will submit with great deference. In the mean time I repeat, that Nathan Dane drew this ordinance in 1784, I think, and Thomas Jefferson in 1787, and I shall acknowledge myself liable to correction whenever my honorable friends produce the evidence.

Mr. SUMNER. It is just the reverse; in 1787 Mr. Jefferson was in Europe representing the United States.

Mr. CONKLING. So be it. It is dangerous to differ with the honorable Senator from Massachusetts, but I think we can all agree upon one thing, and that is of how little it is to the purpose to which I was proceeding, whether Jefferson drew it in 1784, and Nathan Dane in 1787, or whether it was *vice versa*. So let me go on to say that it became conspicuous in 1787, and that the Constitution of the United States was not then in existence, that the Government was going on under the Articles of Confederation with the Congress of the Confederation. My recollection is further, that the terms of this ordinance were embraced in the deed of cession by which the State of Virginia ceded the lands northwest of the Ohio river.

Mr. MORTON. I think the Senator from New York is clearly mistaken in that. The deed of cession from Virginia to the Congress of the Confederation is silent upon these questions. I have examined it.

Mr. CONKLING. The Senator from Indiana may be right, although I have the recollection of several Senators around me fortifying my own. My recollection was that this provision, in substance, was in the deed of cession; but I will not dogmatize about that. However, the point at which I am driving is this: the inception of that ordinance was anterior to the Constitution of the United States. It did not, therefore, arise under the Constitution of the United States. I think I might stop here in speaking of this illustration, because already

the bearings and the elements of the question are so changed that I think my honorable friend from Illinois will agree with me that there is no accuracy of deduction or analogy to be derived from it. But, sir, more than that, the Senator knows as well as I do how frequently and how successfully even that instrument, standing behind the Constitution as it does, has been challenged and criticised. Surely he knows this, and therefore it seems to me that if he cites it as a precedent merely for the weight to which it is entitled as a precedent, it is an unfortunate illustration, because it comes incumbered and impaired with innumerable criticisms and innumerable denials. But it is enough for me to say that it did not arise under the Constitution of the United States, and that it did not present at all the question which is presented to the mind of my friend and to the mind of every other lawyer upon the bill now before us.

Mr. MORTON. Will the Senator from New York allow me at this time to correct a statement of the Senator from Illinois?

Mr. CONKLING. Certainly.

Mr. MORTON. I remember well the history of those petitions in regard to suspending the ordinance of 1787 for ten years. They were sent up in 1806 and in 1807, and were reported against by John Randolph; but they were sent up while Indiana was a Territory and confessedly under the government of the Government of the United States.

Mr. CONKLING. Certainly; and in that same connection the Senator from Indiana might have added that, in point of fact, it is of disgraceful notoriety that slavery did exist wherever anybody chose to have slavery exist, despite this ordinance and in the Territory to which it applied. The Senator from Illinois [Mr. YATES] says he denies that, but he says it in a tone so mild and so low that I think he hardly means to deny it. I understand the historical fact to be undisputed, not that slavery as a general and universal thing existed; I do not mean that; but that instances occurred all the time of slaves being held in the territory northwest of the river Ohio, the ordinance to the contrary notwithstanding.

Mr. TRUMBULL. If the Senator from New York will allow me, I will state that they held what they called French slaves, and bought and sold them in Illinois long after it became a State, and that they have what they called indentured servants under the territorial laws—a species of slavery in fact existing there for a long time.

Mr. SUMNER. In defiance of law.

Mr. TRUMBULL. That is my opinion, but still it was so in point of fact.

Mr. CONKLING. I beg pardon of the Senator from Massachusetts; but the statement he has just made is what logicians call a *petitio principii*. That is just the point upon which dispute would arise, and did arise, whether it was in defiance of law or not.

Mr. YATES. Will the Senator allow me to state that as a matter of fact, as my colleague will remember, there were not one thousand slaves at any time in Illinois.

Mr. TRUMBULL. A very small number.

Mr. YATES. A very small number; but slaves were taken to Missouri, and it became a slave State, while Illinois became a free State under the ordinance of 1787, but for which it would have been settled by slaveholders as Missouri was. Now, the question I desired to suggest was this: after Illinois or any other State formed out of the Northwest Territory came into the Union under the ordinance of 1787, would it have the right to change its constitution and become a slave State? That question was raised in the argument on the repeal of the Missouri compromise, namely, whether Congress could, by a fundamental condition, so determine the character of a State and control its legislation as to prevent a State from having slavery after its admission into the Union.

Mr. CONKLING. Let me ask the Senator did any of those States attempt to do it?

Mr. YATES. There were attempts in Illinois repeatedly to make it a slave State.

Mr. CONKLING. What I mean is, did the people of Illinois ever attempt it by establishing a slave constitution?

Mr. YATES. No; but it was the doctrine of one of the political parties that Illinois had the right to settle the question for herself notwithstanding the ordinance of 1787, and in defiance of the power of Congress. What I mean to say is that in those cases Congress imposed a prohibition or condition similar in point of principle to that which has been proposed in the House of Representatives and attached to this bill. I see no earthly objection to it, and I think the precedents are in favor of it, and I mention these two which I think applicable.

Mr. CONKLING. Let me say a word to the Senator, if he will allow me. In the first place, I think he will admit that his first precedent, in the light of all that we agree upon now as to the facts, is so badly damaged and encumbered that it does not amount to very much. In the next place, he will admit that neither Illinois nor any other State ever made the attempt by adopting a slave constitution to establish slavery, and nothing of the kind occurred unless he goes into political conventions and reads the resolutions of politicians. Suffice it to say they never erected slave constitutions in the five northwestern States, and therefore the question never arose in any tangible form. But let me bring him down to a time when it did arise, a time when the Wilmot proviso was offered in Congress and when the land rang with a similar discussion which revived the echoes of those which had gone before.

Does not the Senator remember that the most enthusiastic supporters of the Wilmot proviso put it upon the ground that there would be virtue and effect in it so long as the Territories to which it applied remained Territories, but that the sovereignty of a State would accrue, and the proviso would cease to operate when they became States; and did not they argue in Illinois and everywhere else that then, despite the Wilmot proviso, those States would have the same sovereignty that Illinois has, and could establish such a constitution as they pleased? Most certainly they did. That was the ground taken by the most radical men, if I may use that expression, who were the advocates of the Wilmot proviso. It was always conceded that that was the doctrine; and when Mr. Webster undertook to argue that the Almighty had placed his proviso, as I think he expressed it, upon our Territories, and had established an isothermal line north of which, for reasons of climate and of race, negroes could not live, and they had better let it be, he was met by the argument, among others to which I have referred, that this proviso ought to be applied to those Territories for abundant caution, and leave it to their discretion as States, when they became States, to the laws of climate and other things to regulate their eventual institutions. Is not that so, sir?

And was it not in the face of the concession commonly made, that the proviso would cease when the Territories became States, that the ground was taken that Congress ought not to admit any more slave States?

Now, let us go to the Missouri compromise for one moment—I shall be very brief in answering the questions which I am very glad to answer, propounded by the Senator as to the Missouri compromise. First of all what has become of the Missouri compromise in the legal tribunals of the country? I hear gentlemen latterly in this body, on all sides, disposed to concede that the Supreme Court is the supreme and final arbiter of all constitutional questions to bind all the coordinate branches of the Government. That doctrine seems to be greatly in fashion just now; in fashion to a degree which surprises me, I admit, but in the light of the prevailing doctrine as to the function and dominion of the Supreme Court upon these questions, I ask the honorable Senator from

Illinois what becomes of the illustration furnished by the Missouri compromise?

The proviso in that resolution which we have been discussing has never been drawn in question, and it stands in fact, however it may in theory; but the Missouri compromise has been drawn in question not only in the Supreme Court, but there has been a grapple for the mastery on this floor over the Missouri compromise, and in that grapple that compromise fell, and great was the fall of it. I do not say that this result was right, far from it; I am not expressing my opinion about that now; I am speaking of the historical fact in the face of which the Senator asks me to yield to the Missouri compromise as a precedent—a precedent how? A precedent historically, legally, and judicially, when we know that, weighed in all three of these balances, it has been found wanting by those who at the time had the power, however much they abused it, to determine whether it was wanting or not. That is my answer in part; I could go more fully into the Missouri compromise, but suffice it to say that both these attempts at compacts have been of doubtful success, and that they are not in principle like the proposition before us. Their violation was wanton and wicked, and sad enough in the later case; but these are the facts, and history, we are told, repeats itself.

Mr. WILSON. Mr. President—

Mr. CONNESS. Will my friend give way for a moment? I should like to call up the resolution to fix a day of adjournment, so that we may work accordingly.

Mr. WILSON. To fix the day of adjournment?

Mr. CONNESS. Yes, sir.

Mr. WILSON. I hope the Senator will not ask that of us. At the rate we are going on at the present time we shall not be able to adjourn on the fourth Monday of December. [Laughter.] Mr. President, I move that the Senate proceed to the consideration of executive business. It was understood that the question was to be taken on this bill to-day, but it is evident now that we cannot do it.

The motion was agreed to.

#### SMITHSONIAN INSTITUTION REPORT.

The PRESIDENT *pro tempore*. Before the doors are closed the Chair will present the annual report of the operations of the Smithsonian Institution for the year 1867.

Mr. TRUMBULL submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That five thousand additional copies of the report of the Smithsonian Institution for the year 1867 be printed, three thousand for the use of the Senate, and two thousand for the Institution; and that said report be stereotyped: *Provided*, That the aggregate number of pages of said report shall not exceed four hundred and fifty, without illustrations except those furnished by the institution.

#### ADJOURNMENT TO MONDAY.

Mr. CRAGIN. Before the doors are closed I desire to make a motion that when the Senate adjourns to-day it be to meet on Monday, for the purpose of allowing the carpets to be taken up and matting put down. ["No!" "No!"] I merely submit the motion; the Senate can do as they please.

The PRESIDENT *pro tempore*. It requires unanimous consent to receive the motion. Will the Senate entertain it at this time? ["No!" "No!"] Objection is made, and the motion is not received.

The galleries were cleared and the doors closed; and after an hour and a half spent in executive session the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, May 29, 1868.

The House met at twelve m. Prayer by the Chaplain, Rev. C. B. BOXTON.

Mr. MORGAN. Is it in order, Mr. Speaker, to rise to a question of privilege before the reading of the Journal?

The SPEAKER. It is not.

The Clerk began the reading of the Journal of yesterday; but before concluding,

Mr. DAWES asked that the further reading of the Journal be dispensed with by unanimous consent.

Mr. ELDRIDGE. I object.

The Clerk resumed the reading of the Journal.

Before concluding,

Mr. FARNSWORTH asked that the further reading of the Journal be dispensed with.

No objection was made.

CHARLES W. WOOLLEY.

Mr. MORGAN. I rise to a question of privilege, and submit a preamble and resolution, which I send to the Clerk's desk to be read.

The SPEAKER. The preamble and resolution will be read, after which the Chair will rule upon it.

The Clerk read the preamble and resolution, as follows:

Whereas it has been the practice in all parliamentary bodies, when the liberty of a citizen was involved by the investigation or report of a committee, to give each political party representation upon such committee; and whereas in no instance heretofore has an American citizen been deprived of his liberty by the report of a strictly partisan committee; Therefore, to vindicate the character of the House of Representatives of the Congress of the United States from such seeming partisan investigation:

*Be it resolved*, That the Speaker be instructed to add two members of the Opposition party of this House to the committee, to investigate the facts in the case of Charles W. Woolley.

The SPEAKER. The Chair will state to the gentleman from Ohio [Mr. MORGAN] that if no resolution of this kind had been previously introduced he would regard this as a question of privilege. But precisely the same resolution, so far as regards the number of the minority members of this House to be appointed on this committee, was introduced by the gentleman from Pennsylvania, [Mr. BOYER.] That resolution was entertained by the Chair as a question of privilege, and the House laid it upon the table. That, however, does not preclude the gentleman from Ohio from asking unanimous consent to offer this resolution, or from presenting it when his State is called for resolutions, when he has a right to offer a resolution.

Mr. MORGAN. I will modify my resolution so as to provide for the appointment of three members of the Opposition upon this committee.

The SPEAKER. The Chair thinks the resolution, as modified, is a privileged resolution, being different from the one laid upon the table.

Mr. BUTLER. I object.

The SPEAKER. The Chair is of opinion that a single objection cannot prevent the reception of a privileged resolution.

Mr. UPSON. I raise the question of the consideration of this resolution by the House at this time.

The SPEAKER. That question will be submitted to the House.

Mr. MORGAN. Is not the consideration of a privileged question always in order?

The SPEAKER. The Chair will have read the rule upon that subject, to be found upon page 71 of the Digest. That rule has been frequently read. The gentleman from Ohio will see that the rule applies to a question of privilege, as well as of other questions.

The Clerk read as follows:

"When any motion or proposition is made, the question 'Will the House now consider it?' shall not be put unless it is demanded by some member or is deemed necessary by the Speaker; and it is competent for a member to raise the question of consideration upon a report even though a question of privilege is involved in the report."

Mr. MORGAN. Mr. Speaker—

The SPEAKER. The question of consideration is not debatable, it being a question relative to priority of business.

Mr. MORGAN. I desire to make a single remark. I had the floor when the gentleman from Michigan [Mr. UPSON] rose. He was out of order, not I. While I was on the floor, he had no right to take it from me.

The SPEAKER. The gentleman is incorrect. Upon the question of consideration a



member may, under the rule, take another member from the floor. The gentleman will remember that rule having been applied, some days ago, to the gentleman from New York, [Mr. ROBINSON.] The Chair then ruled, in accordance with the rulings of previous Speakers, which were at that time cited from the Journal, that the question of consideration must be raised instantly upon the introduction of the resolution; that it could not be raised at any subsequent time.

Mr. MORGAN. I can well understand why the majority object to a fair investigation.

The SPEAKER. The question is, Will the House consider the resolution?

On the question there were—ayes 39, noes 46; no quorum voting.

Mr. BURR. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. INGERSOLL. Mr. Speaker—

The SPEAKER. The question is not debatable.

Mr. INGERSOLL. I do not desire to debate it; I wish to make a suggestion to the gentleman who offers the resolution.

The SPEAKER. A suggestion is debate if it be objected to.

Mr. INGERSOLL. I understand that it may be in parliamentary phrase, but not necessarily so. I wish to say that I think there will be no objection on this side to the substance of the resolution; but I think its form ought to be modified.

Mr. UPSON. I object to debate.

The SPEAKER. Debate is not in order.

Mr. BROOKS. Mr. Speaker, are the preamble and resolution divisible?

The SPEAKER. Not on the question of consideration. If the House should determine to consider it, then the question will be on the resolution; and the preamble and resolution can be divided.

Mr. BROOKS. Perhaps the House might be willing to consider the resolution but not the preamble.

The SPEAKER. The gentleman from Ohio [Mr. MORGAN] has the right to modify his resolution before the question is taken on considering it.

Mr. INGERSOLL. Is it in order to move an amendment?

The SPEAKER. Not pending the question of consideration. The resolution is not yet before the House.

Mr. INGERSOLL. If it should come before the House would it be in order to move to amend the resolution?

The SPEAKER. It would be, unless the House should second the previous question.

Mr. MORGAN. I withdraw the preamble, so that the House may vote directly upon the consideration of the resolution.

The SPEAKER. The preamble is withdrawn. Does the gentleman from Michigan [Mr. UPSON] still insist upon the question of consideration?

Mr. UPSON. I do.

Mr. HARDING. I move to lay the resolution on the table.

The SPEAKER. The resolution is not yet before the House. It cannot be laid on the table.

The question was taken on considering the resolution; and it was decided in the negative—yeas 53, nays 65, not voting 71; as follows:

YEAS—Messrs. Archer, Baker, Barnes, Beck, Boyer, Brooks, Burr, Cary, Dixon, Eldridge, Ferry, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Higby, Hill, Hotchkiss, Chester D. Hubbard, Ingersoll, Jones, Johnson, Jones, Kerr, Ketcham, Knott, Ladin, George V. Lawrence, Marshall, Marvin, McCormick, Morgan, Niblack, Nicholson, Orth, Phelps, Pike, Poland, Pomeroy, Robertson, Ross, Sitgreaves, Smith, Stewart, Stone, Lawrence S. Trimble, Van Trump, Elihu B. Washburne, Wood, Woodbridge, and Woodward—53.

NAYS—Messrs. Ames, Beaman, Beatty, Bingham, Blaine, Blair, Boutwell, Bromwell, Broomall, Butler, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Covode, Dodge, Donnelly, Driggs, Eggleston, Ela, Ferriss, Fields, Halsey, Harding, Hooper, Hopkins, Hunter, Judd, Julian, Kelley, Koonz, William Lawrence, Lincoln, Loughbridge, Mallory, Maynard, McCarthy, McClurg, Mercur, Miller, Moore, Moor-

head, Morrell, Mullins, Myers, O'Neill, Paine, Perham, Plants, Polsley, Price, Shellabarger, Starkweather, Aaron F. Stevens, Taffe, Thomas, Trowbridge, Upson, Burt Van Horn, William B. Washburn, Welker, William Williams, John T. Wilson, and Windom—65.

NOT VOTING—Messrs. Adams, Allison, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Benjamin, Benton, Buckland, Cake, Chandler, Cook, Cornell, Cullom, Daves, Eckley, Eliot, Farnsworth, Finney, Fox, Garfield, Gravelly, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Kelsey, Kitchen, Loan, Logan, Lynch, McCullough, Morrissey, Mungen, Newcomb, Nunn, Peters, Pile, Pruyn, Randall, Raum, Robinson, Sawyer, Schenck, Scofield, Selye, Shanks, Spalding, Thaddeus Stevens, Stokes, Taber, Taylor, John Trimble, Twichell, Van Aernam, Van Auken, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, James F. Wilson, and Stephen F. Wilson—71.

So the House refused to consider the resolution.

Mr. BUTLER moved to reconsider the vote by which the House refused to consider the resolution; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BOYER. I rise to a question of privilege. I desire to submit the following resolution, which will, perhaps, better meet the wishes of the House.

The Clerk read as follows:

*Resolved*, That three members of the House who voted against the impeachment of the President be added by appointment of the Speaker to the committee authorized to investigate the alleged corrupt means employed to influence the determination by the Senate upon the impeachment.

The SPEAKER. The Chair rules this is not a question of privilege. It is substantially the same as the resolution which the House has just refused to consider.

Mr. BOYER. The other resolution did not refer generally to the committee, but merely to the case of Charles W. Woolley.

The SPEAKER. The Chair thinks it is substantially the same, an addition to the same committee of three members from the Opposition side of the House.

BRIDGE AT ST. LOUIS.

Mr. WASHBURN, of Illinois. Mr. Speaker, I ask unanimous consent, at the request of the gentleman from Missouri, [Mr. PILE,] to move that the Committee on Commerce be discharged from the further consideration of House bill No. 631, amendatory of an act approved July 20, 1866, entitled "An act to authorize the construction of certain bridges, and to establish them as post roads," it having been referred to that committee by mistake, and that it be referred to the Committee on the Post Office and Post Roads.

There was no objection, and it was ordered accordingly.

CARRIAGE OF PASSENGERS IN STEAMSHIPS.

Mr. O'NEILL. I ask unanimous consent to report back from the Committee on Commerce a bill (H. R. No. 1100) to amend an act entitled "An act to regulate the carriage of passengers in steamships and other vessels, and for other purposes," to move that it be ordered to be printed and made the special order after the bill for the protection of American commerce. It is a most important matter.

Mr. SCHENCK. If that bill be set down for a day in June as a special order, when that day arrives will it take precedence of other pending special orders?

The SPEAKER. Special orders by unanimous consent have priority over all other special orders, and when the day arrives for their consideration they will have priority.

Mr. SCHENCK. Will this have priority over the tax bill?

The SPEAKER. It will on that day.

Mr. SCHENCK. Then I object.

Mr. WASHBURN, of Illinois. This will be a special order in the House, and the tax bill is the special order in Committee of the Whole on the state of the Union.

Mr. O'NEILL. This is a most important bill. It is to protect emigrants who now come here under circumstances that make humanity shudder.

Mr. FARNSWORTH. Cannot a majority vote postpone the consideration of the bill if on that day the tax bill is pending?

The SPEAKER. Whenever any special order is reached in the House a majority can postpone it.

Mr. SCHENCK. Under those circumstances I withdraw my objection.

The bill was accordingly received, ordered to be printed, and made a special order for the time indicated.

RECUSANT WITNESSES.

Mr. SCHENCK. I call for the regular order of business.

The SPEAKER stated that the regular order of business was on the motion to reconsider the vote by which the House adopted the following preamble and resolution, on which the gentleman from Ohio [Mr. BINGHAM] was entitled to the floor:

Whereas Charles W. Woolley has been brought before the committee and the following questions proposed to him by the committee, to wit:

"Question. The committee desire to know whether on the 6th of May you telegraphed over the signature of 'Hooker' to Sheridan Shook, 'My business is adjusted. Place ten to my credit with Gilliss, Harney & Co., No. 24 Broad street?'"

"Question. Did you also telegraph to Sheridan Shook, over the signature of 'Hooker,' on the 12th of May, 'The five should be had. It may be absolutely necessary?'"

which questions Woolley declined to answer, in the words following, to wit:

"This is a private and confidential communication, passing between counsel and client. It has reference to business in that relation and to nothing else, and has no reference whatever to the trial of the President on the articles of impeachment preferred against him, nor to the conduct or result of the trial, nor the vote of any persons on the trial, nor any allusion thereto whatever. That is my answer."

and whereas Sheridan Shook, the party to whom said supposed confidential and privileged communications are alleged to have been sent, has been examined by your committee, and testified as follows in regard to the money mentioned in said telegram:

"By Mr. BUTLER:

"Question. Do you know Charles W. Woolley?

"Answer. I do.

"Question. How long have you known him?

"Answer. I do not think I have known him over a year."

"Question. Have you had business relations with him?

"Answer. Very little, if any. I do not know that I ever had any transaction with him."

"Question. Did he deposit in your hands last Sunday night any sum of money?

"Answer. No, sir."

"Question. Or during the day Sunday?

"Answer. No, sir."

"Question. Has he ever deposited any sum of money in your hands?

"Answer. I may have borrowed fifty or a hundred dollars of him at a time; but he has placed no sum of money in my hands."

"Question. Have you seen him lately?

"Answer. I have not seen him since the Sunday of which you speak."

and whereas upon the same subject the said Woolley has testified before your committee as follows: [From the testimony of C. W. Woolley, May 19, 1868.]

"By Mr. BUTLER:

"Question. Have you deposited any money, and where, since that time, i. e., May 8?

"Answer. Not in any bank."

"Question. Have you with any individual?

"Answer. No, sir."

"Question. Then why do you say 'not in any bank'?

"Answer. Because it is not to my credit in any bank."

"By Mr. WILSON:

"Question. What do you mean by that answer?

"Answer. I mean to say that I have not put it in a bank. I gave it to an individual who was owing me in New York and told him to keep that money until I arrived there."

"By Mr. BUTLER:

"Question. Who was that individual?

"Answer. Sheridan Shook."

"Question. How much money did you give Sheridan Shook?

"Answer. I think between sixteen and seventeen thousand dollars, as near as I can get it."

"Question. In what?

"Answer. Greenbacks, I think."

"Question. What denomination of greenbacks?

"Answer. Big bills; I cannot tell you. There may have been some \$500 bills. I think in one package I gave him some small bills."

"Question. When did you give this to Sheridan Shook?

"Answer. Sunday."

"Question. At what time?

"Answer. In the afternoon; I cannot tell the hour."

"Question. Before or after you were summoned here?

"Answer. Before, I think."

**Question.** For what purpose did you give it to Sheridan Shook?

**Answer.** For safe keeping for me as an individual. Let me correct myself there. I gave that money to Shook to take over to New York to keep for me till a day or two, when I intended to go to New York. Then Dunleavy came and asked me to go West and I thought I had better go. I made up my mind to go there instead of going to New York, and I let him carry it along.

**Question.** Well, you gave it to him finally?

**Answer.** He kept it from the time I gave it to him.

**Question.** Has he got it now?

**Answer.** I guess so, unless he spent it.

**Question.** Did you take any memorandum for it?

**Answer.** No, sir; I did not want it.

**Question.** Supposing he should have been killed?

**Answer.** I would have taken my chance.

**Question.** Did you go on with Sheridan Shook in the same train?

**Answer.** Yes, sir.

**Question.** What sort of a package was the money in?

**Answer.** No package at all.

**Question.** Did you count it?

**Answer.** I do not recollect exactly. I kept what I thought I would want myself, and gave him the parcel. If I were to state closely it was about sixteen thousand one hundred dollars. It was not seventeen thousand dollars, I am satisfied.

**Question.** Where did you get that money that you sent by Sheridan Shook?

**Answer.** That is a part of the money that came out of the bank.

and whereas your committee believe the reasons given by the witness in declining to answer are wholly untrue and evasive, and the refusal to answer is a deliberate contempt of the authority of the House, and done for the purpose of concealing the fact and embarrassing public justice: Therefore,

**Resolved,** That said Woolley, for his repeated contempt of the authority of the House, be kept until otherwise ordered by the House in close confinement in the guard-room of the Capitol police, by the Sergeant-at-Arms, until said Woolley shall fully answer the questions above recited, and all questions put to him by said committee in relation to the subject of the investigations with which the committee is charged, and that meanwhile no persons shall communicate with said Woolley, in writing or verbally, except upon the order of the Speaker.

**Mr. SCHENCK.** I ask my colleague to yield to me for a few moments.

**Mr. BINGHAM.** Certainly.

**Mr. SCHENCK.** I desire to say that last evening when we were endeavoring to obtain an acting majority in this House for the practical purposes of legislation, I felt it to be my duty to name gentlemen of both parties who, having been present at the commencement of the call, afterward left the Hall. I have since ascertained in reference to one of the gentlemen whom I named, the gentleman from Maine, [Mr. BLAINE,] and I am satisfied that he was called away by an imperative engagement which any gentleman in the House would have felt was absolutely necessary for him to fulfill, and that immediately upon his hearing that the House was involved in a difficulty in getting an acting majority here he returned to the Hall and arrived about the time the House adjourned. And the same information is also communicated to me in reference to the other gentleman from Maine, [Mr. PIKE,] that he was here ready to make his appearance without having been sent for, having come when he received his notice. I do not withdraw any criticism made upon the general habit of members absenting themselves from the Hall, and leaving the House to struggle on in the way we were doing under the call last evening after having answered to their names in the first place; but I thought it due to the two gentlemen I named, to state that I have this information in regard to their cases, inasmuch as it was I who called the attention of the House to the fact that they had conducted themselves as they did.

**Mr. BINGHAM.** Mr. Speaker, it is not my purpose to delay the House but for a very few minutes in the opening of this discussion, and chiefly for the reason that I desire that gentlemen who stand opposed to this resolution shall be permitted, as far as possible, under the limitation of the rules, to be heard. I desire to say further that it is a matter of great regret with me—as I doubt not it is with all the members of the House—that the witness has by his conduct imposed upon the House the necessity of exercising its undoubted power to commit him to prison until he answers the questions that are put to him in pursuance of

the order of the House. I desire to say further that the witness has concluded all parties in this House and out of the House as to the pertinence of the questions that have been put to him and which he has refused to answer.

In that connection I say further, briefly, that, first, independent of the testimony of the witness, by the testimony of Thurlow Weed, and, I may add, the testimony of others not yet published, but by the testimony of Mr. Weed, published to the House, this witness, on the 4th or 5th day of May, 1868, pending this impeachment, was present in the city of New York, along with Sheridan Shook and another, at the room of Mr. Weed, proposing to raise money for the express and avowed purpose of purchasing the votes of Senators in the matter of impeachment and acquitting the President. That is the fact in this case; a fact upon the record; a fact not yet challenged by anybody; and, I undertake to say, a fact never to be challenged hereafter by any witness.

There is one further fact, Mr. Speaker, to show the importance and necessity of this action of the House. The witness having set out voluntarily on the business of raising money for the avowed purpose of purchasing the votes of Senators in the matter of the impeachment of the President, and to work his acquittal, proceeded to raise a large sum of money. The fact appears by his own testimony and the other testimony that, after that date, in the city of Washington, he raised \$20,000 in money, and when it became necessary to compel the witness to tell where he got the money and what he did with it, and he was asked what he did with the \$20,000, his answer has gone to the country, under his own oath, that he sent \$16,000 to Cincinnati to one Straub, or some such person. He was then asked what he did with the remaining \$4,000, and his answer is that he cannot tell; that he expended some four or five hundred dollars in feasting certain gentlemen who were interested in the matter of impeachment. Being asked what he did with the residue of the \$4,000, he never answered, but on being asked further, "How did you send the \$16,000 to Straub?" he said, "By check." "Whose check?" "My check on the Commercial Bank of Cincinnati." "Was it paid?" "Doubtless it was." "Out of what fund?" "Out of my own money deposited in the bank, where I kept twenty or twenty-five thousand dollars." "Having sent your check on the Cincinnati bank for \$16,000, what did you do with the \$16,000 which you drew here?" "Oh, I sent it to New York; gave it to Sheridan Shook, who carried it to New York. I gave it to him for safe keeping; I gave him between sixteen and seventeen thousand dollars." Sheridan Shook was called. His evidence is set out before the House in this report, and he swears that he gave him nothing, not one cent.

**Mr. ELDRIDGE.** Will the gentleman allow me?

**Mr. BINGHAM.** No, sir; the gentleman will please not interrupt me.

**Mr. ELDRIDGE.** I wish the gentleman would allow me to ask him as to a matter of fact.

**Mr. BINGHAM.** I will state the matter of fact before I am done with it. Sheridan Shook comes and answers that Woolley did not deliver to him one cent—not one cent. What does the witness do about it when he finds himself in this strait? He comes before the committee and says that he asks that his testimony shall be stricken out. Why so? Because the chairman of the committee happened to be sick and was, therefore, not present when the oath was administered, claiming that he was not bound to testify truthfully upon the oath being administered by any other member of the committee. The committee had appointed a subcommittee, and the act which misled the witness and his counsel, as gentlemen will see, never did apply to special committees. The power of a special committee to administer oaths is a power conferred not by statute, but by the act of the House by its resolution. Any

member of the committee had a right to administer the oath, and any member of the subcommittee had a right to administer the oath. But he comes before the committee and asks that his testimony shall be stricken out. He wants to get rid of it. It is not done. He is called before the committee to answer further. We asked him, Shook having sworn that he gave no money to him, what he did with the money. He refuses to answer. He is brought before the House and committed for contempt. After that commitment he is taken back to the committee, and when before the committee he is asked these questions:

**Question.** The committee desire to know whether, on the 6th of May, you telegraphed over the signature of 'Hooker' to Sheridan Shook. 'My business is adjusted. Place ten to my credit with Gilliss, Harney & Co., No. 24 Broad street?'

**Question.** Did you also telegraph to Sheridan Shook, over the signature of 'Hooker,' on the 12th of May, 'The five should be had. It may be absolutely necessary?'

Which questions Woolley declined to answer in the words following, to wit:

"This is a private and confidential communication, passing between counsel and client."

He had already disclosed—informally, perhaps, but nevertheless had disclosed—to the committee that he himself is a lawyer. Who is the client? Nobody but Shook, unless the witness was client to himself. Nobody else appears in the telegrams; nobody else appears in his testimony, or in anybody else's testimony, in this connection. Who is the client? Either himself the client to himself or Shook. What does Shook swear? It is spread out upon this record that there were no relations between them; no business transactions between them; no relations of counsel and client between them. He may have borrowed fifty or a hundred dollars from him, but there were no business relations between them. And yet this man dares, with the testimony of his own confederate staring him in the face, to come before the committee and attempt to put himself under the privilege of counsel and client. It is trifling with his oath, it is trifling with the rights of a great people, it is trifling with the power vested in this House to ferret out and investigate this attempt—it is not necessary to say that any Senator was bribed—this attempt to bribe a Senator to defeat the administration of justice. The House had a right to make investigation. I do not propose further to argue the question; there is the fact sworn to and unchallenged. He set out on the 4th day of May with the avowed purpose of doing that very thing; he follows that up by raising the money; he follows that up by refusing to tell what he did with the money; and he follows that up by sending a telegram from this city four hours before the vote was taken on the 16th day of May, 1868, declaring that the Methodist Church North was defeated, and that impeachment was dead and sent to hell. How did he know anything about it four hours in advance? We want to know what he did with the money.

**Mr. BECK.** Will the gentleman allow me to ask him a question?

**Mr. BINGHAM.** No, sir; please excuse me. His answer now is that this is privileged; that it is in the relation between counsel and client. But, nevertheless, he sends a dispatch to Sheridan Shook, signing his name 'Hooker,' which was doubtless a very honest transaction, in which he says: "My business is done." This was on the 6th of May, two days after he proposed to raise money for the purchase of Senators. "My business is adjusted. Place ten to my credit with Gilliss, Harney & Co." Perhaps the record will disclose that \$10,000 were placed to his credit there. What was the business that was adjusted? He was with Sheridan Shook when he proposed to raise money to purchase Senators. Sheridan Shook heard the suggestion or proposition and made no objection, although Mr. Weed did object to it. Then the witness was asked this question:

"Did you also telegraph to Sheridan Shook, over the signature of 'Hooker,' on the 12th of May, 'The five should be had. It may be absolutely necessary?'"

"Absolutely necessary" for what? If it is an honest transaction, it cannot do him any

hurt to tell us what the word "five" or the word "ten" means, and what the five was necessary for. We have already shown him engaged in the business of raising money for the purpose of bribing Senators in order to secure the acquittal of an accused President upon the impeachment presented by this House. Now, it has been shown that he raised the money. It has been shown that he stated falsely when he said he sent \$16,000 of this money to Cincinnati; that he stated falsely when he also said that he had sent \$16,000 by Sheridan Shook to New York. We again asked him what he did with the money. He replied that that was a privileged transaction between counsel and client. When we came to ask the client about it, Sheridan Shook repudiated any such relation between them. Therefore, we bring the matter before the House and ask that this Woolley be kept in close confinement, and allowed only such intercourse with others as the Speaker may from time to time deem to be justifiable under the rules and practices of parliamentary bodies, to be so kept until he shall answer what he did with this money, after his declaration that he was raising money for the purpose of purchasing the votes of Senators.

What do his counsel say? That this proceeding is unconstitutional. Gentlemen profess to have great reverence for the Supreme Court of the United States. Sir, I have as much reverence as they have for the decisions of the Supreme Court when they act in the line of their jurisdiction. But I say here that the Supreme Court never had the power to review the action of this House, or of the other House, upon any question of this kind. Now, as I stated in the beginning of this matter the other day, for more than forty years past the question involving these points has been solemnly adjudicated by a decision of the Supreme Court without a dissenting opinion, and has never since been challenged.

Forty-seven years ago, in the case of *Anderson vs. Dunn*, (6 Wheaton,) the case of an arrest and imprisonment by order of this House, the Sergeant-at-Arms was sued for trespass and false imprisonment. The case went up to the Supreme Court of the United States, and that court solemnly decided that the order of the House of Representatives stood within the authority of the Constitution of the United States, and was conclusive upon all parties. Their decision was that the order of the House, pleaded by the Sergeant-at-Arms, was a bar to any suit for trespass and false imprisonment; not simply a bar in law, but an absolute justification in or out of court. I refer to that decision and stand upon it; and if gentlemen can show that anything has been ruled since by the Supreme Court of the United States which in any manner reverses that decision, I will be greatly obliged to them for the reference. I read from the opinion in that case as follows:

"The idea is utopian that government can exist without leaving the exercise of discretion somewhere. Public security against the abuse of such discretion must rest on responsibility and stated appeals to public approbation. Where all power is derived from the people, and public functionaries at short intervals deposit it at the feet of the people, to be resumed again only at their will, individual fears may be alarmed by the monsters of imagination, but individual liberty can be in little danger."

The court further say:

"But if there is one maxim which necessarily rides over all others in the practical application of government, it is that the public functionaries must be left at liberty to exercise the powers which the people have intrusted to them. The interests and dignity of those who created them require the exertion of the powers indispensable to the attainment of the ends of their creation. Nor is a casual conflict with the rights of particular individuals any reason to be urged against the exercise of such powers. The wretch beneath the gallows may repine at the fate which awaits him, and yet it is no less certain that the laws under which he suffers were made for his security. The unreasonable murmurs of individuals against the restraints of society have a direct tendency to produce that worst of all despotisms which makes every individual the tyrant over his neighbor's rights."

"That the safety of the people is the supreme law not only compels with, but is indispensable to, the exercise of those powers in their public functionaries without which that safety cannot be guarded."

#### MEMBERS ABSENT WITHOUT LEAVE.

The SPEAKER. The gentleman from Ohio [Mr. BINGHAM] will suspend his remarks. The hour of one o'clock having arrived, the Sergeant-at-Arms will now execute the order of the House made at its session last evening.

The Sergeant-at-Arms submitted a report which was read, as follows:

Pursuant to the order of the House, I caused the following named members to be brought before its bar for being absent without leave: JOHN D. BALDWIN, READER, W. CLARKE, HENRY L. DAWES, JAMES M. MARVIN, JAMES K. MOORHEAD, DAVID A. NUNN, THOMAS A. PLANTS, LUKE P. POLAND, SAMUEL J. RANDALL, GLENNI W. SCOTFIELD, CHARLES SITGREAVES, WORTHINGTON C. SMITH, P. VAN TRUMP, WILLIAM B. WASHBURN, F. E. WOODBRIDGE, all of whom by vote of the House were allowed to take their seats.

I also had the following members before the bar of the House, as per order, when further action under the call was dispensed with: GEORGE S. BOUTWELL, H. P. H. BROWELL, JAMES A. GARFIELD, THOMAS L. JONES, A. H. LAFIN, HORACE MAYNARD, THEODORE M. POMEROY, E. B. WASHBURN, WILLIAM WINDOM, ASA P. GROVER, S. S. MARSHALL.

The following named members are absent from the city: GEORGE M. ADAMS, JAMES M. ASHLEY, N. P. BANKS, THOMAS CORNELL, DARWIN A. FINNEY, JOHN FOX, JOHN A. GRISWOLD, R. D. HUBBARD, C. T. HULBURD, JAMES M. HUMPHREY, B. M. KITCHEN, HIRAM McCULLOUGH, JOHN MORRISSEY, WILLIAM MUNGEN, JOHN A. PETERS, WILLIAM E. ROBINSON, JOHN P. C. SHANKS, RUFUS P. SPALDING, GINERY TWICHELL, H. VAN AEREN, C. H. VAN WYCK, C. C. WASHBURN, H. D. WASHBURN, S. E. WILSON, JAMES F. WILSON, GEORGE W. WOODWARD, H. L. CAKE.

Mr. PRICE. If this is the proper time to make the statement, I wish to say that I believe my colleague, [Mr. WILSON, of Iowa,] who is reported as absent without leave, has leave of absence.

The SPEAKER. The Chair thinks he has not. He spoke to the Chair about asking leave, but finally concluded not to do so.

Mr. BUTLER. As one who was on the floor during the whole session of the House last evening, I desire to move that all the gentlemen reported as absentees be excused; and I will state the reason. There was a quorum in the House when those gentlemen left, and there was never a time during the evening when the House was without a quorum. If that quorum had acted, there would have been no need of a call of the House. It was an anomalous occasion, and not, I believe, subject to any precedent. Upon my motion I call the previous question.

Mr. HARDING. I sincerely hope the motion will not prevail.

The previous question was seconded and the main question ordered; and under the operation thereof, the motion of Mr. BUTLER was agreed to.

#### SMITHSONIAN INSTITUTION.

The SPEAKER, by unanimous consent, laid before the House the annual report of the Smithsonian Institution; which was laid on the table, and ordered to be printed.

Mr. GARFIELD. I submit a motion for the printing of extra copies.

The SPEAKER. The motion will be referred under the law to the Committee on Printing.

#### LEAVE OF ABSENCE.

MESSRS. MARVIN, WOODBRIDGE, BROOMALL, and CHANLER obtained indefinite leave of absence.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its Clerks, announced that the Senate had passed without amendment joint resolution (H. R. No. 279) in relation to the breakwater at Portland, Maine.

#### RECUSANT WITNESS.

Mr. BINGHAM. Mr. Speaker, I desire to detain the House only a moment longer. I wish to say that the court, in the decision I have cited, expressly declares that the power of the House to commit for contempt extends to imprisonment until at least the adjournment of the body. I desire to read one passage further from the decision in answer to the arguments which are made against the exercise of this power. In commenting upon such arguments the court say:

"The argument obviously leads to the total anni-

hilation of the power of the House of Representatives to guard itself from contempts, and leaves it exposed to every indignity and interruption that rudeness, caprice, or even conspiracy may meditate against it. This result is fraught with too much absurdity not to bring into doubt the soundness of any argument from which it is derived. That a deliberative assembly, clothed with the majesty of the people and charged with the care of all that is dear to them; composed of the most distinguished citizens, selected and drawn together from every quarter of a great nation, whose deliberations are required by public opinion to be conducted under the eye of the public, and whose decisions must be clothed with all that sanctity which unlimited confidence in their wisdom and purity can inspire; that such an assembly should not possess the power to suppress rudeness or repel insult is a supposition too wild to be suggested."

The court therefore hold the defense was a bar to the justification of the alleged false imprisonment.

Mr. BECK rose.

Mr. BINGHAM. I yield the floor now for ten minutes to the gentleman from New York.

Mr. BROOKS. Mr. Speaker, in the very few moments allotted to me it is not possible for me to enter into any discussion of the law further than to say the records of the House show in reply to the remarks of the gentleman from Ohio, that Mr. Woolley, upon the floor of this House, volunteered to appear here and to answer any and every question the House itself might judge to be a proper question to be answered by him. His objection is to the committee of seven who have to maintain the lost cause of impeachment, and are becoming but enraged partisans; and he asked to have an appeal from that *ex parte* committee, in which he has not a single friend and where his counsel cannot appear. He asked for an appeal from such a secret, prejudiced, inquisitorial tribunal to this House, but that committee of seven refused an appeal to this higher, fuller court. In lieu thereof they proposed to create, and to incarcerate him in, a dungeon in this Capitol.

Sir, there are two resolutions before this House, one being involved in the other, first to create a dungeon and to make it a perpetual prison in the basement, in the underground part of the Capitol, designated, as convict places usually are, not as carpeted committee-rooms, but as "A and B" where, hereafter all offenders of the majesty of the gentlemen from Ohio and Massachusetts are to be cast.

Now, it is falsely alleged, in an order to give dignity to this prison, that these rooms A and B are opposite the rooms of the Court of Claims. It is not true.

Mr. BUTLER. Solicitor of the Court of Claims.

Mr. BROOKS. Mr. Speaker, this is not true as stated in the resolution. The room of the solicitor of the Court of Claims is a very large room in the basement in the western part of this Capitol on the same floor, to be sure, with A and B, with two windows, one looking out upon the beautiful and free grounds on the west and the other upon the south, with a dark dungeon-like wall intervening between the room intended for the prison, in which is only one window to illuminate the prisoner. The only light a man can have is by looking out upon another wing of the Capitol, under which the fires of a blazing furnace to move the engine that ventilates this Capitol, are ever glaring upon him. Room B is a nasty dungeon, with a grate in the door in the hall in front, such as is usual in dungeons intended for the use of prisoners incarcerated within for high crimes, where no air, no ventilation, no open light, no view, save upon the inner and reeking walls of an ill-kept basement of the Capitol. This is intended for his sleeping-room, and it would be fatal to sleep long there this hot weather. It is now wet and moldy from dampness, and is used as a storage house for the lumber of the Capitol. To put him there is to doom him to a living death, with rats only for companions, or cockroaches that are eating up the rotting public documents thereabout.

But what is worse than all this, the managers propose to establish a perpetual prison in this Capitol, intended for any victim that may be designated. This Capitol of a free coun-



try is to be turned into a bastille for the future incarceration of all who may or not differ with these seven so-called managers upon what are proper and legal subjects for their inquisition. I understand now why the gentleman from Illinois, early in the session, introduced, in an appropriation bill, a section displacing the Capitol police and substituting therefor soldiers under General Grant to keep guard over the House, but which he afterward withdrew when compelled by an opinion here, not then ready for the bayonet, but now ready for a prison. Hereafter, if under a military régime, we shall come to have soldiers as a guard.

The honorable managers are gratifying a double sentiment—one beyond the creating of a congressional dungeon under the Capitol, over the dome of which, as if in mockery, a bronze statue of Liberty presides; and that sentiment beyond is an insult to a clever young lady to whose genius as an artist the Lincoln party in this House, when it existed, voted some thousands of dollars to mold a plaster cast for a statue of Abraham Lincoln. This young lady, whom I saw for the first time yesterday afternoon, when curiosity to see the intended congressional dungeon prompted me to visit room "A," which, small as it is and bad as it is, she had converted into a studio, made useful by its very dampness for work a few hours a day on a plaster cast, is now to be insulted in that place and turned out of it by the managers of the House—insulted by turning in upon her a male prisoner and turned out with her models and casts and studies. There is no respect even on the part of these managers for their once great idol, for they know or ought to know that a plaster cast in the artistic condition this cast is now in, cannot be moved without its probable destruction; and they are ready to forget and forego all their admiration of Lincoln to punish this young lady because it has been only reported abroad that whatever might be the influence of her talents or personal graces she had exerted them upon one of the Senators from Kansas, to number him with the immortal seven conscript fathers now made as illustrious as the best in the best days of Rome.

It was, I learn—for I know nothing beyond common fame—the fortune or misfortune of the lady to have a mother who took an old Kansas acquaintance, a Senator, to board with her. And because of her connection with that household she is to be held responsible for his vote on impeachment, and is to be punished therefor now by being hunted out of the Capitol, and hereafter by refusing to appropriate the money the Thirty-Ninth Congress contracted to pay for her Lincoln statue. I have not time or temper to dwell upon such petty vengeance wreaked thus upon an innocent girl. I could not dwell upon it if I would, with the decorum imposed upon us by parliamentary law.

All I have to add upon this point is, that though this reception-room "A" may do for a store-room for plaster-work, &c., it is altogether unfit for human habitation, night or day, in hot weather; and to doom this victim of these managers to remain there is to doom him to a living death. He has pledged himself to answer every question this House may ask him, holding the House responsible for forcing him to disclose his private affairs, a responsibility which he feels the seven managers alone cannot excuse him for violating.

Now, Mr. Speaker, I send to the Clerk to be read, in reply to the statement of the gentleman from Ohio, the statement of Mr. Woolley, and of his counsel, Mr. Merrick, which is vouched for by Mr. Merrick, so far as he could know what was done in the committee-room, through Mr. Woolley, for no counsel was admitted in the star chamber of that inquisitorial body.

The Clerk read as follows:

"On Tuesday, the 19th of May, Mr. Woolley attended, in obedience to a summons, Mr. BUTLER was the only manager in the room, and assumed to administer an oath and examine the witness. He was rude, abusive, and insulting, and when, in the

course of the examination, the witness declined to answer some questions put to him, Mr. BUTLER ordered him in custody of the Assistant Sergeant-at-Arms, giving him directions not to permit the witness to speak to any one. Mr. BUTLER then called in some of the other managers, when the witness was again brought before the managers. Mr. BUTLER continued the examination in the same abusive and insulting manner."

Mr. BUTLER. I desire to interrupt the communication. Is it in accordance with the dignity of the House to allow a prisoner in contempt of the House to—

Mr. BROOKS. I hope this will not come out of my time.

The SPEAKER. A point of order does not come out of the time of a gentleman who has the floor. The Chair understands that the gentleman from Massachusetts is raising a point of order.

Mr. BUTLER. I am raising a point of order.

The SPEAKER. The gentleman will state it.

Mr. BUTLER. My point is, if it is in order in this House, consistent with the dignity of this body, to allow a witness who is in contempt of the House in refusing to meet its process and in refusal to answer questions, and who, upon the record reported to the House, has committed willful and deliberate perjury, whichever way his statement is to be taken, to send a communication through a member of the House, certainly words characterising a member of the committee and a member of the House, in the terms which have just been read?

Mr. BROOKS. What terms? This is a part of my speech—I submit it as my own speech.

The SPEAKER. The gentleman says he makes it a part of his speech. The language is:

"BUTLER was the only manager in the room, and he assumed to administer the oath and examine the witness. He was abusive and insulting."

That language is not parliamentary by any member on the floor addressing the House, and certainly not by a witness who refuses to answer when ordered by the House to do so.

Mr. BUTLER. A single word more.

The SPEAKER. Until the point of order is settled no further debate is in order, except by consent of the gentleman who has the floor.

Mr. BUTLER. I raise the question whether he can proceed at all?

Several MEMBERS. Of course not.

The SPEAKER. The Chair has decided that question repeatedly heretofore. When the Speaker decides that a member of the House is out of order the power of the Chair ceases. If any member then objects, he cannot proceed except by leave of the House. The House will determine whether the gentleman from New York shall proceed. It is for the House to decide that, and not the Speaker. The Chair decides the words are not in order.

Mr. BUTLER. I do object; and state, as a reason for my objection, that every member of the committee will bear me out in saying—

Mr. BOYER. I object.

Mr. BUTLER. That the witness thanked us for the courtesy with which he had been treated.

The SPEAKER. If any member objects, the member cannot proceed except by leave of the House.

Mr. BROOKS. I qualify the words.

The SPEAKER. The gentleman proposes to qualify the words. Does the gentleman from Massachusetts withdraw the objection?

Mr. BUTLER. I withdraw the objection.

The SPEAKER. The Clerk will proceed with the reading.

The Clerk read as follows:

"BUTLER then continued the examination in the same abusive and insulting manner."

A MEMBER. Those are the words that the Chair ruled out.

Mr. BUTLER. I propose now to insist upon the objection. It is an abusive, virulent, vituperative communication, which any gentleman should be ashamed of.

Mr. BROOKS. I cannot be taught gentility by the member from Massachusetts.

Mr. ELDRIDGE. Did not the Clerk commence to read the same words which the gentleman qualified?

Several MEMBERS. Oh, no.

Mr. BUTLER. I am submitting my objection. The gentleman cannot change that; that is Woolley's story. Let him withdraw the whole if he wants to go on.

The SPEAKER. The gentleman from New York has adopted it as a part of his speech, and as such he has a right to qualify it.

Mr. BUTLER. I object.

The SPEAKER. The Chair will put the question whether he shall be allowed to proceed.

Mr. ELDRIDGE. The gentleman from New York withdrew the words, and the Clerk commenced to read the same words over.

Mr. BUTLER. Oh, no.

Mr. BARNES. Do the words "abusive and insulting" occur twice in the communication?

Mr. FIFE. If the gentleman will withdraw the entire letter there will be no objection.

The SPEAKER. The Chair will state that the Clerk read the words, "in a rude and abusive manner." Four or five lines further down the Clerk read, "BUTLER then continued the examination in the same abusive and insulting manner."

Mr. BROOKS. I intended to omit the whole of that language.

The SPEAKER. The question is, Will the House consent to the gentleman proceeding in order?

Mr. UPSON. Does that involve the withdrawal of the letter?

Mr. BROOKS. I withdraw the offensive words, and when I made the first withdrawal I intended to withdraw them throughout the paper, and if I had been reading the paper myself I should have modified them.

The SPEAKER. The gentleman states that he intended to withdraw all the words about "abusive and insulting."

Mr. BUTLER. The gentleman had read the communication in advance, and he deliberately put it before the House. He adopted it. The relations between him and me are well known, and should have taught him to treat me with the same courtesy that I treated him with the other day. So I insist upon the objection.

The SPEAKER. The Chair will state to the gentleman from Massachusetts that the relations between members do not affect questions of order. It is presumed by the parliamentary law that the relations between all the members are courteous, and the language used must be language proper in a parliamentary body. The gentleman from New York has made his explanation to the House, and the question is, Will the House consent that the gentleman shall proceed in order?

Mr. HIGBY. I wish to ask a question.

The SPEAKER. It is not debatable.

Mr. HIGBY. I do not wish to debate, but I do not understand the question. I wish to ask if the member from New York has adopted that paper as a part of his speech?

The SPEAKER. The gentleman from New York has made his remarks in the presence of the House, and every gentleman has heard them.

Mr. BROOKS. I intended, when the Chair decided the words "abusive and insulting language" to be out of order, to withdraw them and change them to "improper;" and I meant in that withdrawal in good faith to withdraw similar expressions in various parts of the paper, and I should not have read them if I had been reading the paper myself.

The SPEAKER. The gentleman states that he intended to withdraw the offensive language and substitute for it the word "improper."

Mr. BROMWELL. I would inquire—

The SPEAKER. Is there objection to the gentleman making an inquiry?

Mr. ARNELL. I object.

Mr. BROMWELL. I only wished to know if the gentleman claimed—

The SPEAKER. Further debate is objected to.

The question was put on allowing Mr. Brooks

to proceed in order; and there were—yeas 44, noes 65.

Mr. ELDRIDGE. I demand the yeas and nays.

Mr. BLAINE. The question is not understood here.

The SPEAKER. The Chair has endeavored to make it plain.

Mr. BLAINE. Is it that the gentleman shall proceed in order without having the communication read? For one, I am perfectly willing that the gentleman shall have his time, but I am not willing that the communication shall be read.

Mr. BINGHAM. That is just the question.

Mr. BROOKS. That is all I ask—that you shall give me my time.

Mr. BLAINE. If the paper is withdrawn, the gentleman can have unanimous consent to go on.

Mr. BROOKS. I withdraw it.

The yeas and nays were ordered.

Mr. BINGHAM. I understand that the paper is withdrawn, and there is no question before the House.

The SPEAKER. The objection of the gentleman from Massachusetts [Mr. BUTLER] is not withdrawn. The gentleman from New York withdraws the paper. Does the gentleman from Massachusetts withdraw his objection to the gentleman proceeding?

Mr. BUTLER. Do I understand the gentleman to withdraw the paper?

The SPEAKER. He so stated to the Chair.

Mr. BUTLER. Then I am willing he shall go on.

Mr. BROOKS. Suppose I go on and read the paper, and leave out all the objectionable words?

Mr. BUTLER. Then I do not withdraw the objection.

The SPEAKER. The gentleman from Massachusetts [Mr. BUTLER] must state to the Chair whether he does or does not withdraw his objection. If the gentleman from New York [Mr. BROOKS] is allowed to proceed, he will have three minutes in which to speak.

Mr. BUTLER. Unless he withdraws the paper entirely, and does not refer to it, I must object.

Mr. INGERSOLL. I desire to ask a parliamentary question.

The SPEAKER. That requires unanimous consent.

Objection was made.

The question was then taken upon allowing Mr. Brooks to proceed in order; and it was decided in the negative—yeas 51, nays 69, not voting 69; as follows:

YEAS—Messrs. Archer, Baker, Barnes, Beck, Benton, Blair, Boyer, Burr, Cary, Chanler, Churchill, Cornell, Culom, Driggs, Eldridge, Ferry, Getz, Glossbrenner, Golladay, Griswold, Grover, Haight, Hill, Hotchkiss, Ingersoll, Johnson, Jones, Kerr, Knott, Koontz, George V. Lawrence, Marshall, Marvin, McCormick, Morgan, Niblack, Nicholson, Phelps, Poland, Ross, Sitgreaves, Stewart, Stone, Lawrence S. Trimble, Van Aukon, Van Trump, Elihu B. Washburne, Windom, Wood, Woodbridge, and Woodward—51.

NAYS—Messrs. Ames, Arnell, Beaman, Beatty, Bingham, Boutwell, Bromwell, Broomall, Sidney Clarke, Cobb, Coburn, Coyode, Dawes, Eggleston, Ella Farnsworth, Ferris, Fields, Garfield, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Judd, Julian, Kelley, William Lawrence, Lincoln, Loan, Loughridge, Mallory, Maynard, McCarthy, McClurg, Mercer, Miller, Moore, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Poisley, Pomeroy, Price, Raum, Sawyer, Schenck, Seofield, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Taffe, John Trimble, Trowbridge, Burt Van Horn, Robert T. Van Horn, William Williams, and John T. Wilson—69.

NOT VOTING—Messrs. Adams, Allison, Anderson, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Benjamin, Blaine, Brooks, Buckland, Butler, Cake, Reader W. Clarke, Cook, Dixon, Dodge, Donnelly, Eckley, Eliot, Finney, Fox, Gravely, Halsey, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jenckes, Kelsey, Ketcham, Kitchen, Ladin, Logan, Lynch, McCullough, Moorhead, Morriss, Munger, Peters, Prunty, Randall, Robertson, Robinson, Selye, Shanks, Spalding, Thaddeus Stevens, Stokes, Taber, Taylor, Thomas, Twichell, Upson, Van Aernam, Van Wyck, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Wilker, Thomas Williams, James F. Wilson, and Stephen F. Wilson—69.

So Mr. Brooks was not allowed to proceed.

The SPEAKER. The gentleman from Ohio [Mr. BINGHAM] is now entitled to the floor for thirty-five minutes.

Mr. BINGHAM. I now yield to the gentleman from Wisconsin [Mr. ELDRIDGE] for ten minutes.

Mr. ELDRIDGE. I do not know, Mr. Speaker, whether in speaking upon this question I can conduct myself so orderly as to be allowed to proceed. I will remark, however, that in regard to this individual, Mr. Woolley, I am impelled by no motive of friendship or even of acquaintance toward him in making the remarks which I intend to make. I never saw to my recollection the gentleman before he was brought here the other day in charge of the Sergeant-at-Arms. And any remarks I may make will be as applicable to any other individual, under like circumstances, as to him.

I insist first, upon the record as it stands before this House, as presented by the committee, and the answer made by Mr. Woolley here, that he is not in contempt of this House; that he has done no act and said nothing which should bring him into contempt of this House.

I know very well that I cannot argue the questions growing out of this resolution, in the ten minutes accorded to me under the arbitrary and imperious ruling of the majority of the House, but must content myself with barely stating the proposition. I assert that the refusal of the witness to answer improper questions, or alleged improper questions, does not constitute a contempt of the House. But when the committee come before the House, and obtain an order of the House, which order the witness fails or refuses to perform, then he is in contempt of the House, and not until then. Unless this be so, the witness is subject absolutely to the will and caprice of whatever committee may be authorized to examine him. He may be subject to their ill temper, hatred, malice, or whatever other passion may inspire them in their investigation. I now read from Cushing's Parliamentary Law, page 383:

"The only course proper for a witness to pursue, in such a case, would be either to answer the question substantially, and without regard to its form, or to decline answer and to refer it to the House for their consideration."

"In regard to the phrasology of the questions which are put to a witness, and the language of the answers returned by him while under examination, it is to be observed on the one hand that the witness is in the protection of the House, that no question ought to be permitted to be put to him which is couched in disrespectful terms, and that no insulting or abusive language or conduct toward him ought to be allowed."

Now, I say that if the witness alleges that he has been subjected to insulting and abusive treatment, or has had language of that character addressed to him, he has a right, either through his counsel or in person, or by a member of this House, to come in here and state that ill treatment, and make his proper complaint; and I contend that even the communication from the witness, Woolley, which the gentleman from New York [Mr. BROOKS] undertook to read, or have read, as part of his speech, was perfectly legitimate and proper to be read here; and it was the duty of this committee, whenever the witness found fault with their questions or their treatment of him, and made a proper objection thereto, to present to this House, truthfully, carefully, and exactly, what occurred, that the House might pass upon the matter and determine the propriety of the conduct of the committee.

I read further from the authority to maintain this position:

"And any member, counsel, or party who, in examining a witness, should insult or abuse him, would subject himself to the censure and punishment of the House."

How else is the witness, if he be insulted, abused, or ill-treated, to present his case to this House except through a member of the House? But I cannot dwell upon that point.

This is a very important question, involving no less than the personal liberty of a citizen; but I do not know whether this House will pause, will deliberate, will consider; but in a case of this kind under consideration in the

Parliament of Great Britain, it was said, "The House ought to pause before they come to a decision upon a point in which the liberty of the subject is so materially concerned." I say that this House ought to pause, ought to deliberate, ought not to act passionately, ought not to act as the committee act, if they are inspired by passion or anger or disappointment or mortification at the failure of impeachment, or by any feeling of animosity or hatred toward this witness, whether personal or political.

Sir, let us see what is the precise question between the committee and the witness. If there is any contempt on the part of the witness charged in the resolution, it is in refusing to answer with regard to this telegram. Let me read the facts as stated in the resolution:

"Question. The committee desire to know whether on the 6th of May you telegraphed over the signature of 'Hooker' to Sheridan Shook, 'My business is adjusted. Place ten to my credit with Gilliss, Harney & Co., No. 24 Broad street?'"

"Question. Did you also telegraph to Sheridan Shook, over the signature of 'Hooker,' on the 12th of May, 'The five should be had. It may be absolutely necessary?'"

"Which question Woolley declined to answer, in the following words, to wit:

"This is a private and confidential communication, passing between counsel and client. It has reference to business in that relation and to nothing else, and has no reference whatever to the trial of the President on the articles of impeachment preferred against him, nor to the conduct or result of the trial, nor the vote of any persons on the trial, nor any allusion thereto whatever. That is my answer."

This is the only real issue between the witness and the committee. The refusal to answer the question with regard to this telegram is the only contempt charged by the committee. This is the only question he is alleged to have declined to answer. He has answered all the others; at all events, this is the only refusal shown by the report.

The witness may have answered the others falsely or evasively; he may have failed to answer as the committee wanted him to answer; but he has answered the question in reference to the money. He has answered, if you please, in his own way. If there is a contradiction between this witness and Sheridan Shook it can make no difference—he may have testified falsely, or Shook may have testified falsely. If the committee had doubts upon this question, their duty was to bring those witnesses before them face to face, and there examine them to see which of them tells the truth. I repeat, that the only question is with reference to this telegram; and the witness puts his refusal upon the express ground that the communication, the telegram inquired about, was private and confidential, passing between counsel and client. Where is the contradiction? It is a mere inference from some statement of Shook. And in a mere contradiction between these two witnesses the House cannot decide between them until the witness has had an opportunity to explain or some testimony additional to show which is right. To this point I read again from Cushing:

"In the House of Lords, where witnesses are sworn and examined on oath, false testimony amounts to the legal crime of perjury, and is punishable as such by prosecution in the courts of ordinary criminal jurisdiction. Hence it does not appear to be customary there to punish false evidence as a contempt."

So here, if these witnesses, or either of them, have testified falsely, he is guilty of perjury by our law, and subject to the penalties of perjury. But if either has perjured himself, how is this House to determine which it is? Certainly we cannot presume, in the absence of proof, that it is Woolley.

The contradiction between these witnesses, therefore, is no contempt. The only contempt, if any, as I said before, is in refusing to answer with reference to this private and confidential telegram. Now, on the subject of confidential communications, I read from Greenleaf on Evidence:

"And in the first place, in regard to professional communications, the reason of public policy which excludes them, applies solely, as we shall presently show, to those between a client and his legal adviser; and the rules are clear and well settled that the confi-

dential counselor, solicitor, or attorney of the party cannot be compelled to disclose papers delivered or communications made to him, or letters or entries made by him in that capacity.

"This protection," said Lord Chancellor Brougham, "is not qualified by any reference to proceedings pending or in contemplation. If, touching matters that come within the ordinary scope of professional employment, they receive a communication in their professional capacity either from a client or on his account, and for his benefit in the transaction of his business, or, which amounts to the same thing, if they commit to paper in the course of their employment on his behalf matters which they know only through their professional relation to the client, they are not only justified in withholding such matters, but bound to withhold them, and will not be compelled to disclose the information or produce the papers in any court of law or equity, either as party or witness."

If such communications were not protected no man, as the learned judge remarked in another case, would dare consult a professional adviser with a view to his defense and the enforcement of his rights, and no man could safely go to court to obtain redress.

There is much more on this subject, but the lawyers of the House are familiar with it. I insist this right of confidential communication between the attorney and client is a sacred and well-settled right, and ought not to be violated by this House any more than by a court of justice. If this be not so I ask you, Mr. Speaker, and I ask this House, what is this committee ruled by? What rights have they not? Can they not ask any question they please? It has been so contended by the gentleman from Massachusetts that they are the sole judges of what questions may be asked and what shall be answered. Such is not the law. I assert this cannot be so. If it be then the sacred relations between husband and wife may be investigated before this committee. Its most holy and sacred communings may be made public. If this be so the relation and communion between penitent and priest may be pried into and exposed by this "smelling committee," and the sacred office of the spiritual adviser is destroyed. All confidential intercourse, business, social, conjugal, and sacerdotal, are broken up.

The SPEAKER. The gentleman's ten minutes have expired.

Mr. BINGHAM. I now yield ten minutes to my colleague, [Mr. MORGAN.]

Mr. MORGAN. Mr. Speaker, I thank my colleague for his courtesy. I wish to submit a few considerations on the grave matter now pending before the House. This question, sir, does not alone involve the rights and liberties of Charles W. Woolley, but the rights and liberties of every American citizen; and the blow struck by the managers at him, if it be parliamentary to say so, is a blow intended to be struck by them at the rights and liberties of the whole people.

Mr. Speaker, there is an old Italian adage, that has been verified by the history of many centuries, "That war makes thieves and that peace hangs them." And, speaking of this Italian adage, it recalls the history of the republic of Venice. Venice, like our own Republic, was once free, and the rights and liberties of her people, like those of our own countrymen, were overthrown, and all the powers of the Government were usurped by the Doge and his Council of Ten. He had a council of ten, not a committee of seven, and although the numbers differ, the powers usurped are the same. Now, I do not say that this committee are the equals of the Doge's council as tyrants, for it might be unparliamentary to say so, and those who know our committee, those who have watched their actions, would never dream that they could be guilty of tyranny.

Nor, sir, is this the first time in the annals of nations that the Capitol of a free country has been turned into a prison-house. Beneath the council chambers of Venice were dungeons for the confinement of the once free citizens of that republic, and there as here they were denied all the rights which belong to a free people; and here as there similar dungeons, to be used for similar purposes, are to be established in the Capitol of a country which once boasted of its freedom. In Venice, the bridge which crossed above the dark and pestilent

dungeons, where citizens were incarcerated without trial, is to this day known as "the Bridge of Sighs;" and the name of the Doge and his council are only remembered to be accursed of all mankind.

Sir, I say it with deference to this honorable body that the action of the House in this matter is in violation of all the parliamentary precedents of this and of every other free Government. A strictly partisan committee has been appointed with inquisitorial powers to hold as a prisoner any citizen who refuses to divulge the most sacred relations of life, and that, too, when they have not the remotest pertinence to the pretended subject under investigation. And although the members of this House represent the whole people, yet has this honorable body twice refused to allow this inquisitorial committee to be composed, as other committees are, of members representing both of the great political parties of the country. I ask you, Mr. Speaker, I ask the managers themselves, whether they are free from grave suspicion when they seek to shield themselves behind the screen of absolute secrecy? The gentleman from New York, [Mr. Brooks,] who was denied the right to conclude his remarks, struck down in the exercise of the right of debate, said that the action of this committee was intended to violate the rights and liberties of American citizens; and were I speaking of any other body than this House I would say that the action in regard to the lady referred to is unmanly, ungenerous, and discreditable.

My honorable friend from New York [Mr. Brooks] referred to the fact that the rooms now occupied by Miss Ream were to be converted into dungeons for the incarceration of American citizens, although their use was assigned to her by the authority of this House. It is claimed by certain gentlemen that no portion of the national Capitol should be used as a studio. And yet, sir, it is well known to every member on this floor that at this very moment there is a studio in this Capitol occupied by a man; but the managers do not propose to disturb him in his quiet possession.

Now, sir, in this connection, I am going to state a fact which I regret the necessity of stating, because it concerns an honorable gentleman on this floor. I am glad he is here to defend himself should his name be asked for and given. The only reason assigned by the gentleman from New York [Mr. Brooks] for this action in regard to Miss Ream is that the Senator from Kansas [Mr. Ross] is the friend of her family. A member of this body, as I am informed, went to her studio and told her she was charged with having used her influence in favor of the acquittal of the President. She replied no, she had not. The gentleman then said: "You ought to use your influence in favor of his conviction." She replied that she could not take any part one way or the other; and the member then told her that if she did not it would be the worse for her, or words to that effect. Now, sir, comes the magnanimous, manly act of vengeance.

Several MEMBERS. Name the member.

Mr. MORGAN. I will name him if he asks to be named.

Mr. BROOKS. Not unless he asks it.

Mr. MORGAN. I will say further that I stand ready to prove what I say. And if this court of inquisition is changed into a parliamentary committee, if the gentlemen in the majority will dare to meet a fair investigation and have the facts brought to light, as they exist, I will prove that a distinguished Republican member of this House had a conversation with Miss Ream and threatened that if she did not use her influence with Senator Ross to secure the conviction of the President it would be the worse for her.

Mr. BROOKS. From what State?

Mr. MORGAN. My friend asks from what State. It was a member from the State of Indiana, a gallant State, many of whose were comrades of mine in the field.

Mr. ORTH. I ask the gentleman to yield.

Mr. MORGAN. If it does not come out of my time.

The SPEAKER. The gentleman has two minutes remaining. Will the House allow him to yield without its coming out of his time.

No objection was made.

Mr. ORTH. I understand the gentleman to refer to a member from Indiana. I ask if he alludes to me.

Mr. MORGAN. I do not.

Mr. COBURN. Does the gentleman allude to me?

Mr. MORGAN. I am happy to say to my friend that I do not mean him.

Mr. HUNTER. Does the gentleman from Ohio allude to me?

Mr. MORGAN. I do not allude to the honorable member.

Mr. JULIAN rose.

Mr. MORGAN. Does the gentleman from Indiana [Mr. JULIAN] propound to me a question?

Mr. JULIAN. I want to know what the gentleman asserted.

Mr. MORGAN. It affords me great pleasure to repeat what I said. I stated that a distinguished member of this House, on the Republican side—and, at the suggestion of a friend, I afterward said he was from Indiana—had gone to the studio of Miss Ream and told her it was understood she was trying to influence Senator Ross in favor of the acquittal of the President; that she replied that she had not used her influence either way; that then the gentleman from Indiana said to her that she ought to try and influence that Senator in favor of conviction; that she declined; that thereupon the gentleman threatened her—I cannot give the exact words—by saying that if she did not try and influence Senator Ross in favor of conviction it would be the worse for her, or words to that effect.

Mr. JULIAN. I now ask the gentleman whether he alludes to me in making that statement.

Mr. MORGAN. I do allude to the gentleman, and I derived my information from Miss Ream, than whom no woman in this land, no mother, wife, daughter, or sister of any member on this floor, is more entitled to the respect of honorable men.

Mr. JULIAN. The gentleman, of course, will now allow me to make my own statement in reference to this matter. At the suggestion of two or three members of this House who had heard rumors that Miss Ream was using—

Mr. MORGAN. Will the honorable gentleman allow me to ask him a question. Will he be kind enough to name the gentlemen he speaks of?

Mr. JULIAN. I prefer to make my statement in my own way before I answer any questions. It was told to me by some of the members of this House that Miss Vinnie Ream was understood to be using her influence to secure the vote of Mr. Ross for the acquittal of the President; and it was suggested to me, inasmuch as I was acquainted with her, that I should state the matter to her, as the rumor was calculated to injure her in the estimation of the public and of members of Congress. I stated that I did not believe the story; but that, as I knew her, I would mention it to her for the purpose of giving her an opportunity to make such statement as she might see fit under the circumstances. I did so, and did it jocularly, not at all in a way to show that I believed the story myself, for I did not, and she laughingly denied it; but on a moment's reflection she made the denial earnestly and scouted the accusations. That is the whole of what took place between her and me, as I distinctly recollect it. I made no threats; I intimated no threats in any shape or form. On the contrary, I accepted her statement at the time as true, and felt no longer any interest in the controversy.

I ought to state, however—perhaps I ought to state it, since my private conversations have been referred to here without any authority from me—that in connection with her denial



of using any influence over Senator Ross, she stated that Senator Ross was going to vote to convict the President of the United States, [laughter;] and that on meeting Mr. Ross, accidentally, I think the next day, he confirmed to me the statement of Vinnie Ream, and complained of the injustice that had been done him in taking it for granted that he meant to vote to acquit the President, and in seeking to dragoon him into a vote of conviction; declaring that the acquittal of the President would be a calamity to the country from which there could scarcely be any hope of its recovery. [Laughter.]

That is the statement that I make, and so far as any statements purporting to come from Vinnie Ream, or anybody else, are concerned, in conflict with what I now state, I brand them as deliberate and intentional falsehoods.

Mr. MORGAN resumed the floor.

The SPEAKER. The gentleman has two minutes of his time still remaining.

Mr. MORGAN. Mr. Speaker, the joke perpetrated by the honorable member from Indiana was a very serious one, as the *denouement* of it has proved. I repeat that I stand good to prove, before a committee properly constituted, what I have stated to be true; the memory of the honorable gentleman, which seems to be at fault, to the contrary notwithstanding—for I do not wish to impeach his word.

Now, Mr. Speaker, allow me to make a suggestion to the honorable managers. Is there not danger that the country will believe that they are seeking to create a dust behind which to escape from the just indignation of a wronged and outraged people? Through them three months of legislation have been lost; defeated in the Senate, humiliated before the American people, by making a cloud of dust they cannot evade the censure they so well deserve. And they are mistaken if they suppose that they can escape from the judgment which is as certain to come down upon them as if ordered by the fiat of the Almighty.

Mr. BINGHAM. I will yield the remainder of my time to my colleague on the committee from Massachusetts, [Mr. BUTLER.]

The SPEAKER. The gentleman has fifteen minutes.

Mr. BUTLER. Mr. Speaker, I desire, with the leave of the House, to call their attention to some of the facts and precedents bearing upon the arguments to which this resolution has been discussed. The first point of attack is the composition of the committee. We are told that there never was a parliamentary precedent for constructing a committee of investigation when the minority were not represented. I might answer sufficiently that there never was such a parliamentary case as this of alleged corruption in a court of impeachment, and therefore it may well be without precedent.

But I do not content myself with that reply. I remember the history of the Democratic party. I remember when a Senator from my State was voted off of every committee in the Senate of the United States, because, in the declared opinion of the majority there, he did not belong to "any healthy political organization." A bad precedent, I grant you; but it does not lie in the mouths of gentlemen upon the other side to say anything to us on the subject.

And let me say, that if Mason, Slidell, and those men of the old Democratic party, whose humble successors these gentlemen are, creeping where they walked, crawling where they marched—if they had had the charge of this impeachment, forty-eight hours would not have passed over the head of the President they undertook to impeach before he had gone out in spite of all the women in the rooms of the Capitol, or all the "whisky rings" in the States.

Now, why is it sought that the other side should have a place on this committee? When this impeachment proceeding was begun, out of which this proceeding grows, every man of them refused to take any part in it or place on

a committee in regard to it. We offered them a place on the committee to begin with—the committee to draw up the articles of impeachment; we offered them an opportunity to take part in that proceeding, and they refused. And it was not until the fugleman of George H. Pendleton was brought up here for perjury and contumacy that they ask for a place on the committee to protect and defend him.

Mr. WOOD. Were not all the managers selected in a Republican caucus?

Mr. BUTLER. I speak of the committee to draw up the articles of impeachment. As to the selection of the managers, if the gentleman had read a little more upon the subject, he would have known that managers are always selected from one side. They are the prosecutors, and are always from the side of the prosecution.

Mr. ELDRIDGE. That is just what we complain of.

Mr. BUTLER. A little more learning on this subject would save gentlemen a great many more questions. Let me say to the gentleman, those gentlemen refused to take part in the proceedings. Having so refused, what did they do? And what do they now do? They throw every obstacle in the way of an investigation; they show that they do not mean to have a fair investigation. They show the country that they will not investigate fairly, because they kept us here last night for six hours filibustering, to keep the House from voting on a resolution to compel a witness to answer questions which the House had ordered that he should answer, and he had contemptuously refused so to do.

Now, some of my friends here, good and true men, some whose judgment I respect, and some whose judgment I do not so much respect, on this side of the House and on the other, have come to me and said, "Why have this investigation *ex parte* in its character?" Sir, is not every grand jury an *ex parte* investigation? We are now attempting to find the evidence which will establish a *prima facie* case of crime to be hereafter adjudicated by the Senate, or the House, as the case may be. We are acting the part of a grand jury in this investigation, and of necessity for the purposes of justice the investigation should be *ex parte*, as all such investigations ought to be, and in practice everywhere else are, in order that the secrets of the prosecution may be preserved from the criminal. Who ever heard of the friends and defenders of a supposed criminal being put on a grand jury to aid in investigating his crimes? And a request, in my judgment, to have gentlemen on the other side put on this investigation would be as impudent as it would be for Ali Baba, if he was before a grand jury, to ask to have some of his "Forty Thieves" put on that grand jury.

Mr. BROOKS. I call the gentleman from Massachusetts [Mr. BUTLER] to order.

The SPEAKER. If the remarks of the gentleman from Massachusetts were applied to any member on this floor, then they are not in order.

Mr. BUTLER. I applied the remarks—

Mr. MARSHALL. I ask that the words be taken down.

The SPEAKER. The Clerk will read the words to which the gentleman from Illinois [Mr. MARSHALL] has objected.

The Clerk read as follows:

"And a request, in my judgment, to have gentlemen on the other side put on this investigation would be as impudent as it would be for Ali Baba, if he was before a grand jury, to ask to have some of his 'Forty Thieves' put on that grand jury."

The SPEAKER. The Chair rules this language out of order on two grounds; first, on account of the use of the word "impudent;" and secondly, on account of the reference assimilating gentlemen on the other side to the "Forty Thieves."

Mr. BUTLER. I intended neither the one nor the other to apply to the members on the other side.

The SPEAKER. The Chair has stated his

opinion. The gentleman from Massachusetts can appeal if he desires.

Mr. BUTLER. I disclaim any intention of making such a personal reference.

The SPEAKER. The Chair thinks the language of the gentleman is susceptible of the construction he has stated.

Mr. ELDRIDGE. I insist that the gentleman shall not go on without the consent of the House.

Mr. BUTLER. I withdraw the language if the Chair thinks it is not in order.

Mr. BROOKS. The gentleman would not allow me to withdraw.

Mr. MARSHALL. I object to the gentleman from Massachusetts proceeding unless the House so decides.

The SPEAKER. The Chair will state to the gentleman from New York [Mr. BROOKS] and to the gentleman from Illinois [Mr. MARSHALL] that no objection prevents a member from withdrawing his words. The action of the House can be determined afterward.

Mr. BUTLER. I withdraw the language as an imputation; for I intended none upon any of the gentlemen.

Mr. GETZ. I object to debate.

The SPEAKER. The question is, Shall the gentleman proceed in order?

Mr. MARSHALL. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 101, nays 18, not voting 75; as follows:

YEAS—Messrs. Ames, Archer, Baker, Barnes, Beaman, Beatty, Beck, Benton, Bingham, Blaine, Boutwell, Boyer, Bromwell, Brooks, Broomall, Burr, Cary, Chanler, Churchill, Reader W. Clarke, Sidney Clarke, Coburn, Cornell, Covode, Cullom, Donnelly, Driggs, Ela, Eldridge, Farnsworth, Ferris, Ferry, Fields, Garfield, Getz, Glossbrenner, Golladay, Grover, Halsey, Hill, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Ingersoll, Jencks, Jones, Judd, Julian, Kelley, Kerr, Knott, Kootz, Ladd, George V. Lawrence, William Lawrence, Loan, Marvin, Maynard, McCarthy, McClure, McCormick, Mercer, Miller, Moorhead, Morrill, Mullins, Myers, Niblack, Nicholson, Nunn, O'Neill, Orth, Paine, Perham, Phelps, Pike, Pile, Poland, Polisy, Ramsey, Price, Robertson, Sawyer, Seaford, Shellabarger, Sitgreaves, Stewart, Stone, Lawrence S. Trimble, Trowbridge, Upson, Van Auken, Burt Van Horn, Ward, Elihu B. Washburne, William Williams, John T. Wilson, Windom, and Woodward—161.

NAYS—Messrs. Arnell, Harding, Hunter, Mallory, Marshall, Morgan, Newcomb, Plants, Randall, Starkweather, Robert T. Van Horn, Van Trump, and Wood—13.

NOT VOTING—Messrs. Adams, Allison, Anderson, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Benjamin, Blair, Buckland, Butler, Calk, Cobb, Cook, Dawes, Dixon, Dodge, Eckley, Eggleston, Elliot, Finney, Fox, Gravely, Griswold, Hawkins, Higby, Holman, Asahel H. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Johnson, Kelsey, Ketcham, Kitchen, Lincoln, Logan, Loughbridge, Lynch, McCullough, Moore, Morrissey, Munger, Peters, Pruyn, Baum, Robinson, Ross, Schenck, Selye, Shanks, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taber, Taffe, Taylor, Thomas, John Trimble, Trichell, Van Aernam, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, William D. Washburn, Welker, Thomas Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—75.

So the House decided that Mr. BUTLER be permitted to proceed.

Mr. BUTLER. With thanks for the courtesy of the House, I beg to assure them that I did not intend to be outside of the rule of parliamentary debate. I only meant to make a strong comparison.

Allow me to resume. We say on our side there has been an attempt to interfere with the course of public justice. That is not a party question. It ought never to have been made a party question, and it is only the course of the minority in filibustering in favor of the person in contempt of the House that has ever caused it to seem to be a party question.

Mr. GETZ rose.

Mr. BUTLER. I have no time to yield. We propose to go on with the investigation. What is the objection in that investigation to having some of these gentlemen on the committee? It is this. We investigated the assassination of Jefferson Davis through a committee of this House with gentlemen of the other side on the committee.

Mr. ELDRIDGE. I did not know that he had been assassinated.

Mr. BUTLER. Of Lincoln by Jefferson Davis. I am glad to be corrected by the other side, who seem to know all about it.

When that investigation took place every fact, every circumstance before the committee was known to the witnesses outside long before the report to this House was made. So it was when the Judiciary Committee took the testimony in regard to the impeachment of the President; and while I do not make any charge against any gentleman on the committee—for I know some of them to be honorable men—yet it so happened that every fact, everything testified to was at once made known to the public, and the witnesses came here and squared their testimony accordingly. Now, then, the reason why I do not want some of the gentlemen on the other side of the House upon the committee is that I am afraid of the testimony being known to them immediately in the course of their dinners, in private and confidential communications or otherwise, it will be imparted so as to get to the witnesses, and the witnesses will thus be able to square their stories by it.

Why do I say this? Because one of the Astor House conspirators has already attempted to approach one of the employes of the House to get at the testimony before you so as to square his testimony by it. Let me repeat it. One of the Astor House conspirators, who got together for the purpose of consulting upon raising money to buy Senators' votes, has attempted to bribe an employé of the House to get the telegrams we had of his and to know what evidence we had in regard to him. He does not want to testify before the committee any more than Mr. Woolley until he knows what we have got against him. It is to keep the secrets of state, to keep the matter of evidence undivulged from men who are holding out until by the efforts of friends on this floor they can get to see the testimony before the committee, that none of the gentlemen on the other side should be allowed on the committee.

This same Mr. Woolley refused to answer, when last called before us, unless he could see what he had answered before. That was the first thing he asked when he came before us. Next, he wanted a lawyer. I told him that he did not require a lawyer in order to know how to tell the truth. I thought that was not the province of a lawyer. [Laughter.] I have known that a man could tell the truth without a lawyer. I believe Woolley is now holding out until he can find out what testimony we have against him, so as to square his story with it.

I have heard of his probable explanation of the flat contradiction between himself and Sheridan Shook. He says he gave the money to Shook, and Shook says he did not get it. What is to be the explanation made before the committee, as I am informed, if the exposure does not prevent it? That a Mr. Fitzhugh, finding both drunk, took the money out of the pocket of Shook, so that Woolley can swear he gave it to Shook, and Shook can swear he has not got it, and both thus appear to tell the truth. If they could only find out what other testimony we have they would fit their stories accordingly.

But, sir, passing from this, we are told by the honorable gentleman from Ohio, [Mr. MORGAN,] who has just preached his funeral sermon [laughter]—

Mr. RANDALL. The people will resurrect him.

Mr. BUTLER. We are told by him that we are making a bastille of the Capitol and that we are outraging all precedents by so doing. Why, sir, in the very Second Congress our fathers brought up William Duane, a newspaper editor—and I commend this to some newspaper editors on the other side—and put him in prison in the Capitol for days until he answered for libeling the Senate.

Mr. MORGAN. William J. Duane was never an editor.

Mr. BUTLER. I call attention next to the

case of Mr. Walcott, of Massachusetts, whom this House confined in a jail, in a dungeon, if you please, for more than eight weeks, as my memory serves me, and simply because he would not answer what? They proved \$87,000 in his hands, and the allegation was that he bribed members to vote for the tariff bill. He answered that he used it for his own private purpose, and would not criminate himself, and because he would not tell what he did with it he was kept in jail until the session came to an end. A law was then passed that no witness thereafter should be allowed to shield himself under the plea that he might give evidence tending to criminate himself.

Again, this House took Mr. Simonton and thrust him down into the coal-hole of this Capitol and kept him there until he answered where he got the President's message which he had published before the time.

Again, we took a high diplomat, Chevalier Wykoff, put him in that same coal-hole, and kept him there twenty-eight hours, and until he answered.

And this has been done by all the Congresses, commencing from the First down to to-day. So that we are doing in this case exactly what every House of Representatives has done.

They say we are providing to make a bastille in the Capitol. Why, sir, I went down to see that coal-hole, and I thought it was not a fit place to put any man into in its present condition; hence I asked the Sergeant-at-Arms to provide a place in which to hold Woolley, and he said he had no authority to provide a place.

Mr. BOYER. Will the gentleman yield?

Mr. BUTLER. I have not time; if I had I would. I say I saw the place where Wykoff was confined was not now a fit place for such purpose, and so I asked to have the place mentioned in our resolution provided for this purpose. The gentleman from New York [Mr. Brooks] complains these rooms are not fit for any man to stay in, and in the next breath complains that we are maliciously turning a lady out of them. [Laughter.]

Now, if anything that has been charged by my friend from Ohio [Mr. MORGAN] against my friend from Indiana [Mr. JULLIAN] had any foundation in truth, or if we accept the version of the gentleman from Indiana, it is very clear that these rooms ought to be cleaned out, and at once; because, without saying a word about the woman, whom, I believe, I never saw, she ought not to be left in rooms in this Capitol, where she is exposed to such suspicion. Let her and everybody else who visits her there be cleaned out, and if the statue of Mr. Lincoln, which she is supposed to be making, is spoilt in so doing, as one of his friends I shall be very glad of it, for, from what I hear of it, I think it is a thing that will do neither him nor the country credit.

[Here the hammer fell.]

Mr. BINGHAM. I move to lay the motion to reconsider on the table.

Mr. ELDRIDGE. I demand the yeas and nays. I was going to ask the gentleman to allow an amendment that Mr. Woolley's wife, who is here, may be allowed to see him.

The SPEAKER. The Chair will state that he would not hesitate to grant permission to the counsel and wife of Mr. Woolley to visit him under this resolution. He would not exclude the wife under any circumstances, unless he was ordered by the House to do so.

Mr. ELDRIDGE. I did not know but the managers might control the matter.

The SPEAKER. It is to be by order of the Speaker, who holds that the prisoner's wife and counsel should be admitted.

Mr. BINGHAM. The resolution is rightly interpreted by the Speaker.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 34, not voting 55; as follows:

YEAS—Messrs. Ames, Arnell, Baldwin, Beaman, Beatty, Benton, Bingham, Blaine, Blair, Boutwell, Bromwell, Butler, Churchill, Reader, W. Clarke, Sidney Clarke, Cobb, Coburn, Cornell, Covode, Culom, Dawes, Dixon, Donnelly, Driggs, Eggleston,

Ela, Farnsworth, Ferriss, Ferry, Fields, Garfield, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelley, Ketcham, Keontz, Laffin, George V. Lawrence, William Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Mallory, McCarthy, McClurg, Mercor, Miller, Moore, Moorhead, Morrill, Mullins, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Poland, Polesley, Pomeroy, Price, Raum, Sawyer, Schenck, Scofield, Shellabarger, Smith, Starkweather, Aaron F. Stevens, Stokes, Taffe, Thomas, John Triunbe, Trowbridge, Upson, Burt Van Horn, Robert F. Van Horn, Ward, Elihu B. Washburne, William B. Washburn, Welker, Thomas Williams, William Williams, John T. Wilson, and Windom—100.

NAYS—Messrs. Archer, Barnes, Beck, Boyer, Brooks, Burr, Cary, Chanler, Eldridge, Getz, Glossbrenner, Golladay, Haig, Hotchkiss, Johnson, Jones, Kerr, Knott, Marshall, McCormick, Morgan, Niblack, Nicholson, Phelps, Randall, Ross, Sitgreaves, Stewart, Stone, Lawrence S. Trimble, Van Auker, Van Trump, Wood, and Woodward—34.

NOT VOTING—Messrs. Adams, Allison, Anderson, Delos E. Ashley, James M. Ashley, Axtell, Bailey, Baker, Banks, Barnum, Benjamin, Broomall, Buckland, Cake, Cook, Dodge, Eckley, Eliot, Finney, Fox, Gravely, Grover, Hawkins, Holman, Asahel W. Hubbard, Richard D. Hubbard, Hulburt, Humphrey, Kelsey, Kitchen, Marvin, Maynard, McCullough, Morrissey, Mungen, Myers, A. Nunn, Peters, Pruyn, Robertson, Robinson, Selye, Shanks, Spalding, Thaddeus Stevens, Taber, Taylor, Twichell, Van Aernam, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, James F. Wilson, Stephen F. Wilson, and Woodbridge—55.

So the motion to reconsider was laid on the table.

#### DUTIES ON COPPER.

Mr. DRIGGS, by unanimous consent, introduced a bill (H. R. No. 1127) to provide for specific duties on copper, copper ore, and regulus imported into the United States; which was read a first and second time, and referred to the Committee of Ways and Means.

#### CONTESTED ELECTION—DELANO VS. MORGAN.

Mr. SCOFIELD. I rise to a privileged question. I wish to give notice to the House that on Tuesday next, immediately after the reading of the Journal, I will call up the contested-election case of Delano vs. MORGAN.

Mr. KERR. Before the sense of the House is taken on that proposition—

The SPEAKER. No action of the House is required. It is simply a notice.

Mr. KERR. Then I desire to ask the gentleman from Pennsylvania if he will not consent to take up some other one of the contested-election cases first? There are more than one. I will state the reasons.

Mr. PILE. I object to debate.

Mr. SCOFIELD. I will say to the gentleman from Indiana that I have no control over any other case reported by the Committee of Elections.

#### CONSTITUTION OF FLORIDA.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit to Congress the accompanying documents, which are the only papers that have been submitted to me relative to the proceedings to which they refer in the State of Florida.

ANDREW JOHNSON.

WASHINGTON, D. C., May 27, 1865.

The SPEAKER. This relates to the constitution of the State of Florida.

The message and the accompanying documents were referred to the Committee on Reconstruction, and ordered to be printed.

#### ORDER OF BUSINESS.

Mr. SCHENCK. I propose that the House go into the Committee of the Whole on the state of the Union, for the purpose of getting the Indian appropriation bill out of the way, and taking up the tax bill.

The SPEAKER. That motion is not in order, except by unanimous consent, as there has been no morning hour yet.

Mr. SCHENCK. Gentlemen appeal to me to give way for the morning hour, and I therefore demand the regular order of business, and I hope gentlemen will stay here and assist in getting the Indian appropriation bill out of the way.

JOHN A. NEUSTADTER.

The SPEAKER. The morning hour has

commenced, and this being Friday the regular order of business is the consideration of reports from committees of a private nature. The House resumes the consideration of the bill (H. R. No. 1082) for the relief of John A. Neustaedter, which was reported from the Committee on Military Affairs by the gentleman from Missouri [Mr. PILE] on the 16th of May, and was pending at the expiration of the morning hour on that day.

The bill was read. It directs the Paymaster General of the Army to pay to John A. Neustaedter, late a captain of artillery, out of any money now appropriated or that may hereafter be appropriated for the pay of the Army, the full pay and emoluments for a captain of artillery in the Army of the United States, from March 25, 1862, to August 28, 1862.

Mr. PILE. This bill was debated and fully explained, I believe, when it was last before the House for consideration. It is a bill to compensate this officer for services rendered for some four months. Official orders accompany the bill showing that he was on duty for the whole of this time in the field. I think there can be no objection to the bill.

Mr. MILLER. Did he perform the duties of the office?

Mr. PILE. He did, every day and every hour.

Mr. PAINE. Will the gentleman allow me to ask him a question?

Mr. PILE. I yield for a question.

Mr. PAINE. I had not the pleasure of hearing the debate on this case, and I desire to ask a question to see whether any new principle is to be adopted in this bill. I wish to inquire whether this officer was an officer of the regular Army, commissioned by the President of the United States, at or before the date from which the pay is to run, and if the object of the bill is simply to give him pay from the date of the commission antecedent to muster, or whether he was an officer of some State organization, and we are to give him pay under some State commission previous to muster?

Mr. PILE. I will answer the gentleman by stating that he was neither. Captain Neustaedter was commissioned by General Frémont. A provisional commission was issued to him while Frémont was in command of the department of Missouri. He was mustered in under that commission, and did service and was paid. After Frémont was removed from the command of the department of Missouri an order was issued by the War Department directing certain officers appointed by General Frémont to be mustered out unless retained by competent authority. Captain Neustaedter, at the time of the issue of that order, was on duty at Pittsburg Landing, in front of Corinth, on the staff of General C. F. Smith as an artillery officer. He was not mustered out in accordance with that order, neither was he retained by a specific order retaining him. Owing to his name being overlooked at the department headquarters, he was allowed to remain there, and served in the field for four months. The paymaster declines to pay him for that time. This bill is to pay him for the time he actually did duty, under his commission, all the time in the field, every day in service. The orders directed to him are here on file.

Mr. PAINE. One more question, which will probably cover all inquiries I desire to make. Does this bill provide for giving this officer any pay for the time which elapsed before he was mustered by a United States officer?

Mr. PILE. None at all; simply for the time between the date of the order directing these officers to be mustered out and the time when he was actually mustered out. It was an oversight of the department headquarters that this officer was not either retained by special order or mustered out by orders.

Mr. WASHBURN, of Illinois. I desire to call the attention of the House to this matter before they pass upon this bill, because I

am apprehensive that, if it shall be passed, it will be drawn into a precedent for the payment of a very large number of persons. I am somewhat familiar with these matters in Missouri, because I was on a committee of investigation which sat in Missouri, and we had occasion to know a great deal in relation to these appointments by General Frémont. There were a large number of these officers made without any authority whatever; and the parties have no right whatever, as against the Government, for any pay. I do not say that this particular person may not have a good claim; I do not say it may not be proper to pay him. But I do say that if this bill shall pass in the form in which it now stands, it will be drawn into a precedent to pay an immense number of these men who were appointed by General Frémont, and who never did any duty whatever.

Mr. PILE. In reply to the gentleman from Illinois [Mr. WASHBURN] I desire to say—

Mr. FARNSWORTH. Will the gentleman yield to me for a moment?

Mr. PILE. For how long?

Mr. FARNSWORTH. Merely for a few words. At a former session, when I was a member of the Committee on Military Affairs, a great many of these claims were presented, and in every instance we refused to report favorably upon them, for they were the claims of persons appointed by General Frémont and other officers on their staffs without any authority whatever; or as officers of regiments without commissions from their State or from the General Government. This bill would set a very bad precedent, as my colleague says.

Mr. PILE. I desire to say—

Mr. WASHBURN, of Illinois. One word more.

Mr. PILE. I decline to yield further.

Mr. WASHBURN, of Illinois. The gentleman will certainly not decline to hear an important statement.

Mr. PILE. In answer to the two gentlemen from Illinois [Mr. WASHBURN and Mr. FARNSWORTH] I desire to say that the War Department, or the Government through the War Department, directly sanctioned these appointments by General Frémont, and issued an order covering the time they had served, directing certain of them to be mustered out and certain of them to be retained by competent authority. This cannot be made a precedent in any other case.

Mr. WASHBURN, of Illinois. If the gentleman will yield to me I will offer an amendment to the bill, which may obviate some objections to it.

Mr. PILE. I will hear the amendment.

Mr. WASHBURN, of Illinois. I move to amend by the addition of the following:

*Provided, That this act shall not be drawn into a precedent for the payment of the other officers holding appointments from General John C. Frémont.*

Mr. PILE. I have no objection to that amendment.

Mr. WASHBURN, of Illinois. If this bill is going to pass at all I want it to pass with the amendment I have offered, though that will not commit me to the support of the bill.

Mr. HARDING. I desire to say that I think the proposition of my colleague [Mr. WASHBURN, of Illinois] is very unjust. If it is right to pay one of those officers, it is right to pay all of that class.

Mr. WASHBURN, of Illinois. Is my colleague in favor of paying all?

Mr. HARDING. No, sir; I am not in favor of paying any of them.

Mr. PILE. I know a large number of these officers. A majority of them ought not to be paid. I was on duty in that department, and I have personal knowledge of this matter. Many of the officers were on the staff of General Frémont in the city; but this man was at the front exposing himself to danger, giving to the Government the best efforts of his brain and muscle. He ought to be paid. I demand the previous question.

The previous question was seconded and the main question ordered, which was upon the amendment of Mr. WASHBURN, of Illinois.

The amendment was read, as follows:

Add to the bill the following:

*Provided, That this act shall not be deemed a precedent for the payment of other officers holding appointment from General John C. Frémont.*

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The question being on the passage of the bill,

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were not ordered.

The bill was passed.

Mr. PILE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JUSTIN A. GOODHUE.

Mr. GARFIELD. I am directed by the Committee on Military Affairs to report back the papers in the case of Justin A. Goodhue. The committee are of opinion that no legislation is needed in this case, and I move that the parties be allowed to withdraw the papers that the case may be settled at the Departments.

The motion was agreed to.

HENRY KOLB.

Mr. GARFIELD. The Committee on Military Affairs have also directed me to report back adversely joint resolution (H. R. No. 252) providing for the admission of Henry Kolb to the Soldiers' Home, no legislation being necessary.

The bill was laid on the table.

ISAAC WATTS.

Mr. GARFIELD also, from the Committee on Military Affairs, reported a bill (H. R. No. 1128) for the relief of Isaac Watts; which was read a first and second time.

The bill, which was read, provides that the proper accounting officers of the Treasury and Paymaster's Departments be authorized and directed to pay to Isaac Watts all arrears of pay, bounty, or other allowances due from the United States to his adopted son, Samuel Watts, late a private of company H, eighty-first regiment infantry, Ohio volunteers, in the same manner in all respects as if the said Samuel Watts had been the son of Isaac Watts.

Mr. GARFIELD. I can explain this bill in a very few minutes. Samuel Watts, a soldier who was killed in battle, was, when a child two years of age, taken and adopted, not legally but actually, as the son of Isaac Watts, being so treated all his life. But no legal steps were ever taken to make the adoption valid in law. Samuel Watts has left no surviving relatives to settle his affairs. This bill, therefore, authorizes his father by adoption to settle his affairs and receive the back pay due him.

Mr. PAINE. Does this bill undertake to settle any question as to any disputed claim?

Mr. GARFIELD. Not at all. It simply directs the accounting officers to settle with Isaac Watts as though he were the real father. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HENRY DRENNING.

Mr. BOYER, from the Committee on Military Affairs, reported back, with an amendment in the form of a substitute, a bill (H. R. No. 425) authorizing the Secretary of the Treasury to



settle the account of Henry Drénning, late of company K, fifty-fifth Pennsylvania volunteers.

The substitute was read. It states that Sergeant Henry Drénning, late of company K, fifty-fifth regiment Pennsylvania volunteers, was killed at or near Cold Harbor, in Virginia, on the 3d of June, 1864, leaving no widow or heirs, lineal or collateral; and further, that he was the adopted and foster son from childhood of Mrs. Mary A. Filler, and directs that Mrs. Mary A. Filler shall be entitled to receive the back pay Sergeant Henry Drénning, at the time of his death, would have been entitled to by law, and that she shall have the same rights and benefits in all other respects as if she were the natural and lawful mother of said Henry Drénning.

Mr. BOYER. Mr. Speaker, this bill is precisely like the one which the House has just acted upon favorably. In this instance the person for whose relief this bill is drawn adopted Henry Drénning when a child one or two years old and brought him up, educated him, and maintained him until he enlisted in the United States service in the late war, in which he was killed, leaving no widow or lineal or collateral heirs. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the substitute was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOYER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. BOYER, from the same committee, reported adversely upon the following, and they were laid on the table:

A bill (H. R. No. 84) for the relief of W. H. Weaver, late captain company D, twelfth regiment Pennsylvania reserve corps; and

The petition of N. B. Mason, for money taken while he was a prisoner of war in 1865.

#### MARTHA E. KING.

Mr. BOYER, from the same committee, reported back House joint resolution No. 256, for the relief of Martha E. King, with a substitute.

The substitute directs the Paymaster General to pay to Martha E. King, widow of Clinton King, late of Carroll county, Tennessee, a sum equal to the pay of a first lieutenant of cavalry from September 15, 1863, to March 10, 1864; and it also directs the Secretary of the Interior to place her name upon the pension-roll at the rate provided for the widows of first lieutenants of cavalry who die in the military service from wounds received or disease contracted in the line of duty.

Mr. BOYER. Mr. Speaker, Clinton King, the husband of Martha King, for whose relief the bill provides, raised forty-five men in August, 1863, for the military service of the United States, who were uniformed, armed, and equipped, and mustered into actual service, and attached as a company to a Tennessee regiment of cavalry, which company was commanded by King as captain until, while upon duty in actual service, he contracted a disease of which he died on the 10th of March, 1864, leaving his widow, Martha E. King, and several children surviving him. He never received any pay, nor have his family received any since his decease. The number of men he raised and commanded were not enough to entitle him to a captain's commission, but were enough to entitle him to be mustered into service as a first lieutenant. The confusion attendant upon the distracted condition of things in Tennessee in 1863 prevented, in his case, as in many others, a commission from being issued. Afterward commissions were issued to the surviving officers in like position by the Governor of Tennessee as of the date when the service began. King

being then dead no commission was issued in his case, nor any relief up to this time afforded to his family.

The substitute was adopted.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOYER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MRS. ELLA E. HOBART.

Mr. BOYER, from the same committee, reported a joint resolution (H. R. No. 280) for the relief of Mrs. Ella E. Hobart; which was read a first and second time.

The joint resolution provides that Mrs. Ella E. Hobart shall have the full pay and emoluments of a chaplain for the time during which she performed duty as chaplain of the first regiment of Wisconsin heavy artillery.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BOYER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADVERSE REPORTS.

Mr. RAUM, from the Committee on Military Affairs, reported adversely on the following cases; which were laid on the table:

The petition of Samuel Noah, asking pay for services rendered in the war of 1812;

The petition of William Whitely, formerly orderly sergeant company G, seventh regiment Connecticut volunteers;

The petition of Leusianah Sizemore, for relief; and

Joint resolution (H. R. No. 162) for the relief of John T. Cox, late regimental quartermaster of first regiment Indiana home guards.

#### CHANGE OF REFERENCE.

On motion of Mr. RAUM, the Committee on Military Affairs was discharged from the further consideration of the joint resolution for the relief of Ritchison Hartgrove, a soldier in the late war; and the same was referred to the Committee on Invalid Pensions.

#### JAMES A. MULLIGAN.

Mr. SITGREAVES, from the Committee on Military Affairs, reported a bill (H. R. No. 1129) for the relief of the widow and children of the late Colonel James A. Mulligan, deceased; which was read a first and second time.

The preamble recites that on the 15th of June, 1861, Colonel Mulligan was mustered into service of the United States as colonel of the twenty-third Illinois infantry, known as the Irish brigade; that he marched to the front in July, and from that time, excepting two months, when he was a prisoner of war, he was actively engaged in the service, until he fell on the battle-field at Winchester, on the 26th of July, 1864; that during two years of that military service he was assigned to the command of brigades and divisions, and performed the duties of brigadier and major general, but received only the pay of colonel, and that the widow and children of Colonel Mulligan are justly entitled to, and need for their support, the amount of pay which he would have received had he been commissioned according to his respective commands in the field. It therefore directs the Secretary of the Treasury to pay to the widow the sum of \$5,000, to be paid out of the money appropriated for the pay of the Army.

Mr. WASHBURN, of Illinois. I believe this bill makes an appropriation.

The SPEAKER. It is not an appropriation bill. It is to be paid out of any money appropriated for the pay of the Army, which must

be contained in the Army appropriation bill. It does not itself take money out of the Treasury.

Mr. SITGREAVES. Mr. Speaker, I have a brief compilation of the services of Colonel Mulligan at the commencement of the rebellion, upon which I mainly base the merits of this bill, and to which I call the attention of the House.

At the commencement of the rebellion James A. Mulligan, then captain of the Shields Guards of Chicago, raised a regiment of Irishmen for the war, but in consequence of the large number of volunteers in Illinois who had rallied in defense of the old flag, the regiment was not accepted by the State. Urged by an irresistible impulse to serve his country in the field, James A. Mulligan hastened to Washington bearing a letter from the dying Douglas to President Lincoln, urging the President to accept the Irish regiment. The application was successful. He returned to Chicago and was made colonel of the regiment. He marched with his regiment from Chicago in June, 1861, and was actively engaged until ordered to reinforce and defend Lexington, in Missouri. He entered Lexington on the 9th of September and took command of that post. The troops under his command, besides his regiment of eight hundred men, consisted of the thirteenth and fourteenth Missouri, eight hundred and forty; first Illinois, five hundred; home guards, five hundred; total two thousand six hundred and forty, with one four, three, six, and one twelve pounder.

By order of General Mulligan the troops immediately commenced the construction of an earthwork ten feet in height, eight feet in width, inclosing an area sufficient to contain a force of ten thousand men, with their horses, teams, and munitions of war. The troops, inspired by the spirit of their commander, worked without ceasing until the 12th, when the post was attacked by the enemy, and from that time until the 21st there was one continuous battle day and night. The summons of General Price on the 17th at the head of ten thousand men to surrender, was answered by the heroic Mulligan in these memorable words, "If you want us, you must come and take us;" and on the 21st, and not until the water was gone, the ammunition was gone, and the intrenchments strewn with the dead and dying, did the garrison surrender to an overwhelming force of men and guns. Yet even in that surrender we see the indomitable spirit of the gallant Mulligan, to the salutation of the rebel chief, "Colonel, you have surrendered!" He replied, "It is no surrender on my part; I will take fifty of my men and fight a hundred of yours in an open field to decide this matter. I only cease firing because I have fired my last cartridge."

Mr. Speaker, in that eventful fight Colonel Mulligan exhibited a bravery, a recklessness of danger, which has been equaled, but certainly not excelled by any officer, of any grade, in any battle of the rebellion. While his post was plowed with shot from a battery in front, a battery on the right, a battery on the left, and a battery in the rear, a writer says:

"He disdained to walk in the trenches, but trod the high ground where bullets flew like hail-stones, heedless of the entreaties of the soldiers who sent up shouts of acclamation at his noble daring."

I do not advocate this bill because Mulligan was brave in battle—for bravery is the common inheritance of the American people, bravery is the rule among us, cowardice is the exception—but I advocate the passage of this bill because the services of Colonel Mulligan in raising that regiment and fighting that battle were peculiar to himself alone. He enlisted a regiment of men who were not legally bound to defend the honor of our flag; he was the means of inspiring them with an ardor, an enthusiasm in the march and camp and battle which was responded to by alien residents throughout the whole land. There was a moral power and effective force in that regiment of brave men when they marched from Chicago

bearing twin banners emblazoned by the ladies of that city, one with the stars and stripes, the other with the Irish sun-burst.

There was a moral power with these men when they baptized the trenches of Lexington with their blood in defense of these stars and stripes, which told upon the nation and the world. England then and there learned that the Irishman who trod our soil would defend that flag with all the native ardor and reckless bravery of his race. The world there learned that the aliens among us would rally around that flag and march side by side with the naturalized and native-born citizen to defend it against every foe.

Sir, who can calculate the important results to the nation from the enlistment of the Irish brigade and the battle of Lexington? I may overrate these important results, but I sincerely believe that they stand as a wall of fire against foreign aggression and foreign war; for the response to the burning appeals of Mulligan and the gallant bearing of the Irish brigade teach the world now and will teach it for a century to come to fear the power of a Republic whose native effective military force is strengthened and increased by a continuous foreign immigration which in numbers has no parallel among the nations of the earth.

Sir, let us cherish this great element of progressive power, greater a hundredfold than is possessed by any other nation under heaven!

At the outset of the rebellion, when men doubted the unity of the North—when that unity was all important, when it was all important to secure every element of power—the Irish brigade stood forth as the representative men of the foreign born, and their voice was heard by the whole nation; every act of representative men at that time was of vital importance. When the heart of the North thrilled with horror at the dastardly murder of Ellsworth, almost simultaneous with that thrill was heard the voice of the Irish brigade:

"Whereas, we have heard with pain and profound regret the intelligence this morning of the assassination of Colonel E. E. Ellsworth, of Chicago, by the secessionists of Virginia; and whereas in this crisis of our national affairs one of the noblest of the young volunteer soldiers to rally to the endangered flag of our country, one of the foremost to inspire by his example and patriotism the unexampled devotion which is now thronging the capital of the nation with the armed chivalry of our country, was our gallant fellow-soldier and citizen, Colonel Ellsworth; *Resolved*, That we respectfully demand of the Secretary of War, claiming as our due as the immediate brother soldiers of the honored dead, the right to take the advance post in vindicating our lost and noble brother and restoring to the homes of the Republic their happiness and security."

And when they proved their sincerity at Lexington, and returned from that bloody advance post, just defeated but not dishonored, and when Mulligan returned from a rebel prison, he proclaimed in their name to the thousands who had gathered to welcome him home at Joliet and Chicago:

"I can simply say for myself and command that we, one and all, will anxiously await the day when we can again stand together in our own loved Irish brigade, with our faces set against rebellion and toward Missouri. I hope that day is not far off when I may again unfurl that flag intrusted to my keeping, and plant it upon some height as dangerous as Lexington. For my companions I can pledge you, sir, that while the Constitution is violated, while laws are broken, while rebellion flaunts its banners, no man of them will rest until the last blow is struck which shall restore our united nationality."

"Coming, too, as I do, with the experience gained in those trying hours, I pledge myself and the whole Irish brigade, that while there is a fireside here threatened or a home endangered their lives will be cheerfully given in defense of that fireside and that home. I am for the Union, and for the Union until death."

Sir, words like these from representative men in the hour of doubt and danger give a moral tone to a cause and a moral strength to a principle more efficient in their defense than ten thousand bayonets.

But I am not alone in my views of the peculiar services of Colonel Mulligan at the outset of the rebellion. I read a letter from General Grant:

WASHINGTON, D. C., March 12, 1868.

DEAR SIR: In behalf of Mrs. Mulligan, who has had claim for extra compensation before your committee for services rendered by her husband during

the rebellion, I would say that Colonel Mulligan held a command above his rank for a good portion of the time he was in service. He was a gallant and commanding soldier. His early entrance into the service secured to the Army, no doubt, many who otherwise might have been led in sympathy in opposition to the man. His untimely death in the service of his country has left a helpless widow and orphan children poor and dependent.

I think Mrs. Mulligan's case is one appealing to the sympathy of Congress.

Very respectfully, your obedient servant,  
U. S. GRANT, General.

Hon. J. A. GARFIELD,  
Chairman Military Committee of the House.

Mr. Speaker, I have spoken of the peculiar services rendered by Colonel Mulligan to the Union at the outset of the rebellion as a reason for the passage of this bill. I might add as another reason his dying words, so like in spirit to those dying words of Decatur, which have been, as it were, the motto of our tars in every conflict on the ocean. The dying words of a patriot are treasured as a priceless legacy by the patriots of every nation. At the battle of Winchester Colonel Mulligan was mortally wounded. While being carried off the field, seeing that the colors of his brigade were endangered, he ordered his bearers to lay him down and save the flag, and upon their hesitation he repeated the order, "Lay me down and save the flag." The order was then obeyed—he was laid down weltering in his blood, and the flag was saved.

Sir, such words under such circumstances will educate the patriot of future generations when he shall read their record in the history of the great rebellion. It has been said that "the blood of the religious martyr is the seed of the church." Surely the words of the patriot, when pouring out his life blood for his flag, are the seeds of future patriotism.

I have prepared a table showing that if Colonel Mulligan had been commissioned and paid according to his commands he would have received a larger amount than is given by this bill:

<i>Pay of United States Army officers, including subsistence, forage, &amp;c., showing the difference between the pay of a colonel of infantry and a brigadier and major general.</i>	
Colonel, per month.....	\$212 00
Brigadier general, per month.....	326 50
Major general, per month.....	481 00
Excess of pay of brigadier general, per year.....	1,374 00
Excess of pay of major general, per year.....	3,228 00
Average excess for one year.....	2,301 00
Average excess for two years.....	4,602 00
Average excess, with four years' interest.....	6,706 00
Principal, with four years' interest to make \$5,000.....	4,032 00
Excess pay of brigadier general from September 1, 1861, to August, 1864.....	6,711 00

I read a letter from James W. Sheahan to Senator YATES:

TRIBUNE OFFICE, CHICAGO, April 6, 1867.

DEAR SIR: Mrs. Mulligan, the widow of the commander of the twenty-third Illinois infantry, of whose history you and all other Illinoisans are so proud, visits Washington on business, and I am sure will find in you a friend and advocate.

Mr. Lincoln, at the time of Colonel Mulligan's death, appointed him brigadier general by brevet. Colonel Mulligan had for more than a year commanded a major general's division, and that, too, in active duty in the field. His widow wishes to have his services acknowledged by a brigadier's commission dated back to Lexington. I am sure that you will aid her by your influence and advice.

Your friend,  
JAMES W. SHEAHAN.  
Hon. RICHARD YATES, United States Senate.

Mr. Speaker, who will get the benefits of this bill? Those whom Mulligan, next to God and his country, loved best, and loved with all the ardor of his great and magnanimous soul. Marian Mulligan, the wife of the hero, and her children—one widowed and the others orphaned by rebel shot. Marian Mulligan, the loved, the devoted wife, whom Mulligan would not suffer "the winds of heaven to visit too roughly," who, unless the bill becomes a law, will be houseless. I read an extract from a sketch of the life and services of Colonel Mulligan, by James W. Sheahan, esq., the biographer of Douglas:

"During all his campaigns his young and devoted wife accompanied him. She followed his march, and when he stopped she and the little ones joined him. When danger threatened or a fight took place she merely retired to a place of safety, that she might be near, and in case of casualty that she might hasten to his side. When he was besieged at Lexington she

was in the vicinity, and when he was carried off a prisoner she followed him into captivity, and stayed with him during these long months, sharing his prison fare and life. Upon the appearance of the rebels in Western Virginia, Mulligan and his command marched out to meet them; she remained watching and praying for his safe return. The news of the fight and retreat and her husband's wounds and capture reached her in her place of refuge. Prompted by a wife's devotion, and with all the hope and anxiety of a mother, she, on foot and on horseback, without a moment's delay, sought the enemy's lines, and by a woman's tears she was permitted to enter. She hastened on, but, alas! too late. The eyes that so often looked upon her in love had been closed by stranger hands in the enemy's camp—the father of her children was dead. Nor did that blow fall alone. By the side of her brave and gallant husband fell also her brave and noble brother. Both fell at the same time upon the same field. Noble, daring, fearless soldiers, they gave to their country their own lives and the happiness of their loved ones forever."

I read also two resolutions of the citizens of Chicago, through their committee of funeral arrangements:

"*Resolved*, That this meeting deplore the sad calamity which has fallen upon Chicago in the loss of one of her most gifted sons, which has fallen upon Illinois in the loss of one of her ablest citizens, on the country in the loss of one of her bravest and most patriotic soldiers."

"*Resolved*, That to the noble-hearted widow of the gallant Mulligan we offer our tenderest consolation. She has shown by her devotion to her husband through the campaign a sacrificing spirit worthy of the patriot she loved, and worthy of that devotion that such a gallant soldier and noble-hearted man bestowed upon her. We pray for permission to mingle our tears with her's over the tomb that will enshrine her husband and brother. Chicago's children—their country's braves."

I also read a letter from General Grant to President Johnson:

HEADQUARTERS ARMY OF THE UNITED STATES,  
WASHINGTON, April 18, 1867.

SIR: I have the honor to recommend Colonel James A. Mulligan, twenty-third Illinois volunteer infantry, for promotion to the rank of brigadier general of volunteers, to date from September 1, 1861. From the above date to the date of his death Colonel Mulligan exercised a command at all times, I believe, equal to that of a brigadier general. In August, 1864, he was killed, leaving a widow and several children to mourn his loss, and who will be much benefited by this recognition of the services of Colonel Mulligan.

I have the honor to be, very respectfully, your obedient servant,  
U. S. GRANT, General.  
His Excellency, A. JOHNSON,  
President of the United States.

Mr. Speaker, the passage of this bill will be approved by the General of the Army; will be approved by the people as an act of justice due from the Government to the widow and children of him who was the means of so materially aiding the Union in its hour of peril, and who died a martyr's death in its defense.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. SITGREAVES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

O. P. SHIRAS.

Mr. GARFIELD, from the Committee on Military Affairs, reported back House bill No. 1077, for the relief of O. P. Shiras, with a recommendation that it do pass.

It directs the paymaster to pay to Oliver P. Shiras, lately commissioned as first lieutenant in the twenty-seventh regiment Iowa volunteer infantry, the full pay and emoluments of a first lieutenant of infantry from the 10th of August, 1862, to the 28th of February, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed unanimously.

Mr. GARFIELD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. DODGE, from the Committee on Military Affairs, reported adversely on the following cases, and the same were laid on the table: The petition of members of the seventh Iowa

cavalry, asking allowances for transportation, &c.; and

The papers relating to the claim of E. E. Woodman, late captain company B, thirteenth Wisconsin volunteer infantry.

A. W. BALLARD.

Mr. DODGE also, from the same committee, reported back House bill No. 553, for the relief of A. W. Ballard, with a substitute.

The substitute, which was read, directs the Quartermaster General to allow and settle the claim of Captain A. W. Ballard, late captain thirteenth regiment United States colored infantry, for value of lost vouchers for corn issued by Benton Stearns, lieutenant of twenty-second Michigan volunteer infantry, late assistant quartermaster at Washington, Arkansas, November 15, 1865, the same being now suspended under act of Congress of February 19, 1867.

Mr. ROSS. I would like to have the report read.

Mr. DODGE. The facts are simply these: this officer was in charge of the freedmen there and turned over to the proper quartermaster the corn that was raised on the farms. He received from that quartermaster a voucher, and when that voucher came to the Department it here for settlement, under the law quoted in the bill, it could not be allowed. There is no money in the bill. It simply allows the vouchers. I ask the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DODGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CLOTHING FOR UNITED STATES TROOPS.

Mr. DODGE, from the same committee, reported a joint resolution (H. R. No. 281) authorizing the issue of clothing to company F, eighteenth United States infantry; which was read a first and second time.

The joint resolution authorizes the Secretary of War to issue to thirty-three enlisted men of company F, eighteenth regiment United States infantry, clothing in lieu of and equal in amount to that lost by them in crossing the North Platte river in June, 1866.

Mr. DODGE. The facts of the case are, that this company were crossing the North Platte river in a ferry-boat. Their clothing was in a Government wagon. The boat was sunk and the team lost, with all their clothing. Heretofore there has been a law allowing the reissue of clothing in some cases, but that act expired with the end of the war. The War Department asks for the passage of this resolution, authorizing a reissue to the men of the clothing they lost. I ask the previous question.

The previous question was seconded and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DODGE moved to reconsider the vote by which the joint resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

H. G. AUKENY.

Mr. DODGE, from the same committee, reported a bill (H. R. No. 1130) for the relief of H. G. Aukeny, late captain fourth Iowa infantry; which was read a first and second time.

The bill instructs the Secretary of War to reimburse H. G. Aukeny, late captain fourth Iowa infantry, \$299.59 out of any appropriation made or hereafter to be made for the recruiting service of the United States Army.

Mr. DODGE. This is a case where vouchers

for recruiting services were lost. This officer brought to the Army some sixty recruits, at an expense of a little over five dollars apiece, or \$300. His vouchers were lost after the battle of Pea Ridge on the way from Pea Ridge to headquarters at St. Louis, and though duplicates of everything were shown to us, this is the only method in which the officer can get pay for the money he advanced to get the recruits there. I move the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DODGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PETER J. BURCHELL.

On motion of Mr. GARFIELD, the Committee on Military Affairs was discharged from the further consideration of the bill (H. R. No. 744) for the relief of Peter J. Burchell, of Kane county, Illinois, and the same was referred to the Committee of Claims.

J. E. ST. CLAIR.

Mr. GARFIELD, from the same committee, also reported adversely upon the petition of J. E. St. Clair, for the payment of a company of men exempt from draft, organized at Columbus, Ohio; which was laid on the table.

#### SOLDIERS' BOUNTIES.

Mr. GARFIELD. I have been instructed by the Committee on Military Affairs to make an adverse report upon the petition of sundry soldiers for bounty, &c., as we expect to report a general bill on the subject.

Mr. WASHBURNE, of Illinois. Do the committee expect to report a general bill to cover the principle in the Mrs. Mulligan case?

Mr. GARFIELD. Not with my consent.

Mr. WASHBURNE, of Illinois. They will have to do it to carry out the precedent in that case, and that will involve the expenditure of several million dollars.

Mr. GARFIELD. That was the report of a mere majority of the committee. I move that the committee be discharged from the further consideration of the petition in relation to soldiers' bounties, &c., and that the same be laid on the table.

The motion was agreed to.

JONATHAN G. HORTON.

Mr. KETCHAM, from the Committee on Military Affairs, reported adversely upon the petition of Jonathan G. Horton, for relief; which was laid on the table.

WILLIAM A. HOWARD.

Mr. KETCHAM, from the same committee, also reported adversely upon the memorial of William A. Howard, late lieutenant colonel of Maine artillery and colonel of the thirteenth United States heavy artillery, praying for relief from the stoppage of his pay as an officer on account of informal muster; which was laid on the table.

#### FORT LEAVENWORTH RESERVATION.

Mr. DODGE, from the Committee on Military Affairs, reported back, with a recommendation that the same be passed, House bill No. 938, to authorize the sale of twenty acres of land in the military reservation at Fort Leavenworth, Kansas.

The question was upon ordering the bill to be engrossed and read a third time.

The preamble to the bill states that on the 13th of November, 1860, the Secretary of War, on behalf of the United States and in accordance with the previous practice of the War Department, executed to Samuel Denman, William H. Russell, and Thomas Ewing, jr., and their assigns, a lease of twenty acres of land in the military reserve at Fort Leavenworth, in the State of Kansas, for the term of sixteen years thereafter, with a preference to

them of an extension of the term and with an exclusive right to them to mine for coal in the lands of the said military reservation; that the said lessees and their assigns accepted said lease, and upon the faith thereof have prosecuted their mining operations under many difficulties and at great expense, and have finally succeeded in striking the deep coal beds of that geological region after having expended their entire capital to the amount of \$40,000.

The preamble further states that it is now discovered that the said lease is invalid because the Secretary of War was not authorized by law to make the same, by reason of which the said lessees are deprived of their right to proceed, and are threatened with the total loss of their money and are without redress; that in view of the incalculable benefit to be derived, not only by the State of Kansas, but by the whole country adjacent thereto, from the development of the coal strata of this region, the Senate and House of Representatives of the State of Kansas, on the 18th of January, 1868, concurred in a joint resolution reciting the foregoing facts and respectfully requested this Congress to act in the premises; and that the House of Representatives of the United States have heretofore passed an act directing the sale, in small tracts, of a body of land in the said military reserve.

The first section of the bill provides that the Leavenworth Coal Company, being the successors and assignees of Samuel Denman, William H. Russell, and Thomas Ewing, jr., under the lease referred to in the preamble, shall have the right to purchase from the United States twenty acres of land lying in the military reserve at Fort Leavenworth, Kansas, and described as follows: beginning at the intersection of the south line of the military reserve with the Missouri river, running northwardly thence along the west bank of said river, thence westwardly in a line parallel to the south line of the military reserve, thence southwardly on a line at right angles with the south line of the military reserve, thence eastwardly on the said south line to the point of beginning; said lines to be run so as to make the form of the twenty acres as nearly square as practicable. The Leavenworth Coal Company are to pay therefor the sum fixed by the commander of the department, the chief commissary, and quartermaster of the department; and the lease is extended sixteen years from this date.

The second section provides that, upon the payment of the purchase money, the Secretary of the Interior shall issue to the Leavenworth Coal Company, its successors and assigns, a patent for the lands, each patent granting the exclusive right to mine for all coal underlying the lands now comprised in the military reserve.

Mr. WASHBURNE, of Illinois. I trust this bill will not be passed without some satisfactory explanation.

Mr. PAINE. I would like to put a question to the gentleman from Iowa, [Mr. DODGE,] if he will yield to me.

Mr. DODGE. Certainly.

Mr. PAINE. I would like to know the date of that lease.

Mr. DODGE. I will explain. This lease was made November 13, 1860, by the Secretary of War.

Mr. PAINE. What was the name of the Secretary of War? I believe it was John B. Floyd.

Mr. ROSS. I would like to know why it is proposed to sell the land. I understood that this was originally intended to be a lease, and that on account of some informality the lease was not legal. Now, why not renew the lease, instead of selling the land? I understand that this bill proposes to sell the land to this company.

Mr. DODGE. I will explain. The company went under this lease and sunk a shaft about six hundred and fifty feet. Then when the renewal of the lease was asked, being approved by the present Secretary of War and Quartermaster General, it was discovered that the power to make a lease had been taken from



the War Department and placed in the Interior Department. I should state that before that time the lease had been extended. Since that time a bill has passed this House authorizing the sale of this reservation; and the coal company now asks to have a priority in the purchase at such a price as the commander of the department, the chief commissary, and chief quartermaster shall fix, and that the lease, which has been extended, shall be confirmed. The company have spent upon their improvements about forty thousand dollars. The company claim that they have expended over fifty thousand dollars; and it appears from the statement of the chief quartermaster of the department that they have certainly spent about forty thousand dollars. It is believed that the operations of this company will be a great advantage to the Government.

Mr. ROSS. Why could not the land be sold subject to the lease? Are not these officers who are to make the appraisalment interested in the mining operations?

Mr. DODGE. I should think not, from what I know of the officers.

Mr. ROSS. It seems to me the property ought to be put up at public sale, subject to the lease.

Mr. DODGE. If it were sold to other parties subject to the lease, it would be a wrong to these parties who have spent \$40,000 upon their improvements, which would then go to the benefit of others.

Mr. ROSS. Other parties could not take advantage of those improvements until the lease had expired. The lease is all the Government has ever contracted to give this company.

Mr. DODGE. This lease was first extended by the War Department. Afterward it was found that the authority to lease had been taken away from the War Department and given to the Secretary of the Interior.

Mr. ROSS. But I understand that the lease has been extended by the Secretary of the Interior.

Mr. DODGE. Not at all; it was extended by the Secretary of War.

Mr. ROSS. Then let the lease be extended according to the original contract.

Mr. DODGE. The bill does that.

Mr. ROSS. It proposes to sell the land to the company.

Mr. DODGE. It proposes that these parties shall come in and buy the land at a price to be fixed by the commander of the department, the chief commissary, and the chief quartermaster.

Mr. ROSS. I think that that is unfair toward the Government.

Mr. COBB. I wish to ask when it was discovered that this leasing of Government reservations was taken from the War Department and vested in the Department of the Interior, and why these men did not apply to the Department of the Interior? Does he not think that Thomas Ewing, jr. had influence enough to get the power confirmed?

Mr. DODGE. They are not the lessees now. They had the original lease, but turned it over to another company.

Mr. COBB. They sold out?

Mr. DODGE. Yes, sir; they sold out.

Mr. LOGAN. I think I know as much about this matter as the committee. I believe I am tolerably conversant with it, and I will explain it in a few words. There was a law taking away the right of the War Department to lease lands of this character, and putting it in the hands of another Department of this Government. Thomas Ewing and others, leased from the War Department, and at the time it had not the right to grant a lease under the law. They sold out to the Leavenworth Coal Company. One of the gentlemen who belongs to that company resides in Cincinnati. I know him well. He bears my own name—Dr. Charles Logan. They purchased from Thomas Ewing & Co., innocent at the time, so far as any knowledge was concerned of the right of the Department to lease these lands.

Some time during this session, when they had sunk shafts, it was referred to Thomas Logan, the attorney of the company, to examine the lease and give his opinion; and his opinion was that the Secretary of War had no right to lease this land. He was of the opinion that they had no right or title to the land by virtue of that lease. They then came here. A bill was introduced by the gentleman from Missouri providing for the sale of this land. The bill passed. The attorney of the company came here and placed his case before the committee, asking them to report a bill to protect the rights of the Leavenworth Coal Company. They had no rights at all after having expended their money upon the land, and he asked that they should be protected. This provides, inasmuch as the land is to be sold under the bill we have already passed, that, when the land is appraised, they shall have the right, after having spent \$40,000 on it, to take the land in preference to anybody else. That is all there is of it.

Mr. WASHBURN, of Illinois. Who is to make the appraisalment?

Mr. GARFIELD. General Sheridan, the commander of the department, General Easton, the chief quartermaster, and the chief commissary of the department. If the gentleman can suggest any who are better I shall be glad to accept them.

Mr. WASHBURN, of Illinois. It does not refer to General Sheridan or General Easton by name. I have the greatest respect for them. But they may not be there when this appraisalment takes place. Both General Sheridan and General Easton, are excellent men, in whom I have the greatest confidence.

Mr. GARFIELD. The committee selected those officers and named them in the bill by their rank.

Mr. WASHBURN, of Illinois. They may not be there when the appraisalment is made, and those there, who take their places, will make the appraisalment. I do not know but this is just and right, but the names of the parties who are to be the appraisers should be put in the bill.

Mr. GARFIELD. If the gentleman will suggest any other officers I am willing to put them in.

Mr. WASHBURN, of Illinois. I will prepare an amendment.

Mr. GARFIELD. If the gentleman will prepare an amendment to throw any further guard around this bill I am prepared to accept it.

Mr. WASHBURN, of Illinois. I will suggest the judges of the United States district court for the States of Kansas, Missouri, and Illinois.

Mr. GARFIELD. I do not think we can devolve such duties upon them without their consent.

Mr. PAINE. We can if we can devolve them upon military officers.

Mr. GARFIELD. I will let the amendment be offered, and then demand the previous question.

Mr. PAINE. If that be voted down will it then be in order to recommit this bill?

The SPEAKER. It will.

The previous question was seconded and the main question ordered.

The question was first on the amendment of Mr. WASHBURN, of Illinois, to strike out all after the word "sum," at the end of the first section, and insert the words "fixed by the United States district judges of the State of Kansas, the eastern district of Missouri, and the northern district of Illinois."

Mr. WASHBURN, of Illinois. I ask leave to modify by adding to the foregoing the words, "whose reasonable expenses shall be paid out of any money in the Treasury not otherwise appropriated." It imposes an important duty upon these judges, which we all know they discharge faithfully, and let us pay them their necessary expenses.

No objection was made to the modification, and the amendment, as modified, was agreed to.

The bill, as amended, was then ordered to

be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question being put on the passage of the bill, there were—ayes 37, noes 23; no quorum voting.

Tellers were ordered.

The Chair appointed Messrs. DODGE and ROSS.

The House divided; and the tellers reported—ayes 58, noes 38.

So the bill was passed.

Mr. DODGE moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADJOURNMENT UNTIL MONDAY.

Mr. CARY. I rise to a privileged motion. As to-morrow has been set apart for the purpose of visiting the graves of our fallen heroes, and strewing them with flowers, I move that when this House adjourn to-day it adjourn to meet on Monday, so as to enable members to participate in the interesting exercises at Arlington.

Mr. SCHENCK. I hope the House will allow me to make a statement.

The SPEAKER. Is there objection? The Chair hears none.

Mr. SCHENCK. I am exceedingly desirous of taking up the internal tax bill to-morrow. We had an understanding that we should go into Committee of the Whole and get the Indian appropriation bill out of the way this afternoon for that purpose. Now, I think I have as much respect for the memory of the soldiers as my colleague, and I know he will not underrate it. I am perfectly willing that gentlemen who prefer to attend that ceremony, interesting as it will be, and glad as we all should be to be present rather than to listen to a very long, but as full and clear an explanation as I can make of the tax bill, with a view of getting the business of the country done, should be permitted to go without an adjournment. But I hope the House will not adjourn for any object whatever, but remain and attend to its own proper business. The best thing that these soldiers would claim at our hands, if they could look down upon us, as I suppose they do, would be to discharge our duties to the living.

Mr. CLARKE, of Kansas. I desire to move a substitute for this motion.

The SPEAKER. It is not subject to amendment. If the gentleman's proposition relates to the subject he must ask unanimous consent to offer it.

Mr. CLARKE, of Kansas. I ask unanimous consent.

Mr. PILE. I object.

Mr. CLARKE, of Kansas. Let it be read.

Mr. PILE. I object.

Mr. WASHBURN, of Illinois. I hope the gentleman from Ohio [Mr. CARY] will withdraw his motion till we get through the Indian appropriation bill. Perhaps then we will all be in a condition to vote for his motion.

Mr. CARY. It seems to me it is perfectly proper we should decide now whether we will adjourn till Monday or not. I do not claim any more devotion to the fallen heroes than others; certainly not more than the living hero who has just spoken, [Mr. SCHENCK;] but I desire that the House of Representatives should set an example of—

Mr. WASHBURN, of Illinois, and Mr. PILE objected to debate.

The question being put on agreeing to the motion, there were—ayes 41, noes 57.

Mr. WARD. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 53, nays 58, not voting 78; as follows:

YEAS—Messrs. Archer, Arnell, Baker, Baldwin, Barnes, Blair, Bromwell, Cary, Sidney Clarke, Cornell, Dodge, Donnelly, Briggs, Blair, Farnsworth, Getz, Glossbrenner, Golladay, Haigat, Hill, Hopkins, Chester D. Hubbard, Hunter, Ingersoll, Jones, Kerr, Knott, William Lawrence, Lincoln, Loan, Logan,

Lynch, Mallory, Marshall, McCormick, Miller, Morrill, Myers, Niblack, Nicholson, Nunn, Polsley, Ross, Sitgreaves, Smith, Aaron F. Stevens, Stewart, Van Aiken, Robert T. Van Horn, Ward, John T. Wilson, Windom, and Wood—53.

**YAYS**—Messrs. Amos, James M. Ashley, Beaman, Beatty, Boutwell, Butler, Reader W. Clarke, Cobb, Coburn, Covode, Cullom, Daves, Dixon, Ferriss, Ferry, Halsey, Harding, Higby, Hooper, Jencks, Johnson, Judd, Julian, Kelley, Ketcham, Koontz, George V. Lawrence, Maynard, McCarthy, Mercur, Moore, Moorhead, Mullins, Newcomb, O'Neill, Orth, Paine, Perham, Pike, Pile, Plants, Pomeroy, Price, Raun, Robertson, Sawyer, Schenck, Seofield, Selye, Stankweather, Stokes, Taffe, Trowbridge, Upson, Eliah B. Washburn, William B. Washburn, Welker, and William Williams—58.

**NOT VOTING**—Messrs. Adams, Allison, Anderson, Deles R. Ashley, Axtell, Bailey, Banks, Barnum, Beck, Benjamin, Benton, Bingham, Blaine, Boyer, Brooks, Brownell, Buckland, Burr, Calk, Chanler, Churchill, Cook, Eckley, Eggleston, Eldridge, Eliot, Fields, Finney, Fox, Garfield, Gravelly, Griswold, Grover, Hawkins, Holman, Hothkiss, Asahel W. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Kelsey, Kitchen, Lafin, Loughbridge, Marvin, McClurg, McCullough, Morgan, Morrissey, Munson, Peters, Phelps, Poland, Pruyn, Randall, Robinson, Shanks, Shellabarger, Spalding, Thaddeus Stevens, Stone, Taber, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Twichell, Van Aernam, Bart Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Henry D. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Woodbridge, and Woodward—78.

So the motion was disagreed to.

#### INVITATION TO VISIT MOUNT VERNON.

The **SPEAKER**. The Chair has been requested to lay before the House the following invitation.

The Clerk read as follows:

The Regents of the Mount Vernon Ladies' Association of the Union tender to the members of the House of Representatives an invitation to visit Mount Vernon on Saturday next.

The Steamer Arrow will be waiting at the wharf (foot of Seventh street) at four p. m.

Members will have an opportunity to see Mount Vernon and its surroundings toward sunset and to return by moonlight.

MOUNT VERNON, THURSDAY, May 23, 1868.

The **SPEAKER**. The invitation will be laid on the table, and gentlemen who feel at liberty to accept it will, of course, accept it.

#### FRIENDLY INDIANS.

The **SPEAKER**, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting a communication from the acting Commissioner of Indian Affairs, relative to the immediate necessity of an appropriation to relieve the wants of certain friendly Indians; which was referred to the Committee on Appropriations, and ordered to be printed.

#### LEAVE OF ABSENCE.

On motion of Mr. SCHENCK, leave of absence was granted to Mr. BINGHAM until Monday.

Mr. WASHBURNE, of Illinois, asked and obtained leave of absence for ten days.

On motion of Mr. MOORHEAD, indefinite leave of absence was granted to Mr. WILLIAMS, of Pennsylvania.

#### INCOME TAX.

Mr. NICHOLSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee of Ways and Means be instructed to inquire into the expediency of allowing to be deducted from the gains, profits, and income of any person the cost of purchasing and planting peach and other fruit trees.

#### INDIAN APPROPRIATION BILL.

Mr. BUTLER. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869.

Mr. HIGBY. I ask unanimous consent to go back and correct the phraseology of an amendment adopted yesterday.

Mr. BUTLER. I want to go forward; I cannot consent to go back.

Mr. HIGBY. It is only to correct the language, and not to make any new appropriations.

The **CHAIRMAN**. That can be done in the House.

Mr. ASHLEY, of Ohio. I object to going back.

The **CHAIRMAN**. The pending amendment is that moved yesterday by the gentleman from New York, [Mr. Brooks,] to strike out the following paragraph:

Navajo Indians in New Mexico:

For subsistence for the Navajo Indians, and for the purchase of sheep, seeds, agricultural implements, and other articles necessary for breaking the ground on the reservation upon the Pecos river, \$100,000.

The question was taken; and the amendment was disagreed to.

The Clerk read the following paragraphs:

To enable the Secretary of the Interior to take charge of certain stray bands of Pottawatomie and Winnebago Indians, in the State of Wisconsin, \$5,000.

For salary of a special agent to take charge of Winnebago and Pottawatomie Indians now in the State of Wisconsin, \$1,500.

Mr. MAYNARD. I move to strike out that last paragraph, and I do it for the purpose of inquiring why it is necessary to have two specific appropriations, one of \$5,000 to enable the Secretary of the Interior to take charge of these stray Indians, and one of \$1,500 for a special agent?

Mr. BUTLER. There are two laws providing for these two different appropriations. One is to pay for taking charge of these stray bands of Pottawatomies and Winnebagoes in Wisconsin, and the other is for the salary of the agent.

Mr. WASHBURNE, of Illinois. I will state to the gentleman from Tennessee that these Indians have been in the habit of straying all over that country. No longer ago than last winter a band of them came down the Mississippi river to opposite Hanover in my district. They were utterly without means of subsistence and they began preying upon the people on both sides of the river, and if it had not been for this fund we might have been involved in a war. This fund has been appropriated for several years for the purpose of bringing the bands together and carrying them back where they belong.

Mr. MAYNARD. I withdraw the amendment.

The Clerk resumed the reading of the bill. The following paragraph was read:

For actual necessary expenses incurred, and that may hereafter be incurred by officers of the Indian department in the rescue of prisoners from Indian tribes and returning them to their homes, and for expenses incident to the arrest and confinement within the territory of the United States, by order of such officers, of persons charged with crimes against the Indians, \$5,000.

Mr. WINDOM. I move to amend by inserting at the close of the paragraph just read the following:

For completing construction of irrigating canal on the Colorado reservation, breaking and fencing lands, purchase of seeds, teams, and tools, construction of agency buildings, subsistence, &c., \$84,500.

I send to the Clerk to be read all the information I have upon this subject, being the statement of Superintendent Dent, of that Territory. The facts he states I think are worthy the attention of members.

Mr. BUTLER. I would inquire of the Chair if it is in order to move such an amendment?

The **CHAIRMAN**. The Chair thinks it is.

Mr. WINDOM. It is for carrying on to completion a work already commenced.

Mr. BUTLER. There is no law for it.

Mr. WINDOM. An appropriation has been made to commence the work, and this is to complete it.

Mr. BUTLER. There is no law for it.

The **CHAIRMAN**. Works already commenced and in progress are specifically provided for by the rule. The Chair, therefore, rules this amendment to be in order.

Mr. WINDOM. I ask the Clerk to read the paper I sent up a few moments since.

The Clerk read as follows:

"Plats of survey for canal are on file in the Indian Bureau. Estimated cost about one hundred and twenty thousand dollars, but by Indian labor can be done for much less. The canal, now already under course of construction, is thirty miles in length, twenty feet wide, with an average depth of about nine feet. When completed, will irrigate seventy-five thousand acres of land. The work is being prosecuted by the Indians, who work with a will, and it is confidently expected that the entire work will be completed during the present year, affording a home for ten or twelve thousand Indians, and rendering them in the future entirely self-sustaining. Should this appropriation fail fears are entertained that the labor already performed may be lost by reason of rains and overflow of river. This appropriation is asked also for breaking and fencing lands, building of houses, purchase of seeds, agricultural implements, &c.

"There are but two reservations in Arizona—the one on the Colorado river, for which the appropriation is asked, and the Maricopa and Pima reserve on the Gila river. This latter is now self-sustaining, and with an Indian population of six thousand, whose boast is 'that they do not know the color of the white man's blood,' furnished statistical returns of products of last year amounting to \$200,000, and during the year have furnished corn for supply of contracts to the Government troops in Arizona (Fort Whipple) at a rate one half less than has ever been furnished heretofore."

Mr. WINDOM. These facts were presented to me by Superintendent Dent. I laid them before a minority of the Committee on Indian Affairs—there were no more present—and they unanimously directed me to offer this amendment. I believe it to be good policy, and that the Government would save money by completing this work, because it would furnish employment to the Indians in the Territory, tending to civilize them, for if they are kept at work, enabled to raise corn, &c., they will be able to take care of themselves, and we would save the cost of keeping a military force there. If this amount, or a portion of it, is not now appropriated, it is said that what has already been appropriated will be lost.

Mr. MILLER. How much has been already appropriated?

Mr. WINDOM. About fifty thousand dollars.

Mr. BUTLER. I will read to the Committee of the Whole all the information upon this subject which was sent to us by the Secretary of the Interior to justify this appropriation. It is from a letter written by Superintendent Dent, of Arizona Territory.

"Referring to the estimate of \$84,000 for completing the irrigating canal of the Colorado reservation, I again invite your attention to the insufficiency of the appropriation of \$50,000 current this year to accomplish the whole work.

The amount above stated, in addition, I think, will complete the ditch, buildings, &c. I trust that you will concur in this sum, and effect its being appropriated.

Item No. 7, relating to the sum of \$20,000 for maintaining Indians on the reservation that may be turned over by the military, I regard as very important. There can be no reasonable doubt but that the considerable force now engaged against the hostiles will conquer bands or tribes during the coming year, and it is highly proper that they should be immediately brought on the reservation, kept there by force, if necessary, and maintained until they can be made self-sustaining."

The proposition, therefore, is to appropriate \$84,000, in addition to the \$50,000 already appropriated, for the purpose of building an irrigating canal for Indians, a large portion of whom are yet to be caught, and brought in and set to work on the land which is to be thus irrigated.

Mr. WINDOM. The gentleman is mistaken on that point. There are several tribes of Indians there, two of them the largest in the Territory, I believe. They are now industrious, and have never been at war with the whites at all. Only a portion of the Indians, one tribe, is warlike.

Mr. BUTLER. Upon examining the whole matter as well as we could the committee came to the conclusion that this was an expenditure that could wait, and hence struck out the appropriation. The gentleman now proposes to put it in.

Mr. BASHFORD. Mr. Chairman, I had not intended to say anything upon this amendment proposed by the chairman of the Committee on Indian Affairs. That committee made, so far as they were able, a careful examination into this subject, and although there

was not a full attendance, the members present were unanimously in favor of the amendment now offered. Now, Mr. Chairman, as the representative on this floor of Arizona Territory, I wish to state what I knew in regard to the Indians of that country after a residence there of some five years.

This amendment proposes to bring together some ten thousand Indians who now have no local habitation, no home, and put them upon a reservation. During the discussion upon this bill I have heard a great deal about our Indian policy. It has been urged that the policy now pursued by the Government is unwise. But, sir, can any better Indian policy be adopted than that contemplated by this amendment, which is to give the Indians a home, to put them upon a reservation where they can be self-sustaining?

The principal difficulty in making treaties with the Indians has been that when you have made a treaty, the Indians having no home, you have not been able to enforce it. You cannot punish them when they violate their treaty obligations. But when you put them upon a reservation, where they gather about their families, their horses, their cattle, where they engage in the cultivation of their fields, they always keep their treaties, because they can be punished when they violate them. Sir, the true Indian policy to be pursued by this Government is to place these Indians upon reservations.

Now, sir, this canal is some thirty miles long, some nine feet deep, and some twenty feet wide. It will irrigate land enough for all these Indians and some more—not Indians to be picked, as the gentleman from Massachusetts has said—but some Indians known as the River Indians, who are friendly when they are properly treated; who have always been friendly as a general rule. And, sir, they have only been hostile as the result of such a policy as is contemplated by this bill without the proposed amendment. Ever since the acquisition of this Indian country by the United States the Government has, through its representatives and agents, held out to these Indians the prospect that they should be placed upon reservations and cared for, as contemplated by this amendment. By failing to carry out this policy, you render the Indians hostile; and, sir, I say, not for the purpose of affecting the result of this vote, that the safety of the people of the country would be endangered if these ten or twelve thousand Indians should join hands with the Apaches.

Upon this reservation all the Indians of that country can be supported and cared for; and instead of being our enemies they will be our friends. We have heretofore raised companies of Indians to fight the Apaches, who have been our foes, stealing our property and murdering our people. I presume that this amendment was not properly presented and pressed before the Committee on Appropriations, otherwise they would have been in favor of it. I know that it contemplates the only policy which the United States can wisely pursue in regard to the Indians in that far off country.

Mr. BUTLER. I want to call the attention of the committee to the fact that in this bill we appropriate \$35,000 to take care of the Indians of this Territory. According to the official returns there are seven thousand of them. We appropriate \$15,000 to take care of ninety-three hundred and thirty Indians in Idaho. Now, the amendment asks an appropriation to build a canal. A canal nine feet deep, instead of being merely for purposes of irrigation, looks to me like a manufacturing project. Somebody, I imagine, wants to get water power. It is an immense work, and must cost quite a large amount. I think it had better wait a year. The Indians always have been without it, and in my judgment they can live without it another year. I hope the amendment will not prevail.

The amendment was rejected.

Mr. MAYNARD. I move the following amendment:

After line fourteen hundred and ninety-five insert the following:

For this amount to pay the expenses of two commissioners appointed to appraise the Cherokee neutral lands under the 17th article of the treaty of July 19, 1866, with the Cherokees, or so much thereof as may be necessary, \$4,550.

Mr. Chairman, this small amendment carries us back in the history of that tribe to the time when they occupied a portion of the country I have now the honor to represent upon this floor. The history of the troubles with the Cherokee Indians is part of the history of the country thirty or forty years ago. They resulted in that tribe of Indians being removed, under the operation of a treaty made with them, beyond the Mississippi, and certain lands were assigned for them; and they were assigned under the special and specific provision that never in all future time should any portion of these lands be embraced within the limits of any State. When Kansas was admitted in the Thirty-Sixth Congress her boundaries embraced a portion of the Cherokee lands known as the "neutral lands." Those lands, by the treaty of 1866, which I have before me, were to be transferred to the United States for a consideration, and commissioners were appointed to appraise their value.

I submit that in view of the difficulties which have grown out of our treatment of these Indians, the best and saddest comment upon which is the many thousands of graves, the result of troubles in our own times, which honey-comb almost every foot of land from Lookout mountain to Chickamauga—I say in view of our past history and negotiations with this people and any possible future conflict which may arise from violations of the treaty then made—that it is proper their title should be peaceably and in good faith extinguished. And I think this small appropriation should be made to carry out the treaty made with them by the Commissioner of Indian Affairs since the close of the war in 1866.

Mr. BUTLER. I am glad this amendment has been brought up, for it gives me an opportunity to state to the House the reasons on which the committee have acted. In 1835 these Indians were possessed of certain lands in Kansas. Those lands they exchanged for some further south, known as the "neutral lands." Under the treaty the lands were conveyed to them by patent, with the condition that they might sell them to the United States, but they were never to sell them without the consent of the United States. A treaty was got up with these Indians by which they consented to sell eight hundred thousand acres of land at one dollar per acre. The late Secretary of the Interior negotiated the sale of these lands for \$800,000, one dollar an acre, to the Connecticut Emigration Company, some neighbors of mine; but the Connecticut Emigration Company only promised to pay in the future, and the land was to be sold for cash. The present Secretary of the Interior set aside that sale as invalid.

Now, they went and made a treaty by which these lands should be sold again, putting in a proviso that nothing in the treaty should prevent the Secretary of the Interior from selling the whole of these neutral lands in a body to any responsible party for not less than \$800,000. Under that the present Secretary of the Interior sold these lands for \$800,000 to one Joy, and those lands to-day are worth five dollars an acre. A responsible party tells me that he will give five dollars an acre for the whole of them, and that many acres are worth fifteen and twenty dollars an acre—that some of them are the most valuable coal lands west of the Mississippi river.

Why, sir, this very day I am told that the chairman of the Committee on Indian Affairs in the Senate has reported a confidential treaty by which this sale is to be confirmed. The Connecticut Emigration Company and Mr. Joy have struck hands, and all of these lands are

to go into the hands of Joy. By that treaty eight hundred thousand acres of land, worth to-day at least \$4,000,000, are to be put in the hands of a body of speculators. For that reason we concluded not to pay any money for surveying. That is all we could do for the present.

Now, why do they want a survey? There are certain settlers on the land, and they want to appraise the improvements so as to buy the settlers out. They want us to pay for doing it, and I am not quite ready. It seems to me to be one of the worst jobs ever put up by this Government. We have a treaty with the Indians that they shall not sell the land to anybody except the United States. We can open a land office to-day and sell that land for at least \$4,000,000, if we do not want to sell it at \$1 25 an acre, or give it to actual settlers. Now, by this arrangement it is proposed to put eight hundred thousand acres into the hands of men who will make four, five, or ten million dollars, for aught I know, out of the operation.

A responsible gentleman told me yesterday that he had been called to testify, and he swore that he knew the lands were worth five dollars an acre. He said, "Give me ninety days to raise the money, and give me a good title, and I will pay \$4,000,000 for them." And he would, no doubt, make millions out of it then.

It is not a mere possessory title that comes to the Indians. They hold the lands by conveyance from the United States, subject to the provision that they shall not sell to anybody but the United States, or without the consent of the United States; so that we can have them if we please. But here we are asked to provide money for the purpose of disposing of them to speculators.

I know I can acquit my friend from Tennessee of any knowledge of this matter, or intending to have anything to do with it. The case was stated to me, I doubt not, in the same way it was stated to him originally; and if it had not been for information brought to me which I followed up I should not have known what I do. And I wish to say again, if we do not stop this scheme in this House or in the Senate it will be carried out.

[Here the hammer fell.]

Mr. CLARKE, of Kansas. I move to strike out the last word, for the purpose of saying that the statement of the gentleman from Massachusetts [Mr. BUTLER] in reference to the sale of this land, and subsequent sale by the Secretary of the Interior to Mr. Joy, has no possible connection whatever with the appraisalment.

Now, sir, as to the fact when this treaty was made, there was a provision in it intending to apply to settlers then on these lands. The lands were held by the Cherokees by a fee-simple title, and when it became known that it was the purpose of the Cherokee nation to transfer them to the United States, a large number of settlers immediately took possession of them. During the pendency of that treaty in the Senate, and before it was finally proclaimed by the President of the United States, there was a provision in it that certain settlers on the land at the making of the treaty should be protected, that the land should be appraised by appraisers appointed by the Secretary of the Interior, and that they should be entitled to the land at the appraised valuation. That is all there is of this question.

I do not know that I differ very much with the gentleman from Massachusetts on this question of the sale of this land. The appraisers have been appointed by the Secretary of the Interior under another provision of the treaty. They are well-known citizens of Kansas, and I believe they have performed their duties faithfully, and to the interest of nobody but the settlers who are there in the belief that they are provided for under the treaty to which I alluded—I mean that portion of the settlers who were on the land previous to the making of the treaty.



Mr. BUTLER. I desire to ask the gentleman a question. Are not the last words of the article of the treaty on this subject these:

"Provided nothing herein contained shall prevent the Secretary of the Interior from selling the whole of it?"

Mr. CLARKE, of Kansas. That may be, but what possible connection has that with the question of appraisement? It is to be in the interest of nobody but those who are settled there in good faith. This money is to pay for services performed in good faith, and, I say again, has no possible connection with the sale by the Secretary of the Interior. It is another question entirely.

I say again, I do not differ very much with the gentleman from Massachusetts. I hope this whole question of the sale of this large body of land to the Connecticut Emigration Company will be fully investigated. I have not at this time a single word to say in reference to that subject. But I stand here in the interest of a portion of my constituents, of the people of my State, a few of whom are settled on these lands, and who are there in good faith. The lands have been appraised by appraisers, who have performed their duty properly, as I have reason to believe, and who ought to be paid, and whose duties ought not in any respect to be confounded with this sale, whether it was a fraudulent or honest sale, by the Secretary of the Interior, to any party whatsoever.

[Here the hammer fell.]

Mr. LAWRENCE, of Ohio. I quite agree with the gentleman from Kansas that there ought to be an appropriation for paying the expenses of the appraisement to which he has referred in his remarks. But while upon this subject I desire to say a few words in relation to the authority which is being exercised by the President and Senate under cover of the treaty-making power to dispose of the public lands of the Government in the occupancy of the Indian tribes. But first of all, I have some information additional to that presented by the gentleman from Massachusetts, [Mr. BUTLER,] in relation to the Cherokee neutral lands, which I will state, and it presents the exercise of this treaty-making power in no very enviable light. There are some facts which will be new to the committee. I read this morning a treaty concluded between the Government and the Cherokee Indians, dated April 27, 1868, not yet made public, but communicated to the Senate, and printed with the caption "confidential," disposing of the eight hundred thousand acres of "Cherokee neutral lands." Thus far every provision of the treaty, and every proceeding in regard to it, has been kept secret from the public, from Congress, and from the people, and all who are interested except the parties to the treaty and the purchaser of the lands.

Mr. WASHBURN, of Illinois. Who made the treaty?

Mr. LAWRENCE, of Ohio. The department of Indian affairs with the chiefs of the Cherokee nation brought here for the purpose. On the 19th of July, 1866, a treaty was made between the United States and the Cherokee Indians, which has been referred to by the gentleman from Massachusetts. On the 30th of August, 1866, Mr. Harlan, then Secretary of the Interior, undertook to sell by virtue of a provision of that treaty eight hundred thousand acres of land, known as the "Cherokee neutral lands," to a company called "the American Emigrant Company," for \$800,000—a dollar an acre—payable in nine years, with interest, I believe, at five per cent.

Mr. BUTLER. A Connecticut company.

Mr. LAWRENCE, of Ohio. Yes, sir; incorporated in the State of Connecticut. The Attorney General decided that that sale was not valid, because it was a sale on time, and insisted that the terms of the treaty required a sale for cash down.

Well, sir, on the 9th of October, 1867, Mr. Browning, Secretary of the Interior, made a sale of the same lands for \$800,000, to be paid

cash down, so as to meet the opinion of the Attorney General. This sale was to Mr. James F. Joy, who doubtless "rejoiced with exceeding great joy" that he had secured this contract. [Laughter.]

That is not all, Mr. Chairman. It was not convenient for Mr. Joy to pay cash down, and he then went to work to get rid of his contract and to modify the treaty, so that he might get the nine years which had been accorded to the American Emigrant Company in which to make payment.

Mr. JULIAN. Will the gentleman allow me to say a word, so that all the facts in regard to our Indian policy may be understood?

Mr. LAWRENCE, of Ohio. Certainly.

Mr. JULIAN. There is a treaty now being made between the Great and Little Osage Indians and our special Indian commissioner by which these Indians are to sell to us eight million acres of land, which, by the stipulations of the treaty, are to be granted to railroad corporations in Kansas, without the authority of Congress, and in contravention of the preemption and homestead laws of the United States. It is the most startling example yet given of the utter defiance of the authority of Congress by treaty made with tribes who have no shadow of right to dictate the land policy of the United States.

Mr. LAWRENCE, of Ohio. I quite agree with the gentlemen from Indiana that this is all wrong, and I am opposed to such exercise of the treaty-making power, unwarranted as it is by the Constitution, and a clear usurpation, and for which every man engaged in it ought to be impeached and removed from office if it were possible to impeach anybody.

Mr. CLARKE, of Kansas. I desire to remark that that treaty, if made at all, has been made against my protest, as the only Representative from my State; and as soon as it came to my knowledge I protested in writing to the Secretary of the Interior as being a fraud upon many thousands of men who have settled in my State.

Mr. LAWRENCE, of Ohio. Now, let me proceed with my statement of facts. On the 27th of April, 1868, a new treaty was made at the Indian department in this city between the Cherokee Indians and the Government, by which it was agreed that this American Emigrant Company should assign their contract to Joy; that Joy's contract with Browning, the Secretary of the Interior, should be rescinded, and that then the contract which the American Emigrant Company had assigned to Joy should be reaffirmed, so that he should have to pay the \$800,000 in the nine years which the Emigrant Company would have had if their contract had been carried out. In this manner he escapes his contract with Browning, which compels him to pay the money at once.

Mr. CLARKE, of Kansas. I withdraw my amendment to the amendment.

Mr. VAN HORN, of Missouri. I renew the amendment to the amendment for the purpose of stating that all this excitement has been got up in a few days past by parties in the interest of this "Osage land grant," as it is called here, being a rival railroad interest to that which is on the neutral lands. That is the cause of all the indignation which has been poured into the ears of members, and has misled them in regard to this whole question.

The fact about these neutral lands is that they belong absolutely to the Cherokee Indians, and the Government has nothing to do with them, except to assent to their sale when sold. They were given to the Cherokee Indians in lieu of \$500,000 in gold which the Government agreed to pay them when they removed them from Georgia, Alabama, and Tennessee. The Government has kept these Indians out of the interest on that \$500,000 ever since 1835. These are wild lands, unproductive, and separated from the other lands of the Cherokee nation by the lands of the Senecas and other tribes of Indians. Settlers were prohibited from settling on these lands. And members

here will recollect the excitement created in 1856 and 1857 by the agent Montgomery, driving off all the settlers and destroying their houses.

These Indians have been trying to get the Government of the United States to take these lands from them and give them the money for it. Within two years a proposition has been before Congress, and strongly urged, for the Government to purchase these lands from these Indians. This House has refused, time and time again, to purchase these lands. After the negotiation of the treaty of 1866 these lands were sold. Congress was asked to purchase them and grant them to the railroad company that has now made the purchase. Congress refused to do it. After the treaty was negotiated authorizing the Secretary to sell the lands, they were sold at the request of the Indians, Congress having refused to make them public lands. These lands did not belong to the United States; they never were public lands, any more than the farm of the gentleman from Ohio [Mr. LAWRENCE] is today. All this sudden movement, all this excitement, is caused simply by interested outside parties, who do not want this road built down there so as to develop these lands.

As to the lands being worth fifty dollars an acre, all I can say is that not an acre was settled upon two years ago. The nearest market is some one hundred and ten miles away. You can to-day buy for five dollars an acre lands one hundred miles nearer the market than these lands are. This whole excitement is got up on false grounds. When the House comes to understand the question members will see that what I say is true.

[Here the hammer fell.]

Mr. MAYNARD. I rise to oppose the amendment to the amendment. I confess that either I do not understand my own amendment, or else gentlemen here have gone off on the wrong tack. When I was on the floor before I gave something of what I understood to be the history of these neutral lands. Perhaps the gentleman from Missouri [Mr. VAN HORN] understands the facts better than I do. These were lands that lay out some distance from the main body. When it was proposed to admit Kansas, Mr. Ross, the principal chief of that tribe, was here protesting against the measure. But Kansas was admitted, with those lands inside its territorial limits. He then came here representing his people, endeavoring to sell the lands to the United States, knowing that his people would have again the same difficulty they had formerly experienced when they were in Georgia, Tennessee, and Alabama. As the gentleman from Missouri [Mr. VAN HORN] has stated, Congress refused again and again to buy the lands. But in 1866, we negotiated with those Indians a treaty which I have before me, and to one article of which I invite attention as furnishing the basis of this amendment:

"The Cherokee nation hereby cedes in trust to the United States the tract of land in the State of Kansas which was sold to the Cherokees by the United States under the provisions of the second article of the treaty of 1835.

"The lands herein ceded shall be surveyed as the public lands of the United States are surveyed, under the direction of the Commissioner of the General Land Office, and shall be appraised by two disinterested persons, one to be designated by the Cherokee national council and one by the Secretary of the Interior, and in case of disagreement, by a third person to be mutually selected by the aforesaid appraisers: the appraisement to be not less than an average of \$1 25 per acre, exclusive of improvements."

To carry out this article of the treaty I have offered my amendment. What disposition the United States may have made of these lands since obtaining them under the treaty does not affect in any way the present question. It is very probable that these lands have been obtained from the United States at a great undervaluation. It is very probable that they have been obtained from the United States by indirection or by malpractice; for when did the United States ever make a business negotiation with one of its own citizens without coming out

second best in the bargain? But this is a contract between the Cherokee tribe of Indians and the United States under that treaty, which provided that these lands should be ceded to the United States, and that they should be appraised by two appraisers, one to be appointed by the Secretary of the Interior, the other by the Cherokee national council. It seems to me we ought in good faith to make the necessary appropriation to carry out that provision.

Mr. VAN HORN, of Missouri. I withdraw the amendment to the amendment.

Mr. LAWRENCE, of Ohio. I move to amend the proposed amendment by adding the following:

*Provided, That the Cherokee neutral lands shall not be sold or conveyed except in such manner as may hereafter be provided by act of Congress.*

Mr. VAN HORN, of Missouri. I rise to a question of order, that this amendment is not in order, as it proposes new legislation. It provides for the sale of lands that do not belong to the Government, lands which it never owned.

Mr. LAWRENCE, of Ohio. I propose to discuss that question. The treaty now before the Senate proposes to make a sale of the lands.

Mr. VAN HORN, of Missouri. How can we provide for the sale of property that does not belong to the Government? The amendment proposes new legislation, and is not in order.

The CHAIRMAN. The Chair rules that the amendment is not in order. It proposes new legislation affecting the sale of the public lands, and cannot be added to an appropriation bill.

Mr. LAWRENCE, of Ohio. Then I renew the amendment of the gentleman from Missouri, [Mr. VAN HORN,] in order that I may finish the remarks which I propose to make.

Mr. Chairman, I had the privilege this morning of reading the new treaty, as I have already remarked, which was concluded on the 27th of April, 1868, between the United States and these Cherokee Indians. It provides for the confirmation of the contract which Mr. HARRIS, when Secretary of the Interior, made with the American Emigrant Company, and which was transferred by that company to Joy. He thereby escapes the terms of the contract he made with Secretary Browning, by which he was required to pay \$800,000 cash down, and secures to himself nine years' time to make payment. In addition to that, he escapes the payment of some interest, for under the contract which Joy made with Secretary Browning he was to pay interest from October 9, 1867; but according to this new treaty he is to pay interest only from the time the treaty is ratified. This treaty is made subject to three conditions: first, that within ten days Joy shall pay \$25,000 of the purchase-money; second, that the other deferred payments shall be made as they fall due under the contract with the American Emigrant Company; and third, that the actual settlers shall be paid for the improvements upon these lands, subject to appraisal and payment according to the terms of the treaty of April 19, 1866.

Now, this is the treaty that is before the Senate of the United States. I protest against it, because the Senate has no power to make any such treaty.

The gentleman from Missouri asks what business have we with these lands, and tells us that they belong to the Cherokee Indians. Sir, the Cherokee Indians have no valid title to the lands at all. What is their title? It is true that a patent was issued to the Cherokee Indians for these lands on the 31st of December, 1838. By virtue of what authority? Under the authority of a treaty only, which, without the authority of an act of Congress, could not authorize a patent to issue conveying away the title of the United States. A treaty! Just as if the public lands of the United States, without the consent of this House, can be transferred by the President and Senate to these Indians, or to anybody

else. The treaties relied upon are those of May 6, 1828; volume 7, Statutes-at-Large, page 311; treaty of February 14, 1833, Statutes, page 414; treaty December 29, 1835, Statutes, page 478, and the act of Congress of May 28, 1830; volume 4 of Statutes, page 411, and articles 2 and 3 of treaty of 29th December, 1835.

Mr. MAYNARD. I ask the gentleman whether they were not the consideration for lands of far greater value in Georgia, Alabama, and Tennessee, which were sold by the United States, and the money put into the United States Treasury? I ask him whether he stands here as the Representative of a constituency that will repudiate what was done by treaty?

Mr. LAWRENCE, of Ohio. Let me make my speech, and it will not be necessary to ask such questions. I would observe every obligation of this Government and repudiate none of them. I would now give to the Cherokee Indians the full benefit of a perfect title, and, to make it valid, ratify it by act of Congress. But I am combating now only the assumption of a power by the President and Senate by treaties with Indian tribes to sell the public lands. The only authority for the exercise of such power is found in 4 Hamilton's Works, 340; 7 Hamilton's Works, 518, 556; in volume six, pages 360-2 of Hamilton's History of the American Republic, and, perhaps, in the recently decided case of *Wilson vs. Wall* and wife in the Supreme Court of the United States, which, however, does not sustain the treaty-making power in its monstrous usurpations. I deny the assumption of such a right, because by the Constitution, article four, section three, it is declared that—

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

This is necessarily an exclusive power, and removes all pretense of a right to dispose of the public lands by treaty. I cannot now follow the decisions and commentaries on this clause of the Constitution, nor trace the limitations imposed on the treaty-making power. But a consideration of them all will show that it never was designed that the immense public domain should be withdrawn from the fostering care of legislation, and be at the arbitrary disposition of the President and Senate. On the 21st of March I had the honor to discuss this subject briefly in this House, and to exhibit some of the abuses of the treaty-making power in the four years preceding January, 1868. If this House is ready to surrender the power of legislation over the public lands, is ready to remain quiet while the treaty-making power is subverting the whole homestead policy and the homestead laws of Congress, then, sir, we will have abandoned the great trusts reposed in our hands. For one I never will. In addition to the facts I have already presented to the House on this subject I will read, for information, the following:

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE, May 5, 1868.

SIR: I had this morning the honor to receive your note of yesterday covering a printed "schedule showing sale of Indian trust lands from January 1, 1864, to January 1, 1868," embracing sales under the direction of the office of Indian affairs in the following reservations, namely, Delaware, Kickapoo, Ottawa, Sac and Fox of Mississippi and Kansas, in the State of Nebraska, Sac and Fox of Missouri, in the State of Nebraska, Winnebago, in the State of Minnesota, and Cherokee neutral lands in Kansas.

In reply to your inquiry as to the character of the title held by the Indians, whether they had only ordinary Indian occupancy or whether a patent had been issued to the tribes from the United States, I have to state that a patent was issued 31st December, 1838, in favor of the Cherokee Nation, embracing the neutral lands, but to none other of the tribes mentioned, our records furnishing no other specific information touching the points of your inquiry.

It is in place to state that the acts of the General Land Office, in issuing patents in all such cases, are purely ministerial, resting upon verified returns furnished by the office of Indian affairs.

Inclosed is a map of each of the States mentioned, indicating the several reservations named in the schedule herewith returned.

With great respect, your obedient servant,  
JOS. S. WILSON, Commissioner.

Hon. W. LAWRENCE, House of Representatives.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF INDIAN AFFAIRS,  
WASHINGTON, D. C., May 9, 1868.

SIR: I have the honor to acknowledge the receipt of your letter of the 5th instant, in which you refer to a schedule furnished by this office at your request, giving certain information in reference to the sale of Indian reservations during the last four years, and requesting that you be supplied with a statement of the character of the title held by the several Indian tribes mentioned in said schedule, to the lands in question, with references to the volume and page of the Statutes-at-Large, on which the treaties will be found under the provisions of which said tribes acquired their title to said reservations.

For your information on the subject I give you herewith the date and the volume and page of the Statutes-at-Large on which said treaties may be found, as follows, viz:

Delaware—Treaty October 3, 1818, article two and supplemental treaty September 24, 1829, Statutes-at-Large, volume seven, pages 185 and 327.

Kickapoo—Treaty October 24, 1832, article two, Statutes-at-Large, volume seven, page 391.

Ottawa—Treaty August 30, 1831, article three, Statutes-at-Large, volume seven, page 359.

Sac and Fox of Mississippi—Treaty October 11, 1842, article two, section one, Statutes-at-Large, volume seven, page 596.

Sac and Fox of Missouri—Treaty September 17, 1836, article two, Statutes-at-Large, volume seven, page 511; and treaty May 13, 1854, article one, Statutes-at-Large, volume ten, page 1074.

Winnebago—Treaty October 13, 1846, article three, Statutes-at-Large, volume nine, page 878.

Cherokee Neutral—Treaty December 29, 1835, article two, Statutes-at-Large, volume seven, page 478; and also refer you to an act of Congress approved May 28, 1830, Statutes-at-Large, volume four, page 411.

Very respectfully, your obedient servant,  
CHARLES E. MIX,  
Acting Commissioner.

Hon. WILLIAM LAWRENCE, House of Representatives.

I present these, in part, to show that for the last four years the public lands which have been sold by virtue of treaties with the Indian tribes, without the authority of any act of Congress, were lands the title to which was admitted to be in the United States except in the single instance of the Cherokee neutral lands. These were conveyed by patent to the Indians, but only under the authority of a treaty which could not confer a title. I know the act of Congress of May 28, 1830, is relied upon as authorizing the patent in that case. But in that act it is expressly provided as to all lands set apart to the Indians that—

"Such lands shall revert to the United States if the Indians become extinct or abandon the same."

But having now given my opinion in brief, and without time to support it by argument in full, that the public lands cannot be constitutionally sold by virtue of treaty stipulations, and that it is unwise and inexpedient to do so; and ready as I am, notwithstanding this, to confirm and ratify the title of the Indians to this Cherokee neutral land, I will briefly state some of the reasons why I will not consent in any form to give effect to any treaty which will surrender, as is proposed, eight hundred thousand acres of land for \$800,000 in money. Among the reasons are these: these lands, according to the estimate of the gentleman from Massachusetts, [Mr. BUTLER,] are worth largely more money than the price at which they are sold.

The interest of the people of Kansas and of all the country requires that the Government shall see to it that these lands are sold in small quantities to actual settlers at \$1 25 an acre or less, or that they shall be opened up to preemption and homestead settlement. The Government could take the lands at \$800,000 and realise by public sale to actual settlers more than that or a sum sufficient to reimburse the Treasury and open the residue to homestead entries. Or the Government could guaranty to the Indians the sum of \$800,000 and realize it out of the lands and leave a large extent of them open to homestead entries.

If the Government has failed to secure the interests of the people as to those lands heretofore it is not too late now. We are here for that purpose. I need not argue the various consequences of a monopoly of these lands in the hands of one man. The hardy settlers who would buy of him would be compelled to mortgage the earnings of half a lifetime to pay for a homestead. From such evils as these let Congress deliver them. We can do it by law,

and I call upon the Committee on the Public Lands to see that it is done.

Mr. KERR. It is past five o'clock; we had a long session yesterday, and I move that the committee rise.

The committee divided; and there were—ayes 40, noes 44; no quorum voting.

Tellers were ordered; and Mr. KERR and Mr. SCHENCK were appointed.

The committee again divided; and the tellers reported—ayes 50, noes 42.

So the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending 30th June, 1869, and had come to no resolution thereon.

#### DECORATION OF SOLDIERS' GRAVES.

Mr. CLARKE, of Kansas. I submit the following resolution:

Whereas Saturday, the 30th of May instant, has been set apart for the decoration of the graves of our brave soldiers who fell in defense of our country in the late war to suppress the rebellion: Therefore, Resolved, That as a mark of respect to the memory of the brave men who fell in defending this Republic in the late bloody conflict, this House, when it adjourns to-day, will adjourn to meet on Monday next; and that this House as a body will attend the decoration of the graves to-morrow.

The SPEAKER. It requires unanimous consent; but the gentleman can move that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. CLARKE, of Kansas. I make that motion.

The motion was disagreed to—ayes 30, noes 51.

Mr. SCHENCK. I move that the House take a recess until half past seven o'clock.

On motion of Mr. WASHBURN, of Illinois, the House (at five o'clock and fifteen minutes) adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BEAMAN: The petition of Sutta Brothers and others, of Detroit, Michigan, manufacturers, &c., of cigars, remonstrating against changing the rate of taxes on cigars, and praying that the stamp on cigars may be a revenue stamp instead of an inspector's stamp.

By Mr. BECK: The petition of Lieutenant Joseph C. Breckinridge, for allowance of pay for the period during which he actually served as aid-de-camp on the staff of General Nelson and General Thomas prior to his muster into the service of the United States.

By Mr. BLAIR: The petition of Willy Woodbridge, of Savannah, Georgia, for relief in the matter of captured cotton.

By Mr. BROOMALL: The petition of citizens of Montgomery county, Pennsylvania, representing that Salmon P. Chase, Chief Justice of the United States, and WILLIAM PITT FESSENDEN, Senator from the State of Maine, on the trial of Andrew Johnson on the articles of impeachment presented by the House of Representatives, did violence to the loyal sentiment of the nation, and gave "aid and comfort" to the spirit of the rebellion that attempted to destroy our Government; that, relying upon their assumed integrity and former professions of loyalty, the proper authorities, in the issue of Government currency, placed the likenesses of the said Chase and FESSENDEN, respectively, upon the one dollar and the twenty-five cent notes. The petitioners believing the said likenesses on said notes, in all business and social relations, do violence to the sense of decency of the community, therefore ask that Congress shall recall all such notes, and prohibit the further issue

of notes of said denominations, until the likenesses of said offensive persons are removed therefrom, and their places supplied by those of men enjoying the confidence of the loyal people of the nation.

By Mr. BURR: The petition of Solomon M. Murphy, for compensation for horse lost in service. Also, affidavits accompanying.

By Mr. GETZ: Three petitions from citizens of Berks county, Pennsylvania, for the establishment of a new mail route from Oley to Lyons' station, via Green Hill, New Jerusalem, and Drysville, in said county.

Also, two petitions from citizens of Berks county, Pennsylvania, for the establishment of a new mail route from Oley to Douglassville, via Yellow House and Amityville, in said county.

Also, a memorial from cigar manufacturers, journeymen cigar-makers, dealers in cigars, and growers of tobacco, protesting against the increase of the internal tax on cigars to ten dollars per thousand, and recommending the collection of the revenue on cigars by revenue stamps, instead of inspector's stamps.

By Mr. HILL: The protest of 45 soldiers of the late volunteer army of the United States, citizens of Boonton, New Jersey, against the passage of an act to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union, which was presented to the House of Representatives by Hon. H. D. WASHBURN, from the Committee on Military Affairs.

By Mr. HOOPER, of Massachusetts: The petitions of Bowerman Brothers and others, merchants in New York and Baltimore, for an amendment of the warehouse law, so as not to subject tea, coffee, sugars, molasses, and spices remaining in bonded warehouses more than one year to any additional duty.

By Mr. HOTCHKISS: The petition of James Gallagher and 40 others, citizens of New Haven, Connecticut, in reference to tax on cigars.

By Mr. INGERSOLL: The petition of P. E. Roach and 86 others, residents of the county of Alexandria, for aid in the construction of a bridge over the aqueduct across the Potomac river at Georgetown.

By Mr. KELLEY: A memorial of the Philadelphia Board of Trade, praying Congress to grant the requisite subsidy to complete the Kansas Pacific railway.

Also, the petition of Mary A. Amer, widow of John Amer, late unassigned recruit for ninety-seventh regiment Pennsylvania volunteers.

By Mr. LAWRENCE, of Pennsylvania: The petition and document of Captain J. H. Eustis, for additional allowance for carrying mails in the State of Louisiana.

By Mr. NIBLACK: A memorial of George Fendrich and 15 others, of Vincennes, Indiana, remonstrating against the proposed increase of tax on cigars.

By Mr. ORTH: The petition of Markley Brothers and others, of La Fayette, Indiana, in reference to tax on cigars.

By Mr. PAINE: The petition of Frederick Sipel, for bounty.

By Mr. PERHAM: The petition of Hugo Eichholtz, late of the fifteenth New York heavy artillery, for a pension.

Also, the petition of Martin Burke, late a sergeant in the fifteenth New York heavy artillery.

By Mr. VAN HORN, of New York: The petition of manufacturers of lumber along the frontier from logs imported from Canada, asking a reduction of duty.

By Mr. WASHBURN, of Illinois: The petition of cigar manufacturers and dealers in Illinois, asking that the tax on cigars be collected by means of revenue stamps.

Also, the petition of Dr. P. Gray, C. Truesdale, J. M. Buford, P. L. Cable, and 2,000 others, in favor of the early construction of a railroad and wagon bridge across the Mississippi river at Rock Island.

#### IN SENATE.

SATURDAY, May 30, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. MORTON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of the Board of Trade of Philadelphia, praying aid for the completion of the Kansas Pacific railway; which was referred to the Committee on the Pacific Railroad.

Mr. WILSON. I present, Mr. President, a remonstrance of James M. Beebe & Company and a large number of mercantile firms of the city of Boston, remonstrating against the House bill pending in the Senate for the amendment of the bankrupt law. They set forth that the bankrupt law has been detrimental to the commercial interests of the country, and that the proposed change will be very injurious to the business interests of the country. I move the reference of the remonstrance to the Committee on the Judiciary.

It was so referred.

Mr. POMEROY. I present a memorial of importers and business men of the city of New York, remonstrating against the amendment to the bankrupt bill by which any extension of time may be granted. They represent that the bankrupt law has, in its practical working, proved detrimental to the commercial interests of the country, and that to enlarge the time within which debtors may avail themselves of its provisions, irrespective of the provision requiring their assets to pay fifty per cent. of the claims against their estates, as now in force, will be productive of serious injury to trade and business, without securing any public benefit or advantage to compensate therefor. This memorial is very respectfully signed by some of the largest business firms in New York. I commend it to the consideration of the Committee on the Judiciary, to which I move its reference.

The motion was agreed to.

Mr. MORGAN. I present a remonstrance on the same subject, signed by Alexander T. Stewart & Company; Hoyt, Sprague & Company; Hunt, Tillinghast & Company, and a very large list of most respectable merchants of New York, remonstrating against the passage of the bill by the Senate, which has already passed the House of Representatives, for extending the time under the fifty per cent. provision of the bankrupt law. I move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. SHERMAN. I present the petition of Elizabeth S. Lathrop, widow of Colonel S. H. Lathrop, of the regular Army, who died last fall, of yellow fever, in Texas. She is left in a very destitute condition with one child, and she prays for an increase of her pension. It is a case of hardship, within my personal knowledge, and I hope the committee may be able to grant her some relief. I move the reference of the petition to the Committee on Pensions.

The motion was agreed to.

Mr. SHERMAN. I also present a remonstrance, similar in character to those presented by other Senators, against the modification of the bankrupt act. I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. MORRILL, of Maine, presented a memorial of citizens of New York city, remonstrating against any extension of the time limited in the law for commencing proceedings in bankruptcy; which was referred to the Committee on the Judiciary.

Mr. RAMSEY. As there seem to be no further petitions, I move that the Senate resume the consideration of the joint resolution yesterday reported from the Committee on the Pacific Railroad.

Mr. CONKLING. I wish to present a petition.



Mr. RAMSEY. Will not the Senator allow me to get up the joint resolution, and then I will yield for the purpose he indicates? I make a motion that the Senate proceed to the consideration of the joint resolution.

The PRESIDENT *pro tempore*. It requires unanimous consent to do it at this time. The Senator from Minnesota asks the unanimous consent of the Senate to proceed to the consideration of the joint resolution (S. R. No. 137) extending the time for the completion of the Northern Pacific railroad. Is there any objection?

Mr. HENDRICKS. I wish, on that motion, to make one remark.

Mr. MORRILL, of Maine. I object, and that will end the matter.

The PRESIDENT *pro tempore*. Objection being made, the resolution cannot be considered at this time.

Mr. HENDRICKS. I was going to say that I object to all business out of order.

Mr. CONKLING. I present a petition of citizens of western New York engaged in the business of importing Canadian round timber and manufacturing lumber from Canadian round timber, praying that the duty upon saw-logs and round timber for American mills be repealed; and that the duty upon Canadian common lumber, and upon all grades of Canadian lumber below common shall be equal to the Canadian export duty upon saw-logs intended for American mills, with a provision that if said export duties are increased or diminished the duty upon Canadian lumber shall be increased or diminished in the same proportion. I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

#### SMITHSONIAN INSTITUTION REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred a resolution for printing the report of the Smithsonian Institution, have instructed me to report it back without amendment, and recommend its passage, and to ask for its present consideration.

By unanimous consent the Senate proceeded to consider the following resolution:

*Resolved*, That five thousand additional copies of the report of the Smithsonian Institution for the year 1867 be printed—three thousand for the use of the Senate and two thousand for the institution—and that said report be stereotyped: *Provided*, That the aggregate number of pages of said report shall not exceed four hundred and fifty, without illustrations, except those furnished by the institution.

The PRESIDENT *pro tempore*. The question is on the adoption of the resolution.

Mr. POMEROY. I suppose that all these resolutions that appropriate money out of the contingent fund should be considered in Committee of the Whole.

Mr. ANTHONY. A resolution for printing is never considered in Committee of the Whole. A resolution appropriating money for printing, which comes out of the appropriation that is already made for the general support of the printing establishment, is never considered in Committee of the Whole, unless it is a joint resolution.

The resolution was adopted.

#### J. ROSS BROWNE'S REPORT.

Mr. ANTHONY. The same committee, to whom was referred a resolution to print fifteen thousand copies of the report of J. Ross Browne on the mineral resources of the States and Territories west of the Rocky mountains, have instructed me to report it back with an amendment, and recommend its passage, and to ask for its present consideration.

By unanimous consent the Senate proceeded to consider the following resolution:

*Resolved*, That fifteen thousand copies of the report of J. Ross Browne on the mineral resources of the States and Territories west of the Rocky mountains be printed for the use of the Senate.

The Committee on Printing reported the resolution, with an amendment, in line one to strike out "fifteen" and insert "ten," and also to strike out the words "for the use of the Senate" and insert "of which one thousand

shall be for the use of the State Department for foreign distribution, one thousand for the use of the Treasury Department, and one hundred for J. Ross Browne;" so as to make the resolution read:

*Resolved*, That ten thousand copies of the report of J. Ross Browne on the mineral resources of the States and Territories west of the Rocky mountains be printed, of which one thousand shall be for the use of the State Department for foreign distribution, one thousand for the use of the Treasury Department, and one hundred for J. Ross Browne.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee.

Mr. RAMSEY. I should like to ask a question of the chairman of the committee before the vote is taken on the amendment. I had a resolution referred to that committee providing that a like number of the report of James W. Taylor upon the gold regions east of the Rocky mountains should be published and bound along with this report. I wish to ask the chairman of the Committee on Printing if they took that into consideration.

Mr. ANTHONY. Yes; but the report of Mr. Taylor has not yet been furnished to the Senate, and we were unable to make any estimate upon it, and this report is quite as large as should be in one volume. The other can be published separate.

Mr. RAMSEY. This report of Mr. Browne was not made to the Senate, but to the House, I understand.

Mr. ANTHONY. Yes, it was made to the Senate the other day. I have a word to say about this resolution, as this is a publication in which a great many Senators, particularly western Senators, have manifested great interest. The original resolution was for the printing of fifteen thousand copies. There was an amendment offered by the Senator from Nevada [Mr. STEWART] to place two thousand copies in addition at the disposal of the author of the report. The ground of that amendment, I believe, was that a number of persons from whom Mr. Browne had received information would have no other compensation than a copy of this book which he might be able to send to them; and also that from the time he had ceased his labors upon this duty, and had ceased to draw his salary, and before he had commenced upon the mission to which he has been lately appointed, he had been occupied in getting the work through the press, and that there was no appropriation made providing for any compensation for that labor, and this will be a compensation to him. It is not without precedent to place a few copies of a report that a man has prepared at considerable labor, at his own disposal, as a sort of compliment, and the committee have followed that rule here. If Mr. Browne is entitled to any compensation, and that is a matter upon which the committee have no evidence—

Mr. MORRILL, of Vermont. Has he not been receiving salary all the time?

Mr. ANTHONY. No, sir. It did not occur to the Committee on Printing that that was a proper subject for them to consider, but that it should go to the Committee on Claims. At all events, it should not be paid for in barter; it should be paid for by money if he is entitled to any compensation; and that is a matter we had no reason to act upon. One thousand copies are placed at the disposal of the Secretary of the Treasury, which probably will meet with the same designation as though they were in the hands of the commissioner.

Mr. JOHNSON. The Secretary of State, is it not?

Mr. ANTHONY. One thousand copies are placed in the hands of the Secretary of State for foreign distribution, and one thousand in the hands of the Secretary of the Treasury for distribution, which reduces the number for distribution among Senators to seventy-nine hundred.

Mr. COLE. I should like to inquire of the chairman of the Committee on Printing what number of last year's report of J. Ross Browne was published?

Mr. ANTHONY. I believe it was ten thousand, but I am not certain.

Mr. COLE. If my recollection serves me, the number was increased after the first order.

Mr. ANTHONY. It was.

Mr. COLE. And I think probably the demand for these reports may be so great as to produce that necessity again. I regret that the number has been reduced by the committee below what the resolution called for in the present case. The number for distribution by the Senate is now seven thousand and some odd hundred, but I am sure the demand will exceed the amount. The demand for these reports has been very great thus far. I have received myself a great many letters asking for them from all parts of the United States. They are useful not only to the people on this side of the Rocky mountains, but also to those on the other side. They contain a vast amount of information which can be obtained from no other source. Everybody, I think, is anxious to learn about that unknown country west of the Rocky mountains which has not heretofore been explored, and this report affords about the only source of information with regard to it. I regret, therefore, that the committee have not seen fit to publish the number called for in the first instance.

Mr. ANTHONY. That is within the power of the Senate. If they desire a larger number, they can so vote. If the work had not been very valuable, in the opinion of the committee, they would not have reported in favor of the printing of so large a number as they have proposed. It is a much larger number than they report in favor of printing of any document. As to the demand, I will say that there is always a great demand for books that are given away, especially good books, as this is; and if we undertake to supply the demand, the appetite will certainly increase by what it is fed on. I think so large an edition as this will supply, if judiciously distributed, nearly all the legitimate demand, and extracts from the work will be reproduced, I presume, in various forms. Still, it is a matter in which the western Senators are more particularly interested, and if they desire a larger number I shall make no objection.

Mr. COLE. These publications are made by Congress only, I believe, to meet the public demand. There is no other purpose for which such works are published by Congress, and if the demand is great I suppose it ought to be satisfied. We publish no books merely for the sake of publishing them and laying them away. We publish them to supply the demand.

The PRESIDENT *pro tempore*. The question is on the first amendment.

Mr. WILLIAMS. Mr. President, I hope that that amendment, reducing the amount from fifteen to ten thousand, will not be adopted, because I think that no work has been published by the authority of Congress since I have been here that is of so much value to the country as this work of Mr. J. Ross Browne. No doubt there is a very great demand for the work; and that, perhaps, is no criterion as to its value; but it is a very elaborate and thorough exposition of the mineral, and, to some extent, of the agricultural resources of the entire Pacific coast. It contains more information, in my judgment, as to the mining resources of the country than all the other books that have ever been published in the United States; and if there is any information that Congress can furnish to the people of value it is information as to these mines, for there is nothing in which the country is so deeply interested as in the development of our gold and silver mines. This work will be valuable for distribution in every part of the Union; valuable for distribution in foreign countries. It contains an account of every considerable mine that has been opened and worked upon the Pacific coast; and it shows how men can profitably engage in mining, and how the gold and silver that are embedded in the mountains of the Pacific coast may be brought into use. Much of the documents that are published here are of little or no value, containing speeches

of members and communications of different departments about political matters, which are of very little consequence; but when a publication of this kind, which concerns the material interests of the country, which concerns the mode and manner of developing and enriching the country, is published by authority of Congress, I think that there ought to be a liberal appropriation for the distribution of the document. I think that is true in reference to the report of the Commissioner of the General Land Office; it is worth more than forty cart-loads of much that is published and circulated here in Congress, and so with this document.

For these reasons I think it would be an economical expenditure of money to add the five thousand to ten thousand. Certainly it will not add very much to the expense; it is only a small item. As I understand, after a book is once set up and ready for publication it makes very little difference as to the number of volumes published, and I hope that the Senate will agree to publish the fifteen thousand copies.

Mr. ANTHONY. The expense is about a dollar a copy. Senators are aware that by law of Congress any person, bookseller or other, who desires to have any documents printed by Congress, can order them in advance at the bare cost of paper and press-work, leaving out the cost of type setting. If there is so great a demand for this work and it can be afforded so cheap, I should suppose that, very likely, some publishers in the West would like to avail themselves of this provision of the law, and could do so profitably if the demand is so great.

Mr. HARLAN. Mr. President, the fact stated by the Senator who has just taken his seat is a matter that has been discussed for years in the Committee on Printing, on which committee I once had the honor to serve; but it seems to me this would be a very good case to refuse to print any extra copies at public expense. At the instance of that committee some years ago a law was enacted authorizing the Public Printer to print copies of any public document at cost, which might be ordered by anybody. The Senator says that this is a very valuable document, and probably it would justify a book publisher to publish it for sale on private account; but if we publish an edition of ten or fifteen thousand for gratuitous distribution, what bookseller would invest his money in such an enterprise? He cannot know in advance but that the gratuitous distribution will supply the demand. If we are ever to get on to that principle of printing only so many public documents as are needed by the Government and Government officers, and leave to private enterprise the publication of the excess, this is a good work to begin with. I have no doubt in the world that any enterprising bookseller might do well in publishing this document; that is, in selling or ordering it at naked cost from the Public Printer. If, therefore, only the usual number were printed, and no more Government money invested, I have no doubt the work would attain as great a circulation as will be secured by publishing the large edition now proposed by the committee. I have no doubt that everything which has been said of the value of this work is true, that it will be of vast consequence to those engaged in mining and who desire to make investments in mines and mining; but, Mr. President, what gentleman who desires to engage in that branch of enterprise would not pay a dollar out of his own pocket for a copy of this work if it be as valuable as Senators represent? It seems to me that this and similar publications are the very ones to begin on to strike off this unnecessary expenditure of money from the public Treasury.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the next amendment, to add to the resolution the words, "of which one thousand shall be for the use of the State Department, for foreign distribution, one thousand for the use of the Treasury Department, and one hundred for J. Ross Browne."

Mr. ANTHONY. If the total number is to be increased to fifteen thousand, I have no objection to placing a larger number than is there proposed at the disposal of the author. I suppose he can distribute them as well as anybody.

Mr. SHERMAN. I voted under a misapprehension a moment ago on the other amendment; I supposed I was voting on an amendment of the Senator from Oregon, [Mr. WILLIAMS,] to increase the number reported, and voted no. I wish to vote for the report of the committee. I will, therefore, move to reconsider, if necessary.

The PRESIDENT *pro tempore*. The Senator from Ohio moves to reconsider the vote by which the first amendment, as to the number, was disagreed to.

The question being put, there were on a division—ayes 15, noes 9; no quorum voting.

Mr. ANTHONY. I think there is a quorum present. Let there be another division.

The PRESIDENT *pro tempore*. The Chair will again put the question on the motion to reconsider.

Mr. COLE. I observe, by reference to the Journal of the Senate, that on the 6th of February, 1867, ten thousand copies of the report made by Mr. Browne last year were ordered to be printed for the use of the Senate. Now, the work has been found to be of such great public importance that it is provided that one thousand copies of the present report shall be given to the State Department for foreign distribution, and one thousand to the Secretary of the Treasury for distribution, leaving a much less number for the use of the Senate than was provided last year. I believe the demand this year is much greater than it was last year. The argument of the Senator from Iowa [Mr. HARLAN] on that point is, it seems to me, conclusive; no publisher will invest his money in an edition of the work after a certain edition is printed for gratuitous distribution, and so we ought to publish enough to supply the reasonable demand.

The motion to reconsider was agreed to; there being on a division—22 ayes and 10 noes.

The PRESIDENT *pro tempore*. The question now is on agreeing to the first amendment reported by the Committee on Printing.

The amendment was agreed to; there being on a division—22 ayes and 6 noes.

Mr. CAMERON. I move to amend further by making the number five thousand. I am opposed to this whole system of printing books—

The PRESIDENT *pro tempore*. That amendment is not in order; the Senate have just agreed to an amendment fixing the number at ten thousand.

Mr. CAMERON. Then I am against the whole proposition.

The PRESIDENT *pro tempore*. The question now is on the next amendment, which has been read, as to the distribution.

Mr. ANTHONY. If we are to print these books for distribution at all there can be no better distribution than through the Secretary of the Treasury and the Secretary of State. One object of this distribution is to promote immigration; and in no way can that be done so well as by distributing through our foreign legations copies to public men, to editors of newspapers, to emigration societies, and to persons who desire to become acquainted with the advantages of this country for immigration. I think the thousand sent to the Secretary of State and the thousand to the Secretary of the Treasury will be likely to do much more good than all the rest furnished to Senators, for they will be distributed carefully and to the very persons who the Senator from California says demand this book. Those who most require it will be supplied from these resources.

Mr. COLE. I have no objection to that part of the amendment appropriating one thousand copies to the State Department; but I cannot see what use the Treasury Department can have for one thousand of these books. The argu-

ment is very good so far as it relates to the distribution abroad.

Mr. ANTHONY. If there is a difference of opinion, perhaps the amendment had better be divided, so that we shall take the question first on furnishing one thousand to the Secretary of State, though I think it is proper also to furnish some copies to the Treasury Department.

Mr. STEWART. I should prefer to give them to the Secretary of the Treasury, and I will state my reason for thinking so. Although he does not do everything to suit me, in this regard he has taken special interest in diffusing this kind of knowledge, and he has acted with a good deal of energy in ascertaining the mining resources of the country, and he will take an interest in distributing the books where they will do good, because he has taken a personal interest in the question. I think it a matter of the greatest importance that the distribution of these books should be in the hands of some person who takes an interest in disseminating this kind of knowledge, and I believe the Secretary of the Treasury does.

Mr. ANTHONY. I will read to the Senate a note which I have received from the Secretary of State on this subject:

DEPARTMENT OF STATE,  
WASHINGTON, April 4, 1868.

SIR: Learning that extra copies of the report of J. Ross Browne, esq., as special commissioner for the collection of mining statistics in the States and Territories west of the Rocky mountains, and James W. Taylor for the eastern division of the United States, now in the hands of the printer, are proposed to be ordered for the Senate and for the Treasury Department, I have the honor to request, that, in view of the probable favorable effect such a report, properly distributed abroad, would have upon immigration, you will offer a resolution providing two thousand copies for distribution by this Department through the ministers and consuls of the United States in foreign countries.

I have the honor to be, sir, your obedient servant,  
WILLIAM H. SEWARD.

Hon. H. B. ANTHONY,  
Chairman of the Committee on Printing, Senate.

The committee have reported only half the number asked for by the Secretary of State; but I do not believe any other thousand copies of the work will go into hands that will do so much good to the country.

The amendment was agreed to.

The resolution, as amended, was agreed to.

#### PENSION BILLS.

Mr. EDMUNDS. I now move to take up the resolution of thanks to Secretary Stanton which I offered the day before yesterday.

Mr. VAN WINKLE. I wish to make some reports.

The PRESIDENT *pro tempore*. Reports from committees are in order.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the petition of Elizabeth Steepleton, submitted a report, accompanied by a bill (S. No. 494) granting a pension to Elizabeth Steepleton, widow of Harrison W. Steepleton, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Henry Reens, submitted a report, accompanied by a bill (S. No. 495) for the relief of Henry Reens. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Riley H. Smith, submitted a report, accompanied by a bill (S. No. 496) granting a pension to Riley H. Smith. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Catharine Wands, submitted a report, accompanied by a bill (S. No. 497) for the relief of Catharine Wands. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Anna M. Howard, submitted a report, accompanied by a bill (S. No. 498) granting a pension to Anna M. Howard. The bill was read and passed to a second

reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Margaret Whitt, submitted a report, accompanied by a bill (S. No. 499) granting a pension to the widow and child of Martin Whitt, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Lucinda R. Johnson, submitted a report, accompanied by a bill (S. No. 500) granting a pension to Lucinda R. Johnson. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Harriett W. Pond, submitted a report, accompanied by a bill (S. No. 501) granting a pension to Harriett W. Pond. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. VAN WINKLE. I will take this opportunity to ask the Senate to set aside a day next week for the consideration of pension bills. There are now seventy-five of them on the Calendar. I would ask for Friday of next week.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves that next Friday be set apart for the consideration of pension bills.

The motion was agreed to.

#### BILLS INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 502) granting lands to aid in the construction of a railroad and telegraph line from Irving, Kansas, to Albuquerque and Santa Fé, New Mexico; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 503) to establish certain post roads in Oregon; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 504) to amend an act entitled "An act to extend the warehousing system by establishing bonded warehouses, and for other purposes;" which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 505) to amend an act entitled "An act concerning the registering and recording of ships or vessels;" which was read twice by its title, and referred to the Committee on Commerce.

#### NORTHERN PACIFIC RAILROAD.

Mr. RAMSEY. I move that the Senate resume the consideration of the joint resolution in regard to the Northern Pacific railroad. The Senator from Michigan, [Mr. HOWARD,] who had charge of it, is rather unwell to-day, and desired me to call it up. The parties who take an interest in the matter have agreed about the dates, and I think the resolution can be passed in five minutes.

The motion was agreed to; and the consideration of the joint resolution (S. R. No. 187) extending the time for the completion of the Northern Pacific railroad was resumed as in Committee of the Whole.

The joint resolution was reported to the Senate without amendment.

Mr. RAMSEY. I now move to amend the joint resolution as agreed upon by those who yesterday made some objection to it. In line eleven I move to strike out "five" and insert "three," so as to read: "shall commence the work on said road within three years from and after the 2d day of July, A. D. 1868."

Mr. CONNESS. In my judgment there is not any good object in giving an extension of three years; it is to be three years from July

of this year. If the Government ever subsidize the building of a road beyond the grant in land over the proposed route it will be done before the expiration of two years. It will be remembered, too, that this provision is not that they shall agree within three years to build one mile of road, but that they shall begin by that time. I hope that no more than two years will be given. There is no sense in it, I think. It is withholding, as stated yesterday, large amounts of land from the public domain, and when a company get such an extension of time as they ought to have in reason, they should ask no more. I move to amend the amendment by inserting "two" in place of "three."

Mr. RAMSEY. Of course I do not desire any controversy about this matter. The present charter expires in July, and rather than run any risk I will accept the proposition of the Senator from California, though the affair is so far from his own country that I think he might leave it in the hands of others.

Mr. POMEROY. Two years is a very reasonable time I think.

Mr. CONNESS. I do not exactly appreciate the remark of my friend from Minnesota, that the affair is very far from our country, and that others should be permitted to manage it. The proposition I have made is the uniform one adopted by Congress when extensions of time are asked for. Two years have always been deemed sufficient.

Mr. RAMSEY. My impression is that this is the first time so small an extension was given.

Mr. CONNESS. I have such a bill before Congress myself, asking only an extension of two years.

Mr. RAMSEY. I accept the suggestion, and modify my amendment to read two years.

The amendment, as modified, was agreed to.

Mr. RAMSEY. I move further to amend the joint resolution by striking out in line thirteen the word "fifty" and inserting "one hundred," so as to read "and shall complete not less than one hundred miles every year after the second year thereafter."

Mr. POMEROY. I think requiring them absolutely to build one hundred miles a year on simply a land grant is an unusual requirement. Fifty miles a year for any land-grant railroad is as much as we require.

Mr. RAMSEY. The friends of the measure were willing to require but fifty miles, but those opposed to it insisted on one hundred miles, and as I saw that this was a very critical time for the company, the charter expiring in July, I thought I would rather take it than have a controversy.

Mr. SHERMAN. This road is two thousand miles long, and it is to be completed, according to the terms of the present law, in ten years, which would be two hundred miles a year. It will never be built, even under this charter, unless built within five or ten years.

Mr. POMEROY. In regard to land-grant railroads, at first, when they are getting their capital and getting into operation, fifty miles a year is as much as they ought to be required to build. If they can build one hundred miles it is their interest to do so, and they will do it, but it is an unreasonable requirement to compel them to do it on penalty of forfeiting their grant. If this company were endowed with subsidies of money or bonds, such a requirement would not be unreasonable, but they have no such resources; they have to rely on voluntary capital, and they cannot even use the lands until after the road is built, and they must build at least twenty miles before they get any land at all. I think fifty miles a year is as much as they ought to be required to build, and as much as should be required of any land-grant railroad in this country anywhere.

Mr. RAMSEY. I should be very glad, indeed, if the Senate would vote down the amendment.

Mr. HENDRICKS. I agree with the suggestion made by the Senator from Kansas, that the requirement in the case of a grant like this,

of the construction of more than fifty miles a year, is simply in advance to require that which we know will not be complied with, and at another session of Congress we shall be called upon to pass over the failure to comply with a condition which is not practicable, as Senators will see if they reflect one moment. This road is to be constructed from the western point of Lake Superior out into the wilderness. It reaches a desirable country when in the neighborhood of the Red river of the North. There is a splendid country, and as soon as the road shall have reached that region I look for good settlements to be made along that river. Passing the rich land that is watered by that stream, the road must then find its way into Montana before it can expect any great additional support.

Now, sir, this is a great work. If it can be accomplished with the aid of the land grant it is one of the greatest achievements this country has ever contemplated. Passing then beyond Montana across the mountains toward the Pacific scope it will reach again a desirable country; but for the main, after you have exhausted the business of Montana and the business in the neighborhood of the Red river of the North, the road must rely upon its great Asiatic trade; and I think that it has advantages to secure that trade of a very important sort which I do not propose now to discuss. But all that is proposed to this road is to give it lands that are to-day not worth one cent per acre to the Government. There is not a Senator here who would give for that vast region of country, unaided by some work of this sort, one cent per acre. Senators forget what it is that gives value to the public lands. As they lay out hundreds of miles in the wilderness they have no present and appreciable value. It is the settler opening up his farm, building his house, commencing the enterprise of a new country, that begins to give value to the surrounding lands. This railroad is to encourage the settlement in regions of country that are very difficult of settlement. I cannot see the policy of requiring of a company that is undertaking to construct a road across that great stretch of country, relying upon the Government only for land in aid of the work, as the law now stands, a condition that cannot be complied with.

Mr. POMEROY. I hope the Senator from Minnesota will withdraw his amendment.

Mr. RAMSEY. I will withdraw it, certainly, finding such to be the disposition of the Senate.

Mr. HENDRICKS. I think we may as well say at once fifty miles a year. After the first fifty miles have been built the next one hundred will be much easier of construction, in my judgment, than the first fifty.

Mr. SHERMAN. I object to the withdrawal of the amendment. It is reported by a committee.

Mr. POMEROY. It is not reported by a committee.

Mr. SHERMAN. I object to its withdrawal until I say a word or two about it. I understood it to be an amendment agreed to by the committee. This measure really ought not to pass at all. A grant was made to the Northern Pacific Railroad Company of twice the usual land grant, four times the grant of land originally conveyed to land-grant roads. The road traverses a region of country two thousand miles long from the head waters of Lake Superior across to the Pacific ocean, through a region of country that is being rapidly developed by the discovery of mines, and by the opening of an agricultural country on the Red river. My own judgment is, that if Congress would act wisely, it would accept the surrender of this grant already acquired by lapse of time, because the parties who obtained the grant have failed to shovel a single sod of earth upon the ground, although they have had this grant for two or three years. They do not expect to move in the construction of this railroad until Congress gives them a subsidy. That is my deliberate conviction, because no progress has been made. In the mean time they hold



this grant of land. In my judgment the Northern Pacific railroad will best and most speedily be built by dividing it up in short lines of railroad between different connecting points, say one line from the head of Lake Superior to the Red river, and another line across the continent, unless it is intended to give a subsidy, when it ought to be built by one general company. I know the parties engaged in this enterprise, and they are men of character, and as they think they can make progress with their work I am perfectly willing to give them some additional time. I do not wish to impede it. They have undertaken to make a continental road, which is an important one, and I think they ought to be required to make one hundred miles a year. At that rate it will require twenty years for its completion. Is the whole of this vast region of country to be held apart from settlement, the land reserved from cultivation, until a single corporation can build a line across the continent? Why, sir, in twenty years from this time this country will be teeming with population. I have no doubt of it. Three years make a revolution in a new country like Montana on the line of this road; and, in my judgment, in ten years from this time the region of country on the Red river of the North will probably apply for admission as an independent State. Why, then, give to a single corporation power over half a strip of country forty miles wide and two thousand miles long for a period of forty years; for at fifty miles a year it would take forty years. Sir, it is preposterous.

When these objections were stated to the men interested in this matter, they knew very well that Congress would never consent to hold back the settlement of that vast region of country that a single company might have a monopoly of a great grant for a line over two thousand miles long. It seems to me that if we were acting technically we had better let this grant go, let these gentlemen who have not yet undertaken the work that they proposed to complete—the time being out in July—give way to others; let others undertake the work and try to push it forward. But I do not believe better men than these can be got to do it, and therefore I was willing to grant them a reasonable time. Two years, as the Senator from California says, is a reasonable time. Within that time they must commence the work, and one year after the expiration of two years they must build one hundred miles, and one hundred miles a year after that, according to this amendment. It seems to me that is little enough.

The limit of time for the completion of the road, I believe, is fixed at ten years, which would require them to build it at the rate of two hundred miles a year. That may need some modification; but after the first two or three years they could readily build one hundred miles a year until the country is developed, and then they would no doubt be compelled to build the whole road within a reasonable time. That ten years is enough to build a road across the continent is shown by the actual fact that the great Pacific railroad will be built probably in five years from the time the first shovel was put in the ground. It does not require the same time to build a railroad on these vast elevated plains in the West that it does in the East, in New England, and in Ohio; but even in Ohio we have built one hundred or two hundred miles of railroad a year, and in one case three hundred miles were built through a difficult country in Ohio and western New York in a single year. I refer to the case of the Atlantic and Great Western road. It seems to me that the provisions of this resolution, with the amendments proposed, are reasonable, and it is all that we ought to do now. It is certainly all that I am willing to do.

Mr. TRUMBULL. I dislike to interrupt the Senator, but I hope we shall take up the order of the day for one o'clock.

The PRESIDENT *pro tempore*. The morning hour having expired, the unfinished business of yesterday is regularly before the Senate.

Mr. RAMSEY. I hope we shall be allowed to take the vote on this joint resolution.

Mr. POMEROY and others. Let us take a vote.

Mr. CONNESS. It will not take a moment to dispose of the resolution.

Mr. SHERMAN. I think there is no objection to coming to a vote. I have no desire to defeat the passage of the joint resolution. I only wish to stand by what we understood before.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is before the Senate, being the bill for the admission of Arkansas.

Mr. CONNESS. I move, with the consent of the Senator from Illinois, that that bill be postponed for ten minutes.

The PRESIDENT *pro tempore*. The special order can be passed over informally, if there be no objection.

Mr. TRUMBULL. If a vote can be taken on this matter at once, I shall not object.

Mr. CONNESS. It can.

The PRESIDENT *pro tempore*. It cannot be taken unless Senators stop talking.

Mr. TRUMBULL. If anything further is to be said upon it, I must insist on the special order.

The PRESIDENT *pro tempore*. The special order is laid aside informally, no objection being made, and the question is on the amendment to the Northern Pacific railroad resolution, by striking out "fifty" and inserting "one hundred," in line thirteen.

Mr. RAMSEY. I withdrew the motion to amend.

The PRESIDENT *pro tempore*. The Senator cannot withdraw the amendment, it being reported by a committee.

Mr. HARLAN. I think that amendment ought to be adopted. It provides that one hundred miles shall be constructed the first year next following two years after the commencement of the work, so that it is within three years that the one hundred miles are to be built, if the amendment should be adopted.

The amendment was agreed to.

Mr. RAMSEY. I move further to amend the joint resolution by striking out in lines fifteen and sixteen "1883" and inserting "1878."

The amendment was agreed to.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

#### BILL RECOMMITTED.

On motion of Mr. COLE, the joint resolution (S. R. No. 27) to authorize the leasing of certain real estate in San Francisco, was recommitted to the Committee on Commerce.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Secretary of the Interior, relative to the necessity of immediate provision being made for relieving the wants of friendly Indians in the Northern Central and Southern superintendencies; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### EXECUTIVE SESSION.

Mr. ANTHONY. There is a necessity for a short executive session of not more than five minutes, and the Senator from Illinois does not object to it. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 425) for the relief of Mary A. Filler;

A bill (H. R. No. 553) for the relief of A. W. Ballard;

A bill (H. R. No. 938) to authorize the sale of twenty acres of land in the military reservation at Fort Leavenworth, Kansas;

A bill (H. R. No. 1128) for the relief of Isaac Watts;

A bill (H. R. No. 1129) for the relief of the widow and children of Colonel James A. Mulligan, deceased;

A bill (H. R. No. 1130) for the relief of H. G. Aukeny, late captain fourth Iowa infantry;

A bill (H. R. No. 1077) for the relief of O. P. Shiras;

A bill (H. R. No. 1081) for the relief of John A. Neustaedter;

A joint resolution (H. R. No. 256) for the relief of Martha E. King;

A joint resolution (H. R. No. 280) for the relief of Mrs. Ella E. Hobart; and

A joint resolution (H. R. No. 281) authorizing the issue of clothing to company F, eighteenth regiment United States infantry.

#### REPRESENTATION OF ARKANSAS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress, the pending question being on the following motion, submitted by Mr. EDMUNDS yesterday:

That the bill be recommended to the Committee on the Judiciary, with instructions to report the same so amended as to provide for the immediate inauguration of the officers elected under the new constitution in Arkansas, and for the immediate termination of the functions of all persons now and heretofore exercising civil duties in said State, and so as to provide for the continuance of the present military government in aid of said officers until said State shall be admitted to representation in Congress, and to provide for the admission of said State when the article proposed as article fourteen shall become a part of the Constitution of the United States.

Mr. WILSON. Mr. President, anxious for the passage of this bill and all bills that shall admit the reconstructed States to representation, I shall trespass but a few moments upon the time of the Senate. The debate has now run through three days, and the ear of the Senate has been wearied with the recital of legal opinions so often proclaimed in the years of the past and so familiar to Senators. I would cast aside this cheap legal learning that has so often burdened the debates of Congress and come to the practical consideration of the real questions involved in this and kindred measures for the restoration of the States recently in rebellion.

Three years ago the military power of the rebellion was broken and its civil power disappeared. When the conquest of the rebel power was complete the President inaugurated a policy that in a few months gave governments to the subjugated States and placed the control of those governments completely in the hands of men distinguished for their devotion to the lost cause of the confederate States. In one brief year loyalty was trampled down and the spirit of the rebellion swayed the councils and controlled the policy of those States.

Two years ago Congress submitted as the basis of adjustment the constitutional amendment. That amendment was scornfully rejected by the triumphant rebel governments. The riots at Memphis and the bloody massacre at New Orleans manifested to Congress and the country the bitterness of rebel hate and the lawlessness and strength of rebel power.

Little more than one year ago Congress grappled with the rebel power by the enactment of that great measure for the better government of the rebel States which gave suffrage to three quarters of a million of ever loyal black men. The work of reconstruction and restoration was then begun. During the past year the friends of reconstruction and restoration on the basis of loyalty and liberty have toiled with unsurpassed earnestness, fidelity, and courage. They have struggled against the influences of the fifteen thousand State officials we unwisely left in possession of power. They have struggled, too, against the malign influences of the civil officers of the United States. They have been forced to struggle against the commanding influences of wealth, of intelli-

gence, and social life. The few loyal white men who ever remained true to their country, the seven hundred thousand newly enfranchised black men, the men from the loyal North who had sought homes in the land of the rebellion where so many of their comrades lay buried, and a few thousand repentant rebels, have battled during the past year for the restoration of the rebel States on the basis of loyalty and impartial liberty.

They elected ten constitutional conventions by decisive majorities; have framed nine constitutions, and have ratified the constitutions in seven States by a popular majority of more than one hundred thousand. They have elected thirty-three Representatives, twenty-eight Republican and five Democratic, and two Republican Senators, and are ready at the earliest moment to elect twelve more Republican Senators.

Seven States have complied with the terms and conditions we imposed upon them, so far as they can do so without further legislation on our part or further action on the part of our military commanders. These States are here asking us to redeem our plighted faith by restoring them to their practical relations. Who of us dreamed one year ago that these seven States, with loyal Representatives and constitutions indorsed by one hundred thousand popular majority, would be here demanding restoration and admission? And yet, sir, this is the fourth day of the debate in the Senate of the United States on welcoming back one of these returning sister States. Sir, I would welcome back these States with their reformed constitutions and loyal representation with a glad heart, with bonfires and illuminations. What do these returning States bring back with them? They bring back seven States pledged to the unity of the Republic, impartial liberty, equal suffrage to all classes and conditions of men, without distinction of color or race. These returning States bring us constitutions republican in form and spirit. The most republican constitution in the land is the constitution of North Carolina. I bid them welcome, a thousand times welcome, into the sisterhood of loyalty and unity.

The men who have fought in these States the great battle of restoration on the basis of loyalty and equality of rights and privileges are under the ban and proscription of the rebel officers whom we left in power. They are under social proscription. These brave men, who had carried reconstruction, have been compelled to act against the most powerful opposition. Professional men have been socially proscribed, merchants have been ruined, mechanics have been beggared, and laboring men have been dismissed from employment by hundreds of thousands. Thousands have been reduced to beggary and almost to starvation; many have been insulted and some murdered. Some are from their homes proscribed for their fidelity to our policy, who dare not return to their homes until we allow the officers whom they have chosen to take possession of their State governments, and by legislation, by law, and by State authority throw the shield of protection over them. And yet, sir, every effort to turn the rebel officers in those States out of power, to put the governments of those States into the hands of loyal men, as true to the country and to liberty as we are, men who have risked more than we have risked, and who have done what we have never been called upon to do, is resisted in every form. Away with all these quibbles, these doubts and fears. Admit Arkansas and her returning sisters at once, and hail and welcome our brave comrades who bring back these States as trophies of the battles they have fought and the victories they have won.

I am for the immediate passage of this bill for the admission of Arkansas; and when we have admitted that State, I am for proceeding at once to admit the other six States now ready for restoration. I will never consent to the adjournment of Congress until these seven States, that have ratified their constitu-

tions and elected their State officers, are admitted to representation and their representatives take their seats in these Chambers.

But we are told that these States must not come in until the fourteenth article of amendment becomes a part of the Constitution of the United States. Pass this bill; admit Arkansas, North Carolina, South Carolina, Georgia, Florida, Louisiana, and Alabama, and within forty days that amendment will become a part of the Constitution. Twenty-two States, including Arkansas, have adopted that article of amendment, and there are six States with Legislatures ready to adopt it whenever we enable them to do so. When these six States shall have adopted it, then twenty-eight States will have adopted it and it will become, if it is not already, a part of the Constitution. I believe that constitutional amendment, submitted by the Thirty-Ninth Congress, is already a part of the Constitution of the United States, but many of the ablest legal minds of the country doubt or deny it. The Legislatures of Ohio and New Jersey have withdrawn the assent of those States to its adoption. Whether they have a right to do so or not, if the question remains an open one, other States may follow their example. Oregon votes next Monday, and it is possible that she may elect a Legislature opposed to the constitutional amendment, and that that Legislature may withdraw the assent of that State.

If twenty-eight States are necessary to the adoption of that constitutional amendment, I implore the friends of that amendment to admit these seven States at once, and thus secure the twenty-eight States necessary to make the amendment a part of the Constitution. If the votes of twenty-eight States are necessary, then let us avail ourselves at once of the proffered vote of these States. The black men of the South, to whom we intrusted the grand work of restoring the rebel States upon the basis of loyalty, liberty, and manhood suffrage, have, with unsurpassed fidelity to principle and at a sacrifice that no people in our country were ever summoned to make, achieved the victory in seven States. To them belongs the high honor of restoring seven rebel States, and of incorporating into the Constitution those provisions that define American citizenship and give it protection everywhere within the limits of the Union, the laws of any State to the contrary notwithstanding. I make no partisan appeals. I would vote for the admission of Arkansas if I believed she would cast her vote against the party of unity and liberty in the coming contest. In this work of restoration we must trust the whole people of those States and abide the consequences. But, sir, I want the loyal people of these States to share with us in the coming struggle that shall settle or unsettle all that has been achieved in the field and in the councils of the nation during the last eight years. The men who have been so true, who have borne so much, suffered so much, resisted so much, surely cannot fail us in the great battle that is to settle forever the issues we have fought for on bloody fields and struggled for in these Chambers. I believe that these seven States now demanding admission, if restored at once, will give more than one hundred thousand majority for General Grant.

I hope that the motion made by the Senator from Vermont [Mr. EDMUNDS] will receive no support in the Senate. I hope, too, that the motion made by the Senator from Connecticut [Mr. FERRY] will not prevail. Gentlemen of great legal learning tell us that it has no force in law whatever; other gentlemen, equally learned in the law, tell us that it has the binding force of law. Whether it has legal force or not there is I am sure moral power in it. If, hereafter, any attempt is made to change that portion of the Constitution that guarantees equal rights and privileges to all, the friends of equal rights will lean upon this fundamental condition for support. So believing I shall vote against the amendment and all amendments, and for the bill as it came to us from the House of Representatives. I wish that the loyal rep-

resentatives of these seven States could at once take their seats with us in these Chambers. Then we could, in the language of that great convention representing three millions of voters, recently assembled at Chicago, "congratulate the country on the assured success of the reconstruction policy of Congress."

Mr. FRELINGHUYSEN. Mr. President, I fully sympathize in my opinions and feelings with the remarks of the Senator from Massachusetts as to the propriety, at the earliest possible day, whatever may be their political complexion, of having the States admitted to representation in the Union. But, sir, I cannot agree with the Senator in saying that the Senate ought to pass the bill for the admission of Arkansas as it comes to us from the House of Representatives. That bill contains this provision:

That the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at common law; whereof they shall have been duly convicted.

In other words, the bill provides that for all time the State of Arkansas, without forfeiting her position in the Union, and her right to representation, shall never make it requisite that a voter shall have the ability to read as a qualification; that they shall never have the right to change the time of residence required as a qualification of voting, or otherwise modify the qualification of suffrage; this bill holds that State down for all time to the rigid rule of the present constitution. For this reason, I think that this fundamental condition ought to be stricken out.

The Senator from Missouri [Mr. DRAKE] has introduced an amendment to take the place of this fundamental condition, which amendment contains three propositions: first, that the fourteenth amendment shall be a part of the constitution of Arkansas; second, that the fourteenth amendment shall become a part of the Constitution of the United States; and third, that there shall be no change in the qualification of suffrage on account of race or color. As to the first proposition, that the fourteenth amendment shall become a part of the constitution of Arkansas, it is entirely unnecessary, as the Legislature of Arkansas has already adopted that amendment.

Mr. HOWARD. Is there any evidence before the Senate of that fact?

Mr. FRELINGHUYSEN. Yes, sir; there is no doubt about it.

Mr. CONKLING. Certainly; we have the official evidence.

Mr. FRELINGHUYSEN. As to the other proposition, that the fourteenth amendment must become a part of the Constitution of the United States before Arkansas is admitted, I have a word to say. In the first place, that amendment has been adopted by twenty-three States, including Ohio and New Jersey, or twenty-one without those States. There are eight States now ready to be admitted, and probably will be admitted in the course of forty days. If Arkansas does all that Arkansas can do toward making that fourteenth amendment a part of the Constitution of the United States, I think she is entitled to come here. I have not heard any reason given to the pertinent question put by the honorable Senator from Indiana [Mr. MORTON] as to how the admission of Arkansas into the Union, since she had voted in favor of making the fourteenth amendment a part of the Constitution, imperils or interferes with the fourteenth amendment becoming a part of the Constitution, and there is no answer that can be given to it. Certainly we do not render it less probable that the fourteenth amendment will become a part of the Constitution by admitting Arkansas, which has adopted it.

Mr. FESSENDEN. Suppose Arkansas should repeal that vote, as other States have done?

Mr. FRELINGHUYSEN. Mr. President, I hold that neither Arkansas nor Ohio nor

New Jersey has any power or right, after having ratified an amendment to the Constitution, to withdraw that ratification. A State gets all the power it has on the subject of amending the Constitution from that instrument itself. The Constitution gives Congress the power by a two-thirds vote to propose an amendment to the Constitution, and gives the State power to ratify it or to reject such amendment. When the State has ratified the amendment, the power conferred by the Constitution is spent.

Mr. HOWE. What if it rejects?

Mr. FRELINGHUYSEN. My friend from Wisconsin asks me, what if it rejects? The case is entirely different. I may refuse many times to make a contract and I am under no new obligation; but if I make the contract once, I am bound. A State may refuse many times to make a grant or to give a charter, and its obligations are not changed; but if the State once does give the grant or make the charter, then it falls under new obligations. The ratification of an amendment by one State affects and influences other States, and if it is a mere experimental thing and not final, it is bad faith to the other States; and, besides, we never can tell what is the fundamental law of the country. It will never do to recognize the right of a State to withdraw its ratification.

But what probability is there that these States, whose Legislatures are elected for two, and, I believe, in one case for four years, would repeal their ratification?

Mr. WILSON. The Senate of Arkansas are elected for four years and the House for two years from next January.

Mr. FRELINGHUYSEN. But, again, I submit that the fourteenth amendment is now a part of the Constitution of the United States, and I think the Senators on this side of the Chamber must so hold. Ten States are more than one-fourth of the whole number of States; and can it be true that ten States can rebel against this Government and make an amendment of the Constitution necessary, and then have the legal and constitutional right to defeat the adoption of the amendment which their treason has rendered necessary? Why, Mr. President, if the fourteenth amendment is not adopted the thirteenth amendment is not; and then is slavery abolished? The fourteenth amendment has the ratification of three-fourths of the loyal States, and that is all the thirteenth amendment has. We have declared that the Legislatures of these other States which were in rebellion which have ratified the thirteenth amendment were not legal Legislatures; and further, if by reason of their rebellion the rights of the rebel States were not forfeited, this Congress was not a constitutional body having the ability by a two-thirds vote to submit either amendment.

I do not see the argument by which to avoid the conclusion that the fourteenth amendment is now a part of the Constitution.

The other proposition contained in the amendment of the Senator from Missouri is, that Arkansas shall be admitted on the fundamental condition that there shall be no change in the qualification of voters by reason of race or color. The principle I am in favor of; but, adopting the views of the Senator from New York, [Mr. CONKLING,] in his argument yesterday, I seriously doubt our right to impose any fundamental conditions on a State; I am willing, however, to vote for a provision which will prevent any change in the right of suffrage on account of race or color, if the Senate holds that such a provision is constitutional, even while I entertain serious doubts as to the validity and force of such a provision.

Mr. BUCKALEW. Mr. President, I would prefer speaking to this bill after the amendments have been disposed of; but I am admonished by my experience in the Senate that if, desiring to discuss the main question involved in the bill, I shall wait until the debate runs out on the amendments, I shall hardly have an opportunity to be heard. It is the habit of the Senate to discuss the whole question, or all the questions involved in the bill, upon the most

insignificant amendment which may be proposed to it. I think this is a very inconvenient and objectionable mode of transacting public business, but such is the habit of the Senate, and being the habit or custom of the Senate members are obliged to conform themselves to it, and somewhat irregularly to discuss the main features of a bill when the proposition pending may be a matter of insignificant detail.

As I desire, then, to be heard upon this question of admitting the State of Arkansas to representation in the two Houses of Congress, I conclude I shall be obliged to go on before these amendments or motions of delay are disposed of, if I am to be heard at all, or to be heard in a satisfactory manner; because at the end of a prolonged debate, when the Senate is wearied with the subject and is anxious to conclude its labors upon it; when perhaps the pressure of some dinner hour or of some protracted evening hour is upon us, Senators have very little opportunity for a hearing and a fair consideration of their views. But a gentleman near me suggests that a vote may be taken without much difficulty upon this question of reference, and I will stand aside for a moment if that object can be reached.

Mr. POMEROY. I hope we shall take the vote on the question of reference. If the bill is to be referred, it will not be necessary to discuss the amendment.

Mr. WILLIAMS. I wish to have it distinctly understood that any Senator who votes for this resolution proposed by the Senator from Vermont, votes to affirm the doctrine distinctly that the fourteenth amendment is not any part of the Constitution by virtue of the ratification of three-fourths of the loyal States, a proposition the correctness of which I am not now prepared to admit. Of course I know the impatience of the Senate, and I refrain from description; but I do not wish to acquiesce in that doctrine; and I should be glad if opportunity was afforded to discuss the question as to the constitutional power of a State to rescind a ratification once made. In my humble opinion, if there is any proposition clear in law it is that a State has no such power. But I wish to call the attention of the Senate to the nature of this resolution before the vote is taken.

Mr. SHERMAN. I am satisfied the question of reference will open the whole debate, because a reference at this stage of the session will be, substantially, the defeat of the bill. I hope the Senator from Pennsylvania will proceed now if he wishes to do so; or if we can take the question without debate, let us do so.

Mr. FESSENDEN. What is the question?

The PRESIDENT *pro tempore*. The question is on the reference of the bill with the amendments to the Committee on the Judiciary, with instructions.

Mr. FESSENDEN. I should like to hear those instructions read.

The Chief Clerk read the motion of Mr. EDMUNDS, as follows:

That the bill be recommended to the Committee on the Judiciary, with instructions to report the same so amended as to provide for the immediate inauguration of the officers elected under the new constitution in Arkansas, and for the immediate termination of the functions of all persons now and heretofore exercising civil duties in said State, and so as to provide for the continuance of the present military government in aid of said officers until said State shall be admitted to representation in Congress, and to provide for the admission of said State when the article proposed as article fourteen shall become a part of the Constitution of the United States.

The PRESIDENT *pro tempore* put the question on the motion to recommend, and declared the yeas appeared to have it.

Mr. DOOLITTLE. The honorable Senator who made the motion is not present, and it would seem to be indecorous to him that the question should be taken in his absence.

Mr. STEWART. I call for the yeas and nays on the motion.

Mr. FERRY. They were ordered yesterday.

Mr. CONKLING. I wish to add to what the Senator from Wisconsin said—it did not occur to me before—the Senator from Vermont stepped out a moment ago on a necessary errand, saying to me that he was obliged

to go out for a moment, but he wished to be here before the vote was taken.

Mr. STEWART. We can send for him when the yeas and nays are ordered.

Mr. POMEROY. The yeas and nays were ordered yesterday.

Mr. ANTHONY. The discussion may just as well go on on the question of reference. I hope we shall wait until the Senator from Vermont comes in before taking the vote on his motion.

Mr. BUCKALEW. I can speak as well at one time as another.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania is entitled to the floor.

Mr. BUCKALEW. Mr. President, although the debate upon this question of the admission of Arkansas to representation in Congress has been continued through two or three daily sessions, very little has been said, in my opinion, upon the real or material points which are involved in the bill sent us by the House of Representatives. I am opposed to the passage of this bill, and will endeavor, within as brief a space of time as possible, to state those objections in a fair and candid manner.

I protest, in the outset, that I am not, so far as I know, moved or prompted in this opposition by political prejudice or by any impulse of political interest. I think it very likely that if any one of the States of the South shall vote in accordance with my ideas of public policy, or according to my preferences as between parties, it is as likely to be this State of Arkansas as any other. I come to that conclusion from the facts which are before us, the division between the two races of population in that State as to numbers, and other facts which I need not now recite.

But, sir, I find lodged in my mind and operating upon my judgment objections to the passage of this bill which I cannot overcome. They are not objections which are general to all the States of the South, with reference to which legislation is now proposed in the two Houses of Congress. They are not objections which go back to the reconstruction act of March 2, 1867, or to the several supplements to that act which have been since enacted by the two Houses of Congress. I hold such objections, to be sure; but my opposition to Arkansas is not confined to them. There are objections applicable to this particular case, growing out of its particular facts, which, in my judgment, appeal to fair and honorable members of the Senate in a manner not to be resisted, if they are to form their opinions and to vote with reference to the merits of the question independent of other considerations.

The first class of objections which I have to this House bill in any form, whether as sent to us or as proposed to be amended, are objections to the new State constitution or to particular provisions contained in it. In the first place, I object to those provisions which are found on page 38 of House Executive Document No. 274 of the present session, which relate to the exemption of property from levy and sale upon judicial process. It is true this objection alone might not be sufficient to overrule the demand of a State to be heard in the Halls of Congress where the laws of the country are to be made. I mention it, however, in connection with the others, and it is in itself an objection of no slight importance and deserves a very considerable degree of attention. The twelfth article of the constitution provides as follows:

"Sec. 1. The personal property of any resident of this State to the value of \$2,000, to be selected by such resident, shall be exempted from sale on execution or other final process of any court issued for the collection of any debt contracted after the adoption of this constitution."

"Sec. 3. Every homestead not exceeding one hundred and sixty acres of land, and the dwelling and appurtenances thereon, to be selected by the owner thereof, and not in any town, city, or village; or in lieu thereof, at the option of the owner, any lot in a city, town, or village, with the dwelling and appurtenances thereon, owned and occupied by any resident of this State, and not exceeding the value of \$5,000, shall be exempted from sale on execution or any other final process from any court."

The fourth section provides that in case of



the death of a debtor without children this exemption shall extend to his widow during her widowhood.

The fifth section provides that—

"The homestead of a family, after the death of the owner thereof, shall be exempt from the payment of his debts in all cases during the minority of his children, and also so long as his widow shall remain unmarried, unless she be the owner of a homestead in her own right."

We find, then, that in the State of Arkansas, as it is proposed to reorganize her, good faith may not be enforced between citizens or "residents" of that State (as the expression is) in most cases of pecuniary demand. These provisions of the constitution are not to be confined to citizens, but to extend to every person who shall go there as to a city of refuge to escape obligations which are imposed upon him elsewhere. Any citizen or resident of the State of Arkansas will be free and exempt so long as the constitution shall endure against keeping the faith which he may have contracted to others in his pecuniary transactions in most cases which will arise. If he break faith, if he violate his word, if he trample upon an obligation of duty after having voluntarily assumed it, it is not competent for the Legislature or courts of Arkansas to enforce his obligation against him unless the value of his property shall exceed the sum of \$2,000 of personal property and \$5,000 of real estate. In other words, there will be no collection of debts or enforcement of contracts in the State of Arkansas under this constitution unless they are of large magnitude, when, of course, the bankrupt law of the United States can be conveniently applied to them. That bankrupt law will apply to large speculators, to extensive operators, to enable them to wipe out their indebtedness to others, while the constitution of the State, as to all ordinary transactions, and as to the great mass of persons, will interpose to prevent the enforcement of good faith.

What a contrast this presents to the condition of the law in our States North—in my own for instance, where, from motives of humanity, the laws have exempted \$300 worth of property to an indebted man and to his family, so that the pressure of extreme and severe want shall not enter his dwelling, that he shall not be stripped of the last remnant of property which he has accumulated by the industry of himself and his family, and thus be made a pitiable spectacle of human misfortune. The principle of exemption is a just and benevolent one, and it ought to be incorporated in the legislation of every civilized State. But a reasonable exercise of this just authority of government to exempt is one thing, while its unreasonable exercise in establishing a nondescript State of the American Union is quite another; and when we come to consider that these particular provisions of the constitution were intended to meet exactly the case of the persons who made this constitution, whether negro, carpet-bagger, or other person, having but little stake in civil society so far as the ownership of property is concerned, and come also to consider the inevitable effect of these provisions, our conclusion must be that the constitution is both odious and imprudent, and that the State should not be admitted to representation under it.

Again, sir, I object to the suffrage provisions in this constitution; I mean those of an enduring character. There are several provisions regarding the exercise of the right of suffrage at the first election for State officers and upon the adoption of the constitution to which I shall refer hereafter. At present I refer to those provisions relating to suffrage which are permanent in their operation, to be found at pages 33 and 34 of the House Executive Document to which I have before referred. In the first place, I will read section two of article eight:

"Every male person born in the United States, and every male person who has been naturalized or has legally declared his intention to become a citizen of the United States, who is twenty-one years old or upward, and who shall have resided in the State six months next preceding the election, and who at the time is an actual resident of the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector."

And then follows a provision excluding soldiers in the service of the United States. Then comes section three:

"Sec. 3. The following classes shall not be permitted to register or vote or hold office, namely:

"1. Those who during rebellion took the oath of allegiance or gave bonds for loyalty and good behavior to the United States Government, and afterward gave aid, comfort, or countenance to those engaged in armed hostility to the Government of the United States, either by becoming a soldier in the rebel army or by entering the lines of said army, or adhering in any way to the cause of the rebellion, or by accompanying any armed force belonging to the rebel army, or by furnishing supplies of any kind to the same."

Whether furnished under duress or furnished voluntarily, for aught that appears upon the face of that section.

"2. Those who are disqualified as electors or from holding office in the State or States from which they came."

"3. Those persons who during the late rebellion violated the rules of civilized warfare."

"4. Those who may be disqualified by the proposed amendment to the Constitution of the United States, known as article fourteen, and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Arkansas, under the act of Congress entitled 'An act to provide for the more efficient government of the rebel States,' passed March 2, 1867, and the acts supplementary thereto."

That is, any citizen of Arkansas who has not been registered under the congressional proceeding inaugurated by the act of March 2, 1867, no matter whether his rejection or his failure to register be innocent or not, shall not vote under this constitution. That registration, we all know, was very irregular. There were vast numbers of persons excluded from the right of voting under that registration who were clearly entitled, and who, if the question were left open, would hereafter be able to vindicate their right. They are excluded, however, by this fourth division of the third section, especially when it comes to be administered by unfriendly officials:

"Sec. 4. The General Assembly shall have the power, by a two-thirds vote of each House, approved by the Governor, to remove the disabilities included in the first, second, third, and fourth subdivisions of section three of this article, when it appears that such person applying for relief from such disabilities has in good faith returned to his allegiance to the Government of the United States: *Provided*, The General Assembly shall have no power to remove the disabilities of any person embraced in the aforesaid subdivisions who, after the adoption of this constitution by this convention, persists in opposing the acts of Congress and reconstruction thereunder."

What does that mean? Whether construed by its authors or by us, its unquestionable meaning is, that any person of the classes mentioned who votes against the adoption of the constitution when it is submitted to a vote of the people, or otherwise opposes it, shall be excluded from the right of suffrage hereafter, although the Legislature may be willing to remove his disability. Any person who opposes reconstruction after the convention itself agrees to the constitution shall be put beyond the reach even of legislative clemency and mercy in future. They cannot restore him to the privileges of citizenship, or to the highest privilege of citizenship, the right of voting. What is this but a threat held forth to every inhabitant of Arkansas coming within the classes to which reference is made, that if he votes against the constitution after the convention has agreed to it or indicates opposition to it in any way, he shall be beyond the reach even of the mercy and indulgence of the Legislature of his State, and must remain disfranchised forever?

Then comes the fifth section:

"Sec. 5. All persons, before registering or voting, must take and subscribe the following oath: 'I, \_\_\_\_\_, do solemnly swear, or affirm, that I will support and maintain the Constitution and laws of the United States, and the constitution and laws of the State of Arkansas; that I am not excluded from registering or voting by any of the clauses in the first, second, third, or fourth subdivisions of article eight of the constitution of the State of Arkansas; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right, privilege, or immunity enjoyed by any other class of men; and, furthermore, that I will not in any way injure, or countenance in others any attempt to injure any person or persons on account of past or present support of the Government of the

United States, the laws of the United States, or the principle of the political and civil equality of all men, or for affiliation with any political party: *Provided*, That if any person shall knowingly and falsely take any oath in this constitution prescribed, such person so offending, and being thereof duly convicted, shall be subject to the pains, penalties, and disabilities which by law are provided for the punishment of the crime of wilful and corrupt perjury."

Mr. President, taken altogether, this eighth article of the constitution, in my judgment, is not republican in form or in substance. It creates rules of disfranchisement which remove this constitution out of the category of republican forms, while at the same time it does substantial injustice and wrong to a large mass of the population in the State of Arkansas. One peculiar feature of enormity and wrong in these provisions is, as I have already suggested, that they attach themselves to the proceeding of military registration, adopt that as the standard for the future, and prevent the correction of those innumerable cases of injustice and of mistake which occurred under that registration. It is my purpose to bring these points to the attention of the Senate, and not to elaborate them or to declaim upon them, supposing that every member to whose notice the facts are brought is as competent as myself to draw the just and necessary conclusions which arise upon them.

I now turn to another class of provisions relating to suffrage which are temporary, as I said before. They are found in the schedule of the constitution. Here is section ten of the schedule:

"No person disqualified from voting or registering under this constitution shall vote for candidates for any office, nor shall be permitted to vote for the ratification or rejection of this constitution at the polls herein authorized."

What does that mean? It means that these extreme rules of disqualification established by the constitution for the future shall be applied and shall operate at the first election before the State is reorganized or admitted to representation in Congress. No person shall vote upon the question of adopting this constitution, or vote for any officer under it at the first election, who is disqualified by any of the clauses which I have read in the eighth article; that is, this constitution shall take effect before it is adopted; its rules of exclusion shall come into action before it is accepted by the people.

What is that but putting the pleasure of the members of the convention as the constitutional rule for the first election of State officers and for the adoption of the constitution itself? Clearly, upon any proper principle, they were not authorized to make such a provision, to make their own will the constitution of the State for the time being—unquestionably not. Such a proceeding as that would not be permitted in any State now represented in Congress in modifying the State government by framing or amending a constitution. If a convention of delegates sat in Indiana or Pennsylvania, authorized to propose amendment to the constitution of the State, and they were to adopt a new rule excluding a fifth or a tenth or a twentieth of the electoral population from voting upon their amendments, everybody would cry out "shame!" upon it, and every reasonable and sound-thinking man would hold that it was an invalid provision; that the right of suffrage for the time being must be exercised under the former constitution, or under some proper and legal authority independent of the convention itself, which being called simply to propose an amended constitution, could not, before their work was adopted, put it into effect and apply it as a rule for measuring and settling the rights of the citizens of the State.

Now, sir, you will observe that these rules of suffrage in the eighth article are much more restrictive than those established by Congress. The congressional restrictions upon the right of suffrage in the States of the South as found in the reconstruction laws are liberal, benignant, benign in character and operation compared to those found in the eighth article of the new constitution. In my judgment, accepting reconstruction as a valid system, and as one to

be enforced, those reconstruction laws create the rule of suffrage during the entire proceedings of reorganization until the State shall be admitted to representation in Congress; and I hold that this convention in Arkansas had no right to lay down any new rule or condition of popular suffrage which should take effect before their work should be adopted by the people of that State upon being submitted to them in proper form.

Well, sir, what has been done since? General Gillem, who is in command in that department, has repudiated that part of the Constitution. He sent out, and very properly sent out, orders to his military subordinates to disregard it so far as regarded the military election upon the adoption of the constitution; and so you have the singular fact presented here in these official documents that the board of commissioners appointed by the convention report a tabular vote upon the new constitution, and the registrars appointed by the military commander report another vote upon the constitution; and the two not at all alike. They do not merely differ in minute particulars, but they are substantially different throughout. You have the anomaly of two elections at the same time on the adoption of the constitution in Arkansas, one held under the authority of the convention and the other held under the authority of the reconstruction laws and the military orders issued in pursuance thereof. The vote taken by the military authorities was a vote in all respects conformed to the requirements of the laws of Congress; the vote taken under the authority of the commissioners appointed by the State convention followed the rules of suffrage propounded in this eighth article and in the schedule to the constitution.

Now, sir, here is section three of the schedule:

"In voting for or against the adoption of this constitution, the words for constitution or against constitution shall be written or printed on the ballot of each voter; but no voter shall vote for or against this constitution on a separate ballot from that cast by him for officers to be elected at said election under this constitution."

So that it was impossible for an elector at this State election to vote for or against the adoption of the proposed constitution without voting at the same time for the officers who were to be chosen at that election. Whether he had a candidate or not, he must adopt the candidates on ballots printed and prepared by the convention party in order to exercise his right of voting upon the adoption of the constitution; or if he did not choose to vote for those candidates he was to take the trouble of forming a ticket for himself. The result was there was but one ticket voted for throughout the State for State officers; and, as I understand, every member of the upper and lower house of the Arkansas Legislature is of the convention party, and every State officer elected was chosen without serious opposition. The arrangements of suffrage in the tenth and third sections of this schedule were well calculated and were intended to produce an unfair election and an unjust result, and to exclude at that election for the organization of the State large masses of voters who were qualified under the acts of Congress; and all this was done upon the sole authority of the convention itself, without any delegation of power to it for the purpose from Congress or from the people. I say, then, that this constitution is anti-republican; that it violates fundamental principles, and is unfair in its arrangements for the first election as well as for future ones.

Mr. MORTON. I thought I understood the honorable Senator a few minutes ago to say that General Gillem repudiated these conditions of suffrage, and that the case presented the singular anomaly of two elections being held, one according to the terms of the reconstruction law, and the other according to the terms of the new constitution.

Mr. BUCKALEW. Certainly; that is so.

Mr. MORTON. If so, then the evil you complain of could not exist in voting against the constitution.

Mr. BUCKALEW. Not upon the voting on the constitution, but in the voting for officers in the organization of the new State; in the selection of the Legislature which elects United States Senators, and in the choice of Representatives who are to be admitted to seats in the other House of Congress. The military authorities repudiated these provisions of the schedule so far as the elections which they held upon the adoption of the constitution were concerned; but they left them in full force to be applied by the convention officers to the elections held under the authority of the convention. At those elections held under the authority of the convention votes were taken in favor of the constitution and none against it, because, under the qualification of suffrage, voting against it was discouraged and prevented; and at those elections votes were also taken for all the State officers, for members of the Legislature, and for Representatives in Congress. So that this State is actually reorganized and is presenting herself here through her Senators and Representatives upon an organization which was regulated by these clauses in the schedule, which, in my opinion, were improper and invalid.

Now, Mr. President, I come to another point. The convention of Arkansas appointed a board of commissioners, who were to have control of the State elections. The fourth section of the schedule to the constitution reads as follows:

"A board of commissioners is hereby appointed, to consist of James L. Hodges, Joseph Brooks, and the president of this convention, any two of whom shall constitute a quorum to transact business, who shall keep an office for the transaction of business in Little Rock, and who may employ such clerical force as may be necessary." \* \* \* "and who are empowered and authorized to appoint, or cause to be appointed, suitable persons for judges and clerks of election in each county in this State, to hold the election therein for all State and county officers, and for members of the General Assembly and of the House of Representatives of the United States, and also for the ratification of this constitution. Said election shall be held at such times and places in each county, commencing on the 13th day of March, and continuing on such successive days as the commissioners may direct, to secure a full and fair vote at such election."

Then follow provisions which I will omit reading. The eighth section says:

"The said commissioners shall have power to inquire into the fairness or validity of the voting upon the ratification of this constitution, and to count the votes given at said election, and shall reject all fraudulent or illegal votes cast at said election; and said commissioners shall also have power, whenever it is made to appear that fraud, fear, violence, improper influence, or restraint were used, or persons were prevented or intimidated from voting at such elections, to take such steps, either by setting aside the election and ordering a new one, or rejecting votes, or correcting the result in any county or precinct as may in such cases be just and equitable."

"SEC. 9. The said commissioners shall declare the result of the election upon the ratification of this constitution." &c. \* \* \*

"SEC. 13. In the event that either of the three commissioners appointed by section four hereof should be a candidate for any office, the other two commissioners shall canvass the vote so far as it relates to that office, and issue the certificate to the person elected." \* \* \*

"SEC. 17. The commissioners herein appointed shall receive for their services, for each day actually employed, such compensation per day and allowances, and in such manner as are now provided for members of this convention. All expenses incurred under this schedule, not otherwise provided for, shall be paid out of the appropriation for defraying the expenses of this convention."

That compensation was eight dollars per day and allowances.

Now, sir, you perceive what large powers were conferred upon this board of commissioners. They had absolute control of this State election. They were authorized to appoint all the officers who were to hold it, to make such orders as were necessary in their judgment for holding it; to receive all the returns, and not only to declare the result, but to try any question with regard to the fairness of the election or other matter which related to it. Who were they? The first man into whose hands the whole power over this election was committed was James L. Hodges, who was himself a member of the convention from the county of Pulaski, one of those in which there was an enormous fraud afterward.

He resides at Little Rock. He came into the State about the year 1865 from the North, and was employed for a time as the foreman or manager in the State penitentiary. Peay and Ayliff were the superintendents of the penitentiary under a resolution of the Legislature of 1865-66, and they had a contract with the State which was supposed to be quite profitable. They were to have the use of the penitentiary buildings, they were to have the results of the labor of the convicts, and to be paid thirty-five cents per day for each convict as an allowance; and at the session of 1866 there was an appropriation of \$15,000 for machinery and materials for working the convicts in the penitentiary.

Having the results of convict labor, having the establishment stocked with machinery and materials for working the convicts, and being allowed thirty-five cents a day for each of them, this appears to have been a liberal and lucrative agreement. It was held by Peay and Ayliff; but as there was some question about their being compelled to take a new military oath in order to hold such a position under the State, their foreman, or manager, proposed to purchase them out, and he did so, by an agreement that he was to pay each of them the sum of \$5,000 for their interest in the contract, he to assume it. That agreement was made. The consideration money, as I understand, was to be paid out of the net profits that might come from running the institution afterward.

This northern man and purchaser of the contract (who had been there but a short time) turned up afterward as a member of the convention from Pulaski county, and by a resolution adopted by the convention his penitentiary contract was ratified and confirmed to him. The convention confirmed the contract with him after a warm contest, in which others, who desired an interest in the matter themselves, or were opposed to the particular contract, resisted it. It was approved, however, and made good so far as the convention could validate it. That contract he held under the resolution of the convention pending the election. He was the leading man to manage the election, to see to it that the constitution, the work of the convention under which he held his contract, should be adopted, and that the proper men should be elected to places in the State Legislature, and to other positions of influence and power in the State, who would hold good the contract and maintain him in its enjoyment. It has been reported to me that this penitentiary superintendency is one of the most lucrative positions in the State of Arkansas, and I am almost afraid to mention the amount of money which it is alleged the incumbent can make. It is a very large sum yearly. What I have stated will manifest the interest which this commissioner had in the result of the State elections for officers, as well as in the adoption of the constitution.

The second member of this board (Joseph Brooks) was a chaplain who accompanied a negro regiment into the State during the war. He resided at Helena, in Phillips county, in the eastern part of the State, and was a delegate from that county in the convention. During the sittings of the convention, and afterward, he was accepted, and understood to be a candidate of the Republican members of the convention and of the Republican party for United States Senator, and it was understood generally that he would be selected as such if the constitution should be adopted. He acted as commissioner of election, therefore, in prospect of becoming a Senator from the State as the result of a successful proceeding under the reconstruction laws by the adoption of the constitution and the election of a Legislature favorable to the constitution, and made up of men politically friendly to himself.

The third member of this board was Thomas M. Bowen. He was a member from Crawford county, and was president of the convention. He came to the State in 1863 as a colonel in the Army, I believe in a Kansas regiment,

though he was from Iowa. Subsequently, while in service in Arkansas, he was cashiered or dismissed from the Army; I am told for alleged immoral practices. It may be that subsequently there was some proceeding in regard to his restoration, but I am unable to state the facts. At all events, he was a cashiered officer of the Union Army; who, remaining there after the war, became a member of the convention from the western part of the State, and was selected as its president.

This man was a candidate for a seat upon the bench of the supreme court of the State, and ran as such at this very election, over which he had large control in his hands. The tenure of that office, I believe, is for a period of eight years, and the salary, I am told, has been fixed at \$4,000 per annum. He had never practiced law. He had studied law in youth, as I understand, from one of the Senators from Iowa, and been admitted to the bar, but did not practice afterward. He engaged in the military service, turned up in Arkansas, and is now elected a judge of the supreme court of that State. A dismissed officer of the United States Army, unpracticed in the law, becomes a judge for eight years of the State with a good salary, and while a candidate for that office, for which he had no qualifications or fitness, he is employed as one of the three commissioners to manage and control the State election under the very extraordinary provisions of this schedule to the constitution.

What was the inevitable result of these convention arrangements? I shall not go over unpleasant details of the State election; I shall stop with the facts appearing on the face of the constitution itself, and with this explanation of the positions of the men in whose charge the election was put. The practical result of all this, sir, I repeat, was that there were few if any opposing votes at the State election; the convention party had it their own way. Throughout the State all opposition was excluded, was stifled, was rendered impossible; the convention shaped the election to suit themselves, and put it in the charge of men who would control it in their own interest, and in the interest of their political friends. It was a very unanimous election; all on one side.

Well, sir, a Legislature was chosen and it met. How was it composed? In the State of Arkansas there were fifty-eight counties, and there were appointed by the military authorities from two to three registrars in each county to enumerate the voters and to control the military election on the constitution. That would make about one hundred and forty-five altogether in the State. I am informed that nearly all of these men, almost the entire number, were candidates for office at the State election. A large part of them were sent into the State Legislature; and where they were not candidates for legislative offices, they were for other offices.

Now, sir, although the State election and this military election were separate—the one held under the authority of the convention and the other held under the military authority—they were held at the same places, or nearly together, and at the same time, and the two became to a great extent blended together, exercising an influence upon each other, and both are to be taken into account. The registrars who held the military elections, being all, or nearly all, candidates themselves for election to the various offices to be filled under the constitution, the election on which was held at the same time, had the strongest possible interest to hold their military elections so as to carry the constitution. If the constitution was carried they would get their offices at the other election. It was certain they would be elected at the other election, because there was no organized opposition to them. If, then, they could obtain by managing the military elections a majority in favor of the constitution, they were certain to take office under it. This fact is to be taken into account in examining those election returns.

It is clear that the military election, with which we are mainly concerned, was held by men throughout the State who were deeply interested in the result of the vote on the constitution; who were not independent officers, but interested ones; and to any irregularity or disregard of law which is brought to our notice as committed by them or suffered by them we are to give a construction hostile to the adoption of the constitution. It is not possible to rule any question of doubt as to a matter within the control of these officers in favor of the adoption of the constitution. They exerted all their influence and their power unquestionably to secure its success.

Well, sir, what do we find reported as the result of their labors? General Gillem's report is found in House Executive Document No. 278, commencing on the first page and extending to the sixth. He returns to the General of the Army reports made to him by the registrars showing a vote in favor of the constitution of twenty-seven thousand nine hundred and thirteen, and against it of twenty-six thousand five hundred and ninety-seven, being a total vote of fifty-four thousand five hundred and ten. Accompanying it is a tabular statement of the registration in the several counties, the aggregate of which is seventy-three thousand seven hundred and eighty-four, so that according to the report about five sevenths of the persons registered in the State voted on the question of adopting the constitution. This would give to the constitution a majority of thirteen hundred and sixteen. Is that a true return, or is it a false and fraudulent one? That is the next question to which I desire to direct the attention of the Senate.

In the county of Pulaski the number of votes polled on the question of adopting the constitution exceeded the whole number of voters registered in the county by eleven hundred and ninety-five. In the county of Jefferson the number of persons reported as voting on the constitution exceeded the whole number registered by seven hundred and thirty. In the county of Jackson it is reported that no election was held in one precinct. In Lawrence county no election was held in four precincts. In Poinsett county no election was held in one precinct. These are facts appearing on the face of the tabular return in General Gillem's report.

Now, sir, what were the provisions of law under which this election was held? The act of the 23d of March, 1867, the first supplementary reconstruction law, provided:

"That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, (at least one half of all the registered voters voting upon the question of such ratification,) the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States."

And subsequently is a provision that—

"If the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors of the State," &c.

Then the State shall be admitted again to her representation in Congress and to her place in the Union. The first reconstruction law, the act of the 2d of March, 1867, had a provision that the State may be readmitted.

Mr. President, as the law stood at the end of 1867 the persons registered by the military authorities were the only persons who could vote upon the question of adopting a constitution in any one of the ten States to be reorganized; and it appears that in the counties of Jefferson and Pulaski persons not registered, to the number of about two thousand, did vote upon the question of adopting this constitution for Arkansas. The question is whether those votes were regular and honest or not. It will be remembered that on the 11th of March of the present year we passed a supplementary act in relation to this subject of reconstruction which provides:

"That hereafter any election authorized by the act passed March 23, 1867, entitled 'An act supplementary to an act to provide for the more efficient government of the rebel States, passed March 2, 1867, and to facilitate restoration,' shall be decided by a

majority of the votes actually cast; and at the election in which the question of the adoption or rejection of any constitution is submitted any person duly registered in the State may vote in the election district where he offers to vote when he has resided therein for ten days next preceding such election upon presentation of his certificate of registration, his affidavit, or other satisfactory evidence, under such regulations as the district commanders may prescribe."

The only pretense of authority for the surplus votes in Pulaski and Jefferson counties is this act of the 11th of March, 1868; but they cannot be vindicated under that law. From the report of General Gillem it appears that he never issued any order under that act of the 11th of March. The law required that these votes should be taken according to orders which should be issued by the military commander of the proper district. There was no order, there was no regulation, there was no provision of any kind by which the persons who held these elections were authorized to receive any votes under that act. Now, sir, let us see how those votes were taken. General Gillem sent an officer to Little Rock just before he transmitted his report to General Grant, who made inquiries with regard to the regularity of the election, and his report is contained at page 23 of House Executive Document No. 278, to which I have before referred. That officer says this:

"VICKSBURG, MISSISSIPPI, April 22, 1868.

"MAJOR: I have the honor to report that in obedience to Special Order No. 76, dated Headquarters Fourth Military District, April 10, 1868, I started from Vicksburg on the afternoon of April 10, and arrived at Little Rock April 13, and returning arrived in Vicksburg the 22d instant.

"I further beg leave to report that I made investigations of alleged frauds at recent elections in Arkansas, and find the facts to be as follows:

"The registrars in Pulaski county permitted (except in the precinct of Ashley, where the election was first held) all persons who presented certificates of registration showing that they had been registered at any precinct in the State, to vote. They allowed many persons to vote where certificates showed that they were registered at other precincts and in other counties than the county and precinct where they did vote. With very few exceptions, they did not require from persons so voting any oath whatever. They did not ask persons so offering to vote if they had resided in the county or precinct any length of time whatever."

It will be remembered that the act of the 11th of March required ten days' residence in the precinct—

"The registrars did not take the names of persons so voting, or the number of their certificates of registration, or the names of precincts where such persons were registered; so that they had, and now have, no guide or check in the matter, and said registrars of Pulaski county cannot now state who thus voted or the number of such votes; but the registrars declare that they believe the excess of votes polled over the number of registered voters in the county of Pulaski is thus explained, and they cannot otherwise explain such excess. Without any doubt fourteen or fifteen hundred persons registered elsewhere voted in Pulaski. The registrars of Jefferson county pursued the same course, and allowed persons, wherever registered, to vote at any precinct where they presented themselves, taking no record of the same, and only checking such votes by marks upon the certificate of registration which was returned to the voters."

So that in these counties there is no record at all of the names of these persons. There was nothing done at the election by way of investigating their qualifications, other than requiring the presentation of certificates no matter where issued within the State; no attempt, as it would seem, to verify their identity and to prevent the same person from voting more than once; no evidence taken as to their residence, whether within the election district or within the county; in other words, no test whatever, such as was required by the act of 11th of March, in the admission of the votes of any of these persons, and an utter absence of any record of who they were so that inquiry could be made subsequently into their qualifications and claims to be regarded as electors of the State. Further on he says:

"Persons who had lost their certificates of registration, and who stated such fact under oath, were in most instances allowed to vote on duplicates then issued; and this was done even if the person who swore to the loss of certificate also stated that he was registered (as would appear by lost certificate) in another county or precinct.

"The duplicate certificate was made in accordance with terms of the sworn statement, but the registrars did not know if such sworn statements were true.



and the persons who made them cannot now be identified. No less than fifty, and probably a much greater number, of such votes were cast in Pulaski county."

He says again:

"A consolidated return was forwarded by the registrars of Jefferson county, for which they allege an excuse that they thought it 'the best way.'"

He goes on and gives a number of details, with which I shall not trouble the Senate, all tending to show irregularity and false votes. He also speaks of what is an important fact, the revision of the registration list, which took place immediately before the election:

"On the revision of registration, quite a number of persons were stricken off the books. Of this they had no notice, and on election presented their votes, which were rejected, in many instances without any explanation. As such persons generally desired to vote against the Constitution, this rejection of their votes gave them reason for believing that votes against the constitution were unjustly rejected, and the whole election fraudulent."

The only excuse that I can find in the report of this officer as made to General Gillem, or find anywhere in the documents, is this:

"No fraud by registrars appears to have been intended in this matter, as they allowed persons elsewhere registered to vote only after mutual consultation and consideration of act of Congress passed March 11, 1867, but their conduct was very unfortunate, as the registration law was thus virtually impaired. Any person who presented an uncancelled certificate of registration (the registrar could not tell if the same was forged or not) was allowed to vote, and such persons cannot now be identified."

This election began on the 13th of March, and I find from official documents that it terminated on the last day of March, the 31st, in the county of Pulaski, which was the one in which there was the largest surplus of votes; in other words, the election officers in that county commenced holding the election the 13th of March, and they went on holding it and taking votes, passing from one precinct to another down until the 31st. They received the votes of anybody who presented them a certificate from any part of the State; they required no proof of residence in the district, nor anything else required by the law, and yet we are told that these votes are to be counted by virtue of the act of the 11th of March. How preposterous! That law required explicitly a residence of ten days in the election district; it required the presentation of a certificate of registration; it required the affidavit or other satisfactory evidence of the right of the claimant to vote to be presented to the board under such regulations as the district commander should prescribe. The district commander never prescribed any regulation. None of these conditions of that act of the 11th of March were ever complied with. Of all this we have the most conclusive evidence in the official report before us.

How, then, can it be held that these votes should be counted by virtue of that act of the 11th of March, and come into this return to poison and corrupt it, and to induce us to accept this constitution of Arkansas as having been actually adopted by the people of that State?

The election officers of Pulaski county "consulted together." Yes, sir; they did consult together. The elections were held throughout the State generally on the 13th of March, and, as I have showed you, a number of precincts in other counties were not visited by the officers, and no elections were held, no votes were taken, the people were disfranchised; but here in Pulaski county they kept up their election for a period of seventeen or eighteen days, collecting votes. Is it wonderful that they have great surplus vote over their registration list, and is it not as evident as anything can be that rests on inference that all those surplus votes were fraudulent? At all events they were all illegal; they were polled by virtue of no law; they were polled in contempt of law, and in the absence of instructions from the military commander of the district.

As the act of 11th of March was passed two days only before the election on the 13th, there was no time to transmit the law to Arkansas and to have information concerning it distributed among the election officers and among the

people. General Gillem informs us in his report that he was not informed of this provision with regard to voting on certificates which I have read until the election was over. He was not notified until the election was over generally in the State that there was any such law in existence, and he could not issue instructions under it. Yet, after the election was over in the remainder of the State, when precincts in various counties stood disfranchised because the time had gone by, here in Pulaski and Jefferson counties the officers go on and take nearly two thousand votes and put them into the return and report them to the general; what for? In order to elect themselves to offices under the constitution of Arkansas. Why should not these votes be rejected? Why should not we hold that the constitution failed?

There is a suggestion somewhere that you cannot tell whether those unregistered voters voted for or against the constitution; you cannot tell how they voted; therefore you are to consider that they voted against the constitution, or that a sufficient number of them so voted as to cause no change in the result. That is the only suggestion which comes from any quarter upon which to assume that the constitution was in fact adopted. I will answer that explanation.

In the first place, the votes against the constitution returned in Pulaski county were only nine hundred and ninety-seven, which was much less than the surplus vote. Therefore a part of this fraudulent and surplus vote could not have been made up of men who voted against the constitution. That a mere glance informs us. How stood it in Jefferson county? There were seven hundred and thirty surplus votes, and the whole number of votes against the constitution was only four hundred and thirty-eight; so that there were three hundred more false votes in that county than were polled against the constitution.

Besides, it is very evident from the extraordinary conduct of the election officers in keeping up the election until the end of March, and in disregarding the regulations of law in receiving votes, that they were engaged in a fraudulent proceeding. And as they were all partisans of the constitution and deeply interested in its success, the conclusion is inevitable that the spurious votes received were in favor of the constitution.

But the extent of the fraud is not measured by the number of votes in excess of the registration. All the registered voters did not, probably, vote. Taking the State together, only five sevenths of those registered voted at the military election, and no doubt a great many did not vote in Pulaski and Jefferson who were on the registration lists.

Assuming then, that these surplus votes were polled for the constitution, it follows that that constitution was rejected in fact by the people; that instead of their being a majority in favor of it of thirteen hundred, it was in fact rejected. You have the two facts, the illegality of this vote under the law, and that its rejection defeats the constitution. General Gillem does not report to us or to his military superior that this constitution was adopted. He says this, after speaking of the objections made to the fairness of the vote, its regularity, and integrity, and explaining that he is not responsible for it, that he never gave any orders for taking these votes, but he goes on to say:

"In a question of such importance, and one purely civil in which the action to be taken by the district commander is not prescribed by section five of the act of March 23, 1867, I have determined to forward the entire record for the action of the proper authority."

It is sent to us for our judgment; the General has exercised none upon it; at all events, he has expressed none; and we are brought to the naked facts, and are to judge them for ourselves. The question, then, is whether we should take the interested action of the registrars in Pulaski and Jefferson counties, action made in their own interest as candidates, and to accommodate them put into this count two thousand votes to carry the constitution.

Now, sir, what do the reconstruction laws require in what I have read from them? They require that when the constitution of one of these southern States is sent here it shall appear to Congress that it is in point of fact adopted or agreed to by a majority of the electors of the State. That is in your law. Another provision is in the first act that a majority of the electors of the State shall have voted upon the question. But whether your law required it or not, it is an indispensable requisite to the acceptance or validity of a constitution that it shall have been agreed to by a majority of the electors of the State called upon to vote on its adoption or rejection. Is there any reason why the Senate should sink itself down to the level of these interested officers in Arkansas who run their elections by the week? I perceive none.

I believe, then, that this constitution was rejected by the people of that State. I believe that the instrument itself is, in some respects, anti-republican. I believe that its provisions are unjust as well as unreasonable, and that it is opposed to the opinions and to the interests of a majority of the people of that State. Holding these opinions I must vote against this bill. If I had had a little more leisure I should have combined together various matters of proof in this report of General Gillem bearing upon the election, and showing that it was substantially unfair, and that any apparent result reported from it is not to be relied upon as expressing the opinions of the electoral population of that State.

I forbear. I content myself with bringing distinctly before the Senate sufficient information to show that the constitution was rejected, and that it is not the act and deed even of that portion of the people of Arkansas who, under your reconstruction laws, are permitted to vote. Of course, it is opposed by all those who were excluded from registration under the act of 2d of March and its several supplements. Why, then, should the State be readmitted to representation as a member of the Union?

Sir, I cannot understand why gentlemen should disturb themselves very much about hurrying the State of Arkansas into the Union under this false election. As to civil order, the maintenance of law, the preservation of peace, the administration of justice within the limits of that State; as to her restoration to her former condition of peace and quiet as an orderly member of this Union; as to her performance of her constitutional duties as in former times, you are not to get these things from the false government which has been set up within that State. These registrars of election, who are intruded into her offices; these persons, without stake of property or of reputation, are not the men to wield the political power of that State, and to preserve her civil institutions in a condition of vigor and of purity, out of which good government may be expected to spring. When she has formed a constitution which is republican in its spirit and in substance; when she allows good faith between man and man to be enforced; when she ostracizes permanently from the right of suffrage only notorious criminals and incapable persons, and invites intelligence and honor and thrift and industry into the political organization which she sets up, and when she shall hold an election which shall be honest and lawful, it will be time for us to consider whether she shall be admitted to representation under the policy of reconstruction upon which Congress has entered, and which those who control the action of Congress have thus far pursued.

It is true that the former organizations set up by the people in Arkansas and in other States upon invitation of the President have failed. They have failed by reason of our refusal to accept them, and they are either no longer in existence or they are so crippled and enfeebled by military encroachment upon their jurisdiction and power that they are substantially of little account. Therefore there is no reason for

hurrying Arkansas in under this bill in order to prevent presidential reconstruction from molding the institutions of that State. There is no reason for hurrying her back into Congress, through her Senators and Representatives, to preserve peace, quiet, and order within her borders, because these will not be produced or maintained by this constitution and the organization of government under it. The people there know that this constitution was voted down. They know that it was rejected by probably ten thousand majority. I have not gone fully into the shameful history of that election. I have confined myself to the face of the record which the general in command sends us. But all men in Arkansas of any intelligence know that even by the men permitted to vote in that State that constitution was rejected, and rejected largely. They all know that these registrars were running about Pulaski and Jefferson counties for two weeks hunting up votes to count the constitution carried after they had information from the rest of the State that it was rejected.

They know that the Legislature was filled up with those men that managed the election and that Senators were chosen here by their interested votes. They know that the men who come to your House of Representatives were selected under a proceeding that was outrageous and unjust to the electoral class itself, restricted as it is. They know that when a convention man could go into an eight years' supreme judgeship of their State who has not practiced law and who knows little of legal principles or of the laws of that State that their property is not secure, their rights are not safe; that when an adventurer can seize upon their penitentiary and grow rich upon the plunder of the people, secured by a convention resolution, and when their offices generally are filled with men without property or stake in the community, no peace, concord, harmony, and justice (all under the guardianship of good government) can be expected in that State.

Continue your military government in Arkansas for a time, if you choose; if you choose make provision for civil government of a temporary character; better than this measure would it be to take even these persons that are now in power under the State constitution and allow them an *ad interim* authority.

Mr. HOWE. Under the act of 1795? [Laughter.]

Mr. BUCKALEW. Not under the act of 1795, but under an act of 1868.

Mr. President, I have never been exceedingly troubled about the hurried representation of States from the South. I have always had a sort of feeling that the States which went through the war, and at its close were in possession of the powers of the Government, might very well look cautiously and carefully at the question of readmitting men from the revolted States. I was not impatient at some pause and reflection on this subject. My voice has not been raised against a moderate amount of reflection on this question of reorganization; and when I saw that the plan proposed by the President was impossible, I have not been willing to accept some plan of congressional restoration in lieu of it, in order merely to get done with the subject. I would like to see complete restoration take place upon an agreement or assent of the whole populations of the States interested. Now, sir, if I understand the Senator from Massachusetts, [Mr. WILSON,] who speaks in favor of this bill, the South is to be hurriedly reconstructed for the purpose of getting particular votes polled and particular votes counted in the Electoral Colleges.

That is a very petty ground to put it upon. Sir, my experience in life has been that men who on grave occasions, in reference to grave measures, go down to some low or improper principle of action generally fail in that purpose; that in the long run it is best to act on those high and permanent principles of human conduct which will endure investigation and the trial of future times. Let me tell the Senator

that in his hurried, his feverish anxiety to use the subject of reconstruction for a temporary purpose, he may be committing the great political blunder of his life.

However, sir, I shall not speak further. Believing that it is best for the people of Arkansas that their reentrance into Congress should be delayed a little longer instead of being obtained under this bill and under the circumstances which now exist regarding the political organization of that State; believing that her constitution is vicious and evil, and that it was rejected by the honest vote of the State in the recent election, I shall in all possible forms in which the question comes up at the present session vote against restoring her to her immediate representation in Congress.

Mr. HARLAN. Mr. President, I do not rise to discuss the bill; but the Senator from Pennsylvania [Mr. BUCKALEW] has made an illusion to a judge of the supreme court of Arkansas elect in terms that reflect somewhat on his character; and, as those remarks go into the Globe and will stand there as a kind of official record for all time, I think it due to him, as he was brought up in the town in which I live, for me to drop a word or two of explanation.

I knew Mr. Bowen when he was a boy. He was a boy of great energy of character; he studied law, and was admitted to the bar in the town in which I live, and afterward emigrated to a county some one hundred miles west of us; was elected a member of the Iowa Legislature, and served in that body with credit; and I do not remember that I ever heard anything reflecting on his character morally while he was a citizen of my State. At the beginning of the war he entered the military service, and served with success. I did hear, during the continuance of the war, that he had some difficulty, and was at one time dismissed from the service; but I learn from the Senator from Nebraska, [Mr. THAYER,] who was personally conversant with the facts, that he was dismissed without an examination, and on examination was restored to the service. He did have a domestic difficulty. I know nothing of the facts in that case as to the merits or demerits of it; but he was divorced from his wife. He brought her back, however, to the town in which I live, and where he was brought up, bought property for her, and, I think, expended about all he was worth in the world in fixing her up. He was afterward divorced, and I think has married a second time.

I was not as intimate with him as I was with some of the other young men of the town for this reason: I was absent from the place a large part of the time, and politically I did not associate with him. He was a member of the Democratic party, and I may say to his credit he was a kind of leader of the party, called their conventions, generally made speeches for them on local occasions, drew up their resolutions, and displayed a sprightly ability highly creditable to him. When elected to the Legislature he was still a Democrat, elected from a Democratic county, as the county in which he lived was one of the very few Democratic counties in the State of Iowa, and on the floor of the House he was a kind of managing man for his party friends. I do not think that anything ever occurred that came to the public knowledge, at least while he lived in Iowa, that would justify any reflections on his moral character. It may be true that he was a little erratic, as youths sometimes are; he may have been a little wild, and probably was; but I do not think it quite right that a record should be made here that may come to his prejudice for all time without this explanation. If what I have said in relation to his dismissal and restoration is not exactly according to the record the Senator from Nebraska can set me right.

Mr. THAYER. I would add, Mr. President, that he was dismissed the service summarily by the department commander without any trial or investigation, and afterward, upon a review of the case by the War Department, he was restored and honorably must-

tered out of the service, and was breveted by the Department as brigadier general for meritorious services. These are the facts in the case.

Mr. POMEROY. I will say only a word. Colonel Bowen is very well known to my State, having raised and commanded a regiment there, and I never heard anything to his discredit. He was a leader formerly, when I first knew him, of a small Democratic party; but he soon abandoned it, very creditably, as I expected he would when he came to my State, and since the breaking out of the rebellion he has been a firm, consistent Union man, very much beloved by his regiment; and I am surprised to hear any man reflect upon his ability. I think he has very commendable talents, and the officers that I have known who were elected in the manner the Senator from Pennsylvania has stated, would reflect credit and honor upon any station. I do not know all of them, but I know the Governor, and I know the judges, and I know very many of them, and they will maintain themselves creditably in any organization.

Mr. DOOLITTLE. Mr. President, in this constitution there is one point on which I shall address myself to the Senate. It provides that every person who offers to be registered or to vote shall take a certain test-oath. It is an oath addressed to his conscience to test his political opinions. He must swear that he accepts the civil and political equality of all men without distinction of race or color. The language of the section is "All persons, before registering or voting, must take and subscribe the following oath," in which is contained these words, "that I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous condition, of any political or civil right," this having reference, as a matter of course, to the question of suffrage, which is a political right. If that constitution be adopted in the State of Arkansas, and Congress recognize that constitution as the constitution of Arkansas, what is its practical effect? A majority of all the men in the State of New York would be disfranchised in the State of Arkansas; a majority of forty thousand at least of the electors of Ohio (for so they voted last fall) would be disfranchised in the State of Arkansas; a majority of nearly twenty or thirty thousand in the State of Michigan, if they should emigrate to Arkansas, could not take that test-oath; a large majority of the electors of the State of New Jersey, if they should emigrate to Arkansas, could not take that oath and vote at all.

So, Mr. President, in relation to all the States where this question has been submitted to the free vote of the people within the last four, five, or ten years. Connecticut, Michigan, Wisconsin, Ohio, New York, Minnesota, and the State of Illinois, which, when they had the last vote on that subject, voted by one hundred thousand majority even to exclude from the State colored persons.

I am not discussing the question whether it is right or wrong for men to believe or to disbelieve in the political equality of all men without reference to race or color; but I know that a majority, and a large majority, of the white men in the States of Pennsylvania, New York, Ohio, Indiana, Wisconsin, Michigan, and Connecticut honestly entertain a different opinion from that embodied in this instrument. They do not believe in the political equality of Indians or negroes with white men.

Now, what is done in this constitution of Arkansas? Suppose these citizens from your State, my honored friend, [Mr. SHERMAN,] should remove to the State of Arkansas and go to the polls to vote, what is to be tendered to them under this constitution? "Sir, you must swear that you accept the political equality of all men, and pledge yourself never to undertake to change the law which, in any respect, shall deprive any man of a political right on account of race or color."

Mr. President, if men really believe that the

mass of Indians are not qualified to vote; if men really believe that the great majority of the negro race as they now are in the States of the South are utterly unfit to exercise properly the elective franchise, will you makethem take an oath that they will crush out their own belief and surrender their own conscientious convictions, and as the price for which they will give up their belief and surrender their conscientious convictions they may vote; otherwise they cannot vote at all.

Mr. President, whatever men may say or think, I believe that the constitution of any State which contains any such test-oath is anti-Christian, anti-republican, and utterly opposed to the civil liberty of mankind. You might just as well say that a State can adopt a constitution requiring a man to believe in any religious dogma as to say that he shall believe and accept as true a political dogma.

It is not my purpose to dwell at length on this point. I shall proceed to the consideration of another question which arises upon the bill as it now is before the Senate. I refer to the "fundamental condition" in the bill as it comes from the House of Representatives.

The honorable Senator from Vermont [Mr. EDMUNDS] claims that Congress has the right to impose this fundamental condition under the power to admit new States into the Union. Mr. President, in passing this bill in relation to the representation of the State of Arkansas we are not admitting a new State into the Union. The State of Arkansas, as a State, has never yet been out of the Union. It is an old State; it has been in the Union for thirty years; but even if you were to apply it to the admission of a new State into the Union no such power is implied as that you can impose a condition which will bind the people in all coming time not to change their constitution on the subject of suffrage.

It is claimed by some that this power is to be derived from the clause in the Constitution which authorized the United States to guarantee to each State a republican form of government. I utterly deny that any such power can be derived from that clause of the Constitution. Sir, what is a republican form of government? It is a system of self-government where the people govern themselves; and unless a State has the power for itself to decide who among its number shall exercise the right of suffrage it ceases to be a republican State.

Mr. EDMUNDS. Which part of those numbers is to decide?

Mr. DOOLITTLE. The State will decide for itself; not Congress for the State, nor one State for another.

Mr. EDMUNDS. Will my friend permit me—

Mr. DOOLITTLE. In relation to this point I do not intend to speak at length, and I should prefer to go on with what I may have to say without getting into a dialogue.

Mr. EDMUNDS. Very well.

Mr. DOOLITTLE. I maintain that it is of the essence of a republican State government that the State shall have the power for itself to fix the qualifications of its own electors. Take, for instance, the State of Connecticut; if the State of Massachusetts has power to fix the qualifications of electors in the State of Connecticut, Connecticut ceases to be a republican State at all. Massachusetts governs Connecticut if Massachusetts can fix and define and qualify the persons who are to exercise political power in the State of Connecticut. It ceases to be a self-governing State, it ceases to be republican, the moment you take from it the power to determine for itself who shall exercise the right of suffrage. I hold, therefore, Mr. President, that it is of the essence of a republican form of State government that the State shall have the power for itself to fix the qualification of its voters, and that if it loses that power or parts with that power, it parts with the very foundation of a republican system.

Again, Mr. President, a good deal has been said upon the clause contained in most of the bills for the admission of States, that they are

to be admitted upon an equal footing with all the other States. There is no significance particularly in those words in my mind, because the Constitution of the United States, which becomes at once the supreme law of that State, as it is of every other State, applies equally to one State as it does to another State; its powers over one State are precisely what they are over another; and the powers of one State under the Constitution are precisely the powers which are held by another. Could the Constitution be construed differently if a court were sitting in Virginia from what it would be if they were sitting in Ohio? If a court were sitting in Arkansas as a State under the Constitution of the United States, could that Constitution be construed differently in Arkansas from what it was in Missouri? Missouri and Arkansas are connected in the same circuit, Mr. Justice Miller holding the circuit court. Is it possible that when Mr. Justice Miller, after holding the circuit court of the United States for Missouri, shall pass into Arkansas and open the circuit court for Arkansas, he can in one State give a different construction to the Constitution from what he must give it in another? Certainly not. Its language is precisely the same wherever the volume is opened, and when you open the Constitution and read it you find that it declares in substance that each State has the right for itself to fix the qualifications for its own electors.

In the first place, before the Federal Constitution was formed, all concede that each State had that power. Since the Constitution was formed, every State has exercised that power from the beginning down to the present time; and if you look into the Constitution there are words which expressly recognize this power in the States:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

And there is the clause of the Constitution which declares that all powers not delegated to the United States, or necessarily implied in the delegated powers, and not prohibited to the States, are reserved to the States respectively or to the people. Among these reserved rights clearly is the right of each State for itself to fix the qualifications of its electors, as certainly, in my judgment, as that the State has any right at all. Such has been the uniform doctrine and the uniform practice of the Government from the beginning down to the present time; and therefore, under the Constitution as it stands, any provision inserted in any bill which declares that any State shall not have this power to fix the qualifications of its electors, is utterly void, inconsistent with the Constitution, in direct conflict with the provisions of the Constitution.

And, Mr. President, what is more, it seems to me that those gentlemen who are contending so earnestly for the adoption of the fourteenth amendment to the Constitution of the United States forget its very terms. That very fourteenth amendment, which gentlemen insist upon as the basis of reconstruction, which in your bill you require the State to vote for the adoption of as a condition precedent to its readmission into the Union, itself recognizes the fact, and it gives, if it was not given before by the Constitution of the United States, the right to each State for itself to fix the qualifications of its electors. The second section of that constitutional amendment contains these words:

"Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number

of male citizens twenty-one years of age in such State."

The constitutional amendment thus expressly recognizes in, if it does not confer on, the States the power to disqualify persons from exercising the right of suffrage on account of race or color, or any other reason they choose. The only faculty which it attaches to a State doing so is that it shall be reduced proportionally in its representation. And now for gentlemen to come in here with a bill which on the very face of it insists first, that the State shall adopt the constitutional amendment which recognizes the right of the State to fix for itself the qualification of voters, and then contains in the same bill a fundamental provision that the State shall never exercise the right which your constitutional amendment gives, is a monstrous piece of absurdity!

Mr. President, it seems to me utterly unaccountable that men, looking at the two provisions in the same bill standing side by side, can tolerate for an instant the idea of imposing, as a fundamental condition, that the State shall never exercise the very power which you give it, if it did not have it before in the Constitution of the United States, by this second clause of the fourteenth article of amendment. It does recognize it as existing, just as the old Constitution recognized it as a right existing in the States, inherent in the States; and I contend that it is essential to the republican form of government of a State that it shall have the power to fix the qualification of its voters; otherwise its political power does not belong to itself and to its own people. If a people cannot determine who among themselves shall exercise the political power of their State, they are not an independent, republican, self-governing State, but are dependent upon some outside power or outside government, and whether that government is another State or the Congress of the United States makes no difference.

Mr. President, a good deal has been said about the celebrated Missouri case; and because Congress upon the admission of that State, inserted what is called a fundamental condition, therefore it is said to have a right to insert this fundamental condition. I wish to call the attention of the Senate to the fundamental condition which was inserted in the Missouri bill. It was this:

That the fourth clause of the twenty-sixth section of the third article of the constitution submitted on the part of said State to Congress, shall never be construed to authorize the passage of any law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States in this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States.

This was not imposing upon the State a fundamental condition in violation of the Constitution; it was imposing on them, as a fundamental condition, that they should conform to the Constitution; that they should not, by their legislation under this clause of their pretended State constitution, violate the Constitution of the United States. That was the condition; it was a very different affair from this. Congress has the power to see to it that no person violates the Constitution of the United States, but it has no power to go outside of the Constitution and compel anybody to enter into a compact which is in violation of the Constitution of the United States. That is the difference. Congress may compel obedience; Congress cannot compel a violation. That is the difference. So in this case in Arkansas: it is possible that Congress may insert a condition which should declare that this clause in this constitution which I have read, which applies a test oath in violation of the Constitution of the United States, should be annulled. It is possible Congress would have that power, following the precedent of the Missouri case; but that is a different thing from what is here proposed. It is one thing to compel these States coming in to obey; another thing, and a very different thing, to compel them to disobey the Constitution of the United States.

Mr. President, I have not entered at all into



the discussion of the general question of reconstruction. On one or two occasions heretofore I have expressed my opinions upon that subject. I have seen nothing leading me to change those opinions; but I shall not reopen that discussion at the present time. I have confined my remarks mainly to the proposition contained in this bill, to insist as a fundamental condition, a part of the contract, that this State shall agree that it never will enjoy the right which the old Constitution gives, and the right which the second section of the fourteenth amendment gives also to each State to fix the qualification of its own voters. According to the old Constitution the States could fix it without loss of representation, and according to the fourteenth article of amendment, when adopted, if they change the qualification of voters so as to disfranchise men on account of race or color they will lose to a certain extent their representation; but the right to regulate the matter for themselves they certainly would have under the Constitution, and I cannot vote for this proposition which imposes upon them the necessity of entering into a compact to violate the Constitution itself.

Mr. POMEROY. I should like to inquire if the Senator will vote for the admission. Suppose we strike out that part of the bill as it came from the House and have it simply a provision for the admission of Arkansas, will the Senator then vote for it?

Mr. DOOLITTLE. If the Senator desires me to answer, I will say that, if he will take simply a resolution declaring that Arkansas has a right to be represented, I will vote for it.

Mr. POMEROY. Represent it on this constitution—I mean with this organization?

Mr. DOOLITTLE. When that question arises I will inform the Senator.

Mr. TRUMBULL. Mr. President, I am so desirous of having an early vote on this matter that I shall not take time to reply to the various propositions which have been submitted by the Senator from Pennsylvania [Mr. BUCKALEW] and the Senator from Wisconsin, [Mr. DOOLITTLE,] but I desire to make one or two suggestions lest some statements which have been made should create a wrong impression upon the minds of Senators.

I had designed to reply to the remarks in regard to Mr. Bowen, the president of the convention; but I think sufficient has been said on that subject by the Senator from Iowa [Mr. HARLAN] to show that the Senator from Pennsylvania was entirely mistaken when he said that Mr. Bowen was no lawyer. It seems that he grew up in the town where the Senator from Iowa resides and was admitted to the bar there some years ago, and subsequently removing to another part of the State of Iowa became a member of its Legislature and was a man of prominence there.

The Senator from Pennsylvania complained of the two elections which had been held. That is easy explainable. The commanding officer who had control of the election under the reconstruction acts in the State of Arkansas declined to provide for the election of State officers and a Legislature, as required by the constitution which was framed by the convention in Arkansas, and simply provided for an election on the question of the ratification of the constitution. The convention, by a schedule, had provided for voting at the same time for officers for the State. This fact was represented to Congress, and in February last Congress passed a law authorizing an election of State officers to take place at the same time that the Constitution was voted upon. This law was not known to the commanding officer in time to change his directions; but the officers appointed by the convention to hold the election on the constitution went on and held the election for State officers at the same time, which was the day that the election took place, under the orders of the military commander, on the question of ratifying the constitution; so that really there were two polls opened on the same day, and the State officers were elected at the poll which was opened under the direc-

tion of the convention. At that poll most of the opponents of the constitution declined to vote; but they voted at the other poll to the number of twenty-six thousand and upward, while twenty-seven thousand nine hundred and thirteen voted for the constitution at the same polls held under the authority of the military, making a majority of thirteen hundred and sixteen votes for the constitution, as appears by the return of General Gillem. We have here the returns from all the precincts in the State of Arkansas of the election held under the authority of the military commander, showing a majority for the constitution of thirteen hundred and sixteen votes. At the polls held under the authority of the convention, thirty thousand three hundred and eighty votes were cast in favor of the constitution, and only forty-one against it. This accounts for the two elections.

The Senator from Pennsylvania says that by these returns submitted by General Gillem it does not appear that the Constitution was adopted, and he goes into the details of the election with a view of showing that fact. Time will not allow that I should go through with these details; but the statement that he makes is calculated to create an erroneous impression if left uncontradicted. He says, for instance, that in two or three counties, Pulaski and Jefferson, I think, that the vote polled is larger than the number of registered voters in those counties. That is true, and well it might be, because we had passed a law in February preceding which declared—

Mr. BUCKALEW. The Senator will allow me to correct him. That law was passed the 11th of March. I have it on my desk.

Mr. TRUMBULL. No; the election was held on the 13th of March. I have the law before me; it was passed and received by the President on the 28th of February, 1868, and became a law and was in force in Arkansas before this election was held.

Mr. BUCKALEW. The 11th of March.

Mr. TRUMBULL. The 11th of March, if you please; the election was on the 13th. It passed Congress and is indorsed as received by the President "February 28, 1868." The President held the bill, so that it did not become a law for ten days which would make it the 11th of March, perhaps; I have not counted the time.

Mr. WILSON. The Senator will allow me to say that the law was sent to that State, and was received in some parts of it and not in others, and thousands of men lost their votes for that reason.

Mr. TRUMBULL. I was going to state that the law was not received by General Gillem in time for him to make his arrangements under it; but the people of Arkansas knew of the passage of this law by Congress ten days or two weeks before the election, and that it was in the hands of the President; and they had official information of its having become a law in portions of the State at the time of voting; hence the commissioners having charge of the election in the counties to which the Senator from Pennsylvania referred received the votes of all registered persons, no matter whether they were residents of the county or not, and in that way the vote was swelled in those counties, while in other counties the vote was much below the registry.

Mr. SHERMAN. And the Senator will allow me to say that the commissioners met with the law before them and decided that they were bound by the law. That is shown by the report.

Mr. EDMUNDS. Which was true. They were bound by it, of course.

Mr. TRUMBULL. The law was in force, and they were bound by the law, of course.

Mr. BUCKALEW. They did not follow it.

Mr. TRUMBULL. They did in those counties where they had it, and in other counties the vote is much below the registry.

I think no list of the names of these persons who were registered in other counties was preserved, so that you could afterward test the

correctness of the election. That was an irregularity; but after General Gillem had sent out officers, and they had gone over the State of Arkansas, and spent some time—I think it was more than a month after the election took place before he made his return—he was unable to ascertain that there were such irregularities or such frauds in the election as to vary the result as he gives it. The officers who were sent out state that in many instances there was a disposition to trifle with them on the part of those alleging frauds. Frauds were alleged upon both sides. The officers sent to examine into them made their reports to General Gillem, and he having the whole matter before him sends here the return of the vote in the State, showing a majority of more than thirteen hundred votes for the constitution. He also sends the reports of these officers who were sent out to different parts of Arkansas to look into this question of fraud. An opportunity was given to show that there were frauds which would defeat the election, if that were the case; but there was an utter failure to show it.

It is fairly shown by this record that the constitution has been ratified by a majority of the people of the State of Arkansas who voted on the question. There may have been some irregularities; I think there were; but, in my judgment, it sufficiently appears from the facts shown that the constitution was fairly adopted.

It is alleged that men were kept from the polls by threats and by violence, and in some places that they were unable to open a poll at all. Perhaps there are as many allegations of fraud upon one side as the other. I think it is not necessary to follow the Senator from Pennsylvania further on that point. I will not take up time unnecessarily.

The Senator from Pennsylvania complains of the homestead exemption provision in the constitution. It is a liberal provision, but it is to operate *in futuro*. Every person making contracts in that State will make them with reference to the constitution of the State. It is a matter about which individuals and States differ. The modern tendency has been to enlarge the amount of property that is to be protected from execution. In the new States, a much larger amount of property is exempted than in the old. This is a liberal provision in Arkansas; but I do not know that it is an unreasonable provision. I do not think we should reject their constitution for any such reason. If it does not work well, the people of Arkansas can amend and change their constitution in that respect.

A word now as to what has been said by the Senator from Wisconsin. He makes two objections, and it seems to me his objections are inconsistent with each other. In the first place, he objects because the constitution of Arkansas requires that a person who applies to vote shall take an oath that he will recognize the political and civil equality of all persons before the law, that he will "accept the situation," if you please. I do not think I should have inserted such a clause in the constitution if I had been making it; but the Senator from Wisconsin and I both agree that this question of suffrage is to be regulated by each State for itself. If it suits the people of Arkansas to have it that way, I do not know what provision of the Constitution of the United States forbids it.

The Senator goes on afterward to say that he objects to the fundamental condition inserted in the bill by the House of Representatives, which declares that the State constitution shall not be amended hereafter, so as to deprive any citizen or class of persons of the right to vote to whom that right is now given; and he says that we have no right to impose such a condition. I do not know that I would disagree with the Senator from Wisconsin on that point. I believe the people of Arkansas will have the same right to change their constitution when they are recognized as having a State government entitled to representation in Congress, as the people of Wisconsin or the people of Illinois now have, and I am very

sure that the people of my State claim the right to regulate suffrage for themselves. I think the people of Arkansas will have the same right, and although I have reported this bill from the Judiciary Committee under instructions just as it came from the House of Representatives, and shall vote for the bill in that shape if the Senate shall not strike out the condition, yet since the Senator from Connecticut has moved to strike it out, I shall be compelled to vote for the motion, because I regard it as a condition that cannot be enforced. I would not have put it upon the bill; but still, it being upon the bill, if I cannot restore Arkansas to her relations in the Union without suffering an objectionable clause to be put upon the bill, I will take the objectionable clause rather than lose Arkansas.

The Senator from Vermont [Mr. EDMUNDS] quietly asks if I would vote for an unconstitutional bill. I would not vote for an unconstitutional bill that was to have a practical operation; but I would not refuse to vote for a bill of this kind because a provision believed by me to be invalid was put upon it, and which I did not believe could ever have a practical operation, when I could not obtain the passage of the bill without that provision.

Mr. EDMUNDS. No unconstitutional law can have practical operation.

Mr. TRUMBULL. It is not exactly true that no unconstitutional law could have a practical operation. An unconstitutional law might be of such a character as to produce great mischief before it was declared unconstitutional. The practical working of the law before it should be so declared might work great mischief. In this instance I do not see how it could. I have no objection to the provision of the Arkansas constitution on the question of suffrage; so far from it, I am in favor of allowing those persons to vote that the constitution of the State provides shall vote. It declares that—

"Every male person born in the United States, and every male person who has been naturalized, or has legally declared his intention to become a citizen of the United States, who is twenty-one years old or upward, and who shall have resided in the State six months next preceding the election, and who at the time is an actual resident of the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector."

The fundamental condition attached to this bill provides against any change of the constitution hereafter so as to abridge the right of suffrage which it confers. I cannot think such a condition has any binding efficacy; others think differently, and something is certainly due to their opinions. While I would not vote for a bill which was clearly unconstitutional, I do not feel compelled to vote against every bill which contains, as I conceive, even an unconstitutional feature which can have no practical importance, or effect in any way the great object of the bill. The great object to be attained by the passage of this bill is the recognition of a State government in Arkansas, and so far no one questions its constitutionality or validity. The fundamental condition sought to be imposed, in my view, can never have any operative effect, and while I shall vote to strike it out I am unwilling to vote against and defeat so desirable a measure, even if it remains in, because I think there will be no practical way of enforcing it against the people of Arkansas should they be restored to their former relations in the Union, and afterward think proper to change their constitution.

Mr. BUCKALEW. Before the Senator from Illinois takes his seat, I wish to call his attention to the case as to time upon the notice of the passage of the act of the 11th of March, 1868. General Gillem states that he did not receive information of that part of the law which related to the voting of persons in other than their proper districts until after the election. He meant by that, of course, after the election generally in the State. Persons in that State received notice before the election was concluded in the counties where the surplus votes were taken, because in those

counties—and that is one of the decisive points against the validity of those votes—the election was held until the 1st of April; they kept on voting. The presumption is that the whole of those surplus votes which they pretended to put in under the act of the 11th of March were put in without any right whatever. The Senator seemed to think that the people had notice and knowledge generally in the State of Arkansas of that act. It was a notice and knowledge that applied to those two counties, because they kept their election open eighteen days beyond the time. I have no doubt in my own mind that the whole body of those votes were of men who had voted previously.

Mr. DOOLITTLE. I do not intend to detain the Senate or take up time, but I will simply say to my honorable friend from Illinois that I do not understand precisely the rule which should govern us on these questions, that now we can vote for an unconstitutional measure and now we cannot. I do not understand that any such rule is to govern us.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, [Mr. EDMUNDS], to recommit the bill to the Committee on the Judiciary, with the instructions proposed by him.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question now recurs on the amendment of the Senator from Connecticut, [Mr. FERRY], to strike out all of the bill after the word "union" in the fourth line.

Mr. HENDERSON. I rise, Mr. President, for the purpose of expressing the wish that this proposition of the Senator from Connecticut shall prevail. I differ with the Senator from Illinois about it. The provision contained in the bill which the Senator from Connecticut moves to strike out is a condition that the constitution of the State of Arkansas shall never be changed in the provision relative to the right of suffrage. That constitution provides that every person born in the United States, and every foreign-born person who has been naturalized or declared his intention to become a citizen, and has lived in the State for six months, shall be entitled to vote. Suppose it occurs in the future that a large number of foreigners shall come into the State, and it shall become very desirable for the people of Arkansas to take away the suffrage enjoyed under the present constitution by unnaturalized foreigners, is it possible that the Congress of the United States will declare that that shall not be done? Will Congress declare that the people of Arkansas may not exclude paupers from the suffrage? They are entitled to vote under this constitution. I have had my doubts, and I have my doubts now, whether unnaturalized foreigners, upon a mere declaration of intention, can be entitled to vote under the Constitution of the United States. However, my own State grants that privilege, and it has been granted in many of the western States and some of the northern States, I believe. I have always had my doubts about the constitutionality of any such provision, but perhaps it is too late to object to it now. I cannot, however, consent to declare in this bill, or in any other, that a State shall not be permitted to alter or amend its constitution where I can see very plainly that very great damage or injury may be done by so declaring.

The Senator from Illinois says that this is an unconstitutional provision. I do not think that that is entirely clear. I think there are reasons why the courts may sustain this provision, and I think there was a great deal in the very able argument that the Senator from Vermont [Mr. EDMUNDS] made yesterday, not that any precedent will reach this case, but that there may be something in this particular case, and in reference to the other States from the South to be admitted, which is very different from the Missouri case and very different from the Nevada and Nebraska cases.

Why is it that we cannot attach this condition in reference to these revolted States? Is there nothing in the international law on

the subject? If the Senator from Illinois will turn to the decision of the Supreme Court in the prize cases (2 Black) he will see that every member of the Supreme Court adopted the idea that this was a territorial war, and that all the incidents of a foreign war attached to it. Mr. Justice Grier, delivering the opinion of the court, uses this language:

"When the regular course of justice is interrupted by revolt, rebellion, or insurrection, so that the courts cannot be kept open, civil war exists, and hostilities may be prosecuted on the same footing as if those opposing the Government were foreign enemies invading the land."

Suppose this was foreign territory conquered by us; there would be no doubt about our right to attach a condition of this sort unless the Constitution steps in the way of it, unless there is something in the idea that there is a perfect equality of the States. But then the Supreme Court may say that it is not a provision inimical or hostile to the Constitution; that it does not contravene the Constitution, and that therefore we may constitutionally impose it. The Senator from Illinois may be right, but he may be wrong.

When you come to the dissenting opinion of the minority of the court in the prize cases, it is just as specific on this point as the decision of the majority. Mr. Justice Nelson, in his opinion, says:

"In the case of a rebellion or resistance of a portion of the people of a country against the established government, there is no doubt, if in its progress and enlargement the Government thus sought to be overthrown sees fit, it may by the competent power recognize or declare the existence of a state of civil war, which will draw after it all the consequences and rights of war between the contending parties as in the case of a public war."

Does it really draw all those rights and incidents? If that be the case, what are those rights and incidents? Vattel says:

"The objects of war are three:  
"1. To recover what belongs or is due to us.  
"2. To provide for our future safety by punishing the aggressor or offender.  
"3. To defend ourselves or to protect ourselves from injury by repelling unjust violence."

Mr. President suppose that the courts hereafter shall decide, after we have attached this condition, that inasmuch as Congress has declared that this is a result of the war, and that we had to take it as security for the future, the judgment of Congress is conclusive, then of course the theory of the Senator from Illinois would be entirely upturned. We must remember that this is a matter for the courts to determine, and not for us to determine after we have once attached the condition. I am not altogether clear that the courts will not sustain this condition, not because they might not say that the Nevada provision is not constitutional. They might so declare and yet declare that this fundamental condition is a constitutional one on the ground that in this case we have the rights of a conqueror under international law. Our Government is certainly subject to that law, as all other civilized nations are, and inasmuch as in that view the provision does not contravene the Constitution of the United States, the courts may say that it is a valid and proper provision. If so, I am opposed to it.

Now, Mr. President, if the proposition of the Senator from Connecticut prevails, I desire to offer an amendment to be incorporated into the bill upon which I am willing to stand, and it is a provision which I think the Senate ought to be willing to make. I would strike out the condition in the bill and insert one which I propose to offer. I differ with gentlemen when they say they would insert no provision for security. I think we ought to do so. But what ought we to require? Is it that every negro in the southern States shall vote, whether he is qualified to vote, for all time to come? I think not. What should we do? We should say that the suffrage of the negroes shall be on an equal term with the suffrage of the white men. If the white man is to be excluded for a certain cause, let the negro also be excluded for the same cause; let us not declare, as this provision declares, that every negro, because every

negro in Arkansas is entitled to vote under this constitution, shall vote for all time to come. But put him upon terms of equality with the white man; that is going far enough; and let both white and black be excluded from the polls for the same reason, as, for example, for want of sufficient intelligence to vote or for pauperism. Having stricken out the condition in the bill, I would insert a proposition of this character:

Upon the fundamental condition that said State, in fixing the qualifications of electors therein, shall not be authorized to discriminate against any person on account of race, color, or previous condition; and also upon the further condition that no person on account of race or color shall be excluded from the benefit of education or be deprived of an equal share of the moneys or other funds created or used by public authority to promote education in said State.

Without the second condition of course they could exclude the negroes from any of the benefits of education, and thereby lay a foundation and produce a reason for excluding them from the suffrage; but if both are adopted, of course they are put upon an equality with the whites, in reference not only to education, but in reference to the suffrage. My experience teaches me, on this subject, that this provision would be exactly right. I do not say that they shall hold office; I do not give them the same political rights, nor the same civil rights; I simply say that they shall be entitled to the suffrage on equal terms with white men.

Suppose that this provision be unconstitutional; suppose it be one that the courts will not uphold and sustain, then, of course, we have done no harm; but if the courts will uphold a provision of this character, they had better uphold my provision than one which prevents the State in all time to come from altering its regulation of the suffrage, which, in my judgment, would be an outrageous proposition. There may be various reasons why the suffrage regulations of the State should be amended in the future. If the motion of the Senator from Connecticut shall carry, I desire to offer this proposition, and I think it is just.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Connecticut, [Mr. FERRY,] on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 20, nays 21; as follows:

YEAS—Messrs. Anthony, Bayard, Buckalew, Conkling, Corbett, Doolittle, Drake, Ferry, Fessenden, Frelinghuysen, Henderson, Hendricks, Howe, McCreery, Morgan, Morrill of New Hampshire, Patterson of Tennessee, Trumbull, Van Winkle, Vickers, Willey, and Williams—20.

NAYS—Messrs. Cameron, Chandler, Cole, Cragin, Edmunds, Harlan, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Pomeroy, Ramsey, Ross, Sherman, Sprague, Stewart, Sumner, Thayer, Wade, Wilson, and Yates—21.

ABSENT—Messrs. Cattell, Conness, Davis, Dixon, Fowler, Grimes, Howard, Johnson, Morton, Norton, Nye, Saulsbury, and Tipton—13.

So the amendment was rejected.

Mr. DRAKE. I now offer the substitute for the bill which I laid on the table the other day.

The PRESIDENT *pro tempore*. The amendment will be reported.

The Chief Clerk read it, as follows:

Strike out all of the bill after the enacting clause and insert:

That upon the fundamental condition hereinafter expressed, the State of Arkansas, under and with the constitution thereof adopted in the year 1868, shall be entitled to be admitted to representation in Congress as one of the States of the Union, as soon as the amendment of the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, shall have become a part of that constitution: *Provided*, That the Legislature of said State shall have first passed an act agreeing, on behalf of said State, to the following fundamental condition of such admission, to wit: that there shall never be in said State any denial or abridgment of the elective franchise, or of any other right to any person by reason or on account of race or color, excepting Indians not taxed; and that any such denial or abridgment shall authorize the exclusion, while it continues, of said State from representation in either House of Congress.

Mr. DRAKE. Mr. President—

Mr. FESSENDEN. Will the Senator excuse me a moment? I notice that the Senator from Missouri will address the Senate probably

at some length on this amendment. It is now late, nearly five o'clock. I do not think we can finish this bill to-night, and I do not know that it is particularly desirable to do so when there is no other business pressing. I will therefore, with his permission, move an adjournment.

Mr. DRAKE. I have no objection to giving way to the Senator from Maine.

Mr. FESSENDEN. I want to hear the Senator when I am fresh. I wish to listen to him. We can finish the bill on Monday.

Mr. DRAKE. I give way.

Mr. SHERMAN. I object.

Mr. TRUMBULL. I hope we shall not adjourn. We must some time or other finish this bill.

The PRESIDENT *pro tempore*. It is moved that the Senate do now adjourn.

Mr. HENDERSON. I appeal to the Senator from Maine. I desire to offer an amendment to the bill. My colleague has offered a substitute for the entire bill. I now desire to offer an amendment to the original bill, so as to perfect it, which is certainly in order; and if the proposition to adjourn is carried, I shall not get it in. I desire to be permitted to offer it for the time being, and then the Senate may adjourn or not.

Mr. SUMNER. Let us order that to be printed.

The PRESIDENT *pro tempore*. That order will be made.

Mr. HENDERSON. I submit it.

The PRESIDENT *pro tempore*. It will be received and ordered to be printed. It is moved that the Senate do now adjourn.

Mr. SPRAGUE. On that I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 21, nays 22; as follows:

YEAS—Messrs. Bayard, Buckalew, Cattell, Conkling, Cragin, Doolittle, Edmunds, Fessenden, Fowler, Frelinghuysen, Henderson, Hendricks, Howe, McCreery, Morgan, Morrill of New Hampshire, Patterson of Tennessee, Ross, Sumner, Vickers, and Yates—21.

NAYS—Messrs. Anthony, Cameron, Chandler, Cole, Conness, Corbett, Drake, Harlan, Morrill of Maine, Morrill of Vermont, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Thayer, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—22.

ABSENT—Messrs. Davis, Dixon, Ferry, Grimes, Howard, Johnson, Morton, Norton, Nye, Saulsbury, and Tipton—11.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. The Senator from Missouri has the floor.

Mr. DRAKE. Mr. President, I confess that I feel an exceeding embarrassment about undertaking to address the Senate at this time after the Senator from Maine has informed the Senate that I have got a long speech to deliver. I had some views to express in connection with this amendment, which, in order that I might occupy the time of the Senate just as little as possible in the expression of them, and condense them as far as possible, I have put down on paper, and it will not take any great while for me to express those views to the Senate. A great deal of debate has been had. Other Senators have made speeches one and two hours long. I have sat and listened to them with a great deal of interest, a great deal of attention. I do not wish to proceed now, sir, if the Senate does not wish to hear me.

Several SENATORS. Let us adjourn.

Mr. HENDRICKS. If the Senator will allow me I will move to adjourn. I think it is doubtful if the Senate will listen with that degree of attention which the Senator from Missouri ought to have, it is so late.

Mr. DRAKE. I suppose it is not worth while to put the question of adjournment, or for me to yield the floor to put the question of adjournment again; but as I am not accustomed to make very long speeches here, nor, in comparison with others, a great many of them, I would rather, when I have matured anything that I think worth saying in the Senate, that I should have the opportunity of saying it, and unless there is some decisive manifestation of impatience on the part of the Sen-

ate I will proceed to say what I have prepared to say on this occasion.

Mr. HENDERSON. Mr. President, I feel very impatient myself, and, with the consent of my colleague, I will move an adjournment.

The PRESIDENT *pro tempore*. Does the Senator give way for that motion?

Mr. DRAKE. Yes, sir; I give way again for a motion to adjourn.

Mr. CONNESS. I call for the yeas and nays.

The PRESIDENT *pro tempore*. Will the Senator indulge the Chair to lay before the Senate bills of the House?

Mr. CONNESS. I hope we shall have the yeas and nays on the motion to adjourn before any other business is done. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. The bills can be laid before the Senate.

The PRESIDENT *pro tempore*. The Chair will lay before the Senate certain bills of the House.

#### HOUSE BILLS REFERRED.

The following bills and joint resolutions received from the House of Representatives were severally read twice by their titles and referred to the Committee on Military Affairs and the Militia:

A bill (H. R. No. 425) for the relief of Mary A. Filler;

A bill (H. R. No. 553) for the relief of A. W. Ballard;

A bill (H. R. No. 938) to authorize the sale of twenty acres of land in the military reservation at Fort Leavenworth, Kansas;

A bill (H. R. No. 1128) for the relief of Isaac Watts;

A bill (H. R. No. 1129) for the relief of the widow and children of Colonel James A. Mulligan, deceased;

A bill (H. R. No. 1130) for the relief of H. G. Aiken, late captain fourth Iowa infantry;

A bill (H. R. No. 1070) for the relief of O. P. Shiras;

A bill (H. R. No. 1081) for the relief of John A. Neustadter;

A joint resolution (H. R. No. 256) for the relief of Martha E. King;

A joint resolution (H. R. No. 280) for the relief of Miss Ella E. Hobart; and

A joint resolution (H. R. No. 281) authorizing the issue of clothing to company F, eighteenth regiment United States infantry.

The PRESIDENT *pro tempore*. It is moved and seconded that the Senate do now adjourn, upon which motion the yeas and nays have been ordered.

Mr. CONNESS. The honorable Senator from Missouri [Mr. DRAKE] informs me that he does not now wish to go on this evening. Therefore, I withdraw the call for the yeas and nays.

Mr. SHERMAN. I think we had better take the question by yeas and nays. We shall never pass the bill in the Senate without a night session.

Mr. CONKLING. Is that motion debatable?

The PRESIDENT *pro tempore*. It is not debatable. The yeas and nays must be taken unless the Senate will consent that the call be withdrawn.

Mr. POMEROY. I object to the call being withdrawn.

The question being taken by yeas and nays, resulted—yeas 23, nays 17; as follows:

YEAS—Messrs. Bayard, Buckalew, Cameron, Conkling, Conness, Cragin, Drake, Edmunds, Fessenden, Fowler, Frelinghuysen, Henderson, Hendricks, McCreery, Morgan, Morrill of Maine, Patterson of New Hampshire, Patterson of Tennessee, Ross, Sumner, Van Winkle, Vickers, and Yates—23.

NAYS—Messrs. Anthony, Cattell, Chandler, Cole, Corbett, Morrill of Vermont, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Thayer, Trumbull, Wade, Willey, Williams, and Wilson—17.

ABSENT—Messrs. Davis, Dixon, Doolittle, Ferry, Grimes, Harlan, Howard, Johnson, Morton, Norton, Nye, Saulsbury, and Tipton—14.

So the motion was agreed to; and the Senate adjourned.



## HOUSE OF REPRESENTATIVES.

SATURDAY, May 30, 1868.

The House met at twelve o'clock m.  
The Journal of yesterday was read and approved.

## RECUSANT WITNESS.

The SPEAKER. The Chair desires to submit to the House a report of his action in regard to the witness, Charles W. Woolley, who was confined by order of the House, in accordance with the requirement of the third section of the law of January 24, 1857, which is embodied in the Digest, page 192. The Speaker certified, under the seal of the House, the facts in this case to the district attorney for the District of Columbia, Mr. Carrington. Yesterday, after the order of the House that "meanwhile no person should communicate with the witness either in writing or orally, except upon the order of the Speaker," the Speaker received a message from the witness desiring the attendance and assistance of three lawyers as his counsel. The Chair accordingly ordered that they should have access to him. He also desired that, in addition to his wife, his child and nurse should also have access to him. The Speaker ordered that they also should be admitted. He also instructed the officer in charge that the witness should have an opportunity to converse with his counsel and wife without being overheard by the officer who, under the order of the House, is keeping him in close confinement.

A question has now arisen which the Chair desires to submit to the House, as to their own construction of the resolution "that no person shall communicate with said Woolley in writing or verbally except upon the order of the Speaker," that is, in regard to letters to and from him, and telegraphic dispatches to and from him. On yesterday a dispatch was submitted in a sealed envelope to the Speaker, directed to Mr. Woolley, with a superscription unusual in its character upon the exterior, and, in the opinion of the Speaker, not only not respectful to the House but intended purposely to be insulting to the House of Representatives. The Speaker hesitated as to whether it should be delivered to him, but upon reflection, as the witness could not be responsible for dispatches sent to him by other persons, the Speaker ordered the officer to deliver the dispatch to him. The question he now desires to submit is, what action shall be taken by the Speaker in regard to allowing telegraphic dispatches and letters to pass to and from the witness? If such is the order of the House they will be communicated to him; if not, the House must take the responsibility in the matter.

Mr. BUTLER. I desire to make a single explanation in regard to the telegram.

Mr. ELDRIDGE. If the gentleman is allowed to make an explanation I hope a similar opportunity will be allowed, if desired, by some gentleman who differs with him in opinion.

The SPEAKER. The Chair cannot determine what will be the action of the House. He submitted the question to the House, so that if any gentleman should make a motion the Chair would recognize him. The gentleman from Massachusetts can submit any motion he desires.

Mr. ELDRIDGE. The gentleman desires, however, to make an explanation.

The SPEAKER. If the gentleman makes a point of order the Chair will rule upon it.

Mr. ELDRIDGE. I do not object to any explanation the gentleman desires to make, but I do ask, in furtherance of truth and justice, that some member on this side may also have an opportunity to explain.

The SPEAKER. Of course, unless the previous question is operating, the Chair would recognize some gentleman on the opposite side; but he cannot determine what the House will do. The House must determine for itself. The Chair understands that the gentleman from Wisconsin does not object to the gentleman from Massachusetts being entitled to the floor.

Mr. BUTLER. I desire before I submit a motion simply to state what happened in regard to the dispatch referred to. That dispatch, which I have sent for, was inclosed by Mr. Woolley to me in a note containing these words:

This dispatch seems to be disloyal to the late managers. I think you are the proper custodian of it.  
CHARLES W. WOOLLEY.

The dispatch was substantially in these words:

Sovereign citizen Woolley, held by the hands of tyrants. Every true man with any blood in his veins will stand by you. Stand firm. It is the last feather that breaks the camel's back.

GEORGE A. JONES.  
Metropolitan Hotel.

George A. Jones is a person whom we had previously directed to be summoned for complicity with Woolley. That note of Woolley and the dispatch I will have laid before the House.

The SPEAKER. The gentleman will suspend for a moment. The Chair did not know until now the contents of the dispatch, as it was in a sealed envelope, and of course, only the superscription was known to the Chair.

Mr. BUTLER. I should not have known its contents if it had not been sent to me by Mr. Woolley with this note, evidently for the purpose of insult; and whether the House will vindicate its dignity, or whether anybody will want to defend such insults to the House, is another question.

I hold in my hand another matter bearing on this to show that it will not do for my friends on the other side to rely on Mr. Woolley's statement. In the statement which the House refused to hear read yesterday, but which is published in the National Intelligencer, he says that he was treated abusively and rudely by the committee and by myself. I will read now from his sworn testimony when he was before the committee on the second day:

"The witness being sworn by Mr. BOUTWELL, the chairman of the sub-committee"—

Mr. BOYER. Mr. Speaker, if it be by unanimous consent that the gentleman is allowed to read these statements, I must object upon this ground: that the gentleman has himself objected to the House hearing any statement made by the prisoner. The gentleman himself objected to that, otherwise I should not object to the statement which he appears now to be about to make in answer to what has been published in the newspapers.

The SPEAKER. The gentleman from Pennsylvania objects, and the gentleman from Massachusetts will state his proposition, which will then be before the House for debate.

Mr. BUTLER. I move, then, that no telegrams or letters be sent to the witness after he has thus contemned the House, except through the inspection of the Speaker.

The SPEAKER. The Chair would state to the gentleman from Massachusetts that the Speaker does not think he has a right to open anything that is in a sealed envelope, even by the order of the House.

Mr. BUTLER. I suppose not, without the order of the House.

The SPEAKER. Not even by the order of the House.

Mr. BUTLER. Then if Mr. Woolley does not choose to receive them in that way they must not be sent to him at all. I think the House should have some power to protect itself. If it has not, then our presence here is pretty much useless.

The SPEAKER. Then the Chair understands the gentleman from Massachusetts to make a motion that nothing but open communications shall be transmitted to the witness.

Mr. BUTLER. That is the point.

Mr. WOOD. With the permission of the gentleman from Massachusetts, I will remind him of the fact that there are some things that the House of Representatives even cannot do. They cannot violate all law; they cannot violate the Constitution of the United States and the statutes of the country. The Speaker of this House cannot break the seals of letters.

Mr. BUTLER. I believe I am on the floor, and I decline to yield.

Mr. WOOD. I would remind the gentleman from Massachusetts that there is a higher power than even the board of managers.

Mr. BLAINE. Will the gentleman from Massachusetts allow me to ask him a question?

Mr. BUTLER. I will yield for that purpose.

Mr. BLAINE. I desire to ask, if the three counsel have access freely to the prisoner, with the freedom which characterizes the intercourse between client and counsel, why may not all letters and telegrams be taken to and from the prisoner by those counsel, and why should the House bother themselves about preventing an evil which they cannot prevent?

Mr. VAN TRUMP. I wish to ask the gentleman from Massachusetts a question germane to the motion he has made. I wish to inquire how this dispatch came into his possession, sealed or unsealed?

Mr. BUTLER. I will answer with great pleasure. It came into my possession sealed in an envelope directed by the hand of Mr. Woolley, inclosing a note from Woolley to me saying, "This dispatch seems to be disloyal to the late managers."

Mr. VAN TRUMP. And that dispatch was open?

Mr. BUTLER. The dispatch was open inside the envelope.

Mr. WOODWARD. Will the gentleman yield to me?

Mr. BUTLER. For a question.

Mr. WOODWARD. I desire to offer a resolution germane to this subject.

Mr. BUTLER. I will hear it read.

Mr. WOODWARD. I desire to offer the following as a substitute for the gentleman's motion:

Resolved, That Charles W. Woolley be brought immediately to the bar of the House, attended by his counsel, and that the managers be permitted to address the said witness any questions which the House may decide to be relevant and proper.

Mr. BUTLER. I do not yield to the gentleman to allow such a resolution to be offered.

Mr. WOODWARD. I want an opportunity to offer that resolution afterward.

Mr. BUTLER. Now, then, to address myself to the several propositions suggested. In the first place, I was upon the question how this man had been treated. I have his sworn statement here upon that subject.

Mr. ELDRIDGE. I would inquire of the Chair how that is legitimate to the proposition before the House?

The SPEAKER. The Chair thinks it is legitimate to the proposition which the Chair has submitted to the House; that is, the construction the House will put upon the resolution the House has ordered the Speaker to execute.

Mr. ELDRIDGE. Will that open the question so that we may have an opportunity of ascertaining how the witness himself considers he has been treated, so that we may have the opportunity to answer the gentleman? Or is this to be entirely an *ex parte* matter, and is the witness to be tried, condemned, and executed without a hearing?

Mr. BUTLER. I do not yield for that purpose.

The SPEAKER. The gentlemen from Wisconsin, [Mr. ELDRIDGE,] as the Chair understood, rose to a point of order. The Chair will rule that the gentleman should withhold his point of order until remarks have been made to which objection may be taken.

Mr. WOOD. Mr. Speaker—

Mr. BUTLER. I do not yield.

Mr. WOOD. I rise to a point of order. My point of order is that the Chair has already told the gentleman from Massachusetts [Mr. BUTLER] and the House, as I understand the Chair, that the Speaker would have no authority to do what the motion proposed to authorize him to do, even if the House did order it.

The SPEAKER. The gentleman from New

York [Mr. WOOD] is mistaken in his statement of fact he presents to the House. When the gentleman from Massachusetts [Mr. BUTLER] first indicated that all communications to and from the witness should be revised by the Speaker, the Speaker said he should not feel himself, even by order of the House, authorized to break a seal. Whereupon the gentleman from Massachusetts changed his proposition to the effect that all communications to be delivered to him shall be open communications.

Mr. WOOD. I did not so understand the gentleman.

The SPEAKER. Then the gentleman from New York did not hear the proposition of the gentleman from Massachusetts, for he so stated distinctly.

Mr. WOOD. Suppose sealed communications come to him?

The SPEAKER. They would not be delivered to him, if the House should adopt the order.

Mr. WOOD. The Speaker could not open them, even by order of the House?

The SPEAKER. The proposition is not to give the Speaker authority to open them.

Mr. BUTLER. If gentlemen would listen instead of insisting upon talking all the time I think they would understand something.

Let me state exactly what the sworn testimony of Mr. Woolley is in regard to the manner in which he has been treated by the committee. He says:

"C. W. Woolley, sworn by Mr. BOUTWELL, chairman of the sub-committee, and examined by Mr. BUTLER.

"The witness, on being sworn by Mr. BOUTWELL, inquired of him if he was the chairman, and was informed by Mr. BOUTWELL that he was chairman *pro tempore* in the absence of Mr. BINGHAM by sickness.

"Witness. I ask you now, gentlemen, to strike out all that was written yesterday, as the oath was not administered by the chairman; to expunge everything that was written, because the oath was not administered by the chairman. I would also ask for the authority of the chairman to administer the oath. I do not mean this by way of preventing justice, but simply, as I have been pretty roughly handled in the newspapers. You, gentlemen, have been polite to me, and I thank you for it. I feel that you have treated me courteously."

Now, to answer some of the questions which have been propounded to me, I understand the gentleman from Maine [Mr. BLAINE] to say that it will be impossible to prevent counsel from smuggling letters, papers, and telegrams to the witness. I had supposed that, when reminded of the order of the House, and put upon their personal and professional honor, they would not do it. They ought not to do it; and to do so would be a contempt of the House for which we should find a remedy, provided gentlemen on the other side think they have any interest in the dignity and propriety of the House.

Mr. BLAINE. I referred to such dispatches and letters as counsel themselves might judge necessary for the defense of their client. That being a matter of discretion, does it not cover a margin which the House would be entirely incompetent to control?

Mr. BUTLER. I agree, sir, that almost everything can be done by indirection and fraud. That is very clear. We can only protect ourselves as well as we can, and take the usual and ordinary course.

Now, then, to answer the gentleman from New York, [Mr. WOOD.] He says there are many things the House cannot do. I agree with him upon that point. In his own case the House tried to bring him to a sense of his duty by censure, and failed. But I think we can, when we have a witness in contempt, deal with him in such a way as the law allows. There is no constitutional provision which allows men to do wrong.

Now, one word in answer to the gentleman from Pennsylvania, [Mr. WOODWARD,] who thinks Mr. Woolley should be brought in here to answer the managers or the committee after discussion here as to the propriety of the questions put. Sir, a witness in contempt of any court is never allowed to make any communi-

cation to the court until he has purged himself from contempt. If that is not well settled, there is no law known on earth. There is no propriety in permitting a witness to come here and have discussion as to the questions put, and it is a gross impropriety for any member to bring into the House statements of the witness which the witness himself cannot bring in his own person, (and the impropriety of such a proceeding was properly animadverted on yesterday,) for such statements may be false, as they were false yesterday on his own statement.

The witness has refused to answer certain questions. He stands on that refusal. Now, the question raised by the proposition of the gentleman from Pennsylvania is, Shall he be brought before the House with counsel and we here in the House go on with the examination? Was this ever done before? Will it ever be done again? Can the gentleman cite a single precedent for allowing this man to come here with his counsel to argue on the floor the propriety of questions and whether the witness shall answer or not? Have counsel ever been heard on the floor of the House except when unfortunately they had not only the retainer of the party, but were members? This House has not the time to pursue any such cumbrous and unprecedented method of investigation. I want to call your attention, Mr. Speaker, and that of the House, to the fact that this recalcitrant witness is taking up more of the time of the country than he is worth.

A MEMBER. That is true.

Mr. BUTLER. Yes, that is true; and gentlemen on the other side are aiding and abetting him.

Mr. WOOD. It is the gentleman from Massachusetts [Mr. BUTLER] who is taking up the time of the country in an unjust persecution.

Mr. BUTLER. I do not hear the remark.

Mr. WOOD. It is the gentleman from Massachusetts who is taking up the time of the country by an unjust and unconstitutional persecution of an individual.

Mr. BUTLER. I have taken up such time as I deemed was right. But this witness comes here through the seventeen gentlemen, more or less, who appear for him. Now, then, sir, I have only to ask the House to protect itself. I am aware of the great desire that Mr. Woolley, and those who are in complicity with him, have to get at the testimony; and if we could get his answer before the House, then there would be great rejoicing in certain quarters, for then other people could square their testimony with his. Mr. Speaker, I did not ask you, and the committee did not ask you, not to let him have telegrams or letters; but I call the attention of the House to the fact that the very first use he has made of the courtesy and privilege extended by the House has been an attempt to insult the House. Now, this House of Representatives may, some time or other, if the people are so insensible as to do it, be in the hands of gentlemen on the other side; and will they—they and their fathers in the old time did not—will they allow the House to be insulted?

Mr. BROOKS. Will the gentleman allow me to answer that question?

Mr. BUTLER. Yes, sir.

Mr. BROOKS. We will do exactly with Mr. Woolley, thus imprisoned, what the Democratic party did with Matthew Lyon, imprisoned under the alien and sedition laws, and Andrew Jackson, because of his fine at New Orleans; repay them all their expenditures, with compound interest, for the sufferings inflicted upon them.

Mr. LAWRENCE, of Pennsylvania. Would you do so whether guilty or not?

Mr. BUTLER. Mr. Speaker, will the gentleman also pay back the \$16,000 which he either sent to Cincinnati or placed in Sheridan Shooks' hand, or which he spent in his own private business; and upon the witness's testimony will they ever find out what he did with it, for he has sworn all three ways?

Mr. BOYER. Will the gentleman allow me to make a suggestion, and it is this—

Mr. BUTLER. I cannot yield.

Mr. BOYER. The witness does not refuse to answer any question propounded by the House.

Mr. BUTLER. Not to take up too much time I will now call for the previous question.

Mr. WOODWARD. I wish to ask the gentleman from Massachusetts to allow me to move my resolution as an amendment to his motion, and to take the sense of the House on it. I do not propose to debate it.

Mr. ELDRIDGE. I thought it was the tacit assent at all events of the House if the gentleman from Massachusetts was allowed to proceed as he has proceeded, that someone thinking differently from him might, if they desired it, have an opportunity to reply.

Mr. WOODWARD. I ask my friend to allow me?

Mr. BUTLER. How long does the gentleman desire?

Mr. WOODWARD. I do not ask any time for myself. I simply wish to move my resolution as an amendment.

Mr. BUTLER. I cannot permit that. You may have any time to discuss.

Mr. ELDRIDGE rose.

Mr. BUTLER. How long does the gentleman from Wisconsin want?

Mr. ELDRIDGE. Only a few minutes.

Mr. BUTLER. How many minutes?

Mr. ELDRIDGE. Say ten.

Mr. BUTLER. Very well, ten minutes.

Mr. ELDRIDGE. Mr. Speaker, I must say that this whole proceeding against Woolley, to my mind, does partake of unmitigated persecution. I endeavored to argue yesterday, in the ten minutes allowed me, that the only question of contempt with which he was charged by the committee was in not answering the question relating to the telegram in reference to the \$5,000. I assert now, after carefully reading the report of the committee, that there is no other charge, and I ask the gentleman from Massachusetts to say whether there is in the report of the committee any other charge of contempt than that of refusal to answer with reference to this telegram?

Mr. BUTLER. Yes, sir, there is; the sending of a certificate in the morning that he was sick and then running away to New York at night, and there concealing evidence which would have been within our reach if he had not.

Mr. ELDRIDGE. If that is the ground upon which the gentleman is proceeding he is proceeding upon a ground outside of the record, and a matter too fully explained and justified by the witness. He has made, and the House has acted on no such proposition; and I now assert again that the gentleman is proceeding against this man Woolley upon grounds entirely outside of the record which the committee has presented for the House to act upon. It has been my opinion from the beginning that there was something at the bottom of this proceeding, something actuating the committee, something moving the committee of which the House was not properly informed. There is in it some hostility, some feeling, some anger, some passion, some resentment, some disappointment, some mortification which moves the committee, and in which this House ought not to participate. It is this that is to make this witness a victim. He is to be visited with all these passions of the committee, and subjected to this proposed punishment. This House has never determined the propriety or impropriety of the question propounded to the prisoner, except in its action consigning him to prison. The committee itself has determined all the questions, and the House has acquiesced only. It was its duty in the first place to have acted on that question, and have determined Woolley should have answered it. Then, if he had refused, he would have been in contempt of the House. As it now stands, his refusal to answer the question of the committee, whether right or wrong, is treated as a contempt of the House. But Mr. Woolley has been before the

House, and told us that he was ready, prepared at any moment, upon its direction, to answer any and all questions which the House decides he shall answer. This has not only been his statement to the House once, but it has been several times made and repeated, and he stands ready, as I am informed, now to answer any proper question which the House, composed as it is largely of those opposed to him, shall decide he ought to answer. Now, I put it to this House in all candor and sincerity, if his request is not reasonable—if the House ought not fairly to decide between him and the committee, and if he can be in contempt while he stands ready to obey the order of the House.

Mr. MULLINS. Will the gentleman allow a question?

Mr. ELDRIDGE. I cannot out of my ten minutes. I would yield to everybody if I had the time.

Here is a committee raised confessedly, avowedly for another and a different purpose than that of investigating the conduct of members of the House or the Senate, or any other question of public interest, raised for a partisan purpose, raised for the purpose of impeachment, composed of gentlemen upon one side of the question of impeachment, committed to it before their election, nominated in a political, partisan caucus, and their names presented to this House and confirmed in their appointment by a political and partisan majority in this House.

Mr. BROOKS. Two of them from one State.

Mr. ELDRIDGE. Yes. Two of them from the State of Massachusetts, appointed or elected only to manage the trial of impeachment, and because of their abilities and interest to push it strongly. Now, this witness is brought before this committee, composed as it is and created as it was, and he complains that they are actuated by unfriendly or hostile or angry feelings toward him, that he is not fairly treated by them; he claims that he is insulted and abused, and that the questions put to him are improper. I insist that this House ought to decide the question for itself as between this witness and the committee. If the House shall decide that he shall answer, and he then refuses, I myself should feel bound, and I have no doubt the witness would cheerfully acquiesce in the justice of that judgment, and the country will be satisfied. But if you persist in insisting that the witness shall be subject to the absolute will, control, caprice, passion, anger, or mortified pride of this committee, you will not be justified before the country.

It is a wrong unparalleled in this country or any other. It is not only unparliamentary, but in my judgment it is an outrage upon the personal liberty of the citizen which this people cannot submit to with a just regard to their own rights and freedom. We have appealed to you in every form to give the witness an opportunity of having one, two, or three members who differ with you upon the question of impeachment to examine him and see whether he is fairly dealt with. This most just and reasonable demand you refuse.

The gentleman from Massachusetts told us as a reason why the minority should not be represented on the committee yesterday that when the Judiciary Committee were in session during the last summer on the impeachment question, its proceedings were made public. That is the pretended reason for not allowing gentlemen on this side to be on this investigating committee. As one of the members of the Judiciary Committee, I tell the gentleman that there never was a committee of this House in session as long as that was, and investigating as extensively as they did, examining the number of witnesses, and taking the amount of testimony that they did, where so little of what occurred before it was made public before they reported. The chairman of the committee himself, a Republican in politics, declared that to be the case in my own hearing.

I appeal now and here to the members of that committee on the other side if there is

one of them who at any time had the remotest suspicion that one member of the minority ever disclosed a single fact during that investigation improperly. I tell you the gentlemen on this side are not only too honorable, but they know too well their duty to disclose improperly what transpires before a committee. This is a mere pretense. It is an unjust and unjustifiable imputation upon the committee. I hurl it back with scorn, indignation, and contempt. There is not a man on that committee, my colleague [Mr. MARSHALL] suggests to me—and I speak with confidence on that subject—who will say that the minority did not act honorably, fairly, and uprightly during the whole of that examination. That is no reason, however, why the committee should not be composed according to parliamentary usage and law, according to the practice of this and all other parliamentary bodies. But it is not that that the gentlemen desire. It is not that of which he is afraid. They wish to pursue this witness in secret. They seek to perpetrate upon him something which they do not want the minority of the House to understand. They have some purpose that cannot bear the light, some purpose to be accomplished in the darkness, some purpose they do not want the country to know. There is, there can be no other reason for the course pursued by this committee of impeachment managers.

Mr. BUTLER resumed the floor.

Mr. BLAINE. If the gentleman will yield to me for a moment, I wish to make a suggestion rather in the nature of a point of order or parliamentary inquiry. I desire to know from the Chair whether, heretofore, when witnesses in contempt of the House have been put in confinement, they have been placed in the custody of the Speaker? It seems to me—I will say in advance of the answer of the Chair—that whatever may have been the custom in the past, or may be the present custom, it is a duty which more properly devolves on the Sergeant-at-Arms, and I think it is somewhat *infra dig.* in respect to the Speaker of the House that he should be made the custodian or jailer—as the papers term it—of the witness; and I desire in some form to enter a motion that shall relieve the Speaker of that duty, and place it where, by the rules of the House and the suggestions of propriety, it seems to belong, and that is to the Sergeant-at-Arms.

The SPEAKER. The Chair will reply to the inquiry of the gentleman from Maine, that the usage has always been, when members who refuse to obey the orders of the House are put under arrest, or when witnesses who refuse to obey the orders of the House and the law of the land, which requires them to testify, are placed under arrest, they are placed under arrest by the Sergeant-at-Arms, and are not under the supervision of the Speaker. The Speaker has other duties which occupy all of his time and attention, and the Sergeant-at-Arms is the officer who has always heretofore had the responsibility. It is a delicate responsibility.

Mr. BLAINE. I desire to move that the entire charge and custody of the witness be placed in the hands of the Sergeant-at-Arms, and the Speaker entirely relieved therefrom. I hope the gentleman will accept that amendment.

Mr. MAYNARD. I desire to ask the Chair whether even an order of the House could impose upon the Speaker a duty as Speaker which did not legitimately belong to his office? For example, could the Speaker, by an order of the House, be required to come down to the Clerk's desk and read a bill or be required to perform the functions of the Doorkeeper? Would not such an order be simply nugatory?

The SPEAKER. The Chair would state to the gentleman from Tennessee that the order which he suggests would be a change in the rules of the House, and therefore could not be entertained except under a suspension of the rules or by unanimous consent. But the Chair supposes that the duty can be devolved on the Speaker by the order of the House which has

been devolved upon him, but he will state that he would be very much gratified if the House would allow him to perform the ordinary duties of the Chair without additional duties.

Mr. MAYNARD. The point of inquiry is whether such an order is not a complete change of the regular organization of the House, assigning duties to an officer with which, under the organization of the House, he has nothing to do?

The SPEAKER. It is a change in the usage of the House, but the Chair supposes that the House could devolve this duty upon the Chair if they saw fit.

Mr. BECK. I desire to ask the gentleman from Massachusetts if it is not the fact that on Wednesday morning, when Mr. Woolley was last before the committee, that he stated to the committee, in addition to his answer which was read to the House, that if they would bring him before the bar of the House and submit the question as the sufficiency of his answer, and his right to refuse to answer further, that he would answer any questions which the House might direct him to answer? The gentleman from Ohio [Mr. BINGHAM] on yesterday, when I sought to get the floor to make that statement and ask that question, said to me in substance that Woolley had so requested. I regret that he is not now in his seat.

Mr. BUTLER. Nothing but my respect for the gentleman from Kentucky prevents my calling his attention to the fact that he is asking a question wholly outside of anything before the House.

Mr. HIGBY. Allow me to ask the gentleman from Kentucky or the gentleman from Wisconsin if it is the usual way to take testimony to bring witnesses to the bar of the House and ask them questions in order to get information?

Mr. BECK. If the gentleman from Massachusetts [Mr. BUTLER] will allow me to answer the gentleman from California [Mr. HIGBY] I will do so. My understanding is that when the House appoints a committee, or a grand jury is in session, or any other body appointed to examine a witness, and the committee or the grand jury differ as to the right of the party, the proper course is to bring the witness before the House or before the court, place him under the protection and direction of the House or the court, and then he will have to do what the House or the court may order him to do.

Mr. HIGBY. Will the member from Massachusetts yield to me?

Mr. BUTLER. I cannot yield.

Mr. HIGBY. I only want a minute.

Mr. BUTLER. Very well.

Mr. NIBLACK. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. NIBLACK. My point of order is that the gentleman from California [Mr. HIGBY] is out of order in always addressing others here as "members" and not as "gentlemen."

The SPEAKER. The Chair overrules the point of order. By reference to the Congressional Globe it will be seen that the universal custom has been for members to refer to each other as "members" or as "gentlemen," as they may please.

Mr. BUTLER. I desire to keep before the House what the question is. The sole question under consideration is whether this man Woolley—after having insulted the House by receiving an insulting telegram, (that you could not help,) then by sending it to the committee so as to make it known to them—whether he shall be allowed to receive any more? That is the question. Whether he shall answer at the bar of the House is not a question now before the House.

We are told that we are persecuting this man. Sir, he has only to tell the truth, only to answer the question what he did with this money, which four times he has given a history of, and each of the four statements untrue, and then the prosecution will stop. He does not need a lawyer to aid him to do that; he



does not need the gentleman from New York [Mr. Wood] to aid him to do that; he does not need anybody to aid him to do that. He knows better than anybody else can what he did with the money.

Mr. WOOD. Mr. Speaker—

Mr. BUTLER. I cannot yield.

Mr. WOOD. I desire to ask a question.

Mr. BUTLER. I do not yield. Now, then, to the other questions: the resolution was drawn in conformity with parliamentary precedents, I believe. It does not put this witness into the custody of the Speaker at all any more than the fact that the rooms of this Capitol are subject to the order of the Speaker. He is in the custody of the Sergeant-at-Arms, to whom the Speaker gives direction.

Mr. BLAINE. I beg to correct the gentleman on that point. The resolution specially made the Speaker—

Mr. HIGBY. I object to the gentleman from Maine interrupting the gentleman from Massachusetts.

The SPEAKER. The gentleman from Massachusetts has the right to yield to the gentleman from Maine for explanation, as he does.

Mr. BLAINE. The resolution specifically made the Speaker the arbiter to decide who should see the witness, what letters shall go to him, what telegrams shall go to him, and what shall not. So that all the offensive points in the proceeding, if I may so call them, are thrown upon the Speaker. I think the Speaker should be relieved from that responsibility, for I do not think the House has any right to impose it upon the Speaker. But, having done so, the sooner we take it back the better for the dignity of the House.

Mr. BUTLER. To that I would answer that the witness was put in the custody of the Sergeant-at-Arms. If we had let it stand there, so that no communications, orally or in writing, could be made to him, our friends on the other side—out of doors, not in this House, because it might not be parliamentary for me to refer to those in this House—out of this House would have howled over the charge that he had been put where he could appeal to no one for any redress, and could look to no one but the Sergeant-at-Arms or his jailor for any assistance. Therefore, in kind consideration to the witness, we drew the resolution so as to provide, first, that the witness should be in the custody of the Sergeant-at-Arms; and then the highest officer of the House is designated to determine who shall see the witness. This was done so that there could be no reason for saying that we mean to deal unfairly with him.

I know, sir, that it is an onerous and unpleasant duty, one that nothing but the exigencies of the case would have made us think for one moment of putting upon you, sir, and we knew that you would faithfully discharge your responsibilities in the line of duty, however onerous, however arduous, however unpleasant.

Mr. NIBLACK. Will the gentleman yield to me for a moment?

Mr. BUTLER. No, sir; I will not be interrupted.

Having done that, the complaint now arises on our side that we have been too lenient, too kind to this witness, in that we have intrusted to the highest officer of the House the duty of supervising this delicate part of the witness's confinement.

Mr. BLAINE. I raised no question at all as to the treatment of the witness. My motion had reference to the Speaker, not to the witness.

Mr. BUTLER. Well, as the Speaker had not complained of the matter, I suppose he is obliged to my friend for raising the question.

Mr. BLAINE. The Speaker is voiceless on the floor.

Mr. BUTLER. Allow me now to say that I have no objection to putting this matter under the charge of the Sergeant-at-Arms. I do not care what the House may do in the matter. But I would remind gentlemen of Ben. Franklin's anecdote of the hatter's sign. A man had put on his sign these words: "John Smith

makes and sells hats here." One man came along and said, "Who cares who makes the hats?" So the word "makes" was struck out. Another man said, "Who cares who sells the hats, so he gets them?" So the word "sells" was struck out. A third man suggested, "Strike out the word 'here,' of course you don't sell them anywhere else." So "here" was struck out. Another man said, "Who cares whether John Smith or John Brown sells the hats?" So "John Smith" was struck out. In this way the whole thing was struck out, and the sign had nothing on it. We have a similar trouble with any proposition introduced here. One man wants this struck out; another wants that struck out; a third wants something else struck out; and nobody apparently wants anything done unless it be done in his own way.

Mr. BLAINE. The gentleman from Massachusetts will bear in mind that, according to the statement of the Speaker, whom the gentleman will accept as abundantly competent authority on all parliamentary points, the effect of my motion would be to leave this witness in just the same position that has been occupied by all previous witnesses in contempt. What I object to is that we should now institute a proceeding in conflict with the uniform practice of the House heretofore. All I desire is that the gentleman shall accept such an amendment as will make our action in this case conform to the past practice, and relieve the Speaker from a duty which, as every one concedes, must be difficult, disagreeable, onerous, and embarrassing.

Mr. BUTLER. I have no objection to accepting the amendment if the Speaker desires it; but I wanted to show the House that the proceeding proposed by the committee in this case is not without precedent. Gentlemen will find that in the British Parliament, from which we derive the fundamental principles of our parliamentary law, all these things are done by the order of the Speaker.

Mr. BLAINE. I prefer the precedents of the House of Representatives.

Mr. MAYNARD. Will the gentleman from Massachusetts [Mr. Butler] allow me to correct him upon one matter?

Mr. BUTLER. Certainly.

Mr. MAYNARD. The gentleman speaks of these things being done by the order of the Speaker. As I understand, however, the execution of the order is devolved upon the Sergeant-at-Arms, as the executive officer of the House, and this question has arisen from the action of the Speaker himself, who has brought to the attention of the House a matter growing out of his newly-imposed duties as jailor and custodian of prisoners, that he might know how to discharge the functions of his office; whereas the Sergeant-at-Arms, familiar with his duties, would have discharged them, I presume, without any direction.

Mr. BUTLER. Let me correct the corrector. The Speaker is neither jailor nor custodian. He is simply to say who shall have access to the prisoner who is in custody; he is not the custodian of the prisoner at all. But, sir, in order that my friends shall be satisfied, and especially after the intimation given by the Speaker of his desire, I will modify my motion so as to provide that the resolutions relating to Charles W. Woolley be so modified that the Sergeant-at-Arms shall determine only what verbal and written communications shall be made to the witness, and that no communication in writing or by telegraph, except open communications, be delivered to him or from him, and that all sealed communications be delivered to him through his counsel.

Mr. WOOD. I rise to a question of order. I doubt whether this resolution will discharge the Speaker of the House from responsibility for the acts of the Sergeant-at-Arms. I find on page 173 of the Digest that the Sergeant-at-Arms must discharge his duties under the direction of the Speaker. Therefore he will still be under the direction of the Speaker.

The SPEAKER. Read the paragraph on page 173 which the gentleman is now quoting.

Mr. WOOD. "It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings; to aid in the enforcement of order under the direction of the Speaker."

The SPEAKER. Now read the next part of the rule.

Mr. WOOD. "To execute the commands of the House from time to time." He is entirely under the direction of the Speaker.

The SPEAKER. The gentleman has not examined the rule. The Chair will read it, and he will see that it answers the point of order:

"It shall be the duty of the Sergeant-at-Arms to attend the House during its sittings."

That is the first part of it.

"To aid in the enforcement of order, under the direction of the Speaker."

That is the second part of it.

"To execute the commands of the House from time to time."

There is no limitation here in regard to the Speaker at all. The fourth is:

"Together with all such process, issued by authority thereof, as shall be directed to him by the Speaker."

He is to execute the commands of the House from time to time. It does not need the intervention of the Speaker. He is directly responsible to the House.

Mr. WOOD. The concluding part implies that his duties shall be under the direction of the Speaker.

The SPEAKER. That relates to what comes after the semi-colon in the last division:

"Together with all such process, issued by authority thereof, as shall be directed to him by the Speaker."

That is to say, that he cannot execute process without authority of the Speaker.

Mr. WOOD. If the Sergeant-at-Arms, during the recess of the House, applied to the Speaker for direction, would he not give it to him?

The SPEAKER. He would within the sphere of his duties, which is quite limited during the recess.

Mr. WOOD. We are willing to leave this prisoner with the Sergeant-at-Arms.

Mr. ELDRIDGE. I do not say that I am willing to do that.

Mr. WOOD. I mean so long as he is a prisoner.

Mr. BUTLER. I demand the previous question.

Mr. BOYER. I wish to make a parliamentary inquiry. It is this: whether, if this resolution be passed, it will prevent the counsel of the prisoner from holding any communication with him unless the communication intended to be made is first stated to the Sergeant-at-Arms?

The SPEAKER. The gentleman must construe the resolution for himself. The Speaker ordered, yesterday, that his counsel should have access to him, as well as his wife, child, and nurse. That order is unrevoked.

Mr. BOYER. Is it the intention to prevent his counsel communicating with him unless the communication is first stated to the Sergeant-at-Arms?

Mr. BUTLER. Neither his counsel, his wife or child, nor his physician, unless the counsel or the physician shall abuse that trust.

Mr. BURR. I ask the gentleman from Massachusetts, whether, when we have got through with Mr. Woolley, he will not be, to use a military expression, "bottled up." [Laughter.]

Mr. POLAND. Mr. Speaker, I do not desire to enter into any of these controversies in regard to this man, whether he has been treated fairly or not, or whether it is wise he should be held; but I desire to say a word in reference to the matter now before the House, whether it is wise and proper and expedient that we should undertake to interfere with this man's correspondence, and say whether he should receive letters from people outside, or write them to people outside. Now, I am aware ordinarily if a man is confined upon some criminal charge it is not wise to allow him to send written communications to persons

outside, or to receive communications from persons outside without being subject to the examination of his keeper. Why? It is purely and solely for the reason that he shall not concert schemes with persons outside to effect his escape. It has not been suggested there was any apprehension, any danger felt that this man was likely to escape from custody. Unless, therefore, there is something to be gained in the way of obtaining what we desire from this man, by way of examination, by way of compelling him to answer the inquiries the managers put to him, I do not see any necessity or propriety, or decency even, in our undertaking to say this man shall not have communication, in the ordinary way by letter, with persons outside. It is entirely idle and futile for us to undertake to interfere.

The Speaker has already determined, very justly and wisely, as I think, that the witness is entitled to see his counsel and communicate with them in the absence of all other persons, so that no person shall know what the communication is between them. If, therefore, he desires to communicate with any person outside of his room, or to receive information, the door is entirely open both to send and receive communications. Therefore, what we are called upon now to do is entirely futile. It seems to me of no use, no service whatever. We cannot, by any possibility, advance the object or produce the result for which we have this man in custody in this way. Therefore it seems to me like a small business to undertake to interfere with his communications.

A MEMBER. Move to lay it on the table.

Mr. POLAND. I move to lay the resolution on the table.

Mr. BUTLER. I do not yield for that purpose.

Mr. ALLISON. I desire to say, if I understand this resolution, that I understand the gentleman does not propose in any manner to interfere with free communication between Mr. Woolley and his counsel. Am I right in that?

Mr. BUTLER. Yes, sir.

Mr. ALLISON. Then I think the first clause of the resolution is a little too narrow in its construction, and that it will embarrass the Sergeant-at-Arms. I ask the first clause to be read.

The Clerk read the resolution, as follows:

*Resolved*, That the resolution relative to Charles W. Woolley be so modified that the Sergeant-at-Arms shall determine only what verbal and written communications shall be made to the witness, and that no communication in writing or by telegraph, except open communications, be delivered to him or from him, and that all sealed communications be delivered to him through his counsel.

Mr. ELDRIDGE. I ask unanimous consent to be allowed—

Mr. BUTLER. I have the floor.

Mr. ELDRIDGE. I wish to say to the gentleman that I have a note sent to me from the witness.

Mr. BUTLER. I object to any communication being made from a witness in contempt.

Mr. ELDRIDGE. It relates to what the gentleman said yesterday.

Mr. BUTLER. I cannot go into a discussion with a witness who is in contempt; therefore I decline to yield.

I have now the telegram to which the Speaker referred at the outset. It was sent to me with this communication:

As the inclosed dispatch smacks of disloyalty to the late managers, I do not under the resolution passed to-day feel that any but yourself should be its custodian.

With much respect, C. W. WOOLLEY.  
Hon. B. F. BUTLER, House of Representatives.

This is the inclosed dispatch:

NEW YORK, May 29, 1868.

Received at the House of Representatives, May 29.  
C. W. WOOLLEY: Citizen and sovereign in prison by order of tyrants and cowards in the Capitol of America; stand firm. Every true man in the land who has blood in his veins will stand by you. It is the last feather that breaks the camel's back.

GEORGE O. JONES.  
Metropolitan Hotel.

Now, then, gentlemen of the House of Rep-

resentatives, as many of you as want this sort of communication sent to the witness will vote to allow him to receive unrestricted telegrams.

Mr. WOOD. What harm do they do?

Mr. BLAINE. I ask to be allowed to explain.

Mr. BUTLER. I decline.

Mr. BLAINE. I hope the previous question will not be seconded as the matter now stands.

The question being put there were—ayes 45, noes 40; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. BUTLER and ELDRIDGE.

The House divided; and the tellers reported—ayes 52, noes 44.

So the previous question was seconded.

The main question was then ordered.

Mr. ELDRIDGE. I move to lay the resolution on the table.

The question being put there were—ayes 30, noes 60; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. BOUTWELL and MARSHALL.

The House divided; and the tellers reported—ayes 26, noes 70.

So the House refused to lay the resolution on the table.

Mr. ELDRIDGE. I demand the yeas and nays.

Mr. BLAINE. I rise to a question of privilege. I desire to state a point and make a privileged motion.

Mr. ELDRIDGE. I will hear it without waiving the right to call the yeas and nays.

The SPEAKER. If there is no objection, the gentleman from Maine will state his proposition.

Mr. BLAINE. I desire to move to reconsider the vote by which the main question was ordered, and if that is done I then propose to move the following substitute for the resolution:

*Resolved*, That the resolution relating to Charles W. Woolley, be so modified as to place the witness in the usual custody of the Sergeant-at-Arms, subject to the order of the House, and that his counsel, family, and physician have free access to the witness.

Mr. HIGBY. Does "free access" mean without any person being present in the room?

Mr. BLAINE. Yes; when his wife or his counsel shall visit him. I mean free access in its broadest sense, as it pertains to interviews with his family and the intercourse between counsel and client.

The SPEAKER. Does the gentleman from Massachusetts accept the modification?

Mr. BUTLER. Yes, sir.

The SPEAKER. Then, if there be no objection, the resolution will be modified. The Chair hears none. Does the gentleman from Wisconsin insist on the yeas and nays on the motion to lay on the table?

Mr. ELDRIDGE. No, sir.

The SPEAKER. Then the question is on agreeing to the resolution.

Mr. JONES. Is it in order to offer a substitute for the resolution?

The SPEAKER. Only by unanimous consent, as the previous question is operating.

Mr. HIGBY. I object.

Mr. WOOD. We do not object to the resolution.

The question was taken on the resolution; and it was agreed to.

Mr. BLAINE moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MISS VINNIE REAM.

Mr. MARSHALL. I rise to present a privileged question, and preliminarily to introducing it I ask that a short preamble and resolution may be read; and then I will ask the indulgence of the House to make a very brief statement, which I think will be satisfactory to the entire House on both sides.

The SPEAKER. How much time does the gentleman want?

Mr. MARSHALL. Probably not exceeding five minutes.

The SPEAKER. The resolution will be

reported, and then the Chair will ask for objections.

The Clerk read as follows:

Whereas room "A" in the Capitol has for a considerable time been in the possession of Miss Vinnie Ream, and occupied by her as a studio by the consent of the House, and she has for more than a year been engaged in modeling her statue of Lincoln, under an order made for that purpose by Congress; and whereas said statue is now in such condition that it cannot be removed at this time without the destruction thereof, as appears by the following copy of a letter addressed by her to the Sergeant-at-Arms—

Mr. HIGBY. I object to the resolution.

Mr. MARSHALL. I ask that it be read through.

The SPEAKER. The gentleman from California has a right to object.

Mr. MARSHALL. I submit that it is a privileged question.

The SPEAKER. The Chair will state to the gentleman from Illinois that it certainly is not privileged. The resolution requires unanimous consent, and the gentleman from California objects.

Mr. BUTLER. I desire to move to go into Committee of the Whole on the state of the Union on the Indian appropriation bill.

Mr. MARSHALL. I ask the unanimous consent of the House to make a statement not exceeding five minutes.

Mr. PILE. I call for the regular order of business.

Mr. BUTLER. I will yield to the gentleman from Ohio, [Mr. SCHENCK,] who desires to give a notice to the House.

Mr. PERHAM. I demand the regular order of business.

Mr. MARSHALL. I rise to a question of order. My resolution, to which the preamble is preliminary, has not yet been presented to the House. I present it as a privileged question, and I understand it to be the rule of the House that when a resolution is presented in that way it must first be read to the House before the Speaker decides whether it is privileged or not. That has been the ruling heretofore, and I ask that this preamble and resolution be read, and that then the Speaker shall rule whether it is of a privileged character or not.

The SPEAKER. The Chair will state to the gentleman from Illinois [Mr. MARSHALL]—and he will see at once the fallacy of his argument—that if he should present as a resolution of privilege a speech of one hour in length, claiming that it was a question of privilege, even though the first few sentences should show that it did not relate at all to a question of privilege, according to the argument of the gentleman the House would be compelled to listen to an hour's speech before the Chair could rule it out of order.

Mr. MARSHALL. The Speaker has not heard the resolution, and cannot know what it is until it is read to the House. I still insist, and I think I cannot be mistaken in my recollection in regard to the matter, that the Speaker has, time and time again, held that a resolution must first be read through before he could rule upon it and determine whether it was in order or not.

The SPEAKER. The Chair did so rule on one occasion, when a member on the same side of the House with the gentleman from Illinois [Mr. MARSHALL] offered a resolution as one of privilege. The opening part of the resolution seemed to indicate that it involved a question of privilege. Upon protest being made upon the left of the Chair that it should not be read in full, the Chair decided that it should be read in full, so that he could ascertain whether or not it was a question of privilege.

In reference to the resolution now presented by the gentleman from Illinois, the Chair is of opinion that it is one requiring unanimous consent for its consideration, except on Monday, when the State of Illinois is called under the call of States and Territories for resolutions.

Mr. MARSHALL. I do insist that this is a resolution of privilege.

The SPEAKER. The Chair has decided otherwise.

Mr. JONES. I rise to a question of privilege.

The SPEAKER. The gentleman from Massachusetts [Mr. BUTLER] has moved that the rules be suspended and that the House now resolve itself into Committee of the Whole on the Indian appropriation bill. And that motion cannot be superseded by a question of privilege.

Mr. MARSHALL. I ask unanimous consent that my resolution may be printed in the Globe.

Objection was made.

The question was then taken upon the motion of Mr. BUTLER; and upon a division there were—ayes 67, noes 29.

#### INDIAN APPROPRIATION BILL.

So the motion was agreed to; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. BLAINE in the chair,) and resumed the consideration of House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869.

The CHAIRMAN. The pending question is upon the amendment of the gentleman from Tennessee [Mr. MAYNARD] to add to the first section of this bill the following:

For this amount to pay the expenses of two commissioners appointed to appraise the Cherokee neutral lands under the seventeenth article of the treaty of July 19, 1866, with the Cherokees, or so much thereof as may be necessary, \$4,550.

Mr. MAYNARD. I hope the attention of the Committee of the Whole will be drawn to the condition of the question. I think the first question is upon an amendment to my amendment.

The CHAIRMAN. The amendment to the amendment was merely verbal, for the purpose of debate, and was withdrawn yesterday.

The question was then taken upon the amendment of Mr. MAYNARD; and it was not agreed to.

No further amendment being offered to the first section, the second section was read, as follows:

SEC. 2. And be it further enacted, That in order to carry into effect the eleventh and twelfth articles of the treaty between the United States and the Choctaw and Chickasaw tribes of Indians confirmed by the Senate on the 21st day of February, in the year 1856, and the resolution of the Senate of the United States in pursuance thereof made on the 9th day of March, in the year 1859, as finally adjusted by the report of the Committee on Indian Affairs made to the Senate on June 19, in the year 1860, and the tenth article of the treaty between the United States and the said Indians approved by the Senate of the United States on the 28th day of June, in the year of our Lord 1866, the Secretary of the Treasury is hereby authorized and directed to issue, on the credit of the United States, coupon bonds, or registered bonds, of denominations not less than fifty dollars each, payable twenty years from the date of the approval of this act, bearing interest at the rate of five per cent. lawful money, payable semi-annually, for the sum of \$1,832,560 85, which bonds shall be delivered to the Choctaw Indians: *Provided*, That said Choctaw tribe of Indians shall receive the same in full satisfaction and discharge of all claims of the said tribe, and of the members thereof, against the United States existing prior to the 28th day of June, in the year 1866.

Mr. WINDOM. I move to strike out this entire second section; and I will state briefly my reasons for that motion. I have given this case some examination, although not a very thorough one. The circumstances upon which this claim is based extend back some thirty years. So far as I have been able to see by the limited examination I have given to the case, I believe we shall eventually have to pay this money; but there can be no harm in placing the matter in such a position that every member may have an opportunity to examine it for himself. It is a claim amounting to nearly two million dollars. It is large enough, certainly, to justify careful examination on the part of each member before he votes upon it. I am very certain that upon such discussion as we can have to-day we cannot go back through the last thirty years and look into this case fully, and see upon what the claim is based.

My object in moving to strike out this section is that I may hereafter, at the earliest

possible time, move to refer this claim to the Committee on Indian Affairs, to which it properly belongs, that it may have another examination there, while members of the House can be examining it for themselves. As this claim is of such long standing, it certainly can do no harm to let it wait until our committee shall be called. I will agree, if necessary, that the Committee on Indian Affairs, when next called, shall report for or against this claim with their reasons. In the meantime, as I have already said, every member of the House can examine the matter for himself.

This is a matter strictly within the province of the Committee on Indian Affairs, and it is one of a class of cases which ought to be carefully examined. If the proposition embraced in this section were a provision of the character usually reported by the Committee on Appropriations, there might not be so much propriety in the suggestion which I make. But this is not an ordinary appropriation. It is not understood by the Committee on Appropriations to be a simple appropriation, for the note appended to the bill states:

"The total amount appropriated by this bill is \$2,214,283 01."

That amount does not, of course, include this claim of \$1,800,000. The committee, in their note to this bill, do not understand it to be a part of the appropriations embraced in the bill, for the reason, I suppose, that it is, properly speaking, new legislation, the committee proposing to issue bonds bearing five per cent. interest. In that view of the subject, it seems to me the matter is not properly within the province of the Committee on Appropriations. I desire that time may be allowed for the examination of this subject by another committee and by the House. This will certainly be a safe proceeding.

Mr. MILLER. I desire to inquire of the gentleman whether this claim was not before the House once before and rejected?

Mr. WINDOM. This claim was before the House at the close of the last session of the Thirty-Ninth Congress, was discussed during a part of the last evening of that session, and was voted down. A suggestion was then made, I believe, that it be examined by the Committee on Indian Affairs. But the case was never referred to that committee, by whom there has been no examination of it except a very cursory one by a minority of the committee.

Mr. BUTLER. Mr. Chairman, I desire to place before the committee the exact state of the facts so far as regards this section, and then the committee can do with it precisely what they may desire.

In the first place, this section was drawn in order to obviate what seemed to be a great difficulty. By a solemn treaty four times ratified \$2,300,000 worth of land was sold to the United States, the price being \$1 25 per acre for that which had actually been sold by the United States, and for which it had received the money, and twelve and a half cents an acre for the remainder. In 1853 the United States got the money for the land. They agreed to pay for it to the Choctaws. But before the necessary legislation got through the war broke out. The United States paid upon this claim \$500,000, and let the rest lay over to await the loyalty of the Choctaw nation. In 1866 a treaty was again made and ratified, and it was agreed that this money should be paid. The Choctaws agreed to allow out of that money certain claims for damages; and it was finally agreed that they should receive \$1,832,560 85 in gold.

Now, that claim came before the Thirty-Ninth Congress and failed, upon a plea precisely like that now put forward by the gentleman from Minnesota, [Mr. WINDOM,] that time should be allowed for the examination of the claim. Since that time this matter has been pressed upon the attention of our committee by the Secretary of the Interior, who has urged the necessity of an appropriation. We have, as in duty bound, reported an appropriation for the amount.

This does not raise the question whether the

Senate and the President have the right to bind this House by a treaty, because Congress has heretofore accepted the treaty, and one quarter of the money has been paid.

Mr. WINDOM. Congress has not accepted the treaty of 1866.

Mr. BUTLER. I beg the gentleman's pardon. In 1861 Congress made an appropriation of \$5,000 and paid it over. Then came the treaty of 1866. The gentleman does not pretend the treaty of 1866 was for the purpose of settling how much should be allowed for claims against the Choctaw Indians.

Now, sir, without saying further, the committee would not report this until they had a full report made. You owe them this money. It has to be paid some day. It must be paid. Under the circumstances the committee thought it best to give them long bonds at five per cent. interest. Indian appropriations have been put heretofore in Arkansas and Virginia State stock, and being so put, have been lost. We propose to put them in five per cent. bonds. I ask before proceeding further that the report of the committee accompanying this section shall be read.

The CHAIRMAN. The gentleman's time has expired.

Mr. WASHBURN, of Illinois. I move to strike out the proviso; and I do it, sir, for the purpose of saying a word, as I opposed this section in the Committee on Appropriations. I was opposed to putting it into the Indian appropriation bill for the reason that I had not sufficient knowledge on the subject to justify me in voting this vast sum of money at this time. I knew that it was an old claim of thirty or forty years' standing. It had been trundling along, acted upon in the House, and referred to in various treaties; it was so mixed up, and so many suspicious circumstances were thrown around it, that I was unwilling to commit myself to the section. From what I have heard since has only confirmed my suspicions that this money is not to go to the Indians, but to an Indian "ring" of which Perry Fuller is one of the chief managers. I am opposed to passing any bill which will give the money to a "rotten Indian ring," which I believe is in collusion with the Indian department, one of the rottenest departments of the Government.

Without having further knowledge than I have in regard to the matter, I am opposed to it—to putting out to this "ring" our obligations to the amount of \$1,500,000.

Mr. BUTLER. One million eight hundred thousand dollars.

Mr. WASHBURN, of Illinois. I think, after the open disclosure made by the gentleman from Ohio [Mr. LAWRENCE] yesterday, that there is no subject more worthy of attention than an investigation by the House into all the facts of this case; and not only into this, but also in regard to the Cherokee neutral lands, as well as in regard to the Osage lands referred to yesterday by the chairman of the Committee on the Public Lands, [Mr. JULIAN.] Now, I propose, if this is struck out, when we get into the House, to submit the following resolution:

*Resolved*, That the Committee on the Judiciary be directed to inquire into all the facts and circumstances connected with the claim of the Choctaw and Chickasaw Indian tribes, arising, as it is claimed, under the eleventh and twelfth articles of the treaty of March 9, 1859, and of the treaty of June 19, 1866, and also in regard to the Osage and Cherokee neutral lands, and that they have power to send for persons and papers.

I propose to refer it to the Committee on the Judiciary, and not to the Committee on Indian Affairs, because the Committee on the Judiciary have now partial charge of the subject. I want all the facts and circumstances attending these Cherokee and Choctaw and Chickasaw claims fully investigated.

Mr. NIBLACK. I desire to make a brief statement about this section. I was on the Committee on Appropriations during the last Congress, before which this subject came, and which, I believe, reported a section similar to this one for the payment of this claim. I could not then, and do not now, understand how so



large a claim could have been permitted to slumber so long. There was, to my mind, some mystery about it, and that mystery has never been cleared up from that day to this.

I also became fully impressed with the idea—I cannot now give the reasons why I became so impressed—that there was a big job in it somewhere. I was therefore compelled to oppose the appropriation in Committee of the Whole, and with such assistance as I was fortunate enough to receive it was defeated in the last Congress. I am still unprepared to vote for that claim.

Mr. MAYNARD. I raise the point of order that the gentleman is speaking on the same side as the gentleman proposing the amendment. By the rule a member is allowed five minutes to support an amendment, and then another gentleman may be heard for five minutes in opposition to it.

The CHAIRMAN. The Chair was unable to tell whether the gentleman was opposed to the amendment until he heard his argument.

Mr. NIBLACK. I rose to oppose the appropriation. I think it is all wrong. I have nothing further to say.

Mr. BUTLER. I desire now to have read the report of the Committee on Appropriations which I was unable to have read before for lack of time.

The Clerk read as follows:

In the matter of the claim of the Choctaw Indians, under the eleventh article of the treaty of June 22, 1855, as ratified by the Senate by the resolution of 9th March, 1859, and confirmed by the treaty of June 28, 1866, your committee report:

That by that treaty it was submitted to the Senate to adjudicate whether the Choctaws are entitled to the proceeds of the sale of their lands by the treaty of September 27, 1833, deducting therefrom the cost of survey and sale, and at what price per acre the lands remaining unsold shall be allowed the Choctaws in order to a final settlement with them; and, secondly, whether a gross sum shall be allowed in full satisfaction of all claims, national and individual, against the United States. Whereupon the Senate, on the 9th of March, 1859, resolved that the Choctaws be allowed the proceeds of such lands as had been sold by the United States after deducting all proper expenses and reservations, at the rate of \$1 25 per acre, and that they should be allowed twelve and a half cents per acre for the residue of their lands, *i. e.*, those remaining unsold; and that the Secretary of the Interior cause an account to be stated showing the amount due according to the principle of settlement above recited and report the same to Congress.

This account was transmitted to Congress on the 8th of May, 1860, and revised and corrected by the Committee on Indian Affairs, and a balance reported as due the Choctaws of \$2,322,460 85.

By the act of March 2, 1861, Congress made an appropriation of \$500,000 on account of this claim, namely, \$250,000 in cash and \$250,000 to be paid in bonds.

On the 5th of July, 1862, and 3d of March, 1866, Congress restricted the expenditure of this appropriation and bonds to such of the Choctaw nation as might remain loyal, and the Secretary of the Interior reports that it was expended in accordance with the directions of said acts. But by the treaty of 28th of April, 1866, all acts of hostility and disloyalty were condoned, and questions of differences settled between the Choctaw nation and the United States by the tenth article thereof, which reads as follows:

"ART. X. The United States reaffirms all obligations arising out of treaty stipulations or acts of legislation with regard to the Choctaw and Chickasaw nations, entered into prior to the late rebellion, and in force at that time, not inconsistent herewith, and further agrees to renew the payment of all annuities and other moneys accruing under such treaty stipulations and acts of legislation, from and after the close of the fiscal year ending on the 30th of June, 1869."

It will therefore be seen that that amount of \$1,832,560 85 is justly due and payable to the Choctaw nation according to treaty stipulations and under the legislation heretofore had. There seems to be no good reasons why this amount should not be paid. Indeed common justice requires either that it should be paid or that some provision should be made by which the income arising therefrom should be secured to the tribe, many of whom are represented to be poor, and from their losses during the war needing this money for their support.

It seems to have been the policy of the Government for a long series of years in many treaty stipulations to guaranty an investment of five per cent. for the money due the Indians for ceded lands such as this, but heretofore the Government, after guaranteeing five per cent., have invested these moneys in State stocks, many of which are worthless. As the Government must be for many years a borrower, it is the part of prudence that such investments should be made in its own notes. It would, therefore, in view of all the circumstances of the case, seem best to issue for the payment of this sum (provided the provision will be accepted by the Choctaw nation) twenty-year bonds of the United States on five per cent. interest, lawful money, payable semi-annually, either coupon

or registered, as may be desired by the recipients, of denominations of not less than fifty dollars.

Your committee, therefore, have added a section to the Indian appropriation bill to carry out the principles and objects set forth in this report.

It will there be seen that there cannot be any wrong done to the United States by this bill because the United States had the lands sold them and got the money, and by treaty agreed to pay it to the Indians. How the Indians will spend the money I do not know, but I thought, and the committee with me thought, that to pay it according to the understanding would be to put it in United States bonds at five per cent., payable to the Indians. There it would not be likely to run away as the Arkansas and Virginia bonds did, and there would be a fund for the Indians. You have got to pay it some day or other. You have agreed by treaty to pay it. You have appropriated one portion, half bonds and half money, and now it is proposed to put the remainder in bonds which shall secure the amount to be paid. If there is any wrong about it I am not aware of it. If Perry Fuller has anything to do with it I do not know it. I never heard him named in connection with it till now.

[Here the hammer fell.]

Mr. WASHBURN, of Illinois. I withdraw the amendment.

Mr. ALLISON. I renew it. I only desire to ask the gentleman one or two questions, so that I may understand the matter. I remember very well when this was in the House during the last night and last hours of the last session of the Thirty-Ninth Congress, the intention was to put the provision through upon a deficiency bill about four or five o'clock in the morning. At that time we had some information on the subject, which I think disclosed the fact that a great portion of the money instead of going to the Choctaw Indians was intended for a class of people who pretended to have claims against them for damages during the war. Now, what I desire to ask the gentleman in charge of the bill is, whether or not the committee have taken into consideration these claims, or whether they have any knowledge with reference to the direction this fund will take after it shall be paid to the Indians. It may be a matter of indifference to some, but it seems to me if this is an honest claim on the part of these Indians it ought to stand upon that principle alone. If it is a mere indirect way, as the gentleman from Illinois has stated, of placing the money in the hands of a lobby ring about this Capitol, then we ought to know that fact. I think this subject should be referred to some committee, I do not care what, in order that all the facts should be investigated so that we may know whether or not this is a just and honest claim against the Government of the United States. I would ask the gentleman if he has any information on the subject?

Mr. BUTLER. No information came to the committee as to any direction of this money, except in one regard, and that was that the attorney of the Choctaw tribe, who had had the management of their business for many years, had died, and left a widow and children who are dependent upon what he had earned, and there was a very considerable amount going to him for his services. That was the only claim that came before the committee. But, sir, I ask my friend from Iowa [Mr. ALLISON] if we owe money and have agreed over and over again to pay it, is it any of our business to stand upon the question of what our creditor is going to do with the money after we have paid our debt?

Mr. ALLISON. I will answer that question. If we have agreed to pay a certain sum of money we must faithfully and honestly carry out that obligation. But I do not suppose that the gentleman from Massachusetts will claim that under these treaty stipulations with the Indians it is not our duty also to see where the money goes and how it is expended. Why, it was but yesterday, I believe, that he claimed himself that this whole treaty-making power is wrong as applied to these Indians. We find that by the fifth article of the treaty

made with these Indians in 1866 there was care taken that the United States Government should bind itself doubly to pay all the debts to these rebel Indians as well as those who had never been engaged in the rebellion. I do not understand why it was that a treaty of that kind should have been made. I suppose it has been ratified by the Senate, and it may be that we are under obligations to carry it out.

Mr. WASHBURN, of Illinois. Let me say that this is one thing which I omitted to mention. This remarkable article of the treaty of 1866 is what I want the committee to examine into. I want to know why that treaty was made. I want to know why we were bound to pay these Choctaws, who were all rebels, this amount of money. I want to know whether that treaty is not tainted with fraud, and whether we are not absolved from its stipulations.

Mr. MAYNARD. The gentleman speaks of these Indians as being rebels or disloyal. Do Indians owe any allegiance to this Government?

Mr. WASHBURN, of Illinois. I will not quarrel with my friend about that. I only know that they were all in sympathy with the rebellion, and gave it every possible aid and comfort.

Mr. ALLISON. These Indians were engaged in the rebellion; and if we are to pay these Indians who were engaged in war against the United States, I know of no reason why we should not pay the civilized white men of the United States who were engaged in this war against the Government as well as the Indians.

Mr. MAYNARD. The difference is that civilized white men owe allegiance to this Government and Indians do not.

Mr. BUTLER. I oppose the amendment; and, in the first place, I ask does the gentleman mean to say that because the majority of the Government of Great Britain sympathized with the rebellion we ought not therefore to pay Great Britain what we owe under our treaties? That is the point.

Mr. MULLINS. Why do you demand from England pay for the Alabama damages?

Mr. BUTLER. I should be very glad to answer that or any other question. I demand payment from Great Britain for the Alabama damages, and I am willing to pay England every dollar we owe under treaties.

Now, sir, I do not know whether there was fraud in this treaty or not. I was not here to make it or help to make it. The Senate of the United States made this treaty, and after taking out all the claims for damages by disloyal Indians that seemed proper to them, they then agreed to pay so much money, and we are now in this case before the civilized world; while we are demanding from the civilized world payment of what they owe us, we will not pay what we owe to hands of Indians. My friend from Iowa says that we ought to see what is done with the money. I will accept any amendment that the money shall go for the benefit of the Indians that may be introduced here, but I do not think that, when eleven years ago we sold the lands of these Indians for \$1 25 an acre for which we paid them twelve and a half cents an acre, we should refuse any longer to pay interest—for that is all we are appropriating in this cause—because somebody would get that interest who ought not to get it. We cannot help that.

Mr. ALLISON. I withdraw my amendment.

Mr. KELLEY. I renew the amendment of the gentleman from Iowa for the purpose of pressing the same reasons that he did. I remember very distinctly that in the expiring hours of the Thirty-Ninth Congress it required a good deal of vigilance for gentlemen upon this floor to resist the influence of the lobby or ring that was here about this very payment, and though I cannot recall all the facts that were stated to me at the time, I do remember that they were such as made me feel that in voting for that section I should be voting in favor of men as corrupt as those the gentlemen from Massachusetts associates with Charles W.

Woolley, or as Woolley himself, if he has been guilty of all he is charged with.

I cannot see that any harm will come either from striking out the proviso, or from defeating the whole section now, and giving time for ascertaining whether this money is to be paid to the Indians to whom we owe it, or whether it is to be paid to men who have cheated the Indians out of whatever claims they had, and propose to use this money against the Government and the interests of the country. I now yield to the gentleman from Iowa, [Mr. ALLISON.]

Mr. ALLISON. I desire to ask a question of the gentleman from Massachusetts, [Mr. BUTLER.] I understood him to say that the amount due to certain parties had been deducted. I have not examined this treaty particularly, but as I remember the discussion upon this subject, another stipulation of this treaty expressly provides that a portion of this fund shall go to certain individuals as compensation for claims against these Indians. Therefore, in appropriating this money to the Choctaws, under this provision of the treaty, it is required by another provision of the same treaty to be paid directly over to certain claimants against these Indians.

Mr. MAYNARD. I rise to oppose this amendment. In doing so, I premise by saying that if the Constitution of the United States authorizes anything to be done by the President, it authorizes him, by and with the advice and consent of the Senate, to make treaties, which, when made, shall be the supreme law of the land.

We have again and again made treaties with the Chickasaw and Choctaw tribes of Indians. We have ratified those treaties, and accepted the benefit and advantage of them. And it is now too late to call in question the obligations thus imposed upon the Government. If there can, by any possibility, be any obligation fastened upon the Government, it is the obligation to the Choctaw and Chickasaw Indians.

It will be recollected that those Indians occupied lands east of the Mississippi; that by treaty stipulations they were induced to cede those lands to us, and to retire west of the Mississippi to lands which we supposed at the time would not be required for settlement for generations to come. We took the lands they ceded, sold them, as has been stated, and agreed to pay the Indians for them.

But they have been met constantly with such objections as are made here to-day. Finally a treaty was made providing that the amount due to them should be adjusted by the Senate, sitting as a court of arbitration. The Senate did so decide the amount due to these tribes, under and by virtue of these treaties.

They were here, before the war, and heard through the same gentleman who now represents them, Colonel Pitchlyn, seeking to get the amount due to them. A small amount was paid at that time, and the rest suffered to go over.

Then came on the war. I will not stop here to show that, so far as the Government of the United States was concerned, the Indians were forced into the struggle. They were misled by the very agents that we sent there to represent us. It is our own agents who are guilty, certainly of the moral responsibility, of the Indians taking part against us in the late struggle.

After the war was over we sent out our Commissioner of Indian Affairs. He went out there and negotiated another treaty with them, by which this sum was agreed to be paid.

If there is any possibility of incurring an obligation on the part of this Government, it is that this money shall be paid to these tribes of Indians. I am perfectly willing that all precautions on behalf of these people, who I know need protection against sharpers and swindlers ever hovering about them, shall be provided by any amendment which can give it.

I have been here long enough to know that whenever a person comes here with a claim against this Government, he is met by the

Perry Fullers—if I may use that expression without any personal imputation upon a gentleman I never saw—a class of men who are known as lobbyists, who besiege the claimant, and endeavor to get him to employ them, if they can. If that is not done, then they block up the way of his claim, levy black mail upon him, blasting its merits by whispering unfavorable suggestions in the ears of members who have not time to investigate the matter for themselves. It has been so ever since I have been connected with this body, and I suppose it will ever be so.

This claim, if any claim can be, is a valid, legal, subsisting claim. Gentlemen talk about further investigation. Sir, it has been investigated by the Committee on Appropriations of the last Congress, and they recommended its payment. It has been investigated by the Committee on Appropriations of this Congress, and they recommend its passage. If any claim has been thoroughly investigated, this certainly has been. Any man who will take up the treaties of the United States, the acts of Congress, the reports of the Senate, and of the House, will not hesitate for a moment to say that this is a valid, legal, and subsisting claim, and one that should be paid. And any private individual who would refuse to pay such a claim against himself would be scouted out of society as a dishonest man.

[Here the hammer fell.]

Mr. CLARKE, of Ohio. I move to amend by adding at the end of the section the following:

*Provided further, That no part of said sum, principal or interest, shall be paid to any person or persons claiming the same as assignee or assignees of said Indians, nor shall the same be at any time paid with the intent or purpose of placing it in the hands of those claiming the same by purchase or otherwise from said Indians.*

Mr. Chairman, this claim comes in the same form in which all claims by which the Treasury has heretofore been depleted have arisen. Now, if I understand anything of the merits of this case, the facts are about these: a claim originally, perhaps, fair and honest, but delayed and embarrassed in its collection, passed for a trifling consideration into the hands of assignees, who secured an additional treaty, by virtue of which we are now asked to pay out this \$1,800,000. If this vast sum of money be paid, I venture to say not \$100,000 will go into the hands of the Indians. It is not for their benefit we are legislating. The effect of this legislation, I apprehend, will be, not to reimburse them for lands we have taken from them, but it will be to place this enormous sum in the hands of those who have been speculating upon the rights of the Indians. If you examine the history of frauds upon the Treasury it will be found that most of them have come before Congress in this shape.

Now, if this money is to be paid, if these bonds are to be issued, let the provision be so guarded that when the money is paid we can trace it into the hands of the Indians. If they choose afterward to give it over into the hands of these sharpers, we shall not be responsible for it. It is our duty, so far as we are able, to prevent these men from being speculated upon by sharpers and plunderers. In this case we have the power to do so, and it would be a shameful omission on our part if we did not exercise this power. I know very well that frequently frauds of this character can be so covered up that it is impossible to penetrate them. I venture the assertion that there are men now within the sound of my voice waiting with anxious expectation for the result of our action on this section, knowing that the very moment we are seduced into the trap they have set for us they become millionaires.

Mr. ORTH. I desire to suggest to the gentleman from Ohio that he add to his amendment the following:

Which bonds when so issued shall be held by the Treasurer of the United States in trust for said Indians.

Mr. CLARKE, of Ohio. I accept that as a modification of my amendment.

Mr. WASHBURNE, of Illinois. If, as is claimed, this matter is governed by a treaty, we cannot change that treaty by a law.

Mr. ORTH. As I understand, we are simply providing for the adjustment of the debt.

Mr. CLARKE, of Ohio. I do not propose to change the treaty.

Mr. WASHBURNE, of Illinois. I am opposed to the whole measure.

Mr. HOOVER, of Massachusetts. I suggest to the gentleman from Ohio whether his object will not be accomplished by withdrawing his amendment and accepting one which I ask the Clerk to read.

The Clerk read as follows:

Strike out after the words "the Secretary of the Treasury is hereby authorized and directed to issue on the credit of the United States," the words "coupon bonds, or registered bonds, of denominations not less than fifty dollars each, payable twenty years from the date of the approval of this act, bearing interest at the rate of five per cent. lawful money, payable semi-annually, for the sum of \$1,832,560 85, which bonds shall be delivered to the Choctaw Indians: *Provided, That said Choctaw tribe of Indians shall receive the same in full satisfaction and discharge of all claims of the said tribe, and of the members thereof, against the United States existing prior to the 28th day of June, in the year 1866,*" and insert in lieu thereof the following:

Registered bonds bearing interest at the rate of five per cent., payable semi-annually, in lawful money, for the sum of \$1,832,560 85, which bonds shall be held in trust by the Secretary of the Treasury for the benefit of the Choctaw Indians, and the interest paid to them as it accrues.

The CHAIRMAN. Does the gentleman from Ohio accept this in lieu of his amendment?

Mr. CLARKE, of Ohio. No, sir; I cannot accept it.

Mr. SCOFIELD. I desire to suggest that five per cent. bonds of the United States are now considerably above par; so that the proposition is, not only to pay these Indians or speculators all that is claimed to be due them, but a bonus of two or three per cent. besides.

Mr. MAYNARD. It says in lawful money.

Mr. SCOFIELD. I am not speaking of selling bonds. I am speaking of this kind of bonds.

Mr. CLARKE, of Ohio. It is said that there is no appropriation which can be made for the benefit of the Indians which will be paid to the Indians. Now, sir, I believe we have virtue enough left in our Government, when we appropriate money for the benefit of the Indians so to manage it that it shall go into their hands. We can do that with this fund as well as with all other funds. It is our duty to do it. I say nothing about the original obligations. I say that when we appropriate money we should look to it that it goes into the hands of the Indians. If men come in then and rob them we cannot help it.

Mr. VAN HORN, of Missouri. I do not propose to discuss this question, but I have here a statement from the Cherokee delegation in this city in relation to the discussion yesterday, addressed to the Speaker of this House, which I ask may be printed in the Globe.

Mr. WASHBURNE, of Illinois. What is it?

Mr. WELKER. I insist that it should be read before it is published.

The CHAIRMAN. It is not now in order. Mr. WASHBURNE, of Illinois. You can present it in the House.

Mr. HOOVER, of Massachusetts. Instead of making any remarks I will move the following amendment:

Strike out all after the words "directed to," down to the proviso in the twenty-fourth line, and insert:

Registered bonds bearing interest at the rate of five per cent., payable semi-annually in lawful money, for the sum of \$1,832,560 85, which bonds shall be held in trust by the Secretary of the Treasury for the benefit of the Choctaw Indians, and the interest paid to them as it accrues; and no part of said sum, principal or interest, shall be paid to any person or persons claiming the same as assignee or assignees of said Indians, nor shall the same be at any time paid with the intent or purpose of placing it in the hands of those claiming the same by purchase or otherwise from said Indians.

Mr. CLARKE, of Ohio. I accept that in lieu of my own.

Mr. WASHBURNE, of Illinois. I do not object to these amendments, but they do not render this section any more palatable to me

if they are adopted. For, sir, I can tell my friend from Ohio and my friend from Massachusetts that human ingenuity can devise no means which will keep this money from the hands of speculators. I have not information enough to justify me in voting for this section as it is proposed to be amended. I suggest that we let it lie over for investigation.

Let us see, sir, the effect of voting this number of bonds. Here are \$1,800,000 in bonds to be issued. Then in the river and harbor appropriation bill, which has been reported, and is now in the Committee of the Whole on the state of the Union, provision is made for \$615,000 of bonds for the purpose of purchasing and reopening the Louisville canal. If we go on and issue bonds for \$1,800,000 in one place and \$600,000 in another place, I should like to know where our national debt will be when we get through. Let us stop and let us know all about these things. Let this section be struck out. Let the Committee on the Judiciary, of which my friend from Ohio [Mr. LAWRENCE] is an efficient member, examine the question. Let them call before them persons and papers, and report to us fully on the subject at the next session of Congress.

Mr. MAYNARD. Let me ask the gentleman whether he supposes there ever could be raised a committee more competent to investigate this question than the one of which he is the virtual chairman?

Mr. WASHBURN, of Illinois. I will say frankly that I have had no time, as a member of that committee, to give this subject the examination I desired.

Mr. ALLISON. I wish to give an additional reason why the amendment should not be adopted.

Mr. WASHBURN, of Illinois. There is a treaty which our laws cannot repeal.

Mr. ALLISON. If the treaty is binding in part it is binding in the whole, and whatever is required to be paid to individual Indians under the treaty will have to be paid, and these bonds will not remain in the Treasury. Therefore I say the only way is to refer the whole subject, including our obligations under the treaty, to a committee who will make a thorough investigation of it.

Mr. BUTLER. I propose now, unless this debate can cease at this moment, by unanimous consent, to move that the committee rise.

Several MEMBERS. Agreed.

Mr. WINDOM. I want to make one remark.

Mr. HOOPEE, of Massachusetts. I wish to state that I am opposed to the section if that amendment is adopted, but if the section is to be passed I think it should pass with the amendment.

Mr. WINDOM. I desire to make a statement in reference to some matters called out by the gentleman from Iowa, [Mr. ALLISON.]

Mr. BUTLER. How much time?

Mr. WASHBURN, of Illinois. Let the debate be closed in five minutes by unanimous consent.

Mr. BUTLER. Very well.

Mr. WINDOM. I think there will be a difficulty as it now stands, even if the amendment of the gentleman from Massachusetts should be adopted, and I prefer that some such a one should be adopted if it should go through now. But there will be a serious difficulty growing out of it. This amount is claimed under the tenth article of the treaty of 1866. The forty-ninth article of the same treaty provides as follows:

"And be it further agreed, That a commission, to consist of a person or persons to be appointed by the President of the United States, shall be appointed immediately on the ratification of this treaty, and shall take into consideration and determine the claim of such Choctaws and Chickasaws as allege they have been driven during the late rebellion from their homes in the Choctaw nations on account of their adhesion to the United States, for damages, with power to make such award as may be consistent with equity and good conscience, taking into view all circumstances, whose report, when ratified by the Secretary of the Interior, shall be final and authorize the payment of the amount from any moneys of said nations in the hands of the United States as the said commission may award."

Now, by this same treaty there is a provision for the payment of damages which these Indians have done during the war. It seems therefore to me we should not settle one part of the controversy without settling the whole, and it is for that reason I want either the suggestion I made myself or that made by the gentleman from Illinois should be adopted by the House. I do not care whether it goes to the Committee on the Judiciary or on Indian Affairs. I would quite as lief be free from undertaking to make this examination; I believe, however, it properly belongs to the Committee on Indian Affairs, and I am ready to undertake it if such is the wish of the House.

Mr. WASHBURN, of Illinois. The reason why I wished to have this referred to the Committee on the Judiciary was that they already have had the subject before them partially by a resolution of the House, and, as I understand, have entered on the investigation. The question being taken on the amendment of Mr. CLARKE, of Ohio, it was agreed to.

The question then recurred on striking out the section, as amended, and it was agreed to.

Mr. PILE. I move to amend, by adding the following as additional sections:

Sec. —. *And be it further enacted*, That no money shall be paid out of the Treasury in pursuance of the appropriations made in this act, except on the following conditions, namely: that from and after the 1st day of August, 1868, the Secretary of War shall exercise the supervisory and appellate powers and possess the jurisdiction now exercised and possessed by the Secretary of the Interior in relation to all the acts of the Commissioner of Indian Affairs, and shall sign all requisitions for the advance or payment of money out of the Treasury on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the Auditors and Comptrollers of the Treasury, or either of them.

Sec. —. *And be it further enacted*, That the Secretary of War shall be authorized, whenever in his opinion it shall promote the economy and efficiency of the Indian service, to establish convenient departments and districts for the proper administration of the duties now imposed by law on the superintendents of Indian affairs, and upon agents and sub-agents, and to substitute for such superintendents and agents officers of the Army of the United States, who shall be designated for that purpose, and who shall then become charged with all the duties now imposed by law upon the superintendents and agents thus superseded, and without additional compensation therefor. The Secretary of War shall also detail an officer, not below the rank of brigadier general, to fill the office and discharge the duties of Commissioner of Indian Affairs. Officers of the Army designated to perform the duties of commissioner, superintendent, agent, or sub-agent, shall not be required to give the bonds now required of civil appointees, but shall be responsible for any neglect or maladministration, according to the Rules and Articles of War.

Mr. WOOD. I raise the point of order that that amendment is new legislation; it proposes to make an entire change in the department.

The CHAIRMAN. The first part proposing merely to limit an express condition upon which the money is to be expended would be in order. The remainder, instituting new legislation for the government of the Indian department, is out of order.

Mr. PILE. How much does the Chairman rule to be in order?

The CHAIRMAN. The gentleman offers one amendment. If any part of it is out of order the whole of it is. That which merely proposes conditions to the appropriation would be in order.

Mr. TAFTE. I offer the following amendment as a proviso to section one:

*Provided*, That none of the payments herein provided for shall be made, unless the Secretary of the Interior shall be satisfied that the tribes, bands, or individuals named have observed the treaty stipulations under which such payments have become due, and also the provisions of any other treaty with the Government to which they may be parties, or in case portions of said tribes or bands have observed all of said obligations, payment shall be made to them *pro rata*.

The amendment was agreed to.

Mr. PILE. I offer the following amendment:

Add to the bill the following new section:

Sec. 3. *And be it further enacted*, That no money shall be paid out of the Treasury, in pursuance of the appropriations made in this act, except on the following conditions, namely: that from and after the 1st day of August, 1868, the Secretary of War shall exercise the supervisory and appellate powers, and possess the jurisdiction now exercised and possessed by the Secretary of the Interior in relation to

all the acts of the Commissioner of Indian Affairs, and shall sign all requisitions for the advance or payment of money out of the Treasury on estimates or accounts, subject to the same adjustment or control now exercised on similar estimates or accounts by the Auditors and Comptrollers of the Treasury, or either of them.

Mr. WOOD. I make the same point of order. That is clearly new legislation. It is a proposition to incorporate in this bill an entirely new principle, to transfer virtually the whole Indian Bureau to the War Department. It cannot come in in this way. It may be right in itself, but it should be the subject of a distinct bill.

Mr. ROSS. It devolves upon the War Department the duties of the Indian department, and changes the existing law on that subject.

Mr. JOHNSON. We shall soon have all the Departments of the Government in the hands of the military.

Mr. ROSS. They have enough now.

Mr. PILE. The amendment simply proposes a condition on the appropriations made in the bill, and I believe that has been uniformly ruled to be in order.

The CHAIRMAN. The Chair will rule the amendment not in order. It is in order to limit a specific appropriation, the limitation running with the year for which the appropriation is intended. But the amendment of the gentleman from Missouri contemplates a permanent transfer of the Indian Bureau to the War Department as a condition on a single annual appropriation. The Chair decides that such legislation is not in order.

Mr. LAWRENCE, of Ohio. Mr. Chairman, in the remarks I submitted to the committee yesterday, on the bill now under consideration, I was unable in the brief space of time allotted to me say all I desired, and especially in reference to the sale of the Cherokee neutral lands.

I wish now to say that my object was to prove that the treaty-making power could not constitutionally dispose of the public lands, and that the treaties made for that purpose were unwise, inexpedient, and subversive of the whole land policy of the Government.

The evil I aimed at was the exercise of an unauthorized power. I wish now to say that I never doubted the honesty, the purity of purpose, or the fidelity of Mr. HARLAN, formerly Secretary of the Interior. I know him well. He is a peer among the ablest of the able men of this nation. In selling the Cherokee neutral lands he only performed, in pursuance of a treaty, a duty which he could not avoid, and he performed it honestly, faithfully, and as wisely and as well as it was possible to perform it by virtue of the authority under which he acted. He is above reproach and beyond suspicion. He could not refuse to perform the service which he did, for the treaty left him no discretion, and he exercised his discretion to the best possible advantage. I do not complain of him, but I do object to the treaty under which he acted. No just man can doubt his fidelity or complain of his official conduct. That all he has done is sufficiently shown by Executive Document No. 85, second session Fortieth Congress, which relates to this subject, and by other facts well known to all of us. I do not doubt either that it is the duty of the Government to dispose of these lands for the benefit of the Cherokee Indians. Their title is perhaps recognized by the effect of the appropriation act of Congress of July 2, 1836.

I now move to amend the bill by adding the following as an additional section:

*And be it further enacted*, That the Cherokee neutral lands shall not be sold or conveyed until provision is made by act of Congress securing to the Cherokee Indians \$600,000, payable in installments within nine years, with interest, to be paid by the Government of the United States, and securing to persons now in the occupancy of any of said lands the title thereto in accordance with existing treaty stipulations, and providing for the sale or homestead entry of the residue of said lands. And no patent shall issue for any lands which have been sold under the provisions of any treaty, and no sale shall hereafter be made by virtue of the provisions of any treaty.

Mr. VAN HORN, of Missouri. I make the



point of order that that is new legislation, and that it changes an existing treaty.

The CHAIRMAN. The Chair sustains the point of order. There are laws in force now regulating the sale of these lands. It is not competent to change these laws by an amendment to an appropriation bill.

Mr. LAWRENCE, of Ohio. I then offer the following amendment as an additional section:

*And be it further enacted, That the money herein appropriated shall only be paid out on condition that the Cherokee neutral lands shall not be sold or conveyed until provision is made by act of Congress securing to the Cherokee Indians \$800,000, payable in installments within nine years, with interest, to be paid by the Government of the United States, and securing to persons now in the occupancy of any of said lands the title thereto, in accordance with existing treaty stipulations, and providing for the sale or homestead entry of the residue of said lands. And no patent shall issue for any lands which have been sold under the provisions of any treaty, and no sale shall hereafter be made by virtue of the provisions of any treaty.*

Mr. VAN HORN, of Missouri. I raise the same point of order against this amendment that was raised against the other. The words placed before the other amendments do not change its character at all; it is still new legislation, and out of order on an appropriation bill.

The CHAIRMAN. The Indian appropriation bill is meant to carry out certain stipulations of treaties. The gentleman from Ohio moves to add a section which defeats the purpose of complying with treaty stipulations; and that the House is not competent to do. The Chair rules the amendment not in order.

Mr. BUTLER. I move—not by instruction of the Committee on Appropriations—to amend this bill, by adding to it the following section:

*SEC. — And be it further enacted, That all goods and merchandise, furnished any tribe or band of Indians under the provisions of this act, shall be turned over by the agent or superintendent of each tribe or band to the chiefs of the tribe or band in bulk, and in the original package, to be distributed to the tribe or band by the chiefs in such manner as the chiefs may deem best.*

I trust there will be no objection to this additional section, for the reason that it will prevent the danger of these goods being cut up and divided.

The CHAIRMAN. The Chair will remind the gentleman from Massachusetts that it was upon his request that debate was closed by unanimous consent.

Mr. BUTLER. Very well; let the question be taken.

Mr. KERR. I wish to make an inquiry of the gentleman.

The CHAIRMAN. That will require unanimous consent.

Mr. BUTLER. I have no objection. No objection was made.

Mr. KERR. Does not this amendment in its terms conflict with the terms of some of the treaties to carry out which these appropriations are made?

Mr. BUTLER. I will answer the gentleman. This amendment does not conflict with any treaty. The treaties require these goods to be furnished to the Indians, but they do not provide how they shall be furnished.

Mr. WASHBURN, of Illinois. It is all right.

Mr. WINDOM. I do not know that I have any objection to it.

The amendment was agreed to.

Mr. PILE. I desire to offer an amendment, and I ask that any point of order which may be made upon it on the ground that it is new legislation, may be reserved until I can make a brief statement in regard to it.

Mr. ROSS. I must object.

The CHAIRMAN. The amendment will be read, and then the chair will rule upon it if any point of order is made upon it by any gentleman.

The amendment was read as follows:

*SEC. — And be it further enacted, That the Secretary of the Interior shall make requisition on the Department of War for the provisions and subsistence stores to be furnished the various Indian tribes and for the*

*transportation of all the goods, supplies, and agricultural implements provided for in this act; and it shall be the duty of the Secretary of War to furnish from the subsistence department of the Army, on the requisition of the Secretary of the Interior, the subsistence stores required and the transportation necessary to deliver all the Indian supplies provided for in this act; and, at the close of each month, he shall make a draft on the Department of the Interior for the cost of the stores and transportation furnished during the current month, which drafts shall be paid out of the moneys appropriated in this act for these purposes.*

Mr. ROSS. I make the point of order that this is new legislation.

Mr. PILE. I think if the gentleman will hear a brief explanation of it, he will see that it is not out of order; that it is only an additional limitation upon the appropriation.

Mr. ROSS. I object to debate.

Mr. WOOD. This amendment is in conflict with existing law.

The CHAIRMAN. The Chair sustains the point of order. The gentleman from Missouri [Mr. PILE] will observe that whereas this amendment might put the whole Indian machinery of the Government under the control of the Indian department, it would still leave in full operation the Indian Bureau in the Department of the Interior.

Mr. PILE. I beg pardon—

The CHAIRMAN. The Chair sustains the point of order, and rules that the amendment is not in order.

Mr. PILE. I appeal from the decision of the Chair.

The question was, Shall the decision of the Chair stand as the judgment of the committee? The decision of the Chair was sustained.

Mr. BUTLER. I move that the committee rise and report this bill, with the amendments, to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. BLAINE reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being House bill No. 1073, making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending 30th June, 1869, and had made sundry amendments thereto, in which he had been directed to ask the concurrence of the House.

The question was upon concurring in the amendments reported from the Committee of the Whole.

Mr. BUTLER. I call the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

Mr. VAN HORN, of Missouri. I now ask unanimous consent to have printed in the Daily Globe the communication to which I referred while in Committee of the Whole from the delegates of the Cherokee nation.

The SPEAKER. The Chair will state that the communication was addressed to the Speaker, but he has had no opportunity of laying it before the House. If no objection is made it will be printed in the Daily Globe.

No objection was made.

The communication is as follows:

WASHINGTON, May 30, 1868.

SIR: The undersigned delegates, representing the Cherokee nation, have noticed the following in the report of congressional proceedings of yesterday, published in the National Intelligencer of this date:

"The House then, at four o'clock, went into Committee of the Whole on the state of the Union. (Mr. BLAINE, in the chair,) and resumed the consideration of the appropriation bill.

"Considerable discussion took place in reference to the treaty now pending in the Senate for the sale of eight hundred thousand acres of the Cherokee lands in Kansas at one dollar an acre. Messrs. BUTLER, LAWRENCE, of Ohio, and others, denouncing it as a swindle and fraud on the Government, and Mr. BUTLER stating that an offer had been made to pay four millions of dollars for the property in ninety days.

"Without disposing of the bill the committee rose, and the House, after resisting another effort (by Mr. CLARKE, of Kansas) to have an adjournment to tomorrow, and an effort by Mr. SCHENCK to have an evening session, adjourned at half past five."

We infer from the discussion said to have taken

place that the true status of the "Cherokee neutral lands" in the State of Kansas, and our connection therewith, are not correctly understood, and we therefore respectfully ask to submit the following statement:

In the year 1835 a treaty was made between the Government of the United States and the Cherokee nation, under the second article of which the Cherokees gave the United States \$500,000 in cash for these lands, estimated at sixty-two and a half cents per acre; and the United States covenanted to issue to the Cherokees a patent for the same in fee-simple which patent was issued during the administration of President Van Buren, and is now a matter of record in the General Land Office. (Cherokee Treaty of 1835, United States Statutes-at-Large.)

Almost ever since the Cherokees purchased those lands they have been occupied by citizens of the United States, who have squatted upon them in violation of the treaty stipulations between the Government and the Cherokee nation. When Kansas was organized into a State, her organic act included these lands within her limits, contrary to the remonstrances of the Cherokees and in palpable violation of express treaty provisions between the United States and the Cherokee nation. The Government has had for thirty-three years the use of the \$500,000 given by the Cherokees for these lands, while the lands have been of no benefit to the Cherokees, having been occupied by citizens of the United States and finally taken from the Cherokees by force. Without any disposition upon our part to enter upon the merits of the duty which the Government owed the Cherokees, it would seem that fair dealing between the contracting parties would bind the Government, under the circumstances, to pay the Cherokees the original purchase money, with interest from its receipt. But circumstances over which the Cherokees had no control, in 1866, consummated the treaty of that date, under the seventeenth article of which, and the amendment thereto, these lands were ceded to the United States in trust, to be disposed of by the Secretary of the Interior for the benefit of the Cherokee nation. Accordingly the Secretaries of the Interior, Hons. JAMES HARLAN and O. P. BROWNING, each actuated, no doubt, by what he thought a strict compliance with said treaty of 1866, disposed of these lands—the first, to the "American Emigrant Company" of Connecticut, the latter, to Mr. James F. Joy, of Detroit, Michigan. In September, 1866, the Attorney General in an opinion declared the sale of these lands to the "American Emigrant Company," not in conformity with the provisions of the Cherokee treaty of 1866, already referred to; but this decision not having been indorsed by any judicial tribunal the "American Emigrant Company" still claimed the lands by virtue of its contract, while, at the same time, James F. Joy claimed them under his purchase. The Cherokees in the meantime were being kept out of the proceeds of the sale to either party, while the Government as the trustee and protector of the Cherokees was interested and legally bound to see that they suffered no wrong in the premises.

To extricate all parties interested from this embarrassed state of affairs, and to avoid a protracted lawsuit between the contending purchasers, a compromise was agreed upon between the parties interested, the terms of which substantially embody the provisions of the contract with the "American Emigrant Company," and were embraced in an article supplemental to the treaty of 1866. This supplemental article was signed on the 28th ultimo by the undersigned, as commissioners on the part of the Cherokee nation, and the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, and the assent of the parties in interest. Justice requires us to say that while this disposition of the "neutral lands" is the result of hard necessity, occasioned by acts of the Government, and not of the Cherokees, it is the only arrangement we can make at present to realize ready money to support our nation, and to enlarge and extend our school and orphan systems for the enlightenment of our people. Although, as we stated in our humble opinion, justice binds the Government to refund the original \$500,000 paid for these lands with interest, this supplemental article for the sale of these lands is, as we conceive, a subject for discussion before the Senate, where we are informed it is now pending, but as its merits, in some degree, have incidentally, and no doubt, through good motives, been referred to in your Committee of the Whole, in connection with the Indian appropriation bill, we take this occasion to say that it makes ample provisions for the protection of the rights of "actual settlers," as provided for in the treaty of 1866, and that the proceeds of the sale of such lands to actual settlers inure to the Cherokee nation. A careful examination of the treaty will, it appears to us, satisfy any doubtful mind upon this subject.

In conclusion we would state that the treaty of 1866, under which the contracts for the sale, survey, and appraisal of the "neutral lands" were made, was concluded with the Government by our predecessors, and that the only connection which the present Cherokee delegation has had with the matter was to consent that the compromise made between the American Emigrant Company and James F. Joy should be carried out, and thus enable the Secretary of the Interior to collect the money due on account of the sale of said lands.

We came to Washington on a mission from our nation to attend to all its interests, and not, as was insinuated yesterday in the debate that took place in Committee of the Whole, to aid or in any way minister to Mr. Joy's interests, except in so far as they happen to coincide with the interests of our people.

We respectfully request that this communication may be received and disposed of in such manner as

may seem proper to the body over which you preside.  
By doing so you will greatly oblige your obedient servants,

LEWIS DAURING,  
*Principal Chief.*  
H. D. REESE,  
*Chairman.*  
W. P. ADAIR,  
SAMUEL SMITH,  
ARCHY SCRAPER,  
J. PONUN DAVIS,  
E. C. BOUDINOT,  
J. A. SCALES,  
*Cherokee Delegates.*

Hon. SCHUYLER COLFAX,  
*Speaker of the House of Representatives:*

The SPEAKER. The question is on the amendments reported from the Committee of the Whole.

Mr. MAYNARD. I ask for a separate vote on the amendments to the second section.

Mr. BUTLER. As at this late hour there is hardly a quorum present, I desire that further action on this bill and the amendments be postponed until Thursday next. I do not think we can get through with it to-day.

Several MEMBERS. Oh, yes, we can.

Mr. WASHBURNE, of Illinois. If it should appear that we have not a quorum it will be time enough then to postpone the bill.

Mr. BUTLER. I desire to postpone it in order to let in the tax bill on Monday; and there are one or two gentlemen who desire to make speeches this afternoon. If the House should agree to postpone the bill, I shall move that the House resolve itself into the Committee of the Whole on the state of the Union for general debate, with the understanding that no further business shall be done this afternoon.

Mr. WASHBURNE, of Illinois. I do not understand that there is any particular controversy about any of the amendments. So far as I know, a separate vote is desired on only one amendment, that on which the gentleman from Tennessee [Mr. MAYNARD] has asked it. The amendment of the gentleman from California [Mr. HIGBY] will probably be agreed to without controversy. I think we can dispose of this matter now in five minutes, and thus get it out of the way.

The SPEAKER. The Chair is doubtful whether a quorum is present, as there was barely a quorum before the House went into Committee of the Whole.

Mr. WASHBURNE, of Illinois. When the absence of a quorum shall be shown it will be time enough to postpone action.

The SPEAKER. The absence of a quorum would arrest business. The Chair will suggest that if this bill be postponed till Monday after the morning hour, it will occupy very little time to take the vote on the one or two contested amendments.

Mr. BUTLER. The reason I desire to have this bill postponed is, that I believe no quorum is now present, and on Monday after the morning hour my friend from Ohio [Mr. SCHENCK] desires, for reasons which are conclusive upon me, to go on with the tax bill.

Mr. WASHBURNE, of Illinois. What is the objection to finishing this bill now?

The SPEAKER. The possible lack of a quorum, which would arrest all business.

Mr. WASHBURNE, of Illinois. I think a quorum is present; and as I shall be obliged to be absent next week, I desire an opportunity to vote now on some of these amendments.

The SPEAKER. The previous question having been seconded and the main question ordered, the question must now be put, unless by unanimous consent it be postponed, or unless the vote ordering the main question be reconsidered. The gentleman from Tennessee [Mr. MAYNARD] has asked for a separate vote on one of the amendments. If no other separate vote be asked the remaining amendments will be regarded as concurred in.

Mr. KERR. I ask a separate vote on the amendment of the gentleman from Massachusetts [Mr. BUTLER] adding a new section.

Mr. BUTLER. It was expressly agreed between the gentleman from California [Mr. HIGBY] and myself that a vote should be taken

in the House upon the amendment increasing the appropriation for Indians in California from \$30,000 to \$40,000.

Mr. JOHNSON. That amendment will stand concurred in, unless the gentleman asks a separate vote upon it. We do not ask a separate vote.

Mr. BUTLER. It was the understanding that a vote should be taken in the House on that proposition.

Mr. JOHNSON. The appropriation will read \$40,000, unless the gentlemen asks a separate vote.

Mr. BUTLER. I do not mean that it shall read \$40,000.

Mr. JOHNSON. Then let the gentleman ask for a separate vote.

Mr. BUTLER. I demand a separate vote on the question whether it shall be \$30,000 or \$40,000.

The amendment of the Committee of the Whole on the state of the Union was to strike out "\$30,000" and in lieu thereof to insert "\$40,000;" so the paragraph would read:

California:  
For the purchase of cattle for beef and milk, together with clothing and food, teams, and farming tools for Indians in California, \$40,000.

Mr. BUTLER. I wish to say that we have already appropriated a large amount for California.

Mr. HIGBY. Is discussion in order?

The SPEAKER. The gentleman has an hour in which to close the debate.

Mr. BUTLER. It was the unanimous judgment of the committee that this is enough for this purpose.

The amendment was non-concurred in, thirty-one only voting in the affirmative.

The next amendment of the Committee of the Whole on the state of the Union on which a separate vote was asked was the following:

Strike out the following section:

SEC. 2. And be it further enacted, That in order to carry into effect the eleventh and twelfth articles of the treaty between the United States and the Choctaw and Chickasaw tribes of Indians confirmed by the Senate on the 21st day of February, in the year 1856, and the resolution of the Senate of the United States in pursuance thereof made on the 9th day of March, in the year 1859, as finally adjusted by the report of the Committee on Indian Affairs made to the Senate on June 19, in the year 1860, and the tenth article of the treaty between the United States and the said Indians approved by the Senate of the United States on the 28th day of June, in the year of our Lord 1866, the Secretary of the Treasury is hereby authorized and directed to issue on the credit of the United States, coupon bonds, or registered bonds, of denominations not less than fifty dollars each, payable twenty years from the date of the approval of this act, bearing interest at the rate of five per cent. lawful money, payable semi-annually, for the sum of \$1,832,560 85, which bonds shall be delivered to the Choctaw Indians; *Provided*, That said Choctaw tribe of Indians shall receive the same in full satisfaction and discharge of all claims of the said tribe, and of the members thereof, against the United States existing prior to the 28th day of June, in the year 1866.

The amendment was concurred in.

The next amendment on which a separate vote was asked was the following:

Add the following new section:

And be it further enacted, That all goods, wares, and merchandise furnished any tribe or band of Indians under the provisions of this act shall be turned over by the agent or superintendent of each tribe or band to the chiefs of the tribe or bands in bulk, and in the original package, to be distributed to the tribe or band by the chiefs in such manner as the chiefs may deem best.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. BUTLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TAX BILL.

Mr. SCHENCK. Mr. Speaker, I desire to say to the House, the Indian bill being out of the way, that I shall on Monday next, after the morning hour, move that the rules be suspended, and the House resolve itself into the

Committee of the Whole on the state of the Union on the tax bill. I will occupy an hour, with the possibility of my having to ask for something more, in explanation in a plain conversational way of the peculiar features of the bill, and the views of the committee in regard to the action of the House they desire on it.

#### PORTS OF DELIVERY.

On motion of Mr. PIKE, by unanimous consent, the House took from the Speaker's table the amendments of the Senate to House bill No. 286, declaring St. George and Boothbay, in the State of Maine, and San Antonio, Texas, ports of delivery, and authorizing the establishment of bonded warehouses at Bucksport and Vinalhaven, in the State of Maine.

The amendments of the Senate were concurred in, as follows:

Insert after the word "Saluria," in line six, the words "and Bucksport and Vinalhaven and North Haven, in the State of Maine, in the district of Castine and Belfast, respectively."

Strike out the following clause, from line nine to line eighteen:

And that the privileges and provisions of the act entitled "An act to extend the warehousing system by establishing private bonded warehouses, and for other purposes," approved March 28, 1854, be, and the same are hereby, extended to the said ports, under such regulations as may be prescribed by the Secretary of the Treasury; and that the Secretary of the Treasury be, and he is hereby, authorized to establish private bonded warehouses at Bucksport and Vinalhaven, in the State of Maine.

The bill, as amended, reads as follows:

Be it enacted, &c., That St. George and Boothbay, in the State of Maine, in the collection districts of Waldoboro and Wiscasset, respectively, and San Antonio, Texas, in the collection district of Saluria, and Bucksport and Vinalhaven and North Haven, in the State of Maine, in the district of Castine and Belfast, respectively, be, and the same are hereby, declared ports of delivery: *Provided*, That nothing in this act contained shall occasion additional expense to the Government of the United States.

#### INTERNAL TAX BILL.

Mr. WOOD. I desire to make an inquiry of the gentleman from Ohio [Mr. SCHENCK] as to the intention of the committee with reference to the internal revenue bill. Is it the purpose to proceed continuously until the bill is disposed of after the chairman of the committee has concluded his speech?

Mr. SCHENCK. I will repeat what I have said before, that as there are some four or five gentlemen who wish to speak more at length than they would be able to do in the progress of the business in the debate on amendments, I have proposed, under instructions of the committee, to allow a day or so for general debate, and then go on immediately with the debate on amendments.

Mr. BLAINE. I ask unanimous consent that the gentleman from Ohio [Mr. SCHENCK] be allowed to proceed on Monday without the limitation of the hour rule.

The SPEAKER. Is there objection?

Mr. ROSS. I object until I hear what he says in the hour.

#### MESSAGE FROM THE PRESIDENT.

A message from the President in writing was communicated to the House by Mr. MOORE, his Private Secretary.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that that body had passed a joint resolution (S. No. 137) to extend the time for the completion of the Northern Pacific railroad, in which the concurrence of the House was requested.

#### JAIL IN THE DISTRICT.

Mr. COVODE. I ask unanimous consent to take up from the Speaker's table House bill No. 784, to amend the act entitled "An act to authorize the construction of a jail in and for the District of Columbia," approved March 25, 1866, which has been returned from the Senate with amendments, for the purpose of having the same referred to the Committee on Public Buildings and Grounds.

The bill, by unanimous consent, was accordingly taken up from the Speaker's table, and referred to the Committee on Public Buildings and Grounds.

## NAVAL AFFAIRS AT HAYTI.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit herewith a letter from the Secretary of the Navy in reply to the resolution of the House of Representatives adopted on the 26th instant, making inquiry relative to naval affairs at Hayti.

ANDREW JOHNSON.

WASHINGTON, D. C., May 29, 1868.

The communication was ordered to be printed, and referred to the Committee on Naval Affairs.

## PRESIDENT'S MESSAGE.

Mr. SCHENCK. I now move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union, and resume the consideration of the President's annual message, with the understanding that no business is to be transacted to-day.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. MAYNARD in the chair,) and proceeded to the consideration of the President's annual message.

## AMENDMENT TO THE CONSTITUTION.

Mr. ASHLEY, of Ohio. Mr. Chairman, it is now ten years since I became a member of this House. During that time I have submitted more than once propositions looking to an amendment of the national Constitution, substantially such as I now ask leave to present. Heretofore, when introducing these propositions, I have done so without argument, and they have slept the sleep which knows no waking in the committees to which, under our rules, they must be referred.

I now ask the indulgence of the House while I submit to gentlemen present and to the country some of the considerations which have induced me again to bring this subject to public notice.

The proposition, which I now send to the Clerk's desk to be read, provides that the President of the United States shall be elected for but a single term of four years, and proposes the abolition of the office of Vice President. If adopted, it also secures the abolition of the present system of appointing presidential electors, as the Legislatures of the several States may provide, and makes it impossible for the election of a President to devolve, as now, on the House of Representatives, but provides that in case of death, resignation, or removal of the President from office, that the two Houses in joint convention shall elect to fill the vacancy, each Senator and Representative having one vote. Its adoption will relieve the people of the despotism of party caucuses and party conventions, and thereafter commit the election of President to a direct vote of the people by ballot. The Clerk will please read.

The Clerk read as follows:

Joint resolution proposing an amendment to the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following be proposed as an amendment to said Constitution, which, when ratified by the Legislatures of three fourths of the several States, shall be valid, to all intents and purposes, as part of said Constitution, to wit:

Amend section three of article one, by striking out clauses four and five, which read:

"The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided."

"The Senate shall choose their other officers and also a President *pro tempore*, in the absence of the Vice President, or when he shall exercise the office of President of the United States."

And insert the following:

"The Senate shall choose their own presiding and other officers."

In article two, section four, strike out the words "Vice President."

Amend section one, article two, by striking out the words "together with the Vice President chosen for the same term," so that it will read:

"The executive power shall be vested in a President of the United States of America; he shall hold his office during the term of four years, and be elected as follows."

In lieu of clauses two, three, four and six of article two and of article twelve of the amendments insert the following:

The qualified electors shall meet at the usual places of holding elections in their respective States on the first Monday in April, in the year of our Lord one thousand eight hundred and seventy-two, and on the first Monday in April every four years thereafter, under such rules and regulations as the Congress may by law prescribe, and vote by ballot for a citizen qualified under this Constitution to be President of the United States, and the result of such election in each State shall be certified, sealed, and forwarded to the seat of Government of the United States in such manner as the Congress may by law direct.

The Congress shall be in session on the third Monday in May after such election, and on the Tuesday next succeeding the third Monday in May, if a quorum of each House shall be present, and if not, immediately on the assembling of such quorum, the Senators and members of the House of Representatives shall meet in the Representative Chamber in joint convention, and the President of the Senate, in presence of the Senators and Representatives thus assembled, shall open all the returns of said election and declare the result. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of votes cast; if no person have such majority, or if the person having such majority decline the office or die before the counting of the vote, then the President of the Senate shall so proclaim: whereupon the joint convention shall order the proceedings to be officially published, stating particularly the number of votes given for each person for President.

Another election shall thereupon take place on the second Tuesday of October next succeeding, at which election the duly qualified electors shall again meet at the usual places of holding elections in their respective States and vote for one of the persons then living having the highest number of votes, not exceeding five on the list voted for as President at the preceding election in April, and the result of such election in each State shall be certified, sealed, and forwarded to the seat of the Government of the United States as provided by law.

On the third Tuesday in December after such second election, or as soon thereafter as a quorum of each House shall be present, the Senators and members of the House of Representatives shall again meet in joint convention, and the President of the Senate, in presence of the Senators and Representatives thus assembled, shall open all the returns of said election and declare the person having the highest number of votes duly elected President for the ensuing term.

No person thus elected to the office of President shall thereafter be eligible to be reelected.

In case of the removal of the President from office by impeachment, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve temporarily on the President of the Senate, if there be one; if not, then on the Speaker of the House of Representatives, if there be one; and if not, then the member of the executive department senior in years shall act as President. If there be no officer of an executive department, then the Senator senior in years shall act until a successor is chosen and qualified.

If Congress be in session at the time of the death, disability, or removal of the President, the Senators and Representatives shall meet in joint convention under such rules and regulations as the Congress may by law prescribe, and proceed to elect by  *viva voce*  vote a President to fill such vacancy. Each Senator and Representative having one vote, a quorum for this purpose shall consist of a majority in each House of the Senators and Representatives duly elected and qualified, and a majority of all the votes given shall be necessary to the choice of a President. The person thus elected as President shall discharge all the powers and duties of said office until the inauguration of the President elected at the next regular election.

If the Congress be not in session then the acting President shall forthwith issue a proclamation convening Congress within sixty days after the death or disability of the President.

On the assembling of a quorum in each House the Senators and Representatives shall meet in joint convention and elect a President as herein before provided.

Amend article fourteen proposed by the Thirty-Ninth Congress by striking out section two and inserting the following:

SEC. 2. Every citizen of the United States twenty-one years of age and upward (except Indians not taxed and persons *non compos*) shall be an elector in any State or Territory in which he may have resided one year next preceding the election at which he shall offer to vote. Each State shall prescribe uniform rules for the registration of all qualified electors residing therein and complete the said enrollment at least twenty days before each presidential election; they shall provide by law against fraud at elections, and may disfranchise any person for participation in rebellion against the United States, or for the commission of an act which is felony at common law.

SEC. 3. Representatives in Congress shall be apportioned among the several States according to the number of inhabitants in each.

Mr. ASHLEY, of Ohio. On these several propositions I intend to ask the judgment of the country and eventually a vote upon them in this House.

SHALL THE OFFICE OF VICE PRESIDENT BE ABOLISHED?

The proposition to abolish the office of Vice

President will, I trust, commend itself to the considerate men of all parties. The creation of the office was objected to by some of the ablest men of the Revolution as "unnecessary and dangerous." Experience has confirmed the wisdom of their opposition. The Vice President is, as all know, a superfluous officer, having few duties to perform, and those might more properly devolve upon a member of the Senate, selected because of his fitness, as the duty of presiding in the House devolves upon a member of the House who is elected Speaker.

The objection to the selection of a member of the Senate as Presiding Officer would hold equally good against selecting a member of the House of Representatives for its Presiding Officer. Indeed, the power conferred on the Speaker of the House is far greater than is conferred on the Vice President or President *pro tempore* of the Senate.

In the House the Speaker appoints all the committees and can participate in debate on the floor of the House. He may also vote at any time he so elects. In the Senate the regular standing committees are selected by a party caucus, and appointed or confirmed afterward in open Senate by a vote of that body. The Vice President is not permitted to debate any proposition before the Senate, and can only vote when there is an equal division, while the Speaker can vote at any time if he desires to do so, but is not compelled to vote except in case of a tie.

The country has been distracted and its peace imperiled more than once because of the existence of the office of Vice President. The nation would have been spared the terrible ordeal through which it passed in the contest between Jefferson and Burr in 1801 had there been no vice presidential office. Had there been no such office we would have been spared the perfidy of a Tyler, the betrayal of a Fillmore, and the baseness and infamy of a Johnson.

Party interest and party necessity, under our present convention system, usually seeks to compensate the friends of a defeated presidential candidate in any national convention by conceding to them the privilege of naming the candidate for the Vice Presidency.

This is done in order to soften the sting of defeat and to bind the defeated party in the convention to the more certain support of a ticket which a large minority, and sometimes even a majority, of the party would refuse to support at the election but for such compromises, aided by the despotism of party caucuses and party conventions. Often the mere question of locality has more to do with the nomination of a Vice President than the question of his fitness.

The country rejoices with me in the fact that no such narrow consideration controlled the action of the Republican convention at Chicago in selecting our honored Speaker as the candidate of the party for Vice President. Not to locality is he indebted for that position, for locality was against him, but rather to his long and faithful public services, his fidelity to Republican principles, and to his personal worth is he indebted for the distinguished honor of being associated on the same presidential ticket with the most extraordinary man of this or any age.

While each of the candidates for President and Vice President professes to subscribe to the so-called platform of principles adopted by the conventions which nominate them, they nevertheless represent, as a rule, opposing factions in the party, and often at heart antagonistic ideas, which are only subordinated for the sake of party success. This was the case with Harrison and Tyler, Taylor and Fillmore, Lincoln and Johnson. When each of these Vice Presidents on the death of the President-elect came into the presidential office he attempted to build up a party which should secure his reelection. For this purpose they did not scruple to betray the great body of men who elected them to the office of Vice President, nor did they hesitate at the open and



shameless use of public patronage for that purpose. The weakest and most dangerous part of our executive system for the personal safety of the President is a defect in the Constitution itself. I find it in that clause of the Constitution which provides that the Vice President shall, on the death or inability of the President, succeed to his office. The presidential office is thus undefended and invites temptation. The life of but one man must often stand between the success of unscrupulous ambition, the designs of mercenary cliques, or the fear and hatred of conspirators.

Whether pro-slavery conspirators, representing party cliques, caused the death of Harrison and Taylor I know not. I am confident, however, that a wide-spread conspiracy, representing the pro-slavery rebel faction in the nation, was organized for the purpose of assassinating Mr. Lincoln, and all know of its success. That the conspirators who plotted the murder of Mr. Lincoln had a purpose to subserve, which they supposed could not be accomplished while he remained in the presidential office, will hardly be questioned.

Mr. Chairman, history will record the fact that the conspiracy which resulted in the assassination of Mr. Lincoln was the offspring of the rebellion, and almost gave success to a cause which millions of rebels failed to secure after a deadly war of four years. Had assassination done more than it did it would have overreached itself. By sparing and using Andrew Johnson it gained a temporary triumph for those whom it represented.

Whatever may have been, and whatever may now be, my suspicions as to the complicity of Andrew Johnson in the assassination plot, the schemes and hopes of the conspirators can easily be explained upon the hypothesis of his innocence and his entire ignorance of their bloody purposes. Let me present it from that stand-point.

The failure of the rebellion found a large number of disappointed and desperate men in the late rebel States under disability for treason and rebellion. If justice was meted out to them they knew that they ought to be arrested, tried, and punished, and that if the law was administered their property was subject to confiscation. They expected, in any event, to be politically disfranchised, if they escaped imprisonment, banishment, or the confiscation of their property. Having staked all on the hazard of a die and lost, their condition was desperate, and to escape punishments, confiscations, or political disfranchisement thousands of them would not hesitate at any desperate expedient which promised success. The men who without cause had inaugurated fratricidal war, who had murdered unarmed Union soldiers after their surrender, who had deliberately starved to death thousands of our heroic men at Andersonville, Salisbury, Belle Isle, and Libby prison, and committed enormities upon the living and the dead which no human tongue can describe, would not hesitate at taking the life of any one man by assassination, however exalted his position, if thereby it secured them exemption from the punishment due their crimes.

On surveying the situation they found that the Republican party had, by a blunder, which in such an hour was worse than a crime, elected Andrew Johnson Vice President of the United States. I can imagine how carefully they examined his antecedents, his personal and political history; how they weighed well his words, and made themselves familiar with his public and private acts, his weaknesses and his ambition. During this examination they undoubtedly learned his view of the "situation" before he left Tennessee to be inaugurated Vice President. They heard of his declaration to Stanley Mathews at Cincinnati while on his way to the capital, before his inauguration, and to others afterward, as to the necessity of reorganizing the Democratic party. They were informed of what he had repeatedly said he would do about reconstruction "if he were President." They knew of his condition when

inaugurated Vice President, and that to them was an augury of success. Of his vanity, his unscrupulousness, his love of power, and his capacities as a demagogue they were fully advised. They satisfied themselves that, with proper management, he could be used to shield them from punishment, and, perchance, restore them to political power. From that moment the doom of Mr. Lincoln was sealed. The pretense that Mr. Johnson was to have been assassinated was never believed by any but willing dupes. The assassination of Mr. Johnson would have defeated the hopes and purposes of the conspirators, and no one knew this better than they.

After Mr. Johnson came into the presidential office the conspirators and their friends at once openly and unblushingly surrounded him, flattered him, took possession of him, and promised him a reelection and a brilliant future. They reminded him of his old political record, of his denunciation of abolitionists, of his utterances to Stanley Mathews and others as to the necessity of reorganizing the Democratic party by a union with conservative Republicans, leaving the "anti-slavery element in the Republican party to sluff off," as he repeatedly expressed it. All this, I submit, could have happened, and Mr. Johnson be free from any guilty knowledge of the assassination, either before or after the act.

I only present this panoramic view of what has transpired and is now history to illustrate how weak and indefensible in this particular is the presidential office; so that I may appeal to the nation to fortify it against this danger, by removing the temptation now presented to conspirators and assassins, and thus make the presidential office a citadel against which they may hurl themselves in vain.

Adopt this plan, and the occupant of the presidential office is effectually guarded from all political conspiracies which thrive by assassination. It also precludes the possibility of an interregnum in that office. In addition to the President of the Senate and Speaker of the House, each of the eight members of the Cabinet in turn, and after them the entire Senate, stand ready to assume, temporarily, the duties of the presidential office until Congress can elect a successor. It would not be possible for any conspiracy to succeed which contemplated the wholesale assassination of entire Cabinets and Senates.

If, as I propose in this amendment, there had been no Vice President, and the Constitution had provided, as I suggest, that on the death, resignation, or removal of the President the vacancy should be filled forthwith by the election of any citizen of the United States eligible under the Constitution, each Senator and Representative having one vote, the nation would never have been cursed with the Tyler, Fillmore, or Johnson administrations, nor is it to be supposed that Mr. Lincoln would have been assassinated, because it would not have been possible to foretell who would have been elected his successor. If this amendment had been part of the Constitution the country would have been spared much anxiety during the late impeachment trial, and Senators who constituted the court of impeachment would have been spared much of the suspicion and criticism to which they were subject. No man could then have known in advance who would have been the choice of the two Houses of Congress, in joint convention, for acting President to fill the vacancy. The question of Mr. Johnson's successor would, therefore, never have disturbed or embarrassed the proceedings of the Senate during the recent impeachment trial.

#### THE ABOLITION OF PRESIDENTIAL ELECTORS AND NATIONAL CONVENTIONS.

Instead of the intervention of presidential electors, I propose the election of President by a direct vote of the people by ballot, on the democratic principle, so fully recognized in our theory of government, "that all political power is inherent in the people and of right belongs to the people." I hold that it is safer

and better for the people to exercise this power directly without the intervention of nominating conventions or presidential electors or any intermediate agency. To withhold from the qualified electors of the nation the right to vote directly for the choice of a President is a violation of the democratic idea, an act at war with the fundamental principles of our Government, and utterly indefensible.

The adoption of the proposition which I have made will secure at once the abolition of the plan of electing a President by indirection, in the selection of electors chosen as now, by a plurality of the votes in each State, thus enabling the minority, when there are three or more candidates, by concentrating their votes on one electoral ticket, to secure the election of their candidate. This plan will also secure the early abolition of all national nominating conventions, and eventually of all State and county conventions, thus relieving every voter from the despotism of party cliques and party caucuses.

This provision is itself enough to commend the proposed amendment to the favorable consideration of the great body of the American people who have so long been controlled by the despotism of party conventions.

As a rule, not one voter in ten is consulted under our present caucus system as to his first choice of a candidate for any office, and yet when nominations are made, no matter whether fairly or by fraud, each voter is compelled to support the nominee of his party or aid in the election of the candidate of the opposite party.

For years I have been opposed to the present system of nominating all candidates for elective offices, including that of President of the United States. I have long held that all nominations should be made directly by the people under the authority and protection of law. In other words, that there ought to be two elections for all officers, to be elected by the people, unless at the first election one of the candidates should receive a majority of all the votes cast, an event not probable at any election, and certainly not for President nor for Governor of a State or a Representative in Congress. If any one should receive a majority of all the votes cast at the first election he would be declared duly elected, and there would be no second election to fill that office. If there were no choice at the first election for President, I provide in the proposed amendment that all candidates but the five, or possibly it may be advisable to say all but the three highest voted for at the first election, shall be dropped.

If I were making a State constitution or a law for the election of any elective officer, I would provide that at the second election all but the three, or possibly all but the two, highest voted for at the first election for any office should be dropped, and that at the second election only the candidates thus nominated should be voted for; that no other votes should be counted, and if there were three candidates that a plurality of the votes cast should elect as now.

This plan, as all can see, would supersede the present corrupt and unsatisfactory convention system, and enable every elector to vote without caucus dictation at the first election for his first choice, and without fear of electing the candidate of the opposition because of scattering votes.

After the most careful and deliberate examination of the question I am compelled to confess that the convention system now in use by both the great political parties of the nation is demoralizing in its practical workings, unfair in its representation of the great body of voters, and repugnant to the principles of true democracy and republicanism.

I look upon the present convention system for the nomination of a President as far more objectionable than the old congressional caucus system which it superseded, and which I would not restore if I could.

The theory is that the national conventions of both parties are composed of delegates fresh

from the people, elected by the people, and that they represent the people. All know that, practically, nothing can be further from the truth. History will confirm what I say, when I declare that a majority of the national conventions of both parties which have been held not only have not reflected the wishes of the party for which they assumed to act in making nominations, but that they have repeatedly and deliberately disregarded their known wishes.

Instead of our national, State, or district conventions being made up of delegates elected directly by the people, they are made up of delegates selected by packed committees in State conventions composed of delegates appointed on the recommendation of like committees appointed by other delegates in county conventions, who, in the first instance, are often nominated in township and ward caucuses, which are packed by the leaders of cliques and controlled by political machinery in the hands of a few, without regard to the wishes or interests of the voters for whom they assume to act. Thus the delegates in our national conventions are always removed three, and usually four, degrees from the people. Indeed, the people seldom have a voice in the election of the first delegates from townships and wards, owing to the political machinery employed by the few who work it. If the voice of the people is partially heard in the ward and township caucuses, which is well nigh impossible under our present practice, at each successive remove from the people their will is less regarded, until at last when it reaches our national conventions no voice is heard but the clamor of the office-seeker and the violent contentions of warring factions. Especially is this the case in the Democratic party when they adopt the two-third rule. As to consultation and deliberation at such conventions, that is impossible, nor is it now expected.

Often more than otherwise the delegates who attend these conventions vote for men of whom they know but little and of whose political record they know absolutely nothing. Witness the action of the Republican convention at Baltimore which nominated Andrew Johnson. The indecent scramble of the bullet-headed politicians and demagogues for the honor of first announcing the name of Andrew Johnson as a candidate before that convention was one of the most disgusting exhibitions I ever witnessed.

A majority who attend such conventions are always clamorous for prompt action and adjournment, never for consultation. They are usually more anxious about the size of their hotel bills than about the record of the candidate to be nominated. Their object is gained when their names are recorded as delegates to the convention and they have voted for the nomination of the successful man.

Benton, in his "Thirty Years' View," in speaking of national conventions and comparing them with the congressional caucus system, uses the following language:

"But it [the convention system] quickly degenerated and became obnoxious to all the objections to Congress caucus nominations and many others besides. Members of Congress still attended them, either as delegates or as lobby managers. Persons attended as delegates who had no constituency, [as delegates, professing to be from Texas and other States, appeared at the Chicago Republican convention in 1860.] Delegates attended upon equivocal appointment. Double sets of delegates sometimes came from the State, and either were admitted or repulsed, assuited the views of the majority. Proxies were invented. Many delegates attended with the sole view of establishing a claim for office, and voted accordingly. The two-thirds rule was invented to enable the minority to control the majority, and the whole proceeding became anomalous and irresponsible and subversive of the will of the people, leaving them no more control over the nomination than the subjects of kings have over the birth of the child which is born to rule over them. King caucus is as potent as any other king in this respect; for whoever gets the nomination, no matter how effected, becomes the candidate of the party, from the necessity of union against the opposite party, and from the indisposition of the great States to go into the House of Representatives to be balanced by the small ones. This is the mode of making Presidents, practiced by both parties now. It is the virtual election! And thus the election of the President and Vice President of the United States has passed, not

only from the college of electors, to which the Constitution confided it, and from the people to whom the practice under the Constitution gave it, and from the House of Representatives, which the Constitution provided as ultimate arbiter, but has gone to an anomalous, irresponsible body, unknown to law or Constitution, unknown to the early ages of our Government, and of which a large proportion of the members composing it, and a much larger proportion of interlopers attending it, have no other view, either in attending or in promoting the nomination of any particular man, than to get one elected who will enable them to eat out of the public crib—who will give them a key to the public crib."

I do not overdraw the picture, nor did the great Missouri Senator.

In order to realize how Democratic and Republican national conventions are made up, let me state as briefly as I may the manner of their organization.

#### NATIONAL CONVENTIONS—HOW MADE UP.

A national committee issue a call some five or six months in advance of the time appointed for the meeting of the convention, in which they call upon the electors of their party in each State to appoint two delegates for each congressional district and four for the State at large, to meet in Chicago or New York. State committees of each party issue calls for State conventions, to be composed of delegates from each county. County committees issue calls for the voters in each ward and township or voting precinct, to select delegates to a county convention. Township and ward committees issue their call, and the voters of each party are supposed to comply with the invitation of the authorized local committees of their respective parties and attend the caucuses.

What is the fact? On an average I do not believe one voter in ten of either party ever attends the caucuses, simply because they are so unfairly and often so improperly conducted by a few political managers and office-seekers that the great body of honorable men become disgusted and remain away. Should they attend, they are permitted to have no voice in the caucus if they are in hostility to those who live, and expect to live, by controlling them. Oftener than otherwise not more than ten, and seldom more than fifty, meet at these caucuses in each ward or township, unless there is some local excitement growing out of a contest for local nominations. Sometimes not more than three or five men will go to the place appointed for caucus, and organize and appoint delegates in the name of the party and adjourn before the time named in the notice, and before the regular meeting could possibly be held. This is always done so quietly and speedily that not unfrequently the regular caucus know nothing about the pretended caucus which has just adjourned.

If time is not thus taken by the forelock by the tricksters when the people meet at the place designated it is attempted in some other manner. Usually Mr. Smith, by previous arrangement, nominates Mr. Pogram for chairman and Mr. Thompson for secretary, and puts the affirmation of the motion and declares it carried. Whereupon Mr. Smith moves that a committee of three be appointed to report to the meeting the names of suitable gentlemen to be appointed as delegates to the county convention. The chairman declares the motion carried without putting the negative, and appoints on said committee Mr. Smith and two others whose names have been handed to the chairman by Mr. Smith before the meeting of the caucus. The committee retire and soon return with a unanimous report, including the name of the chairman and Mr. Smith as delegates, which, on motion of Mr. Smith, the caucus accepts, and the delegates reported are declared appointed.

If any one has the courage to object to such proceedings, he is promptly ruled out of order by the chairman and denounced as a disorganizer by Mr. Smith and his friends and the caucus adjourns. If Smith, Pogram & Co. fear they cannot thus manage the caucus, they do not hesitate to resort to any chicanery which in their opinion may be necessary to carry their point. To do so, Mr. Smith will sometimes

nominate Mr. Pogram for chairman and Mr. Thompson for secretary, and put the motion affirmatively and declare it carried, notwithstanding honorable members of the party protest and demand a division. The well-drilled caucus chairman will take no notice of this demand, and Mr. Smith will take from his pocket a paper and read from it a long list of names, which he moves be appointed delegates to the county convention, and Mr. Chairman Pogram puts the motion and declares it adopted, refusing to put the negative, and before the members of the caucus have time to recover from their surprise Mr. Smith moves that the caucus do now adjourn. The chairman at once puts the motion and declares it adopted, and in less time than it has required me to tell it the so-called caucus has been organized, appointed delegates, and adjourned, and the officers, with Mr. Smith and his clique, retire to some convenient place for refreshments and to make out the certificates of election for the delegates. The people who are present then consult whether they had better organize the caucus and elect delegates as honorable and honest men should do, or whether they had better submit to the outrage thus perpetrated rather than hazard the success of the party and incur the risk of having their delegates refused seats in the county convention, should they elect any; and, in a majority of instances, the people submit to just such shameless proceedings rather than hazard the defeat of their party. If, however, they should decide not to submit to such an outrage, and proceed to elect delegates regularly and fairly, they are usually excluded from the county convention, because they organized and elected their delegates after the regular caucus had adjourned.

I have known members of the Democratic party come into a Republican caucus to aid a desperate and unprincipled clique, and men claiming to be Christian gentlemen permit themselves to be nominated and serve as chairman and secretary under a pretended election such as I have described, and put motions and declare them adopted, and that the persons named by Mr. Smith or Jones as delegates to a county convention were duly elected in a caucus where the majority against the proposed delegates were three and four to one, and if they had been permitted to vote in the negative would have so voted.

Where an attempt is sometimes made to have a fair vote by ballot Mr. Smith and his followers do not hesitate to pack the caucus with men who belong to the opposite party whom they can use, and in addition stuff the ballot-box to carry their point. If from any cause they fail, even with their ballot-box stuffing, to elect their delegates, the next move is to proclaim, in a boisterous manner, the whole proceeding unfair and retire from the caucus with well-feigned disgust to an adjoining room or into the open air and elect delegates, who go to the convention and demand admission. If they cannot displace the fairly and regularly-elected delegates they will propose, "for the sake of harmony in the party," and as a compromise, that both sets of delegates be admitted, with authority for the two delegations jointly to cast the vote to which the regular delegation would be entitled. This dodge is often repeated by the election of double delegations from county to State conventions, and sometimes by State to national conventions; and oftener than otherwise both sets of delegates thus elected are admitted, and the voice of the party in the township or ward, county or State, is neutralized in the conventions to which fraudulent delegates are thus admitted. Men are often admitted in this way to county, State, and national conventions who could not possibly be elected by their own party to any position. It is due to fairness to state that a large majority of such frauds as I have described are usually perpetrated in large towns and cities.

When men claiming to be respectable citizens are guilty of such dishonorable and fraudulent practices in their own party caucuses it

is not surprising that the demoralization which is inseparable from such conduct should show itself in ballot-box stuffing, illegal and double voting, and all kinds of fraud when the contest is between the opposing political parties at a regular election.

A convention of delegates, elected as I have described, meet, organize, and go through the routine of appointing a committee to report to the convention the names of persons to be selected as delegates to State conventions, and, if necessary to success, the same unfairness which marked the proceeding at the ward and township caucuses are repeated in county and State conventions, and the persons whom the schemers desire for delegates are usually selected. At State conventions the delegates are so far removed from the people that they represent for the most part the cliques to which they belong, and the delegates who are in turn selected by them to our national conventions represent, as a rule, first themselves, next their personal friends, and last of all the people.

The demoralization inseparable from such disgraceful proceedings cannot be overstated. As Mr. Benton says, a majority of the delegates who attend national conventions do so for the purpose of establishing claims for office, and we all know that they are usually candidates for an appointment at the hands of the President whom their votes help to nominate. Where there are three or more rival candidates for President before a national convention, and a balance of power party can be formed, they do not hesitate to demand as a condition to the vote of their clique or State the promise of a Cabinet appointment. This unblushing demand has been made as a condition to the support of cliques and factions at more than one convention and succeeded to. In pursuance of such arrangements Cabinet ministers have been appointed, and were thus enabled by their official position to provide offices for their friends, who, as delegates, voted as required in convention. Entire delegations from States sometimes permit themselves to be bartered and pledged for a candidate on condition that one or more of their own number shall have a designated official appointment, and sometimes even for the empty honor of having one of their number act as the presiding officer of the convention; and this is called representing the people. Thus in our national conventions, where oftener than otherwise there are more than two candidates, the most unscrupulous are the most likely to succeed. A few leading men combining for Cabinet positions or foreign appointments can, by concentrating their votes, secure a majority in the convention, and thus nominate any candidate upon whom they unite. If this has been and may be by combinations such as I have described, it is certain to be repeated again under like temptations.

The desire for place and power can, as it has done, bring the most hostile political leaders together. "If we combine," they whisper to each other, "we shall conquer. If we divide we shall be conquered." With the cohesive power of self-interest to urge them on they combine, and by the aid of party conventions make nominations in the name of the people to which the people are opposed, and thus live upon the Government at their expense.

The Republican national convention for 1864, which renominated Mr. Lincoln, and the Republican convention which met at Chicago on the 20th of this month, formally to ratify the wishes of the people in placing General Grant in nomination, are exceptions to this rule. The man of destiny is made a candidate in spite of cliques and cabals. As no combinations could have been made by party cliques formidable enough in 1864 to have defeated the nomination and election of Mr. Lincoln, so none could be made this year of sufficient magnitude to defeat the nomination and election of General Grant. Such was the condition of the country in 1864, and such is its condition to-day, that the people with a unanimity unprecedented commanded, and the political schemers, making a virtue of necessity, yielded, and were as clam-

orous for Lincoln in 1864 as they are to-day for General Grant.

As a rule, however, national conventions do not, as I have shown, nominate the first choice of either party. Especially is this the case with the Democratic party. The two-thirds rule makes their cliques more formidable, and the schemers usually so manage as to get their favorite or secure a compromise on some new man whom they know they can use.

If the President and all elective officers were nominated by law as I propose, no compromise on a new and unknown man could possibly be made by political managers.

Under such a system as I propose it will be conceded that General Taylor could not have been nominated by the Whig party in 1848 nor General Scott in 1852; nor could the Democrats have nominated James K. Polk in 1844, Pierce in 1852, or Buchanan in 1856. It is doubtful whether more than two of the five men just named could, under the proposed system, have obtained votes enough at the first or nominating election to have been included in the list of the five highest, so as to have been voted for at the second or regular election; and, of course, in that event, they could not have been, as they were, the candidates of their respective parties.

Instead of conventions representing the people, in my judgment no plan could well be devised which would more certainly divest them of all power and transfer it to party managers and party cliques.

The appointment of delegates in the manner which I have described tends to put the whole political machinery of each party into the hands of a few who make politics a trade and live by scheming.

The further the selection of delegates to national conventions is removed from the people the more certainly does power pass into the hands of the few. In such conventions the voice of the people is not heard, and the will of the delegates, who are usually office expectants, becomes supreme. An active, trained, and united clique is thus sure to be formed in every party, who will devote their entire time and attention to manipulating and controlling conventions. They will retain in their hands the appointment of all delegates from the ward and township meetings up to the national conventions. In order to increase and concentrate their power they will, if they can secure a bare majority in their State conventions, cause the delegates to national conventions to be instructed to vote as a unit on all questions, thus silencing the voice of the minority, if by any mischance there should happen to be a minority in either county or State conventions. In this way the most experienced, cunning, and unworthy men often control the great conventions of both the great political parties.

When these schemes are successful and their nominations are made the people are called upon to elect the nominees. If any member of the party hesitates to give his unqualified support to a ticket thus nominated he is branded as an apostate and deserter. In the mean time, these gentlemen who graciously assume to provide the people with candidates for all places divide the offices in the States among themselves and their adherents and join in recommending to the presidential candidate whom they have just nominated every delegate who has voted right, for an appointment of some kind, to be made when he shall have been elected.

This corruption is the legitimate fruit of the convention system, and appears to be inseparable from it.

For this reason I have long been opposed to any system which interposes between the people and the nomination and election of the President or any officer elective by the people.

The proposition which I have submitted, if adopted, abolishes at once all this, and destroys absolutely the power of factions and cliques, so that thereafter they would no longer be able to control or dictate nominations; and

in this important particular the Democratic theory would be fully recognized in the Constitution.

It may, and probably will be, claimed by the friends of the convention system, that the proposition securing a nominating election under the protection and security of law would not prevent the caucus nomination of candidate to be voted for at the first election. There is unquestionably some force in this suggestion. I am confident, however, that its adoption would practically abolish the convention system. As congressional caucuses were superseded by the convention system, so all nominations would thereafter be made by the free and voluntary expression of the people at the ballot-box; and it would soon become unpopular and dangerous to the success of any candidate to be the nominee of any clique or caucus as now. In short, the convention system would be repudiated, as congressional caucuses were repudiated, and if a candidate attempted to force himself in advance upon the people by the use of such machinery he would meet with certain and just defeat.

The people may safely be intrusted with the management of this whole matter. All they ask is the protection of law, and they will soon dispose of party tricksters and convention cliques. A nominating election, under the safeguards of law, is their security. If cliques and conventions attempt to dictate and control at the first or nominating election, their defeat will be inevitable at the second or regular election. It will thus be seen that the system has, in itself, the inherent power of protection against caucuses, conventions, and frauds.

Mr. LAWRENCE, of Ohio. I would like to ask my colleague if he has not attended conventions and been nominated by conventions, and if he does not support all nominations made by the Republican party?

Mr. ASHLEY, of Ohio. I answer the question of my colleague in the affirmative. I have attended conventions and expect to attend them as long as my party adheres to that system. I have been nominated by conventions, and have accepted those nominations, because I believed they were honestly made, and because I believed they fairly represented the wishes of the party. I would not accept a nomination secured by bargain and sale, or by fraud and corruption. I would not accept a nomination for any office if made by a "balance of power" clique, with the understanding, expressed or implied, that in case of my election I should appoint the leaders of such clique to office. I have been nominated and elected five consecutive times by the Republican party of my district, and I never made, nor permitted to be made, such a promise to a single man. I have always supported the regular nominations made by my party, and expect to do so until the system of nominating conventions is abolished, and some new and better system adopted.

This, however, does not prove that the convention system is not justly obnoxious to all the objections which I have urged against it. It only the better illustrates the fact, that the great body of electors in both political parties are often compelled to vote against their better judgments by the machinery of party caucus and party conventions.

THE INDEFENSIBLE MODE OF ELECTING OUR PRESIDENTS MAINTAINED IN THE INTERESTS OF SLAVERY.

But for the existence of slavery the present indefensible anti-democratic system of electing the President by the appointment of electors in such manner as the State Legislatures may by law provide would long since have been changed, and a system more in accord with the democratic spirit of the age adopted.

That the present system of nominating and electing a President is in antagonism with the principles of democratic government will not be seriously questioned. It has more than once defeated the popular choice for the nomination and election of President. Since I became a voter a majority of our Presidents have been elected by a minority of the popular



vote. Under the present system the incentive to fraud in ballot-box stuffing, illegal voting, and the importation of voters into the large and closely-contested States cannot be overestimated. If an electoral ticket obtains by any means, fair or foul, a plurality of one or more votes, it controls the entire electoral vote of the State, which may decide the result of a presidential election, as in the case of the vote of New York in 1844. This electoral machinery has, and may again, defeat the popular will.

In 1824 Maryland gave Adams a larger popular vote than either Jackson, Crawford, or Clay. But of the eleven electoral votes to which the State was then entitled Jackson received seven, Adams three, and Crawford one.

The electors in Maryland were elected at that time by districts, whereas they are now elected on a general ticket for the State at large, as in all the States. Two districts in Maryland (the third and fourth) elected at that election two electors each, to act as senatorial electors.

In 1824 the electors of President and Vice President were appointed in the several States as follows:

In Maine, Massachusetts, Maryland, Kentucky, Tennessee, Illinois, and Missouri, by the people in districts. Seven States.

In New Hampshire, Rhode Island, Connecticut, New Jersey, Pennsylvania, Virginia, North Carolina, Mississippi, Alabama, and Ohio, by the people on general ticket. Ten States.

In Vermont, New York, Delaware, Georgia, Indiana, Louisiana, and South Carolina, by the Legislatures. Seven States.

In a few years all the States except South Carolina adopted the general ticket system, so that the vote of the States should not be divided, thus securing to the large States the power to elect the President, and often by a mere plurality of the vote of the State.

At the election of which I am speaking Jackson had ninety-nine electoral votes, Adams eighty-four, Crawford forty-one, and Clay thirty-seven.

The Constitution requiring a majority of all the electoral votes cast to elect a President, and there being no choice of President by the electors, the election devolved on the House of Representatives.

THE STATES WHICH REPRESENT A MINORITY OF THE PEOPLE IN THE HOUSE OF REPRESENTATIVES MAY ELECT THE PRESIDENT.

Here, again, the machinery provided by the Constitution for the election of a President by the House of Representatives makes it possible for a minority of the people residing in small States to defeat the will of a majority of the voters in the nation.

At the election in 1824 for electors of President Mr. Adams had a majority of the electoral vote in but seven States. When the election took place in the House of Representatives, each State having one vote, which is cast as a majority of the Representatives in the House from each State may determine, Mr. Adams had a majority in each of the Representatives from thirteen States. The vote stood as follows:

For Adams.....13  
For Jackson.....7  
For Crawford.....4

Mr. Adams, having a majority of all the votes cast, was declared duly elected President for the ensuing term.

It will be observed that Mr. Adams had not only fifteen electoral votes less than Jackson in the Electoral College, but that he had a majority of the electors chosen in only seven States, whereas he obtained in the House of Representatives when elected President the vote of thirteen States, three of these being States which gave Jackson a majority of their electoral vote, namely, Alabama, Louisiana, and Maryland; while three of the States which gave a majority for Clay at the election voted for Adams in the House, namely, Kentucky, Missouri, and Ohio. North Carolina gave her vote in the Electoral College for Jackson, but

in the House of Representatives her vote was given to Crawford by a vote of ten to three, in utter disregard of the popular vote of the people of the State as expressed at the ballot-box.

I present these facts to show how, under our present system, the voice of the people has been and may again be disregarded. Nothing could demonstrate more forcibly than this simple statement the necessity for a change in the manner of electing a President, if the will of the people as expressed at the ballot-box is to determine every four years who shall discharge the powers and duties of the office of President of the United States.

I also desire to call attention to the fact that the machinery of electors, as provided by our present Constitution, makes it possible for the will of the people to be defeated after the appointment of electors. For instance, if a candidate for the Presidency should have in the Electoral College but two or three majority of the electoral vote, and four or five electors chosen by the majority in the different States should, either corruptly, ignorantly, negligently, or for any cause, fail or refuse to attend at the place and on the day designated by law for their meeting in each State, to vote for the person designated on the ticket for President, or should appear and vote for the opposing candidate, or vote blank, the people who voted for such electors would be either misrepresented or unrepresented in the Electoral College, and the candidate for whom a majority of electors was chosen to vote would be legally defeated, although fairly elected. This is not unlikely to happen at any election, unless each State should provide by law for the contingency of absentees. They could not provide a remedy for the betrayal of an elector.

Of the presidential electors appointed for 1792, two in Maryland and one in South Carolina failed to appear at the time and place appointed for the meeting of electors, and did not vote. For 1808 there was one in Kentucky. For 1812, one in Ohio. For 1816, three in Maryland and one in Delaware. For 1820, one in Pennsylvania, one in Alabama, and one in Tennessee. For 1824, one in Rhode Island. For 1832, three in Maryland. For 1864, one in Nevada. The entire electoral vote for the State of Wisconsin was legally lost to Fremont in 1856 by the accident of a snow storm, and would probably not have been counted if thereby the result of the election could have been changed. There may have been others which I have overlooked.

In 1797 Adams had seventy-one votes and Jefferson sixty-nine, giving Adams but two majority. If three of the electors who voted for Adams had failed to appear at the time and place designated by law to vote for President, or had refused to vote, or voted blank, Mr. Jefferson would have been elected. It will thus be seen that of the number of electors who have been appointed and three or four times failed to vote for President, in one instance in our history such neglect or refusal to act would have changed the result of an election and defeated the legally expressed will of the people in the selection of a President.

But I need not detain the House longer by presenting reasons against a system so indefensible.

If the proposition which I have introduced should be adopted and become a part of the Constitution, it will abolish all the machinery of intermediate bodies, which now often control or defeat the will of the people, whether it be national conventions, electoral colleges, or the choice of a President by the House of Representatives.

THE ELECTION OF A PRESIDENT BY THE HOUSE OF REPRESENTATIVES.

We have had two elections in our history of a President by the House of Representatives, and I trust the Constitution may soon be so changed that we shall never have another.

Each State in such an election has one vote, and a majority, as I have already said, of the Representatives in Congress from the States whose members are present and voting de-

termine for which of the three persons returned to the House the vote of the State shall be cast. At such an election the Representatives in Congress elected by a minority of the people may, and as a rule will, in such a contest elect the President.

Counting all the States, and we now have thirty-seven; of these, under our present system ten may elect a President if united. I will name them:

	Votes.
Illinois.....	16
Indiana.....	13
Kentucky.....	11
Massachusetts.....	12
Missouri.....	11
New York.....	33
Virginia.....	10
Ohio.....	21
Pennsylvania.....	26
Tennessee.....	10

Ten States.....168

	Votes.
Alabama.....	8
Arkansas.....	5
California.....	5
Connecticut.....	6
Delaware.....	3
Florida.....	3
Oregon.....	3
Georgia.....	9
Kansas.....	3
Louisiana.....	7
Maine.....	7
Maryland.....	7
Minnesota.....	4
Mississippi.....	7
Nevada.....	3
Nebraska.....	3
New Hampshire.....	5
New Jersey.....	7
Rhode Island.....	4
South Carolina.....	6
Texas.....	6
Vermont.....	5
West Virginia.....	5
North Carolina.....	9
Wisconsin.....	8
Iowa.....	8
Michigan.....	8

Twenty-seven States.....154

If at any time an election for President should devolve on the House of Representatives, a majority of the Representatives in Congress from nineteen of the thirty-seven States, representing not more than one fourth of the people and less than one third of the electoral vote, could by uniting elect the President.

Let me name the States:

	Votes.
Delaware.....	1
Florida.....	1
Kansas.....	1
Nebraska.....	1
Nevada.....	1
Oregon.....	1
Minnesota.....	2
Rhode Island.....	2
Arkansas.....	3
California.....	3
New Hampshire.....	3
Vermont.....	3
West Virginia.....	3
Connecticut.....	4
South Carolina.....	4
Texas.....	4
Maryland.....	5
New Jersey.....	5
Mississippi.....	5

Nineteen States.....52

Thirty-eight of the fifty-two members from the States just named can control the vote of said States and elect the President.

It will be observed that in the table from which I have just read, we have six States, with but one vote each, while seven others have but nineteen votes, and the six remaining but twenty-seven. In all fifty-two votes. These nineteen States have two Senators each, making in all thirty-eight Senators, which, added to the fifty-two Representatives in the House, makes ninety votes, and that number of electoral votes.

In a few years, at most, six new States will be organized out of our present Territories and admitted into the Union. When admitted, they will be entitled under our present system to cast three electoral votes each for President, making eighteen votes, and in case the election of a President devolves on the House of Representatives, they will each have all the polit-

ical power of New York or Ohio, with the certainty that they cannot lose their vote in the House by an equal division of their Representatives as the larger States may; thus increasing the inequality of political power which now exists in the House when the election of a President devolves upon it, to an extent which I fear the statesmen of the country do not fully recognize. Admit six of the Territories, and the number of States would be increased to forty-three, and the electoral vote, if the States already named retain their present number of votes, would be three hundred and thirty-five.

Now, take Georgia, with her nine electoral votes, and add to the ten States in the first table, and eleven States can give one hundred and seventy-two electoral votes, while the remaining thirty-two States can give but one hundred and sixty-three electoral votes. Thus eleven States out of forty-three, if united, may, by a plurality of their voters, elect a President; yet, if they are so divided that a majority of all the electors are not chosen for one of the candidates, there is no election, and the election devolves on the House of Representatives, when twenty-two States, representing only eighty-nine electoral votes out of three hundred and thirty-five, or a fraction more than one fourth and not one fourth of the popular vote, may elect a President.

Add the six new States, each with their three electoral votes, to the six States now in the Union with but three votes each, and we will have twelve States with one vote each in the House, and but thirty-six electoral votes. When that time comes—which will probably be within ten years at most—we shall have, as I have shown, forty-three States, of which twenty-two will be a majority, and this majority of States can be controlled by thirty-five members; eight votes less than there are States in the Union. Thus it will be seen that THIRTY-FIVE MEN IN THE HOUSE, WHEN COMPOSED OF TWO HUNDRED AND FORTY-NINE MEMBERS, WILL HAVE THE POWER TO ELECT A PRESIDENT SHOULD THE ELECTION DEVOLVE ON THE HOUSE OF REPRESENTATIVES.

I need not add a word in condemnation of a system so utterly repugnant to all right thinking men. The fact that so small a body of men will have it in their power to elect a President, if the election can be carried into the House of Representatives, will make it for the interest of desperate political adventurers and place hunters to combine and force the election into the House. I would not have you forget that the Representatives who are to determine the choice of a President when the election devolves on the House of Representatives are members of the Congress which expires on the day the new President is to be inaugurated: that the term of all members not reelected will cease on the 4th of March after the election of the President, and that such members will then be prepared to accept appointments under the new Administration.

With the States all restored, as we soon hope to see them, there will be thirty-seven, as I have before said, and the number of members in the House will be two hundred and forty-three, one hundred and twenty-two of whom are a majority. YET THIRTY-EIGHT MEMBERS REPRESENTING NINETEEN STATES BY VOTING TOGETHER CAN CONSTITUTIONALLY ELECT THE PRESIDENT WHEN THE ELECTION DEVOLVES ON THE HOUSE.

These calculations are based upon the hypothesis that every State will have a vote in such an election; whereas it will sometimes happen that the larger States will lose their vote by an equal division in their delegation. This, of course, cannot happen where a State has but one Representative.

When there is but one majority in a delegation, any member from such a State may change the result, or he may refuse to vote, and thus deliberately, and for a purpose, cause the vote of his State to be equally divided and lost, thus increasing the power of the few in the House who vote as a unit.

The proposition which I make brings the Senate and House of Representatives together in joint convention within sixty days after the death, resignation, or removal of the President, and secures to each Senator and Representative one vote.

An election of a President by a joint vote of the two Houses of Congress can only happen under the plan which I have submitted, on the death, resignation, or removal of the incumbent; because the people will of necessity elect a President at the second election without the intervention of any body of men, thus taking away from the House of Representatives this dangerous power, now lodged by the Constitution in the hands of less than one third of its members, and securing it to the people.

Experience teaches that small bodies of men may be corrupted, the great body of the people never. Where there are more than two presidential candidates, those representing political parties known to be in the minority in any State, while acting separately, may unite and adopt a joint electoral ticket, composed of men representing their respective party organizations, and thus obtain a plurality of the popular vote in enough doubtful States to defeat an election by electors. The election of the President would then devolve on the House of Representatives, and one of the candidates of the minority could there be elected, as I have shown, by less than one third of the Representatives in Congress, with a constituency numbering less than one fourth of the popular vote.

After an election, in which there was no choice by the people, if they were permitted to vote the second time, they would never permit an election of President to go to the House of Representatives, as provided under our present Constitution. This is one of the important privileges which I propose to secure directly to the people, so that in a country extensive as ours the people may have an opportunity of voting for a second choice if they fail to secure their first choice.

In any light in which I am able to view the present mode of electing a President, whether by the appointment of electors or selecting him by the House of Representatives, it seems to me to be violative of the democratic principle, and dangerous to the peace and stability of the Government.

In conversing recently with one of the most distinguished men of the nation on this subject he said that should an election such as I have described occur, and the choice devolve on the House of Representatives, it would not dare to select for President the candidate having the smallest vote; that if they did so it would end in revolution, and that until some great agitation resulting from such an outrage came upon the country the people could not be aroused to the necessity of providing against its probability.

However that may be, I feel it to be my duty to present this subject to the consideration of this House and the country, with the notice that while I remain a member of this body I do not intend to rest until a judgment is rendered upon it by Congress and the people.

Believing in the capacity of the people for self-government, I ask that all who are duly qualified shall vote directly for President; that they be secured and protected in that right, and be freed from the dictation and control of all intermediate and irresponsible bodies of men. Any substitute for a popular vote makes it possible for intermediate bodies, who are commissioned to act for the people, to betray them or defeat their choice.

The system which now prevails of nominating and electing our Presidents tends directly to corruption and fraud, and to placing the Government in the hands of a minority of experienced and unscrupulous political intriguers.

Minorities cannot long administer a Government such as ours in this country by fraud and intrigue without inaugurating violence and bloodshed. The administration by the slave oligarchy of this Government for so many

years by fraud, intrigue, and force is a case in point.

The history of all republics which have risen and fallen teaches us that liberty will perish if the people permit the establishment of any substitute for popular elections.

It is the province of true statesmanship to supply a remedy for the dangerous, unjust, and anti-democratic provision of the Constitution which provides for the election of our national Executive.

I have not provided for special elections by the people in case of the death, disability, or removal of the President, because I think the presidential term should commence and end as now.

The business interests of the country cannot afford to go through a presidential campaign oftener than once in four years. If an election to fill a vacancy devolves on the Congress, each Senator and Representative has one vote, which is as equitable an apportionment according to population as can well be made, and the choice of an acting President to fill any vacancy which may happen will probably give as much satisfaction in the mode proposed as any which could be devised.

#### OF THE EXECUTIVE AND APPOINTING POWER.

Mr. Chairman, in defining the executive power the framers of the Constitution declared that it should be in a President, intending thereby to say that the executive power of the nation should be vested in one person, to be called a President, and that he should exercise the powers and duties conferred in strict accordance with the grants and limitations of the Constitution. Gradually but steadily the executive power has strengthened itself and encroached upon the legislative department, causing the conflict through which we have just passed.

The power of appointment committed to the President under our Constitution has for years made him little else than a king for the time being, except in name.

Insidious usurpations, long submitted to, but never contemplated by the Constitution, have so grown into custom that to-day, without the tenure-of-office act, the vast power in the hands of an ambitious, aspiring, popular President is dangerous to the peace and stability of the Union.

When it is remembered that there are nearly forty thousand office-holders, whose salaries amount to millions, and whose appointment, directly or indirectly, depend on the word of the President, we will be able to comprehend something of the overshadowing power of the Executive.

We have all seen how dangerous a President may become who is without character and without ability, even when manacled with the civil tenure-of-office law.

Let the intelligent student read over our political history for the past forty or fifty years, and he will be surprised to find how large has been the number of Senators and Representatives who during that time have openly or covertly betrayed their constituents, and become the mere dependents of the Executives who during their official term filled the presidential office.

I will not now speak of the baseness which has been so open and unblushing within the memory of us all. For the sake of place and power a large number of public men, in the past half century, have abandoned cherished convictions, betrayed the people, and become the mere creatures of our acting Executives, so that to-day our political highway presents an almost unbroken line of unburied political skeletons, offensive to the sight and poisonous to our political atmosphere. Sir, let any man read our political history for the past forty or fifty years, and he will find that an executive nod to a Representative of the same political party has been more potent, as a rule, than the will of his constituents. I admit that this abasement was far more general than it is to-day, during the period in which the slave-mas-

ters of the South dominated over the nation and northern doughfaces did their bidding with alacrity and without question.

Experience has demonstrated the fact that executive blandishment and patronage has been used with marked success within the memory of us all. Senators and Representatives of all parties have alike yielded to its seductive power.

The men usually selected to do the bidding of an Executive in defiance of the wishes of their constituents are men elected from congressional districts which never reelect their Representatives, or reelect them but once. Such districts, as a rule, send men to Congress who are without State or national reputations, and as a consequence a large number of such men are always ready in the name of party to do the bidding of an unscrupulous Executive, and accept for their services, when repudiated by their constituents, a petty appointment, which men of character, ability, and a political future would spurn. So long as Representatives to Congress are elected for but one, or at most for but two terms, and because they reside in this or that county of a district rather than because of their fitness, ability, or fidelity to principles, and so long as the President is clothed with such vast appointing power, and he is permitted to demand, as now, of his appointees, an indorsement of "his policy," including his policy for a reelection as a condition to their appointment or continuance in office, so long will constituencies be betrayed and political adventurers be successful.

Practically, sir, the demand made, disguise it as we may, of the great body of men who are nominated to important positions by every Executive ambitious for a reelection is, will you pledge yourself to support "my policy?"

Dangerous and corrupting as the appointing power has become in the hands of our Presidents, who are candidates for a reelection, it is rendered still more dangerous by the system which limits the choice of electors in selecting their Representatives in Congress, and compels the electors to select their public servants within the limits of the district in which they reside; whereas they should be permitted to select them as they would select other agents, from any locality in the nation. This plan would tend to national unity and enable any constituency desiring to do so to secure men of the first order of ability to represent them in the national Congress. Men would then be selected for Congress because of their fitness, ability, and national reputations, and not, as is now too often the case, because they happen to reside in some county of a district which perhaps never before had a resident Representative. If there were no custom or law limiting the right of electors in the selection of their Representatives to Congress, they would be selected in a few years as railroad companies select their officers and business managers; as bankers select their cashiers, and as citizens select their agents or attorneys. As it is, we have a system which is anti-democratic and indefensible; a system at war with the rights and privileges of freemen and electors.

#### THE ROTATION SYSTEM—ITS STUPIDITY.

In a number of congressional districts personally known to me, the rotation system prevails so rigidly that they never reelect a gentleman to Congress, no matter how able or faithful. Political aspirants with their personal friends come together in what they are pleased to call conventions, and negotiations are deliberately entered into and a programme agreed upon, which must remain undisturbed for years and with which no national exigency nor local want of the people must interfere. In these convention conclaves the people are without a voice or vote, and in the name of party they are bound hand and foot. It is generally agreed that the nominee for the first term, in such district, after a new apportionment, shall be given to the county having the most political influence, if their local politicians can agree, and thereafter, if there are

more than one county in the district, that the candidate shall rotate until each county shall in turn be served with a candidate. Experience has demonstrated how indifferent a majority of such Representatives are to the wishes and wants of their constituents.

Of the practical inefficiency of such Representatives I need not speak. It is not possible for them to be otherwise than inefficient. Let the constituencies who have so repeatedly suffered under this stupid system, and been humiliated, disgraced, and betrayed, apologize to the nation for sending such men into her council halls, by speedily changing a system which is the nursery of the most insufferable demagogues.

I have known men who ought never to have been intrusted with official position anywhere, and who probably never would have been but for this system, change their residence from one county to another for the express purpose of securing a nomination to Congress, and succeed. Their anxiety to serve the dear people would become so great that they would anticipate by removing into a county entitled under their agreement to the candidate at the next election.

Mr. Chairman, what is a congressional district? Legally and for the time being it is one political community, as much as any county? It is organized by law as an entirety for the election of a Representative to Congress. The system which provides for the rotation of the member from one county to another every two or four years was not adopted in the interest of the people but in the interest of politicians.

I know many constituencies will pardon me if I suggest to such as are pledged by their party leaders to the policy of electing a Representative from each county in a district, or a new and inexperienced man every two or four years, that they modify it so far, at least, as to select a gentleman to represent them because of his character, ability, and well-known fidelity to principles which they regard as fundamental, and that they require the candidate, as a condition to his renomination, that he "board round," when at home, in each county, after the custom of our western schoolmasters in early times, so that each county in such district shall have secured to it, at least once every year or two, a Representative in Congress who shall thus become a resident of the county. This would be a vast improvement on the plan so long adhered to in the North, which plan enabled the political adventurers who have so often held the balance of power in all our great national struggles to crawl into the national Congress. As a class these were the men who, at the bidding of the slave oligarchy, betrayed the nation into the adoption of the Missouri compromise of 1820; and again, when it was repealed, whose votes enacted the so-called compromises of 1850 into law, including the infamous fugitive-slave act, the Kansas-Nebraska acts of 1854, and the Lecompton constitution of 1856; in short, the men who betrayed the nation in every great struggle between liberty and slavery for the past half century.

A large proportion of the men who thus betrayed their constituents, after being repudiated at home, received petty appointments from the President. This custom of compensating the nation's betrayers, by their appointment to office, has been sanctioned and sanctified by long and successful usage, so that an act of successful treachery against a confiding constituency opens the door for promotion at the presidential mansion. All can understand that so corrupt and corrupting a custom could only be maintained by having reckless demagogues and small men without character rotated in and out of Congress as fast as possible. The South favored the "rotation principle" for the North, but were too wise and wily to adopt it themselves. The result was that with the immense patronage of the Government in the hands of a President controlled by the slave power liberty was always betrayed.

Had I time I might here present some interesting and instructive facts, showing how few men the North maintained in Congress beyond a single term, or beyond four years in the House for twenty-five years before the war, and how the South continued her Representatives until her men of ordinary abilities became so familiar with the public business of the country that they came to be leaders in Congress, and by a careful organization of the committees, controlled the legislation of the nation.

When I came into the Thirty-Sixth Congress the two Senators from Florida—a political community without the voting population of the congressional district which I have the honor to represent—were each at the head of an important committee; one at the head of the Navy, the other of the Post Office; and this was a fair sample of the manner in which committees were organized both in the Senate and House for many years before the war. The whole State of Florida did not have as many letters go through its post offices in a year as go through one city in my district in a single week; nor did its entire commercial interests reach in one year an amount equal in value to the commerce of Toledo every ten days; and yet these two men shaped, and in a great measure controlled, the postal and naval legislation of the country. Thus the representatives of a class interest, numbering but a few hundred thousand slave owners, the most offensive and infamous oligarchy in history, by the political machinery of conventions took possession of the Government in the name of Democracy and filled its most honorable and responsible offices from their own number. I am glad to be able to state that thousands of good men all over the country are beginning to see and feel the necessity of a radical change in this matter. Of the many letters which I have received, and seen when received by others, none is more to the point than one shown me a few moments ago by my colleague, [Mr. LAWRENCE,] an extract from which I will read. He says to my colleague:

"Go on. You have borne the heat and burden of the day. We do not want to trade horses while crossing the stream."

"We like your bold, manly course, and have learned to appreciate it the more since we see so many going over to the enemy. We want to make the example that it pays better to remain with our colors than to sell out and desert."

#### DANGEROUS POWER OF THE PRESIDENT IN CONTROLLING CONGRESSIONAL NOMINATIONS AND ELECTIONS.

At least one third of all the congressional districts in the nation may safely be classed, in ordinary party times, as politically doubtful. Such districts are organized by the dominant party in every State Legislature for the purpose of securing, if possible, to their party, every Representative in Congress from the State.

A majority of all doubtful or close districts have what is known as a balance-of-power faction in each party, composed for the most part of dissatisfied and disappointed men, with political adventurers for leaders, who are always plotting for office, especially for congressional nominations, on the principle of "rotation," and "that this or that man has had it long enough; and that it is their turn now." If they cannot secure a nomination from one party they do not hesitate to ask a nomination from the opposite party. If they cannot secure a nomination from either party they do not hesitate to "bolt," or to enter into any coalition which promises to secure defeat to any man who stands in their way. In short, they will do any act which they believe will compel one or both parties to a compromise in the selection of its candidates, under the threat of defeat if compliance with their demands is refused. These demands are usually the petty offices at the disposal of the Representative from the district and a bargain as to which faction and county in the district shall have the congressional candidate for the next term.

In this way, with the aid of the plausible cry, "rotation in office," political apostates and



adventurers and men without character, ability, or principle have so often in our history crept into the council halls of the nation and misrepresented and betrayed the people.

In such districts as I have described the question too often asked by the best men of both parties is not who is the most reliable and competent man to represent us in Congress, but "who can the most certainly defeat the candidate of the Opposition." To accomplish this men who never were Republicans have been selected as candidates and voted for by Republicans since the organization of that great party, and sometimes apostates, or men but recently members of the opposite party, have been nominated by Republican conventions, as in the case of Andrew Johnson, not because they ever advocated or honestly entertained Republican ideas, but because political tricksters and schemers promised their support, and induced the party to believe that success could thus be secured at the election by the nomination of such candidates, and that defeat would be inevitable without it. As a rule the men thus nominated are but political adventurers, thrown to the surface like drift-wood in a flood, and, though they soon sink with their own rottenness, while they are in power they corrupt and debase the nation.

The insane desire for mere party success rather than the triumph of ideas in the election of honorable and responsible men of unquestioned fidelity has invited and encouraged, in almost every congressional district in which the party majority is uncertain, a score or more of "bolters," apostates, and political trimmers to thrust themselves upon both the great political parties as candidates for nomination to Congress. As a class these are the men who in the past thirty or forty years have so often betrayed constituencies at the bidding of an unscrupulous, ambitious Executive, and received their reward in some petty office.

When a State or congressional district accepts as its Representative a drunkard or a man without moral character and destitute of political principles it treads the path which leads the nation on the highway to ruin. Far better that a party be defeated than that it should elect a man morally base enough to betray it. Far better defeat with men of character representing its ideas than success with men who represent neither moral nor political convictions. That a system so vicious and corrupting should so long have continued in any State or locality, even under the despotism of party conventions, is one of the inexplicable mysteries of American politics.

To the fact that the rotation system was in a measure abolished by the Republican party, and faithful and experienced men retained in Congress from a large number of northern States during the war and since, does the nation owe in great part the successful legislation which carried it triumphantly through the war and prepared it the better to resist the usurpations and defeat in part the conspiracies of the acting President and his co-conspirators and allies. With new, untried, and inexperienced men every two or four years such a result would have been impossible.

So long as the system which I have described of nominating and electing Representatives to Congress is adhered to—and I concede that the district system is infinitely better than the general ticket system plan which at one time prevailed in a number of States, where the entire congressional delegation from a State was elected on one ticket—I say that so long as the system now prevailing of selecting Representatives to Congress continues and the vast patronage of the Government remains, as now, in the hands of the Executive, so long will a new set of unknown and unfaithful men be found in Congress to do the bidding of any Executive of their party who is unscrupulous enough to employ the Government patronage for that purpose.

Had Mr. Lincoln desired the defeat of the radical Republican candidates for Congress in

1862 he could have secured it in a majority of congressional districts in the nation. Had Mr. Johnson been a man of character and ability he could in 1866, by ordinary management and a judicious use of the public patronage, have secured in close districts the defeat of all Republicans opposed to "his policy." Through his thirty or forty thousand appointees and his newspaper organs professing Republicanism, and such Republicans as he then had in Congress coöperating with him, he could have said, in a way not to be misunderstood, that such a result would be agreeable to him, and that a large number of leading Republicans, in Congress and out of it, concurred with him in believing that the defeat of all radicals was necessary to the complete success of the Republican party. And there were a number of professed Republicans then in Congress stupid enough or base enough to listen to such stuff and to say that the President's purposes were "to fight out his differences with the radicals in the Republican party;" that "in no event would he go over to the enemy." Fortunately for the nation, Mr. Johnson's open apostasy and base betrayal of the great party which elected him; his offensive and disgusting exhibition of himself throughout the country, and the want of character in his so-called Republican adherents was all that saved us from division and defeat at the elections in 1866 and since.

Mr. Chairman, there are but few congressional districts in which any President of character and good standing with his party may not, by a free use of the vast patronage in his hands, defeat, either for nomination or election, any candidate of his party for Congress who is obnoxious to him. That such vast power ought not to be lodged in the hands of any President will be conceded by all true friends of Democratic Government.

As the nation grows in population and wealth this vast, uncontrolled, and uncontrollable power increases and becomes more dangerous. Its corrupting influence reaches out and subsidizes men in every county of the Republic.

Sir, on behalf of all who cherish the Democratic idea I plead for the submission, by this Congress, of such an amendment to the Constitution as shall, when adopted, give security against the corruption and the danger which is inseparable from the selfish use of the vast appointing power in the hands of any President desirous of a reelection.

Before the rebellion such Representatives in Congress as I have described were always sufficiently numerous to prevent, by uniting with the Opposition, the passage of any important measure obnoxious to the President if he exercised the veto power. Hence we see that a President of character and ability may, with the vast patronage at his disposal and a liberal use of the veto, defy, in ordinary party times, both Congress and the nation for his entire term.

THE REMEDY OF IMPEACHMENT BUT "A SCARE-CROW."

As to the impeachment and removal of a President, that will probably never be attempted again. The late melancholy failure or refusal of the so-called high court to convict and depose an admitted usurper and violator of law, who was without a party and powerless to resist any order of that tribunal, has practically settled that question for all time to come. The nation must seek some other protection from the usurpations of its Executives than the high court of impeachment. Jefferson said that the clause of the Constitution providing for the impeachment of the President would prove but "a scare-crow." To-day we all know that it is a dead letter.

We have all witnessed the resort which was had by artful men to technical subtleties and legal sophistries in order to release the President from all accountability to the nation.

If Jefferson at the time of the adoption of the Constitution could foresee and declare that "impeachment would prove but a scare-crow," we who have witnessed its practical workings may, I think, without incurring the charge of rashness, proclaim it "a national farce."

In the light of what has so recently transpired I am more profoundly impressed than ever with the great wisdom and prophetic foresight of the real statesmen of the Revolution. They comprehended the danger of executive power and the impossibility of successful impeachment before the Senate.

In the Virginia convention Mr. George Mason, in speaking of this defect in the national Constitution, said:

"It has been wittily observed that the Constitution has married the President and Senate—has made them man and wife. I believe the consequence that generally results from marriage will happen here. They will be continually supporting and aiding each other. They will always consider their interests as united. WE KNOW THE ADVANTAGE THE FEW HAVE OVER THE MANY. They can with facility act in concert and on a uniform system; they may join schemes and plot against the people without any chance of detection. The Senate and President will form a combination that cannot be prevented by the Representatives. The executive and legislative powers thus connected will destroy all balances. This would have been prevented by a constitutional council to aid the President in the discharge of his office; vesting the Senate at the same time with the power of impeaching them. Then we should have real responsibility. In its present form the guilty try themselves. The President is tried by his counselors. He is not removed from office during his trial. When he is arraigned for treason he has the command of the Army and Navy, and may surround the Senate with thirty thousand troops." \* \* \* "He may frequently pardon crimes which were advised by himself. It may happen at some future day that he will establish a monarchy or destroy the Republic. If he has the power of granting pardons before indictment and conviction, may he not stop inquiry and prevent detection?"

Mr. Madison answered Mr. Mason as follows:

"There is one security in this case to which gentlemen may not have adverted. If the President be connected in any suspicious manner with any persons, and there be grounds to believe he will shelter himself, the House of Representatives can impeach him. They can remove him if found guilty; they can suspend him when suspected, and the power will devolve upon the Vice President. Should he be suspected also, he may likewise be suspended till he be impeached and removed, and the Legislature may make a temporary appointment. This is a great security."

I do not forget that Mr. Madison, after becoming President, yielded to influences which have controlled other men after obtaining power, and that he denied the authority of Congress to suspend the President during trial. I prefer the opinion of Madison, when speaking in the Virginia convention, to the opinion of Madison after he became President. Mr. Monroe, who afterward became President, declared that the power conceded to the Executive under the Constitution was dangerous to the liberties of the people. He said:

"The President ought to act under the strongest impulses of reward and punishment, which are the strongest incentives to human action. There are two ways of securing this point. He ought to depend on the people of America for his appointment and continuance in office. He ought to be tried by dispassionate judges. His responsibility ought, further, to be direct and immediate." \* \* \* "To whom is he responsible? To the Senate, his own council. If he makes a treaty bartering the interests of his country, by whom is he to be tried? By the very persons who advised him to perpetrate the act. Is this any security?"

Mr. Grayson, another distinguished member of the same convention, during the debates from which I have just quoted, said:

"Consider the means of importance he (the President) will have by appointing officers. If he has a good understanding with the Senate they will join to prevent a discovery of his misdeeds." \* \* \* "As this Government is organized it would be dangerous to trust the President with such powers. How will you punish him if he abuse his power? Will you call him before the Senate? They are his counselors and partners in crimes. Where are your checks? We ought to be extremely cautious in this country. If ever the Government be changed it will probably be into a despotism."

Has not our recent experience justified all that was said by the considerate statesmen from whom I have quoted, of the danger of executive power and the impossibility of redress by impeachment and trial before the Senate. These brief speeches are so conclusive, when coupled with events which have just transpired, that I do not hesitate to declare the remedy by impeachment for executive crimes and misdemeanors "a national farce." From all that has transpired am I not justified in so proclaiming? What are the facts?

The great criminal of the nineteenth century

was brought to the bar of the nation's appointed court, and the issue proved too much for the weakness of human nature. The executive power asserts its defiance of laws and Constitution and its supremacy over both, and the people are powerless in the presence of the usurper. Weeks ago he is said to have communicated the forthcoming decision of the Senate and named the very members thereof who were to vote for his acquittal. The people with one accord had pronounced him guilty, but the high court enter up a verdict of acquittal. All this is done under the sanction of a judicial oath, and the people are told that they must not go behind that to question the judicial verdict of Senators. In answer to this I need only reply that the vilest enormities ever inflicted on mankind of which we have any record in history were committed under the sanction and solemnities of a judicial oath.

If public rumor be true, the verdict acquitting the President was not rendered because of law or evidence, but was the result of a secret, deliberate, and carefully organized combination, brought about by personal hatreds, individual ambitions, presidential electioneering schemes in the interest of office-holding and office-seeking cliques; and, alas! all fear by a more monstrous prostitution of the great trust committed to each individual member of the court which shall be nameless here.

If such combinations, with the means which are said to have been employed, may successfully prevent the removal of a dangerous and guilty President, by the great tribunal provided by our fathers for the protection and security of the Republic, we may look for the early inauguration of a policy which will speedily bring into entire subordination the legislative to the executive department of the Government.

From the judgment of this high tribunal, made under the solemn obligations of a judicial oath, we intend to appeal to a higher and safer tribunal, the great tribunal of the people, who, though not acting under the sanction of official or judicial oaths, will render a verdict quite as honestly and quite as free from partisan hatred—a verdict which shall, at all events, be free from the taint of dishonor and corruption.

To me the only hope of the nation is in that power which can make Presidents and Senators. To that incorruptible power we shall appeal from a verdict which is utterly indefensible and a mockery of justice.

To the people we also intend to appeal for an amendment to their organic law which shall abolish the Vice Presidential office and provide against the reelection of any man to the Presidency, as a means of obtaining additional security against the encroachments of the executive power. Pass this amendment; secure a fair representation to the minority; provide for a modification of the veto power by authorizing the President to return a bill with his objections, but provide that on a reconsideration a majority of the members elected and qualified in the Senate and in the House of Representatives shall be required to enact the bill into law over the veto, instead of two thirds of a quorum, as now, and the people will have all the security necessary to protect them against hasty, partisan, or unconstitutional legislation. Add to this a civil tenure-of-office act which shall take away from Senators and Representatives the authority which custom has secured to those representing the administration party of designating persons for appointment, and lodge it with a board of examiners, as free to act as the examining board at West Point; which board shall examine all applicants for appointment and for promotion, and before whom all shall have a fair hearing, with a copy of the charges and specifications prior to their dismissal from office; and we will do something toward remedying the present unjust and indefensible system of appointing persons to office in our civil service. Provide with this a modification of the pardoning power, which ought never to be lodged in the hands of any one man, and a provision authorizing the House of Representatives, by a two-thirds

vote, to demand a change of any member of the Cabinet, and the people will retain in their hands such control of their public servants as will be a guarantee of their fidelity and faithfulness. In this way the dangerous assumptions of the Executive can be successfully provided against and the rights and liberties of the people preserved. If some such provision as I have suggested is not adopted, then the declaration made by Franklin in the Convention which framed the Constitution, that—

"The executive power will be always increasing here as elsewhere till it ends in monarchy,"

will, I fear, some day not far distant become a prophecy fulfilled.

PRESIDENTIAL CANDIDATES NOT SELECTED BY CONVENTIONS BECAUSE OF FITNESS, CHARACTER, OR ABILITY.

Mr. Chairman, the considerations which so often prevail in the nomination of Representatives to Congress in closely-contested districts have too often prevailed with both parties in the nomination of their presidential candidates. The question asked by the leaders and active men in each party is not, as it should be, "Who of all the public men of my party is the best qualified, because of executive ability, character, culture, and fidelity to principles, to discharge the duties of the presidential office with credit to himself and honor to the nation both at home and abroad; who has the most honorable record, the most blameless public and private life with which to adorn and dignify the most exalted and honorable political office on earth?" But the question asked is, "Where can we find a candidate without a public record, a man of whom our opponents can say nothing, and of whom we may say what we please, to satisfy the interests or prejudices of any locality without fear of contradiction; a man who will the most certainly secure the electoral vote of this or that State which political prophets declare to be doubtful; States which are conceded to hold the balance of power in the presidential contest?" These are the questions asked.

It could not well be otherwise under such a political system than that untried, unfaithful, and incompetent men, comparatively unknown to the great body of the people, should so often have reached the presidential office. I need not cite more than one instance in our history to show how successfully the honest voters of a great State have been defrauded and betrayed by the nomination of such men as I have described.

In 1844 the people of Pennsylvania were induced to vote for James K. Polk and against Henry Clay, because the Democratic leaders in that State adopted and carried upon all their banners the rallying watchwords, "Polk, Dallas, and the tariff '42," watchwords which would have defeated them if placed upon their banners in the South or West. After the election the people whose votes had thus been obtained were openly and unblushingly betrayed by the repeal of the tariff of 1842, which act received the casting vote of Vice President Dallas in the Senate and secured the approval of President Polk.

The people who have been so often betrayed begin to recognize the fact that treachery in politics has become a trade, and that so long as the convention and electoral system prevails they are powerless in the hands of its managers.

They know that, as a rule, so long as the people submit to this system, no man will be nominated by either party for the Presidency who is their first choice, or for whom a majority of the electors of either party would voluntarily vote for nomination at the ballot-box, if they could do so under the protection of law.

Adopt the system which I propose and no third or fourth-rate man would probably ever be nominated for President, certainly no man could by any possibility be nominated whose political opinions were unknown and with whose political record the people were not familiar. The Republican party with such a

system would never have been guilty of the folly of nominating Andrew Johnson—nor would the voters in the Democratic party entertain for a moment the proposition to nominate the Chief Justice as their candidate. Yet Johnson was nominated by a Republican convention and some of the Democratic managers profess to favor the nomination of Mr. Chase in their convention.

All know that Johnson was the choice of a few tricksters in the Baltimore convention, and not the choice of the Republican party. Mr. Chase would not be the first choice of one Democrat in a thousand, yet men are plotting for his nomination in the Democratic convention, knowing that if he can be nominated the despotism of king caucus would compel the party to yield him its support.

In order to obtain a sufficient number of votes to be included in the list of the five highest or the three highest voted for at the first election, it would be necessary, under the plan which I propose, to present to the voters of both parties or all parties, men of well-known character, ability, and political integrity. No faction or minority in any party could then form combinations and secure nominations by fraud, nor could they defeat, as now, the nomination of any man who was the choice of the majority; schemers could not hold the "balance of power" in any State, and compel the nomination of their candidate on pain of defeat at the election. The voice of each party in the nation would speak and be heard as a unit, and there would be no desperate efforts made, as now, by either party to secure a bare majority in large States by fraud and corruption, in order to secure their electoral vote.

This proposition is so just that I hope it will commend itself to the Congress of the nation, as I am confident it will to the great body of the American people. Its adoption will secure to the voters of the nation a system, plain, simple, natural—a system free from complications and from the control of minorities—one which permits no body of men or party machinery to interpose between the people and the ballot-box.

#### CITIZENSHIP SUFFRAGE.

Mr. Chairman, if we adopt the proposition for the election of the President by a direct vote of the people, the necessity of securing the privileges of the ballot to every citizen without distinction of race or color, whether native or foreign born, will be conceded by all who desire the unity and stability of our Government.

While I hold that Congress has the power, under the Constitution as it is, to clothe every citizen with the privilege of the ballot, I am confident it will never be secured to them except by an amendment to the national Constitution.

I am ready now, as I have been for years, to vote for an act of Congress securing the great privilege of the ballot to all citizens without regard to race or color in every State and Territory of the Republic.

I cannot, however, shut my eyes to the fact that such an act of Congress passed so soon after the rejection by a number of States of amendments to their constitutions proposing to confer suffrage on colored citizens, would meet with such determined and united opposition from the so-called Democratic party and from some professed Republicans, that in many localities it would end in violence and resistance to the execution of the law.

I need not add that this resistance and violence would be inaugurated by the very class who to-day would demand the prompt and merciless execution of the infamous and brutal fugitive-slave act, if slavery were not abolished.

In the name of democracy and Christianity the enslavement of men has been sanctioned, and the most God-defying laws executed with the basest alacrity; while those enactments which ennoble and dignify the human race and recognize the rights and privileges of men are condemned and resisted by its professed disciples.

I want citizenship and suffrage to be synonymous. To put the question beyond the power of States to withhold it, I propose the amendment to article fourteen, now submitted.

A large number of Republicans who concede that the qualifications of an elector ought to be the same in every State, and that it is more properly a national than a State question, do not believe Congress has the power under our present Constitution to enact a law conferring suffrage in the States, nevertheless they are ready and willing to vote for such an amendment to the Constitution as shall make citizenship and suffrage uniform throughout the nation.

For this purpose I have added to the proposed amendment for the election of President a section on suffrage, to which I invite special attention.

This is the third or fourth time I have brought forward a proposition on suffrage substantially like the one just presented to the House. I do so again because I believe the question of citizenship suffrage a question which ought to be met and settled now. Important and all-absorbing as many questions are which now press themselves upon our consideration, to me no question is so vitally important as this. Tariffs, taxation, and finance ought not to be permitted to supersede a question affecting the peace and personal security of every citizen, and I may add, the peace and security of the nation.

No party can be justified in withholding the ballot from any citizen of mature years, native or foreign born, except such as are *non compos* or are guilty of infamous crimes; nor can they justly confer this great privilege upon one class of citizens to the exclusion of another class simply because one is white and the other black.

True democracy pleads for the equal rights of all men before the law. It demands the ballot for every man, because, under a Government such as ours, the ballot is the poor man's weapon of protection and defense. It gives him dignity and power; it recognizes his manhood and secures him justice; it makes the Government his agent instead of his master. We all know from experience something of the educational influence and self-protecting power of the ballot.

It quickens and expands the thoughts of men and enables them the better to comprehend their own interests and the higher and more important interests of the State. To secure this self-educating, self-protecting power to all, I again press upon your consideration this amendment. Its adoption will make the national Constitution what it ought to be, the shield of every citizen, so that no State may ever again deprive him, without just cause, of this highest privilege of American citizenship; so that hereafter, if a citizen remove from one State into another, he shall not on that account be deprived by State law of the ballot and be treated in his own county as an alien.

Pass this amendment, and we shall conform our national Constitution to our new condition as a nation. We will thereby place in the hands of each citizen a new power for its preservation, so that we shall become, in fact, one people, living under a common Constitution, which is the outgrowth of civilization, experience, and necessity; a Constitution which recognizes justice as the supreme law and reflects the convictions and aspirations of a free and united people. To this proposition, so long cherished and believed by me to be for the best interest of my country, I invoke the considerate judgment of all men and an impartial verdict at the bar of public opinion.

#### FINANCES.

Mr. MORGAN. Mr. Chairman, while it is an admitted fact that in all free governments political parties holding opposite views will exist, yet it is also a fact well established by the history of nations that free institutions have been invariably overturned by the madness of partisan spirit. I am one of those who have ever believed, nay, I will say more, I know that the great body of the American people are honest and patriotic, but while such is the undoubted

fact, we have seen them at times carried away by the delirium of passion, and hurried forward, not only to their country's peril, but to their own detriment as individual citizens.

Eight years ago, Mr. Chairman, we were the most happy and prosperous people on earth. To-day our deplorable condition causes us to take rank among the most wretched of the civilized nations. Eight years ago the Federal Government was free from debt. To-day our aggregate debt is greater than that of any other nation. Eight years ago our taxes were lighter than those of any other people—to-day they are more oppressive than those of any other country. Eight years ago our commerce covered every sea, and our manufactures competed with those of Europe in all the marts of the civilized world. While we are told by the Special Commissioner of Revenue in his report of December, 1866, that—

"The foreign commerce of the United States is being, as it were, swept from the ocean; and it is reported to the Commissioner, by experienced ship-owners of New York, that no voyage by an American vessel can be planned at the present time from the United States to any foreign port with a reasonable expectation of profit."

The Commissioner goes on to say—

"Reference to the official returns shows the amount of American registered tonnage engaged in foreign trade in 1855-56 to have been but one million and a half tons as compared with two and a half million tons in 1859-60, which, allowing for the difference for the old and new measurements, indicates a decrease in five years of over fifty per cent. In 1853 the tonnage of the United States was about fifteen per cent. in excess of that of Great Britain, while at the present time it is estimated at thirty-three per cent. less."

Mr. Chairman, less than eight years ago the great Democratic party surrendered the custody of the Federal Government into the hands of the same sectional organization which is now ruling and ruining our country. And within that period the angel of death and desolation has been abroad in the land, causing a feast of blood, a carnival of hell.

My honorable colleague, who has just taken his seat, [Mr. ASHLEY,] referred to the fact that for twenty-five years prior to the incoming of Mr. Lincoln's administration the Democratic party had been in power. That is true, sir; and what was the result? Peace within our borders, our nation respected abroad, the Federal Government free from debt, and the people free from the accursed burden of an odious and detestable system of taxation.

Mr. Chairman, in considering the history of the British nation, and in contemplating the growth of the English debt I have been forcibly struck with this startling fact, that the people of the United States, the citizens of this Republic, have in the short space of eight years made a greater debt than was created in Great Britain in a period of more than two hundred years. And, sir, who is responsible for this debt? By whom has the Government been administered? Who has had charge of its financial affairs? With an overwhelming majority, not only in the Federal Legislature, but in every State government, I charge that the Republican party is wholly and entirely responsible for all the evils which now curse and afflict our land.

But I may be told, "You forget that we have just emerged from a great war, and the war required a vast revenue to carry it on." No, sir, I remember that; I know it well. But is that the only war the country has ever gone through? Why, sir, during the period that the Democratic party was in power we had several great wars; we had the war of 1812; we had thirty years of Indian wars; we had two years' war with Mexico, when we had to send our Army two thousand miles away from their homes, battling in a foreign clime beneath a foreign sun, and against an enemy who outnumbered our forces more than ten to one. And while under a Republican administration in one year of war eight hundred million dollars were expended, during our war with Mexico the largest expenditure that was made in one year for the Army and Navy and civil list was only seventy-two million dollars.

Sir, it is a fact recognized by all intelligent

men in this country, and which will not be here disputed or elsewhere doubted, that of the enormous debt that now afflicts the country at least one half has been the result of robbery and speculation. Now, if there is any gentleman upon the opposite side who doubts what I am about to say, I wish him to say so now. I charge that the aggregate debt of the United States to-day amounts to six thousand five hundred million dollars!

Mr. LAWRENCE, of Ohio. As the statement of the amount of the debt of the United States made by my colleague is vastly larger than that stated by the Secretary of the Treasury, I would be glad to know of him how he makes up his statement of the debt?

Mr. MORGAN. I thank my colleague for his question. The debt reported by the Secretary of the Treasury is the liquidated, the audited debt of the country. The liquidated debt of the country amounts to two thousand five hundred millions, while the floating debt, and the gentleman will not deny that, amounts to four thousand million dollars.

Mr. LAWRENCE, of Ohio. That last remark of my colleague might be misunderstood. He says I will not deny that. I must say that I think he is entirely mistaken, unless he takes into the estimate as a part of the debt the value of the slaves emancipated in all the southern States, and unless he proceeds upon the idea that that is a valid debt which we are to pay.

Mr. MORGAN. I am glad that my colleague has again taken the floor; but he is mistaken. When I say the floating debt is four thousand million dollars I do not embrace in the estimate the former value of the freed slaves.

But I charge this, that the outstanding claims which constitute the floating debt of this Government amount to four thousand million dollars. And I regret that the honorable chairman of the Committee of Claims of this Congress [Mr. BINGHAM] is not present to confirm what I say. As the honorable gentleman from Ohio [Mr. LAWRENCE] seems to doubt the correctness of my statement, and as the present chairman of the Committee of Claims is not here to confirm it, I call the attention of the honorable gentleman to the statement made by the chairman of the Committee of Claims of the Thirty-Ninth Congress, Hon. Columbus Delano, now of my district. I send it to the Clerk to be read, pages 2189 and 2190 of Congressional Globe, first session Thirty-Ninth Congress.

The Clerk read as follows:

"Mr. Speaker, I know very well that there are reasons why these considerations should be expressed. Our nation now groans with the weight of public debt and necessary taxation, and our credit must be maintained. I know that there are now floating claims against this nation not less in amount than \$4,000,000,000, according to my estimate; and these claims, if admitted at all, will never be settled with less than \$2,000,000,000. I do not believe they will be settled for that."

Mr. BOUTWELL. Will the gentleman let me ask him a question?

Mr. DELANO. Certainly, sir.

Mr. BOUTWELL. I would ask the gentleman whether, when he refers to this floating debt which cannot be liquidated without an expenditure of \$2,000,000,000, he refers to claims that may be brought by persons in the eleven States lately in rebellion?

Mr. DELANO. I refer only to claims of loyal persons.

Mr. BOUTWELL. I would ask him whether he includes claims that may be brought by persons in the eleven States recently in rebellion?

Mr. DELANO. I refer to such claims as will be made by loyal people in all the States, and none others. When I say that it will take \$2,000,000,000, I do it on the assumption that we shall compound these claims in some manner without settling up to the full amount.

Mr. BOUTWELL. Is that to be one of the effects of reconstruction?

Mr. DELANO. I did not say so; but the nation will ultimately have to meet this question and settle it in some form, either by compounding or refusing to pay it. I do not know that it will necessarily follow reconstruction. I have not got that disease upon the brain.

Mr. BOUTWELL. Nor upon the heart either."

Mr. MORGAN. It will be observed, Mr. Chairman, that Mr. Delano, the chairman of the Committee of Claims of the Thirty-Ninth Congress, with a better opportunity, perhaps, than any other citizen of the Republic to know what really was the amount of the public debt, after due investigation in his official capacity



states that that debt amounted to four thousand million dollars.

Mr. LAWRENCE, of Ohio. Will my colleague allow me to interrupt him at this point? Mr. MORGAN. Certainly.

Mr. LAWRENCE, of Ohio. I desire to state that the claims to which Mr. Delano referred in the extract which has just been read are claims for the destruction of and damage to the property of the loyal people of this country by the Union forces and the rebel forces during the war. Now, does not my colleague know that it never has been, and never can be, the practice of this nation to pay claims of that character? This nation has never done it; no other nation has ever done it. And, besides that, if these are claims which are to be paid, does not my colleague know that it is only another evidence of the huge proportions of the great Democratic rebellion which afflicted this country through more than four years of war, and in putting down which, I am proud to say, my colleague did his duty with fidelity and ability while in the service of the Union Army?

Mr. MORGAN. I find, Mr. Chairman, that the honorable gentleman from Ohio [Mr. LAWRENCE] is in favor of compounding this floating debt of four thousand million dollars, which Mr. Delano declared to be a just debt, by repudiating one half of the amount. I am surprised, sir, to hear my honorable colleague [Mr. LAWRENCE] say "that neither this nor any other nation ever paid such claims." Why, sir, does not the honorable gentleman know that Congress made a very large appropriation to meet the losses sustained by the citizens of Ohio by the raid of John Morgan? Does not he know that similar appropriations have been made for the benefit of citizens of other States for similar claims, and that the Journals of Congress sustain me in what I say?

Sir, it can be truly said of the Republican party, as was once said by a learned historian of England, that it is a party of "false pretenses." The leaders of that party are at this moment attempting to raise the cry of repudiation against the Democratic party. And yet my colleague [Mr. LAWRENCE] here in his seat avows his anxiety, or willingness, to do that which is equivalent to the repudiation of the outstanding claims against this Government. This is Republican consistency. This, sir, is an illustration of the conduct of that party from the hour that its leaders inaugurated the war, in the spring of 1861, down to the present moment.

Mr. LAWRENCE, of Ohio. Will my colleague assert, then, that if the Democratic party should get the power in these Halls they will pay for property damaged or destroyed in the rebel States during the progress of the war?

Mr. MORGAN. The Democratic party, Mr. Chairman, has never known but one rule of action—that of justice and right. And when we are restored to power, as we are about to be, by a patriotic but a betrayed and oppressed people, we will closely and cautiously examine these claims, which Mr. Delano declared to be just; and if his statement be found to be true—and if not true it should not have been made—that these claims are legal and just, we will not repudiate one dollar of any claim which ought to be paid. But let me tell the gentleman what we will do. We will get upon the track of the thieves and robbers who have, and who are now plundering this Government, and who are now urging their fraudulent claims against it, and we will reject all such claims as fraudulent, infamous, and corrupt. But when a claim is legal, just, and right, the Democratic party, adhering to the principles of truth and justice by which it has always been guided, will do full justice between the people and the Government.

Mr. LAWRENCE, of Ohio. I beg leave to request my colleague to answer directly the question I have put to him: will the Democratic party, if it should come into power, pay for property damaged or destroyed in rebel

States during the progress of the war, property of rebels as well as the property of loyal men?

Mr. MORGAN. It affords me great pleasure to answer my colleague. In answer, I will give the gentleman the language of the chairman of the Committee of Claims of the Thirty-Ninth Congress, who stated that these claims were the claims of none but loyal citizens, and that they ought to be paid. And, sir, the Republican party being in power with a two-thirds vote in both branches of Congress, the responsibility of determining how these claims shall be treated rests with them, not with us.

Now, Mr. Chairman, I proceed to another phase in the history of the Republican party. While the great body of the people were honest and patriotic, yet, as has been the fact in the history of all free nations, demagogues abused the misplaced confidence of the people and deceived, robbed, and defrauded them. Sir, in the history of the last eight years, there are many things which deserve the careful consideration of every citizen. For example, during the three years which have elapsed since the overthrow of the rebellion the leaders of the Republican party have wrung from the sweat and toil of the people, by direct and indirect taxation, more than sixteen hundred million dollars. This is the fruit, the bitter fruit, of three years of Republican rule in time of peace.

And now, sir, let us compare this wanton and profligate extravagance of the Republican party during the period of three brief years with the administration of the Democratic party during a period of seventy-three years—dating from the incoming of the administration of George Washington down to the close of the last fiscal year of the administration of James Buchanan. I call that the Democratic period, sir, because even when we had an opposition party in control of one branch of the Government, the Democracy controlled another branch, so as always to be able to guard the national Treasury against robbery.

Well, Mr. Chairman, the expenditures of the Federal Government, during the seventy-three years preceding the first administration of Mr. Lincoln, exclusive of sums paid upon the public debt and trust fund, only amounted to thirteen hundred and ninety-seven million six hundred and eighty-five thousand one hundred and thirty-four dollars, being more than two hundred millions less than the Republicans have expended during the insignificant period of three years. And during that glorious, happy, and prosperous period of seventy-three years, it frequently became necessary to defend the honor of our flag on distant seas and in foreign lands. We had wars, but they were not wars among ourselves; for Democratic statesmen were always able to adjust all questions, sectional or otherwise, without resorting to the dire and most accursed of all calamities, a civil war, a war of brothers and of countrymen. But civil war came—it came with the incoming of the Republican party, and, like a thousand other monsters, it was the offspring of that party. For certain it is, that had it not been for the organization of a sectional party at Chicago in 1860, in contempt of the warning of Washington, there would not have been war. Sir, I must not be misunderstood. The organization of a sectional party was a defiance hurled by one section against another section, and had not that defiance been there would not have been war. However, the responsibility does not entirely rest upon the leaders of the Republican party—the great body of the people were not responsible—but it is divided by the southern leaders who accepted the gage of battle and appealed to the unreasoning god of war, instead of to the patriotism and intelligence of the American people at large; and the devastation of their States, the destruction of their towns and cities, and the loss of half a million of their children in battle and in the hospital, has been the dread penalty of their offense. But, sir, the war belongs to the dead past, and I do not propose to disturb the tombs

of the dead. We have an actual, living, solemn present, and a coming future which demand our serious and candid attention.

In 1860 the true value of all the property of every description in the United States was sixteen thousand three hundred and twenty-nine million six hundred and sixteen thousand and sixty-eight dollars; and this sum included two thousand million dollars, the value of slave property which was destroyed by the war, and which amount must be deducted from the aggregate wealth of the nation as returned in the report of the eighth census, thus making the actual value of all the land, of all the cities, of all the towns, of all the houses, of all the ships, of all the steamers, of all the railroads and their material, of all the manufactured goods and raw material, of all the grain, and of all the cattle in the land, fourteen thousand one hundred and fifty-nine million six hundred and sixteen thousand and sixty-eight dollars; showing, according to Mr. Delano, that the aggregate Federal debt is nearly equal to one half of the actual wealth of the entire country.

Mr. LAWRENCE, of Ohio. Will my colleague allow me?

Mr. MORGAN. Certainly.

Mr. LAWRENCE, of Ohio. If the Democratic party should get into power would they regard the claim of southern slaveholders for compensation for emancipated slaves as a just and valid claim to be paid by the Government? [Cries of "No!" on the Democratic side of the House.]

Mr. MORGAN. I renew the expression of my obligations to my colleague for again propounding questions to me; and in answer to his question I say undoubtedly not. I have already remarked, sir, that the policy of the Democratic party was at once wise, just, and patriotic. We have nothing to do with the dead carcass of slavery. The loss of slave property was the forfeit paid by the people of the South for allowing their leaders to join the bad men of the Republican party in the North in involving our country in civil war. The loss was theirs; let it remain theirs. That, sir, is my answer.

And now, Mr. Chairman, I will return to the question of the Federal debt; for although an unpleasant subject, yet it is one which we are compelled to consider. We have seen, according to the chairman of the Committee of Claims in the Thirty-Ninth Congress, that the aggregate audited and floating debt of the United States amounts to the fearful sum of six thousand five hundred million dollars! And how, sir, is that enormous debt—the handiwork and creation of the Republican party—to be paid?

Let us try, sir, and measure that monster debt by some standard which will convey to the mind some idea of its magnitude. By the returns in the report of the eighth census it appears that the actual wealth of the great States of New York, Pennsylvania, Ohio, and Indiana, including every dollar's worth of property owned by each citizen, amounted to the sum of five thousand eight hundred and fifty-four million four hundred and thirty-four thousand four hundred and ten dollars; so that if the leaders of the Republican party had the power to drive the citizens of those States from their homes, send them penniless among strangers, sell all the property they had left behind, and apply the proceeds of the sales upon the payment of the debt, the Federal Government would still owe the enormous sum of six hundred and forty-six million ninety-four thousand four hundred and seventeen dollars. And for all this are the people indebted to Republican domination.

Now, Mr. Chairman, it does appear to me that a stupendous fact like this is worthy of the calm and grave consideration without regard to party. The simple question is, do the people want reform? Do they desire a reduction of taxation? Do they wish the burdens of the Government lessened? For if they feel that great evils do exist, then, sir, are they not

bound as good citizens to correct those evils, which can only be done by restoring the Democratic party to power, and thereby return to an economical system? Now, sir, a party is but an association of men, and liable, indeed more liable, to become corrupt than a single individual. Would you, to whom I am now speaking, trust a man as your agent to watch over your interests after you had detected him in the act of cheating or stealing from you? Certainly not. And if the rule be good as to the affairs of private life, is it not equally so as to public affairs?

The true difference, Mr. Chairman, between patriotism and what is called loyalty in America and patriotism is this: patriotism is devotion to country without regard to party; while loyalty is devotion to party without regard to country. Do not suppose that I am denouncing party organizations, for I only say that when a party has become corrupt that honest men should abandon it. A man may be in error, and yet be an honest man, and if you believe him to be honest you will concede to him your respect although you know him to be in error. But, sir, can you respect a man who knows that he is wrong, and yet adheres to the very policy which he declares to be so; and who tries to appease his own conscience by denouncing the leaders whose mandates he obeys, and whose lead he follows? Now, sir, I have much higher respect for the distinguished commoner from Pennsylvania, who is the recognized leader, if not master, on the Republican side in this honorable body, than for those persons who in private denounce his policy and in public follow in his footsteps. This much at least can be said in his favor, he never speaks against a measure, and then votes for it. He is no jack-o'-lantern, but a man of bronze, who although always wrong, from the constitution of his nature he believes that he is right, and we always know where to find him. He is not one of those political eels who profess to agree with you, but who slip through your fingers at the very moment they are most needed. I repeat, sir, that the man is not a bad man who does what he believes to be right, although he may be in error. But he is a dangerous citizen who deliberately does wrong, knowing that it is wrong, from want of sufficient manhood to do right.

Mr. Chairman, the only hope for the restoration of our free institutions is by the uprising of the people in their majesty. They must act like freemen, and defy the behests of those who dare assume to be their masters. The gentleman asks me whether the Democratic party would be in favor of paying the four thousand million dollars of floating debt of which Mr. Delano speaks. I tell the gentleman what the Democratic party will be in favor of. We will cut down the expenditures of the Army; we will abolish your negro regiments; we will reduce the expenditures of the Navy one half; we will drive the thieves and plunderers, who are now sucking at the heart of the nation and drawing forth its life's blood, out of power, and put honest men in their places. We will correct all these evils and abuses, and in doing that we shall reduce the burden of taxes upon the people, and reform this odious system of taxation which the party now in power originated.

Mr. DRIGGS. If the gentleman will allow me, I will say that if he can convince me that his party will do all that I will promise to support it. I cannot see that it has done it in the past, and I fear that it will fail to do it in the future, should it ever again get into power.

Mr. MORGAN. I thank the gentleman for the opportunity to convince him; and if he will give me his candid attention I will secure him as a convert before I am through. I have been speaking of the abuses of the Republican party, their wicked expenditure of the nation's treasure, drawn from the sweat and toil of the people. Millions have been lavished on the favorites of the party in power, and like so many leeches they are fastened upon the public Treasury. I have spoken of the aggregate

amount of expenditures by the Republican party. Let me now call attention to the fact that the ordinary expenses of the Government for 1867-68 are estimated at more than one hundred and forty-eight millions over the expenditures of 1861. Why this great excess in the ordinary expenditures of the Government? Where does the money go to? Whose pockets does it fill? Why, sir, the leaders of the Republican party have become so accustomed to handling millions upon millions that the greater the amount proposed to be appropriated the more ready is this House to vote the appropriation. Not only that, but the leaders of that party are guilty of an offense which amounts to a political crime. It was but a few days ago that a resolution was introduced into this House by my colleague [Mr. VAN TRUMP] calling for a statement of the amount of money that had been taken from the Treasury of the people to pay for the publication of a book containing what is called the tributes of all nations to Abraham Lincoln.

The letters contained in this book had already been published in book form, and had been circulated by thousands at the cost of the people. But that was not sufficient. A resolution was introduced by some loyal member of the Thirty-Ninth Congress ordering the same book to be printed in the most expensive style, in full gold, and bound in Turkey morocco. Well, sir, did the resolution of my colleague pass? No, sir; it was strangled at its birth by being referred to a committee; the committee-room intended to be its grave. The cost of this wicked and foolish expenditure is said to be two hundred thousand dollars; but the true amount will never be known until the dominant party shall have been driven from power, and until the people send new agents to investigate the great wrongs which have been perpetrated against them by those who have been acting in their name. Will not every farmer in the land understand, will not every merchant and mechanic and laboring man in the land understand, that the abuses which exist in this Government can only be corrected by driving the men from power who have been for eight long years to their armpits in the national Treasury?

Now, sir, why should the expenditures of this Government for the year 1867-68 amount to one hundred and forty-eight million dollars more than when the Democratic party was in power during the year 1860? Why, sir, during the decade from 1850-51 to 1860-61 the average expenditures of the Government amounted to only fifty-two million dollars, and yet this audacious party, this party of false pretenses, when the Representatives of the people rise in their places in this House and ask for an investigation, dare to refuse to allow an investigation to be had.

Now, sir, these are facts the people wish to know; these are facts the people have a right to know, and if I know my countrymen, as I think I do know them, they are facts which will be investigated by the Forty-First Congress, to which body I will have the honor to belong.

Now, I desire to call your attention to another startling fact. We are told in the report of the Special Commissioner of Revenue, (see page 27,) sent to the Senate of the United States on the 3d day of January, 1867, that—

"Assuming the value of the real and personal property of the United States to have increased since 1860, the date of the last census, sufficient to compensate for all the losses and depreciations growing out of the war, the ratio of taxation to property the last fiscal year, was three and ninety-three hundredths per cent."

Nearly four cents on the dollar, or four dollars on every hundred dollars of property, while—

"During the same year the estimated ratio of taxation to property in Great Britain was nine tenths of one per cent."

which is nine mills on the dollar, or only ninety cents to every one hundred dollars, on the general valuation of property. This es-

timate is not based upon the taxes directly collected from the people, but it is the general amount raised from all the sources of taxation, direct and indirect.

It has been truly said—

"We are taxed for our clothing, our meat, and our bread.  
On our carpets and dishes, our table and bed,  
On our tea and our coffee, our fuel and lights,  
And we're taxed so severely that we can't sleep  
o' nights."

"We are stamped on our mortgages, checks, notes, and bills,  
On our deeds, on our contracts, and on our last wills;  
And the star-spangled banner in mourning doth wave  
O'er the wealth of the nation turned into the grave."

"We are taxed on our offices, our stores, and our shops,  
On our stoves, on our barrels, on our brooms and our mops,  
On our horses and cattle, and if we should die  
We are taxed on our coffins in which we must lie."

"We are taxed on all goods by kind Providence given;  
We are taxed for the Bible that points us to Heaven;  
And when we ascend to the heavenly goal,  
You would, if you could, stick a stamp on our soul."

It is an astounding fact that in proportion to the wealth of the two nations the taxes in the United States to-day are more than four times as great as they are in Great Britain. And yet, sir, England supports the largest navy the world has ever seen; in England there is a monarchy; in England there are princes of the royal blood whose pensions amount to millions; in England there is a proud and haughty aristocracy. And all this disadvantage on our part has been the result of the reckless profligacy of the Republican party. I beg the masses of the Republicans to pardon me for saying the Republican party, for it is the leaders who are alone responsible. And when they shall leave their seats, after the adjournment of this Congress, go back to the people, it will behoove the people to call them to a stern account; it will behoove the people to require these gentlemen to say why it was that when resolutions were introduced into this body by the minority to investigate fraud and speculation and profligacy that investigation was denied. I will say further, Mr. Chairman, that I hold in my hand the report of the Special Commissioner of the Revenue, and that the facts that I have stated upon the subject of taxation and the expenditures of the Government are official, and if any gentleman doubts their accuracy I challenge him now to say so. Why, sir, who ever heard when the Democratic party was in power of a man being compelled to pay a tax and put a stamp upon his promissory note when executed by him? Who ever heard, when the Democratic party was in power, of there being a threefold tax on every pair of boots? Who ever heard when the Democratic party was in power of every article worn by every citizen, male and female, old and young, paying a threefold tax?

Sir, for all these evils the Republican party is responsible. It is the result of their maladministration of the affairs of the Government. They have been looking after their own individual interests, to the neglect of the best interests of the country. From being poor, many of them have suddenly become enormously rich. In every large town and in every city men who were not worth ten thousand dollars in 1860 are now worth their millions. And where do their millions come from? From the toil and sweat and labor of the people.

These are the abuses which afflict our country; these are the abuses which demand redress; these are the abuses which oppress our people, and cause them, when they lay their heads upon their pillows at night, to doubt how the tax-gatherer will be paid when he comes around in the morning.

Sir, we certainly hear gentlemen from the New England States tell us that the commerce of the United States is only half as great to-day as it was in 1860, when the Democratic

party was in power. During this period of eight years the Democratic party have borne cheerfully their share of the burdens of the Government without having the slightest influence in its administration. We saw the evils; we denounced the maladministration of the rulers of the people; but, carried away by party passion and party prejudice, they turned a deaf ear to the truth, and refused to listen to the warning of their real friends, until at length the whole country has become covered over, as if by an Egyptian plague, with tax-gatherers, tax inspectors, tax collectors, tax assessors, and tax spies.

Sir, I was speaking of the cries which have come from New England in regard to the prostrate commerce of our country. If our commerce is prostrate, if our tonnage has fallen off more than one half, who is responsible for it but those who have had the control of the legislation of the country? Why has our commerce fallen off? I will give you some of the reasons. The Republican party has spent the last three years in attempting to perpetuate its own power instead of legislating for the benefit of the people. They have been forgetful of the people, forgetful of the country. The leaders of that party have shown themselves ambitious, selfish, and unpatriotic, though "loyal;" for "loyalty" means adhesion to party without regard to the interests of the country. This party, having the entire control of the legislation of the country, are, I say, responsible for the maladministration which has stricken down our commerce.

Why, sir, from the southern States alone, where one great source of our commerce has been found—from the southern States alone, during 1866, we exported cotton to the value of two hundred million dollars. By the policy pursued by the Republican party, not accidentally but intentionally, that great trade has been paralyzed; and now, three years after the close of the war, we only send abroad seventeen per cent. as much cotton as we did during the Democratic rule. And thus there has been drawn from our commerce in that single article alone more than fifty-four thousand bales of cotton a year.

To encourage the growth of this article what have these enlightened statesmen done? Why, sir, they imposed a tax on cotton lands amounting to twelve dollars on the acre by way of encouraging the growth of cotton! The tax was three cents on each pound of cotton, which amounts to a tax of twelve dollars per acre. What will the farmers of the country say when they learn that you impose a tax of twelve dollars an acre on the farmers of the South? And if you have the right to tax the southern farmers on every pound of cotton how long will it be—should the people continue your lease of power—how long will it be before you impose a direct tax on every bushel of wheat and corn grown in the North?

And what is the result of this blind and stupid policy toward the South? The Special Commissioner of Internal Revenue tells us that a single district in the State of New York pays into the Federal Treasury twice as much internal revenue as is paid by the whole of the eleven southern States. Why is this? Because, instead of legislating for the people of the country, instead of legislating in behalf of the industry and commerce of the nation, the leaders of the Republican party have pursued but one object—to keep the control of the Treasury and to retain political power. Then, I repeat the charge, that the leaders of the Republican party are responsible for the burden of taxation which rests upon the people; that they are responsible for this appalling debt of six thousand five hundred million dollars! What mind can appreciate that amount? One might as well attempt to count the stars in the heavens, to number the leaves of the forest, or the grains of sand upon the sea shore.

Mr. DRIGGS. Will the gentleman yield to me for one word?

Mr. MORGAN. With pleasure, for a question.

Mr. DRIGGS. I understood the gentleman to say, a few minutes ago, that he expected, from my remarks, that if I would remain here a few minutes longer and listen to his argument I would become a convert to his party. I must confess that his arguments during the last five or ten minutes are very far from convincing me.

Mr. MORGAN. I yielded to the gentleman for a question.

Mr. DRIGGS. I understood the gentleman to say that the Republican party is responsible for all the taxes, all the stamps, all the tax collectors through the country.

Mr. MORGAN. What is the question the gentleman desires to ask?

Mr. DRIGGS. The question is this: I want to ask the gentleman if he candidly believes that the sweeping statement is correct that he has made in regard to the Republican party being responsible for bringing on the war, and for all the taxes, stamps, and tax collectors with which the country is now infested?

Mr. MORGAN. Why, sir, I am astonished that a gentleman of intelligence—one of the recognized leaders of the Republican party—should propound to me such a question, with the history of the last eight years before him; with the history of the Republican party in the miscalled peace convention demanding blood; with the voice of his Senator [Mr. CHANDLER] still sounding in his ears, demanding that blood should be shed.

Sir, the truth of history demands that I should say that the war was caused by the two extremes, North and South; that they mutually involved the whole country in the horrors of civil war. The leaders of the Republican party in the North are not alone responsible for the war. Jefferson Davis is equally responsible, I grant, with BENJAMIN WADE, and Robert E. Lee. No, I doubt if he is equally responsible with Wendell Phillips, but Mr. Yancey was. It was the leaders of the Republican party in the North who are responsible, with the radical leaders of the South; and let me tell you that to-day Wendell Phillips is not only your leader, but your master. Sir, the honorable gentleman who propounded to me that question is one of that class of individuals given over to hardness of heart, and is beyond the power of political regeneration.

There are a class of people so tenacious in adhering to their own views that they would rather starve or die than admit that they had been wrong. Look at the Republican party at the present moment. Who are responsible for the wheels of legislation having been stopped during the last three months? Why is it, sir, that during the last three months, while merchants, manufacturers, business men of all kinds have been calling upon Congress to legislate for the interests of the country we have been lying here idle, doing absolutely worse than nothing? I ask the question, and as there is no reply I will answer it. These three months have been given up to adjusting a quarrel in the Republican party—a quarrel between a Republican President and a Republican Congress.

But, sir, not only does the Republican party now in power in both branches of Congress wage war against the President whom they themselves elected, but they have threatened to impeach the Chief Justice of the United States, whom they themselves elevated to the high position he so well fills. This is in harmony with the history of all revolutions. When men become infatuated in the pursuit of revolutionary projects they frequently act more like madmen and demons than like reasonable beings. Yes, sir, I say again that the Republican party is responsible, and will be held to a stern responsibility by the people whom they have betrayed.

The CHAIRMAN. The gentleman's hour has expired.

Mr. ASHLEY, of Ohio, Mr. DRIGGS, and Mr. KERR, moved that the gentleman from Ohio be allowed by unanimous consent to proceed with his remarks.

There was no objection, and it was ordered accordingly.

Mr. MORGAN. I thank my colleague, [Mr. ASHLEY.] I thank the other gentlemen for their courtesy in asking to have my time extended, but I have done; and will only express the satisfaction I have experienced at the attention with which honorable gentlemen have been pleased to listen to my remarks. Mr. Chairman, we are all countrymen, and for weal or for woe a common destiny awaits us. And we should try to inspire in the people something of the liberality and wisdom which characterized the Athenians. There was a provision in the Athenian constitution which required every citizen to attend the public council when any question was under debate, and he who failed to attend paid the penalty of a fine. How is it possible, said Solon to the Athenians, for you to know how to vote, unless you hear both sides of the question upon which you are to give your judgment? And I was glad to observe during the past campaign in Ohio that wherever I went—and I had the honor to be in the district of my colleague, [Mr. ASHLEY]—I found the patriotic men of the Republican party coming out in large numbers to hear what was to be said. This was a new feature in Ohio politics, and the result proves how wise it is to hear both sides of every question.

Mr. KERR obtained the floor, but gave way to

Mr. ASHLEY, of Ohio, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker *pro tempore* (Mr. LAWRENCE, of Ohio) having resumed the chair, Mr. MAYNARD reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the annual message of the President of the United States, and had come to no conclusion thereon.

Mr. KERR. I move that the House adjourn.

The motion was agreed to; and thereupon (at five o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BECK: The petition of the tobacco and cigar manufacturers and merchants of the city of Lexington, Kentucky, praying that the tax may not be increased as proposed in the bill reported by the Committee of Ways and Means.

By Mr. COVODE: The petition of 90 citizens of Indiana county, Pennsylvania, setting forth that the productive interests of the country are suffering and its industry paralyzed for want of efficient protection against the cheap capital and labor of foreign countries; that the manufacturing population cannot continue to pay prices for provisions, even approaching those now realized by agriculturists, while exposed to competition with the Old World under a tariff framed to meet exigencies of a totally different character; that much of the distress now prevalent, and daily increasing, would be relieved by the passage of the tariff bill which failed in the House, March, 1867; and praying Congress to resume consideration of that measure, and enact it into a law at the earliest practical moment.

By Mr. EGGLESTON: A memorial of 88 cigar dealers of Cincinnati, protesting against an increase of tax on cigars.

Also, a memorial of 42 merchants of Cincinnati, protesting against a change of tariff on sugar.

By Mr. FARNSWORTH: The petition of James M. Catlett, of Catlett's Station, for removal of political disabilities.

By Mr. GETZ: The petitions of 18 manufacturing firms and companies of Reading, Pennsylvania, employing when in full operation 3,201 workmen, now employing 1,451 workmen; also signed by 49 citizens of said place,



setting forth that the productive interests of the country are suffering, and its industry paralyzed, for want of efficient protection against the cheaper capital and labor of foreign countries; that in prospect of a continued decline in gold, customs duties, at present inadequate, must shortly prove ruinous; that the manufacturing population cannot continue to pay prices for provisions even approaching those now realized by agriculturists, while exposed to competition with the Old World under a tariff framed to meet exigencies of a totally different character; that much of the prevalent and daily increasing distress would be relieved by the legislation suggested by Special Commissioner Wells, as perfected in the tariff bill, (passed by the Senate,) which failed in the House, March, 1867; and praying that Congress will resume consideration of that measure, and enact it into a law at the earliest practicable moment.

Also, the petitions of 7 manufacturing firms and companies of Berks county, Pennsylvania, employing, when in full operation, 998 workmen, now employing 559 workmen, signed, also, by 43 citizens of said county, setting forth that the productive interests of the county are suffering for the want of efficient protection against the cheaper capital and labor of foreign countries; that the customs duties which, under a high gold premium, invited the investment of capital and labor in manufactures, have become inadequate, and, in prospect of a continued decline in gold, must shortly prove ruinous; that much of the distress now prevalent, and daily increasing, would be relieved by the legislation suggested in the report of Special Commissioner Wells, and embodied in the tariff bill, which failed in the House March, 1867; and praying that Congress will resume the consideration of that measure and enact it into a law at the earliest practicable moment.

Also, the petitions of 162 citizens of Reading, and elsewhere, in the county of Berks, and State of Pennsylvania, complaining of the insufficiency of customs duties to afford efficient protection against the cheaper labor and capital of foreign countries, and praying that Congress will resume consideration of the tariff bill which failed in the House of Representatives March, 1867, and enact it into a law at the earliest practicable moment.

By Mr. KOONTZ: The petition of manufacturers of Bedford and Franklin counties, Pennsylvania, employing, when in full operation, 135 workmen, now employing 135 workmen, setting forth that the industry of the country is suffering for want of efficient protection against the cheaper labor and capital of foreign countries, that customs duties, sufficient under a high gold premium, have become inadequate, and in prospect of a continual decline in gold must shortly prove ruinous; that much of the distress now prevailing would be relieved by the passage of the tariff bill which failed in the House March, 1867, for want of time; and praying that Congress will resume consideration of that measure and enact it into a law at the earliest practicable moment.

By Mr. McCARTHY: The petition of 50 cigar manufacturers, dealers, journeymen, makers, and growers of tobacco, of Syracuse, New York, against the proposed increase of taxation on cigars, and asking the substitution of revenue stamps in place of inspector's stamps.

By Mr. MOORHEAD: The petition of 61 manufacturing companies and firms of Pittsburg, Pennsylvania, 50 of whom employ, when in full operation, 14,190 workmen, and now employ 7,350 workmen, representing that the productive interests of the country are suffering and its industry paralyzed for want of efficient protection against the cheaper capital and labor of foreign countries; that customs duties sufficient under a high gold premium to invite the investment of capital and labor in manufactures have become inadequate, and, in prospect of a continued decline in gold, must shortly prove ruinous; that the manu-

facturing population cannot continue to pay prices for provisions, even approaching those now realized by agriculturists, while exposed to competition with the Old World, under the existing tariff; that much of the distress now prevalent, and daily increasing, would be relieved by the legislation suggested in Special Commissioner Wells's report of last year and perfected in the tariff bill, as passed by the Senate, which failed in the House March, 1867, and praying Congress to resume consideration of that measure and enact it into a law at the earliest practicable moment.

Also, the petitions of 47 coal-mining companies and firms, of Alleghany county, Pennsylvania, employing, when in full operation, 3,360 workmen, now employing a less number, representing that the productive interests of the country are suffering and its industry paralyzed for want of efficient protection against the cheaper capital and labor of foreign countries: that the customs duties, which, under a high gold premium were sufficient to foster manufactures, have become inadequate, and must shortly prove ruinous; that much of the distress now prevalent and daily increasing would be relieved by the legislation suggested in Special Commissioner Wells's report and perfected in the tariff bill, as passed by the Senate, which failed in the House March, 1867, for want of time, and praying that Congress will resume the consideration of that measure and enact it into a law at the earliest practicable moment.

Also, the petition of Atterburg & Company, manufacturers of glass in Pittsburg, Pennsylvania, setting forth that they employ, when in full operation, 123 workmen, and now employ 62; also signed by citizens of said place, complaining that the productive interests of the country are suffering and its industry paralyzed for the want of efficient protection against the cheaper labor and capital of foreign countries, and praying that Congress will resume consideration of the tariff bill which failed in the House, March, 1867, for want of time, and enact it into a law at the earliest practicable moment.

By Mr. SCOFIELD: The petitions of manufacturers of Erie and of coal companies of McKean county, Pennsylvania, employing, when in full operation, 375 workmen, now employing 145 workmen, complaining that the productive interests of the country are suffering for want of adequate protection against the cheaper capital and labor of foreign countries, and praying Congress to resume consideration of the tariff bill, as passed by the Senate, which failed in the House, March, 1867, and enact it into a law at the earliest practicable moment.

By Mr. UPSON: The petition of S. L. Conkling and 9 others, citizens of Coldwater, Michigan, remonstrating against increasing the tax on cigars.

By Mr. WOODWARD: The petition of 224 coal-workers at Pittston, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 44 workers in the mines at Eckly, Luzerne county, Pennsylvania, praying for additional protective duties.

Also, the petition of J. D. Traphagan and 34 others, iron-workers at Carbondale, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 333 workers in Hazleton, Luzerne county, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 518 coal-workers in the northern district of Hazel Township, Luzerne county, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed, and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 45 workers in coal and iron at Wilkesbarre, Pennsylvania, praying for additional protective duties.

Also, the petition of 5 mining firms and companies of Pittston, Pennsylvania, employing when in operation 1,181 workmen, and now idle or working but part of the time, praying for the passage of the tariff bill which passed the Senate but not the House in 1867.

#### IN SENATE.

MONDAY, June 1, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILLIAMS, and by unanimous consent, the reading of the Journal of Saturday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. SHERMAN. I have received from the General Assembly of the State of Ohio, for presentation to the Senate, a joint resolution of a very peculiar character, and yet I deem it my duty to present it to the Senate, as it has received the sanction of a majority of the Legislative Assembly. It is entitled "A joint resolution protesting against efforts to tamper with the members of the high court of impeachment." It recites that "A violent outside pressure is publicly and shamelessly being brought to influence members of the court to render a decision without regard to their oaths to try the case impartially according to the law and the evidence;" therefore, they resolve—

"That we solemnly protest, in the name of the people of this State, against all efforts to tamper with the members of the court, and denounce as infamous and unprecedented in American history, and an outrage on the right of an accused party to a fair trial, every attempt to browbeat and force Senators acting as sworn judges to render a judgment contrary to their conscientious convictions of what the law and evidence in the case may require."

These persons were evidently very anxious to have the Senators from the State of Ohio vote against the conviction of the President. Now, Mr. President, as you and I are the only persons who will be affected by this resolution, as I do not believe anybody has approached you to browbeat you and force you to vote in favor of acquittal, and I know no one has made such approaches to me—

Mr. POMEROY. What party is that from?

Mr. SHERMAN. It is a resolution from the Legislature of Ohio, the Democratic party, who protest against influences brought to bear to induce us to vote against acquittal. I think, on the whole, although the resolution is rather extraordinary in its character, it had better be sent to the committee of which the honorable Senator from Pennsylvania [Mr. BUCKALEW] is chairman, and let them ascertain, if possible, whether any such threats or force have been exercised to induce you and me, sir, to vote against conviction. I move that the resolution be referred to the select committee on threats and intimidation.

The motion was agreed to.

Mr. YATES presented a petition of mechanics and other laboring men of Chicago, Illinois, praying the passage of a law making eight hours a day's work in all Government workshops; which was referred to the Committee on Commerce.

Mr. MORRILL, of Maine, presented the petition of Robert Murray, jr., praying that an American register may be granted to the Hamburg brig Blohn, now called by him the brig Oliver Cutts; which was referred to the Committee on Commerce.

Mr. MORGAN presented the petition of Moses Van Name and others, owners of the schooner M. Van Name, of New York, for damages caused to her by the revenue-cutter Nemeha; which was referred to the Committee on Claims.

#### RECOMMITTAL OF A REPORT.

On motion of Mr. MORRILL, of Maine, it was

Ordered, That the report of the Committee on Claims in the case of Wyly Woodbridge be recommitted to that committee.

## REPORTS OF COMMITTEES.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 1117) to supply partial deficiencies in the appropriations for the service of the fiscal year ending on the 30th of June, 1868, reported it with an amendment.

## REPORT OF J. ROSS BROWNE.

Mr. ANTHONY. The Committee on Printing, from whom I reported a resolution the other day for the printing of the report of J. Ross Browne, instructed me to report an amendment which I carelessly omitted. It is embodied in this resolution which I now report, to which I think there will be no objection. I ask for its present consideration.

By unanimous consent the Senate proceeded to consider the resolution, which is as follows:

*Resolved*, That the Congressional Printer be authorized, under such regulations as he may deem requisite for the public interest, to loan to J. Ross Browne the stereotype plates of his "report on the mineral resources of the States and Territories west of the Rocky mountains," with permission to print from the same such number of copies as he may desire.

Mr. MORRILL, of Vermont. I merely desire to call the attention of the Senate to the fact that there are many stereotype plates in the possession of the Government, for the use of which applications have been made and refused. I believe in the case of the Pacific railroad surveys applications have been made by publishers for the plates, and they have been refused. So in regard to the plates of the Japan expedition report, publishers have desired to obtain them, but hitherto they have been invariably refused. It seems to me that we ought not to establish one rule in one case and a different rule in another.

Mr. ANTHONY. Mr. President, this is for the author of the work himself. I think it would be a very safe rule to allow the author of any report to have the plates. We print this book for gratuitous distribution. He proposes to print some and distribute them without expense to the Government. For my part, I would be very glad if he would print the whole edition himself, and I should have no objection to loaning any stereotype plates, from which books have been printed for gratuitous distribution, to any publisher who would print them in proper style and with accuracy. Of course, in that way he would be able to lay them before the public at a cheaper rate than they could buy them if printed from type originally set up. I think there can be no abuse in this case.

The resolution was agreed to.

## BILL INTRODUCED.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 506) for the payment of the claim of Charles A. Sumner and William M. Cutter; which was read twice by its title, and referred to the Committee on Claims.

## THANKS TO SECRETARY STANTON.

On motion of Mr. EDMUNDS, the Senate proceeded to consider the following concurrent resolution, submitted by him on the 28th of May:

*Resolved*, by the Senate, (the House of Representatives concurring,) That the thanks of Congress are due, and are hereby tendered, to Hon. Edwin M. Stanton for the great ability, purity, and fidelity to the cause of the country with which he has discharged the duties of Secretary of War, as well amid the open dangers of a great rebellion as at a later period when assailed by the Opposition, inspired by hostility to the measures of justice and pacification provided by Congress for the restoration of a real and permanent peace.

Mr. HENDRICKS. When this resolution was presented the other day by the Senator from Vermont, I objected to its immediate consideration, as I wished to look into the phraseology of it. Although I think it is an unusual thing for Congress to express its thanks to any public officer for the discharge of purely civil duties, I did not care to object to the resolution upon that account; but as I heard the resolution read, I thought the draftsman in the

latter part of it undertook to give it somewhat of a political character, which I supposed was not necessary for any just and proper purpose on the part of Congress in an effort to express thanks to a public officer. That part of the resolution to which I refer is as follows:

"As at a later period when assailed by the Opposition, inspired by hostility to the measures of justice and pacification provided by Congress for the restoration of a real and permanent peace."

I do not know very well, Mr. President, to what particular acts of the Secretary of War that part of the resolution refers. I do not know in what respect the execution of the acts mentioned here came under the control and the jurisdiction of the Secretary of War. I thought the execution of those acts was more particularly placed under the control of the General of the Army; so that I do not know what it is intended to compliment by that part of the resolution, nor do I know what particular assaults have been made upon the Secretary of War because of any of his acts in that regard. What has the Secretary of War done in regard to what are known as the reconstruction acts which "the Opposition," as it is expressed in this resolution, have particularly found fault with? I do not know, sir. It seems to me these are simply words which are used without any particular meaning. While the draftsman was employed in preparing the resolution, a particular aspect was desired to be given to the subject, and therefore this language is inserted. That Mr. Stanton has been the subject of severe criticism for the last few months cannot be questioned, but not in regard to his conduct in the execution of the reconstruction acts. The severest criticism that has been made upon his conduct was in advance, and made in the Senate, not by the Opposition, as I understand, but by distinguished Senators who belonged to the same political party with himself. The criticisms that have been made upon Mr. Stanton for the last few months have been made mainly, I think I may say nearly altogether, because he continued in the Cabinet after the President had asked his resignation; and the opinion of the public in regard to that conduct was more emphatically expressed by the Senator from Oregon [Mr. WILLIAMS] and the Senator from Ohio [Mr. SHERMAN] than, perhaps, by any persons who have expressed opinions upon it; that it was not becoming, not right for a Cabinet officer to hold that position after he had been properly requested to resign. Whether Senators have changed their opinion in that regard I do not know. I do not believe the country has changed its judgment on the subject.

Mr. President, in my opinion the particular conduct of Mr. Stanton, in refusing to resign under the circumstances, will continue to be the subject of criticism and remark to the country, and of growing and increasing criticism as time shall roll on; and no resolution passed by the Senate of the United States will be sufficiently potent to change the judgment of the country upon that matter. As a member of the President's Cabinet, when called upon to give to the President his advice on the subject, under the solemnities of his position, in giving an opinion called for under the circumstances by the Constitution itself, he said to the President that the tenure-of-office act was unconstitutional, and advised the President to interpose his veto. If unconstitutional it became no law; it was as idle as an expression could be of a popular assembly, and never had the force and sanction of law. After thus advising the President of the United States he chose to hold his office under the claim of right to hold it under that law; and this country has been much distracted, its quiet, its business much disturbed, the course of trade and commerce disturbed by the very controversy which he brought upon the country by claiming to hold an office by conduct which the Senator from Ohio and the Senator from Oregon said was in bad taste, and also to hold it under a law that he had advised that same President could be no law. In my judgment no act of the Senate of the United

States can relieve him from the position in which he has thus placed himself.

I therefore do not choose to consent that a resolution of the Senate, without some objection on my part, shall be passed, which undertakes to indorse a piece of conduct which the Senate in advance condemned, which his own advice to the President of the United States condemned. That Mr. Stanton was an able Cabinet minister I have never questioned. That he gave great force, power, and energy to the prosecution of the war, I, as cheerfully as any Senator here, concede; and to express that opinion gives me pleasure. In my judgment, during the progress of the war, toward its close, he was held by many persons in the country responsible for acts which I believe others did without his authority; acts which will be condemned in history; acts of violence and wrong and disregard to law which will be condemned in history, but which, in my opinion, in many instances are not to be charged upon him. But, sir, when it is undertaken to indorse his conduct in bringing upon the country that agitation which so recently has disturbed it, much to the prejudice of its business interests, I will not concur in such a resolution.

For the purpose of understanding that last clause of the resolution and expressing my views upon it, I objected the other day. To a resolution expressing the judgment of the Senate of the ability of that officer during the progress of the war, I make no objection.

Mr. EDMUNDS. Mr. President, the time in the morning hour does not permit any extensive debate on this subject; therefore I will occupy less than five minutes in saying what I desire to say in reply to my distinguished friend from Indiana. He has said what I should have expected him to say of Mr. Stanton's conduct during the war. Do we not all know that Mr. Stanton had no more vigorous supporter during the war in his efforts to assist President Lincoln in putting down this rebellion than was to be found in the person of my friend from Indiana; and do we not all know that he had in the country no stronger supporters than the distinguished party that my friend represents from Indiana? I presume my friend near me, on my left, [Mr. MORTON,] who was in Indiana at that time, knows the vigorous aid that the Democratic party, represented by my friend over the way, [Mr. HENDRICKS,] in that particular State gave us in the trying times; and so my friend has said, what I should have expected him to say, words of praise and encouragement and thankfulness for the vigor of the intellect and the strength of the hand that ruled the military operations of the country during that time, as well in the States that were a little north of the border, where treason was lurking, as in any of those that were somewhat south of it. We concur, then, that the thanks of Congress are due to Mr. Stanton for the eminent, I might say the preëminent, services he performed during those dark times of trial.

But my friend from Indiana finds cause of complaint in the concluding clause of the resolution which declares that he also deserves the thanks of Congress for his administration of the War Department at a later period than the war when he was assailed by opposition, inspired by hostility, not to his holding the office, but inspired by hostility to the measures of reconstruction Congress had enacted. Now, sir, is not that true? Is there any man who disputes it? The difficulty with Mr. Stanton was, in the eyes of the President of the United States and of some of his associates, that he desired to maintain the law; that he desired to have carried out the measures of reconstruction in the spirit in which Congress had passed them, when the President of the United States desired that they should be defeated, if possible; and, therefore, it was as early as 1866 that Mr. Stanton knew, and the public knew, and the President knew, that the cause of difference and the reason of the President desiring Mr. Stanton to retire then and

ever since was the fact that Mr. Stanton was the willing agent of Congress speaking through the law, when the President desired a Cabinet officer in that position who should be otherwise.

When a question of that kind arises, Mr. President, between a minister of the law and the chief executor of it, what is to be done? Is the minister and the law with him to go down, or is he to execute the law? This, sir, was the sole cause of the President's woe, that Mr. Stanton remained in the Cabinet, as my friend calls it, remained attending to his duties as Secretary of War; that the President was determined that those acts, beginning with the civil rights bill and the Freedmen's Bureau bill, for which the country may thank my friend from Illinois, [Mr. TRUMBULL,] as well as General Howard, and coming down through all those measures to this time, were believed in by Mr. Stanton, and the President did not believe in them; and so believing in them, although he considered the tenure-of-office bill, as my friend says, when it passed unconstitutional, it having passed by the majority which the Constitution requires to make it a law he felt bound to obey it as a law instead of assisting the President to overthrow it as a law. And this is one marked difference between the two men—between the views of the two men, I should say, because I mean to say nothing offensive to the President personally; I am merely criticising his position and his opinions. That being the case, sir, and that being the reason, as we all know, why this minister stood at his post as the faithful agent of that law which we had passed at a time when it was a greater trial to him than it was when he bore the whole burden of the military operations of the country as its chief administrative officer during the war, because it was at a time when those feelings which are common to us all would have led him personally (as he desired personally, to my own knowledge,) to retire at once; and yet, in spite of those feelings, under a sense of public duty, he stayed at his post as the country wanted him to do, and as I believe half a million majority of the citizens of the United States, if they could have their way, would vote to restore him to-day. It is, sir, for that, for one, that I propose to thank him; and for that I think the country will thank him at a later period even than that to which my friend from Indiana refers.

Mr. HENDRICKS. Mr. President, can the resolution be divided, so as that the vote can be had on the first clause?

The PRESIDENT *pro tempore*. It may be amended.

Mr. EDMUNDS. It is incapable of division.

Mr. HENDRICKS. Is it susceptible of division in the vote?

The PRESIDENT *pro tempore*. It is a whole, and must be voted on as a whole.

Mr. SHERMAN. I should like to have it read again.

The PRESIDENT *pro tempore*. Let it be read, to see whether it is divisible.

The resolution was read.

Mr. MORTON. Mr. President, I cannot afford to let this opportunity go by without saying something in regard to Mr. Stanton. During the war I occupied a position which brought me into intimate official relations with Mr. Stanton, and gave me good opportunities of judging in regard to his ability, his decision of character, and his patriotism. I think, Mr. President, that the country now has but an imperfect comprehension of the great services which Mr. Stanton rendered to the nation during the prosecution of the war. Mr. Stanton displayed, in my opinion, remarkable powers of intellect. He comprehended from the very beginning the magnitude of the contest, which a great many of our public men failed to do, and the preparations which he made for carrying on the war were commensurate with the necessities of the Government and the condition of the country. Mr. Stanton's preparations were almost of the most ample character. I think he displayed very great executive ability in furnishing not only men, but in furnish-

ing materiel of war, and placing it promptly at the point where it was needed. Mr. Stanton displayed great courage in the administration of his office. There was no responsibility that he was not willing to take if he believed that the success of the Union Army and the good of the country demanded it. He was exceedingly prompt in the discharge of his duties. His intellectual operations were not only accurate, but they were exceedingly rapid. Mr. Stanton lacked the arts of the politician. He never cultivated the art of pleasing. He would transact a very large amount of business in a day; but it was done by going right to the point of the subjects which the different parties presented to him.

I have been present when business was presented to Mr. Stanton, and when men were laying before him, in what they regarded as a studied and perhaps a clear statement, the thing which they wanted done or not done, and Mr. Stanton's intellectual operations were so rapid that long before the man got to the end of the story he would comprehend the point, and decide it either for him or against him; and if he decided against the person he would go away and swear that Mr. Stanton refused him a hearing, or that he decided the case without having understood the question, whereas his intellectual operations were so rapid and accurate that he anticipated the very statements which were made to him, and in this way often made enemies and brought down censure upon his own head. But he would work in his office eighteen hours out of the twenty-four, and transact an amount of business that was perfectly incredible. I will not undertake to say that other men could not have been found who would have conducted the affairs of the War Office as successfully as Mr. Stanton did, but the chances were against finding them. He performed great services for his country, and if it had not been for his ability, his comprehensiveness, his great labor, the accuracy of his intellectual conclusions, and above all the courage that he displayed in carrying out what he believed the interests of the country demanded, it is hard to tell what might have been the result of the war.

I will say, in justice to the Senator from Pennsylvania, [Mr. CAMERON,] whom Mr. Stanton succeeded, that his views of the character of the contest, of its immense magnitude, were not properly understood at the time he left the office; that he had made provisions in the way of arms and munitions of war which were regarded as extraordinary, and for which he was denounced at the time, but which subsequent events showed had been properly determined upon by him, and his action was justified by subsequent events. Mr. Stanton comprehended from the day he went into that office the work that he had to do, and he gave his whole time to it. I believe that for two years he never left this city, but devoted himself day and night to the discharge of the duties of his office. He was not self-seeking either; he was not paving the way to be a candidate for the presidency, or for any other preferment; he was not trying to please men, either in the Army or out of the Army; but he seemed to me to be actuated by a single desire of discharging his duty to the country, regardless of whom he offended or whom he pleased. I would speak longer, but I do not wish to take up the time of the Senate.

The PRESIDENT *pro tempore*. Does the Senator from Indiana [Mr. HENDRICKS] call for a division of the resolution?

Mr. HENDRICKS. I asked the Chair if it could be divided.

The PRESIDENT *pro tempore*. There seem to be two clauses to it, but the Chair is not certain that it can be divided.

Mr. HENDRICKS. I move to strike out the latter clause, that part of the resolution beginning with the words "as well."

The PRESIDENT *pro tempore*. The words proposed to be stricken out will be read.

The Chief Clerk read as follows:

As well amid the open dangers of a great rebellion

as at a later period when assailed by the Opposition, inspired by hostility to the measures of justice and pacification provided by Congress for the restoration of a real and permanent peace.

Mr. HENDERSON. I desire to offer an amendment, which I think will obviate the objection. It is in the sixth line, to strike out the word "has," and in the seventh line to strike out the words "as well," and then to strike out all after the word "rebellion," in the eighth line, so as to make the resolution read:

That the thanks of Congress are due, and are hereby tendered, to Hon. Edwin M. Stanton, for the great ability, purity, and fidelity to the cause of the country with which he discharged the duties of Secretary of War amid the open dangers of a great rebellion.

Mr. CAMERON. Mr. President, I prefer the original resolution to the amendment. It is more positive and direct, and expresses more fully my views at any rate. I desire to say here that I have approved the whole course of Mr. Stanton in the War Department, and I have regretted greatly that circumstances compelled him to leave it. I think he has been one of the most faithful, efficient, and able officers this Government has ever had in any Department. I take some pride in saying this, because Mr. Stanton went into the War Department upon my suggestion. He was no applicant for the place, and never dreamed of getting it until it was offered to him, and nobody applied to Mr. Lincoln on his behalf but myself. I had known him for years; known him as a lawyer and as a friend. I recommended him because I thought he had great ability, and because from conversations with him I was satisfied that he understood the magnitude of the war, and especially from my conversations with him had I discovered that he believed, as I did, that the rebellion could not be put down without the use of the negro element. He agreed with me fully, even at that early day, in the importance of arming the negro and making him a great element in the power which was to destroy the slave masters. To my mind, at that day, the war could not be closed without that element; and I think circumstances have fully justified that opinion entertained by myself and Mr. Stanton. During his administration of the War Department I believe about two hundred thousand negroes were employed in the Army, and they were employed just at the time when the crisis was upon us, and when but for them the enemy would probably have succeeded in destroying the Government.

Having had these views from the first I have naturally observed Mr. Stanton's course throughout; and I believe, as I have said, that we could have had no more faithful, no more able man there. I doubt whether there could be discovered in the whole country a man so well fitted for the place. In addition to his great ability he had a physical strength and a power of endurance which few men have. I was myself almost brought to the grave by the labors which I underwent there, and could not have lived there six months longer. I believed so then, and think so now. Very few men could have undergone, not only the great fatigue of the office, but the terrible pressure which was made on men occupying that office by their friends and their foes. The great difficulty I had was the annoyance of my friends who wished me to give them the patronage of the Department. They were a great deal more troublesome to me and did me a great deal more harm than my enemies, for I think a brave man can always fight and successfully battle with his enemies, but it takes a stronger man than I am to fight with everybody who claims friendship, and many of whom have a right to claim it. I think Mr. Stanton was peculiarly fitted for the place, because he had not been in public life; he had never been engaged in politics, except that he was appointed to and occupied for a short time the place of Attorney General under Mr. Buchanan. In that position he did great service to the country, because his patriotism pointed



out at once to him the improper course of his chief, and he wisely and bravely stood out against it.

I think that the nation has lost a brave public servant and that a great wrong has been done to the country by forcing Mr. Stanton to leave that place, and I regret that he has determined, for the sake of his health, for the sake of his impaired fortune, to take no public place hereafter. I know of no man who could so ably fill any place under the Government as I think he could.

Mr. HOWARD. Mr. President, I hope that there will be no amendment made to the resolution presented by the Senator from Vermont, and that we shall pass the resolution exactly as it has been submitted. I think Mr. Stanton deserves this praise at the hands of the Senate, and all of it, and much more from the voice of the country whom he has served so ably and so well. History, sir, will record his efficient services in prosecuting the war to put down the rebellion, and there will be no public man in the history of the United States in this age whose name will shine with greater luster upon that page than the name of Edwin M. Stanton. We owe to him much more than I can mention here, for his great services, his fidelity, his activity, his magnanimity, his persevering courage in putting down the rebellion while the rebellion was flagrant. But, sir, in saying this I do not underestimate that other service which he has rendered to the country since the close of the war. I look upon no act of his as more patriotic or magnanimous than the stern and unflinching opposition which he conscientiously found it his duty to make to that policy of the President of the United States which, if it had prevailed, would have resulted really and practically in the establishment of the rebels themselves in power in the insurgent States; and it was on account of this stern opposition of his that he was requested so modestly to resign his place by Mr. Johnson. Sir, he refused to resign, and why? For the reason that in case of his own resignation and the vacation of his office in that manner some person might be appointed by Johnson to fill his place who would be disposed to assist in carrying out that most destructive policy which had been launched by President Johnson and other members of his Cabinet in the year 1865. *Hinc illæ lachrymæ.* He was determined that the laws of reconstruction as passed by Congress, so far as depended on him, should be faithfully, honestly, and efficiently carried out, for the purpose of establishing a permanent peace at the South and securing for all time to come the fidelity and loyalty of the southern people to the Constitution of the United States. He saw, as clearly as you and I did, sir, that without the effectuation of this policy there was danger, great danger of a recurrence of the rebellion itself and the ultimate disruption of the Union.

The honorable Senator from Indiana [Mr. HENDRICKS] makes it matter of grave complaint against him that he did not resign his place when requested, but stood upon the tenure-of-office act. Sir, it was his duty, as an honorable man, entertaining the views which he did, still to stand at his post and to endeavor to carry out the reconstruction policy of Congress. He was under no obligation to resign his place at the request of the President of the United States; but, on the other hand, if public duty required him to remain at his post, he was bound so to remain; and I tell you, sir, and I tell other gentlemen in this Chamber, especially those who are so much inclined to censure Mr. Stanton, that there is no act even in his life which will redound more to his honor as a man and a statesman than his refusal to resign his place at the request of Mr. Johnson, and thus abandon the reconstruction policy of Congress.

Time will not allow me to proceed further. I might, however, allude to the false charges which were brought against Mr. Stanton by the President in the message which he sent to the Senate announcing to us that he had suspended

Mr. Stanton from office. I might allude to the false accusation brought against that pure and incorruptible Secretary of War, that he, the Secretary, was really and effectually responsible for the New Orleans massacre of 1866, an event which, according to the best proofs that have been obtained, or probably ever will be obtained, is directly attributable to the dispatch of Andrew Johnson of July, 1866, by which the insurgents, the Thugs, and murderers of New Orleans were let loose to do their bloody work upon the convention which was then in session. Sir, in respect to that matter, let me say that no fault lies at the door of Edwin M. Stanton. If there be fault anywhere in reference to any official at Washington, that fault rests upon the head of the present Executive of the United States, who brought against Mr. Stanton that unfounded and cruel charge. I hope, sir, the resolution will pass as it has been submitted, and not amended.

Mr. HENDRICKS. Mr. President, I wish to add but a word or two to what I felt it to be my duty to say upon this resolution. Senators will observe that I have interposed no objection to the vote, so far as it relates to Mr. Stanton's services as Secretary of War during the rebellion. While I do not approve very much that has been charged against Mr. Stanton during that period, yet there is very much that has been charged against him that is not properly so charged, but that he has been held responsible in popular judgment for very much that was done by others without his authority. But, sir, I wish to know what it is that Mr. Stanton has done since the close of the war that calls upon even the majority in this body for a vote of thanks. A vote of thanks on the part of Congress ought to be for some very distinguished services, not for the ordinary and routine service in a Department, but for that which lifts a man above the age in which he lives, which makes him a marked man, something that has materially contributed to the greatness and superiority of his country. What act of the Secretary of War which he has performed since the close of the rebellion do Senators refer to? I understand the Senator from Michigan now to refer to the policy of the Secretary as opposed to that of the President; that he remained in office for the purpose of defeating the policy of the President of the United States. How does that appear? When Mr. Johnson adopted his policy in the spring and summer of 1865, is it understood that the Secretary of War threw himself against that policy?

Mr. HOWARD. Yes, sir.

Mr. HENDRICKS. When the President of the United States issued the North Carolina proclamation, which was the enunciation of his policy, was that opposed by the Secretary of War?

Mr. HOWARD. It was opposed by the Secretary of War.

Mr. HENDRICKS. Then, sir, the Secretary of War does not support the statement now made by the Senator from Michigan in the testimony which the Secretary gave before a committee of Congress. Let the Senator refer to that. I refer the Senator to the Secretary's own testimony. He remained in the Cabinet at that time, and there was no public protest made by him, no expression of his opposition to that policy at that time; and, as I understand, it received his approval.

Again, sir, the Senator from Vermont [Mr. EDMUNDS] referred to his support of the civil rights bill and the Freedmen's Bureau bill as a part of the reconstruction policy. Are Senators prepared to say that those measures received the very cordial support of Mr. Stanton? Do Senators not recollect the speech that Mr. Stanton made in this city shortly after the passage of those laws, in which he evaded the expression of an opinion in regard to them; in which he regarded it as quite sufficient to evade the question? Instead of throwing his voice in favor of the policy of Congress, as expressed in those acts, he said that those acts were passed, and were not now the subject of discussion. I wish to know to what part of the

conduct of the Secretary of War since the rebellion Senators can refer as even supporting the policy of Congress with such energy as that it calls for a vote of thanks even by the majority?

Mr. HOWARD. If the honorable Senator will allow me a moment—I will interrupt but a moment—if the Senator will look into the testimony to which he refers he will discover that Mr. Stanton drew up a sort of *projet* for the reestablishment of the State governments in the South, and that in that *projet* he incorporated the principle of colored suffrage, which was disagreed to by Mr. Johnson and other members of the Cabinet; but Mr. Stanton insisted from the beginning upon the right and propriety of the negro voting in the rebel States as a matter of security in the future.

Mr. HENDRICKS. Mr. President, I was not to be understood that Mr. Stanton drew up the proclamation, for I understand from the testimony of General Grant that that proclamation was almost word for word with the proclamation that had been drawn up in Mr. Lincoln's Cabinet before his death, and that Mr. Johnson simply adopted the proclamation that had been prepared by Mr. Lincoln in his Cabinet, and read twice in that Cabinet before his death.

Mr. HOWARD. I dislike to interrupt the Senator, but he is entirely mistaken when he says that that proclamation was drawn up by Mr. Lincoln or in Mr. Lincoln's Cabinet, or acted upon even by Mr. Lincoln's Cabinet. As a matter of fact that is incorrect.

Mr. HENDRICKS. Why, Mr. President, the Senator had better refresh his memory. I think he had better read the testimony of General Grant, as given before the committee, in which he speaks of having seen that proclamation in President Lincoln's Cabinet, in President Lincoln's presence, twice as he believes, and that he believes that the very language was adopted, and that they just went on to put that through. That is the testimony substantially. I have it not before me, not expecting it to come up, but that is substantially the testimony upon that question. Did Mr. Stanton object to that proclamation when it was issued? Did he not give it the support of the War Department? Was not the War Department brought in support of the policy of Mr. Johnson? And so far as that Department could contribute to it, did not that Department contribute to the establishment of governments in the southern States under Mr. Johnson's policy? Then there is nothing in that part of Mr. Stanton's conduct as a Cabinet officer for which even the majority is called upon to give a vote of thanks.

Then you refer to these other bills, his support of which, to say the least of it, was very equivocal. When I read his speech I could not say with certainty and positiveness whether he was for the civil rights bill or against it, whether he was for the Freedmen's Bureau bill or against it. It seemed to be evasive. This bold Secretary of War at that time was not willing to say that the President was wrong and that Congress was right.

Then, sir, the most marked part of his conduct since the close of the war is in holding on to the office of Secretary of War after he was asked to resign. For what purpose? To control the policy of the southern States. What had he to do with that? What has he done? What order has he issued as Secretary of War which has at all influenced the management of affairs in the southern States? No order of his has controlled in any one of those States, so far as I now recollect. I do not wish to protract this debate, but I say that the conduct of Mr. Stanton in holding on to that office and involving this country in the excitement which has so much disturbed the interests of the people and their composure is not the subject of thanks and commendation, but it will be written down in history as the subject of criticism and of rebuke, in my judgment. If Senators choose to confine this resolution to his policy, his conduct during the rebellion,

let it go; but, for one, I do not expect to indorse that which in fact I condemn.

The *PRESIDENT pro tempore*. The morning hour having expired, it becomes the duty of the Chair to announce that the unfinished business of yesterday is, before the Senate, being the bill for the admission of the State of Arkansas to representation.

Mr. EDMUNDS. I ask that that be laid aside informally to allow a vote to be taken on this resolution. If we cannot get a vote in ten minutes or so, I shall not press it further to-day.

Mr. TRUMBULL. If the special order can be passed over informally for a few minutes, I will not object.

The *PRESIDENT pro tempore*. Is there any objection to the special order being passed over informally? No objection being made, it is passed over informally, and the resolution of thanks to Mr. Stanton is before the Senate.

Mr. FESSENDEN. Mr. President, there is no public honor which could be paid to Mr. Stanton that would not be personally gratifying to me and of which I should not think him worthy. I have before said, though not in open session, that, as I conceived, there was no man in this country who, in the events that have gone before in the last seven years, has rendered greater services (if so great) than he has. I can vote with great pleasure for the resolution upon the table in all its parts. I feel some regret, however, that it should be so worded as not to command a unanimous vote of this body, and I could wish that it should receive that vote. But I see, although it is perfectly agreeable to me as it stands, that there are members who cannot give to all parts of it their support. Therefore we must be content with it as it is, and those of us who approve the whole must indorse the whole.

Mr. President, at this late day, and after what has been said, it is not advisable for me to waste time in praising Mr. Stanton. I was, as I have before said, intimate with him from the time that he went into the War Office. I had a chance to know him well, not only to see, as all the world could see, the remarkable energy and ability and purity with which he discharged the duties of that great office, and the services that he was thereby enabled to render to his country at a most trying period, but I could look still further and know, as I did know and feel, the entire disinterestedness of his action, the absence of all personal ambition, the absence of all looking forward to any reward except the approbation of his own conscience and the proud consciousness of rendering great services to his country. If there was any man connected with the Administration, not excepting the President himself, Mr. Lincoln, who served his country merely for love of it and from the desire to save it from the dangers that he saw impending and the difficulties that hung over it, it was he.

Under these circumstances, although it is not customary to pass votes of thanks for civil services, I can, with pleasure, vote for making an exception in this case. But I am more particularly willing to do so, and it is peculiarly fitting, in my judgment, to do so, from the facts that have since transpired. We all know that since the termination of the war Mr. Stanton has occupied a peculiarly trying position; and, sir, as I have before had occasion to say, I think the position in which he has since been placed has developed in him a greatness of character which I did not know he possessed.

It is no trifling matter for a man to stand in a position where the discharge of his duties, as he understands those duties, exposes him every day to misapprehension and obloquy. It is a peculiar position to be placed in for an officer of Government, more especially a member of the Cabinet, so called, to hold on to his office under circumstances when the majority of lookers-on would think that it was his duty, in good taste and delicacy, to retire. And yet, sir, there are higher duties, there are higher considerations applicable to the mind of a public officer than the mere consideration of what

others may think of him or what construction others may put upon his acts. If duty requires him to put his character at hazard, it takes a strong man to do it. If duty to a man's country requires him to peril even the favorable consideration (which is so dear to a public man) of his fellow-citizens, it requires a man of more than ordinary strength of character to meet the exigencies and the responsibilities of the occasion. Such has been the position in which Mr. Stanton has been placed, as we all know.

The honorable Senator from Indiana [Mr. HENDRICKS] has asked what he has done. Without saying what he has done, we all know the position Mr. Stanton has occupied in relation to the President. The Senator says that on a certain occasion he did not express positive opinions about certain laws which had been passed and vetoed by the President, and repassed over his veto. Sir, he said all that the occasion would allow him to say, that they had passed, and were laws; and he was not called upon to express an opinion in regard to them. I know very well that, although Mr. Stanton thought it his duty to remain in the Cabinet, and to take the consequences which public judgment might pass upon him for remaining there, he held it to be a matter of duty not unnecessarily to place himself in collision with his chief. No man of good taste and of good feeling would do so. The question was whether he would remain and meet the exigencies of the time, avoiding, if possible, all occasions when he might come in collision with the chief whom he served, the head of the Government.

Now, sir, we know that on these matters of reconstruction, whatever might have been Mr. Stanton's original opinion, whatever course of action he might have acceded to at the beginning of this last Administration, from the time when Congress adopted its policy in opposition to the policy of the President Mr. Stanton considered it his duty to stand by that policy of Congress, for he considered that Congress was the proper tribunal to establish a policy on the subject. In that I agreed with him; in that we all agreed with him on this side of the House. Congress was the proper tribunal to establish what policy should be adopted with reference to these confederate States out of the Union, or out of practical relations to the Union. He held that Congress was that tribunal, and that it was his duty and the duty of the executive Government to adopt its policy and follow it and carry it out. This necessarily brought him in collision with the head of the Government, and probably with the rest of the members of the Cabinet, and being in that collision he thought it his duty to remain there. He deemed the crisis to the country to be a very peculiar one. He deemed it the duty of every man, placed as he was, to sacrifice his own wishes, all feelings of delicacy, to what he believed to be a great and overruling contingency. And, sir, for that I honor him. Few men, as I have said, would have the courage and the manliness to do it. He was man enough to do it all.

Under these circumstances, I approve of what is said in the resolution with reference to that very thing. Perhaps it might be worded a little differently, although I do not see that it could be much improved; but the idea is that the fact that he has remained at his post of duty from considerations of the highest public good, willing to risk his great reputation which he had acquired by the unsurpassed services he had rendered in carrying to the end that which he deemed to be for the country's good, entitles him to a still larger measure of our approval.

I take pleasure, sir, in saying these things, because I have had occasion many times to hear matters spoken of that pained me with regard to Mr. Stanton when I knew that he was misunderstood and misrepresented. All that is now dying away. As he retires from that great office the public mind settles down to the consideration of what he has done, what

services he has rendered; and I think it peculiarly fitting, under the circumstances of the case, singular as they are, that Congress should give an expression of its approbation to a man who has thus rendered services so distinguished and is now about retiring to private life.

Other circumstances attending his retirement also render it peculiarly proper. I was one of those who could not agree with the majority of my friends, in the recent action, and in the construction which was placed upon the so-called tenure-of-office bill; and will say here that the matter which gave me, perhaps, as much pain as any other thing in disagreeing with my friends was that I was obliged to put myself apparently in a position somewhat in opposition to Mr. Stanton. But, sir, even that I was obliged to get over.

Now, sir, after this action has been had, and the consequence of that action has led to his final retirement from that great office, I deem it even more necessary, and I taken even greater pleasure than perhaps I otherwise might, in this tribute to him. Although I can hardly think of anything that could increase the pleasure I always feel in rendering honor to a man like him, yet I say these peculiar circumstances increase the readiness with which I am willing to meet this resolution and to act upon it; and I hope our friends on the other side of the Chamber, seeing that there is no reflection upon them, or upon their action, either as a party or individually, will yet reconsider the determination which seems to be intimated by my honorable friend from Indiana, and come to the conclusion that on this resolution as it stands they can readily indorse the whole course of this distinguished public officer.

I have said, sir, all perhaps that it is advisable for me to say, and I need not take up further time. I will close, as I began, by saying that I shall take peculiar pleasure in voting for this resolution in the shape in which it stands, or in any other complimentary to Mr. Stanton which it can assume.

Mr. HARLAN. Mr. President, I shall occupy the time of the Senate but for a minute or two; and I do this chiefly on account of an apparent misunderstanding between Senators here in relation to the position of Mr. Stanton on the subject of the North Carolina proclamation to which reference has been made. I think it will not be denied by anybody conversant with the facts, that the leading idea of the North Carolina proclamation originated with Mr. Stanton; I do not doubt it was the conception of his own brain. He wished to secure restoration of peace without recognizing the then existing so-called State governments in the rebel States. In his opinion, they could not be recognized without restoring the rebels to power in the States, in Congress, and in the Electoral College. He therefore proposed to Mr. Lincoln, after the surrender of Lee, the establishment of a provisional government in each of the insurrectionary States; and with that view I have no doubt that he prepared a memorandum and submitted it to the late President Lincoln, and that that paper was read several times in Cabinet before the accession to the Presidency of the present incumbent; but I personally know that that feature of the proclamation which has occasioned a diversity of opinion between President Johnson and Congress was not settled on by Mr. Lincoln's Cabinet. The very first executive paper that ever came into my hand as Secretary of the Interior was a copy of that proclamation, or of that paper, as it was said to have been prepared preceding the death of Mr. Lincoln, and all that part of it which related to suffrage was a blank. Mr. Stanton could, therefore, with great truthfulness, say that he approved the North Carolina proclamation; for, so far as relates to its grand purpose, its great object and aim, it was his own conception. But Mr. Stanton has never said that he approved of it in its details as it was afterward published. A majority of President Johnson's Cabinet did not approve of the suffrage clause. I have heretofore stated who dissented. Mr.

Stanton was one of them. He, doubtless, did not then think, as I did not then think, this difference a sufficient cause for resignation. It was then understood that these organizations were to be merely provisional, subject to the future approval of Congress. Mr. Stanton, with all the members of the Cabinet, with the President at its head, so far as anything appeared to the contrary, expected Congress, when it should convene, to control the whole subject. A statement of this much I suppose due to the Secretary of War, since his position seems to be misunderstood.

I wish now only to add that I shall vote very heartily for the resolution for reasons some of which have been and many others that have not been stated. I am aware that Mr. Stanton, during the war, gave offense to many earnest and patriotic friends of the Government. He could not always grant their requests. It frequently became his duty to make unceremonious denials of favors. And he doubtless often said no with a will and an apparent earnestness which seemed to many uncalled for, but which to him seemed a necessity. On this account he was probably more misunderstood by the American people than any one of the great actors in the late rebellion; on this account some have thought him morose, and even hard-hearted, when he is, in fact, one of the most humane, kind-hearted of men. I never made an appeal to him, either as a Senator or as an associate in an executive capacity, in favor of the friendless, of a wounded soldier, of a sick soldier, of a minor soldier boy, or of a subordinate officer that was supposed to be oppressed by his superior, or of the suffering on the field of battle or in the hospitals, that he did not respond to instantly and heartily.

The Senator from Indiana has stated that he knows of nothing that lifts Mr. Stanton above his fellows, nothing great that distinguishes him from the rest of mankind. Well, sir, I know that publicists in discussing the morally sublime sometimes think they find in their heroes traits of character which arouse feelings in the mind of the reader or observer akin to the feelings experienced in contemplating the sublime in nature; such as their superior adhesion to principle, their adhesion to their conceptions of justice, of truth, sometimes of humanity, sometimes on account of their great courage, knowledge, or wisdom, which lifts them above their fellows; but it is certainly not unknown to that Senator that there are characters known to history whose lives are cited as illustrative of the morally sublime concerning whom there is no individual characteristic that particularly distinguishes them. As a marked illustration I name the character of Washington, the Father of his Country. In almost any one characteristic of mind or morals he had at least his equals among thousands of his countrymen of that and subsequent periods; but in the harmonious blending of all elements of character which ennoble and adorn human nature he surpassed the majority of men, and hence all writers refer to the character of Washington as an illustration of the morally sublime; and it is, I fancy, as true in a very marked degree in relation to Mr. Stanton, that he possesses all the qualities of humanity harmoniously combined that lift him above the majority of men.

Mr. YATES. Mr. President—

Mr. CORBETT. I will ask the Senator from Illinois to give way for one moment, as I desire to leave the Senate. I wish to say that a resolution cannot be framed too strong as a tribute to this great man, Edwin M. Stanton. As I have an important engagement, by which I am compelled to leave the Chamber, I desire to say thus much.

Mr. YATES. I can assure the Senate that I do not intend to occupy time, in fact I did not expect that so much time would be taken on this subject. But, sir, as one of the Senators from the State of Illinois, I cannot, in justice to myself, permit the occasion to pass without saying a word or two. I should consider mere eulogy upon the late Secretary of War as out

of place at this time were it not that he is the representative, and has been made specially the representative, of great principles.

The State of Illinois raised two hundred and fifty-eight thousand troops during the war, and it is justly due both to the predecessor of Mr. Stanton, the distinguished Senator from Pennsylvania, [Mr. CAMERON,] and to Mr. Stanton himself, that I should say that to their policy, their vigor, and their energy, were we very much indebted for a successful prosecution of the war. The people of the United States, perhaps, have but little appreciation of how very much of our success during the war depended on the persons who occupied that important position.

I have referred to the fact that Illinois raised so many troops during the war for the reason that, as the executive officer of that State, it became necessary for me to make my applications for the raising of troops and the equipping and supplying of troops to these Secretaries of War, and both of them lent their energy and their aid for what we called a vigorous prosecution of the war. When it was said by the Democratic party at that time that we should not forage upon the enemy, that we should not employ colored troops, that we should not raise additional forces, and when they were declaring that this was war against "the Union as it was," it was to these distinguished officers that we applied and obtained necessary means to carry on the war. None who were not brought in immediate contact with them, who were not there to see, know how important their services were. They were ready to adopt those vigorous measures which resulted in the successful prosecution of the war, and the verdict of this country has been pronounced, so far as Edwin M. Stanton is concerned. Whether it be because of the policy which he pursued during the war or during peace, he has established a name as the great organizer of war and victory; he wielded that mighty engine by which millions of our troops were equipped and fed and supplied. He was in his place what we would call a positive man. No application was ever made to him that he did not decide with promptness, and although, as has been remarked, sometimes not to the satisfaction of the applicants, yet, as it has turned out, as subsequent events have proved, his decisions were always dictated by prudence and wisdom. I shall not refer to the course of Mr. Stanton during the late investigations which have been before the Senate, except to say that he has displayed the same energy, the same vigor, the same determination and firmness of purpose, and the same lofty and elevated patriotism that he displayed during the perilous hours of the Republic.

Mr. HENDRICKS. The Senator from Michigan [Mr. HOWARD] surprised me when he called in question the accuracy of my recollection in regard to the support Mr. Stanton gave to the Johnson policy. I thought I could not be mistaken, sir; but as the Senator expressed himself so confidently upon it, I felt it to be my duty to send for the evidence that bore upon that question, and I now propose to read briefly from the testimony given by Mr. Stanton himself before the Judiciary Committee of the House of Representatives in its impeachment investigation last year:

"Question. Did any one of the Cabinet express a doubt of the power of the executive branch of the Government to reorganize State governments which had been in rebellion without the aid of Congress?"

"Answer. None whatever. I had myself entertained no doubt of the authority of the President to take measures for the organization of the rebel States on the plan proposed during the vacation of Congress, and agreed in the plan specified in the proclamation in the case of North Carolina. It may be proper to add in regard to the history of this subject, that on the day succeeding the date of the telegram to General Weitzel, and on the last day of Mr. Lincoln's life, there was a Cabinet meeting, at which General Grant and all the members of the Cabinet, except Mr. Seward, were present."

Then he goes on to speak of having drawn up himself a *projet*:

"I left a blank upon that subject [the subject of

suffrage] to be considered. There was at that time nothing adopted about it and no opinions expressed; it was only a *projet*. I was requested by the other members of the Cabinet, and by Mr. Lincoln, to have a copy printed for each member for subsequent consideration. My object was simply to bring to the attention of the President and Cabinet, in a practical form, what I thought might be possible means of organization without rebel intervention. Mr. Lincoln seemed to be laboring under the impression that there must be some starting point in the reorganization, and that it could only be through the agency of the rebel organizations then existing, but which I did not deem to be at all necessary. That night Mr. Lincoln was murdered. Subsequently, at an early day, the subject came under consideration, after the surrender of Johnson's army, in the Cabinet of Mr. Johnson. The *projet* I had prepared was printed, and a copy in the hands of each member of the Cabinet and the President. It was somewhat altered in some particulars, and came under discussion in the Cabinet, the principal point of discussion being as to who should exercise the elective franchise. I think there was a difference of opinion in the Cabinet upon that subject. The President expressed his views very clearly and distinctly. I expressed my views, and other members of the Cabinet expressed their views. The objections of the President to throwing the franchise open to the colored people appeared to be fixed, and I think every member of the Cabinet assented to the arrangement as it was specified in the proclamation relative to North Carolina. After that I do not remember that the subject was ever again discussed in the Cabinet."

Again, as to the form, he testifies thus:

"Question. In this connection be good enough to state who prepared that proclamation?"

"Answer. I do not know who prepared it."

"Question. Was it submitted by the President to the Cabinet?"

"Answer. Yes, sir. The *projet* I had was different in this respect—that mine was in the form of an order. I proposed as an order, 'ordered' so and so. The President modified it by certain recitals which I thought an improvement, and it emanated from the State Department."

"Question. The Cabinet did agree unanimously, as I understood you to say, on the North Carolina proclamation?"

"Answer. Yes, sir; that is, Mr. Johnson's proclamation; and when I say unanimous I mean all who were present. I wish to say this: that I do not desire here to state what other people agreed to; that is what I agreed to, and I do not know of any dissent by any member of the Cabinet."

The same subject is presented in the testimony of General Grant, where this occurs:

"Question. I understood you to say that Mr. Lincoln, prior to his assassination, had inaugurated a policy intended to restore those governments?"

"Answer. Yes, sir."

"Question. You were present when the subject was before the Cabinet?"

"Answer. I was present. I think, twice before the assassination of Mr. Lincoln, when a plan was read."

"Question. I want to know whether the plan adopted by Mr. Johnson was substantially the plan which had been inaugurated by Mr. Lincoln as the basis for his future action?"

"Answer. Yes, sir; substantially. I do not know but that it was *verbatim* the same."

"Question. I suppose the very paper of Mr. Lincoln was the one acted on?"

"Answer. I should think so. I think that the very paper which I heard read twice while Mr. Lincoln was President was the one which was carried right through."

Mr. CONKLING. Read the next question and answer, if you please.

Mr. HENDRICKS. I am asked to read the next question. I will do so.

"By Mr. CHURCHILL:

"Question. What paper was that?"

"Answer. The North Carolina proclamation."

"By Mr. BOUTWELL:

"Question. You understood that Mr. Lincoln's plan was temporary, to be either confirmed, or a new government set up by Congress?"

"Answer. Yes; and I understood Mr. Johnson's to be so, too."

Mr. CONKLING. That is the point.

Mr. HENDRICKS. That is General Grant's expression of his view of the effect of that proclamation. The point that I made was, that at the time the proclamation for North Carolina was issued it received the approval of Mr. Stanton; and that the point made by the Senator from Michigan, that one of the merits of this Cabinet officer was that he had opposed that plan, was not correct; but that, on the contrary, it appears that it was a part of his own production, that his own intellect contributed to its production. Whether it was a permanent or a temporary plan is a question for further discussion. I do understand that the plan, so far as it involves the appointment of a provisional governor, was temporary; but so far as that plan went beyond that, and directed that provisional governor to take steps for the



change and modification of the State constitution, that of necessity in its very nature was permanent.

Mr. EDMUNDS. Without the approval of Congress?

Mr. HENDRICKS. Yes, sir.

Mr. BUCKALEW. Mr. President, it is proposed to thank Mr. Stanton by resolution of Congress on his retiring from long incumbency of the War Department, commencing in 1862, and, with a slight interruption, continuing down until the end of the impeachment trial. What is he to be thanked for is the question propounded to me and other members of the Senate, and it must be answered. What is he to be thanked for in this formal manner? He is to be thanked for one of two things, as the resolution is explained to us. He is to be thanked for services performed by him as Secretary of War during the continuance of the rebellion, or he is to be thanked for the conduct which he has pursued during the last year in regard to retaining possession of the War Office.

Now, Mr. President, as Mr. Stanton has retired after a prolonged controversy, in which he has been the prominent figure, from the War Department, and has surrendered possession of it up to the President of the United States, I would be disposed to say nothing further about him; I would be content to let him pass from the public scene for the time being without a word of complaint or a word of censure on his past conduct. He has retired; that is sufficient; and it is not necessary that those who have disagreed with him in opinion and have thought unfavorably of his conduct should say anything further about him or about that conduct. But, sir, this resolution is brought here and it is put before us to be voted upon. It is conceived in such terms, it is expressed in such language, that it must be when it is passed a simple party resolution. It is not a tribute of respect from the Congress of the United States to a distinguished public servant for great and brilliant services performed in behalf of the country. As drawn, in the form in which it is presented, it must be the tribute of a political party, through its representatives in the two Houses of Congress, to a gentleman who has agreed with them in opinion, and has done certain of their party work and has been identified with them in certain party controversies and disputes.

All I desire, Mr. President, to do upon this occasion, having described the nature of the resolution, the character which it must bear after it is passed, if it shall be passed, is to protest against that system of congressional action of which this is an example.

I believe, Mr. President, if you go back to the history of this country from the beginning you will find our records clean and pure from party compliments by Congress. I do not remember any resolutions to compliment a distinguished party chief or party man for services which he has rendered to his political friends. I know that Congress has thanked distinguished public servants who, upon the field of battle, and sometimes, on a few rare occasions, in civil life, have rendered such service to the country that it has commanded the respect of both the parties into which our population is divided, and commanded the respect of people in foreign countries who discern the progress and character of our Government. Perhaps in recent years there may have been some resolutions passed complimenting distinguished military officers which were prompted somewhat by party motives, but which, upon the face of them, were directed simply to distinguished military service in the field.

Mr. EDMUNDS. Does my friend from Pennsylvania refer to the recommendation of the President to thank General Hancock?

Mr. BUCKALEW. No, sir; I speak of resolutions passed.

Mr. EDMUNDS. I thought you did refer to that.

Mr. BUCKALEW. I am speaking of the

action of Congress, and not of propositions that have been submitted to it, and which have been refused or have not been acted on by the two Houses.

Now, Mr. President, having explained my view of this case so as to indicate my vote, I shall not multiply words in pointing out the grounds of objection which I have to Mr. Stanton's conduct during the last year further than to say this: in the first place, Mr. Stanton has attempted to hold an office under a law which he himself believed to violate the Constitution of the United States. I cannot approve of that conduct myself; I cannot laud it; I cannot praise it; I cannot hold it up as an example to others for other public officers to follow. Mr. Stanton said in August last that he desired only to hold his office until Congress met, till the Senate was in session; and yet when Congress met, when the Senate was in session in December last, he did not resign; he did not end the controversy between himself and the President, as he had led the country to believe he would; he maintained his attitude, and caused further difficulties and disputes between the President and the Senate to go on for many weeks afterward, until he secured a vote apparently reinstating him in the office. What did he do then, sir? What reasonable men would have supposed natural and proper under the circumstances—pass over a resignation, having vindicated the point of honor for himself? No; he did no such thing; he took possession of the office, and apparently intended to hold it in spite of the President and against the will of his executive chief indefinitely in the future. By these means he produced the orders of the 21st of February of the President, and precipitated upon the country this scandal or this inconvenience of impeachment. We have had a very expensive trial, we have had the public business protracted for months by reason of this conduct of Mr. Stanton, and arising out of it. Now, sir, if his friends say that this was mere matter of judgment, that nothing more could be said of it than it was a misjudgment or an error on his part—

Mr. EDMUNDS. We do not say that.

Mr. BUCKALEW. If they should say that, I think it is the best thing that can be said of it, the most favorable thing, at least, which I can admit; but what then? Why, he has acted unfortunately, unwisely, and has brought upon the public councils of his country great inconveniences and serious mischiefs, and has agitated the country for a long period of time to no purpose, and at the end of it he is obliged to retire from his position, give up that office which he has sought to hold.

As I said before, I am willing to let all this pass. We have gone through this ordeal of our institutions, and we have come forth from it without any injurious result, in my judgment, and without any great mischief having fallen upon us except the annoyance and the hazard and the time; but it is, from any point of view, perfectly absurd, even for those who think Mr. Stanton has been right in these proceedings, to thank him for it.

It cannot be, sir, that we are to pass this resolution because Mr. Stanton did material service and worked diligently during the war. The war ended three years ago—in 1865; here we are in 1868. Thanks ought to be timely for public service. When a general has won a great battle, when he has struck down a proud enemy that is invading our shores, we ought to thank him upon the moment. When he has performed any other great service we ought to thank him at the time. It is a very tardy and ungracious thing to go back and attempt to thank Mr. Stanton for services as a civil Secretary during the war. Why not thank Mr. Seward, who worked with equal diligence, and perhaps did more labor, if we are to judge from the magnitude of the volumes accumulated on behalf of his country?

And he suffered what Mr. Stanton never did suffer; he suffered personal injury by his position as a public servant; he invoked the hostility of a would-be assassin, and bears upon

his own person yet the marks of a ruffian outrage. He was a member of the Cabinet during the same time, passed along with Mr. Stanton, shoulder to shoulder with him through the war from beginning to end. Why not thank other members of the Cabinet who performed service under Mr. Lincoln, and whose names are yet green in the recollection, no doubt, of the Senator from Vermont, and of other Senators who think with him? No, sir, you are not thanking Mr. Stanton for his services; you are not thanking him for courage, for perseverance, for indomitable will, for prodigious industry during the great trial of years which taxed the energies of all patriotic men to the utmost. No, sir; you are thanking him for a partisan act, for partisan conduct during the last twelve months; and it is in vain that you go behind that and attempt to revive our recollections of the war to get a color for the passage of your resolution from considerations of that kind. I think, sir, in regard to a man who has attempted to hold an office which he, according to his own expressed opinion, could not hold under the Constitution of the United States, who has falsified the expectations which the country had of his proposed conduct when he was suspended in August, 1867, and who has now only retired from the encounter under the compulsion of the disastrous public result of the impeachment trial which he provoked, all that can be asked for him by his friends is the indulgence of silence, that as soon as possible the curtain of oblivion should be cast over the transactions of the past year, and that Mr. Stanton hereafter should be judged by his future conduct and justly treated.

Mr. HENDERSON. Mr. President, I shall not take up the time of the Senate; I merely wish to state that in the vote on this resolution, if I shall vote against it—and I think I shall in its present shape—I do not wish to be understood as being unwilling at all to express thanks to Mr. Stanton for his services in the War Department during the rebellion. I suppose that no Senator here entertains a higher regard for Mr. Stanton and his services than I do, and I am perfectly willing to express that regard in a resolution; but, as has been very justly stated by the Senator from Pennsylvania, [Mr. BUCKALEW,] this assuredly is not intended to thank Mr. Stanton for anything he did during the war. This is too tardy; it comes too slow for that. The rebellion ceased in the spring of 1865. This resolution is offered in the year 1868. The rebellion closed in April, 1865. This is the 1st of June, 1868. After the lapse of over three years we are now called upon for the first time to express thanks to Mr. Stanton. Mr. President, that is no compliment to Mr. Stanton at all. I do not so regard it. I would not so regard it if it were to me.

Then there can be but one purpose in this resolution. What is that? Is it to compliment Mr. Stanton for his services during a time of peace, since the war? Certainly it cannot be intended, as I said, for anything during the war, because it is too slow. Then it is for that which has occurred since. Do the Senator from Vermont and those who favor this resolution say that it is usual or customary to thank heads of Departments for civil services? Has it ever been done?

Mr. EDMUNDS. We intend to say just what the resolution does say.

Mr. HENDERSON. I ask the Senator if there is any precedent for such a proceeding?

Mr. EDMUNDS. I do not know whether there is or not; but in this particular case I think it is high time to make one.

Mr. HENDERSON. I do not understand why the necessity arises for making one. There are some things that I could say in vindication of Mr. Stanton in regard to allegations which have been made against him, if it were necessary to vindicate his character, for I think I know something about Mr. Stanton's views in regard to reconstruction, at least down to October, 1865. But Mr. Stanton does not need anything that I may say in his vindication; nor does he need one word of this resolution;

it will do him no good. His fame is established far beyond the reach or the help that will be brought to it by the resolution under consideration; if not, the resolution will be of but little service.

Is there not something else at the bottom of this movement? Some of us thought that Mr. Stanton was not protected in his office by the civil-tenure bill.

Mr. EDMUNDS. This resolution does not say that he was.

Mr. HENDERSON. I understand what it means, and I am able to state it and will state it. Some of us, I say, thought that he was not protected by that bill; and we voted that the President committed no crime in removing him. We believed that he was legally removed. But, of course, after the defeat of impeachment it became essential to have a Secretary of War. We could not get along in the condition we were; sensible men all admitted that we could not proceed with the Government in that way. Does Mr. Stanton tender his resignation? Certainly not. Have I any condemnation for his action? Surely not. I have known that Mr. Stanton had his own views, and he acted upon those views; and what did he do? He relinquished the office. The Senator from Massachusetts [Mr. WILSON] the other day, when I asked him if Mr. Stanton had resigned, said "no." Then Mr. Stanton was legally in the office, was he not? But the President had sent the nomination of a successor "in place of Edwin M. Stanton, removed." We were not permitted to vote for that confirmation simply upon the ordinary resolution of confirmation; but there was a preamble attached to it; and I do not think there is a precedent in the history of the Government for such a preamble.

However, we must have the preamble, and why? Simply because this confirmation could not be made without it, because Senators wanted some new vindication of their position on that subject. Are Senators not satisfied with their vote on the subject of impeachment? Is not that a sufficient vindication? When they have thirty-five to nineteen upon that subject, is not that enough? Where the necessity of again repeating this thing? Do Senators wish to whistle through the churchyard every day? Is it necessary to keep their courage up? Is it necessary for them to force each other to stand together in this matter every day? Mr. President, there are some things that cannot stand alone, and it is absolutely essential to reaffirm them from day to day in order to make them stand.

I desired to vote for the resolution of confirmation, but that was not enough; the preamble is put on, and it goes out that Mr. Stanton had not been removed and that the attempt of the President to remove him was illegal and unconstitutional. And what does the Senate do thereupon?

The Senate thereupon indorses this illegal and unconstitutional act and takes the office from Mr. Stanton! Why not let Mr. Stanton remain there? Why confirm General Schofield at all? Is there any necessity for it? Why not let Mr. Stanton remain? Could he not remain there as well as he did before? Certainly so. He had been remaining there as Secretary of War for a long time. Why not let him remain in the position? The Senate then occupies the position before the world of having taken away this office from Mr. Stanton, he being legally in possession of it; and you may pass as many preambles as you choose, it results in this: that the Senate has forced out of Mr. Stanton's hands this office. Either Mr. Stanton resigned the office or he was legally in the office under the view of the Senate; it must be certainly so; and if he was legally in the office we took it away from him by our confirmation of General Schofield the other day.

Mr. President, immediately upon the heels of this action a resolution of thanks to Mr. Stanton is offered. I have distinctly stated that I will go as far as any Senator will go in voting thanks to Mr. Stanton. If it is for any

of his conduct during the war in the War Office I approve it all. If it is for his conduct on the subject of reconstruction and in opposition to the views of the President, I approve it all. And I do not wish now, in recording my vote against this resolution, to say that I condemn any act of Mr. Stanton except one single act, and that was a simple error of judgment. Indeed, I do not condemn him for that. Mr. Stanton had a right to suppose that he was illegally and unconstitutionally removed. He had the indorsement of the Senate to that effect, and I am not prepared to condemn him for that; but I will not vote for a resolution which I understand is simply to make me eat leeks. I do not understand it in any other sense, and I do not suppose that those Senators who voted as I have voted on the subject to which I have referred can understand it in any other sense.

If the Senate desires simply to vote to thank Mr. Stanton for his services in the War Department during the rebellion, for what he did in the suppression of the rebellion, I am prepared to vote for it. But immediately upon the proceedings to which I have alluded this resolution is introduced and we are called upon to vote on it. If we vote against it, we go before the country as not approving anything Mr. Stanton has done; and if we vote for it, our votes are laid before the world just as they were on the resolution as to removing Mr. Stanton. Senators vote for it because they at the moment suppose it is proper, and afterward it will be used as a condemnation of our own conduct upon the subject of impeachment.

Mr. President, if Senators find any consolation in this course of conduct, I certainly will not rob them of it. If there is any happiness or joy received in their hearts in this way, I do not desire to deprive them of it. I am the last man to take one particle of satisfaction from anybody; I would not deprive my fellow-man of the least particle of satisfaction that he derives from any act whatever; but I see no necessity of this tardy resolution for anything Mr. Stanton may have done during the war, and I see no reason for putting it in such language as that it may convey a condemnation upon ourselves and still have us vote for it.

Mr. EDMUNDS. Mr. President, I wish to assure my friend from Missouri that there is no such purpose, so far as I know, as he seems to suppose, to disturb his equanimity or put him in a false position. I drew up the resolution myself without consultation with anybody, as a thing which I supposed was proper, and I thought would occur to any one as the proper time to thank a meritorious public officer for distinguished services when he retired from office. I am sure that there is no design on the part of anybody to put my friend from Missouri or any one else in a false position, or to allude to the impeachment subject, and I thought I had drawn the resolution in such language as that my friend from Missouri could vote for it with pleasure, as it seems my friend from Maine can, who voted as he did on the question of impeachment. At the time I drew it up I hoped that it would be so. But, Mr. President, something seems to stick constantly in the heart of my friend from Missouri about this impeachment business. He returns to it on every occasion almost out of season, as well as always in season; and he will pardon me if I say to him that it reminds me of the Ancient Mariner who stopped the passers by to tell his tale about an unfortunate event that had happened to him, and as an apology for it he said to every man he met and stopped:

"Since then, at an uncertain hour that agony returns,  
And till my ghastly tale is told, this heart within me burns."

It would almost seem, Mr. President, as if there was something we cannot understand. We believe our friend voted with entire conscientiousness; but there is something after all which seems to need a constant defense or a constant apology or a constant justification, in whatever way the question may possibly be

alluded to, on the part of my friend from Missouri. Now, I wish, for one, to disclaim having any purpose or any design to embarrass anybody, and the resolution will not bear any such construction.

Mr. HOWARD. Mr. President—  
Mr. HENDERSON. With the Senator's permission, I desire to assure my friend from Vermont—

Mr. HOWARD. I shall occupy but a few moments.

Mr. HENDERSON. It is a mere personal matter that I rise to.

Mr. HOWARD. I shall occupy but a moment or two.

Mr. HENDERSON. Very well; go on.

Mr. HOWARD. I wish to say one word in reply to the honorable Senator from Indiana, [Mr. HENDRICKS,] in regard to the part which Mr. Stanton actually took in the preparation of what is known as the North Carolina proclamation. I understood the honorable Senator to say that Mr. Stanton was substantially the author of that proclamation, and that it originated in Mr. Lincoln's Cabinet, and received the approval and assent of Mr. Lincoln's Cabinet. If I misunderstood the Senator I hope he will correct me. The very testimony the Senator has read shows the inaccuracy of that statement of his in reference to Mr. Lincoln's Cabinet, for it shows clearly enough that nothing was done either by Mr. Lincoln or his Cabinet in reference to the project furnished by Mr. Stanton, except merely an order to have it printed. There was no discussion upon the subject in Mr. Lincoln's Cabinet, and at the request of President Lincoln Mr. Stanton caused it to be printed, and a copy of it to be furnished to each member of that Cabinet. There the matter stood until after Mr. Lincoln's assassination. On Mr. Johnson's accession to the Presidency this same subject came up again for discussion before his Cabinet. The only material point which I made was, that in the preparation of that order of Mr. Stanton which finally took the shape of the North Carolina proclamation, Mr. Stanton favored colored suffrage in the rebel States. I might go further here and add that I believe that he was the only member of Mr. Johnson's Cabinet who did favor that measure, except perhaps Mr. Speed, the Attorney General. That is the only important part of the question in this relation.

Mr. HENDRICKS. Will the Senator allow me to ask him a question? Does the Senator intend to say that that was inserted in the order Mr. Stanton drew up?

Mr. HOWARD. No, sir; I was about to read the facts from Mr. Stanton's own testimony. Mr. Stanton, in his testimony, says:

"Shortly previous to that time I had myself, with a view of putting in a practicable form the means of overcoming what seemed to be a difficulty in the mind of Mr. Lincoln as to the mode of reconstruction, prepared a rough draft of a form or mode by which the authority and laws of the United States should be reestablished and governments reorganized in the rebel States under the Federal authority, without any necessity whatever for the intervention of rebel organizations or rebel aid. In the course of that consultation Mr. Lincoln alluded to the paper, went into his room, brought it out, and asked me to read it, which I did, and explained my ideas in regard to it. There was one point which I had left open; that was as to who should constitute the electors in the respective States. That I supposed to be the only important point upon which a difference of opinion could arise—whether the blacks should have suffrage in the States, or whether it should be confined for the purposes of reorganization to those who had exercised it under the former State laws. I left a blank upon that subject to be considered. There was at that time nothing adopted about it, and no opinions expressed."

That was in Mr. Lincoln's Cabinet.

"It was only a project."

Again he proceeds to say:

"Mr. Lincoln seemed to be laboring under the impression that there must be some starting point in the reorganization, and that it could only be through the agency of the rebel organizations then existing, but which I did not deem to be at all necessary. That night Mr. Lincoln was murdered."

"Subsequently," he proceeds:

"Subsequently, at an early day, the subject came under consideration, after the surrender of Johnston's army, in the Cabinet of Mr. Johnson. The

project I had prepared was printed, and a copy in the hands of each member of the Cabinet and the President. It was somewhat altered in some particulars, and came under discussion in the Cabinet, the principal point of discussion being as to who should exercise the elective franchise. I think there was a difference of opinion in the Cabinet upon that subject. The President expressed his views very clearly and distinctly. I expressed my views, and other members of the Cabinet expressed their views. The objections of the President to throwing the franchise open to the colored people appeared to be fixed."

Of course, if his opinions on that subject were absolutely fixed, as Mr. Stanton swears they were, then it was impossible to expect that he would issue any proclamation which would allow colored suffrage at all. He blocked the progress which Mr. Stanton had begun to make toward effecting colored suffrage. Mr. Stanton adds:

"And I think every member of the Cabinet assented to the arrangement as it was specified in the proclamation relative to North Carolina."

That is to say, they assented to it as a matter of mere form. It was dictated by Mr. Johnson in substance, and drawn up by some one in the office of the Secretary of State, and Mr. Stanton, like the other members of the Cabinet, did not see fit to throw up his commission and resign his place simply because colored suffrage was not embraced in the North Carolina proclamation; that is the simple explanation.

Mr. HENDRICKS. Will the Senator allow me to ask him one question?

Mr. HOWARD. Certainly.

Mr. HENDRICKS. Does not Mr. Stanton twice or thrice in his testimony expressly say that when issued he agreed to and approved the North Carolina proclamation?

Mr. HOWARD. I think he does not, Mr. President. I think all he says is expressed in the passage which I have just read in which he says, "and I think every member of the Cabinet assented to the arrangement as it was specified in the proclamation relative to North Carolina." It was a matter of mere form, as I have remarked. But let me go on; he adds again:

"After that I do not remember that the subject was ever again discussed in the Cabinet."

"Question. Do the committee understand that in your project you provided that all loyal male citizens twenty-one years of age should vote, and all disloyal persons should be excluded, or how otherwise?"

The Senator did not read this part of the testimony. Mr. Stanton answers:

"Answer. My own position was in favor of that; the plan I proposed left it in the alternative. I stated it both ways, considering it a question on which there would be difference of opinion. How it was printed I do not now remember."

That, sir, is substantially all I have to say in reply to what has been said by the honorable Senator from Indiana. It shows that at that early day, at the earliest possible moment, Mr. Stanton was the friend of colored suffrage in the rebel States, looking upon that measure as one of the greatest security, and promising the best results in reference to the peace and tranquillity of the rebel States, and the final establishment of loyal governments in them.

Mr. HENDERSON. In reference to a remark made by the Senator from Vermont [Mr. EDMUNDS] a few moments ago, I wish to say simply one word. He is not the only Senator who has taken occasion to allude to my reference to impeachment upon this floor, and to insinuate that I was too prompt to excuse myself. I did not reply to the honorable Senator from Massachusetts when he made that very unjust and ungenerous and unkind and unsenatorial insinuation. But I desire now, once for all, Mr. President, to state to those two Senators, and to any others, that I have no excuse to make for my action in that regard, none whatever. I supposed that I acted from proper motives. I tried to do it, and I attribute proper motives to everybody else.

Mr. EDMUNDS. I said I thought you did.

Mr. HENDERSON. I care not for my vote upon that subject, and I have never attempted to excuse it upon this floor, and I never supposed I should refer to it again until this morn-

ing, when this resolution was brought up. I simply gave my reasons why I did not wish to be tortured on the subject any further.

The Senator from Vermont does not bring any accusation against the vote, but he continues to put before the Senate propositions which I would gladly vote for in some form, but for which I cannot vote in the shape in which they are presented. It is not, then, because I am a heretic that I am to be tortured. First the thumb-screw is to be applied, and if I complain I am to be further tortured, not for heresy, but for the complaint.

Mr. President, I simply rose to protest against this course of proceeding, and not to say anything on the subject of impeachment, and I now promise Senators that if it is in my power I never will allude to the subject of impeachment here again. I do not wish to refer to it, for I have no excuse to make in regard to it. I am able to defend myself if attacked. I never expect to undertake to volunteer to defend myself in that matter, because my action needs no defense. I did what I thought was right, and I intend to stand by it. I shall defend it whenever it is attacked, and only then, and I shall not ask others to help me defend it.

Mr. DRAKE. Mr. President, it is more than one hour since a motion was made to lay aside informally the bill which was the regular order of the day, and continue this subject, with the statement that about ten minutes would suffice to get through with it. Now, I wish to give notice that if this debate is to continue I shall probably be able to speak two hours and a half on the subject of this resolution, and I think that the Senate had better, in order to escape that infliction, take a vote upon it now, if it is possible, or pass it by until to-morrow.

Mr. EDMUNDS. We shall get a vote presently.

Mr. DRAKE. If further debate is to be had upon it, I move that it be postponed until to-morrow.

Mr. EDMUNDS. We shall finish it presently.

Mr. SHERMAN. The Senator from Missouri can call up the special order if he wants to go on.

Mr. DRAKE. I desire that the order of the day may be taken up, because I do not wish to be obliged to address the Senate upon that order when it is impatient.

Mr. EDMUNDS. Let us try this a little longer.

Mr. DRAKE. Very well, I yield to the wishes of the Senator from Vermont.

Mr. THAYER. Mr. President, I felt like asking the Senator from Missouri, [Mr. HENDERSON,] with the utmost kindness and respect, after hearing the remarks which fell from his lips, why it was that he referred to the thirty-five Senators who voted for conviction, in the manner in which he did refer to them. He intimates that we want to whistle going through a graveyard. I have not felt at all as if we were approaching a graveyard. He says we introduce measures here for the purpose of vindicating our votes on impeachment. It seems to me that is rather an unkind intimation from the Senator from Missouri, who has introduced the subject of impeachment so often. I have no desire to do anything here to vindicate my vote, and I have heard no expression from any Senator who voted for conviction on that occasion showing that he desires any vindication of his vote. I am ready to leave it to time and to posterity, conscious that I never performed an act more justly than the one I did on that occasion.

In voting for the preamble to the resolution in reference to the confirmation of General Schofield we voted simply in accordance with the resolution of this Senate passed on the 21st of February last, wherein the Senate, three to one, declared that under the Constitution and the laws Andrew Johnson had no right to remove Mr. Stanton. Do we need any vindication when we are simply pursuing one straightforward and consistent course? When that reso-

lution was before the Senate the honorable Senator from Missouri did not raise his voice against it, and he did not vote against it when, according to his view and his construction, the Senate was perpetrating a great wrong. Where was he at that time that his voice was silent and his hand not uplifted when that resolution was passed.

Again, he says that three years have elapsed since the close of the war and this resolution of thanks to Mr. Stanton comes too late. Mr. Stanton has just retired from the War Department. When is there a time so fitting as that to give expression of our appreciation of his great public services?

Mr. President, it is not alone the soldier in the field or the officer who leads him who merits recognition of great public services. Others were needed in different departments of life. It was as necessary to have men at home to furnish the means and to send forward troops and to organize them as it was to have armies in the field; and who performed that service in a manner equal to the late Secretary of War? Why, sir, he was the main man in the Government. So I have heard from those who had the means of knowing. It was his dauntless resolution, his unflinching courage amid gloom and darkness and doubt, when those around him were despondent, which cheered Mr. Lincoln and others to carry forward and to continue in carrying forward the operations of the war. Hence it is that this public recognition of his services is due to him.

I will not dwell longer on that point; but I desire to refer to the argument of the Senator from Indiana [Mr. HENDRICKS] in regard to the indorsement of the policy of Andrew Johnson by Mr. Stanton. It is a matter entirely immaterial whether he indorsed him or not in 1865, for the fact stands out beyond contradiction that that was simply a provisional policy, as General Grant testified. If his testimony is good on the one point it is good on the other, and it was brought out by the call of my friend from New York. General Grant testified that he regarded it only as temporary.

There are two dispatches of Mr. Seward which add confirmatory and complete proof on this point. One is to Governor Sharkey:

"Your telegram of the 21st instant has been received. The President sees no reason to interfere with General Slocum's proceedings. The government of the State will be provisional only until the civil authorities shall be restored with the approval of Congress."

The other dispatch contains this sentence to Governor Marvin, of Florida:

"It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress."

It is incontestible that Mr. Johnson and his advisers at that time and for some months afterward only regarded his policy in the South as temporary and subject entirely to the revision and control of Congress.

Mr. DOOLITTLE. Mr. President, I regret that any resolution should have been introduced to provoke a discussion of this kind. I believe that the history of the country does not show any precedent for it. No Congress has ever been called upon to pass a resolution or vote of thanks to any civil officer for the performance of his civil duties, however ably they have been performed, from the time of Washington down to the present moment. It is conceded, sir, that it is without precedent. It is a novel thing in the history of the Government. As a matter of course, it introduces subjects of discussion necessarily political in their character, and which, if entered upon, can have no end. At this period of the session, when there is so much public business upon our hands, it seems to me unwise that any such resolution should have been introduced.

I know, Mr. President, that to Mr. Vanderbilt, of New York, Congress passed a vote of thanks; for he had presented to the Government of the United States a ship of great value, one of the most munificent donations that a private individual ever gave to his Government, and



for that reason the vote of thanks was passed. Mr. Peabody made a present of \$1,000,000 for education, and a vote of thanks to him was passed. For some great gift, for some magnificent donation having no reference to parties or to political affairs, Congress could vote thanks without entering upon any discussion of the distracting questions which necessarily arise between parties. If a resolution be introduced to thank the Secretary of State, the Secretary of War, the Secretary of the Navy, or any other high officers in the Government, political discussion must always arise. I do not propose to enter into a discussion of this question upon the merits at all at this time. I do not desire to take the time of the Senate for that purpose; but, sir, I do appeal to the Senate not to enter upon this dangerous precedent of interminable political debate, debate which effects no good purpose, which is against all precedent, and which certainly interrupts the public business. If we are to pass resolutions of thanks to the Secretary of War for the great services which he performed during the rebellion, what reason can be given why we should not pass a vote of thanks to the Secretary of State, who performed as great labor as the Secretary of War, and who, in the performance of that labor and in the negotiations carried on between this country and foreign Powers by which he prevented their recognition of the southern confederacy while the war was going on, rendered perhaps as important service to the country as can well be conceived? And why not pass a vote of thanks to the Secretary of the Navy also? For whatever men may say about the administration of any Department of this Government, no Department of it has been administered with more vigor, with more efficiency, with more economy, or has rendered greater service to the Government than the Navy Department; and, ay, sir, if you are to go into the facts compared with its administration, the War Department, so far as economy is concerned, will sink into insignificance. Nor has it been conducted with any greater efficiency in the organization or movement of its forces than the Navy Department. In no respect whatever has the Department of War been more efficient than the Department of the Navy. But, as I have said, I do not wish to go into the discussion of these matters. Of necessity the introduction of resolutions of this kind will involve debate. If this resolution is to be pressed, it will probably be followed by other resolutions of a similar character.

Mr. President, there is another reason why I do not propose to go into the merits. Some gentlemen speak of this as a kind of funeral, that we are passing through graveyards. As it is never in good taste on funeral occasions to criticise the departed ones, I shall not enter upon any criticism of the late Secretary of War on this occasion. It is always left to friends to speak as highly as they please in their eulogies of the deceased. I shall reserve for some other proper time my criticisms upon the course of Mr. Stanton. I rise to protest principally against this measure because it is a bad precedent. It never has been done before from the beginning until now. We have had great men before in the administration of our affairs equal and more than equal to Edwin M. Stanton. If it were wise that Congress should be passing votes of approval upon retiring members of the Cabinet or upon Presidents of the United States or upon other of the high officers of the Government, we might be occupied half our time in the discussion of personal questions. Comparisons are always odious. They always provoke discussion. They do little or no good. If Mr. Stanton has earned the reputation which men say he has, during his administration of the War Department in putting down the rebellion, that reputation is established. The vote of Congress does not establish it, nor change it. It neither makes it better, nor makes it worse. It stands upon the truth of history, and that history is written. It was finished three years ago. If, however,

this resolution be intended as a political endorsement of the course of Mr. Stanton during the last twelve months, if that be its purpose, there is so much the more force in the objection to bringing forward the resolution at all. It is opening a political discussion upon a mere personal question. It is only a hindrance to the public business.

Mr. President, I protest against this resolution, and shall vote against it.

Mr. TRUMBULL. I merely rise to see if it is not possible that we can get a vote on this resolution. It seems to me that the value of it is very much impaired by the discussion that has been gone into. I can very cheerfully vote for everything that is in the resolution, and I could vote for a great deal more. I can say very many things in commendation of Mr. Stanton, going back to an earlier day than the resolution does, even before the war began. He was one of the men that saved this Government from going into the hands of the rebels during Buchanan's administration. There is nothing in the resolution that I cannot most cheerfully vote for, and I ask the Senate if we cannot get a vote upon it?

Mr. VAN WINKLE. I want to say but a word or two. I approve of this resolution, and the more so since the disclaimer of the Senator from Vermont. But I principally rose to say that I voted in executive session the other day, from which the injunction of secrecy has been removed, against a portion of the resolution of the same Senator under a misapprehension. I thought it contained an expression which was in a resolution of the Senator from Nevada, [Mr. STEWART,] and to which I was opposed. I was very unwell on that day, and did not, perhaps, pay that attention that I should have done.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment offered by the Senator from Missouri, [Mr. HENDERSON.]

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment offered by the Senator from Indiana, [Mr. HENDRICKS,] striking out certain words.

The amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the original resolution, on which the yeas and nays have been ordered.

Mr. HENDERSON. I desire to offer an amendment, to add the following:

And Congress takes this occasion to tender its thanks to Chief Justice Chase for the great ability, purity, and distinguished learning which have illustrated his position on the bench of the Supreme Court.

Mr. STEWART and Mr. WILSON called for the yeas and nays on the amendment; and they were ordered.

The Chief Clerk proceeded to call the roll.

Mr. VAN WINKLE (when his name was called) said: I concur with the sentiment of this amendment, but believing it entirely out of place here I vote nay.

The call of the roll having been concluded, the result was announced—yeas 11, nays 30; as follows:

YEAS—Messrs. Buckalew, Doolittle, Fowler, Henderson, Hendricks, Johnson, McCreery, Norton, Patterson of Tennessee, Ross, and Vickers—11.

NAYS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Edmunds, Frelinghuysen, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Stewart, Sumner, Thayer, Tipton, Van Winkle, Wade, Williams, Wilson, and Yates—30.

ABSENT—Messrs. Anthony, Bayard, Corbett, Davis, Dixon, Ferry, Fessenden, Grimes, Saulsbury, Sherman, Sprague, Trumbull, and Willey—13.

So the amendment was rejected.

Mr. SHERMAN. I did not intend to say a word, nor do I mean to say anything now, in regard to the merits of this resolution; but I feel compelled, by the vote upon the proposition of the Senator from Missouri, to say that a very great injustice, in my opinion, is done to the Chief Justice in dragging him into this controversy, because the Chief Justice retired

from office as an associate of Mr. Stanton in the same Cabinet four years ago, and was then rewarded with the highest office, in my judgment, in the gift of the people of the United States; that is, the Chief Justiceship of the United States. There is nothing in the history of the recent events to connect the Chief Justice with this matter. Therefore, while the vote was being taken, I withheld my vote, simply because I thought it had pertinence to the matter in hand. I have no doubt the Senate will be perfectly willing, on a proper occasion and at a proper time, to speak in commendation of the Chief Justice, and of his purity as Chief Justice, though many might differ in regard to his opinions on the recent trial. But it seems to me that has no pertinence to and nothing to do with this question.

Now, in regard to Mr. Stanton, my own opinion upon that matter is perfectly clear. I have always been willing to say all that is said of Mr. Stanton for his services as Secretary of War proper. The resolution is carefully drawn, so as not to compel us to pass at all upon the question of whether he did right or wrong in refusing to resign when he was requested to do so. My own judgment is that Mr. Stanton's character before the people of this country and the whole world, his future reputation in all time, would have stood higher if, after Congress convened and the legislative power had been again restored to its full exercise, Congress being in session, he had then voluntarily retired from office as Secretary of War and left to the President, by and with the advice and consent of the Senate, the power to appoint a Secretary of War. My own opinion expressed upon the record is that the President had the power under the tenure-of-office act to remove Mr. Stanton at any time, and that he was not at all to blame for exercising a power which by the Constitution and law he possessed.

But as the resolution itself is so framed that I am not called upon to pass any opinion on that question, I see no objection to passing it. It is a proper compliment, it seems to me, to a high officer of the Government, who, during a period of long public service, in a time of great difficulty and danger, faithfully discharged and performed his duty as Secretary of War. The precedent is not a bad one, in my judgment, for the circumstances are not likely to occur again.

I am very sorry that this debate has assumed a political bearing, because I believe there is nothing contained in the resolution that the people of the country of both parties will not fairly assent to. It is so carefully worded that it does not necessarily involve any expression of opinion as to the conduct of Mr. Stanton in refusing to resign the office of Secretary of War. It simply declares that in the discharge of his duties as Secretary of War, both before and since the war, he has deserved well of his country, has shown high ability, purity, and virtue. It seems to me we all ought to be willing to vote for such a resolution as this. I certainly shall do so.

Mr. MORTON. I desire simply to say that the Senator from Missouri, by his amendment, has, in my opinion, placed the Chief Justice in a false position. The proposition in regard to Chief Justice Chase was in no wise connected with the resolution under consideration. They could not be properly connected. A resolution of thanks to one distinguished man can never with any propriety be complicated with a resolution of thanks to another. The resolution we are considering does not refer to impeachment, does not cast any reflections upon anybody, and the introduction of the amendment in regard to Chief Justice Chase was out of place, and I think has placed him in a false position.

Mr. WILLIAMS. I wish to subjoin simply to what has been said by the Senator from Indiana, that when Chief Justice Chase retires from the Supreme Bench, as Mr. Stanton has retired from the Department of War, it may be a suitable occasion then to consider a resolution of this kind; but it seems to me wholly

unprecedented and in very bad taste to propose to compliment the Chief Justice of the United States by a resolution of this kind for his services upon the Supreme Bench while he continues in that office. It was for that reason that I voted against the amendment of the Senator from Missouri.

Mr. BUCKALEW. I desire to say one word in explanation of my vote. I voted for this as an amendment to the resolution. I should have voted against it as a final proposition, believing that resolutions of this character ought not to pass.

Mr. FOWLER. I desire to say, simply in explanation of the vote I shall give, that for whatever of distinguished service Mr. Stanton has done the country, and in my opinion he has done much, I am willing to vote the thanks of Congress in return. I think I entertain as high regard for his distinguished, patriotic, and valuable services to the country during our long war as any individual on this floor; but I cannot consent to vote for a resolution which will, even if not so intended, condemn my former action in the late trial. If I thought this resolution was so worded as simply to tender thanks to that distinguished man, for whom I entertain the highest regard, and for whose services I entertain the highest appreciation, and so as not to place those who voted against the impeachment of the President of the United States in a false position, I should very gladly concur in the resolution. I should like to bestow upon all those men who participated in the suppression of the late rebellion any honors that possibly could be. In this case I cannot.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 37, nays 11; as follows:

YEAS—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Conness, Cragin, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—37.

NAYS—Messrs. Buckalew, Doolittle, Fowler, Henderson, Hendricks, Johnson, McGreevy, Norton, Patterson of Tennessee, Ross, and Vickers—11.

ABSENT—Messrs. Bayard, Corbett, Davis, Dixon, Grimes, and Sanbury—6.

So the resolution was adopted.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1078) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869, in which it requested the concurrence of the Senate.

The message also announced that the House had concurred in the amendments to the Senate to the bill (H. R. No. 786) declaring St. George and Boothbay, in the State of Maine, and San Antonio, Texas, ports of delivery, and authorizing the establishment of bonded warehouses at Bucksport and Vinalhaven, in the State of Maine.

#### ENROLLED BILL, ETC., SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 786) declaring St. George, Boothbay, Bucksport, Vinalhaven, and North Haven, in the State of Maine, and San Antonio, in the State of Texas, ports of delivery; and

A joint resolution (H. R. No. 279) in relation to the breakwater at Portland, Maine.

#### NAVAL APPROPRIATION BILL.

Mr. MORRILL, of Maine. I move that Mr. GRIMES be excused from serving upon the committee of conference on the disagreeing votes of the two Houses on the amendments to the

naval appropriation bill, and that the Chair be authorized to supply his place by an appointment.

The motion was agreed to; and the President *pro tempore* appointed Mr. NYE.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1073) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes for the year ending June 30, 1869, was read twice by its title, and referred to the Committee on Appropriations.

#### REPRESENTATION OF ARKANSAS.

The PRESIDENT *pro tempore*. The unfinished business of Saturday, being the bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress, is now before the Senate as in Committee of the Whole, upon which the Senator from Missouri [Mr. DRAKE] is entitled to the floor.

Mr. HOWARD. By the leave of the Senator from Missouri, I wish to present an amendment to the bill now under consideration, so that it may be read.

Mr. DRAKE. There is an amendment pending now.

Mr. HOWARD. Well, there will be no objection to mine being read.

Mr. DRAKE. You had better let it be read and printed.

The PRESIDENT *pro tempore*. There are two other amendments pending now. No other amendment is in order at this time.

Mr. HOWARD. By the indulgence of the Senator from Missouri, I wish to have my amendment read at the desk.

The PRESIDENT *pro tempore*. It will be read for information, no objection being made.

The Chief Clerk read the proposed amendment, which was to insert as an additional section the following:

And whereas the people of South Carolina, in pursuance of the act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, did, by a convention held at Charleston, in the months of January, February, and March, 1868, frame a constitution for said State, which constitution was duly ratified by the votes of a majority of the qualified electors of said State, at an election held in the month of April, A. D. 1868, for such ratification, more than one half of all the registered voters of said State having voted upon the question of the said ratification; and whereas the people of said State have duly elected a Legislature under their said constitution, which has not yet assembled, to act upon the question of the adoption of the ratification of the amendment of the Constitution of the United States, proposed by the Thirty-Ninth Congress, known as article fourteen; and whereas said State constitution is republican in form, and in all respects in conformity with the Constitution of the United States, and with said act of Congress passed March 2, 1867, and with the approval of a majority of all the qualified voters of said State, and is approved by Congress: Therefore,

Be it further enacted, That the Legislature of said State so elected be, and they are hereby, authorized to assemble under said constitution whenever the Governor-elect under the same shall see fit to call them together by proclamation, any when so assembled said Legislature may proceed to act upon the question of the ratification of said amendment to the Constitution of the United States. In case said Legislature shall ratify said amendment the Governor-elect of said State shall cause certificates of such ratification, under the seal of the State, to be forwarded, one to the President of the United States, one to the President of the Senate, and one to the Speaker of the House of Representatives, to be laid before each House of Congress; and thereupon said State of South Carolina shall be entitled to representation, and Senators and Representatives chosen under said State constitution shall be admitted therefrom.

Mr. HOWARD. I merely wish to say, with the indulgence of the Senator from Missouri, that I offer that as an amendment, to come in as section two of the bill, a separate and independent section.

The PRESIDENT *pro tempore*. Does the Senator ask to have it printed?

Mr. HOWARD. Yes, sir.

The PRESIDENT *pro tempore*. The order to print will be entered. The Senator from Missouri is entitled to the floor.

Mr. DRAKE. Mr. President, I desire to modify the amendment that is now pending offered by myself and put it in the shape that I now send it to the Chair.

The PRESIDENT *pro tempore*. The amendment, as modified by the mover, will be reported.

The CHIEF CLERK. The amendment, as modified, is to strike out all of the bill after the word "condition" in the fifth line, and to insert in lieu thereof the following:

That there shall never be in said State any denial or abridgment of the elective franchise, or of any other right, to any person by reason or on account of race or color, excepting Indians not taxed; and that any such denial or abridgment shall authorize the exclusion, while it continues, of said State from representation in either House of Congress.

Mr. DRAKE. Mr. President, it will be noticed that I have so far modified my amendment as to present, in its present form, the simple point of choice between the fundamental condition embodied in it and that in the original bill. The sense of the Senate in this particular can thus be better tested than if other provisions were connected with this.

Reflection has convinced me that it is improper and unwise, to say the least, for Congress to attempt to compel Arkansas to retain in her fundamental law, unchangeable for all time to come, the exact qualification of voters now embodied in her constitution. That State, like every other, should be allowed to change those qualifications, with the single exception that it should never have power to deprive any man of civil and political rights because of the color of his skin. To strip her of that right in all future time is the object of the fundamental condition expressed in this amendment. And the fulfillment of this condition is sought to be guaranteed by declaring that its violation "shall authorize the exclusion, while it continues, of said State from representation in either House of Congress." It will thus be seen that my purpose is, if such a thing be practicable—as I believe it is—to bind this late rebel State to respect the rights of American citizens in the whole long future, though their skins be black. I intend, if possible, to destroy the infamy of caste in that State forever, and at the same time leave her people otherwise free, as those of all the loyal States are, to regulate suffrage in every other respect at their will.

It cannot be denied that this is a matter which brings into view some of the great principles which underlie our whole system of government. When it is proposed thus to bind a State the act must rest upon sound principles or it cannot be upheld. I have no difficulty in finding a principle which rightfully sustains the attempt. It is that which gives to every sovereign the right to say who shall take part in its government, and upon what terms any person or body of persons shall be permitted to take such part. That right inheres in the sovereignty of this nation as much as in the sovereign of any other Government, and it is written down, too, in its Constitution. The question, then, is whether the nation has the power to declare and enforce the conditions on which it will permit a part of its people, organized as a State, to share in the government of the whole. It is the old question between nationality and State rights, and I meet it on the side of nationality.

Mr. President, if any one could be justified in believing any matter in the relations of the nation to the several States to have been settled by continued practice, it is that the General Government has a right to prescribe conditions to the admission of a State into the Union. When that right is disputed at this late day one may well be surprised. With all respect for those who dispute it, I am constrained to say that in my judgment they have not only not got upon the right track of thought on this subject, but have got upon the wrong track. Still it may be that I have taken the wrong one. I am prepared, however, to state the grounds of my judgment upon this important question, and leave the Senate to determine their value.

It will be observed that the first clause of this condition is, in substance and almost in words, that which was imposed upon the admission of Nebraska less than eighteen months

ago; and so imposed by an act passed over the President's veto. If it was constitutional then to impose such a condition, it is so now. If it was right and expedient then, as to a State where slavery had never existed, and where there are but few negroes, it is much more so as to a State where slavery had existed, and where negroes form a large part of the population.

It seems to me nothing can be clearer from the history of the past four years than the steady and repeated assertion by Congress of its right and power to treat the rebel States as conquered, with no rights but such as the nation, through its Congress, might choose to give them. This assertion has been made again and again, has overridden vetoes and executive opposition in every form, has shaped itself in all sorts of provisions and conditions, and if its constitutionality and rightfulness have not been established then it is hard to say what can be considered established by reiterated congressional action. Upon this corner-stone, then, I build, in part, my argument, that the rebel States were conquered territory and conquered people, perfectly at the mercy of the victorious nation, and without the least right to invoke the Constitution to support their claim to any political franchises or privileges whatever. Deny this, and your whole series of reconstruction acts must be swept away. Upon no other ground can you justify them.

In those acts you prescribed the qualifications of voters in the reconstruction of all those States, and bestowed the elective franchise upon a race always theretofore deprived of it. By what right did you do that, if it be true, as now contended by some here, that after having carried reconstruction thus far on the basis of negro suffrage, you have no right to say that that suffrage shall not hereafter be denied or abridged on account of race or color? Sir, it cannot be that you could rightfully secure it, as you did in the past, and cannot rightfully secure, or, at least, guard it in the future. You must retrace all your steps on this subject if you have not the right to take this last one.

Will it be denied that in Congress alone is the right to admit States into the Union? Of course it will not. Will it be denied that Congress is vested with a complete, unquestioned, and unquestionable discretion as to the admission of States? If denied, I ask where is the provision of the Constitution which fetters or limits that discretion? That instrument says nothing on this subject but that "new States may be admitted by the Congress into the Union." Who has the right to convert that "may" into shall, and compel Congress against its will to admit any State? No one here will contend that any such compulsory power exists anywhere, or that any State can come into the Union without the consent of Congress.

If, then, Congress has the sole, exclusive, and discretionary power over this whole subject, it may prescribe the terms upon which any State may be admitted into the Union; for the Constitution prescribes none; and when that instrument authorizes Congress to act on any subject, without saying when, how, why, or on what terms it shall act, the time, mode, considerations, and terms of its action are as absolutely in the discretion of Congress as if the Constitution so declared in express words. If this be not so, a State might come into the Union when and how it pleased without any authority or any terms. Once establish such a doctrine, and the control of the nation over this subject vanishes.

But it may be assumed that the constitutional provision just quoted applies to new States only, and therefore not to the case in hand. Let us briefly examine this.

What is it to admit a State into the Union? In this debate, so far, this has not been considered; but it is, in my judgment, in an important degree worthy of attention. It is not to admit the people of a State into the nation, for they are already a part of the nation. When, therefore, a State is admitted into the

Union, it is not into the Union of the people as a nation, but into the Union formed under the Constitution for purposes of government. It is admitted to participate as a body-politic in the Government formed by that Constitution, in which the people composing the State had no previous participation, or whose participation had been broken off. This, I take it, is the meaning of the admission of a State into the Union, except as in the case of Texas, where a foreign people are, by the act of admission into the governmental Union, also admitted into the Union of the people as a nation, which latter Union, let it be remembered, antedates the former, for it has existed since the assembling of the Continental Congress in September, 1774, outside and independent of, as well as anterior to, any Constitution or written form of government whatever.

If these views be correct, it follows that the word "new" in this clause of the Constitution does not confine the action of Congress in the premises to the original admission of States into the Union. That word, if it have any special significance there—which I think it has not—applies to all States which are outside of the governmental Union, and dependent on the action of Congress for their admission into that Union. If not, had the rebel States succeeded in establishing themselves as an independent and separate nation they might have remained such for a hundred years, and then come back, in defiance of Congress, into the governmental Union upon their own terms, or without any terms.

If, then, it be true that the admission of a State into the Union is merely its admission to a participation in the government of the Union, it disposes of a common error which probably is entertained by many, to wit: that no portion of the people can become a State until they are admitted as a State into the Union. The history of the Government, in my opinion, disproves this. The State of Vermont was the first admitted into the Union after the adoption of the Constitution. She came in in 1791 without any previous authority from Congress for her organization as a State and the act for her admission had this preamble:

"The State of Vermont having petitioned the Congress to be admitted as a member of the United States."

Here was an express recognition of the pre-existence of that State outside of the governmental Union, while her people were a part of the nation, and as such subject to the authority and power of that Union. Since that time no less than ten States have been admitted, which were formed without the previous authority of Congress, and yet were recognized as existing States by the acts passed for their admission. They were, with the years of their admission, Maine, 1820; Arkansas and Michigan, 1836; Florida and Iowa, 1845; California, 1850; Oregon, 1859; Kansas, 1861; West Virginia, 1862; and Nebraska, 1867. If these facts show anything, they show that it has not, in all the history of the Government, been held that a State is dependent upon its admission into the Union for its existence as a State. It cannot be admitted into the governmental Union unless it be organized as a State; but it may be so organized and exist without being so admitted. Hence result two important deductions. The first is, that, as long as a State is outside of participation in the Government of the Union, from whatever cause, it has, when it seeks admission to that participation, the status and character of a new State. That is, it is just as much out, just as much to be admitted, just as much dependent on the will of Congress for its admission, when it has, by its own act of rebellion, severed its practical relations with the governmental Union, as when it first seeks admission into it as a new-born State, and therefore falls within the scope of the power of Congress to admit "new States into this Union." My second deduction is, that being a State *de facto*, though not yet in the governmental Union, or with its practical relations thereto severed by its own act, it

is capable of acting as a State; and binding itself as such, especially in all matters pertaining to its admission or readmission into the Union. If this be not so, how could conditions be proposed to it by Congress, to be assented to before its admission, as has been heretofore done? To ask the question is to answer it. If a State at all, it may contract as a State; if not a State, with power to contract, to propose conditions for its acceptance would be absurd.

Sir, I see all this clearly, whether I have succeeded or not in showing it to others. I see that the insurgent States, by their rebellion, severed their practical relations to the governmental Union, but did not sever themselves from the union of the people as a nation. They were out of the Union, and at the same time not out of it; an apparent paradox when you lose sight of the fact that the word Union in the clause of the Constitution now before us means the governmental Union formed by the Constitution, and not the popular Union formed nearly fourteen years before the Constitution took effect, and which the Constitution was avowedly intended to make "more perfect." Those practical relations, for all purposes of government under the Constitution, were dissolved by war for four years, and have never yet been restored. Why? Because the terms of restoration prescribed by Congress have never yet been fulfilled. Had not Congress the right to prescribe those terms? Had it not a right to say when and on what conditions those rebel States might again take part in the Government they had renounced, warred against, and attempted to overthrow? If not, then are we conquered by the conquered, and our fathers formed a Government which has no power to keep itself out of the hands of its enemies and destroyers? If this be true, then should our cry be not *vae victis!* but *vae victori!* woe to the conqueror! woe to the conqueror! But, sir, I leave the letter of the Constitution, and invoke the decision of this question on higher grounds.

No nation can live and not have the absolute and unassailable right, through its very existence as a nation, to say who may and who may not share in its government. To say that rebels, because they constitute States, cannot be for their rebellion debarred from a share in that Government, is to set a part above the whole, to break down constitutions and laws, and to snap every ligament which can bind a people in unity of popular or governmental organization. And as the greater includes the less, if you can debar them you can readmit them on terms, such terms as you please, and the Constitution affords them no remedy. When, therefore, as in this amendment, you say to Arkansas that she may come back upon the condition therein expressed, you exercise a clear and undoubted right, for which you find a warrant not only in the Constitution, but in that primal law of self-preservation, which belongs to nations as well as individuals, and is high above all constitutions.

But Senators assert that to impose this condition on Arkansas is to deprive her of equality among the States. Sir, what means this much talked of equality of States? Does it depend on their internal organization? If one State lets negroes vote and another does not is there therefore inequality between them? If one lets women or foreigners, or Indians or Chinamen vote, and others do not, is there for that reason inequality between them? If one requires a property qualification in voters and another does not, are they therefore unequal? I look in vain for any such inequality. But suppose it to exist, where is there anything in the Constitution which forbids it? There is not a word there about the equality of the States, except in the single point of representation in this Senate. In every other respect, even in representation in the other branch of Congress, the States were unequal at the adoption of the Constitution and have been so ever since, and will continue to be so always.

There is a gross mistake or perversion in all



this talk about the equality of the States which proceeds, doubtless, from the language of the acts admitting new States, declaring that a State is admitted into the Union "on an equal footing with the original States." Does that import that the new State is equal to any other State? By no means; but that it is admitted to take part in the Government of the Union on an equal footing with the others; possessing its relative share of power, subject to its relative quantum of burdens, and enjoying alike with the others the rights, immunities, and privileges secured by the Constitution to the States respectively, as participants in that Government. It therefore follows that when a State is admitted with her two Senators she is the exact coequal of every other State in this body; and if she have the number of Representatives which her population entitles her to, she is, relatively, as nearly as practicable, the coequal of every other State in the House of Representatives; and, therefore, for all purposes of participation in the governmental Union, is on an equal footing with the original States; and this is the whole scope of the vaunted equality of States. Internally they may be, as we all know they are, totally unequal in every material, moral, and political respect, but in their relations to the Government of the Union they are as nearly on an equal footing as they can well be put.

Sir, in requiring Arkansas never to deny or abridge the elective franchise to any person on account of his color do we deprive her of that equal footing? Do we thereby take away her equal participation in the Government of the Union? Not in the least degree. If not, we violate no part of the Constitution in exacting from her this guarantee of the rights of citizens of the United States, whose rights we are bound by honor and justice to protect and defend.

Mr. President, there is one feature of the debate on this bill which seems to me to deserve a place in some book which may some day be compiled from that exhaustless repository of curious things, the Congressional Globe, and given to the world under the title of Curiosities of Congress. The honorable chairman of the Judiciary Committee [Mr. TRUMBULL] reports this bill to the Senate, and recommends its passage, with a fundamental condition far more stringent and objectionable than that contained in my amendment, and then stands in his place here and emphatically proclaims that fundamental condition to be of no force or value.

Sir, I do not understand this. I do not comprehend why that committee should recommend the Senate to engage in the mighty work of firing a big blank cartridge at Arkansas, merely to see it go off in smoke. I was credulous enough to believe that one of the main functions of that committee was to see that our legislative guns were well shot, so as to hit something when they went off. I should very much regret to believe that they had taken to the business of making smooth-bore pop-guns for the Senate and the country. I do not in this instance believe it, though the honorable chairman, in effect, says so. Sir, in the short time of my service here, I have noticed no more marked peculiarity in that gentleman's character as a legislator than the keenness of his vision in discovering that the amendments proposed by others to bills in his charge are "of no use." In this instance, however, his vision is not exactly in its normal condition. He sees double, or, rather, two ways. He scans the fundamental condition in the bill, and pronounces it of no use, valueless, a mere pop-gun, and yet urges its adoption by this body of "most potent, grave, and reverend seigniors," as if we had no better occupation for the precious time, of which all the world knows we waste so little, than to exercise ourselves in getting up that kind of juvenile ordinance.

Mr. TRUMBULL. The Senator from Missouri certainly does not mean to do me injustice in regard to the matter. I stated that I reported the House bill under instructions from the

committee; that in reference to the fundamental condition, I myself was opposed to it, though I thought it had no such binding efficacy as to compel me to vote against the bill. I voted to strike out that condition on the yeas and nays, stating at the same time, however, that if the Senate retained it I should not feel compelled to vote against the bill although it was in. It never met my approbation.

Mr. DRAKE. I certainly do not intend, Mr. President, to do any injustice to the honorable chairman of the Judiciary Committee. I did not before know that his position was as he has now stated it.

Mr. TRUMBULL. I voted against it in committee.

Mr. DRAKE. I understand that the objection of the honorable chairman is to the condition contained in the original bill. If he will oblige me so much as to answer an inquiry I would make of him here I would state it thus: is he opposed equally to the condition embodied in this amendment of mine? Does he regard that in the same light of uselessness and inefficiency that he regards the condition in the original bill?

Mr. TRUMBULL. The condition which the Senator from Missouri introduces is not so objectionable as the condition imposed by the House, in my judgment; it does not go quite so far, though I think its legal efficacy is obnoxious to the same objection as the condition of the House.

Mr. DRAKE. Mr. President, I think I am not mistaken in saying that the Journal of the Senate for the second session of the Thirty-Ninth Congress shows that the honorable Senator from Illinois voted to pass the Nebraska bill over the President's veto. I do not comprehend this thing of voting to pass a bill over the President's veto which contains a provision that is a mere *brutum fulmen*. I took this condition as I have embodied it in this amendment from the very bill that the gentleman aided by his vote to pass over that veto. I did not regard that condition, nor do I now regard it, as being a mere empty concatenation of words.

Sir, in this matter I do not think we are handling a pop-gun. I believe that there is force, efficacy, power, in a fundamental condition imposed by Congress upon the admission of a State. I know that the General Government may lawfully make a compact with a State government which shall bind both. I know that there is no express constitutional limit to the power of both governments in that respect. I know that the Government is by the Constitution authorized to supervise, to a certain extent, the creation of State governments, and has always, upon the admission of a State, exercised that power. I know that if Congress should make it a condition of the admission of Arkansas that she should have but one Senator here, or none at all, and Arkansas should agree to that condition, the compact would be valid by the express terms of the Constitution, and as long as it stood Arkansas could have but one Senator here, or none, according as she might agree.

One or two of the Senators near me say that I cannot maintain that point. Very well, sir; let us see. I think I can make some show towards it anyhow, if I cannot absolutely maintain it. In the fifth article of the Constitution it is provided that—

"No State, without its consent, shall be deprived of its equal suffrage in the Senate."

If that is not a negative pregnant to the effect that it may deprive itself by its own consent of its representation in the Senate, then I do not know what a negative pregnant is.

Mr. HENDERSON, who was sitting next to Mr. DRAKE, made a remark to him in a low tone of voice.

Mr. DRAKE. If my colleague will only be so good as to state his remarks so that the reporter will catch them and I can answer them in direct connection I will do so. He suggests to me that a State may not send any Senators here at all. That does not touch the case.

She may be deprived of her equal representation in the Senate by her own agreement, by her own consent; and, in my opinion, the Constitution says so plainly.

Now, sir, all the things that I have just stated I know, or, at least, believe I do, and knowing them I deny the proposition that we cannot bind Arkansas by compact in this matter. That proposition cannot be maintained unless you can show that either this Government or hers is unable to contract and be contracted with.

But it is said that if we make the compact, impose the fundamental condition, we cannot enforce it; that if Arkansas chooses to violate it we have no remedy. I deny this, too. As an estate upon condition ceases upon a breach of the condition, so an admission of a State to representation in Congress upon condition would cease upon a violation of that condition, and her Senators and Representatives might be excluded from these Halls, and ought to be. Whether they would be is another thing, with which we have nothing to do. When we enact laws imposing penalties for crimes we do not know that the penalties will be enforced, but we know they ought to be, and we assume that they will be. We ought to assume as much in this case, and not hold back from proper legislation because we doubt its certain enforcement. But even if a violation of the condition should never be enforced in the Halls of Congress, it may serve a great and valuable purpose as a foundation for an appeal to the courts by those for whose protection it is designed, if their rights should be invaded.

But suppose it highly probable that the condition would be practically of little or no value, is that a valid reason why we should not do all we can to plant barriers against the future robbery of the civil and political rights of the colored citizens there? That the white rebels of the South will, from the hour that the strong arm of the Government ceases to restrain them, bend all their energies to the disfranchisement of the loyal negro; that they will plot and counterplot, and scheme, and strive, yea, agonize for his practical reenslavement; that they will in this ferocious crusade against the rights of man defy alike the laws of God and man to the uttermost extent they dare, no man can doubt who knows them. Have you not seen enough of their tyranny, treachery, duplicity, and ungodly lust for dominion in the last seven years—yea, in the last forty—to put you on your guard? Will you willfully shut your eyes to all this? Will you deliberately leave all power in hands which all past experience proves will abuse it for the most inhuman purposes and ends? Will you leave your country's friends in the remorseless grip of your country's enemies? What if you cannot plant barriers which you know will certainly stand firm against all the surges that may beat upon them, is that any reason why you should plant none?

But, sir, again I deny the imputed impotence of the barrier which this amendment proposes, unless you first establish the fact that all compacts between the Government of the Union and that of an individual State are impotent. No such doctrine as that has ever been authoritatively sustained in this country, nor do I believe any such will ever be. But whether so or not, I demand that on behalf of the colored race in the South we reject it here and now, and leave the future to sanction and protect our work. That it will do so I have not a doubt.

Mr. President, there is one other consideration which it seems to me should be taken into account in our action on this bill. In whatever shape we frame it with a fundamental condition designed to protect the civil and political rights of the colored people of Arkansas, we may safely assume that it will be met with a veto. He who vetoed the bill to admit Nebraska into the Union because it contained a fundamental condition precisely similar in substance to that embodied in my amendment will be quite sure to do likewise with the bill for the admission of Arkansas, whether it contain that condition

or the one in the bill as it came from the House. The question then arises, in which form should the bill be put so as to secure its passage over a veto?

I hold that from this out to the end of his term we should not fail to pass over his veto any bill to which he may apply it. We have the strength, if united, and we should exercise it. If the vote of last Saturday on the amendment of the Senator from Connecticut, [Mr. FERRY,] proposing to strike out from the bill the fundamental condition, be any criterion, you cannot pass the bill over a veto in the form in which it came from the House. If the Senate concur with me in that view is it not better to put the bill in a shape that two thirds of us will sustain? Adopt the same fundamental condition that was imposed upon Nebraska and passed over a veto and that object is attained, and the protection of the colored voters in Arkansas secured. On the other hand, pass the original bill, and it may be that you will have to do all your work over again, or still leave Arkansas out of the pale of the governmental Union and in danger of again passing under the domination of rebels. Let us religiously labor to forestall and avert that result. If we fail to do so what account shall we render to the loyal millions we represent?

Mr. JOHNSON. Mr. President, I ask the indulgence of the Senate while I in very brief terms discuss the question which the amendment of the honorable member from Connecticut [Mr. FERRY] and that proposed by the honorable member from Missouri [Mr. DRAKE] present.

Before doing so, I beg permission to explain a vote which I gave upon a subject which is not now before the Senate; I mean upon the amendment which was proposed by the honorable member from Missouri [Mr. HENDERSON] to the resolution of thanks to Mr. Stanton. I did not hear it read distinctly. I supposed it to be a proposition of thanks to the present Chief Justice of the United States for the manner in which, while Secretary of the Treasury, he had administered the finances of the Government. I was perfectly willing to do that, and more than willing to do that, if the Senate itself should think it proper to pass a vote of thanks to any civil officer. But I find, upon my attention being called to it particularly, that it proposed to thank the Chief Justice for the manner in which he has discharged the duties of the high position which he now holds. I should be very unwilling to have it supposed that I would knowingly support a proposition of that sort. It seems to me but calculated to bring the judiciary into the political contests of the day, and that its tendency would only be to injure that department of the Government. I wish it, therefore, to be understood that the vote which I cast upon that subject, as I am not at liberty to strike it out now, was given under a misapprehension.

Mr. President, the question which is before the Senate on the bill which is now upon the table is a very interesting one; and although the honorable member from Missouri [Mr. DRAKE] and those who concur with him think that Congress has the power to impose such conditions as are suggested, I think it very clear that the power does not exist. The condition in the bill as reported by the Judiciary Committee is, that the right of suffrage as it now exists, or will exist under the constitution of the State if the State should be admitted, shall not at any time be changed so as to take from the parties who are entitled to vote under the present constitution that right hereafter. I suppose, if anything be true, whether we consult the debates in the convention by which the Constitution was framed, or consult the debates in the several conventions by which the Constitution was ratified, or consult the words of the Constitution itself and the interpretation put upon it in the particular in question, nothing is more clear than that the States were left to control the franchise among themselves just as they had the authority to control it before the Constitution was adopted.

The honorable member from Missouri asked, and I think it was asked again by some one of the other Senators upon the floor, whether there was anything in the Constitution of the United States which declares that the States shall be equal. The inference involved in the question is true, if it is intended merely to inquire whether there are any express terms to be found in the Constitution declaring the equality of the States; but, although there are no such express terms, it seems to me to be clear, beyond all reasonable doubt, and that the Government could not exist if it was otherwise, that there is absolute equality among the States, as far as a question of this description is concerned. That state of equality is to be gathered from almost every source. First, the Convention itself was called by the people of the States, acting in their separate capacity of people of the several States. The States were represented in the Convention as equals, each having the same voice. The Constitution adopted by the Convention was submitted to the States afterward as equals; and if we look into the Constitution itself we find that all the provisions, which relate to the States as such, show that in the intentment of the Convention they were considered as equal.

Their representation in the House of Representatives is founded upon the idea of equality; their representation in this Chamber is founded upon that idea; and the Constitution provides that that equality shall not at any time, even by an amendment of the Constitution, be changed. If we look at the nature of a State government, the object of retaining the State government, so to speak, or rather the purpose of creating a general government endowed with only certain specified powers, and the tenth amendment of the Constitution which says in so many words that all the powers not delegated to the General Government are to be considered as expressly reserved to the States, or the people of the States respectively, we are led, as I think, only to one conclusion, and that is, that in the judgment of the framers of the Government of the United States, and of the people by whom it was adopted, the States were esteemed to be equal in all the powers which they had not agreed to transfer to the General Government. That being so, the moment we ascertain in any particular instance whether the power in question has or has not been delegated to the General Government, and the result of the examination is that there has been no such delegation, then the power is in the States, not only from the nature of the General Government, but by force of the tenth amendment of the Constitution which reserves to the States that power.

If, then, the General Government has not the power to interfere with the franchise so as to take from the States the absolute and uncontrollable power to regulate it directly, it would seem to follow that they cannot do it indirectly. I do not know whether the Judiciary Committee has made a report upon the several bills or resolutions which from time to time have been referred to that committee, providing for the regulation of suffrage throughout the States by act of Congress; but I suppose that that proposition, if it shall be brought before the Senate by the committee, will never receive the sanction of this body. I think all the indications of the opinions of the members of the body show that they do not believe the General Government has that authority.

Assuming, then; that it has not the authority to interfere with the States which are now in the Union beyond all dispute, the question immediately before us is, (to take the case of Arkansas as the immediate one now pending,) assuming that Arkansas is not now a State but is to become a State by our legislation, can we impose it upon her as a condition that she shall surrender the right to regulate her franchise so that at no time hereafter can she interfere with it in contravention of the condition upon which alone we agree to admit her? If we have that power, there is some way, of course, of making its exertion effectual. That

must be true. It can never be true that the General Government has a power which it cannot exert practically. A former President of the United States told us that he was of that opinion; that although he believed the States had no authority to secede from the Union, and that it was the duty of the General Government to prevent it, yet that it had no power to enable it to execute that duty. That is not my view. I think that all the powers that are vested in the General Government it has the means by legislation to execute, where they fail to execute themselves by their very nature.

If it is so, Mr. President, that the power exists in relation to a State which is not now in the Union, but is to be brought into the Union, and we impose it, then what becomes of the equality of the States? Arkansas, that being done, cannot change her franchise as regulated by the Constitution, and made by us a condition of the admission of the State. New York can; and so can every other State now in the Union, not only without the consent of Congress, but against its legislation. In other words, as far as New York is concerned, she is now just as absolutely the mistress of the power to regulate the franchise as she was before the Constitution of the United States was adopted. So is Maryland; so are all the other States; but Arkansas comes in with that power denied her; and that is inequality. If we have the right to exclude her except upon the condition that she will abandon forever the possession of that power which belongs to all the other States, why have we not the right to exclude her if she will not abandon all the other powers that belong to the other States? Why not regulate the number of which her Legislature is to be composed? Why not provide that there shall be only one branch? Why not provide that her judiciary shall be for life, or for a term of years? Why not say that they shall not be composed of lawyers or professional men? Can any reason be given?

If the power is in Congress to impose conditions which will limit the power of a State by a condition denying to her the right to regulate the franchise, I cannot see how any such distinction can be made. As the honorable member from Indiana [Mr. MORTON] suggested the other day, if the power exists why can she not agree to abandon her right to be represented upon this floor by two Senators; agree that she shall only have one, or that she shall have none; agree that her representation in the other House shall not be regulated by the rules by which representation in the other House on the part of the remaining States is regulated by the Constitution? Why not provide that her citizens shall not be at liberty to sue in the courts of the United States, or that they shall be compelled to sue alone in the courts of the United States? In a word, upon what ground, logically, reasonably, can it be maintained that Congress has the authority to take from a State the right to regulate the franchise by way of a condition to her admission into the Union, which will not lead to the demonstration of the power in Congress to deny to her any and every other of the sovereign rights which belong to the other States of the Union.

The honorable member from Missouri I think fell into an error, and the one upon which his argument rests, of not distinguishing between the authority which Congress exerts over the Territories of the Union and the formation of a Territory into a State, and that which will belong to Congress after the Territory and the people of the Territory are admitted as a State. Under the authority to make rules and regulations for the disposition of the public property of the United States, or under the authority of acquisition, whether that acquisition be made by purchase or by conquest, the Supreme Court of the United States said in the case of the American Insurance Company vs. Canter, in 7 Peters, the authority by the Government to constitute governments for the Territories necessarily existed; and I think they were clearly right; and having the authority to govern it as Territory and to govern the people

as the people of a Territory, they have the power in the exertion of that authority to govern as seems to them to be best. What will conduce to the interests of the people of a Territory, Congress having the governing power, is necessarily to decide. The people of the Territory have no power whatever over the question. The whole is vested in the legislative department of this Government though the people of the Territory are not the constituents of that legislative department. The constituents of that department are the people of the States already in the Union. The Territory, therefore, is held by the States as represented in Congress, or the people of the States as represented in Congress, in trust for the benefit of the States and the people of the States, and for the benefit of the people of the Territory. We stand to them as guardians, and they to us as wards; but that relation exists only as long as the condition out of which it arises continues. The moment we admit them as States, then from the very nature of the Government they become entitled to all the political rights which belong to the other States of the Union.

Over the question of taxation the States have the power in particular instances to limit the exertion of their authority in the way of contract. Such was the case of *New Jersey vs. Wilson*, reported in *Cranch*; such is the authority of the several cases from *New York* and *Maryland*. In the first case, *New Jersey*, having stipulated with the Indians who owned a part of the lands within the limits of that State, that if they would transfer them they should have others, and that the others should never at any time be taxed, the Supreme Court held that the law passed by *New Jersey* in contravention of the terms of that agreement was void; void because it was in contravention of that clause of the Constitution which denies to the States the authority to pass any law impairing the obligation of a contract. That case only decided this: first, that a State can contract; and secondly, that whether it will tax a particular property or not is a subject about which it may contract.

So in the case of *Maryland*. We chartered banks, and we chartered them upon the condition of their paying a certain amount into the State treasury, and agreeing that in consideration of that amount being paid annually, so many cents on the dollar, no subsequent taxation should be levied. The Supreme Court maintained that; and they adopted the same doctrine in the case from *Ohio*. But as far as I have any knowledge, the legislative department of the Government never have at any time claimed the right to interfere with any power which belongs to the States, and have therefore never claimed the right to interfere with any such power unless the subject of the power is to be found in some one of the grants delegated to the General Government. Failing to bring them within the grasp of those delegated powers, then the court have said they are with the States absolutely.

Now, Mr. President, if we have the power which the condition of the bill assumes that we do possess, and which the condition of my friend from *Missouri* also assumes us to possess, it is because the subject of the power is with us, and that subject is the franchise. If that is a subject within our control we may control it just as we may think proper from time to time. If we have the right to impose this condition we have the right to impose any other condition which may affect that power. We may impose it, therefore, as a condition of the admission that the State will allow women to vote; that she will permit minors to vote; that she will permit aliens to vote. If we have the power to say that she must permit through all time a black man to vote, we have the right to say that she must, at all times, permit everybody else to vote who happens to be within the State at the time of her election. Will anybody pretend that our powers are as extensive as these suppositions imagine? I think not.

The error of the argument upon the other

side, if it be erroneous, as I think it manifestly is, is in supposing that States of this Union can exist if deprived by the legislation of Congress of any right growing out of any power not included within those delegated to the General Government. In the case of *Pollard's Lessees vs. Hagan*, in 3 *Howard*, it was held that whether the navigable waters of Alabama were made free to navigation by the terms of the deed of cession, whether that deed was by Georgia or Virginia, or by any treaty of cession, was immaterial; the waters still (notwithstanding the State was admitted upon the condition that they were to be navigable) were as much under the control of the State as are the waters within the limits of the older States; and whatever power, therefore, is in its nature with reference to the waters municipal is in the States, not in the Government of the United States. The Supreme Court has recognized the same doctrine in various other cases.

In a case from *Mississippi*, *Withers vs. Buckley*, 20 *Howard*, page 92, the question arose substantially in this way: the waters of *Mississippi* were made free to navigation, absolutely free to everybody; the river itself, the *Mississippi*, changed its bed and left dry during the greater part of the year its original channel. It became necessary to the health of the State; it became necessary to the improvement of the land along this river, that certain improvements should be made by the State, and they changed the bed of the river, made canals; and one of the questions in the case was whether the act of *Mississippi* authorizing such improvements was constitutional, its constitutionality being denied upon the ground that the rivers within the limits of the State were made free to everybody. The opinion was delivered by Mr. Justice Daniel; the whole court united in it, Mr. Justice McLean then being upon the bench, and the late Chief Justice. Mr. Justice Daniel expressed himself in two or three sentences, which I will read. He said the provision relied upon—"could have no effect to restrict the new State in any of its necessary attributes as an independent sovereign government, nor to inhibit or diminish its perfect equality with the other members of the Confederacy with which it was to be associated."

"Clearly Congress could exact of the new State the surrender of no attribute inherent in her character as a sovereign, independent State, or indispensable to her equality with her sister States, necessarily implied and guaranteed by the very nature of the Federal compact."

Mr. EDMUNDS. Will my friend permit me to ask him if the court did not, after all, decide that what the State of *Mississippi* was doing was not a violation of the act of Congress?

Mr. JOHNSON. It did.

Mr. EDMUNDS. And, therefore, would not this be merely the individual opinion of the judge?

Mr. JOHNSON. No; it is not the individual opinion of the judge; it is the opinion of the court; there was no dissent at all. It was not necessary to decide that question; but that question was before them and was argued, and the result of the deliberations of the court on it is to be found in the passages to which I have just adverted.

It must be so, I think, if we carefully consider the nature of our Government. The doctrine of my friend from *Vermont* and those who agree with him makes us a collection of States of unequal powers.

Equality, as the court say in that case, exists from the very nature of the Federal compact. That compact, evidenced by the Constitution in which it is incorporated, was a compact made between equals, and what was true of the States who were parties to that compact in 1789 is equally true of the States which are brought in, because it was a part of the compact, not that new territory might be brought in, but that new States might be brought in.

What was the evident meaning or the term "States" as there used? States like the rest;

States possessing all the powers belonging to the rest; the object being to have an association of equals, each agreeing to transfer to the General Government powers necessary for the protection and prosperity of all, but each reserving to itself all powers not deemed by those who framed the Constitution essential to the protection of all, but, on the contrary, reserved, because such reservation was necessary to the prosperity and protection of each.

I have said all that I propose to say upon the question of power. Mr. President, a word or two more and I have done. No member of the Senate is more anxious to see these States again in the Union than I am. I am for their re-introduction; that is the better term; because I want the Union to be what it was in every respect except slavery. That is gone, never to be restored.

But I want them back, not from the recollection alone of our common renown, but from a conviction that our future renown is connected with it. I want to get clear as soon as possible of the hands of the General Government over them, because I believe that the States as such are much better able to manage their own concerns than they can be managed by any measures which the Congress of the United States may adopt. Above all, I desire to get rid of the Army, of the military. To be governed by arms is wholly unsuited to the genius of American freedom. It may suit the nations of the continent of Europe; but that love of freedom which animated the country from which we have inherited nearly all the rights which we possess is such that her people would not for an hour, except from dire necessity, submit to the rule of the bayonet. Goto England; go to London, with her millions of inhabitants, where, I suppose, is to be found every degree of vice into which humanity falls, and you do not see a soldier. He is studiously kept within his own barracks, never to be called out until absolute necessity demands his assistance to the civil arm. I want to see that here; not that I have any prejudice against the Army as such, against the officers who have led it during the last war to victory upon so many battle-fields, and have won for themselves such imperishable renown, frustrating, as they did, the greatest rebellion ever known among men; but because from the very nature of military power it is dangerous to individual freedom, because it is unrestrained, and where ever that power is to be found whose only restraint, if restraint it can be called, is to be found in those who wield it, there is the very element of despotism. I want the States, then, readmitted. I care not what may be the effect upon the political questions which are agitating the country now or at any time hereafter.

I want them back upon this floor to aid us in the administration of our high functions; but I want them back as equals. I should be unwilling to sit here—and which of us would not be unwilling to sit here—the representative of a State which was not the equal of every other State in the Union represented on this floor? How would the sturdy men of the North, whose love of freedom is inherent, consent to abandon any State power which belonged to any of the other States of the Union in any other portion of our land? Not one. Great as they are in enterprise, able as they have been to maintain themselves upon a soil comparatively fruitless and barren, there is one thing that they prize more than that: it is the possession of equal rights; and, if I know them, I think, in the end, whatever may be their opinion now, they will insist upon the possession of equal rights by the States as well as by individuals. The two things cannot be separated. Destroy the equality of a State and her citizens are deprived of the rights which belong to others. I beg pardon, Mr. President, for having trespassed so long.

Mr. MORTON. Mr. President, it seems to me that this whole question turns upon a point about which there has been no discussion on this occasion, and I beg leave to add, about



which there is but little controversy; and that is, whether, under the Constitution of the United States, each State has a right to regulate or control suffrage for itself. I have taken that for granted, and I believe it has not been denied by a single Senator on this floor. Now, sir, if that be conceded, it seems to me that the question is at an end; for if the States individually have the right to control and regulate suffrage for themselves they cannot, under another clause of the Constitution, be deprived of it even by their own constitutions or compacts. The second section of the sixth article of the Constitution declares:

"This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties made or which shall be made under the authority of the United States shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the constitution or laws of any State to the contrary notwithstanding."

If it be conceded that by the Constitution the States have the power to regulate and control suffrage for themselves it is a right that cannot be affected by their own constitutions, by any compact or by any act of Congress, for the Constitution of the United States is the supreme law of the land. How can a generation for itself, or acting for some particular purpose, or a party in Congress, that may be in power to-day and out of power next year, make a compact by which the supreme law of the land is to be changed or affected? It is declared in so many words that the Constitution of the United States is the supreme law of the land, and therefore, whatever right by that Constitution is given to a State is the supreme law of the land, any State constitution or law to the contrary notwithstanding. This is the express declaration of the Constitution of the United States.

Mr. President, I understood the distinguished Senator from Missouri [Mr. DRAKE] to say that if a State desired to part with both its Senators it had the power to stipulate when it came into the Union that it should have no Senators in Congress or Representatives in the other House; and that, by an agreement between the State thus coming in and Congress, the State could forever be deprived of its representation, notwithstanding the Constitution says that each State shall have two Senators in Congress. To sustain this view, the Senator referred to that provision which says that "no State without its consent shall be deprived of its equal suffrage in the Senate," and he argued that by its consent it might be. But the Senator failed to notice the very important fact that that provision is contained in the clause in regard to amending the Constitution of the United States, which reads thus:

"Provided, That no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses of the ninth section of the first article; and that no State without its consent shall be deprived of its equal suffrage in the Senate."

It refers to the amendment of the Constitution, and this provision was inserted at the request of the weaker States at the time it was made, that the Constitution should never be so amended in any way by which the smaller States could be deprived of their equal representation in the Senate without their consent. That is what it meant. The clause refers to the amendment of the Constitution, and has no reference to an act of Congress, and gives no warrant for the declaration that by an act of Congress and the agreement of a State a State may be forever deprived of its representation in the Senate. It is not treating of acts of Congress, but it is treating of the amendment of the Constitution itself, and provides that it shall not be amended in this particular without the consent of the States affected themselves.

Mr. DRAKE. Will the honorable Senator from Indiana allow me a word there?

Mr. MORTON. Certainly.

Mr. DRAKE. The honorable Senator from Indiana is mistaken in supposing that I had overlooked the connection of that portion of the Constitution which I quoted with the matter that he refers to. It is, to be sure, in the

article of the Constitution which relates to amendments; but I beg leave to suggest to my friend from Indiana that the very phraseology of it dissects it in fact from the very thing that he wishes to connect it with. The proviso to that article, after going on to provide how amendments shall be made, is in these words: "Provided that no amendment which may be made prior to the year 1808 shall in any manner affect the first and fourth clauses in the ninth section of the first article." Mark the language, that no amendment which shall be made shall affect certain provisions, and then the sentence is divided into two parts, and the next part is not "that no amendment shall be made which shall deprive a State of its equal suffrage in the Senate," but the general proposition—added on, doubtless, in that place merely as a matter of convenience—"that no State, without its consent, shall be deprived of its equal suffrage in the Senate." With all respect to the honorable Senator from Indiana, I conceive that the change of phraseology there, dropping the expression "that no amendment which shall be made shall have such and such effect," and coming to the other form of speech, "that no State, without its consent, shall be deprived of its equal suffrage in the Senate," does not mean alone simply that no State shall be deprived of its equal suffrage in the Senate by an amendment of the Constitution, but that in no case shall it be deprived of its equal suffrage in the Senate without its own consent; and if it shall not be deprived of it without its own consent, manifestly the inference is that it may be deprived of it with its consent.

And while I am up, if the honorable Senator will allow me a single word more, I would ask permission to correct a statement that he made in his remarks just now. The Constitution nowhere says that each State shall have two Senators in this Senate, as the honorable Senator stated it. The Constitution says that "the Senate of the United States shall be composed of two Senators from each State." It is perfectly optional with a State to elect Senators or not as she pleases. It is simply fixing the number of Senators, not making it constitutionally obligatory upon every State to elect its two Senators.

Mr. MORTON. Mr. President, the Senator says that this clause may be detached from the rest of the article, and is general in its application, and means that by consent of a State it may be deprived of its two Senators in this body. I do not much like to argue this proposition; but this whole article five is one sentence, and applies exclusively to the subject of amending the Constitution of the United States; and this clause unquestionably refers to the subject of amendment, simply providing that no amendment shall be made by which the equal suffrage of a State in the Senate shall be taken away except by its own consent, and then there must be in addition to that the consent of three fourths of all the States besides, or it must be one of the three fourths. To amend the Constitution in that particular the consent of three fourths of the States must be given, and the State herself must be one of the number. To tear this language rudely from its context, and to say that it does not refer to amending the Constitution, and that it may as well refer to an act of Congress, or to a compact made by a State, is doing too much violence entirely. The argument of the Senator is ingenious, but it is not sound.

Mr. President, I understand the Senator from Missouri to say that Congress has the right to prescribe the conditions on which a State may be admitted. I agree with him in that, provided those conditions are of such a character as not to violate the Constitution of the United States. We are not bound to admit new States at all. If we refuse to admit them we need not give any reasons or we may give bad reasons. Our action is equally valid in either case. Therefore, to come in they must make their constitutions to please us; but when they have once come into the Union

then they have the rights that any other State in the Union has; and one of those rights is to amend its constitution at its will and pleasure, governed by that overruling clause, however, that it shall still be republican in its form. I ask if every State in this Union has not exercised that right, and if the States are not exercising it from year to year, neither consulting Congress in regard to the character of the amendments nor as to the fact of their amending their constitutions at all, but at pleasure calling conventions and amending their constitutions. It is a right recognized as belonging to every State. There is but one restraint upon it, that they shall not so alter or change their form of government that it shall cease to be republican in its character.

Mr. EDMUNDS. Or impair the obligation of a contract.

Mr. MORTON. "Or impair the obligation of a contract," says the Senator from Vermont. A contract by whom made? As he would say, a contract made between the Government and the State, by which the State has surrendered to the General Government one of the rights it has under the Constitution of the United States, in defiance of the provision to which I have referred. If the right to regulate and control suffrage is given to the States by the Constitution, if you admit that, then that is the supreme law of the land, any provision of any law or State constitution to the contrary notwithstanding.

Mr. DRAKE. Will the honorable Senator be good enough to point to that clause of the Constitution which confers that right on the States?

Mr. MORTON. What right?

Mr. DRAKE. The right to control the matter of suffrage exclusively.

Mr. MORTON. If the Senator is disposed now to change his ground and to deny what has been taken for granted all through this debate, I shall, perhaps, take another occasion to discuss the matter. But I can refer to the fact that has been conceded from the foundation of the Government, and has been conceded in this argument up to this moment, so far as I know, that that right does belong to the States. Further than that, the fourteenth article, the amendment of the Constitution, which we insist shall be made part of the Constitution, distinctly recognizes that this power does belong to the States, and provides that if it shall be so exercised by any of the States as to exclude any race of men from the right of suffrage, they shall not be counted in the basis of representation.

Mr. DRAKE. The honorable Senator will allow me to interpose here for just one moment. It is not my purpose to interrupt him, but to make a suggestion. I take it that if the right to regulate suffrage, exclusive of all other authority, is to be derived from the Constitution at all, fixed in the States, it is under the tenth article of the amendments to the Constitution, which says that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people." I suppose that to be the clause, if any, under which this power abides in the States.

Mr. MORTON. That clause will cover it; but there is another in which the right to vote for members of Congress is expressly refused to the electors who have the right to vote for members of the most numerous branch of the State Legislature in each State, and under that it has been conceded from the foundation of this Government that the States had the right to control suffrage.

Mr. DRAKE. And yet as this is not mandatorily fixed in that people with an express prohibition against their alienating the right at all to any extent, my position is, not that they have not the right, but that they may by compact alienate it in part or in whole.

Mr. MORTON. Mr. President, I shall not allow myself to be turned aside to-night to discuss the question whether, under the Constitution, the States have the right to control suf-

frage. I have taken that for granted for a long time.

Mr. DRAKE. I take it for granted, too.

Mr. MORTON. If that be taken for granted, I think it is the end of the question; but I will go a little further. My friend from Missouri puts it on the ground of conquered territory, and he says if we take any other ground our reconstruction acts would be invalid. He says that this is conquered territory, and we have a right to prescribe the conditions. Mr. President, suppose that we now consider this question for a moment on the ground that we are dealing with conquered territory. We have not acted upon that theory, but let us suppose now that that is the true theory. Suppose that we had acquired this territory by conquest and not by purchase or discovery; when we come to admit the conquered territory into the Union it is immaterial how it was acquired, whether by conquest, by purchase, or by discovery. We are about to make States of it, and the question of the method of acquisition is wholly unimportant. When it comes into the Union as a State it must have the rights of a State, and its people must possess the rights and privileges of the people of every other State according to the express terms of the Constitution.

My friend says what is the equality of the States? He does not recognize any such thing. Why, Mr. President, what is the equality of men? It is not that all men are equally intelligent or equally vigorous, physically or intellectually, or are of the same size; but it is that they have the same rights before the law; and the equality of the States is that each State of the Union has the same right to do any one thing that any other State has the right to do. That is all it means. Their constitutions may not be alike; they may be widely different; but they have the power to make them all alike or to make them unlike. Men having equal rights, they do not all act in the same way, but they have equal rights before the law; and the constitution is the law to the States. As I had occasion to say the other day, we have no right to alienate our natural rights as men; our life, our liberty, our right to our family or the pursuit of property; and any contract we make to that effect is invalid. That has been a fundamental doctrine in this country for over one hundred years, and it is now received by liberal men throughout the world, I believe. Neither has a State the right to alienate a right which that State has as a State under the Constitution of the United States. The doctrine that the present generation, for its own convenience or its imaginary interest, has the right to alienate against all coming generations, a right which a State possesses under the Constitution is absurd, and is contrary to the whole theory of the Government.

Mr. EDMUNDS. Will my friend permit me to ask him a question?

Mr. MORTON. Certainly.

Mr. EDMUNDS. Has not a State a right under the Constitution to impose taxes upon its inhabitants, and may it not alienate the right to tax in a particular case or a particular class of cases?

Mr. MORTON. I was about to come to that. The whole class of cases referred to by the distinguished Senator the other day, in the discussion of this question, have no bearing on the present case. Why? The right of a State to make contracts is not denied, but it cannot make contracts in reference to its political rights. It may alienate property. The question of taxation is within the control of the Legislature of the State, and a State may make a contract with another State, with the General Government, or with a private person, by which it may alienate property, a piece of real estate that it has, for all time to come. That is a necessary part of alienation. You cannot sell your property unless you sell it against your heirs and all coming generations. And a State may make a contract in reference to the taxation of that property; but I ask if that is a parallel case to these things that go to the very

foundation and constitution of government, as the right to control suffrage does a political right going to the very formation and creation and sustentation of government itself?

There is no comparison between the two, and the Supreme Court of the United States, in the judgment read by the honorable Senator from Maryland, while it admits that the decisions in regard to taxation are valid, yet draws a broad distinction between that and the class of cases that I referred to, and says that it is in the very nature of this Government that a State cannot be stripped of any of its powers by which it shall come into the Union inferior to any other State. One State can come in stripped of its right, according to the Senator from Missouri, to send Senators; another new State, Montana, for example, comes in and we say to it, "You shall not have representation; you will not have enough people to send a member of Congress for years to come; therefore you shall wait five or ten years before you send a Representative to the other House." They agree to it, and they are stripped of a fundamental right that belongs to a State according to the Constitution of the United States, and gentlemen say it is valid. Sir, I say that that theory will destroy this Government; destroy the equality of the States. Here are a collection of States, one having these rights, another having those, and a third having still different rights, having parted with this, that, and the other thing to suit the convenience or whims of Congress or the men who happen to be in power in the State or Territory at the time. The symmetry of the Government is gone; the theory of it is gone; and although this legislation may be harmless, as intimated by the Senator from Illinois, [Mr. TRUMBULL,] I am not prepared to enact harmless legislation of such a serious character.

These conditions may fall, as they will do. Having no vitality, having no power of enforcement, they will fall dead letters from the beginning; but they will form precedents for far more dangerous invasions of the powers of the States in time to come, and the matter is too grave and serious to be trifled with in this way, to say merely that it will do no harm. You may say that of any unconstitutional proposition, as the Senator from New York [Mr. CONKLING] suggests, because being unconstitutional it will fall to the ground.

Mr. President, I have shown by my political life and by my works, I think, that I am an inveterate enemy of the blood-stained doctrine of State sovereignty; but while I hate that as being fraught with so much misery and ruin to our country, I still recognize the doctrine of State rights. There are rights that belong to the States, secured by the same Constitution that secures the rights of this Government, and therefore they are equally sacred. The States have their rights recognized by the Constitution of the United States as clearly and distinctly as that Constitution builds up this Government; and to the same extent, by the same power that sustains this Government, those rights are to be sustained. We cannot, we dare not, trample upon them. It was the abuse of the doctrine of States rights that led to the doctrine of State sovereignty; and it will be another abuse if we run to the other extreme, and say that the States have no rights which cannot be taken away by an act of Congress, or taken away by a compact, and a compact with a Legislature elected upon no such question, elected under a constitution not yet in force, and which would have to vote at a time when they have no constitutional power of any kind. A mere Legislature to make an agreement by which a State for all time is to be deprived of a right that is secured by the Constitution of the United States.

Mr. EDMUNDS. Do you mean to say they have no constitutional power of any kind now?

Mr. MORTON. These Legislatures? I do, sir.

Mr. EDMUNDS. If that be so, how can they agree to the fourteenth article, which is made the ground of their admission?

Mr. MORTON. I can answer that question. If these State governments now have constitutional rights they do not depend upon recognition by this Government. We have put their existence upon the acceptance of the State governments in each State by the Congress of the United States. Will you deny it? Will my friend insist that these State governments have become valid and constitutional without the acceptance of Congress? If he does, he must repudiate the reconstruction acts themselves, which provide expressly that they must first be accepted by the Congress of the United States.

Mr. EDMUNDS. Mr. President, I do not insist on anything of the kind. I was asking my friend how, if these are not constitutional Legislatures, they can agree to the fourteenth article?

Mr. MORTON. I will tell the gentleman just how that is. When Nebraska came in as a State we first authorized by act of Congress her people to meet and form a constitution and State government. She went on and elected Senators of the United States. That election was invalid at the time, but that election was validated by the subsequent acceptance of that State government and receiving her into the Union. And now, when we shall accept these States, receive these State governments, and they come back into full fellowship and power in the Union, that act relates back and covers their ratification of the constitutional amendment.

Mr. CONKLING. The case is stronger, because we have said expressly here by the enabling act that they might do it.

Mr. MORTON. So we have; but that is the history of all the Territories.

Mr. EDMUNDS. My friend will permit me to say that I agree to that; and if that be so, I do not see why, so far as that particular point is concerned, we cannot also validate their act in agreeing to this fundamental condition.

Mr. MORTON. That brings me right back to my friend's argument on Friday last. I asked him the question then whether a State Legislature could make a fundamental condition binding on the people of that State for all time. He said that it could not in regard to a State already in the Union, but that it might be done by the Legislature of a State that was not yet received, but afterward came and continued in the exercise of its rights under the constitution.

Mr. EDMUNDS. That is the line of reasoning you have now adopted.

Mr. MORTON. No, sir; on the contrary I insist that the Legislature of a State—whether the State is as old as New York, as young as Nebraska, or is not yet admitted—has no power to make a fundamental condition any more than a State Legislature has power to make a constitution. What is our theory? That constitutional law is fundamental law, and therefore it is not to be made by State Legislatures, but to be made by the people in their primary capacity, their constitutional conventions, and afterward again to be ratified by the people at the polls. That is the way a constitution is to be made. Now, I should like to ask a question on the other side, as I have had a great many put to me. Suppose the State of Arkansas had put a provision in her constitution to the effect that it should never in any respect be amended, and the people of the present day met at the polls and ratified that, would that be binding on the people ten years hence, or upon the next generation, or one year hence? They have, we will suppose, provided and ratified it solemnly at the polls that the constitution shall never be amended. I say it is not binding on that State for one moment.

They have a right to meet the very next month in constitutional convention and change it, because it is part of the fundamental principles of this Government, declared in the Declaration of Independence, that the people have a right to meet from time to time and alter or amend their constitution or form of

government, and therefore a constitutional convention of to-day cannot bind the people for all time. Why, sir, it has frequently happened that State constitutions have fixed a certain way in which they shall be amended. Some have fixed periods saying they shall not be amended except every ten years or every twenty years. I think in at least a dozen cases these provisions have been disregarded; and in States where they have provided that the constitution shall only be amended in a particular way they have amended it by a general convention; and where they have provided that they should only be amended at certain stated periods, ten years or twenty years, they have been amended at shorter periods, because the great fundamental right is respected that the people have the right to alter and amend their form of government from time to time; and it is not in the power of this generation to take away that right from the next.

Mr. EDMUNDS. That is the right of revolution, otherwise than provided.

Mr. MORTON. I am not speaking of the right of revolution; I am speaking of the way in which the right has been exercised from time to time to amend the constitutions of the several States.

Mr. President, I have said about all I want to say in regard to this matter. I feel some interest in the question from the fact that this legislation would be a blemish upon the legislation of Congress, that it would form a dangerous precedent. I think we have no right to assume that we can take from States by contract rights which belong to them by the Constitution of the United States. It may now be applied to a thing that appeals strongly to all our feelings, as does the right of suffrage to men of all races and of all colors, but it may be equally applied to take from them the right to representation in whole or in part; it may be applied to a hundred things which would disqualify the States in time to come, make them unequal to each other, and be a burden to future generations. Let us preserve the simplicity and the harmony of our Government. The simple theory propounded by the Supreme Court of the United States in the case referred to by the Senator from Maryland is the true one and the just one.

One word in regard to the Nebraska case which has been referred to. I think it does not amount to much of a precedent according to my recollection of the case. The reference back by which the State Legislature was to say that no distinctions of color should be made in the right of suffrage was a mere make-shift at the time. The constitution had been formed; the Legislature had met and elected Senators; the State government was all organized, and the Senators were here and the State was knocking for admission; the constitutional convention had been dissolved, and certain Senators on this floor—I believe eight or nine, according to my recollection—declared that the State should not come in without a provision that suffrage should be equal to all without distinction of race or color, and it was found that they were determined, and the bill could not be carried over the President's veto without their votes, and, therefore, it was fixed up to avoid the necessity of calling another constitutional convention and have all this thing over. It was fixed up as a sort of greased board to slide down on, [laughter,] that we should put that in the act of admission and the Legislature should ratify it, and, therefore, the thing be fixed up so that Nebraska could come in without division in the Republican party. That is my understanding of that case. I was not here, but I understand that to be the fact.

Mr. EDMUNDS. If the Senator states that to be the fact, I want to dissent now, because I acted on an entirely different principle for one.

Mr. HENDRICKS. That was about my understanding of it.

Mr. MORTON. That was my understanding.

Mr. CONKLING. It was pretty thoroughly the understanding in both Houses at the time.

Mr. FOWLER. Mr. President, the bill for the readmission of Arkansas to the Union is now before the Senate. I desire, before recording my vote upon this singular measure, to explain briefly my reasons for it.

The State of Arkansas was by a solemn act of Congress, in the year 1836, made one of the United States.

From this position she could not recede save by conquest of a foreign Power, by a successful revolution, or by the decree of the whole people of all the States. She could never again by act of her own or by act of Congress become a province or a territory.

I will not attempt now to pursue a theme barren of practical results, but direct my attention to the real issue before my mind.

Seven years ago this State, in connection with ten other States, made an effort to withdraw from the Union and establish a confederacy of their own, founded upon what they called the divinity of slavery.

It was an institution that made its appearance in America in the very dawn of the earliest settlements. It took deep root in the affections and interests of the people. It grew with their growth and multiplied as they did. Its years and sins only augmented its power and its evils. It became the sole idol of the church. Before it the politician bowed in humble submission to its power. It became the sole agent of the planter and the trader. It was their present support and future hope. It was the element of their pride and the nurse of their self-respect. They defended it with an instinctive ferocity unknown in history.

This outgrowth of passion and selfishness increased from the food on which it fed until it became a monster that filled the whole land. Ambition, pride, rage, war, and ruin have followed in its pathway. Reason, prudence, wisdom, and moderation had no place within the limits of its power, or even within the atmosphere of its vain pretensions.

It was no visionary theorist. It placed no reliance on the unseen and unfelt power of thought to accomplish results. The all-pervading and insensate power of charity and love of humanity was to it the dreamer's visions. It trusted not to the ideal nor the insensate. It was practical, aggressive, positive, material, real physical force. It trusted to no Davids with pebbles, sling, and faith. It relied on Goliaths armed with iron mail and swords like a weaver's beam.

Like all selfishness, it nursed the passions that culminated in the unfortunate revolution that prostrated the adored idol forever. Out of its ruins the nation has sought to evoke a new and higher civilization inspired from higher principles and nobler motives. Instead of selfishness and power for its foundations, liberty, equality, and love are its fountains of life. Instead of physical force, faith is its defense. It relies not on Congresses, armies, nor Presidents, but on a heroic and generous people in defiance of the blighting influences of slavery, and on those causes which a wise and ever wakeful Providence is directing to the accomplishment of good results.

Before the close of the rebellion the loyal people of Arkansas hastened to place themselves in their former relations with the Union. They were prompt to renounce the cause of all their woes, and to establish a State government that should prove acceptable to the nation. In this they did not succeed.

At the close of the second session of the Thirty-Ninth Congress the military bill for "the more efficient government of the rebel States" was passed. This bill received my vote, not because it met my approbation, but because it proposed some plan, some possible opportunity for the restoration of law and order to these States. I do not desire to shrink from any part of the responsibility of these measures, nor to wear any portion of the laurels that may be won from their success.

When this measure was first proposed it was a pure military measure for the government of the States then without representation in Con-

gress. It was the naked sword of power suspended by a fragile thread over the heads of these devoted States. It was cold and cheerless as the eternal ice-fields of Arctic regions. It had not a single warm ray of light or love to commend it to humanity. It was the very abstraction of unalloyed power. It commanded obedience and unsheathed the sword. That it would have been efficient no one will doubt unless from that resistance, the sympathies of man with man, that will be found in every being not wholly divine or demon.

Before its passage it was amended by uniting with this cold expression of power some human warmth and promise. The BLAINE amendment from the House and the military bill were put through the crucible of a caucus committee, and the present bill, with the variations of the caucus itself, gave it its redeeming character, the principle of impartial suffrage, and it became the law of the land March 2, 1867. The spirit that conceived and embodied in that act the appellation "rebel States" was neither Christian nor American. While some of the people were rebels the State never. The good name of every State is a part of the pride of every patriot. This appellation is given to the State to endure through all time. Those that deserved it were the creatures of the moment; they were here to-day and gone to-morrow. To apply this epithet to the States is unworthy the dignity of statesmen or patriots. While I do not desire to reflect on the action of Congress or the part taken in that matter by any person, I desire to record now my opinion of it, although it may condemn my own action in the matter.

The three following sessions of the Fortieth Congress each passed a supplemental bill for the purpose of carrying into effect, at the earliest period, the desired object. The most prompt and decided efforts were put forth by the people in all these States to meet the demands made by Congress upon them. All the conditions but one have been complied with. They have not yet ratified the amendment of the Constitution known as the fourteenth article.

That they will do so at an early period is manifest. Virtually all the conditions have been fulfilled by a determined act of the people.

Why then delay to comply with the promise held out to them? Why break the faith of the nation? Why postpone this measure until these States feel the sting of disgrace? Why delay this duty until its discharge becomes more odious than open prompt rejection? What good can result either to the State or the nation? What profit or statesmanship in distrust, suspicion, in calculations of party advantage or mere political results?

Why again seek to impose new conditions? What good can result from imposing new burdens? Have they not actually done the very thing demanded to be made a perpetual covenant by the amendment of the Senator from Missouri? Is it not enough that these people have made a constitution embodying all that the amendment asks? Will it be any better to call it a compact? On the part of Congress it is a legislative enactment and nothing more. On the part of the State in accepting it it is a legislative enactment and nothing more. A subsequent Congress can repeal the act. A subsequent Legislature can do the same. Neither Congress nor any State Legislature have any warrant from the people to make any such perpetual covenant that shall bind the people from generation to generation. If the Legislature of Arkansas should ratify the condition it would last just as long as the people there might choose to retain it on their statute-books and observe it, and not one hour more. The action of the Legislature would be entitled to no respect, and it would receive none. The whole is unauthorized and unreasonable. If adopted it cannot fail to become mischievous.

What is the object of this perpetual condition that they shall never abridge the right of franchise or change it as announced in their



constitution? Does not the fourteenth article concede to the State the right and power over the qualification? Is it proposed now, in the face of that article, to bind a State by a perpetual condition never to alter, abridge, or change, or enjoy the privilege of that constitutional amendment?

What is the end? To secure the citizen in the enjoyment of equal rights and privileges? They have that already or the classes sought to be profited by the amendment. Is not a public opinion that gave a constitutional guarantee of these rights a better security than an act of Congress made by the representatives of States that neither now sanction the principle nor would be at this time induced to accept it themselves? Is not the public opinion of Arkansas quite as good a guarantee for the preservation of this principle as that of Missouri or Ohio? Is it not rather presumptuous for such States to be dictating conditions to Arkansas? Who commissioned them to bind burdens and lay them on other people's backs, which they will not touch with their own little fingers? Who authorized them to pick the motes out of other people's eyes, while their own are filled with great beams? Who sent forth these physicians all sick unto death, to heal the sound and healthy?

The admission of the Senators and Representatives from these States is a solemn duty imposed not only by the Constitution, but by solemn promise. Why not fulfill it? The first reason assigned by some is the irregularity and frauds in the election by which the constitution was adopted and the State officers were chosen.

To this I would reply, How can you hope under the present system of government to have one conducted in a more honest way? How can you hope by future elections to correct these irregularities? I see no prospect of obtaining a fairer expression under the present machinery.

The constitution is said to be anti-republican in some of its features.

It is not perfect; far from it. What work of human hands is? I would have had it more liberal in some respects, but it is not my will, but that of the convention that framed it and those who adopted it. They are satisfied with it. If not, it is their province to altar and amend it to conform to their desires and wants. A few months or years will demonstrate its imperfections and point out to the people the changes that should be made.

There is a great unwritten law that molds and modifies all written constitutions. It is that ever active and all-pervading spirit that moves the national mind and heart. Under its authoritative influences old frames of government are put off and new put on like flowers that give way to the coming fruit.

It has been significantly asked who are these States to send here? May they not be traitors as they have been before? I think I can answer the first, if not the second. They will send just such men as the people choose to select. The people have not all the virtues in the world, nor all the vices known to humanity. They are in many respects like their neighbors. Their virtues quite as high, their frailties quite as many and as great. I have some knowledge of them, have lived among them, and can trust to their entire competency to control their own interests and select the men who can express their wishes. They are American citizens. They know no superiority. They ask no privileges and dictate no advantages. They ask the rights and acknowledged equality that is the common inheritance of every man that claims the protection of the flag. He is a bold man, indeed, that presumes to call in question their capacity, their integrity, or their rights. Who will they send here? Men who will be the peers of the proudest, who will claim to be neither the highest nor the humblest, but the equals of each and all. The second question is not quite so easily answered. Who will pretend to foretell what he may himself become? I shall receive them openly, joyfully, and trust with fondest hope to their fidelity to the cause of

universal liberty and devoted attachment to the principles of the American Government. If in them there be not inherent loveliness sufficient to command the respect and adoration of men, then I shall tremble for the perpetuity of my country. The generous and enlightened patriot who has faith in American institutions as a grain of mustard seed cannot distrust his fellow-citizens who have shown equal devotion and made equal sacrifices with himself. Generous confidence is less likely to be betrayed than mean suspicion.

The admission of the Senators and Representatives from Arkansas is not the admission of a new State into the Union in any sense whatever; but I will not dwell on this question.

The Constitution gives to Congress the right to admit new States. When these States are admitted they have just such rights and are subject to such limitations as the Constitution grants. Congress has no power to change or abridge in any manner the relations of a State to the Union. They can make no treaty, compact, or ordinance not common to all the States, and none that has any more force, or that is of any higher or more enduring obligation than a law of Congress.

If Congress should impose a condition on a conquered territory it could not be of any force after its admission to the Union. The admission of a new State by Congress is not a compact or of the nature of a compact. The Government is a national Government ordained by the people. When a new State asks admission it is the adoption of the national Government by the people of the State as their own whereby they become a unit of the nation. They assume all the obligations and become subject to the same limitations that other States are. These and no more. The Constitution then becomes the sole guide to their rights and their duties. This subject has been too long the theme of debate to justify a continued repetition here.

I may be pardoned for a remark relative to the fourteenth article and the constitution of Arkansas. There are five sections in what is known as the fourteenth article of the Constitution, and but one of these, and that the first, that can survive the criticism of the future. It is the only one that has arisen from the sentiments of benevolence and faith in humanity. All the others are so many monuments of fear, distrust, and selfishness. I may say of the second that it was dictated by prudence; but not from a generous devotion to the principles of eternal justice to all men. The rest can scarcely claim the respect of exalted statesmanship, and will never gain it. They are the mere expression of passions aroused by the disjointed time that called them forth. The first is as distinct in spirit from the rest as heaven is from earth. It is the brightest jewel in the casket of its author's treasures. It is a generous, manly expression of the love of a great soul lifted above the storms of passion, prejudice, and petty distrust.

I would have been more pleased with the constitution of Arkansas if the framers had placed in it no monuments to perpetuate the unhappy animosities that arose out of a sad and wasting war, and which now mar the peace and quiet of the nation. Prudence, indeed, dictates some restraints upon the unfaithful and vicious, some barriers against the discontented and disaffected, who, having failed in their revolution, still seek to thwart the advent of a new and better era to the State. Prudence also dictates that as few restraints on the full enjoyment of civil rights as is compatible with the safety of the citizen, can be incorporated into the constitution of a State. Bitter social and political animosities are not to be reconciled by constitutional enactments and laws to perpetuate and keep them in constant activity. After all, the intellect, the virtue, and charity of the community must rule. For a day passion may hush the voice of reason, but that day will have its end. Time and the good genius of humanity will soon triumph over our weaknesses and consign them to their merited

oblivion. I do not envy the man that legislates from passion, prejudice, or self-interest. Happy is the State whose law-givers trust to the divinity of truth, and rely on justice and generous forbearance.

This was, however, the work of the people of Arkansas. It was their right to do as they thought would best promote their own happiness and interest; and I am satisfied. They have accomplished their object by great labor under great disadvantages. They have wrested their victory from their opponents without aid from either the acts of Congress or from other sources. I am unwilling longer to delay the admission of their Senators and Representatives to their places. In my judgment it should be done by a simple resolution, not claiming their admission as a new State, but declaring the restoration of the former relations of the State to the General Government. I shall, however, vote for the admission of the members under any bill that may be proposed; at the same time I shall spurn all conditions that may seem to reflect upon the State, and all invidious distinctions and limitations. I shall do this because I consider them violative of good faith and the constitutional rights of the States.

Mr. HOWE. Mr. President—

Mr. SUMNER. Let us have an adjournment.

Mr. HOWE. No; the Senate will not agree to it. I know the Senate want to vote, and I am not going to prevent them from voting but a very short time. I hope they will indulge me in saying a few words upon this question, for it happens to be one upon which I have had fixed convictions for a great many years. I once took occasion to express those convictions to the Senate at great length. I shall not repeat them now. From that time up to this I have scarcely said a word on the subject of what we call reconstruction. Under laws which have been adopted from time to time, the work has gone on, and now the people of Arkansas come here and ask to have committed to them the prerogatives of a State. I feel it due to truth to declare here that I have never believed the policy pursued by Congress was dictated by the truest or the highest wisdom. I am here now to say that I have not the most unlimited confidence in the result which you have produced in this one community. But Arkansas is here "the first fruits of them that slept;" and in reference to the propriety of now committing to that people the great prerogatives which, under the Constitution of the United States belong to a State, I have two or three words to say.

The first is to express the opinion that there are not ten men in this Senate who believe it is a safe thing to do at this time. The Senator from Massachusetts [Mr. WILSON] appealed to us on Saturday almost in passionate terms to do it whether or no; the Senator from Illinois, [Mr. TRUMBULL], a few days earlier, made a similar appeal; and what was the ground of it? That these people were dying for the want of these prerogatives, of this new character, of this rehabilitation; that their lives were not safe and that their property was not protected. I believe those Senators were right. Why are they not protected? Because of these two facts: first, when the Legislature of the United States undertook to deal with this question at all, they found civil governments down there manufactured by the President; you took a long time to examine them, to inspect the material out of which they were made, and you came to the conclusion that under those governments life and property were not safe and would not be safe, and thereupon you undertook to say that they should not possess the prerogatives of States; you declared them to be provisional governments only, and you subjected them by an act of the national Legislature to military control; so that from that time to this there has been the most complex machine running down there that I think was ever set up in this world and employed in the work of human government—civil tribunals supervised by military agents. If property and life have not been

protected under those governments, as I believe is the fact, I do not think any one of us ought to be very much disappointed: it is not in the nature of such a government to enforce justice between man and man, and as I have just remarked property and life are not safe.

But the reason why you discarded the governments which were built by the President was because they did not furnish protection to life and property. The reason why the Senator from Massachusetts and the Senator from Illinois appeal to us so vehemently now to discard those governments is the same; I admit the force of it, and I want to discover those governments' laws. But to commit those people to the government of what we call a State irrevocably seems to me a procedure fraught with quite as much danger as threatened that people and as has fallen upon that people by the employment of these other contrivances.

It is said, sir, that the government organized for Arkansas to-day is distinguished from that which the President made in 1865 in this radical particular, that the governments he made were animated by a spirit of hostility to the national authority, and represented a hostile population; whereas it is said that this government recently created for the people of Arkansas is made of loyal material, material friendly to the national authority, and represents a people which is friendly to the national authority. I guess the distinction is rightly taken. I believe such to have been the character of that first government, and I believe such to be the character of this government which claims recognition now.

But that is not the only question for us to determine. It would be very insane to send a grand old ship to sea simply because you had found a loyal crew to put on her decks if you did not know that they had the capacity to sail the ship, let the winds blow as they would. And I wish the Senate to answer the question to themselves whether they are entirely satisfied that this loyal constituency, which seems to-day to have taken the lead in the fashioning of this government, is a constituency combining those numbers and that intelligence and that influence which will enable them to maintain this government in loyal hands; I do not say in Republican or Democratic hands, or in the hands of any political party, but will maintain it in its allegiance to the national authority, maintain it in hands friendly to the national authority, and, more than that, will maintain it in hands which are friendly to that cause which we have professed to have so much at heart, the cause of equal justice and equal political rights between man and man; because if that is not the fact, what is the use of all the labor we have gone through?

Well, sir, what are the evidences upon that point? This constitution, this framework of government was submitted to a vote of the people of Arkansas, the people being defined in this very constitution, and I am told to-day that there was a majority of thirteen hundred only given for the adoption of the constitution. That, I believe, is the most that is claimed by the Senator from Massachusetts, [Mr. WILSON.] That, I believe, is all that is claimed by the Senator from Illinois, [Mr. TRUMBULL.] On the other hand, I believe it is vehemently denied that there was any thirteen hundred majority, or any majority at all given for this constitution. Suppose there were such a majority, is it safe to commit this government to the hands of that population upon that small margin? For myself, sir, I have not been able to believe that it was prudent either to the national interest or to any portion of the people in Arkansas, that this should be done. That is but a very small number to be charged with the protection and security of that great machine which we know as an American State.

Is there, then, any way of avoiding this necessity, and yet of relieving this people from the burdens and grievances which it is said they suffer under the existing Government? I think there is; and I cannot pass this point without calling the attention of the Senate to

the interpretation which has been placed upon the act of admission throughout this debate. After years of toil and struggle, you have enabled the people of Arkansas to produce here a constitution which, having been inspected, you say is satisfactory; and upon that constitution Senators say they are willing to admit the State. But what significance do they give to the act of admission? It has been advertised from the beginning to the end of this debate that by the act of admission you clothe that very people with the power to transform, to transfigure that constitution next week, or next month, or whenever they please, and make it as unlike that as it is possible for two constitutions to be; and it is assented to to-day, upon the claim of its friends, by only a majority of thirteen hundred. I am sorry to hear this doctrine asserted in the American Senate; and yet it has been asserted, not on one side of this Chamber alone, but upon both, and from the mouths of able lawyers on both sides of this Chamber, and upon the motion of the honorable Senator from Connecticut, [Mr. FESSAY,] I believe, the Senate came within one vote of declaring that doctrine in the face of the bill which is now on your table, sir.

I am bound to say, in passing—I do not propose to argue the question—that the argument which has been made here as to the effect of the admission of a State is not satisfactory to me. I do not believe that the Constitution of the United States clothes the national Legislature with discretionary power to look into the organic law of a people proposing to be a State, and inspect it carefully and critically, and pass upon it on the question whether it is a safe constitution for the people of an American State or not, and that then they necessarily remit to that people the power to utterly abrogate that Constitution and put something in the place of it radically contradicting every feature of it. I do not believe that is the true interpretation of the American Constitution; but I am not going to argue that question. I know how impatient the Senate is for a vote. That, however, is what the Senate almost declares to be the true interpretation of the American Constitution; and yet, advised that there are a voting majority of thirteen hundred that have assented to this constitution as it stands, and advised that there are those who deny that there was one hundred or one majority—nay, advised that there are those who assert that there were hundreds of a majority the other way at that very election, hundreds that did not assent to this Constitution, but who protested against it—I am not settling the question of fact; I do not know how it is; this is the way it is presented to us; these are the rival claims; and yet, sir, we are told we must commit this perilous power to this people and trust to their disposition.

Well, sir, I am bound to say with all candor, that, dangerous as I think the experiment is, I shall make it; I shall vote to make it rather than consent to leave these communities under the governments now existing within them. I have never liked those governments from the beginning, and I do not like them much better to-day than I did in the beginning; and yet I must, in justice to them, say that I think they have discharged the very delicate duty imposed upon them better than we had a right to expect, and better than, for one, I did expect; but I yet am not so much in love with them as that I would not prefer to trust these people to themselves with this constitution they present here if such was the only alternative; but I think it is not the only alternative; and I propose to close my remarks by submitting a motion, not in the hope of securing for it the assent of the Senate, but a motion which will at least express my own view of the way to meet the exigency—a motion to recommit this bill to the Committee on the Judiciary, with instructions to report a bill which shall adopt the constitution recently framed by the people of Arkansas as the organic act of a provisional government, and to report a bill which shall

enable the government already elected down there to assume the functions of governing this people provisionally, and which shall admit to the Senate and the House the Representatives of this people upon the footing of Delegates. That is the motion I shall submit.

This is novel; the like of it never was known before in the course of our legislation. Mr. President, it is rather too late in the history of our legislation for the American Congress to turn pale at a novelty. We ought to be familiar with novelties already. But, Mr. President, let me say, as a lawyer—no; I have heard so much of the law lately, that I dare not put on any such character, [laughter,] let me say, as a representative, not as a lawyer, but as a man whose understanding has not been sharpened nor enlarged either by the study of the law, [laughter,] that there is not a principle in these instructions that you have not recognized over and over again.

Of course these instructions deny to that people the character of a State. We have denied that all along. It then adopts the organic act for the government of this people. You have had an organic act for them all along. You always framed an organic act for the government of every people who are outside of a State. When they come into a State you allow the people to frame the organic act for themselves. All the difference there is between my proposition, so far as that is concerned, and what you have done over and over again, is this: that you take, ready made, the organic act; it is an organic act on which the people have been consulted and to which they have assented. It is none the worse for the fact that the people of Arkansas have assented to it. That does not make it any the worse nor any the less valid; but it will derive its authority, not from the fact that they have assented, but from the fact that Congress assents to it, and declares it to be the organic law for the government of this people in lieu of your reconstruction acts heretofore assented to.

Then, Mr. President, these instructions ask the committee to report a bill which shall enable that government selected by the people to take upon themselves the duty of discharging the functions prescribed in this organic act. There is no difficulty in principle about that. If you could make those tribunals built by the President in 1865, rebel as they were, do the work of civil government, and do it in subordination to the authority of the United States, simply by calling them provisional governments, you may make these tribunals do the same work, may you not? If you could employ your major generals and your brigadiers in the work of exercising civil control down there, you may take these very tribunals which have been selected by the people and charge them with the same duty, may you not?

There is one step further. I propose to instruct the committee to report a bill which shall admit to the floor of the Senate and of the House of Representatives the representatives of these people, not as Senators and Representatives in Congress, but as Delegates, having a voice here but not having a vote; here to consult with us, here to advise, here to express their views in reference to their own local interests, but for the present without a vote; differing from the representation you have always provided for Territories in this respect: you have only provided for a representation in one House, and here you provide for a representation in both Houses. The authority which does one can do the other. It differs from that representation in another respect: there you have uniformly confined the representation to one individual, and here you will give a representation equal to the population in one House and equal to any State of the Union in the other House. The principle I do submit is precisely the same. The authority which can do one can do the other.

If there is no difficulty in principle—and I cannot stop to dwell on these points, I am under contract to occupy only a few minutes—then what advantages will you gain by this? I

do not understand that we can admit to the right to vote in Congress anybody but Representatives and Senators. We never have given, I think, to the representative of any Territory the right to vote.

Mr. FRELINGHUYSEN. We never have had any in the Senate.

Mr. HOWE. But I take it in whatever House they sit, they would sit clothed with the same character, the same power. Now, Mr. President, if there is no difficulty in principle, what are the advantages you are to secure by this?

First, this advantage would be secured to the people of Arkansas, that they would have the work of civil government committed to the very tribunals, the very men they have selected themselves for that purpose, with just as much authority as they propose to give them in their constitution. Every authority which in that constitution is delegated to any one of those tribunals they would have under this proposition of mine. They would choose their Legislature, and the Legislature would make the laws; they would choose their Governors, and the Governors would perform precisely the duties in reference to that local government they would if the constitution was ratified as the constitution of a State, doing all this by the assent of the Congress of the United States; and the laws would be administered and justice would be measured out between man and man by the tribunals of their own selection. That is the first advantage.

If that constitution, or the government created under that constitution, can protect life and property, and liberty, if it be once recognized as a State, it can do it when the same authority is committed to them provisionally. There would be just two restrictions upon their power: first, they could not appoint Senators and Representatives in Congress as they could if admitted as a State; and second, they could not pass a law which would operate injuriously upon the national interest, or a law which would operate oppressively on one class of the people or another without giving to Congress the power to interpose by its veto, and prevent that law from going into effect.

This would be the advantage which the people of Arkansas would derive—every conceivable advantage which they hope to obtain from admission into the Union. On the other hand, what advantage should we derive? This: we should have Representatives chosen by that people here in both of these Houses, with whom we could confer, from whom we could hear, to whose advice we could listen; and, Mr. President, I think you know and will concede that that has been a *desideratum* for years. Since we have undertaken to exercise civil control down there we have felt the want of just such accredited agents here, with whom we might confer and from whom we might receive advice. That we should get; and we should get thus every single advantage that we could get from admitting them into the Union, except the advantage of their votes. I am sorry to do without the votes of the Representatives of Arkansas, but those votes are not a necessity to the nation. I believe those votes are Republican. So I understand. That is the kind of vote I like, let it come from what quarter of the Union it will; but we are not dying for the want of Republican votes just at this present speaking. We are getting along pretty well with what we have; at least our side of the House is, and I take it our friends on the other side will not insist upon our taking in any more immediately.

Mr. President, perhaps this proposition of mine does not strike any single man here as so good as some he could present himself. I am quite satisfied that the Senator from Illinois [Mr. TRUMBULL] believes his own proposition is the best; and yet I do not understand what advantage he claims from his proposition, which is the proposition to admit nakedly just as they stand this people to the full prerogatives of a State. I only propose to continue this

until the fourteenth article of amendment is made a part of the Constitution, because when that is made part of the Constitution, then the national authority will be to an extent to which it is not now adequate to the protection of every class of the people in these communities.

The Senator from Pennsylvania who spoke to us the other day [Mr. BUCKALEW] would like his theory better than this. His theory is to wipe out these provisional governments, which were made by your reconstruction acts a year ago, and recognize the governments created by the President in 1865 as the governments of these States. I think the Senator from Pennsylvania does not expect to secure the assent of the Senate to that proposition, and this is certainly better, or ought to be deemed better, I think, in the judgment of the Senator from Pennsylvania, and, I should think, more satisfactory to my friend, the Senator from Kentucky, [Mr. McCREERY,] than to let these provisional governments, which have been operating for the last year and a half, still remain, and better in his view of the subject than to commit to this people the full prerogatives of a State at once.

One other advantage we gain, and that is if experience should demonstrate that the crew which you have now mustered on the deck of this young ship is not able to sail her, you could without difficulty change the crew; you could repair the mistake; you could remedy the difficulty.

Now, Mr. President, if I have made my proposition intelligible, I have succeeded in exposing to the Senate just the difficulties I have in the way of giving a hearty support to this act of admission; and I shall conclude by submitting my motion to the Senate and asking a vote upon it, and then I shall stand the consequences with as much fortitude as I can.

The PRESIDENT *pro tempore*. The motion will be reported.

The CHIEF CLERK. It is moved that the bill be recommended to the Committee on the Judiciary, "with instructions to report a bill adopting the constitution framed by the convention in Arkansas, with such amendments as may be necessary for the organic act of Arkansas, and enabling the government recently chosen for that State to discharge provisionally the several duties prescribed by such organic act, and to admit the Senators and Representatives to Congress upon the footing of delegates until the fourteenth article shall be ratified and become a part of the Constitution of the United States, or until Congress shall otherwise order."

Mr. YATES. Mr. President, I had intended to speak upon this bill, but I have made up my mind to defer speaking until some other occasion when it will be quite as pertinent as it is now to discuss the subject of suffrage and the power of Congress over the question of suffrage. I rise now simply to make a remark or two upon the question of the power to impose the fundamental condition which has come to us in the bill of the House of Representatives, and I promise to detain the Senate not over five minutes.

I wish to say upon that point that I understand various Senators, the Senator from New York, [Mr. CONKLING,] my colleague, [Mr. TRUMBULL,] the Senator from Indiana, [Mr. MORTON,] the Senator from Connecticut, [Mr. FERRY,] to contend, as I admit, that the States have primarily the power as to suffrage to decide who shall vote, subject, however, to the proposition that Congress has the power to decide whether the constitution is republican in form. I have stated the gentlemen fairly. I have their remarks, which I shall read from hereafter.

The question, then, is who is to decide whether a government is republican in form? You answer Congress. All those gentlemen have answered that Congress is to decide whether the Government is republican in form. Then, sir, I understand the proposition to be that the States have exclusive power over the question of suffrage, with the exception that

Congress may intervene when the constitution of a State government is not republican in form. When the question arises whether a constitution is republican in form, who decides it? Congress. May not Congress say that no constitution is republican in form which excludes any large class of the people from voting? Then, sir, where is the power? The revisory power is in Congress, is it not? And may not Congress exercise that power by imposing a condition in the first instance, or by declaring the constitution of any State which does exclude a large portion of its population from the right of suffrage to be null and void?

Take an illustration; it is a supposable case: suppose the colored people in the State of South Carolina, having a majority, should, by their constitution or by their legislative enactments, undertake to exclude from the polls the white people, to deny them the right of suffrage, would not that be a case in which Congress would have the right to intervene? Then, suppose the white people of New York should exclude a large class of colored citizens from the right to vote, could not Congress intervene under the altered state of the Constitution, slavery being abolished, every man, without regard to color, being the equal of every other man, entitled to the same rights? That being so, I say New York would have the same right to exclude from the polls the Senator from New York that she would have to exclude Frederick Douglass—precisely the same right under the Constitution as amended.

Here is a test of whether a government is republican in form, the crucial test, equality of rights. That is the basis of all republican governments; and if the constitution of any State or the laws of any State interfere with the equal rights of the citizen, its government is not republican in form. Who decides it? The State or Congress? You say the time has not come. Time always exists; it is always at hand. If New York excludes any portion of her citizens who bear arms and pay taxes, or whether they bear arms and are taxed or not, if she excludes any large class of her citizens from the right of suffrage, hers is not, according to our republican theory, a government republican in form. Congress, not the States, decide that question. There is an exception to the power and the authority of the States.

But, sir, I intend to argue this question fully hereafter; I now merely throw out these ideas. I am for this condition, and I would not give a snap for the bill without this condition. If it be admitted that the people in Arkansas have the right at the first election to decide whether they will change this constitution, I apprehend they will change it. The rebel leaders have the power there; they own the lands; they have the money; they have the disposition to do it, by fraud, by force, by murder, by assassination, by bribery, by starvation, by intimidation and threats; and, holding out the hope of reward, they will come up with a majority on their side instead of there being thirteen hundred majority on ours. I want this fundamental condition to be a part of the law upon which the State is admitted. Then she is bound by it. Congress has the power to impose this condition either in the formation of the State or in the recognition of it after it is formed.

I deemed it important that I should say this much to justify my vote in favor of the bill as it came from the House of Representatives, or some similar bill.

Mr. DOOLITTLE. I desire to say but one word.

Mr. BUCKALEW. If the Senator will allow me, I will make a motion to adjourn.

Mr. DOOLITTLE. No; I do not ask the Senate to adjourn.

Mr. BUCKALEW. I agreed to wait here until six o'clock. It is getting past that, and there seems to be no prospect of getting a vote.

Mr. TRUMBULL. I think we shall get the vote now in a very few minutes.

Mr. DOOLITTLE. I do not propose to occupy more than five minutes, and I do not



ask the Senate to adjourn on my account. I am willing that the Senate should dispose of the bill this evening. I simply desire to say that my honorable friend from Illinois, [Mr. TRUMBULL,] as it seems to me, did not meet the points which I made in my argument on Saturday: first, that the constitution which is sought to be recognized establishes a test by an oath which is to be administered to every man that goes to the polls to vote in Arkansas, which disfranchises a majority of the American people even in the free States. If they were to go to Arkansas they could not vote at all. Why, sir, the honorable Senator himself could not vote in Arkansas if he believes now as he did a few years ago, because a few years ago on the floor of the Senate he declared:

"I know that there is a distinction between the two races, because the Almighty himself has marked it upon their very faces, and, in my judgment, man cannot, by legislation or otherwise, produce a perfect equality between those races so that they will live happily together."

Why, sir, Thomas Jefferson would be disfranchised in Arkansas under this constitution. He said:

"Nothing is more certainly written in the book of fate than that these people [the negroes] are to be free. Nor is it less certain that the two races equally free cannot live in the same Government. Nature, habit, opinion have drawn indelible lines of distinction between them."

My honorable friend [Mr. TRUMBULL] also, in language equally strong, on another occasion said:

"There is a distinction between the white and black races made by Omnipotence himself. I do not believe these two races can live happily and pleasantly together and enjoy equal rights without one domineering over the other."

Mr. TRUMBULL. The Senator need not understand me as having changed that opinion. I think the misfortune to-day is that the two races are together. I do not believe they will live as happily and pleasantly together as if they were one. That is no reason, however, why we should not allow them rights as freemen.

Mr. POMEROY rose.

Mr. DOOLITTLE. I shall come to my honorable friend from Kansas in a few minutes, if he will allow me. I have got something here that will suit his case exactly.

Mr. POMEROY. The man who talks about the division of races among American citizens is in the gall of bitterness and under the bonds of iniquity.

Mr. DOOLITTLE. The man who does not open his eyes to see the difference between a white man and a negro or an Indian is blind. In their physical natures, in their moral natures, their intellectual natures, there is a distinction stamped by the Almighty himself, and the Congress of the United States cannot repeal the law He has made. I do not hesitate to say it. Now, Mr. President, I am not entering into a discussion of that question, whether the opinion be right or wrong. What I say is this: a majority of all the male citizens of the States of New York, Ohio, Kansas—my honorable friend will not forget that—New Jersey, Michigan, and all the States that have had any votes on this question, believe, whether right or wrong in their belief, that there is a distinction between these two races which should forbid their being placed upon a footing of political equality; and this constitution of Arkansas puts it to every man when he approaches the polls, that he must swear upon his oath that he accepts this political equality and will forever act upon it, and never undertake to recognize the distinction between the two races at all. My honorable friend from Illinois did not answer that point.

Now, I come to the other point; and here I am coming to my honorable friend from Kansas. It is a good thing to have a good memory sometimes, and sometimes it is very inconvenient. My honorable friend from Kansas, when the Senator from Massachusetts [Mr. SUMNER] moved this fundamental condition on the bill for the recognition of the State of Louisiana, certainly has not forgotten what

he said on that occasion. What did he say? He was a State-rights man then. He believed in the right of a State to fix the qualifications of its own voters, and that you had no right or constitutional power to impose upon these States these fundamental conditions. He said on precisely such an amendment as this, for it originated with the Senator from Massachusetts:

"Mr. President, I am opposed to this amendment. I usually vote for everything that the Senator from Massachusetts brings forward on the anti-slavery question, but I am opposed to this amendment in the first place because I do not suppose we have a right to say what shall be the qualifications of voters in any State of the Union. The people of my own State are supposed to be loyal."

Of course they are.

"They are as radical as the citizens of Massachusetts, but they are not loyal enough to allow Congress to dictate to them what kind of qualifications for voting they shall have."

This is the speech of my honorable friend from Kansas fresh from the fields of young Kansas, glorious in her own strength. ["Bleeding Kansas."] Yes, from "bleeding Kansas."

"For one, sir, I am for leaving this question of suffrage to the citizens of the States, and I claim it is their right to admit whoever they choose to the ballot box. I am not loyal enough myself to allow my own rights as a citizen of a State to be trampled upon in that way. I would not be dictated to as a citizen of a sovereign State by Congress or any other power as to what kind of citizens of my State should be allowed to vote. If they choose to let all the citizens, including the women, vote, it is not a matter for Congress to interfere with."

That was the talk of the Senator representing the young State of Kansas, standing up for the rights of the State which the Constitution guarantees, and first of all, and essential to the republican form of government, is the right of the State to fix for itself the qualifications of its voters. But, as I promised that I would not take more than five minutes, I now conclude. Those two points are to me unanswerable.

Mr. POMEROY. I reply in a single word that that is the theory and doctrine of the loyal Republican party to-day, that in States which have not been in rebellion the right of suffrage shall be regulated by the States, and in regard to States which have forfeited all their rights by rebellion Congress may dictate to them the terms upon which they shall be received.

Mr. TRUMBULL. That is the Chicago platform.

Mr. POMEROY. As my friend says, that is precisely the Chicago platform.

Mr. DOOLITTLE. This was Louisiana my friend was talking about.

Mr. POMEROY. I was going to say that when I am for the passage of a bill, as I am for this, I would not vote to put on it the Ten Commandments. I do not care how good a measure is, if I am for the passage of a bill as it comes from the House of Representatives I say distinctly I will vote down all amendments, and that was the ground on which I acted then. I would not vote for any amendment on that bill because I was for passing it, as I am for passing this, as it came from the House of Representatives. I say now in regard to my own State and in regard to all the loyal States that I believe they should regulate the suffrage, subject to such provisions as may be in the national Constitution either now or when the fourteenth article is adopted. But as to States that have forfeited their rights by rebellion you may impose what conditions you please.

Mr. DOOLITTLE. A single word in reply. My honorable friend has fallen into two mistakes. The first is, that the bill in relation to Louisiana did not originate in the other House at all. It came from our Committee on the Judiciary, of which the honorable Senator from Illinois was chairman; and it was when that was pending that the Senator from Massachusetts moved this fundamental condition as a distinct proposition to the original bill as an amendment. That is the first mistake. The second mistake is, that my honorable friend from Kansas did not oppose it for any such

reason at all. He opposed it for the simple, naked truth, which he believed in then just as I believe in it now, and the argument he made then I repeat now; it was unanswerable then, and is now, to wit: that it belongs to each State for itself to fix the qualifications of its voters, and all attempts by Congress to break down that right by a State are unconstitutional.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Wisconsin, [Mr. HOWE,] recommending the bill to the Committee on the Judiciary, with the instructions moved by him.

The motion was not agreed to.

Mr. FRELINGHUYSEN. I move to amend the amendment of the Senator from Missouri, [Mr. DRAKE,] by striking out all after the word "taxed," and I ask the Secretary to report it to the Senate.

The PRESIDENT *pro tempore*. The amendment and the amendment to the amendment will be reported.

The CHIEF CLERK. The amendment of the Senator from Missouri is to strike out all of the bill after the word "condition," and to insert in lieu thereof the following:

That there shall never be in said State any denial or abridgment of the elective franchise, or of any other right to any person by reason or on account of race or color, excepting Indians not taxed; and that any such denial or abridgment shall authorize the exclusion, while it continues, from representation in either House of Congress.

The Senator from New Jersey proposes to amend the amendment by striking out all after the word "taxed."

Mr. FRELINGHUYSEN. The effect of the amendment of the Senator from Missouri, as it stands, is to fix what the penalty shall be in case of a violation of the fundamental condition, and we are called upon to vote that the penalty or the consequence of that violation shall be the exclusion of the Representatives from that State. It seems to me wiser for the Senate not to express at this time what the consequence will be of a violation of that condition. I can see that Congress, instead of excluding the representatives from that State, might prefer to regulate the suffrage, and take measures to enforce that condition by its power, by legislation, so as to continue representation here, and yet have both races and all colors represented. Therefore, I think it much wiser, if we adopt the amendment of the Senator from Missouri, simply to adopt the fundamental condition, without saying what measures Congress will take to enforce the fundamental condition in case of a breach of it.

Mr. DRAKE. I will simply say, in reply to the remarks made by the honorable Senator from New Jersey, that I regard those words which he now moves to strike out as being simply a declaration of a power that will inure in Congress without those words being embodied in an act of Congress; in other words, that we shall be no further advanced probably as to our real power in the premises with these words in than with them out. Therefore, if it be the pleasure of the Senate to strike out these words, I do not feel disposed to make a contest over them, the main object of my amendment being the other clause, and believing that the power to exclude the Senators and Representatives of that State from representation here if the fundamental condition be broken would be just the same without this declaration in the act as with it.

Mr. CATTELL. Then I ask the Senator from Missouri why not accept the amendment of my colleague, and thus save the time of the Senate in voting?

Mr. DRAKE. Well, sir, if it will be any gratification to the distinguished State of New Jersey, as it appears to be, both of her Senators appealing in this matter to me, I do not know but that I will accept it.

Mr. CATTELL. I am afraid the Senator from Missouri has put the State of New Jersey under such obligations that she will never be able to repay them. [Laughter.]

The PRESIDENT *pro tempore*. The modification suggested by the Senator from New

Jersey is accepted, and the question is on the amendment of the Senator from Missouri as modified.

Mr. DRAKE. I ask that the fundamental condition of the original bill be first read, and then the substitute for it that I proposed.

The CHIEF CLERK. The amendment is to strike out of the original bill the following words:

That the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted.

And in lieu thereof to insert:

That there shall never be in said State any denial or abridgment of the elective franchise, or of any other right, to any person by reason or on account of race or color, excepting Indians not taxed.

Mr. HENDERSON. I believe it is now in order to offer an amendment to the amendment. I move the amendment I offered on Saturday. I have nothing to say in regard to it. I merely ask the Clerk to read it. I prefer the condition in this form if it is to be adopted at all.

The Chief Clerk read the amendment to the amendment, which was to strike out all of the amendment of Mr. DRAKE after the word "That" in the first line, and to insert in lieu thereof the following:

Said State, in fixing the qualifications of electors therein, shall not be authorized to discriminate against any person on account of race, color, or previous condition; and, also, on the further condition that no person on account of race or color shall be excluded from the benefits of education, or be deprived of an equal share of the moneys or other funds created or used by public authority to promote education in said State.

The PRESIDENT *pro tempore* put the question on the amendment to the amendment, and declared that the yeas appeared to have it.

Mr. HENDERSON. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. FRELINGHUYSEN. I understand that all that is contained in this amendment of the Senator from Missouri [Mr. HENDERSON] is contained in the fourteenth amendment of the Constitution.

Mr. HENDERSON. I understand not. To what provision in the fourteenth amendment does the Senator refer?

Mr. FRELINGHUYSEN. That there shall be no discrimination in civil rights on account of race or color; and the only thing we want to provide for now is to prevent that discrimination in political rights, and that the amendment of the Senator from Missouri does.

Mr. HENDERSON. The amendment of the Senator from Missouri does not refer to political rights at all.

Mr. FRELINGHUYSEN. I mean the amendment of your colleague, [Mr. DRAKE.]

Mr. HENDERSON. It says they shall not be denied any right.

Mr. FRELINGHUYSEN. The exercise of the elective franchise. That is a political right, I believe.

Mr. HENDERSON. I should like to have the amendment of my colleague read again.

The Chief Clerk again read the amendment of Mr. DRAKE, as follows:

That there shall never be in said State any denial or abridgment of the elective franchise, or of any other right, to any person by reason or on account of race or color, excepting Indians not taxed.

Mr. HENDERSON. "Any other right." It does not mean a political right. The language is, shall not be denied "the elective franchise or any other right." I think that includes civil rights. I should like to ask the Senator from New Jersey whether, upon the adoption of this amendment of my colleague, in his judgment the State is permitted to provide separate schools for whites and blacks, or whether they must not be educated in the same schools?

Mr. FRELINGHUYSEN. I cannot answer that question, for I do not think that either the constitutional amendment or the proposition

of the Senator's colleague touches that question, as to what school they shall be educated in; but I think that the amendment as proposed, as well as the constitutional amendment, prevents a discrimination in civil or political rights on account of race or color.

Mr. HENDERSON. Mr. President, I can state in a few words my view in offering this amendment. I desire that the negroes shall have an equal right in the school moneys, but that the State may require them to be educated in different schools from the whites. I propose that their rights shall be the same in the public funds, just as we have provided in the District of Columbia. Further, I do not desire to take away the right from the States to say who shall hold offices in the States. If they desire to say that the whites shall hold the offices, let them do so. I do not fear any provision of that sort ever being adopted in one of the States, provided this is a valid condition, because the negroes being entitled to the suffrage on equal terms with the whites, of course can protect themselves in that behalf. But I would not provide here by a condition that the States should extend the same rights to the negroes in regard to office-holding, marrying, or anything else, that they do to the whites; and I think if we adopt a condition at all, we had better adopt it in the form in which I have presented it.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 5, nays 30; as follows:

YEAS—Messrs. Buckalew, Doolittle, Henderson, Hendricks, and Ross—5.

NAYS—Messrs. Bayard, Cameron, Cattell, Chandler, Cole, Conkling, Corbett, Drake, Ferry, Frelinghuysen, Harlan, Howe, Johnson, McCreery, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Vickers, Wade, Willey, Williams, and Yates—30.

ABSENT—Messrs. Anthony, Conness, Cragin, Davis, Dixon, Edmunds, Fessenden, Fowler, Grimes, Howard, Morgan, Morton, Norton, Patterson of New Hampshire, Saulsbury, Sherman, Sprague, Sumner, and Wilson—19.

So the amendment to the amendment was rejected.

Mr. HENDRICKS. I offer an amendment to strike out all of the bill and to insert the following.

Mr. DRAKE. I suppose that the amendment which the honorable Senator from Indiana now offers cannot precede my amendment which is pending?

The PRESIDENT *pro tempore*. Not unless it is an amendment to the amendment.

Mr. HENDRICKS. Mine is an amendment to the amendment. I propose to strike out more.

Mr. DRAKE. I understood the honorable Senator to move to strike out the whole bill and insert a substitute.

Mr. HENDRICKS. Yes, sir; after the title.

Mr. DRAKE. Well, sir, I had the rule applied to me two or three days ago that an amendment to the bill takes precedence of a motion to amend it by way of substitute.

The PRESIDENT *pro tempore*. The Chair is with the Senator from Missouri. It is in order to perfect the bill before it can be stricken out.

Mr. HENDRICKS. Then, suppose the words proposed by the Senator from Missouri are adopted, can they be stricken out?

Mr. CONKLING. Certainly they can.

Mr. TRUMBULL. You can move to strike out the whole bill. A substitute will then be in order.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri, [Mr. DRAKE.]

Mr. DRAKE. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. I desire simply to say that I think the amendment of the Senator from Missouri is preferable to the condition imposed by the House bill; it is less objec-

tionable certainly; and I shall therefore vote for it.

Mr. CONKLING. Let us hear the amendment read as it now stands.

The CHIEF CLERK. It is proposed to strike out all of the bill after the word "condition" in the fifth line, and to insert:

That there shall never be in said State any denial or abridgment of the elective franchise, or of any other right, to any person by reason or on account of race or color, excepting Indians not taxed.

Mr. STEWART. I simply wish to say that I prefer that to the condition in the original bill, and shall vote for it. I think the improvement sufficient to warrant us in amending the bill as it came from the House.

The question being taken by yeas and nays, resulted—yeas 26, nays 14; as follows:

YEAS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Cragin, Drake, Fessenden, Frelinghuysen, Harlan, Henderson, Howe, Johnson, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, Wilson, and Yates—26.

NAYS—Messrs. Bayard, Buckalew, Corbett, Doolittle, Ferry, Fowler, Hendricks, McCreery, Patterson of Tennessee, Ross, Van Winkle, Vickers, Willey, and Williams—14.

ABSENT—Messrs. Anthony, Conness, Davis, Dixon, Edmunds, Grimes, Howard, Morgan, Morton, Norton, Pomeroy, Saulsbury, Sherman, and Sprague—14.

So the amendment was agreed to.

Mr. HENDRICKS. I now offer the amendment which I proposed a few minutes since.

Mr. DRAKE. I will state, for the information of the Senator from Indiana, that there is another amendment of mine on the table, which is yet to be acted upon.

Mr. HENDRICKS. I believe the Senator can offer but one amendment at a time.

Mr. DRAKE. It was offered some days since.

Mr. HENDRICKS. I cannot help that. There cannot be two amendments offered at the same time. Let us now try one on this side.

The PRESIDENT *pro tempore*. Does the amendment of the Senator from Missouri propose to amend the original bill before a vote is taken on striking out?

Mr. DRAKE. Certainly.

The PRESIDENT *pro tempore*. That is first in order. The Senator from Missouri has a right to perfect the bill.

Mr. HENDRICKS. When he gets the floor.

Mr. DRAKE. This comes under the very same principle decided by the Chair just now, that it is in order to perfect the original bill before the question is taken on striking out.

Mr. HENDRICKS. Not until I have proposed my amendment and suggested what I wish to suggest to the Senate upon it.

Mr. DRAKE. I beg pardon of the Senator for interrupting him, if that is all he desires.

Mr. HENDRICKS. I ask that my amendment be read, to strike out all of the bill after the title.

The PRESIDENT *pro tempore*. The preamble comes last.

Mr. HENDRICKS. I do not care where it comes.

Mr. TRUMBULL. The amendment is a substitute for preamble and all?

Mr. HENDRICKS. Yes, sir.

The PRESIDENT *pro tempore*. The Secretary will read the amendment.

The Chief Clerk read the amendment of Mr. HENDRICKS, which was to strike out all of the preamble, and also all of the bill after the enacting clause, and to insert the following:

That the State of Arkansas is hereby declared restored to her former proper practical relations to the Union, and is again entitled to be represented by Senators and Representatives in Congress.

Mr. HENDRICKS. Mr. President, the amendment which I have proposed is the section of the bill restoring the State of Tennessee to her practical relations to the Union, with the exception that I have inserted the word "declared." The language of the Tennessee bill is:

"That the State of Tennessee is hereby restored to her former proper practical relations to the Union, and is again entitled to representation."

Inasmuch as Congress has adopted this phraseology in regard to one of these States, there seems to be a propriety in continuing that language, unless experience has shown that in some respect it is not right. I have not adopted the preamble that is found in the Tennessee bill, for it is not applicable to this case; nor would I be for adopting any preamble. Preambles to laws are not useful. They serve no purpose whatever. They do not even aid in construction, especially when they are merely recitals of historical events known to the country which need not be perpetuated in the form of laws.

My proposition excludes all fundamental conditions. It is very evident that the Senate is nearly equally divided upon the propriety of having any fundamental condition. My mind is as clear as possible on that subject. A fundamental condition could do no good, but might do harm. After the State comes to act as one of the States of the Union, in her legislation, in any modification of her constitution, she acts without any reference to the pleasure of Congress, and it is not competent for Congress, in my judgment, to impose any restraint upon her right of amending her own constitution. It would be nugatory after the State were admitted, if this were a case of admission; but is vicious, as my colleague so forcibly expressed it, as a precedent. Therefore I have omitted all fundamental conditions.

I have omitted the preamble, as it is simply of no service in legislation, and may become embarrassing afterward. Senators of the majority know that the preamble to the Tennessee bill they would not now adopt. They would not give as the reasons for the restoration of Tennessee to her practical relations to the Union the reasons that are found in that preamble, because they are inconsistent with the position now occupied by the majority. The preamble to the Tennessee bill recognized the lawfulness, the legality of the form of government that existed in the State of Tennessee prior to the enactment of that law. It stands, then, upon the very opposite doctrine to that upon which reconstruction is now being pressed. It is one of the strongest arguments to be found in the history of this whole question against your present position in law.

Mr. WILSON. You are mistaken in that.

Mr. HENDRICKS. No, I am not mistaken. I have had occasion to examine the question with a great deal of care. I am referring to that now simply as an illustration of the folly of preambles. What do you want? What is wanted now? You say that the State of Arkansas has adopted a State constitution which is agreeable to you; you say that she has ratified the constitutional amendment, which is agreeable to you. That may be a reason governing your votes; but is it necessary to recite that in a preamble? Is not that known in the history of the country? Does the validity of the constitution of Arkansas depend upon your recognition of it? If the State is a State of the Union, and in proper form has adopted this new constitution, it stands as her constitution, not because Congress has given it validity and vitality, but because the people of the State have adopted it.

Mr. President, I now propose, as the solution of all the questions that are before the Senate, as a settlement of the differences of opinion, the language contained in the Tennessee law which you adopted two years ago. Why object to it? It declares that the State of Arkansas is now restored to her proper practical relations to the Union, and that therefore she is entitled to representation; that because she stands in proper attitude in regard to the other States and to the Union, she is entitled to representation. This legislation that you are now proposing is not with a view of ratifying what she has done, but of declaring her right of representation. Then I submit to Senators that it is proper and right to adopt the very language which you adopted in regard to Tennessee. Is it proper that in regard to one State we shall have one sort of legislation, and

in regard to another State a different legislation? That is not desirable. I have, as I stated to the Senate, inserted one word—is hereby “declared” restored. It is not the act of Congress that restores her to her practical relations, but the act of Congress declares her restored and therefore she is entitled to representation. She is in practical relations; therefore she must be represented in the Senate and in the House. My amendment, in my judgment, stands upon the right doctrine; and upon that, if it be the pleasure of the Senate to give the yeas and nays, I shall be glad of it.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana, [Mr. HENDRICKS,] and on this question the yeas and nays are demanded.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 26; as follows:

YEAS—Messrs. Bayard, Buckalew, Corbett, Doolittle, Ferry, Fowler, Hendricks, Johnson, McCreery, Patterson of New Hampshire, Patterson of Tennessee, Ross, Van Winkle, Vickers, and Willey—15.

NAYS—Messrs. Cameron, Cattell, Chandler, Cole, Conkling, Cragin, Drake, Fessenden, Frelinghuysen, Henderson, Howe, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, Williams, Wilson, and Yates—26.

ABSENT—Messrs. Anthony, Conness, Davis, Dixon, Edmunds, Grimes, Harlan, Howard, Morgan, Morton, Norton, Saulsbury, and Sprague—13.

So the amendment was rejected.

The PRESIDENT *pro tempore*. If no further amendment be offered—

Mr. POMEROY. The Senator from Missouri, I believe, has another amendment to offer.

Mr. TRUMBULL. No; it is to the preamble.

Mr. DRAKE. The amendment I wish to offer is to the preamble, and I understand the question is not taken on the preamble until after the bill is finally passed.

The PRESIDENT *pro tempore*. If the Senator from Missouri proposes to amend the preamble, now is the time to do it.

Mr. DRAKE. I understood that the time for an amendment to the preamble was after the passage of the bill.

Mr. POMEROY. No; it should be amended now.

The PRESIDENT *pro tempore*. If there be no further amendment to be proposed to the bill, it is in order to amend the preamble.

Mr. DRAKE. Then I move to strike out of the preamble the words “in form” after the word “republican,” so that it shall read:

Whereas the people of Arkansas, in pursuance of the provisions of an act entitled “An act for the more efficient government of the rebel States,” passed March 2, 1867, and the acts supplementary thereto, have framed and adopted a constitution of State government, which is republican, and the Legislature of said State has duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen: Therefore.

The PRESIDENT *pro tempore* having put the question, a division was called for.

Mr. DRAKE. I beg leave to offer a word in explanation of this amendment, as it seems gentlemen are going to vote against it. It has never been the practice of Congress in admitting States into this Union until very recently to use that expression “republican in form” in reference to the constitution of the State to be admitted; and it is, in my opinion, an utterly vicious expression that ought not to be tolerated in an act of Congress. In the acts admitting Alabama, Illinois, Indiana, and Mississippi, and in the act enabling the people of Nevada to form a State government the expression was used that the constitution of the first four of those States was “republican,” and in the last that the constitution of Nevada should be “republican.” In the acts admitting Kansas, Minnesota, Oregon, and West Virginia, that phrase “republican in form” has crept in, in my opinion, without any justification. The Constitution says that the United States shall guaranty to each State in this Union a republican form of government, not a government republican in form, which may be republican in form without a single republican principle

in it except as so form. I wish to have the preamble to this bill conform with the Constitution of the United States and with the old acts of Congress, and just let it say that this constitution is “republican,” not republican in form.

The PRESIDENT *pro tempore*. The question is on the amendment to the preamble.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. FERRY. Is it in order now, or after the vote has been taken on the amendments made in committee, to renew the amendment which I offered in committee. I propose to offer the same amendment that I offered in committee, and which was there voted down, to strike out all of the bill after the word “Union” in the fourth line.

The PRESIDENT *pro tempore*. The amendment will be reported.

Mr. SHERMAN. I ask the indulgence of the Senate to have the bill reported as it now stands. The printed amendment has been varied.

The CHIEF CLERK. The bill now reads as follows:

That the State of Arkansas is entitled and admitted to representation in Congress as one of the States of the Union upon the following fundamental condition: that there shall never be in said State any denial or abridgement of the elective franchise, or of any other right, to any person, by reason or on account of race or color, excepting Indians not taxed.

The PRESIDENT *pro tempore*. The amendment of the Senator from Connecticut will now be read.

The CHIEF CLERK. The amendment proposed by the Senator from Connecticut is to strike out all of the bill after the word “Union” in the fourth line.

Mr. BUCKALEW. How will it read then?

The CHIEF CLERK. The bill, if amended as proposed, will read:

That the State of Arkansas is entitled and admitted to representation in Congress as one of the States of the Union.

Mr. FERRY. I ask for the yeas and nays upon my amendment.

The yeas and nays were ordered.

Mr. HENDRICKS. I think my colleague [Mr. MORRIS] would certainly desire to vote upon this important question; and as it is impossible for him to remain here to so late an hour as this, and it is certain there will be no further debate, I would venture to move an adjournment. We could take the vote without any delay whatever, I suppose, to-morrow.

Mr. HENDERSON. Fix the time.

Mr. HENDRICKS. I move, then, that the further vote, which will be a short one unquestionably, take place at one o'clock to-morrow, and let there be unanimous consent to that proposition.

Mr. CONKLING. And without debate.

Mr. HENDRICKS. Without any further debate. I did not see my colleague when he left, but I suppose he could not remain any longer, as his health would not permit him to do so. The Senate is thin, indeed, to take a vote on so important a question as this, and I move that the vote be taken to-morrow at one o'clock.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Connecticut.

Mr. HENDRICKS. Then I move that the Senate adjourn.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Connecticut, on which the yeas and nays have been ordered.

Mr. MORRILL, of Maine. I have paired off on this question with the Senator from Maryland, [Mr. JOHNSON,] who has left the Chamber.

The question being taken by yeas and nays resulted—yeas 18, nays 22; as follows:

YEAS—Messrs. Bayard, Buckalew, Conkling, Corbett, Doolittle, Ferry, Fessenden, Hendricks, McCreery, Patterson of New Hampshire, Patterson of



Tennessee, Ross, Saulsbury, Trumbull, Van Winkle, Vickers, Willey, and Williams—18.  
**NAYS**—Messrs. Cameron, Cattell, Chandler, Cole, Cragin, Drake, Frelinghuysen, Harlan, Henderson, Howe, Merrill of Vermont, Nye, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Thayer, Tipton, Wade, Wilson, and Yates—22.  
**ABSENT**—Messrs. Anthony, Conness, Davis, Dixon, Edmunds, Fowler, Grimes, Howard, Johnson, Morgan, Morrill of Maine, Morton, Norton, and Sprague—14.

So the amendment was rejected.

The amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed, and the bill to be read the third time. The bill was read the third time.

**Mr. WILSON.** I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered; and being taken, resulted—yeas 34, nays 8; as follows:

**YEAS**—Messrs. Anthony, Cameron, Cattell, Chandler, Cole, Conkling, Corbett, Cragin, Drake, Edmunds, Fessenden, Frelinghuysen, Harlan, Henderson, Howe, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—34.

**NAYS**—Messrs. Bayard, Buckalew, Doolittle, Hendricks, McCreery, Patterson of Tennessee, Saulsbury, and Vickers—8.

**ABSENT**—Messrs. Conness, Davis, Dixon, Ferry, Fowler, Grimes, Howard, Johnson, Morgan, Morton, Norton, and Sprague—12.

So the bill was passed.

#### ORDER OF BUSINESS.

**Mr. SHERMAN.** I move to take up Senate bill No. 440, providing for the amendment of the national banking law, so that it may be left as the regular order for to-morrow.

**Mr. CAMERON.** I think we had better not take up that bill until we have time to consider it.

**Mr. RAMSEY.** I hope we shall proceed with the reconstruction bills.

**Mr. EDMUNDS.** I move that the Senate adjourn.

**Mr. SHERMAN.** That leaves this bill—

**Mr. EDMUNDS.** I object to any debate on the motion to adjourn.

The *PRESIDENT pro tempore*. The motion is not debatable.

The motion was agreed to, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

Monday, June 1, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday last was read and approved.

#### CALL OF STATES FOR BILLS, ETC.

The **SPEAKER**. This being Monday, the first business in order is the call of States for bills and joint resolutions for reference to their appropriate committees, and not to be brought back by a motion to reconsider.

#### UNLAWFUL CLAIMS.

**Mr. BUTLER** introduced a bill (H. R. No. 1131) regulating judicial proceedings in certain cases for the protection of officers and agents of the Government, and for the better defense of the Treasury against unlawful claims; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### WASHINGTON AND CLEVELAND RAILROAD.

**Mr. GETZ** introduced a bill (H. R. No. 1132) to authorize the construction of a railroad and telegraph line from the city of Washington, District of Columbia, to the city of Cleveland, in the State of Ohio, by the nearest direct line; which was read a first and second time, referred to the Committee on Roads and Canals, and ordered to be printed.

#### MARY JACKSON.

**Mr. WELKER** introduced a bill (H. R. No. 1133) for the relief of Mrs. Mary Jackson; which was read a first and second time, and referred to the Committee on Revolutionary Pensions and of the War of 1812.

#### TRIAL OF JEFFERSON DAVIS.

**Mr. EGGLESTON** introduced a joint resolution (H. R. No. 282) in relation to the trial of Jefferson Davis; which was read a first and second time, and referred to the Committee on the Judiciary.

The resolution, which was read in full, instructs the Secretary of War to procure the services of Hon. JOHN A. BINGHAM and Hon. BENJAMIN F. BUTLER to conduct the prosecution against Jefferson Davis, who is indicted for treason against the Government of the United States.

#### IMPEACHMENT OF THE PRESIDENT.

**Mr. VAN TRUMP.** I present a joint resolution of the Legislature of Ohio, protesting against efforts to tamper with members of the high court of impeachment. I wish to say, in explanation, that this resolution was passed on the 16th ultimo, and yet it was not received from the Governor of Ohio till yesterday.

The resolution was referred to the Committee on the Judiciary, and ordered to be printed.

#### NATIONAL CEMETERY IN TENNESSEE.

**Mr. NUNN** introduced a bill (H. R. No. 1134) to construct a road to the national cemetery of West Tennessee; which was read a first and second time, and referred to the Committee on Roads and Canals.

#### PORTAGE AND LAKE SUPERIOR CANAL.

**Mr. BLAIR** introduced a bill (H. R. No. 1135) extending the Portage lake and Lake Superior ship-canal to Keweenaw bay, providing for the right of way, and making a grant of land in the construction of said extension; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

#### FRONT PROPRIETORS ON MEMONONIE RIVER.

**Mr. SAWYER** introduced a bill (H. R. No. 1136) to authorize front proprietors on the Menomonee river, in Michigan and Wisconsin, to have a survey and enter the fast lands in said river; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

#### REMOVAL OF DISABILITIES.

**Mr. PAINE** introduced a bill (H. R. No. 1137) to relieve certain citizens of Mississippi of disabilities; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

**Mr. BROOKS.** How many persons does that bill relieve?

The **CLERK.** About twenty.

**Mr. BROOKS.** We can stand that.

#### JACOB LEVIT.

**Mr. PAINE** also introduced a bill (H. R. No. 1138) to grant an additional bounty to Jacob Levit, of Milwaukee, in the State of Wisconsin; which was read a first and second time, and referred to the Committee on Military Affairs.

#### EMIGRATION TO THE UNITED STATES.

**Mr. DONNELLY**, by unanimous consent, introduced a bill (H. R. No. 1139) to establish, under the direction of the Secretary of State, agencies in Great Britain, Germany, Sweden, and Norway, for the promotion of emigration to the United States; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

#### RAILROAD FROM KANSAS TO NEW MEXICO.

**Mr. CLARKE**, of Kansas, introduced a bill (H. R. No. 1140) granting lands to aid in the construction of a railroad and telegraph line from Irving, Kansas, to Albuquerque and Santa Fé, New Mexico; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

#### DAVID BELL.

**Mr. HUBBARD**, of West Virginia, introduced a bill (H. R. No. 1141) for the relief of David Bell; which was read a first and second time, and referred to the Committee on Military Affairs.

#### FRANCISCO ARMIGO.

**Mr. CLEVER** introduced a bill (H. R. No. 1142) for the relief of Francisco Armigo, of Albuquerque, New Mexico; which was read a first and second time, and referred to the Committee of Claims.

#### PABLA MONTAYA.

**Mr. CLEVER** also introduced a bill (H. R. No. 1143) for the relief of Pabla Montaya; which was read a first and second time, and referred to the Committee of Claims.

#### HEIRS OF MRS. DE LEON.

**Mr. CLEVER** also introduced a bill (H. R. No. 1144) for the relief of the heirs-at-law of Mrs. R. L. De Leon, deceased; which was read a first and second time, and referred to the Committee of Claims.

#### IMMIGRATION AGENCIES.

**Mr. FLANDERS** introduced a bill (H. R. No. 1145) to establish unpaid immigration agencies at Liverpool, Glasgow, and Dublin, in Great Britain and Ireland; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

#### SAFETY OF STEAMBOAT TRAVEL.

**Mr. COBURN** introduced a bill (H. R. No. 1146) to amend an act entitled "An act to amend an act entitled 'An act to provide for the better security of the lives of passengers on board of vessels propelled in whole or part by steam, and for other purposes,'" approved August 30, 1852; which was read a first and second time, and referred to the Committee on Commerce.

#### MAIL ROUTE IN NEW JERSEY.

**Mr. HAIGHT** introduced a bill (H. R. No. 1147) to establish a mail route from Bricksborough, in the county of Ocean and State of New Jersey, to Point Pleasant, in said county and State; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### CARE OF PUBLIC BUILDINGS.

**Mr. ASHLEY**, of Ohio, introduced a bill (H. R. No. 1148) to repeal the act approved March 2, 1867, abolishing the office of Commissioner of Public Buildings, and vesting the care and custody of the same in a superintendent appointed by the Committee on Public Buildings and Grounds; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### MARINE INCENDIARISM, ETC.

**Mr. DAWES** introduced a bill (H. R. No. 1149) in addition to an act passed March 26, 1804, entitled "An act in addition to an act for the punishment of certain crimes against the United States;" which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

#### IMPROVEMENT OF WASHINGTON CANAL.

**Mr. INGERSOLL** introduced a bill (H. R. No. 1150) for the improvement of the Washington canal; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### LEWIS J. CONDIFF.

**Mr. McCORMICK** introduced a bill (H. R. No. 1151) for the relief of Lewis J. Condiff, of St. Francis county, Missouri; which was read a first and second time, and referred to the Committee of Claims.

#### ORDER OF BUSINESS.

The **SPEAKER**. The next business in order during the morning hour is the call of States for resolutions, commencing with the State of Ohio, where the call rested at the expiration of the morning hour on the 25th of May, Monday last.

**Mr. BARNES.** I ask unanimous consent to report back a House bill.

The **SPEAKER**. The Chair cannot ask unanimous consent during the morning hour of Monday for any purpose whatever.

#### COMPENSATION OF HOUSE COMMITTEE CLERKS.

**Mr. ASHLEY**, of Ohio. I submit the follow-

ing resolution, and upon it I call the previous question :

*Resolved*, That the clerks of the standing committees of the House of Representatives, receiving per diem compensation, shall be paid during the sessions of the Fortieth Congress the same amount per diem that is now paid to the clerks of the standing committees of the Senate who are receiving per diem compensation.

The previous question was seconded and the main question ordered.

Mr. HOLMAN. I would like to have the gentleman who offered this resolution explain the effect of it?

Mr. ASHLEY, of Ohio. It places the compensation of the clerks of the standing committees of the House of Representatives upon an equal footing with the clerks of corresponding committees of the Senate.

Mr. HOLMAN. Does it increase or diminish their compensation?

Mr. ASHLEY, of Ohio. I do not understand the remark of the gentleman.

The SPEAKER. The gentleman inquires if this resolution diminishes the compensation of the clerks?

Mr. ASHLEY, of Ohio. I think it does not.

Mr. HOLMAN. How much is the increase?

Mr. ASHLEY, of Ohio. I am not able to say exactly; but a small amount, however. It proposes to put the House clerks upon an equal footing with the Senate clerks.

Mr. RAUM. As the resolution does not appear to fix the compensation of the clerks, and we cannot vote intelligently upon it, I move to lay it upon the table.

The question was taken; and upon a division there were—ayes 64, noes 22; no quorum voting.

Mr. ASHLEY, of Ohio. I call for tellers. Tellers were ordered; and Mr. ASHLEY, of Ohio, and Mr. HOLMAN were appointed.

The House again divided; and the tellers reported that there were ayes sixty-six, noes not counted.

So the resolution was laid on the table.

#### ENROLLED BILL AND JOINT RESOLUTION.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; and the Speaker signed the same:

An act (H. R. No. 786) declaring St. George, Boothbay, Bucksport, Vinalhaven, and North Haven, in the State of Maine, and San Antonio, Texas, ports of delivery; and

Joint resolution (H. R. No. 279) in relation to the breakwater at Portland, Maine.

#### ROOM "A" UNITED STATES CAPITOL.

Mr. MORGAN. I send to the Clerk to be read a preamble and resolution which I submit, and upon them I call the previous question.

The Clerk read the preamble and resolution, as follows:

Whereas room "A" in the Capitol has for a considerable time past been in the possession of Miss Vinnie Ream, and occupied by her as a studio by the consent of the House, and she has for more than a year been engaged in modeling her statue of Mr. Lincoln, under an order made for that purpose by Congress; and whereas said statue is now in such condition that it cannot be removed at this time without the destruction thereof, as appears by the following copy of a letter addressed by her to the Sergeant-at-Arms:

STUDIO, UNITED STATES CAPITOL.  
May 29, 1868.

N. G. ORDWAY,  
Sergeant-at-Arms House of Representatives:

DEAR SIR: I am in receipt of your note—

Mr. COBB. I rise to a point of order. The Clerk seems to be reading a communication. I object to it.

The SPEAKER. The gentleman who submitted the preamble and resolution now being read has a right to incorporate anything germane to the resolution. This appears to be germane to the resolution.

The Clerk resumed and concluded the reading, as follows:

DEAR SIR: I am in receipt of your note of the 28th instant, transmitting copy of House resolution directing you to take possession of a room now occupied by me as a studio. I would very cheerfully vacate the room at once, in obedience to the command of the House, were it possible to do so; but it would

simply be to destroy the statue of Mr. Lincoln, and that I cannot think the gentlemen of the House desire after having watched its progress with great interest and seemed pleased with the results of my work. I have been, since my occupancy of the room, and am now, engaged upon this statue of Mr. Lincoln; the order for which they kindly intrusted to me. It would be impossible to move it without destroying the labor of the past year, and subjecting me to very great expense and delay in the completion of the work.

When the order for this work was given me a room was also given me in which to mold this statue. No conditions or limitations were attached, and I naturally supposed that I would be permitted to occupy it until the work was completed. I submit to you and to the gentlemen of the House whether this treatment is fair and just, or at all consistent with that kindness and generosity which have heretofore been uniformly extended to me by the members of both Houses of Congress.

Respectfully,  
VINNIE REAM.

*Resolved*, That the execution of the resolution, passed by the House on the 28th instant in regard to setting apart rooms A and B, in the Capitol, as guard rooms for the use of the Capitol police, be suspended as far as it refers to room A, until hereafter otherwise ordered by the House, and that in the meantime said room be left in possession of Miss Ream.

Mr. MORGAN. Mr. Speaker—

The SPEAKER. To what question does the gentleman from Ohio [Mr. MORGAN] rise?

Mr. COBB. I move that the resolution be laid on the table.

The SPEAKER. The gentleman from Ohio is on the floor at present.

Mr. MORGAN. Will it be in order for me to submit a few remarks explanatory of the resolution?

The SPEAKER. If the resolution gives rise to debate, it must go over under the rules.

Mr. MORGAN. Then I move the previous question.

Mr. COBB. I move that the resolution be laid on the table.

Mr. MORGAN. On that motion I call for the yeas and nays.

Mr. FARNSWORTH. Will the gentleman from Wisconsin [Mr. COBB] withdraw his motion for a moment that I may ask a question?

Mr. COBB. No, sir.

The SPEAKER. A call for the previous question is pending; also a motion to lay on the table; both propositions being undebatable.

The yeas and nays were ordered on the motion of Mr. COBB to lay the resolution on the table.

The question was taken; and it was decided in the affirmative—yeas 61, nays 47, not voting 81; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, Baldwin, Beaman, Beatty, Bromwell, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cornell, Covode, Dixon, Ekeley, Eggleston, Eia, Ferriss, Fields, Halsey, Harding, Higby, Hill, Hopkins, Chester D. Hubbard, Hunter, Judd, Julian, Kelley, Kitchin, Koonz, George V. Lawrence, Maynard, McCarthy, McClurg, Miller, Moore, Mullins, Orth, Paine, Perham, Pike, Pike, Polesley, Pomeroy, Sawyer, Schenck, Seofield, Smith, Starkweather, Aaron E. Stevens, Stokes, Taylor, Thomas, Trowbridge, Upson, Bart Van Horn, Welker, William Williams, and John T. Wilson—61.

NAYS—Messrs. Arnell, Barnes, Beck, Blair, Boyer, Brooks, Burr, Churchill, Farnsworth, Getz, Glossbrenner, Golladay, Gravely, Griswold, Grover, Holman, Hotchkiss, Ingersoll, Jencks, Johnson, Jones, Kerr, Knott, Laffin, Marshall, McCormick, McCullough, Mercour, Moorhead, Morgan, Newcomb, Niblack, Nunn, Phelps, Plants, Robertson, Sitgreaves, Thaddeus Stevens, Stewart, Stone, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Van Trump, Henry D. Washburn, William B. Washburn, and Woodward—47.

NOT VOTING—Messrs. Adams, Anderson, Areher, James M. Ashley, Axtell, Bailey, Baker, Banks, Barnum, Benjamin, Benton, Bingham, Blaine, Boutwell, Broomall, Butler, Cake, Cary, Charles Cook, Cullom, Dawes, Dodge, Donnelly, Driggs, Eldridge, Eliot, Ferry, Finney, Fox, Garfield, Haight, Hawkins, Hooper, Asahel W. Hubbard, Richard D. Hubbard, Hubbard, Humphrey, Kelsey, Ketcham, William Lawrence, Lincoln, Loan, Logan, Loughbridge, Lynch, Mallory, Marvin, Morrill, Morrissey, Mungen, Myers, Nicholson, O'Neill, Peters, Poland, Price, Pruyn, Randall, Raum, Robinson, Ross, Selye, Shanks, Shellabarger, Spalding, Taber, Taffe, Twichell, Van Aernam, Van Aukun, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—81.

So the resolution was laid on the table.

#### KEY OF THE BASTILLE.

Mr. VAN TRUMP. I submit the following resolution:

Whereas by a former order of this House certain rooms in the basement of the Capitol are now being

fitted up as a prison-house or bastille for the incarceration of free born but deluded American citizens, who yet have the unparalleled audacity to dare to claim the absolute privileges of constitutional guarantees and laws; and whereas also, it is essentially important that said legislative prison-house should be strong and well secured in order to prevent the escape of such contumacious and dangerous state prisoners; and whereas also, it is the duty of the public lawgivers to preserve the consistency and symmetry of history, and to adopt kindred means to sustain the public order and insure the public weal, in accordance with the precedents and practices of former and coincident periods in the history of popular liberty: Therefore,

*Be it hereby resolved by the House of Representatives of the United States of America*, That the Committee on Military Affairs be instructed to enter into negotiations with the Ladies' Mount Vernon Association for the purchase of a well-known historical key, now in the possession of said association at Mount Vernon, and formerly used in turning the bolts of the French bastille in Paris during the mild and humanitarian administration of French affairs in 1793, and that the same, if so purchased, shall be used in the said "new Capitol prison," now being fitted up as aforesaid.

Mr. STEVENS, of Pennsylvania. I object to the reception of this resolution.

The SPEAKER *pro tempore*, (Mr. POMEROY.) Objection being made to the reception of the resolution, the question is, Shall the resolution be received?

The question was decided in the negative.

#### REMAILING NEWSPAPERS FREE.

Mr. WILSON, of Ohio, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Post Office and Post Roads be, and are hereby, instructed to inquire into the expediency of so amending the postal laws as to allow newspapers, upon which the regular rate of postage has been paid, to be remailed within the period of twenty days from the date of publication without further charge, similar to the mode adopted in England; and to report by bill or otherwise.

#### IMPRISONMENT OF CITIZENS IN GEORGIA.

Mr. BECK. I submit the following preamble and resolution.

The Clerk read as follows:

Whereas it is asserted by William D. Chipley and others, citizens and residents of Columbus, Georgia, that they have been arrested and imprisoned without cause by order of General George G. Meade, commanding the third military district, and that the cause of their arrest and imprisonment has been withheld and refused, as shown by the following letter:

OFFICE OF BLOUNT & CHIPLEY,  
COTTON FACTORS,  
GROCERS, AND COMMISSION MERCHANTS,  
COLUMBUS, GEORGIA, May 18, 1868.

DEAR SIR: I may be presuming in troubling you with the facts which I will herein relate, and if so can only offer our utter want of representation as my apology. And yet it may be that you will think that such outrages concerns every citizen of the country, whether he lives North or South. As long as such acts can be committed with impunity no man can feel safe. It will not do for one to expect his character to protect him from such attacks, for virtue is the favorite target of such marksmen. On the 9th day of March ten white citizens of this place, and three colored, were arrested by order of one Captain Mills, commanding this post, and placed in confinement at the court-house, where they were detained under guard until dusk on the evening of the 13th ultimo. At the expiration of that time we were released under bond, the amount and conditions of which are fully stated in the printed slips which I inclose. From these clippings you will find that I was numbered among the prisoners. Were I writing to a stranger it might be prudent and proper to offer some testimonial of character, but you have known me from my earliest youth, and on that fact I rest my case. My companions in this arrest, as far as my personal knowledge goes, are as far above the suspicion of any implication in crime as any citizen in this or any other community. What I want is to arrive at the cause of my arrest. During the arrest, nor upon our release under bond, could we obtain any information concerning the evidence which led to our incarceration. It was entirely *ex parte*, and no clue to its character or the names of our accusers has been given us. If you consider it proper I would like for you to offer a resolution calling for the facts in the case.

Regretting the circumstances which force me to trouble you in this matter, I remain, sir, yours very truly,  
W. D. CHIPLEY.

In stating that we were arrested by order of Captain Mills, commanding post, I should have added his statement, that he was acting under orders from his superiors.

W. D. C.  
Hon. JAMES B. BECK, Washington.  
Therefore,  
*Resolved*, That the Secretary of War be, and he is hereby, instructed to report forthwith to the House upon what charge or charges, and by what authority, General George G. Meade, commander of the third military district, embracing the States of Georgia, Alabama, and Florida, arrested and imprisoned William R. Bedell, Christopher C. Bedell, James W.

Barber, Alva C. Roper, William L. Cash, William R. Chipley, Robert A. Ennis, Elisha J. Kirksey, Thomas W. Grimes, Wash H. Stephens, John Wells, (colored,) John Stephen (colored,) and James McHenry, (colored,) citizens and residents of Columbus, Georgia, on or about the 9th day of April, 1868, and why he required said persons to execute to him the following bond.

*Georgia, Muscogee County:*

Know all men by these presents, that we, whose names are hereunder signed, are held and bound unto General George G. Meade, or his successor in office, in the penal sum of \$50,000, for the payment whereof well and truly to be made to the said General George G. Meade, or his successor in office, we hereby bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our hands and seals this 10th day of April, 1868.

The condition of the above obligation is such that, whereas, General George G. Meade has arrested and confined William R. Bedell, Christopher C. Bedell, James W. Barber, Alva C. Roper, William L. Cash, William D. Chipley, Robert A. Ennis, Elisha J. Kirksey, Thomas W. Grimes, Wade H. Stephens, John Wells, (colored,) John Stapler, (colored,) and James McHenry, (colored,) who have been released by order of General George G. Meade, on condition that they would each give security in the sum of \$2,500 that they would each report and appear before the military authorities of the United States, at such time and place as the commanding officer of the third military district may direct. Now, then, if any of the said parties, so released, shall fail to appear and report to the military authorities of the United States, at such time and place as the commanding officer of the third military district may direct, and the parties to this bond shall pay the sum of \$2,500 for each and every one of said persons so released who may fail to appear and report as aforesaid, then this bond to be null and void; else, to remain in full force and virtue.

Witnessed by

R. J. MOSES,  
Notary Public.

Christopher C. Bedell, Elisha J. Kirksey, Thomas W. Grimes, jr., William Dudley Chipley, William R. Bedell, Alva C. Roper, Robert A. Ennis, James W. Barber, Wash H. Stephens, W. L. Cash, John Wells, (colored,) John Stapler, (colored,) Jas. McHenry, (colored,) R. J. Moses, James M. Smith, Lloyd G. Bowers, William A. Bedell, Robert A. Ware, J. Ennis, L. M. Biggers, John Mann, George G. Rucker, R. F. Sankey, Thomas Gilbert, Alvah Trowbridge, William N. Jones, J. T. Lokey, W. M. Jopson, W. S. Freeman, John N. Barnett, Thomas G. Pond, George W. Dillingham, Charles T. Crowder, J. W. H. Ramsay, J. W. Barden, J. T. Colbert, Wash Roberts, Moses Bell, Milton Martin, F. M. Brooks, G. W. Gafford, M. Connor & Co., Thomas S. Young, William J. Watt, James Meeler, J. G. Burrus, B. B. Fontaine, G. W. Radcliff, J. S. Pemberton, C. B. Talliaferro, C. A. Klink, D. B. Thompson, F. S. Chapman, E. J. Abbott, J. W. Ryan, W. H. Jackson, J. L. Mustian, A. V. Boatrite, E. S. Swift, P. A. Clayton, A. M. Brannan, H. Middlebrook, J. N. Ramsay, C. R. Russell, T. Markham, Samuel Meyer, S. W. McMichael, R. C. Roper, S. E. Lawhon, Aaron Hurt, (colored,) G. Delaunay, J. L. Dozier, J. D. Stewart, J. Chaffin, J. G. De Votie, W. C. Coart,

E. W. Terry, T. F. Ridenhour, I. P. Aenebacker, F. G. Wilkins, M. Joseph, R. W. Milford, E. F. DeGraffenreid, N. N. Curtis, H. J. Thornton, N. L. Redd, John McIlbenny, Thomas W. Grimes, W. W. Garrard, R. J. Moses, Jr., Adolphus A. Coleman, John Johnson, M. M. Moore, W. H. Starr, W. H. Young, Benjamin May, J. F. Bozeman, B. F. Malone, F. C. Johnson, S. A. Billing, T. J. DeVore, L. I. Harvey, O. M. Stone, Clifford B. Grimes, James B. Roper, William Perry, L. Harris, Peter Preer, W. H. Crane, F. Reich, R. M. Gunby, Alex. Stanford, (colored,) J. A. Corbally, John A. Frazier, Robert B. McKay, J. P. Ilges, F. M. Thomas, H. M. Jeter, Milo Booher, A. W. Allen, John Peabody, W. H. Brannon, W. H. Wells, G. J. Penock, J. F. Maffett, Jeff Taylor, (colored,) Sydney Smith, (colored,) Elb Cunningham, (col'd,) Wiley Milburn, (colored,) M. Woodruff, David Armstrong, (col'd,) Charles A. Green, R. J. Hunter, Homer M. Howard, L. Meyer, B. H. Crawford, A. M. Allen, C. D. McGehee, J. H. Whittlesey, W. H. Chambers, R. C. Jones, Reese Crawford, J. H. Bramball, William Munday, T. M. Barnard, Oliver Cromwell, Frank Gunby, W. E. Barnard, R. G. Mitchell, T. W. Bradley, G. W. Bates, Charles Rogers, S. B. Cleghorn, Frank H. Ellis, Seaborn Benning, W. B. Langdon, L. Gutowsky, J. D. Johnson, A. Gummel, J. S. Roper, W. J. Pike, D. E. Williams, Dr. E. B. Schley, Hal Mitchell, (colored,) C. Shopperson, Thomas Chapman, J. S. Acee, George P. Swift, William L. Mathews, J. C. Andrews, William D. Ashtie, William H. Mims, Charles E. Dexter, William E. Pond, J. H. Smith, W. Rynehard, W. L. Salisbury, R. M. Norman, C. H. Law, J. T. Langford, W. L. Robinson, J. F. Burrus, T. A. Cantrell, Robert Knowles, J. L. Morton, Thomas Names, B. T. McKee, William A. James, J. E. King, J. J. Wood, W. H. Williams, J. B. Hogue, J. Kurniker, John Foran, W. C. Hodges, Sandy Alexander, (colored,) D. Y. Ridenhour,

T. C. Carmichael, John W. Murphy, Thomas Sweet, O. C. Howe, H. Moseley, Alfred Holmes, (colored,) Van Marcus, Richard Scott, (colored,) James Kylin, D. L. Booher, D. F. Grant, J. L. Dunham, C. C. Cody, W. A. Barden, T. S. Fontaine, A. A. Dozier, W. P. Turner, W. L. Tillman, A. G. Bedell, J. J. Clapp, Thomas Redd & Hatcher, R. M. Gunby, John E. Bacon, A. C. Flewelling, Thomas Harris, C. S. Harrison, John W. King, E. B. Lockhart, J. B. Bradford, Henry McCauley, Joseph Kyle, Thomas Ragland, W. W. Flewelling, John Quin, E. F. Colzey, C. W. B. Hudson, C. I. Johnston, F. Meyer, G. G. Redd, Toney Fuller, (colored,) Thomas Rhodes, (colored,) Charles Gwinnett, (col'd,) D. F. Wilcox, James Britton, F. Landon, E. A. Faber, J. W. Brooks, L. G. Schuessler, William Snow, Charles E. Estes, William H. Roberts, L. P. Warner, John L. Hogan, Perry Spencer, Archibald Crane, John Johnson, John McDuffie, V. H. Talliaferro, E. E. Yonge, C. Northrup, jr., J. A. Sellers, D. Wolfson, N. Crown, J. A. Kirvin, A. Ilges, E. G. Stewart, John D. W. Rindenhour, W. R. Kent, S. B. Papy, B. A. Thornton, D. P. Ellis, W. C. Gray, R. B. Murdock, R. Carter, J. J. McKendree, Jerry Reed, (colored,) W. Fleming, T. S. Spear, George Hargraves, I. Joseph, J. A. Bradford, B. H. Mathis, W. A. Drufas, J. L. Howell, L. F. Watkins, J. D. Clarke, W. C. Bellamy, E. Barnard, L. R. Hoopes, J. F. Iverson, J. J. Grant, A. C. McGehee, Carlisle Terry, C. T. Holmes, R. B. Murdock, jr., H. H. Epping, G. H. Betz, J. A. Morgan, S. B. Warnock, J. J. Whittle, J. B. Collier, J. W. Barden, Arthur Ingmire, James A. Bacon, John W. Aven, R. H. England, D. W. Champagne, John F. Howard, H. W. Blair, John H. Connor, E. G. Woolfolk, R. H. Estes, C. H. Jones, Barney Hawkins, (colored,) James Aven, John A. Johnson, John R. Irey, William Stringfield, James E. Cargill, P. E. Bedell, D. F. Cargill,

F. McArdle, Richard Porter, (colored,) Wm. Paine, (colored,) Wm. Lane, (colored,) N. Rosenthal, G. E. Andrews, A. O. Blackmar, Francis Fontaine, E. S. Roberts, M. Pleasant, James J. Slade, G. W. L. Mathis, O. S. Acee.

COLUMBUS, GEORGIA, April 10, 1868.

DEAR SIR: I would have returned the bond sooner, but the citizens of Columbus, confident of the innocence of the parties in confinement of any offense against either the civil or military authorities, insist on going on the bond, as an assurance to the parties arrested that they have the entire confidence of their fellow citizens, and are above any well-founded suspicion of criminal conduct. It is with difficulty that I am enabled to close the signatures, even at this point.

With thanks for your courtesy in my intercourse with you in this unpleasant business, I remain your obedient servant, R. J. MOSES.

CAPTAIN WILLIAM MILLS.

During the reading of the preamble and resolution,

Mr. DRIGGS said: Mr. Speaker, I rise to a question of order.

The SPEAKER *pro tempore*, (Mr. ASHLEY, of Ohio, in the chair.) The gentleman will state his point of order.

Mr. DRIGGS. I understand that debate is not in order on this resolution, and that being so, I wish to ask whether it is in order for the gentleman to make an argument in favor of the resolution in the preamble with no opportunity on our part to reply to it?

The SPEAKER *pro tempore*. It is in order to recite papers as part of the resolution.

The reading of the preamble and resolution was then concluded.

Mr. BECK. I demand the previous question.

The SPEAKER. Resolutions calling for executive information under the rules must lie over for one day unless there be unanimous consent.

Mr. KELLEY and Mr. UPSON objected.

So the preamble and resolution were laid over.

MURDER OF EX-FEDERAL SOLDIERS.

Mr. ARNELL submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Treatment of Union Prisoners be instructed to investigate into all the facts and circumstances connected with the recent murder of two ex-Federal soldiers, Henry Fitzpatrick and Mr. Lincoln, in the county of Maury, State of Tennessee; and report to this House by bill or otherwise.

Mr. ARNELL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REMOVAL OF TREASURY DEPARTMENT CLERKS.

Mr. MULLINS. I submit the following resolution:

*Resolved*, That the Secretary of the Treasury be, and he is hereby, required to furnish to this House information as to how many removals of clerks and other employees of said Department have been made since the 1st day of January, 1868, and for what cause; also, how many persons have been appointed to office or employed in the Treasury Department since said 1st day of January, 1868; and by whom the removals and appointments were made, and the names of those removed and of those appointed or employed; also, the reasons for the same and by whom said reasons have been furnished, if any.

The SPEAKER. That resolution, calling for executive information, if objection be made, must lie over for one day.

Mr. HOLMAN. I object.

The resolution was accordingly laid over.

CLOCKS IN THE HALLS OF CONGRESS.

Mr. NIBLACK offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Public Buildings and Grounds be instructed to inquire into the practicability and expediency of connecting the clocks of the Hall of the House and the Chamber of the Senate by telegraph with the regulating clock in the astronomical Observatory, and report by bill or otherwise.

CONGRESSMEN AS ATTORNEYS.

Mr. KERR offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on the Judiciary be instructed to inquire into the expediency of prohib-



iting by law any member of the Senate or House of Representatives from appearing as attorney before any committee of either House in the District of Columbia holding sessions, for compensation or without it, in any cause, matter, or business pending before either House of Congress or before any committee of Congress in either House or in any court in the District aforesaid or in the Supreme Court of the United States involving interests of a public or political nature, which may become the subject of legislation by Congress or consideration or action in either House thereof.

Mr. FARNSWORTH. I think that is the law now.

#### INDIAN LANDS.

Mr. JULIAN offered the following preamble and resolution:

Whereas the Indian tribes of the United States have no power by treaty to dispose of their lands except the power of cession to the United States; and whereas a treaty is now being negotiated between the Great and Little Osage Indians and a special Indian commission, acting on the part of the United States, by which eight million acres of land, belonging to those Indians, are to be transferred to the Leavenworth, Lawrence, and Galveston Railroad Company in contravention of the laws and policy of the United States, affecting the public domain: Therefore,

*Resolved*, That the President of the United States be requested to inform this House by what authority and for what reason the said lands are to be disposed of as above recited, and not ceded to the United States and made subject to their disposition.

Mr. MAYNARD. I hope the gentleman will modify the second preamble by inserting the words "it is alleged that." I dislike to vote for it as it is.

Mr. JULIAN. I will make that modification.

The preamble and resolution were agreed to.

Mr. JULIAN moved to reconsider the vote by which the preamble and resolution were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TAXING GOVERNMENT BONDS.

Mr. HOLMAN offered the following resolution, and demanded the previous question thereon:

*Resolved*, That in the judgment of this House the bonds and other securities issued by the United States which are exempt by law from State and municipal taxation ought to be taxed for national purposes in amounts substantially equal to the average tax imposed on property in the several States for local purposes in such manner as may substantially equalize taxation, the tax to be deducted from the coupons as they become due; and that the Committee of Ways and Means be instructed to report a bill for the purpose above expressed.

Mr. GARFIELD. I hope the previous question will be voted down, and the resolution referred to the Committee of Ways and Means.

Mr. MAYNARD. I ask my friend to modify his proposition. If the gentleman will introduce a bill accomplishing the object which he specifies in this resolution, and have it either referred to the Committee of Ways and Means or brought before the House in some other way, I will coöperate with him in its passage. The difficulty is in doing the thing by a bill which the resolution specifies ought to be done and directs to be done.

Mr. BURR. I object to debate.

Mr. MAYNARD. Does not an objection carry it over?

The SPEAKER. It does not, unless the previous question is not seconded.

Mr. MAYNARD. Would it be in order to move to refer it to the Committee of Ways and Means?

The SPEAKER. Not unless the previous question is voted down.

Mr. STEVENS, of Pennsylvania. It would be better if the gentleman will say "inquire into the expediency." This is absolute. We never pass such resolutions as this.

Mr. HOLMAN. That amounts to nothing. I decline to modify it.

On seconding the previous question there were—ayes 29, noes 60; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. ALLISON and GARFIELD.

The House divided; and the tellers reported—ayes 37, noes 68.

So the previous question was not seconded.

The SPEAKER. The morning hour has expired.

#### SEIZURE OF PRIVATE PAPERS.

The SPEAKER. On Monday last, at the close of the session, a motion to suspend the rules, made by the gentleman from Wisconsin, [Mr. ELDRIDGE,] was pending. That motion now comes up as the regular order in preference to any other business until disposed of. The Clerk will read the resolution.

The Clerk read the resolution, as follows:

*Resolved*, That it was not the purpose or intention of this House to authorize the committee of managers, and it hereby denies the power or authority of said managers, under the Constitution, to require persons called before them as witnesses to produce or give evidence with reference to their personal and private papers; and that, in the opinion of this House, private and personal telegrams are within the provision of article four of the amendments to the Constitution, which provides that—

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the persons or things to be seized."

And that any violation of the rights intended to be secured by said article is an outrage upon personal liberty which no free people can tolerate or submit to.

The SPEAKER. The question is on suspending the rules.

Mr. ELDRIDGE. On that question I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 27, nays 95, not voting 67; as follows:

YEAS—Messrs. Barnes, Beck, Boyer, Burr, Cary, Eldridge, Getz, Glossbrenner, Gulladay, Haight, Holman, Hotchkiss, Johnson, Jones, Kerr, Knott, Marshall, McCormick, McCullough, Niblack, Phelps, Ross, Sitgreaves, Stone, Lawrence S. Trimble, Van Trump, and Woodward—27.

NAYS—Messrs. Allison, Ames, Arnell, Delos R. Ashley, Baldwin, Beaman, Beatty, Benton, Blaine, Blair, Bromwell, Buckland, Churchill, Reader W. Clarke, Cobb, Coburn, Cornell, Covode, Cullom, Dawes, Dixon, Donnelly, Driggs, Eckley, Eggleston, Ela, Farnsworth, Ferriss, Ferry, Fields, Garfield, Griswold, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hunter, Jencks, Judd, Julian, Kelley, Ketcham, Kitchen, Koonz, Laffin, George V. Lawrence, William Lawrence, Lincoln, Loughridge, Maynard, McCarthy, McClurg, Miller, Moore, Moorhead, Mullins, Myers, Newcomb, Nunn, O'Neill, Orth, Paine, Perham, Pike, Poland, Polsley, Pomerooy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Selye, Smith, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, Welker, John T. Wilson, and Windom—95.

NOT VOTING—Messrs. Adams, Anderson, Archer, James M. Ashley, Axtell, Bailey, Baker, Banks, Barnum, Benjamin, Bingham, Boutwell, Brooks, Broomall, Butler, Calk, Chanler, Sidney Clarke, Cook, Dodge, Eliot, Finney, Fox, Gravelly, Grover, Halsey, Hawkins, Asahel H. Hubbard, Richard D. Hubbard, Hulburt, Humphrey, Ingersoll, Kelsey, Loan, Logan, Lynch, Mallory, Marvin, Mercer, Morgan, Morrill, Morrissey, Mungen, Nicholson, Peters, Pile, Plants, Pruyn, Randall, Robinson, Shanks, Shellabarger, Spaulding, Stewart, Taber, Twichell, Van Aernam, Van Aiken, Van Wyck, Ward, Elihu B. Washburne, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Wood, and Woodbridge—67.

So (two thirds not voting in favor thereof) the rules were not suspended.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. KELLEY, on account of sickness.

#### DAILY RECESS.

Mr. SCHENCK. Before moving to go into the Committee of the Whole on the state of the Union on the tax bill, I ask unanimous consent that after to-day, during the pendency of the bill in the Committee of the Whole, the committee shall take a recess each day from half past four to half past seven o'clock.

There was no objection, and it was so ordered.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that the Senate had excused Mr. GRIMES from service as a member of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869, and has appointed Mr. NYE in his place.

The message also announced that the Senate had adopted a resolution tendering the thanks

of Congress to Hon. Edwin M. Stanton for the ability, purity, and fidelity with which he has discharged the duties of Secretary of the Department of War; in which the concurrence of the House was requested.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I now move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

The rules were accordingly suspended; and the House resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and proceeded to the consideration of the special order, being the bill (H. R. No. 1000) to reduce into one act and to amend the laws relating to internal taxes.

The CHAIRMAN. By order of the House the first reading of the bill has been dispensed with.

Mr. SCHENCK then addressed the committee for two hours and a half. [His speech will be published in the Appendix.]

At the conclusion of his remarks, explanatory of the bill,

Mr. SCHENCK said: I thank the committee for the attention they have given to me during this very long explanation of what we now lay before them. I hope that with as little delay as possible we shall proceed to the consideration of the bill now before the committee. As some half dozen or more gentlemen desire to be heard at length upon this bill, and upon the various matters connected with the internal taxes, and which are to be considered in connection with this bill, I propose to allow an opportunity for general debate for the rest of to-day, if we continue our session; to-morrow if we have any time, and to-morrow evening. And I trust that by Wednesday morning at least, when we get into Committee of the Whole, we shall be enabled to take up the bill section by section and consider it with a view to amendments, and its final passage in such shape as may be determined upon by the House.

The CHAIRMAN. The Chair will remind the gentleman from Ohio [Mr. SCHENCK] that the gentleman from Pennsylvania [Mr. SCOTFIELD] has given notice that to-morrow morning he proposes to take up the contested-election case of Delano vs. Morgan.

Mr. SCHENCK. That case, I understand, will come up as a question of privilege immediately after the reading of the Journal. I do not know whether it is likely to take all day or not; I hope not. We cannot, of course, contend with a question of privilege. But if that case should occupy the morning session we will have the evening session left, during which gentlemen will be enabled to make their speeches of half an hour or an hour each, as the case may be, before the bill is considered by sections for amendment.

I give notice now that by Wednesday morning I shall endeavor to begin action upon the bill in Committee of the Whole, with a view to amendment and final passage.

Mr. KELLEY. Mr. Chairman, I would be unwilling to trouble the committee upon this most important bill without more special preparation than I have been able to make, were it possible for me to remain in the city and participate in its discussion at a later day. But the condition of my health requires that I should seek repose in the quiet of my home. I must therefore avail myself of the present opportunity to offer some general suggestions, the pertinence and importance of which will, I hope, justify the seeming temerity of following the elaborate and well-digested remarks of the able chairman of the Committee of Ways and Means in an extempore discussion of the general character of the bill.

First, permit me to thank the Committee of Ways and Means for the method and industry exhibited in the preparation of this bill. They

have done a great work for the country in reducing to order and system the internal revenue laws. And I hope that before Congress rises their bill will, with such amendments as the Committee of the Whole and the House may determine to make, be adopted. It will be a great relief to the industry and enterprise of the country, and I may say a great stimulant to the morals of the people. Our law is now in such a condition that it is a fountain of demoralization. The revenue service is becoming discreditable, and honorable men dislike to admit that they belong to it. Many of the taxes it imposes are worse than injudicious; and that on distilled spirits has been demonstrated to be not only excessive but unnatural. It is not only not adapted to the condition of our country, which is too broad for the surveillance of a metropolitan police, but was adopted and is in entire disregard of the infirmities of average human nature. The wisest prayer uttered by men is that they may not be led into temptation! But our Government has overwhelmed its agents by subjecting them to the irresistible temptations the whisky ring are able to present under existing laws.

Few well-informed men will assert that less than one hundred million gallons of whisky have been distilled in this country during the last year. The legal tax on this amount would be \$200,000,000. Yet our receipts have been only about thirteen million dollars, as we have just been told by the chairman of the Committee of Ways and Means, [Mr. SCHENCK,] to whom I tender my thanks for his able exposition of the provisions of the bill and the condition of the internal revenue service. Last year more than twenty-nine million dollars were collected from whisky—this year, less than one half of that sum, and by the collection of this insignificant amount we have enabled swindlers to extract from the honest consumers of the country not less than \$100,000,000.

And yet those to whom the execution of your laws for the collection of this tax is confided are sealed and bound by oaths at all points, and there is not one of your revenue officers who has connived at any part of this immense and wide-spread robbing of the Government, who has not clothed his soul with perjury as with a garment. There is not a man connected with the business who is not steeped in that terrible crime, because our law makes it inevitable, that he must commit it if he is not prepared to abandon the capital he has invested and the business he once pursued with honor. You cannot impose restraints, and couple them with temptations which average men cannot resist, and enforce your restraints by law, one whit more than you can by your statutes reverse the laws of gravitation. And experience proves that in this matter of a tax of two dollars per gallon on whisky we have undertaken an experiment not more plausible than that of regulating gravitation or the course of the stars by statute.

Sir, our legislation has diverted the production of distilled spirits from its natural locality—the grain-fields of the West and the Southwest—and concentrated it in the cities of the seaboard. The chairman of the Committee of Ways and Means tells us that the frauds are chiefly perpetrated in Philadelphia and Chicago. I hope, sir, that they are; for I am told by the Commissioner of Internal Revenue that one house in Philadelphia has, within the knowledge of the Department, sold more whisky than the aggregate amount for which the Government has received tax in the whole State of Pennsylvania; but, differing from the chairman of the committee, he said that in this bad eminence Philadelphia is overshadowed by New York. Sir, it is affirmed by common rumor that one of the New York agents of the Revenue Bureau, whose name has recently become distinguished in another connection, has saved from his little salary more than two million of well-invested dollars in the brief period of about two years.

Our legislation has not only transferred the

seat of the manufacture of whisky and high wines, but it has changed the substances from which we produce them. The whisky of America is no longer distilled from the grain of our fields, but we import, we buy with gold from foreign lands, the material with which to make an inferior article; and the money which should go West is carried in foreign bottoms, paying freight to foreign ship-owners, to buy foreign material from which to make of inferior quality that which naturally, under a reasonable system of laws, would be made of far superior quality amid the green fields of Illinois, Wisconsin, Kansas, and the other grain-growing States.

More than this, sir; our legislation on this subject has changed the *personnel* of the whole trade. Go into whichever of the cities you please, and you will no longer find the names of the old-established distillers and rectifiers, or if you find their names you will also find that the *personnel* of the establishment has changed; and it has come to pass that a business requiring large capital and broad premises is in the hands of strangers and men who are unknown to their neighbors, many of whom, as I was assured within a fortnight by a distinguished officer of the revenue department, would be engaged in burglary or highway robbery, or expiating such crimes in penitentiaries, but that they find it safer and vastly more profitable to deal in illicit whisky and swindle the Government and honest traders. Let gentlemen consult their constituents and ask who have taken the places of honorable men who years ago added to the wealth of the community by their industry and integrity in the distilling and rectifying business. Few gentlemen will, I apprehend, be willing to exhibit the names and aliases of the men now engaged in either trade in their respective districts and endorse the list as a roll of honor. Victims of black mailing and illicit but protected competition, honorable men have abandoned or are preparing to abandon the business.

By defying the limitations of human nature we have reversed the course of the carrying trade in this matter, and instead of whisky coming over the railroads from the West—whisky made from grain and within proper limits nutritious—your roads are freighted westward with whisky distilled from molasses, and bound to kill at forty rods. Were whisky used only as a beverage, I would not deplore this fact; but its chief consumption is in the arts of general production. And what effect is it having upon the general industry of the country? It is closing manufactures of chemical establishments for the production of perfumery, and for the manufacture of varnish, and a large number of other articles. It is diminishing the general production of the country, and lessening the wages of large classes of skilled laboring people. Sir, there is within my district one chemical works which has been largely engaged in the production among others of alcoholic drugs, such as chloroform, and using alcohol as a solvent for ingredients in other drugs, such as quinine. From a small beginning the gentlemen conducting this establishment had increased their consumption of alcohol to about one hundred and forty thousand gallons per annum. But, sir, being conscientious men, who are unwilling to violate the laws, though they might do so with impunity, and who abide by their pledge to the Philadelphia Drug Exchange to consume no alcohol that has not paid its tax, their consumption has been reduced to fifteen thousand gallons per annum, and their skilled workmen are being scattered or earning the poor wages of unskilled laborers in employments to which they are unused. But, sir, this is not all the harm done the community in this behalf, for men who will make contracts with fraudulent distillers are stocking the market with inferior drugs, or the finer articles my constituents formerly produced are being imported in foreign bottoms and paid for in gold, freight being paid to foreign ship-owners in

each direction on the importation of the commodity, and the export voyage of the gold we so much need.

The people of the Northwest, it seems to me, are specially interested in this question. They will find that they cannot afford to expel from their inland section of the country any branch of manufactures. They need the opportunity to export their grain concentrated in the form of whisky, high wines, or other manufactures. I am no Cassandra and they will not believe me, but I tell them they are entering upon a competition that will exclude them from the markets of the world, if they depend upon the export of their grain in bulk as food or mere raw material. Do you mark, gentlemen of Missouri, Illinois, and Wisconsin, that California is loud in the expression of her gratitude for the fact that one hundred and thirty vessels have been added to the fleet for carrying her grain to New York and transatlantic ports? They can send grain in bulk twenty-three thousand miles to the seaboard of New England or Old England at less cost for transportation than you can send yours to the seaboard by rail. Oregon is groaning under her crop of wheat, and her people are fearing that means of its transportation to market may not be at hand. But this distant competition is not what you have most cause to dread. The South, no longer your customer for food for man and beast, looms up your competitor. Her advantages over you are manifold as they are manifest. She lies between you and the ocean. Her grain fields are upon the banks of navigable rivers which flow to the Gulf or the ocean, and at or near the mouth of each is a seaport. From Norfolk around to Galveston, Texas, the grain of the farmers of the several States may be floated to the sea-board upon rafts and there find shipping. England and western Europe are not the countries to which we chiefly export grain and flour. Our chief markets for these are Central and South America, and the islands to which the southern States are neighbors; and I tell you that if the people of the far Northwest do not take heed, and by diversifying their industry convert their raw materials into more compact productions, the day is not three years distant when their crops will waste in the fields for the want of a market to which they will pay the cost of transportation.

These may seem to be idle statements. But you, gentlemen from the upper Mississippi and the Missouri, know that arrangements are making for carrying your grain in barges to New Orleans for shipment thence. The rivers of the South are never ice bound as yours are through a long winter. Sir, the ablest pamphlet upon the resources of this county I have read in many years is that from the pen of Hon. John B. Robertson, of Louisiana, who tells the people of that State that on four million acres of her soil which are yet unbroken by the plow experiment has demonstrated the fact that sixty bushels of wheat to the acre may be raised—sixty bushels of southern wheat that will bear transportation through the tropics, as spring-sown northern wheat will not. Gentlemen laugh and shake their heads: but when I tell them that six hundred bushels of sweet potatoes to the acre is not in that region more than a fair average crop, they may imagine that the land is somewhat more fertile than that they have been accustomed to manage. Seven hundred bushels of that esculent are frequently produced from the acre. But if each acre will yield but twenty bushels near a seaport the competition will be disastrous to the grain-grower of the remote interior. But, sir, I have wandered into a digression, but shall esteem myself fortunate in having rendered the country a service if some few gentlemen note the facts I have suggested and ponder them. To return to the subject—I say to gentlemen that they need the distillery and the rectifying establishment, that whisky, high wines, lard, and oil, rather than grain in bulk, shall seek a market from their region. It will be better for all if we of the East consume

your productions than it can be if your constituents are to continue to consume whisky concocted in enlarged tea and coffee-pots in cellars and garrets from imported molasses.

Entertaining the views I have expressed, I rejoiced to hear the chairman of the Committee of Ways and Means suggest a reason why the tax of two dollars had been but nominally retained, and express the hope that the House would not sustain it. But, Mr. Chairman, he proposes in the name of the committee that the tax shall be fixed at seventy-five cents. It is an immense reduction, but it does not go quite low enough to check the fraud or to restore this immense trade to its natural channels. While sick at my home last week, I took the liberty of inviting to my bedside some of the best distillers and chemists of Philadelphia; and separately and apart as they came interrogated them as to the cost of molasses whisky and the point at which the tax might safely be placed; and there was unanimity among them in saying that at seventy-five cents molasses whisky in the hands of men with some capital, could incur the risks of the law, and make a fair profit. The reduction would doubtless diminish the production of whisky from molasses and thus reduce the price of molasses to such a point as to enable skillful men to operate with the certainty of large gains. They also agreed that at sixty cents the ground would be debatable, but if Congress wanted to shut molasses whisky out from competition and to contend only with such fraud as might be effected at regular distilleries, and rectifying establishments the tax should be put at the maximum of fifty cents; and that every cent below that until it reached twenty-five would be a guard of the revenue, an additional guard thrown round the revenue and a diminution of the temptation the Government is now offering for perjury, conspiracy, and fraud. I hope, therefore, the tax will be reduced to at most fifty cents; and if I am able to be in my seat and find my vote will be effective in bringing it to forty cents, I will cast it with the belief that while it will save the revenues of the Government, still better, it will save the morals of the people by diminishing the temptations to which they are subjected.

I desire to say, Mr. Chairman, that when I feared that two dollars might be adhered to as the tax by the committee, and that the industries of the country would be taxed \$200,000,000 in order that the infamous "whisky ring" might continue to riot in fat living and amass colossal fortunes, and that the Government, except in special taxes, as provided for in the bill, would receive no more revenue from this source than it has been getting, I was of the opinion that the taxes proposed in the bill were inordinate. The estimates, as we get them from the present Secretary of the Treasury, have always been vastly in excess of expenditures, and vastly below the actual receipts of revenue. The Secretary's estimates have not been candid. Under the pretense of a desire to extinguish the principal of the debt it has seemed to be his policy to reduce the rewards of labor and prevent the development of the natural wealth of the country. Misled by his false estimates, at fault hundreds of millions of dollars each year, we have burdened the industry and restrained the progress of the country in wealth and power. I am unwilling to be longer thus deluded by that system. For my own part I am determined to vote for the lowest possible amount of taxation that will provide with certainty for the payment of the current expenses of the Government and the interest on the public debt.

I find in the report of the Special Commissioner of Revenue, Mr. Wells, made in January, 1868, a passage which I will read as illustrative of the truth of my assertion and the correctness of my theory:

"That the United States is the only one of the leading nations of the world which is at present materially diminishing its debt and reducing its taxes; and the only one, moreover, which offers any substantial evidence of its ability to pay its debt within any definite period, or even anticipates the probability of

any such occurrence. In proof of which we submit the following statements and statistics:

"The figures already presented demonstrate that the United States, from the 31st of August, 1865, to the 31st October, 1867, substantially reduced its liabilities by the sum of over two hundred and sixty-six million dollars, or at an average rate of over ten millions per month for the whole included period; and that during the year ending June 30, 1867, taxation was reduced by law to an estimated amount of from eighty to one hundred million dollars per annum."

Sir, the Commissioner also informs us that our revenues do not diminish proportionately with the reduction of taxation.

After presenting a tabular statement of the revenues of the Government for the years 1866 and 1867, he says:

"A comparison of the figures above presented indicates a falling off in the receipts of internal revenue for the fiscal year 1867, as compared with those of 1866, \$14,986,509. Such a falling off, however, is apparent and not real, as will be evident when the great reduction of internal revenue taxes, made by Congress during the last fiscal year, is taken into the account. To what extent this reduction has actually amounted cannot be precisely stated, but the taxes abated or repealed at the first session of the Thirty-Ninth Congress were estimated as sufficient to occasion an annual loss of revenue, taking the returns of the preceding fiscal year as a precedent, of about sixty million dollars; while the further abatement at the second session of the same Congress was likewise estimated, including the reduction of the income tax, at from thirty to forty million dollars. It would, therefore, have been nothing but reasonable to infer that the revenues for the last fiscal year (1866-67) would have fallen short of the aggregate of the preceding year (1865-66) by an amount equal to the reduction of the taxes, the effect of which was fully experienced during the period referred to; which reduction may be prudently estimated at from sixty to seventy million dollars. In addition to this, it should be remembered that the last fiscal year in the United States was a year of great commercial and mercantile depression—a year in which the crops in all sections of the country were much below an average, and in which manufacturing operations were extensively interfered with by disagreements between employers and their operatives; and yet, notwithstanding all this, the internal revenue did not fall off to an extent commensurate with the amount of taxes abated or repealed; but, on the contrary, exhibited a comparative net gain of from fifteen to twenty-five million dollars."

Sir, this is not miraculous or even wonderful, for our country is expanding in resources and taxable population beyond the degree in which any country or people ever before expanded. Six hundred miles, said the gentleman from New York, [Mr. Brooks,] into the Indian territory your Pacific railroad now runs. Yes, sir; in the midst of what but last year were plains and hills, to which civilization was a stranger, is now the flourishing city of Cheyenne, with its tax-paying population thriving and prospering, and along the whole six hundred miles of that road beyond the infant city of Omaha are people who, two years ago, were citizens of other lands or among the landless laborers of this country, who this year, in their new and independent homes, will contribute to the revenues of the country through the various departments of the internal tax law and by the generous consumption of dutiable goods.

"Three-fifths of all other persons," is the language with which the Constitution refers to four million of our people—those four millions who hitherto lived without the use of money, and were habitually clad in such garments as you give the pauper and prisoner, where these unfortunates receive least sympathy—to-day walk erect in man and womanhood. They handle money which their labor earns. They occupy homes. Many thousands of them own lands, and standing up under their own vine and fig tree acknowledge no man as master, and asking no man to supply their wants, contribute to the revenues of the Government. Four million additional consumers of taxable and dutiable goods. They are using the matches which pay to the Government a penny a box; and no longer going barefoot they contribute to the income of the Government when they buy the blacking with which to polish their boots. And, sir, there are another four million dwelling among them, the poor whites of the South, who were as innocent as they of matches and blacking, and imported silks or ribbons, through which they

now, or soon will, contribute to the support of the Government which has enfranchised them also.

Three hundred thousand emigrants a year are coming in steady flowing streams to swell the taxable resources of the country! Eight million of people elevated from a condition little above that of the brute into tax-paying and dutiable goods-consuming people! And can we in view of these facts estimate the future from data furnished by the past? No, sir, we cannot from any one year calculate the resources of the country in the next unless we impose upon our industry such burdens as will prevent its profitable employment, check immigration, and restrain the development of our wondrously varied resources.

Three years ago the vast coal-bed of the West, underlying an area of one hundred and twenty-six thousand square miles; embracing a part of Kentucky, five thousand miles; a part of Indiana, fifteen thousand; the greater part of Illinois, thirty-five thousand; and stretching under the Mississippi river and underlying nearly the whole State of Missouri and a large part of Kansas, together with that other wonderful coal formation additional to that to which I have referred, and separated from it by narrow rocky strata, which underlies nearly the whole State of Iowa, were scarcely recognized except at Covington, Kentucky, as among the material resources of the country. But the ore of Iron mountain, in Missouri, as I have hitherto suggested to the House, is now carried on trains to the interior of Indiana, where, by the use of native coal, purer than has been known on the other side of the Atlantic, purer than I had ever seen before, it is being converted into every form of utility to which iron may be applied, and supplying the whole West with better and cheaper iron and steel than it has hitherto been able to purchase; and the train that brings the rich ore to Indiana carries back to Missouri coal superior even to that of the Big Muddy, thus demonstrating the possibility of building up at either point an iron and steel industry before which those of England, France, Belgium, and even Prussia, justly famous as is her Krup, will sink into comparative insignificance.

The true policy of this country, in view of its vast resources, and of the rapid and steady aggregation and exaltation of its people, is for the present to reduce taxation to the minimum, to relieve its industry and its resources from every burden possible, to see to it that all just demands on the Government are amply provided for, and to leave the principal of the debt to be liquidated by express provision when the people of the South shall have recovered from the ravages of war, and when, enlightened by experience, the Northwest shall have adjusted itself to the competition it is to endure from the grain-growing capacity of the South, and the determination of her people to revenge themselves so far as they can upon their conquerors by growing grain and monopolizing the markets open to American grain. I hope, therefore, that though I may be absent during the consideration of this bill, others will see to it that every tax that can with safety be reduced which touches the industry of the country or annoys the people by its impertinent exaction will be reduced.

And in this connection I turn to schedule A, which imposes a tax upon a \$300 carriage, upon a gold watch, upon the piano you have provided for your daughter, and which requires citizens to account for the spoons and forks in use in their houses, whether given to them as a wedding present or preserved as a little memorial of the fact that they had distant ancestors.

A MEMBER. It is not taxed unless kept for use.

MR. KELLEY. When it comes into use it becomes taxable. After the baby is born the pap-spoon is taxable, until then it may, as a present, escape the tax collector's inquisition. The whole amount of taxes collected under



schedule A during the last year, when it yielded more than ever before, was \$2,116,000. Now, the chairman of the committee has shown you that under his bill at the very lowest possible estimates of income you are to have a surplus of \$46,000,000. Hitherto you were to have no surplus, and you raised an excess of \$120,000,000 each year. Start out with aiming at \$46,000,000 of surplus and during the year with the incoming tide of prosperity you will find that you have needlessly assessed \$146,000,000 of taxes. I will not enumerate the provisions of that section. You will find them on page 171 embraced in section one hundred and sixteen.

I have been told by collectors of internal revenue that more penalties are incurred by the tax on gold watches than on any other article. More men are made to feel that your laws inflict unjust penalties on this subject than on any other. I have heard of an instance of a conscientious widow who, learning subsequent to the day on which the tax should have been paid, that there was such a tax, went and reported that she had five daughters, each of whom had a gold watch, and had a special penalty imposed on each by reason of her conscientiousness. The taxes are frequently collected in a manner to make the law as odious as possible; and if a Republican, or the wife or daughter of a Republican complains, the answer is, "My party is not responsible for it; we did not make the law. Why do you not get the Republicans to remedy the annoyance of which you complain?" And I trust the Republican majority in this Congress will remove all these fruitless but annoying taxes. Sir, all the taxes named in schedule A have in no one year paid one per cent. of the income; they have never reached more than eight tenths of one per cent. of the income. In the report of the Commissioner of Internal Revenue, to which I have referred, you will find the figures set out, and the nearest they have ever come was seven and ninety-six thousandths of one per cent. of the annual revenue. Why make our taxes so odious for the sake of swelling in so slight a degree the surplus revenue by penetrating inquisitorially into the secrets of every maiden lady and widow woman in the land, and inquiring whether she can conscientiously swear that her old carryall is not worth \$300?

Again, sir, it occurred to me that the committee, believing many of these taxes to be unduly heavy, have hoped to enforce them by extreme penalties. Thus in section sixty-nine it is provided:

"That if any distiller, rectifier, wholesale liquor dealer, compounder of liquors, distiller of oil, brewer, or manufacturer of tobacco or cigars shall omit, neglect, or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his business, or shall do anything by this act prohibited, if there be no specific penalty or punishment imposed by any other section of this act for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the thing required or prohibited, he shall pay a penalty of \$1,000; and, if the person so offending be a distiller, rectifier, wholesale liquor dealer, or compounder of liquors, all distilled spirits or liquors owned by him, or in which he has any interest as owner, if he be a distiller of oil all oil found in his distillery, and if he be a manufacturer of tobacco or cigars all tobacco or cigars found in his manufactory, shall be forfeited to the United States."

What, sir! if his youngest errand-boy commits an error of that kind, if some of his servants be suborned, if any of his agents do what ought not to be done, or omit to do what the law requires, are you to forfeit his whole stock? I trust the committee will at least insert the words "willfully and designedly," so that for a mere accident the entire stock and business of a man may not be confiscated, or he be subjected to litigation.

Would my strength permit I would gladly consider some other provisions of the bill. But, sir, I have presented the main views that impress me. They are, in the first place, that the bill, even as modified by the suggestions of the chairman of the Committee of Ways and Means, and the reduction of the tax on whisky to seventy-five cents, offers a bribe of many

million dollars to a ring organized throughout the country and knowing its men in every city, county, and State—a bribe of enormous amount to tempt bad men to perjury, conspiracy, and fraud; and I trust that the tax will be reduced to a point which will make it certain that molasses whisky cannot be made with profit.

Preclude the use of that imported ingredient, which may be distilled in any cellar or attic, and compel distillers to use grain, and you will secure to the officers of the revenue a chance to discover frauds, punish swindlers, and confiscate illegal goods. And I ask gentlemen while considering this bill to carry with them the proposition that the true standard of estimate for the receipts of the next year, and the true object at which to aim in making assessments, is simply to provide for the payment of the interest on the public debt and the current expenses. They may be assured that if they will make ample provision for these objects, they will provide the means to pay from forty to seventy millions of the principal of the public debt, as our receipts always largely exceed the Commissioner's estimates.

I have not the strength to stand while I analyze the figures I noted as they fell from the lips of the chairman of the committee. If I had I could, I think, make a perfect demonstration of my proposition from the materials he has furnished. But, thanking the members of the committee for the attention they have given me, I leave the work in their hands, with confidence that it will be faithfully done.

Mr. ALLISON obtained the floor, but yielded to

Mr. CULLOM, who moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

#### INDIAN AFFAIRS—WAR DEPARTMENT.

Mr. GARFIELD, by unanimous consent, introduced a bill (H. R. No. 1152) to restore the Bureau of Indian Affairs to the Department of War; which was read a first and second time, and referred to the Committee on Military Affairs.

#### JOHN C. BRECKINRIDGE.

Mr. MILLER. I ask unanimous consent to offer the following resolution:

Whereas it has been published in the newspapers that John C. Breckinridge has had assurances from the Administration which induced him to return to the United States: Therefore,

Resolved, That the President be, and is hereby, directed to inform the House if any such assurance has been given to that notorious traitor John C. Breckinridge, or any inducement that he will escape the due punishment for his treason.

Mr. BLAINE. The resolution should read "requested" and not "directed."

Mr. MILLER. I will modify it in that way.

Mr. GETZ. I object to the resolution, for I do not think there is anything in it. [Cries of "Oh, no!" and "Let it go!"] Well, I withdraw the objection.

No further objection being made, the resolution was agreed to.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. BAKER on account of the sickness of his child.

#### CHARGES AGAINST A MEMBER.

Mr. POLAND. I rise to a question of privilege, and submit a report from a select committee, and move that it be printed.

Mr. DONNELLY. I ask that the report be read.

The report was read, as follows:

The select committee appointed under a resolution

of the House of May 4, 1868, to investigate certain charges made by Mr. ELIhu B. WASHBURN, a member of the House from the State of Illinois, against Mr. IGNATIUS DONNELLY, a member of the House from the State of Minnesota, as set forth in the preamble of said resolution, submit the following report:

The committee gave due notice to Mr. WASHBURN and Mr. DONNELLY that they would meet on the 14th of May to enter upon the investigation directed by said resolution and requested their attendance. The committee met on said 14th of May, and were attended by Mr. WASHBURN and by Mr. DONNELLY and his counsel. The committee met on several subsequent days by adjournment from time to time.

It was conceded by both the above-named gentlemen that the charges made by Mr. WASHBURN against Mr. DONNELLY upon the floor of the House, as set forth in the preamble, were withdrawn in the House by Mr. WASHBURN in a manner satisfactory to Mr. DONNELLY, so that the only remaining duty of the committee was to investigate the charges contained in Mr. WASHBURN's letter, which is copied at length in said preamble. At a meeting of the committee, held on the 27th of May, Mr. WASHBURN submitted a communication in writing to the committee of that date, which is hereto appended. In said communication Mr. WASHBURN claimed that in his published letter there was not intended to be, and was not, contained any charge against the official character or conduct of Mr. DONNELLY as a member of the House, and that the deduction from the language of his letter that he charged Mr. DONNELLY with bribery and corruption, stated in the preamble, was unwarranted.

This avowal on the part of Mr. WASHBURN was accepted as satisfactory by Mr. DONNELLY as to all the statements in Mr. WASHBURN's letter bearing upon his character and conduct as a member of the House, so far as not to require an investigation by the committee. There remained, then, for the consideration of the committee only that portion of Mr. WASHBURN's letter charging Mr. DONNELLY with disreputable conduct many years ago, and prior to his election as a member of the House.

In the preamble to the resolution directing this investigation it is said that Mr. WASHBURN charged Mr. DONNELLY with being a fugitive from justice, which implies that he fled to avoid arrest and punishment for some crime. In the opinion of the committee this deduction of the preamble is hardly warranted by the language of the letter that "he left Philadelphia under suspicious circumstances between two days." We spend no time, however, upon this, as it is not material to our conclusion. The charge is opprobrious and imputes to Mr. DONNELLY disreputable and dishonorable conduct, so that the use of such language upon the floor of the House would be disorderly and a breach of the privileges of the House and of Mr. DONNELLY as a member. Mr. WASHBURN, in his written communication above referred to, and also verbally before the committee, stated that he did not appear before the committee as a prosecutor, and declined to assume the affirmative of attempting to substantiate his charge against Mr. DONNELLY by proof.

On behalf of Mr. WASHBURN it was claimed that the charges or statements in the letter having reference to the conduct and character of Mr. DONNELLY anterior to his election to Congress were no breach of the privileges of the House or of Mr. DONNELLY as a member, and that therefore the House had no proper jurisdiction to direct an investigation as to their truth or falsity. Mr. DONNELLY constantly and persistently urged upon the committee that they should proceed to investigate the truth or falsity of the allegations against him, and avowed his entire willingness to assume the affirmative, and to disprove them, and to pay the expense of witnesses for that purpose, and in reply to the argument of Mr. WASHBURN, that there was no such case of breach of privilege as would justify the House in ordering such investigation, both Mr. DONNELLY and his counsel urged that that question had already been settled by the House in the passage of the resolution, and that the committee were bound to proceed and hear his evidence; and that whether in strictness the letter of Mr. WASHBURN was a breach of privilege or not, he was entitled to the opportunity to vindicate his reputation and character from unjust attacks upon it.

Mr. WASHBURN further stated to the committee that though he declined to appear to sustain the affirmation of the charges against Mr. DONNELLY, and claimed that they furnished no sufficient ground of jurisdiction for such an investigation, still he did not withdraw his charges, and if the committee decided to go forward he should claim the right to produce evidence in reply to Mr. DONNELLY, and endeavor to establish the truth of all he had alleged. The committee have endeavored to give the subject such careful and considerate attention as it deserves, and while anxious to do exact and equal justice to both the gentlemen interested in it they have been equally anxious not to establish a precedent that should go beyond the proper legal and parliamentary jurisdiction and authority of this House in sustaining and protecting its own privileges and that of its members.

And especially have your committee desired not to go beyond the true line of privilege in a case where a precedent once established would necessarily furnish occasion for frequent and perplexing appeals for the exercise of the power of the House for the defense and protection of the reputations of its members from attacks having no reference to their official character. Upon such consideration and examination as your committee have been able to give this question they are unanimously of opinion that the charges of disreputable conduct (or of criminal conduct, if the language will bear that interpretation) made by Mr. WASHBURN against Mr. DONNELLY

NELLY anterior to his becoming a member of the House, are not a breach of the privileges of the House or of Mr. DONNELLY as a member, and therefore furnish no proper ground for an investigation with a view to protect and defend the privileges of the House or its members by punishing the person violating them.

Libelous publications in reference to the parliamentary body itself are a breach of its privileges which may be punished, and so a libelous publication against a single member of such body in his capacity of a member, or affecting his conduct or character as such, is equally so, as casting discredit upon the body.

But a libelous publication concerning a member in his private character and capacity only has never been regarded as a breach of privilege, either of the body of which he is a member or of the member himself, and he must seek redress for such private injury in the same manner other citizens do, by vindication through the public press, or by resort to the legal tribunals. The principle is much the same as that applicable to the person of the member. If an assault be made or other personal injury be done to a member while in attendance upon the House, or while going to or returning from such attendance, it is a breach of privilege, but an assault upon the person of a member not in attendance, and in no way affecting his attendance as a member, is not.

As has been already stated, if the words of this letter had been used by Mr. WASHBURN upon the floor of the House they would have been disorderly, a breach of the privileges of the House, and of Mr. DONNELLY as a member, and he could properly have been punished therefor. This is upon the ground that the use of any language upon the floor, derogatory to the personal character of a member, is calculated to provoke disturbance and disorder in the proceedings, and bring the body itself into contempt and disgrace. These reasons do not apply to the publication of the same words in a newspaper a thousand miles distant.

In relation to the binding force of the passage of the resolution by the House, as urged by Mr. DONNELLY, we would observe, that upon the introduction and passage of the resolution the power of the House and the extent of its proper jurisdiction does not appear to have been at all debated, and was not probably to any considerable extent considered. The resolution also assumed that the letter of Mr. WASHBURN charged Mr. DONNELLY with bribery and corruption as a member, which, if true, was clearly a proper question of privilege for the action of the House.

Your committee have not, therefore, felt themselves at all embarrassed by the language of the resolution, or thereby compelled to go forward in the investigation of what remains of this case, which, in our judgment, is of a private and personal character only, involving no question of privilege. If the judgment of the House should not concur with that of the committee, no delay will have occurred by reason of our now presenting our report to the House in its present form.

Your committee, therefore, ask to be discharged from the further consideration of the resolution, and recommend that the same be laid upon the table.

The question was upon ordering the report to be printed.

Mr. DONNELLY. Will the gentleman from Vermont [Mr. POLAND] yield to me for two or three minutes?

Mr. POLAND. Certainly.

Mr. DONNELLY. Mr. Speaker, I cannot refer to this very remarkable report or to the remarkable state of facts it details, in the manner I would desire, in consequence of the absence, from this Hall at this time of the gentleman alluded to in the report, the gentleman from Illinois, [Mr. WASHBURN.]

I will, however, call the attention of the House and of the country to the fact that that gentleman has unequivocally retracted so much of his charges as he would be compelled either to retract or to prove, and that he has raised the question that the committee had no right to investigate the remainder of his charges. He has been willing neither to prove them, retract them, nor to permit me to disprove them at my own expense. On some future occasion—

Mr. POLAND. I hardly expected when I yielded to the gentleman from Minnesota that he was going very much into this subject.

Mr. DONNELLY. I am not.

Mr. POLAND. And as the gentleman from Illinois, [Mr. WASHBURN,] who is concerned, is absent, I think any debate on the report should be deferred.

Mr. DONNELLY. I do not propose to animadvert upon the report, except to state what I think the House and the country would consider to be—

Mr. MAYNARD. I rise to inquire whether there is any way in which this whole matter can be withdrawn for the present?

Mr. POLAND. I submitted the report for

the purpose of having it ordered to be printed. I intended, after that order had been made, to move that it be laid on the table, and not to call it up for any action until the gentleman from Illinois is present.

Mr. DONNELLY. I trust I have said nothing I should not have said.

Mr. BURR. I object to any debate until my colleague [Mr. E. B. WASHBURN] is here.

Mr. POLAND. I move that the report be printed.

Mr. DONNELLY. I hope the gentleman will yield to me for a moment.

Mr. POLAND. I think I had better not.

Mr. ELDRIDGE. I hope the gentleman from Minnesota [Mr. DONNELLY] will be allowed to proceed. I do not think there is anybody who can understand that report from its reading, or tell which side the committee are on, or how they have decided.

Mr. POLAND. I move that the report be printed and laid on the table.

The SPEAKER. The Chair will take the liberty to suggest to the gentleman from Vermont [Mr. POLAND] that perhaps the better way would be for him to move that the report be printed and recommitted.

Mr. POLAND. I supposed that this might be treated like a report from the Committee of Elections. When such reports are presented they are laid on the table, and can be called up at any time.

The SPEAKER. A question of privilege affecting the right of a member to his seat can be called up at any time. This is near enough to such a question to take the same course; but probably the better course would be to order the report to be printed and recommitted.

Mr. POLAND. I move, then, that the report be ordered to be printed, and recommitted.

The motion was agreed to.

#### AMERICAN LINE OF OCEAN STEAMERS.

Mr. HILL, by unanimous consent, reported back from the Committee on the Post Office and Post Roads a bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports; which was ordered to be printed, and recommitted.

Mr. HILL also, by unanimous consent, presented a memorial of several New York merchants on the same subject; which was referred to the Committee on the Post Office and Post Roads.

Mr. HOLMAN. I move to reconsider the various votes by which bills have just been referred to committees; and that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### JOHN M. PALMER.

Mr. COBB. I ask unanimous consent of the House to take from the Speaker's table joint resolution (H. R. No. 218) for the relief of John M. Palmer, in order that I may move non-concurrence with the Senate's amendment, and the appointment of a committee of conference.

Mr. CULLOM. I move that the House adjourn.

The motion was agreed to; and the House (at five o'clock and ten minutes p. m.) adjourned.

#### PETITIONS, ETC.

The following petitions were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of F. Cordes, of Laporte county, and others, and Henry Reckart, of Miami county, Indiana, and others, relative to the tax on cigars and tobacco.

By Mr. BLAIR: The petition of D. Keeler and others, citizens of Battle Creek, Michigan, in opposition to any increase of tax upon cigars, and in favor of revenue stamps thereon.

By Mr. BOYER: The petition of 69 cigar manufacturers and growers of and dealers in

seed leaf tobacco against any change of the rate of taxation on cigars.

Also, the petitions of 35 manufacturing companies and firms of Montgomery and Lehigh counties, Pennsylvania, employing when in full operation 3,612 workmen, now employing 2,583 workmen, signed also by citizens of said counties, representing that the industry of the country is paralyzed for want of sufficient protection against the cheaper capital and labor of foreign countries; that the manufacturing population cannot continue to pay prices for provisions even approaching those now realized by agriculturists while exposed to competition with the Old World under a tariff which, owing to the decline of the premium upon gold, has become inadequate, and which, in prospect of a continued decline, must shortly prove ruinous; that much of the distress now prevalent would be relieved by the passage of the tariff bill which failed in the House of Representatives, March, 1867, for want of time; and praying that Congress will resume consideration of that measure, and enact it into a law at the earliest practicable moment.

By Mr. DRIGGS: The petition of Francis Otto, and 10 others, citizens of East Saginaw, Michigan, cigar manufacturers, setting forth the fact that they regard the present tax of five dollars per thousand as just, equitable, and proper, and protesting against an increased tax of five dollars per thousand as unjust and calculated to ruin the trade, and throw thousands of poor men out of employment.

By Mr. ECKLEY: The petition of the cigar-makers of Steubenville, Ohio, in opposition to the proposed change in the tax on cigars.

By Mr. GETZ: A memorial from cigar manufacturers, journeymen cigar-makers, dealers in cigars, and growers of tobacco, in the city of Reading and county of Berks, Pennsylvania, remonstrating against the proposed change of the rate of internal revenue tax on cigars from five to ten dollars per thousand, and praying for the substitution of the system of collecting the revenue on cigars by revenue stamps, instead of inspectors' stamps.

By Mr. HOOPER, of Massachusetts: The petition of 142 printers and binders of Cambridge, Massachusetts, representing that the productive interests of the country are suffering for want of efficient protection against the cheaper capital and labor of foreign countries; that the customs duties, which were sufficient under a high gold premium to create and foster manufactures, have become inadequate, and must shortly prove ruinous; that much of the distress now prevalent and daily increasing would be relieved by the legislation suggested in special Commissioner Wells's report of last year, and perfected in the tariff bill (as passed by the Senate) which failed in the House, March, 1867, for want of time, and praying Congress to resume consideration of that measure and enact it into a law at the earliest practicable moment.

By Mr. HUBBARD, of Connecticut: The remonstrance of Ira W. Porter and others, of Hartford county, Connecticut, against the proposed increase of tax on cigars.

By Mr. HUNTER: A memorial of 156 coopers, residing in the city of Terre Haute, Indiana, asking that the tax on whisky be reduced to twenty-five cents on the gallon, so as to stop the frauds in the manufacture and sale of that article.

By Mr. KELLEY: The petition of Henry C. Semple, charging Hon. Richard Busted, United States district judge of Alabama, with official incompetency and corruption, and praying that an investigation of the charges be ordered.

By Mr. LAWRENCE, of Pennsylvania: The petition of 6 manufacturing firms of Beaver county, Pennsylvania, representing that for want of efficient protection against pauper labor of foreign countries industry is paralyzed, and praying for legislation to meet the exigencies of the case.

By Mr. MERCUR: The petitions of iron manufacturers of Bradford and Columbia coun-

ties, Pennsylvania, employing, when in full operation, 212 workmen, and now employing 110 workmen, setting forth that the productive interests of the country are suffering and its industry paralyzed for want of efficient protection against the cheaper capital and labor of foreign countries; that much of the distress now prevalent and daily increasing would be relieved by the legislation suggested in Special Commissioner Wells's report of last year, perfected in the tariff bill (as passed by the Senate) which failed in the House, March, 1867, and praying Congress to resume consideration of that measure, and enact it into a law at the earliest practicable moment.

By Mr. MILLER: The memorials of 6 iron manufacturing firms and companies of Dauphin county, Pennsylvania, employing when in full operation 1,196 workmen, setting forth that the industry of the country is paralyzed for want of efficient protection against the cheaper labor and capital of foreign countries; that in prospect of a continued decline in gold, customs duties—at present inadequate—must shortly prove ruinous; that much of the prevalent and increasing distress would be relieved by the legislation suggested in Special Commissioner Wells's report of last year, and reported in the tariff bill (as passed by the Senate) which failed in the House, March, 1867, for want of time; and praying Congress to resume consideration of that measure, and enact it into a law at the earliest practicable moment.

By Mr. PAINE: A memorial of the Legislature of the State of Wisconsin, for a grant of land to aid in the construction of the Wisconsin River Valley railroad.

Also, a memorial of Blanchard & Arnold, of Milwaukee, Wisconsin, in opposition to the extension of Anson Atwood's patent for his improvement in cast-iron car-wheels.

Also, a memorial of Charles V. Kelley, praying compensation for services rendered as post chaplain at Camp Reno, in the city of Milwaukee, in the State of Wisconsin.

Also, the application for relief of disabilities of James R. Berry, of Arkansas.

Also, the application for relief of disabilities of William M. Harrison, of Arkansas.

By Mr. SCHENCK: The petition of A. B. Crandall and others, praying for the enactment of a law placing soldiers who enlisted in the Army for a term of five years prior to 1861, and served for three years during such enlistment on an equal footing in respect to bounties, with volunteers who served three years during the war.

Also, the petition of Michael Herberster, of Pittsburg, Pennsylvania, for back pension from July 3, 1863.

Also, the petition of S. B. Swann and 10 others, citizens of Albany, New York, praying for reduction of tax on cigars.

Also, the petition of Charles Rodmann and 88 others, of Cincinnati, Ohio, praying for reduction of tax on cigars.

By Mr. WASHBURN, of Massachusetts: The petition of J. D. Brown and 71 others, legal voters in the town of Hatfield, Massachusetts, against raising the tax on cigars.

Also, the petition of Andrew Dowd and 12 others, cigar manufacturers in Richmond, Virginia, against any increase of the tax on cigars.

#### IN SENATE.

TUESDAY, June 2, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### ELECTION IN ARKANSAS.

The PRESIDENT *pro tempore* laid before the Senate a report of the General of the Army, communicating, in compliance with a resolution of the Senate of the 29th of May, reports and papers received since the 4th of May in relation to the late election in Arkansas; which was ordered to lie on the table.

#### EDUCATION REPORT.

The PRESIDENT *pro tempore* laid before

the Senate a letter from the Commissioner of Education, transmitting his annual report; which was ordered to be printed and lie on the table.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

*Resolved*, That three thousand copies of the report of the Commissioner of Education be printed for the use of the Senate, and two thousand copies for the use of the Commissioner.

#### PETITIONS AND MEMORIALS.

Mr. CAMERON presented the petition of William G. McEwan, praying a removal of disability, so that he may be enabled to receive the benefit of the act declaring that officers of the Navy shall not be deprived of their regular promotion on account of wounds received in battle; which was referred to the Committee on Naval Affairs.

He also presented the memorial of the Philadelphia Board of Trade, praying the passage of a law giving aid to the Kansas Pacific railway; which was referred to the Committee on the Pacific Railroad.

He also presented the memorial of members of the tobacco trade of Philadelphia, praying a uniform tax upon all kinds of manufactured tobacco and snuff, excepting cigars, and that the tax of five dollars per thousand be retained upon domestic cigars; which was referred to the Committee on Finance.

Mr. FRELINGHUYSEN presented the petition of Little & Dana, woolen manufacturers, praying to be relieved from internal revenue taxes now charged against them and remaining due and unpaid; which was referred to the Committee on Finance.

He also presented a petition of citizens of Kentucky praying compensation to Dr. J. M. Best for property destroyed by the military forces of the United States; which was referred to the Committee on Claims.

He also presented the petition of Rebecca C. Meeker, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. HOWARD presented a memorial under oath, of Simon Srackengast and Henry Beachman, late of first regiment of Michigan cavalry, with exhibits, asking for themselves and fellow-soldiers an amendment or supplement to the act of 1866, providing for payment for transportation from Utah; which was referred to the Committee on Military Affairs and the Militia.

Mr. FESSENDEN presented the petition of William M. Haley, praying a removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. TRUMBULL presented a memorial of citizens of Jones, Fayette, and Marion counties, Alabama, praying Congress to pass a law setting aside and declaring null and void the ordinance of the late convention of that State abolishing the county of Jones; which was referred to the Committee on the Judiciary.

Mr. CORBETT presented the petition of Theodore J. Eckerson, captain and assistant quartermaster and brevet major United States Army, praying the passage of a bill refunding to him the amount paid for grain to make up the difference in his accounts occasioned by an error of his clerk; which was referred to the Committee on Claims.

Mr. HENDRICKS presented a petition of citizens of Evansville, Indiana, praying for a change in the system of collecting the tax on cigars; which was referred to the Committee on Finance.

#### REPORTS OF COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (S. No. 492) to extend the time for the construction of the Southern Pacific railroad, in the State of California, reported it without amendment.

Mr. SUMNER, from the Committee on Foreign Relations, to whom were referred the message of the President of the United States,

communicating, in compliance with a resolution of the Senate, information in relation to any application by any party for exclusive privileges in connection with hunting, trading, and the fisheries in Alaska, and resolutions of the Legislature of Minnesota in relation to the purchase of Alaska and the transfer of the Territories between Minnesota and Alaska to the dominion of Canada, asked to be discharged from their further consideration, and that they be referred to the Committee on Territories; which was agreed to.

Mr. SUMNER. The same committee, to whom was referred the resolution giving consent of Congress to the acceptance by Mr. Burlingame of appointment under the Chinese Government, have had the same under consideration, and directed me to report it back to the Senate and ask to be discharged from the further consideration thereof. I will state, in connection with this report, that at the time this resolution was introduced it was supposed that Mr. Burlingame was actually holding an office under the Government of the United States, so that he could not receive any foreign appointment except by permission of Congress. Mr. Burlingame is now no longer in the service of the United States, and therefore there is no occasion for any action of Congress on the subject. I move that the committee be discharged from the further consideration of the subject.

The motion was agreed to.

Mr. SUMNER, from the same committee, to whom was referred the memorial of William F. Schwilk, pastor, and others, asking for the adoption of measures to secure for citizens of this country in Palestine the same rights and privileges as the "International Association for Colonizing the Orient" have asked from the Sublime Porte, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred a petition of citizens of New York, praying the passage of a bill to provide for sending a large quantity of grain and flour to be distributed among the starving population of Sweden, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of W. G. Dix, protesting against the recognition of the Ottoman empire as a right and lawful Government, asked to be discharged from its further consideration.

He also, from the same committee, to whom was referred the message of the President of the United States in relation to the alleged interference of our consul at Rome in the late difficulties in Italy, asked to be discharged from its further consideration.

He also, from the same committee, to whom was referred the message of the President of the United States, communicating correspondence with Mr. Motley, lately minister of the United States at Vienna, relative to his removal from his post, asked to be discharged from its further consideration.

Mr. SUMNER. I ask that the question be put on discharging the committee from the consideration of these papers.

The PRESIDENT *pro tempore*. The committee will be discharged, unless objection be made.

Mr. CONNESS. I have no objection to make, but I avail myself of this opportunity to inquire of the honorable chairman of the Committee on Foreign Relations whether we are soon to have a report from his committee on the House bill for the protection of naturalized citizens abroad. I will state that there is a great deal of interest felt in the subject, and I have been requested by a great many parties to call attention to it. I should like to know, for the benefit of the country, of the chairman of the committee at this time the condition of that bill.

Mr. SUMNER. I have just this moment come from the committee-room, which has had under consideration business that has been accumulating, as the Senator must bear in mind,



during the last few weeks. Before leaving the committee-room, the last matters under consideration were the various bills and propositions relating to the rights of American citizens abroad, first among which is the act that has recently passed the House of Representatives on that subject. On our adjournment it was understood that that was to be the subject of special consideration at the next meeting of the committee.

Mr. CONNESS. I am very glad to hear it. Mr. HENDRICKS. The Committee on Public Lands, to whom was referred the bill (S. No. 481) to confirm the title to certain lands in the State of Nebraska, have directed me to report it back with an amendment in the nature of a substitute; and as this is a matter of considerable interest to the citizens of the city of Omaha, and is a very short bill, the committee thought it proper that I should ask that it be put on its passage now.

The PRESIDENT *pro tempore*. The Senator from Indiana asks the unanimous consent of the Senate to consider the bill reported by him at this time.

Mr. TRUMBULL. I hope we shall get through the morning business before any bill is taken up.

The PRESIDENT *pro tempore*. Does the Senator object to the present consideration of the bill?

Mr. HENDRICKS. I have no personal interest in the bill in the world. The committee thought it so important to some titles at Omaha that they directed me to ask for its present consideration.

Mr. TRUMBULL. I desire to make some reports. I shall have no objection to the bill after the morning business is disposed of.

The PRESIDENT *pro tempore*. The reports will be received. The Chair understands that to be an objection to the present consideration of the bill named by the Senator from Indiana.

Mr. WILLEY, from the Committee on Claims, to whom was referred the joint resolution (H. R. No. 36) for the relief of George W. Ashburn, reported adversely thereon.

Mr. WILLEY, from the Committee on Patents and the Patent Office, to whom was referred the petition of E. M. Chaffee, praying an extension of his patent for his discovery of a process for grinding India-rubber, reported adversely thereon.

He also, from the same committee, to whom was referred the memorial of Joseph Nock, praying the passage of a law requiring all patentees and assignees of patents to cause to be stamped or engraved on every patented article offered for sale the date of the patent, reported adversely thereon.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred the following petitions and memorials, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims; which was agreed to:

Two petitions of late officers in the volunteer service, in relation to the three months' pay proper;

A petition of Levi Ferguson and others, in relation to the three months' pay proper;

A memorial of Gottlieb Oesterle, in relation to the payment of bounty;

A memorial of John Potts, chief clerk of the War Department, praying compensation for services rendered as disbursing agent;

A petition of John O'Dwyer, late captain in Veteran Reserve corps, in relation to the three months' pay proper; and

A petition of John Dean, late a lieutenant in the Army, in relation to the three months' pay proper.

He also, from the same committee, to whom was referred the memorial of commissioners in behalf of the State of Illinois in relation to the Illinois and Michigan canal and river improvements, asked to be discharged from its further consideration, and that it be referred to the Committee on Commerce; which was agreed to.

He also, from the same committee, to whom were referred the following bills and joint resolutions, asked to be discharged from their further consideration, and that they be referred to the Committee on Claims; which was agreed to:

A bill (H. R. No. 425) for the relief of Mary A. Filler;

A bill (H. R. No. 553) for the relief of A. W. Ballard;

A bill (H. R. No. 1128) for the relief of Isaac Watts;

A bill (H. R. No. 1129) for the relief of the widow and children of Colonel James A. Mulligan, deceased;

A bill (H. R. No. 1130) for the relief of H. G. Auken, late captain fourth Iowa infantry;

A bill (H. R. No. 1077) for the relief of O. P. Shiras;

A bill (H. R. No. 1081) for the relief of John A. Neustaeter;

A joint resolution (H. R. No. 256) for the relief of Martha E. King; and

A joint resolution (H. R. No. 280) for the relief of Miss Ella E. Hobart.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress, have instructed me to report it back with an amendment.

Mr. WILSON. What is the amendment?

Mr. TRUMBULL. It will have to be printed; and I have no time to explain it. The same committee, to whom were referred the constitutions of these States, report them back for the consideration of the Senate.

The same committee, to whom was referred the resolution (S. R. No. 135) to restore Alabama, North Carolina, South Carolina, Georgia, Louisiana, and Florida to representation in Congress, have instructed me to report it back and recommend its indefinite postponement, the subject being embraced by the bill just reported.

The PRESIDENT *pro tempore*. The joint resolution will be indefinitely postponed if no objection be made, and the bill will go on the Calendar.

Mr. CORBETT, from the Committee on Indian Affairs, to whom was recommitted the bill (S. No. 215) to vacate and sell the Umatilla reservation in the State of Oregon, reported it with an amendment.

#### DOCUMENTS FOR NATIONAL ASYLUMS.

Mr. MORTON. I am instructed by the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (H. R. No. 278) to supply books and public documents to the national asylum for disabled volunteer soldiers, to report it back to the Senate with an amendment and recommend its passage, and I should like the present consideration of it, if there be no objection.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. It directs the Secretary of the Senate and the Clerk of the House of Representatives to cause to be sent to the national asylum for disabled volunteer soldiers, at Dayton, Ohio, and to the branches at Augusta, Maine, and Milwaukee, Wisconsin, each, one copy each of the following documents, namely, the Journals of each House of Congress at each and every session; all laws of Congress; the annual messages of the President, with accompanying documents; and all other documents or books which may be printed and bound by order of either House of Congress, including the Congressional Globe, beginning with the Thirty-Seventh Congress.

The amendment of the Committee on Military Affairs and the Militia was to insert after the word "Wisconsin," in the sixth line, the following words, "and the Soldiers' Home at Knightstown Springs, near Knightstown, Indiana."

The amendment was agreed to.

The joint resolution was reported to the

Senate, as amended, and the amendment was concurred in. The amendment was ordered to be engrossed and the joint resolution to be read a third time. The resolution was read the third time, and passed.

#### LAND TITLES IN NEBRASKA.

Mr. THAYER. I ask that the Senate will now take up the bill reported by the Senator from Indiana, [Mr. HENDRICKS.] It will occupy but a few moments.

The PRESIDENT *pro tempore*. Is there any objection to taking up the bill for consideration at this time?

Mr. EDMUNDS. I think we had better go through with the morning business.

Mr. CONNESS. I wish to say to the honorable Senator from Vermont that he certainly is not in favor by his objection of doing the invidious thing of acting upon a report made by one of the Senators from Indiana, [Mr. MORTON,] and refusing to do it on the report just now made by the other Senator from Indiana, [Mr. HENDRICKS.] I hope the bill will be taken up. I do not think the attention of the Senator from Vermont was called to this circumstance.

Mr. EDMUNDS. I am not in favor of doing any invidious thing at any time to anybody. But I am really in favor—although I should undoubtedly make a martyr of myself if I stuck to it—of doing the business of the Senate according to its rules, because in that way we get on a great deal faster on the whole. The Calendar is full of bills of importance that have been reported from committees that we can only get up in the morning hour, and the time runs by on account of doing things by unanimous consent, Senators hating to object, which override the regular order of business.

The PRESIDENT *pro tempore*. Is there objection to the consideration of this bill at this time?

Mr. EDMUNDS. Yes, sir; I object.

The PRESIDENT *pro tempore*. Objection being made, the bill must go over.

Mr. HENDRICKS. In connection with the remarks of the Senator from Vermont, I desire to say that the bill I reported was not a bill in which the State that I represent had any interest. It is not one in which I take any personal interest in the world except to discharge a public duty; and it settles some titles that are giving the people trouble. That is all there is in the bill; and at the request of the committee, as well as of the Senator from Nebraska, I asked for its consideration. It is not my personal request at all.

Mr. EDMUNDS. I will vote to help take it up the moment we get through with reports and bills.

Mr. HENDRICKS. I have no favor to ask of the Senate.

The PRESIDENT *pro tempore*. The objection carries the bill over, and it is not subject to argument.

#### CLAIMS AGAINST AGRICULTURAL DEPARTMENT.

Mr. CAMERON. I am directed by the Committee on Agriculture to report back House bill No. 1068, to provide for certain claims against the Department of Agriculture, and I beg the indulgence of the Senate to put this bill upon its passage. It is to pay debts due to persons who have furnished articles to the Agricultural Department; articles ordered by the former head of that bureau. The money is due a long while, and the parties ought to have their pay. Therefore I desire to have the bill put upon its passage now. I hope there will be no objection.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania asks unanimous consent of the Senate to take up for consideration the bill reported by him at this time. Is there any objection?

Mr. EDMUNDS. Mr. President, I must object, as I promised to do, until we get through with the morning business.

The PRESIDENT *pro tempore*. The bill will lie over under the rule.

## BILLS INTRODUCED.

Mr. PATTERSON, of New Hampshire, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 507) supplementary to an act to incorporate a Newsboys' Home; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 508) to incorporate the America Fire and Marine Insurance Company of Washington, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 509) in addition to an act passed March 26, 1804, entitled "An act in addition to an act entitled 'An act for the punishment of certain crimes against the United States;'" which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 510) in relation to insolvent banks; which was read twice by its title, ordered to be printed, and to lie on the table.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 139) excluding from the Electoral College the votes of States lately in rebellion which shall not have been reorganized; which was read twice by its title, and referred to the Committee on the Judiciary.

## LAND TITLES IN NEBRASKA.

Mr. POMEROY. I ask the Senate now to proceed to the consideration of the bill reported by the Senator from Indiana, [Mr. HENDRICKS.]

The PRESIDENT *pro tempore*. If there be no objection, the bill will be taken up.

By unanimous consent, the bill (S. No. 481) to confirm the title to certain lands in the State of Nebraska was considered as in Committee of the Whole.

The amendment reported by the Committee on Public Lands was to strike out all after the enacting clause of the bill and to insert:

That in all cases in which the Commissioner of the General Land Office or the Secretary of the Interior has finally decided in favor of preemption settlers or the locations of Indian or half-breed scrip and issued patents to them for lands within the corporate limits of the city of Omaha, in the State of Nebraska, the right and title of the patentee or patentees shall not be defeated or impaired because such land was within the said corporate limits; but if good in every other respect, the title shall be good and valid, notwithstanding such lands may have been within the said corporate limits, and notwithstanding the entry thereof by any preceptor or locator of Indian or half-breed scrip was forbidden by the tenth section of the act of September 4, 1841, because so within said limits.

The amendment was agreed to.

Mr. WILLIAMS. I do not propose to object to this bill if it has been duly considered by the Committee on Public Lands, and they have decided it to be a necessary and a proper bill; but before it was referred to the Committee on Public Lands it was sent to the Committee on Private Land Claims—

Mr. THAYER. No, sir.

Mr. POMEROY. That was another bill.

Mr. THAYER. Another case entirely.

Mr. WILLIAMS. This, on the reading of it, sounded to me very much like a case that was referred to the Committee on Private Land Claims, and my impression then was rather unfavorable. It looked to me as though it was a sort of special legislation for the benefit of some individuals.

Mr. THAYER. This has nothing to do with that.

Mr. HENDRICKS. I will state in a word or two what is the question involved in this matter. The corporate limits of the city of Omaha, as established by the Legislature of the Territory, were very extensive, including a large amount of land. The town-site authorities located, under the law of Congress, three hundred and twenty acres, and located no

more. Farmers settled on the lands outside of the real city, and their rights have been established under the act of 1841. The Commissioner of the General Land Office has adjudicated their rights and has issued to them patents, and they have been in possession ever since, and sold out large portions of the land now to other persons in smaller lots. The city has extended over a portion of it, so that large numbers of the people have become interested. Mr. Justice Miller last year decided that, because the corporate limits, as established by the Legislature, included these lands, the title was not good under the act of 1841. This bill simply waives the objection to the title upon that particular ground, not undertaking to settle any other question connected with the title.

Mr. WILLIAMS. I was mistaken as to the bill, and the explanation is satisfactory to me.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was not ordered to be engrossed for a third reading, was read the third time, and passed.

## NATIONAL BANK ACT.

Mr. CAMERON. I beg now that the Senate will put on its passage House bill No. 1068, to pay deficiencies in the Agricultural Department. I think there will be no objection to it.

Mr. SHERMAN. That bill was reported to-day.

Mr. CAMERON. Yes, sir.

Mr. SHERMAN. I object; and I move—  
The PRESIDENT *pro tempore*. Objection being made, the bill goes over.

Mr. CAMERON. I wish the Senator would not object, and I hope he will hear me for a moment.

Mr. SHERMAN. When I get up this other bill I will look at the Senator's bill, and if I have no further objection, let it pass so far as I am concerned. I move now that the Senate proceed to the consideration of Senate bill No. 440, making certain amendments to the banking law.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 440) supplementary to an act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864.

Mr. SHERMAN. Since the bill was last before the Senate, the Committee on Finance have reported some amendments. I wish them to be acted on separately.

The Chief Clerk read the first amendment, which was after the word "deposits" in line twelve of the bill to insert the following words:

And the limitation prescribed in section twenty-nine of said act, which restricts the liabilities of individuals, companies, corporations, or firms, for money borrowed of national banking associations to one tenth of the capital of such associations is hereby made applicable to all deposits made by such associations with private bankers, or brokers, or banking associations not organized under the national currency act.

Mr. CONKLING. I inquire whether that amendment is printed?

Mr. SHERMAN. It is.

Mr. CONKLING. I have the printed bill, but there is no such amendment in it.

The PRESIDENT *pro tempore*. The amendments have been printed separately.

Mr. SHERMAN. I have a copy here.

Mr. CONKLING. I should like to know before I vote upon this amendment, as it is legislation by relation, what it refers to.

Mr. SHERMAN. I will explain to the Senator so that with the bill and amendment before him he will at once see the effect. The twenty-ninth section of the national bank act provides—

"That the total liabilities to any association of any person, or of any company, corporation, or firm, for money borrowed, including in the liabilities of a company or firm the liabilities of the several members thereof, shall at no time exceed one tenth part of the amount of the capital stock of such association actually paid in."

Under this provision national banks cannot loan to any individual or any firm or corporation over one tenth of their capital stock. It was intended to protect the capital stock against great losses by individual borrowers. But a practice has grown up of late of banks depositing with brokers by their side, probably brokers who own the bulk of the bank stock, a great amount of their deposits. Thus the actual debts of brokers to a bank may be several times the limit authorized by the twenty-ninth section. The result is that several banks have failed on account of the failure of brokers interested in the banks by reason of the deposits made with brokers, and as these deposits are made in the ordinary course of business, they are not considered, in the language of the act, loans to the brokers. A result of this practice has been many failures. This was the cause of the failure of a bank here in Washington some time ago. Brokers alongside borrowed the money of the bank in the form of deposits. This amendment is for the purpose of extending the limitation of the twenty-ninth section to brokers with whom money is deposited by banks. That is the whole of it.

Mr. CAMERON. I hope we shall not take up so important a bill as this without some time to reflect upon it. I thought I understood the Senator from Ohio to say that he intended to let it pass over informally, so that the bill which I reported this morning might be taken up.

Mr. SHERMAN. I said that I should have no objection to the Senator's bill being passed now, but I certainly desire the action of the Senate on this bill. It has been lying on the table for a long time. I will state that we propose to add to this bill all the provisions that are indispensably necessary now in regard to banks and banking, so that we shall not trouble the Senate with any other bill on that subject during the session, and I believe that all the amendments which are now proposed are moved by the unanimous assent of the Committee on Finance, or nearly so. In regard to some of the amendments the committee are unanimous; in regard to others they may not be quite so. The amendments are to correct abuses that have grown up in the administration of the banking system. I desire to have the bill acted on to-day.

Mr. CAMERON. This measure involves matters of detail which may have been agreed upon by the committee in a manner agreeable to the Senator from Ohio, chairman of the Committee on Finance, but not to other Senators. For my part I have not had time to examine the bill yet, and so far as I understand it I shall disapprove of several of these amendments. It is an important question, and one which I think had better be let alone. The currency and finances of the country are righting themselves. Every day they are getting better. Every day we are approaching nearer a condition of things in which we can resume specie payments. I think this should warn us not to begin to tamper and tinker with the currency and finances. I see that within the last two or three weeks our loans have increased in value at the stock board some ten or fifteen per cent. If we let them alone I think they will go on increasing, but I think the moment we begin to legislate upon them we shall depress them. If I were a stock speculator I should want to pass this bill to-day if I had no interest beyond my personal interest in that respect; but I know it will be harmful to the country. It is going to interfere with the country banks.

Mr. SHERMAN. I cannot hear a word my friend says. I should like to hear him.

Mr. CAMERON. I know that this is not a good place for hearing. I will content myself with moving that this bill be postponed for the present.

Mr. SHERMAN. Mr. President, I will state again in regard to this bill, so as to avoid further discussion, that in its different sections it is simply intended to correct certain abuses in the working of the banking system. It makes

no radical change, no important change. It simply corrects abuses that have sprung up in the working of the system. This is all the legislation that the Committee on Finance propose in regard to banks or banking. It does not materially affect the framework of the banking system, or any interest involved in it. This particular amendment is intended to correct a gross abuse that has sprung up by a misconception, I think, of the banking act. I could not hear what my friend from Pennsylvania [Mr. CAMERON] said, and therefore I do not know that I am answering him. I understand he wants more delay. No delay ought to be granted.

Mr. CAMERON. If the Senator will allow me, I will say that I only desire to have these amendments printed, so that I can read and reflect upon them.

Mr. SHERMAN. They are all printed. The original bill was reported on the 16th of March, 1868, and these amendments were reported and printed on the 29th of May, so that the Senator can see them all in print, and the amendments all refer to the sections of the banking act, so that he can understand them in a moment. I doubt very much, if the bill should be postponed now for the convenience of the Senator, whether he would have time, in the midst of the multiplicity of his other duties, to examine the amendments. At any rate, the public interest demands that the bill should now be disposed of. I do not suppose that so favorable an opportunity will present itself this session to have the matter calmly discussed.

Mr. CAMERON. I understood that this bill was not to be brought up immediately, and therefore I am not prepared to consider it. I desire that it shall go over for the present. I do not care to postpone it for any length of time. I move that it be postponed for the present.

Mr. SHERMAN. I am informed that three months ago this bill was put over on the suggestion of my friend from Pennsylvania. I did not happen to be present at the time, but I am so informed.

Mr. CATTELL. I am very sorry that my friend from Pennsylvania did not succeed in getting up the little bill in regard to the Agricultural Department, of which I am quite as much in favor as he is, and which might have been passed in a very few minutes. Nevertheless, I cannot vote to postpone the consideration of the bill now before the Senate. The original bill, covering, I think, an important subject, was laid on the table nearly three months ago, March 16. At the request of the Senator from Pennsylvania its consideration was then postponed. After a week or two I proposed to call up the bill again, as I felt a great degree of interest in it, believing it to be an important bill. I then received a note from the Senator from Pennsylvania that he was obliged to leave the city for a day or two, and asking me not to have the bill called up, and, of course, I acquiesced in that request cheerfully and at once. If it had not been for that, this bill would have been considered prior to the commencement of the impeachment trial. I think the Senator from Pennsylvania ought not to object now to its consideration. The amendments proposed are unimportant, compared with the body of the bill, and I therefore hope that it will now be taken up and considered.

Mr. CAMERON. It is hardly fair to put the postponement of this bill on my shoulders. It is true, I objected to its passage when it was first brought here. It is also true that I went home for a couple of days, and I wrote a friendly note to my friend, the Senator from New Jersey, asking him not to call up the bill in my absence; but that was more than two months ago, and since that time I have never said a word on the subject. And the Senate will bear in mind that only a day or two ago, in a consultation among gentlemen who are interested in the legislation here, it was understood that this bill would not be

brought up. Now, I tell Senators that this is a subject which will probably provoke a great deal of discussion. It is a question which involves the destruction of the interests of the country banks in favor of the interests of the city banks. My friend, the Senator from New Jersey, lives in the city of Philadelphia; all his commercial interests are connected there; I live in the country, and mine are not altogether city interests. A very large proportion of the banking capital of the country is not in the commercial towns of the Union. I desire only to have the bill postponed for the present. If the Senators put it forward I assure them they will not get it through to-day.

Mr. CONNESS. I hope the entire morning hour will not be spent by the Senator from Philadelphia—the Senator will excuse me; I mean the Senator from New Jersey, of course—and the other two Senators in discussing the mere precedence of business. We have bills here—I have—that have been acted on in part by the Senate, and I am exceedingly anxious to get them before the Senate.

Mr. SHERMAN. This bill is before the Senate.

The PRESIDENT *pro tempore*. The question is on postponing it until to-morrow.

Mr. BUCKALEW. Mr. President, the amendments proposed to this bill, which are four or five in number, adding four or five sections, were only reported on the 29th of May, a few days ago. I think it is but a reasonable request which my colleague makes, that he and others in his situation, interested in this subject of banking, shall have the opportunity of considering not only the original bill, but these amendments which the committee have reported to the Senate. I supposed that this original bill would not be called up again during the present session. It was up, and the Senator from New Jersey, who represented the interests of the city banks, the moneyed circles of the cities, addressed the Senate at length upon it. I am aware that the views he then expressed were not received, with favor by all those concerned in this new system of banking, especially in the interior.

Now, sir, I desire that this whole question, if we are to pass upon it, shall come up under such circumstances that we can have a fair debate upon it. I should be very much gratified, and no doubt I should also be informed, by hearing my colleague speak on this subject, because he is much better informed upon it than I am. I am desirous of voting for any amendment to the banking system which may be proposed by the committee; but I should like to be right sure that they were amendments, that none of them would operate to the advantage of city against country, or of one interest against another.

Besides, sir, upon general grounds I think it is a convenient practice in the Senate that there should be a little notice of bills before we are asked to vote upon them, and vote finally.

Mr. SHERMAN. I gave it.

Mr. BUCKALEW. I was not aware that this subject was coming up again. Although these amendments were printed two or three days ago they escaped my attention. We are so crowded with other employments, other business, that we cannot know what the printers are doing. When, then, my colleague proposes that this bill shall go over for a day or two before we consider it, it seems to me very extraordinary that there should be objection in any quarter. I know very well that the Senator from Ohio can get up a bill of this description, a bill upon the general policy of the country, more readily than almost any member in this Chamber. We almost always agree to anything which he proposes with reference to the order of business, and there is no doubt in my mind that he will be able to get up his bill within a day or two without any difficulty.

Mr. SHERMAN. In regard to the order of business, I say to the Senate that there is no prospect of acting upon this important bill unless we act upon it now. It is a question in which persons take but very little interest, and

it is very difficult to get the attention of the Senate to it. I believe there is no objection, even in the mind of the Senator from Pennsylvania, [Mr. CAMERON,] to the amendments proposed. His objection is to the body of the bill, which, in my judgment, is a wise and just provision, without which the banking system is wrong. This bill is not presented in the interest of the city banks or of the country banks. I am from the country; but I say that the whole system and its vitality depend upon the prohibition of the payment of interest on the bank reserve. The country banks are more interested in it than the city banks. The objection of the Senator from Pennsylvania is to the original bill, not to the amendments, and he has had three months to brood over it. Let him present his objections to the original bill if he chooses, and they will be answered; and I have no doubt they will be answered successfully. This is not in the interest of city banks or country banks. It is a bill of vital importance to the safety of the national banking system, now under a pressure, or which will soon be under a pressure as we gradually approach specie payments. It simply proposes to correct glaring abuses that have actually occurred in the administration of the bank department. I hope, therefore, the Senate will not postpone the bill, because if it does that will be a substantial postponement of it for this session.

Mr. CAMERON. The Senator from Ohio did not hear me, I believe, when I was standing at my proper seat. My objections are to the whole bill, to the discussion of the question now, or to the passage of any amendments to the banking law at present. I want the whole system of currency and finance to lie over until next year. I think we are getting along very well by doing nothing on that subject, and I think every day the country is becoming more healthy and in better condition to meet all its demands in gold. I think we shall do so sooner if we say nothing about it; and I think the more we legislate on the subject the further we shall put off the day of payment in gold.

I am not prepared to make a speech on this subject. I am not prepared at any time to speak very well; but I am not prepared now to discuss this question. If, however, it is postponed I shall try to show hereafter that the whole measure is wrong. Our loans in England are rising constantly, and whenever they get near par we shall be able to resume specie payments here. I think the great reason of the increased value of our funds abroad and at home is that we have done nothing on this subject.

There is no subject in the world so little understood as that of finance. I do not pretend to understand it; nor have I ever seen anybody that did properly; and yet everybody, no matter how ignorant he may be, thinks he understands the question of money better than anybody else. I do not suppose you could pick up a hundred men in the streets anywhere who would not get up and make you a speech without a moment's reflection on the subject of currency and finance, and every man would be satisfied himself that he ought to convince the whole world. It is very much so here among the men who are selected, of course, for their intelligence and general information upon that subject, as well as others.

Sir, I want this subject to go before the people, and let them mature something in regard to it, if any matured bill may be necessary. I want Senators to go home, and as soon as possible. I should like them to go home this month, and reflect at home on the subject of the currency. There can be no prosperity in finance unless the country itself is peaceable and prosperous, and whenever that comes we shall have prosperity in our finances. To-day our five-twenty bonds are within about twenty per cent. of par in gold. I believe they are selling at above fifteen above par in currency now, and I have no doubt, if we do nothing here on the subject, our five-twenty bonds will be twenty per cent. above our currency par,



which will bring them within some fifteen or sixteen per cent. of gold par. All that will be done if we let it alone. I think our country is now very much in the condition of a person convalescent, who has been taking a great deal of medicine. If he continues to employ the doctor, the doctor kills him. If he is suffered to be in the hands of nature, nature, without any medicine, will restore his health, because his constitution will take care of it. I do not want to act on this question now, and therefore I hope the Senate will consent to postpone it.

Mr. FRELINGHUYSEN. I hope that this bill will not be taken up at this session—

Mr. SHERMAN. It is pending before the Senate.

Mr. FRELINGHUYSEN. I think it is a bill which will very injuriously affect the country. I have looked at it somewhat, and have received a great many communications from different parts of the country in reference to it. I think it is a bill which is calculated to destroy the country banks.

Mr. WILSON. It is evident after what has been said this morning that we are not in a condition to proceed to the consideration of this bill to-day.

Mr. SHERMAN. I shall ask for the yeas and nays upon the postponement, and I shall insist upon it as a final test vote on the passage of this bill. I do not care what is done with it, but I will not call it up again if it is now postponed. It is three months since it was reported, and if it is postponed now it is postponed for good. If Senators look upon this as a mere formal matter, I will state the merits of the bill on the motion to postpone, and the absolute necessity that rests upon us to pass the bill at this session. It would be utterly idle to call it up again if it be postponed now after having been reported three months ago.

Mr. WILSON. I will say to the Senator that I am perfectly willing to take it up and consider it; but, after the expressions which have been made this morning, it seems to me we are hardly prepared to go on with it. I am very desirous to get up, at the earliest possible moment, the bill which has passed the House of Representatives to continue the Bureau for the relief of Freedmen and Refugees, and for other purposes. We ought to pass it this week without fail.

The PRESIDENT *pro tempore*. The question is on postponing the bill under consideration until to-morrow.

Mr. SHERMAN. On that I call for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. Now, Mr. President, I desire to say a few words on the question of postponement.

The Senate thus far have refused to act upon financial legislation at this session. It is manifest that the Senate is disposed, or has been disposed, to avoid action upon it. I have no complaint to make of that. The Committee on Finance have endeavored, if possible, to conform their action to the imperative necessity of the public business, and to gratify, as far as could be done, consistently with their sense of duty, this disposition of the Senate to avoid discussion on financial questions, or action upon them. That is all I desire to state on that point.

Now, in regard to the banking act, there were various propositions sent to the committee, some of which were revolutionary in their character, some to abolish the system entirely, some to extend it into a free banking system; but the committee laid aside those propositions, or, at least, do not propose to ask any final action upon them. There were, however, certain abuses now practiced by the banks, gross and palpable abuses, which endangered the safety of the system, which we thought it our duty, at the urgent request both of the Secretary of the Treasury and of the Comptroller of the Currency, and after a most careful examination, to bring to the attention of the Senate.

It is perfectly certain that if this bill is postponed now it will not be taken up again, because a postponement to-day, when we have nothing pending before us, after notice had been given that the bill would be brought up to-day, when these amendments have been fully considered, is a substantial defeat of the bill, and I, as a matter of course, will take the judgment of the Senate in favor of the postponement of this bill as a condemnation of the bill, and will not call it up again during the present session.

Let us see what is in this bill so that Senators may judge whether there is any ground of opposition to it. The first section simply provides that banks shall not pay interest on deposits or balances to each other, or offer any inducement other than the prompt and correct transaction of business, in order to secure such deposits. Now, what is the abuse of the system? The whole money from the West is now drawn into the city of New York. It is drawn out of its ordinary channel to defeat the ordinary purposes of local banks, to defeat the benefits of such local organizations, into the cities, and there is made the basis of stock speculations. The very money which by the law is required to be kept in the vaults of the bank, or on deposit at some other deposit bank, is now drawing interest for the benefit of the banks, and is loaned out in the city of New York on stock speculations. The very safety of the system depends on the reserve which is required by the law to be kept in the banks, and every dollar of this reserve is now loaned out to other deposit banks, and in this way there is no limit and no restraint upon the banks. Not only do they loan out the money given to them for circulation, but they loan out their entire reserve by depositing it in deposit banks in the cities, and there it is made the basis of speculation. Sir, if we were anywhere near specie payments, that very fact would blow up the whole system, because the whole safety of the system depends upon its wise management and upon the safety of that reserve. And yet the objection which the Senator from Pennsylvania makes is to this section of the bill. It is all there is in the bill of consequence, as it originally stood.

The second section of the bill, I wish Senators to understand, simply prohibits the Government of the United States from depositing in these banks more money than it takes security for. It does happen, now, that in some cases millions of dollars are deposited in some of the national banks by the United States Government without adequate security. There is no law which requires more than a certain amount of security. The second section provides that in every case the amount of security shall be ten per cent. more than the amount of deposit; and this is the only safety for the deposits made by the Government of the United States. Why, sir, a violation of this second section of the bill has broken several banks and lost the Government large sums of money. In the face of this fact will the Senate refuse to guard the Treasury of the United States? Upon the motion of the Committee on Finance you have already refused to change your deposit system, because the change was revolutionary in its character. We have yielded to the sentiment of the Senate so far; and now the second section of this bill merely provides that a bank receiving deposits of the Government shall give security for those deposits, and that the amount of bonds filed in the Treasury as security for deposits shall be ten per cent. more than the amount of the deposits. Can there be any objection to that section?

Those two sections constituted the bill as originally reported. Some amendments have since been reported, which I will proceed to state the provisions of.

The first amendment offered simply provides that a bank shall not deposit with a broker more than ten per cent. of its capital. Under the present system large deposits are made with irresponsible brokers interested in the bank, and these brokers failing, the bank fails,

and all is swept away. That is contrary to the spirit and letter and meaning of the banking act. It seems to me for the Senate to refuse to correct this palpable error or this palpable weakness of the system at this time, for any reason whatever, is wrong.

The next amendment provides that a banking association which is winding up shall redeem its circulation. Why, sir, one of the most palpable abuses that now grow out of the system is that many of the national banks are winding up. What for? To avoid liability under the banking act. They give notice of their intention to wind up, and then they never pay one dollar of their circulation. The circulation is out. They do not carry on any business of a bank. They do not loan money. They keep a little cubby of an office, loan no money, render no facilities, and yet draw interest on their circulation. They loan the money to themselves, divide the circulation among themselves, and draw interest on that circulation. That thing is going on; and I have here a letter from the Comptroller of the Currency, making the remarkable statement that banks are now pretending to wind up in order to avoid liability under the banking act, and then they do not redeem their circulation. That floats all over the country. They are drawing interest on the circulation; and draw gold interest on their bonds; and you refuse to correct that! Why, Mr. President, it is palpable, gross, shameful; and for the Senate to refuse to do its duty in correcting these gross and scandalous abuses for any political reason would be an abandonment of a great public duty, in which I, for one, will not share. This thing is going on here from day to day. We have several statements of that fact. These banks are drawing interest in gold on their bonds, they are making interest on their circulation, and they are not carrying on the proper business of banks or loaning any money whatever to the people. This is intended to correct that abuse.

There is another thing which requires careful correction. The next amendment provides for the fees of receivers of national banks. In the city of New York the courts have allowed \$60,000 in fees to a single receiver, and the whole has been earned in nine months. They have allowed \$16,000 attorneys' fees for nine months' services.

Mr. BUCKALEW. Has that been done in the United States courts?

Mr. SHERMAN. No; in the State courts. Under the law as it now stands the court before which a receiver's report comes regulates the fees of the receiver and the fees of attorney; there is no limit to the costs; and under that provision, in the city of New York, lawyers and receivers are sweeping up the assets of the banks to the injury of the creditors of the banks by these extortionate fees. In the case of a bank with \$1,200,000 assets they allowed to the receiver five per cent. on the gross amount, although it is in United States bonds; and they allowed in that case to attorneys enormous sums. I would rather be the attorney of a broken bank in the city of New York than hold any office in the United States.

The Comptroller of the Currency reports these facts to us, and comes here and says "Give me some relief." We provide in the fourth section that the fees allowed to receivers shall not be more than are allowed to collectors of internal revenue, and that the bills of attorneys shall be fixed by the judge of the court of the United States, and not by a local State court. Can we refuse to pass amendments of that kind to the banking law on any pretense that to talk about finance or act about finance may injure us in any way? It is shameful to confess that, in my judgment.

A word now in regard to another amendment which is reported as the fifth section. There are States in this Union that have not a single national bank. There are other States in this Union, both loyal and rebel States, that have scarce any. Several States in the Union now want banking facilities. Massachusetts and

Rhode Island and Connecticut have from fifty to seventy dollars of banking circulation per inhabitant, while there are other States that have none whatever, and are now demanding facilities to move their crops. That is the case especially in the South. Will you give them no relief? Will you allow this inequality to prevail? Will you allow certain States to absorb the banking capital of this country, and other States, poor and demanding help and aid from your national banking associations, to have none whatever? If you refuse to do it when the case is so palpable and gross as this, instead of avoiding public clamor I think you will excite public clamor against the whole system. We provide in section five, without changing the national bank act at all, for an expansion of the limit, so that banks with a very limited amount of capital, not to exceed \$20,000,000, and probably the amount will even be reduced below that, may be organized in States and Territories where the banking circulation is less than five dollars to an inhabitant. Some of the States have fifty or sixty dollars per inhabitant.

Now, will the Senate refuse to give to other States that have no circulation the small pittance of five dollars' circulation for each inhabitant in order that they may share fairly in the benefit of the national circulation? If you refuse to do that for political reasons, and leave that duty undone, it seems to me you will excite public clamor against your refusal to legislate much more than you will by taking any responsibility.

I now desire, once for all, utterly to repudiate all disposition to avoid or evade these financial questions. I am willing to take up the banking subject and consider it fairly and vote upon it, and not avoid it for fear that it may do harm. In regard to the great problem of finance involved in the funding of the public debt, the issue of new bonds, and the rate of interest, I think it would be well enough and not unwise to consider that great question at a time when there is no political excitement, when there is no pending election. But, sir, we cannot, as a Congress, refuse to correct these gross and palpable abuses in any portion of our financial system that are made known to us, properly called to our attention, without assuming a responsibility that I, for one, will not. Such is the state of public business that if this bill is now postponed it cannot be taken up again. There are the reconstruction bills and a thousand other bills that are pressing upon us. The tax bill and many others will crowd it aside. This is a bill of wise, judicious, restrictive legislation. Every provision is restrictive of the system, tends to fortify it, to increase the confidence of the people in it. I say that under these circumstances we ought not to postpone the consideration of this bill but to meet it fairly. If any of these amendments are not proper in themselves, as a matter of course the Senate is here to correct them. They have been fully considered by the Committee on Finance, and, I believe, are reported unanimously with but a single exception, and as to that there is a difference of opinion rather in regard to amount than to principle, and the very section to which my friend from Pennsylvania objects is one that, in my judgment, is vital; one that will protect country banks, that will protect the country people and the country merchant. Why, sir, I know now banks in the State of Ohio that loan every dollar of their surplus capital in the city of New York, because they can deposit it there at their call and receive four or five per cent. interest for the deposit, while they refuse to the merchant, to the farmer, and to the produce dealer any accommodation whatever.

Do you say that that is for the benefit of the countryman? When my friend from Pennsylvania talks about the country as against the city, he appeals to a weak principle in our nature. I am disposed to go with him for the protection of the country against the city; but it is for the protection of the country that all banking capital should be drawn from the country and deposited in the city merely to

enable bankers that own the banks in Ohio and western Pennsylvania to draw interest on their surplus capital? Not at all. It is a dodge which ought to be corrected, and which the country banks themselves desire to correct. It is not for the interest of city banks to pass this part of the bill. They are perfectly willing to receive these deposits and pay interest on them. They do not want this bill except as the abuse itself tends to injure the system.

Sir, the adoption of this bill would restore the banking system to its legitimate purpose of distributing the circulation all over the country by requiring the banks to loan their money in the ordinary way to their people at home, and not excite them by large profits, by the payment of interest on their reserve, and by such unnatural means drain the money from the country into the city where it may be made the sport of the stock gambler. At one time last winter money in New York was worth three or four per cent., owing to the accumulation of the deposits in banks, while in the West it was worth ten per cent. The great object of the national bank system was to distribute the circulation over the country so that every State and every community might have its fair share. The operation of this bill will be simply restrictive upon the abuses carried on by country and city banks in drawing interest upon their reserve, and thus defeating the very purpose and policy of the banking act.

I ask Senators, therefore, to consider this bill. I do not intend to debate it. I did not intend to say this much about it. It is up, and I hope the Senate will not postpone it. Let us act on what amendments are vitally necessary, and if in the opinion of the Senate any amendment is not vitally necessary lay it aside; but let us correct some of these glaring abuses that have arisen in the administration of the banking department, and then send the bill to the House of Representatives, where, I have no doubt, it will meet with the hearty and prompt assent of the House. This bill does not involve any change in our system, any radical change in our finances, any change in our banks. It simply corrects gross and palpable abuses that have come to light in the actual administration of the banks, and every change it makes is now demanded by the head of the banking department, and I think ought at once to be assented to by the Senate.

Mr. CAMERON. Mr. President, the Senator from Ohio said in a part of his remarks that my objection to the first part of the bill was "a dodge." I do not know exactly what is meant by "a dodge," but I desire to say to him that if he means that I have any stock speculations he does great injustice to me.

Mr. SHERMAN. I assure the Senator I did not—

Mr. CAMERON. Let me go on. I have heard it rumored that the Senator himself deals in stocks; but I have nothing to do with them.

Mr. SHERMAN. I feel bound to say to the Senator that he is totally unauthorized in that statement. I do not like, to a gentleman of his character and position, to use the language I feel inclined to use in regard to such a charge. I meant nothing unkind. I said this was a dodge, not by the Senator, but by some of the banks.

Mr. CAMERON. To me that word does not sound very polite. But I desire to say that in regard to the first part of the bill—I have spoken before on that subject—I think it is an amendment to the law for the purpose of benefiting the city banks in this way: by the banking law the country banks are compelled to deposit a certain amount of their capital in the city for the purpose of redeeming their notes. While that deposit is there it is but fair that it should be paid for. They cannot use it at home among their customers, because the law compels them to send it away from home. Besides that, the natural course of trade takes all the capital of the country into the cities at particular periods of the year. Men in the country borrow money for the purpose of forwarding the products of the country. At certain periods

of the year, in an agricultural district, the crops are to be moved; at other portions of the year the flocks and herds are to be sent to market, and, in the mining districts, the products of the mines. In Pennsylvania our coal is the great product which we send abroad, and from which we get our capital to carry on our trade. The money which the country banks use for these purposes is wanted at home only during certain portions of the year. At other periods of the year, while it is lying idle to them and is deposited in New York or Philadelphia or Boston or other places, it is but fair that they should have a fair price for the use of it.

The Senator said that money could be had in New York at four per cent., while in the country the people had to pay ten. I think he is mistaken in that. I heard him once before say that he or I could borrow money in New York at four per cent. That is not correct. In New York men borrow money by the day at four or five or six per cent., as it may happen, to place it in stock or other speculations; but that is not a loan; it is a mere deposit on call, for the security of which those who obtain the money put up Government or other bonds or stocks equally good as collateral. That is not a regular loan, but a mere handing over of money for a price, out of which the person who borrows it expects to make a very large profit. In the country it is not so; the customers are regular there, and they get their money from their bank at the legal interest, whatever it may be; in New York seven, in Pennsylvania six per cent.

The greater portion of the Senator's speech was a patriotic display of words in favor of States which have no banks, and he provides for them \$20,000,000 of banking capital. I will go with him as far as he desires, or anybody else may desire, to furnish the States which have been in rebellion with banks as soon as they wish to have them. As soon as they are brought into the Union I shall be one of the first to give them the banking facilities they may require. At present they do not need much; but if they did, how far would his \$20,000,000 go? It would scarcely furnish one State of all these unreconstructed States. I think if the Secretary of the Treasury would turn his attention to using the money he now has in the Treasury—his \$100,000,000, which, I believe, is the sum he constantly keeps there in gold—to pay off the public debt or to buy the Government loans as they are offered at a low price he would do a great deal more service to the country than by agitating it upon the subject of banking just now.

I thought I had taken notes of what the Senator said, but I have mislaid some of them. I did wish to answer him on another point, but it has escaped my mind. For the present, I only desire that this bill shall lie over. It is not the time to discuss it, and I do not think the Senate are prepared to act on it. At least I am not. I certainly hope it will be postponed for the present.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania, to postpone the bill until to-morrow, upon which motion the yeas and nays have been ordered.

Mr. CORBETT. Mr. President, this bill is certainly a very important one. I have not been able to examine the amendments myself, and I should like to have the opportunity of examining some of them carefully. I should like to ask whether the bill cannot be informally laid aside so as to be called up at any time.

Mr. JOHNSON. Let it be made the order of the day for to-morrow.

Mr. SHERMAN. If it be made the special order for to-morrow at one o'clock, I shall not object.

Mr. CORBETT. I move that it be made the special order for to-morrow.

Mr. SHERMAN. The only objection I have to that is that it may be affected by unfinished business. If the Senate really desire to look into the bill, and are willing to take it up

to-morrow, I shall interpose no objection, for I think the more they will examine it the more they will approve it. If it can be made the special order so as to be taken up at one o'clock to-morrow, I shall be satisfied.

Mr. CAMERON. I am not in favor of making it the special order for to-morrow.

Mr. CORBETT. I will make that motion, that it be made the special order for to-morrow at one o'clock.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this bill be postponed, and that it be made the special order for one o'clock to-morrow. This branch of the motion requires a two-thirds vote.

Mr. CONKLING. I think there is other business for to-morrow, and I was about to state what it was, but I see that the chairman of the Judiciary Committee is now here, and perhaps he can make a statement as to the probability of business for to-morrow.

Mr. SHERMAN. I think the Senator from Oregon had better withdraw his request and let us go on now.

Mr. TRUMBULL. I certainly hope no special order will be made for to-morrow. I think it very important that we should go on with the bills to admit the lately rebel States to representation. There are five of them now in which constitutions have been adopted and which are ready to be represented in Congress as soon as Congress takes action.

Mr. CORBETT. I withdraw the motion to make the bill a special order.

The PRESIDENT *pro tempore*. Then the question is on the motion of the Senator from Pennsylvania, to postpone the bill until to-morrow, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 21, nays 18; as follows:

YEAS—Messrs. Buckalew, Cameron, Chandler, Conkling, Connors, Corbett, Cragin, Drake, Edmunds, Frelinghuysen, Hendricks, McCreery, Nye, Patterson of New Hampshire, Ramsey, Saulsbury, Stewart, Tipton, Trumbull, Wade, and Yates—21.

NAYS—Messrs. Bayard, Cattell, Cole, Doolittle, Ferry, Fessenden, Henderson, Morgan, Morrill of Vermont, Patterson of Tennessee, Ross, Sherman, Sumner, Van Winkle, Vickers, Wiley, Williams, and Wilson—18.

ABSENT—Messrs. Anthony, Davis, Dixon, Fowler, Grimes, Harlan, Howard, Howe, Johnson, Morrill of Maine, Morton, Norton, Pomeroy, Sprague, and Thayer—15.

So the consideration of the bill was postponed until to-morrow.

#### COURT OF CLAIMS.

Mr. EDMUNDS. I move that the Senate proceed to the consideration of the bill providing for appeals from the Court of Claims.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 164) to provide for appeals from the judgments of the Court of Claims, and for other purposes, the pending question being on the amendment reported by the Committee on the Judiciary, as amended, to insert the following as section four:

SEC. 4. *And be it further enacted*, That no plaintiff or claimant, or any person from or through whom any such plaintiff or claimant derives his alleged title, claim, or right against the United States, or any person interested in any such title, claim, or right shall be a competent witness in the Court of Claims in supporting any such title, claim, or right, and no testimony given by such plaintiff, claimant, or person, shall be used: *Provided*, That the United States shall, if they see cause, have the right to examine such plaintiff, claimant, or person as a witness, under the regulations and with the privileges provided in section eight of the act passed March 3, 1863, entitled "An act to amend an act to establish a court for the investigation of claims against the United States, approved February 24, 1855."

The amendment was agreed to.

The next amendment of the Committee on the Judiciary was to insert as section five:

SEC. 5. *And be it further enacted*, That from and after the 1st day of May, 1868, the Attorney General of the United States for the time being, shall, with his assistants, attend to the prosecution and defense of all matters and suits in the Court of Claims, on behalf of the United States. There shall be appointed by the President, by and with the advice and consent of the Senate, two Assistant Attorneys General, who shall hold their offices for four years respectively, unless sooner lawfully removed, and whose salaries

shall be \$—each per year, payable quarterly, and who shall be in lieu of the solicitor and assistant solicitor of the Court of Claims, and of the Assistant Attorney General now provided for by law: and the existing offices of solicitor and assistant solicitors of the Court of Claims, and of Assistant Attorney General, are hereby abolished from and after the 1st day of May, 1868. The Attorney General shall have power to appoint two additional clerks of the fourth class, and one clerk at a salary not exceeding \$2,000, in his office.

Mr. EDMUNDS. I move, in the first place, in the twelfth line of that amendment, after the word "solicitor," to insert the words "and deputy solicitor," and to strike out at the end of the eleventh line the word "and," so as to read: "shall be in lieu of the solicitor, assistant solicitor, and deputy solicitor," that being the legal designation of these officers. This is a merely verbal alteration.

The PRESIDENT *pro tempore*. This verbal amendment to the amendment will be agreed to if there be no objection. It is agreed to.

Mr. EDMUNDS. In the fourteenth line I move to strike out the word "and" before "assistant" and the letter "s" from "solicitors," so as to make it read "solicitor," and to insert the words "and deputy solicitor," so as to read, "offices of solicitor, assistant solicitor, and deputy solicitor." That is a mere verbal correction.

The PRESIDENT *pro tempore*. That amendment will be considered agreed to unless objected to.

Mr. BUCKALEW. I had not paid any attention to this subject; I was absent, I suppose, when it was up for consideration before, and I was not aware that it was coming up to-day. This is a very important change proposed in this fifth section, and I think the Senator from Vermont should give to the Senate the benefit of his reflections on the proposed change. From a hurried perusal, I understand it is to abolish our present legal organization for the defense of the United States before the Court of Claims, and to turn the business now performed by the solicitor, and assistant solicitor and deputy solicitor over to the Attorney General. It seems to me that this is a very inopportune time to make this change, at the close of the war, when by reason of the war a vast amount of business has accumulated which it will be necessary to dispose of within the next year or two. I take it for granted that the force of the Attorney General's office and the force already organized in behalf of the Government in the Court of Claims will both be necessary for the transaction of the public business. If at any time a change of this sort should be introduced, it would be most appropriate a few years hence, when this business that has grown out of the war, as we well know, has been disposed of, when there is nothing to transact except the ordinary business that arises in time of peace. I hope, sir, the Senator from Vermont will explain to us the reason for this bill.

Mr. EDMUNDS. I will do that so far as I can, with the greatest pleasure. The very fact that there is a great deal of business in the Court of Claims growing out of the war and out of other subjects, is one of the reasons which induced the Judiciary Committee to believe that this change ought to be made. It is not a new subject with that committee. At a former session, a year ago or more—I forget the precise time—the chairman of that committee reported a bill which was substantially like this fifth section, I believe by the unanimous concurrence of the committee, in order to produce what the committee believe to be a salutary reform. That bill is on the Calendar yet. In the press of affairs it was not reached or acted upon. The subject again came to our attention this year, when we came to consider a bill offered for the purpose of providing appeals from that court, so that the law which should affect claims to the amount of millions against the Treasury Department might be finally settled by the highest tribunal if the United States chose to carry up those cases to the Supreme Court, it having been the opinion of the Court of Claims that what are called

the cotton claims were not the subjects of appeal under the old law. We thought, therefore, when the subject was brought to our attention again, that it was desirable to so reorganize the operations in that court, so far as the interests of the United States went, as to defending it against unjust claims, as to have a responsible head who should have the control and who should be responsible for the proper administration of the interests of the United States in that court and on appeal from it.

It appeared to us that the office of Attorney General was the true office to which should be committed the law interests of the United States; and I may go further and say that I believe, and I think the committee believe, but I am not authorized to state that for them, that one of the greatest reforms that could now be made would be to so reorganize the Attorney General's office and the law business of the Government as to put that office at the head of all the law business of the Government, to get rid of solicitors of departments and all sorts of special appointments over the country, from one end of it to the other, that are now a great drain upon the Treasury, and which, on account of great diversity and multifariousness and want of connection and coherence between the management in one part of the country and the management in another, produce endless contention and very great expense. To be sure, it is not the fault of the Departments that it is so; it is the fault of the condition of the law which has not made sufficient provision to meet all these exigencies. Therefore it appeared to us that one of the wisest things we could do as a beginning upon this species of reform would be to put the Attorney General, who presumably is a man of the highest character and of the highest legal ability, above all reproach and all temptation, at the head of the defense of these cases in the Court of Claims, and to make him responsible for them not only there but in the Supreme Court of the United States. It so seemed to us, and I think it will commend itself to the good sense of the Senate; and that, without intending to imply any reflection upon the character or fidelity of the gentlemen who have so far had charge of these matters in the Court of Claims; but the trouble is now, as the law stands, that the whole business is out of joint.

When cases of any kind go up from the Court of Claims to the Supreme Court, as the law now stands, it is the business of the solicitor of the Court of Claims, and not of the Attorney General, no matter how vast may be the interests that are at stake, no matter how extensive the application of principles to be decided may be, to attend to those causes, and the Attorney General is left to have his Department and the general interests of the Government affected by those decisions.

If we are to have an Attorney General according to the original theory and spirit of the law that provided for one, he certainly ought to be the responsible executive head of the defense of all the law claims that are brought against the United States. It seemed so to me; it seemed so to the committee. We thought, therefore, without intending to be invidious in the matter, that the true interests of the Government required us to turn over to that office, with a sufficient force to execute it, the labor and the responsibility of conducting these causes from beginning to end.

These are the reasons, in brief, that affect that part of the bill. The previous portion of the bill, providing for appeals, providing for the granting of new trials and the staying of payment upon an order of any one of the judges, and providing for a rule of evidence as to claimants who had been rebels, I dare say will commend itself, without my occupying any time on the points, to the good opinion of the Senate. This, briefly, is the reason why we recommend this change which is proposed in the fifth section.

As I am up, I will move, as the time has been running along, to strike out the word



"May" in the second line, and insert "July." This is as to the time when this change shall go into effect; and the same modification, substituting "July" for "May" should be made in the sixteenth line.

The PRESIDENT *pro tempore*. That modification will be made, no objection being interposed.

Mr. EDMUNDS. I now move to fill the blank in the tenth line, which provides for the salaries of these Assistant Attorneys General, with the words, "four thousand dollars." I do not know myself whether that is the proper sum, but I suggest that for the consideration of the Senate as perhaps a fair and proper compensation for these two Assistant Attorneys General, \$4,000 a year. I shall yield cheerfully to any wish the Senate may have about it to insert some other sum.

The PRESIDENT *pro tempore*. The question is on the motion to fill the blank.

Mr. BUCKALEW. I will suggest to the Senator from Vermont, that by omitting the fifth and sixth sections of the bill it will be entirely unobjectionable, and I suppose will create no debate. Now, sir, here in this fifth section we are to establish two new offices. It provides for the nomination and appointment by and with the advice and consent of the Senate of two Assistant Attorneys General. We know that there is no regular Attorney General now in office, and here will be thrown upon the Senate at once the business of confirming an Attorney General and two Assistant Attorneys General.

Mr. EDMUNDS. This is only to take effect on the 1st of July, by which time it is supposed there will be an Attorney General.

Mr. BUCKALEW. The bill says, "the 1st of May."

Mr. EDMUNDS. That time has gone by, and I have changed it already to July.

Mr. BUCKALEW. The Senator has made a change to the 1st of July. Suppose the bill were passed in that form, would it authorize the President to appoint in the vacation? I am not entirely sure, under a proper construction of the tenure-of-office law, whether he could appoint then or not. That raises an old question, discussed in former times. How it is to be determined now, under our new system established by our tenure-of-office law, I do not know; whether these offices are to remain open and unfilled until Congress shall meet in December next, or whether they shall be considered as vacancies happening in the recess and thus to be filled by temporary commissions, to expire at the end of the next session of Congress. You will have a question, perhaps, of considerable difficulty, and if you abolish the offices of the solicitors of the Court of Claims and charge these duties upon Assistant Attorneys General, and have no such assistants in office, the public business is to be delayed until the next winter. But if they are to be appointed, and can be appointed by the President in the recess after the adjournment of the Senate, you have a question of confirmation coming up next winter, on which there is prospect of disagreement between the President and the Senate as to the selection of individuals.

It looks to me that this is an untimely bill, that this is not the occasion to attempt the introduction of this change. We shall have extreme difficulty in filling these offices, and in filling the office of Attorney General, by the way, who is intended by this bill to be the very officer to represent the United States before this Court of Claims. There is now an *ad interim* service going on in that office by the head of another Department who is charged with laborious duties of his own; and we do not know that we shall be able to fill that office by a permanent appointment before the adjournment of the Senate. Much less likely does it appear that we shall be able to fill these Assistant Attorney Generalships which are established by the bill. Meantime, the present legal force engaged in defending the United

States before that court is turned out of office, as I understand the bill.

The Senator says that he is in favor of establishing a law department under the Attorney General of the United States, which shall have charge of all the duties which are now performed not only by the solicitors in the Court of Claims, but by solicitors in the Treasury Department and by other law officers in the other Departments. Well, sir, when the Senator himself, or some one for him, has matured a bill, a new bill which shall reorganize the law business of the Government, when a *project* for this new department shall be presented to us in the form of a bill, it will be time enough to call upon us to enact it. I suggest, therefore, to the Senator, that by omitting this fifth and a part of the sixth section we can pass the remainder of his bill without difficulty, and this question of the reorganization of the Attorney General's office can come up next winter, when we shall be much better prepared to approach it, and when we can settle the principles upon which it shall be organized for the future much better than we can now.

While I am up I will ask for an explanation of the third section. As I understand, that requires any person who has a claim in the Court of Claims to prove his loyalty. It provides—

That whenever it shall be material in any suit or claim before any court to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant or party ascertaining the loyalty of any such person to the United States during such rebellion, shall be required to prove affirmatively that such person did, during said rebellion, consistently adhere to the United States.

Under our legislation it is provided, with reference to large classes of claims, that the applicant shall have been a loyal person during the late war; but I think it would be very unreasonable to require claimants from the central and northern States to go into proof of this kind. I think that this affirmative to be made in cases covered by this third section should be only required of persons who were during the war citizens of the revolted States. You are requiring here a party to prove a negative; to prove that he did not render aid and comfort to the enemies of the United States during the late war. That is a burden which ought not to be imposed upon suitors unless they come from a State which was engaged in rebellion, and where, legitimately and properly, the presumption of disloyalty arises. However, sir, that is a mere matter of detail. The first four sections of the Senator's bill, and the seventh, are, in my judgment, proper and useful. I am in favor of the bill to that extent; and I hope the Senator will leave this question of the organization of a law department until the next session of Congress, and let us pass the other parts of the bill immediately, which we can do without debate.

Mr. EDMUNDS. Mr. President, if the Senate are dissatisfied with this fifth section, of course they will disagree to the amendment which the committee reported, which is to insert this as the fifth section, and that will settle the question. The Judiciary Committee have been satisfied for a long time, as is shown by what I have already stated, that this is a change which ought to be made; and my friend from Pennsylvania does not seem to be in possession of any facts or reasons now which lead him to believe that the change is not in substance a meritorious one, although he thinks it is unwise to enter upon it now. It appears to me that if, after consideration, this seems to be a correct and wise thing to do, the best time to do it is now when we are treating of the subject of the Court of Claims. It seems to be perfectly appropriate to make this provision in this bill, if it is a right provision to make at all. I do not wish to repeat what I said before as to the propriety of making this change. It seemed to be obvious to the committee from the facts that are within their knowledge, and from the reasons that I have suggested to the Senate, that it is one which

will save the Government a great deal of money, will save the state of the law a great deal of confusion, and will work advantageously on all sides.

It is said, to be sure, by my friend from Pennsylvania that if there should not be a nomination and a confirmation before we adjourn, a difficult and vexed question will be presented. Such questions are presented, Mr. President, at all times; we cannot avoid difficult and vexed questions by postponing them until next December; and this will not be a question of any very great degree of difficulty, as I think. Let us presume that if this bill passes and receives the approval of the President, he will nominate some competent and skillful persons, either those who are now discharging these functions or such other persons as he may select, such as my friend from Pennsylvania would be willing to recommend to him, which I have no doubt would settle the question of their nomination, and we should undoubtedly confirm them, and there would be the end of that matter.

The reason stated by my friend from Pennsylvania is not an adequate reason for not acting on this portion of the bill now. It ought to be acted on, as we think, with the knowledge that we have derived in our inquiries and investigations as to the state of business and the difficulties and confusion that surround it. Now, when there is so great a pressure on the Treasury for these war claims and cotton claims by a horde of claimants—some of them very likely having just claims, and others quite the reverse—it is of all times most appropriate that we should protect the interests of the Government by putting the defense of these cases into the hands of the responsible head of the law department of the Government. Then we shall have an administration of these cases such as we shall be satisfied with. So much for that.

Now, as to what my friend says as to the third section—although it is not quite in order to discuss it, it having already been agreed to—I will, with the permission of the Senate, say a word in regard to it. It would be very difficult to undertake to distinguish between the classes of persons who should be required to prove loyalty affirmatively. To declare that a citizen of Vermont should not be required to prove loyalty while a citizen of Virginia should, would seem to be making a very invidious distinction. In the legal sense there is just as much presumption of loyalty as applied to the citizen of one of these States as the other; and, perhaps, if you take an individual citizen in a practical and *de facto* sense, it would not be right. I am so much of a national Democrat as to believe in the equality of all men before the law, even if they are white men and claimants in the Court of Claims. I should be very sorry to apply one rule of evidence to a citizen of Vermont or Pennsylvania and another to a citizen of Virginia or South Carolina. That, as it appears to me, would be contrary to the first principles of justice and of the administration of the law.

My friend says it is inconvenient to require this affirmative proof. It is a little inconvenient when it is a perfectly clear case; that is to say, the claimant is put to the expense of a dollar for taking the deposition of some man who would swear that he had resided in Pennsylvania during the war, and had never been suspected of any disloyalty. That would be proof enough. On the other hand, if you find a man in Pennsylvania who has been absent during the war, not in the Union Army, and has been all the time in the South, it might require a little more evidence to satisfy a court that he was a man of that loyal character which comes within the definition of the law as to making these claims; so that the only practicable and fair way that occurred to the committee was to lay down one rule which would apply to all persons alike, and that was to put the affirmative upon them, inasmuch as they would know where they had been, what they had been about, and what they could prove;

whereas if you put it upon the United States to prove that they had not been loyal, you would just make us perfectly powerless, and any man, no matter how disloyal, could squeeze a claim through the Court of Claims. That is the reason for that provision; but that, as I have said, is not now properly before the Senate.

Mr. HENDRICKS. My friend from Pennsylvania [Mr. BUCKALEW] is a cool gentleman. I never noticed anything from him quite as cool and refreshing as his proposition to the Senator from Vermont to drop the fifth section, when we all know that that is the bill. That is what he is after—to legislate one set of gentlemen out of office, so as to have another opportunity to put another set of gentlemen in. That is the substance of it. This bill, as it originally came to the Senate, was a very innocent affair, proper enough. Nobody could object to it. It proposed that when the Court of Claims decided a case against the Government, the Government might take an appeal to the Supreme Court of the United States. Of course nobody would dispute that. It seemed to be very proper. We would all agree to the passage of a bill like that at once. Then, sir, to that original, simple, plain, fair proposition is attached a further proposition to turn the three solicitors out of the Court of Claims, and the Assistant Attorney General out of office, with a view of making vacancies and putting other gentlemen in their places. The Senator from Pennsylvania has the coolness to suggest that that should now be dropped. Why, that is asking to give up the character in the play itself. The Senator from Vermont has not troubled the Senate to show the importance of this right of appeal on the part of the Government. Of course not. But upon this point of reorganizing the Attorney General's office he is full and elaborate—satisfactory to himself, at least.

Then the sixth section is a very important one, surely. It is fifty-seven lines in all. And what do Senators suppose it contains? It contains an authority on the part of the Attorney General to address a letter to the head of the Department where any decision may have been made, and a direction to that head of the Department to answer the letter of the Attorney General and to give a statement of the case so far as it appears in that Department or that bureau. Is it necessary that we shall legislate so elaborately upon a point so simple as that? Does any Senator suppose that any Department or bureau would refuse to give information touching a decision that had been made in that Department or that bureau, when that decision came under review in the Court of Claims? Clearly not. That decision, inasmuch as it is made the subject of dispute in the Court of Claims, must necessarily go there, go there by a certified copy of the record and of the files, certified under existing laws, certified in such a form that it shall be evidence. It is evidence because the propriety of that decision is attacked in the Court of Claims, and what that decision is, the grounds of that decision, the evidence upon which it was made come before that court as a matter of course. So that I think the sixth section is innocent mainly, but elaborate. I cannot see the necessity for it, except that it is hung on to the fifth section.

The fifth section is the kernel in this nut. There are some gentlemen who must have office, and in order to give them a fair chance in this time of the dispensation of public patronage, in order to give these outside gentlemen a chance, we must legislate the solicitor and his assistants out of office and the Assistant Attorney General out of office, and then comes up the beautiful controversy between the President of the United States and the Senate as to who shall be the successors. The Senator from Vermont, when that controversy shall arise, will say, in my opinion, that any man nominated must be sound not only as a lawyer so as to be fit to be the solicitor or to be the Assistant Attorney General, that he must not only be an able lawyer, but he must

be sound on the political questions of the day. The President will think that he must be some person who reflects his views on the question of reconstruction; so that we come to a dispute in the Senate here not whether a party is qualified as a lawyer to vindicate the rights of the United States, but whether he is sound upon the question of reconstruction, as that question hangs between the executive and the legislative department. Is that desirable?

The Senator from Vermont states correctly in respect that it has been a subject of some consultation in the Judiciary Committee, whether there ought not to be a reorganization of the Attorney General's office; but I will suggest to that Senator that that discussion has not been confined to the little question of the Court of Claims and the solicitors in that court, but it has extended to all of the Departments, whether the solicitors in the several Departments ought not to be attached to and become a part of the Attorney General's office. This bill does not propose to regulate all that matter, and it ought not to do so.

On that point I am inclined to think that a reorganization is desirable. I believe that, in my judgment, I shall concur in what I understand to be the opinion of the chairman of the Judiciary Committee, that the solicitors of the different Departments ought to be a part of the Attorney General's office; it would seem that the law business of the Government ought all to be transacted in the Attorney General's office; but this requires the readjustment, the reorganization of that department. It ought all to be done in one bill having that purpose in view, to consolidate in one department the entire law business of the Government, so far as it is transacted at Washington city. That would carry the different solicitors into the Attorney General's office. I am inclined to favor such a proposition, though it has not been sufficiently considered yet for any Senator to say that his mind is entirely made up. There are some reasons why the solicitors should be in the Departments themselves, so that they may be convenient to be consulted by the head of the Department. On the other hand, there are reasons why the solicitors should be connected with the Attorney General's office, so that upon all the law business of the Government the decisions shall be uniform, and not have one practice in one Department and another practice in another Department.

But this bill proposes to make, I think, four vacancies for four anxious individuals who are now on the outside, and we are called upon to make these vacancies. Why, I ask, Senators? Is it known to Senators that the business in charge of the solicitor and his assistants in the Court of Claims has not been well attended to? Is it known to the Senate that any case has been decided against the Government which ought not thus to have been decided? I have heard complaints of the Court of Claims, but mainly by persons who have lost their cases there. That is the principal complaint that I have heard, and I have not paid much attention to it, for it is not often that a man, having a claim before that court, would be entirely satisfied if the decision should be against him, although every other person might be satisfied that the decision was proper. But that that court has made decisions because of the inefficient management of the solicitors, against the Departments, I have no information, and I think I am justified in saying that no such information came to the Judiciary Committee.

I know I have heard criticisms as to the ability of some gentlemen connected with the Court of Claims; but that the business in that court has not been well conducted, the cases properly presented for the Government, I have no information. I have but a very slight acquaintance indeed with the solicitors; I believe with but one of them, and I do not now recollect his name. Whether he is an able lawyer I shall not undertake to say, except that the fact that there are no complaints, that no cases are presented to us in which the court has been unable to decide properly because of

his negligence, is a circumstance supporting him as a public officer.

Mr. President, when it shall be proposed to reorganize the Attorney General's department and to bring into that department all the law business of the Government, then we shall have a dignified and decent business before us; then the purpose of Congress will be plain; the purpose will be to reorganize the department with a view to the efficiency of the public service, and I shall go into that work cheerfully, investigate it, and come to the very best conclusion I can. But, sir, when it is proposed simply in regard to the solicitors of the Court of Claims and in respect to the Assistant Attorney General, to strike them out of office with a view of making vacancies, and that those vacancies shall be under the control of the Senate, and at this time bring into the Senate a controversy which has been agitating, which has not been promotive of the good of the public service, the controversy between the President and the Senate upon political questions, in my judgment it is not for the good of the public service. Therefore in committee I was not in favor of this; I am not in favor of it here; I opposed it there as I oppose it here, as a thing not called for by the facts of the case and as legislation that in my judgment, is vicious.

Mr. BUCKALEW. Mr. President, I desire to say one word in consequence of what has been said by the Senator from Indiana. I think this bill is very valuable in the other parts besides the fifth and sixth sections, upon which he has spoken. In any event, I should be very anxious that it should be enacted. I think the first four sections and the seventh are very good, very useful; and that whatever is done in regard to the fifth and sixth, they ought to be passed.

Mr. EDMUNDS. I wish to say in reply to the honorable Senator from Indiana that he entirely misapprehends, taking him at his word for his belief, the object of this bill. We do not want to legislate out of office any particular persons for the purpose of legislating into office any other persons. My friend from Indiana ought to know that the committee had no such purpose, and they ask the Senate to have no such purpose; and if my friend is so very nervous and suspicious on the subject of official changes, as perhaps from the state of things in the country just now he might be expected to be, of course we cannot impute any blame to him for supposing that wherever he sees meal he believes there must be a cat under it. But he is mistaken about that. The interests we have at heart are those which address themselves to our sense of public duty, to provide for defending the interests of the United States in respect to these great claims that are now being pressed upon the attention of this court for consideration. This is the whole of it; and inasmuch as no reason connected with the merit of the thing has been suggested against it, I hope the Senate will agree to the section.

Mr. BUCKALEW. I believe the large cotton cases to which the Senator refers have gone, or are going, to the Supreme Court, and in that court I understand the Attorney General will represent the Government of the United States.

Mr. EDMUNDS. No, Mr. President, my friend from Pennsylvania is mistaken. As the law now stands, the solicitor of the Court of Claims, and not the Attorney General, by the express letter of the old law, as it happens to have been framed by mere accident, I suppose, is the person who has charge of the cases that go up from the Court of Claims—a most anomalous and extraordinary state of things.

Mr. BUCKALEW. In the Supreme Court?

Mr. EDMUNDS. Yes, sir.

Mr. BUCKALEW. There will be no difficulty in modifying the law in that respect.

Mr. EDMUNDS. We propose to modify it. The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Vermont, to fill the blank with "four thousand." The amendment was agreed to.

The PRESIDENT *pro tempore*. The ques-

tion is on agreeing to the amendment proposing to insert the fifth section as amended.

Mr. BUCKALEW. I ask for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. HENDRICKS. I should like to inquire of the Senator from Vermont what will be the additional cost at the salaries now fixed.

Mr. EDMUNDS. I believe it will be less under this bill. There are three persons now connected with the Court of Claims in this capacity, and an assistant in the Attorney General's office, making four persons whom we propose to get rid of, and then we provide in place of them for two Assistant Attorneys General, to be appointed by the President and confirmed by the Senate, at a salary, I think, slightly larger than the present, but the aggregate expense will be less.

Mr. HENDRICKS. Does the Senator recollect the present salaries as now fixed?

Mr. EDMUNDS. Not at this moment, but I think it is \$3,000 or \$3,500.

Mr. TRUMBULL. Thirty-five hundred dollars, according to my recollection, is the salary of the principal solicitor. I am sorry that this bill should have assumed the aspect that it has in the opinion of Senators on the other side. There is nothing, so far as I am advised, or have any intimation, of a political or partisan character about it. The object of the bill is to improve the public service. It has been a matter of frequent conversation among the members of the Judiciary Committee, and I think the Senator from Indiana must be aware of it, that there are inconveniences arising from the division of what properly belongs to the Attorney General's office, among the various Departments of the Government. I know my attention has been often called to the fact that we have solicitors in the different Departments, and different opinions are given out by these solicitors, often in conflict, and the public service has suffered from that inconvenience; but this particular matter that is now under consideration relates to the Court of Claims chiefly, dispenses with an Assistant Attorney General—

Mr. HENDRICKS. The Senator did not hear my remarks. I said that the subject of the reorganization of the Attorney General's department, bringing into that department all the law business of the Government, has been a matter of consideration in the Judiciary Committee, and I went on to say that I regarded it as a subject well worthy of our consideration.

Mr. TRUMBULL. But this particular section provides for bringing the law business connected with the Court of Claims immediately within the control of the Attorney General. That is one step in the direction which the Senator from Indiana and I both think legislation ought to go. As the law now stands, the solicitors of the Court of Claims not only attend to the business in that court but also in the Supreme Court, and the Attorney General has declined to have anything to do in the Supreme Court of the United States with cases that have been appealed from the Court of Claims.

Then, again, it is known that the character of the business in the Court of Claims has become more important of late years, and it is desirable that we should have responsible solicitors there. The Attorney General of the United States is one of the members of the Cabinet, and is supposed to be one of the most eminent lawyers in the United States, at the head of the profession. A man of that character is ordinarily selected for that high position, while the solicitors of the Court of Claims are not always of that character. By having the Attorney General responsible for the business in that court it was thought an improvement to the public service would be effected.

That anybody is outside expecting these offices is wholly unknown to me, if such be the case. There is no use in disguising from the Senate or from ourselves the fact—I think the Senator from Indiana is aware of it—that there have been more or less complaints that

the solicitors in the Court of Claims were not the persons that it would be desirable to have there. I believe that the gentlemen occupying those positions are very respectable gentlemen, and I have no complaint to make of them; but it must be remembered that they meet in that court the most eminent counsel in the United States; and the gentlemen who have occupied these positions in the Court of Claims, with a salary of three thousand or thirty-five hundred dollars a year, it could be expected, would be the most eminent counsel in the nation. And there have been more or less, if not complaints, apprehensions in the minds of different persons that the business of the Government and the rights of the Government were not protected as well as they ought to be in that court, because we did not have the responsibility that would attach to the Attorney General if he was made responsible for defending the Government before that tribunal. I think it would be an improvement to the public service; and as to nobody's wanting the offices, I know nothing about that; but I do know that the solicitors of that court have not been altogether satisfactory to the country.

Mr. FESSENDEN. Mr. President, I approve of the general object of the bill, because I believe that the amounts involved now in claims before this court are such as require the very highest legal ability to take care of properly; and we miss it very much when we hesitate about giving salaries that would command the services of very able counsel. We lose many thousands in the effort to save a few hundreds. Therefore, I think that it would be well to reorganize the Attorney General's office, and give the kind of aid that is required in order to take care of the business of the Government in the Court of Claims for many years to come. Even when the questions arising out of this war shall be disposed of, such is the growth of business in this country, such will be the great extent of it, that the bill, in my judgment, does not make any more provision than is necessary for meeting what we shall have to meet hereafter.

But I would suggest to the Senators who are urging the bill whether the present is not rather an unfortunate time to attempt to do this. I think if the bill could be passed at the next session so as to take effect on the 4th of March, 1869, or thereabouts, it would be likely to meet with more favor and likely to be more permanent. I think, with the honorable Senator from Indiana, that at the present time if we should pass this bill making this reorganization, we should probably meet with difficulties.

In the first place, when the bill is passed, I suppose the present solicitors go out of office. It takes considerable time, or it may take considerable time before the offices are filled, and in the meantime the business of the country connected with the Court of Claims would be likely to suffer very much; for we want men in attendance there constantly, while the court is in session, at least, in order to conduct the business and to take care of the interests of the country. From what we have experienced here, I ask Senators whether there would not be likely to be very considerable delay in filling these offices. We might not, and probably should not have the kind of appointments made that would be desirable or satisfactory to the Senate, and we might have a long delay before appointments could be had which would be satisfactory to the whole appointing power; and in the meantime the business of the country would suffer very much. In the present state of things, therefore, I doubt whether it would be advisable to pass those parts of the bill which refer to appointments, and whether it would not be better to confine it simply to the original provisions of the bill, those matters about which there is no dispute, and which do not involve the filling of important offices at the present time; or between now and the time when there will be a change of administration.

I make this suggestion to the Senator who has the bill in charge and to the friends of it,

because I think really, in the existing state of things, it may be a very serious matter whether it would not be well to defer this portion of the bill.

Mr. EDMUNDS. My friend will permit me to say that there would be force in that if we only looked at those considerations alone; but the fact is that there is now pressing on through that court and up to the Supreme Court a great mass of claims of a very important character, both as to the amount and the principles involved, and there needs immediately to be put into the charge of the Attorney General the management of these cases; because we shall certainly have an Attorney General. We all expect that. The Government cannot get along much better without an Attorney General than without a Secretary of War. Some eminent person, some responsible and respectable lawyer of some party or other, will, undoubtedly, be appointed Attorney General within thirty days. I cannot permit myself to doubt that. I cannot presume, much as I differ with the President of the United States about a great many subjects, I cannot permit myself to presume that he will hesitate, within a reasonable time, to present such a man, if he has not already done so, and I have no right to say that he has not already done so, or that there is any nomination here; but I cannot think that he will hesitate to present to us such a name as the Senate will feel it to be its duty to confirm. We must assume that.

Mr. FESSENDEN. So far as that is concerned, as to merely putting the matter under the charge of the Attorney General, I presume no difficulty would arise and there would be no objection to a simple provision to that effect; but the bill, as I understand it, strikes at the present solicitors of the Court of Claims, and they go out of office when the bill is passed.

Mr. EDMUNDS. They go out of office on the 1st of July, when that branch of the bill goes into effect.

Mr. FESSENDEN. How long might we be detained before we could fill the offices created by the bill?

Mr. EDMUNDS. Presumably we ought not to be detained longer than would be necessary for the President of the United States to perform his duty of nominating suitable persons. Of course there is something in what my friend says as to the difficulty, but I think that difficulty will be out of the way by the necessity of action, because we shall have, as we now all agree, an Attorney General. He is the responsible person to whom this business is to be turned over. Then the question will be, can we appoint two Assistant Attorneys General. If we fail to appoint two Assistant Attorneys General, still the duty is reposed in the Attorney General himself to see that this business is attended to, and provision can be made, (as the law now permits the Secretary of the Treasury to assist in defending claims upon his Department,) arrangements can be made for such a difficulty as that. He will undoubtedly meet the temporary emergency in some way or other, because we put on him the responsibility, and he will feel it to be his duty, if assistance enough is not furnished him, to take the responsibility of employing counsel on his own account, trusting to the justice of Congress to make it good. If we shall come to such a difficulty as my friend suggests, I do not think there will be any practical danger about it.

Mr. WILLIAMS. Mr. President, I do not see that the Senator from Vermont gives us any assurance that the persons to be appointed as Assistant Attorneys General will be any better qualified to attend to the business of the United States in the Court of Claims than the present officers. What evidence have we that if we abolish these offices at this time, turn out the men who now perform the duties, some persons will be appointed who are better than they are? Judging from what has taken place, from our experience in the last two or three years, we are not to expect, it strikes me, any very great improvement in that respect; and I



think myself there may be trouble, such as has been suggested by the Senator from Maine, in making this change. These men have been in office some time attending to this business. I do not know but that the country has suffered; but if it has, it can endure this suffering, it seems to me, until the 4th day of next March, when possibly, if a change is made, we can expect an improvement. But to undertake to remove these men from office at this time with an idea of having others appointed who are better, taking the chances of a disagreement between the President and the Senate as to their successors, it seems to me is not very politic or wise, and I must confess that the necessity of that course is not very obvious to me at this time.

I should favor this plan under other circumstances. If I had that confidence in the Executive which would induce me to believe that men eminent for their legal qualifications would be taken to fill these places, and not men distinguished for partisan fealty, then I should favor this plan; but according to my present apprehensions I doubt very much whether there would be anything gained by this change, and I do not like to see the experiment tried. As far as I know the men who attend to the business of the Government in the Court of Claims, they are very respectable gentlemen. Perhaps there has been some complaint made, but not more than is generally made of public officers, and I think that the country can stand the infliction of having these men fill these offices until the 4th of next March better than it can stand the experiment of a change at the hands of the President at the present time.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on the Judiciary, as amended, to insert the proposed fifth section, and upon this question the yeas and nays have been ordered.

Mr. FRELINGHUYSEN. Before the vote is taken, I desire to say that I have received a note from a friend of Senator HARLAN requesting me to state that he is absent to-day in consequence of sickness, and that he hopes to be able to be present in the Senate in the course of a few days.

The question being taken by yeas and nays, resulted—yeas 22, nays 13; as follows:

YEAS—Messrs. Cattell, Cole, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Ferry, Frelinghuyesen, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Ramsey, Stewart, Sumner, Trumbull, Wade, Wilson, and Yates—22.

NAYS—Messrs. Buckalew, Cameron, Doolittle, Fessenden, Hendricks, Howard, McCreery, Patterson of Tennessee, Ross, Saulsbury, Sherman, Vickers, and Williams—13.

ABSENT—Messrs. Anthony, Bayard, Chandler, Davis, Dixon, Fowler, Grimes, Harlan, Henderson, Johnson, Morton, Norton, Nye, Pomeroy, Sprague, Thayer, Tipton, Van Winkle, and Wiley—19.

So the amendment was agreed to.

The next amendment of the Committee on the Judiciary was to insert the following as section six:

Sec. 6. *And be it further enacted*, That it shall also be the duty of the said Attorney General and his assistants, in all cases brought against the United States in said Court of Claims founded upon any contract, agreement, or transaction with any executive Department, or any bureau, officer, or agent of such Department, or where the matter or thing on which the claim is based shall have been passed upon and decided by any Department, bureau, or officer intrusted by law or Department regulations with the settlement and adjustment of such claims, demands, or accounts, to transmit to said Department, bureau, or officer, as aforesaid, a printed copy of the petition filed by the claimant in such case, with a request that the said Department, bureau, or officer to whom the same shall be so transmitted as aforesaid, will furnish to said Attorney General all facts, circumstances, and evidence touching said claim as is or may be in the possession or knowledge of the said Department, bureau, or officer; and it shall be the duty of the said Department, bureau, or officer to whom such petition may be transmitted and such request preferred as aforesaid, without delay, and within a reasonable time, to furnish said Attorney General with a full statement of all the facts, information, and proofs which are or may be within the knowledge or in the possession of said Department, bureau, or officer, relating to the claim aforesaid. Such statement shall also contain a reference to or description of all official documents or papers, if any, as may or do furnish proof of facts referred to in said statement, or that may be necessary and proper for the defense of the United States against the said

claim, together with the Department, office, or place where the same is kept or may be procured. And if the said claim shall have been passed upon and decided by the said Department, bureau, or officer, the statement or answer to be transmitted to said Attorney General, as hereinbefore provided, shall succinctly state the reasons and principles upon which such decision shall have been based. In all cases where such decision shall have been made upon any act of Congress, or upon any section or clause of such act, the same shall be cited specifically. And if any previous interpretation or construction shall have been given to such act, section, or clause by the said Department or bureau transmitting such statement, the same shall be set forth, succinctly in said statement, and a copy of the opinion filed, if any, shall be annexed to such statement and transmitted with the same to the Attorney General aforesaid. And where any decision in the case shall have been based upon any regulation of an executive Department, or whose such regulation shall or may, in the opinion of the Department, bureau, or officer transmitting such statement, have any bearing upon the claim in suit, the same shall be distinctly referred to and quoted in *extenso* in the statement transmitted to said Attorney General: *Provided, however*, That where there shall be pending in the said court more than one case, or a class of cases, the defense to which shall rest upon the same facts, circumstances, and proofs, the said Department, bureau, or officer shall only be required to certify and transmit one statement of the same, and such statement shall be held to apply to all such classes of cases as if made out, certified, and transmitted in each case respectively.

The amendment was agreed to.

The next amendment was to insert as section seven:

Sec. 7. *And be it further enacted*, That it shall and may be lawful for the head of any executive Department, whenever any claim is made upon said Department, involving disputed facts or controverted questions of law, where the amount in controversy exceeds \$3,000, or where the decision will affect a class of cases or furnish a precedent for the future action of any executive Department in the adjustment of a class of cases, without regard to the amount involved in the particular case, or where any authority, right, privilege, or exemption is claimed or denied under the Constitution of the United States, to cause such claim, with all the vouchers, papers, proofs, and documents pertaining thereto, to be transmitted to the Court of Claims, and the same shall be there proceeded in as if originally commenced by the voluntary action of the claimant. And the Secretary of the Treasury may, upon the certificate of any Auditor or Comptroller of the Treasury, direct any account, matter, or claim of the character, amount, or class described or limited in this section to be transmitted, with all the vouchers, papers, documents, and proofs pertaining thereto, to the said Court of Claims, for trial and adjudication: *Provided, however*, That no case shall be referred by any head of a Department unless it belongs to one of the several classes of cases as to which, by reason of the subject-matter and character, the said Court of Claims might, under existing laws, take jurisdiction on such voluntary action of the claimant. And all the cases mentioned in this section which shall be transmitted by the head of any executive Department, or upon the certificate of any Auditor or Comptroller, shall be proceeded in as other cases pending in said court, and shall, in all respects, be subject to the same rules and regulations; and appeals from the final judgments or decrees of the said court therein to the Supreme Court of the United States shall be allowed in the manner now provided by law. The amount of the final judgments or decrees in such cases so transmitted to said court, where rendered in favor of the claimants, shall in all cases be paid out of any specific appropriation applicable to the same if any such there be; and where no such appropriation exists the same shall be paid in the same manner as other judgments of said court.

Mr. HOWARD. I wish to ask the Senator from Vermont what particular necessity there is for this seventh section? I confess that I know of no facts which seem to require the passage of such a provision of law as this. It seems to me that it will tend to relieve, in a very great degree, the heads of the Executive Departments and the heads of bureaus from the just responsibilities which they are bound to discharge by their appointments. Under this section the head of any executive Department, and I think the head of any bureau, is authorized to transfer any claim which may come into his possession for consideration to the Court of Claims, and instead of deciding it himself, turn the whole matter over to the judges of the Court of Claims, and have it decided there. All claims may be thus disposed of that involve an amount greater than \$3,000. What is the necessity for this? Why relieve the head of an executive Department or the head of a bureau of the ordinary administrative duties which devolve on him, and turn those duties over to the Court of Claims, thus driving the claimant into court and compelling him to employ counsel there and submit to all the inconvenience and delay and expense of

litigation, when the facts in the case or the law in the case might as well be determined by the head of the Department or of the bureau, as by the Court of Claims? I should like to hear some explanation of the necessity of this provision. Are there any complaints in the Departments or in the bureaus that they are overburdened with this description of duties?

Mr. EDMUNDS. Mr. President, I am glad to be able to satisfy my friend from Michigan, as I think I can, as to the propriety of this seventh section. The spirit and object of it is to change the present system by which a Secretary of an executive Department has a subordinate of his pass upon a disputed claim, controverted questions of law and fact, subject to the *ex parte* pressure that we know is always brought to bear by the applicant upon that subordinate, that clerk or head of a bureau or of a division or whatever he may be, which leads to his making a report to the Secretary that does not properly present those facts which are controverted or the law which is disputed, thus producing a decision adverse to the United States by the head of the Department who orders a claim to be paid, when if the subject had been contested before a board of lawyers or commissioners or judges, as this section provides, where counsel for the United States could be heard, where every influence which should be brought to bear should be an open and public one in a court, the result might have been entirely different. That was the object of this section, to relieve the Government from the inroads that are now being made upon it through the Departments where the Secretary of the Department is not responsible at all, because he cannot with his time—and I do not speak of any one in particular; none of them can—he cannot with his time himself go into a minute examination of all the disputed claims that are presented. He is, therefore, obliged to rely upon his head of bureau, and the head of bureau is obliged to rely upon the clerk there who makes report to him; and consequently if you get the least amount of undue influence in the original examination by some clerk of a large claim that depends upon disputed facts or controverted law you are in danger (and practice has shown that it is not a light danger) of having the head of an executive Department finally allow a claim against the Government when, if it had been subjected to a contested investigation in a public way, it would not have stood a minute.

We thought, therefore, that it was wise and proper, under every consideration that presented itself to us, to authorize the Secretaries of the various Executive Departments to send these large controverted claims above \$3,000 to the Court of Claims. We did not want to put every claimant to the expense of going to the Court of Claims; but those claims which are of a considerable amount we think should be sent to a tribunal where, if there is a real controversy, there will be a real defense before persons of skill, ability, and respectability. That is the theory of it. I speak with deference to my friend from Michigan; I think it ought to be satisfactory to him.

Mr. HOWARD. Mr. President, certainly the honorable Senator from Vermont has made out as good an excuse as could well be framed for this very anomalous section in the bill, and he is entitled to great credit for the ingenuity which he has displayed. But I am really not able to appreciate it. This Government has been in operation since 1789, and we have never had any such arrangement in the administrative Departments of the Government as is contemplated in this seventh section. It is an entire anomaly, and I believe that it has no example and no precedent in any Government in the world, free or otherwise. What is it, sir? Simply this: where there is a claimant prosecuting a claim before the head of an executive Department or the head of a bureau of the Government, which amounts to more than three thousand dollars, it is discretionary in the head of the Department or bureau to trans-

fer the claim for adjudication to the Court of Claims. He may exercise this discretion without the slightest reference to the convenience of the claimant. The claimant's hands are tied; he cannot ask to have the claim thus transferred for adjudication; he has no right to say a word about it; he is bound hand and foot by the law. But if the head of the Department sees fit to turn him out of the Department and send him into the Court of Claims he must go there, and there he must prosecute his claim. It is not mutual, therefore. While it relieves the officers of the Government of some duties, which undoubtedly are at times onerous and difficult, it gives to the claimant by no means the benefit of taking his case before an impartial judicial tribunal for adjudication and settlement.

Mr. EDMUNDS. Will my friend permit me to correct him?

Mr. HOWARD. Certainly, if I am in error.

Mr. EDMUNDS. The claimant has a perfect right to go to the Court of Claims, as well as the Secretary, by the general law.

Mr. HOWARD. Can he transfer his claim from the Department and bring it into the Court of Claims?

Mr. EDMUNDS. Certainly; and he most generally sues there after being beaten in the Department, if he chooses to go there at all.

Mr. HOWARD. My objection is mainly that this unnecessarily seeks to relieve the officers of the Government from the discharge of their duties and enables them to shirk responsibilities which are justly imposed upon them by the law. I move to strike out the seventh section.

Mr. EDMUNDS. That is not in order. The question is on agreeing to it.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment to insert the seventh section.

The amendment was agreed to.

Mr. EDMUNDS. I move now to insert after the seventh section the following amendment, to come in as section eight:

SEC. 8. *And be it further enacted*, That no person shall file or prosecute any claim or suit in the Court of Claims, or an appeal therefrom, for or in respect to which he or any assignee of his shall have commenced and has pending, or shall commence and have pending, any suit or process in any other court against any officer or person who, at the time the cause as above alleged in such suit or process arose, was in respect thereto acting or professing to act, mediately or immediately, under the authority of the United States, unless such suit or process, if now pending in such other court, shall be withdrawn or dismissed within thirty days next after the passage of this act.

The object of this amendment is to put to their election that large class of persons having cotton claims particularly, who have sued the Secretary of the Treasury and the other agents of the Government in more than a hundred suits that are now pending, scattered over the country here and there, and who are here at the same time endeavoring to prosecute their claims, and have filed them in the Court of Claims, so that after they put the Government to the expense of beating them once in a court of law they can turn around and try the whole question in the Court of Claims. The object is to put that class of persons to their election either to leave the Court of Claims or to leave the other courts. I am sure everybody will agree to that.

The amendment was agreed to.

The next amendment of the committee was to insert the following as section nine:

SEC. 9. *And be it further enacted*, That all provisions of any act incompatible herewith be, and the same are hereby, repealed.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. EDMUNDS subsequently said: I ask the consent of the Senate to submit a motion to reconsider the vote on the passage of the Court of Claims bill. My friend from Illinois [Mr. TRUMBULL] being out at the moment of

its passage, wishes to propose a mere verbal amendment which leaves the bill, as I construe it and I believe as he does, just as it is now; but he desires to offer it to avoid a misconception.

The motion was agreed to.

The PRESIDENT *pro tempore*. The bill is reconsidered. The vote by which the bill was passed to a third reading will also be reconsidered by unanimous consent.

Mr. EDMUNDS. The amendment can be made by unanimous consent without that.

The PRESIDENT *pro tempore*. The bill is reconsidered on its third reading.

Mr. TRUMBULL. Now, I move to amend the bill by adding the following to the second section:

But until an order is made staying the payment of a judgment, the same shall be payable and paid as now provided by law.

Mr. EDMUNDS. There is no objection to that.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read a third time, and passed.

#### PURCHASE OF VESSELS.

The PRESIDENT *pro tempore* laid before the Senate a report of J. M. Schofield, Secretary of War, communicating, in compliance with a resolution of the Senate of January 20, 1868, information relative to the purchase and sale of vessels by the War Department during the war of the rebellion.

Mr. WILSON. I move that that communication be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. HENDRICKS. Does that carry with it the proposition to print the papers sent in?

The PRESIDENT *pro tempore*. No proposition to print has been made.

Mr. WILSON. The committee will look into them, and report as to printing.

Mr. HENDRICKS. Very well.

#### LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. SHERMAN. I ask leave to report certain amendments from the Committee on Finance to the legislative, executive, and judicial appropriation bill, with a view that they may be printed and referred to the Committee on Appropriations under the rules.

The PRESIDENT *pro tempore*. That order will be made.

#### FREEDMEN'S BUREAU.

Mr. WILSON. I move now to take up for consideration the bill (H. R. No. 598) to continue the Bureau for the Relief of Freedmen and Refugees, and for other purposes.

Mr. BUCKALEW called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 29, nays 8; as follows:

YEAS—Messrs. Cameron, Cattell, Cole, Conkling, Conness, Corbett, Edmunds, Ferry, Fessenden, Frelinghuysen, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Tipton, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—29.

NAYS—Messrs. Buckalew, Doolittle, Hendricks, Johnson, McCreery, Patterson of Tennessee, Saulsbury, and Vickers—8.

ABSENT—Messrs. Anthony, Bayard, Chandler, Cragin, Davis, Dixon, Drake, Fowler, Grimes, Harlan, Henderson, Morton, Norton, Patterson of New Hampshire, Sprague, Thayer, and Trumbull—17.

So the motion was agreed to, and the bill was considered as in Committee of the Whole.

It is provided in the first section that the act entitled "An act to establish a Bureau for the relief of Freedmen and Refugees," approved March 3, 1865, and the act entitled "An act to continue in force and amend 'An act to establish a Bureau for the relief of Freedmen and Refugees, and for other purposes,'" passed on the 16th of July, 1866, shall continue in force for the term of one year from and after the 16th of July, 1868, excepting so far as herein modified. The Secretary of War is directed to reestablish the bureau where the same has been wholly or in part discontinued, if he shall be satisfied that the personal safety of freedmen shall require it.

Section two makes it the duty of the Secretary of War to discontinue the operations of the bureau in any State whenever such State shall be fully restored in its constitutional relations with the Government of the United States, and shall be duly represented in the Congress of the United States, unless upon advising with the commissioner of the bureau, and upon full consideration of the condition of freedmen's affairs in such State, the Secretary of War shall be of opinion that the further continuance of the bureau shall be necessary. But the educational division of the bureau is not to be affected, or in any way interfered with, until such State shall have made suitable provision for the education of the children of freedmen within the State.

The third section provides that unexpended balances in the hands of the commissioner, not required otherwise for the due execution of the law, may be, in his discretion, applied for the education of freedmen and refugees, subject to the provisions of law applicable thereto.

Section four provides that officers of the Veteran Reserve corps or of the volunteer service, now on duty in the Freedmen's Bureau as assistant commissioners, agents, medical officers, or in other capacities, who have been or may be mustered out of service, may be retained by the commissioner, when they shall be required for the proper execution of the laws, as officers of the bureau, upon such duty and with the same pay, compensation, and all allowances, from the date of their appointment as now provided by law for their respective grades and duties at the dates of their muster out and discharge; and such officers so retained shall have, respectively, the same authority and jurisdiction as now conferred upon "officers of the bureau" by act of Congress passed on the 16th of July, 1866.

An amendment was reported by the Committee on Military Affairs and the Militia, to add to the bill the following additional section:

SEC. 5. *And be it further enacted*, That the commissioner is hereby empowered to sell for cash or by installments, with ample security, school buildings and other buildings constructed for refugees and freedmen by the bureau, to the associations, corporate bodies, or trustees who now use them for purposes of education or relief of want, under suitable guarantees that the purposes for which such buildings were constructed shall be observed: *Provided*, That all funds derived therefrom shall be returned to the bureau appropriation and accounted for to the Treasury of the United States.

Mr. HENDRICKS. I should like to look at this bill a little. It has been impossible for me to do so. If the Senator from Massachusetts does not care to press it to a passage to-night, I should like very much that he would consent to let it lie over until to-morrow. I did not know that it was to be called up to-day, or I should have looked into it.

Mr. WILSON. I am very anxious to have the bill passed. I certainly do not wish to press a matter improperly on the Senate; but the bill has been here for some time, and it is necessary that it should be passed this week. To-morrow we are to take up, I understand, the bill reported this morning from the Judiciary Committee. I should be glad if we could get this bill through to-day, if possible. At any rate I should like to have the amendment acted upon, if the Senator will allow that.

Mr. HENDRICKS. I do not object to the consideration of the bill in committee if when it comes into the Senate the Senator will then consent to let it go over.

Mr. TRUMBULL. If the Senator from Massachusetts is not disposed to press this bill this afternoon, I am exceedingly anxious to take up the bill to remove political disabilities from Roderick R. Butler, of Tennessee. It is a bill that ought certainly to be disposed of. It involves the right of a member of the other House to a seat. I had it before the Senate once or twice, and I think it will not take very long to dispose of it.

Mr. WILSON. I wish Senators would let us act on this amendment, and then when we

reach the general provisions of the bill I will consent to let it go over.

Mr. TRUMBULL. I will not object to that. The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Military Affairs and the Militia.

Mr. HENDRICKS. I think that rather an extraordinary amendment, and I should like to hear some explanation of it. It would seem to me that the school-houses which have been constructed at the public expense ought to remain public buildings permanently for the purposes for which they were constructed. If they were constructed as school-houses for the colored children then they should remain public buildings for that purpose. It would seem to me that some provision declaring them public buildings for such purpose would be better than a bill to sell them; but I suppose the committee have considered that, and I would like to hear the reasons. Who are to become purchasers? What societies or organizations are referred to in this section? How permanent are these organizations? Into what charge and under what control will these buildings fall? These are some of the questions that it seems to me the Senate ought to be informed upon.

Mr. WILSON. Most of these buildings have been erected by the bureau, or the bureau has aided in their erection, and they are occupied, to a great extent, by schools, supported in part by associations and societies, and by contributions raised in the loyal portions of the country. A great part of the educational establishment in the southern section of the country is supported by these contributions. There are now about thirty-seven hundred freedmen's schools in all supported in this way and about two hundred and forty thousand scholars. There are some two or three hundred—I cannot tell the exact number—buildings that have been erected by the bureau. The object is to allow the commissioner to work out of this system. We propose to extend the bureau one year, and during that year to work out, as far as we can, from all connection with education or anything else that concerns the local affairs of the States. The object is to sell the school-houses that have been erected to these societies and associations or persons interested in education and who are teaching schools in them, and to put the money into support of the bureau, and finally into the Treasury if it is not used for that purpose.

Then there are some buildings which have been erected out of property of the Government purchased at cheap rates. Some have been erected in this city; some may be seen south of the Capitol, erected out of barracks purchased at sales of Government property at cheap rates. It is proposed to sell these buildings for cash, or to sell them on credit, and secured so that they will go into the hands of the persons who occupy them and who can pay for them. It is believed by the commissioner that by this system the Government can work out of the expense incurred, and little loss will accrue to any one, and great benefit to the cause of education and relief to those persons who occupy and desire to purchase the buildings that have been so erected.

I have no doubt that the adoption of this amendment will enable the bureau to work itself out of these expenditures with very little if any loss of the cost of the buildings that have been erected. Those which are school-houses will be used for the purposes of education, and those that are rented out, as they are mostly, will be used as they are now used, and a little credit given to those persons will enable them to purchase them rather than throw them into the hands of capitalists who will turn these people out of employment and tear down the buildings. They are mostly cheap buildings and cost very little.

I hope the amendment will be adopted. General Howard is exceedingly anxious that it shall be adopted. He believes it will be of great benefit to adopt it in this form. The money derived from it it is provided shall go into the Treasury.

Mr. STEWART. I move that the Senate proceed to the consideration of executive business.

Mr. WILSON. I hope we shall vote on the amendment.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) This motion cannot be debated.

The motion was not agreed to.

Mr. YATES. I move that the Senate proceed to the consideration of Senate bill No. 357.

The PRESIDING OFFICER. There is a bill before the Senate.

Mr. WILSON. I hope we shall take a vote on the amendment.

The PRESIDING OFFICER. The question is on the amendment of the Committee on Military Affairs.

The amendment was agreed to.

Mr. WILSON. Now the bill may go over.

Mr. YATES. I now move that the Senate proceed to the consideration of Senate bill No. 357.

Mr. MORRILL, of Maine. I would like to know what that is.

The PRESIDING OFFICER. There is a bill before the Senate. Does the Senator move to postpone it?

Mr. YATES. Yes, sir; I move to postpone it, and take up the bill for the establishment of a territorial government for Wyoming.

The PRESIDING OFFICER. The Senator from Illinois moves that the further consideration of the bill before the Senate be postponed till to-morrow.

Mr. MORRILL, of Maine. I dislike to interfere with the Senator from Illinois; but I desire to suggest to the Senate that a bill was reported from the Committee on Appropriations yesterday to supply certain deficiencies, among which is an item for expenses in the collection of the revenue, which has lain a long time in the other House, and about which there is the most exigent necessity that it should pass immediately. I trust my friend from Illinois will allow me to call up that bill. It will not occupy much time.

Mr. YATES. This bill will only occupy a few moments, and it is important that it should be passed now. The Committee on Territories have had no part of the attention of the Senate at this session. The committee is unanimous in regard to this bill, and I think there will be no objection to its passage.

Mr. MORRILL, of Maine. The Senate will see; I think, that the bill to which I ask their attention is of very pressing necessity, and it occurs to me that the other matter may well go over until to-morrow. I do not think this bill will occupy more than twenty minutes of the time of the Senate.

The PRESIDING OFFICER. The question is on postponing the further consideration of the bill to continue the Freedmen's Bureau until to-morrow.

The motion was agreed to.

#### DEFICIENCIES IN APPROPRIATIONS.

Mr. YATES. I now move to take up Senate bill No. 357, to provide a temporary government for the Territory of Wyoming.

Mr. MORRILL, of Maine. On that question I feel called upon to make a statement to the Senate. The bill which I wish to have considered is one that has lain in the House since March.

Mr. YATES. I will consent to the Senator's suggestion.

Mr. MORRILL, of Maine. I move, then, that the Senate proceed to the consideration of House bill No. 1117.

Mr. YATES. Let the territorial bill be taken up first, and then it can be passed by informally.

Mr. NYE. I hope that will be done.

Mr. CONNESS. That is taking a lien on the Senate.

The PRESIDING OFFICER. The question is on the motion of the Senator from Illinois to take up Senate bill No. 357.

The motion was agreed to.

The PRESIDING OFFICER. The bill is before the Senate and will be read.

Mr. MORRILL, of Maine. The understanding was that that bill was to be laid aside informally.

The PRESIDING OFFICER. It can be laid aside informally if there be no objection. The Chair hears none.

Mr. MORRILL, of Maine. I move that the Senate proceed to the consideration of House bill No. 1117.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1117) to supply partial deficiencies in the appropriations for the service of the fiscal year ending on the 30th June, 1868. The bill proposes to appropriate the following sums: to supply deficiencies in the appropriations for the fiscal year ending on the 30th of June, 1868, namely: for compensation of the officers, clerks, messengers, and others, receiving an annual salary in the service of the House of Representatives, \$12,960; for folding documents, including materials, \$25,000; for miscellaneous items, \$10,000; to supply a deficiency in the appropriation for the expenses of collecting the revenue from customs, for the half year ending June 30, 1868, \$1,800,000; to facilitate the payment of soldiers' bounties in accordance with provisions of acts of July 28, 1866, and March 19, 1868, for salaries of fifty clerks of class one, \$60,000; to supply a deficiency in the office of the Paymaster General for blank books, stationery, binding, and other contingent expenses, \$5,000.

The Committee on Appropriations reported several amendments to the bill. The first amendment was to add at the end of the bill the following:

For deficiency in the appropriation for defraying the expense of hydration of the Senate Chamber, \$3,000.

The amendment was agreed to.

The next amendment was to insert at the end of the bill the following:

For deficiency in the appropriation for stationery, \$10,000.

The amendment was agreed to.

The next amendment was to insert at the end of the bill the following:

For deficiency in the appropriation for furniture and repairs, \$5,000.

The amendment was agreed to.

The next amendment was to insert at the end of the bill the following:

For deficiency in the appropriation for clerks to committees, pages, horses and carriages, \$15,000.

The amendment was agreed to.

The PRESIDING OFFICER. That completes the amendments reported by the committee. The bill is still open to amendment.

Mr. HOWE. There is a clause in this bill with which I am not at all satisfied.

The PRESIDING OFFICER. Does the Senator propose an amendment?

Mr. HOWE. Yes, sir. I move to strike out lines fifteen, sixteen, seventeen, and eighteen, in these words:

To supply a deficiency in the appropriation for the expenses of collecting the revenue from customs, for the half year ending June 30, 1868, \$1,800,000.

I have but a few words to say about the amendment, simply because I do not know much about it, and I think I must be excused for not knowing much about it, for the Treasury Department, from which this recommendation comes, seem to know just as little as I do. They tell us that in 1858 there was an appropriation made to defray the expenses of collecting this revenue, an annual appropriation of \$3,600,000. That sum, it seems, sufficed to pay these expenditures up to 1866. In 1866 Congress increased the appropriation to \$4,200,000, if I remember the sum aright, and I think I do, and added to that sum whatever was received from fines and penalties in the administration of the customs laws. That act passed in May, 1866. Now we are told that the Department has added to the sum appropriated by law during the last year, which is \$4,200,000, with fines



and penalties added, and I think they amount to about six hundred thousand dollars, \$1,200,000 derived by transfer from other appropriations, and yet they ask in these last months of the fiscal year an appropriation of \$1,800,000 to pay deficiencies. When asked to explain how this deficiency arose, they say that in 1866 the Government undertook to supply stationery, which before had been purchased by the collectors out of their own funds, and authorized the employment of an additional number of officers, but do not say what number, and that Congress confided to the discretion of the head of the Department the adjusting of certain salaries, the salaries of inspectors and the higher class of clerks. The Department does not tell us to what extent either of these changes in the law increased the cost of collecting the revenue; but it does happen that by reason of these three items the expenditure for the last year is three full millions more than it had been up to 1866, almost one hundred per cent. more than it was up to that date.

There is a suggestion from the Department that the revenue service has been attended by greater difficulties the past year and by greater expenditures than formerly. What those difficulties or expenditures are we are not told. Why they should be any greater than they were prior to 1866 we are not told, and I cannot imagine; but \$3,600,000 a year covered the whole expense up to 1866; and during the present year they want, not only that sum, but about six hundred thousand dollars arising from fines and penalties, and \$1,200,000 received by way of transfer from other appropriations, and now they ask a deficiency of \$1,800,000. If the Senate is content to vote this additional appropriation, of course I cannot have any more objection to it than any other citizen; but if such deficiencies are voted without any explanation, there is not the slightest sense, it seems to me, in pretending to put any lock on the Treasury. I do not see why we might not just as well throw the doors wide open and allow the head of that Department to help himself, only exacting a promise from him that he shall not take any more than he wants. That is all the condition, it seems to me, it is worth while to impose upon him. I do not know that there has not been a necessity for this expenditure. If there has been, it is not explained. The Department has been called on for the explanation, and I felt it to be my duty to call the attention of the Senate to it, and to move to strike out this appropriation. Having done that I shall be content with the action of the Senate.

Mr. MORRILL, of Maine. I ought to say a word or two in reply to the Senator from Wisconsin, although I have not the information to enable me to say precisely to the Senate how this deficiency occurs. But one general fact perhaps will arrest the attention of the Senate; and that is, that this deficiency does exist; it is certified to exist by the Secretary of the Treasury; and of course it must be met in some way. Whether it is satisfactorily accounted for to the Senate is another question. Nobody questions, I believe, that there is that amount of deficiency existing in this particular branch of the public service. I agree entirely with the Senator from Wisconsin, that it does not appear clearly to the committee, from anything we had before us, precisely how that deficiency occurred. In a general way it is accounted for. It is said that we are collecting very much more revenue from this source than formerly. That is one mode of accounting for it. Another is that since the war and the opening of the southern ports very large additional expenses have been incurred by the Department, which were not anticipated. Then, through the provisions of recent revenue laws, very large additional duties have been imposed upon that branch of the service; and that out of these general facts arose the deficiency. Of course the Committee on Appropriations did not think it their duty to inquire into the expenditure of the appropriations made for this particular branch of the service. That is

not a duty which we understand to be devolved on the Committee on Appropriations. Having ascertained that a deficiency does exist, and that this branch of the service is a legitimate one, the duty of the Committee on Appropriations is discharged perhaps when it has ascertained the amount necessary to cover that deficiency.

But, sir, I have a communication addressed to the committee, which in a general way undertakes to account for the deficiency, which I will send to the Clerk, and ask to have read.

The PRESIDING OFFICER. The communication will be read if there be no objection. The Chair hears none.

The Chief Clerk read as follows:

TREASURY DEPARTMENT, May 29, 1868.

SIR: I have the honor to acknowledge the receipt of your letter of this date, asking in behalf of the Senate Committee on Appropriations, an explanation of the deficiency of \$1,800,000 existing in the appropriation for collecting the revenue from customs.

Previous to May 3, 1866, there was a standing annual appropriation of \$3,600,000—fixed by law in 1858, (11 Statutes, 337,) at a time when the receipts from customs for five years had averaged but little more than fifty-five million dollars annually—amounting to about six and a half per cent. upon the collections. All transactions being on a coin basis; and the value of importations in 1858, \$282,613,150.

The high tariff of the war both involved a direct increase of expenditure for collection, and by giving an instant stimulus to illicit traffic, added to the difficulty and expense of protecting the revenue. For a while some degree of compensation was found in the decrease of expenses at the South, but later the heavy expense of reopened ports enhanced by high prices, and accompanied by a continued advance in all prices throughout the country necessitated the enlargement of the appropriation, which was accomplished to the extent of \$600,000 per year in addition to fines, penalties, &c., by the joint resolution of May 3, 1866, (14 Statutes, 334.) In the preceding year the collections had been \$84,923,260, (coin,) of which the appropriation for expenses thus made was a little more than five per cent. currency.

Very soon after the date of this resolution a series of laws were enacted adding largely to the expenses chargeable to the appropriation, namely, the acts of 27th (14 Statutes, 302) and 28th (14 Statutes, 308) July, 1866, increasing certain salaries, the fifth section (14 Statutes, 309) of the act of the last-mentioned date requiring stationery for custom-houses to be paid for from the customs fund—an expense previously borne from the emoluments of the collectors—the forty-third section (14 Statutes, 188, eleventh line of section) of the act of 18th July, 1866, authorizing the employment of a greater number of employes at the several ports, and the thirty-third (14 Statutes, 186) section of the same act empowering the Department to pay certain incidental expenses at custom-houses previously borne by collectors.

These sources of expenditure were, of course, for the most part unexpected by the Department at the time of recommending the sum fixed by the resolution of May, 1866. And it has naturally followed that the appropriation has proved insufficient each year.

The Department, moreover, driven by necessity to make more liberal provision for that class of employes whose compensation was discretionary with the Secretary, and guided by the views and action of Congress in respect to the higher officers of the same service, has found it necessary from time to time to increase the pay of inspectors and other subordinate officers. The condition of prices, both of necessities and of labor, is too well known to need that I should explain more fully the grounds of such action.

The same causes have steadily increased the expenses of the revenue-cutter service until they amount at present to upwards of thirteen hundred thousand dollars. Of this charge it was last year recommended that the customs fund should be freed by a distinct appropriation; but the measure, though favorably viewed by the committees and passed by one House, failed in the other from want of time. The amount of deficiency chargeable to the other particular heads it is impossible to state, the accounts never having been kept with that view.

There have been similar deficiencies in previous years, and there existed at the beginning of the current year a deficiency of \$500,000, which, of course, forms a part of the deficiency of the year. A portion of the deficiency—\$1,200,000—has been provided for by transfer from other appropriations, but the sum of \$1,800,000 remains, without which it will be impossible to meet the indispensable requirements of the service.

I would call attention to the fact that under all disadvantages the expenses are much less in proportion to the collections than in 1858, as seen upon page 1 herein.

The coin value of imports was in 1866 and 1867 an annual average of \$428,000,000, against \$382,000,000 in 1858, and for three years past the collections have been an annual average of \$172,000,000 coin, equivalent to \$240,000,000 currency at current rates, of which the expense of collection, (\$7,800,000 less, \$500,000 old debt, namely, \$7,300,000) is but a fraction over three per cent. against six and a half per cent. in 1858.

Permit me to say, in conclusion, that for two months past the Department has been unable to meet the expenditures of the service, either for salaries or

other items, and respectfully to urge the great importance of early and favorable action upon the bill now before the committee.

I am, sir, very respectfully,

HUGH McCULLOCH,

Secretary of the Treasury.

Hon. L. M. MORRILL,

Chairman Committee on Appropriations, Senate.

Mr. HOWE. I am reminded by the Senator from Maine, the chairman of the committee, that I did not do quite justice to the Treasury Department when I undertook to state the reasons assigned for this deficiency. I did not enumerate the whole of them. The Secretary in that letter, I remember now, does urge, among those reasons, the fact that the southern ports had been opened, and that the opening of them had been attended, of course, with considerable expense; but I was of the impression that those southern ports were opened some time previous to the commencement of the present fiscal year. It should be borne in mind that the Secretary is explaining what has occasioned this enormous increase in the expense of collecting the customs during the present fiscal year, and he assigns the opening of the southern ports as among those reasons. The war closed in 1865, as I have been told; those ports, I suppose, must have been opened soon after that; and this fiscal year commenced on the 1st of July, 1867, more than two years after the war closed. The war closed and the southern ports were opened before this law of 1866 passed. The war closed and the southern ports were open while the customs of the country were being collected at an expenditure of \$3,600,000. This year the Department uses \$7,800,000. I said almost one hundred per cent. more. You see I very much understated it. It is more than one hundred per cent. on the expenditures of the years prior to May 3, 1866.

The Secretary urges the fact that larger sums are collected now than was the case prior to the war, or than was the case ordinarily during the war. Mr. President, do you think the Secretary of the Treasury meets the American Congress fairly, or the American people fairly, when he undertakes to argue that the expenditures of that branch of the service are in proportion to the amount received? Is that a fair argument to address to us? Is it an honest argument to address to us? Why, sir, almost the entire revenue of the country is collected in half a dozen different ports—much the largest portion of it is collected at one.

My friend from Vermont [Mr. MORRILL] reminds me that we have a larger force. The Secretary says we have a larger force; but he knows just how much larger, and he knows just how much that adds to the expense of the service. But my friend from Vermont does not mean to intimate that the force has been doubled since May, 1866, nor that it has been increased ten per cent. since 1866. If you have added a given number of clerks to the staff of the custom-houses in New York, Boston, Philadelphia, and San Francisco, you know what their salaries are. I do not. The Secretary knows, and he could have told us.

But not content with giving this little item of specific information, which is at his hands and not so readily at ours, he prefers to submit to us an argument that he is getting so many millions more from the customs this year than was ordinarily the case prior to 1866. Nay, he goes further than that; he submits an argument in the paper which has just been read at the desk, as if he were entitled to the same percentage, not only on the coin collected, but on the exchange of that coin into currency. He submits an argument here as if it cost him the same percentage to collect \$100,000,000 in New York that it ought to cost to collect \$50,000,000, and then if it costs the same percentage you are to change that into currency, as if he ought to have, to meet the expenses of the customs department, the same commission for the difference between the value of that coin and its value in currency. And that comes from the Secretary of the Treasury; that comes from the financial minister of the United States; and it is upon his simple

recommendation, his simple assertion that he wants this additional sum; I say again, more than one hundred per cent. of the expenditures prior to 1866. But the Senate, I take it, is entirely willing to vote it, and I suppose if he had asked four times that sum the Senate would have been entirely willing to vote it, upon no theory in the world that I can understand except that it comes from the financial minister, who cannot be wrong!

He gives another reason, and that is, the high prices which have prevailed through the country. I am not aware, as matter of fact, that prices are higher now than they were in 1866, when this law was passed. I am not aware that prices throughout the country are higher during the present fiscal year than they were during the fiscal year preceding. They are not so high as they were prior to 1866. But, in the name of wonder, what has the Secretary of the Treasury to do with high prices, I should like to know? How do they affect the expense of collecting the revenue from customs? He employs so many clerks in New York; so many in Boston; he has so many employes engaged in this service. If he paid them such salary and found them, he could talk about the high prices and their effect upon the expenditure of that branch of the service; but, I take it, he does not clothe or feed the employes under the Treasury Department. It may be hard for them to have to live on the same salaries that they had before the war; but that is a consideration between them and the Government. If the Government has increased their salaries, that increase can be stated, and the Secretary should have stated it to us.

Mr. President, if there were no reasons to suspect the justice and propriety of this demand but just those reasons which are assigned by the Secretary for it, I should think the Senate would hesitate long before they would vote the appropriation. I cannot help but think they are very unfair and irrational considerations to address to the Legislature; and it was because of the extraordinary character of these reasons, as much as because of the extraordinary character of the demand itself that I was led to interest myself enough in the subject to submit the matter to the Senate.

Mr. MORRILL, of Maine. There are, perhaps, one or two items to which I ought to call the attention of the Senate as going to explain this deficiency. The general appropriation for this service is \$4,200,000 by the resolution of 1866.

Mr. WILLIAMS. What is the whole amount? Mr. MORRILL, of Maine. It is \$7,300,000. The whole sum is \$7,800,000, but \$500,000 of that is for the expenses of the former year; so that the expenses proper of this year, the year ending June 30, 1868, will be \$7,300,000. It should be remembered that taken from that is the expense of the revenue-cutter service, which is a distinct service, and that is about one million two hundred thousand dollars.

Mr. HOWE. The Senator does not mean by saying that it is a distinct service, that it is distinct in contemplation by law as existing prior to that time?

Mr. MORRILL, of Maine. No, sir; I mean to say covered by general appropriation. I only make that statement by way of explaining what is stated in the Secretary's letters where he complains that his recommendation of last year, by which he would have had that service charged upon some other fund, was not agreed to by Congress.

Mr. HOWE. That would have been a reason for reducing the appropriation.

Mr. MORRILL, of Maine. The Secretary makes his estimate in this way: he says the standing appropriation by the resolution of 1866 was \$4,200,000. Then is added to that \$600,000 received by way of forfeitures and penalties; and then by a transfer from appropriations, \$1,200,000, making \$6,000,000 which has been received for the service for the current year, leaving a deficiency of \$1,800,000, out of which \$500,000 is necessary to pay the

debts of last year; so that the deficiency now, independent of that, is \$1,800,000.

Mr. WILLIAMS. I wish to ask for information, what was the appropriation for collecting the revenue from the customs for the year 1868?

Mr. MORRILL, of Maine. It was \$4,200,000; that is all; except that by provision of law the service was entitled to what should be collected from fines, penalties, &c., which amounted to \$600,000 more. That was the entire appropriation, as anybody will see, apparently an inadequate appropriation, and a deficiency under these circumstances was very likely to occur.

Now, the deficiency has occurred. That is a dead certainty. That is certified to us here. Nobody questions it. Has it legitimately occurred? That is a question which I agree with the Senator from Wisconsin cannot be demonstrated by the evidence we have. He thinks it ought to be demonstrated. That would take more time than the Committee on Appropriations have to examine it. Have we gone far enough to show that it is probable that the deficiency is legitimate? If so, then the Senate can safely vote it. The reasons are set out generally in the letter of the Secretary—the large increase of the service, the extraordinary duties imposed by certain acts of Congress, and the large increase of salaries growing out of a discretion put upon the Secretary, and which he says, following the example set by Congress, he has deemed it proper to exercise. There is another item, and that is the opening of the southern ports. Although the war ceased, as the Senator from Wisconsin says, at an earlier period, yet I believe the fact is that those ports were not opened—certainly not in whole—until within the current year, so that the largest expense would fall upon this year. These are some of the general reasons assigned by the Secretary of the Treasury for this deficiency. Do they render it probable to the Senate that the deficiency has honestly occurred? If so, then the Senate has information which would seem to me to justify this appropriation. This is all the information I have.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Wisconsin.

Mr. SUMNER. Let the amendment be reported again.

The Chief Clerk read the amendment to strike out the following clause:

To supply a deficiency in the appropriation for the expenses of collecting the revenue from customs for the half year ending June 30, 1868, \$1,800,000.

Mr. HOWE. I ask for the yeas and nays on that amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 5, nays 31; as follows:

YEAS—Messrs. Howard, Howe, McCreery, Patterson of Tennessee, and Williams—5.

NAYS—Messrs. Anthony, Cameron, Cattell, Cole, Conkling, Conness, Corbett, Cragin, Doolittle, Drake, Edmunds, Ferry, Fessenden, Frelinghuysen, Johnson, Nye, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Pomeroy, Ramsey, Ross, Saulsbury, Sherman, Sumner, Tipton, Trumbull, Van Winkle, Vickers, Wiley, and Yates—31.

ABSENT—Messrs. Bayard, Buckalew, Chandler, Davis, Dixon, Fowler, Grimes, Harlan, Henderson, Hendricks, Morton, Norton, Patterson of New Hampshire, Sprague, Stewart, Thayer, Wade, and Wilson—18.

So the amendment was rejected.

Mr. SUMNER. I wish to ask my friend, the chairman of the committee, whether this bill covers an appropriation of \$5,000 for additional clerical assistance in the Department of State?

Mr. MORRILL, of Maine. It does not; but another bill now before the committee does.

Mr. SUMNER. When does the Senator expect action on the other bill?

Mr. MORRILL, of Maine. Very soon.

The bill was reported to the Senate as amended; and the amendments were concurred in. The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

On motion of Mr. MORRILL, of Maine, the title of the bill was amended so as to read: A bill partially to supply deficiencies in the appropriations for the service of the fiscal year ending on the 30th June, 1868.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating a report from the Secretary of State, accompanied by a dispatch from the acting United States consul in charge of the United States legation in Costa Rica, in relation to a new port at Tivives, in the Gulf of Nicoya, on the Pacific coast; which, on motion of Mr. SUMNER, was referred to the Committee on Foreign Relations, and ordered to be printed.

#### LEAVE OF ABSENCE.

Mr. DRAKE. My colleague [Mr. HENDERSON] has been obliged by the calls of business to go to his home, and I ask on his behalf leave of absence for eight days.

The motion was agreed to.

#### EXECUTIVE SESSION.

Mr. CONNESS. The bill of the Senator from Illinois [Mr. YATES] is now before the Senate, is it not?

The PRESIDENT *pro tempore*. The bill taken up on motion of the Senator from Illinois is before the Senate, and will be read through, as in Committee of the Whole.

Mr. CONNESS and Mr. FRELINGHUYSEN. Mr. President—

The PRESIDENT *pro tempore*. The Senator from New Jersey.

Mr. FRELINGHUYSEN. I move that the Senate now proceed to the consideration of executive business.

Mr. CONNESS. I have not yielded the floor.

The PRESIDENT *pro tempore*. The Senator from California.

Mr. CONNESS. That was the motion I intended to make. I do not know any reason why the floor should be taken from me by my modest friend from New Jersey. [Laughter.] I was going to state to the Senate, and also to the honorable Senator from Illinois, that it was evident that we could not get through with his bill to-night, and it would be in order first to-morrow, and there is some business that I very much desire to call up in executive session, and therefore I move that the Senate now proceed to the consideration of executive business. I hope my friend from Illinois will agree to that.

Mr. TRUMBULL. If the Senator from California will allow me, I desire to make a statement. We have just received the printed bill with regard to the recognition of the other southern States, and I design to move to bring that up at one o'clock to-morrow. I hope this other bill will not interfere with it.

Mr. CONNESS. I think that will keep until to-morrow.

The PRESIDENT *pro tempore*. It is moved that the Senate now proceed to the consideration of executive business, and that motion is not debatable.

Mr. CATTELL. I ask the unanimous consent of the Senate to call up a bill for the purpose of reference only. It will not take a single minute.

Mr. CONNESS. I believe no debate is in order on a motion for an executive session.

Mr. CATTELL. I do not propose to debate it, but, by the courtesy of the gentleman from California, to call up a bill for reference.

Mr. CONNESS. That will put the other bill aside.

Mr. CATTELL. Not at all.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of executive business.

The motion was agreed to.

#### BILL REFERRED.

Mr. CATTELL. While the doors are being closed I ask the unanimous consent of the Senate to call up House bill No. 1068 for reference.

By unanimous consent, the bill (H. R. No. 1068) to provide for certain claims against the Department of Agriculture was taken up.

Mr. CATTELL. I now move its reference to the Committee on Appropriations. The motion was agreed to.

JOHN M. PALMER.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the first and disagreed to the second amendment of the Senate to the joint resolution (H. R. No. 118) for the relief of John M. Palmer, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. AMASA COBB of Wisconsin, Mr. WILLIAM B. WASHBURN of Massachusetts, and Mr. W. S. HOLMAN of Indiana, managers at the same on its part.

The Senate proceeded to consider its amendment disagreed to by the House to the said joint resolution; and

On motion of Mr. WILLEY, it was

*Resolved*, That the Senate insist upon its amendment to the said joint resolution disagreed to by the House of Representatives, and agree to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon.

*Ordered*, That the conferees on the part of the Senate be appointed by the President *pro tempore*.

The PRESIDENT *pro tempore* appointed Mr. WILLEY, Mr. SHERMAN, and Mr. MORRILL of Vermont.

#### EXECUTIVE SESSION.

The Senate proceeded to the consideration of executive business; and after some time spent therein the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, June 2, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

#### ELECTIONS IN SOUTHERN STATES.

The SPEAKER, by unanimous consent, laid before the House a communication from the General of the Army, transmitting, in further answer to House resolution of the 13th ultimo, a report by General Meade, commanding third military district, relative to recent elections under reconstruction laws in the State of Georgia; also two general orders of General Canby, commanding second military district, relative to elections in North and South Carolina; which was referred to the Committee on Reconstruction, and ordered to be printed.

#### REPORT ON EDUCATION.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Commissioner of Education, transmitting, in compliance with the act of March 2, 1867, his annual report; which was referred to the Committee on Education and Labor, and ordered to be printed.

Mr. GARFIELD. I move that five thousand extra copies of this document be printed.

The SPEAKER. The motion will be referred under the law to the Committee on Printing.

#### LEAVE OF ABSENCE.

Mr. BOUTWELL and Mr. BINGHAM obtained leave of absence for ten days, and Mr. ORTH for two weeks.

#### ELECTION CONTEST—M'KEE VS. YOUNG.

Mr. UPSON, by unanimous consent, submitted a report from a minority of the Committee of Elections in the case of McKee vs. Young, from the ninth congressional district of Kentucky; which was laid on the table, and ordered to be printed.

#### CONFEDERATE PROPERTY ABROAD.

Mr. WASHBURN, of Wisconsin, by unanimous consent, introduced a joint resolution (H. R. No. 283) relating to confederate property in foreign countries; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

#### ELECTION CONTEST—DELANO VS. MORGAN.

Mr. CULLOM. I call for the regular order of business.

Mr. SCOTFIELD. I call up the report of the Committee of Elections on the contested election of Delano vs. Morgan, from the thirteenth congressional district of Ohio.

The resolutions were read, as follows:

*Resolved*, That George W. Morgan is not entitled to a seat in the Fortieth Congress from the thirteenth congressional district of Ohio.

*Resolved*, That Columbus Delano is entitled to a seat in the Fortieth Congress from the thirteenth congressional district of Ohio.

#### REMOVAL OF A SUIT.

Mr. SCOTFIELD. If the call for the regular order is not insisted upon, I will yield to the gentleman from West Virginia [Mr. POLSLEY] to introduce a joint resolution which he has satisfied me ought to pass, provided it is passed without debate.

Mr. CULLOM. I withdraw my call for the regular order.

Mr. POLSLEY. I ask unanimous consent to introduce a joint resolution (H. R. No. 284) to provide for the removal of a suit pending in the circuit court of Jefferson county, West Virginia, to the circuit court of the United States.

The joint resolution, which was read, provides that whereas a suit in ejectment is now pending in the circuit court of Jefferson county, in West Virginia, against the tenant in possession to recover possession of the Harper's Ferry property, owned by the United States, and it is doubtful whether under any existing law of the United States the said suit can be removed to the circuit court of the United States, it is therefore resolved that it shall be the duty of the circuit court of the United States for the district of West Virginia, if in session, or to the judge thereof in vacation, on the application of the defendant in said suit, showing that the property sought to be recovered by the said suit is owned or claimed by the United States, under color of title, and verifying the facts set out in such application by his affidavit, to issue a writ of *certiorari*, directed to the said State court, directing it to send the record and proceedings in said suit to the said circuit court of the United States, in duplicate, which writ shall be delivered to the clerk of the said State court or left at his office by the marshal of the said district or his deputy or other person thereto duly authorized, and thereupon the said State court shall stay all further proceedings in said suit, and upon the return of the said writ the said suit shall be docketed in the said circuit court of the United States and there proceeded in according to law; and all further proceedings had therein in the said State court shall be null and void.

Mr. MARSHALL. Is that offered for reference?

The SPEAKER. It is offered for action.

Mr. MARSHALL. I must object, unless it is referred. I am willing it should go to the Committee on the Judiciary to be reported back at any time.

Mr. POLSLEY. The court convenes next Monday, and there is danger judgment will be rendered for the possession of the property at that time.

Objection was insisted on to action on the joint resolution.

The joint resolution was received, read a first and second time, and referred to the Committee on the Judiciary, with liberty to report at any time after the morning hour.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. WEIR, one of its clerks, announced that that body had passed a bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress, with an amendment, in which the concurrence of the House was requested.

#### POST ROUTES IN MONROE COUNTY, NEW YORK.

Mr. SELYE, by unanimous consent, introduced a joint resolution (H. R. No. 285) for the establishment of certain post routes in the

county of Monroe, in the State of New York; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

JOHN M. PALMER.

On motion of Mr. COBB, the House took from the Speaker's table the amendments of the Senate to House joint resolution No. 218, for the relief of John M. Palmer.

The first amendment to correct a clerical error was concurred in.

The second amendment, as follows, was non-concurred in:

Add as an additional section, as follows:

SEC. 2. *And be it further resolved*, That the chief quartermaster of the military department of the Cumberland, in addition to the contract price of ninety cents for each coffin manufactured by the said John M. Palmer, under his contract aforesaid, of the date of the 27th of August, 1866, cause to be paid out of any money under his control unto the said John M. Palmer the further sum of \$12,716 30 for manufacturing and delivering said coffins: *Provided*, That the said John M. Palmer shall, in conformity with the provisions of his contract aforesaid, well and truly manufacture and deliver all the coffins which he is thereby still required to manufacture and deliver.

Mr. COBB moved that the House ask for a committee of conference on the disagreeing votes between the two Houses.

The motion was agreed to.

#### ELECTION CONTEST—DELANO VS. MORGAN.

Mr. CULLOM. I call for the regular order of business.

Mr. SCOTFIELD. Mr. Speaker, this is the longest case, and involves more questions of law and disputed facts than any other case that has been before the Committee of Elections during the five years I have had the honor, and, considering the amount of unpleasant labor we have had to perform, I might say since I have had the misfortune, to belong to the committee. The contestant, Mr. Speaker, asks the House to reject the returns from thirteen different precincts, and he assigns his reasons at length, and the sitting member asks us to reject the returns of thirteen townships more for reasons which he assigns. The contestant asks us to reject the votes of 285 persons whom he alleges were not qualified electors under the laws of Ohio; and the sitting member asks us to reject the vote of 133, making in all 418. The House will have some kind of idea of the amount of labor entailed upon the committee when I say each one of these 418 names has attached to it a personal history, and not always a very brief one, the evidence in regard to which is scattered through fifteen hundred pages of printed matter, none of it to be found, even in a single instance, on consecutive pages, and not all in the same volume. The committee heard the parties during nineteen different sessions. The contestant occupied nine of those sessions and the sitting member ten.

Now, I propose to present in the space of perhaps half an hour all I have to say upon this case, at least for the present, and if gentlemen who have given it no attention will listen to me during that brief time I will endeavor to present what I deem the important features of the case.

We have before us two reports, one from the majority, of six pages, and one from two gentlemen who dissent from the views of the majority, which is somewhat longer. In examining these reports I find four leading differences between the majority and minority of the committee. The minority propose to reject the returns from the township of Blue Rock, which gave the contestant a majority of 117. They also propose to reject the returns from Clinton township and the city of Mount Vernon, which gave the contestant a majority of 117. The majority decline to reject the returns from either of these localities, but they propose to reject the votes of 126 persons who, they have come to the conclusion, were disqualified under the laws of Ohio, because they were deserters from the military service of the United States, and they also reject the returns from the township of Pike, which gave the sitting member 140 majority.



There are many other minor differences. One or the other of these claimants have asked us to reject the votes of certain persons who are claimed to be non-residents, idiots, lunatics, paupers, aliens, minors, and who were for this reason disqualified as electors of Ohio. I shall not just now discuss these questions, because these differences, all told, amount to less than fifty, and could not in any event, if the other questions are settled as the majority of the committee recommend, affect the result.

I will call the attention of the House first to the township of Blue Rock. In the summer of 1865 the inhabitants there discovered the existence of rock oil. It created great excitement, and called to that locality a large number of persons from the different counties of the State, and some few, it is alleged, from other States. One of the witnesses called by the sitting member informed us that from four to five hundred men were attracted to that locality in consequence of this discovery. They remained there till after the election in 1866. The election returns of 1866 show that the additional number of votes cast in that township was 87—that is, 87 more than were cast in 1865—and one witness for the sitting member estimates that of those 87 additional votes, 50 probably were cast by those new comers.

Now we are asked to set aside the returns of this entire township because it is conjectured that fifty persons, or thereabouts, who had been attracted to that section of country about a year and a quarter before, are supposed to have been non-residents. At least that is one of the reasons assigned by the minority for rejecting the whole. The laws of Ohio require that a voter should have resided in the State one year, in the county thirty days, and in the township twenty days before he offers to vote. The evidence shows that very nearly all these persons came to that township in the summer of 1865, and prior to that were residents of some portion of the State of Ohio. The discovery of oil in Blue Rock, unlike the discoveries in Pennsylvania and West Virginia, was not of sufficient account to attract the attention of the whole country. It gathered in the adventurers, speculators, mechanics, laborers, and capitalists from the neighborhood around it, but very few from other States. The question then comes up to be decided, did fifty, or as many of these people as voted at the election in 1866, go there with the intention of remaining? They were mostly young men, who came there to buy land, to purchase leases, to sink wells, to refine oil, and, if the business prospered, they proposed to continue there. The only thing to show that they did not intend to remain was the fact that most of them went away some time in the fall of 1866. But, by that time the whole thing had exploded. When it was ascertained that no oil, or at least not in such quantity as they expected, was to be found in that region, they left. Now, if any of these men were really non-residents, it was the duty of the sitting member, or of the contestant, if he wished to reject their votes, to have gone to the poll-books and taken the names of the men whom he alleged were non-residents and had voted, and offered some evidence of the facts which it was alleged existed; then the committee would have had something to go upon, had it been thus shown that these persons were non-residents and had voted for the contestant. But, on the contrary, the sitting member merely alleges that, judging from surrounding circumstances, a large number of these people were necessarily non-residents; that they had come from other localities without the intention of remaining, although they had remained a year and a quarter.

Another objection to this return is, that on the day of the election there was great excitement about the polls, and the friends of the sitting member were abused. One of the witnesses, whose imagination upon that subject, or whose recollection of the facts, I will not say

which, seems to be the most lively, says that some of the friends of the contestant called them "rebels," and everything they could turn their tongues to. The same old gentleman says he had voted there for fifty years, and in his opinion the people who came there to engage in this new enterprise were not citizens and not entitled to vote. He further says that he went in before the board of election with the intention of challenging them. He first challenged the crowd, alleging that all the oil men were disqualified as electors, and when some one told him that he could not challenge in that way, that oil men were like Methodist preachers, and had a right to vote wherever their present residence was, then he commenced challenging individuals, and did challenge two or three, but some of the oil men blackguarded him so that he went off. These are the reasons assigned in the report of the minority for rejecting the returns of this township altogether. These, at least, are the most prominent reasons, and all I now recollect. The majority of the committee came to the conclusion that these reasons were not sufficient and the returns should be counted.

The minority also reject the returns from the townships of Clinton and city of Mount Vernon, which voted together. The city or village of Mount Vernon, as it used to be prior to 1852, lies in the center of Clinton township. In the year 1845 they applied to the Legislature for a charter as a village, and a special act was passed which separated the village from the township and divided it into wards. Under that law the elections for township officers were to be held in the township, and for village officers in the respective wards of the village; but they were permitted to hold the State and national elections together under the control of the township officers. It provided that the spring elections for township and village officers should be held separately, but allowed them to go on voting at the fall elections as they always done under the control of the township officers. In 1852 the Legislature of Ohio passed a general act relating to small cities. Among other things it provided that elections, without distinguishing between local and State elections, should be held in the respective wards of the cities. Mount Vernon had a population of more than five thousand, and, therefore, came under this law. In the fall of 1852, after the passage of this act, two elections, a State election and a national election, were held as they had been before held, under the control of the township officers. The people of this little city and of the township came to the conclusion that the general law which directed the election to be held in each ward did not overrule the special law of 1845, and that they could still hold their general elections together from that time on as they had for the seven years preceding. And so from that time, up to and including the election of 1866, the township and the city held their general elections together. This was their construction of the law. Fifteen consecutive State elections, including that of 1866, were held under that construction of the law, in accordance with the law of 1845, and four national elections, making in all nineteen elections that had been held under that construction, nobody complaining.

The election of 1866 was held in the same way. But a new construction has been put upon that law by the sitting member and his counsel. They now claim that the people of Clinton and of the city of Mount Vernon misconstrued the law; that they ought to have formed separate election districts in each ward of the city, and that the people of the city should have voted by themselves, and the people of the townships by themselves. I have two answers to that; one is, that under the law of 1852 the city councils were directed to appoint voting places, but under this misconstruction of the law, if it was a misconstruction, they never appointed any voting places, and the people had the right to vote under the old law until new provision was made for them.

The minority of the committee say that the people might have elected officers themselves on the day of election. So they could; but they could not appoint places for voting. Secondly, the law has received a practical construction by nineteen elections, sanctioned, or at least assented to, not dissented from, by any of the Ohio authorities.

I hold, then, that if they were wrong in their construction of the law of 1852, still, having held nineteen elections under that construction, and no voting places ever having been selected by the city council of Mount Vernon, that construction became the law, and the Committee of Elections would not have been justifiable in rejecting the 381 majority given for the contestant.

I come now to consider whether, under the laws of the United States and the constitution of the State of Ohio, a deserter from the military or naval service of the United States is a qualified elector. The law of Congress passed March 3, 1865, provides—

"That all persons who have deserted the military or naval service of the United States, who shall not return to said service or report to a provost marshal within sixty days after the proclamation hereinafter mentioned, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens."

And the constitution of the State of Ohio, unlike the constitutions of many other States, provides that no person shall be an elector in that State unless he is also a citizen of the United States. Now, if this law of the 3d of March, 1865, is valid, taken in connection with the provision of the State constitution of Ohio, deserters are not qualified electors in that State. Upon that point I think it probable that I will not be disputed by any person. To my recollection, that inference of the law, providing it is valid, taken together with the constitution of Ohio, has not been denied either in argument before the committee or in the report of the minority.

But it is said that the law itself is not constitutional, and therefore the House should not enforce it. It is said to be unconstitutional because it is *ex post facto*; the desertions had all taken place prior to the act of the 3d of March, 1865. Now, if gentlemen will give attention to what the disqualification consists in, they will find that it is not in desertion, not in the former desertion, but in the refusal to return within the sixty days fixed in the proclamation of the President. Whatever penalties Congress saw fit to denounce against desertion were provided in other laws. The act of 1865 calls upon these men, who are already offenders against the law, to return to duty; and it provides that all who shall not return within the sixty days, under the proclamation of the President calling upon them to do so, shall be deemed to have relinquished and forfeited their rights of citizenship. So the question of its constitutionality, on account of its being *ex post facto*, is not applicable.

But, it is said again, that conceding the law to be constitutional, no person can be deemed a deserter until he has been convicted in some court, either military or civil. However, before I say anything on that point, I wish to inquire by what authority the Committee of Elections, or even this House, can pass upon the constitutionality of a law which has received the sanction of both Houses of Congress, and been approved and signed by the President? Suppose there is a doubt about the constitutionality of this law. Sir, since this case has been pending before the Committee of Elections we have impeached the President for disregarding a law because he thought it was unconstitutional. And now it is proposed that this House shall commit the same offense. The President had some shadow of excuse. He said that he had never sanctioned that law; that he had vetoed it. The House has no such excuse, because a very large portion of the members that compose this House voted for the act of 1865. He said, too, that he wanted to bring the case before the Supreme Court to test the constitutionality

of the law. We have no such excuse. There is no appeal to the Supreme Court from the decision of this House in a case of contested election. I think we are bound to take this law as it is found on the statute-book, and administer it according to its spirit and its letter.

Mr. MULLINS. Will the gentleman allow me to ask him one question?

Mr. SCOFIELD. Yes, sir.

Mr. MULLINS. Does the gentleman propose to oppose the policy of the President in this regard, or does he propose to go in harmony with the policy of the President and have his own views override the law?

Mr. SCOFIELD. My own views upon the President's attempt to override a law because he believed it unconstitutional are upon record in the vote which I have given. I am saying that if we held the President criminal because he attempted to override a law which he deemed unconstitutional, so much more in default would we be if we attempted to trample under foot this law, whether we like it or not.

But it is said, further, that no person can be considered a deserter until he has been convicted. The law, in fixing the qualifications and the disqualifications of electors, sometimes makes a fact the ground of disqualification, and sometimes it makes the certificate of a court. The ground of disqualification and the certificate of the court may be based upon the same fact. Sometimes the law authorizes the election board to act upon the facts, and sometimes it authorizes a court to act upon the facts and give a certificate of their conclusion, which is obligatory upon the board of election. For instance, the law requires that a foreigner should reside in this country five years before he becomes a citizen. But that fact is withdrawn from the consideration of the board of electors and submitted to the determination of a court. The court is to certify whether the applicant for naturalization has been five years in this country or not; and that certificate binds the board of election. The fact may be that the person had not been in the country five days; but if the court determine that he had been here five years and so certify, the board of election is concluded by it.

Then, on many other disqualifications, such as color, race, idiocy, insanity, minority, non-residence, pauperism, betting on elections, and several others, the law has confided the decision, upon the facts, to the election board. That board passes upon the facts. But it is said that these facts do not constitute crimes, while desertion does. Suppose the old law of the United States, that is, the law in force prior to the act of 1865, which made desertion a crime, were repealed, would it make any difference about the deserter being an elector? Laws in force prior to the act of 1865 make desertion a crime, punishable in a certain way. The act of 1865 provides that a failure to return to the Army shall disqualify the deserter as an elector. Now, the fact that some law of the United States makes desertion a crime does not affect in any way the act of 1865, which makes it a disqualification. Certain facts may constitute a crime if tried in court, and may be punishable in a certain way, and they may also constitute a disqualification before a board of electors; but unless the law provides, as it sometimes does, that the disqualification shall consist in conviction, and not in the facts upon which conviction might be based, no conviction can be required. The case does not go before a court to determine the disqualification, but before the board of electors.

Under the constitution of Ohio and the decisions made in pursuance of it, a mulatto, I believe, is not a voter, but a quadroon is. It is sometimes a very nice question even for one thoroughly booked up in the science of races to determine exactly the amount of African blood which a person who presents himself as a voter may have in his veins. According to a former law of, I believe, the State of Ohio—certainly of some of the States—to have African blood

in one's veins was a crime for which the unfortunate man was liable to be arrested and tried before an officer; and, if guilty, expelled from the State. And still, under the laws of Ohio, the election board passes upon this delicate and difficult question. They passed on this question, and yet gentlemen say if the same facts which go to make up disqualification by some law, either State or national, make a crime, too, that it requires conviction in the court before disqualification can be considered. Those States where treason or having engaged in the rebellion is made disqualification, according to that rule no man could be excluded until he had been brought before the court and tried, and convicted for treason. I do not know but gentlemen would go so far as to say that the sentence should be carried out and the man hung before he could be excluded. I am satisfied, after hearing the whole argument, that disqualification is always the subject of investigation by the election board, and that they are bound by the decision of no tribunal unless the law so provides. If the law requires a conviction, as it almost always does in the case of a crime, then the election board must have evidence of conviction.

In arguing this case before the committee the great hardship of excluding these men without trial was pressed upon the attention of the committee. One of the gentlemen in an eloquent way said that Adam and Cain had been summoned before they were pronounced guilty, but we propose to convict men of this crime of desertion without summons and without trial. Mr. Speaker, these men were summoned. They had sixty days in which to appear. They had the proclamation of the President urging them to return to duty. They had notice under the law which was passed some time before that if they persisted in remaining in Canada, or hiding away from duty, if they refused to come to the assistance of the country in this emergency, they would lose their rights of citizens of the United States. The summons to Adam and Cain, I think, was returnable forthwith, but these men had sixty days; and now the gentleman says because they did not return, because they did not obey the summons, they still ought to be put upon the same footing as those who did. How could we do anything more? Had they obeyed the summons and returned then under the law they would have been forgiven, they would have been entitled to an honorable discharge and released from all penalties and forfeiture, and when the war was over they would be entitled to their share of pensions and bounties and of the honor which belonged to honorable soldiers. But if they refused to come forward when summoned how could they be tried?

The objection of gentlemen would make out that all who returned were not disqualified, because the act of returning removed the disqualification; those who did not return would not be disqualified because they did not return, and of course could not be tried. The construction which the gentlemen give this law would make it a perfect nullity. No man would be disqualified under it. Those who obeyed the summons and came back to the service would be entitled to an honorable discharge, and those who rejected the invitation and refused to obey the summons would be acquitted altogether because they were not tried.

The committee have considered the two hundred and one cases presented under this law, and have concluded that the evidence shows one hundred and twenty-six come within its provisions, and they have rejected that number of votes.

I ought, perhaps, to say a word about the rule of evidence which the committee have adopted in ascertaining whether these deserters or non-residents or any person decided by the committee to be disqualified voted for the sitting member or the contestant. I will simply read a clause from the report:

"For whom a vote is given, by the laws of Ohio, is a secret properly known only to the voter himself, and he is never required to disclose it. This fact must,

therefore, be often determined upon circumstantial evidence alone. To what political party a voter belonged, whose partisan he had been, whose friends claimed for him the right to vote at the time, what he said of his intention before and his act after voting, are circumstances which each claimant has endeavored to prove, and which the committee have considered in making up their verdict. In this action they are governed by precedent as well as principle. The same ruling obtained in the celebrated case from New Jersey, decided in 1840, and known as the "broad seal" case, and also in *Vallandigham vs. Campbell*, decided in 1865. (See Bartlett's Contested Elections, pages 28 and 233.) If it is not to be inferred from this kind of evidence for whom an illegal vote was cast, it cannot, except in a few instances, be ascertained at all. Any number of illegal votes, once placed in the ballot-box, either by the deception or connivance of the board, can never after be excluded unless the whole poll is rejected or the fraudulent voters voluntarily confess their crime."

I come now to the consideration of the township of Pike, the returns from which are rejected because one of the judges, being a deserter, was disqualified under the laws of Ohio to discharge the duties of that office. The law which governs this case was early settled by this House—I think during the administration of Washington—in the case of *Jackson vs. Wayne*. That case came from the State of Georgia. The law of that State required that election boards should consist of three magistrates. Just prior to the election the commissions of two of the magistrates, who were appointed by the Governor, expired, and new commissions were issued, either to the same parties or to others; I do not recollect which. The election occurred a few days before the meeting of the court, and the law of Georgia required the magistrates to qualify in open court. Having their commissions in their pockets they were sworn in as judges of the election and made the returns. The next week they attended the court and were qualified as magistrates. That case came before Congress in a contested election. It was argued at considerable length by some of the ablest members of the House. It was finally decided that returns made by a person acting as judge who was personally disqualified for that position must be rejected. The returns were therefore not allowed in this case.

The same principle, although the facts are not exactly the same, was ruled in the case of *Howard vs. Hooper*. The principle was decided first by the committee and finally sustained by the House. The law may be right or wrong, but it is the settled law of elections, settled as early as the administration of the first President, and has come down to us without reversal.

The case to which the minority of the committee have referred does not touch the principle settled in *Jackson vs. Wayne* at all. That was a case where there was a dispute as to whether the officers of election were elected on a particular day. Some said the election should have been in the month of March and some said in the month of April; but they were elected, and their commissions or certificates of election were issued to them, and the question was whether the House would go back and pile one contested-election case upon another by deciding that these men were not judicial officers. The disqualification there was not personal. But in every case where a personal disqualification has come before the Committee of Elections and this House the law, as settled in the case of *Jackson vs. Wayne*, has been adhered to. The law of Ohio required that the judge of election should himself be an elector. But this judge was disqualified as an elector by reason of being a deserter, and therefore had no right to sit. If the House dislike the law which the committee have intended to administer impartially, they may overrule it, but before they do so I would like to have them consider whether this is a case in which they should commence a new line of precedents.

It will be remembered that when this law was passed in 1865 we were entering upon what we hoped to be the last campaign against the rebellion. It was the impression of those who had charge of our armies that if the rebels

could see the army filled up, if they could see the men who had deserted our ranks, those who had skulked away from the draft, concealing themselves in Canada or some distant part of the country, come back, the battle on our side might be won even without a fight. Therefore the act of 1865 was passed. It was an imploring pleading rather than a denunciatory one. It promised to those men pardon if they would return. It promised them bounties, pensions, and honor in the future, while they were informed by the press of the country that if they did return they probably might never be exposed in a single battle, that the rebellion would be ended and the Union Army victorious. Those men who refused did so in part because they claimed this law was unconstitutional. The cry of unconstitutionality was first raised in this Hall. We had no right, it was said, under such a law to induce deserters to return. The law was denounced before the country. Everybody who thought the war was wrong in the beginning, or that it was a failure, or that it would be a failure, and that it was useless to undertake anything further for the preservation of the Union, denounced this law and recommended the people everywhere to disregard it. The evidence shows that in Pike township they did disregard it. They were to settle the constitutional questions that nobody but the Supreme Court is authorized to settle, which this House cannot settle. They put upon this board a man who was obnoxious to this law; and to show their disregard of it they allowed eleven persons, disqualified by reason of desertion, to vote in that very precinct, and then, in making the return which the law required them to make, in that township, instead of certifying that the votes were cast by electors, they omitted that portion. This might have been by accident or cunning, but the omission was made. They changed the certificate which was sent out in blank to every township and which the law requires, that these men were electors under the laws of Ohio, and simply certified to the number of votes. I suppose that that itself—the deficiency of the certificate—is sufficient, perhaps, to reject the return from that township; but I prefer to rely mainly upon the law as settled in the case of Jackson vs. Wayne.

Mr. Speaker, I have now said all I intend to say, at least for the present, about the four leading differences between the majority and the minority of the committee. But before I sit down, it may be proper to say that there were some other matters about which there may be a difference of opinion in this House, although the committee have agreed upon them.

The contestant claimed that there was a concerted plan all over his district to defraud him out of some portion of his votes by exchanging the votes put in the ballot-box for him for others in favor of the sitting member. His evidence shows us that in the township of Clinton there was a fraud of forty-six votes, and so clear and satisfactory was the evidence upon that subject that the minority of the committee have agreed with the majority in making the deduction. In the township of Monroe there was a similar fraud to the number of twenty votes, and on that, too, the minority agree with the majority in making the deduction. In Jefferson county one of the judges was detected in exchanging three votes and then the exchange ceased after that. How far it would have gone but for the vigilance of the friends of the contestant we do not know. The contestant claims that the returns of all these townships should be rejected because he has proved these frauds, and he claims that there is a strong probability that others were perpetrated. The majority and the minority have concurred in retaining the returns from these townships, but making the corrections so far as the proof went. If they had been rejected and the township of Pike counted for the sitting member the result would have been the same as if the township of Pike was rejected and these counted. There were many other charges and allegations on both sides, but I will not

weary the House by alluding to them at this time.

#### MESSAGE FROM THE PRESIDENT.

A message from the President, by Mr. WILLIAM G. MOORE, his Private Secretary, informed the House that the act (H. R. No. 1045) making appropriations to supply deficiencies in the appropriations for the execution of the reconstruction laws in the third military district, for the fiscal year ending June 30, 1868, having been received by the President on the 19th of May, 1868, and not having been returned by him to the House within ten days, had become a law under the Constitution of the United States.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HAMLIN, one of its clerks, notifying the House that that body had passed House joint resolution No. 278, to supply books and public documents to the national asylums for disabled volunteer soldiers, with amendments, in which he was directed to ask the concurrence of the House.

It further announced that the Senate had passed a bill (S. No. 481) to confirm the title to certain lands in the State of Nebraska, in which the concurrence of the House was requested.

#### REPRESENTATION OF ARKANSAS.

On motion of Mr. STEVENS, of Pennsylvania, by unanimous consent, the bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress, returned from the Senate with amendments, was taken from the Speaker's table, and referred to the Committee on Reconstruction.

#### ELECTION CONTEST—DELANO VS. MORGAN.

Mr. SCOFIELD. I wish to say that it has been four months since this case was argued before the Committee of Elections. The last argument was on the 3d of February, and it will be four months to-morrow. I intend, if possible, to get a vote upon this case to-day. It had occurred to me that two hours on each side would perhaps be as long as the House would listen, and unless gentlemen are more fortunate in obtaining the attention of the House than I have been, a great deal longer. Perhaps that will be enough time; at any rate, I design to get a vote on the case to-day if possible.

Mr. KERR. On that point I desire to say one word before I proceed, and that is merely to suggest that after what the gentleman has said in his opening remarks with reference to the character of this case, that suggestion comes with singular inconsistency from him. The case involves nearly two thousand pages of printed matter which has required the examination of the committee, and now is brought for the first time before the House for its consideration, and it is simply impossible for any human being, no matter what may be the degree of his intelligence or intellectual powers, to dispose of and do justice to it in four hours or four days. It is indecent haste to attempt to require any such thing to be done in four hours.

I desire now to offer the resolution which I send to the Clerk's desk as a substitute for the resolutions presented by the majority of the committee.

The Clerk read as follows:

*Resolved*, That GEORGE W. MORGAN was duly elected, and is entitled to retain his seat in the Fortieth Congress, from the thirteenth congressional district of Ohio.

Mr. KERR. This case, in nearly all of its essential features, is an exceedingly important one, and I think I may say it is an unprecedented case in this House. The questions of law and the questions of fact which are involved in this record are not only numerous, but they are intrinsically important and exceedingly interesting. They are of such a character that I submit it does not become gentlemen here, acting as judges, even to attempt to give to them anything less than the most careful, deliberate, and full consideration.

Mr. Speaker, the labor which has been imposed upon the Committee of Elections by this case can scarcely be described to this House so that it shall be fully appreciated. The labor that was involved in the preparation by myself of the report of the minority was greater than I ever before bestowed upon any case, whether before this House or before any of the civil courts of the country.

I beg leave, in this connection, to remark that when I came to read the report of the majority, I must confess to some degree of surprise that it has undertaken to give this entire record so imperfect an examination, so imperfect an analysis, as that I say to every honorable gentleman of this House it is simply impossible from this report of the majority for any gentleman to understand this case; he cannot do it; he must go somewhere else. And that report does not even tell you where you can go for the evidence. Many of the most essential principles involved in the case are not considered at all by the majority. Why this is so, it is not for me to say; that it is so, I need only to invite gentlemen to look at these two reports that they may see the fact.

Now, what stands at the very door of this investigation? What is the first question that challenges the attention of the committee, and should now engage the attention of this House? It is this, and it is preliminary to every other question; whether the honorable contestant here, by his proceedings which antedated the commencement of the testimony in this case, has so made up his record that he is authorized to come here at all? I want honorable gentlemen to answer to themselves whether the notices that were served upon the sitting member by the contestant are, in point of law, worth the paper on which they were written.

The honorable gentleman from Pennsylvania, [Mr. SCOFIELD,] my colleague on the Committee of Elections, in speaking of another matter involved in this case, did himself the credit to say, (and it was refreshing to hear it from him,) that it did not become Congress to override any law of the United States which had been solemnly enacted and had received the executive sanction.

But what does the House undertake to do in this case? In the very inception of the case it undertakes to override a law of Congress made expressly for the government of this House. That law says:

"Whenever any person shall intend to contest an election of any member of the House of Representatives of the United States, he shall, within thirty days after the result of such election shall have been determined by the officers or board of canvassers authorized by law to determine the same, give notice in writing to the member whose seat he designs to contest of his intention to contest the same, and in such notice shall specify particularly the grounds upon which he relies in the contest."—1 *Brigley's Digest*, 234.

That is the law for this House; that is a law of this country as solemnly enacted as any other law on our statute-book; yet that law is deliberately overridden, first by the contestant and then by the committee. What is the object of that law? Need I say to gentlemen here who are members of the profession of the law that the object of this kind of a law is here, as in the courts of justice, to narrow, to circumscribe, to limit as much as possible the scope and reach of the issues to be determined by the House on final adjudication of the case? This object is a good one, it is a just one; it is indispensable to adhere to it in order to facilitate the administration of justice and to facilitate the disposition of cases. And it is important to the parties that obedience shall be given to this law in order that controversies shall not be interminable, and to the end that they shall not be so expensive to the parties by reason of the unnecessary and improper latitude which shall be given to them as to ruin parties who may attempt to prosecute contests like this.

Now, I say that in view of the precedents in this House, the notices served by the contestant on the sitting member in this case do not comply with the requisitions of this law of Congress; and I invite attention to the only



two of the specifications which are necessary to be considered in the case. The second specification reads as follows:

"2. Six hundred and twenty-five persons, not legally entitled to vote, were improperly and illegally allowed to vote at said election, and did cast their votes for you."

What does that mean? I ask the lawyers of the House, what does that mean? Where were these persons allowed to vote? The notice does not answer. By whom were they allowed to vote? The notice does not answer. Why were they illegal voters? The notice does not answer. Were they insane? Were they idiots? Were they minors? Were they non-residents? Were they convicted criminals? or were they deserters? The notice does not answer. Yet we are told that such a notice as this is to stand in this court of justice.

The next specification to which I invite attention is the following:

"18. Illegal votes were cast for you at said election as follows: in Clinton township, Knox county, 25 votes, and in each of the townships of Jefferson, Union, Butler, Jackson, Brown, Howard, Harrison, Clay, Pike, Monroe, Pleasant, Morgan, Berlin, Morris, Miller, Middlebury, Wayne, Liberty, Milford, and Hiliar, in said Knox county, 10 votes. In the township of Newark, in the county of Licking, 25 votes, and in each of the townships of Fallsburg, Perry, Hanover, Hopewell, Eden, Mary Ann, Madison, Frankin, Washington, Newton, Licking, Burlington, McKean, Granville, Union, Bennington, Liberty, St. Albans, Harrison, Hartford, Monroe, Jersey, Bowling Green, and Lima, in said Licking county, 10 votes. In the township of Washington, in Muskingum county, 25 votes, and in each of the townships of Monroe, Highland, Union, Rich Mill, Meigs, Adams, Sulem, Perry, Salt Creek, Blue Rock, Harrison, Wayne, Jefferson, Muskingum Falls, Springfield, Newton, Jackson, Licking, and Hopewell, 10 votes. In the township of Tuscarawas, in the county of Coshocton, 25 votes, and in each of the townships of Adams, Oxford, Linton, Lafayette, White Eyes, Crawford, Mill Creek, Keene, Franklin, Virginia, Jackson, Bethlehem, Clarke, Monroe, Jefferson, Bedford, Washington, Pike, Perry, New Castle, and Tiverton, in said Coshocton county, 10 votes."

"Illegal votes were cast for you at said election." Why were they illegal? How was the sitting member, who was entitled to a particular statement of the grounds of contest, to know what was meant by this notice? Could he answer to his own judgment, and say, "My contestant claims that 25 non-residents voted in one township, and 25 insane persons in another?" No, he can answer to himself nothing from the face of that paper, because it is notice of nothing. It is simply an evasion of a legal notice, that is all. Yet, singular as it may appear, the learned gentleman who makes the report of the majority in this case has totally failed to notice this point, although he knew that the sitting member had excepted to every one of the specifications in the notice of the contestant.

Substantially, the allegation in each specification is that illegal votes were cast for the sitting member. It cannot be said, without doing most manifest violence to the intention of the law, that such general and vague allegations can put the sitting member in possession of the grounds of contest. They do not aver in what the illegality of the votes consists. They do not state facts from which the illegality results as a conclusion of the law. They only state the conclusion of law itself, and entirely omit any recital of the reasons or facts that are indispensable to sustain the conclusion. This is a violation of most obvious principles of correct pleading, and ought not to be approved. There is nothing in the nature or circumstances of this case to prevent or even render inconvenient a fair and full compliance with this law in the statement by the contestant of his grounds of contest. The object of all pleading, whether in ordinary actions at law or in contested election, or in any cases required to be subjected to judicial or even quasi judicial determination, is to limit, to restrict, to narrow, as much as practicable, the range and scope of the investigation, to exclude unnecessary latitude of inquiry, to disclose at the outset the difficulties to be overcome by testimony, or the specific conclusions intended to be established by proof, to the end that such litigation may be simplified and cheapened, not

made interminable and unnecessarily expensive, and especially that no advantage shall be taken or injustice done, against which it is impossible to guard by reason of the uncertainty and vagueness in the statements of the grounds of controversy. The importance of these principles has been well illustrated in this case. The contestant wholly fails to specify the grounds of contest in his notice, and then proceeds in his own order to make his proofs; but in reference to a large number of voters, (alleged to have been deserters,) takes his testimony at so late a day in the time allowed as to absolutely preclude the taking of counter-testimony by the sitting member. It was the intention of the law of Congress to prevent such results by requiring reasonable definiteness and certainty in the statement of the grounds of contest.

I hold, therefore, Mr. Speaker, that upon the established law of this House, under the very letter of the law of this country, and under the precedents, the number of which is so great that I need not refer to them, that these notices are insufficient, and that every part and parcel of the evidence offered by the contestant here ought to be rejected by this House. But, Mr. Speaker, knowing full well that this will not be done, I have gone on and examined every single case in this immense record, case by case, page by page, witness by witness, and weighing them all, have reached the conclusions which I have undertaken to state in my minority report, and to which now, as briefly as I can, I will invite the attention of the House.

Mr. Speaker, I find it most convenient to take up this case in the order in which it is presented in the report of the majority, and not in the order in which it has been presented to the House by my colleague on the committee. I first, therefore, invite the attention of the House to the consideration of what is called the deserter vote; and I do hope that, as a matter of personal kindness to me, if not as a matter of higher duty, I shall have the attention of honorable gentlemen while I undertake to present my views upon these points.

The record on the part of the contestant alleges that there were allowed to vote in the thirteenth district of Ohio 201 men who had been deserters under one or another of the laws enacted for the enrollment of the national forces.

I desire, as preliminary to my argument on this point, to invite the attention of the House to the character of evidence in this case. There is alleged to have been 201 deserters. Gentlemen will remember the first law on the subject of the enrollment of the militia under orders of the Federal Government was enacted in 1862, the next law in 1863, and the next and last law in 1865—I mean so far as those laws bear on this question. Under the first law under which the first draft in 1862 was made, it was not declared the person who failed or refused to report under the draft should be held as a deserter, nor was there any penalty attached to the failure to answer to the draft under that enrollment. Under the second law, that of the 3d of March, 1863, it was declared that persons who should fail to respond to the draft should be held to be guilty of desertion, but no other penalty was attached to that offense. It was declared to work no disfranchisement. It was not only declared to be desertion under the law of March 3, 1865, but an additional penalty was attached to the penalties previously prescribed, and that was the penalty of disfranchisement and decitizenization of the United States. But those two penalties were prescribed under the law of 1865 alone.

Now, all the testimony in reference to all these cases of desertion: I also assert here, and I assert it broadly, I defy successful contradiction of it, that the testimony under all these various drafts, touching the alleged fact of desertion, is in every particular unsatisfactory. It is most shadowy, it is frivolous, in many cases it is absolutely contemptible. It is such that any intelligent court of justice of the country would

reject it in any civil case pending before it for adjudication. It is the testimony of persons who heard some other person say that John Smith or William Jones was a deserter, or who heard that some person said his neighbor had gone off and it was stated that he had gone to Canada, or who heard that when a certain man's name was drawn he went out of the district. In respect to others, there is an attempt to prove record evidence of desertion, and it consists either of copies taken from the enrollment lists in this district or of certificates signed by the adjutant general of Ohio, purporting to state that some person stands on some enrollment list, marked as a deserter or charged as a deserter. Now, I say as a lawyer, as a member of this committee, on a just appreciation, I believe, of my obligations, that all this evidence touching the fact of desertion, and purporting to place that upon record evidence, is illegal and ought not to have been received. There is no law of Congress providing these things shall be evidence of the facts they purport to state.

In this connection I want to state that we are informed by the adjutant general of Ohio that the report of the Provost Marshal General of the United States says the entire number of deserters charged to the State of Ohio during the war is twenty-seven thousand, and that of that number those charged to the thirteenth district of Ohio are only five hundred and forty-three. We are told by the same authority that it is the opinion of the Provost Marshal General that at least two thirds of that entire number could, by returns to duty, have been shown not to have been deserters at all, but they were simply charged with desertion under the technical and arbitrary rules of the Government in a time of war; that they in fact were never guilty of desertion. Hundreds and it may be thousands of the persons so charged with desertion may have been at that very moment shedding their blood on the battle-fields of the country in defense of the flag; and it is shown that in some cases persons so charged in very truth were at the very time they were so charged in the actual performance of their military duties. Yet it is upon this kind of shadowy testimony that it is proposed by this House now to disfranchise two hundred and one of the legal voters of the thirteenth district of Ohio. All this evidence as to the voter is *ex parte*, having been taken in this case *after* the election, and where the election boards, after examination of the voter and hearing the case according to the laws of Ohio, had adjudged him a legal elector and received his ballot. He is thus, in legal effect, to be deprived of a precious franchise, branded as a criminal, and punished, in violation of the most obvious principles of justice, and without a hearing.

Mr. Speaker, it is said that the constitution of Ohio requires that no person shall be a citizen of that State who is not also a citizen of the United States, and that whenever he ceases to be a citizen of the United States he ceases also to be a citizen of Ohio. I ask you now whether it is to be held to-day by this House that it is competent for Congress to regulate suffrage in a State of this Union. And is it to be held that Congress may, under the pretext of punishing desertion, or any other crime, I care not what, regulate suffrage in a State of this Union? If that is the theory of this House, why is it not honestly, frankly, and boldly so declared? Why is it not avowed in this report that you mean to dictate terms upon which the right of suffrage shall be exercised in the State of Ohio by laws of Congress? I say that it is the province of the States alone to regulate their own suffrage, and when the State of Ohio declared in her fundamental law that no person could be a citizen of that State who was not also a citizen of the United States the State of Ohio simply intended to enact and declare that no person of alien birth and origin should become a citizen of that State until he had first become a naturalized citizen of the United States. That is what the history of this enactment in the State of Ohio justifies me in saying. That is

what it means, and that is all it means. Yet it is attempted here to extend it far beyond the true intent and purpose of those who made it. But it is a perversion of terms to say that any person acquires the right of suffrage in Ohio by virtue of the laws of Congress. Naturalization does not confer the right of suffrage. That right is only conferred by the constitution and laws of Ohio. Persons are allowed to vote there because they possess all the qualifications thus prescribed. The right of suffrage at a State election is a State right, a franchise conferable only by the State, which Congress can neither give nor take away. If, therefore, the act now under consideration is in truth an attempt to regulate the right of suffrage in the State, or to prescribe the conditions on which that right may be exercised, it would be held unwarranted by the Federal Constitution. In the exercise of its admitted powers, Congress may doubtless deprive an individual of the opportunity to enjoy a right that belongs to him as a citizen of a State, even the right of suffrage. But this is a different thing from taking away or impairing the right itself. Congress may also impose upon the criminal forfeiture of his citizenship of the United States—that is, of what Justice Story denominates his *general* citizenship; but that does not legally or necessarily deprive him of his citizenship of the State, which is secured to him by the State constitution and laws, and is to be held on the terms prescribed by them alone. It is an integral part of the State government.

I hold, Mr. Speaker, in reference to all of these alleged deserters, that the laws of Congress under which it is attempted to disfranchise them upon the evidence in this case can have no possible application to the case, and cannot control the action of this House, unless the House is determined and is in search of a pretext merely to exclude the sitting member from his right as a member of this House without law.

I call attention now to the fact which no gentleman who will examine this report can gainsay, that of these two hundred and one persons charged with desertion, forty-one were drafted under the call for volunteers in 1862, and were therefore never subject to be disfranchised even on conviction of desertion, because the law at that time did not say that the failure to respond to the draft should constitute the crime of desertion. It is true, it was always desertion to run away from military service after being actually mustered into the service of the United States, but that is not this case at all. The persons threatened with unjust disfranchisement in this case were never mustered into the actual service, except a very few persons. I say, therefore, that as to these forty-one persons alleged to have been drafted under the law of 1862 there is no law of Congress which affects or touches them in this case.

Can it be said that the law of March 3, 1865, was intended to be retroactive and to go back to the law of 1862, to add provisions to that law, to make that a crime which under the law of 1862 was no crime, and to punish that in 1865 which under the law of 1862 was not punishable at all? Are we, then, to be told that this kind of a law, this kind of legislative declaration, is neither an *ex post facto* law nor a statute of pains and penalties? Are we to be told that the familiar cases in 4 Wallace do not destroy any such pretense as that in this case? I trust no gentleman here will insist upon any such construction of that law for one moment.

Then it will further appear that thirty-seven of the persons alleged to be deserters were drafted under the order of 1864, still antedating the enactment of the law of March 3, 1865. It will also appear that these thirty-seven persons are not, by the evidence, identified with the alleged deserters. It will further appear that forty-three of them are so identified by the evidence, such as it is.

In this connection I hold that the enrollments are not sufficient evidence that a person is a deserter. There must be other and addi-

tional evidence of identity. Parol proof is inadmissible to corroborate and sustain the record, but not to set it aside or contradict it where by law the record is required to be kept and is made evidence.

It will further appear that seventy-nine of these persons alleged to be deserters are in no just or legal sense guilty of desertion or disqualified electors. And the persons whom I classify in this way are set down in this report under their appropriate heads, to which I respectfully invite the attention of members of the House.

It will further appear that of the whole number one hundred and two are legal voters, and ought not to be rejected for reasons which are briefly stated after their respective names in the lists which are contained in my report.

Now, Mr. Speaker, it would afford me very great pleasure, if I had time and the attention of the House, to go over this report, and man by man state the evidence in regard to these alleged deserters, and show to the gentlemen of this House how absolutely unsatisfactory and insufficient and frivolous it is as to nearly all of the individuals. For example, Franklin Vian, who voted in Pike township, is not shown to have been a deserter; but another person of the same name in Monroe county is shown to have been a deserter, but there is no proof of identity, not one word or syllable; and yet that man is charged against the sitting member as a deserter and an illegal voter. Benjamin F. Kunkle put in a substitute, and yet it is charged that he was a deserter, and ought to be counted against the sitting member. If any gentleman has the curiosity to look at the evidence in this case I invite his attention to part two, page 276. Then John Kessinger, or Kensinger, who was drafted, did not vote at all, and yet he is charged against the sitting member as a deserter and an illegal voter. David Hodge put in a substitute, and he is charged against us as a deserter. Salathiel Parrish put in a substitute, and so did James F. Scoles and Philip Arnold, and yet all these men are said by the gentleman who drafted the report of the majority to be deserters and illegal voters.

Now, gentlemen may say that my report here should be verified by testimony. It is impossible for me to read all the evidence referring to these various persons through two thousand pages of printed matter; but I do ask, gentlemen, each one of you, if you please, to take one of these cases and examine the evidence in reference to that one case; and I challenge a denial of the truth of one single one of my findings as to these men. I might go through with the entire list, but I have referred to enough to show the general course of this examination.

It is said, Mr. Speaker, that this law of 1865 was retroactive in its terms, and was intended to refer to and embrace in its operations persons who were drafted under the preceding law. Now, upon that point I will not undertake to occupy the attention of the House by referring to the authorities or entering at any length into an examination of the law. I take it for granted that every intelligent gentleman upon this floor is—and if he is not I know he ought to be—familiar with the late decisions of the Supreme Court in the celebrated cases *ex parte Garland* and *Cummings vs. The State of Missouri*, in 4 Wallace. I say that under the decisions in these cases the law, by its very terms, can have no legal operation upon the execution of the draft law that preceded it, that it is not retroactive, and was not so intended, and ought never to be so construed. It is an *ex post facto* law as to every person named in this case. It was enacted after the desertions; it was enacted after the facts had occurred; it was enacted after the crime was committed.

It was enacted after the offense was complete, and the man was guilty of desertion and ought to be punished. Ah, but the honorable gentleman from Pennsylvania has discovered a mode of evading the force of these deci-

sions and of that law by assuming that this law was not intended to punish for desertion, the original act of desertion on the part of those persons drafted in 1862 and 1864, but that the law by its terms creates an additional offense, which was a failure by those persons, after the proclamation of President Lincoln, of 11th March, 1865, to return and report themselves for duty under the draft; in other words, it is claimed by him that this original crime of desertion has now become a sort of continuing crime—a crime that goes on from time to time and will never cease to run against these men and to multiply itself year by year and month by month until the grave shall have swallowed every one of them. Then I suppose the justice of the honorable gentleman from Pennsylvania will be satisfied. Mr. Speaker, to my mind, as a lawyer, it bears very much the character of a legal absurdity to say that if I commit desertion to-day, which desertion to-day is not a crime, and by proclamation to-morrow it is announced to me that if I will return to duty I shall not be punished, and that if I fail so to return and surrender myself I shall be punished as for desertion. Can I pile up crime upon crime by a mere failure to respond to the demands of the constituted authorities? When a man deserts his crime is complete; he is at that instant a deserter. You undertake to say that a failure thereafter to report under a new law, under some new order, shall constitute another crime. How, in God's name, are you going to find a foundation for that new crime, except upon the basis of the original desertion?

Is not your law, then, retroactive? Is not your law, then, in the very terms and definitions given in the Constitution, an *ex post facto* law; a bill of pains and penalties? What does the Supreme Court say is an *ex post facto* law? They say:

"An *ex post facto* law is one which imposes a punishment for an act which was not punishable at the time it was committed; or imposes additional punishment to that then prescribed, or changes the rules of evidence by which less or different testimony is sufficient to convict than was then required."

"A bill of attainder is a legislative act which inflicts punishment without a judicial trial. If the punishment be less than death, the act is termed a bill of pains and penalties."

If that law does not meet these very definitions of solemnly prohibited laws, then I must confess, Mr. Speaker, that I have not legal capacity to determine what those definitions mean.

I hold in my hand the only judicial decision of a court of last resort in this country upon this law, giving to it a judicial interpretation. That is the decision of the supreme court of the State of Pennsylvania, constituted of five judges, three of whom were Democrats and two were Republicans. But this is the unanimous decision of the whole court, and it is entitled to the very highest respect at the hands of this House. It is no discredit to the high authority of that opinion for me to say that the honorable gentleman from Pennsylvania, who now sits on my left, [Mr. Woodward,] distinguished for twenty years as one of the finest legal minds of this country, was then on that bench.

I will read somewhat at length from that opinion for the reason that it bears so directly and so materially upon the point embraced in this alleged desertion law. I read from the decision of the supreme court of Pennsylvania in the late case of *Huber vs. Riley*, a case which arose under the act of Congress of March 3, 1865:

"The spirit of these constitutional provisions is briefly that no person can be made to suffer for a criminal offense unless the penalty be inflicted by due process of law."

Now, I have held in reference to every one of these deserters that before they can be disfranchised in Ohio, even by reason of desertion, they must first have been arrested and tried by courts of competent jurisdiction and convicted of the crime of desertion. And I hold that the adoption of any other theory in this country is to do violence to some of the first and most fundamental principles of our

Government. It is to reverse the sacred presumption of innocence until guilt is proved. It is by legislative declaration, by mere legislative enactment, in times of high party excitement, to declare men guilty of crime, and thereupon to punish them without trial, without decency, and without law. And that is what this proposes to do.

I further hold that, in reference to every one of these cases, under every one of these numerous laws of Congress, there is no way in the world by which any one of the penalties denounced against the crime of desertion can be inflicted upon a deserter except upon the judgment of a duly constituted court-martial. No civil tribunal can try any one, be he criminal or no criminal, for any offense against the military laws of the country. The like never before has been claimed or attempted; the like ought never to be justified or palliated; for it is a perversion of the most sacred guarantees of civil liberty. Are you to transfer the punishment of military offenses to civil tribunals? Why, sir, the like has never been heard of, has never been yet claimed in the history of this country. If you will look into Justice Story you will find that in his opinion no power can adjudge or punish for military crimes except military tribunals. No law of Ohio declares desertion shall work disfranchisement, nor be tried or punished in any way whatever under the laws of that State, in any tribunals, civil or military. Nor does that law give any authority, jurisdiction, or power to any board of election officers to even inquire into a charge of desertion against an elector.

The court in Pennsylvania proceed and say:

"The spirit of these constitutional provisions is briefly that no person can be made to suffer for a criminal offense unless the penalty be inflicted by due process of law. What that is has been often defined, but never better than it was, both historically and critically, by Judge Curtis, of the Supreme Court of the United States, in *Dean vs. Murray*, (18 Howard, 272.) It ordinarily implies and includes a complainant, a defendant, and a judge, regular allegations, opportunity to answer, and a trial according to some settled course of judicial proceeding."

Yet, my honorable colleague on the committee [Mr. SCOFIELD] undertakes to say to this House that these petty election boards, mere ministerial tribunals organized under the laws of the State of Ohio, have the power under a Federal law to sit in judgment upon men charged with desertion, and to try, convict, and punish those men. Yes, that is the novel and startling doctrine upon which this case is to rest. A mere election board, not one of whom is a judge, not one of whom has ever studied law, not one of whom it may be ever saw a military camp, not one of whom is competent to sit in judgment upon any case where crime is the basis of accusation, is to decide in these cases the most precious rights of citizens, and inflict the bitter and humiliating punishment of disfranchisement, not under State laws, but under Federal laws. This seems to me like going from the sacred guarantees of Magna Charta back to the chaos of arbitrary power.

These election boards are competent to decide the legality of the votes of the citizens of Ohio so far only as they are expressly empowered to do under the laws of that State.

The honorable gentleman says that election boards do, in very many cases, determine judicial questions; and in his brief he forgets himself or the facts so far as to declare that they do sometimes determine the question whether a person is guilty of the crime of bribery or not. He ought to know that under the laws of Ohio no elector can be punished for accepting a bribe for his vote. In the open light of day he may take into his filthy and polluted hand a price for his vote, and with the price in one hand and his ballot in the other he may cast the ballot for the price, and yet under the laws of Ohio he cannot be punished. It is wonderful that such is the law; but it is the law, else my search into the statutes of Ohio has been most unfortunate. It is true that a candidate for an office or an elector may be punished

under the laws of Ohio for offering a bribe; but no man can be punished for receiving a bribe and selling his vote.

But we are told that these election boards do determine facts. So they do; but what kind of facts do they determine? They determine such facts as these: whether a voter is of age; whether he is a minor; whether he is an idiot; whether he is insane; whether he is a legal resident of the county and precinct in which he offers to vote; whether he has been convicted of crime; and whether he is naturalized under the laws of the United States. But let me invite the attention of every fair-minded man to the fact, never to be forgotten in a case like this, that these election boards have no power under any system of laws in this country to determine anything except some single, naked fact, not crime, not guilt—never. They may determine mere facts which have no connection with guilt; that is to say, with guilt to be adjudicated upon by the election board. If a man is not of age that is a fact; it is something that inheres in and constitutes a part of the person, but is not a crime. If a man is an unnaturalized foreigner, or if he has too much negro blood in his veins, neither of those is a fact based upon allegations of crime. If he is a murderer, and is so charged upon challenge before an election board, the board may ask for the record of his conviction of murder, and if that be produced may find the fact that he is a convicted criminal; but the board does not try the question of guilt, but only finds the fact of conviction by the record of a legal trial elsewhere had.

It simply determines upon a fact, which fact excludes the vote. I say, therefore, that nowhere—under no system of State laws—can any gentleman show me that the duty has ever been imposed upon these boards to settle questions of alleged crime; and it is simply monstrous, it is simply outrageous, for any Congress, for any power in the country, to undertake to confer such jurisdiction upon such incompetent tribunals.

I also invite attention to the fact that under the repeated adjudications of the Supreme Court and of the State courts, it is not competent for the Federal Government to confer judicial power on any tribunals of the States, whether judicial tribunals or ministerial tribunals. The Federal Government must constitute its own courts, must enforce its own laws, must try and convict and punish its own offenders; it cannot commit that duty to petty tribunals of the State.

Now, Mr. Speaker, it is proposed by the majority of this committee to do these things monstrous in themselves, utterly untenable as propositions of law, utterly in violation of civil liberty. But it is proposed further that these persons so charged with desertion shall rest forever—yes, forever—under the ban of Federal legislative condemnation, adjudged, or rather declared guilty of crime, and forever denied a trial. Why? Because in 1865, when the war had ceased, the Federal Government, on the 13th day of April, by an order issued from the headquarters of the military power of the Government, declared that the provost marshals throughout the country should discontinue the business of recruiting and drafting in all the districts of the States until further orders. Then, on the 14th of the same month, by order of the Secretary of War it was commanded that all men drafted under the call of December 19, 1864, who had not been forwarded to general rendezvous shall be released. This order did not apply to substitutes already mustered in.

And, Mr. Speaker, I call attention still further to this remarkable fact, I say in the history of this case a most remarkable fact, worthy to receive the gravest consideration of every member of the House, that on the 17th day of October, 1865, long after these alleged crimes of desertion had been committed, and long before the election at which the sitting member was elected to this House, it was ordered by the

Secretary of War as follows, and I hope gentlemen of the House will give attention to the language of the order:

[General Orders, No. 152.]

WAR DEPARTMENT,  
ADJUTANT GENERAL'S OFFICE,  
WASHINGTON, October 17, 1865.

Hereafter no person shall be arrested as a deserter for having failed to report under any draft, or for any other non-compliance with the enrollment act, or the amendments thereto. Any and all persons of this class now held will be immediately discharged.

By order of the Secretary of War:  
E. D. TOWNSEND,  
Assistant Adjutant General.

In pursuance thereof all this business was stopped, and all such persons were discharged. And now the country finds itself in this novel condition: these men, these alleged deserters, by the very order of their own Government, to the end of time, are to be denied not only a trial but an opportunity in any kind of judicial or military proceeding to vindicate their innocence.

The SPEAKER. The gentleman's time has expired.

Mr. WOODWARD. I move that the gentleman's time be extended for another hour.

Mr. SCOFIELD. I shall not object to the extension of time to the gentleman. I do not care how much time he has; but at the end of that hour I design to call for the previous question. I think four hours are enough for this debate; and if the House will sustain me in demanding the previous question it will be entirely satisfactory to me if one member shall consume the whole time on that side.

Mr. WOODWARD's motion was agreed to.

Mr. KERR. Mr. Speaker, if I can, I will get through in a shorter time.

Mr. MILLER. Does the gentleman concede the majority to be in favor of the contestant if the votes of these alleged deserters were rejected?

Mr. KERR. Mr. Speaker, in answer to my friend I have this to say, that in my judgment, after a most deliberate and careful examination of this case, I do most sincerely and profoundly believe that in no aspect of this case can this House justly give this seat to the contestant. No, sir; in no possible attitude of the case. I say if you give him every one of these deserters' votes, or rather deny them to the sitting member, you cannot under any possible judicial determination of the other questions in the case give him the seat.

I think, Mr. Speaker, in reference to the order that I have just read, it must be held, and ought to be held by this court, if this law of March 3, 1865, possesses any validity whatever, to have the legal effect of forever discharging not only from arrest, but from every charge of crime. Is it just; does it become the dignity, the magnanimity, and honor of a great Government to charge citizens with crime by mere legislative declarations and yet deny them an opportunity to vindicate their innocence? This order amounts to a dismissal of all charges, a kind of amnesty or pardon against all offenses arising out of the enrollment and draft laws.

Now, I desire to read a little further from this judicial opinion:

"But I can call to mind no instance in which it has been held that the ascertainment of guilt of a public offense and the imposition of legal penalties can be in any other mode than by trial according to the law of the land, or due process of law—that is, the law of the particular case, administered by a judicial tribunal authorized to adjudicate upon it. And I cannot persuade myself that a judge of elections or a board of election officers, constituted under the State laws, is such a tribunal. I cannot think they have power to try criminal offenders, still less to adjudge the guilt or innocence of an alleged violator of the laws of the United States. A trial before such officers is not due process of law for the punishment of offenses according to the meaning of the phrase in the Constitution. There are, it is true, many things which they may determine, such as the age and residence of a person offering to vote, whether he has paid taxes, and whether, if born an alien, he has a certificate of naturalization. These things pertain to the ascertainment of a political right; but whether he has been guilty of a criminal offense and has as a consequence forfeited his right is an inquiry of a different character. Neither our Constitution



nor our law has conferred upon the judges of elections any such judicial functions. They are not sworn to try issues in criminal cases. They have no power to compel the attendance of witnesses, and their judgment, if rendered, would be binding upon no other tribunal. Even if they were to assume jurisdiction of the offense described in the act of Congress, and proceed to try whether the applicant for a vote had been duly enrolled and drafted, whether he had received notice of the draft, whether he had deserted and failed to return to service, or failed to report to a provost marshal, and whether he had justifying reasons for such failure, and if after such trial they were to decide that he had not forfeited his citizenship, all this would not amount to an acquittal. It would not protect him against a subsequent similar accusation and trial, would not protect him against trial and punishment by a court-martial. Surely that is no trial by due process of law the judgment in which is not final, decides nothing, but leaves the accused exposed to another trial in a different tribunal, and to the imposition by that other tribunal of the full punishment prescribed by law. It is not in the power of Congress to confer upon such a tribunal, which is exclusively of State creation, jurisdiction to try offenses against the United States. The doctrine seems a plain one that Congress cannot vest any of the judicial power of the United States in the courts of any other government or sovereignty. (Martin vs. Hunter's Lessee, 1 Wheat., 304, 330; Blythe vs. Peck, 7 Conn., 242; and Seville vs. Canfield, 14 Johns., 338.) And clearly if this is so Congress cannot make a board of State election officers competent to try whether a person has been guilty of an offense against the United States, and if they find him guilty to enforce a part of the prescribed penalty.

I invite attention to another paragraph touching the true construction of the law. The same court, after an examination of all the laws of Congress on the subject of desertion and its punishment, gives the following just construction to the act of 1865:

"All these acts of Congress manifestly contemplate trial for desertion in courts-martial, and the infliction of no punishment or forfeiture except upon conviction and sentence in such courts. The act of 1866 provided for general courts-martial, and made minute and careful regulations for their organization, for the conduct of their proceedings, and for the approval or disapproval of their sentences. Subsequent acts made some changes, but they have not restrained the jurisdiction or diminished the powers of such courts. It is to such a code of laws, forming a system devised for the punishment of desertion, that the twenty-first section of the act of March 3, 1865, was added. It refers plainly to preëxisting laws. It has the single object of increasing the penalties, but it does not undertake to change or dispense with the machinery provided for punishing the crime. The common rules of construction demand that it be read as if it had been incorporated into the former acts. And if it had not been, if the act of 1866 and its supplements had prescribed that the penalty for desertion, or failure to report within a designated time after notice of draft—which the act of 1863 declares desertion—should be punished on conviction of the same with forfeiture of citizenship and death, or in lieu of the latter, such other punishment as, by the sentence of a court-martial, may be inflicted, would any one contend that any portion of this punishment could be inflicted without conviction and sentence? Assuredly not; and if not, so must the act of 1865 be construed now. It means that the forfeiture which it prescribes, like all other penalties for desertion, must be adjudged to the convicted person, after trial by court-martial, and sentence approved. For the conviction and sentence of such a court there can be no substitute. They alone establish the guilt of the accused and fasten upon him the legal consequences. Such, we think, is the true meaning of the act—a construction that cannot be denied to it without losing sight of all the previous legislation respecting the same subject-matter, no part of which does this act profess to alter.

It may be added that this construction is not only required by the universally admitted rules of statutory interpretation, but it is in harmony with the personal rights secured by the Constitution, and which Congress must be presumed to have kept in view. It gives to the accused a trial before sworn judges, a right to challenge, an opportunity of defense, the privilege of hearing the witnesses against him, and of calling witnesses in his behalf. It preserves to him the common law presumption of innocence until he has been adjudged guilty according to the forms of law. It gives finality to a single trial. If tried by a court-martial and acquitted his innocence can never again be called in question, and he can be made to suffer no part of the penalties presented for guilt. On the other hand, if a record of conviction by a lawful court be not a prerequisite to suffering the penalty of the law, the act of Congress may work intolerable hardships."

Let me call the attention of the House one moment to the language of the act itself. The learned gentleman who presented this case for the majority [Mr. SCOFIELD] has not cited the act; he has taken good care not to do that. He read a part only of section twenty-one, which does not give a just and adequate idea of the true scope and meaning of the whole act. What does that act say? "That in addition to the other lawful penalties of the crime of

desertion," &c.; not an original act, not an act to be executed and enforced by State law or State tribunals, but it is a law enacted "in addition to," as a part of, as an amendment to a preëxisting law of Congress on that same subject. It is what lawyers would call a law *in pari materia*. It is a law which must be construed in connection with and as a part of a preëxisting statute.

Now, this law prescribes an additional penalty to the crime of desertion from the military or naval service of the United States. When the honorable gentleman cited this section it might justly have been inferred by members unfamiliar with it that this law by its terms had undertaken expressly to confer this kind of jurisdiction upon these petty tribunals. I say to you that there is nowhere in this section, nor in this law, nor in any law of Congress, from the beginning of the Government to this blessed hour, any provision in which the Federal Government has ever attempted to commit to any tribunal of the State the adjudication of any such case or of any such fact. It is all assumption; it is not law, and it cannot be found in the law, and I challenge the production of one single line to justify any such construction or interpretation.

Mr. Speaker, I will not give further time to the consideration of this general question about deserters. I now come to consider the case of Pike township, which, it is claimed by the report of the majority, the House ought to reject; and to this I beg to call the attention of members while I state, as briefly as I can, the material facts in the case. In that township, it is alleged by the contestant, that Salathiel Parrish, one of the judges, was a deserter from the draft of 1864 and therefore incompetent from disability as a citizen to act in that capacity. He was not a man of foreign birth or origin, but was a native citizen of Ohio. He was convicted of no crime under that State. He had never been adjudged by any court of the State or Federal Government, civil or military, to have forfeited his citizenship or rights as a citizen. Salathiel Parrish, by the testimony to which I have invited the attention of the House, is shown not to have been a deserter at all. This same man, on whose action alone it is attempted by the majority to reject the vote of this township, so as to deprive the contestee of one hundred and forty votes to which he is most justly and legally entitled, was never a deserter. On the contrary, he put in a substitute to relieve himself from every obligation under this draft law. That is the evidence, and I challenge its successful contradiction.

I further invite the attention of the House to the fact that in the notice of the contestant to the contestee there is not one word said about the qualification or disqualification of Salathiel Parrish as judge of election. He has had no notice of any election contest on that ground until he went to make out his evidence upon record before this committee. Yet it is attempted here, without any previous notice, without giving any opportunity to the sitting member to contest or controvert this fact, to rest the whole case upon this foundation.

But fortunately for the ends of justice, the sitting member has shown by the most unquestionable testimony that not one solitary material fact exists to justify the exclusion of this poll on account of the disqualification of that election officer.

Now, then, it is not proved, as I have said, that he was a deserter. It is not proved that he is the same person who by that name it is alleged did desert. But it is proved by the testimony of David Porch (H. Mis. Doc. 38, part 2, p. 276, *et seq.*) that Salathiel Parrish, who was the election officer, had furnished, according to law, a substitute, and was released from the draft in 1864. When the honorable gentleman came to make up his report in this case he thought he could rest the rejection of the vote of this township on the case of Howard vs. Cooper, reported in Contested Election

Cases, (vol. 2, p. 282,) but he has discovered in some way that that case does not sustain his position at all, because in that case there was no analogy to this. In that case but two persons pretended to act as judges. There was, therefore, no compliance with the law; but in the case under consideration there was an actual compliance with the law, and even if Parrish were incompetent for the reasons alleged, yet no fraud being alleged or proved, he was a judge *de facto*, and the election was clearly valid. In this connection I refer to Miliken vs. Fuller, Bartlett's Contested Election Case, page 176; Ohio, &c. vs. Ritt, American Law Register for December, 1867, page 90; Barret vs. Reed, 2 Ohio, 410; Johnson vs. Stedman, 3 Ohio, 96; Elden vs. Sexton, 5 Ohio, 216, all of which are directly in point.

But I have a more authoritative decision on this point, which ought to challenge the approval of the majority in this House. The laws of Ohio provide that if either of the judges of the election shall be a candidate for a State or county office it shall be the duty of the electors present to elect a suitable person to act as judge in the place of said candidate.

In the contested-election case of Grosvenor, Republican, vs. Golden, Democrat, before the Senate of Ohio in 1865-66, one of the grounds of contest was that Erwin Moore, one of the judges of election, was a candidate for county commissioner, and was thereby precluded by the express terms of the statute from acting as judge of the election. The Senate which tried and decided this contest was three fifths Republican. In speaking of a judge of the election being a candidate, the majority of the committee, in their report, say:

"The committee find this contrary to a provision of the statute. But they further find that he (Moore) did not act corruptly, but in ignorance of the law."

What did Salathiel Parrish do? Have they proved any corruption or irregularity against him? Have they proved any dishonest acts on his part? Did he tamper with the polls? Not one thing have they proved. Not one word has been said that soils the fair name of this man as an officer of that election. He was regularly chosen by the electors to hold that election.

"The committee regard said action as irregular; yet they are of opinion, and so find, that all the really essential requisites to constitute a valid election were observed in this case. The election was held at the proper time and place and by competent authority, (to wit, the township trustees.) That there was no evidence of fraud in conducting the same, and no doubt about the result."

That is exactly the case here.

"In view of these facts, we are unable to assign any satisfactory reason for rejecting this return." \* \* \* "The evidence is clear that the election was conducted with entire fairness. We are therefore of opinion that we can neither allege want of authority in the election board, fraud in conducting the election, nor any uncertainty about the result. The supreme court of this State have decided in the cases of Ohio vs. Choate, 11 O. R., p. 511; Ohio vs. Aibey, 12 O. R., p. 16; Ohio vs. Jacobs, 17 O. R., pp. 151, 152, that where an officer acts under the color of authority his acts will be binding, although in point of law and right he was no such officer. And if the acts of a person who acts by color of authority alone will be sustained, there is certainly much greater reason for sustaining the acts of a real officer, although the mode of his action has been irregular."

The majority of the committee reported, therefore, that the Democrat should retain his seat against the claim of the Republican on this same ground, and the Republican Senate adopted that resolution by a vote of 23 against 11.

I hold, therefore, Mr. Speaker, that Salathiel Parrish in this case was as good an officer as any who sat upon an election board in Ohio; and I hold, also, that if this law against deserters were a valid and constitutional law, still his proceedings as a member of that board are legal and valid, and must be held good by this House, because he acted under color of authority. He was legally chosen; his conduct was regular; there is no fraud proved; there is no bad faith shown; there is no taint found upon any single act of his. Under such circumstances the acts of the officer, whether he possessed the legal qualifications to constitute him an officer *de jure* or not,

have always been held by all the courts of the country to be valid. In the leading case on this subject, of the *People vs. Cook*, 14 Barbour, 239, the court say:

"It is sufficient that they were inspectors *de facto*. They came into office by color of title, and that is sufficient to constitute them officers *de facto*. The rule is well settled by a long series of adjudications, both in England and this country, that acts done by those who are officers *de facto* are good and valid as regards the public, and third persons who have an interest in their acts; and the rule has been applied to acts judicial as well as ministerial in their character. This doctrine has been held and applied to almost every conceivable case."

I could cite authorities to the same effect to almost any number. Out of the immense number of American cases in which this doctrine has been emphatically stated as the law, I deem it sufficient to cite the following: *Commonwealth vs. Fowler*, 10 Mass., 301; *Mason vs. Dillingham*, 15 Mass., 170; *McGregor vs. Bach*, &c., 14 Vermont, 428; *Cummings vs. Clark*, 15 Vermont, 653; *Keyler vs. McKissom*, 2 Rawle; *Neal vs. Overseers*, 5 Watts, 538; *Bond vs. Bank Washington*, 11 S. & R., 411; *McKean vs. Summers*, 2 Penn., 297; *Barrett vs. Reed*, 2 Ohio, 410; *Johnson vs. Stedman*, 3 Ohio, 96; *Elden vs. Sexton*, 5 Ohio, 216; *St. Louis Co. vs. Sparks*, 10 Mo., 117; *Pritchett vs. People*, 1 Gilm., 511, 529; *Cook vs. Hall*, 1 Gilm., 580; *People vs. Ammon*, 5 Gilm., 170; 13 Mich., 527; 1 Mon., (Ky.), 297.

But the honorable gentleman from Pennsylvania [Mr. SCOFIELD] says that he has discovered another authority on which the House may reject the vote of Pike township, because of the disqualification of Salathiel Parrish. And that is the case of *Jackson vs. Wayne* (1 Cont. Elec. Cas., p. 47) that came up from the State of Georgia to this House. Now, my worthy colleague is a lawyer, and I have a right to expect that when he invites the attention of the House to a decision he will at least have the kindness to give to that decision the only construction it will bear; that he will at least have the frankness to read that decision to the House, in order that the House may be its own judge, if he is not willing himself to put a construction upon the case.

What did the House decide in that case? I ask the attention of gentlemen to it. I read from the syllabus of the case, which faithfully indicates all there is in it affecting the case now before the House:

"The law of Georgia requires that three magistrates shall preside at elections; and it was held that a return by three persons, two of whom were not magistrates, was defective."

"Two of whom were not magistrates." Well, what has that to do with this case? If the law of Ohio held that this election should have been conducted by three township trustees, and Salathiel Parrish was no trustee at all, then this decision would apply. But this decision has no application at all to this case. In Georgia two of the election officers were not magistrates at all. Therefore they were not acting under color of authority; they were neither officers *de jure* nor *de facto*. They had no legal right to preside at that election; they were not chosen magistrates at all, regularly or irregularly, under color of law or without it. In this case Salathiel Parrish was acting under the color of law, elected according to law in every particular. And the honorable gentleman only objects to him because he was not personally competent to be elected as a member of that election board because he was charged with desertion.

Now, suppose that Salathiel Parrish had been a citizen of Indiana, or a citizen of Great Britain never naturalized, yet if the people of Pike township, in pursuance of law, under color of law, had elected him to preside at that election, he would still have every particle of legal authority that is necessary to make valid the proceedings of that board, because he would be acting under color of legal authority. And the decisions are too numerous to be cited, to the effect that all such proceedings of such boards, as to all third persons, must be held to be legal, valid, and binding.

Mr. Speaker, I desire now to have the atten-

tion of the House very briefly to a consideration of the alleged non-residents. In reference to the legal votes rejected, to the alleged alien votes, and the alleged minors, I respectfully invite the attention of gentlemen to my report under those respective heads, and there they will find the law and the facts that pertain to each one, stated according to my examination of the case.

On page 27 of my report I state my conclusion touching the alleged non-resident votes that were cast for the contestant; and when the other day I came to compare my results with those of the honorable gentleman who made the report of the majority here, I found some singular differences.

For instance, if gentlemen will refer to page 12 of the brief of the contestant, made by the contestant himself, they will find that 19 persons are there put down as having voted illegally for him, who are either idiots, minors, or non-residents. And those 19 the contestant, in his recapitulation of his own case, upon his own examination and presentation of it to the Committee of Elections, admits ought to be rejected, yet, in making his report in this case, I find to my surprise that the gentleman from Pennsylvania [Mr. SCOFIELD] has refused to reject from the count of the contestant some of the persons whom the contestant himself confesses were illegal voters, and should not have been allowed to vote. I would like to have the honorable gentleman answer why he is not willing to deduct from the vote of the contestant the number the contestant himself confesses were illegal.

Mr. SCOFIELD. Does the gentleman wish me to answer his question at this time?

Mr. KERR. Certainly.

Mr. SCOFIELD. If there is any name which the contestant himself admitted was that of a non-resident, as the gentleman says, and it has not been deducted, it has been by some mistake. The gentleman will recollect that it was a vast labor to go over all these names; he had almost a month of time; the majority were waiting for the minority to get ready, and there may be some errors in that long list of names.

But I am satisfied that if there are any such, they are not enough in any event to affect the result. I presume the gentleman from Indiana will acknowledge that I intended to be perfectly fair in the treatment of the evidence.

Mr. KERR. I accept the gentleman's explanation, but I will add that while I admit that the case involved great labor, yet I think it required just as much from me as from him. My duty was no less than his, and his no less than mine, and if I had a month of time, he had two months, and the House must judge whose has been most faithfully discharged.

I claim, Mr. Speaker, on behalf of the contestee, that the entire vote of Blue Rock township shall be rejected; and I invite the attention of the House to the facts in that case.

It is claimed by the sitting member that, by reason of alleged gross frauds, irregularities, and menacing disturbances at the election in Blue Rock township, Muskingum county, the entire poll should be rejected. The material facts in reference to the precinct are as follows:

The officers of the election were all the political friends of the contestant. One hundred and twenty persons voted there in 1866 who did not vote there in 1865. In 1865, at the Governor's election, 129 votes were cast for Cox, the Republican candidate, and 79 votes for Morgan, the Democratic candidate, making the majority for Cox 50. At the congressional election in 1866, 206 votes are returned for the contestant, and 89 for the sitting member. The majority for Mr. Delano is 117, and his increase over the vote for Cox, in 1865, is 67, and the increase in the township since 1865 is 87, and the increase in the vote for Mr. Morgan is 10. In 1867, 711 more votes were cast than ever before in the thirteenth district, yet in that year the whole vote in this precinct was 258, being 37 less than in 1866, and

Hays, the Republican candidate for Governor, received in 1867 155 votes, being 51 votes less than Mr. Delano had in 1866, and Thurman, the Democratic candidate, received 103, being 14 more than Mr. Morgan had in 1866.

The polls were closed for one hour by the election officers at dinner time. The law of Ohio requires them to be opened "between the hours of six and ten o'clock in the morning," and continued open until six o'clock in the afternoon. The district court of Hamilton county, Ohio, by Justice Brinkerhoff, a distinguished member of the supreme court of Ohio, has decided, since the election in controversy, that—

"Under the Ohio statute, passed March 3, 1852, 'to regulate the election of State and county officers,' (3 Curwen's Rev. Stat., section 1920,) after the polls of an election have been once opened between the hours of six and ten in the morning in pursuance thereto, they cannot be closed for any purpose until six o'clock in the afternoon, without rendering the election illegal and void."—*State vs. Ait et al.*, Am. L. Reg. for December, 1867, p. 88.

The State of Ohio has a right to enact her own election laws, and they are binding upon this Congress. It has been the habitual practice of Congress for fifty years to follow as its guide the laws regulating elections in the States of this Union. The judicial tribunals of the State are the highest authority that can interpret the election laws of a State. One of those tribunals, of Republican organization, has adjudicated one of these laws, and has so ruled as that the election in this township must be held to be utterly void.

I hold in my hand the decision of Judge Brinkerhoff in that case, concurred in by his four associates. The court use the following language:

"It was beyond dispute that for about the space of two hours the judges and clerk of election left the polls and took the ballot box away, returning afterward and resuming the election. There is no pretense that the ballot-box was tampered with, but that the judges rather acted in ignorance of what their duties were."

"The court is of opinion that such conduct on the part of the judges goes to the substance of the election and renders it void *in toto*. The statute prescribes that the polls shall be opened at a given hour in the morning and closed at a given hour in the afternoon. It was the express design of the Legislature that all the time between those hours the polls should be kept open for the convenience of any elector or who may choose to present his ballot. The court does not agree with counsel that it lies on the party contesting the election to show affirmatively that the closing of the polls influenced the result. The law gives the elector the privilege of consulting his own convenience as to what hour of the day he will visit the polls, and it is a fair presumption that if the polls were temporarily closed for dinner, as was proved, a portion of the electors were deprived of that privilege."

In that case the judge says:

"There is no pretense that the ballot-box was tampered with, but that the judges rather acted in ignorance of what their duties were."

That is all Salathiel Parrish did; nay, he did not even do that.

Mr. LAWRENCE, of Ohio. Will the gentleman yield to me for a moment?

Mr. KERR. I will yield for a question.

Mr. LAWRENCE, of Ohio. I desire to inquire of the gentleman whether he believes the decision of Judge Brinkerhoff, to which he has referred, to be good law? and I wish also to say that the decision was made by the district court—

Mr. KERR. I am unwilling to be interrupted any further. I have already stated the fact that the decision was made by the district court.

Mr. SCOFIELD. Will the gentleman allow me a single remark?

Mr. KERR. Let me answer first the question of the gentleman from Ohio?

Mr. SCOFIELD. I understand the majority and the minority to agree upon the point that the returns from these townships should not be rejected because the officers went to dinner.

Mr. KERR. I will answer both gentlemen. I will say, in reply to the gentleman from Ohio, [Mr. LAWRENCE,] that speaking for myself as a member of this House, desiring to disfranchise no one, but to give every one the full benefit of the legal votes to which he is entitled, I will say that if there existed in this case

no other fact than the adjournment of the election officers at the dinner hour I would not ask this House to reject the poll.

But I say that I am bound to let my judgment in this case be controlled by this judicial decision of Ohio when, in connection with it, there are shown to be facts of fraud, of wrongdoing, of corruption, of irregularity, that ought to, independently of this fact, entirely reject this vote. And, therefore, I will say, in conclusion of my statement of this part of the case, upon all these facts and upon the law, I reject this poll.

In the summer of 1865 there sprang up in this township a great deal of excitement about the alleged existence of petroleum there, and large numbers of transient persons, as laborers, speculators, and mechanics, and others, came into the township without intending to become citizens of it, and many of them are alleged to have illegally voted.

Now, in this connection, the gentleman who made the report for the majority said there is no evidence tending to show any voters at this precinct who were not legal residents were allowed to vote. I am surprised to hear statements like that from the gentleman.

There were great irregularities, frauds, and disturbances attending the conduct of the election, which can be best indicated by the repetition here of the material parts of the testimony on these points.

Thomas L. Elwell testifies (part 2, p. 579) that—

"The companies were principally formed in the fall of 1865 and spring of 1866. They came from different portions of Ohio, Massachusetts, New York, Virginia, and Pennsylvania. They may have been from other States, but I recollect of hearing of men from these States. Men from these different places performed the labor. These were principally from Virginia. I knew one man from New Jersey by the name of Cox."

"Question. With what political party did the non-resident oil men act in Blue Rock township at the October election, 1866?"

"Answer. Principally with the Republican party, with one or two exceptions."

"Question. State what you know relative to there having been an exodus of oil men from Blue Rock township immediately after the last October election."

"Answer. The exodus was general; the oil men generally left immediately after the election."

James White testifies, (part 2, p. 608 :)—

"Question. How long have you resided in Blue Rock township, Muskingum county?"

"Answer. A little over fifty years."

"Question. State with what political party the non-resident oil men in Blue Rock township acted at the last October election."

"Answer. Well, sir, as far as I know, they voted the Republican ticket; I understood there was one voted the Democratic ticket; his name was Stitley."

"Question. Please state what was the conduct and bearing of the active Republican friends of Mr. Delano toward members of the Democratic party while at the polls."

"Objected to."

"Answer. I thought they were a little rougher than ever I had seen there."

"Question. Describe what that conduct was."

"Answer. Well, I have been a voter there all my life, and never saw as much abuse to old citizens; they called them rebels and everything they could lay their tongues to."

"Question. State whether or not you and other Democrats were intimidated from asserting your right as challengers by the conduct of the friends of Mr. Delano."

"Answer. There were three old members went into the house and thought we would challenge some of their votes; they commenced abusing us till I backed out, and went out of the house and stayed out."

"Question. State whether or not Democrats were generally induced to leave the polls in consequence of the abuse and threats of the friends of Mr. Delano."

"Answer. They did run two Democrats off; the Democrats came, and would go right off again."

"Cross-examined by W. R. Sapp, attorney for contestant."

"Question. What political party do you belong to, and for whom did you vote for Congress at the last October election?"

"Answer. I belong to the Democratic party, and voted for Mr. Morgan."

"Question. Will you please name any Democrats who left the place where the election was held by reason of abuse, &c.?"

"Answer. Yes, sir; I can tell you two; Mr. Farrel and Mr. Silvey."

"Question. What was said to them, and by whom?"

"Answer. After they had got on their horses ready to go, there was a great band of them with Tom McClees, whooping and hallooing and urging them on; I couldn't tell you the words they said, for they were all cursing."

"Question. Now you say this was when those gentlemen got on their horses to leave for home; that

could not have been the cause of their leaving, could it?"

"Answer. The cause of their leaving was they were abusing them; Mr. Silvey said something and Slater slapped his hand over his mouth, and then they swarmed around him."

Joseph McDonald testifies, (part 2, p. 624 :)—

"Question. How long have you resided in Blue Rock township, Muskingum county, Ohio?"

"Answer. Since 1816."

"Question. Were you at the election held for State and county officers and members of Congress in said township in October, 1866?"

"Answer. Yes, sir."

"Question. Please state what you know relative to the judges of said election refusing to swear non-resident oil men when they were challenged. As nearly as you can, please state what was said."

"Answer. They said they fetched them in as stragglers or Methodist preachers, who had a right to vote wherever they were; there were some few sworn; the balance were not sworn; the judges said it was not worth while."

"Question. Please state who requested the judges of said election to have the non-resident oil men sworn?"

"Answer. I did myself, and also heard other persons do so, but do not recollect who. They said they had not time to swear all of them, and they passed the oil men into the class of stragglers and Methodist preachers."

"Question. Please state to what political party the judges of said election belonged, and whether all the trustees of said township officiated as judges at said election?"

"Answer. They were Republicans; there were only two of them officiated; John Patton was appointed in Mr. Sterrett's place; Mr. Sterrett was there and voted, but was sick and went home; Mr. Patton was also a Republican."

"Question. Please state what was the conduct and bearing of the active friends of Mr. Delano at that election to members of the Democratic party."

"Answer. They were more like a mob than anything else."

"Question. State what you know relative to Democrats having been driven from the polls by threats and intimidations."

"Answer. One gentleman there, I have forgotten his name, he was a Democrat, they brought him up and examined him; he answered all the questions that were put to him, and the mob called him a secessionist. They did not let him vote; put him off till the afternoon; he was willing to swear that he had been two years in the county, two years in the State, and six months in the township."

"Question. To what political party did the non-resident oil men, who voted in Blue Rock township at the last October election, belong?"

"Answer. They belonged to the Republican party generally; there were few Democrats."

John Silvey testifies, (part 2, p. 638 :)—

"Question. How long have you resided in Blue Rock township, Muskingum county, Ohio?"

"Answer. Ever since I was born, about forty-three years."

"Question. Please state whether you were present at the election held in Blue Rock township for State and county officers and members of Congress in October, 1866?"

"Answer. I was."

"Question. State what you know relative to the judges of said election refusing to swear non-resident oil men when challenged?"

"Answer. Mr. McDonald and I went into the polls and requested them to swear these oil men; the reply was that it was not necessary; that Mr. Peyton's reference was enough; that they are the same as a Methodist preacher on a circuit; wherever they were at the time was their residence; nothing further said in my presence."

"Question. Please state whether or not Democrats were intimidated from challenging by the conduct of the active friends of Mr. Delano at that election?"

"Answer. Well, I suppose they were."

"Question. State what was the conduct toward Democrats by the active friends of Mr. Delano at that election?"

"Answer. Why, if the Democrats were to speak, fifteen or twenty would run up and shake their fists at you and menace you, and threaten to beat you or whip you."

"Question. For how long was that election suspended by the judges at noon?"

"Answer. I could not tell you; I was not there just at noon."

"Question. Please state whether the Democrats, or many of them, remained at the polls during the election, or went home; and if they did not remain, what was the reason?"

"Answer. Well, there did not appear to be many of them remain at the polls. I think there was a reason of too much rabble and too much fuss."

"Question. With what political party did the non-resident oil men in Blue Rock township act at the last October election?"

"Answer. As a general thing with the Republican party."

"Question. Now, can you give the facts which make them non-residents according to law; we want facts and not your opinion?"

"Answer. The fact is this: they were there a few days before the election; they were there at the election, but they were not there a few days after the election, and they are not there now—that is, a majority of them."

I will not read further from the testimony as to the scandalous, unlawful, and outrageous conduct which characterized the proceedings

of the officers at that poll. I say upon all the evidence in this case, giving it the fairest and most charitable construction any fair-minded man can put upon it, it does not lie in this House for one moment to do otherwise than reject this poll as being wholly corrupt, as being tainted with unlawful conduct, with fraud and corruption.

Other witnesses swear that numerous persons desired to vote for the contestee and were not allowed to do so; that numerous persons, his friends, were driven from the polls and not allowed to vote, and that on the day after this election, or two or three days afterward, nearly all these transient Methodist preacher rascals emigrated from that township, and left the country for the country's good.

In my judgment all the proof touching this precinct discloses such a condition of disorder and violence, and so many gross irregularities, frauds, and unlawful acts, on the part of the election officers and the friends of the contestant, that it is impossible to deduce the truth from the returns. It is impossible, upon an impartial examination of all the evidence, not to conclude that there were committed numerous, palpable, and corrupt violations of the law in rejecting legal and receiving illegal votes, in refusing to regard challenges, in permitting confessedly transient itinerant persons to vote because they were like Methodist preachers, and in other acts detailed in the testimony. These conclusions are further greatly strengthened by the facts concerning the remarkable changes in the votes in this township between the years 1865, 1866, and 1867. We refer in this connection, as authority, to Blair vs. Barrett, 2 Cont. Elec. Cas., p. 308; Knox vs. Blair, Id., p. 521, and cases there cited; Howard vs. Cooper, Id., p. 275; Kneass's case, Parson's Select Cas., p. 553, and Washburn vs. Voorhees, in the Thirty-Ninth Congress.

Now, Mr. Speaker, I desire as briefly as possible to invite the attention of the House to one more return that I esteem it to be my indispensable duty upon the law and the facts to advise this House to reject; and that is the poll of Clinton township. In that township there was also an adjournment, and therefore, under the decision of Judge Brinkerhoff, that poll is by the very force of this unauthorized adjournment null and void. I do not rest the rejection of the poll on that fact alone. As in the other case, I rest it upon all the facts and circumstances connected with the election, as well as upon the law. Within the corporate limits of the township of Clinton, in Knox county, is situated the incorporated city of Mount Vernon, divided into five wards. The constitution of Ohio requires electors to vote in the county, township, and ward in which they reside. Will Congress set aside that law? Will Congress say that when Ohio says that a man shall vote where he lives, it means that he shall not vote where he lives, but somewhere else?

But the gentleman discovers that this law in this particular township was violated for twelve years. Suppose it was. That does not make it the duty of Congress to repeat that violation—to set aside the laws of the State. He also said that that violation had been recognized by every department of the government of Ohio. For that statement he has not one particle of authority. That irregularity has never been approved by any judicial tribunal or authorized ministerial officer of Ohio. It has simply been tolerated because no one has questioned it. It may be that the majorities were so great as to render a contest on that ground immaterial or ineffectual.

The laws of that State are still more specific on this point than the constitution itself, and they require, as I state in my report, that every person shall vote in the township or ward in which he may reside, and that he must have resided there the requisite period of time before he shall be entitled to vote. They also make it a penal offense, a felony, to vote anywhere else than in the township or ward in which he resides. Every person then resid-



ing in the city of Mount Vernon, in any ward of that city, who voted at that election, violated the criminal law of Ohio, and subjected himself to prosecution as for felony. Will you set aside these laws? Will Congress declare, in the teeth of all these facts and of this law, that this election is good and valid, because, forsooth, it gives to the contestant a majority of 381, and reject the vote of Pike township upon the most frivolous ground, because it gives the sitting member a majority of 140 votes?

In the city of Mount Vernon no election was held according to law. No attempt was made to hold any election according to law in said city as such, or in the respective wards thereof. An election was held within the territorial limits of the fourth ward, but it was held as a township, not as a ward election, and was held by the trustees of Clinton township, neither of whom was a councilman or officer of the city. At this election the electors of the township, including the city, voted. The votes of the citizens of the city and those of the citizens of the township outside the city were all deposited in the same ballot-box. The polls were closed by the officers of this election from thirty to sixty minutes between twelve m. and one o'clock p. m., and the ballot-box and poll-books were carried away and kept by the officers, all of whom were the political friends of the contestant. (See the decision of Justice Brinkerhoff, referred to in connection with Blue Rock township.) The working men in the foundries and workshops of the city generally voted during their dinner hour, from twelve to one o'clock, and were liable to lose wages if absent to vote at another hour. (Pt. 2, pp. 286, 287, 211, and Pt. 1, pp. 132, 133.) One of the officers of the election, John Y. Reeve, refused to administer the oath to many persons challenged by the friends of the contestee, and unlawfully and fraudulently deposited their ballots in utter disregard of the demands of competent challengers, and thus committed felonies punishable by imprisonment in the penitentiary of the State. The law says that:

"If any judge" \* \* \* "shall refuse or sanction the refusal by any other judge of the board to which he shall belong to administer either of the oaths or affirmations prescribed by the thirteenth and fifteenth sections of this act," \* \* \* "(to be administered to any person whose right to vote is challenged,) he shall be imprisoned in the penitentiary and kept at hard labor not more than five years nor less than one year."

Here the election officer perpetrates a fraud, numerous frauds upon the sitting member at this poll, each one of which subjected him to a confinement in the penitentiary for at least one year; and yet this House is asked to set aside, ignore, and disregard this solemn enactment of the State of Ohio to regulate the conduct of her own elections and preserve the purity of the ballot-box.

Although I deem it wholly immaterial to effect the result of this contest whether the House exclude or admit the poll of this township, yet it becomes my imperative duty to present the facts, the law, and my views to the House. The law, in the conduct of this election, has not only been openly disregarded, but it has been also directly violated. No elections were held in the wards of the city. Their ballots were confused with those of the citizens of the township outside. It is no answer to say that the proper officers neglected to organize election boards in the city, and that the people therefore might vote at the township poll, because, in such case, it was the right and duty of the citizens at the time to select other officers, and proceed to hold the election according to law. The citizens of the city had no right to vote at all out of their respective wards, and to do so was to commit crime under the laws of Ohio. If all these things can be done without vitiating elections, then election laws become useless and inoperative. Upon the evidence in this case it is impossible to purge this poll of votes unlawfully cast, or to determine what electors of Clinton township voted at all, or for whom

they voted. In *Miller vs. Thompson*, 2 Contested-Election Cases, page 118, it is held that "if the constitution and laws of a State require that electors shall vote only in the counties in which they reside, and at designated places in those counties, votes given at other than the designated places must be treated as nullities."

I do not feel at liberty for a moment to hesitate in the conclusion, upon all the grounds of fact and law, that it is my clear duty to reject this poll entirely. The vote returned for the contestant was 736, and for the contestee 355.

Now, in reference to these two precincts, I submit, that by the authorities in this House for the last seventy-five years the entire polls ought to be rejected. And I say, also, that in the absence of any material particle of proof of fraud or other irregularity the vote of Pike township can no more be rejected than you can reject every precinct in the whole thirteenth district of Ohio that gave the sitting member a majority.

Mr. Speaker, there are many other points to which I desired to invite the attention of the House in connection with the evidence as it has been presented by the author of the majority report. I have but a moment of time to refer to two or three cases.

He finds that William Murray, who voted in Clark township, was an illegal voter, and yet there is not one single syllable of testimony tending even to show that Mr. Murray was ever drafted, or in the Army, or was ever charged with desertion, and I defy the production of one solitary word of testimony to the contrary of my assertion.

And I do the same as to David Ford, who put in a substitute, and as to whom the proof is clear and overwhelming, and yet he is said to be an illegal voter.

The same is true of Josiah Pepper, who also put in a substitute.

The same is true of Frederick Spang, or Sperry, as he is sometimes called, who was drafted but did not vote, and yet he is charged to the sitting member as a deserter voting for him.

The same is true of George Billman and Henry Cutchall, and Jacob Cutchall, in Crawford township. There were three Jacob Cutchalls: one went into the Army, and after his return settled in White Eyes township; another was drafted, left the country, and never returned; and the third was not drafted nor in the Army, and remained at home, and he voted. And yet he is rejected, because, forsooth, his name was the same as that of the man who was in the Army and did not desert. He is alleged to be an illegal voter, and his vote is rejected for the sitting member. To all these assertions I challenge the production of one line of contrary evidence.

[Here the hammer fell.]

Mr. LAWRENCE, of Ohio, obtained the floor.

Mr. KERR. Before I take my seat, I will ask leave of the House to add a little to my remarks when published, by way of completing my statement.

Mr. MULLINS. I move that the gentleman have longer time.

Mr. KERR. I only want about five minutes.

Mr. MULLINS. I hope the gentleman will be allowed that much time.

Mr. SCOTFIELD. I do not care how much time the gentleman takes; he may occupy all the time on the other side of this question if gentlemen opposite choose. But I am opposed to devoting so much time to this case. I want to get to the end of it after awhile, and hear no more of the case of Delano vs. Morgan, which we have had before our committee for six months.

The SPEAKER pro tempore. (Mr. WINDOM in the chair.) The Chair hears no objection, and the gentleman from Indiana will proceed.

Mr. SCOTFIELD. I would like to inquire whether there is an evening session ordered for to-night?

The SPEAKER pro tempore. There is not. Mr. SCOTFIELD. A great many members

are under the impression that there is to be an evening session. I was aware there was not, and I wished to announce it to the House.

The SPEAKER pro tempore. Night sessions are to be held only when the House has the tax bill under consideration, as the Chair understands.

Mr. KERR. Have I leave to proceed?

The SPEAKER pro tempore. The gentleman has leave.

Mr. KERR. I resume then where I was interrupted. The same is true of George Loan, who was not liable to draft because he was over forty-five years of age, and the testimony to which I have referred in my report shows this fact.

The same is true of Perry Wheeler, who was not drafted. Benjamin P. Wheeler was drafted, but did not vote; and Perry Wheeler is charged against the sitting member as a deserter and an illegal voter.

In one township in this congressional district the election officers left the lawful place where they were holding the election and went to the home of a sick man remote from the polls and there received his ballot and then returned to the lawful place of holding the election. I have rejected the vote of that man because it was received in palpable and clear violation of the law.

Now, Mr. Speaker, I invite the attention of the House to my recapitulation of this case. I give to the contestant the legal votes returned for him, certified to him by the officers of the election, 12,957. I add to that 5 votes which were illegally rejected and ought to have been counted for him.

I also add 23 votes for the township of Linton, and 10 votes for the township of Monroe, increasing his aggregate vote to 12,995.

Then, upon a most careful examination of the whole case, I deduct from his vote 9 minors, 8 insane persons and idiots, 45 non-residents, and 10 non-resident students, who, in the express language of the law of Ohio, were not competent and qualified voters, because, according to the very language of that law, they had gone into Ohio "for a temporary purpose," intending, according to their own sworn testimony, to leave as soon as that temporary purpose was accomplished; and by a decision of one of the district courts of Ohio, made a few days ago, at the town of Xenia. By a unanimous decision of the court, composed almost entirely of Republicans, that class of persons were held to be illegal voters. I also deduct 117 votes for the contestant's illegally returned majority in Blue Rock township; 381 for his majority in Clinton township; 2 for a double vote in Jefferson township, and 1 for the vote of McCosland, or a total deduction of 573—leaving the contestant's just and legal vote 12,422.

I give to the contestee 13,228 votes returned for him. To that I add 1 vote thrown out in Jefferson township, and 3 legal votes which were rejected; making a total of 13,232. Then, on account of irregularities, I deduct 23 votes in Linton township and 10 votes in Monroe township; also the votes of 3 minors and 32 non-residents; or a total deduction of 88 votes, leaving a total aggregate of 13,144. From this deduct the vote allowed for the contestant, 12,422, and the legal majority for the contestee will be 742 votes.

In arriving at these results I have endeavored, to the utmost of my capacity, to act in a strictly and absolutely judicial spirit, to reject no vote and to receive no vote which, upon the facts and the law, my judgment did not hold should be rejected or received. Therefore in my own conscience I rest in a firm, absolute, unwavering, and most confident conviction that every single result I have reached is susceptible of being sustained before any judicial tribunal upon the evidence in the voluminous record of this case.

The examination of this evidence, as stated by the honorable gentleman from Pennsylvania, [Mr. SCOTFIELD] involved immense labor, greater labor than I ever before bestowed upon

a subject of this kind. I bestowed that labor with a determination to reach exact and absolutely correct results, because in the outset, on account of a difference which arose between me and the majority of this Committee of Elections, I had some little misunderstanding with the member of the committee from Pennsylvania, [Mr. STEVENS,] which led to such a state of things that we could not exchange our reports. On that account I made if possible a more careful and scrutinizing examination of every part of this case. Hence it is that I could not make my report shorter, and do justice to the facts and law which controlled my own judgment in the case. Now, sir, in conclusion, let the judgment of the House be what it may, I shall abide in the deep and earnest conviction that the denial of the seat to the contestee, Mr. MORGAN, will be a great public wrong and merit the most signal rebuke at the hands of the people. It will, in my opinion, be a decision disgraceful to this House; that can only be tolerated, never justified, on merely partisan grounds. It will establish a most dangerous precedent, which I hope no future Congress will ever follow. If I belonged to the majority in this House, I should desire the record of such a decision in this case to be forever kept from the observation of my fellow-men. It is discreditable to our country that such a judgment can be entered by the highest legislative body of the Republic. The injustice it does to the sitting member is the least deplorable of its results, for that his constituents will speedily rebuke; but the dishonor it does the House and the country are irreparable.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I know how difficult it is to command the attention of the House in the consideration of a case like this, involving as it does an examination of dull details of facts and the decisions of questions of law scarcely more interesting. Whatever may be the result in this case, I think there is one thing about which there can be no controversy; and that is that the amplest time and fullest opportunity have been given to the sitting member [Mr. MORGAN] to ascertain his rights; and that there has been no disposition to bring the House to a vote until every effort to ascertain the rights of the parties to this contest was exhausted. For fifteen months the contestee has occupied the seat he now holds; until more than half of this entire Congress has passed away, and at last, at this late period of the Fortieth Congress, we are brought to the final consideration of the questions involved in this contest.

A brief statement of the facts will bring me to the consideration of the questions which I propose to discuss, and which I will endeavor to present as briefly as may be possible.

At the last annual election for member of Congress in the thirteenth congressional district of Ohio the contestee and the contestant were opposing candidates. The canvassing officers, to whom the returns of the election were made, decided that the sitting member was elected by a majority of 271 votes. Now, if the contestant, Mr. Delano, has proceeded in the mode prescribed by the act of Congress for contesting elections, and if he has shown that he received a majority of all the legal votes cast at that election, then he is entitled to his seat; but if he has failed in either of these particulars, then the contestee must remain where he is.

Mr. GRISWOLD. Will the gentleman from Ohio yield to me for a moment?

Mr. LAWRENCE, of Ohio. Yes, sir.

Mr. GRISWOLD. Mr. Speaker, I desire to inquire whether the resolution for a recess will operate to-day, with the present question pending before the House?

The SPEAKER *pro tempore*. The order for a recess, made by unanimous consent on last Monday, provides that a recess shall be taken at half past four o'clock when the tax bill is under consideration in Committee of the Whole.

Mr. GRISWOLD. Then I desire at this point to move that a recess be taken this after-

noon from half past four till half past seven for the purpose of finishing this question, so that we may take up the tax bill to-morrow.

Mr. SCOTFIELD. The motion is not in order, I believe; and I object to it. We can get nobody here to-night to vote on this case. Why should we not go right on and dispose of this question? If the House is going to extend everybody's time, giving gentlemen two hours and more when they ought to condense their remarks into one, I do not know when we shall get through with this case. But I have already given notice that I intend to call for a vote to-night.

Mr. ELDRIDGE. I desire to inquire of the gentleman from Pennsylvania, [Mr. SCOTFIELD,] if he will allow me, whether he intends to deprive the gentleman from Ohio, [Mr. MORGAN,] the sitting member, of an opportunity to make a speech upon this case?

Mr. SCOTFIELD. I have had no intention about it. I supposed that the sitting member would make his speech. The House has already allowed to one member of the committee something over two hours. I am willing to remain here and listen to the discussion of the case as long as anybody else, though it is not quite so interesting to me as it may be to other gentlemen who have not heard so much of it.

Mr. ELDRIDGE. The gentleman has not quite answered my question. I inquired whether he, as the member having charge of this subject, intended to call the previous question, so as to prevent the sitting member from making his speech.

Mr. SCOTFIELD. I suppose that when the gentleman from Ohio [Mr. LAWRENCE] shall have concluded, the sitting member will be entitled to the floor for an hour, if he desires it.

Mr. ELDRIDGE. I understand that he does desire it.

Mr. SCOTFIELD. Well, I shall not interfere with his getting it.

Mr. GRISWOLD. I will so frame my motion as to provide for taking a vote on this question to-morrow morning immediately after the reading of the Journal. My motive is that we may finish, if possible, the discussion of this question to-night, so as to enable the House to take up the tax bill to-morrow.

The SPEAKER *pro tempore*. The Chair is of opinion that, without unanimous consent, no motion is in order except the motion to take a recess.

Mr. GRISWOLD. Then I will make the motion for a recess, with the understanding I have stated.

Mr. BLAINE. Is that with the intention of voting on this election case to-night?

Mr. GRISWOLD. No, sir; with the understanding that no vote shall be taken to-night, but that we may finish the discussion of the question.

Mr. ELDRIDGE. Does the gentleman from New York [Mr. GRISWOLD] intend to be here to-night, provided that arrangement be made?

Mr. GRISWOLD. Undoubtedly I shall.

Mr. ELDRIDGE. I rather thought the gentleman was seeking an opportunity to get away.

Mr. GRISWOLD. My object is simply to dispose of this question as soon as it can properly be disposed of in order that the House may take up the tax bill. That is my only motive.

Mr. BLAINE. Then the object is to take up the tax bill to-morrow.

Mr. GRISWOLD. I understand it to be the desire of a number of gentlemen that I shall withdraw my motion. Of course, I do not wish to press it against their wishes, and I withdraw it.

Mr. LAWRENCE, of Ohio. A majority of the Committee of Elections report that 464 of the votes given for the sitting member were illegal and should be rejected. The gentleman from Indiana, who submitted the views of the minority of the Committee of Elections, claims that the contestant has failed to establish his right to the seat, both in the form of the proceed-

ing which he adopted and as a matter of fact on the evidence he has submitted. In other words, he makes a question of law and of fact. And first, he says that the contestant has not proceeded in the mode prescribed in the act of Congress. The objection he makes is that the "notice of contest" is not sufficiently specific and certain. That I may not mistake the view he takes, I will read from the opinion of the minority, on page 8, as follows:

"Substantially, the allegation in each specification is that illegal votes were cast for the sitting member. It cannot be said, without doing most manifest violence to the intention of the law, that such general and vague allegations can put the sitting member in possession of the grounds of contest. They do not aver in what the illegality of the votes consists. They do not state facts from which the illegality results as a conclusion of law. They only state the conclusion of law itself, and entirely omit any recital of the reasons or facts that are indispensable to sustain the conclusion."

In the "notice of contest" served on the sitting member there are two specifications, as follows:

"2. Six hundred and twenty-five persons, not legally entitled to vote, were improperly and illegally allowed to vote at said election, and did cast their votes for you.

"18. Illegal votes were cast for you at said election as follows: In Clinton township, Knox county, 25 votes, and in each of the townships of Jefferson, Union, Butler, Jackson, Brown, Howard, Harrison, Clay, Pike, Monroe, Pleasant, Morgan, Berlin, Morris, Miller, Middlebury, Wayne, Liberty, Milford, and Hilliar, in said Knox county, 10 votes. In the township of Newark, in the county of Licking, 25 votes; and in each of the townships of Fallsburg, Perry, Hanover, Hopewell, Eden, Mary Ann, Madison, Franklin, Washington, Newton, Licking, Burlington, McKean, Granville, Union, Bennington, Liberty, St. Albans, Harrison, Hartford, Monroe, Jersey, Bowling Green, and Lima, in said Licking county, 10 votes. In the township of Washington, in Muskingum county, 25 votes, and in each of the townships of Monroe, Highland, Union, Rich Mill, Meigs, Adams, Salem, Perry, Salt Creek, Blue Rock, Harrison, Wayne, Jefferson, Muskingum Falls, Springfield, Newton, Jackson, Licking, and Hopewell, 10 votes. In the township of Tuscarawas, in the county of Coshocton, 25 votes; and in each of the townships of Adams, Oxford, Linton, Lafayette, White Eyes, Crawford, Mill Creek, Keene, Franklin, Virginia, Jackson, Bethlehem, Clarke, Monroe, Jefferson, Bedford, Washington, Pike, Perry, New Castle, and Tiverton, in said Coshocton county, 10 votes."

Now, sir, to the objection that the "notice" is not sufficient to authorize the rejection of illegal votes, I make two answers; first, that the objection to the notice, if there could have been any, has been waived by the sitting member; and, secondly, I say the notice of itself is sufficient both upon principle and the authority of contested cases decided in this House. I know of no case where it is more appropriate to employ technicality than when it is used to meet technicality; in other words, when it is sought to avoid the real point in controversy by technicality it is peculiarly appropriate that technicality should be met by technicality. I will say, then, as a technical question of law, that any objection to the form of notice has been waived, and this question now sought to be made cannot be properly raised.

This was decided in *Otero against Gallegos*, 2 Contested-Election Cases, 178. In that case the objection was taken that "no notice was given of the particular votes intended to be impeached on this ground;" that is, that they were Mexicans not entitled to vote. The notice alleged that in certain specified precincts eight hundred Mexican citizens voted, &c. The committee in considering the objection to the notice report as follows:

"Your committee think that the notice was quite sufficient to authorize the taking of the testimony. No such objection was made by the sitting member or his counsel at the time of taking of the testimony. On the contrary, he appeared and cross-examined the witnesses without any objection whatever; and if he had had no notice at all, and had appeared and cross examined, he would have been estopped from setting up the want of notice."

It is sound policy to hold all objections waived which are not made when depositions are taken. If the objection be then insisted on, a party may decline to take the evidence and abandon the contest. He has a right to this in order to avoid trouble and expense.

I will not occupy further the attention of the House in considering the question whether the sitting member has waived any objection to the notice, for I think the authority which

I have read on that subject is conclusive. But I maintain, Mr. Speaker, as a question of law, that the notice which was given in this case is sufficient on principle and on authority to authorize the Committee of Elections, as they did, to proceed to inquire whether the votes cast for the sitting member were legal or otherwise. I have already read to the House two of the specifications in the notice of contest, and I have read the objection which has been taken by the Committee of Elections to that notice. The Committee of Elections do not state their objection to the notice in the precise words which the sitting member does in his answer. The objection made in the answer of the sitting member to the notice of contest served on him is stated in these words:

"It entirely fails to show, or specify why, or for what reasons the persons therein referred to were not legally entitled to vote at said election."

If this objection is well taken, and has not been waived, then all evidence that voters not legally entitled to vote did nevertheless vote for the sitting member must be excluded. But if not well taken, or if waived, then this preliminary objection on this point must be disregarded.

I may remark that this seems like an effort to evade the real merits of this controversy. The minority of the committee, in the views they have presented, have stated what is required under the laws of Ohio to constitute a legal voter and they are given in these words:

To be a legal voter in Ohio six qualifications are necessary, to wit:

1. To be a male citizen of the United States.
2. To be a white male citizen of the United States.
3. To be twenty-one years of age.
4. To be a resident of the State one year immediately preceding the election. (Art. V constitution of Ohio.)
5. To be a resident of the county thirty days next preceding the election.
6. To be a resident of the township or ward twenty days next preceding the election. (Swan and Critch., Stat., vol. 1, p. 543.)

There are also six disqualifications, and any citizen who has any one disqualification is an illegal voter:

1. Idiocy. (Art. V constitution of Ohio.)
2. Lunacy.
3. Conviction and sentence to the penitentiary under the act defining crimes and misdemeanors of the first class. (Swan and Critch., 417.)
4. For conviction and sentence of bribery at an election. (Swan and Critch., 545 and 547.)
5. For conviction and sentence under the act to preserve the purity of elections, passed March 20, 1841. (Swan and Critch., 543.)
6. Desertion as defined by act of Congress of March 3, 1865. (U. S. Stat. at Large, vol. 13, p. 487.)

Now, when this notice declares as it does, that 625 persons not legally entitled to vote were improperly and illegally allowed to vote, that in legal effect is equivalent to saying to the sitting member that 625 persons were permitted to vote who belonged either to the class of non-residents, aliens, deserters, minors, idiots, or some one of the specified persons not entitled to vote by the laws of Ohio. What is the difference between a notice declaring that persons voted who were "not legally entitled to vote," and a notice which goes on to say that persons voted who were not legally entitled to vote, for that they were minors, aliens, idiots, deserters, &c. Why, sir, a notice is just as definite and just as well understood in this general form as it would be if it went on to specify the particulars in which the voters who did vote were illegal voters. It is a rule of law that every citizen is bound to know the law. The sitting member did know the law. The minority of the committee in the views they have presented have stated what it takes to constitute a legal voter. This notice is just as intelligible as though it had gone on to enumerate every description of illegal votes given at the election. The law of Ohio known to the contestee supplies the particular description of persons covered by the general terms illegal voters.

Mr. KERR. I desire to ask the gentleman a question. I understand him to be a lawyer, and a distinguished member of the profession. I ask him whether he does not believe that the allegation that 625 illegal voters were allowed to vote is simply equivalent to stating a legal

conclusion which must, in order to have any existence at all, rest upon some antecedent facts?

Mr. LAWRENCE, of Ohio. Certainly; there is no doubt about that.

Mr. KERR. Then I desire to ask him whether it is not necessary, in order to comply with the law of Congress, that the particular grounds should be stated, to state those facts upon which the conclusion rests?

Mr. LAWRENCE, of Ohio. I say that there is no law of Congress which requires the notice to state facts only, but that where a fact is sufficiently stated by stating a legal conclusion, if it gives adequate notice to the person whose seat is contested, it is sufficient.

Mr. KERR. Once more. I desire to inquire whether it is ever correct pleading to give the mere legal conclusion, not the fact. Must not the fact be stated with the conclusion?

Mr. LAWRENCE, of Ohio. The gentleman inquires whether it is ever competent in pleading to state a fact by stating a legal conclusion. The act of Congress does not adopt a rule of pleading, but is simply declaratory of the common parliamentary law of notice. But even in pleading in the judicial courts there are many facts consisting of mixed conclusions of law and fact which may be pleaded. This is abundantly proved by reference to the books on pleading. Even in pleading in courts, where a greater degree of strictness is required than here, a less degree of certainty is required—

"When it is to be presumed that the party pleading is not acquainted with minute circumstances."—*3 Sharswood's Blackstone*, note; 204 citing 13 East., 112; *Com. Dig. Pleading*, c. 26, § 8 East. 55.

So—

"Where a subject comprehends multiplicity of matter, there, in order to avoid prolixity, general pleading is allowed."—*3 Blackstone*, 201; *Sharswood's Note* citing 2 Saunders, 411, Note 4; 3 Term R. 462.

I say to the gentleman that the act of Congress which makes a notice of contest necessary does not prescribe a "rule of pleading," but it does prescribe a rule as "to the law of notice," and every lawyer understands very well the law of notice is one thing and the rules of pleading are totally different things.

Mr. KERR. Is not the notice in this case a pleading?

Mr. LAWRENCE, of Ohio. The notice is not declared by the act of Congress to be a pleading, nor is there any pleading required. Notice is required, and the law of notice should be brought to our aid, and not the law of pleadings.

What is the law of notice? The gentleman from Indiana knows as a lawyer that all that has ever been required under the law of notice is that the notice, whatever it may be, shall be such as reasonably to put the opposite party on his guard and inform him of the purpose for which the notice is intended. I need not refer to books to prove this to learned lawyers here.

The great inquiry in all such cases must be, does the notice fairly apprise the contestee "of the grounds" of contest, or, as the statute says, "specify particularly the grounds?"

Now, it is well understood that the same strict rules do not prevail here as in the judicial courts. Technical precision is not allowed, at least to be perverted so as to defeat the ends of justice.

When, therefore, the notice of contest said to the contestee that—

"Six hundred and twenty-five persons not legally entitled to vote were illegally allowed to vote"—it was equivalent to saying to him that—

"Six hundred and twenty-five persons disqualified from voting [by laws which you know and understand] were permitted to vote for you."

I am not, therefore, called on even to resort to that other maxim of the law, "*id certum est quod certum reddi potest*." By the aid of this rule, applicable to this case, the notice is sufficiently specific. When it says that "six hundred and twenty-five persons not legally entitled to vote did vote," it is equivalent to saying "that aliens, minors, non-residents,

idiots, &c., voted." Suppose that the notice had averred that—

"Six hundred and twenty-five persons voted, one hundred of whom were aliens, one hundred minors, one hundred non-residents," &c.,

that would have been all that the contestee now insists upon. But that gives him no information not covered by the general designation of "persons not legally entitled to vote."

It is a rule that generals include particulars, and the expression "persons not legally entitled to vote" designates a class of persons comprehending every particular disqualification. It is assumed that the notice of contest, in averring that persons voted who "were not legally entitled to vote," states a conclusion of law. The act of Congress does not prohibit this. It requires the contestant "to specify particularly the grounds of contest." If the statement of a legal conclusion does this intelligibly it gives the grounds.

Mr. Speaker, if the rule contended for by the gentleman from Indiana were adopted it would be impossible ever to make a contest available. It is often impossible at the close of an election, within the time limited for giving the notice, to specify the precise grounds of objection to the voters who may have given illegal votes.

Why, sir, this congressional district consists of more than a hundred townships, some of them remote from the residence of the parties to this contest, perhaps fifty or one hundred miles. Some of our districts, at all events, will have townships one hundred miles from the residences of the candidates. It is not possible to obtain the particular grounds of objection to voters who give illegal votes in all the townships within the time allowed for the notice. And if you adopt the rule that the precise grounds must be specified, without being able to say in general terms that votes unauthorized by law were given, you adopt a rule which is utterly impracticable, and which would render a contest in nine cases out of ten utterly unavailable and of no value.

It is impossible in a notice to be more specific. A party may be advised generally that in a remote township there was illegal voting. It may be impossible in a district with a hundred townships, or often more, covering, as in Kansas, a whole State, to ascertain the particular class of illegal voting, and all that can truthfully be done is to give the notice in general terms. A rule which would drive contestants to particularize would exact a notice at random.

But, Mr. Speaker, I do not rest the sufficiency of this notice of contest upon arguments drawn from analogy from legal principles, but I rest it upon authority. I say that this notice is in the form that is usually adopted.

It is substantially that of *Washburn vs. Voorhees*. (H. Mis. Doc. No. 11, first session Thirty-Ninth Congress.)

The first two specifications in the notice of contest which I have been considering are copied *verbatim et literatim* from the *Voorhees* case. It is not very probable that any *real* objection escaped the vigilance of a gentleman so able as Mr. Voorhees.

In the case of *Wright vs. Fuller* (2 Contested Elections, p. 154) the notice of contest charged that votes were given by minors, non-residents, aliens, &c., at the Danville poll. But the notice simply averred as to other polls that persons were allowed to vote "who were not entitled respectively to vote." Thus, the fourth specification is:

"That persons were permitted and allowed to vote at the election polls in Pittsen (and other places named) who were not entitled respectively to vote at such election polls."

Objection was taken that the notice was not sufficiently specific. The committee in their report say:

"The intentions of the law requiring this notice to be given was to prevent any surprise being practiced to put the sitting member upon a proper defense. As no surprise has been alleged, no want of due information protested, the committee could but conclude that the notice within the purview of the law was all-sufficient."



And in this case it was held that the names of the alleged illegal voters need not be given, page 154. So in the case of *Vallandigham vs. Campbell*, page 229. And the committee proceeded to say, in substance, that, under a notice that the election—

"Was illegally and irregularly conducted," \*  
\* \* \* "by reason of which the result"  
\* \* \* "was affected,"

evidence could be taken—

"touching the qualifications, the duties, the acts, and conduct of the officers."

This goes beyond what is necessary for the purposes of the questions I am now considering.

The authorities cited by the sitting member do not sustain, but defeat his objection. In the case of *Varnum*, (1 Contested Elections, 112,) the notice there was in part that votes were—

"Given by persons by law not qualified to vote."

On this the House—

"Resolved, That the allegations" \* \* \* \*  
"as to persons not qualified to vote are not sufficiently certain; and that the names of persons objected to for want of sufficient qualifications ought to be set forth prior to the taking of the testimony."

Here the objection sustained is only for the want of the specification of the names of the voters. In all other respects the notice was sufficient. "*Expressio unius exclusio alterius*." On the point now made, the case of *Varnum* is a direct authority in favor of contestant, and as to the names the question is now settled the other way. Congress has reversed the rule that a party must name the voters who are claimed to have voted illegally.

In *Easton vs. Scott*, (1 Contested-Election Cases, 272,) the last point of the *syllabus* is not sustained by the case, but is in fact entirely unsupported by it. The *syllabus*, as is well known, is not prepared by the Committee of Elections, but is the work of the reporter years afterward, and is frequently erroneous. Besides, that case was under a different practice from that which prevails under the present act of Congress. The notice there held defective was the notice to take depositions. Its insufficiency turned on the point—

"That the names of the persons objected to for want of sufficient qualifications ought to be set forth prior to the taking of testimony."—1 Contested-Election Cases, p. 285.

This doctrine is now overruled, and if the case had decided what is claimed for it, the same policy which has overruled it on the point relative to the names of voters would overrule it as to a specification of their particular disqualifications. In other words, the degree of certainty then required has been found wrong and overruled. In that case the notice did not charge illegal votes, but only that—

"Improper votes have been admitted."—Page 284.

The committee do say that neither party was—

"Notified by the other that the particular qualifications of the electors would be investigated."

But the House did not sustain or decide any such point, but discharged the committee because the committee reported—

"That evidence cannot be procured in season to enable the committee to investigate the qualifications of the electors during the present Congress."—Page 285.

The necessity of objecting "during the taking of testimony" is recognized by the report of Mr. DAWES in the case of *Kline vs. Verree*, 2 Contested-Election Cases, page 383, and it is there said that a failure to object is properly deemed a waiver.

Reference has been made to a minority report in *Wright vs. Fuller*, 2 Contested-Election Cases, page 152, to support an objection to the notice of contest in this case. There is no authority to support it, and no reasoning except in minority reports.

Reference has been made to a minority report in *White vs. Harris*, 2 Contested-Election Cases, 262-63, though the majority, supported by a decision of the House, had ruled the other way.

The opinions of Mr. DAWES, expressed in *Kline vs. Verree*, 2 Contested-Election Cases, 381, are correct, but have no application to the case now being conducted. It is there said that the failure to object is deemed a waiver;

which is an additional authority upon the point I first made, that all objection to this notice has been waived.

Mr. Speaker, I say to the gentleman from Indiana [Mr. KERR] and to the House that he cannot find a solitary notice in any parliamentary cases, either in Congress or in any other legislative body, where an objection of this description has been sustained as against a notice as specific and definite as this notice. And now I defy gentlemen to produce any such case.

The notice is sufficient for another reason. The act of Congress requires the contestant to furnish his adversary with a list of witnesses. This enables him not only to ascertain their character and means of information, but the points to which their knowledge extends. (*Wright vs. Fuller*, 2 Contested-Election Cases, page 154.)

There are one or two other points which I will briefly notice. It is objected by the gentleman from Indiana [Mr. KERR] that the vote of Pike township was improperly rejected. That is the township in which a deserter acted as one of the judges of election. There are two grounds assigned by the majority of the Committee of Elections for the rejection of the vote of that township. One is that the election was held in part by a judge of election who was a deserter, one who by the laws of Ohio was not an elector, and who could not legally exercise the duties of his office. And it was rejected partly on the ground that there was no legal evidence that any man who voted at that poll was by law entitled to vote.

I am perfectly sure, Mr. Speaker; that the last objection I have named is well taken. Let me call the attention of the House very briefly to a clause of the constitution of Ohio and to a provision in the statutes of that State, from which I think this will be entirely clear.

The constitution of Ohio provides, in article five, section one, that—

"Every white male citizen of the United States of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county, township, or ward in which he resides such time as may be prescribed by law, shall have the qualifications of an elector."

Observe, Mr. Speaker, the word "elector." It is a constitutional term; and it is here provided that no man shall vote unless he is an "elector." Well, sir, the law of Ohio provides a mode of perpetuating the evidence that those who vote are electors. The act of the General Assembly of Ohio of May 3, 1852, makes, in section eighteen, the following provision:

"That the following shall be the form of poll-books to be kept by the judges and clerks of the election held under this act."

The act then proceeds to give the caption of the poll-book which is to contain a list of the voters at the election. It then requires the certificate to be signed by the clerks and judges of the election, which certificate is to be in these words:

"It is hereby certified that the number of electors at this election amounted to —."

"Attest: A B, &c., Judges of Election."

Now, sir, in this township of Pike there was no such certificate that any man who voted at the election was an elector or entitled to vote. There is no evidence before the committee that any man who voted in that township was an elector or entitled to vote. I do not hold that the absence of the certificate ought to deprive the electors of that township of the votes they cast; but I do hold that when a law has required that the evidence shall be preserved in some form, that those who did vote were "electors"—were entitled to vote—that evidence must be preserved in the form prescribed by statute, or its place must be supplied by proof *aliunde*; and the gentleman from Indiana will not pretend for one moment that there is any evidence before the committee, either in the form prescribed by the act of Assembly of Ohio or by parol proof, that any man who voted at that poll in Pike township was an elector of the State of Ohio, or

entitled to vote at that poll. How, then, can the vote cast at that poll be counted? Sir, it is perfectly manifest that in the absence of all evidence that the persons who voted in Pike township were electors the votes they cast cannot be counted in this contest without a clear disregard of all law and all authority.

Mr. Speaker, I am perfectly aware that the House is impatient and anxious to dispose of this contest; and I do not propose to continue the discussion at any great length. I think, however, that some answer ought to be given to a point which the gentleman from Indiana [Mr. KERR] has made in his argument, but which is not very distinctly made in his minority report. The gentleman maintains in his argument that the votes of several townships ought to be rejected because the judges of election adjourned a brief space of time for dinner; and this he holds, on the authority of a decision made by Judge Brinkerhoff, in the district court in Ohio, to the effect that the votes cast at every poll where such adjournment took place should be rejected, or rather that an election depending exclusively on the votes at a poll where such adjournment occurred was void.

The sitting member insists that the vote of twelve townships, in each of which the contestant received a majority of votes, shall be rejected. The objection to those polls is thus stated in the answer of the sitting member:

"That the judges of the election for Representative of said district to the Fortieth Congress aforesaid did illegally and wrongfully suspend said election during a long space of time, to wit, for the space of more than one hour, between the hours of ten o'clock a. m. and six o'clock p. m. on said day of election, at the election precincts in each of the following townships of Washington, Virginia, Jackson, Keene, White Eyes, and Adams, in said county of Choshocot; in the townships of Madison, Memo, Highland, Union, Rich Hill, Salt Creek, Blue Rock, Harrison, Springfield, Hopewell, Muskingum, Licking, and Jefferson, and also in the first and fourth wards of said city of Zanesville, in said county of Muskingum; in the townships of Washington, Burlington, Granville, Harrison, St. Albans, Liberty, Hartford, Jersey, and in the first and second wards in the city of Newark, in said county of Licking; and in the townships of Clinton, Miller, Wayne, Liberty, College, and Morgan, in said county of Knox, in said congressional district, whereby a large number of electors, to wit, the number of one hundred and seven, who would have voted for me for Representative as aforesaid, were by the illegal suspension of said election prevented from so doing."

It may be well to consider first what in view of the evidence this objection is not, or does not, present for decision. In his argument before the committee the sitting member has a caption, "*Fraudulent suspension of the election*," (p. 37.) But as the charge of fraud is not made in his answer, and is not supported by any evidence, the objection now involves no charge of fraud.

Upon the evidence it is not pretended that it is proved that any voter asked, or offered to vote, or lost the privilege of voting, by any temporary suspension of the election. It is not proved that the officers acted in bad faith. It is not pretended that the law in terms prohibits a brief adjournment. The ballot-boxes were not tampered with, or any impropriety even intended. It is claimed, however, that the election officers adjourned, in some instances, for thirty minutes or more for dinner; and for this innocent, if not necessary act, it is claimed that the voters of these townships shall be visited with the loss of their votes. If this be the law it is absurd law, for a brief suspension of voting will sometimes be rendered absolutely indispensable. Human endurance could not always avoid it. It is not pretended that any committee of any legislative body anywhere visited such a consequence as is asked here upon similar facts; nor has any authoritative court, or any court in any deliberately considered case so held. The claim made for rejecting the votes of these townships all rests upon a decision pronounced by Judge Brinkerhoff in the district court of Hamilton county, Ohio, reported in the American Law Register for December 1867, page 88.

The statute of Ohio (Swan and Critch., p. 533, sec. 5) provides that the polls shall be opened between the hours of six and ten in

the morning and closed at six o'clock in the afternoon of the same day.

The case decided by Judge Brinkerhoff was on a *quo warranto* to contest the right of John Ritt to exercise the office of mayor of Mount Airy. On the day of the election for mayor Ephraim T. Brown and John Ritt were opposing candidates. During the day the judges of the election adjourned the election and were absent from one to two hours. It was held this was a closing of the election within the meaning of the statute, and that the whole election was, therefore, void and neither candidate elected. The case seems to be reported in the American Law Register, in order that the editorial notes may show, as they do, that it is a wrong decision. But without going that far it might answer my purpose to say, if such a rule could be applied to an election like that, composed of only one voting precinct, where another mayor could immediately be elected or appointed, yet no such rule is practicable in a large district with a hundred voting precincts. That case was heard on *quo warranto*, and whatever rule might be adopted in such a case and in such a proceeding, no such rule has ever been adopted in *parliamentary practice*.

It must be remembered that there are many different systems of law in this and every country. Military law has its tribunals, its jurisdiction, and its separate system. The common, municipal, and written law has its courts, its jurisdiction, and its system of rules applicable to some elections with its *quo warranto* proceedings, &c. Then *parliamentary law* has its jurisdiction, among which is impeachment of officers, the arrest and punishment for breach of privilege or disobedience of its process, the punishment or expulsion of members, with the right declared by, but existing independently of, the Constitution, to judge of the election returns and qualifications of members of the House of Representatives. Now, neither one of these separate jurisdictions is bound by or regards the adjudications of the other, except so far as the principles thereof may be applicable in the particular tribunal, or may by it be deemed reasonable.

And it is safe to affirm that no such rule of parliamentary law has ever been adopted as that held by Judge Brinkerhoff. It should be remembered, too, that the decision itself is not by a court whose adjudications are deemed or quoted as authority. The supreme court of Ohio is the court of last resort under State authority for judicial purposes. Its decisions are reported as law. The district court is an inferior tribunal performing circuit duty, with little time for deliberation, and its decisions could in no sense be deemed authority. This case bears all the marks of haste and want of consideration. It is supported by no reason, by no reported case, by no citation of principle; it is a mere unsupported *ipse dixit*, hastily made and almost without argument. It is against all settled principle, and is in direct conflict with cases which are high judicial authority.

The statute, as we have seen, provides that the polls shall be opened between the hours of six and ten in the morning, and closed at six o'clock in the afternoon.

It is a directory statute. *Piatt vs. The People*, 29 Illinois Repts., 72; Locust ward contested-election case, 4 Pennsylvania Law Journal, 342; the *People vs. Cook*, 4 Selden, New York Rep., 93.

It does not declare an election void if its provisions are not strictly followed. It does not in terms prohibit an adjournment for dinner. Such adjournment will sometimes, *ex necessitate*, be unavoidable.

In 4 Selden Reports, 92, the New York court of appeals, in discussing a similar statute, say:

"The statute contains no words forbidding the poll to be held open after sundown or rendering the election void if the poll be not opened and closed as therein required."

The law of Ohio makes the judges of the election a corporation for various purposes.

It is one of the inherent common-law powers of a corporation that it may take reasonable adjournments.

In corporate elections where no injury has resulted a reasonable adjournment never vitiated an election. But this question may be regarded as settled by the supreme court of Illinois in the case of *Piatt vs. The People*, &c., 29 Illinois Repts., 54.

By the law of Illinois the people of certain townships were authorized to vote upon the question of making township subscriptions to the capital stock of the American Central Railroad Company. The law required the polls to be closed at five o'clock p. m., but there was evidence tending to show that votes were cast after that hour. The result of the vote as announced was in favor of subscription. This was contested, and a part of the syllabus of the case is thus stated:

"A mere irregularity in conducting an election which does not deprive any voter of his franchise or allow an illegal vote or change the result will not vitiate."

"Although the law directs that the polls shall be closed at five o'clock" \* \* \* "unless it is made to appear that votes were cast after that hour, which change the result, the irregularity would not be fatal."

And in the opinion the court say:

"The rules prescribed by law for conducting an election are designed chiefly to afford an opportunity for the free and fair exercise of the elective franchise, to prevent illegal votes, and to ascertain with certainty the result. Such rules are directory merely—not jurisdictional or imperative."

If Judge Brinkerhoff could have seen this case before he decided on the election in Mount Airy his decision never would have been as it was, and the editor of the Law Register would have been saved the trouble of his note pointing out Judge Brinkerhoff's error.

In the Penn district election case, in 1847, decided in the Philadelphia common pleas, where the resolution of the Legislature required the polls to be kept open until ten o'clock p. m., and they were closed at eight, the election was set aside, but *only on the ground that the evidence affirmatively showed that there were 261 persons who did not vote and were deprived of the privilege*. (2 Parson's Select Cases, (Pennsylvania,) 533.)

In the case now under consideration it is not shown that a single voter lost the privilege of voting, or that there were other voters who did not vote.

In the Locust ward contested-election case, 4 Pennsylvania Law Journal, 347, the question was:

"What results follow where an election has been kept open after the hour fixed by law for closing it, and votes have been received? Is the entire election void? When a poll is kept open after that hour, and the number of votes polled afterward can be clearly ascertained, if the whole of those votes could not change the result, the election for this cause will not be set aside."—P. 341.

This is a case demanding the intervention of courts much more than the case of a mere recess during an election.

The principle of law, of common sense, and justice, which underlies the whole theory of election contests is this, that an irregularity which cannot change the result cannot vitiate a poll; but where fraud enters into the contest, then on high grounds of public policy to prevent its evil consequences, and especially where it leaves a shadow of doubt as to the result, the whole poll must be rejected. These principles are announced in *The People vs. Cook*, 4 Selden, 93, 94; in *Piatt vs. The People*, 29 Illinois Rep., 69, 72; in *State ex. rel. Attorney General vs. Taylor*, Ohio State Reports, and in many cases both in the judicial and parliamentary courts.

Thus in 4 Selden, New York Reports, 93, the court of appeals say:

"It may be safely affirmed that if the irregularity does not deprive a legal voter of his right, or admit a disqualified person to vote, if it casts no uncertainty on the result, and has not been occasioned by the agency of a party seeking to derive a benefit from it, it may be overlooked in an action of this kind, when the issue is as to which candidate received the greatest number of votes for a particular office at a given election. There is nothing in this principle which holds out the slightest invitation to disorders

at the polls. Should a gang of rowdies gain possession of the ballot-box during or after the close of an election before the canvass, and destroy the whole or portions of the ballots, or introduce others surreptitiously into the box so as to render it impossible to ascertain the number of genuine ballots, the whole should be rejected."

Mr. Speaker, I have examined the report of the minority and the report of the majority, as well as the testimony, with as much care as I have been able to bestow; and upon every principle of law and justice, I believe that the contestant has made a perfect case, and is entitled to the seat. And I hope this case will establish the principle, as a rule of parliamentary law, that a notice of contest which declares that illegal votes were given shall be sufficient to admit proof that votes were given which are illegal for any cause—this rests in part on the well-settled rule of the common as well as the parliamentary law that "every man is presumed to know the law." Even in criminal law and its administration this is a *conclusive presumption* often against the fact, and parties accused can never plead ignorance of the law. "*Ignorantia legis excusat neminem*." (Sedgwick on Stat., p. 83; 17 Barber, p. 317.)

Mr. SCOFIELD. Mr. Speaker, I do not know whether anybody on the other side wants the floor or not. Nobody appears to be claiming it.

Mr. KERR. I would like to inquire of the gentleman who manages this case how much more time he intends to allow this side of the House?

Mr. SCOFIELD. I suppose the sitting member will take an hour.

Mr. KERR. Does the gentleman intend to allow any one else any time?

Mr. SCOFIELD. I propose then to call the previous question. My colleague from the Luzerne district [Mr. WOODWARD] has an understanding with me as to a part of my hour.

Mr. WOODWARD. If I interfere with nobody else, I can go on now as well as at any other time. I do not intend to enter into the general question, but will confine myself to a single point.

Mr. SCOFIELD. How much time does my colleague desire?

Mr. WOODWARD. Ten or fifteen minutes will, I suppose, be sufficient.

Mr. SCOFIELD. If the gentleman takes the floor now I suppose, Mr. Speaker, he will be entitled to an hour.

The SPEAKER *pro tempore*. Unless there be some other understanding on the part of the House.

Mr. SCOFIELD. I have the floor, and had proposed to yield to the gentleman from Ohio, [Mr. MORGAN;] but if my colleague [Mr. WOODWARD] will go on now for ten minutes, with the understanding that at the end of that time the gentleman from Ohio shall take the floor, that will enable us to get through.

Mr. KERR. The gentleman from Ohio, I presume, is to have an hour.

Mr. WOODWARD. Mr. Speaker, I do not desire or design to enter into the general question raised by the majority and the minority of the committee. The argument of the gentleman from Indiana [Mr. KERR] is, in my judgment, conclusive, and I will not weaken it by attempting to add anything to it. There is, however, one single aspect of the subject with reference to which I wish to submit a few observations, designed especially for my colleague, [Mr. SCOFIELD,] who has charge of this case, the gentleman from Massachusetts, [Mr. DAWES,] the chairman of the Committee of Elections, and the gentleman from Vermont, [Mr. POLAND,] a member of that committee, for they are all astute and competent lawyers. I wish to state to these gentlemen, and through them to the House, the difficulties which my mind experiences with regard to one of the points of this case. The House will understand that more than two hundred men who are claimed to have voted for the sitting member are said to be disqualified by reason of being deserters. If the votes of these men be added

to the admittedly legal votes cast for the sitting member, he is elected, though every other point in the case were ruled in favor of the contestant, so that the right of membership depends essentially upon this question of the soldiers' vote; and it is to no other question in the case that I propose to address myself. Now, whether these two hundred men are deserters or not, within the meaning of the acts of Congress, depends, first, upon the act of 1863, for enrolling and calling out the national forces, which was the general law under which the conscriptions took place. The act of 1865, under which these men are claimed to be deserters, is supplementary to the act of 1863.

The act of 1865 does not define any such crime as desertion, but the act of 1863 does define the crime of desertion, and declares that any person failing to answer the notice of a draft shall be deemed a deserter, and shall be arrested by the provost marshal and sent to the nearest military post for trial by court-martial. The twenty-sixth section also provides for the punishment of deserters as the law directs. Thus these sections of the act of 1863 define the crime and the persons deemed guilty of that crime, and we all agree that desertion is a grave and hateful offense. They are called deserters in the report of the committee. All the act of 1865 does is to add additional penalties to that crime. It does not create a new offense. It takes the offense as in the act of 1863, but adds additional penalties. I take the phrase "additional penalties," so there can be no controversy, from the act of 1865. The act of 1865 declares additional penalties to those imposed by the act of 1863 for the crime of desertion.

Such being the state of the law the only court that has construed that law has held that before any of the penalties of the act of 1863 or the additional penalties of the act of 1865 can fall on any individual he must be convicted by a court of competent jurisdiction. I say the only court, so far as I am aware, that has undertaken to give judicial construction to these acts has so decided, as abundantly appears from the case cited in the argument of the gentleman from Indiana, [Mr. KERR.] If not all, enough of Judge Strong's opinion has been given to show the substance and the drift of it, that no imposition of these penalties, whether original or additional, can be made under these acts of Congress except as the result of judicial investigation. That may be before any court-martial or any court the law of the land may provide; but the point ruled is, until some court has judicially ascertained the man is a deserter there is no such desertion under these acts of Congress.

I wish to fix the attention of the very competent lawyers who belong to the Committee of Elections upon the fact that the only court of the country—and that the supreme court of the State of Pennsylvania, a court certainly entitled to the respect of my colleague, [Mr. SCOFIELD,] if not that of every member of the Election Committee—that have passed upon this act of Congress and given it a judicial construction, have held a conviction necessary to the establishment of desertion. Now, I argue that act of Congress means what the judicial mind declares it means, and that it does not mean what the election officers in the thirteenth district of Ohio declare it to mean. It does not mean what this committee may declare it to mean. It does not mean what this House may declare it to mean. It means what the judiciary of the country says it means. They are the constitutional expounders and interpreters of the statute law of the land. If gentlemen deny this I wish them to deny it distinctly, and if they do not deny it distinctly I wish them to admit it specifically. I say to the gentleman from Massachusetts [Mr. DAWES] that this act of Congress is to be taken by the House and everybody else in the sense in which the judiciary of the country has declared it is to be taken. I wish the gentleman either to admit or deny that proposition. I presume gentlemen will not deny it if

they have respect for their professional reputation.

If it is to be so taken how are we to decide these two hundred men are deserters. They have not been tried by any court-martial or any court of justice. They have not been summoned, they have not been arraigned, they have not been convicted; and if we are to take this act of Congress as the judiciary expounds it there is no desertion in the case, and we are fighting shadows. I place that question before the gentlemen of the Election Committee.

I have another point, and it is the only other point I intend to make. I know how feeble is any argument I may submit, but I suppose this committee will respect their own arguments. I am now going to place myself upon the argument of the acting chairman of the Committee of Elections.

Forgetful of or not alluding to the view I have suggested, the gentleman proceeds to say in his report that this act of Congress simply furnishes a test of the qualifications of voters, and involves merely the ascertainment of a fact, and that election officers are competent to judge of those qualifications and ascertain the fact.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. WOODWARD. I hope I may be indulged with a few minutes more to state this point.

Mr. DAWES. I hope the gentleman will be permitted to go on.

The SPEAKER *pro tempore*. How much time does the gentleman want?

Mr. WOODWARD. Not over ten minutes.

The SPEAKER *pro tempore*. Is there objection? The Chair hears none.

Mr. WOODWARD. I want to state the gentleman's own position. In his report he argues thus:

"It makes no difference that the same facts which constitute a disqualification would, if heard before a court, constitute a crime. There are many instances where the law makes conviction in a court the ground of exclusion from the franchise, and then, of course, exclusion can only follow conviction. But when it makes the existence of a fact, as in this case, the ground of exclusion, that fact must be passed upon by the officers of the election in the first instance, and by this House upon a contest."

Now, there is the core of the gentleman's argument; that it is a matter of fact that these men are deserters; that election officers are competent to ascertain other facts, and therefore to ascertain this fact. Now, sir, the fact is that the act of Congress takes away from deserters their citizenship as citizens of the United States. That is the precise effect of the act of Congress in terms. The constitution of Ohio requires every voter to be a citizen of the United States; and then the argument of the committee is, that as the act of Congress has taken away the citizenship of these deserters, and the constitution of Ohio has forbidden anybody but citizens of the United States to vote, therefore these men are not voters, the judges of election being the judges of the fact. That is the argument of the report of the committee.

Now, sir, I wish to suggest for the consideration of the committee a difficulty that arises in the way of this argument. The citizenship of these men is admitted once to have existed, else the act of Congress could not take it away. It existed under the Constitution of the United States. Now, under the Constitution of the United States, is it competent for the Congress of the United States or any other power to take away that citizenship except by due process of law? The Constitution declares that no person shall be compelled in any criminal case to be a witness against himself, nor shall any person be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use without just compensation. Now, citizenship under the Constitution is neither life nor property, but it is liberty. It is exactly that which makes a man a citizen in every State in the Union and gives him the liberty of an American citizen. It is that which we value and which all foreigners who come and apply for naturalization under our

laws value, and which I trust we never shall cease to prize. It is a part of a man's liberty; it belongs to him, inheres in him. Now, says the Constitution, it shall not be taken from him except by due process of law. That means by courts and juries.

Mr. BENTON. I would like to ask the gentleman a question. How is it that under the Constitution slavery existed in this country?

Mr. WOODWARD. That is a large question, and I submit it is an irrelevant one. However, if you will give me time I will answer it, or any other question. Slavery never was established by the Constitution.

Mr. BENTON. Then I will vary the question. Does the gentleman claim that the blacks can legally be deprived of their right of voting to affect their liberty?

Mr. WOODWARD. You see the difficulty. I am limited to ten minutes, which are nearly run out. I am endeavoring to state the law in this case. It will give me great pleasure to discuss the question the gentleman propounds whenever I have time. I now wish to rivet the attention of gentlemen to this point: that these deserters were once citizens of the United States; that that citizenship was a part of their liberty; and that the Constitution of the United States, which we have all sworn to support, solemnly declares that citizenship shall not be taken from any one except by due process of law.

Judge Strong, in his opinion in the case to which reference has been made, declares the same thing, and tells us what "process of law" is within the meaning of the Constitution.

In this case where is your "process of law?" Where were these men stripped of their citizenship by "due process of law?" Neither of the gentlemen will say that the decision of the board of election officers was "due process of law," within the meaning of the Constitution. If they will, I will give up this case. But they will not say that, because every lawyer in this House knows that that expression in the Constitution of the United States—"due process of law"—means a judicial proceeding, and not a proceeding before a board of election officers.

Then we are brought to this point: General Morgan, the sitting member, is entitled to retain the seat which he has adorned ever since this Congress opened, unless these deserters have been established as deserters by "due process of law." The only alternative is to trample the Constitution of the United States under foot. We must either leave General Morgan in his seat or find that the 200 voters have been deprived of citizenship by due process of law, because, as I have said, this question about the deserters decides his right to the seat; if there were no deserters then General Morgan is the member; if there were deserters, you must show some judicial ascertainment of the fact, or else you will violate the plain provision of the Constitution of the United States. If I apprehend correctly the statement of the chairman of the Committee of Elections, [Mr. SCOFIELD,] there is no escape from these conclusions.

He says these officers of election are competent to ascertain the fact of desertion. Grant it. But they are not competent to strip American citizens of their citizenship. Nor can Congress do it. Nothing but a judicial proceeding can strip citizens of their citizenship. That judicial proceeding is utterly wanting here, and because it is wanting there are no deserters in the case, and because there are no deserters in this case General Morgan's seat is beyond question his.

These are the two points which I desired to state. No doubt I shall be answered, and very clearly, I trust. I hope I am understood on these two points; they are the only two of which I intended to speak. If I am answered on these two points correctly by gentlemen, I do not know but they will get my vote for ousting General Morgan from his seat. If I am not answered satisfactorily, then I hope gentlemen will not vote in favor of ousting him, because his liability to be ousted, it seems to



me, depends upon a clear statement of the law and of the Constitution of the country upon these two points. I pause for a reply.

Mr. MORGAN next addressed the House. Without concluding, he yielded to Mr. KERR. Has it been determined to have a session to-night?

The SPEAKER *pro tempore*. It has not. Mr. ELDRIDGE. I move that the House do now adjourn. The gentleman from Ohio would prefer to finish his speech in the morning, and there certainly is no quorum here.

Mr. MORGAN. I am sorry my argument has had the effect of emptying the seats on the Republican side of the House. How much more time have I?

The SPEAKER *pro tempore*. The gentleman has twenty-two minutes.

Mr. SCOTFIELD. I trust that we shall close the debate to-night, so that the vote may be taken in the morning.

Mr. MORGAN. I am unwilling to make my speech to empty chairs. I am very anxious that gentlemen should understand what they are voting on when the vote is taken. When they assume the responsibility I wish them to understand what the responsibility is.

The question was taken on Mr. ELDRIDGE's motion, and it was agreed to; and thereupon (at five o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By the SPEAKER: The petition of laboring men at the national cemetery at Fredericksburg, Virginia, late United States soldiers, for an increase of their pay.

Also, the petition of citizens of Nueces county, Texas, for a division of said State.

By Mr. BEAMAN: The remonstrance of Russell & Angel, of Adrian, Michigan, against the renewal of the patent of Anson Atwood, for an improvement in cast iron car-wheels.

By Mr. BUCKLAND: The petition of Wayne & Houk, and others manufacturers of cigars and dealers in cigars and tobacco, of Tiffin, Ohio, against the increase of the tax on cigars, and for a change of the system of collecting the revenue on cigars.

By Mr. CULLOM: The petition of sundry citizens of Bloomington, Illinois, asking that the tax on cigars be retained as it is, and that the tax be collected by the use of revenue stamps.

By Mr. ECKLEY: The petition of the cigar-makers of Nellsville, Ohio, remonstrating against the proposed change in the tax on cigars.

By Mr. FERRY: The petition of O. R. Goodno, George E. Dowling, J. D. Pullman, S. H. Lasley, and 28 others, praying for the establishment of a mail route from Montague, in Muskegon county, via Brown's Mills, Stebbinsville, Hesperia, and Martinsburg, to Stanley, in Newaygo county, Michigan.

By Mr. GLOSSBRENNER: A memorial of John T. Tait, William M. Abbey, and others, a committee on behalf of the Philadelphia tobacco trade, remonstrating against certain proposed changes in the internal revenue tax upon tobacco and cigars.

By Mr. HUBBARD, of Connecticut: A remonstrance of sundry citizens of Enfield, Connecticut, against increase of tax on cigars.

By Mr. HUBBARD, of West Virginia: The petition of Thomas Jefferson and 80 other persons, citizens of Wheeling, West Virginia, engaged in the manufacture of cigars, representing that the increase of tax on cigars from five to ten dollars per thousand will be very injurious to the business of those engaged in the manufacture of cigars from tobacco of home growth, and asking that the tax on that kind of cigars be reduced rather than increased.

By Mr. JUDD: The petition of John C. Partridge & Co. and others, asking that the present tax on cigars be retained.

By Mr. LINCOLN: The petition of Dwight G. Hull, asking that sailors in the United States Navy have bounty money allowed them.

By Mr. MAYNARD: The petition of John C. Richard, of No. 60 John street, New York, praying a reduction in the duty on imported lead pencils and colored crayons in wood.

By Mr. MOORHEAD: The petition, of George B. Lindsay and 100 others, journeymen cigar-makers of the city of Pittsburg and its vicinity, protesting against the provisions of the new tax bill which require a bond for \$2,000 and \$100 additional for each hand employed; also, against the license of one dollar per year for cigar-makers, but approving of the tax of five dollars per thousand.

By Mr. NICHOLSON: The petition of Henry Fothergill and 71 others, workers in iron at Wilmington, Delaware, representing that the industry of the country is paralyzed for want of protection against the cheaper capital and labor of foreign countries, and praying that Congress will resume consideration of the tariff bill which was passed by the Senate, but failed in the House March, 1867, for want of time, and enact it into a law at the earliest practicable moment.

Also, the petition of William Maxwell and 35 others, cotton-spinners of Wilmington, Delaware, complaining that the productive interests of the country are suffering and its industry paralyzed for want of efficient protection against the cheaper capital and labor of foreign countries, and praying that Congress will resume consideration of the tariff bill which passed the Senate, but failed in the House March, 1867, and enact it into a law at the earliest practicable moment.

Also, the petition of carriage-makers in the State of Delaware, representing that the productive interests of the country are suffering for want of efficient protection against the cheaper labor and capital of foreign countries, and praying that Congress will resume consideration of the tariff bill which failed in the House of Representatives, March, 1867, and enact it into a law at the earliest practicable moment.

By Mr. SELYE: A remonstrance of cigar-makers and tobacco-growers in the county of Monroe, State of New York, praying that no higher rate of taxes be imposed than is now required by law.

#### IN SENATE.

WEDNESDAY, June 3, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. MORTON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### PETITIONS AND MEMORIALS.

Mr. DRAKE. I present the memorial of the presidents of more than fifty railroad companies, praying Congress to extend the subsidy of the Union Pacific railway, eastern division, upon the terms proposed in the bill therefor, now pending in Congress. And, Mr. President, I ask that the Senate would so far depart from its accustomed practice in cases of this kind as to allow this memorial to be printed. The subject is one of great importance, and the persons that sign it are persons representing great interests; and, if there be no objection, I move that the memorial be referred to the Committee on the Pacific Railroad, and be printed.

The motion was agreed to.

Mr. COLE presented the petition of Perry McDonough Collins, of California, praying aid for a project for a telegraph, by way of the North Pacific ocean to Asia, by a subsidy for Government business, by conferring exclusive rights of way from 54° 40' north latitude to and including the island of Attan, and a survey and soundings of the proposed route; which was referred to the Committee on Commerce.

Mr. FESSENDEN. I desire to present the memorial of E. R. Knorr, hydrographer, praying that all the plates bought from E. & G. W.

Blunt by the honorable Secretary of the Navy be destroyed, and that in place of them new charts, not copies of the English, but improvements on them, be prepared from reliable data; and he sets forth what he states to be facts in regard to them rendering such course expedient in his judgment. As these plates seem to be in the possession of the Navy Department, I suppose it would be as well to refer the memorial to the Committee on Naval Affairs; and I make that motion.

The motion was agreed to.

Mr. SHERMAN presented a letter addressed by the Secretary of State to the chairman of the Committee on Finance, transmitting correspondence with the State Department in relation to the injurious effect upon the Nova Scotia coal trade occasioned by the abrogation of the reciprocity treaty; which was ordered to be printed.

#### REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. R. No. 119) authorizing the Secretary of War to take charge of the Gettysburg and Antietam national cemeteries, reported it without amendment.

Mr. SHERMAN, from the Committee on Finance, reported amendments to be proposed to the bill (S. No. 180) relating to United States notes; which was ordered to be printed.

Mr. TRUMBULL, from the Committee on the Judiciary, to whom was referred the bill (S. No. 509) in addition to an act passed March 26, 1864, entitled "An act in addition to an act entitled 'An act for the punishment of certain crimes against the United States,'" reported it with amendments.

#### BILLS INTRODUCED.

Mr. THAYER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 512) granting land to the Iowa and Missouri State Line Railroad Company, and for other purposes; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. COLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. No. 140) relating to traveling expenses of California and Nevada volunteers; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. WILSON. I ask the unanimous consent of the Senate to introduce a bill to remove the disability of certain citizens of Georgia. I move its reference to the Committee on the Judiciary, and I would say to the committee that these persons have been elected to the Legislature and other offices in that State, and it is important that the bill should be acted upon at the earliest possible moment.

By unanimous consent leave was granted to introduce a bill (S. No. 511) to remove the disability of certain citizens of Georgia; which was read twice by its title.

Mr. TRUMBULL. I will remark, in reply to what was said by the Senator from Massachusetts, that the committee have been engaged upon that subject, and have directed a bill to be reported, which I suppose one of the members of the committee will report this morning.

Mr. WILSON. As to Georgia?

Mr. TRUMBULL. As to several of the States; but this is a very grave subject. There are perhaps a thousand names before the Senate, and it has been with a great deal of difficulty that we have been able to ascertain sufficient facts so as to act intelligently in regard to them. There is a disposition in the committee, I believe, with all its members, to act liberally in this respect; but we receive information both ways in regard to a great many persons, and it is a matter that is involved in a good deal of difficulty, and it has taken some time and much labor to investigate the various names that have been sent to us.

Mr. WILSON. I will simply say in regard to this bill that it includes only such persons as have been elected under the constitution to office in that State, and the Legislature itself

cannot proceed to do any business until some action of this kind is taken. I have a large list of other persons sent here. Some have been presented. I presented several, I know, and sent them to the Committee on the Judiciary. I move that the bill be printed and referred to that committee.

The motion was agreed to.

#### RESPONSIBILITY OF SENATORS.

Mr. SUMNER submitted the following resolutions, which were read:

Resolutions declaring the constitutional responsibility of Senators for their votes on impeachment.

Whereas a pretension has been put forth to the effect that the vote of a Senator on an impeachment is so far different in character from his vote on any other question that the people have no right to criticize or consider it; and whereas such pretension, if not discountenanced, is calculated to impair that freedom of judgment which belongs to the people on all that is done by their Representatives: Therefore, in order to remove all doubts on this question, and to declare the constitutional right of the people in cases of impeachment—

1. *Resolved*, That, even assuming that the Senate is a court in the exercise of judicial power, Senators cannot claim that their votes are exempt from the judgment of the people; that the Supreme Court, when it has undertaken to act on questions essentially political in character, has not escaped this judgment; that the decisions of this high tribunal in support of slavery have been openly condemned; that the memorable utterance known as the Dred Scott decision was indignantly denounced and repudiated, while the Chief Justice who pronounced it became a mark for censure and rebuke; and that plainly the votes of Senators on an impeachment cannot enjoy an immunity from popular judgment which has been denied to the Supreme Court, with Taney as Chief Justice.

2. *Resolved*, That the Senate is not at any time a court, invested with judicial power, but that it is always a Senate with specific functions, declared by the Constitution; that according to express words, the judicial power of the United States is vested in one Supreme Court, and such inferior courts as Congress may from time to time ordain and establish, while it is further provided that "the Senate shall have the sole power to try all impeachments," thus positively making a distinction between the judicial power and the power to try impeachments; that the Senate, on an impeachment, does not exercise any portion of the judicial power, but another and different power, exclusively delegated to the Senate, having for its sole object removal from office and disqualification; therefore, that, by the terms of the Constitution, there may be, after conviction on impeachment, a further trial and punishment "according to law," thus making a discrimination between a proceeding by impeachment and a proceeding "according to law," that the proceeding by impeachment is not "according to law" and is not attended by legal punishment, but is of an opposite character, and from beginning to end political, being instituted by a political body, on account of political offenses, being conducted before another political body having political power only, and ending in a judgment which is political only; and therefore the vote of a Senator on impeachment, though different in form, is not different in responsibility from his vote on any other political question; nor can any Senator on such an occasion claim immunity from that just accountability which the representative at all times owes to his constituents.

3. *Resolved*, That Senators in all that they do under the constant obligation of an oath, binding them to the strictest rectitude; that on an impeachment they take a further oath, according to the requirement of the Constitution, which says, "Senators, when sitting to try impeachment, shall be on oath or affirmation;" that this simple requirement was never intended to change the character of the Senate as a political body, and cannot have any such operation; and therefore, Senators, whether before or after the supplementary oath, are equally responsible to the people for their votes, it being the constitutional right of the people at all times to sit in judgment on their representatives.

Mr. SUMNER. I move that those resolutions be printed, so as to be in order to be called up hereafter.

The motion was agreed to.

#### COMMERCE ON THE LAKES.

Mr. CHANDLER. I move that the Senate resume the consideration of the bill (S. No. 266) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

The PRESIDENT *pro tempore*. The pending question is on the motion of the Senator from Maine, [Mr. FESSENDEN,] to recommit the bill to the Committee on Commerce.

Mr. CHANDLER. I hope that motion will not prevail. Indeed, I supposed it would be with-

drawn. The other Senator from Maine [Mr. MORRILL] has, since the bill was up before, consulted with some agents of the Treasury, and prepared some amendments that I should like to have him submit now, and I think that then, perhaps, the bill will be entirely satisfactory to every member of the body.

Mr. FESSENDEN. As the matter has been examined by the committee, and they have amendments to submit, I am willing to withdraw my motion to recommit.

The PRESIDENT *pro tempore*. The motion to recommit being withdrawn, the question is on the amendment reported by the Committee on Commerce as a substitute for the original bill.

Mr. MORRILL, of Vermont. I have looked through this bill for the purpose of proposing some amendments, but I have found so much objection to it that I can hardly leave much of it after the amendments which I shall propose are adopted, if they shall be adopted. In section five—

The PRESIDENT *pro tempore*. The Chair will state to the Senator that the question is on the amendment of the Committee on Commerce, which is a substitute for the original bill.

Mr. FESSENDEN. The Senator from Vermont can move to amend the amendment.

Mr. CHANDLER. The proposition of the Senator from Vermont is to amend the amendment.

The PRESIDENT *pro tempore*. That is in order.

Mr. MORRILL, of Vermont. The great change proposed here is to allow vessels to touch at as many ports as they please without stopping to make any entry, to get any permit or any clearance, and to leave the master of the vessel to make and amend his manifest as he pleases or as the facts may authorize. It seems to me that this would leave the master to perpetrate frauds if he so pleases, and it will certainly leave all the ports without any record of the business transacted. The trade can only be ascertained thereafter by examining the manifests as returned to the last port or place of entry, not by any record made at the respective places. On the lakes, Lake Champlain, Lake Erie, Lake Ontario, Lake Huron, and Lake Michigan, where the vessels touch at a great number of ports, and where, in some instances, the distance from the Canadian shore is very short, and the facilities for the illicit introduction of foreign goods will be exceedingly great, it seems to me that if the Senator from Michigan could relieve this trade from paying any charges at these various ports, he might be willing at least that they should stop and make their formal entry, so that the Government would know what they were doing. It strikes me that while it would be a relief unquestionably to the master of a vessel not to be compelled to make these entries and to get a clearance and a permit, as he is now required to do, yet that it is indispensable to the Government that they shall be made to do it, or we may as well give up any idea of having our customs laws executed with any fidelity upon the lakes. All customs laws are inconvenient, but we cannot be expected to abolish them entirely for that reason, so long as we must have some revenue for the support of our Government.

In section five I notice that the penalty is reduced from \$100 to twenty dollars; so that if the master of any vessel shall fail to comply with the provisions of the act he shall only forfeit twenty dollars. It seems to me that that is a very great reduction; and I will add that, in my judgment, the penalty of \$100 as it exists in the present law is none too much.

Then, when you come to the fee bill, I understood the Senator from Michigan, the chairman of the Committee on Commerce, to intimate that in his opinion the fee bill as here proposed was not reduced more than about five per cent. I suppose that if the fee bill should remain the same that by existing laws it now is, and these vessels should only be

required to pay fees at one port, while they may touch at three or four or a dozen, the amount of fees will be reduced at least one half; but, in point of fact, the fees are very largely reduced by this bill, as I have ascertained by making a comparison of it with the law which we passed March 3, 1865. I find in almost every instance, or in a great number of instances, that the fees are very much reduced. For instance, "for certificate of enrollment, including bond and oath," the fee as proposed in this amendment is one dollar; but in the existing law it is for a vessel not over fifty tons, one dollar; for a vessel over fifty and not over one hundred and fifty tons, \$1 50; and for a vessel over one hundred and fifty tons, two dollars. Then "for granting license, including bond and oath, if not over twenty tons," the fee proposed by this measure is forty-five cents. Under the existing law it is for vessels under one hundred and fifty tons, one dollar, and over one hundred and fifty tons, \$1 50. "For receiving manifest, including master's oath, on arrival of a vessel from one collection district to another, whether touching at foreign intermediate ports or not, under fifty tons," it is proposed to make the fee twenty-five cents; under the existing law it is seventy-five cents. "For receiving manifest, including master's oath, on arrival of a vessel from one collection district to another, whether touching at foreign intermediate ports or not, over fifty tons," it is proposed to put the fees at fifty cents; it is now one dollar.

Then I find that there is an increase in one part of the bill of fees. "For the entry of a vessel above fifty tons direct from a foreign port," the fee is to be \$2 50; under the existing law it is only one dollar; clearance to a foreign port is also raised from one dollar to two and a half. I do not see the propriety of increasing these fees merely because vessels come from a foreign port. It is opposed to our system in relation to the foreign trade generally. I do not think this change ought to be made. It would be a very great hardship to compel these vessels of small burden, when they leave for or touch a foreign port, to pay \$2 50; and where they do it, as they do in some instances very frequently or several times a day, it amounts to a very grievous burden.

I could go through the whole of this section and show that the chairman of the Committee on Commerce is certainly mistaken in relation to the amount of the reduction. Having, as Congress did, very carefully considered this matter in the law of March 3, 1865, I think it would be unwise for us so soon thereafter to make a change. Those fees are now well understood, and, so far as I know, they are very generally satisfactory. They were satisfactory at the time they were made, and I see no reason for any change. It is important that we make these fees, so far as possible, self-sustaining to the officers that are required to execute these laws. I think it therefore imprudent for us at this time to reduce these fees so that the officers on all the lake ports will become a direct charge upon the Treasury.

The last section of the bill, I find, totally revolutionizes the mode of distribution of forfeitures and penalties. Under the existing law one fourth part goes to the officers, one fourth part to the United States, and one half to the informer. This last section proposes to make a radical change. It provides—

"That the Secretary of the Treasury shall have authority to ascertain the facts upon all applications for remission of fines or penalties incurred under the provisions of this act, where the amount in question does not exceed \$1,000, in such manner and under such regulations as he may deem proper, and he may thereupon remit or mitigate such fines or penalties if, in his opinion, the same shall have been incurred without willful negligence or intention of fraud in the person or persons incurring the same," &c.

Now, Mr. President, it seems to me it would be exceedingly imprudent for us to place this authority in the hands of the Secretary of the Treasury, and impose this duty upon him, in all cases where the penalties and forfeitures did not exceed \$1,000, of distributing those penalties to whomsoever he pleased, giving all

to one party or none at all. It strikes me that we ought to allow the law on that subject to remain as it is; and there is no reason for changing the distribution of these fines and penalties on the lakes any more than on our ocean commerce. For these reasons, unless the bill be amended, I hope it will not pass.

Mr. MORRILL, of Maine. Mr. President, I have given this bill some little attention since the objections were made the other day, and I think it may be obnoxious to some of the objections brought against it by the Senator from Vermont. The object of the bill, however, I take to be a good one. It applies particularly to the commerce of the lakes, and the situation of that commerce is a little peculiar. The chief feature of the bill is to relieve it from the burdens which are now imposed upon it by the law of 1866, by which each vessel is required to take out a manifest at every port at which it touches. For instance, a vessel leaving Detroit and bound for Chicago would touch at very many points; I do not know how many, but a large number, more or less. Now, as the law stands, she is obliged to take out a manifest at each of those intermediate ports. Manifests there can be no object in that. It imposes a great burden, it causes delays, and great expense is consequent upon it. Any one will see at a glance that that is an imposition of a needless burden on the commerce of the lakes. It gives no security whatever to the revenues of the country, and is a gratuitous burden upon the commerce of that section. The bill was drawn to obviate that difficulty, but I am inclined to think that it was not altogether well protected in that respect, and to obviate the difficulties suggested by the Senator from Vermont I propose to move a few amendments. In line fifteen of the first section of the substitute reported by the Committee on Commerce, I propose to insert after the words "United States" the words "and shall not touch at a foreign port or place on its passage." The effect of that will be that a vessel starting from Detroit and bound for Chicago takes her clearance or her manifest, and if she touches at any intermediate port her commander is obliged, by the provisions of this bill, to enter on her manifest whatever that vessel takes on at the intermediate port, but he is not obliged to report to the custom-house officer.

Mr. MORRILL, of Vermont. I would suggest to my friend from Maine that he alter his amendment somewhat, so as to insert after the word "port," in line eighteen, the words "not having touched at any foreign port." There will be a little confusion if he puts the amendment in the place where he proposes to insert it.

Mr. MORRILL, of Maine. Very well; I am inclined to think that is better, and I accept that modification. I move to insert after the word "port," in line eighteen of the first section, the words "not having touched at any foreign port or place," so as to read:

And in case such vessel shall touch at any intermediate port in the United States, and there discharge cargo taken on board at an American port, or at such intermediate ports shall take on cargo destined for an American port, not having touched at any foreign port or place, the master of such vessel shall not be required to report such lading or unloading at such intermediate ports, but shall enter the same on his manifest, &c.

The amendment to the amendment was agreed to.

Mr. MORRILL, of Maine. I propose another amendment, to obviate a difficulty suggested by the Senator from Vermont, in the fifth section. It is said that the fifth section alters the penalty. I do not know whether that ought to be so or not, but perhaps it is immaterial. I move to amend the section by striking out in line five the word "twenty" and inserting "one hundred," so as to make the penalty \$100.

Mr. MORRILL, of Vermont. That is right. The amendment to the amendment was agreed to.

Mr. MORRILL, of Maine. A further suggestion of the Senator is that this changes the

fee bill. I do not understand that it does very materially; but I am inclined to think in one or two particulars it may be burdensome to commerce. For instance, on the tenth page: "For the entry of a vessel above fifty tons direct from a foreign port, \$2 50." And further down: "For the clearance of a vessel above fifty tons, direct to a foreign port, \$2 50. That may be very onerous on the commerce of that section, and I am inclined to think it would be wrong. But I doubt if there is any great necessity for a revision of the fee bill at all, and therefore I move to strike out the seventh section entire, excepting that part beginning on the tenth page, at the forty-seventh line, after the word "provided," down to and including line fifty, so as to strike out everything relating to fees, and leave the section provide simply—

That vessels departing to or arriving from a port in one district to or from a port in an adjoining district, and touching at intermediate foreign ports, are exempted from the payment of the entry fees.

The amendment to the amendment was agreed to.

Mr. MORRILL, of Vermont. I desire to amend the section by inserting before the word "and" in line forty-nine the words "between the ports of entry thereof."

Mr. MORRILL, of Maine. There is no objection to that.

The amendment to the amendment was agreed to.

Mr. MORRILL, of Maine. I move to strike out the ninth section, which is another section objected to by the Senator from Vermont. That is in regard to the fines and penalties.

The amendment was agreed to.

Mr. MORRILL, of Vermont. Now, I ask my friend from Maine if he will not consent to strike out the third section in relation to steam-tugs. I can conceive of no particular benefit in it, and certainly it may be liable to a great deal of abuse.

Mr. CHANDLER. I would state that there are a class of vessels, and a very large class, engaged exclusively in towing. If they take on board freights they are not included in this section. It simply includes those tugs that are engaged exclusively in towing. There are fifty or one hundred on the Detroit river and the river St. Clair. There seems to be no reason why those tugs, every time they touch a port, as they carry no merchandise, should take out a permit.

Mr. MORRILL, of Vermont. I ask my friend if he does not see that they might be tempted very strongly to carry a little merchandise if they were not watched.

Mr. CHANDLER. I would say to my friend from Vermont that they are liable to seizure and forfeiture for any act of that kind. Their reporting to the custom-house, every time they touch, is no sort of protection against smuggling. If they do smuggle, they are liable to be seized and forfeited to the Government. It is simply an annoyance without any apparent object. I should dislike to see that section stricken out, because I see no danger to the revenue in it. I agree with the Senator from Vermont in trying to guard and protect the revenue against smuggling in every possible way, but I see no benefit from striking out this section.

Mr. MORRILL, of Vermont. It is obvious, and must be so to the Senator from Michigan, that if these vessels are not required to touch, they never come within the purview of any officer to be examined at all, and they may therefore evade the law with the utmost facility. I do not see that it is a very great hardship for them to call, like other vessels. I hope, therefore, that the Senate will strike out the section.

The PRESIDENT *pro tempore*. The question is on striking out the third section.

Mr. CHANDLER. I hope that will not be stricken out.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the Committee on Commerce as amended.

The amendment, as amended, was agreed to.

The bill was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

It is to strike out all of the original bill after the enacting clause, and in lieu thereof to insert:

That the master of every vessel enrolled or licensed to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States shall, before the departure of his vessel from a port in one collection district to a port in another collection district, present to the collector at the port of departure duplicate manifests of his cargo, or, if he have no cargo, duplicate manifests setting forth that fact, which manifests shall be subscribed and sworn or affirmed to by the master before the collector, who shall indorse thereon his certificate of clearance, retaining one for the files of his office, the other he shall deliver for the use of the master. And in case such vessel shall touch at any intermediate port in the United States, and there discharge cargo taken on board at an American port, or at such intermediate ports shall take on board cargo destined for an American port not having touched at any foreign port or place, the master of such vessel shall not be required to report such lading or unloading at such intermediate ports, but shall enter the same on his manifest obtained at the original port of departure, which he shall deliver to the collector of the port at which the unloading of the cargo is completed within twenty-four hours after arrival, and shall subscribe and make oath (or affirm) as to the truth and correctness of the same. And the master of such vessel shall, before departing from a port in one collection district to a place in another collection district where there is no custom-house, file his manifest and obtain a clearance in manner aforesaid, and make oath or affirmation to the manifest aforesaid, which manifest and clearance shall be delivered to the proper officer of customs at the port at which said vessel next arrives after leaving the place of destination specified in said clearance: *Provided*, That the master of any vessel with cargo, passengers, or baggage from any foreign port or place, shall obtain a permit and comply with existing laws before discharging or landing the same: *And provided further*, That nothing in this section contained shall exempt masters of vessels from reporting, as now required by law, any goods, wares, or merchandise destined for any foreign port: *And be it further provided*, That no permit shall be required for the unloading of cargo brought from an American port.

SEC. 2. *And be it further enacted*, That the master of any vessel enrolled or licensed as aforesaid, destined with cargo from a place in the United States at which there may be no custom-house to a port where there may be a custom-house, shall, within twenty-four hours after arrival at the port of destination, deliver to the proper officer of the customs a manifest, subscribed by him, setting forth the cargo laden at the place of departure, or laden or unladen at any intermediate port or place, to the truth of which manifest he shall make oath or affirm before such officer: *Provided*, That if said vessel have no cargo the master shall not be required to deliver such manifest.

SEC. 3. *And be it further enacted*, That steam-tugs duly enrolled and licensed to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, when exclusively employed in towing vessels, shall not be required to report and clear at the custom-house: *Provided*, That when said steam-tugs shall be employed in towing rafts or other vessels without sail or steam motive-power, not required to be enrolled or licensed under existing laws, they shall be required to report and clear in the same manner as is hereinbefore provided in similar cases for other vessels.

SEC. 4. *And be it further enacted*, That the manifests, certificates of clearance, oaths, or affirmations provided for by this act shall be in such form, and prepared, filled up, and executed in such manner as the Secretary of the Treasury may from time to time prescribe.

SEC. 5. *And be it further enacted*, That if the master of any enrolled or licensed vessel, as aforesaid, shall neglect or fail to comply with any of the provisions or requirements of the foregoing sections of this act, such master shall forfeit and pay to the United States the sum of \$100 for each and every failure or neglect, and for which sum the vessel shall be liable, and may be summarily proceeded against by way of libel in any district court of the United States.

SEC. 6. *And be it further enacted*, That in case the master or owner of any vessel shall willfully and falsely swear or affirm to any of the matters or facts herein required to be sworn or affirmed to, said master or owner shall be deemed to be guilty of perjury, and shall be liable to all the fines and penalties imposed by existing laws punishing such offenses.

SEC. 7. *And be it further enacted*, That vessels departing to or arriving from a port in one district to or from a port in an adjoining district and between the ports of entry thereof, touching at intermediate foreign ports, are exempted from the payment of the entry fees.

SEC. 8. *And be it further enacted*, That section one of an act entitled "An act to further provide for the collection of the revenue upon the northern, northeastern, and northwestern frontiers, and for other purposes," approved July 14, 1862; and section six of an act entitled "An act to prevent smuggling, and



for other purposes," approved June 27, 1864; and so much of an act entitled "An act to regulate the fees of custom-house officers on the northern, northeastern, and northwestern frontiers of the United States," approved March 8, 1865, and all other acts or parts of acts conflicting with or supplied by this act, be, and the same are hereby, repealed.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. POMEROY. I move that the Senate proceed to the consideration of the bill (S. No. 252) to establish an additional land district in the State of Minnesota. It is a bill that was agreed to unanimously by the Committee on Public Lands, and will occupy but little time of the Senate. It was introduced by the Senator from Minnesota, [Mr. RAMSEY,] and he desires to have it passed.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to authorize the President of the United States to establish an additional land district in Minnesota, embracing all that part of the present northwestern land district which lies north of township No. 126 north, and west of range No. 35, west of the fifth principal meridian, and to fix from time to time the boundaries thereof, which district shall be named after the place at which the office shall first be established; and the President is to have power to fix from time to time the location of the office for such district. The President is to appoint, by and with the advice and consent of the Senate, a register and receiver for this land district, who shall be required to reside at the site of the land office, who shall be subject to the same laws and responsibilities, and whose compensation respectively shall be the same as that now allowed by law to other land officers in said State.

The bill was reported to the Senate.

Mr. POMEROY. There is a misprint in the bill. In the seventh line the word "six" should be "four," so as to read "north of township No. 124, north."

The PRESIDENT *pro tempore*. That amendment will be considered as made, and it is made accordingly.

Mr. FESSENDEN. I should really like to know what the necessity is of establishing a new land district in the State of Minnesota. What do you call a land district? What officers does it involve the appointment of?

Mr. POMEROY. This is a section of country, embracing about a third of the State, which has never had any land district in it. A land district is a section of a State where there is a land office, to which settlers go to enter their lands.

Mr. FESSENDEN. It involves the appointment of a register and receiver, I suppose.

Mr. POMEROY. Yes, sir.

Mr. FESSENDEN. Is that all?

Mr. POMEROY. That is all. It is a matter of convenience to settlers not to have to go more than fifty or one hundred miles to a land office. In my State, in some instances, they have to go over one hundred miles.

Mr. FESSENDEN. Has it been customary to establish several land offices in one State?

Mr. POMEROY. Yes, sir; and to discontinue them from time to time as the lands are settled and entered.

Mr. FESSENDEN. Very well, sir; if the committee recommend the bill I make no objection.

Mr. POMEROY. This bill creates a register and receiver, but their salaries are only \$500 a year each.

Mr. JOHNSON. But besides that they get fees.

Mr. POMEROY. The rest of their compensation is paid by fees for the business they do.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### SOUTHERN PACIFIC RAILROAD.

Mr. CONNESS. I move that the Senate proceed to the consideration of the bill (S. No. 432) to extend the time for the construction of the Southern Pacific railroad, in the State of

California, reported yesterday from the Committee on Public Lands. It will not occupy much time.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It provides that the Southern Pacific Railroad Company, of the State of California, shall, instead of the times now fixed by law for the construction of the first section of its road and telegraph line, have until the 1st of July, 1870, for the construction of the first thirty miles, and shall be required to construct at least twenty miles every year thereafter, and the whole line of the road within the time now provided by law.

Mr. CONNESS. I will simply say, in explanation, that a grant of lands was made in 1866 to aid in the construction of this road; that the company are now engaged in it, and have contracted for the construction of thirty miles, and this is to extend their time, as done in other cases.

Mr. JOHNSON. What is the entire time within which the road is to be completed?

Mr. CONNESS. By 1872, I think.

Mr. JOHNSON. This does not change that.

Mr. CONNESS. Not at all.

Mr. COLE. Mr. President, I understand that a portion of this road is contracted for and operations have been commenced, and that it will be completed within the present summer, early in the summer.

Mr. CONNESS. Yes, sir.

Mr. COLE. I would ask my colleague if the time extended is not rather too long; the bill proposes until 1870. Would not a shorter time answer every purpose?

Mr. CONNESS. It is an extension for only two years, which is the extension usually given. The probability is that they may have the thirty miles constructed within the next year; but as the next session of Congress is to be a very short one and probably crowded with business, there may be difficulty in getting a further extension of time if it should be necessary. So we thought it was best to ask for this extension now.

Mr. COLE. But the first thirty miles are to be completed within a few months, as I understand.

Mr. CONNESS. Not within a few months.

Mr. COLE. I understand so; they are to be completed this summer. I have no objection to the extension of time; but if there is any way to expedite the construction of the road I would gladly see that object accomplished.

Mr. POMEROY. The company are not obliged to take the time.

Mr. CONNESS. Not at all; they will not take it probably.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### UNION CHAPEL.

Mr. WILLEY. I move that the Senate proceed to the consideration of Senate bill No. 433.

The motion was agreed to; and the bill (S. No. 433) authorizing the trustees of Union Chapel, of the Methodist Episcopal church, in the city of Washington, to mortgage their property for church purposes, was read the second time, and considered as in Committee of the Whole. It proposes to authorize George Reindhart, John Byram, John B. Hines, William Worth, and George T. McGlue, trustees of Union Chapel, of the Methodist Episcopal church, in the city of Washington, to execute and deliver a mortgage on lot No. 28 and lot No. 29, in square No. 101, belonging to that church in the city of Washington, in order thereby to enable these trustees to procure money for the purpose of erecting a parsonage on those lots and otherwise improving them, for the use and benefit of the church, in manner and form as the legally constituted authorities of the church shall prescribe and direct.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

#### BILLS OF COMMITTEE ON COMMERCE.

Mr. CHANDLER. I desire to have a day set apart for the consideration of bills from the Committee on Commerce; and I move that Saturday next, if that be agreeable to the Senate, be set apart for the consideration of the business from the Committee on Commerce.

Mr. CONNESS. I, of course, have no objection, but the Senator, it appears to me, for commerce, takes a good deal of time. He has occupied all this morning and a morning a few days since with a very important bill from that committee, and if he is to have a day set apart for him he ought not to poach upon other time; the Senator will forgive the use of that word.

Mr. CHANDLER. Mr. President, the Senator evidently does not comprehend the entire commercial interests of the United States, [laughter,] or he would understand that they require a little more time than a half hour in the morning. However, if Saturday is not agreeable to the Senate, I will name any other day, but I mentioned Saturday in the hope that it would be agreeable to the Senate. I move that Saturday be set apart for the consideration of bills reported from the Committee on Commerce.

The motion was agreed to.

#### TERRITORY OF WYOMING.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is now before the Senate, the morning hour having expired, being the bill (S. No. 357) to provide a temporary government for the Territory of Wyoming. This bill is before the Senate as in Committee of the Whole, and will be read.

The bill was read.

The PRESIDENT *pro tempore*. The Committee on Territories have reported the bill with several amendments, which will be reported.

Mr. YATES. Before the amendments are reported I will state that there is nothing material in those amendments; and before they are read, I desire to make a very brief statement, from the tables and representations laid before the committee, of the extent, resources, and population of this new Territory.

Dakota Territory, which comprises almost all the proposed Territory of Lincoln, is composed of two immense areas almost distinct from each other; more distinct than the territories of Wisconsin and Illinois or Missouri and Iowa, for the latter States join each other contiguously in their whole breadth, while the two divisions of Dakota only touch each other for about one quarter of the extent of the Territory north and south—for only about two degrees on the 104th meridian of west longitude. The eastern division is nearly four hundred miles square, extending from latitude 43° north to 49° north, and from longitude 96° and some minutes west to longitude 104° west. In this area, and near the eastern boundary, is Yanc-ton, the capital of the Territory. The other area extends from latitude 41° to 45° north, and from longitude 104° to 111° west, being about three hundred and fifty miles long and three hundred wide, and out of this latter area it is proposed to constitute the Territory of Lincoln. If symmetry is to be regarded in carving out these embryo States the proposed division at a glance upon the map fully commends itself.

The population of the proposed Territory is estimated at not less than twenty thousand at the present time, which is a much larger portion than the eastern division is reported to contain. These twenty thousand people are practically without the benefits of civil government in the Territory on account of the immense distance from Yanc-ton, the territorial seat of government, the distance being about seven hundred miles by the nearest route of travel. The intervening country is infested by Indians, who render travel insecure and expensive. Add to this the inclemency of winter and the great length of the journey, and it is found that the proper administration of justice through

the territorial courts in the western part of Dakota is almost impossible and attended with enormous expense both to litigants and (in criminal cases) to the Government. Under these circumstances there is apprehension and real danger that the people in that remote region in necessary self-defense will resort to vigilance committees and lynch-law unless Congress provides against it by increased judicial facilities or a separate territorial organization.

The resources of the proposed Territory are represented to us as large and rapidly developing, through the enterprise of the hardy pioneers, who are gathering there by thousands, attracted by the discovery of gold deposits, which in richness are unsurpassed on the continent. There are also valuable springs of petroleum, which will prove a source of wealth, and provide for the profitable employment of emigrants. Coal deposits also of large extent, which must furnish fuel for the Union Pacific railroad, and for the population along its line for hundreds of miles, have been discovered, and are being successfully worked. This is an item of great importance, resulting from the scarcity of timber in that region.

The rapid construction of the Pacific railroad in the direction of this Territory is without a parallel. Less than a year ago not a mile of railway was constructed. By the next autumn there will be completed four hundred miles stretching across the Territory. There are already twenty thousand people living on this line; and unquestionably this number will be doubled, perhaps trebled, within the present year.

In addition to the large mining interests, and the impetus to trade which is given by this great national highway, the Territory abounds in rich valleys, capable of supporting a large pastoral population. Cities and towns are springing up, and dot the plain for hundreds of miles. Cheyenne City, which was laid out on the 4th day of July, 1867, has already five thousand inhabitants; and habitations have continued to be erected throughout the present winter. South Pass City, laid out in November last, has six hundred people, and is rapidly increasing; and so of various towns and villages.

The bill proposes to detach a small portion of territory now included under the organization of Utah. It is but one degree in extent from north to south, and the same from east to west. In this little square is located Fort Bridger, a military post of some importance. The population to be thus transferred from Utah to the new Territory—with a single exception—is entirely gentile, as they are designated by Mormons, and have petitioned us for the transfer. It is also proposed to transfer an irregularly-shaped strip of territory nearly a degree in width, and something over two degrees in length from north to south, now attached to Idaho. This was deemed proper by the committee in order to attain symmetry in the geographical boundaries of the new Territory. The committee was not advised that there is a dissenting voice among the inhabitants of the portion of Utah to the proposed change. On the contrary, being separated by a lofty range of mountains from their territorial seat of government, they eagerly accept the change. The committee are told that there is not a single inhabitant in the portion of Idaho transferred by this bill, therefore no opposition can come from that quarter.

The citizens and authorities of Dakota Territory express a strong desire that this bill may have the approval of Congress.

Looking at its resources and the prospective early completion of the Union Pacific railroad through its entire breadth, and the rapidity with which emigration is seeking its borders, I cannot doubt that in a few years it will become one of our most prosperous western States.

The PRESIDENT *pro tempore*. The first amendment reported by the Committee on Territories will now be read.

The Chief Clerk read the first amendment,

which was in section one, line three, after the words "all part of the" to strike out the following words:

Territory now known as Dakota, lying west of the one hundred and fourth degree of west longitude, be, and the same is hereby, organized into a temporary government by the name of the Territory of Wyoming.

And to insert in lieu thereof:

United States, described as follows: commencing at the intersection of the twenty-seventh meridian of longitude west from Washington with the forty-fifth degree of north latitude, and running thence west to the thirty-fourth meridian of west longitude, thence south to the forty-first degree of north latitude, thence east to the twenty-seventh meridian of west longitude, and thence north to the place of beginning, be, and the same is hereby, organized into a temporary government by the name of the Territory of Lincoln.

Mr. HENDRICKS. I suppose the chairman of the Committee on Territories has examined this description with care.

Mr. YATES. Yes, sir; very carefully.

Mr. HENDRICKS. But it would not do at all according to Johnson's Atlas.

Mr. YATES. What is the matter with it?

Mr. HENDRICKS. It does not fall in the section of the country where it is proposed to establish this Territory.

Mr. YATES. The Senator will find that it is all right. I will state that the committee examined it from the new maps prepared, and we had the newly-elected delegate from the Territory before us. I hope the bill will not be delayed. It will have to go to the House of Representatives, and I trust the Senate will pass it to-day. The map which the Senator has before him does not show the true state of the case at all. We have a new map.

Mr. HENDRICKS. This description of the new Territory will leave a singular-shaped Territory for Idaho, a little on the north, and a little on the south, and a little on the west of the new Territory.

Mr. YATES. I assure the honorable Senator that when he comes to examine the new map, he will be satisfied; if not, it can be corrected afterward.

Mr. HENDRICKS. I do not think we ought to pass the bill until it is right.

Mr. SHERMAN. It seems to me there cannot be any mistake about the boundaries as they are here described. It is a mere parallelogram; the latitudes and longitudes are given:

Commencing at the intersection of the twenty-seventh meridian of longitude west from Washington with the forty-fifth degree of north latitude—

That is a point fixed exactly, of course—and running thence west to the thirty-fourth meridian of west longitude—

That is plain—thence south to the forty-first degree of north latitude

That is square—thence east to the twenty-seventh meridian of west longitude—

The same meridian they commenced on—and thence north to the place of beginning.

It is utterly impossible that this description should be wrong, because it is four degrees of latitude wide and seven degrees of longitude—a square form. There cannot be any mistake about the boundaries. It is a parallelogram, parallel lines, not a square exactly, but a parallelogram as near as geographical lines ever are.

[A large map, the one referred to by Mr. YATES, was brought into the Chamber, and Senators gathered in a group around it, examining it.]

Mr. YATES. The Senator from Indiana, I believe, is satisfied that the description in the bill is right.

Mr. HENDRICKS. From an examination of the map prepared at the Indian office, which I presume is correct, the description seems to be correct as contained in the bill. Judging, however, from Johnson's Atlas, it would not be at all correct. For the present, therefore, I do not object to the description of the Territory.

The PRESIDENT *pro tempore*. The question is on the amendment of the committee.

Mr. SUMNER. On that amendment I desire simply to call the attention of my friend, the chairman of the Committee on Territories, to that part which relates to the change of name. I observe that the House of Representatives, in the bill as it comes from their committee, call this Territory by the Indian name of Wyoming. Our committee proposes a substitute for Wyoming. Of course, it is impossible for me to make any suggestion that shall be in any way disparaging of the name that is proposed by our committee; but I have always thought that in naming these Territories, destined, of course, hereafter to be States, we should, if possible, select names that belong to the soil; that are, if I may so say, aboriginal; that grow out of the country itself; in other words, the Indian names. They are generally more beautiful; they are certainly more original and interesting. I do not wish to make any opposition to the recommendation of the committee, and if my friend thinks it advisable to persevere in the proposed change, and substitute Lincoln for Wyoming, I, of course, should yield. I content myself with calling attention to the proposed change; and that is all I shall do.

Mr. YATES. I do not know that the committee were particularly tenacious as regards the name. It was not considered that there was any particular reason, from locality or otherwise, why this Territory should be called Wyoming, and the committee were unanimous in agreeing that it should be called Lincoln. For myself, I should prefer an Indian name, wherever it is to be had, especially one that was applicable to the Territory, by which some original tribe of the Indians was called.

Mr. SHERMAN. Why not call it Cheyenne? That is the name of the Indian tribe who have from time immemorial existed there, or just south of there.

Mr. NYE. What does that name mean? What is the signification of it?

Mr. SHERMAN. I think it means snakes.

Mr. NYE. We do not want any snakes.

[Laughter.]

Mr. SHERMAN. Cheyenne is a very pretty name. The name of Mississippi has a very bad signification. Look at the name of the Ohio. That is called the beautiful river. There is not a more pretty name in our language than Chicago, but it is a very bad one in the Indian tongue.

Mr. NYE. In my opinion, if the name is to be changed at all, from what the committee propose, it had better be Wyoming.

Mr. SUMNER. I ask the chairman if the name of Wyoming is not found in the Territory?

Mr. YATES. No, sir; it belongs to Pennsylvania.

Mr. SUMNER. I know, originally; but then what suggested this name for this Territory?

Mr. DOOLITTLE. It was suggested by General Ashley.

Mr. SUMNER. But what suggested it to General Ashley?

Mr. DOOLITTLE. Because it is a beautiful name.

Mr. YATES. I was about to remark that although individually I might prefer an Indian name, yet there was some propriety in calling this Territory after Mr. Lincoln. We have but one Territory called after an individual, and that is Washington. The circumstances attending the death of Mr. Lincoln, his assassination, and the high esteem in which he was held by the country, not only by his own party, but by the opposite party, suggested his name as a very appropriate one, and I think the committee were unanimous in reporting the name of Lincoln instead of Wyoming.

Mr. POMEROY. If this Territory is to have a new name, if it is to be named after any man, perhaps the name of Lincoln is as unobjectionable as any; but we have generally named the States, when they became States, after the name of the Territories of which they were composed. We have never had any State named after any man, however good or great.

We have the Territory of Washington, to be sure; but when it becomes a State I doubt very much whether it will be called the State of Washington. While I have no particular passion for Indian names, and do not think they are any better because they are Indian, at the same time I would name a Territory after some conspicuous place or event connected with it. You find that all the States bear the name either of some river or some mountain or some scene connected with their history. In no instance that I know of have we named either Territories or States after any distinguished man, with the bare exception of Washington Territory, which, perhaps, was named after the Father of his Country.

Mr. YATES. If the Senator will allow me, I will state that, as far as I can gather from persons from the Territory, the name of Cheyenne is more popular there. That was the tribe, as I am informed, which originally occupied the country, and who were driven out by the Sioux. That seems to be the name which the people of the Territory would prefer.

Mr. POMEROY. I should like to go on with this bill, and leave the question of the name until we come to the title of the bill. I should not like to have it passed upon at this moment, nor should I like to occupy the time of the Senate upon it now, because there are a great many amendments to this bill to be considered, and I should prefer to have them considered first.

Mr. SUMNER. But the Senator will bear in mind that the name is in the very amendment now under consideration. That is the reason I called attention to it.

Mr. POMEROY. It can be passed by for the present, so far as the name is concerned.

Mr. YATES. This amendment only relates to the boundaries and the name, and the question of the name can be passed over if gentlemen wish it.

Mr. SUMNER. If there be an understanding to the effect that the question of the name is reserved to the end, there is no objection to that course.

Mr. YATES. I have no objection to that.

Mr. POMEROY. I should like to have that question thoroughly considered, because I have great doubt whether we should name States or Territories after any man.

Mr. MORTON. I will go as far as any Senator to honor the name of Mr. Lincoln; but his fame does not require this recognition, and I think the example would be unfortunate to name States after our public men. We have adopted the system, I believe, and carried it out, as far as we could, of naming the western and northwestern States after Indian tribes, or giving to them the same names that the Indians gave them, and in that way we have obtained beautiful names for nearly all the western States. I do not think a prettier name could be found than that of Wyoming, and for one I would prefer giving this Territory that name.

Mr. FERRY. Why give the name of a place in Pennsylvania to this Territory off among the Rocky mountains? I think if we are going to have an Indian name we should take one from that region.

Mr. MORTON. Very well.

Mr. RAMSEY. Why not take the name of Shoshonee? The Shoshonees are a most powerful tribe of Indians in the western part of the Territory.

Mr. ANTHONY. Is there any way of spelling that? [Laughter.]

Mr. RAMSEY. Yes.

Mr. MORTON. I think it is important to get a name easily spelled, easily pronounced, and beautiful in sound.

Mr. RAMSEY. The Cheyennes never occupied this Territory, I believe; they were east and south of it; but the Shoshonees occupied the western part of it, and there might be some propriety in calling it Shoshonee, which is certainly as musical and as soft as Cheyenne.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the Committee on Territories.

Mr. BUCKALEW. What is the amendment?

The PRESIDENT *pro tempore*. Fixing the name and boundaries of the Territory.

Mr. SHERMAN. I move to strike out the name for the present. We can act on the boundaries now, and leave the name blank.

Mr. POMEROY. I should like to have it left blank for the present.

Mr. BUCKALEW. I suggest that we leave the name of Wyoming until we agree upon something better. It is certainly a very beautiful name, and very convenient for use.

Mr. POMEROY. I have no objection to that.

The PRESIDENT *pro tempore*. Does the Senator from Ohio move to amend the amendment by striking out the name?

Mr. SHERMAN. Yes, sir.

Mr. POMEROY. In order to pass the amendment without the name, we shall have to strike out the name of Lincoln in the amendment. I move to amend the amendment by striking out that name.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

The amendment to the amendment was adopted.

The amendment, as amended, was agreed to.

Mr. RAMSEY. Is the name blank now?

The PRESIDENT *pro tempore*. The name is blank.

Mr. RAMSEY. Then I move to insert "Cheyenne." It seems to be generally agreeable, and we may as well adopt it.

Mr. POMEROY. I hope the Senator will allow us to dispose of the other amendment first.

Mr. RAMSEY. Very well; I withdraw the motion for the present.

The next amendment was in section one, line twenty-four, to strike out "Wyoming" and insert "Lincoln."

Mr. POMEROY. Let that be passed over for the present.

The PRESIDENT *pro tempore*. That amendment, and all similar amendments relating simply to the name of the Territory, will be passed over for the present.

The next amendment was in section four, line eleven, to strike out "one year" and insert "two years;" so as to make the section read:

SEC. 4. And be it further enacted, That the legislative power and authority of said Territory shall be vested in the Governor and Legislative Assembly. The Legislative Assembly shall consist of a Council and House of Representatives. The Council shall consist of nine members, which may be increased to thirteen, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall consist of thirteen members, which may be increased to twenty-seven, possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue two years.

Mr. WILLIAMS. I think this amendment is a departure from the precedents on this subject. There may be some reason for it, and if there is, of course I shall acquiesce in the amendment. It provides that members of the Council, as I understand it, shall hold their office for two years, and that the members of the House of Representatives shall also hold their office for two years, making the term for the members of the Council and members of the House of Representatives identically the same. So far as I know, in all bills heretofore passed for the organization of Territories the members of the Council have held their offices in some cases four years and the members of the House for two years, and in other cases the members of the Council for two years and the members of the House for one year. But this amendment provides, contrary to the precedents in such cases, and, I think, contrary to the constitutions of all the States, that they shall hold their offices, both the members of the Council and the members of the House, for the same length of time. It seems to me that it is desirable to have a difference in the tenure of office, so that both Houses may not be elected at the same election, but at different elections. I cannot find in this bill that there is any provision made as to sessions of the Legislative Assembly. That seems to be left altogether to

the action of the Legislative Assembly of the Territory, so that they may hold sessions every year or biennially, as they may see proper. I should prefer, so far as I am concerned, to have the bill stand as it was originally framed, authorizing the members of the Council to hold for two years and the members of the House for one.

Mr. NYE. That is a point upon which the simple question of convenience was consulted. I know how difficult and expensive it is to hold elections every year in these wide-spread Territories. This amendment was simply put in as a matter of convenience and to save expense to the Territory. My own experience has been that these elections are very expensive and very troublesome; and, considering the slight experience they get the first year, having so short a session, I think it is hardly worth while to change them every year. If, however, the Senator from Oregon raises an objection to it, he can move an amendment providing that the Council shall hold for two years and the House for one. There is no tenacity about that point.

Mr. WILLIAMS. That is the provision of the bill as it originally stood, and the committee propose to amend it by inserting two years. I should prefer, as far as I am concerned, to have the sessions of the Legislature biennial.

Mr. NYE. There is no objection to letting the bill stand as it was if there is any opposition to the amendment.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment.

The amendment was not agreed to.

The next amendment was in section five, line one, to strike out the word "free" before the word "male," and in line four, after the word "act," to strike out the words "and who did not bear arms against the United States during the late rebellion;" so as to make the section read:

That every male inhabitant of the United States above the age of twenty-one years, who shall have been a resident of the said Territory at the time of the passage of this act, shall be entitled to vote at the first and all subsequent elections in the Territory, and shall be eligible to hold any office in said Territory, &c.

The amendment was agreed to.

The next amendment was in section five, line sixteen, after "United States" to strike out the words "and that they have never borne arms against the United States."

The amendment was agreed to.

The next amendment was to insert at the end of section six:

Every bill which shall have passed the Council and the House of Representatives of said Territory shall, before it becomes a law, be presented to the Governor of the Territory. If he approves, he shall sign it; but if not, he shall return it with his objections to the House in which it originated, who shall enter the objections at large upon their Journal and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered; and if approved by two thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, to be entered on the Journal of each House, respectively. If any bill shall not be returned by the Governor within three days (Sunday excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Assembly, by adjournment, prevent its return, in which case it shall not be a law.

Mr. NYE. By consent of the chairman of the committee, I move to strike out the word "three" in the amendment, and insert "five." I make the motion for the reason that most of the bills that come to the Governor from the territorial Legislature come within the two or three last days of the session, and they will have to establish here a civil practice act, which will take five or six hundred sections, and leave the Governor hardly time to give it such examination as ought to be given to it in order to approve or disapprove it. I move, therefore, on the part of the committee, to strike out "three" and insert "five" days.

The amendment to the amendment was agreed to.

Mr. YATES. I ask to have the Secretary



correct the word "approves" in the fifteenth line. It should be "approve."

The PRESIDENT *pro tempore*. That correction will be made.

The amendment, as amended, was agreed to.

The next amendment was in section nine, line eighteen, after the word "justices" to insert the words "of the peace."

The PRESIDENT *pro tempore*. That amendment will be considered as agreed to unless objection is made.

The next amendment was in section eleven, line thirty-three, to strike out "three" and insert "four;" so that the clause will read:

The members of the Legislative Assembly shall be entitled to receive four dollars each per day.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The amendments of the Committee on Territories are now gone through with, with the exception of those as to the question of the name.

Mr. YATES. I now move to insert, wherever the name of "Wyoming" or "Lincoln" occurs, the name of "Cheyenne." I make this motion because I have been informed repeatedly, and know the fact, that the people of the Territory prefer that name as applicable to the Territory. They call their principal city by that name. I am informed by Mr. Chaffee, the Senator-elect from Colorado, that he is familiar with the facts of the case, knows the people there, and knows that they would prefer that name to any other, unless it may be that of "Lincoln."

Mr. SHERMAN. I wish to say one word on this subject, because I traveled through this Territory once, and therefore feel an interest in it. The name of Cheyenne is now all over on the geography of that country. There is Cheyenne Pass; there is Cheyenne City, the principal town; there is Cheyenne river, with five or six branches; the Big Fork of the Cheyenne, the Little Cheyenne, and the Cheyenne mountain; and it is the name of the tribe that occupied the whole of that country.

Mr. POMEROY. How do you spell it?

Mr. SHERMAN. C-h-e-y-e-n-n-e. I think that would be a very appropriate name.

Mr. CONNESS. Let the amendment be reported.

The CHIEF CLERK. It is proposed to fill the blank in the fifteenth line of the first section by inserting the word "Cheyenne."

Mr. MORTON. It occurs to me that this word is not a very handsome one. There are some words in the language which are never dignified and cannot be made so; some sounds that in one language are dignified and are not so in another. You cannot make a very handsome word of Chien.

Mr. SHERMAN. Cheyenne, [pronouncing it as if spelled *shay-en*.]

Mr. MORTON. I understand the Senator from Minnesota says it is Cheyenne, [*Shy-en*.]

Mr. RAMSEY. That is the common pronunciation, [*"Shy-en"*]. We have the Cheyenne river in Minnesota, a branch of the Red river of the North, and Cheyenne on the Missouri, again, coming in from the west side. It is a common name.

Mr. MORTON. The name would be pronounced as if spelled "Shy-en."

Mr. SHERMAN. I will state another fact to show its derivation. I supposed it was derived from the word "snake," but I find it has a more appropriate derivation. It is derived from the Chien or prairie dog, which abounds all over that vast country. The word "Chien" is "dog" in the Indian language.

Mr. EDMUNDS. I think we had better cur-tail that name. [Laughter.]

Mr. SHERMAN. It is derived from the word "Chien," or prairie dog, or squirrel.

Mr. CONNESS. Mr. President, I do not think you can derive an argument against this name from its derivation. There is not any reason why its derivation should not be what the Senator has stated it to be, and yet be entitled to respect.

Mr. SHERMAN. Certainly.

Mr. CONNESS. I think there is a great object and purpose, and great propriety in preserving the nomenclature for our western States derived from Indian history. This term "Cheyenne" is the name of one of the most extensive Indian tribes of the West.

Mr. FERRY. A French name.

Mr. CONNESS. It is French. I confess that while I am a great lover of the memory and fame of our late martyr President, I do not wish that any other Territory or State shall be organized in the country bearing any man's name. We have one; it was deemed proper to name a Territory after Washington. I have no comment to make upon that; but yet if I had my choice it would be changed, because we are not wanting in the means of perpetuating the memories and greatness of the patriotic men to whom we are indebted from time to time for the institutions under which we live and their perpetuation, other than the mere perpetuation of their names as applied to towns, cities, or States.

I hope that we shall not name this Territory after any man. It is proposed to call it Wyoming Territory. Wyoming is a good name. There is a euphony about it that is pleasant; but it is derived from the State of Pennsylvania.

Mr. CAMERON. Good for that.

Mr. CONNESS. My friend from Pennsylvania says "good for that." I do not know whether he means "good for Pennsylvania" or "good for Wyoming."

Mr. CAMERON. Good for Wyoming.

Mr. CONNESS. I do not regard that as an objection to it, but there is a question of propriety about going to the East to find a name for one of the new Commonwealths of the West. I confess that I think, out of the multitude of Indian names properly belonging to the West, we can find one that will be acceptable; and I have no objection to the one proposed by the honorable Senator who has charge of this bill, Cheyenne. As to the derivation of this word, let me make a suggestion. There is a county in the State that I am here representing in part, which is known as Mono county. Mono is the Spanish, I believe, for monkey, but it was not deemed an inappropriate name for a county in that State, where the names of our counties perhaps compare most favorably with those of any other State in the Union.

Mr. SHERMAN. I think my friend from California misunderstood me. He seems to think that I cast reproach on the name proposed because it was derived from the household animal of the Indians.

Mr. CONNESS. I thought so.

Mr. SHERMAN. Not at all; on the contrary most of our beautiful names are derived from the Indian names for animals, and sometimes very offensive animals. For instance, Chicago has a special name of that kind, and so the State of Mississippi. I was merely giving the origin of the name as furnished by the librarian.

Mr. CONNESS. I am very glad to be corrected by the Senator.

Mr. PATTERSON, of New Hampshire. I should like to ask the Senator from California a question. I ask if this is a native Indian name, or a name applied to the tribe by the French?

Mr. CONNESS. In either case if they are known to us by that name I suppose the purpose is answered. I presume it is a name applied by the French to them.

Mr. PATTERSON, of New Hampshire. Can the Senator give the Indian name of the tribe, the name which they bore antecedent to the time when the French applied this name to them?

Mr. CONNESS. I do not know it. If I were a member of the Committee on Territories I should certainly have hunted this case up and found the proper Indian name.

Mr. YATES. Mr. President, on the first use of Indian names they are generally not agreeable or acceptable. On the Illinois Central railroad the stations and villages were

named after the Indian names, and they were not acceptable at first and did not appear to be euphonious, but when the people became accustomed to them they rather liked them—such names as Pana, Wapello, Tolona, Tuscola, Tallulah, Wenona. These are names derived from Indian tribes formerly in Illinois. So the name of Cheyenne, when you become accustomed to it, will not be a homely name by any means. It is not so considered by the persons who reside in this Territory, and I am informed that they rather take pride in the name. So far as the derivation of names is concerned, the name of the city of Chicago—and I believe that is considered rather a handsome name now—is derived from an animal so odious as not to be named in the Senate Chamber, or scarcely anywhere else.

Mr. COLE. Mr. President, the question is often asked "What's in a name?" with the intention of giving the impression that there is not much weight to be placed in a name; but in this case, it seems to me, we might make very much of a mistake in calling this Territory Cheyenne. The very fact that different pronunciations are given to the word to my mind is a sufficient objection to its being accepted as the name of a State or Territory. We all ought to know what it is called, from the spelling of it, when the name is selected. I am not myself prepared to suggest a name at this time; but there is a large river rising in this Territory, or which passes through it, the Platte river. We have the Mississippi river, and a State named the same; we have the Missouri river and the State of Missouri; and perhaps it might be as well to call this the Territory of Platte, after the Platte river. It means, I believe, a broad river. I think nearly all these names come from the French. If we are to take an Indian name, I should prefer Pawnee, so as to name it after some tribe of Indians the name of which we could pronounce, and where there would be no mistake as to the pronunciation. There is another name belonging to the whole tribe of which the Cheyennes are but a branch. I refer to the Sioux, as they are commonly called. That also is a name of French origin. I do not remember exactly how it originated; but even that, I think, would be a preferable name to the one that is being discussed at present—Cheyenne. I am, for my part, very much opposed to accepting as the name of a Territory or State so uneuphonious a word as Cheyenne.

Mr. CORBETT. I notice that the Snake river has its rise in this Territory, and that it is called the Snake or Shoshonee. It seems to me that Shoshonee is a prettier name and more easily pronounced than Cheyenne or Cayenne, as some pronounce it, and as there is a large river by the name of the Snake or the Shoshonee, and it is identified with the history of one of our powerful tribes of Indians in that country, I think it would not be an inappropriate name for this Territory, and I therefore suggest the name of Shoshonee.

Mr. NYE. Mr. President, it seems to me that this Territory should be named, and I think if we stop here to learn the derivation of every name proposed it will become a State before it finds a name as a Territory. The original name by which it was proposed to call this Territory was Wyoming. If there is any name in the Indian catalogue of names that is famous in song and story and legend, if there is any Indian name that has become a common household word, it is the name Wyoming. I think there seems to be so strong an attachment to Indian names that we had better take the most euphonious one, and one with which the ear is most familiar. I therefore hope that this discussion may be stopped by adopting the name that was originally intended to be given to this Territory, Wyoming. It will have two good effects; it will make the history of Pennsylvania (if she claims the paternity of the name) familiar on the plains, and if the name is desirable it is one with which we are entirely familiar; and in the next place it will make all the Senators read Campbell again, and it will

revive the legends of the valley of Wyoming.

I hope, sir, that we can agree upon that name, as it is very important that the bill should be christened now. Let us call it Wyoming. I confess I do not like that word Cheyenne, or, as the Senator from Oregon says some would call it, Cayenne, which is very offensive to me. [Laughter.] I do not like it; it makes the world sneeze. [Laughter.] I propose, therefore, that we call it Wyoming. Then all men will know where they are when they get into it. It is so important that this Territory should be now not only born but christened at once that I hope we may adopt that name. I should have liked to have it called Lincoln; I should like to perpetuate that name not only by monuments but in States, in counties, and in towns, but—

Mr. SAULSBURY. Will my honorable friend allow me to suggest a name to him with which, I presume, he will be much more identified? As there is doubt now what this Territory should be called, I suggest to my friend that perhaps he should name it "*Ad interim*." [Laughter.]

Mr. NYE. That, Mr. President, would bring "the eyes of Delaware" upon us at once, [laughter;] the terrible scrutiny of that majestic State, the size of which would not make a county in Wyoming. I prefer not to adopt the name. The State would "stand firm" under the eye of Delaware, but I do not like that scrutiny. My friend will excuse me, therefore, for not adopting the favorite name of Delaware, "*Ad Interim*." It is obnoxious to me. I have said, sir, all I desire to say. I hope we may agree on this name.

Mr. POMEROY. If we are to adopt the name of either of the tribes of Indians in this Territory—for there are two there, the Arapahoes and Cheyennes—I prefer the name Arapaho.

Mr. DOOLITTLE. Mr. President, the term "Cheyenne" is not an Indian name at all.

Mr. SHERMAN. I have got Schoolcraft here, and Hayden.

Mr. DOOLITTLE. "Chien" is simply the French name for a female dog. [Laughter.] That is the truth about it, whether Schoolcraft says it or not; but Arapaho is an Indian name.

Mr. EDMUNDS. What does that mean?

Mr. DOOLITTLE. I do not know the meaning of it. It is the name of a tribe of Indians.

But, Mr. President, there are three considerable sized rivers rising in this Territory. There is the Platte river, and with all propriety the Territory might be named from the river itself. There is the Yellow Stone, which rises there. There is, also, the Big Horn river rising there and the Sweet Water. Then there is a range of mountains there. But the Platte, which is a river running through nearly the whole length of this Territory, along the mountain passes, would be a very proper name. If, however, we give it an Indian name I prefer Arapaho to Cheyenne, because Cheyenne is simply a variation of *chien*, the French name for female dog.

Mr. SHERMAN. I simply want to correct a misapprehension into which the Senator has fallen. For the purpose of getting the derivation of the name I sent to our Librarian, Mr. Spofford, a very competent person to find out any matter of this kind or any other to be found in books, and here is his note. I asked him for the derivation of the word "Cheyenne," and he says:

The highest authority, Schoolcraft, (corroborated by Hayden,) on the Philology of the Indian Tribes, says: "This nation has received a variety of names from travelers and the neighboring tribes, as Shyennes, Shyennes, Cheyennes, Chayennes, Shorons, Shoshays, Shoshais, and by the different bands of the Dakotas, Shat-en-na or Shatela, the meaning of which is not known." A. R. SPOFFORD.

It has sometimes been derived from the French *chien*, a dog, but on no authority that I can discover.

I here desire to say, also, that the word "Cheyenne" is found more frequently in describing the mountains and rivers of this Territory than any other name. The name of Platte and Sweet Water are found there; but

there is a river Cheyenne with many tributaries; there is a mountain Cheyenne, there is a pass Cheyenne, there is a town Cheyenne, and, I think, the true spelling, according to Mr. Spofford, is the first name he gives, Shyennes.

Mr. SUMNER. That is the spelling of the river on the map.

Mr. SHERMAN. That is the spelling by Schoolcraft. That is all I desire to say.

Mr. HENDRICKS. Mr. President, I do not think there was any occasion for the amendment proposed by the committee. The name contained in the bill in the first place was very beautiful, familiar to everybody in this country; and I accept the proposition of the Senator from Nevada, [Mr. NYE;] we had better stand by that name. The fact that it comes from Pennsylvania is no objection. I am willing, if there be any honor in it, that that grand Commonwealth shall have whatever credit there may be connected with the giving of a name to a great western State. It is altogether the most beautiful name that is proposed. It is connected with an interesting incident in our history, made memorable by the poem to which the Senator from Nevada has referred. I think we had better just adopt that and have all dignified names and nothing else.

Mr. CONKLING. I agree entirely with what has been said by the Senator from Nevada and the Senator from Indiana, and I rise for the purpose of making one additional suggestion. Nothing is more important about a name than its convenience; its convenience in respect to pronunciation and in respect to spelling. There are all sorts of spelling of Cheyenne or Cayenne or Chien or whatever it may be, and I doubt very much whether before this bill was called up this morning a majority of the Senate could have spelled in the most accepted mode that word. Nobody can doubt how to spell Wyoming. It is clear on its face according to the rules of spelling, with which we are all familiar. Nobody doubts how it is to be pronounced; nobody, as the Senator from Nevada so well illustrated in what he said, can find difficulty in its public pronunciation. It is not only euphonious, but a word adapted to the use we are able to make, in speaking the English language, of our vocal powers.

It is convenient and it is right, it seems to me, in all respects. But I rose more particularly to make this suggestion: I have taken pains to inquire into the derivation of this word, too, and it comes from an Indian word which means "large plains" or "wide plains;" and if derivation is to be invoked, I submit that nothing could be more appropriate. This is a very wide plain; a plain so wide, an area so great, that it has been unknown in the legislation of the world for purposes like this, as far as we know, until in very modern times. Now, I think that adds a little to the propriety of the name, and I hope that we shall end by adopting the name which occurred to those who originally drew this bill as the proper thing both in respect to propriety and convenience.

Mr. TIPTON. Mr. President, as the State I have the honor in part to represent is a neighbor to this new Territory, I may be pardoned for saying a word. I have understood from the people of that region that Wyoming was the name to which they were attached, and recently in conversation with a prominent citizen and an editor in the new Territory I was under the impression from him that they desired no other name than the name of Wyoming. I hope, therefore, that that name will obtain.

Mr. YATES. I withdraw my amendment for the sake of stopping the debate.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. CAMERON. I desire to say that I am very much obliged to the Senators who have so ably and properly defended the name originally proposed for this new Territory. I say so as a representative from Pennsylvania. I think there can be no more appropriate name than that first proposed. The valley of Wyoming in Pennsylvania is one of the most beautiful in the State; it is renowned in our history and in

the history of the Indian wars. The men of that valley have been among the bravest people of this country, as they have evinced on every fitting occasion, and its women are among the handsomest. The Indians who went by the name of the Wyomings have traveled west, and possibly many of their descendants are now living in that "great plain" which it is proposed to make a Territory.

Besides that, I may say that Pennsylvania has some claim on the great West. There is not a State in all the West that is not made up in part, and largely, by people from Pennsylvania. There has not been a constitution formed in any of the western States which was not formed in part by the minds and the activity of men from Pennsylvania. I see around me on this floor a number of Senators who are descendants of men who first settled in Pennsylvania, and who went out to the West carrying with them the principles which they had imbibed in Pennsylvania, and they have done much for the West, because they learned their principles from their progenitors in Pennsylvania. I think the name of Wyoming is most proper for this Territory, and if it is intended as a compliment to Pennsylvania I regard it as very proper, and I thank the Senators for it.

Mr. RAMSEY. Mr. President, the selection of the names of our western Territories and States has always been settled by some local consideration, the residence of an Indian tribe or a river or a lake. I think we should not at this time depart from that custom. While the name of Wyoming is beautiful it will never suggest anything there. It is a name derived, as has been stated, from Pennsylvania. Now, you have in the immediate vicinity of this new organization, and in fact upon its territory, a powerful Indian tribe who have been known to history in past time as having given this Government as much trouble as any other Indian tribe on the Plains—the Cheyennes. By giving the name of Cheyenne to this Territory you will preserve that fact in the recollection of this people. In the course of time, these Indians will be lost; they will disappear as many other tribes have done who are now only known and remembered by the names given to other western States and Territories. There was once a famous nation of Indians known as the Illinois. They are gone, but you have the name they gave to the river which flows through that State. The Indians gave the name to the river, and the river to the State, and that is all that is left of the tribe. The Iowas have disappeared almost entirely, but a State of this Union is known by their name. The name of the State of Wisconsin is taken from the Wisconsin river, given to it by the French. The State of Minnesota is named from the Minnesota river, which name was given to that river by the Indians. Dakota Territory is of course named from the great Dakota tribe. Now, in regard to this proposed new Territory, as it is the scene of the exploits of the Cheyenne Indians, why not preserve that name? It is as musical as any of the rest, and the time will come when it will be the only land-mark we shall have of that tribe. Everything else will have disappeared but the name. I think it will be a great mistake to go East to find a proper name for the Territory, when you have so many around and about it, and the practice of the Government in the past should be preserved in naming this Territory, I think.

Mr. POMEROY. I understand the Senator from Illinois to have withdrawn his amendment, so that there is no amendment now pending.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. POMEROY. I move that the first section be further amended by striking out of it all after the word "Indians," in the nineteenth line. The words which I propose to strike out form a clause which has crept into all our territorial bills, providing that no Indians shall be included within the Territory if by treaty stipulation the Government of the United States has provided that they shall not be included without their consent. The difficulty

arising from such a provision is that if the Indian reservations are not included within the jurisdiction of the Territory its authorities can exercise no jurisdiction there; criminals run over, get on the reservations, and escape punishment.

Mr. CONNESS. And treaties follow.

Mr. POMEROY. But there are no such treaties in the Territory to which this applies. I should like to have these words stricken out unless there be some objection on the part of the committee that I cannot comprehend.

Mr. HENDRICKS. I should like to know from those having the bill in charge whether there are any such treaties. I supposed from seeing this provision in the bill that there were treaties which provided that jurisdiction should not be extended over the Indians.

Mr. POMEROY. This is the old phraseology drawn from bills applicable to Territories where the Indian tribes had specific stipulations in a treaty that they should never be included within any State or Territory. The draftsman of this bill simply copied those words. They are not applicable to this place, and ought not to be used, because if you cannot extend the jurisdiction of a Territory over an Indian reservation you cannot catch a criminal on that reservation, and if the Indians are not included in this jurisdiction you have no Territory there, because it is almost all Indian land at present.

Mr. NYE. I suppose that the reason for this provision is that some of the recent treaties made by the commissioners sent out do include a portion of the Indians in this Territory.

Mr. POMEROY. I apprehend that there is no distinctive reservation for these Indians under any treaty by which it is provided that they shall never be included within the jurisdiction of any State or Territory. If there is such a provision it is against the public interest and against public policy, and ought not to be made.

Mr. NYE. The honorable Senator will remember that there is a proposition now pending and commissioners are treating about locating in the northern part of this Territory tribes which it has been proposed to remove there.

Mr. YATES. This provision was proposed with reference to that.

Mr. NYE. Whether that treaty is complete, whether the reservation is located or not, I do not know; but if there is no treaty this provision amounts to nothing and can do no harm. To my knowledge, there is no treaty existing which would require this provision in the bill; but the particular provision was left in on the supposition that before the bill passed a reservation would perhaps be located there by the commissioners now in that region.

Mr. POMEROY. If the Senator will examine this language, he will see that it says that all such land as comes within the description shall be excepted out of the boundaries, and shall constitute no part of the new Territory. What kind of boundaries are you going to have for this Territory if you have such a provision in the bill?

Mr. NYE. The clause rests on the hypothesis that the existing Indian treaty has that provision in it.

Mr. POMEROY. There is no such thing.

Mr. NYE. If there is not the provision cannot do any hurt, and if there happens to be such a treaty it covers it.

Mr. POMEROY. If this provision was not in the bill, and we should afterward consent to a treaty containing such a stipulation, that would be in the nature of a law, and would cover this question. But suppose you put this provision in the bill and it becomes a law, and hereafter commissioners make a treaty that will repeal or modify it, then the question is whether the treaty-making power can abrogate a law of Congress, and you have a more difficult question than you have if these words be left out. Leave them out entirely, and then you have nothing against what a treaty may provide, and if the Senate hereafter make a

treaty of the kind supposed there will be no law to conflict with it.

Mr. NYE. On the part of the committee there is no desire to retain this phraseology if it is objectionable, but I think it is entirely harmless. It is useless if no such treaty exists; but I was informed at the Department that probably before this bill passed there would be a treaty existing by which a reservation in this Territory would be set apart for certain Indians. As the Senator must know, this is the very region of country where it is proposed to make that reservation, in the northern part of the Territory, to which to move the tribes from the South.

Mr. POMEROY. If you strike out these words, and such a treaty shall be made, there will be no law to interfere with it.

Mr. NYE. It strikes me the other way.

Mr. POMEROY. There will be no law on the subject, and therefore nothing in the way of making the treaty.

Mr. YATES. The committee were informed that there were several tribes of Indians in Dakota and Montana whom it was desirable to remove to a reservation, and that the commission sent out there for that purpose could find no other Territory so suitable for the purpose as this. The committee, therefore, thought it best to so frame the bill that in case such a reservation should be necessary the act itself would not interfere with it. I cannot see any possible objection to this, because if no such reservation is made this provision will have no effect. I think the amendment is unnecessary.

Mr. POMEROY. The difficulty I have always found with this phraseology is, that if we live up to our agreements, which we never do, we put it into the power of an Indian tribe to say that a State government shall never be extended over them. You commence in the beginning by saying that they shall never be included within the boundaries of any State or Territory without their consent. If that means anything, if we live up to it in the future, it means that unless some little Indian tribe consents, this Government of the United States shall never extend jurisdiction over that Territory. The principle is wrong. The United States has jurisdiction over all this territory, and it is unnecessary to put into a bill of this kind a provision that the tribe must consent in order to have jurisdiction extended over them.

Mr. YATES. What is the proposed amendment?

The PRESIDENT *pro tempore*. The amendment will be read.

Mr. POMEROY. I want to strike out this language, because it is unnecessary. I do not care anything about it, but I think it is entirely unnecessary.

The CHIEF CLERK. It is proposed to amend the bill by striking out in the first section all after the word "Indians" in the nineteenth line. The words proposed to be stricken out are as follows:

Or to include any territory which, by treaty with any Indian tribe, is not, without the consent of said tribe, to be included within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries and constitute no part of the Territory of (Wyoming) Lincoln, until said tribe shall signify their assent to the President of the United States to be included within the said Territory, or to affect the authority of the Government of the United States to make any regulations respecting said Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent for the Government to make if this act had never passed: *Provided further*, That nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories in such manner and at such time as Congress shall deem convenient and proper, or from attaching any portion thereof to any other Territory or State.

Mr. POMEROY. I do not care about striking out the proviso. My amendment was intended only to apply to striking out the words as far as the proviso, and I so modify it.

Mr. DOOLITTLE. When General Sherman was here he was before the Committee on Indian Affairs, and, if I understood distinctly, the proposition was on the part of the commissioners, of whom he was one, to try to set

apart a territory in the North for the northern Indians, or the Indians of the Plains, the Sioux, the Arapahoes, the Cheyennes, &c., to get them away from the great routes of travel by giving to them a territory in the North, the same as we have given to the southern Indians a territory in the South. It may be necessary, in order to come to an arrangement with these great and powerful tribes, for these commissioners to enter into a treaty negotiation by which they will agree that the Indians shall hold the territory which we give them in perpetuity, and that we shall never embrace them within the territorial jurisdiction of a State or Territory without their consent. You may not be able to make treaties with these great and powerful tribes unless you tender to them this kind of a provision for their permanent home. Should that be so, it would be necessary that some such provision as this should be in the bill, and I think the committee have wisely left it in the bill. But if you strike it out, then the jurisdiction of this territorial government, extending over the whole territory, if you come to make a treaty that interferes with the bill itself the Indians may not consent to bring themselves under the territorial jurisdiction.

Mr. RAMSEY. The probability is that these great and powerful tribes will never know anything about it.

Mr. DOOLITTLE. If my honorable friend thinks the Sioux, the Arapahoes, and the Cheyennes do not know what they are treating about he is very much mistaken.

Mr. RAMSEY. They will probably not know anything about this bill, and not know that these imaginary lines are drawn about certain portions of country.

Mr. POMEROY. If the Senator from Wisconsin will read the language of the bill he will find that it only applies to existing treaties. It does not apply to treaties that may be made in the future, and therefore his remarks do not apply to this case.

Mr. RAMSEY. The Senator from Wisconsin, as well as the Senator from Kansas, knows very well that within the well-defined boundaries of States and Territories are Indian tribes located, and you do not disturb their government or powers at all. They are there, and have been all the time. For instance, the Sioux and the Dakotas were inside the State of Minnesota since its organization as a State, and they were there while it was a Territory. Indians have had reservations marked out within State limits, and the Indian department exercised its powers and jurisdiction over them. That has continued ever since our admission with some Indians in the State. The State or territorial government does not interfere with them in the slightest degree. I would advise the committee to strike out these words as proposed by the Senator from Kansas. The erection of a territorial government does not affect the Indians at all, and therefore the provision is unnecessary.

Mr. DOOLITTLE. If there be no such treaty, and no such treaty shall be made, then, as a matter of course, this provision standing in the bill has no effect at all; but if the commission, of which General Sherman is a member, should make such a treaty, and in the treaty agree, as was agreed with the Cherokees, the Choctaws, and the other Indian tribes in the southern Indian territory, that we will not extend a territorial government over them without their consent, if the commission should find it necessary to make such a treaty this provision would be a good provision in the bill, and would be operative; otherwise it would not.

Mr. POMEROY. But this only applies to treaties already existing.

Mr. DOOLITTLE. That is by no means certain.

Mr. WILLIAMS. Mr. President, I think that this portion of the section should certainly be stricken out; otherwise it will be impossible to administer justice in this Territory. The boundaries are defined, and the Territory is to be divided into judicial districts, and then the section provides that if any portion of the



Territory is in the possession of the Indians, and no treaty is made with those Indians, that portion of the Territory shall not be included within the original boundaries, and shall constitute no part of the Territory. Of course, if it is not a part of the Territory, the jurisdiction of the courts does not extend to that portion which is in the possession of the Indians, and it will make it a city of refuge for criminals and others to avoid punishment for crime or escape the service of process. I think there ought to be no provision in this bill that deprives any portion of the country within these boundaries from the protection which the laws and the courts give to the people of the Territory. If this is allowed to stand, then there may be a portion of the Territory on the southern boundary to which the jurisdiction of the courts does not extend, because there is a tribe of Indians that do not make any treaty with the United States, and there may be another portion of the Territory on the northern boundary in the same condition; and so the Territory will be parceled up, and it will be impossible to tell where the jurisdiction of the courts does or does not extend. I think this provision ought to be stricken out on that ground.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Kansas, [Mr. POMEROY.]

The amendment was agreed to.

Mr. HENDRICKS. I move to strike out the seventeenth section.

The section was read as follows:

Sec. 17. *And be it further enacted*, That the President of the United States, by and with the consent of the Senate, shall be, and he is hereby, authorized to appoint a surveyor general for the said Territory, who shall locate his office at such place as the Secretary of the Interior shall from time to time direct, and whose duties, powers, obligations, responsibilities, compensation, and allowances for clerk hire, office rent, fuel, and incidental expenses shall be the same as those of the Territory of Dakota, under the direction of the Secretary of the Interior, and such instructions as he from time to time may deem it advisable to give him.

Mr. HENDRICKS. I intend to follow this motion, should it be sustained, by a similar motion to strike out the eighteenth and nineteenth sections, which propose to establish land districts in this Territory. It is not usual in bills organizing territorial governments which are intended to be political in their character—I do not mean in any party sense, but intended merely to establish governments—to provide for the disposal of the public lands. A bill establishing a surveyor general's office, and also establishing local land offices, should be separate, and should be considered by the Committee on Public Lands. It is a subject that does not properly belong to this bill, and is not properly to be considered by the Committee on Territories. I am not prepared to say that there should be an additional surveyor general's office. The probabilities are that for some years to come the surveying operations in this new Territory ought to be very limited; but a very small sum should be appropriated for surveys in this Territory; and they should be expended, of course, in those localities where the settlements are being most rapidly formed. There is no inconvenience in carrying on these surveys through the office already established in the Territory of Dakota.

It is not an unusual, but a very common thing, that the same surveyor general's office shall extend to more than one Territory, and it may very well perhaps be the case here. The establishment of a surveyor general's office involves a good deal of expense, and should not be made except upon a clear case of necessity. I suggest to the Senators having this bill in charge, that these sections be omitted, and that, according to the custom, we provide for the disposal of the public lands in other bills.

Mr. YATES. I have no particular objection to the amendment, and I presume the committee have none. The Senator is mistaken, however, in supposing that this provision is unprecedented. It is copied, I think, from the bill for the organization of the Territory of Dakota, but

there is no particular reason perhaps why it should be here.

Mr. POMEROY. I agree with the Senator from Indiana that the seventeenth and nineteenth sections should be stricken out. The eighteenth section, however, I think involves no expense. It provides that the Territory shall be formed into a land district at such time as the President may direct, and that a land office shall be located at such point as the President may direct, and shall be removed from time to time under his direction. Every Territory should have one land district, but I would not provide in this case for the appointment of a register and receiver until after the surveys have been made, and there can be no surveys until after a surveyor general is appointed, so that perhaps all three sections may as well be stricken out.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana to strike out the seventeenth section of the bill.

The motion was agreed to.

Mr. HENDRICKS. I make the same motion in regard to the eighteenth and nineteenth sections, to strike them out.

The motion was agreed to.

The sections stricken out are as follows:

Sec. 18. *And be it further enacted*, That the Territory of Wyoming shall be formed into a land district at such time as the President may direct, the land office for which shall be located at such point as the President may direct, and shall be removed from time to time to other points within said district whenever, in his opinion, it may be expedient.

Sec. 19. *And be it further enacted*, That the President be, and he is hereby, authorized to appoint, by and with the consent of the Senate, a register and receiver for said district, who shall respectively be required to reside at the site of said office, and who shall have the same powers, perform the same duties, and receive the same compensation as are or may be prescribed by law in relation to other land offices of the United States.

Mr. HOWE. I desire now to move an amendment which I think will occasion no debate. I have submitted it to the chairman of the Committee on Territories, and he has no objection to it. I move this amendment as an additional section:

*And be it further enacted*, That this act shall take effect from and after the time when the executive and judicial officers herein provided for shall have been duly appointed and qualified: *Provided*, That all territorial laws in force in any portion of said Territory of Wyoming at the time this act shall take effect shall continue in force until repealed by the legislative authority of said Territory.

Mr. STEWART. I hope that will not be done, or at least that some modification of the amendment will be made. The Territory of Dakota has undertaken to pass a mining code which is as unlike anything that is useful for that purpose as any code that could be well conceived of. It is in conflict with the law of Congress. It is cumbersome and inconvenient. The people in this Territory have held several meetings on the subject, and passed resolutions which have been sent to me asking that Congress shall interfere and abrogate these laws altogether. They are very bad laws.

Mr. HOWE. Very well, Mr. President, as soon as they have a Legislature they can repeal those laws. If you do not adopt this provision they will not have any laws.

Mr. STEWART. They are not in need of any of these laws.

Mr. HOWE. But they ought to have some laws.

Mr. STEWART. If the Senator will put in his amendment a proviso abrogating those mining laws, I shall consent to it; but certainly I would not fasten on that people that system of mining laws. Under this provision, without some modification, you will fasten those laws upon them for nearly a year. They have disregarded them as being in conflict with the law of the United States, and a letter has been addressed to me inquiring whether these laws were operative, inasmuch as they inaugurated a different system from that established by the law of the United States. I advised that the congressional code should be followed. This provision, however, as it stands, might

legalize the Dakota code, and lead to great difficulty.

Mr. HOWE. Not at all. It only continues such laws as are in force at this time. If you do not do that, you leave these people without any laws from the time the act takes effect. We cannot go through the existing codes and separate what are good laws from what are bad.

Mr. HOWARD. I beg to call the attention of the Senator from Wisconsin to the fact that a portion of the present Territory of Utah falls within the limits of this new Territory. He knows very well that there are very great peculiarities in the code of Utah, and I do not for one feel like confirming or affirming in any way any portion of the code of that famous Territory. Of course I do not refer to polygamy, which is already rendered unlawful by law, although I believe it is yet practiced in the Territory of Utah, the law being entirely impotent to check that vice. But does the Senator from Wisconsin intend that the Territory of Wyoming shall thus embrace within its limits a variety of laws, laws which may be inconsistent with each other in many respects? The largest portion of the Territory is carved out of the old Territory of Dakota, and it embraces part of the Dakota code and part of the code of Utah. I inquire of the Senator from Nevada, [Mr. NYE,] whether a portion of the Territory of Utah does not fall within the limits of the new Territory of Wyoming, and a very considerable portion of it.

Mr. NYE. To relieve the honorable Senator of any particular apprehension on that subject, I beg to inform him that that portion of the Territory of Utah, as far as can be ascertained by the committee, does not contain over four or five beings—I believe one single family. I see great propriety in the suggestion made by the Senator from Wisconsin. You must have some laws for the time being. When the Territory of Nevada was formed, there was no such provision made, and I found no other way in the exercise of the little power conferred upon me, than to use such of the laws of Utah as were in existence up to the time our Legislature met and made laws of their own. I think there is great wisdom in this proposition.

Mr. CONNESS. If the Senator from Wisconsin will so frame his amendment that these laws shall remain in existence until a certain period when the Legislature of the new Territory shall have organized for business, that will do; but he goes further than that, and says that they shall be laws until repealed. It is easier to pass a law than to repeal one. In other words, it is easier to keep a law in existence, even if it be an offensive one, than it is to enact a bad law. If the Senator will modify his amendment to that extent I think it will be unobjectionable.

Mr. STEWART. I would suggest a modification that will remedy my difficulty, and that is to add at the end of the amendment these words: "except such laws as relate to the possession and occupation of mines or mining claims." The laws of Dakota in regard to mining are bad, and do not suit a single person in this district. The people there have gone on under the national laws in regard to mining claims, and the only trouble they have now is the fear that they may be dragged off several hundred miles to comply with some arbitrary rules of recording or filing, which are very inconvenient to them. These laws undertake to regulate the size of claims and a great many other subjects which interfere with the legitimate business of the people, and the quicker they are abrogated and the miners in this Territory are left to the general laws of Congress, as other miners are, the better it will be.

Mr. WILSON. What laws does the Senator refer to?

Mr. STEWART. The mining laws of Dakota passed a thousand miles from the mining region, and which are not acceptable to the miners.

Mr. CONNESS. I will say, in addition to what the Senator from Nevada has stated, that many of the territorial Legislatures have passed

very offensive and objectionable laws on this subject. Persons easily get into territorial Legislatures who are largely interested in passing such laws as give them a local legal possession of valuable mines; and it is certainly necessary to do what we can do to make the general laws which Congress has passed on the subject, which are just and equal to all, obtain.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Nevada to the amendment of the Senator from Wisconsin.

Mr. HOWE. Of course, I cannot have the slightest objection to the amendment proposed by the Senator from Nevada; that is to say, I cannot have the slightest objection to excepting from the operation of this provision any law in the codes of any of the Territories any portion of which is to be embraced in the Territory of Wyoming, which this body undertakes to know is an improper law; and Senators in whose opinions I have entire confidence say they do know that the Dakota laws on the subject of mining are improper. I have no opinion about that, because I do not know anything about the laws. If the Senate are content with that statement, I certainly am.

I want Senators to understand distinctly what the purpose of my amendment was. It was simply to guard against leaving the people of Wyoming without a code after this act shall take effect. To do that we have to continue in existence the laws which are in existence there now or provide a new code, or take this course and take the existing code with such exceptions as can be named on the spur of the moment. That is pretty risky; but there is probably no sort of reason in excepting this, from what Senators about me say. I have no objection to the amendment of the Senator from Nevada.

Mr. NYE. I wish to ask my colleague if he thinks that the word "possession" is exactly the right word in this amendment? I suppose if the Territory of Dakota has passed mining laws, and possession of mines has been obtained under them, my colleague does not intend by this exception to destroy the title or color of title that the occupant or possessor may have acquired by law.

Mr. CONNESS. Allow me to answer the question. The answer to it, I will say, is this: in 1866 Congress passed a law confirming to the then existing possessors their respective mining claims according to the local laws and usages of each mining locality; so that they would hold under that law of 1866.

Mr. NYE. That law of 1866, the Senator from California will remember, was based upon the local laws, not of States, not of Territories, but of the local mining districts. Whether they have these local laws in this Territory I am not aware. I should not like to see a man having possession of a good mine under the law thrown out of it.

Mr. CONNESS. This will not disturb anybody.

Mr. NYE. Then I am satisfied.

Mr. STEWART. I will say to my colleague that I am very confident that this amendment will not disturb any one in possession. So far as my experience has gone, every Territory which has attempted to legislate on this subject has got into great confusion. Our own State passed a mining law which was on the statute-book but one year. It was found very necessary to repeal it, and by common consent undo everything that had been done under it during the year. These parties are all protected in their possession under the general law of Congress, and we had better have but one system. I have been in correspondence with a large number of persons in this region who state the inconveniences to which this code of Dakota would subject them. They do not want the Dakota laws sanctioned by Congress, and they have made a special request that in the organizing of this new Territory we should not give those laws congressional sanction. They have not given them any local sanction yet, I believe.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Nevada to the amendment of the Senator from Wisconsin.

The amendment to the amendment was agreed to.

Mr. HOWARD. I ask now for the reading of the amendment as amended.

The PRESIDENT *pro tempore*. The amendment, as amended, will be read.

The Chief Clerk read as follows:

And be it further enacted, That this act shall take effect from and after the time when the executive and judicial officers herein provided for shall have been duly appointed and qualified: *Provided*, That all territorial laws in force in any portion of the said Territory of Wyoming at the time this act shall take effect, shall continue in force until repealed by the legislative authority of said Territory, except such laws as relate to the possession or occupation of mines or mining claims.

Mr. HOWARD. I move to amend the amendment by inserting before the word "laws" the word "general," and after the word "laws" the words "of the Territory of Dakota," for this reason: the Territory of Dakota has a very respectable code of laws at present, and I believe they are very acceptably administered. Probably nine tenths of the new Territory is carved out of the Territory of Dakota; and the people have been accustomed to and well acquainted with the laws of the Territory of Dakota, while the remainder of the new Territory is within the present Territory of Utah, which is governed by a distinct and separate code of laws, many of which are very peculiar in their nature and very objectionable. I would therefore adapt the territorial code of Dakota to the government of the new Territory of Wyoming, so that there shall be really but one code of laws in the Territory. Otherwise there will be a conflict between the Utah laws and the Dakota laws, which is to be avoided, if possible. I hope that the amendment will be accepted. I also move to amend the amendment by inserting after the word "force" the words "throughout the Territory of Wyoming."

The amendment to the amendment was adopted.

The amendment, as amended, was agreed to.

Mr. YATES. In the third line of section sixteen the word "applicable" should be "inapplicable."

Mr. POMEROY. I noticed that; it is a clerical error. The section should read "not locally inapplicable."

The PRESIDENT *pro tempore*. That amendment will be made, there being no objection.

Mr. POMEROY. There is a slight amendment necessary in the second section to make the bill harmonious with the amendment adopted to the sixth section. The clause beginning in line ten should read: "The Governor shall approve all laws passed by the Legislative Assembly before they take effect, unless the same shall be passed by a two-thirds vote, as provided in section six of this act." My amendment is after "effect" to insert "unless the same shall be passed by a two-thirds vote, as provided in section six of this act."

The amendment was agreed to.

Mr. POMEROY. The Senator from Illinois will notice that the fourth section of the bill, in the twelfth line, provides: "An apportionment shall be made as nearly equal as practicable." It should be "An apportionment shall be made by the Governor," &c. This first election is held under an apportionment made by the Governor. All subsequent elections are to be held under the law of the Territory. I suppose it would be understood that the Governor should make the apportionment; but it is usual, that there may be no doubt about it, to put it into the bill. So I will move to insert after the word "made" the words "by the Governor."

The amendment was agreed to.

Mr. POMEROY. In the eleventh section I notice that the Governor and secretary may be sworn in before a justice of the peace. I know that has been in other bills, and I will not move to amend it; but still if I were writ-

ing this bill I would not have a justice of the peace in a Territory authorized to swear in the Governor or secretary. But I will not move any amendment.

Mr. NYE. If the honorable Senator should go into a Territory where there was no other officer within eighty or a hundred miles he would be glad to swear before anybody. [Laughter.]

Mr. POMEROY. But the Governor goes to the capital, and a judge of one of the district courts ought to be there.

Mr. NYE. He cannot swear himself.

Mr. POMEROY. One of the judges of the district court is always at the capital, or should be. I see that this bill provides that the chief justice and associate justices shall have a salary of \$1,800 a year. I submit whether you can expect to have any justice administered by a man who will serve in this Territory for \$1,800 a year. Certainly a salary of \$1,800 is inadequate for a judge in this Territory. In the eleventh section it is provided that the Governor shall receive a salary of \$2,000 per annum, and \$1,000 as superintendent of Indian affairs. I do not object to that, but then it goes on to provide that the chief justice and associate justices shall each have a salary of \$1,800. I submit that if you select a man from the Territory capable of being chief justice, and give him only \$1,800 a year, you offer him no inducement. That is no inducement for a man to go there to fill the position; and if you take a man there, it is no inducement for him to devote himself exclusively to that office. I desire to have proper men to administer justice, and I should prefer to have them taken from the Territory, if suitable persons can be had there; but \$1,800 will not command their services, and ought not to do so. If you are to have justice administered at all, it should be administered by competent men, and a decent salary should be provided for them.

Mr. NYE. I think that there was a mistake in fixing it at that. The intention was to fix it the same as the salaries of the judges in Dakota, that is \$2,500 each, and I think that is as little as they should have. No person can live properly on \$1,800 there. I move to strike out "eighteen" and insert "twenty-five;" that was the design.

The amendment was agreed to.

Mr. HENDRICKS. I move to amend the bill by striking out so much of section two as makes the Governor of the Territory superintendent of Indian affairs *ex officio*. I do not think that is a system which ought to be continued. My amendment is to strike out in the eighth and ninth lines of the second section the words, "shall perform the duties and receive the emoluments of superintendent of Indian affairs." I simply wish to say that it has been quite customary to unite the duties of Governor and superintendent of Indian affairs in the Territories. So far as I know anything about it, that has not been promotive of the good of the public service. I think the system ought to be abandoned and that the superintendent of Indian affairs ought to be directly responsible to the proper Department for the discharge of his duties, and ought not to come before that Department with the dignity of the office of Governor of a Territory. He ought to be held to a strict responsibility, much more strict than can be secured where the Governor discharges the duties. By him they are discharged as subordinate duties, and not as his principal duties.

Mr. YATES. I will state simply that this is the usual provision made in territorial bills. These duties have to be performed by somebody. The Governor is there, well acquainted with Indian affairs in the Territory, and if he does not perform these duties, a separate agent will have to perform them and be sent there for that purpose. Moreover the salary of the Governor is only \$2,000.

Mr. HENDRICKS. We can change that.

Mr. YATES. I see no good reason why the Governor may not perform these duties more

satisfactorily than an agent appointed here at Washington.

Mr. DOOLITTLE. The simple reason is that the Governor is appointed under the Department of State and is responsible to and reports to the Department of State; the superintendent of Indian affairs reports to the Secretary of the Interior, and it has been found practically that the Governor of a Territory who reports to the Secretary of State, and holds, so to speak, his office under him, does not properly report to the Secretary of the Interior, and that Department finds it sometimes next to impossible to get any report at all from some of these Governors who are superintendents of Indian affairs. That is the practical working of it.

Mr. RAMSEY. The practice in all the earlier territorial organizations was to confer this additional duty upon the Governor, whose civil duties are very light. He has scarcely anything to do. He enters upon his duties as Governor of the Territory, and the Legislature is not convened until months after. In the meantime he has nothing to do but to wait for the territorial Legislature. When they meet the session is a short one, and when he has signed the bills and the Legislature have adjourned there is nothing further for him to do for some time. Hence we have wisely imposed on him the additional duties of superintendent of Indian affairs, which he can very well perform. There is no difficulty in his reporting to the Secretary of the Interior. There has not been usually much difficulty in that respect. The Governors of the Territories have attended to their duties as superintendents of Indian affairs as well as to their civil duties. The civil duties of the Governor of a Territory are very light, and almost his whole time is taken up in attending to Indian affairs in the western Territories.

Mr. HENDRICKS. I will add but a word, sir. The Governor of a Territory, as is known to Senators, is appointed almost altogether from political considerations. The office itself is political in its character, and there can be no objection to the appointment of a man because of political considerations, as we now understand these matters. He goes to the Territory expecting that appointment of Governor of the Territory to be a stepping-stone either to the House of Representatives or to the Senate. He administers his office with a view to that. I speak of it practically as it is, and as it is known to Senators. I say that the administration of Indian affairs ought not to come under such an influence. I think I know of some instances in which the Indians have been sacrificed in bloody cruelty to gratify what was supposed to be a popular demand. I want to see the Indians placed under a man who is responsible for nothing except the care that is to be taken of them. I want somebody appointed who stands between the Indians and the white people. The Governor depends for his future political promotion upon the white people. He is a candidate for Congress from the day he goes there, is a candidate for the Senate from the day he goes there, and the Indian becomes the sacrifice of his ambition. I do not want to see it continued, sir. I want to see some man have charge of the Indians who has nothing to look after except the interests of the Indians and the conflicts between the two races. I think this amendment ought to be adopted.

Mr. RAMSEY. Mr. President, the superintendent of Indian affairs is but a supervising officer. The immediate charge of the Indians is with the agents scattered over the Territory. Almost every superintendent, whether he is a Governor or otherwise, has two, three, four, or half a dozen agents under his care. He supervises what they do; but the immediate charge of the Indians is with the agents, not with the superintendent.

Again, why would not a superintendent of Indian affairs, if he was such alone and not also Governor, be actuated by the same motives of ambition as a Governor?

Mr. HENDRICKS. That does not seem to have been the fact practically.

Mr. CORBETT. Mr. President, I shall support this amendment. I have had some little experience in watching the workings of Indian affairs where the Governor has been the superintendent. I believe the duties of the two positions are incompatible. I think that where a man is superintendent of Indian affairs, he ought to devote his whole time to that business, and he ought to be a suitable man for that special task. A man may be a suitable man for Governor of a Territory, and yet entirely unsuitable to be superintendent of Indian affairs. I would vote to-day to separate these offices in all the Territories we have.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana.

Mr. HENDRICKS called for the yeas and nays, and they were ordered.

Mr. STEWART. I shall vote for this amendment, and I will state in a few words the reason why. I do not approve of the Indian system at all, and I hope that, as the Senator from Indiana has suggested, we shall have the Indians put in charge of men not looking for political places and disconnected with politics. I want the Indians removed from politics if possible, and I hope the Senator will cooperate with me at some future day in turning them over to the War Department. I do not want a large army in the Indian country, because if the army is there for any purpose it is to fight the Indians, and in that service they never accomplish anything but they cost a great deal of money. There is no necessity for an army in the Indian country in my estimation; but if you have a few Army officers who are honest and just men they will manage the Indian service economically and justly, and if they want any fighting done with the Indians they can call out volunteers for twenty, thirty, or sixty days as may be required, and whip the Indians at once, and save you the expense of keeping up a large army there that accomplishes no good. These same army officers can stand between the whites and the Indians, and see that justice is done to both. If we can have a system of that kind, and have men not connected with politics or with making money out of these transactions, in charge of the Indians, I think there will be no difficulty in managing the Indians.

I will not now go into that question at length, but I do not wish to see the Governor of the Territory mixed up with Indian affairs, and I shall vote for the amendment of the Senator from Indiana, because I want to remove the Indians, as far as I can, from politics; but I do not think you have made the requisite change when you have simply separated the Indian superintendency from the office of Governor of the Territory. I think you will have to go still further if you are to have a disinterested and fair administration of the system. I think the present system is a failure, costing from fifteen to thirty millions a year, and the results achieved could, under a proper system, be certainly accomplished with a great deal better satisfaction both to the Indians and to the whites for one tenth of the amount. Other countries get along with their Indians.

Great Britain right on our North has a system simple and effective. She employs no large army to look after the Indians, no horde of Indian agents to manage them, but controls at a very small expenditure, savage Indians who are a great deal worse than those we have. When the Kern river mines were discovered in British territory there was a very large emigration from our country; thousands of Californians went up there; and when those who had been accustomed to our Indian system went there and compared it with theirs and came back, they told our people that the British knew how to manage Indians and we did not. They said it was done by a few military men who enforced the laws of justice both against the Indians and against the whites. You do not want a large army in the Indian country to be supplied at great expense. It is

entirely useless for any practical purpose. If you have any fighting to do with Indians you can get an army of volunteers in ten days or one day almost, sufficient for your purpose, and you can discharge them as soon as you are done with them, and they will do your fighting while you want fighting done; but you want the very best army officers, the most discreet men you have, to take charge of Indian affairs and see that justice is done between the Indians and the whites.

Mr. MORTON. Mr. President, in answer to the position taken by my colleague, I would suggest one or two views that have not been expressed by other Senators, in favor of the proposition to confer the management of Indian Affairs in the Territory on the Governor of the Territory. He is more directly interested in the country, and in the peace of the Territory, than any traveling or foreign Indian superintendent or agent can be. So far as my knowledge of the management of Indian affairs goes, persons procure appointments as superintendents and Indian agents for the purpose of making fortunes out of them, and I believe generally succeed. The Governor of the Territory, whether he be appointed on account of politics or not, ought to be a man of some character, and if, as my colleague suggests, he expects to rise to political power from that Territory, he is interested in the preservation of its peace above all other considerations, that emigration may go there, and that the country may grow up and prosper. He has also some character, which a great many Indian agents and superintendents have not, or which they care nothing about, as they simply expect to make money out of it. It seems to me that there are reasons why there would be an advantage in conferring this power upon the Governor of the Territory. He is interested in the country, in its growth, and this can only be promoted by the peace of the Territory, and the proper and wholesome management of the Indians.

Mr. President, the present system of Indian management I regard as a bloody failure and a costly failure. I believe that it would be better to turn the whole concern over to the Army than to maintain the present system; but I believe I could name among my acquaintances in the Society of Friends, commonly called Quakers, ten men who could more successfully manage the Indians, if the power was given to them than the Army. They are the only body of men that ever did manage the Indians without bloodshed and without difficulty and effort. I believe that now a commission could be selected from that Society that could convert war into peace, men who would do justly by the Indians and by the Government. But that, perhaps, cannot be accomplished. It seems to me—and the experience of some of our States, I think, corroborates it—that there are sound reasons for putting the management of Indian affairs into the hands of men living in the Territory who have an interest in its peace and in its growth and prosperity, and who are not professional Indian managers and do not go there simply for the purpose of making fortunes out of the Indians.

Mr. COLE. I do not feel like letting the remarks of the Senator from Nevada [Mr. STEWART] go forth without some dissent. I do not believe that either economy or humanity requires that the Indians should be turned over to the military department; on the contrary, I believe that it would be by far the most expensive disposition that could be made of these wards of the nation. The Indians in Arizona are costing us per year, under Army management, much more than the whole Indian service is costing us; and they are doing but little, nothing, so far as I know, in the way of improving the condition of those Indians. We have, moreover, a slight example of the management of Indians by the War Department in the Bosque Redondo case. We have another example of it in the Chivington massacre. I am very much opposed, so far as at present



advised, to turning over the Indian service to the War Department. That question, however, is not before the Senate on this bill; but I make the remark because of what has been said by the Senator from Nevada.

Mr. TIPTON. I suggest that if the motion to strike out does not prevail we ought to insert immediately following the clause which it is proposed to strike out the words "and in said capacity shall report to the Secretary of the Interior." By making this amendment you make him responsible to the Secretary of the Interior.

Mr. RAMSEY. He reports to the Secretary of the Interior, as a matter of course.

Mr. NYE. Having had a little experience in this matter, I shall be exceedingly glad to agree with the honorable Senator from Indiana. However honestly a Governor and superintendent of Indian affairs may discharge his duty there are always plenty to cry out that he is a thief and dishonest. Mr. President, dishonesty in the Indian department is not with its agents and superintendents; they have no chance to steal unless they are the recipients of large amounts of money with which to fulfill treaty stipulations. I suppose that the object of making the territorial Governor *ex officio* superintendent of Indian affairs is twofold: first, the Governor is necessarily the head of the Territory. His house becomes a hospital, a hotel, and everything else; and every complaint, from that of a sick Indian to that of the wearied, worn, and exhausted traveler, is presented to the Governor for relief. He being regarded as the head of the Territory, it is important that he should have some power to control the only dangerous element in these Territories, the Indians. A superintendent of Indian affairs is subject to the same weaknesses, both politically and morally, that a Governor is. You send a Governor out upon a salary of \$2,000 year. While I had the honor to hold that office in the Territory of Nevada, the money which I was paid brought me in the currency which the people would accept in that country thirty-eight cents on the dollar, or \$380 per \$1,000. Three times that amount, receiving \$1,000 additional for superintending Indian affairs, was all I received. The honorable Senator can count it for himself. No Governor can live upon a salary of that kind.

This combination of duties is based upon the economy of the thing. The Governor can discharge the duties of superintendent, and thereby save money. A Governor in a new Territory can live just as cheap as a superintendent of Indian affairs, if he chooses; and to have two officers for this business makes too many heads. If trouble arises the superintendent of Indian affairs is in one portion of the Territory, six hundred or seven hundred or eight hundred miles from the Governor, with no means to confer with him, and the Governor is powerless to act. The Indians are upon the war-path, and the superintendent of Indian affairs is as far from the Indians as the Governor is from the superintendent. In this condition of things what are you going to do? If there is to be a separate officer superintending Indian affairs, there should be some one head to control all. Divide it, and the security against Indian depredations is gone. This combination of duties saves two or three thousand dollars a year in the expenses of the Territory; it gives unity of action and secures all the efficiency that two separate officers would have, and I think much more.

Mr. RAMSEY. Senators know very well that the whole West has grown up under the system contemplated in this bill. General Cass was Governor of Michigan Territory and *ex officio* superintendent of Indian affairs. General St. Clair was Governor of Ohio and *ex officio* superintendent of Indian affairs. General Harrison was Governor of Indiana and *ex officio* superintendent of Indian affairs. Through the agency of these Governors the great bulk of the Indian titles to the land in the western States were extinguished. General Cass was almost constantly employed in his capacity of

superintendent of Indian affairs. When a great number of Indians are concentrated in any one Territory having special relations to the Indian Department, being located on reservations, they may then require the special services of a superintendent; but otherwise not.

Mr. HENDRICKS. Mr. President, I would not add another word except that I feel that it is perhaps proper to do so to exclude a conclusion. I hope the distinguished Senators from Minnesota and Nevada will not think that any remark I made had any allusion to their former connection with these two offices, or that it was at all in my mind that the Senator from Nevada as Governor of the Territory and as superintendent of Indian affairs received his pay in depreciated currency so that it was not sufficient unless there was connection with the Governor's office also the office of superintendent of Indian affairs.

Mr. NYE. That only made about three hundred dollars a year difference.

Mr. HENDRICKS. Only \$300 out of the \$1,000. I dare say it was all satisfactory in Nevada; I have heard of no troubles between the Indians and the white people there, but I have heard of trouble elsewhere, where these offices were connected.

The Senator from California, [Mr. COLE,] in his answer to the Senator from Nevada, [Mr. STEWART,] a few moments ago, did injustice to the regular Army in connecting the Chivington massacre, that most horrible, bloody, foul spot upon our history, at all with officers of the regular Army. I do not understand that massacre to have been brought about or countenanced by the officers of the regular Army; it seems to have been under local control; but I do not choose to discuss it to-day. It has been discussed in the Senate heretofore, and I believe that Senators generally understand the merits of that question.

I simply wish now, after excluding all possible conclusion that I refer to the Senator from Nevada [Mr. NYE] or to the Senator from Minnesota [Mr. RAMSEY] in any remarks that I make, to repeat what I believe on this question, that these two offices ought to be separated. The Indians ought not to be under the control of the Governor of the Territory, because, in the first place, his office does not properly connect him with that service; and, in the second place, the temptations of political preferment and hopes of ambition disqualify him, in my judgment, for the delicate duty of deciding the many questions that arise between the settler and the Indian; and I will add, as is suggested to me, that the Governor of one Territory, Montana, I now understand asks to be relieved from this duty—the care of the Indians—on the ground that it is inconsistent to some extent with his other official duties.

Mr. HOWARD. Mr. President, I am not prepared for quite so radical a change in our Indian affairs as is suggested by the amendment offered by the honorable Senator from Indiana. The practice of uniting in one and the same person the governorship of a Territory and the superintendency of Indian affairs is a very ancient one, commencing with the commencement of our national existence. The Governor of the Northwestern Territory in ancient days was also superintendent of Indian affairs for that immense Territory which has already become an empire. The Governor of the Territory of Indiana, when it was a Territory, was also superintendent of Indian affairs. The same is true of Michigan, of Wisconsin, and indeed of all the new Territories that have been carved out since the beginning of the Government; and I believe that our Indian affairs on the whole were well administered when taken care of by the Governors of those ancient Territories. I know that for sixteen years while General Cass was Governor of the Territory of Michigan he conducted the Indian affairs of that Territory with a great deal of skill, and I believe to the entire satisfaction of the Government and the country.

I am not prepared now to change this ancient

system. I think there is danger in introducing such an innovation. The Governor of a Territory is looked up to by all persons within its limits as the principal man, and he is especially so regarded by the Indians. As has been very properly remarked by the Senator from Nevada, he is at once the keeper of a hotel and the keeper of a hospital. He is the principal man to whom the traveler applies and to whom the pioneer applies, and of all men in the Territory he is most likely to exert a good salutary influence over the Indian tribes. It is also, on the score of economy, a saving to vest the authority of superintendent of Indian affairs in the Governor. It tends to diminish offices and office-seekers. It tends to simplify the Indian system of the Territories; and for one I must vote against this amendment of the Senator from Indiana.

Mr. YATES. I simply desire to say that under the bill as it stands the Governor is superintendent of Indian affairs, and if you adopt this system of sending an agent there it will produce antagonism. The Governor being more acquainted with the people, and being looked up to by the people, should be at the head, and this antagonism should be prevented. I hope the question will be taken and that the amendment will be rejected.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 9, nays 26; as follows:

YEAS—Messrs. Conness, Corbett, Doolittle, Hendricks, McCreery, Morrill of Maine, Patterson of Tennessee, Van Winkle, and Vickers—9.

NAYS—Messrs. Cameron, Cattell, Cole, Conkling, Drake, Edmunds, Fessenden, Frelinghuysen, Howard, Howe, Morgan, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Sherman, Sumner, Thayer, Tipton, Trumbull, Wade, Williams, Wilson, and Yates—26.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Chandler, Cragin, Davis, Dixon, Ferry, Fowler, Grimes, Harlan, Henderson, Johnson, Norton, Ross, Saulsbury, Sprague, Stewart, and Willey—19.

So the amendment was rejected.

Mr. POMEROY. I wish to call the attention of the chairman of the committee to the phraseology of the fourteenth section, the section reserving the sixteenth and thirty-sixth sections for school purposes. I desire to insert the word "public" before "schools," because it has been held in some of the Territories that these lands might ultimately be used for seminaries and private schools, and I think that is a perversion of the intention of Congress. I therefore move to insert the word "public" before "schools."

Mr. YATES. That is right.

The amendment was agreed to.

Mr. POMEROY. I desire to offer another amendment in the same section. As it now stands the sixteenth and thirty-sixth sections cannot be reserved until after the survey, and that will take a long time, and in the meanwhile every sixteenth and thirty-sixth section that is valuable will be held by a squatter against the interest of the public schools; but if the section can be amended, as I suggest, the sixteenth and thirty-sixth sections will be reserved from the date of the act and can be held only for the purposes herein reserved, that is, for public schools. I move to strike out after the word "that," in the first line, the words "when the lands in said Territory shall be surveyed, under the direction of the Government of the United States, preparatory to bringing the same into market;" so that the section will read:

That sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to public schools in the State or States hereafter to be erected out of the same.

That reserves them now from the passage of the act; but the section as it stands only reserves them after survey, and that will be too late; the best of them will be gone then. I therefore move to strike out the words which I have indicated.

Mr. WILLIAMS. How can you determine

where the sixteenth and thirty-sixth sections are unless the lands are surveyed?

Mr. POMEROY. You cannot determine it.

Mr. CONNESS. You cannot determine it in either case.

Mr. WILLIAMS. I do not know but that the amendment is right; but it seems to me that under it a person might go into this Territory and settle upon the land and make valuable improvements, as they do in all new countries, and when the land is surveyed, if the man is found to be upon the sixteenth or thirty-sixth section his land and his improvements are all taken from him; he is turned out of doors.

Mr. POMEROY. If he is on the sixteenth or thirty-sixth section then he settles with the superintendent or trustees of the schools, whoever they may be, as appointed by the Legislature. The Government cannot drive him off. He must settle with the school interests of his State.

Mr. CONNESS. He holds it under them.

Mr. POMEROY. And he has the opportunity of buying it under such regulations as the State may prescribe after it becomes a State; but unless this amendment be made he can hold the sixteenth and thirty-sixth section against the interest of the schools and in defiance of the State.

The amendment was agreed to.

Mr. POMEROY. I will suggest one other amendment. I am sorry to have noticed the bill so critically. In the second line of the fifth section I move to strike out the word "inhabitant," and insert the word "citizen." As it now reads every male inhabitant in the new Territory may vote. In our new Territories there is a class of inhabitants who are not citizens. I believe the ballot should be in the hands of citizens. The Chinese are inhabitants, and there may be persons of other nations there who are inhabitants. I do not believe it is the intention of Congress to allow inhabitants simply to vote; but citizens, the American citizens, whether native-born or naturalized. It makes no difference to me which they are, but they should be citizens to have the ballot. I therefore move to strike out the word "inhabitant" and insert the word "citizen."

Mr. YATES. There is no objection to that.

Mr. SHERMAN. That is provided for in the proviso, I will state to the Senator. It reads:

*Provided, That the right of suffrage and of holding office shall be exercised only by citizens of the United States, &c.*

Mr. POMEROY. Then all I have to say is, the first part of the section is in conflict with the proviso.

The amendment was agreed to.

Mr. SHERMAN. Now, Mr. President, there is a difficulty about that amendment, as the Senator will see. The first part of the section provides that "every male inhabitant of the United States above the age of twenty-one years" shall vote. As now amended it declares that only citizens shall be allowed to vote or be eligible to hold office in the Territory. That is the law of Ohio; but in all the new Territories, those who have declared their intentions to become citizens, are allowed to vote and hold office, and the proviso limits it to persons who are either citizens or have declared their intention to become such. I have no objection in the organization of new Territories, a new country, to allow the people who go there and take an oath that they intend to become citizens, to participate in the local government.

Mr. POMEROY. I had an amendment which I intended to offer as soon as the previous one was adopted, so that the section should read something like this:

That every citizen of the United States above the age of twenty-one years, or person who shall have declared his intention to become a citizen, and who shall have been a resident of the said Territory at the time of the passage of this act, shall be entitled to vote.

After the words "citizen of the United States" the words "and those who have declared their intention to become such" should be inserted.

Mr. SHERMAN. But the proviso makes it so, and it reads better.

Mr. POMEROY. The proviso was in conflict with the other portion of the section, and I wish to make it in harmony.

Mr. NYE. The Senator will find that the word "inhabitant" is used in seven out of ten of these territorial forms. It is merely the vote preliminarily to the organization of the Territory.

Mr. CONNESS. But you are organizing now on the Pacific, where there are Chinese.

Mr. TRUMBULL. This Territory is not on the Pacific; it is on this side of the mountains.

Mr. POMEROY. To make the section complete, in harmony with the proviso, I move after the word "years" to insert "and persons who shall have declared their intention to become citizens of the United States." Then it will be exactly in harmony with the proviso. The amendment was agreed to.

Mr. HENDRICKS. I wish to call the attention of the chairman to a misprint on the fifteenth page, in the first part of the sixteenth section. It reads:

That the Constitution and all laws of the United States which are not locally applicable shall have the same force and effect, &c.

Mr. YATES. That has been corrected.

Mr. HENDRICKS. I was not aware of it. Mr. WILLIAMS. I wish to call the attention of the committee to line forty-four, on page 10, which provides for an appeal from the supreme court of this Territory to the Supreme Court of the United States in all cases "where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed \$1,000."

Mr. CONNESS. That is too much.

Mr. WILLIAMS. Too much! I think it is a lower sum than has heretofore been put in territorial bills.

Mr. CONNESS. That is what I mean.

Mr. WILLIAMS. I think heretofore it was necessary that the amount should be \$2,000.

Mr. TRUMBULL. That is the general law; but in some of these territorial laws I am sure it has been put at \$1,000.

Mr. YATES. It is fixed at \$1,000 in several of them.

Mr. WILLIAMS. I do not think appeals from the supreme court of the Territory to the Supreme Court of the United States ought to be encouraged. In my opinion, it enables persons who have money to defeat litigation by poorer persons.

The bill was reported to the Senate, as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time. The bill was read the third time, and passed.

#### REPORT OF A COMMITTEE.

Mr. STEWART, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1059) to relieve certain citizens of North Carolina of disabilities, reported it with an amendment.

#### EIGHT-HOUR LABOR SYSTEM.

Mr. HENDRICKS. I move to take up House bill No. 365.

Mr. TRUMBULL. Is the territorial bill passed?

The PRESIDENT *pro tempore*. It is, and the Senator from Indiana moves to take up the bill mentioned by him, which will be read by its title.

Mr. TRUMBULL. I hope the Senator from Indiana will not ask us to take up any other bill.

The PRESIDENT *pro tempore*. Let the title of the bill be read, so that the Senate can understand what it is.

The Chief Clerk read the title of the bill, as follows:

A bill (H. R. No. 365) constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the United States.

Mr. HENDRICKS. On this subject I wish

to say just a word or two, not to occupy the attention of the Senate.

The PRESIDENT *pro tempore*. The question is on taking up the bill for consideration.

Mr. HENDRICKS. Yes, sir. During this session very many petitions have come from different parts of the country upon this subject. Those petitions have been referred, in part at least, to the Committee on Naval Affairs. That committee, up to this time, has been unable to report upon it. Some of the petitions have come from the State of Indiana and have been presented by myself. Out of respect to the sentiment thus coming to us I have felt it to be my duty to call this bill up as an important measure. It does not propose to regulate the number of hours which shall constitute a legal day's work except in the employment of the Government of the United States. That, sir, we clearly have the right to provide for.

Mr. EDMUNDS. I wish to inquire of the Chair whether it is in order, on a motion to proceed to the consideration of a bill, to enter into a debate on its merits. The new rules expressly declare, in order to save time, that that shall not be done.

The PRESIDENT *pro tempore*. The rules so prescribe, to be sure; but it is impossible for the Chair to say what arguments shall be made. Each Senator must judge for himself, remembering that the rule is intended to restrict debate upon taking up a bill, and confine him to such facts and circumstances as he supposes may be necessary to show that it should or should not be taken up.

Mr. HENDRICKS. I will answer the Senator from Vermont by saying that I tried to be within the rule. I was endeavoring to suggest to the Senate the reasons why I thought this bill should be taken up and considered.

Mr. EDMUNDS. That is, because you thought it was meritorious.

Mr. HENDRICKS. That is a very strong reason, certainly, in favor of taking up a bill; and when the question shall come before the Senate whether this bill or some other bill shall be taken up, a comparison becomes almost necessary. But I do not care about discussing that at any length.

It is proper for me to say that petitions have come to us from almost every State of the Union on this subject, and they have not received the attention of the Senate up to this time. At an early period of the session, among the first acts passed by the House of Representatives, this act was passed; but it has laid on the table; it has not even been referred to a committee. Now, sir, in response and in respect to the sentiment of the country, so generally expressed upon this subject, I have felt it my duty to call the measure up and to ask the consideration of the bill itself.

I am asked if I intend to move its reference to a committee. It is proper for me to say that I do not intend to make that motion. The bill is very brief, but a few lines, confined in its operation to the employees of the Government of the United States, the laborers of the Government of the United States, and proposing to fix what shall be a day's work in the employment of the Government. That bill can be considered, in my judgment, without a reference to a committee. Petitions have gone to the committees, and of course have, to some extent, been considered by the committees; but this House bill has not been referred, and I think it need not be referred. Therefore I move to take the bill up with a view of putting it upon its passage.

Mr. CONNESS. I only wish to say, for the information of the Senator, that a corresponding bill to this, which passed the House at a previous session, was referred by this body to the Committee on Finance, only, however, by a majority of one vote. Within one of the number of the Senate present preferred to proceed with its consideration. When this bill came into the Senate I moved that it go upon the table, because I believed the subject was

sufficiently understood, and I am very glad the honorable Senator has called it up.

Mr. TRUMBULL. I hope that bill will not be taken up now. I am anxious to get the attention of the Senate to House bill No. 1058, to admit North Carolina and other States to representation in Congress. I desired to bring it up at one o'clock to-day, but this territorial bill had precedence from yesterday. I hope that the Senate will now take up no other business until the readmission measure is disposed of.

Mr. CONNESS. Let us get a vote on this.

Mr. TRUMBULL. You cannot get a vote on it. It will take as long as the territorial bill.

Mr. CONNESS. Oh, no.

Mr. TRUMBULL. I hope the Senate will not take it up.

#### ARMY APPROPRIATION BILL.

Mr. MORRILL, of Maine. If it is in order I desire to make a report from the committee of conference on the disagreeing votes of the two Houses on the Army appropriation bill.

Mr. CONNESS. I should like to know whether the Senator desires to have that report considered at this time?

Mr. MORRILL, of Maine. Certainly.

Mr. EDMUNDS. It is a matter of privilege.

Mr. CONNESS. No, sir; it is not.

Mr. EDMUNDS. According to the practice of the Senate.

Mr. CONNESS. Not in the midst of other business.

Mr. MORRILL, of Maine. I do not know whether it is a privileged question or not. I ask to make this report, if there is no objection, then.

The PRESIDENT *pro tempore*. Is there any objection to considering the report of the committee of conference at this time?

Mr. HENDRICKS. That will not displace my motion, I suppose.

The PRESIDENT *pro tempore*. It will not disturb the motion of the Senator. The Chair hears no objection.

Mr. MORRILL, of Maine. I submit the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from their disagreement to the first, second, third, fourth, and sixth amendments to the Senate, and agree to the same.

That the Senate recede from so much of their fifth amendment as proposes to insert words in lieu of the words stricken out, and the House agree to said amendment as so modified.

L. M. MORRILL,

HENRY WILSON,

TIMOTHY O. HOWE,

Managers on the part of the Senate.

J. G. BLAINE,

CHARLES E. PHELPS,

J. A. GARFIELD,

Managers on the part of the House.

The PRESIDENT *pro tempore*. The question is on agreeing to the report of the committee of conference.

Mr. HENDRICKS. I should like to hear it explained.

Mr. MORRILL, of Maine. I will explain it. The first amendment of the Senate was on page 2, line one, after the word "source," to insert "except appropriations made by act of March 2, 1867." That was non-concurred in by the House. The House now recede from that disagreement and concur in the amendment. The effect of it is to except from the operation of the bill certain funds appropriated by that act for these specific objects: "artificial limbs for soldiers, the Army Medical Museum, and medical works for the library."

The second amendment was in the same line, after the word "hereby" to insert "directed to," so that it will read "hereby directed to be covered into the Treasury." That is a mere verbal charge.

The third amendment was verbal merely. It was to insert in the same line after the word

"Treasury" the words "at the close of the current fiscal year," requiring that the funds shall be covered into the Treasury at the close of the present fiscal year.

The fourth amendment was on page 2, lines seven and eight, to strike out, "for expenses of the signal service of the Army, \$5,000." That was struck out by the House and disagreed to by the House. The House now recede from their disagreement and concur in the amendment.

The fifth amendment was to strike out all of the second section and insert a substitute. The second section was a provision for covering into the Treasury certain unexpected balances, which the Senate struck out, and inserted in lieu of it what I will now read:

That from the sums appropriated for each of the several items contained in this act there be deducted the unexpended balance for such item which may remain in the Treasury on the 30th of June, 1868.

The House disagreed to that, but in the conference it was agreed that the Senate recede from its amendment to strike out the section to which I have referred. The Senate agrees to recede from its amendment, the effect of which is to leave the bill without either the provision made in the House or in the Senate. That leaves the appropriation without any especial regulation by this act. The committee found it quite impossible to agree otherwise; and then there were some difficulties about putting such a provision upon this act. There are some unexpended balances which by either provision would be covered into the Treasury to the detriment of the service. I could specify, if it were necessary, particulars. Besides, it was found that the Committee on Appropriations in the House have reported a bill with special reference to remedying the difficulties supposed to have been covered by these provisions; and on the whole the conference committee agreed to this report.

Mr. POMEROY. I have no doubt that the report of this committee is right, and I shall vote for it. I want it distinctly understood, however, that any explanation made by the chairman does not bind the Senate. I have no objection to the report, but I simply wish to put in this disclaimer, that I am not bound by any explanations the chairman of the committee of conference may make. It was held in a certain case that because the chairman of a conference committee explained a thing that committed us to that view. I dissent from any assertion of that character.

The report was concurred in.

#### EIGHT-HOUR LABOR SYSTEM.

The PRESIDENT *pro tempore*. The question now is on the motion of the Senator from Indiana, [Mr. HENDRICKS,] to take up the bill (H. R. No. 365) constituting eight hours a day's work for all laborers, workmen, and mechanics employed by or on behalf of the Government of the United States.

The question being put, it was declared that the yeas appeared to have it.

Mr. HENDRICKS called for the yeas and nays, and they were ordered.

Mr. TRUMBULL. I wish to say that the reason I object to taking up that bill at this time is because I wish to consider—and I think the Senate has manifested that intention heretofore—the bills to admit the rebel States to representation in Congress. They are pressing upon us, and they come here with constitutions framed in accordance with our laws, and it is due to them that we should take action at an early day. However meritorious the bill may be which the Senator from Indiana moves to take up, this is not the proper time to consider it when there is a matter pressing upon us of this character.

Mr. BUCKALEW. It is now a quarter past four o'clock, and it is very evident that no progress can be made to-day, or very little, in the consideration of the bill to which the Senator from Illinois refers. I think, therefore, he is unreasonable in asking us to devote the remaining fragment of this day's session to the bill which he has mentioned. On the other

hand, this other question, I suppose, can be acted upon and possibly determined before we adjourn. At all events, there is this consideration to be taken into account: the bill for the reorganization, or rather the readmission, of the southern States is one of that character that it will command attention and will command the action of the Senate; there is no probability, no possibility even, that we shall adjourn this session without acting upon that question; whereas, on the other hand, this other bill seems to have but few advocates interested in its fortunes, and if we let it go by now, when the question is distinctly raised on considering it, it is not likely that we shall hear of it again this session. Inasmuch, then, as the bill of the Senator from Illinois will come up at all events, come up very soon, and command the attention and action of the Senate, there is no reason why the bill to which the motion of the Senator from Indiana refers should be pushed aside for the remainder of this afternoon's session. I shall vote, therefore, with my friend, the Senator from Indiana, to take up his bill.

Mr. STEWART. The Senator from Pennsylvania, I think, is rather mistaken as to the number of friends this bill, in behalf of the laborer to which he alludes, has.

Mr. BUCKALEW. I beg leave to explain. I desire to correct my expression. I do not mean to deny the friendliness of the gentleman. Perhaps I should have said "active friends;" that is, friends that act.

Mr. STEWART. I accept the Senator's apology. I am glad to see that he is becoming active in that behalf, and I hope he will be hereafter. He seems to be a new convert to speedy action on that bill just at this peculiar time when it was understood—I had the understanding at least—that the bills for the reorganization of the southern States were to be pressed until we got through with them. It is important to have action upon them speedily. There is plenty of time to pass the other bill, and I shall be a friend of it whenever it is in proper time; but at this time I think we had better go on with the business that is pressing upon the country in a peculiar manner. These States are ready for admission; the committee have reported, after careful examination, in favor of their admission; and we should act on no other business until we have the Union restored, so far as it is in the power of Congress to do it.

Mr. CONNESS. I think the honorable Senator from Pennsylvania placed himself in a very queer position when he said that my friend from Nevada was a friend of the bill referred to, and at the same time suggested that he was not an active friend. The whole Senate knew that when a friend at all, he is an active friend, for he is always active.

Now, Mr. President, I do not think the honorable Senator did us justice in this matter. I know that prior to an election it might be thought that the Senator from Pennsylvania had some object in calling up this bill, or at least in advocating its immediate consideration; but not being disposed to accuse my friend of anything sinister, the evidence of which I have never yet seen in any case, whatever the fact may be, I will not make the accusation in that way.

It certainly cannot be said of me that I am not an active and earnest friend of this bill. When it came to us from the House of Representatives, I moved that it be laid on the table, so that it should not be buried in a committee; and but for the impeachment trial and the incidents connected with it, I should have called it up long ago.

Mr. MORRILL, of Maine. I should like to know why it has been called up by the honorable Senator from Indiana.

Mr. CONNESS. I will answer that question. The Senator from Indiana is entitled to the same exemption at my hands that the Senator from Pennsylvania is, and under the same rule I will say that I cannot attribute anything sinister to my friend, although he is now a



candidate for public station, and very high public station, nominated I believe for Governor of the great State that he so ably represents here.

Mr. MORRILL, of Maine. That is satisfactory.

Mr. CONNESS. Oh, but I am not satisfied yet; and the prospective candidate of the party to which he belongs for President of the United States. Mr. President, I will not say, for I do not think it would be doing my friend justice, that his candidacy or position leads him in any respect to call this bill up to-day, or that he ever contemplated depriving myself, who am a candidate for nothing, of the credit of calling the attention of the Senate to this bill; but I am glad that he has called the attention of the Senate to it. Nevertheless, I think he will agree with me now perhaps, as he feels an equal interest with myself in the bill, not to oppose it at the present moment to the consideration of the reconstruction acts, because it will unquestionably do this measure great injury if we shall pit it against, and oppose it to, acts which are to provide for the admission of those States into the Union which have been kept from representation so long. Therefore, with all my favor to this bill, I shall now, of course, decline further to oppose it to the reconstruction bill; and in its behalf I appeal to my friend from Indiana and the Senator from Pennsylvania, as we love this bill and desire it to become a law, that we, its friends, not enemies, let it go for the present and call it up at an early day.

Mr. WILSON. Mr. President, I am sorry to see these two measures antagonized against each other. There are tens of thousands of poor laboring men without employment, who have been dismissed from employment for voting according to their convictions. There are committees here from several States begging money; and I am writing to my friends to contribute money to keep men from starvation. Humanity, and everything that can appeal to the human heart, and the feelings of every man who respects the laboring men of the country, should impel us to pass these reconstruction measures, and let those people have governments that will protect them at the earliest moment.

As to this other measure, as a practical fact at this time, there is nothing to be specially gained by it. We have but a few hundred men in the Government employment. I have been for years ready to try the eight-hour experiment whenever I could; and I shall vote for the measure whenever it comes up; but I shall not vote for it with the expectation that anything is to come from it. No man or set of men in this country will ever make a vote by voting in that direction. This labor question is a matter in which I have had some experience during the last thirty years.

I therefore hope we shall take up the bill admitting these States, and try to settle the difficulties that are pressing upon us, and are pressing upon us with tenfold force and a thousand times more bitterness since an event that happened here the other day. I hope we shall take it up, and then that we shall take up this other measure at some time when we can consider it. I will give my vote to try that experiment at any time.

Mr. WILLIAMS. It is now half past four o'clock, and we have passed several bills to-day. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 3, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

### UNION PACIFIC RAILROAD.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, upon the recom-

mendation of General Grant, a communication from Major General Sheridan, commanding the department of the Missouri, relative to Government aid to the Union Pacific railroad, (eastern division;) which was referred to the Committee on the Pacific Railroad.

### ELECTIONS IN NORTH AND SOUTH CAROLINA.

The SPEAKER, by unanimous consent, also laid before the House a communication from the General of the Army, in further answer to House resolution of the 13th ultimo, transmitting an abstract from General Canby, commanding second military district, relative to the recent elections in the States of North Carolina and South Carolina; which was referred to the Committee on Reconstruction, and ordered to be printed.

### WEST VIRGINIA INDEPENDENT EXEMPTS.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting report of the Adjutant General respecting the claim of company O, independent exempts, West Virginia volunteers; which was referred to the Committee on Military Affairs.

### MRS. LOUISA FITCH.

The SPEAKER, by unanimous consent, also laid before the House a communication from the Secretary of War, transmitting the petition of Mrs. Louisa Fitch, widow of the late Captain E. P. Fitch, praying that her name may be placed on the pension-roll; which was referred to the Committee on Invalid Pensions.

### ELECTION CONTEST—CHAVES VS. CLEVER.

The SPEAKER also laid before the House additional evidence in the election contest of Chaves vs. Clever, New Mexico; which was referred to the Committee of Elections.

### ELECTION IN OREGON.

Mr. BURR. I desire to congratulate the House and the country on the first gun from the Pacific, announcing that on last Monday the Democracy achieved a glorious victory in the State of Oregon.

Mr. FARNSWORTH. I call for the regular order of business.

### ELECTION CONTEST—DELANO VS. MORGAN.

The SPEAKER. The first business in order this morning is the further consideration of the unfinished business of yesterday, being the report of the Committee of Elections on the contested election of Delano vs. Morgan, from the thirteenth congressional district of Ohio.

The resolutions reported from the Committee of Elections were as follows:

*Resolved*, That George W. Morgan is not entitled to a seat in the Fortieth Congress from the thirteenth congressional district of Ohio.

*Resolved*, That Columbus Delano is entitled to a seat in the Fortieth Congress from the thirteenth congressional district of Ohio.

The pending question was upon the adoption of the following resolution, submitted by Mr. KERR, on behalf of the minority of the Committee of Elections, as a substitute for the first resolution reported by the majority of the Committee of Elections:

*Resolved*, That George W. Morgan was duly elected and is entitled to retain his seat in the Fortieth Congress, from the thirteenth congressional district of Ohio.

The SPEAKER. The gentleman from Ohio [Mr. MORGAN] is entitled to the floor for twenty-two minutes remaining of his hour.

Mr. WOODWARD. Will the gentleman yield to me for a moment?

Mr. MORGAN. Certainly.

Mr. WOODWARD. I wish to make an explanation of a matter of fact, in regard to which I fell into an error yesterday, and also led my friend from Indiana [Mr. KERR] into an error. The gentleman from Indiana asked me if the opinion of the supreme court of Pennsylvania in the decision of the case of Hubert vs. Reilly was a unanimous opinion. Not remembering at the time that there was any dissenting opinion, and having seen the opinion only in manuscript upon which no dis-

sent was marked, I answered that it was a unanimous opinion. Since that time I have obtained the volume containing the report of that case; and I find by reference to it that Justices Read and Agnew did not concur in the opinion of the majority of the court. I wish to make that correction of a matter of fact to go upon the record.

Mr. MORGAN then resumed and concluded his remarks, begun yesterday. [The speech will be found in the Appendix.]

Mr. SCHENCK. Mr. Speaker, I desire to occupy the attention of the House but a few minutes, and I propose to confine myself entirely to the consideration of one point involved in this case. The decision of the case must turn, in a good degree, upon the question whether the committee did right in rejecting the votes of certain men charged as deserters from the Army of the United States, or with having gone to a foreign country to avoid the draft, and failed to return under the provisions of law in that case made.

At my own town, Mr. Speaker, there is a branch of the national asylum for disabled volunteer soldiers. In that institution at this time there are more than eight hundred disabled men who fought in the cause of the country. Some ninety of them have lost an arm; some ninety have lost a leg; several have lost both arms; and several have lost both legs. And all these men, thus bearing upon their bodies the proof of what they did and periled for the country, have been by act of the present Legislature of Ohio disfranchised. What I mean by that is this: drawn from their various homes in that and neighboring States to find a home there provided for them by the Government, our Legislature—a Republican Legislature—passed an act so construing "residence" as that they might be regarded, when they had been over a year at this home, as residents for the purpose of suffrage. A Democratic Legislature, not liking the kind of votes that they would probably cast, have repealed that law, so that these soldiers, crippled as they are, must be driven back to their own humble places of residence, if they have any, and many of them out upon the world, where they have no residence other than that provided for them by the Government, or else submit to stay there, unable to take any part in the government of that country for which they fought.

Now, sir, my sympathies have been much excited in reference to that class of people; but I have no particular sympathy for any effort made to secure, under any strict construction of law, the right of suffrage peculiarly for those who deserted us in that hour of need. And yet if they have strictly that right, however they may have cast their votes let those votes be counted.

Now, have they the right? What is the law upon this subject as applied to a contested-election case coming up from the State of Ohio? By the constitution of Ohio, in order that a man shall be a voter he must fall within this clause:

"Every male white citizen of the United States, of the age of twenty-one years, who shall have been a resident of the State one year next preceding the election, and of the county, township, or ward in which he resides, such time as may be provided by law, shall have the qualifications of an elector, and be entitled to vote at all elections."

It is necessary, among other qualifications, that he shall be a citizen of the United States. But Ohio, by her constitution and by her laws, can no more than any other State settle the question who are to be regarded in law as citizens of the United States. That is left to the legislative power vested in the Congress. Congress in 1865 passed an act containing that upon which a question is raised here, and it is in these terms: that in addition to the other lawful penalties for the crime of desertion from the military or naval service—

"All persons who have deserted the military or naval service of the United States, who shall not return to said service or report to a provost marshal within sixty days after the proclamation hereinafter mentioned, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their rights to become citizens." &c.

A further provision extends it to those who go to a foreign country in order to avoid the draft. The question, then, is reduced to the simple one: if, by that act of Congress of 1865, men who deserted from the ranks of our Army, failing to return when an opportunity was afforded them to do so, ceased on that account to be citizens of the United States, they cannot be permitted to vote in Ohio, because Ohio requires a man to be a citizen of the United States in order to exercise at elections there the right of suffrage.

Now, sir, how is it in Ohio? This question whether a man has deserted or not I say is a question of fact, and as a question of fact is to be tried at the polls, like any other question of fact, affecting or determining the right of a person who offers to vote to exercise the right of suffrage.

But gentlemen who argue in behalf of the sitting member say not so. They say that a man cannot be held to have deserted until it has been judicially ascertained by sentence of a court-martial, or some other proper tribunal, that he is a deserter. I deny that; I hold that it is a question of fact raised by the language of the statute of the United States, to be determined like any other question of fact by the triers of that fact at the polls. If the construction of the law contended for by them be the true one, how then shall we understand it? What is the provision of the law?

"That in addition to the other lawful penalties of the crime of desertion from the military or naval service, all persons who have deserted the military or naval service of the United States, who shall not return to said service, or report themselves to a provost marshal within sixty days after the proclamation hereinafter mentioned, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship," &c.

Gentlemen say that means all persons who have been criminally convicted; all persons who have been convicted of the crime of desertion. Sir, if that be the construction of the law, then how should the statute read in order to clearly bear that interpretation?

"All persons who have been convicted of the crime of desertion from the military or naval service of the United States, and who shall not return to said service or report themselves to a provost marshal within sixty days after proclamation issued, shall be deemed and taken to have relinquished their rights of citizenship," &c.

Gentlemen would have us believe that the law-making power here in Congress was not treating the act of desertion as a mere fact, but was intending to regard it as an existing fact only when it should have been ascertained by the sentence of a court-martial or other proper tribunal. If so, then we have this inconsistent proposition, that a person shall actually desert, shall be arrested, tried, and convicted of the crime of desertion, shall be, perhaps, sentenced to death, and then report himself to a provost marshal in order to make out the case.

Now, if you take this interpretation of gentlemen and apply it to the reading of the statute it becomes most manifest that Congress could have intended no such thing, but that they meant that the act of deserting, or the act of going to a foreign country, either act being complete, and the party refusing to return upon opportunity being offered, or the act of deserting taking place after the passage of the law, (for both classes of cases were provided for,) then so much was done as to amount to a declaration on the part of the person so doing the act that he was willing to give up his right to citizenship.

Mark you, there is nothing *ex post facto* about this. It is all carefully prospective, and the relinquishment of citizenship is under the statute a voluntary act by the party, either by not returning after due notice or by going away after the passage of the law.

If, then, it be a question of fact, I hold that in Ohio it is to be tried at the polls, like any other question of fact involving the right to vote.

In Ohio we have no registry law. The consequence is that the officers whom we call the judges of election perform the double functions

of registrars and of inspectors and receivers of the votes. Whatever questions as to the right to vote would be settled in advance by a board of registration, are in Ohio settled at the polls by the judges of election. If a voter be objected to on account of color, if he be objected to on account of age, if he be objected to on account of residence, all these are questions of fact, and they are to be decided upon the spot by the judges of election at their peril. It is true that if the judges can be shown to have acted maliciously and wantonly, if it can be shown that they have rejected voters which were properly admissible, they may be held in the courts to answer in damages. But their judgment upon the question of admissibility is unquestionably a judgment legally and legitimately exercised; and it is well exercised when they decide upon a fact which clearly disqualifies a man from exercising the right of voting.

Thus, then, the question of fact, whether a man has voluntarily consented to relinquish his citizenship under the law of the United States, (which can alone control in this matter,) by going away or by refusing to return, is like other questions of fact, such as age, color, residence, &c., to be settled by the triers of these facts at the polls. Hence, I say, that this pretext as to the necessity of a judicial finding is no more applicable to the question whether a man has gone off and voluntarily relinquished his citizenship than it is to any other question of fact connected with the history of the party and affecting his right to vote.

Mr. SCOFIELD. Mr. Speaker, I desire to occupy only two or three minutes. The sitting member yesterday in the course of his argument stated with a great deal of emphasis that I did not understand his case, although I had attempted to discuss it. I noticed that he repeated the remark two or three times, addressing me instead of the Speaker. I supposed at the time that the gentleman, in the heat of his passion, designed simply to be severe; and regarding his remarks in that light, and being as a lawyer accustomed to such remarks from my opponents, especially when a man is pleading his own cause, I did not design to say anything upon the subject. But I am told that the sitting member had probably got in his mind an idea that I had never taken up his case and investigated the facts in detail, but had derived my information from the brief of the contestant, or in a lump from somebody. I wish to say that when my fellow-members of the committee intrusted to me the duty of examining the facts in this case, I took both the brief of the contestant and that of the sitting member, and made a list of 418 names of persons whom either one party or the other alleged to be disqualified as voters for one cause or another. I ran over the whole evidence with regard to each name, and after collecting the evidence as to whether he was disqualified, whether he voted and for whom he voted, I marked the name for rejection or allowance as I thought the proof required. Thus I went over the whole list of 418 names—a labor I never shall perform again—a labor such as I believe no man in this House has heretofore performed or ever will perform.

In deciding upon the correctness of my judgment upon this evidence, the House must, I admit, be governed by its opinion as to my fairness. I intended to be fair. I knew very well that the House could never go over this long list. The minority of the committee have not done it; the sitting member himself has not done it. It would occupy at least a month if I should undertake to review and explain these facts as I went over them at my room. But the principles upon which the decision of the majority of the committee rests are all discussed in the report, brief as it is. I made the report brief, because I knew members would not read a long one; and it is my custom in all matters to be brief, as every member will bear me witness. All the principles governing the case are presented in the report as I discussed them yesterday, with the single exception of

the question of pleading involved in the matter of notice.

I had learned from experience that the House gave but little attention to that. No man has more than one contest, except perhaps I except our veteran contestant from Missouri, and every man who comes with a contest is unacquainted with the business he has undertaken. He has one in his life. He has no lawyer, because in his county or district a contest never occurred before. The notice and answer, as you may say, are made by men unaccustomed to their business. And when we have such cases we expect to waste before the committee two or three days in discussion on points which the committee have decided over and over again, and with which they are as familiar as with their alphabet. The committee decide these questions about notice and answer, and never trouble the House about them.

I now demand the previous question.

The previous question was seconded and the main question ordered.

Mr. SCOFIELD. I yield the time allowed me by the rules for closing this debate to the gentleman from Massachusetts, [Mr. DAWES,] the chairman of the committee.

Mr. DAWES. Mr. Speaker, it was not my intention to participate in the debate on this case, which the gentleman from Pennsylvania, [Mr. SCOFIELD,] amply able at all times to take care of what he undertakes, had consented in the midst of the very arduous duties imposed on me to take off my hands; and it is only now at his request that I venture to beg the attention of the House for a few moments to such considerations as in my mind seem proper to be presented at this time.

It has been said that the case is a long one. More than a thousand witnesses have been examined; two thousand pages of printed matter were submitted to the House and referred to the committee for their consideration; and three weeks of constant argument before the committee were necessary for the elucidation of the questions submitted. It was necessary for the committee to go through with all this work; but happily and fortunately for the House such have been the conclusions of the whole committee, the majority and minority, that there are left for the consideration of the House but three points in this case. And on these three points of law turns the result of all this labor and investigation.

They are points of law, Mr. Speaker, applicable to the facts which in the main are not disputed—the essentials of which are admitted on all sides. Therefore what I may offer to the consideration of the House will be dull and dry in the extreme. But the House would be unable to come to a satisfactory conclusion on this case without each gentleman settling for himself the questions which arise on these three points.

The first point is what disposition shall be made of the votes cast at this election by these persons denominated by both parties as "deserters." The second is what shall be done with the vote cast at Pike township. The third is what shall be done with the vote cast at Mount Vernon. These three questions are all there is in this case. As was said by the gentleman from Pennsylvania, [Mr. WOODWARD,] on the other side of the House, in point of fact the determination of the first determines the whole case.

What shall be done, therefore, with the vote of those persons denominated as "deserters?" It is claimed by the contestant that they are not legal voters and by the sitting member that they are. What is the law by which you are to determine whether they are legal voters or not? They are persons who failed to report themselves for military duty under the proclamation of the President of the United States, made in pursuance of the act of the 3d of March, 1865. It is claimed by the contestant that these persons, for that reason, are not citizens of the United States; and it being admitted that no person not a citizen of the United States can vote in the State of Ohio, he claims

these persons, therefore, were not legal voters. It is claimed by the sitting member, first, that the law of March 3, 1865, from which this result is claimed, is an unconstitutional law, as applicable to these parties, because it is an *ex post facto* law; and secondly, if it be not an *ex post facto* law, that no man is, for the purpose of this discussion and this question, to be decided an alien unless upon the conviction of a court martial appointed to try the question. Mr. Speaker, both these positions, I apprehend, are untenable. I apprehend that the reading of the statute itself, to a judicial mind, must carry the conviction that it is applicable to this man in no sense of *ex post facto*, and that it is in no sense such a law that the effect to be produced by it is only upon the result of a conviction of an offense under it.

My distinguished friend from Pennsylvania, [Mr. WOODWARD,] late chief justice of that State, put to me, coupling me with two other members of the Committee of Elections on our side, certain interrogatories yesterday, to which he demanded a categorical answer; and he announced to the House his conviction that, notwithstanding this demand, no one of us would venture to attempt an answer. Why we three were selected of all this House I am unable to say. If it was because he thought we should appropriate to ourselves the kind terms in which he addressed us to the exclusion of our associates on the committee, even to the exclusion of the gentleman from Indiana, [Mr. KERR,] who was standing by his side, and to whom the whole drift of his remarks were just as applicable as to ourselves, I am unable to say. But I venture myself to attempt a reply, and as my friend promised me that he would give his vote for the contestant if I should satisfy him that the reply I made was sound in law, I enter upon it with the confidence that when the final vote shall be called even his name will be found recorded upon the side of the law in this case and for the contestant.

The gentleman put his interrogatory substantially in this way: "I hold in my hand the opinion of the supreme court of Pennsylvania, the highest tribunal in the State of Pennsylvania, the only one that has put a construction upon this law, and I put it to the gentleman from Pennsylvania [Mr. SCOTFIELD] and to the gentleman from Massachusetts [Mr. DAWES] and to the learned gentleman from Vermont [Mr. POLAND] to answer me yea or nay whether that opinion is not binding upon them." I do not know what the answer of either of my colleagues may be, but before I seek to answer it I would really like, if I only had time, to have the gentleman from Pennsylvania answer me whether he really believes that upon a question of the qualification and election of a member of this House, upon which the Constitution of the United States has made us sole judges, that to the decision of the supreme court of Pennsylvania even he is called upon to surrender his private judgment. Upon a question upon which no law, save our own organic law, can bind the private honest judgment of every individual member of this House, he asks me as a lawyer if I dare stand up and say to this House that the decision of the supreme court of Pennsylvania is not binding on me.

That is the first question. The next is this: I suppose, Mr. Speaker, that the reason why my friend thinks the decision of the supreme court of Pennsylvania is binding upon these three unfortunate gentlemen here, is not because it is the opinion of that particular tribunal, but because it is the opinion of the highest court of judicature in one of the States of this Union. Not that State any more than any other—just as much as that State, or any other, and no more. I have only to ask him if, when the supreme court of the State of Wisconsin, the highest court of judicature in that State, pronounced the fugitive slave law unconstitutional, in his opinion that decision was binding on him. And following out this line a little further, suppose the supreme court of Ohio should pronounce upon this very law just the opposite decision from that pronounced by the court of Penn-

sylvania, would that be binding on him, too? And how would we three gentlemen, who stood up here to receive our lessons in this way yesterday, be bound by the decision of the supreme court of Pennsylvania one way, and the decision of the supreme court of Ohio the other way? How would we vote? Would we not be bound to look into the decision of both those courts, constituted of learned and high-minded judges, to see upon what ground those decisions were made, and to give to them such weight as our own judgments, our own ideas of the law, should dictate to us they were entitled to?

Suppose I were to take the book in which that decision is into a court in Massachusetts, and read it as an authority pending litigation on this question in Massachusetts, would the supreme court in Massachusetts listen to me if I should tell them that it was binding even on that court? Much less in this court, which has its powers granted to it solely by the Constitution, and which it cannot surrender to the court in Pennsylvania, however high may be the respect which we entertain for the individual opinions of the members who constitute that court. And, sir, it is just in that light and to that end and to that extent that the opinion read here by the gentleman from Pennsylvania and by my colleague upon the committee from Indiana is entitled to respect, and it is not, in my opinion, entitled to any of the respect which the gentleman from Indiana sought to give to it by announcing to this House that it was the unanimous opinion of a court constituted of two Democrats and three Republicans. Sir, it adds no weight to a judgment of any court in this land, to my mind, that the judges in pronouncing that judgment have sunk the judge in the politician. If there is anything from which I shrink in utter disgust it is a political judge. The whole history of the jurisprudence in that country from which we derive so large a share of our own law and methods and procedure in courts of justice is strewn thick with the wrecks of political judges. Bacon fell by it; Macclesfield fell by it; Loughborough dishonored himself under it; the brilliant Charles Yorke, the idol of his party and pride of the profession, tempted to betray both of them by the glittering bauble of the chancellorship, reached out his hand to touch it and it fell lifeless by his side, and history has charitably drawn the mantle of mystery over his fate. Mansfield, whenever he descended from the bench and essayed the paths of politics, was sure to slip; within our own day Westbury hid his head in shame and retired from the bench endeavoring to conceal his fall from the public gaze; and I ask the gentleman from Pennsylvania if in American politics there is anything that gives better assurance of a more successful trial of this experiment on the part of the judiciary here than in the Old World? Are the paths of politics here less devious, less slimy, less fatal in their influence upon the judicial character and upon the ermine than in the Old World. Time, sir, will determine; but to me, if anything can detract from the weight of a judgment of a court it is the announcement on the part of him who cites it that it is the judgment of three Republicans and two Democrats.

I have been led off into this digression by the remark of the gentleman from Indiana. I propose now to look at this judgment itself and see how much weight it is entitled to by the rule which I have laid down. But in point of fact it was not, as stated by the gentleman from Indiana yesterday, the unanimous judgment of the five judges who constituted the court. That was corrected by the gentleman from Pennsylvania [Mr. WOODWARD] himself this morning, as I understand, and the gentleman from Pennsylvania was a part of that court, and can correct me if I am mistaken. As I have always understood the history of this decision it was that the court stood two and two, finding its judicial conclusions squaring with its political bias, and one judge hovering between the two, sometimes inclining to

the one side and sometimes to the other, two of these judges holding that this was an *ex post facto*, and, therefore, an unconstitutional law, and two of them holding that it was not an *ex post facto*, but a constitutional law, capable of being enforced in the manner they were seeking to enforce it, and one of them holding the balance between them, so that no judgment could be rendered for a long time. The Legislature of Pennsylvania, as some other Legislatures have done, sought to relieve the court of this dilemma, and put a legislative construction upon that law, and they passed a bill, which went into the hands of the Governor at the close of the session, and he, unwilling to sign it and hoping for a judicial decision that would relieve him from signing it, sought to ascertain what was to be the judgment of the court in vain for weeks and weeks, until the court, putting the papers into the hands of this judge who held the balance of power, told him to make up a judgment; and he made up a judgment just splitting the two questions, deciding with one side that this was not an *ex post facto* law, and with the other side that a conviction must be had before the judgment could be rendered, and therefore joining the gentleman from Pennsylvania and his colleague on that point, the judgment was rendered. That is the weight to which that judicial decision is entitled—a decision which is paraded here, my friend from Pennsylvania will pardon me for saying, by himself, one of those who constituted the learned tribunal, and he dared his colleagues here upon this floor, his peers in everything pertaining to private judgment, his peers in everything except in learning and ability—with his own opinion thus promulgated in the court of Pennsylvania in his hand, he asks us, with an assurance that rises to sublimity, whether we dare say we are not bound by that opinion of his.

Mr. WOODWARD. Will the gentleman allow me to ask him a question?

Mr. DAWES. If I am not cut short in my time I will.

Mr. WOODWARD. Of course not.

Mr. DAWES. I will yield with the understanding that my time will not be cut short by it.

The SPEAKER. That would require unanimous consent.

No objection was made.

Mr. DAWES. I yield to the gentleman.

Mr. WOODWARD. As the gentleman has undertaken to answer a question which I submitted to him with great respect, which I submitted to him, because of my great respect, without any such word or thought of such word as "dare," or "challenge," I would like to remind the gentleman what the question was. Since he has answered questions I did not ask, I would be glad if he would address himself to questions I did ask.

Mr. DAWES. If the gentleman will not leap before he gets to the stile, I will endeavor to answer the question he put.

Mr. WOODWARD. I submitted with great respect to the gentleman and to his colleagues, a question which I thought was a fair one. I certainly intended no indignity in submitting the question; it was submitted in terms which were respectful. This assault upon me, growing out of that fact, is not an answer to my question.

If the gentleman will allow me I will restate the question. It is this: whether, where the construction of a statute is involved in any proceeding, the judicial opinion as to the meaning of that statute is not the rule by which the statute is to be read in all cases and by all bodies? My argument was that statute law is to be understood and received as the judicial tribunals of the country construe and expound it. In this particular instance no other judicial tribunal than the supreme court of Pennsylvania having had occasion to expound this statute, that particular decision was cited for that reason; not because of any exalted claims set up on behalf of that court, but for the simple reason that that was the only judicial tribunal



that had had occasion to pass upon this question.

Now, the question I submitted to the gentleman with great respect, not as a challenge, but because of his learning, was whether, as a general principle, all men and all bodies having to deal with statute law were not bound to accept that statute in the sense in which the judicial tribunals of the country has expounded it? To that question the gentleman has not addressed himself at all.

Mr. DAWES. Inasmuch as the gentleman says the court, of which he constituted an important part, was the only one that put this construction upon this statute, he puts the question to me whether I am not bound to take as my law here his construction in the State of Pennsylvania.

Mr. WOODWARD. I beg the gentleman's pardon; I know it is very easy to so restate a question as to evade it. But the question I put was a distinct one. Is not this House and are not all other men having to do with that statute bound to take it as the judicial tribunals of the country have expounded it? That is my question in substance and almost in form.

Mr. DAWES. If the gentleman desired to put that question to me, not merely as an abstract question, but as having some reference to what he was himself talking about, then I say to him that, so far as it has any application to the question under discussion, I have answered it. So far as the abstract question is concerned, when the highest tribunal of the land shall have put its construction upon this statute, then I will be governed by it. But in this forum, for this forum, and for the judgment of every member of this forum, there is no tribunal above it.

Mr. WOODWARD. That is true, so far as deciding upon the qualifications of members is concerned. But when in this forum the meaning of the statute is the question which is in issue, is not the judicial opinion conclusive upon this forum? That is my question.

Mr. DAWES. Mr. Speaker, I wish to disabuse the mind of the gentleman. There was not the slightest intention on my part to utter a word that he would take to himself as offensive. I do not fall behind any man in the respect I entertain for the gentleman individually and as a judge. I know two members of the court that delivered this opinion which I hold in my hand—the gentleman who prepared the opinion, and the learned gentleman from Pennsylvania; and for them both, as judges and individuals, I entertain the highest respect. But when the gentleman from Indiana [Mr. KERR] insists that I shall add to the respect which I have accorded to their learning and private worth deference for their political sentiment, what I have said with regard to the mingling of politics with the judicial character becomes appropriate as illustrating the history of all such attempts in the Old World and in this; and similar, I predict, will be the fate of every judge of any standing who shall undertake to carry at the same time the judicial ermine and the dirty, draggled mantle of politics.

I now proceed to consider the other point which the gentleman from Pennsylvania desired me to answer. He says that this act of 1865 is a law divesting every man to whom it applies of rights of which, under the Constitution, he cannot be deprived without due process of law. He argues that to declare that a man who has once been a citizen shall, if he comes within the definition of the statute, cease to be a citizen without being tried and condemned by a competent court, is to deprive him of his liberty without due process of law. But, sir, in taking this position, the gentleman wholly misunderstands what this law is. It is no such thing as the gentleman claims it to be. It is no law imposing a penalty; it is no law constituting a new crime; it is no law authorizing the deprivation of a man's property, liberty, or life for any act which he may do in violation of it. It is founded upon the principle recognized in this House, more particularly during the pres-

ent session than at any former time, but always recognized in this land, and constituting at this moment the basis of our complaints on both sides of the House; I mean the principle that a man has a right by his own act to renounce his citizenship. We all acknowledge the principle that a man owing allegiance to any nation on the face of the earth has the right voluntarily to renounce his citizenship. The gentleman from Pennsylvania [Mr. WOODWARD] himself recognized this principle in an amendment which he offered to the bill reported from the Committee on Foreign Affairs to secure the rights of American citizens.

The gentleman's amendment provided—

"That whenever any citizen of the United States, whether native-born or naturalized, shall remove his domicile to a foreign country in good faith, and with the intention of becoming a citizen or subject thereof, and shall become naturalized under the laws of said foreign country, he shall be considered as having abjured his allegiance to the Government of the United States, with the consent of the said Government, and all claims of the said Government upon the allegiance of said citizen shall forever cease and determine."

Thus the gentleman proposed to incorporate into our laws a provision that a certain thing done by a citizen of the United States shall be taken and deemed to be a renunciation of his citizenship.

Then the Committee on Foreign Affairs, not to be outdone by the gentleman from Pennsylvania, put the declaration in a little stronger language:

"That if any naturalized citizen of the United States shall return to his native country with intent to resume his domicile therein; or if any citizen shall leave the United States with the intention of permanent residence in any foreign State; or shall fail to make annual return of his property for taxation to the assessor of internal revenue for the district of the United States in which said citizen last resided; or shall engage as army or navy belligerent in any foreign war or service, such citizen shall not be entitled to the interposition of the Government in his behalf under the provisions of this act."

The gentleman from Ohio, [Mr. VAN TRUMP,] undertaking to go still further, introduced an amendment, which I do not happen to have before me, but which provided that if a citizen of the United States should perform certain acts he should be deemed to have voluntarily renounced his citizenship. And the gentleman from Rhode Island, who always states his propositions with most admirable clearness, presented a measure affirming still more clearly the same principle, the right of a man to renounce his citizenship and the right of Congress to declare that when a citizen does certain acts they shall be deemed a renunciation of citizenship.

The late Attorney General of the United States, Mr. Black, has put this still stronger. He says:

"There is no statute"—

There was no statute at the time he gave his opinion.

"There is no statute or other law of the United States which prevents either a native"—

There is no statute now to that effect—

"which prevents a native or naturalized citizen from severing his political connection with this Government if he sees proper to do it in time of peace. There is no mode of renunciation prescribed."

There was then no law; there is now.

"In my opinion, if he emigrates, carries his family and effects with him, &c., this would imply dissolution of his previous relations with the United States."

Bearing this in mind, if the House please, this doctrine avowed by every gentleman upon the floor, and which has passed into law so far as this House is concerned, with one, two, or three dissenting voices, that a man could voluntarily renounce his citizenship, and that by doing certain acts they shall be deemed to renounce all citizenship, let me read this law and see what it exactly does. It does this and no more. It says if a citizen of the United States shall do this, that, and the other, he shall be deemed to have severed his relations with the United States.

Mr. WOODWARD. It says these are additional penalties.

Mr. DAWES. If the gentleman will listen

to me until I get through, he will be satisfied, if he can be. The law says:

"That in addition to the other lawful penalties of the crime of desertion from the military or naval service"—

That is, in addition to doing something else already prescribed. Now mark. We do not touch the penalties for the crime of desertion. We leave them just as they are. It says in addition:

"All persons who have deserted the military or naval service of the United States, who shall not return to said service or report themselves to a provost marshal within sixty days after the proclamation hereinafter mentioned, shall be deemed and taken to have voluntarily relinquished and forfeited their rights of citizenship and their right to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof; and all persons who shall hereafter desert the military or naval service, and all persons who being duly enrolled shall depart the jurisdiction of the district in which he is enrolled, or go beyond the limits of the United States with intent to avoid any draft into the military or naval service duly ordered, shall be liable to the penalties of this section."

This is what they shall do. It is told them beforehand, "here are certain acts, and if you do them the law, as here enacted, tells you what they are evidence of." It is precisely what passed in the bill this session of Congress.

In the State of Massachusetts, and in every other State of the Union, there is prescribed a certain term of residence in the State and town before a man can vote. In the State of Massachusetts a man must reside six months previous to the election in the town where he attempts to vote. Suppose I move out of the town I live in and take up my residence for a month previous to the day of election in a neighboring town, the State of Massachusetts has, by law, declared if I do that I shall be taken and deemed to have voluntarily relinquished my right to vote in that town. That is what the State of Massachusetts says. I venture that is what every State in this Union has enacted—enacted beforehand, that if you do certain things they shall be construed to be evidence that you have renounced and given up your right of citizenship. After doing that, when I appear at the polls and before the judges of election and my vote is challenged, does the gentleman from Pennsylvania stand up in my behalf and say, "The gentleman from Massachusetts has not been indicted and convicted, and he is still a voter in the town, because he has not been indicted and convicted of leaving that town?" There is no provision of law under which I am to be indicted for not coming back to the town and remaining there. There is no provision for trying a man by court-martial for not having returned within sixty days under this proclamation. There is an independent law providing for this trial by court-martial for his original desertion; but if he does not return to the service which he owes to the Government within sixty days then he is to be taken and deemed to have left his citizenship behind him. That is what this law means; that is what is provided. The idea that he is to be convicted of not having come back in 1866 by a court-martial or under a United States court before the question can be tried at the polls whether he is a voter or not is an absurdity. When he comes to the polls, and he is an alien, he stands on all fours with every other alien, and it is a question of fact, both with him and with the son of the Emerald Isle, who may walk with him arm in arm. It is a question of fact to be determined by the judge of elections—and for that purpose he is put there—whether he has about him any disqualification. A is disqualified because he was never naturalized; B because he did not return within sixty days; C because he has a "visible admixture of African blood"; D because he is a minor; E because he went to reside in another town for the space of one month. That disposes of this question.

Mr. Speaker, there is an analogy in the laws of the United States and in the laws of Ohio. The law of Ohio does provide that upon conviction for bribery, and for certain other crimes specified, any man shall be disqualified; i. e.,

for conviction, without regard to the ground of conviction, whether rightly or wrongly. Another law says if for any reason he shall cease to be a citizen of the United States he is disqualified. The United States passed in 1790 a law providing that upon conviction of offering a bribe to a judge a man should be disqualified from holding office. In 1853 they passed a law that upon conviction of offering a bribe to a member of Congress a man should be disqualified from holding office. A conviction is necessary because the statute says so. But in 1863 Congress passed a law in very different language, the last section of which is in these words:

"And be it further enacted, That every person guilty of either of the offenses described in this act shall be incapable and forever disqualified to hold any office under the Government."

That is not an accidental change of phraseology. It was designed and for a purpose. Why? This act was passed in the midst of the rebellion. It was a prescribed penalty of disqualification upon any man who had been guilty of treason, or misprision of treason, or of giving aid and comfort to the enemy, and it was necessary that it should go further than to say he should be disqualified upon conviction. If it rested on conviction, inasmuch as conviction must be had in the State where the offense was committed, it would have been utterly nugatory to pass such a law, because its State that would elect to an office a man guilty of the offenses described in this statute would of course acquit him when tried. Therefore the law was clothed in that phraseology.

Allow me to read the views of one of the most learned Senators at that time upon this very statute:

"There was the law that created the disability; it was not the law about the oath. Another thing you will observe, Mr. President, that if disaffected States could send men here opposed to the existence of our Government, and who desired its destruction, and if those men could come from the battle-field of yesterday, sit here to-day and confound our councils and return to the battle-field to-morrow, what would be the consequence? These men, we will understand, could never be convicted in States thus sustaining them; and therefore if we were to wait for their conviction we could never be disabused of them in the Senate, could never be expurgated of them. This law was not drawn so as to provide that if a man shall be convicted of treason he shall be disqualified. That is not the expression. It was intended and made for the occasion. It is that 'every person guilty of either of the offenses described in this act shall be forever incapable.'"

That was Mr. Collamer. Such, Mr. Speaker, were precisely the views entertained and announced in this House when this law under consideration was being passed. Upon the report of this bill in reference to deserters, a gentleman from Pennsylvania, not now a member of the House, put a question to the chairman of the Committee on the Judiciary, whether a conviction was necessary, and the present chairman of the committee [Mr. Wilson] told him that that was a question to be settled by the judges of election at the polls. He then offered an amendment to the bill by adding the words "Upon conviction thereof." That amendment was deliberately voted down upon the statement of the gentleman from Iowa [Mr. Wilson] that that was a question to be decided at the polls the same as any other fact touching the qualifications of an elector. That disposes of this question so far as deserters are concerned. It shows conclusively that the whole ground of this claim that they must be first convicted by court-martial, and then the disqualification attaches is upon a mistaken apprehension of the meaning of the law; and the minority of the committee in their report give up the whole case, for they say:

"In Millford township, Knox county, Edward Beach voted for the contestant, but had been previously convicted by the United States district court for the northern district of Ohio of passing counterfeit coin and was unpardoned, which offense is a felony alike under the laws of Ohio and of the United States, and punishable in like manner under each, without disfranchisement under the Federal law. But if the conviction had been under the laws of Ohio, a part of the penalty would have been disfranchisement. The sitting member claims, therefore, that as the voter was a citizen of that State, and the offense was committed therein, the disfranchisement

under the State laws attaches and takes effect upon the conviction in the Federal court. We think otherwise. The penalties denounced against any crime by the respective governments can only take effect as to the government under which they are adjudged. Neither government is called upon to enforce the punishments prescribed on conviction of crime by the other. There is believed to be no authority for any other conclusion."

Therefore, according to the doctrine of the minority of the committee, before a man shall cease to be a citizen, cease to be qualified as a voter in Ohio, he must be convicted by court-martial, and when he is, the same minority say it shall have no effect whatever. So that by this process the minority of the committee have succeeded in emasculating the law and rendering it entirely useless and an absurdity.

I now pass to the second point in this case, and that is the vote of Pike township. The vote of that township has been rejected by the committee. Why? Because the only evidence of the vote is through this source. It was taken in violation of the law of the State of Ohio; and while the committee hold—and the authorities are full upon that point—that that does not disqualify a single voter in Pike township who cast his vote, yet it is necessary to prove how men did vote. The defects in the transactions at Pike township are these: the law requires three electors to be judges. There were but two electors and one deserter appointed judges in this township, and those three—two of them eligible to the office and one of them ineligible to the office—acted as judges and decided whose votes should be received. They then made a return in which, instead of certifying according to law that the votes cast were the votes of electors, they did not certify that a single vote cast was the vote of an elector. Now, what shall be done in this case? Shall the men who went in there and honestly voted lose their votes? Certainly not. But what shall we take as evidence? Not the evidence of these three men, because that was not in conformity to law, and besides, by its very terms, their certificate does not show that a single elector voted. So we say that to these parties the name of every man who shows he voted there and was a legal voter shall be counted notwithstanding these judges of election failed to comply with the law and acted in violation of the law, and failed to give the proper evidence. We have got to take one of two methods. Either we have got to throw these parties back upon parol proof of who cast his vote there, or to take that which the law says shall not be evidence—one or the other; and we say to these men, "This is no evidence of who voted in Pike township, but we give you an opportunity to go and prove who voted, and every legal voter whom you show to have voted there we will count." This the parties did in other townships, but they failed to do it in Pike township; and that is the reason why the votes on the one side and on the other cast in Pike township cannot be counted, because neither party has furnished us a particle of legal proof of who did vote there.

A word upon the question whether the proof was legal or not. Two of these judges were qualified. I have heard it said that the third may be treated as a judge *de facto*. But, Mr. Speaker, while that is true of every man who is capable of holding an office and enters upon it under color of an appointment, it is not true of a man who has not the legal capacity to act; it is not true of a man who has not the elements that the law says shall exist in every officer. It is only in a case where a man otherwise competent by law is only in possession of a color of appointment; but nowhere, as I understand the law, was it ever held that a man whom the law says is not capable of holding the office can by any means legally discharge the duties of that office. That is the reason why this man was incapable of acting even to the extent of a judge *de facto*. But that does not cure the other defect which the papers show. The papers do not show that a single man who voted there was a legal voter. While we offered to these parties, according to all the precedents in cases of election, to go home and bring evi-

dence of who voted; there, both parties chose to refer their case to this House upon the evidence as they had it.

There is still another objection to the conclusion in reference to Pike township, and that is, that it is claimed on the part of the sitting member that there is nothing in the notice of the contest on the part of the contestant indicating this ground of objection. That was so well argued by the gentleman from Ohio [Mr. LAWRENCE] yesterday that but one other idea is left, and that idea, to my mind, is entirely conclusive. Admitting to be true all that is said upon that point by the minority of the committee, yet they overlook this controlling fact. This evidence touching Pike township was not brought to the attention of the committee by the contestant, but it was brought to their attention by the sitting member himself. Then he could not object to the committee considering the testimony which he himself laid before them, and giving it its legitimate effect. He brought the evidence there, and he did not object; he could not object to its consideration, for he laid it before the committee. But though it might be true, yielding for the sake of argument that it would be true, that the contestant, by reason of this defect in the notice, could not have brought this testimony before the committee, yet it does not lie in the mouth of the sitting member to say that the testimony he himself laid before the committee should not be considered by the committee.

One other point touching Pike township, and I will be through with that part of the case. It is said by the sitting member, and it was also said with great confidence by the gentleman from Indiana, [Mr. KERR,] that in point of fact this man, Salathiel Parrish, who sat upon the board of Pike township as a judge of election was not a deserter; that he procured a substitute, and, therefore, ceased to be a deserter. Now, neither of those gentlemen read the testimony upon which they founded that conclusion, but left the House to take it upon the strength of their own statement.

Now, in point of fact not only does the evidence fail to carry out the assertion of the sitting member and of the gentleman from Indiana that this man procured a substitute, but the evidence shows that he did not procure a substitute. The very evidence to which they alluded shows that he did not procure a substitute. This man, Salathiel Parrish, was drafted and ran away, as did a dozen or so other men of the town. The town, in order to fill up its quota of ninety men, was obliged to have resort to Cincinnati, with the exception of two of the deserters who finally furnished substitutes. This deserter, Parrish, was away in foreign lands enjoying the protection of a foreign power and claiming, as he now does, the benefit of an allegiance to that power.

Mr. KERR. Will the gentleman yield to me?

Mr. DAWES. If the gentleman will allow me to read the testimony first I will yield.

Mr. KERR. I hope the gentleman will read all the testimony, for it sustains me and contradicts him. I want it all read.

The SPEAKER. The hour of the gentleman from Massachusetts [Mr. DAWES] has expired.

Mr. DAWES. I hope the House will indulge me for a few moments longer.

The SPEAKER. That requires unanimous consent.

Mr. KERR. I hope it will be done, with the understanding that some one on this side shall be allowed to reply.

Mr. CULLOM. I move that the gentleman from Massachusetts [Mr. DAWES] be allowed fifteen minutes additional time.

Mr. KERR. I desire ten minutes to reply to the gentleman.

Mr. FARNSWORTH. I object to that.

Mr. KERR. Then I object to the extension of time asked for by the gentleman from Massachusetts.

Mr. DAWES. I think the gentleman from

Indiana will hardly insist upon his objection to my paying a few moment's attention to the town of Mount Vernon, after the kindness and indulgence extended to him by this side of the House.

Mr. KERR. I will not object to the gentleman continuing his speech if he proposes to confine his remarks to Mount Vernon township.

Mr. DAWES. I will do so.

The SPEAKER. There being no objection, the time of the gentleman from Massachusetts [Mr. DAWES] is extended fifteen minutes.

Mr. DAWES. Mr. Speaker, the sitting member complains that we propose to disfranchise a whole township, the township of Pike; yet he himself turns round and proposes to disfranchise a township embracing 1,100 voters. When we offered him an opportunity to prove every vote cast in that township, he turns round and proposes to disfranchise the township; and it is a significant fact that this is the township in which both these gentlemen reside. I do not know that that gives any zeal or unction to the gentleman's desire to disfranchise the voters in that town. The gentleman felt called upon to apologize for taking this position, and the apology was in effect that if he were not situated as he is he would not do it; if he had anything else upon which to rely in this contest as an answer to the contestant he would not take the position he does; but, situated as he is, he is compelled to ask the House to disfranchise more than 1,100 votes in the township of Mount Vernon, the majority there being 400.

The city of Mount Vernon was incorporated by a special act of the Legislature in 1845. It lies in the center of Clinton township, from whose territory it was taken. Under this special charter the township and city were authorized to hold all county, State, and national elections together, and from that time to this all such elections have been so held. Subsequently a law was passed providing—

"That each township in the several counties shall compose an election district, unless such township is now, or shall hereafter be, divided by law into more districts than one, the election to be held at such place in such township or district as the trustees in each township shall direct; and each ward of any city that is or may be divided into wards shall compose an election district; the election therein to be held at such places as the members of the city council for their respective wards shall select."

Now, the construction put upon this statute for fifteen years has been that until the officers of the city government have appointed places in these wards the elections should be held as before at the places appointed by the trustees of the town. Elections have been held every year since the law was enacted, and the officers have never appointed places for the holding of the elections. Members of the Legislature have been thus chosen; the Legislature has recognized them as legally chosen. Such is the construction which was uniformly put upon this act from the time it was passed until the gentleman from Ohio, [Mr. Morgan,] the sitting member in this case, raised the question that the electors cannot vote except in the ward, and inasmuch as the officers of the city government have never appointed places for voting, therefore the town in which he and the contestant reside should be disfranchised. Upon this new construction for the first time put upon the law by the sitting member he asks this House to reject 1,100 votes.

Sir, I submit that nothing is so strong and satisfactory upon the construction of a statute as the contemporaneous construction of it, the construction given to it at the time of its enactment by the parties whom it affects, because they are supposed to know better than anybody else the meaning of the terms used by the Legislature. This construction having been put upon this statute fifteen years ago, the very year the law was enacted, and having been held by all parties without question from that time to this, it is the strongest evidence in the world that it is the true construction. To support this position I propose to cite a few authorities, and then I shall leave this case.

It is a rule as old as the civil law, originating long before there was any English language in which to write the law, that contemporaneous construction is the best.

And this, in the terse and admirable language of the civil law, is expressed by the maxim *contemporanea expositio est fortissima in lege*. As we shall see hereafter, this same principle has been applied, to a certain extent in the construction of constitutions. (See Sedgwick on State and Constitution Law, 251.)

So in regard to the judges of the Supreme Court of the United States sitting as circuit judges without distinct commissions for the purpose, it was held by the Supreme Court that a practice and acquiescence under the system for a period of several years, commencing with the organization of the judicial system, afforded an irresistible answer to all objections, and had, indeed, fixed the construction. It was said to be a contemporary interpretation of the highest nature. (Sedgwick on Statute and Constitutional Law, 251; *Stuart vs. Laird*, 1 Cranch, 299.)

So as to the laws of the colony of Massachusetts in regard to common lands, the supreme court of that State said:

"Of these statutes, a practical construction early and generally obtained, that in the power to dispose of lands, was included a power to sell and convey the common lands." \* \* \* "Were the court now to decide that this construction is not to be supported, very great mischief would follow. And, although if it were *res integra*, it might be very difficult to maintain such a construction; yet, at this day, the *argumentum ab inconvenienti* applies with great weight. If this practice originated in error yet the error is now so common that it must have the force of law. We cannot shake a principle which has in practice so long and so extensively prevailed."—*Sedgwick*, 252; *Rogers vs. Goodwin*, 2 Massachusetts, 477, 478.

In regard to the statute of frauds the same court said:

"A contemporaneous is generally the best construction of a statute. It gives the sense of a community of the terms made use of by the Legislature." &c.—*Sedgwick*, 252; *Packard vs. Richardson*, 17 Massachusetts, 121, 143.

It remained for the sitting member at this late day to set up, in opposition to this contemporaneous construction, a new construction, not in aid of the voter, not to give new facilities to the voter to express his will at the ballot-box, but to disfranchise 1,100 votes of his fellow-townsmen because the necessities of the case are such that he finds it necessary to ask the House to make an extreme departure from the rules of law.

Mr. Speaker, I have gone imperfectly over these three points precisely as the committee have put them in the report. It leaves the contestant with a majority of some 80 odd votes. It disfranchises no votes. It accepts as a voter everybody who could be proved from any evidence to be a legal voter and permits him to cast his vote. The committee hold religiously to the doctrine that all forms must give way to the will of the voter expressed according to law. The only object of investigation before the committee is to go behind all forms and get, if possible, the vote of every legal elector in this district. They took that testimony, and from all that testimony they submit to the House, and confidently submit that no man, unless under the construction of the gentleman from Indiana, [Mr. Kerr,] and the gentleman from Pennsylvania, [Mr. Woodward,] that all the laws enforcing the draft were unconstitutional and setting them aside, can come to any other conclusion than that at which the committee arrived:

Mr. LOUGHRIDGE and Mr. DELANO (contestant) obtained leave to print, as part of the debates, speeches on the pending resolutions. [See Appendix.]

The question first recurred on the following substitute, submitted by Mr. KERR:

*Resolved*, That George W. Morgan was duly elected, and is entitled to retain his seat in the Fortieth Congress, from the thirteenth congressional district of Ohio.

Mr. KERR demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 79, not voting 73; as follows:

YEAS—Messrs. Adams, Barnes, Beck, Boyer, Bromwell, Brooks, Burr, Cary, Driggs, Eldridge, Ferry, Getz, Golladay, Grover, Haight, Halsey, Hill, Holman, Hotchkiss, Richard D. Hubbard, Jones, Kerr, Knott, Loughridge, Marshall, McCormick, Niblack, Nicholson, Randall, Ross, Sitgreaves, Taffe, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—37.

NAYS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Beaman, Beatty, Benton, Broomall, Buckland, Butler, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Donnelly, Eckley, Eggleston, Farnsworth, Ferriss, Fields, Griswold, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Judd, Julian, Ketcham, Kitchen, Koontz, William Lawrence, Logan, Mallory, Maynard, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Nunn, O'Neill, Paine, Perham, Plants, Polesy, Pomeroy, Price, Raum, Sawyer, Schenck, Scofield, Shellabarger, Starkweather, Aaron F. Stevens, Stokes, Taylor, John Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader, C. Washburn, Henry D. Washburn, William B. Washburn, Welker, William Williams, and John T. Wilson—79.

NOT VOTING—Messrs. Ames, Anderson, Archer, Axtell, Bailey, Baker, Baldwin, Banks, Barnum, Benjamin, Bingham, Blaine, Blair, Boutwell, Chandler, Churchill, Coburn, Dodge, Ela, Eliot, Finney, Fox, Garfield, Glessbrenner, Gravely, Hawkins, Asahel W. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Johnson, Kelley, Kelsey, Lakin, George V. Lawrence, Lincoln, Loan, Lynch, Marvin, McCarthy, McCullough, Morgan, Morrissey, Mungen, Myers, Newcomb, Orth, Peters, Phelps, Pike, Pile, Poland, Prayn, Robinson, Robinson, Selye, Shanks, Smith, Spalding, Thaddeus Stevens, Stewart, Stone, Taber, Thomas, Twichell, Burt Van Horn, Elihu B. Washburne, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—73.

So the substitute was disagreed to.

During the roll-call,

Mr. KERR said: The gentleman from Pennsylvania [Mr. GLESSBRENNER] is paired with my colleague, Mr. SHANKS. The former would vote for and the latter against the resolution.

Mr. VAN HORN, of New York. I am paired with Mr. PHELPS. He would vote ay, and I would vote no.

Mr. JOHNSON. I am paired with Mr. AMES. He would vote no, and I would vote ay.

The result having been announced as above, the question recurred on agreeing to the resolutions reported by the committee.

The question was then taken on the first resolution of the committee, as follows:

*Resolved*, That George W. Morgan is not entitled to a seat in the Fortieth Congress from the thirteenth congressional district of Ohio.

The resolution was agreed to.

The question being stated on agreeing to the second resolution, as follows:

*Resolved*, That Columbus Delano is entitled to a seat in the Fortieth Congress from the thirteenth congressional district of Ohio.

Mr. KERR demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 80, nays 38, not voting 70; as follows:

YEAS—Messrs. Allison, Arnell, Delos R. Ashley, James M. Ashley, Beaman, Beatty, Benton, Broomall, Buckland, Butler, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Covode, Cullom, Dawes, Dixon, Donnelly, Eckley, Eggleston, Farnsworth, Ferriss, Fields, Griswold, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Judd, Julian, Kitchen, Koontz, William Lawrence, Logan, Logan, Mallory, Maynard, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Nunn, Paine, Perham, Plants, Polesy, Pomeroy, Price, Raum, Sawyer, Schenck, Scofield, Selye, Shellabarger, Starkweather, Aaron F. Stevens, Stokes, Taylor, Thomas, John Trimble, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader, C. Washburn, Henry D. Washburn, William B. Washburn, Welker, William Williams, and John T. Wilson—80.

NAYS—Messrs. Adams, Barnes, Beck, Boyer, Bromwell, Brooks, Burr, Cary, Driggs, Eldridge, Ferry, Getz, Golladay, Grover, Haight, Halsey, Hill, Holman, Hotchkiss, Jones, Kerr, Knott, Loughridge, Marshall, McCormick, Myers, Niblack, Nicholson, Randall, Ross, Sitgreaves, Stewart, Taffe, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—38.

NOT VOTING—Messrs. Ames, Anderson, Archer, Axtell, Bailey, Baker, Baldwin, Banks, Barnum, Benjamin, Bingham, Blaine, Blair, Boutwell, Chandler, Churchill, Coburn, Dodge, Ela, Eliot, Finney, Fox, Garfield, Glessbrenner, Gravely, Hawkins, Asahel W. Hubbard, Hulburd, Humphrey, Ingersoll, Jenckes, Johnson, Kelley, Ketcham, Kelsey, Lakin, George V. Lawrence, Lincoln, Lynch, Marvin, McCarthy, McCullough, Morrissey,



Mungen, Newcomb, O'Neill, Orth, Peters, Phelps, Pike, Pile, Poland, Pruyn, Robertson, Robinson, Shanks, Smith, Spalding, Thaddeus Stevens, Stone, Taber, Twichell, Burt Van Horn, Elihu B. Washburne, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—70.

So the resolution was adopted.

During the roll-call,

Mr. VAN HORN, of New York, said: I am paired with Mr. PHELPS. He would vote no, and I would vote ay.

Mr. JOHNSON. I am paired with Mr. AMES on all the questions relating to this contested election. He would vote ay, and I would vote no.

Mr. KERR. Mr. GLOSSBRENNER would have voted against the resolution and my colleague, Mr. SHANKS, would have voted for it. They are paired with each other.

The result having been announced as above recorded,

Mr. SCOFIELD moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DELANO then appeared and was qualified by taking the oath prescribed by law.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. WARE, one of its clerks, announced that that body had passed a bill (S. No. 164) to provide for appeals from the Court of Claims, and for other purposes, in which the concurrence of the House was requested.

The message further announced that the Senate had passed a bill (H. R. No. 1117) to supply partial deficiencies in the appropriations for the service of the fiscal year ending on the 30th of June, 1868, with amendments, in which the concurrence of the House was requested.

It further announced that the Senate insisted upon its second amendment to the joint resolution (H. R. No. 218) for the relief of John M. Palmer, disagreed to by the House of Representatives, had agreed to the committee of conference asked for by the House on the disagreeing votes thereon, and had appointed Messrs. WILLEY, SHERMAN, and MORRILL of Vermont, conferees on the part of the Senate.

#### DEATH OF EX-PRESIDENT BUCHANAN.

Mr. WOODWARD. I offer the following resolution, and ask the unanimous consent of the House for its consideration at this time:

The House having received with becoming sensibility intelligence of the death of James Buchanan, ex-President of the United States, at his country-seat at Wheatland, on the 1st instant, does hereby resolve:

1. That whatever diversities of opinion may prevail in respect of the administration of Mr. Buchanan as President of the United States, the members of this House can cordially unite in honoring the purity of his private character, the ability and patriotic motives which illustrated his long career of public service, and the dignity which marked the retirement of the latter years of his life.

2. That as a token of honor to the many virtues, public and private, of the illustrious sage and statesman whose death, in the ripeness of his age, has arrested the attention of the nation, the Speaker of the House is requested and authorized to appoint a committee of seven members to attend the funeral of Mr. Buchanan on behalf of the House, and to communicate a copy of these resolutions to the relatives of the deceased.

The SPEAKER. If there is no objection, the resolutions are before the House.

Mr. WOODWARD. I have nothing to say in support of the resolutions. I hope they will commend themselves to the support of every member of this House. I wish to remark, however, that if the resolutions pass, and the Chair has occasion to appoint a committee, I decline the position to which, I understand, I would be entitled as chairman of the committee, and I suggest that my colleague [Mr. GLOSSBRENNER] be appointed instead of myself.

Mr. FARNSWORTH. I suggest to the gentleman from Pennsylvania that he modify those resolutions a little. He certainly cannot expect to get a unanimous vote of the House commending the "patriotic motives" which

animated Mr. Buchanan at all times in his public career. For one, I certainly cannot vote ay.

Mr. MULLINS. Neither can I.

The SPEAKER. The gentleman from Pennsylvania is entitled to the floor if the resolutions are to be debated. They are entertained by unanimous consent.

Mr. WOODWARD. I will say for the information of the gentleman from Illinois, and of other gentlemen, that these resolutions were prepared by me at the suggestion of some members of the Pennsylvania delegation; and the first thing I did was to place them in the hands of gentlemen upon the other side of the House. My colleague from Chester county [Mr. BROOMALL] particularly took charge of the resolutions. To my certain knowledge he showed them to several gentlemen on that side of the House, and I desired them to be shown to every gentleman on that side of the House, because I had no purpose of offering any resolutions here that would become matter of debate or dispute.

Mr. BLAINE. Will the gentleman hear me one moment?

Mr. WOODWARD. I know what the gentleman from Maine is driving at, and I think it is hardly worth while to yield to him at present. I was saying, for the information of the House, that these resolutions were submitted to gentlemen on the other side of the House, and if they were not shown to every gentleman there it was the neglect of other persons, and not of myself, because they were intended to be submitted to every gentleman there. I know that a number of gentlemen on the other side of the House did examine and approve of them before they were returned to me; and indeed there was stricken out of the draft of the resolutions one resolution at the suggestion of gentlemen on the other side of the House. It is on the paper now, although it has not been read. It was stricken out at the instance of gentlemen on the other side of the House. I understood, therefore, that the resolutions as now presented would not encounter opposition upon that side of the House. I do not know how general that understanding was. I do not say it was universal.

Mr. WASHBURN, of Indiana. I wish to ask the gentleman if there is any precedent for resolutions of this kind on the death of an ex-President?

Mr. WOODWARD. I believe, though I am not informed in regard to the matter, that whenever an ex-President has died during a session of Congress, Congress has always taken some notice of the fact. If there be no actual case that will be a precedent, it will be found to be that this is the first instance in which an ex-President has died during the session of Congress. But the other departments of the Government are taking notice of the death of Mr. Buchanan. Mr. Buchanan was at one time a distinguished member of this House; he was also a distinguished member of the other branch of the Federal Legislature; he was President of the United States; and he also represented this country at the British Court. He has been a man largely interested in public affairs in this country, and assuredly there is no need of a precedent for this House expressing in general terms its respect for his general character. The resolutions do not contain a syllable that can compromise the political prejudices or opinions of any gentleman in this House. They were carefully drawn with a view to avoid that. They were submitted to gentlemen on the other side, and the only one that was objected to was stricken out, and now to the other two I trust there will be no opposition. I call the previous question.

Mr. BROOMALL. As the gentleman has alluded to me, I hope he will yield to me before he moves the previous question.

Mr. FARNSWORTH. I move to lay the resolutions upon the table, unless the gentleman will modify them. I am willing the grave shall bury the man's faults, and to speak only

well of him, now that he is dead; but when the gentleman asks me to vote that the motives of Mr. Buchanan were always patriotic and pure he asks me to vote what I believe to be a falsehood, and I cannot do it.

Mr. BLAINE. Will the gentleman from Pennsylvania allow me to have read a substitute, which I think would obviate the very disagreeable scene of contending over the body of a dead man? I have a resolution in my hand which I think would secure the unanimous consent of the House.

Mr. ELDRIDGE. I think this scene corresponds with the usual action of this House in such matters.

Mr. MULLINS. Especially on the other side of the House.

The SPEAKER. The substitute cannot be read pending the motion to lay on the table.

Mr. FARNSWORTH. I withdraw the motion to lay on the table.

Mr. WOODWARD. I will yield to hear the substitute of the gentleman from Maine read.

The Clerk read as follows:

The House having received, with becoming sensibility, intelligence of the death of James Buchanan, ex-President of the United States, at his country seat at Wheatland, on the 1st instant, it is hereby

*Resolved*, That, as a mark of honor to one who has held such eminent public station, the Speaker of the House is requested to appoint a committee of seven members to attend the funeral of Mr. Buchanan, on behalf of the House, and to communicate a copy of this resolution to the relatives of the deceased.

Mr. WOODWARD. I cannot accept that amendment. I call the previous question upon my resolution.

Mr. BLAINE. I suppose if the call for the previous question is voted down, then my resolution would be in order as a substitute.

Mr. FARNSWORTH. I move that the resolutions be laid upon the table.

Mr. ELDRIDGE. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to make a suggestion.

Mr. VAN WYCK. I object. [Cries of "Oh, no!"] I withdraw the objection.

No further objection being made,

Mr. STEVENS, of Pennsylvania, said: I ask my colleague [Mr. WOODWARD] to consent to strike out the words "the ability and patriotic motives which illustrated his long career of public service," and let the resolution be adopted without that in it.

Mr. FARNSWORTH. That is what I proposed.

The SPEAKER. The Clerk will read that portion of the resolution as proposed to be modified.

The Clerk read as follows:

That whatever diversities of opinion may prevail in respect to the administration of Mr. Buchanan as President of the United States, the members of this House can cordially unite in honoring the purity of his private character, and the dignity which marked the retirement of the latter years of his life.

Mr. WOODWARD. If the House will strike out the general allusion to the patriotic motives of Mr. Buchanan they can do so, but I cannot consent to do it myself.

The SPEAKER. Will the gentleman yield to allow such an amendment to be offered?

Mr. STEVENS, of Pennsylvania. I did not propose to offer any amendment for the action of the House. I desired to have my colleague modify the resolution so that the record should not show that any such language had been included in the resolution at all.

Mr. WOODWARD. That clause refers in general terms to the patriotic motives of Mr. Buchanan. I cannot consent to any such amendment or modification.

The question was then taken upon the motion to lay the resolutions on the table; and it was decided in the affirmative—yeas 74, nays 46, not voting 69; as follows:

YEAS—Messrs. Allison, Arnell, James M. Ashley, Baldwin, Beaman, Beatty, Benton, Blaine, Blair, Broomall, Buckland, Calkins, Chandler, W. Clarke, Sidney Clarke, Cobb, Coburn, Cornell, Covode, Cullom, Delano, Dixon, Donnelly, Driggs, Eckley,

Eggleston, Farnsworth, Ferry, Fields, Garfield, Halsey, Harding, Hill, Hopkins, Hunter, Julian, Kitchen, William Lawrence, Logan, Loughbridge, Mallory, Maynard, McClurg, Mercer, Miller, Moore, Morrill, Mullins, Myers, Newcomb, O'Neill, Paine, Perham, Polesley, Pomeroy, Price, Rabin, Schenck, Selye, Starkweather, Aaron F. Stevens, Stokes, Taffey, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Van Wyck, Ward, Cadwalader, C. Washburn, Henry D. Washburn, William B. Washburn, and William Williams—74.

NAYS—Messrs. Adams, Delos R. Ashley, Barnes, Beck, Boyer, Brooks, Burr, Butler, Eldridge, Getz, Goldaday, Griswold, Haight, Higby, Holman, Hotchkiss, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Johnson, Jones, Kerr, Knott, Koontz, George V. Lawrence, Marshall, McCormick, Moorhead, Niblack, Nicholson, Phelps, Plants, Randall, Ross, Sawyer, Scofield, Sitgreaves, Smith, Stewart, Taylor, Thomas, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—46.

NOT VOTING—Messrs. Ames, Anderson, Archer, Axtell, Bailey, Baker, Banks, Barnum, Benjamin, Bingham, Boutwell, Cary, Chandler, Churchill, Cook, Daws, Dodge, Eli, Elliot, Ferriss, Finney, Fox, Glossbrenner, Gravely, Grover, Hawkins, Hooper, Asahel H. Hubbard, Hubbard, Humphrey, Jencks, Judd, Kelley, Kelsey, Ketcham, Laffin, Lincoln, Loan, Lynch, Marvin, McCarthy, McCullough, Morrissey, Munson, Nunn, Orth, Peters, Pike, Pile, Poland, Pruyn, Robertson, Robinson, Shanks, Shellabarger, Spalding, Thaddeus Stevens, Stone, Taber, John Trimble, Twichell, Elihu B. Washburn, Welker, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—60.

So the resolutions were laid on the table.

Mr. PAINE. I rise to make a privileged report from the Committee on Reconstruction.

Mr. STEVENS, of Pennsylvania. I ask unanimous consent to be allowed to offer a resolution in relation to the death of Mr. Buchanan.

Mr. VAN WYCK. I object.

Mr. BLAINE. I ask leave to offer a resolution on that subject.

Mr. STEVENS, of Pennsylvania. I trust I will be allowed to offer the resolution.

Mr. VAN WYCK. I insist upon my objection.

Mr. PAINE. I have been requested to yield to the gentleman from Maine [Mr. BLAINE] to offer a resolution. I will do so if it gives rise to no debate.

Mr. RANDALL. I object to the gentleman from Maine [Mr. BLAINE] offering the resolution. I will not object to my colleague, the gentleman from Pennsylvania, [Mr. STEVENS], offering the resolution, for I think he is the proper person to present it.

The SPEAKER. The gentleman from Pennsylvania [Mr. RANDALL] objects to the resolution proposed by the gentleman from Maine, [Mr. BLAINE], and the gentleman from New York [Mr. VAN WYCK] objects to the one proposed by the gentleman from Pennsylvania, [Mr. STEVENS].

Mr. BLAINE. I desire it to be noted that if any mark of respect upon the death of ex-President Buchanan is prevented in this House it is prevented by the gentleman from Pennsylvania, [Mr. RANDALL].

Mr. RANDALL. I withdraw the objection.

Mr. WARD. I renew it.

#### ADMISSION OF ARKANSAS.

Mr. PAINE. I report back from the Committee on Reconstruction the amendments of the Senate to the bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress. I will explain the position of this question. This bill, as passed by the House, contained a certain fundamental condition. The Senate amendment proposes to change the language of that condition. The Committee on Reconstruction recommend an amendment to this amendment. The Senate has also amended the preamble, and in the latter amendment the committee recommend concurrence. I will add that it is expected, and, indeed, desired by the committee, that from the action of the House on this question a committee of conference will result; but it is thought desirable that our action at the present time should take the form proposed by the committee.

The SPEAKER. The gentleman does not propose at this time to ask a committee of conference.

Mr. PAINE. I do not, though it is ex-

pected that a conference committee will be the result.

The SPEAKER. The Clerk will read the amendments of the Senate.

The Clerk read as follows:

First amendment:

Strike out in the bill all after the words "fundamental condition," and insert the following:

That there shall never be in said State any denial or abridgement of the elective franchise or of any other right to any person by reason or on account of race or color, excepting Indians not taxed.

The SPEAKER. The Committee on Reconstruction propose to amend this amendment by striking out all after the word "that," and inserting what will be read by the Clerk.

The Clerk read as follows:

The constitution of said State shall never be amended or changed so as to discriminate in favor of or against any class of citizens of the United States in their right to vote who are now entitled to vote by said constitution, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted; and no person shall ever be held to service or labor as a punishment for crime in said State except by public officers charged with the custody of convicts by the laws thereof.

The SPEAKER. The Clerk will now read the second amendment of the Senate.

The Clerk read as follows:

Strike out in the preamble after the word "republican" the words "in form;" so that it will read as follows:

Whereas the people of Arkansas, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, have framed and adopted a constitution of State government which is republican, and the Legislature of said State has duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen: Therefore.

Mr. BROOKS. I rise to a privileged question in connection with this bill. There must be some misunderstanding about it. This report does not come from the majority of the Committee on Reconstruction.

Mr. PAINE. I will explain to the House exactly how the thing stands.

The SPEAKER. If it is disputed whether this is a report from the committee, that question must be submitted to the House.

Mr. STEVENS, of Pennsylvania. Certainly this is the report of the committee.

Mr. BROOKS. That is denied by myself, and is not affirmed, I believe, by the gentleman from Wisconsin, [Mr. PAINE].

Mr. STEVENS, of Pennsylvania. The gentleman from New York [Mr. Brooks] has not been in the committee all day.

Mr. BROOKS. There were four members in the committee; and I, being employed in the Committee of Ways and Means, was to be called in if any action on this subject should be proposed. The gentleman from Wisconsin [Mr. PAINE] will, I think, confirm the statement I make. On another bill the committee gave permission that a report should be made. I refer to the bill removing disabilities from some persons in Arkansas.

The SPEAKER. The Clerk will read the rule to be found on page 35 of the Digest.

The Clerk read as follows:

If it is disputed a report has been ordered to be made by a committee the question of reception must be put to the House.

Mr. PAINE. I wish to state before that is put that I met the gentleman from New York [Mr. Brooks] on his way to the committee-room when I came from it, and he told me that he was going to another committee-room, and if the committee wanted him he would attend. I informed the committee of that fact. The chairman stated that the gentleman from New York had, when present, authorized the committee to proceed, counting him as present.

Mr. BROOKS. That is a mistake. I authorized myself to be called in case any vote was to be taken. It appears that but four were present. The committee consists of nine members. I will say that I do not wish to delay action on this subject. If the gentleman will allow it to be presented and taken up at any time, I am willing that shall be done. Let the committee report at any time.

Mr. PAINE. I do not feel at liberty to

withdraw the report if I have the right to make it. If I have, I will make it now.

The SPEAKER. The fact being disputed the question must be put to the House.

Mr. BROOKS. The gentleman who reports it does not say it is from the majority.

The SPEAKER. He reports it in the usual form, and the gentleman disputes the fact.

Mr. BROOKS. If the gentleman will say that five out of nine were present when the bill was ordered to be reported I will not make, the point.

Mr. PAINE. I do not say that.

The SPEAKER. That is for the House to determine. A committee when full may authorize a smaller number to act.

Mr. BROOKS. I submit that is not a question for the House. When a gentleman rises and says that he is not authorized to report the bill by a majority of the committee, I say that it cannot be received, for a minority cannot report a bill. The gentleman from Vermont, the gentleman from Michigan, the gentleman from Illinois, the gentleman from New York, and the gentleman from Massachusetts were not present. A majority was not there to authorize any bill to be reported.

The SPEAKER. The gentleman must state for himself whether he is authorized to report by the committee, whether by the tacit or express consent of the members who were absent. If the gentleman insists on his objection, the question will be put to the House.

Mr. BLAINE. All trouble about this report can be avoided by putting it in such form that we can then concur in the Senate amendment.

Mr. PAINE. I am obliged to my friend, but I cannot put it in any such form. I was informed by the chairman of the committee I was authorized to make the report. I thought when I came here that the gentleman from New York had given his authority.

Mr. STEVENS, of Pennsylvania. The gentleman should take it for granted that he reports it by the consent of the committee and stand by the report without explanation. My colleague on the committee has not deigned to do so, and I ask him to withdraw the report until to-morrow.

Mr. PAINE. I am not willing to comply with the request under the circumstances.

Mr. FARNSWORTH. I ask whether it is for the House to decide whether this report was or not authorized to be made by the committee?

The SPEAKER. The rule is that if it be disputed a report has been ordered to be made by a committee the question of reception must be put to the House. The House has heard the facts and must decide for itself.

Mr. BLAINE. What will be the question pending if the House receives the report?

The SPEAKER. The question on the Senate amendments.

Mr. BLAINE. If the House non-concur the question will come directly upon concurring in the Senate amendments?

The SPEAKER. It will.

Mr. FARNSWORTH. Are we to vote whether the report has been properly made to the House or not? I understand there is no controversy about the facts. I understand both of my colleagues on the committee agree that a majority were not present. There were only four members present, not enough to authorize the report to be made. If so, then the report does not come here properly. I ask my friend to withdraw the report and offer it again.

Mr. BLAINE. That is a mere question of form.

Mr. ASHLEY, of Ohio. Have the amendments been printed.

Mr. PAINE. I decline to withdraw the report. The House can accept it or not.

Mr. BROOKS. I raise the question of order that the gentleman from Wisconsin does not state that he is authorized to make this report.

The SPEAKER. The gentleman did so state when he rose, as the Chair understood.

Mr. BROOKS. He did not say he was authorized by the majority to make the report.

The SPEAKER. If the House so understands it will vote accordingly.

Mr. BROOKS. If the gentleman will state positively that he was authorized by the majority to make the report, I will not interpose the point of order, because I have the highest confidence in the gentleman's honor.

Mr. PAINE. I have already stated the facts; now I desire a vote on receiving or rejecting the report. I will state further—

The SPEAKER. No further debate is in order.

The question was taken on receiving the report of the Committee on Reconstruction; and there were—ayes 55, noes 56.

So the House refused to receive the report.

Mr. ASHLEY, of Ohio. I move that the amendments be printed.

Mr. MAYNARD. Will it not all appear in the Globe?

The SPEAKER. It will.

Mr. MAYNARD. If it is printed in the Globe that will answer every purpose.

Mr. ASHLEY, of Ohio. I withdraw the motion.

#### DEFICIENCY BILL.

Mr. STEVENS, of Pennsylvania. I rise to a privileged question. I desire to have the bill (H. R. No. 1117) to supply partial deficiencies in the appropriations for the service of the fiscal year ending on the 30th of June, 1868, which has been returned from the Senate with amendments, taken from the Speaker's table, and referred to the Committee on Appropriations.

The motion was agreed to.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the internal tax bill.

The SPEAKER. That can only be done by unanimous consent, as it was made a special order after the morning hour, and there has as yet been no morning hour.

#### RECESS TO-DAY.

Mr. SCHENCK. Then I desire to say that I wish all general debate on the tax bill may end between now and midnight, and for that purpose, if we cannot get into Committee of the Whole, so as to take a recess at half past four o'clock this afternoon, I propose to move that when the House adjourns this afternoon it take a recess till half past seven this evening, with a view of going into Committee of the Whole on the tax bill. There are some half a dozen gentlemen who desire to speak at more or less length within the hour rule, and I desire they shall have an opportunity. But I feel it incumbent on me to make an effort to-morrow to stop all general debate under the hour rule and proceed with the debate on amendments.

The SPEAKER. The effect of this motion, if agreed to, will be at whatever hour the House sees fit to take a recess to-day, at half past four or five o'clock, it will meet at half past seven in the evening.

The motion to take a recess was agreed to.

#### REMOVAL OF A SUIT.

Mr. THOMAS. I rise to make a privileged report. I report back from the Committee on the Judiciary the joint resolution (H. R. No. 284) to provide for the removal of a suit pending in the circuit court of Jefferson county, West Virginia, to the circuit court of the United States, which was referred to the committee yesterday with authority to report it back at any time. The committee recommend its passage.

The joint resolution was read. It provides that whereas a suit in ejectment is now pending in the circuit court of Jefferson county, in West Virginia, against the tenant in possession to recover possession of the Harper's Ferry property, owned by the United States, and it is doubtful whether under any existing law of the United States the said suit can be removed to the circuit court of the United States, it is therefore resolved that it shall be the duty of the circuit court of the United States for the

district of West Virginia, if in session, or to the judge thereof in vacation, on the application of the defendant in said suit, showing that the property sought to be recovered by the said suit is owned or claimed by the United States, under color of title, and verifying the facts set out in such application by his affidavit, to issue a writ of *certiorari*, directed to the said State court, directing it to send the record and proceedings in said suit to the said circuit court of the United States, in duplicate, which writ shall be delivered to the clerk of the said State court or left at his office by the marshal of the said district or his deputy or other person thereto duly authorized, and thereupon the said State court shall stay all further proceedings in said suit, and upon the return of the said writ the said suit shall be docketed in the said circuit court of the United States and there proceeded in according to law; and all further proceedings had therein in the said State court shall be null and void.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. THOMAS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ELECTION CONTEST—M'KEE VS. YOUNG.

Mr. DAWES. I rise to a question of privilege. I am requested by several members of the Committee of Elections to move that the majority and minority reports and the accompanying papers in the case of McKee vs. Young be recommitted to that committee.

The motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its clerks, announced that the Senate had passed bills of the following titles in which he was directed to ask the concurrence of the House:

A bill (S. No. 266) to regulate the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, and for other purposes;

A bill (S. No. 252) to create an additional land district in the State of Minnesota;

A bill (S. No. 492) to extend the time for the construction of the Southern Pacific railroad in the State of California; and

A bill (S. No. 433) authorizing the trustees of Union chapel of the Methodist Episcopal church in the city of Washington to mortgage their property for church purposes.

#### FIRST MILITARY DISTRICT.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a communication from the general commanding the first military district, with estimates of appropriations required for reconstruction purposes in that district; which, with the accompanying papers, was referred to the Committee on Appropriations, and ordered to be printed.

#### ELECTION IN ALABAMA.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a communication from the General of the Army, with a report from Major General Meade, commanding the third military district, relative to the recent election in Alabama, supplemental to his report sent to the House on the 27th of March last; which, with the accompanying papers, was referred to the Committee on Reconstruction, and ordered to be printed.

#### POLITICAL DISABILITIES IN VIRGINIA.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, at the suggestion of the General of the Army, a communication from the commanding general of the first military district relative to the disqualification of certain civil officers by the State con-

stitution of the State of Virginia; which, with the accompanying papers, was referred to the Committee on Reconstruction, and ordered to be printed.

#### CUSTOM-HOUSE AT TOLEDO, OHIO.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Treasury, transmitting, in compliance with the resolution of the House of the 18th ultimo, a communication from the supervising architect, recommending the disposal of the present custom-house at Toledo, Ohio, and the erection of another in a more central locality.

Mr. ASHLEY, of Ohio. I move that the letter with the accompanying communication be referred to the Committee on Appropriations and printed.

The motion was agreed to.

#### SUTRO CANAL.

Mr. ASHLEY, of Nevada, by unanimous consent, from the Committee on Mines and Mining, reported a bill (H. R. No. 1158) to aid in the construction of the Sutro canal; which was read a first and second time, recommitted to the committee, and ordered to be printed.

Mr. SCHENCK moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### IOWA AND MISSOURI STATE LINE RAILROAD.

Mr. DONNELLY, by unanimous consent, from the Committee on the Public Lands, reported back with amendments the bill (H. R. No. 651) granting lands to the Iowa and Missouri State Line Railroad Company, and for other purposes, and moved that the same be recommitted to the committee and printed.

The motion was agreed to.

Mr. SCHENCK moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SCHENCK. I call for the regular order of business.

The SPEAKER. The morning hour has commenced, and reports are in order from the Committee on the Public Lands.

#### COMMON SCHOOLS IN DISTRICT OF COLUMBIA.

Mr. JULIAN, from the Committee on the Public Lands, reported back, with the recommendation that it do not pass, the bill (H. R. No. 248) to grant lands for the aid of common schools in the District of Columbia; and the same was laid on the table.

#### HOMESTEAD LAW.

Mr. JULIAN, from the Committee on the Public Lands, made an adverse report upon the petition of citizens of Nebraska, praying for an amendment to the homestead law; and the same was laid on the table.

#### GOVERNMENT LANDS IN SOUTH CAROLINA.

Mr. JULIAN moved that the Committee on the Public Lands be discharged from the further consideration of resolutions of the constitutional convention of South Carolina, approving the petition of certain citizens of South Carolina relative to certain lands belonging to the Government, and that the same be referred to the Committee on Freedmen's Affairs.

The motion was agreed to.

#### PROTESTANT UNIVERSITY.

Mr. JULIAN, from the Committee on the Public Lands, made an adverse report on the memorial of the Protestant University of the United States, praying for a grant of land for educational purposes; and the same was laid on the table.

#### HEIRS OF PHILLIP RENAULT.

Mr. JULIAN moved that the Committee on the Public Lands be discharged from the further consideration of the papers in the case of the



claim of the heirs of Phillip Renault for certain lands, and that the same be referred to the Committee on Private Land Claims.

The motion was agreed to.

#### FEMALE COLLEGES.

Mr. JULIAN, from the Committee on the Public Lands, made an adverse report upon the resolutions of the Legislature of the State of Michigan, asking grants of land to endow female colleges in the several States; and the same was laid on the table.

#### GEOLOGICAL SURVEY OF NEBRASKA, ETC.

Mr. JULIAN. I hold in my hand a communication from the Commissioner of the General Land Office, in reply to a request of the Committee on the Public Lands, relative to a geological survey of Nebraska and other regions west. I move that it be printed and referred to the Committee on the Public Lands.

The motion was agreed to.

#### FORT JESSUP RESERVATION, LOUISIANA.

Mr. JULIAN, from the Committee on the Public Lands, reported a bill (H. R. No. 1154) declaring the lands constituting the Fort Jessup military reservation, in the State of Louisiana, subject to homestead entry and settlement; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It provides that the lands constituting the Fort Jessup military reservation, in the State of Louisiana, so far as the same have not been lawfully disposed of since their reservation, are hereby restored to the United States, and made subject to homestead entry and settlement, as other public lands in the States of Mississippi, Alabama, Florida, Louisiana, and Arkansas, under the act of Congress, approved June 21, 1866, amendatory of the homestead law, approved May 20, 1862.

Mr. JULIAN. The military reservation mentioned in this bill is no longer needed for military purposes. The purpose of the bill is set forth in the bill itself; and I demand the previous question.

Mr. PILE. How much land is there embraced in the reservation?

Mr. JULIAN. About six miles square.

Mr. PILE. Are there any improvements on this land?

Mr. JULIAN. None of any considerable value, as I am informed. The object of the bill is simply to declare the reservation at an end, so that the southern homestead law will apply to it.

Mr. PILE. In what part of the State is this reservation? I do not remember the locality.

Mr. JULIAN. I am not aware of the precise locality, but I know it is greatly needed for homesteads, and not needed as a reservation.

Mr. PILE. Does the gentleman know the value of these lands?

Mr. JULIAN. I have no definite information as to the value of these lands, but I understand they are similar in character to other public lands in the same portion of the State which are being settled as homesteads. There can certainly be no objection to subjecting them to the ordinary land policy of the South, which is all that is proposed.

Mr. PILE. If this land is situated in a locality that makes it valuable, where the land has been all taken up for many years past, so that land there is worth, as it is in some localities, fifteen, twenty, twenty-five, or thirty dollars an acre, should it not be sold to the highest bidder and the money paid into the Treasury? I think we should not pass this bill until we know the value of the lands to be thus opened to entry and settlement.

Mr. JULIAN. I have numerous letters from freedmen and poor white men in that locality, asking the enactment of this law, so that they may go upon this land, occupy it, and till it. I have no doubt as to the propriety of the measure, but my limited time will not allow any general debate.

Mr. PILE. I have certainly no objection

to the passage of such a bill as this, if this land is not very much more valuable than ordinary public lands.

Mr. JULIAN. I have already stated that the land is kindred in character to the public lands in the same vicinity of the State, and needed for settlement.

Mr. PILE. I understand the gentleman to say that he knows nothing about the value of the land, does not even know the part of the State in which the reservation is located, knows nothing about the land adjacent, whether it is held by private owners or not. I wish to suggest to him that if this land is held as a military reservation, and is located in a part of the State where a military reservation would be desirable to the Government, the probability is that the land adjacent thereto has been entered, is now improved, and in a state of cultivation; that this land is not in the condition of other public lands, but is very much more valuable, and that the Government ought to receive more for it than it will receive by opening it up to homestead settlement.

Mr. JULIAN. I have told the gentleman all that I deem it material for the House to know in voting upon the bill. What I have said shows that his apprehensions have no foundation. We have adopted a general homestead law for the South, applicable to all the public lands of that region. The effect of this bill will be to subject this land to the same general land policy under the direction of the Commissioner of the General Land Office. This is what the settlers of Louisiana want.

Mr. WASHBURN, of Wisconsin. Is this reservation now occupied?

Mr. JULIAN. It is not occupied, except small portions of it that have already been disposed of under military authority. That is my information from the War Department.

Mr. WASHBURN, of Wisconsin. What military authority has power to dispose of such lands?

Mr. JULIAN. I am not aware of the authority under which the land has been disposed of; but in the letter I have received from the Secretary of War on this subject it is stated that small portions have been disposed of since the reservation was made; but no objection is suggested to the measure proposed.

Mr. PILE. I hope the gentleman will allow the bill to go over till to-morrow, so that we may get some information as to what this reservation is worth. There are military reservations in the States of Missouri and Kansas, and I do not see why they should not be opened up to settlement as well as this. In my own city there is a reservation worth \$500,000, and we have passed an act providing for its sale. I think we ought to have more information before we pass this bill.

Mr. JULIAN. I demand the previous question.

Mr. PILE. I hope that will not be sustained. On seconding the previous question, there were—ayes 44, noes 33; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. JULIAN and Mr. BROOKS.

The House divided; and the tellers reported—ayes 56, noes 40.

So the previous question was seconded.

The main question was ordered.

Mr. ROSS. I move that the bill be laid on the table; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

Mr. JULIAN. If the gentleman from Illinois [Mr. Ross] will withdraw his motion, I will move that the bill be recommitted. The House will evidently pass the bill, but more important business of the committee will not justify the loss of time in calling the yeas and nays.

Mr. ROSS. With that understanding I withdraw the motion.

Mr. JULIAN. I move that the bill be recommitted to the Committee on the Public Lands.

The motion was agreed to.

Mr. RANDALL moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LAND OFFICE IN UTAH TERRITORY.

Mr. JULIAN, from the Committee on the Public Lands, reported back without amendment a bill (H. R. No. 202) to create the office of surveyor general in the Territory of Utah, and establish a land office in said Territory, and extend the homestead and preemption laws over the same.

The bill, which was read, proposes, in the first section, to authorize the President, by and with the advice and consent of the Senate, to appoint a surveyor general for the Territory of Utah, whose annual salary shall be \$3,000, and whose power, authority, and duties shall be the same as those provided by law for the surveyor general of Oregon. He is to have proper allowances for clerk hire, office rent, and fuel, not exceeding what is now allowed by law to the surveyor general of Oregon.

The second section provides that the public land within said Territory of Utah, to which the Indian title is or shall be extinguished, shall constitute a new land district to be called the Utah district, and the President is hereby authorized to appoint, by and with the advice and consent of the Senate, a register and receiver of public moneys for said district, who shall be required to reside at the places at which said offices shall be located, and they shall have the same powers, perform the same duties, and be entitled to the same compensation as are or may be prescribed by law in relation to land offices of the United States in other Territories.

The third section provides that the Secretary of the Interior is hereby authorized to locate said offices of surveyor general and register and receiver of public moneys at some suitable place or places in said Territory.

And the fourth and last section provides that the preemption and homestead and other laws applicable to the disposal of the public lands, are hereby extended over said district.

Mr. JULIAN. Mr. Speaker, that, I believe, is precisely the bill passed by this House during the Thirty-Ninth Congress toward the close of the last session, and it simply extends the machinery of the General Land Office over the Territory of Utah. The Commissioner of the General Land Office agrees with the Committee on the Public Lands that there is no valid reason why this should not be done. The following is a communication from the Land Office:

DEPARTMENT OF THE INTERIOR.  
GENERAL LAND OFFICE, March 20, 1868.

SIR: I had this morning the honor to receive your letter of yesterday desiring for the committee the views of this office as to the early extension of the land system to Utah. I have, therefore, to submit the following:

First. The area of Utah is 88,056 square miles, equal to 56,355,635 acres, according to the act of May 8, 1863, reducing its former limits, of which only 2,517,912 acres have been surveyed, and none disposed of as yet, leaving 53,837,723 acres unsurveyed.

Second. It now constitutes part of the surveying district of "Colorado-Utah," as ordered by the fourth section of the act of Congress, approved March 14, 1862, *vide* Statutes-at-Large, volume 12, page 369, which status is to continue until otherwise ordered by the President.

Third. In virtue of the act of Congress, approved September 9, 1850, United States Statutes, volume 9, page 453, section 13, reserves in the Territory, for school purposes, sections 16 and 36 in each township. The same is also provided by the second section of an act to establish the office of surveyor general of Utah, and to grant land for school and university purposes, approved February 21, 1855, Statutes-at-Large, volume 10, page 611; and furthermore, section 3 provides two townships of land for the establishment of a university in said Territory. These laws merely reserve but confer no title on the Territory, it being the policy of Congress, as shown by general legislation, to defer the investment of title for school sections until the Territory emerges from political pupillage to the position of a State of the Union. It is understood that the present population of Utah is about 100,000.

The Central Pacific railroad will pass over the country, and the work may take fifteen thousand employees in that region. The influx of such a column of operatives must be felt in the social condition of Utah, and many that may go there in the road service and by general immigration will doubtless remain.

It is the opinion of this office that our laws in

respect to the disposal of the public lands should be promptly extended over that Territory and a land office established. No practical difficulty is apprehended in regard to the administration of the pre-emption, homestead, town-site, and other land laws. The principles applicable everywhere in the administration of the land system will of course apply to Utah, and the extension of that system to the Territory will, in the opinion of the undersigned, result in local and national benefit.

I have the honor to be, very respectfully, your obedient servant,

JOSEPH S. WILSON,  
Commissioner.

HON. GEORGE W. JULIAN, Chairman Committee on Public Lands, House of Representatives.

I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CHEROKEE AND OSAGE LANDS.

Mr. JULIAN, from the same committee, reported a joint resolution (H. R. No. 286) relative to the lands of the Cherokee and Great and Little Osage Indians; which was read a first and second time.

The joint resolution provides that the President of the United States shall be directed to withhold the issuing of patents to the purchasers of land heretofore sold, or which may hereafter be sold, under and by virtue of the treaty between the United States and the Cherokee Indians concluded on the 19th of July, 1866, and the treaty between the United States and the Great and Little Osage Indians, concluded on the 29th of September, 1865, or under any Indian treaty which may hereafter be concluded until otherwise provided by law.

Mr. MAYNARD. I ask the gentleman for a few minutes.

Mr. JULIAN. I will yield to the gentleman presently.

Mr. Speaker, the Indian tribes of the United States have no power over their lands except the power of cession to the United States. This House so voted on yesterday. They have the right of occupancy merely, the title being in the United States; and up to the year 1860 the practice of the Government was in conformity to the principle which I state. Since that time our Indian treaties have so revolutionized the practice of the Government as to threaten the entire land policy of the Government. For example: in the year 1866 a treaty was made with the Cherokee Indians by which eight hundred thousand acres were authorized to be transferred in a body to a single purchaser at the rate of one dollar per acre, completely withdrawing that portion of what else would have been a part of the public domain from the control of Congress, which has the rightful constitutional power to make needful rules and regulations respecting the territory and other property of the United States. Another treaty, concluded in the year 1865 with the Great and Little Osage Indians, authorizes the disposition, in a peculiar way, of over three million acres. Similar treaties have been made with the Sacs and Foxes, the Delaware, the Kickapoo, and other Indian tribes since the date I have mentioned; and we have the news this morning of the conclusion of another treaty with the Great and Little Osage Indians, by which the remnant of their lands, being eight million acres, are transferred to the Leavenworth, Lawrence and Galveston Railroad Company; the treaty itself, as I am reliably informed, having been fixed up here in Washington last summer by the attorney of Mr. Sturgis, the president of said railroad company, with a view to private and in utter disregard of the public interest. This treaty, should it be ratified by the Senate, will be a complete defiance of the control and jurisdiction of Congress, and commit to the tender mercies of a railroad company this large body of lands.

Mr. Speaker, it is for Congress, and not the treaty-making power, to say whether we will

grant lands to aid in building railroads, and how the public domain shall be managed. By the treaty to which I refer two new reservations, still further West, are set apart for our Indian tribes, containing over seventy-three million acres; and if we are to judge the future by the past, in a few years the whole of these lands will be swallowed up by railroad corporations and the Indians driven on to other lands. If this business is to go on in the wretched manner we have been pursuing we might as well abolish the General Land Office or remove it to the Indian Bureau at once and dispense with our land committees. Sir, it is not legally competent—and when I say this I have the concurrence of every lawyer in this House with whom I have conferred—it is not competent by treaty with any Indian tribes to take the disposition of the public domain out of the control of Congress. An Indian treaty cannot repeal the laws of Congress, but must itself conform to those laws.

And as a note of warning to the Senate and to these railroad corporations, whose "Indian ring" threatens to rival the "whisky ring," I have reported from the Committee on the Public Lands the resolution that has been read by the Clerk. Should it become a law, we shall be compelled to return to the old policy by which the Indians will cede their lands directly to the United States, which they are competent to do for a consideration they may agree to accept. Their lands thus ceded will thus fall under the operation of our preemption and homestead laws, and be disposed of as other public lands of the Government. This, Mr. Speaker, is the reason why the committee have reported this resolution, on the passage of which I now demand the previous question.

Mr. MAYNARD. I want to offer an amendment striking out all that relates to the treaty between the Cherokee Indians and the United States; and I desire to state the reason why I offer it.

Mr. JULIAN. How much time?

Mr. MAYNARD. I hope not more than five minutes.

Mr. JULIAN. I will give the gentleman five minutes.

Mr. MAYNARD. The amendment I offer is to strike out of the resolution that which relates to the treaty between the Cherokees and the United States.

Mr. JULIAN. I cannot allow the amendment to be offered. I yield, however, five minutes to allow the gentleman to state his views.

Mr. MAYNARD. I wish to correct what seems to be an erroneous impression of the House in regard to these lands. By the treaty of 1835, which I have before me, these lands were ceded to the Cherokees by patent in fee-simple. The article of the treaty is in these words:

"Whereas it is apprehended by the Cherokees that in the above cession there is not contained a sufficient quantity of land for the accommodation of the whole nation on their removal west of the Mississippi, the United States, in consideration of the sum of \$500,000, therefore hereby covenant and agree to convey to the said Indians and their descendants by patent, in fee-simple, the following tract of land."

That was ratified by an act of Congress which is here before me. Now, this is the very tract of land embraced in this resolution.

Mr. JULIAN. I understand that perfectly well. If the gentleman had listened to the debate here the other day he would have seen that this resolution does not affect the gentleman's position in any way.

Mr. MAYNARD. I think, Mr. Speaker, if the gentleman understood this fact and the other supplemental facts he would not feel justified in offering such a resolution as this to the House and ask its passage. If these lands do not belong to the United States, and if the United States can sell and convey anything for a pecuniary consideration to an Indian, if an Indian has "any rights which a white man is bound to respect," we are bound to respect the title to that tract of land. The treaty of 1866 that is spoken of here is one by which the

Indians sell back to the United States this tract. They give back the title in trust to be sold to the United States, and they stipulate for a payment for the land, and our action is going to deprive the Indians of the benefit of that treaty. In other words, it is going to take away their lands and give them nothing for it. I would like to have read a portion of a communication, not from speculators, but from the principal chief of that tribe and a number of delegates from the tribe who are here. I think they state their own case with a degree of intelligence that ought to commend it to the attention of the House.

Mr. JULIAN. I have only yielded five minutes.

Mr. VAN HORN, of Missouri. I desire to ask the gentleman from Indiana if there is any request from the Cherokee nation, either from its Legislature or from a solitary individual, for the passage of anything of this kind? Has there been presented to the committee anything from the Indian nation on this subject in any form?

Mr. JULIAN. Mr. Speaker, I have not conversed with any representative of the Cherokee nation on this subject. It was neither material nor necessary that I should. The gentleman from Tennessee and the gentleman from Missouri both seem to misunderstand my position. I agree that by patent this land was conveyed to the Cherokee Indians. I recognize the sacredness of their right thereto. Nobody here controverts it. What I say is that when they see fit to cede their land to the United States they must do so for a consideration agreed upon, and cannot make any conditions of cession that shall deprive Congress of the right thenceforward to dispose of and manage the land thus ceded. The Cherokees have no right to deed their lands to England or France, but only to us, and without any conditions as to what we shall do with them. That is my position. The Indians are mere occupants of the soil, without title, and we are their guardians, and a treaty between these minor children of the nation and the treaty-making power in contravention of the authority of Congress over the public domain, and subversive of our laws, is a spurious treaty, a political abortion, a thing unknown to the Constitution, and unworthy of our respect. That is what I assert; and the effect of passing this joint resolution will be to make such treaties void, to restore to our Indian tribes their valid title to their lands until such time as valid treaties can be made.

Mr. VAN HORN, of Missouri. Will the gentleman yield long enough to have the letter read? It is a communication addressed to the Speaker of the House by the principal chiefs and delegates of the Cherokee nation now in Washington; not minor children, but many of them the intellectual peers of any gentleman upon this floor.

Mr. JULIAN. I suppose the amount of it is that the Cherokee Indians are said to desire the ratification of this treaty.

Mr. VAN HORN, of Missouri. It explains the whole matter of the title to these lands.

Mr. JULIAN. I ask the gentleman if there is or can be anything in that letter to affect my position that these Indians have no power to dictate our land policy by treaty?

Mr. VAN HORN, of Missouri. It will enlighten the House on the merits of this question.

Mr. JULIAN. Under the unfortunate limitation of the morning hour the Committee on the Public Lands will never get through their pressing and important business if documents of that kind are to be read.

Mr. VAN HORN, of Missouri. Then I ask the House not to second the previous question on this resolution. Here is a communication addressed by the authorities of the Cherokee nation to the House, explaining this whole matter from beginning to end, and I undertake to say that if any member will read it it will satisfy them upon this question. Now, I deny that the Cherokee Indians or any per-

son in their interest has asked this, and they are, many of them, educated, and the equals of the gentleman from Indiana and myself in the management of their own business. I will state further that this matter has come up within a very few days upon the representations of outside parties, who have proposed to me that the opposition shall be withdrawn if they are paid a certain sum of money.

I do not suppose that the party to whom I refer has approached the committee in the way he has me, or this resolution would not have been reported; but I ask the House to pass over this matter until all the facts can be laid before them, and I pledge myself to lay the facts before them fully, so as to satisfy them on this question.

Mr. MAYNARD. I hope the gentleman from Indiana will withdraw that part of the resolution which relates to the Cherokee Indians, as I am satisfied it does injustice to those Indians.

Mr. WASHBURN, of Wisconsin. I hope the joint resolution will pass, and I hope the gentleman from Indiana will not withdraw that part of it which relates to the Cherokee neutral lands.

Now, as I understand this question—I do not know that I understand it correctly—a treaty was made authorizing the Secretary of the Interior to dispose of these lands, and one clause of it authorized the Secretary to dispose of them in one body, if he saw fit, for one dollar an acre. The lands were so disposed of by Mr. HARLAN, but not in accordance with the terms of the treaty, he giving a long credit for the payment of the entire sum, with the exception of a very small amount. There was a disturbance created about it, and Mr. Browning rescinded that contract and made a new contract with an individual, Mr. James F. Joy, for the transfer of this entire body of land, the former contract having been made with a pretended emigrant company. Mr. James F. Joy, perhaps not having \$800,000 on hand, and finding he can make a good thing of it by entering into a compromise with this emigrant company, agrees to have his contract rescinded and come in under the contract with the emigrant company by which he receives the eight hundred thousand acres, and has a long time for payment, and at a very low rate of interest.

The proposition, therefore, is simply whether James F. Joy shall have this land, some eight hundred thousand acres, for the sum of one dollar per acre, on very long time and a very low rate of interest, or whether the Government shall buy these lands for that amount.

[Here the hammer fell.]

Mr. VAN HORN, of Missouri. I desire to state that under this treaty of sale settlers are protected in their rights. Each settler upon the land prior to the ratification of the treaty will be allowed one hundred and sixty acres of land at the appraised value.

Mr. WASHBURN, of Wisconsin. Why not let the Government buy this land?

Mr. VAN HORN, of Missouri. The Indians have been trying for thirty years to sell this land to the Government, and the Government would not buy it.

Mr. LAWRENCE, of Ohio. Will the gentleman from Indiana [Mr. JULIAN] yield to me for a few minutes?

Mr. JULIAN. Very well.

Mr. LAWRENCE, of Ohio. It seems to me that the question involved in the bill now before the House is one of vastly more importance than gentlemen are aware of. I think I can state the matter in a very few words, so that it can be understood. Prior to the 19th of July, 1866, the Cherokee Indians owned a tract of land in Kansas known as the "Cherokee neutral lands," the title to which they held under a patent from the United States. I make no question now about the validity of the title. By a treaty entered into on the 19th of July, 1866, the Cherokee Indians ceded these lands to the United States in trust to be sold and the proceeds to be paid over to the Indians.

The seventeenth article of that treaty is as follows:

"ART. XVII. The Cherokee nation hereby cedes, in trust to the United States, the tract of land in the State of Kansas which was sold to the Cherokees by the United States, under the provisions of the second article of the treaty of 1835; and also that strip of the land ceded to the nation by the fourth article of said treaty which is included in the State of Kansas, and the Cherokees consent that said lands may be included in the limits and jurisdiction of the said State.

"The lands herein ceded shall be surveyed as the public lands of the United States are surveyed, under the direction of the Commissioner of the General Land Office, and shall be appraised by two disinterested persons, one to be designated by the Cherokee national council and one by the Secretary of the Interior, and, in case of disagreement, by a third person, to be mutually selected by the aforesaid appraisers; the appraisement to be not less than an average of \$1 25 per acre, exclusive of improvements.

"And the Secretary of the Interior shall, from time to time, as such surveys and appraisements are approved by him, after due advertisements for sealed bids, sell such lands to the highest bidders for cash in parcels not exceeding one hundred and sixty acres and at not less than the appraised value: *Provided*, That whenever there are improvements of the value of fifty dollars made on the lands not being mineral, and owned and personally occupied by any person for agricultural purposes at the date of the signing hereof, such person so owning, and in person residing on such improvements, shall, after due proof, made under such regulations as the Secretary of the Interior may prescribe, be entitled to buy, at the appraised value, the smallest quantity of land in legal subdivisions which will include his improvements, not exceeding in the aggregate one hundred and sixty acres, the expenses of survey and appraisement to be paid by the Secretary out of the proceeds of sale of said land: *Provided*, That nothing in this article shall prevent the Secretary of the Interior from selling the whole of said neutral lands in a body to any responsible party, for cash, for a sum not less than \$800,000."

Under this provision of the treaty the Secretary of the Interior undertook to sell these lands. The objection which I now make is not to the title of the Indians to these lands, but it is that the *treaty-making power* cannot execute such a trust imposed upon the Government or any officer thereof, in any form, without the aid of an act of Congress. Sir, if the Indians who occupy the Territories and reservations can by treaty convey their lands to the Government of the United States in trust, to be sold for their benefit as in this case, without the intervention of an act of Congress, then almost the entire public lands of this country can, and I fear will be, disposed of in this way, and the public domain will be given up to monopolies and speculators, and the whole homestead and land policy of the Government be subverted. I deny that any such thing can be done.

In the remarks I have made on several occasions during the present session of Congress, I have referred to authorities without quoting them at large, giving construction to the *treaty-making power* of this nation. To these I may now add another. Attorney General Cushing, in an opinion found in volume 6, pages 440, 441 of the "Opinions of the Attorneys General," decided in substance that *where a treaty is executory, requiring the action of the legislative branch of the Government in appropriating money, the act of Congress making the appropriation, and not the treaty, must govern the executive officers of the Government*. In other words, the *treaty-making power* has limits, and when it attempts to go beyond this it is subject to the control of the law-making power. Whatever under the Constitution may be properly subject to the control of an act of Congress cannot be claimed as falling within a rightful exercise of the *treaty-making power*. This Government cannot, under cover of the *treaty-making power*, execute a trust for the sale of lands. The officers who are to execute such trust owe their existence to an act of Congress which may be repealed at pleasure, and thus leave no officer to execute it. A patent cannot be issued in execution of such trust without the authority of an act of Congress. The Government holds the legal title to the trust lands, and under the Constitution Congress alone can—

"Make rules and regulations for the disposition of the public lands,"

whether held in trust or otherwise. I will

not now stop to inquire into the power to accept or execute such trusts or the expediency of assuming its exercise. Nor will I now inquire how far the Indian chiefs, who executed the treaty of July 19, 1866, could convey in trust a title held by the Cherokee tribe or nation of Indians. But assuming that the Indian chiefs had power to convey the lands of their tribe or nation, and that a treaty is a proper mode of making the conveyance, yet it does not follow that either a *duty* or a *power* is thereby devolved on the officers of this Government to execute the trust by making sales. The treaty to which I have referred attempts to clothe the Secretary of the Interior with the power, and to require of him the performance of the duty. But whence are his powers derived and how are his duties defined? By acts of Congress, no one of which has authorized him to execute trusts like this on behalf of Indian tribes. Who is authorized to receive and pay out the money, and by what authority? What is the liability in case of a misapplication of moneys? Who shall determine the mode of its distribution? The whole scheme rests on no valid authority whatever. To assert that the *treaty-making power* is competent to execute such a trust, is to assert that it can create the officers necessary to accomplish the end, if they do not, as they may not, exist in pursuance of an act of Congress. But by the Constitution all offices not therein provided for must be created by a law of Congress. Such officers can only exist "in pursuance of a law" of Congress.

In the brief space of time allotted to me I cannot discuss this question fully, but I have said enough to show that this trust cannot be executed without the aid of an act of Congress. I have shown that the *treaty-making power* has attempted to encroach on the rights of the law-making power. It is subverting the prerogatives and powers of Congress, and its encroachments are all the more alarming because it is attempting to subvert the homestead and land policy enacted in solemn laws by Congress. It is encroaching on the rights of labor and of the people by creating huge monopolies of lands which ought to be dedicated to the sacred purpose of making homes for the homeless and landless poor.

Mr. Speaker, I agree with the gentleman from Missouri [Mr. VAN HORN] in all that he has said in commendation of the chiefs or agents of the Cherokee Indians. I know some of them personally as intelligent and worthy gentlemen. The Cherokees have just ground of complaint against our Government. And for one, I would do them justice. Let the Government buy their lands at once, pay for them \$800,000 in money or bonds or other lands, as may be agreed, and then put them into market to actual settlers at the minimum price of \$1 25 an acre until the Government is reimbursed for its expenditures, and then open up the residue of the lands to homestead entries. This will bring railroads, with thriving villages and independent farmers, and Kansas will rejoice in the wisdom of the policy which will secure these results.

Mr. MAYNARD. I desire to ask the gentleman from Indiana [Mr. JULIAN] a question.

Mr. JULIAN. Very well.

Mr. MAYNARD. These lands have been conveyed by patent in fee simple to the Cherokee tribe of Indians, a civilized people, a community recognized as such, by virtue of what authority do we assume any control over these lands after the date of that conveyance? Was there any condition, express or implied, attached to the grant by the United States to these Indians?

Mr. JULIAN. In answer to the gentleman I will say that I do not pretend that we have any control at all over these lands; the Cherokees were the absolute owners under their patent. But what I say is, that when they undertake to dispose of these lands by treaty, they have no power thereby to repeal the land laws of Congress, or to take away our jurisdiction over the lands ceded as a part of the public



domain. A treaty cannot repeal a law of Congress.

Mr. MAYNARD. The gentleman certainly does not call these lands a part of the public domain, any more than a lot here in the city of Washington which the United States may become possessed of in payment of a debt.

Mr. JULIAN. It is very remarkable, if these Indians, having the title to these lands by patent, conveyed them to us, and yet they do not belong to us. As I have repeatedly stated, they had no power other than to cede these lands to the United States. The gentleman himself, in defending this treaty, necessarily asserts title in the United States; and what I ask is, that henceforward our Indian tribes shall content themselves with the simple power of cession.

Their power by treaty is exhausted by the cession, and it is not competent for them to annex any conditions subversive of the land policy of the United States.

I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time.

The question being on the passage of the bill, Mr. VAN HORN, of Missouri, moved that the bill be laid on the table.

The question was taken; and the motion was declared not agreed to.

Mr. VAN HORN, of Missouri, called for the yeas and nays.

The yeas and nays were not ordered.

So the motion to lay on the table was not agreed to.

The bill was passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### YOSEMITE VALLEY, CALIFORNIA.

Mr. JULIAN, from the Committee on the Public Lands, reported, back, without amendment, a bill (H. R. No. 118) to confirm to J. M. Hutchings and J. C. Lamon their preemption claims in the Yosemite valley, in the State of California.

The bill, which was read, recites in the preamble that the Government of the United States did by act of Congress approved June 80, 1864, cede to the State of California the "cleft" or "gorge" known as the "Yosemite valley," in Mariposa county, California; that long prior to the cession J. M. Hutchings and J. C. Lamon had in good faith settled in that valley, with the intention of claiming one hundred and sixty acres each of the public domain under the preemption laws of the United States, as soon as the lands should be subject to entry, they being the only settlers therein; that Hutchings and Lamon have resided on and been in possession of the lands thus claimed by them, and have made permanent and substantial improvements thereon to the great convenience and comfort of visitors to the valley, without which it would be a remote and solitary wilderness; that Hutchings and Lamon would unquestionably have been entitled to their preemption claims in the valley had the land remained public domain, and the State having succeeded to the rights of the Federal Government by gift in that valley cannot afford to be less generous; that it would be improper for the State to erect and keep hotels or other stopping places in that valley, and a ten years' lease, as contemplated in the act of cession, is wholly inadequate to induce private capital to do so; and that in view of the premises, and as an act of simple justice to Hutchings and Lamon, the Legislature of the State of California did, by an act which became a law February 20, 1868, grant to the parties aforesaid the same land they would have been entitled to under the general preemption laws, to wit, one hundred and sixty

acres each; which act was to take effect and be in force from and after its ratification by the Congress of the United States.

The bill, therefore, proposes to provide that the act of the Legislature of California, which became a law on the 20th day of February, 1868, be fully ratified and confirmed.

Mr. JULIAN. Mr. Speaker, if the House will give me a few moment's attention, I can state the reasons which have induced the committee to report in favor of the passage of this bill; and when these have been explained, I think there will be no objections to the bill from any quarter.

In the year 1864 Congress granted to the State of California the valley mentioned in the bill, it being a "cleft" or "gorge" in the Sierra Nevada mountains in Mariposa county, California. The valley is ten miles long and three miles wide, and is walled in by precipitous mountains of granite rock from two to four thousand feet in height, and over these walls, which are generally perpendicular, the waters of the Merced river fall into the valley below, forming the most beautiful and magnificent cascades in the known world. The singular and marvelous beauty of the place induced Congress, at the instance of the California delegation, to grant it to the State by an act making it "inalienable forever" by the State, and excepting it from the policy of preemption or sale.

It turned out, however, after the passage of that law by Congress, that the two gentlemen named in the bill, J. M. Hutchings and J. C. Lamon, had years before settled in the valley under the preemption laws of the United States, had built their cabins, planted their orchards and vineyards, and expended several thousand dollars in establishing for themselves a comfortable home, while encountering for years all the privations and hardships incident to a life remote from society and civilization.

These facts, when they became known, did not prevent the commissioners appointed by the Governor of California, in pursuance of the law of Congress, from proceeding to bring an ejectment against these preceptors. They appealed for relief to the Legislature of California at its late session, and that Legislature in last February passed an act providing that the preemption claims of these two gentlemen, to the extent of one hundred and sixty acres each, should be protected under the grant made by Congress, subject to the ratification of Congress.

The bill was passed by an overwhelming majority, the Governor (Haight) vetoed it, upon which the Legislature, by a very decisive majority, passed it over the veto of the Governor, though popular as an executive, thus emphasizing the desire of California that these preceptors should be protected. But even if the Legislature had not passed this bill Congress should grant the relief asked, and had no right to divest the vested rights of these settlers; and I am sure that Congress would not have done it if the facts had been known at the time. The bill I now report simply provides that the act of the California Legislature shall be, and is hereby, ratified by Congress. That is the whole of it, and there never was a case of clearer equity presented.

Mr. UPSON. What was the reason given by the Governor of California for vetoing it?

Mr. JULIAN. I will state to the gentleman that the Governor in his veto alleged it was not competent for the Legislature of California to grant relief since Congress had made the grant, and made it inalienable; but the answer is that the Legislature never proposed to act without consulting Congress. They referred their action to Congress for ratification.

Mr. UPSON. One other question: I understand the chairman to say that Congress never would have made the original grant if they were aware of the condition of things there. Was it not referred to the Committee on the Public Lands, and did not that committee report it to this House?

Mr. JULIAN. It was reported by the Committee on the Public Lands, and I was on the committee; but I am sure it was never dreamed that any one was in the occupancy of that land as a preceptor. If it had been the committee would not have interfered with his rights under the laws of Congress.

Mr. HIGBY. I wish to ask the gentleman from Indiana whether, when that transfer was made, a patent was given for that tract of country? What is the evidence of title in California? Is it the act of Congress, or was a patent issued at the Department?

Mr. JULIAN. No patent, I think, was issued. There is nothing but the act of Congress.

Mr. HIGBY. I wish to ask the gentleman if the Committee on the Public Lands have such facts before them as to authorize the statement made in the preamble to this bill? I have not. I have not made any investigation of it. I wish to know whether the committee is fully satisfied on that matter.

Mr. JULIAN. I will answer that we had proof to support the facts recited in that preamble. We have sworn affidavits of settlers of Mariposa county who are cognizant of all the facts. The testimony is strong. I believe there is no dispute about the facts.

Mr. HIGBY. Have the committee become satisfied these parties have vested rights?

Mr. JULIAN. The committee, of course, thought they had vested rights by settlement, under the laws of Congress, in good faith and by making the required improvements—vested rights which even an act of Congress could not rightfully divest.

Mr. WASHBURN, of Wisconsin. Has there been any remonstrance against this act of Congress?

Mr. JULIAN. There is a remonstrance from the commissioners appointed by the Governor of California to take charge of this property under the law of Congress. We have carefully examined it, but it shows nothing to invalidate our conclusion.

Mr. JOHNSON. I ask the gentleman to yield to me.

Mr. JULIAN. I will after the previous question is seconded.

The previous question was seconded, and the main question ordered.

Mr. JULIAN. I now yield to the gentleman from California.

Mr. JOHNSON. Mr. Speaker, I would not seek the floor to say anything at all, but for the fact that when this question was first mooted in California I announced myself as against it. By many letters I have written since I am aware I have led the public men with whom I have corresponded to believe that I would be opposed to the passage of this bill. But, sir, on investigation of the question I find there is no authority in Congress to deprive these men of their rights as settlers; and I think it a hardship and wrong upon them to compel them to fight the whole power of the State of California to protect themselves in their rights against an act unconstitutionally passed by the Thirty-Eighth Congress.

The preemption laws of 1841 open up the whole public domain to actual settlers, and under that law these gentlemen took possession of this claim. That act declares that they shall be the owners, or that they shall have vested equitable rights. Before that time those who settled on the public lands were considered trespassers. But since the act of 1841 the Supreme Court of the United States has established a new rule. In 1862 Congress passed a law inviting settlers on all the public lands of the United States, whether surveyed or unsurveyed; and provided, further, that if they settled on the unsurveyed lands, when the lands came to be surveyed the proprietors should enter according to their original claims without regard to the public surveys. These gentlemen perfected their claims under both of those acts. Now, I hold in my hand a list of authorities, decisions of the Supreme Court of the United States, construing these acts in

which they hold in all cases—because they all bear exactly on the subject—that these gentlemen have acquired such rights that no act of Congress can defeat. We cannot by act of Congress take the land of these settlers and appropriate it for another purpose.

Now, this act of cession to California does take that land away from these gentlemen and appropriates it for another purpose. That is it makes a grant of land to the State of California for the purpose of pleasure grounds. That act is unconstitutional so far as the right of these gentlemen are concerned; and so far as the decisions of the Supreme Court of the United States are concerned, since 1841, there has not been a single decision holding a contrary doctrine.

In the case of the *United States vs. Fitzgerald*, 15 Peters, the court decides squarely that no reservation or appropriation of the public land can be made after a citizen has preëmpted it or located it as a homestead. If this decision is a true exposition of the constitutional rights of settlers, then it directs itself directly to the merits of this preëmption claim, and shows clearly that any attempt to divest the owners of their claim is an attempt to destroy the constitutional rights of American citizens. Then, again, in the case of *Lyle vs. The State of Arkansas*, 9 Howard, the court holds that when the settler has acts according to law in his settlement his claim becomes a legal vested right, subject to be defeated only by a failure to perform the conditions annexed to the taking—that is, the preëmption laws.

Then, again, in *Delsus vs. The United States*, 9 Peters, Chief Justice Marshall holds that the settler's claim is not a vague and inchoate uncertain equitable right, but, upon the contrary, that it is property belonging to the settler, and that it cannot be taken away by the Government of the United States. I could cite any number of authorities to sustain me in the proposition that I have been compelled to take in this case, but I see it is unnecessary. If the Government of the United States, having control, and for the purpose of control alone, claiming to be the owner of the public lands, shall pass laws for the taking of such lands by its citizens, and in addition offer inducements to those who are hardy and enterprising enough to advance ahead into the unbroken wilderness and blaze out a way for civilization to follow, shall, after the citizen has gone in advance, and borne the hardships of opening up a new home, then assume to have power to take it away and give it to another, that Government is not a Government of law, of justice, or of right between man and man; but is a plundering despotism, robbing its own citizens. These gentlemen obtained vested rights upon the public lands of the United States, and such vested rights are just as sacred as any other vested rights, and cannot be destroyed, says the Supreme Court of the United States, by any power in the Federal Government. The Constitution and the laws are for the protection of citizens, and not for the creation of fancy pleasure grounds by Congress out of citizen's farms. If the Constitution and laws do not afford the settler protection against Congress as well as everybody else, then God help the settler, for he is lost indeed, having nowhere to turn.

[Here the hammer fell.]

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate by Mr. McDONALD, its Chief Clerk, announced that that body had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 658) making

appropriations for the support of the Army for the year ending the 30th of June, 1869, and for other purposes.

#### DEATH OF EX-PRESIDENT BUCHANAN.

Mr. BLAINE. I ask consent to offer the resolution which was objected to in the earlier part of the day.

Mr. VAN WYCK. I object.

Mr. BLAINE. Then I move to reconsider the vote whereby the resolution of the gentleman from Pennsylvania [Mr. WOODWARD] was laid on the table. If that be done it will bring up that resolution before the House, and this can then be moved as a substitute.

Mr. VAN WYCK. I move to lay the motion to reconsider on the table.

Mr. ELDRIDGE. I demand the yeas and nays.

Several MEMBERS. Oh, no.

Mr. WOOD. I will remark that I believe the funeral is to be to-morrow, so that, practically, the resolution cannot be carried out.

Mr. ELDRIDGE. I withdraw the demand for the yeas and nays.

On laying the motion to reconsider on the table, there were—ayes 12, noes 75; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. VAN WYCK and RANDALL.

The House divided; and the tellers reported—ayes 16, noes 80.

So the House refused to lay the motion to reconsider on the table.

The question recurred on the motion to reconsider, and it was agreed to.

The question then recurred on laying the resolution of Mr. WOODWARD on the table; and it was disagreed to.

The resolution of Mr. WOODWARD was then before the House.

Mr. BLAINE. I now move to amend by offering the following as a substitute; and I demand the previous question thereon:

The House of Representatives having received intelligence of the death of James Buchanan, ex-President of the United States, at his country seat at Wheatland, on the 1st instant, does hereby resolve, that as a mark of respect to one who has held such eminent public station, the Speaker of the House is requested to appoint a committee of seven members to attend the funeral of Mr. Buchanan on behalf of the House, and to communicate a copy of this resolution to the relatives of the deceased.

Mr. ARNELL. I move to lay the resolution on the table.

The SPEAKER. That motion is in order, the substitute having been offered since the last motion was made to lay the resolution on the table.

The question was taken; and the House refused to lay the resolution on the table.

The previous question was seconded and the main question ordered, being first upon agreeing to the substitute.

Mr. VAN WYCK demanded the yeas and nays.

The yeas and nays were not ordered.

The substitute was agreed to.

The question recurred on agreeing to the resolution.

Mr. VAN WYCK demanded the yeas and nays.

The yeas and nays were not ordered.

The question was put; and there were—ayes 77, noes 10; no quorum voting.

Mr. SCHENCK demanded tellers.

Tellers were ordered; and Messrs. HOLMAN, and CLARKE of Kansas, were appointed.

The House divided; and the tellers reported—ayes 80, noes 16.

So the resolution was adopted.

Mr. RANDALL moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER appointed the following as the committee under the resolution: ADAM J. GLOSSBRENNER of Pennsylvania, SAMUEL S. MARSHALL of Illinois, JAMES G. BLAINE of Maine, FRANCIS THOMAS of Maryland, AUSTIN BLAIR of Michigan, CHARLES A. ELDRIDGE

of Wisconsin, and LAWRENCE S. TRIMBLE of Kentucky.

Mr. BLAINE. I beg leave to say that my engagements will not at all allow me to attend, and I therefore beg to decline.

The SPEAKER. The Chair will appoint Mr. HENRY L. DAWES, of Massachusetts, in place of the gentleman from Maine.

RECESS.

Mr. SCHENCK. I now move that the House take a recess until half past seven o'clock to meet in Committee of the Whole on the state of the Union on the tax bill.

Mr. ALLISON. It will be competent to transact business to-night?

The SPEAKER. It will be when the House comes out of Committee of the Whole on the state of the Union.

The question was taken on Mr. SCHENCK's motion, and it was agreed to; and thereupon (at four o'clock and fifty-five minutes p. m.) the House took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

##### INTERNAL TAX BILL.

At half past seven o'clock the House reassembled in Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

Mr. WOOD. Mr. Chairman, the bill under consideration is probably one of the most important that has been presented to this Congress. Among the many measures which this Congress has had thus far under consideration, I think I am right in stating that this may be considered the gravest, and so far as it affects the whole people of the country, the most important. The operations of Government are only appreciated as they are personally felt. What transpires in this Capitol, so far as it affects the public policy, may be of great influence, yet to the people it may not be appreciated because not felt at the time. The body of the people do not appreciate the force and power of official action until it affects individual affairs, until they are affected in their rights, their property, or their persons. Then they know what Government means. Then they feel the penalties of living in communities under laws to be sustained and supported for the general good.

Hence it is that I say that a measure like this, which may be said to be an entire new system of taxation, a bill in its provisions comprehending the whole scheme of inland revenue, is the most important of any yet proposed in Congress. It reaches every person in the Union (for none can escape) not only in his pocket, but in his individual rights.

I presume that while we are engaged in Committee of the Whole on the details of the bill an opportunity will be afforded to refer more particularly to the several sections and items, and an opportunity given to amend them. This may not be the proper occasion to refer to details. As a whole it is a codification, so to speak, or a consolidation of all the revenue bills that have heretofore been adopted; and additions made so that the proposition now before the House is substantially an entirely new system of taxation. All that is really good in it is old, and all that is new is bad.

There is one feature especially objectionable; a principle which, in my judgment, is clearly and palpably a violation of the Constitution of the United States, and which cannot be sustained upon the ground of public good or of public necessity, and which, in my judgment, will fail to accomplish the ostensible object for which it is incorporated into the bill.

I refer to the provision which proposes to make the Commissioner of Internal Revenue the sole autocrat, the entire power that is to carry out and practically enforce and execute this revenue system. I shall refer more spe-

cifically to the grounds of my objection to this provision hereafter.

Now, in order to a proper understanding and discussion of this subject, it is entirely germane to refer to the necessity of raising the amount of revenue which it is proposed to raise by this bill. It is entirely germane to the question to refer to the condition of our public finances, of the public debt, the amount of interest on that debt, and the mode of getting rid of the debt itself. Every question pertaining to the public finances of the country, or, indeed, to the currency, may appropriately and properly be discussed upon this occasion, and upon a measure of this character.

And permit me to say that I have been surprised at the multitude of propositions made in both Houses of Congress with reference to the fiscal affairs of the country. I have been surprised at the apparently unthoughtful and crude manner in which almost every man, both here and elsewhere, has attempted to propose a remedy for our financial embarrassment. It seems to me that almost every man has his own financial policy. Although the question requires more thought, more practical information, indeed more study of the great principles which underlie governmental policy in this country as well as elsewhere, than any other question, yet every tyro appears to suppose he has been able to master it. We have been inundated with pamphlets; we have all had various suggestions made to us. Some men have proposed that we should very materially increase the volume of currency, while others have contended that we have already a great deal too much. Some men propose that we should consolidate the public debt. Others say no; the debt better remain as it is; and not be consolidated. And for every part and parcel of these questions pertaining to the public finances and currency of the country we have had continually propositions made of every kind and character whatsoever.

If there is anything more inauspicious for the future as to our public credit and currency, it is the haste with which views are adopted by leading men, and the many financial schemes that are constantly thrust upon us. I know no public questions so difficult to understand, and upon which intelligent and experienced men more widely differ, and certainly there are none so vitally connected with the welfare of the nation and the well being of every class and every interest of the people. Therefore, a subject involving such important consequences should be approached with a gravity and discussed with a care and thoughtfulness corresponding with its magnitude. Nor should the slightest partisan influence be allowed to taint it. The public finances and the settlement of the great questions affecting the medium furnished by Government as a currency should be excluded from such conflicts. The American people will of course always be divided into parties, and parties will of course be conducted by those who have no higher thought than success, and violence, fraud, and "all kinds of uncharitableness," will, as usual, enter more or less into the practice of the contestants. Their struggles produce excitement, and excitement destroys statemanship; when the former enters the latter disappears.

Now, as this is the only great question undetermined which down to the present moment has been kept aloof from party conflicts and let it so remain—let us agree to keep it out and away from other political arena—let us tolerate the largest differences of opinion upon it and avoid lugging it into either platforms or the position of candidates for the Presidency or Congress. Let us look upon it as a hallowed question, not only too sacred to be prostituted, but too high to be approached lightly.

I congratulate the House and the country that thus far these great interests have not been made partisan; that we have thus far permitted one Department of the Government, so to speak, to remain outside of mere political or mere party contests; and I hope it may ever be so. I never want to see any question affecting the

public debt, the public honor, and the public credit, brought into the dirty pools of party warfare. Woe betide the time that this should occur in this country!

The public debt, for the first time in the history of this country, or in the history of any country, forms the basis upon which rests all individual property of every kind and character. The property of every banking institution, every incorporation, every railroad company, every savings bank, every capitalist, has its security in the credit of the Government as the basis upon which to rest; and when you make that basis an element in partisan warfare, an issue between great contending parties, you will undermine the foundations upon which our social system and the public and private good altogether will of necessity rely. Here popular government rests upon the public sentiment for the time being, whatever that sentiment may be, surging backward and forward, quicker and in wider extremes than any other people in the world; and the resting of our currency, our public credit, upon that ever-changing sentiment is what I hope never to witness in my day. Let us have something exempt from party influence. Let us have something permanent; not to be determined by public opinion, whether that opinion be right or wrong. Therefore it is, I say, I have regretted to find some men—and when I say this I speak of it in my own party as well as in the Republican party—I have regretted to find any leading statesman attempting to make questions of currency or the redemption of public bonds, questions to be thrust into the popular arena of party determination.

Mr. Chairman, I do not propose to submit any proposition myself. I am very free to say that although a practical man, and somewhat acquainted practically and personally with these great questions, still I have a very great distrust of my own capacity to meet a question of such magnitude.

Pitt, in his day, handled the great problem of the finances of England, and did it successfully, by the creation of an entirely radical measure, which at that time was successful; and in our country we had Hamilton, whose giant intellect grasped the question of national finances, and created out of chaos a system which has been successful in its sphere, so far as it has been in operation, from that day to this. Therefore I do not propose on this occasion to present any views with reference either to the increase or the decrease of the currency, or with reference to any proposition pertaining to the public debt.

It is not my purpose to enter this great field of financial speculation. I have no intention of attempting competition with those whose ingenuity has devised schemes for the amelioration of the financial condition of the Government. Although I have bestowed much thought and many years of practical investigation to these subjects, I confess my inability to do more under the general mode of providing a remedy, than to offer palliatives and temporary expedients to bridge over present and impending further difficulties. And permit me to add that this is about all that any one else attempts. It appears to me that while all admit the existence of the disease, none attempt a radical cure. Its diagnosis may be understood without seeing the cure, but does not lie in partial restoratives or artificial palliatives. We have a positive debt, part funded and part floating, but whether funding or floating, it is, nevertheless, a debt, and no changing its character, and no extension of credit can possibly make it the less a debt. It may be decreased slightly by increased taxation, though it is now, under existing laws, steadily increasing. On the 1st of December last it was nearly ten million larger than it was a month before; on the 1st of January it was nearly seven million larger than in December; and it is likely to be about fifteen million larger on the 1st of July, or the end of this fiscal year, showing an increase in six months of about thirty-two million dollars.

But take the debt at its minimum, and it may

be put in round numbers at say \$2,500,000,000. This immense sum stands, then, fixed and immovable as a mortgage not only on the entire present property of the nation, individually and collectively, but on the industry of generations to come after us. Nor is this the worst. In addition we have, as part of this liability, a depreciated paper currency apparently more difficult to get rid of, and more demoralizing in its effects, than this great debt itself. These together have naturally created internal taxation, and as a necessary consequence of this system causes frightful moral disorders, affecting the integrity of those who are tempted to seek its evasion and the officials who are created to execute it. And yet a further difficulty arises.

In every direction we hear of stagnant trade, of commercial and manufacturing paralysis, and of the growing inability of the people to meet the necessary accruing wants of the Government; a deranged currency, a dearth of production, a suspension of the industrial energies, and increase of the public debt requiring increased taxation. As a people we are financially embarrassed, and as a nation groaning under a debt which we can neither avoid nor liquidate.

And how do statesmen propose to remedy these difficulties. What is the substance of the several recommendations made by the Secretary of the Treasury and the other financiers of the times? However differing in form, and however meritorious in their design, they all prescribe the same cures, which are simply comprised in the two methods of taxation or borrowing. The ingenuity and learning of these doctors are directed to these considerations and none other. They do not appear to think or to know that this vast country affords any other resources to keep the Government credit good; and to devise ingenious schemes by which increased revenues from taxation can be procured comprehending the whole scope of their financial genius. In my opinion they fall very far short of a just appreciation of the subject. In their expansion efforts they have lost sight of the first and most simple duty of finances. While looking about for succor they have overlooked that which is nearer at hand at home. In devising ingenious schemes for changing the character of the public debt, and in making the bitter pill of taxation less odious and oppressive, they have shut their eyes to another mode of relief which requires neither borrowing nor taxation; and that is in the practical and immediate conversion of resources belonging to the Government into the public funds for public uses. Aside from the vast property purchased at enormous prices during the war, which at this time is not required, and therefore can be sold, there are other sources from which a thousand times greater revenue can be derived, which are open to immediate acquisition. I refer to the boundless supply of the precious metals, now lying in that region on the Pacific which we purchased of Mexico in 1847. It is indisputably ours. We bought and paid for it. We acquired it by purchase and conquest. It is as much the property of the nation as the ground upon which this Capitol stands.

What would be said of a merchant who, largely in debt, would persist in sustaining his credit by borrowing, and in forcing contributions from his friends, though at the time having in his own right large resources he made no effort to make them available? Suppose he had on deposit in bank or locked up in his safe securities or other papers which, by a little effort, could be converted into money and be used in liquidation of his liabilities? Would not everybody expect him to do so? Would not he be deemed an idiot if he failed to do so, and would he not sooner or later become bankrupt if he did not? And this is the position of this Government. We are overwhelmed with debt and the people heavily burdened with taxes, and yet no attempt is made to avail ourselves of the immense mineral resources of incalculable wealth which belong to us, and which can,



by a little effort, soon be converted into coin. If what has been done by individual exertion so feebly and imperfectly has produced within a few years twelve or fifteen hundred million dollars, what could not the Government do with improved and largely increased facilities? It is no exaggerated estimate to say that after one year of preparation \$100,000,000 could be procured, and that this would be trebled in two more years, and that at the expiration of five years this would be yet further increased?

As product increased the necessity for saving revenue from other sources would decrease, and it is reasonable to suppose that at the end of ten years the public debt would be paid, specie payments be resumed, and taxation, except for the necessary contingent expenses of the Government, be materially, if not altogether abolished. I am aware that at first this will seem a utopian scheme. It will appear visionary and impracticable, but as it is examined carefully it will become feasible—and altogether easy of accomplishment to every understanding. It will meet opposition from other quarters. The States and Territories in which the precious metals exist will oppose it under the idea that their local interests are to be interfered with. On reflection I am satisfied there is no good grounds for such fears. On the contrary, it will add to their prosperity. The Government will expend large outlays in the construction of the proposed works, and give employment to many thousands not now required. Mining will be followed as a scientific and well-regulated branch of industry, and the permanent interests of those communities be better secured.

My proposition, therefore, is the immediate occupation and development of our resources in territory belonging to the Government containing the precious metals to our use and benefit; to assume possession of as against individual and mining companies of the mineral lands, and work them on Government account. I do not mean that the property of existing mining companies, or of individuals who have located and who are in possession of existing mines shall be disturbed. All of those now in actual occupation should be respected and recognized as possessed of a vested right. Although all of these are in violation of the rights of the Government, which is the great proprietor and owner of the soil, yet the Government having been derelict in not assuming possession, and instead in rather encouraging a belief that the territory was open or free to all the world, I am willing to concede that, so far as now existing in private hands, we should respect them. It is true that under the law of 1866 individuals may acquire legal authority to take up mineral lands by the payment of five dollars per acre, but even this privilege has been disregarded, but few, if any, having availed themselves of it; but, as it is alleged, it should render them both to State taxation; but because probably they did not think it necessary to pay even this small sum for that which they could get for nothing. An adventurous and free-living class of men, they probably consider themselves exempt from Government interference. Be that as it may, I am willing to admit that their labors, self-sacrifice, and industry have produced to the country an enormous aggregate of substantial wealth, for which they are entitled to thanks and liberal official recognition. In return let them enjoy the full benefit of their discoveries and improvements so far as now possessed. There is enough remaining untouched and undiscovered to pay off the national debt a hundred times.

Over this, therefore, I propose that we shall assume jurisdiction to make it available for the use and benefit of the nation, and not of individuals. The argument heretofore advanced in favor of the extension of these privileges to the miners has been that their products added to the national prosperity. Considering this to be well founded, how much more will it promote the general welfare if this increase of bullion shall be quadrupled and go directly into the public Treasury as the property of the

Government. To promote the general welfare is of course highly desirable. We should never lose sight of this duty, but in reducing the public debt, in lessening, if not entirely abolishing taxation, in returning to a specie currency, we shall, indeed, promote the general welfare in a most positive and tangible manner.

This I propose to do by developing the mineral resources by Government effort, and placing the proceeds to its credit. My plan is to construct extensive works, locating them in regions where it is ascertained the precious metals most abound; to bring from Europe the highest order of scientific knowledge for the chemical departments of separation and practical analysis of the metals; to construct whatever tunnels, canals, or other physical improvements may be required in reaching and working the deepest mountain recesses in which the ores may exist, and to erect testing and smelting establishments so as to make into bullion the products of these mines on the spot from which the ores are originally procured.

If it shall be said in opposition to this proposition that it is impracticable, inasmuch as the Government cannot become a great miner, to construct the necessary works and to promote them on its own accounts successfully, I ask why not? Does not the Government possess its own factories for the manufacturing of arms; its navy-yards for the construction of ships of war, for the making of machinery, boilers, &c.? Have we not many large establishments for the construction of many articles of public use, which the Government require? And if it be further objected to on the ground that the temptation to those employed in the mines would be too great to prevent theft, and to secure to the Government the results, I reply that ever since the establishment of the Union we have had mints and assaying offices without any loss whatever. In these works there have been thousands of persons employed with no loss by theft, so far as known. Certainly the temptation and opportunity in them are tenfold greater than they would be in the mines worked by Government officials and properly protected. Again, go to the Treasury Department here and witness the manufacture of currency and the cancellation of paid bonds, where the chances for undetected theft are far more than they could be in the Government mines. The diamond mines of Brazil are worked principally by negroes and Indians, and it rarely or ever occurs that even there such losses occur.

The precautions are sufficient to prevent the secreting of even these small objects about the person. Certainly we are capable of applying a like system to our mines, which shall afford like security against loss from such a cause.

Another argument advanced in favor of the present occupants of the mines is that the expense of getting out the ore and of smelting, &c., is almost as great as the value of the products. I know that it is almost impossible to get at the precise cost of procuring the metal under the present imperfect and insufficient system. Of course it is very much dependent upon physical considerations, and greatly increased or decreased according to circumstances.

We have no data by which to get at it with any degree of exactitude. It is estimated that the product of California of about one thousand millions has not cost over ten per cent. There is but one official statement furnished as to the cost of production in this country, and that is furnished by J. Ross Browne, in his report of 1865, with reference to the "Sierra Buttes" mine in Sierra, California. Here is erected a mill of the first quality, which has been in existence since 1853. In nine years this mine made a gross yield of \$1,120,000 at a cost of \$385,000, leaving a profit on this outlay of about two hundred per cent.

It is almost impossible to form an estimate of the value of the mineral lands of the Government. There is no data upon which this can be even approximately ascertained. It is, however, well known that that vast region lying

between the thirty-fifth and forty-ninth degrees of north latitude and the one hundred and fourth and one hundred and twenty-fourth degree of longitude abound in the precious metals. The States of California, Nevada, Nebraska, Oregon, and Territories of Dakota, Colorado, New Mexico, Arizona, Utah, Washington, Idaho, and Montana, covering an area of one million square miles, contain incalculable wealth yet undeveloped. It is but a few years since any attempt has been made to obtain these metals. California, the first in our possession, has yielded already over one thousand million dollars. The resources of the other States and Territories have but recently attracted attention, but some of them have produced great results. The Comstock lode of Nevada has of itself, with very imperfect working, produced a yield of \$16,000,000 per year; and it is said that with additional facilities asked of the Government this can be increased to \$30,000,000 per year. We have an inexhaustible supply of the precious metals; not only gold, but silver, quicksilver, and every precious metal known to the commercial world. Notwithstanding the difficult means of reaching the ore, and the very imperfect processes and feeble appliances; notwithstanding their want of scientific knowledge, want of capital in making the mines productive, and of proper chemical analyses in the separation of the metal; notwithstanding all these disadvantages, it is estimated, so far as I can gather from the reports and information derived from others personally familiar with those districts, they have produced about two thousand million dollars.

Now, Mr. Chairman, all this land belongs to the Government of the United States; every acre of it, with very trifling exceptions, belongs to the United States. In 1866 Congress passed a law requiring five dollars an acre for the mineral lands; that no man could possess himself of them and work them for his individual benefit without taking up the land at five dollars per acre. Yet none has been so taken up. These men do not recognize the authority of the Government to interfere with them. That poor pittance of five dollars an acre has not been paid at all; but they possess themselves of these regions, they take them when they please and work them as they please. They are a very brave, hardy, enterprising, energetic race of men. I have a respect for them. But, sir, I have a greater respect for the property of my Government; I have greater respect for the obligations of the Government, and I believe that if we possessed within our own right that which it is practicable to make useful toward the payment of our own national obligations, the first duty of this Government is to itself, and then let its citizens take care of themselves.

Mr. Chairman, this is in this country probably a new idea—not so in Europe. The Government of Russia has worked its mines for its own benefit. Germany has done so. Spain did so for over a century. Mexico has done so. The great wealth of Spain was not derived, as is the popular error, from its commerce, because she never had any commerce to any extent. She obtained her wealth and reached her great power in consequence of the richness of her mines, which she protected. Their system was by the imposition of a royalty upon the product. But everybody knows that in this country such a system never could practically be carried out. The imposition of a royalty upon a product, from the nature and habits of our people, from their manner of dealing with every matter that interferes with their individual rights, would be impracticable.

I repeat that the Government of the United States should take possession, actually and positively, of its mineral public lands. While I could respect vested rights, while I do not propose to deprive any in occupation of a foot of that which they possess, and which it may probably be said with truth they have earned by their enterprise, their energy, their industry, and the hardship and exposure incident to their avocation; yet, sir, there are millions

of acres that the foot of man, at least of the white man, has never trod. I would take possession of those regions. I would bring from Europe—because it is not to be found in this country—the highest order of scientific knowledge with reference to minerals, chemical preparations, and the treatment of ores. I would construct immense smelting establishments. I would furnish a capital for that purpose through the Government which individual capitalists cannot furnish, and I would put the profits into the public Treasury.

Sir, we had a proposition presented to this House to-day from a gentleman of the name of Sutro, who comes here representing the Comstock lode; calls upon the Government for its aid in its credit of \$5,000,000 to make a canal or tunnel by which to get access to the valuable minerals which are known to exist in that mountain; and it is admitted in the preamble to that bill that individual capital utterly fails to produce the metal, and that the Government aid alone can do it. But they want the Government to do it for their benefit, and not for the benefit of the Government. They want to put their hands into the public Treasury, already overwhelmed and embarrassed by debt. They want to take more money out of the Treasury. For the benefit of the Government? Ah, no; for their own benefit. I know they will tell you how much advantage it is to the material interests to procure the precious metals. Well, we all know that. Let any one compare the census of 1850 with the census of 1860, and compare the business and products of the country, and he will find the advantage and the effect of the discovery of gold in California. We know that. But will it be any less advantage to the industrial interests if this money goes into the Treasury instead of into the pockets of these parties? Why, it would increase it fourfold more than it would if it went into the hands of individuals, because it would relieve all the industrial interests from the burden of taxation.

And just here, Mr. Chairman, let me add that this is another advantage to the whole people growing out of my suggestion, to be derived from direct Government agency in the development of these mines. It is in the great additional general prosperity which would necessarily follow the increased production of the precious metals. Political economists understand this well. Allison, the eminent English historian, attributes the wonderful prosperity of England within twenty years to the large accession of bullion which it had received from the Australian and American gold mines. The enhanced prices of agricultural products, of labor, and the general prosperity of trade and commerce within this period, are properly attributed to this as the great stimulating cause. And in our own country the same is true to even a greater extent. Gold was first discovered in California in 1848. At that time commerce, manufactures, and agriculture were at a low condition. We had just emerged from a war with Mexico, and the general industry of the country was in a suspended state. But very soon a change came over every department of industry. Even before the golden harvests began to be gathered in large quantities the influx began to be operating over prices. A fresh impulse was given to industry, creating additional productive energy. This was shown especially in manufactures. The total value of manufactures of the whole country was—

	1850.	1860.
New England .....	\$274,741,118	\$494,076,494
Middle States .....	432,355,745	749,123,000
Western States .....	136,031,400	376,613,942
Southern States .....	168,209,123	273,938,105
	<u>\$1,011,337,386</u>	<u>\$1,893,751,541</u>

Thus showing an increase of nearly one hundred per cent. within ten years, to be attributed mainly, if not altogether, to the promoting causes of the additional metallic basis furnished by the gold mines of California. A similar increase will be found in every other department of industry. Trade and commerce,

agriculture and manufactures, were alike advantaged by the same influences. Unlike the stimulant which an irredeemable paper currency affords, it is of substantial and positive benefit. It is an addition of so much real property to the great bulk, not the demoralizing, artificial, and shadowy addition which promises to pay based on hypothetical speculations afford.

Mr. PRICE. If it will not interfere with the gentleman's frame of argument, I would like to suggest a difficulty in my mind to the plan which he proposes. If, however, it will at all incommode him, I will not interrupt him.

Mr. WOOD. I will hear the gentleman.

Mr. PRICE. A proposition to pay the public debt without the issue of bonds or the payment of interest or an increase of taxation is a magnificent proposition, and, if feasible, it is certainly "a consummation most devoutly to be wished." But the difficulty in my mind—and I merely suggest it for the consideration of the gentleman—is this: since 1847, 1848, or 1849, when gold was discovered and the mining of it properly commenced, up to the present time, if my information is correct, every dollar of gold or of silver that has been obtained from the mines of this country has cost the country one dollar's worth of labor. Now, if that be true, and I have never heard it disputed, and my information is derived from those who have lived in the mining regions and have been conversant with mining affairs, then the Government under this proposition would have to pay for one dollar's worth of labor to produce one dollar in precious metals. In this connection must be considered also the fact that a man working for the Government will not be likely to do any more work than he will when he works for himself.

And then, Mr. Chairman, the other fact also that it involves the necessity of hiring agents for the Government and placing the matter under the direction and control of a bureau or a department of mining, all of which involves the expenditure of money.

Now, if the first proposition be true, that a dollar's worth of the precious metal has cost a dollar's worth of labor, from the commencement of mining in this country down to this hour, and you then add to it the additional expense of agents, overseers, superintendents, and all that sort of thing, it strikes me that at the end of any given number of years we would not be much nearer out of debt than we are now. For each day's labor must be paid for fully, and there is the difficulty with me.

Mr. WOOD. The gentleman from Iowa [Mr. PRICE] would be exceedingly sound and altogether right if his premises were well founded. He has reared a difficulty, based entirely upon an imaginary condition of things. It requires no argument to prove that the \$2,000,000,000 of gold, which, beyond any doubt, have been procured since June, 1848, in California, Nevada, Arizona, and the other gold and silver bearing regions of our country did not cost anything like that amount in labor. At a dollar a day all the population of all the regions producing gold could not require that amount during this time.

Mr. PRICE. I did not say a dollar a day for labor. I said that each dollar's worth of gold cost a dollar in labor.

Mr. WOOD. I did not intend to state any figures here, though I will say I am abundantly supplied with facts and data to meet every possible objection that can be raised to my proposition. But Mr. Ross Browne, in his report submitted to Congress in 1865, gives the comparative cost of obtaining the precious metals, in the only instance in which he was able to obtain it. And I hope the gentleman from Iowa will listen to what he says. Ross Browne, who took a great deal of trouble to ascertain the comparative cost of production, (and that is the point to which the gentleman refers,) says in regard to the Sierra Butte mine, one of the largest and most extensive mines in that part of California:

"Here is erected one of the finest mills to be found,

constructed in 1853. In nine years this mine made a gross yield of \$1,120,000, at a cost of \$385,000; leaving a profit on this outlay of about two hundred per cent."

When it is recollected that this whole industry, mining, was in the rudest possible condition, without the necessary appliances and means of production that the Government, with its better skilled labor, its more scientific agents, its larger expenditure of capital, and in the construction of improved machinery, would have at its command, it is somewhat wonderful that there should have been a profit of two hundred per cent. Now, if two hundred per cent. profit could be made upon that outlay at that time and under those circumstances, we can, in my judgment, safely count upon one thousand per cent. profit under the plan I have referred to.

Mr. PRICE. Then, Mr. Chairman—

Mr. WOOD. The gentleman will excuse me; I have not answered his other question. The other branch of the question which the gentleman propounds to me, if I understood him correctly, is based upon the theory—for it is only theory, only speculation—that it takes so much labor and that so much time is occupied to produce so much gold; that so much time is so much money. Do I state the question of the gentleman correctly?

Mr. PRICE. Very fairly, sir.

Mr. WOOD. Take the population of the western States and Territories; put every man of them at work in the mines, and keep them at work as long as this gold has been being mined, and if you pay them the amount of gold that has been produced, it will be found to amount to at least ten dollars a day. When the gentleman recollects that the main productions of California are agricultural and not mineral, he will see how utterly fallacious are his doctrine. There are portions of that State that are richer in agricultural capacity than any thing we have in the Atlantic States. It was stated here the other day, and stated correctly, that the Genesee valley, which at one time furnished grain and flour for New England, now obtains its breadstuffs from California. That shows that labor will always go where it will command the best returns.

Why, sir, if the gentleman's theory were correct there would be no mining productions whatever, because the men would not be there to do the mining. They could make more elsewhere.

Mr. PRICE. Now, Mr. Chairman, if the gentleman from New York will yield to me for a moment I think I can show what seems to me to be a very great fallacy in his argument. Because a certain mill or mine at a certain place has made two hundred per cent. on its investment, the gentleman argues that the whole mining country—millions of acres which, in his own words, are lying waste, have never yet been trodden by the foot of the white man—will necessarily and consequently yield at the same rate. What I stated was that the mining operations of the country, as conducted by individual enterprise, energy and industry, have not produced from 1848 till the present hour more than one dollar's worth of gold for every dollar's worth of labor expended. I said further, that my information on this point was derived from gentlemen conversant with operations in the mining regions and understanding thoroughly this subject.

Now, the gentleman has himself answered a part of his argument in stating that the Genesee valley is to-day receiving wheat from the wheat fields of California. Why? Because the men who went from the Atlantic seaboard to California for the purpose of mining have found that agricultural pursuits pay better, and have turned their attention in that direction. It is a part of the history of the country that men who have gone to California for the purpose of mining have turned their attention to agriculture, because the latter is more remunerative.

While upon the floor I wish to say just a word in reference to another argument of the gentleman.

Mr. WOOD. The gentleman will bear in mind that I have but ten minutes left.

Mr. PRICE. I ask but two.

Mr. WOOD. Very well.

Mr. PRICE. The gentleman has stated that the mines of Spain were a source of wealth to that nation. But, sir, Spain never became rich from her mines, although her silver mines were the richest on the globe at that day. Russia did her mining by means of serfs, who were but half paid, half fed, half clad. So it has been with all other countries where mining has been carried on under the management of the Government. It will not do to apply the same rule to this Government, under which individual enterprise and energy, if left untrammelled, produce the greatest results. If individual enterprise and energy will not produce the desired results, certainly operations carried on through the agency and under the direction of the Government will not do it. Taking the aggregate amount mined, and the aggregate of days' labor expended, it is shown that mining has not paid better than raising corn or wheat on the prairies of the country.

Mr. WOOD. Mr. Chairman, I have not time to answer the gentleman as fully as I might; and I will say but a word in reply. The gentleman derives his information from those who are interested in suppressing the facts. When you talk to these miners they discourage every attempt at competition with them on the part of the Government or individuals. But there is the fact, that \$2,000,000 have been produced. No rational man can stand up and say that any other interest in the country, commercial, mechanical, trading, or manufacturing, has made \$2,000,000 as easily, with as little expense, with the outlay of as little manual labor, and in so short a period. But as I desire to say one or two words on the bill itself I am forced to leave this branch of the discussion.

Mr. Chairman, with reference to this bill, I desire to say now, because the opportunity may not be afforded hereafter, that there are in this bill many things which I think a very great improvement upon the existing law. But there is incorporated in the bill one fundamental principle against which I utterly protest. I protest against taking a subordinate officer of this Government who has participated to a larger extent in the execution of the existing revenue laws than either the Secretary of the Treasury or the President, and clothing him with uncontrolled power over the whole machinery of collecting the revenue, without any responsibility anywhere. The Commissioner of Internal Revenue is to be invested with the power to appoint and remove, not by the consent of the Senate or of the Secretary of the Treasury, or of the President, but to appoint and remove at his own discretion every collector, every assessor, every assistant assessor, every inspector, every revenue agent throughout the whole length and breadth of this land.

Gentlemen are doubtless familiar with the constitutional provision on this subject, but I will read it. It declares that the President—

"Shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

The Committee of Ways and Means propose to evade this constitutional provision by simply changing the name of the bureau and calling it a department. Sir, I very much doubt whether this can be done. When the Constitution provides that Congress may vest the appointing power in the Departments, what is meant by a department? Sir, I believe it is no strained construction to say that this provision was intended to refer to the Departments then in existence and then recognized as such. Will it be contended that Congress can design-

ate as a department every half dozen men anywhere in the Government and confer upon them the power of appointment and removal? Nor can this difficulty be avoided by changing the name of bureau to that of department. Why, sir, if this bill did not emanate from experienced gentlemen, good lawyers, men of ability, and I believe, of stern integrity, politically as well as otherwise, I should pronounce this provision of the bill a farcical and contemptible attempt at evasion, beneath the dignity and character of this House.

Congress cannot confer this power upon the Commissioner of Internal Revenue. But suppose it can, should it do so? Should it give to an irresponsible man power to send his agents and emissaries into every man's domicile, to institute a system of espionage and inquisitorial investigation into the individual affairs of the people, a system still more odious than that which has been growing up since the present incumbent has been Commissioner of Internal Revenue. I say that this power is too great to be intrusted to any one man, however pure, however unambitious. And, Mr. Chairman, permit me to express the doubt whether if the politics of this gentleman had been of a different character any such proposition would have emanated from the Committee of Ways and Means? It so happens that he is an active and resolute partisan of the ruling party in Congress. I will not say that the proposition is made for this reason, for I do not wish to impugn the motives of any gentleman on this floor; but it is a singular coincidence that upon this gentleman they should propose to confer unlimited power in the execution of this enormous system, which levies contribution upon the industry of every man, woman, and child in the country; giving this officer authority to walk into the bed-chamber of the citizen, to examine his books and papers without any legal warrant, to penetrate and expose the most sacred private relations of individuals, thus opening the way for the worst operations of malice or vengeance. Aside from the want of constitutional power to confer such authority upon a subordinate officer, I believe that the exercise of any such authority is anti-republican, is in contravention of the spirit and genius of our institutions. I believe it is authority capable of abuse to a lamentable and destructive extent, and should not be conferred upon the Commissioner of Internal Revenue, nor even upon the President of the United States.

Mr. Chairman, when the Committee of the Whole shall proceed to take up this bill by sections and consider its details, I shall take the opportunity of presenting from time to time amendments which I am satisfied will in some cases be admitted by the honorable chairman of the committee to be an improvement upon the bill. I presume we shall all concur in making the measure as nearly perfect as possible before it is transmitted to the other House.

Mr. BROMWELL. I would like to ask the gentleman from New York [Mr. WOOD] a question. He has spoken of the Departments existing at the time the Constitution was formed. I wish to inquire of him what Departments of this Government then existed. Was not the Department of the Interior created very lately, only a few years back? And if Congress, under the Constitution, can vest the appointment of subordinate officers in the Secretary of the Interior, what is to hinder the secretary of revenue, if he should be so termed, or whatever else he may be termed, from exercising the appointing power in his department, if it should be created a department by act of Congress?

Mr. WOOD. The difference is simply this: I know that the Department of the Interior is of very modern origin; but it is a Department, and the head of it has already a seat in the Cabinet. He is a constitutional Cabinet officer of the President. This bill does not propose to confer that prerogative upon the Commissioner of Internal Revenue.

Mr. BROMWELL. Did the Constitution provide that any head of the Department should sit in the Cabinet? When Andrew Johnson

spoke in Louisville, Mr. Seward remarked that at the termination of the war the President sent for three men to consult about the terms upon which the rebel States should be restored. I have also understood from gentlemen of the Democratic faith that the President had the same right to send for those three men on that occasion that he would have to call upon the Congress of the United States, and that he is restricted by nothing, so far as consulting with anybody is concerned, except so far as he chooses. Therefore, what is there to hinder our making this a department just as much as the Department of the Interior, seeing that all this business is to be performed under the direction of one of the Departments? And do not the heads of the Departments derive their seats in the Cabinet simply from usage?

Mr. HUNTER addressed the House. [See Appendix.]

Mr. NIBLACK. Mr. Chairman, being a member of the Committee of Ways and Means, which has reported this bill, and not being able to concur in some of the more important features of it, I have felt it my duty to occupy the attention of the committee for a short time in explanation more particularly of those portions of the bill about which differences have existed and still exist among members of the committee. It is but due, however, to the majority of the committee, and I presume every member of it, to say that great consideration, much labor and care have been bestowed upon every section of this bill; and I fully believe that in most respects it is a great improvement upon everything that has yet preceded it in the form of an internal revenue tax bill. Its phraseology has received great attention. The machinery by which this branch of the Government is to be carried on and these taxes collected is, I think, a great improvement upon that provided in any prior bill.

If I am not able to sustain every section of the bill I shall certainly give it no opposition except in those respects which I deem material and somewhat vital, perhaps, to the success of the bill, if it should become a law. I shall certainly offer no factious opposition to anything which the committee has reported, or to anything which the House or the Committee of the Whole, acting under the authority of the House, may resolve upon in connection with this measure of taxation. Still, sir, as we must vote upon this bill section by section and paragraph by paragraph, I feel that as a member of the committee, when unable to agree with the action of the majority, I ought frankly to state the reasons for my dissent.

The first essential particular in which I find myself unable to concur in the action of the majority of the Committee of Ways and Means is embraced in the first section, to which reference has already been made in this debate. This is the section which erects the present Bureau of Internal Revenue into a separate and independent department of Government. There are in my mind several objections to this proposition. In the first place I regard it as unnecessary for the success of a proper internal revenue system. I concede as frankly and fully as any other gentleman that we have heretofore failed to collect a large part of the taxes to which the Government is justly entitled under existing laws. I concede that there is in this branch of the public service much demoralization—more, perhaps, than in all the other branches. But the difficulty does not, in my judgment, originate with the constitution of the bureau and the subordinate character of the Commissioner of Internal Revenue to the Secretary of the Treasury; nor is it owing to the fact that the bureau is but a part or sub-division of the Treasury Department proper. The difficulty has all, in my judgment, arisen from the fact that the whisky tax was unwisely laid in the first place, and has been unfortunately perpetuated by succeeding Congresses, at two dollars per gallon.

I do not propose to discuss this question at any great length, because the attention of the



public has already been called to it in the public press, and in so many other and various ways. In the first place, however, the tax is so much out of proportion to the cost of the article that the inducements to fraud are such as were never before presented to the people of this country, or perhaps any other country. If a man engaged in the distillation of whisky can succeed in getting to market without the payment of tax one barrel out of every five that he manufactures he is enabled to make money; and if, manufacturing much whisky, he is able to evade the payment of tax on one barrel out of every three he is soon able to build up a fortune. Where, then, such immense interests are involved combinations are formed for the purpose of evading the law. Thus has grown up what is commonly denominated, both here and elsewhere, "the whisky ring," which seems at least exerting a very great influence upon the financial condition of the country.

Now, sir, my proposition is that if we will reduce the tax on whisky to such a point that the inducements to evade the law will not be great, while the penalties of evasion would absorb the profits of a very considerable length of time, so that the risk would be much greater than the inducements to fraud, there will be no more difficulty in collecting these taxes by the means heretofore used than there has been in collecting the revenue from customs, or in collecting the taxes upon other commodities taxable in this bill.

I argue, therefore, that to reduce the tax on whisky is to reduce some of the strongest objections to the present condition of things pertaining to the internal revenue, and to which our distinguished chairman of the Committee of Ways and Means [Mr. SCHENCK] referred in opening the debate on this question on Monday last. I know that there is some discussion, and much difference of opinion, if we shall reduce the tax on whisky, as to the extent to which that tax shall be reduced. But that is a question which I do not now propose to discuss at any great length; I refer to it only incidentally.

My own inclination is to reduce the tax on whisky to fifty cents a gallon. I am not fixed in that inclination, however, and will vote for a greater or a less sum, according to the peculiar condition the question may hereafter assume, and be governed to some extent by the temper of the House at the time the vote may be taken. But under no circumstances will I favor a higher rate of taxation than seventy-five cents a gallon, as at present advised.

Believing, therefore, as I do, that the difficulties which surround the collection of our internal taxes do not result from the manner of collecting them—that is, from the machinery of the office of internal revenue—but from the unwise manner in which they have been levied by the laws of Congress, I do not think it is necessary to attempt so radical a change as is here proposed in an attempt to obviate those difficulties.

I concede that there is much embarrassment resulting from some of the complications referred to by the chairman of the Committee of Ways and Means in his opening speech, resulting from the differences between the President and the Secretary of the Treasury to some extent upon the one side, and the Commissioner of Internal Revenue and the Senate of the United States on the other side, upon the subject of appointments. But that difficulty is greatly enhanced by this whisky ring, to which reference has been made here. If we can succeed in breaking that ring, in destroying it, I think much of these difficulties will be removed; because, I take it, the influence of that ring, of that combination, is felt everywhere in the matter of the appointments and removals of internal revenue officers, whenever its interests seem to be involved. Perhaps the influence is generally imperceptible to and indirect upon most of the persons upon whom it is brought to bear, but it is none the less efficient and pervading.

I hope these difficulties are but temporary;

and I think it unnecessary to attempt so great a change in the organization in the internal revenue office to meet them. I take it that in the next presidential election some one will succeed, some one will be able to command a majority of the votes of the American people; and in view of our past experience I take it that the minority will submit—submit gracefully, too, I hope—to the will of that majority, whatever it may be, and however it may be expressed.

Mr. ALLISON. I would like my friend from Indiana [Mr. NIBLACK] to indicate who he supposes that successful man will be.

Mr. NIBLACK. I am not discussing particularly that branch of the question.

Mr. ALLISON. I ask it only as a matter of curiosity.

Mr. NIBLACK. Well, I feel quite assured in my own mind that the successful candidates will not be the two worthy gentlemen nominated at Chicago a few days ago. The coming man, I think, is yet to be nominated.

I take it, therefore, that these difficulties will in some way be settled by the next presidential election. That election is but four or five months distant. And this difficulty, resulting from the nomination of a class of men to office who cannot be confirmed after they are nominated, will be removed. The Senate of the United States, I take it, if the result of that election is adverse to them, will yield gracefully to the verdict of the American people; and if, on the contrary, the people of the United States shall decide that the man whose political principles are in accord with those of the Senate shall be President of the United States, then, of course, there will be nothing remaining about which there can be any difficulty in this respect.

Therefore I think it unwise to endeavor in this way to meet a difficulty which can be so easily solved as this will be by the result of the now pending presidential election, and the future judgment of the American people as expressed at that election. I believe that no gentleman in this House or elsewhere can be more disgusted than I am with much that is being done at this time in this matter of Federal appointments. It is not in a satisfactory condition to anybody except a few gentlemen who succeed in receiving, by some means or other, and in getting confirmed to good fat offices. The class of men I allude to too often succeed in the present condition of things, in deceiving gentlemen at both ends of the avenue. They first practice deception in too many cases upon the President to get his nomination, and then they practice the same sort of deception upon the Senate in order to get confirmed to that office. And it is too often the case, when they once reach that point, that they deceive everybody, both the President and Senate, as well as their mutual friends. No wonder, then, that many of the gentlemen who are able to pass this ordeal do steal a little after they get into office, for men who lie and deceive to get office do not have a great way to go when they commit frauds and peculations upon the Government after they do get office. This condition of things is exceptional, and, I hope, temporary; and I do not think we are called upon to meet it by legislation in view of the result I have mentioned of the election by the people this coming fall.

There is another thing to which the gentleman from New York [Mr. WOOD] alluded a short time ago, which I think is true, that if not in the letter it is in the spirit in violation of the provision of the Constitution which provides that all other officers not otherwise provided for in that instrument shall be filled by the President, by and with the advice and consent of the Senate.

"But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Now, the plain intent and meaning of this provision is, in my judgment, that none but inferior officers shall be appointed by the heads

of Departments. I think the fair construction of that word "inferior," as applied to public officers, would not embrace a large number of those provided for in this tax bill.

Every officer connected with this branch of the public service is charged with more or less important duties, and some of them with the most important that can be exercised under Government touching the business relations of its citizens. Assessors and collectors are, to some extent, not responsible to the courts of law for what they do. In other words, that remark may apply to everybody connected with the assessment and collection of internal taxes; for there is a provision in this bill which I will not read, but to which I will attract the attention of the committee, that you cannot, by injunction sued out from the courts, restrain these officers from the collection of the tax. They can proceed in their own way, in such manner as suits them, and collect such amount as may be assessed under the forms of law upon citizens of the United States. Citizens are restrained from appeal to the courts; and the only remedy they have is to apply to have them refunded after they have been paid into the Treasury, provided they can make out proper cases of relief. There is no remedy in the courts. The courts are restrained. That is one of the provisions in the bill.

Mr. ELDRIDGE. Does the gentleman think that is constitutional?

Mr. NIBLACK. I do not propose to discuss that now, but it is a provision which strikes me as certainly a very important one. It certainly is when you come to take into consideration the vast powers committed to this class of public officers. As was well said by the gentleman from New York, [Mr. WOOD,] these officers have power to invade the privacy of domestic life. They can require the production of books and papers of the most private kind. All our business relations are more or less at their mercy.

Mr. MULLINS. Will the gentleman allow me to ask him a question?

Mr. NIBLACK. Yes, sir.

Mr. MULLINS. This Commissioner of Internal Revenue is charged with the collection of the revenue; why, then, not give him perfect authority to control it?

Mr. NIBLACK. Well, sir, I was about coming to that. I hope I will answer the gentleman before I get through. The revenue which these officers are charged with collecting is great, and it affects almost every business in the country. This question of tax is one of the most important, embarrassing, and absorbing questions of the day, and it must continue to be so, in the present condition of affairs, for many years. There is no class of officers who are brought so constantly in contact with the great mass of people as these tax-gatherers, clothed as they are with these extraordinary powers.

If therefore it was necessary to have reserved to the Senate of the United States a supervisory power over nominations and appointments in certain cases, I contend that cases arising under this bill are eminently cases for the consideration of that body. I have the opinion furthermore that if these appointments are to be vested in the head of a Department, especially appointments so important as these, the head of that Department ought to be one of the strongest men in any department of the Government, and ought to be a member of the President's Cabinet, as much certainly as any gentleman at the head of any other Department, not even excepting the Secretary of the Treasury or any other officer.

Mr. ELDRIDGE. If the gentleman will allow me, and if it will not disturb the course of his remarks, I would like to inquire whether this bill does in fact continue the present Commissioner in office under the provisions of law as they now exist, so that the President cannot remove him without the concurrence of the Senate?

Mr. NIBLACK. I will allude to that in the course of my remarks.

Mr. ELDRIDGE. Because, if that be so, then it seems to me an officer appointed with these simple powers which the law, as it now exists, gives him, and with reference to the execution only of those powers, might not be a proper person to execute the enlarged powers which this bill proposes to give. And if I were to express my own opinion of the present Commissioner I would say he was not the person to exercise the power which I understand the gentleman to say this bill confers upon that officer; and I am very glad to know what I do in regard to the powers proposed to be conferred from what I have learned of the gentleman.

Mr. NIBLACK. I was about remarking that if these extraordinary powers are to be intrusted to any officer, it certainly ought to be to the head of some Department directly and intimately connected with the administration of the Government.

Mr. ELDRIDGE. What I desired to inquire particularly was whether, if these powers are given to the Commissioner, the present Commissioner is to be fastened by the law itself upon the administration of the law, so that he becomes the executor of these additional powers?

Mr. NIBLACK. I will answer the gentleman's question in the course of what I am about to say. The head of this department ought certainly to be brought in close contact with the heads of the other Departments of the Government, ought to have their advice and assistance, and ought to be required to report to the President of the United States from time to time what he is doing as much as the head of any other Department of the Government. Sir, no officer under this Government ever had such powers and such patronage conferred upon him as this bill proposes to confer on this Commissioner of Internal Revenue. They are almost imperial powers. He may, with, I believe, one exception, appoint and remove any officer connected with the internal revenue at his pleasure and without supervision or restraint. In this respect his powers are absolutely despotic.

Mr. WOOD. With the permission of the gentleman from Indiana, as he is a member of the Committee of Ways and Means, and is, of course, familiar with all the provisions of the bill and with the intention of the bill, I desire to ask him whether the bill does not continue in office the present incumbent of the commission-ership of internal revenue as against the President of the United States or the next President of the United States, and whether the bill does not continue him in office for life and only give the President power to fill the vacancy in case of his death or resignation?

Mr. NIBLACK. It certainly does continue him in office. When we come to look into the provisions of the bill erecting this bureau into an independent department, we find that it continues the present Commissioner in office at the same salary as he is now receiving, leaving him inferior in point of compensation to the extent of some two thousand dollars to the other heads of Departments, and continuing him in office, protected by the provisions of the tenure-of-office bill, the same as collectors and assessors now are, and which, in my judgment, creates much of the difficulty that has arisen on the subject of the collection of the taxes.

It proposes to place this immense power in the hands of a head of department who is still to be styled, as he is now, the Commissioner of Internal Revenue, and who is not expected to be a member of the President's Cabinet. Another of the peculiarities of this bill is, that while it legislates out of office everybody connected with the office of the Commissioner of Internal Revenue, except the Commissioner himself, it continues him in office until he dies or resigns or is removed by the President, by and with the advice and consent of the Senate, provided the tenure-of-office bill shall be held to be constitutional and binding on the President. It continues him in office and permits him to remove everybody else, and allows him to fill

all these offices made vacant by this law except, perhaps, the office of solicitor of internal revenue. It places substantially the whole power over this branch of the public business in the hands of the present Commissioner, who was nominated and confirmed, not as the head of a Department, but as the head of a bureau subordinate to the Secretary of the Treasury.

Well, now, sir, whatever this may be in point of fact, it looks too much like fixing things up for the occasion and endeavoring by indirection to do that about which there might be some difficulty if it were done in the usual and direct way.

If we are resolved, or shall resolve, to make the internal revenue office an independent department, let us, in the usual and direct way, authorize the President and the Senate to place some gentleman at the head of it who shall be nominated and confirmed with reference to the extraordinary powers he is required to perform by this bill.

The only check upon the Commissioner of Internal Revenue contained in this bill is that there is to be a solicitor appointed for the department of internal revenue, who is to be appointed by the President, by and with the advice and consent of the Senate, and who acts as the law officer of this proposed department.

Suppose that Congress should approve of this feature of the bill, and it shall become a law, shall we not, or at least may we not, have many of the same difficulties as between the President and the Senate and the Commissioner of Internal Revenue as we already have if the tenure-of-office bill is still continued in force? The President cannot remove the Commissioner of Internal Revenue except by the consent of the Senate; and if he should attempt to do so—as he has already attempted in the case of this very Commissioner—it is competent for the Senate to decide that he shall not remove him, and we shall have the old difficulty again, except that the Secretary of the Treasury will be out of the way. It does not remove this difficulty of conflict between the President and Congress.

So far as I am personally concerned, I have nothing unkind to say about the present Commissioner of Internal Revenue. My intercourse with him has always been of the most friendly character, and I have found him a courteous and obliging officer. I have no charges to make against him here or elsewhere as at present advised; but it is sufficient for my purpose to say that he was not appointed, as I have already intimated, with reference to the immense duties and responsibilities which will be devolved upon him by this bill.

If the House shall determine to make this a separate department of the Government, I shall then insist that he shall be placed on an equal footing with all the other heads of Departments, both in point of rank and in point of compensation; and if he is a man of spirit, as I hope he is, I think he will hesitate to undertake the discharge of the immense trusts confided to him by this bill and at the same time hold a rank and receive a compensation inferior to those of the other heads of Departments charged with the administration of this Government.

But, sir, I shall not attempt to pursue the subject further. It is only necessary for me to call the attention of other gentlemen to it who can trace it out and follow it up.

Mr. ELDRIDGE. If it will not annoy the gentleman, I should like to ask him a question or two.

Mr. NIBLACK. I will hear the gentleman's questions.

Mr. ELDRIDGE. I desire in the first place to ask, for the purpose of calling his attention to the subject, whether he recollects the testimony of the present Commissioner, as given before the Judiciary Committee while investigating the subject of impeachment, and whether he remembers that the Commissioner was inquired of with reference to the appointment of the subordinate officers of that department and

how they were affected by the inability of the President to name those officers and have them confirmed? I will say to the gentleman, with his permission, that if he will read the testimony of Mr. Rollins, he will see that the whole difficulty which he found in the administration of his office resulted from the fact that he and the Secretary of the Treasury were unable, with the concurrence of the President, to name the subordinate officers, and that losses—which he did not, I must say, estimate very correctly, because he said he had never entered into any calculation, but losses that amounted to millions a year—resulted from his inability to change officers; and he finally simmers the whole thing down to this: that the difficulty resulted from the fact of the inability of the President to remove these officers when called upon by him and by the Secretary of the Treasury to do so.

Let me call the attention of the gentleman from Indiana to some of the questions put to him and his answers thereto. After testifying that he was Commissioner of Internal Revenue, that he was a Republican, and that he did not agree with the President, this question was put to him:

"Have you ever in a single case represented to the President that any incumbent in the revenue service was dishonest or incompetent and ought to be removed?"

Here is his answer, to which I call the attention of the gentleman from Indiana, because of the remarks made by the chairman of the Committee of Ways and Means in his opening speech:

"I have not. It is not the practice, he says, for the head of a bureau to communicate by letter or through personal interviews with the President except as in the instance referred to, at the request of the Secretary of the Department in which he is an officer."

"Question. Is the office which you hold more likely to bring you information of the incompetency and dishonesty of the officer than any other office under the Government is?"

"Answer. Such information would ordinarily be received by both the Secretary of the Treasury and myself. I presume that more information would be sent to my office than to his."

"Question. Would you not consider it your duty, if you knew an assessor or collector of internal revenue who was dishonest or incompetent, or unfaithful to his office, to make that fact known to the President?"

"Answer. I should not directly."

The gentleman from Indiana [Mr. NIBLACK] has complimented pretty highly the Commissioner of Internal Revenue. I call his attention to the fact that he says he should not feel himself called upon, if he knew a dishonest, incompetent, or unfaithful subordinate officer to call the attention of the President to the fact. The question was next put to him by me:

"Question. You should not think that your duty?"

"Answer. No, not directly; because such has never been the practice of the Department."

"Question. How otherwise could these facts, except through you or the Secretary of the Treasury, be brought to the knowledge of the President?"

"Answer. They would be brought to his attention by the Secretary of the Treasury."

"Question. Have you in any instance, where you have known the dishonesty and incompetency of internal revenue officers, presented the facts to the Secretary, and asked of him to present the facts to the President for his action?"

"Answer. I have presented the names of persons with my opinion of their unfitness and requested their removal; but the facts upon which my opinion was based I have not reduced to writing, and indeed it is very difficult to ascertain with absolute certainty the collusion of an officer with tax-payers."

"Question. Do you know that the Secretary of the Treasury has ever presented a case which you have brought to his knowledge to the President in which he did not act on it?"

"Answer. I do not."

"Question. You have never in writing presented any case to the Secretary of the Treasury of incompetency, unfaithfulness, and dishonesty of any officers of whom you had knowledge?"

"Answer. I have presented names of persons of whom I had such opinion."

"Question. I ask if you ever presented in writing a request stating the facts of incompetency and dishonesty of officers of whom you had no knowledge?"

"Answer. I have requested in writing that persons should be removed for the good of the revenue."

"Question. Who were they?"

"Answer. I would prefer not to give their names. They are still in service, and it would disturb the harmony of official intercourse so to do."

"Question. Do you know that that communication, so addressed to the Secretary, was ever presented to the President?"

"Answer. I do not; but in the communication I expressed a hope that, with vexed political questions measurably concluded, the nominations to the Senate would be brought back to the Treasury Department, where they could be more properly considered in connection with the interests of the service. I desire here to say that, while subordinate appointments are ordinarily made by the Secretary upon the recommendation of assessors and collectors, he has quite uniformly removed his appointees without hesitation whenever I had evidence of their inefficiency or corruption. It is almost entirely with appointments not made by him that embarrassment in this particular has arisen.

Question. Did you name any persons as their successors?

Answer. I did not.

Question. Were these six officers Republicans or Democrats?

Answer. I have no means of knowing with certainty their political opinions. They were nearly all appointed by Mr. Lincoln. They generally reported as Conservatives. I cannot say whether they are all so or not."

Mr. NIBLACK. Mr. Chairman, I did not intend, so far as I am concerned, to give this discussion a party bias—I have referred to our political troubles only incidentally—and I cannot therefore attempt to reply to many things brought out by the gentleman from Wisconsin. I did not intend to be specially complimentary to anybody in what I have been saying about them, nor did I intend to be unkind or severe. I want to do justice to Mr. Rollins and to everybody else, so far as I can, connected with the administration of this matter of the internal revenue.

My position as a member of the Committee of Ways and Means has brought me into frequent communication with the Commissioner of Internal Revenue. And in all his relations with me, and so far as I know with other members of the committee, I have found him to be a courteous and obliging gentleman, and so far as I know a faithful public officer. His surroundings in many respects I do not like. And everything considered he is not the sort of gentleman I would have nominated and appointed to that position if I had control of the matter. But as he is a subordinate to the Secretary of the Treasury, and also to the President, it might be unfair to hold him accountable for many things for which he may be considered responsible. On the contrary, it may be that he is really responsible for many things for which people have been blaming the Secretary of the Treasury and the President.

I do not, however, propose to go into these matters now. I have alluded to these difficulties only in elucidation and amplification of the remarks which our distinguished chairman made upon the subject in his opening speech on Monday last.

Mr. HOOPER, of Massachusetts. Will the gentleman permit me to interrupt him a moment?

Mr. NIBLACK. Certainly.

Mr. HOOPER, of Massachusetts. Is it not fair to state, in answer to the gentleman from Wisconsin, [Mr. ELDRIDGE,] that the reply of Mr. Rollins, that he had not reported these cases to the President, was in consequence of his being subordinate to the Secretary of the Treasury? Under the technical rules and customs of the Department he had no right to make a report directly to the President; he had to report to the Secretary of the Treasury. He stated that he had reported certain officers to the Secretary of the Treasury, but he was not permitted by the rules and customs of the Department to make a report directly to the President. That is all that Mr. Rollins means to say in his reply.

Mr. ELDRIDGE. If the gentleman from Indiana [Mr. NIBLACK] will allow me to reply to the gentleman from Massachusetts, [Mr. HOOPER,] I will simply say that the Commissioner did not say that such was the rule of the Department.

Mr. HOOPER, of Massachusetts. The Commissioner may not have thought it necessary to say so in so many words, because he knew it was generally understood that such was the rule of the Department.

Mr. ELDRIDGE. The Commissioner had the amplest opportunity to make that answer,

for I cross-examined him at considerable length. But he did not so state, and such is not the fact. The Commissioner of Internal Revenue is the officer to whom this knowledge must necessarily come. He is subordinate to the Secretary of the Treasury and to the President, and there is no question about his duty to make known to his superior officers all frauds and wrong-doing that may come to his knowledge.

Mr. HOOPER, of Massachusetts. The Secretary of the Treasury is his superior officer, and the rules and customs of the Department require him to give that information not to the President but to the Secretary of the Treasury. If he has any communication to make to the President, it must be made through the Secretary of the Treasury.

Mr. ELDRIDGE. Certainly; but in his testimony he does not claim that he had given the Secretary of the Treasury any such information. If the gentleman will refer to his testimony he will find that no such communication was ever made by him to the Secretary of the Treasury.

Mr. HOOPER, of Massachusetts. I understood the gentleman, in reading the testimony of Mr. Rollins, to read the question, Did you ever communicate any such information to the President? and the answer was that he did not.

Mr. ELDRIDGE. Yes, sir; that he had not done so directly to the President. But when you come to the cross-examination you will find that he had not communicated this information to anybody.

Mr. NIBLACK. I cannot yield further, for I find that my time is passing away, and I have agreed to yield a portion of it to the gentleman from California, [Mr. HIGBY.]

I did not desire to go into this matter between the President, the Secretary of the Treasury, and the Commissioner of Internal Revenue, except to a limited extent, nor did I desire to comment severely upon any one connected with this matter of the administration of the internal revenue, because the mere conduct personally of public officers does not affect great principles.

It is the principle which underlies this whole question which I desired to discuss. That there has been much done that ought not to have been done I freely concede; that there has been much that has not been done which ought to have been done I equally concede. There are complaints made in reference to some appointments from which it might be inferred that the President had been somewhat at fault. But the real trouble arises from the disagreement between the President and the Senate. He makes nominations, and the Senate rejects them. In the second district of Indiana there have been, I believe, some eight or ten nominations made within the last fifteen months, and all of them, excepting perhaps the last one, have been rejected by the Senate. This is one of the unfortunate incidents of our condition which, as I have already intimated, will, I trust, be only temporary.

I shall not pursue any further this question of a separate department. I have indicated some of the reasons why I cannot agree to the proposition at this time. There are some other features of the bill to which I will very briefly allude, and then I will conclude.

Upon the question as to the tax on whisky, to which I had intended to devote some time, I am relieved by the statement of the chairman of the committee [Mr. SCHENCK] in his opening speech. He has very frankly stated that he thinks this tax ought now to be reduced, and has given some of the many reasons why I have all the time felt the propriety of such a reduction. In view of what he has conceded upon this question, and of the evidences which I have seen around me for some time past, I take it as a foregone conclusion that this tax will be reduced, the only question being the amount at which the tax shall be fixed. As I have already intimated, I think the difficulties surrounding this question of the whisky tax have been, and are still, inherent in the pres-

ent system on account of the great disproportion of the tax to the cost of the article.

Then, again, passing over the question of the inducements to fraud, the collection of such a tax as this is and has been requires the exercise on the part of the Government of a degree of despotic and arbitrary power which our form of government is not competent to wield. We cannot put in force and keep in vigorous operation that sort of concentrated power and machinery which is necessary to force from the people so extraordinary and so exorbitant a tax. I have seen a statement to the effect that, taking the experience of all civilized Governments upon this subject of the taxation of alcoholic spirits, about seven per cent. of the gross amount of taxes have been and can be collected off of this species of property, and that every effort to collect a greater proportion has been a failure. I cannot vouch for the accuracy of this statement; but I am satisfied that there is a point beyond which we cannot go in the amount to be realized from that species of property. If we attempt to raise an extraordinary sum, a sum greatly disproportionate to the tax on all other interests, the frauds on the revenue will prevent the efficient collection of the tax. By fixing the tax at such a rate as does not offer so great inducements to fraud, does not give such impetus to illicit distillation, this difficulty is removed; and we can then collect this tax, as well as any other tax, either through the agency of a bureau officer, as at present, or through such other ordinary means as we may adopt.

But, sir, the worst of all the features of this two-dollar whisky tax is the very great and most mortifying demoralization of the public service. It would be better, in my judgment, to repeal this tax altogether than to continue the present condition of things, and look to something else for revenue. We can ill afford to continue and make perpetual this demoralization for the sake of a few paltry millions a year.

Sir, public virtue is of more value than money, and we cannot afford to debauch and bring the public service into utter disrepute for the sake of a few dollars in taxes.

There is another point in reference to which I have differed with the committee. I do not lay great stress upon it, but still I think it is a matter of importance, both in a financial view and on account of the demoralizing influence which may also be exerted, if we attempt to enforce the amount of taxation proposed in this bill. I refer to the tax on tobacco. Although this has not attracted so much attention as the whisky tax, yet the frauds in regard to the tax on tobacco have been proportionably very great. I suppose that in a country of such vast extent as ours, so sparsely populated, with so many places remote from the tax-gatherers and revenue officers, there must necessarily be very great evasion of the law. But I take it that the higher we attempt to make those taxes the greater will be the evasion and the greater the consequent demoralization.

This bill proposes a tax of forty cents per pound on all kinds of chewing tobacco.

[Here the hammer fell.]

Mr. HIGBY obtained the floor.

Mr. NIBLACK. I would regard it as a very great favor if the House would consent to extend my time.

Mr. HIGBY. I do not desire to occupy the whole of my hour, and I yield the gentlemen ten minutes.

Mr. NIBLACK. I do not lay great stress upon this, nor have I investigated it sufficiently to attempt to go into it as minutely as gentlemen in trade could, or many of the public officers who have had their attention called to it. I think we have failed in the section on tobacco. I think it is too large a proportion of tax upon tobacco, and that it will bear hardly upon this interest in the country. As a matter of policy I think the tax ought not to go higher than thirty-two cents, which some members of the trade have agreed that it will bear safely, and all interests will succeed well under it.



For my own part I am willing, and have been willing, to place the tax at that amount as an experiment.

But gentlemen well informed on the subject insist it should not go beyond twenty cents per pound. I will content myself by saying that I am unwilling to go as high as forty cents.

Mr. ELDRIDGE. What is it now?

Mr. NIBLACK. Heretofore there have been three grades, forty, thirty, and fifteen cents. Most, if not all that kind of tobacco that the existing law taxes thirty is now proposed to be taxed forty.

There is one other matter which I intended to consider; but as I have overrun my time I will simply advert to it. I am apprehensive the amount of taxes this bill provides for, or is likely to be collected under it in case it becomes the law in its present shape, will not be anything like the expectation of the chairman of the committee and of others who have given it their attention. I am inclined to believe there are no means we can adopt in this country that will bring \$70,000,000 out of whisky alone. I shall be gratified if we can succeed in raising that much money, but I am afraid that it is impracticable. If we make a levy of that kind I am afraid the facility in fraud in any system we adopt will disappoint us in the amount raised.

While I certainly desire all tax shall be raised upon what are called the luxuries of the country, I doubt whether that is practicable in view of the immense amount of revenue we have to raise from year to year from this and other sources. If we sustain our credit my prediction is, and I give it for what it is worth, we will have to extend the area beyond that in the present bill. As an experiment I am willing to try it, trusting more to the judgment of others better informed than myself than to the impulses of my own judgment.

Mr. ELDRIDGE. Cover more articles?

Mr. NIBLACK. Yes, sir; because higher tax is not practicable, and the only escape we have is to cover more articles. I hope I am mistaken about this; but the country must not be deceived. I think the country ought to be prepared for heavier taxation, in some respects, than we have yet submitted to. I know it is not a pleasant thing to refer to, but I state it as a matter of conviction. The expenses of the Government never will be brought within the figures which gentlemen are trying to bring them in the present appropriation bills without greater and more radical reforms than I now anticipate. As I have already remarked on another occasion, I think we will have an enormous deficiency next winter, and in order to have the means to meet this deficiency we will have to carry taxation beyond its present point.

Taking the tax off cotton, in which I heartily concurred, and taking off the tax on manufactures, in my judgment, is going to make a great difference in our receipts from internal taxes.

Mr. ELDRIDGE. Is this an experimental bill for the purpose of ascertaining what we can drop in the way of taxation so as to bridge over the fall elections?

Mr. NIBLACK. I was not talking about the fall elections in this connection, but I do say it is an experiment. I have already remarked that I think it is superior to the other tax bills. I believe we have been too sanguine as to the amount of tax we are going to raise by it, and underestimated the expenses of the Government. Taking the two together, I do not feel as sanguine financially as other gentlemen. I hope they are nearer the truth than I am; but that can only be demonstrated by the operations of time.

There is another question which I ought to have alluded to. I have referred to those where I felt it to be my duty to differ with the committee. There are others of minor importance, and I can refer to them in the progress of the bill. I shall, as I have intimated, sustain the committee in everything, so far as I find myself able to do it; but I was compelled to dissent in regard to some matters to which

I have referred, and I feel it due to the committee, as well as the House, to state some of my reasons at least for this dissent. I have suffered my time, however, to be frittered away by digressing from the points which I intended to discuss. Therefore, as my time is consumed, I cannot attempt to occupy the time of the committee any longer by asking a further extension of my time.

Mr. HIGBY. I do not know, Mr. Chairman, that I should have sought an opportunity to say anything at this time had it not been for some remarks dropped by the member from New York, [Mr. Wood.] I did not hear all of them, for I came in while he was speaking. I do not think my constituents would feel very well satisfied to allow such remarks to go forth without some answer to them.

The gentleman is still carried away with the idea that I found to prevail in the Thirty-Eighth Congress, and to a great extent also in the Thirty-Ninth. I had supposed that this Fortieth Congress was far less tinctured with the idea than the two previous ones. I found gentlemen in the Thirty-Eighth Congress who were carried away with the idea that the mineral belt of this country contained sufficient wealth to easily pay the national debt. Members frequently asked me that question in all seriousness if this Government could not, by taking upon itself the management, care, and custody of the mineral lands, pay off the national debt very readily. And the same question was sometimes asked in the Thirty-Ninth Congress. My reply to these gentlemen always was this: that to attempt to legislate upon that policy would ruin any political party. It is a fallacious idea, Mr. Chairman, that mining for gold and silver pays better than any other pursuit. I beg members who wish to get at the facts in regard to this question to rid themselves of the idea that labor and capital employed in taking gold and silver from the earth receives any better returns than when employed in any other business. I declare, from an experience as well as an observation of eighteen years, that there is no branch of business, whether it be agricultural, mechanical, commercial, or manufacturing, that pays so poorly as mining for gold and silver.

Why, sir, to illustrate this fact I need only appeal to the knowledge of members of this House who represent districts large portions of which are mineral regions. They can bear me witness that there is less wealth in that business than in any other; that the agricultural and commercial portions of their district contain the most wealth in proportion to the number of inhabitants.

Such facts give some idea of the value of the mineral regions of this country. Take my own State of California, and what do you find? The mineral counties contain decidedly the least wealth in proportion to population of any counties in the State. Take the agricultural portions of the State, and there you find wealth in proportion to the richness of the soil. I can compare my own county and neighboring counties with agricultural counties, where the population is not near so great, and yet the agricultural counties have twice or three times the real substantial wealth.

And when you come to consider the indebtedness of the countries, what do you find? The agricultural counties have comparatively a small debt, while the mineral counties have decidedly large ones. And if any member of this House is disposed to look into the legislation of the last Legislature of my State, he will find on examining it critically that many of the counties in the mountains which are purely mineral are almost in a condition of bankruptcy as to their public affairs. Now, these things always tell for a country more than anything else. There is no such fallacious legislation as that which goes upon the basis that extracting the precious metals is the most productive source of wealth to the country. That kind of industry which produces the greatest aggregate of wealth in proportion to the labor bestowed upon it is the best for the country, no matter

what it may be, whether it be commercial or manufacturing or agricultural or mineral. That rule will hold good in all parts of the country.

Why, sir, a few years ago, since I have been here, I think in the Thirty-Eighth Congress, when we were getting up an internal revenue bill, there was a tax of one half of one per cent. imposed on gold. The bill as reported by the Committee of Ways and Means imposed a tax of three per cent. to be paid in gold on all the gold produced. The member from New York [Mr. Wood] was here at the time. I stood here in my place and most strenuously opposed that provision of the bill. I told this House—I was a young member then, although I had seen some years outside—I told this House then that it was fallacious legislation to attempt anything of the kind, and that it would be disastrous to follow the miner into his claim and tax him three cents on every dollar of gold he took out of the earth. When we reached that part of the bill Mr. Wallace, who was then the Delegate from Idaho, arose and moved to strike out the words "to be paid in gold," so as to leave it at three per cent. to be paid in the currency of the country, and that was carried. Immediately the chairman of the Committee of Ways and Means rose in his place and moved to raise the tax to five per cent. instead of three per cent., and that went through like a whirlwind; there was no stopping it; we could not even get enough to call the yeas and nays on it in the House. The bill went to the Senate, and there the tax was brought down to half of one per cent. Well, as we had had a pretty warm discussion on the subject here, when the bill came back from the Senate the Committee of Ways and Means finally concluded to leave the tax at half of one per cent., and they asked our delegation if we would be satisfied with that. I told them that I did not suppose the miners of my State were going to be dissatisfied at having to pay half of one per cent. to the Government under the circumstances, and that they were willing to support the Government, and especially in the struggle it was then going through.

I insisted, however, that it was injustice to put a tax of even half of one per cent. on them; but I told the committee that I should make no further contest over the question, and we left it there. Well, sir, I trust the tax will not be raised in this bill. The committee have stricken it out in the bill which they have reported to the House, showing that they possess some wisdom on this subject, and have become somewhat enlightened. I say it is rank injustice to follow the miner into his claim in the depths of the earth and take from him the first particle—even one farthing on a hundred dollars—as a tax upon this article, and for the simple reason that, of all the business that is carried on in this country, there is none that pays so poorly for the labor and the capital employed in it as taking gold and silver from mines. And I say to the member from New York, dismiss the idea that this Government will ever pay its national debt by a surplus of gold and silver over the pay of the laborers for taking it out of the mines. If you will put it on to the substantial industry of the country—your agriculture—which is the most permanent and lasting and substantial of all; upon your manufactures and upon your commerce, you will get upon the right basis; but you need that gold and silver shall come from the mines simply as a stimulant for all other kinds of business, for that is its use. It is a stimulant to all other industries. There is the great secret of encouraging the taking of gold and silver from the mines.

Mr. MAYNARD. Will the gentleman from California [Mr. HIGBY] allow me to ask him an economic question?

Mr. HIGBY. Certainly.

Mr. MAYNARD. It is this: whether all the intrinsic value of gold and silver is precisely equivalent to the labor which is required to take it from the mines and put it into circulation among the people?

Mr. HIGBY. I do not so understand it.

Mr. MAYNARD. Then if it has any intrinsic value besides the expense of getting it from the mines and putting it in circulation among the people why not tax that additional value?

Mr. HIGBY. That has been the weight of my argument; that if to-day you could figure up all the expense and labor bestowed in getting gold and silver from the mines, as labor is paid elsewhere and in other employments and pursuits, you would have an actual loss upon the amount invested.

Mr. MAYNARD. I did not make my inquiry of the gentleman in any spirit of contradiction.

Mr. HIGBY. I did not so understand the gentleman. You will find that my statement in regard to gold and silver is borne out by the unanimous concurrence of men who have had the most experience in this business of the employment of capital and the application of labor to the production of gold and silver.

Mr. BROOMALL. Then there is no intrinsic value in gold and silver.

Mr. HIGBY. No, sir, there is not.

Mr. WOOD. Mr. Chairman—

The CHAIRMAN. Does the gentleman from California yield the floor?

Mr. HIGBY. Certainly.

Mr. WOOD. Though the hour is now late, I feel compelled to say a few words in reply to the gentleman from California.

Mr. HIGBY. I have no objection to that, although I am not quite through yet.

Mr. WOOD. I beg the gentleman's pardon; I do not wish to interrupt him. I thought he had concluded his remarks.

Mr. HIGBY. I do not wish to be understood as saying that to the country at large, taking all branches of industry into consideration, the taking of gold and silver from the mines is not an advantage and a gain rather than a loss. These millions of the precious metals taken from the mines become a grand stimulant to all other branches of industry and enterprise, not only in the vicinity of the mines, but all over the country. But when you come to the question of return and profit to those who actually take those precious metals from the mines, I say that they do not get a compensation equal to that afforded by other kinds of business. That is the universal testimony of all who have any acquaintance, either by experience or observation, with the business of taking gold and silver from the mines. And for that reason this kind of labor should never be directly taxed. Revenue should be raised without hindering this branch of industry. Gentlemen may not understand it; it may be a mystery to them; but the grand result will bear me out in the statement I have made.

Mr. WOOD. Mr. Chairman, but a few words.

Mr. SCHENCK. I am very reluctant to object to the gentleman from New York [Mr. Wood] proceeding now; but I believe the rules of the House forbid any gentleman speaking twice upon the same subject while there are others who desire to be heard.

Mr. JOHNSON. I hope my colleague, [Mr. HIGBY,] before he yields the floor, will allow me a few minutes.

Mr. SCHENCK. Perhaps the gentleman from New York will indicate how many minutes he desires?

Mr. WOOD. Only a few minutes.

Mr. JOHNSON. Will my colleague yield to me for a few moments?

Mr. HIGBY. Certainly.

Mr. JOHNSON. I desire to say that I indorse every word my colleague has uttered on this subject. I would like, if I had time, to go over the ground myself, and on some future occasion I may do so.

I take the position that this Government ought not to tax the miner, and (although I have been charged with advocating a bill for the sale of the mines) I hold that this Government has no right to sell the mines; that this Government has nothing to do with the question.

Mr. MULLINS. Do you hold that the Government at the common expense should appropriate the mines for the sole benefit of the few people who may go there and dig out the gold?

Mr. JOHNSON. I hold, sir, that the Government has nothing to do with hunting for mines; that the people find the mines and work them for the benefit of the people.

Mr. MULLINS. I am speaking of the absolute right which the Government has to the property. Is the Government to give this property away to one man or a few men, securing no benefit to the mass of the people?

Mr. JOHNSON. The Government of the United States, under our institutions, does not own the mines. Until within the last six or seven years there was never any pretense by any lawyer of this country that this Government owned the mines for purposes of absolute control.

Mr. MULLINS. Are the mines in the earth or above the earth? [Laughter.] I mean by that to ask whether the Government does not own the land in which the mines are found?

Mr. JOHNSON. In the remarks which I have made I have referred to the mines of precious metal.

Mr. HIGBY. I understood that a part of the argument of the gentleman from New York [Mr. Wood] was that the Government of the United States ought to take these mines into its own possession and, I suppose, work them, appropriating the avails to aid in paying the national debt. But I will say to the gentleman that if when the mines of California were discovered, the Government had taken them and worked them, paying fair wages to miners, such wages as have been paid in other branches of business, California would be to-day wealthier by several millions than she is. That would have been the amount of the loss to the Government of the United States, because individuals, with the same amount of labor and capital, can produce more than the Government can. I yield five minutes to the gentleman from New York.

Mr. WOOD. Mr. Chairman, I have very great respect for the interest which these two gentlemen from California [Mr. HIGBY and Mr. JOHNSON] evince in this question, which, as they appear to think, necessarily affects the interests of their constituents. I think that the gentleman from California [Mr. HIGBY] did not hear the whole of my remarks, or if he did, I failed to make myself understood as to what I propose with reference to those mining regions. I am prepared to show, and shall show hereafter, that the gentleman's proposition and data are incorrect when he says that it has cost all the value of the precious metals to procure them. But, sir, notwithstanding the fact that for four or five years—from 1848 till 1852-53—the surface mining was really a matter of no expense to those who pursued it, I am willing to admit for the purpose of answering the gentleman in one word, that thus far the labor of mining gold in California has cost all it has produced.

But, sir, I do not propose for this Government any such kind of mining as those men have pursued. The gentleman talks of protecting the interests of the miner down in the bowels of the earth. Why, sir, the labor of an humble miner, toiling in the face of physical difficulties of the most stupendous character, can of course avail but little; and even the mining companies, although some of them have made immense amounts of money, are insufficient to grapple with the difficulties of this great work. Their operations are but as a drop in the bucket compared with the skill, the capital, the labor which I propose this Government shall exert for the purpose of reaching spots which neither individual enterprise nor corporate power has been capable of reaching.

Now does the gentleman understand me? Admit it to be all true down to this period, I propose, if the Government goes into the enterprise, that the work shall be herculean in its

character. Take the Comstock lode in the State of Nevada. It is admitted by the best opinion we have from that State that with help from Congress that can be made to yield thousands of millions of dollars. They ask for an appropriation of \$5,000,000. They say they have procured \$16,000,000 without the expenditure of money. That is the report upon your tables. They say they will produce from thirty to forty million dollars if you will give them \$5,000,000 to build a canal.

My theory is that the past cannot be compared with the future if we have skilled capital operating through an organized department, established in Washington city, under the direction of some man of high and excellent character. With the proper appropriation the necessary works can be constructed for getting out what belongs to the Government for the purpose, if you please, of paying the public debt and abolishing taxes. That is my position; and I hope hereafter to present a bill to the House, and produce the proofs that my proposition is practicable, and can be carried out.

Mr. HIGBY. I want only to say a word or two in reply. I have always found that it is easier to build up a theory than to carry it out practically.

Mr. WOOD. I was in California before the gentleman was.

Mr. HIGBY. That may be; but many men many minds. I know men who have been there as long as I have been, but who never yet saw a mine.

Mr. WOOD. I was there in 1848, and understand the question thoroughly and practically.

Mr. HIGBY. I found men there in 1850 who had been all through the State, and said that the mines had been worked out; that the mines had failed. There have been all sorts of opinions and all sorts of schemes. But what I was about to say is, that I have found men not acquainted with California and mining who thought they could go out to that State and make heaps of money. Oh, no! there was no difficulty about it! But, sir, I know that those there have not done so. Hundreds and thousands have really found difficulties which gentlemen here never could have imagined to be in the way.

Now, the gentleman from New York says that hundreds of millions can be obtained from these mines if you will only concentrate capital. He says it. Now, is he ready to stake capital of his own on such assertion? If he is, where are the thousands with him who will combine and run holes into the ground and through granite rocks to reach these mines and take out these fabulous amounts? It cannot be done; and it is only to make men believe these theories and get the Government to appropriate this money. No individual is to suffer one cent of loss by it; but this great Government is to be at the bottom of it all. That is the way this vast wealth is to be made for this Government. Now, I am not so ready in pushing the Government into such an enterprise unless I thought it was tolerably safe as a private enterprise to do the same thing. When I cannot become satisfied to put a little myself of my own upon the assurance that if I do I will find such fabulous wealth, I shall not feel disposed to urge that the Government shall be at the bottom of such enterprise.

This is my idea of political economy: when there is a speculation which cannot be carried out by private enterprise, then it is extravagant in the Government to attempt it; and for one I will not encourage any of these wild theories. When the Government goes into the business, making large appropriations upon these theories, who can estimate what will be the ultimate losses?

Mr. MAYNARD obtained the floor, but yielded to

Mr. SCHENCK, who said: Mr. Chairman, I move that the committee rise; and I hope, after the committee have risen, the House will make an order that all general debate on this bill shall terminate in an hour and a half after the consideration of the bill shall be again

resumed in committee. I now move that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. GARFIELD taking the chair as Speaker *pro tempore*, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

Mr. SCHENCK. I now move that when the House again resolves itself into Committee of the Whole upon the special order all general debate shall cease in an hour and a half.

Mr. ALLISON. Before that is put I would like to ask my friend from Tennessee [Mr. MAYNARD] whether he desires to occupy the entire hour?

Mr. MAYNARD. I certainly do not.

Mr. ALLISON. I desire to have an understanding about it.

Mr. MAYNARD. I hold myself subject to the wishes of my friend, who has prepared a speech, as I have not, on this subject.

Mr. ALLISON. If it is understood that I shall have an hour I shall have no objection.

Mr. SCHENCK. I understand the gentleman from Tennessee [Mr. MAYNARD] and the gentleman from Pennsylvania [Mr. MILLER] wish to occupy a few minutes each.

By unanimous consent the motion was agreed to.

Mr. SCHENCK moved that the House do now adjourn.

The motion was agreed to; and thereupon (at ten o'clock and fifty-five minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. CAKE: The petition of 38 mining and manufacturing companies and firms of Lebanon and Schuylkill counties, Pennsylvania, employing, when in full operation, 5,986 workmen, now employing 1,950 workmen, signed also by other citizens of said counties, representing that the productive interests of the country are suffering and its industry paralyzed for want of efficient protection against the cheaper labor and capital of foreign countries; that custom duties, which, under a high gold premium, were sufficient to create and foster manufactures, have become inadequate and must shortly prove ruinous; that much of the distress now prevalent and daily increasing would be relieved by the legislation suggested in Special Commissioner Wells's report of last year, and perfected in the tariff bill (as passed by the Senate) which failed in the House of Representatives March, 1867, for want of time; and praying Congress to resume consideration of that measure and enact it into a law at the earliest practicable moment.

Also, the petition of Messrs. Charles Waltjen & Brother, of Schuylkill county, Pennsylvania, and others, manufacturers of tobacco and cigars, journeymen, and dealers in tobacco and cigars, praying that the tax on cigars shall not be increased, setting forth that the object in view will be defeated, if the object be to increase the revenue from tobacco, by the proposed change.

By Mr. COVODE: The petition of citizens of Pennsylvania, for the establishment of a post route from Saegerstown to Blooming Valley, both in Crawford county, Pennsylvania.

By Mr. HALSEY: The protest of William A. Brintzinger and others, against increasing the rate of tax on cigars.

By Mr. HARDING: Remonstrances of manufacturers of cigars, &c., of Quincy and Monmouth, Illinois, against increase of taxes.

By Mr. HOTCHKISS: The petition of Haws & Giddings and 22 others, citizens of Bridgeport, Connecticut, protesting against increase of tax on cigars.

By Mr. HUBBARD, of Connecticut: A remonstrance of sundry citizens of Suffield, Connecticut, against proposed increased of tax on cigars.

By Mr. MORRELL: The petition of Edward Frysinger and 7 others, citizens of Lewistown, Mifflin county, Pennsylvania, engaged in manufacturing cigars, representing that the change from five to ten dollars per thousand in tax, as proposed in the revenue bill now before the House, would be ruinous to their interests, and praying that no change be made.

Also, a memorial of Francis A. Gibbons, asking for additional compensation for the erection of a building for the Department of Agriculture.

By Mr. NIBLACK: A memorial of Charles Viele and sundry others, citizens of Evansville, Indiana, remonstrating against any increase of the tariff on sugar, as prayed for by the sugar refiners.

By Mr. O'NEILL: The remonstrance of cigar manufacturers and dealers and journeymen cigar-makers of Philadelphia, against the proposed change in the tax on cigars, &c.

By Mr. PERHAM: The petition of David V. Lovell for amendment of the bounty act of July 28, 1866.

By Mr. ROBERTSON: The petition of Mrs. Emily Hooe, of Prairie du Chien, in the county of Crawford and State of Wisconsin, praying for the passage of an act for her relief by which she may receive the amount of twenty dollars per month for the period of six years, four months, and three days, being from the time of the death of her husband, Brevet Major Alexander Seymour, company C, fifth regiment infantry United States Army, to the 12th day of April, 1864.

By Mr. VAN AERNAM: The petition of 12 dealers in and manufacturers of cigars, of Olean, New York, praying Congress to pass a law to collect revenue on cigars by revenue stamps instead of inspector's stamps as now.

Also, the petition of 22 dealers in and manufacturers of cigars, of Jamestown, New York, on same subject.

By Mr. VAN HORN, of New York: The petition of Mrs. Jane McNaughton, asking for a pension in consequence of the death of her husband from diseases contracted while in the service of the United States.

By Mr. WILSON, of Ohio: The petition of James Trip and 78 others, citizens of Jackson county, Ohio, praying that a pension may be granted to William J. Jones, a destitute and insane soldier.

By Mr. WOOD: A remonstrance of cigar-makers and dealers of New York against proposed changes in tobacco tax.

#### IN SENATE.

THURSDAY, June 4, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Executive Clerk proceeded to read the Journal of yesterday; but was interrupted by Mr. EDMUNDS. I move that the further reading of the Journal be dispensed with.

Mr. BUCKALEW. I must object to that. The PRESIDENT *pro tempore*. The motion being objected to, the reading of the Journal will be continued. It can only be dispensed with by unanimous consent.

The Executive Clerk resumed and concluded the reading of the Journal.

#### SECRETARY OF THE SENATE.

Mr. ANTHONY. I move that the Senate proceed to the election of a Secretary. I suppose the proper motion would be to accept the resignation of the present Secretary. Is there not a motion pending to accept the resignation of the Secretary?

Mr. EDMUNDS. Make that motion.

Mr. ANTHONY. I move that the resignation of the present Secretary be accepted, and that the Senate proceed to the election of a Secretary.

The motion was agreed to.

Mr. CONNESS. If there be no objection I

move to suspend the rule that requires the election to be by ballot, that the Senate may come to an election by resolution.

The PRESIDENT *pro tempore*. It is moved that the rule that requires the election to be by ballot be suspended. It requires unanimous consent. Is there any objection? No objection being made it is dispensed with.

Mr. CONNESS. I now move that GEORGE C. GORHAM, esq., be elected Secretary of the Senate.

The motion was agreed to.

#### DEATH OF EX-PRESIDENT BUCHANAN.

Mr. BUCKALEW. I propose submitting a motion to the Senate, and I will preface it with a single remark. To-day the funeral obsequies of a very distinguished citizen of our country will take place at his residence in the county of Lancaster, Pennsylvania. He has held in the Government of the United States the positions of Representative in the lower House of Congress, of Senator in this body, of Secretary of State, of minister to Russia and to Great Britain, and finally the highest post known to our institutions, that of President of the United States. I suppose, under the circumstances, the Senate will not be disposed to proceed with the public business in which we are ordinarily employed, and I submit a motion that the Senate, as a mark of respect to the deceased, do now adjourn.

Mr. CAMERON. I rise to second the motion of my colleague, that the Senate adjourn out of respect to the memory of Mr. Buchanan, whose funeral takes place to-day. I wish to add to the motion, that when the Senate does adjourn it adjourn to meet again on Monday next.

Mr. BUCKALEW. My motion would only carry the session of the Senate over for the day. If my colleague desires to submit that modification of it I have no disposition to deprive him of the opportunity to do so. I will withdraw my motion if my colleague desires to submit his.

The PRESIDENT *pro tempore*. The motion to adjourn being withdrawn, the question is on the motion that when the Senate adjourns it adjourn to meet on Monday next at twelve o'clock.

Mr. HARLAN. I hope that motion will not be adopted. As chairman of the Committee on the District of Columbia I have been struggling to get a day for the consideration of the business that pertains to the people that live within it. One day was assigned last week, but the District business was crowded out by business that was supposed to be more important. Now, I hope that either on Friday or Saturday the Senate will give attention to that business. The motion of the Senator from Pennsylvania, [Mr. BUCKALEW,] of course, is a very proper one, and every Senator present will feel disposed to adopt it. Business will consequently be suspended for to-day; but it seems to me the Senate ought not to adjourn over Friday and Saturday.

Mr. CAMERON. I will merely say, in reply to the Senator from Iowa, that if we adjourn to-day, very properly, as he says, to-morrow will be Friday and the next day Saturday. Some days are needed just about this time to prepare the Chamber for the summer session. Last week the Sergeant-at-Arms called on me, and desired me to make a motion then to adjourn over Friday and Saturday; but at my instance the motion was postponed until to-day. If we do not adjourn now we shall have to adjourn next Thursday, and I think we had better do it now. This day is gone, by the proper motion for adjournment which is made. It will hardly be necessary or proper for us to come back here to-morrow, especially as a number of Senators will be away, will go home because of the present adjournment. I think, therefore, we might as well now adjourn over until Monday, and we shall save time by it.

Mr. POMEROY. There are public measures of the greatest importance pressing upon the attention of the Senate, and I do not think



we would be justified in adjourning until Monday. We have had so many adjournments, and are so far behind in business, and the hot weather is so pressing upon us, that I think we ought to husband our resources as well as our days, and make use of every one.

The PRESIDENT *pro tempore*. It is moved that when the Senate adjourns it adjourn to meet on Monday next.

The motion was not agreed to.

Mr. BUCKALEW. I now renew my motion that the Senate, as a mark of respect to the memory of Mr. Buchanan, whose funeral obsequies take place to-day, do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, June 4, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Clerk proceeded with the reading of the Journal, when, on motion of Mr. ALLISON, by unanimous consent, the further reading was dispensed with.

### BOURASSA AND OTHERS.

On motion of Mr. HOLMAN, by unanimous consent, the memorial and papers in relation to the claim of Bourassa, Bertrand, and Navarre were withdrawn from the files of the House without copies being left, the same having been printed.

### DEFICIENCY BILL.

Mr. STEVENS, of Pennsylvania, from the Committee on Appropriations, reported back the Senate amendments to the bill (H. R. No. 1117) to supply deficiencies in the appropriations for the fiscal year ending on the 30th of June, 1868, recommending concurrence in the same with an amendment.

The amendments of the Senate were reported, as follows:

At the end of the bill add the following:

For deficiency in the appropriation for defraying the expenses of hydration of the Senate Chamber \$3,000.

For deficiency in the appropriation for furniture and repairs, \$5,000.

For deficiency in the appropriation for clerks to committees, pages, horses, and carriages, \$15,000.

Amend the title by inserting after the word "to" the word "partially," and by striking out the word "partial," so that it will read "An act to partially supply deficiencies," &c.

The amendment of the committee was to add at the close of the Senate amendments the following:

To supply deficiency in the contingent fund of the Pension Office, \$10,000.

The amendment was agreed to.

The amendments of the Senate, as amended, were then concurred in.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### HEIRS OF GEORGE FISHER.

Mr. STEVENS, of Pennsylvania. I ask leave to report a special appropriation bill, containing an item that has passed this House three times, but was omitted in the general appropriation bill. I suppose there will be no objection. It is House bill No. 1121, to prevent an appropriation therein mentioned from lapsing because of delay in the adjustment.

No objection being made, the bill was considered. It provides that to enable the Secretary of War to carry out an award from the Department, made in pursuance of a resolution of Congress, approved June 1, 1860, in favor of the heirs and legal representatives of George Fisher, deceased, for military spoiliations by the United States troops during the war with the Creek Indians, the appropriation contained in the first section of the original act passed for the relief of the claimant, approved April 12, 1848, shall not be allowed to lapse in consequence of delay in the adjust-

ment, and the same is hereby rescinded and made available, and that the rescinding resolution, approved March 2, 1861, which has had the effect of suspending the case be and the same is hereby repealed.

Mr. HOLMAN. Is that a report from a committee?

The SPEAKER. It is a report from the Committee on Appropriations. Is there objection to its reception?

Mr. HOLMAN. I presume that the effect of the suspending act of 1861 is not very well understood, as the subject has not been very recently before the House.

Mr. STEVENS, of Pennsylvania. I report the following amendment as a proviso to the bill:

*Provided*, That the sum allowed shall not exceed \$16,000.

I may say that the sum originally allowed was \$32,000. It has been adjusted until I think the sum ought not to exceed \$16,000, and the claimant, who is the widow of Henry Winter Davis, has agreed to take that and have no further difficulty. It was not received on account of the death of Mr. Davis. I hope the report will be received.

The SPEAKER. The Chair hears no objection to the reception of the report.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. STEVENS, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### SHIP GOLCONDA.

Mr. O'NEILL. I rise to a privileged question. I offer the following resolution for the purpose of correcting an error:

*Resolved*, That the Clerk be directed to request the return of the bill (H. R. No. 448) to change the name of the ship Golconda, the same having been inadvertently sent to the Senate as having passed the House.

The SPEAKER. This is to correct a manifest error.

The resolution was agreed to.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. HAMLIN, one of its Clerks, informed the House that the Senate had passed a bill (S. No. 357) to provide a temporary government for the Territory of Wyoming, in which he was directed to ask the concurrence of the House.

### ORDER OF BUSINESS.

Mr. ALLISON. I demand the regular order of business.

The SPEAKER. The regular order of business is the call of committees for reports; and the Committee on the Public Lands is entitled to another morning hour.

Mr. JULIAN. Before the hour begins, I ask the unanimous consent of the House to make a statement in reference to the business of the Committee on the Public Lands.

No objection was made.

Mr. JULIAN. The amount of business referred to the Committee on the Public Lands, as every gentleman knows, is very great, and much of it is important public business. It seems to be constantly on the increase, and the committee, I am sure, is anxious to do its whole duty. But it is wholly impossible within the two morning hours allowed us to dispose of the matters referred to us, which really demand the attention of Congress, and to which I think there will be no objection. I therefore ask unanimous consent that the Committee on the Public Lands may have an additional hour to-morrow if there are no private bills in the way, or if not to-morrow, immediately after the tax bill is disposed of.

Mr. PERHAM. I object to it so far as to-morrow is concerned. That is private bill day, and there are a number of pension bills that I desire the House to pass.

Mr. JULIAN. Then I ask that we may

have an hour immediately after the tax bill is disposed of.

Mr. TROWBRIDGE. I object until the other committees shall have been called.

Mr. JULIAN. I do not mean to take the morning hour of any other committee, but only ask that we shall have an hour immediately after the tax bill is disposed of, not interfering with any other committee.

Mr. TROWBRIDGE. Then I withdraw the objection.

The SPEAKER. The gentleman from Indiana asks that the House grant unanimous consent that the Committee on the Public Lands may have an additional hour, to commence immediately after the tax bill is disposed of in the House. Is there objection?

Mr. INGERSOLL. I object.

Mr. JULIAN. I have stated that I do not wish to interfere with the time of any other committee, but only that we may have an hour after the tax bill shall be disposed of.

The SPEAKER. The Chair so stated.

Mr. INGERSOLL. I desire to inquire if that arrangement would affect the rights of any other committee? Will it postpone the morning hour, or postpone the regular call of any other committee?

The SPEAKER. It probably would not come in the morning hour, but at a later period of the day, and postpone other business which will come up after the tax bill. What that business will be the Chair cannot now predict.

Mr. STEVENS, of Pennsylvania. I must object, at least until the Committee on Appropriations have had an opportunity to dispose of several little appropriation bills, which should soon be considered.

The SPEAKER. The morning hour has now commenced.

### HOMESTEADS.

Mr. JULIAN, from the Committee on the Public Lands, reported back, with a recommendation that the same do pass, House bill No. 934, amendatory of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, and of the acts amendatory thereof, approved March 21, 1864, and June 21, 1866.

The question was upon ordering the bill to be engrossed and ordered to a third reading.

The bill was read at length. It provides that any person who may have been in actual service in the military or naval service of the United States during the late civil war, and who may have been honorably discharged therefrom, be, and such person is hereby, relieved from the payment of the fee required by the several acts of which this act is amendatory; provided, however, that this shall not be construed to relieve the party from the payment of the commissions allowed to the local land officers under the homestead acts. And provided further, that the proof of such actual service shall be produced according to such instructions as may be given by the Commissioner of the General Land Office, with a view to give full effect to this act.

Mr. JULIAN. I desire to state, in one word, the object of this bill. It simply provides that in the case of any soldier or sailor honorably discharged from service during the late war the five dollars exacted of the claimant for eighty acres, or the ten dollars exacted for one hundred and sixty acres, shall be remitted. That is the whole bill, and I apprehend there will be no objection to it.

The bill is reported as a substitute for House bill No. 799, providing large land bounties for soldiers, upon which the Committee on the Public Lands have already made a report, which has been printed; and as the question of land bounties is again agitated, I beg leave to call the attention of the House to that report, which is as follows:

The Committee on the Public Lands, to whom was referred House bill No. 799, granting bounty land to soldiers who have been engaged in the military service of the United States in the war of the rebellion, have had the same under consideration, and now respectfully submit the following report:

The proposition embodied in this bill should be considered under the twofold aspect of its relations to the soldier, and its effect upon the settlement and improvement of the public domain; and a few well-known facts, which properly belong to the inquiry, will clearly point the way to a just conclusion.

At the close of the last fiscal year there remained outstanding fifty-three thousand nine hundred and twelve military bounty-land warrants, issued under various acts of Congress, calling for the aggregate quantity of five million six hundred and three thousand two hundred and twenty acres. These warrants are selling at about one dollar per acre. Under the agricultural college act of 1862 scrip has been issued to non-public land-holding States to the amount of five million three hundred and forty thousand acres; and when the States of the South shall have received their shares under the act the whole amount of land covered by it will be nine million six hundred thousand acres. This will be the subject of monopoly in the hands of speculators, and the price of the scrip will depend, to a considerable extent, upon the quantity of it in market, and of the unlocated military bounty-land warrants. The price has generally ranged from sixty to seventy cents per acre, but has sometimes gone much lower. As further affecting the price of warrants and scrip, it should be remembered that over forty-three million acres of "swamp and overflowed lands" have been granted by Congress to the States, more than one half of which is probably in the hands of monopolists; that about two hundred million of acres have been granted to aid in building railroads and for other purposes of internal improvement, thus inaugurating further and fearful monopolies of the public domain; and that millions of acres of Indian lands, by virtue of the most pernicious treaty stipulations, are falling into the hands of monopolists, thus still further aggravating the wide-spread evils long since inflicted upon the country by the ruinous policy of land speculation. Every day gives birth to some new scheme of monopoly by which the paramount right of the people to homes on the public domain is abridged or denied, and its productive wealth seriously retarded; and no one will need be told that, should this policy be continued, the opportunities of settlement and tillage under the preemption and homestead laws must constantly diminish.

Keeping these facts in remembrance, the effect of the proposed measure upon the interests of the soldier must be quite apparent. It provides that "those who engaged to serve twelve months or more, and actually served nine months, shall receive one hundred and sixty acres of land; and those who engaged to serve six months, and actually served four months, shall receive eighty acres; and those who engaged to serve three months, and less than six months, shall receive forty acres." Under the first class specified there are two million thirty-seven thousand four hundred and thirteen soldiers, which number, multiplied by one hundred and sixty, gives the number of acres required, namely, three hundred and twenty-five million nine hundred and eighty-six thousand and eighty. Under the second class there are sixteen thousand three hundred and sixty-one soldiers, who, at eighty acres each, would require one million three hundred and eighty thousand eight hundred and eighty acres. Under the third class there are one hundred and ninety-one thousand eight hundred and eighty-five, which, multiplied by forty, requires seven million, six hundred and seventy-five thousand four hundred acres. These are the official figures which have been supplied by the War Department, after first deducting the number of acknowledged deserters, those who paid commutation, and those who were dishonorably discharged. The total number of soldiers to be provided for, as will be seen, is two million two hundred and forty-five thousand six hundred and fifty-nine, and the aggregate quantity of land required is three hundred and thirty-four million nine hundred and seventy thousand three hundred and sixty acres, being more than one third of our remaining public domain, and at least one half the arable portion of the same. Now, considering the present price of college scrip, and of military bounty-land warrants, and the stupendous monopoly of the public domain which is constantly going on and threatening to swallow it up, what would be the natural effect of throwing upon the market two million two hundred and forty-five thousand six hundred and fifty-nine land warrants, made assignable by this bill, like those already issued? Every man can answer this question for himself; but the committee believe the price of warrants would fall as low as twenty-five cents per acre. It would, at all events, be a cruel mockery of the just claims of the soldier, and the policy in question cannot, therefore, be insisted upon in his interest. If land is what he wants he can have it on the liberal terms of the homestead law, prescribing, however, the indispensable necessary conditions of settlement and improvement. If a bounty in money is what he needs, and we admit the necessity, then let money be granted by Congress, and let the just claims of soldiers be equalized, by the payment of a fixed sum per month during the time of service, as provided for in the bill which has repeatedly passed the House of Representatives, and as repeatedly defeated in the Senate.

But this measure will appear far more indefensible if we consider its effects upon the settlement of the public domain. This subject was carefully considered by the House Committee on the Public Lands of the Thirty-Ninth Congress, and perhaps we cannot do better than adopt their language in responding to a petition praying for bounties in land: "All the evils of land speculation, to an extent as alarming as it would be unprecedented, would be the sure result. Capital, always sensitive and sagacious, would grasp these warrants at the lowest rates. Land monopoly in the United States, under this national sanction,

would have its new birth, and enter upon a career of widespread mischief and desolation. Speculators would seize and appropriate nearly all the choice lands of the Government, and those nearest the settled portions of the country, while homestead claimants and preëmptors would be driven to the outskirts of civilization, meeting all the increased expense and danger of securing homes for their families, and surrendering the local advantages of schools, churches, mills, wagon-roads, and whatever else pertains to the necessities and enjoyments of a well-settled neighborhood. This policy would stop the advancing column of immigration from Europe and of emigration from the States, which has done so much to make the public domain a source of productive wealth, a subject of revenue, and a home for the landless thousands who have thus at once become useful citizens and an element of national strength. It would, in fact amount to a virtual overthrow of the beneficent policy of the homestead law, which has, perhaps, done more to make the American name honored and loved among the Christian nations of the earth than any single enactment since the formation of the Government."

These considerations are quite as pertinent to-day as they were two years ago; indeed, time and events have given to them a new emphasis, and invested them with a meaning which the representatives of the people have no liberty to disregard. Considered in the light of the facts we have submitted, the measure under notice can only be regarded as a frightful scheme of spoliation and mischief; and while it was doubtless proposed in the imagined interest of the soldier, the committee cannot believe that the men whose valor and self-sacrifice saved the nation from ruin demand any such relief at the hands of Congress.

But while the committee earnestly urge these considerations, they believe the land policy of the Government ought to discriminate in favor of our honorably discharged soldiers and seamen, where this can be done consistently with the actual settlement of the public lands. Such discrimination may be made by declaring them absolutely free to such persons, save the trifling fees of the land officers, the aggregate of which forms an important part of their compensation, and cannot be remitted without disturbing the long-established and satisfactory machinery of our land policy. The committee therefore beg leave to report the accompanying bill as a substitute for that which they have considered, and which they ask may lie upon the table.

Mr. JULIAN. I also call attention to the following communication from the Commissioner of the General Land Office upon the general subject of bounty lands, and particularly upon House bill No. 940, for the equalization of bounties, reported from the Committee on Military Affairs.

The communication is as follows:

DEPARTMENT OF THE INTERIOR.  
GENERAL LAND OFFICE, May 12, 1868.

SIR: I have examined the inclosed bill H. R. No. 940, to equalize bounties of soldiers, sailors, and marines, who served in the late war for the Union, which I had the honor to receive from you with the request for a statement as to the probable effect of the measure in the light of the experience of this office.

I find the bill provides for the issue to soldiers, sailors, and marines, of interest-bearing certificates, to be used by them or their heirs in payment for public land which they may hereafter purchase from the Government, that such certificates are in no wise transferable, and that the interest will continue to accrue without limitation until the recipient may see fit to purchase land therewith.

The act of September 23, 1850, granting bounty lands to soldiers who had served in any of the wars in which the United States had been engaged, contained a provision that the warrants thereby authorized to be issued should be located by the soldier or his heirs, thus preventing their assignment and sale. This provision gave such general dissatisfaction that Congress passed the act of March 22, 1852, authorizing the transfer of any warrant then issued or to be issued.

The files and records of this office show that not one in five hundred of the land warrants issued and placed in the hands of the soldiers or their heirs have been located by them, or for their use and benefit, and further, that although the said act of March 22, 1852, made such warrants assignable; it is safe to assume that not to exceed ten percent, of them have been used by preëmptors as assignees in payment for actual settlements, the most part having been used by persons to acquire title to the public lands for speculative purposes.

Should the bill under consideration become a law and by future legislation be so modified as to make the certificates assignable or available to the soldier or his heirs without becoming settlers on the public lands, there is no reason that can be suggested by this office why results like those in respect to the past issues may not be looked for in regard to the certificates contemplated by the present measure, the effect of which would be to transfer to non-resident proprietors large bodies of the public domain.

I am, sir, very respectfully, your obedient servant,  
JOS. S. WILSON,  
Commissioner.

HON. GEORGE W. JULIAN, House of Representatives.

In the light of these facts, Mr. Speaker, it is easy to see the effect of the measures referred

to, or of any measure offering bounties in land. A communication has been addressed to me from the War Department showing that over one hundred million acres would be required by the bill of the Military Committee, which would fall into the hands of speculators, while mocking the just claims of the soldier to bounty.

Mr. HOLMAN. I would inquire what is the necessity for the first proviso of this bill, which is as follows:

*Provided, however.* That this shall not be construed to relieve the party from the payment of the commissions allowed to the local land officers under the homestead acts.

Mr. JULIAN. I will answer the gentleman. The land-office fees are a mere trifle to the individual claimant; yet they go to make up the aggregate of the compensation of the registers and receivers. To wipe that out would derange our entire land system and make it necessary to increase salaries generally, which we are not willing to do. I now call the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. JULIAN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

F. N. BLAKE.

Mr. DRIGGS, from the Committee on the Public Lands, reported a bill (H. R. No. 1158) authorizing the Commissioner of the General Land Office to issue a patent to F. N. Blake for one hundred and sixty acres of land in Kansas; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The preamble of the bill states that military bounty-land warrant No. 82578, for one hundred and sixty acres, was issued, under the act of March 3, 1855, in the name of Betsy Foster, and by her sold and assigned to F. N. Blake, and thereafter lost by him; that Blake proved the ownership and loss of said warrant to the satisfaction of the Commissioner, who issued a duplicate warrant, which was located on the northeast quarter of section twenty-five in township six south, in range one east, in the State of Kansas.

The bill, therefore, provides that the Commissioner of the General Land Office shall cause a patent for the land to be issued to F. N. Blake as if the duplicate land warrant had been assigned to him by the warrantee.

Mr. DRIGGS. This bill has been prepared by the Commissioner of the General Land Office, and is all right.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. DRIGGS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MICHIGAN AND WISCONSIN LAND GRANTS.

Mr. DRIGGS also, from the Committee on the Public Lands, reported back a bill (S. No. 331) to extend the time for completing the military road authorized by an act entitled "An act granting lands to the States of Michigan and Wisconsin to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Keweenaw county, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin."

The bill, which was read, provides that the time for completing the military road and for the sales of the lands authorized by the act named in the title be extended till March 1, 1870.

Mr. DRIGGS. This bill simply proposes to

extend till March, 1870, a land grant heretofore made to the States of Wisconsin and Michigan for a military road. This road, which is a wagon-road, is now partially completed; and we propose to extend the time, as will be seen, for only one year and ten months. This is petitioned for by a large number of the people of that country and by the Legislature of the State of Wisconsin. The bill makes no new grant. This short extension is asked in consequence of the death of one of the contractors, by which the work was thrown back. The extension proposed is for the shortest possible time that will enable the parties to complete the road.

Mr. MAYNARD. Why does the bill say one year and ten months?

Mr. DRIGGS. The bill names the 1st of March, 1870, as the limit, which is one year and ten months from the present time. The bill has been delayed since its original introduction.

The bill was ordered to a third reading, read the third time, and passed.

Mr. DRIGGS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### VIRGINIA MILITARY DISTRICT, OHIO.

Mr. ECKLEY, from the Committee on the Public Lands, reported back a bill (H. R. No. 816) to authorize homestead entries in the Virginia military district in Ohio, and moved that the committee be discharged from the further consideration of the bill.

The motion was agreed to, and the bill was laid on the table.

Mr. ECKLEY also, from the Committee on the Public Lands, to which was referred a resolution directing an inquiry into the propriety of ceding to the State of Ohio the balance of public lands unclaimed therein, reported a bill (H. R. No. 1159) to cede to the State of Ohio the unsold lands in the Virginia military district in said State; which was read a first and second time.

The bill, which was read, provides that the lands remaining unsurveyed and unsold in the Virginia military district in said State be ceded to the State of Ohio upon the condition that any person who at the time of the passage of the act is a *bona fide* settler on any portion of the land, may hold not exceeding one hundred and sixty acres by him occupied by preemption in such manner as the Legislature of the State of Ohio may direct.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. ECKLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### VIRGINIA MILITARY DISTRICT IN OHIO.

Mr. ECKLEY, from the same committee, reported back House bill No. 794, to reopen the land office in the Virginia military district of Ohio, and for other purposes, and moved that it be laid on the table.

The motion was agreed to.

#### PROTECTION OF ACTUAL SETTLERS.

Mr. DONNELLY, from the same committee, reported back House bill No. 23, to protect the rights of actual settlers upon the public lands of the United States, with the recommendation that it do pass.

The bill, which was read *in extenso*, provides that in no case shall more than three sections of public lands of the United States be entered in any one township by means of scrip issued to any State under the act approved July 2, 1862, for the establishment of an agricultural college therein.

Mr. DONNELLY. Mr. Speaker, two or three words will explain the purpose of this bill. Under the existing laws as to agricultural scrip it can be located in any one State to

the amount of one million of acres. It is sold at a low price, from fifty and sixty to seventy cents per acre. It has been in some States the means of great local injury by the location of scrip in great bodies, thus excluding settlement and preventing the development of the country. This provides that not more than three sections shall be located in any one township, so that the effect will be distributed, and there will be no injury done to the development of the country. If there are no questions to be asked I shall demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DONNELLY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NAVIGATION OF THE MISSISSIPPI.

Mr. DONNELLY, from the same committee, also reported back House bill No. 554, making a grant of land to the State of Minnesota to aid in the improvement of the navigation of the Mississippi river, with amendments.

The first section of the bill provides that there be granted to the State of Minnesota, for the purpose of aiding said State in constructing and completing a lock and dam at or near Meeker's Island in the Mississippi river in said State, and thereby facilitating the navigation of the Mississippi river between the Falls of Saint Anthony and the mouth of the Minnesota river, two hundred thousand acres of public lands, to be selected in alternate odd-numbered sections by an agent to be appointed by the Governor of said State, subject to the approval of the Secretary of the Interior; provided, that said lands shall be selected from the public lands lying within the limits of the said State of Minnesota, and that not more than one section thereof shall be selected in any one township; provided further, that said selections shall not be made from any lands designated by the United States as "mineral" before the passage of this act, nor from any lands to which rights of preemption or homestead have attached.

The second section provides that said lands so granted shall be subject to the disposal of the Legislature of said State; and the said lock and dam shall be and remain forever a public highway, free from any toll or charge of any kind whatever; and the said Legislature shall have power to pass all needful rules and regulations that may be necessary to fully carry out the purposes of this act.

The third section provides that if said lock and dam are not constructed within two years from and after the date of the acceptance and disposition of this grant by the Legislature of the said State, the lands hereby granted shall revert to the United States.

And the fourth and last section provides that at any time after the selection of said lands, and subsequent to the completion of said lock and dam, the lands hereby granted shall be open for settlement by actual settlers, upon paying to the company who may construct said lock and dam a price not exceeding \$2 50 per acre for the same.

The amendments are as follows:

In line five, section one, after the words "Meeker's Island," insert "so called."

In line sixteen, strike out "lands designated by the United States as 'mineral' before the passage of this act" and insert "containing mines of gold, silver, cinnabar, or copper."

In line three, section three, after the word "State," insert "for the purposes mentioned in the first section of this act."

In line two, section four, strike out "said lands, and subsequent to the completion of said lock and dam."

Strike out in same section, lines five and six, "to the company who may construct said lock and dam;" and strike out "\$2 50," and insert "\$1 25" in lieu thereof.

Add to the section "which shall be paid by the

State to the company who may construct said lock and dam."

Add the following section:

SEC. 5. And be it further enacted, That if at any time prior to the completion of the said lock and dam the Government of the United States shall make an appropriation in money sufficient to construct said lock and dam, then the grant of land herein shall revert to the United States.

Mr. STEVENS, of Pennsylvania. I am afraid that this bill as it now stands might affect previous grants made to railroads.

Mr. DONNELLY. Not at all.

Mr. STEVENS, of Pennsylvania. I do not think that is the intention, but I move to amend the last section by saying "this act shall not affect the lands already granted for railroad purposes."

Mr. DONNELLY. I accept the amendment. That was the intention of the committee.

The SPEAKER. The gentleman cannot accept it, the bill being reported from a committee.

Mr. DONNELLY. I will permit it to be offered.

The amendment of Mr. STEVENS was agreed to; and the amendments reported by the committee were also agreed to.

Mr. DONNELLY. This is a grant which by its terms is confined to the limits of the State of Minnesota, and can apply only to lands lying in that State. The Legislature of Minnesota have unanimously memorialized Congress to make this grant. The memorial is as follows:

To the honorable the Senate and House of Representatives of the United States of America in Congress assembled:

Your memorialists, the Legislature of Minnesota, on behalf of the people of said State which they represent, most respectfully yet earnestly memorialize your honorable bodies for aid to perfect the navigation of the Mississippi river to the Falls of St. Anthony, by an appropriation of lands therefor, in furtherance of the commerce of no less than ten States directly interested.

They would state, as an historical fact which cannot be successfully disputed, that up to 1857 steamboats of the average tonnage used on the Mississippi above St. Louis made regular trips to within two and a half miles of the falls, that is, to the rapids at the foot of the falls, and occasionally to the two cities situated on their banks; that such was the confidence inspired by these early efforts that large sums of money were expended by the citizens in warehouses, and in the removal of obstructions on the rapids, till the commercial disasters of 1858-59, followed by a series of unparalleled droughts, before unknown to the country, and the great civil war just ended, put an end to an enterprise which should be assumed or aided by the Federal Government, that has exclusive power to regulate commerce between the States. In consequence of these delays and public disasters, and the distance of the foot of the rapids (to which boats could regularly come) from the two cities at the falls, navigation hitherto has been suspended, or rather has receded some sixteen miles, to St. Paul, where all the freight destined to these cities (Minneapolis and St. Anthony) and the vast regions north and west dependent on them for their goods and groceries, must break bulk and be carried on cars or wagons to their destination.

The unnecessary expense of transhipping, draying, and rehandling all this freight almost insight of the falls, it is proposed to remedy by a lock and dam at the foot of the rapids, and thus practically extend the navigation of the Mississippi full sixteen miles, to its natural limit and proper terminus. Accordingly, the Legislature of Minnesota, fully appreciating the importance of the work, unanimously passed an act in 1857 to incorporate the Mississippi River Improvement and Manufacturing Company, with the leading object in view of perfecting the navigation to the falls by a lock and dam at or near the foot of the rapids, with the incidental privilege of using the water-power created thereby for manufacturing purposes; and as late as February of last year again expressed their sense of its necessity by extending the time for its completion. The original incorporators and the present officers and stockholders are all men permanently interested in the faithful prosecution and eventual success of the enterprise. The capital stock authorized is \$200,000, nearly all of which has been taken, and \$19,000, or ten per cent. of \$100,000, paid prior to the organization of the company. But they cannot now look to the incidental advantage of using the water as any adequate return for their labor and capital, as the inexhaustible resources in this respect above and on the falls, already developed, are enough to supply all demands for years to come. The inadequacy, therefore, of compensation, present or future, from this source, must be apparent, when taken in connection with the fact that their charter requires them to lock boats and rafts through free and without charge.

The cost of the lock and dam is variously estimated all the way from one hundred and fifty to two hundred thousand dollars. To expect the State of



Minnesota to incur such an expense would hardly be reasonable, when every State washed by the Mississippi, from the Falls of St. Anthony to the Gulf of Mexico, is equally interested and benefited. It was equally unreasonable to exact of private capital a great commercial improvement when the Constitution has invested Congress with the charge of such works. Nor is it proposed to add to the burden of the Government by the further use of its credit, but only to ask a moderate share of that resource on which it is now the settled policy no longer rely as a fountain of revenue—the public lands. The hundred millions of acres already donated directly or indirectly to railroads, and additional millions of acres more for agricultural colleges and free homes, conclusively prove that it is no longer the purpose of the Government to look to this fund for revenue.

Your memorialists, therefore, ask a grant of lands to be passed to said company in installments, as their work on the lock and dam progresses and is approved by the United States Secretary of the Interior, in accordance with a bill which will be introduced at the present session of your honorable bodies.

They make this appeal in strong confidence of the justice of the case, and of the liberality of Congress toward a section of our country which, in addition to the trials incident to all new States, has just emerged from an expensive and exhaustive war, in which full one third of her adult male population was gloriously engaged.

They do not ask a grant to aid in the construction of a canal where none was before built, but to effect an extension of sixteen miles to the grandest canal on the globe, fed by the fountains of a continent and the clouds of heaven, a parent trunk which, with its hundred navigable branches, floats nearly two thirds of the entire commerce of the Union. Every mile of the navigation on the Mississippi permanently reclaimed adds a mile more to each of its tributaries, or, what is equivalent, to an increased commercial intercourse of one hundred miles, if there be so many navigable branches.

Neither do they ask the grant to open some new road, but to make some slight repairs of the natural track and beaten road of the commerce of the West, from the dawn of its first settlements. Your memorialists are aware of the generous grants already made in aid of railroads, and the marvelous development of the Northwest by their construction; but it is a singular fact that all these great thoroughfares are but the extensions of lines running east and west, giving the commerce and intercourse of the country a sectional bearing, and turning the trade over more expensive and unnatural channels. The North naturally wants what is produced or grown in the South, and the South what is grown or produced in the North. To supply one section with the surplus which can be spared by the other is just the business and appropriate office of commerce, and all the improvements of a growing and commercial people should be directed accordingly. The lumber regions of Minnesota certainly do not require a commercial thoroughfare through similar districts in Wisconsin, Michigan, and New York. That would be to carry coal to Newcastle. But rivers, railroads, and canals, looking from the pineries of Minnesota to the plains of Iowa, Missouri, and Illinois, just supply the mutual wants and necessities of both, taking lumber as a convenient illustration for the principle here contended for. So of flour, corn, pork, and beef, their best home market is and ever will be South. So, also, our woolen and cotton fabrics, or whatever else we may manufacture in the North or Northwest, will have their best market South or Southwest.

On the other hand, we are in just as much need of the productions of the South, as cotton, rice, sugar, molasses, &c. Direct communication, therefore, is both natural and necessary, and the all-beneficent Creator has graciously anticipated the wants and necessities of unborn millions in having given us exactly such a continuous means of supply and exchange from the Falls of St. Anthony to the Gulf of Mexico. That means is the Mississippi river, the cheapest and directest channel of intercourse and commerce between the sections. It is more: it is now and ever will be and remain the great regulator and moderator of fare and freights among the rival carriers of the commerce of the West. All recollect with what haste and facility the various railroad lines combined to increase the cost of travel, and double, and in some instances triple and quadruple, the cost of transporting the produce of the West during the late non-intercourse measures in the Lower Mississippi. So enormous were their rates that, high as all kinds of produce were, the agriculturists and other producers could not realize any remunerative returns, as all was swallowed up in commissions and freights, but which speedily receded as soon as the manacles of war were removed from the great Father of Waters.

While, therefore, there is a direct and peculiar interest in all the States south of us to the Gulf, to reach the cities at the falls without breaking bulk and transshipment, the manufacturing and the trade now centered there call aloud for this consummation. The raw material shipped, wheeled, or floated there for manufacture is simply enormous, though manufacturing there is but in its infancy. Wool, wheat, wood, iron, brass, mill-logs, rags, are there, by our facile water-power respectively worked into satinetts and broadcloths, flour, wooden-ware, implements and machinery, lumber and paper, most of which finds a market south of us. Hon. Horace Greeley, while on a visit to that city to attend our State fair last October, thus speaks of Minneapolis alone. After referring to the fact that we had about nine thousand inhabitants at the Falls of St. Anthony, he adds: "Minneapolis has advantages enough in her enormous yet facile water-power, which may be made to give employment to a population of one hundred thousand souls. It has no superior but Niagara, and surpasses that, inasmuch as the pineries above and the wheat and lands all around are calculated to supply it with profitable employment. And these are but the rude beginnings. Already, beside a paper-mill and other such, a woolen factory is in full operation, turning out eight hundred yards per day of satinetts and other substantial fabrics, all of which find an eager home market, as they will when the daily production shall have been quadrupled. Another such is nearly ready, and there is room and profitable business for a dozen more, and for cotton factories, also. Nowhere on earth are the beneficent influences of our protective tariff destined to be more signally or more promptly realized than through the great West. And this city, as one consequence, ought to quadruple its population within the next ten years."

The St. Paul Press, the leading journal of the State, and from whose locality could not be expected to do a rival over-justice, in its weekly issue of the 20th July last, uses the following words:

"The Falls of St. Anthony have already attained a poetical and practical reputation sufficiently wide to attract tourists and shrewd business men from hundreds of miles away. And well are they repaid for their investment. If nature can be supposed to have any eye to business, she must have made a speciality of this point, and her efforts are certainly entitled to commendation, for the towns situated upon either bank of the falls are undoubtedly destined to rank among the most prominent manufacturing places in the United States. A glance at the different branches of trade, and what has already been done, will convince the most casual reader of the correctness of the above statement."

The editor of the press then goes into a careful and elaborate examination of each leading interest or business in manufacturing. We shall only insert this summary of each, without publishing his observations in detail. Concluding his remarks on the lumber trade there, he says:

"To carry on such an immense business a large capital is necessarily employed, and few are aware of the amount that has been absorbed by the lumber trade at this point. A careful estimate based on the cost of the logs per thousand shows that, including the cost of the mills, about seven hundred thousand dollars are required to carry on the present lumber trade of Minneapolis, and \$350,000 for that of St. Anthony, making the total capital required for the lumber trade at the falls \$1,050,000. This, too, when the trade is comparatively in its infancy."

He thus speaks of its market and destination when manufactured:

Three rafts have been sent from Minneapolis and two from St. Anthony this season, and five more are nearly ready. Some of these rafts go as far as Memphis. Three million feet have been sent to St. Louis, and thence by steamer to New Orleans. In Minneapolis all the dealers have large yards, in which are immense stacks of lumber. A considerable quantity comes to the lumber yards in this city: one of the mill owners, Mr. Washburn, has a very large quantity in Wabashaw street. Upon the opening of the Central road in the fall, from fifteen to twenty million feet will be sent to Faribault and intermediate points. Large orders from Dubuque and other river points are being constantly received, and the demand is unprecedentedly large.

The following is his summary under the head of flour:

"The product of the custom mills we make no estimate of, as the amount must necessarily vary from day to day. The capacity of the three merchant mills is nearly six hundred barrels per day, and about four hundred are now being actually manufactured."

"The capital, including mill sites, &c., invested in this branch of trade, does not vary much from one hundred and fifty thousand dollars."

"A large quantity of the flour is, of course, used for home consumption. Our State is not largely supplied with flouring mills, and hence the mills have quite a large home trade. Large shipments are constantly made, the leading points to which it is sent being Boston, Chicago, and St. Louis."

He thus concludes his article on wooden ware, such as pails, churns, tubs, and measures:

"This firm nearly supply the whole State, and the river trade, as far as Dubuque, with wooden ware. High freights have prevented shipments which would otherwise have been made, but the demand near home has kept them constantly engaged. Some large lots have been shipped to St. Louis."

He thus speaks of a firm engaged in the manufacture of wool:

"This firm make weekly consignments of goods to large wholesale houses in Chicago and St. Louis. They also sell largely near home. The prices of their goods range from eighty-five cents to two dollars per yard. With the farmers they exchange cloth for wool, where goods are desired."

"The capital invested in the mill and stock amounts to \$100,000."

"On the opposite side of the canal, Veazie, Demerott, & Browne have erected a fine three-story stone building, fifty by seventy, for a woolen factory. The building is now ready for the machinery, and they expect to have their factory in operation in the course of a month."

Of the manufacture of paper he says:

"This mill was started six years ago, and manufactures printing and wrapping paper only. Thirty hands are employed, and it is now making one thousand pounds of print and two thousand pounds of wrapping paper daily. The printing sells for twenty cents a pound, and the wrapping wholesale at six and a half cents. Fifty thousand dollars capital is invested in the business. The rags are

obtained principally in the State, and are shipped up from as far down as La Crosse.

"This mill supplies the whole State and part of Wisconsin with printing paper, and its surplus manufacture is sent to Chicago."

He closes his article thus:

"The following table gives the amount of capital, as near as can be ascertained, in the leading branches of business:

Lumber trade.....	\$1,050,000
Flouring.....	150,000
Wooden ware.....	20,000
Woolen mills.....	150,000
Paper mill.....	50,000
Sash, blinds, &c.....	15,000

Total capital..... 1,435,000

To which should have been added an iron and brass foundry, and machine-shop attached, with a capital of \$75,000 invested..... 75,000

\$1,510,000

"The following shows the daily products at the present time, but in most branches the capacity is greater.

Lumber, feet.....	400,000
Flour, barrels.....	400
Pails and tubs.....	800
Woolen cloth, yards.....	700
Paper, pounds.....	3,000

"No remarks of ours can add to the force of this array of figures; and when we consider the few years which have elapsed since the region where these manufactories now stand was inhabited, the result is truly surprising. This is but the beginning of the manufactories which will be attracted by this great natural power, and the most sanguine expectations will undoubtedly be more than realized."

But enough has already been exhibited, it is respectfully conceived, to attract the eye of the national Legislature to this future Lowell and commercial entrepot to the vast fertile regions north and west of us.

Your memorialists respectfully suggest that the grant of lands directly to said company is not in aid or furtherance of any system of internal improvements legitimately belonging to the State, but savors more of the extension of the navigation of the Mississippi, and the regulation of commerce between the States, and that, therefore, the work should be practically adopted by the Federal Government. But if your honorable bodies should regard the measure as coming properly under the head of State improvements, it is with great deference submitted whether a direct grant to the company, even in such a case, has not the sanction of authority and precedent in the cases of the Leavenworth, Pawnee, and Western Railroad Company of Kansas, and the Central Pacific Railroad Company of California—"a corporation existing under the laws of the State of California"—whose grants of land and money both were passed directly to the companies by Congress.

Again, your memorialists, relying on the justice of their appeal, and the large and liberal views always manifested by Congress to facilitate intercourse between the States, and to encourage their commerce by whatever measure tends to lessen the rates of transportation and exchange, earnestly ask the attention of the national Legislature to the subject-matter of this their memorial.

THOMAS H. ARMSTRONG,

President of the Senate.

JAMES B. WAKEFIELD,

Speaker of the House of Representatives.

Approved, January 25, A. D. 1868.

WILLIAM R. MARSHALL,

Governor.

This, Mr. Speaker, is a measure demanded by the people of my entire State. Its object is to connect the navigable waters of the Mississippi river which now, for all practical purposes, extend only to the city of St. Paul, with the great water-power at the Falls of St. Anthony, the greatest available water-power on the face of the globe. It is a measure in the interest not alone of the farming and producing community of Minnesota, enabling them to reach, by navigable waters, that great water-power and carry to its mills their grain and wool and from it their lumber and manufactured goods by the cheap means of water communication, but it is in the interest of the entire valley of the Mississippi; of the entire sixteen thousand miles of navigable waters embraced in the mighty Mississippi basin, the richest and soon to be the most densely populated portion of the United States.

That great water-power is at the present time mainly devoted to manufactures of lumber and flour. The amount there manufactured even now in the infancy of the development of that water-power, is simply enormous. I learn that during the week ending May 22, 1868, the amount of freight forwarded from the Milwaukee and Minneapolis depot, in the city of Minneapolis, amounted to the enormous aggregate of three million six hundred thousand pounds! These

shipments consisted mainly of flour and lumber. But besides these articles wool, iron, brass, paper, agricultural implements, and wooden

manufactures, such as tubs and pails, enter into the total of the vast productions of that water power.

The following statistics will give in detail the character and amount of the several branches of manufactures in this Lowell of the West:

Tables showing the product of Lumber, Shingles, &c., with other details, for 1867.

MINNEAPOLIS.

Firms.	Feet of lumber.	No. of shingles.	Number lath.	No. pickets.	Total value.	Invested in mills.	Ft. lumber shipped.	Shingles shipped.	Lath shipped.	Total value shipped.	Hands employed.
D. Morrison.....	7,152,660	2,748,750	2,179,100	31,175	-	\$45,000	1,500,000	300,000	500,000	-	125
For other parties—W. E. Jones & Co.....	1,184,133	-	-	-	-	-	-	-	-	-	109
W. D. Washburn.....	7,837,260	3,553,250	2,263,050	42,750	-	45,000	1,676,607	-	266,650	-	28
Eldred & Spink.....	632,000	8,720,000	81,000	-	-	20,000	-	-	-	-	75
J. B. Bassett & Co.....	5,782,553	1,924,500	1,400,000	40,000	-	30,000	-	-	-	-	137
For other parties—W. E. Jones & Co.....	200,000	-	-	-	-	-	-	-	-	-	-
W. E. Jones & Co.....	6,005,762	2,417,000	1,858,000	18,625	-	45,000	2,500,000	1,000,000	900,000	-	-
For other parties—{ F. B. Clark.....	704,285	-	-	-	-	-	654,285	-	-	-	-
{ H. F. Brown.....	589,601	-	-	-	-	-	464,440	-	-	-	-
L. Day & Sons.....	3,715,000	931,000	990,000	25,000	-	35,000	1,631,000	550,000	440,000	-	40
For other parties—F. P. Clark.....	1,285,000	400,000	350,000	-	-	-	-	-	-	-	50
J. Dean & Co.....	5,282,620	3,639,250	1,209,750	37,950	-	60,000	-	-	-	-	50
For other parties—De Graw & Lillibridge.....	717,380	-	-	-	-	-	717,380	-	-	-	60
Ankeny, Robinson & Pettit.....	4,730,160	1,621,000	855,000	8,125	-	30,000	-	-	-	-	-
For other parties—{ W. D. Washburn.....	572,592	-	-	-	-	-	-	-	-	-	-
{ State Bank.....	227,798	49,000	42,150	-	-	-	-	-	-	-	-
L. L. Stanchfield & Co.....	2,629,649	1,138,000	607,000	10,000	-	35,000	-	548,893	-	-	55
For other parties—{ Harris & Putnam.....	1,700,000	393,000	283,000	-	-	-	-	-	-	-	-
{ To others.....	28,384	-	-	-	-	-	-	-	-	-	-
Total.....	50,976,837	27,579,750	12,236,400	213,625	\$946,164	\$345,000	9,143,712	2,398,893	2,076,650	\$159,886	720

ST. ANTHONY.

Todd, Gorton & Co.....	4,035,295	2,109,500	1,040,000	20,000	-	Lease.	3,414,335	1,600,000	800,000	-	60
For other parties—L. Butler.....	263,025	116,750	22,500	4,000	-	-	-	-	-	-	65
Martin & Brown.....	4,244,170	2,456,000	1,375,350	67,295	-	Lease.	310,000	40,000	100,000	-	-
For other parties—{ H. F. Brown.....	308,889	-	-	-	-	-	-	-	-	-	-
{ Sidle Brothers.....	100,000	-	-	-	-	-	-	-	-	-	85
Farnham & Lovejoy.....	6,525,000	1,925,000	2,150,000	-	-	65,000	3,481,000	1,400,000	1,329,000	-	-
For other parties—Emerson, Camp, and others.....	200,000	-	-	-	-	-	-	-	-	-	-
Rollins & Chase, for other parties—John Rollins.....	1,400,000	-	300,000	20,000	-	Lease.	1,300,000	-	-	-	25
For W. D. Washburn, F. P. Clark, and L. L. Stanchfield & Co.....	3,100,000	-	-	-	-	-	-	-	-	-	-
Tuttle & Co.....	60,000	3,500,000	-	-	-	6,000	-	850,000	-	-	10
Total.....	20,262,370	10,107,250	4,887,850	111,295	\$373,571	\$71,000	8,505,235	3,890,000	2,230,000	\$155,296	245

RECAPITULATION.

Fourteen Mills.....	71,239,207	87,687,000	17,124,250	324,295	\$1,319,735	\$416,000	17,648,947	6,288,893	4,315,650	\$315,182	965
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Manufacturing Recapitulation for the Year 1867.

MINNEAPOLIS.

	Investments.	Improvements during 1867.	Product.	Hands employed.
Minneapolis Mill Co.....	\$335,000	\$5,000	-	-
Boom cost.....	35,000	29,000	-	-
Second-st. tunnel.....	730	730	-	-
Lumber mills.....	345,000	16,000	\$946,164	720
Flour mills.....	337,000	183,000	1,377,425	98
Elevator.....	52,000	52,000	-	17
Paper mill.....	50,000	50,000	-	-
Oil mills.....	25,000	25,000	-	-
Cooper shops.....	29,900	1,600	123,435	136
Head linings.....	-	-	800	3
Planing, sash, and door mills.....	60,000	-	95,000	60
Wooden ware.....	40,000	22,000	50,000	12
Grain fans.....	3,500	1,000	11,000	10
Rake factory.....	5,000	5,000	1,000	4
Flour mill machinery.....	2,500	2,500	8,000	8
Soap factory.....	2,700	2,700	300	-
Broom factory.....	400	400	200	-
Glove factory.....	800	800	1,200	21
Furniture.....	15,000	-	21,000	22
Woolen & carding mills.....	117,000	-	121,000	93
Iron-works.....	195,800	12,300	296,000	187
Total.....	\$1,652,330	\$383,030	\$3,052,514	1383

Other Miscellaneous Manufactures.

Saddlery and hardware.....	\$16,800
Wine.....	3,200
Cigars.....	17,000
Stoves.....	50,000
Candy.....	8,000
Blacksmithing, &c.....	15,000
Wagons, carriages, sleighs, &c.....	42,300
Hoop skirts.....	3,600
Boots and shoes.....	20,000
Plows.....	28,200
Beer.....	5,000
Total.....	\$209,100

Estimate for number of hands employed.....200

ST. ANTHONY.

St. Anthony F. Water P. Co.....	\$200,000	-	-	245
Lumber mills.....	71,000	-	\$573,371	36
Flour mills.....	83,500	\$23,000	498,423	30
Cooper shops.....	4,000	-	52,400	20
Planing, sash, & door mills.....	12,600	3,500	27,750	40
Furniture.....	35,000	-	75,000	36
Paper-mill.....	60,000	-	100,000	8
Carding-mill.....	2,500	-	800	48
Iron-works.....	65,500	40,000	80,000	453
Total.....	\$534,100	\$71,500	\$1,407,744	453

Final Recapitulation for 1867.

Minneapolis.....	\$1,652,330	\$383,030	\$3,261,614	1,583
St. Anthony.....	534,100	71,500	1,407,744	453
Grand total.....	\$2,186,430	\$454,530	\$4,669,358	2,041

NOTE.—The investments include the mill-sites and buildings, lands, &c.

The following statistics show the development of the flour manufacturing interest at the Falls of St. Anthony:

Table showing the product of the flour mills at Minneapolis and St. Anthony, and the disposition thereof, for the year 1866.

Names of firms.	Number of barrels in one year.	Run of stone.	Daily capacity.	Hands employed.	Value of product.	Disposition of product.
<i>Minneapolis firms.</i>						
Eastman, G. & Co., Cat. Mill.....	60,000	4	250	10	600,000	15,000 down river.
Noble & W., People's Mill.....	16,000	3	130	6	154,000	Home.
J. C. Berry & Co.....	11,000	3	100	7	97,500	Home market.
H. Gibson, Union Mill.....	15,000	5	400	12	155,000	Shipped below.
Perkins, C. & Co.....	6,000	3	200	7	54,000	Shipped below.
<i>St. Anthony firms.</i>						
Eastman & Cahill, Island Mill.....	50,000	5	525	20	500,000	Mostly to Chicago.
Morrison & Prescott, Farmer's Mill.....	9,000	3	160	6	90,000	Shipped to Chicago.
Stamwitz & Schober, St. Anthony Mill.....	5,000	2	50	3	35,000	Home trade.
Total.....	172,000	28	1755	71	1,661,500	

Table showing the product of the flour mills at Minneapolis and St. Anthony for the year 1867, and its disposition, with other details.

Mills and firms.		Run of stone.		Daily capacity, barrels.		Size of mill.		Cost of mill.		Number of barrels ground.		Hands employed.		Barrels shipped below.		Home consumption.		Value of product.	
Total.		42		2,580		-		\$337,000		162,050		98		132,000		30,650		\$1,377,425	
ST. ANTHONY.		13		925		-		\$83,500		55,038		36		38,625		20,013		\$498,423	
Isid. Mills—J. W. Eastman, F. W. Cahill, A. C. Morrill		5		500		60x90		\$45,000		35,438		20		31,025		4,413		\$301,223	
Summit Mills—Maze & Co.		3		250		40x65		28,000		9,200		10		7,500		1,900		78,200	
River Mills—Prescott & Vinal		3		100		40x62		8,000		5,000		3		100		8,900		75,500	
St. Anthony Mill—Stamwitz & Schöber.		2		50		20x50		2,500		5,000		3		100		5,000		42,500	
Washburn Mill—Judd & Brackett.		11		800		66x90		\$100,000		20,000		30		20,000		2,000		\$170,000	
Catawba Mill—Judd & Brackett.		4		250		45x60		45,000		50,000		10		48,000		2,000		\$425,000	
Union Mill—Gibson & Darby.		5		300		40x50		40,000		15,000		12		15,000		1,000		\$127,500	
Aetna Mill—Perkins, Crocker & Tomlinson.		3		200		40x50		30,000		16,000		7		15,500		500		136,000	
People's Mill—Stegens, Morse & Co.		3		150		30x50		9,000		9,000		5		3,500		5,500		76,500	
Russell & Huey, King & Bowman.		200		40x62		42,000		42,000		9,000		10		9,000		50		76,925	
Taylor Brothers B. & J. Taylor.		300		45x60		45,000		42,000		30,000		10		22,000		8,000		255,000	
Minneapolis Mills—Pence, Murphy & Co.		5		300		30x50		15,000		13,000		8		-		13,000		110,500	
City Mills—J. C. Berry & Co.		109		109		30x50		15,000		13,000		8		-		13,000		110,500	

#### Recapitulation.

Number of mills	13
Number of run of stone	55
Daily capacity in barrels	3,505
Total cost of mills	\$420,000
Total number of barrels ground	220,688
Number of hands employed	134
Number of barrels shipped below	170,625
Number of barrels for home consumption	50,063
Total value of product	\$1,875,848

NOTE.—The above values of the flour manufactured are computed at the general average of \$8.50 per barrel. None of the mills have run on full time.

The following statistics refer to the woolen manufactures of the falls, an interest yet in its infancy:

#### MINNEAPOLIS.

##### North Star Woolen Mill.

Built in 1864, by Eastman, Gibson & Co., proprietors. (W. W. Eastman, Paris Gibson, and John De Laitre.) A noble building, fifty by seventy-five feet, four stories in height, and cost \$70,000.

This mill was the first at the falls operated by a power created by the fall of water through a perpendicular artificial shaft, discharging through a subterranean channel; a system which has since been adopted in a number of instances with remarkable results.

##### Product of 1867.

Number yards cassimere	42,169
Number yards flannels	20,801
Number yards Kentucky jeans	2,249
Number pounds batting	2,750
Number pounds stocking yarn	2,302
Total value of product	\$75,000

Total amount of washed wool and unwashed wool reduced to washed wool, purchased...	101,760
Total amount washed wool consumed during the year	48,381
Wool shipped to Eastern markets on account of mill	90,360
On account of other parties	11,309
Total number of pounds	101,669

#### Minneapolis Woolen Mill.

Charles Kent Clapp & Co., proprietors. The company is composed of William T. Brown, Daniel W. Coon, and Henry L. Watson. This is a two-set mill. It is built of stone, forty by seventy feet, four stories in height, with a dry-house addition of wood, thirty by forty feet. The cost of the mill and improvement is \$45,000. It has sixteen looms, seven hundred and twenty spindles, and employs thirty hands. The capacity of the mill is from four to five hundred pounds per day, and can turn out about three hundred yards of woolen fabrics per day. The product of this mill finds a ready sale in the State.

##### Product of 1867.

Ten months' running.	
Yards cassimere	28,000
Yards flannels	12,500
Total yards	40,500
Total value	\$40,000
Pounds wool shipped East	8,000
Pounds wool consumed	50,000
Total amount wool bought	58,000

#### ST. ANTHONY.

##### Carding Mill.

David Lewis & Co. Factory over Prescott & Vinal's planing mill. Contains one set of cards, three machines, and a jack. Size of room forty by forty. About two thousand five hundred dollars is invested. Gives employment to one man and two boys, and turns out eighteen thousand pounds of wool in a season. Manufacturing value \$800. The mill is patronized by farmers. A spinning jack is also in operation here.

##### Summary—1866.

Total production of cloth, yards	155,500
Wool consumed, pounds	45,000
Cost of mills	\$119,000
Number of spindles	1,800
Number of looms	56
Number of hands employed	106

##### Summary—1867.

Yards cassimere woven	70,169
Yards flannel woven	33,101
Yards jeans woven	2,249
Total yards	105,719
Total value	\$115,000

Wool shipped East, pounds	108,669
Washed wool consumed, pounds	48,381
Unwashed wool consumed, pounds	50,000
Wool carded	34,000
Capital invested	\$119,500
Spindles	1,800
Looms	56
Hands employed	96

It is the interest, therefore, of the States of Wisconsin, Iowa, Illinois, Kentucky, Missouri, and all the States of that great valley, down to the mouth of the Father of Waters that this bill should pass. The people of those States desire cheap lumber and cheap flour. It is their interest that the vessels which navigate that river should be able to sail right up to the foot of its great water-power and receive their freight from the very doors of the mills. The vast, treeless, prairie region of Iowa, Illinois, and part of Missouri are especially interested in every measure which will cheapen the cost of the lumber brought from the pineries of Minnesota for their fences and houses.

The House will observe that this grant of lands is confined to the State of Minnesota. It is asked for by that State by its Legislature, by its people, by the cities of St. Paul, Minneapolis, and St. Anthony, by the farmers and lumber men of the State; and it is not in conflict with the interests of the State of Minnesota in respect to settlement and development, because the act expressly provides that the land shall be held by the State, not by any company, and shall be sold by the State to actual settlers at \$1.25 per acre, and the proceeds of the sale paid for the improvement of the river. This amount of land at that price will yield just about the sum which, according to General Warren, will be necessary to construct that lock and dam.

Mr. MAYNARD. I would like to inquire where this lock and dam is expected to be located?

Mr. DONNELLY. In answer to that question I will state that General G. K. Warren, of the United States Army, under the direction of the War Department, and in compliance with an act passed by Congress, made a survey and examination of this portion of the river, and his report is that by the construction of a lock and dam, giving a rise of water of thirteen feet at Meeker's Island, between the city of St. Paul and the Falls of St. Anthony, complete and perfect navigation can be obtained to the foot of the falls; and he further estimates that the construction of such a lock and dam will cost \$230,665, and he recommends that such a work be constructed. The following is an extract from his report on this subject, and also the report of Frank Cook, esq., civil engineer:

*Navigation from Falls of St. Anthony to Fort Snelling.*—Just above the Falls of St. Anthony [see sketch No. 6] the water-power companies have constructed a dam of timber and stone completely across the river, and at lowest stages the entire water of the river is passed through the mill wheels, leaving the crest of the old falls quite dry.

The top of the dam is about thirteen feet higher than that of the rock forming the crest of the old vertical fall, and the Mississippi is consequently dammed back some miles, obliterating the rapids there. This dam also retains the heavy sediment brought down by the river, so that little passes it.

The crest of the old fall is formed of a hard, magnesian limestone about twelve feet thick. Underneath this is a very soft siliceous sand rock, which extends down an unknown depth. It is easily worn away by the water, leaving the hard rock unsupported. This, then, breaks off. Quantities of it lie in the bed below broken into fragments of all sizes, from fifty to sixty feet square down to shingle and sand. The larger pieces, not being transportable by the water, have remained so as to fill up the bed and extend the rapids below. In the first two hundred feet space below the old falls the rapids descend about eight feet over these broken rocks, and these the Minneapolis Mill Company intend to partially remove, so as to increase the perpendicular fall to that amount. When this is done the whole available mill-power will be due to a fall of about thirty-five feet, made up as follows: fifteen feet in dam above falls, twelve feet old fall, and eight feet by clearing away rocks at the foot of the falls.

Much labor is being expended by the Water-Power Company to develop the locations for mill sites, and an extensive apron has been built below the old fall to prevent the capping limestone from being further undermined.

In the first three fourths of a mile below this the stream falls about fifty feet. Up to the lower end of this reach steamboats have come even in low water. The current of the river below, however, is very rapid, and large rocks obstruct the channel-way. The fall at low water from the foot of the reach last mentioned down to Meeker's Island, a distance of two miles, is about thirteen feet. After considering all the circumstances of the case, the conclusion was arrived at that a thorough improvement of this last two-mile reach could only be made by dam and lock, and that if a vessel could be brought up this far it would probably accommodate all the requirements of the present for both the cities of St. Anthony and Minneapolis.

I employed Mr. Frank Cook, civil engineer at Minneapolis, to make the necessary surveys, plans, and estimates, both for locks and dams across the river, and also for locks with side dams and excavations along the shore. His report is herewith submitted. He reports the cost of dam across Meeker's Island, substantially built of stone and wood... \$125,666 17 Stone lock, 13 feet lift, 375 feet long, and 60 feet wide, with guard and lock-gates complete... 104,059 31

Total... \$230,665 48

The apprehension which I felt when I directed an estimate for a side canal and lock, as to the difficulty of securing permanency to the dam, I do not now feel; so I recommend the plan estimated for as above. The other project is not as good if accomplished, and would cost, according to Mr. Cook's estimate, \$630,519. It is understood that no charge will be made by the proprietors of the land overflowed by the dam.

No special appropriation is deemed called for at this time for improving the channel below Meeker's Island. The boats estimated for in a previous part of this report can do all that is required.

#### Mississippi River from St. Paul to Falls of St. Anthony

MINNEAPOLIS, MINNESOTA, December, 31, 1866.

SIR: In pursuance of your directions I have made a survey of the Mississippi river from the Falls of St. Anthony to the foot of the rapids, at Meeker's Island, in section thirty-one, township twenty-nine, range twenty-three, west of fourth meridian. I also made an examination of the river from the foot of the rapids to Fort Snelling, at the mouth of the Minnesota river. I have the honor to submit the following report and estimates, with the accompanying map:

From the foot of the rapids at Meeker's Island to Fort Snelling I made an examination of the river, at its low stage, last fall, and found not less than three feet of water, and that only at three places, the balance of the way the water being from four to six feet deep. The channel from this part of the river into the Minnesota river is deep and free from



obstructions to navigation. All serious obstruction to steamboat navigation terminates at a point near the head of Meeker's Island, to which point boats can come when there is a fair stage of water, so that they can come to Fort Snelling.

From the Falls of St. Anthony to the foot of the rapids the distance is two miles and seventy-five hundredths, and the fall or difference in the elevation of the water in the Minneapolis dam, and the surface of the water at the foot of the rapids at the time I took my observations was eighty-eight feet. A dam with a lock constructed to lift thirteen feet will make slack water and good navigation to a point near and easily accessible to the mills and business part of the town. The bed of the river from the falls to the foot of the rapids is white sand rock, covered with broken limestone several feet in depth. At the point where it is proposed to locate the lock and dam I estimate the debris to be from three to six feet deep, and so firmly packed as to be nearly as solid as the original rock. With such material for a foundation there would not be any serious difficulty attending the construction of a dam.

The following estimates are for a lock three hundred and seventy feet long and sixty-five feet wide in clear, constructed to lift thirteen feet, with guard gate and two sets of lock-chamber gates. As there is an abundant supply of water for filling the locks at this place, there would not be any necessity for constructing intermediate gates to accommodate small boats. The walls of the lock are so located that the water could be introduced through culverts that would fill the lock in a short time. The dam from the lock to the island to be three hundred and fifty, across the island two hundred, and from the island to the left bank of the river three hundred feet, making in all eight hundred and fifty feet; the dam to be constructed with an inclined plane on the up-stream side of one foot and five tenths horizontal, to one perpendicular, with a weir twelve feet wide, and an incline on the lower side of one and one-half foot, horizontal to one foot perpendicular, carrying the water down to low-water mark, where it is to be received on an apron twenty-four feet wide, then on a sub-apron to be laid in an excavation in the bed of the stream, and twelve feet wide, the top of the last apron to be laid level with the bed of the river, and the lower or down-stream side of it to be laid in masonry and grouted, thus forming a perfect protection to the structure from the undertow of the stream as it passes over the dam.

The excavation across the island will be sand and gravel, and for the foundation to the lock and dam will be mostly broken limestone packed with gravel, the dam on the left bank of the stream to terminate in an abutment of masonry, which, with the wing wall, form the lock to the right bank of the river. The lock and that part of the dam across the island are to be built above high-water mark. In my estimate I have made them six feet above the weir of that part of the dam over which the water flows; six feet has been the limit of high water above the falls. The location of the dam is so near the falls that there need be no apprehension of danger from ice, as in passing over the dam and falls above it is broken up into small fragments. I have made my plans for a dam constructed of timber crib-work to be filled with broken stone; the foundation for the up-stream side and for the lower side of the sub-apron to be excavated and laid from three to six feet below the bed of the stream; the masonry to be laid in hydraulic cement and well grouted. The up-stream slope of the dam to be covered with six-inch plank, the down-stream slope with eight inches, and the crown or weir, with the aprons, to be covered with twelve-inch plank, well secured to the timber with two-inch trenails.

The walls of the lock, the wing-wall, and abutment to be laid in hydraulic cement and built of limestone, as quarried from the ledge in the bank of the river. The lime rock quarries out in regular courses, and with good, smooth beds, so that there would be very little cutting required, except to fit the timbers for gates and sills. There is an abundance of good lime-rock in either bank of the river, and the parties owning the land on each side at the place where it is proposed to break the lock and dam have granted the right to quarry what stone it would require to build the lock and dam, and the right to flow what land would be overflowed by the erection of a dam at the place proposed.

The following estimates are based upon the present high prices for labor and materials, and I have endeavored to make them high enough to cover all contingencies. The place where it is proposed to locate the dam is very favorable for turning the water away while laying the foundation.

A wing-dam, extending from the left shore of the river to the head of the island, would carry the water by the east side of the island, so that a slight dam below the works would keep the back-water out, and by taking small sections at a time the excavation could be made, and the foundations could be put in with a moderate amount of bailing water. After the foundations were laid the water would pass through the flood-gates on the east side of the island while the superstructure was being completed.

The following is my estimate on the plan which I have proposed:

Estimate for lock.	
Timber for fenders, 42,636 feet, board measure, at \$20.....	\$852 72
Stone masonry in walls, 616,666 cubic yards, at \$10.....	61,666 66
Stone masonry in wing-walls, 118 cubic yards, at \$10.....	1,180 00
Excavations for foundations, 5,900 cubic yards, at \$1.....	5,900 00
Two sets of gates, with guard gates, miter sills, valves, and fixtures.....	25,000 00
Contingencies, ten per cent.....	9,459 93
Carried over.....	\$104,059 31

Brought over.....\$104,059 31

#### Estimate for dam.

Timber for crib-work and planking, 2,136,576 feet, at \$20.....	\$42,731 52
Stone masonry in foundations, 1,300 cubic yards, at \$10.....	13,000 00
Stone masonry in abutment, 1,500 cubic yards, at \$10.....	15,000 00
Excavation for foundation of dam and approach to lock, 15,000 cubic yards, at \$1.....	15,000 00
Labor building crib-work and filling dam.....	21,365 00
Wing-dam to turn off water.....	3,000 00
Pumping and bailing for foundations.....	5,000 00
Contingencies, ten per cent.....	11,509 65
Total cost of lock and dam.....	\$230,665 48

By the examinations and surveys just closed, and embodied in maps and estimates submitted, the feasibility of permanent and uninterrupted navigation to the Falls of St. Anthony is apparent, and the utility and necessity of it are well set forth in the memorial to Congress passed last winter by the Legislature of this State. This memorial accompanies this report as containing important facts bearing upon the question. It may be well enough to add that, since the passage of this memorial, the two cities at the falls have in less than one year's time made signal progress in population and production. Minneapolis alone has doubled her population, while St. Anthony, has gained a large percentage, and the two together now number nearly thirteen thousand inhabitants. Manufactures have gained in proportion. The manufacture of lumber has increased, and will this year approximate eighty million feet, the leading markets for which are the Minnesota valley and Mississippi and its tributaries. Up the former it can be shipped by barges at much less cost than by rail.

Besides, the mills and factories at the falls must ever depend upon the valley product of wool and wheat for a large share of their raw material, thus making a perfect reciprocity of communication and trade. The manufacture of cloth has also increased largely, the factories now yielding nearly two thousand yards per day, most of which is shipped to Chicago and St. Louis; but the great staple product of all is flour. This product is more than double what it was a year ago, amounting now to more than one thousand five hundred barrels per day. Large as this is, by the 1st of March next it will be duplicated.

When the mills erected this season are finished and in operation, a capacity for manufacturing over three thousand barrels per day will demand greater facilities for importing wheat and exporting flour than we now have, and none will be so cheap and direct as river transportation. Such competition in shipping is necessary to prevent extortionate prices, as well as to stimulate dispatch and vigilance in the carriers of our trade and commerce. Nothing is here said of the increased facilities this projected improvement in the navigation of the Mississippi will afford for importing our dry goods and groceries—interests now amounting to millions annually. It is also apparent from the foregoing estimates that these contemplated improvements of the navigation of the river will cost no more per mile than many miles of railway, and when once completed will connect directly the immense water-power at the Falls of St. Anthony with over sixteen thousand miles of water transportation, and will reduce the portage from ten to less than one mile, and place the surplus products of our farms and factories in direct and cheap communication with consumers and producers of the lower valley and tributaries. It would be difficult to conceive of a work which, with so small outlay, would confer benefits equal to these.

I am, very respectfully, your obedient servant,  
FRANK COOK,  
Civil Engineer.

Brev. Maj. Gen. G. K. WARREN, Major of Engineers,  
112 East Seventeenth street, New York city.

Mr. Speaker, we could very properly have come here and asked of this Government a money appropriation for this great and highly important work; but in view of the embarrassed financial condition of the country, in view of the great pressure of taxation upon our people, and the indisposition of Congress to increase those burdens, we have not proposed to demand a grant of money. We have simply asked that we shall take from the public lands in Minnesota—public land which the Government proposes to give away under the homestead and preemption laws—the quantity named in the bill, without, at the same time, taking the lands away from the settler. I do not think even the settlers of the country would object to this measure. A large number of them already prefer to pay \$1 25 per acre to the Government for their lands under the preemption law, rather than take them at the expiration of five years for nothing under the homestead law. This bill will, therefore, be in effect simply the diverting of the proceeds of two hundred thousand acres of land, at \$1 25 per acre, amounting to \$250,000, from

the general Treasury of the United States to the State of Minnesota, to be used in constructing this great work. I should, of course, prefer a grant of \$250,000 in money; and I have, therefore, added to the bill a proviso that if at any time before the completion of the work the Government grants a money appropriation sufficient to construct the work, then the land granted by this bill will revert to the General Government. This will leave open the door for a money grant at any stage of the work.

Mr. MAYNARD. I will ask the gentleman from Minnesota whether this work is expected to be done under the direction of the United States authorities or not?

Mr. DONNELLY. Not necessarily, although we have no objection to its being done according to the plan and estimates of the engineer department, and I would accept an amendment to that effect.

Mr. MAYNARD. If the work is to be done at all, and we are to pay for it, I think we ought to have the direction and control of the manner of doing it.

Mr. BLAINE. In that case it will cost ten times as much as it otherwise would.

Mr. DONNELLY. If the gentleman from Tennessee will draw up his amendment I have no objection to its being adopted.

Mr. BLAINE. Works of this kind that the Government prosecutes through its own officers invariably cost more than similar works done in any other way.

Mr. MAYNARD. But when they are done they are done to some purpose. If we leave this work to be done in any other way we might just as well throw the money at first to the bottom of the Mississippi for any good that it will do.

Mr. BLAINE. We have an example in the attempt to keep clear the mouth of the Mississippi river. Private individuals are now doing what the United States attempted ineffectually to do for twenty-five years.

Mr. DONNELLY. I will accept such an amendment as the gentleman from Tennessee may propose.

Mr. MAYNARD. I move, then, to add the words:

The work to be done under the direction of the engineer department of the United States, according to the plan and estimates submitted by Major General Warren.

Mr. DONNELLY. I now demand the previous question on the bill.

The previous question was seconded—ayes 58, noes 37.

The main question was ordered to be put.

Mr. MAYNARD's amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. DONNELLY. I move the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. HOLMAN. I demand the yeas and nays on the passage of the bill.

Mr. DONNELLY. I hope the gentleman will not insist on that demand. There are other members of the Committee on the Public Lands who have business to present from that committee, and as we have but an hour to report in, they will not have time if the gentleman insists on the yeas and nays.

Mr. HOLMAN. When a bill is to be passed without discussion giving away a portion of the public domain, I shall insist on the yeas and nays if I can get them.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 57, nays 45, not voting 87; as follows:

YEAS—Messrs. Arnell, Delos R. Ashley, James M. Ashley, Beaman, Beck, Benton, Blaine, Broomall, Cullom, Dawes, Donnelly, Driggs, Eckley, Farnsworth, Fields, Griswold, Higby, Hopkins, Ingersoll, Kitchen, Koontz, Laflin, Lincoln, Loan, Logan, Loughridge, Mallory, Maynard, McCarthy, McClurg, McCormick, Miller, Murrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Paine, Pile, Poland, Polesie, Pomeroy, Price, Sawyer, Schenck, Seefeld, Smith, Starkweather, Stokes, Taffe, John Trimble, Trow-

bridge, Van Aernam, Van Wyck, Cadwalader C. Washburn, and Windom—57.

**NAYS**—Messrs. Archer, Baker, Baldwin, Barnes, Beatty, Boyer, Brownell, Buckland, Burr, Cary, Cobb, Coburn, Cornell, Delano, Ela, Getz, Golladay, Grover, Haught, Hill, Holman, Richard D. Hubbard, Johnson, Jones, Julian, Ketcham, Knott, William Lawrence, McCullough, Mercer, Moore, Niblack, Nicholson, Randall, Shellabarger, Sitgreaves, Stewart, Stone, Taylor, Van Auker, Van Trump, Ward, William B. Washburn, John T. Wilson, and Woodward—45.

**NOT VOTING**—Messrs. Adams, Allison, Ames, Anderson, Axtell, Bailey, Banks, Barnum, Benjamin, Bingham, Blair, Boutwell, Brooks, Butler, Calk, Chandler, Churchill, Reader W. Clarke, Sidney Clarke, Cook, Covode, Dixon, Dodge, Eggleston, Eldridge, Eliot, Ferriss, Ferry, Finney, Fox, Garfield, Gloss-bronner, Gravelly, Halsey, Harding, Hawkins, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Hulburt, Humphrey, Hunter, Jenckes, Judd, Kelley, Kelsey, Kerr, George V. Lawrence, Lynch, Marshall, Marvin, Moorhead, Morrissey, Mungen, Orth, Perham, Peters, Phelps, Pike, Plants, Pruyn, Raum, Robertson, Robinson, Ross, Selye, Shanks, Spaulding, Aaron F. Stevens, Thaddeus Stevens, Taber, Thomas, Lawrence S. Trimble, Twichell, Upson, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Henry D. Washburn, Welker, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Wood, and Woodbridge—87.

So the bill was passed.

Mr. DONNELLY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PUBLIC LANDS GRANTED TO NEVADA.

Mr. ASHLEY, of Nevada, from the Committee on the Public Lands, reported back, with an amendment, Senate bill No. 190, to further provide for giving effect to the various grants of public lands to the State of Nevada.

The bill was read at length. The first section provides that the State of Nevada is authorized to select alternate even-numbered sections within the limits of any railroad grant in said State, in satisfaction, in whole or in part, of the several grants made in the following acts of Congress, to wit: the act organizing the Territory of Nevada, passed March 2, 1861; the act admitting the State of Nevada into the Union, passed March 21, 1864; and the act concerning certain lands granted to Nevada, passed July 4, 1866, provided that this privilege shall not extend to lands upon which there may be rightful claims under the preemption and homestead laws; and provided that if lands be selected, the minimum price of which is \$2 50 per acre, each acre so selected shall be taken by the State in satisfaction of two acres, the minimum price of which is \$1 25 per acre. And provided further that the lands granted in the eighth and ninth sections of the said act admitting Nevada into the Union shall be selected within four years from the passage of this act, and the period for the selection of said lands is hereby so extended.

The second section provides that the lands known and designated for the establishment of an agricultural college by the act of July 2, 1862, and the acts amendatory thereto, shall be selected in the same manner and of the same character of lands as may be selected in satisfaction of any other grants referred to in the first section of this act. But this act shall not authorize the selection of lands valuable for mines of gold, silver, quicksilver, or copper.

The third section provides that the land office at Belmont, Nye county, State of Nevada, is hereby removed to Aurora, in Esmeralda county, and the district shall be known as the Aurora district. The counties of Nye, Lincoln, and Lander shall constitute a land district, the office of which is located at Austin; and the President shall be authorized hereafter, from time to time, as circumstances may require, to adjust the boundaries of any and all of the land districts in said State, and change the location of the land office from time to time, when the same shall be expedient.

The fourth section provides that the lands granted to the State of California for the estab-

lishment of an agricultural college by the act of July 2, 1862, and acts amendatory thereto, may be selected by said State from any lands within said State subject to preemption and sale; provided that this privilege shall not extend to lands upon which there may be rightful claims under the preemption and homestead laws, nor to mineral lands; and provided further, that if lands be selected as aforesaid, the minimum price of which is \$2 50 per acre, each acre so selected shall be taken by the State in satisfaction of two acres, the minimum price of which is \$1 25 per acre; and provided further, that such selections shall be made in every other respect subject to the conditions, restrictions, and limitations contained in the acts hereby modified.

The amendment of the committee was to the third section of the bill, to strike out the following:

The land office at Belmont, Nye county, State of Nevada, is hereby removed to Aurora, in Esmeralda county, and the district shall be known as the Aurora district. The counties of Nye, Lincoln, and Lander shall constitute a land district, the office of which is located at Austin.

And to insert in lieu thereof the following:

The county of Esmeralda, in the State of Nevada, and the counties of Mono and Inyo, in the State of California, are hereby created a land district; and the land office for such district shall be located at Aurora, in Esmeralda county.

Mr. WARD. I desire to inquire of the gentleman from Nevada whether this bill relates simply to school lands.

Mr. ASHLEY, of Nevada. The only lands to be affected by this bill are school lands, except twenty sections for public buildings and twenty sections for penitentiaries, the same quantity granted to all the new States. Otherwise the bill relates exclusively to the lands granted to the State of Nevada for school purposes. As the surveys in Nevada are only extended where the railroads are to be built, and as the Commissioner of the General Land Office has ruled that we cannot take those lands because they are double the minimum price, this bill provides that we may take them at the rate of one acre for two. The object is to build up our school fund. The bill does not grant a single additional acre, but simply enables us quickly to locate our school lands at a point where we can sell them. That is the only object of the bill.

Mr. HOLMAN. I understand the gentleman from Nevada to state that this bill does not grant additional lands, but provides for the manner in which those already granted shall be secured to the State.

Mr. ASHLEY, of Nevada. That is all. The bill contains no grant of lands.

The amendment was agreed to; and the bill, as amended, was ordered a third reading, read the third time, and passed.

Mr. ASHLEY, of Nevada, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### CITIES AND TOWNS ON PUBLIC LANDS.

Mr. ASHLEY, of Nevada, also, from the Committee on the Public Lands, reported back, with an amendment, a bill (S. No. 188) to amend an act entitled "An act for the relief of the inhabitants of cities and towns upon the public land," approved March 2, 1867.

The bill, which was read, provides that the inhabitants of any town located on the public lands of the United States may avail themselves, if the town authorities elect so to do, of the provisions of the act of March 2, 1867; provided that this shall not prevent the issuance of patents to persons who have made or may make entries and elect to proceed under existing laws; and provided further, that no title under the act of March 2, 1867, shall be acquired to any mining claim or possession held under the existing laws of Congress. It is provided further, that, in addition to the minimum price of the lands included in any

town site entered under the provisions of this act and the act of March 2, 1867, there shall be paid by the parties availing themselves of the provisions of these acts all costs of survey and platting any such town site and expenses incident thereto incurred by the United States before any patent shall issue therefor.

The amendment reported by the committee was read, as follows:

In line thirteen insert the word "valid" before the words "mining claims."

Mr. MAYNARD. Is there a written report in this case?

Mr. ASHLEY, of Nevada. There is not; but I can state in a word all there is of it. In 1864 we allowed town sites upon the public lands to be entered in this wise: individuals might apply to the land office to enter a lot on paying ten dollars therefor. That was the rule up to 1867. We then passed a law that towns upon the public lands might apply in their corporate capacity to get title for lands upon which the towns stand. In Nevada our towns have applied as individuals under the old law of 1864 for title to lots, paying ten dollars a lot. We have to go to the land office at Carson City, two hundred miles off, and it has been found impracticable, and the Government makes nothing out of it. The land commissioner holds that having applied under the old law we cannot apply under the new law. This is to remedy that.

The bill was ordered to a third reading; and it was accordingly read the third time, and passed.

Mr. ASHLEY, of Nevada, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### REGISTERS' AND RECEIVERS' COMPENSATION.

Mr. ASHLEY, of Nevada, from the same committee, also reported back House bill No. 652, to increase the compensation of registers and receivers in the Territory of Idaho, with a substitute.

The bill, which was read, provides that the annual salary of registers and receivers in the Territory of Idaho be, and the same is hereby, increased to the sum of \$3,000.

The substitute provides that the annual salary of the registers and receivers of the United States land office shall be increased to the sum of \$1,000. This increase to take effect on the 1st of July next, and to continue for two years and no longer, provided such increased salary, together with fees and commissions now authorized by law, shall not exceed the annual sum of \$3,000 to each officer.

Mr. ASHLEY, of Nevada. Mr. Speaker, I have simply to say this: that bill provides for a temporary increase of the salaries of registers and receivers throughout the United States, not to increase them, however, in any event beyond \$3,000.

The bill was first introduced for the Territory of Idaho, on the recommendation of the Commissioner of the General Land Office. Then it was limited to certain States and Territories, and the increase was to \$1,000. The reason of that was that they were allowed no rent in those districts. Five hundred dollars in Idaho, Montana, and Nevada, does not pay for office rent. I have the letters of the Commissioner of the General Land Office, but I will not take up the time of the House in reading them. He recommends the temporary increase that I have reported in the pending substitute.

Mr. HARDING. Is the gentleman acquainted with any register or receiver who has followed the business who did not get wealthy? Are not these places sought after for the purpose of making fortunes?

Mr. ASHLEY, of Nevada. It is not so in Nevada and Idaho. There are no facilities afforded there for making fortunes.

Mr. ASHLEY, of Ohio. Is this reported from the Committee on the Public Lands?

Mr. ASHLEY, of Nevada. It is, and it has been recommended by the Commissioner of the General Land Office. It is only a temporary increase for two years.

Mr. SCOFIELD. I have no objection to the portion of the bill which the gentleman has explained, if it is the same bill; but I do not like to see smuggled up in a little land bill an increase of salary for a large number of persons whose salary, in the judgment of a good many people, is too large now. I have a great many letters from persons in my district who have traveled through these districts asking whether they could not get these appointments, as they are valuable and profitable. I hope if the previous question be called that it will be voted down; and then that the whole thing will be voted down.

Mr. ASHLEY, of Nevada. I would myself prefer to have it confined to the Territories and States designated. But I must demand the previous question. I have not time to yield further.

Mr. WARD. How much is the increase?

Mr. ASHLEY, of Nevada. Five hundred dollars.

Mr. WARD. It applies to all. How much will it cost the Government annually?

Mr. ASHLEY, of Nevada. I do not know how many registers there are.

Mr. WARD. It must be a very large amount.

Mr. HOLMAN. I desire to ask a question. Is there any particular reason why the increase should be made in the Territory of Idaho, more than in the other parts of the United States? The original bill is confined to one Territory. Was there a greater reason for the Commissioner of the General Land Office recommending an increase in this Territory than elsewhere?

Mr. ASHLEY, of Nevada. There was a greater reason for making it in these Territories than in other parts of the United States, but the Commissioner has recommended it to be general, and the committee so directed me to report.

Mr. SCOFIELD. One word. An effort was made to give the district judges of the United States an increase of salary of \$500. This is the same amount that those officers get. The House voted it down very largely. The same thing was tried in the Senate.

Mr. ASHLEY, of Nevada. What judges get only \$500?

Mr. SCOFIELD. District judges get only \$2,500. The gentleman's bill provides that the whole sum shall not exceed \$3,000. He is asking an increase of \$500. A similar increase was asked for the district judges and it was refused.

Mr. ASHLEY, of Nevada. I demand the previous question.

Mr. SCOFIELD. I move to lay the bill on the table.

The SPEAKER. The morning hour has expired, and the bill goes over till Tuesday next in the morning hour.

#### BOOKS FOR NATIONAL ASYLUMS.

Mr. SCHENCK. Before moving to go into Committee of the Whole on the tax bill, I ask unanimous consent to take up from the Speaker's table the amendment of the Senate to the joint resolution (H. R. No. 278) to supply books and public documents to the national asylums for disabled volunteer soldiers, for the purpose of concurring in the amendment.

The amendment of the Senate was reported, to insert after the word "Wisconsin" the words "and the soldiers' home at Knightstown Spring, near Knightstown, in Indiana."

The amendment was concurred in.

Mr. SCHENCK moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ADMISSION OF ARKANSAS.

Mr. STEVENS, of Pennsylvania. I report

back from the Committee on Reconstruction the amendments of the Senate to the bill (H. R. No. 1022) to admit the State of Arkansas to representation in Congress. I move that the House non-concur in the amendments of the Senate, and ask for a committee of conference.

The motion was agreed to.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union, and resume the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The CHAIRMAN. By order of the House all general debate will be closed in an hour and a half. The gentleman from Tennessee [Mr. MAYNARD] is entitled to the floor.

Mr. MAYNARD. I yield ten minutes to my friend from Pennsylvania, [Mr. MILLER.]

Mr. MILLER. Mr. Chairman, it cannot be expected that for the short time allotted me that I could enter fully upon the discussion of the bill now under consideration, containing two hundred and eighty-nine sections. I may say here that the Committee of Ways and Means deserve the thanks of this House and the country for the able manner in which they have presented the subject of raising the internal revenue. The laws on that subject had become complicated, and this bill digests the whole subject-matter in as narrow a compass as can well be done. There are some taxation in this bill that I think is too high; on that, however, I may have something to say when the bill is read for amendment. I am aware that a bill of the length and magnitude of the one before the House imposes a heavy task upon members to examine it in detail. We are much enlightened from the chairman [Mr. SCHENCK] by the able exposition he gave in the opening speech. The bill remodels the revenue department, and dispenses with many useless officers that have been detrimental to an honest assessment and collection of the revenue.

This bill, Mr. Chairman, I am happy to say, in a great measure exempts all the industrial interests of our country from taxation and confines it to what is denominated luxuries; and I trust by next session we can entirely dispense with income tax; and I understand such is the opinion of the chairman of the Committee of Ways and Means. The main subject of taxation that will demand the serious consideration of this House is that to be imposed on distilled spirits and tobacco. The frauds committed upon the collection of the revenue have been astounding. The amount of spirits distilled annually is difficult to ascertain; some estimate it at one hundred million gallons, and others from that down to fifty or sixty millions, but that it is more than double the quantity that meets taxation no one can doubt, while it must be conceded enormous frauds are committed. I have no hesitation in saying that I believe Mr. McCulloch, the Secretary of the Treasury, to be an honest man, and deeply deplores the failure to collect the revenue on whisky; as for Mr. Rollins, the Commissioner of Internal Revenue, no more upright man lives. But the fault lies with the subordinates who become connected with what is denominated "the whisky ring," for in that traffic, in many places, bribery and perjury are rife. The report of our worthy Commissioner of Internal Revenue (Mr. Rollins) says the revenue collected on distilled spirits—

For 1865 was.....	\$15,995,701 66
For 1866 was.....	29,195,573 15
For 1867 was.....	28,296,264 31

It may be proper to state that for the first six

months of the year 1865 the tax was \$1 50 per gallon, and afterward raised to two dollars per gallon. The expense of collecting the internal revenue for the year 1866 was \$7,689,700 46, and for the year 1867, \$7,712,089 02. It is, in my opinion, fair to presume that it cost the Government in the neighborhood of three million per annum to collect the whisky tax; and from the information we have received the whole amount of revenue collected the present year from tax on whisky will be but a little over thirteen million dollars, and deducting from that \$3,000,000 for its collection, leaves but \$10,000,000 realized from the vast amount of whisky manufactured in this country, even at a tax of two dollars per gallon; and the question for Congress to determine is, how are these alarming frauds to be checked? I think, Mr. Chairman, the remodeling of the internal revenue department, as proposed by the bill before us, will aid somewhat in remedying the evil. That a change should be made in many cases of those who have charge of the collection of the revenue no person can doubt, as some of them, it is evident, are dishonest, and have aided in defrauding the Government, and become wealthy upon a small salary, evidently by connivance with the whisky ring.

These fraudulent officers are mainly confined to cities and large manufacturing establishments, for the small establishments in the country generally pay their taxes honestly, and are watched more zealously by Government employes than large manufacturing establishments, where immense frauds are committed. The Secretary of the Treasury, though, as I have already said, an honest man, has committed many errors in not removing such officers; but I admit the course of the President, to whom such incompetent and dishonest officers appeal, professing to be his ardent friends, places the Secretary in an awkward position, as it is well known President Johnson will favor the appointment of almost any person who professes to be unfavorable to the congressional policy; hence one reason why the Government has been defrauded out of so much revenue, by keeping dishonest men in office. There is another and important question as to the prevention of frauds, and that is whether or not the tax on whisky is too high; and if reduced, whether more revenue could not be collected from that article, (whisky.)

I find, Mr. Chairman, that the tax of Prussia is now nine and three quarter cents per gallon; of Austria a little more than twelve cents per gallon; and of France about ninety cents per gallon. On the other hand, Great Britain imposes a duty of ten shillings per imperial gallon, about the present tax of this country; and Russia raises an immense revenue, monopolizing its manufacture and sale, selling the privilege of dealing in, and reserving to itself the right of distilling all domestic liquors and supplying dealers at a fixed rate. This latter mode of procedure would not likely work well in the hands of our Government, and besides, would be incompatible with our institutions. We must, therefore, intrust the manufacturing interest to our citizens. We have, perhaps, more difficulty in collecting such taxes than in monarchical Governments, where the people are held more in subjection. Two dollars of a tax on a gallon of whisky is certainly disproportionate, as the cost of making may be put down at thirty cents, and I have no doubt such a glaring disproportion in taxation is in some measure the cause of so much dishonesty in evading the due execution of the revenue laws, demoralizes the manufacturer, and by connivance with the Government officers leads them into the same paths of dishonesty, and all together become rich by robbing the Government out of its just dues. It may be conceded that as a beverage it would be better for the nation if the traffic of liquor could be dispensed with, but experience has shown that that desirable object cannot be accomplished by stringent laws, and the only way to dispense with the use



of it in that way is by moral suasion. Then, as the distillation of spirits is in some measure sustained by public opinion, and notwithstanding a very large quantity is distilled over and above what is needed for manufacturing purposes, in what way can the largest amount of revenue be derived from it?

Upon a careful consideration, Mr. Chairman, I am satisfied that a reduction of the tax would tend to check demoralization and produce a much larger revenue, and the question is, how much ought it to be reduced? Some contend that it ought not to be more than fifty cents per gallon; that if it was more than that it would not be sufficient to prevent the enormous frauds perpetrated by the distillation of spirits from cheap molasses imported, for every device has been resorted to to defraud the Government by illicit distillation. For my part I will not agree to put the tax below fifty cents per gallon, and even at that, if there should be one hundred million gallons distilled and returned for taxation it would amount to \$50,000,000, and if seventy million gallons to \$35,000,000, or if but sixty million gallons it would amount to \$30,000,000, which is more than ever derived by the Government in any one year from the distillation of whisky. I am satisfied that at least \$30,000,000 could be derived per annum at a tax of fifty cents per gallon. At any rate, I am opposed to the tax being more than one dollar per gallon, as I feel confident that more revenue could be collected and less inducement to commit fraud. And whatever amount of taxation we agree upon, let its collection be rigorously enforced by competent and honest officers; and if the President will not agree to remove incompetent and dishonest men he ought to be proceeded against, notwithstanding there are but a few months of his term remaining. It is his sworn duty to see that the laws are faithfully executed, and the country demands it.

I do not believe, Mr. Chairman, as contended by some, that men cannot be found that will faithfully enforce the collection of the revenue. We have plenty of honest men, if appointed and paid a fair salary, who will honestly and faithfully do their duty, and that neither the whisky "ring" or any other can operate upon. I trust, therefore, that a reduction of the tax will be made, as I believe it for the interest of the country. I am opposed to raising the tax on the manufacture of common cigars, as it is increasing the tax upon the poor man; and if it is a luxury to smoke, let him enjoy it as well as the rich, though he cannot afford to smoke as fine a quality of cigars.

As my time has expired, I cannot extend my remarks, but will say, in conclusion, that I am pleased with the general features of the bill, and trust Congress will, before final adjournment, enact it into a law. The national debt, though some twenty-five hundred million dollars, is not burdensome, taking into consideration the resources of this great country; and I am not in favor of this generation, who have paid such enormous sums in suppressing the late rebellion and its consequences, paying off the entire national debt, but leave a portion of it to be defrayed by the next, to whom this great Republic will descend.

Mr. MAYNARD addressed the House. [See Appendix.]

Mr. ALLISON. Mr. Chairman, I know how anxious every member of this House is to reach the practical business of this tax bill, and how reluctant all are to listen to the general debate. But I beg to mention to gentlemen that if they will, as we progress with the reading and consideration of this bill, give it careful attention, they will find that, notwithstanding the voluminous bill which appears before them, we can proceed with great rapidity in its consideration; for there are really but three controverted propositions in the bill, as I believe. One is the first proposition having reference to the subject which has just been so ably discussed by my colleague upon the committee, [Mr. MAYNARD,] that of a sepa-

rate department. Another is the question involved in the collection of the tax upon distilled spirits; and the other the proposition having reference to the tax upon tobacco.

I desire, in the time allotted to me, to make some general remarks upon the question of taxation, alluding also to some specific provisions of the bill; and I shall endeavor to show that there is in this bill enough to provide ample revenue for the maintenance of the Government and the payment of interest on the public debt, together with a reasonable surplus to be applied to the payment of the principal of the debt.

I listened last night, Mr. Chairman, with intense interest and admiration to the remarks of the gentleman from New York, [Mr. Wood.] I was glad to hear from him, a leader of the Democratic party, that that party proposes in no form whatever to repudiate the national obligations, but that every dollar of those obligations must be paid in the letter and spirit in which those obligations were created; and although I cannot agree with him as to the method of its payment, yet I think there was enough in all the gentleman said last night to give hope to the country. I agree with him there is yet undeveloped, in the far West, extending from the frozen regions of the North down to the tropics, lands filled with mineral resources almost invaluable—

"Far away,  
On waters whose blue surface ne'er gave back  
The white man's face, among Missouri's springs  
And pools, whose issues swell the Oregon,"

are to be found sources of wealth which, either by individual enterprise or by the Government, will be in the future developed, and I think will aid us in lightening the burdens of taxation which now press so heavily upon us, which development is to be rapidly hastened by the building of railroads binding the Atlantic to the Pacific with iron bands.

Mr. Chairman, the policy of Congress during the past few years has been to reduce the burdens of taxation as well as to reduce the expenses of the Government. From necessity, during the years of the war, we were compelled from year to year to increase our taxes; and laws were passed constantly increasing taxes, commencing, I believe, with the year 1862, then in the year 1863, and finally the act of June 30, 1864, which enormously increased the burdens of the people in the shape of internal taxes, as well as in the shape of tariff laws. During that year there was an entire revision of the internal revenue and tariff laws. The act of March 3, 1865, still further increased taxation. This increase was absolutely necessary in order to sustain the public credit and to carry on the war against the formidable rebellion against the Government. At the close of the hostilities in 1865 it was the first business of the Thirty-Ninth Congress, when it assembled in 1865, to proceed to the consideration of the questions involved in the reduction of the taxes. At the first session of the Thirty-Ninth Congress a law was passed reducing the burdens of taxation to the extent of \$60,000,000; and at the second session of the same Congress a law was passed which had the effect still further to reduce those burdens to the extent of \$40,000,000 more. This Congress, at its present session, following up this principle and this policy, has reduced the burdens of taxation upon the people to the extent of \$80,000,000 more. Twenty-three million dollars of reduction of taxation has been made to the people of the rebellious States in the shape of the abolition of the tax on raw cotton. The remainder of this \$80,000,000 of reduction has taken place upon the industry of the country, which, next to agriculture, is the life-blood of the nation; as unless we foster every branch of our industry we cannot expect to flourish as a people.

The following statement shows the total amount received under operation of the internal revenue laws and the custom laws for the fiscal years 1864, 1865, and 1866, and the fiscal

year ending June 30, 1867, and the actual and estimated receipts for the current year:

1864—Internal revenue.....	\$116,850,672 00
Customs revenue.....	102,316,152 99
	219,166,824 99
To which add from miscellaneous sources.....	41,465,892 01
Total, 1864.....	\$360,632,717 00
1865—Internal revenue.....	\$211,129 529 00
Customs and miscellaneous sources.....	118,437,471 00
Total, 1865.....	\$329,567,000 00

The following table shows the aggregate and specific receipts of national revenue for the fiscal year ending June 30, 1866, and 1867, respectively:

	1866.	1867.
From internal revenue.....	\$310,906,984 17	\$265,920,474 65
From customs, (coin)....	179,046,651 58	171,417,810 88
From public lands.....	665,031 03	1,663,575 76
From miscel's sources....	67,119,369 91	42,824,852 50
From direct taxes.....	1,974,754 12	4,200,533 70
	\$559,712,790 81	\$490,526,947 49

The following indicates the receipts for the current fiscal year ending June 30, 1868, actual and estimated:

Sources.	Receipts.	
	Actual.	Estimated.
Three quarters, from July 1, 1867, to March 31, 1868.	\$121,298,374 37	\$44,000,000
Fourth quarter, from April 1, 1868, to June 30, 1868.	866,337 31	300,000
Total revenue for fiscal year ending June 30, 1868.	\$122,164,711 68	\$44,300,000
Also, gross estimated receipts for 1869.	\$299,194,459 29	\$338,000,000

The following table will show the expenditures of the Government for the fiscal years ending June 30, 1866 and 1867 respectively, being the two full years of which we have any report since the suppression of the rebellion, exclusive of any payment on the principal of the public debt, namely:

For the year ending June 30, 1866.	
Ordinary expenditures.....	\$387,683,198 79
Interest on Public debt.....	133,067,741 69
Total.....	\$520,750,940 48
For the year ending June 30, 1867.	
For civil service.....	\$51,110,027 27
For pensions.....	20,396,551 71
For Indians.....	4,642,531 77
For Navy.....	31,034,011 04
For war, exclusive of bounties.....	83,841,555 80
	191,564,677 59
For interest on public debt.....	143,781,591 91
For bounties.....	11,882,859 83
Total expenditures.....	\$346,729,129 33

I also add the actual and estimated expend-

itures for the current year ending June 30, 1868:

Sources.	Actual.	Estimated.	Total expenditure for fiscal year ending June 30, 1869.
Civil—legislative, executive, and foreign intercourse.....	\$38,554,175 32	\$13,000,000	\$51,554,175 32
Interior—pensions and Indians.....	24,733,337 29	4,000,000	28,733,337 29
War.....	88,858,496 82	35,000,000	123,858,496 82
Navy.....	19,113,673 53	6,500,000	25,613,673 53
Interest on public debt.	109,418,383 87	40,000,000	149,418,383 87
Total.....	\$280,678,066 83	\$98,500,000	\$379,178,066 83

Expenditures.

posed by this bill to raise, chiefly from luxuries, a sufficient amount of money in connection with our customs revenue to maintain the public faith and credit, and at the same time provide for the support of the Government and still leave a surplus to be applied to the payment of the principal of the public debt. And now, notwithstanding the criticisms of gentlemen on this floor, I assert here, and I believe it cannot be successfully contradicted, that since the close of the war we have reduced the ordinary expenditures of the Government by the legislation of Congress. And from the estimates before us—and they are estimates not for the purpose of carrying a political campaign, as was intimated in the debate here last night, not estimates made to be supplied in a deficiency bill when we come again on the first Monday of December, after the Presidential election—but they are estimates based upon the actual expenditures that must be made during the next fiscal year. From these estimates we shall be able to make a still further reduction of nearly thirty million dollars in the ordinary expenditures of the Government.

Now, Mr. Chairman, with reference to the method adopted by Congress in relation to the subjects which could be relieved from taxation, I desire to say a word. I believe when the question of the removal of the tax on cotton was before the House there was very little objection to it. All admitted that it was essential to the revival of the industry of the southern States that the duty should be removed after the crop of 1867 had reached a market. There was some contrariety of opinion as to whether we should remove the entire tax upon the industrial interests of the country. All agreed, I believe, that the taxes upon industry are the most odious and obnoxious that can be imposed, for the reason that from necessity they are duplicated and reduplicated many times. Therefore it is difficult to tax industry and make a just system of taxation.

Now, the effect of this tax upon the people of the country will be determined somewhat by the result of the removal of this tax. Should its effect be to stimulate the manufacturing interests of the country, then it will be satisfactory to the consumers of the country; but if it should not have that effect, so as to create competition, the removal of the tax will be an addition of about ten per cent. to the tariff or import duties, at least upon such articles as are imported and come in competition with our domestic productions.

So that if industry is stimulated to such an extent as to create a home competition, the result will be to the benefit of the consumer. Should that not be the result, the effect will be beneficial to the manufacturing industry of the country, and to that extent we have raised the tariff during the present session. I am unable to say precisely what that effect will be, but my own impression is that this benefit will be divided at last between the consumer and the manufacturer. The Committee of Ways and Means have decided—I think I can speak of it now, because it is a matter of publicity—the committee have decided at the present session to make no general revision of the tariff.

Mr. BLAINE. Do they propose a partial one?

Mr. ALLISON. If we make any at all, it will apply to only a very few articles, and I desire to say here that, in my judgment, no such general revision is required unless it should be to readjust the duties so as to make reductions upon most articles; upon some articles it may be necessary to make an increase. I believe, so far as I have been able to ascertain, that the great manufacturing interests of this country will not materially suffer by this action of the committee. The coal interest, which is an index to the success of our manufactures, I am told, never was so flourishing as it has been during the last year.

Mr. CAKE. What particular coal interest does the gentleman refer to?

Mr. ALLISON. I allude to the general

production of coal in this country. From the commercial journals it appears that up to this hour in this year more coal has been sent to market than ever went to market in a single year before; and the State of Pennsylvania alone, which the gentleman represents in part, so far as I have been able to examine their commercial reports, will show the production of a million tons of coal this year more than was ever produced in that State before in one year.

Mr. CAKE. I merely wish to state to the gentleman that anthracite coal to-day is selling cheaper than it has sold within twelve years past. It brings less in the market than it has brought for twelve years past.

Mr. ALLISON. I am speaking of the condition of the industry of the country, as evidenced in the demand for coal. Of course cheap coal would favor industry. If coal was cheaper it would favor other manufacturing industries.

But there is another index that applies particularly to the iron interest of this country; and that is that pig-iron, which is the basis of all iron manufacturing industry, has never been more prosperous than it has been for the last year; and I am told by the editor of the Iron Age, and I had a slip from that paper a month or two ago, showing that most of the furnaces in operation had orders for two or three months in advance. Therefore, so far as the iron industries of this country are concerned, I think they will not suffer if we do not modify the tariff at the present session.

What is true of iron may be said of cotton. I remember that in the year 1866, when we had under consideration a general revision of the tariff, the cotton manufacturers told us they did not want any increase of duties, and after the passage of the wool and woolen tariff of last year, I do not suppose that the woolen manufacturers desire an increase although that industry has been somewhat depressed. I think I may say, therefore, that no great manufacturing industry of this country will suffer from a failure at this session to revise the tariff. It may be that there are specific manufactures that will suffer, because we do not increase the tariff, but if there are such, I have not them now in my mind.

To leave this question. I had some other thoughts upon the general question of taxation; but I will add only one more, and it is this: we are by our legislation seeking to remove taxation from the necessities of life as distinguished from luxuries; in other words, the framework of this bill is based upon the idea that our chief taxation should be gathered from luxuries, and therefore I want to call attention to the fact that there are many articles of necessity that are under our tariff law heavily taxed. If you will examine the statistical reports on the tariff question you will find that during the year 1866—I will take that year as the basis because I have examined it more carefully—out of \$368,000,000 of importations into this country, but \$68,000,000 were articles of luxury and the remaining \$300,000,000 were articles of necessity, and most of them were articles which are not manufactured in this country.

I allude, among other articles, to tea, coffee, and sugar. Sugar is produced to a small extent in the southern States. But the great articles of importation are not produced in this country at all. The entire production of the United States in 1866 was \$6,000,000,000, which is a fair estimate of the entire production of this country, but \$68,000,000 of luxuries were imported during the same year, or but about one per cent. of the whole production. Therefore, I do not think we are likely to be overwhelmed by the importation of foreign luxuries.

I desire now to say a few words with reference to the specific provisions of this bill. I was not present in the committee when the first section of the bill was agreed upon, and have not given it my sanction. I observe, however, that it is the chief subject of discus-

It will be observed that the expenses for the current year, actual and estimated, exceed those of 1867 by some thirty-three million dollars; but an analysis of the items will show that \$32,000,000 in round numbers will be used during the year to pay bounties to soldiers; some nine million dollars has and will be paid to reimburse loyal States for expenditures made during the war. The interest account has also been increased some six million dollars during this year as compared with 1867.

Of the expenditures of the War Department, at least \$30,000,000 were used by General Hancock in organizing and conducting an expedition against hostile Indians in the Territories; so that, although there is an apparent increase during the present year, there has been an actual reduction of the ordinary expenditures during the present year as compared with 1867.

During the period from August 31, 1865—at which time the public debt reached its maximum—to November 1, 1867, the public debt has been reduced \$266,185,121 43, or over ten million dollars per month, in addition to the payment of the ordinary expenses of the Government and the interest on the public debt. During the same time nearly forty million dollars were paid to the soldiers and sailors of the Union as bounties for faithful service.

The estimated expenditures during the year ending June 30, 1869, cannot exceed \$350,000,000, and should fall considerably below that sum.

The largest amount ever collected in any one fiscal year by the Government from internal taxes and customs was during the fiscal year ending June 30, 1866. During this year the amount collected from internal taxation was \$310,906,984, currency, and from customs \$179,046,630, gold. Reducing the customs receipts to currency, (the premium on gold being assumed at forty per cent.) we have as the total amount of revenue drawn from the country during the above year by various forms of taxation the sum of \$561,572,266, currency; which, with an assumed population in 1866, of thirty-five million, is equivalent to \$16 04, currency, or \$11 46 in gold *per capita*.

This vast sum was raised under laws passed when the rebellion was in progress, and it became necessary to test to the utmost extent the ability and disposition of the American people to endure taxation for the purpose of preserving the national life.

This enormous tax has been reduced from that time to the present moment, and it is pro-

sion with gentlemen on the other side of the House. I wish to call their attention to one fact. They oppose this feature of the bill because they say it inaugurates a new system of appointment. I would call the attention of gentlemen to the fact that, with the exception of assessors and collectors of the revenue and the chief officers of the bureau, every single officer engaged to-day in the administration of the revenue department of this country is appointed by the Secretary of the Treasury alone. All the revenue inspectors, all the revenue agents, all the special agents of the Treasury, and their name is legion, are to-day the special appointees of the Secretary of the Treasury. While this is true in reply to the argument of gentlemen on the other side, it is also true in reply to the remedy proposed by the gentlemen from the committee, who seem to think this feature of the bill essential to a successful administration of the revenue department.

This is urged as a feature which will at least check frauds upon the revenue. I fear very much—though I would be glad to realize that Utopia which was so beautifully described by the chairman of the Committee of Ways and Means [Mr. SCHENCK] a few days ago—I fear very much that such will not be the result. I would call his attention to the fact that this is substantially the provision of the present law. With the exception of about four hundred and eighty officers every revenue officer is specially appointed and controlled by the Secretary of the Treasury, and can be removed or suspended at his will. That is the case with all but assessors and collectors. Such is the present law.

Mr. Chairman, I fear we must resort to something more perfect if we would check the frauds on the revenue which exist in this country to-day. I beg leave to differ with gentlemen on this side of the House as to the cause of these great frauds. I do not attribute their commission to the division of responsibility. There is no division of responsibility. The Secretary of the Treasury is to-day at the head of the revenue department.

What do we propose by this bill? The Commissioner of Internal Revenue is a bureau officer under the Secretary of the Treasury. The Secretary of the Treasury is to-day the responsible head of the Department, charged with the collection of the revenue of the country. It is no defense for him to say that he does not know of the existence of these frauds. Is it not enough for him to know that there are produced in this country at least seventy-five million gallons of distilled spirits, and that but seven millions gallons pay the tax during the fiscal year about to close? Is it to be said that the responsible head of the revenue department—the Secretary of the Treasury—does not know that the reason why this revenue is not collected is because of frauds in his Department, and that he must wait for his subordinate officer to bring those rauds to his knowledge?

I say the responsibility rests to-day upon the Secretary of the Treasury, unless he can shift that responsibility upon the President of the United States, where I believe it legitimately and properly belongs. While I give the Secretary of the Treasury credit for integrity of purpose and purity of character, he is unfortunately too much of a partisan, or is not willing to assume the responsibility which is within his power and control. Many of these revenue agents belong to what my colleagues on the Committee of Ways and Means and others here denominate "the whisky ring." They are constantly roaming over the country and forming leagues by which the Government is defrauded. They are not the appointees of the President, but of the Secretary of the Treasury, and they should be removed. There are honorable and worthy exceptions I know.

I must say in justice to Mr. Rollins, the Commissioner of Internal Revenue, that to my knowledge he has called the attention of the Secretary of the Treasury to many of these

fraudulent transactions, and to many of the men who are guilty of these frauds.

These men are not removed from office. I have been told that the Secretary of the Treasury makes representations to the President of the United States; but I have yet to learn that a single man who has been engaged in these fraudulent practices has been removed by the President of the United States. Hence, Mr. Chairman, I think the chief reason for these frauds is inherent in our present political situation, and that we never can get rid of them except in one way, that is by having harmony in the administration and harmony in legislation, and administration and legislation on the side of the Government.

Mr. WOOD. As bearing directly upon this question of appointments, will the gentleman permit me to have read the testimony of Mr. Rollins given before the Judiciary Committee in regard to representations made as to parties committing these frauds? I understand the gentleman to say that notwithstanding the representations of the Commissioner of Internal Revenue and of the Secretary of the Treasury to the President, no attempt has been made by the President to remove any of these derelict parties. I call the gentleman's attention to the testimony of Mr. Rollins given before the Judiciary Committee of this House, directly contradicting the statement which the gentleman has just made.

Mr. ALLISON. Mr. Chairman, I ask the gentleman from New York [Mr. WOOD] to give me the date of that testimony.

Mr. WOOD. I will send the gentleman the book.

Mr. ALLISON. I do not desire the book.

Mr. WOOD. The gentleman will find it on page 884.

Mr. ALLISON. I desire the date of the testimony.

Mr. WOOD. July 20, 1867.

Mr. ALLISON. Mr. Chairman, I cannot yield to have that testimony read. It was read here, I believe, last night. It is no reply to the proposition I make. Does the gentleman pretend to say that the President of the United States, who is sworn to see that the laws are faithfully executed, and the Secretary of the Treasury, who has the supervision of this revenue bureau, are not required to see that the laws are executed, and if there are frauds practiced by the officers of the Government, that is not their duty to see that those officers are removed?

Mr. WOOD. I will say to the gentleman that the President in several cases removed officers and nominated other men to the Senate, which body failed to confirm them, thus sustaining in office the parties whom the President had endeavored to remove.

Mr. ALLISON. I of course am not prepared to dispute the statement of the gentleman from New York; but I do know that in his own city corruption in revenue matters is without limit, and as my friend from Illinois [Mr. INGERSOLL] suggests, without precedent in the history of this country; and I do know that with one or two exceptions no officer in that city has been removed by the President of the United States. I know that in another city of this Union, Richmond, Virginia, the fraudulent practices have gone to such an extent that even the judicial ermine has been stained by them; and yet no removals are made.

Now, Mr. Chairman, I cannot go into a controversy upon this question. The facts are patent to all. I know further, that Mr. Rollins, the Commissioner of Internal Revenue, as late as December last, called the attention of the Secretary of the Treasury to other great frauds upon the revenue, and named to him some thirty or forty officers who should be removed because of their complicity in these frauds; yet I have not heard of a single removal under that recommendation of the Commissioner of Internal Revenue.

Mr. WOOD. I trust the gentleman will allow me a single remark. As he has already stated, the President appoints and removes

only the collectors and assessors. Now, it is well known that these frauds are perpetrated by inspectors and storekeepers, and subordinate agents, who are directly appointed by the Secretary of the Treasury or the Commissioner of Internal Revenue, the President having no knowledge of those appointments, and no control over them directly or indirectly.

Mr. ALLISON. Mr. Chairman, that is only a change of responsibility. I insist that these collectors and assessors are the appointees of the President, that the other officers are the appointees of the Secretary of the Treasury, and therefore the responsibility rests either upon one or the other. I should like to know whether a revenue inspector or a revenue agent could commit frauds upon the revenue in any collection district without the principal officer, if he is a man of any capacity or honesty, being able to discover and check those frauds. Therefore the responsibility is upon the executive department of the Government, and not upon another department of the Government. So much for this question of the responsibility for the frauds upon the revenue.

I now desire to say a few words with reference to the question of tax on distilled spirits. I do not know but it is possible to collect two dollars a gallon on distilled spirits with honest officers under the Commissioner of Internal Revenue. But, sir, I do know it is impossible in the present condition of affairs to collect two dollars a gallon; and I do not need anything else but the statistics to convince myself. We manufacture seventy-five million gallons of whisky per annum and only seven millions pay tax, or less than \$14,000,000 is paid when we should have \$150,000,000. Now we do not collect the tax on whisky. Therefore, Mr. Chairman, I am for reducing the tax to seventy-five or sixty cents per gallon, and I want to give the reasons why I am in favor of so doing.

Mr. Chairman, there is to-day no production of distilled spirits in the West except in a few cities. In Chicago I am told they are producing distilled spirits to a considerable extent, which I believe is in fraud of the revenue, because there little or no revenue is collected from that source. With a few exceptions the distillation of spirits is confined to New York and the other large seaboard cities. How is this done? A great portion of the illicit product is made from cane molasses, imported from abroad. Molasses are resorted to because it is a material more easily concealed from the public than corn. For the proof of what I say I need only refer to the fact that the chief demand for molasses in our large cities is from those engaged in this illicit business; and also to the fact that the importation of molasses is steadily and largely on the increase, notwithstanding the revival to some extent of its production in Louisiana, and also the large production from sorghum.

By a reference to the statistics of importations it will be found that in—

	Gallons.
1864 there were imported.....	28,753,668
1865.....	34,385,000
1866.....	43,840,000
1867.....	46,776,465

into the Atlantic States alone; and the current year will show an importation of more than fifty million gallons at the Atlantic ports, or an increase in four years of nearly one hundred per cent. of importations of this article. Notwithstanding this large importation, the price of molasses has constantly advanced, while the price of nearly every other article has been reduced from ten to fifty per cent. The year 1867 alone shows an increase of importation of cane molasses of over ten and one quarter per cent. Owing to the large increase of sugar refineries in this country raw sugars have been largely imported; but the price of refined sugars has so depreciated that it is said our sugar refiners are now working, if at all, without profit. During the month of April last two million gallons more were imported than during the same period last year.

Mr. PRICE. How much whisky does a gallon of molasses make?



Mr. ALLISON. I am glad that my colleague has asked me a question. One gallon and a half of molasses will make one gallon of whisky under the mode adopted.

There is another fact in reference to this molasses question. Not only has the importation of molasses increased enormously, but the importation of sugar has also increased for refining purposes. While the price of sugar has been decreasing the price of molasses has been steadily going up, notwithstanding the increased importation.

Mr. PRICE. How much whisky will a bushel of corn make?

Mr. ALLISON. A bushel of corn will make from three to four gallons of whisky. I am told by those who have experience that in the hands of a skillful distiller a bushel of corn will make four gallons of whisky. I will leave this, however, to be answered by those members here who understand this better than I do. I believe about seven tenths of a gallon of molasses will produce a gallon of whisky if the fermentation be allowed to continue long enough, but this these illicit distilleries cannot allow.

Mr. COVODE. I wish to draw the attention of the House to the fact that all the whisky is not made of molasses. I am told by one of the largest distillers in Pittsburg that whisky made out of corn transported to the East and there distilled is selling in Pittsburg for \$1 05 a gallon.

Mr. ALLISON. I thank my friend for making the suggestion, but I very much doubt whether any very large quantity of distilled spirits are manufactured in Philadelphia from grain. I know that the average price of distilled spirits in that city for the last six months has been from ninety to one hundred and twenty cents per gallon; and in New York, I believe, it has not exceeded \$1 20 during that time. The chief portion of whisky is made from molasses, and in proof of that I cite the fact that corn whisky is chiefly in bond to-day in the West. Men cannot afford to manufacture whisky from corn and sell it at present prices. At least they do not do it if legitimately manufactured, and tax paid.

Mr. BECK. I desire to ask the gentleman a question. He stated that from three to four gallons of whisky can be made from a bushel of corn. Is he aware of the fact that no distiller in Kentucky, and I believe our State has the reputation of making the best whisky, under the old process, now kept up, of using the copper still, can make more than nine quarts to a bushel? So that the manufacturers by the new process, who make twelve quarts to the bushel, will have an advantage over those who use the old system.

Mr. ALLISON. I am told they make the best whisky in Kentucky, and I presume that is so. I have no doubt if they make the best article that they require a bushel of corn to make nine or ten quarts; but I am speaking now of the large distillers and it may be that our bill will require modification in that regard. That was a question of considerable discussion in the committee.

Now, the whole amount of distilled spirits in bond to-day is twenty-five million gallons. In the western States it is chiefly manufactured from corn, but in the large cities it is chiefly made from molasses and is substituted by means of fraudulent officers for corn whisky that has been thrown upon the market because it is more valuable.

Mr. PRICE. I would like to ask my colleague a question. If a bushel of corn costs sixty cents, which is the average price in the West, and will make even two gallons of whisky—I will put it at a low figure—that will bring the cost of the raw material for the whisky at thirty cents a gallon. Now, if a gallon and a half of molasses only make a gallon of whisky, and the molasses costs forty-five cents a gallon, that will bring the cost of the raw material up to sixty cents. Now, how can whisky made from molasses at that rate come in competition with whisky made from corn?

Mr. ALLISON. That is a practical ques-

tion, and I will answer it. I am speaking now of the fraudulent distillers. A bushel of corn costs sixty cents, which makes two gallons of whisky at thirty cents per gallon for the raw material. Now, sixty cents tax, as I propose, will make ninety cents, which the distiller of corn is compelled to pay. Now comes the distiller of molasses, who wants to make it without paying any tax. A gallon and a half of molasses at forty-five cents a gallon costs seventy cents. Then it is not so valuable as corn whisky by about thirty per cent., so when the producer of corn whisky finds his product is taxed sixty cents he is about on a par with the man who makes it out of molasses and pays no tax whatever. Now, if the tax is one dollar a gallon, if the whisky distiller from molasses pays no tax he makes forty cents profit on the gallon, and that is a sufficient inducement to engage in the business.

Mr. PRICE. Now, I understand it, I believe. I had heard so much said about making whisky out of molasses that I supposed it could be made cheaper, but I now understand it is not so, and that the reason why it costs less is because the man who makes molasses whisky is presumed to be cheating, while the man who makes corn whisky is not cheating. [Laughter.] Is that it?

Mr. ALLISON. That is substantially the fact. A man can make whisky from molasses in garrets and cellars, while if he makes it from corn he is compelled to make it in open day where it is seen of all men. That is the theory and that is the fact as stated by those best acquainted with the subject. Of course, by connivance with dishonest officers, any distiller can for a time at least defraud the Government. Therefore I say that in my judgment the only way to prevent this illicit distillation from molasses is to reduce the tax upon distilled spirits so that the legitimate manufacture will be transferred to the corn growing States, and thus give us a market for twenty or thirty million bushels corn per annum. It is a fact that in the West no whisky is made at the present time, except in the cities where it can be done fraudulently. It is a further fact that alcohol is to-day shipped from New York and Philadelphia, even west of the Mississippi, made in those cities and produced from molasses or from corn shipped from the West.

Mr. LOGAN. I would like to ask the gentleman one question right here, and it is this: whether he believes that the large amount of whisky that was in bond last winter in New York, and out of the tax upon which the Government was cheated by its removal from one bonded warehouse to another, under an order from the internal revenue department, after a law had been passed requiring the tax to be paid before the whisky was removed, was all molasses whisky or not?

Mr. ALLISON. I do not know anything about the fact of which my friend speaks.

Mr. LOGAN. Well, I will state that the Commissioner of Internal Revenue acknowledged the fact before the committee that orders had been issued of that kind.

Mr. ALLISON. I do not know, however, that an order issued by the Commissioner of Internal Revenue transferring whisky from one warehouse to another resulted in defrauding the Government. If it be true, it is quite possible that a portion of the whisky was made out of corn. I know that it has been a favorite method of defrauding the Government by removing whisky in bond, but I think this bill will effectually put a stop to that.

Mr. MYERS. As my friend's hour is nearly exhausted, I wish to ask him a question on another subject. As to the tax on whisky, for myself, I am in favor of taxing the fermenting capacity of the distillery. That is the way to collect a tax on whisky, in my judgment.

Under the present law the tax on cigars, cheroots, and cigarettes of all kinds is five dollars the thousand. That was the amendment offered by myself last year, and which took the place of the sliding-scale proposition reported

by the Committee of Ways and Means. Now, it is proposed to double that tax, and impose a dollar tax on each cigar-maker, on every boy that makes a cigar. In view of the fact that we once had a tax of ten dollars per thousand on cigars, and that in nine months under that law we only collected one seventh more of tax than we did in nine months' operation of the present law, I wish to ask whether the Committee of Ways and Means intend to insist on that ten-dollar tax on cigars, especially when we remember that this House last year passed that amendment and said that ten dollars a thousand was too severe a tax upon the manufacture of cheap cigars, and when all these manufacturers ask that we shall keep the tax at the present rate?

Mr. ALLISON. I will answer the question by simply saying that, so far as I know, the committee propose to leave the tax on cigars where it is, at five dollars a thousand.

Mr. MYERS. You do not so report.

Mr. ALLISON. We do not, but we propose to reduce it. The chairman of the committee so stated in his opening remarks.

Now, I desire to say a word further on the question of distilled spirits. I listened to the remarks of my friend from Indiana [Mr. HUNTER] last night as to his plan of collecting the tax on spirits, and I was pleased to find that he is in accord mainly with the Committee of Ways and Means with reference to the method of collecting the tax on whisky. And if I had not known that with great care and elaboration he had prepared and presented to the House a bill upon the subject, I would have supposed that he had read our bill and was advocating it. The only material difference between his proposition and that of the committee is that he proposes a form of receipts, while we propose a form of stamps. We have thrown around our bill every guard he mentioned yesterday except that we do not propose to brand the bottles or the drinks that a man takes from day to day. That is the only modification I believe that he proposes.

Mr. HUNTER. I would like to ask the gentleman a question.

Mr. ALLISON. I yield for a question.

Mr. HUNTER. I would ask the gentleman how, when liquor is taken from the barrel and put in a vessel holding less than ten gallons, under his system you are going to identify that whisky after it gets in a vessel holding less than ten gallons?

Mr. ALLISON. We have a process of identification of which I cannot now go into a particular explanation. But I will do so with pleasure when we reach that section, and come to the five-minute debate upon it.

This bill proposes a division of this tax on distilled spirits. We first put a special tax on the distiller. Then we put a daily tax on the distillery, or a tax on the capacity of the distillery. We then put a specific tax on the spirit; then a tax on the wholesale dealer, a tax on the rectifier, and also a tax on the retail dealer.

I have made a careful estimate of the amount of revenue that can fairly be expected from the bill under consideration should it be substantially enacted into a law. In making this estimate I have been careful to come within the lowest estimate which I think possible of the amount of annual consumption in this country. The bill provides, in the first place, for a special tax of \$200 upon all distilleries having an annual capacity of two hundred gallons or less, and in addition one dollar per barrel upon all spirits distilled over and above two hundred barrels in any one year. I should say, however, in making up this estimate I have estimated the total consumption per annum at seventy five million gallons. It will be apparent, I think, that no distiller will apply for the privilege of manufacturing spirits under this law unless he intends to pay the tax at least upon the greater portion of his manufacture, as the law provides that the distillery and distillery premises must be unencumbered by any lien to any person whatsoever. Assum-

ing that no distillery will be licensed of a less capacity than two hundred barrels per annum makes the special tax upon the annual amount of whisky produced two and one half cents per gallon; and assuming that even with the stringent law, as proposed, the annual illicit production will reach fifteen million gallons, we have a production upon which the special tax will be paid of sixty million gallons, equal in amount to \$1,500,000 per annum.

There is in addition to this a provision for taxing the capacity of distilleries by estimating the capacity of their mash-tubs, which is five dollars per day upon a mashing capacity of one hundred bushels of grain, and three dollars per day upon each additional hundred bushels of grain. I believe that the effect of this bill will be to concentrate the business into the hands of men owning large distilleries. So that it is safe to assume that few distillers will pay the special tax unless having a mashing capacity of at least one hundred bushels per day, and I think they will average two hundred bushels per day, which would make a daily tax of eight dollars upon each distillery; and assuming that twelve hundred distilleries will pay the tax there will be paid from this source \$3,504,000. Fixing the specific tax upon the spirits distilled at sixty cents per gallon, which is the lowest amount of specific tax I would place upon spirits, and assuming that sixty million gallons will pay this tax, and allowing for fifteen million gallons of illicit distillation as before, there will be paid into the Treasury \$36,000,000 per annum. We have taxed wholesale dealers in liquors at the rate of two and a half per cent. upon all sales of distilled spirits, and estimating the value of each gallon in the hands of the wholesale dealer at one dollar and fifty cents, and estimating that there will only be three sales by wholesale dealers until the product reaches the retail dealer, we will have from this source a tax of two and a half per cent. upon \$200,000,000, or a gross sum of at least \$5,000,000, to which should be added at least \$1,000,000 for sales of foreign liquors, wines, and malt liquors, making a total of \$6,000,000 from wholesale liquor dealers. We also tax rectifiers and compounders of liquors, from which we will receive at least \$500,000 per annum. Under the existing law, retail liquor dealers pay twenty-five dollars each annual special tax realizing for the year 1867, in round numbers, \$3,000,000.

The bill under consideration increases this tax in proportion to sales, rating from twenty-five to one thousand dollars. I think it is safe to say that the average special tax upon retail liquor dealers will reach three times the present tax, or an average of seventy-five dollars each, which will give us, upon the basis of last year, \$9,000,000.

To recapitulate, we will receive—

From special tax—distillers.....	\$1,500,000
From capacity of mash-tubs—daily tax.....	3,504,000
Specific tax on spirits, at 60 cents.....	36,000,000
Wholesale liquor dealers.....	6,000,000
Rectifiers and compounders.....	500,000
Retail liquor dealers.....	9,000,000
Total.....	\$56,554,000

Upon the basis of the above estimate the total receipts that may be relied upon, should this bill become a law, are \$56,554,000, which, I am satisfied, is below what the actual receipts would be if the law is administered with fair ability and integrity on the part of officers. In all these estimates I have not taken into account any tax upon \$15,000,000 of illicit product, which will be largely reduced under an efficient administration of the law. I am well satisfied, however, that should the tax be reduced as proposed alcohol will be largely used for industrial purposes and in the arts, as before the tax of two dollars per gallon was imposed; so that, I think, we can estimate, fairly and reasonably, that the annual consumption under this bill will be increased ten million gallons, or one fifth of the present estimated consumption, which would increase the revenue, in round numbers, \$10,000,000.

With all the safeguards and restrictions

thrown about the law a large amount of illicit whisky will be produced. In the mountains and valleys, in the cellars and garrets, will be found a class of men who will run the risk of fines and the penitentiary for the purpose of defrauding the Government of its honest due.

Mr. HARDING. How can we tax the capacity of those concealed distilleries? How will you cook the hare before you catch it?

Mr. ALLISON. The first rule of the cook-book is to catch the hare before you undertake to cook it. Therefore you cannot tax that which you know nothing about. There will be illicit distilleries.

But I do not agree with the Special Commissioner of Revenue that the amount of consumption of spirits in this country will be as small as he estimates in his last published report. However, he has recently revised his estimate on that subject. He based his former estimate upon the consumption of distilled spirits in Great Britain and the provinces and in the United States, as shown by the census of 1860. In Great Britain the consumption of distilled spirits is only seven tenths of a gallon *per capita*. But the latest statistics show that while the consumption of distilled spirits in Great Britain is only seven tenths of a gallon *per capita*, twenty-three million barrels of beer are consumed, or two and four tenths gallons distilled spirits in that form for every man, woman, and child. Now, the whole amount of beer consumed in this country is only about seven or eight million gallons.

The quantity of distilled spirits produced in the United States during the year ending June 1, 1860, as returned to the Bureau of the Census, was eighty-nine million three hundred and eight thousand five hundred and eighty one proof gallons; or, including one million one hundred and four thousand gallons of alcohol distilled continuously from the grain and returned as alcohol about ninety-three million gallons. As no tax or restriction of any kind was then proposed on the manufacture of spirits, and as, consequently, no motive for concealment or deception then existed, the above return may be considered as approximately correct—the acknowledged tendency being, however, in such cases to over, rather than underestimate.

As the annual production of distilled spirits thus returned was even at that period at least four times as great as the maximum annual production of distilled spirits in Great Britain or any other of the leading States of Europe, it is a matter of interest, in the first instance, to inquire in what manner a product comparatively so excessive was enabled to find a regular and legitimate disposition or consumption.

The materials for answering the inquiry are to be found mainly in the report of the Revenue Commissioner, transmitted to Congress in March, 1866.

In 1860 the illuminating agent of almost universal use in the United States, in places where gas was not available, was the so-called "burning fluid"—which was commercially prepared by mixing one gallon of rectified spirits of turpentine (camphene) with four or five gallons of alcohol. Each gallon of alcohol thus used required 1·88 gallon of proof spirits; by which term is to be understood a mixture of about fifty per cent. alcohol and fifty per cent. water. The amount of proof spirits used for this manufacture was estimated by the Revenue Commissioner to have been at the rate of about twenty-five million gallons per annum; but subsequent evidences obtained have rendered it probable that this estimate was too low, and that the actual amount of proof spirits annually used for the manufacture of burning fluid was in excess of thirty million gallons. In a debate in the House of Representatives, April 22, 1864, it was stated by Mr. HOLMAN that in the city of Cincinnati alone the manufacture of burning fluid had been sufficiently extensive to require an amount of alcohol equal to the product of twelve thousand bushels of corn for every twenty-four hours.

Estimating a product of twelve quarts (three gallons) per bushel, and three hundred work-

ing days per annum, it appears that the city of Cincinnati alone must have consumed in its manufacture of burning fluid about eleven million gallons of proof spirits per annum, while the amount of burning fluid produced in the cities of New York and Brooklyn during the same period is known to have been considerably in excess of that produced in Cincinnati.

Upon the imposition of the tax of two dollars per gallon upon proof spirits, this business, with its consequent use of alcohol, was swept out of existence and has not since been resumed.

The average price of proof spirits in the New York market from 1858 to 1862, inclusive, was about twenty-four cents a gallon, and reached at times a point as low as fourteen cents a gallon, while the price of alcohol during the same period ranged from thirty to sixty cents a gallon. This excessive cheapness induced a most extensive and lavish use of spirits for a great variety of industrial, medicinal, and domestic purposes, such as the manufacture of varnishes, hats, vinegar, white lead, furniture polish, perfumery, tinctures, transparent soaps, percussion caps, picture frames, imitation wines, patent medicines, and in dyeing, cleaning, lacquering, bathing, and for fuel.

The report of the revenue commission above referred to furnishes in detail a great amount of evidence concerning the enormous consumption of distilled spirits, at the period mentioned, for industrial purposes, a consumption which has had no parallel at any time in Great Britain, France, or any of the other States of Europe.

With an advance in the cost of spirits consequent upon the imposition of the tax, from fourteen cents to \$2 25 per gallon for proof spirits, and from thirty cents to \$4 50 per gallon for alcohol, the use of spirits and alcohol for all the industrial and other purposes above specified greatly diminished or entirely ceased.

In Great Britain, where the exact disposition of all the spirits produced is accurately known, the whole amount of spirits used for industrial purposes does not exceed three millions proof gallons per annum, although spirits which have been subjected to a process called methylation (that is, the addition of wood naphtha) are allowed to be used free of tax for industrial purposes.

It is the judgment of experts that the present consumption and use of alcohol in the United States for industrial, mechanical, and domestic purposes is less than one third of the quantity so used in 1860, or prior to the imposition of the high tax on distilled spirits; and that the present maximum consumption of distilled spirits in the United States for the above purposes, with the great economy in the use of alcohol now everywhere practiced, is not in excess of five million gallons per annum. As illustrative of the truth of this estimate a single fact may be cited. The manufacture of chemicals, many of which depend mainly upon the use of alcohol, is larger in Philadelphia and vicinity than in all the rest of the United States; and yet the amount of distilled spirits now consumed in Philadelphia for all industrial purposes is estimated by a committee of the Philadelphia Drug Exchange as not exceeding, under the most favorable circumstances, twenty thousand barrels, or about eight hundred thousand proof gallons per annum.

The present exportation of distilled spirits is estimated at about five and a half million gallons per annum. Prior to 1863 the exportation of distilled spirits had never exceeded three million gallons in any one year. If now the estimates and statistics already given are correct, there is, if the census return of ninety-one million gallons production in 1860 was approximately true, if of the quantity thus returned, from thirty to thirty-five million proof gallons were used for the manufacture of burning fluids, fifteen million for industrial and domestic purposes, and less than one million gallons were exported, there remained at that time a product of about forty-five million gallons, the disposition of which can be accounted for only on the supposition that it was used for

drinking purposes. With a total population in 1860 of thirty-one and a half million, such a consumption would have been at the rate of about one and four tenths gallons per capita for each man, woman, and child in the whole country. This ratio, on the basis of the estimated present population of thirty-seven million twenty thousand would indicate an annual aggregate of fifty-one million eight hundred and thirty thousand proof gallons. If, however, we assume, in accordance with the popular belief, that the present annual production of distilled spirits in the United States is in excess of the aggregate annual product in 1860—say one hundred million proof gallons—it is incumbent on the advocates of this assumption to show in what manner such a quantity is disposed of.

If we allow five million for exportation and ten million as the amount annually consumed for industrial purposes, there will then remain, on the hypothesis of one hundred million gallons annual product, eighty-five million gallons to be carried to the account of the annual whisky drinking consumption of the country, exclusive of the consumption of foreign wines and spirits, domestic wines, beer, cider, &c., a drinking consumption at the rate of over two and one third gallons per head, or over ten gallons per head for the entire voting population, the present entire male population of the United States, white, black, and red, over twenty-one years of age, being about nine million.

The inquiry next arises, does any other civilized nation or people consume distilled spirits in like proportion? On this point the Special Commissioner of the Revenue has published some definite statistics. Thus in Canada the production of distilled spirits from 1862 to 1864 inclusive, with a tax of fifteen cents per gallon was officially estimated at about three million six hundred thousand proof gallons. Making due allowance for illicit distillation, this would indicate, on the then basis of population, a total consumption of domestic distilled spirits for all purposes of less than one and one fourth gallons *per capita*.

In Nova Scotia and New Brunswick the domestic production of distilled spirits is for-

bidden by law; and not a single distillery, open or covert, is believed to exist in either of these provinces; and as the spirits consumed are imported under moderate duties, the data for estimating consumption are unusually favorable. These indicate for Nova Scotia a total annual consumption for all purposes of one and three tenths gallons *per capita*, and in New Brunswick of one and one quarter gallons *per capita*.

In Newfoundland and Prince Edward's Island the official estimate of consumption is about one gallon *per capita*. The above data, therefore, seem to show that an allowance of one and four tenths gallons as the annual drinking consumption of distilled spirits *per capita* for the whole population of the United States is sufficiently ample.

On the other hand, the return of the consumption of spirits in Great Britain for the year 1867, as submitted to the Special Commissioner of the Revenue by the officers of the British board of inland revenue, give an essentially different result. These returns, made up from data which do not admit of a question as regards accuracy, state that the consumption of domestic distilled spirits in the United Kingdom for the year 1867 amounted to only three fourths of a gallon *per capita*. There were, however, consumed during the same year about twenty-three million vessels of beer, or about seven tenths of a barrel *per capita* of the above population. The quantity of malt charged with duty the same year was about fifty million bushels. In an average of years one bushel of malt yields two gallons of proof spirits; so that the malt yearly made into beer in Great Britain would yield the enormous quantity of one hundred million gallons. In the fermentation of the wort, or extract of malt, for the manufacture of beer, the whole of the sugar is not transformed into alcohol, but from one quarter to one half may remain unchanged in the beer. "The quantity of malt, therefore, which is consumed in Great Britain for the making of beer does not, in reality, indicate the consumption of so large a number of gallons of proof spirits as the distiller would extract from it." But making all due allowances, the

officers of the British revenue estimate the amount of spirits at present annually consumed in the United Kingdom, in the form of beer, to be equal to two and seven tenths gallons *per capita*, which, added to the consumption of distilled spirits proper, would make a total consumption of distilled spirits of domestic production in all forms of over three and four tenths imperial proof gallons *per capita*, or four and two thirds American proof gallons. It should, however, be remembered that the population of Great Britain is chiefly industrial and congregated in large towns and cities, and that their employments as well as their climate favor excessive drinking. On the other hand, the population of the United States is in a great degree rural, more temperate in their habits, while the use of beer as a substitute for food is a thing unknown in the United States.

These facts, therefore, seem to indicate that while the present production and use of distilled spirits is large, it is not so excessive in amount as is generally asserted and popularly believed.

I have but one further special subject in this bill to refer to, and that is the taxation of banks. Many gentlemen on this floor have had great anxiety about the taxation of banks. We have transferred from the general banking law to this bill all that relates to the taxation of national banks. And we have transferred the whole matter of taxing banks to the internal revenue department, and have provided that this tax shall be assessed and collected as others taxes are assessed and collected.

Not only that, but we increase the tax upon the circulation of the banks one per cent. It is now one per cent. We propose to tax the circulation of national as well as other banks two per cent. The Committee of Ways and Means, after a careful examination of this subject, came to the conclusion that that was all the taxation that these banks could fairly and properly be required to pay. At two per cent. the revenue upon the circulation of the banks will yield \$6,000,000. I have here a table carefully prepared by the Comptroller of the Currency, to which I would call the attention of members, as follows:

Statement showing the amount and rate of taxation (United States and State) of the National Banking Associations, for the year ending December 31, 1867.

States and Territories.	Capital.	Amount of taxes paid United States.	Rate per cent. of United States taxation.	Amount of taxes paid to and assessed by State authorities.	Rate per cent. of State taxation.	Total amount of taxes paid to the United States and State authorities.	Rate per cent. of taxation (United States and State) on capital.
Maine.....	\$9,085,000 00	\$180,119 00	.02	\$141,225 64	.015	\$321,344 64	.035
New Hampshire.....	4,735,000 00	88,772 90	.019	93,178 83	.019	181,951 73	.038
Vermont.....	6,510,012 50	122,213 57	.019	144,163 50	.022	266,377 07	.041
Massachusetts.....	79,932,000 00	1,616,824 50	.0202	1,562,128 10	.02	3,178,952 60	.0402
Rhode Island.....	20,364,800 00	324,844 25	.015	195,355 32	.01	520,199 57	.025
Connecticut.....	24,584,220 00	434,440 35	.017	387,146 26	.016	821,586 61	.032
New York.....	116,494,941 00	3,022,662 16	.0261	4,058,706 11	.0348	7,081,368 27	.0609
New Jersey.....	11,333,350 00	253,359 31	.022	223,106 28	.02	476,465 59	.042
Pennsylvania.....	50,277,990 00	1,242,037 40	.0247	278,268 04	.0055	1,520,305 44	.0302
Delaware.....	1,428,185 00	32,620 68	.0228	1,260 61	.0008	33,881 29	.0236
Maryland.....	12,590,202 50	260,261 25	.0206	166,054 11	.0131	426,315 36	.0337
District of Columbia.....	1,350,000 00	15,329 45	.0133	3,285 94	.0028	18,615 39	.0161
Virginia.....	2,500,000 00	48,344 81	.0193	13,925 66	.0055	62,270 47	.0248
West Virginia.....	2,216,400 00	46,966 34	.021	51,457 38	.023	98,423 72	.044
North Carolina.....	583,300 00	9,048 71	.0155	5,144 31	.0088	14,193 02	.0243
Georgia.....	1,700,000 00	40,844 75	.025	6,050 46	.004	46,895 21	.029
Alabama.....	500,000 00	8,762 52	.0175	3,829 49	.0095	12,592 01	.027
Louisiana.....	1,300,000 00	35,894 28	.0276	20,041 58	.0154	55,935 86	.043
Texas.....	576,450 00	6,865 36	.0119	2,149 34	.0037	9,014 70	.0156
Arkansas.....	200,000 00	5,745 38	.0287	1,350 99	.0068	7,096 37	.0355
Kentucky.....	2,885,000 00	59,816 01	.021	17,466 77	.006	77,282 78	.027
Tennessee.....	2,100,000 00	52,459 82	.027	27,974 80	.014	80,434 62	.041
Ohio.....	22,404,700 00	514,681 46	.0229	520,951 20	.0232	1,035,632 66	.0461
Indiana.....	12,867,000 00	278,797 60	.0216	200,372 29	.0155	479,169 89	.0371
Illinois.....	11,620,000 00	321,406 24	.0276	231,917 40	.02	553,323 64	.0476
Michigan.....	5,070,010 00	111,789 56	.022	68,061 41	.0134	179,850 97	.0354
Wisconsin.....	2,935,000 00	76,583 25	.0261	62,011 51	.021	138,594 76	.0471
Minnesota.....	1,660,000 00	39,132 43	.02	29,522 20	.013	68,654 63	.032
Iowa.....	3,992,000 00	106,349 34	.0266	88,281 27	.0221	194,630 61	.0487
Missouri.....	7,559,300 00	133,141 77	.014	189,247 69	.02	322,389 46	.034
Kansas.....	400,000 00	10,223 23	.025	7,801 08	.02	18,030 31	.045
Nebraska.....	250,000 00	10,734 67	.0429	7,014 39	.028	17,749 06	.0709
Oregon.....	100,000 00	1,623 86	.024	-	-	1,623 86	.024
Colorado Territory.....	350,000 00	9,701 72	.0277	1,615 00	.0046	11,316 72	.0323
Utah Territory.....	150,000 00	1,887 42	.0125	1,097 00	.0073	2,984 42	.0198
Montana.....	100,000 00	837 31	.0083	560 00	.0056	1,397 31	.0139
Idaho.....	100,000 00	478 65	.0047	1,405 36	.014	1,884 01	.0187
Totals.....	\$423,304,861 00	\$9,525,607 26	.024	\$8,812,823 92	2 82-1000	\$18,338,431 18	4 332-1000

NOTE.—The banks in Mississippi, (2;) South Carolina, (2;) and Nevada, (1)—in all five banks—not having reported, are not included in the above statement.  
OFFICE OF COMPTROLLER OF THE CURRENCY, May 28, 1868.



If gentleman will examine this table they will see that to-day the national banks are taxed by the General Government two and a quarter per cent. on their capital; and they are taxed by the State governments two and twenty-two hundredths per cent. upon their capital, or four and forty-seven hundredths per cent. altogether.

[Here the hammer fell.]

Mr. INGERSOLL. I move that the gentleman's time be extended, so that he may finish his remarks on this branch of the question.

The CHAIRMAN. The time fixed by the House for general debate in Committee of the Whole has expired; and the committee has no power to extend it.

Mr. INGERSOLL. It can be done by unanimous consent.

Several MEMBERS. There is no objection.

Mr. ALLISON. I will only occupy a few moments more.

Mr. Chairman, at the present the General Government collects from national banks taxation to the amount of more than nine million dollars, and the State governments over eight million dollars, making in all \$18,000,000. This we propose to increase by \$3,000,000; so that the total amount raised from national banks in this country, including both State and national taxation, will reach over twenty-one million dollars.

Now, Mr. Chairman, I have only a word more to say with reference to this bill. Repeating partially what I said in my opening remarks, I will say that it has been the constant aim of Congress to reduce the burdens of taxation; and we must be careful, while reducing these burdens nominally, that we do not impose upon the people additional burdens, to be collected by means of fraudulent practices on the Government. Why, sir, to-day while nominally the tax on distilled spirits is two dollars a gallon, we collect from this source only \$13,500,000. It must be remembered that the people of this country are actually paying over \$100,000,000 in the shape of taxation to the "whisky ring" and those who are engaged in whisky frauds. Taxes should be so imposed that at least nearly every dollar exacted by the General Government shall go into the Treasury, and not be taken from the pockets of the people to be placed in the hands of a few men who may be engaged in defrauding the Government. Now, if we proceed to levy taxes on this principle, my own judgment is that this is not the last year that we shall reduce taxation. I have no faith in the remark of the gentleman on the other side, [Mr. NIBLACK,] my distinguished colleague on the committee, that this tax bill is only an experiment. It is no experiment; or, if it is an experiment, it is such an experiment as will show that the Government can raise under it more revenue than is necessary for the current expenses of the Government and the payment of the interest, and of a considerable sum annually upon the principal of the national debt. As estimated by the chairman of the Committee of Ways and Means, there will be \$43,000,000 of a surplus during the next fiscal year after an expenditure of \$350,000,000, and we ought not to have such an expenditure by at least \$25,000,000.

As I have already stated, the amount of taxation during the fiscal year 1866 amounted to sixteen dollars per head upon every man, woman, and child in this country. The taxation here proposed will amount to eight dollars per head, or a little less, upon every man, woman, and child in the country. Now, we can still reduce that taxation ten per cent.; and in twenty years from this day we can pay the interest upon our national debt, pay the current expenses of the Government, and pay every dollar of that debt.

For one, I am not in favor of hastening the payment of our national debt. We have paid it too rapidly within the last two years. Notwithstanding the extraordinary expenses of the Government, yet from the 1st of August, 1865, to the 1st of November, 1867, we paid \$266,-

000,000 of the principal of our national debt, or over ten millions per month. I believe, for one, that it is not expedient or prudent to pay off the debt with such rapidity unless we can pay it off by some such project as that proposed by the distinguished gentleman from New York, [Mr. Wood,] without the payment of taxes or the issuing of new bonds or evidences of indebtedness.

Within the last few years our national expenditures have been constantly decreasing. I read lately a speech made in Parliament by Mr. Gladstone, in which he stated that during the last year the expenses of the peace establishments in Great Britain had increased three million pounds, to which must be added the extraordinary expenses for the Abyssinian war. Thus while we, by the policy we have adopted in Congress, are constantly decreasing our expenses and our taxation, we find that other Governments are increasing their expenditures and are compelled to increase their taxation.

Mr. Chairman, I thank the committee for having listened to me so attentively.

Mr. MAYNARD. I hope my colleague on the Committee of Ways and Means will not close without informing us whether, to the best of his information, the greatest amount of fraud is in the small distilleries, or in the large ones where distillation is carried on openly, and which are professedly honest distilleries?

Mr. ALLISON. Mr. Chairman, so far as that is concerned, I think I might answer him by saying both, if it were not a contradiction in terms. Of course there have been great frauds by large distilleries, but they must have been committed in most cases by the connivance of the revenue officers, or because they neglected their duties.

The CHAIRMAN. All general debate has terminated under the order of the House. The bill will now be read by sections for amendment, and debate under the five-minutes rule.

The Clerk read as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the office of Commissioner of Internal Revenue be, and the same is hereby, established and constituted a department of the Government, to be designated and known as the department of internal revenue, the head and chief officer of which department shall be the Commissioner of Internal Revenue, whose salary shall be \$6,000 per annum. And whenever the office of Commissioner of Internal Revenue shall become vacant by death, resignation, or otherwise, the President shall nominate, and by and with the advice and consent of the Senate appoint, a suitable person to fill said office.*

Mr. BLAINE. Mr. Chairman, I am compelled, notwithstanding the earnest and able arguments of the chairman of the Committee of Ways and Means, to move to strike out this section, the first section of the bill; and although I am confined to five minutes, I shall endeavor in that time, if the committee will give me their attention, to state the reasons why I make this motion.

It is proposed to commit to the Commissioner of Internal Revenue the absolute power of appointment of all the revenue officers of the United States. That we undoubtedly have the right and power to do it I do not question; but let us see the effect. We have the right legally and constitutionally; we ordain by law that the Commissioner of Internal Revenue shall possess this power; we adjourn; then, next day, President Johnson suspends the present Commissioner and puts in one of his own friends. I ask this committee who then controls all of the revenue appointments of the country?

Mr. LOGAN. Why does he not do it now?

Mr. BLAINE. He cannot. He has the tenure-of-office act restraining him. This proposes to remove this very operation of the tenure-of-office law, and to put the appointments in the hands of the Commissioner of Internal Revenue. The President must keep within the law. I wish gentlemen to observe that, keeping within the law, he can suspend the Commissioner just as he suspended Secretary Stanton, and the next day appoint another man; and we give to that man absolute autocratic power, unrestrained power, to

remove and appoint at pleasure all the internal revenue officers of the Government throughout the whole length and breadth of the land.

Mr. BENTON. Does it give this *ad interim* appointee this power?

Mr. BLAINE. Of course it does. I am surprised the gentleman asks the question. It gives the Commissioner of Internal Revenue, for the time being, no matter who he is, this power. I wish to know whether General Grant, when made *ad interim* Secretary of War, did not have all the powers of Secretary of War? And if the President should suspend Mr. Rollins and put in Cornelius Wendell, or any partisan of his, would not the new appointee have all the powers conferred by this bill to-day upon the Internal Revenue Commissioner?

Mr. BENTON. If that be so it could be very easily remedied by a provision confining the power merely to the Commissioner nominated by the President and confirmed by the Senate.

Mr. BLAINE. Then A B now in office would have the power to remove and appoint, and C D would not have it. That would be very handsome legislation!

Mr. PILE. The remarks of the gentleman apply more particularly to section six of the bill.

Mr. BLAINE. It opens the whole question. The question is whether it shall be established as a separate department now. I am not intending to answer the argument of the chairman of the committee as to whether this ought to be established as a general rule, and whether it would, as a general rule, make this officer more efficient. But I say to do it now is to give to Andrew Johnson the absolute control of every revenue officer in the United States, regardless of the tenure-of-office law; and for one I am not willing to do it. To-day the internal revenue officers of the country are protected, both collectors and assessors. They hold their offices just exactly as other officers who have been appointed by and with the advice of the Senate. But this bill proposes to make them subject to appointment and removal by a gentleman who himself is entirely subject to suspension and removal by the President of the United States. Therefore you place in him the whole power. This section, if it had been devised for the purpose, could not have been more absolutely efficient in giving to the President of the United States the entire power over every internal revenue officer throughout the United States.

[Here the hammer fell.]

Mr. LOGAN. I desire to oppose the proposition of the gentleman from Maine. I am very much surprised to hear any gentleman on this floor say that the first section of this bill gives power to any officer outside or irrespective of the tenure-of-office law. Why, sir, it does not affect the tenure-of-office act; it does not repeal it in whole or in part; but, being a subsequent law, it becomes itself subject in its operation to the tenure-of-office law. All the provisions of that law that are applicable to appointments or removals from office will apply as well to this office as to any other.

Again, what objection is there to the Commissioner of Internal Revenue having the right to appoint officers that does not apply to any other man having the right? The power to appoint must rest somewhere, and I will give my reasons, so far as I can in the brief time allowed me, why I favor this proposition. We charge here that the President is responsible for the appointment of these officers who have perpetrated frauds upon the Government or that the Secretary of the Treasury is responsible. The power of appointment belongs to that officer in some instances and to the President in others. When we charge that the opposite side deny the fact, and say the Commissioner of Internal Revenue is responsible.

Now, sir, I want to fix the responsibility of appointing inefficient officers somewhere. Let it rest in some head, so that we can hold that person responsible and accountable to Congress and the country for maladministration

or improper conduct in reference to the public revenue.

Now, sir, suppose, as the gentleman from Maine [Mr. BLAINE] says, that this would place the appointing power in the hands of the President. Why, my conscience! Is it not there now?

Mr. BLAINE. No.

Mr. LOGAN. Yes, it is, by and with the advice of the Senate.

Mr. BLAINE. Oh, no.

Mr. LOGAN. An officer cannot be suspended or removed except by the advice and consent of the Senate, as I understand the law already in existence. Now, the President has the appointing power, and the Secretary of the Treasury has it, and the object of this bill is to fix it in the head of one Department and let that Department be held responsible. If the Commissioner of Internal Revenue is to be responsible for the collection of the revenues, why let him have such officers as he believes are honest and efficient, and if he fails in his judgment, let him answer then on his own responsibility for that failure. While you leave the appointment of a part of these officers—the inspectors—wholly in the hands of the Secretary of the Treasury and the appointment of assessors and collectors in the hands of the President, the Commissioner has no power or control over them in any way whatever. And when you charge the Secretary with improper appointments, he shifts the responsibility on the President; the President says he would have removed them if he had been notified. Hence you never can get at any one who is responsible. Each one shifts the responsibility upon the other. Now, we want to have the responsibility rest somewhere, and the Commissioner himself is the proper person upon whom that responsibility should rest.

[Here the hammer fell.]

Mr. JUDD. I move to amend the section proposed to be stricken out by inserting after the words "per annum," in the ninth line, the words "and who shall be subject to removal or to suspension from the performance of the duties of the office only with the advice and consent of the Senate."

My object in offering this amendment is to reach the point that has been so much discussed by the chairman of the Committee of Ways and Means and by my colleague, [Mr. LOGAN,] who has just taken his seat, and to fix responsibility for the conduct of this department upon some single person.

I subscribe most fully to all that has been said in regard to this triple execution of power. The responsibility in relation to this most important branch of the Government, and upon which its very existence depends, ought to be placed upon some one individual. If the President is competent to direct, if the Secretary is competent to control, if the Commissioner of Internal Revenue is competent to control, then the power might as well be with one as with three.

It is well known that the actual execution and performance of the duties of the office belong to the Commissioner of Internal Revenue, and it is only questions of appeal, questions of order, which override and control the decisions of the Commissioner that, as a general rule, reach the higher officers. I desire by this amendment to obviate the objection that the gentleman from Maine takes. I desire to fix the responsibility upon one individual, and when that responsibility is fixed, to prevent any other official from interfering with his discharge of the duties of the office.

Mr. WOOD. I rise to oppose the amendment. I am glad that this doctrine of giving power where there is responsibility is at last recognized by the majority of this House. It is the doctrine of the Constitution that where responsibility is imposed in the discharge of a public trust the necessary power shall be given by which to execute and enforce it. That is the doctrine of the Constitution with reference to the President. The President is made the chief executive officer; the power of enforcing

and administering the laws is given to him, and yet throughout the whole of this Congress and the last Congress the effort has been made to deprive the President of the power to carry out the laws of Congress.

Now, this first section of the bill and all the first six sections propose to give to the Commissioner of Internal Revenue unrestricted and unlimited power. They place no control over his acts. He is not obliged to consult the Senate or the Secretary or the President. He is the sole individual authority, without any responsibility to any one whatever. There is no responsibility under this act. It is so indefinite and vague that you cannot fix the responsibility. You take from the President the power to enforce the law. You hedge him around in every way. You deprive him even of the ordinary authority of appointing his own clerks; and now you propose to give to a subordinate officer unlimited and unrestricted power, because you say that there should be some responsibility somewhere.

Mr. LOGAN. I would ask the gentleman from New York, who is speaking of the constitutional power of the Government, whether it is not provided in the Constitution that the appointing power shall be in the President and Senate, or with courts or heads of Departments, as Congress may determine?

Mr. WOOD. I referred to that constitutional difficulty last night. The Constitution has been correctly quoted by the gentleman from Illinois, [Mr. LOGAN,] But there is nothing said there about giving the power of appointment to heads of bureaus.

Mr. LOGAN. No, sir.

Mr. WOOD. You propose to change the thing by altering the name; you continue the bureau, but call it a department, seeking in that way to avoid a constitutional difficulty. Now, I suggest, and I do it respectfully, that in changing the name you cannot change the thing itself.

Now, I am in favor of consolidation of executive power. I believe all authority should be given to the Executive to carry out the laws; that is the essence of republican government. Where the legislative department makes a law representing the popular will, power should be given to the executive department to carry out that will so expressed by the Legislature. I would not take a subordinate officer, under whose administration most of these abuses have been already perpetrated; I would not take a subordinate officer, however pure, high, or experienced he may be, and give him this unrestricted authority.

Mr. SCHENCK. I move to amend the amendment by striking out the words "subject to removal," and insert the word "removed." I do not think this correction needs the amendment proposed by the gentleman from Illinois, [Mr. JUDD,] however wholesome that amendment may be.

And I hope the section will not be stricken out as proposed by the gentleman from Maine, [Mr. BLAINE,] He has anticipated the discussion on this subject. We are not now considering who shall make these appointments. That matter is to be taken into consideration later in the bill. This first section is proposed simply to settle the question whether this department shall be double-headed, or whether it shall have one responsible person at its head.

But the gentleman from Maine [Mr. BLAINE] sees danger in this. He says that if this power is given exclusively to the Commissioner of Internal Revenue, the President may remove him after the adjournment of Congress, and thus obtain the control of the whole matter. Sir, as it is now, the Secretary of the Treasury does not act, the Commissioner of Internal Revenue does not act, except as subordinate to the President. After all, it is a question of form, and not one of substance.

I have here a list of twenty-seven assessors and collectors, in regard to whom the Commissioner of Internal Revenue in July and in December of last year asked that they might

be removed for causes which he stated. And to this day, out of the whole twenty-seven, there has been but one actually removed.

What are the facts? One of these officers is shown to have employed a clerk at four dollars per week, instructing him to return, under oath, at fifty dollars per month, which he did, the assessor retaining the difference between the two amounts, a direct, palpable swindle proved upon the assessor. Other gross misconduct is also proved against the assessor. And to relieve gentlemen on the other side I will say that this assessor professes to be a Republican. The President still keeps him in office.

Now, what does the Secretary of the Treasury report in this case? Why, that they have the case under consideration for the purpose of deciding upon a successor. And they have now been considering the case for the best part of the year in order to determine who shall take the place of a thief. And until they find somebody to be appointed against the wishes of the Commissioner of Internal Revenue, perhaps against the wishes of the Secretary of the Treasury, who will answer the purpose of a tool, nobody will be appointed, I suppose.

Now, what is the second case on the list? A man who is shown to have been guilty of gross neglect, by reason of which \$100,000 worth of whisky was withdrawn upon bonds proved to be worthless, and to have recommended for appointment as inspector the person through whom the fraud was perpetrated, and whose retirement from the office of deputy collector the sureties of the collector had demanded. That man is still there.

Now, what is said about him by the Secretary of the Treasury? He says that the Commissioner has withdrawn his recommendation in this case. But by reference to that very letter, it will be found that the Commissioner asks, not that his recommendation be withdrawn, but that action upon his case should be postponed until the action of the court in March, in a suit pending against the party. But, says the Commissioner, "I respectfully recommend such postponement, not beyond, however, the close of the March term of the court." That was last March; and nothing has yet been done.

[Here the hammer fell.]

Mr. SCHENCK. I have referred to but two of these twenty-seven cases. I will try and give the rest before we are through.

Mr. BECK. Mr. Chairman, I am opposed to this section. It provides—

That the office of Commissioner of Internal Revenue be, and the same is hereby, established and constituted a department of the Government, to be designated and known as the department of internal revenue, the head and chief officer of which department shall be the Commissioner of Internal Revenue, whose salary shall be \$6,000 per annum.

The proposition is to retain as the head of this department the present Commissioner of Internal Revenue, who was originally appointed as a mere subordinate of the Treasury Department. I oppose this, and I will state the reason. Under the Constitution all officers whose appointment is not vested in the courts of law or in the heads of Departments, must be nominated by the President and confirmed by the Senate. Congress may create, if it pleases, a new department; but whenever a new department is created the head of that department must be nominated by the President and confirmed by the Senate. We cannot by a single act of Congress create a department and at the same time elevate a mere subordinate of the Treasury Department to be the head of such department. By any such act we attempt to nominate and appoint to office, a power vested under the Constitution exclusively in the President, subject to the advice and consent of the Senate. I say nothing about the character or competency of the present Commissioner of Internal Revenue. What I object to is, that by this bill we propose not only to create a department, but to appoint the person who shall be the head of that department, assuming thereby executive authority.

Mr. LOGAN. Will the gentleman allow me to ask him a question?

Mr. BECK. Yes, sir.

Mr. LOGAN. I would like the gentleman to explain in what part of the section under discussion there is any provision made for any particular individual serving as head of this department.

Mr. BECK. There is this provision:

That the office of Commissioner of Internal Revenue be, and the same is hereby, established and constituted a department of the Government, to be designated and known as the department of internal revenue, the head and chief officer of which department shall be the Commissioner of Internal Revenue.

As I understand this, it provides that the present Commissioner shall be the head of this department; and that I understand to be the object. Otherwise, when this bill goes into operation, the office of head of this department will be vacant, and the President, under his constitutional authority, will make the appointment, by and with the advice and consent of the Senate, which the advocates of the bill do not pretend is its meaning. It is the avowed purpose to create an office for the present Commissioner.

[Here the hammer fell.]

The CHAIRMAN. Debate is exhausted upon the amendment and the amendment to the amendment.

Mr. SCHENCK. I withdraw my amendment.

Mr. VAN TRUMP. I move to amend the section by striking out "Commissioner" and inserting "secretary;" so that the clause will read, "the head and chief officer of which department shall be the secretary of internal revenue."

Mr. UPSON. I submit that that motion is not in order while the present amendment is pending.

The CHAIRMAN. The Chair sustains the point of order. The question is on the amendment proposed by the gentleman from Illinois, [Mr. Judd.]

Mr. MAYNARD. I move to amend that amendment by striking out "the duties of his office," and inserting "his official duties." I offer this amendment in order to say that I should be glad if gentlemen on the other side who oppose this section would show wherein it differs in its form from previous legislation creating separate departments of the Government. How does it differ in form from the act of 1862, creating the Department of Agriculture and elevating the Commissioner of Agriculture from the position of a bureau officer under the Department of the Interior to be the head of a Department? There was no objection to that legislation that I am aware of.

Mr. WOOD. If the gentleman will permit me I will answer it. The appointment of the Commissioner of Internal Revenue must be submitted by the President to the Senate for confirmation, but this bill proposes to continue the present head without submitting his name to the Senate to be confirmed.

Mr. MAYNARD. I will add nothing to what my colleague on the committee from Illinois [Mr. LOGAN] has said on that point. I have not time to repeat it.

Does not the gentleman know when the Department of Agriculture was created that the Commissioner was holding the office as a bureau officer, and that he continued during that Administration and the present Administration up to the hour of his death? How does this legislation differ in its character, in letter and spirit, from that which created the Department of Agriculture?

But once more. I attempted, in the remarks I submitted to the committee this morning, to maintain and sustain this creation of the Internal Revenue Bureau into a separate department. Let me add some additional reasons. The executive patronage of the Government is already greater than many people believe to be in harmony with safety to the great interests of the Government. I would not increase that patronage. I would not confer any pow-

ers upon that officer additional to those he now has. I do not think there is any reason for it. This is a new department of the Government which has sprung up within the last eight years in the United States. It is an extension of patronage, it is an amount of official duty which we did not have at the beginning of the war, and, therefore, it should properly fall within a separate and distinct department of the Government. The fact that the power exists is no argument against its exercise; and I beg gentlemen, especially on this side of the House, to consider that the power already exists. The difficulty we now have is to make anybody responsible for its exercise. If we can give the head of the department that responsibility so he can be held responsible for it, then whatever party has possession of the Government, instead of its being a political weakness, as now, it will give increased efficiency.

[Here the hammer fell.]

Mr. BROOKS. Mr. Chairman, I rise to say a very few words in reply to the honorable gentleman from Ohio, [Mr. SCHENCK,] and mainly in reference to one of my districts, the eighth district of New York. As an illustration what he was saying he said this district was filled very improperly by a person who badly conducted it, so that no revenue could be obtained. I made an effort for over two years to obtain a change, and five or six Democrats were nominated to the Senate, all of whom were neglected, or, in the end, thrown over and rejected by the Senate; so that for over a year, under the tenure-of-office law, thousands, and perhaps millions, were lost to the revenue by maladministration in that district. The fault was in the tenure-of-office law, and that alone, for it was not in the power of the President to make a change; and if he did not make changes in this district and twenty-six other districts it was because there was fault in the Senate. Nominations after nominations had been sent to the Senate, and it would have been folly on his part to have thrown repeated nominations into the Senate with an indisposition on the part of the Senate to respond to them. At last, sacrificing all interests to the public good, feeling it was indispensably necessary there should be a change in my district, I obtained that change with the consent of the Senate by declining any further to suggest the nomination of any Democrat for the position. And it was only by the nomination of a Republican that the change took place. Hence, when this censure is thrown upon the Secretary of the Treasury, as well as upon the President, I say the fault was not with them, but with the Senate. If there are twenty-six others in the same category, the possibility, if not the certainty, is that what was my experience in the eighth district of New York was the experience in those districts.

The fault is in the Senate. The other is in the tenure-of-office bill. My friend from Pennsylvania [Mr. WOODWARD] has a like experience, and I give him the rest of my time.

Mr. WOODWARD. I rise simply to corroborate what the gentleman from New York has said, and to state a case in the district of Pennsylvania which I have the honor to represent. When I came to Congress I found my predecessor had nominated six citizens of that district for the office of assessor, every one of whom had been rejected by the Senate. I know those six men, and I do not know more responsible and respectable men in that district or out of it. It became my duty to nominate a seventh man. I did so, and the seventh man was rejected. It then became my duty to nominate an eighth man. I did not take the course which the gentleman from New York says he took, of putting in a Republican, but I nominated another Democrat, and he was confirmed by the Senate, and is acting as assessor to-day. But the district was without an assessor for a year and a half; not through the fault of the President or of anybody, but through the fact that seven most responsible and respect-

able citizens were rejected by the Senate of the United States. But the eighth was at last confirmed.

[Here the hammer fell.]

Mr. MAYNARD. My amendment was a mere verbal one, and I withdraw it.

Mr. NICHOLSON. I renew the amendment. The gentleman from Tennessee has asked us to point out wherein this bill differs from the act creating a Department of Agriculture. I propose to point out the distinction. The act passed May 15, 1862, creating the Department of Agriculture, provides "that there is hereby established at the seat of the Government of the United States a Department of Agriculture." Section one goes on to describe the general designs and duties of that Department. Section two provides—

"That there shall be appointed by the President, by and with the advice and consent of the Senate, a Commissioner of Agriculture"

An officer who was not then in existence—

"who shall be the chief executive officer of the Department of Agriculture, and shall hold his office by a tenure similar to that of other similar officers appointed by the President, and who shall receive for his compensation," &c.

Now, the bill under consideration provides for the establishment of a department of internal revenue, and declares who shall be the head or chief officer of that department, who is a person already in existence, and described as the Commissioner of Internal Revenue. This is an attempt to legislate a man into an office, and if this bill shall become a law it will be claimed that this is a description of the person who shall be the head or chief officer of the department of internal revenue. I think that the difference between the two is plainly discernible.

Mr. BLAINE. Mr. Chairman, I desire to say a word in reference to the amendment of my friend from Illinois, [Mr. Judd.] I do not believe it cures the difficulty. He proposes that the Commissioner of Internal Revenue shall not be changed except by and with the advice and consent of the Senate. The gentleman from Tennessee brings up as an analogy the Department of Agriculture, and says that the officer was advanced without requiring a new nomination. Well, I have a case on the other hand. Two years ago the Congress of the United States advanced to the rank of paymaster general, from that of colonel or brigadier general, Benjamin W. Brice, a paymaster with the rank of colonel. But it was held, both inside and outside of Congress, that it required a new nomination to confirm him as Paymaster General with the new rank. Now, I do not say it absolutely requires a new nomination to confirm Mr. Rollins if you advance him from a Commissioner to a head of a department. But I say there is a question in it, and a very serious one, just as much a question as if the President acted upon it and removed him. The case, then, would be without remedy, for we have seen that tried in the Senate. The principle was elaborately reviewed in the case of the removal of Secretary Stanton. If you make this a department the President construes the act that it requires a new nomination, and gives him the power of removal. He then makes a new appointment by suspending him—not considering him in office. Where is the remedy?

A MEMBER. What remedy will you have?

Mr. BLAINE. The gentleman asks what remedy I would adopt. Why, I would have the internal revenue officers throughout the United States protected as they are to-day, by the tenure-of-office law. I admit that the President can suspend a collector or assessor, but whenever he does so the senior deputy within the district takes the place, and the President cannot put in one of his own men. You have absolutely got the President barred on that point. But under this proposition you cannot hedge it in so that he cannot control the whole matter within the law or within what the Senate will hold to be the law, and you cannot review it till next December.



Mr. COBB. How is it arranged about the deputy collector or assessor taking the place?

Mr. BLAINE. Why, when a collector or assessor of internal revenue dies or resigns or is removed, the senior deputy collector or deputy assessor within that district performs the duties.

Mr. COBB. Will the gentleman let me say one word?

Mr. BLAINE. The gentleman can have his own time. I have only five minutes, and cannot yield. The point I make, and I want to repeat it, is this: that if we enact this proposed change in the law we give to the President the control of the Commissioner of Internal Revenue, and we confer on the Commissioner of Internal Revenue absolute, autocratic, unlimited, and illimitable power over every revenue appointment within the United States. You will confer upon Andrew Johnson, by an act of legislation, more power than was ever given in this way without the consent of the Senate to any President or subordinate officer of the Government since it was founded, and I for one, am not willing to do it.

Mr. NICHOLSON. I withdraw the amendment.

Mr. COBB. I renew the amendment. My only object is to ask the gentlemen who have charge of this bill and who are undoubtedly informed on the subject, how it is that under the existing law the present state of things exists in the city of New Orleans? As I am informed, when General Steadman resigned the collectorship of that district he left a corps of deputies there, but there being some delay in the appointment of his successor, an arrangement was entered into here by which Captain John Hancock, General Hancock's brother, goes down there and takes entire charge as senior deputy, although in point of fact he received his appointment as deputy collector long after all the others had received theirs. Is the "senior deputy" somebody who is designated by the outgoing collector or by the President?

Mr. JUDD. I desire to say one word in reply to the honorable gentleman from Maine, [Mr. BLAINE.] He seems to be in very great tribulation lest we should violate the Constitution in some way or other. He discussed this first section of the bill as if it was creating some new office. That is an entire misconception of the language. It merely recognizes the existence of an official in an office that has been created by a former statute, and whose appointment has been confirmed by the Senate of the United States, so that for all purposes he is to-day regularly appointed under that Constitution that my friend from Maine is so fearful that we shall break, and is discharging the duties of the office. Now, what more?

Mr. BLAINE. You advance his rank.

Mr. JUDD. We do not advance his rank. That is an entire mistake. We impose additional duties upon him—nothing further, and that is done at every session of Congress and in regard to every public officer that holds a commission under the Government; and no one has ever questioned the right of Congress within the sphere of his duties to impose additional duties upon a public officer regularly appointed.

Mr. VAN TRUMP. Do we not advance his salary?

Mr. SCHENCK. What of that?

Mr. JUDD. I say, yes; the bill does enlarge his salary; but who ever heard that an act of Congress which provided for the increase of an official's salary was unconstitutional on that account or changed the character of the officer?

Mr. SCHENCK. It does not even enlarge his salary.

Mr. JUDD. Well, assuming that it does enlarge his salary, who ever heard that the members of the Thirty-Ninth Congress ceased to be members of Congress because that Congress enlarged their salaries, or that the office

they held ceased to be the same office that it was before? This section of the bill proposes nothing in the world but to change the duties of this officer.

Why, Mr. Chairman, if I had my own way, I would pass a bill through Congress, and it would have but a single section in it, dividing the Treasury Department into four separate departments, relieving the Treasury Department from the cumbersome machinery that now enables the Secretary to evade the responsibility that properly belongs to him.

Now, we know that practically the Secretary of the Treasury cannot oversee the duties of the various Departments devolved upon him. The time is not far distant when, as the machinery of this Government shall increase, we shall be compelled from necessity, and I take it we shall be compelled by policy, to divide the Treasury Department into several independent departments.

[Here the hammer fell.]

Mr. COBB. I withdraw the amendment to the amendment.

Mr. LOGAN. I renew the amendment to the amendment. I have sat here and listened with some surprise to the proposition of gentlemen on the other side of the House in reference to the first section of the bill. First, the gentleman from New York [Mr. BROOKS] says that the reason why he could not get a man confirmed was because of the tenure-of-office law. Does not the gentleman know that the Senate had a right to reject his man without the tenure-of-office law, and prior to its enactment? The Senate had exactly the same power of rejection before that they now have.

The gentleman from Pennsylvania [Mr. WOODWARD] says that in his case eight different nominations had to be made before one was confirmed.

Now what do these statements and arguments prove? Gentlemen first assail this bill because they say the appointing power is in the head of the Department. Then they charge that they could not get men appointed because they could not get the Senate to confirm them. They oppose the bill because it does not retain the power of confirmation in the Senate; and then they object to it because the Senate will not confirm those they recommend. Now that is strange logic. I cannot tell from the arguments of gentlemen whether they are in favor of or are opposed to the power given by the Constitution to the Senate to confirm nominations.

The gentleman from Maine [Mr. BLAINE] says that he cannot submit to clothing a Department in this country with such power as this. Now, this bill does not propose to clothe a Department with any power whatever that does not already exist in the Government, in the Departments of the Government as now organized. It is nothing more than taking a burden from one officer or head of a Department and assigning it to another officer where the labors are not now so cumbersome. That is all; there is no stretch of power under the Constitution in any way whatever. The Constitution clearly provides that subordinate officers shall be appointed by the President, or by the heads of Departments, or by courts, as Congress may determine.

Now, Congress hitherto has provided that the Secretary of War shall be at the head of a Department; so with the Secretary of State, the Secretary of the Treasury, the Secretary of the Navy, the Secretary of the Interior, etc. Afterward Congress made the Agricultural Commissioner the head of a Department. This is but a similar power which has already been conferred upon heads of Departments under the Constitution. It is merely changing the authority from one head of a Department to another.

And when a man gets up here and asserts that the Constitution is interfered with by this change of authority he either only shows that he wishes to elude the main point, or he exhibits his ignorance of constitutional law, such an

exhibition as no man versed in the law would fail to recognize in a moment. It is not an interference with the power now possessed by the Secretary; but even if it was, we have a right to do it. It is precisely the same power, precisely, except that we assign certain duties to it that do not now belong to it. That is all there is in it.

As I have before remarked, this is fixing and fastening the authority upon individuals, so that you can bring them to a direct accountability for any improper exercise of that authority.

[Here the hammer fell.]

Mr. JONES. Will the gentleman from Illinois [Mr. LOGAN] allow me to ask him a question?

Mr. LOGAN. I would if I had any time left.

The CHAIRMAN. The gentleman from Kentucky [Mr. JONES] is entitled to the floor.

Mr. JONES. I wish to inquire whether this bill does not erect this office into a new department of the Government, and at the same time propose that the office of the head of that department shall be filled by the present Commissioner of Internal Revenue, and whether such a provision is in accordance with the Constitution of the United States, which gives the President the sole power to fill such offices by appointment, subject to the advice and consent of the Senate.

Mr. LOGAN. I will make a single remark and then give way to the chairman of the Committee of Ways and Means. I wish to know whether this bill will give the President any more power than he now has. The President has now the power to suspend this officer or send to the Senate the nomination of somebody else. Why does he not do this if the present Commissioner is distasteful to him?

Mr. JONES. That is not the point I make. My point is that this bill proposes to create a new department of Government; that it makes a new office of an office already in existence, giving it a different salary—

Mr. LOGAN. Not a different salary.

Mr. JONES. And it proposes at the same time that this new office shall be filled without a new appointment by the incumbent of the present office. I wish to know whether that is constitutional. In my view, when we create a new department the chief officer of that department is to be appointed by the President, by and with the advice and consent of the Senate.

Mr. SCHENCK. I do not know whether all that is a question or not. If it be, the section answers it in providing that—

The office of Commissioner of Internal Revenue be, and the same is hereby, established and constituted a department of the Government, to be designated and known as the department of internal revenue, the head and chief officer of which department shall be the Commissioner of Internal Revenue.

We have at this time in the Treasury Department, established by law, an office of internal revenue, at the head of which is the Commissioner of Internal Revenue. What is proposed by this bill? Not to interfere with the Commissioner of Internal Revenue, not to change his salary, but to convert that bureau into a department, adding some powers or not, as the House in acting upon future sections may determine.

Mr. JONES. Does it not propose to clothe the officer with new powers—powers which he does not possess now?

Mr. SCHENCK. Every day we are clothing officers with new powers; every day we are taking powers away from officers; and I have never yet heard that either of these legislated the officer out of office. In this case we change the name of the office, and call it a department; we do not change the head of it. We leave the Commissioner as he is, with his salary unchanged. If other sections of this bill should prevail, we shall add to his powers. But this section about which gentlemen are so much concerned does not even do that. Gentlemen have anticipated the discussion which may properly arise on subsequent sections.

Mr. JONES. But, Mr. Chairman, the other sections all flow from this. This proposes to create a new officer and the other sections refer to his powers. In the first place, we are to discuss whether it is proper to create any such office, and more particularly we are to discuss whether it is constitutional for Congress to attempt to appoint the officer in the face of the provision conferring the appointing power with respect to all such offices upon the President, by and with the advice and consent of the Senate.

[Here the hammer fell.]

Mr. LOGAN. I withdraw the amendment.

Mr. SCHENCK. I renew the amendment; and, Mr. Chairman, I renew it for the purpose of calling the attention of the House to this fact. The motion is to strike out the first section. What is that? It is not one in reference to the powers to be exercised by the Commissioner at all. They are provided for in other sections. They cannot adopt those or reject them. The object is that this department of internal revenue should have one head; and I would not give a sixpence for all laws if you are to go on collecting the revenue with the President, Secretary of the Treasury, the Commissioner, and the Senate, all to be consulted, and in the meantime nothing to be done except stealing. "I steal, you steal, they steal—we all steal;" such seems to be the conjugation of the verb with which we are engaged at this time. [Laughter.]

The only object of this section is to have a responsible head for this department; and the objections of the gentleman from Maine, the gentleman will permit me to say, have no foundation.

Mr. JONES. I will say, Mr. Chairman, that in my judgment that object of the chairman of Committee of the Ways and Means is commendable, and I heartily approve of it. But, sir, I do object to the power of this House or this Congress to create a new department and then proposing at the same time to fill the office of Commissioner by legislation.

Mr. SCHENCK. I respect the gentleman's judgment. He sees a constitutional objection in it, and I wish to explain why I do not see it. [Here the hammer fell.]

Mr. BLAINE. About one fifth of the revenue offices are in the hands of thieves. If this prevails it will be in the power of those who protect the other four fifths to remove that one fifth in thirty days.

Mr. PILE. I think, instead of one fifth being in the hands of thieves, that precisely the reverse is the truth; that one fifth perhaps are honest men and four fifths are thieves; and the effect of the law proposed by the Committee of Ways and Means will be to secure four fifths honest men, leaving only one fifth thieves.

Mr. RANDALL. Will the gentleman let me ask him a mathematical question?

Mr. PILE. Yes, sir.

Mr. RANDALL. About seven eighths are Republicans; and I wish to know how many thieves belong to the Republican and how many to the Democratic party?

Mr. PILE. I hope that we shall be able to keep the question of politics out of this bill. This is a question of collecting the revenue and lightening the burdens of taxation, which bear upon all men—Republicans or Democrats, Conservatives or Radicals or Know-Nothings, rebels or loyal men. What we want to secure is efficiency of administration by keeping honest men in office. If these dishonest men are Republicans, then I say that they ought to be put out of office, and the gentleman ought not to oppose it. We ought to put them out, and if they are thieves we ought to put them in the penitentiary, whether they be Democrats or Republicans. If they are stealing and heaping burdens upon honest people, unnecessary taxation, then they ought to be put out of office.

Mr. Chairman, administration is always behind the provisions of law. The great thing to be secured is efficiency of administration. Theory is always in advance of practice.

Human theory on all questions of morals, ethics, and government has always been beyond and in advance of practice, and hence I think it is wise in this bill to secure efficiency of administration. I believe this can only be secured by making one man responsible and conferring upon him power to control the department, and hold him responsible that it is done and well done.

[Here the hammer fell.]

Mr. SCHENCK. I withdraw the amendment.

Mr. PAINE. I renew it, and yield to the gentleman from Ohio.

Mr. SCHENCK. I wish to reply to the gentleman from Pennsylvania. There is a very celebrated case in the third district of Pennsylvania. The Commissioner of Internal Revenue recommended that the collector should be removed, and the Secretary of the Treasury has been considering it for six months. What is the case? The proof shows "that he is a political adventurer, closely intimate with distillers and rectifiers in his district; that one of his deputies has been in the penitentiary for receiving corrupt bonds covering five thousand gallons of whisky, which was totally lost to the Government. The collector is strongly suspected, and the proofs look very strong. I must say, of connection with that particular transaction. The deputy is convicted in spite of the efforts of the collector to get him clear."

Mr. RANDALL. Allow me one word. I would not defend this man or anybody else if he is guilty; but in the trial of the case to which the gentleman alludes, there was not a particle of evidence adduced to implicate the gentleman. And I would not, on the other hand, strike down a man until he is proved to be guilty. That is my position.

Mr. SCHENCK. The gentleman has alluded to politics. Now, I have refrained from that. I admit that in one case I did allude to the politics of a party, but he was a Republican. This man is one of the bread and butter fellows, I believe.

Mr. RANDALL. Will the gentleman yield for a single question?

Mr. SCHENCK. The gentleman has said enough for me to reply to already. Suppose it is claimed that all that is said about this man only makes his character and reputation extremely doubtful. Suppose the collector has no confidence in him. I say you ought to have a condition of things where these men would be so far above suspicion that the collector should be able to remove a man that he believed was in complicity with rascals and scoundrels.

Now, I believe I must do the Secretary of the Treasury the justice to say that he wants to get rid of the man, and that leading Democrats want to get rid of him, but some how or other there he is. They have been considering for six months what they should do about the recommendation of the Commissioner. That is the Secretary's own report. Whom he is considering I do not know. I suppose he is doing as the cow did—"consider cow, consider." But in the meantime the whisky ring prevails, and thieves are not affected. What we aim at is to bring about a condition of things in which somebody shall be responsible for his subordinates, and can be held responsible. Then we shall not have such scenes as are enacted on this floor. When you talk about the Commissioner it is said to be the Secretary's fault, and when you talk about the Secretary it is said to be the President's fault, and when you talk about the President it is said to be the Senate's. I do not want this thimble-rigging business. I want to know under which thimble the ball is, else I do not desire to bet at all. [Laughter.]

Mr. MULLINS. I desire to oppose the amendment, and to offer a few views upon the question under consideration. One declaration that I make is this: I have lived long enough to find that mankind everywhere, as a class, are no more honest than the laws make

them be. If your laws are deficient, to that extent will corruption and neglect of duty be found. We are now, Mr. Chairman, considering a bill that of all others the people of the country are most interested in. Talk about your elections, talk about your President, talk about your Senates, and all parties and classes, yet, sir, the masses are sensible, more so upon pocket nerve than all the rest. This is a bill that goes directly to the pocket of every individual in the United States. If the law is efficient it will reach the object; but to slough off all bad men, to bring them up before a tribunal and punish them for crime is a further stretch of power than is within the grasp of this body. Why do you oppose this section? Because, say one side, it is creating a new office or a new officer. How old is the present office? It was created but a few years ago, when there was an internal revenue officer.

It is but three days old, and why not now clothe it with a different name? It is our child and we have a right to alter its name by law. What principle of the Constitution do we violate by adopting the proposed measure? The way this department stands now is precisely on all fours with the way all rascals have escaped punishment from the day God drove Adam from the garden down to this hour. How is it now? There is no one individual who is directly responsible to the law-making power and to the people. Hence this hydra-headed monster, this triangle is playing tweekedum and tweekedee between the people and the officers. [Laughter.] If you get one fast, he says "it was not I that did it; it was the serpent that beguiled me." [Laughter.] If you get hold of another, he says "the woman thou gavest unto me did this." [Laughter.] And what shall we do? We will make one great head, a representative and responsible man. The people's pockets are at stake in this matter. The whisky ring is making its way into every department. It is now, as it was during the war, running every blockade and taking every individual captive. It seems to me that the love of whisky has superseded the great proverb declared by revelation, and that it is "the root of all evil," instead of money.

Sir, I cannot favor the amendment to this section. Let it stand. Let us define by law the proper head and representative of this department of the public service. This is no new office. The office was created some years back. I know gentlemen say that we are creating it anew; but we are only recognizing an individual and applying the law to him and holding him responsible to the people, and then, if there is wrong and fraud committed in this department, you will have a responsible head who will be responsible to the Representatives of the people.

[Here the hammer fell.]

Mr. PAINE. I withdraw the amendment.

Mr. RANDALL. I renew the amendment simply for the purpose of saying a few words in reply to what the gentleman from Ohio [Mr. SCHENCK] has stated. He says that politics does not enter into this matter. I think he is possessed of too much political sagacity and foresight to seriously asseverate that fact. If, however, he deceives himself, I assure him he deceives no one else; for I venture the opinion here, and I believe that all sides of this House believe candidly, as we do on this side of the House, that but for the fact that you want to get possession of the host of revenue officers under this Government this provision of the bill never would have been inserted.

Mr. PILE. With the gentleman's permission I desire simply to say, in answer to a question propounded to me, that so far as the revenue officers in my district and in the West are concerned, so far as I am acquainted with them, they are all supporters of the President and Democrats.

Mr. RANDALL. Well, about one in twenty are Democrats, and those that have been put in have been forced there by corruption and

compromises in the surroundings of the Senate of the United States. There is where the mistake is. You should let these men, whether they are Democrats or Republicans, if they are honest, be confirmed, and not place them in the position of selling out to both sides. That is the trouble; a man who will sell in politics will sell in every-day life.

Now, a word further as to the gentleman to whom allusion has been made as the collector of the third district of Pennsylvania. That gentleman, like the gentleman from Ohio, went into the war and served from the beginning to the end of it, and fought bravely and well. I esteem him and have always esteemed him as a man of character. I am ready to protect him here; to defend his military record, his social record, and his business record, so long as he proves himself correct in all those relations of life. When he shall fail to perform his duty, then I will no longer defend him; but I will not desert him because a few Democrats in his district want his office; nor will I permit him to be condemned because the head of the bureau, as I believe, is engaged in persecuting him for political purposes and none other. Until shown to have done wrong his character should stand free from aspersion.

I believe I have stated all that is necessary on the two points upon which I deem it necessary to say anything.

Mr. SCHENCK. The gentleman from Pennsylvania [Mr. RANDALL] has replied directly to my allusion to an officer in the third district of Pennsylvania, an officer about whom the President has been thinking for six months, with the recommendation of the Commissioner of Internal Revenue before him that he was not to be trusted, and, as I think, though I have no personal knowledge upon the subject, with the desire of the Secretary of the Treasury to sustain the Commissioner—

Mr. RANDALL. I think that is true.

Mr. SCHENCK. I think so. I think all, Republicans and Democrats, Secretary and Commissioner, are disposed to get rid of this man.

Mr. RANDALL. Do not call the Secretary of the Treasury a Democrat.

Mr. SCHENCK. Very well.

Mr. LOGAN. What is he?

Mr. SCHENCK. Well, I believe he is a Conservative.

Mr. WARD. I rise to a point of order. Is this discussion about men in order upon this section?

The CHAIRMAN. The Chair thinks it is not in order. General statements of fact in regard to officers are in order, but not statements in regard to the character of a particular officer.

Mr. SCHENCK. Then I suppose it would not be in order for me to refer to an officer in the gentleman's own State. It all begins and ends in the same way. Gentlemen ought to be satisfied by this time that there is a necessity for giving to some one the control of this department.

As I rose only for the purpose of sustaining the allusions I made by way of illustration when up before, I will not occupy the attention of this committee any further. If this amendment should be withdrawn, and the committee are not desirous to continue the discussion, but are ready to come to a vote upon the amendment of the gentleman from Illinois, [Mr. Judd,] I will move that the committee rise for the purpose of closing debate on this section.

Mr. RANDALL. I withdraw the amendment to the amendment.

Mr. WOOD. I renew the amendment to the amendment. I am very glad the committee have been brought back to the question under consideration. I do not believe that corruption or virtue is confined to either party. I do not believe that all the fraud on the revenue has been perpetrated by any particular party for any particular purpose.

It is not my purpose to introduce in the least

degree any particular considerations in the discussion of this great question of taxing the people of the United States in the mode here proposed.

We all agree as to the existence of the evil. I believe there is no difference of opinion on either side of the House or in the whole country as to the fact that gross frauds have been perpetrated and are being perpetrated, and will continue to be perpetrated, unless a remedy is in some way afforded. Nor is it peculiar to this country alone that frauds on the revenue system are practiced. It is officially alleged in England that the tax is collected only upon about one third of the spirits actually distilled there. And notwithstanding the experience of that country, and, indeed, of all Europe, upon the subject of internal revenue, yet from the inherent wickedness of our nature, from the premium offered by the attempt to impose heavy taxes upon particular branches of industry, frauds have been perpetrated there, and I believe they are being perpetrated there now; therefore, we all agree as to the fact of the existence of frauds.

Now, as to the remedy. I understand the Committee of Ways and Means have given consideration to this subject, and as the result of their examination, they have framed this bill, which, in their judgment, will provide a remedy. They propose to continue precisely the same machinery, without any alteration except in the name.

Now, why do they do that? I ask the gentleman from Ohio [Mr. SCHENCK] to tell me why it is proposed to change this from a bureau to a department? I will tell the reason why. It is to meet a provision of the Constitution which gives to heads of Departments, when so authorized by Congress, the appointment of subordinate officers. It is to evade that constitutional provision. But does that create any more efficiency in the execution or the administration of the laws for the collection of revenue? Will the change of the name from bureau to department give any more efficiency? Not at all.

And it is proposed to confer upon this new department most extraordinary powers, powers which, in my judgment, are worse than the frauds which they seek to remedy. The remedy itself is worse than the evil, because by this power every private right, every sacred tie between man and wife, all the nearest and dearest interests of every individual in the community at large, are committed to the keeping of one man, who is not responsible to the President of the United States, or to any other authority.

[Here the hammer fell.]

Mr. GARFIELD. Mr. Chairman, I desire to say a word in regard to the amendment offered by the gentleman from Maine, [Mr. BLAINE.] Whatever may be our views in regard to making this Internal Revenue Bureau a separate department, I do not think we ought to strike out this section entirely. I have prepared, and shall at the proper time take occasion to offer, an amendment which saves the body of the section, but strikes out so much of it as proposes to make the Internal Revenue Bureau a separate department. I wish to say a few words in regard to the amendment which I propose to offer.

If we are to make this bureau a separate department for the sake of any political gain, it seems to me we are as likely to lose as to profit by it; and hence, even if we were working for such a purpose, we ought to dismiss the project. In the next place, if we expect to improve the condition of the department by preventing fraud, I do not see that the object will be accomplished by the proposed change; for it only removes the difficulty one step farther; it only requires the rascality to take one additional step; and I cannot see that the revenue will be any better protected than it is now.

Besides, sir, the proposition is liable to two or three very serious objections, which I beg leave to state. The first is the constitutional difficulty which has already been raised by

several gentlemen who have spoken. The question is whether the effect of this proposed legislation will not be to create a new office and to legislate into it a particular man, and whether thereby we do not usurp what is really an executive function. That question is likely to be raised, and, indeed, is raised. The outcome is likely to be what it was over in the Senate a few days ago in reference to the Secretary of War.

But, beyond that, and laying aside all political considerations, it seems to me unwise for us to do any more than has already been done in the way of dividing authority and responsibility. There is just as much reason for creating a separate department for the collection of customs as there is for erecting the Internal Revenue Bureau into a separate department; and I think such a project could be more easily defended, because the collection of customs is transacted at comparatively few points on the sea-board, and the business could be administered by comparatively few hands. In favor of such a proposition there could be presented a more plausible argument than that which is urged here for the creation of this new department.

If we go on in this way dividing authority and responsibility in the Treasury Department, making separate and independent departments instead of having one central responsible head that shall be with reference to all subordinate departments a sort of supreme court of appeals, to decide questions which may be brought up, we shall, it seems to me, have a total lack of that unity which is necessary for the proper conduct of fiscal affairs. On this ground, therefore, I am opposed to this measure.

I will only add, in conclusion, as my time is about expiring, that so far as I am concerned I do not desire that this Congress shall shoulder any more executive responsibility.

[Here the hammer fell.]

Mr. WOOD. I withdraw my amendment.

Mr. SCHENCK. Mr. Chairman, it would doubtless simplify governmental matters very much to have one supreme head of all; and perhaps we are drifting in that direction. That seems to be my colleague's idea of the best administration of any department of the Government. An emperor, therefore, would be an improvement. Hence, whether we shall have "a President or a king" becomes, perhaps, a very practical question.

But let me add that there are other reasons of which I am reminded by the course of my colleague's argument, and which, I think, show clearly the propriety of retaining the section as proposed by the committee. I find among other reasons that the business of the Commissioner is now seriously delayed by the necessity he is under of withholding his conclusion upon so many important matters until he can have an opportunity to consult with the Secretary. This renders prompt action impossible.

Such is the variety of the Secretary's duties that most matters pertaining to internal revenue are passed upon by his clerks, who are necessarily less fully informed than the clerks of the Internal Revenue Office. In many cases the carefully formed opinion of the Commissioner is overruled by the Secretary's clerks.

The Commissioner is now often unable to give positive instructions in reply to a question from an officer, as he cannot know how the subject will be treated in the Secretary's office.

Representatives of the Secretary's office now frequently give instructions to officers which conflict with instructions from the Internal Revenue Office, and the energy of the service is much weakened by the doubt thus engendered.

I state that simply as my brief in this case. It shows some of the reasons why there should be an independent and separate department of the internal revenue. They are conclusions deduced from the facts which I have found on careful inquiry at the proper quarter in reference to the present condition of things.



The CHAIRMAN. The gentleman's time has expired.

Mr. SCHENCK. I wish to close the debate upon this section, and will move that the committee rise for that purpose.

The CHAIRMAN. The time is near at hand when the committee will take its recess.

Mr. SCHENCK. I withdraw the motion.

Mr. FARNSWORTH. Mr. Chairman, I desire to say that while there are a great many reasons in favor of making this bureau a department under a responsible head, and while I should like to vote for it, still I am constrained to come to the conclusion that it is unwise to attempt to erect it into a department. I am inclined to believe the effect would be to legislate Mr. Rollins out of office. There is great doubt on that point.

The CHAIRMAN. The hour of half past four o'clock having arrived, the committee, in pursuance of the order of the House, will take a recess until half past seven o'clock this evening.

#### EVENING SESSION.

At half past seven o'clock the House reassembled in Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, the pending question being on Mr. BLAINE's motion, to strike out the following section:

That the office of Commissioner of Internal Revenue be, and the same is hereby, established and constituted a department of the Government, to be designated and known as the department of internal revenue, the head and chief officer of which department shall be the Commissioner of Internal Revenue, whose salary shall be \$6,000 per annum. And whenever the office of Commissioner of Internal Revenue shall become vacant by death, resignation, or otherwise, the President shall nominate, and by and with the advice and consent of the Senate appoint a suitable person to fill said office.

The CHAIRMAN. When the committee took a recess the gentleman from Illinois was on the floor on a *pro forma* amendment.

Mr. FARNSWORTH. Mr. Chairman, I was about saying, when the committee took a recess, that at the best this provision of this bill raises a very grave doubt as to whether we do not by the first section legislate the Commissioner of Internal Revenue out of office. It creates a new office, and Congress has not the authority to legislate a man into it. We cannot legislate a man into office. Mr. Rollins is now a subordinate at the head of a bureau, and if we provide for a new department is not that putting him at the head of it? Who is to judge of the question? The President. How will he be likely to judge? As best suits his policy. What remedy is there if he judges wrong?

If we do not legislate Mr. Rollins into office, if we are not creating a new office, if we have a right to do this and the President thinks we have not, where is the remedy? He sets him aside and appoints another when Congress adjourns, and where is the remedy? We have none. We have already seen that we have none when he flagrantly violates the law; we certainly have none where there is any doubt about the violation of law.

Then, sir, if we create this department and give to the head of it this great power to appoint all the revenue officers throughout the United States, there is an incentive, an inducement for the President to set him aside and fill his place with another man who will be a creature of his own to control this vast amount of patronage in the United States to suit his purposes and the purposes of the party. I have confidence now in the present Commissioner of Internal Revenue; but, under ordinary circumstances, ay, under almost any circumstances, I would be opposed to clothing one man with the power to appoint this vast horde of officers. I think it is a very doubtful policy to clothe any one man, without the supervision of the Senate, with this enormous power, this immense patronage. As was said by the gentleman from Maine, if we pass this section, and

the sixth section of the bill in connection with it, there is every inducement for the President, if he sees fit to exercise his authority, to set aside Commissioner Rollins and appoint a creature of his own who can turn out all the collectors and assessors throughout the United States.

[Here the hammer fell.]

Mr. FARNSWORTH. I agreed to move that the committee rise.

Mr. INGERSOLL. It is unnecessary at the present time; there is not a quorum in the House. We may as well discuss the subject.

Mr. FARNSWORTH. I leave it to the chairman of the committee.

Mr. SCHENCK. I have no objection; there is no quorum present.

Mr. INGERSOLL. Mr. Chairman, it is well enough to inquire what is proposed to be done by the section under discussion. What will it accomplish if it becomes a law? It proposes first to abolish the office of internal revenue.

Mr. SCHENCK. No, sir.

Mr. INGERSOLL. Well, it proposes to abolish the Bureau of Internal Revenue, whether it does in express terms or not. I ask my friend what becomes of your office of internal revenue if this bill goes into effect? Is it in existence after this becomes a law? Not for a moment. The bill may not say in terms that it abolishes that office, but its effect is to do so, to wipe it out of existence. What, then, follows? It creates an absolute department, a coequal with any other in this Government. Who is at the head now of the office of internal revenue, which is to-day but a simple bureau of the Treasury Department? A bureau officer. It does not matter now what his name is or what his functions are; a bureau officer, known to the law as such, and entirely unknown to the law as a head of the department, is at the head of the Internal Revenue Bureau.

Now, I ask what is to become of that bureau officer who presides over that bureau when you have abolished the office? Is it not a necessary implication that that officer ceases to be when the office over which he presides is stricken out of existence? Nothing to me is plainer. By a repeal of the law which established the bureau, or by abolishing the bureau itself, the officer presiding over it ceases to exist.

And this section proposes to create a new department, for there is no such department at the present time. It is not enlarging the bureau in the Department. It is annihilating it and creating a new department. That is all it is. You cannot make it anything else. It is not enlarging the powers of the Commissioner. It is wiping him out of existence and creating a head of a department in his stead. I do not care anything about his name, whether it be Rollins or Smith makes no difference. The present head of the bureau is the officer in charge of it, and it is an adjunct of the Treasury Department. When it ceases to be such it ceases by virtue of your law which wipes it out of existence. By virtue of your law you create a new department, and having done it you propose to legislate a head on to that department, which you have no authority for doing under the Constitution.

It is not a legislative act. The creation of the department is a legislative act; the appointment of a head for it is an executive act. It belongs to the Executive to appoint the head of the department, and not to Congress. It belongs to Congress to create the department, and not to the Executive. These distinctions or limitations of their powers are apparent and known to all who are familiar with legislation. It would be, in my opinion, a violation of the Constitution for Congress to create a department and then fill it by the appointment of a Cabinet officer; for he will be a Cabinet officer by virtue of his position, although he may not be invited to a seat in the Cabinet. I know it is at the option of the President and that there is no constitutional obligation to

recognize the head of a Department as a Cabinet officer. But he is to be at the head of a department and you create that department what for? For the purpose of empowering him to make appointments under the Constitution and law which he has no authority for making as the head of a bureau. The head of a bureau cannot make appointments of assessors and collectors. He has no such authority under the law or under the Constitution, and now you propose to swell him up to the proportions of the head of a Department. What for? To give him an authority which he does not possess as the head of a bureau. This is not a correct way of doing things. I do not believe that it can be sustained; you have no precedent for it, and I do not believe you have any authority for it in the Constitution. It is not worth while to argue here whether it is going to benefit the revenue or not, whether it will be advantageous to this party or to that party, whether it will be for the benefit of the country or whether it will relieve the President and the Secretary of the Treasury from onerous duties. We cannot argue that question. The first point of inquiry is, have you constitutional authority and warrant for doing this thing? If you have not you must stop. In my opinion, you have not got that authority. And, sir, in order to reach the very object for which this section is intended, you must strike out some words, and I will point them out.

[Here the hammer fell.]

Mr. SCHENCK. The trouble with the gentleman is about the Constitution. The trouble is that we undertake to make a Cabinet officer.

Mr. INGERSOLL. Not at all; the gentleman is mistaken.

Mr. SCHENCK. Well, that we are making a coequal department.

Mr. INGERSOLL. Only creating a department.

Mr. SCHENCK. We are creating a department, the gentleman says, and making a Cabinet officer, although he may not be called into the Cabinet. I thought that long since gentlemen had read enough of the Constitution—for this has been a matter of discussion here, and attention has been attracted to it—to know that there is nothing about a Cabinet in the Constitution of the United States. A custom has grown up, arising, I suppose, out of the fact that the President is authorized to ask for the opinion in writing of the head of a Department, which the early Presidents did occasionally; a custom has grown up of holding a sort of town meeting up here at the White House, where they take votes; but I protest against any argument founded upon that which is not to be found in the Constitution at all, which if it be not a mere excrescence, is simply a usage which has grown up of calling together, in order to consult orally and compare notes, these different heads of the Departments.

It has reached that pass now, I believe, that when the Secretary of the Navy has a particular law to enforce, according to its letter and according to the usage of fifty years, instead of doing that which the law requires him to do—he being in charge of all that relates to the business of the Department, at the head of which he is placed—he is compelled to draw his business into this Cabinet council, to be voted down and compelled to violate the law by the judgment of those whose duty is not to execute that particular law, but who vote him down and prevent him from doing that which the law requires him to do. I have a case exactly of that kind in my mind at this moment.

What is there in all this to raise the difficulty the gentleman sees? He says we create something entirely new in the shape of a Commissioner at the head of a department. Sir, we do nothing of the sort. We simply say that the office of Commissioner of Internal Revenue shall be extended into a department. We leave the Commissioner with his salary and with his duty, adding or not adding to those duties as we may by further legislation, and keep him at the head of that department.

Now, as my friend from Maine [Mr. BLAINE]

has resorted to a military simile, I will suppose that upon the field there happened to be brigades and divisions, and a brigade is extended into a division. Now, would it follow from that that it would be unlawful to permit the brigadier general who had before commanded the brigade to continue to command it after it had been extended into a division? And because he commanded the division would he cease to be a brigadier general? You might just as well claim that every colonel in the Army, when he succeeded to the command of a brigade by the enlargement of his command, ceased any longer to hold the commission of colonel.

Mr. BLAINE. I wish the gentleman would take the exact illustration I used. I said that Paymaster General Brice—

Mr. FARNSWORTH. As the gentleman has referred to military practice—

The CHAIRMAN. To which gentleman does the gentleman from Ohio yield?

Mr. SCHENCK. Well, I think I will not yield to either gentleman just now. Now, what are the difficulties here? What are the bugbears that terrify gentlemen who seem to fear that something will be done by which everything will be unsettled, by which the Commissioner of Internal Revenue will be left at the mercy of the President, and be suspended from his office as soon as Congress adjourns, as the gentleman from Maine [Mr. BLAINE] apprehends, and there will be mischief generally to pay in consequence of his subordinates being appointed by some one not now holding that office?

Sir, I say, in the first place, this is all aside from the question. The question is whether we shall concentrate power in one head for the purpose of having some assurance of responsibility. What is the power of the President now? As soon as we adjourn what can or may he do? Under the pretext that the Commissioner of Internal Revenue either has committed some crime or misdemeanor in office, or is incompetent to discharge the duties of his office, he may suspend him from office. The gentleman from Maine says that in the case of assessors and collectors, when they are suspended from office, the deputy assessors or deputy collectors will take their places. But how is it with the Commissioner of Internal Revenue? When he is suspended from office, no one being provided by law to take his place, it will be in the power of the President to select some one to perform his duties *ad interim*, until the matter can be laid before the Senate at the next session. What does the gentleman gain in that regard? Nothing whatever. The President can interfere with the Commissioner just as well, if he is the head of a department, as he can if he be not the head of a department, but only the head of a bureau in the Treasury Department, no more and no less.

Mr. BLAINE. It is proposed to give the Commissioner extraordinary powers.

Mr. SCHENCK. And if extraordinary powers are given him, the gentleman is afraid that somebody will be substituted in his place to exercise those powers. Well, sir, I say that somebody may be substituted for him as the law is now, if the President chooses to affirm that he is a proper subject for suspension from office.

Mr. BLAINE. I admit that.

Mr. SCHENCK. Then, what becomes of all the gentleman's argument?

Mr. BLAINE. Just this, if the gentleman will allow me—

Mr. SCHENCK. I admit that the President, if he pleases to regard the head of this bureau, or this department, as the case may be, as having committed a crime or misdemeanor in office, or as being incompetent, can suspend him from office under the tenure-of-office law. And I do not know that the President would run much risk in doing such a thing, considering the kind of constitutional law by which we are to be governed hereafter, according to the Senate. But so far as that is con-

cerned it is the same thing under the present law as it will be under the law which we propose. Therefore, regard this matter as you will, in all its aspects and in all its lights, there is nothing in it except an attempt to do what, as we think, differing from these gentlemen, we can constitutionally do, to concentrate the responsibility of this office in one head by making that head the head of a department.

[Here the hammer fell.]

Mr. BLAINE. Mr. Chairman, I want to answer my friend from Ohio [Mr. SCHENCK] on one point. The gentleman says that the President has now the same power to suspend the Commissioner of Internal Revenue as he will have after this bill shall have passed. I grant that; I consider his power plenary under the law in any event. But the difference is that if he suspends him from office to-day and puts another man in his place, the man he puts there will not have the absolute appointment of all the revenue officers of the United States.

Now, it is proposed in advance to give the Commissioner absolute power over all the officers of the revenue department. Then if the President suspends him and puts one of his tools in his place, we will be entirely at his mercy. It is possible I may be unduly influenced in this matter. But take my own State for instance; every revenue officer in that State, with possibly a single exception—and I do not know that I should make even that exception—all of them are the fast political friends of the party to which I belong; and I know just as well as I know the future about anything that if this bill is passed those gentlemen will be made to walk out mighty quick, and others that we do not want there will walk in mighty quick.

Mr. WASHBURN, of Indiana. And how as to our State?

Mr. BLAINE. You do not benefit your State by this. You want to get us down without being able to get up yourselves.

Mr. WASHBURN, of Indiana. But we can get up.

Mr. BLAINE. You suppose the President will put down Mr. Rollins's friends, but will not put down Mr. Rollins himself. Sir, if I have studied the President's character to any purpose for the past few years, I have learned that he is mighty shrewd in the matter of appointments. For one I do not want to be held responsible for putting any such power in the President's hands. I know that in my own State I should be laughed at if I should go for it.

Mr. POLAND. As I understand it, this bill proposes to accomplish two things. It is desired that all these revenue officers, assessors, collectors, &c., shall be under the entire and absolute control of the Commissioner of Internal Revenue; that he shall have the sole power of appointment and removal; or, to use the language of the chairman of the Committee of Ways and Means, that all power shall be concentrated in one head.

Now, I agree entirely that the reasons which have been given for this are very cogent, perhaps are sufficient. I think I myself should acknowledge that they were sufficient for the purpose, for the reason that has been urged, that all these officers should be under the control of one head, and not have the responsibility divided among so many.

But it seems to me that another object, another purpose, which is apparent from the face of this bill, is that Mr. Rollins, the present Commissioner of Internal Revenue, shall be retained as that head.

Now, Mr. Chairman, I think it is perfectly impossible in law that we shall accomplish those two things. The old maxim, "You cannot keep your cake and eat it too," applies to this project of accomplishing these things at the same time and in the same bill.

In order to give the Commissioner the control they say he ought to have over subordinate officers, it is necessary he should be made the head of the department, because we have no constitutional power to invest him with the

power over these subordinates, except by making him a head of the department. Therefore, this bill attempts to create a department of internal revenue. That is clearly within our power.

Mr. MAYNARD. Suppose we enact this bill, I ask the gentleman from Vermont whether, in his judgment, we have it in our power to say that the present incumbents shall be retained in office until their successors shall be appointed and confirmed?

Mr. POLAND. I will endeavor to answer the question of the gentleman from Tennessee. We have the power to create this department. This bill undertakes to say that we shall create it and indicates the man who shall be at the head of it. While it is clear that Congress has power to create a new department, in my judgment it is beyond our constitutional power to say that we shall create a new and separate department and that Mr. E. A. Rollins shall be at the head of it. Why? Because the Constitution vests that power in the President. He has the power of appointment.

Now, what is attempted here? We attempt to say in effect that we create this department, and Mr. Rollins, who holds the office of Commissioner of Internal Revenue, shall be at the head of it. In my judgment we might, with the same legal propriety, say in so many words in that section of the bill, that we create the department of internal revenue and indicate that E. A. Rollins shall be at the head of that department.

Now, it has been undertaken to allege it is but the devolution of new duties upon an existing officer. In my judgment that is not so. What is the Commissioner of Internal Revenue now? He is a mere subordinate of the Treasury Department.

Mr. MULLINS. The law declares that the sheriff shall execute writs, and that the coroner shall do other duties. Now, cannot the law transfer the duties from one to the other, or put them both upon one individual? I ask the gentleman for an answer to that question.

Mr. POLAND. There is no sort of difficulty about that, because the Constitution says nothing about coroners or sheriffs. They are mere creatures of the Legislature. Of course the Legislature can abolish either of them, or devolve the duties of both upon one individual, or abolish both of them, or devolve the duties upon some other officer. Not so with the head of a Department. A Department is a branch of the Government recognized by the Constitution, and when we create a new and separate department it is entirely a different office, different in its nature from that of a mere subordinate in the Treasury Department. When we undertake to say we will create a separate office and call it by the name of some subordinate place, it is a mere pretext to get around the appointing power and to fill the place with our own man. Although I should be as glad as the chairman of the committee to accomplish what is desired to be accomplished by this bill, it seems to me that it is beyond our power.

I give notice that when in order I shall move the following amendment:

Strike out all after the word "that" in third line to the word "is" in fourth line, and insert the word "there."

Strike out the word "the" in the seventh line, and insert "a;" and insert after words "per annum" in the ninth line, "to be appointed by the President by and with the advice and consent of the Senate."

So it will read:

That there is hereby established and constituted a department of the Government, to be designated and known as the department of internal revenue, the head and chief officer of which department shall be a Commissioner of Internal Revenue, whose salary shall be \$6,000 per annum, to be appointed by and with the advice and consent of the Senate; and whenever the office of Commissioner of Internal Revenue shall become vacant by death, resignation, or otherwise, the President shall nominate, and by and with the advice and consent of the Senate appoint, a suitable person to fill said office.

Mr. SCHENCK. I withdraw the amendment.

Mr. HOOPER, of Massachusetts. What is the pending amendment?

The CHAIRMAN. The Clerk will report it. The CLERK. Strike out the words "of the duties of the office," and insert "his official duties."

Mr. HOOPER, of Massachusetts. I rise to a question of order. Is not the pending amendment the one offered by the gentleman from Illinois, [Mr. JUDD?]

The CHAIRMAN. The gentleman from Illinois moved an amendment, to which an amendment was moved by the gentleman from Tennessee [Mr. MAYNARD] just reported, which was afterward withdrawn by him, but was renewed by the gentleman from Ohio, [Mr. DELANO.]

Mr. HOOPER, of Massachusetts. My question of order is that this debate has been going on on the original motion of the gentleman from Maine, [Mr. BLAINE,] to strike out the section, whereas the subject before the committee is the amendment made by the gentleman from Illinois, [Mr. JUDD.] Or if there is an amendment to that amendment pending, then the debate should be confined to that.

The CHAIRMAN. The Clerk will read the rule, and then the Chair will decide.

The Clerk read the rule, as follows:

"When debate is closed by order of the House any member shall be allowed in committee five minutes to explain any amendment he may offer, after which any member who shall first obtain the floor shall be allowed to speak five minutes in opposition to it; and there shall be no further debate on the amendment; but the same privilege of debate shall be allowed in favor of and against any amendment that may be offered to the amendment; and neither the amendment nor an amendment to the amendment shall be withdrawn by the mover thereof unless by the unanimous consent of the committee."

The CHAIRMAN. An amendment was first proposed by the gentleman from Maine, [Mr. BLAINE,] to strike out the section, which he debated five minutes, and there was then five minutes' debate against it, which exhausted debate on that proposition. The gentleman from Illinois [Mr. JUDD] then proposed an amendment to the section, which was debated by him five minutes, and there was five minutes' debate on the other side. That exhausted the debate on that amendment. An amendment to the amendment was then proposed by the gentleman from Tennessee, [Mr. MAYNARD,] which was debated five minutes on each side. That amendment was withdrawn, and has been renewed several times since, the debate not being confined to the amendment, but covering the whole ground. The Chair sustains the point of order made by the gentleman from Massachusetts, that under the rule the debate must be confined to the amendment actually before the committee. Debate has been exhausted on the former amendments, and none is now in order except such as pertains to the amendment to the amendment.

Mr. DELANO. I withdraw the amendment to the amendment.

The question recurred on the amendment of Mr. JUDD, as follows:

After the word "annum" insert the words "who shall be subject to removal, or to suspension from the performance of the duties of the office, only by and with the advice and consent of the Senate."

The amendment was agreed to.

The question recurred on the motion of Mr. BLAINE to strike out the section.

Mr. GARFIELD. I offer the following amendment to the section; and I ask the gentleman from Maine to accept it in lieu of his motion:

Strike out the words "established and constituted a department of the Government, to be designated and known as the department of the internal revenue," and insert in lieu thereof the word "continued," so that that part of the section will read as follows: That the office of Commissioner of Internal Revenue be, and the same is hereby, continued, the head and chief officer of which department shall be the Commissioner of Internal Revenue, whose salary shall be \$8,000 per annum.

This amendment strikes out the words which makes this a department, and it continues the office of Commissioner of Internal Revenue as it now is. I want this section to remain, because the bill repeals all the laws on the sub-

ject, and you therefore want to reenact, or rather to put into this bill, a provision for the continuance of the present officer. I want to accomplish the same thing the gentleman from Maine desires without destroying the provisions of the first section.

Mr. BLAINE. I withdraw my amendment to strike out the section.

The CHAIRMAN. If there is no objection the amendment will be withdrawn.

Mr. GARFIELD. Now, I will say only a word more on my amendment. I said to-day that I had no desire to discuss this matter in a merely political light, and I presume the committee has no such desire. I am very sorry that I should feel under the necessity of differing from the chairman of the Committee of Ways and Means at the very outset, and I wish to say in this connection that the bill, as a whole, is a marvel of work, and of very valuable work for the House, and that the change I propose to make, so as to retain the law in its present shape in this regard, will, in my judgment, in no way interfere with the general efficiency of the bill.

Mr. SCHENCK. Mr. Chairman, I feel complimented by my colleague's speaking of this bill as a marvel of work, a good body that we have created. I would feel very much more obliged to him if he would not attempt to take the soul out of it. He wants to reinstate the office of the Commissioner of Internal Revenue under the Secretary of the Treasury and the President just where it now is. I do not; neither under this nor any other President, this nor any other Secretary.

The duties of the office of Secretary of the Treasury do not, if they are rightly performed in relation to other matters, enable him also to manage, except through his clerks and subordinates around him, this vast machinery of the collection of internal revenue, and experience has proved it.

My colleague says that he does not wish to consider this in the light of politics at all. Neither do I; but in the light of facts I do; and what are the facts? Why, that as managed by the Secretary of the Treasury, and the President, and the Commissioner of Internal Revenue, and the Senate conjointly, it has proved a failure—a failure, and the country knows it if Congress does not. The responsibility has been so divided, so diffused, as I have said over and over again, under the present construction of the system by which appointments are made, officers selected, and business carried on in that Department that it has resulted in the disgraceful exhibition before the world of a country and a Government unable to control its subordinates and collect its revenue at all.

Mr. GARFIELD. Will the gentleman allow me to ask him a question?

Mr. SCHENCK. Not just now. I have not, if we look at persons merely, quite as much confidence in the Secretary of the Treasury as my colleague has.

Mr. GARFIELD. My colleague will certainly allow me to say a word.

Mr. SCHENCK. I do not put it upon the ground of confidence in a particular man, whether that man be the President or the Commissioner; but I put it upon the ground that if you are going to succeed in this matter at all, you must change your system.

This may be wrong, but it is a conviction derived from at least five months of close, studious, careful observation of this whole system and its working, with a multitude of facts to enlighten me and those who have been laboring with me in regard to the working of this system.

Mr. FARNSWORTH. Will the gentleman allow me to ask him one question?

Mr. SCHENCK. Yes, if the committee will allow me to answer it.

Mr. FARNSWORTH. I desire to know if the gentleman does not base his argument, and whether he has not based the first section of this bill, upon his supposition or construction of the Constitution or constitutional authori-

ties, that if we pass this bill it will not legislate the present Commissioner out of office?

Mr. SCHENCK. Not entirely upon that; I do not believe it will.

Mr. FARNSWORTH. If the gentleman believed it would legislate the present Commissioner out of office, would he still desire it?

Mr. SCHENCK. I will be frank enough to say to the gentleman that I consider that only a subordinate question. Whether we have this Commissioner or another, I predict that if you do not change your system and get one known, certain, responsible officer at the head of the department which collects your internal revenue—which is a peculiar kind of labor to be performed and a service to the country filled with all that is onerous, and all that is odious in many respects, all that is difficult, all that requires activity, vigilance, and honesty—if you do not do that you will not know to whom to look, and everything will go wrong hereafter as it has done heretofore.

Mr. FARNSWORTH. One other question, and I will not trouble the gentleman further. [Here the hammer fell.]

The CHAIRMAN. The time of the gentleman from Ohio [Mr. SCHENCK] has expired.

Mr. FARNSWORTH. I desire the permission of the committee to ask the gentleman one question.

The CHAIRMAN. It is not in the power of the committee to extend any gentleman's time.

Mr. SCHENCK. I propose, then, to move that the committee rise for the purpose of closing debate on this section in ten minutes. Perhaps, however, this will be agreed to by unanimous consent.

The CHAIRMAN. Is there any objection to the proposition that on this section debate shall terminate in ten minutes?

There was no objection.

Mr. FARNSWORTH. The question which I desired to propound to the gentleman was this: whether in his opinion we are likely to get a better set of revenue officers throughout the country than we now have, if we give the entire control of these matters into the hands of Mr. Johnson, through some creature whom he may put into the Revenue Bureau or department, whichever you call it? Do the Committee of Ways and Means believe that we should have a more honest set of officers and that the revenue would be better collected by allowing a creature of Andrew Johnson to appoint and turn out officers at his pleasure from now till the presidential election? I would like the gentleman from Ohio, the chairman of the committee, to give his opinion on this point. For my own part, I have not much faith in any such proceeding. This is the ground of my objection to creating a new department and authorizing the head of that department to appoint all the revenue officers of the United States.

We have already seen the disposition on the part of the President, so far as he has been able to control these appointments, not to collect faithfully and honestly the revenues of the country, but to appoint, for party purposes, thieves and swindlers. In my opinion, this bill, as now framed, will not only continue this power in the hands of the President, but greatly enlarge it. If this is to be the effect, certainly it is very bad policy for the honest men of this Government to put such power into his hands. In my own district we have a full set of revenue officers belonging to the Republican party—good, honest, faithful men. I believe such is generally the case in the State of Illinois.

Mr. O'NEILL. I would like to ask the gentleman a question: how does he get those good reliable Republicans in office in his district, or how does he keep them there?

Mr. FARNSWORTH. Well, a part of them have been kept in office ever since we have had a Bureau of Internal Revenue. The assessor in my district was never removed. The collector was removed and an objectionable man nominated, but the Senate refusing to confirm him the President at last sent in the name of



a good, honest man. But for the interposition of the Senate we should not now have an honest man as collector.

Mr. LAWRENCE, of Ohio. Will the gentleman permit me to ask him a question?

Mr. FARNSWORTH. Yes, sir.

Mr. LAWRENCE, of Ohio. Cannot Congress by a clause in this bill provide that the present Commissioner of Internal Revenue shall remain in office until December next, that the President shall neither suspend nor remove him? I say that we can, and that we ought to do it. Extraordinary cases require extraordinary remedies.

Mr. FARNSWORTH. Mr. Chairman, I say that Congress has no power to legislate any man into a department.

[Here the hammer fell.]

Mr. DELANO. Mr. Chairman, if I understand the theory of this section, it embraces two distinct ideas. The first is a separation of the Internal Revenue Bureau from the Treasury Department. The second is the elevation of the character of that bureau, so that it shall hereafter be called a department, and that its chief shall have power to appoint all subordinate officers. As to the first question, I apprehend that those who have reflected upon the subject—a majority, I think, of the House—must have come to the conclusion that it is wise to make the separation. The magnitude of the business connected with the collection of our internal revenue requires it. I venture the opinion that the internal revenue of this nation will never be properly collected until this separation shall be made.

To this separation in the manner proposed in this bill it is objected that it attempts to continue in office the present Commissioner, and that this cannot be done when the bureau is raised in dignity to a department. I admit that much can be said upon both sides of this question. My own opinion is that this measure can be adopted without violating any provision of the Constitution, that there is no difficulty about it. I admit, however, that there are arguments upon the other side; yet granting this, the question will come before the Senate when the President, after the change shall have been made, shall nominate to that body a person in place of the present officer; and the Senate will then settle the question. In view, therefore, of this contingency, I would accept the measure.

The next question is, whether it is advisable to give to the head of this department, as it is hereafter to be called, the power which this bill proposes to give him with reference to all the officers connected with the department. In my opinion this power is necessary—necessary to the efficiency, the strength, the proper administration of this branch of the public service. In the present condition of our finances, in the present attitude of our Government, this internal revenue department is to be one of the most important in the Government, involving in its administration some of the most difficult questions connected with any branch of the public service. Unless you give the head of this department the power here proposed, making him responsible for the faithful exercise of this power, you will not have such an administration of internal revenue affairs as the Government needs.

Mr. MILLER. Will the gentleman allow me to ask him one question bearing upon the point he is discussing?

Mr. DELANO. Yes, sir.

Mr. MILLER. There is no doubt, I presume, that Congress has a perfect right to create this new department; but I desire to ask the honorable gentleman whether, in his opinion, Congress has the right to declare by legislation who shall be at the head of this department.

Mr. DELANO. I have already said, Mr. Chairman, that in my opinion the separation of this bureau from the Treasury Department, and the calling of it after that separation a "department," is consistent with the general policy of our laws; but, however that might

be, I should feel justified in supporting this measure, because the result would be that the President would nominate a new chief for the department, and then the Senate would settle this question.

[Here the hammer fell.]

The CHAIRMAN. By unanimous consent all debate upon the section and amendments thereto is now closed. The first question is upon the amendment proposed by the gentleman from Ohio, [Mr. GARFIELD.]

Mr. INGERSOLL. I desire to offer an amendment to the amendment.

The CHAIRMAN. An amendment to an amendment would be in order, but no debate can be had upon it.

Mr. INGERSOLL. I move to amend by striking out before "Commissioner" the word "the" and inserting "a," so that the clause will read, "the head and chief officer of which shall be a Commissioner of Internal Revenue."

The CHAIRMAN. That is not in order as an amendment to the pending amendment.

The amendment of Mr. GARFIELD was read, as follows:

Amend the section so that the first clause will read as follows:

That the office of Commissioner of Internal Revenue be, and the same is hereby, continued, the head and chief officer of which shall be the Commissioner of Internal Revenue, whose salary shall be \$6,000 per annum.

On agreeing to the amendment there were—ayes 44, noes 40; no quorum voting.

Tellers were ordered; and Mr. SCHENCK and Mr. GARFIELD were appointed.

The committee divided; and the tellers reported—ayes 46, noes 47; no quorum voting.

The CHAIRMAN, under the rule, directed the roll to be called, when the following-named members failed to answer:

Messrs. Ames, Anderson, Arnell, Delos R. Ashley, James M. Ashley, Axtell, Bailey, Baldwin, Banks, Barnum, Benjamin, Benton, Bingham, Blair, Boutwell, Boyer, Broomall, Burr, Butler, Chanler, Sidney Clarke, Cobb, Coyode, Cullom, Dixon, Dodge, Donnelly, Eggleston, Eldridge, Eliot, Ferry, Finney, Fox, Glessbrenner, Gravely, Haight, Hawkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jencks, Johnson, Julian, Kelley, Kelsey, Kerr, Kitchen, George V. Lawrence, William Lawrence, Loan, Logan, Loughbridge, Lynch, Mallory, Marshall, Marvin, McCullough, Mercer, Morrissey, Mungen, Nunn, Orth, Paine, Pike, Polsley, Pruyn, Raum, Robinson, Ross, Shanks, Shellabarger, Sitgreaves, Smith, Spalding, Starkweather, Thaddeus Stevens, Stokes, Stone, Taber, Taylor, Thomas, John Trimble, Lawrence S. Trimble, Robert T. Van Horn, Van Trump, Elihu B. Washburne, Thomas Williams, William Williams, James F. Wilson, Stephen F. Wilson, Wood, and Woodbridge—33.

The committee then rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and finding itself without a quorum had caused the roll to be called, and had directed him to report the names of the absentees to the House.

A quorum having answered to their names, the committee resumed its session.

The tellers resumed their places.

The committee again divided; and the tellers reported—ayes 46, noes 49.

The Chairman voted in the negative.

So the amendment was rejected.

Mr. JONES. I submit the following amendment:

Strike out all after the words "shall be," in the seventh line, and insert as follows: "appointed by the President, with the advice and consent of the Senate, and whose salary shall be \$6,000 per annum."

The amendment was disagreed to.

Mr. FARNSWORTH. I move to strike out the entire section.

Mr. INGERSOLL. I wish first to move to perfect the section. I move to strike out the word "the," in line seven, and insert "a;" and also to strike out these words: "wherever the office of Commissioner of Internal Revenue shall become vacant by death, resignation, or otherwise;" so it will read:

That the office of Commissioner of Internal Revenue be, and the same is hereby, established and

constituted a department of the Government, to be designated and known as a department of internal revenue, the head and chief officer of which department shall be a Commissioner of Internal Revenue, whose salary shall be \$6,000 per annum. And the President shall nominate, and by and with the advice and consent of the Senate appoint, a suitable person to fill said office.

The amendment was disagreed to.

The question recurred on Mr. FARNSWORTH's motion to strike out the first section.

The committee divided; and there were—ayes 30, noes 60; no quorum voting.

Mr. FARNSWORTH. If the gentleman from Ohio will give us a vote in the House I will withdraw the motion.

Mr. SCHENCK. No, sir; I am not willing to consent to that.

The CHAIRMAN ordered tellers; and appointed Mr. FARNSWORTH and Mr. DELANO.

The committee again divided; and the tellers reported—ayes 35, noes 60.

The CHAIRMAN. The Chair votes in the negative.

So the motion was rejected.

The Clerk read the next section, as follows:

SEC. 2. And be it further enacted, That the Commissioner of Internal Revenue shall be charged with the duty of superintending the assessment and collection of all internal taxes and penalties imposed by law, and the preparation and distribution of all instructions, regulations, forms, blanks, stamps, marks, and hydrometers, or other instruments which may be necessary for those objects. The printing of such regulations, forms, and blanks shall be done at the Government Printing Office, except in cases where the Superintendent of Public Printing may be unable to perform the work; but the Commissioner shall have authority, after due public notice, to receive bids and make contracts for supplying stationery, blank books, and blanks to the assessors and collectors in the several collection districts. The said Commissioner shall have the privilege of franking and receiving free of postage all letters, documents, or other mail matter pertaining to the business of his department. And it shall be the duty of the said Commissioner to digest, prepare, and lay before Congress at the commencement of the December session, in each year, a detailed report on the subject of internal revenue, giving the amounts received from these several sources and objects of taxation, estimates of the amounts to be received, plans for increasing or decreasing such taxation, the expenses of collection, and information and his views generally in regard to all matters pertaining to his department.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

Strike out in lines thirteen and fourteen the words "to the assessors and collectors in the several collection districts," and insert in lieu thereof the words, "for the use of his department, and for assessors, collectors, and other officers of internal revenue."

The amendment was agreed to.

The Clerk read as follows:

SEC. 3. And be it further enacted, That the department of internal revenue shall include the following officers and clerks, who shall be appointed by the Commissioner aforesaid, to wit: one Assistant Commissioner of Internal Revenue, whose salary shall be \$4,000 per annum, and who shall be charged with such duties as shall be required by the Commissioner, and shall perform the duties and exercise the powers of Commissioner in case of the temporary absence or disability of that officer; six deputy commissioners, with a salary each of \$3,000 per annum; twenty-five clerks of class four; forty clerks of class three; forty clerks of class two; twenty-five clerks of class one; and fifty female clerks. The Commissioner may employ three messengers, three assistant messengers, and ten laborers, whose compensation shall be as is now by law provided. And there shall also be one solicitor of internal revenue, with a salary of \$4,000 per annum, who shall be appointed by the President, by and with the advice and consent of the Senate.

Mr. SCHENCK. I move the following amendment from the committee. In line fifteen strike out the word "now," so that it will read "whose compensation shall be as is by law provided."

The amendment was agreed to.

Mr. ALLISON. I offer the following amendment:

After the word "clerks," in line thirteen, insert "And there shall be a disbursing clerk for the department, the said clerk to be appointed out of class four by the head of said department, and to receive such sum in addition to his regular salary as may amount in all to \$2,000 per annum. But it shall be his further duty, when designated by the head of the department for that service, to superintend the buildings; and he shall give bonds as required by the independent Treasury act."

The amendment was agreed to.

Mr. SELYE. I move to amend by inserting

in line thirteen, after the word "clerks," the following:

*Provided, That no females shall be employed other than wives, widows, or daughters of soldiers who served in the late war.*

Mr. CHAIRMAN, I offer this amendment for the purpose of giving preference to the relatives of those who have fought the battles of the country, and who in many cases have become poor and needy by reason of service performed for the Government. That is all I have to say on that subject.

Mr. UPSON. On which side may they have served in the war?

Mr. SELYE. No matter, sir. [Laughter.] No one supposes we are legislating here for rebels who never have been in the service of the country. [Laughter.]

Mr. HOLMAN. I move to insert after the word "served" the words "in the Army of the United States."

Mr. SELYE. I accept that.

Mr. SCHENCK. Mr. Chairman, I know of at least one case where an orphan sister is the only representative of a dead soldier, and she is now employed. Does the gentleman mean to turn her out? [Laughter.]

Mr. SELYE. Not at all; take her in. [Laughter.]

Mr. SCHENCK. There might be mothers also who have lost sons in the war.

Mr. SELYE. Very well; we will take in sisters and mothers of those who served in the war.

The Clerk read the amendment, as modified, as follows:

*Provided, That no females shall be employed other than wives, widows, daughters, sisters, or mothers of soldiers who served in the Army of the United States in the late war.*

Mr. SELYE. I have one word more to say and that is, I am credibly informed and believe it to be true that more than half the females employed now in the Secretary of the Treasury's office and in the Commissioner's office, or any other Department of the Government are daughters of wealthy men in this city who opposed the war and are rebels yet.

Mr. MAYNARD. Allow me to speak in behalf of another class of ladies, some of whom I know are in the Departments. They are not connected, as I am aware, with soldiers, but they themselves were engaged in the hospital service of the country during the war and they labored faithfully and honestly, and in many instances impoverished themselves.

Mr. SELYE. Very well, include them.

Mr. SCHENCK. I desire to suggest to the gentleman that he has omitted the Navy and the Marine corps. Although not as numerous as the Army, I know of no reason for drawing a distinction, if we are going to put this in the bill.

Mr. ALLISON. Will the chairman of the Committee of Ways and Means allow me to ask him a question?

Mr. SCHENCK. Certainly.

Mr. ALLISON. I desire to ask the gentleman if he thinks this to be a proper subject of legislation? It is to be presumed that we will have some patriotic man in this office of Commissioner of Internal Revenue who will select this class of persons for appointments, and I am satisfied that if we undertake to designate particular classes we shall omit many meritorious and worthy persons.

Mr. INGERSOLL. I would suggest that this amendment flies in the face of our idea of the equality of all persons before the law.

Mr. ALLISON. I am obliged to the gentleman for the suggestion. I only wanted to ask the chairman of the Committee of Ways and Means if he thinks this a proper subject of legislation?

Mr. SCHENCK. I have no objection to answering the gentleman. I do not think this a proper amendment to go into this bill. It should be the subject of independent legislation. This House has already voted that the appointing power ought to make this distinction in the appointment of persons to office.

I am warmly in favor of making such distinction; and I think it ought to be made; but I am sorry to say, however, that very little regard is paid by the appointing power either to the recommendations, resolutions, or legislation of Congress on this subject.

Mr. FARNSWORTH. I would ask the gentleman from Ohio if we have not provided by law, in increasing the force in the Third Auditor's office, that soldiers should be appointed?

Mr. SCHENCK. That was a temporary arrangement.

Mr. FARNSWORTH. Well, I suppose this may be a temporary arrangement.

Mr. SCHENCK. The time will come, however, when we shall have nobody of the class designated to fill these places.

Mr. FARNSWORTH. Then we can change the law.

The question was taken on Mr. SELYE's amendment, and it was disagreed to—ayes 40, noes 57.

Mr. SELYE. I move now to insert after the word "clerks," in line thirteen, the following:

*Or as many thereof as may be necessary: Provided, That each officer and employé shall perform duty at least eight hours each day, or in accordance with law.*

Mr. CHAIRMAN, I am most earnestly opposed to this six-hour system which has grown up in the different Departments of this Government contrary to the pecuniary interest of the Government, contrary to the interest of all employes, contrary to law; and above all, contrary to the future welfare, morals, and general prosperity of all young men and ladies who are allowed to practice that system while employed by the Government. Who does not know that the cloven-footed devil is always looking up the idlers; and where does he lead to? Is it not to the faro-bank, the billiard-tables, and the drinking hell-holes in this city of sin and iniquity; whereas if they were employed the usual time all such temptations would be avoided, to a great extent at least, and the officers of the Government, whose duty it is to see that the laws of the country are faithfully executed, will have the satisfaction of knowing that they have not daily violated the law of the land or contributed to sustain a system so pernicious and ruinous to all who are thus employed.

The following is the existing law in relation to the hours of labor. I read section twelve of the act to reorganize the General Land Office, approved July 4, 1836. (*Statutes-at-Large*, vol. 5, page 112:)

"From the 1st day of the month of October until the 1st day of the month of April in each and every year the General Land Office and all the bureaus and offices therein, as well as those in the Departments of the Treasury, War, Navy, State, and General Post Office, shall be open for the transaction of the public business at least eight hours in each and every day, except Sundays, and the 25th day of December; and from the 1st day of April until the 1st day of October in each year all the aforesaid offices and bureaus shall be kept open for the transaction of the public business at least ten hours in each and every day, except Sundays and the 4th day of July."

Besides, Mr. CHAIRMAN, can any man succeed in any business of any kind, professional or otherwise, by laboring only six hours out of twenty-four? The population of this nation could not be clothed and fed under any such system. What would become of your income-tax if all of the people should adopt the six hour rule? We all know that there would be no income-tax—not one dollar. Is there one single member in this House who has accumulated anything like a competency for himself and family by laboring six hours per day? If none, why require the people to pay a tax to support a system that no man of usual energy, industry, and integrity ever practiced, or ever will, and at the same time pay their honest debts. I hope, sir, this amendment will be adopted.

The question was taken on the amendment; and there were—ayes 52, noes 45.

Mr. SCHENCK called for tellers.

Tellers were not ordered.

The amendment was agreed to.

No further amendments being offered to the third section, the Clerk read the fourth section, as follows:

Sec. 4. *And be it further enacted*, That the Commissioner of Internal Revenue shall organize a system for the distribution of labor and duties in his department by establishing six divisions therein, to each one of which shall be referred whatever relates to a particular class of subjects, as follows:

Division No. 1.—All that relates to special taxes, and taxes on sales and gross receipts.

Division No. 2.—All that relates to stamps.

Division No. 3.—All that relates to taxes on legacies and successions, incomes and salaries, banks and other corporations.

Division No. 4.—All that relates to the taxes on distilled spirits and oils.

Division No. 5.—All that relates to the taxes on tobacco, snuff, and cigars, and fermented liquors.

Division No. 6.—All that relates to the bonds of revenue officers and others, and the keeping and settlement of the accounts of collectors and other officers.

The Commissioner may from time to time change, add to, or take from the duties and subjects pertaining to either of these divisions, as may seem to him expedient for the dispatch of business and for the public interest; and he may distribute among them, at his discretion, other matters pertaining to the department not herein enumerated. He shall assign to duty at the head of each of said divisions one of the deputy commissioners, and in the absence, or during any disability, of the deputy, any other officer or clerk of the department whom he may select for such service or supervision. And he shall assign to each division, from among the clerks and employes of the department, such number of clerks and others as he may deem proper and required for the transaction of business.

Mr. HOOPER, of Massachusetts. I move to amend in line fourteen by striking out the words "and oils," so that it will read, "all that relates to the taxes on distilled spirits."

Mr. CHAIRMAN, I will state the reason for that amendment. I propose when we come to the section on mineral oils, to move to strike out the tax on oils entirely. The Senate, it will be remembered, reduced the tax which had previously existed at twenty cents per gallon to ten cents per gallon, and the House concurred in that amendment. The whole amount of revenue derived from that tax, at the rate of ten cents per gallon, was but \$3,000,000. It requires a great deal of machinery to collect it, involving a large expense to the Government; and I agree with the gentleman from Pennsylvania, [Mr. SCOFIELD,] who so eloquently advocated "the poor man's light," that we can give up that tax. I propose, therefore, when we come to the sections which impose the tax and regulate the machinery for its collection, to move to strike out all those sections. We may as well meet the question here as in any other place and I hope the amendment will be adopted.

Mr. MULLINS. I rise to oppose the amendment upon the ground that although it is assumed by the gentleman from Massachusetts [Mr. HOOPER] that he will move to strike out the tax of ten cents per gallon on mineral oil, when we get to that part of the bill, still if he should fail in that, then this bill will have been mutilated to no purpose. "Sufficient to the day is the evil thereof." If his future amendment should carry, then these words will be nugatory.

Mr. HOOPER, of Massachusetts. What I mean to say is that if the tax on oil is to be taken off we may as well meet the question here as at any other place. And if the Committee of the Whole adopt this amendment, it will be an indication that they intend to take off the tax on mineral oils altogether. I think it is one of the great industries of the country that ought to be encouraged.

Mr. MULLINS. It is time enough to count chickens after they are hatched, not before. I do not want to mark this until it is really mine. I do not want to change the bill in this respect until a change is made in the other respect. I cannot see the propriety of striking out these words here if they are not stricken out of the other part of the bill. If the tax on mineral oils is not stricken out of the other part of the bill, of course some officer will have to take cognizance of it; and if this amendment is made here some arrangement will then have to be made in some other part of the bill. I am opposed to the amendment.

Mr. SCHENCK. I move to amend the amendment so as not to strike out the word "and" before "oils." I do this for the purpose of saying that the object of my colleague on the Committee of Ways and Means [Mr. HOOPER, of Massachusetts,] must be obvious to this committee. It is to present a test question whether mineral oils shall or shall not continue to pay a tax of ten cents per gallon.

Now, I think, and I will so suggest to the gentleman, that perhaps it would be better to reserve this question for the consideration of a fuller committee than we now have. If we divide upon it now, we will do so at the risk of finding ourselves without a quorum; we will do so with a very thin committee, at all events. It is a question of some importance, of so much importance that I think we ought not to dispose of it without a division.

Now, I do not say this because I am entirely opposed to this amendment. I have been gradually drifting to the conclusion, having reduced the tax on mineral oils from twenty cents to ten cents per gallon, yielding us a revenue of a little over two million dollars, that that amount of revenue can be made up by putting mineral oils in among other general manufactures which pay a special tax of ten dollars, and a tax of two tenths of one per cent. on all sales over \$5,000, thus making a saving by getting rid of all the machinery now provided in reference to the transportation of mineral oils.

Now, I suggest that as the gentleman has indicated the view he takes of the matter by the motion he has made, it would be well for him to withdraw his amendment at this time; and if we strike out the other provisions of the bill providing for the tax on mineral oils, and have them, as they would, to take their place among other general manufactures, we can, by common consent, turn back here and make the necessary change.

Mr. HOOPER, of Massachusetts. I will consent to the proposition of the gentleman from Ohio, [Mr. SCHENCK,] and withdraw my amendment, with the understanding that if the change I have indicated is hereafter made in the sections imposing a tax upon mineral oils, I shall then be allowed to renew this amendment to this section.

Mr. SCHENCK. I hope unanimous consent will be given for that purpose.

No objection was made; and the amendment was accordingly withdrawn.

No further amendment was offered to the section.

The next section was read, as follows:

SEC. 5. *And be it further enacted,* That separate accounts shall be kept of all moneys received from internal taxes in each of the respective States and collection districts, and of the amount collected from each subject of taxation, so as to exhibit, as far as may be, the amount received from each source of revenue, with the moneys paid as compensation and for allowances to the collectors and deputy collectors, assessors and assistant assessors, inspectors, and other officers employed in each of the respective States and collection districts, an abstract in tabular form of which accounts it shall be the duty of the Commissioner of Internal Revenue, annually, in the month of December, to lay before Congress.

Mr. SCHENCK. I move to amend by striking out in the section just read the word "inspectors." It has been put in by some inadvertence, as we propose to dispense with inspectors.

The amendment was agreed to.

The next section was read as follows:

SEC. 6. *And be it further enacted,* That the Commissioner of Internal Revenue shall have power to appoint and remove all collectors, assessors, assistant assessors, supervisors of internal revenue, inspectors, gaugers, storekeepers, and other officers and clerks provided for in this act, who shall severally give bond for the faithful performance of their duties, as may be required by law.

Mr. SCHENCK. By direction of the Committee of Ways and Means I offer the following amendment:

Strike out after the words "internal revenue" the words "inspectors, gaugers, storekeepers, and other officers and clerks provided for in this act, who shall severally give bond for the faithful performance of their duties as may be required by law," and insert in lieu thereof the words, "gaugers, storekeepers, and other officers and clerks employed in the internal

revenue service, except as otherwise provided for in this act," so that the section will read as follows: That the Commissioner of Internal Revenue shall have power to appoint and remove all collectors, assessors, assistant assessors, supervisors of internal revenue, gaugers, storekeepers, and other officers and clerks employed in the internal revenue service, except as otherwise provided for in this act.

The amendment was agreed to.

Mr. PILE. I move further to amend this section, as follows:

Strike out the words "collectors, assessors," and after the word "that," where it first occurs, insert the following:

"All collectors and assessors of internal revenue shall be appointed by the President, by and with the advice and consent of the Senate, and," so that the section will read as follows:

That all collectors and assessors of internal revenue shall be appointed by the President, by and with the advice and consent of the Senate, and the Commissioner of Internal Revenue shall have power to appoint and remove all assistant assessors, supervisors of internal revenue, gaugers, storekeepers, and other officers and clerks employed in the internal revenue service, except as otherwise provided for in this act.

Mr. Chairman, my object in offering this amendment is to leave the appointment of assessors and collectors as it now stands under existing laws, giving to the Commissioner of Internal Revenue, the head of this department, if this bill should become a law, the appointment of all the subordinate officers. I have doubts as to the propriety of giving to the head of this department authority to appoint, without the advice and consent of the Senate, so many and so important officers, embracing the collectors and assessors of internal revenue in all the districts of this country. It is such power as, I believe, is not possessed or exercised by any other Department of the Government. While I can see that there are at the present time reasons for this provision which may not exist a year hence, while difficulties in the collection of the revenue may arise from permitting these assessors and collectors still to be appointed and removed as they now are, I think we shall find ourselves in greater difficulty if, after erecting the Bureau of Internal Revenue into a department, we make the appointment and removal of all these officers subject to the will of one man without the advice or concurrence of any other department of the Government, and that man not, perhaps, the present incumbent, but some other individual who may be appointed to his place by the present Executive of this nation.

I simply offer the amendment as a test amendment on this point, and shall not press it if not sustained by the majority of the committee.

Mr. SCHENCK. I accept the amendment as a test; and it is a very important one. The gentleman from Missouri thinks it dangerous to give to the head of a bureau the appointment of assessors and collectors. He is willing to give the appointment of subordinate officers, except assessors and collectors, to the head of the bureau; but assessors and collectors he desires shall be appointed by the President, by and with the advice and consent of the Senate. That is the way they are now appointed; and beautifully it is done! It is another of those difficulties which arise from the fact that the responsibility is not felt as responsibility ought to be felt, if we are going to have the revenue department administered with the energy necessary to collect the taxes.

The gentleman may say there is a distinction between these officers and others; that they are more important than others, and therefore should be confirmed by the Senate on the nomination of the President. Why, sir, we have this anomaly existing now. While assessors and collectors are nominated by the President and confirmed by the Senate before they can be commissioned, there is a class of officers called special agents appointed by the Secretary of the Treasury, the head of the Department alone exercising vastly more power than the collectors and assessors. We have not only sent special agents to all parts of the country to range over the collection districts and to thrust aside the collectors and assessors and perform the duties of both of these officers, but there is another provision that a collector under

commission by the Senate may be transferred by the head of the Department to any other collection district to which he has not been appointed in any part of the United States. Such officers are in collection districts to-day doing the duty appertaining to regular officers.

Mr. WARD. Suppose this section should become a law, and the present incumbent should be suspended during the recess of Congress, would not the *ad interim* appointee remove and fill the places of every collector and assessor?

Mr. SCHENCK. By the first section he cannot be suspended except by and with the advice and consent of the Senate. There is specific legislation; but these gentlemen rate more highly than I do the Senate confirmation.

[Here the hammer fell.]

Mr. PILE's amendment was rejected.

Mr. GARFIELD. I move to strike out the sixth section; and I desire to call the attention of the committee to its provisions. It declares that the Commissioner of Internal Revenue shall have power to appoint and remove all collectors, assessors, assistant assessors, supervisors of internal revenue, inspectors, gaugers, storekeepers, and other officers and clerks provided for in this act, who shall severally give bond for the faithful performance of their duties as may be required by law. This section, to use the language which my colleague [Mr. SCHENCK] applied to another subject, is the soul of the first section. The first is the body, of which the sixth section is the soul. Now, I desire to call the attention of the committee to its provisions.

There are now in the revenue service of the United States twenty-one hundred and five officers, who are appointed by and with the advice and consent of the Senate. There are two thousand and four others, as I gather from the gentleman's statement in his speech. He will correct me if I am wrong. There are two hundred and forty-three assessors and two hundred and forty-three collectors, two hundred and thirty-eight revenue inspectors, two hundred and sixty-eight special inspectors of spirits, and so on, making up a total of twenty-one hundred and five not now appointed by the Commissioner of Internal Revenue. In the third section there is provided that officers and clerks to the number of two hundred and four—I am not quite clear but I am underestimating it, but the gentleman will correct me if I am wrong—to be appointed by the Commissioner of Internal Revenue. There were forty-one hundred and nine officials in the revenue department during last year, at a total salary of \$6,500,000.

Mr. BLAINE. Collecting \$200,000,000 of revenue.

Mr. GARFIELD. These persons have the sole charge, according to this bill, of the assessment and collection of \$200,000,000. This bill proposes to put the whole internal revenue of this country into the hands of one man—the entire power of appointment and removal at pleasure, without the consent, let, or hindrance of any mortal man. All these four thousand people, receiving an aggregate salary of \$6,500,000, have the control of the assessment and collection of \$200,000,000.

I mean further to say that such a proposition as putting this power into the hands of any one man I have not heard of in the history of this Government down to this hour. Suppose Mr. Rollins should die, and the day after his death the President of the United States should appoint any creature of his choice, and suppose the man so appointed to that place should choose to take three thousand men out of the Tombs and other prisons of the country for his subordinates. Of course this is a violent supposition; but suppose he should attempt to fill the entire revenue department with rascals. The entire amount of the revenue is then in the hands of just such villains as any one bad man may appoint.

One thought more. The talk of the tremendous power of the whisky ring. What will that



ring be in comparison with the ring that will control all this revenue, not only all the whisky tax, but all other proceeds of the Internal Revenue Department of this Government? The proposition appears to me monstrous in its effect upon the future of this country, and I am unwilling to legislate to set in motion all this vast new and untried machinery just because we have a President and Secretary of the Treasury to be in office only for a few months longer whom some of us do not like, I among the number. I hope this section will be stricken out.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, collectors and assessors of revenue are now nominated by the President and appointed by and with the advice and consent of the Senate. But all these thousands of officers, without the reduction of some seventeen hundred that we propose in our bill, are now appointed by the Secretary of the Treasury without such confirmation by the Senate. Not a word does the gentleman say about all these thousands in the custom-house and elsewhere. The gentleman has had no alarm on account of the Secretary of the Treasury possessing too much power over them; but when we propose to take a part of them away and diminish that part by reducing very considerably the number and giving the appointment of them to the head of another department to be created, then the country is to be alarmed at this monstrous attempt.

Mr. HIGBY. A single question. Is it not charged that they are rascals now?

Mr. SCHENCK. Oh, I do not care whether they are rascals or not. I am replying to the argument of my colleague. These subordinate officers are not confirmed now by the Senate. They are appointed now by the Secretary of the Treasury, and the gentleman is afraid that somebody else will have the appointment of part of them. I do not see the consistency of his argument. I do not see why this alarm has not been sounded throughout the country before this time. Sir, we have sounded it; we have said that the Treasury Department has grown up, has become inflated to such an extent in the amount of its patronage, has been brought to such an inconvenient condition from the fact that the Secretary as one head of it is not able to give his personal attention and responsibility if he undertakes faithfully to do his duty as to all these ramified powers vested in him, that it would be better to aggregate a part of them, reduce the number of subordinates, and put them under somebody who shall be able to have the immediate supervision and control of them, because he will be directing the particular duties in which they are to be employed. That is the whole proposition. It is to bring down in some degree, to divide, to distribute, to make secure, to bring under more distinct light and observation a portion of the duties of that officer, the power over which has been heretofore wielded by the Secretary of the Treasury. That is what we propose.

[Here the hammer fell.]

Mr. INGERSOLL. It is not in order at this time to move an amendment for the purpose of perfecting the section?

The CHAIRMAN. That is now in order.

Mr. INGERSOLL. I move, then, to add after the word "removed," in line two, the following: "by and with the advice and consent of the Senate, and not otherwise;" then in line three, to add the word "and" between the words "collectors" and "assessors," and then after the word assessors, in line three, to add "and shall have full power to appoint and remove all assistant assessors, supervisors of internal revenue, gaugers," &c.

Mr. BLAINE. He cannot make nominations to the Senate.

Mr. INGERSOLL. Well, I would rather leave it there for three or four months. My object is that we shall not destroy the whole system that we have lived under so far and go to something which is entirely antagonistic to

our past system, so radical that without a trial the gentleman who has charge of this bill cannot imagine what the possible result might be. We have in some form or other collected revenue, internal or external, from the foundation of the Government, and I feel somewhat of the foreboding of the gentleman from Ohio [Mr. GARFIELD] when I contemplate the placing of this immense power in the hands of the man who is at the head of the revenue bureau. Not that he is a dangerous man in himself, but something may transpire which shall remove him from the duties of that office in less than ten days, perhaps in a single day; and who have we got there then to administer this office?

I do not believe that any person under this Government ought to have the power of appointing the assessors and collectors of this internal revenue except the President; not because of the present President, but because I hope we are to have a better President in time, and not many months hence. Why is it necessary to legislate here in regard to this great interest now? Two months of consideration and legislation in this House and in the Senate will probably be required to perfect this bill. There will then remain of the present President's term perhaps six months, and you are going to revolutionize the entire system of the Government for the sake of administering the internal revenue department under a different system for some six months, and after the expiration of those six months it is expected you will bring in a bill to repeal the whole thing and place the appointing power back where it now is, in the hands of the President. I am, therefore, opposed to it, and I want to so amend the section as that the Commissioner of Internal Revenue shall have full power over the appointment of these inferior officers, but not of assessors and collectors.

Mr. GARFIELD. I rise to oppose the amendment of the gentleman from Illinois for the reason that any amendment that partially cures the evils of this section, in my judgment, will only make it more difficult to strike the whole section out.

I need not repeat to my colleague [Mr. SCHENCK] that I dislike, perhaps more than any other man upon this floor, to differ with him; but it seems to me that in carrying us into the principle of this section he is trying a scheme which no man can see the end of.

Now, the fact that my colleague has alleged has strengthened the point I made. He said that I had understated the figures in one particular to the extent of seventeen hundred. I answer that that makes my case stronger, because, instead of four thousand, that makes nearly six thousand persons who are to be appointed by this one man.

Mr. SCHENCK. The gentleman misunderstood me. I said that we propose about seventeen hundred less than the number that he wants to keep for the Secretary of the Treasury to appoint.

Mr. GARFIELD. Very well; then I misunderstood him.

Now, I must say to my colleague in the utmost kindness that I do not consider it quite fair in argument here, when we are talking about the merits of such a bill as this, to intimate that one who holds the views I hold upon this subject is the peculiar champion of the Secretary of the Treasury and to use such language as "the gentleman's beloved Secretary."

What have I said to eulogize the Secretary of the Treasury or any other person? Most of all am I unwilling to have anybody suppose that I find the least fault with the conduct of the present head of the Internal Revenue Bureau.

The gentleman says there are only a few hundred of these persons who are now appointed by and with the advice of the Senate. Well, sir, whatever few hundred there are, it is now proposed to take from the Senate any voice in their appointment, and from the day this bill becomes a law the Senate of the United States will have no control whatever over the appointment, the removal, or the suspension of a sin-

gle officer of the internal revenue, except this very Commissioner himself; and in his case only when there shall be a vacancy by death or resignation.

We have thought it necessary for the protection of this Government to pass a bill known as the tenure-of-office law. But here is a proposition before us to take these five thousand officers of the Government entirely out from under the operation of the civil-tenure-of-office law, and make them absolutely independent both of us and of the Senate, at any time when Congress may not be in session. I shall feel that we have taken a larger load upon our shoulders; that this Congress has taken a heavier burden upon its back than any Congress ever successfully carried, if we enact this section into a law. I hope the section will be stricken out.

Mr. GRISWOLD. I desire to say but a word or two in reply to a remark of the gentleman from Illinois, [Mr. INGERSOLL.] I desire, as a member of the Committee of Ways and Means, to say to him that if a single member of that committee was influenced in framing this bill by any reference to providing against the present incumbent of the presidential chair, or any other officer of this Government, I certainly failed to become aware of it.

The Committee of Ways and Means were actuated by a desire to provide in some manner for the better collection of the revenues of this Government. The developments that came before us were such as to justify almost any step whatever that they believed would result in that improvement. I do not believe that the committee had the slightest possible desire to merely meet the emergency growing out of the fact that any particular man now occupies any particular office of this Government. For one, I desire to repudiate entirely the idea the gentleman from Illinois [Mr. INGERSOLL] has thrown out upon that point.

Mr. WASHBURN, of Indiana. I move that the committee now rise.

Mr. INGERSOLL. I hope the gentleman will withdraw that motion until I can modify my amendment.

Mr. WASHBURN, of Indiana. I will withdraw the motion for that purpose.

Mr. INGERSOLL. After I have modified my amendment I hope I may be allowed to say a word in reply to the gentleman from New York, [Mr. GRISWOLD.]

The CHAIRMAN. No debate is in order.

Mr. INGERSOLL. Very well; I modify my amendment so as only to strike out the words "collectors, assessors," in the third line of the section.

Mr. WASHBURN, of Indiana. I renew the motion that the committee now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

#### ENROLLED JOINT RESOLUTION.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, a joint resolution of the following title, when the Speaker signed the same:

Joint resolution (H. R. No. 278) to supply books and public documents to the national asylums for disabled volunteer soldiers.

#### MIAMI AND ERIE CANAL.

Mr. LAWRENCE, of Ohio, by unanimous consent, presented the following communication, preamble, and resolutions:

STATE OF OHIO, EXECUTIVE DEPARTMENT.  
COLUMBUS, May 30, 1868.

Sir: I have the honor to transmit herewith joint resolution "looking to a survey of the Miami and

Eric Canal," adopted by the General Assembly of Ohio, May 16, 1868.  
Very respectfully,

R. B. HAYES,  
Governor.

Hon. WILLIAM LAWRENCE, Washington, D. C.

Joint resolution looking to a survey of the Miami and Erie canal.

Whereas the great and increasing population and resources of the State of Ohio, and of the West and southwest of the United States, and the necessity of furnishing easy water communication between the East and West, both in peace and in war, demand that some step should be taken for the improvement of our present means of transportation for the products of these portions of the country: Therefore

Resolved by the General Assembly of the State of Ohio, That the Representatives of the State of Ohio in Congress be, and they are hereby requested, and the Senators from the State instructed, to use all proper efforts and influence to procure a survey of the Miami and Erie canal, from Cincinnati to Toledo, for the purpose of causing the same to be enlarged to the capacity of a ship-canal for the connection of the waters of the Ohio and Mississippi with the great lakes.

Resolved, That the Governor of this State be requested to cause a copy of the foregoing preamble and resolution to be forwarded to each of our Senators and Representatives in Congress.

JOHN F. FOLLETT,  
Speaker of the House of Representatives.

WM. LAWRENCE,  
President pro tempore of the Senate.

Adopted May 16, 1868.

THE STATE OF OHIO,  
OFFICE OF THE SECRETARY OF STATE.

I, John Russell, Secretary of State of the State of Ohio, do hereby certify that the foregoing is a true copy of a joint resolution therein named, adopted by the General Assembly of the State of Ohio on the 16th day of May, A. D. 1868, taken from the original rolls on file in this office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of this office, at Columbus, the 23d day of May, A. D. 1868.

JOHN RUSSELL,  
Secretary of State.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I introduced a bill some weeks since, which was referred to the proper committee, to authorize an enlargement of the Miami and Erie canal so as to make a ship-canal from Cincinnati to Toledo, thus connecting the waters of the Ohio and the Mississippi with the great lakes. If this should be done, as it will be done sooner or later, Cincinnati, Toledo, and the cities of my district will have most if not all of the advantages of the sea-board cities. Ships will go directly from Cincinnati by way of Troy, Pequa, and Toledo through the great lakes out to the ocean and to all the ports of the world. That this work will be made is one of the certainties of the future. It is only a question of time. Forty years ago no one could have foreseen the completion of our stupendous canals, railroads, and other improvements, and in the near future we will realize the completion of a ship-canal, not only on the route proposed, but on one less important but more discussed from Chicago by way of Joliet to La Salle, so as to connect Chicago with the Mississippi river.

The House has this day passed a bill giving two hundred thousand acres of land in Minnesota to build a dam across the Mississippi. That may be important to the interests of commerce, but not so much so as the proposed ship-canal. I move the reference of the preamble and resolution I have presented to the Committee on Commerce, and that they be printed.

The motion was agreed to.

Mr. HOOPER, of Massachusetts. I move that the House now adjourn.

The motion was agreed to; and accordingly (at ten o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BROOMALL: The petitions of 15 manufacturing firms of Chester and Delaware counties, in the State of Pennsylvania, employing, when in full operation, 324 workmen, now employing 174 workmen, representing that the productive interests of the country are suffering for want of efficient protection against the cheaper capital and labor of foreign

countries; that the customs duties, which, under a high gold premium, were sufficient to create and foster manufactures, are now wholly inadequate, and, in prospect of a continued decline in gold, must shortly prove ruinous; that much of the distress now prevailing would be relieved by the legislation suggested in Special Commissioner Well's report of last year, and perfected in the tariff bill as passed by the Senate, which failed in the House March 1867; and praying that Congress will resume consideration of that measure and enact it into a law at the earliest practicable moment.

Also, the petitions of 155 operatives of Todmerden and Manchester Mills at Media, Pennsylvania, praying that Congress will resume consideration of the tariff bill which failed in the House of Representatives March 1867, and enact it into a law at the earliest practicable moment.

By Mr. BOYER: The petition of William Hemphill, guardian of the minor brother of David Hemphill, deceased, late private in company E, seventy-second regiment Pennsylvania volunteers, for a pension.

By Mr. CAKE: The petition of Captain C. F. Glover and others, manufacturers of and dealers and workers in tobacco, against an increase in the tax on cigars, and recommending the collection of the tax by a revenue stamp instead of an inspector's stamp.

By Mr. FARNSWORTH: The petition of sundry cigar manufacturers and dealers in tobacco, of Rockford, Illinois, upon the subject of the tax on those articles.

By Mr. HUBBARD, of Connecticut: A remonstrance of sundry citizens of Hartford, Connecticut, against proposed increase of tax on cigars.

By Mr. LINCOLN: A remonstrance of Aaron Ogden and others, of Owego, New York, against an increase of the tax on cigars.

Also, a remonstrance of Farrand & Platts and others, of Ithaca, New York, on same subject.

Also, a remonstrance of Westcott & Kent and others, of Binghamton, New York, on same subject.

Also, the petition of Cigar-maker's Union of Binghamton, New York, on same subject.

By Mr. MOORHEAD: The petition of Miss A. E. Hamilton, of Alleghany city, Pennsylvania, praying that pensions may be allowed her for her two adopted sons who were killed in the war.

By Mr. O'NEILL: A remonstrance of journeymen cigar-makers and manufacturers of cigars, against the proposed changes in the tax upon cigars.

By Mr. RANDALL: The petition of sundry cigar-makers, asking various amendments to the proposed revenue bill now being considered.

#### IN SENATE.

FRIDAY, June 5, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. SHERMAN presented resolutions of the Legislature of the State of Ohio, in favor of a survey of the Miami and Erie canal, with a view of having the same enlarged; which were referred to the Committee on Commerce.

Mr. FRELINGHUYSEN presented the petition of Richard B. Duane, representative of the estate of Washington Tams, deceased, praying to be refunded rents for premises from which he was evicted by United States troops; which was referred to the Committee on Claims.

He also presented the petition of Horace Tyler, praying compensation for deepening the channel across the bar at the mouth of the southwestern pass of the mouth of the Mississippi river; which was referred to the Committee on Claims.

Mr. MORGAN presented the memorial of John A. Dix, Richard M. Blatchford, and George Opdyke, praying for the passage of a

law in reference to certain accounts on the books of the Treasury Department against them; which was referred to the Committee on Finance.

He also presented the memorial of the Selma, Rome, and Dalton Railroad Company, praying Congress to except from the operation of House bill No. 267 the lands heretofore granted to the State of Alabama for the Alabama and Tennessee river railroad, and since transferred to the first named corporation; which was referred to the Committee on Public Lands.

Mr. McCREERY presented a resolution of the Mechanics' State Council of California, in favor of the passage of a law making eight hours a legal day's work in all Government workshops; which was referred to the Committee on Naval Affairs.

He also presented three petitions of citizens of the United States, praying the passage of a law making eight hours a legal day's work in all Government workshops; which was referred to the Committee on Naval Affairs.

Mr. CONNESS presented the memorial of Samuel F. Butterworth, praying to be relieved from all liabilities as security for W. G. Kendall, late deputy postmaster at New Orleans; which was referred to the Committee on Post Offices and Post Roads.

Mr. JOHNSON presented the memorial of the Baltimore Copper Company, praying the admission of foreign copper ores free of duty; which was referred to the Committee on Finance.

Mr. HENDRICKS presented a petition of Cigar-makers Union No. 73, of Fort Wayne, Indiana, praying that the tax of five dollars per thousand on cigars may be retained, and that the present tariff on imported cigars may remain unchanged; which was referred to the Committee on Finance.

#### PAPERS WITHDRAWN.

On motion of Mr. WILLEY, it was

Ordered, That Henry Bodenheimer & Co. have leave to withdraw their memorial from the files of the Senate.

#### REPORTS OF COMMITTEES.

Mr. TIPTON, from the Committee on Public Lands, to whom was referred the bill (S. No. 372) granting lands to aid in the construction of a railroad from Brownville, Nebraska, and for aiding other railroads in the State of Nebraska to intersect the Union Pacific railroad, reported it with amendments.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (H. R. No. 198) to reestablish the boundaries of the collection districts of Michigan and Michilimackinac, and to change the names of the collection districts of Michilimackinac and Port Huron, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 538) to extend the boundaries of the collection district of Philadelphia so as to include the whole consolidated city of Philadelphia, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 1120) to authorize the Secretary of the Treasury to change the names of certain vessels, reported it without amendment.

Mr. ANTHONY, from the Committee on Naval Affairs, to whom was referred the petition of James F. Joy, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

He also, from the same committee, to whom was referred the petition of Emma M. Moore, widow of E. W. Moore, deceased, praying payment of the amount due him as an officer of the late navy of Texas, submitted an adverse report; which was ordered to be printed.

Mr. TRUMBULL, from the Committee on the Judiciary, reported an amendment intended to be proposed to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1869; which

was referred to the Committee on Appropriations, and ordered to be printed.

#### BILLS INTRODUCED.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 513) concerning land claims in the State of Arkansas; which was read twice by its title, referred to the Committee on Private Land Claims, and ordered to be printed.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 514) for the relief of Monroe Young; which was read twice by its title, and referred to the Committee on Claims.

#### CONTRACTS PAYABLE IN COIN.

Mr. SHERMAN. If there be no further morning business, I desire to call up a bill to which, so far as I know, there is no objection, and yet which it is very desirable should be passed soon. It is the bill in regard to contracts for the payment of gold. I move to take up Senate bill No. 180.

The motion was agreed to; and the bill (S. No. 180) relative to United States notes was considered as in Committee of the Whole.

The PRESIDENT *pro tempore*. The bill will be read.

Mr. SHERMAN. It is scarcely worth while to read the original bill. The amendment only, which is a substitute for it in a few words, need be read.

The PRESIDENT *pro tempore*. The amendment will be read.

The Chief Clerk read the amendment reported by the Committee on Finance, which was to strike out all after the enacting clause of the bill and insert the following:

That any contract hereafter made, specifically payable in coin, shall be legal and valid, and may be enforced according to its terms, anything in the several acts relating to United States notes to the contrary notwithstanding.

Mr. BAYARD. I move to amend the amendment by striking out the words "hereafter made," and the reason of that is very plain. No law takes effect until its passage, and I think no law should be passed giving a construction to a past law. That rests with the judiciary, and I think it ought to be left an open question for the judiciary to determine whether the existing law authorizes such contracts. The insertion of the words "hereafter made" necessarily implies a kind of legislative intimation that under the legal-tender act, as it is called, contracts specifically payable in coin might be paid in paper. I do not think that is the construction of that law, with great deference to those who entertain a different opinion; but whether that be so or not, by striking out these words we leave the bill without any intimation of that kind, because it only takes effect from its passage, and cannot affect any contract made antecedent to its passage. If antecedent to the passage of this amendment contracts were made payable in coin, and yet the law of the land authorized a party to pay them in paper, by striking out these words that right will not be affected. That is clear, because the law only takes effect from its passage. I submit, therefore, that the words ought to be struck out, and I make the motion to strike out the words "hereafter made" in the amendment.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Delaware to the amendment of the Committee on Finance.

Mr. SHERMAN. Mr. President, I will state the reason why the committee refused, I think unanimously, to make this provision retroactive in its character. If the words "hereafter made" are stricken out the section will legalize all contracts payable in gold at the time. There are several suits now pending in the Supreme Court that would be affected by such an *ex post facto* law, if it may be so called, although that term cannot be properly applied in strictness to a law relative to contracts. We propose to make the law clear and definite as to contracts in the future, leaving existing con-

tracts to stand upon the rights of the parties as they now are. This provision does not affect them in the least, or give a construction to the law as it now exists, but simply provides that contracts payable in coin hereafter made may be enforced by our courts. There are several suits now pending in the Supreme Court of the United States that the motion of the honorable Senator would affect. We thought it was not right to affect contracts already made, and especially not to change the law relating to contracts in suits now pending. The section as it is reported I believe meets the assent not only of the Committee on Finance, but of the whole business community, and will, no doubt, prepare us to deal in specie again, and lead the way eventually to specie payments. It is universally demanded by the business interests of the country in all parts. I would not, therefore, like to introduce a question that might be embarrassing at this time. I hope the Senator will waive his amendment.

Mr. BAYARD. It surprises me to hear the honorable Senator from Ohio contend that a law passed now having no retrospective language would affect a contract previously made in any way. I never heard of such a principle of law myself. I do not see that it is possible, and I would be one of the last men in this body to urge an amendment which should affect an existing right pending in a court of justice. But it cannot possibly have that effect. The law speaks only from the time of its passage. Strike out the words "hereafter made" and the law simply remedies the future; it leaves the past to the construction of antecedent acts. Is there a lawyer in this body who can doubt that that is the legal effect of necessity of passing the law in the shape which I indicate? If I thought there was the slightest ground in the objection of the honorable Senator from Ohio, I would not only withdraw the amendment, but I would never have proposed it; but it is impossible that a law with no retrospective language could affect contracts made antecedently to its passage; and if it could not affect them, they would stand on the former law. But, on the contrary, leaving the words "hereafter made" in, is a kind of congressional or legislative intimation as to what is the proper construction of an antecedent law. It ought to be done in neither way. We should simply pass an act that governs the future, and leave the past to judicial interpretation under antecedent acts of Congress. I submit, therefore, that the words ought to be stricken out.

Mr. HENDRICKS. I shall vote for the amendment proposed by the Senator from Delaware. I do not think the objection of the Senator from Ohio is a sound one. I do not think this proposition is retroactive in its nature. While it is not competent for the Legislature of a State, under the provisions of the Constitution, to make a contract invalid which was valid at the time it was made, yet it is competent even for a State Legislature to remove a legal impediment to the execution of a contract; in other words, to make that valid which otherwise would be invalid. That is not regarded as retroactive legislation.

Now, sir, I do not know why a man who has agreed in the past to pay in gold, when the contracting parties knew there was a difference in the value between gold and currency, should not be in good faith required to pay in gold. The trouble is because of the legislation of Congress; and if the legislation of Congress is in the way of carrying out in good faith a contract between two parties, they understanding the subject of the contract, I am in favor of removing any such impediment. Nor is this in the way of the policy of the Government making Treasury notes a legal tender. If parties waive that let them do so. In the absence of an express contract, of course the legal tender pays the debt, but if the parties have agreed to pay in gold they ought to do it. In my practice of the law this case came to me; a guardian deposited gold the first or second year of the war, and took a special certificate of deposit in which the banker agreed to pay it back

in gold. Gold appreciated. When the demand was made the banker refused to pay, and there had to be a compromise. The banker got the gold and then refused to live up to his bargain. I am not in favor of any such legislation as will allow a man to do that. We know there is a difference between gold and currency in value, and if a man sells his property to be paid in currency, let it be so paid; but if he sells his property at the gold standard, let that be the standard which shall govern in the judgment as it did in the contract.

The PRESIDENT *pro tempore*. The question is on the amendment offered by the Senator from Delaware to the amendment of the committee.

The amendment to the amendment was rejected—ayes nine, noes not counted.

The PRESIDENT *pro tempore*. The question now is on the amendment of the committee; that is, the substitute for the original bill.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed; and its title was amended so as to read: "A bill relating to contracts payable in coin."

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives requested the return of the bill (H. R. No. 448) to change the name of the ship *Golconda*, it having been inadvertently sent to the Senate as having been passed by the House.

The message also announced that the House had concurred in the amendments of the Senate to the joint resolution (H. R. No. 278) to supply books and public documents to the national asylums for disabled volunteer soldiers.

The message further announced that the House had concurred in the amendments of the Senate to the bill (H. R. No. 1117) to supply partial deficiencies in the appropriations for the service of the fiscal year ending the 30th of June, 1868, with an amendment; in which the concurrence of the Senate was requested.

The message further announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 28) to protect the rights of actual settlers upon the public lands of the United States;

A bill (H. R. No. 202) to create the office of surveyor general in the Territory of Utah, and establish a land office in said Territory, and extend the homestead and preemption laws over the same;

A bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of navigation of the Mississippi river;

A bill (H. R. No. 934) amendatory of the act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, and of the acts amendatory thereof, approved March 21, 1864, and June 21, 1866;

A bill (H. R. No. 1121) to prevent an appropriation therein mentioned from lapsing because of delay in the adjustment;

A bill (H. R. No. 1118) to confirm to J. M. Hutchings and J. C. Lamon their preemption claims in the Yosemite valley, in the State of California;

A bill (H. R. No. 1156) authorizing the Commissioner of the General Land Office to issue a patent to F. N. Blake for one hundred and sixty acres of land in Kansas;

A bill (H. R. No. 1157) to cede to the State of Ohio the unsold lands in the Virginia military district in said State;

A joint resolution (H. R. No. 281) to provide for the removal of a suit pending in the circuit court of Jefferson county, West Virginia, to the circuit court of the United States; and

A joint resolution (H. R. No. 286) relative



to the lands of the Cherokee and Great and Little Osage Indians.

The message also announced that the House had passed the bill (S. No. 331) to extend the time for completing the military road authorized by an act entitled "An act granting lands to the States of Michigan and Wisconsin to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Keweenaw county, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin."

The message further announced that the House had passed the following bills of the Senate, with amendments, in which it requested the concurrence of the Senate:

A bill (S. No. 188) to amend an act entitled "An act for the relief of the inhabitants of the cities and towns upon the public lands," approved March 2, 1867; and

A bill (S. No. 190) to further provide for giving effect to the various grants of public land to the State of Nevada.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the enrolled joint resolution (H. R. No. 278) to supply books and public documents to the national asylums for disabled volunteer soldiers, and it was thereupon signed by the President *pro tempore*.

#### REPRESENTATION OF SOUTHERN STATES.

Mr. TRUMBULL. I move that the Senate now proceed to the consideration of the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT *pro tempore*. The bill will be read through.

Mr. TRUMBULL. Perhaps I can save time by briefly stating to the Senate what the changes made in the House bill are. The bill as it came from the House of Representatives provides for the admission of the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress. The committee have amended the bill so far as to strike out Alabama, and, as the bill is printed, to insert Florida, but a majority of the committee do not agree to the insertion of Florida; and that is a mistake. Florida should not be in the bill as the report of the committee, although, as one member of the committee, I was in favor of inserting Florida. A majority of the committee, however, are opposed to it, and, although printed in that form, Florida is not inserted by the majority of the committee. It arose out of a misunderstanding as to how the majority of the committee stood, the committee not being full at the time the vote was taken and Florida inserted.

Alabama is stricken out for reasons which are known probably to the whole Senate. The election on the ratification of the constitution in the State of Alabama took place while the law required that a majority of all the registered voters should vote on the question of ratification. There are in the State of Alabama, as appears by the official report of General Meade, 170,631 registered voters. On the question of the ratification of the constitution, as also appears by an official report, there were cast 70,812 votes. One half of the registered voters would have been 85,315. Only 70,812 votes were cast on both sides at the election held for the ratification of the constitution in the State of Alabama. It is known that the vote was almost entirely upon one side. Only 1005 were cast against the constitution in the State of Alabama, the opponents of the constitution not going to the polls as a general thing. For that reason, the Committee on the Judiciary, the constitution not having been ratified in accordance with the law at the time the vote was taken, have stricken out Alabama.

The other States, the States of North Carolina, South Carolina, Louisiana, and Georgia voted after the passage of a law by Congress

requiring only a majority of the votes cast to ratify the constitution, and in those States, as appears by a report which I have before me from the general of the Army, based upon returns made by the generals in command of the military districts embracing those States, it appears that in the State of North Carolina 92,590 votes were cast for the constitution and 71,820 against it, leaving a majority of some 20,000 and upward in favor of the constitution. In South Carolina the vote for the constitution was 70,758, against the constitution 27,288, leaving a majority of 43,000 votes and upward for the constitution. In Georgia the vote for the constitution was 89,007, against it 71,309, leaving a majority of over 17,000 in favor of the constitution. In Louisiana the vote for the constitution was 66,152, and against it 48,739, leaving a majority of 17,000 and upward in its favor.

Those are the only four States that remain in the bill according to the report of the Judiciary Committee. I will state, however, in regard to Florida, what the evidence is of the ratification of the constitution in that State. While the bill was pending before the Judiciary Committee I addressed a note to the General of the Army asking for any official information in his possession in regard to the ratification of the constitution in Florida, and received this answer:

HEADQUARTERS ARMY OF THE UNITED STATES,  
WASHINGTON, D. C., June 3, 1868.

SIR: Since my note of yesterday to you, I have received a telegram from General Meade, of which the accompanying is a copy, reporting the result of the Florida elections, and I send it to you in full answer to your inquiry.

Very respectfully, your obedient servant,  
U. S. GRANT, General.  
Hon. LYMAN TRUMBULL, United States Senator, Chairman Committee on Judiciary.

[Telegram received in cipher 2.40 p. m.]

WASHINGTON, June 2, 1868.

(From Atlanta, Georgia.)

To General U. S. GRANT,  
Commanding Armies of the United States:

Official returns of the Florida elections, this day received, show for the constitution 14,511 votes; majority for the constitution 5,050 votes. In the office of Governor, Harrison Reed received 14,421 votes; George W. Scott received 7,731 votes; and Samuel Walker received 2,257 votes.

GEORGE G. MEADE,  
Major General Commanding.

HEADQUARTERS ARMY UNITED STATES.

Official copy: GEORGE K. LEET,  
Assistant Adjutant General.

#### REPRESENTATION OF ARKANSAS.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had non-concurred in the amendment of the Senate to the bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. THADDEUS STEVENS of Pennsylvania, Mr. F. C. BEAMAN of Michigan, and Mr. JAMES BROOKS of New York, managers at the same on its part.

Mr. TRUMBULL. Before proceeding further with the bill under consideration, I ask the unanimous consent of the Senate to take up the message from the House of Representatives disagreeing to the Senate amendment to the bill recognizing the State government in Arkansas, that we may have a committee of conference appointed. The House disagree to our amendment and ask for a committee of conference. I move that the Senate insist on its amendment and agree to the conference.

The motion was agreed to; and the President *pro tempore* appointed Messrs. TRUMBULL, DRAKE, and WILSON the conferees on the part of the Senate.

#### REPRESENTATION OF SOUTHERN STATES.

The PRESIDENT *pro tempore*. House bill No. 1058 is before the Senate as in Committee of the Whole.

Mr. TRUMBULL. When interrupted, Mr. President, I had read a letter from General Meade stating the vote in Florida. The papers to which I have referred furnish the evidence

of the ratification of the various constitutions. I will now state the amendments made by the Senate committed to the House bill. The House bill contains a provision declaring that the constitutions of the several States named "shall never be amended or changed so as to discriminate in favor of or against any citizen or class of citizens of the United States in their right to vote, who are now entitled to vote by said constitutions, respectively, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted; and no person shall ever be held to service or labor as a punishment for crime in said States except by public officers charged with the custody of convicts by the laws thereof; and that so much of the seventeenth section of the fifth article of the constitution of the State of Georgia as gives authority to Legislatures or courts to repudiate debts contracted prior to the 1st day of June, 1865, and similar provisions in all other of the constitutions mentioned in this bill, shall be null and void as against all men who were loyal during the whole time of the rebellion, and who during that time supported the Union, and they shall have the same rights in the courts and elsewhere as if no rebellion had ever existed."

The first part of this fundamental condition is similar to the one which passed the House of Representatives in the Arkansas bill and which the Senate struck out and substituted for it an amendment offered by the Senator from Missouri, [Mr. DRAKE,] and the committee have recommended the striking out of this fundamental condition and inserting the words contained in the amendment which was adopted by the Senate to the Arkansas bill with the exception of the words "or any other rights." Those words which were in that amendment offered by the Senator from Missouri are omitted by the Judiciary Committee in reporting this bill, it being thought that there was no necessity for their insertion, and that it might lead to a misunderstanding as to what their true purport was. The citizens of these States are protected in all their civil rights independent of this bill; and it might lead to misconception or misapprehension as to what the words "any other right" meant. It might be construed by some persons as applying possibly to social rights, or rights in schools, which the Senator from Missouri did not intend; and as the committee thought there was no importance in these words, they are left out of the amendment.

The committee also changed the latter part of the fundamental condition inserted by the House of Representatives, which declares null and void the clause in the constitution of the State of Georgia which repudiates all debts contracted prior to 1865, so far as loyal persons are concerned. It will be observed that the House bill repudiated the constitutional provision only in reference to loyal persons. The Committee on the Judiciary went further and also provided for striking out another provision in the constitution of Georgia besides the one relating to debts. I will read the provisions which are stricken out by the Senate amendment. One is the first sub-division of the seventeenth section of the fifth article, which reads as follows:

"No court in this State shall have jurisdiction to try or determine any suit against any resident of this State upon any contract or agreement made or implied, or upon any contract made in renewal of any debt existing prior to the 1st day of June, 1865; nor shall any court or ministerial officer of this State have authority to enforce any judgment, execution, or decree rendered or issued upon any contract or agreement made or implied, or upon any contract in renewal of a debt existing prior to the 1st day of June, 1865, except in the following cases."

Then follow certain exceptions in regard to trust debts and debts due charitable institutions, debts due mechanics, and then follows a proviso:

"Provided, That no court or officer shall have, nor shall the General Assembly give jurisdiction or authority to try or give judgment on or enforce any debt the consideration of which was a slave or slaves or the hire thereof."

The Committee on the Judiciary recommend an amendment which declares null and void all

this first subdivision of the seventeenth section of the fifth article, except the proviso applying to debts contracted growing out of the sale or hire of slaves. The committee also have recommended to declare null and void the third subdivision of this seventeenth section. The third subdivision imposes a tax upon debts. Perhaps it will be best understood if I read it:

"III. It shall be in the power of the General Assembly to assess and collect upon all debts, judgments, or causes of action when due, founded on any contract made or implied before the 1st day of June, 1865, in the hands of any one in his own right, or as trustee, agent, or attorney of another, on or after the 1st day of January, 1868, a tax of not exceeding twenty-five per cent., to be paid by the creditor on pain of the forfeiture of the debt, but chargeable by him as to one half thereof against the debtor and collectable with the debt."

It will be observed that the Legislature is authorized by this provision to impose a tax of twenty-five per cent. on the amount of a debt collected, and one half of that is to be paid by the debtor. That is, the debtor is to pay his whole debt and twelve and a half per cent. beside; and the creditor is to pay twelve and a half per cent. of the amount of the debt. To that provision is appended this proviso:

"Provided, That this tax shall not be collected if the debt or cause of action be abandoned or settled without legal process, or if in judgment, be settled without levy and sale; And provided further, That this tax shall not be levied so long as the courts of this State shall not have jurisdiction of such debts or causes of action."

The amendment reported by the Committee on the Judiciary declares null and void both of these provisions, and requires that the Legislature of the State of Georgia shall, by solemn public act, declare the assent of the State to this fundamental condition. That is in accordance with the requirement made upon the State of Missouri in 1821 when that State was admitted into the Union.

There is a slight amendment also made in the second section of the bill as it passed the House. The House bill authorized the presidents of the conventions which formed the constitutions in those States to convene the Legislatures in case the time fixed by the constitutions themselves should have expired before the passage of this act. The committee have recommended to amend that so as to authorize the Governor-elect in each State to convene the Legislature, and also so as to provide for a case where the time shall not have arrived when the Legislature would be convened according to the constitution, but has so nearly arrived that there is no opportunity, in the opinion of the Governor, to call the Legislature together at the time prescribed. That is merely an amendment to perfect the bill.

The amendment in the third section is only to carry out the amendments that are made in the other sections.

I believe I have stated substantially what the changes recommended by the committee are, and I have no further suggestion at this time to make in regard to the matter.

Mr. WILSON. I suppose the question will be on the amendment reported as a substitute for the bill. I move to amend that amendment in the fourth line of the first section by adding after the word "Georgia" the word "Alabama;" so that it will read, "that each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida shall be entitled," &c.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts to the amendment.

Mr. WILSON. I rise, Mr. President, to express the hope that we shall not exclude Alabama from the benefits of admission with these other States. It seems to me that if there is any one of these States which ought to be welcomed here it is the State of Alabama. That State prepared its constitution earlier than any other State. The vote was taken at an unpropitious season of the year, at a time when storms and floods swept the State. A larger percentage of registered electors voted for that constitution than for any one of the constitutions of these States, with the excep-

tion of South Carolina; forty-four per cent. of the voters of Alabama voted for the constitution; in Georgia forty-three per cent. voted for the constitution, and in Arkansas thirty-eight per cent. voted for the constitution. In Alabama there was a vote of seventy thousand given for the constitution, and thirteen thousand of the votes registered were in counties where no votes at all were taken, including one county where nearly three thousand votes were taken and destroyed. I saw, when we adopted the provision requiring a majority of the registered voters to vote on the constitution, it would cause the failure of these States, and if we had adhered to it in these six other States only, I think we would have adopted the constitution. If that law had not existed, and the people had been summoned to vote for and against the ratification of the constitution, I have not the shadow of a doubt that the State of Alabama would have adopted her constitution by from thirty to fifty thousand majority.

I do not think we ought to take advantage of our own mistake, not to say blunder. Nobody is harmed by the admission of this State. Admit the State with the others; let the State government be organized; let the people be protected; let the State begin a career of peace and prosperity and advancement.

I do hope, sir, that the Senate will incorporate Alabama into this bill, and that she will share the fate of her sisters. If the vote had been taken in Alabama on the same principle that it has been taken in these other States, there would have been but very little contest in that State. With the exception of South Carolina I have not a doubt that Alabama is the strongest State, in proportion to her vote, for the reconstruction policy of Congress of any one of these States, and she failed solely on account of that provision of the law which we hastened to change as soon as we realized its workings. The result has been that these six other States have ratified their constitutions, and yet this State of Alabama gave a larger vote for the constitution than any other State, with the exception of South Carolina. Under these circumstances I think the Senate ought to adopt this amendment. We ought to agree with the House of Representatives to admit this State at the earliest possible moment, and to hasten the restoration of all these States.

Mr. SHERMAN. Mr. President—

Mr. DRAKE. I ask the honorable Senator to allow me to make a suggestion in this connection before he proceeds with his remarks.

Mr. SHERMAN. I would rather go on, but I will hear the Senator.

Mr. DRAKE. I was going to make this suggestion for the consideration of the Senator from Ohio and the Senate: as there is now a committee of conference appointed on the part of the two Houses with regard to the main point in all these bills, to wit, the fundamental condition, might it not promote the early termination of the whole subject to lay this bill aside for the moment until that committee can agree upon the fundamental condition, and then we shall have got rid of the only ground of contention between the two Houses? I make the suggestion.

Mr. SHERMAN. The question to which I wish to address myself does not relate to the fundamental condition, in which when imposed on States being admitted into the Union I have not much confidence—certainly not quite so much as my friend from Missouri. The only subject to which I wish to address myself is the question of the admission of Alabama. I am convinced that in Alabama the people are more in a condition to maintain a State government than they are in any other of the southern States, without exception. The constitution of Alabama, as presented to us, is very similar in form to the constitutions of the other States. Their proceedings have been as regular, and perhaps more regular, than those of any other State. They have complied with every stipulation in the law except one, and

the question now is whether on account of their inability to comply with that stipulation they shall be excluded from restoration to the Union. If that inability grew out of a want of loyalty to the Government, or any cause within their power of correction, I would hold them to strict compliance with the law; but the official papers here on our table show that they did all that it was possible for them to do to comply with the law, that they were deterred by physical causes totally beyond their power to overcome, and that they did more and made a greater effort to comply with the acts of Congress than any State among the southern States. All I wish to do now is to ask the attention of the Senate to a few facts put before us in official form to show what I here state; and then, in the face of these facts, the Senate will exclude the State of Alabama from admission here, the same arguments should prevail to exclude every one of the southern States.

Under the first supplementary act to the reconstruction act we required a majority of all the registered votes to be cast on the question of ratifying the State constitution. In fraud of that provision of the law, the rebels of the State of Alabama organized to defeat the constitution by deterring people from voting on the adoption of the constitution. For that we have the official statement of General Meade, supported by the testimony of two hundred witnesses, or about that number, laid on our table. The total registration according to the report of General Meade—I mean the first registration, the only one which ought to be counted—showed 166,685 voters. There was a subsequent registration, which swelled the number to 170,000; but the first registration, that which I take to be the legal one provided for by the act, bore the names of 166,685 persons. There were four counties in which it was impossible to vote, for reasons fully disclosed here. I exclude those counties from the computation, because in them there was no election, no opportunity whatever to vote, and consequently it would be very wrong to charge the whole of the registered population of those four counties as voting against the constitution, because the people there had no opportunity to vote for the reasons stated. That reduces the registered vote to 153,000. Seventy-one thousand eight hundred and seventeen persons voted, nearly all of them for the constitution. They only lacked four or five thousand of a majority of the whole registered vote. How is that accounted for? Why, sir, in every one of the counties of Alabama bands were organized for the purpose of deterring people from voting. They discharged by wholesale freedmen because they showed a disposition to vote; they threatened them with violence, with loss of employment, with injury, with all kinds of cruelty.

Unfortunately, as it so happens sometimes, nature came to the relief and to the aid of these rebels by storms and by the rising of the rivers, which prevented parties from getting to the polls. According to the testimony laid upon our tables hundreds of voters on the way to the voting polls were prevented from voting by the rise of the rivers and by other natural obstructions and causes. I say that no effort was made in any State so persistently to comply with the acts of Congress, as in the State of Alabama; and for us to enforce against them a rule harsh in the beginning, wrong in the inception, which was seized upon by the rebel element to defeat the will of the loyal people there, it seems to me would be highly improper. If you applied the same rule to the reconstruction in all the other States you would exclude four of these States. In four of the States you propose now to admit there was not a majority of the registered vote cast for the constitution. They voted after the law changing the requirement in that respect was passed; but will you enforce that provision of the law against these people who did all they could to get in? I think it would be unjust and wrong, and I approve of every word contained in the report

of the House Reconstruction Committee on this point, which sums up with a good deal of ability the whole question. The same point was made in the House of Representatives, the same objections were made there, and the House finally agreed to admit Alabama to representation. We have waived this restrictive clause in regard to the other States. We have allowed Arkansas to come in, casting for the constitution less than half the registered vote. We propose by this bill to allow four other States that have not cast for the constitution one half the registered votes to come in. Why exclude Alabama, the earliest, the most faithful of those to attempt reconstruction upon the terms proposed by Congress? It seems to me it is harsh and unjust to do it.

But there is one other consideration that is more important yet, which would influence my vote for the admission of Alabama even if there were irregularities, and that is, that there is a vital necessity to close as rapidly as possible the work of reconstruction in order to have the question of the adoption of the fourteenth article of amendment settled forever. Now, it is a matter of dispute whether that amendment has been adopted, what number of States is required for its adoption; until that dispute is settled there will be grave controversy springing up on the presidential election. It is absolutely necessary—one of those vital questions that present themselves foremost—to settle this matter before the presidential election, so that there shall be no controversy as to the right of any State to vote at that election. It seems to me it is vital to secure the adoption of the fourteenth amendment to the Constitution, and that we cannot plead technicalities in order to prevent the accomplishment of that end. Here the people of Alabama have, in compliance with your act, done all that you required of them that it was possible for them to do. They have done more than any other State has done, and made a braver effort to accomplish that result, and now you turn your back upon them and say that they alone of these States shall be excluded from representation here.

Let me warn Senators of another fact. If you do not admit the State of Alabama, you have anarchy and lawlessness and strife and violence all over that State. What government is there in Alabama if you deprive them of the State government formed by themselves? The military government is being superseded. It was merely put there as a scaffold upon which to erect this work of reconstruction, and it ceases as soon as the work is performed. General Meade tells you the reasons why the people could not succeed in complying with your acts, and they are reasons that it was not within their power to avoid. He urges upon you the necessity of giving these people the benefit of local law, of local regulations. The Legislature is ready to convene, ready to adopt your constitutional amendment. It is loyal. It represents the loyal element there. It was elected by a larger vote than has been cast for the Legislature of any other of these States. It seems to me it is unjust to exclude them. By this course you work into the hands of the rebels, for you thus enable them to carry out their cunningly devised scheme to defeat reconstruction in Alabama. You leave the local government of Alabama in disloyal hands; you leave Johnson's minions and tools, put in power there under his plan of reconstruction, to possess the local government of that State, and you refuse to organize a government based upon your own laws and your own plan. You decide in favor of the State government of Alabama as organized by Johnson against the State government of Alabama as organized under your law.

It seems to me this is too grave a question to be decided by mere technicalities. The only difficulty in the way is the absence of four or five thousand votes. If five thousand votes more had been cast for this constitution or against it at the election your law would have been literally complied with; but that five thousand is more than accounted for in the testimony by causes beyond their power, by

actual threats and violence. In one case, according to the testimony, more than two hundred persons were excluded from a single poll by an officer under some pretense or technicality. According to the statement of C. W. Pierce, of Gainesville, two hundred and sixty-nine ballots were refused—

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to inform the Senate that there is a special order for this day, being the consideration of pension bills.

Mr. CONNESS. I move that that be postponed until to-morrow.

Mr. VAN WINKLE. I must decidedly object. There are seventy-three pension bills on the Calendar, and some of them have been there since February; and to-day having been set apart for their consideration, it seems to me we had better go on with them regularly.

Mr. TRUMBULL. I hope the Senator from West Virginia will not seek to take up these pension bills to-day. They certainly are less important than this great measure.

Mr. VAN WINKLE. They may be less important in a public sense, but they are certainly important to the parties concerned.

Mr. TRUMBULL. They are important to the parties, but they will doubtless have attention. I hope they will not be taken up to-day. I believe a motion was made to postpone their consideration; if not, I now make that motion.

Mr. VAN WINKLE. I move to amend the motion so that they be postponed to Monday, and made the special order for one o'clock of that day.

Mr. CONNESS. I hope not. I hope Monday will not be assigned to the consideration of these bills. We shall undoubtedly come early to their consideration; but it seems hardly right to set Monday apart, and I hope it will not be done.

The PRESIDENT *pro tempore*. The question is first on the amendment of the Senator from West Virginia. The original motion was to postpone the special order of to-day, pension bills, until to-morrow. The amendment is to postpone that order until Monday, and make it the special order for that day.

The amendment was not agreed to—ayes seven, noes not counted.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from California, to postpone the special order of to-day until to-morrow.

Mr. VAN WINKLE. To-morrow is set aside for bills from the Committee on Commerce, and that was the reason I proposed Monday for pension bills. Because I am interfered with I do not think I am justified in interfering with another committee.

Mr. CONNESS. This motion amounts simply to a postponement for the present; that is all.

The PRESIDENT *pro tempore*. The motion to postpone, if agreed to, amounts to a postponement for the present. It does not disturb the order already made setting apart to-morrow for bills reported from the Committee on Commerce.

Mr. CONNESS. Not at all.

The motion to postpone was agreed to.

#### HOUSE BILLS REFERRED.

The PRESIDENT *pro tempore*. The Chair will take this opportunity to lay before the Senate some House bills for reference.

The following bills and joint resolution, received from the House of Representatives, were severally read twice by their titles, and referred to the Committee on Public Lands:

A bill (H. R. No. 23) to protect the rights of actual settlers upon the public lands of the United States;

A bill (H. R. No. 554) making a grant of land to the State of Minnesota to aid in the improvement of navigation of the Mississippi river;

A bill (H. R. No. 934) amendatory of the act entitled "An act to secure homesteads to

actual settlers on the public domain," approved May 20, 1862, and of the acts amendatory thereof, approved March 21, 1864, and June 21, 1866;

A bill (H. R. No. 1156) authorizing the Commissioner of the General Land Office to issue a patent to F. N. Blake for one hundred and sixty acres of land in Kansas;

A bill (H. R. No. 1157) to cede to the State of Ohio the unsold lands in the Virginia military district in that State; and

A joint resolution (H. R. No. 286) relative to the lands of the Cherokee and Great and Little Osage Indians.

The following bills from the House of Representatives were read twice by their titles and referred as indicated below:

The bill (H. R. No. 202) to create the office of surveyor general in the Territory of Utah, and to establish a land office in said Territory, and extend the homestead and preemption laws over the same—to the Committees on Territories.

The bill (H. R. No. 1118) to confirm to J. M. Hutchings and J. C. Lamon their preemption claims in the Yosemite Valley, in the State of California—to the Committee on Private Land Claims.

The bill (H. R. No. 1121) to prevent an appropriation therein mentioned from lapsing because of delay in the adjustment—to the Committee on Appropriations.

The joint resolution (H. R. No. 284) to provide for the removal of a suit pending in the circuit court of Jefferson county, West Virginia, to the circuit court of the United States, was read twice by its title.

Mr. TRUMBULL. I ask that that bill be not referred at this moment until it can be examined. There is an importance in its early passage, if it is to pass at all.

The PRESIDENT *pro tempore*. It will lie on the table at present.

#### DEFICIENCIES IN APPROPRIATIONS.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the amendments of the Senate to the bill (H. R. No. 1117) to supply partial deficiencies in the appropriations for the service of the fiscal year ending 30th June, 1868.

The House amendment was to add to the Senate amendments the following item:

To supply a deficiency in the contingent fund of the Pension Office, \$10,000.

The amendment was concurred in.

#### CITIES AND TOWNS ON PUBLIC LANDS.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 188) to amend an act entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867, which was in line thirteen to insert the word "valid" before the words "mining claims."

Mr. STEWART. I hope that amendment will be concurred in. I do not think it changes the bill.

The amendment was concurred in.

#### NEVADA LAND GRANT.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 190) to further provide for giving effect to the various grants of public lands to the State of Nevada, the amendment being to strike out all of the second section of the bill after the word "that" in the first line, in the following words:

The land office at Belmont, Nye county, State of Nevada, is hereby removed to Aurora, in Esmeralda county, and the district shall be known as the Aurora district. The counties of Nye, Lincoln, and Lander shall constitute a land district, the office of which is located at Austin.

And to insert in lieu thereof:

The county of Esmeralda, in the State of Nevada, and the counties of Mono and Inyo, in the State of California, are hereby created a land district; and the land office for such district shall be located at Aurora, in Esmeralda county.

Mr. STEWART. I hope the Senate will



concent in that amendment. It is made on the recommendation of the Commissioner.

The amendment was concurred in.

#### RETURN OF A BILL.

The Senate proceeded to consider the following resolution from the House of Representatives:

*Resolved*, That the Clerk be directed to request the return of the bill (H. R. No. 448) to change the name of the ship *Golconda*, the same having been inadvertently sent to the Senate as having passed the House.

The PRESIDENT *pro tempore*. The question is on ordering the return of the bill in accordance with the request of the House. It was so ordered.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes.

The message further announced that the House had passed the bill (S. No. 320) for the relief of George Lynch, a soldier of the war of 1812.

The message also announced that the House had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1158) for the relief of Commander John L. Davis;

A joint resolution (H. R. No. 172) relative to Captain Thomas H. Stevens, United States Navy; and

A joint resolution (H. R. No. 279) for the restoration of Captain James F. Armstrong, United States Navy, to the active list from the retired list.

#### ENROLLED BILL SIGNED.

The message further announced that the Speaker had signed the enrolled bill (S. No. 331) to extend the time for completing the military road authorized by an act entitled "An act granting lands to the States of Michigan and Wisconsin to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Keweenaw county, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin;" and it was thereupon signed by the President *pro tempore*.

#### HOUSE BILLS REFERRED.

The following bill and joint resolutions from the House of Representatives were severally read twice by their titles, and referred to the Committee on Naval Affairs:

A bill (H. R. No. 1158) for the relief of Commander John L. Davis;

A joint resolution (H. R. No. 172) relative to Captain Thomas H. Stevens, United States Navy; and

A joint resolution (H. R. No. 279) for the restoration of Captain James F. Armstrong, United States Navy, to the active list from the retired list.

#### REPRESENTATION OF SOUTHERN STATES.

The PRESIDENT *pro tempore*. The bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress is before the Senate as in Committee of the Whole, the question being on the amendment of the Senator from Massachusetts [Mr. WILSON] to the amendment reported by the Committee on the Judiciary. The Senator from Ohio [Mr. SHERMAN] is entitled to the floor.

Mr. SHERMAN. I was proceeding to show the reasons why the slight deficiency in the number of votes required by the law was not cast. As I said before, the total vote was seventy one thousand eight hundred and seventeen; the actual vote required to adopt the Constitution was seventy-six thousand five hundred; that is one half or a majority of the registered votes, so that there was a deficiency of only four thousand six hundred and eighty-

three, or only about six per cent. of the actual vote cast; so that if the actual vote cast had been increased six per cent. of that vote, the conditions of the law would have been fully complied with. But the papers laid upon our tables show the reasons why it was not cast. Here is a letter from Major C. W. Pierce, who I presume from his official character in connection with these papers is one of the officers of the Army, although I am not sure of it. I find he is addressed as "Major C. W. Pierce." He says:

"The election has been controlled almost entirely by rebel influence. Challengers have been allowed to be stationed in the room with the judges, who have dictated law to the willing ears of old fossils and semi-rebels on some of the boards."

And then he makes this statement:

"In Gainesville two hundred and sixty-nine ballots were refused because the exact letters composing the names were not found on the lists, though the freedmen were willing to testify that they had registered their names, and the old registers were willing to affirm it. I will enclose letters from Captain Yordy and Judge Morse, received to-day."

And this book which is laid on our table is full of cases of that kind. In some counties where they had to go thirty or forty miles to reach the polls, and where no man could go to vote without being marked by his neighbors, as a matter of course they could be easily deterred. If all had gone to the polls, or if all could go to the polls, so that going to the polls was not itself evidence of voting for the constitution, probably so many voters could not have been deterred; but as every person who went to the polls was known to be in favor of the constitution, every man who went to the polls was marked, put down on the black lists, threatened with persecution, and in this way the great mass of the white people of Alabama were deterred from voting. We do not know probably in the northern States the effect of social ostracism, but according to the letters published in this book, and according to statements made by persons whom I know in that State, lists were kept so that any man who was seen going towards the polls was ostracised. They refused to buy of merchants who went to the polls. Mechanics and all persons who were known to participate in this election were ostracised, and negro voters were deterred by threats, and in some cases by actual force and intimidation, and in other cases by technical objections to their names. If they were registered as Pompey, the name of Pomp, the name to which they had been accustomed, would not be enough. All kinds of technicalities were interposed to prevent persons who were registered from voting. In a State like Alabama, in a kind of chrysalis state, a great number of persons were moving from county to county, from precinct to precinct, from place to place, all of whom were excluded by law from voting. I have no doubt that more than ten thousand persons among the registered voters changed their residences prior to the time of the election, and yet the mass of those voters are counted against the constitution.

Now, I say we ought not to exclude this State on a barren technicality when we know that the exclusion will prevent the local government of the State from falling into loyal instead of rebel hands; but we ought to welcome these people with willing hands to their place in the Union, restoring to our friends—and in using that word "friends" I refer not merely to political friends, but to the loyal element of the State of Alabama—their power over their local government. If you do not do this, how can they reorganize their government? Shall all the work, all the expense, and all the trouble they have gone to be thrown away? Will you order a new election? If so, you only invite new scenes of violence, new scenes of contention. You have no doubt that the constitution sent to you represents the will of nine tenths of all the loyal people of Alabama; and what do you care for the opinion of the rebel element? You know that this constitution represents the wishes of more than a majority, yea, two thirds of the registered voters, including all you allowed to participate in the form-

ation of this loyal government. Why, then, involve them in further expense? Why involve them in delay? Why create the necessity of new laws and a new organization of Alabama? Sir, I have it from men whom I believe as readily as I would any Senator on this floor, that they dare not go back to the State of Alabama and resume their ordinary avocations until they can be protected by local law. I prophesy that if you do not admit Alabama under the local government formed by the loyal people there, you will banish from that State forever tens of thousands of the best men in Alabama, who dare not go back and resume their ordinary occupations while the local government is in rebel hands.

My attention is called to the reasons given by General Meade why this constitution was not adopted. Among the reasons stated by General Meade is this:

"First. The determined and rigorous action of its opponents, who resorted to every means within the letter of the law to dissuade voters from going to the polls, who by social ostracism and through business relations influenced many white voters, and by discharging laborers and refusing employment, intimidated colored voters."

Another reason given by him is:

"The violent storm which raged for the first two days of the election, and the difficulty subsequently of notifying the whole State of the time having been extended."

Another reason is:

"Defect in the previous instructions to registrars, who, on revising registration, were not required to strike off the names of those who since last revision had died or permanently left the State. This undoubtedly would have diminished the majority to increase the rest, in my judgment, sufficient to have materially affected the result."

There you have the statement of General Meade, that if those who died or left the State had been stricken from the registration you would have reduced the aggregate of registration so that the actual vote cast would have been a majority of the registered vote. How can you, under these circumstances, exclude this State? Sir, it may seem to us rather a cold business whether or not Alabama shall come in now or next winter; but with thousands of men it involves their lives, their property, and everything that is dear to them. I hope that now, when we are consummating this work of reconstruction, we shall make the thing complete, that we shall admit every State that in good faith has gone forward and done all it could to comply with your acts of reconstruction.

It should be remembered, Mr. President, that those who apply for admission now are not the enemies of reconstruction, but they are the friends of reconstruction. We close the door upon those who are willing to come here, who are willing to comply with our law and all the conditions we may impose upon them. We are now acting against our friends and not against our enemies, either politically or as enemies to the country. Every rebel in the State of Alabama desires you to reject this constitution. Every man who served in the rebel army there desires you to reject it. Every patriot soldier who has gone to the State of Alabama, or who now lives there, desires you to admit Alabama. Every loyal man in Alabama, without exception, desires this question closed on the basis of this constitution. Therefore, in rejecting Alabama you are acting in the interest of those who are opposed to reconstruction, and who desire to retain their hold upon the local government of Alabama.

Now, sir, upon what tenure is all this opposition placed? Upon a technical objection, upon a rule which you yourselves have abandoned, upon a provision of law which was not designed for any such purpose, which was framed and voted for by us with a view to ascertaining the sense of the loyal people of the State of Alabama. The rebels have seized upon it as a trick. They have used it as a means to overthrow reconstruction. Under these circumstances I ask you whether you will stand by it against Alabama, and waive it as to all the other States, simply because the election in Alabama was before you admitted that the rule was wrong, shall you therefore exclude them

and allow other States who have voted since that time to be admitted? I trust not. It is a trap, and it ought not to be allowed by the Congress that framed these reconstruction laws to affect the conclusion of our work. I trust that without any unnecessary delay we may place Alabama upon the same list with the other States, may give her the benefit of admission, and give her the benefit of Senators and Representatives in Congress.

Mr. STEWART. I have given some attention to the case of Alabama, and I wish to state to the Senate the result of the investigation that I have made of that particular question. After Alabama first voted, the other States surrounding her not having voted, I had considerable apprehensions about the ability of the people who had formed that government to sustain a State government, and I introduced a bill for a provisional government, a copy of which was introduced in the House of Representatives, and passed by the House, and is now before our Committee on the Judiciary. But since the other States have voted, and since they have been carried in favor of reconstruction by a majority of the votes cast, without generally getting a majority of the registered votes, I am thoroughly convinced that upon the same test that has been put to the other States, Alabama would have come in by a handsome majority. That is perfectly obvious. She has as strong a Union party, as strong a party for the new constitution as any of these States except perhaps one; so that so far as having a loyal State is concerned, capable of sustaining the government they have set up, I think Alabama is in as good condition as most of the other States.

Then the only remaining question is a question of good faith. It is said that we made a pledge to do one thing and we propose to do another. I do not think that argument will be regarded as of much force when we take into consideration the counties of Alabama in which there were no votes polled, and when we further take into consideration the fact that the parties opposed to the constitution did not conduct themselves in very good faith, and when we take into consideration the further fact that Alabama cast as large a vote for the adoption of the constitution as has been cast in any of these States, except South Carolina, in proportion to the registered vote.

Mr. BUCKALEW. The Senator will remember that in Arkansas the vote was five sevenths of the whole registered vote. I produced the figures the other day.

Mr. STEWART. But a large number of votes there were cast against the constitution. I say in proportion to those registered the vote cast for the constitution in Alabama was as large as that in any State except South Carolina.

Mr. BUCKALEW. I am speaking of the total number of voters.

Mr. STEWART. I repeat, in proportion to those registered, there were as many votes cast for the constitution in Alabama as in any other State, I think, except South Carolina. It is therefore fair to presume that if the other side had voted against it we should still have carried it; and there is no doubt of that fact. Then again, the vote of Alabama was cast under more unfavorable circumstances because of the great rains, and there was more violence displayed there than in any other State. I am therefore thoroughly satisfied that if we had had the same rule in Alabama at the time they voted as in the other States we should have carried it. No injustice, then, will be done by the admission of Alabama with this constitution. Upon any hypothesis of reasoning, taking the whole situation into consideration, no man can doubt that if all had voted, as they did in Georgia, North Carolina, and Arkansas, the result would have been the same, and the constitution would have been adopted by a large majority.

Now, it is very important that this State should be restored with the rest. It is important, I take it, that we should have this State and Florida here. They will make just enough to ratify the constitutional amendment. The

people who are opposed to the admission of Alabama are more opposed to making a provisional government there, according to the bill which has passed the House of Representatives. They prefer to have the State come in. The Democrats of Alabama, if we shall apply to them that name, say they prefer the State to be admitted to having a bill passed placing it under a provisional government. It is very certain, I will say to our Democratic friends, that if we do not pass this bill, we shall be constrained to pass the bill that has been passed by the House giving them a provisional government. The Democrats of Alabama and the Union men of Alabama prefer Alabama to be in this bill rather than agree to the bill that has passed the House giving them a provisional government.

Mr. SAULSBURY. My honorable friend from Nevada will allow me to ask him what particular reason there is why the Democrats of Alabama should inform him of their desires and wishes in reference to this matter while they keep them from the Democratic members of this body? Will my honorable friend tell me what service he has of late years rendered to the cause of the country that the anxious, inquiring Democracy of Alabama should seek him out, and make him the depository of their wishes, or communicate to him their hopes and desires?

Mr. STEWART. I will inform the gentleman that it is because I read the newspapers; and my friend from Delaware, following the old Democratic plan, never reads a paper, and so he is not informed. [Laughter.] Besides that, Mr. Parsons, who speaks pretty authoritatively for the Democratic party of that State, has called on me two or three times, and several other gentlemen have called and said they preferred that the State should be admitted—they did not want either—to the bill putting them under a provisional government. The Democratic papers down there say so, if I may call them Democratic, and I suppose they are. It appears that both parties in Alabama would prefer this kind of legislation. That we are going to legislate to place the government of that State in loyal hands at this session, I do not suppose anybody doubts. I do not suppose the Democratic party expect that they will retain the State organization in the hands in which it now is after the conduct of those in office and in power at the late election. I do not think anybody supposes that that can be done.

I am in favor of the admission of this State. I want the Union restored as fast as possible. Let us get this State and Florida in, and we shall then have enough to stop all quibbling, to satisfy all honest men and everybody else with regard to the ratification of the constitutional amendment. I suppose our Democratic friends want that question settled one way or the other. We want it settled in the right way.

I have no serious apprehensions that the Republican organization in Alabama—the Union organization; I will not call them Republican—will not be able to maintain themselves if we admit them. The chances are all in their favor. But if we leave the State organizations in rebel hands, there will be but very few Union men there twelve months from now. I do not believe that that is contemplated by anybody. The loyal people of that country, those who are in favor of Union and restoration, are entitled to control, are entitled to be protected, are entitled to the sympathy of this Government, and it is the duty of Congress, having passed the reconstruction law, and it having been substantially complied with, to see to it that the rebel organization no longer controls that State. I do not think it is worth while now to stop and split hairs, but the best way is to let all these States in, and let them in speedily.

Mr. FRELINGHUYSEN. Mr. President, the law under which the vote was taken for the adoption of the constitution of Alabama provided that a majority of the votes registered should be necessary to its adoption. In other words, Congress said to the people of Alabama,

"If you do not vote you shall be counted against the constitution; you vote against it by staying at home." To that provision, when adopted, I was much opposed, considering it as contrary to all the just principle that should control an election. And I can readily see how some Senators may consider that it would not be good faith, without another election, to adopt as ratified the constitution that has failed to command the approval of a majority of the registered vote—

Mr. STEWART. Will the Senator allow me to interrupt him?

Mr. FRELINGHUYSEN. In one minute I shall be through.

Mr. STEWART. I do not want to interrupt you when you are through. I want to say a word on the point you are discussing.

Mr. FRELINGHUYSEN. I can, on the other hand, perceive how persons may come to the conclusion that notwithstanding the law has not been complied with they may yet vote to admit Alabama. If there has been fraud practiced which we are satisfied has excluded a number of votes in favor of the constitution equal to the number wanted to give a majority of the registered vote, which is about seven thousand, I think, instead of five thousand, we can so adjudicate and admit the State. If there has been a reign of terror against those who would have voted for the ratification which has prevented fair expression of opinion, then we may still in good faith admit the State. I can also see that every man who undertakes to exercise statesmanship must always recognize the principle that the safety of the people is the highest law; and this principle overrides all technicalities. These things may be as suggested, and on an independent bill for the admission of Alabama I might vote in its favor. It is, however, eminently impolitic and unwise to attempt to include Alabama in this bill, because there are some who are not inclined, and who, perhaps, cannot vote for the admission of that State under existing circumstances. And we must not forget that this legislation must probably pass the ordeal of the President's veto; then we shall want all our strength, and I should be sorry to imperil the admission of the five States included in this bill by inserting Alabama therein. It would be much better to have a separate bill reported for that State, and that it should stand on its own strength and not be a burden on the introduction of the other States. If we find that such a bill cannot be passed we will then have recourse to the bill which has been reported by the Senator from Nevada, making the offices elected under this constitution provisional, and thus take the charge of the government of the State out of the hands of those who are not loyal.

As to the argument that it is necessary to admit Alabama in order that the fourteenth amendment to the Constitution may be secured, I can only say that does not influence me, because, as I have said before, I am satisfied that the fourteenth amendment is now adopted; and, if not, Alabama could not ratify and make it a part of the Constitution. Twenty-three States have voted for it, including Ohio and New Jersey. It is claimed, without any propriety, that Ohio and New Jersey have of right withdrawn their ratification. That would leave twenty-one States; with Alabama there would be six new States, making only twenty-seven in favor of the amendment, and twenty-eight are necessary. If we intend to respect the position that a State can play fast and loose with the Constitution, and ratify an amendment one day and reject it the next, I do not know when it will be adopted. Oregon may in a few months send us her repeal of ratification. And so may other States. I am not influenced in my opinion on this subject by the situation of the fourteenth amendment. Our true policy is to pass this bill as reported; then a bill for the admission of Alabama may be introduced; and if we cannot pass that we can make the bill of the Senator from Nevada, before referred to, a law.

Mr. STEWART. This is what I wished to call the attention of the Senator from New Jersey to: in our original reconstruction bill we provided that no State should be admitted until the constitutional amendment was ratified. Now, we provide in this bill for the coming in of several of these States. In view of our having that provision in the reconstruction law, Ohio and New Jersey attempted to withdraw their assent to the amendment. I suppose they will say it would be bad faith to let them in after they had withdrawn their assent. We also provided that in the State of Alabama there should be a majority of the registered votes cast. The object of that was to secure such an expression of opinion as would guaranty to us that they could maintain a republican government. Now, it appears that the Democrats, or the rebels, or the Conservatives of Alabama undertook, not to withdraw their assent to the constitutional amendment, but they undertook, by force of their local organization, to withdraw votes from the ballot-box, to prevent men from going to the polls by the use of the revolver and the bowie-knife. They interfered with the election to the utmost of their ability. Then there were very severe storms in several counties, which prevented any election in them. And yet when we come to sum up we find that in the State there is a larger vote, in proportion to the whole number registered, for the constitution than in almost any other State; I do not know but that it is the largest of any State, in proportion to the number of votes registered.

Thus it has shown a capacity to sustain a republican government equal to the other States; and our good faith, I think, is not violated toward those men who sought by violence to prevent the adoption of the constitution—those men who formerly attempted to destroy the government and are still unwilling that it should be restored. If we ever do restore these governments we have got to do it in spite of those men. If there is any restoration at all, it has got to be done in spite of those men, for they have arrayed themselves against any restoration of this government unless it can be done in their way. They have told you to your face that they would not come into the Union unless they dictated the terms. You submitted to them a constitutional amendment, which was so generous that it astonished mankind, but they hurled it back at you. They have consented to nothing but to have their own way and dictate terms to the United States. That is the only compromise that they have proposed. They have proposed nothing else, will propose nothing else.

Sir, I am tired of submitting to them our policy or advising with them how we shall restore the Union when their object is to keep the Union dissolved, keep it broken up, and ours to restore it; and if we do it at all we must do it by cooperating with our friends. The loyal people of the United States have taken upon themselves the mission of preserving this Union by destroying the rebellion by the strong arm of this Government. They crushed the rebellion. They then took upon themselves the task of restoring this Union upon the basis of loyalty. But the men who drove the loyal voters from the polls in Alabama do not propose to have this Union restored on any terms but their own.

The Republican and Union men in Alabama having shown that they have a sufficient number to maintain a Union government there, I say restore them at once. It is not worth while to split hairs about it. They are in as good condition as the others. Why have half a dozen bills? Each bill must be discussed. Let us have Florida, Alabama, and all the rest in this bill; let it be vetoed; and let us have but one discussion upon the veto message. If we pass separate bills for each State, it will take all summer. They want restoration at once. They want to get established governments as soon as possible. This suspense is ruining them. This suspense, this uncertainty, this condition of chaos and want of law is breed-

ing anarchy, discord, and is breaking and destroying the Union sentiment every day. They have fought gallantly for restoration, and all it is necessary for us now to do is to extend to them the hand of fellowship and friendship, and we shall strengthen their hearts and make them strong. Let them know that they have friends in this Capitol who will espouse their cause while they contend for the Union, and it will make them strong; but if we stay here and quibble upon technicalities while the rebels are in full charge, while local rebel governments, hostile to the Union, are displaying their venom and their hostility in the most cruel and oppressive manner, if we stand still and let our friends be destroyed until we have no Union party at all there, upon us will be the sin of having failed to do our whole duty. Sir, I am for restoration now upon a loyal basis that seems certain to stand. It is the only one we can ever have. I believe it is one which has as much vitality and is as purely republican, every man having the chance to protect himself by the ballot as any other. I am, therefore, in favor of putting in the bill all these States, and passing the bill at once.

Mr. HOWARD. Mr. President, I do not think, under the circumstances, it would be prudent to insert Alabama in this present bill, for various reasons, all of which I shall not now undertake to set forth. The intimations which are made in this Chamber that by rejecting Alabama, or delaying her readmission into the Union under her present constitution, we are committing an act of bad faith is entirely unfounded. I repel all such suggestions. We have proceeded in perfect good faith, both toward Alabama and the other rebel States. We have said to Alabama in plain, clear terms, in our act of last March a year ago:

"That if, according to said returns [that is, the returns of the election on the question of ratifying the new constitution] the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one half of all the registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall, moreover, appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation."

Now, when gentlemen look at that statute which Congress passed declaring that this right of readmission might be suspended still further unless Congress should be satisfied that the new constitution had been approved by a majority of all the registered voters, and then look at the returns made to us from Alabama, they will discover that a majority of the qualified and registered voters have not approved of that constitution; not one half of the registered voters have voted on the question of the ratification of that constitution. General Meade, in his report, assures us that the deficiency amounts to eight thousand one hundred and fourteen votes.

The theory of our reconstruction acts has been that whenever it should appear that a majority of all the qualified voters of a rebel State were in favor of readmission into the Union and had complied with the terms mentioned in the reconstruction acts, the State should be readmitted. And until the passage of the act of last spring allowing a majority of voters actually depositing their votes upon the question of ratification to control the question, Congress steadily pursued the old theory of not reestablishing State governments there unless a majority of the electors desired it. That has been my ground from the beginning. I recollect very well that at an early day, when it was proposed in the Senate to readmit the States of Louisiana and Arkansas into the

Union upon the basis that one tenth of their old voting population had voted for a new constitution, I opposed it, and opposed it upon the general principle that a government founded upon the will of a mere minority, and not upon the will of a majority, is a very insecure and unsatisfactory style of government. I think so still; but I say this without committing myself at all on the question of voting for or against the admission of Alabama under her present constitution. I desire a little more time to look into the question and to inform myself of the real state of things there.

Now, sir, this principle of establishing a State government upon the votes of a minority you may be quite sure will be one which will be objected to and resisted by some person or persons out of this Chamber. Suppose we pass this bill with Alabama in, and it goes to the President and he returns it with his objections, basing his veto upon the single ground that this government of Alabama is not upheld by the votes of a majority of the people entitled to vote. That would be a very plausible and strong objection; and I predict there may possibly be found in this Chamber members enough who would refuse to pass the bill over the veto to secure its failure; at least I fear it, and I think we ought not to run any such hazard. Let us take up the case of Alabama in a separate bill; let it rest upon its own merits, and let us have a full and free discussion of all the facts connected with the recent election. If, after such examination, it shall appear that everything is perfectly fair, and that this constitution is acceptable to a majority of the electors of that State, I shall probably vote for it; but, under present circumstances, I would prefer to take a little more time to consider the question.

Sir, we do not need Alabama for the purpose of ratifying the fourteenth amendment of the Constitution of the United States. Twenty-three of the loyal States have already formally, legally, and constitutionally ratified that amendment, which, in my view, is the greatest security that we have. I look upon it as important beyond expression. We need five States more in order to secure the three fourths for the ratification of that amendment. This bill readmits into Congress North Carolina, South Carolina, Louisiana, Georgia, and Florida, which make up the number of twenty-eight States, or three fourths of the whole number of States; and if these States, under this bill now before us, shall ratify that amendment it becomes to all intents and purposes, and beyond all doubt, cavil, or discussion, a part of the Constitution of the United States. The doubt which has so painfully rested upon the minds of men, both here and throughout the country, will then have been removed, and we shall be able to say positively, and beyond all uncertainty, that the fourteenth article is a part of the Constitution.

While I am on the subject of the ratification of the fourteenth article, Mr. President, I beg to be indulged in saying a word further. It is my private opinion, my private judgment, after a tolerably careful and thorough examination of the legal questions arising, that this amendment is already part and parcel of the Constitution, it having been ratified by more than three fourths of the States recognized as being in the Union and participating in our legislation. I hold that when the rebel States passed their ordinances of secession, withdrew from all participation in the legislation of Congress, formed a new government alien and foreign to the Government of the United States and hostile to it, and made actual war upon the Government of the United States, they forfeited and lost all their political rights under the Constitution of the United States. They could not after that, and during the pendency of the war, appeal to the Constitution for any purpose whatever. They had no right to claim anything under it. They had no right to set it up for any purpose whatever where their own political interests were concerned. In short, they had lost all their political rights under



it by becoming hostile to it and occupying an attitude of belligerency to the United States. It is impossible between belligerents that one belligerent can claim political rights as against the other while waging war against that other. The idea is incompatible with a state of war.

All the political rights of the one belligerent party, when it is conquered and subdued by the other, pass into the hands and possession of the conqueror, and after that the conquered party possesses only such rights as the prevailing party may see fit of its own grace and favor to allow. If this be true doctrine, if the political rights of the rebel States were actually forfeited and terminated, or, in other words, if those rights had passed over to the conqueror, the United States, and into the hands of this Government, then surely they have had no right to participate in the ratification of the fourteenth amendment of the Constitution, and cannot have it until it shall have been allowed by Congress; and when three fourths of the remaining loyal States formally ratified that amendment, it became to all intents and purposes part of the Constitution of the United States, and is now binding upon us, and upon the rebel States.

This, however, Mr. President, is rather an abstract question. It is one which publicists and lawyers may very properly busy themselves in discussing; but such are my opinions. At the same time I am bound to say I should feel extremely reluctant to leave this question to be decided by a court of a rebel State. I should feel very insecure; I should fear a southern court, made up of southern judges, or imbued with southern secession opinions, might declare that such a ratification by the loyal States was not sufficient, and that, therefore, it had never become a part of the Constitution. For the purpose, then, of removing all doubt, all uncertainty from the public mind, as well as the mind of the courts, I think our best policy is to do all in our power to secure the full three fourths of the States of the United States upon this question of ratification. We may do it by passing this bill with Florida in, and leaving Alabama for future consideration; I hope we shall do so, because I fear that if we retain Alabama in the bill, we shall in the end regret it; we shall have trouble, and we may possibly fail to pass the bill at all at the present session of Congress.

Mr. BUCKALEW. Mr. President, I think it would have been very well when Congress adopted the idea of reorganizing the southern States if they had framed a form of a State constitution, enacted it into a law, and sent it down into each one of these States as a standard of government provisionally, and then waited until they were certain in the case of each of these States that they would vote right politically in the elections of 1868 before receiving Representatives from them into the Senate and House. That would have been a simple and intelligible plan of action. That plan would have avoided the enormous expenditure which has been incurred in reconstruction, and it would, in my judgment, have produced more of quiet and contentment in the southern States themselves; and in the end we should probably have reached about the same result which we will now reach by circuitous, by indirect, by doubtful, and, I may add, odious means.

Now, sir, I listened to the Senator from Ohio this morning, and received from him instruction upon this business of reconstruction which I consider valuable. It was additional to information which I possessed before. I understand from his argument that where an election return comes to us showing upon its face the adoption of a constitution, we are to take that; we are to hold that as good in case it accomplishes the object desired. Thus, in the case of Arkansas, where we can have no moral doubt that the constitution was in fact rejected by many thousand votes, in my opinion by at least ten thousand, but where, upon the face of a return, there was an apparent majority of thirteen hundred, we were to accept

that. We did accept it; we refused to go behind it; we refused to strike off even the two thousand surplus votes which were taken under no law, under no pretense of law, I venture to say, because the act of March 11 was not at all complied with in any essential respect. We disregarded all objection to those votes. We accepted the face of the return, and the bill was passed by the Senate to admit the State to representation in Congress.

Now, Alabama comes up with a return the other way. The military authorities under whom this election was held have certified to us returns which show that the new constitution was rejected under the law, and rejected for want of the polling of some eight thousand votes. On this occasion the Senator from Ohio wants to go beyond the return, and he proposes upon vague, general, *ex parte* affidavits and statements recited here in the Senate to lay the foundation for a grave legislative act of admission. What is the reason for this? Because he wants the State in; because he desires that it shall be admitted to representation in the two Houses of Congress upon grounds entirely independent of the question of whether it was or was not accepted by the people of that State.

Mr. President, what are the facts in regard to Alabama? An election was ordered. When the time came it was said that storms were preventing many of those who desired to vote on the constitution from voting. It was known that those opposed to it would not vote at all, because that action or non-action was invited from them by the act of Congress. By military order the election was extended another day; and then, upon another appeal made, the election was still further extended, and it was held upon five successive days. The State was, from one end to the other, so far as the military authorities and those who acted in concert with them were concerned, scoured for votes, and all were obtained that possibly could be, not upon a single day, nor upon two days, but upon five days. And yet, after all, a minority only of registered persons voted in that State. I have seen published statements as strong as those to which the Senator from Ohio has referred bearing in exactly the opposite direction to that to which his statements incline—statements that there were large frauds committed in the State; that a very considerable number of the votes in favor of this constitution, included in the returns sent to us, were not, in fact, given by honest voters of the State. General Meade, as I understand, has said, in an official communication, that in his judgment it was not expedient to admit this State under the circumstances; and that was the conclusion in the House of Representatives when this subject was up some time since and was considered there. The House then refused to admit the State; and, in fact, they passed a bill providing for a provisional State government and sent it over to us, and it remains here in the Senate, subject to our future consideration.

Mr. President, the Senator from Ohio uses sharp language in speaking of those opposed to the constitution. He speaks of their bad conduct, their improper conduct regarding the election upon the constitution. Sir, there is no ground for his complaint. Congress passed a bill providing clearly that those in favor of the constitution should vote at the election, and that those opposed to the constitution need not vote. They might exercise their right to withhold their votes or to poll them according to their own free judgment. Those in favor of the constitution did go to the election and did vote; those opposed remained at home and they induced all they could to remain at home. It is very likely that in certain cases improper influence was exerted or exercised to prevent persons from going to the election and voting in favor of the constitution; and upon the other hand, illegitimate and improper influences no doubt were exerted to secure votes for the constitution. But we know that the elections were held by officials who were favorable to the adoption of the constitution.

So far as votes were taken, all the presumptions are against there having been any fraudulent votes polled at that election in hostility to the constitution. Whatever of illegitimate and improper voting was permitted at that election was unquestionably upon the side which favored the constitution, and not upon the side which opposed it.

Now, sir, whether this pending amendment be adopted or not, is from my point of view not a very material or very interesting question. I thought at one time I would vote in favor of it, because I can draw no distinction between this case and the case of Arkansas which was considered the other day, or upon principle between this case and the case of South Carolina. I consider that all these State constitutions and State organizations which are proposed to be set up, rest upon the legislation of Congress, and that all this business of registration and voting in the South is mere form without substance; and therefore, sir, as I said before, I believe that the simple, frank, and manly manner to have proceeded in this business of reconstruction, was for Congress to have enacted the form of a State constitution, at any rate for temporary purposes; to have imposed it; to have required that elections should be held under its conditions, and to have held these States with firm hand under such organization until the political majority in Congress were satisfied to admit Senators and Representatives from them into Congress.

I consider that the whole proceeding by which it has been attempted to give a popular sanction in the South to the governments set up there is a deception and a sham, and I believe that most of our difficulties and debates in the two Houses of Congress arise from the fact that reconstruction has been attempted upon the principle that Congress shall control it, while at the same time it has been sought to give it an odor of popularity by some assent, or assumed assent of the people in those States. Sir, if you had an honest election in any one State of the South, take South Carolina for instance; if you had your military power withdrawn from such State, your Freedmen's Bureau organization withdrawn from such State, and then if you even permitted all the male inhabitants therein over twenty-one years of age to vote, free from foreign interference, free from dictation, free from the pressure of congressional power, I do not believe you would get from such State a political organization such as you desire.

On reflection I believe I shall vote against this amendment because I suppose my vote in its favor would not be understood, and because it is perfectly clear that a majority of the people of Alabama, even of those who are included in the registration lists, have refused to vote for this new constitution and State government proposed to them by their constitutional convention.

Mr. CONKLING. Mr. President, the motion to include Alabama in this bill proceeds from an undoubted friend of reconstruction; and yet I am persuaded that the motion is not in the true interest of reconstruction as to the remaining States named here, nor even as to Alabama herself. I venture to make this suggestion to the honorable Senator from Massachusetts, because in the main I agree with him; and, in committee, there is no impropriety, I think, in my saying that I voted to retain and include Alabama among the States to be admitted by this bill. The friends of reconstruction, however, in the Judiciary Committee, and the friends of reconstruction in the Senate, are divided as to Alabama, divided upon the question of the right of Alabama to restoration upon the constitution formed and the vote cast, and divided also upon the minor question of the best way to treat Alabama, the best form in which to put her, assuming that Alabama is to be dealt with now.

Mr. President, it is idle to deny that this State does present a special case. At the time when the vote was cast and the constitution was formed, the law provided that some-

thing more than one half of all the registered votes should be cast one way or the other; not as I understood some Senators to say should be cast in favor of the constitution, but that half of the registered voters should take part *pro* or *con* in approving or condemning the proposed constitution.

The honorable Senator from Massachusetts says we made a mistake in enacting that law. I do not think we did, sir. It is not very important to discuss that; but I never thought we made any mistake about it, and I am not at all sure that in the future we shall not conclude that we made a mistake quite as much when we repudiate it as we did when we adopted it. Suffice it to say now that it was passed for reasons existing at the time and cogent at the time; and were I called upon with the same lights and under the same circumstances to vote again on the question, I should vote in favor of that provision of the law, as I did vote for it at the time. Wise or otherwise, the provision stood unrepealed upon the statute-book when the election in Alabama was held, and in effect that provision held out to every person in Alabama, well disposed or evil disposed, the idea that abstinence from the polls should be precisely tantamount to a vote. They acted upon it, whether in good faith or bad faith, they acted upon it; and although of the votes cast an overwhelming majority were in favor of the constitution, less than half the elective population of Alabama, as ascertained by the register, took part in that election.

Mr. President, there is but one way to answer this, and that is the way resorted to by the honorable Senator from Ohio when he alluded to the frauds that had occurred. In that way you not only break the force of this objection to Alabama, but if the facts bear you out you do make a full answer. If, availing themselves of this law, the enemies of reconstruction not only abstained, as they had a right to abstain, from participating in the election, no matter what their motive was, (and so far they might have appropriately gone,) but went further, and by menace, by violence, by fraud, by contrivance, hindered, deterred, prevented others who wished to participate from doing so, then they stand in their own wrong, and then, without undertaking to give the precise language of the law which would be applicable to the case, suffice it to say for practical purposes they ought not be allowed to claim, they cannot properly claim the benefit of a provision under cover of which they had trampled right and law under their feet.

The Senator from Ohio says the facts do bear out sufficiently this allegation. I will suppose they do, for the purpose of the present argument; that is my impression as it is his. That is the impression with which I voted in the Judiciary Committee to include Alabama. But it still leaves Alabama a special case; a case unlike all the others; a case to be considered by itself upon its own peculiar merits; and, therefore, it is an element of division, of distraction, and, I submit to the honorable Senator from Massachusetts, of delay when interposed upon this bill. After the votes we have had in the Arkansas case, all the friends in this Chamber of reconstruction can unite, and doubtless will unite, and that speedily, upon the bill as it stands as to all these other States. With regard to Alabama, there are one or two bills before us which can be taken up at once; which can be considered disconnected with and unembarrassed by the case of any other State. Therefore, I can see no delay whatever to arise even as to Alabama, and I can see time to be gained as to all the rest by omitting her from this bill.

Mr. President, one other suggestion and I have done. The bills in regard to Alabama are much more flexible than this bill can be made in that regard. To state it in other words, they are much better adapted to procure an expression of the Senate upon the question precisely how Alabama had better be treated, because they present different alternatives

which, with slight modifications, should enable any Senator to present and vote for the particular view which he might have; and I am not at all sure that a bill adopting as a provisional government the proposed organization would not answer, perhaps, in the estimation of the Senator from Massachusetts, and every other Senator, the whole purpose as to Alabama, and, at the same time, avoid litigating here in the Senate and adjudicating the difficult question (as it will turn out to be) of fact, whether in truth the enemies of reconstruction actually prevented, actually intimidated so many men who had a right to participate in the election, from so participating, as thereby to vitiate the election and change its result. Without dwelling upon that, everybody must see that it is a very awkward question to establish upon either side by evidence. It may very well be that the whole difficulty can be avoided, and yet the interests of Alabama preserved in all respects by taking some one of these other alternatives, not only considering Alabama as a case by herself, but adopting as a provisional government the organization which has there been formed, or in some other way so placing her as to save all her rights and leave every gentleman who votes for or against the bill to enjoy his own opinion as to what in truth did happen there in this season of floods and disasters and alleged violence. At all events, for the present purpose, I submit to the honorable Senator from Massachusetts that we can make more progress with this bill if he will allow Alabama to remain for the present and to be taken up as a consideration by itself.

Mr. HENDRICKS. I do not intend, sir, to say very much upon this particular point. It seems to me it depends upon just one question. If Congress now assumes the right to say that a State government of a particular sort and a State constitution of a particular character is established, without any reference to the voice of the people, then the proposition can be well maintained. But if you do claim that these constitutions do not receive their force and validity from the will of Congress, but that they receive their force and validity from the will of the people as expressed, then it is palpable that Alabama is not properly to come in under your reconstruction policy, because when the vote in Alabama was cast it was under law. Did your law have any force? Was it entitled to respect by the people of Alabama? Is it entitled to respect by you? If so, the constitution of Alabama, according to law, was not adopted; but if your law had no force, if the people of Alabama were justified in disregarding it, and if now, after the vote has been cast, you have a right to disregard it and say that it is no law, then the simple question is, what is it the pleasure of Congress to do?

What was the law? Whether wisely framed or otherwise, is not for me now to inquire. The law was that the constitution of Alabama, the vote being had, when it was taken would not be adopted unless a majority of all the people of the State did vote. If less than a majority voted at the election, the constitution stood rejected. That was your law on the subject, positive, plain, and direct, standing, I suppose, upon the proposition that the fundamental law, which is to be permanent, of a State ought not to be adopted when less than half of the people of that State express an opinion upon it. That is what you said. It was the law that governed the vote at the time the vote was cast. If less than a majority shall vote, it is rejected; if more than a majority shall vote, and of those voting the majority shall be in favor of it, then it is adopted. It is plain—General Meade said so—that the constitution was rejected: It is plain that it was rejected according to law. Now, upon what principle do you propose to establish it? As the law stood it is not established. As the law stood it is rejected. Upon what principle, then, do you propose to establish it? Not that the people have approved it, because less than a majority of the people

have voted upon it. Not that it stands approved under the law, because according to law it stands rejected. Upon what principle, then, do you propose to establish it? for if this instrument become established as the constitution of Alabama, it is by some will and power other than the wish of the people expressed under law. The wish of the people, as expressed under law, has rejected it.

Now, it is to be approved and indorsed and made a constitution of a State, and the supreme law of that State so far as State law is concerned, by what power? By the voice of Congress; and if you have the power now to do that, why this delay? Why did you not adopt a constitution for each one of these States and have uniformity of State constitutions? If Congress can adopt a constitution that stands rejected according to law, and make it a constitution; if Congress can do what the committee now propose to do, change these constitutions, strike provisions out and put other provisions in, why not adopt a constitution according to the sovereign will of Congress and establish it? I think we can make a better constitution here than they have made in most of these cases. I would rather take the chance of a State government formed by Congress even as it is now organized, than to take the risk of a State government to be organized under such chances as have been allowed in these southern States. But, sir, I am speaking of one simple question now: if you can breathe the breath of life into a constitution, why not have made the constitutions in the first place and have established them? Why go through the form and ceremony of submitting these constitutions to a portion of the people? Why say that all the colored people shall vote upon them and a part of the white people, if indeed the decision of the people under your law is not binding, and after they have rejected a constitution you can adopt it and make it a constitution?

But the Senator from Ohio says that the rivers were high, that there was fraud. Mr. President, there are some accusations of fraud that stand plainly, boldly, defiantly rebutted; and it is idle, in the presence of an intelligent people, to say that fraud has controlled these southern elections when you all know, every Senator knows, that the control of public opinion in the southern States has been under the Freedmen's Bureau and the military organization. You know where the power has been that has controlled those elections. Who appointed your registrars? They were not southern men, not conservative, but Radicals appointed for that purpose, controlling the ballot-box, controlling the right to vote, deciding whose vote should be admitted and whose rejected. All this power belonged not to the men that were opposed to these constitutions, but the elections have been had under the control (irresponsible to every power in the world) of men that were in favor of the adoption of the constitution. So, Mr. President, it is idle for any Senator to say that there were frauds in these elections and terror and power that prevented a fair vote.

I heard this thing of the storms. I heard that it was expressed with more power and eloquence by a Representative in the other branch. In the force and power of his imagination he said this election was held under the most embarrassing circumstances; that the colored people, the freedmen, the true loyal element of society, went to the ballot-box swimming deep, swollen rivers, floating terrible quantities of ice! Ice in Alabama! That is equal to the charge of fraud, equal to all this stuff that an election is to be declared against the vote, because the rivers are high! Who ever heard of such a thing?

If an election has been held under such circumstances that the people could not vote, then what is to be done? If you have power to do anything, it is not to declare the result this way or that way, but to order a new election and allow the people an opportunity to vote when the rivers have gone down. That is all

there is in that. Swollen rivers do not establish a constitution, even if in the torrid zone those swollen rivers should be floating mountains of ice! No, sir; you cannot establish a constitution thus. If the forces of nature have been against the giving of a full vote you must allow another election. It does not elect anybody; it does not adopt a constitution. All you can do, I repeat, is to order a new election in that event.

So upon this charge of fraud. Some persons did not vote, it is said, because there was some interference. If there were a case of that sort established by evidence, all you could do would be, not to say that if these people had been there they would have voted thus or thus, because you cannot say that, but to order a new election and give them an opportunity to vote. That is all the case calls for.

Mr. President, I do not intend to continue the discussion upon this question. It is a plain one. A majority of Congress thought fit to establish the law of last winter, and in that law you said that if a majority of the people did not vote at the election the constitution should stand rejected. A majority of the people of Alabama did not vote, and according to your law it stands rejected, and now you propose to say that a constitution thus standing rejected, according to your own law, shall be established by congressional will and pleasure and power. Is that right? Do you intend to stand upon that proposition?

It is very different from the case of Arkansas; and in that I do not quite agree with my friend from Pennsylvania, [Mr. BUCKALEW.] Of course, we all know the transaction in Arkansas, how thousands of votes were cast, or pretended to be cast, that were not there; how it is palpable, upon the papers themselves, that the election was not a fair one; and yet the returns are in favor of that election, *prima facie* the case is made. Here, however, the return, the *prima facie* case is against Alabama, according to your law, and in order to carry Alabama through you have got to say that you yourselves will disregard the law which you said the people of Alabama must regard. What was the effect of this? Your law said to the people of Alabama "a majority must vote, else the constitution is not adopted; the man who remains away from the polls casts a vote against the constitution as well as if he attends and casts a vote against it."

That was the effect of your law. That was the effect of his vote under your law. It was a vote against the constitution. If he stayed away it stood as a vote against the constitution, because your law so provided. Now, the law still standing at the time of the election you reverse it, and say that a vote which stood as against the constitution shall be counted for it. You reverse your law; you reverse what you said should be a law to the people of Alabama. You mislead them; you induce a man to stay away from the election and not to cast his vote against the constitution; and after having thus induced him by what purported to be a law, you say that his vote shall stand for that constitution because the rivers were high! Who expects to stand upon a proposition like that before intelligent people? I do not care that you change the law this session; let the people know in advance that staying away has no legal effect, and then they can do as they please; but passing a law peculiar in this feature that not to vote is to vote against the constitution, and then afterward to say that that vote shall be counted for the constitution, is of itself, in my judgment, in the nature almost of a fraud upon the people thus treated. How is it; did the law of last winter have any validity and force? Does it bind the people of Alabama and not you? Can Congress disregard its own law after an act has been done under that law? This is the law that there is in this question, in my humble judgment.

Mr. MORTON. Mr. President, as the vote stood in Alabama there was a majority of sixty-nine thousand in favor of adopting the constitution over the vote that was cast against it.

There are some notorious facts in connection with Alabama to which in our capacity here we have a right to refer and to place some stress upon. One of these facts is that there is a large body of white Union men in the State of Alabama equal to that of any southern State, unless it is the State of North Carolina; and when you look to the vote in North Carolina and Georgia and South Carolina, held under the law in its present form, and look to the majorities that were given for the constitutions in those States, we cannot doubt as intelligent men that if the election had been held in Alabama under that law there would have been a large majority in that State for the constitution over the vote given against it, although the course of policy might then have been different on the part of the enemies of the constitution, and they would have made an effort to defeat the constitution by voting against it instead of staying at home. We cannot doubt from the vote given under the circumstances, and from what we know in regard to Alabama as compared with other southern States, that there is a large and decided majority in Alabama in favor of reconstruction and in favor of the constitution recently formed there.

In view of these notorious facts, is it not competent for the same Congress that passed the first law to waive its provisions? That is the simple question. If there is such moral evidence as to satisfy our minds that there is a majority of Union men in that State and that the result would not have been different if the vote had been taken under the present law instead of the law in its previous form, I ask what objection there is to the same Congress that made the law waiving that condition.

Now, we are asked to refuse to receive the constitution of Alabama because there was not cast for it a majority of all the registered vote. We are asked to keep Alabama out and to keep her under a constitution which she now has, which was never ratified at all. The present constitution of Alabama, under which her State government exists, was never submitted to the people; it was not ratified by a majority of one hundred or five hundred or one thousand. It was simply adopted by a convention, the delegates to which convention were elected by about one third of the white vote as it stood in 1865, by about one sixth of the voters of the State of Alabama. This convention thus created by a small minority, even, of the white people of Alabama, met and formed a constitution, and put it into operation without submitting it for ratification at all. And, sir, in behalf of that constitution, and the continuance of the State government created by it, we are asked to reject a constitution that has been ratified by a majority of the registered votes lacking only some five or six thousand.

It seems to me, Mr. President, that the position is not a very logical one. In my judgment we are to act in our legislation here for the good of the whole country, and not to consider ourselves estopped, as it were, by some provision that we might have put in a former law, which was unreasonable and absurd at the time. I fought that old provision with whatever ability I had. I thought it remarkably strange that we should provide that every man who was drunk, or who had since died, or who had run away, or who was in jail, or had been sent to the penitentiary, since the time the registration was made should be counted against the constitution. To use plain language, I could not see that there was any sense in it. It was giving every possible advantage to the enemies of reconstruction to say that every man who from any cause was kept from the polls should be counted against the constitution if his name had before that time been registered. The registry was some months before the election. By the time the election came round many of the registered voters had left the State; others had died; others were deterred from going to the polls; some had not the means to go; and yet by this most absurd and remarkable provision all these men were to be counted as voting against the constitution.

Mr. President, when you consider the difficulties under which this vote was cast in the winter time, it is surprising that so many men voted in Alabama. I believe they only had one poll in each county. Was not that the fact?

Mr. SHERMAN. I think one in each county.

Mr. MORTON. And some of them were very large counties. Some of these counties, I understand, contain five or six hundred square miles. The colored people, without horses, without means of traveling, were often required to travel twenty-five or thirty miles to get to the polls. In a country where the rivers are unbridged, where there are scarcely any roads, this was a serious obstacle; and I say, in view of all these facts, the vote was remarkably large. Take the old States; take the State of Indiana, for example, where you can scarcely find a precinct to which the voters have to travel more than six or seven miles, and generally less than that; where the places of voting are frequent in every county, as many as there are townships, and sometimes two or three in a township; and if you were submitting a constitution for ratification in the State of Indiana it would be hard, under the circumstances, however popular it might be, to require a majority of all the registered voters to vote in favor of that constitution to ensure its adoption.

Looking at the distance the voters had to travel, the season of the year, the utter poverty of the great majority of them, and upon the fact that the colored people were living on the plantations and on the property of their enemies, politically speaking, and that every means was resorted to for the purpose of preventing them from going to the polls, inducements held out—for that was the game that the opponents of reconstruction were playing—to stay away themselves and keep everybody else away, if possible, because every colored man who was thus kept at home, from any cause, was counted as against the constitution—in view of all these facts, the vote was remarkably large. It has been said here today, I forget by whom, that the vote cast in favor of the constitution was a larger percentage of all the registered voters than was cast in any other State before or since. Notwithstanding the provision in the law referred to by my colleague, I have no hesitation in voting for the immediate admission of Alabama. Let us have done with this business. What is to be gained by throwing Alabama back and requiring her to hold another election? The Union party is being demoralized there. It has just been formed under the most adverse circumstances. It has not the wealth, it has not the means for holding together the organization for carrying on another canvass that parties would have in older States where they have more wealth, and where they have been longer formed. No, sir; let us take this State by the hand and welcome her into the Union, and every one of the others where there is a majority in favor of the constitution.

Now, Mr. President, one word in regard to the amendment offered by the Senator from Massachusetts. While I am in favor of the immediate admission of Alabama, I am sorry to find that some of our friends place more weight upon this technicality a great deal than I do. I do not want to endanger the admission of the other five States by the views some of our friends hold in regard to Alabama; and as we need their votes to pass the bill over a veto, if it should be vetoed, it might perhaps be safer to put Alabama into a bill by itself and pass it separately, as we did the bill for the admission of the State of Arkansas. Therefore, under all the circumstances, I believe that I shall not vote for the amendment offered by the Senator from Massachusetts simply upon that ground, wanting it understood all the time that I am in favor of the immediate admission of the State of Alabama.

Mr. WILSON. Mr. President, in submitting this amendment I was guided by a desire to do justice to Alabama. The law originally



framed requiring that a majority of all the registered voters should vote on the ratification of the constitution, gave all the advantages to the opponents of the constitution. In the most excited elections, nearly one fifth of all the voters fail to vote. Out of the one hundred and seventy thousand registered voters of Alabama it was reasonable to suppose that from thirty to forty thousand would stay away from the polls. These thirty or forty thousand voters staying away from the polls were counted against the adoption of the constitution. Now, how can a law be wise the object of which was to bring these States back into the Union again on the basis of loyalty and liberty, which provided that one fifth of all the registered voters should be counted against the constitution?

Then it violated another sacred principle. Every man who went to the polls in Alabama and voted at this election was known to be for the constitution, and he was marked and branded and punished for it, thus violating the secrecy of the ballot. Never in the history of the world was there such a provision in legislation for such a purpose, and I do not see how it is to be defended here or elsewhere.

But, sir, the same law made another provision to which I desire to call the attention of Senators. It was that the voters should have an opportunity to vote freely and without restraint, fear, or the influence of fraud; and it was provided that the State should be admitted if Congress should be satisfied that the constitution met "the approval of a majority of all the qualified electors in the State." I maintain that the people of Alabama had no opportunity to vote without fear or restraint. The great masses of the people who voted to adopt this constitution were laboring men, black and white. They were the poor bondmen who had been oppressed, or they were the laboring white men who had been degraded by the system of slavery. These persons, living on the lands of others, living in little cabins owned by others, employed by them, were more or less under the dominating influence of these persons. A gentleman who had occupied the seat you, sir, occupy, who had presided over this body, having many men in his employment, told them, it is said, that he would dismiss them if they voted for the constitution. They voted, and he did dismiss them.

Mr. JOHNSON. Who was that?

Mr. WILSON. Fitzpatrick.

Mr. JOHNSON. Fitzpatrick of Alabama?

Mr. WILSON. Fitzpatrick of Alabama, who left the Senate Chamber and went into the rebellion. The loyal professional man was visited and threatened with the consequences if he dared to vote for this constitution. Old merchants who had been in Alabama for twenty years were visited by committees and told that no more goods should be sold by them, and committees were sent to their doors to watch, warn, and mark every person who should buy goods of them. Influences of this kind were used all over the State, and thousands of votes were lost to the constitution by this overbearing, oppressive, and aggressive policy. Not satisfied with that, men were met with the revolver, and their lives threatened.

There is a regular organized system of intimidation, the whole social power and influence of the rebel element was brought to bear with terrible force. Old business men and old planters, natives of the South, were made to feel the force of social proscription, yet the Senator from Indiana [Mr. HENDRICKS] tells us that the Army and the Freedmen's Bureau controlled and dominated in that State. How could our little Army in Alabama affect the public sentiment? How much social influence had the officers of the Freedmen's Bureau? General Swayne was at the head of the Freedmen's Bureau in that State for many months.

Mr. CONNESS. He was a very moderate man, too.

Mr. WILSON. Yes, sir. General Swayne was one of the purest and best of men, yet he was put under the ban of social proscription.

Sir, I believe if the people of Alabama could

have voted without fear, restraint, or fraud, that the constitution would have been ratified by a majority of tens of thousands. Yes, sir, there is this day and there was on the day of election from twenty-five to fifty thousand majority in Alabama for the constitution. She would have cast the largest majority for the constitution of any of the rebel States, and as it is, in spite of winter storms, violence, social proscription, and the law we hastened to repeal when we saw its workings, she gave the largest percentage of her registered votes in favor of the constitution of any of the States, South Carolina excepted. Forty-four per cent. of the registered voters of Alabama voted for the constitution. Alabama is, of the ten rebel States, the strongest, safest, and most surely loyal, and quite as deserving as any of them.

During the four years of war it was our first and highest duty to put down the rebellion. Since the close of the war it has seemed to me to be the paramount duty of the country to restore the rebel States on the basis of loyalty and security for the liberties of the people. We have endeavored to act on the policy of the unity of the Republic and the equal rights and privileges of the people. Some gentlemen have been ready to take back those States rebel end foremost. Yes, sir; some gentlemen have been in favor of taking back the States and of putting those States under the control of rebels, whose rebellious spirits are still unsubdued, and of putting the loyal masses, black and white, under their feet. The President was the head of this party that sought to restore the supremacy, at least in the rebel States, if not in the country, to what gentlemen sometimes call the "natural leaders of the South," the old rebel slave masters. The President's policy of reconstruction has perished and its champions have gone down beneath the stern condemnation of the loyal people. Congress adopted the wise, just, and beneficent policy of reconstruction that has already prepared seven of the ten rebel States for restoration. I do not say, sir, that the policy of reconstruction was perfect in theory or is perfect in practice. The terrible mistake was committed of leaving the rebel office-holders in those States in power. I have always believed that it was a mistake to deny suffrage to any man in the rebel States, and could I have controlled it I would have made it otherwise. We excluded a small body of men, men who had sworn to support the Constitution and had gone into the rebellion, from the right of suffrage. Of the eight hundred thousand white voters in the rebel States, not fifty thousand were denied the right of suffrage by our reconstruction acts.

Mr. HENDRICKS. I will say to the Senator that I was told by a very prominent citizen of the State of Alabama, whose opinion on the subject I believe, that there were from twenty-five to thirty thousand in that State excluded by your law.

Mr. WILSON. There never could be a greater mistake on the face of the earth. We excluded simply the men who had held office and taken an oath to support the Constitution of the United States, and there is not a State that had ten thousand of such persons. It would not have altered the result in a single State if we had provided otherwise. Some of the very best friends of reconstruction were men who could not vote.

The Senator from Indiana near me [Mr. MORTON] tells us that some of our friends are embarrassed by this amendment; that he intends to vote against it, and to vote for the admission of Alabama in a separate bill at the earliest possible moment. My object in moving this amendment is to have the Senate act in harmony with the House of Representatives in hastening the grand work of reconstruction. I propose therefore to vote, if I vote alone, to put Alabama into the pending bill.

I am not unmindful of the influences of the spirit of partisanship that often actuate us when we perhaps are not conscious of it. I desire above all things the speedy restoration of the rebel States to their practical relations,

on the basis of loyalty to the country and equal rights to citizens without distinction of color or race. I assure the Senator from Pennsylvania, [Mr. BUCKALEW], and all Senators on that side of the Chamber, that I shall vote for the speedy admission of every State that complies with the terms and conditions we have imposed, without reference to how such State may vote in the coming presidential election.

Nine constitutions securing equality of rights and privilege have been framed. Six of those constitutions have been ratified by popular majorities of more than one hundred thousand, and the constitution of Alabama has received a majority of seventy thousand. I welcome each one and all of these seven States in the full belief that the men who have framed these constitutions and ratified them by more than one hundred and seventy thousand majority—the men who have elected Governors and Legislatures and Representatives to Congress fully and unreservedly committed to the perpetual unity of the country and the equal rights and privileges of American citizens, are wise enough and strong enough to guide the policies and control the councils of those States. The masses of the men who have framed these constitutions and ratified them may be ignorant and they may be poor, but they have done a grand work for loyalty, liberty, justice, and humanity. In coming years, as in the past year, these men, inspired by love of country and a sense of justice, may be able to cope successfully with the proud champions of disloyalty and caste. I unhesitatingly place the power in their hands confident that they are worthy to be trusted and tried.

Mr. YATES. Mr. President—

Mr. BUCKALEW. If the Senator will permit me, I desire to make an explanation of but a single word.

Mr. YATES. I desire to say only a few words myself.

Mr. BUCKALEW. Very well.

Mr. YATES. Mr. President, when I have cast a vote that I think was dictated by sound policy and was a right vote, I do not like to hear it treated and denounced as self-evidently wrong by Senators upon this floor. I believe that that vote was dictated by sound policy, and I do not choose now, unless better reasons are given than those which have been presented, to admit that I was in error. That vote was given at a time when a different state of feeling prevailed from that which seems to prevail now. It was at a time when the Senator from Massachusetts, with most eloquent voice, was telling us that these men had rebelled against the Government, that they had organized war, that they had sought the life of the nation, and that they were not to be received into the Union, if it was for fifty years, until they gave indications of loyalty and fidelity to their Government.

Those Senators who voted in favor of requiring the largest number of voters to sanction the new constitutions were in favor of more loyalty than is now contended for by the Senator from Massachusetts when he says that a minority shall rule and govern. It may yet appear, sir, that that vote was right, and that those who cast that vote were more far-seeing than those who denounced it. Perhaps the time will come when the wisdom of it will be shown to those who now denounce it, when perhaps at the very first election these States shall send into the House of Representatives and into the Senate those rebel leaders who organized war, who sought and worked for their country's murder. When they come here, and, uniting with the Democratic party of the North, resume their former position and power in this country to upset and to destroy our plan and policy of reconstruction which has cost us so much time and labor, it may then appear, sir, that those who required a vote the indication of the highest loyalty and of repentance on the part of these southern rebels, acted the part of statesmen instead of giving a vote which is liable to be denounced as self-evidently wrong.

In taking this position I do not mean to say

that I shall vote against the admission of Alabama. I think there is danger either way. To admit these men is certainly dangerous. We know, sir, that the Democratic party now is hoping for success from the coöperation of the southern leaders. We know not how soon every measure for which we have contended may, by the joint action of the Democratic party of the North and their southern allies, be overturned. We do not know how soon attempts may be made even to reestablish slavery under the State-rights doctrine that the States have the right to determine for themselves their own institutions. We know not how soon the southern rebels, with their northern assistants, may attempt to repudiate the national debt, unless coupled with it be the payment of the rebel debt also.

But, sir, I say there are evils either way. I presume, however, that I shall cast my vote in favor of the admission of these States. There is an objection, and it is the objection pointed out by the honorable Senator from Michigan, why this State should not be inserted in the bill before the Senate. It is that the President, upon the technical objection which he may find in this bill, the fact that a majority of the registered voters has not been cast in favor of the constitution of Alabama, may veto the whole bill; and it is not certain that some Senators may not conscientiously vote to sustain the veto, upon the ground that Alabama has not conformed to the requirement of the law providing for reconstruction. Therefore let it be a separate question. There is only one way in which we can honorably admit the State upon the present vote, and that is to show that there has been a fraud, to show that the election was not a fair one, so that the will of the people of the State has not been consulted. Sir, if, notwithstanding the military power and the Freedmen's Bureau, to which allusion has been made, the rebels can now defeat an election by force, by fraud, how will it be when the military restraint is removed? If we could not overcome this force and effort in this election, how can we expect to overcome it in an election hereafter when these restraints are removed?

I simply rose, sir, more to refer to the position assumed by the Senator from Michigan than anything else, and to indorse that, and to ask the Senate not to hazard the passage of the bill for the admission of the other States by connecting with it the admission of the State of Alabama.

Mr. DOOLITTLE. Mr. President, it is not upon any party ground or party considerations that I am opposed to the present bill; for, sir, were the bill to pass and become a law, and the people of the southern States—I refer to the intelligent white people of the southern States—should find themselves placed in a position where it would be necessary for them to exercise their intellectual and moral power, not only among their own race, but among the colored people of the South, I have no doubt what the result would be in the large majority of the southern States. That the intellect and moral power of the South will rule all races there when you come to the struggle is just as certain as the revolutions of the earth, as that water will find its level. The moral power and intellectual power which the white people possess in the South, my honorable friend from Massachusetts will find, will control the half-civilized negro element whenever they desire to do it. And there is a very noted case arising in the last election in the State of Georgia in the most numerous negro district in that State, where the majority of the negroes was about seven thousand. The white men of that district thought they would go into the canvass, and they did so and elected their candidate by twelve hundred majority. No, Mr. President, it is not upon any such miserable ground as a party consideration that I have ever opposed this policy of reconstruction in the southern States. The ground on which I have stood has been this, that the Constitution of the United States is openly, palpably vio-

lated when Congress undertakes to say who shall vote in the States of the South, and to change the constitutions of those States at pleasure.

The constitutions of those States have provided, from time immemorial, who shall be their voters; and when Congress assumes to change those constitutions, Congress assumes to violate the Constitution of the United States; Congress assumes to trample down under its feet the right of a State to judge for itself who shall be its qualified electors; and when Congress does that, it strikes a blow at the very existence of the States, which are the pillars upon which the Union rests. That, sir, is one of the main grounds.

Another is that when Congress assumes to disfranchise a large portion of the white people of the South who have never been convicted of any offense whatever; when it assumes to disfranchise a large portion of the citizens of the South who, on laying down the arms of rebellion, received pardon and amnesty from President Lincoln and President Johnson, pursuant to the Constitution and laws of the United States, Congress violates the sacred pledged faith which this nation has given to those citizens, and which it cannot take away without dishonor.

I say that when Congress undertakes to take away rights from the citizens of the South, after they have ceased their rebellion and have taken an oath to renew their allegiance to the Constitution of the United States, and have received pardon from the President of the United States, who has the power to grant it, Congress violates the pledged faith of this nation; and no congressional reconstruction based on that violation can stand the test of examination before the American people.

Sir, I say it is not on party grounds at all that I have stood up to resist your measures of reconstruction and their fruits. So far as party grounds are concerned, to which my honorable friend from Illinois [Mr. YATES] referred in the course of his remarks, let me say that my honorable friend from Oregon is not alone, nor is my honorable friend from Ohio, nor other Senators in finding that the States which they represent will not respond to this doctrine that Congress has the power to trample under its feet the right of a State to fix for itself the qualifications of its voters, nor will they respond to the doctrine which disfranchises white men by its legislation and forces the control of the States of the South into the hands of the half-civilized negroes. That is the difficulty in the case. That is the difficulty in relation to the elections which you see in Michigan, Ohio, and Oregon, and they are only just the sprinkling before the great shower that is coming.

I say to Senators on this floor, they cannot trample down the Constitution of the United States, they cannot wrench the government of the States from the hands of civilized men to put it in the hands of half-civilized negroes, and expect the people of this country to sustain them. They will not sustain such conduct. The mark of condemnation is written all over it. The party that identifies itself with it will be trampled in pieces as soon as the election shall come.

Mr. President, it is not that I suppose that ignorance, want of education, and this race which has just had its shackles knocked from its limbs in the South, can control those States even if you force suffrage into their hands. Not at all. The white men there, by their moral and intellectual power, will control those States, and that very soon. But it is because of the outrage in trampling down the constitution, violating the rights of those people, violating the rights of those States, violating the sacred pledge given by the President when he gave pardon to those men, that I oppose it; that is the reason why the people oppose it; that is the reason why the people will pronounce their judgment in tones of condemnation that will be heard not only in Oregon and Nevada and Michigan and Ohio and New York, but all over this land North and South in tones that men will understand.

Now, Mr. President, in relation to this question of Alabama. Alabama has no voice on this floor. There is nobody to speak for her. She has been dumb here, and all sorts of representations are made by men that do not know much about it. I hold in my hand, Mr. President, a petition signed by a thousand of the intelligent citizens of Alabama.

Mr. CONNESS. Rebels.

Mr. DOOLITTLE. Some of them were in the rebellion, but they are not rebels now.

Mr. CONNESS. Ah!

Mr. DOOLITTLE. Let me say that the men who are rebels now are the men who are against the Constitution, who are trampling it under their feet; and I do not care whether they come from California or from Alabama; he is a rebel who is opposed to the Constitution and would trample it under his feet. When the men of the South, though they had been engaged in rebellion, laid down the arms of their rebellion and took an oath and renewed their allegiance to the Government of the United States, they ceased to be rebels, and you have no right to term them and denominate them rebels now, so long as they have laid down the arms of rebellion and have taken the oath of allegiance to the Government of the United States until they manifest by their acts, by their votes, or by their conduct that they are opposed to the Constitution of the United States. Then they are rebels if they manifest that. The petition which I hold is signed by men who were engaged in the rebellion and by men who were opposed to the rebellion, both. Now, Mr. President, because they have no one to represent them, because they are not here with their representatives, I ask the indulgence of the Senate while I read a few extracts from the petition which they send here, which bear directly on this question:

*To the honorable the Senate and House of Representatives of the United States in Congress assembled:*

The white people of Alabama send this their humble petition:

We beseech your honorable bodies to withdraw yourselves from the influence of the passions and contests of the hour and contemplate for a brief period our miserable condition and the yet more wretched state which is already prepared for us. Surely it is only such influences that have prevented you from bestowing on us a single ray of beneficent regard.

According to the last census taken by the Federal Government, the white people of Alabama outnumber the negro or colored population more than eighty-eight thousand persons. And we think we arrogate nothing which your honorable bodies will not concede to us, when we say that nearly all of the education, intelligence, and civilization of the State is to be found in our race. But poverty prevails throughout the land. We are beset by secret oath-bound political societies. Our character and conduct are systematically misrepresented and maligned to you, and in the newspapers of the North; the intelligent and impartial administration of just laws is obstructed; property has become almost valueless; industry and enterprise are paralyzed by the fears of the white men and the expectations of the black. That Alabama will soon be delivered over to the rule of the latter; and many of our best citizens are for these reasons leaving the homes they love for other and strange lands.

Before the late unhappy war, the white people of the South contributed their whole just proportion of the great and good men whose acts and characters constituted the chief renown of the Republic. Those of us who endeavored to withdraw the South from her partnership therein, did not do so in order to make war on the northern States or their institutions, but for the purpose (vain hope!) of establishing peacefully another not unfriendly independent confederacy, in which under almost identical constitutions we might be more free from discord. And, however criminal in your opinion, we may in this have been, yet neither our sins nor our sufferings have reduced us to uncivilized barbarians.

On the other hand, it is well known by all who have knowledge on the subject, that while the negroes of the South may be more intelligent and of better morals than those of the same race in any other part of the world where they exist in equal density, yet they are in the main ignorant, generally wholly unacquainted with the principles of free government, improvident, disinclined to work, credulous yet suspicious, dishonest, untruthful, incapable of self-restraint, and easily impelled by want or excited by false and specious counsels, into folly and crime. Exceptions, of course, there are: chiefly among those who have been reared as servants in our domestic circles and in our cities. But the general character of our colored population is such as we have described. Whose fault it is that they are so—whether ours, under whose control they have certainly become better than their brethren in their native Africa, or the

fault of anybody—it is needless now to inquire. We have to deal with the incontestable fact, that in the main they are unlettered and capricious barbarians, turned suddenly loose from the condition of slaves, and eager to avail themselves of freedom to indulge and gratify their desires and passions.

Are these the people in whom should be vested the high governmental functions of establishing institutions and enacting and enforcing laws to prevent crime, protect property, preserve peace and order in society, and promote industry, enterprise, and civilization in Alabama, and the power and honor of the United States? Without property, without industry, without any regard for reputation, without control over their own caprices and strong passions, and without fear of punishment under laws by courts and through juries which are created by and composed of themselves or of those whom they elect. How can it be otherwise than that they will bring, to the great injury of themselves as well as of us and our children, blight, crime, ruin, and barbarism on this fair land?

Without reading all of this—for it is too long to occupy the time of the Senate with it—these men in conclusion implore the Congress of the United States to rule them rather by military force than to undertake to place them under the domination and control of the colored race. They say:

"Continue over us, if you will do so, your own rule by the sword. Send down among us honorable and upright men of your own people, of the race to which you and we belong; and ungracious, contrary to wise policy and the institutions of the country, and tyrannous as it will be, no hand will be raised among us to resist by force their authority. But do not, we implore you, abdicate your own rule over us by transferring us to the blighting, brutalizing, and unnatural dominion of an alien and inferior race, a race which has never shown sufficient administrative capacity for the good government of even the tribes into which it has always been broken up in its native seats, and which in all ages has itself furnished slaves for all the other races of the earth."

Mr. President, what these men state from Alabama is supported by the concurrent testimony of more than nine tenths of all the white men in all the States of the South. I do not say that there are not exceptions, of negroes that are brought up in families, brought up in cities, brought up in those employments where they have the knowledge and the habits of white men and of freemen. The mulattoes, who partake to a certain extent of the intelligence of the whites, may generally be exceptions to this general rule; but as applied to the great mass of those people, who have just been set free by emancipation in the South, this is the concurrent testimony not only of these gentlemen but of nine tenths of all the white population of the South, and I will add nine tenths of all the white population of the North that ever lived at the South or traveled among them and know really anything about their true condition. The fact is that the great majority of these people are utterly unfit to have suffrage placed in their hands as the basis of reconstruction in the States of the South.

Sir, I stand not upon the authority of these gentlemen alone; I give you other authority that the honorable Senator from California will not claim to be rebel authority. I give you the authority of Mr. Lincoln, the late President of the United States. Mr. Lincoln said:

"I am not, nor never have been, in favor of making voters or jurors of negroes, nor qualifying them to hold office, nor intermarrying them with white people; and I will say in addition to this that there is a physical difference between the white and black races which I believe, will forever forbid the two races living together on terms of social and political equality—and inasmuch as they cannot live white they do remain together—there must be a position of superior and inferior, and I, as much as any other man, am in favor of having the superior position assigned to the white race."

Mr. WILSON. Tell us what date that was.

Mr. DOOLITTLE. In his debate with Mr. Douglas in the State of Illinois.

Mr. CONNESS. In what year?

Mr. DOOLITTLE. I forget the year.

Mr. CONNESS. Eighteen hundred and fifty-eight.

Mr. DOOLITTLE. And there is also the testimony of Mr. Jefferson on this subject, given a long time ago. It is true he was the author of the Declaration of Independence, but he spoke of the difference which God the Almighty has stamped upon these two races, and which the law of Congress cannot repeal. So, also, the statement of the honorable Sena-

tor from Illinois, [Mr. TRUMBULL,] when he said:

"I know that there is a distinction between the two races, because the Almighty himself has marked it upon their very faces, and, in my judgment, man cannot, by legislation or otherwise, produce a perfect equality between those races so that they will live happily together."

Mr. THAYER. What did he mean by that? Mr. DOOLITTLE. He meant what he said, I suppose. [Laughter.]

Mr. POMEROY. Mr. President, I should like to ask the Senator if there is any equality among white men.

Mr. DOOLITTLE. Mr. President, there is a difference between the Indian and the Caucasian, between the Mongolian and the Caucasian, between the negro and the Caucasian, which is just as marked and distinct as it can possibly be. There is not from the crown of the head to the sole of the foot, in mind or in body, anything which does not differ.

Mr. POMEROY. It is equally marked between the Senator and myself; nobody would mistake him for me, or me for him.

Mr. DOOLITTLE. Mr. President, we are different from each other, I admit; but that difference is by no means the kind of difference which exists between him and an Indian, or between me and a negro, or a Mongolian and a negro. Why, Mr. President, when Congress undertakes by a stroke of the pen to abolish this distinction which the Almighty himself has made, it has been the folly of all the follies which man ever attempted since the world began. Mr. Jefferson, who proclaimed the Declaration of Independence, himself said—I will give the honorable Senator his words:

"Nothing is more certainly written in the book of fate than that these people are to be free. Nor is it less certain that the two races—equally free—cannot live in the same Government."

That is Jefferson. Is my friend from Nebraska satisfied? My honorable friend from Nebraska knows very well the distinction between a white man and an Indian. He knows that Congress cannot by legislation make an Indian a white man. He knows very well that habit, nature, prejudice, all there is in a white man and all there is in an Indian is different from each other. It is so as between the white man and the negro, and it is this futile attempt on the part of Congress to do what God the Almighty, has said shall not be done—

Mr. THAYER. Will the Senator allow me?

Mr. DOOLITTLE. If the Senator desires to ask a question, I will give way.

Mr. THAYER. The Senator asked me if I was satisfied. I desire to remark that he did not answer my question. I ask him now whether Jefferson embraced negroes when he said "all men."

Mr. DOOLITTLE. He did. I have no doubt of that; but he embraced the negro in his home in the tropics, and the negro in his own home in the tropics is where God the Almighty intended him to be; and when the white man by force wrenched him from his native home and planted him here in the presence of white men he was an exotic, an alien, an inferior race in the presence of the white man in the white man's home, which is in the temperate zone.

So, Mr. President, even if you go back to the days of the Roman empire, when Caesar Augustus made his will, he told the Roman empire never to undertake to conquer Ethiopia and Africa. Why? Because it was a climate where the white man could not live; it was the climate that God the Almighty had given to the colored man as his home, and which the colored man had a right to hold and to hold forever.

Mr. PATTERSON, of New Hampshire. Will the Senator allow me?

Mr. DOOLITTLE. Well, Mr. President, I do not like always to be drawn off into a dialogue if I get to talking upon any of these interesting topics; but if the Senator simply desires to ask a question I have no objection to answering it.

Mr. PATTERSON, of New Hampshire. I simply wish the Senator to explain to the Sena-

ate his own record on this subject. I remember that he made a speech a few years since, when the question of the exportation of the negroes was up, in which he said that in one or two centuries these black men would establish in the tropics a republic which would rival the Republic of the North American continent. I want to know how they are going to do it if they are as debased as he now says they are?

Mr. DOOLITTLE. Mr. President, I believe that the negro in the hot latitudes of Central America or the tropics, when you take him all in all, to bear the sunshine, to bear the climate, is the only race that can live there. The experience of Englishmen in India has shown that white men who go there and live in that climate, the first generation may live, the second generation has but a feeble growth, and the third generation becomes so depreciated and enfeebled that they cease to propagate their species. It is given by the fiat of the Almighty that those tropical regions are to be given to the tropical man, and the regions of the temperate zones to the man who was made for them.

Mr. PATTERSON, of New Hampshire. I should like to ask the Senator one other question. I ask if he does not know that the African in this country is superior to the African in his own country?

Mr. DOOLITTLE. I do know, Mr. President, that he is superior here, because he has been brought in contact with the white man, and although it has been even in a state of slavery the white man has educated him, and civilized him, and given him religion—Christianity. At the same time it is equally true that the mass of the negro race in the presence of the white man in this zone and climate is not the equal of the white man, and the attempt to make him equal is impossible to be carried into effect.

Mr. President, I suppose that Washington and Jefferson and Madison and Clay and Webster, and all the Presidents we have had from Washington down to the present day were as wise at least as we are in natural philosophy and knew as much about the races of man, and they all concurred in this opinion.

Now, Mr. President, to go a little into detail on this question, one of the generals of our Army in our last war stated to me a very singular circumstance that occurred in the State of Georgia when the election came off in that State for the holding of the convention in one of the populous negro counties. A gentleman residing there was desired to take a position in the convention. To do so it was necessary that he should get the negro votes. What did he do? He engaged a bright mulatto to pretend to run as a candidate against him and circulate votes at the court-house throughout the whole election day, and to denounce himself, as a matter of course. The mulatto did so, and when they came to count up the votes it was found that there was not one single vote in the ballot-box for the mulatto, but every vote was for the white man. I do not justify any such trick as this in political matters; I would no more descend to deception or falsehood in politics than I would in ordinary intercourse or business; but does it not go to demonstrate how utterly unfit this population are to exercise the right of franchise, if, in a whole county, there is not intelligence enough among them to enable them to ascertain that they were voting for a white man whom they did not intend to elect, and against a negro whom they did intend to elect?

How was it in South Carolina? We have the statement of Governor Perry as to one of the elections that came off there. He certainly is not a rebel. He has been a Union man always; he was before the struggle and during the struggle; and, therefore, I suppose we can rely upon his statement.

Mr. CONNESS. Who is Mr. Perry?

Mr. DOOLITTLE. Governor Perry, of South Carolina.

Mr. CONNESS. The rebel appointed by Mr. Johnson?



Mr. DOOLITTLE. No, sir; he was not a rebel; he was a Union man, but he was appointed by Mr. Johnson.

Mr. CONNESS. Not a rebel?

Mr. SUMNER. He was in the rebel service during the war.

Mr. DOOLITTLE. The Senator is entirely mistaken.

Mr. SUMNER. I am sure of it; I have the documents.

Mr. DOOLITTLE. I think the Senator will find himself entirely mistaken when he examines. At all events gentlemen have said to me, and all who have ever spoken in relation to Mr. Perry have said that he was a Union man.

Mr. SUMNER. It is a great mistake.

Mr. DOOLITTLE. I have always understood him to be like Governor Parsons, of Alabama, who was a Union man. I do not think I can be mistaken on that subject. I think the Senator from Massachusetts will find himself entirely mistaken. I have no doubt that Mr. Perry's statement is reliable. Speaking upon this very subject, just after the election for the constitutional convention in South Carolina, he said:

"In regard to the political condition of the southern States I am in deep despair and have no hope except in a returning sense of justice on the part of the northern people. The idea of placing the government of these States in the hands of negroes is preposterously absurd. None of them have property, and not one in five hundred can read or write. In the recent election for members of a convention many of the negroes had forgotten their names, and scarcely one in a hundred could tell after the election for whom he voted. They were controlled blindly by the loyal leagues. The tickets were printed in Charleston, with a likeness of President Lincoln on them."

I happen to have one of the tickets here, and if the honorable Senator from Massachusetts wishes to look at it he will find a little curiosity about it. I see that the first name on the ticket for the convention was Alonzo J. Ransier, a colored man, of South Carolina. The next was Frederick A. Sawyer, from Massachusetts. The next Christopher C. Bowen, from Rhode Island. The next Albert G. Mackey, of South Carolina; and then Gilbert Pillsbury, who, I believe, is a Massachusetts man; then Richard H. Cain, a colored man; then comes the name of Francis L. Cardoza, from New York, I think, though I should judge from the name that he was of foreign extraction.

Mr. SUMNER. A colored man.

Mr. DOOLITTLE. The next name is Robert C. Delarge, from South Carolina, a colored man; and the last name on the ticket, William McKinlay, of South Carolina, a colored man. This was the ticket. Governor Perry goes on to say:

"There never has been before such a wide field opened for the demagogues and unprincipled aspirants to office. The negroes the most credulous being in the world, and most easily imposed on by vile wretches who are disposed to pander to his ignorance and passion. Emissaries from the North, white and black, have come here and prejudiced him against the white race. He has been told that unless he voted the Radical ticket he would be placed back in slavery, and that if he voted that ticket he would have lands and mules given him. In some instances the negroes actually brought with them bridles to take their mules home with."

Mr. President, this is the kind of material which is forced upon these States as the basis of reconstruction by Congress; disfranchising the intelligent whites of the South, or many of them; disfranchising many who had actually received pardon at the hands of Mr. Lincoln and at the hands of Mr. Johnson, pursuant to the law that you yourself had enacted; disfranchising them, although not convicted of any crime; disfranchising them after they had received from the President an absolute pardon and restoration to all the rights of citizenship, which the Supreme Court has expressly declared is a full pardon; that Congress has no power to restrict, the power to pardon being in the President, an unqualified power over which Congress has no control whatever. Then the men who are enfranchised, these ignorant negroes, just set free from the plantations, not knowing their names, nor the names by which they were registered, nor the names of the men for whom they vote, who are so ignorant as to

go to the election with bridles to take their mules home for voting the Radical ticket; these are the men upon whom you force reconstruction at the South in this civilized age, and in the nineteenth century.

Mr. President, I have objected to this mode of reconstruction. I have stood for the reconstruction which Mr. Lincoln proposed, a reconstruction based upon two ideas: first of all, that the State constitution fixing the right of suffrage cannot be changed by Congress, and second, that reconstruction should be based upon the civilized and not upon the semi-civilized people of the southern States. I have pleaded for that reconstruction. Perhaps I have pleaded in vain; perhaps it has been unnecessary that I should have pleaded for it as I have done. The majority is so strong that you are bound to carry these measures and to insist upon your reconstruction based upon the idea that Congress can fix and change the constitutions of these States, based upon the idea that you prefer the governments in those States in the control of the half civilized men of the South rather than under the control of the civilized white race to which we belong. You can do this for you have the power. I suppose you will do it, are resolved upon it, and that nothing I can say can prevent it; but if it be done, and if the people of the South find themselves placed in a position where they are compelled to descend into the arena and enter the canvass to see who can control this ignorant negro vote, they, in the interest of their own States, or you, through your emissaries and the Freedmen's Bureau and the military power which you have there, I believe in the end you will find that the white people of the South will be stronger than you are, and will control them in spite of all your efforts to the contrary, and that the pit which you seek to dig for them will be the very pit perhaps in which you are to be buried. But go on, gentlemen; the responsibility is upon you. You have the power. You will exercise it.

Mr. STEWART. Mr. President—

Mr. SUMNER. Before the Senator proceeds I should like to have one minute to correct—

Mr. STEWART. I will only occupy a minute.

Mr. SUMNER. I wish to correct an error of the Senator from Wisconsin.

Mr. STEWART. I just want to say a word or two to the Senator from Wisconsin. He says that they will trample down these reconstruction laws.

Mr. DOOLITTLE. I did not say that.

Mr. STEWART. He says our friends shall be trampled down.

Mr. DOOLITTLE. I did not say that.

Mr. STEWART. That they will trample down our efforts to reconstruct the southern States on the congressional basis.

Mr. DOOLITTLE. I did not say that. I said that the party which sought to do what I described would be trampled in pieces, and that shortly.

Mr. STEWART. The party that sought to do that would be trampled in pieces. That has been the effort of the same men that are attempting to do that now. I rose to tell the gentleman that before they trample down the people who saved this Union, before they trample down the loyal element, before they place over loyalty the rebels who are still unrepentant, before they reconstruct this country as dictated by rebels, they have got to make further struggles than they can or have been able to make. He refers to Nevada, to Massachusetts, to Wisconsin—

Mr. DOOLITTLE. I did not refer to Massachusetts.

Mr. STEWART. I refer to his State, Wisconsin, and I refer to the loyal millions who were engaged in this war; and if the work of subjugation and trampling down is to be begun again, I think that the same party that ended it before will end it the second time.

There is no more doubt about the constitutionality of these reconstruction measures than there is about any other law upon the statute-

book. Everybody knows that; but we are told they shall be trampled underfoot. Who obeys the Constitution? The usurper who would set up government in defiance of the law? The rebel who defied the power of this Government? Who obeys the Constitution? It is the Union party who saved it and that will enforce it. It is the party the Senator speaks of trampling down.

He talks to us of the barbarians of the South. Who made them barbarians? Who kept them barbarians? If a majority of the people have become barbarians by reason of the exclusive rule of the whites, it is time that that exclusive rule should terminate.

Mr. DOOLITTLE. I say the negroes have been improved since they came from Africa.

Mr. DRAKE. They are semi-barbarians now, I suppose?

Mr. DOOLITTLE. Yes; semi-barbarians now.

Mr. STEWART. I say if they still are barbarians, and if the minority that formerly ruled there propose to keep them so, that is a reason why a majority of these States should rule. Talk not to me about their ignorance, about their not understanding what they are about! The difficulty is that they know too much; and that is why the thousand rebels from Alabama sent up their whining petition here. It is because they cannot control and deceive these negroes. Think you that these rebels would be disturbed about this if they could deceive the negroes? The rebels and the Democrats generally will allow anybody to vote that votes on their side, negroes, monkeys, tadpoles, anybody that will vote on their side.

Mr. DOOLITTLE. I will ask the honorable Senator if he did not propose to allow all the rebels to vote if they were only on his side, if they were only in favor of reconstruction?

Mr. STEWART. Certainly, when they vote on our side and show that they repent.

Mr. DOOLITTLE. Then you do not care for their bloody hands?

Mr. STEWART. No; it is their bloody hearts that are still rebellious that we object to. We object to their continued assassinations. We object to their defying the Government. We object that they will not accept the situation. We object that they propose to trample us in the dust. We object that they propose to dictate terms to the conqueror. We object that they propose to make loyalty odious and treason honorable. We object that they will not submit to the verdict of the war. That is what the American people object to; and whatever you may say, the war will not stop until they submit and accept the situation.

Talk about negro suffrage! That is not the trouble. They will accept of no plan that we present. The constitutional amendment had no negro suffrage in it; but they would not accept voluntarily any plan that the loyal men could suggest; they spurned them all alike. What they demand and the extent of their demand is simply this, and nothing else: "Let us dictate the terms; you bow in the dust to us; you ask pardon for having whipped us." That is what they ask of us, and that is what we are unwilling to do.

Before this trampling in the dust, of which the Senator speaks, is done, I want him to remember that there are millions of men in this country who believe in Government, believe in the Constitution, believe in the sanctity of law, believe that rebels should submit to the Constitution, believe that the verdict of this war meant something—meant that the Government should stand, meant that all men should be free, and that justice should be supreme. They were in earnest during the war; they are in earnest still. Although they may be baffled by treachery, although they may seem to fail for a time, I tell you they have enlisted for "during the war," and they intend to have ultimate success. They do not mean to submit to the rebel mode of warfare now any more than they propose to let Lee plant our batteries. When we quit that policy in war, when we ceased to submit our plan of

action to the rebels, when we placed General Grant at the head to plan the battle of loyalty without consulting the rebels, we won. Now we propose to plant our own batteries, stay in our own camp, and drive the enemy from his.

I have nothing more to say to the Senator; but I hope he will let me plead with him not to trample all the people of Wisconsin in the dust. Save some of us; spare the women and children at least.

Mr. CONKLING obtained the floor.

Mr. DOOLITTLE. I hope the Senator will allow me to say a word by way of answer to the point of the Senator from Nevada. I shall take but a moment. The Senator speaks of these gentlemen as being disloyal to the Union; and therefore, with the permission of the Senator from New York, I will read what they say themselves on that subject:

"It is said—and by frequent repetition you are made to believe it true—that the negroes and self-styled loyalists cannot have justice and are unsafe among us, and that we are still in a state of rebellion. The charges are false. Ever since the war ended our courts and upright judges in them have administered justice as impartially as anywhere else in the land, and toward the negroes, (who aided the South as cheerfully while within the confederate lines as they afterward aided the northern armies when and where they had power,) we have been, both from inclination and interest, humane and kind. The slanderers who say otherwise are of those who are seeking to enslave us with your aid. They arrogate to themselves the majesty of the Government of the United States, and call our opposition to them in their nefarious schemes to impose upon us here a new and unheard of despotism—disloyalty to the United States."

That is what they say for themselves.

Mr. SUMNER. Before the Senator from New York proceeds, I desire to correct an error into which the Senator from Wisconsin has fallen with reference to one of his authorities. He leans confidently upon Mr. Perry as a loyal man.

Mr. DOOLITTLE. My information is that he is.

Mr. SUMNER. He says now that he does. I interrupted him to say he was mistaken. I have at home a document signed by him officially in the course of the war showing him at the time to be an officeholder under the rebellion.

Mr. DOOLITTLE. What office?

Mr. SUMNER. I think he was commissioner for impressments in the rebel service; and he is the man whose authority is invoked by the Senator!

Mr. DOOLITTLE. The Senator from New York [Mr. CONKLING] informs me that he was a member of the Legislature, but I understand he was opposed to secession, though a member of the Legislature, and with some others in the Legislature he strove to bring the war to an end.

Mr. SUMNER. I am trying to correct the Senator. I have said he was an officeholder during the rebellion, a commissioner for impressments. Now, there is something more. I have here an extract from the Charleston Mercury of May 30, 1861, containing a speech of B. F. Perry, at Greenville, South Carolina, May 20, 1861, from which I take the following words:

"I give my son, two horses, a negro boy, and fifty dollars to Brooke's cavalry, and will give my own services to the confederate cause whenever they may be required."

The date is May 20, 1861. Is not that man a rebel?

Mr. DOOLITTLE. It is possible I may be mistaken.

Mr. SUMNER. In the man?

Mr. DOOLITTLE. No; in relation to the position he held; but I will examine the question further, and then I will settle it with the honorable Senator on another occasion. My information was that he was a Union man opposed to secession.

Mr. CONKLING. Mr. President, I have sought the floor for the purpose of saying a word in reply to the honorable Senator from Massachusetts, [Mr. WILSON.] Earnest and positive as he always is, he is positive in nothing more than in matters relating to the subject of reconstruction. It has long been his habit

to be so; and he evinces a zeal which is certainly commendable unless it is turned invidiously upon some of his fellows. I have heard him several times speak in this Chamber in very strong terms of denunciation of the law as it stood until a recent repealing act, and which law interposes now an objection to the State of Alabama. I have never heard him until to-day, and I listened with surprise when I heard him to-day, denounce that law as one so gross, so palpable, and, to use a word of his, self-evidently obnoxious to propriety that he felt justified in exclaiming, "Who can defend a provision like that?" outraging, as he said it did, two or three principles which he stated. Mr. President, I can defend it. I had taken leave to say, in the hearing of the Senator before he made that statement, that I did defend it; that again to-day, or to-morrow, with the same lights before me, I would vote as I voted then, for it; and I can assign my reasons for that, which would combat the allegation that it violates these principles of which the Senator speaks.

But, Mr. President, what will be the surprise of the Senate to be reminded that the Senator himself voted for this law. I do not think there can be any mistake about that. He voted for the bill of which this is a provision. The Senator says, "of course." He voted for the bill then in spite of this provision; did he?

Mr. WILSON. I fought that provision and made at least half a dozen speeches against it.

Mr. CONKLING. Now, if I was disposed to be dramatic I would say, "I thank thee, Jew, for teaching me that word." Mr. President, he not only voted for the bill with this provision in it, but he voted specifically for the provision itself upon the test vote on the yeas and nays.

Mr. WILSON. The Senator is mistaken about that.

Mr. CONKLING. We shall see whether I am mistaken. The Senator from Vermont, not now in his seat [Mr. EDMUNDS] offered this provision:

"The constitution shall be ratified by a majority of the votes of the electors, qualified as herein specified, cast at said election, at least one half of all the registered voters voting upon the question."

That was the proposition. The Senator from Illinois, [Mr. TRUMBULL] who hears me, made a struggle against it, as the record shows. So did the Senator from Indiana, [Mr. MORRIS], who, therefore, did not exhibit, like my friend from Massachusetts, the zeal of a neophyte to-day when he again denounced it. But how stands the record upon the vote?

"Mr. EDMUNDS. Let us vote on this."

When a proposition to postpone was made. Mr. TRUMBULL, and others. We can get through to-night as well as at any other time.

"The President *pro tempore*. The question is on the amendment of the Senator from Vermont."

"Mr. EDMUNDS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 18; as follows."

And among the yeas, among the affirmative votes thus cast for this proposition, standing naked and isolated by itself, is the conspicuous name of the honorable Senator from Massachusetts. Now, Mr. President, he had good reasons—

Mr. WILSON. I can explain the whole of it if you do not.

Mr. CONKLING. I certainly will explain the whole, if I have not done so. I do not think there is any more to explain until you turn over to the report of the committee of conference which contains this also, and for which the honorable Senator voted. It is possible the Senator refers to this by his term "all of it." Preceding this in the debate was a proposition that not only a majority of all the registered votes should be cast, but cast in favor of the proposition. That was the first proposition. That the honorable Senator opposed with great zeal and with very copious reasons; and I remember, aside from the record, very well what he said. As a compromise afterward, a common ground upon which a majority, at least, could meet, it was proposed to provide, not that a majority should

vote upon the affirmative side of the proposition, but that at least one half of the elective population, as ascertained by registration, should have a hand in setting up governments; and for that proposition, standing alone and by itself, and not attached to any other portion of the bill, I repeat that my honorable friend did vote.

Mr. President, he had good reasons for doing it. He had good reasons in answer to this summons, this challenge which he vaunts, "how can anybody defend a provision like this?" These, I undertake to say, were two of his reasons, without stopping to give others: we were setting up a military government; as his colleague expressed it, a government based upon the bayonet, I think was his very phrase. It was an anomaly; it was a pioneer experiment, and a very extraordinary one in a republican government. Men shrank from it; men trembled at its consideration. One of the first safeguards which occurred to practical minds considering this subject was the importance of so arranging that it should not be charged truly, or even plausibly, that the bayonet not only had governed these States as provinces, but that the bayonet had brought into existence permanent governments based upon the assent of only a fraction of the people, based upon proceedings in which participation was had only by a minority of the people, and therefore it was first thought that there should be a majority in favor of the governments which were to be set up; but the Senator from Massachusetts and others argued, and argued so successfully as to convince the Senate against that. But then it was said, let us at least have one quarter of the elective population of the States in favor of it, and let us at least establish a provision which shall require one half of those, after deducting all the disfranchised, whose names are borne upon the roll. Without amplifying this, it will be seen by Senators, and they will recall the fact, that it had great weight in the consideration.

But there was another reason, and a reason which no doubt, looking to the future of these States, bore as strongly with my friend as the reason which I have assigned. This was an act enabling these communities to vote not only, but enabling these communities to be registered also: and I beg the attention of the Senator from Massachusetts to this one suggestion, which is the only one with which I shall trouble the Senate in answer to his challenge about advocating such a measure. I say this was a bill designed not only to enable voting to take place, but to enable registration, to establish registration lists which should allow to come to the ballot-box all those to whom we intended to extend the ballot. Now, sir, does not everybody see that if the provision had been originally that one half of the votes cast should control at the election the strongest possible inducement would have been offered to the enemies of reconstruction, to rebels of all shades and denominations, to prevent the negroes being registered? Does not everybody see that the smaller the register was kept and the more it was confined to rebels the more certain it would be that the majority of votes cast would also cast the die in the end? Everybody must see this, and seeing it, everybody will see, also, that the most effectual thing to be done in this regard was to offer to the loyal population the opportunity and inducement to be registered, and at the same time to offer to the rebels the strongest possible inducement to permit the loyal people to register and to aid them in doing so, because if the registration was swollen, if it came up to the full truth of the matter, it would give of course to the rebels who sought to defeat the constitution the more hope that less than one half of this vote thus registered might find its way into the ballot-box.

Now, Mr. President, without detaining the Senate any further, I submit to the honorable Senator that here were two good reasons which justified my honorable friend from Illinois [Mr. YATES] in the remarks that he made,

that the wisdom of this measure is not to be weighed by considerations as they stand now, but by considerations as they stood then. We are to look at it in the light of surrounding circumstances as they then were; and putting ourselves back where we stood then, I think we shall all be able to see that the honorable Senator from Massachusetts, and those upon whom he reflected so severely, whether by intention or not, had very firm foundations under their feet when they stood upon this provision.

Mr. CONNESS. It is now too late to continue this discussion this evening, and therefore I move that the Senate proceed to the consideration of executive business.

Mr. WILSON. The Senator will allow me to say a single word before that is done.

The PRESIDENT *pro tempore*. The question is on the motion for an executive session.

Mr. WILSON. I will give way until to-morrow.

Mr. CONNESS. I will give way long enough to allow the Senator to take the floor for the morning.

Mr. WILSON. Mr. President—

Mr. CONNESS. Now, sir, I renew the motion for an executive session, the Senator from Massachusetts having the floor.

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. CONNESS. I hope that will not be done. I desire to have an executive session, if the Senate will give it to me. It will not occupy a very long time.

Mr. HENDRICKS. Is it to consider a treaty?

Mr. CONNESS. No, sir.

Mr. HENDRICKS. Then I withdraw my motion?

The PRESIDENT *pro tempore*. The motion to adjourn being withdrawn, the question recurs on the motion of the Senator from California, that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

FRIDAY, June 5, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The reading of the Journal of yesterday's proceedings was, by unanimous consent, dispensed with.

### REPORT OF GENERAL JAMES F. RUSLING.

Mr. DAWES, from the Committee of Elections, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to communicate to this House the report of Brevet Brigadier General James F. Rusling, inspector in quartermaster's department, to the Quartermaster General for the year ending the 30th of June, 1867.

### PATENT OFFICE REPORT.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed fifteen thousand extra copies of the report of the Commissioner of Patents; ten thousand for the use of the House, and five thousand for the Commissioner.

### REPORT OF GEORGE W. BREGA.

Mr. LAFLIN, from the same committee, also reported the following resolution:

*Resolved*, That there be printed two thousand five hundred copies of the letters of the Secretary of the Treasury, together with the report of George W. Brega, relating to the trade with British North American Provinces; two thousand for the use of the House, and five hundred for the Treasury Department.

Mr. HARDING. I hope the House will not adopt this resolution to print a mere partisan report, a one-sided report on a question which involves the welfare of the country. It is an argument for a new reciprocity treaty under the pretense of a letter from the Secretary of the Treasury. I have read the document. The House can inform itself on the subject without being lectured by a partisan of reciprocity.

Mr. BLAINE. I agree with the gentleman from Illinois, and I hope it will not be printed.

Mr. LAFLIN. The House cannot expect the committee to read all the documents referred to them. This is the report of a special commissioner appointed by the Secretary of the Treasury to investigate this subject.

Mr. BLAINE. What will be the cost?

Mr. LAFLIN. About seventy-five dollars per thousand.

Mr. BLAINE. About three hundred dollars.

Mr. LAFLIN. It is already printed and in type, and these extra copies will cost only \$167. I demand the previous question.

The House divided; and there were—ayes 30, nays 20; no quorum voting.

Mr. LAFLIN. I withdraw the report for the present.

### SMITHSONIAN REPORT.

Mr. LAFLIN, from the same committee, also reported the following resolution:

*Resolved*, That there be printed five thousand extra copies of the report of the Smithsonian Institution, three thousand for the House and two thousand for the institution; the same to be stereotyped at the expense heretofore provided for.

Mr. HOLMAN. Is this the whole number?

Mr. LAFLIN. It is.

The resolution was adopted.

### COAST SURVEY REPORT.

Mr. LAFLIN, from the same committee, reported the following resolution; which was read, considered, and agreed to:

*Resolved*, That there be printed twenty-five hundred extra copies of the report of the superintendent of the United States Coast Survey, one thousand for the superintendent, and fifteen hundred for the House.

Mr. LAFLIN moved to reconsider the votes by which the several resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### ARMY APPROPRIATION BILL.

Mr. BLAINE. I submit the following privileged report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to House bill No. 668, making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes, having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from its disagreement to the first, second, third, fourth, and sixth amendments of the Senate, and agree to the same.

That the Senate recede from so much of its fifth amendment as proposes to insert in lieu of the words stricken out, and agree to said amendment as so modified.

JAMES G. BLAINE,

CHARLES E. PHELPS,

JAMES A. GARFIELD,

*Managers on the part of the House.*

L. M. MORRILL,

HENRY WILSON,

T. O. HOWE,

*Managers on the part of the Senate.*

Mr. BROOKS. This is like all conference reports, not understood by anybody except those who make them. I should like to have an explanation of it.

Mr. BLAINE. We covered into the Treasury all outstanding appropriations belonging to the Surgeon General's department. The Senate amended that, excepting the appropriations made March 2, 1867, \$70,000 for artificial limbs for soldiers, and \$10,000 for Army Medical Museum. The House agree to that.

The second amendment is to insert after the word "hereby" the word "directed to be;" so that it will read "hereby directed to be covered into the Treasury."

The third amendment is to insert after the word "Treasury" the words "at the close of the fiscal year;" so that the money shall be covered on the last day of that month instead of the day when the bill is approved.

The fourth amendment of the Senate is to strike out the appropriation, "for expenses of the signal service, \$5,000." The committee on the part of the House yielded to that, and agreed to strike it out.

The fifth amendment of the Senate was to insert the following:

That from the small appropriation for each of the several items contained in this act there be deducted the unexpended balance for such items which may remain in the Treasury on the 30th of June, 1868.

That covered into the Treasury these items by limitation. It was thought that there might be more items; so the Senate receded from that amendment.

The sixth amendment of the Senate was to add the following section:

That of the appropriation of \$60,000 for publishing the medical and surgical history of the rebellion and the medical statistics and of the Provost Marshal General's office made in an act approved July 28, 1866, \$30,000 shall be devoted to the appropriation and publication of five thousand copies of the medical statistics of the Provost Marshal General's Bureau, and that the work shall be compiled by Assistant Medical Purveyor J. H. Baxter, under the immediate direction of the Secretary of War, and without the interference of any other officer.

This is to carry out a provision in the appropriation bill of July 28, 1867, and is really to adjust a matter of dispute between two officers in the medical bureau. It does not make any fresh appropriation and it finishes the work.

With this explanation I call for a vote on the report of the committee of conference.

The report was agreed to.

Mr. BLAINE moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### RECOVERY OF CONFEDERATE PROPERTY.

Mr. WASHBURN, of Wisconsin. I rise to a privileged question. I call up the motion to reconsider the motion made on the 23d of April last to print a communication from the Secretary of the Treasury in reply to a resolution of the House of the 26th of November last relative to certain efforts of that Department for the recovery of confederate property in Europe. I call up the motion merely for the purpose of making another motion to print only so much of the report as is in manuscript. There is a large mass of printed matter which it is unnecessary to print. It will only create an unnecessary expense. Therefore if the motion to reconsider prevails I shall then make the motion to print only that which is in manuscript.

The motion to reconsider was agreed to; and the House then ordered that only the part in manuscript be printed.

Mr. WASHBURN, of Wisconsin, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### MORNING HOUR.

Mr. MAYNARD. I call for the regular order.

The SPEAKER. The regular order in the morning hour is the call of the committees for reports of a private nature, commencing with the Committee on the Judiciary.

### THOMAS H. STEVENS.

Mr. FERRY, from the Committee on Naval Affairs, reported back a joint resolution (H. R. No. 172) relative to Captain Thomas H. Stevens, of the United States Navy, recommending its passage.

The resolution authorizes the President of the United States to nominate for advancement, and, by and with the advice and consent of the Senate, to advance Captain Thomas H. Stevens not exceeding twenty-one numbers on the list of captains in the Navy, for gallant, faithful, and efficient service during the war of the rebellion.

Mr. FERRY. The Committee on Naval Affairs having given this case a thorough examination, have unanimously instructed me to report this resolution. Instead of occupying the time of the House by reading the report already printed in the case, I will state that under the act of July 25, 1866, the Secretary of the Navy was authorized to make promotions in the several grades of the Navy, and to



select from officers "who have rendered the most efficient and faithful service during the recent war, and who possess the highest professional qualifications and attainments."

I desire to call the attention of the House to the following extract from a letter from Rear Admiral Wilkes, in testimony not only of the gallant services, but especially of the qualifications requisite for the promotion:

I have had many and favorable opportunities, having been associated with him—Commander Stevens—and he served under my command in the James river and in the West Indies, most of the time under my immediate observation. His patriotism is beyond doubt; his ability as an officer is second to none in the Navy; he has at all times given me on duty entire satisfaction in the performance of his duties, and the zeal with which he executed them. I think him a high-toned officer and a gentleman, and know him to be an ornament to the service; his duties engrossed his whole attention, ever ready and prompt in their execution, winning my entire satisfaction and confidence in his willingness, activity, and ability in the execution of orders. His command was always held ready for duty, and through his example, energy, and good management he fulfilled many orders, overcoming great difficulties he had to encounter. He is brave and chivalric; no officer could have shown more attachment to the Union cause during the late war, and none exerted themselves more to maintain and restore the Union and uphold the honor of our flag.

I have the honor to be, very respectfully,  
CHARLES WILKES,  
Rear Admiral.

Hon. GIBBON WELLES,  
Secretary of the Navy, Washington.

Also to the following, from the same admiral:

"In arduous cruising in the West India squadron, under my command, he upheld the honor of our flag with spirit on several occasions, and was intrusted with the execution of orders on detached service. In my opinion, no officer could have shown more attachment to his country's cause, or more efficiency in putting down the rebellion.

"For his services, bravery, and energy in carrying out orders, I think our country owes him promotion, and truly consider him entitled to it. His long and arduous chase of the Florida on the Bahama banks should alone have advanced him to a higher grade."

I have deemed it my duty to read so much in behalf of the professional qualifications and attainments of Captain Stevens. I now desire to call the attention of the House to the fact that this same Captain Stevens commanded the steamer Michigan upon the northwestern lakes when the war broke out, and in testimony of his qualifications as an officer, I will state the fact that standing second only in a class of thirty-seven when he graduated, he was well fitted and chosen to be placed in command of this steamer upon the lakes, the only steamer commanding the northwestern lakes. When the war broke out, at the firing of the first gun, he tendered his services to the country, and begged the privilege of recruiting men for that service. Orders were immediately issued to him for that purpose, and he recruited three hundred men upon the lakes and proceeded with his Spartan band to the coast, and there did effective service as his subsequent war record will preëminently show.

I desire to read very briefly, in corroboration of what I state, this from Commander Jovett:

"As the executive officer of the steamer Michigan, he performed his duties promptly, efficiently, and faithfully, setting a noble example of officer-like conduct and patriotism. Men were uncertain in those days. He stood boldly forth in deprecating disloyalty. I served with him in the squadron off Mobile. He sustained the high reputation he had previously made off Charleston, South Carolina, for courage and dash. He was spoken of as the gallant Tom Stevens."

In further corroboration, I read the following from Commodore Rodgers:

"I have within the last month been sent upon three expeditions, and have always had the good fortune to have Stevens with me, and to embark on board his vessel. I have had the opportunity to observe the admirable manner in which he commands the Ottawa, and the skill with which she is handled. I have also been much struck by the attachment and confidence with which he has inspired his officers and men."

And from Admiral Dahlgren:

"I strenuously urged the claims of Commander Stevens to promotion, in connection with others, for meritorious conduct in presence of the enemy."

Sir, the reason why I have taken up the time of the House in reading these testimonials in behalf of Captain Stevens is that, for some rea-

son unknown to the committee, this gallant captain has been overslaughed by some official manipulation; he has been laid one side, while others who have done less service and been less gallant have been raised to higher positions, not only in their grades, but have been transferred from one grade to another.

I will state in this connection that although this officer stood above Captain Howell in his class when he graduated, Captain Howell has been promoted over him, and some thirteen other officers have been raised in their own grade or transferred from one rank to another, some of whom never smelt powder, while Stevens served throughout the war, writing a record that will live imperishably in the annals of his country. In justice, however, to Captain Howell, I may say that he and other associate officers, not only do not oppose, but magnanimously declare that Captain Stevens should be promoted. He has not only been a gallant officer, but has shown his gallantry in thirty successive engagements, winning for himself, by his dash and fighting qualities, the *soubriquet* of "Fighting Tom Stevens." He has commanded no less than four monitors and three ships and steamers-of-war; has captured or participated in the capture of twelve forts and six rebel vessels of war.

I call the attention of members of the House to the report of the committee, which presents succinctly in chronological order the number of engagements in which he took conspicuous part. If there was nothing else in his brilliant record to distinguish him his heroic act at the attack on Fort Moultrie should commend him to the gratitude of his countrymen. It was in great measure a counterpart of the act that gave fame to Commodore Perry, who, leaving the dismantled Lawrence to seek the deck of the Niagara, and raising her flag of "Never give up the ship," thus infusing new courage and animation in the hearts of his men, by that very act, as the historian relates, turning the engagement in our favor and winning his imperishable laurels on Lake Erie. So, also, did this Captain Stevens in the attack on Fort Moultrie pass in an open boat from his own monitor to the Ironsides under the incessant fire of fort and batteries. Catching the signal of his commander, Rear Admiral Rowan, to change position, and conscious that the admiral was not aware of the favorable raking fire he was pouring into the batteries of the enemy, he leaped into his boat, and crossing over to the Ironsides in the midst and under that furious fire of fort and batteries, communicated to his commander his favorable position, where he was damaging the enemy, and received from his commander the response, "Go back and fight at your discretion; the signals were not meant for you." Thus he exposed himself in an open boat to the fire of fort and batteries, as Commodore Perry did to the broadsides of three ships and showers of musketry. By that act he placed himself side by side with the intrepid Perry. History gives us very few instances of such heroic bravery. Only one other conspicuous instance occurs to me, and that was during the second Dutch war, when the English Admiral Sprague left his vessel twice, but was drowned by too well directed shots from the Dutch fleet, cutting his boat and ships to pieces.

To-day you may see the memorial of grateful citizens to the distinguished Perry as he stands chiseled in marble in view of Lake Erie, the silent witness of the waters that sweep to posterity his immortal fame. And now for this gallant Stevens, equally brave and in his station equally heroic, the simple, I might say almost pitiable, recognition is asked of an advance of twenty-one numbers in his present grade.

Let me add in behalf of Captain Stevens, that he is so modest that he has declined the tender made him by the committee, grateful for his eminent services, that the resolution provide instead for his promotion from one rank to another, saying to this offer that he only wished to be placed after the war relatively where he was before the war. With the war record he

has won for himself already a part of our country's history; he stands forth a man whose modesty is only equaled by his gallantry.

I believe I have sufficiently, though very imperfectly, placed the merits of Captain Stevens before the House, and if no other gentleman wishes to combat my presentation of his services, or if it is thought not necessary to say any more in his behalf, and I think it is not, I will call the previous question.

Mr. BROMWELL. Will the gentleman withdraw that call for a moment?

Mr. FERRY. For a question, yes, sir.

Mr. BROMWELL. I wish to inquire if this joint resolution provides for the care of any other person than Captain Stevens?

Mr. FERRY. It does not.

Mr. BROMWELL. There are several other officers who are in the same situation. I have obtained considerable information about some of these promotions. There is no doubt in the world that men who have commanded ships for twenty years with the most signal ability and success have been put aside, while men who have not shown themselves under the fire of the enemy have been promoted over their heads. I understand there are about fifteen or twenty of these commanders who have been treated in that manner. Among them is Commander Young, whose history I have learned. He stands in almost the very same relations to the Navy that Captain Stevens does. Commander Young for six months commanded a monitor under water, the most dangerous and disagreeable service possible. He, like Captain Stevens, has given the most entire satisfaction under every circumstance to his commanders and to the country.

So far as this bill is concerned, the only regret I have about it is that it does not provide for a rehearing in all these cases, so that these officers can take the rank to which they are entitled. They are now put behind fifteen or twenty others who should be their juniors, and never can reach the grade of admiral by seniority during their natural lives.

Mr. FERRY. In reply to the gentleman I will say that if he will present a case as meritorious as the one I am now advocating, I will go with him with all my heart, and be in favor of reporting a bill in his favor. I now call the previous question.

The previous question was seconded and the main question ordered.

The joint resolution was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FERRY moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMMANDER JOHN L. DAVIS.

Mr. HAIGHT, from the Committee on Naval Affairs, reported a bill (H. R. No. 1158) for the relief of Commander John L. Davis; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It authorizes the proper accounting officer of the Treasury to pay to Commander John L. Davis the sum of \$271 91 out of any money in the Treasury not otherwise appropriated.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HAIGHT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CAPTAIN JAMES F. ARMSTRONG.

Mr. HAIGHT, from the Committee on Naval Affairs, reported a joint resolution (H. R. No. 287) for the restoration of Captain James F. Armstrong, United States Navy, to the active

list from the retired list; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was read at length. It authorizes the President of the United States to nominate, and by and with the advice and consent of the Senate to appoint, Captain James F. Armstrong to the active list of the Navy, with the rank to which he may be entitled thereon.

Mr. HAIGHT. Mr. Speaker, the memorial of Captain Armstrong was referred to the Committee on Naval Affairs, and a thorough investigation was made of the case. All the papers relating to it were on file in the Navy Department, and a sub-committee of the Committee on Naval Affairs went to the Department and examined the papers there on file, which are all fully set out in the report. As the report is not very long, and as it gives a succinct statement of the facts, I ask that it be read.

The Clerk read the report, as follows:

The Committee on Naval Affairs, to whom was referred the memorial of Captain James F. Armstrong, of the United States Navy, to be restored to the active list from the retired list, have had the same under consideration and report:

That the memorialist entered the Navy of the United States on the 7th of March, 1832; has been in the service for thirty-five years and eleven months, and is now fifty years old; that nineteen years and seven months of his service has been passed at sea, eight years on shore duty, and eight years and three months unemployed.

He was regularly promoted in due course to the rank of commander, and as the approval and recommendation of the advisory board of 1862 would indicate, without any reflection upon his moral or professional character and fitness. There is nothing special in the early period of his professional life to attract attention beyond the fact that he performed his duties creditably to himself and the service, and in such a manner as to secure the approbation of his superior officers.

As early as the year 1855, while holding the rank of lieutenant, he was ordered to the command of the sloop-of-war *Jamestown*, of the African squadron. Upon the return home in ill-health of her former commander, Ellison, he retained that position for several months, and until relieved by the appointment and arrival of his successor, Commander Ward, in 1859, was again attached to the African squadron in command of the steamer *Sumter*, and while there was assigned to special service. The testimony of Commodores Crabb and Dornin, on file in the Navy Department, establishes the fidelity and efficiency with which his duties were performed while on the African station.

On the 7th of January, 1860, he was assigned to the command of the steam frigate *San Jacinto* during her voyage to Cadiz for repairs by Commodore Inman, flag officer commanding United States African squadron. On his return to the squadron, late in the summer of that year, Commodore Inman publicly commended him for his "intelligent and judicious performance of the trying special duty confided to him."

On his return to the United States in command of the *Sumter*, in the fall of 1861, having applied to the Navy Department for orders, was assigned to duty on the coast of North Carolina, in command of the steamer *State of Georgia*, attached to the North Atlantic blockading squadron. He remained in that responsible position for nearly two years, frequently engaging the shore batteries and participating in the capture of several prizes, as well as in the action which resulted in the capture of Fort Macon in April, 1862.

On the 19th of January, 1864, he took command of the *San Jacinto*, and while connected with that ship incurred for the first time the censure of his superior officer. On the 20th of March, 1864, he was suspended from his command by Admiral Bailey, and shortly afterward was ordered to report to the Secretary of the Navy, to whom the record of proceedings of a court of inquiry, held to investigate his conduct during the two months preceding its session, was at the same time forwarded.

The court of inquiry was convened at Key West on the 23th of March, 1864, by Admiral Bailey, to examine into specifications or charges preferred against Commander James F. Armstrong for intemperance from January 20, 1864, to March 20, 1864, a period of two months, and while in command of the *San Jacinto*.

The court of inquiry simply reported the evidence taken before them, without recommending any action. A number of witnesses were examined, and in the opinion of the committee the evidence establishes the facts:

First. That upon at least two convivial occasions at dinner parties, while in port at Key West, Commander James F. Armstrong was guilty of undue indulgence.

Second. That his general conduct in respect to vigilance and attention to duty, as testified to by almost every witness, was unexceptionable.

The board of examination for the promotion of officers in the Navy under the act of April 21, 1864, assembled at Washington, July 1, 1864, Commander James F. Armstrong, by order of the Secretary of the Navy, appeared before the board on the 5th of

August, 1864. The board was composed of Commodores Engle, McKeon, Glendy, and Harwood.

The following are among the witnesses examined by the board touching the promotion of Commander Armstrong: Commodore Dornin, Commander Yard, Surgeon Foltz, Captain Scott, Rear Admiral Goldsborough, Commodore Crabb, Rear Admiral Paulding, Captain Goldsborough, and Commander Quackenbush.

The finding of the board is on record at the Department, and is as follows:

*Finding of the board of officers assembled at Washington to examine officers for promotion in the case of Commander James F. Armstrong.*

In coming to a decision in the case of this officer, the board deem it due to him to state that previously to the occasions that gave rise to the court of inquiry above referred to, the conduct of Commander James F. Armstrong has been uniformly meritorious, as is shown by all the testimony, oral and documentary, produced before the board touching his official career. It is consequently with great regret that, in view of recent instances of excess in the use of intoxicating liquors, established on the part of Commander Armstrong by proof before the court of inquiry mentioned above, and on that account only, that the board feel themselves obliged not to recommend Commander James F. Armstrong for further promotion on the active list.

T. ENGLE, President of Board.

The evidence taken before the foregoing board shows that the investigation extended over the whole period that Commander Armstrong was in the Navy, and that the board did not pass upon the facts, but refused to recommend him for promotion.

From a careful analysis of the testimony adduced before the board, the committee are of the opinion that the difficulty was owing to accidental or untoward causes, and had not grown out of, or was the result of a settled practice or habit, and they are satisfied that Commander Armstrong never was addicted to a habit of undue indulgence.

Captain Armstrong was ordered by the Secretary of the Navy to the command of the navy-yard at Pensacola, in October, 1864, a position of great importance at that time, and has continued to discharge the duties there since October, 1864.

The committee from the evidence before them are satisfied that since March, 1864, Captain James F. Armstrong has not used any intoxicating liquor whatever. Under the circumstances the committee consider that the prayer of the memorialist ought to be granted; and they report a bill accordingly.

Mr. HAIGHT. I hold in my hand a letter from the Navy Department relating to the case of Captain Armstrong, and I ask the Clerk to read it.

The Clerk read as follows:

NAVY DEPARTMENT,  
BUREAU OF YARDS AND DOCKS,  
WASHINGTON, D. C. February 10, 1868.

SIR: In response to your inquiry of the 8th instant, regarding the memorial of Captain James F. Armstrong to be restored to the active list, I have to say that Captain Armstrong during the three years he has been in command of the navy-yard at Pensacola, Florida—which yard has been under the supervision of this bureau—has conducted his duties with entire satisfaction to the bureau.

I consider him an intelligent and competent officer, and, as far as I know, of irreproachable character during his service in that command.

I learn from other officers that Captain Armstrong bears the character I give him generally with them during the period of his command. His antecedents, as to his retirement, I have no knowledge of.

I have the honor to be, your obedient servant,  
JOSEPH SMITH, Chief of Bureau.  
Hon. CHARLES HAIGHT, M. C., Washington.

Mr. HAIGHT. I have also a number of letters from those familiar with Captain Armstrong's conduct and course since he has been in command of the navy-yard at Pensacola; and I will also state that while this memorial has been under consideration in the committee, a number of naval officers have been consulted in regard to the propriety of the measure now proposed, and they have unanimously expressed the opinion that the resolution ought to pass.

The joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. HAIGHT moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUBLIC BUILDINGS IN COVINGTON, KENTUCKY.

Mr. JONES, by unanimous consent, introduced a bill (H. R. No. 1159) to erect United States court rooms, post office, and internal revenue offices in the city of Covington, Kentucky; which was read a first and second time, and referred to the Committee on Appropriations.

GEORGE LYNCH.

Mr. MULLINS, from the Committee on Revolutionary Pensions and of the War of 1812, reported back, without amendment, a bill (S. No. 320) entitled "An act for the relief of George Lynch, a soldier of the war of 1812."

The bill, which was read, proposes to allow to George Lynch, a soldier of the war of 1812, a pension at the rate of twenty dollars per month, in lieu of the pension of eight dollars per month now received by him, to commence from the passage of this act and to continue during his natural life.

Mr. MULLINS. The claimant in this case asks at the hands of the Government an increase of the pension which he has been receiving. He served faithfully during the war of 1812, and while in service, being exposed to severe cold, he was frost-bitten, and in consequence his feet were partially amputated. Being incapacitated for gaining his own support by his labor, he is now at the Soldier's Home, remote from his friends, receiving a pension of eight dollars per month. Having served the country faithfully in his manhood, he now, in his hour of age and distress, asks relief from the country for which he sacrificed his strength. Your committee believe the country ought to reward him according to his prayer.

The bill was ordered to a third reading, read the third time, and passed.

Mr. MULLINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN WELSH.

Mr. PRICE, from the Committee on Invalid Pensions, reported adversely upon the petition for an increase of the pension of John Welch; which was laid on the table.

CLARK COUNTY, WASHINGTON TERRITORY.

Mr. FLANDERS, by unanimous consent, introduced a bill (H. R. No. 1160) to enable the county of Clark, in the Territory of Washington, to provide a fund for extinguishing the indebtedness of said county; which was read a first and second time, and, with accompanying papers, referred to the Committee on the Territories.

PENSIONS.

The Committee on Invalid Pensions being called for reports of a private nature,

Mr. PERHAM said: As much of the private business of our committee will depend upon the action of the House on a general bill which we are ready to report, I ask unanimous consent to report that bill at this time.

There being no objection,

Mr. PERHAM, from the Committee on Invalid Pensions, reported back a bill (H. R. No. 1010) relating to pensions.

The bill provides, in the first section, that the laws granting pensions to the hereinafter mentioned dependent relatives of deceased soldiers leaving neither widow or child entitled to pension under existing laws, shall be so construed as to give precedence to such relatives in the following order, namely: first, mothers; secondly, fathers; thirdly, orphan brothers and sisters, who shall be pensioned jointly if there be more than one. It is provided that if in any case the soldier shall have left both father and mother who were dependent upon him, then on the death of the mother the father shall become entitled to a pension, commencing from and after the death of the mother. No pension heretofore awarded is to be affected by anything herein contained.

The second section proposes to enact that the act entitled "An act to grant pensions," approved July 14, 1862, and the acts supplementary thereto or amendatory thereof, shall not be construed to authorize the allowance of a pension, or to confer a right thereto by reason of a disability incurred or disease contracted after the 1st day of January, 1863, or death resulting therefrom, but the laws in force prior to the said act of July 14, 1862, shall, except as to

the rate of pension, alone govern in the adjudication of all claims which have been or shall hereafter be made to a pension by reason of a disease contracted, a disability incurred, or a casualty occurring on or after the said 1st day of January, 1868, in the military or naval service of the United States, or death resulting therefrom.

The third section provides that so much of the acts approved April 6, 1838, and August 23, 1842, as requires that pensions remaining unclaimed for fourteen months after the same have become due shall be adjusted at the office of the Third Auditor be repealed; and the failure of any pensioner to claim his or her pension for a period of two years after the same shall have become due shall be deemed presumptive evidence that such pension has legally terminated by reason of the pensioner's death, remarriage, recovery from disability, or otherwise, and the pensioner's name shall be stricken from the rolls, subject to the right of restoration to the same on a new application, with evidence satisfactorily accounting for the failure to claim such pension.

It is provided in the fourth section that if any officer, soldier, seaman, or enlisted man has died since the 4th day of March, 1861, or shall hereafter die, leaving a widow entitled to a pension, and a child or children under sixteen years of age by a former wife, each of said children shall be entitled to receive two dollars per month, to commence from the death of their father and continue until they severally attain the age of sixteen years, to be paid to the guardian of such child or children for their use and benefit. But in all cases where such widow is charged with the care, custody, and maintenance of such child or children, the said sum of two dollars per month for each of said children shall be paid to her for and during the time she is or may have been so charged with the care, custody, and maintenance of such child or children, subject to the same conditions, provisions, and limitations as if they were her own children by her deceased husband.

The fifth section proposes to enact that all pensions which have been granted in consequence of death occurring or disease contracted, or wounds received, since the 4th day of March, 1861, or may hereafter be granted, shall commence from the discharge or from the death of the person on whose account the pension has been, or may hereafter be, granted, provided that the application for such pension has been, or shall hereafter be, filed with the Commissioner of Pensions within five years after the right thereto shall have accrued.

The sixth section provides that immediately upon the passage of this act, or as soon thereafter as may be practicable, without awaiting application, it shall be the duty of the Commissioner of Pensions to notify by letter all pensioners entitled to the benefits of the provisions of the foregoing section, of the amount to which they may be entitled, and to pay, or cause to be paid to them respectively, all such arrears of pensions as may be due under the provisions of the foregoing section. And no claim agent or other person is to be entitled to receive any compensation for services in making application for the arrears of pension under this and the preceding section.

It is provided in the seventh section that section eleven of an act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1866, be amended so as to read as follows: "That if any officer, soldier, or seaman shall have died of wounds received or of disease contracted in the line of duty in the military or naval service of the United States, leaving a widow and a child or children under the age of sixteen years, and it shall be duly certified under seal, by any court having probate jurisdiction, that satisfactory evidence has been produced before such court that the widow aforesaid has abandoned the care of such child or children, or is an unsuitable person, by reason of immoral conduct, to have the custody of the same, or on presenta-

tion of satisfactory evidence to the Commissioner of Pensions, then no pension shall be allowed to such widow until said minor child or children shall have become sixteen years of age, any previous enactment to the contrary notwithstanding; and the minor child or children aforesaid shall be pensioned in the same manner as if no widow had survived the said officer, soldier, or seaman, and such pension may be paid to the regularly authorized guardian of such minor or minors."

The eighth section provides that section six of an act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1866, be amended and reenacted so as to read as follows: "That if any person entitled to a pension has died since March 4, 1861, or shall hereafter die while an application for such pension is pending, and after the proof has been completed, leaving no widow and no minor child under sixteen years of age, his or her heirs or legal representatives shall be entitled to receive the accrued pension to which the applicant would have been entitled had the certificate been issued before his or her death."

It is provided in section nine that the remarriage of any widow or dependent mother otherwise entitled to a pension prior to the application therefor, or to the issue of a pension certificate to her, shall not debar her right to a pension for the period elapsing from the death of her husband or son, on account of whose services and death she may claim a pension, to her remarriage. But nothing in this section is to be construed to repeal or modify the fourth section of an act entitled "An act supplementary to the several acts granting pensions," approved March 3, 1865.

The tenth section enacts that the provisions of the ninth section of an act approved July 4, 1864, entitled "An act supplementary to an act to grant pensions," be hereby continued in force for five years from the 4th day of July, 1867.

The eleventh section proposes to repeal all acts and parts of acts inconsistent with the foregoing provisions of this act.

Mr. PERHAM. On behalf of the committee, I move to amend by striking out in the fourth line of the first section the word "soldiers," and inserting in lieu thereof the word "persons," so that the phrase will read "dependent relatives of deceased persons."

The amendment was agreed to.

Mr. PERHAM. I also move to amend by inserting after section ten, the following as a new section:

That section one of an act entitled "An act supplementary to the several acts relating to pensions," approved June 6, 1866, shall be so construed as to secure to every person entitled by law before the passage of said act to a less pension than twenty-five dollars per month, who while on military or naval service and in the line of duty, having one eye, shall have lost the same, a pension of twenty-five dollars per month.

The amendment was agreed to.

Mr. PERHAM. I presume there will be no objection to any of the provisions of this bill if they are fully understood; and perhaps the shortest method of disposing of the question will be for me briefly to explain those provisions.

Mr. PETERS. I desire to suggest an amendment which I think ought to be made. The bill now provides in the first section:

That if, in any case, the soldier shall have left both father and mother who were dependent upon him, then on the death of the mother the father shall become entitled to a pension, commencing from and after the death of the mother.

I suggest the propriety of extending this provision to dependent brothers and sisters. I understand that this was included in the recommendation of the Commissioner of Pensions, but it has been omitted in the bill. Will the gentleman allow such an amendment to be offered?

Mr. PERHAM. Mr. Speaker, as to that I will say that the committee have considered that proposition two or three times, and we think that we have extended that provision about as far as we think the House would like

to extend it. But I do not know there would be any especial objection to allowing the gentleman to offer his amendment.

Mr. PETERS. There are cases where the preceding parties are dead and the soldier leaves dependent minor brothers and sisters. I know of such a case, where the preceding parties died immediately after the soldier, and did not live long enough to obtain a pension, leaving dependent minor brothers and sisters of the soldier.

Mr. PERHAM. I will yield to allow the amendment to be offered.

Mr. PETERS. I will draw the amendment and offer it hereafter. It is to provide, after the death of the father and mother, for the dependent minor brothers and sisters under sixteen years of age.

Mr. UPSON. The same amendment which the gentleman moved to the first section, line four, should be made in line ten.

Mr. PERHAM. It was overlooked. I move that amendment.

The amendment was agreed to.

Mr. PERHAM. Mr. Speaker, the first section of this bill simply defines the order in which pensions are to be granted.

The second section limits the pension to disease contracted in time of war. It will be understood that prior to the war all our laws granting pensions applied to wounds received and disease contracted during a time of war and not a time of peace. This places the law, so far as that is concerned, back to where it was, confining the right to a pension to such cases as occurred during a time of war.

The third section refers to unclaimed pensions. Gentlemen well know that, as the law now is, if a pension is not claimed within fourteen months of the time when it is due, it goes to the Third Auditor's office, and the party who has not done so and who is entitled to it must go there and through a long process to secure what is due to him. This gives it to the present Pension Bureau, and it provides when he shall make the proper proof he shall receive it through the regular pension agents just as they now receive their pension money.

The fourth section relates to the children of a deceased soldier by a former wife, and enables the widow to draw for them as well as for her own children. By the present law the widow is entitled to draw the pension of two dollars a month for each minor child, but not for the children which the deceased soldier may have had by a former wife. This extends it to those children.

The next section relates to arrears of pension. Almost every member knows that the invalid must make application within one year after the time of his discharge, in order to secure his pension from the date of his discharge. The provision of the law also is that those who apply as dependent mothers or minor children must make their application within three years, in order to have their pension date from the decease of the officer or soldier from whom they derive their right to a pension. This extends it for five years. It has been found that for many reasons persons entitled to pensions have delayed making their application for pension beyond the time provided in the present law, and their pensions date only from the date of the application.

Mr. UPSON. Does this section refer to pensions already granted? If so, can the gentleman state what will be the probable cost?

Mr. PERHAM. This section, as I have said already, provides for arrears of pensions. The next section provides in all these cases it shall be the duty of the Commissioner of Pensions to examine the applications; and it further provides that in those granted the money shall be paid through the regular pension agencies.

In regard to the expense, the amount that it will take to pay these arrears of pensions, the committee have been unable to get definite information. It is believed at the pension department that the sum would not be very large, although the exact information cannot



well be given at the present time; I would say, in regard to this matter, that there are now pending before the Pension Committee from sixty to eighty cases of this kind; persons who from various causes failed to make their applications within the time provided by law. Many of these are from Tennessee and the border States, where there was such confusion at the time that the parties were unable to make application as they should have done within the time prescribed.

There are many other instances in which persons were missing during the war and their friends were hoping against hope that they would finally return until the time expired within which the applications should have been made. In many cases the application was properly made by the applicant himself, but through some error in the mail or some fault on the part of the agent who did the business, the papers were not received at the proper time. Nearly all these cases we find upon examination were of such a character that we cannot properly reject them. We believe, therefore, whatever may be the expense—and we think it cannot be large—we cannot properly refuse pensions of that character.

The next section provides that in certain cases in which the mothers of the children of deceased soldiers may abandon their care, or from any cause may become unfit to have the custody of the children, application may be made to the probate court or the court having probate jurisdiction in the place where they reside, and a certificate that such a mother has become unfit to have the charge of the children be made to the Commissioner of Pensions, the pension may be issued to the guardian.

Mr. HOLMAN. Do I understand the effect of the provision to be to take away the pension from the widow in this case?

Mr. PERHAM. Yes, sir; it goes through the guardian to the child.

Mr. MILLER. It gives the allowance to the child. It does not affect the pension of the widow.

Mr. HOLMAN. It seems to me it does take away the pension from the widow which the law gives her, as well as the two dollars a month to the child. I ask the gentleman to allow the section to be read again.

Mr. PERHAM. The morning hour has nearly expired, and I desire to have the previous question seconded.

The previous question was seconded and the main question ordered.

The first question was on the amendment of Mr. PETERS, as follows:

In the first section after the word "mother" add the following:

And upon the death of the mother and father the dependent brothers and sisters under sixteen years of age shall become entitled to a pension, commencing from and after the death of the party who, preceding them, would have been entitled to the same.

Mr. HOLMAN. I suggest that that would not limit the pension to sixteen years of age.

Mr. PERHAM. "Sixteen years of age" applies of course to the children only.

Mr. HOLMAN. It seems to me to be defective.

Mr. PETERS. I see no trouble about it. It applies to the children.

Mr. HOLMAN. It is very clear that the limitation ought to be until they attain the age of sixteen years respectively. And the word "jointly" ought also to be inserted, because otherwise each one of the children would be entitled to the pension.

Mr. PETERS. That is regulated by another provision. I will, however, modify my amendment to meet the gentleman's objection.

The amendment, as modified, was read, as follows:

And upon the death of the mother and father the dependent brothers and sisters under sixteen years of age shall jointly become entitled to a pension until they attain the age of sixteen years respectively, commencing from and after the death of the party who, preceding them, would be entitled to the same.

The bill, as amended, was ordered to be engrossed and read a third time; and being

engrossed, it was accordingly read the third time.

Mr. HARDING. Does this bill provide for the payment to those soldiers who were killed by collision of cars?

Mr. PERHAM. It does not.

The bill was passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, announced that that body had agreed to the amendment of the House to the amendment of the Senate to the bill (H. R. No. 1117) to supply partial deficiencies in the appropriations for the service of the fiscal year ending on the 30th of June, 1868.

Also, that the Senate had agreed to the amendment of the House to the bill (S. No. 188) to amend an act entitled "An act for the relief of inhabitants of cities and towns on the public lands," approved March 2, 1867.

Also, that the Senate had agreed to the amendment of the House to the bill (S. No. 190) to further provide for giving effect to various grants of public land in the State of Nevada.

The message further announced that the Senate had directed the return to the House, in compliance with its request, of the act (H. R. No. 44) to change the name of the ship Golconda.

The SPEAKER. The morning hour has expired.

#### ENROLLED BILL SIGNED.

Mr. HOPKINS, from the committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 381) to extend the time for completing the military road authorized by an act entitled "An act granting lands to the States of Michigan and Wisconsin to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Keewenaw county, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin;" when the Speaker signed the same.

#### MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Colonel WILLIAM G. MOORE, his Private Secretary, who also informed the House that the President had approved and signed a bill and joint resolution of the following titles:

An act (H. R. No. 786) declaring St. George, Boothbay, Bucksport, Vinalhaven, and North Haven, in the State of Maine, and San Antonio, in the State of Texas, ports of entry; and A joint resolution (H. R. No. 279) in relation to the breakwater at Portland, Maine.

#### MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. HAMLIN, one of its clerks, notifying the House that that body had passed a bill (S. No. 180) relating to contracts payable in coin, in which he was directed to ask the concurrence of the House.

It further announced that the Senate insisted on its amendments to House bill No. 1039, to admit the State of Arkansas to representation in Congress, agreed to the conference asked by the House, and had appointed as the managers of said conference on its part Mr. TRUMBULL, Mr. DRAKE, and Mr. WILSON.

#### LANDS IN MEMONONEE RIVER.

Mr. SCHENCK obtained the floor. Mr. DRIGGS. Will the gentleman yield to me to introduce a bill for reference?

Mr. MAYNARD. I object.

Mr. SCHENCK. As my colleague on the Committee of Ways and Means objects, I cannot yield.

Mr. DRIGGS. Why, the gentleman stated to me positively a few moments since that he would yield.

Mr. MAYNARD. I hope the gentleman will not yield.

Mr. SCHENCK. If the gentleman thinks I am treating him in any way unfairly he shall have the opportunity, but I give notice to the twelve or fifteen other gentlemen who are asking me to yield that I will yield no further.

Mr. DRIGGS then, by unanimous consent, introduced a bill (H. R. No. 1161) to authorize front proprietors on the Memomonee river in Michigan and Wisconsin, as riparian owners, to have surveyed and to enter the fast lands in said river; which was read a first and second time, and referred to the Committee on the Public Lands.

Mr. HOLMAN. I move to reconsider the various votes by which bills have been referred this morning; and to lay the motion to reconsider on the table.

The latter motion was agreed to.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union, and resume the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The pending section was section six, which had been amended to read as follows:

SEC. 6. And be it further enacted, That the Commissioner of Internal Revenue shall have power to appoint and remove all collectors, assessors, assistant assessors, supervisors of internal revenue, gaugers, storekeepers, and other officers and clerks employed in the internal revenue service, except as otherwise provided for in this act.

The CHAIRMAN. When the committee rose last night the gentleman from Illinois [Mr. INGERSOLL] had offered an amendment, but as it was not reduced to writing, and he is not in his seat, it cannot be entertained.

Mr. WOOD. I move to amend the section by inserting after the words "internal revenue," in the second line, the words "by and with the advice and consent of the Representative in Congress from the district in which the duty is performed."

Mr. Chairman, I offer this amendment in good faith. I think that it would be wrong in principle and injurious in practice for Congress to confer upon this officer the sole and individual authority which this bill would confer upon him. He should be responsible to some power. If Congress thinks it should not be to the Secretary of the Treasury, nor to the President of the United States, nor to the Senate of the United States, why, then, I think that the members of this House are quite well qualified to exert a check over the exercise of this vast patronage that we propose to confer upon him. Therefore it is that I would like to see the Commissioner required to consult the member of the House of Representatives, without reference to his political position, representing the district in Congress in which the particular officer is to discharge his duties, so that he shall not be able to change the collector at his pleasure in your district or in my district without our consent, and so that he shall not use this power of changing these officers either for or against any political party or any candidate for election to Congress against the wishes and interests of the Representative in Congress, who, it is to be presumed, knows the wants of the people and knows the people of the district better than any officer whom the Commissioner of Internal Revenue might appoint. Therefore, I repeat that this amendment is offered in good faith, for the purpose of holding a check and control over the Commissioner, that the Representative in Congress shall be consulted, and that no removal or appointment shall be made unless his consent shall first be obtained.

Mr. WARD. I rise to oppose the amend-

ment. I do so for the purpose of submitting a few observations of a general character upon this section. It will be seen that this section confers upon the Commissioner of Internal Revenue, when he shall have been constituted the head of a department of this Government, the sole and absolute power to appoint every revenue officer in this country. I submit that it is contrary to the genius and spirit of all our institutions and form of government—a Government of checks and balances; and when it is plainly intended, as evidenced by the Constitution itself, that a part of the legislative department of this Government shall be consulted in all appointments to office of an important character, I insist that it is contrary to the design of the framers of the Constitution in fixing the appointing power to confer such absolute and imperial power upon any one man as it is proposed to confer by this section.

Mr. SCHENCK. I feel compelled to rise to a point of order, in order to confine the debate within proper limits. The gentleman from New York [Mr. WARD] is now arguing the general merits of this section. The proposition of the colleague of the gentleman is to provide that the Representative of the district shall be consulted or advised in regard to appointments. I hope the debate will be confined to that amendment.

The CHAIRMAN. The Chair rules upon the point of order raised by the gentleman from Ohio, [Mr. SCHENCK,] that it is competent to state, as reasons why the pending amendment should not be adopted, that the appointments should be made in some other way. The gentleman from New York [Mr. WARD] will proceed.

Mr. WARD. I was about to state that, notwithstanding the objection I have to this general power being conferred upon any one person, if I could be assured that, in these days of degeneracy and public fraud and corruption, the present honest and, as I believe, incorruptible Commissioner could be retained in his position for any length of time, in my anxiety to secure some reforms in the Revenue Bureau I might be induced to go with the chairman of the Committee of Ways and Means [Mr. SCHENCK] for this bill, because I favor the general features of it.

But I ask the gentleman what assurance have we that, the moment Congress has adjourned, some other man whom we cannot trust, who will be the creature of the President, will not be appointed in place of the present Commissioner? What assurance have we that, when we have made this Commissioner the head of a distinct department of the Government, the President will not say that under the Constitution it is his right to nominate heads of departments, that we have legislated this Commissioner out of office by creating a new department of the Government, and that under the Constitution the President must nominate the head of this new department? And if the President shall make such nomination during the recess of the Senate, and shall commission such appointee under the Constitution, the commission to expire at the end of the next session of the Senate, what is to prevent that officer *ad interim* and *de facto* from turning out every assessor and collector, and every other revenue officer who is obnoxious to him on any account?

I tell the gentleman from Ohio [Mr. SCHENCK] and this House that I sympathize cordially with the objects of this bill; that is, to throw some guards around the revenue so as to prevent the frauds now being perpetrated. But I protest against the passage of a bill that will put in the hands of the President and of the whisky ring that surrounds him the power to nullify your laws by filling these offices with his creatures.

[Here the hammer fell.]

Mr. SCHENCK. I move to amend the amendment by adding the words "and the Senators from that State." The proposition of the gentleman from New York [Mr. WOOD] is that these appointments shall be made only

upon the nomination or with the concurrence of the Representative of the district, as I heard it read.

Mr. WOOD. By and with the advice and consent of the Representative from the district.

Mr. SCHENCK. Substituting the advice and consent of the Representative from the district for the advice and consent of the Senate.

Well, sir, the proof of the pudding is in the eating. I find that in one of the districts of the State of New York, the ninth, I think it is, there are at present two officers, an assessor and a collector, both of whom have been reported, as I find from an investigation of the records, as persons who ought long since to have been removed. And I find that the facts, which appear to be established, in regard to the assessor are great inattention to his duty and a gross want of any effort on his part to suppress illicit distillation which is now flooding the New York market with fraud whisky.

In reference to the collector of that same district, I find that he is shown to be absolutely ignorant of the law and of his duty, and to manifest an entire incapacity to learn them; that he is allowing his office to be entirely controlled by corrupt subordinates who are in bad repute throughout the city.

I think these statements are substantially and very fully verified by documentary proofs on file in the Commissioner's office; and it is upon this account that the removal of these officers has been asked. Now, why are they kept in? I do not know whether the Representative of that district has anything to do with keeping them in; I apprehend not. But what then? If by his advice and consent good officers could be appointed, one would suppose that only with his advice and consent would those who are in be retained. However that may be, my illustration is designed to show that we cannot much rely upon the introduction of this new feature that the advice and consent of the Representative shall be obtained, for if Representatives were such potent and competent advisers as seems to be supposed, the probability is that the system would be working better even at this day. But instead of that, in this very ninth district of New York, from which comes the proposition that the Representative shall in all cases be consulted, the assessor and collector are both of such a character that they ought long ago to have been removed; and the Administration has been in fault in not removing them, for appeals have been made to it to do so.

I find that in the case of both the assessor and the collector the recommendation of the Commissioner is "under consideration," as was reported by the Secretary of the Treasury on the 14th day of February last. It thus appears that a demand made by the Commissioner months ago for the removal of these two men is yet being considered or thought upon. We are bound to believe that with such officers the Representative of the district has been making every effort to get them removed. If he has been, it only shows that to rely upon the Representative is not a good system; for all efforts which may have been made to that end have been unavailing.

Mr. WOOD. Mr. Chairman, I have no disposition to dispute the statements of the gentleman from Ohio; I have no doubt the facts are precisely as he has stated them to the House. But I submit that those statements are in no sense a reply to the grounds upon which I sustain this amendment. The gentleman states that certain officers in, I believe, the third district of New York, have been faithless to their duty; that the Commissioner has recommended their removal, and that they have not been removed. But he has not told us that the Representative from that district sustains those officers now holding their positions improperly. Now, in my judgment, if the Representative in Congress from that district, or any other district, had the responsibility resting upon him, the people of his district looking to him to correct any abuse upon the

part of the collector or assessor, no Representative, under such a responsibility, would endeavor to maintain in office an improper official. Therefore it is that I want each of us to be responsible to the people of our districts for the character of the men who shall be appointed by this Commissioner; so that, under our responsibility to the people, we may be consulted as to proper appointments, and should an official be detected in fraud that our efforts for his removal may be effectual.

The remarks of the gentleman from Ohio do not reach the case as I have presented it. Until he can show an instance in which a Representative in Congress has assumed the responsibility of defending a dishonest official, he fails to meet the argument which I have advanced.

Mr. SCHENCK. I withdraw my amendment to the amendment.

The amendment of Mr. Wood was not agreed to.

Mr. DAWES. Mr. Chairman, I move to amend this section by striking out in the third line the word "collector." This amendment will enable me to say what I desire to say.

Believing, as I do, that the action of the Committee of the Whole last night amounts in effect to an extinguishment of the office of Commissioner of Internal Revenue—entertaining no doubt upon that point—I wish to state what will be the condition of things if this bill in this form should become a law. The moment this act goes into operation, that moment the whole six thousand of these officers, whose duties were enumerated last night, cease to exist. The Commissioner of the Internal Revenue ceases to exist. On the adoption of this section every officer of the internal revenue department ceases to exist.

This is no addition to the duties of the existing officer. It is the creation in the first section of a new department—the department of internal revenue is hereby established. At the end of this bill the law creating the present bureau is repealed, and with it goes down everything that is created by it. What is the condition of things? In the midst of a presidential canvass, in the heat and fever of that canvass, the whole internal revenue department of this Government is stricken down and every officer in it extinguished in a moment. We have to rely upon our success with the President and the Senate in creating a new department and in appointing the head of this department; and next, he has to create, by reappointment, every one of the six thousand officers who now discharge the several functions provided for in the internal revenue department. Every bond has to be re-executed and approved, and this least of all times, in the history of a four years' administration, can be done safely at its close.

I submit to the House that we ought to stop and pause and consider what are the matters with which we have to deal to accomplish the ends of the gentlemen from Ohio, [Mr. SCHENCK.] We are not to shut our eyes to the means in our power to have proper officers. I say to-day it is a serious question, with the appointing power as it is, to succeed in restoring the administration of the department of internal revenue to anything like efficiency and fidelity. Even now, with all the complications surrounding it in that department, deplorable as is its administration, difficult as it is and ruinous as it is in the country in its present condition, what will it be without any officer at its head, and the whole six thousand, at one fell swoop, ceasing to exist, and the department itself without officers to discharge any of its duties, and waiting upon the other end of the avenue for the supply of those who shall discharge the functions of these offices?

[Here the hammer fell.]

Mr. DAWES. I withdraw the amendment.

Mr. MAYNARD. I object to his withdrawing it.

The CHAIRMAN. It can only be done by unanimous consent.

Mr. MAYNARD. Mr. Chairman, when the

Committee of Ways and Means undertook to revise the financial system of the country they were engaged in solemn questions of finance, and not considering a political problem. I have no hesitation in saying if I thought I belonged to a party whose interest or whose success was at variance with the general interests of the country I would not sustain it. I do not regard the interests of my party, I have never so regarded it, as separate and independent from the best interests of the country. On the other hand, whatever legislation, whatever public good we perform beneficial to the country, such confidence have I in the principles and integrity of my party that I am satisfied it will be benefited thereby. And I am sorry to hear gentlemen discuss questions so broad and sweeping in their influence from narrow, limited views of party good or party success.

Mr. DAWES. Does the gentleman allude to the remarks I made? I had not the slightest reference to any good to my party.

Mr. MAYNARD. I am glad that I misapprehended the tone of the gentleman's remarks.

Mr. DAWES. What I did say was that this internal revenue service will fall in consequence of the complications in which the administration of the Government happens to be involved at this moment. It will fall lifeless.

Mr. MAYNARD. If that is all the gentleman meant to say, I confess I overshot the mark. I imagined the gentleman was striking at something considerably beyond what he seems to have done.

It is easy to keep the present officials and the present machinery going until their places are supplied. It is so plain, so clear, so obvious that no gentleman can have any doubt or hesitation about it, that the present officers shall continue in office until supplanted by others. We do not propose an interregnum, but that the process of collection of the revenue shall go on until the new system goes into operation.

I referred yesterday to the organization of the Department of Agriculture. I might also refer to the organization of the Department of the Interior, which was made to embrace the operations of the Land Office, the Patent Office, and the Pension Office. Those offices did not stop for an instant, but went on precisely as before.

Mr. SCHENCK. If the gentleman will allow me one moment I will call his attention to a provision in the last section of the bill:

*And provided further, That no office created by the said acts and continued by this act shall be vacated by reason of any provisions herein contained, but the officers heretofore appointed shall continue to hold the said offices without reappointment until their successors, or other officers to perform their duties, respectively, shall be appointed as provided in this act.*

Mr. MAYNARD. I thank the gentleman for calling my attention to that provision, which I suppose meets the difficulty suggested by the gentleman from Massachusetts [Mr. DAWES] as I understand it.

What I said with reference to the merely partisan or political effect, if not applicable to the spirit of the gentleman's remarks, does certainly apply to much that we have already heard. The patronage proposed to be conferred by this section upon the head of the department of internal revenue, gentlemen will please to remember, is not as extensive as that which is now bestowed on the Postmaster General, Secretary of the Treasury, and other heads of Departments.

[Here the hammer fell.]

By unanimous consent the amendment of Mr. DAWES was withdrawn.

Mr. BUTLER. I move to amend the pending section by inserting after the word "shall" in the second line the word "not," so that it will read, "the Commissioner shall not have power to appoint and remove all collectors," &c. I make this motion in order to be able to discuss this section in the broadest terms. My objection to the section is this: that the committee—and I am sorry I was not present so as to be able to record my vote against it—

have determined to change the Commissioner of Internal Revenue, and give the appointment to the President of the United States. Now, I am a little differently inclined in my mind from the gentleman from Tennessee, [Mr. MAYNARD.] I believe whatever will advance my party will advance the interests of the country, and I believe whatever will injure my party will injure the interests of the country. So that whenever you say to me that such a thing is going to aid the Republican party, I say that is the interest of the country, and *vice versa*. I have none of that mawkishness about it which some gentlemen seem to have whenever party is named. For if I believe anything that would hurt my party would hurt the country I will change the party.

Mr. WOOD. Do not come over on our side again. [Laughter.]

Mr. BUTLER. I insist it is not a question of men, but a question of principle. You have agreed, as I understand it, to pass the first section. That being so, you have legislated, in my judgment, out of office the Commissioner of Internal Revenue. I think that is the legal construction. There was a Bureau of Internal Revenue; you have repealed that bureau. There is to be a department of internal revenue; and you have established that department. The man at the head of that bureau cannot be by legislation thrust bodily into the department.

This question was discussed at great length in the debate of 1789. There it was held, without contradiction, that the head of a Department was not one of those inferior officers who could be established under an act of Congress, not appointable by the President, because all the heads of Departments were held to be the superior officers, on whom, under the Constitution, the President might call for written opinions, and it is wholly outside of the question whether they belong to what is now technically known as the Cabinet or not. That being so, you put a change of every officer in the power of the President of the United States; and whoever thinks that a good thing to be done in the face of a presidential election, where such great principles are involved as are involved in this one, him I have offended.

[Here the hammer fell.]

Mr. SCHENCK. The amendment proposed by the gentleman from Massachusetts can have no other object than to destroy the bill, unless he proposes to substitute something else. It is simply that none of these officers shall be appointed.

Mr. BLAINE. By the Commissioner.

Mr. SCHENCK. Then there is nobody who can appoint them.

Mr. BLAINE. Oh, yes.

Mr. SCHENCK. The bill substitutes a new system for the present one, and it provides how these officers shall be appointed, and if we amend the bill so that it will stand with nothing in it except that the Commissioner shall not appoint these officers, taking away the appointment by anybody else, it occurs to me that the machinery is all destroyed.

Now, let me test the sincerity of these gentlemen. Where is the power of appointing these officers now? Gentlemen are very much afraid that they will fall into the hands of the Administration. Sir, I alluded to this last night, but now I will give you the figures; I will give you a list of the revenue officers who were on duty on the 26th day of May up to last week. There were two hundred and thirty-nine collectors and two hundred and thirty-one assessors, one collector being an acting appointment only, and nine assessors, but there should be two hundred and forty of each, making four hundred and eighty officers appointed by the President with the confirmation of the Senate, and having that check upon the appointments. But how many other officers are there under this old system to which gentlemen are so much wedded?

On the 26th of May there were two thousand six hundred and seventy-one of them, some of them with higher functions than any col-

lector or assessor, all appointed by the Secretary of the Treasury, and being of this political character of which some gentlemen profess to be so afraid. What are they driving at? They want to remit us to the old system. Under that old system nearly five thousand officers—and the number exceeded five thousand on the 10th of April; we have got rid of five or six hundred by the passage of the manufacturers' bill—are appointed, without any check whatever, by the present head of the Treasury Department.

Mr. BLAINE. Why does not that secure the unity which the gentleman says is so desirable?

Mr. SCHENCK. For the simple reason that as the head of the Department he makes his appointments through the Commissioner, and throws the responsibility upon him—although the law gives it to the Secretary—and the President is referred to, whose influence seems to be such that even when the Secretary wants to get out an officer of whom he has himself the appointment he cannot do it, and only four hundred and eighty of these officers have to go before the Senate for confirmation.

Now, sir, if these gentlemen really wish to change the system proposed in this bill let them say so, and not merely destroy, but substitute something, propose something, or if they wish merely to express that they want to remit us to the present system and hold us to it, why let them say that. But when they do say that, I want the House and the country distinctly to understand what it is that they propose to do. They want us to keep up a system under which five thousand officers are appointed without the restraint of confirmation by the Senate in order to get rid of a little difficulty about four hundred and eighty that need confirmation.

Mr. PETERS. Will the gentleman from Massachusetts withdraw his amendment? I will renew it.

Mr. BUTLER. I withdraw the amendment.

Mr. PETERS. I renew the amendment. I feel too much interested in this matter to allow it to pass without a single word. I gave no attention to this matter until yesterday, when it was under discussion before the Committee of the Whole. But I did look at it last night somewhat carefully, as I was deeply impressed by the debate of yesterday. I have no doubt, as a lawyer, that if the first and sixth sections of this bill shall be passed we will have legislated Commissioner Rollins out of office; and no man on earth will have the power to fill that place by making an appointment except the President of the United States. Now, I am opposed to that result. I am opposed to the first section of this bill. And, although the first opportunity has passed to destroy the first section, if we emasculate or destroy this sixth section, we will virtually meet and destroy the first section. Because if you pass the first section, and fail to pass the sixth section, then you will have the name of a department without having any substance at all, for there will be no power or authority connected with it. Now, I do not pretend to be a statesman, but merely a politician, a party man. And so far as possible I want to keep Mr. Rollins in his office; other gentlemen may be more patriotic than I am; I do not question that at all. But I concur with the remarks of the gentleman from Massachusetts [Mr. BUTLER] in that respect.

The language of the Constitution is this:

"But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Thus the Constitution, by its express language, makes the head of a Department something above an "inferior officer." We can give the head of a Department the power to fill inferior offices. But who is to fill the office of head of Department itself? Why, sir, it seems to me that there would be just as much legal propriety in making the postmaster of the city of Washington the Postmaster General of



the United States, as to undertake to expand the Commissioner of Internal Revenue with his present powers into the head of a department with those extended powers.

Now, even if we had the power to pass this bill and make it a law to the extent urged by the chairman of the Committee of Ways and Means, I do not see the expediency of doing so. I understand that the proposition is to reduce the tax on whisky to a very large extent. Will not that remove the temptation of which complaint is now made? I am surprised at the statement made on this floor by members, that the assessors and collectors in this country are mostly thieves. Why, sir, in the State of Maine all these officers are good and honorable men, although part of them are Johnson men. I know there are exceptions in New York, Philadelphia, and the other large cities. But if you take away the temptation to defraud by reducing the tax on whisky from two dollars to fifty or seventy-five cents per gallon, the principle motive for defrauding will be taken away.

I think we can stand the present system of collection much better than we can stand any other system got up in this hasty manner at this late day of the session. When, as the gentleman says may be the case, the tax on whisky is reduced to seventy-five or fifty cents per gallon, the necessity and motive for these first and sixth sections no longer exist. It does not matter whether these officers are appointed by Mr. Rollins or by the President or by someone else. If the temptation is removed I believe you can get good officers to collect your revenues. But I think, with the gentleman from Vermont, [Mr. Poland,] that men must be as pure as the angels before you can collect a tax of two dollars a gallon on whisky.

The Commissioner of Internal Revenue, Mr. Rollins, would be deceived, as would anybody else, in respect to some officers. Let the awful temptation to defraud be removed by reducing the tax from two dollars to fifty cents per gallon on distilled spirits, and no longer adhere to a rate of taxation that furnishes two dollars to the thieves for every dollar that is obtained by the Government.

[Here the hammer fell.]

Mr. LOGAN. Mr. Chairman, I cannot understand the argument which is made against this provision of the bill; nor could I understand the argument made yesterday against the first section. So far as I am concerned, it is not my object to make this proposed department a political machine, nor do I believe the committee had any such object in view. What I desire is the same that other gentlemen here have expressed themselves as desiring, to adopt such a measure as will make some person responsible to the country for the collection of its revenues. Now, the argument that the proposition embraced in this bill would put the appointing power into the hands of the President amounts to nothing. The President to-day has the authority to appoint every collector and assessor within the United States. How, then, can this bill give him more power in this respect than he already possesses?

If, therefore, gentlemen desire to have a system under which our revenues shall be collected, let them, as is well suggested by the chairman of the committee, propose some method of confining this matter within proper limits. Instead of attempting to destroy the vitality of this section of the bill, why do they not propose to provide that these persons shall be appointed by the advice and consent of the Senate, if they do not want one man to have all this power? But, sir, that is not the object. It is mere political clap-trap to talk about this bill throwing power into the hands of the President, when it is there already by existing laws.

Mr. PETERS. Will the gentleman permit me to ask him a question?

Mr. LOGAN. Yes, sir.

Mr. PETERS. Does the gentleman bear in mind that the President cannot remove an assessor or a collector without the consent of the Senate?

Mr. LOGAN. I do. But he can suspend such officers. We know that the President did remove Mr. Stanton, and Mr. Stanton is out of office. The President can remove your assessors and collectors just as he removed the head of the War Department, and you have no power to prevent it.

Mr. PETERS. We can impeach him.

Mr. LOGAN. You cannot impeach and convict him. You have tried impeachment and you have failed, on the very principle that gentlemen are now advocating here before the House.

Now, sir, I take it to be important that we should place the responsibility somewhere. Then let us not destroy the vital features of this bill, but if necessary amend it so that while the power and responsibility may rest in some proper quarter there may be sufficient checks and restrictions. But, so far as regards the political operation of this measure, even supposing it should result in placing power in the hands of the President, that power is there now. If the power should be put into the hands of Mr. Rollins it would certainly be in better hands. So, in whatever way we may take this measure, the operation must be better than that of the present system. How is it that we now have thousands of officers called "inspectors," roaming all over the country, subject to no check, blackmailing everybody, and robbing the country of its revenues? Under the existing law the Secretary of the Treasury has the right to appoint these officers, the Senate having no voice in regard to their appointment or removal. We are attempting by this bill to get rid of these officers; yet we find our own friends attacking a proposition that will rid the country of these men who are now biting every vein through which the revenues of the country should flow into the Treasury. [Here the hammer fell.]

Mr. PETERS. I withdraw my amendment.

Mr. BECK. I move to amend by striking out all after the enacting clause of this section, and inserting the following:

That all collectors, assessors, assistant assessors, supervisors of internal revenue, inspectors, gaugers, storekeepers, and other officers and clerks, provided for in this act, shall be appointed and removed in the mode and on the terms specified in the bill reported to this House by the Committee on Retrenchment, on the 14th day of May last, entitled a bill to regulate the civil service of the United States and promote the efficiency thereof, which bill is made a part of this section.

Mr. Chairman, I offer this amendment merely for the purpose of calling attention to the bill reported the other day by the distinguished gentleman from Rhode Island, [Mr. Jenckes,] providing for appointments in the civil service, in a mode less objectionable, perhaps, than any other. I would like the House to consider whether such a measure as that will not obviate all the difficulties of which gentlemen on all sides have spoken. I will not take time to read the bill or to discuss its provisions, but merely to call the attention of the House to them. That bill will be up in a day or two, reported by the chairman of the Committee on Retrenchment, and will in all probability pass. It will furnish solutions for the difficulties surrounding this section. I withdraw the amendment.

Mr. DAWES. I object, as I wish to obtain a little information from the chairman of the Committee of Ways and Means. I wish the chairman to point out that provision of the bill which continues in office any of the present officers if the bill should pass.

Mr. SCHENCK. I refer to the words "continued by this act."

Mr. DAWES. My eye was upon that. That provides when it is created by this act it shall continue by this act. What is the provision of this act which continues any of these officers? That is what I wish to know. I did not know but there was some provision. The creation of a new office with the same name of an officer with different duties, he now holding a different tenure in the Treasury Department, would hardly be continuing that officer. What

I wish to know is, whether there is any provision to continue any of these men in these offices? I supposed by the phraseology of this section to which the chairman of the committee called our attention a moment ago, that there was some provision continuing these bureau officers until you organized the new department you create. If it relies only on implication that this bureau officer, because he has the same name, will be continued in the office—

Mr. SCHENCK. If there be any insufficiency in the language the gentleman had better be prepared with an amendment when we come to that section. It is not quite in order now to discuss it.

Mr. DAWES. I was discussing it in view of the proposition made to strike out this sixth section. I find no section contravening what I have stated.

Mr. SCHENCK. We have assessors and collectors under the present law, and we provide for the same class of officers under this bill.

Mr. DAWES. I wish to know whether the gentleman relies solely upon the fact that this bill calls upon this officer with a new name, with another tenure of office, to discharge other duties; whether that is all he relies upon for the continuance of that officer in office? If that is so, then I still insist on it the moment this becomes a law down goes every officer.

Mr. BECK, by unanimous consent, withdrew his amendment.

Mr. INGERSOLL. I move, in line three of this section, to strike out the words "assessors and collectors."

Mr. Chairman, just before the adjournment last evening I offered an amendment which had the same object in view as this, but it was misunderstood at the time. It had for its object to leave the appointment and removal, by and with the advice and consent of the Senate, of all collectors and assessors to the President. If this new system, devised by the Committee of Ways and Means, shall go into effect, and we leave the appointment of all officers inferior to collectors and assessors in the hands of the head of this new department, I ask the chairman of the Ways and Means Committee whether that is not a fair compromise? There are those who do not believe that Congress has the power to create a new department and to appoint a head for that department. None of us doubt the power to create a department, but many doubt the power of Congress to indicate, either by its individual or official name, the person who is to be at the head of it. I should like the chairman to state the difference between naming the messenger of this bureau for this new department and naming the Commissioner. There is no difference. If you can name the present Commissioner you can just as well name the messenger of the bureau for head of this new department. If you have the power to name the one you have the power to name the other. But, sir, I believe we have no such power. Assuming this department is to be inaugurated, it is not my desire, nor does the amendment I propose come into conflict with it. Let us establish the department, as provided by the first section, but do not confer upon the head of it unconstitutional authority. Reserve to the President the power to appoint collectors and assessors, by and with the advice and consent of the Senate, and reserve to the head of the department the appointment of the inferior officers. Then there will be in that regard no conflict.

[Here the hammer fell.]

Mr. INGERSOLL. I shall ask a vote upon striking out "assessors and collectors."

Mr. SHELLABARGER. Mr. Chairman, nothing seems to me plainer than that a head of a Department is not and cannot be made an inferior officer. In other words, he cannot be made an officer who can be created or endowed with office without an appointment by the President with the assent of the Senate. That, to my mind, is absolutely and conclusively shown by the clause of the Constitution

which has been cited here to-day, which is as follows:

"But the Congress may by law vest the appointment of such inferior officers as they may think proper in the President alone, or in the courts of law, or in the head of a Department."

Now, the connection in which that clause of the Constitution occurs is one in which inferior officers are spoken of in apposition to or conjunction with these heads of Departments as distinguishable from inferior officers. Therefore, you cannot make the heads of Departments inferior officers. That, I doubt not, will be assented to by everybody. I do not think there is any difference on that point. They are not inferior officers, but must be created by appointment by the President with the consent of the Senate. That is the first suggestion I desire to make.

Now, what follows from this that relates to the matter under consideration? Why, sir, this: that you cannot expand—to adopt the language that has been used in this debate—a man who may by legislation be an inferior officer into one of those officers that must be created by the President, with the consent of the Senate. Why? Because the Constitution cannot be evaded or avoided by such indirection. The Constitution meant, for example—considering now the case of the head of a Department, that is, a man who is required by another clause of the Constitution to submit in writing his opinion touching public affairs to the President—the Constitution meant that when the Senate acted upon that man's case he should be nominated to the Senate for the very office and the very duties which it was proposed he should discharge. Would it not be queer that Mr. Rollins, presented to the Senate for the purpose of being made Commissioner of Internal Revenue, should, by mere legislation, be expanded up, without the leave of the Senate, into an officer as to whose fitness the Senate never judged? Clearly that cannot be. Every lawyer, every member of the House, will at once assent that we cannot make Mr. Rollins into the head of a Department. That is, because the head of a Department is a constitutional officer, as to whose fitness to be such head the Senate must be consulted.

[Here the hammer fell; but by unanimous consent the gentleman was allowed to proceed.]

Now, if I am right thus far, what follows? I have concluded in my own mind that we cannot change Mr. Rollins into the head of a department; that the office becomes vacant and the appointee of the President must go in. What then follows? Why, sir, that by this sixth section you have in the first place got into office a man of whose character we can judge from the fact that he must be appointed by the President. What then? Why, sir, that by the sixth section you repeal and strike down whatever virtue the late action of the Senate may have left from the tenure-of-office law, and you expressly authorize that man to do what you may legally authorize him to do—remove every officer under this head of the department without the assent of the Senate. You repeal the tenure-of-office law; and you do more. You fly in the teeth, it seems to me, not perhaps of the letter of the Constitution, but of its spirit, by doing what? By authorizing the head of the department to create every collector and assessor in America. They may be by legislation made inferior officers. I do not deny that, but I think it would be unwise to make them such. I think the first legislation we had upon this subject, in which it was required that the Senate should assent to their creation, was wise, and I pray the House to hesitate; I pray you, my brother members, to hesitate before you give the creation of officers of the importance and power and responsibility and numbers in which exist and are there assessors and collectors all through our country, to any one man. Let the Senate retain, as it has now, its supervision over these important officers. I therefore hope that this feature of the bill will not finally receive the approval of the House.

Mr. STEVENS, of Pennsylvania. I desire to know what is the pending amendment?

The CHAIRMAN. It is the amendment of the gentleman from Illinois, [Mr. INGERSOLL,] to strike out the words "collectors, assessors," in line three.

Mr. STEVENS, of Pennsylvania. I believe debate is exhausted on that amendment unless the gentleman will withdraw it.

Mr. INGERSOLL. I withdraw it.

Mr. STEVENS, of Pennsylvania. I move to strike out the word "assessors."

Mr. Chairman, it seems to me that the House has already perpetrated an unconstitutional act by attempting to appoint a head of this department; if such be the fact, I suppose that this bill creates a head of department.

Mr. Chairman, I find myself unable to go on, and I withdraw the amendment.

Mr. BUTLER. What is now the pending amendment?

The CHAIRMAN. The only motion pending is the motion of the gentleman from Ohio, [Mr. GARFIELD,] to strike out the section, and upon that debate is exhausted. Amendments are still in order to perfect the section.

Mr. BUTLER. I move, then, to strike out the words, "collectors, assessors." I desire to answer one or two suggestions made by the chairman of the Committee of Ways and Means. He says, first, that they do not make a new department, because they continue an office—the office of Commissioner of Internal Revenue. Now, what does he mean by the word "office?" The building, the place? No. Does he mean the position? Yes. Then he makes that position that is now a bureau into a department.

Then, sir, I was sorry to hear my friend inadvertently say that "if we were sincere in our opposition" we should do so and so. I know he is sincere, and I trust he will believe we are. The difficulty we find is this, that if we make this section a law, then these four hundred and eighty officers are in the hands of the President, which are not now in his hands. The gentleman says he can appoint them now, but he cannot get them out of office except—by what means? The law says that he can suspend them, as he claims, indefinitely and at his pleasure. That he claims a constitutional right to do, and that nineteen men in the Senate said that he had a constitutional right to do. But I do not believe, sir, that he dare exercise it in regard to this large class of officers. I think there is not money enough in the whisky ring to buy an acquittal in an impeachment for that wholesale exercise of power.

Mr. MULLINS. Oh, you are mightily mistaken.

Mr. BUTLER. But, sir, there is another difficulty about all this, and that is, that the ability to use that power, without using it, creates in the President or in his appointee under this bill a patronage and strength which no party ever yet withstood, and I am afraid no party ever can withstand. In repealing the tenure-of-office act you put into the hands of his appointee the life and death of every revenue officer in every district of the United States, and from that hour that revenue officer becomes, not the servant of the people, but the bond servant of the President of the United States. I trust we shall not do that thing. It seems to me to be an unwise, a strange conclusion. I cannot vote for any act where I can see that we are evading a provision of the Constitution, or apparently attempting to evade it.

I hope this section will be stricken out. The objection is made that if that is done we will not leave the power anywhere to make these appointments, we will leave the officers just where they are now, in the hands of the Senate, with whatever negative power they may have left to themselves. If they have none left, then we are no worse off than we will be under this bill. If they have any left, then we will have so much in our favor by keeping the matter where it is now.

Mr. SCHENCK. If gentlemen wish to aid in perfecting this bill, and do not desire to destroy it, if they are satisfied to reserve certain features of the present existing system instead of adopting the system which has been proposed by the Committee of Ways and Means to secure the faithful collection of the revenue, then, I ask, why do they not propose some amendment to accomplish that purpose?

I have already fully explained that when the Committee of Ways and Means had their attention called to this matter they felt that there must be some security given beyond what we have now for obtaining good officers to collect the revenue. One idea was that perhaps it would be well to require the confirmation by the Senate of all the subordinate officers as well as the assessors and collectors. But when we considered how that plan had failed, as a general thing, to give us good assessors and collectors, we did not feel like extending such cumbrous machinery, especially as the Senate were in the habit of retaining appointments for months and months without acting upon them.

Another system was to adopt the principle of the bill proposed by the gentleman from Rhode Island, [Mr. JENCKES,] the civil-service bill. But we did not see how we could incorporate that with all its machinery in one special department. But no one more than I would hail with satisfaction the passage of that bill as a general system. If it were passed it would relieve us from all the difficulties in which we now seem to be involved here. But if that was not adopted, what then remained? Why, as I explained in the commencement of the discussion of this bill, a system of appointment which should concentrate the power and responsibility in one head, who should be held accountable to the country. If gentlemen desire that the present condition of things shall be continued, so far as assessors and collectors are concerned, and that they shall be confirmed by the Senate, but are willing that other appointments shall be made by the Commissioner of Internal Revenue, then let them say so, and say it a little more distinctly than the gentleman from Illinois [Mr. JUD] says it by his amendment. Let them provide not only who shall appoint the assistant assessors, deputy collectors, and other officers, but also who shall appoint the assessors and collectors.

The Committee of Ways and Means have proposed a system substituting another plan for the present plan under existing law. But the amendment of the gentleman from Illinois, unless it is made to go further than he now proposes, would leave these officers without any provision whatever.

I have before adverted to the inconsistency of these gentlemen. They say there are four hundred and eighty assessors and collectors; and a great outcry is made by gentlemen against this new and horrible departure from the old and settled condition of things, by which we propose to lodge in the head of a department the power to appoint these various officers. Why say assessors and collectors only? Why not go further and not only stick to the old system but extend it?

There are revenue agents, revenue inspectors, special agents, three hundred and thirty-two of them, with larger powers than any collector or assessor possesses. Yet they are all now appointed by the Secretary of the Treasury, without the intervention of the Senate. Then there are the assistant assessors and collectors, inspectors of spirits, inspectors of tobacco, inspectors of coal oil, &c., forty-three hundred and thirty-two in number, making in all forty-six hundred and seventy-one officers appointed by the Secretary of the Treasury, without the voice of the Senate. The Secretary of the Treasury holds his office from the President, and whether Mr. Rollins be continued, or some other person appointed at the head of the department of internal revenue, if you create such a department, he can do no more than hold his office from the President. Where, then, is the distinction about

which gentlemen talk so much? Admit what they say; admit, which I do not, that by the first section of this bill you would legislate the present Commissioner out of office; take them upon their own ground. What then? You have in either case a head of a department holding his office by appointment from the President of the United States. The only difference between the old system and the new is that the old system required the confirmation by the Senate of two classes of officers amounting in all to four hundred and eighty, while it left more than five thousand to be appointed by the head of the Department alone.

[Here the hammer fell.]

Mr. BUTLER. I withdraw my amendment.

Mr. KNOTT obtained the floor.

Mr. INGERSOLL. If the gentleman from Kentucky [Mr. Knott] will yield to me a moment, I would like to make a brief reply to the gentleman from Ohio, [Mr. Schenck,] who has alluded to me and my proposition.

Mr. KNOTT. As I have but five minutes, the gentleman must excuse me.

I move to amend by adding at the end of the section the following:

*Provided*, That no assessor or collector shall be removed from office by the Commissioner except for incompetency, misfeasance, or non-feasance in office, or conviction of bribery, perjury, forgery, or felony at common law: *And provided further*, That whenever any assessor or collector shall be removed from office by the Commissioner under the provision of this act, the Commissioner shall immediately file with the Secretary of the Treasury a statement in writing of the cause of such removal, and if any assessor or collector shall be removed from office on any other grounds than those mentioned in the first proviso to this section, or if the grounds of such removal shall be in fact untrue, the Commissioner shall be removed from office therefor.

Mr. Chairman, I know very little about the character, private or official, of those who are engaged in the assessment and collection of our internal revenue. I am acquainted with only two of these officers, the assessor and collector of my own district; and I am glad to say that, so far as I know, they are not only honorable gentlemen, but competent and faithful officers. But, sir, the honorable chairman of the Committee of Ways and Means has, on several occasions, exhibited to us most startling instances of peculation and fraud perpetrated in this branch of the public service; and, as a remedy for the enormous evils existing under the present system, he proposes that the responsibility for the character of the various officials shall be fixed upon some single person. To fix that responsibility he proposes by this bill to erect a new department, to be under the charge of a person who, as I understand the Constitution, must be a new officer. How or to whom this officer is to be held to greater responsibility than rests upon the present appointing power I have not yet seen. But one thing is clear: this bill proposes to confer upon this new officer, within his particular sphere, powers almost autocratic. By the breath of his nostrils he is to clothe with the habiliments of official power an army of subordinates, drawing from the public Treasury \$6,000,000, and handling the public funds to the amount of \$200,000,000. More than that, their official existence is to depend entirely upon his fiat. If a solitary one of them hesitates to "crook the pregnant hinges of the knee" at his simple nod; if a solitary one refuses to promote the personal aggrandizement of his chief, or to acquiesce in his political opinions, that chief has only to draw around him his imperial toga, wave his official truncheon, and exclaim, "Off with his head!" To whom is he responsible? No one.

What I propose is that if this tremendous power is to be placed in the hands of one man we shall, by the provisions of the law, make him feel, when he consigns one of his cringing subordinates to the political guillotine, that his own neck is liable to the constriction of the bowstring, if this subordinate is competent, is faithful, is free from any just charge against his official character or conduct. Justice to these subordinate officers requires that they

should not be left without protection, subject to the solitary will of a single man.

[Here the hammer fell.]

Mr. GARFIELD. Mr. Chairman, I rise to oppose the amendment of the gentleman from Kentucky, [Mr. Knott,] and to answer one proposition which the chairman of the Committee of Ways and Means [Mr. Schenck] has repeated several times. He says that we who oppose the present scheme as exhibited in the first and the sixth sections of this bill ought to show something better, ought to present a plan for throwing proper guards around the collection of the revenue. Now, I submit that is hardly to be expected from a body as large as the Committee of the Whole on the state of the Union. It is enough if the Committee of the Whole are not willing to agree to the propositions of the Committee of Ways and Means that they say so by vote, and then ask the Committee of Ways and Means to perfect the bill in accordance with the vote of the Committee of the Whole. That, it seems to me, is a proper answer to my colleague.

I know too well the difficulties attendant upon a work of this kind to think that anybody may undertake in this House to perfect the details of a system while we sit in the Committee of the Whole House. It seems to me the best service we can render is to bring the House to a vote on this question of striking out the sixth section. If we strike it out the gentleman will admit that it strikes out the plan of making this a separate department. I made the motion last night for a test vote, and I have no doubt that it would have carried but for the fact that the House was thin. The first section was retained in the bill by a majority of only three votes. I believe that, the question having arisen again, we can show that the majority of the House is in favor of striking out the plan of the Committee of Ways and Means for the creation of a new and separate department of internal revenue. Therefore I hope we will be allowed to come to a vote, and with the consent of the chairman of the Ways and Means Committee I will now move that the committee rise for the purpose of closing debate and coming to a vote on the motion to strike out. Of course I will not move it if the chairman does not consent. It seems to me that vote being taken will test the question. If the gentleman is sustained by the House it will be then our duty to sustain and perfect his plan. If the House does not sustain him, then we ought not to waste any more time in debate on this plan. I will say that is the whole purpose I have in view to get a vote on striking out this sixth section, so we may reconsider the vote taken last night as to whether we will consent to the adoption of a plan which makes a new department with the legal and constitutional difficulties now shown to be in the way, and clothes the head of that department with the tremendous power this section gives him. I will not make the motion if the chairman of Ways and Means does not consent.

The question was taken on Mr. Knott's amendment, and it was rejected.

Mr. INGERSOLL. I want to assure the chairman of the committee, and the members of the committee who agree with me in my view of the case, that I will go heartily with them for its perfection at any time.

The CHAIRMAN. Debate is not in order. The gentleman must offer an amendment.

Mr. INGERSOLL. I will do so. The chairman of the Ways and Means Committee complains that I do not offer a system which would harmonize all difficulties.

The CHAIRMAN. The gentleman must offer his amendment first.

Mr. INGERSOLL. I move to strike out these words:

That the Commissioner of Internal Revenue shall have power to appoint and remove all collectors, assessors, assistant assessors, supervisors of internal revenue.

And in lieu thereof to insert the following:

That the President shall have the power to appoint and remove, by and with the advice and consent of

the Senate, and not otherwise, all collectors and assessors; and the Commissioner of Internal Revenue shall have the sole power to appoint and remove all—

Then come the words which I leave in the section:

inspectors, gaugers, storekeepers, and other officers and clerks provided for in this act, who shall severally give bond for the faithful performance of their duties, as may be required by law.

Now, Mr. Chairman, it seems to me this will harmonize the conflicting views of those who do not concede the constitutional power of Congress to vest in the head of the new Department created by this bill the absolute power of appointment and removal of the entire revenue officers of the Government. My amendment reserves the appointment and removal of those officers I have indicated where they now are—in the hands of the President, under the restrictive clauses of the tenure-of-office act. For the purpose of concentrating power in a responsible head, which the chairman has so ably discussed, it confers power upon the Commissioner to appoint all the other inferior officers.

If this new department is to be created, it seems to me that this will obviate the difficulties which are now in the way, except one, and that is the right of Congress to transfer the Commissioner, now a bureau officer, to be head of the new department. I do not concede that power; but, it being conceded, my amendment leaves the appointment and removal of collectors and assessors, and the other officers I have named, just as they now are—in the hands of the President—and to give the power of appointment and removal of the other officers of the internal revenue to the Commissioner. I want a vote on the amendment.

Mr. SCHENCK. I have no objection to having the proposition voted on. I admit that it is practicable.

If the majority of the committee agree with him they will adopt it. I desire, however, to bring the committee at as early a moment as possible to a vote upon this section and the various amendments now pending, or that may hereafter be offered.

But before I make that motion I wish to ask the attention of the committee to one particular thing which shows the nature of this struggle which is going on. My colleague, who addressed the House a moment ago, [Mr. Garfield,] has defined his position and the position, of course, of those who agree with him; but it is a position in which I cannot stand with him. He is for striking out the whole section, in order, as he says, to retain this present system. I and the committee acting with me, after four or five months' patient research and examination into the condition of the whole question, have come to the conclusion that the present system is a failure, and have desired to substitute for it another. What the gentleman from Illinois [Mr. Ingersoll] proposes to insert is a sort of compromise by which we retain as much of the present system as embraces officers who now are required to have the confirmation of the Senate. Let them still be nominated by the President and be confirmed by the Senate, but give the appointment of the other officers whose appointment is at present in the Secretary of the Treasury to the Commissioner of Internal Revenue. If we can get no more than that, I believe even that will be a great improvement upon the present system. If we could get more, and have a complete, undivided responsibility, I feel as sure as I do of anything in the world—and I have given the subject much careful study—that we would do still better.

My colleague on the committee [Mr. Logan] desires to offer an amendment, which he wishes to explain. I will move that the committee rise, with a view of terminating debate, notifying the committee that I shall move to terminate debate in five minutes after the House shall again go into the Committee of the Whole.

The CHAIRMAN. It may be done by unanimous consent. Is there objection?



Mr. HARDING. I object.

Mr. SCHENCK. I move that the committee rise.

The motion was agreed to.

So the committee rose; and Mr. BLAINE, as Speaker *pro tempore*, having taken the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

Mr. SCHENCK. I move that when the House again resolves itself into the Committee of the Whole the debate on the sixth section of the bill and the pending amendments thereto be terminated in five minutes.

The motion was agreed to.

Mr. SCHENCK. I now move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, and resume the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

Mr. LOGAN. I move to amend the section by striking out the words "collectors, assessors;" so that it will read:

That the Commissioner of Internal Revenue shall have power to appoint and remove all assistant assessors, supervisors of internal revenue, inspectors, gaugers, storekeepers, and other officers, &c.

Mr. HARDING. Will the gentleman answer me a question?

Mr. LOGAN. Certainly.

Mr. HARDING. Whether that section is made for the purpose of retaining the present arrangement in reference to the collector at Peoria, Illinois?

Mr. LOGAN. No, sir.

Mr. INGERSOLL. Perhaps you had better address yourself to me.

The CHAIRMAN. The gentleman from Illinois [Mr. INGERSOLL] is not in order.

Mr. LOGAN. I offer this amendment for the purpose of answering one or two remarks that have been made in reference to this particular section. I agree that the head of a Department is an officer appointed by the President of the United States. Nor will this provision take that appointment out of the hands of the President. That I understand to be a constitutional right. I so said yesterday, that this did not take the appointment from the President, nor can it.

Well, sir, believing that that objection that we are legislating a man into office when we have no power is obviated, what, then, is the objection? Is it that we are legislating a man out of office? That ought not to be an objection, inasmuch as the President has the power to-day to send the name of somebody else to the Senate for confirmation. And in a political point of view—for I always speak plainly—if it is in a political point of view that gentlemen are talking, then I say for one I would rather to-day the Opposition had the head of this department than for us to have it. And why? Because then the whole responsibility would be upon them, as it is now, except that they deny it and attempt to make us shoulder a part of it inasmuch as the Commissioner is of our political belief. I have as high a regard for Commissioner Rollins as has any man in this House, but, sir, in that position he is a mere man of straw and has no power whatever except to break the fall of the Democracy in reference to the swindles and frauds perpetrated by the men who are assessors and collectors of internal revenue in this country. Hence, so far as I am concerned, I do not care who they put there. They cannot put any man there who will collect less revenue, I am sure,

because the President has the power to clog all the authority that Mr. Rollins has, and between him and the Secretary of the Treasury they have done it so that the revenue is not collected. How, in God's name, could you make it any worse by appointing anybody else? Hence, I conceive that there is no argument in that position, and I am not so great a friend to any man in the United States that I would insist on his retaining an office to the detriment of the country when it is impossible for him to collect the revenues of the country; nor ought Mr. Rollins to fail in patriotism when he finds that he cannot do it, and to remain there so that he may break the force of the fall of these other gentlemen.

I have been impelled to say these things because of the opposition that is made to this bill; and the true reason for the opposition I do not believe has leaked out. It is, in my judgment, a determination that no legislation shall pass in reference to the revenues of this country. Now, I say the country demands legislation in reference to our revenue. What good does Mr. Rollins do us, when I know and every man here knows that this man, who is now in confinement for contempt of this House, appointed or had appointed the most important officer in the revenue service in one of the principal districts in the United States—an officer having power over five States of this Union to make seizures and to release property? That I know to be so; and they have a key by which they telegraph between one another, and keep up their communications, so as to swindle this country. That I also know. Now, what good does Mr. Rollins do us if this man and others like him can go and make appointments through the Secretary of the Treasury and the President, so as to rob the country of its revenues? I ask you what benefit Mr. Rollins is to the country or to us in a party point of view?

Then, sir, I say if the President wants to appoint somebody else to this office let him do it if the Senate will confirm the man he may appoint. I presume the Senate will not confirm any man to this office unless they think him honest. Let the Senate and the President fight it out if he wants to appoint somebody else. If he desires to retain Mr. Rollins, God knows I would be glad to have him do it if you will give Mr. Rollins the power.

Then further, I ask gentlemen, so far as their constitutional arguments are concerned, are not the inspectors of the revenue department appointed without the advice and consent of the Senate? If so, I ask why may not the collectors and assessors also be appointed without the advice and consent of the Senate? They are not officers of such a character that the Senate must necessarily consent to their appointment. They are no more so really than the inspectors, except that under the old law they are made confirmable by the Senate. That is the whole distinction there is. It is by statute only that they are required to be confirmed by the Senate, and when you repeal that statute they are so no more than any other officers of the revenue.

[Here the hammer fell.]

The CHAIRMAN. By order of the House all debate has terminated upon the pending section and all amendments thereto.

Mr. LOGAN. I withdraw my amendment to the amendment.

The question recurred upon the amendment of Mr. INGERSOLL, to so modify the section that it would read as follows:

That the President shall have power to appoint and remove, by and with the advice and consent of the Senate, and not otherwise, all assessors and collectors; and the Commissioner of Internal Revenue shall have the sole power to appoint and remove all assistant assessors, supervisors of internal revenue, inspectors, gaugers, storekeepers, and other officers and clerks provided for in this act, who shall severally give bond for the faithful performance of their duties, as may be required by law.

The question was taken; and upon a division there were—aye twenty-five, noes not counted. So the amendment was not agreed to.

The question recurred upon the motion of Mr. GARFIELD, to strike out the section as amended.

The question was taken; and upon a division there were—ayes seventy-six.

Before the noes were counted, Mr. SCHENCK called for tellers.

Tellers were ordered; and Mr. SCHENCK and Mr. WOOD were appointed.

The committee again divided; and the tellers reported that there were—ayes 64, noes 45.

So the motion to strike out was agreed to.

The next section was read, as follows:

Sec. 7. And be it further enacted, That there shall be in each United States judicial district one officer, to be called a supervisor of internal revenue, whose duty it shall be to reside in such district and keep his office at some convenient place therein to be designated by the Commissioner, and who shall receive, in compensation for his services, such salary as the Commissioner of Internal Revenue may deem just and reasonable, not exceeding \$3,000 per annum, and shall be paid his necessary traveling expenses when absent from his office on official business. It shall be the duty of every supervisor of internal revenue, under the direction of the Commissioner, to see that all laws and regulations relating to the collection of internal taxes are faithfully executed and complied with; to aid in the prevention, detection, and punishment of any frauds upon the revenue, and to examine into the efficiency and conduct of all officers of internal revenue within his district; and for such purposes he shall have power to examine all persons, books, papers, accounts, and promises, and to administer oaths and to summon any person to produce books and papers, or to appear and testify under oath before him, and to compel a compliance with such summons in the same manner as assessors may do. It shall be the duty of every supervisor of internal revenue to report in writing to the Commissioner of Internal Revenue any neglect of duty, incompetency, delinquency, or malfeasance in office of any internal revenue officer within his district, of which he may obtain knowledge, with a statement of all the facts in each case, and any evidence sustaining the same; and he shall have power to transfer any inspector, gauger, or storekeeper from one distillery or other place of duty to another, or from one collection district to another, within his district; and may, by notice in writing, suspend from duty any such inspector, gauger, or storekeeper, and in case of suspension shall immediately notify the collector of the proper district and the Commissioner of Internal Revenue, and within three days thereafter make report of his action, and his reasons therefor, in writing, to said Commissioner, who shall thereupon take such further action in the case as he may deem proper.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to move to amend this section by striking out the words "and he shall have power to transfer any inspector, gauger, or storekeeper from one distillery or other place of duty to another, or from one collection district to another, within his district; and may, by notice in writing, suspend from duty any such inspector;" and insert in lieu thereof the words, "and he may, by notice in writing, suspend from duty any;" so that portion of the section will read:

And he may, by notice in writing, suspend from duty any gauger or storekeeper, and, in case of suspension, shall immediately notify the collector of the proper district and the Commissioner of Internal Revenue; and, within three days thereafter, make report of his action and his reasons therefor, in writing, to said Commissioner, who shall thereupon take such further action in the case as he may deem proper.

The amendment was agreed to.

Mr. SCHENCK. I am also instructed to move to add to the section the following:

Provided, That where, in the opinion of the Commissioner of Internal Revenue, the number of collection districts in any judicial district does not require the services of separate supervisors he may unite two or more judicial districts under one supervisor.

The amendment was agreed to.

Mr. SCHENCK. I am also instructed to insert the word "such" before the word "suspension," in the clause "and in case of suspension shall immediately notify the collector of the proper district," &c.

The amendment was agreed to.

Mr. MILLER. An amendment has just been adopted, on motion of the chairman of the Committee of Ways and Means, providing that two or more judicial districts may be united under one supervisor. I suppose by "judicial district" the gentleman means a United States judicial district?

Mr. SCHENCK. Yes, sir.

Mr. MILLER. There are but two judicial districts for Pennsylvania. Does the gentleman think that would be sufficient for Pennsylvania?

Mr. SCHENCK. The gentleman will observe that we have just adopted an amendment which authorizes the uniting of two or more districts where there seems to be a necessity for it.

Mr. MILLER. But suppose that the number of districts should not be sufficient.

The CHAIRMAN. This debate is out of order, as no amendment is pending.

Mr. SCHENCK. I will answer the gentleman's question whenever it may be in order to do so.

Mr. WOOD. For the purpose of making an inquiry of the chairman of the Committee of Ways and Means, I move to amend by striking out in the thirty-seventh and thirty-eighth lines of the pending section the words "who shall thereupon take such further action in the case as he may deem proper."

I desire to inquire of the chairman of the committee whether this further action may be construed as including the power of absolute removal from office.

Mr. SCHENCK. I suppose that, as a matter of course, there can be no action except such action as is provided for by law, and as the Commissioner, by the decision which the Committee of the Whole has just made, is reduced to a mere nonentity in the collection of the revenue, I suppose that he can neither remove, appoint, nor exercise any other substantial power; but whatever the law allows him to do in the premises of course he can do.

Mr. WOOD. But, Mr. Chairman, in the absence of any provision in the law denying to him the power of removal, I submit that this clause may give the Commissioner that power. I ask the chairman whether that is not a reasonable construction?

Mr. SCHENCK. I should not make any such construction; that is all I can say.

Mr. WOOD. Mr. Chairman, I must insist upon my motion to strike out the words I have designated. It appears to me that if we should leave the bill without any restriction upon the power of the Commissioner, although he may not have the power to appoint these officers, yet in the condition of things stated in this section he is authorized to take any action which in his judgment he may deem proper. Such language, I submit, implies the power to remove absolutely, upon the mere presentation of a case by the appraiser, the appraiser being made the sole and exclusive judge of the propriety of the suspension. I think that, notwithstanding the action which has been taken by the Committee of the Whole, if this section be adopted in its present form we shall leave the Commissioner with a power to remove *ad infinitum*.

Mr. SCHENCK. Mr. Chairman, this whole matter will be best understood by considering who and what these supervisors are. Under the present system there are three classes of officers—revenue agents, revenue inspectors, and special agents—who may go into any district anywhere and assume all the functions of the local officers, elbowing them out of the way. This is one of the great vices of the present system. By the plan embraced in this bill we propose to sweep out of existence all these roving agents, and to provide instead that in each judicial district of the United States there may be appointed one responsible man, who shall have a fixed place of residence and an office within the district, and who shall have this supervisory authority in regard to the conduct of matters within the district. But even he is not to make seizures or to exercise the functions of the proper local officers. All that he can do is to supervise their conduct, to look into their transactions generally, and to report upon them. This system is one which was recommended two or three years ago, and at one time it came very near being enacted into

a law. Experience has proved that if it had then become a law the Government might have saved a great deal of money. What the gentleman from New York objects to as a part of this section is, that when the supervisor has investigated the conduct of any of the local officers he shall report to the Commissioner of Internal Revenue for his further action.

I suppose it hardly needs argument to convince gentlemen that whatever action the Commissioner of Internal Revenue takes, as ordering a suit to commence, reporting for removal, or recommending for removal to the President, or the Secretary of the Treasury, whatever action he takes he can really do nothing. If it be determined the Commissioner can do nothing but put his hand in his pocket and whistle when it is reported some rascality has been discovered on the part of revenue officers, then the law will be left as it is, leaving him only the power to report to the Secretary of the Treasury, or anybody else, and of course nothing will be done.

But, sir, there are no such difficulties in the way as the gentleman supposes. When it is referred to the Commissioner for action it means official action; and what that shall be is determined by the provisions of the law. We became convinced from the facts in possession of the Committee of Ways and Means, that great gains would result from having responsible officers, properly paid, located with fixed places of business, and with accountability arising from their being known as men of some qualification for business, than to have these roving special revenue agents. I hope the section will not be disturbed.

[Here the hammer fell.]

The question was taken on Mr. WOOD's amendment, and it was rejected.

Mr. KNOTT. Mr. Chairman, I move to amend the section by striking out all after the word "district" in the seventeenth line down to and including the word "do" at the end of the sentence; which is as follows:

And for such purposes he shall have power to examine all persons, books, papers, accounts, and premises, and to administer oaths, and to summon any person to produce books and papers, or to appear and testify under oath before him and compel a compliance with such summons in the same manner as assessors may do.

I move this amendment because the provision I propose should be stricken out is, in my judgment, in direct contravention of the fourth article of the amendment to the Constitution. That article provides that—

"The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches, and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized."

Now, sir, this provision which I propose to strike out, is in direct violation of every guarantee in this article of the Bill of Rights. Under pretext of the authority it proposes to confer, one of these internal revenue spies may not only seize and search your person, but he may examine every private book, paper, and account you may have; and not only this, he may invade at pleasure the most sacred precincts of the household, and examine every portion of it to his heart's content. Sir, with such provisions as this in the laws of the country, what citizen is safe in the enjoyment of his most sacred and valued rights? It is idle to say that he may be remitted to his remedy in the courts, for what can compensate for such ruthless violations of the security which the Constitution in this article guarantees to the citizen? And besides, sir, all who know anything about it know that a majority of those who will condescend to act the rôle of the revenue spy, are totally irresponsible in a pecuniary point of view. But, sir, it seems to me the proposition I make is too plain to require an elaborate argument. Its propriety must surely commend itself to the judgment of every gentleman present, and I am therefore content to submit it without further remark.

Mr. ALLISON. I rise to oppose the amendment. I wish to say merely that it is substantially the provision of the present law. Assessors now have the power to revise books and papers; and we only provide that supervisors shall have the same power.

The amendment was rejected.

Mr. PETERS. I appreciate the objection of the gentleman from New York, but I do not agree to his remedy. In line thirty-eight, after the word "case," I move to insert "which may be authorized by law."

Mr. ALLISON. I do not object to that.

The amendment was agreed to.

The Clerk read the next section, as follows:

SEC. 8. And be it further enacted, That there shall be appointed by the Commissioner of Internal Revenue, in any United States judicial district, such number of internal revenue storekeepers as may be necessary, the compensation of each of whom shall be five dollars per day, one or more of whom shall be assigned by said Commissioner to every bonded warehouse established by law; and no such storekeeper shall be engaged in any other business while in the service of the United States. Every storekeeper shall take an oath faithfully to perform the duties of his office, and shall give a bond, to be approved by the Commissioner of Internal Revenue, for the faithful discharge of his duties, in such form and for such amount as the Commissioner may prescribe. Every storekeeper shall have charge of the warehouse to which he may be assigned, under the direction of the collector controlling the same, which warehouse shall be in the joint custody of such storekeeper and the proprietor thereof, and kept securely locked, and shall at no time be unlocked and opened, or remain open, unless in the presence of such storekeeper or other person who may be designated to act for him as hereinafter provided; and no article shall be received in or delivered from such warehouse except on an order or permit addressed to the storekeeper and signed by the collector having control of the warehouse. Every storekeeper shall keep a warehouse book in which he shall enter an account of all articles deposited in the warehouse to which he is assigned, indicating in each case the date of the deposit, by whom manufactured or produced, the number and description of the packages and contents, the quantities therein, the marks and serial numbers thereon, and by whom gauged, inspected, or weighed, and if distilled spirits, the number of gauge or wine gallons and of proof gallons; and before delivering any article from the warehouse, he shall enter in said book the date of the permit or order of the collector for the delivery of such articles, the number and description of the packages, the marks and serial numbers thereon, the date of delivery, to whom delivered, and for what purpose, which purpose shall be specified in the permit or order for delivery, and in case of delivery of any distilled spirits the number of gauge, or wine gallons, and of proof gallons, shall also be stated; and such further particulars shall be entered in the warehouse books as may be prescribed or found necessary for the identification of the packages, to insure the correct delivery thereof and proper accountability therefor. A daily return shall be furnished by every storekeeper to the collector of the district of all articles received in and delivered from the warehouse during the day preceding that on which the return is made, a copy of which shall be mailed by him at the same time to the Commissioner of Internal Revenue; and each storekeeper shall, on the first Monday of every month, make a report in triplicate of the number of packages of all articles, with the several descriptions thereof respectively, as above provided, which remained in the warehouse at the date of his last report, and of all articles received therein and delivered therefrom during the preceding month, and of all articles remaining therein at the end of said month; one of which reports shall be by him retained and filed in the warehouse, one delivered to the collector having control of the warehouse, to be recorded and filed in his office, and one transmitted by the storekeeper to the Commissioner of Internal Revenue, to be recorded and filed in his office. Any internal revenue storekeeper may be transferred by the Commissioner of Internal Revenue from one warehouse to another within the same judicial district. In case of the absence of any internal revenue storekeeper by sickness or from any other cause, the collector having control of the warehouse may designate a person to have temporary charge of such warehouse who shall, during such absence, perform the duties and receive the pay of the storekeeper for the time he may be so employed; and for any violation of the law he shall be subject to the same punishment as storekeepers. Any storekeeper or other person in the employment of the United States having charge of a bonded warehouse, who shall remove or allow to be removed any cask or other package therefrom without an order or permit of the collector, or which has not been marked or stamped in the manner required by law, or shall remove or allow to be removed any part of the contents of any cask or package deposited therein, or who shall knowingly make any false or fraudulent entry in any account kept by him, or who shall omit to make any entry required by law in said book or account, or shall omit to make any certificate or report required by law, or who shall make any false certificate or report, or who shall fail to report in writing to the assessor of the district any violation of this act which may

come to his knowledge, or who shall be guilty of neglect in the performance of his duty as such storekeeper, or who shall collude with any other person to defraud the United States, shall be immediately dismissed from office or employment, and, on conviction, be fined not less than \$500 nor more than \$2,000, and imprisoned not less than three months nor more than two years.

Mr. SCHENCK. I am instructed by the committee to offer the following amendment:

In line twenty-five, after the word "book," insert the words "which shall at all times be open to the examination of any revenue officer."

The amendment was agreed to.

Mr. SCHENCK. I am also instructed to offer the following amendment.

In line fifty-eight, strike out the words "retained and filed in the warehouse," and insert in lieu thereof, "delivered to the assessor of the district to be recorded and filed in his office."

The amendment was agreed to.

Mr. SCHENCK. Also the following amendment:

In line sixty, strike out the words "by the storekeeper."

The amendment was agreed to.

Mr. SCHENCK. Also the following:

In line sixty-three, after the word revenue, insert the words "or by the supervisor of the judicial district."

The amendment was agreed to.

Mr. SCHENCK. Also the following:

Strike out from line eighty to the words "United States," inclusive, as follows:

Or who shall knowingly make any false or fraudulent entry in any account kept by him, or who shall omit to make any entry required by law in said book or account, or who shall omit to make any certificate or report required by law, or who shall make any false certificate or report, or who shall fail to report in writing to the assessor of the district any violation of this act which may come to his knowledge, or who shall be guilty of neglect in the performance of his duty as such storekeeper, or who shall collude with any other person to defraud the United States.

The reason we move this amendment is that the same clause is repeated in another section of the bill, among the penal sections.

The amendment was agreed to.

Mr. LOGAN. I move to strike out the whole section, and I will give my reasons for doing it. From the disposition of the House it would seem to me that the probability is the whisky tax will be reduced. Now, having stricken out the vitality of the bill; having left the appointment of officers just where it was when this bill was reported, in the hands of the President and Secretary of the Treasury, I consider it necessary to strike out this section. Why? It provides for a system of bonded warehouses that can only be protected when you get the power in the hands of the Commissioner, and make him responsible for the officers that are under him. Inasmuch, therefore, as the House is determined to have the law as it was before this bill was reported, I think that there shall be no bonded warehouses, if you expect to get any tax. If the House intends to reduce the whisky tax, and intends to have the same swarm of officers that we have now, then let the tax be collected at the worm of the still. You do not want any warehouses. Having stricken out the sixth section, if you keep your bonded warehouses, and have the same swarm of roving men you have now defrauding the Treasury, you will never get a cent of revenue, I do not care what the tax is. If you want these same officers to collect your revenue, I desire to cripple them as much as possible. Hence, I move to strike out the whole section in reference to bonded warehouses, expecting the committee to vote for what I do not want, that is, a reduction of the tax on whisky.

[Here the hammer fell.]

Mr. SCHENCK. I hope my colleague on the committee will not insist upon that motion, because if it should prevail it will not in the least degree effect what he proposes to do, and it would affect other matters. It will be remembered that there are storekeepers appointed to have charge not of distilled spirits alone, but of anything and everything; that is, oil, tobacco, &c., that may be in bonded warehouses.

If, when we come to distilled spirits, the gentleman shall succeed with the rest of the House in making the tax so low as that it may reasonably be required to be paid altogether at the distillery, and that without crushing out the interest in the interior of the country, it will so far reduce the duties to be performed by any of these storekeepers and take away the necessity of appointing them.

If on the other hand that should not be done, we will have a system by which distilled spirits as well as other articles are to be taken care of in warehouses, and nobody to look after those warehouses, with proper responsibility. But in either case these appointments are appointments of officers to be made so far only as they may be found to be necessary and whose duties are not confined to distilled spirits but relate to any articles that may be placed in warehouses.

Now, one word to explain what I mean in reference to their duties in connection with distilled spirits. Under the present system there is a large class of warehouses called warehouse B, to which whisky is removed from the distillery warehouse, and where it remains an indefinite length of time. At this time there are in fact about five hundred thousand barrels accumulated in that way. The system that we propose in lieu of that is that the tax shall either be paid at the distillery on removing the spirits to the warehouse authorized there, and into which it is to be got, under such restrictions as will prevent the possibility of getting the whisky out of the distillery without payment of the tax, or, if removed, it shall only be removed for exportation and in bond, and that but once and by a particular route, and when it goes to the export warehouse it is not to be permitted to leave that warehouse except to go abroad, or to have the tax paid before it leaves the warehouse. This being our system, if the tax is paid altogether at the still, there will still be a necessity of keeping up a limited number of storekeepers at the warehouses for other purposes.

If the tax be not paid in every case at the still, then in that case there must still be a provision made for storekeepers to whatever extent they may be required, for it is not merely at the export warehouse that they are needed. The distillery warehouse itself must be under the charge of a storekeeper, and one of the most important duties of the storekeeper is to be present in the distillery, not like the inspector now, belonging to the distiller, but an officer of the Government, to watch everything and keep a record of everything that is done; to superintend the removal into the distillery warehouse; to be present when the tax-paid stamps which are provided for in this bill are attached to the packages containing the liquor, and to exercise, in short, various other important functions for the protection of the interests of the Government. All that the gentleman will strike out if he succeeds in striking out this section.

[Here the hammer fell.]

Mr. LOGAN. I will move to strike out all except the last word, for the purpose of answering the remarks of my colleague on the Committee of Ways and Means. I should have no disposition to differ with any member of the committee if the views of the committee as originally understood could be carried out. But I have been all the time opposed to bonded warehouses, and I am not warring against the committee when I state what my own views are. I say to this House, as I see you intend to reduce the whisky tax, you have got five hundred thousand barrels of whisky in these bonded warehouses to-day, the owners of which are holding them until you reduce the whisky tax and for no other purpose, and they have been doing it ever since this Congress assembled, waiting until this House shall do just what the whisky ring indicated last winter they should do. Now, I have been in favor of abolishing the bonded warehouses from the beginning, because that is the great source of

frauds in this country, so far as whisky and tobacco are concerned.

I say make it so that you shall collect the tax when the whisky runs out of the still-worm. If you want your bonded warehouse and your storekeeper let it be at the distillery, there to take charge of the whisky; but let the tax be paid there; and if you reduce the whisky tax to twenty or twenty-five cents, as some gentlemen propose, the distiller can afford to pay the tax at the distillery, and we need not have these bonded warehouses where these wholesale frauds have been committed—these export warehouses, having four or five gentlemen appointed to keep them, where not a dollar of tax will be paid, and from which if they can smuggle it they will do it.

Thousands of barrels of whisky have been smuggled from these bonded warehouses since we passed the law requiring the tax to be paid before it could be taken from the bonded warehouses. How has that been done? By the sanction of the head of your revenue department, by issuing an order that the whisky may be removed into another building because the old one leaks a little, or is in need of some repairs. That is the way it has been done, right under your very noses here. You have just now voted that the Secretary of the Treasury, and those who now have the appointment of these officers, shall continue to appoint them. I say, that since you have done what you have done, I will oppose everything in this bill that gives the least latitude whatever to this whisky ring.

[Here the hammer fell.]

Mr. COVODE. I am opposed to the amendment of the gentleman from Illinois, [Mr. LOGAN,] and I will give my reasons for that opposition. The gentleman speaks of the large amount of whisky that is now in bonded warehouses, awaiting the reduction of the tax on whisky. Now, I will state that the gentleman is mistaken in reference to some portions of the country.

I received but a few minutes since a letter from the collector of my district, in which he states that there are one million nine hundred thousand gallons of whisky now in bonded warehouses in my district, and the reason why the whisky is still there is that since the passage of the joint resolution to prevent the taking of whisky from bonded warehouses they have not been able to sell their whisky while it is in bond, and therefore have not been able to get it into market.

Heretofore they have been able to sell their whisky in eastern markets at about seventy cents per gallon. At this time whisky can be bought in eastern markets at \$1 50 per gallon, and consequently they could not afford to pay the tax of two dollars per gallon before they take their whisky out of bond, and then ship it East and compete with whisky that is being sold at \$1 50 per gallon. When they sold their whisky in bond to eastern dealers the eastern dealers cheated the Government out of the tax. It is not kept in bond because they have been waiting for the reduction of the tax, for they have not until lately had any reason to expect that any such reduction would be made. No doubt they will now wait for that reduction.

Mr. LOGAN. I withdraw my amendment to the amendment.

Mr. ALLISON. I move to strike out the words "Commissioner of Internal Revenue," and insert "Secretary of the Treasury." I am rather surprised at the course taken in regard to this section by my colleague on the Committee of Ways and Means, [Mr. LOGAN.]

Mr. LOGAN. The gentleman says he is surprised at my course here. Why? Did he ever know me to vote for bonded warehouses, either in the committee or out of it?

Mr. ALLISON. The gentleman says because the sixth section has been stricken out therefore he will oppose these other sections. Now, I would call his attention to the fact that the words "distilled spirits" do not appear in the section he proposes to strike out. And if



every gallon of distilled spirits should be required to pay the tax of two dollars per gallon at the distillery this section would still be necessary. We export more than one half of the tobacco raised in this country, and we must have bonded warehouses for the purpose of reaching this tobacco. This section applies with as much force, and was intended to apply, to the exportation of tobacco as to anything else.

Mr. LOGAN. The gentleman says that this section does not contain the words "distilled spirits." In that he is mistaken. I find in it these words, "and if distilled spirits, the number of gauge, or wine gallons, and of proof gallons."

Mr. ALLISON. Very well; distilled spirits may be mentioned in the section. Then let the gentleman move to strike out those words, if he is opposed to bonded warehouses for distilled spirits. For one I am not willing to leave distilled spirits without some provision in relation to export warehouses affecting them. I believe we have prepared a system of warehouses that will answer the purpose. And I beg gentlemen, especially at this stage of the bill, not to strike out this section so as to mar the harmony of the provisions later in the bill.

Therefore this section is essential even if the tax on distilled spirits is to be collected in the manner proposed by the gentleman from Illinois. It is necessary with reference not only to tobacco, but also mineral oils and some other articles, and, indeed, any other articles which are liable to a tax and which it may be desirable to export before the tax is paid. This is a general provision, not applying specially to distilled spirits. When we shall have settled the amount of tax which we shall impose upon distilled spirits, we may then consider the question whether or not the tax should be collected at the distillery. Until we settle that point, of course this section covers distillery warehouses as well as others; but I beg my friend not to insist on striking out this section, which is vital to the harmony of the general provisions of this bill. I withdraw my amendment.

Mr. JUDD. I renew the motion of my colleague to strike out the entire section. I make this motion principally for the purpose of asking an explanation of this section as connected with a law that we passed in the early part of this session. Every gentleman will reflect the furor which then prevailed in relation to the frauds that were committed almost openly throughout the entire land under this bonded-warehouse system; and so violent was the virtuous indignation of almost every member upon this floor that the bill on that subject went through almost by its title, and so suddenly as to destroy some very important interests which my friend from Massachusetts [Mr. HOOPER] seemed to think needed protection so far as exportation was concerned.

Now, it will not do for the gentleman from Iowa [Mr. ALLISON] to say let this section stand because it includes some other articles besides distilled spirits. I say, let us make it right as we go along. If the bonded warehouse system which has been in operation for the last eighteen months gives an opportunity for such frauds as in the early part of this session were considered as calling for immediate remedy by legislation, I desire the chairman of the committee to explain to me why this section does not open the door to similar frauds.

Under the old law there were two classes of warehouses—class A and class B. Under the present bill, the first class are storekeepers at the place where the whisky is made, and the other class are export warehouses. This, in my view, is merely giving new names to precisely the same things that we have had under the old law. I repeat that the ingenuity of Congress, even with all the aid of my friend from Ohio, [Mr. SCHENCK], is not sufficient to devise legislation which shall prevent the immense frauds in the article of distilled spirits, if it is allowed to move one step beyond the place where it is manufactured without paying

the tax, and I had hoped that the Committee of Ways and Means in this bill would report such provisions as would get rid of this objectionable system.

Now, gentlemen need not tell me that without this warehouse system business cannot be transacted because of the large amount of capital required. If the business is profitable the capital will flow to it. How is it with the immense product of the Northwest? Is the business in that carried on with the capital of the men there? No; they have a product that will command capital anywhere; and the money flows where the article of commerce is to be purchased. The provisions of this section do, in my judgment, contemplate substantially the two classes of warehouses of which we have had experience, furnishing the same opportunities for fraud that were afforded under the law which we with such hot haste repealed in the early part of this session.

[Here the hammer fell.]

Mr. WOOD. I rise to oppose the amendment. I think the two gentlemen from Illinois have really, at last, struck the nail upon the head. All the frauds which have been committed upon the Government in the non-payment of tax on whisky may be traced to the facility afforded by the Government in the establishment of bonded warehouses. There is the mode by which the Government is defrauded. The recent trial which took place in the city of Brooklyn, where a collector was convicted of collusion with those who had defrauded the Government, shows that it is the bonded-warehouse system which is at the bottom of most of the frauds upon the revenue. Fictitious bonds may be given, and they are accepted by the collectors, and upon those bonds the whisky is allowed to be taken out of bond. The bonded warehouses are not fraudulent in themselves; but they afford facilities for fraud by collusion on the part of the storekeeper with the distiller. They get the whisky into the bonded warehouses for the very purpose of avoiding the payment of the Government tax. There is no difficulty to get the whisky into the bonded warehouses. When the distillers get it there, then there is opportunity afforded for collusion with the inspectors and other officers. The officers get four or five dollars a day, and the distiller says to him, "Instead of four or five dollars a day I will give you four or five hundred dollars." That is the way the Government is defrauded of the tax on whisky in these bonded warehouses.

What is the process in New York? The distiller never pays a tax upon the whisky at the distillery. Where does he pay it? He puts the whisky in the bonded warehouses and waits for a convenient opportunity to avoid paying the tax. He gets his tool or agent by influence at Washington, or with the assessor or the collector in his district, appointed as inspector, and when he gets that done he does not pay his tool more than a few hundred dollars, and in this way avoids the payment of thousands of dollars of tax on the whisky he takes out of bond and puts upon the market.

I agree with the gentleman from Illinois that this tax should be collected at the time the whisky is manufactured. You should never let the whisky go from the hands of the manufacturer until the tax is secured. There is no security until the tax is absolutely paid. No whisky should be allowed to go out of the distillery until the tax has been paid, for when it is allowed to go into these bonded warehouses it affords facilities for fraud upon the revenue.

Mr. HUNTER. How is the tax to be collected at the small distilleries in cellars and garrets?

Mr. WOOD. There is no difficulty in collecting it there, but there is great difficulty in collecting it elsewhere. These distilleries are all known. It is impossible to run a distillery without its being found out. The Government officers know where they are. The distiller is bound to get a permit before he can distill any whisky.

Mr. HUNTER. Were not all the distilleries,

except the illicit distilleries, closed in New York?

Mr. WOOD. They allow them to close and to open again. One set of agents is sent to close them and another set to reopen them. Those agents are in the pay of the distillers, and as soon as they withdraw the distilleries go to work again and defraud the Government of its tax. There is no difficulty about collecting the tax at the distilleries; and in my judgment it is proper to change the present system in this bill.

[Here the hammer fell.]

Mr. SCHENCK. I move to insert after the words "the Commissioner of Internal Revenue," the words "by and with the advice and consent of the Senate." I do this for the purpose of enabling me to explain why these storekeepers are to be appointed. This is a general provision for storekeepers who are put under restriction and bound to a strict performance of duty in the warehouses of the Government, and it makes no difference whether that be one in which may be distilled spirits, tobacco, oil, or any other subject of tax. There is not the spectre here the gentleman supposes.

I admit when we get further along in this bill that this House or Congress may provide the tax on distilled spirits shall be paid at the still, and the tax on tobacco at the manufactory. It will be nugatory to make the amendment here. Then no appointments need to be nor would be made under it. The sixth section then would not be mischievous, but harmless.

But here is the fact. The gentleman says it is an attempt to keep up the old system of warehouses. No such thing. We have now distillery warehouses and we propose still to have them—what we call warehouse A. We propose also to have export warehouses. If we dispense with export warehouses, so far as distilled spirits are concerned, by providing that spirits shall be taxed at the still, there will still be storehouses to which this provision will apply. Then if we have the officers they ought to be placed under stringent provisions in regard to the performance of their duty and punished if they do not do it.

Now, on the subject of distillery warehouses that bill, which was passed in such hot haste, as the gentleman says, did not abolish warehouses A and B, but it shut down upon them, so that until there could be some wholesome legislation on the subject which should regulate everything in relation to distilled spirits they were forbidden to take spirits out of bond until the tax was paid. Distillery warehouses, then, must be kept up unless you reduce the tax so low that you can more easily collect it at the still.

Now, if you collect it at the still what is the effect of it? Does the gentleman from New York or the gentleman from Illinois propose that we shall have a man stand at the worm of the still with a gallon measure and as soon as he has got it full of spirits collect a tax of a dollar or fifty or twenty-five cents and then score one? There must be some place, then, in which to accumulate the whisky, within or without the distillery, under certain restrictions, which shall prevent it being removed without paying a tax. If the gentleman will inform himself, as he is capable of doing, he will, I think, be satisfied that some such place must be provided at the distillery, under the close guardianship of some officer under full restriction—we call him storekeeper—who will take care that the whisky is there and is not permitted to be removed an inch until it has paid the tax. You must either do this or stand, as I said, at the still worm with your gallon cup and catch the whisky, and, when you have got it filled, turn the cock and stop until you have got that gallon scored and got your pay for it, and then turn it on and get another gallon, which I hold to be rather impracticable.

Mr. MULLINS. Tedious, that is. [Laughter.]

Mr. SCHENCK. The gentleman says it would be tedious.

Mr. MULLINS. Too tedious.

Mr. SCHENCK. So I think it would. I am perfectly convinced that my friend from Illinois and others would not be making these criticisms and objections, would not be finding spectators where they do not exist, if they were to read the provisions of the bill in regard to distilled spirits, where, in section after section, line after line, we have thrown guards and restrictions all around these things, so that it seems to me next to impossible for whisky to be moved a mile or an inch without some security being given that the tax shall be paid. And if finally Congress shall decide that the tax must be paid at the still, and we have no necessity for anything except storekeepers at the distillery, then so be it; but still we must have a provision for storekeepers there. So far you will obviate the necessity of nearly all of this section, so far as distilled spirits are concerned, but you must still have the provision apply if you mean to have anybody in charge of this matter.

[Here the hammer fell.]

Mr. JUDD. I think the chairman of the committee will do me the justice to say that I have not made any such proposition, nor do I intend to in any portion of this bill. I desire to see a perfect revenue system. If some of us happen to be less informed on this subject than the chairman of the committee, who has been engaged in perfecting the details of this bill for four, five, six, or seven months, he certainly ought to give us the information that we seek. The gentleman talks about captious objections. I do not regard this as such. He speaks of the guards and checks and oaths with which they have in subsequent sections surrounded these officers. Why, Mr. Chairman, a storekeeper's oath, according to the stories we heard here at the beginning of the session, is not as valuable as a dicer's oath. What does an oath amount to or a bond with such men? The gentleman tries to break the force of these objections by belittling the thing and asking my colleague and myself to stand at the end of the still-worm and measure the whisky out by the gallon. Why, that is not necessary. We can do it with a larger measure than a gallon. We can have a vator we can in some form get at the capacity. We may not reach the entire amount, but I tell you that it is safer, in my opinion, to be defrauded on the question of capacity than to take the risks of this bonded warehouse system and the business of transportation. It is safer to the Government and you will get more money.

Now, it will not do for the chairman of the Committee of Ways and Means to say to us, "Do not make these objections" when we are in the pursuit of information. I believe that a system can be adopted. I have not studied the subject so as to mature one by which the largest proportion of a proper tax can be collected, especially if we can get a good class of officials.

Why, sir, in other countries they not only tax capacity but they require notice to be given of when they intend to run a distillery. It is run during the day time. Measurement is made of its capacity. It is run upon notice to the Government officials. And they do collect in other countries the largest proportion of the revenue that they are entitled to from distilled spirits. Why cannot we do it?

Mr. MULFINS. They have not got Yankees over there.

Mr. JUDD. The gentleman from Tennessee says they have got no Yankees there. The inventive genius of our people I recognize as fully as anybody else, and I tell you, as I repeat what I said before, that it is not possible for this or any other Congress by oaths, by bonds, by paper writing to prevent the genius of these men who can make a dollar and a half per gallon on whisky, cheating the Government.

[Here the hammer fell.]

Mr. SCHENCK. I withdraw the amendment.

Mr. MYERS. I renew it. I had not expected to say anything at this time upon the subject of this whisky tax, nor is there time in

the few moments allowed to do so properly. But as my friend from Illinois [Mr. Judd] has touched upon the point, I desire to say this much, that this whole discussion shows, and all the facts that have come to the knowledge of the committee and the country in relation to frauds in this particular of the whisky tax show, that we have not got the right system.

Now, a committee was appointed by the last Congress, of which I had the honor to be a member, in reference to the frauds in relation to this article, and they made a report. I have spoken of this before in this House. After a close examination of witnesses and of the mode of manufacturing whisky in several forms, they made a report to the effect that the proper mode to collect the tax upon whisky was upon the fermenting capacity of the distillery. It is as plain and simple as the rule of three. It does away with a vast number of officers required under the existing law and proposed to be required under this bill. It does away with the bonded warehouse system. It assesses the tax—and it clearly gets at the proper assessment—not at the still, but upon the mash-tubs, or upon what is properly called the fermenting capacity of the distillery. When an assessor assesses the value of real estate he has largely to guess at it, and yet I take it in most of the cities and places in this country real estate is assessed by the assessor chiefly upon that guess, and people acquiesce in it and the tax is collected. But the proper way is to ascertain by persons skilled in the business from other countries and in this country how much the distillery will produce in a certain number of days, giving the best time for the Government that is known.

Seventy-two hours is generally regarded as best in regard to grain distilleries. And some other estimate can be made in reference to molasses; it is the easiest thing in the world. If possible I will present a substitute when that section is reached, which I think will commend itself to the best judgment of the House. At all events if I cannot do so, I trust to hear something from others who are better skilled in this matter than I am.

This system has been adopted in Prussia and in Austria. And there is no reason, as my friend from Ohio [Mr. SCHENCK] says, why the inventive genius of this country cannot improve upon that system. Let us try it and see if we cannot collect this tax. I deny that there is not enough of ability here to contend with these frauds. Reduce the amount of tax, and then assess it upon the capacity of the distillery, and we will be enabled to collect at least three fourths of it, for there will be much less incentive to fraud.

The Committee of the Whole rose informally, and the Speaker resumed the chair.

#### ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same, namely:

An act (S. No. 188) to amend an act entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867; and

An act (S. No. 190) to further provide for giving effect to the various grants of public lands to the State of Nevada.

#### INTERNAL TAX BILL.

The committee resumed the consideration of the bill to reduce into one act and to amend the laws relating to internal taxes, the eighth section being under consideration.

Mr. SCHENCK. I recognize fully the propriety of giving information when I am called upon to do so; and I expect to give it when I have it.

The gentleman from Illinois [Mr. Judd] has not met my practical question. I say that even if, when we hereafter come to that portion of the bill, we should require all the taxes on distilled spirits to be paid at the place of production, we will still want some officers to

take charge of the distillery and look out for everything there. If the gentleman had read the bill he would have found much that he asks for in this respect. Section two hundred and four of the bill provides:

"That every distiller shall provide at his own expense a warehouse to be situated on and to constitute a part of his distillery premises, to be used only for the storage of distilled spirits, of his own manufacture, but no dwelling-house shall be used for such purpose, and no door, window, or other opening shall be made or permitted in the walls of such warehouse leading into the distillery or into any other room or building; and such warehouse, when approved by the Commissioner of Internal Revenue, on report of the collector, is hereby declared to be a bonded warehouse of the United States, to be known as a distillery warehouse, and shall be under the direction and control of the collector of the district, and in charge of an internal revenue storekeeper assigned thereto by the Commissioner of Internal Revenue; and the tax on the spirits stored in such warehouse shall be paid before removal from such warehouse, unless removed in pursuance of law."

Section two hundred and five provides for the whisky being drawn off into coked cisterns when it comes from the still. And we must have some one to take charge of it there, let the tax be paid where it may.

As to the other warehouses I will not speak of them now because they are not referred to here.

My object is to show that we want storekeepers at any rate. They are to keep an account of all that goes into the warehouses, all that goes out of the warehouses, and a great many other things, which the gentleman could find out if he would take the trouble to read the bill with any care.

The gentleman makes the criticism that in other countries notice is required to be given when it is proposed to commence running a still; all that is provided for in this bill, and more, too.

Mr. JUDD. At the suggestion of the chairman of the Committee of Ways and Means, [Mr. SCHENCK,] I will withdraw my motion, with the understanding that if it is necessary, after we have acted on the other portions of the bill, we can return to this section and act upon my amendment.

The CHAIRMAN. The hour of half past four o'clock having arrived, the committee, in pursuance of the order of the House, will now take a recess until half past seven o'clock this evening.

#### EVENING SESSION.

At half past seven o'clock the House reassembled in Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The pending question was upon the eighth section.

The CHAIRMAN. The gentleman from Ohio [Mr. SCHENCK] is entitled to the floor.

Mr. SCHENCK. I do not know that I need to add to what I have already said in opposition to the amendment proposed by the gentleman from Illinois, [Mr. Judd,] to strike out the provision for storekeepers, especially not after the indication he has given of his willingness to withdraw the amendment—indeed, I believe he has withdrawn it—upon the assurance that if the provisions of the bill should be so changed as to provide that the direct tax upon whisky shall be all paid at the still, I shall be willing that the committee may go back and make any change that may be necessary in this section to adapt it to that condition of things.

Mr. JUDD. That is perfectly satisfactory to me.

The CHAIRMAN. If there be no objection, this section will be reserved for further consideration hereafter.

Mr. SCHENCK. My understanding was that the section should be reserved for such amendments only as might relate to distilled spirits. This is all that was asked.

Mr. GARFIELD. I desire to propose an amendment which I believe to be necessary in view of the action which the Committee of the

Whole has already taken, to insert in the second line of this section, instead of the words "Commissioner of Internal Revenue," the words "Secretary of the Treasury." If the section is not to be reserved for general amendment I move this amendment now.

Mr. SCHENCK. I do not see that this amendment becomes necessary at all, by reason of our action on the sixth section.

The CHAIRMAN. If the Chair has misunderstood the arrangement between the gentleman from Illinois [Mr. JUDD] and the gentleman from Ohio, [Mr. SCHENCK,] in regard to reserving this section, he would be glad to have the matter restated.

Mr. JUDD. My objection to the section related to that portion with regard to distilled spirits, and my motion applying to the entire section was made rather *pro forma*, in order to have the matter explained by the chairman of the committee. I am willing that my motion to strike out shall be passed over until the other sections of the bill shall have been considered.

Mr. DAWES. Before this section has passed beyond our control, I think that the committee should act upon the amendment proposed by the gentleman from Ohio, [Mr. GARFIELD.] It seems to me that such an amendment is necessary; because, if the Commissioner of Internal Revenue is not the head of a department, he cannot make the appointments here contemplated. I know that by our action on the first section this officer is made the head of a department; but our action subsequently upon the sixth section seemed to me a determination in a full House that this officer shall not be the head of a department.

The CHAIRMAN. Does the gentleman from Ohio [Mr. SCHENCK] object to reserving this whole section for amendment generally?

Mr. SCHENCK. I object, because I understood the reservation was intended to apply to a particular question. If, however, gentlemen propose to open again the question with regard to appointments—whether they shall be confined to the Secretary of the Treasury or the Commissioner of Internal Revenue, I shall, perhaps, be compelled, as there is no quorum here, to consent that this whole section be passed over.

Mr. GARFIELD. I certainly would not do anything to embarrass the committee on this bill, there being now no quorum here; but I desire to say to my colleague [Mr. SCHENCK] that I understood the vote to-day upon the sixth section as indicative that the Committee of the Whole had decided not to erect the Internal Revenue Bureau into a separate department. My amendment simply proposes to carry out what I understand to be the sense of the House. If my colleague prefers that this question shall not be acted on now, and is willing that the section shall be reserved, and that this amendment shall be offered hereafter, I will cheerfully assent to that arrangement, as I am unwilling that business should be stopped for the want of a quorum.

Mr. SCHENCK. I think I understand this whole matter. The Secretary of the Treasury has now the appointment of about nine thousand officers in this and other branches of the public service. To take the appointment of four thousand of them away from him and give it to another officer is considered revolutionary, because it tends too much toward building up the power of one man! Hence, it is argued, we had better leave the appointment of the whole nine thousand with the Secretary of the Treasury! I suppose, however, if we get into an argument upon this subject, we shall open up again the whole question; and rather than do that, I would prefer that the whole section should be reserved. I withdraw my objection to that arrangement. I do not know but we would get along better by commencing at the other end of the bill.

The CHAIRMAN. The Chair only wishes to know what the agreement is.

Mr. SCHENCK. I agree that the eighth section shall be reserved for the purpose of the

amendments of the gentleman from Illinois and the gentleman from Ohio, now pending.

Mr. BEAMAN. I object, unless the whole section is reserved.

Mr. SCHENCK. I agree to that. There is no quorum present, and I cannot control the matter.

The Clerk read the next section as follows:

Sec. 9. *And be it further enacted*, That there shall be appointed by the Commissioner of Internal Revenue, in every collection district where the same may be necessary, one or more internal revenue gaugers, who shall each take an oath faithfully to perform his duties, and shall give his bond, with one or more sureties, satisfactory to said Commissioner, for the faithful discharge of the duties assigned to him by law or regulations; and the penal sum of said bond shall not be less than \$5,000, and said bond shall be renewed or strengthened as the Commissioner of Internal Revenue may require. The duties of every such gauger shall be performed under the supervision and direction of the collector of the district to which he may be assigned, or of the collector in charge of exports at any port of entry to which he may be assigned. Fees for gauging and inspecting shall be prescribed by the Commissioner of Internal Revenue, to be paid to the collector by the owner or producer of the articles to be gauged and inspected; and said collector shall retain all amounts so received as such fees until the last day of each month, when the aggregate amount of fees so paid that month shall, under regulation to be prescribed by the Commissioner of Internal Revenue, be paid to the gauger assigned to said district, or, if there be more than one, shall be equally divided by said collector among all the internal revenue gaugers assigned to the district. All necessary labor and expense attending the gauging of any article shall be furnished and borne by the owner or producer of such articles. Every gauger shall, under such regulations as may be prescribed by the Commissioner of Internal Revenue, make a daily return in duplicate; one copy of such return to be delivered to the assessor, and the other to the collector of his district, giving a true account in detail of all articles gauged and proved or inspected by him, and for whom, and the number and kind of stamps used by him. Any gauger who shall make any false or fraudulent inspection, gauging, or proof, shall pay a penalty of \$1,000, and, on conviction, shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than three months nor more than three years.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to move on page 11, line twenty-two, to strike out from the word "assigned" to the word "district," in line twenty-five, as follows:

To said district, or, if there be more than one, shall be equally divided by said collector among all the internal revenue gaugers assigned to the district.

And insert in lieu thereof the words:

Performing the duty; and in any city or part of a city within a district where there may be two or more gaugers on duty, the said fees shall be equally divided by the collector among them. In no case, however, shall the aggregate monthly fees of any gauger exceed at the rate of \$3,000 per annum.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to strike out in the twenty-ninth and thirtieth lines the words "copy of said return." It is a mere verbal amendment.

The amendment was agreed to.

Mr. HIGBY. I move to strike out these words, "shall pay a penalty of \$1,000, and." I should like to ask the chairman of the Committee of Ways and Means how it happens this is made to read in this way:

Any gauger who shall make any false or fraudulent inspection, gauging, or proof, shall pay a penalty of \$1,000, and, on conviction, shall be fined not less than \$500 nor more than \$5,000, and imprisoned not less than three months nor more than three years.

It seems that two penalties are inserted, or else there is tautology. Is it to be understood this penalty of \$1,000 is to be paid before conviction? How can he be made to pay a penalty before trial?

Mr. SCHENCK. Very easily by action of debt; all through the law we have resorted to the same practice.

Mr. HIGBY. It does not change the law?

Mr. SCHENCK. It does not.

Mr. HIGBY. It is not paid under a criminal prosecution?

Mr. SCHENCK. It is a double remedy which prevails all through the bill.

Mr. HIGBY, by unanimous consent, withdrew his amendment.

Mr. GARFIELD. I move to strike out the words "Commissioner of Internal Revenue," and insert "Secretary of the Treasury."

Mr. WOOD. Mr. Chairman, I suppose the

attention of the chairman of the committee has been necessarily drawn to the fact that these gaugers, under the existing law, are the principal parties who assist the distillers in defrauding the revenue. I hope that the provisions of this bill are sufficient to prevent it.

I will relate to the committee the *modus operandi* by which the gauger is made one of the chief instruments in assisting the distiller, as I understand the operation of the law now, at any rate the practice. A distiller makes application to the collector of the district that he desires to have gauged and to pay the tax upon a given quantity of whisky. He goes to the collector to have an order issued to the gauger to go to the distillery and gauge that quantity.

Mr. SCHENCK. I am compelled to raise the point of order that the gentleman is not speaking to the amendment, but to the general necessity of gauging.

Mr. WOOD. I am speaking to the amendment offered by the gentleman from Ohio. I hope the gentleman desires to make this bill as perfect as possible.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk reported the amendment to strike out "Commissioner of Internal Revenue" and insert "Secretary of the Treasury;" so that it will read as follows:

That there shall be appointed by the Secretary of the Treasury in every collection district where the same may be necessary, one or more internal revenue gaugers.

The CHAIRMAN. The Chair sustains the point of order, upon the ground that the only amendment proposed is to change "Commissioner of Internal Revenue" to "Secretary of the Treasury."

Mr. WOOD. I am in favor of that. I yield to the ruling of the Chair, which no doubt is strictly and technically correct. I want to make the bill perfect if I can.

The CHAIRMAN. There will still be opportunity for amendment when this is disposed of.

The question being put on the amendment of Mr. GARFIELD, the Chairman announced that the yeas appeared to have it.

Mr. GARFIELD. I ask for a division. The action of the committee to-day makes that amendment necessary. If it may be reserved I will not ask for a division. The settlement of one question will settle all of them.

Mr. SCHENCK. I have no objection to reserving it if the committee think proper.

By unanimous consent the amendment was reserved.

Mr. WOOD. I move to strike out "Commissioner of Internal Revenue." I do it for the purpose of calling the attention of the chairman of the committee, who I am bound to suppose is desirous of making this bill perfect so far as the security of the Treasury is concerned, to the fact that, in my judgment, there is no improvement in this section upon the existing law. Precisely the same form is proposed here as is now required by law. Indeed, I do not know but that this section is taken bodily from the existing law.

Mr. HOOPER, of Massachusetts. If the gentleman will allow me to interrupt him, this is not taken from the existing law. The only prescription in the existing law in regard to gaugers is that inspectors shall gauge. It will be found in the act of 1866, section thirty. There is no provision in the existing law for the appointment of a gauger.

Mr. WOOD. It is immaterial whether the inspector shall gauge or whether there is a gauger appointed. As I understand it, every district now has a gauger. The Secretary of the Treasury, at the recommendation of the collector of the district and by the consent of the assessor, recommends some person to gauge in that district. That I know to be the fact. Now they propose to name an officer to be called a gauger. It is immaterial whether he is an inspector or gauger. The point to which I desire to draw the attention of the committee is this: that this gauger is the only real security that the Government has. It is



in his power to return the measurement more or less just as in his judgment or to his interest he may deem wise or politic.

Now, I would throw around that department some security. I would interpose some more stringent regulations, so that it will be placed beyond the power of this officer, whether he is an inspector or gauger, to return falsely the quantity he does gauge, and to give a certificate that he has gauged but half the quantity that he has actually gauged.

Then, again, the gauger has it in his power to brand, and does brand and mark barrels of whisky as having been gauged, and which pass as having been gauged, but which have not been gauged at all and on which no tax has been paid at all. That is the object of my amendment. I do not know that I shall press it. I have offered it mainly for the purpose of calling the attention of the committee to the fact that one of the chief modes by which this fraud is practiced is by the gauger acting in collusion with the distiller himself.

Mr. SCHENCK. Mr. Chairman, I assure the gentleman from New York that where he has now spent minutes upon this subject the committee have spent almost weeks in informing themselves in regard to these matters; and he might not only have said that in the case of gaugers, but in the case of almost every officer, there have been, in various forms, frauds committed on the Government by reason of the want of penalties, restrictions, and guards thrown around them. And as we go through the bill he will find that gaugers, like other officers, are put under severe penalties of fine and imprisonment in the penitentiary for omitting to do or for doing any one of the several things prescribed.

As to its being precisely the same as the present law, the gentleman is entirely mistaken. Under the present law, there are general inspectors of spirits, and an inspector is sent to the distillery, paid by the distiller, and it is made his duty to gauge, and that same inspector has the gauging done in other cases. The consequence of this has been that swarms of gaugers have been employed, and they have divided between the gaugers and the inspector the immense amount of fees that have accumulated, so that in one case we find, independently of any frauds committed, that one inspector of oil, acting as gauger, hiring some nine boys and men under him, and paying them four dollars a day, himself pocketed at the rate of \$56,000 a year. All this we have attempted to correct by providing a specific officer who shall be known as a gauger, who shall be put under bonds and have certain duties prescribed for him, and who shall be sent to the penitentiary if he does not perform his duties, or commit any frauds in performing them; so that it is an entirely different condition of things.

And I am glad to be able to assure the gentleman from New York and any other gentlemen who take an interest in this matter that if they will look through this bill section by section they will find all the provisions to which the gentleman has alluded as necessary taken care of with a view to prevent just such frauds as he speaks of. And in order to prevent this accumulation of fees we have provided that in cities where there are two or more gaugers in a district, in order to prevent favoritism, one doing all the business and the other nothing, and that they shall have an interest in watching each other, the fees shall be divided; and then we provide that neither in cities nor elsewhere shall the fees received by the gauger amount to a sum which will make his compensation exceed \$3,000.

These are, in brief, some of the provisions made in regard to this officer, and we think we have guarded very well the duties we have imposed upon him.

Mr. WOOD. I withdraw the amendment.

No further amendments being offered to the ninth section, the Clerk read the tenth section, as follows:

Sec. 10. *And be it further enacted*, That for the pur-

pose of assessing, levying, and collecting the taxes hereinafter prescribed by this act the Commissioner of Internal Revenue is hereby authorized to divide, respectively, the States into convenient collection districts, or he may continue, modify, or alter, as he may deem best, the districts heretofore constituted, and he shall appoint an assessor and a collector for each such district, who shall be residents within the same, and shall keep their respective offices at a place therein to be designated by the said Commissioner: *Provided*, That any of said States may, if the Commissioner shall deem it proper, be erected into and included in one district; but the number of districts in any State shall not exceed the number of Representatives in Congress to which such States shall be entitled.

Mr. HUNTER. I move to amend this section by striking out all after the enacting clause and inserting in lieu thereof that which I send to the Clerk's desk to be read.

The Clerk read as follows:

That for the purpose of assessing, levying, and collecting the taxes hereinafter prescribed by this act, each State and Territory in the United States shall form but one collection district, except in those States or Territories having cities with a population of one hundred thousand or upward. Such States or Territories having such cities as aforesaid shall have one additional district for each of such cities as aforesaid. Such additional district or districts to consist of the county or counties in which such cities are situated.

Mr. HUNTER. We have reduced the sources of revenue to such an extent that in my judgment it is no longer necessary for us to have the number of assessors and collectors we now have. In my own State the office of collector of a district will no longer pay a competent man for all his time, considering the amount of services he has to perform.

Now, as we are trying to become economical, and as I believe that under the law as it now stands a collector or assessor occupying a district embracing an entire State will not have more duties to perform than a collector or an assessor had to perform in a district before we made this reduction, I think this Congress should endeavor to save as much as possible by reducing the number of officers and thereby saving their salaries.

This section leaves to the Commissioner of Internal Revenue the right to make districts just as he sees fit. Now, I think that is a duty belonging to the Government of the United States. We should fix the districts ourselves, and then have the collectors and assessors appointed for the districts that we make.

Now, I admit that in States where there are large cities, one of one hundred thousand inhabitants, for example, that city should have a collector and assessor to itself. I therefore propose by my amendment that cities of one hundred thousand inhabitants and upward shall constitute districts by themselves. We must have deputy assessors and deputy collectors in the respective counties, and they can report to the principal assessor or the principal collector when there is one in a State just as well as when there is one in a district like those now established.

By doing this we shall save in the item of collectors and assessors alone over two million dollars a year; a saving which I think Congress should be ready to make.

Mr. SCHENCK. Mr. Chairman, I do not know whether I clearly understand the amendment proposed. If I do understand it, it is that each State shall constitute a collection district, except where there is a city containing one hundred thousand inhabitants or upward; in which case such city shall constitute a separate district by itself. Now, that would make the State of Illinois all one district with the exception of the city of Chicago, which city would constitute another district. I doubt the convenience of people going from Cairo up to Ottawa, or from Ottawa down to Cairo. I think the gentleman will find a great deal of practical inconvenience resulting from that mode of collecting taxes.

Mr. HUNTER. Is it not the duty of the assistant assessor to perform that duty?

Mr. SCHENCK. Under the amendment of the gentleman the State of Indiana and the State of Michigan would each constitute a single district. In Ohio there would be two

districts; one constituted of the city of Cincinnati, and the rest of the State embraced in another district.

Mr. MAYNARD. The bill allows that to be done now, if the Commissioner thinks it can be done.

Mr. SCHENCK. The gentlemen says, if I do not misunderstand him, that his amendment would save about two million dollars in the item of collectors and assessors.

Mr. HUNTER. Yes, sir. And let me ask the gentleman if the deputy collector and deputy assessor in each county cannot transmit their reports to the principal collector and assessor at the capital of the State, or in any other part of the State, just as well as they now transmit their reports to any part of the district? There are districts in my State comprising eight or ten counties each, and the deputies in each county have to transmit their reports by mail to the principal assessors.

The amendment of Mr. HUNTER was not agreed to.

No further amendment was offered.

The next section was read, as follows:

Sec. 11. *And be it further enacted*, That each assessor shall divide his district into divisions, which may be changed as often as he may deem necessary, subject to such regulations and limitations as may be imposed by the Commissioner of Internal Revenue, within each of which divisions there shall be one or more assistant assessors, who shall reside within the district; and in case of a vacancy occurring in the office of assessor, the assistant assessor senior in office in the district shall discharge the duties and receive the compensation of assessor until an appointment filling the vacancy shall be made.

Mr. SCHENCK. On behalf of the Committee of Ways and Means I offer the following amendment:

Add at the end of section thirteen the following:

And such assistant shall discharge the duties of the assessor in case of the sickness or the temporary disability of the assessor.

The amendment was agreed to.

No further amendment being offered,

The next section was read, as follows:

Sec. 12. *And be it further enacted*, That the Commissioner of Internal Revenue, whenever he shall deem it expedient, may authorize the assessor of any district to designate one or more of the assistant assessors to make assessments in any part of such district of all taxes upon any specified objects of taxation, and in such case it shall be the duty of the other assistant assessors of such district to report to the assistant assessor thus specially designated all matters which may come to their knowledge relative to any assessments to be made by him; and whenever two or more districts or parts of districts are embraced within one county, it may be lawful for such assistant assessor or assessors to make assessments anywhere within such county upon such specified objects of taxation, which assessments shall be returned to the assessor of the district in which such taxes are payable.

No amendment was offered.

The next section was read as follows:

Sec. 13. *And be it further enacted*, That if any assessor shall demand of, or receive directly or indirectly from any assistant assessor, as a condition of his recommendation for appointment to or continuance in his said office of assistant assessor, any portion of the compensation herein allowed such assistant assessor, or any other consideration, such assessor so offending shall be summarily dismissed from office by the Commissioner of Internal Revenue.

Mr. GARFIELD. I desire to reserve the right to offer hereafter an amendment in the last line of this section, involving the same question which has arisen on other sections.

The CHAIRMAN. If there be no objection the reservation will be made.

Mr. SCHENCK. Mr. Chairman, I hardly think this involves the question about which my colleague is so tenacious. The legislative department can, if it thinks proper, give to the Commissioner the power to remove these officers. The question is simply whether when some petty subordinate commits fraud or in any way behaves badly, it is impossible for us to provide that the head of the bureau shall exercise a proper supervision over him without running to the Secretary of the Treasury to find out whether it shall be done.

Mr. GARFIELD. I beg the gentleman's pardon. These officers are appointed with the advice and consent of the Senate.

Mr. SCHENCK. O, no; they are not.

Mr. GARFIELD. The language of the section is:

Such assessor so offending shall be summarily dismissed from office by the Commissioner of Internal Revenue.

Now, these assessors are all under the present law appointed by and with the advice and consent of the Senate. Of course, if the general change indicated in the vote to-day be made, we could not put it in the power of the Commissioner to dismiss persons appointed by and with the advice and consent of the Senate.

Mr. SCHENCK. I thought my colleague was referring to another section relating to the duties of assistant assessors.

Mr. GARFIELD. I desire that the reservation shall be made with respect to all officers whom it would clearly be beyond the power of the Commissioner to appoint, if he be not made the head of a department.

The CHAIRMAN. If there be no objection the reservation in regard to this section will be made.

There was no objection.

Mr. GARFIELD. I also ask that by unanimous consent the same reservation be made with regard to the tenth section, which involves precisely the same question. I inadvertently allowed that section to be passed.

Mr. SCHENCK. I object to going back.

The Clerk read the fourteenth section, as follows:

SEC. 14. *And be it further enacted*, That every assessor or assistant assessor who shall enter upon and perform the duties of his office without having taken the oath or affirmation prescribed by law, or shall willfully neglect to perform any of the duties prescribed by this act at the time and in the manner required, or shall make any false or fraudulent list or valuation or assessment, or shall negligently or designedly permit any violation of the law by any other person, or shall demand or receive any compensation, fee, or reward other than is provided for the performance of any duty, or shall be guilty of extortion or willful oppression in office, shall, upon complaint and proof thereof to the satisfaction of the Commissioner, be dismissed from office, and shall, on conviction thereof, be fined not less than \$100 nor more than \$500, and imprisoned not less than three months nor more than three years. And one half of the fine so imposed shall be for the use of the United States, and the other half for the use of the informer, who shall be ascertained by the judgment of the court; and the said court shall also render judgment against the said assessor or assistant assessor for the amount of damages sustained in favor of the party injured, to be collected by execution.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to move to strike out that section, and I will explain the reason why. On acting on the different parts of the bill and dovetailing them it was discovered that the whole of section fourteen is but a repetition of the matter contained in section sixty-two with the exception of some two lines. We propose to strike out section fourteen, and when we come to section sixty-two to insert a few lines.

The amendment was agreed to.

The Clerk read the next section, as follows:

SEC. 15. *And be it further enacted*, That every assistant assessor shall render his account for pay and charges allowed by law monthly, specifying each item and the date of each day of service, and transmit the same, verified by his oath or affirmation, to the assessor of the district, who shall examine the same, and, if it appear just and in accordance with law, indorse his approval thereon. Such account when so approved may be presented for payment by the assistant assessor to the collector of the district acting as disbursing agent of the Treasury, who shall pay the same when receipted by the assistant assessor. When any account, so transmitted to the assessor, shall be objected to, in whole or in part, the assistant assessor may appeal to the Commissioner of Internal Revenue, whose decision on the case shall be final. And should it appear at any time that any assessor has knowingly or negligently approved any account, as aforesaid, allowing any assistant assessor a sum larger than was due according to law, it shall be the duty of the Commissioner of Internal Revenue, upon proper proof thereof, to deduct the sum so allowed from any pay which may be due to such assessor, or the Commissioner, as aforesaid, may direct a suit to be brought in any court of competent jurisdiction against the assessor or assistant assessor for the recovery of any amount knowingly or negligently allowed, as hereinbefore mentioned.

Mr. PETERS. I move to amend in line seven, after the word "thereon," by inserting these words:

And when sworn to before a justice of the peace the certificate of the official character of such justice shall be deemed sufficient evidence thereof.

Mr. Chairman, an assessor in my part of the State goes before a justice of the peace, and then has to go to the county court to get a certificate that the party is a justice of the peace.

Mr. SCHENCK. It strikes me that this is unnecessary, as we give the revenue officers power to administer oaths.

Mr. PETERS. Not to the assistant, but only to the assessor.

Mr. SCHENCK. If the gentleman will turn to section sixty-three he will find it provides as follows:

That the Commissioner, assistant commissioner, deputy commissioners, and supervisors of internal revenue, collectors and deputy collectors, and assessors and assistant assessors, are hereby authorized to administer oaths and take testimony touching any part of the administration of this act with which they are respectively charged, or where such oaths and testimony are by law authorized to be taken.

Mr. PETERS. That does not meet my objection. An assistant assessor who desires to make an oath to his account cannot make it before himself, but must go before a collector in another place.

Mr. SCHENCK. I wish it were not so, but these revenue officers are scattered all over the country, and it cannot be conceived that it will be difficult to find one of them to administer the oath.

Mr. PETERS. There may be none other in the same town. I can see no possible objection to my amendment. It is intended to reach this case: that where an assistant collector has sworn to his returns before a justice of the peace and sends it to the collector, the latter may certify his knowledge of the notoriety of the fact that the justice of the peace is duly commissioned to act as such. I insist upon the amendment.

Mr. JENCKES. I rise to oppose the amendment. There is a conclusive answer to the amendment proposed by the gentleman from Maine. Oaths taken before a justice of the peace are not within any statute of the United States subject to the penalty of perjury. If an oath should be required by this act to be taken before such a justice it would amount to nothing but a certificate of a third person to the correctness of what the collector says, without any penalty upon the collector for false statement or upon the justice for improper administration of the oath. Until the statutes in relation to perjury are revised it is not safe to allow oaths of this kind to be taken before officers of the States. It amounts to nothing. A restriction, qualification, or duty imposed by the law would be entirely evaded if a justice of the peace should be allowed to administer oaths.

The amendment of Mr. PETERS was disagreed to.

The Clerk read as follows:

SEC. 16. *And be it further enacted*, That assessors shall each be allowed and paid a salary of \$1,500 per annum, payable quarterly; and, in addition thereto, where the receipts of the collection district shall exceed the sum of \$100,000, and shall not exceed the sum of \$200,000, annually, one half of one per cent. upon the excess of receipts over \$100,000; where the receipts of a collection district shall exceed \$200,000, and shall not exceed \$400,000, one fourth of one per cent. upon the excess of the receipts over \$200,000; and where the receipts shall exceed \$400,000, one tenth of one per cent. upon such excess. And in determining the compensation to be allowed to any assessor the commission shall be computed on one half of the tax on any articles which shall have been transported from his district in bond, and on only one half of the tax on any articles received in his district in bond where such transportation has been by shipment from one district to another. Each assessor shall be allowed and paid the sums actually and necessarily expended by him, with the approval of the Commissioner of Internal Revenue, for office rent; but no account of such rent shall be allowed or paid until it shall have been verified in such manner as the Commissioner shall require, and shall have been audited and approved by the proper officers of the Treasury Department. And these several assessors shall be paid, after the account thereof shall have been rendered to and approved by the proper officers of the Treasury, their necessary and reasonable charges for clerk hire; but no such account shall be approved unless it shall state the name of each clerk employed, the time of his service, and the rate of compensation agreed upon; and every such account shall be accompanied by an affidavit of the assessor, stating that such service was actually required by the necessities of his office, and was actually rendered, and also by the affidavit of such clerk, stating that

he has rendered the service charged in said account on his behalf, the compensation agreed upon, and that he has not paid, deposited, or assigned, or contracted to pay, deposit, or assign, any part of such compensation to the use of any other person, or in any way, directly or indirectly, paid or given, or contracted to pay or give, any reward or compensation for his office or employment, or the emoluments thereof; but no such account for clerk hire shall in any case be presented or received at the Treasury Department for examination and allowance until after it shall have been approved by the Commissioner of Internal Revenue, and his approval indorsed thereon. And there shall be allowed and paid to each assistant assessor five dollars for every day actually employed in collecting returns and making valuations, the number of days necessary for that purpose to be certified by the assessor, and three dollars for every hundred persons assessed contained in the tax list, as completed and delivered by him to the assessor, and twenty-five cents for each permit granted for making tobacco, snuff, or cigars; and the said assessors and assistant assessors, respectively, shall be paid, after the account thereof shall have been rendered to and approved by the Commissioner of Internal Revenue and the proper officers of the Treasury, their necessary and reasonable charges for stationery and blank books used in the discharge of their duties, and for postage actually paid on letters and documents received and sent, and relating exclusively to official business, and for money actually paid for publishing notices required by this act; but no such account shall be approved unless it shall state the date and the particular item of every such expenditure, and shall be verified by the oath or affirmation of such assessor or assistant assessor. The compensation herein specified shall be in full for all expenses not otherwise particularly authorized: *Provided*, That the Commissioner of Internal Revenue may fix such additional rates of compensation to be made to assessors and assistant assessors in cases where a collection district embraces more than a single congressional district, and to assessors and assistant assessors in the States of California, Nevada, and Oregon, and in the Territories, as may appear to him to be just and equitable, in consequence of the greater cost of living and traveling in those States and in the Territories, and as may, in his judgment, be necessary to secure the services of competent officers; but the compensation thus allowed shall not in any case exceed the rate of \$5,000 per annum.

Mr. SCHENCK. I move as an amendment from the committee to strike out all after the word "rent," in line twenty-three, down to and including the word "account," in line thirty, and to insert in lieu thereof the words "and have his necessary and reasonable charges for clerk hire; no account for clerk hire."

The amendment was agreed to.

Mr. SCHENCK. I move further to amend by inserting after the word "for," in line forty-five, the words "office rent or."

The amendment was agreed to.

Mr. SCHENCK. I move further to amend by striking out in lines fifty-five and fifty-six the words "permit granted for making tobacco, snuff, and cigars," and inserting in lieu thereof the words "certificates of registration given to a cigar-maker on payment of his special tax."

The amendment was agreed to.

Mr. SCHENCK. I move further to amend in line fifty-nine by striking out the words "and the proper officers of the Treasury."

The amendment was agreed to.

Mr. BLAINE. I move to amend by inserting in line sixty-nine, after the word "authorized," the following:

*Provided*, That an assistant assessor who, by reason of a vacancy in the office of assessor, is discharging the duties of assessor, shall receive the full pay and emoluments thereof while discharging such duties.

Mr. SCHENCK. That is provided for.

Mr. BLAINE. Not in the existing law. There is a great deal of controversy about it in the Auditor's office; but if it is provided for I withdraw it.

Mr. BECK. I move to amend by inserting in line twenty-three, after the word "rent," the words "and the office furniture actually necessary for the safekeeping of the papers pertaining to his office." I offer this amendment because I know that in many districts, and especially in my own, papers have accumulated to such an extent under previous assessors that it is indispensable to have the furniture necessary for their safekeeping. The assessor ought to be allowed to supply himself with such furniture. I make the suggestion because my attention has been called to the subject by several assessors, who say that it is indispensable that they should have some such allowance as this.

Mr. SCHENCK. We have not thought it advisable to extend the allowance to these officers beyond clerk hire, and for rent and books and stationery. But it is for the committee to determine whether any further allowance shall be made. I hope the amendment will not prevail. The next think asked for will be a safe to keep everything secure.

Mr. BECK. If the gentleman will examine the office of an assessor he will find that there are papers which no safe would be large enough to hold, papers that require a large book-case in which to keep them. These papers do not belong to the assessor, but to the office, and they are transmitted from one assessor to another; they are now lying about the office, subject to be destroyed, because no assessor feels that he has such a tenure of office as would enable him to provide proper furniture for the office.

The question was taken on Mr. BECK's amendment, and it was disagreed to.

Mr. LAWRENCE, of Ohio. I move in line fifty to strike out the word "five" and insert "four" in lieu thereof, so as to provide that the compensation of assistant assessors shall be four dollars a day instead of five dollars a day, and I wish to say a word or two in support of my motion.

Mr. Chairman, I have no doubt but that in some of the large cities, where the expenses of living are great, and in the States of the Pacific and in some of the Territories, we ought to allow five dollars a day, and perhaps in some of them more, and I would be willing to make provision for all such cases as that. But I say to the committee that in nine tenths of all the districts of the United States five dollars a day is a greater compensation than is paid for equal talent in almost any other branch of business.

Now, sir, I undertake to say that in most of the States the pay of a mechanic does not exceed three dollars a day, and when the mechanics of this country are receiving only three dollars a day and are taxed to pay five dollars a day to gentlemen with no more capacity and for performing services not half as arduous, they have a right to complain, and they will complain. I say that five dollars a day is thirty-three and one third per cent. more than the compensation that is paid to the average of the preachers in the United States, and thirty three and one third per cent. more than is paid to the average of the principals of our Union schools in the State of Ohio.

Now, sir, I would be willing to pay a just compensation for this and for all services that may be rendered to the Government; but if there is any one subject upon which there is just complaint among the people it is this, that the expenses of collecting the revenue are too great, and that there are too many officers in the revenue service.

Mr. O'NEILL. I wish to ask the gentleman if he will not make an exception in the case of assistant assessors living in cities?

Mr. LAWRENCE, of Ohio. I have just said that I would.

Mr. O'NEILL. Will he not do it in his amendment?

Mr. LAWRENCE, of Ohio. Let it be provided for elsewhere. I have no doubt that you cannot make a uniform rule that will do justice by having the same compensation all over the United States.

Mr. BLAINE. Do I understand the gentleman to say that the assistant assessors in his district should be paid less than the assistant assessors in cities?

Mr. LAWRENCE, of Ohio. No, sir; I said no such thing. I said there were some assistant assessors in cities who ought to have a greater compensation. Will the gentleman say that the same compensation ought to be paid everywhere?

Mr. BLAINE. I am not for giving a single assessor in any State in the United States a dollar more out of the public Treasury than his services are worth.

Mr. LAWRENCE, of Ohio. There are

places in the United States where men must necessarily pay more to live than in other places. I am not proposing to increase the compensation of anybody. My proposition is to reduce it to four dollars a day; and if I had the power I would make it still less. I had hoped that the eloquent voice of my colleague, who came here upon the labor question, [Mr. CARY,] would have been heard upon this and similar subjects.

Mr. BLAINE. Your colleague cannot get a chance to come in.

Mr. HOOPER, of Massachusetts. In the rural districts, which comprise a great deal of territory, though the expense of living there may not be so great as in cities, the assistant assessor is subjected to a great deal of expense in traveling over the district.

Mr. LAWRENCE, of Ohio. He is paid his traveling expenses. My proposition now is to make the compensation uniform at four dollars per day. I will not commit myself upon the question whether I will be in favor of giving more to assessors in cities or not.

[Here the hammer fell.]

Mr. O'NEILL. I asked the gentleman from Ohio [Mr. LAWRENCE] a question, and from his answer I found that he was willing to pay assessors in cities at the rate of five dollars a day. Now, I think these officers are entitled to the same compensation wherever they may be. And I know that in a city where the assistant assessor does his business thoroughly a compensation of five dollars a day is not too much.

Mr. LAWRENCE, of Ohio. Will the gentleman permit me to ask him a question?

Mr. O'NEILL. Certainly.

Mr. LAWRENCE, of Ohio. I would ask the gentleman how much a good mechanic gets in Philadelphia?

Mr. O'NEILL. From four to five dollars a day.

Mr. LAWRENCE, of Ohio. Should the assessor in Philadelphia have any more than a good mechanic?

Mr. O'NEILL. I believe that the assessors should have just what their services are worth.

Mr. LAWRENCE, of Ohio. Yes; but are their services worth more than the services of a good mechanic?

Mr. O'NEILL. I was going on to say that I think these officers deserve just such compensation as their services are worth; and I will say that the duties of assistant assessors have been performed much better since they have been receiving their present compensation than they were before when the compensation was less. In our cities these officers are employed all the time.

Mr. BLAINE. But the city assessors have compact districts about which they travel on horse-cars at the rate of two or three cents a mile; while in the country they have to keep or hire a team at a much greater expense.

Mr. RANDALL. Let me correct the gentleman. In the cities they usually have free tickets on the horse-cars.

Mr. O'NEILL. Well, I do not object to their having that advantage. In the cities they are employed all the day, and in the evening they have to put the result of their day's work in writing.

I wish the assessors and collectors generally were as good men and as faithful to the interests of the Government as they should be. I wish the inspectors of the revenue were more generally good men. And I know one way in which we could get good men, at least as far as my district is concerned. If I was permitted to select the men in my district I would guaranty that the revenue would be properly collected. If the Department would act on my recommendation as to who should be the inspector or the assistant collector, or who should carry on the business in a subordinate capacity under the collectors of revenue in my district, I would guaranty to select such men as would collect it. And that would take from the chairman of the Committee of Ways and Means the vast labor he is now performing in endeavor-

ing to remodel the revenue system of the country.

We have been trying for years to perfect our revenue system, and I give due credit to the Committee of Ways and Means for their labors upon this subject. I shall stand by their bill. [Here the hammer fell.]

The amendment of Mr. LAWRENCE, of Ohio, was not agreed to.

Mr. LAWRENCE, of Ohio. I move to amend by striking out in the eighth line of this section the word "five," and inserting "four," so as to make the last clause of the section read, "but the compensation thus allowed shall not in any case exceed the rate of \$4,000 per annum."

I ask the Clerk to read the proviso of this section, so that the committee may understand the exact bearing of this amendment.

The Clerk read as follows:

*Provided, That the Commissioner of Internal Revenue may fix such additional rates of compensation to be made to assessors and assistant assessors in cases where a collection district embraces more than a single congressional district, and to assessors and assistant assessors in the States of California, Nevada, and Oregon, and in the Territories, as may appear to him to be just and equitable, in consequence of the greater cost of living and traveling in those States and in the Territories, and as may, in his judgment, be necessary to secure the services of competent officers, but the compensation thus allowed shall not in any case exceed the rate of \$5,000 per annum.*

Mr. LAWRENCE, of Ohio. Mr. Chairman, when I said a short time ago that I would be willing to give some additional compensation to the assessors in the Pacific States and the large cities, I did so out of deference to a provision already incorporated in this bill, and which has just been read by the Clerk. I was not sure of the propriety of the bill in this respect, or of the necessity of such increased compensation in particular localities; but I am very certain that in most of the districts of the United States the compensation provided in this bill is too great.

Now, sir, as the Committee of the Whole has voted down the amendment which I before offered, I hope it will pause before refusing to adopt that which I now submit. It will be seen that under this provision of the bill assessors and assistant assessors may have a compensation which reaches \$5,000 a year. I undertake to say, Mr. Chairman, that this is more than ought to be raised by taxation from the people of the United States to pay for the services of these officers. I know something of the manner in which the duties of these officers are performed. I do not propose to disparage their merits or qualifications or the value of their services; but I do say that we are making by our laws too much difference between the compensation paid to officers of the Government and the compensation which can be earned by the men performing the labor of this country. The mechanics and laborers of the United States do not receive a compensation at all proportionate to that which is paid for official services. I want either that the wages of labor shall be leveled up or that the pay of public officers shall be leveled down.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, I rise to oppose the amendment. In the first place, I desire to acquit the committee of any extraordinary transgression, by referring to the fact that this provision is precisely that contained in the present law, except that we have limited its operation to those States and Territories in which there is a gold currency.

Mr. LAWRENCE, of Ohio. Will my colleague let me ask him a question?

Mr. SCHENCK. Certainly.

Mr. LAWRENCE, of Ohio. Does my colleague think it right that men should be paid \$5,000 in gold a year when they are only paid five dollars a day in Ohio in "greenbacks"?

Mr. SCHENCK. I will reply by saying that none of the salaries are payable in gold, but in "greenbacks," except the salaries of naval officers in foreign lands and officers in the diplomatic service. In Oregon, Nevada, and California, and in the Territories, while the



salaries are paid in "greenbacks," their expenses are in gold, so that in fact the officers there receive only two thirds of the limitation of \$5,000 instead of \$5,000—less, in fact, than \$4,000.

This limitation has not been abused. Efforts have been made to extend it, but they have not succeeded. We know no reason for making it larger or smaller, and therefore we have reported it as it is for the reasons I have stated.

Mr. TROWBRIDGE. Is there any provision in the bill that these assistant assessors shall have extra pay for traveling expenses?

Mr. SCHENCK. No, sir.

The question was taken on the amendment of Mr. LAWRENCE, of Ohio, and it was rejected, only thirty voting in favor thereof.

Mr. ELA. I move in line two, page sixteen, to strike out "fifteen," and in lieu thereof to insert "ten," so it will provide that assessors shall each be allowed and paid a salary of \$1,000 per annum.

Mr. Chairman, I know something of this matter of assessing and collecting taxes, and I know that the gentleman from Ohio [Mr. LAWRENCE] is correct. The greatest complaint of the people about taxation to-day, as it has always been, is in reference to the amount paid to officers engaged in the assessing and collection of the revenue; and so long as you shall continue to pay these officers more than they can get in any other avocation, so long will the people find fault and complain.

In regard to assistant assessors, gentlemen tell you that they have their horses to go over the district. If they do, the habit has been to charge a day for their horse as well as for themselves. In the cities they charge full time, which offsets all these advantages in favor of the country.

Under the old law the pay was four dollars a day. It was raised from three dollars to four dollars. Afterward they made an addition to men assessing out of their own town, and they received five dollars a day. This proposes to give five dollars a day indiscriminately.

In regard to the assessment of taxes I have no doubt the ability is greater than in the collection, for which higher rates are paid; but so long as you can get as good ability at a much less rate, and while the paying of these high salaries causes complaint on the part of the people, I think the best thing we can do is to bring down the pay of these officers to what they can get in other avocations and do away with the constant rush to get these offices where ever there is a vacancy.

Now, under this bill the committee have cut down the pay of assessors who assess over \$1,000,000 from \$3,800 to \$3,100 a year, while they leave the pay of collectors where it is at present. Take the income taxes from all places. Take the income tax of this city, and you will find not three hundred people who get as much for their services with all the receipts from their investments as these officers. I took the income of a city of ten thousand inhabitants, and but one hundred people had an income exceeding \$2,000, including not only receipts from personal exertions, but receipts from all their investments.

Mr. INGERSOLL. I wish to oppose the amendment. It seems to me it would have been better had the Committee of Ways and Means increased the salaries for assessors where the aggregate collected does not exceed \$400,000. Now, I take it there is scarce any man of talent employed by private enterprise in the United States who does that amount of labor, controlling or handling that amount of capital, who is not better paid. The assessor is a more important officer in this Government than the collector. He is the man who lays the foundation upon which the revenue is collected. If you have a worthless assessor it matters not how good a collector you have.

Mr. MAYNARD. Do you propose any change?

Mr. INGERSOLL. I am not going to advo-

cate any change. I am simply saying that I am surprised that the committee did not bring in a provision so that an assessor who returns an assessment upon which \$400,000 should be collected should receive more than \$2,500. In the eighth district of New York, where the assessment and collection amounts to some five million dollars, the officer receives for his compensation over seven thousand dollars per annum. He does less labor and has no more responsibility than the collector in a district where the collection does not exceed \$400,000, and yet he gets nearly three times as much pay. Now, I cannot see the equity of that.

But I do not propose to disturb the bill. I am opposing the amendment of the gentleman from New Hampshire, [Mr. ELA,] who proposes that the pay shall be \$1,000. That may pay for talent in New Hampshire; but it will not pay a good assessor in Illinois. Anywhere in the country an honest man, capable of discharging the duties of this office, can get more than \$1,000 a year in any kind of business.

A MEMBER. How about perquisites?

Mr. INGERSOLL. They would not amount to much, unless the officer does a large amount of business. The perquisites are at a decreasing rate above a certain amount, and they do not amount to much unless the collection is large. Now, if you want to get good and efficient collectors of the revenue, pay your officers a reasonable salary. Do not give them poor, niggardly pay. I am surprised that the gentleman from Ohio [Mr. LAWRENCE] has proposed to reduce the pay to four dollars a day, especially when he does not himself do as much labor as the assessor in his district does, and yet he receives more than twelve dollars a day.

Mr. LAWRENCE, of Ohio. Reluctantly.

Mr. INGERSOLL. Reluctantly, yet the gentleman takes it. I hope the amendment will be withdrawn and the compensation will be allowed to stand where the committee put it.

Mr. HOLMAN. I move to insert "\$1,100" instead of "\$1,000." It seems to me that this amount ought to be adopted. The salaries of the assessors, on the basis established by this section, will average from \$3,000 to \$3,500, if the fixed compensation is reduced to \$1,000.

Mr. INGERSOLL. I would ask the gentleman what is the greatest amount of revenue collected in any collection district of Indiana.

Mr. HOLMAN. I suppose about one million five hundred thousand.

Mr. BLAINE. In one district?

Mr. HOLMAN. In one district.

Mr. BLAINE. Have you a district that gives that?

Mr. HOLMAN. In my colleague's district the distilling interest paid \$600,000 tax in one year.

Mr. INGERSOLL. I doubt if it amounted to one third of that.

Mr. HOLMAN. I do not wish to be understood as speaking advisedly on the subject, but if you reduce the fixed compensation to \$1,000, I believe, taking into consideration the nature of the duties performed, the entire amount of pay will exceed that generally given in the States for services requiring the same degree of ability and responsibility. I think nothing can be more unwise, nothing will be more calculated to exasperate the people against the whole revenue system, than an invidious comparison between the compensation paid to Federal officers and that paid to State officers for similar service. I think it is greatly to be deplored that the people now are able to point to manifest instances of extravagance by the General Government in connection with the revenue, while the present state of affairs calls for more severe and rigid economy. There is no responsibility, or scarcely any responsibility in connection with this office. The argument urged in favor of a large salary for the collector has no force in connection with the assessor. The real labor of his duties is performed by the assistant assessors, and I undertake to say, judging of this office, from the generality of the officers throughout the country, that a salary of \$2,500 will secure the

intelligence and integrity necessary for the performance of these duties in every district throughout the country. I hope that this amendment will be adopted.

Mr. SCHENCK. Before we get through I think it will be found very important that gentlemen should know what the present law is and what is proposed, and what it is that is sought to be amended in each instance.

Now, sir, what is the salary proposed by this bill for an assessor? How does it compare with the present law? The salary proposed is a reduction from the existing law on the subject. Under the existing law, after a salary of \$1,500, the assessor receives an addition of half of one per cent. on his assessments up to \$200,000, and one fourth of one per cent. after that for \$200,000; that is, up to \$400,000. We have retained the figures of \$1,500 as the salary to start with for every assessor; but we have reduced the half of one per cent.; so that it shall only be counted above \$100,000 and up to \$200,000, and the quarter of one per cent. on the next \$200,000, bringing it up to \$400,000. How will that result? The man who assesses \$100,000 or less—which is the case in a good many of the little districts throughout the United States—will receive \$1,500, all the assessors starting from that point. The man who assesses \$100,000 more will receive half of one per cent. on that, which will increase his compensation \$500, and bring it up to \$2,000. The man who assesses \$200,000 more, and brings his assessment up to the average assessment throughout the United States, will reach \$2,500. After that we have allowed one tenth of one per cent. to the man who assesses \$1,000,000, which will bring his salary up to \$3,100; and if he runs up to \$5,000,000, that will give him \$7,100. It may be assumed, then, that from two thousand to twenty-five hundred dollars will be the average salary; that is, an assessment of from \$200,000 up to \$400,000, or, perhaps, you might say that the average will run up to \$2,500, which will be the compensation for the man who assesses to the amount of \$400,000. Is this too much? I think not.

The gentleman from Indiana [Mr. HOLMAN] differs from me, and, I think, from the general judgment on this subject, when he says that the assessor fills an office of no great responsibility. Why, sir, all through your internal revenue laws, the assessor discharges a most important function. It is not only upon him that we depend for determining what it is that shall be made the basis upon which we are to build up our whole system of collecting the revenue, but we make him, for a great many purposes, a judicial officer. He bears all his own expenses. He has no allowance for anything excepting clerk hire and office rent at his place of business. To whatever portions of the district he may be called, to whatever duty he may be required to turn his attention, for whatever he may do in the supervision of his assistants, he receives no additional compensation whatever. And I hold, in reference to all these internal revenue officers that we are providing for, that it is wise, while we are not extravagant and do not pay large salaries, to pay respectable salaries, so as to secure good services of good men, and at the same time lift those men at least above the ordinary temptations which they will be subjected to if we attempt to bring them down to some starving point.

[Here the hammer fell.]

Mr. HOLMAN. I withdraw my amendment to the amendment.

Mr. MILLER. I move to amend the amount named in the section by adding to it one dollar. I rise merely to say that I agree with the honorable chairman of the Committee of Ways and Means [Mr. SCHENCK] that the assessors ought to be allowed a fair compensation. I agree that it is a very important office, and that none but honest men should be selected to fill the office, and they should receive a fair compensation. And if we give a fair compensation we can secure honest and competent men

to discharge the duties. It is necessarily a responsible office.

I know that the complaint has heretofore been made that too many of these assessors have been appointed. In my district, with all small counties, two assessors were appointed to discharge the duties where one would have been enough. And notwithstanding they appointed two assessors, each charged for nearly his whole time.

It seems to me that the salary proposed by this section is sufficiently respectable. And if we would secure men of talent and integrity to discharge this duty we ought to pay them a fair compensation. If we do not pay a fair compensation we cannot expect to obtain the services of such men.

Gentlemen say that good men can be obtained for \$1,000 a year. That may be the case in some places, but I deny that they can be got all over the country for that compensation. Perhaps the gentleman from New Hampshire [Mr. ELA] can find such a man in his district. But, as a general rule, you cannot secure good men to discharge these duties for a less compensation than that proposed here. I believe that so far as this matter of compensation is concerned the Committee of Ways and Means have given the subject careful consideration, and have come to a correct conclusion. And I believe it is the duty of the Committee of the Whole to sustain the Committee of Ways and Means in reference to this part of their bill.

Mr. ELA. It seems to me unfortunate that gentlemen should oppose the reduction of this compensation on the ground that it is necessary to give high pay to get honest assessors. If you will consult the records of the revenue department you will find that, as a general rule, the rascality and thieving has been in proportion to the amount of compensation paid. If the receipts of these assessors do not amount to \$100,000 a year, they certainly cannot work more than one tenth part of their time. Then why give them a high compensation?

I have been an assistant assessor. I have assessed regularly in my district at the rate of \$25,000 a month, at a cost never exceeding fifty or sixty dollars per month. I received four dollars per day for my services when employed. I thought I was a reasonably good assistant assessor, and I was well satisfied with my compensation. Now, when the expenses of collecting the revenue are diminished, it is proposed to increase the pay of assistant assessors a dollar a day.

Mr. SCHENCK. The Committee of Ways and Means do not propose any increase. This increase took effect in March, 1867, and I would remind the gentleman that we are not now considering the pay of assistant assessors.

Mr. MILLER. I withdraw my amendment to the amendment.

Mr. INGERSOLL. I renew the amendment to the amendment for the purpose of giving some information that may enable some members to vote more understandingly than they otherwise would.

The gentleman from Indiana, [Mr. HOLMAN,] I think, comes from the third district of Indiana. Am I right?

Mr. HOLMAN. From the fourth district.

Mr. INGERSOLL. I asked the gentleman how much revenue was collected from his district; and he replied that he thought it was about one million five hundred thousand dollars per annum. I thought at the time that he had put it about three times too high. Since I asked the question I have examined the returns upon that subject, so as to be able to give some information to the committee. The fourth Indiana district returned, through its collector, to the Treasury of the United States for the last fiscal year, \$739,000. That lacks about eight hundred thousand dollars of making the \$1,500,000 to which the gentleman from Indiana referred.

Mr. HOLMAN. I trust the gentleman will allow me to explain. He knows very well that from districts in which spirits are largely man-

ufactured and yield a large part of the taxation they are shipped in bond, and this may account for the figures which the gentleman has read. During the last fiscal year—the year ending with the 30th of the present month—the taxation paid by my district, instead of being \$1,500,000, has been, I am confident, \$2,000,000.

Mr. INGERSOLL. I am aware, Mr. Chairman, that much of the whisky made in the West is shipped in bond, and under the old law does not enter into the pay account of the assessor until it has been sold. Most of the whisky made during the last year in the gentleman's district, as well as in my own, is still in bond, and thus far has yielded no income to the assessors of the respective districts. I simply want to add, for the information of the committee, that the highest amount returned from any collection district in the State of Indiana for the last year was \$739,000 and the lowest amount \$92,000. The average in that State will not exceed \$250,000; so that the highest salary for an assessor in the gentleman's district would not exceed \$2,500, and the salaries would range from that down to \$1,500.

Mr. MULLINS. Mr. Chairman, I wish to show the discrepancies in point of principle in the arguments of those who advocate these high rates of pay. In the first place it is declared that if we desire the successful collection of the revenue from distilled spirits we shall obtain more money by reducing the tax to seventy-five or fifty cents on the gallon than by retaining it at two dollars. This tax, it is said, is so heavy that it induces men to search out the loop-holes through which they can crawl with their liquor without paying tax. Reduce the tax, say gentlemen, to a certain standard, and you do away with the temptation to fraud. Now, sir, the same principle may be applied here. Reduce the standard of pay to that of mechanics and other honest men who are obliged to make their own living and are not ashamed to show their heads anywhere. So long as you discriminate as you have done, giving more pay to public officers who are the instruments of cheating the Government than can be earned by private citizens engaged in honest labor, you may expect to have frauds on the revenue. Reduce the pay to such a standard that the temptation will not be so great. Pay these officers no more wages than can be earned by honest men earning their living by the sweat of their brow.

I know what assessors are in my country. Instead of coming to us we have to go down to their offices and make our assessments. They do not ride over the country. They are too much the gentlemen to do that. Not one assessor in fifty goes out of his office to levy an assessment. They send out notices that if the assessments are not sent in at a certain time, within ten days, they will be levied at double of what they should be. They put you down double, and God only knows where it goes to. The double does not go to the Government; they double it into their own pockets. [Laughter.]

I think it is time to bring them down to the common standard; bring them down as you bring everything else down. They say that the clerks do all the work. Then they levy black mail on their masters. You decrease the labor, and you ought not to increase the pay. The Good Book says that "the laborer is worthy of his hire;" and the Government does not let the sun go down upon the laborer in its vineyard without his hire. When you reduce the work you ought to reduce the pay. In this way you will have a harmonious policy.

Mr. INGERSOLL. I withdraw the amendment.

Mr. SCHENCK. I ask unanimous consent to have debate terminate on this section.

Mr. HUBBARD, of West Virginia. I object. I want to move an amendment in reference to cigar-makers.

Mr. SCHENCK. Then upon all but that portion.

Mr. CHURCHILL. I object. I want to move an amendment in reference to assistant assessors.

The question was taken on Mr. ELA's amendment; and there were—ayes 10, noes 30; no quorum voting.

Mr. HOLMAN demanded tellers.

Tellers were ordered; and the Chairman appointed Mr. HOLMAN and Mr. BLAINE.

The committee again divided; and the tellers reported—ayes 29, noes 66.

The Chairman voted in the negative.

So the amendment was rejected.

Mr. HUBBARD, of West Virginia. I move in line fifty-five to strike out "and twenty-five cents for each certificate of registration given to a cigar-maker on payment of his special tax."

Mr. SCHENCK. I rise to a point of order. That has just been put in on motion of the committee.

Mr. HUBBARD, of West Virginia. This strikes out additional matter to that inserted by the committee.

The CHAIRMAN. The Chair overrules the point of order.

Mr. HUBBARD, of West Virginia. I observe, in a subsequent section, that it is provided, as follows:

Cigar-makers shall each pay one dollar. Every person whose business it is to make cigars for others, either for pay, upon commission, on shares, or otherwise, from material furnished by others, shall be regarded as a cigar-maker. Every cigar-maker employed in the making of cigars in any collection district other than the district where such special tax receipt shall have been issued to him, shall register his name and residence, without previous demand therefor, with the assistant assessor of the division in which such cigar-maker shall be so employed; and any cigar-maker who shall neglect or refuse to make such registry shall, on conviction thereof, be fined five dollars for each day that such cigar-maker shall so offend by neglecting or refusing to register.

Besides paying this special tax they are by this bill compelled to pay a tax for certificate of registration. If they shall neglect or refuse to make this registration they are to pay five dollars. I understand that cigar-making is an honorable occupation, as much so as any other, and I cannot conceive why they should be compelled any more than carpenters or shoemakers to pay a dollar tax. This is unjust legislation in regard to these cigar-makers, and I hope that it will all be stricken out of the bill. When we come to the other part of the bill I will also move to strike out the paragraph I have read.

Mr. SCHENCK. In the manufacture of cigars it is absolutely essential if you will collect the tax of the makers of cigars. They are made on shares and in shops, and this registration is resorted to for the purpose of keeping the run of the cigar-makers. The special tax is resorted to simply as a matter of police in order to identify the better and to know what is the work of the shops. The gentleman will perhaps be relieved by knowing that we propose to reduce the tax to fifty cents.

What the gentleman proposes to strike out is properly in this section. If the tax be abolished, then we can come back and strike this out.

Mr. HUBBARD, of West Virginia. Let it be reserved for the present.

Mr. SCHENCK. Very well.

Mr. CHURCHILL. I move to amend in line fifty, by striking out five dollars and inserting \$4 25. The committee have just refused to reduce this from five dollars to four dollars. From my observation, I believe the compensation as fixed by the report of the committee is greater than that which is allowed to State or local officers throughout the United States. I think it is considerably greater than the judgment of the country will sustain us in paying these men. I know in my own district the same men were engaged in performing the duties of assistant assessors when the compensation was four dollars a day who are now employed at five dollars, and they were just as anxious to hold the offices at the former compensation as they are now. I believe we shall be able to secure the same degree of business

efficiency and trustworthiness by fixing the pay at \$4 25 as by making it five dollars, and the saving will be over one hundred thousand dollars a year to the Treasury of the United States. In my own district the saving will exceed five hundred dollars, and multiplying that by the number of districts in the United States will make \$125,000.

Mr. SCHENCK. The committee have made no change in this compensation. It is now five dollars, and has been so since March, 1867. Before that it was four dollars. The gentleman now proposes to make it \$4 25. These assessors, I find by the report of the Commissioner of Internal Revenue, are employed, on an average, one hundred and forty-four days in the year. That amounts, at five dollars per day, to \$720 each. The gentleman is mistaken if he supposes these men are employed all the year round. I do not think they will be employed as much hereafter as heretofore, because we have taken away the assessment of manufactures and we have added certain penalties for false charges. I think hereafter one hundred days will be a fair average instead of one hundred and forty-four. I hope the amendment will not prevail, particularly considering that these men bear all their expenses traveling about the country.

The amendment of Mr. CHURCHILL was disagreed to.

The Clerk read as follows:

SEC. 17. *And be it further enacted*, That the assessor of each collection district shall, on the first Monday of March in each year, and from time to time each month thereafter, direct and cause each assistant assessor to proceed through every part of his division, and inquire after and concerning all persons within his division owning, possessing, or having the care of management of any property, goods, wares, and merchandise, articles or objects liable to stamp or other taxes, including all persons liable to any special or other tax, under the provisions of this act, and to notify the owner or owners of such liability to tax, and to value and enumerate the said objects of taxation respectively, and to assess the taxes required to be assessed by law.

Mr. SCHENCK. I move, on behalf of the committee, to amend by striking out in the seventeenth line the words "each month."

The amendment was agreed to.

The Clerk read as follows:

SEC. 18. *And be it further enacted*, That in case any person shall be absent from his residence or place of business at the time the assistant assessor shall call for his annual return, and no annual return has been rendered by such person as required by law, the assistant assessor shall leave at such place of residence or business, with some one of suitable age or discretion being there present, or otherwise shall deposit in the nearest post office a notice addressed to such person requiring him to render to such assistant assessor the annual return, duly verified by oath or affirmation, within ten days from the date of such notice. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such return within the time designated, he shall, on conviction, be fined not less than \$100 nor more than \$1,000.

Mr. VAN TRUMP. I move to amend in line thirteen, by inserting after the word "designated" the words "and shall fail within a reasonable time to give a good and sufficient excuse for such neglect."

Mr. SCHENCK. What is a reasonable excuse?

Mr. PILLE. I suggest to the gentleman to give a definite limit, say ninety days.

Mr. VAN TRUMP. A reasonable time is, like any other legal fact, to be judged by the circumstances surrounding the case.

Mr. INGERSOLL. I suggest thirty days.

Mr. VAN TRUMP. Well, then, thirty days.

Mr. BEAMAN. I suggest to the gentleman from Ohio that the difficulty will be avoided by inserting before the word "neglect" the word "willfully."

Mr. VAN TRUMP. That will do. I accept that as a modification of my amendment.

Mr. SCHENCK. If the gentleman from Ohio will withdraw his amendment and move to insert the word "willfully," I have no objection to it.

Mr. VAN TRUMP. I have done so.

Mr. VAN TRUMP's amendment, as modified, was agreed to.

Mr. JENCKES. I offer the following amendment:

In line seven of section eighteen, after the word "present," insert the words "and being of the household or in the employment of such person," and strike out the words "or otherwise," next following and insert the word "and" before "shall," and the word "also" after "shall," so that the section will read:

SEC. 18. *And be it further enacted*, That in case any person shall be absent from his residence or place of business at the time the assistant assessor shall call for his annual return, and no annual return has been rendered by such person as required by law, the assistant assessor shall leave at such place of residence or business, with some one of suitable age or discretion being there present, and being of the household or in the employment of such person, and shall also deposit in the nearest post office, a notice, addressed to such person, requiring him to render to such assistant assessor the annual return, duly verified by oath or affirmation, within ten days from the date of such notice, &c.

As this section now stands a person may be liable to the penalty just now the subject of consideration if the notification is left with any stranger at his house or office. The person leaving the notice is not bound to inquire whether the person with whom it is left is in the employment of the man to be assessed.

Mr. SCHENCK. Will the gentleman allow me to interrupt him? I do not like to spoil a good speech, but I hope his amendment will be adopted.

Mr. JENCKES. Then I have nothing more to say.

The amendment was agreed to.

Mr. INGERSOLL. I move to strike out "one hundred," in line fourteen of the section, and insert "ten" in lieu thereof; so that the clause will read:

And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such return within the time designated, he shall, on conviction, be fined not less than ten dollars, nor more than \$1,000.

Several MEMBERS. Oh, no.

Mr. INGERSOLL. Let me say a word with regard to this amendment. Here is a discretion running clear up to \$1,000, and there may be many instances where the taxes are only small special taxes.

Mr. SCHENCK. The penalty is only imposed where the person refuses or willfully neglects.

Mr. INGERSOLL. Well, that presupposes a trial where willful neglect has been found against the delinquent. Now, why should you limit it to \$100 when you leave a discretion running up to \$1,000? If you leave the fine from ten dollars to \$1,000 it will answer all purposes.

Mr. MULLINS. The Government does not run a one-horse machine; it runs a ten-horse machine.

Mr. INGERSOLL. Well, I would like to have it so that the fine imposed shall be not less than ten dollars nor more than \$1,000.

The question was taken; and the amendment was disagreed to.

Mr. JENCKES. I move to strike out "one hundred" and insert "fifty," and I do it for the purpose of asking the chairman of the Committee of Ways and Means in what section of the bill provision is made for the manner in which these penalties shall be collected, whether by indictment, or in what manner?

Mr. SCHENCK. I do not recollect the number of the section, but there is a provision covering the proceedings.

Mr. JENCKES. I have looked for it in vain. It might make a very considerable difference in my view of the penalties to be imposed if I knew the manner in which they are to be collected.

No further amendments being offered to the eighteenth section, the Clerk read the nineteenth section, as follows:

SEC. 19. *And be it further enacted*, That it shall be the duty of every person made liable to the payment of any tax imposed by law, when not otherwise provided for, under his management or control, any business, trade, or profession, goods, wares, and merchandise, articles or objects, removed, sold, or delivered, or in any mode liable by this act to any

annual, monthly, special, or other tax, and however required by this act to be paid, on or before the first Monday of March in each year, and in other cases before the day of levy, to make a true and accurate return, verified by oath or affirmation, to the assistant assessor, of the proper division of the district in which he resides, of the amount of his annual income, the articles or objects owned or controlled by him charged with a specific tax, the quantity of goods, wares, and merchandise sold, or manufactured and sold by him, and charged with special or *ad valorem* tax, with the aggregate amount of all such sales, and all returns required in reference to any business under his control or management according to the respective provisions of this act, and according to the forms and regulations to be prescribed by the Commissioner of Internal Revenue, for which such person is liable to be assessed, or for which any other person whose business he controls or manages is liable to be assessed; and the person owning, possessing, or having the superintendence, management, or control of the business or profession, the goods, wares, or merchandise, articles or objects, liable to tax, shall be held by this act to be the person required to make all returns, and shall be deemed responsible for the correctness thereof. All returns for taxation shall, when not otherwise specially provided for, be made with reference to the time fixed by this act for the making of such returns; and any schedule, statement, enumeration, or description of any goods, wares, or merchandise, articles or objects, trade, business, or profession, required by this act to be made and delivered to an assessor or assistant assessor, shall be deemed to be a return.

No amendment was offered.

The next section was read, as follows:

SEC. 20. *And be it further enacted*, That any person having the care or management of property, goods, wares, and merchandise, articles or objects, not within the assessment district in which he resides, shall be permitted to make and deliver the returns thereof required by this act, stating therein the assessment district in which the said objects of taxation are situated, at the time and in the manner prescribed, to the assistant assessor of the assessment district wherein such person resides. And it shall be the duty of the assistant assessor who receives any such return to transmit the same to the assessor of the district in which such objects of taxation may be; and it shall be the duty of said assessor to cause an examination to be made and to send back the said return with his approval indorsed thereon, and with any alterations therein or additions thereto which may be found to be just and proper, to the assistant assessor from whom it was received, who shall proceed to make the assessment of the tax upon the said return in all respects as if the same had been made up by himself.

No amendment was offered.

The next section was read, as follows:

SEC. 21. *And be it further enacted*, That whenever there shall be in any assessment district any property, goods, wares, and merchandise, articles or objects, liable to be taxed, and not owned or possessed by, or under the care or management of, any person within such district, no return of which shall have been transmitted to the assistant assessor in the manner provided by this act, it shall be the duty of the assistant assessor for such district to enter into and upon the premises where such property is situated, and take such view thereof as may be necessary, and to make returns of the same, according to the form prescribed, which being verified by the said assistant assessor shall be taken as good and sufficient returns of such property, goods, wares, and merchandise, articles or objects, as aforesaid, for all legal purposes.

No amendment was offered.

The next section was read as follows:

SEC. 22. *And be it further enacted*, That it shall be the duty of all persons required to make returns of income and articles or objects charged with an internal tax to declare in such returns whether the several rates and amounts therein contained are stated according to their values in currency or according to their values in coined money; and in case of neglect or refusal so to declare to the satisfaction of the assistant assessor receiving such returns, such assistant assessor is hereby required to make returns for such persons so neglecting or refusing, as in cases of persons neglecting or refusing to make any return, and to assess the tax thereon, and to add thereto the amount of penalties imposed by law in cases of such neglect or refusal. And whenever the rates and amounts contained in the returns as aforesaid shall be stated in coined money it shall be the duty of each assessor receiving the same to reduce such rates and amounts to their equivalent in currency, according to the value of such coined money in said currency for the time covered by such returns. And the returns required to be furnished to collectors by assessors shall in all cases contain the several amounts of taxes assessed, estimated, or valued in currency only.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to move to amend this section by striking out the words "coined money" where they occur in the section, and inserting in lieu thereof the word "coin."

The amendment was agreed to.

Mr. SCHENCK. I am also instructed to



move to further amend this section by inserting before the word "penalties" the words "penal taxes or," in the clause which now reads "and to add thereto the amount of penal taxes or penalties imposed by law in cases of such neglect or refusal."

The amendment was agreed to.

Mr. MILLER. I move to further amend this section by adding to it the following:

*Provided*, That the party aggrieved shall have the right of appeal from such decision to the district court of the United States, and it shall be the duty of said court to put the case so appealed in proper form in order to have the disputed facts tried by jury, subject to writ of error, as in other cases: *And provided further*, That the appellant shall enter into recognizance before the clerk of such court or a judge thereof in a sum sufficient to cover all costs in case of being unsuccessful upon the trial.

Mr. SCHENCK. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. SCHENCK. My point of order is that the amendment of the gentleman from Pennsylvania [Mr. MILLER] proposes to regulate the manner of collecting the tax, &c., while the section under consideration refers to nothing in the world except to the form of money in which the returns shall be made.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment of the gentleman from Pennsylvania out of order.

Mr. JENCKES. I move to further amend this section by striking out the words, "and to add thereto the amount of penal taxes or penalties imposed by law in cases of such neglect or refusal." I consider it to be no part of the duty of the assessor to add to the assessment of taxes any amount of penalties that the party assessed may have incurred by reason of not fulfilling the requirements of the law preliminary to the assessment of the tax.

This is a grave question, and I believe this is the first place in this bill where this question arises. It arises also in section thirty, and in some of the intermediate and the subsequent sections. This clause in fact gives power to assessors to try and convict parties against whom any neglect is alleged, to impose upon them penalties, to determine the amount of the penalty, and also to provide the means of collecting it by adding it to the amount of tax they may assess against the parties. That is then given over to the collector, who will use the power with which he is clothed by this act to collect that penalty for the Government. I believe this is the first instance in the history of this Government, or in the history of any State government, in which judicial powers have been given to a collector of taxes.

Mr. GARFIELD. Will the gentleman allow me to say that in my own State it has for a long time been the law that when a return is not made within a specified time it shall be the duty of the proper officer to add a certain amount of additional tax.

Mr. JENCKES. That is, a certain percentage; and if this were such a provision I would make no objection.

Mr. GARFIELD. That is precisely what we propose here.

Mr. JENCKES. No, sir; in this case the rate or amount is not fixed. If it were a percentage upon the tax it would be analogous to the penalties imposed in various States. But these are penalties for violating the provisions of the act or for non-conformity to its requirements; and before such a penalty can be imposed upon any citizen of the United States he must be tried, convicted, and sentenced by a court of competent jurisdiction in some proceeding known to the Constitution and laws of the United States.

The provision of this bill is entirely different from the provisions of State law to which the gentleman from Ohio [Mr. GARFIELD] has referred. I am as familiar, I think, with those statutes as the gentleman from Ohio. In all those cases there is a percentage to be added or a fixed sum to be paid for failure to make return or for non-payment by a given day.

But in no case do those statutes propose to inflict without a trial and conviction a penalty for an act in regard to which the party is entitled to the judgment of a court and jury. Every one of the penalties laid here is such as requires a trial and conviction before it can be imposed, such a trial and conviction as are provided for in section fifty-six of this bill. I would have no objection to a provision that if the fine be not paid in a court of competent jurisdiction, it shall be added to the assessment. But all our penal statutes provide a much more stringent remedy for the collection of penalties than placing them in the tax levy and authorizing them to be collected upon the collector's warrant. All such penalties must be collected by the marshal under a warrant from the court. The party must either pay them or suffer imprisonment.

Mr. SCHENCK. Mr. Chairman, I wish there were no such thing as adding on a penalty and collecting it, because the other day, having omitted to pay a tax within the time allowed, I was obliged to pay a percentage, a heavy penalty, and costs in addition. I will try not to overlook such a matter again.

As to the provision of this bill, let me turn the gentleman to a precedent in the laws of the United States. I hold in my hand the internal revenue law as now in force, and upon this point the language adopted and repeated in two successive enactments is this:

"And in case of neglect or refusal so to declare to the satisfaction of the assistant assessor receiving such returns or lists, such assistant assessor is hereby required to make returns or lists for such persons so neglecting or refusing, as in cases of persons neglecting or refusing to make the returns or lists required by the act aforesaid, and to assess the tax thereon, and to add thereto the amount of penalty imposed by law in case of such neglect or refusal."

Mr. JENCKES. That is all proper enough, and if these penalties were fixed—if they were not left discretionary—

Mr. SCHENCK. They are all fixed. There are two classes of cases running through the law. One is what may be called a penalty by a percentage, as for instance adding twenty or thirty per cent. to the tax. The other is a specific penalty, a fixed amount. The only change we have made in the law is that instead of having only the word "penalty," we have inserted "penal taxes or penalties."

Mr. JENCKES. Confine it to penal taxes.

Mr. SCHENCK. I prefer to retain what is in the present law, adding the words "penal taxes." It will then cover both cases.

Mr. JENCKES. I move to strike out the word "penalty" and insert "penal taxes."

The CHAIRMAN. "Penal taxes" are already in the bill.

Mr. JENCKES. Then I move to strike out the word "penalty."

Mr. MILLER. It seems to me that it must be conceded by every lawyer in the House that a penalty of that kind cannot be enforced under the Constitution without a trial in court. Here it is proposed to do it without a jury, without a court, without a trial. It proposes to give the assessor extraordinary power. I say that we should not give to any assessor such a vast power of imposing penalties. It is against the Constitution. Gentlemen say that it is in the present law. I do not care if it is. It is an arbitrary power. It is one of the greatest outrages perpetrated upon the people. There is no trial before a court, no trial before a jury. The penalty is to be imposed without any remedy.

Mr. MAYNARD. This is simply the law as it now stands upon the statute-book. Has anybody been inconvenienced by it? Has the gentleman heard of anybody who has been inconvenienced by it? Has he brought in any bill to repeal it?

Mr. MILLER. I know of an assessor in my district who imposed upon a man five times what he ought to have done, and he would not give him a hearing.

Mr. MAYNARD. That is not the provision of this law. We do not give him any such

power. The law fixes the matter. We do not give him any such discretion.

Mr. MILLER. The assessor fixed the penalty without giving the man a hearing.

Mr. MAYNARD. This refers to when a man does not make a return of his taxes on a particular day.

Mr. JENCKES. Is there any existing law which allows an assessor to fix the amount according to his discretion?

Mr. MAYNARD. This does not allow it.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. PETERS. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

#### ENROLLED BILL.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (S. No. 320) for the relief of George Lynch, a soldier of the war of 1812; when the Speaker signed the same.

#### RIGHTS OF ADOPTED CITIZENS.

The SPEAKER, by unanimous consent, laid before the House a message from the President of the United States, transmitting a report from the Secretary of State, in relation to the trial of American citizens in Great Britain and Ireland for the last two years; which, on motion of Mr. JUDD, was ordered to be printed, and referred to the Committee on Foreign Affairs.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Mr. LAWRENCE, of Ohio; and leave of absence till Monday next to Mr. ALLISON.

#### SALE OF OSAGE INDIAN LANDS.

Mr. LAWRENCE, of Ohio. I ask unanimous consent to offer a preamble and resolution. Before the resolution is read I desire to state that I have this day received a letter which I present to the House, and which reads as follows:

LAWRENCE, KANSAS, June 2, 1868.

SIR: A treaty has just been forced from the Osage Indians, whereby they sell to the Leavenworth, Lawrence, and Galveston Railroad Company (a very feeble concern) all their diminished reserve and trust lands, embracing eight million acres, for \$1,600,000, payable in thirty-two semi-annual installments. Three eighths thereof is the finest land in Kansas, while the remainder is inexhaustibly rich in mineral wealth. The intention of the conspirators now is to rush their treaty (so called) through the Senate hastily upon the false assumption that unless the Osages are at once removed bloody collisions with the whites will ensue. This treaty was drafted

\* some time since at Washington. The settlers and those who shall desire to obtain cheap homes for many years to come can rely only on you and such of your associates as are opposed to the usurpations of monopolies for relief. Appreciating your previous efforts in this direction, I now write you in behalf of all poor men who shall desire cheap homes for many years to come, and in their name request of you to institute an inquiry as to the means whereby so iniquitous a treaty was obtained, and why actual settlers cannot by the terms thereof have said eight million acres of land instead of a monopoly engrossing the same at twenty cents per acre.

I am, sir, respectfully, your obedient servant,

HENRY C. WHITNEY.

Hon. WILLIAM LAWRENCE, Washington, D. C.

I have already given my views upon the treaty-making power, and of the right assumed to sell the public lands under its authority. I will not now repeat my arguments denying the constitutional validity of sales made under treaties. The particular ground upon which this treaty will be vindicated perhaps may be that it will aid a railroad enterprise. For one I will do all that properly may be done to aid railroads. But whatever is to be done should be done in pursuance of an act of Congress.

The President and Senate cannot, under

cover of the treaty-making power, dictate the land policy nor the railroad policy of the United States.

In the name of the laboring and landless people of this country I insist that the public lands shall, except in special cases, and for the most urgent reasons, be reserved for homestead entries. Our public domain is rapidly being transferred into the hands of the few to the prejudice of the many. And I shall insist, in every proper way, that wherever lands shall be granted to railroad companies to aid in the construction of roads, that the companies shall be required by law to sell the lands to actual settlers at a price not exceeding \$1 25 an acre. This should in all cases be required by law. The gentleman from Washington Territory, [Mr. FLANDERS,] in his speech of May 18, has given us the means of estimating the importance of the principle involved in such a provision. He says:

"According to the report of the Commissioner of the General Land Office for 1867, Congress by different enactments have granted land in aid of railroad enterprises in different States, as follows:

Illinois.....	2,595,053
Mississippi.....	2,062,240
Alabama.....	3,720,130
Florida.....	2,360,114
Louisiana.....	1,578,720
Arkansas.....	4,804,271
Missouri.....	3,745,160
Iowa.....	6,751,207
Michigan.....	6,327,930
Wisconsin.....	5,878,360
Minnesota.....	7,783,403
Kansas.....	7,753,000
California.....	3,720,000

Pacific railroads 'estimated'.....57,588,578  
124,000,000

Wagon-Roads.	
Wisconsin.....	250,000
Michigan.....	1,718,613
Oregon.....	1,256,800

3,225,413  
Total number of acres.....184,813,991

"Of these one hundred and eighty-four million eight hundred and thirteen thousand nine hundred and ninety-one acres of land granted to aid in building different lines of railroad but twenty-one million five hundred and sixty-one thousand six hundred and fifty-four acres have been certified under these grants. All the balance is to be certified to after the conditions upon which the grants are made to the different companies are complied with."

In other words, one hundred and sixty-three million two hundred and fifty-two thousand three hundred and thirty-seven acres of land authorized by law to be granted in aid of railroad enterprises remain yet to be actually granted or patented to railroad companies. Now, allowing one hundred and sixty acres for a homestead, the lands yet to be granted will furnish one million twenty thousand three hundred and twenty-seven homes, which, at five in each family, will give household happiness and independence to five million one hundred and one thousand six hundred and thirty-five people. And although each particular tract of one hundred and sixty acres may not be arable, yet in the coming time homesteads will be made in a less amount of acres, so that, practically, we are to determine whether a million of homes shall be secured to actual settlers or whether the earnings of a million men are to be made tributary to great land monopolies for more than a generation.

The Clerk read the preamble and resolution, as follows:

Whereas it is reported that a treaty has been concluded between the United States and the Osage Indians, by the terms of which eight million acres of the public lands of the United States are to be sold to the Leavenworth, Lawrence, and Galveston Railroad Company for \$1,600,000, payable in thirty-two semi-annual installments; and whereas this House denies that the President and Senate, under the treaty-making power, can sell the public lands of the United States, and subvert the homestead and land policy of the Government, and deprive Congress of the power to control the disposition of said lands; and whereas sound policy requires that the public lands should be so disposed of by law as to secure them to actual settlers under the homestead laws; and whereas it is unjust and inexpedient to permit said lands to be owned in large tracts so as to be kept from occupancy and held for sale at high prices: Therefore,

Resolved, That the House of Representatives hereby

declares that it is not competent for the President and Senate to dispose of the public lands by treaty without the authority of an act of Congress, and the Committee on the Public Lands are directed to inquire and report what measures are necessary to arrest the unconstitutional mode of disposing of the public lands by treaty.

Mr. BROOKS. I object. It goes into the Globe, and that is all the gentleman desires, I suppose.

#### BONDING OF IMPORTED GOODS.

Mr. RAUM, by unanimous consent, introduced a bill (H. R. No. 1162) to amend the various acts relative to the bonding of imported goods, and to provide for the more speedy payment of duties thereon; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

THOMAS M'LEAN.

Mr. HOPKINS. I ask unanimous consent to report from the Committee on the Public Lands a bill (H. R. No. 1033) for the relief of Thomas McLean, with a recommendation that it do pass.

The bill was read. It authorizes Thomas McLean to enter and purchase so much of lot No. 124 as has not been disposed of in the Stockbridge reservation in Wisconsin, used and occupied by him, at the price stipulated in the third section of the act of March 3, 1865, providing for the disposition of said reservation, and receive a patent therefor; the said McLean having cultivated and occupied the same for a long series of years.

Mr. RANDALL. Does the gentleman desire to pass that bill now?

Mr. HOPKINS. It is reported unanimously from the committee, and I desire to have it passed.

Mr. BROOKS. Oh, it is too late; let us adjourn.

The SPEAKER. Is there objection to the consideration of the bill. The Chair hears none, and the bill is before the House.

Mr. JOHNSON. I move that the House adjourn.

The motion was agreed to; and thereupon (at ten o'clock and ten minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. HULBURD: The petition of C. P. Clark and others, citizens of Ogdensburg, New York, asking reduction of tax on cigars, &c.

By Mr. HUBBARD, of Connecticut: The remonstrance of J. D. Loomis and others, of Suffield, Connecticut, against proposed increase of tax on cigars.

By Mr. ROBERTSON: The petition of Richard M. Hoe, of the city of New York, praying for an extension of the patent heretofore issued to him by the Commissioner of Patents, for the invention of certain improvements in printing machines.

By Mr. STEVENS, of Pennsylvania: The petition of 54 tobacco growers, 121 journeymen cigar-makers, 36 dealers in cigars and tobacco, all citizens of Lancaster county, Pennsylvania, praying Congress to try the system of collecting the revenue on cigars by making the stamps a revenue stamp instead of an inspector's stamp, sold only to manufacturers, with suitable checks to prevent fraud and counterfeits, and leave the rate of taxation as now fixed by law.

By Mr. TAFTE: The petition of Willis & Andresen and others, citizens of the State of Nebraska, and cigar manufacturers, journeymen cigar-makers, dealers in cigars, growers of and dealers in seed-leaf tobacco, praying that the existing rate of internal revenue tax on cigars be not disturbed.

By Mr. UPSON: The petition of Anthony Kruger and 20 others, citizens of Detroit, remonstrating against the proposed increase of tax on cigars.

#### IN SENATE.

SATURDAY, June 6, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### SECRETARY OF THE SENATE.

GEORGE C. GORHAM, elected on the 4th instant Secretary of the Senate, appeared, and the oaths prescribed by law were administered to him by the President *pro tempore*.

#### PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a petition of the owners of the bonded warehouses, class B, for the storage of tobacco, snuff, and cigars in the city of Philadelphia, praying a reduction of the tax on manufactured tobacco; which was referred to the Committee Finance.

Mr. MORGAN presented a memorial of the Chamber of Commerce of the State of New York, praying an appropriation for the removal of the wreck of the steamer Scotland on the entrance of the bar off Sandy Hook, and the removal of obstructions in the harbor of New York; which was referred to the Committee on Commerce.

He also presented the petition of Richard M. Hoe, praying an extension of his patent for an improvement in printing presses; which was referred to the Committee on Patents and the Patent Office.

Mr. WILSON presented the petition of Robert A. Hill, praying a removal of the civil disabilities imposed upon W. H. Bearden, of Mississippi, by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. FERRY presented a petition of cigar manufacturers, journeymen cigar-makers, dealers in cigars, growers of and dealers in seed leaf tobacco, praying the adoption of the system of collecting the revenue on cigars by making the stamp a revenue stamp instead of an inspector's stamp, sold only to licensed manufacturers; which was referred to the Committee on Finance.

#### BILL INTRODUCED.

Mr. DRAKE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 515) in aid of the Union Pacific railway, eastern division; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

#### REPRESENTATION OF SOUTHERN STATES.

Mr. POMEROY. As there seems to be no further morning business, I move that the Senate proceed to the consideration of the unfinished business of yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress, the pending question being on the amendment proposed by Mr. WILSON to the amendment of the Committee on the Judiciary, to insert the word "Alabama" after "Georgia" in the fourth line of the first section of the committee's amendment.

Mr. WILSON. Mr. President, I desire a few moments of the time of the Senate to reply to the remarks made yesterday by the Senator from New York, [Mr. CONKLING.] That Senator was entirely mistaken in charging me with having voted for the proposition requiring a majority of all the votes registered to vote on the ratification of the constitutions in the rebel States. The proposition requiring that at least one half of all the registered voters should vote upon the question of ratification was made by the Senator from Vermont, [Mr. EDMUNDS.] Twenty-four Senators voted for it and fourteen against it. My name is recorded against it. I repeatedly spoke against requiring a majority of all the registered voters to vote on the ratification of the constitution; I protested against it, and in committee of conference opposed it.

The original bill required for the ratification of the constitutions "a majority of the votes of the electors qualified." My colleague moved to amend it so that it would read, the constitutions should be "ratified by a majority of all the electors registered." It was thought by Senators that the provision, as proposed to be amended, would be construed so as to require a majority of all the registered voters to vote in favor of ratification.

I opposed the amendment, and maintained that only a majority of the votes given was required by the bill; that a majority of the votes given ought to determine the result; and I maintained that the "effect of the amendment will be to retard the adoption of these constitutions and to postpone the admission of these States." I declared that under the construction requiring a majority of the votes registered to be given for ratification "not one of these constitutions is sure of adoption;" and I protested against any vote or any legislation that tended to check or hinder the organization of these States.

On that occasion the Senator from New York wished to know of me if I was in favor of bringing in States without having any evidence that a majority of their people were in favor of their coming in. In reply to the Senator's questions I maintained that a majority voting on ratification ought to determine the result; that the more united the people were in favor of the constitution the fewer would be the votes given; that the contest would be on the choice of delegates, and I would not object to requiring a majority of the registered voters to vote for or against a convention on the day the delegates were elected. I closed my remarks by saying: "Therefore, sir, I think that we ought to leave the ratification of these constitutions to a majority of the people of these States who cast their votes. They will be registered; they will go to the ballot-box at the election for delegates. Then they will consider the great battle fought. When they elect delegates and when the constitutions are generally acquiesced in they will think the contest is all over. It is proposed that after all this, unless a majority of them go to the ballot-box and vote for these constitutions the work shall be lost. Why should that be? What is to be gained by it? Can we not trust the majority of the men who vote? I think we can, and I shall so vote."

The amendment of my colleague was rejected by a vote of 19 to 25, and my vote is recorded in the negative.

The Senator from Vermont [Mr. EDMUNDS] then moved that at least three fifths of all the registered voters should vote upon the question of ratification of the constitutions. Nineteen Senators voted for the proposition, twenty-one against it, and my name is recorded in the negative. The honorable Senator from Vermont then moved to amend the bill so as to require a majority of all the registered voters to vote upon the question of ratification, and this amendment was adopted—yeas 24, nays 14. My name is recorded in the negative. This amendment introduced by the Senator from Vermont thus became a part of the law, and under its operations the friends of reconstruction failed in Alabama, and would have failed in the other States if Congress had not hastened to repeal it by a vote approaching unanimity. It was that provision, requiring that a majority of the registered voters should vote for or against ratification, that I opposed by speech and vote, and which I have ever condemned both as a matter of principle and of policy.

The honorable Senator from Missouri [Mr. DRAKE] then moved so to amend the bill as to require that on the day for election of delegates the registered voters should vote for or against a convention. I supported that amendment, declaring that I saw a marked distinction between taking the sense of the people on the day of the election of delegates and taking the sense of the people called to adopt or reject the constitution. I maintained that the great

struggle in each of the States would be on the day of election of delegates; I maintained that on that day there would be a struggle for the control of the conventions; I maintained that if the rebels were beaten, if they lost the conventions, they would, if we gave them the privilege of being counted, stay at home and keep everybody else at home. I illustrated my position by saying: "There is to be an election on the fourth Monday of April, I understand, in New York, to elect delegates to a constitutional convention. There will be a great struggle; there will be a large vote on that day; but let that convention meet and make a constitution, and let it be one on which parties agree generally, and then submit it to the people on a day on which there is no other election, and if it brings out two hundred thousand of the eight hundred thousand voters of New York it will be a miracle."

The Senator from Vermont [Mr. EDMUNDS] moved to add as a proviso to the section introduced on motion of the Senator from Missouri, "that such convention shall not be held unless a majority of all the registered voters shall have voted on the question of holding such convention." This amendment was adopted—yeas 21, nays 18. My name is recorded in the affirmative, in accordance with the views I had expressed. To gratify Senators who were anxious that a majority of the registered voters in each State should pronounce in favor of reconstruction, I was willing that the people should vote for or against the constitution on the day of the election of delegates. I so declared and so acted, and the result in the ten States vindicated my recorded opinions and votes. The people in the ten States voted for conventions by more than two hundred thousand majority. Alabama gave a majority of eighty-five thousand for the convention, casting a larger vote by more than twenty-five thousand on the day of the election of delegates than on the day for the ratification of the constitution.

I say to the honorable Senator from New York, who thinks I spoke with great emphasis, that I intended no reflection on him or on any other Senator. I said nothing about self-evident truths. I thought the provision requiring a majority of all the registered voters to vote for or against the ratification of the constitutions was a sad mistake when it was adopted. I believed that it endangered reconstruction; I so said, and I voted against it, and struggled against it in the committee of conference, and only acquiesced in it when I could no longer help myself.

Sir, I close with the expression of the hope that the Senate will adopt the pending amendment; that Alabama will be incorporated into the bill and receive the support of the Senate, and its support under any circumstances that may arise.

Mr. CONKLING. Like the Senator from Massachusetts, I shall take no time of the Senate. I beg him to understand that it was no part of my wish to fasten upon him an inconsistency or to impute to him any improper disposition toward other members of this body. I thought that his denunciation bore great emphasis; I think so now; and I am not willing to sit quiet under the statement of the Senator, that I have mistaken or misstated his position on the amendment to the vote on which I yesterday alluded. Now, Mr. President, with the record in my hand, I reiterate what I said yesterday, and I say to the Senator, if he will look at it, he will find that his opposition was to a different amendment; different in form and different in substance; and I will state to him what it was. It was an amendment requiring a majority of all the registered voters to be cast in favor of the constitution. That proposition, as I stated yesterday, he opposed. He did illustrate it, as he says now, and as I well remember, by an election which was about to occur in the State of New York; and he will find that that debate had no reference whatever to the provision as it stands in the law, but was directed against the provision which I have

just now stated. I can scarcely see, if he has looked at the record, (as I think he has, because I handed it to him yesterday,) how, in the face of the list of the yeas and nays to which I referred, which was the test vote upon this proposition and nothing else, the vote which determined whether it should be added to the bill or omitted from the bill, and upon which question he voted in the affirmative, he ventures to say that I was wrong in the statement that I made, and that he knew I was at the time. I have no doubt he thought he knew I was.

I intended, without his interposing, to state his vote from the record, but as the Senator was a little quick in interposing that "of course he voted for the bill," and stating that he voted for it in spite of this proposition, and that he fought this all the way through, I admit I led him to assume his position about it to the end that I might read the record about it; but I beg him to understand that I had no malice in that. I thought that a fair and good-natured advantage which he chose to give me. But there is no doubt whatever that he voted for the amendment as a majority of his associates did; and however "self-evidently wrong" it may have been—because I beg the Senator's pardon—he did use that expression—

Mr. WILSON. No, sir; I have looked at my remarks, and it is not in them.

Mr. CONKLING. I beg pardon; I have not looked to see; but I am not the only Senator sitting quite near who misunderstood my friend if he did not use that expression. However clear I will say it may be to him now that this was fallacious, it was clear at the time to the majority of his associates that it was wise, and it was sufficiently clear to him to induce him to vote for it, as the record shows.

Mr. WILSON. I do not wish to take up time by continuing this controversy, but I repeat precisely what I have said, that the provision of law under which this failure took place, I voted against and opposed from the beginning to the end; while the provision of the third section, requiring a majority of the registered voters to vote on the day of the election of delegates for or against a convention, I voted for and spoke for, and that provision has executed itself and was entirely safe. We carried the conventions under it, obtaining a majority of nearly six hundred thousand. The provision of the other section under which we have lost the Alabama constitution, I was against from the beginning to the end, and opposed. That is the distinction.

Mr. CONKLING. Now, then, let me read the proposition upon which the yeas and nays were taken and see who was right:

"The constitution shall be ratified by a majority of the votes of the electors, qualified as herein specified, cast at said election, at least one half of all the registered voters voting upon the question."

The yeas and nays were taken upon that, and the Senator voted yea. Now, I want to know where it is in that proposition that anything is to be found about the choice of delegates?

Mr. SUMNER. As I see the Senator from Wisconsin [Mr. DOOLITTLE] in his place, I will now, with the permission of the Senate, complete the correction of an error into which he fell yesterday, and which I promised to do today. I do not do it, however, merely to correct the Senator, but because I think it important to establish a historical fact which is of great interest in the history of reconstruction, and also affects, as I think, criminally the President of the United States. The Senator from Wisconsin leaned upon Benjamin F. Perry, of South Carolina, as an authority, quoting him as a Union man. I replied that he was not a Union man, but that he was a rebel in the rebel service. The Senator denied it. I introduced then a speech which he made in the month of May, 1861, in which he said openly that he contributed a son and a negro to the confederate army, and that, if needed, he was ready to go forth into the war himself. I then said that I had at home further evidence showing that



he held office under the rebel government. Now I produce it.

In the first place I mention that he became district judge for South Carolina, succeeding the traitor, A. G. Magrath, in the autumn of 1864. It may be said that that was merely a civil function; but he was at the same time in the discharge of other duties which connected him more intimately with the rebel government; and for what I am now about to state I give an authority which will not be questioned, it being an original copy of the tri-weekly Mercury of Charleston, South Carolina. I hold it in my hand, sir. You see it; but a half sheet, yellow, dingy paper, dated Charleston, South Carolina, Tuesday, December 13, 1864, and with the name of "R. B. Rhett, jr." at the top of its editorial column as the editor. In this paper I find an official document which is thus entitled:

"Schedule of prices established by the board of commissioners of the State of South Carolina under the act of Congress of the confederate States to regulate impressments."

And this is signed:

"B. F. PERRY,  
"ALFRED M. MARTIN,"  
"Commissioners."

And it is dated "Columbia, South Carolina, October 20, 1864." Therefore by this official paper it appears that B. F. Perry was a commissioner to regulate impressments for the rebel States. In the document which I have before me he furnishes a schedule of prices for different articles in the nature of supplies which were needed for the rebel army, and at the end of this long list, occupying nearly a column, he proceeds as follows:

"No doubt there are some who may think these prices too low, but they must remember that all must make great and trying sacrifices for their country while engaged in this great and destructive revolution. Honor, patriotism, and self-interest require it; our existence as a people demands it. If we fail in our death struggle all is lost—property, independence, liberty, honor, and life itself. Every one should, therefore, be willing to sustain the government by any sacrifice of property which may be demanded. They who are at home must consider that the soldier who is in the army is sacrificing his whole labor, the interest of his family, his comforts, and his life, while they are enjoying all their comforts with their families, and are only required to sell the surplus of their crops at low prices. This is a very small sacrifice when compared with that which the soldier is required to make. If the proper spirit shall continue to pervade the southern States, subjugation is impossible to a people scattered over a country thousands of miles in extent; but if that spirit is wanting at home, our ruin is inevitable, notwithstanding the gallantry and sacrifices of the army."

That is signed "B. F. Perry, Commissioner." Now, would you believe it, sir, within a little more than six months from the date of this document we find this same B. F. Perry commissioned by the President of the United States as provisional governor of South Carolina, in defiance of an act of Congress solemnly declaring that no person shall hold any office under the Government of the United States who has been engaged in the service of the rebellion. For that act of the President at the time I thought he ought to have been impeached. I think the Senate then would have done a proper duty if, taking notice of the act, it had solemnly charged the House of Representatives to take the necessary steps to bring the criminal to the bar. It was not done. There was a failure at that time of justice; but this act cannot be forgotten in the history of reconstruction, nor in the history of those transactions by which the President of the United States has thwarted the beneficent measures of Congress.

Mr. DOOLITTLE. Mr. President, I will ask the honorable Senator from Massachusetts if he has any evidence to show whether Governor Perry was or was not opposed to secession before the war began. What was his position on that point?

Mr. SUMNER. I regard that matter of supreme indifference.

Mr. DOOLITTLE. Well, Mr. President, I think it a very different thing whether he was originally one who hurried the State into secession or one who may have yielded after the

military power of the secessionists was established, as both moral law and the civil law make a very great difference on the ground of a man's treason, whether he acted himself originally in bringing about the treason or when a military force was once organized that compelled him upon pain of suffering death to engage in rebellion, he acquiesced.

Mr. President, I have not since the discussion of yesterday looked into this question, but I state to the honorable Senator that I will do so. It may be that he is correct in his view in relation to the course pursued by Governor Perry after the war commenced.

Mr. SUMNER. Here is the document.

Mr. DOOLITTLE. But I am quite sure, from the information I have received, that Governor Perry was one of those who before secession was opposed to the doctrine of secession, and resisted it.

Mr. SUMNER. So was Stephens.

Mr. DOOLITTLE. So was Alexander H. Stephens, certainly.

Mr. SUMNER. None the less a traitor.

Mr. DOOLITTLE. Mr. President, there is another thing to be said also, I will say to the honorable Senator from Massachusetts. It does not follow because Alexander H. Stephens and others in the southern States after this rebellion was commenced and military power was so organized that they were compelled to acquiesce submitted to it, that they or even that other gentlemen in the South who believed in the doctrine of secession, and who, believing that they had the right to secede, entered upon this rebellion against the Government of the United States, are therefore lost to all sense of truth, so that if called as witnesses to the stand or called upon to make a statement of facts transpiring within their knowledge no credit is to be given to their statements. I ask the honorable Senator from Massachusetts if he would distrust the statement made by Alexander H. Stephens of what occurs within his own observation? And, notwithstanding these gentlemen engaged in the rebellion, many of them believing they had a right, others believing that, after their States had gone into rebellion, they were compelled to acquiesce, does he believe from what he knows of them that they would voluntarily come forward and state falsehoods as to matters within their own observation? The bare fact that a man engaged in the rebellion by no means so demoralizes him that he may not be regarded as a competent witness to testify to facts within his own observation.

I think it is true—and that, indeed, accounts for the tremendous struggle which the people of the South made against us—that three fourths at least of the people of the South who engaged in the rebellion believed in the right of the States to secede, and were sincere in the belief which they entertained, that they had a right to withdraw themselves from the jurisdiction of this Government and set up a jurisdiction of their own. Why, sir, that doctrine was advocated by men who are now leaders of the Republican party. I may refer, for instance, to Mr. Greeley, the editor of the New York Tribune. Did he not for weeks and weeks during the last session of Mr. Buchanan's administration in 1860, in that great newspaper which leads the public opinion of the North, defend the right of these States to withdraw from the Union if a majority of their people believed that they had a right to withdraw? Indeed he did. I suppose that he was sincere in the professions that he made, just as there were hundreds of thousands in the South perfectly sincere. In the convention of Georgia which passed the ordinance of secession Robert Toombs carried the convention for secession against the appeals of Alexander H. Stephens against secession, reading to the convention the language of the New York Tribune and flourishing it in his hands.

Sir, the fact that men have entertained certain opinions upon this great question as to the right of a State to withdraw from the Union, and have fought for those opinions because they believed in those opinions, (for it was on account of their belief in them that they fought

so long and so fiercely in the struggle to maintain themselves against the Government of the United States,) does not prove that they cannot tell the truth. There is no other way in which to account for the tremendous struggle they made but that the mass of that people were taught to believe and did believe that they were right in the struggle. But for that they never could have held out as they did hold out against the Government of the United States. I know they were wrong in the assertion they made; but a man may be as sincere sometimes in believing an error as he is in believing a truth, and from his sincerity he makes the struggle. If a man sincerely believed that his State had a right to secede, by acting upon that belief he did not become so demoralized that you could not call upon him as a witness to state any facts that transpired within his own knowledge. Therefore, sir, I protest, even if it be true that Governor Perry after this rebellion began took part with the confederates, that fact, if it be a fact, does not discredit him so that his statement of facts within his own knowledge is not to be relied upon.

Now, Mr. President, a single word more and I have done. I did not intend to go into this discussion this morning. My honorable friend from Nevada, [Mr. STEWART,] with a good deal of earnestness, condemned the doctrine for which I contended yesterday. Perhaps I may be pardoned, Mr. President, if I do not as readily advance in my opinions as my honorable friend from Nevada. He in 1866 certainly held to the same doctrine which I am contending for here now. My honorable friend shakes his head; therefore, Mr. President, it may be necessary for me to appeal to the record. Let us see. It is well enough to remember a little what we say on these questions as they come along in the progress of events. In reply to the honorable Senator who now occupies the chair, [Mr. WADE,] the honorable Senator from Nevada [Mr. STEWART] said in January, 1866:

"The Senator from Ohio assumes that it is necessary for the security of the country that the right of suffrage should be granted to the negro; that the Government cannot be carried on without it. That is an assumption that is hardly warranted." \* \* \* "I contend that it is not necessary to call in the aid of the black man to the government of this country. I do not pretend to say that he shall not at some future time have the right of suffrage under restrictions. But when he shall receive it, it will be for his benefit, not ours. I believe the Anglo-Saxon race can govern this country. I believe it because it has governed it. I believe it because it is the only race that has ever founded such institutions as ours. I believe it because we have a peculiar situation, peculiar education, peculiar qualifications which are not common to other sections of other races of the world. I believe the white man can govern it without the aid of the negro; and I do not believe that it is necessary for the white man that the negro should vote."

And again:

"I believe that if we were to reduce the southern States to a territorial condition, and hold them in that condition for the space of five years, it would not only destroy our form of government, but deprive us of our own liberties. I believe we can have the Union. I believe we can have it soon. We have got to trust somebody. I say we have got to trust the white people of the South. We cannot organize a government solely upon the negro population. There are seven million white people in the South. The time for exterminating them has passed. They are in the country. We did not exterminate them during the war. They are there, and are to remain there. If they are to be our enemies, and we attempt to hold them as vassals, it will necessitate the maintaining of a large military force that will endanger our own liberties. Not only that, but it will place in the hands of the Executive powers that will crush Congress and the liberties of the people; and not only that, but it will continue to engender among the people of the South additional hatred, and they will only wait the time when a foreign Power shall help them to rebel again."

These were very sound views expressed by my honorable friend from Nevada but a very short time ago, and he must pardon me if I have not advanced quite as rapidly as he. I believe what he then said was true; and my honorable friend from Massachusetts also stood on the same platform. He was then arguing the question of suffrage at the South, that it should be a voluntary thing and be left to the white people themselves to extend it to the negroes when they should be ready for it, with proper qualifications. He was utterly opposed

to pushing it upon them by legislation of Congress—

Mr. SUMNER. I never took any such ground.

Mr. DOOLITTLE. I am talking about the other Senator from Massachusetts, [Mr. WILSON.] I will concede to the honorable Senator who sits nearest me, [Mr. SUMNER,] that he always has been in favor of pushing negro suffrage; he was the originator of that notion. He is the master in that new school of reconstruction. I have given him honor on that subject on another occasion. He has endeavored to force it in season and out of season, and my only regret is that he has succeeded in pushing so many more of my friends around me, that stood with me a short time ago, to follow his lead. I see them all around me. My friend from Massachusetts [Mr. WILSON] said about the same time, indeed a little later than the declaration of my friend from Nevada:

"Force suffrage by positive law upon Virginia or the Carolinas, or any of these States to-day, and the negro would go to the ballot-box almost at the peril of his life; but let there be four or five years of discussion by liberal and just men in any of these States, and let them triumph and give the suffrage themselves, and they will make it as easy for the black men to vote without molestation as they vote to-day in the Commonwealth of Massachusetts."

My honorable friend from Massachusetts then stood very much on the same ground where I stand and for which I contend now, that this question of suffrage is a question which under the Constitution belongs to the States, and when Congress attempts to change their constitutions Congress violates the Constitution of the United States and tramples down the most important right of the State itself.

Mr. SHERMAN. Do you stand on the Chicago platform?

Mr. DOOLITTLE. One end of it, the north end, admits that it belongs to the States themselves to regulate the question of suffrage; but on the south end the Chicago platform maintains just what the honorable Senator from Nevada now maintains, that it is for Congress to force negro suffrage upon the States against their will. It would disfranchise a large number of the whites, put universal, unqualified suffrage into the hands of most of the negroes, hundreds and thousands of whom do not know the names by which they are registered, do not know the men for whom they have voted, vote blindly under the control of loyal leagues and secret societies that bring them up to the polls like cattle driven to the market. I say that the Chicago platform seems to recognize that as the true constitutional doctrine to apply to the States of the South. It is possible that my honorable friend from Nevada has made such great advances in his opinions over a year or two ago that he now believes in that; but certainly not long ago, as I have shown by the record, he no more believed in the right of Congress to force negro suffrage on the States of the South than I believe in it, and that is just the point, as it seems to me.

Mr. President, I had not intended to enter upon this debate this morning, and I shall not continue to occupy the time of the Senate.

Mr. STEWART. Mr. President, I thank the Senator from Wisconsin for reading my record. I congratulate myself that I have advanced, that I am not one of the Bourbons, that I do not retain the same respect for slavery that I did before the war, that I have learned something by the war, that I have advanced with the age, and that I appreciate what has been gained by the war. The remarks of mine which he has read were made on the 18th day of January, 1866. I admit that I understand the situation better now than I did in January, 1866. I had not then before me the doings of these Johnson governments. I had not examined their black codes. I had not then been brought to realize the fact that we must either have in the South slavery or freedom. I had not learned that there was no half way post. But their conduct during the year 1866,

and the conduct of the President in placing himself above the Constitution and the laws, their denial of the rights of the black man and of the white Union man of the South, their refusal to execute the civil rights bill, their refusal to allow their former slaves to have their civil rights, forced me to the conclusion in March following that we had no power of reconstruction, the Administration against us, except by universal manhood suffrage; that we had to place the ballot in the hands of our friends, for the ballot had been placed in the hands of our enemies. I found that loyalty was being made odious by the organizations held up by President Johnson. I found that he had left the Union party, and had commenced the work of trampling down loyalty, which the Senator from Wisconsin says is to be consummated this year. He tells us our party is to be trampled in the dust, and he calls up Governor Perry and the secessionists of the South as witnesses, and says they are the victorious, Constitution-loving people; they are to trample down Grant, Sherman, Sheridan, and the hosts of loyal men in their march to anarchy.

Sir, I think the conduct of the rebels and of Johnson for the last two years has been enough to educate any honest man, has been enough to make any honest man use all the powers which God has given him to secure to every man in this Government his rights, and to secure the fruits of this bloody war. I am astonished that the Senator from Wisconsin should stand where he stood before the war, should not have improved any, should not have advanced any. It is strange to me that he to-day joins those who have tried to destroy this Government in an effort to trample down those who saved it. Let me tell him now, if he has learned nothing in the past, he will be a dull student if he does not learn something in the future when this trampling-down process is carried a little further.

Mr. PATTERSON, of New Hampshire, obtained the floor.

Mr. DOOLITTLE. With the permission of the Senator from New Hampshire I desire simply to say one word in reply to my honorable friend from Nevada. I do not object to learning by passing events. I do not object to my friend from Nevada learning all he can in the history of the country as it passes on. I have learned many things within the past two years which I shall not now take the time to state; but one thing I have not learned, that the Constitution of the United States has any power by which it can change itself in 1866 and 1868 until an amendment to the Constitution shall have been adopted and ratified. What I believed about the Constitution before the war I believe now. What I believed about the Constitution during the war I believe now. What I believed about the Constitution in 1866 I believe now. It was the Constitution of which I was speaking, which gives to the States the right to fix for themselves the qualification of voting; and when Congress assumes to override the Constitution in 1866 or in 1868 I feel constrained to oppose it now as well as then; and it is because of this demand—

Mr. PATTERSON, of New Hampshire, rose.

Mr. STEWART. I wish to reply to that.

Mr. DOOLITTLE. Allow me to finish the sentence—it is because of this demand of yours to override the Constitution that I said your party would be trampled in pieces, as it will be.

Mr. PATTERSON, of New Hampshire. Mr. President—

Mr. STEWART. Allow me just one word.

Mr. PATTERSON, of New Hampshire. There does not seem to be any limit to this crimination and recrimination between the gentlemen, and I suppose I might give up the floor the whole day, if I were to leave it to them.

Mr. STEWART. I only ask two minutes. I wish to say to the Senator from Wisconsin that what may be done constitutionally one day may not be constitutionally done another; that is to say, if the rebels make war upon this

Government you may resist it constitutionally; if they do not make war, you shall not cut their throats constitutionally. Their resistance to the Government gives us the right to suppress them. That is the Constitution yesterday, to-day, and to-morrow. It depends upon the state of fact, and on the fuller development of the facts I ascertained that they were still resisting and determined to destroy the Government and dictate terms to loyalty, and the Constitution therefore made it my duty—

Mr. PATTERSON, of New Hampshire. I believe the two minutes are up.

The PRESIDENT *pro tempore*. The Senator from New Hampshire is entitled to the floor.

Mr. PATTERSON, of New Hampshire. Mr. President, the discussion this morning seems to have passed into an explanation of the record of different Senators. So far as my friend from Wisconsin and my friend from Nevada are concerned, it seems that they have changed ends of the plank upon which they were tilting some six or seven years ago. I wish to quote a passage from a speech of my friend from Wisconsin to show that he has slightly changed his record within the past two or three years. I read from a speech of his upon the deportation and planting of the blacks in Hayti and Liberia:

"I believe that in so doing we may be instrumental, under the providence of Almighty God, in laying the foundation of an empire there, a great republic to be composed of these people and their descendants, and of the people already there, who stand ready and willing and anxious to receive them as a part of themselves, which, after a few generations will contain one hundred million human beings—a republic which shall be in the tropics what this republic is in the temperate zone of the North American continent."

Yesterday the Senator told us that the African on this continent was very much superior to the African in his native country; that he had advanced intellectually; and yet he told us that the African was utterly disqualified on account of his ignorance and besotted character to participate with us in self-government. Perhaps other Senators can see the logic of the position which the Senator from Wisconsin occupied when he made this speech and the logic of his speech yesterday; but for my life I cannot bring the two things together. The Senator, it seems, some three years since saw in the African qualities which would bring him in two or three generations up to a position in which he would establish and maintain a republic in Liberia or Hayti which should rival the great Republic of North America. There was a light on his vision then that has never dawned upon mine, I must confess; for, however much I may sympathize with the African, I am hardly prepared to say to-day that I think in two or three generations he will establish either in Hayti or Liberia a republic which shall rival this. But because I take that position, I am not prepared to say that he should not participate with us to-day in this matter of suffrage.

I sympathize fully with the Senator in his view upon the subject of suffrage, as an abstract question. I believe that intelligence should be made the groundwork and must be made the groundwork of self-government in any republic; and you have the same right to make reading and writing a condition of suffrage that you have to make age, for age itself is nothing but a condition of intelligence to suffrage. There are Africans and there are white men at eighteen years of age as well qualified to vote as other men at forty; and this question of age determines less certainly the intelligence of a man than reading and writing; so that, so far as the question abstractly is concerned, I agree with the Senator fully. Now, sir, take it in California; they have got ninety thousand, or nearly ninety thousand Chinese.

Mr. CONNESS. Oh, no.

Mr. PATTERSON of New Hampshire. They have got eighty-seven thousand.

Mr. CONNESS. No, sir.

Mr. PATTERSON, of New Hampshire. Then, sir, the record is false.

Mr. CONNESS. It is.

Mr. PATTERSON, of New Hampshire. At any rate whether they have got eighty-seven thousand or ninety thousand, they have enough to turn any election one way or the other, if you give them universal manhood suffrage. What I say is, that there is no constitutional and no natural right anywhere that should make it the duty or confer the right upon the General Government to force upon California or any other State universal manhood suffrage in respect to questions that pertain simply and solely to the State government. But, sir, that is speaking of the normal condition of things. Matters at the South are not in a normal condition, and there are reasons for giving the ballot to the black man of the South which do not exist for giving the ballot to the Chinaman in California, or the black man in Ohio or anywhere else. My position, aside from the state of things which exists at the South, is simply this: that men should vote when they are qualified to vote and not before. There is no injustice in this, because voting is simply exercising the functions of an office conferred for the purpose of administering and maintaining our form of Government, and it is just as reasonable that you should require some intelligence in the man who administers that function as that you should require intelligence in the judge who ascends his seat in order to administer justice between man and man.

You may say that this is anti-republican and if carried out would lead to the government of the minority. Mr. President, if the intellectual and moral qualifications of this country should slide back to primitive ignorance, then you must have one of two conditions; you must either have anarchy under the government of the majority or you must have order under some form of the government of a minority; and the only way to maintain universal suffrage, or anything approaching to it, is to maintain universal intelligence. That is my position as a rule.

But, sir, the condition of the South at the close of the war was and is very different from the condition of Ohio. Nine tenths of the white population there had been in rebellion; they were enemies of the Government; and we had been at war spending our resources and pouring out the blood of the nation like water in order to save those States, not to save simply the territory, but to save the governments of those States within the Union, to keep them loyal and true in the great sisterhood of States. The Senator from Wisconsin advocates the doctrine that we shall give the reorganization of the State governments into the hands of the very men who sought to destroy this Government, who sought to take the State governments out of the Union, and withhold any part in the reorganization of those States from the colored men who helped to maintain them in the Union. He complains because, as he says, we have deprived of suffrage fifty thousand white men of the South. I think he makes a grand mistake in that. We have not deprived them of suffrage. We simply failed to confer suffrage upon fifty thousand white men who have taken it from themselves by their treason, and those fifty thousand were not men simply guilty of treason, but men who had violated an oath which they had registered in heaven to maintain the Constitution and the Government of the Union. He says that we ought not to admit these governments because we allow negro voting and because we disallow voting to these rebels; and yet he maintains that the Johnson governments, which deprived two hundred and fifty thousand white men of the privilege of voting, are legitimate governments, while the governments instituted under the congressional policy deprive only fifty thousand of the privilege of voting.

More than that, sir: if a constitutional convention were to meet in Wisconsin to frame or to amend the constitution there it would not become the fundamental law of that State until the people had acted upon it, and thus it had become the legislation of the people of

the State. Then it would be fundamental law, and not till then. How was it in the South in respect to those Johnson governments? Only one out of the whole number was ever submitted to the people for adoption, and the people of that State rejected it when it was submitted to them; so that the constitutions of those Johnson governments were never adopted by the people, and therefore are not legitimate; and yet the Senator maintains them as the legitimate governments against the governments organized under the congressional plan.

He tells us that these colored men are not fit to vote. Perhaps they are not fit to vote; but what was our condition? There were white men who had been in rebellion against the Government. They hated the Government. They did not desire to come back under the rule of the Constitution. We desired to organize civil government there and to relieve the people from military government. How could it be done? It could only be done by creating in those States a loyal voting population who would organize and maintain civil government. There were no white people who were loyal who would thus organize and maintain loyal governments, and therefore we were necessitated to put the ballot into the hands of the black men in order to find somebody who would organize and maintain civil governments. There were two alternatives: you must either give them indefinite military rule, which might lead to military despotism, or you must create a black voting population; and that was what we did at the South.

The Senator tells us that they will very soon become the instruments of ambitious men at the South; that they will become the mere minions and tools of southern rebels. Sir, he knows as well as I that during four years of struggle for the life of the nation these colored men, when northern influence could not reach them, were true to the Government against all the machinations and all the force that could be brought to bear upon them. He tells us that they will not vote correctly and properly. Does not he know that they were true when others were not true; that they were loyal amid the disloyal? Does not he know that the ashes of thirty thousand of them are sleeping to-day with the ashes of your children on every field that has been hallowed by the blood of our heroic dead? Does not he remember that down at Fort Wagner, when the brave Colonel Shaw had fallen dead within that intrenchment of treason, twenty of these swarthy Ethiopian warriors piled themselves as a monument above the corpse of their dead commander, to teach the world how well they knew and how deeply they loved liberty? Sir, I think men who would thus struggle can be trusted to vote and to organize governments against rebels who have been their masters and their persecutors.

Now, sir, one word in relation to the position of the Senator from Massachusetts, [Mr. WILSON.] He has objected to that provision of the law by which we made it necessary to have a majority of the registered voters vote on the question of the ratification of the constitution in order to secure the adoption of that instrument. I voted for that provision. I thought I did it intelligently, and if we were to be placed in the same circumstances I should vote for it again. I voted for it for this reason: I assumed that all governments should originate in the consent of the majority of the governed, in a normal condition of society, and you cannot establish a government unless you have got the majority of the loyal voting people of a State in favor of that government. If you establish a government republican in form you have got to do it by force under any other circumstances, and doing it by force it is no longer a republican form of government, but it is in the nature of things a despotism. It seemed to me that it was both our privilege and our duty to say that the majority of the registered voters should vote either for or against the adoption of the constitution. But, sir, it is equally true that the disloyal should not be registered, so

that the majority of the voters registered should be loyal men. That was our position.

Let me make another remark on this subject of voting. I voted for the amendment of the Senator from Connecticut, [Mr. FERRY,] and, further, I voted for the amendment offered by the Senator from Indiana, [Mr. HENDRICKS,] with whom I should certainly oftener vote if I had as great respect for his politics as I have for his intellect. I did it for a reason. The second section of the first article of the Constitution says:

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature."

That very section in the Constitution recognizes two things. It recognizes, first, that the States have a right to determine the qualifications of suffrage in the case of the election of officers who are to administer the powers which are reserved to the States. It recognizes also that the General Government has the right to determine the qualifications of voters who are to elect Representatives to Congress; and this very section proves it; because if the people of the Union have not the right to determine that question, why is it in the Constitution? It is simply stated here in the Constitution that the qualification of electors for members of Congress shall be precisely the same as the qualifications requisite for electors of the most numerous branch of the State Legislature, so that there may not be a conflict in the qualifications of voters for the two classes of officers. It was so important that there should be no conflict in this respect that the framers of the Constitution put it into this instrument, so that we now have no right to determine that question by an act of the national Legislature, and we cannot determine it by any compact between Congress and a State Legislature. If it is to be done at all it must be done by an amendment of this instrument; and any clause in the nature of a fundamental condition in one of these bills, in my judgment, is utterly void and powerless. It seems to me it would be far better when one of these States comes to us with a constitution all right in this respect, a constitution that satisfies and gratifies us, that we should accept it generously, and not say to them, virtually, "We distrust you; we do not believe that you are honest in this constitution." It has been adopted by a majority of the registered voting population of the State; and why shall we not have faith to believe that it will be maintained by them? I think we had better not have any such provisions in these bills; but still it is so important that these States should come in that I am willing to vote for the bill even with that provision in it.

One word more, sir, and I am done. The Senator from Massachusetts [Mr. WILSON] has moved an amendment by which he adds the fortunes of Alabama to the fortunes of the other States mentioned in the bill. I think that is a mistake. I am desirous that Alabama should come in; but my objections to this amendment are, first, that it will have a tendency to prevent the speedy admission of Alabama into the Union; and, secondly, it is likely to hazard this bill itself, and so keep out all the States mentioned in the bill. We all understand that the President will veto this bill. Suppose he does; it can only pass by a two-thirds vote; and, if I am not misinformed in respect to the opinions of certain Senators upon the Alabama question, we hazard something in putting such a veto before this Senate, for it is not absolutely certain with Alabama in that we could secure a two-thirds vote for the bill; but, having passed this bill by a two-thirds vote, such a momentum, such an impetus would be given to the work of reconstruction that Alabama could not be kept out for any length of time.

Mr. BUCKALEW obtained the floor.

Mr. DOOLITTLE. Will the honorable Senator allow me to say a single word in correction of a statement?

Mr. BUCKALEW. I rose for the same pur-



pose, and I must decline to yield. I tried to get the floor yesterday for the purpose of making an explanation. I shall only occupy the floor for a few moments.

The Senator from Indiana [Mr. MORTON] alleged that there was but a single voting poll open in each county in Alabama when the election was held, and the Senator from Ohio [Mr. SHERMAN] was resting under a similar misapprehension. Now, sir, the fact was that a number of voting places were opened in each county, and different polls were held. In the pamphlet of evidence which was printed by the House of Representatives on this Alabama case appeared a great many items of evidence conclusively establishing this fact. At page 32, in the statement from the judge of probate and others from the third district, I find these words:

"There were four voting places in the county appointed, but one of them was withdrawn, and the voting was done at three places, to wit, Jacksonville, Davisville, and Maddox's court-ground. We were at Jacksonville."

Another gentleman who makes a statement speaks of having voted at Huntsville, "one of the voting precincts" in a particular county; and so throughout the pamphlet appears conclusive evidence that there were a number of voting places in each county.

While I am up, I will suggest one point to the Senator from Massachusetts, [Mr. WILSON,] which I suppose he has not reflected upon sufficiently, and, I think, if he will consider it, he will see the propriety of not pressing his amendment if there were nothing else involved. Under the act of Congress those in the State of Alabama who were in favor of the constitution went to the election and voted; those who were opposed to it stayed at home and induced others to stay at home also. The result was that but one side voted in that State at that election; and they did this under the invitation of the act of Congress; they did it in pursuance of our law. Now, what is the result? That the State organization set up was the act of a part only of the people of that State; and yet the Senator, by his amendment, would recognize that State organization thus set up, to recognize the State officers so elected, and the members of the Legislature, and he would have representatives introduced into Congress chosen at an election in which only a part of the population voted; at an election where those who did not vote were invited to stay away from the election by the very act of Congress under which the proceeding took place. Would it not be the greatest bad faith for us to recognize that State organization and State government under those circumstances?

If the men who did not vote in that State had stayed away willfully; had stayed away when the law invited them to come forward and vote at the election; when, according to their views and their position, it was to their interest to accept the invitation of the law and go forward to the election, it would be quite a different case. But here you had a law which permitted them to stay away from the polls, and invited them to stay away from the polls, and thus exhibit their hostility to the constitution when it should be submitted. That constitution was defeated under the law. The opponents of the constitution under the law secured its defeat by withholding their votes. Consequently all the votes taken at that election for State officers, for members of the Legislature, and for other officers that were then voted for, fell under the law. They were all illegal. There never was any express authority to hold a State election at the same time that the constitution was voted upon under any act of Congress. It was the act of the convention itself. They were not executing any act of Congress in holding their State election at the same time. They held that State election of their own motion, by the decision of their own convention; and when the constitution failed that State election failed under the law.

Now, sir, cannot the Senator from Massachusetts see that it would be grossly unfair, that it would be the sublimation of injustice,

to hold that State election valid, and to install into office all those persons who were chosen at that election, when under our own law it was not a valid election? Then, even if the State is to be recognized by Congress as entitled to representation, good faith, the plainest principle of justice, requires that there should be another election held in the State for the choice of State officers and for organizing a State government.

Mr. POMEROY. Mr. President, I understand it is the purpose to take the vote on this question at an early hour to-day, and I do not care to occupy much time in saying what I had designed under other circumstances to say on the admission of these States, and especially in reference to Alabama. My own opinion is that we shall do a very injudicious thing, and perhaps I may add a cruel thing, to admit the States contained in this bill and leave out Alabama, the best, the first, and the most loyal of all the States included within the bill. I do not know anything about the question of expediency of which the Senator from New Hampshire has been speaking. I do not know what force there may be in the suggestion that the inclusion of Alabama in this bill will jeopardize and prejudice the bill in the Senate. I cannot think that it will have that effect. It appears to me that Senators who are willing to vote for the admission of any of these States, and who have it in their hearts to vote for the admission of any of them, will vote for the admission of Alabama.

Senators have been somewhat anxious to know what their record was in reference to the provision of law under which Alabama is claimed not to have voted a majority of all the registered voters for the constitution. For my own part I do not know precisely how I voted on that question; and what is more than that, I do not care. I have no doubt that Senators voted honestly under the lights they then had, and I do not think it is any object for a man to claim that he is always right. I have tried for many years to vote as I thought was right at the time in reference to any act of Congress or any vote I was called upon to give; and if I knew more the next day and had better light, I should be very likely to change. I hope always that I am not chained to any dead carcass of principles or measures so that I am obliged always, Congress after Congress, to vote for one bill and never amend it and never change it. I voted for the change of the law referred to as applicable to other States. Whether I voted for this provision in the original law I do not know. But, sir, I know that the State which responded the first, the most earnest, the most loyal, was the State of Alabama. Her election was held, to be sure, in an unpropitious season of the year; she had not the experience that other States which came after had; but I think the loyal and true men of Alabama did the best they could, and "angels can do no more." Nothing more should be required. When our friends who are loyal and earnest to this Government do the best they can under the circumstances, and under the lights and facilities they enjoyed, why should we not reach out the most cordial hand? Why should we not be anxious, instead of tardy, to welcome their return? Why should we not exert ourselves to let these men in the South feel that they are coming into the old family with friends, not enemies?

I have thought that the best and surest method of reconstruction would be to convince the South that on their return they are to be dealt with in the most liberal and cordial manner, not only in being welcomed back, but in our subsequent treatment of and legislation in regard to those States. When we completed the legislation called the reconstruction acts that was a covenant between me and them, and I think it was a covenant between Congress and those States; but for my action it certainly was a covenant that if they complied substantially, in good faith and earnestly, with the conditions of reconstruction as placed in the law they should be received back into the

Union. I never thought we were to stand upon any technicality, that we were to resort to special pleading upon some small point to be ruled against a State. My covenant was that on a substantial compliance with the terms prescribed they would be welcomed back; and I am not going now to plead any technicality of the law; I am not going to say that these States have not done what they could under our legislation and the best they could.

Mr. HENDRICKS. Will the Senator from Kansas allow me to ask him one question? He speaks about a matter of technicality. I wish to ask him whether he thinks that provision of the statute which required that there should be a majority of the registered voters voting to ratify the constitution was a part of the law; whether he thinks that had the force and effect of law?

Mr. POMEROY. When Alabama voted I think it was the law; I think it did have the force and effect of law; and yet I think Congress is entirely capable of waiving that point now. That law, by the way, did not say that Alabama should not come in if a majority of her registered voters did not vote; it only said that she should come in if they did; and Congress has the right at any time to waive any one of these provisions, especially accompanied as it was by the grossest fraud and the greatest terror that pervaded Alabama during that election. If it would not be wasting the time of the Senate, I should like to read testimony which I have on that subject, which is conclusive to my mind. As it is, I will only read a single extract from a very long communication that I have received from a gentleman in Mobile, who has lived there for more than twenty years and who was loyal through the war, not nominally so, but actively, earnestly so. This gentleman says, in closing a long communication: "Depend upon what I say—our political and physical life depends upon prompt and fearless action on the part of Congress, looking to a speedy restoration of this State;" and so on in that strain. I should feel myself false to my convictions, to the pleadings of my friends, to the earnest, anxious longings of the loyal men in the South, if I hesitated, doubted, threw cold water, to use a familiar phrase, upon them when they come and present their application here for admission. We repealed this provision of law as applicable to all the other States, and I undertake to say that we can waive it as applicable to Alabama; and I shall vote, must vote, cannot do otherwise than vote for the amendment of the Senator from Massachusetts; and in doing so I certainly hope that no Senator will feel that he cannot stand by this bill in all the trials to which it may be subjected in the future. The Senator from New Hampshire has given us the shadowings of a veto. I do not know anything about that; but if it come, I apprehend that Senators who propose to admit these States will vote for their admission.

I cannot believe that on any technicality of this kind any Senator can doubt the right of these States to admission. So I say, without doing any more than merely express my own opinion, that we ought to make haste in admitting these States, and in welcoming them, and making them feel that they are returning to their friends and not to their enemies, making them feel that the old family rejoice in their return, and not delay them from day to day by pleading against them.

Mr. TRUMBULL. I wish to ask of the Senate to make a report from a committee of conference on the same general subject which is pending and which, perhaps, may facilitate our action upon the bill now under consideration. If there is no objection I should like to make the report at this time.

The PRESIDENT *pro tempore*. The report will be received if there be no objection.

REPRESENTATION OF ARKANSAS.

Mr. TRUMBULL submitted the following report:

The committee of conference on the disagreeing

votes of the two Houses on the amendments of the Senate to the bill of the House No. 1039, to admit the State of Arkansas to representation in Congress, having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from its amendment to the House bill and agree to said bill with the following amendment added thereto: "Under laws equally applicable to the inhabitants of said State: *Provided*, That any alteration of said constitution prospective in its effect may be made in regard to the time and place of residence of voters;" and that the Senate agree to the same.

That the House recede from its disagreement to the amendment to the preamble of the bill and agree to the same.

LYMAN TRUMBULL,

C. D. DRAKE,

HENRY WILSON,

*Managers on part of the Senate.*

THADDEUS STEVENS,

F. C. BEAMAN,

*Managers on part of the House.*

Mr. WILLIAMS. I should like to hear the bill read with that provision attached to it, so that we may know how it stands.

Mr. TRUMBULL. I will state before the Clerk reads it, so that the Senate will understand it better, that the committee of conference have recommended that we agree to the House bill precisely as it passed the House of Representatives in regard to Arkansas excepting a slight verbal amendment in the preamble, which is not important, with the addition of the words incorporated in the report. The bill as it passed the other House provided as a fundamental condition to the admission of Arkansas to representation that no change of its constitution should be made so as to deprive any citizen or class of citizens of the right of suffrage who has it by the constitution that is herein recognized. Then we have added to that a proviso that the constitution may be changed as to the time and place of residence, leaving the people of Arkansas to make such change in that respect as they shall think proper, to require more than six months' residence in the State, or to require some definite residence in the county as necessary to the right to vote. They will also have the right to change their constitution in regard to foreigners, as this condition only applies to citizens.

Mr. POMEROY. Foreigners having declared their intention to become citizens can vote.

Mr. TRUMBULL. They can by this constitution as it stands, but this fundamental condition will not prevent the people of Arkansas from changing their constitution in that respect, if they should think proper, so as to require citizenship hereafter. Now, if the Clerk will read the words proposed to be added by the report to the House bill, I think the whole matter will be understood.

The CHIEF CLERK. The bill, as passed by the House of Representatives, reads:

That the State of Arkansas is entitled and admitted to representation in Congress as one of the States of the Union upon the following fundamental condition: that the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted.

To which it is proposed to add the words:

Under laws equally applicable to the inhabitants of said State: *Provided*, That any alteration of said constitution, prospective in its effect, may be made in regard to the time and place of residence of voters.

Mr. DRAKE. I would inquire whether the Clerk has read that correctly. The report the committee agreed upon was that the word "all" should be before the words "the inhabitants;" so as to read, "all the inhabitants of said State."

The CHIEF CLERK. "Under laws equally applicable to the inhabitants of said State" is the language.

Mr. DRAKE. Then, sir, there is a mistake in the report of the committee; and I ask that the Chairman recall it so that the mistake may be corrected. The Clerk has made a mistake in transcribing it. The report was, "under laws equally applicable to all the inhabitants of said State." As it reads now it does not amount to anything at all.

Mr. POMEROY. It means that now.

Mr. DRAKE. No, sir; the report of the committee was not in these words. There was a mistake in transcribing it.

Mr. POMEROY. I move that we proceed with the bill regularly under consideration, and the report of the committee of conference can be made at any time.

Mr. TRUMBULL. I ask leave to withdraw the report that the error may be corrected.

The PRESIDENT *pro tempore*. That may be done, no objection being made.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 1010) relating to pensions, in which it requested the concurrence of the Senate.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 188) to amend an act entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867;

A bill (S. No. 190) to further provide for giving effect to the various grants of public lands to the State of Nevada;

A bill (S. No. 320) for the relief of George Lynch, a soldier of the war of 1812;

A bill (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes; and

A bill (H. R. No. 1117) to partially supply deficiencies in the appropriation for the service of the fiscal year ending on the 30th of June, 1868.

#### REPRESENTATION OF SOUTHERN STATES.

The PRESIDENT *pro tempore*. The bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress is before the Senate as in Committee of the Whole, the question being on the amendment of the Senator from Massachusetts [Mr. Wilson] to the amendment of the Committee on the Judiciary.

Mr. CONNESS. Mr. President, there were some things in connection with the pending amendment which I thought during the discussion yesterday I should like to have said, and, perhaps, would like to say now, though I am so much the more anxious for the passage of the bill proposing to admit those States that I would readily forego at any time anything that I might have to say if we could come to a vote upon it. Yet, if the debate is to go on to the consumption of this day or still further, I will trespass upon the Senate for a few minutes.

I regret, Mr. President, very deeply, to witness the opposition that proceeds particularly from this side of the Chamber to the amendment offered by the honorable Senator from Massachusetts, because I cannot see for the life of me a good reason for objecting to the admission of Alabama at this time. Of course we all differ or are apt to differ, indeed too apt to differ, I think, in this Chamber, and particularly on our side of it. I will say, upon propositions of policy and doctrine. I regret that Senators here representing the great national, patriotic party of the Union, which maintained the war and fought it, who stand now before the country and the world under all the responsibility that can attach to a party engaged in conducting a Government, so often differ upon questions of doctrine and policy. The opposition to this amendment in the Chamber comes from two classes. One class is ably, actively, astutely represented by some of the Senators I see sitting before me. I allude particularly to the honorable Senator from Pennsylvania [Mr. BUCKALEW] and the Senator from Indiana, [Mr. HENDRICKS.] Upon all occasions when

it becomes the interest of the party they represent to advocate their policy, (which, however, they do not give much of their time to, but attack ours,) they are ever in the foreground; and their associates on the other side of the Chamber permit their leadership, as I think, with great good judgment, for they are cool, cautious, and able. These leaders, with all the other members of their party on the opposite side of the Chamber, are against this amendment.

They are against the bill; they are against it in whole and in every part. They opposed the first reconstruction bill; they opposed the second; they opposed the third; and they will oppose every proposition which proposes to readmit the southern States upon the basis of equal suffrage; and yet honorable Senators on this side of the Chamber allow them often to dictate a policy to divide and distribute our forces, while they never vote apart. It is of no consequence, Mr. President, whether it be a legislative or a judicial question that the honorable Senators vote upon, a trial to determine political policy contained in a bill before this body or a trial of the President of the United States, they vote conscientiously of course certainly, but wonderfully vote together. The solid phalanx is never broken. I like them, sir; I like wisdom, boldness, perceptive sense, and they exhibit all here; but sometimes I have been astonished that some of our friends did not perceive it and did not know that they were the serpent in the garden—they will pardon me for the comparison—who mean to please while they mean to destroy, while we conscientious folks and legal men are able to split a hair without breaking either side; and sometimes I have been tempted to think that the ability to do it, existing heretofore extensively and so certainly, often induces the practice of the attempt just to see how it can be done and who can do it.

So, sir, Alabama cannot be admitted with the other southern States in the same bill, but we are told it must be presented as a separate proposition in a separate bill. Mr. President, I ask you the question, what Senator is there on this side of the Chamber who will refuse to vote for the amendment of the Senator from Massachusetts admitting Alabama at the same time with the other States, who will consent to vote for it if it stands alone? Suppose, as we have been told—and this prophecy has been made a great many times—that the President shall veto the bill now before us and send it back here; suppose that the amendment now pending be lost and that a separate bill for the admission of Alabama shall also be passed by a majority or more and sent to him for his signature, will he not return them both with a veto? Will he treat one any better than the other? And when the bill for the admission of Alabama standing alone shall be returned by him to this body, what Senator who would not waive all question and vote for it incorporated with a bill admitting the other States, will then vote for it over his veto?

Mr. President, can it be possible; is it true at this period and time that there is any Senator on what I claim to be the loyal side of the Senate—and loyalty has a meaning though it is so much used—who will refuse to sustain a bill for the admission of Alabama under the constitution made in that State, because it is either in or out of a bill proposing to admit the other States? If it be so, then it only proves that as a party, a majority party charged with conducting this Government at this great crisis, it is a failure; and, sir, that being the case, it deserves to be routed, horse, foot, and dragoons, by that party for which I have no political respect, led by those astute leaders on the other side of the Chamber.

When my friend from New Jersey [Mr. FRELINGHUYSEN] was on the floor he told us that there were Senators here who would not and could not vote for this bill if it came back with a veto from the President, the amendment of the Senator from Massachusetts hav-

ing been adopted; and my honorable friend from Michigan, [Mr. HOWARD,] who is always brave and true, reiterated the opinion, and although he was ready to vote for it, it was his opinion that that was the real state of the case in the Senate; and many others followed. When the debate had taken this turn my friend from Pennsylvania [Mr. BUCKALEW] rose and offered his arguments, and the Senator from Indiana [Mr. HENDRICKS] joined him as usual. They said that this was in the nature of a contract. Why, said the Senator from Indiana, several times, if not in this debate heretofore, what did you mean by submitting the question to the people of Alabama if you were not prepared to abide by their decision? It was not for the purpose of abiding by their decision that we submitted it; it was for the purpose of developing a constitution; it was for the purpose of organizing government; it was for the purpose of organizing loyalty and allowing that State to be represented in this Chamber and to resume all her practical relations with the Government. Well, sir, in the process of submitting the question, it happened that under our law, unwisely passed, I think—I do not know how I voted upon it, and I do not care; I think, however, I voted against it—the requisite number of votes was not polled for the constitution to result in its adoption. Does that bind this Congress? Did we not make the law? May we not amend it?

Have we not asserted from the beginning our entire and complete power over this subject? Might we not have admitted Alabama without the process that she took at all? Might we not have admitted Alabama, if we chose and deemed it worthy of us, under the so-called Johnson constitution? Certainly. The power was here; it abides here still; and we may either amend or change the law, or act, notwithstanding the law, as we shall see fit. Why? Because we represent the sovereign power of this Government and people that maintained the standard of the nation and the integrity of its Government against rebellion, and because we mean to hold fast to that position until the entire work is done and well done. Sir, among our friends that come to our house to meet us, do we raise the question of who shall first enter? Who that has a heart and a judgment does not welcome all; and why should we not welcome all?

I will give no time to the question of the causes that led to the failure of the vote in Alabama. It is enough that it technically failed; but it is true, as stated by my honorable friend from Indiana near me, [Mr. MORRISON,] that there were eighty odd thousand votes cast for the constitution; it is true that they have made such a constitution as we would choose that they should make; it is true that they ask to be admitted, and that their safety demands that they be admitted. If the Senate will indulge me at this point, I will read some dispatches just received from Alabama. The first one is addressed to the honorable Senator from Massachusetts, who has offered the amendment, and is in these words:

MONTGOMERY, ALABAMA, June 6, 1868.

The loyalists of Alabama, with one voice, beg Senators to support your amendment.

Hon. HENRY WILSON, United States Senate.

This is signed by more than half a dozen of the leading men of that State. I will read another dispatch received to-day:

MONTGOMERY, ALABAMA, June 6, 1868.

Republicans are intensely anxious for the adoption of WILSON'S amendment.

Hon. R. M. REYNOLDS.

The honorable Senator from Pennsylvania, in this discussion, was almost facetious in his attacks upon the reconstruction laws. It is but what he has iterated and reiterated here many times before, though he rarely repeats himself; but the line of discussion has drawn him into it. He said that the better way to have done would have been to send an exact

pattern of a constitution down to these States, a kind of a last upon which a political boot should be made; and then we should have the thing according to pattern. I do not know whether his support of the pattern of that kind sent by Andrew Johnson down into these States when he made his celebrated proclamations, put this in his head or not. I do not know but that that pattern, which particularly and prominently allowed every rebel to vote, so pleased him that he got the idea of pattern in his head from that, and then said what he did while up.

The only conditions that we imposed upon the people of the South were conditions which became necessary by their crimes and falsity to good faith and loyalty. Why, sir, it was preposterous that a local government could be organized in any of those States after the war by allowing the men who had laid down their arms to take up the ballot and vote, and they alone, under which this Government could live, and it was as impossible as that devils could reign in Heaven, and as unnatural. Therefore it became necessary to put the ballot in other hands; and the fault, the great and grievous fault of reconstruction, has been that the power of the Government from the time the war ceased was not kept closely applied to the rebels so that they should not be let up until they were taught obedience to law and to order, respect for property and life and the rights of other men. But, sir, unfortunately, in a day of the cruellest misfortune, our President, elected by the party that we represent here, determined to make a wide difference with us. He determined to engage in the business of reconstruction single-handed—no, sir, not single-handed, but without the aid of our hands, without the aid of the men who had given him his power, but with the aid of the rebels of the South, the Democrats of the North who had opposed the war, and the plunder-seeking Republicans, wherever they could be found, to build up a party that should elect him or someone like him for the next four years President of the United States. That was what he undertook to do, and that was why the Senator from Wisconsin [Mr. DOOLITTLE] deserted his party—I was going to say basely betrayed it—and joined the President to do. Ah, Mr. President, does any one think, can the Senator make the simplest creature in the land believe, that if the President had been true to his faith, true to his trust to the people, true to his obligations to the party that elected him, and gone on with us, the Senator would have left him then? Nay, sir, he would have clutched to his coat-tails, he would have still followed the fleshpots of presidential patronage, and he would have been here the londest of the loud proclaiming for Johnson and reorganized, reconstructed liberty in the South; and we should have had some of that physical eloquence that he so often gives us specimens of here when, with a pile-driving power, he drives down his propositions beneath him, often smashing them into pieces, and when, sir, he almost impiously—he will excuse my language, but the facts justify it—intersperses his appeals to the Senate with appeals to Almighty God.

Mr. President, the honorable Senator professes to be a Christian man, and has often told us how much he reveres the Christian religion; but, sir, he has joined idols; he has abandoned his faith; he has abandoned the principles upon which Christianity is founded and for which it was established in the world. If Christianity, by its great Master and Teacher, was not brought to men of the earth for the purpose of defending the weak and lowly, for the purpose of lifting them up in the scale of being, for the purpose of teaching some of that equality on earth which is certain in Heaven, then, sir, I undertake to say for myself that it is a deception and a snare. The Senator professes the doctrine and violates it shockingly, impiously, wickedly, at every turn. He rises here and gives us dissertations on the inequality of men, the impossibility of the negro being the

equal of the Caucasian. Mr. President, the distinction was not made by their Maker. We are not told that there are dividing places in Heaven for classes and castes and colors and shades. There is not a Christian church in the world of all the denominations that does not admit them to be upon the same plane; but the Senator, while he boasts his Christianity, violates its most sacred purposes and principles.

I was reminded yesterday when he had nearly a mule's load of books around him, that there was one which he might have added with advantage to himself. I hold it in my hand. It is a simple and old book. There are supposed to be truths in it, and the honorable Senator professes to believe them. While he was denouncing the inequality of men and boasting it loudly, I opened it at a place where a man who was known in his day and generation, and is not forgotten yet, had spoken. His name was Paul, and on an occasion when he met the Athenians, who thought themselves the greatest of all the earth, who boasted their superiority and eloquence, and who called every outsider a barbarian or an uncivilized semi-barbarian—they were like the honorable Senator in everything but that they were great in art—Paul stood up among the Athenians and spake thus:

"Then Paul stood in the midst of Mars' Hill and said, 'Ye men of Athens, I perceive that in all things ye are too superstitious.'"

"God that made the world, and all things therein, seeing that he is Lord of heaven and earth, dwelleth not in temples made with hands;

"Neither is worshipped with men's hands as though he needed anything, seeing he giveth to all, life, and breath, and all things;

"And hath made of one blood all nations of men or to dwell on all the face of the earth."

Mr. DOOLITTLE. Read the next sentence.

Mr. CONNESS. The next sentence, Mr. President, the honorable Senator can read, and if he will read and study and pay attention to the spirit as well as the letter, he will leave the rotten faction and party that he has joined and come back to the men who have heart and blood and courage in advocacy of human right.

But there is another thing the Senator is in the habit of doing when he speaks here; and I have heard him do it I may say a hundred times. He calls up that great and beloved man now gone, our late President, as a witness, and he makes him responsible again and again for this vilest plan to organize rebellion politically. Sir, the man who left his residence when his health was failing him and went down to the front and witnessed the proceedings during the last ten days of the existence of the armed forces of rebellion, had his heart and his soul in his country's cause too deeply to ever trust one of the men who was on the other side in that conflict. It is true that he was a generous and charitable man, and, like us, would not use unnecessary severity against any person whatever, not even against his active enemies. But think you, sir, that if he had lived he would not have guarded with jealous care and fidelity, and organized the patriotism of the country, and preserved its Government so as to make it impossible to be again attacked so successfully as it had been? No man can doubt that.

The honorable Senator has treated us time and again to what he has called the "Lincoln-Johnson policy." "Lincoln-Johnson!" I have heard that a great many times from him. He used to come up here with a hand-organ and grind out *ad libitum* "the Lincoln-Johnson policy;" but if Johnson had stayed with us he had never turned musician! I do not know what the honorable Senator's mission is, whether it is music, statesmanship, theology, or what not. I may have something to say about that by and by.

He has a habit here, too, of speaking of the elections whenever through any cause whatever in any part of the country there is a seeming triumph of the party that he has now joined, but he will permit me to say, does not honor, for deserters always have a character, and it



abides with them and stays with them like the shirt of Nessus; there is no reorganization or reconstruction for them. The man who fails his comrades, the man through whom a cause is lost, has no friends, and for the best reason in the world, he is not worthy of them; and there is a common instinct that all mankind have, without the trouble of reasoning, which teaches them that very wholesome fact. If an election occurs in California, though the result was brought about by the shameless acts of faction in our own party, by means of which the men whom he has joined have made a temporary success, he heralds it here again and again and claims that those bad principles and those heinous policies that he now stands the advocate of have been indorsed. If the proposition has been submitted in any one or more of the northern States to give the ballot to the colored man, and through the monstrous and wicked prejudice which the existence of that brutal institution of slavery has sown, grown and built up among us, the proposition be rejected, the honorable Senator comes here and speaks loud and claims that it is a victory for him and his party! Well, sir, when a man or a party boasts of a victory like that, won with the seeds of injustice deeply in it, he or it has only to wait a little while to be destroyed. As sure as right is better than wrong as an abstract principle, so sure will any man or party binding up within its policies, error, and wickedness, fall thereby.

But the honorable Senator finds nothing in the Christian religion to engage him as an active missionary on the side of right, but he has gone out and counted his forces, and he calculated with his friend, the President, that the Democrats of the North, the rebels of the South, and the class that I denominated as the plunder-seeking Republicans wherever they are found, would make an overshadowing and overpowering party, and he joined it at once. Of course, he cannot immediately retreat; he has committed himself; but he does not tell us of how unfortunate he has been individually in his advocacy of these monstrosities. His State, not like mine by a local and party feud, but upon a fair election, spewed him out of its mouth. Its people have not said, "Well done, good and faithful servant," but they have said, "Go hence;" and I heard—I suppose it is not true—that the honorable Senator was going to Florida. He ought to remember that that is not the latitude for the Caucasian race. I rather think if he were there, particularly if the ballot should be maintained in the hand of the negro, he would overcome his scruples and go back to his old doctrine read by the honorable Senator from New Hampshire to-day and say, "I was mistaken for a while; the savage of Africa built up and intellectually strengthened and born again in America is capable of establishing here in the tropics a republic that will rival the great Republic of the North;" and I suppose he would add, "and of the temperate zone," for I believe he always puts that in. I like to be accurate.

But not a word falls from his lips of how his partners have gone from him. When, in 1865 he met his party associates in a conference in a room not far from here, I remember well, before a word was spoken about the desertion of Mr. Johnson from his party, that Senator's speeches, and I remember well the speeches made by his associate for awhile who was a Senator from Pennsylvania, [Mr. Cowan,] and I remember well the coöperation of the gentle and amiable Senator from Connecticut, [Mr. Dixon.] There were a few more, but this trio were the leaders. They were evidently the marked and chosen leaders, chosen blindly and foolishly by the President. I remember the speeches they made in that conference, and how certain it was then that they were deserters, that they intended treason to our party and to our cause. What has been the history of every man who went with the honorable Senator on that occasion? He might well put that hand-organ down on

some occasion, and go to one of the poets, and read thus:

"When I remember all  
The friends, so link'd together,  
I've seen around me fall,  
Like leaves in wintry weather;  
I feel like one,  
Who treads alone  
Some banquet hall deserted,  
Whose lights are fled,  
Whose garlands dead,  
And all but he departed."

I shall not speak, sir, of the dead; they have passed away; but where is the Senator from Pennsylvania, and where will be the Senator from Connecticut, and where will be the man who made music for them all? And where will he be, sadder yet, in the estimation of his countrymen? Where will he be fifty years hence? Where will he be when a century shall have come which shall render practical on earth some of the teachings of the Christian doctrine and make all forget their individual power, their superiority where they have it, and in place of trying to put their feet upon the neck of their fellows, who are already too low down, they shall be engaged in lifting up—nay, sir, shall have lifted up the lowly—where then will his record be? If he shall make answer to me he will do it with party twaddle, he will do it with that same old instrument, the crank of which he has turned here so often, and which has been made to play a certain number and order of tunes, and which the merest fool in creation can play as well, if he be able to turn the crank, as any of the great artists that have been known in that delightful profession.

The honorable Senator says we violated the pledges of pardon that the President gave. The President gave pardons, it is true, but who pardoned him? Is there any party in this land that are entitled to respect that have pardoned him for the great crime of deserting us, that have pardoned him for the falsehood spoken when he said to those poor, deluded men in Nashville, "I will be your Moses," meaning to be understood that he would be their leader and their light and their strength; and when in detestable contrast with those sentiments only a short time after, with our good President dead and he in power, in one of the rooms of the Treasury building he had the audacity and the shamelessness, addressing a number of colored men who called upon him, to tell them that they should be protected in their right to labor—they should be protected in their right to work. Yes, sir; their former masters were to be allowed to make contracts with them and to refuse to pay them for their labor, and the colored man to whom he gave the former promise was to be protected in his right to labor without the pay! There is such a thing sometimes as justice on earth, and sometimes men escape it. Without wishing to be harsh to the President, to whom I feel no personal ill-will, I think, if he were secured a while in the same right to labor, that it would be according to a high philosophy, the doctrine of compensation, eminently just and deserved. The military governor of Tennessee, at Nashville, holding a temporary place, said, "I will be your leader;" the President of the United States, representing all the power of the Republic, said "You shall be protected in the right to work," and at that time my Christian friend from Wisconsin was engaged in helping the President to maintain the latter promise!

He brings in a petition here, signed by a thousand of the white men of Alabama, representing, as he says, "the intellect and moral power" of that country. I do not know about the intellect; but if they represent the moral power, then there is a certain dignitary, who is said to have his chief abode in the infernal regions, who is the custodian and chief of all that power, and there is no God! Moral power, sir! What a shocking misuse of terms! Men, who, that the right might be secured to buy and sell human flesh, bodies and souls eternally, made war against the only Government that offered security to the liberties of mankind; men who, in making that war, violated

all the usages of honorable warfare, butchered those whom they had in their power disarmed and overpowered, and made toys of their bones!

Right here, Mr. President, let me tell very briefly an incident of an excursion party. Long after the battle of Bull Run, and after the bones of our poor fellows had whitened on the surface of the soil, an excursion party on horseback came out from Richmond. Let it be spoken but in shame, that they were composed mainly of what are called ladies; that they wheeled their horses and went back with trophies consisting of bones of human beings, their country people, the children of the same God, who had been slain by their fathers and brothers; and one lady, to be more distinguished than the rest, carried a skull off on her riding-whip as a garland and trophy. The Senator speaks of the moral power such people represent! I will not spend any time in undertaking to show, nor is it necessary to say, that every man of them who signed that petition, in all human probability, has a history either as bad as or worse than this man Perry, from South Carolina; and yet they come here to petition, to misstate facts, to denounce their fellows, to ask us to reinstate them in power that they may proceed to the full completion of the work which they failed to do by other means.

Mr. President, let me say before I go further, lest any man shall say or think that I would do a cruel or ungenerous act toward one of these persons, that there was no man in the nation at the end of the war, and there is no man in it now, who is so ready to receive them back when they are prepared to come back as American citizens, loving the flag, believing in the system of government, ceasing to tyrannize over and destroy the men that they the other day enslaved, when they shall have come to acknowledge that a man from Massachusetts or New York may take his money and his household gods and go into any State of the Union and live in peace and security. But, Mr. President, it is not so now; and this petition that the Senator has presented denounces such of us as say that it is not so.

There was in this gallery awhile ago a brave fellow who left my State and came here to take the fortunes of war for his country just after he had left college, and who undertook to settle in the South. In his character he is as gentle as a woman, in his moral and upright bearing he is a pattern in society. His very lineaments impress you with his nobility. He engaged in business; he has tried to live in the South, but he could not do it. To use his own words, gentle and truthful as he is, "no standard of character, no matter how elevated; no purity of life, no matter how simple and true, is a passport there to any favor. I was warned to leave again and again. I had determined to sell my life dearly if forced to do so, and I prepared means of defense in my household. I escaped a physical conflict, but finally had to leave."

It is not constitutional, says the Senator from Wisconsin; you are trampling the Constitution under foot if you preserve that man in the plainest rights of an American citizen! There was a time, whether the Senator believed in it or not, when he stood forth as the advocate of the opposite doctrine; but the time has come when we have but the abandonment of that by the Senator, and his constant and oft-repeated harangues here.

When he rose yesterday the first utterance he made was that he did not rise to engage in this discussion as a party man. No sir, I suppose not. He did not belong to our party; that is certain; he has not been long enough in the other to have obtained a *status*, and so he is hanging between earth and heaven politically yet. I do not know where he will fall; but I know that he will fall; I know that he is falling; he is bereft of that element of moral power which he says these petitioners represent in the State of Alabama.

He says the distinguished gentleman who

recently did not receive the indorsement of this body for a high office which he had once held, said on a certain occasion, and all their leaders say, that they mean first to get power, and next, if they do get power, they will trample free suffrage under their feet; they will reinstate their style of rule. Mr. President, if there be one of them so vain as to dream earnestly of it, I caution and conjure him to remember that the day has passed for rebel rule in America. The day has passed, as slavery has passed, when its damned instruments can longer control public opinion. Sir, let them undertake to trample under foot, and the next great example will make an epoch in human history never to be forgotten. As Wrong is weaker than Right and has not any of its inherent power; as Right is true and strong and bold, so will the one triumph over the other and trample it under its feet. That, sir, is where the trampling will be done, and the result of the vintage will be the pure wine of liberty, unadulterated, vitalizing, good for body and soul.

I have been at a loss, Mr. President, in thinking of it, to imagine to what caste, class, party, faction, or sect my friend really belongs; I mean in his religion; not while I listened to him yesterday, but while I have listened to him for the three years last past in this Chamber. I have not gone and made the researches that our friend from Massachusetts [Mr. SUMNER] could have done by turning his finger, and brought and spread before me all the systems of religion that mankind have known, so that I might have found the place of my friend from Wisconsin. Having found no place for him in the sect to which he professes to belong, I went to others, and among the rest I found me a book which gave the philosophy of the Hindoo religion. There is a great deal in it, sir; and I will say here in its behalf and for it, that if my friend belonged to it, was in full communion with it, he would sever his present party connections and come and seek forgiveness of the men and cause he has betrayed.

I find that their religion divides their population into four castes or tribes or classes, and they are described according to their inherent faculties and their fitnesses for life on earth, and I suppose for life in heaven. They consist of the Brahmen, which is the highest—my friend from Nevada, [Mr. NYE,] I have no doubt will be deeply interested in this exposition, as he is known to be a searcher after truth. The next tribe or caste is the Kehree; the next is the Visya; and the next and fourth and last is the Soodra. The Brahmen consist of those who have faculties that give this result: "The natural duty of the Brahman is peace, self-restraint"—that is bad for my friend—"zeal"—if that could possibly be meant to be associated with a bad cause, he could come in—"purity"—I will let him judge of that for himself—"patience, rectitude, wisdom, learning, and theology." Do you think he belongs there, sir? I should say not.

The natural duties of the second class are "bravery, glory,"—a brave man never deserts a cause, not even a failing cause; to use a vulgar phrase, he dies in his tracks; and that is glorious; and the very next duty of that caste is "glory;" then "fortitude, rectitude, not to flee from the field"—my friend clearly does not belong there, for he did flee from the field; he left us, and he left us when we had the mightiest of works to do—"generosity and princely conduct." It is not "princely conduct" to flee from the field.

The natural duty of the third class, or Visya, is "to cultivate the land, tend the cattle, buy and sell." I do not know that my friend belongs there. I do not know that he has any talent for these pursuits.

The natural duty of a Soodra is servitude. In one sense, I think, my friend belongs there. He has joined the party devoted to the establishment of servitude. But on the whole, having discussed that with myself, I concluded that my friend could not be put with that tribe or class; and therefore I found no place for him

in the Hindoo religion. I found he did not belong to the Christian religion, and there was no place for him among the Hindoos. He had left his party and his country in its greatest need, and not having my friend from Massachusetts at my elbow so that I might carry on my investigations further, it simply became my natural duty to pray for him. [Laughter.]

Mr. MORTON. Mr. President, I argued yesterday in favor of the right and propriety of immediately admitting Alabama, but I said that perhaps it would not be safe to put Alabama into this general bill, as there was some special opposition to Alabama, and it might endanger the admission of the other States, and for that reason I would favor putting Alabama into a bill by itself. I learn to-day that I was mistaken in regard to the strength of the opposition to the admission of Alabama. I believe that Alabama can be admitted on the final passage of the bill, and therefore I shall vote for the amendment offered by the honorable Senator from Massachusetts, believing that the bill with Alabama in it will pass over the President's veto as well as without it.

#### REPRESENTATION OF ARKANSAS.

Mr. TRUMBULL. I ask the Senate now to consider the report of the committee of conference on the Arkansas bill. The word "all" was omitted in the copying of the report.

The PRESIDENT *pro tempore*. The report will be received and read, if there be no objection.

The Chief Clerk read it, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 1039, to admit the State of Arkansas to representation in Congress, having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses, as follows:

That the Senate recede from its amendment to the House bill and agree to said bill with the following amendment added thereto: "Under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution, prospective in its effect, may be made in regard to the time and place of residence of voters;" and that the Senate agree to the same.

That the House recede from its disagreement to the amendment to the preamble of the bill and agree to the same.

LYMAN TRUMBULL,

C. D. DRAKE,

HENRY WILSON,

Managers on the part of the Senate.

THADDEUS STEVENS,

F. C. BEAMAN,

Managers on the part of the House.

The report was concurred in.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1010) relating to pensions was read twice by its title, and referred to the Committee on Pensions.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1033) for the relief of Thomas McLean;

A bill (H. R. No. 1051) to grant certain islands to the State of Wisconsin as swamp lands and for other purposes; and

A bill (H. R. No. 1052) amendatory of an act entitled "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June 3, 1856.

These bills were severally read twice by their titles and referred to the Committee on Public Lands.

#### EXECUTIVE SESSION.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress.

Mr. FESSENDEN. I suppose it cannot be expected to finish this matter this afternoon, and, if it is agreeable to the Senate, I

move that the Senate proceed to the consideration of executive business.

Mr. WILSON. Let us finish this.

Mr. FESSENDEN. We cannot finish it on this Saturday afternoon.

Mr. HOWARD. I hope we shall go into executive session, because we have some business there that ought to be acted upon speedily.

Mr. FESSENDEN. I have no particular wish in moving an executive session, but I thought it would be better.

Mr. CONNESS. I hope we shall get a vote on the bill.

Mr. MORTON. I think we can get a vote in a few minutes.

Mr. TRUMBULL. I hope we may get a vote. I do not know that there is any discussion to be had in the Senate.

Mr. FESSENDEN. I withdraw the motion if gentlemen desire it, unless somebody wishes to discuss the bill at length.

The PRESIDENT *pro tempore*. The motion for an executive session is withdrawn.

Mr. HOWARD. What is the question then?

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts, [Mr. WILSON.]

Mr. VICKERS. It is now nearly three o'clock, and I suppose that if any time of the Senate is to be given to executive business it would be better to give it now. Possibly I might detain the Senate to a period so late that it would not be practicable to enter on that kind of business. I understand there is some important business to be performed in executive session.

Mr. WILSON. I understand the Senator desires to speak at length on this subject.

Mr. VICKERS. Yes, sir.

Mr. HOWARD. Then I hope we shall go into executive session.

Mr. WILSON. Will the Senator allow me a single moment? I propose to let this bill lie over, and take up and put on its passage—I hope it will take no time—the bill to continue the Bureau for the relief of Freedmen and Refugees, and for other purposes. It is important to act upon it now.

Several SENATORS. You cannot pass that to-day.

The PRESIDENT *pro tempore*. It can only be done by unanimous consent at this time.

Mr. HENDRICKS. I object.

The PRESIDENT *pro tempore*. Objection is made.

Mr. WILSON. If objection be made to that motion, I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. Before that motion is put, I wish the Senate would indulge me simply to say that I hope we may come here on Monday with the understanding that we shall vote on this bill. ["Agreed!"]

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts, to proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

SATURDAY, June 6, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Clerk proceeded with the reading of the Journal, but, on motion of Mr. MAYNARD, by unanimous consent, the further reading was dispensed with.

WILLIAM CONNELLY.

On motion of Mr. SCOTFIELD, the petition of William Connelly, for a pension, was withdrawn without leaving copies on file.

REISSUES OF PATENTS.

Mr. RAUM, by unanimous consent, introduced a bill (H. R. No. 1163) in relation to

the reissues of patents; which was read a first and second time, and referred to the Committee on Patents.

Mr. MAYNARD. I call for the regular order.

THOMAS M'LEAN.

The SPEAKER. The first business in order is the unfinished business at the adjournment last evening, being the bill (H. R. No. 1033) for the relief of Thomas McLean, reported from the Committee on the Public Lands by the gentleman from Wisconsin, [Mr. HOPKINS.]

Mr. HOPKINS. A word of explanation will satisfy every gentleman here that this bill ought to pass. Congress, on the 3d of March, 1865, passed a law setting apart a tract of land in Calumet county, Wisconsin, as an Indian reservation. That law provided that all the settlers actually residing within the limits of the reservation should have the right to purchase their homesteads, not exceeding eighty acres, at \$2 50 per acre. When the lines of the reservation were run it was found that, though the cultivated fields of this petitioner were within the limits of the reservation, his house, where he actually lived, was ten rods over the line. Therefore, by a technical construction of the law, not living actually on the reservation, he was deprived of the privilege which that bill gave to the settlers on the reservation. This bill simply allows him to enter the land that he has cultivated for thirteen years at the price stipulated in the act of Congress, \$2 50 per acre.

Mr. BROOKS. I objected to this bill last night, but I think it is all right.

Mr. HOPKINS. There are seventy-five acres of the land, and he has cultivated it for thirteen years.

Mr. MAYNARD. If the gentleman states that that is all there is in the bill, I suppose nobody will object to it.

Mr. HOPKINS. That is all there is in the bill, and the Commissioner of the General Land Office informs me that there are no adverse claims.

Mr. ELDRIDGE. Will the gentleman yield to me for one moment?

Mr. HOPKINS. Certainly.

Mr. ELDRIDGE. I know the facts with regard to this bill very well. It is one that I introduced myself for a constituent of the gentleman from the district adjoining mine because he was not present at the time. It simply provides that this party, Mr. McLean, may enter this land as though he had built his house upon it. The preemption laws under which the lands are to be entered require, according to the decision of the Commissioner of the General Land Office, actual residence upon the lands. His house happens to be just off the lands, and his improvements are upon them. I understood my colleague to say that Mr. McLean has occupied and cultivated this land for thirteen years. That is the fact, and he has occupied it for five years longer than that, making eighteen years, supposing that he was right and could avail himself of the provisions of the law.

Mr. MAYNARD. Does the gentleman say, as his colleague has said, that this is merely a question as to seventy-five acres of land?

Mr. ELDRIDGE. I do not understand that it covers seventy-five acres. I believe there are only forty acres, but whatever the quantity of land may be, it is simply a question of allowing him to enter his land as his neighbors who were successful in getting their houses upon these lands have done.

Mr. MAYNARD. Then I presume there is no objection to the bill.

Mr. ELDRIDGE. I think there can be none.

Mr. HOPKINS. I move the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOPKINS moved to reconsider the

vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. HOPKINS. I ask unanimous consent to make one or two reports from the Committee on the Public Lands, to which there will be no objection, and which it will take no time to dispose of.

Mr. MAYNARD. "No time" is rather indefinite. I am willing that the morning hour shall be postponed for ten minutes.

Mr. HOPKINS. I ask, then, that the morning hour be postponed for ten minutes to enable me to make some reports.

No objection was made.

#### WISCONSIN LAND GRANT.

Mr. HOPKINS, from the Committee on the Public Lands, then reported back from the said committee, without amendment, and with the recommendation that it do pass, the bill (H. R. No. 1052) amendatory of an act entitled "An act granting public lands to the State of Wisconsin to aid in the construction of railroads in said State," approved June 3, 1856.

The bill was read. It provides that it shall and may be lawful for the Legislature of Wisconsin to dispose of the lands granted and which may have inured and been certified to the State of Wisconsin under the act of Congress approved June 3, 1856, to aid in the construction of a railroad "from Madison or Columbus, by the way of Portage City, to the St. Croix river or lake, between township twenty-five and thirty-one," and commonly known as the La Crosse and Milwaukee railroad, for the benefit of the Wisconsin Railroad Farm Mortgage Land Company, a company existing under and by virtue of the laws of Wisconsin, provided that the act shall apply only to such lands as may be due the State of Wisconsin for the portion of the road already completed.

Mr. LAWRENCE, of Ohio. I would inquire of the gentleman whether the Committee have considered the question whether there ought not to be annexed to this bill a provision that the State shall be required to sell the lands to actual settlers at a price not exceeding \$1 25 an acre? We passed a bill a day or two ago granting some hundreds of thousands of acres of land to the State of Minnesota for the purpose of constructing a dam across the Mississippi river, which had such a provision incorporated in it. I believe I had the honor first to suggest that provision to this House. I shall vote for no bill which grants lands to aid in the construction of railroads, or which carries out existing grants. That does not provide in specific terms that the lands shall be sold to actual settlers at a price not exceeding \$1 25 an acre. I submit to the gentleman that this provision should be ingrafted upon this bill.

Mr. HOPKINS. I would say, in reply to my friend from Ohio, [Mr. LAWRENCE,] that this bill does not grant any land to the State of Wisconsin. It simply permits the State of Wisconsin to dispose of this land in the interests of the people of the State.

This bill, perhaps, proposes a new thing in the legislation of the country. It permits the State of Wisconsin to do justice to the men who furnished the means to build this road. It gives to the poor farmers along the line of the railroad, who mortgaged their farms to build the road, and who, in many cases, lost all their property, the lands which the railroad company are entitled to receive to aid in its construction, and I am happy to say the railroad company are willing to do this small act of justice to the unfortunate men who contributed their means to build the road. In 1856 Congress granted to the State of Wisconsin a quantity of lands to aid in the construction of a railroad from Madison, or Columbus, by way of Portage City, to St. Croix river or lake, and from thence to Superior City and to Bayfield. The State conferred the grant upon the La Crosse and Milwaukee Railroad Company. In

order to raise the means to build this road agents were sent among the farmers living along the line, who had no money to subscribe, but they were induced to mortgage their farms to the company as subscriptions to the stock. These mortgages were sold to eastern capitalists. The stock which the farmers received became utterly valueless, as the road was sold out upon the mortgage bonds, wiping the stock and the original stockholders all out, creating much distress among the deluded farm mortgagers. As a consequence there has prevailed all along the road since its completion a feeling of bitter hostility, which at times has threatened to break out in open violence.

The company completed about sixty miles of the road specified in the grant, and demanded a certificate from the Governor so as to obtain title to the land, but were refused, because they had not commenced their road at Madison or Columbus, as provided by law. Subsequently the company did complete their road from Columbus to Portage City. No lands, however, have as yet been certified to the company, although the quantity granted has doubtless inured to the State for the portion of the road actually completed. As I am informed, the railroad company now consent to an arrangement which will authorize the State to convey so much of the land as they have become entitled to, by building a portion of the road, to a company organized under the laws of Wisconsin for the benefit of the farm mortgagers.

I am satisfied that there can be no objection to the passage of this bill, as it simply authorizes the State to carry out the arrangement, thereby doing an act of manifest justice toward a large number of the respectable and industrious farmers of our State, who have ruined themselves by mortgaging their homesteads to aid in building the road.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. LAWRENCE, of Ohio. Upon that question I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and there were—ayes six, noes not counted.

So (one fifth of those present not voting in the affirmative) the yeas and nays were not ordered.

The bill was then passed.

Mr. HOPKINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### SWAMP LANDS IN WISCONSIN.

Mr. HOPKINS, from the Committee on the Public Lands, reported back, with a recommendation that the same do pass, House bill No. 1051, to grant certain islands to the State of Wisconsin as swamp lands, and for other purposes.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. The first section provides that all islands or parts of islands in the Mississippi and Wisconsin rivers lying within the jurisdiction of the State of Wisconsin, and which upon examination and survey may be shown to be swamp or overflowed lands within the meaning of the act of September 28, 1850, to enable the State of Arkansas and other States to reclaim the swamp lands within their limits, and which may have been withheld from selection by reason of the restrictions of the act of March 12, 1860, to extend the provisions of an act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits to Minnesota and Oregon, and for other purposes, shall be confirmed to the State of Wisconsin under the provisions of the act of September 28, 1850; provided the provisions of this act shall not



extend to any tract or tracts to which any adverse rights may have vested under any laws of the United States prior to the date of the return of surveys under this act.

The second section provides that it shall be the duty of the Commissioner of the General Land Office to have surveys of the islands made accordingly, and to convey to the State, by approval and patent, all tracts shown thereby to be really swamp or overflowed within the jurisdiction of the State.

The third section provides that as regards all swamp or overflowed lands sold by the United States or located with military bounty-land warrants or scrip since the passage of the swamp act of September 28, 1850, and which may not be designated as swamp or overflowed by the field notes of public surveys, it shall be lawful for the State to present proof to the Commissioner of the General Land Office, under such regulations as may be prescribed by the Secretary of the Interior, to show the character of such lands, and when they shall have been proven to have been really swamp or overflowed lands at the date of the passage of the said act of September 28, 1850, the State shall be entitled to receive as indemnity therefor a like amount of lands, to be located within her limits, on any of the public lands subject to entry at private sale at \$1 25 per acre or less.

Mr. MAYNARD. I cannot, by any means, consent to allow a bill of this kind to pass through *sub silentio* and *pro forma*. The swamp-land legislation of 1850, referred to here, took from the Government the very best lands in the State of Arkansas, under the pretense of granting the swamp lands to that State. I understand the object of this bill is simply to extend that Arkansas policy up into Wisconsin. If we are to have a general policy, that when a State is organized all the public lands in the State shall be granted to that State, I am not prepared to say that I will not go for it. But so long as we have an established policy in regard to our public lands of a different character I cannot consent to this kind of legislation.

Mr. HOPKINS. The gentleman is usually so well informed that I regret the necessity of correcting him on this occasion; but he certainly misapprehends the entire scope of this bill. The swamp-land policy was extended to our State by the act referred to in this bill, which seeks only to give to the State of Wisconsin the swamp lands which were actually granted by the act of September 28, 1850. There has been a dispute in regard to some islands in the Mississippi and Wisconsin rivers ever since that grant was made to our State; and this bill was drawn by the Commissioner of the General Land Office with the view of settling that dispute, so that these islands may be disposed of by the State, as the timber upon them, which constitutes about all their value, is being stripped off every year. The bill simply provides for doing an act of justice to the State of Wisconsin by a fair construction of the existing law.

The history of the swamp-land grant, so far as it relates to the State of Wisconsin, I will, as briefly as possible, give to the House.

By the act of September 28, 1850, entitled "An act to enable the State of Arkansas and other States to reclaim the swamp lands within their limits," the United States granted to the several States all the unsold swamp or overflowed lands within their limits. Acting upon information received from the land department, and believing that the plats and field notes of the Government surveys indicated accurately the swamp lands, and wishing to avoid the expense of a resurvey of the State for the purpose of making the selections under this grant, the Governor of the State of Wisconsin, in November, 1851, notified the Commissioner of the General Land Office to adjust the grant to Wisconsin upon the evidence of the plats and field notes on file in the Land Office. It soon became apparent to the authorities of the State and General Government

that the plats and field notes were very imperfect, and really furnished no adequate evidence for the proper adjustment of this grant. Consequently the State of Wisconsin, through the Governor, applied to the Secretary of the Interior, and obtained permission to resurvey the State, with a view to ascertain the quantity of land Wisconsin was entitled to under said grant. A careful resurvey was made at an expense to the State of over thirty thousand dollars, and the evidence furnished thereby was conclusive that the State, if the grant was adjusted upon the basis of the plats and field notes, would lose a large quantity of land which, by the act making the grant, we were clearly entitled to. Congress intended, manifestly, to convey to the States all the swamp lands unsold within their limits at the date of the act making the grant. Wisconsin claims that a large quantity of land of the character specified in the act has not been conveyed to the State, owing to the fact that the basis adopted for the adjustment was imperfect and unreliable. We claim, further, that it was no fault of ours; that had the Government surveyors done their duty they would have indicated the swamp lands upon their plats, and afforded an easy and correct basis for the adjustment of the same; but, failing to do so, we are unable to adjust the grant fairly upon this basis. All we ask by the bill under consideration is that the act of September 28, 1850, so far as Wisconsin is affected by it, shall be carried out in good faith, and that the State may receive only such a quantity of land as by an equitable adjustment of the grant we are entitled to. The General Government has always pursued a liberal policy toward the States in settling grants of land, and I trust no exception will be made in the case under consideration.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. HOPKINS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The ten minutes allowed by unanimous consent to the gentleman from Wisconsin [Mr. HOPKINS] for reports from the Committee on the Public Lands have expired.

#### RELIEF OF ARMY OFFICERS.

Mr. BOYER, by unanimous consent, reported from the Committee on Military Affairs a joint resolution (H. R. No. 238) amendatory of joint resolution for the relief of certain officers of the Army; which was read a first and second time, recommitted, and, with the accompanying report, ordered to be printed.

#### RELIEF OF DRAFTED MEN.

Mr. BOYER also, by unanimous consent, reported back with amendment, from the Committee on Military Affairs, a bill (H. R. No. 424) entitled "An act amendatory of an act entitled 'An act for the relief of certain drafted men;'" which was recommitted, and ordered to be printed.

Mr. UPSON. I move to reconsider the votes by which these bills have been recommitted; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. MAYNARD. I call for the regular order.

The SPEAKER. The regular order being called for, the first business in order during the morning hour is the call of the Committee on Invalid Pensions for reports, that committee being entitled to another morning hour.

#### RECEPTION OF CHINESE EMBASSY.

Mr. WOOD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Speaker be requested to extend to the embassy now in this capital representing the

Chinese Government a public reception in this Hall at such time as may be convenient to the embassy and the public business.

The SPEAKER. As the order of the House is that this invitation be extended by the Speaker at such time as will not interfere with the public business, the Chair would like to have the opinion of the House as to what the time shall be.

Mr. WOOD. I defer to the wishes of the chairman of the Committee of Ways and Means on that question.

The SPEAKER. If the chairman of the Committee of Ways and Means will designate what time in his opinion will least interfere with the public business, the Chair will designate that time.

Mr. SCHENCK. I hope the time may be Monday rather than to-day. I will state now what I propose for to-day. Many gentlemen, especially those residing at points conveniently accessible from the capital, have begged that there may be no meeting for business to-night. I wish, therefore, to submit a proposition that to-day's session be extended till half past five o'clock instead of half past four, and that we have no session to-night. If this be agreed to I shall endeavor to have the House go into the Committee of the Whole immediately after the morning hour. I think that on Monday this proposed reception might conveniently take place.

The SPEAKER. The Chair will state that proposition first. The gentleman from Ohio asks that the session of the House to-day shall be extended to half past five o'clock and no recess taken for an evening session. Is there objection?

Mr. ELDRIDGE. Say five o'clock.

Mr. SCHENCK. I do not think it is too much to ask one hour for the three hours of the evening session; but I will make it five o'clock.

There was no objection, and it was ordered accordingly.

The SPEAKER. The Chair will suggest that Tuesday will be a better day. The invitation must be tendered and accepted before notice can be given to the House.

Mr. SCHENCK. Very well; say Tuesday.

Mr. GARFIELD. It will be impossible to fix a day now, when we do not know whether they will accept or not.

The SPEAKER. The Chair will extend an invitation for Tuesday after the morning hour.

Mr. CULLOM. I suggest three o'clock. We can then do some business before the reception.

Mr. PRICE. I suggest ten o'clock, and then it will not interfere with business.

Mr. INGERSOLL. Eleven o'clock would be better.

Mr. SCHENCK. I accept the latter suggestion, as I think it is the best.

The SPEAKER. The Chair will extend the invitation then for eleven o'clock on Tuesday morning.

There was no objection, and it was ordered accordingly.

#### D. H. BRUSH.

Mr. PERHAM. I am instructed by the Committee on Invalid Pensions to report back the petition of D. H. Brush, of Jackson county, Illinois, and to move that it be laid upon the table. And as it is one of a large class of cases before the committee, I will make a statement for the information of the House. A very large number of soldiers disappeared during the war, and it has been found impossible to make proofs of their death. Applications for pensions made to the pension department have been rejected on that account. The last heard of many was that they were in rebel prisons; of others that they were upon the field of battle, and of others that they were in hospitals. The pension department have recently established a rule that it shall be held sufficient if proof can be made that the soldier disappeared under circumstances which would lead to the presumption of his death, and that he has not been heard of for two years.

I mention this so petitioners may know that instead of applying here they should apply to the department, who will grant pensions under this rule.

Mr. INGERSOLL. Have they power to establish this rule?

Mr. PERHAM. They decide that under the law they have the power to establish the rule.

Mr. INGERSOLL. It is a just rule.

Mr. CHANLER. Is this decision final or only temporary?

Mr. PERHAM. It is final, I take it. We so understand it.

The petition of D. H. Brush was laid on the table.

Mr. MYERS. I should like to ask the gentleman from Maine whether he proposes to report any further general bill? There is great difficulty in regard to applicants who cannot prove that the party died in the line of duty.

Mr. PERHAM. No general bill has been prepared on that subject.

Mr. BURR. I object to the morning hour being taken up in this way.

MARGARET DAVIS.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 1164) granting a pension to Margaret Davis; which was read a first and second time.

The bill grants to Margaret Davis, widow of William H. Davis, late acting surgeon of the eighteenth Missouri volunteers, a pension at the rate of seventeen dollars a month.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ELIZABETH CASSIDAY.

Mr. PERHAM, from the same committee, also reported a bill (H. R. No. 1165) granting a pension to Elizabeth Cassiday; which was read a first and second time.

The bill grants a pension to Elizabeth Cassiday, widow of Michael Cassiday, late first lieutenant in sixty-ninth regiment of Pennsylvania volunteer infantry, commencing July 5, 1863.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. MARY A. LORD.

Mr. PERHAM, from the same committee, also reported back the petition of Mrs. Mary A. Lord, widow of the late Colonel R. G. G. Lord, for increase of pension; and moved that the same be laid on the table.

The motion was agreed to.

LOUISA M. WILLISTON.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 1166) granting a pension to Louisa M. Williston; which was read a first and second time.

It directs the Secretary of the Interior to place the name of the petitioner, widow of Samuel P. Williston, late a sergeant in the fourth Massachusetts battery, and pay her a pension at the rate of eight dollars per month from October 17, 1862, to January 6, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AMENDMENT OF PENSION LAWS.

Mr. PERHAM, from the same committee, reported adversely on the joint resolution (H.

R. No. 110) to amend the pension law; and the same was laid on the table.

ESTHER GRAVES.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 1167) granting a pension to Esther Graves; which was read a first and second time.

It directs the name of the petitioner, late a nurse in the Army, to be placed on the pension-roll, subject to the provisions and limitations of the pension laws, with a pension at the rate of eight dollars per month, commencing January 1, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PENSIONS TO DRAFTED MEN.

Mr. PERHAM, from the same committee, reported adversely on the bill (H. R. No. 702) in reference to the payment of pensions to drafted men; and the same was laid on the table.

MARY ATKINSON.

Mr. PERHAM, from the same committee, reported back the bill (S. No. 49) granting a pension to Mary Atkinson.

It directs the name of the petitioner, mother of Andrew B. Atkinson, late a quartermaster in the United States Navy, who died in the service of the United States in the line of duty, to be placed on the pension-roll at the rate of twenty dollars per month, to commence from the passage of this act and continue during her natural life, said pension to be paid out of the naval pension fund.

The bill was ordered to be read a third time; and was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN E. JONES.

On motion of Mr. PERHAM, the Committee on Invalid Pensions were discharged from the further consideration of the petition of John E. Jones for back pay; and the same was referred to the Committee on Revolutionary Pension and of the War of 1812.

FREDERICK DENNING.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 1168) granting a pension to Frederick Denning; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the petitioner, father of William F. Denning, late a second lieutenant in the ninth Maine veterans, commencing January 2, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

ADVERSE REPORT.

On motion of Mr. PERHAM, the Committee on Invalid Pensions were discharged from the further consideration of the petition of thirty-seven pensioners, asking that the amount withheld from them under act of March 3, 1865, be paid to them; and the same was laid on the table.

DWIGHT G. HULL.

On motion of Mr. PERHAM, the Committee on Invalid Pensions were discharged from the further consideration of the petition of Dwight

G. Hull; and the same was referred to the Committee on Naval Affairs.

JOSEPH B. RODDEN.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 1169) granting a pension to Joseph B. Rodden; which was read a first and second time.

The bill directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of the petitioner, late a private in company K, sixteenth regiment New York volunteers.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SARAH ANN HAYES.

Mr. PERHAM. I am instructed by the Committee on Invalid Pensions to report back the petition of Sarah Ann Hayes, of Alleghany county, Pennsylvania, and move that the committee be discharged from the further consideration of the same, and that it be laid on the table, the case being provided for by general law.

The motion was agreed to.

ELIZA MATTHEWS.

Mr. PERHAM, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1170) granting a pension to Eliza Matthews; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Eliza Matthews, mother of Josiah W. Matthews, late a private in company F, one hundred and ninth regiment Pennsylvania volunteers, commencing May 28, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

STEPHEN DURKEE.

Mr. PERHAM, from the same committee, made an adverse report on the petition of Stephen Durkee, praying for a pension; and the same was laid on the table.

WILLIAM F. NELSON.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 1171) granting a pension to William F. Nelson; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of William F. Nelson, late a chaplain at the Washington Park Hospital, Cincinnati, and pay him the pension of a chaplain from and after the passage of this law.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

WILLIAM SPONSLER.

Mr. PERHAM, from the same committee, reported back, with the recommendation that it do not pass, the bill (H. R. No. 466) for the relief of William Sponsler, late a private in company B, one hundredth regiment Pennsylvania volunteers; and the same was laid on the table.

LUCINDA J. LETCHER.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 1172) granting a

pension to Lucinda J. Letcher; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Lucinda J. Letcher, widow of Joseph Letcher, late a private in company G, ninth Michigan volunteers, commencing October 21, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. G. W. F. WOOD.

Mr. PERHAM, from the same committee, reported adversely on the petition of Mrs. G. W. F. Wood for arrears of pension; and the same was laid on the table.

JULIA A. BARTON.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 1173) granting a pension to Julia A. Barton; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Julia A. Barton, widow of William Barton, late a private in company I, seventh regiment Kentucky volunteers.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ALFRED SMITH.

Mr. PERHAM, from the same committee, made an adverse report upon the petition of Alfred Smith for a pension; and the same was laid on the table.

JULIA CARROLL.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 1174) granting a pension to Julia Carroll; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Julia Carroll, widow of Edward Carroll, late a private in company H, twenty-ninth regiment Massachusetts volunteers, commencing February 22, 1863.

The bill was ordered to be engrossed and read a third time and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARGARET NYCE.

Mr. SITGREAVES moved that the Committee on Military Affairs be discharged from the further consideration of the petition of Margaret Nyce, of Fremont, Ohio, for relief, and that the same be referred to the Committee on Invalid Pensions.

The motion was agreed to.

PENSIONS TO BE PAID IN COIN.

Mr. PERHAM, from the Committee on Invalid Pensions, reported adversely upon House bill No. 474, to provide for the payment of pensions in coin; and the same was laid on the table.

HANNAH BROWN.

Mr. PERHAM, from the same committee, reported adversely upon House bill No. 699,

granting a pension to Hannah Brown; which was laid on the table.

DANIEL W. SIMS.

Mr. PERHAM, from the same committee, also reported adversely upon the petition of Daniel W. Sims, for relief; which was laid on the table.

CORNELIA PEASLEE.

Mr. PERHAM, from the same committee, reported a bill (H. R. No. 1175) granting a pension to Cornelia Peaslee; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Cornelia Peaslee, widow of Leonard Peaslee, late a private in company D, third regiment Maine volunteer infantry, commencing July 1, 1862.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY COVER.

Mr. MILLER, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1176) granting a pension to Mary Cover, widow of Samuel Cover, deceased; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read at length. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary Cover, widow of Samuel Cover, deceased, late a private in company G, fifty-sixth regiment Pennsylvania volunteers, who left one child, a son named Henry, born May 19, 1856, and to pay her such a pension per month as the widow of a private is entitled to under existing laws, to commence February 10, 1863, and to continue during her widowhood; and at her marriage or death the pension shall be paid to the child while under sixteen years of age.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MELINDA FERGUSON.

Mr. MILLER, from the same committee, reported a bill (H. R. No. 1177) granting a pension to Melinda Ferguson, widow of James Ferguson, late a private in company C, first regiment Kentucky cavalry; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill, which was read, provides that the Secretary of the Interior be authorized and directed to place on the pension-roll the name of Melinda Ferguson, widow of James Ferguson, deceased, late a private in company C, first Kentucky cavalry, to be paid during her widowhood, the sum allowed widows of privates in the war of 1861 under existing pension laws, to commence from the passage of this act; and at her marriage or death the pension is to be paid from that period to the surviving children of James Ferguson that may then be under sixteen years of age, subject to the rules and regulations of the pension department.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved

that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY ANN WARD.

Mr. MILLER also, from the Committee on Invalid Pensions, reported adversely upon the application of Mary Ann Ward for relief; which was laid on the table.

DAVID DUHIGG.

Mr. MILLER also, from the Committee on Invalid Pensions, reported back a bill (H. R. No. 218) for the relief of David Duhigg.

The bill, which was read, proposes to authorize and require the Secretary of the Interior to place on the pension-roll the name of David Duhigg, father of late First Lieutenant Dennis Duhigg, of Company M, first regiment Vermont artillery, who was killed in battle, and that David Duhigg, in consequence of the service and death of his son, be paid during his natural life a pension of seventeen dollars per month, to commence from the passage of this act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PHOEBE S. TAYLOR.

Mr. MILLER also, from the Committee on Invalid Pensions, reported adversely upon the petition of Phoebe S. Taylor, widow of Dr. George Taylor, deceased, late a surgeon in the United States Army; which was laid on the table.

MARY MERCHANT.

Mr. MILLER also, from the Committee on Invalid Pensions, reported a bill (H. R. No. 1178) granting a pension to Mary Merchant, mother of Timothy H. Pittsford, late a private in company G, first regiment United States Veteran Engineer corps; which was read a first and second time.

The bill, which was read, proposes to authorize and direct the Secretary of the Interior to place on the pension-roll the name of Mary Merchant, mother of Timothy H. Pittsford, late a private in company G, first regiment United States Veteran Engineer corps, to be paid during her widowhood, the sum allowed mothers of deceased privates in the war of 1861 under existing pension laws, to be computed from the passage of this act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MARY A. FILARDO.

Mr. MILLER, from the same committee, reported a bill (H. R. No. 1179) granting a pension to Mary A. Filardo, widow of Onesimus Filardo, late a private of company K, one hundred and twenty-fifth regiment New York volunteers; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary A. Filardo, widow of Onesimus Filardo, late a private of company K, one hundred and twenty-fifth regiment New York volunteers, who died, leaving her with three children, and to pay her the pension that a widow of a private is entitled to under existing laws, to commence from the passage of this act and to continue during her widowhood; and it is further provided that, in the event of her death or marriage, the pension shall be paid to the minor children under sixteen years of age.

The bill was ordered to be engrossed and



read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

GEORGE TRUAX.

Mr. MILLER, from the same committee, also reported back House bill No. 256, for the relief of George Truax, with a substitute.

The substitute provides that the Secretary of the Interior shall be directed to place the name of George Truax, late private of company H, first regiment Virginia volunteer infantry, on the pension-roll, to be paid to the extent of one fourth disability, to be increased or to cease as the examination of the surgeon may disclose, according to the rules and limitations of the pension laws, to commence on the 1st October, 1864.

The substitute was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. MILLER, from the same committee, also reported adversely upon the following cases, and the same were laid on the table, and the reports ordered to be printed:

Petition of John G. Madden, praying for a pension;

Petition of Patrick Smith, second lieutenant company I, seventy-third New York volunteer infantry; and

Petition of widow and minor children of Henry Taife, late private company F, twentieth New York militia.

PAY OF CLERK TO COMMITTEE.

Mr. MILLER, from the same committee, also reported the following resolution:

*Resolved*, That the Clerk of the House of Representatives is hereby authorized and directed to pay the clerk of the Committee on Invalid Pensions, during the Fortieth Congress, a sum of money which will make his compensation equal to that of the clerk of the Committee of Claims.

Mr. HOLMAN. I suppose as the clerk of the Committee of Claims is paid an annual salary this only pays this clerk of the Pension Committee at the same rate for the session.

Mr. MILLER. It makes his pay the same as that of the Clerk of the Committee of Claims.

Mr. UPSON. How much is that?

Mr. MILLER. Last year it was \$2,100. I have a statement of the business done by several committees during the present Congress. The Committee on Military Affairs reported five hundred and twenty cases, the Committee of Claims four hundred and fifty-two, and the Committee on Invalid Pensions five hundred and ninety-one. It thus appears that the work of the Committee on Invalid Pensions is not behind that of any other committee.

Mr. HOLMAN. I do not object if it be limited to the session of Congress.

Mr. MILLER. It puts the clerk on the same footing as the clerk of the Committee of Claims.

Mr. HOLMAN. The clerk of the Committee of Claims is paid an annual salary. I think it only fair to pay the clerk of the Committee on Invalid Pensions at the same rate during the session. I believe the clerk of the Committee of Claims is employed during the whole Congress.

Mr. MILLER. He is not employed more laboriously than the clerk of the Committee on Invalid Pensions.

Mr. HOLMAN. What is the salary of the clerk of the Committee of Claims?

Mr. MILLER. Twenty-one hundred dollars.

Mr. HOLMAN. What is the pay of the clerk of the Committee on Invalid Pensions?

Mr. MILLER. Four dollars a day.

Mr. HOLMAN. I think it entirely just to pay him the same as the clerk of the Committee of Claims during the session of Congress.

Mr. MILLER. I am instructed by the committee to report the resolution. The committee were of opinion that he is fully entitled to the same pay that the clerk of the Committee of Claims gets. His labor is greater.

Mr. MAYNARD. Will the gentleman tell us what use the committee has for a clerk in the recess between two sessions?

Mr. MILLER. The same that the Committee of Claims has.

Mr. MAYNARD. The clerk of the Committee of Claims has nothing to do. I was on that committee four years, and some way or other the clerk came to be a salaried officer, appointed and kept on a fixed salary as a permanent clerk. I never could see any business that he had to do in the recess of Congress. If the committee will bring in a resolution to put their clerk on the same footing as the others I will most cheerfully vote for it, but I cannot, unless there are more facts brought to my notice, consent to make another clerk a permanent salaried officer.

Mr. MILLER. If the gentleman was on the Committee of Invalid Pensions he would find out whether there was not much work to do. I think this clerk is well entitled to a salary.

Mr. MAYNARD. The gentleman does not answer my question. I do not propose to withhold his pay during the sessions of Congress, long or short, but I ask what he is to do in the vacation when we are all away?

Mr. MILLER. He has a considerable quantity of papers to prepare and take care of, while we are absent.

Mr. MAYNARD. I suppose they can be locked up, and there they would stay; nobody would steal them.

Mr. HOLMAN. It is manifest that the pay of this clerk ought to be more. The duties are manifestly laborious as indicated by the number of bills reported. I suggest, however, that it is not a good idea to make any more of these clerkships permanent; but, if it is proposed to increase the compensation of this particular clerk, I think it ought to receive the favorable consideration of the House. Fix it, if you please, as high as six dollars a day. I think there are three other clerks of committees who perform the same amount of labor.

Mr. MILLER. I shall have to resume the floor. I demand the previous question.

On seconding the previous question, there were—ayes 34, noes 44; no quorum voting.

Mr. MILLER. I withdraw the resolution.

Mr. MAYNARD. I hope the gentleman will have it referred back to the committee, and have this man paid abundantly, but not make him a salaried officer.

Mr. MILLER. I have withdrawn it.

PHEBE M'BRIDE.

Mr. MILLER, from the same committee, reported a bill (H. R. No. 1180) granting a pension to Phebe McBride, mother of Thomas McBride, deceased; which was read a second time.

The bill directs the Secretary of the Interior to place on the pension-roll the name of the applicant, mother of Thomas McBride, late a private of company B, of the eighty-seventh regiment of Illinois volunteers, to be paid a pension at eight dollars per month during her widowhood, to commence from the passage of this act.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HARRIET E. SHEARS.

Mr. MILLER, from the same committee, reported a bill (H. R. No. 1181) granting a pension to Harriet E. Shears; which was read a first and second time.

It directs the Secretary of the Interior to place on the pension-roll the name of the applicant, widow of John T. Shears, deceased, late private in company H, fifty-seventh regiment of Illinois volunteers, to be paid the pension of a widow of a private during her widowhood, to be computed from the 7th of September, 1862; but on her remarriage the same to be paid to the minor children of John T. Shears who may then be under age.

The bill was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM W. WITHERSPOON.

Mr. MILLER, from the same committee, made an adverse report on the petition of William W. Witherspoon; which was laid on the table.

MARY A. DAVIS.

Mr. MILLER, from the same committee, reported back, with the recommendation that it do not pass, the bill (H. R. No. 596) granting a pension to Mary A. Davis, widow of William P. Davis, late a private in the eighteenth regiment Indiana volunteers.

Mr. HOLMAN. Is there any written report accompanying that bill?

Mr. MILLER. No, sir; there is a written report in almost every case except this one.

Mr. HOLMAN. I would be very glad if the gentleman would allow the bill to be recommitted as there is no written report.

Mr. MILLER. I have no objection.

The bill was recommitted to the Committee on Invalid Pensions.

WILLIAM H. BLAIR.

Mr. MILLER, from the same committee, reported a bill (H. R. No. 1182) granting a pension to William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension-roll the name of William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers, at the rate of eight dollars per month, to be computed from the 27th day of January, 1867, subject to the rules and regulations of the pension department.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES A. ANDERSON.

Mr. MILLER, from the same committee, made an adverse report on the petition of James A. Anderson, for increase of pension; which was laid on the table.

CHRISTOPHER M. CORNMESSE.

Mr. MILLER, from the same committee, reported a bill (H. R. No. 1183) granting a pension to Christopher M. Cornmesser, late a private in the independent Iowa home guards; which was read a first and second time.

The bill directs the Secretary of the Interior to place upon the pension roll, subject to the provisions and limitations of the pension laws, the name of Christopher M. Cornmesser, late a private in the independent Iowa home guards, and pay him such pension as a private as he is or may be entitled to under existing law founded upon surgical examination, to commence July 21, 1861.

Mr. ROSS. I would like to have the report in this case read.

The report was read, from which it appears that Christopher M. Cornmesser, on or about the 20th June, 1861, volunteered and joined as a private the independent Iowa home guards, under the command of Captain V. Wainwright, which company at the earnest solicitation of the loyal home guards of the counties of Gen-try and Worth, in the State of Missouri, marched into said counties to aid in dispersing bands of rebels there congregated, and that Cornmesser, while in the line of duty on the 21st day of July, 1861, was by an accidental discharge of a gun wounded, the ball penetrating the fore-part of his leg near the ankle joint, passing through and shattering the leg and ankle bones so as to render him a cripple for life.

The petitioner made an application to the Pension Office for a pension but it was rejected upon the ground that there was no record evidence of the organization of the company.

Mr. ROSS. Does not this bill incorporate a new principle in our pension laws? If so, why not make the bill applicable to all individuals who volunteered at that part of the war, and served without being mustered into the service of the United States?

Mr. MILLER. The committee determined to decide each case on its own merits when presented.

Mr. ROSS. I think it a dangerous precedent to grant pensions to individuals who have not been regularly mustered into the service of the United States.

Mr. MILLER. He performed valuable service to his country under the circumstances. I call the previous question.

The question was taken upon seconding the previous question; and upon a division, there were—ayes 59, noes 8; no quorum voting.

Tellers were ordered; and Mr. MILLER and Mr. Ross were appointed.

The House again divided; and the tellers reported that there were—ayes 92, noes 4.

So the previous question was seconded.

The main question was then ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. MILLER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED BILLS SIGNED.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes; and

An act (H. R. No. 1117) to partially supply deficiencies in the appropriations for the service of the fiscal year ending on the 30th June, 1868.

SARAH WEBB.

Mr. POLSLEY, from the Committee on Invalid Pensions, reported back, with a recommendation that the same do pass, Senate bill No. 339, granting a pension to Sarah Webb, widow of William R. Webb, and her minor child.

The question was upon ordering the bill to be read a third time.

The bill, which was read at length, directs the Secretary of the Interior to place the name of Sarah Webb, widow of William R. Webb, private in company K, first regiment Tennessee volunteer infantry, on the pension-roll, and to pay her at the rate of eight dollars per month, commencing on the 14th of May, 1863, to continue during her widowhood; and the additional sum of two dollars per month for her minor child, to commence July 25, 1866;

and to continue until the said child shall have attained the age of sixteen years.

The bill was read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BUSINESS OF PENSION COMMITTEE.

Mr. BURR. I ask unanimous consent of the House that the Committee on Invalid Pensions be allowed another morning hour on Friday next. We have a large number of reports to make in very meritorious cases which I am sure will lead to no discussion at all. It will be remembered that the committee did not get its full morning hour yesterday.

Mr. PERHAM. I hope no objection will be made.

Mr. WASHBURN, of Massachusetts. I am willing they shall have another morning hour, after the Committee of Claims have been called.

The SPEAKER. Does the gentleman object?

Mr. BURR. There may be some Massachusetts cases to be reported upon by the Committee on Pensions, which the gentleman may be slaughtering by his objection.

Mr. WASHBURN, of Massachusetts. The trouble will be that it will put off our committee one morning.

The SPEAKER. It requires unanimous consent. If the gentleman from Massachusetts [Mr. WASHBURN] insists upon his objection the arrangement cannot be made.

Mr. WASHBURN, of Massachusetts. I will withdraw my objection.

No further objection being made, leave was given accordingly to the Committee on Invalid Pensions to occupy a morning hour on Friday next.

BRIDGET W. M'GRORTY.

Mr. POLSLEY, from the Committee on Invalid Pensions, reported back, with a recommendation that the same do pass, Senate bill No. 39, granting a pension to Bridget W. McGrorty.

The question was upon ordering the bill to be read a third time.

The bill, which was read at length, directs the Secretary of the Interior to place the name of Bridget W. McGrorty, widow of William B. McGrorty, deceased, late a first lieutenant and regimental quartermaster of the fifth regiment of Minnesota volunteers, on the pension-roll, at the rate of seventeen dollars per month, to commence February 16, 1865, and continue during her widowhood; and two dollars per month to each child of said William B. McGrorty under the age of sixteen years, to commence on the 25th of July, 1866, and to continue until said children shall respectively attain the age of sixteen years.

The bill was then read the third time, and passed.

Mr. POLSLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MICHAEL HENNESSEY.

Mr. POLSLEY also, from the Committee on Invalid Pensions, reported back, with an amendment, a bill (S. No. 280) granting a pension to Michael Hennessey, of Platte county, Missouri.

The bill, which was read, proposes to direct the Secretary of the Interior to place on the list of invalid pensions the name of Michael Hennessey, and to pay him at the rate of eight dollars per month, to commence on the first of January, 1865, and to continue during his natural life.

The amendment of the committee was to strike out all after the word "month," and insert the words "subject to the provisions and limitations of the pension laws, commencing January 1, 1865."

The amendment was agreed to.

\* The bill, as amended, was ordered to a third reading; and it was accordingly read the third time.

The question was on the passage of the bill. Mr. ROSS. I would like to inquire to what regiment this soldier belonged.

The SPEAKER. The morning hour has expired, and this bill goes over till the morning hour of next Friday.

#### POSTAL CONTRACTS, ETC.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General, transmitting, in compliance with the act of July 2, 1866, reports of offers received and contracts made under various advertisements; which was referred to the Committee on the Post Office and Post Roads.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union, and resume the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The pending section was section twenty-two, which had been amended to read as follows:

SEC. 22. *And be it further enacted*, That it shall be the duty of all persons required to make returns of income and articles or objects charged with an internal tax to declare in such returns whether the several rates and amounts therein contained are stated according to their values in currency or according to their values in coin, and in case of neglect or refusal so to declare to the satisfaction of the assistant assessor receiving such returns, such assistant assessor is hereby required to make returns for such persons so neglecting or refusing, as in cases of persons neglecting or refusing to make any return, and to assess the tax thereon, and to add thereto the amount of penal tax or penalties imposed by law in cases of such neglect or refusal. And whenever the rates and amounts contained in the returns as aforesaid shall be stated in coin, it shall be the duty of each assessor receiving the same to reduce such rates and amounts to their equivalent in currency, according to the value of such coin in said currency for the time covered by such returns. And the returns required to be furnished to collectors by assessors shall in all cases contain the several amounts of taxes assessed, estimated, or valued in currency only.

The CHAIRMAN. The pending amendment is that of the gentleman from Rhode Island, [Mr. JENCKES,] to strike out in line twelve the word "penalties;" and insert in lieu thereof the word "taxes," so as to make the clause read as follows:

And in case of neglect or refusal so to declare to the satisfaction of the assistant assessor receiving such returns, such assistant assessor is hereby required to make returns for such persons so neglecting or refusing, as in cases of persons neglecting or refusing to make any return, and to assess the tax thereon, and to add thereto the amount of penal tax or taxes imposed by law in cases of such neglect or refusal.

Debate was exhausted on this amendment.

Mr. POLAND. I move the following as an amendment to the amendment:

Strike out the word "penalties," and in lieu thereof insert the words "additional per cent. for neglect or refusal to make return."

Mr. Chairman, I think the Committee of Ways and Means will see the propriety of striking out the word "penalty" and inserting either what I have proposed or something like it. This section provides that every person making return of income or of articles or objects subject to tax shall specify whether that return is made on the basis of currency or coin, and if he neglects or refuses so to specify in his return, it is made the duty of the assessor to add to the tax "the amount of penalties imposed by law in cases of such neglect or refusal;" that is, neglect or refusal to make

return at all. Now, by turning back to section eighteen we find what the penalty is for neglecting or refusing to make any return.

The last clause of the eighteenth section is as follows:

And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such return within the time designated, he shall, on conviction, be fined not less than \$100 nor more than \$1,000.

That is for refusal to make any return. This section as presented by the committee provides that it shall be the duty of the assessor to add to the tax some penalty imposed for refusal to make any return. It is clear in my judgment, and I think in that of the chairman of the committee and of every member of the House, that it is entirely beyond our jurisdiction to invest an assessor with that power.

The amount of the penalty is not fixed. It is not less than \$100 and not more than \$1,000. You cannot make the assessor a criminal judge to say what shall be the intermediate sum.

There is a variety of provisions in relation to penalties. In section twenty-seven, in the case of a false or fraudulent return, the assessor is to add one hundred per cent. to the tax; and in case of neglect or refusal to make a return he is to add fifty per cent. to the tax. Then it provides:

And if any person shall deliver or disclose to any assessor or assistant assessor any false or fraudulent return or statement, with intent to defeat or evade the valuation, enumeration, or assessment required to be made, or if any person, who, being duly summoned to testify, or to produce any book as aforesaid, shall refuse or willfully neglect to appear or to produce said book, he shall, on conviction thereof, be fined not less than \$100 nor more than \$5,000, and imprisoned not less than one month nor more than two years.

In section thirty there is a general provision that the assessor may put any penalty which arises under this law in the list of taxes to be returned to the collector, and it is then provided that the collector, upon the receipt of such list, shall proceed to collect such penalties by distraint or suit as provided by law for the collection of taxes. It is clear that we have no such constitutional power. I agree where a man fails to make his return by a certain time that a certain percentage may be added. It may be said to be an additional tax. If a man makes his return by a stated time his tax is to be so much. If he fails, then his tax is to be a certain percentage more. In any event, that is only a tax, and we can put it in the list and distraint the man's property to collect it. But where it is a penalty for violation of law it comes clearly within that provision of the Constitution, and may be levied only by due process of law.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, the gentleman seems to think there is very clear reason to be presented against the provisions of this and other sections relating to penalties. If we are mistaken we are mistaken advisedly.

First, on the subject of penalties generally. There are two classes of them. One penalty is to be ascertained by calculation, being a percentage on the tax, as for instance in the case of delinquency where the tax is to be collected and in consequence of the delinquency fifty per cent. is added. The other penalties are those which are fixed by law, a stipulated or fixed sum, a penalty of fifty dollars or \$100 or other number of dollars. One is as easily ascertainable as the other. If it be unconstitutional to fix and collect it as having become a part of the tax, or incident to the tax, a specific penalty, then it must be equally unconstitutional to connect with the tax as an incident to it and collect a percentage on that tax; the only difference being that you ascertain one by reference to the letter of the law, and the other by referring to the tax and making a calculation. If one be more certain than the other it is the fixed, specific penalty, rather than the calculated penalty, for in that you have to go one step further and make an arithmetical calculation, simple though it be.

The gentleman refers back to the eighteenth section, and says the penalty there is a fine.

He would not have made that reference if it had not escaped his observation that not only in this bill but in the old law as it now exists upon the statute book, and since the beginning of the tax system the distinction is continually drawn between penalties and fines. On conviction there may be fine and imprisonment as a punishment. The penalty is not the punishment which is to be inflicted.

Mr. POLAND. If the gentleman will yield a moment I will call his attention to this provision:

Such assistant assessor is hereby required to make returns for such persons so neglecting or refusing, as in cases of persons neglecting or refusing to make any return.

Mr. SCHENCK. In that particular case there is no penalty imposed. There is a fine and imprisonment. But there are other cases where upon a refusal to make returns there is a penalty, and also a fine and imprisonment. All through the law as it now exists, and all through this bill which we present, a distinction is drawn between penalties. If it is to be sued for it is sued in a civil case as for debt; but a fine is a punishment inflicted after a conviction for an offense.

Then, again, the gentleman speaks of it as being unconstitutional and unusual. Why, sir, this very clause is copied from the law as it has been on the statute-book enacted, and afterward reenacted. If you will refer to the third section of the act of March, 1866, from which the substance of this clause is taken, you will find this clause, which I read last night:

And in case of neglect or refusal so to declare to the satisfaction of the assistant assessor receiving such returns or lists, such assistant assessor is hereby required to make returns or lists for such persons so neglecting or refusing, as in cases of persons neglecting or refusing to make the returns or lists required by the acts aforesaid, and to assess the tax thereon, and to add thereto the amount of penalties imposed by law in cases of such neglect or refusal.

The only difference made is, that having originally reported to add the penalties, the committee propose to insert the words "penal tax or penalty," as it now stands amended. The gentleman's objection is to penalties, not to penal tax, and yet "penalty" is the very word of the old law that we retain. His objection is not to the new matter that we have put in, which seems to accord with his own ideas, but he claims as unconstitutional and unprecedented exactly that which has all along been in the law.

One word as to the reason for this assessment of penalties. From all quarters we learn, on consultation with assessors, that in nine cases out of ten when you assess the tax and a penalty has accrued, and there is a stated amount with a percentage, and that also is assessed with the tax and returned to the party, it will be paid without objection. Thus a great saving of money and of expense is made to the Government. Either conscious that they are liable for the penalty or for some other reason the party will generally submit. And yet we do not trench on the constitutional privilege of the party to be heard, because we do not take away his right to a suit in court. He may afterward sue and recover, or he may apply to the Commissioner, as in any other case, to have the penalty remitted. There is a special clause providing for that.

Mr. POLAND. I withdraw the amendment.

Mr. DAWES. I renew it for the purpose of making a suggestion to the chairman of the committee. I agree to the philosophy of the committee in incorporating into the tax whatever penalty accrues. In the eighteenth section it is provided that—

If any person, on being notified or required as aforesaid, shall refuse or neglect to render such return within the time designated, he shall, on conviction, be fined not less than \$100 nor more than \$1,000.

Mr. SCHENCK. That is fine, not penalty.

Mr. DAWES. It is a fine that the assessor is authorized to impose. The assessor refers back to this law and finds that it authorizes him to impose a penalty. This is the difficulty in my mind. We impose upon the assessor a duty which is entirely a judicial one. He has a discretionary penalty to impose. It may be

one sum; it cannot exceed another sum; it must be contained within limitations according to his discretion as to the enormity of the offense in violating the law. That seems to me to have all the elements of being a judicial decision on the part of this assessor. Now, if my friend can get round that, or will so change the phraseology of the bill as not to be open to that objection, I will yield entirely to his argument as to the propriety of the process.

Mr. SCHENCK. The gentleman has detected, if he has detected anything, the omission of penalties in section eighteen in regard to this particular class of delinquencies. The penalties and the fines are distinct things, and the fines we have made discretionary with the court, for they are only to be imposed on conviction.

In other parts of the bill we provide for penalties for offenses in various cases of refusal to make returns. For instance, on page 31, we provide that—

In case of a refusal or neglect, except in cases of sickness or absence, to make a return, or to verify the same as aforesaid, he shall add fifty per cent. to such tax.

Mr. DAWES. I do not object to that. I do not desire to detain the committee any longer. I merely wished to get the views of the chairman of the Committee of Ways and Means on that subject.

[Here the hammer fell.]

Mr. JENCKES. The very reason why I made the motion last night to strike out the word "penalty" was because of its being in the present law, and its having created the trouble which I then attempted to explain. It is no reason for retaining it here that it has been found a stumbling-block in the existing law; but it is a reason for its being removed.

The point I wish to make on this section, as well as on subsequent sections, I will restate; and it is this: that so far as relates to any penal tax or assessment, any mode by which the tax of a person may be increased by computation, by mere arithmetic, those penal assessments may be added to the actual proper assessment, and collected in the mode prescribed in the act without objection; but where any sum is to be added to a tax properly assessed under the law by reason of the misconduct of the party assessed, of any act that amounts to *malum prohibitum*, and for the doing of which, or the not doing of which either, the penalty is imposed, in that case the person is entitled to a trial by a court of competent jurisdiction before he can be deprived of his property by reason of his misconduct.

With regard to the first class of cases, they are properly within this section and the thirtieth section; but in regard to all other cases where penalties are imposed for misconduct they do not seem to me proper to be included either in this section or in the other. They should come within the scope of the fifty-sixth section, which provides for the collection of these penalties, fines, and forfeitures in courts of law.

The gentleman says that if the assessment has been improperly increased the party aggrieved may have his appeal to the Commissioner, and that is sufficient; but that is not so, because he stands charged with doing something which the laws of his country forbid, and he should not rest under the imputation or be obliged to remove it by bringing a civil action or by appealing to an irresponsible tribunal, to the Commissioner of Internal Revenue, because his decisions may be governed by principle or they may not; they may be governed by caprice. Every person, before he can be deprived of his property for any act done or any act left undone in violation of the laws of his country, should have a proper trial in a court competent to try him for that purpose. It was for that reason that I moved to strike out the word "penalty;" but I will accept the amendment of the gentleman from Vermont, [Mr. POLAND,] which simply carries it a little further, so that one vote may decide the question.

Mr. SCHENCK. I ask unanimous consent



to add these words at the end of line thirteen of section eighteen on page 20: "have added to his fifty per cent. as a penalty and;" then follow the words, "on conviction shall be fined," &c. That will remove the objection of the gentleman from Massachusetts, [Mr. DAWES,] and will remove all questions as to the difference between fines and penalties.

Mr. JENCKES. I think the gentleman had better wait until we go through the other sections, and I think he will find that an amendment should be made to other sections also. I have accepted the amendment of the gentleman from Vermont, [Mr. POLAND,] and I ask for a vote upon it.

The question was taken on Mr. JENCKES'S amendment as modified; and there were—ayes 43, noes 23; no quorum voting.

Mr. SCHENCK. I call for tellers.

Tellers were ordered; and Mr. PILE and Mr. JENCKES were appointed.

The committee again divided; and the tellers reported that there were—ayes fifty-two, noes not counted.

So the amendment was agreed to.

No further amendment was offered.

The next section was read, as follows:

Sec. 23. *And be it further enacted*, That every person before commencing, or if already commenced, before continuing any manufacture liable to be assessed under the provisions of this act, and not elsewhere differently provided for, shall furnish, without previous demand therefor, to the proper assistant assessor, a statement subscribed and sworn to or affirmed, setting forth the place where the manufacture is to be carried on, and the principal place of business for sales, the name of the manufactured article, the proposed market for the same, whether foreign or domestic, and generally the kind and quality manufactured or proposed to be manufactured. Any person manufacturing articles upon the manufacture of which specific taxes are imposed by law shall in his return state the entire quantity of such articles made by him or his agent, and shall state whether any part, and if so, what part of said articles has been consumed or used by himself or on his own account. In case of the sale, consumption, or delivery of any manufactured articles, on the manufacture of which any tax is imposed, without compliance on the part of the person manufacturing the same, with all the requirements prescribed by law in relation thereto, the assessor or assistant assessor may, upon such information as he may have, assume and estimate the amount of such manufactures, and upon such assumed amount assess the taxes and add thereto fifty per cent.; and said taxes and per cent. shall be collected in like manner as if the provisions of this act in relation thereto had been complied with.

No amendment was offered.

The next section was read, as follows:

Sec. 24. *And be it further enacted*, That every return, statement, inventory, abstract, or account required by this act to be made and delivered to an assistant assessor, shall have indorsed thereon the certificate of an assistant assessor of the district in such manner and form as the Commissioner of Internal Revenue may prescribe, setting forth that the said return, statement, inventory, abstract, or account was duly filled up in every particular, as required by law, before the same was sworn to by the person rendering the same; and that the same was signed by the person making the oath or affirmation, and that the oath or affirmation was duly administered according to law by the said assistant assessor. In every case wherein such return, statement, inventory, abstract, or account, a word or words may be needed to show that no transactions have taken place, or that no manufactures, sales, or removals have been made, such word or words shall be inserted in such return, statement, inventory, abstract, or account before the same is so certified. And any assistant assessor who shall neglect or refuse to sign such certificate, or to cause the proper word or words to be inserted in such return, statement, inventory, abstract, or account, shall, on conviction thereof, be fined not less than fifty dollars nor more than \$1,000.

Mr. SCHENCK, on behalf of the Committee of Ways and Means, moved to amend the first sentence of the section by striking out the words "this act" and inserting the word "law," so that it would read "that every return, statement, &c., required by law," &c.

The amendment was agreed to.

Mr. SCHENCK also moved to further amend the same sentence by striking out the words "an assistant assessor of the district," and inserting "the revenue officer before whom the same shall be verified."

The amendment was agreed to.

Mr. SCHENCK also moved to amend the same sentence by striking out at the close the words "assistant assessor," and inserting the words "revenue officer."

The amendment was agreed to.

Mr. SCHENCK also moved to amend the last sentence of the section, by striking out the words "assistant assessor," and inserting the words "revenue officer."

The amendment was agreed to.

No further amendment was offered.

The next section was read, as follows:

Sec. 25. *And be it further enacted*, That the assistant assessors, respectively, shall make a general list of all returns received by them, which shall exhibit, in alphabetical order, the names of all persons liable to pay any tax under this act residing within their assessment districts, together with the value and assessment or enumeration, as the case may require, of the objects liable to tax, with the amount of tax payable thereon; and on another list shall enter, in alphabetical order, the names of all persons residing out of the collection district who own property within the district, together with the value and assessment or enumeration thereof, as the case may be, with the amount of tax payable thereon as aforesaid. All returns required to be made monthly by any person liable to tax shall be made on or before the 10th day of each and every month, and the amount of the tax assessed or due thereon shall be certified and returned by the assessor to the collector on or before the last day of each and every month. And all returns required to be made quarterly, and all other returns, not otherwise provided for, shall be made on or before the 10th day of the month in which said return is required to be made, and the tax thereon shall be certified and returned as provided for monthly returns; and such tax shall be due and payable on or before the last day of the month. The forms of all returns and lists shall be prescribed by the Commissioner of Internal Revenue. Assistant assessors shall deliver their general lists to the assessor within fifteen days after the day on which returns are required to be made to them, or, where taxes accrue at other and different times, lists shall be delivered from time to time as such taxes become due.

Mr. SCHENCK. I move to amend this section by inserting after the words "on or before the 10th day of the month in which said return is required to be made" the words "or on the 10th day of the month next succeeding the time when the tax may become due and liable to be assessed."

The amendment was agreed to.

Mr. SCHENCK. I move to further amend this section by striking out "fifteen" and inserting "five," so that it will read, "shall deliver their general lists to the assessor within five days after the day on which returns are required to be made."

The amendment was agreed to.

No further amendment was offered.

The next section was read as follows:

Sec. 26. *And be it further enacted*, That where any return is required to be verified by oath or affirmation of the person making the same, no alteration, amendment, erasure, or addition thereto, shall be made or allowed after such return is so verified before the assessor or assistant assessor authorized to receive the same. And any person who shall violate the provisions of this section shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be fined not less than \$500, and imprisoned not less than one year; but any person who shall have delivered any incorrect, imperfect, or informal return, may, within six months thereafter, present to the assessor of the district a supplementary return, which shall clearly and distinctly set forth the details and items of the incorrectness, imperfection, or informality of the return which it is intended to correct, and the correct statement which should have been made, together with a declaration verified by his oath or affirmation that such supplementary return contains a true and correct statement of all the facts, and shall, in addition, have attached thereto the affidavits of one or more persons having personal knowledge of the facts testifying to the truth of said statement; and the assessor shall make due examination of the case, and transmit such return, together with the evidence and his own report thereon, to the Commissioner of Internal Revenue; and if, in the judgment of the Commissioner of Internal Revenue, it shall appear that such incorrect, imperfect, or informal return was delivered to the assistant assessor without intent to defraud, and without gross carelessness or willful neglect, or that a manifest clerical error has been committed, he may authorize the assessor to accept the same, and such supplementary return shall be taken as good and sufficient for all legal purposes.

Mr. POLAND. I move to amend this section so that the last portion of the section shall read as follows:

And shall, in addition thereto, furnish such evidence in writing as he may be able to do in support of the truth of said statement; and the assessor shall make due examination of the case, and if, in the judgment of the assessor, it shall appear that such incorrect, imperfect, or informal return was delivered to the assistant assessor without intent to defraud, and without gross carelessness or willful neglect, or that a manifest clerical error has been committed, he may accept the same, and such supplementary return shall be taken as good and sufficient for all legal purposes: *Provided*, That in any

such case the assessor may, in his discretion, and in all cases involving a greater amount than \$100, he shall report the same, with all the evidence, to the Commissioner of Internal Revenue for his decision thereon; and in any such case, where the person making such supplemental return shall be dissatisfied with the decision of the assessor thereon, he may appeal therefrom to the Commissioner of Internal Revenue, and the decision of the Commissioner on such reference or appeal shall be final.

Mr. SCHENCK. I understand the object of the gentleman from Vermont [Mr. POLAND] is to have the assessors settle all small cases of this kind, instead of carrying every one of them to the Commissioner of Internal Revenue, as is now the practice. Now, I see no particular objection to the amendment of the gentleman, except that I think he had better make the limit fifty dollars instead of \$100.

Mr. POLAND. I accept the suggestion, and will modify my amendment accordingly.

The amendment, as modified, was then agreed to.

No further amendment was offered.

The next section was read as follows:

Sec. 27. *And be it further enacted*, That if any person, on being duly notified or required thereto, shall deliver or disclose to any assessor or assistant assessor any return which, in the opinion of the assessor, is false or fraudulent, or contains any understatement or undervaluation, it shall be lawful for the assessor to summon such person, his agent, or other person having possession, custody, or care of books of account containing entries relating to the trade or business of such person, or any other person he may deem proper, to appear before such assessor and produce such book, at a time and place therein named, and to give testimony or answer interrogatories under oath or affirmation respecting any objects liable to tax, or the statements, or returns thereof, or any trade, business, or profession liable to any tax. And the assessor may summon, as aforesaid, any person residing or found within the State in which his district is situated. And when the person intended to be summoned does not reside and cannot be found within such State, the assessor may enter any collection district where such person may be found, and there make the examination hereinbefore authorized. And to this end he shall there have and may exercise all the power and authority he has or may lawfully exercise in the district for which he is commissioned. The summons authorized by this section shall in all cases be served by an assistant assessor of the district where the person to whom it is directed may be found, by an attested copy delivered to such person or left at his usual place of abode, allowing such person time, at the rate of one day for each twenty-five miles he may be required to travel, computed from the place of service to the place of examination; and the certificate of service signed by such assistant assessor shall be evidence of the facts it states on the hearing of an application for an attachment; and when the summons requires the production of books, it shall be sufficient if such books are described with reasonable certainty. In case any person so summoned shall neglect or refuse to obey such summons, or to give testimony, or to answer interrogatories as required, it shall be lawful for the assessor to apply to the judge of the district court or to a commissioner of the circuit court of the United States for the district within which the person so summoned resides for an attachment against such person as for a contempt. It shall be the duty of such judge or commissioner to hear such application, and, if satisfactory proof be made, to issue an attachment directed to some proper officer, for the arrest of such person, and upon his being brought before him, to proceed to a hearing of the case; and upon such hearing the judge or commissioner shall have power to make such order as he shall deem proper, not inconsistent with the provisions of existing laws, for the punishment of contempts, to enforce obedience to the requirements of the summons, and punish such person for his default or disobedience. It shall be the duty of the assessor or assistant assessor of the district within which such person shall have taxable property to enter into and upon the premises, if it be necessary, of such person so refusing or neglecting, or rendering a false or fraudulent return, and to make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the assessor, and on his own view and information, such return, according to the form prescribed, or of the property, goods, wares, and merchandise, and all articles or objects liable to tax, owned or possessed or under the care or management of such person, and assess the tax thereon, including the amount, if any, due for special or income tax; and in case of a false or fraudulent return, he shall add one hundred per cent. to such tax; and in case of a refusal or neglect, except in cases of sickness or absence, to make a return, or to verify the same as aforesaid, he shall add fifty per cent. to such tax; and in case of neglect occasioned by sickness or absence as aforesaid, the assessor may allow such further time for making and delivering such return as he may judge necessary, not exceeding thirty days; and the amount so added to the tax shall, in all cases, be collected by the collector at the same time and in the same manner as the tax; and the return so made and subscribed by such assessor or assistant assessor shall be taken and reputed as good and sufficient for all legal purposes. And if any person shall deliver or disclose to any assessor or assistant assessor any false or fraud-

nent return or statement, with intent to defeat or evade the valuation, enumeration, or assessment required to be made, or if any person, who, being duly summoned to testify, or to produce any book as aforesaid, shall refuse or willfully neglect to appear or to produce said book, he shall, on conviction thereof, be fined not less than \$100 nor more than \$5,000, and imprisoned not less than one month nor more than two years.

Mr. SCHENCK. On behalf of the Committee of Ways and Means, I move to amend by striking out after the word "person" in the first line of this section the words "on being duly notified or required thereto."

The amendment was agreed to.

Mr. SCHENCK. I also move, on behalf of the Committee of Ways and Means, to amend by inserting after the word "undervaluation," in the fifth line, the words "or shall refuse or neglect to make return within the time prescribed by law;" so as to make the first clause of the section read:

That if any person shall deliver or disclose to any assessor or assistant assessor any return which, in the opinion of the assessor, is false or fraudulent, or contains any understatement or undervaluation, or shall refuse or neglect to make return within the time prescribed by law, it shall be lawful for the assessor to summon such person, his agent, or other person having possession, custody, or care of books of account containing entries relating to the trade or business of such person, or any other person he may deem proper, to appear before such assessor and produce such book, at a time and place therein named, and to give testimony or answer interrogatories under oath or affirmation respecting any objects liable to tax, or the statements or returns thereof, or any trade, business, or profession liable to any tax.

The amendment was agreed to.

Mr. SCHENCK. On behalf of the Committee of Ways and Means, I also move to amend by inserting after the word "certainty," in line thirty-four, the following:

The costs for the attendance and mileage of witnesses shall be taxed by the assessor and paid by the delinquent or by the disbursing agent for the district, on certificate of the assessor, at the rates allowed to witnesses in the district court of the United States.

The amendment was agreed to.

Mr. WOOD. I move to amend by inserting a. the end of the section the following:

Provided, That no person holding the office of assessor or assistant assessor shall be a candidate for election to office during the time he may hold or exercise the duties of his office.

Mr. SCHENCK. I am compelled to raise a point of order on this amendment. This section relates only to the making of improper returns to the assessor and has nothing to do with the election of assessors.

Mr. WOOD. I am aware of that, and I was about to make the inquiry whether this is the proper section to which to propose this amendment. I desire at the proper time, and when the proper section is under consideration, to propose, for incorporation in this bill, a provision which will prevent these officers from exercising their official power for the promotion of their own personal political ambition.

Mr. MAYNARD. I would like to inquire of the gentleman from New York whether he thinks we can by legislation prevent the American people from voting for any candidate they may select, though the man may happen to occupy one of these offices?

Mr. WOOD. I can answer the gentleman very readily. We have adopted such provisions in the State of New York. No judge of the supreme court of our State can, while holding that position, become a candidate for office. The State of Ohio has adopted a similar provision. Such provisions are very proper. The amendment I have offered is in accordance with a rule which has been adopted by the Department, and I would incorporate that rule in the law itself.

Mr. SCHENCK. Mr. Chairman, I have not made any question about the merits of this proposition. I think there is a germ of good in it. Perhaps the fact of becoming a candidate for another position might be made a cause for removal from office. But the proposition is not germane to this section.

Mr. WOOD. I will withdraw it with the notice that I will offer it again at the proper time.

Mr. JENCKES. I move to strike out in

lines thirty-eight and thirty-nine, "or to a commissioner of the circuit court;" in line forty-two "or a commissioner;" and in line forty-six "or commissioner;" and I do it for this reason. Courts only are authorized to punish for contempt, and commissioners of circuit courts of the United States do not hold courts, nor do they have any authority of courts, nor should they be clothed with extraordinary power of punishment for contempt. There is no law which gives them that power, but they are authorized to take affidavits and depositions and to hold for bail. The practice is, if a witness summoned before a commissioner refuses to answer, then the case is heard before a judge of the United States court, and if on such hearing the party is adjudged to be guilty he is then punished for contempt. It has never been the policy of Congress to clothe any other than judicial officers with the power to commit for contempt. If this is in the present law it crept in by somebody not being as vigilant as he should have been.

The bill authorizes the assessor to summon witnesses, and it requires the witnesses to answer to such matters as it is his duty to answer. If the witnesses refuse to answer, then the assessor should report to the district judge, who shall adjudge a case of contempt. We know that this power of committing for contempt is an irresponsible power, and it rests in the discretion of a court to impose a fine or to imprison as long as the judge pleases. I am unwilling to place that power in the hands of any other than judicial officers.

Mr. SCHENCK. Mr. Chairman, one of the nicest little States in the Union is Rhode Island, and as to her people, the most precious gems are contained in the smallest caskets. Now, although it may be easy to reach a judge from any portion of that State it is not so easy in the other States of the Union. For that reason it has been thought expedient in the law as it stands, and we propose to perpetuate it, to give this power to the assessors. If the gentleman's suggestion be adopted assessors would have to travel sixty miles and more to find a judge, and in some districts two hundred miles. These commissioners are lawyers and competent persons, and we have given them this power heretofore. The gentleman lives in a State where it is not an inconvenience to go before a judge, but it is not so easy in other States.

Mr. JENCKES. The assessor will not have to travel at all; all he will have to do will be to send a *prima facie* case to the judge, and in a day he can get an answer. This surely is not a hardship upon the assessor. It is too much to have a man committed for contempt and his property distrained for refusing to answer a question when the judge might say that the question was a frivolous one. The inconvenience is on the other side.

Mr. SCHENCK. It will be an extremely great inconvenience for the assessor to go to find a judge for that purpose.

The committee divided; and there were—ayes 39, noes 46; no quorum voting.

The Chairman ordered tellers; and appointed Mr. JENCKES and Mr. GRISWOLD.

The committee again divided; and the tellers reported—ayes 51, noes 46.

So the amendment was agreed to.

The next section was read, as follows:

Sec. 23. *And be it further enacted*, That the assessor for each collection district shall give notice by advertisement in one newspaper published in each county within said district, and if there be none published in the district, then in a newspaper published in the collection district adjoining thereto, and shall post notices in at least four public places within each assessment district, and shall mail a copy of such notice to each postmaster in his district, to be posted in his office, stating the time and place within said collection district when and where appeals will be received and determined relative to any erroneous or excessive valuations, assessments, or enumerations by the assessor, or assistant assessor returned in the annual list, and such notice shall be advertised and posted by the assessor and mailed as aforesaid at least ten days before the time appointed for hearing said appeals. And it shall be the duty of the assessor for each collection district, at the time fixed for hearing such appeals as aforesaid, to submit the annual lists taken and returned as aforesaid, to the inspection

of any and all persons who may apply for that purpose. And such assessor is hereby authorized at any time to hear and determine in a summary way, according to law and right, all appeals which may be exhibited against the action of the said assessor or assistant assessor; and the office or principal place of business of the said assessor shall be open during the business hours of each day for the hearing of appeals by parties who shall appear voluntarily before him; but no appeal shall be allowed to any party after he shall have been duly assessed, and the annual list containing the assessment has been transmitted to the collector of the district. All appeals to the assessor shall be made in writing, and shall specify the particular cause, matter, or thing respecting which a decision is requested, and shall state the wrong or ground of error complained of. And the assessor shall have power to reexamine and determine upon the assessments and valuations, and rectify the same as shall appear just and equitable; but no valuation, assessment, or enumeration shall be increased without a previous notice of at least five days to the party interested to appear and object to the same if he judge proper, which notice shall be in writing and left at the dwelling-house, office, or place of business of the party by such assessor, assistant assessor, or other person, or sent by mail to the nearest or usual post office address of said party. On the hearing of appeals it shall be lawful for the assessor to require by summons the attendance of witnesses and the production of books of account in the same manner and under the same penalties as are provided in cases of refusal or neglect to furnish returns. The costs for the attendance and mileage of said witnesses shall be taxed by the assessor and paid by the delinquent party, or by the disbursing agent for the district, on certificate of the assessor, at the rates allowed to witnesses in the district courts of the United States.

Mr. RAUM. I move the following amendment:

In line sixty-seven, after the words "such tax," insert:

And any person feeling himself aggrieved by the decision of an assessor in cases arising under the foregoing provisions shall have the right to appeal from the decision of such assessor to the Commissioner of Internal Revenue within five days after such decision shall have been made.

Mr. SCHENCK. Appeals are provided for in another place.

Mr. RAUM. I withdraw the amendment for the present.

No further amendment being offered, the Clerk read as follows:

Sec. 29. *And be it further enacted*, That the assessor of each collection district shall, immediately after the expiration of the time for hearing appeals concerning taxes returned in the annual lists, and from time to time as taxes become liable to be assessed, prepare lists containing the sums payable according to law on all property or other subjects of taxation in his district, which lists shall contain the name of each person residing therein, and owning or having the care or superintendence of such property, or engaged in any business or pursuit which renders him liable to any tax, and shall furnish to the collector of his district, within ten days thereafter, and from time to time as occasion afterward may require, a certified copy of every such list; and when there is any property within his collection district liable to tax owned or occupied by or under the superintendence of any person not resident therein, there shall be a separate list made of such property, specifying the amount payable, and the names and residences of such persons, respectively; and the said assessor shall transmit to the assessor of the district where any person liable to pay such tax resides a copy of the list of said property for assessment and collection of the tax thereon. In case it shall be ascertained that the annual list or any other list which may have been or which shall hereafter be delivered to any collector is imperfect or incomplete, in consequence of the omission of the name of any person liable to tax, or in consequence of any omission, understatement, or undervaluation, or of any false or fraudulent statement contained in any return made by any person liable to tax, the said assessor may, from time to time, or at any time within fifteen months after the delivery of the list to the collector as aforesaid, enter on any monthly or special list the name of any person so omitted, together with the amount of tax for which such person may have been or shall become liable; and also the name of any person in respect to whose return, as aforesaid, there has been or shall be any omission, understatement, or undervaluation, or false or fraudulent statement, together with the amount for which such person may be liable over and above the amount which may have been or shall be assessed on any return made as aforesaid, and shall certify and return said list to the collector as required by law.

No amendment being offered, the Clerk read as follows:

Sec. 30. *And be it further enacted*, That whenever any penalty shall be charged to have accrued against any person under any of the provisions of the internal revenue laws, and the same shall, by complaint made or otherwise, come to the knowledge of the assessor or assistant assessor of the proper district or division, it shall be the duty of such assessor or assistant assessor to make investigation thereof, and, if satisfied that such penalty has been incurred, to enter the same upon his monthly list, or any special list, to be returned to the collector as assessed taxes are returned; and the collector, upon the receipt of such

list, shall proceed to collect such assessed penalties by distraint or suit as provided by law for the collection of taxes, and no suit shall be brought for a penalty until after such investigation and assessment.

Mr. SCHENCK. I move on behalf of the committee to amend by inserting after the word "any," in line one, the words "penal taxes or."

The amendment was agreed to.

Mr. SCHENCK. I move further to amend by inserting in line eight and line thirteen each before the word "penalty," where it occurs, the words "penal tax." Also, in line twelve, before the word "penalty," by inserting the words "penal tax and."

The amendments were agreed to.

Mr. POLAND. I move to strike out after the word "penalties," in line twelve, to the word "and," in line thirteen, and to insert the words "unless voluntarily paid by proper suit or complaint." By this section every penalty that is provided for is to be inserted in the assessment when it comes to the knowledge of the assessor, and it is made the duty of the collector to go forward and collect it either by suit or by distraint. It will be noticed that this bill bristles with penalties.

Mr. SCHENCK. If it will not be offensive to the gentleman, I will say I am willing for one to accept that amendment if the committee agree with me.

The amendment was agreed to.

Mr. JENCKES. I move to strike out the word "penalty" wherever it occurs in this section, so that only the words "penal tax" or "penal taxes" may remain.

Mr. POLAND. If the gentleman had paid attention to the amendment which I offered, I think he would not have offered this amendment.

Mr. JENCKES. I did pay attention but it was impossible to hear it.

Mr. POLAND. My amendment was to insert the words, "unless voluntarily paid by proper suit or complaint." The authority given by this section to collect and distraint for a penalty is taken away by this amendment.

Mr. JENCKES. Then I understand that the word "distraint" is stricken out?

Mr. POLAND. Yes, sir.

Mr. JENCKES. I withdraw the amendment.

The Clerk read as follows:

Sec. 31. *And be it further enacted*, That before any collector shall enter upon the duties of his office he shall execute a bond in such form and in such penal sum as shall be prescribed by the Commissioner of Internal Revenue, with two or more sureties to be approved by a judge of the circuit or district court of the United States for that judicial district, conditioned that said collector shall faithfully perform the duties of his office according to law, and shall justly and promptly account for and pay over to the United States, in compliance with law and regulations of the Commissioner of Internal Revenue, all public moneys which may come into his possession; which bond shall be filed in the office of the First Comptroller of the Treasury. And such collector shall, from time to time, renew, strengthen, and increase his official bond, as the Commissioner may direct, with such further conditions as the said Commissioner shall prescribe.

Mr. SCHENCK. I move to amend by striking out the word "two" in line five and inserting "five," so that it will read "five or more sureties."

The amendment was agreed to.

Mr. SCHENCK. I also move, in line nine, after the word "for," to insert the words "all stamps and other property."

The amendment was agreed to.

The Clerk read as follows:

Sec. 32. *And be it further enacted*, That each collector shall be authorized to appoint, by an instrument in writing, as many deputies as he may think proper, to be by him compensated for their services, and also to revoke any such appointment, giving such notice thereof as the Commissioner of Internal Revenue shall prescribe; and may require bonds or other securities, and accept the same, from such deputies; and each such deputy shall have the like authority, in every respect, to collect the taxes levied or assessed within the portion of the district assigned to him which is by this act vested in the collector himself; but each collector shall, in every respect, be responsible both to the United States and to individuals, as the case may be, for all moneys collected, and for every act done or neglected to be done by any of his deputies while acting as such.

Mr. SCHENCK. I move to amend by strik-

ing out the word "act" in line ten and inserting "law."

The amendment was agreed to.

Mr. GARFIELD. I desire to call the attention of the chairman of the committee to the first two lines of this section, and ask whether it is not best to make an amendment? I believe all these appointments of deputies are made by the Secretary of the Treasury on the nomination of the collector or assessor. Now, it occurs to me we cannot authorize a collector to appoint subordinates.

Mr. SCHENCK. The gentleman is thinking of assistant assessors. The collector is charged with every dollar of the tax assessed, and is bound to account for it. For this purpose he is permitted to select his own deputies, every one of whom is appointed by him. He is responsible for them, and the Government has nothing to do with them.

Mr. GARFIELD. The gentleman is right; I was thinking of assessors.

No further amendment being offered to the thirty-second section, the next section was read, as follows:

Sec. 33. *And be it further enacted*, That in case of the sickness or temporary disability of a collector to discharge his duties, they may be devolved by him upon one of his deputies; and for the official acts and defaults of such deputy the collector and his sureties shall be held responsible to the United States; and in case of a vacancy occurring in the office of collector, the deputies of such collector shall continue to act until his successor is appointed; and until a successor shall be appointed the deputy of such collector senior in service shall discharge all the duties and receive the compensation of collector; and for the official acts and defaults of such deputy, remedy shall be had on the official bond of the collector. But if it shall appear to the Commissioner of Internal Revenue that the interest of the Government shall so require, he may, by his order, direct said duties to be performed by such other of the said deputies as he may designate. And any bond or security taken from a deputy by such collector, pursuant to this act, shall be available to his legal representatives and sureties to indemnify them for loss or damage accruing from any act or omission of duty by the deputy so continuing or succeeding to the duties of such collector.

No amendments were offered, and the next section was read as follows:

Sec. 34. *And be it further enacted*, That the collector of internal revenue at any port of entry in the United States shall have charge of all matters relating to the exportation from said port of articles subject to tax under the laws to provide internal revenue, subject to such regulations, not inconsistent with the provisions of this act, as the Commissioner of Internal Revenue may prescribe; and at any port of entry where there is more than one collector of internal revenue, the said Commissioner shall designate one of said collectors to be collector in charge of exports, whose duty it shall be to have charge of all matters relating to exportations as aforesaid from such port of entry; and at such ports of entry as the Commissioner of Internal Revenue may deem necessary, there shall be an officer appointed by him to superintend all matters of exportation and drawback, under the direction of the said collector, whose compensation therefor shall be prescribed by the Commissioner of Internal Revenue, but shall not exceed in any case an annual rate of \$2,000, excepting at New York, where the compensation shall not exceed an annual rate of \$3,000. And any books, papers, and documents in the respective ports relating to the drawback of taxes paid under the internal revenue laws shall be delivered to said collector of internal revenue; and any collector of internal revenue, or superintendent of exports and drawbacks, shall have authority to administer such oaths and certify to such papers as may be necessary under any rules and regulations that may be prescribed under the authority herein conferred.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to offer the following amendment:

On page 39, section thirty-four, line sixteen, after the word "collector," insert the words "to be known as superintendent of exports;" so that the clause will read:

And at such ports of entry as the Commissioner of Internal Revenue may deem necessary, there shall be an officer appointed by him to superintend all matters of exportation and drawback, under the direction of the said collector, to be known as superintendent of exports, whose compensation therefor shall be prescribed by the Commissioner of Internal Revenue, but shall not exceed in any case an annual rate of \$2,000, excepting at New York, where the compensation shall not exceed an annual rate of \$3,000.

The amendment was agreed to.

Mr. SCHENCK. I also offer the following amendment in behalf of the Committee of Ways and Means:

On page 39, section thirty-four, line twenty-four, after the word "revenue," where it first occurs, insert

the words "in charge of exports;" so that the clause will read:

And any books, papers, and documents in the respective ports relating to the drawback of taxes paid under the internal revenue laws shall be delivered to said collector of internal revenue in charge of exports.

The amendment was agreed to.

No further amendments being offered to the thirty-fourth section, the next section was read as follows:

Sec. 35. *And be it further enacted*, That there shall be allowed to collectors, in full compensation for their services and that of their deputies, a salary of \$1,500 per annum, to be paid quarterly, and, in addition thereto, a commission of three per cent. upon the first \$100,000, and a commission of one per cent. upon all sums above \$100,000 and not exceeding \$400,000, and a commission of one half of one per cent. on all sums above \$400,000 and not exceeding \$1,000,000, and one-eighth of one per cent. on all sums above \$1,000,000; such commissions to be computed upon the amounts by them respectively collected and paid over and accounted for under the instructions of the Treasury Department, and adjusted in conformity with the fiscal year as in other cases, except that in determining the compensation, to be allowed to any collector the commission shall be computed on one half of the tax on any articles which shall have been transported from his district in bond, and on only one half of the tax on any articles received in his district in bond, where such transportation has been by shipment from one district to another. And there shall be further paid, after the account thereof has been rendered to and approved by the proper officers of the Treasury, to each collector his necessary and reasonable charges for advertising, stationery, and blank books used in the performance of his official duties, and for postage actually paid on letters and documents received or sent, and exclusively relating to official business; but no such account shall be allowed unless it shall state the date and the particular items of every such expenditure, and shall be verified by the oath or affirmation of the collector, and have the approval of the Commissioner of Internal Revenue indorsed thereon. But the Commissioner of Internal Revenue is authorized to make such further allowances, from time to time, as may be reasonable in cases in which, from the territorial extent of the district, or from the amount of internal taxes collected, or from other circumstances, it may seem just to make such allowances.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

On page 40, section thirty-five, lines twenty-three and twenty-four, strike out the words "proper officers of the Treasury," and insert in lieu thereof the words "Commissioner of Internal Revenue;" so that the clause will read:

And there shall be further paid, after the account thereof has been rendered to and approved by the Commissioner of Internal Revenue, to each collector his necessary and reasonable charges for advertising, stationery, &c.

The amendment was agreed to.

Mr. ELA. I move to strike out all after the word "deputies," in the third line to the end of the eleventh line, and insert in lieu thereof the following:

A salary of \$1,000 per annum to be paid quarterly, and, in addition thereto, a commission of two and one half per cent. on the first \$100,000, and a commission of one per cent. upon all sums above \$100,000 and not exceeding \$300,000, and a commission of one half of one per cent. on all sums above \$300,000 and not exceeding \$500,000, and one eighth of one per cent. on all sums above \$500,000.

The amendment now offered, if adopted, will remove one of the great complaints now made by the payers of taxes, that there are too many persons employed and at too high pay. I am inclined to believe that while you may not much reduce the number of persons employed the expense can be reduced from twenty-five to thirty-three per cent. The compensation is now altogether out of proportion to any pay the same talent ever received before, or could again obtain in any other business. I am unable to conceive why the committee should have reduced the pay of the assessor—the officer who has to furnish the most ability and do the most work—leaving the compensation of the collector as before. The collector has always had very much higher pay than the assessor, taking into account the ability required and the duties performed. I shall probably be met by the chairman of the committee with the argument of the great responsibility and the bond of the collector for the performance of his duties.

Now, Mr. Chairman, I have in mind a collector who has paid into the Treasury \$1,500,000 annually—who in efficiency will compare favorably with any collector in the country—whose district has been kept comparatively



free from abatements and frauds, who has told me many times he knew of no business which would pay him so well as to collect the present amount of taxes for \$2,000 net; and that \$2,500 for the work and furnishing the bond was liberal. Yet he has been receiving from six to seven thousand dollars net. The gentleman from Illinois [Mr. INGERSOLL] may think there is no one in his State who will work so cheap. But he will recollect the longest and loudest howl over the cost of collecting taxes came from his own section—from the convention of western manufacturers—and I doubt if even his constituents, when they are selling their grain next winter for half what they are now getting, will thank him for peeling them by taxation to pay extravagant compensation to tax-gatherers.

What do we see as a consequence of paying so much more to those officers than any other business in their community will pay? When there is a vacancy fifteen or twenty candidates will start up for the office, beseeching their Representatives to aid them. They will come here bringing their influential friends with them; they settle down like a cloud over the White House and the Treasury Department, and when passed there, throng the corridors of the Senate besieging Senators, and I hope that is the worst of it. They spend from a thousand dollars to a year's salary to get the office, spreading demoralization at every step. After spending so much to get an office, the man is a marvel who will not sell himself to retain it, and get back in some way what it cost him. [Here he hammer fell.]

Mr. SCHENCK. This is a matter peculiarly for the judgment of Congress; and we of the Committee of Ways and Means are perfectly willing to submit to Congress the question as to what the compensation of these officers shall be; we have no feeling whatever about the matter.

In this section the Committee of Ways and Means have merely incorporated the provisions of the present law; those provisions have been continued, so far as the compensation of collectors is concerned. What is that compensation? It starts with \$1,500 as a basis. Then three per cent. is allowed on the first \$100,000, making \$3,000 more; then one per cent. on the next \$300,000, making \$3,000 more; then one half of one per cent. on all over that amount up to \$1,000,000, making \$3,000 more. So that the compensation of a collector who collects \$1,000,000—which is considerable more than the ordinary average—is \$10,500.

Now, if that were merely the salary of an officer it would be a very large salary indeed. But what has he to do for this? He is charged with every dollar of the tax assessed; he is charged with every stamp that goes out. An account is opened with him at the Treasury, and he must either show that all the tax assessed has been collected, or he must account for that which he has not collected before a settlement is had with him and he is allowed his compensation.

And how does he collect the tax? He employs his deputies and pays them himself. He has no office-rent and no clerk hire allowed him. He takes this heavy responsibility, this contract, as it may be called. He stands charged with all this money of the Government, the amount to be obtained from the taxes within his district. And he renders an account of the transaction at his own risk.

This, therefore, is not really in the nature of a salary. In one sense it is rather payment under a contract. Although the compensation appears to be large, gentlemen must remember that, being in the nature of a contract, it is in effect an agreement entered into between him and the Government, the terms of the contract being that if he will undertake the collection of taxes at his own risk, at his own expense employing and paying his own agents to assist him, the Government will allow him a certain commission on the amount collected. That commission will amount to

much according to his faithfulness; or it will amount to very little if he collects but little.

Thus far this plan has worked very well. It is true, however, as the gentleman from New Hampshire [Mr. ELA] says, that when one of these offices become vacant there is a swarm of candidates for the place, who pester the Representative in Congress from that district, if he happens to be on "the right side," and has any influence; or if such is not the case they pass him by and go to the White House to operate by themselves or through their friends.

But what office is there about which this cannot be said? Is there any office so contemptible, so small, that the same general remark cannot be made in regard to it? I think that is no proof of the enormous amount paid to these collectors. When we see almost the same sort of desire manifested to get possession of the most petty office in the country, we may conclude that there is something else at the bottom than the very great lucrativeness of the office itself.

Looking to the amount actually paid to the collector and that for which it is to be paid to him, which are really the only elements that ought to enter into our consideration, this is, as I have before explained, an engagement made with the officer by the Government that for a certain commission—a liberal one—he shall, at his own risk, by his own agents, at his own expense, (no expenses being allowed him, I believe, except his postage and stationery,) collect the money of the Government.

Mr. INGERSOLL. Will the gentleman yield to me?

Mr. SCHENCK. I yield to the gentleman whatever time I have remaining.

Mr. INGERSOLL. Mr. Chairman, if I remember rightly the statement made by the chairman of the committee [Mr. SCHENCK] in his argument on presenting this bill, he said that the committee anticipated—

[Here he hammer fell.]

The CHAIRMAN. The time of the gentleman from Ohio [Mr. SCHENCK] has expired.

Mr. INGERSOLL. I ask the gentleman from New Hampshire [Mr. ELA] to withdraw his amendment that I may renew it.

Mr. ELA. With that understanding I withdraw my amendment.

Mr. INGERSOLL. I renew the amendment of the gentleman from New Hampshire.

Mr. Chairman, we have been informed by the chairman of the Committee of Ways and Means that, according to the anticipation of the committee, the revenues next year, should this bill go into operation, will be \$65,000,000 less than they have been during the last year. Consequently the pay of the collectors will be correspondingly reduced, for the major part of their compensation depends upon the amount of collections that they make, they receiving a percentage upon all the money collected in excess of a certain amount. This matter ought to be taken into consideration in connection with any legislation by which we may fix the salaries of these officers.

Now, sir, in view of the fact that the revenues to be collected during the coming year are expected to be decreased \$65,000,000 under this bill, in consequence of the reduction in taxation, it strikes me it would be but fair and just toward the collectors of internal revenue throughout the entire country that the same provision already adopted with reference to assessors should be extended so as to embrace collectors. By the provisions of this bill assessors, receiving almost as much pay as collectors, though having much less responsibility, are allowed the amount of their office rent. There is at present no such allowance to collectors. In the district, for instance, of my colleague from Chicago [Mr. Judd] the collector must pay \$1,000 or \$1,500 for office rent; and the case is similar in any city of large size. If the collector desires to avoid this expense he must hire a cheap office in some out-of-the-way place, much to the inconvenience of the tax-payer. I believe it would be

better for the interests both of the tax-payer and of the Government to allow office rent to collectors as well as to assessors.

Whenever it shall be in order I shall offer an amendment, (which I believe would not be in order as an amendment to the amendment now pending,) to add after the word "another," in line twenty-one, the following:

Each collector shall be allowed and paid the sums actually and necessarily expended by him, with the approval of the Commissioner of Internal Revenue, for office rent; but no account of such rent shall be allowed or paid until it shall have been verified in such manner as the Commissioner shall require, and shall have been audited and approved by the proper officers of the Treasury Department.

The question being taken on the amendment of Mr. ELA, it was not agreed to.

Mr. ELA. I move a further amendment—to strike out in the fifth line of this section the word "three" and insert "two;" so that the section will read:

That there shall be allowed to collectors, in full compensation for their services and that of their deputies, a salary of \$1,500 per annum, to be paid quarterly, and, in addition thereto, a commission of two per cent. upon the first \$100,000, &c.

Mr. Chairman, under this section the collector in any district where the compensation is based upon \$1,000,000 will receive as his net proceeds not less than five or six thousand dollars per annum clear. Under the former practice the collector received, as I believe he still does, in addition to his salary and commissions, a percentage upon the stamps sold by him. It is no part of his duty to sell stamps. In addition to that, for traveling and doing other business, he gets fees, which are an additional compensation over and above what he gets through these other processes.

Now, Mr. Chairman, that being the case in every district where the collector shall collect \$1,000,000, his pay cannot fall below \$5,000, and the probability is it will run up to \$6,000, a sum altogether beyond what these men can get, or ever did get, in any business they ever followed.

I hope the amendment will be adopted.

The question was taken on Mr. ELA's amendment, and it was rejected.

Mr. INGERSOLL. I move the following amendment to the section:

Add as follows:

Each collector shall be allowed and paid the sums actually and necessarily expended by him, with the approval of the Commissioner of Internal Revenue for office rent, but no account of such rent shall be allowed or paid until it shall have been verified in such manner as the Commissioner shall require, and shall have been audited and approved by the proper officers of the Treasury Department.

The amendment was rejected.

The Clerk read the next section, as follows:

SEC. 36. And be it further enacted, That when any part of the compensation of the assessor or collector of any district shall be by commissions upon assessments or collections, and shall, in consequence of a new appointment, be due to more than one assessor or collector within the same year, such commissions shall be apportioned between such assessors or collectors; but in no case shall a greater amount of commissions be allowed than is or may be authorized by law to be allowed to one assessor or collector of that district. And the salary and commissions of assessors and collectors heretofore earned and accrued shall be adjusted, allowed, and paid in conformity to the provisions of this section, and not otherwise; but no payment shall be made to assessors or collectors on account of salaries or commissions, without the certificate of the Commissioner of Internal Revenue that all reports required by law or regulation have been received, or that a satisfactory explanation has been rendered to him of the cause of delay.

Mr. KOONTZ. I move to insert in line seven after the word "collectors" the words, "in proportion to the amount assessed or collected by each respectively."

This section, it is true, Mr. Chairman, provides that the commission shall be apportioned between the assessor and the collector, but it does not provide the method by which such apportionment shall be made. It leaves it in the breast of the Secretary of the Treasury to determine in what manner this fund shall be distributed. He may do it *pro rata* according to the amount of each, or according to the labor each one may have performed, or according to any arbitrary rule he may set up. These

assessors will be left to his mercy to dispose of what they are justly entitled to. I think the fair method of dividing between these men would be according to the amount collected by each.

Mr. SCHENCK. There has been no practical difficulty in the working of this rule. It is expressed exactly in the language of the present law, and there would be a very great objection to adopting the rule proposed by the gentleman from Pennsylvania, [Mr. KOONTZ.] Suppose a collector is appointed after the 1st of March, when the general returns are made, and he proceeds to collect the tax. After remaining in office some month or two he takes the cream off and leaves all the rest to his successor. It would be a very unequal division.

The amendment of Mr. KOONTZ was disagreed to.

The Clerk read as follows:

SEC. 37. *And be it further enacted*, That each collector, on receiving from time to time any list from the assessor of his district, shall subscribe three receipts therefor, one of which receipts shall be indorsed upon a full and correct copy of such list, and be delivered by him to the assessor, to be preserved in his office, and shall be open to the inspection of any person who may apply to inspect the same, and the other two shall be made upon aggregate statements of the lists aforesaid, exhibiting the gross amount of taxes to be collected in his district, one of which aggregate statements and receipts shall be transmitted to the Commissioner of Internal Revenue, and the other to the First Comptroller of the Treasury.

No amendment being offered, the Clerk read as follows:

SEC. 38. *And be it further enacted*, That every collector shall, within twenty days after receiving the annual list of taxes from the assessor, give notice, by advertisement in one newspaper published in each county in his district, if there be any, and if not, then in a newspaper published in an adjoining county, and by notices to be posted in at least four public places in each county in his district, that the said taxes have become due and payable, and state the time and places within said county at which he or his deputy will attend to receive the same, which time shall not be less than ten days after the date of such notice, and shall send a copy of the notice by mail to each postmaster in the county, to be posted in his office. And if any person shall neglect to pay, as aforesaid, for more than ten days, it shall be the duty of the collector or his deputy to issue to such person a notice, to be left at his dwelling or usual place of business, or sent by mail, demanding the payment of his taxes, stating the amount thereof, with a fee of twenty cents for the issuing and service of such notice, and with four cents for each mile actually and necessarily traveled in serving the same. And it shall be the duty of the collector in person, or by deputy, to give notice and demand payment, in the manner last mentioned, of all taxes not included in the annual lists aforesaid, and of all taxes the collection of which is not otherwise provided for, within ten days from and after receiving the lists thereof from the assessor, or within twenty days from and after the expiration of the time within which such taxes should have been paid. If the annual or other taxes shall not be paid within ten days after such notice and demand, the collector or his deputy shall proceed to collect the said taxes and fee of twenty cents and mileage, with a penalty of five per cent, and interest at the rate of one per cent, per month on said taxes from the time the same may become due, but no interest for any fractional month shall be demanded; which collection may be made by distraint and sale of the goods, chattels, and effects, including stocks, securities, and evidences of debt of the person delinquent as aforesaid. And if any person liable to the payment of any tax shall neglect or refuse to pay the same after demand as aforesaid, the amount of such tax, together with the interest, penalties, and accruing costs, shall be a lien in favor of the United States from the time such tax was due until it is paid, upon all property real and personal belonging to such person. All persons and all officers of companies or corporations shall, on demand of a collector or deputy collector about to distraint, or having made distraint of any property for the payment of taxes, exhibit all books containing evidence or statements relating to any subject of distraint or property liable to distraint for the tax due as aforesaid.

Mr. WOOD. I move to amend by inserting after the word "aforesaid," in line thirty-nine, the words, "and after due public notice." If I understand this section correctly it gives the General Government a lien on the real estate of any delinquent taxpayer. After due notice is given by the collector, and after a certain time has elapsed if the tax-payer does not pay his real and personal property is liable to seizure and the claim of the Government becomes a lien.

Now, we will suppose that A is in Europe, and without his knowledge he has been assessed, through ignorance it may be, or perhaps will-

fully, with the intention to injure the absentee. He is returned to the collector by the assessor as having been assessed so much. Being absent from the country he is uninformed of the fact, and in his absence his real estate within the district becomes incumbered to the Government. A Government lien is put upon it, and the owner has no means of remedying the difficulty.

Or, on the other hand, suppose he willfully neglects to pay his tax and B comes into the market to purchase his real estate. He institutes the necessary investigation as to title, and makes the ordinary searches in the ordinary offices by which to ascertain what, if any, incumbrances rest upon that real estate. He buys it. He accepts the title. He finds nothing against it in the United States court because there is no provision here that a record shall be made of that fact. He subsequently discovers that Uncle Sam has a lien upon his real estate in pursuance of this section. Therefore I offer the amendment that it shall not be operative so far as the real estate is concerned until due public notice has been given. I think the chairman of the committee will see the propriety of accepting the amendment.

Mr. GARFIELD. I think if the gentleman had read carefully the previous provisions of the section he would not have thought it necessary to offer that amendment. The very line in which he proposes to insert his amendment says, "after demand as aforesaid;" and the "aforesaid" provision referred to in the sixteenth and seventeenth lines declares that a notice shall be served, telling how it shall be served, and how many days shall elapse, which notice is a demand of the payment. The whole subject of demand is very fully exhibited in the section, and if you require a still further notice after that notice of demand before he can proceed, we may put off for a very long period the collection of this tax.

Mr. WOOD. My amendment requires due public notice.

The amendment was disagreed to.

The next section was read, as follows:

SEC. 39. *And be it further enacted*, That whenever a collector shall have on any list duly returned to him the name of any person not residing within his district who is liable to tax, or of any person so liable to tax, who, residing in said district, shall not have sufficient property therein subject to seizure or distraint from which the money due for such tax can be collected, such collector shall certify and transmit a copy or statement containing the name of the person liable to such tax, with the amount and nature thereof, to the collector of any district to which said person shall have removed, or in which he shall have property, real or personal, liable to be seized and sold for tax, and the collector of the district to whom the said certified copy or statement shall be transmitted shall proceed to collect the said tax in the same way as if the name of the person and objects of tax contained in the said certified copy or statement were on a list furnished to him by the assessor of his own collection district; and the said collector, upon receiving said certified copy or statement as aforesaid, shall transmit his receipt for it to the collector sending the same to him.

No amendments were offered, and the Clerk read the next section, as follows:

SEC. 40. *And be it further enacted*, That if any collector shall find, upon any list of taxes returned to him for collection, property within his district which is charged with any specific or *ad valorem* tax, but which is not owned, occupied, or superintended by some person known to such collector to reside or to have some place of business within the United States, and upon which the tax has not been paid within the time required by law, such collector shall forthwith take such property into his custody, and shall advertise the same, and the taxes charged thereon, in some newspaper published in his district, if any be published therein; otherwise in some newspaper in an adjoining district for the space of thirty days; and if the taxes thereon, with all charges for advertising, shall not be paid within said thirty days, such collector shall proceed to sell the same, or so much as is necessary, in the manner provided for the sale of other property distrained for the non-payment of taxes, and out of the proceeds shall satisfy all taxes charged upon such property, with the costs of advertising and selling the same. And like proceedings to those provided in the preceding section for the purchase and resale of property which cannot be sold for the amount of tax due thereon shall be had with regard to property sold under the provisions of this section. And any surplus arising from any sale herein provided for shall be paid into the Treasury, for the benefit of the owner of the property. And the Secretary of the Treasury is authorized, in any case where money shall be paid into the Treasury for the benefit of any owner of property sold as afore-

said, to repay the same, on proper proof being furnished that the person applying therefor is entitled to receive the same.

Mr. SCHENCK. I offer from the Committee of Ways and Means the following amendment:

Page 45, section forty, lines nineteen and twenty, strike out the words "in the preceding section."

The amendment was agreed to.

No further amendments being offered, the next section was read, as follows:

SEC. 41. *And be it further enacted*, That the gross amount of all taxes, and of all moneys for passports, penalties, forfeitures, fees, or costs, received or collected, shall be paid, by the collectors and other officers receiving or collecting the same, daily into the Treasury of the United States, under the instructions of the Commissioner of Internal Revenue, approved by the Secretary of the Treasury, without any abatement or deduction on account of salary; compensation, fees, costs, charges, expenses, or claims of any description whatever; and a certificate of such payment, stating the name of the depositor and the specific account on which the deposit was made, signed by the Treasurer or an Assistant Treasurer, designated depositary, or proper officer of a deposit bank, shall be deemed evidence of a compliance with this provision; but in any district where, from the distance of the collector or other officer from a proper Government depositary, such depositing would be inconvenient, the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may extend the time for making such payment, not exceeding, however, in any case, a period of one month. The certificate of the Treasurer or an Assistant Treasurer, designated depositary, or proper officer of a deposit bank, given for any such payment, shall be in duplicate, one copy of the same to be retained by the depositor, and the other transmitted to the Commissioner of Internal Revenue. And every collector or other officer shall, at the end of each month, render a true and faithful account in triplicate of all public moneys by him received and paid into the Treasury of the United States, one of which accounts he shall transmit to the Commissioner of Internal Revenue, one to the Fifth Auditor of the Treasury, and retain one in his office. With the account transmitted to the Fifth Auditor he shall furnish proper vouchers to sustain the same; and the Fifth Auditor, after examination and settlement of said account, shall report the same with the vouchers to the First Comptroller for his decision thereon. It shall be the duty of such collectors of internal revenue as may be designated by the Secretary of the Treasury to act as disbursing agents of the Treasury for the payment of all expenses of assessment and collection of taxes, and other expenditures for the internal revenue service, within their respective districts, under regulations and instructions from the Secretary of the Treasury, and on giving good and sufficient bond for the faithful performance of their duties as such disbursing agents, which bond shall be in such form and conditioned in such penal sum as shall be prescribed and approved by the First Comptroller of the Treasury; but no additional compensation shall be paid to collectors for such services.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

Page 46, section forty-one, line four, strike out the word "paid," and insert in lieu thereof the word "deposited."

The amendment was agreed to.

Mr. SCHENCK. I also move, in line ten, to strike out the word "payment" and insert "deposit."

The amendment was agreed to.

Mr. SCHENCK. I am also instructed by the Committee of Ways and Means to offer the following amendment:

Page 47, section forty-one, strike out from and including line twenty down to and including the word "same" on line thirty-three, as follows:

Payment, not exceeding, however, in any case, one month. The certificate of the Treasurer or an Assistant Treasurer, designated depositary, or proper officer of a deposit bank, given for any such payment, shall be in duplicate, one copy of the same to be retained by the depositor, and the other transmitted to the Commissioner of Internal Revenue. And every collector or other officer shall, at the end of each month, render a true and faithful account in triplicate of all public moneys by him received and paid into the Treasury of the United States, one of which accounts he shall transmit to the Commissioner of Internal Revenue, one to the Fifth Auditor of the Treasury, and retain one in his office. With the account transmitted to the Fifth Auditor he shall furnish proper vouchers to sustain the same.

And insert in lieu thereof the following:

Deposit, not exceeding, however, in any case, a period of one month. The certificate of the Treasurer or an Assistant Treasurer, or designated depositary, given for any such deposit, shall be in triplicate, one to be retained by the depositor, one to be transmitted to the Secretary of the Treasury, and the other to the Commissioner of Internal Revenue. And every collector or other officer shall, at the end of each month, render a true and faithful account in triplicate of all public moneys by him received and deposited as aforesaid, one of which accounts he

shall transmit to the Commissioner of Internal Revenue, one to the Fifth Auditor of the Treasury, and retain one in his office.

The amendment was agreed to.

No further amendments being offered, the Clerk read the next section, as follows:

SEC. 42. *And be it further enacted*, That every collector shall be charged with the whole amount of taxes contained in annual or other lists delivered or transmitted to him by the assessor of his own or any other district, or by any other collector, or by his predecessor in office, and with the additions thereto, with the par value of all stamps deposited with him, and with all moneys collected for passports, penalties, forfeitures, fees, or costs; and he shall be credited with all payments into the Treasury made as provided by law, with the amount of all uncollected stamps returned by him, and for which he shall produce the receipt of the Commissioner of Internal Revenue, and with the amount of taxes contained in the lists transmitted to other collectors, and by them received for; and also with the amount of the taxes of such persons as may have absconded or become insolvent prior to the day when the tax ought, according to the provisions of the law, to have been collected, and with all uncollected taxes transferred by him or by his deputy acting as collector to his successor in office, when it shall be proved to the satisfaction of the Commissioner of Internal Revenue, and be by him certified to the First Comptroller of the Treasury, that due diligence was used by the collector for the collection of said taxes. And each collector shall also be credited with the amount of all property purchased by him for the use of the United States when he shall have faithfully accounted for and paid over the proceeds thereof upon a resale of the same as required by law. In case of the death, resignation, or removal of the collector, all lists and accounts of taxes uncollected shall be transferred to his successor in office as soon as such successor shall be appointed and qualified, and it shall be the duty of such successor to collect the same.

Mr. HOOPER, of Massachusetts. I move to amend that section by striking out the word "par" in the sixth line and inserting in lieu thereof the word "denominate," and by striking out the word "and" in the tenth line. The amendments are merely verbal.

The amendments were agreed to.

No further amendments being offered, the next section was read, as follows:

SEC. 43. *And be it further enacted*, That if any collector or other officer shall fail either to collect taxes and revenues, and to pay the same into the Treasury in the manner and at the time required by law, or to render his account as provided by law, it shall be the duty of the First Comptroller of the Treasury, immediately after evidence of such delinquency, to report the same to the Solicitor of the Treasury, who shall issue a warrant of distress against such delinquent collector or other officer, directed to the marshal of the proper district, stating therein the amount with which the said collector or other officer is chargeable, and the sums, if any, which have been paid over by him, so far as the same are ascertainable. And the said marshal shall immediately proceed to levy and collect the sum which may remain due, with five per cent. thereon, and all the expenses and charges of collection, by distress and sale of the goods and chattels or personal effects of the delinquent collector or other officer, giving at least five days' notice of the time and place of sale, in the manner provided by law for advertising sales of personal property on execution in the State wherein such collector or other officer resides. And the bill of sale of the said marshal for any goods, chattels, or other personal property distrained and sold as aforesaid, shall be conclusive evidence of title to the purchaser, and *prima facie* evidence of the right of the officer to make such sale, and of the correctness of his proceedings in selling the same. And for the want of goods and chattels or other personal effects of such collector or other officer sufficient to satisfy any warrant of distress, issued pursuant to the preceding section of this act, the lands and real estate of such collector or other officer, or so much thereof as may be necessary for satisfying the said warrant, after being advertised for at least three weeks in not less than three public places in the collection district, and in one newspaper printed in the county or district, if any there be, prior to the proposed time of sale, shall be sold at public auction by the marshal, who, upon such sale, shall make and deliver to the purchaser of the premises so sold a deed of conveyance therefor, to be executed and acknowledged in the manner and form prescribed by the laws of the State in which said lands are situated, which said deed so made shall invest the purchaser with all the title and interest of the said collector or other officer at the time of the seizure thereof, and the marshal shall thereupon put the purchaser in possession of the premises. And all moneys that may remain of the proceeds of such sale, after satisfying the said warrant of distress and paying the reasonable costs and charges of sale, shall be returned to the proprietor of the lands or real estate sold as aforesaid.

No amendments were offered, and the next section was read, as follows:

SEC. 44. *And be it further enacted*, That every collector having charge of any warehouse in which distilled spirits, tobacco, oil, or other articles are stored in bond, shall render a monthly account of all such articles to the Commissioner of Internal Revenue, which account shall be examined, adjusted, and set-

tled quarterly on the 1st days of January, April, July, and October, so as to exhibit a true statement of the liability and responsibility of every such collector on such account. In adjusting such account the collector shall be charged with all the articles which may have been deposited or received under the provisions of law, in any warehouse in his district and under his control, and shall be credited with all such articles shown to have been removed therefrom according to law, including transfers to other collectors and to his successor in office, and also whatever allowances may have been made in accordance with law to any owner of such goods or articles for leakage or other losses.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

Page 51, section forty-four, strike out from and including the word "adjusted," in line five, down to the word "October" inclusive, in line seven, as follows: "adjusted and settled quarterly on the 1st days of January, April, July, and October," and insert in lieu thereof the words "and adjusted monthly by him."

The amendment was agreed to.

Mr. PILE. I desire to move an amendment to strike out the words "distilled spirits," in the second line; but I ask that by unanimous consent it be reserved to be voted on in case the provisions with regard to bonded warehouses for distilled spirits are all stricken out when we reach that part of the bill.

Mr. SCHENCK. I have no objection to that.

There was no objection, and the amendment was reserved.

No further amendments being offered to the forty-fourth section, the next section was read, as follows:

SEC. 45. *And be it further enacted*, That if any property, sold under process or distraint is of a kind subject to tax, and the tax thereon has not been paid, after deducting the expenses of the sale, the proceeds shall be first appropriated to the payment of said tax; but if the amount bid at the sale for such property is not equal to the amount of tax thereon, the collector may purchase the same for and in the name of the United States for a sum not exceeding the said tax; and if no assessment of tax has been made on such property the collector shall make a return thereof in form required by law, and the assessor shall assess the tax thereon. All property so purchased may be sold by said collector under such regulations as may be prescribed by the Commissioner of Internal Revenue, but in no case for less than the tax assessed thereon; and the collector shall render to the Commissioner a distinct account of all charges and necessary expenses incurred in the care and sale of such property, and pay into the Treasury any surplus after defraying such charges and necessary expenses.

No amendment was offered.

The next section was read as follows:

SEC. 46. *And be it further enacted*, That in any case where goods, chattels, or effects sufficient to satisfy the taxes imposed by law upon any person liable to pay the same shall not be found by the collector or deputy collector whose duty it may be to collect the same, he is hereby authorized to collect the same by seizure and sale of real estate. The officer making such seizure and sale shall give notice to the person whose estate is proposed to be sold, by giving him in hand, or leaving at his last or usual place of abode, if he has any such within the collection district where said estate is situated, a notice, in writing, stating what particular estate is proposed to be sold, describing the same with reasonable certainty, and the time when and place where said officer proposes to sell the same, which time shall not be less than twenty nor more than forty days from the time of giving said notice; and the place of sale, except by special order of the Commissioner of Internal Revenue, shall not be more than five miles distant from the estate seized; he shall also cause a notice to the same effect to be published in some newspaper, if there be one, within the county where such seizure is made, and posted at the post office nearest to the estate to be sold, and in two other places within the county. At the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at a minimum price, including the expense of making such levy, and all charges for advertising, and an officer's fee of ten dollars. In case the real estate so seized, as aforesaid, shall consist of several distinct tracts or parcels, the officer making sale thereof shall offer each tract or parcel for sale separately, and shall, if he deem it advisable, apportion the expenses, charges, and fees, aforesaid, to such several tracts or parcels, or to any of them, in estimating the minimum price aforesaid. If no person offers for said estate the amount of said minimum price, the officer shall declare the same to be purchased by him for the United States, and shall deposit with the district attorney of the United States a deed therefor, as hereinafter specified and provided; otherwise, the same shall be declared to be sold to the highest bidder. The sale may be adjourned from time to time by said officer for not exceeding thirty days in all, if he shall think it advisable so to do. If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same

manner; and on the payment of the purchase-money shall give to the purchaser a certificate of purchase, which shall set forth the real estate purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor; and if the said real estate be not redeemed in the manner and within the time hereinafter provided, then the collector of the district shall execute to the said purchaser, upon surrender of said certificate, a deed of the real estate purchased by him aforesaid, reciting the facts set forth in said certificate, and in accordance with the laws of the State in which such real estate is situated upon the subject of sales of real estate under execution, which said deed shall be *prima facie* evidence of the facts therein stated; and if the proceedings of the officer as set forth have been substantially in accordance with the provisions of law, the said deed shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real estate thus sold at the time the lien of the United States attached thereto. Any person whose estate may be proceeded against as aforesaid shall have the right to pay the amount due, together with the costs and charges thereon, to the collector or deputy collector at any time prior to the time fixed for the sale thereof, and all further proceedings shall cease from the time of such payment. The owners of any real estate sold as aforesaid, their heirs, executors, or administrators, or any person having any interest therein or a lien thereon, or any person in their behalf, shall be permitted to redeem the land sold as aforesaid, or any separate tract thereof, at any time within one year after the sale thereof, upon payment to the purchaser, or in case he cannot be found in the county in which the land to be redeemed is situated, then to the collector of the district in which the land is situated, for the use of the purchaser, his heirs or assigns, the amount paid by the said purchaser and interest thereon at the rate of twenty per cent. per annum. And any collector may, for the collection of taxes imposed upon any person, or for which any person may be liable, and committed to him for collection, seize and sell the lands of such persons situated in any other collection district within the State in which said collector resides; and his proceedings in relation thereto shall have the same effect as if the same were had in his district. It shall be the duty of every collector to keep a record of all sales of land made in his district, whether by himself or his deputies, or by another collector, in which shall be set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed, and all proceedings in making said sale, the amount of fees and expenses, the name of the purchaser, and the date of deed; which record shall be certified by the officer making the sale. Any officer making sale, as aforesaid, shall return a statement of all his proceedings to the collector, and certify the record thereof; but in case of the death or removal of the collector, or the expiration of his term of office from any cause, said record shall be delivered to his successor in office; and a copy of every such record, certified by the collector of the proper district, shall be evidence in any court of the truth of the facts therein stated. When any lands sold, as aforesaid, shall be redeemed as hereinbefore provided, the collector shall make an entry of the fact upon the record aforesaid, and the said entry shall be evidence of such redemption. If any property seized and sold under the provisions of this section shall not be sufficient to satisfy the claim of the United States against the person owning the same or having an interest therein, the collector may thereafter, and as often as the same may be necessary, proceed to seize and sell, in like manner, any other property liable to seizure of such person until the amount due from him, together with all expenses, shall be fully paid.

Mr. SCHENCK. I move to amend the clause, "the officer making such seizure shall proceed to sell the estate at public auction, offering the same at a minimum price, including the expense of such levy," by striking out the word "including" and inserting in lieu thereof the words "which shall be all."

The amendment was agreed to.

Mr. SCHENCK. I move to further amend the section, in the clause, "if the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner," by striking out the words "sell said estate" and inserting in lieu thereof the words "offer said estate for sale."

The amendment was agreed to.

Mr. SCHENCK. I move to further amend the section, near the end, by striking out the word "every" and inserting the word "any," in the clause which now reads, "and a copy of every such record, certified by the collector of the proper district, shall be evidence in any court of the truth of the facts therein stated."

The amendment was agreed to.

Mr. WOOD. I move to strike out this entire section as amended. I am opposed to a provision of this character in any tax bill, or to a principle of this kind being incorporated in any law of Congress.

So far we have left real estate to be exempt from the operation of the penalties for the non-



payment of taxes. Indeed, we have left the homestead exempt from any taxation whatever. But under the operation of this section a homestead, although it may be exempt from all other claims if not valued over a certain sum, is liable to seizure and confiscation for the non-payment of any tax upon any trade, employment, or occupation of the owner.

Sir, there is nothing so important and yet so delicate as the title to real estate. There is nothing in this country to which the people attach so much importance as they do to the right which the homestead laws give them to be exempt from any penalty by the action of the Government, so far as that homestead right may go.

But how will it be under the operation of this section? Whenever the owner of a homestead meets with misfortune in his ordinary business, becomes bankrupt and utterly unable to pay the taxes which may accrue upon the ordinary products of his business, when he returns to his homestead at night, which under our laws is exempt from all liabilities of this character, he finds it in the hands of the collector or deputy collector who becomes one of the most important officers in the revenue service.

Mr. UPSON. Are not all homesteads liable to taxation and sale?

Mr. WOOD. Not liable to seizure and summary sale.

Mr. UPSON. Yes, all the time.

Mr. WOOD. They can be sold for taxes that accrue upon the land itself.

Mr. UPSON. Yes.

Mr. WOOD. But they are not liable for taxes which accrue upon the ordinary business or occupation of the owners.

Mr. MAYNARD. It is for this Committee of the Whole to decide whether the law shall be retained as it now exists. This has for a long time been a feature in the internal revenue law. The section is a mere reenactment of the present law with merely verbal changes to make some things clearer, as any one can see by referring to section nine of the act of July, 1866. Now, I submit that people who can afford to have homesteads can also afford to pay taxes. It would be a very singular thing, indeed, if those who own real estate, own what is called a homestead, should be exempt from the payment of taxes upon it; for the position of the gentleman from New York [Mr. WOOD] amounts to that. The owner of the homestead, according to that, has only to keep his personal property out of the reach of the law, and then he can snap his fingers at the collector.

Mr. ELDRIDGE. The gentleman will allow me to inquire whether this bill does not in fact propose to make a lien those taxes which accrue in general business—which accrue, for instance, upon the sales of the merchant? Do not the committee propose to make such taxes a lien upon the homestead, so that, in disregard of the interests of the wife and children, it may be sold for taxes accruing in general business? That is the feature to which, as I understand, the gentleman from New York [Mr. WOOD] objects; and it seems to me the objection is very reasonable.

Mr. MAYNARD. The language of this section corresponds with the language of the existing law.

The present law provides—

"That in any case where goods, chattels, or effects sufficient to satisfy the taxes imposed by law upon any person liable to pay the same shall not be found by the collector or deputy collector, he is authorized to collect the same by seizure and sale of real estate."

This affects neither the wife nor the children. The poor man who happens to have no homestead, who resides on rented property, the man who has not sufficient means to own the place upon which he resides with his wife and children, is liable, according to the proposition of the gentleman from New York, to have all his property taken, while the man who is domiciled in his own mansion may bid defiance to the authorities of the law. He can carry on

his business to the amount of thousands of dollars, in such a way and under such guise that the collector cannot lay his hands upon any property which shall be liable for taxes. He may carry on business, for example, as a claim agent or a commercial broker or a lottery dealer, in such a way that the business affords nothing tangible for the collector to seize; yet that man may retire into his costly mansion, his Fifth avenue palace, and bid defiance to the revenue laws of the country. I cannot see the propriety or the justice of any such proceeding; and it strikes me that it would not be wise for us to sanction it by our laws. I think the amendment ought not to be adopted, but that the law should be permitted to stand precisely as it has stood for a long time.

On agreeing to the amendment of Mr. WOOD, there were—ayes 16, noes 60; no quorum voting.

The Chairman, under the rules ordered tellers; and appointed Mr. WOOD and Mr. MAYNARD.

The committee divided; and the tellers reported—ayes twenty-one, noes not counted.

So the amendment was not agreed to.

Mr. HOLMAN. I move to amend by adding to the pending section the following proviso:

*Provided, however, That property, real or personal, exempt by the law of the State, where the seizure thereof shall be made from sale on execution shall be exempt from sale under the provisions of this act, except for tax originally assessed thereon under the provisions of this act.*

Mr. Chairman, while I think that property upon which tax is actually assessed ought to be liable for the payment of the tax, yet it seems to me that in our legislation on this subject it is wise for us to follow the policy marked out in the homestead laws of almost all the States, and exempt the homestead from liability for any other taxes than those actually assessed against it. Why should the homestead, which, according to the general policy of our laws is regarded as specially reserved for the benefit of the wife and children, be made liable to sale for taxes not levied against that particular property?

There is in this respect a manifest difference between the taxes assessed by the General Government and those assessed by the various States. The taxes assessed by the States are charged simply upon the property itself, and that property, in case of default, is sold simply to pay the taxes charged against it. Under the United States laws a merchant or a distiller, for instance, may, in the conduct of his business, render himself liable for a large amount of tax, and according to the bill before us that tax may be collected by the sale of his homestead, which, by the laws of most of the States, is protected for the benefit of the wife and children. It would be in conformity with the spirit of our legislation in almost all the States to exempt specially from sale the homestead, against which, ordinarily, no tax whatever would be assessed by the General Government.

Mr. MAYNARD. The amendment of the gentleman, from the form in which he has presented it, is, I believe, objectionable. It is, that whatever is exempted from execution under the law of any State, shall be exempted from sale for taxes. We know there is great diversity in that regard. Some States exempt more than others do. Some exempt the homestead, and others do not. Some exempt *sub modo*, and others absolute. So the Federal laws would operate differently in the different parts of the country, and they would be subject to Federal legislation.

Then, again, it would permit a man, by getting into what he called a homestead, to carry on any of that kind of business to which I referred a moment ago.

There is another thing I think the gentleman will consider. The construction in these States where property is exempted from execution as against individual claims, is that it is not exempted from restraint for taxes. I think we had

better leave the law as it is. I am not aware there is any complaint. We have had no petitions for its repeal, and we have had on almost every other subject.

The amendment was rejected.

Mr. INGERSOLL. I move in lines fifty-five, fifty-six, and fifty-seven, to strike out the words "if the proceedings of the officer as set forth have been substantially in accordance with the provisions of law," and to insert in line fifty-eight, after the word "operate" the words "*prima facie*," so it will read:

If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner; and on the payment of the purchase money shall give to the purchaser a certificate of purchase, which shall set forth the real estate purchased, for whose taxes the same was sold, the name of the purchaser, and the price paid therefor; and if the said real estate be not redeemed in the manner and within the time hereinafter provided, then the collector of the district shall execute to the said purchaser, upon surrender of said certificate, a deed of the real estate purchased by him aforesaid, reciting the facts set forth, in said certificate, and in accordance with the laws of the State in which said real estate is situated upon the subject of sales of real estate under execution, which said deed shall be *prima facie* evidence of the facts therein stated; and the said deed shall be considered and operate *prima facie* as a conveyance of all the right, title, and interest the party delinquent had in and to the real estate thus sold at the time the lien of the United States attached thereto. Any person, whose estate may be proceeded against as aforesaid, shall have the right to pay the amount due, together with the costs and charges thereon, to the collector or deputy collector at any time prior to the time fixed for the sale thereof, and all further proceedings shall cease from the time of such payment. The owners of any real estate sold as aforesaid, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the land sold as aforesaid, or any separate tract thereof, at any time within one year after the sale thereof, &c.

Mr. Chairman, if real estate is to be sold we have to get a purchaser, and in order to induce anybody to buy land at a marshal's sale you have got to give the purchaser, in accordance with the laws of the various States, a deed, which is a *prima facie* evidence of title. It must be held as *prima facie* evidence of title, or else you will get nobody to buy. Whenever it shall be assailed the *onus probandi* must be upon the assailing party to show that the proceedings were not proper.

Now, as I construe the language of the bill, it throws the burden of proof upon the purchaser or the grantee, and not upon the party who seeks to void the deed. Let me read the bill as it is:

And if the proceedings of the officer as set forth have been substantially in accordance with the provisions of law the said deed shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real estate thus sold at the time the lien of the United States attached thereto.

Now, by that language the party claiming under its deed must show that all the proceedings, in all respects, have been according to law. If you strike out the words I have indicated then the deed is *prima facie* evidence of title to any real estate that is sold.

Mr. HOLMAN. It seems to me, from the language of the bill, that the deed is now *prima facie* evidence of all that it recites. It is to be taken as such for what it substantially recites. Therefore the party that assails the deed must overturn that *prima facie* case. The word "substantial" has great significance.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. INGERSOLL. Then I cannot answer that question.

Mr. MAYNARD. The facts and proceedings as substantially recited in the deed are to be taken as *prima facie* evidence and can only be countervailed by rebutting testimony. The deed is to convey the delinquent's title to the purchaser, and is to be taken as *prima facie* evidence that all the proceedings have been in accordance with law. To disprove that evidence is with the other side.

Mr. INGERSOLL. I wish to say in reply to the gentleman—

The CHAIRMAN. Debate is exhausted unless the gentleman from Tennessee yields the balance of his time.

Mr. MAYNARD. I yield it to the gentleman from Illinois.

Mr. INGERSOLL. What I want to say is this: in an action for ejectment if the purchaser has a deed from the Government under Government sale, will that show that the proceedings of the officer have been in accordance with law?

Mr. MAYNARD. Suppose a purchaser at a sale finds somebody in possession and brings an action of ejectment, showing a title in the delinquent, and then brings a deed from the collector to himself which recites a compliance with the provisions of the law respecting such sales, then, unless the delinquent shows by evidence which he introduces that the recitals of the deed are true, is he not entitled to possession?

Mr. INGERSOLL. With this exception: the deed will never recite that the proceedings of the officer have been regular. I now yield to the gentleman from Vermont.

Mr. POLAND. I will propose an amendment that will satisfy both the gentlemen. I move to insert in line fifty-five the words "and of the regularity of the officer's proceeding;" so that it will read, "which said deed shall be *prima facie* evidence of the facts therein stated and of the regularity of the officer's proceeding."

Mr. PAINE. Suppose it should happen that the facts set forth in the deed are entirely inconsistent with the alleged regularity of the proceedings, then what? The amendment still makes the deed *prima facie* evidence of the regularity of the proceedings.

The CHAIRMAN. Does the gentleman from Illinois [Mr. INGERSOLL] accept the amendment?

Mr. INGERSOLL. I do.

The amendment was agreed to.

Mr. BENJAMIN. I move in line seventy-seven to strike out "twenty" and insert "fifty." I suppose the object of this is to secure a purchaser for this real estate. The party has one year in which to redeem, by paying twenty per cent. upon the purchase money. I take it that that is entirely inadequate to secure a purchaser. In many localities it is nothing more than the interest on the money, and no person will invest his money with the uncertainty attending all tax sales with but twenty per cent. per annum held out to him as an inducement so to invest. The law of some States gives one hundred per cent., and that, in a large number of instances, does not secure purchasers of delinquent lands. Unless you offer more than twenty per cent. for one year's investment you will find no purchasers.

Mr. BENTON. Mr. Chairman, I had already drawn an amendment to strike out the word twenty and insert fifteen, but after consultation with the chairman of the committee I concluded I would not offer it. But it seems to me that the amendment now proposed by the gentleman from Missouri is very unreasonable. This provision is intended, as I understand it, to provide for many cases where there is no fault on the part of the delinquent—where the delinquency occurs through misfortune—perhaps on account of absence from the country. Now, to impose such a monstrous rate of interest as fifty per cent. it seems to me would be outrageous. Twenty per cent. is a very large rate in most parts of the country. In the West the interest is much higher. In Boston, where money is plenty, three or four per cent. is a frequent rate.

Mr. MAYNARD. What rate is allowed in New Hampshire in a case of this kind?

Mr. BENTON. Where land is sold for taxes the rate is twelve per cent. in my State.

Mr. BENJAMIN. In Missouri the rate is one hundred per cent., and in nine cases out of ten the land finds no purchaser.

Mr. BENTON. That may explain in some degree why things are so deranged there. They allow such unreasonable liens that all the property that can be gathered together is put in a homestead, and then under the high rate of interest they want more money. No

wonder they want more greenbacks issued here. [Laughter.]

The amendment of Mr. BENJAMIN was disagreed to.

No further amendments being offered, the next section was read, as follows:

SEC. 47. *And be it further enacted*, That the Commissioner of Internal Revenue shall have charge of all real estate which has been or shall be assigned, set off, or conveyed, by purchase or otherwise, to the United States, in payment of debts arising under the laws relating to internal revenue, and of all trusts created for the use of the United States, in payment of such debts; and may sell and dispose of any such lands at public auction upon giving not less than twenty days' notice of such sales; and in cases where real estate has already become the property of the United States by conveyance or otherwise, in payment of or as security for a debt arising under the laws relating to internal revenue, and such debt shall have been paid, together with the interest thereon, at the rate of twenty per cent. per annum, to the United States, within two years from the date of the acquisition of such real estate, it shall be lawful for the Commissioner of Internal Revenue to release by deed, or otherwise convey, such real estate to the debtor from whom it was taken, or to his heirs or other legal representatives.

No amendments were proposed, and the Clerk read the forty-eighth section, as follows:

SEC. 48. *And be it further enacted*, That in all cases of collection by distraint it shall be the duty of the officer charged with the collection to cause a notice to be published forthwith in some newspaper within the county wherein said distraint is made, if there be a newspaper published in said county, or to be publicly posted at the post office, if there be one within five miles, nearest to the residence of the person whose property has been distrained, and in not less than two other public places, which notice shall specify the articles distrained and the time and place for the sale thereof, which time shall not be less than ten nor more than twenty days after the publication or posting of such notice, and after the notice given to the owner or possessor of the property as hereinafter provided, and the place for such sale shall not be more than five miles from the place of making such distraint; and it shall be the duty of such officer to make or cause to be made an account of the goods, chattels, and effects distrained, a copy of which, signed by the officer making the distraint, with a note of the sum demanded, and the time and place fixed for the sale shall be left with the owner or possessor of such goods, chattels, and effects, or at his usual residence or place of business, with some person of suitable age and discretion, if any such can be there found. And such sale may be adjourned from time to time at the discretion of said officer, but not for a time exceeding in the aggregate thirty days. In case of any distraint for the payment of taxes, the goods, chattels, and effects distrained shall be restored to the owner or possessor if payment of the amount due, together with the fees and other charges, shall be made, prior to the sale, to the officer charged with the collection thereof; but in case of non-payment, as aforesaid, the said officer shall proceed to sell the said goods, chattels, and effects at public auction, and shall retain from the proceeds of such sale the amount due to the United States, and a commission of five per cent. thereon for his own use, together with the fees and charges for distraint and sale, rendering any surplus to the person who may be entitled to receive the same. In any case where property distrained for taxes may not be divisible, so as to enable the collector, by a sale of part thereof, to obtain the whole amount of the tax, with all costs, charges, and commissions, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after satisfying the tax, costs, and charges, shall be paid to the person legally entitled to receive the same, or if he refuse to receive the same or cannot be found, then such surplus shall be deposited in the Treasury of the United States, to be held for the use of the person legally entitled to receive the same, until he shall make application therefor to the Secretary of the Treasury, who, upon such application, and satisfactory proofs in support thereof, shall by warrant on the Treasury, cause the same to be paid to such person. And in all cases of sale as aforesaid the certificate of such sale shall be transferred to the purchaser all right, title, and interest of the delinquent tax-payer, in and to the property sold, and shall be *prima facie* evidence of the right of such officer to make the sale, and conclusive evidence of the regularity of his proceedings; and where such property shall consist of stock such certificate of sale shall be notice, when received, to any corporation, company, or association, of said transfer, and shall be authority to such corporation, company, or association to record the same on their books and records in the same manner as is transferred, or assigned by the person or party holding such stock in lieu of any original or prior certificate, which after that time shall be void, whether canceled or not. And any such certificate of sale, where the subject of sale shall be securities or other evidences of debt, shall be a good and valid receipt to the person holding the same as against any person holding or claiming to hold possession of such securities or other evidences of debt: *Provided*, That there shall be exempt from distraint and sale the school-books and necessary wearing apparel for the family, arms for personal use, one cow, two hogs, five sheep, and the wool thereof, the aggregate market value of said sheep not to exceed fifty dollars, the necessary food for such cow, hogs, and sheep for a period not exceeding thirty days, fuel to an amount not greater in value than twenty-five dollars, provisions to an

amount not greater in value than fifty dollars, household furniture kept for use to an amount not greater in value than three hundred dollars, and the books, tools, or implements of trade or profession to an amount not greater in value than one hundred dollars; and the officer making the distraint shall summon three disinterested householders of the vicinity, who shall appraise and set apart to the owner any property herein declared to be exempt.

Mr. POLAND. In lines fifty-six and fifty-seven of that section on page 60 I move to strike out the words "conclusive evidence," so as to correspond with the amendment made in the other section and make it *prima facie* evidence of the right of the officer to make the sale and of the regularity of his proceedings.

The amendment was agreed to.

Mr. LOUGHRIDGE. I move to insert on page 61, after the word "dollars" in line eighty-one, the following:

And the team and wagon with proper harness and tackle by which any teamster or laboring man habitually earns his living.

The amendment was disagreed to.

Mr. ROSS. I move to insert in line seventy-one the words "a homestead not exceeding in value \$1,000."

Mr. Chairman, this is a provision which has been favored by the Legislatures of most of the States in this Union. It prevails in my own State and I think in most of the States, and I know of no reason why, in collecting duties in behalf of the Government of the United States, the same humane and just rule should not prevail that has been adopted in the various States. For my own part I am not willing to give my sanction or my vote in favor of depriving a family of their homestead for any debt due to individuals or to the State or national Governments. I hope, therefore, that a provision of this sort will be incorporated in the bill. It is just and wise and humane.

Mr. PILE. Are homesteads exempted from sale for taxes in the State of Illinois?

Mr. ROSS. Not for taxes upon the homestead, but from sale for all other duties. I do not propose to exempt the homestead from sale for taxes imposed on it by the United States Government, but we have assessed no tax whatever upon homesteads, and I trust we never will impose such a tax in behalf of the Government of the United States.

This amendment is in accordance with the wise and humane policy which has been inaugurated by the Legislatures of the different States, and there is no good reason, in my judgment, why on account of the misfortunes of the husband and father, the homestead should be taken from the wife and children. I hope my amendment will be adopted.

Mr. MAYNARD. I would merely remark that if a man has nothing but his homestead, he will not be troubled at all, because he will have no tax to pay. If he has other property upon which to pay taxes, then the homestead ought not to be exempted. I hope the amendment will not prevail.

Mr. ROSS. I suggest to the gentleman from Tennessee, that he might be an officer of the Government of the United States and have a tax assessed upon him which would take the homestead from his family.

The question was taken on Mr. Ross's amendment, and it was disagreed.

No further amendment being proposed to the forty-eighth section, the next section was read, as follows:

SEC. 49. *And be it further enacted*, That all the officers of internal revenue shall be, and hereby are, authorized to perform all the duties relating to the assessment and collection of any direct taxes imposed, or which may be imposed, by law in all cases where the payment of such tax has not been assumed by the State, except within those districts within any State which have been or may be otherwise especially provided for by law. But no direct tax whatsoever shall be assessed or collected under this or any other act of Congress heretofore passed until Congress shall enact another law requiring such assessment and collection to be made; but this shall not be construed to repeal or postpone the assessment or collection of the first direct tax levied, or which should be levied, under the act entitled "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," approved August 5, 1861, nor in any way to affect the legality

of said tax or any process or remedy provided in said acts, or any other acts, for the enforcement or collection of the same in any State; but said first tax, and any such process or remedy, shall continue in all respects in force, anything in this act to the contrary notwithstanding.

No amendment was offered.

The next section was read, as follows:

SEC. 50. *And be it further enacted*, That if, for any cause, at any time, in any part of the United States, the laws cannot be executed, it shall be the duty of the President, and he is hereby authorized, to proceed to execute the provisions of this act within such portion of the United States so soon as the authority of the United States shall be reestablished therein, and to collect the taxes in such States, under the regulations prescribed in this act, so far as applicable; and where not applicable the assessment and levy shall be made, and the time and manner of collection regulated by the instructions and directions of the Commissioner of Internal Revenue; and for the purposes of this act all territory and Indian reservations shall be taken and held to be a part of the United States.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to move to amend this section by adding to it the following:

And all goods, wares, and merchandise manufactured or produced within such reservations or Territory shall be held subject to tax as if manufactured within a collection district, and the tax upon such goods, wares, and merchandise shall be and continue a lien upon the same in the hands of all persons whomsoever; and when such goods, wares, or merchandise shall have been removed from the Indian territory or reservation in which they have been manufactured the assessor or assistant assessor of any collection district wherein they may be found shall immediately assess the tax due thereon, and shall, without delay, return the same to the collector or deputy collector, who shall demand and receive of the owner or person in charge or custody thereof the amount of the tax so assessed, unless evidence of the previous payment of such tax shall be produced under such regulations as the Commissioner of Internal Revenue shall prescribe.

Mr. INGERSOLL. I move to amend the amendment by striking out the word "Indian," and inserting the word "any" before the word "Territory."

Mr. SCHENCK. That will not accomplish the object the gentleman apparently has in view.

Mr. INGERSOLL. Why not?

Mr. SCHENCK. Because the law now extends over Territories as over States. But the department has decided that whisky and other articles manufactured on Indian reservations cannot be reached.

Mr. INGERSOLL. I withdraw my amendment to the amendment.

The amendment of Mr. SCHENCK was then agreed to.

Mr. VAN TRUMP. I move to further amend this section by striking out the words, "so soon as the authority of the United States shall be reestablished therein." I know of no portion of the United States where the authority of the United States does not exist by virtue of law.

Mr. MAYNARD. There are some Indian people who are giving us a heap of trouble just now.

Mr. VAN TRUMP. I know of no Indian people within the territory of the United States.

The question was then taken upon the amendment of Mr. VAN TRUMP; and upon a division there were—ayes 10, noes 54; no quorum voting.

Mr. SCHENCK. In order that the committee may not be broken up for want of a quorum, I ask unanimous consent that this amendment be regarded as agreed to, and we can take a vote upon it in the House.

No objection was made, and the amendment was accordingly agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 51. *And be it further enacted*, That all goods, wares, merchandise, articles, or objects, on which taxes are imposed, which shall be found in the possession or custody, or within the control of any person, for the purpose of being sold or removed by such person in fraud of the internal revenue laws, or with design to evade the payment of said taxes, may be seized by the collector or a deputy collector, or by the assessor or an assistant assessor, of the proper district, and forfeited to the United States; and also all raw materials found in the possession of any person intending to manufacture the same into articles of a kind subject to tax, for the purpose of fraudulently

selling such manufactured articles, or with design to evade the payment of said tax; and also all tools, implements, instruments, and personal property whatsoever, in the place or building, or within any yard or inclosure, where such articles or such raw materials shall be found, may also be seized and forfeited as aforesaid; and the proceedings to enforce said forfeiture shall be in the nature of a proceeding *in rem* in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction. And any person who shall have in his custody or possession any such goods, wares, merchandise, articles, or objects, subject to tax as aforesaid, for the purpose of selling the same with the design of evading payment of the taxes imposed thereon, shall be liable to a penalty of \$500, or not less than double the amount of said taxes. The goods, wares, merchandise, articles, or objects which shall be so seized may, at the option of the collector or assessor, be delivered to the marshal of said district, and remain in his care and custody until he shall obtain possession by process of law; and the costs of seizure made before process issues shall be taxable by the court.

Mr. LOUGHRIDGE. I move to amend the second sentence of this section by striking out at the close of it the words "or not less than double the amount of said taxes," and inserting in lieu thereof the words, "and where such taxes amount to more than \$250 such fine shall be double the amount of tax."

Mr. SCHENCK. I do not object to that amendment.

The amendment was agreed to.

Mr. BENJAMIN. I move to further amend the second sentence of this section by inserting the words "or have actually sold or transferred" before the words "any such goods, wares, merchandise, articles, or objects." This section imposes a penalty upon any person having in his possession property liable to taxation, for the purpose of evading the payment of the tax. But it does not now make any provision for the case of a person who has actually sold or transferred it for that purpose. Hence my amendment seems to be necessary in order to carry out the idea the Committee of Ways and Means seem to have in view.

Mr. SCHENCK. The gentleman will find that any goods which have been removed on any account whatever are liable.

Mr. BENJAMIN. This proposes a penalty upon the person removing them.

Mr. MAYNARD. I suggest to the gentleman that his amendment in the terms in which he has put it will render the phraseology of the section scarcely proper. It would read, I believe—

"Any person who shall have in his custody or possession any such goods for the purpose of selling the same, with the design of evading the payment," &c.

The gentleman should propose his amendment at some subsequent place.

Mr. SCHENCK. The matter is provided for in the next section.

The amendment of Mr. BENJAMIN was not agreed to.

No further amendment being offered,

The next section was read as follows:

SEC. 52. *And be it further enacted*, That in case any goods or commodities on which any tax is imposed, or any materials, utensils, or vessels, proper or intended to be made use of for or in the making of such goods or commodities shall be removed, or shall be deposited, or concealed in any place, with intent to defraud the United States of such tax, or any part thereof, such goods and commodities, and such materials, utensils, and vessels, respectively, shall be forfeited; and in every case where any goods or commodities shall be forfeited under the internal revenue laws, every cask, vessel, case or other package containing, or having contained, or intended to contain, such goods or commodities, respectively, and every vessel, boat, cart, carriage, or other conveyance, and all horses or other animals used in the removal or for the deposit or concealment thereof, shall be forfeited; and every person who shall remove, deposit, or conceal, or be concerned in removing, depositing, or concealing any such goods or commodities with intent to defraud the United States of the tax or any part thereof, shall be fined not less than \$100 nor more than \$5,000, and be imprisoned not less than three months nor more than two years.

Mr. SCHENCK. On behalf of the Committee of Ways and Means, I move to amend by striking out after the word "respectively," in line eight of the section just read, the words, "shall be forfeited; and in every case where any goods or commodities shall be forfeited under the internal revenue laws," and inserting in lieu thereof the words "together with."

The amendment was agreed to.

Mr. SCHENCK. I move further to amend this section by striking out in line fourteen the words "horses or other animals," and inserting in lieu thereof the words "animals and other property."

The amendment was agreed to.

No further amendment being offered, the next section was read as follows:

SEC. 53. *And be it further enacted*, That the Commissioner of Internal Revenue is hereby authorized, on appeal to him made within fifteen months from the date of assessment thereof, to remit all taxes erroneously or illegally assessed, and to refund by requisition on the Treasury all taxes erroneously or illegally collected; such power to remit and refund to extend to moneys assessed or collected as penal tax in cases where an assessor or assistant assessor has or shall have added such penal tax to the assessment, and the Commissioner shall be of opinion that this addition was improper. The Commissioner shall also have power, upon such appeal being made to him as aforesaid, to refund in like manner all fines or penalties collected without authority, or collected in cases where the tax shall have been refunded under the power herein given: *Provided*, That where a second assessment has been or may hereafter be made in case of a return which, in the opinion of the assessor or assistant assessor, was fraudulent, or contained any understatement or undervaluation, such assessment shall not be remitted, nor shall taxes collected under such assessment be recovered or refunded, unless it is proved that said return was not fraudulent; and if such proof shall be furnished, the sum remitted or refunded shall not include the amount, if any, assessed or collected in consequence of understatement or undervaluation. The circuit and district courts of the United States shall have jurisdiction in all cases at law or in equity arising under the internal revenue laws. But no suit shall be maintained in any court for the recovery of any tax alleged to have been erroneously or illegally collected, until such appeal shall have been duly made to the Commissioner of Internal Revenue and a decision of said Commissioner had thereon, and no such suit shall be maintained in any court unless brought within six months from the time of such decision; but if the decision shall be delayed more than six months from the date of appeal, then suit may be brought at any time within twelve months from the date of such appeal. No suit for the purpose of restraining the assessment or collection of tax shall be maintained in any court.

Mr. SCHENCK. I move to amend the section just read, by striking out in lines twenty-three and twenty-four, the words "assessed or collected in consequence of," and inserting in lieu thereof the words "which should have been assessed or collected had there been no;" so that the clause will read:

And if such proof shall be furnished, the sum remitted or refunded shall not include the amount, if any, which should have been assessed or collected had there been no understatement or undervaluation.

The amendment was agreed to.

Mr. POLAND. I desire to offer an amendment to which I think there will be no opposition by the committee. It is to insert after the word "suit" in line thirty-six, the words "commenced after March 2, 1867;" so that the last sentence of the section will read:

No suit commenced after March 2, 1867, for the purpose of restraining the assessment or collection of tax shall be maintained in any court.

There was no such provision as this in our internal revenue law until March 2, 1867, when the provision of this section, in substantially the same words, was incorporated in the law by way of amendment. There being before that time no such provision, of course, any person against whom the tax was assessed might, if he believed himself legally exempt, bring his suit to try that question by way of injunction in the courts of the United States. Now, I happen to know that while such was the law, while it was proper for parties to bring their suits in that way, a suit was brought to try a very important question under the revenue law. Not only was the question important, but the amount involved was considerable. The parties brought their suit by bill in the circuit court of the United States, and they brought it in the form of an injunction.

Of course, having brought their suit in that way, it was incumbent upon them to file a bond with good and sufficient security that, if the suit was declared against them, they would pay the tax that was claimed. I have good reason to believe that amendment, slipped in during a night session of the Senate, was for the purpose of affecting that suit.

I understand that all laws in relation to remedies ought to be prospective in operation.



Every lawyer of the House understands that when a law is passed affecting the forms of remedies, it is not retrospective unless it is so provided in its terms and requires that construction. Congress has uniformly, in all the laws it has ever passed of this kind, permitted parties to avail themselves of their rights under the law as it stood, that is that existing suits should be saved from the operation of the new law.

I believe this amendment was introduced for the purpose of cutting up these parties in the remedies they had, and, so far as I know, it will not affect any other parties in the United States than the parties to that suit, and I appeal to the House to say whether it is not just to these parties to let their suit go on, instead of compelling them to bring a new suit, when they have given abundant security that if the suit shall be decided against them, the judgment shall be paid?

Mr. HOLMAN. It seems to me that the argument of the gentleman from Vermont is a strong one against this whole bill. I do not think the Government of the United States should seek this advantage over the citizen. They seize his property, compel him to pay taxes, and then when wrong has been done him he has to come all the way here to have refunded the money unjustly taken from him. And when he does recover it he only gets back the amount taken from him, and for all the time that he has lost, for the expense that he has been put to, there is not one cent of damages paid to him by the Government. I say that the Government of the United States ought not to ask such a thing of the citizens of the United States. It ought not to inflict these outrages and wrongs upon the citizens of the United States without granting them ample remedies. I do not believe there is a Government in which lingers any regard for individual rights which would assume to close the courts of the Government against the rights of the citizens, against his protection from wrong and injustice. It is the first time, so far as I am aware of, that in any act of Congress distrust of the courts of the country has been manifested. The Government, with all this extraordinary power, is not to be restrained by the courts. As I have already said, I think the gentleman's speech is a forcible argument against the whole provision. The Federal courts should be open at all times to protect the citizen from wrong and injustice.

Mr. MAYNARD. It is here as with the collection of duties on imports. The duties are collected, it may be under protest, and then a suit can be brought for the recovery of any duties levied illegally. The gentleman, I am sure, would not encourage any man in the evasion of payment of taxes.

Mr. HOLMAN. Certainly not, if the courts are open for him to procure an injunction.

The question was taken on Mr. POLAND'S amendment, and it was agreed to.

Mr. HOLMAN. I move to strike out the last sentence of the section.

Mr. SCHENCK. I understand that some privileged questions are to be presented to the House, and I now move that the committee rise.

The committee divided; and there were—ayes 67, noes 31.

Mr. RANDALL demanded tellers.

Tellers were not ordered.

So the motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

#### ADMISSION OF ARKANSAS.

Mr. BEAMAN. I rise to make a privileged report.

The committee of conference on the disagreeing votes of the two Houses on the amendments of the

Senate to the bill of the House, No. 1039, to admit the State of Arkansas to representation in Congress, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendment to the House bill, and agree to said bill with the following amendment added thereto:

Under laws equally applicable to all the inhabitants of said State; *Provided*, That any alteration of said constitution prospective in its effect, may be made in regard to the time and place of residence of voters, and that the House agree to the same.

That the House recede from its disagreement to the amendment of the preamble to the bill, and agree to the same.

THADDEUS STEVENS,

F. C. BEAMAN,

Managers on the part of the House.

LYMAN TRUMBULL,

C. D. DRAKE,

HENRY WILSON,

Managers on the part of the Senate.

Mr. RANDALL. I call for the reading of the bill as amended.

The SPEAKER. That cannot be done except by unanimous consent.

Mr. ELDRIDGE. I move to lay the report on the table.

On laying the report on the table there were—ayes 20, noes 70; no quorum voting.

Tellers were ordered; and the Chair appointed Messrs. ELDRIDGE and BEAMAN.

The House divided; and the tellers reported—ayes 19, noes 75.

The SPEAKER. No quorum has voted, and the hour of five o'clock having arrived the House stands adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. INGERSOLL: The petition of Mrs. Elizabeth G. Hibben, widow of Rev. Samuel Hibben, praying for a pension.

By Mr. LAWRENCE, of Ohio: The petition of Henry C. Whitney, of Lawrence, Kansas, asking that authority be given to secure by treaty an extinguishment of Indian title in Osage reserve and trust lands, so that the lands may be open to homestead entry and sale to actual settlers at \$1 25 per acre.

By Mr. MYERS: The petition of Jacob Batzel, and 57 others, iron-workers in Philadelphia, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment; and praying for additional protective duties.

Also, the petition of 71 employes in the iron-works of Verree & Mitchell, Philadelphia, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of 36 workers in the Fairhill iron-works of Philadelphia, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 95 iron and brass-workers of Philadelphia, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of Hannah K. Cook, widow of John M. Cook, late second lieutenant company E, one hundred and nineteenth Pennsylvania volunteers, afterward second lieutenant of twenty-ninth and thirtieth companies second battalion Veteran Reserve corps, for pension under act of July 14, 1862.

Also, the petition of H. Dienelt and 61 others, employes of Columbia Works, Philadelphia, Pennsylvania, praying for such increase of protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of George W. France and 41 others, glass-workers of Philadelphia, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of Robert Carnahan and 113 others, glass-blowers of Philadelphia, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed, and praying for additional protective duties.

Also, the petition of 76 workmen in Druggist's Glassware Manufactory, of Philadelphia, setting forth that industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 55 workmen in Stephen Robbin's rolling-mill, of Philadelphia, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 47 workmen in the chemical works of Harrison, Brothers & Co., of Philadelphia, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 88 carpet-weavers in Philadelphia, Pennsylvania, setting forth that their industry is greatly depressed, and praying for additional protective duties.

Also, the petition of 65 stocking-makers in Philadelphia, Pennsylvania, setting forth the depression of manufacturing industry, and praying for an increase of protective duties.

Also, the petition of 72 workmen in machinery and scale works of Philadelphia, Pennsylvania, praying for additional protective duties.

Also, the petition of 21 iron workers in Philadelphia, Pennsylvania, praying for additional protective duties.

Also, the petition of Philadelphia dealers in leaf tobacco and cigar manufacturers, against the proposed reduction of the duty on imported cigars, and in favor of the present tax of five dollars a thousand on cigars.

By Mr. RAUM: The petition of Fred. B. Weston and others, praying the establishment of a mail route from Golconda via Lusk, in Pope county, to Equality, in Gallatin county.

Also, the petition of W. Kurtz and 7 others, of Metropolis City, Illinois, praying that the present tax on cigars be retained.

By Mr. SCHENCK: The petition of the marine band of the Washington navy-yard, asking for a small increase of pay.

By Mr. STEVENS, of New Hampshire: The petition of Abigail Telton, widow of Benjamin Stevens, a Revolutionary soldier, for pension.

Also, the remonstrance of Stephen Thayer and 28 others, cigar manufacturers in the second congressional district in said State, against the proposed license, increase of tax, and reduction of tariff on cigars.

By Mr. TAYLOR: The petitions of 73 iron-workers in the Keystone Forge and other iron-works of Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 72 workers in Bridesburg Chemical Works, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 28 workmen in hosiery mills at Germantown, Pennsylvania, complaining of the depression of manufacturing industry, and praying for such additional protective duties as will revive manufactures and restore prosperity to the country.

Also, the petition of 39 iron-workers in Philadelphia, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of 45 workers of the Bridesburg Manufacturing Company, Pennsylvania, setting forth that owing to foreign competition their industry is greatly depressed and

many of the trade are out of employment, and praying for additional protective duties.

Also, the petition of Creighton Sloan and 44 others, workers in white lead, zinc, and colors, at the Kremnitz Works, Philadelphia, setting forth that owing to foreign competition their industry is greatly depressed and many of the trade are out of employment, and praying for additional protective duties.

#### IN SENATE.

MONDAY, June 8, 1868.

Prayer by Rev. E. H. GRAY, D. D.

The Journal of Saturday last was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. CHANDLER presented a memorial of officers and soldiers of the late war, in favor of medals to be struck in bronze to commemorate the preservation of the American Republic, and be presented as a token of the immortal gratitude of the American people to those whose heroism saved the life of the nation, one, under the direction of the War and Navy Departments, to every officer, soldier, sailor, and marine; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of cigar-makers of Detroit, Michigan, praying that no change be made in the present rate of taxing cigars; which was referred to the Committee on Finance.

Mr. DOOLITTLE presented the petition of J. Keener, of North Carolina, praying to be relieved of political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

He also presented the petition of James W. Terrett, of North Carolina, praying to be removed of political disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. POMEROY presented a petition of Brevet Lieutenant A. Liebschutz, praying an increase of pension; which was referred to the Committee on Pensions.

Mr. PATTERSON, of Tennessee, presented the petition of Zenus P. Wise, a soldier of the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented a petition of sundry military officers and citizens of the State of Tennessee, praying a change in the laws regulating the time when the pensions of widows shall commence; which was referred to the Committee on Pensions.

He also presented the memorial of John Alexander, of Tennessee, a soldier of the war of 1812, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. WILSON presented a petition of Peter McColl, of South Carolina, praying a removal of the civil disabilities imposed on him by acts of Congress; which was referred to the Committee on the Judiciary.

Mr. HOWE presented the petition of Mrs. Ellen J. Brosman, praying compensation for property taken from her by General Patrick, provost marshal, and converted to Government use; which was referred to the Committee on Claims.

Mr. JOHNSON presented the petition of Edward D. Tippet, praying an appropriation to enable him to complete his invention for perpetual motion; which was referred to the Committee on Patents and the Patent Office.

#### REPORTS OF COMMITTEES.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the bill (H. R. No. 1156) authorizing the Commissioner of the General Land Office to issue a patent to F. N. Blake for one hundred and sixty acres of land in Kansas, reported it without amendment.

He also, from the same committee, to whom was referred the bill (H. R. No. 23) to protect the rights of actual settlers upon the public

lands of the United States, reported it without amendment.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the petition of Julia Whistler, submitted a report, accompanied by a bill (S. No. 516) granting a pension to Julia Whistler. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Rehma Brown, submitted a report, accompanied by a bill (S. No. 517) granting a pension to the widow and children of Henry Brown. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Fannie Felty, submitted a report, accompanied by a bill (S. No. 518) granting a pension to the widow and child of John P. Felty. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Emma M. Moore, widow of Lieutenant John W. Cox, submitted a report, accompanied by a bill (S. No. 519) granting a pension to Emma M. Moore. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Martha Stout, submitted a report, accompanied by a bill (S. No. 520) granting a pension to Martha Stout. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Charles C. Higdon, submitted a report, accompanied by a bill (S. No. 521) granting a pension to the children of William M. Wooten, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom were referred the following petitions, asked to be discharged from their further consideration; which was agreed to:

The petition of De Witt C. Benham;  
The petition of Charlotte M. Dickinson, widow of Manco C. Dickinson;  
The petition of Harriet Jepson;  
The petition of William Cook;  
The petition of William Gray;  
The petition of Christiana Abercrombie;  
The petition of W. O. Sarr;  
The petition of Mary Potter; and  
The petition of Henry W. Cleveland.

He also, from the same committee, to whom was referred the bill (S. No. 413) granting a pension to Mrs. Sallie Griffin, reported adversely thereon.

He also, from the same committee, who were by a resolution of the Senate directed to inquire into the expediency of so amending the pension laws that the marriage of a deceased soldier's widow shall no longer work a forfeiture of her pension, reported adversely thereon.

He also, from the same committee, who were by a resolution of the Senate instructed to consider the expediency of providing that the increase of two dollars a month, granted by the act of July 25, 1866, to each child under sixteen years of age, shall be extended to the widows of officers, reported adversely thereon.

Mr. WILLIAMS, from the Committee on Finance, to whom was referred the petition of A. J. Core, reported a bill (S. No. 522) to authorize the Commissioner of the Revenue to settle the accounts of Andrew S. Core; which was read, and passed to a second reading.

Mr. WILLIAMS, from the Committee on Finance, reported a joint resolution (S. No. 141) requiring the Special Commissioner of the Revenue to act as superintendent of the Bureau of Statistics in the office of the Secretary of the Treasury; which was read twice by its title, and referred to the Committee on Appropriations, and ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred the joint

resolution (H. R. No. 227) enabling actual settlers to purchase certain lands obtained of the Great and Little Osage Indians, reported it with amendments.

Mr. MORRILL, of Maine, from the Committee on Commerce, to whom was referred the bill (H. R. No. 448) to change the name of the ship Golconda, asked to be discharged from its further consideration; which was agreed to.

#### PAPERS WITHDRAWN.

On motion of Mr. JOHNSON, it was

Ordered, That William J. Blackiston have leave to withdraw his petition from the files of the Senate.

#### BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 523) to regulate the appointment and promotion of consular clerks; which was read twice by its title, and referred to the Committee on Commerce.

Mr. DAVIS, in pursuance of previous notice, asked and obtained leave to introduce a bill (S. No. 524) to facilitate the decision of questions of conflict of jurisdiction between the United States and the States by the Supreme Court of the United States; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. CORBETT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 525) to authorize the establishment of customs ports of delivery on the Pacific coast of the United States, and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 526) to amend "An act incorporating the Washington and Georgetown Railroad Company," which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MORRILL, of Vermont, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 527) for the relief of the widow of Colonel T. B. Ransom, and mother of the late Brevet Major General T. G. Ransom; which was read twice by its title, and referred to the Committee on Pensions.

#### CAPTAIN JAMES F. ARMSTRONG.

Mr. CRAGIN. The Committee on Naval Affairs, to whom was referred the joint resolution (H. R. No. 287) for the restoration of Captain James F. Armstrong, United States Navy, to the active list from the retired list, have had the same under consideration, and instructed me to report it back without amendment, with a recommendation that it pass. The resolution is very brief, and will take but a moment, and the committee have directed me to ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which authorizes the President of the United States to nominate, and by and with the advice and consent of the Senate to appoint, Captain James F. Armstrong to the active list of the Navy, with the rank to which he may be entitled thereon.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### LOCAL POSTAL FACILITIES.

Mr. SUMNER submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Post Offices and Post Roads be directed to consider whether any further legislation be needed in order to secure greater facilities at the local stations of the post office in the large cities, so that the local stations shall receive and deliver mail matter the same as is done by the general office.

#### CONTRACTORS FOR IRON-CLAD VESSELS.

On motion of Mr. HENDRICKS, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 307) for the relief of certain Government contractors, the pending question being on the amendment of Mr. GRIMES, to insert after the word "dol-

lars," in line fifteen, the words "to Harlan & Hollingsworth, the sum of \$38,513;" so as to make the bill read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Secor & Co., and Prime, Secor & Co., the sum of \$115,539 01; to Harrison Loring, \$38,513; to the Atlantic Iron Works, of Boston, Massachusetts, \$4,852 58; to Aquilla Adams, the sum of \$4,852 58; to M. F. Merritt, the sum of \$4,852 58; to Tomlinson, Haterpee & Co., \$15,171; to Harlan & Hollingsworth, the sum of \$38,513; and to Poole & Hunt, the sum of \$3,694 81, being the amount found to be due to each of the parties herein respectively named by the Secretary of the Navy under an act of Congress entitled "An act for the relief of certain contractors for the construction of vessels of war and steam machinery," approved March 2, 1867.

Mr. CORBETT. I ask if there is any provision that this allowance shall be in full of the claims of these parties?

Mr. HENDRICKS. This is a bill that was reported by the chairman of the Committee on Naval Affairs before he was called away. It has been carefully considered by that committee; and the present acting chairman, the Senator from Rhode Island, [Mr. ANTHONY,] and myself, were desired by the committee to call it up in the absence of the chairman. There is not a provision that this shall be in full, for the reason that there are certain other vessels that were constructed by some of these parties, and they desire, in regard to those other vessels for which no provision is made in this bill, that they may go with their cases to the Court of Claims, under the bill reported by the Senator from Missouri, [Mr. DRAKE.] One of these firms constructed five or seven vessels, perhaps more, losing on all of them. An allowance was made by the board on two or three of them, not allowing anything on some three or four of the vessels constructed by them. Therefore the committee did not provide that no further allowance should be made, because the committee was of opinion that it was fair to allow them in regard to those other vessels to go before the Court of Claims as in other cases.

I will state to the Senate that this bill is reported under the act of March 2, 1867, which provided for a board to examine these cases on certain established rules, and the allowance has been made to these parties under that act. The bill is simply an affirmation of the allowance that has been made. In my judgment, the allowance is not one half what the parties were really entitled to, but the probability is that they cannot get more.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. HOWE. Mr. President, my attention is just called to this bill this moment. It is some time since I have seen it or heard of it, and I have forgotten just what my impressions were about it when I last knew it. I am not entirely sure now whether the bill before the Senate is the one to pay an award that was made under the act of 1867 or whether it is a bill to refer other claims to the Court of Claims.

Mr. HENDRICKS. This is a bill to pay the award simply.

Mr. HOWE. Very well; then I believe I have no objection to that, as near as I can remember. There were two bills.

Mr. HENDRICKS. This is to pay the award; the other bill will be for the consideration of the Senate when called up.

Mr. CONKLING. Mr. President, that we may understand this all alike, will the Senator from Indiana tell us whether this bill is to pay the awards treating the awards as a finality, or whether the bill itself implies that after the awards are paid the same claims upon which the awards have been made are to be further adjudicated?

Mr. HENDRICKS. In regard to the particular vessels, where allowances have been made by this board, I regard the award as a finality, and I should not hesitate to say that the Court of Claims would be required to regard it as a finality; but when Congress has made provision for them, of course the Court of Claims would not have any jurisdiction of

those particular vessels. But in the case of one or two contractors, they constructed other vessels that were not before the board; and if it is the pleasure of Congress to allow the contractors to go before the Court of Claims, I suppose that in regard to those vessels not provided for in this bill at all we have the right to allow them to go.

Mr. CONKLING. Then, if the Senator will allow me a little further, the act of March, 1867, provided for the submission to a board of these claims. Am I to understand that the claims were submitted to the board, upon which the award was adverse, and that those claims thus adversely decided are to be now resubmitted to the Court of Claims?

Mr. HENDRICKS. That question is not raised by this bill at all. That question will come up on another bill, but it is not in this bill. This bill simply stands upon the award. The Senator from Missouri [Mr. DRAKE] has charge of the bill to which the Senator from New York now refers.

Mr. DRAKE. There is one point about this bill which it seems to me should engage the attention of the Senate. The parties named in the bill constructed a number of iron-clad vessels for the Government. The Navy Department, in the course of the construction of those vessels, directed alterations from time to time, which greatly increased the expense of them. The parties came to Congress for compensation for the increased expense to which they were put over and above the contract price for which they had agreed to make them. A naval commission was appointed by the Navy Department to investigate the subject, and sat some seven months engaged in that work with regard to all the cases of the construction of iron-clad vessels in which the Navy Department had made alterations so as to increase the expense. That commission made a very elaborate and careful report in regard to the whole of them, showing all the facts in every case. For some reason or other, another commission was subsequently organized by the Navy Department to whom all these matters were referred, and that commission was not in session as many weeks as the prior commission had been in session months. They did not bring before them any witnesses at all, as the prior commission had done, and after the lapse of about seven weeks of existence, they reported against every one of the claims except the five that are named in the pending bill. I believe five.

Now, sir, instead of throwing all the claims of that description before a tribunal where the Government would be represented and the claimants would be represented, and having the whole subject investigated by the Court of Claims, the proposition is to single out in the pending bill the cases where that second commission made an allowance, and pay them. The point that is needing the attention of the Senate, in my judgment, is this: that whereas the individuals named in this bill have a gross amount allowed to them, it is not stated in the bill on account of what vessel the allowance is made; it is made to them on account of all their claims; so that if the matter should ever come to be referred to the Court of Claims hereafter, and they present their claims, they may get allowances made in the Court of Claims on the very same basis upon which these allowances are now made.

Mr. FRELINGHUYSEN. If the Senator will permit me, the report of the commission shows on what these items are allowed.

Mr. DRAKE. I submit, in reply to the honorable Senator from New Jersey, that the bill should specifically apply these amounts to the particular things upon which they are intended to be allowed, and not that these parties constructing, for illustration, ten vessels, and getting an allowance upon five of them, should bring in their whole claims for the whole ten vessels afterwards, and spread this amount allowed by the pending bill over the whole of them. That is one point of objection that I have to this bill.

Another point of objection is that through some means that we do not comprehend this second commission in the Navy Department, sitting not as many weeks as the first one sat months, have just thrown out altogether all the other claims, which, I venture to say, upon investigation would be found equally meritorious with these, and singled these out for the favor of Congress, leaving the others entirely out in the cold. Now, sir, there is pending here a joint resolution which sends the whole of these claims to the Court of Claims. That joint resolution has been before the Naval Committee of the Senate and reported back without amendment, and its passage recommended; and the point with me is, why should we take up these five and ignore all the rest? As I do not happen to have in my possession at this moment, but have left them at my room, the documents which bear on this matter, I would much prefer that the consideration of the pending bill should not be pressed to a conclusion to-day.

Mr. CORBETT. In my opinion, it should be expressed in the bill either that this amount which is to be paid shall be in full for the claims of these individuals, or else that it shall be for their claims for particular vessels, as suggested by the Senator from Missouri. I think it will be entirely wrong to leave the matter open for a readjustment of the claims in the Court of Claims after we have made a partial allowance. Either the whole matter should be referred now, before this appropriation, to the Court of Claims, or else, if this allowance is to be made, the bill ought to specify particularly for what vessels it is made, so that the parties may not go to the Court of Claims with the same claims again.

Mr. CRAGIN. Mr. President, I have before me the report of the commission appointed by the Secretary of the Navy, and it will be found by examination that this report makes a distinction between the different contractors and different vessels. The report names the different vessels for which the contractors are to receive an allowance, so that it is not necessary to specify in the bill the particular vessels upon which the allowance is paid.

In the first place the commission examined the accounts of all these contractors, and report here the amount that it cost each contractor more than he received from the Government to build the vessel which he contracted to construct. That is put down in a separate column, and then there is a column containing the amount of loss to each contractor occasioned by alterations and delays ordered by the Government, and it is on account of these alterations and delays that the awards are made in these five cases.

In the case of Secor & Co., and Prime, Secor & Co., the description of the work is, "River and harbor monitors Manhattan, Tecumseh, and Mahopac," and the actual cost of these three vessels, over and above the contract price, was \$1,236,101 22, and the amount of such increased cost caused by the delay and action of the Government as determined by the board was \$115,539 01, and the commission report that the Government shall pay the latter amount, being the actual increased cost to the contractors caused by the delay of the Government and alterations ordered by it. The next case on the list is that of Alexander Swift & Co., builders of the river and harbor monitors Oneota and Catawba. The board report the actual cost of those vessels, over and above the contract price, to be \$665,757 22; but the board did not find that there was any loss occasioned by the delay of the Government and alterations ordered by the Government, so that they did not report anything in favor of these parties. So it is throughout, and hence it will be seen that if this bill passes it will simply pay the contractors named the money that the board awarded to them as the increased cost of their work occasioned by the delay of the Government and by the alterations ordered by the Government. It leaves all the other cases where the contractors claim that they suffered



loss in consequence of the increase of labor and materials to be referred to the Court of Claims. This bill simply singles out those cases where loss was occasioned by the action of the Government as ascertained by this commission. The cases are distinct and separate entirely. The Committee on Naval Affairs had this matter under careful consideration, and reported this bill to cover the cases reported by the board, and reported another bill covering the other class of cases where the increased cost was occasioned by the increase of labor and materials, referring them to the Court of Claims; but where the cost to the contractors was increased by the direct action of the Government, as in all the cases embraced in this bill, the committee say these men ought to be paid; and when they are paid they lose millions and millions of dollars.

Mr. CORBETT. I should like to inquire whether this bill as now reported requires this money to be paid as per the report made by the commission, or has any reference to that report? If not, why cannot these persons apply this money upon the whole claims, claiming that it is paid upon any other work they may have done?

Mr. HENDRICKS. I ask the Senator if the insertion of this language would be agreeable to him: "which shall be in full of all claims upon the vessels on which the board made the allowance under the act of March 2, 1867."

Mr. CORBETT. Do I understand that this is a report of a board of naval officers, or the report of the Committee on Naval Affairs?

Mr. HENDRICKS. The report of the Committee on Naval Affairs is based on the report of the board. This bill is simply to carry out the report of the board.

Mr. CORBETT. If it is the report of the board, it is satisfactory. If the report of the committee is substantially the same as that of the board of naval officers, it is satisfactory.

Mr. HENDRICKS. It is just the same.

Mr. FRELINGHUYSEN. Mr. President, this case is a very simple one. I want to say a word, as the two subjects are connected. This bill of the Senator from Indiana certainly ought to pass; and the other bill which has been talked of, to refer this whole subject again to the Court of Claims, I certainly think ought not to pass. The act of 1867 provided that there should be a commission appointed who should examine all these claims on this basis; that they should pay whatever was the additional cost from changes made by the Government; that they should pay for all additional expense in consequence of delays occasioned by the Government and the advance of labor and materials during those delays which the contractors could not avoid by any prudence. That was referred to this commission. The contract price for these vessels was \$14,000,000. The contractors claimed as additional \$10,000,000; the Department allowed them \$5,000,000, so that the contractors claimed \$5,000,000 more. That was referred to this board. They examined the whole subject, and they have reported about one hundred and fifty-eight thousand dollars to be due, which this bill provides for.

Now it is proposed to have the claims which were before the commission referred to the Court of Claims, where the commission allowed nothing. There is no propriety in that. There is not the slightest evidence before the Naval Committee that that commission's report was not a just and correct report; and if Congress is going to refer cases over and over again, until they can get a report against the Government, they will be gratified. And more than that, if this subject ever is investigated again, it ought not to be brought before the Court of Claims, because all these contractors of course have their witnesses, while the Government will not be prepared to meet them at all. If there is to be a reinvestigation it ought to be before another commission, who are not tied down by the strict rules which regulate a court.

Mr. DRAKE. Mr. President, I would ask the honorable Senator from Indiana to oblige

me so much as to allow this bill to go over until to-morrow. Not expecting it to come up this morning I did not bring the papers and documents that I had connected with it. I do not wish to interpose any opposition to the bill that would look at all like interfering with the passage of a bill which is right in itself. I merely wish time to examine the matter. If the honorable Senator would allow the bill to go over until to-morrow I think it might be disposed of then.

Mr. ANTHONY. If this bill is to go over, or if it is not to go over, I do not wish to allow it to pass from the Senate without expressing, as one of the Committee on Naval Affairs, my opinion that the refusal to pass this bill is working a very shameful injustice. This subject has been fully investigated by the Committee on Naval Affairs, and I believe the bill has received the assent of every member of that committee; and now we are asked to put it over because some other people who have as good claims upon the Government are not connected in the same bill.

Mr. DRAKE. I do not ask it on that ground, I will say to the honorable Senator.

Mr. ANTHONY. I understood the Senator to make that objection.

Mr. DRAKE. I do not ask the postponement of it until to-morrow on that ground. I simply ask that I may have one day to re-examine the matter, and I shall certainly make no objection to its coming up to-morrow.

Mr. ANTHONY. I misunderstood the Senator greatly if I did not understand him to object to this bill because other people who had as good claims were not included.

Mr. DRAKE. I did; but I do not urge that as the ground for my asking the postponement of it until to-morrow.

Mr. ANTHONY. If we are never to pay one creditor of the Government until we can get a bill to pay all the others I do not think we shall render justice to our citizens. There are a great many people who seem to think that a contractor with the Government must necessarily come here to cheat the Government. I never saw these men except such of them as appeared before the committee, and saw them only there; none of them have been before me or written to me except to make communications in regard to their claims which were laid before the committee, as they had a perfect right to do; and no class of persons ever appeared before me with any claims upon the Government that made a better impression, and hardly any class ever made so good an impression as these men. I think their claim is manifestly just; and I am quite sure, if every member of the Senate had an opportunity to examine it as the Committee on Naval Affairs have examined it, the bill would pass the Senate unanimously.

Mr. HENDRICKS. The circumstances of these contractors are pretty well known to Congress; and I have always felt that it was a shame to Congress that they should allow these men, who constructed the Navy that accomplished so much during the war, to be broken up. I do not feel that they ought to lose one dollar. Every Senator knows that while they were constructing these vessels materials and labor advanced so upon their hands that it was utterly impossible for them to construct the vessels within the provisions of the contracts. I feel that there are very many of the contractors not provided for in this bill and not provided for by the report of the board who ought to be provided for; but a board appointed under the law of Congress that has made a very limited and a very economical report has furnished to the Committee on Naval Affairs the basis of this bill. We have not gone a dollar beyond that. We have taken just what they reported under this carefully worded law of the 2d of March, 1867, which only provided that they should be paid where the delay and the increased cost were occasioned by the Government in changing the plans and specifications of the work as it went on. Is any Senator willing to allow men

to lose money under such circumstances? Is there any Senator here who would employ a carpenter to build a house for him, and after that carpenter had laid the foundations and had made the framework of the building he should go and order a change of the work, and who would then in court say to the contractor, "You shall stand by your contract, and I will not pay you for the increased cost of this work caused by the change that I myself ordered?"

This is the basis of the relief that is provided for in this bill. It is a relief so palpable to my mind that it seems to me to be a public wrong to refuse it or to delay it. The Senator from Missouri was upon the committee; he participated in the discussions in that body, and I think it is rather hard now after this bill has been delayed so long, in part by the sickness of the chairman of the committee who reported it, that the Senator should now ask this delay. I am ready to aid him in giving all proper relief to the other contractors. I do not occupy the ground stated by the Senator from New Jersey; I am willing to give the other contractors some relief; but the board has not reported in their favor. The board has reported in a most careful report—careful, I mean, in guarding the Government, careful in cutting off all possible allowance that might be based upon any principle except that mentioned in the law—in favor of the parties provided for in this bill. Therefore I think the bill ought to pass at once.

These men have sustained very heavy losses. It is known to every member of the committee that, instead of being a couple of hundred thousand dollars, their losses are certainly beyond two million dollars. I have no doubt of it. Another board made a report, and I will say to the Senator from Missouri that the first board made a report upon very different principles; that board was allowed to report all losses without reference to the causes of the loss; but under the act of 1867 this board was allowed to report only such losses as were occasioned by the act of the Government in making a change in the plan and specification after the work was commenced—just as contracted in the allowance as it is possible to be; and I feel ashamed that we shall delay these men longer. It is a heavy thing to carry in the banks at interest all the time a loss of this amount. One contractor came before the committee for whom we provided in the last Congress, and who was imprisoned in the city of Boston because of the debt that he contracted in constructing a vessel which fought at Fort Fisher and which fought at Charleston, and I felt that the whole nation was disgraced when that man was imprisoned for such a debt as that. Now, to see enterprising and useful citizens, men whose enterprise adds so much to the respectability and wealth of the country, embarrassed because they abandoned private enterprises and the construction of vessels upon private account to build them for the Government, is not just. Do Senators know the fact that in all the Government work-shops I believe not one single ship was finished which fought the enemy, that all the fighting was done by vessels constructed by these private contractors? And are Senators willing to delay, are Senators willing to refuse them this pay which is based only upon the act of the Government itself?

The Senator from New Jersey is somewhat mistaken as to the amount involved in the bill. The amendment of the chairman of the committee carried it up to about two hundred thousand dollars, or, perhaps, a little above that. The allowance, in my judgment, is not more than one fourth of what it ought to be; but it is based upon the report which is provided for in the act of 1867. That bill was carefully guarded after consultation between the naval committee and the Committee of Claims of the other House. Every point was considered and everything provided that would secure the rights of the Government in every possible way, as we thought; and now that a report has been made, after a year's delay and more, this allow-

ance, so small in comparison with the general loss, so inconsiderable and contemptible in comparison to the great work that these contractors accomplished for the Government in time of war, it seems to me ought not to be delayed a day longer. The Senator from Missouri has charge of another bill. I ask him why, as that bill comes from the same committee, he shall antagonize that to this? They are not in antagonism. This bill rests upon the report of the board, and I think he has no right to antagonize the two measures.

Mr. DRAKE. I will state to the honorable Senator that the claims which are represented in the bill I reported come equally from a board established under the very act that the board was established under that his bill represents.

Mr. HENDRICKS. No, Mr. President, the Senator from Missouri is mistaken. The board that he speaks of was organized not under a law of Congress, but simply under a resolution of the Senate passed at an executive session. It did not have the force of law, and therefore the report of that board was not in the nature of an award, and that resolution of the Senate allowed that board to take into consideration all losses from whatever cause. This is under the law of Congress, a board organized under the law which restricted it in the allowance to such losses as were occasioned by the Government directly, and not occasioned by the general appreciation in labor and materials.

Mr. NYE. The resolution referred to by the honorable Senator from Indiana I introduced myself at an executive session. Under it the first board was formed, and after that board reported, the honorable Senator from Indiana, one of the Senators from West Virginia, [Mr. WILLEY,] and myself had it referred to us, as a sub-committee of the Committee on Naval Affairs, to report the amount due. We reported a bill. The chairman of our committee moved an amendment to reduce the amount, and that bill was lost. Now, Mr. President, I have only a word to say. It seems to me that the interests of these men who so faithfully served this country in the hour of need are being trifled with by this delay. They are hanging on the very verge of bankruptcy. They have been for three or four years struggling with Congress with all their might to get temporary relief from the embarrassments that are oppressing them. Now, I appeal to the honorable Senator from Missouri whether it is worth while to ask delay on these amounts that are adjudicated by the chosen officers of this Government, who have acted with great caution at least in allowing under the terms of the law itself only what they would be entitled to allow.

Mr. DRAKE. All I asked was an opportunity to refresh my knowledge of the facts of the case from the documents; but if these gentlemen take it so much at heart, I do not know that I shall insist on that request.

Mr. NYE. The facts have been put before the Senate during the last half hour so that the honorable Senator cannot fail to see them. It is a case so clear that I submit to the Senate it is trifling with these men, who are trembling on the verge of bankruptcy, to attempt now to delay their payment a day longer, and I hope it will not be done.

Mr. DRAKE. I will not press the postponement.

Mr. TRUMBULL. I hope the order of the day will be proceeded with.

Mr. CORBETT. I desire to offer an amendment, and I think if the Senator from Illinois will permit it to be voted upon the bill may be passed in a few minutes.

The PRESIDENT *pro tempore*. Is it the pleasure of the Senate to pass over informally the unfinished business of the last sitting?

Mr. TRUMBULL. I hope not. It is very manifest, I will say to the Senator from Oregon, that this bill cannot pass without discussion. The Senator from Vermont [Mr. EDMUNDS] wishes to look into it, and the Senator from Missouri [Mr. DRAKE] has asked to

have it go over. Two or three Senators rose to take the floor when I called for the order of the day. It seems to me we ought to proceed with that business at once.

The PRESIDENT *pro tempore*. The order of the day is the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Georgia, and Alabama to representation in Congress, upon which bill the Senator from Maryland [Mr. VICKERS] is entitled to the floor.

#### PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had, on the 8th instant, approved and signed the following bills:

An act (S. No. 331) to extend the time for completing the military road authorized by an act entitled "An act granting lands to the States of Michigan and Wisconsin to aid in the construction of a military road from Fort Wilkins, Copper Harbor, Keweenaw county, in the State of Michigan, to Fort Howard, Green Bay, in the State of Wisconsin;

An act (S. No. 190) to further provide for giving effect to the various grants of public lands to the State of Nevada;

An act (S. No. 320) for the relief of George Lynch, a soldier of the war of 1812; and

An act (S. No. 188) to amend an act entitled "An act for the relief of the inhabitants of cities and towns upon the public lands," approved March 2, 1867.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress.

The message further announced that the House had passed the following resolution:

*Resolved*, That the Senate be invited to join with the House of Representatives in the Hall of the House in the reception of the embassy from the Chinese empire to the United States of America, at eleven o'clock a. m. on Tuesday.

The message further announced that the House had passed the following bills of the Senate:

A bill (S. No. 319) granting a pension to Bridget W. McGrorty and the minor children of William B. McGrorty, deceased;

A bill (S. No. 339) granting a pension to Sarah Webb, widow of William R. Webb, and her minor children; and

A bill (S. No. 419) granting a pension to Mary Atkinson.

The message also announced that the House had also passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 218) granting a pension of seventeen dollars per month to David Dubigg, of Lynden, Vermont, father of late First Lieutenant Dennis Dubigg, of company M, first regiment Vermont artillery;

A bill (H. R. No. 256) granting a pension to George Truax, late a private in company H, first regiment of Virginia volunteers;

A bill (H. R. No. 1164) granting a pension to Margaret Davis;

A bill (H. R. No. 1165) granting a pension to Elizabeth Cassidy;

A bill (H. R. No. 1166) granting a pension to Louisa M. Williston;

A bill (H. R. No. 1167) granting a pension to Esther Graves;

A bill (H. R. No. 1168) granting a pension to Frederic Denning;

A bill (H. R. No. 1169) granting a pension to Joseph B. Rodden;

A bill (H. R. No. 1170) granting a pension to Eliza Matthews;

A bill (H. R. No. 1171) granting a pension to William F. Nelson;

A bill (H. R. No. 1172) granting a pension to Lucinda J. Letcher;

A bill (H. R. No. 1173) granting a pension to Julia A. Barton;

A bill (H. R. No. 1174) granting a pension to Julia Carroll;

A bill (H. R. No. 1175) granting a pension to Cornelia Peaslee;

A bill (H. R. No. 1176) granting a pension to Mary Cover, widow of Samuel Cover, deceased, late a private in company G, of the fifty-sixth regiment of Pennsylvania volunteers;

A bill (H. R. No. 1177) granting a pension to Malinda Ferguson, widow of James Ferguson, late a private in company C, of the first regiment of Kentucky cavalry;

A bill (H. R. No. 1178) granting a pension to Mary Merchant, mother of Timothy H. Pittsford, deceased, late a private in company G, of the first United States veteran engineer corps;

A bill (H. R. No. 1179) granting a pension to Mary A. Falardo, widow of Onesimus Falardo, deceased, late a private in company K, of the one hundred and twenty-fifth regiment of New York volunteers;

A bill (H. R. No. 1180) granting a pension to Phoebe McBride, mother of Thomas McBride, late a private in company B, of the eighty-seventh regiment of Illinois volunteers;

A bill (H. R. No. 1181) granting a pension to Harriet E. Shears, widow of John T. Shears, deceased, late a private in company H, of the fifty-seventh regiment of Illinois volunteer infantry;

A bill (H. R. No. 1182) granting a pension to William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers; and

A bill (H. R. No. 1183) granting a pension to Christopher M. Cornmessor, late a private in the independent Iowa home guards.

#### TRANSFER OF A SUIT.

Mr. CONKLING. I wish to ask the consent of the Senator from Maryland, who is entitled to the floor, and also of the Senator having in charge the bill which is the regular order, to allow me to call up a joint resolution which I think will meet with no objection and can be passed in a moment, and which is a matter of some consequence in point of time. The chairman of the Committee on the Judiciary knows the resolution to which I refer. A suit has been brought in the West Virginia State courts to recover a very valuable part of the Harper's Ferry property. The court is to occur in about a week; and for reasons which can be stated in a moment it is very important to authorize the transfer of the suit to the Federal courts. The House of Representatives has passed a resolution to that effect and sent it here. The Maryland delegation know personally the facts, and are interested in having it done. The Senator from West Virginia [Mr. WILLEY] knows also about them and has a letter explaining them. I ask that the regular order be laid aside for a moment, that we may take up the resolution.

The PRESIDENT *pro tempore*. Is it the pleasure of the Senate to pass by the order of the day informally for the purpose of proceeding to the consideration of the resolution indicated?

Mr. HENDRICKS. Before that is done I will suggest to the Senator from New York that a bill proposing to take a single case out of one court into another will hardly pass without some examination.

Mr. CONKLING. I think if the Senator will hear a brief letter read in reference to this it will pass without any discussion or opposition from him, at all events; but if he says he will discuss it I will not press it now.

Mr. HENDRICKS. I do not say that.

Mr. CONKLING. It is simply a proposition to get a fair trial in a case in which the United States is interested in the Federal courts, in place of having it disposed of under local influence.

The PRESIDENT *pro tempore*. Does the Senator move to postpone the order of the day?

Mr. CONKLING. I do, unless some Sen-

ator says he means to discuss the resolution, and insists upon debating it. In that event I shall not press it.

Mr. HENDRICKS. The object of my statement was merely to suggest to the Senator that this was a matter about which we should know something before acting.

Mr. CONKLING. I ask that the joint resolution be read, and then, if any one insists on debating it, I will withdraw the suggestion for its consideration.

The joint resolution was read as follows:

Joint resolution to provide for the removal of a suit pending in the circuit court of Jefferson county, West Virginia, to the circuit court of the United States.

Whereas a suit in ejectment is now pending in the circuit court of Jefferson county, in West Virginia, against the tenant in possession, to recover possession of the Harper's Ferry property, owned by the United States, and it is doubtful whether under any existing law of the United States the said suit can be removed to the circuit court of the United States:

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the circuit court of the United States for the district of West Virginia, in session, or of the judge thereof in vacation, on the application of the defendant in said suit, showing that the property sought to be recovered by the said suit is owned or claimed by the United States under color of title, and verifying the facts set out in such application by his affidavit, to issue a writ by *certiorari*, directed to the said State court, directing it to send the record and proceedings in said suit to the said circuit court of the United States, a duplicate of which writ shall be delivered to the clerk of the said State court, or left at his office by the marshal of the said district, or his deputy or other person thereto duly authorized, and thereupon the said State court shall stay all further proceedings in said suit; and upon the return of the said writ the said suit shall be docketed in the said circuit court of the United States, and there proceed in according to law, and all further proceedings had therein in the said State court shall be null and void.

Mr. FESSENDEN. I suggest to the Senator from New York whether it is not advisable to put in the names of the parties to the suit. The resolution speaks of a suit pending for property owned by the United States, but the names of the parties are not given. It seems to me rather indefinite. While I am up I wish to ask whether there is authority to order such a transfer from a State court, whether you do not bring about a collision by authorizing the United States court to direct a State court to transfer a suit brought there? Has that ever been done?

Mr. CONKLING. It has been done repeatedly and by general act in cases which involve the interests of the United States Government not more directly and not as much so as the interest involved in this case. As to the description of the suit, that is very definite; the resolution describes the property, and describes it so definitely that there can be no mistake as to the suit intended. The only objection to changing the preamble in that respect is that, if amended, the bill must go back to the House and there encounter delay, when time is of the essence of the whole proceeding.

Mr. FESSENDEN. I do not make a motion; I merely make the suggestion.

Mr. CONKLING. I move to postpone the regular order for the purpose of taking up the joint resolution.

Mr. TRUMBULL. I am willing that the regular order should be passed by informally by unanimous consent.

The PRESIDENT *pro tempore*. By unanimous consent the joint resolution referred to by the Senator from New York will be considered as before the Senate.

Mr. BUCKALEW. I object.

The PRESIDENT *pro tempore*. Objection being made, it must be done by motion. The Senator from New York moves that the Senate proceed to the consideration of House joint resolution No. 284.

The motion was agreed to; and the joint resolution (H. R. No. 284) to provide for the removal of a suit pending in the circuit court of Jefferson county, West Virginia, to the circuit court of the United States was considered as in Committee of the Whole.

Mr. HENDRICKS. Mr. President, I am

not in favor of legislating in regard to particular law-suits. This action of ejectment can only settle a possessory right, and of course it must be a suit between some person in possession as a defendant and some person claiming the right of possession. If this property belongs to the United States, of course it can only be the right of a tenant which will come in litigation in that case. I want to know upon what principle we can transfer from the State court to the United States court a case pending between two men in regard to a piece of land. If we can do it in regard to Harper's Ferry we can do it in regard to the city of Indianapolis. If I should come in and say to the Senate that there is a piece of land in the city of Indianapolis for which John Brown has sued John Smith, and that the United States claims some interest in that land, could I ask to have that suit transferred to the United States court? I do not see how that can be. I think when we transfer a case to the United States court it must be upon some ground of jurisdiction such as is given by the Constitution of the United States. Congress cannot transfer all suits from State to Federal courts.

Another thing I will add. This case cannot prejudice the United States. No suit that is tried in that State court can decide the rights of the United States. The United States cannot be made a party in a State court or in any other court, perhaps, against her pleasure. She is not a party to the case; she is not affected by the result; her rights are not affected; she has no interest in that law-suit; it is between two parties, each claiming the right of possession; she cannot be committed or concluded by any verdict or judgment rendered. It is not proper to send it there, in my judgment; therefore I move that this joint resolution be referred to the Committee on the Judiciary.

Mr. WILLEY. I desire to make a short statement in regard to this matter. This action is brought to recover the most valuable part—it may be said to include the whole in point of value—of the United States property at Harper's Ferry. It is an action of ejectment, which, under our law as now existing in West Virginia, settles the title to the property. It is brought against the officer whose name is Captain D. J. Young, now in charge and possession of that property. The suit is pending in the circuit court of West Virginia for the county of Jefferson. That court will be in session in a few days. The issue is made. The trial was postponed at a previous term of the court in order to enable action to be had in Congress to remove it from the jurisdiction of the State court of West Virginia to the jurisdiction and decision and arbitration of the Federal court. This joint resolution has been drawn, I understand, under the supervision of the acting Attorney General, and it is very much desired on his part that it should be passed immediately. The grounds upon which he desires the passage of this resolution are not that they have any particular objection to the decision of this case by the circuit court in Jefferson county, but it has come to his knowledge, as it has come to my knowledge, that a fair trial of the rights of the parties litigant cannot be had in Jefferson county.

It is vain to attempt to evade the fact that there is a very bitter hostility in that county against the United States, against the interests of the United States in any respect; and it has, moreover, I understand, come to the knowledge of the authorities that there is a combination there, and that there exists a prejudice in the community rising out of our late difficulties and arising out of local influences that would prevent anything like a fair trial of the issue there made. Inasmuch as the property belongs to the United States, it is but just, I think, and so the Attorney General thinks, that the rights of the United States should be tried in its own courts, where the Attorney General can act in his official character, and where the trial of the issue can be removed from the immediate vicinity of the premises, and where there can be a jury selected from the State at

large that will not be under the influence of the prejudices, local and otherwise, that are known to exist in the minds of the community in that vicinity; and inasmuch as it is simply the transfer of the jurisdiction to try the title to a piece of property belonging to the United States from a State court to the Federal court, I am myself at a loss to see any feasible objection why it should not be done. Why any person representing the interests of the United States should desire, should insist, that the right to this property, in which every Senator here is just as much interested as I am, should be tried in a local State court rather than in a court of the United States, is what I cannot appreciate and cannot understand. All that is desired by the United States authorities is to take the trial of this issue from the vicinity of these prejudices, local and otherwise, which, in their belief, prevent a fair hearing of the cause, and transfer it to the courts of the United States, whose property this is; and I am sorry that there is any objection to the passage of this joint resolution.

Mr. HENDRICKS. I will ask the Senator from West Virginia who is the party plaintiff and who is the party defendant?

Mr. WILLEY. A man by the name of Brown, a resident of Jefferson county, is the party plaintiff; and the defendant in possession is Captain D. J. Young, United States Army, the officer of the United States locally and personally in charge of the premises.

The PRESIDING OFFICER. (Mr. POMEROY.) The question is on the motion of the Senator from Indiana, to refer the resolution to the Committee on the Judiciary.

Mr. CONKLING. But one remark needs to be made on that motion. If the resolution is to be recommitted to the Judiciary Committee and reported here it may just as well be postponed indefinitely.

Mr. HENDRICKS. Has it ever been committed?

The PRESIDING OFFICER. The Chair understands that it has not been to a committee.

Mr. CONKLING. That is true. I should not have said "recommitted," but "committed" to the Judiciary Committee. The court is to occur, I think, in a week from the time the letter was dated which is in the possession of the Senator from West Virginia. My impression is, further, from what I was told, that it will commence next Monday. Unless the resolution is to be passed now the object of it is lost; therefore we may as well vote on it now.

The motion to refer was not agreed to.

Mr. BUCKALEW. I cannot believe that the statement made to us is accurate in regard to this case. If private parties bring a suit against an officer of the United States in regard to the public property, there can certainly be no difficulty in setting up that he holds it under the United States and going into the Federal courts under our general laws. If that is all that is involved, this joint resolution is manifestly unnecessary. There must be something else in the case. If Mr. Binkley, the Assistant Attorney General, desires us to interpose by an act of Congress in this case, he should send us some official report setting forth the nature of this issue and the grounds upon which our interference is asked. It must certainly be that some private interest, rather than the interest of the United States, is involved in this case, or there would be no desire for the interposition of Congress in regard to it; or it must be a very—I will not, however, express what I intended to. I will say it must be a very serious mistake on the part of this Assistant Attorney General.

This resolution is in the nature of a judicial mandate. Congress proposes to pass a law ordering the State court in West Virginia to do this, that, and the other thing; to stop their proceedings at once and turn the case over to the United States court. Our general laws conferring jurisdiction upon the courts of the United States, in cases which may arise under



the Constitution, are prospective. Our laws on that subject are all prospective. They apply to future cases. Congress has never attempted to single out a particular civil issue, an issue upon the title to either real or personal property, and to order by its sovereign mandate that one court shall turn it over to another. Why, sir, it is a perfect novelty in legislation, and upon the ground which is stated here to the Senate as an excuse for our passing this extraordinary resolution there is no reason whatever for its passage, because, unquestionably, this case could be turned over with entire convenience into the courts of the United States. If it be a suit against a public officer to recover possession of that property to which the United States claims title, and to which no doubt it has good title, and if the Attorney General, or his office, or the Assistant Attorney General, enlists in behalf of this party, he will have no difficulty in getting into court. I believe, judging from the general probabilities of this case, that this is an attempt to bring in the authority of Congress in the interest of some private party.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 319) granting a pension to Bridget W. McGrorty and the minor children of William B. McGrorty, deceased;

A bill (S. No. 339) granting a pension to Sarah Webb, widow of William R. Webb, and her minor children;

A bill (S. No. 419) granting a pension to Mary Atkinson;

A bill (H. R. No. 1039) to admit the State of Arkansas to representation in Congress;

A joint resolution (H. R. No. 284) to provide for the removal of a suit pending in the circuit court of Jefferson county, West Virginia, to the circuit court of the United States; and

A joint resolution (H. R. No. 287) for the restoration of Captain James F. Armstrong, United States Navy, to the active list from the retired list.

#### REPRESENTATION OF SOUTHERN STATES.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The unfinished business of Saturday, being the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress, is now before the Senate as in Committee of the Whole, the pending question being on the amendment of the Senator from Massachusetts [Mr. WILSON] to the amendment of the Committee on the Judiciary, to insert the word "Alabama" after "Georgia," in the fourth line of the first section of the committee's amendment; and upon that question the Senator from Maryland [Mr. VICKERS] is entitled to the floor.

Mr. VICKERS addressed the Senate in opposition to the bill. [His speech will be published in the Appendix.]

Mr. SAULSBURY. Mr. President, I have listened with a great deal of pleasure to my honorable friend from Maryland, and I congratulate him upon the able speech he has made to the Senate. My honorable friend has not been a member of this body very long. Had he been he would have discovered ere this that that instrument, the Constitution of the United States, to which he has so justly and aptly referred in his remarks, has long since been ignored in the legislation of this country. It is an old, worn-out instrument without binding force. It has been quoted so often during the legislation of the last few years that I must suggest to my honorable friend that, however able the speech he has made is, and however attentively we have

listened to him, yet it has been labor lost. Does my honorable friend seriously believe that any member of this body supposes that the bill now under consideration has constitutional warrant or authority? Does anybody suppose that any gentleman in this body thinks that it is in the power of the Federal Congress to annex terms and conditions to the right of admission to representation upon this floor? When the Constitution of the United States declares that each State shall be entitled to two Senators in Congress and to Representatives according to its population, and when nothing is said in that instrument as to the power to limit or restrict this right of the States, does my honorable friend suppose that any gentleman here seriously thinks that there is such a right, such an authority in this body, when that right and authority are viewed in the light of the Federal Constitution? Let me say to my friend, away with this notion that the Constitution has any binding force or operation here?

Mr. President, it is not my intention to make a speech upon this question, but the particular phraseology of this bill is such that it necessarily attracts attention. Has there been some compromise upon phraseology invoked in reference to this bill? While one portion of the American Senate and of the dominant party claim that these States have been out of the Union, that by their ordinances of secession, followed by actual hostilities, they forfeited the right to representation upon this floor and all the rights that they had while States of the Union under the Constitution, another portion have contended to the contrary, that these States never forfeited those rights, that they never ceased to be States of the Union; and now comes this bill. What for? It is popularly supposed to be, the newspapers would have you believe, a bill for the admission of five States into the Union. Not so. Let the champions of the doctrine that ordinances of secession followed by acts of hostility took States out of the Union rise and proclaim manfully, in the face of the Senate and before the country, that such is the fact, and that the intention of this bill is to bring back States into the Union which are not in the Union. Sir, if your doctrine be that these States are out of the Union, and that they must be brought back, so frame your bill; so word your enactment that your doctrine shall be apparent upon the face of the bill. But not so. Your bill does not declare that these States were ever out of the Union. It does not declare that you propose now to admit them into the Union or readmit them into the Union; neither does it declare in so many words that they are States in the Union; but it is a bill to admit certain States "to representation" on this floor.

I take it then, gentlemen, that you are bound by the face of your bill to the doctrine that these States are and ever have been States in the Union. If they are not now States in the Union, if they have ever been out of the Union, why do you not say so? You treat them now as existing States by this bill. You have been proclaiming, and the country has heard you in thunder tones proclaim from one end of the land to the other, that these States were out of the Union; and yet instead of bringing in an open, manly bill for the readmission of States into the Union which by rebellion had forfeited the right to a place in the Union; you simply bring in a bill to readmit these States as States not into the Union, but to the right of representation.

I know that my honorable friend, the Senator from Maine, [Mr. MORRILL] once held the doctrine that by the act of war these States ceased to be States of the Union, and hence it was that he advocated your reconstruction policy; hence it was that in the very able and ingenious argument which he made upon the question of reconstruction, he could find no warrant of authority for your action except upon the doctrine that they had ceased to be States of the Union and had forfeited their

existence as States by reason of rebellion and actual hostilities. I call upon him, if such be his doctrine, if such be the doctrine of this party which lately met in convention and hoisted the names of Grant and Colfax—those names which were to frighten somebody, which were to sweep all over the country like wild-fire, which were to awaken enthusiasm and stir the souls of the American people, and whose onward march to the presidential and vice presidential chair was to be nothing but one march of triumph—if he is sincere in his doctrine that these States forfeited their rights in the Union by ordinances of secession coupled with acts of hostility, I ask him to make it plain; rise and say that "Whereas the States of North Carolina, South Carolina, Louisiana, Georgia, and Florida, by their ordinances of secession and by rebellion, forfeited their rights as States in the Union and ceased to be States, therefore be it enacted that the States be readmitted into the Union."

But instead of that we have now, as far as this bill goes, a total abandonment of the cardinal principle of your political faith, and you come now and you tell the American people, and you tell the country, "Here are five States in the Union that are unrepresented, and we, in the plenitude of our generosity, in the exuberance of our magnanimity, will allow these States, (which if they be States are States equal in right to all the other States in the Union,) to come in and take seats among us. But we will not do that exactly as the thing ought to be done; we will annex certain terms and conditions to this right of representation; although these are States in the Union and have equal rights with us, we will put some limitations upon them; they must ratify a certain article which we proposed as an amendment to the Constitution!"

Then I hold you to this, gentlemen: you mean to say that notwithstanding they are States in the Union you will not allow them a constitutional right to representation in this body unless they ratify what you propose to them. You mean to say to the American people, and that is the doctrine in your bill, "True, you are States in the Union, but you shall have none of the benefits of the Union; you shall have no voice in the legislation of the country unless for the sake of having that benefit you shall do our bidding by adopting the proposed constitutional amendment, which you would not adopt if left to your own free will and choice."

According to the doctrine of this bill, upon its face as you present it to me, notwithstanding your theory has heretofore been that these States are out of the Union, now treating these States as States in the Union, I say you have just as much right to say that my State or Maryland or New York or any other State in the Union shall not be represented upon this floor unless they will adopt a constitutional amendment, or do some other thing which you have bid them do.

Hence I say that my remark to my distinguished friend from Maryland was just and proper, that invoking the Constitution of the United States in this body upon this bill is entirely out of place, with all due deference to him, because when you look to that worn-out instrument, that disregarded instrument, that ignored instrument, you can find no power in the Federal Congress to put limitations upon the right of a State to representation upon this floor or in the other House of Congress. If they be States in the Union and you can find no limitation upon any such right as that, what business has it in your bill? If they be States of the Union, point me, if you can, to your authority to impose such a limitation and such a restriction in reference to those States which does not exist in reference to any other State of the Union.

Another proposed condition is that they shall never abridge the elective franchise from any consideration of race or color. My remarks in reference to the other proposition will apply to this. Where is your authority in reference

to those States any further than that authority exists in reference to States now represented upon this floor? And yet is it seriously contended, does any man suppose, that these States will admit that any condition which you may annex to their right of representation will be binding upon them? When once they have representatives on this floor and in the other House of Congress, and they meet in State convention, will they not have the same powers as States that the other States of the Union have? Cannot the people of Maine and New Hampshire and the other States meet to-morrow in State convention and say who shall be voters within those States, and cannot they base a distinction between voters or the qualification of voters upon color or race, intelligence, property, or anything else? Why does this result? It is because the people of those States, acting in their sovereign capacity, have the right to determine the character of their own political institutions. There is no warrant of authority in my friend's worn-out instrument which he has dragged out from some dark hole and brought in here before the Senate of the United States—the Constitution, or what was once the Constitution, of the United States—there is no authority in that old, worn-out, and discarded instrument to interfere with the exercise of just State authority. When these States get here with their representatives, what power have you to expel their representatives because they have disregarded this fundamental (I believe it is so called) condition which you choose to annex, not to their admission or their readmission into the Union, and not to their right of representation either, but to the fact of their being admitted on this floor. It is not even a condition annexed to the right of representation, but it is a condition annexed to the fact. Having the power to keep out their representatives here and in the other House of Congress, in the exercise of your power you say to them, "You are out, we are in, and we will keep you out until these fundamental principles are adopted."

Looking at this question, sir, with the eyes of a lawyer, I confess that while I once thought I knew something of the law if I stay in this body much longer I expect to forget what little I ever did know. I say so with all due respect to gentlemen, because I hear so many wild notions advanced; things told me as law that I never heard of away down in that benighted country from whence I came; things told me as constitutional law which I can find in none of the teachings of the fathers, which I never heard until this great and glorious and magnificent party, six or eight years old, the party of progress, of moral ideas, of economy, of retrenchment, of reform, of freedom, through the active agency of the Senator from Massachusetts and the distinguished gentleman who now presides over the deliberations of this body, and other distinguished gentlemen, was brought into existence! Then it was that all the old landmarks were erased. Then it was that all the teachings of the great and mighty intellects of the noble men who laid the foundations of this Government deep in the principles of constitutional law and civil liberty were forgotten, and new lights, rockets to be sure, as comets, flying rapidly through the air, with more tail than head, blazed and lighted up the political firmament! Then it was that we heard that there could be no republican government in the sense of the Constitution of the United States where Mr. Sambo was not invited into the public councils to illuminate by his superior wisdom the deliberations of the representatives of States and of people! Then it was that we heard it proclaimed throughout the length and breadth of this land, under the new *regime*, under the new political dispensation of which my friend from Maine, I believe, is a high priest, that the founders of the Constitution, the men who made your Government, who put it in motion, who guided it on step by step, were old fogies; that they were not up to the spirit of the times. It is true that in the short space of some seventy-five years we had

grown to be one of the greatest and most powerful nations of the earth. Peace was in all our borders; plenteousness everywhere abounded. Under the guidance of that good old Democratic party which, thank God, is not dead, but which is living, striving, moving, and which, in November next, will meet your standard-bearers and their followers and make places for these States in the Union as States of the Union, through the mighty voice of the people. While that party guided public affairs you ceased to be a comparatively small territory, with a few millions of inhabitants dotted along the Atlantic sea-board; you extended from ocean to ocean, and from the frozen regions to the torrid zone, until, like Jeshurun, you waxed fat and kicked, and the people, in a moment of blindness and folly, listened to your siren voice of reform, retrenchment, liberty, and freedom. The public debt was enormous in those days, you said; it amounted to some ninety millions. You have been in power a few years, and you have run it up to billions. In your Chicago platform, which nominated Lincoln and Hamlin, you talked of freedom of speech and freedom of the press; and you are the only party in existence in this country that ever suppressed a newspaper; and you suppressed hundreds of them. You talked of freedom of speech, and you are the only party that has ever been in existence in the United States which has converted the public forts into bastilles. You have illustrated your love of freedom by imprisoning citizens without warrant or authority. You have illustrated your regard for freedom of the press by suppressing papers which opposed your policy. You have illustrated your love of economy by squandering millions and millions, and billions.

True, I may be answered that most of this money has been expended in suppressing what you call a rebellion; but you know that hundreds of millions have been squandered and wasted through your extravagance, keeping up your negro bureaus, and all such things foreign from the nature of our system of Government. And, sir, recently, in your convention at Chicago, you resolved in favor of economy once more! You declared that retrenchment is needed, and you condemned the wasteful extravagance of Andrew Johnson's administration. Andrew Johnson! Your President, made so by you! A man who cannot spend a dollar unless you appropriate it; a man who has not touched, and cannot touch a dollar, even for the necessary purposes of the Government, until you have appropriated it! The wasteful extravagance of Andrew Johnson's administration must be rebuked, and lo and behold! you nominate a ticket to do that thing!

I know, Mr. President, that these remarks are foreign to the matter under consideration; but I see some of my good, reforming friends kindly smile; and you know we are told in the Good Book to stir up the purer minds occasionally by way of remembrance. I have just been fulfilling that injunction of the Good Book. [Mr. MORRIS rose.] Mr. President, I will not detain my friend from Indiana much longer. I know he has a sledge-hammer when he comes; but never mind, I have learned to bear blows, and to receive his with great pleasure.

I know that my friends here will not take offense when I tell them (inasmuch as I know they are very fond of the term) that I look on all this legislation as merely *ad interim*, for the time being, to last for a few days. Do you suppose, sir, that the great American people, North, if you please—those who never took up arms against the Federal Government—when they come to think upon and consider your measures, will approve of putting the South under the control of the negro population? Do you suppose they are going to let such legislation as that stand? No, sir. You will find reformers—true reformers—coming up here. It is said one of the best lessons that can be learned is to unlearn what you have learned

amiss. They will learn to unlearn what you have taught them amiss, and they will correct your legislation. They will never allow the people of the South to be placed permanently under the control of their former slaves. They will not allow limitations to be imposed upon some States of the Union as to their representation upon this floor which are not imposed on all the States of this Union; for if there be one doctrine dearer to the American heart than another, and especially dear to the great Democratic heart, it is the equality of rights of the people and the equality of the rights of the States.

The other day you passed "A bill to admit the State of Arkansas to representation in Congress." What is its preamble? Whereas Arkansas has done so and so; that is, whereas Arkansas has adopted a constitution republican in form and has ratified the fourteenth proposed amendment to the Constitution, therefore she shall be entitled to representation. What is the inference to be drawn from that? It has passed, I know; but it is a kindred measure to that now before the Senate, and hence I am justified in alluding to it. What is the inference to be drawn from such a preamble? Your "whereas" is the reason for your action. You do not simply do the act, but you assign the reasons, and one of those reasons is that Arkansas has adopted a proposed amendment to the Constitution. The inference is thereby irresistible that if Arkansas had not adopted the proposed amendment to the Constitution you would not admit her to the right of representation on this floor. Tell me where is your authority in the Constitution of the United States for putting the right of representation on this floor upon the ground that a State has ratified any amendment of the Constitution or done any other preliminary act of that sort? You can only do it by coming out manfully and saying, as my friend from Maine says, that these States are out of the Union, and therefore you can do what you please, impose any conditions when you admit them into the Union; but your bill does not do that. I can understand that on his theory you might in an act admitting Arkansas to representation in the Union annex to it a fundamental condition, planting yourself upon the doctrine that they were out of the Union, subject territory lying at your feet and subject to your absolute will. I can understand that; but the hypothesis on which your bill is based is that they are States—States to-day.

Mr. MORRILL, of Maine. Will my friend allow me to make a suggestion?

Mr. SAULSBURY. I am always glad to hear my friend.

Mr. MORRILL, of Maine. I will call his attention to this preamble, and see what he thinks of it:

"Whereas the people of North Carolina, South Carolina, Louisiana, Georgia, &c., have, in pursuance of the provisions of an act entitled 'An act for the more efficient government of the rebel States,' &c., framed constitutions of government which are republican in form."

I ask the Senator what he thinks the indication from that preamble is; whether they are in or out?

Mr. SAULSBURY. I will answer my friend. Taking the bill as it stands by itself, unconnected with any antecedent measure, I would put this interpretation on it: you say that the people of North Carolina, South Carolina, and other States, have done so and so, thereby recognizing them as States; and I say that you recognize them as States of the Union, but as States which have not had governments which you thought republican in form, and, therefore, you passed an act for their more efficient government, and to enable them to create a republican government, still claiming, however, that they were States. But the bill you passed a year ago—your bill for reconstruction—was a bill which totally denied the existence of these States as political communities, and, as I attempted to show on a former occasion, was destructive of all government, of all property, all law; and which was in itself a

declaration of the dissolution of society in all these States. But taking the preamble to this bill by itself, I should take it that the draftsman of the bill had in view what I have sometimes heard on this floor, "disorganized States."

We live to learn, Mr. President. We have learned a great many things during the discussions upon these so-called reconstruction measures and measures of a kindred character; things that we never dreamed of in our early days, which our fathers never taught us, which the wise men who went before us never left a record of an opinion on. But we hear them now, and we must meet them, and meet them as they are presented to us.

Mr. President, I did not intend to say one tenth as much as I have said. Allow me now to say in conclusion, that, in my judgment, no State that was ever in the Union has been out of the Union. You fought secession four long years on that principle. Your declarations on that subject were uniform during the existence of the war. Being in the Union when hostilities ceased, the right existed inherently in the people there to meet in conventions and frame their constitutions, so that there should be no provision in them repugnant to the Constitution of the United States; and they had the right, under the terms and provisions of the Federal Constitution, to immediate representation on this floor, without the let or hindrance of the Federal Congress; and the only right and the only authority you had in the premises was, when their representatives were presented here, to inquire whether they had the constitutional qualifications. You have not done so. If you had acknowledged that right when peace was restored, when the clangor of arms was no longer heard, when not an armed soldier was to be found in all that country, you would have had these States long ago not only in the Union, as they always have been, but represented on this floor, and you would have had your Government going on harmoniously, the people happy and contented, and as prosperous as a people could be after such a long and devastating war. You have got to come to that yet, sir. You cannot subvert the laws of the Almighty. You cannot place the degraded African above the white man. You cannot so legislate as to place that class of people over the whites. Although I do not charge individuals with having a design personally to see the white race degraded, yet such is the effect of this legislation, because you know that under your enactments it must be so necessarily. With a large portion of the southern people excluded from the right of voting, the blacks enfranchised, and in some States being more numerous than the whites, you know that in some States, at least, the local legislation must be under the control of the negro race according to your measures.

And pray, sir, have you had no examples of the state of society which must exist in those communities when you shall have accomplished your purposes? Have you forgotten the midnight parades in this city? Have you forgotten the disturbances, the murders, that have occurred in the capital of the nation? And do you suppose that in the South, when the negroes are armed with the political power of those communities, the state of society will not be equally bad? Mr. President, I have but one hope for my country and the prosperity of my country as against your—you will allow me to say it, for I absolutely believe it—unwise legislation, and that is that the animosities and the bitter feelings engendered by the war cannot always last; the feeling of kindness, the sense of justice will after a while not only plant itself in the great public heart and stir and move the great public soul, but it will find expression in popular action through the agency of the ballot-box. Much of the strife engendered by the war, much of the animosities then aroused has passed away; it is daily passing away; and now, from one end of the country to the other, the grand inquest of

the nation is sitting upon the wisdom or folly of your action here. They are giving out some feeble indications of what their verdict will be in November next. From the Pacific there comes a voice admonishing you of the judgment of the people upon the Pacific slope. Wherever elections have been held, the indications are that your policy is to be repudiated, that wiser counsels are to prevail, that the spirit of justice and the love of justice is again to influence and control the action of the people; and the prospect is bright. I will say to my friend from Indiana before I feel the weight of his blows, that in November next the people will not only sit in judgment upon your action, but that they will condemn it, and that a wiser policy will be inaugurated, and that we shall indeed have hereafter, if not through your agency, through that of others, a restored Union and a happy and contented people.

Mr. MORTON. Mr. President, I will say a word in answer to the Senator from Delaware, and then I propose to offer an amendment to this bill. The Senator from Delaware concludes by saying that the prospect of the party opposed to the Republican party or the party of the Union, is bright, and that they expect to gain the victory next fall. I would say to my friend from Delaware and to my friend from Maryland, also, that they should be careful how they denounce negro suffrage and talk about Sambo, for the prospect now is that on the next 4th of July, they will be placed on a platform of universal suffrage and universal amnesty, and we shall then find our friends engaged in the pleasing occupation of proving that they always stood there. [Laughter.]

It is a little remarkable, Mr. President, that whenever any allusion is made to placing the negro upon a political equality with the white man, they call it placing him over the white man; thereby conceding, as they do, that if he is made equal to the white man in political rights he will become his superior. I have never insulted the white race in that way. I have always supposed that they were capable of taking care of themselves; especially when their numbers were equal, and certainly when they were superior; but Senators are constantly admitting and affirming the superiority of the black race, by saying that it is putting the black man above the white man, whenever you put the black man simply on a political equality. They have lived among the negro race more than I have; they perhaps know them better than I do; they seem to distrust the ability of the white man and to stand in dread of the ability of the black man; therefore they look upon political equality as equivalent to putting the negro over the white man. That may answer as a description of the capacity of the whites of Maryland, and even of those of the State of Delaware, but it will not answer for that portion of the white race with which I am acquainted.

Mr. President, we hear this constant declamation against the degraded negro race, ignorant, imbruted, and half civilized. I would say to the southern men that there ought to be a sense of modesty, there ought to be a feeling which should, at least, prevent them now from slandering the colored man. After having in their States forbidden by law, made it a penitentiary offense to teach the negro to read and write, after having withheld from him all the means of education and intelligence, after having degraded him by slavery on their part, and after they have lived off his labor for generations, labor unpaid for, labor which has never even been remembered in gratitude, after they have lived off him for generations and grown rich and proud, it ill becomes the southern people now to slander and traduce the negro. If he is degraded, they have made him so; slavery has made him so. If he is ignorant, they have made him so by making it a crime to teach him to read and write. And now, after he has won his liberty, after he has failed to go into insurrection and commit deeds of blood, but has patiently, intelligently, waited his time,

and now comes out a freeman, with no other antipathy to his late master except that he shall not be again reenslaved, it is in bad taste for the southern people to denounce him as ignorant, uncivilized, and imbruted.

Now, Mr. President, allow me to say one word in answer to my friend from Maryland. He again adverted to the question of the guarantee of a republican form of government, and insisted that we have no right under the Constitution to reconstruct the governments of these States as we are trying to do, and he read a paper from Madison, which I think my friend misunderstood, to show that there must be an antecedent government of the same character with the one we propose to establish by our method of reconstruction. The Constitution says that the United States shall guaranty to each State a republican form of government. There is no mistake about the language. It is a plain phrase. It uses the word "guaranty," a law term, the meaning of which is well settled and well defined and understood, at least by every lawyer. What is the contract of guaranty? It is to undertake to do something in case somebody else does not. It is a collateral undertaking as distinguished from an original undertaking, as lawyers would say. To guaranty a debt is to agree to pay the debt provided the original debtor does not, not to pay it in the first place, but to pay it if he does not. That is the guarantee of a debt. Now, what is it for this government to guaranty a republican form of government to a State? It is the duty of the States themselves to maintain a republican form of government in the same sense as it is of the maker of a note to pay his own debt; but if the State fails to maintain a republican form of government the United States, as the guarantor, must come in and use such means, resort to such instrumentalities, and, if necessary, raise up such persons to the right of suffrage as will enable the Government of the United States to maintain a republican form of government in the State, and thus execute the guarantee. There is no mistake about it. That is the sense in which it was put into the Constitution; and that is the simple original sense in which that power has been resorted to by the Congress of the United States.

My friend from Delaware is in great trouble as to whether these States are in or out of the Union. If we say that they are still in the Union, he imagines that there is a great Radical difficulty; that if they are still in the Union and have been all the time they must *ex necessitate* from the very beginning be entitled to Senators and Representatives in Congress. No such thing, sir. A people may have been in rebellion and destroyed their own State governments so that they could not elect Senators. They have been in rebellion and arms, so that they have no right to send a representative here according to the common principles of justice and of loyalty; and it is when a State is in that condition that this clause of the Constitution comes in and covers it, that the United States shall guaranty to each State a republican form of government. What is that? That clause does not apply to Territories, and never did. You never heard of Congress assuming the power to govern a Territory by virtue of that clause. It applies to States, and to States only, and in such a case it gives this Government the right to intervene and to reestablish State governments upon such terms as will secure the future peace and safety of the Republic and will exclude from power the men who have overwhelmed the country with blood and with a vast squandering of treasure. Enough upon that point, Mr. President. I shall offer the following amendment to the amendment of the committee, as additional sections:

*And be it further enacted, That it shall be the duty of the commanding generals of the different military districts in which said States are situated, to cause all officers duly elected under the constitution of either of said States, not disqualified as hereinafter provided, to be installed into their respective offices within twenty days after the passage of this act, and*



to afford ample protection to such officers in the rightful discharge of their duties: *Provided*, That such officers shall be deemed provisional only and subject to the paramount authority of the United States until the provisions of the first section of this act shall have been complied with.

*And be it further enacted*, That no person prohibited from holding office under the United States or under any State by section three of the proposed amendment to the Constitution of the United States known as article fourteen, shall be deemed eligible to any office in either of said States, and when any person declared elected to any office is thus disqualified the person having the next highest number of votes for the same office shall be intrusted with the discharge of the duties of such office until such time as a new election can be held in accordance with the provisions of the constitution of the State in which it occurs.

One word in explanation of these amendments. The first is intended to meet the case of Louisiana, where General Buchanan has by a general order provided that the State officers elected shall not be installed until the first Monday in November. He has, I believe, arrested the chairman of the board of registration created by the constitutional convention in Louisiana, and has postponed the installation of the State officers until the first Monday in November, thus leaving the rebel officers, State and county and township, in possession of the State until that time.

The *PRESIDENT pro tempore*. The amendment is not in order at this time, but it will be hereafter.

Mr. TRUMBULL. The amendment of the Senator from Indiana is not in order at this time.

Mr. MORTON. But does that make any difference?

Mr. TRUMBULL. Not at all.

Mr. MORTON. I have a right to have it read for information.

Mr. TRUMBULL. Certainly.

Mr. MORTON. In regard to the second clause, it is intended to meet this difficulty: to make ineligible officers who have been elected in the recent elections who would be ineligible when the fourteenth article becomes a part of the Constitution; in other words, to prevent the installation in advance of officers who would be ineligible and disqualified when the fourteenth article becomes a part of the Constitution by having been ratified by enough States. It is to prevent the anomaly of now installing officers that in a month or six weeks might become incompetent and ineligible by reason of the fourteenth article becoming a part of the Constitution.

Mr. DOOLITTLE. Mr. President, I have received from a gentleman from Louisiana, who claims to speak in behalf of the memorialists, whom he states to be about four thousand in number of the *bona fide* citizens of Louisiana, a paper in the nature of a memorial to the Congress of the United States. I do not rise for the purpose of making any argument myself, but I ask that this statement of his, as Louisiana has no representative here, may be read. It is respectful in its terms.

Mr. POMEROY. Whom is it from?

Mr. DOOLITTLE. Mr. Austin is the name of the gentleman.

The *PRESIDENT pro tempore*. The paper will be read if there be no objection.

Mr. WILLIAMS. I inquire if that is a private letter.

Mr. DOOLITTLE. No, sir; it is addressed to the Senate.

Mr. JOHNSON. Let the Clerk read the address.

The *PRESIDENT pro tempore*. The Senator from Wisconsin asks that the memorial be read as part of his argument.

Mr. CONNESS. The Senator from Maryland asks for the reading of the title of the paper. I hope that will be done.

The *PRESIDENT pro tempore*. The address will be read.

The CHIEF CLERK. The paper is addressed as follows: "Mr. President."

Mr. CONNESS. I object to the reading unless the honorable Senator shall address the Senate and make it a part of his speech.

Mr. DOOLITTLE. Mr. President, in rela-

tion to that, I will regard it as a part of my speech and allow the Clerk to read it.

Mr. CONNESS. No, Mr. President, that cannot be done.

The *PRESIDENT pro tempore*. When the reading of a paper is objected to it can only be read by the consent of the Senate. It is usual for gentlemen to read papers as part of their argument; but the reading of this paper is objected to, and the question is, shall it be read?

Mr. WILLIAMS. I will inquire if that is not in the nature of a speech addressed to the Senate of the United States by some person outside of this body? Is it not produced here for the purpose of addressing the Senate by a person who has no right to address this body? If that is the nature of the paper I object to its being read. If it is any statement of fact addressed to the Senate, let it be received like other memorials.

The *PRESIDENT pro tempore*. The rule of the Senate is very clear on the subject. When a paper is offered it cannot be read if objected to unless the Senate consent, and that question is to be decided without debate.

Mr. CONNESS. Now, before the question is taken, I ask what name or names are signed to it?

The CHIEF CLERK. The paper is signed "H. N. Austin for the memorialists."

Mr. NYE. Who are the memorialists?

The *PRESIDENT pro tempore*. The question is on the reading of the paper. The question must be taken without debate?

Mr. THAYER. I desire to ask a question of the Senator from Wisconsin: is it in the shape of a memorial?

Mr. DOOLITTLE. I understand it to be in the shape of a memorial, but it was handed to me by this gentleman, claiming to speak in behalf of these memorialists, and he says they are about four thousand in number.

Mr. THAYER. Mr. President—

The *PRESIDENT pro tempore*. This matter cannot be argued.

Mr. WILLIAMS. If in order I move the reference of the paper to the appropriate committee.

The *PRESIDENT pro tempore*. The question is on allowing the paper to be read, its reading being asked for and objected to.

The question was put; and there were 7 in favor of the paper being read and 21 against the reading.

The *PRESIDENT pro tempore*. The paper cannot be read. ["Vote!" "Vote!"] The question is on the amendment offered by the Senator from Massachusetts [Mr. Wilson] to the amendment of the Committee on the Judiciary, to insert "Alabama."

Mr. CONNESS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TRUMBULL. Before the vote is taken on that question, I wish to correct one or two statements which have been made, doubtless inadvertently, by Senators in regard to Alabama. The question arises in this way: the Senator from Massachusetts moves to amend the amendment of the committee by inserting "Alabama" as one of the States which is to be entitled to representation in Congress; and that is the precise question upon which we are now about to vote.

The distinction between Alabama and the other States is to my mind very clear. The other States, Georgia, North Carolina, South Carolina, Louisiana, and Florida, have all adopted constitutions in accordance with the reconstruction acts and sent their constitutions here; they have ratified those constitutions by a vote of the people in accordance with the reconstruction acts. The State of Alabama has not done that. At the time the State of Alabama voted this was the law:

"That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one half of all the registered voters voting upon the question of such ratification,

the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress."

It was only in case the constitution was ratified by "a majority of the votes of the registered electors cast at said election, at least one half of the registered voters voting upon the question of such ratification," that the constitution was to be transmitted to the President. These words, "at least one half of the registered voters voting upon the question of such ratification," were inserted in this law after debate, after much controversy, in the Senate, and at the present time are insisted upon by several Senators as very proper words to be in the law.

The people of Alabama voted upon their constitution under that law by which the Congress of the United States said to them that the constitution, in order to be valid, must be ratified by a majority of those voting, and that at least one half of all the registered voters must vote upon the question. That was put in as meaning something. Now, it is proposed to recognize the State of Alabama as entitled to representation in Congress when not one half of the registered voters have voted upon the question. Can we do that without breaking faith?

Mr. SUMNER. Breaking faith with whom?

Mr. TRUMBULL. Breaking faith with ourselves, with the Congress of the United States, breaking our own faith.

Mr. CONNESS. Permit me to ask the Senator if there is not a similar breach of faith whenever we amend a law that we have once passed?

Mr. TRUMBULL. By no means. Here the people have acted under an assurance from Congress given to the people of Alabama, that unless a majority of all the registered voters voted upon the question the constitution was not to be transmitted at all.

Mr. STEWART. I should like to ask the Senator a question.

Mr. TRUMBULL. I do not propose to debate this matter at any length.

Mr. STEWART. I simply wish to bring the Senator right to the point. What object did we have in providing for a vote at all? Was it not simply to ascertain if a majority of the loyal people of Alabama, the people we allowed to vote, were in favor of the constitution? And, comparing this vote with the vote taken in the other States, Alabama having cast the greatest number of votes of any State except South Carolina for the constitution, in proportion to the whole number of registered voters, does it not clearly indicate that a majority of the loyal people of Alabama do desire to come in under this constitution?

Mr. TRUMBULL. The Senator from Nevada is entirely mistaken. Alabama has done no such thing. She has not cast as many votes in proportion for her constitution as any other State. Every one has cast more in proportion.

Mr. SHERMAN. I beg pardon of the Senator for interrupting him, to say that Alabama has cast more votes in favor of this constitution in proportion to her registered voters than any other State in the South has cast for its constitution.

Mr. TRUMBULL. I beg the Senator's pardon. I have the figures here before me officially, and I say every State in the South has cast more votes than Alabama, and I will show it.

Mr. SHERMAN. In proportion to the registered voters?

Mr. TRUMBULL. I say in proportion to the registration.

Mr. SHERMAN. For the constitution?

Mr. TRUMBULL. For the constitution.

Mr. SHERMAN. I think the Senator is mistaken.

Mr. TRUMBULL. We shall see who is mistaken. I rose for the purpose of correcting these mistakes which Senators have made here without the facts before them; but I shall come to that branch of the case in a moment.

We said to the people of Alabama that the constitution would be adopted only in case a majority of the registered voters take part in the election. Now, after having said that, when there are in Alabama one hundred and seventy thousand registered voters, and only sixty-nine thousand have voted for the constitution, you propose to declare that the constitution of the people of Alabama! One hundred thousand voters did not go to the polls at all, sixty-nine thousand only voted for the constitution, and seventy thousand took part in the election under it. They had a right to stay from the polls; you said so by your law. Having published this law to the people of Alabama, under which they were to reconstruct their State government, and said to them that unless a majority take part in the election on this constitution it was not to be transmitted as the constitution, can you turn around now to-day and say, "It is the constitution of your State; your people should have known better than to have stayed away from the polls?" Here may have been loyal men, good men, to whom it was inconvenient to take part in the election; and how did they reason? They said, "If we do not go to the election our vote counts just the same as if we do go." Now, after you have held this out to them, and said to them that their votes should count the same, you propose to turn around and say, "We will put the constitution upon you at any rate." It is the old Lecompton principle over again. We cannot stand upon such a position as that before the country.

Mr. CONNESS. We can.

Mr. TRUMBULL. No; my friend from California, and nobody else, in my judgment, can stand before the intelligent people of this country on such a proposition. When we have authorized the people of a State to form a constitution and State government, and have said to them that that constitution was to be adopted only in case a majority of their registered voters took part in its formation, I do not think we can afterward turn around and adopt that constitution as the fundamental law of that State when only a minority less by thirty thousand than those not voting have taken part in the formation of the constitution.

It has been repeatedly said on this floor that a larger number in proportion voted for the constitution in Alabama than elsewhere. I will correct that. I have here the official report, which will be found in Executive Document No. 53, which is a "letter of the General of the Army of the United States, communicating, in compliance with a resolution of the Senate of December 5, 1867, a statement of the number of white and colored voters registered in each of the States subject to the reconstruction acts of Congress, with other statistics relative to the same subject." The first State to which I will turn the attention of the Senate is North Carolina. In the State of North Carolina, according to this official report, there were registered 179,653 voters, half of which is 89,826. According to this official report from the General of the Army it appears that in North Carolina there were cast for the constitution 92,500 votes. More than one half of all the registered voters voted for the constitution in North Carolina, so that even if the law never had been changed North Carolina adopted the constitution by those who voted affirmatively in its favor. There were cast against the constitution in North Carolina 71,820 votes, so that one hundred and sixty-four thousand voted on the question, and a majority of all the registered voters in North Carolina voted for the constitution. Now, I ask the Senator from Ohio and the Senator from Nevada if they are satisfied that a larger proportion voted in North Carolina for the constitution than did in Alabama according to the vote? Do they "give it up" in reference to North Carolina? It was but a moment ago it was stated by both these Senators that there was a larger vote cast for the constitution in Alabama than in any other State. I show you the official vote, that a majority of all the registered voters voted for the constitution in

North Carolina. Now, what becomes of that misstatement?

Mr. SHERMAN. When the Senator is through and does not address himself in that way, I will reply to him. I have the facts before me.

Mr. TRUMBULL. Well, if there is any other official statement, I should be glad to see it. I read from this executive document. Now I will read as to South Carolina. According to the official report which I hold in my hand there were in the State of South Carolina 127,432 registered voters. The half of 127,432 is 63,716. There were cast for the constitution in the State of South Carolina, according to an official report from the General of the Army, made the 12th day of May, 1868, 70,758 votes; so that in South Carolina there were cast 7,042 votes, more than half of the registered voters, in favor of the constitution, and the constitution was therefore ratified by a majority of all the registered voters of South Carolina; so that if the law never had been changed, the constitution would have been adopted by the voters of that State.

I next come to the State of Georgia. In the State of Georgia, according to this same official report made from the headquarters of the third military district by Major General Meade, there were 191,501 registered voters; the half of which is 95,750. There were cast for the constitution in Georgia, according to the same official authority, 89,007 votes, which deducted from 95,750, half of all the registered voters, shows that less than half voted for the constitution in Georgia by 6,743, but not so great a proportion less as in Alabama. In Alabama the difference between the vote for the constitution and half of the registered voters was 18,099, while in Georgia, with a much larger registered vote the difference was only 6,743, so that the State of Georgia adopted her constitution by a much larger vote in proportion than was cast for the constitution in the State of Alabama. There were cast against the constitution in Georgia, at the same time, seventy-one thousand votes, so that there voted on the question, in the State of Georgia, one hundred and sixty thousand.

I come next to the State of Louisiana. It appears by this same official report that there were in the State of Louisiana, 129,654 registered voters; one half of that number would be 64,827. There were cast for the constitution in Louisiana 66,152 votes. A majority of all the registered voters of the State voted for the constitution, a majority of 1,325, so that the constitution of Louisiana was adopted by an actual majority of all the registered votes, leaving out the large vote which was cast against the constitution in that State, being 48,739.

I come next to the State of Florida. In the State of Florida, according to the registration, there were 28,003 votes, one half of which is 14,001; and there were cast for the constitution, according to the report from the General of the Army, 14,511 votes which is a majority of 510 votes of all the registered voters of the State.

Thus it is seen that in every State except Georgia an actual majority of all the registered voters voted for the constitution. In the State of Georgia it only lacked 6,743 of being a majority of all the votes voting for it, and one hundred and sixty thousand voters in Georgia voted on the question. Now, what becomes of the statement made in the Senate in order, to induce the Senate to adopt a constitution for the people of the State of Alabama, which was only carried by a minority vote, that that constitution had more votes in its favor than the constitution in any other of these reconstructed States? The gentlemen have labored under a misapprehension in their zeal and their anxiety to have these States recognized, which is no greater than mine. I am as anxious for the early recognition of these States as any member upon this floor; but I cannot consent to violate fundamental principles; I cannot consent to force upon the people of any State by

a minority vote a fundamental law; I cannot consent to break the faith of this nation for the purpose of bringing Alabama into this bill.

With all these facts before us, how is it that the State of Alabama is to be forced in here to embarrass the bill under consideration? We have a bill here embracing five States, North Carolina, South Carolina, Louisiana, Georgia, and Florida, each one of which has ratified its constitution in accordance with the law.

Mr. MORTON. With the permission of the Senator I should like to ask him a question.

Mr. TRUMBULL. Certainly.

Mr. MORTON. The Senator quotes from the law the provision requiring a majority of the registered voters to vote on the question. Now, I wish to quote from the latter part of the same section and ask him the construction he gives to it:

"And if it shall moreover appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and Senators and Representatives shall be admitted therefrom as therein provided."

I want to know what meaning is to be attached to that part of this section which says that if Congress shall be satisfied that the constitution is approved by a majority of the registered voters, the State shall be received? Does it mean anything, or not?

Mr. TRUMBULL. I will tell the Senator from Indiana what I suppose it to mean. I recollect very well when this clause was put in, and the object that was had in view in inserting it. It was this: that Congress meant to hold in its hands the power to still refuse to recognize these States in case it was satisfied that the constitutions were carried fraudulently; or if there was any cause which, in the opinion of Congress, ought to prevent the recognition of a State, it would not tie up its hands in advance, so that it could still refuse to recognize them. It was to reserve this power, but it was never intended to do away with the previous provision in the first part of the section.

Mr. EDMUNDS. The provisions are not at all inconsistent.

Mr. TRUMBULL. Not at all. The object of the latter clause was what I have just stated, and it never entered into the mind of anybody, when this law was passed, that a State was to be recognized as having adopted its constitution unless a majority of all the registered voters took part in the election. The Senator from Indiana knows that very well, for he and I both struggled against the adoption of that clause.

Mr. MORTON. One question more. Was not that clause equally intended to cover a case where the constitution was defeated by fraud or the use of improper means?

Mr. TRUMBULL. In my judgment it was not.

Mr. MORTON. I think it was.

Mr. TRUMBULL. Let me ask the Senator from Indiana how can he reason that Congress should be satisfied that "the constitution meets the approval of a majority of all the qualified electors" in the State, when it appears that one hundred thousand took no part under a law that did not require them to take part? I objected to that part of the law; but nevertheless it was the law. How can he say that sixty-nine thousand votes in favor of a constitution afford any evidence that it is a constitution which is satisfactory to one hundred and seventy thousand?

There is another view of this case which I will present, although I have spoken at greater length than I intended when I rose. I think we must pass some bill in regard to Alabama, and I shall be ready to cooperate in the passage of a bill in regard to the State of Ala-

bama, and perhaps to pass the bill which the House of Representatives has already passed. That House has passed a bill recognizing the State officers elected there under this constitution in order to put the government in the hands, as they say, of loyal men. That bill, which is similar to the one that was introduced in this body by the Senator from Nevada, [Mr. STEWART,] has already passed the House of Representatives and is now pending in the Committee on the Judiciary, and I trust, if Alabama is not inserted in this bill, we shall take up that bill and act on it. But I beg of Senators, whatever may be their views in regard to Alabama, to look for a moment at this other view: there is certainly distinction between the condition of Alabama and that of any other of these States; and why not let Alabama go by itself even if you propose to recognize the State government? If you put it in this bill you embarrass the bill, and there is very great danger of our losing the whole; and shall five States be held back in consequence of this difference between the condition of Alabama, and the condition of each of the other five States? Senators will bear in mind that Alabama was inserted in this bill in the House of Representatives by a tolerably close vote. I do not recollect the exact vote, but it was only a small majority. I believe it was at one time voted out and afterward put in by a small majority. Although it is possible that the two Houses might agree if the Senate should insist upon keeping Alabama in this bill, to pass the bill in that form, we still run a hazard of losing the bill by reason of putting another State into it; and what reason can be given for it? I do not see what the reason is. There certainly is no reason for putting any two States together. It may be a little more convenient in legislation, but there is no principle in it. We might take each State up separately, Alabama, North Carolina, Georgia, and South Carolina. It is only a matter of convenience that they are here put together at all.

Mr. CONNESS. Will my friend permit me?

Mr. TRUMBULL. Certainly.

Mr. CONNESS. There are two reasons why more than one State should be put in at a time; first, convenience—

Mr. TRUMBULL. That I concede.

Mr. CONNESS. Next, necessity. The same necessities that exist for the admission of the other States, exist in like degree for the admission of Alabama, and it is not wise to be extending this session and introducing half a dozen bills for what we can do in one, and I would have been pleased that the State of Arkansas had been in the same bill.

Mr. TRUMBULL. I conceded that it would be a matter of convenience, but I do not see the necessity, nor do I see that the Senator from California gives any necessity for it. He says it will prolong the session; that may be so; but that is a matter of convenience and not of necessity. Each of these States might be in a bill by itself so far as any necessity is concerned, because surely admitting these States to representation one by one would accomplish the object just as well as if they were admitted altogether. The word "necessity" it seems to me can hardly be applied to it. There is a matter of convenience.

Mr. CONNESS. I used it in reference to this State and its conditions.

Mr. TRUMBULL. I will admit that there is the same disorganization and difficulty in Alabama as in the other States, and I have already stated in the hearing of the Senator from California that I thought some legislation was necessary to remedy that condition of things, and I shall be quite ready to cooperate in such legislation as the Senate may be able to agree upon in regard to it.

I ought to say one other word in regard to the registration. The official documents from which I read are documents that were communicated before the correction was made in Alabama of the registration. The official document from which I read was communicated to

Congress on the 7th of May, 1868, and it gives the registered voters in those States at the time the communications were made to the commanding general by the military commanders in the various districts; and in Alabama I see that the registered vote is stated at 165,813. I believe that does not contain the additions. I suppose it does not, because I have seen it stated somewhere else that there were one hundred and seventy thousand registered voters in Alabama; and I suppose that arises from the additions that were made after the registration was opened.

Mr. WILSON. Will the Senator allow me to say a word?

Mr. TRUMBULL. Certainly.

Mr. WILSON. There were some four or five thousand added to the registration; but by a mistake in that State, which was not applied to the others, the people who had died or moved away were not stricken off by the registrars. There ought probably to have been eight or ten thousand names stricken off on that account. Then there were four counties with thirteen thousand registered votes, where there was no election; in one of them there were twenty-nine hundred votes, but the ballot-box was stolen. Take out thirteen thousand for those four counties and you reduce the registration to one hundred and fifty-six thousand. Now that I am up I will say to the Senator from Illinois that he has made a great mistake—

Mr. SHERMAN. I mean to correct him in regard to the figures.

Mr. WILSON. Then I will leave it to the Senator from Ohio.

Mr. TRUMBULL. I read from this document communicated on the 7th of May, and I was stating that I understood there had been in the correction of the registration in Alabama some four or five thousand added to it. That official statement I have not before me, but I suppose that accounts for the discrepancy between the one hundred sixty-five thousand reported in this document and the one hundred and seventy thousand. It is possible, also, that there may have been similar corrections in other States, though I have not the evidence of it.

Mr. WILSON. There were. The Senator's figures are the basis on which they voted for the convention, they were largely increased in some of the States, carried up several thousand.

Mr. TRUMBULL. Is there any evidence of that communicated to Congress?

Mr. WILSON. It is not communicated to Congress officially; but I have seen statements of the fact in the papers.

Mr. TRUMBULL. There may have been such statements in the public prints; but I have not seen them. This official document from the head-quarters of the Army on the 7th of May is a late document, in answer to a resolution of the Senate. It contains a statement of the number of white and colored voters in each of the States subject to the reconstruction acts of Congress. It professes to give the number registered up to its date, May 7. It also gives the vote upon the question of calling conventions. If there is any other official document giving a correction of any of these lists, I have it not before me and I have not seen it except as to the State of Alabama; I understand four or five thousand votes were added there.

Mr. SHERMAN. Mr. President, the statement I made to the Senate was perfectly true; and yet one would think, from the very confident manner in which the Senator from Illinois addressed me when putting the question, that there was no way to answer him; but it seems to me that if he had examined this subject with the care and solicitude its merits require, he would have known that he was misleading the Senate by reading to them the figures he did. What I said was that the number of persons who had voted for the constitutional convention and for the ratification of the constitution was greater in Alabama than

in any other of these States. I should, perhaps, except South Carolina, because I have not the final return of South Carolina before me. The document here produced would tend to deceive any one who had not examined it.

Now, what are the facts of the case? These documents show that the number of registered votes in the State of Alabama were first one hundred and sixty-six thousand. They were subsequently increased to one hundred and seventy thousand by an illegal rectification of the registry. The number of votes cast for the convention in Alabama at the first election, (because the Senate must keep the distinction between the two elections, one for the convention and one upon the ratification of the constitution,) was ninety thousand two hundred and eighty-three, or sixty per cent. of the entire registered vote, more than one half. That election occurred early, perhaps in October or November, when the people could attend the polls, and the number who voted for the convention was ninety thousand two hundred and eighty-three.

Mr. TRUMBULL. I said nothing about the convention election.

Mr. EDMUNDS. You were speaking of the vote on the ratification of the constitution.

Mr. SHERMAN. I am coming to that in a moment. Now, the Senator assumes that only seventy thousand votes were cast in Alabama in the following election in February on the adoption of the constitution, and he compares that vote in Alabama, the second vote, not the first, with the vote on the convention in the other States. I say that in the document he has read from, there is no report whatever of a single vote cast on the adoption of any constitution.

Mr. TRUMBULL. I read from another document that does state it. Let me read from it again:

"HEADQUARTERS, ARMY OF THE UNITED STATES, WASHINGTON, D. C., May 12, 1868.

"In compliance with the resolution of the House of Representatives of May 11, 1868, I have the honor to submit the following statement of the number of votes cast for and against the constitutions of North Carolina, South Carolina, Georgia, Louisiana, and Alabama, as reported by the several district commanders.

"North Carolina for the constitution"—

Mr. SHERMAN. The Senator has read all that paper.

Mr. TRUMBULL. But I understood the Senator to say that I read in the other States the votes for the convention. I never read any votes for a convention.

Mr. SHERMAN. I will compare the lists of votes as they are furnished to us, and show how that stands. Now, I say take the vote for the convention in Alabama, with the vote for the convention in any of these States, and how does that vote compare?

Mr. TRUMBULL and Mr. EDMUNDS. That is not the question.

Mr. SHERMAN. I know that; but I will come to it. More interest was taken in the question of a convention in Alabama than in any other State, because there were more loyal people there. The whole of northern Alabama is peopled by loyal people, who were loyal at the beginning of the war. How was it afterward? You compare the votes of these States afterward. What were the circumstances under which the election was held in February? The Senator from Illinois said only seventy thousand voted; but how many had an opportunity to vote? Did every registered voter in Alabama have the opportunity to vote? Does the Senator say that? There were one hundred and sixty-six thousand registered. There was no election held in four counties where nobody could vote, and more than thirteen thousand registered voters lived in those four counties. Deduct those thirteen thousand and you have your registered list reduced to one hundred and fifty-three thousand. Under the law as it then stood nobody could vote unless he voted in the precinct where he was registered, and inconvenient polling places were selected. How many could not vote because



of change of residence, of death, of many other causes? I have no doubt that the number who could vote in the election in Alabama was far less than one hundred and forty thousand. Indeed, the evidence before us shows that the number of voters was far less than one hundred and forty thousand. Seventy thousand, notwithstanding all the difficulties, all the impediments, all the obstructions, all the force and fraud, voted for the constitution in Alabama; and I say, in proportion to the actual number of votes and the legal votes that could have been cast in the election on that day, it was more than in any of these other States.

Now, let us look a little further. I will take the State of Virginia.

Mr. TRUMBULL. The State of Virginia has not voted on the constitution.

Mr. SHERMAN. I know that; but I wish to compare the vote. The total registered vote in the State of Virginia was 225,933. There were voting for the convention only 107,342. Only forty per cent. of the registered vote in Virginia was cast for the convention, while over sixty per cent. in Alabama was cast for the convention; and more than one half of those who could legally vote on the day of election voted for the constitution.

Take the case of North Carolina, where the vote for the constitution, it is true, was 92,690, and where the aggregate registered vote was 179,653. That is about fifty-five per cent. It is less than the proportion voting for the convention in Alabama, and more than the proportion voting on the constitution. But Senators must remember that when the voting occurred in North Carolina the law had been changed; people could vote where they lived; they had convenient voting booths; every man who was registered could vote in any part of the State wherever he was without regard to his place of registry; and yet I say, considering that circumstance alone, taking even North Carolina, where there was a greater and fuller expression of opinion than in any other of these States, the proportion is in favor of Alabama, because out of a total aggregate of one hundred and eighty thousand who could vote anywhere in the State of North Carolina only ninety-two thousand voted, while in Alabama, where not more than one hundred and thirty or one hundred and forty thousand could by possibility vote under the existing law, seventy thousand were found in the dead of winter, in February, under all the difficulties that surrounded them, to go to the election and cast their votes.

Mr. FESSENDEN. Do I understand the Senator to say that only ninety thousand voted in North Carolina?

Mr. SHERMAN. For the constitution.

Mr. FESSENDEN. But a great many voted against it.

Mr. SHERMAN. I know that. The rebels in North Carolina, when the election came on, voted because we had changed the law; but now you want to enforce a law which you yourselves abandoned, a law that you yourselves confessed to be wrong, although you try yet to find reasons why you should not condemn it in your own mind, a law which we were compelled by public opinion and by our own judgment to abandon—you want to enforce that against the first and most eager of these States, that which was determined first to embrace the provisions of your law, that which did more to execute your law than any other, that which this day is as loyal as any State in the South, and perhaps more so. You have abandoned this stipulation and limitation as to all the other States. You have enabled their people, where ever they were in the State, without regard to the place of registry, to vote; you have enabled them to vote at a convenient season when they could go to the election polls; you have enabled them to vote under the most favorable circumstances; but you propose to enforce this hard restriction against that people who were most eager to accept your conditions. I say it is not right or fair.

Take the next case—South Carolina. There

I confess the statement I made was not literally true, because the aggregate registered vote was 127,432, and 70,758 voted for the constitution, or nearly sixty per cent. But even in South Carolina a less proportion voted for the constitution than had in Alabama voted for a convention; and when you compare the different circumstances under which the vote was taken in South Carolina, although the statement I made was not literally true, yet it was, considering all the circumstances, substantially true.

Now, take the State of Georgia. The total registered vote of Georgia—and here I beg the attention of the Senator who thought Georgia so strong a case—was 191,501. One half of that would be ninety-six thousand votes.

Mr. TRUMBULL. Ninety-five thousand seven hundred and fifty.

Mr. SHERMAN. Well, that is near enough; nearly ninety-six thousand. There were 89,070 votes for the constitution. I repeat that that is less in proportion than the vote cast in Alabama—not taking the whole registered vote, remember; but there were counties where a registered voter could not vote, and you have to deduct those, and I tell you the number of votes cast, of those who could by any possibility vote in Alabama, was forty-nine per cent. of the whole registered vote, while in Georgia it was only forty-six per cent. [Laughter.] Senators may laugh and jeer at this, but they cannot get over the facts. There were one hundred and eighty-nine thousand registered voters in Georgia. The election was held there in the most favorable season of the year, at a time when anybody could vote in any part of the State who had been registered according to law, and yet under that favorable condition only eighty-nine thousand voted for the constitution, or only forty-seven per cent. of the actual number of registered votes. When you make any fair and reasonable deduction from the aggregate vote of Alabama for the number of voters who could not vote in counties where there were no elections, and make a fair and reasonable calculation for those who could not vote on account of a change of residence, more persons voted for the constitution in Alabama than in Georgia, upon the figures presented by the Senator himself.

I have not had time to compare the case of Louisiana with that of Alabama; but take the case of Arkansas, where the number of registered votes—

Mr. TRUMBULL. It is not in this bill; not before us.

Mr. SHERMAN. No; but it was admitted under the lead of the Senator from Illinois. We passed a bill admitting the State of Arkansas; and what kind of an election was held there? A very dubious and doubtful one; a bare majority of voters in favor of the constitution; and the number of persons who actually voted for the constitution, if I am correct, were only two sevenths of the registered voters. I have not got the figures before me, because I have not had time to send for them, but that, if I remember aright, is correct.

Mr. BUCKALEW. Five sevenths altogether voted; about two and one half sevenths voted for the constitution.

Mr. SHERMAN. The Senator raises it a notch—two and one half sevenths voted for the constitution.

Mr. WILSON. Thirty-eight per cent.

Mr. SHERMAN. Thirty-eight per cent. of the registered votes, and yet we admitted them, although it was just an even scale whether a majority voted for or against the constitution; and yet now we propose to exclude, on a technicality which we ourselves have abandoned, a State which cast seventy thousand votes for the constitution and only fifteen hundred against it—a majority of over sixty-eight thousand for the constitution out of those who voted, at an election held under the most unfavorable circumstances. I say that such conduct as that would be utterly inconsistent, as it seems to me, with what is right and just and fair. I do

not want to treat these new southern States in the spirit of technicality. I want to extend to them the welcome hand. God knows if I had my way I would sweep away all the disabilities that surround any portion of the people there. The very moment they yielded universal suffrage we ought to have cut away all the manacles that bound any portion of the people from participating in the elections. But taking your laws as they stand, I say that this State itself has done as much toward reclothing itself as any other State, and we cannot discriminate against it.

There is one argument that has been made in this matter that I never like to hear, and that is, that we cannot pass this bill over the veto because some Senators may hesitate about voting for the bill over the veto. Sir, we ought not to legislate in fear of any such declaration. I did not believe the declaration at the time when it was intimated, and I took the pains to ascertain, and I now say there is no ground for it. I believe that now Alabama stands as strong before this body as any other of these States, and a little more so. But if Senators will vote on this amendment according to their conscientious convictions of duty we can safely leave to other Senators who will haggle about Alabama to vote according to their sense of duty on this or the other votes. I have no doubt they will do as they think right in regard to all these votes; but I never could vote to except Alabama from this bill without doing violence to my conscience.

The Senator from Illinois seems to think we are lugging Alabama into this debate; that we are moving to put Alabama into this bill. Sir, Alabama is in the bill now. You are proposing to strike it out. It is true you do it in the form of a substitute by striking out the whole bill, Alabama, and all the rest, and putting in a substitute which has not Alabama in it. Now, we propose to amend your substitute so as to make it in harmony in that respect with the original bill. I say to the Senator from Illinois that if in this way, by a wholesale substitute, he strikes out Alabama from this bill, I will, as one member at least of the Senate, move to amend the House bill by adopting some of the wise provisions reported by the Committee on the Judiciary and leaving Alabama in. It is they that propose to strike Alabama out. It is they that propose to discriminate against a State that has done so much toward reconstruction. Sir, we stand here defending the proposition of the House—the action of the House. We are not here seeking to embarrass or defeat the bill by amending it. On the contrary, we are seeking to prevent the defeat or embarrassment of the bill by an amendment reported from the Judiciary Committee.

Mr. President, I am sorry that I have been led into this discussion, but I suppose there is no help for it. I trust we shall have a vote.

Mr. STEWART. I wish to say one word with regard to this subject. It will be recollected that immediately after we passed the law requiring a majority of the votes cast, instead of a majority of the votes registered, there was a large amount of registration immediately had. It is estimated that in some States it went as high as fifteen or twenty thousand. The lowest estimate made for Georgia was ten thousand. There has been no official promulgation of the number; but taking the best estimates we can get of that—and my statement was made upon those estimates—Alabama cast a larger vote in proportion to the registered votes than almost any of the other States. In the case of Alabama they also continued to register up to about the time the vote was taken, and those were all counted. They returned the registration up to the time of election, because then it was material to have that return to know how many were registered, to see if there was a majority voting.

Mr. TRUMBULL. If the Senator from Nevada will allow me, in my statement I took

the registration of Alabama at the same time that I took the others.

Mr. STEWART. Made at a subsequent period.

Mr. TRUMBULL. I did not take the last into my calculation. I just took the official document of all of them as given at the same time.

Mr. STEWART. I want to explain that the official document does not show the real facts.

Mr. TRUMBULL. It shows as near the real facts in the other States as in Alabama. The presumption is, it would show it as near in any other State as it did in Alabama; that it would be fair in reference to one as well as the other.

Mr. STEWART. The Senator does not understand the facts yet. In Alabama you have returned with the return of the election the whole number of votes registered and the whole number of votes cast. In the other States in this list you have not the whole number of votes registered, but you have got the whole number of votes cast. Now, I wish the Senate not to be misled with regard to it. Senators will remember seeing it in the public prints that the whites started in and registered very rapidly immediately after we passed the law making a majority of the votes cast determine the question. The whites then at once registered. In Georgia the estimate is that ten, fifteen, or twenty thousand registered. There has been no return of it, but certainly it was a large number. Take the lowest estimate and add it to the number of registered votes returned, and you will find that Georgia did not begin to do as well as Alabama. I have not the figures before me, but a gentleman called at my room and took the estimates made in the public prints of the increased registration, and he came to the conclusion, upon a very careful examination, that Alabama had cast a larger vote in proportion to the registration at the time the election took place than any of the other States except South Carolina, and I believe that to be true.

Mr. HOWE. I wish to ask the Senator where he gets the number who were registered in Alabama under the operation of this last law?

Mr. STEWART. There was no further registration had there under the last law. They had taken their vote; but in order to determine the question whether the constitution was adopted or not they give us the whole number registered up to the date of voting, and they give us the vote; but subsequently—

Mr. EDMUNDS. Where do you get the evidence of that?

Mr. STEWART. I have no official evidence of the number that were registered after we passed the law; but we must take newspaper reports and the statements of gentlemen. We know that the registration was opened in every State, and that the whites commenced registering; and from those who have given the subject careful consideration and the best information I can get I have come to the conclusion that the statement I made was strictly correct. That it is substantially correct there is no doubt.

Mr. HOWE. Has the Senator any evidence which satisfies him that the percentage of the people in Alabama who registered after the change in the law was not as great as it was in Georgia?

Mr. STEWART. Yes; I have enough to satisfy the Senator. There was no registration in Alabama after the change in the law, because the vote had already been taken before the change of the law.

Mr. HOWE. But I understood the Senator to say that the registration was opened in Alabama and the rest of these States?

Mr. STEWART. No; I say the registration was opened from time to time in Alabama; there was more registration after the first registration; but it was all counted at the time in the return of the vote, because it required a majority of the

votes registered to carry the constitution. So the district commander, in making his return, gives the number of votes registered at the time of the election, and the number of votes cast at the election. Then we passed a law making the majority of the votes cast determine the election. Immediately after that there was a large amount of registration in each of these States. In Georgia the lowest estimate of it is ten thousand. Add ten thousand to the registered vote of Georgia, as returned here, and then take the vote of Georgia for the constitution, and the percentage of votes for the constitution in Georgia will fall far short of being as great as it was in Alabama. Take North Carolina, and add some fifteen thousand there to the registered vote returned, and you will produce a similar result.

Mr. EDMUNDS. You have got into the region of speculation now.

Mr. STEWART. It is not in the region of speculation. We know it as a matter of fact. We have not the report of the registration; but we know that the registration went on rapidly and vigorously after we passed that law. We have got no report on the subject; but we know it as a matter of fact.

Mr. EDMUNDS. The fact that you do not know it makes it speculation.

Mr. STEWART. We know it went on. We do not know the full extent; but the lowest estimate will fully bear out the statement made by the Senator from Ohio and myself as substantially true.

Mr. HOWE. I should like to ask the Senator one more question. Is there any evidence which ought to satisfy us that the percentage in Alabama who did not register at all, and who would or might have registered if the time had been extended to them as it was to the others, was not as great as those who did register in Georgia or South Carolina?

Mr. STEWART. Is there anything to show that if they had registered they would not have voted on our side?

Mr. HOWE. No; I have not anything to show that.

Mr. STEWART. Does that affect the proposition that we made? I say you have not the full registered vote here in this statement; and that, taking the public prints and making a fair estimate as given in the public prints, the statement I made was substantially correct.

Mr. HOWE. Now, I meet the Senator by saying I am perfectly willing he should make the estimate for the other States if he will let the Senator from Illinois make the estimate for Alabama or let me do it.

Mr. STEWART. But the Senator from Illinois was not making estimates. He was taking the account of the registration. That was given before the registration was complete; but there were ten or fifteen thousand added to each registration after this report was made and after we passed our law. With these facts before us, and the further fact that they did not vote in several counties of Alabama, the further fact that these storms existed, and the crowning fact that Mr. Forsyth, the mouthpiece of the gentlemen who called upon Congress to instruct us, stated that by removing a loyal general of the Army, General Swayne, they had prevented twenty thousand Union votes being cast.

Mr. HENDRICKS. I think all that was prevented by that removal was that distinguished general coming to the Senate.

Mr. STEWART. Then you and Mr. Forsyth differ. Mr. Forsyth said in his paper, "As we predicted, and as we told Mr. Johnson, we have gained twenty thousand votes by the removal of General Swayne."

Mr. NYE. I hope my colleague will not get up any question of veracity between the Senator from Indiana and Mr. Forsyth, because they will come together next month, and it may be unpleasant. [Laughter.]

Mr. STEWART. Mr. Forsyth says he told Andrew Johnson that if he did not take General Swayne away they would lose the State,

and taking him away enabled them to prevent the consummation of what he terms this "great wrong," by keeping twenty thousand loyal voters from voting. That is a matter of speculation to be taken into the account when everything else is. This was the boasted fulfillment of a prediction Forsyth & Company had made with regard to Alabama if they could get General Swayne away.

Sir, Alabama can stand as well as any other State, and I reiterate that the object of submitting this question to a vote at all was to ascertain if there were loyal men enough in the State willing to accept the congressional plan, to sustain a loyal State government. That was the object, and the whole object. We could have admitted them without having any voting done at all. We could have admitted them just as we pleased. The object was to test that fact. Any man who will investigate what has been done in Alabama and what has been done in the other States, will come to the conclusion that Alabama is the foremost of them all; perhaps the strongest in its loyal element of any except South Carolina. South Carolina appears to stand first; Alabama is only second to South Carolina; so that, with the evidence before us, it seems to me we have ascertained beyond a doubt that Alabama is as well prepared as any of the other States, and a little better prepared than most of them to be received. Why keep her out? Upon what basis do you let the others in?

I repeat, Alabama has shown herself as well entitled to be admitted as any of these States, and it is necessary to have her and Florida admitted for the purpose of ratifying the constitutional amendment. Another thing that makes me more in favor of it than I was is, that I find Forsyth & Company are very much opposed to it; I find those who are opposed to the Government opposed to it; and I find my Democratic friends rallying against it; and therefore I am pretty certain it is right. I find my friend from Wisconsin [Mr. DOOLITTLE] against it, and that is the highest evidence that it is right. That will be conclusive to his constituents that it is right. I find the same elements against this measure that I find against any effort that has been made to restore the Union. I find the friends of restoration, the loyal men in Alabama, and the loyal men in the South and in the North in favor of it. I find myself in favor of it in very good company, and I find myself against the common enemy. I do not think, therefore, that we are called upon to split hairs in regard to this matter.

We have got the substantial thing. We have ascertained the will of the majority of the people of Alabama. If the rebels have been able, through getting a loyal general removed, through violence at the polls, through fraud, to prevent a technical majority; if they have been able by means of all the elements in their favor, by means of counting all the dead, all the missing, all that had left the State, and all that they could change from one plantation to another, to prevent a majority of the registered votes being cast for the constitution, it matters not to me so long as there is substantial evidence that they are not able to drag down the government if we set it up; and that is as much evidence that Alabama can stand as any other of these States.

If Alabama cannot stand, there is no use in setting up any of them; they will all be in rebel hands and the loyal men will be driven out of all of them, if they are driven out of Alabama. Why not let them all stand together? It will make them stronger, and they will be the more likely to stand? Why cast a doubt upon the ability of Alabama to maintain a republican form of government by making this unjust discrimination when every man knows that she is as well prepared in fact as any of the others? Why discourage the loyal men there and tell them they are weak and cannot stand, and ought not to come into the Union? Why this discrimination against Alabama? Is

there any substantial reason for it? I do not believe in saying to a State that is as well prepared to come in as any, with the strongest Union party there is in any State in the South except South Carolina, "You are not strong enough to stand," and then postpone their admission until it gets so late that it cannot be consummated at this session, postpone it until you destroy the Union element there and wear it away.

These delays, these uncertainties, these disparagements are breaking down the friends of loyalty throughout the South. You have your Buchanans throwing their obstructions in the way. You have the emissaries of the dissolution of the Union, of destruction, of obstruction, at work upon your friends, the friends of the Union, and the friends of the Union doubting whether they have any friends anywhere. Receive them; stand by them; give them the hand of fellowship; and I tell you they will stand by us.

If, with all the patronage and power of these local State governments against them, with the military substantially against them, with the power of Andrew Johnson against them, poor, without patronage, without power, without position, without wealth, ignorant, as the Senator from Wisconsin [Mr. DOOLITTLE] says they are, they could get a majority for a convention, if they could make the showing they have made in the several States under such circumstances, I am willing to trust them under more favorable auspices. With the powers of these States in their hands, with legitimate protection, they will stay in the Union. If they cannot do it now, when can they? After this struggle, if you will not protect them now, when will they be better prepared? After they shall have suffered a defeat at your hands here, after they shall have been thrown aside without a rallying point, after you have said to them, "You have got no loyalty, no Union party, no strength, and we will have nothing to do with you;" after they shall have been trampled down for another six months by the power of that tyrannical local government, will they be better prepared to come here? Sir, we want action on the admission of all these States, and action promptly. Keeping part of them out will continue this discussion and this effort to bring them in until the session will have expired. Let us do the work now. Arkansas ought to have been with these other States. We should have had the whole of them in one bill. I am satisfied we made a mistake in that regard. Do not let us make any more.

Mr. WILLEY. If it be the desire of the Senate to take a vote upon the pending bill to-night, I, of course, do not desire to protract the discussion; but if the vote cannot be reached to-night, I should be very glad to have the privilege of submitting some remarks upon it. If there can be a vote reached now I will not trespass upon the attention of the Senate.

Mr. HENDRICKS. With the permission of the Senator from West Virginia, I move that the Senate adjourn.

Mr. CONNESS. I hope not.

The PRESIDENT *pro tempore*. Before putting that question the Chair will lay before the Senate several bills from the House of Representatives for reference.

#### HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 218) granting a pension of seventeen dollars per month to David Duhigg, of Lynden, Vermont, father of late First Lieutenant Dennis Duhigg, of company M, first regiment Vermont artillery;

A bill (H. R. No. 256) granting a pension to George Truax, late a private in company H, first regiment of Virginia volunteers;

A bill (H. R. No. 1165) granting a pension to Elizabeth Cassidy;

A bill (H. R. No. 1166) granting a pension to Louisa M. Williston;

A bill (H. R. No. 1167) granting a pension to Esther Graves;

A bill (H. R. No. 1168) granting a pension to Frederic Denning;

A bill (H. R. No. 1169) granting a pension to Joseph B. Rodden;

A bill (H. R. No. 1170) granting a pension to Eliza Mathews;

A bill (H. R. No. 1171) granting a pension to William F. Nelson;

A bill (H. R. No. 1172) granting a pension to Lucinda J. Letcher;

A bill (H. R. No. 1173) granting a pension to Julia A. Barton;

A bill (H. R. No. 1174) granting a pension to Julia Carroll;

A bill (H. R. No. 1175) granting a pension to Cornelia Peaslee;

A bill (H. R. No. 1176) granting a pension to Mary Cover, widow of Samuel Cover, deceased, late a private in company G of the fifty-sixth regiment of Pennsylvania volunteers;

A bill (H. R. No. 1177) granting a pension to Malinda Ferguson, widow of James Ferguson, late a private in company C, of the first regiment of Kentucky cavalry;

A bill (H. R. No. 1178) granting a pension to Mary Merchant, mother of Timothy H. Pittsford, deceased, late a private in company G, of the first United States veteran engineer corps;

A bill (H. R. No. 1179) granting a pension to Mary A. Farlardo, widow of Onesimus Farlardo, deceased, late a private in company K, of the one hundred and twenty-fifth regiment of New York volunteers;

A bill (H. R. No. 1180) granting a pension to Phoebe McBride, mother of Thomas McBride, late a private in company B, of the eighty-seventh regiment of Illinois volunteers;

A bill (H. R. No. 1181) granting a pension to Harriet E. Shears, widow of John T. Shears, deceased, late a private in company H, of the fifty-seventh regiment of Illinois volunteer infantry;

A bill (H. R. No. 1182) granting a pension to William H. Blair, late a private in company G, of the twelfth regiment of Maine volunteers; and

A bill (H. R. No. 1183) granting a pension to Christopher M. Cornmesser, late a private in the independent Iowa home guards.

JOHN M. PALMER.

Mr. WILLEY submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the joint resolution (H. R. No. 218) for the relief of John M. Palmer, having met, after full and free conference, have agreed to recommend, and do recommend, to their respective Houses, as follows:

That the House recede from their disagreement to the amendment of the Senate and agree to the same.

W. T. WILLEY,

JOHN SHERMAN,

JUSTIN S. MORRILL,

Managers on the part of the Senate.

AMASA COBB,

WILLIAM S. HOLMAN,

Managers on the part of the House.

The report was concurred in.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating, in compliance with the resolution of the Senate of the 28th ultimo, correspondence recently had with the authorities of Great Britain in relation to a new postal treaty; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

#### RECEPTION OF CHINESE EMBASSY.

The PRESIDENT *pro tempore* laid before the Senate the following resolution of the House of Representatives:

*Resolved*, That the Senate be invited to join with the House of Representatives in the Hall of the House in the reception of the embassy from the Chinese empire to the United States of America, at eleven o'clock on Tuesday.

The PRESIDENT *pro tempore*. It is moved that the Senate do now adjourn.

Mr. HENDRICKS. I suppose that resolu-

tion makes it proper that I should modify my motion that we adjourn to meet at eleven o'clock to-morrow. ["No!" "No!"] Senators say not. I do not understand the subject. Mr. NYE. I ask the Senator from Indiana to withdraw the motion to adjourn for one moment.

Mr. HENDRICKS. Mr. President, it is usual to adjourn at religious meetings after a happy exhibition, and I thought the Senator from Nevada was so happy that it was about time to adjourn, and I therefore submitted the motion.

The motion was agreed to; and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

MONDAY, June 8, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

On motion of Mr. MAYNARD, the reading of the Journal of Saturday last was dispensed with.

#### CALL OF STATES FOR BILLS, ETC.

The SPEAKER. This being Monday, the first business in order is the call of States for bills and joint resolutions for reference to their appropriate committees, and not to be brought back by a motion to reconsider.

#### TRIAL OF JEFFERSON DAVIS.

Mr. MILLER introduced a joint resolution (H. R. No. 289) requesting the Committee on the Judiciary to inquire the cause of delay in the trial of Jefferson Davis for treason, and make report if any legislation is necessary to insure a speedy trial; which was read a first and second time, and referred to the Committee on the Judiciary.

#### POST ROAD IN MARYLAND.

Mr. STONE introduced a bill (H. R. No. 1184) to establish a certain post road in Montgomery county, Maryland; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

#### ELECTION OF REPRESENTATIVES FROM OHIO.

Mr. SHELLABARGER introduced a bill (H. R. No. 1185) to alter the laws of Ohio as to the manner of electing Representatives in Congress; which was read a first and second time, referred to the Committee of Elections, and ordered to be printed.

#### NATIONAL CAPITAL INSURANCE COMPANY.

Mr. MCCLURG introduced a bill (H. R. No. 1186) to amend the charter of the National Capital Insurance Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### MINING COMPANY IN NEW MEXICO.

Mr. VAN HORN, of Missouri, introduced a bill (H. R. No. 1187) granting the right of way and lands to the Pecos and Placer Mining and Ditch Company of New Mexico; which was read a first and second time, and referred to the Committee on the Public Lands.

#### CAPTURE OF JEFFERSON DAVIS.

Mr. UPSON introduced a bill (H. R. No. 1188) making an appropriation for the payment of the reward offered by the President of the United States, in April, 1865, for the capture of Jefferson Davis; which was read a first and second time, and referred to the Committee on Appropriations.

#### UNITED STATES PROPERTY AT MACKINAW.

Mr. FERRY introduced a bill (H. R. No. 1189) authorizing the Secretary of the Treasury to sell at public auction certain property of the United States at Mackinaw, in the State of Michigan; which was read a first and second time, and referred to the Committee on the Public Lands.

#### TRADE ON THE NORTHERN FRONTIER.

Mr. BEAMAN introduced a bill (H. R. No. 1190) to regulate trade on our northern frontier, and for other purposes; which was read a



first and second time, and referred to the Committee of Ways and Means.

#### HOMESTEAD LAW.

Mr. LOUGHRIDGE introduced a bill (H. R. No. 1191) to extend the benefits of the homestead act of March 20, 1862, to the minor children of deceased soldiers; which was read a first and second time, and referred to the Committee on the Public Lands.

#### JAMES A. INGHAM.

Mr. LOUGHRIDGE also introduced a bill (H. R. No. 1192) for the relief of James A. Ingham; which was read a first and second time, and referred to the Committee on the Public Lands.

#### BRIDGE OVER THE MISSOURI.

Mr. DODGE introduced a bill (H. R. No. 1193) authorizing the construction of a railroad bridge over the Missouri river; which was read a first and second time, and referred to the Committee on Roads and Canals.

#### INAUGURATION OF STATE GOVERNMENTS.

Mr. PAINE introduced a bill (H. R. No. 1194) to provide for the inauguration of State officers in Arkansas, North Carolina, South Carolina, Louisiana, Georgia, and Alabama, and for the meeting of the Legislatures of said States; which was read a first and second time, referred to the Committee on Reconstruction, and ordered to be printed.

#### CHOCTAW TREATY STIPULATIONS.

Mr. WINDOM introduced a bill (H. R. No. 1195) to carry into effect certain treaty stipulations with the Choctaw nation or tribe of Indians; which was read a first and second time, and referred to the Committee on Indian Affairs.

#### TARR AND KIMBERLAND.

Mr. HUBBARD, of West Virginia introduced a bill (H. R. No. 1196) for the relief of Tarr & Kimberland, of Wellsburg, West Virginia; which was read a first and second time, and referred to the Committee of Claims.

#### CHILDREN OF GENERAL KIT CARSON.

Mr. CLEVER introduced a joint resolution (H. R. No. 290) granting pension and homestead to the orphan children of Brigadier General Christopher Carson, deceased; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

#### CHILDREN OF GENERAL CARLETON.

Mr. CLEVER also introduced a bill (H. R. No. 1197) for the relief of Etta Eva Carleton, Henry Carleton, and Guy Carleton, minor children of Major General Carleton; which was read a first and second time, and referred to the Committee of Claims.

#### J. T. TURNER.

Mr. FLANDERS introduced a bill (H. R. No. 1198) for the relief of J. T. Turner; which was read a first and second time, and referred to the Committee on Military Affairs.

#### CUSTOM-HOUSE AT TOLEDO, OHIO.

Mr. ASHLEY, of Ohio, introduced a bill (H. R. No. 1199) to authorize the Secretary of the Treasury to sell the custom-house and grounds at Toledo, Ohio, and to purchase a new site for a custom-house and post office in said city; which was read a first and second time, and referred to the Committee on Commerce.

#### WASHINGTON GYMNASIUM ASSOCIATION.

Mr. WOOD introduced a bill (H. R. No. 1200) to incorporate the Washington Gymnastic Association; which was read a first and second time, and referred to the Committee for the District of Columbia.

#### BOUNTY CLAIM AGENTS.

Mr. BUTLER introduced a bill (H. R. No. 1201) to control bounty claim agents; which was read a first and second time, and referred to the Committee on the Judiciary.

#### TAXATION OF UNITED STATES BONDS.

The SPEAKER. The next business in order during the morning hour is the call of States and Territories for resolutions, commencing with the State of Indiana, where the call rested on Monday last, at the expiration of the morning hour.

A resolution is pending, offered by the gentleman from Indiana, [Mr. HOLMAN,] the House having refused to second the previous question upon it. The Clerk will report the resolution.

The resolution was read as follows:

*Resolved*, That, in the judgment of this House, the bonds and other securities issued by the United States, and which are exempt by law from State and municipal taxation, ought to be taxed for national purposes in amount substantially equal to the average tax imposed on property in the several States for local purposes, in such manner as may substantially equalize taxation, the tax to be deducted from the coupons as they become due; and that the Committee of Ways and Means be instructed to report a bill for the purpose above expressed.

Mr. TROWBRIDGE. Is a motion to refer this resolution to the Committee of Ways and Means now in order?

The SPEAKER. That motion is in order.

Mr. TROWBRIDGE. Then I submit that motion.

Mr. HOLMAN. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. HOLMAN. My point of order is that there is now pending a motion to lay the resolution on the table. The Globe does not show that fact, but that is the entry upon the Journal.

The SPEAKER. The Globe shows that the morning hour expired pending the call for the previous question. And the recollection of the Chair is that the morning hour expired while the tellers were engaged in counting the House upon seconding the previous question.

Mr. HOLMAN. The Journal shows that the motion to lay on the table was made by the gentleman from Pennsylvania, [Mr. STEVENS,] and was pending when the morning hour expired.

The SPEAKER. The Chair has no recollection of entertaining the motion to lay on the table pending the call for the previous question. [After a pause.] The Chair has examined the Journal, and it shows that the motion to lay the resolution upon the table was made by the gentleman from Pennsylvania, [Mr. STEVENS,] and that that motion was pending when the morning hour expired. As the Journal is the authority for the House, the first question will be upon the motion to lay the resolution on the table.

Mr. HOLMAN. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BLAINE. If the motion to lay on the table should not prevail, will a motion to refer the resolution to the Committee of Ways and Means be next in order?

The SPEAKER. The motion to refer would then be in order; but it might not be the next motion in order.

The question was then taken; and it was decided in the negative—yeas 16, nays 100, not voting 73; as follows:

YEAS—Messrs. Ames, James M. Ashley, Dawes, Griswold, Harding, Higby, Hooper, Jenckes, Miller, Moorhead, Starkweather, Aaron F. Stevens, John Trimble, Van Aernam, William B. Washburn, and Wood—16.

NAYS—Messrs. Adams, Allison, Delos R. Ashley, Axtell, Baker, Barnes, Beaman, Beatty, Benjamin, Blaine, Boyer, Bromwell, Brooks, Buckland, Burr, Butler, Cake, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Corvode, Cullom, Dodge, Donnelly, Eckley, Eggleston, Eliot, Ferriss, Ferry, Fields, Getz, Golladay, Gravely, Grover, Haight, Hill, Holman, Hopkins, Hotchkiss, Ingersoll, Johnson, Judd, Julian, Kitchen, Knott, Koontz, Laffin, George V. Lawrence, Lincoln, Logan, Loughbridge, Mallory, Maynard, McCarthy, McClurg, McCormick, Mercur, Moore, Morrell, Morrissey, Mullins, Myers, Newcomb, Niblack, O'Neill, Paine, Peters, Phelps, Pomeroy, Price, Randall, Raum, Schenck, Seofield, Selye, Shellabarger, Sitgreaves, Stewart, Stokes, Stone, Taber, Taylor, Lawrence S. Trimble, Trowbridge, Twichell, Upson, Van Auker, Robert T. Van Horn, Van Trump, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Windom, and Woodward—100.

NOT VOTING—Messrs. Anderson, Archer, Arnell,

Bailey, Baldwin, Banks, Barnum, Beek, Benton, Bingham, Blair, Boutwell, Broomall, Cary, Chanler, Delano, Dixon, Driggs, Ela, Eldridge, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Halsey, Hawkins, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Hunter, Jones, Kelley, Kelsey, Kerr, Keicham, William Lawrence, Loan, Lynch, Marshall, Marvin, McCullough, Mungen, Nicholson, Nunn, Orth, Perham, Pike, Pile, Plants, Poland, Pruyn, Robertson, Robinson, Ross, Sawyer, Shanks, Smith, Spalding, Thaddeus Stevens, Taffe, Thomas, Burt Van Horn, Ward, Welker, Thomas Williams, William Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—73.

So the resolution was not laid on the table.

Mr. BLAINE. I move to refer the resolution to the Committee of Ways and Means; and upon that motion I call for the previous question.

The previous question was seconded and the main question ordered.

Mr. HOLMAN. I call for the yeas and nays on the motion to refer; for that is a motion to kill the resolution.

Mr. ALLISON. How does the gentleman assume that a reference to the Committee of Ways and Means will defeat the resolution?

Mr. HOLMAN. Of course every gentleman understands that the reference of this resolution will kill it; for it will bury it in the committee, and prevent an expression on its merits.

The yeas and nays were then ordered.

The question was taken upon the motion to refer; and it was decided in the affirmative—yeas 88, nays 34, not voting 67; as follows:

YEAS—Messrs. Allison, Ames, James M. Ashley, Baldwin, Banks, Beaman, Beatty, Benjamin, Blaine, Bromwell, Buckland, Butler, Cake, Churchill, Reader W. Clarke, Cobb, Coburn, Cook, Cornell, Delano, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Ferriss, Ferry, Fields, Garfield, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Jenckes, Judd, Julian, Ketchem, Kitchen, Koontz, Laffin, Lincoln, Logan, Mallory, Maynard, McCarthy, McCormick, Mercur, Miller, Moore, Moorhead, Morrell, Mullens, Myers, Newcomb, O'Neill, Paine, Pile, Pomeroy, Price, Raum, Schenck, Seofield, Selye, Shellabarger, Sitgreaves, Starkweather, Aaron F. Stevens, Stokes, Taber, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, and Wood—88.

NAYS—Messrs. Adams, Delos R. Ashley, Axtell, Baker, Barnes, Boyer, Burr, Cullom, Getz, Golladay, Gravely, Grover, Haight, Holman, Hotchkiss, Ingersoll, Johnson, Kerr, Knott, Loughbridge, McClurg, Morrissey, Niblack, Peters, Phelps, Pomeroy, Randall, Stewart, Stone, Lawrence S. Trimble, Van Auker, Van Trump, Windom, and Woodward—34.

NOT VOTING—Messrs. Anderson, Archer, Arnell, Bailey, Barnum, Beek, Benton, Bingham, Blair, Boutwell, Brooks, Broomall, Cary, Chanler, Sidney Clarke, Covode, Dawes, Dixon, Ela, Eldridge, Farnsworth, Finney, Fox, Glossbrenner, Griswold, Halsey, Hawkins, Asahel W. Hubbard, Richard D. Hubbard, Hulbard, Humphrey, Hunter, Jones, Kelley, Kelsey, George V. Lawrence, William Lawrence, Loan, Lynch, Marshall, Marvin, McCullough, Mungen, Nicholson, Nunn, Orth, Perham, Pike, Plants, Poland, Pruyn, Robertson, Robinson, Ross, Sawyer, Shanks, Smith, Spalding, Thaddeus Stevens, Taffe, Burt Van Horn, Ward, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—67.

So the resolution was referred to the Committee of Ways and Means.

#### EXTRA PAY OF GOVERNMENT EMPLOYEES.

Mr. WASHBURN, of Indiana, introduced a joint resolution (H. R. No. 291) giving additional compensation to certain employes in the civil service of the Government at Washington, on which he demanded the previous question.

Mr. UPSON. Is this resolution in order under this call?

The SPEAKER. It is.

Mr. UPSON. Cannot the question of reception be raised?

The SPEAKER. The question of reception can be raised on any proposition of this kind. If the gentleman raises the question of consideration, the Chair will submit it to the House.

Mr. SELYE. I want to debate this resolution. I am opposed to it.

The SPEAKER. If the previous question should not be seconded, the gentleman will have the privilege of debating the resolution whenever it may come up for consideration; but debate upon it to-day will carry it over.

Mr. UPSON. Let the resolution be read.

The joint resolution, which was read, provides that there shall be allowed and paid out of any money applicable to the purpose, heretofore or hereafter to be appropriated to the same classes of officers and other persons in the civil service of the United States Government at Washington embraced in the joint resolution of Congress entitled "Joint resolution giving additional compensation to certain employes in the civil service of the Government at Washington," passed February 28, 1867, an additional compensation of twenty per cent. on their respective salaries as fixed by law, or where no salary is fixed by law upon their pay respectively from and after the 30th day of June, 1867, to the 30th of June, 1868. But if any such officer or other person shall have performed service for less than one year, he is to be allowed the twenty per cent. only upon the actual sum he shall have received for such service. So much of such additional compensation as may be due to the employes of the Patent Office is to be paid out of the funds of that office. The resolution is not to apply to persons whose salaries as fixed by law exceed \$2,500 per annum. No person who has served in the confederate army, so called, is to be entitled to the additional compensation. The resolution includes such persons as have been employed in any capacity as laborers in any of the Departments.

The SPEAKER. The joint resolution will be considered as read a first and second time, and the question is on ordering it to be engrossed for a third reading, on which the gentleman from Indiana [Mr. WASHBURN] demands the previous question.

Mr. MULLINS. I hope the previous question will not be seconded.

Mr. SELYE. I move that the resolution be laid on the table.

Mr. COBB. I desire to ask a question.

The SPEAKER. If there is no objection, the gentleman can ask the question; but debate is not in order without unanimous consent.

Mr. COBB. I wish to inquire whether this resolution includes watchmen on the public grounds?

Mr. WASHBURN, of Indiana. I will modify the resolution by changing the last clause. I desire it to include every laborer.

Mr. VAN WYCK. I wish to inquire whether the resolution includes clerks in the commissary department. They are as much entitled to extra compensation as any others.

Mr. WASHBURN, of Indiana. It includes all persons employed in any capacity in any department.

Mr. KOONTZ. Does it include the employes in the Government Printing Office?

Mr. MULLINS. Does it include the taxpayers, and that twenty per cent. shall be handed back to them?

Mr. HOLMAN. I also would like to know whether it embraces the \$900 female clerkships?

Mr. RANDALL. I object to debate.

The question first recurred on Mr. SELYE's motion to lay upon the table.

The House divided; and there were—ayes 39, noes 48; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. WASHBURN, of Indiana, and Mr. SELYE.

Mr. WASHBURN, of Illinois. We will have to have the yeas and nays; and I demand them.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 44, nays 71, not voting 74; as follows:

YEAS—Messrs. Allison, Ames, Baker, Beaman, Beatty, Benjamin, Benton, Bromwell, Buckland, Butler, Reader W. Clarke, Coburn, Cook, Covode, Cullom, Eggleston, Fields, Getz, Haight, Harding, Hill, Holman, Hulburt, Judd, Koontz, Laffin, George V. Lawrence, Loughbridge, Maynard, McCarthy, Mercer, Mullins, Newcomb, Nunn, Pile, Polsley, Scofield, Selye, Taylor, Upson, Elihu B. Washburne, William B. Washburn, Welker, and William Williams—44.

NAYS—Messrs. Adams, Delos B. Ashley, James M. Ashley, Axtell, Baldwin, Banks, Barnes, Boyer, Barr, Calk, Churchill, Cobb, Cornell, Dawes, Dodge,

Donnelly, Driggs, Eckley, Eldridge, Ferriss, Ferry, Golladay, Gravely, Grover, Higby, Hopkins, Hotchkiss, Ingersoll, Jenckes, Johnson, Julian, Kerr, Kitchen, Lincoln, Logan, Mallory, Miller, Moore, Moorhead, Morrell, Morrissey, Myers, Niblack, O'Neill, Paine, Peters, Plants, Pomeroy, Randall, Raum, Schenck, Shellabarger, Sitgreaves, Starkweather, Aaron F. Stevens, Stokes, Stone, Taber, Taffe, Thomas, John Trimble, Lawrence S. Trimble, Trowbridge, Twichell, Van Auker, Burt Van Horn, Van Trump, Cadwalader C. Washburn, Henry D. Washburn, Windom, and Woodward—71.

NOT VOTING—Messrs. Anderson, Archer, Arnell, Bailey, Barnum, Beck, Bingham, Blaine, Blair, Boutwell, Brooks, Broomall, Cary, Chanler, Sidney Clarke, Delano, Dixon, Ela, Eliot, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Griswold, Halsey, Hawkins, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Hunter, Jones, Kelley, Kelsey, Ketcham, Knott, William Lawrence, Loan, Lynch, Marshall, Marvin, McClurg, McCormick, McCullough, Munger, Myers, Nicholson, Orth, Perham, Phelps, Pike, Poland, Price, Pruyn, Robertson, Robinson, Ross, Sawyer, Shanks, Smith, Spalding, Thaddeus Stevens, Stewart, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—74.

So the House refused to lay the joint resolution on the table.

Mr. BENJAMIN. I ask the gentleman to withdraw the demand for the previous question.

Mr. WASHBURN, of Indiana. I have not time.

The House divided; and there were—ayes 46, noes 38; no quorum voting.

The morning hour expired, and the resolution went over to Monday next.

#### RECEPTION OF CHINESE EMBASSY,

The SPEAKER. The pending question is the motion to lay upon the table the conference report on the Arkansas bill. But the Chair will now lay before the House his correspondence with the Chinese embassy.

The Clerk read as follows:

#### HOUSE OF REPRESENTATIVES,

WASHINGTON, June 6, 1868.

YOUR EXCELLENCIES: I am directed by a unanimous vote of the House of Representatives to tender you a public reception and welcome, at its Representative Hall, on Tuesday next, at eleven a. m., and to solicit your acceptance thereof. If your duties allow you to respond favorably, a committee of members of the House will, at that hour, accompany you from the Speaker's room to the Hall.

I have the honor to be, very respectfully, yours,

SCHUYLER COLFAX,

Speaker.

To the CHINESE EMBASSY,  
Metropolitan Hotel, Washington.

#### THE CHINESE LEGATION,

WASHINGTON, June 8, 1868.

SIR: I have the honor to acknowledge the receipt of your letter of the 6th instant, acquainting me that the House of Representatives has been pleased by a unanimous vote to tender myself and associates a public reception.

We are deeply sensible of the distinguished honor it is thus proposed to do us; and we shall not fail to be in waiting at the Speaker's room at the hour designated to-morrow morning.

I have the honor to be, sir, your obedient humble servant,

ANSON BURLINGAME.

Hon. SCHUYLER COLFAX,  
Speaker of the House of Representatives.

Mr. SCHENCK. I move that a committee of three be appointed.

The motion was agreed to.

The SPEAKER appointed as such committee Mr. SCHENCK, Mr. BANKS, and Mr. WOOD.

Mr. BROOKS. This will be a great occasion, and I suggest whether the Speaker should not invite the Senate to meet us here at that hour.

The SPEAKER. That would have to be done by resolution of the House.

Mr. BROOKS. I have such a resolution. This is a great Hall, and will accommodate a large number of spectators. It will probably be the only opportunity many will have to see the Chinese embassy.

Mr. WASHBURN, of Illinois. Have the Senate taken any steps to invite the embassy to their Hall?

Mr. SCHENCK. It is probable that the Senate will do so.

Mr. BROOKS. If it does not meet with the approbation of the House I will not present it.

Mr. BUTLER. I object.

#### MESSAGE FROM THE PRESIDENT.

A message from the President, communicated to the House by Colonel WILLIAM G.

MOORE, his Secretary, informed the House that the President had approved and signed bills and a joint resolution of the following titles, namely:

An act (H. R. No. 658) making appropriations for the support of the Army for the year ending June 30, 1869, and for other purposes;

An act (H. R. No. 1117) to partially supply deficiencies in the appropriations for the service of the fiscal year ending on the 30th of June, 1868; and

A joint resolution (H. R. No. 278) to supply books and public documents to the national asylums for disabled volunteer soldiers.

#### RECUSANT WITNESS.

The SPEAKER. The attorneys of Charles W. Woolley request the Speaker to present his petition, which they think will purge his contempt. Any citizen of the United States has the right to petition the House of Representatives for reference under the rules. But the Chair, of course, when this is presented to him, has only the same privilege that any member of the House has, and no more, to submit it to the House.

Mr. BUTLER. I object. I move the following resolution, which I send to the Chair:

Mr. NIBLACK. I object. There is a privileged motion pending.

Mr. BUTLER. I withdraw it until Arkansas is disposed of.

Mr. WASHBURN, of Illinois. Will the gentleman from Indiana allow me to offer a resolution of inquiry?

Mr. NIBLACK. I have no objection.

#### HAY CONTRACT.

Mr. WASHBURN, of Illinois, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Retrenchment be directed to inquire into all the facts and circumstances connected with alleged fraudulent hay contracts entered into in 1864 at Fort Smith, Arkansas, by W. J. Chandler, and report to this House.

#### LEAVE OF ABSENCE.

Indefinite leave of absence was granted to Messrs. PERHAM, POLAND, CARY, and VAN HORN, of New York.

#### ADMISSION OF ARKANSAS.

The SPEAKER. The House resumes the business pending at the adjournment on Saturday last, being the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 1030) to admit the State of Arkansas to representation in Congress. No quorum voted on the motion of the gentleman from Wisconsin [Mr. ELDRIDGE] to lay the report on the table. The tellers [Messrs. ELDRIDGE and BEAMAN] will resume their places.

The House again divided; and the tellers reported—ayes 29, noes 89.

Mr. ELDRIDGE. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 27, nays 102, not voting 60; as follows:

YEAS—Messrs. Adams, Axtell, Barnes, Beck, Boyer, Brooks, Burr, Eldridge, Getz, Golladay, Grover, Haight, Holman, Hotchkiss, Johnson, Kerr, Morrissey, Niblack, Phelps, Randall, Sitgreaves, Taber, Lawrence S. Trimble, Van Auker, Van Trump, Wood, and Woodward—27.

NAYS—Messrs. Allison, Ames, Delos B. Ashley, James M. Ashley, Banks, Beaman, Beatty, Benjamin, Benton, Blaine, Blair, Bromwell, Buckland, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Delano, Dodge, Donnelly, Ferry, Fields, Garfield, Gravely, Farnsworth, Ferriss, Perry, Judd, Julian, Kitchen, Koontz, Laffin, George V. Lawrence, Lincoln, Loan, Logan, Loughbridge, Mallory, Moore, Moorhead, Morrell, McClurg, Mercer, Miller, Moore, Nunn, O'Neill, Paine, Mullins, Myers, Newcomb, Nunn, O'Neill, Paine, Phelps, Pile, Plants, Polsley, Pomeroy, Price, Raum, Peters, Schenck, Scofield, Selye, Shellabarger, Starkweather, Aaron F. Stevens, Stewart, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, and Windom—102.

NOT VOTING—Messrs. Anderson, Archer, Arnell, Bailey, Baker, Baldwin, Barnum, Bingham, Bout-

well, Broomall, Cary, Chanler, Dixon, Eggleston, Ela, Finney, Fox, Glossbrenner, Halsey, Hawkins, Hill, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Richard D. Hubbard, Humphrey, Jones, Kelley, Kelsey, Keycham, Knott, William Lawrence, Lynch, Marshall, Marvin, McCormick, McCullough, Mun- gen, Nicholson, Orth, Perham, Pike, Poland, Pruyn, Robertson, Robinson, Ross, Shanks, Smith, Spalding, Thaddeus Stevens, Stone, Burt Van Horn, Ward, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, and Woodbridge—60.

So the House refused to lay the report on the table.

The question recurred on seconding the previous question, and it was seconded.

The main question was then ordered.

Mr. BROOKS. I call for the reading of the conference report.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 1039, to admit the State of Arkansas to representation in Congress, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from its amendment to the House bill, and agree to said bill with the following amendment added thereto: "Under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution prospective in its effect, may be made in regard to the time and place of residence of voters;" and that the House agree to the same.

That the House recede from its disagreement to the amendment of the preamble to the bill, and agree to the same.

THADDEUS STEVENS.

F. C. BEAMAN,

Managers on the part of the House.

LYMAN TRUMBULL,

C. D. DRAKE,

HENRY WILSON,

Managers on the part of the Senate.

Mr. BROOKS. I ask for the reading of the first section of the bill as amended.

The SPEAKER. That is not usual, with conference reports. If there is no objection it will be read.

Mr. UPSON. I object.

Mr. BROOKS. Is the report susceptible of division?

The SPEAKER. It is not. It must be agreed to or rejected as a whole.

The conference report was agreed to.

Mr. BEAMAN moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RECEPTION OF CHINESE EMBASSY.

Mr. BUTLER. I rise for the purpose of withdrawing my objection to the resolution of the gentleman from New York, [Mr. Brooks.]

Mr. BROOKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to.

*Resolved*, That the Senate be invited to join with the House of Representatives, in the Hall of the House, in the reception of the embassy of the Chinese empire to the United States of America, at eleven o'clock on Tuesday.

RECUSANT WITNESS.

Mr. BUTLER. I rise to a question of privilege. I report from the committee of investigation the following resolution:

*Resolved* That any communication from C. W. Woolley or his counsel, placed in the hands of the Speaker, be sent to the committee of investigation of this House, before which Woolley has been called to testify, for examination and report.

I demand the previous question on the resolution.

Mr. HOLMAN. I rise to a question of order. I submit that it is proper that the communication referred to should be read to the House, so that the House may be informed upon what it is voting.

Mr. ELDRIDGE. Mr. Speaker, I rise to a question of order.

The SPEAKER. The Chair will first decide the point of order made by the gentleman from Indiana.

Mr. ELDRIDGE. I want to know if this is a privileged resolution?

The SPEAKER. If the gentleman makes that point the Chair will rule upon it before deciding the other question.

Mr. ELDRIDGE. I do.

Mr. BROOKS. We both make that point.

The SPEAKER. The gentleman from Wisconsin makes the point of order that the gen-

tleman from Massachusetts has no right to report the resolution. The Chair overrules the point of order.

Mr. BROOKS. That is not the point of order I make. It is that the committee of managers has not been in session for some days—the committee of investigation so called; that there is not a majority of the committee present in the city, and that the whole business has been conducted by two members of the committee, a minority of the committee, Messrs. BOUTWELL of Massachusetts, BINGHAM of Ohio, and WILSON of Iowa, having gone home some days since, and Mr. WILLIAMS of Pennsylvania having been absent for some days. Therefore no such report as this could possibly be made from the committee of investigation.

The SPEAKER. The Chair will rule upon that question. The committee are authorized to report resolutions at any time. The Chair does not know what has happened in the committee-room, as the Chair was not present. They may have referred this question to a sub-committee. They may have authorized the gentleman from Massachusetts at some previous session to offer this resolution if he desired to offer it. The Chair is not cognizant of what took place in the committee-room, and the gentleman from Massachusetts states for himself that he is authorized to make the report.

Mr. BROOKS. I will waive the point of order for the purpose of obtaining information from the gentleman from Massachusetts whether this resolution of his has not come from two or three, or from three only, of the committee of investigation, the majority of the committee being out of town, and whether it is possible for them to have been consulted on Mr. Woolley's communication submitted this morning, when the majority of that committee were not in town this morning.

Mr. BUTLER. I know what took place in our committee-room and the gentleman does not. I am not allowed to state what took place in the committee-room, and the gentleman would not be if he had any knowledge on the subject. Therefore I do not answer.

Mr. BROOKS. I make the point of order, then, that it is not possible for the committee to make a report, with a majority of the committee out of town, upon a communication submitted this morning when the majority of the committee are not here to do it. The gentleman from Massachusetts evades my question and does not choose to answer it.

The SPEAKER. It is not within the province of the Chair to know whether a majority of the committee are in town to-day or this week, or whether they authorized the resolution to be reported at some preceding meeting of the committee, if the gentleman states that he has authority to report it. As the gentleman from New York raises the question of reception, the Chair will submit it to the House.

Mr. BROOKS. We have no security at all, under a ruling of that sort, that any gentleman may not rise and say that the majority of the committee has authorized him to make a report. The gentleman from Massachusetts does not say that the majority of the committee have authorized him to make this report. He does not say that, and he dare not say it.

The SPEAKER. The question of any gentleman daring to say anything is not a question for the Chair to rule upon. If the gentleman from New York himself should rise in his seat and say that he was authorized by the Committee on Reconstruction or the Committee of Ways and Means, of both of which committees he is a member, to submit a report to the House, the Chair would not feel privileged to ask him whether he had been so authorized to-day or yesterday, last week or last month.

Mr. BROOKS. It gives the majority of the House the right to act upon the assumption of that kind made by any member.

The SPEAKER. This point will be decided as a similar point raised by the gentleman from

New York [Mr. Brooks] was decided the other day. The Chair will direct the Clerk to read the rule, to be found on page 55 of the Digest.

The Clerk read as follows:

"If it is disputed that a report has been ordered to be made by a committee the question of reception must be put to the House."

The SPEAKER. The gentleman from New York has raised the point that this resolution was not authorized by the committee to be reported to the House.

Mr. BROOKS. And the gentleman from Massachusetts [Mr. Butler] does not say that he was authorized by the committee to report this resolution; he has not said that yet.

The SPEAKER. That is a question for the House to determine, having heard what has been said by the gentleman from Massachusetts as well as by the gentleman from New York.

Mr. ELDRIDGE. Mr. Speaker—

The SPEAKER. The Chair will first submit this question to the House before entertaining any other point of order.

Mr. ELDRIDGE. What I desire to say relates to a part of the point of order now pending. In order that the question should stand as the Speaker rules, I supposed it was necessary that the person assuming to make a report should submit that report on behalf of the committee, and so state to the House; and that this is not a report of the committee, unless it is so presented.

The SPEAKER. The Chair, however, will state to the gentleman from Wisconsin [Mr. Eldridge] that the gentleman from Massachusetts [Mr. Butler] rose in his place and said: "Mr. Speaker, I submit a question of privilege from the committee on investigation, and offer the following resolution." That is the usual way of making a report. It is not for the Chair to challenge the statement made by the gentleman from Massachusetts, or the statement which might be made in the parallel case of the gentleman from New York cited by the Chair. That is a question for the House to determine.

Mr. ELDRIDGE. Then would not a member of the minority of a committee have the same right to rise in his seat and say that he desired to present a report from the committee?

The SPEAKER. He would not. The gentleman in that case would rise and say that the minority of the committee asked leave to submit a report.

Mr. WOODWARD. Is not the communication referred to in that resolution to be laid before the House before we are called upon to vote upon the resolution?

The SPEAKER. That is the point of order raised by the gentleman from Indiana, [Mr. Holman,] and reserved until the point of order now pending can be decided.

Mr. WOODWARD. My difficulty is, I do not see how the House is to vote understandingly upon any question connected with this resolution without knowing what the communication is.

The SPEAKER. The Chair will rule upon that point of order after the point now pending shall have been decided.

Mr. MAYNARD. I desire to make an inquiry of the Chair. Suppose this resolution be not received, would not the communication received by the Speaker as one of the Representatives from the State of Indiana be referred to the committee under the rule of the House by filing it with the Clerk in the ordinary way?

The SPEAKER. The Chair does not like to state what his action will be. The House has refused to grant permission to the Chair to lay the communication before the House.

Mr. MAYNARD. My action would be somewhat governed by the decision of the Chair upon that point.

The SPEAKER. Any member of the House can present the communication by that mode. The question now is upon the point of order raised by the gentleman from New York, that this report is not authorized by the committee



of investigation. The question is, Shall the report be received?

Mr. BROOKS. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BLAINE. I desire to inquire of the Chair whether the communication of Woolley having been objected to, it is anywhere where this resolution can reach it?

The SPEAKER. The gentleman from Maine has misunderstood the resolution, which does not refer specifically to the communication the Speaker asked leave to present, but to all communications.

Mr. ELDRIDGE. I desire to inquire what is the precise question to be submitted to the House; for, as I understand, there was a good deal of misapprehension when a similar question was before the House the other day. Is the question as to the authority of the committee or the validity of the report of the committee when it is not made by a majority of the committee, or is it whether the House will receive the report notwithstanding it may have been reported by a minority?

The SPEAKER. The point made by the gentleman from New York is that this resolution was not authorized by the committee of investigation; he has stated the reasons why he so thinks. The gentleman from Massachusetts [Mr. BUTLER] has made his statement on the other side, and the House has heard the statement. The Chair does not decide, because he does not know whether a majority of the committee authorized this report to-day or last week, or at any other time. The question now before the House is that indicated in the following extract from the Digest:

"If it is disputed that a report has been ordered to be made by a committee the question of reception must be put to the House."

It is the question of reception upon which the House is to vote.

The question was taken; and it was decided in the affirmative—yeas 86, nays 37, not voting 66; as follows:

YEAS—Messrs. Ames, Delos R. Ashley, James M. Ashley, Baldwin, Beaman, Beatty, Benjamin, Benton, Blaine, Blair, Bromwell, Buckland, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Dawes, Delano, Driggs, Eckley, Eliot, Farnsworth, Ferriss, Ferry, Fields, Gravelly, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Julian, Kitchen, Koontz, Laflin, Lincoln, Loan, Loughbridge, Mallory, McCarthy, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Nunn, O'Neill, Plants, Polaisy, Pomeroy, Price, Raum, Sawyer, Selye, Shellabarger, Starkweather, Stokes, Taylor, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elisha B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, and John T. Wilson—86.

NAYS—Messrs. Adams, Axtell, Baker, Barnes, Beck, Boyer, Brooks, Burr, Eldridge, Garfield, Getz, Golladay, Grover, Haight, Harding, Holman, Johnson, Kerr, Knott, George V. Lawrence, Marshall, McCormick, Morrissey, Niblack, Paine, Phelps, Pile, Randall, Schepck, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auker, Van Trump, Wood, and Woodward—37.

NOT VOTING—Messrs. Allison, Anderson, Archer, Arnell, Bailey, Banks, Barnum, Bingham, Boutwell, Broomall, Cary, Chanler, Dixon, Dodge, Donnelly, Eggleston, Eln, Finney, Fox, Glossbrenner, Griswold, Halsey, Hawkins, Hotchkiss, Asahel W. Hubbard, Richard D. Hubbard, Humphrey, Jencks, Jones, Judd, Kelley, Kelsey, Ketcham, William Lawrence, Logan, Lynch, Marvin, Maynard, McCullough, Mungen, Newcomb, Nicholson, Orth, Perham, Peters, Pike, Poland, Prayn, Robertson, Robinson, Ross, Scofield, Shanks, Sitgreaves, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Taffe, Thomas, Burt Van Horn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—66.

So the resolution was received.

The SPEAKER. The gentleman from Indiana [Mr. HOLMAN] will now state the point of order which he reserved.

Mr. HOLMAN. My point of order is this: that as this resolution refers to a paper or a communication, the House cannot be called to vote on the proposition without the paper itself being submitted to the House.

The SPEAKER. The Clerk will read the resolution, which will probably answer the point of order.

The Clerk read as follows:

*Resolved*, That any communication from C. W.

Woolley, or his counsel, placed in the hands of the Speaker, be sent to the committee of investigation of this House, before which Woolley has been called to testify, for examination and report.

The SPEAKER. The Chair overrules the point of order, as the resolution does not allude to any specific communication. Nor is the communication referred to by the gentleman from Indiana now in the hands of the Speaker, it having been taken by a member of the House.

Mr. WOODWARD. Mr. Speaker, I rise to ask a question.

The SPEAKER. It must be a question of order. Business cannot be interrupted except by a point of order.

Mr. WOODWARD. It is a parliamentary question, if not a question of order. If the Speaker has received any communication which is fit to be submitted to any committee of this House, I suppose it is fit to be submitted to the House; and I ask the Speaker to rule that any communication received by him in his character as Speaker of the House, if it be in decorous and proper language, belongs to the House, and that he is bound to lay it before the House.

The SPEAKER. The Chair overrules the point of order, and will state to the gentleman from Pennsylvania [Mr. WOODWARD] that petitions are received by the Speaker every day, and that his uniform practice, as the gentleman will see by looking at the Globe, is to refer them, under the rules, to the appropriate committees, in the same manner as petitions presented by members are referred. The Speaker has not the right, under the rules, and does not claim to exercise it, to present petitions publicly except by the consent of the House.

Mr. WOODWARD. Now, Mr. Speaker, one other point, and I will trouble you no further. If I am wrong in supposing that the Speaker has received this as the organ of the House I have this to submit. If a paper received by the Speaker of this House be in the nature of purgation of the contempt which Woolley, the witness, has committed against this House, I submit it is his right that it be laid before the House, for that contempt, if any was committed, was against the House. There was no offense against the committee of which the gentleman from Massachusetts is spokesman this morning. The offense is against the dignity of the House. If that witness at any time, in any form, communicates to the House through the Presiding Officer, I suppose it is his right to have the paper laid before the House.

The SPEAKER. If the House authorized the Chair, as it has authorized this committee, to report propositions at any time, the Chair would exercise that power in this or any other case; but the House has conferred no such authority upon the Speaker, and he does not arrogate to himself any right not conferred by the rules.

Mr. RANDALL. Here is an American citizen in confinement who presents to you, Mr. Speaker, for presentation to this House a certain communication, and this House is called upon to vote in reference to that communication; and I say it is the privilege of any one member to call for the reading of that paper before the vote is taken.

The SPEAKER. If the paper had been received by the House when presented by the Chair that point would be well made; but the Chair does not believe, as the gentleman so seems to indicate, that the witness who, by the order of the House, is regarded as a recusant witness has the right to present a question of privilege. Questions of privilege are peculiar, and the rules in reference to them will be found in the "Digest." If a person in contempt of the House, declared to be in contempt of the rules and in defiance of the laws of the land, can raise a question of privilege, then every one of the forty million people not in contempt of the House can raise questions of privilege. Although the Speaker told the counsel that he was willing to present this paper, he does not see how he could rule this to be a question of privilege.

Mr. RANDALL. You received that communication.

The SPEAKER. The Chair did have it.

Mr. RANDALL. I say it was put in your possession as Speaker of the House, and the House ought to be made aware of the contents of that paper.

The SPEAKER. The Chair will state to the gentleman from Pennsylvania as he has already stated, that he receives petitions every day, sometimes ten or a dozen, but he never claims that he has the right to present them as questions of privilege. Sending papers to the Speaker does not put them officially before the House.

Mr. BURR. Is there any way, but through the mercy of these two members of that committee, for this witness to purge himself of contempt?

The SPEAKER. Every Monday the States are called for resolutions, as the Chair stated some time ago, and when the State of Indiana was called, as it was to-day, any gentleman from that State had the right to offer a resolution on the subject.

Mr. ELDRIDGE. Would not that deprive a citizen of his liberty for one week without opportunity for redress?

The SPEAKER. The Chair cannot answer that. The State of Indiana was called for resolutions this morning, and a gentleman from that State [Mr. HOLMAN] introduced a resolution in reference to the taxation of Government bonds, on which the yeas and nays were taken several times. Any other gentleman from Indiana could have offered a resolution at that time on this subject as a matter of right.

Mr. SCHENCK. I desire to ask the Speaker whether his attention has been called to the one hundred and thirty-first rule, which is as follows:

"Members having petitions and memorials to present may hand them to the Clerk, indorsing the same with their names, and the reference or disposition to be made thereof; and such petitions and memorials shall be entered on the Journal, subject to the control and direction of the Speaker; and if any petition or memorial be so handed in, which, in the judgment of the Speaker, is excluded by the rules, the same shall be returned to the member from whom it was received."

I say when a member from Massachusetts presents a petition nobody can have supervision over it, as to whether there is anything disrespectful in it, but the Speaker. Is this not interposing a committee of this House to revise petitions? I am willing to do everything proper to push this investigation as much as any gentleman—to push it to the utmost against every man who may have offended against the laws. But I am not willing to abridge the right of petition. The point upon which I wish to ask information, without raising a point of order, is whether this resolution does not abridge the right of petition, by discharging the Speaker from the duty of looking into a petition to see whether it is respectful and within the rules of the House?

The SPEAKER. The uniform usage of Speakers has been, when petitions were sent to them, either to ask unanimous consent to present them, if they are of that character that they think the House would desire to have them presented, or to present them under the rule, as is the right of the Speaker as a member from a congressional district. The Chair has repeatedly presented petitions under the rule. Of course he examines them, and if he finds them improper to be presented he would not present them. He has received hundreds of petitions from the States of the South, and has always submitted them under the rule to the Journal clerk.

Mr. BLAINE. I desire to present a point of order. The Speaker having presented this petition, and the gentleman from Massachusetts having objected to its reception, what is its status? Is the paper anywhere within the control of the House?

The SPEAKER. It is a paper which has been handed to the Speaker by the counsel for the witness, they desiring him to present it to the House. The Speaker asked the consent of the House to receive it. It was objected to.

It would then be within the power of the Speaker, unless the counsel asked its return, to submit it under the rule, or return it at the request of a member to himself. The paper is not now in the possession of the Speaker; a member who thought he was authorized to ask for it on behalf of the witness has taken it.

Mr. SCHENCK. Is not the question now on the passage of the resolution which declares, in reference to a particular citizen, that his petition, memorial, paper, or whatever they may be, when presented, shall be sent to a committee to be investigated?

The SPEAKER. It speaks of all communications. It has been twice reported.

Mr. BUTLER. I would like to have a word to say about this resolution that almost every gentleman has raised a point of order upon or stated an objection to.

Mr. WOODWARD. Will the gentleman allow me a question?

Mr. BUTLER. No, sir; I will not. I have not had a word to say on this motion, and have been attacked on all sides.

Now, sir, I suppose that when a witness is in contempt of this House he has no right to make any communication to this body, except simply to say, "I am ready and willing to testify, and I will do as I was ordered;" and the House can protect itself against arguments or statements drawn up by counsel who are now on the floor of this Hall against the rules of the House, with the President's Private Secretary, consulting with members on the other side how this matter can be got through. I say I suppose that this House has a right to protect itself. And I suppose there is no necessity of any one's being exceedingly troubled about the right of petition. Nobody proposes to interfere with it. But we do propose that when a prisoner, for contempt of this body, is in the custody of the House, we can have his communication sent to some committee for the purpose of examining and making a report thereon, to be acted upon. And if any gentleman thinks the committee are too slow in reporting upon any communication he can ask for a report to be made. But I assure the House that the committee will not be too slow in this matter. The whole object of this is to get thirty or forty pages, more or less, by this perjured, defaulting, contemptuous, and contemptible witness published in the Globe. Do I understand the Speaker that the paper had been withdrawn?

The SPEAKER. It has been.

Mr. BUTLER. Well, that shows the utter contempt of the House. The question being raised in the House whether it will receive the paper, not wanting it to go to a committee, it is taken away from the Speaker's table while this matter is pending, and then the House of Representatives, representing the nation, is played with hour by hour by these conspirators, who are illegally upon this floor, undertaking to bring our proceedings into contempt.

Mr. BROOKS. I raise a question of order. I wish the gentleman's words taken down: "conspirators on the floor of this House."

The SPEAKER. The words will be taken down, and the Chair will rule upon them.

Mr. BUTLER. I said "illegally on the floor of the House."

Mr. BROOKS. The President's Private Secretary is legally on the floor of the House, and the counsel for the prisoner is legally here.

Mr. INGERSOLL. Is this question debatable?

The SPEAKER. It is not.

Mr. BROOKS. Well, I make the point of order, and I ask that the words may be taken down.

The SPEAKER. The words have been taken down, and the Clerk will read them.

The Clerk read as follows:

"By these conspirators, who are illegally upon this floor, undertaking to bring our proceedings into contempt."

The SPEAKER. The words taken down do not embrace the previous words by which reference was made to certain individuals, and, as

the Chair understood, to the counsel of the witness and the President's Private Secretary. The President's Private Secretary is, by the rules of the House, authorized to be on the floor of the House. He has just submitted a message from the President, and is, therefore, naturally here. The counsel for the witness, if they are not ex-members of Congress or otherwise coming within the rule, are not legally upon the floor of the House, as no consent has been granted to them to come upon the floor. The only remaining point is on the word "conspirators," and the Chair doubts whether the counsel for a person in imprisonment by the order of the House can be properly regarded as conspirators. It is their duty, as attorneys, to defend their client and to advance his interests within the range well known by the profession, and which the Chair will not attempt to limit; but they have no right upon the floor of the House, if the point is made, unless they are ex-members of Congress or privileged under the rules as holding some official position under the Government.

Mr. BUTLER. When I spoke of the President's Private Secretary—

Mr. BROOKS. I object to the gentleman going on until he obtains the consent of the House to proceed in order.

Mr. BUTLER. The Chair has not ruled me out of order yet.

The SPEAKER. The gentleman from New York objects to the gentleman from Massachusetts proceeding except by the consent of the House.

Mr. BUTLER. I do not understand that the Chair has ruled me out of order.

The SPEAKER. The Chair has made a decision, but not ruled all the words out of order. The language on which the point of order was made involved three persons, and the Chair has decided in regard to one of those persons that the language certainly could not properly apply, the words used being "illegally upon the floor." In regard to the other two persons, the witness's counsel, the Chair thinks that the gentleman was not out of order in so stating, if they are not ex-members of Congress, and the Chair thinks they are not.

Mr. BUTLER. I was not speaking of any member of Congress. [Cries of "Order!" "Order!"]

Mr. ELDRIDGE. I desire to know whether the Chair has decided the point of order?

The SPEAKER. The Chair has decided the point of order.

Mr. ELDRIDGE. I understood him to rule the gentleman from Massachusetts out of order so far as his remarks applied to the President's Private Secretary.

The SPEAKER. So far as the Chair's decision went it was that that remark was clearly not in order, reference having been made, in previous words not taken down at the Clerk's desk, to the President's Private Secretary as one of the persons illegally on the floor of the House.

Mr. ELDRIDGE. And the gentleman from New York [Mr. Brooks] objects to the gentleman going on without the consent of the House.

Mr. BUTLER. Will the Speaker allow me an inquiry?

The SPEAKER. Certainly.

Mr. BUTLER. How many Private Secretaries of the President have a right to come upon the floor?

The SPEAKER. Whoever is acting at the time as the President's Private Secretary in transmitting messages to the House.

Mr. BUTLER. Then I did not refer to any man acting as Private Secretary of the President. [Cries of "Order!" "Order!"]

Mr. ELDRIDGE. I object to the gentleman debating, after the point of order has been decided, until the question is determined by the House whether he shall be permitted to proceed.

Mr. BUTLER. I have not yet understood that I was ruled out of order.

The SPEAKER. The Chair decided that

the gentleman's allusion to the President's Private Secretary was not in order.

Mr. BUTLER. Mr. Warden, the short-hand writer of the President, was the person I alluded to. [Cries of "Order!"]

Mr. FARNSWORTH. I desire to suggest that no allusion was made to the President's Private Secretary in the words to which the gentleman from New York took exception, and which were taken down.

The SPEAKER. The words taken down referred to the previous words which were uttered within the hearing of the House, but which were not taken down because they had been uttered some minutes before.

Mr. BUTLER. How does the Chair know that?

The SPEAKER. The gentleman from Massachusetts [Mr. Butler] asks the Chair how he knows it. In the first place the gentleman from Massachusetts is not respectful to the Chair.

Mr. BUTLER. I beg pardon; I had no intention to be disrespectful. But how can the Chair know that certain words of mine referred to certain individuals? I referred to conspirators illegally on the floor of this House; there are more than one.

The SPEAKER. The words of the gentleman were, "these conspirators who are illegally upon this floor." The gentleman had previously stated that the President's Private Secretary and the attorney for the witness were illegally upon the floor of this House. Now, if the gentleman from Massachusetts [Mr. Butler] will state that he did not intend these words—"these conspirators who are illegally upon this floor"—to be connected with the previous words—"the President's Private Secretary and the attorney for the witness who are illegally upon the floor of this House"—the Chair will withdraw his ruling.

Mr. BUTLER. I will state that I meant to refer to Mr. Merrick, the counsel for the prisoner, and W. W. Warden, the President's short-hand writer. And I want to know of this House if I have the right to refer to these men, when I have got telegram after telegram between these parties?

The SPEAKER. As the gentleman from Massachusetts does not say, in response to the inquiry of the Chair, that those words refer to different persons from those previously referred to by the gentleman, the Chair rules that the remark is out of order, so far as it relates to the Private Secretary of the President.

Mr. BUTLER. I do not refer to the Private Secretary of the President.

Mr. ELDRIDGE. I insist that the gentleman from Massachusetts shall resume his seat until the House gives him permission to proceed.

Mr. MILLER. I move that the gentleman from Massachusetts have leave to proceed in order.

Mr. BUTLER. I do not care to say anything further now.

Mr. MILLER. Then I withdraw the motion.

Mr. BUTLER. I call the previous question.

Mr. SCHENCK. I rise to a point of order.

Mr. ELDRIDGE. I insist that the gentleman from Massachusetts cannot move the previous question while he is out of order.

The SPEAKER. Will the gentleman refer to the rule which sustains that point?

Mr. ELDRIDGE. I refer to the rule which says that when a member has been ruled out of order he shall not proceed without permission of the House.

The SPEAKER. Shall not proceed with his speech. But he is not deprived of any right as a member reporting the resolution. He has the right to call the previous question; and if that call is sustained he will be entitled to the floor for one hour.

Mr. ELDRIDGE. While he is out of order, and without permission of the House?

The SPEAKER. Not in this hour, but in the hour after the previous question has been ordered.

Mr. SCHENCK. I desire to raise the point

of order to which I referred when I was up before. I object that this resolution is not a resolution in order, as it proposes to change a rule of the House. I do this without any excitement, and with no desire for anything but justice to every one, no matter how wicked or bad he may be.

This resolution proposes that no communication coming from Charles W. Woolley to the Speaker shall be presented to the House, but it shall be at once sent to this committee for examination. The objection I have to the resolution is twofold: first, that it is out of order, because we cannot deprive the Speaker, as a Representative from the State of Indiana, of the right to present petitions, memorials, communications, &c., under Rule 131.

In the next place it is out of order because we cannot take away from the Speaker that supervision which we have given to him by the rule, to see whether a paper is proper to be presented to the House under the rules and to be referred to a committee. The object of that rule, I take it, was to enable the Speaker to see that nothing disrespectful to the House is presented.

I do not know what the paper is which the Speaker this morning asked permission to lay before the House, for it is not now before us. What is before us, as I understand it, is a general proposition contained in the resolution, that the Speaker shall no longer be trusted to exercise the discretionary power now vested in him to say whether any paper is proper to be laid before the House, but that a change shall be made in the rule. This, it strikes me, is a change of the rule adverse to the right of petition.

The SPEAKER. The Chair overrules the point of order made by the gentleman from Ohio, [Mr. SCHENCK,] because, if sustained, in the scope which it would naturally embrace, it would preclude the Speaker from presenting any petitions from his constituents. The argument of the gentleman from Ohio would go to this extent: that the Speaker cannot present a petition, because as by the rules he is required to supervise petitions and return to members any which he regards as excluded by the rules, therefore, if he presents petitions himself, they cannot be subject to the supervision contemplated by the rules. Now, there are in the constituency represented by the Speaker some forty thousand voters, and from some of these he is constantly receiving petitions. He also receives almost every day, and sometimes to the extent of a dozen a day, petitions from various parts of the South—the States not now represented. The Chair usually presents these petitions under the rules, as all previous Speakers have done; but in the case occurring to-day the Chair asked the consent of the House to present the communication publicly in the House. If the point of order made by the gentleman from Ohio should be sustained the Speaker would be required to hand to his colleagues for presentation all petitions received by him from his constituents and others, and afterward to examine them as Speaker to see whether they should be referred. The Chair could not make such a ruling as that; it would not be in accordance with the uniform usage.

Mr. SCHENCK. I do not know whether I have been distinctly understood; but to narrow down the question, I would ask the Speaker's opinion upon this question of order: whether we can by a resolution change the rule of the House, so that a petition presented by the Speaker or any other member (for of course the rule applies as well to the Speaker as any other member) shall be submitted to some other authority than the Speaker for a decision whether it is proper to be entered on the Journal?

The SPEAKER. The Chair will respond to this branch of the point of order. He thinks the House can adopt a resolution of this kind, because it would be exactly in accordance with the rule, which provides that—

"Members having petitions and memorials to pre-

sent may hand them to the Clerk, indorsing the same with their names, and the reference or disposition to be made thereof."

The resolution proposes to instruct the Speaker to refer petitions of a particular character in accordance with this rule. A note to the rule answers the point of order made some time ago upon the right of the Chair. That note states:

"There is now no other mode of presenting petitions prescribed by the rules; the old rule for presentation in the House having been rescinded December 12, 1853."

So that since December 12, 1853, it has been the rule that petitions cannot be presented in the House except by unanimous consent.

Mr. JONES. I rise to a point of order; but before making the point of order—

The SPEAKER. The gentleman must make the point of order. A point of order is the only thing that can interrupt the action of the House, as the previous question is pending.

Mr. JONES. My point of order is this: whether any member of this body has a right to speak of a witness or a prisoner in the custody of this House as the member from Massachusetts [Mr. BUTLER] spoke of the witness Woolley? He used these words: "this perjured, contemptuous, and contemptible witness." Now, I desire to say that I am not here to defend Mr. Woolley—

The SPEAKER. The gentleman cannot debate the point of order. The Chair will rule upon it. He overrules the point of order, and if there were no other ground, certainly he must do so upon this, that the point was not made at the proper time. Any point of order upon language used in debate must be made at the time the words are spoken. But the Chair will state for the information of the House what his ruling would have been if the point had been made in time. In this case the committee of investigation charge the witness with having testified one way at one time and another way at another time. The question is whether that amounts to perjury. If the point of order had been made at the time upon the words uttered by the gentleman from Massachusetts, the Chair would have submitted that question for decision to the House, which, having heard the evidence submitted by the committee and knowing all the facts, could judge whether they justified the language used. But the point of order is not made at the right time, and therefore cannot be entertained.

Mr. JONES. Have I the power and the right to say a word?

The SPEAKER. Not now.

Mr. JONES. I should like to answer the member from Massachusetts.

The SPEAKER. Debate is not in order.

Mr. RANDALL. Was the petition addressed to you as Speaker?

The SPEAKER. It was addressed to me as Speaker of the House of Representatives.

Mr. PILE. Has the petition been withdrawn?

The SPEAKER. It has not been withdrawn, but was taken by a member of the House.

Mr. PILE. If the resolution be voted down what disposition would be made of the paper?

The SPEAKER. The House has refused to receive the paper, and it is not now in the possession of the Speaker.

The House divided; and there were—ayes 50, noes 40; no quorum voting.

The SPEAKER ordered tellers; and appointed Mr. BUTLER and Mr. BURR.

The House divided; and there were—ayes 70, noes 37.

So the previous question was seconded.

The main question was then ordered.

Mr. FARNSWORTH. This violates the rules of the House. The rules require that all petitions shall be sent to the appropriate committees. This declares that all communications from Mr. Woolley and his counsel shall go to the committee. It does not limit it to this paper, but says that all papers shall be sent to the committee.

The SPEAKER. The Chair overrules the point of order on the ground that, if made at all, it must be made at the time the resolution

was presented. Since then the previous question was seconded and the main question ordered, and it is now too late.

Mr. GARFIELD. All communications in the nature of private letters which Mr. Woolley may desire to send to anybody must, under this resolution, go to this committee; and in the second place, this House cannot have possession of any paper Mr. Woolley may send to it unless the committee of investigation shall allow the House to have possession of it. He cannot make any communication to this House at all without the permission of the committee. If that is the meaning of the resolution I want to know it.

Mr. BUTLER. I ask leave to answer the question. In the first place, no one of the letters of Mr. Woolley go to the Speaker. That has been settled a long time ago. That objection is not founded on facts.

This only refers to the communications which are placed by Mr. Woolley or his counsel in the hands of the Speaker for the purpose of being presented to this House. This morning, for instance, a written communication of thirty pages was given to the Speaker to be presented to the House. The House have not done any more in this instance than in any other, saying they will make such disposition of such communications as they please. The House and the gentleman have overlooked this matter.

My friend from Ohio says we interfere with the right of petition. Here is a person in the hands of the House, in contempt of the House, and he has no right to make any communication to the House except by leave of the House. The House say that we will allow him to make a communication at any time in a certain manner, and in no other manner. We have the right to say it. Yet, when that favor is accorded to him we are told that he is denied the right of petition!

Mr. ELDRIDGE. I ask the gentleman to yield to me.

Mr. BUTLER. No. I was stopped by the other side.

Mr. ELDRIDGE. Only when you were speaking out of order.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 66, nays 59, not voting 64; as follows:

YEAS—Messrs. Ames, Dolos R. Ashley, James M. Ashley, Banks, Beatty, Benjamin, Benton, Bromwell, Buckland, Butler, Cako, Churchill, Rendar W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Coville, Delano, Eckley, Eggleston, Eliot, Ferry, Fields, Griswold, Higby, Hooper, Hubbard, Hunter, Judd, Julia, Kitchen, Koonz, Loan, Mallory, McCarthy, McClurg, Mercor, Miller, Moore, Morrill, Mullins, Myers, Newcomb, Nunn, O'Neill, Poley, Pomeroy, Raum, Sawyer, Seefeld, Starkweather, Aaron E. Stevens, Stokes, Taffe, Taylor, Trowbridge, Twichell, Upson, Van Aernam, Robert F. Van Horn, Van Wyck, Ward, Welker, William Williams, and John T. Wilson—66.

NAYS—Messrs. Axtell, Baker, Barnes, Beaman, Beck, Blair, Boyer, Brooks, Burr, Dodge, Driggs, Eldridge, Farnsworth, Ferriss, Garfield, Getz, Goldaday, Gravely, Grover, Haight, Harding, Hill, Holman, Hotchkiss, Richard D. Hubbard, Ingersoll, Johnson, Jones, Knott, Ladin, George V. Lawrence, Loughridge, Marshall, McCormick, Morrissey, Niblack, Paine, Peters, Phelps, Pile, Plants, Radall, Ross, Schenck, Shellabarger, Sitzgreaves, Stewart, Stone, Taber, John Trimble, Lawrence S. Trimble, Van Aiken, Van Trump, Cadwallader C. Washburn, Elihu B. Washburne, Henry D. Washburn, Wood, and Woodward—59.

NOT VOTING—Messrs. Adams, Allison, Anderson, Archer, Arnell, Bailey, Baldwin, Barnum, Bingham, Blaine, Bonwell, Broomall, Cary, Chandler, Caburn, Cullom, Dawes, Dixon, Donnelly, Eli, Finney, Fox, Glessbrenner, Halsey, Hawkins, Hopkins, Jenckes, Hubbard, Chester D. Hubbard, Humphrey, Jenckes, Kelley, Kelsey, Kerr, Ketcham, William Lawrence, Lincoln, Logan, Lynch, Marvin, Maynard, Orth, Parlough, Moorhead, Mungen, Nicholson, Robinson, Pike, Poland, Price, Pruyn, Robertson, Robinson, Selye, Shanks, Smith, Spaulding, Thaddeus Stevens, Thomas, Burt Van Horn, William B. Washburn, Thomas Williams, James T. Wilson, Stephen F. Wilson, Windom, and Woodbridge—64.

So the resolution was agreed to.

Mr. BUTLER. I move to reconsider the vote just taken; and to lay the motion to reconsider on the table.

Mr. RANDALL. I call the yeas and nays on the motion.

Mr. BUTLER. I withdraw it.



## MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that that body had passed without amendment a joint resolution (H. R. No. 284) to provide for the removal of a suit pending in the circuit court of Jefferson county, West Virginia, to the circuit court of the United States.

Also, that the Senate had passed without amendment a joint resolution (H. R. No. 287) for the restoration of Captain James F. Armstrong, United States Navy, to the active list from the retired list.

## RECUSANT WITNESS.

Mr. ELDRIDGE. I move to suspend the rules for the purpose of receiving the petition of Charles W. Woolley, which completely purges the contempt charged upon him, and ask that he be discharged. The facts, which he states fully, I think will satisfy the House that he ought now to be discharged.

The SPEAKER. Is the gentleman's motion in writing?

Mr. ELDRIDGE. It is; that is, the resolution for the discharge.

Mr. BUTLER. I rise to a question of order, and as preliminary to the point of order I ask if this is the same paper that was asked to be presented by the Speaker and was ruled out?

Mr. RANDALL. The gentleman must state his point of order.

The SPEAKER. The gentleman is making a point of order. It is not argumentative; it is stating a point of order against a proposition.

Mr. BUTLER. My point of order is, that this paper was in the hands of the Speaker, and is improperly out of his hands.

The SPEAKER. The Chair overrules the point of order, and must necessarily do so, though he would like to have some other Presiding Officer do it, on the ground that it would be stating that he had done an improper act.

Mr. BUTLER. I do not wish to do that.

The SPEAKER. The point of order includes the statement that the paper was improperly out of his hands. It went by voluntary consent, as the gentleman who requested it said he desired to return it to the attorneys or some person who would have charge of it.

Mr. ELDRIDGE. To exculpate the Speaker entirely, I will state that the paper which was presented to the Speaker and offered by him I called upon the Speaker for, at the request of the attorneys for Mr. Woolley.

The SPEAKER. The Chair so understood.

Mr. BUTLER. The point I mean to make is this: after a document from a witness, in contempt and in custody of this House, is put in the hands of the Speaker, with a written request to present it to the House, and after the document has been offered to the House and it has acted on the question of its reception, it cannot be withdrawn without the consent of the House.

The SPEAKER. The gentleman will see that the action of the House is directly the reverse of the point of order he has made. The Chair presented the paper and asked unanimous consent of the House to receive it. The House, on the objection of the gentleman from Massachusetts, [Mr. BUTLER,] refused to receive it. Therefore the House has nothing more to do with it than with any resolution which it refuses to receive. It then remained in the custody of the Speaker, and he had either to keep it with his own private papers, refer it under the rule, or hand it to some member who might request it on behalf of the witness. The Chair handed it to the member after the House refused to receive it.

Mr. BUTLER. I object to the reception of the paper.

The SPEAKER. It is not yet before the House. The gentleman moves to suspend the rules for the purpose of offering a resolution.

Mr. ELDRIDGE. I present a petition of Mr. Woolley which fully purges his contempt in my opinion. If that is received, I have drawn a resolution that he be discharged.

Mr. RANDALL. I call for a division of the question, first on the motion to suspend the rules and then on discharging the witness. They are distinct propositions.

Mr. ELDRIDGE. Of course the House will act on the resolution as it sees fit, if it receives the petition.

The SPEAKER. The Chair will state that if the House suspends the rules for the purpose of receiving the paper it will then be before the House, and any resolution that naturally grows out of it would then be in order. The gentleman from Wisconsin can therefore withhold his resolution until after the question is taken on the reception of the paper.

The question was put on Mr. ELDRIDGE's motion, and there were thirty-four in the affirmative.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were yeas 38, nays 79, not voting 72; as follows:

YEAS—Messrs. Axtell, Baker, Barnes, Beck, Boyer, Brooks, Burr, Eldridge, Getz, Golladay, Grover, Haight, Holman, Hotchkiss, Ingersoll, Johnson, Jones, Knott, Marshall, McCormick, Morrissey, Niblack, Nunn, Phelps, Polesley, Randall, Ross, Schenck, Sigreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auker, Van Trump, Windom, Wood, and Woodward—38.

NAYS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Beaman, Beatty, Benjamin, Benton, Bromwell, Butler, Calk, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Covode, Callom, Delano, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravely, Griswold, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Hunter, Judd, Julian, Kitchen, Kootz, Laffin, Lincoln, Loan, Logan, Lougbridge, Maynard, McClurg, Mercer, Miller, Moore, Morrell, Mullins, O'Neill, Paine, Pike, Plants, Raum, Sawyer, Seofield, Shellabarger, Starkweather, Aaron F. Stevens, Stokes, Taffe, Taylor, Thomas, John Trimble, Trowbridge, Twichell, Upson, Van Aernan, Robert T. Van Horn, Van Wyck, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, and John T. Wilson—79.

NOT VOTING—Messrs. Adams, Anderson, Archer, Arnell, Bailey, Baldwin, Banks, Barnum, Bingham, Blaine, Blair, Boutwell, Broomall, Buckland, Cary, Chanler, Coburn, Cornell, Dawes, Dixon, Dodge, Donnelly, Driggs, Ela, Finney, Fox, Glossbrenner, Halsey, Hawkins, Hill, Asahel H. Hubbard, Richard D. Hubbard, Hulburd, Humphrey, Jencks, Kelley, Kelsey, Kerr, Ketchum, George V. Lawrence, William Lawrence, Lynch, Mallory, Marvin, McCarthy, McCullough, Moorhead, Mungen, Myers, Newcomb, Nicholson, Orth, Perham, Peters, Pike, Poland, Pomeroy, Price, Pruyn, Robertson, Robinson, Selye, Shanks, Smith, Spalding, Thaddeus Stevens, Burt Van Horn, Cadwalader C. Washburn, Thomas Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—72.

So two thirds not voting in favor thereof, the rules were not suspended.

## ENROLLED BILLS SIGNED.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 419) granting a pension to Mary Atkinson; and

An act (S. No. 319) granting a pension to Bridget W. McGrorty and the minor children of William B. McGrorty, deceased.

## RECUSANT WITNESS.

Mr. SHELLABARGER. I rise to a question of privilege. I offer the following resolution:

*Resolved*, That Charles W. Woolley, now under the arrest of this House for contempt of the authority of the House, be ordered to the bar of the House, for the purpose of making such statement as will purge him of his contempt of such authority.

Mr. WASHBURNE, of Illinois. Does Woolley desire that?

Mr. SHELLABARGER. I answer the question that Woolley has, by the voice of one of the members of this House, indicated to the House that he desires to make a statement to the purging himself of the contempt under which he is. That, in my apprehension, is authority or indication enough to authorize the House to adopt the action proposed by this resolution. This House cannot divest itself of one of its inherent rights. As for example, it cannot refer to a committee the matter of its right to adjourn. Its right at all times to hear a prisoner who is alleged to be in contempt of the

authority of the House is one of those inalienable rights which the House cannot commit to the discretion of a committee, and which is not included, as I understand the resolution of my friend from Massachusetts, [Mr. BUTLER,] within the design of his resolution. It is, therefore, a privileged question, I suggest to my friend from Illinois, which at all times the House, from its own nature and character, must have the privilege at once to enter upon and consider. It is a matter relating to the organization and business and dignity of the House. It is a privileged question, and a prisoner having indicated his purpose to purge himself of his contempt, it must at all times be in order to hear his answer and purgation of contempt.

The SPEAKER. The gentleman from Ohio [Mr. SHELLABARGER] presents this resolution as a question of privilege; the witness having been imprisoned by the authority and order of the House for an alleged contempt of its authority. It is a question for the House to determine, whether they will entertain this as a question of privilege. If there is no objection the resolution will be entertained.

Mr. BUTLER. I object, unless the gentleman from Ohio says that he submits this resolution at the request of the witness.

Mr. SHELLABARGER. It is not submitted in pursuance of any suggestion of the witness to me personally, for I have never seen him; but it is presented upon a formal statement made here in the hearing of the House by a member of the House, who alleges, upon his character as a member, that he holds in his hand what, in the judgment of that member, is a complete purgation of contempt. That, it seems to me, is and must be, in the very nature of the case, authority for the House to at least hear the prisoner's statement.

Mr. BUTLER. I withdraw my objection.

No further objection being made, the resolution was received.

Mr. SHELLABARGER. I call the previous question.

The previous question was seconded upon a division—yeas sixty-six, noes not counted.

The main question was then ordered.

The question was taken upon the resolution; and the Speaker announced that it was adopted.

Mr. PAINE. I rose to call for the yeas and nays upon the adoption of the resolution, but failed to obtain the recognition of the Chair in time to do so.

Mr. ELDRIDGE. I raise the point of order that the call for the yeas and nays is made too late.

The SPEAKER. If the gentleman from Wisconsin [Mr. PAINE] will state that he did call for the yeas and nays in time the Chair will consider it as in time.

Mr. PAINE. I did not say in so many words, "I call for the yeas and nays;" but I said, "Mr. Speaker." As I was not recognized by the Chair, I did not say anything more.

The SPEAKER. The Chair always, in taking a question, says, "The yeas appear to have it," or "the noes appear to have it," as the case may be, and it is perfectly in order for any member at that time to rise, interrupt the Speaker, and demand the yeas and nays.

Mr. PAINE. I rose for that purpose, but did not make the demand. I would be glad to have the yeas and nays upon this resolution.

The SPEAKER. It is now too late, except by unanimous consent.

Objection was made by several members.

Mr. LOGAN. I move that the rules be suspended, in order that the yeas and nays may be ordered on this resolution.

The question was taken upon suspending the rules, and (two thirds not voting in the affirmative) it was not agreed to.

The resolution was accordingly declared to be adopted.

Mr. SHELLABARGER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ENROLLED BILL AND JOINT RESOLUTIONS.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 1039) to admit the State of Arkansas to representation in Congress;

Joint resolution (H. R. No. 284) to provide for the removal of a suit pending in the circuit court of Jefferson county, West Virginia, to the circuit court of the United States; and

Joint resolution (H. R. No. 287) for the restoration of Captain James F. Armstrong, United States Navy, to the active list from the retired list.

## ORDER OF BUSINESS.

Mr. SCHENCK. Mr. Speaker—

Mr. ELIOT. Will the gentleman yield to me for a moment?

Mr. SCHENCK. For what purpose?

Mr. ELIOT. I gave notice more than a week ago that at the expiration of the morning hour to-day I should seek to obtain the floor for the purpose of moving that House bill No. 1046, being the river and harbor bill, be taken from the Committee of the Whole and assigned for action in the House.

Mr. SCHENCK. I cannot yield the floor for anything that will occasion debate or lead to a call of the yeas and nays.

Mr. WASHBURN, of Illinois. I do not believe there will be any objection to the proposition of the gentleman from Massachusetts. When the bill was reported I objected to its consideration because I had an amendment which I wanted to come in. The gentleman from Massachusetts [Mr. ELIOT] agreed that when the bill was taken up for action I should have the opportunity to submit my amendment, together with my report. Under these circumstances I hope there will be no objection to the arrangement proposed.

Mr. SCHENCK. I have said that if it is a mere question of that kind occasioning no debate I will yield. But if it occasions debate or a vote by yeas and nays I must object.

Mr. MAYNARD. I would inquire of the gentleman from Massachusetts at what time he proposes to consider that bill?

Mr. ELIOT. I will make my motion, and then the gentleman from Tennessee [Mr. MAYNARD] will understand what I want. I desire to move that the Committee of the Whole be discharged from the further consideration of House bill No. 1046, which is the river and harbor improvement bill, and that the same be postponed until Friday next after the morning hour, and then considered in the House as in Committee of the Whole, without the necessity of voting upon the separate items of the bill.

Mr. WASHBURN, of Illinois. I must object to anything that suspends the rule which gives the House the power to vote on every item of the bill.

Mr. BLAINE. Certainly, you cannot do that; say "considered as in Committee of the Whole."

Mr. ELIOT. If there is any desire to vote upon any special item of the bill, of course I will not object. But it does not seem to me to be worth while, upon a bill containing thirty or forty different items, to have a separate vote upon each clause, unless such is the desire of the House.

Mr. WASHBURN, of Illinois. That is a rule of the House now, and for one I object to its being changed.

Mr. WOOD. So do I.

Mr. WASHBURN, of Illinois. It is one of the best rules of the House.

Mr. ELIOT. I will modify my motion so that the Committee of the Whole be discharged from the further consideration of the bill, and that it be considered in the House as in Committee of the Whole on Friday next after the morning hour.

Mr. WASHBURN, of Illinois. I wish it to be understood that the right to have a separate vote upon every item is not waived.

Mr. ELIOT. It will not be waived unless on my motion; and I have already withdrawn that part of my motion.

The SPEAKER. The gentleman from Massachusetts [Mr. ELIOT] moves that the rules be suspended, and that the Committee of the Whole be discharged from the further consideration of the river and harbor bill, and the same be assigned for consideration on Friday next after the morning hour, and from day to day until disposed of. This motion requires for its adoption a two-thirds vote.

Mr. SCHENCK. If that motion be adopted will it interfere with my right to move to go into Committee of the Whole on the tax bill?

The SPEAKER. On the expiration of the morning hour upon Friday this order, if adopted by a two-thirds vote, would operate, and would preclude the motion to go into Committee of the Whole on that day until this bill had been in some way disposed of.

Mr. SCHENCK. Then I cannot give way to the gentleman from Massachusetts for any such motion. I am willing that the gentleman's bill shall come in after the tax bill, but not before.

Mr. ELIOT. Will the gentleman agree to the proposition if I say a week from next Friday?

Mr. SCHENCK. Let the gentleman say immediately after the termination of action on the tax bill.

Mr. ELIOT. I will do no such thing. I give the gentleman notice that we shall send the tax bill back to his committee before the time I have named.

Mr. SCHENCK. Well, Mr. Speaker, I suppose that is a declaration of war. [Laughter.]

## UNION PACIFIC RAILROAD, EASTERN DIVISION.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a communication from General Hancock, respecting assistance from the Government to the Union Pacific railroad, eastern division; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

## BENJAMIN MALONE.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a report of Judge Advocate L. C. Turner, on the case of Benjamin Malone, late a paymaster United States volunteers; which was referred to the Committee on Military Affairs.

## TAXATION OF UNITED STATES BONDS.

Mr. MARSHALL. Mr. Speaker, is it in order for me to ask to have my vote recorded upon a proposition voted on this morning in my absence?

The SPEAKER. The Chair cannot ask unanimous consent for that purpose; but it would be in order for the gentleman to move to suspend the rules.

Mr. MARSHALL. I will not ask that, but will merely state that I was necessarily absent this morning on important business at the Departments; but if I had been present when the vote was taken on the resolution of the gentleman from Indiana, [Mr. HOLMAN,] relative to the taxation of United States bonds, I should have voted against laying the resolution on the table, against the motion to refer, and, if the question had come before the House, in favor of the adoption of the resolution.

## LEAVE OF ABSENCE.

Mr. WASHBURN, of Illinois. On account of the state of my health, I ask to be excused from attendance at the evening sessions of the House.

The SPEAKER. If there is no objection, the gentleman will be excused.

There was no objection.

## NIAGARA SHIP-CANAL.

Mr. COOK. At the request of the gentleman from New York, [Mr. VAN HORN,] who is necessarily absent, I ask consent to make a

report from the select Committee on the Niagara Ship-Canal.

There being no objection,

Mr. COOK reported back, from the select Committee on the Niagara Ship-Canal, a bill (H. R. No. 792) to provide for the construction of a ship-canal around the Falls of Niagara; which was referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. HOLMAN moved to reconsider the vote by which the bill was referred to the Committee of the Whole on the state of the Union; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

## ORDER OF BUSINESS.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the tax bill.

Mr. ELDRIDGE. I rise to a question of order. The House has ordered the Sergeant-at-Arms to bring Mr. Woolley to the bar of the House, and it should be done immediately. The liberty of the citizen is of more value than the tax bill, which we have been notified by the gentleman from Massachusetts [Mr. ELIOT] will be referred back to the Committee of Ways and Means.

The SPEAKER. The Chair will state to the gentleman from Wisconsin [Mr. ELDRIDGE] that the resolution to which he refers, like all similar resolutions, requires to be engrossed. It is now being engrossed, as the Chair learns from the Journal clerk, and will be handed to the Sergeant-at-Arms immediately. If the House had ordered that all business should be suspended until the resolution had been engrossed and the witness brought to the bar of the House the gentleman's point of order would be sound; but such is not the order of the House.

Mr. ELIOT. I rise to a point of order, and it is this: when on Monday morning after the morning hour notice is given of a motion to suspend the rules for the purpose of removing an appropriation bill from the Committee of the Whole on the state of the Union, it takes precedence of a motion to suspend the rules to go into Committee of the Whole. Since I have been in Congress it has been the uniform rule, so far as I recollect, to give precedence to similar motions to the one I have made.

Mr. SCHENCK. But I had the floor.

The SPEAKER. The Chair overrules the point of order on another ground. The gentleman from Massachusetts is familiar with the practice of the House, and he knows that the rules have been suspended and the tax bill made the special order in Committee of the Whole on the state of the Union after the morning hour from day to day until disposed of. The two orders stand upon the same ground exactly, excepting that the one in regard to the tax bill was first made.

Mr. ELIOT. I believe the Chair is right.

## INTERNAL TAX BILL.

The motion of Mr. SCHENCK was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The pending section was section fifty-three, which had been amended to read as follows:

SEC. 53. And be it further enacted, That the Commissioner of Internal Revenue is hereby authorized, on appeal to him made within fifteen months from the date of assessment thereof, to remit all taxes erroneously or illegally assessed, and to refund by requisition on the Treasury all taxes erroneously or illegally collected; such power to remit and refund to extend to moneys assessed or collected as penal tax in cases where an assessor or collector assessor has or shall have added such penal tax to the assessment, and the Commissioner shall be of opinion that this addition was improper. The Commissioner shall also have power upon such appeal being made to him as aforesaid, to refund in like manner all fines

or penalties collected without authority, or collected in cases where the tax shall have been refunded under the power herein given: *Provided*, That where a second assessment has been or may hereafter be made in case of a return which, in the opinion of the assessor or assistant assessor, was fraudulent, or contained any understatement or undervaluation, such assessment shall not be remitted, nor shall taxes collected under such assessment be recovered or refunded, unless it is proved that said return was not fraudulent. And if such proof shall be furnished, the sum remitted or refunded shall not include the amount, if any, which should have been assessed or collected had there been no understatement or undervaluation. The circuit and district courts of the United States shall have jurisdiction in all cases at law or in equity arising under the internal revenue laws. But no suit shall be maintained in any court for the recovery of any tax alleged to have been erroneously or illegally collected, until such appeal shall have been duly made to the Commissioner of Internal Revenue and a decision of said Commissioner had thereon, and no such suit shall be maintained in any court unless brought within six months from the time of such decision; but if the decision shall be delayed more than six months from the date of appeal, then suit may be brought at any time within twelve months from the date of such appeal. No suit commenced after March 2, 1867, for the purpose of restraining the assessment or collection of tax shall be maintained in any court.

The pending amendment was to strike out the last sentence.

Mr. HOLMAN. I withdraw that amendment, and move to add the words "except in the courts of the United States."

Mr. Chairman, it seems to me that it would be exceedingly unwise to deprive the courts of justice of all power to interfere in a case where it is manifest that the taxes have been improperly assessed. It is a well known fact if a citizen is compelled to pay taxes and go before the department for the purpose of obtaining the refunding of the money unjustly taken from him that it will take at least a year or eighteen months. It is not only attended with great delay, but it is also attended with great uncertainty, as it is impossible in the nature of things that officers connected with the revenue should be able to decide questions of this character as well as courts of justice. It seems to me that Congress ought not to refuse jurisdiction to the Federal courts in this class of cases.

The gentleman from Vermont [Mr. POLAND] had occasion to illustrate the enormity of the proposition submitted to the House on last Saturday excepting from the operation of the act appeals already pending. It does seem to me it would be without precedent for Congress to refuse to the Federal courts power to interpose between the Government and citizen where an attempt is made to enforce a tax in violation of law.

I think that no instance can be found in legislation where the courts of a country have been expressly deprived of all jurisdiction in preventing a wrong from being done. The question presents itself in this form: shall a citizen who is able to make out a case for an injunction against a tax which he alleges is unjustly levied upon him, be entitled to enjoin it until the courts have decided the question, executing the proper bond therefor, or shall he be compelled to pay the tax and resort to the long, tedious, and uncertain delay of a legal proceeding in order to obtain the refunding of his money? not the money with interest, not the damages, but the simple sum of money he has had to pay. It seems to me the courts of justice should be left open for this class of cases as for all other classes.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, as the proposition presented to the committee by the amendment of the gentleman from Indiana is an exceedingly important one, I trust it will receive the attention of the House. Following the existing law, the committee reported, as a part of this section, "that no suit for the purpose of restraining the assessment or collection of tax shall be maintained in any court." The gentleman first moved to strike out that provision entirely. He now proposes, as I understand, not to strike out that, but to amend the section by confining suits to the courts of the United States, thus, if his amendment prevails, leaving it in the power of any officer at any time to stop the collection of any tax.

Now, sir, the bill provides clearly and distinctly for an appeal to the Commissioner of Internal Revenue for a remission of tax or for an alleviation of tax. It gives full privilege to appeal to the courts to recover back the tax. Thus there is no taking away of his day in court for any tax-payer. What the gentleman proposes, however, is that the door shall be opened, thus far repealing the present law of the land, and refusing to reenact the same law, so that in any court of the United States a suit may be brought to enjoin the collection of any tax. Let this become law and no one can fail to see what would be the consequence. Every distiller, every tobacco dealer, every man who has a question in regard to this income tax, who desires time, who desires to thwart the Government in the attempt to secure its revenue, will be found by petition to the courts, asking to enjoin and prevent the collection of the tax until a long hearing can be had. And it is a question very seriously to be considered whether the Congress of the United States, in enacting laws for the collection of its revenue, will enact laws crippled by such conditions, such incidents attending the execution of the law, as this would open to any one who was disposed not to meet a requisition made upon him for his contribution for the support of the Government.

I submit the question, therefore, to the House whether it is expedient, whether it is wise to abandon the law to these men by refusing to reenact it in a revision of the law, so that all persons shall have the privilege of rushing into court in advance, not satisfied with having reserved to them fully their right to their day in court afterwards, and cripple the Government if it attempts to raise its revenue by taxation.

Mr. ELDRIDGE. I move that the committee rise for the purpose of hearing a statement of Mr. Woolley, who is now on the floor of the House.

Mr. SCHENCK. I hope not. The question was put; and there were—ayes 33, noes 47; no quorum voting.

A MEMBER. Let him wait.

Mr. MULLINS. We have waited for him three weeks.

Tellers were ordered; and the Chair appointed Messrs. ELDRIDGE and ALLISON.

Mr. ELDRIDGE. Would it not be agreeable to the chairman of the committee to have Mr. Woolley make his statement now? The gentleman does not desire to keep him in prison, I presume?

Mr. SCHENCK. We shall lose our opportunity of continuing in session this evening by taking a recess of the committee at half past four o'clock.

Mr. ELDRIDGE. Not at all; we can get through with this matter in a few minutes.

Mr. SCHENCK. I prefer to go on with the tax bill.

Mr. ELDRIDGE. The gentleman, I presume, does not wish the prisoner to remain in the bastille any longer than he is obliged to.

The CHAIRMAN. Debate is out of order. The House divided; and the tellers reported—ayes 47, noes 43.

So the motion was agreed to.

So the committee, rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

#### RECUSANT WITNESS.

The Sergeant-at-Arms appeared at the bar of the House, accompanied by Charles W. Woolley, and said: Pursuant to the order of the House, I now have Charles W. Woolley at the bar of the House as directed.

The SPEAKER. Charles W. Woolley, the House has adopted a resolution, which will be reported by the Clerk.

The Clerk read the resolution, as follows:

*Resolved*, That Charles W. Woolley, now under the arrest of this House for contempt of the authority of the House, be ordered to the bar of the House for the purpose of making such statement as will purge him of his contempt of such authority.

The SPEAKER. Are you ready to make such statement as will purge you of your contempt of the authority of the House?

Mr. WOOLLEY. I am, sir; this paper is my answer.

Mr. SHELLABARGER. Mr. Speaker, the witness has been committed, as appears by the Journal of the House, for refusing to answer certain questions put to him by a committee of the House. The contempt consists in the refusal to answer, not questions put by the House, but questions put by the organ of the House, to wit, the committee, and the contempt can only be purged by the witness declaring that he is now ready to comply with the order and authority of the House, and to do it by making proper answers to the committee.

Mr. ELDRIDGE. I rise to a question of order. The resolution was not to that effect; and I deny that it is either the requirement of law or the rule of the House. In order that the witness may purge his contempt the House call him before them, and, for the purpose of determining all questions with reference to the contempt with which he is charged, the witness stands here before them. And if the House decides that he shall answer questions or go back before the committee and answer certain questions, then the witness stands ready to obey that order, as I understand from him, or any order that the House shall make in regard to the case. But he has already, as the House is aware, complained as to the manner in which he was treated by the committee; and he has properly presented the case to the House, and asks that the House shall put to him here before them such questions as they desire him to answer, and that he may give such answers and make such statements as shall purge his contempt fully. He appears now at the bar ready to do that, as I am informed.

The SPEAKER. The Chair cannot repeat the point of order on account of its length; but the Chair will read the resolution showing that allusion is made in it twice to the contempt of the authority of the House. As to what has previously occurred, and as to the witness standing at the bar willing to answer any questions, that does not properly come up under this resolution. The resolution is as follows:

*Resolved*, That Charles W. Woolley, now under the arrest of this House for contempt of the authority of the House, be ordered to the bar of the House for the purpose of making such statement as will purge him of his contempt of such authority.

It first charges that he is under arrest for contempt, and then orders him to the bar of the House for the purpose of making such statement as will purge him of his contempt. Whatever statement he now desires to submit the Chair will receive and submit to the House, and it will be for the House to say whether they will receive that statement, or whether he shall make his statement to the committee.

Mr. WOOLLEY. I have my answer here in writing. That is my statement.

The SPEAKER. The witness replies that he has a statement in writing which he desires to present to the House.

Mr. SHELLABARGER. I see by the record of the House that the following questions were put to the witness, and it was for refusing to give satisfactory answers to them that he is now under arrest:

"1. What excuse have you for refusing to answer before the managers of impeachment of this House, in pursuance of the summons served on you for that purpose?"

"2. Are you now ready to appear before said managers and answer such proper questions as shall be put to you by said managers of impeachment?"

Although I was not here at the time, I understood from the gentleman who is in charge of this matter [Mr. BERLIN] that the order for commitment was for a refusal of the witness to



make satisfactory answers to these two questions. Most clearly the contempt is in refusing to answer in the only place where the answer can be properly heard and the witness cross-examined as to matters upon which he is examined by order of the House. The contempt is not in refusing to answer here, but in refusing to answer in the place where the House has ordered that he shall answer; and I submit that anything else than a proper answer before the committee is not a purgation of the contempt; the contempt being, as I have said, a refusal to answer before the committee.

I have carefully drawn this resolution so that the witness shall only make such statement as will purge him of the contempt of the authority of the House, that authority being exercised in directing him to answer the committee. He cannot here give answers to the questions of the committee. All that he can say is, "I am now ready," or "not ready," as the case may be, "to appear before the committee and make answer to the questions for refusing which I am in contempt of this House."

Mr. WOODWARD. I suggest that the witness having been brought here under the resolution of the gentleman from Ohio, [Mr. SHELLABARGER,] he has a right to purge himself in his own terms, and that no man can dictate to him the terms in which the purgation shall be made. This witness, as I understand the preceding resolution, is in contempt of the House for not answering certain questions before the committee. Upon a resolution of the House the witness is now brought to the bar of the House to purge himself of that contempt. He is here for the purpose of offering a written communication to the House for that purpose. The gentleman from Ohio [Mr. SHELLABARGER] argues that he can purge himself in no other way than by answering the precise and specific questions of the committee. I submit to the House that neither the gentleman from Ohio nor any other gentleman can prescribe the terms in which the witness may purge himself. The House will judge, after hearing what the witness has to say, whether he has employed terms that are satisfactory to the House. Let me illustrate: suppose this written communication of the witness—I do not know what it contains—suppose it contains such statements as will satisfy the House that the questions addressed to him by the committee ought not to be answered.

Mr. GARFIELD. The House has already agreed that these questions were proper, and has committed the witness for contempt because he has not answered these very questions.

Mr. WOODWARD. It is still an open question before the House. And the witness may be able to convince the House that the questions, in the form and manner in which they are put, ought not to be answered; the witness has a right to convince the House of that if he can.

I submit that the witness, being brought here for the purpose of purging himself, has a right to purge himself in his own way. It is impossible that the gentleman from Ohio can purge him; he must purge himself. And whenever he shall have submitted whatever he has prepared for that purpose, the House will judge whether it is purgation or not. That is my suggestion, that the witness alone can make his purgation. The House can judge of it after they have heard it; they cannot before.

Mr. COVODE. The proceedings of the gentlemen on the other side are entirely unprecedented. There has never been a single case in this House, since I have been here, of a witness in contempt being brought before the House and asked to do more than to agree to go before the committee and testify. It is the business of the committee to receive the testimony of the witness, and not the business of the House. Every member of this House knows that this man is not only guilty of contempt of the House, but also guilty of perjury. And it is the time of the House to be taken up—

Mr. ELDRIDGE. I call the gentleman to

order. He is out of order in saying that the witness is guilty of perjury.

The SPEAKER. The question will be submitted to the House. The same question has been adverted to once before. The committee of investigation have submitted their report in regard to the answers of the witness at various times; that report has been printed by order of the House, and the facts are in possession of the House. The question is whether the remarks of the gentleman from Pennsylvania [Mr. COVODE] are in order.

Mr. COVODE. The witness has admitted it himself.

Mr. ELDRIDGE. I desire to raise a question of order upon the proposition of the Speaker to submit this question to the House. The same thing, I am aware, has been done heretofore, but without any action of the House. It seems to me that such a proceeding is in utter violation of all our rules.

The SPEAKER. Unless the gentleman from Wisconsin [Mr. ELDRIDGE] thinks it the duty of the Chair to listen to these remarks the Chair will arrest them. The right way to traverse the action of the Speaker is by appealing from his decisions, not by indulging in criticisms upon them.

Mr. ELDRIDGE. I did not mean to make any criticism upon the action of the Chair; but I wish to make this suggestion: that if the majority of the House can determine the construction of the rules, then the rules are of no possible use. The object of our rules is to protect the rights of the minority.

Mr. UPSON. Mr. Speaker, is debate in order?

Mr. SPEAKER. Debate is not in order. In reference to the point raised by the gentleman from Wisconsin, the Chair will state that the rules expressly give to the Chair the privilege of submitting questions to the House. The Chair therefore submits to the House, which is a higher authority than the Speaker, the question whether under the circumstances appearing in the report of the committee the remark of the gentleman from Pennsylvania [Mr. COVODE] shall be regarded as out of order?

On the question there were—ayes 33, noes 63.

Mr. ELDRIDGE. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. BUTLER. I rise to a point of order. The gentleman from Pennsylvania was speaking in my time, I having yielded him the floor. I propose now to resume the floor. That ends this proceeding, I believe.

The SPEAKER. It does not. During the time the gentleman from Pennsylvania was on the floor by the consent of the gentleman from Massachusetts words were uttered which it is claimed were out of order; and that question must be decided. The Chair will state that upon this question a precedent has just occurred to his mind, and as the gentleman from Wisconsin has indulged in strictures on the Chair he will say, with reference to the submission of questions by the Presiding Officer, that it has often been done in the Senate. During the recent trial its presiding officer, almost every day, submitted questions to the decision of the Senate without himself ruling on them, and questions of order have repeatedly been referred to the Senate for its decision. And in a case parallel to this, it occurring in the Thirty-Eighth Congress, when the gentleman from Indiana [Mr. ORTH] alluded to a member from Maryland as a "traitor," after the House of Representatives had adopted a resolution that he had given aid and comfort to the enemy by certain remarks which he had made on the floor of the House, it was ruled, and the ruling was sustained on appeal, that the gentleman from Indiana had the right to make that charge, because the House of Representatives had, by its resolution, made such a declaration. In this case the House must, in like manner, decide whether the language used by the gentleman from Pennsylvania [Mr. COVODE] is justifiable, in view of the facts and evidence within the knowledge of the House.

Mr. ELDRIDGE. The Chair will allow me to say that in referring to his ruling I meant to indulge in no criticism upon the purity of his motives. I only meant to say that such a practice, if held to be parliamentary, would be subversive of the rights of the minority.

The SPEAKER. The Chair prefers to submit the matter to the House, as his ruling has been questioned.

Mr. COVODE. I had some idea of withdrawing the remarks, as I do not want to delay the action of the House.

The SPEAKER. The yeas and nays have been ordered. The question is whether the remarks of the gentleman from Pennsylvania shall be ruled out of order.

The question was taken; and it was decided in the negative—yeas 37, nays 70, not voting 82; as follows:

YEAS—Messrs. Axtell, Baker, Barnes, Blair, Boyer, Brooks, Burr, Cornell, Driggs, Eldridge, Getz, Golladay, Griswold, Grover, Haizell, Holman, Hotchkiss, Richard D. Hubbard, Ingersoll, Johnson, Jones, Knott, Marshall, McCormick, Morrissey, Niblack, Phelps, Polsey, Randall, Ross, Stewart, Taber, Lawrence S. Trimble, Van Auken, Van Trump, Wood, and Woodward—37.

NAYS—Messrs. James M. Ashley, Banks, Beatty, Benjamin, Benton, Bromwell, Buckland, Butler, Cake, Sidney Clarke, Cobb, Coburn, Cook, Dawes, Delano, Eckley, Eggleston, Eliot, Ferriss, Ferry, Fields, Harding, Higby, Hooper, Hopkins, Chester D. Hubbard, Huiburd, Hunter, Jenckes, Judd, Julian, Lincoln, Loan, Logan, Mallory, Maynard, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Newcomb, Paine, Pile, Price, Sawyer, Schenck, Scofield, Shellabarger, Sitgreaves, Starkweather, Stokes, Taylor, John Trimble, Trowbridge, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, John T. Wilson, and Windom—70.

NOT VOTING—Messrs. Adams, Allison, Ames, Anderson, Archer, Arnell, Deios R. Ashley, Bailey, Baldwin, Barnum, Beaman, Beck, Bingham, Blaine, Boutwell, Broomall, Cary, Chanler, Churchill, Reader W. Clarke, Covode, Cullom, Dixon, Dodge, Donnelly, Ela, Farnsworth, Finney, Fox, Garfield, Glossbrenner, Gravelly, Halsey, Hawkins, Hill, Asahel W. Hubbard, Humphrey, Kelley, Kelsey, Kerr, Ketcham, Kitchen, Koontz, Lafin, George V. Lawrence, William Lawrence, Loughridge, Lynch, Marvin, McCullough, Mungen, Myers, Nicholson, Nunn, O'Neill, Orth, Perlham, Peters, Pike, Plants, Poland, Pomeroy, Pruyn, Raum, Robertson, Robinson, Selye, Shanks, Smith, Spalding, Aaron F. Stevens, Thaddeus Stevens, Stone, Taffe, Thomas, Twichell, Upson, Burt Van Horn, Thomas Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—82.

So the remarks of Mr. COVODE were not ruled out of order.

The SPEAKER. The gentleman from Massachusetts will proceed.

Mr. BUTLER. I desire to say this case has an exact precedent in the inquiry touching John Brown's raid. Thaddeus Hyatt was brought before the Senate and had certain questions put to him by the Senate. He refused to answer, and was committed to close confinement, and kept committed until he did answer. Continuing to refuse to answer, he was again committed, and was only finally discharged after the committee had made its report and was discharged from the further consideration of the subject.

Now, the only way this witness can purge himself of contempt is to say that he will go before the committee and answer the questions put to him, which the House shall decide to be in the proper line of examination. He can make no further purgation. He is not to be excused. It is not a question of motive or intention. It is a simple intention of will. Will he do it? If he does not, then he is to be recommitted, not to be brought up again until he manifests his willingness to do it. If he does, he is to go before the committee as early as it can receive him to answer the questions put to him.

Mr. WOODWARD. How does the House know but the gentleman's answer was an answer to the question?

Mr. BUTLER. That is not a question for the House. The only question for the House is whether he is ready to go and answer, and the House must learn from its committee whether he has answered or not.

Mr. WOODWARD. I do not know the House has all the confidence in the committee that it is possible to have, and it is possible

the witness might convince the House that the committee had no complaint against him as he had already answered the questions put to him. When a witness is brought to the bar how can he purge himself unless his mouth is unstopped?

Mr. BUTLER. How easy it would be for him to say that he is willing to go and answer.

Mr. WOODWARD. That is dictating his purgation to him.

Mr. BUTLER. Undoubtedly it is. The committee dictated the resolution to the House. If he is willing to answer, he can say so and go before the committee. That is all he has to say. We do not want a speech.

Mr. WOODWARD. He comes here to purge himself of contempt and offers a paper which may purge him.

Mr. BUTLER. The gentleman has long been upon the bench. Suppose a witness appearing before him and committed because he refuse to answer a question is again brought before him, the question he would put to him would be, "Are you willing to answer?"

Mr. WOODWARD. I will answer the question by saying that I know of no court of justice which, having committed a witness for contempt, any contempt which he may have been guilty of—

Mr. BUTLER. Keep to the contempt of refusing to answer the question.

Mr. WOODWARD. Very well. Where a witness was committed for refusing to answer a question, and that witness offers to go before the court and purge himself, I never heard of a court of justice refusing to hear what he had to say.

Mr. BUTLER. Nor I.

Mr. WOODWARD. That is this case, precisely.

Mr. BUTLER. But I never heard of a court of justice that would let a witness come before it and make a speech. The witness is to say simply whether he will or will not answer.

Mr. WOODWARD. The question of purgation is the witness's own affair.

Mr. SHELLABARGER. I offer, for the purpose of closing this matter up, the following resolution; on which I demand the previous question:

*Resolved*, That in purging himself of the contempt for which Charles W. Woolley is committed by this House, said Woolley shall be required to state whether he is now willing to go before the committee of managers of the House, before which he has been summoned to testify, and make answer to the questions for the refusal to answer which he has been ordered into custody, and if he answers that he is so ready to answer before said committee, then the witness shall have that privilege to so appear and answer as soon as said committee can be convened, and that in the meantime the witness remain in custody; and in the event that the said witness answer that he is not ready to so appear before said committee and make answer to the said questions so refused to be answered, then that the said witness be recommitted for continuance of such contempt, and that such custody shall continue until the said witness shall communicate to this House through said committee that he is ready to make such answers.

Mr. JONES. I desire to offer an amendment to the resolution.

The SPEAKER. It is not now in order. If the previous question is not seconded it will be.

The previous question was seconded—ayes 80, noes 30—and the main question ordered.

Mr. BROOKS. I make the point of order that there is no such committee in existence in this House as was created by the House. Four of the committee of managers are absent from the city. Only two are here present. The proposition, therefore, is to doom this prisoner to a dungeon until four of the committee return from their travels in the country.

The SPEAKER. The Chair overrules the point of order, on the ground that the resolution appointing this committee authorizes them to investigate by sub-committees. There is specific authority, therefore, for an investigation by sub-committees.

Mr. BROOKS. This is a reference to a committee, not to a sub-committee, and it is within my knowledge that only two of the committee are here present.

The SPEAKER. The Chair does not know whether two or more are present.

Mr. BROOKS. The Speaker must know what members are absent on leave, for the record shows it.

Mr. ASHLEY, of Ohio. Three members are here.

The SPEAKER. The Chair does not know what members are absent, nor is it a part of his duty to examine the roll-call to see who are present or absent, except when a warrant is issued to have them brought to the bar of the House by order of the House. Then it is his duty to examine the record. The Chair has stated what he supposed the gentleman had forgotten, that the resolution appointing this committee empowered them to conduct the examination by a sub-committee; so that if this resolution is adopted the right of the sub-committee would accrue. Whether the committee are in the city or not the Chair does not know. He does not know who are the sub-committee. He has no official knowledge as to that nor has he a right to any.

Mr. BROOKS. If the Chair will permit me, the resolution instructs the committee, not the sub-committee, and the committee are absent.

The SPEAKER. The resolution of the House authorized the committee to depute power to a sub-committee to take testimony. The Chair will rule, in order that an appeal can be taken if any member disputes his decision, that an appearance of this witness before a sub-committee, which has been authorized by the resolution of the House, will comply with the resolution ordering him to appear before the committee. If any gentleman appeals the appeal will be entertained.

The question was taken on agreeing to the resolution, and it appeared to be carried.

Mr. BROOKS. I demand the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 93, nays 32, not voting 64; as follows:

YEAS—Messrs. Allison, Ames, James M. Ashley, Baldwin, Beaman, Beatty, Benjamin, Benton, Blaine, Blair, Bromwell, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullum, Dawes, Delano, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravelly, Griswold, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulbard, Hunter, Ingersoll, Jenckes, Judd, Julian, Koontz, Laffin, Lincoln, Loan, Logan, Mallory, Maynard, McCarthy, McCreary, Mercer, Miller, Moore, Morrell, Mullins, Newcomb, O'Neill, Paine, Peters, Pike, Polesley, Pomeroy, Price, Baum, Sawyer, Schenck, Seefeldt, Shellabarger, Starkweather, Aaron, F. Stevens, Taffe, Taylor, John Trimble, Trowbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, and John T. Wilson—33.

NAYS—Messrs. Axtell, Barnes, Beck, Boyer, Brooks, Barr, Eldridge, Getz, Golladay, Grover, Haight, Hotchkiss, Richard D. Hubbard, Johnson, Jones, Knott, Marshall, McCormick, Morrissey, Niblack, Phelps, Randall, Ross, Sitgreaves, Stewart, Stone, Taber, Lawrence S. Trimble, Van Auker, Van Trump, Wood, and Woodward—32.

NOT VOTING—Messrs. Adams, Anderson, Archer, Arnell, Delos R. Ashley, Bailey, Baker, Banks, Barnum, Bingham, Boutwell, Broomall, Butler, Cake, Cary, Chanler, Churchill, Dixon, Ela, Finney, Fox, Glossbrenner, Halsey, Hawkins, Holman, Assahel W. Hubbard, Humphrey, Kelley, Kelsey, Kerr, Ketcham, Kitchen, George V. Lawrence, William Lawrence, Loughbridge, Lynch, Marvin, McCullough, Moorhead, Mungen, Myers, Nicholson, Nunn, Orth, Perham, Pike, Plants, Poland, Pruyn, Robertson, Robinson, Selye, Shanks, Smith, Spaulding, Thaddeus Stevens, Stokes, Thomas, Burt Van Horn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—64.

So the resolution was agreed to.

Mr. SHELLABARGER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. Mr. Woolley, I am instructed by the House of Representatives to propound to you the question whether you are now willing to go before the committee of managers of the House before which you were summoned to testify, and to make answer to the questions for the refusal to answer which you have

been ordered into custody; and the resolution of the House then proceeds as follows:

"If he answer that he is so ready to answer before such committee the witness shall have the privilege to so appear and answer as soon as such committee can be convened, and in the mean time the witness shall remain in custody; and in the event of the said witness answering that he is not ready to so appear before the said committee and make answer to the said questions so refused to be answered, then that the said witness be recommitted." &c.

To this resolution, which I am directed to read to you, you can make one of two answers: first, that you are ready to answer before the committee of managers the questions for a refusal to answer which you were ordered into custody; and the second answer is, that you are not ready so to answer.

Mr. WOOLLEY. Can I have the questions read so that I can understand the question?

The SPEAKER. If there be no objection they will be read, although they are of some length. They are to be found in the Globe of the 27th of May.

No objection was made, and the Clerk read as follows:

"Question. Have you sent any telegrams from this city under a feigned name?"

Answer. I have, sir; but not to—yes, I have.

"Question. What was that name?"

Answer. I sent one under the name of 'Hooker,' and some under the name of 'Bismarck, junior.'

"Question. Under that feigned name did not you telegraph to have \$10,000 put to your credit with the firm of Gilliss, Harney & Co., 24 Broad street?"

Answer. Not that I recollect of.

"Question. To Sheridan Shook?"

Answer. In regard to the impeachment trial? I decline to answer as to any dispatches not relating to the President's impeachment trial.

"At this point the statute relating to the obligation of a witness to testify was read to the witness—the same statute to which the Speaker referred yesterday—making the refusal to testify punishable by a fine and imprisonment. The witness replied:

Answer. I am willing to take the penalty. I refuse to answer, because I have sent no dispatch for Sheridan Shook to place \$10,000 to my credit in New York, to be used in regard to the impeachment trial.

"Question. Do you still refuse to answer?"

Answer. That is the answer. I say I have sent no dispatch to Sheridan Shook to place \$10,000 to be used in the impeachment trial.

"Question. Did you, on or about the 7th day of May, send a dispatch to Sheridan Shook, under the feigned name of 'Hooker,' to put \$10,000 at your credit in the banking house of Gilliss, Harney & Co.?"

Answer. Not for the purpose of being used in the impeachment trial.

By Mr. WILSON:

"Question. Do you refuse to make any other answer than that which you have made?"

Answer. I am willing to answer any question concerning the impeachment of the President. I have sent no dispatch to Sheridan Shook relating to the impeachment or conviction of the President of a criminal character.

"Question. Do you refuse to make any other answer than that?"

Answer. I refuse to answer any question that does not relate—

"Question. I ask you if you refuse to make any other answer?"

Answer. I cannot say whether I refuse.

"Question. Will you make any other answer?"

Answer. I do not say that I refuse.

"Question. Have you sent anything respecting impeachment at all?"

Answer. Nothing at all, except as information; but nothing that looked directly or remotely to the purchase of any Senator.

By Mr. BOUTWELL:

"Question. Will you read this dispatch aloud, if you please?"

Answer. (Witness, looking at the dispatch.) That is not my dispatch, sir.

"Question. What do you say to the dispatch shown you?"

Answer. I have no recollection of having sent it.

"Question. Did you send a dispatch to Sheridan Shook substantially of the purport of that?"

Answer. Not to my recollection.

By Mr. BUTLER:

"Question. Did you not, on the next day, draw on Gilliss, Harney & Co. for the sum of \$10,000?"

Answer. Not to my recollection.

"Question. Have you not testified that you did so draw?"

Answer. I do not think that I testified yesterday that I did.

"Question. Did you not state to the committee yesterday that you did so draw?"

Answer. I deny your right to ask the question as to what I stated. I do not know what I stated yesterday.

"Question. Is not that dispatch in your handwriting? [Dispatch exhibited.]

Answer. Yes, sir; it is.

The dispatch was as follows:

May 6, 1863.

To SHERIDAN SHOOK, 83 Cedar street, New York:

My business is adjusted. Place ten to my credit to-day with Gilliss, Harney & Co., No. 24 Broad street. HOOKER, Willard's.

"Question. What does the word 'ten' stand for?"  
 "Answer. As it does not relate to impeachment, I decline to answer."

"Question. Is this dispatch in your handwriting?"  
 [Dispatch exhibited.]

"Answer. As that does not relate to impeachment, I decline to answer; as it does not relate to anything connected with the purchase of a senatorial vote in connection with impeachment, I decline to answer."

The dispatch was as follows:

May 16, 1868.

To JOHN S. C. BURT, *St. Nicholas Hotel, New York:*

Where is Washington? I will dine with Hancock to-night or be at Fifth Avenue Hotel Sunday morning. Andry all right.

C. W. WOOLLEY.

The SPEAKER. Mr. Woolley you are now required to answer the question.

Mr. ELDRIDGE. Mr. Speaker—

The SPEAKER. The Speaker is engaged in obeying the order of the House.

Mr. ELDRIDGE. Yes, but I understand that the Speaker has made a mistake in regard to the questions, for refusing to answer which the witness was put in prison. I do not understand that those questions which have now been read were included in the order under which he was arrested. There were but two questions, as I recollect, upon which the witness was in contempt, and they followed each other directly. I know that the questions which have been read were included in the report of the committee; but they are not, as I understand it, those for refusing to answer which the witness is in contempt.

The SPEAKER. The evidence as reported by the committee—the questions and answers just read by the Clerk—was what the Chair supposed the witness at the bar desired should again be read to him; but, as it appears from the remarks of the gentleman from Wisconsin that the Chair must have been incorrect in that supposition, the Chair will now read the resolution adopted by the House.

Mr. WOOLLEY. I can state the questions with the permission of the House, and I think Manager BUTLER will agree with me.

The SPEAKER. The Chair will read the resolution. He can only receive the answer according to the resolution of the House.

The resolution that was agreed to by the House required the Speaker to propound to the witness the following interrogatories:

1. What excuse have you for refusing to answer before the managers of impeachment of this House in pursuance of the summons served on you for that purpose?
2. Are you now ready to appear before said managers and answer such proper questions as shall be put to you by said managers of impeachment?

The debate was quite voluminous, and at the end of the discussion the resolution was again read as follows:

*Resolved*, That the Speaker of the House again propose to C. W. Woolley the question contained in the resolution this day adopted, and that said Woolley be informed that the House requires definite and explicit answers to the questions propounded, to be made forthwith.

Upon the suggestion of the gentleman from Wisconsin, if the House does not object, the Chair will propound to the witness the question which was based upon the evidence submitted by the managers, for him to say whether he is ready to answer or whether he is not ready to answer; it is: "Are you now ready to appear before said managers and answer such proper questions as may be put to you by said managers of impeachment?"

Mr. WOOLLEY. I am, sir.

Mr. UPSON. I would inquire of the Chair if that is a proper question to be put to the witness?

The SPEAKER. That has been pointed out by the gentleman from Massachusetts [Mr. BUTLER] as the proper question. The gentleman will state whether he considers this the proper question to submit.

Mr. BUTLER. I think it is.

Mr. ELDRIDGE. I think the gentleman from Massachusetts [Mr. BUTLER] is still laboring under a mistake. I understand that there are two specific questions that have been propounded to the witness before the committee and which he has declined to answer. And if the gentleman will listen to me, I think he

will agree that when I was making my remarks I put the question to him whether the only questions in reference to which the witness was in contempt were not the questions relating to the draft for \$5,000.

Mr. BUTLER. Oh! no.

Mr. ELDRIDGE. And the gentleman answered me that the witness was in contempt for that, and for the fact that he had represented to the committee that he was too sick to appear before them, and had then gone to New York and returned, thus imposing upon the committee.

The SPEAKER. The gentleman from Wisconsin [Mr. ELDRIDGE] objected to the Chair reading to the witness the evidence reported by the committee of investigation, and desired the Chair to read to him the questions which had been agreed on by the House. The Chair finds, by reference to the Globe, that the following resolution was agreed to after discussion:

*Resolved*, That Charles W. Woolley, esq., of the city of Cincinnati, Ohio, now in custody of the Sergeant-at-Arms, on an attachment for a contempt in refusing or neglecting obedience to the summons requiring him to appear and testify before the committee of managers of the House, be now arraigned at the bar of this House, and that the Speaker propound to him the following interrogatories:

"1. What excuse have you for refusing to answer before the managers of impeachment of this House, in pursuance of the summons served on you for that purpose?"

"2. Are you now ready to appear before said managers and answer such proper questions as shall be put to you by said managers of impeachment?"

The questions were propounded to the witness, and he made answer in writing. After the answer of the witness had been read to the House by the Clerk the gentleman from Massachusetts [Mr. BOUTWELL] offered the following resolution, which was adopted:

*Resolved*, That the Speaker of the House again propose to C. W. Woolley the questions contained in the resolution this day adopted, and that said Woolley be informed that the House requires definite and explicit answers to the questions propounded to be made forthwith."

The questions were again submitted to the witness, and not having answered in a manner satisfactory to the managers a resolution was offered by the gentleman from Massachusetts [Mr. BOUTWELL] ordering the witness under arrest.

Mr. ELDRIDGE. Does the Chair refer to the resolution by which the witness was ordered into confinement?

The SPEAKER. The gentleman refers to a resolution offered and adopted on a subsequent day. The Clerk will read the preamble and resolution subsequently offered.

The Clerk read as follows:

Whereas Charles W. Woolley has been brought before the committee and the following questions proposed to him by the committee, to wit:

"Question. The committee desire to know whether on the 6th of May you telegraphed over the signature of 'Hooker' to Sheridan Shook. 'My business is adjusted. Place ten to my credit with Gilliss, Harney & Co., No. 24 Broad street?'"

"Question. Did you also telegraph to Sheridan Shook, over the signature of 'Hooker', on the 12th of May. 'The five should be had. It may be absolutely necessary?'"

which questions Woolley declined to answer, in the words following, to wit:

"This is a private and confidential communication, passing between counsel and client. It has reference to business in that relation and to nothing else, and has no reference whatever to the trial of the President on the articles of impeachment preferred against him, nor to the conduct or result of the trial, nor the vote of any persons on the trial, nor any allusion thereto whatever. That is my answer."

and whereas Sheridan Shook, the party to whom said supposed confidential and privileged communications are alleged to have been sent, has been examined by your committee and testified as follows in regard to the money mentioned in said telegram:

"By Mr. BUTLER:

"Question. Do you know Charles W. Woolley?"

"Answer. I do.

"Question. How long have you known him?"

"Answer. I do not think I have known him over a year.

"Question. Have you had business relations with him?"

"Answer. Very little, if any. I do not know that I ever had any transaction with him.

"Question. Did he deposit in your hands last Sunday night any sum of money?"

"Answer. No, sir.

"Question. Or during the day Sunday?"

"Answer. No, sir.

"Question. Has he ever deposited any sum of money in your hands?"

"Answer. I may have borrowed fifty or a hundred dollars of him at a time; but he has placed no sum of money in my hands.

"Question. Have you seen him lately?"

"Answer. I have not seen him since the Sunday of which you speak."

and whereas upon the same subject the said Woolley has testified before your committee as follows:

[From the testimony of C. W. Woolley, May 19, 1868.]

"By Mr. BUTLER:

"Question. Have you deposited any money, and where, since that time, i. e., May 8?"

"Answer. Not in any bank.

"Question. Have you with any individual?"

"Answer. No, sir.

"Question. Then why do you say 'not in any bank'?"

"Answer. Because it is not to my credit in any bank.

"By Mr. WILSON:

"Question. What do you mean by that answer?"

"Answer. I mean to say that I have not put it in a bank. I gave it to an individual who was owing me in New York and told him to keep that money until I arrived there.

"By Mr. BUTLER:

"Question. Who was that individual?"

"Answer. Sheridan Shook.

"Question. How much money did you give Sheridan Shook?"

"Answer. I think between sixteen and seventeen thousand dollars, as near as I can get it.

"Question. In what?"

"Answer. Greenbacks, I think.

"Question. What denomination of greenbacks?"

"Answer. Big bills; I cannot tell you. There may have been some \$500 bills. I think in one package I gave him some small bills.

"Question. When did you give this to Sheridan Shook?"

"Answer. Sunday.

"Question. At what time?"

"Answer. In the afternoon; I cannot tell the hour.

"Question. Before or after you were summoned here?"

"Answer. Before, I think.

"Question. For what purpose did you give it to Sheridan Shook?"

"Answer. For safe keeping for me as an individual. Let me correct myself there. I gave that money to Shook to take over to New York to keep for me till a day or two, when I intended to go to New York. Then Dunleavy came and asked me to go West, and I thought I had better go. I made up my mind to go there instead of going to New York, and I let him carry it along.

"Question. Well, you gave it to him finally?"

"Answer. He kept it from the time I gave it to him.

"Question. Has he got it now?"

"Answer. I guess so, unless he spent it.

"Question. Did you take any memorandum for it?"

"Answer. No, sir; I did not want it.

"Question. Supposing he should have been killed?"

"Answer. I would have taken my chance.

"Question. Did you go on with Sheridan Shook in the same train?"

"Answer. Yes, sir.

"Question. What sort of a package was the money in?"

"Answer. No package at all.

"Question. Did you count it?"

"Answer. I do not recollect exactly. I kept what I thought I would want myself, and gave him the parcel. If I were to state closely it was about sixteen thousand one hundred dollars. It was not \$17,000, I am satisfied.

"Question. Where did you get that money that you sent by Sheridan Shook?"

"Answer. That is a part of the money that came out of the bank."

and whereas your committee believe the reasons given by the witness in declining to answer are wholly untrue and evasive, and the refusal to answer is a deliberate contempt of the authority of the House, and done for the purpose of concealing the fact and embarrassing public justice: Therefore,

*Resolved*, That said Woolley, for his repeated contempt of the authority of the House, be kept until otherwise ordered by the House in close confinement in the guard-room of the Capitol police, by the Sergeant-at-Arms, until said Woolley shall fully answer the questions above recited, and all questions put to him by said committee in relation to the subject of the investigations with which the committee is charged, and that meanwhile no persons shall communicate with said Woolley, in writing or verbally, except upon the order of the Speaker.

The SPEAKER, (to the witness at the bar of the House.) Mr. Woolley, you have now heard the resolutions of the House and the report of the evidence as submitted by the committee. Are you now ready to testify before the committee of investigation and to make answer to the questions which were put to you by the committee, and for refusing to answer which you are now in contempt of the House?

Mr. WOOLLEY. As my client has testified in regard to those questions, and as I take this to be the order of the House that I shall answer them, I will do so.



The Sergeant-at-Arms then took the witness in charge and removed him from the bar of the House.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. ARNELL for ten days, and to Mr. KERR for one week.

#### ORDER FOR A RECESS TO-DAY.

Mr. SCHENCK. I move that when the House again resolve itself into Committee of the Whole upon the internal tax bill, the Committee of the Whole shall immediately take a recess until half past seven to-night.

The motion was agreed to.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union, and resume the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The CHAIRMAN. The Committee of the Whole, in pursuance of the order of the House, will now take a recess until half past seven o'clock to-night.

The committee accordingly (at four o'clock and forty minutes p. m.) took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The House reassembled at half past seven o'clock p. m., and was called to order by the Speaker.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union, and resume the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into Committee of the Whole on the state of the Union, (Mr. ALLISON in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The pending section was section fifty-three, which had been amended to read as follows:

SEC. 53. *And be it further enacted*, That the Commissioner of Internal Revenue is hereby authorized, on appeal to him made within fifteen months from the date of assessment thereof, to remit all taxes erroneously or illegally assessed, and to refund by requisition on the Treasury all taxes erroneously or illegally collected; such power to remit and refund to extend to moneys assessed or collected as penal tax in cases where an assessor or assistant assessor has or shall have added such penal tax to the assessment, and the Commissioner shall be of opinion that this addition was improper. The Commissioner shall also have power, upon such appeal being made to him as aforesaid, to refund in like manner all fines or penalties collected without authority, or collected in cases where the tax shall have been refunded under the power herein given: *Provided*, That where a second assessment has been or may hereafter be made in case of a return which, in the opinion of the assessor or assistant assessor, was fraudulent, or contained any understatement or undervaluation, such assessment shall not be remitted, nor shall taxes collected under such assessment be recovered or refunded, unless it is proved that said return was not fraudulent; and if such proof shall be furnished, the sum remitted or refunded shall not include the amount, if any, which should have been collected, had there been no understatement or undervaluation. The circuit and district courts of the United States shall have jurisdiction in all cases at law or in equity arising under the internal revenue laws. But no suit shall be maintained in any court for the recovery of any tax alleged to have been erroneously or illegally collected, until such appeal shall have been duly made to the Commissioner of Internal Revenue and a decision of said Commissioner had thereon, and no such suit shall be maintained in any court unless brought within six months from the time of such decision; but if the decision shall be delayed more than six months from the date of appeal, then suit may be brought at any time within twelve months from the date of such appeal. No suit commenced after March 2, 1867, for the purpose of restraining the assessment or collection of tax shall be maintained in any court.

The pending question was upon the amendment of Mr. HOLMAN to add at the end of the section the words, "except in the courts of the United States."

The CHAIRMAN. Unless there is objection the amendment of the gentleman from Indiana [Mr. HOLMAN] will be regarded as rejected.

There was no objection.

Mr. MILLER. I move to amend by adding at the end of the section the following:

Unless sufficient security be given, to be approved by the court, for the payment of such tax as shall be found justly due.

Mr. Chairman, it seems to me that this amendment will remedy the difficulties which have been referred to by several gentlemen in this debate, and that it should be agreed to. Such a provision would make the Government perfectly secure. If a man complains that he is overtaxed, let him give sufficient security to indemnify the Government for the recovery of the amount of tax which may ultimately be found due. Now, this section as it stands is a very extraordinary one.

Mr. HOLMAN. Will the gentleman yield to me that I may make a suggestion?

Mr. MILLER. Yes, sir.

Mr. HOLMAN. I understand that my amendment, pending when the committee rose this afternoon, giving the Federal courts jurisdiction of actions to restrain the levying of taxes, has this evening been declared rejected. I desire to suggest to the gentleman from Ohio, [Mr. SCHENCK,] the chairman of the Committee of Ways and Means, that a proposition of so much importance ought not to be voted on in so slim a committee. I trust, therefore, that by unanimous consent that proposition may be regarded as still pending. All I ask is a fair vote in a full committee: When I came into the House this evening, it was barely time for the committee to commence its session, yet I understood that my amendment had been voted on and rejected.

Mr. MILLER. I ask the gentleman whether the amendment I have offered will not accomplish his purpose. It proposes to allow the Federal courts to restrain the levying of taxes in case sufficient security be given for the payment of the amount of tax which may be found to be justly due.

Mr. HOLMAN. Of course no restraining order could be made except upon proper security.

Mr. MILLER. But this provides that the security shall be ample. Sometimes, as the gentleman knows, "straw bail" is put in.

It was suggested by the gentleman from Tennessee [Mr. MAYNARD] that an amendment of this kind is unnecessary, because the bill contains a provision that if taxes are wrongfully paid they may be recovered back. But how would it be in cases which I have known, where they have assessed taxes double what were justly due, and sold the property for one fourth of its value. Then, according to the provision of this bill, the remedy the person would have would be to collect back the money which the property sold for. The object of this amendment is, if the assessment is deemed to be wrong, that the person shall give ample security to pay if the case be adjudged against him. If that is done they will try how much is justly due, and there is no danger of the Government losing anything. Gentlemen would hardly say it was right that property worth \$20,000 should be sold at a forced sale for \$2,000 or \$4,000, and that should be all the party could recover. I hope the House will adopt the amendment. It can do no harm, and will save a great deal of trouble and litigation.

Mr. SCHENCK rose.

Mr. JENCKES. I wish to say a word.

Mr. SCHENCK. I yield to the gentleman from Rhode Island.

Mr. HOLMAN. I object to the gentleman's farming out the floor.

Mr. SCHENCK. I merely give up the floor to the gentleman.

Mr. HOLMAN. I rise to a question of order.

The chairman of the committee thought proper to have rejected a proposition which he deemed of sufficient importance to discuss it, and before there were three, certainly not five, members in the House.

Mr. SCHENCK. I did not know it was rejected, and knew nothing about it until it was disposed of.

The CHAIRMAN, (Mr. POMEROY in the chair.) The gentleman will state his point.

Mr. HOLMAN. There was manifestly no quorum present for the transaction of business, but I will not press the point of order.

Mr. JENCKES. What is the question before the committee?

The CHAIRMAN. The amendment of the gentleman from Pennsylvania, [Mr. MILLER.]

Mr. JENCKES. Is that an amendment to the amendment of the gentleman from Indiana?

The CHAIRMAN. No; it is to the section.

Mr. JENCKES. What has become of the amendment of the gentleman from Indiana?

The CHAIRMAN. The Chair understands it was rejected.

Mr. ALLISON. I will explain. I was in the chair at the time. When the Committee of the Whole on the state of the Union was called to order that amendment was pending, and the Chair stated if there was no objection the amendment would be considered as rejected. The gentleman from Indiana was not in his seat.

Mr. HOLMAN. How many were here?

Mr. MAYNARD. I must object.

The CHAIRMAN. The chair overrules the point of order.

Mr. JENCKES. The amendment of the gentleman from Pennsylvania amounts to the same thing as the amendment of the gentleman from Indiana. I presume the amendment of the gentleman from Indiana may be renewed, as it was declared to be rejected in an informal proceeding. Each of these amendments is based upon a principle which ought not to be recognized in any revenue law of the United States. They are based upon this idea that any person upon whom a tax is assessed under the law, in conformity with the provisions of the law as interpreted by the officers of the Treasury, may go into court and ask for an injunction against the assessment and collection of that tax for any reason they may choose, and as any one will see there may be many reasons. Some may say that the law is unconstitutional, and others that the law is construed improperly by the officers of the Treasury. These may sub-divide themselves into many.

Mr. Chairman, all those objections should be removed in the law itself. This idea of obtaining injunctions against the collection of taxes has obtained but a small foothold in the courts of the country. The district courts of some States have entertained suits based upon that principle, and mainly in the class of cases known as tax suits, suits to set aside tax titles under the revenue laws of the United States passed four or five years ago. The judges of courts of the United States followed those false lights. And I doubt if at the present day there can be found any considerable number of judges, either in the courts of the United States or in the courts of the several States, who believe they have or can exercise any proper jurisdiction to stay suits for the collection of taxes; and upon the principle which every lawyer will recognize and which the courts have declared whenever they have found occasion to do it, that the party who is aggrieved by a wrongful assessment has a perfect remedy at law. All that he has to do is to pay his tax under protest and sue the collector.

Mr. MILLER. Suppose they sell the property for one quarter its value by an assessment of three times the amount of the tax due; what remedy is there then?

Mr. JENCKES. The case cannot arise except by the willfulness of the party assessed. The property cannot be assessed for one quarter its value—not more than one hundredth under the law—and if the party cannot raise that sum, and does not pay it under protest,

it is sheer willfulness on his part to allow it to be sold for one quarter its value.

Mr. MILLER. The gentleman does not understand my question. Suppose the tax assessed is treble what is actually due, and then in order to enforce the payment of it the property is sold.

Mr. JENCKES. I do understand the gentleman. If the assessment is wrongful the party has his perfect remedy at law. He can pay the tax without prejudice, under protest, and sue the collector. I believe that this idea of enjoining the collection of a tax by courts of equity is now restricted to the courts of but three States. It has been hunted out of the courts of the United States, although it was attempted to be established there when these tax laws were first passed. That is the plain proposition. There is no reason for giving the court of equity power to enjoin when the court of law has full power to give a complete remedy. Unless the State can collect its revenues it must cease to exist. It must afford, and ought to afford, a complete remedy to its citizens who may be oppressed by its taxation. It does so by this law, it does so by all our tax laws, opening the courts of law to the aggrieved citizen for his remedy. That is all he is entitled to.

Mr. HOLMAN. Mr. Chairman, my friend from Pennsylvania [Mr. MILLER] will see that his proposition would leave the courts of the State with the jurisdiction, whereas it should be in the Federal courts if the power is conferred at all. I move to amend by inserting the words "except in the circuit court of the United States for the proper district."

Mr. MILLER. These suits are all brought in the district court, and not in the circuit court.

Mr. HOLMAN. The district court has no jurisdiction at all. Under no circumstances could it have it. If the Federal court has jurisdiction it is the circuit court.

Mr. MILLER. I beg pardon.

Mr. HOLMAN. We have conferred certain jurisdiction upon the district court so far as penalties are concerned. Admiralty cases are the only ones in which we have conferred chancery jurisdiction upon the district court.

Mr. MILLER. Does the gentleman say that no subject can be entertained by the district court?

Mr. HOLMAN. No, sir; Congress can confer that power, but it would not be in harmony with the Federal system.

Now, one word with reference to the views expressed by the gentleman from Rhode Island. He is in the habit of discussing questions very fairly. He says that the citizen has ample security in the fact that if the assessor or collector levies the tax contrary to law, he can sue them. How?

Mr. JENCKES. Against the collector.

Mr. HOLMAN. Upon his bond?

Mr. JENCKES. Why certainly.

Mr. HOLMAN. Not at all. The bond is not payable to him. He has no right to sue in the name of the United States. All the remedy he has is the simple right of action of assumpsit, or whatever else it may be, or of trespass against the man who committed the trespass. Is it possible that a great Government proposes to so cripple the rights of the citizen as that he shall have but two remedies for manifest wrong, the one in suing an individual who may be perfectly worthless, against whom a judgment would be valueless, and the other by being compelled to go from the extremest part of the United States to the Federal capital, and there follow up that endless circumlocution which has been a drawback to the settlement of claims against all Governments in all ages, and as much in our country as in any other, that endless, hopeless, aimless, pointless circumlocution that has ever attended the administration, especially of an office like the Revenue Bureau or any department connected with the public revenue. These are the only remedies the citizen is to have for injustice, instead of leaving to the

Federal courts the power to grant injunctions upon sworn complaint, with ample bonds given. In the one case nothing is lost; the Government cannot lose a cent; there is a bond not only for the tax, but for the penalties. In the other case there is only the remedy against the collector in the State courts or the endless and hopeless remedy for the citizen before the Revenue Commissioner. I talked with one of the most intelligent young gentlemen in my district, who has been here for some time in connection with claims before the revenue department, upon this subject, and he assures me that there is not a single claim that has been filed in that department within the last eighteen months that has been up to this time adjusted, and that if a claim for taxes improperly collected is adjusted within a period of eighteen or twenty months it is done with more than usual promptness.

[Here the hammer fell.]

Mr. ALLISON. I desire to say one word with reference to the amendment of the gentleman from Indiana. It seems to me that the whole argument is in a nutshell. The gentleman from Indiana must know perfectly well that if it was competent for any person assessed with tax to restrain by process of injunction the collection of that tax the effect would be to prevent the collection of any taxes, and not only so, but the effect would be so to lumber up the business of the circuit courts and district courts that it would be impossible for any business to be done in them.

Mr. HOLMAN. Does not the gentleman know that from the month of June, 1862, to March, 1867, this proceeding by injunction was allowable in the Federal courts? And did any injury result to the country or to the finances?

Mr. ALLISON. I do know perfectly well that for a portion of the time this remedy was allowed and that it was exercised in many instances, and that it was exercised until it became difficult in many districts to collect any taxes.

Now, this is the remedy that exists to-day with reference to the collection of customs. Why is it that the gentleman has not opposed it before when it has been on the statute-book for years with reference to the collection of customs at ports of entry? Why, sir, the only remedy that a man has who has been improperly assessed under the tariff law is by a suit against the collector of the port; he is compelled to pay the tax and penalties if need be under protest, and then commence a suit against the collector for the recovery back of the money. Has any difficulty arisen in your ports of entry from your customs laws? And why should we have any different law in reference to our internal revenue? There is no reason. It is true that for a portion of the time when this revenue law was in force proceedings were allowed by injunctions, but they became so numerous and the courts were so lumbered up that the collection of the taxes was materially interfered with, and therefore the provision which is in this bill and which is now the law of the land was passed. I know of no serious injury which has resulted to any person by reason of the existing law.

And I am surprised that the gentleman from Indiana [Mr. HOLMAN] should propose to interfere with the collection of the taxes—as he does by his amendment, the effect of which will be to interfere most seriously with the collection of taxes. I now yield to the gentleman from Rhode Island, [Mr. JENCKES.]

Mr. JENCKES. The point of the argument of the gentleman from Indiana is, that a person aggrieved has no remedy except against the collector; that he has none against the sureties. If there is none provided by this bill there should be one, as in the case of the customs revenue. I presume there is, that the bonds of the collector inure not only to the benefit of the United States but to the benefit of the claimants against the United States.

The ground taken by the gentleman from Indiana is governed by the present law. This

bill recognizes the existing law, both in regard to the collection of internal revenue and in regard to the collection of customs. One thing I hope is remedied by this bill; and that is, that suits may be brought against collectors in the courts of the United States. And then the officers of the United States and the courts of the United States can see that justice is done to all citizens who complain that they are aggrieved by the provisions of the law and the acts of the officers under it.

I do not understand, as the gentleman from Iowa [Mr. ALLISON] seems to do, that the courts were burdened with these suits. Some courts, to my knowledge, refused to take cognizance and jurisdiction of these suits. Some courts did take cognizance of them, hence the difference in the operation of the law. That difference existed in the courts of the States and in the courts of the United States, to a certain extent. A provision like this is a wholesome one.

[Here the hammer fell.]

The question was then taken upon the amendment of Mr. HOLMAN to the amendment of Mr. MILLER, and it was not agreed to.

The question was then taken upon the amendment of Mr. MILLER, and it was not agreed to.

Mr. HOLMAN. I move to amend the last sentence of this section by inserting after the words "no suit," the words "except in the circuit court of the United States for the proper district."

Mr. JENCKES. I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. JENCKES. My point is that this amendment is the same that has just been voted down.

Mr. HOLMAN. Very well; then I will change the amendment, and move to add to the last sentence of the section the words "except in the circuit courts of the United States for the proper district."

Mr. JENCKES. I rise to a point of order, that this is substantially the same amendment just voted down.

Mr. HOLMAN. I submit to the gentleman from Rhode Island that in my absence, with but few members present, the amendment I had submitted was rejected.

Mr. JENCKES. That is a question between the gentleman and the Chairman.

Mr. HOLMAN. I desire to be heard upon the point of order. This amendment is in different language from the one I offered before.

The CHAIRMAN. The Chair will rule that the amendment is in order. The gentleman from Indiana [Mr. HOLMAN] is entitled to the floor.

Mr. HOLMAN. Unless there is an entire misapprehension of the law bearing upon this question, then I hold you cannot maintain suits against collectors in the courts; unless there is an absolute provision of statute law it cannot be done. The reason is manifest: the collector has his precept, he has his execution in his hand, and for any act done by him under that precept that is a sufficient answer.

Mr. JENCKES. Will the gentleman allow me to ask him a question?

Mr. HOLMAN. Certainly.

Mr. JENCKES. Cannot any person against whom the collector has a warrant for the collection of taxes object to the propriety of the tax and pay it under protest?

Mr. HOLMAN. Does not the gentleman know that payment under protest receives a different mode of construction in almost every State of the Union?

Mr. JENCKES. Not in the courts of the United States; they have a uniform rule of construction. The collector has the right to remove the case to the circuit court.

Mr. HOLMAN. I hold, in the first place, that an action cannot be maintained against a collector unless the right of action is expressly given by the statute law; it does not exist by virtue of the common law of the land.

Again, Mr. Chairman, a provision requiring every citizen who seeks a remedy like this

restraining the collection of unlawful tax, to go for that purpose to a remote point, the capital of his State, will operate very oppressively in most of the States of this Union, though not, perhaps, in that represented by the gentleman from Rhode Island, [Mr. JENCKES;] and when the citizen is thus compelled to go to a remote point to obtain his remedy, it may be assumed that he will not go there except in a case of great oppression or manifest wrong. The experience of the gentleman from Rhode Island, as well as that of every other gentleman on this floor, will sustain me when I say that eighteen months must usually elapse before a claim for taxes improperly paid can be adjusted; and when such a claim is successful only the amount of the taxes is paid, with no interest, no costs, no damages.

We are told that a provision securing to the citizen the right to go into the Federal court at the capital of his State file under bond an application for an injunction, with his statement of the facts under oath, will operate oppressively with reference to the Government. The bill makes every provision in behalf of the Government while the rights of the citizen in this regard are entirely overlooked. From 1862 till 1867 the law of the United States recognized this right of the citizen for which I am now contending; yet I never heard that in consequence of that recognition the courts were overrun with business. I certainly knew but few instances, during all that period, in which suits were brought to restrain the collection of taxes, and they were extreme cases.

If I were arguing in favor of giving jurisdiction of these cases to the State courts, I could understand why objection should be made; but I simply propose that the citizen shall have this remedy in the Federal courts. If this Government, in the enforcement of its revenue system, is to trample out and extinguish every right of the citizen, then our Constitution ceases to be of any value, and its pretended guarantees for the protection of the citizen are a miserable cheat and illusion.

When a citizen believes that tax has been wrongfully assessed against him, he should, upon every principle of justice, be allowed, on giving proper security and filing a sworn statement before a competent tribunal, to restrain the collection of that tax until the case can be judicially decided. This method of proceeding is in every way preferable to compelling the citizen, when he feels himself aggrieved by the assessment of taxes, to travel perhaps thousands of miles to lay his case before an officer at the seat of Government, subjecting himself to a slow process of adjudication consuming eighteen months or more, and finally obtaining the decision of an officer having no familiarity with the legal principles which may be involved.

Mr. SCHENCK. This is simply a question whether we shall collect taxes or gather a lot of lawsuits. [Laughter.] I hope the amendment will be rejected.

The question being taken, the amendment was declared not agreed to.

Mr. HOLMAN called for a division.

On a division, there were—ayes 18, noes 41; no quorum voting.

The CHAIRMAN. Unless the gentleman from Indiana [Mr. HOLMAN] withdraws the call for a division, the Chair must order the roll to be called, as no quorum has voted.

Mr. HOLMAN. This question is certainly a very important one; and it is conceded that for years our tax law contained a provision of this kind. I trust it will be agreed that the question shall be passed on in a full House.

Mr. ALLISON. Debate is not in order.

The CHAIRMAN. Debate is objected to.

Mr. MILLER. I hope the gentleman from Ohio [Mr. SCHENCK] will agree that on this question a vote shall be taken in the House.

The CHAIRMAN. No debate is in order.

Mr. WOODWARD. I would like to make a suggestion to the gentleman from Indiana, [Mr. HOLMAN.]

The CHAIRMAN. If there be no objection, the gentleman from Pennsylvania [Mr. WOODWARD] will be allowed to proceed.

There was no objection.

Mr. WOODWARD. I propose to reason with my friend from Indiana on this question, for he is a most reasonable man. From the argument which he has made, it seems to me he has not reflected upon the character of the law which we are considering. It is a law passed in virtue of that express grant of the Constitution to the legislative department of the taxing power. The Constitution confers on the legislative department of the Government the taxing power, and like all constitutional grants it is entire—it is the whole taxing power. The judiciary has nothing to do with taxes as such at all.

Mr. VAN TRUMP. If an unconstitutional law were passed would the judiciary have nothing to do with the question?

Mr. WOODWARD. Certainly it would. I was about to refer to that as an illustration. That takes in a whole class of cases. Where the law is unconstitutional, that is, where the legislative department has gone beyond the constitutional power to make a tax law, then the courts may interpose to protect the citizen.

Mr. VAN TRUMP. Suppose the collector makes a wrong construction of the law, ought not the judiciary to have jurisdiction of it?

Mr. WOODWARD. This law provides that the Commissioner of Internal Revenue shall be the ultimate authority for the decision of such questions.

Mr. COBURN. Suppose the act of the officers who collect the taxes are void, and clearly void, is there no power of injunction?

Mr. WOODWARD. That is the same question over again.

Mr. VAN TRUMP. Suppose the acts are beyond the authority of the law?

Mr. WOODWARD. If the acts are beyond the authority of the law, if *ultra vires* they are restrained under general principles. We start with the assumption that this is the exercise of a clearly granted constitutional power, to wit, the power to levy a tax.

Then this law provides a special remedy for cases of mistaken power. If the case occurs that the gentleman has stated, this law provides a special remedy. It is a general principle that wherever a statute provides a special remedy it displaces all common-law remedies; and in Pennsylvania we have a statute to that effect, that wherever the Legislature provides a special remedy there shall be no resort to the common law except it is necessary to carry out the statute. It is an express statute. This is a principle of law which prevails in many States where they have no statute on the subject.

Here is a case where the Legislature, in the exercise of clearly constitutional power, provides a special remedy for all cases which arise under it; and so providing, all the ordinary remedies are necessarily displaced. If the law is beyond the power of the legislative department to make them, the courts have jurisdiction.

Mr. HOLMAN. I wish to ask the gentleman whether this is an ample and proper remedy for the citizen? After he has paid his money he must come to the capital of the nation and prosecute his claim for having the money refunded, and how long this will take him the gentleman very well knows; and after he has done all this, all he gets back is what he paid without damages and without interest. Is that a proper remedy?

Mr. WOODWARD. Whether the special remedies of this statute are proper and competent or not is a fair question.

Mr. VAN TRUMP. That is the very subject-matter of debate.

Mr. WOODWARD. That is not the subject-matter. The question here is whether the courts in virtue of the general common-law power shall have power to restrain the collection of this tax. I say that it is the exercise of judicial power unprecedented and incon-

sistent with the theory and genius of our Government.

[Here the hammer fell.]

Mr. HOLMAN. Will the gentleman from Ohio let a vote be taken in the House?

Mr. SCHENCK. I cannot consent to that. The committee divided; and there were—ayes 19, noes 61; no quorum voting.

Mr. HOLMAN. I ask that the amendment be reserved to be voted on hereafter.

Mr. SCHENCK. I do not object to that.

It was agreed to accordingly.

Mr. HOLMAN. I move to strike out "fifteen" in the first part of the section and insert "eighteen."

Mr. ALLISON. The law is now for fifteen months.

Mr. MAYNARD. I hope while the law in existence has not been recommended by the Department to be changed in matters of detail of this kind that the gentleman will not seriously press this amendment.

Mr. HOLMAN. The language of the first part of this section is, "that the Commissioner is hereby authorized, on appeal made to him within fifteen months from the date of the assessment thereof, to remit the tax erroneously or illegally assessed," &c. Now, sir, several cases have come to my own knowledge where it has been found that the time is really too brief. That has been the experience of many who have had occasion to seek the application of this law. The addition of the period of three months is not certainly very important as regards the Government. This is not a change of any principle. That it is the statute of 1862 is no reason why it should not be changed now, because it does not affect any principle at all. In 1862 it was well enough. We did not understand the matter then. We have followed up this provision to this time without seeing the propriety of any change. Inasmuch as it is not a question of great moment, and an extension of the time can do no wrong to the Government, I think the committee can afford, in a case like this where some slight benefit is sought to be obtained, some slight security to the victim of unjust taxation, to allow this amendment. I hope they will not insist upon retaining the exact language that they have reported to the House.

Mr. SCHENCK. We have done nothing except to look over the law and come to the conclusion that fifteen months is the best limit of time. It is a matter of judgment. I hope the amendment will not be adopted.

The amendment was disagreed to.

The Clerk read as follows:

SEC. 54. And be it further enacted, That when any property which has been seized is liable to perish or become greatly reduced in price or value by keeping, or when it cannot be kept without great expense, and, in the opinion of the collector and assessor, it is necessary that the said property shall be sold to prevent such waste or expense, they shall cause the same to be appraised, and the owner thereupon shall have said property returned to him upon giving bond in such form as may be prescribed by the Commissioner of Internal Revenue, and in an amount equal to the appraised value thereof, with such sureties as the said collector and assessor shall deem good and sufficient, to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the collector, marshal, or otherwise, as he may be ordered and directed by the court, which bond shall be filed with the United States district attorney for the district in which said proceedings *in rem* may be commenced. And in case said bond shall have been executed and the property returned before process of law issued as aforesaid, the marshal shall give notice of the pendency of proceedings in court to the parties executing said bond by personal service or publication, and in manner and form as the court may direct, and the court shall thereupon have jurisdiction of said matter and parties in the same manner as if such property had been seized by virtue of the process aforesaid. But if said owner shall neglect or refuse to give said bond, the assessor shall issue to the collector or marshal an order to sell the said property, and the said collector or the marshal shall thereupon advertise and sell the same at public auction, in the same manner as goods may be sold on final execution in said district, and the proceeds of the sale, after deducting the reasonable cost of the seizure and sale, shall be paid to the court, to abide its final order and judgment.

Mr. SCHENCK. The committee desire to correct the language of this section by striking



out the following words at the beginning of the section :

That when any property which has been seized is liable to perish or become greatly reduced in price or value by keeping, or when it cannot be kept without great expense, and, in the opinion of the collector and assessor, it is necessary that the said property be sold to prevent such waste or expense.

And inserting in lieu thereof the following :

That when any perishable property has been seized which is liable to become greatly reduced in value by keeping, and in the opinion of the collector and assessor it is necessary that the said property shall be sold to prevent waste.

The amendment was agreed to.

Mr. SCHENCK. Another verbal amendment. In line ten strike out the word "and," and in line fifteen strike out the word "he."

The amendment was agreed to.

The Clerk read as follows :

SEC. 55. *And be it further enacted*, That all seizures of property made by or under the authority of a collector shall be reported immediately to the assessor of the district, and all seizures of property made by or under the authority of an assessor shall be reported immediately to the collector of the district; and the assessor and collector shall together, within five days from such seizure, inquire into the facts constituting the ground of seizure, and if they shall agree that the seizure was wrongfully made, the property seized shall be discharged; if they agree that the seizure was rightfully made, they shall each note such agreement in their several offices, and the collector shall institute proceedings for forfeiture of the property seized according to law. If said assessor and collector shall disagree, they shall severally report the facts in the case and their disagreement to the supervisor of internal revenue of their district, and such supervisors shall immediately examine such reports and make his decision thereon, and shall either direct the collector to proceed for a forfeiture of the property seized, or that the said property shall be released in accordance with his decision, as the case may be. Any party having an interest in the property seized shall have a right, after such decision made by agreement of the collector and assessor, within five days after such agreement, to appeal to the supervisor of internal revenue in such case, who shall examine into the facts and report to the Commissioner of Internal Revenue his conclusions thereon; and said Commissioner is authorized to make such order in the premises as he may deem just. And if said supervisor has ordered proceedings of forfeiture in any case, any person having an interest in the property may, within five days after such order, apply to him for a review of the case, and upon such review he is authorized to make order in the premises, as in case of disagreement between the collector and the assessor.

Mr. SCHENCK. I move as an amendment from the committee to strike out the words "after such decision made by agreement of the collector and assessor, within five days after such agreement," and to insert in lieu thereof the following: "within five days after any decision made by agreement of the collector and assessor."

The amendment was agreed to.

The Clerk read as follows :

SEC. 56. *And be it further enacted*, That it shall be the duty of collectors in their respective districts to collect all taxes, penalties, forfeitures, and fines, and to that end collectors are respectively authorized to prosecute for the recovery of the same, in the name of the United States, in any proper form of action, or by any appropriate form of proceeding, in any circuit or district court of the United States for the judicial district within which any such tax, penalty, forfeiture, or fine may have been assessed or incurred, or in any judicial district in which the party liable thereto may reside at the commencement of such suit. But no such suit shall be commenced without the authority of the Commissioner of Internal Revenue; and no other counsel except a district attorney of the United States shall appear in or prosecute such suit unless authorized thereto by the Commissioner of Internal Revenue, either expressly or by general regulations. Whenever in any civil action for a penalty the informer may be a witness for the prosecution, the party against whom such penalty is claimed may be admitted as a witness on his own behalf; and the proceeds of all judgments for taxes, costs, forfeitures, and penalties, as well as all moneys otherwise collected or received on such account, shall be paid to the collector as internal taxes are required to be paid. All property, real or personal, forfeited under any of the provisions of this act, except when otherwise provided, shall, under the direction of the court in which the proceeding against such property may be pending, or in which the judgment of forfeiture shall have been recovered, be sold at public auction; and the proceeds thereof, after deducting expenses of sale, shall be disposed of according to law.

Mr. SCHENCK. I move to amend by striking out the word "such," in line fifteen, and inserting the word "any;" also by striking out the words "may be," in line eighteen, and inserting "is."

The amendment was agreed to.

Mr. JENCKES. I move to strike out the words "unless authorized thereto by the Commissioner of Internal Revenue either expressly or by general regulations." I respectfully submit that we have arrived at a hard place in this law, and I make this motion preliminarily to others, and unless they are accepted I shall move to strike out the entire section. Under the law as it now stands the collection of all these penalties is left entirely to the discretion of the collector of the district under the authorization veto and general control of the Commissioner of Internal Revenue. The consequence is that we have none of these penalties collected. I say none as an extreme proposition. I mean to say that not one tenth or one twentieth of those which ought to be collected are collected; and this section seems to me, like that in the present law, to be based upon an entirely false principle in administration. Everything that relates to the assessment of these taxes should belong to and be under the control of the assessors. It is their business, their present duty, and when it is performed they should do no more. Everything in relation to the collection of these taxes is an executive duty.

The collector receives his warrant. He should go on and execute it and have no discretion with regard to it. But after he has performed that duty his functions cease, and I am adverse to clothing him or clothing the assessor with any judicial powers. It is not wise, as it seems to me, to combine executive duties with judicial duties. The amendment which I propose is one of several which I shall offer to this section. It gives to the law officers and courts of the United States control over the collection of these penalties and fines. It calls into play an entirely different class of administrative and executive officers with an entirely different training, with an entirely different end. Their object should be and their duty should be to see that justice is done between the Government and its citizens irrespective of the acts of any executive or administrative officer of the Government. And hence it seems to me entirely improper to leave the control of the suits to the collector. If the collector fails to collect the amount due to the United States under his warrant, then his function should end; he should turn that warrant over to the law officer of the Government, and that law officer should see what the law could do to collect or to obtain what the collector could not obtain under his special warrant. It calls into play an entirely different kind of training, of learning, of faculties, of judgment. We give to the quartermaster of the Army power when in the field to purchase whatever he may need for the subsistence of the Army.

We never clothe him with power to determine what subsistence is worth three weeks afterward. He would then act as a judge, and he is not supposed to be possessed of the faculty of judging or weighing testimony. So when the assessor's duty is finished and the warrant made out and the collector's duty is finished and he finds that he is obstructed in the execution of his warrant, what is his duty? Simply to turn it over to the law officer and see what virtue there is in the law and in the courts of the United States for the purpose of collecting dues to the United States.

I desire to say something as to the form of this proceeding, but I shall need more time than I now have, and I shall have to offer another amendment. I will only say, further, on this amendment, that the district attorneys should be held responsible for the execution of the law, and the Commissioner of Internal Revenue ought not to have the power to send to Massachusetts or Iowa lawyers from New York or Washington, irresponsible, retained for special cases, under no special obligations to the Government, to be permitted to be assistant district attorneys when perhaps they may be obstructions to those officers in the performance of their duties in the recovery of the dues to the Government.

[Here the hammer fell.]

Mr. MAYNARD. I do not understand from the reading of the section any of the difficulties that the gentleman from Rhode Island seems to attach to it. His amendment proposes that the Commissioner of Internal Revenue shall not be authorized to employ counsel to assist district attorneys in the prosecution for the recovery of either penalties, forfeitures, or fines. His amendment goes to that extent and no more. His remarks went beyond that to the general merits of the section.

The section provides "that it shall be the duty of collectors in their respective districts to collect all taxes, penalties, forfeitures, and fines." Their mode of collecting the tax is already pointed out.

Mr. JENCKES. That is all right.

Mr. MAYNARD. Not only the tax proper, but what is called penal taxes. For the collection of forfeitures and fines he must have recourse to the courts of the country.

Mr. JENCKES. I do not object until you come to the words, "in any proper form of action, or by any appropriate mode of proceeding."

Mr. MAYNARD. The courts of the country designated are pointed out. He must proceed by indictment as for a misdemeanor, or by civil action, or the recovery of the penalty by an action for debt in the circuit court or district court of the United States where the party may live or where the fraud may occur.

Mr. JENCKES. It does not say "by indictment." It says "proper form of action," which simply refers to an action of debt under the common law, which is but a *qui tam* action, the worst form of procedure.

Mr. MAYNARD. That is a very technical construction.

Mr. JENCKES. If that construction had not prevailed in the courts of the United States under the existing law, I would not have made the objection here.

Mr. MAYNARD. If it would relieve the difficulty of the gentleman, we might say "by any proper form of action or any appropriate form of proceeding."

Mr. JENCKES. If the gentleman will move to amend by making it read, "by indictment on information in any proper form of action, or appropriate form of proceeding," I will have no objection.

Mr. MAYNARD. I do not think that would add anything to the present force of the section.

Mr. JENCKES. The courts will think to the contrary.

Mr. MAYNARD. I do not think it would do any harm. Whenever a collector finds it necessary to proceed in the courts, then he must move through the district attorney, and not otherwise, unless the Commissioner of Internal Revenue shall be satisfied that the duties of the district attorney are so onerous that he would be compelled to neglect this portion of his duty without assistance. In that case the Commissioner of Internal Revenue shall have authority to assign additional counsel; I see nothing wrong in it; I see no impropriety in it; I can imagine that the Commissioner might execute the law in a spirit of partiality and favoritism. But pray tell me what law there is that may not be improperly administered?

Mr. SCHENCK. If I understand the gentleman from Rhode Island, [Mr. JENCKES,] he is willing to withdraw the amendment he has offered, provided we will agree to amend the section so that it will read "by indictment, or by information, or any other appropriate form of proceeding."

Mr. JENCKES. I will withdraw my amendment, and move the amendment suggested by the gentleman from Ohio, [Mr. SCHENCK,] if he will allow me to do so, for the purpose of further explanation.

Mr. SCHENCK. I have no objection to that amendment; I think it adds nothing to the section and takes nothing from it.

Mr. JENCKES. There are other formal matters of amendment which may be necessary.

The amendment of Mr. JENCKES, as modified upon the suggestion of Mr. SCHENCK, was agreed to.

Mr. JENCKES. I now move to strike out the words "but no such suit shall be commenced without the authority of the Commissioner of Internal Revenue."

Mr. SCHENCK. I suggested the amendment I did as a compromise, after what the gentleman had said.

Mr. JENCKES. And I make this motion for the purpose of further suggestion; but I will not insist upon it if the gentleman thinks I ought not to do so.

Mr. ALLISON. There was one amendment agreed upon in the Committee of Ways and Means which has not yet been offered, and which, I think, will obviate the objection of the gentleman from Rhode Island, [Mr. JENCKES.] It is to amend the second sentence of this section by inserting after the words "but no such suit" the words "for taxes," so that it will read: "But no such suit for taxes shall be commenced without the authority of the Commissioner of Internal Revenue," &c.

Mr. JENCKES. That obviates my objection. I withdraw the motion to strike out, and accept the amendment suggested by the gentleman from Iowa, [Mr. ALLISON.]

The amendment was agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 57. And be it further enacted, That in all cases arising under the internal revenue laws where, instead of commencing or proceeding with a suit in court, it may appear to the Commissioner of Internal Revenue to be for the interest of the United States to compromise the same, he is empowered and authorized to make such compromise with the advice and consent of the Solicitor of Internal Revenue, whose opinion in the case, with reasons therefor, shall be given in writing and delivered to the Commissioner; but no such compromise shall be made of any case after a suit or proceeding in court has been commenced without the recommendation also of the district attorney for the judicial district in which the suit or proceeding is pending, or of such other counsel as may be employed to conduct or prosecute the same on the part of the United States.

Mr. PAINE. I move to amend by striking out this whole section; but I will not detain the committee by arguing the proposition.

Mr. O'NEILL. Mr. Chairman, I rise to oppose the amendment of the gentleman from Wisconsin, [Mr. PAINE.] I desire to say that I find in this section a provision the necessity for which I have frequently seen. I know that in many cases heretofore where suits have been commenced trouble has arisen as to who should withdraw them or when they should be withdrawn. After the district attorney has commenced a suit the Commissioner of Internal Revenue has had the power to withdraw that suit without consulting him. Now, this section, which I hope will be retained in the bill, provides for exactly such cases. After providing previously that suits shall be commenced by the authority or order of the Commissioner of Internal Revenue, we provide in this section that a suit shall not be withdrawn without the consent of the district attorney. I think this a great improvement upon the present law, and by it there will be afforded facilities such as we have not heretofore had for the trial of these cases.

On the amendment of Mr. PAINE there were—ayes twenty-five, noes not counted.

The CHAIRMAN. Less than a majority of a quorum voting in the affirmative, the amendment is not agreed to.

Mr. PRICE. I move to amend by adding at the end of the pending section the following:

Provided, That no compromise shall be made unless the party offending shall pay twice the amount of the tax.

My object is that no offender against the law shall escape without paying twice the amount he would have been obliged to pay if he had not offended.

The amendment was not agreed to, there being—ayes twenty-five, noes not counted.

Mr. JENCKES. I move to amend the pending section by adding to it the following:

Provided, That the district attorney, under the

advice of the judge of the court in which any case may be pending, may discontinue any civil suit or enter a *nolle prosequi* of any criminal proceedings, in his discretion, during the course of the trial of any case.

Mr. Chairman, I will state my reason for offering this amendment. It is often found in many districts that when the district attorney enters upon the trial of a case, notwithstanding his careful preparation of it, notwithstanding the previous examination before a commissioner if it be a criminal case, notwithstanding the ascertaining of the names of the witnesses and what they will testify, yet when the trial has begun it turns out that the witnesses have been spirited away. In such a case, under the present law, and under this bill as reported by the committee, the district attorney has no discretion, except to go on and have a verdict rendered by the jury, that verdict being necessarily an acquittal, which exempts the defendant absolutely from all further prosecution for the same offense; whereas if the district attorney had the power, under the advice of the court, to discontinue the case, he might commence it again at the next term or find a new indictment.

In our part of the country witnesses may disappear very suddenly. It costs but a dollar to go from New York to Boston, and but a few dollars to stay away in Boston, or any other place in New England, until another term of the court. I have known cases in all the eastern courts—in the eastern district of Pennsylvania as well as in the district of Maine—where our district attorneys have commenced the trial of a case believing that they had their witnesses at hand, yet, when the case had been opened to the jury, they did not respond. Under the present law the district attorney has no authority to discontinue a case except with the permission of the Commissioner of Internal Revenue.

Mr. FARNSWORTH. Let me ask the gentleman if he enters a *nolle prosequi* after swearing the jury would not that be a bar to any prosecution? After the jury is sworn they must render a verdict.

Mr. JENCKES. He must find out whether his witnesses are there when the case is called. If they are there and he goes on with his case and then his witnesses are spirited away, the court does not allow him to continue. He must go on. The court has no discretion under this bill or the present law. I have seen it done as I have stated. I have seen the district attorney call his witnesses and have them sworn, and then by reason of their disappearance, the judge not being authorized to continue the case, it being too late to consult the Commissioner, the judgment has been entered for the defendant, when if continued and tried at the next term the party would have been convicted. I hope the district attorney will have the right to call the case or not, so the United States shall not suffer by the running away of witnesses.

Mr. MILLER. We can provide for cases when witnesses absent themselves.

Mr. JENCKES. Under the present law all cases are *qui tam* actions, and that answers the gentleman from Illinois. As soon as the jury is called the district attorney must go on. The witnesses are summoned and he may think it safe for him to go on. When the case is commenced his witnesses respond when called, but when he gets to a material point he may break down altogether by reason of the disappearance of his witnesses. The defendant is then entitled to a verdict. The court cannot grant a continuance.

Mr. MILLER. It was improper for the district attorney to go on without the witness.

Mr. JENCKES. District attorneys are honorable men and good lawyers.

Mr. PAINE. I am opposed, Mr. Chairman, entirely to the adoption of an amendment which will go to that length. I am opposed to putting it in the power of the district attorney or the court to discontinue and terminate a suit under such circumstances. I would be willing to agree to an amendment which would make

liberal provisions for continuing a suit where the district attorney should find himself disabled by the disappearance of witnesses and their not appearing in the case. If the gentleman will frame an amendment adapted to that emergency, I will cheerfully vote for it, but I am unwilling to put it in the hands of the court or the district attorney to discontinue entirely a suit for such a cause as that.

Mr. JENCKES. Insert "discontinue or procure the continuance of." I will state to the gentleman from Wisconsin the difficulty in the exercise of that power which we have all found in the trial of criminal cases. As soon as they are opened to the jury they are out of the power of the prosecuting officer, and the defendant may call for a verdict of acquittal if the prosecutor breaks down, and there is a question whether the court will grant a continuance if the witnesses are spirited away. If he is authorized to discontinue he may commence next day. If the court will allow a continuance it is the most proper thing to be done.

Mr. PAINE. I desire that the gentleman will put his proposition in some careful form, so we can understand it.

Mr. SCHENCK. I move to strike out the word "discontinue," and I do it for the purpose of enabling me to say that I hope the gentleman will confine his amendment to some careful provision allowing the district attorney under those circumstances to continue those cases.

Now, the gentleman assumes there is no difficulty about these district attorneys. Unfortunately, sir, a good deal of our trouble arises in that direction. You talk of the "whisky ring." The "whisky ring" has aiders and abettors in the district attorneys and in the officers of the law. I have in my mind a case where the proof has been furnished to us of a judge of one of the Federal courts and the district attorney who divided the black-mail between them, the consideration for letting off some sixty culprits arraigned before the court. I trust that will result in the impeachment of that judge.

So far as this matter is concerned, the gentleman is mistaken if he supposes that we ought to throw everything into the power of the district attorney, so that he shall hold a veto over all these cases. I am perfectly willing that in proper cases he shall have his remedy against any possible defeat of the ends of justice, by continuing his case if witnesses have been, as the gentleman remarks, spirited out of the way. But so far only, I think, should the amendment go if it is to be made to the section at all. I entirely agree upon that point with the gentleman from Wisconsin, [Mr. PAINE,] and hope there will be no amendment by which the district attorney, at his discretion, may discontinue, by a *nolle prosequi*, any case at his pleasure, thus holding, as it were, the key to the whole matter.

Mr. JENCKES. I agree with the gentleman for Ohio entirely. I do not wish to leave the power to the district attorney. There are some of them who are excellent officers.

Mr. SCHENCK. I know there are.

Mr. JENCKES. And there are some such as the gentleman describes. I hope he will be after them as well as the judges who collude with them, and that we shall have them arraigned before this House, if what the gentleman has discovered, and if what I know another committee has discovered, of the conduct of one of them be true. But this amendment is entirely in the interest of the Government.

Mr. MULLINS. He will have to be more fortunate with them than we have been recently.

Mr. JENCKES. I have seen a district attorney rise with a summons in his hand and the return of the officer—believing he had all the witnesses in the presence of the court—go on with a *qui tam* action under the law and call the witnesses to the formal matter of the case, but when he came to the substantive matters find all the witnesses at bay with no officer being able to tell where they were. In our country they can be spirited away easily

between two days and not be heard of in six months. The district attorney will thus be left entirely to the formal proof, and, under the present law, the defendant has a right to require a verdict of acquittal of the jury, no matter what the penalty may be. Under the proposition I make the district attorney may say to the court, "Here I am caught in this way. It is no fault of mine. I believe there has been connivance on the part of the defendant. I wish to enter a *nolle prosequi* in order that a case may be made again."

Mr. MULLINS. Is there nothing in the law that allows a stay of proceedings when the party is thus taken by surprise?

Mr. JENCKES. There is not in criminal cases. After the jury are sworn in and the case is opened to them the defendant may demand a verdict of acquittal. The discretion of the Government is exhausted with the swearing in of the jury. That is precisely the difficulty in these revenue cases that this amendment is intended to meet. It is not left to the discretion of the district attorney, but there is discretion under the advice and direction of the court. They may consent in open court or the court may sanction the motion of the district attorney, and the order of the court will be nothing more than an excuse for the district attorney for a non-compliance with the provisions of the act. [Here the hammer fell.]

Mr. O'NEILL. If the gentleman will withdraw the amendment I will renew it.

Mr. JENCKES. Very well.  
Mr. O'NEILL. Mr. Chairman, I had hoped that the committee might have gone further in the organization of these courts, where, I believe, the trouble in all these cases has arisen. There is a bad set of men surrounding the courts—not the officers of the courts—and this has led to great depletion of the Treasury. The trouble commences in the criminal proceeding, almost upon the entrance into the court, in the grand jury-room, and I would like to have some provision in the bill giving the district attorney power to take his case before one grand jury, and then, if necessary, before a succeeding grand jury.

Mr. JENCKES. This gives it.

Mr. O'NEILL. I hope it does. I know in our courts the trouble is not in the district attorney; it is not with the judge; but it has been with the officer who subpoenas or calls the grand jury. There have been instances where our district attorney has not allowed cases to go before a certain grand jury, and where there have been the most remarkable collisions between the grand jury and the court and district attorney that are known in criminal proceedings. The trouble is not with the officers of the court, but with those who have power to summon grand juries. It is that body which is surrounded by what is called the whisky ring. I know such to be the state of things in the eastern district of Pennsylvania, and that it is in the marshal's office, and in the surroundings of the grand jury, where the injury begins. That is, perhaps, the reason why the district attorneys and the courts themselves have been criticised. I withdraw the amendment.

Mr. MILLER. I would inquire of the gentleman whether if one grand jury should ignore a bill the case could not be sent up to another grand jury?

Mr. O'NEILL. It could; but the trouble is the delay.

Mr. PAINE. I offer the following as a substitute for the amendment of the gentleman from Rhode Island, [Mr. JENCKES,] hoping that it will be satisfactory to him and to the committee:

That it shall be lawful for the court at any stage of such suit to continue the same for good cause shown on motion of the district attorney.

Mr. JENCKES. Insert after the word "suit" the words "or criminal proceeding."

Mr. PAINE. Very well; I will insert those words.

Mr. JENCKES. I suggest to the gentleman that he add the words "or to allow a discontinuance of such suit."

Mr. PAINE. I am not willing for one to consent to that, and I hope the gentleman will not press it.

Mr. JENCKES. This will cover the majority of cases, I agree.

The question was taken on Mr. PAINE's amendment to the amendment; and it was agreed to.

Mr. JENCKES' amendment, as amended, was then adopted.

Mr. GARFIELD. I offer the following amendment:

On page 70, section fifty-seven, after the word "Commissioner," in line nine, insert these words:

And in every case where a compromise is made there shall be placed on file in the office of the Commissioner, the opinion of the solicitor, together with a statement of the amount of tax assessed, the amount of additional tax or penalty imposed by law in consequence of the neglect or delinquency of the person against whom the tax was assessed, and the amount actually paid in accordance with the terms of the compromise.

I trust that there will be no objection to this amendment. One of the chief objections to the whole compromise system has been that it opened a door for all sorts of suspicion, if not for actual fraud.

Mr. SCHENCK. If my colleague will allow me, I will agree to that amendment.

Mr. GARFIELD. All I want is this: that the history of the compromise in each case may be actually on file.

The amendment was agreed to.

Mr. COBURN. I offer the following amendment, to come in at the close of the section:

And any one violating the provisions of this section shall be guilty of a felony and be fined in any sum not less than \$100 nor more than \$1,000, and imprisoned not less than one nor more than three years.

I will state briefly the object of this amendment. There is a provision in the section forbidding these compromises except under certain circumstances. Now, that is all right. It is not necessary for me to go into an argument to show that district attorneys do combine with parties and procure frauds against the revenue system. It is generally acknowledged that these compromises are the principal source of frauds in the collection of the revenue. But it is useless to forbid compromises unless we impose a penalty on the violation of this law. This amendment, therefore, proposes that there shall be a punishment of fine or imprisonment, and the words "upon conviction" should be inserted in the proper place. This section standing, as it does, without a provision creating a penalty, would be like a provision forbidding the crime of larceny, or the crime of murder, or any other crime in the catalogue, and then providing no penalty for it. What would be the use of forbidding larceny, perjury, or any other crime, and not putting any penalty in the statute to operate upon the offender? The amendment I have offered strikes at the offender. I think no other section provides for the penalty.

Mr. SCHENCK. Section sixty-two covers the point the gentleman makes.

Mr. ALLISON. I hope the gentleman from Indiana [Mr. COBURN] will withdraw his amendment, as it is fully provided for by section sixty-two.

Mr. COBURN. If that is the case I will withdraw my amendment.

The amendment was accordingly withdrawn.

No further amendment was offered.

The next section was read, as follows:

SEC. 58. *And be it further enacted*, That it shall be the duty of the Commissioner of Internal Revenue to establish such rules and regulations as may be necessary, and not inconsistent with law, for the observance of revenue officers, district attorneys, and marshals, respecting suits arising under the internal revenue laws to which the United States is a party, with a view to securing the just responsibility of those officers, and the prompt collection of all revenues and debts due the United States under such laws. On the institution of any such suit or proceeding, the district attorney or other counsel authorized to conduct the same shall report to the Commissioner of Internal Revenue the full particulars relating to such suit or proceeding; and immediately at the end of every term of a court in which any such suit or proceeding is or shall be pending, the said district attorney or other counsel shall forward to the Commissioner a full and particular statement of the condition of such case.

Mr. SCHENCK. I move to amend the first sentence of this section by striking out the words "district attorneys" and inserting the words "United States district attorney's clerks" after the words "for the observance of revenue officers."

The amendment was agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 59. *And be it further enacted*, That in any case in which any fine, penalty, or forfeiture has been recovered, the person whom the court shall determine to have first informed of the cause, matter, or thing whereby such fine, penalty, or forfeiture was incurred, shall be entitled to such share of the same as the Commissioner of Internal Revenue shall by general regulation provide, not exceeding a moiety, nor more than \$5,000 in any one case; and when any sum is paid in lieu of penalty or forfeiture without suit or before judgment, and a share of the same is claimed by any person as informer, the Commissioner of Internal Revenue shall determine whether any claimant is entitled to such share as above limited, and to whom the same shall be paid. And no right shall accrue to any informer in any case until the fine, penalty, or forfeiture is fixed by judgment or compromise, and the amount or proceeds shall have been paid, when the informer shall become entitled to his share of the sum adjudged or agreed upon; but nothing herein contained shall be construed to limit or affect the power conferred by law to remit the whole or any portion of a fine, penalty, or forfeiture. In any case in which a punishment by fine or imprisonment is provided for a violation of the law, no share of any sum paid to the United States in satisfaction of its demands shall be awarded or paid to an informer except after due conviction of the person charged with such offense and judgment on such conviction. Any person who shall receive money or anything of value under a threat to inform, or as a consideration for not informing of any violation of the internal revenue laws, shall, on conviction thereof, be punished by a fine not less than \$500 nor more than \$2,000, and by imprisonment not less than six months nor more than three years.

Mr. SCHENCK. I move to amend the last sentence of the section by striking out the words "thereof, be punished by a fine not less than \$500 nor more than \$2,000, and by imprisonment," and inserting in lieu thereof the words "be fined not less than \$500 nor more than \$2,000, and imprisoned."

The amendment was agreed to.

Mr. PRICE. I move to amend this section by adding to it the following:

*Provided, however*, That when any sum is paid in lieu of penalty or forfeiture, without suit, or before judgment, as provided for in this or any preceding section, no less sum shall be received by the Commissioner of Internal Revenue or other collecting officer than twice the amount of the regular tax.

If I can get the attention of the committee for about a minute and a half, I think I can explain this amendment to the satisfaction of every one. I will explain the object of and the necessity for my amendment. To-day some officer detects an illicit shipment of whisky. He seizes the liquor and has it placed in some place of safety. The parties shipping the whisky, finding themselves caught in their villainy and rascality, come forward and pay their tax and obtain the possession of their whisky again. This is not an imaginary case. In my own town thirty-odd barrels of whisky were seized; and when the parties found they could not do any better, they came forward and paid the tax. Now, while these men attempt to swindle the Government out of the tax, they know very well that, under the present management, if they are caught in their attempt at fraud they are no worse off than they would have been if they had paid the tax before the shipment of the whisky. Now, I propose that these men—I came very near saying "these gentlemen," which would have been a mistake—when they are caught in these frauds shall not be allowed to receive any benefit from it, shall not be allowed to get off with as little expense as though they had been honest and paid their tax before the liquor was shipped. If you put this penalty in the law they will at least not have their present inducement to try to evade the law. I hope the amendment will be adopted.

Mr. SCHENCK. I do not know whether there is any particular objection to that. I hope the words will be stricken out, "provided, however." One difficulty in the law is the use of such words as "provided" and "provided, however." This does not limit anything. Make it a distinct sentence.



Mr. PRICE. I agree to that.

Mr. ALLISON. It should be attached to section fifty-seven. I do not object to it, but there is where it should be.

Mr. PRICE. Very well; let it be put there.

The CHAIRMAN. If there be no objection it will be attached to section fifty-seven.

Mr. PRICE. Then I modify it so as to read, "this or any other section," instead of "this or any preceding section."

There was no objection, and it was ordered accordingly.

Mr. LOAN. I move to add to the end of section fifty-nine as follows:

*Provided*, That no officer of the United States shall directly or indirectly receive any part of any fine, penalty, or any forfeiture as an informer under this act.

Mr. Chairman, the proposition contained in this amendment has reference to those officers of the revenue whose duty it is to attend to its collection, but who have perverted their office into that of the informer. They neglect to discharge their duties under the law because they find it more to their interest to permit violations of the law and then come in the character of informers. I want to take away from such men all motive to disregard the duties of their office.

Mr. BLAINE. Will that make them any the more careful and honest?

Mr. ALLISON. I hope the amendment will not be adopted. I can see no reason, if we allow a moiety, why it should be refused to a man because he happens to be an officer of the United States. It seems to me, if we are to hold out the inducement of a moiety, there is no reason why it should be denied to a faithful officer, why he should not receive it as well as other persons. I hope the amendment will be rejected.

Mr. LOAN. I move to strike out the last word, in order to have the opportunity to reply to the gentleman from Iowa. It has come under my personal knowledge that officers whose duty it was to collect the revenue have allowed violations of law time and again for the express purpose of turning informers, and in this way receiving quadruple the amount of their salaries. Here is an assistant assessor at five dollars a day, and if he turns informer he may make \$5,000. It is much better for them to disregard their duties as assessors, permit violations of law, and then come forward as informers and secure the moiety.

Mr. BLAINE. If a man is knave enough to do that, what is the restriction that he would not employ some man outside?

Mr. LOAN. My amendment says directly or indirectly.

Mr. ALLISON. I oppose the amendment. The amendment to the amendment was rejected.

The amendment was also rejected.

No further amendment being offered, the Clerk read the next section, as follows:

SEC. 60. *And be it further enacted*, That the judge of any circuit or district court of the United States, or any commissioner thereof, may issue a search warrant, authorizing any internal revenue officer to search any premises, if such officer shall make affidavit in writing that he has reason to believe, and does believe, that a fraud upon the revenue has been or is being committed upon or by the use of said premises.

Mr. MERCUR. I move after the word "writing" to insert "particularly describing the place to be searched, and the person or things to be seized."

Mr. Chairman, the Constitution has sought to throw safeguards around the rights of all citizens, so as to protect them, among other things, from unreasonable searches; and it has provided that before a search shall be made a warrant shall issue—

Mr. SCHENCK. If the gentleman will allow me to interrupt him, I will say that I hope his amendment will be adopted.

Mr. MERCUR. If there is no opposition to the amendment I do not care to discuss it. The amendment was agreed to.

No further amendment being offered, the next section was read as follows:

SEC. 61. *And be it further enacted*, That any internal revenue officer who shall be or become interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigars, or in the production, rectification, or redistillation of distilled spirits, or in the production of fermented liquors, shall be dismissed from office; and any such officer who shall become so interested in any such manufacture or production, rectification, or redistillation, shall, on conviction, be fined not less than \$500 nor more than \$5,000.

Mr. LOAN. I move to amend by striking out the section just read. I make this motion in deference to the vote given by the committee upon the amendment which I offered a few minutes ago. If, as the gentleman from Maine [Mr. BLAINE] says, these men are all honest, I can see no objection to allowing them to engage in the business of distillation and the manufacture of tobacco, or in any other occupation which the law recognizes as proper and right. If they are entitled to receive, in addition to their salary, their moiety not exceeding \$5,000 in the character of informer, I see no reason why they should not engage in the distillation of spirits, the manufacture of tobacco, or anything of that kind. Hence, in view of the sentiment of the committee, as expressed upon my previous amendment, I think it very improper that this section should be retained in the bill.

Mr. BLAINE. I beg to say to the gentleman from Missouri [Mr. LOAN] that I did not say these officers were all honest. I merely said that the gentleman's amendment would fail to make them honest; that it would only give their rascality another and a worse channel in which to run.

The amendment was not agreed to.

No further amendment being offered, the next section was read, as follows:

SEC. 62. *And be it further enacted*, That if any officer or agent appointed and acting under the authority of any revenue law of the United States shall be guilty of any extortion or willful oppression, under color of law, or shall knowingly demand other or greater sums than shall be authorized by law, or shall receive any fee, compensation, or reward except as by law prescribed for the performance of any duty, or shall willfully neglect to perform any of the duties enjoined on him by law, or shall conspire or collude with any other person to defraud the United States, or shall make opportunity for any person to defraud the United States, or shall do, or omit to do, any act with intent to enable any other person to defraud the United States, or shall make or sign any false certificate or return in any case where he is by law or regulation required to make a certificate or return, or having knowledge or information of the violation of any revenue law by any person, or of fraud committed by any person against the United States under any revenue law of the United States, shall fail to report in writing such knowledge or information to his next superior officer, and to the Commissioner of Internal Revenue, or shall demand or accept or attempt to collect, directly or indirectly, as payment or gift or otherwise, any sum of money or other thing of value for the compromise, adjustment, or settlement of any charge or complaint for any violation or alleged violation of law, except as expressly authorized by law so to do, he shall be dismissed from office, and shall be held to be guilty of a misdemeanor, and shall, on conviction, be fined not less than \$1,000 nor more than \$5,000, and be imprisoned not less than six months nor more than three years.

Mr. SCHENCK. I move to amend the section just read by striking out the words, "or shall make or sign any false certificate or returns in any case where he is by law or regulation required to make any certificate or return," and inserting in lieu thereof the following:

Or shall negligently or designedly permit any violation of the law by any other person, or shall make or sign any false entry in any book or make or sign any false certificate or return in any case where he is by law or regulation to make any entry, certificate or return.

The amendment was agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 63. *And be it further enacted*, That the Commissioner, and assistant commissioner, deputy commissioners, and supervisors of internal revenue, collectors, and deputy collectors, and assessors and assistant assessors, are hereby authorized to administer oaths and take testimony touching any part of the administration of this act with which they are respectively charged, or where such oaths and testimony are by law authorized to be taken; and any officer of internal revenue, authorized to administer oaths, who shall falsely sign, date, or certify to the certi-

cate of any jurat, or shall so sign, date, or certify, without administering the oath or affirmation which such certificate represents to have been administered, shall be deemed guilty of a felony, and shall, on conviction thereof, be imprisoned at hard labor not less than one year nor more than five years. And if any person in any case, matter, hearing, or proceeding, under and relating to the internal revenue laws of the United States, in which an oath or affirmation shall be required to be taken or administered under or by the internal revenue laws of the United States, shall, upon the taking of such oath or affirmation, knowingly and willingly swear or affirm falsely, every person so offending shall be deemed guilty of perjury, and shall, on conviction thereof, be liable to the punishment prescribed for that offense by the laws of the United States.

Mr. SCHENCK. I move to amend by striking out, near the beginning of the last sentence the words, "under and relating to the internal revenue laws of the United States."

The amendment was agreed to.

No further amendment being offered, the next section was read, as follows:

SEC. 64. *And be it further enacted*, That every internal revenue officer, whose payment, charges, salary, or compensation shall be composed, either wholly or in part, of fees, commissions, allowances, or rewards, from whatever source derived, shall be required to render to the Commissioner of Internal Revenue, at such times and in such manner as he shall by general regulations prescribe, a statement under oath specifying the several amounts received from such fees, commissions, emoluments, allowances, or rewards of whatever nature, or from whatever source derived; and if any such officer shall neglect or refuse to render such statement as so required, he shall, on conviction thereof, be fined not less than \$100 nor more than \$500.

No amendment was offered.

The next section was read, as follows:

SEC. 65. *And be it further enacted*, That if two or more persons conspire either to commit any offense against the internal revenue laws of the United States or to defraud the United States in any manner whatever of any internal revenue tax, and one or more of said parties to said conspiracy shall do any act to effect the object thereof, the parties to said conspiracy shall each be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not less than \$500 and not more than \$10,000, and imprisoned not less than six months nor more than five years.

Mr. SCHENCK. I move to amend by adding at the end of the section the following:

And when any offense shall be begun in one judicial district of the United States, and completed in another, every such offense shall be deemed to have been committed in either of the said districts, and may be dealt with, inquired of, tried, determined, and punished in either of the said districts in the same manner as if it had been actually and wholly committed therein.

The amendment was agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 66. *And be it further enacted*, That if any person shall falsely represent himself to be a revenue officer of the United States, and shall in such assumed character demand or receive any money or other article of value from any person for any tax due to the United States, or for any violation or pretended violation of any revenue law of the United States, such person shall be deemed guilty of a felony, and on conviction thereof shall be fined not less than \$500 nor more than \$3,000, and be imprisoned not less than six months nor more than five years.

No amendment was offered.

The next section was read, as follows:

SEC. 67. *And be it further enacted*, That if any person shall forcibly obstruct or hinder any assessor or assistant assessor, or any collector or deputy collector, or any other officer in the execution of any provision of the law relating to internal revenue, or of any power or authority vested by law in any such officer, or shall forcibly rescue, or cause to be rescued, any property, articles, or objects, after the same shall have been seized or detained by any such officer, or shall attempt or endeavor so to do, the person so offending shall, on conviction thereof, for every such offense be fined not less than \$100 nor more than \$5,000, and be imprisoned not less than one month nor more than five years.

No amendment was offered.

The Clerk read as follows:

SEC. 68. *And be it further enacted*, That any person may bring a suit in any circuit or district court of the United States, in any proper form of action, to recover back any money or the value of any property which may have been paid or given by him or on his account to any revenue officer or agent of the United States for any illegal act done, or to be done, by any officer or agent; or for the withholding of information of fraud by such officer or agent; or as a share of profits to said officer or agent arising out of any business carried on or to be carried on in violation of any revenue law of the United States; or in consideration of said officer or agent failing to do his duty in any matter as required by law; or for money paid such officer or agent on account of his official position or appointment, and without other consideration. And the party bringing such suit, and prose-

cutting the same to final judgment, shall be himself released from any liability by indictment or other criminal proceedings for paying or giving to any such officer or agent the money or property of value as aforesaid.

SEC. 69. *And be it further enacted*, That if any distiller, rectifier, wholesale liquor dealer, compounder of liquors, distiller of oil, brewer, or manufacturer of tobacco or cigars shall omit, neglect, or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his business, or shall do anything by this act prohibited, if there be no specific penalty or punishment imposed by any other section of this act for the neglecting, omitting, or refusing to do, or for the doing or causing to be done the thing required or prohibited, he shall pay a penalty of \$1,000; and, if the person so offending be a distiller, rectifier, wholesale liquor dealer, or compounder of liquors, all distilled spirits or liquors owned by him or in which he has any interest as owner, if he be a distiller of oil, all oil found in his distillery, and, if he be a manufacturer of tobacco or cigars, all tobacco or cigars found in his manufactory shall be forfeited to the United States.

Mr. SCHENCK. I offer the following as an additional section:

SEC. —. *And be it further enacted*, That the Commissioner of Internal Revenue may, in his discretion and under the advice of the solicitor, remit wholly or in part all penalties and punishments incurred for any violation of the law relating to the internal revenue by any person who shall first, and before any information shall be alleged against himself, discover and inform against other parties concerned with him in such violation; and on any trial touching such offense the evidence of any of the offending parties shall be admissible to be established by commission; but in no case arising under the laws relating to the internal revenue shall any testimony be admissible taken under section three of the act of September 24, 1879, entitled "An act to establish the judicial courts of the United States."

The amendment was agreed to.

Mr. KOONTZ. I move to strike out section sixty-eight. This section provides in substance, first, that any person who succeeds in bribing the revenue officer may sue and recover back in money the value of any property he may have given to that officer in order to corrupt him. In the next place he is relieved "from any liability by indictment or other criminal proceeding for paying or giving such officer or agent the money or property of value as aforesaid." Now, the objection I make to this provision is this: it is a well-settled principle of law that it will not assist any man to recover back the price of his own iniquity. This section substantially provides that any person who has been guilty of an illegal act may himself sue and recover back the price of his own shame. Therefore, I think it ought to be stricken out. I agree that there ought to be stringent measures in order to prevent the violation of the law, but I cannot but recognize this as a violation of a well-settled principle of law.

Mr. MAYNARD. *In pari delicto, melior est conditio possidentis* is a familiar rule of law. Best those justices are not in *pari delicto*. The officer is the greater offender, and should be visited with the greater severity.

The amendment of Mr. KOONTZ was disagreed to.

The Clerk read as follows:

SEC. 69. *And be it further enacted*, That if any distiller, rectifier, wholesale liquor dealer, compounder of liquors, distiller of oil, brewer, or manufacturer of tobacco or cigars shall omit, neglect, or refuse to do or cause to be done any of the things required by law in the carrying on or conducting of his business, or shall do anything by this act prohibited, if there be no specific penalty or punishment imposed by any other section of this act for the neglecting, omitting, or refusing to do, or for the doing or causing to be done the thing required or prohibited, he shall pay a penalty of \$1,000; and, if the person so offending be a distiller, rectifier, wholesale liquor dealer, or compounder of liquors, all distilled spirits or liquors owned by him or in which he has any interest as owner; if he be a distiller of oil, all oil found in his distillery, and if he be a manufacturer of tobacco or cigars all tobacco or cigars found in his manufactory, shall be forfeited to the United States.

Mr. HOLMAN. It seems to me that the word "willfully" ought to have been inserted before the words "neglect or refuse."

Mr. SCHENCK. I have an amendment to propose which will meet the gentleman's wish. I move to insert in the sixth line, after the word "shall," the words "knowingly and willfully," so that it will read "shall knowingly and willfully neglect or refuse," &c.

Mr. HOLMAN. That is satisfactory.

The amendment was agreed to.

Mr. HOLMAN. The penalty imposed in this section is fixed at \$1,000. I submit that it ordinarily promotes the end of justice to allow some discretion in the courts. I therefore move to amend by inserting before "\$1,000," the words "not less than \$100 nor more than."

Mr. SCHENCK. I hope that will not be adopted.

Mr. HOLMAN. There ought to be a discretion within some reasonable range. Where you make the penalty specific, and do not vary it according to the circumstances and nature of the offense, you must certainly defeat the ends of justice, because the penalty is sometimes too severe to be inflicted.

The amendment was disagreed to.

Mr. HIGBY. I move to insert after the word "dollars," in the eleventh line, the words, "or imprisonment in the State prison for one year." It seems to me that if only this penalty is imposed the Government in most instances will recover nothing. It is very easy for one who has violated the law to be found without any property to pay a penalty of \$1,000, and I think the Government can be saved only by leaving the alternative of the penalty of \$1,000 or imprisonment at the discretion of the court. If the man can pay \$1,000, very well; let him avoid imprisonment.

Mr. ALLISON. Mr. Chairman, this is a penalty, not a fine. It is recoverable in a civil action, and no criminal proceeding is contemplated by this section at all. We have provided in other sections for almost every imaginable offense that can be committed by the class of persons named in this section.

Mr. HIGBY. Will the gentleman allow me to ask him a question?

Mr. ALLISON. Certainly.

Mr. HIGBY. Does he not consider that what is charged in this section is an offense, and why is it passed over without having some punishment attached to it?

Mr. ALLISON. This is a section which provides for the omission to do certain things, or the refusal to do certain things, and the penalty is provided for the omission.

The question was taken on Mr. HIGBY's amendment, and it was disagreed to.

No further amendment being offered to the sixty-ninth section, the next section was read, as follows:

SEC. 70. *And be it further enacted*, That if any person shall, armed with any offensive weapon, or in a violent manner, with clubs or stones, or shall in any manner with force and violence, or with threats of force or violence, rescue any offender arrested, or shall prevent such arrest, or shall assault, beat, or wound any officer or other person acting in his aid, or any person who shall have given or be about to give information against, or shall have discovered or given evidence against, or be about to discover or give evidence against, or shall seize or bring to justice any person offending against this act, or who shall seize or be about to seize or examine any place, goods, or chattels, as provided under this act, or shall forcibly oppose the execution of any of the powers given by this act, or being so armed, or with such violence, as aforesaid, shall offer or threaten so to do, every person so offending, and his aiders and abettors, shall, on conviction, be adjudged to be guilty of felony, and shall be imprisoned for not less than one year nor more than five years.

No amendment was offered, and the Clerk read as follows:

SEC. 71. *And be it further enacted*, That any revenue officer is hereby authorized, and it shall be his duty, to arrest and take before the United States commissioner residing nearest the place where such arrest shall be made, any person detected in the actual commission of any offense against any of the provisions of this act relative to distilled spirits, tobacco, or cigars, and shall thereon make affidavit and apply for a warrant against the person arrested.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

In line three strike out the word "residing."

The amendment was agreed to.

Mr. STEVENS, of New Hampshire. I move to strike out the seventy-first section. I make this motion upon the ground that the section is a most extraordinary one in its provisions. I am not aware that it has any analogy in any law or legal proceeding, unless it may be in some cases of police, where a magistrate or

police officer is authorized to arrest upon view for a breach of the peace. This section provides that a person may be arrested without any warrant or any complaint under oath, or any formal complaint of any character whatever. It not only provides that, but it provides that he may be arrested upon detection. Detection by whom? By the officer who arrests? It is not confined to that; but he may be arrested by an officer upon detection, or what may be termed detection, by another officer or by a private individual, by a citizen holding no office, being under no responsibility whatever to the law except as a citizen. For these reasons, and because there are no restrictions in the section, I move that it be stricken out. I will say, however, that perhaps the section may be so modified as to relieve it of these objectionable features by providing that the officer may arrest upon view of the violation of the law, assimilating the law in that particular to cases of infractions of police regulations and the laws as they now exist in regard to some of the minor offenses.

Mr. SCHENCK. To meet every objection made by the gentleman which I think has any substance in it, I will move an amendment in the fifth line of the section to insert the words "by such officer" after the word "detected;" so that it will read "any person detected by such officer in the actual commission," &c.

The amendment was agreed to.

Mr. PETERS. I desire to suggest to the gentleman that the word "internal" should be inserted before "revenue" in the first line of this section.

Mr. SCHENCK. Yes, sir; that is an omission. I move to insert the word "internal" before "revenue" in the first line.

The amendment was agreed to.

Mr. STEVENS, of New Hampshire. I withdraw the motion to strike out the section.

No further amendment being offered to the seventy-first section, the next section was read, as follows:

SEC. 72. *And be it further enacted*, That the Commissioner of Internal Revenue is hereby authorized to pay such sums, not exceeding in the aggregate any amount appropriated therefor, as may in his judgment be deemed necessary for detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same, in cases where such expenses are not otherwise provided for by law.

No amendment was offered.

The next section was read, as follows:

SEC. 73. *And be it further enacted*, That in any case, civil or criminal, where suit or prosecution shall be commenced in any court of any State against any officer of the United States, appointed under or acting by authority of this or any other act to provide internal revenue, or against any person acting under or by authority of any such officer, on account of any act done under color of office or authority, or against any person holding property or estate by title derived from any such officer, concerning such property or estate, and affecting the validity of this act or any other act to provide internal revenue, it shall be lawful for the defendant in such suit or prosecution, at any time before trial, to remove such suit or prosecution by petition to the circuit court of the United States in and for the district in which he shall have been served with process, setting forth the nature of said suit or prosecution, and verifying the same by affidavit, together with a certificate, signed by an attorney or counselor at law of some court of record of the State in which such suit shall have been commenced, or of the United States, setting forth that, as counsel for the petitioner, he has examined the proceedings against him and carefully inquired into all matters set forth in the petition, and that he believes the same to be true; which petition, affidavit, and certificate shall be presented to the said circuit court, if in session, and if not to the clerk thereof at his office, and shall be filed in said office, and the cause shall thereupon be entered on the docket of said court, and shall be thereafter proceeded in as a cause originally commenced in that court; and it shall be the duty of the clerk of said court, if the suit was commenced in the court below by summons, to issue a writ of *certiorari* to the State court, requiring said court to send to the said circuit court the record and proceedings in said cause; or, if it was commenced by *capias*, he shall issue a writ of *habeas corpus cum causa*, a duplicate of which shall be delivered to the clerk of the State court, or left at his office by the marshal of the district or his deputy, or some person duly authorized thereto; and thereupon it shall be the duty of the said State court to stay all further proceedings in such cause; and the said suit or prosecution, upon delivery of such process, or leaving the same as aforesaid, shall be deemed and taken to be moved to the said circuit court, and any further proceedings, trial, or judgment therein in the State court shall be wholly null

and void. And if the defendant in any such suit be in actual custody on mesne process therein, it shall be the duty of the marshal, by virtue of the writ of *habeas corpus cum causa*, to take the body of the defendant into his custody, to be dealt with in the said cause according to the rules of law and the order of the circuit court, or of any judge thereof in vacation. All attachments made and all bail and other security given upon such suit or prosecution shall be and continue in like force and effect as if the same suit or prosecution had proceeded to final judgment and execution in the State court; and if, upon the removal of any such suit or prosecution, it shall be made to appear to the said circuit court that no copy of the record and proceedings therein in the State court can be obtained, it shall be lawful for said circuit court to allow and require the plaintiff to proceed *de novo*, and to file a declaration of his cause of action, and the parties may thereupon proceed as in action originally brought in said circuit court; and, on failure of so proceeding, judgment of *nolle prosequi* may be rendered against the plaintiff, with costs for the defendant. And if any officer appointed under and by virtue of any act to provide internal revenue, or any person acting under or by authority of any such officer shall receive any injury to his person or property, for or on account of any act by him done, under any law of the United States for the collection of taxes, he shall be entitled to maintain suit for damages therefor in the circuit court of the United States, in the district wherein the party doing the injury may reside or shall be found. And all property taken or detained by any officer or other person under authority of any revenue law of the United States shall be irrepleviable, and shall be deemed to be in the custody of the law, and subject only to the orders and decrees of the courts of the United States having jurisdiction thereof: *Provided*, That an act entitled "An act further to provide for the collection of duties on imports," passed March 2, 1863, shall not be construed to apply to cases arising under this act or any other act to provide internal revenue.

Mr. JENCKES. I move to amend this section by adding the words "and the circuit court of the United States shall have original jurisdiction in all such cases" to the sentence ending "and, on failure of so proceeding, judgment of *nolle prosequi* may be entered against the plaintiff, with costs for the defendant." It is sometimes a great convenience to have a suit brought in the circuit court of the United States, and not in the State court.

Mr. SCHENCK. I have no objection to the amendment of the gentleman from Rhode Island [Mr. JENCKES] except this: we make ample provision in another section for giving to the circuit court of the United States jurisdiction in all such cases. This section is for the specific purpose of removing suits from the State courts.

Mr. JENCKES. Will the gentleman refer me to the section giving that jurisdiction? This formality of removal is to be gone through with at the cost of the plaintiff and loss of time to the Government. It would be a saving of expense to the plaintiff and of time to the Government if the suit could be commenced in the circuit court in the first place, as it must eventually go there.

Mr. WELKER. Will the gentleman withdraw his amendment for a few moments, until I can offer one to the first sentence of this section?

Mr. JENCKES. I will do so.

Mr. WELKER. I desire to move to amend the clause of the first sentence, which now reads "to remove such suit or prosecution by petition to the circuit court of the United States in and for the district in which he shall have been served with process," &c., by inserting the words "district or" before the words "circuit court of the United States." It is sometimes more convenient to remove these suits to the district than to the circuit court. I would provide that either of these courts might be applied to for this review.

Mr. JENCKES. I am opposed to that amendment. There is no provision in any law of the United States for the removal of a cause from a State court to the district court; they all go to the circuit court. And that is done for this excellent reason: an appeal lies from the circuit court to the Supreme Court of the United States; and a transfer of a cause from a State court to a United States court should be to the circuit court in order to secure a final judgment more speedily.

Mr. WELKER. I withdraw my amendment.

Mr. PETERS. One of the sentences of this section ends in these words, "and on failure of so proceeding judgment of *nolle prosequi*

may be rendered against the plaintiff, with costs for the defendant." Ought not the words "or non-suit" to be inserted after the words "*nolle prosequi*?"

Mr. JENCKES. That would not be proper, for a judgment of non-suit cannot be entered in a court of the United States in any cause.

Mr. PETERS. Very well, I will not move that amendment. But I wish to move an amendment somewhere in this section, so as to provide that no suit shall be made returnable against any internal revenue officer out of the district in which said officer shall be authorized to act, and I will explain in a few words my reasons for desiring such an amendment.

Mr. MAYNARD. The gentleman had better not offer his amendment to this section. This provides simply for transferring from the State courts to the Federal courts suits brought against revenue officers.

Mr. PETERS. Section seventy-three provides for removing an action to the circuit court in the district in which the party shall have been served with process. Now, if an officer whose district is in the State of Maine happens to be in Boston, he can be much annoyed by having process served upon him there and being compelled to answer there in a suit which ought to be brought against him in Maine.

Mr. MAYNARD. This section simply provides, as the gentleman will observe, that where a suit is brought in a State court against a revenue officer of the United States, that suit shall be transferred to the circuit court of the district in which the suit may be pending.

Mr. PETERS. But my idea is that the suit should be brought in the circuit court of the district within which the official is authorized to act. Under the present law if, for instance, the collector at Bangor, being authorized to act within the district of Maine, happens to be in Boston, jurisdiction may be obtained in a suit against him by serving a process on him there, and he is obliged to make his defense in the circuit court of Massachusetts instead of that of Maine. I know an instance of that kind in which the party has been subjected to great expense by a suit thus brought in a district other than that in which he is authorized to act.

I will modify my amendment and move to amend by striking out in line fourteen the words "in which he shall have been served with process," and inserting in lieu thereof the words "within which he shall have been officially authorized to act;" so that it will read:

It shall be lawful for the defendant in such suit or prosecution, at any time before trial, to remove such suit or prosecution by petition to the circuit court of the United States in and for the district within which he shall have been officially authorized to act, &c.

Mr. PAINE. Mr. Chairman, there might be a very serious objection to an amendment of this kind, though it might work admirably in some cases. Suppose the offense or act for which the prosecution is instituted has been committed or performed in some other district than that in which the officer resides, if there were no constitutional difficulty to prevent his prosecution and trial in another locality than that in which he committed the offense or performed the act still there might be a serious impropriety in such a proceeding. While I for one should be entirely willing that the officer should be tried where he resided, if that happened to be the place where the alleged offense was committed, it seems to me it would be a very improper innovation to require that a man should be tried in some locality where the offense was not charged to have been committed, because he happened to reside there.

Mr. PETERS. I think that objection is not sound.

Mr. PAINE. I yield to the gentleman from Rhode Island, [Mr. JENCKES.]

Mr. JENCKES. Mr. Chairman, under the judiciary act of 1789, which has governed all proceedings of this kind from that day to this, all proceedings removed from a State court must be transferred to the circuit court of the

district in which the process is served. That jurisdiction is declared under the provisions of article three, section two, of the Constitution. And as to all criminal proceedings there is an absolute necessity that they should be transferred to the court of the district in which process is found, by virtue of article six of the Amendments to the Constitution, which provides that—

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law."

Without altering the provision of the judiciary act of 1789 in regard to civil process, and without violating the Constitution, we cannot adopt such a proposition as that now presented.

The amendment was not agreed to.

Mr. HOLMAN. I move that the committee rise.

The motion was not agreed to.

No further amendment being offered, the Clerk read the next section, as follows:

SEC. 74. And be it further enacted, That the Commissioner of Internal Revenue shall have power to repay, by requisition on the Treasury, to collectors or deputy collectors the full amount of such sums of money as have been or may be recovered against them or any of them in any court for any taxes collected by them, with the costs and expenses of suit, and all damages and costs recovered against assessors, collectors, deputy collectors, or other internal revenue officers, in any suit brought against them, or any of them, by reason of anything that shall or may be done in the due performance of their official duties.

Mr. HOLMAN. Mr. Chairman, I move to strike out that section. The features of this section are remarkable, and intended to operate in behalf of a spirit of favoritism which will rapidly spring up in the execution of this law. The section authorizes the refunding of money which has been improperly taken from the citizen, refunding all the costs which have been incurred, and all the expenses which have been paid, provided, as would seem from the last clause, it resulted in the due performance of his duty as an officer. Where the citizen has recovered his judgment against the public officer the Government is called upon to pay the amount, and still the officer has been in the due performance of his duty. That is a point that does not admit of easy explanation.

Mr. MAYNARD. This goes back to the objection the gentleman was making at the commencement of the session this evening. Whenever a tax-payer is unduly assessed and pays his money he has no remedy except against the collector. This provides that in such cases the Commissioner shall have power to refund to the collector in order to benefit the tax payer who has been improperly assessed and had taxes improperly collected from him. It is the correlative of the feature which the gentleman was commenting upon at the commencement of the session this evening.

Mr. HOLMAN. I do not think this remedy against a public officer would be of value. It would be an uncertain remedy. It would be uncertain as to the ability of the party to respond to the judgment rendered. How can it occur that the officer in the due performance of the duties of his office shall become subject to a judgment which requires him to pay back to the citizen the very money he has wrongfully taken out of his possession?

Mr. MAYNARD. How does it occur that the collector of duties on imports has duty paid to him under protest, and is sued and compelled to repay the amount collected? We know very well that an assessor is liable to mistake, and against such mistake we allow relief by permitting him to be sued and the money paid to be recovered.

Mr. JENCKES. I can suggest an amendment.

Mr. HOLMAN. Not now. Mr. Chairman, the consideration of this section is the strongest argument in favor of allowing the citizen to apply for and obtain an injunction in the first instance instead of being left to sue the assessor for the money that he has been compelled to pay, and the collector, too, if that officer can



be sued at all, for executing a precept which has gone into his hands. The officer is made to refund, not simply the money, but the costs attendant upon this complicated proceeding. I say, as revenue measures, without reference to the rights of the citizen, it is better to confer upon the citizen the right of injunction in the first instance than to incorporate this provision.

Mr. MAYNARD. It is precisely the policy in reference to duties on imports.

Mr. HOLMAN. Does not the gentleman know that from 1862 to 1867 proceedings by injunction were allowable in the courts?

Mr. MAYNARD. I am speaking of the collection of duties on imports.

Mr. JENCKES. I move to insert in the fifth line the words, "after judgment without collusion between the parties to said suit."

Mr. HOLMAN. I withdraw my amendment.

Mr. MILLER. I move that the committee rise.

The committee divided; and there were—ayes 18, noes 28; no quorum voting.

Mr. MILLER. I now move that the committee rise.

Several MEMBERS. Oh, let us go on a few minutes longer.

Mr. HOLMAN. There is no quorum, and we ought not to transact business of such importance with so few.

Mr. SCHENCK. If there is a determined purpose to break up the committee, when we might go on fifteen or twenty minutes longer, doing business, and that is avowed, I cannot help it.

Mr. HIGBY. We have been in session long enough to-day. It was five o'clock when we took a recess this afternoon, and now it is after ten. If we run this thing at this rate we shall break down.

Mr. SCHENCK. I have sat here longer than the gentleman.

The CHAIRMAN. The Chair will order tellers.

Mr. SCHENCK. It is not necessary. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

#### RIVER AND HARBOR BILL.

Mr. ELIOT. I renew the motion I made this morning, that the Committee of the Whole be discharged from the further consideration of the river and harbor bill.

The SPEAKER. That requires unanimous consent or a suspension of the rules.

Mr. MAYNARD. I object; there is no quorum present.

Mr. ELIOT. I move to suspend the rules.

Mr. SCHENCK. I object.

Mr. HOPKINS. I move that the House adjourn.

Mr. ELIOT. What effect will an adjournment have on my motion?

The SPEAKER. It will be the first business in order after the close of the morning hour on Monday next.

The motion to adjourn was agreed to; and thereupon (at ten o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. BENJAMIN: A remonstrance of citizens of Canton, Missouri, against any change in tax on cigars.

By Mr. DRIGGS: A remonstrance of John Reiley, Charles Hart, and 481 others, of

Detroit, Michigan, against an increased tax on cigars.

By Mr. EGGLESTON: A memorial of the Cincinnati Chamber of Commerce, praying for congressional aid to secure an early completion of the Kansas Pacific railroad.

By Mr. GARFIELD: The petition of Sergeant Thomas G. Baird, late of the Signal corps, for bounty.

Also, the petition of officers of the Army, for the continuance of the thirty-three and one third per cent. additional pay.

Also, the petition of F. E. Garnett, for pay as lieutenant for a period during which he was commissioned but not mustered in.

Also, the petition of J. E. Woodward, of Paducah, Kentucky, for relief from unjust litigation on account of acts done under military authority.

By Mr. HILL: Letter of General E. L. Campbell, New Jersey State agent, asking pension for Christopher Farley, who, at the assassination of Mr. Lincoln, was ordered out on a tug-boat by the Quartermaster General in pursuit of the assassins, the boat being run down and Farley losing his life.

By Mr. LINCOLN: A remonstrance of D. B. Stewart and others, of Ithaca, New York, against an increase of the tax on cigars.

By Mr. LOAN: The petition of cigar-makers and dealers in tobacco of St. Joseph, Missouri, against an increase of the tax on cigars and tobacco.

By Mr. MORRELL: The petition of Dunbar, Walters & Co. and 24 other firms and individuals engaged in the printing and publishing business in Boston, Massachusetts, representing that the productive interests of the country are suffering and its industry paralyzed for want of sufficient protection against the cheaper labor and capital of foreign countries, and praying for such modifications in the tariff laws as will secure to our own producers the markets of our own country.

By Mr. PRICE: The petition of 168 citizens of the States of Iowa and Missouri, asking for a grant of land to aid in the construction of the Iowa and Missouri State Line railroad.

Also, the petition of Isaac N. Coudery, a soldier of the war of 1812, asking for a pension.

Also, the petition of 59 citizens of Davenport, Iowa, asking that no change be made in the manner of taxing cigars.

By Mr. STOKES: A memorial of citizens along the Tennessee river, asking an appropriation for its improvement.

#### IN SENATE.

TUESDAY, June 9, 1868.

Prayer by Rev. JAMES J. KANE, chaplain United States Navy.

The Journal of yesterday was read and approved.

#### PETITIONS AND MEMORIALS.

Mr. DOOLITTLE. I have received and been requested to present to the Senate a memorial, or a statement in the nature of a memorial, addressed to the Senate and House of Representatives of the United States in Congress assembled, signed by Mrs. Eliza Potter, of South Carolina. The petition sets forth the fact that Mr. and Mrs. Potter were persons of large wealth in the city of Charleston, South Carolina, at the commencement of the rebellion; that they were devoted friends of the Union; that during the prosecution of the war they expended very large sums for the support, maintenance, and comfort of the Union prisoners there, especially those who were sick and wounded. Their expenditures for that purpose amounted to nearly forty thousand dollars, expended in the city of Charleston, in the State of South Carolina, and also in the State of North Carolina. This expenditure was made by them without any expectation whatever of ever receiving any reward, because they were at that time very wealthy; but in consequence of the raid which was made by General Potter, and the raids also made by rebel generals,

their property was absolutely destroyed. A large mass of cotton which was in their hands was burned, some by the army on one side and some by the army on the other, in consequence of which they have become reduced in circumstances to poverty. This memorial setting forth these facts does not claim that Congress should pay anything for the property which was destroyed, but it is presented to Congress with a view of knowing whether Congress would not be willing to pay them the amount which they may be able to show they actually expended for the benefit of Union prisoners and to aid them in the States of South Carolina and North Carolina.

In connection with this memorial I have other papers, and among the rest a letter addressed to me by the honorable Judge Wording, whom I personally know very well, and for whose integrity I can vouch, stating substantially the same facts. This lady was most distinguished as the friend of the Union prisoners, devoted in attention to them under all circumstances, at the risk even of life and the destruction of her property.

I have also a letter addressed to Chief Justice Chase on the same subject.

I desire, Mr. President, in presenting this memorial, to ask that it may be referred to the Committee on Military Affairs and the Militia, with instructions that that committee inquire how much money was actually paid out and expended by the petitioner for the support and comfort of the Union prisoners during the rebellion, and report by bill or otherwise.

Mr. CONNESS. That is never done. The PRESIDENT *pro tempore*. The question is on referring the memorial to the Committee on Military Affairs with instructions.

Mr. WILSON. I move that it be referred to the Committee on Claims.

Mr. CONNESS. A memorial is never accompanied by a resolution of instructions. A memorial is a request to do certain things upon a presentation of facts, but the facts must be ascertained first by an investigation. I hope these instructions will not be adopted. Let this memorial take the ordinary course and go to our committee, and let them use their judgment in regard to it.

Mr. DOOLITTLE. All the instructions are that the committee shall simply inquire into the facts.

Mr. CONNESS. It directs them.

Mr. DOOLITTLE. It simply directs them to inquire into the facts as to how much money was actually expended for the benefit of Union prisoners, with no instructions to report in favor of paying that sum, but simply to inquire into that fact.

Mr. CONNESS. I ask for the reading of the instructions.

The Chief Clerk read as follows:

*Resolved*, That the memorial of Mrs. Eliza Potter, be referred to the Committee on Military Affairs and the Militia, with instructions to inquire how much was actually paid and expended by her for the support of Union prisoners during the rebellion, and to report by bill or otherwise.

Mr. CONNESS. I hope that will not be done, but that the memorial will be referred to the Committee on Claims.

Mr. POMEROY. I think this petition should go to the Committee on Claims. I presented a similar petition some time ago and had it referred to that committee. I did not suppose they needed any special instruction. That committee always attend to their business.

Mr. DOOLITTLE. I have no objection myself to its going to the Committee on Claims; but I supposed, as it was in relation to expenditures for the Union prisoners, it would more naturally go to the Committee on Military Affairs. That is the only reason why I named that committee.

Mr. CONNESS. Why, Mr. President, there is a memorial and evidence now with the Committee on Claims of this body in one case that I am somewhat acquainted with, where a Union man has been ruined in one of the States of the South, and the case has to go through

gradually the investigations that are commonly made here. I hope that this will take the ordinary routine. I move its reference to the Committee on Claims.

The PRESIDENT *pro tempore*. Let the instructions be read.

The Chief Clerk again read the resolution.

Mr. HOWARD. The shortest way would be, I suppose, to vote directly on that resolution, and if it is defeated to move the reference of the memorial to a committee.

Mr. DOOLITTLE. If Senators think there is anything very unusual about this, if there is anything further than simply to inquire into the facts, I do not wish to press this matter to go to the Committee on Military Affairs. I have no preference as to the committee. I have no objection to its taking the ordinary usual course of reference, but I suppose there would be nothing improper in the instructions which are mentioned in this resolution. Honorable gentlemen are not at all acquainted with this particular case, I presume, or I think they would have no objection to its taking the course I have suggested. But I see some opposition manifested, and some desire that it should go to the Committee on Claims. I am perfectly willing to modify the motion and refer it to the Committee on Claims without any instructions whatever; but I desire to submit to that committee certain letters which I have in my hand, in connection with the memorial, and to call their attention specially to the facts. I do not believe in the history of the world there is anything to surpass the devotion of this lady and the sacrifices she made and the expenditures she made for the benefit of the Union prisoners.

Mr. POMEROY. I did not intend to have the Senator from Wisconsin understand that I objected to this particular claim; only that other claims of the same character had gone to the Committee on Claims, and as they were making investigations in other cases I thought they should investigate this.

Mr. HOWE. I do not think there is any sort of necessity that this or any other particular claim should go to the Committee on Claims. In point of fact, the Committee on Claims is incumbered with work which it cannot do, certainly cannot do at this session, and I do not think there is any hope of doing it. My colleague seems to have paid some attention to the facts in this case, and would be of great assistance to the Military Committee, of which he is a member, in the examination of this case, and there is positive economy, it seems to me, in allowing the Military Committee to examine it, because they can have assistance which the Committee on Claims cannot have, so far as I know, from the fact that there is no member of that committee who knows anything about the merits of the case. I think it should go without instructions to the Military Committee, or to any other committee to whom it does go. I hope it will be allowed to go to the Military Committee; there is nothing in the constitution of that committee which forbids it taking jurisdiction of this case, and nothing in the constitution of the Committee on Claims which requires it to take jurisdiction.

Mr. HOWARD. This is simply a claim for compensation or indemnity; it does not differ from any other claim in any essential respect. Why not, then, refer it to the appropriate committee established by the Senate for the investigation of claims against the Government? I think it had better go there.

Mr. DOOLITTLE. I have no objection.

Mr. HOWARD. Very well. Then I hope that the vote will be taken on the resolution and that it will be defeated, and that then the memorial will be referred to the Committee on Claims, unless the Senator withdraws the resolution.

Mr. DOOLITTLE. I have modified the motion so as to make it a motion to refer to the Committee on Claims.

Mr. HOWARD. Has the Senator modified it so as to strike out the instructions?

Mr. DOOLITTLE. Yes, sir; to make it simply a motion of reference to the Committee on Claims, and I hope my honorable friend from Michigan will look into this.

Mr. HOWARD. I will look into it probably as carefully as the Senator from Wisconsin.

The PRESIDENT *pro tempore*. The present motion is to refer the memorial to the Committee on Claims.

The motion was agreed to.

Mr. RAMSEY. I present the memorial of John Hart and other citizens of Minnesota, cigar-makers, dealers in cigars, and growers of and dealers in seed-leaf tobacco, who respectfully represent that the present rate of internal revenue tax on cigars has proved to be the most equitable and satisfactory rate of taxation ever assessed upon their branch of industry; and they deem the proposed change of rate from five to ten dollars one calculated to work injuriously both to the trade and the revenue. I move the reference of this memorial to the Committee on Finance.

The motion was agreed to.

Mr. CAMERON presented two petitions of journeymen cigar-makers of Pennsylvania, praying that the tax of five dollars per thousand on domestic cigars and the tariff on imported cigars may remain unchanged; which were referred to the Committee on Finance.

He also presented a petition of cigar manufacturers, journeymen cigar-makers, dealers in cigars, and growers of and dealers in seed-leaf tobacco, of Lancaster, Pennsylvania, praying the adoption of the system of collecting the revenue on cigars by making the stamp a revenue stamp instead of an inspector's stamp, sold only to licensed manufacturers; which was referred to the Committee on Finance.

He also presented a petition of citizens of Pittsburg and Alleghany, Pennsylvania, praying an appropriation for the enlargement of the St. Mary's ship-canal; which was referred to the Committee on Commerce.

He also presented the petition of underwriters of Pittsburg, Pennsylvania, praying the passage of a law making premiums for insurance a lien in admiralty; which was referred to the Committee on Commerce.

Mr. MORRILL, of Maine, presented the petition of Brown Brothers and others, business men of Chicago, respectfully requesting that Congress commission Mr. S. N. Goodale to introduce among Indians hand looms and such material as will attract their attention and lead the Indians to fabricate their own garments; which was referred to the Committee on Indian Affairs.

He also presented the petition of Henry C. Whitney, praying that the title to the Osage diminished reserve and trust lands be extinguished and the same offered for sale to actual settlers; which was referred to the Committee on Indian Affairs.

Mr. HOWE presented the petition of the heirs-at-law of the late Thomas Lawson, Surgeon General United States Army, praying compensation for the use, by the Government, of certain property in the city of Washington; which was referred to the Committee on Claims.

Mr. COLE presented resolutions of the Legislature of California in favor of the passage of a law authorizing that State to select lands granted to the State for the benefit of an agricultural college from the even-numbered sections within any railroad reservations; which were referred to the Committee on Public Lands.

Mr. MORGAN presented a resolution of the Louisville Board of Trade, concurred in by the New York Chamber of Commerce, praying a reduction of the tax on distilled spirits; which was referred to the Committee on Finance.

Mr. YATES presented a petition of citizens of Illinois and Iowa, praying the construction of a bridge across the Mississippi river between Rock Island, Illinois, and Davenport, Iowa; which was referred to the Committee on Post Offices and Post Roads.

#### REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, reported a bill (S. No. 528) to carry into effect the decree of the district court of the United States for the southern district of New York in the case of the British steamer *Labnan*; which was read, and passed to a second reading.

He also presented papers relative to the subject-matter of the bill; which were ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the joint resolution (S. No. 93) granting permission to officers and soldiers to wear the badge of the corps in which they served during the rebellion, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 262) authorizing certain distilled spirits to be turned over to the Surgeon General for the use of the Army hospitals, reported it without amendment.

He also, from the same committee, to whom was referred the joint resolution (H. R. No. 266) to authorize the enlargement of the Hygeia Hotel at Fortress Monroe, Virginia, reported it without amendment.

#### J. W. TAYLOR'S MINING REPORT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution for printing the report of James W. Taylor upon gold and silver mines and mining east of the Rocky mountains, to report it back without amendment and recommend its passage. I ask for its present consideration.

No objection being made, the Senate proceeded to consider the following resolution:

*Resolved*, That the same number of copies of the letter of the Secretary of the Treasury inclosing the report of James W. Taylor upon gold and silver mines and mining east of the Rocky mountains be printed for the use of the Senate as are ordered of the report of J. Ross Browne on the mineral resources of the Pacific States and Territories; and that said reports be bound together.

Mr. COLE. It seems to me that if these reports are printed together they will make a large and cumbersome volume. The report of J. Ross Browne, which has already been ordered to be published, is considerably larger than the volume issued last year which contained both Browne's and Taylor's reports. I think, with all deference to the committee, that they ought to be published separately, being two distinct volumes. I have a great many applications for the report of J. Ross Browne and none for the report as to the mines east of the Rocky mountains. I should perhaps be able, if they were published separately, to exchange some of the reports of Taylor for those of Browne, and so accommodate the public much better. I submit to the chairman of the committee, therefore, that the resolution be so changed that the reports may be bound in separate volumes.

Mr. ANTHONY. I am quite indifferent as to that. The resolution was offered by the Senator from Minnesota, [Mr. RAMSEY,] and I mentioned to him at first the objection which the Senator from California states; but upon consulting with the Congressional Printer he informed me that the report of Mr. Taylor was short and that the two together would not make a larger volume than we are accustomed to print; and in accordance with that information I reported this resolution; but I have forgotten the exact number of pages, and if it is more convenient to Senators who are specially interested in these matters, to have the report separate, I shall make no objection.

Mr. COLE. I should like to know something as to the size of the report of Mr. Taylor as compared with that of J. Ross Browne.

Mr. SHERMAN. It is only one hundred pages.

Mr. RAMSEY. There are but five hundred pages in the whole volume containing both reports, and that is not unwieldy.

Mr. COLE. I understood when the matter

was under discussion the other day that the report of Taylor was large, equal in size to that of Mr. Browne; but if it contains only one hundred pages I have no objection to their going together in the same volume.

Mr. CONNESS. It is very small.

The resolution was agreed to.

#### INTERNATIONAL COINAGE.

Mr. SHERMAN. I am directed by the Committee on Finance, to whom was referred the bill (S. No. 217) in relation to the coinage of gold and silver, to report it back with amendments, accompanied by a report which I ask to be printed. The Senator from New York [Mr. MORGAN] desires to submit a written minority report adverse to it. The committee direct me to ask that these reports be printed and that the subject be postponed until the next session of Congress without further action.

Mr. MORGAN. As a member of the Committee on Finance I am not in favor of Senate bill No. 217, nor in favor of any other bill on the subject of coinage at the present time. I have submitted to the Finance Committee a report in writing, which by their direction I now present to the Senate, and I move that it be printed.

The motion to print the majority and minority reports was agreed to.

Mr. SHERMAN, from the Committee on Finance, submitted the following resolution; which was referred to the Committee on Printing:

*Ordered*, That five thousand copies of the amended bill reported from the Committee on Finance relating to international coinage, together with the reports thereon, and the report of Samuel B. Ruggles, commissioner of the United States to the Paris monetary conference, be printed for the use of the Senate.

Mr. SHERMAN, from the Committee on Finance, to whom were referred the message from the President of the United States concerning the International Monetary Conference at Paris in June, 1867, the resolutions of the Toledo Board of Trade, protesting against any change in the system of coinage, and a memorial of the American Statistical Association, in relation to the metrical system of weights, measures, and coins, asked to be discharged from their further consideration; which was agreed to.

He also from the same committee, to whom was referred the bill (S. No. 412) to promote uniformity of coinage between the moneys of the United States and other countries, asked to be discharged from its further consideration; which was agreed to.

#### THOMAS McLEAN.

Mr. POMEROY. The Committee on Public Lands, to whom was referred the bill (H. R. No. 1033) for the relief of Thomas McLean, have directed me to report it back, and recommend its passage. It is a private bill of only three or four lines, and I should like to have its present consideration to gratify the Senator from Wisconsin.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill at this time. Is there any objection?

No objection being made, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 1033) for the relief of Thomas McLean.

The bill is an authority to Thomas McLean to enter and purchase so much of lot No. 124 as has not been disposed of in the Stockbridge reservation, in the county of Calumet, State of Wisconsin, used and occupied by him, at the price stipulated in the third section of the act of March 3, 1865, providing for the disposal of that reservation, and receive a patent therefor, McLean having cultivated and occupied the land for a long series of years.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

#### BILLS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 529) establishing rules and articles for the

government of the armies of the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. FERRY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 530) relating to patents; which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 142) to refer the claim of George Chorpennen, under a former act of Congress for his relief, to the Court of Claims; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

#### GEORGE W. DOTY.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 143) for the relief of George W. Doty, a commander in the United States Navy on the retired list; which was read twice by its title.

Mr. NYE. I desire to make a statement in relation to this matter, and to ask the Senate to put the resolution on its passage now. A resolution was passed on the 19th day of May, as recommended and reported by the Naval Committee, simply to place in his position on the Register, according to his rank, Commander Doty, of the Navy, from July 16, 1862, to July, 1865. The Naval Committees of both Houses were unanimous in their report on that subject, but we neglected two words in the resolution; and I am requested and authorized by the Committee on Naval Affairs to ask to have them inserted by passing this resolution. It is simply to give him the pay of his rank. The necessary words were omitted. The amount is about nineteen hundred dollars. I hope the Senate will act on the question now.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It directs the name of George W. Doty, commander in the Navy, to be placed upon the Navy Register as a commander from July 16, 1862, with the pay and rank of his commission.

The joint resolution was reported to the Senate, and ordered to be engrossed for a third reading.

Mr. MORRILL, of Vermont. I desire to ask the Senator from Nevada how much pay this resolution covers?

Mr. NYE. Nineteen hundred dollars.

Mr. MORRILL, of Vermont. A year?

Mr. NYE. Oh, no; that is all. He has been on the duty.

The joint resolution was read the third time, and passed.

#### CONTRACTORS FOR IRON-CLAD VESSELS.

Mr. CONNESS. I move that the Senate proceed to the consideration of the bill (S. No. 159) relating to the Western Pacific railroad.

Mr. HENDRICKS. There was a bill before the Senate yesterday, in the morning hour, about ready to pass when that hour expired, and I think it ought to be concluded this morning. I hope the Senator from California will allow that bill to be taken up and finished.

Mr. CONNESS. The bill to which I call the attention of the Senate, and which I desire to get a vote upon, was under consideration twice in the Senate before the impeachment trial. I have been waiting for an opportunity to get the attention of the Senate to it, but I should be very willing to let it go over until to-morrow if I thought I could get the attention of the Senate then. I want a vote upon it at an early day.

Mr. HENDRICKS. Inasmuch as the bill to which I have referred is fresh in the mind of the Senate, and will now excite no debate, I think we had better conclude it.

Mr. CONNESS. Very well; I will give way to the honorable Senator.

Mr. HENDRICKS. I will assist the Senator to-morrow to take up his bill.

The PRESIDENT *pro tempore*. The motion of the Senator from California is withdrawn.

Mr. HENDRICKS. Now I move to take up Senate bill No. 307.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 307) for the relief of certain Government contractors.

Mr. HENDRICKS. I propose to offer an amendment which I suppose will remove all objection to the relief suggested. It is to insert at the end of the bill the following:

Which shall be in full discharge of all claims upon the vessels upon which the board made the allowance, as per their report made under the act of March 2, 1867.

Mr. HOWE. I do not know that I have any objection to the amendment, but yet I am not sure that it would relieve the bill of any objections that I have against it. If I can get the attention of the Senator from Indiana, I should like to state what difficulties appear on the face of this bill to my mind.

As I understand this case, there were quite a number of contracts made by the Navy Department for the construction of vessels, and I understand each of those contractors claims to have lost largely on his contract from two causes; one being changes made in the nature of the work contracted for, and the other cause being the appreciation of prices. I understand that the Secretary himself having paid each of the contractors the contract price, then undertook to audit these claims for enhanced cost, and that he has made large payments to each one of the contractors, in many cases amounting to thirty-three per cent. That is the way I understand the statement laid on my table. If I am wrong about it, I hope to be corrected. But to each one of those contractors large payments have been made by the Secretary over and above the contract price at which they were to do the work. The Senator from New Jersey [Mr. FRELINGHUYSEN] tells me that the whole increased payment amounts in the aggregate to over five million dollars.

Having been paid the contract price, and having been paid more than five million dollars in addition to the contract price, it seems the contractors were still dissatisfied, and under the act of March 2, 1867, the Secretary of the Navy was authorized to investigate once more these claims, all of which he had investigated without any authority. Instead of doing that himself, he appointed a board of officers to do it, which I suppose he might properly do. He has accepted their report. That board has reported, if I understand it, that this increased cost was occasioned by changes in the nature of the work ordered by the Navy Department only in the cases of the contracts mentioned in the bill. All the other contractors whose cases are not provided for in the bill and who claimed damages, or who claimed to have lost upon their contracts, I understand this board to say, lost simply because of the appreciation in prices, and not because of any delay occasioned by the Department, or any change in the nature of the work to be done.

Now, the bill before the Senate provides for paying the sums which this board report were due to the contractors mentioned in the bill because of changes and delays occasioned by the Department itself. As I understand this case, those sums which they report as the whole sums to which these contractors would be entitled by reason of delays and changes, amount to very much less; amount, in fact, to but a small portion of the sum which the Secretary himself has already paid over and above the contract price.

Mr. HENDRICKS. If the Senator will allow me, I will explain that, I think, in about ten words.

Mr. HOWE. Well, that is a less time than I could explain it in.

Mr. HENDRICKS. The Department made contracts for vessels of particular descriptions and sizes. After that they increased both the size of the vessels and of the engines in many instances. Where there was an increase of



size, for that additional work the Department paid what that additional work cost, but made no allowance to the parties because of the delay thereby caused in the construction of the vessels and the enhanced price of labor and material occasioned thereby. They paid just in proportion to the contract price for the additional work. If there were one hundred tons more of iron required in the vessel, then that was paid for in the proportion of that work to the agreed price; but this additional work caused delays of months, and in the mean time materials and labor went up in some instances one hundred per cent. That has never been paid for, and this bill proposes to give a compensation according to the finding of the board for losses occasioned by the act of the Government and not already paid for.

Mr. HOWE. Now, Mr. President, the Senator from Indiana may be and probably is entirely right in his statement; but his statement does not seem to me to be borne out by the report. Take, for instance, the first claim mentioned in this schedule, which is the claim of Secor & Company. The contract price of the work done by them is stated in this report at \$1,800,000. In the next column they report "the amount of such increased cost caused by the delay and action of the Government, as determined by the board to be due." The amount of increased cost, caused by the delay and action of the Government, they report at \$115,000. In the next column they report the amount which has already been paid to Secor & Co., by the Secretary, over and above the contract price, and that sum is \$521,000. If this board mean what they say, they say that all the increased cost occasioned to Secor & Co. on their contracts by the action of the Government, was \$115,000; but that they have got \$521,000. That is the way the report stands, and yet here is a bill which provides for the paying of \$115,000 again.

That is not all there is of it; but this bill is accompanied by another which is not now before the Senate, but which is on our desks, a sort of tender to this, which provides for referring all these claims, Secor & Co.'s and all the rest, to the Court of Claims, to determine how much more upon all accounts shall be paid to each one of them. So that if this bill passes and the accompanying bill passes, then these contractors will have received, first the contract price, second the additional payments made by the Secretary of the Navy, amounting to about thirty-three and one third per cent., or amounting in the aggregate to over five million dollars as the Senator from New Jersey figures it. Third, the sums reported by this board as due to a portion of the contractors; and fourth, whatever they can wrench from the judgment of the Court of Claims. If they get judgments in the Court of Claims, of course they will be judgments in spite of all these precedent payments, after they have had three settlements.

Mr. ANTHONY. The amendment cuts them off.

Mr. HOWE. I do not understand that it does cut them off. After they have had three settlements, and three payments some of them, and all of them two at least by the Navy Department. They are to be allowed, if the second bill passes, to go into the Court of Claims to struggle for another judgment against the Government.

Mr. President, I have no facts before me which will authorize me to say that these specific sums are not due; therefore, I am not very well prepared to controvert the propriety of passing this bill; but I am embarrassed in voting for it by the consideration that we are threatened by this other bill, and in that point of view it seems to me much the safer thing for this bill to be laid on the table until the Senate determine what it is proper to do with the other bill; because if they pass that bill and send these contractors to the Court of Claims at all, I think they should be sent there for their whole claim, including the award with the additional claim they make. And while I am threatened with that other bill, which I under-

stand is under the conduct of the Senator from Missouri, I cannot see how I can safely vote for the passage of this bill.

Mr. JOHNSON. Mr. President, having had some knowledge of these claims at a prior session, and having supported the bill which received almost the unanimous vote of the Senate, giving to these various parties more than a million dollars, I am somewhat surprised to find that there is any opposition to what is now proposed to be given them, some \$225,000. I became satisfied on an examination of the case before that the parties had suffered very greatly by these contracts; that they were brought in consequence of the faithful manner in which the work was done and the alterations which from time to time were suggested by the Government, particularly in the increased size and power of the vessels, almost to a state of bankruptcy; and I was not so much disposed to criticize the mere legal obligation which the contractors supposed the United States were under to them, as I was to save these patriotic men from ruin in consequence of their having been the honest, faithful contractors of the Government at a time when the Government stood greatly in need, and when their work tended very considerably to bring our late civil war to a successful result. I was willing to vote to give them that \$1,000,000. Now, it is proposed to give them only \$225,000. If I understand the honorable member from Wisconsin, [Mr. HOWE,] he prefers the sending of these claimants, as well as other claimants who do not stand exactly upon the same ground, to the Court of Claims. That would be ruin to the contractors. The calendar of the Court of Claims now embraces, I believe, some thousand cases, and in all probability before these people could obtain justice at the hands of the Court of Claims they would be in a state of actual bankruptcy.

I submit to the Senate that under these circumstances, even if there was no legal demand, generosity, magnanimity—I was about to say a patriotic generosity and magnanimity, invokes us, as I think, to pay them this amount—which will save them from actual ruin. The amendment suggested by the honorable member from Oregon [Mr. CORBETT] seems to me to be defective in one particular, and having called the attention of my friend to that I shall close. He proposes to amend the bill by providing that upon the payment of the sum which the bill provides the claim of the contractors upon the vessels shall no longer exist. I suggest to the honorable member to modify it so as to make it a condition of the payment that they shall relinquish all claim against the United States. They have no claim upon the vessels. The vessels are in the hands of the United States, and now I believe constitute a part of their marine, though perhaps some may have been sold. The claim that they have for the building of the vessels is a claim against the Government, and that would be the only claim that could be prosecuted before the Court of Claims if they should be sent there. The honorable member I am sure will see the propriety of changing his amendment so as to relinquish the claim against the United States on account of the vessels.

Mr. FRELINGHUYSEN. Mr. President, I think the Senator from Wisconsin is in error in the view that he takes of the pending bill. I think his views in reference to the contemplated bill to be presented by the Senator from Missouri are very correct. This subject was, by an act of the 2d of March, 1867, referred to the Secretary of the Navy, he being authorized to have a commission. Without reading the whole act, that commission were to ascertain the additional cost from changes in the plans and from delays occasioned by the Government in the work, the advance in the prices of labor and materials which occurred during the prolonged time, and which prudence could not have avoided, and they were also directed to ascertain that amount:

"And from such additional cost, to be ascertained

as aforesaid, there shall be deducted such sum as may have been paid each contractor for any reason heretofore over and above the contract price, and shall report to Congress a tabular statement of each case, which shall contain the name of the contractor, a description of the work, the contract price, the whole increased cost of the work over the contract price, and the amount of such increased cost caused by the delay and action of the Government as aforesaid, and the amount already paid the contractor over and above the contract price."

This tabular statement contains first the contract price; second, the whole increase claimed by the contractors; then the amount heretofore paid by the Government over the contract price, because that payment had been made on the 2d of March, 1867, and this tabular statement was not made until after that, of course; and then it contains the amount of such increased cost "caused by the delay and action of the Government, as determined by the board to be due," over and above what had been paid by the Government, still due. That is the way I understand it, and in that view this bill ought to pass. But it seems to me the proposition to open this whole subject and refer it to the Court of Claims is one which ought not to be entertained at all. This subject has been investigated. The Government have already paid \$5,000,000 more than the contract price. This bill provides for the payment of all that these commissioners report; and now it is proposed to refer it to the Court of Claims, when all these builders, with their clerks and agents as witnesses, go before that court, and where does the Government stand? Where are the Government's witnesses? How could the Government be prepared to meet that array? The commission were not tied down by rules of evidence and the marshaling of witnesses in a court, but the commission went and looked at the work, judged for themselves, heard statements of parties, and came to what was considered a fair and equitable conclusion in reference to the subject.

Mr. DRAKE. I will state for the information of the Senator from New Jersey, that I think he is mistaken in saying that they looked at the work.

The PRESIDENT *pro tempore*. The morning hour having expired, it is the duty of the Chair to call the attention of the Senate to the unfinished business of yesterday.

Mr. DRAKE. I hope that this subject, now that we have it in hand, may be allowed to be finished.

Mr. CONNESS. It will only take a little while.

Mr. ANTHONY. I think ten minutes will dispose of it.

Mr. EDMUNDS. Oh, no.

The PRESIDENT *pro tempore*. Is it the pleasure of the Senate to pass by informally the unfinished business of yesterday?

Mr. TRUMBULL. I hope not. We have been on the other subject; it is a very important one, and we had better finish it first. This is evidently a controverted matter.

Mr. ANTHONY. I believe the Senator from Vermont has an amendment which will cover the whole case, as he thinks the amendment of the Senator from Indiana does not, and I am sure both Senators desire the same result. I think we can soon dispose of this bill.

The PRESIDENT *pro tempore*. The special order can only be passed over by motion, objection having been made to doing so informally.

Mr. HENDRICKS. I make that motion; we may as well finish this bill.

The PRESIDENT *pro tempore*. It is moved that the unfinished business and all prior orders be postponed for the purpose of continuing the consideration of Senate bill No. 807.

Mr. TRUMBULL. I am informed by Senators around me that this will take a long time. Now, I appeal to the Senate if, after having had a bill for the recognition of the State governments of five or six States on hand here for several days, we are to lay aside a great public matter of that kind for the purpose of

investigating these claims. We can take this bill up to-morrow, or if we get through with the other bill in time, to-day after it is disposed of. I have no opposition to this measure, but it seems to me it ought not to push aside the regular order of the day.

Mr. HENDRICKS. The Senator has asked me to stand by him here for late sessions to pass the bill which he asks the Senate now to take up, and I have agreed to do it. I have stood by him, and I am willing to stay here till night-time, although I am not in favor of his bill and do not expect to vote for it. At his request I said I would stay here. Now, once or twice, because the chairman of the Committee on Naval Affairs, who reported this bill, is sick and not here, I have felt it my duty to call it up, and it is fatiguing to have to call the same thing up and go over precisely the same argument every day. I have done my duty.

Mr. CONNESS. I think fifteen minutes of time will suffice to finish this bill.

Mr. HENDRICKS. If it is not the pleasure of the Senate to give these people some little relief, the trifling relief this bill gives, I feel that I have done my duty, and it can go. I hope, however, the motion will prevail, and that we shall finish this bill.

The PRESIDENT *pro tempore*. The question is on postponing the order of the day.

Mr. ANTHONY. I think there had better be no vote taken on postponement. I have no doubt the Senator from Illinois will give us a few minutes, and then if the bill cannot be passed we shall not desire to take up further time.

Mr. TRUMBULL. I will withdraw any objection to allowing fifteen minutes.

The PRESIDENT *pro tempore*. By unanimous consent, the present bill may be continued before the Senate.

Mr. CAMERON. I object. I am against allowing these large claims to go through in this way.

The PRESIDENT *pro tempore*. The question is on the motion to postpone the order of the day.

Mr. HENDRICKS. I will say for twenty minutes.

Mr. TRUMBULL. If the Senator will say for fifteen minutes, I will make no objection.

Mr. HENDRICKS. Say twenty minutes.

Mr. TRUMBULL. I will agree to twenty minutes.

Mr. HENDRICKS. That is the motion.

The PRESIDENT *pro tempore* put the question on postponing the order of the day; and a division being called for, twenty-two Senators voted in favor of the motion.

Mr. SHERMAN. I call the attention of the Chair to the fact that the Senator from Indiana varied his motion, and it ought to be understood by the Senate. It is a postponement for twenty minutes.

The PRESIDENT *pro tempore*. The Chair knows nothing about minutes. There is no such rule in the books. The motion to postpone is agreed to. Senate bill No. 307 is before the body, and the Senator from New Jersey is entitled to the floor.

Mr. FRELINGHUYSEN. Mr. President, I will not occupy the time of the Senate. There is this consideration which induced me to vote that this bill might go over: if there is any correctness, or if there is any doubt but that the Senator from Wisconsin may be correct, this matter ought to have further consideration. I understand that the \$200,000 included in this bill is over and above the \$500,000 which the Government has already paid more than the contract. The understanding of the Senator from Wisconsin is that while the Government has paid \$500,000 more than the contract, it really ought to have paid but \$200,000 more than the contract. If there is any question on that subject, I think this matter had better go over until to-morrow, until information can be got at the Department.

Mr. DRAKE. Mr. President, I do not think the facts which belong to these cases have been fully stated here at all. If they had been, I

verily believe the Senate would be the next thing to unanimous in this matter. The wonder to me is that the parties interested in this bill would take from the Government the sum provided here in full of their just claims.

I opposed the consideration of this bill yesterday in order that I might reexamine the matter on the basis of the documents I had in my possession. I spent the whole of last evening making that reexamination, and I say, without a moment's hesitation, that if ever there came before Congress a just claim for relief, it is in favor of these contractors for the construction of these national vessels. If the Senate will give me its attention for a very few moments, I can state the case to them, I think, in such a way as will show them that the manner in which I characterize this claim is correct.

I will take the single instance, among nine vessels of the same class precisely that were ordered to be constructed, of the *Tippecanoe*, the contract for which was taken by Miles Greenwood, of Cincinnati, known to many Senators on this floor personally and by reputation as a first-rate man in every respect. That contract was given to him on the 1st of September, 1862, and his obligation was to complete the vessel in six months. Mark that fact: the obligation was to complete the vessel in six months. The contract called for the delivery to him at the time of the signing of it, of the drawings and specifications for the construction of that vessel, but when were they furnished? The very first one that was furnished was on the 28th of that month, and they were strung along from that time for two years and a half before Miles Greenwood got the drawings and specifications of that ship entire; so that two years after the time that he contracted to have built the vessel, and would have had it built if they had given him their drawings and specifications, he got the last of the drawings and specifications. Two years after the time that he had agreed to finish it, he was delayed by the action of the Navy Department before he could put the last strokes upon that vessel, and she was consequently not finished until December, 1865.

At the time that contract was entered into gold was 118, and it went on increasing. Let me give you some of the quotations. In September, 1862, gold was 118; in January, 1863, 136; in April, 1863, 146; in July, 182; in December, 148; in January, 1864, 152; April, 1864, 175; July, 282; December, 204; January, 1865, 226; April, 1865, 144; July, 140; and December, 145.

During all that period Miles Greenwood was kept by the Navy Department from fulfilling his contract by their delay in giving him specifications of his work, by their changes, by their alterations of that work. And now, sir, what is the consequence? I ask the Senate's attention to the figures for one moment as shown in the case of that very vessel. The whole increased cost of the vessel was \$349,455 23 occasioned by these delays. And what did the Navy Department pay of that amount? \$173,327 84, leaving unprovided for of that increased cost \$176,127 39.

There is the history of one of our nine vessels of exactly the same class, built under like contracts, upon the same specifications, delayed for the same length of time; and these parties are a portion of those that suffered by the action of the Navy Department, nine of them, and this board organized by the Navy Department reports a pittance of \$38,513 each to five of them, and not a cent to the other four. Now, they come to Congress and ask for relief; and I say, sir, that it is a shame and an outrage upon all honor and all correctness of official action, in my opinion, for Congress to turn them away from its doors when not a moment's delay did they ever make, but were ready to press on with their work, and did press on with it honestly and faithfully, and every day for two years and a half from the time the contract was made were they delayed by the failure to furnish them the specifications.

The balance due to these men in this bill, according to the increased expense of their work, is \$714,905 64, after allowing them for the half million that the Navy Department paid them; and you propose now to cut them off with a little over one hundred and fifteen thousand dollars, and even to begrudge them that, and so, too, with the remaining two of the vessels for which allowances are made by this bill; and then you propose to cut off all the rest and not even allow them the poor privilege of going into the Court of Claims to have their claims for additional compensation sifted, investigated, and determined by an impartial tribunal. Sir, this commission that the Navy Department organized went into an *ex parte* examination of this matter. We want to transfer it to a court where both parties can be heard.

Again, sir, I repeat my conviction that there never was a more righteous claim before Congress than this very claim; and I hope the Senate will pass it in some shape or other.

Mr. CORBETT. It is admitted, I believe, on all sides that this amount is due to these parties according to the report, and I think the amendment as proposed and as drawn by the Senator from Indiana covers the case. I hope we shall take a vote on that without any further debate. It seems to me that by that course we shall give these men the money that is due them without any doubt, and they may be relieved to some extent at least.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Indiana.

Mr. CORBETT. I call for the reading of the amendment as it has been modified by the Senator.

The amendment, as modified, was read, as follows:

Insert at the end of the bill these words: Which shall be in full discharge of all claims against the United States on account of vessels upon which the board made the allowance, as per their report made under the act of March 2, 1867.

Mr. HOWE. I move to amend that amendment by substituting for it the following:

Which payments respectively shall be in full discharge of all claims of the persons to whom such payments shall be made, which have been presented under said act, and of all claims arising out of the matters in connection with which the services and damages so claimed for arose.

Mr. ANTHONY. Does that cut them off from applying in the same way as all the other contractors are allowed to apply, to the Court of Claims, for other vessels than those adjudicated upon?

Mr. EDMUNDS. No; only those adjudicated upon.

Mr. ANTHONY. But the other contractors are allowed to apply to the Court of Claims in regard to those vessels where the board reported adversely.

Mr. HOWE. I call for the yeas and nays on the amendment to the amendment.

The yeas and nays were ordered.

Mr. EDMUNDS. The amendment to the amendment proposes to establish the proposition that the award of this board that is now claimed shall stand as a whole altogether, and that where the board has decided against a claimant the claimant shall be satisfied with that, as well as taking the money that they have decided in his favor. Here, for instance, is Mr. A, who puts in a claim before this board, under the act of Congress, for damages, and resumed in respect to two vessels. The board investigates the claim as to both these vessels. The board is of opinion, and so reports to the Secretary of the Navy, that as to one of the vessels the claim is not meritorious, is not well-founded; and as to the other, it reports that the claim is well-founded and proposes the proper compensation. Now, the amendment of the Senator from Indiana only declares that the judgment of this board shall be a bar to any future claim as it respects the particular vessel upon which an allowance is made, whereas the amendment of the Senator from Wisconsin asserts the proposition that if the claimant wishes to take the benefit of this judgment as

it respects a vessel as to which he got an allowance, he ought also, in justice, to take it as it respects the vessel upon which they decided against him. If there is any value in these investigations at all; if we are to act upon them at all; if claims are made under them, then most certainly, like the judgments of any other tribunal, they ought to stand as an entirety, and a party that is beaten before the board as to one vessel should not be permitted to come in and take his money for another that he is allowed for, and then be permitted to go to some other court and try the question over again in respect to which he was beaten. It seems to me it upsets all our notions of the method of administering justice to permit claimants to take the benefit of the judgment of a court so far as it is in their favor, and to permit them to go on and try the question over again by a new trial so far as the judgment happens to be against them. Therefore I am in favor of the amendment of the Senator from Wisconsin.

Mr. HENDRICKS. This board has allowed to five contractors upon certain vessels small sums amounting to about two hundred thousand dollars. Other contractors have not been allowed by the board anything. Now, I am not willing for the benefit of the contractors who have been allowed some money, to say that Congress shall never provide for an inquiry into the claims of these other parties, or into the claims of the same parties in respect to vessels not allowed upon in this award. There is no occasion for it; there is no necessity for Congress saying in advance, "We will not hear these parties who are dissatisfied with the award." If Congress chooses to examine that award and comes to the conclusion that some men's claims have been disallowed which ought to be allowed, why not say that they shall have relief? I know that that will be the judgment of Congress when it comes to be considered. I know that cases will be presented to Congress that will be heard. I am satisfied, after the investigation of the Committee on Naval Affairs, that this allowance is not what it ought to have been. I believe the Department has been against these people, and that they have had no relief such as they ought to have had. I am in favor of giving them some relief, and yet in respect to the vessels where an allowance has been made I am willing to say that no further allowance shall ever be made; that the receipt of the money upon those vessels shall be conclusive upon the parties.

Mr. EDMUNDS. How do you distinguish in principle between the one case and the other?

Mr. HENDRICKS. I distinguish because upon some vessels an allowance has been made and upon some vessels no allowance has been made, and if Congress concludes to relieve in regard to those other vessels, there is no occasion for saying we will not give relief.

Mr. EDMUNDS. Why would not the same principle apply to the vessels in respect to which the claimants think the board have not allowed enough? Suppose the claimant claims \$200,000 and the board have only allowed him \$100,000, upon the principle of my friend from Indiana, why is it just to adopt his amendment saying that although the man has got only one half what he is entitled to he shall never be permitted to apply for any more?

Mr. HENDRICKS. If this bill passes, the parties who have not been allowed anything cannot get anything unless Congress chooses to give it. It will depend upon future affirmative legislation for their relief. When the Committee on Naval Affairs, having investigated, say to Congress that there ought to be further relief, why should Congress, in the face of such a report, say in advance, "We will tie our hands up and give no further relief?" Is no respect to be paid to the report of a committee? Is it to be presumed that the committee have made a defective investigation altogether, and that when the committee say we ought not to be tied up in the future in regard to the other vessels, we should, notwithstanding

ing that, tie our hands? They can get nothing unless we affirmatively legislate in the future for their relief, and if the Senator is right in his position, that the award is conclusive against them, that will be an argument when some further legislation is asked.

Mr. EDMUNDS. The answer that I have to make to the Senator from Indiana on the subject of the Committee on Naval Affairs is simply this: the law passed by both Houses and approved, I presume, by the President, though he does not approve many laws—I believe he approved that—provided a tribunal, provided, as I understood when the law passed, such a tribunal as these claimants desired to have, to investigate all the claims that came within the scope of the enactment that created the tribunal, and to report upon those claims, to hear, try, and determine them. I understand that that tribunal was erected, that it heard the claimants, their allegations, and their proof, as other tribunals hear contested claims; it heard evidence in opposition, heard arguments of counsel, I suppose. Then it came to its judgment and pronounced in favor of the claimants as to some items, pronounced against the claimants as to other items, and diminished still other items to a smaller sum than that which the claimants demanded. Now it is asked by affirmative legislation to approve that judgment of this board so far as it is in favor of the claimants, and to leave it practically disapproved so far as it happens to be against them. I undertake to say to my friend from Indiana, who is a great deal better lawyer than I am, that that is altogether a new principle in the administration of justice. It does not occur between man and man, and much less ought it to occur between a Government and claimants, either upon its justice or its bounty, because we all know by experience that governments have the worst luck of anybody in defending against claims.

Mr. HENDRICKS. Will the Senator from Vermont allow me to ask him a question?

Mr. EDMUNDS. Yes, sir.

Mr. HENDRICKS. If this board has allowed to Secor & Co. the losses which they sustained and disallowed to Miles Greenwood, and the committee believe that Miles Greenwood ought to have had an allowance under that law and that the award of the board is not just to Miles Greenwood—and that is the judgment of the committee, as I believe—then why, if Secor & Co. accept of the award in their favor, shall we by law say that Miles Greenwood shall never be heard? It is not just.

Mr. EDMUNDS. The amendment does not propose any such proposition as that at all.

Mr. HENDRICKS. Yes, it does.

Mr. EDMUNDS. The amendment proposes that as to the persons in whose favor claims have been allowed, who have gone before the board and have presented different claims and have had some of their items allowed and others disallowed, as to the persons who are the beneficiaries in this bill, they shall adopt it as a totality; that they shall not set up in their favor one half of the judgment of this board and still leave open to further contest all that part of it which happened to be against them. It does not touch the case of Miles Greenwood, if there is such a man—I, of course, know nothing about him—as my friend from Indiana seems to suppose. It is only the persons to whom we are by this bill making these appropriations that the amendment applies, because it says the persons who have claims allowed to them and have presented other claims which in the same course of adjudication have been disallowed, shall stand by the judgment. I do not by any means undertake to argue that it would not be just that every person who has gone before that board should be bound by it, but inasmuch as it happens that persons to whom nothing was allowed are not in this bill, there is no convenient way of providing that they shall be bound.

Mr. HENDRICKS. Will the Senator allow me to ask him one further question?

Mr. EDMUNDS. Yes, sir.

Mr. HENDRICKS. I understood him to

take the ground that the award ought to stand entire if any allowance be made upon it. I understand that now he modifies his argument.

Mr. EDMUNDS. No, I do not modify it at all.

Mr. HENDRICKS. Suppose the Secors are allowed upon one vessel and not allowed upon another, and they ought to have something upon that other, why, in confirming the award of the board upon certain vessels, shall we say that in the future we will never legislate for their relief in regard to the others?

Mr. EDMUNDS. We should say it upon exactly this principle, that there must be an end to litigation. You must reach a tribunal at last, somewhere, where you are to say there has been investigation enough. These claims have been before Congress year after year in one form or another, and finally Congress acted and its action took the form of taking the subject away from the committees of Congress, who were supposed either to be too harsh or too kind, and putting it into the hands of an impartial, intelligent, and skillful tribunal, against the purity of whose conduct in these respects no man has yet raised his voice. Now, I say as a principle that ought to govern our action as it governs the action of all men in society where justice is administered, (and this is nothing but administering justice according to a rule.) I say as a principle that is fundamental and one without which society cannot go on, that when a man has had his case fairly tried and is beaten, he ought to stay beaten. It may be, to be sure, that he might get a second jury who would find in his favor for some cause or other; but then the other party would say, "Open it for me; let us have a third jury, who may reverse the verdict of the second and find as the first did." Would my friend from Indiana get up and say, if his committee should report in favor of additional compensation to these parties, that there might justly be a bill introduced into the next Congress to reverse all that and try it over again? No; he would say, as he does in Indiana, where he practices law, that there must be an end to these contests, and that when you have once established a tribunal and submitted your case to its fair determination, you must abide by the result, upon the principle that it is as likely that that tribunal decided rightly as it is that any future one would decide rightly.

The principle of the amendment that my friend from Indiana offers is the very principle of the amendment that the Senator from Wisconsin offers. His principle is, that if as to one vessel this board has only allowed one half of what the claimants demanded, and one half of what they might satisfy him they had a right to demand, they shall, nevertheless, be bound. Why is that? Is it not just as great a loss to them as if it had happened to be a disallowance on some other vessel? Of course it is. It is upon a principle that my friend perfectly well understands, and is willing to act upon, that you must take the judgment of this impartial board over the whole of the subjects on which they were called to pass. Now, he wishes to split that principle right in two, up the middle, and make a kind of compromise with it, by declaring that as to the specific vessel in respect to which an allowance is made the party shall be bound; but as to another vessel that stood right by the side of that, the very next item in the claim, as to which the board decided that there was nothing due, that shall all be open again. My friend cannot distinguish in principle between the two amendments. The one that the Senator from Wisconsin offers only carries out the principle of the amendment of the Senator from Indiana to its full and fair extent.

Mr. MORTON. Mr. President, I have heard something before this of the claim of Miles Greenwood. I know him—

Mr. TRUMBULL. I rise to a question of order. The twenty minutes, which it was the understanding of the Senate were to be devoted to this bill, have expired, and it is manifest it



will take all day. I submit that we should go on with the order of the day.

The PRESIDENT *pro tempore*. Will the Senator state his question of order?

Mr. TRUMBULL. It is that the time has expired for which the Senator from Indiana [Mr. HENDRICKS] asked to have the regular order laid aside to consider this bill. The understanding of the Senate was that unless we got through with this bill in twenty minutes we would go on with the other measure.

The PRESIDENT *pro tempore*. The Chair cannot take cognizance of any particular time. The Chair did not understand whether there was any time fixed or not. The Senate preferred to take up this bill over the other; and when they get ready they can take up the other in preference to this.

Mr. TRUMBULL. I thought that was the motion of the Senator from Indiana.

Mr. CONKLING. Certainly it was, that the regular order should be postponed for twenty minutes.

Mr. TRUMBULL. I voted for it with that understanding.

Mr. FESSENDEN, (to Mr. TRUMBULL.) Move to postpone this bill and take up the other.

Mr. TRUMBULL. I have not the floor unless the Senator from Indiana [Mr. Morton] gives it to me. If he does I will make that motion.

Mr. MORTON. I will in one minute. I want to say something in regard to the Miles Greenwood claim, of which I have heard before this. He is one of the most enterprising, high-minded, and honorable men in the West; a man who I believe would not prefer an unjust claim. I have understood for several years that he had been greatly wronged in this business. Now, sir, this tribunal to which these claims were submitted, as I understand, was created by Congress; was it not?

Mr. HENDRICKS. Organized by the Navy Department.

Mr. MORTON. Organized by the Navy Department. It strikes me as rather monstrous to say that from that tribunal there is no appeal to the Congress that created it; that it is to be the one tribunal, and that there shall be no resort to any other. That is contrary to the practice of the law with which my friend from Vermont is so familiar. But, Mr. President, I have reason to believe that in regard to matters of this kind, matters of contract, especially in the building of vessels and of other things in time of war, requiring great expense, built in an emergency where there were changes made, the Government has acted hardly with its contractors. The Government is often swindled, but the Government has not a right in turn to swindle other people. It is just as much bound to pay an honest debt as anybody else; and if contractors have gone on in good faith, changing the work from time to time to suit the views of the Government, suffering great delay, as was shown in the Miles Greenwood case by the failure to furnish the specifications for two years, the Government is bound in the practice of common honesty to see that these men are made whole. I know it is a common practice when claims are brought by individuals against the Government to compromise them; give them half. The Government seem to think it is doing well if it gives them half they are entitled to. Men take a small pittance and go away ruined. Now, sir, in the case of the building of these vessels let the Government do justice to these men. In the case of Miles Greenwood, I believe he has suffered great injustice, and that he is entitled to large compensation, and he ought to have it to the last dollar. As the Government would have justice done to it by its employés, by its contractors, and by its officers, so let it do justice to others upon the same principle. I have reason to believe that justice has not been done.

Mr. TRUMBULL. I move to lay aside this bill and proceed to the order of the day.

Mr. CONNESS. Upon that motion, which I hope will carry, I wish to say that if Mr.

Miles Greenwood shall not have justice done him in this world, when he shall depart hence there may be written truthfully upon his slab, "This man died without justice having been done him by reason of the existence of lawyers, or law as a profession." [Laughter.]

Mr. MORTON. I know of no reason for making a fling at Miles Greenwood on the floor of the Senate.

Mr. CONNESS. The Senator does not understand me as doing it.

Mr. MORTON. He is a high-minded, honorable man.

Mr. EDMUNDS. It was at me.

Mr. MORTON. I understood the Senator from California as making a fling at Miles Greenwood.

Mr. CONNESS. Not at all.

Mr. MORTON. If the Senator disclaims that, I have nothing to say.

Mr. CONNESS. It was furthest from my mind; but propositions are stated and restated which we understand and could vote upon if allowed to do so. That was the object of my remarks.

Mr. MORTON. It is all right, sir.

The PRESIDENT *pro tempore*. The question is on postponing the bill under consideration until to-morrow.

The motion was agreed to.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the amendments of the Senate to the joint resolution (H. R. No. 251) authorizing the Secretary of War to furnish supplies to an exploring expedition.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 1194) to provide for the inauguration of State officers in Arkansas, North Carolina, South Carolina, Louisiana, Georgia, and Alabama, and for the meeting of the Legislatures of said States;

A bill (H. R. No. 631) amendatory of an act approved July 26, 1866, entitled "An act to authorize the construction of certain bridges and establish them as post roads;" and

A bill (H. R. No. 1205) to further amend the postal laws.

#### ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bill and joint resolution; and they were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 1033) for the relief of Thomas McLean; and

A joint resolution (H. R. No. 251) authorizing the Secretary of War to furnish supplies to an exploring expedition.

#### REPRESENTATION OF SOUTHERN STATES.

The PRESIDENT *pro tempore*. The unfinished business of yesterday, being the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress, is now before the Senate as in Committee of the Whole, the pending question being on the amendment of the Senator from Massachusetts [Mr. Wilson] to the amendment of the Committee on the Judiciary, to insert the word "Alabama" after "Georgia" in the fourth line of the first section of the committee's amendment; and upon that question the Senator from West Virginia [Mr. WILEY] is entitled to the floor.

Mr. WILEY addressed the Senate. [His speech will be published in the Appendix.]

Mr. SAULSBURY. Mr. President, while it is not my intention to enter into a general discussion of the merits of this bill, some remarks have fallen from the honorable Senator from West Virginia that seem to require notice. I shall not attempt to discuss the principles of the bill, because heretofore in discussing the reconstruction measures of Congress, so called, I have had occasion to present my views in reference to the whole subject. My great objec-

tion to the measure and all kindred measures is the total want of authority in the Congress of the United States to intervene in the premises; that there is no power conferred on Congress by the Constitution to reconstruct any State, to intervene in any manner in reference to the governments of these States; but that the whole matter in reference to the governments of these States is exclusively with the people of the respective States themselves. But, sir, the matter to which I wish to allude is the view presented of the question of suffrage by the Senator from West Virginia. He claims that the measure before the Senate is just, right, proper, among other reasons, because it confers the right of suffrage upon the negroes of the South. He plants himself broadly and squarely before the Senate and before the country upon the ground of universal enfranchisement of the black race in these States of the South.

Mr. President, consistency is a jewel. The honorable Senator is but following his standard bearers, Ulysses and Colfax. He is but echoing the sentiments enunciated at Chicago. He takes up the watchword of that convention, and he gives it the weight of his name and influence before the country—"negro suffrage in the South!" Without attempting to censure the course of my honorable friend, allow me to inquire if it would not be a little better for him to go home to West Virginia, and there before the people of his own State advocate negro suffrage in that State, than to stand up before the American Senate and advocate negro suffrage elsewhere? Why does not the honorable Senator, and why do not those who act with him politically in this Chamber, go before their own people and advocate universal, unqualified negro suffrage in their own States before they come here and attempt to impose it upon the people of other States?

My honorable friend, no doubt, is perfectly honest in his desire to see the ballot in the hands of every negro; but there comes thunder tones from Michigan, from Ohio, and from other great States of this country telling him that a political party which risks its fortunes upon such an issue before the American people will have to go down to the dust; and hence his gratitude and his philanthropy, and the gratitude and philanthropy of his party, are circumscribed to the area of the ten seceded States. Negro suffrage is good enough for the South; negro suffrage is all right there where the races are nearly equal and in some States in which the negro race predominates; but when you come to West Virginia, which was erected into a State by the active coöperation and approval and by the earnest efforts of my friend and others associated with him, his voice is not heard in the constitutional convention of West Virginia, or in the conventions of his party, asking that justice shall be done to this oppressed race in West Virginia. No, sir, justice has taken her flight from the mountain tops of West Virginia, and now she is hovering over the sunny plains of the South, and there she is to erect her altar and there she is to minister.

But, Mr. President, my friend is only acting in perfect unison with his party which recently assembled at Chicago. What did that convention say? What the honorable Senator says by his action and by his speeches in this body. On the floor of this Chamber, in the other House, through the leading public presses of the Republican party throughout the country, before the disastrous defeats of that party in Michigan, Ohio, and other States, we heard the cry of universal negro suffrage. That convention met subsequently to those disastrous defeats, and they changed their tone of voice. Their sense of justice is not so great, their regard for the poor, oppressed African is not quite so great, their love for him not quite so warm as it was before those elections; and hence when they met, wise men, great men, from every section of the country, to lay down a platform for their political party, which they propose shall march on to victory in Novem-

ber, they adopt this resolution on the subject of suffrage:

"The guarantee of Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude, and of justice, and must be maintained, while the question of suffrage in all the loyal States properly belongs to the people of those States."

In all the loyal States the question of suffrage properly belongs to the people of those States, but in the southern States justice and gratitude demand that it shall be conferred on the negro. Now, I wish to ask the honorable Senator, and those with whom he politically associates, how do you circumscribe justice by geographical lines, how do you circumscribe gratitude by geographical lines? Is it just that negroes should vote in the South? If so, what is the basis of that justice? It must be upon the ground that they have the abstract, the inherent, or the political right of some sort to vote, and that the withholding of that right of voting is an act of injustice. It has not hitherto been conferred upon them by law, and therefore it cannot be an act of legal injustice. It must, then, be abstractly unjust, and that innate principle of justice which is implanted in the human soul and that should prompt human action demands that the negro alike with the white man should have this privilege of suffrage; and hence it is that the honorable Senator takes a negro on his left and a white man on his right and compares them, and he asks why it is that the negro should be deprived of the right of voting while the white man has it. It is because this right of suffrage is a political right. It inherently belongs to no man; it is not a natural right; it is a right conferred by society, and society has a perfect right to confer it or withhold it, as, according to the judgment of society, the judgment of those who govern in civil society, may be deemed expedient and proper for the public good.

But gratitude demands, says this platform, that the right of suffrage shall be conferred upon the negro; and we have listened to the very eloquent language of the honorable Senator as to the sources of this gratitude, the reasons which impose it upon us, why it is that it should so overburden the souls and the hearts of the American people that they should grant the right of suffrage to the negroes. He tells you, sir, that they went forth following your standard in the late rebellion, as he terms it; that they fought your battles; and none but the God of heaven knows if it had not been for the patriotic exertions of the negro race what would have been the result of that conflict. Humiliating confession! Twenty million people against eight million unable to win the battles of the late war until the prowess and the valor and the wisdom and the indomitable courage of this African race were invoked! When they stepped in there was no doubt then! When their superior genius, intellect, and valor were invoked they came shouting "the battle cry of freedom," and they "rallied around your flag," and the sable sons of Ham preserved the glorious stars and stripes from being tarnished by treason and falling into the hands of traitors! God in his providence sent to this great American people of twenty million free whites in the non-seceding States black saviours! When all was doubt and uncertainty, when your hearts were faint within you, when your souls began to grow sick, when confidence had fled from your minds in the white man, in the valor of the white man, and in the courage of the white man, angels in black came to your assistance and delivered you; and gratitude to this oppressed race now demands of you and your party to confer upon them this inestimable right of suffrage!

Mark you, it is a "debt of gratitude." Had it not been, I suppose, that they acted so nobly and patriotically in your late conflict, you would have been under no such obligation; there would have been no such abstract principle of justice then demanding it. Now, let us test the sincerity of this proposition that gratitude demands that it should be conferred

upon them. If gratitude demands that the right of suffrage should be conferred upon the negroes of the South, it equally demands that it should be conferred upon the negroes of the northern States. I ask you where were the negroes of the South when the negroes of the North were enlisting under your banner and were being conscripted into your Army? They were in the South faithfully serving their masters; they were there, not attempting to aid you, not attempting to bear your standard aloft in victory. They were quietly at home attending to their field avocations when the negroes in your loyal States, as you call them, were marshaling to your assistance; and although I have not the figures before me, I will venture to say that more negroes went into your Army from the States that did not secede than from the States that did; and they went into the conflict pretty early, while the comparatively few negroes of the South who went into it went in near the close of the conflict.

Now, if gratitude demands of you that you should confer on the negroes of the South the right of suffrage, pray do you not think the patriotic negroes of the North have the same right? Where is your gratitude to them? Why not confer it upon them? Only six months ago, before you were admonished by the elections, you were in favor of it, you advocated it, you had your bills in this body and your bills in the other House to confer by legislative enactment the right of suffrage upon the negroes in all the States; but lo and behold! when those elections were held, when you heard the sweet music of the voice of the people of your own section admonishing you that there was a lion in the path, beware, you suddenly stopped, these bills were put aside, and we have heard nothing of them since. You do not bring them up now, and hold them up and ask us to vote on them. Why is this? Has your sense of justice become deadened? Are you any less just now than you were before the elections? Are you less grateful now than you were before the elections? No, Mr. President, let my honorable friend from West Virginia confess that the true reason is this: "it is not policy; we cannot win in the great political contest that is coming off by conferring by act of Congress the right of suffrage on the negroes in the northern States." Although it is true, he may say, that they have laid you under an everlasting debt of gratitude to them for the services rendered you in the war, although it is true that they acted as patriotically as did the negroes of the South, yet it is not a measure to win within the non-seceding States, who have admonished you in advance that if you attempt it a Waterloo defeat is yours; but the southern people having no representatives here, having no voice, and having no power in themselves to be represented here, you claiming absolute control over them, (confessing as this bill impliedly confesses on its face that they are States of the Union, but having them in your power,) you undertake to impose this condition upon them, and you plead justice and gratitude to the negroes as the reason why you should do it.

It is true you also say in your platform that the "public safety" demands it. Where is there any evidence of that? Where do we see that the public safety demands that the right of suffrage shall be conferred upon the negro race? Is the South under, I may say, for it is pretty much under, the control of the negro race, (although white men do take their carpet-bags and go down there and somehow or other cheat the poor, deluded negroes out of the offices,) so much better governed now than it was before the war? Look at the conventions there. Go over to Virginia, where once your Marshalls, your Madisons, and the great men of Virginia sat in convention framing a fundamental law for the people of that State, and look in upon the convention now assembled there, and then tell the American people that there is more wisdom, more learning, more true knowledge of the science of government in that convention than there was in the con-

ventions of the fathers who framed the constitution of that State. Go to Mississippi and Louisiana, North Carolina and South Carolina, and hold up those conventions as models of imitation to the people of the non-seceding States!

Mr. President, if the negroes make such wise legislators, if not only their valor was so great in the field that they won for you a continuance of republican government in this country, and have perpetuated the American Union, but if they be so wise in council that their handiwork is to be held up to the admiration of the people of this country everywhere, pray why not throw open your own conventions? Why not confer upon them the right of suffrage in your own States, open your halls of legislation to them, and avail yourselves of all the benefit of the light which comes from their superior intellects? This is a day of progress. We should seek light from every quarter we can get it, and if you should find it in the North, as you found it down South, shut up in a black skin, the same reason that prompted you to open the casket there should cause you to open it in your own States.

But Mr. President, I have said enough. It was only to notice the inconsistency of action of my friend from West Virginia, and those who act with him politically, that I rose to speak. While he here ignores the question of negro suffrage in his own State, and in all the States except the ten seceding States, he stands up boldly and manfully, and claims the right of suffrage for the negro race there, as based upon gratitude, upon justice, and upon every principle of right; and he asks, whence the hostility to the negro race? Why, sir, who has any hostility to the negro race? I know of no one. It has been my lot in life to have been cast in a community where the negro race was very numerous. In my own State, to be sure, the slaves were not very numerous; but before the war we had a larger free negro population relatively to the white population than any State in the Union. I have known them from childhood, played with them in childhood; I grew up among them. I have seen none of this prejudice against the negro race of which we hear. I do not know one who does not wish kindly to the negro race. I know of no one who would not help the negro on the way to prosperity and happiness in life. Hostility to the negro race is not the matter here; the question is a question as to the true policy of the Government, whether a voice in the governing power of the State shall be conferred upon this race; whether sitting here governed by no mere wild feelings of enthusiastic philanthropy or supposed abstract justice, but as statesmen legislating for the good of the people, we can say that the Government will be better, whether the prosperity and happiness of the people will be promoted more by conferring the right of suffrage upon the negro race than by withholding it. That is the question. No man, white or black, where society determines that for its own good it will not be expedient, proper, wise, for the public good, to confer the suffrage upon him, has a right to say that he is entitled to it. As a member of civil society he has no governmental right except what the civil society confers. When a government becomes oppressive, and that oppression becomes so great that the evil of revolutionizing and throwing it off is less than that of bearing it, then it is an inherent right of all people to revolutionize.

This right of suffrage, this right to a voice in the governing power of a State is a political right conferred by society, and conferred by society for the good of society, and not for the particular advantage of the particular individuals; and hence, in approaching a question of this kind, you are met at the threshold by the inquiry, would the public good be promoted, would the state of society be better by conferring it upon this class of society than by withholding it? I am speaking now of a case where you have the undoubted right to confer it. Where you have such right, and you are satisfied that government would be improved,

that the laws enacted would be wiser, that those laws would be better administered, and that the general state of society would be improved, then you would undoubtedly be doing right in conferring it, and it would be only a question presented for your calm, cool, and judicious consideration. Does any man believe now that the State of Ohio would be better governed, that its laws would be wiser, that those laws would be better administered by conferring the right of suffrage upon the negroes in that State than they are at the present time? If they would not be so improved what reason have you to believe that government would be better administered, the state of society improved in any other State by allowing negroes to vote? The reason is tenfold stronger against conferring this right in the southern States than it is in the non-seceding States; because the relative numbers of their populations are different in the two sections of the country. Your fifty or seventy-five thousand negro voters, if you have that many in Ohio, are but a drop in the great ocean, so to compare it, with the white voting population of Ohio. But go to South Carolina, go to Florida, go to Mississippi, and some of those other southern States, where there are so many white people disfranchised, and where the whole negro population is enfranchised, (for although they may have fought gallantly by the sides of their masters in behalf of their confederacy, they are all enfranchised,) is not the reason tenfold stronger why they should not be permitted to participate in the Government, especially considering the fact which the honorable Senator does not deny, that they are wholly disqualified; that they are without education; that they have no knowledge or experience in voting or in governmental affairs?

Hence it will not do for the honorable Senator to dismiss with a sneer the remark that some people have been apprehensive of negro supremacy. No person ever thought, no sane person could ever think, that there is any danger of negro supremacy in this country, when you take the whole country together, because the white population of the country so far outnumbers the negro population that it is impossible that there can ever be anything like negro supremacy or even negro equality throughout the whole country; but go into particular locations and take the registered vote of South Carolina, the voting population under your beautiful reconstruction acts, and are not the negroes in the majority? and being in the majority can they not rule? and ruling, will not their rule be supreme if they choose to make it so? Is there not, therefore, apprehension of negro supremacy unless the poor creatures allow themselves to be cheated? I am not in favor of negro governments anyhow; but if they are wise, when these patriotic loyalists, as they term themselves, from the North, who have scarcely known even the location of a southern State, go down there as candidates for the Senate and House of Representatives of the United States, and for the local offices, the negroes would say, "If we are fit to vote, we are fit to hold office; you did not come down here among us to tell us of our rights, to cheer us on, and bid us hope when we were in oppression; but when office is to be got through our votes you come down here with your carpet bags to fill them with the crumbs, and with the loaves and fishes of office." If the negroes were wise they would discard all such visitors, and they would assert that if they are fit to vote they are fit to hold office, and they would send these men back into the northern States faster than they went down.

That is the danger, not of negro supremacy throughout the whole country, but of negro supremacy in particular localities. And, sir, is it possible that there can be a white man who is willing to see one of his own race, although that member of his race may have met him upon the deadly field of strife in contention over a question where both sides supposed they were right, subjected to the power of the negro race? Sir, the eternal God that

made us has implanted in the heart, I trust, of every member of the race that noble sentiment of honor, that noble sentiment of superiority which causes him instinctively to revolt at such a proposition. No, sir; secure the negroes as far as you have the power in all their civil rights, to life, liberty, and property; as far as you can be kind to them; no one wishes you to be otherwise; but when you come to the consideration of government for a free people let your reason, not your passion; let your cool sense of justice, not your blind prejudices, cause you to do what every other people on earth have done, stand firmly and stand nobly by your own race, because you have the assurance of the history of that race that it is adequate to all the emergencies of government and society. All that has improved human existence upon earth; all that has ennobled man and rendered him but little inferior to the gods; all that has made the waste places of the earth glad and caused them to bloom and blossom as the rose; all that in the development of mind has illustrated the nobility of human nature; all that in art has promoted public good and attracted admiration, has been the work of the race to which we belong. Go to the race which you propose to elevate to a participation in governmental affairs, and point me, if you can, to anything they have ever done or are capable of doing to elevate mankind, to improve society, or even to better their own individual existence.

My honorable friend from West Virginia asks whose fault is this, and he says they did not tear themselves away from their African homes; they did not even emancipate themselves; they are here; and therefore, being here, and not having torn themselves away, and not having emancipated themselves, it would logically follow from his argument that they ought, therefore, to sit in the chief seats of the political synagogue because the honorable Senator cannot escape it; human ingenuity cannot escape it; if they are qualified to vote and thus to enact laws, they must be qualified also to administer those laws. If they can say according to what rule the judge on the bench shall decide a question of right between A and B, they can sit upon that bench and say what is the true interpretation of a statute defining the rights and the duties of contestants in a cause. This matter goes much further than the mere question of voting. Once adopt that and all the rest logically and necessarily follow in the train; and I say here that it would be an act of gross injustice to confer on a class of men the right of voting, and to hold out to them the hope that they may have a voice in the Government under which they live, and then to deny them the further right to actually participate in the execution of that Government in its practical application to society.

Mr. President, I beg leave therefore to assure my honorable friend that those of us who are opposed to negro suffrage in the South, being equally opposed to it in the States that did not secede, are consistent at least. We have not the inconsistency of my honorable friend or of the party to which he belongs. Our gratitude is not bounded by geographical lines or State limits. Our sense of justice is not pent up in any little area of territory, but where it exists it flows out equally everywhere. In regard, however, to this question of negro suffrage, we do not feel a debt of gratitude or a sense of justice, nor do we feel that the safety of the Commonwealth depends upon conferring it. We have too high an appreciation of our own race and of its nobility to believe that it needs assistance from such a quarter as that invoked by the honorable Senator.

Sir, history is not without examples on this subject. Go to your South American republics; go to Central America, where you find equality of civil rights among different races, and what is the consequence? One race degraded and debased. Equal, civil, and political rights lead one step further to social equality. The learned and able Senator from West Virginia thinks this is a mere scarecrow, held up to frighten weak imaginations and to alarm

the timid; but point me, if you can, to the history of any people on earth where equal, civil, and political rights have been enjoyed by different races, wherein it did not follow that in the lapse of time, social equality also was enjoyed; and point me, if you can, to the history of any people trying the experiment that have not become debased, where governments have not become unstable, where law has not ceased to have a salutary and obligatory force, where society has not become degenerated.

Mr. President, we are taught in that Book of books which we learned to read at our mothers' knee that there is a great God above us who has made all things according to His will. In the various forms of animal existence we find differences; and human observation and experience teach us that creation is only one great chain, link passing into link, everything made after its order, everything after its own kind, and that thus it was intended by the Almighty Creator of all things.

Sir, you may attempt to thwart the designs of Providence by your legislation; you may undertake to overrule the decrees of Jehovah; but He who rideth upon the wind will see to it that His decrees shall be executed; and who art thou, O man, that thou shouldst say to the potter, "why hast thou made me thus?" The Eternal Creator of all things had the same right in the races of human existence to establish superiority and inferiority of grade and condition that he had on the lowest races of animal existence; and it is not in the mouth of the creature to say to the Creator, "why hast thou made me so?" His sovereign will made it so, and in human existence he who acts well the part assigned to him fulfills the whole measure of his duty and his Creator requires of him no more. Around the eternal throne itself there are cherubim and seraphim, principalities and powers, grades and conditions of inequality. In the spangled heavens which nightly smile upon you there is inequality, for the stars which look down in beauty upon you differ in glory and in luster. Throughout all existence God has marked inequality in diversity as His great law, and it is not in human power to thwart His designs, reverse His decrees, or bring His purposes to naught.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from Massachusetts to the amendment of the Committee on the Judiciary, to insert the word "Alabama."

The question being taken by yeas and nays, resulted—yeas 22, nays 21; as follows:

YEAS—Messrs. Anthony, Chandler, Conness, Corbett, Ferry, Fowler, Harlan, Morrill of Maine, Morton, Nye, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Thayer, Tipton, Van Winkle, Wade, Willey, Williams, and Wilson—22.

NAYS—Messrs. Bayard, Buckalew, Cole, Conkling, Davis, Doolittle, Edmunds, Fessenden, Frothingham, Hendricks, Howard, Howe, Johnson, McCreery, Morgan, Morrill of Vermont, Patterson of Tennessee, Saulsbury, Trumbull, Vickers, and Yates—21.

ABSENT—Messrs. Cameron, Cattell, Cragin, Dixon, Drake, Grimes, Henderson, Norton, Patterson of New Hampshire, Ross, and Sprague—11.

So the amendment to the amendment was agreed to.

Mr. ROSS, (who had entered the Chamber as the vote was about being announced.) Can I not have the privilege of voting? I addressed the Chair before the vote was announced.

Mr. POMEROY. The same question will be up after we get into the Senate; when we come out of committee.

The PRESIDENT *pro tempore*. The rule is peremptory: a Senator who does not vote until the decision is announced cannot record his vote.

Mr. SHERMAN. But the Senator addressed the Chair before the vote was announced.

Mr. ROSS. My recollection is that I addressed the Chair before the result was announced.

Mr. HOWARD. If I am in order I wish to offer an amendment.

The PRESIDENT *pro tempore*. There is an amendment pending offered by the Senator from Indiana, [Mr. MORTON.] It will be read.



The Chief Clerk read the amendment of Mr. MORTON, which was to add to the substitute reported by the Committee on the Judiciary the following additional sections:

*And be it further enacted, That it shall be the duty of the commanding generals of the different military districts in which said States are situated, to cause all officers duly elected under the constitution of either of said States, not disqualified as hereinafter provided, to be installed into their respective offices within twenty days after the passage of this act, and to afford ample protection to such officers in the rightful discharge of their duties: Provided, That such officers shall be deemed provisional only and subject to the paramount authority of the United States, until the provisions of the first section of this act shall have been complied with.*

*And be it further enacted, That no person prohibited from holding office under the United States, or under any State, by section three of the proposed amendment to the constitution of the United States known as article fourteen, shall be deemed eligible to any office in either of said States, and when any person declared elected to any office is thus disqualified the person having the next highest number of votes for the same office shall be instructed with the discharge of the duties of such office until such time as a new election can be held in accordance with the provisions of the constitution of the State in which it occurs.*

Mr. WILLIAMS. I will move, if it be in order, that the bill which has been received from the House of Representatives to-day be substituted for the amendment proposed by the Senator from Indiana.

The PRESIDENT *pro tempore*. Does the Senator propose to amend the amendment?

Mr. WILLIAMS. Yes, sir. Let my amendment be read.

The CHIEF CLERK. It is moved to amend the proposed amendment by striking out all after the enacting clause of the first section of the amendment and inserting as follows:

*That the Legislature of each of the States of Arkansas, North Carolina, South Carolina, Louisiana, Georgia, and Alabama, elected under the constitution thereof, framed and adopted in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, be, and hereby is, authorized to meet on such day as may have been fixed, either in such constitution or by the proclamation of any officer authorized to convene such Legislature by the convention which framed such constitution; and if no day shall have been fixed as aforesaid, or if the day so fixed for the meeting of the Legislature of either of said States which shall have passed, or shall have so nearly arrived before the passage of this act that in the opinion of the Governor-elect there shall not be time for the Legislature to assemble on the day so fixed, such Legislature may be convened within thirty days after the passage of this act by the Governor-elect of said State.*

*And be it further enacted, That whenever either of said States shall be admitted to representation in Congress, the executive and judicial officers of such State, duly elected and qualified under the constitution thereof, and not disqualified by the Constitution or laws of the United States, may be inaugurated without delay, and the government of such State shall thereupon be transferred to the civil authorities thereof.*

*And be it further enacted, That it shall be the duty of all civil and military officers exercising authority in either of said States, to afford all practicable aid and protection to the officers of such State in carrying out the provisions of this act; and any such officer who shall willfully withhold such aid and protection, or shall willfully prevent, hinder, or delay the meeting of either of said Legislatures, or the inauguration of any of said State officers, or any other civil or military officer under either of said State constitutions, shall be guilty of a felony, and upon conviction thereof before any Federal or State court of criminal jurisdiction, shall be punished by imprisonment not exceeding five years or by a fine not exceeding \$5,000, or both, at the discretion of the court.*

Mr. MORTON. It has been suggested to me by several Senators to accept this as a substitute for my amendment. I have no objection to that, with one exception. The amendment I presented provides for the contingency of preventing officers from being inaugurated who are disqualified by the fourteenth article, which is not yet a part of the Constitution. The amendment I offered provides that officers who will be disqualified or ineligible when that article becomes a part of the Constitution shall not be inaugurated in advance. It will prevent rather an anomalous and strange case.

Mr. FRELINGHUYSEN. Allow me to suggest that the act of March 2, 1867, prevents that in these words:

"And no person shall be eligible to any office under such provisional government who would be disqualified from holding office under the provision of the third section of the said article."

Mr. EDMUNDS. That is as to the provisional governments. These are the State governments proposed to be set up.

The PRESIDENT *pro tempore*. The Chair was probably in error in suggesting that the amendment of the Senator from Oregon was in order as an amendment to the amendment of the Senator from Indiana. The Chair did not think at the moment that the Committee on the Judiciary had reported an amendment as a substitute for the original bill, to which the proposition of the Senator from Indiana is an amendment, so that this amendment would be in the third degree. The Senator from Indiana, however, can withdraw his amendment, and then this would be in order.

Mr. MORTON. I withdraw my amendment, and this can be offered.

The PRESIDENT *pro tempore*. Then the amendment of the Senator from Oregon is in order as an amendment to the amendment reported by the committee.

Mr. HOWARD. I ask now whether it is in order to offer an amendment to sections two and three?

The PRESIDENT *pro tempore*. Of the original bill?

Mr. HOWARD. No; of the substitute presented by the Judiciary Committee.

The PRESIDENT *pro tempore*. That is not now in order, because the pending proposition is an amendment to that amendment.

Mr. HOWARD. I propose when the proper time comes to offer an amendment to those two sections, and the Chair will allow me to state it now. I propose to amend section two so that it shall read as follows:

*That if the day fixed for the meeting of the Legislature of either of said States by the constitution thereof shall have passed or shall have so nearly arrived before the passage of this act that there shall not be time for the Legislature to assemble at the time fixed by the constitution of such State, such Legislature shall convene at the end of twenty days from the time this act shall take effect unless the Governor-elect shall sooner convene the same.*

It will be seen by this amendment that I dispense with the discretion which is given by the second section to the Governor-elect of a State to call the Legislature together or not, as he may think fit. I do not think he ought to have any such discretion. I think we ought to require by our statute that the Legislature-elect shall convene at some given time, and render that time absolutely certain by law, and not leave it to the discretion of any Governor-elect or anybody else. This amendment will allow twenty days from the passage of this act for the Governor-elect of any State to assemble the Legislature, at the end of which time, if he does not call the Legislature together, it is required to assemble by law. It then becomes a legislative body, invested with all proper functions for the transaction of the business which is conferred upon it by this act and by the Constitution.

Then again I propose to amend section three, so that it shall read:

*That the first section of this act shall take effect as to each State except Georgia, when such State shall by its Legislature duly ratify article fourteen of the amendment of the Constitution of the United States proposed by the Thirty-Ninth Congress, and as to the State of Georgia, when it shall, in addition, give the assent of said State to the fundamental conditions hereinbefore imposed upon the same.*

And I propose to strike out all the remainder of the section as being surplusage. This section, it will be observed, gives to the President of the United States, as it is now written, authority to make proclamation of the ratification of the fourteenth article of amendment by any one of these rebel States, and it does not authorize the admission of the State to representation in Congress until such a proclamation shall have been made by the President. For one, I have not the slightest idea that Mr. Johnson would ever issue any such proclamation; he would keep the States out so long as he possibly could unless we should consent to bring them in under his policy; and if this clause is retained in the third section I do not foresee that these States will ever be admitted in virtue of the President's proclamation.

I propose, therefore, to dispense with that proclamation entirely, and to declare when each of these States shall have ratified the fourteenth amendment of the Constitution that it shall be, *ipso facto*, entitled to representation in Congress whether that ratification shall take place during the session or in the vacation of Congress. That will make an end of the question forever; for the moment we confer on these rebel States the right of representation in the two Houses of Congress then the President of the United States has nothing more to say about it; the rights which they lost by the rebellion are restored to them by the action of the two Houses of Congress in this bill, and nothing should keep them out longer. As it is not, however, in order at this time to offer this amendment, I merely make this announcement for the purpose of indicating what I intend to do.

Mr. TRUMBULL. Mr. President, I have not had time to examine carefully the bill that has come from the other House, and that is now offered as an amendment; but I think we had best not adopt it without, at any rate, having it printed and before us, so that we may see the effect of it. The object which we all have in view is the recognition of these State governments at an early day. The bill before the Senate, as it is reported by the Judiciary Committee, allows the Governors of these States to convene the Legislatures at any time within thirty days. The Senator from Michigan suggests one or two amendments to the bill as reported by the committee, and I think, perhaps, it may be wise to adopt them. If his amendments shall be adopted the Legislatures of all these States will be required by law to assemble within twenty days after the passage of the act, provided the Governor-elect does not convene them sooner than that. How can we get it in any better shape than that?

Then the bill provides that if they ratify the fourteenth article of amendment to the Constitution they are to be entitled to representation. The Senator proposes to strike out the requirement that was in the bill as it came from the House of Representatives, and that is in the bill as reported by the committee—that the President shall issue his proclamation announcing that fact. The law, as it now exists, requires each State, when it ratifies a constitutional amendment, to send the evidence of that fact to the office of the Secretary of State, who is required, when a sufficient number of States have ratified any constitutional amendment to make it part of the Constitution, to publish a notice officially proclaiming that fact.

It seems to me that if the amendments which are suggested by the Senator from Michigan be made, we shall accomplish all that it is desirable to accomplish. The bill just sent in from the House of Representatives and now offered as an amendment to this bill, contains a provision which, I am very sure, the Senate on reflection will not want to adopt. If I understand it correctly, it contains a provision that the Legislatures are to convene at the times fixed by the constitutions. Those periods are very remote in some of these States.

Mr. POMEROY. Unless that time shall have expired.

Mr. TRUMBULL. Then it does not fix a time for them to convene afterward, does it?

Mr. POMEROY. Yes; thirty days after the passage of the act.

Mr. TRUMBULL. I have not had sufficient time to examine it to see whether there is a provision of that kind.

Mr. POMEROY. I understood it so.

Mr. TRUMBULL. The Senator from Vermont [Mr. EDMUNDS] thinks the Senator from Kansas is incorrect.

Mr. SHERMAN. If the Senator from Illinois will allow me, I desire to suggest that this amendment, which I have not had an opportunity to read, go over for the present. There are other amendments to be offered that may take up the time of the Senate until the adjournment to-day. I think we ought to look at this proposition and read it. I should like

to have an opportunity to look at it; and certainly the Judiciary Committee ought to have an opportunity to examine it.

Mr. TRUMBULL. I trust it will not be adopted without our having an opportunity to examine it and compare it with the bill under consideration more carefully than we can do by hearing it read at the Clerk's desk.

Mr. SHERMAN. I hope the amendment will be withdrawn for the present.

Mr. SUMNER. Why not order it to be printed?

Mr. TRUMBULL. I think it ought to be printed if the bill is to go over until to-morrow. If the Senator from Oregon would withdraw the amendment for the present, at any rate, and let an order be made to print, we could go on with other amendments, and he can offer it again if he thinks it proper to do so. I have had no opportunity to compare it with the bill.

Mr. WILLIAMS. I am willing to pursue any course that will accommodate Senators and expedite business. If there is any way to ever reach a vote on this bill, I am willing to accede to any suggestion for that purpose.

Mr. TRUMBULL. I suggest that the amendment be withdrawn and that an order be made to print it at once, so that it may go to the printer.

The PRESIDENT *pro tempore*. Is the amendment to the amendment withdrawn?

Mr. WILLIAMS. Yes, sir.

Mr. TRUMBULL. Now, let an order be made to print it.

The PRESIDENT *pro tempore*. That order will be entered if there is no objection.

Mr. MORTON. I should like to have the order to print include the amendment that I originally offered. ["Certainly."]

The PRESIDENT *pro tempore*. The order to print will be considered as covering both amendments, if there be no objection.

Mr. HOWARD. I now move to amend section two of the substitute reported by the committee by striking out in lines four and five the words "in the opinion of the Governor-elect," and by striking out in lines seven and eight the words "may be convened within thirty days after the passage of this act by the Governor-elect of such State," and inserting "shall convene at the end of twenty days from the time this act takes effect unless the Governor-elect shall sooner convene the same;" so as to make the section read:

That if the day fixed for the meeting of the Legislature of either of said States by the constitution thereof shall have passed, or have so nearly arrived before the passage of this act that there shall not be time for the Legislature to assemble at the time fixed by the constitution of such State, such Legislature shall convene at the end of twenty days from the time this act takes effect, unless the Governor-elect shall sooner convene the same.

Mr. TRUMBULL. I will say in regard to that amendment that I have no authority to accept it for the committee, but it makes the section more specific, and individually I have no objection to it.

The amendment to the amendment was agreed to.

Mr. HOWARD. I now move to amend the third section by striking out in lines three and four the words "the President of the United States shall officially proclaim the due ratification," and inserting "such State shall;" by striking out in line four the word "of" and inserting "duly ratify;" by striking out the word "he," in line seven, and inserting "it," by striking out in the same line the word "proclaim," and after the word "addition," in that line, inserting "give;" and to strike out all after the word "same," in the ninth line; so as to make the section read, if amended, as I propose:

That the first section of this act shall take effect as to each State, except Georgia, when such State shall by its Legislature duly ratify article fourteen of the amendments to the Constitution of the United States proposed by the Thirty-Ninth Congress, and as to the State of Georgia, when it shall in addition give the assent of said State to the fundamental condition hereinbefore imposed upon the same.

Mr. EDMUNDS. This matter as to what functionary should proclaim the assent of the State to this article of the Constitution was very

carefully discussed and considered in committee, and we came to the conclusion that the true policy in regard to it was to follow the established course of business in that regard, which always has been to admit a State or to set her up upon the final evidence of a proclamation by the President that she had complied with the law. That, I believe, has been the constant uniform practice, so far as I know, without any exception whatever. We thought it was better to adhere to that practice in this case and to make it the duty of the President, as we clearly have a right to do, when such events should have occurred and the official evidence of it have been transmitted to him, to make the proclamation which should restore the State to its original relations with the Union.

It is said by my friend from Michigan that he has no idea that the President of the United States will do any such thing, although the law imposes upon him the duty of doing it. I do not agree with him about that. The President of the United States will not run any risk of that character upon a duty to which even his own political friends would tell him was one which he was bound to perform. I think my friends on the other side of the Chamber will agree that it is perfectly constitutional to require the President to do a certain ministerial act of that description upon the happening of a certain event which the law requires. It has been done a thousand times. I take it there will be no dispute about that. Therefore I have no fears that the President of the United States would fail to do that duty which the law has hitherto imposed upon him, and which he and his predecessors have hitherto done. It is better to adhere to that, to take the usual method. If we find that the President of the United States, these things having been done and the evidence of them having been transmitted to him, chooses to set his face against the law, I even have faith in this body and in the other body to believe that some method would still be found which all would agree would be a constitutional method of curing the evil and punishing the offender. It may be, however, that my hopes or my expectations are altogether beyond probability.

Mr. HOWARD. Mr. President, I would not offer the amendment merely to mar the text of the bill as it came from the Committee on the Judiciary, nor to make any alteration unless I thought it were necessary. As the section now stands it reads thus: "That the first section of this act;" that is, the section admitting these rebel States to representation, "shall take effect as to each State, except Georgia, when the President of the United States shall officially proclaim the due ratification by its Legislature of article fourteen of the amendments to the Constitution of the United States proposed by the Thirty-Ninth Congress."

The honorable Senator from Vermont knows very well that the President has resisted our legislation, upon the subject of the readmission of the rebel States, from the beginning. He knows as well as I do that he has resorted first to the veto, and has endeavored to extinguish and utterly prevent the action of Congress upon the subject of the readmission of these States. He believes, and he has announced that belief over and over again, in his veto messages, in his solemn annual messages, and in his popular addresses upon the stump—he believes the whole system of our reconstruction legislation to be totally void and destitute of constitutional warrant. He entertains that opinion. He does not intend that our mode of rehabilitating the rebel States shall become effectual; but he intends that his mode of reconstructing them by imperial decrees shall prevail as against the legislation of Congress. The two policies, that of Congress and that of the President, are directly antagonistical to each other; they cannot stand together; and the question from December, 1865, down to the present time has been, and still is, which of these two policies shall prevail, ours or his?

And let me say to the honorable Senator from Vermont that he much mistakes the character of the President when he supposes that there is anything that he does not dare attempt. Unless he shall issue this proclamation after all the States shall have ratified the fourteenth amendment, these States cannot be admitted into the Union; they are not entitled to their rights as States at all; they are still kept out; they are not admitted, as I say, even to the right of representation.

Sir, let not my friend lay the flattering unction to his soul that Andrew Johnson will not dare to withhold this proclamation. Sir, he will withhold it, and he will set at defiance all attempts to impeach him in the House of Representatives, and look with contempt and scorn upon any feeling that Senators may entertain in regard to finding him guilty of a breach of the law which we now have before us.

No, sir; his object is to defeat our legislation and to prevent the readmission of these States upon the principles incorporated in our reconstruction acts; and he will do it, if possible. He can do it in this case by simply withholding his proclamation. Now, sir, of what good is a presidential proclamation as to the readmission of a State? It amounts to nothing except simply to certify it to the public and to the world that such and such facts have taken place. Is it necessary that the proof of these facts should exist in such a proclamation? Certainly not.

Is not the solemn ratification of the fourteenth amendment by the respective Legislatures under the seal of the State—and that would be the form undoubtedly in which it would present itself to us—just as valid, just as efficient as evidence to show this fact as the proclamation of the President? Clearly so. Why, then, insist upon this useless ceremony of a presidential proclamation when you know, or at least ought to know, as I think, that such is the opposition of Johnson to our legislation that he will never issue such a proclamation, but persist in keeping these States out as long as practicable. I hope, therefore, that this amendment will be adopted and that this discretionary authority given to Johnson in the section will be taken from him.

Mr. EDMUNDS. Mr. President, I agree entirely with the Senator from Michigan in the preliminary statement he makes, that is, the laying down of the question; the question is whether these States shall be restored by process of law, or whether they shall be restored by process, of what he calls very properly, imperial will? My proposition, as his is, is to restore them according to law, and I intend that the minister of the law, the President of the United States, shall do the last official act that the law requires to restore them. I do not by any means give up, as my friend does, that I am beaten in this contest with the President of the United States as to whether he is to obey the law or not. My friend from Michigan knows as well as I do that but for a difference of opinion among persons to whom we must attribute as much intelligence and as much faith as we had as to what the law meant, the President of the United States, in all human probability, would have left his office before now. What I propose to do is to compel the President of the United States, as the constitutional minister of the law which speaks through this bill, when these States shall have ratified the constitutional amendment, to say so officially. I intend to commit him in that way to the congressional policy of restoration by making him do the last official act that shall restore these States to their proper relations, and I have not a particle of fear as to his not doing it.

Mr. FRELINGHUYSEN. I would suggest to the Senator from Vermont, and also to the Senator from Michigan, that the amendment of the Senator from Michigan should be retained, so that these States on ratifying the amendment and complying with the fundamental condition become, *ipso facto*, States in this Union, and that we also retain the latter

provision of the section as reported, which is in these words:

"And it is hereby made the duty of the President within ten days after receiving official information of the ratification of said amendment, by the Legislature of either of said States, to issue a proclamation announcing that fact."

It seems to me that that gains for us all that the Senator from Michigan desires to gain, which is a great deal, does not imperil the restoration of these States to the compliance of the President, and it gains what the Senator from Vermont would gain, calls upon the President to perform the last official and usual act of proclaiming that they have so complied with the law.

Mr. EDMUNDS. I am much obliged to my friend. He has said substantially what I was about to say myself, for I was just going on to contend that the fair and proper meaning of this section, taking it all together, is that when each of these States shall have ratified the fourteenth article they have completed the last act upon their part; the rest is but mere official formality. I am glad, however, that my friend has suggested the amendment, which I should not have suggested, because that certainly does seem to cover the whole ground.

Mr. HOWARD. I have no objection to that amendment.

Mr. EDMUNDS. I wish to say one word further as to the value of requiring the President of the United States—I make no secret of it either to the gentlemen on the other side or to him—to do this official act; and that is that when we come to the elections of November, and these States undertake to vote, I do not intend to have the President (unless he has previously violated a law which all men agree to be constitutional) undertake to say "the principal bill is unconstitutional, and I have never assented to it, and I do not intend to permit these States to elect; I am not committed to it in any way; I have made no proclamation about it; my hands are entirely free," or to undertake to get up any difficulty or disturbance when their votes come to be counted. I want the President of the United States, to use a very homely phrase, either to fish or cut bait when this bill is passed and ten days have elapsed. As I said before, it is due to him, because he is not so entirely devoid of sense as some people suppose. I have no idea that he will hesitate a moment, and I am perfectly willing to have it put in a position where hesitation will hurt nobody but himself.

Mr. HOWARD. I have no objection to the amendment suggested by the honorable Senator from New Jersey, and I will therefore withdraw that part of my amendment which strikes out all after the word "same," in the ninth line of the section. I will leave the last clause stand.

Mr. WILSON. I should like to have the section read as it will stand if the amendment as modified be adopted.

The CHIEF CLERK. If the section be amended as now proposed, it will read:

That the first section of this act shall take effect as to each State, except Georgia, when such State shall by its Legislature duly ratify article fourteen of the amendments to the Constitution of the United States, proposed by the Thirty-Ninth Congress, and as to the State of Georgia when it shall in addition give the assent of said State to the fundamental condition hereinbefore imposed upon the same, and it is hereby made the duty of the President within ten days after receiving official information of the ratification of said amendment by the Legislature of either of said States to issue a proclamation announcing that fact.

Mr. WILSON. I desire to ask, for information, whether this last clause authorizing the President to make this announcement would stand in the way in any respect of the Senators and Representatives from these States taking their seats before the proclamation was made?

Mr. HOWARD. Not at all.

Mr. WILSON. Then I have no objection to it.

The amendment to the amendment was agreed to.

Mr. SHERMAN. I move to amend the

first section of the amendment reported by the committee by striking out all after the word "taxed," in line twelve, to the end of the section. The words which I propose to strike out are:

And the State of Georgia shall only be entitled and admitted to representation upon this further fundamental condition: that the first and third subdivisions of section seventeen of the fifth article of the constitution of said State, except the proviso to the first sub-division, shall be null and void, and that the General Assembly of said State, by solemn public act, shall declare the assent of the State to the foregoing fundamental condition.

This clause relates to Georgia alone, and will create a deep and widespread dissatisfaction in that State. Still, if it was within our power, and if there were not good reasons why we should refrain from interference, I should be willing to run the risk of adopting this condition; but this is a fundamental condition of an entirely different character from any that has heretofore been imposed upon any State when being admitted into the Union. This proposes to ignore an important provision of the constitution of the State of Georgia, without which, in the opinions of thousands in the State of Georgia, the constitution could not have been adopted. It has been affirmed, over and over again in the newspapers, and it is stated to me here, that without what is called the relief clause in the constitution of Georgia, that constitution would probably have failed. And now we propose, in a material and vital matter, to change the constitution by an act of Congress in cooperation with the Legislature. All previous fundamental conditions imposed upon a State being admitted into the Union have been upon one of two grounds, either that the clause in the State constitution objected to was in violation of the Constitution of the United States, or that it affected some great, material right, without which the government would not be republican in form.

The condition adopted in the case of Missouri was rather to exclude a conclusion that might have been drawn from a provision of the constitution of that State. The fundamental conditions we have adopted here have been on the ground that to change a constitution so as to deprive a portion of the people of the State of the right of voting was anti-republican; that we had the power to secure to those who participated in the formation of the State government the right to continue to participate in that State government in all time, on the ground that the withdrawal of the right of suffrage from a portion of the people of a State who had heretofore enjoyed that right, was anti-republican. But this proposes to legislate for the people of Georgia on a matter purely affecting the law of debtor and creditor.

In the first place, I supposed the provision referred to in the constitution of Georgia was much worse than it is; but on examining it carefully, I find that the provision is not very greatly different from the ordinary statutes of limitation of the different States. Nearly all the new States have a shorter statute of limitations running against contracts than has been prescribed in the constitution of Georgia. Let us look at it a little more closely. The seventeenth section of the fifth article of the constitution of Georgia provides:

"No court in this State shall have jurisdiction to try or determine any suit against any resident of this State upon any contract or agreement made or implied, or upon any contract made in renewal of any debt existing prior to the 1st day of June, 1865; nor shall any court or ministerial officer of this State have authority to enforce any judgment, execution, or decree rendered or issued upon any contract or agreement made or implied, or upon any contract in renewal of a debt existing prior to the 1st day of June, 1865, except in the following cases."

The declaration contained in this first clause is very broad indeed. It denies the use of the courts of the State of Georgia for the enforcement of any debt contracted prior to the 1st of June, 1865, the close of the war, except in seven different classes of cases enumerated. These exceptions actually do away with nearly all the harsh and severe stringency of the first clause. What are the exceptions?

"1. In suits against trustees, where the trust prop-

erty is in the hands of the trustee, or has been invested by him in other specific effects now in his hands, and in suits by the vendor of real estate against the vendee, where not more than one third of the purchase money has been paid, and the vendee is in possession of the land or specific effects for which he has sold it, and he refuses to deliver the land or said effects to the vendor. In such cases the courts and officers may entertain jurisdiction and enforce judgments against said trust, property or land or effects.

"2. In suits for the benefit of minors by trustees appointed before the 1st day of June, 1865.

"3. In suits against corporations in their corporate capacity, but not so as to enforce the debt against the stockholders or officers thereof in their individual capacity.

"4. In suits by charitable or literary institutions for money loaned, property (other than slaves) sold, or services rendered by such institutions.

"5. In suits on debts due from mechanical or manual labor when the suit is by the mechanic or laborer.

"6. In cases when the debt is set up by way of defense, and the debt set up exceeds any debt due by defendant to plaintiff of which the courts are denied jurisdiction.

"7. In all other cases in which the General Assembly shall by law give the said courts and officers jurisdiction: *Provided*, that no court or officer shall have, nor shall the General Assembly give authority or jurisdiction to try or give judgment on or enforce any debt the consideration of which was a slave or slaves, or the hire thereof.

What is the meaning of all this, taken together? With the exception of cases that grow out of a breach of trust, or where a minor is concerned, in ordinary cases where the right to sue is suspended; in all other cases the matter is left to the Legislature of the State. Notwithstanding the first clause, the Legislature of the State may confer at any time upon any of the courts any jurisdiction they see proper to recover any character of debts. This provision can only affect two classes of debts. One is debts that were contracted prior to the war; prior, say, to the 1st of March, 1861. Before this provision takes effect, in relation to all such debts contracted prior to the war, a period of seven years will have transpired, from 1861 to 1868; so that it can only operate as a statute of limitations as against all debts that existed before the war. Seven years is the period within which the statute of limitations runs against nearly all debts in most of the States of this Union. In the State of Ohio we have fifteen years for a note; but I believe in Michigan it is seven years.

Mr. HOWARD. Six years.

Mr. SHERMAN. In Michigan six years, and in nearly all the western States there is a short period of limitation. Now, under this provision of the Constitution, unless the Legislature shall hereafter otherwise provide, no debt can be sued upon that was contracted before the war, upon the specie basis; in other words, that the period of limitation of seven years shall apply to all that class of debts.

But the main object of this provision was to cut off suits upon debts contracted during the war. It is manifestly just and right that some relief should be given to the people of Georgia against the enforcement of contracts made during the war, and Senators must not be blind to the imperative call of these people for some relief upon such contracts. Debts during the war were made upon the basis of confederate money. In the beginning it was worth probably fifty cents on the dollar; but finally it got so low that it took five or eight hundred dollars of confederate bills to pay one dollar of debt. To enforce debts contracted upon the basis of confederate money during the war, even although those debts may have been honest, may have been contracted between loyal persons, would be seriously, terribly oppressive to the debtors; it would be absolute ruin. Take the ordinary case of a note of hand given during the war by a debtor to a creditor for \$1,000. What did the debtor receive for that note? Probably what would now be bought easily for one hundred, or fifty, or twenty-five dollars. Without this provision, the debt might be enforced against the debtor to the full amount of \$1,000, because, although it was expressly payable in confederate notes, yet, as we cannot regard those as a legal tender, it would be enforced in dollars, in money. If it was put in the ordinary language,



"I promise to pay C. D. \$1,000," it would be enforced in the money which is now the only legal tender; and thus the debtor would be absolutely ruined by being required to pay that for which he received probably but a trifling benefit.

This was the reason that induced the people of Georgia in framing this constitution to insert what they called the relief clause; and I say to Senators that tens of thousands of people will be utterly ruined forever if there is no power in the State of Georgia to protect them against contracts made between each other during the war and before the war. The war operated as a great scourge—

Mr. MORTON. I should like to ask the Senator from Ohio if the case of Georgia in that respect is different from that of any other rebel State, and if this provision is not necessary in the other States, why is it necessary in Georgia?

Mr. SHERMAN. I do not know what provisions have been made or may be made in the other States.

Mr. MORTON. There are none such.

Mr. SHERMAN: But here is the case of Georgia, and it is presented to us by their constitution. These people have met together and framed a constitution, which we declare to be republican in form. They have adopted a certain regulation in regard to the law of debtor and creditor. Now, you propose to strike out that provision of their constitution. Why? It governs them alone; it is a local matter; it will affect only local contracts there at home. Why should you interfere with it? It does not involve the right of the individual citizen to any of those great rights which we may protect as necessary to constitute a republican form of government. It is only the regulation of the law of debtor and creditor. It does not affect the rights of great classes of citizens. It is not one of those fundamental conditions that it is necessary for Congress to watch over and guard. It is simply the regulation of the enforcement of contracts. Why, therefore, interfere with it? When we go beyond securing the enforcement of the guaranty of republican government, which we have the power to do, when we undertake to legislate for them upon matters on which they have passed, we transcend our bounds.

I know that Senators may say that this relief clause would affect or tend to affect that clause of the Constitution of the United States which says that no State shall impair the obligation of a contract. If that provision of the Constitution of the United States is affected at all by this clause of the constitution of Georgia, the latter clause is entirely null. If the courts of the United States hold that this clause does impair the obligation of contracts within the meaning of the Constitution of the United States, what business have we with it here? It is a matter for the courts to pass upon. If this is unconstitutional so far as a citizen outside of the bounds of Georgia is concerned, of course the courts will maintain the Constitution of the United States, and no act of the people of Georgia, either in forming a constitution or in framing a law can affect the right.

It seems to me that you propose to undertake to change the constitution of the State of Georgia in a vital matter upon which they have passed. The very large vote which the honorable Senator from Illinois yesterday quoted as having been cast in Georgia, was cast and induced probably and mainly by this very clause; and yet now you propose to change it without resubmitting to them the constitution. You propose to allow the Legislature of the State to strike out what the people regard as a material and fundamental principle of their constitution. It seems to me it is better and wiser for us to leave this matter to the people of Georgia, and if this provision of the State constitution shall be found to be in conflict in any respect with the Constitution of the United States, the courts

will attend to that and protect the citizens of the United States or the citizens of Georgia from an unconditional act.

There is only one other observation I wish to make. I have letters here from different persons, among the rest one from Governor Brown, stating that this relief clause entered largely into the support of the constitution, and that the people of Georgia voted in a large measure in the hope that this provision would be adopted. I will say now that if I were a member of the convention of Georgia I would not have put this provision in the constitution. I would have simply inserted, if it was at all necessary, some reasonable limitation on the statute of limitations, permanent in its character, if you please.

I have already said, Mr. President, all that I deem necessary. So far as I am concerned, I desire to avoid interfering at all with the right of these people to form their own government in their own way except where it is absolutely essential to protect the constitutional rights of other citizens of the United States.

Mr. MORRILL, of Vermont. Before the Senator from Ohio sits down, I desire to ask him a question, as this is rather an interesting subject. I desire to know what effect this provision of the Georgia constitution would have, as I understand there is a large amount of indebtedness due by persons in Georgia to citizens in the North, contracted prior to the war. Would it not have the effect to wipe out those contracts?

Mr. SHERMAN. It would have undoubtedly the effect of a statute of limitations.

Mr. MORRILL, of Vermont. Then I desire to ask the Senator another question; whether the bonds that were issued by railroad companies prior to 1865 would also be wiped out?

Mr. SHERMAN. No, sir. I answered the Senator wrong before. All those are provided for by the exceptions. The third exception provides expressly for "suits against corporations in their corporate capacity." All rights against corporations are carefully reserved; and the Senator will observe, if he will read the exceptions, that nearly all the cases of what are called privileged debts, or favored debts in law, cases growing out of trusts or confidential or fiduciary relations, are preserved. The power of the Legislature to give jurisdiction in all other cases is carefully reserved; but the case of corporations is expressly provided for.

Mr. WILLIAMS. I wish simply to say that I think my honorable friend from Ohio was mistaken in his other answer to the Senator from Vermont. If there are any creditors in the North of persons living in the State of Georgia, suit may be brought in the courts of the United States upon those claims, and this constitutional provision does not in any way interfere with the recovery of any claim that is due from a citizen of the State of Georgia to a citizen of any other State in the Union.

Mr. MORRILL, of Vermont. I desire to ask the Senator from Oregon whether the courts would be justified in so deciding after Congress have passed upon this constitution?

Mr. WILLIAMS. I do not suppose there is any question about that. Certainly the mere recognition of this State and the approval of this constitution is in no respect a law of Congress that would govern the courts of the United States.

Mr. TRUMBULL. Mr. President, the authority by which Congress declares these clauses null and void in this particular case, is to be found in a provision in the constitution of Georgia itself. The people of the State of Georgia, when they adopted their constitution in convention and ratified it at the polls, provided that Congress might accept the constitution with conditions. That provision will be found in section eleven of article eleven:

\* Should this constitution be ratified by the people and Congress accept the same with any qualifications or conditions, the government herein provided for,

and the officers elected shall nevertheless exist and continue in the exercise of their several functions as the government of this State, so far as the same may be consistent with the action of the United States in the premises."

I suppose it was competent for the people of Georgia to authorize the Congress of the United States, if they thought proper, in the adoption of the constitution to impose conditions, and one of the conditions that is proposed by the bill as it passed the House of Representatives and as it is reported to this body by the Committee on the Judiciary, declares null and void the first and third subdivisions of the seventeenth section of the fifth article, with the exception of the proviso.

The ground upon which that is done, I will say to the Senator from Ohio, is this: that this clause which he has read and which declares that no court in the State of Georgia shall take jurisdiction of any cause of action which arose prior to 1865 is unconstitutional; it is contrary to the Constitution of the United States. It impairs directly the obligation of contracts, which no State can do by the passage of any law or by a provision in its constitution, or otherwise. It is not a limitation, let me say to the Senator from Ohio, that prescribes a time for the future, declares that after a certain length of time a debt shall be presumed to have been paid, or a debt cannot be enforced where the statute of limitations is interposed. But a statute of limitations which gave no time within which a contract could be enforced would be held unconstitutional everywhere, I apprehend. Although the Legislature has a right to regulate the remedy, Legislatures cannot destroy the remedy; that impairs the contract. A contract is valueless unless it can be enforced. There must be in it the reciprocal obligation, and some way of enforcing it, or else the contract is valueless. Here is a provision which inhibits the courts of Georgia from taking jurisdiction of any cause of action which arose prior to 1865, and forbids any ministerial officer in that State from executing any process to enforce a contract originating before that period.

But, says the Senator, this is a long time; it is seven years since the war began. Does not the Senator know that during those seven years debts could not be collected; and is not that to be taken out of the time that the statute would be running, even if it were a statute of limitations, which this is not at all? It seemed to the committee that this provision was palpably unconstitutional.

But it has been suggested that the United States courts could have jurisdiction in favor of non-residents. That would only be in case the amount was sufficient to authorize the United States courts to take jurisdiction.

Mr. HOWARD. Five hundred dollars.

Mr. TRUMBULL. What will you do with a debt that amounts to but \$400? Is the poor man, the creditor who has a debt of only \$400, to lose it?

But the Senator from Ohio goes on and says that striking out this provision will be ruin to the people of Georgia. If he will look at another clause of the constitution of Georgia he will see that it provides for a homestead exemption of \$3,000 in specie, that cannot be touched for any debt. That is a pretty good protection to the poor people of Georgia.

Mr. CONKLING. And they can pass exemption laws as to personal property besides.

Mr. TRUMBULL. Here is the exemption:

"Each head of a family, or guardian or trustee of a family of minor children shall be entitled to a homestead of realty to the value of \$2,000 in specie and personal property to the value of \$1,000 in specie, both to be valued at the time they are set apart. And no court or ministerial officer in this State shall ever have jurisdiction or authority to enforce any judgment, decree, or execution against said property so set apart."

Three thousand dollars in specie! There is a protection that will prevent the people of Georgia from being ruined by the oppression of creditors. It seems to me if the Congress of the United States were to sanction such a

principle as this, that any State in this Union under a constitution that forbids the passage of a law impairing the obligation of contracts could at any time pass a law and say that no courts within its jurisdiction shall take cognizance of any cause of action which has arisen before that time. If they can say 1865 they can say 1867.

Mr. FRELINGHUYSEN. I call the attention of the Senator from Ohio to this consideration: if there is any benefit to accrue to Georgia from having the provisions retained in their constitution, the fundamental condition imposed by this law does not deprive them of that benefit, for the provisions which they have placed in their constitution would be just as effective and valid if placed upon their statute-book, and the fundamental condition imposed by this law does not prevent their placing them on their statute-book. My own opinion is that they would be as perfectly worthless and invalid on their statute-book as they are in the constitution, because, being contrary to the provisions of the Constitution of the United States, they would be so declared by the courts; but if they are worth anything in the constitution there is nothing in our act that prevents their having all the benefit of them by enacting them as laws.

Mr. MORTON. Mr. President, disguise this as we will, it is simply repudiation. We can make nothing else out of it. The Constitution of the United States provides that no State shall pass a law impairing the obligation of a contract. It cannot do this by a simple law, nor can it do it by a constitution. It is simply repudiation; and although this provision may have contributed to make the constitution popular in the State of Georgia, we cannot and dare not give it our indorsement here. Sir, there is a party in this country that stands on the very threshold of repudiation of our whole national debt; there is a party that stands ready to seize any, the slightest pretext for repudiating the national debt; and I ask how the party of the Union, I ask how the Republican party, the party of good faith, would be paralyzed if it should dare to justify the State of Georgia in repudiating honest debts there—all debts contracted before a certain time in 1865? Sir, we would thus indorse in advance the very thing with which we are threatened in this country.

The debts to be repudiated by this constitution are many of them as honest as our national debt, as honest as any class of debts, and the State of Georgia has no more right to repudiate them than we have to repudiate the national debt. This provision is false in principle. It may have been put in for the very purpose suggested by the Senator from Ohio, expecting that it would be repudiated by Congress. It may have been put in for the purpose of making the constitution popular. I will not say that, but that there are thousands of men in that State who would be willing to get rid of their debts there is no doubt. There are plenty of men in every State who would be willing to vote for a constitution that would relieve them of all their debts. But, sir, we dare not give it our sanction here.

It seems, under the provision referred to by the Senator from Illinois, that we can strike out or disagree to this provision, and yet not prevent the organization of the State government of Georgia. It will be organized and will go on just as well as if this was not done, and steer clear of all the legal difficulties, as is suggested by the Senator from Vermont, [Mr. EDMUNDS.] But how dare we give our sanction to a bold, palpable, and bald repudiating clause? I do not wish to argue it further.

Mr. HENDRICKS. I wish to ask my colleague one question before he takes his seat.

Mr. MORTON. Certainly.

Mr. HENDRICKS. I agree with him that this is a monstrous proposition, that any State can repudiate debts that were legal at the time they were contracted; but if this provision, however vicious it may be, appealed to a class

of the community and secured for the constitution a large vote which, perhaps, otherwise might not have gone for it, after this provision is stricken out, how can the Senator say that the constitution thus changed would have received the vote of the people?

Mr. MORTON. I will endeavor to answer my colleague. The argument that this constitution would not, perhaps, have been adopted but for this provision, was not made by me. I do not know how many voted for it on that account. Probably there were more men who voted against it on that account than who voted for it on that account, or as many. If one man owes a debt, he owes it to somebody else, and if he is interested in getting clear of his debt, and therefore votes for the constitution, the other man is interested in collecting his debt, and therefore votes against it; so that, perhaps, the thing would operate both ways. The constitution was adopted by a large majority. But, sir, whatever the motive may have been that put it there, it is unconstitutional, and it is dishonest.

Mr. HOWARD. Mr. President—

Mr. MORRILL, of Maine. Will the Senator give way to enable me to move an executive session?

Mr. HOWARD. I have but a few words to say.

Mr. SHERMAN. So far as this amendment is concerned, if my friend from Maine will allow me, I will withdraw it. My impression is that the eleventh section of the eleventh article—

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from Michigan has the floor.

Mr. HOWARD. I have but a few words to say, and then I will yield to my friend from Maine.

Mr. MORRILL, of Maine. I hope the Senator will allow me to move an executive session now.

Mr. HOWARD. Very well; I yield for that purpose.

#### EXECUTIVE SESSION.

On motion of Mr. MORRILL, of Maine, the Senate proceeded to the consideration of executive business; and after some time spent therein, the doors were reopened, and the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

TUESDAY, June 9, 1868.

The House met at eleven o'clock a. m., pursuant to order, for the purpose of receiving the Chinese embassy.

The SPEAKER. Before directing the Clerk to read the Journal of yesterday, the Chair announces the appointment of the gentleman from New York [Mr. BROOKS] on the committee of reception in the place of his colleague, [Mr. WOOD,] who is detained at home by illness. The reading of the Journal will be suspended when the Doorkeeper shall announce the presence of the committee of the House of Representatives and the Chinese embassy; and in coming from the principal door down to the area in front of the Speaker's desk the House of Representatives will receive them standing. Before the formal presentation takes place the Chair will announce the period at which members shall resume their seats by a single stroke of the gavel, and after the presentation the committee will introduce the embassy to members individually who desire so to be introduced to them. The Clerk will now read the Journal of yesterday.

The Clerk proceeded with the reading of the Journal of yesterday until interrupted by the Doorkeeper, who announced the committee of the House of Representatives with the Chinese embassy.

#### RECEPTION OF THE CHINESE EMBASSY.

On the announcement of the presence of the committee of the House of Representatives with the Chinese embassy the members of the

House arose in their seats. The committee and the embassy having taken their position in the area in front of the Speaker's desk,

Mr. SCHENCK, on behalf of the committee, said: Mr. Speaker, the committee charged by your appointment with that duty, have the honor to present to the House of Representatives his Excellency Anson Burlingame, and their Excellencies his associates in the Chinese embassy.

The SPEAKER. Your Excellencies: The House of Representatives intermits its ordinary labors to-day to receive in this Hall the embassy which the oldest nation of the world has commissioned to America and Europe; and in the name of the people of the United States we bid you welcome. Spanning a continent in our area, from the Bay of Fundy to the granite portals of the Golden Gate, we turn our faces from the fatherland of Europe to clasp hands in closer relations than ever before with those who come to us from that continent which was the birthplace of mankind.

Nor does it lessen our pleasure that the chief of this embassy, when transferred from membership here to diplomatic duties abroad, so won the confidence of his imperial majesty to whom he was accredited that he returns to our midst, honored with his distinguished associates, as the custodians of the most remarkable trust ever committed by an emperor to his envoys.

This embassy of the Chinese empire, which has attracted such universal attention, has been hailed throughout our land, not only as marking an onward step in the world's history, but as being of peculiar interest to this Republic. With our western States fronting the same Pacific sea on which the millions of China have looked, ages before our country was born, into the family of nations; with our Pacific railroad rapidly approaching completion, and destined, with the steamers plying from its termini, East and West, to become the highway of commerce between Asia and Europe; with our possessions on the Pacific slope, nearest of all the great nations to the empire from which you come, we hail your appearance at this Capitol as the augury of closer commercial and international intercourse.

Wishing you as cordial a greeting wherever you may go, on the Thames and the Seine, the Danube and the Rhine, the Baltic and the Adriatic, I give you again an earnest and a heartfelt welcome.

Mr. BURLINGAME said: Mr. Speaker, in behalf of my associates and myself, I thank you for this warm and unusual reception. It transcends all personal compliment. It is the greeting of one great people by another. It is the Occident and the Orient for the first time in that electric contact whose touch makes the whole world kin. It is the meeting of two civilizations which have hitherto revolved in separate spheres, and it is a mighty revolution. Let us hope, sir, that it will go on without those convulsions which are too apt to mark great changes in human affairs. Let us hope, sir, that it will be achieved without the shedding of one drop of human blood. We are for peace. We come not with beat of drum, nor martial tread, though representing the latent power of eighty million fighting men. We are heralds of good will. We seek for China that equality without which nations and men are degraded. We seek not only the good of China, but we seek your good and the good of all mankind. We do this in no sentimental sense. We would be practical as the toiling millions whom we represent. We invite you to a broader trade; we invite you to a more intimate examination of the structure of Chinese civilization; we invite you to a better appreciation of the manners of that people, their temperance, their patience, their habits of scholarship, their competitive examinations, their high culture of tea and silk; and we shall ask for them from you modern science, which has taken its great development within the memory of man and the holy doctrines of our Christian faith. It

is for the West to say what our reception shall be. It is for the West to say whether or not it was sincere when it continued a long time to invite China to more intimate relations with it. It is for the West to say whether it is for a fair and open policy, or one founded upon that assumption of superiority, which is not justified by physical ability nor moral elevation.

The people of the United States have responded through their executive head and through this House and through the press with a unanimity and nobility of sentiment which makes me proud of the civilization in which I was reared, and glad to see it passed in review by the scholars and statesmen of China.

I trust, sir, that the American people will abide by this sentiment; and I hope that it is but an earnest of that spirit which will meet us on the shores of the distant sea and the banks of the beautiful rivers you have named.

Thanking the House for this reception, and you, sir, for the felicitous and able manner in which you have expressed its welcome, we await such further action as the proprieties of the occasion may require. [Applause.]

The SPEAKER. The Committee of the House of Representatives will now introduce to the embassy the members of the House individually.

[A recess was taken informally for that purpose.]

At half past eleven o'clock a. m. the House was again called to order.

The Clerk resumed the reading of the Journal of yesterday, but before concluding,

Mr. FARNSWORTH moved that the further reading of the Journal be dispensed with.

The motion was agreed to by unanimous consent.

#### DIVISION OF TEXAS.

Mr. BEAMAN, from the Committee on Reconstruction, reported a bill (H. R. No. 1203) to erect two additional States out of the territory of the State of Texas; which was read a first and second time, ordered to be printed, and recommitted.

Mr. BEAMAN. There is a rough sketch or map, which is part of the bill, which I suppose will be printed with the bill.

The SPEAKER. By the law all maps which it is desired to publish must be referred to the Committee on Printing.

The map was accordingly referred to the Committee on Printing.

#### GOVERNMENTS OF SOUTHERN STATES.

Mr. PAINE, from the Committee on Reconstruction, reported back, with a substitute, House bill No. 1194, to provide for the inauguration of State officers in Arkansas, North Carolina, South Carolina, Louisiana, Georgia, and Alabama, and for the meeting of the Legislatures of said States.

The question was upon agreeing to the substitute, which was to strike out all after the enacting clause and insert the following:

That the Legislature of each of the States of Arkansas, North Carolina, South Carolina, Louisiana, Georgia, and Alabama, elected under the constitution thereof, framed and adopted in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, be, and hereby is, authorized to meet on such day as may have been fixed, either in such constitution or by the proclamation of any officer authorized to convene said Legislature by the convention which framed such constitution; and if no day shall have been fixed as aforesaid, or if the day so fixed for the meeting of the Legislature of either of said States shall have passed, or shall have so nearly arrived, before the passage of this act, that, in the opinion of the Governor-elect, there shall not be time for the Legislature to assemble on the day so fixed, such Legislature may be convened within thirty days after the passage of this act by the Governor-elect of said State.

Sec. 2. And be it further enacted, That whenever either of said States shall be admitted to representation in Congress, the executive and judicial officers of such State, duly elected and qualified under the constitution thereof, may be inaugurated without delay, and the government of such States shall thereupon be transferred to the civil authorities thereof.

Sec. 3. And be it further enacted, That it shall be the duty of all civil and military officers exercising authority in either of said States to afford all practicable aid and protection to the officers of such State

in carrying out the provisions of this act; and any such officer who shall willfully withhold such aid and protection, or shall willfully prevent, hinder, or delay the meeting of either of said Legislatures, or the inauguration of any of said State officers, or any other civil or military officer under either of said State constitutions, shall be guilty of a felony, and upon conviction thereof before any Federal or State court of criminal jurisdiction, shall be punished by imprisonment not exceeding five years, or by a fine not exceeding \$5,000, or both, at the discretion of the court.

The substitute was agreed to.

The question was upon ordering the bill, as amended, to be engrossed and read a third time.

Mr. PAINE. I call the previous question on the bill.

Mr. BROOKS. I do not expect to be permitted to enter into any discussion of this bill. I rise to say all that I suppose we on this side of the House will be permitted to say, that we are opposed to this whole series of measures, and particularly to this bill as one of them.

The previous question was seconded and the main question ordered.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. BROOKS. Upon that I call the yeas and nays.

Mr. PAINE. I call the previous question.

The previous question was seconded and the main question ordered.

Mr. PAINE. I desire to say but a word or two in explanation of this bill. The object is to provide for two things: first, that the Legislatures of the States named in the bill may be convened immediately at the time fixed by the constitutions of the States, or by officers authorized to convene them by the conventions that framed said constitutions; or, if no day shall have been fixed by the constitutions or by any such officers, then at a time to be fixed by the Governors-elect of said States. And the other provision is to authorize the inauguration of the executive and judicial officers of the State after the State shall have been admitted to representation and the transfer of the State governments to the civil authorities. I now ask for a vote.

The question was upon the passage of the bill.

The SPEAKER. On this question the yeas and nays have been demanded by the gentleman from New York, [Mr. Brooks.]

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 113, nays 32, not voting 44; as follows:

YEAS—Messrs. Allison, Ames, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Beaman, Beatty, Benjamin, Benton, Blaine, Blair, Bromwell, Broomall, Buckland, Butler, Calkins, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Coyode, Cullom, Dawes, Delano, Dodge, Donnelly, Driggs, Eckley, Eggleston, Eli, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Gravelly, Griswold, Halsey, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Hulburd, Hunter, Ingersoll, Jenckes, Judd, Julian, Ketchum, Kitchen, Kootz, Laffin, George V. Lawrence, Lincoln, Loan, Logan, Loughridge, Lynch, Maynard, McCarthy, McClurg, Mercer, Miller, Moore, Moorhead, Morrell, Mullins, Myers, Newcomb, Nunn, O'Neill, Paine, Peters, Pile, Plants, Polesky, Pomeroy, Price, Raum, Robertson, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Starkweather, Aaron F. Stevens, Thaddeus Stevens, Stokes, Taffe, Taylor, Townbridge, Twichell, Upson, Van Aernam, Robert T. Van Horn, Van Wyck, Ward, Cadwalader C. Washburn, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, William Williams, John T. Wilson, and Windom—113.

NAYS—Messrs. Archer, Barnes, Beck, Boyer, Brooks, Burr, Eldridge, Getz, Glossbrenner, Golladay, Grover, Haight, Holman, Hotchkiss, Richard D. Hubbard, Jones, Knott, Marshall, McCormick, McCullough, Morrissey, Niblack, Phelps, Robinson, Ross, Sitgreaves, Stone, Taber, Lawrence S. Trimble, Van Aiken, Van Trump, and Woodward—32.

NOT VOTING—Messrs. Adams, Anderson, Arnell, Axtell, Bailey, Baker, Barnum, Bingham, Boutwell, Cary, Chanler, Dixon, Finney, Fox, Hawkins, Asahel W. Hubbard, Humphrey, Johnson, Kelley, Kelsey, Kerr, William Lawrence, Mallory, Marvin, Mungen, Nicholson, Orth, Perham, Pike, Poland, Pruyn, Randall, Selye, Shanks, Smith, Stewart, Thomas, John Trimble, Burt Van Horn, Thomas Williams, James F. Wilson, Stephen F. Wilson, Wood, and Woodbridge—44.

So the bill was passed.

Mr. PAINE moved to reconsider the vote

by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ROCK ISLAND BRIDGE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a communication from the chief of ordnance, recommending an appropriation of \$100,000 for a bridge to connect Rock Island arsenal with the city of Rock Island, Illinois; which was referred to the Committee on Appropriations, and ordered to be printed.

#### COLONEL MULLIGAN, OF ILLINOIS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, relative to the late Colonel Mulligan, of Illinois; which was laid on the table, and ordered to be printed.

#### BERGEN HEIGHTS ARSENAL.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting certain papers relative to the Bergen Heights arsenal property in New Jersey, recommending its sale as no longer needed by the Government; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### PRIVATE LAND CLAIMS IN MISSOURI.

Mr. PILE, by unanimous consent, introduced a bill (H. R. No. 1204) to confirm certain private land claims in the State of Missouri; which was read a first and second time, and referred to the Committee on Private Land Claims.

#### AMANDA HOPPER.

Mr. HARDING submitted the following resolution; which was read, considered, and agreed to;

*Resolved*, That the Committee on Invalid Pensions be instructed to report to this House upon the expediency of granting a pension to Amanda Hopper, whose husband, a soldier on parole, was killed, as she represents, by collision of a railway train.

#### OTIS HULL.

Mr. HARDING, also, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Invalid Pensions be instructed to report to this House on the expediency of granting a pension to Otis Hull, an invalid soldier.

#### ISABELLA C. HOFFMAN.

Mr. HARDING, also, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Invalid Pensions be instructed to report to this House on the expediency of granting a pension to Isabella C. Hoffman, widow of a deceased soldier, and report by bill or otherwise.

[At this point business was momentarily suspended while the Chinese embassy retired from the Hall.]

#### REFERENCE OF BILLS.

Mr. UPSON. I move to reconsider the various votes by which bills have been referred this morning to committees; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NAVAJO INDIANS.

Mr. BUTLER, from the Committee on Appropriations, reported back Senate amendments to the bill (H. R. No. 733) for the relief of the Navajo Indians at the Bosque Redondo, and to establish them on a reservation.

Mr. BUTLER. The Committee on Appropriations recommend non-concurrence in the amendments of the Senate.

Mr. HOLMAN. I ask that they be reported.

The SPEAKER. They are as follows:

Strike out all after the enacting clause, and insert as follows:

That the commission heretofore authorized and created under the act of July 20, 1867, "To establish peace with certain hostile Indian tribes," is hereby authorized, if on examination it be thought advisable, to conclude a treaty with the Navajo Indians



now at the Bosque Redondo, in the Territory of New Mexico, providing for the removal of said Indians to their former home in the northern part of said Territory, or to such other lands in the Indian territory west of the State of Arkansas as may be thought best suited to their present condition and future prosperity; and for the purpose of carrying out the provisions of this act, and to subsidize the Indians during the period of removal, there is hereby appropriated the sum of \$150,000, to be expended, if found necessary, by the Commissioner of Indian Affairs, under the direction and supervision of said commissioners.

Sec. 2. *And be it further enacted*, That the sum of \$75,000, or so much thereof as may be necessary, to be expended in accordance with the preceding section, be, and the same is hereby, appropriated for the purpose of enabling said commission to conclude a peace with the Sioux Indians of the Powder river, the northern Cheyennes, and other Indians recently hostile in the western part of Dakota, now being assembled at Fort Laramie, and also meet the Shoshones, Snakes, Bannocks, and other Indians, on or near the line of the Union Pacific railroad.

Amend the title by adding "and for other purposes."

Mr. BUTLER. I am instructed by the Committee on Appropriations to report non-concurrence, and that the House take no further action concerning this bill. In the first place, we have already, in the general Indian bill, while this was pending before the two branches, passed an appropriation of \$100,000 for the purpose of carrying on this reservation. I have since learned that most of the Indians have gone off the reservation in any event. Therefore no further appropriation is needed.

The SPEAKER. If the gentleman desires to dispose of the bill finally he should move that the amendment of the Senate be laid on the table, which will carry the bill with it.

Mr. BUTLER. I will make that motion, but I yield first to the gentleman from New Mexico.

Mr. CLEVER. The Indian Bureau has estimated something over three hundred thousand dollars for the support of these Indians. It is true an appropriation of \$100,000 has been given to feed the Indians. There are between seven and eight thousand Indians on the Bosque Redondo reservation, and if Congress fails to make this appropriation the officers of the Government will be compelled to go into debt. I see no reason why Congress should now refuse to provide the Indian Bureau with means to carry on the reservation. One hundred thousand dollars are not sufficient to feed those Indians. The amount appropriated during the last Congress was exhausted, I believe, on the 1st day of February last, and the Indian Bureau is now feeding those Indians without having any appropriation whatever. If this does not pass, the Territories of New Mexico and Arizona will soon be desolated by these Indians, for they will then be compelled to leave the reservation; and, as they have hitherto done, they will live by plundering and murdering the whites in those two Territories.

I hope this will be recommended to the Committee on Appropriations for the further consideration of this matter. I say the Government will gain nothing by voting down this bill. I hope the motion of the gentleman from Massachusetts may be laid upon the table, and the committee directed to further inquire into the subject.

Mr. ROSS. I would like to have the bill read, so as to know which way I am to vote.

Mr. BUTLER. I think I can state the matter better than the provisions of the bill. In December last the Secretary of the Interior asked us to make an appropriation of \$150,000 to feed the Navajo Indians during the fiscal year ending on the 30th of June, 1868. The Committee on Appropriations offered a bill appropriating \$100,000, which was passed. It went to the Senate, and that body struck out all after the enacting clause and inserted two propositions, one to appropriate \$75,000, if I remember right, for the purpose of establishing the Navajo Indians on the Bosque Redondo reservation, and another to appropriate the sum of \$75,000 for making a treaty with the Sioux and Cheyennes, leaving nothing of the original bill. In the mean time the Committee on Appropriations, in the general appropriation bill, appropriated \$100,000 for the support of the Navajo Indians. That passed the House, and is now before the Senate. In the

mean time this bill has come back, and, in the judgment of the Committee on Appropriations, there is no further occasion for the amount appropriated in this bill, because we have already appropriated \$100,000. Since this bill was returned to the House with the amendment of the Senate we have learned, first, that the Navajo Indians have largely left the Round Road reservation. Whether that be so or not would make no difference, because our report was independent of that fact. We have appropriated all we think that tribe ought to have.

Mr. ROSS. If the gentleman will permit me to make a suggestion, I understand the Senate amendment to propose to return the Navajo Indians to their own country, and makes an appropriation for that purpose. If that is so, I am very much in favor of the amendment of the Senate. I do not think the Navajos should ever have been brought from their own country and put on this reservation. They have caused great expense to the Government while they have been there, and if the amendment of the Senate proposes to let these Indians go back to their own country, it will be better for them and will be a great saving to the Government.

Mr. BUTLER. I agree fully with the gentleman. They never should have been brought to the Round Road reservation. But we have appropriated \$100,000 to be disposed of as the Indian commission and the Indian Bureau see fit, and we do not want to appropriate \$75,000 in addition.

Mr. ROSS. It is costing us about one hundred thousand dollars a month to keep these Indians on this reservation. Now, if we can get them removed to their own country for \$75,000, or even \$150,000, it will be a great saving to the Government. And I know this is desired by the Indians. I had a conference with their chief some three years ago, in company with others, and they begged of us to say to the President of the United States and to Congress that they were desirous of going back to their own country, where they would support themselves in peace and quiet without being any charge to the national Government. In my judgment that is the best thing that can be done. It would save \$100,000 a month which is now paid for keeping them on this reservation.

Mr. BUTLER. I agree with the gentleman in all he has said; but that is not involved in this question. One hundred thousand dollars is already appropriated for these Indians.

Mr. ROSS. Do I understand this appropriation is to return them to their own country?

Mr. BUTLER. Not unless the Indian commission think it best. If they do think it best they will use the \$100,000 for that purpose. I now resume the motion to lay the Senate amendment on the table, which will carry the bill with it.

The amendment of the Senate was laid on the table.

#### REGISTERS' AND RECEIVERS' COMPENSATION.

The SPEAKER. The morning hour has now commenced. The first business in order is the consideration of the bill reported from the Committee on the Public Lands by the gentleman from Nevada [Mr. ASHLEY] on the 4th instant, which was pending at the expiration of the morning hour on that day, being the bill (H. R. No. 652) to increase the compensation of registers and receivers in the Territory of Idaho. The previous question has been demanded, and the pending question is on the motion of the gentleman from Pennsylvania, [Mr. SCOFIELD,] to lay the bill on the table.

The bill was read. It provides that the annual salary of registers and receivers in the Territory of Idaho be, and the same is hereby, increased to the sum of \$3,000.

The committee reported a substitute for the bill which provides that the annual salary of the registers and receivers of the United States land office shall be increased to the sum of \$1,000. This increase to take effect on the 1st of July next, and to continue for two years

and no longer, provided such increased salary, together with fees and commissions now authorized by law, shall not exceed the annual sum of \$3,000 to each officer.

Mr. WASHBURN, of Illinois. I hope there will be some explanation of the necessity of increasing these salaries.

The SPEAKER. The bill was discussed at some length on Thursday last, and at the close of the debate the gentleman from Nevada [Mr. ASHLEY] demanded the previous question.

Mr. WASHBURN, of Illinois. Is there not a motion to lay the bill upon the table pending?

The SPEAKER. The gentleman from Pennsylvania [Mr. SCOFIELD] moved that the bill and substitute be laid upon the table.

Mr. FLANDERS. I hope that motion will not prevail.

The SPEAKER. There are two undebatable motions pending, and no debate is in order.

Mr. FLANDERS. I ask unanimous consent to make a statement.

No objection was made.

Mr. FLANDERS. I send to the Clerk's desk, and wish to have read, an extract from a letter from the receiver in the Olympia land district, Washington Territory.

Mr. WASHBURN, of Illinois. I have no objection if the subject will be open to full debate and I can be allowed to answer the gentleman.

The SPEAKER. The Chair must ask unanimous consent for every gentleman, as there are two undebatable propositions pending.

Mr. WASHBURN, of Illinois. If I can have a chance to reply, I will not object.

Mr. ALLISON. I object to debate.

Mr. FLANDERS. Unanimous consent was given to me to say a few words, I believe.

The SPEAKER. The gentleman has leave to proceed.

Mr. FLANDERS. I now send to the Clerk's desk and ask to have read the extract which I have marked from the letter of Mr. Cushman, the receiver, at Olympia.

The Clerk read as follows:

"The entire compensation, fees, commissions, and salary, for myself and Marsh, the register, was only \$927 each in currency. Shameful! I gave \$90,000 bonds as revenue disbursing agent and United States designated depository. My salary ought to be \$3,000 per annum, at least. I run the risk of the errors in court, and counterfeit moneys, and safe keeping of all Government funds in my hands, and my pay is not only entirely inadequate for a living, but is and ever has been a great wrong to me as a revenue officer of the Government. I have had frequently over eighty thousand dollars in my hands as depository for a considerable length of time, and have to run some risk personally, for if robbers should present loaded pistols at my head demanding of me to open the safe without noise, why these \$927 per annum in currency will not pay for these liabilities."

Mr. FLANDERS. If gentlemen have given attention to the reading of that letter they will see the propriety of increasing the pay of this officer, Mr. Cushman, who is the receiver at the land office in the Olympia district, Washington Territory, as the Committee on Public Lands propose. This officer was required to give \$90,000 bonds for the faithful performance of his duties, and, as he states in his letter, he sometimes has as much as \$80,000 of Government funds in his custody. The building he occupies is a temporary wooden structure, and as a consequence he never feels quite safe when he is away from the building. He has to be there day and night, and there is not a more faithful and efficient officer in the employ of the Government anywhere. It was stated the other day when this bill was before the House that the registers and receivers in the land offices all became wealthy. How it may be in other parts of the country I do not pretend to know, but I do know that such is not the case in Washington Territory, where we have two land offices, and in each office a register and receiver who have held the offices for the last six or eight years.

Mr. ROSS. I would ask the gentleman if there is anything in the law that would prevent his friend from relieving himself by resigning the office?

Mr. FLANDERS. I know of nothing in the law which could compel this gentleman to

continue to hold the office; but the same question may with equal propriety be asked with reference to every person who holds office under the Government and whose pay is inadequate.

Mr. MULLINS. I would ask the gentleman from Illinois [Mr. Ross] whether he will not extend the twenty per cent. to these officers as well as to others?

Mr. ROSS. I did not vote for the twenty per cent. The gentleman need not charge that on me.

Mr. FLANDERS. It must be evident that the pay of these registers and receivers is wholly inadequate when all put together it amounts to less than \$1,000 in currency. In Washington Territory everything that is bought must be paid for in coin. Reducing the salary of this officer to coin it amounts to less than \$700 per annum, an altogether insufficient compensation in view of the fact that he gives bond to the amount of \$90,000 for the faithful performance of his duty, and that he often has in his custody as much as \$80,000 of Government funds.

Mr. WASHBURN, of Illinois. How much more time is the gentleman from Washington Territory [Mr. FLANDERS] entitled to?

The SPEAKER. As the gentleman from Illinois objects to the gentleman from Washington Territory continuing his remarks, the Chair is obliged to rule that the time allowed to the gentleman by unanimous consent has expired. He asked leave to make a brief statement embraced in a letter.

Mr. WASHBURN, of Illinois. Now, Mr. Speaker, I wish to say a word on this subject.

The SPEAKER. The gentleman from Illinois asks unanimous consent to make a statement.

Mr. FARNSWORTH. I object; and I do so that the whole morning hour may not be frittered away in this debate.

Mr. WASHBURN, of Illinois. If we can defeat this principle of increasing salaries the morning hour could not be frittered away in a better cause.

Mr. FARNSWORTH. We can defeat the principle by voting.

Mr. FLANDERS. I ask consent to make a brief additional statement.

Mr. PILE. I object.

The question being taken on the motion of Mr. SCOTFIELD, there were—ayes 58, noes 25; no quorum voting.

The SPEAKER, under the rule, ordered tellers: and appointed Mr. ASHLEY, of Nevada, and Mr. SCOTFIELD.

The House divided; and the tellers reported—ayes 60, noes 36.

So the bill was laid on the table.

Mr. SCOTFIELD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER announced as the next business in order, during the morning hour, reports from the Committee on the Post Office and Post Roads.

#### MAILS AND MAIL SERVICE.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, reported back adversely a joint resolution (H. R. No. 242) relating to mails and mail service; which was laid on the table.

#### DISTRIBUTION OF REVENUE STAMPS.

Mr. FARNSWORTH. I am directed by the Committee on the Post Office and Post Roads to move that they be discharged from the further consideration of a joint resolution of the Legislature of the State of Iowa in reference to making postmasters agents for the distribution of revenue stamps, and that the same be referred to the Committee of Ways and Means.

The motion was agreed to.

#### BRIDGE OVER THE MISSISSIPPI.

Mr. FARNSWORTH, from the Committee

on the Post Office and Post Roads, reported back adversely a bill (H. R. No. 966) to authorize the construction of a bridge over the Mississippi river in Madison county, State of Illinois; which was laid on the table.

#### AMENDMENT OF POSTAL LAWS.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, reported a bill (H. R. No. 1205) to further amend the postal laws; which was read a first and second time.

The bill provides in the first section that when any writer of a letter on which the postage is prepaid shall indorse in writing or in print upon the outside thereof his name and address, the same, after remaining uncalled for at the post office to which it is directed thirty days, or the time the writer may direct, shall be returned to the writer without additional postage, whether a specific request for such return be indorsed on the letter or not.

The second section provides that no money order shall be issued for less than one dollar, nor more than fifty dollars; and all persons who receive money orders shall be required to pay therefor the following charges or fees, namely: for one dollar, or any sum not exceeding twenty dollars, a fee of ten cents shall be charged and exacted by the postmaster giving said order; for all orders exceeding twenty dollars, and not exceeding thirty dollars, the charge shall be fifteen cents; for all orders exceeding thirty, and not exceeding forty dollars, the charge shall be twenty cents; and for all orders exceeding forty dollars, and not exceeding fifty dollars, the fee shall be twenty-five cents.

The third section provides that section thirty-five of the act of March 3, 1863, shall be so construed as to permit weekly newspapers, when sent to regular subscribers, to be delivered free of postage, when deposited at the office nearest the office of publication; but nothing in this act shall be so construed as to require carriers to distribute said papers unless postage is paid upon them.

Mr. FARNSWORTH. The House will observe that this is a bill amending the postal laws. The first section provides for the return of unclaimed letters whenever the names and addresses of the writers are indorsed upon them. The second section is in relation to money orders. As the law now stands no money order can be issued for a greater sum than thirty dollars. We propose to enlarge the amount for which the order may be given up to fifty dollars, and changing the charges or fees. The provision of the present law is as follows:

"No money order shall be issued for any sum less than one or more than thirty dollars; and all persons who receive money orders shall be required to pay therefor the following charges or fees, namely: for an order for one dollar or for any larger sum, but not exceeding ten dollars, a fee of ten cents shall be charged and exacted by the postmaster giving such order; for an order of more than ten and not exceeding twenty dollars the charge shall be fifteen cents; and for every order exceeding twenty dollars, a fee of twenty cents shall be charged."

We propose to change the law so that orders may be issued for fifty dollars; and also change the fees, so that they may be a little less than they are now.

The third section provides for the delivery of weekly newspapers free of postage. It is simply construing the present statute as Congress intended it should be construed.

Mr. RAUM. I think the gentleman will find, if he will send for the law, that money orders for fifty dollars may now be issued.

Mr. WASHBURN, of Indiana. It is done every day.

Mr. FARNSWORTH. Very well; if that is so, and we reenact the law, it will do no harm, and we change the fees.

Mr. RAUM. If the amount should be increased it should be extended to seventy-five dollars.

Mr. FARNSWORTH. Fifty dollars is large enough.

Mr. WASHBURN, of Indiana. That is the amount now.

Mr. FARNSWORTH. I think the gentleman is mistaken.

Mr. WASHBURN, of Indiana. I know from my experience of day before yesterday.

Mr. FARNSWORTH. I call for the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ILLINOIS AND ST. LOUIS BRIDGE.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, reported back, with a substitute, House bill No. 631, amendatory of an act approved July 26, 1866, entitled "An act to authorize the construction of certain bridges, and to establish them as post routes."

The question was upon agreeing to the substitute, which was read, as follows:

Whereas the St. Louis and Illinois Bridge Company, organized under the laws of the State of Missouri, and the Illinois and St. Louis Bridge Company, organized under the act of the General Assembly of the State of Illinois, have been consolidated in pursuance of the authority granted to the said Illinois and St. Louis Bridge Company in their act of incorporation, and the authority granted to the St. Louis Bridge Company by the act of the General Assembly of the State of Missouri, approved March 19, 1868: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the company formed by this consolidation under the name and style of the Illinois and St. Louis Bridge Company, is hereby recognized and declared to be a corporation by that name, with full power and authority to construct a bridge across the Mississippi river, opposite the city of St. Louis, in conformity to the act of which this act is amendatory, with all the rights, privileges, and powers granted and conferred by the several acts of the General Assemblies of the States of Illinois and Missouri to the respective companies by the consolidation of which the said Illinois and St. Louis Bridge Company was formed, and not inconsistent with the provisions of the act to which this act is amendatory: Provided, That in constructing said bridge there shall be one span of at least five hundred feet clear between piers.

Sec. 2. And be it further enacted, That the said corporation may execute a mortgage and issue bonds payable, principal and interest, in gold, and their bridge across the Mississippi river and approaches thereto, when constructed, shall be a post road to carry the mails of the United States and enjoy the rights and privileges of other post roads.

Sec. 3. And be it further enacted, That said corporation may hold their meetings in either the State of Illinois or the State of Missouri, as the board of directors may elect, and the directors may be citizens of any of the United States, and said corporation may sue and be sued in any circuit court of the United States: Provided, That nothing in this act shall be so construed as to deprive the Legislatures of the States of Illinois and Missouri of the right to regulate the tolls and fares which may be charged by said company for the use of such bridge.

Mr. PRICE. I wish to ask the gentleman from Illinois a question.

Mr. FARNSWORTH. Very well.

Mr. PRICE. I ask the gentleman whether he considers a span of five hundred feet is practicable? Has the experiment ever been tried? In my judgment such a span cannot be built with safety, and I think the experiment has never been tried in this country.

Mr. FARNSWORTH. I am not a bridge builder myself, but the company in their plan propose a span of five hundred feet. The men engaged in commerce on the river do not object.

Mr. PILE. The chief engineer of this company is Captain Edes, one of the best engineers in the United States, and known in connection with the Navy Department, and as the constructor of the best class of iron-clads on the western waters. The proposition to build a span of five hundred feet comes from the company itself. It proposes to build a span of five hundred feet in length; and it proposes to build not only the finest bridge on this continent, but the finest bridge in the world, connected with a tunnel running under the city of St. Louis to the depot of the Pacific railroad in the southwest part of the city. This act

merely confirms the consolidation of the bridge companies incorporated under the laws of Illinois and Missouri. I hope there will be no objection to it.

Mr. ALLISON. If I understand the bill it virtually incorporates this company. We have no authority to do that without the consent of the States. It provides that this company shall be incorporated. I want to have this explained.

Mr. PILE. I will state the facts. In 1864 the Legislature of Missouri incorporated the St. Louis and Illinois Bridge Company, which company was confirmed with all of its powers by the Legislature of Illinois. In 1866 the Legislature of Illinois incorporated another company called the Illinois and St. Louis Bridge Company. It was organized under the general law. A rivalry of interests sprung up between the two companies. Two bridges were proposed to be built. The people of St. Louis and Illinois deemed this rivalry fatal. It led to a loss of credit. The two companies have therefore been consolidated. The board of directors of each company have gone out and a new board has been elected, composed of parts of the boards of the two companies. They form a consolidated company known as the Illinois and St. Louis Bridge Company. Now, this bill is simply for the purpose of aiding this company in the money market. It declares that the consolidated company in pursuance of specific authority granted to the Illinois and St. Louis Bridge Company—

Mr. FARNSWORTH. I must decline to yield further. I suppose nobody doubts that we have a right to incorporate this company. We have incorporated the Pacific Railroad Company and a great many companies between States and Territories.

Mr. WASHBURNE, of Illinois. Too many.

Mr. FARNSWORTH. Too many, my colleague says. Now, sir, this is not an original act of incorporation. I believe there is no objection to the bridge on the part of the river or railroad men or any other men. I never heard of any. I therefore demand the previous question.

Mr. ALLISON. I ask the gentleman to answer my question. I want to know, in the first place, whether or not this bill incorporates this company. If it does, we ought to have a reservation with reference to the rate of tolls and tariffs that can be charged.

Mr. FARNSWORTH. There is a reservation. This bill does not incorporate the company. It adopts a company already incorporated by the States of Illinois and Missouri, and provides that the Legislatures of these States shall regulate the tolls and tariffs.

Mr. WASHBURNE, of Illinois. I ask my colleague why not do it here. It never should be done by those States.

Mr. FARNSWORTH. I think the States of Illinois and Missouri, whose people are more interested in this matter than the people of other portions of the country, will be more likely to establish reasonable tolls than Congress.

Mr. WASHBURNE, of Illinois. What objection to putting on a limit here?

Mr. FARNSWORTH. Because the Legislatures of those States have already put on a limit that they shall not charge exceeding the rate now charged by the ferries. And I think it is better we should leave this power in the Legislatures of those two States, whose people are more interested than we are to regulate this toll. For my own part I have no objection to Congress doing it, but I think the State Legislatures will do it more for the benefit of the people than Congress will.

Mr. PAINE. Will the gentleman yield?

Mr. FARNSWORTH. For a question.

Mr. PAINE. It is doubtless true that the people of these two States are more interested than any other people in the United States in this matter, but it may be that their interest will be adverse to that of the people of the other States. For have we not seen on other lines of communication, as for example Mary-

land, that the people most interested have made use of the privilege they enjoy to benefit themselves at the expense of the citizens of other States? Now, may it not be true that the people of these States will so regulate the toll as to benefit themselves at the expense of other States?

Mr. FARNSWORTH. Does the gentleman suppose the Legislatures of Illinois and Missouri will impose higher rates upon the citizens of Wisconsin for crossing this bridge than upon their own citizens?

Mr. PAINE. It may be not; but it will be very easy for those Legislatures to make such arrangements on this subject as to secure for themselves the benefit at the expense of the people of other States.

Mr. FARNSWORTH. It is for the judgment of the House. If the members of the House think Congress will be more likely to impose proper duties than the Legislatures of the States whose people are more particularly interested in the matter, I am willing to make that amendment. But I think Congress will not agree to it.

Mr. PAINE. I suppose it will be for the interest of the people to do so.

Mr. COOK. Does my colleague believe that Legislatures of different States can by joint legislation regulate this toll? that by concert and confederation between two States they can accomplish something that cannot be done by each State independently?

Mr. FARNSWORTH. I do not apprehend that there is any more difficulty in that than there was in these States by acts of their Legislatures incorporating this company and doing just what they have already done, fixing the rates of tolls to be charged.

Mr. WASHBURNE, of Illinois. What is the objection to providing that the rates shall not be increased?

Mr. COOK. I would ask my colleague [Mr. FARNSWORTH] if the courts have ever sustained a corporation made by the conjoint legislation of two States? Have the courts ever sustained a consolidation of corporations in different States made by the conjoint legislation of those States?

Mr. FARNSWORTH. Does my colleague remember a case where the courts refused to sustain such an incorporation?

Mr. COOK. I remember a case where the courts decided that a mortgage against a railroad corporation so consolidated could not be enforced.

Mr. EGGLESTON. I desire to ask the chairman of the Committee on the Post Office and Post Roads whether the provisions of this bill extend to other corporations than to the Bridge Company at St. Louis?

Mr. FARNSWORTH. None of them.

Mr. BLAINE. I desire to ask the gentleman from Illinois whether this bill does not impose as much restriction on this Bridge Company as has been imposed on those companies that have bridged the Mississippi river at a point above St. Louis?

Mr. FARNSWORTH. Yes; and even still more.

Mr. BLAINE. Well, I think we ought not to ask more than that.

Mr. FARNSWORTH. I will now yield to my colleague from the Alton district, [Mr. BAKER,] who desires to offer an amendment.

Mr. BAKER. I move to amend the proviso to the third section so as to make it read as follows:

*Provided*, That nothing in this act or in any previous legislation affecting the premises shall be so construed as to deprive the Legislatures of the States of Illinois and Missouri of their right to regulate the tolls and fares which may be charged by said company for the use of such bridge.

Mr. FARNSWORTH. I have no objection to that.

The amendment was agreed to.

Mr. WASHBURNE, of Illinois. I desire to offer an amendment providing that the Legislatures shall not increase the tolls hereafter.

Mr. FARNSWORTH. I will allow the gentleman to offer that amendment.

Mr. WASHBURNE, of Illinois. I offer, then, the following amendment:

*Provided*, That the tolls now fixed by the Legislatures of Illinois and Missouri shall not be increased.

The amendment was agreed to.

Mr. SPALDING. I desire to ask a question of the chairman of the Committee on the Post Office and Post Roads. I want to know if this five hundred feet span is intended as a precedent, as a pattern for all bridges on the Ohio and Mississippi rivers?

Mr. FARNSWORTH. It is only intended for this bridge.

Mr. SPALDING. I would ask the gentleman if he has not a bill to report which makes this the general rule for bridges over the Ohio river?

Mr. FARNSWORTH. The committee have considered the question in regard to the Ohio river.

Mr. SPALDING. And they will report a bill of that sort?

Mr. FARNSWORTH. It has been acted on by the committee, and I am instructed to report such a bill for the Ohio river.

Mr. SPALDING. Exactly!

Mr. FARNSWORTH. But I will state to the gentleman from Ohio that the company who are to build this bridge propose to make it of five hundred feet span. Does the gentleman object to that?

Mr. SPALDING. I do not; but I wanted to know if this was to be a precedent for what is to come after.

Mr. FARNSWORTH. I demand the previous question.

The previous question was seconded and the main question ordered.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. FARNSWORTH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### BRIDGE OVER THE MISSISSIPPI.

Mr. PILE. I ask the gentleman to withdraw and have referred to the Committee on the Post Office and Post Roads the bill (H. R. No. 966) to authorize the construction of a bridge over the Mississippi river, in Madison county, State of Illinois.

Mr. FARNSWORTH. I have no objection; the bill was laid upon the table at the request of the committee; I ask that it be taken up and referred.

No objection was made.

#### LAND TITLES.

Mr. JOHNSON, by unanimous consent, introduced a bill (H. R. No. 1206) to restore to certain parties their rights under the laws and treaties of the United States; which was read a first and second time, and referred to the Committee on Private Land Claims.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### TELEGRAPH LINES.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, reported back, with a substitute, House bill No. 846, supplemental to an act entitled "An act to aid in the construction of telegraph lines, and to secure to the Government the use of the same for postal, military, and other purposes," passed July 24, 1866; which substitute was ordered to be printed, and, with the original bill, recommended to the Committee on the Post Office and Post Roads.

#### NEW ORLEANS AND MOBILE RAILROAD.

Mr. FARNSWORTH, from the Committee on the Post Office and Post Roads, reported back, with an amendment, House bill No. 937, to authorize the construction of a railroad and telegraph line from New Orleans, in the State



of Louisiana, to Mobile, in the State of Alabama, and to secure to the Government the use of the same as a military and post road, and for other purposes.

The bill was read at length. The first section provides that James A. Raynor, William S. Williams, Sidney Dillon, Franklin Haven, John B. Alley, William B. Duncan, Cornelius K. Garrison, Peter Butler, and John J. Howell, and all persons who shall or may be hereafter associated with them and their successors and assigns, are hereby created and erected into a body corporate and politic, in deed and by law, by the name, style, and title of The New Orleans and Mobile Railroad Company, and by that name shall have perpetual succession, and shall be able to sue and be sued in all courts of record, of law and equity within the United States, and may have a common seal, and exercise and enjoy within the United States of America the rights, powers, and privileges pertaining to corporate bodies, and necessary for the fulfillment of the objects and purposes of this act; and said corporation is hereby authorized and empowered to lay out, construct, maintain, use, and enjoy, by running thereon its engines and cars, a continuous railroad, with one or more tracks, with the necessary appurtenances, and with extensions and branches as herein provided, and also to construct, maintain, and use a telegraph line from the foot of Saint Joseph street, in the city of New Orleans, in the State of Louisiana, to the foot of Hunt street, in the city of Mobile, in the State of Alabama.

The second section provides that the capital stock of the corporation shall consist of fifty thousand shares, of one hundred dollars each, which shall be subscribed for, and held or transferred in such manner as shall be provided for in the by-laws hereafter established by said corporation. The corporate powers of said corporation shall be exercised, and its business shall be conducted and managed by nine directors, to be appointed or elected by the stockholders of said corporation, as provided in its by-laws; provided, however, that the persons heretofore named as corporators shall be the directors for the first year, and until others are appointed or elected to fill their places. The said directors shall, as soon as practicable after the passage of this act, elect from their own number a president and vice president, who shall hold their respective offices for one year, and until their successors shall be elected. They shall also appoint a secretary and treasurer, and other necessary officers and agents for said corporation, who shall hold their respective offices during the pleasure of said directors. They shall also make and establish proper and sufficient by-laws for the future conduct and government of said corporation, its business and its directors, officers, and agents. They are also authorized and empowered to sell or obtain subscriptions for the capital stock in the name of the corporation, and to demand payment for and enforce the collection of all subscriptions to or sales of said capital stock, at such times and places, and in such proportions as they shall deem necessary for the construction of the said railroad and telegraph as herein provided. A majority of said directors shall constitute a quorum for the transaction of the business of said corporation.

The third section provides that the right of way through the public lands of the United States, except such lands as are occupied by the United States for naval, military, or other purposes, be, and the same is hereby, granted to said corporation for the construction of said railroad and telegraph line, and the right, power, and authority is hereby given to said corporation to take from the public lands adjacent to the line of said railroad, earth, stone, timber, and other materials for the construction thereof; said right of way is granted to the extent of one hundred feet in width on each side of said railroad, where it may pass over the public lands, including all necessary grounds for stations and structures connected therewith. The said corporation is also author-

ized and empowered to enter upon, purchase, take, and hold any lands or premises, except such public lands as are hereinbefore excepted, that may be necessary and proper for the construction and working of said railroad, not exceeding one hundred feet on each side of its centre line, and also any lands or premises that may be necessary and proper for stations and structures connected therewith, required for the construction, maintenance, and operating of said railroad. And in case the said corporation and the owner or claimant of such lands or premises cannot agree as to the proper compensation and damages to be paid to the said owner or claimant by said corporation, then and in such case the amount shall be ascertained and determined by and through commissioners and proceeding in court, in the same form and manner as like damages are determined in regard to lands thus taken by the Union Pacific Railroad Company, pursuant to and as provided in section three of the act of Congress approved July 2, 1864, entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes,'" approved July 1, 1862, the provisions of said section three of said act, so far as the same can be made applicable to this corporation, being reenacted and made a part of this act.

The fourth section provides that the railroad of the New Orleans and Mobile Railroad Company, and any part thereof, shall be a post route and a military road, subject to the use of the United States for postal, military, naval, and all other Government service, upon such terms and subject to such regulations as Congress may impose in regard to the compensation which shall be paid to said corporation for such Government service; and said corporation is hereby authorized and empowered to accept to its own use any grant, donation, loan, power, franchise, real or personal estate, or any aid or assistance which may be granted to or conferred upon said corporation by the Congress of the United States, by the Legislature of any State, or by any county, parish, city, town, or corporation of any State, or by any corporation, person, or persons; and said corporation is authorized to hold and enjoy the same, and to increase its capital stock for such purpose, provided that a majority of the directors and stockholders of the said corporation shall assent thereto. And said corporation is also authorized and empowered, from time to time, to borrow or to negotiate and obtain loans of money, or to purchase property upon its own credit, for the purposes of constructing and maintaining its said railroad, and to issue and sell its corporate bonds or promissory notes for any such loans or indebtedness, or to procure money for the use of said corporation, bearing interest at a rate not to exceed eight per cent. per annum, and payable at such time and place and in such currency as may be therein named; and to secure the payment of the same the said corporation may sell, transfer, or mortgage its said railroad and telegraph line, its franchises, its capital stock, and any of its real and personal property, or any part or portion of the same; and if any of the stock, bonds, or notes of said corporation are negotiated and sold by authority of its directors below its or their par value, such sale shall be in all respects valid and binding as against said corporation to the full amount or par value of such stocks, bonds, or notes sold.

The fifth section provides that the New Orleans and Mobile Railroad Company, instead of constructing each and every portion of said railroad, is hereby authorized and empowered to purchase or lease from any State, corporation, person, or persons owning the same, any railroad that may have been constructed, and which can be used as a part of said railroad, together with any appurtenances and rights, privileges, and franchises thereunto

belonging; and said corporation, in case of any such purchase or lease, is authorized to connect and use the same with the portions of railroad constructed pursuant to this act; and the said corporation is hereby authorized and empowered to take, carry, and convey persons and property, by the power of steam, upon said railroad so constructed, purchased, or leased, and to receive therefor such tolls and charges as shall be established by its directors; excepting, however, such charges for Government service as may be regulated by Congress, as hereinbefore provided.

The sixth section provides that in the construction of said railroad across or upon any street, highway, water-course, or river, which said railroad may intersect or touch, the said corporation shall preserve the same, so as not to unnecessarily impair its usefulness to the public; and said corporation is hereby authorized and empowered to construct and maintain bridges over and across the navigable waters of the United States, on the route of said railroad, between New Orleans and Mobile, for the use of said corporation, and the passage of its engines, cars, and trains of cars, passengers, mails, and merchandise thereon; and said railroad and its bridges aforesaid, when constructed, completed, and in use, in accordance with this act, shall be deemed and recognized and known as lawful structures and a post road, and are hereby declared as such; provided, however, that the said corporation in the construction of its bridges over and across the waters known as the East Pascagoula river, the bay of Biloxi, the bay of Saint Louis, and the Great Rigolet, shall construct and maintain draw-bridges in the channels thereof, which, when open, shall give a clear space for the passage of vessels of not less than eighty feet in the channels of the East Pascagoula river, of the bay of Biloxi, and of the bay of Saint Louis, and of not less than one hundred feet in the channel of the Great Rigolet; and shall at all times open said draw-bridges, and shall provide reasonable and necessary facilities for the passage of all vessels requiring the same, except during and for ten minutes prior to and after the time of the passage of its mail and passenger trains.

The seventh section provides that the better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times (but particularly in time of war) the use and benefits of the same for postal, military, and other purposes, Congress may at any time, having due regard for the acquired interests and rights of the New Orleans and Mobile Railroad Company, add to, alter, and amend this act, so as to prevent or remove all material obstructions to the navigation of said rivers growing out of the construction of said bridges.

The amendment was to add to section three the following:

*Provided, however,* That said commissioners of appraisal may be appointed by any judge of a court of record in the State wherein the land or premises to be taken lie.

The question was upon agreeing to the amendment.

Mr. ROSS. I rise to a point of order.

The SPEAKER. The gentleman will state his point of order.

Mr. ROSS. My point is, first, that it is no part of the duty of the Committee on the Post Office and Post Roads to prepare and report charters for railroads in the several States; secondly, that the Congress of the United States has no power to charter railroads in the different States.

The SPEAKER. The Chair overrules the point of order on the ground that the House, by a direct vote, specially referred this bill to the Committee on the Post Office and Post Roads.

Mr. FARNSWORTH. I will state very briefly the facts in regard to this bill. It is

based upon charters from the provisional Legislatures of Louisiana and Alabama, giving all the rights that are secured to this company by this bill. But the parties interested in that road are afraid that those provisional Legislatures will be declared illegal, and thus their charters will fail. They have expended some money to commence the work and they come to Congress and ask that we will aid them by the passage of this bill in order to reassure capitalists, so that they may prosecute this work. That is all there is in this bill; there is no subsidy here of land, money, or anything else. The committee think the right of the Government in reference to the crossing of these bogs and streams along the coast of the Gulf is sufficient to justify this bill. I think the bill in all its details is correct.

Mr. WASHBURN, of Illinois. As the morning hour has nearly expired, and as this is a very important bill—still more important in view of what my colleague [Mr. FARNSWORTH] has said in regard to the acts of these provisional Legislatures—I hope he will permit this bill to go over till to-morrow. The provisions of the bill are exceptional in their character. It seems to me that this is a project of a lot of gentlemen in Boston and New York to go down South and get control of railroad matters by the aid of Congress.

Mr. FARNSWORTH. I consent that the bill shall go over till to-morrow. I yield the floor to my colleague on the committee, the gentleman from New Jersey, [Mr. HILL.]

#### AMERICAN LINE OF OCEAN STEAMERS.

Mr. HILL, from the Committee on the Post Office and Post Roads, reported back, with an amendment in the form of a substitute, a bill (H. R. No. 939) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports.

The Clerk proceeded to read the substitute, which is as follows:

Strike out all after the enacting clause, and insert the following:

That the Postmaster General is empowered and hereby authorized to contract with the Commercial Navigation Company of the State of New York, a corporation existing under the laws of the State of New York, under a special charter passed by the Legislature of said State under the date of April 23, 1866, for the weekly or semi-weekly conveyance of all European and foreign mails of the United States between New York and Bremen, touching at Southampton, England, or Liverpool, touching at Queens-town, in first class sea-going steamships, to be constructed in the United States and owned by said company, for a term not exceeding twenty years, in the manner and on the conditions hereinafter stated.

SEC. 2. *And be it further enacted*, That the said navigation company shall, with a purpose of performing the above service, build, contract, and fit out, within one year from the passage of this act, at least seven first class sea-going steamships, five of which shall not be of less than three thousand tons each, Government measurement, and two others of not less than two thousand tons each, all of which vessels shall be constructed in the best manner, under the supervision and inspection of the American Lloyd's, or, if ordered by the Postmaster General, under the inspection of the most competent engineer, to be detailed for this purpose by the Secretary of the Navy upon a written application of the Postmaster General, so that when completed each vessel shall be of the first class in every respect, and with all known modern improvements in model, machinery, and safety, so as to secure the greatest possible speed and safety; which steamships, when so constructed, shall be organized into and compose the United States mail steamship line, for the proper conveyance of mails and passengers as hereinafter provided; the time of sailing, and all other details, to be arranged and agreed upon between the said company and the Postmaster General, with power to modify such agreements from time to time as may best promote the object in view.

SEC. 3. *And be it further enacted*, That the compensation for carrying and transporting the mails by sea, as herein provided, shall be agreed upon, and shall be in conformity with the act of Congress approved June 14, 1858, and shall in no event or contingency exceed the sum therein provided, being all postage on letters, newspapers, and all other matter transported by or in the mails carried by said navigation company, shall belong to said company, and shall be paid to said navigation company quarterly, or applied to their use or benefit as hereinafter provided.

SEC. 4. *And be it further enacted*, That to insure the construction of the above-mentioned vessels within the time and in the manner hereinbefore provided, and the maintenance of the said line, the said Commercial Navigation Company may issue bonds to such an amount that the entire annual interest thereon shall not exceed the sum of \$250,000, such

bonds to be made payable at the expiration of the before-named twenty years, and the interest thereof to be made payable semi-annually, the principal and interest of such bonds to be made payable in coin of the United States. That for the protection of the holders of such bonds they shall be severally registered at the Post Office Department and certified by the chief clerk of the Department. And the Postmaster General shall receive all moneys for postage earned by the steamships of said company, and shall apply the same as far as needed to the payment of the semi-annual interest upon the before-named bonds, and shall retain the surplus after paying such interest, and shall invest the same quarterly in the securities of the United States to form a sinking fund, to be held solely for the benefit of the bondholders, and to be applied to the payment of the principal of such bonds. And whenever, and as soon as, such sinking fund shall equal in amount the entire principal of said bonds then from that time forward the interest of said bonds shall be paid out of the income of such sinking fund, and the principal thereof out of the same fund at their maturity. And all postage earned after the time when said sinking fund shall belong to and be paid quarterly to the said company by the Postmaster General of the United States.

SEC. 5. *And be it further enacted*, That the aforesaid mail steamships shall be commanded and officered only by citizens of the United States, each mount an armament, if required, of two guns each, and shall have at least one apprentice to be instructed in engineering, seamanship, and navigation for every two hundred tons of registered tonnage for each steamship; and the Government of the United States shall have the power to take and use the aforesaid mail steamships as transports or for ships-of-war whenever in the opinion of the President the exigencies of the United States may require them, who is authorized, in such an event, to take said mail steamers and pay said company a just and equitable sum for their use, or purchase the same, as may be deemed most for the interest of the United States; said payment, whether for purchase or use, to be made to the Postmaster General, who shall pay to said navigation company whatever balance be due them, after deducting sufficient for payment for all the before-named registered bonds, the amount of which in this event shall be paid to the holders thereof at maturity of the same.

SEC. 6. *And be it further enacted*, That the foreign mail agents of the Government of the United States shall have free passage on the ships of the said Commercial Navigation Company, whenever the Postmaster General to such foreign mail agents issues passes certifying to the said company that such is their official character.

SEC. 7. *And be it further enacted*, That the said navigation company shall keep up and maintain for a period of twenty years, for the said United States mail service, at least the said number of seven first class steamships.

SEC. 8. *And be it further enacted*, That the rights and privileges herewith granted shall be and remain to this company, and in no event shall this company transfer or assign the rights and privileges herein granted, nor shall it be lawful for any officer of the Government hereafter to recognize any assignment or transfer, it being the intent and meaning of this act to secure an American line of steam vessels for the transportation of mails and the proper conveyance of emigrant passengers between the port of New York and European ports above named; and Congress may at any time hereafter during the period of twenty years, and having a due regard to the rights of the said company, alter, repeal, or amend this act, and it shall take effect and be in force from and after its passage.

Before the reading of the substitute had been concluded,

The SPEAKER said: The morning hour has expired, and the bill goes over till to-morrow.

#### NOVA SCOTIA COAL TRADE.

Mr. SCHENCK, by unanimous consent, presented a communication from the Secretary of State, relative to the effect of the abrogation of the reciprocity treaty upon the Nova Scotia coal trade; which, with the accompanying papers, was referred to the Committee of Ways and Means, and ordered to be printed.

#### SALE OF DAMAGED ARMS, ETC.

Mr. SCHENCK, by unanimous consent, introduced a joint resolution (H. R. No. 292) directing the Secretary of War to sell damaged or unserviceable arms, ordnance, and ordnance stores; which was read a first and second time, and referred to the Committee on Military Affairs.

#### MEXICAN FREE PORTS.

Mr. BLAINE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Foreign Affairs be instructed to inquire whether the action of the Mexican Government in establishing free ports at Matamoros and other points on the Rio Grande is not in violation of treaty stipulations and unfriendly to the commercial rights of this country.

#### UNION PACIFIC RAILROAD, EASTERN DIVISION.

Mr. GRISWOLD, by unanimous consent, presented a memorial of the executive officers of railroads throughout the United States, in favor of extending the subsidy of the Union Pacific railroad, eastern division; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

#### AUDITOR OF ACCOUNTS.

Mr. STEVENS, of New Hampshire, introduced a joint resolution (H. R. No. 293) to provide for the appointment of an auditor of accounts; which was read a first and second time, and referred to the Committee on Accounts.

#### SUPPLIES TO EXPLORING EXPEDITION.

Mr. CULLOM. I ask the House, by unanimous consent, to take from the Speaker's table Senate amendments to the joint resolution (H. R. No. 251) authorizing the Secretary of War to furnish supplies to an exploring expedition.

There was no objection.

The amendments of the Senate were read, as follows:

#### First amendment:

In lines two and three strike out the words "such commissary and quartermaster stores to," and insert "rations for twenty-five men or."

#### Second amendment:

In lines four and five strike out the words "as may be necessary to enable the expedition to prosecute its work," and insert "while engaged in the work."

The amendments were concurred in.

#### REFERENCE OF BILLS, ETC.

Mr. CHANLER. I move to reconsider the various votes by which bills and joint resolutions have been referred this morning to committees; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, informed the House that the Senate had agreed to the following bill of the House without amendment, namely:

A bill (H. R. No. 1033) for the relief of Thomas McLean.

The message further announced that the Senate had agreed to the report of the committee of conference upon the joint resolution (H. R. No. 218) for the relief of John M. Palmer.

The message further announced that the Senate had passed a joint resolution (S. R. No. 143) for the relief of George W. Doty, a commander in the United States Navy on the retired list; in which the concurrence of the House was requested.

#### CIGAR-MAKERS.

Mr. BARNES, by unanimous consent, presented the petition of three hundred and twenty-five cigar-makers; which was referred to the Committee of Ways and Means.

#### EXTENSION OF A PATENT.

Mr. BARNES, by unanimous consent, also presented the petition of John Chilcott and Henry Ward Beecher, in reference to the extension of a patent; which was referred to the Committee on Patents.

#### CONCRETE STONE COMPANY.

Mr. COVODE, by unanimous consent, introduced a bill (H. R. No. 1207) to incorporate the District of Columbia Concrete Stone Company under Ransom's patent; which was read a first and second time, and referred to the Committee for the District of Columbia.

Mr. CHANIER moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### WHARVES IN OSWEGO HARBOR.

Mr. CHURCHILL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of War be directed to furnish any information in his possession or that

of the Chief of Engineers relating to the proposed construction of wharves in the harbor of Oswego, New York, and the propriety of said construction.

#### CONSOLIDATION OF INDIAN TRIBES.

Mr. VAN HORN, of Missouri, by unanimous consent, from the Committee on Indian Affairs, reported a bill (H. R. No. 1208) to provide for the consolidation of the Indian tribes, and to organize a system of Government in the Indian territory; which was read a first and second time, ordered to be printed, and recommitted.

#### REGULATION OF RAILROADS.

Mr. COOK, by unanimous consent, from the Committee on Roads and Canals, submitted a majority report, and also a minority report on behalf of Mr. KERR, in answer to a resolution of the House as to whether Congress has the constitutional right to regulate railroads so as to provide for the safety of passengers, proper connection and running of the roads, &c.; which were laid on the table, and ordered to be printed.

#### DWIGHT J. McCANN.

Mr. TAFTE, by unanimous consent, introduced a bill (H. R. No. 1209) for the relief of Dwight J. McCann; which was read a first and second time, and, with the accompanying papers, referred to the Committee of Claims.

#### WASHINGTON AND SCHUYLKILL RAILROAD.

Mr. CAKE, by unanimous consent, from the Committee on Roads and Canals, reported a bill (H. R. No. 1210) to authorize the building of a railroad from Washington city, District of Columbia, to the Schuylkill river, Schuylkill county, Pennsylvania; which was read a first and second time, recommitted, and ordered to be printed.

Mr. RANDALL moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the votes not reconsidered; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ENROLLED JOINT RESOLUTION AND BILL.

Mr. HOLMAN, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution and bill of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 251) authorizing the Secretary of War to furnish supplies to an exploring expedition; and

A bill (H. R. No. 1033) for the relief of Thomas McLean.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union, and resume the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The Clerk read the following section:

SEC. 75. *And be it further enacted*, That whenever a writ of error shall be issued for the revision of any judgment or decree in any criminal proceeding drawing in question the construction of any statute of the United States, in a court of any State, as is provided in the twenty-fifth section of an act entitled "An act to establish the judicial courts of the United States," passed September 24, 1789, the defendant, if charged with an offense bailable by the laws of such State, shall not be released from custody until a final judgment upon such writ, or until a bond, with sufficient sureties, in a reasonable sum, as ordered and approved by the State court, shall be given; and if the offense is not so bailable, until a final judgment upon the writ of error. Writs of error in criminal cases shall have precedence upon the docket of the Supreme Court of all cases to which the Government of the United States is not a party, excepting only such cases as the court, at their discretion, may decide to be of public importance.

No amendment being offered, the Clerk read the next section, as follows:

SEC. 76. *And be it further enacted*, That the provisions of the sixteenth section of the act approved August 6, 1846, entitled "An act to provide for the better organization of the Treasury, and for the collection, safe-keeping, transfer, and disbursement of the public revenue," are hereby applied to, and shall be construed to include, all officers of the internal revenue charged with the safe-keeping, transfer, or disbursement of the public moneys arising therefrom, and to all other persons having actual charge, custody, or control of moneys or accounts arising from the administration of the internal revenue.

No amendment being offered, the Clerk read as follows:

SEC. 77. *And be it further enacted*, That after the 1st day of June, 1868, no drawback of internal taxes paid on manufactures shall be allowed on the exportation of any article of domestic manufacture on which there is no internal tax at the time of exportation; nor shall such drawback be allowed in any case unless it shall be proved by sworn evidence in writing, to the satisfaction of the Commissioner of Internal Revenue, that the tax had been paid, and that such articles of manufacture were, prior to the 1st day of April, 1868, actually purchased or actually manufactured and contracted for, to be delivered for such exportation; and no claim for such drawback, or for any drawback of internal tax on exportations made prior to the 31st day of March, 1868, shall be paid unless presented to the Commissioner of Internal Revenue before the 1st day of October, 1868. And in no case shall any drawback of internal taxes be allowed on any article exported after the 1st day of January, 1869; and no claim for any drawback of internal taxes on exportations made from the 31st day of March, 1868, to the 1st day of January, 1869, shall be paid unless presented to the Commissioner of Internal Revenue before the 1st day of January, 1869. But upon articles manufactured exclusively from cotton exported prior to the 1st day of January, 1869, there shall be allowed as a drawback an amount equal to as many cents per pound of cotton-cloth, yarn, thread, or knit fabrics as shall have been assessed and paid in the form of an internal tax upon raw cotton entering into the manufacture of said cloth or other article, the amount of such allowance or drawback to be ascertained in such manner as may be prescribed by the Commissioner of Internal Revenue. No allowance of drawback shall be made for any amount less than ten dollars.

No amendment being offered, the Clerk read as follows:

SEC. 78. *And be it further enacted*, That if any person shall fraudulently claim or seek to obtain an allowance or drawback on goods, wares, or merchandise on which no internal tax shall have been paid, or shall fraudulently claim any greater allowance or drawback than the tax actually paid, such person shall forfeit triple the amount fraudulently claimed or sought to be obtained, or the sum of \$500, at the election of the Commissioner of Internal Revenue, to be recovered as in other cases of forfeiture.

Mr. SCHENCK. I move to amend by striking out the words "on which no internal tax shall have been paid."

The amendment was agreed to.

The Clerk read as follows:

SEC. 79. *And be it further enacted*, That if any person shall sell, or cause or allow to be sold, any goods, wares, or merchandise liable to any tax, before the tax thereon shall have been paid, with intent to evade such tax or any part thereof, any debt contracted by the sale of any such goods, wares, or merchandise, and any security given therefor, shall be entirely void, and the collection thereof shall not be enforced in any court, unless the same shall have been bona fide transferred to the hands of an innocent holder; and if any goods, wares, or merchandise so sold, shall have been paid for, in whole or in part, the sum so paid shall be deemed forfeited, and any person suing for the same in an action of debt, shall recover of the seller the amount so paid, one half to his own use and the other half to the use of the United States.

No amendment being offered, the Clerk read as follows:

SEC. 80. *And be it further enacted*, That it shall be the duty of every collector and assessor to report to the Commissioner of Internal Revenue, on the first day of every month, the bonds accepted and approved by him during the preceding month, giving the names of the principals and each of the sureties, amount of the bond, and for what purpose given; also, a list of all bonds in his office, whether accepted and approved by himself or by his predecessor or predecessors in office, which have matured and remained unsatisfied. It shall be the duty of every collector and assessor, and he is hereby required, to transmit, within forty-eight hours after maturity, exact copies of all bonds in his office which have been accepted under this act or any previous act, and which remain unsatisfied, to the district attorney of the district for prosecution, and he shall at the same time report to the Commissioner of Internal Revenue the fact of such transmission, with a description of each bond so transmitted. No collector, assessor, or other officer shall accept any bond given under the provisions of this act without indorsing his approval thereon, and the day when the same was accepted. Any collector or assessor, or other officer, who shall knowingly accept any false, forged, or fraudulent bond, given in any case in which a

bond is required under any provision of this act, or who shall accept any such bond, which at the time of such acceptance shall be insufficient and worthless, shall forfeit and pay \$1,000.

Mr. SCHENCK. I move to amend by inserting at the end of the section, the following:

And shall, moreover, be liable on his official bond for any loss which may accrue thereby to the United States.

The amendment was agreed to.

Mr. ROBERTSON. I move to amend the section in line twenty-four by inserting after the word "shall" the word "knowingly;" so that it shall read, "or who shall knowingly accept any such bond."

Mr. ALLISON. I do not think that amendment should be made. It is the business of the collector to know whether the bond is good or bad. That is a part of his duty.

Mr. ROBERTSON. As the section now reads—

Any collector or assessor, or other officer who shall knowingly accept any false, forged, or fraudulent bond, given in any case in which a bond is required under any provision of this act, or who shall accept any such bond which at the time of such acceptance shall be insufficient and worthless, shall forfeit and pay \$1,000.

That, in my opinion, is wrong, and the amendment I offer obviates the objection.

The amendment was disagreed to.

The Clerk read as follows:

SEC. 81. *And be it further enacted*, That every bond given or required under the provisions of this act shall have annexed thereto or indorsed thereon an affidavit of justification of each and every of the sureties thereto, who shall be residents of the county, or an adjoining county in the same State, or collection district in which such bond is given, and owners of real estate therein, the title to which shall be duly recorded; which affidavit shall be in such form and contain such statements and particulars touching the business, property, and responsibility of such surety as the Commissioner of Internal Revenue may prescribe. Such affidavit may be taken before the collector or any deputy collector, assessor, or any assistant assessor of the district, or before any United States officer having power to administer oaths. Any person who shall knowingly make any false statement in said affidavit shall be deemed guilty of perjury, and, on conviction, shall be imprisoned for a term not less than two years nor more than five years. Every official bond required and taken under the provisions of this act, unless otherwise by law provided, shall be returned to and preserved in the office of the Commissioner of Internal Revenue. All bonds given for the carrying on of business by distillers, rectifiers, brewers, distillers of oil, manufacturers of tobacco, snuff, and cigars, dealers in lottery tickets, or any other manufacturer or dealer, shall be preserved in the office of the assessor of the proper district, and shall be by him, for greater security and convenient reference, kept in book form and indexed; and immediately upon the taking of any such bond the assessor shall forward a copy thereof to the Commissioner of Internal Revenue.

No amendment being offered, the Clerk read as follows:

SEC. 82. *And be it further enacted*, That all bonds required to be given in connection with the transportation, warehousing, and exportation of any articles to be retained by the collector of internal revenue, accepting them, shall be prepared, bound, and preserved in book form in the office of said collector, and the principals and sureties shall sign the bonds in person at his office; and all oaths and affirmations in connection therewith shall be administered by the collector or his deputy at said office; and the form of any bond required by this act shall be prescribed by the Commissioner of Internal Revenue with such conditions as he may deem necessary or expedient in addition to those prescribed by law. All expenses attending the warehousing, transportation, removal, marking or branding, and storage of any articles intended for export shall be paid by the owners or exporters of the same, and be a charge thereon; and the same fees shall be paid for the execution of all papers, instruments, and documents relating to the exportation of any such articles as are charged to exporters for like services in the custom-house, and, in addition thereto, all expenses and services of officers of the United States attending the transfer to or from warehouse, transportation, lading, and shipment of any such articles, under any provisions of the internal revenue or customs laws, shall be paid by the owner or exporter thereof, to be paid to and collected by the collector of internal revenue, and by him to be paid into the Treasury of the United States, and accounted for like other public moneys. Any article so exported in bond and reimported into the United States shall be deemed to be of foreign production, and be liable to the same duty and tax, and subject to the same provisions of law as other similar articles of foreign production imported into the United States.

No amendment being offered, the Clerk read as follows:

SEC. 83. *And be it further enacted*, That any person who shall falsely or fraudulently execute or sign any



bond, permit, entry, or other document, required by the provisions of this act, or by any regulation made in pursuance thereof, or who shall procure the same to be falsely or fraudulently executed; or who shall advise, aid in, or connive at the execution thereof, shall, on conviction, be imprisoned for a term not less than one year nor more than five years; and the property to which such false or fraudulent instrument relates shall be forfeited.

No amendment being offered, the Clerk read as follows:

SEC. 84. *And be it further enacted*, That manual-labor schools and colleges and benevolent institutions shall not be required to pay any special tax on articles manufactured by the pupils or inmates thereof, or on the sales of such articles when the proceeds of such manufacture are applied exclusively to the support and maintenance of such institutions: *Provided*, That this exemption shall not apply to manufactures of tobacco, snuff, cigars, distilled spirits, or oil.

No amendment being offered, the Clerk read as follows:

SEC. 85. *And be it further enacted*, That any articles on the manufacture of which any special or specific internal tax is imposed may be purchased by, or for the use of, the United States free of such tax.

Mr. SCHENCK. I move to strike out the words "special or specific."

The amendment was agreed to.

Mr. SCHENCK. I move further to amend by adding at the end of the section the words, "under such regulations as the Commissioner of Internal Revenue may prescribe."

The amendment was agreed to.

The Clerk read, as follows:

#### Special Taxes.

SEC. 86. *And be it further enacted*, That every person engaged in or prosecuting any trade, business, or profession, hereinafter mentioned and described, shall pay a special tax therefor, as hereinafter provided, and shall furnish to the proper assistant assessor of the district in which he conducts or proposes to conduct any trade, business, or profession, a statement setting forth his name and residence, or if he be associated with others, the style of the firm or company, with the names and residences of each of the individuals constituting such firm or company, and the trade, business, or profession, and the place where it is to be carried on; if a peddler, under what class he proposes to be assessed; if an innkeeper, the yearly rental value of the house and property he proposes to occupy. All which facts shall be returned, duly certified by such assistant assessor, to both the assessor and collector of the district. And all such special taxes shall be for one year, and become due on the 1st day of May in each year; but on commencing any trade, business, or profession after the 1st day of May in any year shall be reckoned proportionately for that part of the year until the 1st day of May following. And the special tax shall be paid to the collector of the district, as hereinafter provided, who shall give a receipt therefor.

Mr. BUCKLAND. I move to amend this section by adding at the end the following:

*Provided*, That whenever any person engaged in or prosecuting any trade, business, or profession, after having paid the special tax required by this act, shall assign or transfer his whole business to any other person before the expiration of the year for which such tax has been paid, no additional tax shall be charged in consequence of such assignment or transfer for the unexpired portion of the year for which the tax has been paid.

I understand the rule now is to charge the same rate of tax to the assignee or transferee, notwithstanding the tax has been paid for the whole year by the seller. The object of this amendment is to change the rule in that respect.

Mr. HOOPER. If the gentleman will look at section ninety-two I think he will find that provided for. At any rate, if it is not, there would be the proper place for it.

Mr. BUCKLAND. This relates to special taxes, so called; that is another subject.

Mr. PRICE. I suggest to the gentleman from Massachusetts that that provision does not cover this case. A man takes out his license to-day. To-morrow he sells it to another party and makes a transfer. The party has to take out a new license. I understand the amendment of the gentleman from Ohio [Mr. BUCKLAND] is designed to cure that evil. It is not provided for in the ninety-second section.

Mr. BUCKLAND. I think the gentleman from Iowa is right, and that that section does not cover the point which my amendment is intended to cover.

Mr. ALLISON. I quite agree to that, and we do not want to have it cover it.

Mr. MAYNARD. I suggest to the gentle-

man from Ohio that his amendment would be more appropriate to section ninety-two.

Mr. BUCKLAND. I will withdraw it, then, for the present, and offer it when we reach that point.

Mr. SCHENCK. Before we pass to section eighty-seven, I desire to ask the consent of the committee to consider that section by clauses or paragraphs, as each clause is distinct.

The CHAIRMAN. The Chair was about to state that according to the usage, unless otherwise directed by the committee, the Chair will treat every paragraph as a section while the eighty-seventh section is under consideration.

Mr. WOODWARD. I move to strike out the eighty-sixth section, and I suppose if my motion prevails it will carry out the whole of the eighty-seventh section also, containing all the specifications. I do not know how other gentlemen feel, but I am willing to give them an opportunity to express their opinions as to taxing all these branches of industry in the community. It is only another mode—and not a very direct or honest mode of taxing the consumer. I do not understand it to be necessary to the Government that all these branches of business should be laid under the heavy hand of this Government in its taxing power. I admit the right of the Government to come down on the business interests in this manner. But I do not deem it necessary, and not being necessary, I deem it inexpedient to do it. I am opposed on principle to all this form of taxation. It is to be resorted to only in case of necessities which do not now exist.

I have not time in five minutes to enter into any larger view of this subject, nor have I any disposition to enter into a general discussion of the subject. If there are any gentlemen here who are for emancipating the industry and enterprise of this country from the most odious form of taxation that any Government ever found it necessary to lay upon them, they will vote for my amendment. I say that it is asking the people to bear too great a burden, to bear too irritating a burden, to adopt this mode of inquiring into the profits of every man's business and taxing him according to the enterprise and industry with which he is prosecuting his business. It is an odious tax. It is a tax which, I agree, the people will submit to if it be necessary, but it is not necessary in this case.

The English Government derives its revenue from very few objects of taxation, and those which interfere in the least possible manner with the industry and liberties of the people. This bill, in the sections which we are now considering, is founded upon exactly the reverse of that policy. It interferes with the business of the people in every possible particular. It descends into the minutest account of his affairs and requires him to exhibit them to the collector, to settle his accounts with the Government every year, and to pay a large tax upon his profits.

I have not time in five minutes to enter at large into this question, but I feel such repugnance to all this class of objects of taxation that I have made my motion in good faith to strike out this section; and if it were stricken out, I do not believe the harmony of the proportions of the bill would be impaired; I do not believe the Government would be harmed; I do think the people of this country would be very greatly relieved of a most disagreeable burden.

[Here the hammer fell.]

Mr. SCHENCK. I am very sorry that from the tone of voice in which the gentleman expressed himself it has been impossible for me to hear one single word of his objections or of the reasons by which he sustains his objection to this form of taxation. I understand his proposition to be to strike out all that relates to special taxes with a view to testing the judgment of this House on the propriety of that mode of raising revenue. To that I answer, in the first place, that it assumes importance from the amount of taxes derived from these objects of taxation. The whole amount during

the last year was \$18,186,446. By a readjustment of the special taxes and an extension of them, and by including as a part of the special taxes a tax on sales above a certain amount, it is probable that under this head will be included one of the largest sources of our revenue during the coming year.

Now, sir, why should we dispense with special taxes? It is objected that they are particularly odious, and are contrary to the genius of our institutions. These taxes are, perhaps, less felt than any others. They are taxes small in their amount, even in the gross levied upon particular persons; and so far as they are now increased by extending taxation to sales in proportion to the amount of those sales, instead of adding to the burdens of our people it will relieve them of a very heavy burden that was before imposed upon the industrial interests of the country, in the shape of a direct tax upon the commodities produced by different manufactures.

I hope that instead of adopting a sweeping proposition of this sort, and taking from the revenue the large amount which we can derive from this source for carrying on the Government, I hope gentlemen will content themselves, as we consider this section clause by clause, with making their comments or offering their amendments, if they have any to propose, to the particular subjects of taxation as we consider them. And it will be found as we go on that one large source of increased revenue from taxation of this sort is derived from our bringing upon the list at increased rates those things which are more purely objects and productions of luxury, articles involving the ministering to luxurious appetites.

For instance, we have increased largely the tax upon lottery managers, upon public amusements, upon the larger classes of hotels, &c. And to sustain the motion now made would cut off the possibility of reaching those subjects at all, as we propose to do. I hope no such amendment will prevail.

The question was then taken upon the amendment; and it was not agreed to.

Mr. LOUGHRIDGE. I move to amend section eighty-six by adding to it the following:

*Provided*, That in case of the change in the members of a firm such change shall be reported to the assistant assessor, and such change shall not be construed to require a new license or tax.

Mr. ALLISON. I would inform my colleague [Mr. LOUGHRIDGE] that that is already provided for in another part of the bill.

Mr. LOUGHRIDGE. I withdraw the amendment if that is the case.

No further amendment was offered.

The first paragraphs of the next section were then read, as follows:

SEC. 87. *And be it further enacted*, That the following special taxes shall be, and are hereby, imposed:

Retail dealers. Dealers whose business it is to sell or offer for sale any goods, wares, or merchandise, of foreign or domestic production, not including wines, spirits, malt, malt liquors, or crude petroleum, and whose annual sales exceed \$5,000 and do not exceed \$25,000, shall be regarded as retail dealers, and shall each pay twenty dollars. But any retail dealer of general merchandise who also sells or offers for sale tobacco, snuff, or cigars, shall pay an additional tax of five dollars, and shall pay five dollars, although his aggregate annual sales may be less than \$5,000.

Mr. HOLMAN. I move to amend by inserting before the clause relating to retail dealers the following paragraph:

There shall be assessed and collected on all bonds, the interest on which is payable at the Treasury of the United States, a tax of one and one-half per cent. per annum on the principal of said bonds; one half of such tax on all such bonds, the interest on which is payable semi-annually, shall be withheld by the proper officer of the Treasury from the semi-annual accruing interest on coupons at the time the same shall be paid; and the tax aforesaid on such of said bonds, the interest on which is payable annually, shall be withheld from the interest or coupons at the time of the payment thereof.

Mr. GARFIELD. I rise to a point of order: that this amendment is not germane to the subject of this section.

The CHAIRMAN. The Chair sustains the point of order. The amendment of the gentleman from Indiana [Mr. HOLMAN] does not

relate to a special tax, but provides for a general tax.

Mr. SCHENCK. I move to amend the paragraph by striking out all after the words "Retail dealers," at the beginning of the paragraph, and inserting in lieu thereof the following:

Every person whose business it is to sell or offer for sale any goods, wares, or merchandise of foreign or domestic production, not including wines, distilled spirits, malt, malt liquors, or crude petroleum, tobacco, snuff, or cigars, and whose annual sales exceed \$5,000 and do not exceed \$25,000, shall be regarded as a retail dealer, and shall pay twenty dollars.

The amendment was agreed to.

Mr. BLAIR. I move to amend by striking out the paragraph. I make this motion for the purpose of raising a question as to this method of taxation. It is a species of taxation which reaches every class of citizens in the country. It is in the nature of a direct tax upon every person in the land. I do not believe that there is a necessity for such a tax as this. My impression has been, from the beginning, that this bill is calculated to raise a larger tax than there is occasion to raise. I am willing, and the people of the country are willing, to pay such taxation as is necessary to meet the interest on the public debt and the expenses of the Government. I believe the people are not disposed to go beyond that. My impression is that this bill does go very far beyond that point, though I have not time to examine the figures to see how far this statement might be maintained.

The tax embraced in this paragraph is, I think, the most annoying one to be found in the whole bill. It falls upon everybody everywhere. For this reason I think this method of taxation ought not to be resorted to, unless it be necessary. That necessity I am not able to see. Hence I have submitted this motion. I believe that the true system of internal taxation is that stated awhile ago by the gentleman from Pennsylvania, [Mr. Woodward,] to confine the taxation to a few articles. Such a method of levying taxes operates with more uniformity and justice than the system embraced in this bill, and encounters less hostility in its administration. It admits of a selection of the branches of business that can best bear taxation. This paragraph makes no distinction whatever. The man who deals in the necessities of life must pay his tax (or rather the consumer of these necessities must pay it) as much as he who deals in luxuries. The paragraph makes no distinction, and I observe that these special taxes are very numerous, reaching the business of the country in various ways.

A few months ago Congress passed an act removing from the manufacturing industry of the country the special taxation. Now, I must confess that this bill looks to me like an earnest attempt to bring it all back again in other shapes. This bill appears to me as calculated to put back again upon the industry of the country the greater part of that which was taken off by the bill which we passed in the earlier part of the session. I cannot approve such a proposition. I do not believe that the industry of the people will stand this burden. Hence I am opposed to this section. I am opposed to levying upon the productive industry of the country all taxes which are not absolutely essential. I do not believe that the taxes contemplated in this paragraph are required for the revenues of the Government. On the contrary, I believe that if taxation be properly levied upon those things which are either in the nature of luxuries or useless articles, like liquors, tobacco, and things of that sort, we shall realize a sufficient amount of revenue for the purposes of the Government.

Now, it is said that the system of taxation embraced in this paragraph is proper and should be maintained, because the taxes are easily collected. Most undoubtedly these taxes are very easily collected; but I submit that this ought not to be the rule for levying taxes. The rule ought to have regard to the interests of the people. We should consider what they

can most easily pay, not what is most easily collected. It would be easier perhaps to confiscate the property of the citizen than to assess and collect taxes in the method we now pursue.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, there are two or three points in the argument submitted by the gentleman from Michigan [Mr. BLAIR] to which I think it proper to advert. In the first place, the gentleman is mistaken in opposing this section on the ground that it bears heavily upon the productive industry of the country. The truth is, this is one of those provisions by which we are seeking to relieve the productive industry of the country by putting our taxation upon that which is not the labor of production but which is the mere exchange of commodities. This is not a tax upon manufactures, it is not a tax upon labor, but it is a tax upon commercial transactions.

The present law imposes a tax of ten dollars upon retail dealers from \$1,000 up to \$25,000, according to the amount of their business. The committee believed that the same amount could be raised by taxing the larger dealers engaged in the retail trade, including those between \$5,000 and \$25,000, and releasing altogether from taxation every dealer whose business does not amount to \$5,000. This was proposed not so much for the benefit of the dealers themselves as for the convenience and advantage of the citizens of the country at large. We propose that those who have their little shops and stores at the cross roads and in the small villages and hamlets of the country, who do not sell an amount equal to \$5,000 a year, shall be relieved from any special tax whatever, and that is the purpose of this bill. While we have increased the amount of the special tax with a view to obtaining as much, if possible, as under the present law, we have released everything below \$5,000.

The gentleman says by this and other special taxes we will obtain too much money. I wish I was as much afraid of that as he. I have endeavored to give this House, after a careful examination of the subject, with all the aids I could obtain in the several departments, estimates of receipts and expenditures for the coming year and an estimate of what may be produced under this bill. I made out a balance of \$50,000,000 in the Treasury over and above absolute expenditures, and I advised the House then, and I repeat now, that out of that \$50,000,000 must come whatever bounty you pay to the soldiers, which is not one of the annual expenditures, and whatever you pay to private claimants; in short, whatever appropriations Congress, outside of the regular necessary normal expenses, may make from time to time; \$50,000,000 is small enough margin for that. Indeed, the bounties for the coming year, I am informed, will amount to \$40,000,000.

Mr. MILLER. I should like to know how much the gentleman expects to get from the tax on retail dealers?

Mr. SCHENCK. We suppose we can raise quite as much as during the last year, when it was \$2,047,000.

Mr. BLAINE. I desire to ask the chairman whether the special complaint was not from the class below \$5,000?

Mr. SCHENCK. Yes, sir.

Mr. BLAINE. I move to strike out the last word. It seems to me this is an important paragraph, and ought to be considered carefully. I think the *status quo* is not worse than the attempted increase. Here is a very large increase on retail dealers. Men on one side of the street below \$5,000 go free, while the tax upon a man on the other side of \$5,500 has to pay an increased tax. One pays nothing and the other has an increased tax of from ten dollars to twenty dollars. I confess I would prefer to have the law left as it is. The gentleman says on the question of revenue it would be better. I am against all changes merely for the purpose of change.

Mr. HARDING. I hope the committee will determine to retain this clause. It is extremely

essential. But yesterday this House determined to vote an additional compensation of two or three millions. I understand that we are going to vote thirty-three and one third per cent. extra to officers of the Army. I will remind my friend from Pennsylvania that in supporting these liberal appropriations, twenty per cent. extra for a special class, it will be indispensable that we should tax retail dealers; that we must tax the retail dealers of the whole country to get the amount of money contemplated in these extra compensation appropriations. I shall therefore vote to retain these measures. I think we should tax the many for the benefit of the few, and therefore I hope, at the suggestion of the gentleman from Pennsylvania, who is always found with the class of liberal voters, this will be retained. [Laughter.]

Mr. BLAINE. I withdraw the amendment.

Mr. SCHENCK. I renew it for the purpose of making a single remark. I thank the gentleman from Illinois for his warm and earnest support.

I will say to the gentleman from Maine, upon whatever principle of human nature it may be founded—whether founded on ambition or otherwise—wherever a distinction is made between wholesale and retail dealers, between two classes of dealers in commodities, there is a desire to be in the principal class even if compelled to pay ten or twenty dollars. They want to be considered on the side of the street where \$5,500 or \$10,000 dealers are, and not as being among the small fry. We relieve everybody who sell under \$5,000.

Mr. COVODE. I dislike to disagree with the chairman of the committee. I think it would be better to put a ten dollar tax on small dealers. It is hard generally for retail dealers in the country to be able to determine whether their sales are more or less than \$5,000. If this pass they will be careful to keep accounts, so as to make their sales appear below \$5,000. I am satisfied that a great number of retailers will in that way get rid of paying taxes altogether; and the safe way would be to keep the ten dollar tax on.

Mr. BLAINE. This Congress, under the lead of the chairman of the Committee of Ways and Means, has prided itself on removing taxes. We have taken off the cotton tax and the manufacturer's tax. I am not therefore disposed to begin on a plan of increasing the tax in some directions because we have entirely relieved them in others. I maintain if we take off the tax on manufactures and reach a class of the community who are now entirely exempt, it is an odious thing to take out a large class of retail dealers throughout the length and breadth of the United States, who have heretofore paid a tax of ten dollars on a thousand and to now double that license upon them. I for one am opposed to it, tooth and nail. I believe it is one of those taxes that are unjustifiable and odious in the extreme.

The amendment of Mr. BLAINE was disagreed to—yes twenty-eight, noes not counted.

Mr. BLAINE. I move to amend by striking out twenty dollars in line eight and inserting ten dollars. And I will say, if the chairman of the committee, from whom I always differ with reluctance, desires to bring back the \$5,000 to \$1,000, I shall certainly second him in making that motion. But I content myself now with moving to strike out twenty dollars and insert ten dollars, leaving the license tax where it always has been.

Mr. SCHENCK. Mr. Chairman, I desire in the very beginning to make this general announcement to the House. We have not been alone engaged in reducing taxes, although in very large fields of industry a very great reduction has been and will be accomplished; but we have also been engaged in readjusting taxes and equalizing them; a matter of just as much moment.

Now, what is the tax proposed on the retail dealer? From twenty dollars up to \$25,000, or an average of less than one tenth of one per cent. Now, if the manufacturers are willing, being relieved from their former burden to pay

two tenths of one per cent., is it too much to ask of these traders that they shall pay half as much? The object is one, as I say, of readjustment. Well, in the course of this readjustment for the benefit not so much of the trader as of the mass of the people, we have concluded to remit altogether the tax upon the exceedingly small trader by bringing it down to a minimum of only \$5,000, releasing all below that amount. Now, by putting it upon those who do a business of from \$5,000 to \$25,000, so as not to make the average equal to one tenth of one per cent., we are able to accomplish this and get as much revenue.

Now, sir, in regard to the amount of tax to be levied, I desire those who have the controlling majority in this House to remember that when the committee reported this bill they reported it with reference to what you have either already provided by your bills that have been passed, or what you are providing for in bills that are now pending. And it will be for the majority of this Congress to determine whether they will go for such readjustment of taxation, such release of a portion of the taxes, and such equalization of taxes in every respect recommended by the committee in the main as will secure the credit of the country by providing for everything that with another voice you are engaged in voting away.

The gentleman says it can make no question here, because we can get about as much tax if we put a tax of only ten dollars upon the dealer up to \$25,000 and tax the dealer down to \$1,000 as if we released all below \$5,000. Perhaps it may be so, but then we violate this other policy which the committee have attempted to follow of releasing the small trader and the small dealer and the small manufacturer throughout the country. When you come to your manufacturer's tax you will find, although we put a tax of ten dollars upon small dealers and manufacturers, then a per centage of two tenths of one per cent., according to the character of the manufacturer, yet we do not tax any of the manufacturers engaged in any of the ordinary kinds of industry below \$5,000. We do not even tax him his ten dollars upon the principle which we suppose this Congress will certainly sustain of reviving, lifting up, and giving exemption to all those who may be considered likely to be hampered by any tax imposed upon them at all, because of the narrowness of their means and the smallness of the business in which they are engaged.

[Here the hammer fell.]

Mr. BLAINE. I move to amend the amendment by striking out one dollar. I desire to call the attention of the committee to one feature in the bill, and I have to repeat that this section proposes to double the tax on a very large class numbered by thousands and tens of thousands throughout the United States. Now, my friend proposes to tax the retail dealer who shall sell one dollar's worth over \$5,000 twenty dollars; and the same bill, on page 108, imposes a tax of ten dollars on the lawyer whose gross annual receipts do not exceed \$3,000. A lawyer, then, in a country town may receive \$3,000 a year, all of which is profit, and pay ten dollars tax, while the trader who sells \$5,000 worth of goods, on which his profit is very small indeed, pays double the amount of tax.

Mr. SCHENCK. The trader pays nothing at all until his sales reach \$5,000.

Mr. BLAINE. But if his sales reach \$100 over \$5,000 he pays a tax of twenty dollars, while the lawyer who has a net income of \$3,000 only pays ten dollars.

Now, I say this, that the existing tax, whether it be just or unjust, is one to which the people are accustomed. It is one to which they have been used for five, six, or seven years, and it is now proposed to change it without adding anything to the revenue.

Mr. MAYNARD. Does the gentleman think it will make any difference with the people?

Mr. BLAINE. It will make a difference with the people who have to pay the tax. I suppose in this unfeeling world it does not

make much difference to those who do not, because other people's miseries are very easy to bear. But those who have to pay the tax will complain, and to my mind it is an unjust tax.

Mr. MAYNARD. A tax of ten dollars on sales over \$5,000 is not very enormous.

Mr. BLAINE. On the enormous sale of \$5,000, he might possibly have a profit of twelve per cent., which would give him the large annual receipt of \$600 net, on which he is to pay a tax of twenty dollars. I withdraw my amendment to the amendment, and ask for a vote on my original amendment.

The question was put on Mr. BLAINE's amendment; and there were—ayes 82, noes 30; no quorum voting.

Mr. SCHENCK called for tellers.

Tellers were ordered; and Messrs. BLAINE, and HOOPER of Massachusetts, were appointed.

The committee divided; and the tellers reported—ayes 43, noes 54.

So the amendment was rejected.

Mr. BARNES. I move to amend the paragraph by striking out the words "and whose annual sales exceed \$5,000 and do not exceed \$25,000, shall be regarded as retail dealers, and shall each pay twenty dollars," and inserting in lieu thereof the words "shall pay ten dollars and one tenth of one per cent. on the excess over \$5,000."

Mr. Chairman, as the bill now stands it taxes the dealer who sells \$5,000 worth of goods as much as it does one who sells \$25,000 worth. It is very difficult for the committee to make the dividing line between the different classes of traders. For myself, I have been unable to see the necessity of defining retail dealers and wholesale dealers. In one section of the country, or in one part of a city, a retail dealer sells \$1,000,000 of goods, and in the same city or in the same section of country a wholesale dealer sells but \$25,000 worth. There is really no distinct idea conveyed with reference to the amount of business by the words "retail" and "wholesale." I believe there are wholesale dealers in the district represented by the chairman of the Committee of Ways and Means in Ohio, who are exclusively wholesale merchants, whose annual sales do not exceed from \$50,000 to \$100,000.

There are retail dealers in the city where I reside whose sales amount to \$1,000,000 annually. Now, it certainly is fair and just that dealers be taxed in proportion to the amount of sales they actually make, whether they are called retail dealers or wholesale dealers. In my estimation \$5,000 is a fair exemption, and must be satisfactory to the small dealers who can extend their business, and makes no invidious distinction between the merchant whose sales are \$6,000 and the merchant whose sales amount to \$25,000.

Mr. SCHENCK. There is, perhaps, not so much out of the way in the principle of the amendment of the gentleman from New York, [Mr. BARNES.] The argument against it is one of convenience. When you come to the wholesale dealer, whose sales amount to \$25,000 and upward, and charge him, as you do manufacturers, a tax of one fifth of one per cent., and require him to make out a monthly return of his sales, you require of him what he can conveniently do. Doing a business of that amount, he has his clerks and his book-keeper, and thus it is not a troublesome matter to him. But the small dealer has not the force at his command to make out these monthly returns so conveniently. We have, therefore, put in a gross sum, as has been the practice with the Government from the beginning, for this reason—for it is founded on reason: we place a gross sum on these small dealers, and do not require them to make these regular returns, which are not so inconvenient to the large dealers who keep a staff of employees.

If, however, we should resort to the principle of percentage, I would call attention to the fact that when you get above \$5,000 the amendment of the gentleman would impose a tax of only one tenth of one per cent.

while the manufacturer pays a tax of two tenths of one per cent. I do not think the sympathy of the country should be excited particularly in favor of the trading class, the commercial interest, the men who merely exchange the commodities of others, over the man who by his own labor produces and adds to the wealth of the country.

As I said at the beginning of my remarks, I object to the amendment merely on the ground of inconvenience. And there is so much in that objection, that from the first it has been found expedient not to demand that which requires a great deal of clerical force for its performance from the small operators or traders. I hope the amendment will not be adopted.

The question was then taken upon the amendment of Mr. BARNES, and it was not agreed to.

Mr. ROSS. I move to amend this paragraph by striking out the words "tobacco, snuff, or cigars." I do not understand why retail dealers should not be allowed to sell tobacco, snuff, and cigars, if they want to do so, as well as to sell anything else. I know of no reason for a particular tax on those articles.

Mr. ALLISON. I rise to a point of order. The Committee of the Whole have already adopted these words.

Mr. SCHENCK. I moved an amendment, on behalf of the Committee of Ways and Means, as a substitute for the original paragraph, embracing the words the gentleman from Illinois [Mr. Ross] now moves to strike out. The proper time for this amendment was while my amendment was pending. The Committee of the Whole having adopted my amendment, it is not in order to move to strike out any portion of it.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment of the gentleman from Illinois out of order.

Mr. PILE. I move to amend this paragraph by striking out "twenty-five" and inserting "fifteen," also, by inserting after the word "dollars" the words "retail dealers whose annual sales exceed \$1,000 and do not exceed \$5,000, shall each pay five dollars."

Mr. HOOPER, of Massachusetts. I raise the same point of order on this amendment that was raised on the amendment of the gentleman from Illinois, [Mr. Ross,] that the Committee of the Whole have already adopted these words, and it is not in order to strike them out.

The CHAIRMAN. The Chair sustains the point of order, and rules the amendment out of order.

No further amendment was offered.

The next paragraph was read, as follows:

Wholesale dealers. Dealers, whose business it is for themselves, or on commission, to sell or offer for sale any goods, wares, or merchandise, of foreign or domestic production, not including wines, spirits, malt, or malt liquor, crude petroleum, tobacco, snuff, or cigars, and whose annual sales exceed \$25,000, shall each pay fifty dollars, and two dollars for every additional \$1,000 in excess of \$25,000; but in making the assessment on such excess of sales a deduction shall be allowed of all sales included in the return, which shall be shown to have been made by or through another wholesale dealer, or by or through an auctioneer, such other wholesale dealer or auctioneer having included such sales in the returns made by him to the assessor or assistant assessor of the district in which he is doing business. The payment of the special tax, as a wholesale dealer, shall not exempt any such person, acting also as a commercial broker, from the payment of the special tax imposed upon commercial brokers.

Mr. SCHENCK. I move to amend this paragraph by striking out all after the first words "wholesale dealers," and inserting in lieu thereof the following:

Every person whose business it is for himself, or on commission to sell or offer for sale any goods, wares, or merchandise of foreign or domestic production, not including wines, spirits, malt, or malt liquor, crude petroleum, tobacco, snuff, or cigars, and whose annual sales exceed \$25,000, shall be regarded as a wholesale dealer and shall pay fifty dollars, and two dollars for every additional \$1,000 in excess of \$25,000; but in making the assessment on such excess of sales a deduction shall be allowed of all sales included in the return which shall be shown to have been made as the special agent for and on account of a manufacturer, and sales made by or through another wholesale dealer, or by or through an auctioneer, such manufacturer or other wholesale dealer or auctioneer having included such sales in the returns made by him to the



assessor or assistant assessor of the district in which he is doing business. The payment of the special tax, as a wholesale dealer, shall not exempt any such person, acting also as a commercial broker, from the payment of the special tax imposed upon commercial brokers.

Mr. INGERSOLL. I move to amend by striking out in the first clause of the pending paragraph the words "two dollars" in line nineteen, and inserting in lieu thereof the words "one dollar;" so that it will read, "and one dollar for every additional \$1,000 in excess of \$25,000." It seems to me that the provision of this paragraph, as it now stands, is calculated to impose a very heavy burden on the wholesale grocery dealers throughout the country. This tax is imposed without reference to the question whether they make any profit on their business. A grocer selling goods to the amount of \$500,000 in a single year may lose during that year in the course of his business \$50,000. Yet, under the provisions of this section he is required to pay nearly one thousand dollars over and above the special tax of fifty dollars, for the privilege of losing that amount of money. As I understand, there is no exception to this rule. How would the provision operate? A wholesale grocer, for instance, does a business of \$500,000, or perhaps more annually; and there are perhaps several such in my own town. In the city of Chicago there are doubtless a hundred houses doing an annual business of from \$5,000,000 to perhaps \$12,000,000. Yet, one of these houses may lose from \$50,000 to \$500,000 a year, and still it is required to pay not only the special tax, but two dollars for every \$1,000 in excess of \$25,000. I understand that under the present law the tax assessed upon this class of business men is one dollar on every \$1,000. The Committee of Ways and Means now propose to double that tax. I do not see why we should double it while we at the same time take off the tax on manufactures. When we are lessening the tax upon many branches of industry why should this tax be doubled?

Mr. PILE. Does the gentleman mean to say that there are either in Peoria or in Chicago grocers selling goods to the amount of from five or six million dollars annually to \$12,000,000?

Mr. INGERSOLL. Not in Peoria; but we have them there doing a business of \$500,000 annually.

Mr. PILE. I do not think there is a grocer in the Mississippi valley who sells goods to the amount of \$8,000,000 annually, certainly none selling \$12,000,000 or even \$6,000,000.

Mr. INGERSOLL. I appeal to my colleague from Chicago, [Mr. JUDG.] who sits beside me, to speak as to the amount of business done by houses in that city. He informs me that there are grocery dealers there doing a business of \$3,000,000 annually, while some of the dry-goods houses sell goods to the amount of \$12,000,000 in a year. Well, sir, the dry-goods dealer who does a business of \$12,000,000 is included in this paragraph. I hope the tax of two dollars will be stricken out and one dollar inserted.

Mr. SCHENCK. Mr. Chairman, I am compelled to repeat the statement that the Committee of Ways and Means have had in view not merely a general decrease of taxes, but a readjustment of them. They found the law making a distinction against labor and in favor of trade. They have not sought to frame a law in favor of labor and against trade, but to put trade and labor upon a fair and equal footing. We have released the industrial interests of the country; your shoemakers, your hatters, your cabinet-makers, &c., from the heavy burdens which were imposed upon their manufactures, while they were in numberless instances paying from two to five per cent. *ad valorem* upon the commodities produced by them; and we have remitted them to a system with which they are well satisfied, under which they pay two tenths of one per cent. upon their sales of above \$5,000. In view of our action in that respect, we have thought it fair to bring the commercial portion of the community,

the traders of the land, up at least to the same footing. That is just what this bill proposes; that your wholesale dealer shall pay no more and no less than the small per centage of two tenths of one per cent. upon his sales, while your manufacturer who, by his commodity, adds to the wealth of the country, is doing the same thing. I say without reservation that if I were to make a distinction in this respect, I would rather make that distinction in favor of the producing interests—the interests of those who add to the wealth of the country, than to make it in favor of those who, being but traders, are only engaged in exchanging the commodities of the country. We have not, however, sought to make invidious distinctions in any way, but to readjust matters in such a manner as to put labor and trade upon a fair and equal footing. It may be that there are those who sell goods to the amount of millions, and pay large taxes. I apprehend that the reason their taxes are so large is that they do so much business and have so much capital. Mr. INGERSOLL. But their profits are not necessarily large.

Mr. SCHENCK. Their profits are very apt to be in proportion to the amount of business they do; otherwise they would not go on doing it. I hope we shall not legislate in favor of trade as against labor any more than in the other direction.

Mr. BLAIR. I move a *pro forma* amendment.

The CHAIRMAN. Does the gentleman from Ohio move his amendment in the nature of a substitute for the pending paragraph?

Mr. SCHENCK. I do. It is a verbal change with the exception of one line or two. It preserves the features of the paragraph.

Mr. INGERSOLL. My amendment is to the substitute.

The CHAIRMAN. So the Chair understands.

Mr. BLAIR. I wish, Mr. Chairman to say a few words in addition to my previous reply to the chairman of the committee. He seems to argue, if he takes the tax off the manufacturers and puts it upon the sale of the article, therefore he has relieved labor and put the burden upon commercial men. He mentioned the manufacturer of shoes. He takes off the tax directly on the manufacture of shoes and turns around and levies it upon the man who sells the shoes. Is the laborer benefited by that?

Mr. SCHENCK. The gentleman has inadvertently fallen into a misapprehension in supposing the man who sells the shoes is not taxed at all, for part of his special tax is a tax of two tenths of one per cent. upon all sales made by the manufacturer himself of shoes above \$5,000.

Mr. BLAIR. What I say to the House, and that is the sum of all I desire to say, is that there can be no method by which a tax can be levied on sales which will not operate as a tax on the manufacturer. It comes back in every instance upon the production of the country. The tax that is levied upon the seller is not a tax upon his commercial transaction. It is a tax upon the article he sells. It must come out of it in the end. We all understand that the party who produces the article pays the tax. It must come back to the seller. It seems to me immaterial whether you tax the manufacturer of the article or put a tax on its sale. It is the same burden upon the manufacturer and on the labor of the country. My opinion is that taxes of every character which are on things useful and necessary are taxes upon the business and labor of the country. It comes to this finally, that the labor of the land has to pay the taxes of the land.

Mr. GARFIELD. Does not all taxation fall on labor at last?

Mr. BLAIR. Most certainly, in a certain sense. There is a tax on ardent spirits, and there is an industry connected with it, but it is not a useful industry. There are industries connected with luxuries, which if depressed

are not injurious to the country. One great object is to get taxes levied upon articles of luxury, articles not essential to life.

Mr. MULLINS. I wish to say a few words in reply to the gentleman from Michigan. The idea he advances is that if you levy the tax upon the individual who sells, sooner or later that tax is imposed upon the labor of the country. Now, will any one adopt that theory as correct? In point of fact I hold it is not the case. How do I make this appear? The manufacturer who makes the shoes is not taxed. The object is to remove taxation from the producer, and the man who pays the tax is the consumer. The object in taxing the seller is to keep up the manufacturers. If the seller does not like his position let him become a producer. We tax these non-producers and especially screen the producers. We want to increase as much as possible the number of producers. And by the way it is stopping importation of goods that come in and make a heavy drain upon the Government of the United States. That is the channel through which the great laboring oar to-day is being worked and has been worked from the foundation of the Government. And it was because you have not the raw material nor the manufactured article produced in your own country.

I see nothing improper in the manner in which this tax bill has been brought before this committee. It is intended to divide the burden, as far as possible, between the laborer and producer—to let it come a little more heavily on the salesman. I can see nothing wrong in it, but I see a grand principle of right. Produce the wealth, and I will warrant you will find the country floating with ease over heavy debt and obtaining quick relief. But if wealth is produced, and you tax the producers to death, until his muscles are paralyzed and his energies break down, your country will cease to yield. It will become barren, and being barren, how can you feed your people or pay your debt?

[Here the hammer fell.]

Mr. BLAIR. I withdrew the amendment.

Mr. ELA. The gentleman from Illinois [Mr. INGERSOLL] has taken the ground that this tax bears heavily upon those men who do not realize profits from their business or trade. Now, I grant that all taxes eventually come from the labor of the country, as the gentleman from Michigan [Mr. BLAIR] says; yet by this process of distribution it is made more equal upon that labor. For instance, while the tax was levied on the manufacturer alone I knew some manufacturing establishments in my district that were losing \$50,000 every six months; and yet you levied upon them a tax of five per cent. Now, by changing that, as here proposed, in the event that all manufacturers lose, you levy only two tenths of one per cent. upon the manufacturer, and you get two tenths of one per cent. more from the party who makes the sale. Instead of spreading the whole loss upon one class you spread it all over the country wherever the sales are made. I now renew the amendment.

Mr. ALLISON. I oppose it.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. INGERSOLL. I renew it, which gives me a right to be heard.

Mr. ALLISON. I rise to a point of order. The gentleman cannot debate it.

The CHAIRMAN. Objection being made, the gentleman cannot renew it.

Mr. INGERSOLL. I rise to a point of order. I made an amendment to strike out two and insert one. I withdrew it at the suggestion of the gentleman from Michigan [Mr. BLAIR] that he might renew it. He spoke to it, and after speaking withdrew it. The gentleman from New Hampshire [Mr. ELA] renewed it, and after he had spoken withdrew it.

The CHAIRMAN. Then the gentleman from Iowa [Mr. ALLISON] rose and opposed it and took his seat, which closed the debate upon that amendment.

Mr. INGERSOLL. Then I understand the

amendment was not pending because the gentleman had not renewed it?

The CHAIRMAN. The gentleman from New Hampshire [Mr. ELA] renewed the amendment, and the question now is on the amendment proposed by him.

Mr. BARNES. I move to amend.

The CHAIRMAN. No amendment is now in order.

Mr. WELKER. I rise to a point of order. I suggest that as my friend from Illinois [Mr. INGERSOLL] has farmed out his amendment so often he certainly ought to lose the benefit of it.

Mr. INGERSOLL. Not unless it is voted down.

Mr. BARNES. Is it not in order to move to strike out one dollar and insert fifty cents?

The CHAIRMAN. Not until the pending amendment to the amendment is disposed of. The amendment was disagreed to.

Mr. ALLISON. I move to insert before the word "wines" in the substitute now pending the word "breadstuffs," so that the latter may be also exempt from this provision.

I have listened with a great deal of interest to remarks made by gentlemen on this subject. Most of them seem to believe that this tax comes from the consumer. In case of breadstuffs it must certainly come from the consumer or producer, and it seems to me in either event that this article should not be taxed even to the extent of two tenths of one per cent. The men in this country who create bread and the men who consume it comprise the entire population of the country, and I believe if there is any article that should be exempt from taxation it is this article of breadstuffs. I hope, therefore, that by the unanimous consent of the committee breadstuffs may be inserted so that they may be exempt from this taxation.

Mr. HOOPER, of Massachusetts. Will the gentleman accept an amendment to include clothing?

Mr. ALLISON. No, sir; because a man may get on without good clothes, but he must have bread.

Mr. SCHENCK. The gentleman proposes to add to these articles which are to be exempt from taxation under this clause breadstuffs. Now, wines, distilled spirits, malt liquors, and so on, are reserved, not in order that they shall be exempted, but because they are provided for elsewhere on a different footing. The gentleman proposes to except breadstuffs, not with a view of proposing to provide for them elsewhere, but to have them go clear altogether.

This is a question of taxing traders. The gentleman proceeds upon the supposition that the man who sells ten thousand barrels of flour does it as a benevolent individual whose desire is simply to feed the poor. Now, I apprehend that the purpose of the trader is to make money, and that whether he deals in breadstuffs or in shoes or in clothes or in cabinet-ware it is pretty much all the same thing. The gentleman says, however, that this is a tax which falls, like all other taxes, eventually upon the consumer. To how great an extent? A barrel of flour at an average in my town, where we make a great deal of it—I represent a good deal of this breadstuff interest—is worth, say ten dollars. The tax of two tenths of one per cent. would require the miller, in the first place, as the manufacturer, to pay two cents on the barrel, and the wholesale dealer would be required to pay two cents more of tax than he otherwise would. I doubt very much whether any man is going to pay two cents more or less for this tax for his barrel of flour. But it will matter very much to the Government whether they get this two tenths of one per cent. or not.

But the gentleman proceeds, as do other gentlemen who would exempt lumber and various other things, under this great misapprehension; they confound the thing in which the man trades with the interest he has in the trade. I repeat, I do not look upon those who deal in what is consumed generally by the

people, and by the poor as well as by the rich, as benevolent individuals who have nothing so much at heart as to take care of the population of the country. I look upon them as I do upon any other traders, as men investing their capital with the best advantage they can so as to make more money out of it. As such I would tax them all alike. But if you begin this system of exemptions, and if you are to look upon these traders in breadstuffs as kind, pious dealers who must be relieved from these heavy burdens because of the articles in which they trade, what will the gentleman say as to shoes; what will the gentleman say as to clothes; what will he say as to that which covers the outside of the body as well as that which is put within? It is true that a man must eat and drink, but in a country professing to be civilized, and where clothing is one of our requisites as well as food, those articles which I have named stand upon pretty much the same footing as food.

But again: if you except breadstuffs you must except everything else in the shape of food and let it go clear, not only flour, but all else that serves in any degree as food for man. The true principle is to tax the capital employed, no matter for what purpose it may be employed. There are certain articles of mere luxury, such as billiard-tables, playing-cards, &c., as gentlemen very well understand, which we tax considerably more. We do it upon the principle that if we tax them so very high, it will only increase the cost to the consumers of a class of articles that it is not desirable should be very cheap.

As I would not consent to make a distinction in favor of trade against labor, so I will not, for one, consent to make a distinction between the different kinds of trade, where they deal in those articles which are of common use, and not consumed merely by a particular class of people.

The question was then taken upon the amendment of Mr. ALLISON: and upon a division, there were—ayes fourteen, noes not counted.

So the amendment was not agreed to.

Mr. BARNES. I move to amend the clause relating to the tax upon every additional \$1,000 in excess of \$25,000, by striking out "two dollars" and inserting "\$1.50." I desire to offer a few remarks in reference to the manner of collecting the tax.

I am not prepared to say that two tenths of one per cent. is too high a tax for wholesale dealers to pay upon the sales of commodities which they handle. I am not prepared to say that one half of one per cent. would be too high; nor am I prepared to say that one tenth of one per cent. would not be too high. I am of the opinion, however, that it is not necessary to tax those articles in the hands of merchants and middle men and likewise tax them in the hands of manufacturers.

For instance, the manufacturer of axes, if his productions are taxed at his door when they leave the furnace, at a rate which is satisfactory to the Government, is more easily reached by the revenue department, the same end is attained by the Government, and a large expense is saved in the revenue system. And the same principle is applicable to the manufacture of every article referred to in this bill. I am in favor either of taxing every article of production in the hands of the manufacturer, or, if it is exempted, then of taxing it only in the hands of the merchant.

But this bill has been framed upon a theory which largely increases the expenses of the revenue department. Of course it is to be supposed that the Committee of Ways and Means have arrived at the best estimate of the amount of taxes to be derived from these two different sources, and probably the amount levied upon the manufacturer, together with the amount levied upon the merchant, will produce the amount desired by the Government. I am not disputing the amount of tax which the committee expect to derive from those sources. I simply desire to submit to the Committee of the Whole a proposition

which I have no doubt has been discussed by the Committee of Ways and Means, whether it is necessary to tax the business of the country to have a tax on sales? If it is, I am inclined to think that, upon a full revision of the subject with reference to our domestic industry and foreign industry, which might perhaps be interfered with by this tax, the tax on sales might be the most popular and beneficial means to be devised. If so, I am in favor of voting for just that amount of tax to be levied upon dealers which shall be deemed necessary, whether one half of one per cent., or one per cent., or two per cent. I am not standing here to advocate the claims or interest of any class of dealers, or to say that they shall be exempt.

I do not think they can be exempted where-ever the tax is levied; but this bill not only opens the door for different classes of trades to come here and get reductions upon their particular interests, but opens likewise a competition between the manufacturer and the middle man. If we start upon the proposition that no article shall be taxed in the hands of the manufacturer, so far as it is possible to make the idea practicable, it seems to me the Government would be largely benefited in the saving of expenditure, while the details of the department would be much less.

I withdraw my amendment, which I only offered for the purpose of submitting these remarks.

The amendment of Mr. SCHENCK was then agreed to.

No further amendment being offered, the next paragraph was read, as follows:

Banks using or employing a capital not exceeding the sum of \$50,000, and banks chartered, or banks organized under a general law, with a capital not exceeding \$50,000, shall each pay \$100, and when the capital exceeds \$50,000 shall pay two dollars in addition for every \$1,000 in excess of \$50,000 of capital. Every incorporated or other bank, and every person, firm, or company, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or for sale, shall be regarded as a bank or as a banker: *Provided*, That any savings-bank having no capital stock, and whose business is confined to receiving deposits, to be loaned or invested for the benefit of its depositors, and doing no other business of banking, shall not be subject to this tax.

Mr. PRICE. I wish to inquire whether it is the intention of the committee that under this paragraph savings-banks paying five per cent. upon deposits and loaning their money at ten per cent. shall be exempt?

Mr. SCHENCK. This paragraph does not apply to savings-banks doing a banking business, but only to those whose business is confined to receiving deposits. This is the same provision as that of the existing law.

Mr. BARNES. I move to amend by striking out the pending paragraph. Mr. Chairman, I look upon money as in the same category with air or water or any of the necessary elements for the subsistence of individuals and of society. I hold that money should be placed in the hands of the community without taxation; that banks being the custodians of money and performing the necessary functions of society in that capacity, should be as lightly taxed as the committee can devise the means of doing; and a sufficient burden, in my view, is imposed upon them in the collateral taxation resting upon this branch of business.

In every community the rate of interest is in proportion to the price of its money. We know that if we should multiply this tax upon the banking capital of the country we can reach the point where money would disappear. The activity of our industrial resources is in proportion to the volume of money which we can command. It is the interest of every trader, of every manufacturer, of every producer of a bushel of grain, of every grower of a pound of wool, of every transporter of a cargo of merchandise, of every man, woman, and child in the country, that money should be placed in the

hands of the community at the lowest possible rate. It is, therefore, the policy of communities and States to make their legislation of such a character as to attract capital to the greatest possible extent. There is no business that is not more or less interfered with by the slightest taxation which we may place upon capital. I am not only opposed to the taxation on banks proposed in this paragraph, but when the proper time arrives I shall advocate the entire exemption of banking capital from taxation. Gentlemen may be surprised that such a proposition should emanate from me or from the locality which I have the honor to represent; but it seems to me that one of the generic necessities of the community is to have cheap money. It is one of the duties of legislators to remove every obstacle which may prevent the people from obtaining money to the largest possible extent. I submit to the good sense of the House that the time will come when we shall remove all incumbrances from banking, all taxation from money as money, leaving it entirely free.

As I understand the theory of taxation in other countries of the world that have had longer experience than we have had in raising revenue, it is to single out branches of industry and levy taxation directly upon a few articles.

[Here the hammer fell.]

Mr. SCHENCK. Mr. Chairman, the gentleman from New York [Mr. BARNES] presents a very broad proposition—that all things upon the face of the earth in the shape of cash should escape the visits of the tax-gatherer; that money is to be regarded as in the same category with the atmosphere which we breathe, the water we drink—as one of the very elements of human existence, and therefore to be held sacred from taxation. Well, sir, we have proposed here to tax the banker; we have proposed to tax the man who is doing business in money. It is that air that we are after, and not the kind of air of which the gentleman speaks. [Laughter.] I am not, however, very familiar with this question, and I will yield the remainder of my time to my friend from New York, [Mr. McCARTHY], who has dealt in this very commodity, and is well able to discuss these new views on the subject of banking.

Mr. McCARTHY. Mr. Speaker, there are two sources for supplying taxes to the country from which it will be felt less than from any other; one of these is the wholesale trade of the country. It can well afford to pay the additional tax proposed by the committee, for when a wholesale man in the country increases his business it is with a corresponding increase of profits. As his sales swell up and rise in amount the proportion of profit to the cost of carrying on the business is larger, and he can afford to pay his full share of the expenses of the country. They must be paid.

Now, as to the fact that they fall upon the business classes. The broad position that labor pays the taxes of the country is true, but it is only that labor which reaches to the agriculture of the country that pays the taxes. Taxes are all paid out of the products of the soil. It is the labor which produces that pays the taxes. But in wholesale trade, as in manufactures, oftener than less, competition destroys the cost of that tax to the laborer or the person who sells, and the merchant or manufacturer is not able to carry the tax down in the profit of his goods to the consumer.

Gentlemen on the other side say that banks make money cheap. This is not my experience, for in the town in which I reside I have a practical illustration. A man commences life with small means, and all his industry is in his business. When he has saved ten, thirty, or fifty thousand dollars, instead of lending it out as individual money to make it easy to his neighbors, he, with others, deposits it in a bank and makes it a close corporation and prevents the mass of the common people from touching money. The people who accumulate money make up banking capital and make up banks, which, in addition to the wholesale

trade of the country, should contribute to the necessary expenses of the country.

[Here the hammer fell.]

Mr. EGGLESTON. I move to strike out the proviso as follows:

*Provided, That any savings-bank having no capital stock, and whose business is confined to receiving deposits, to be loaned or invested for the benefit of its depositors, and doing no other business of banking, shall not be subject to this tax.*

I will state my reason for moving that amendment. Savings-banks in some instances should be exempted from taxation; but my colleague has not sufficiently guarded that. I am not satisfied with that proviso. There are many banking institutions which, in order to save themselves from tax, would call themselves savings-banks although they were doing a legitimate banking business, the same business that chartered banks are now doing. I know the tax would be evaded in that way. The gentleman ought to be more particular in designating the savings-banks to be exempted. Savings-banks are supposed to be of that kind where deposits are made by people of small earnings, and which deposits are loaned out for the benefit of the depositors. But they are loaned out for the benefit of those who carry on the bank. They pay interest upon the deposits to the depositors, but they loan at a larger interest, and the profits accrue to the institution. I believe there would be many grew up unless this provision was guarded. I think it should be stricken out entirely, and I am in favor of so doing.

Mr. WOODWARD. I am opposed to the amendment of the gentleman from Ohio, and I will ask to move at the proper time to strike out the words "having no capital stock and." I do not know what the motives of the committee were in putting this proviso in the section, but I am sure they were wise ones. I hope my amendment may commend itself to the committee. It provides what I suppose was the motive of the committee in exempting savings-banks. If there is merit in exempting savings-banks it is in exempting those which have stock to make the depositors safe instead of those which have no stock to render the depositors safe. Now we have such banks in Pennsylvania, banks in which there is some stock, and the fact that there is stock has attracted many people to make their small deposits until they have become in some instances very large and successful banking institutions. I hold that there is no merit surely in a savings-bank having a solid stock to insure its stockholders. If my amendment is adopted those banks only are to be exempted which are engaged in no other business.

That savings-banks ought to be exempted is a proposition that I think cannot be successfully controverted. In Pennsylvania we have many of them, and they have proved a great benefaction to the public. There is an institution in Philadelphia that began some time in the last century with deposits of ten and twelve cents, and which to this day, as I am told, has never received in one deposit exceeding \$200, and yet the earnings of that institution now are counted by millions. It has fallen away from its original proprietors who were its depositors, and who were poor people, into the hands of the most respectable merchants and business men of Philadelphia, who are appointed by the courts as directors, and who conduct it without fee or reward with as much skill and prudence as any bank in the city. There are two such institutions in that city. They have grown up by gradual accretion from very small beginnings to very large, wealthy corporations, and in them the deposits of all poor people have been protected, put at interest at about five per cent., and returned to them whenever they wanted them in specie without regard to the suspension of other banks. They have been in fact the best banks we have had in the State.

Mr. MILLER. I would inquire if the gentleman does not know that there is a large amount deposited in these banks that is unclaimed?

Mr. WOODWARD. A very large amount of what now may be considered the capital is unclaimed by any one.

Mr. MILLER. They ought to be taxed.

Mr. WOODWARD. The probability is the State government will confiscate that capital and take it to itself. Much of the capital is really without an owner.

Now, sir, I want to speak of another class of savings-banks in the interior of Pennsylvania, where we have large mining operations, and where laborers accumulate their monthly earnings. There the saving-banks are found to be useful in this way; they have induced our Irish population and others who are not remarkable for thrift to deposit their surplus earnings and put the money at interest, and thus to be laying up something for their families in the future; and that fact inculcates steadiness of habit, sobriety, industry, and frugality, on their part, the very virtues which they lack, and which are necessary to make them good American people.

[Here the hammer fell.]

Mr. ALLISON. I only desire to say a word in reply to the argument of the gentleman from Pennsylvania, [Mr. WOODWARD.] The amendment proposed by him I think will have the effect to reduce taxation very much; because if these banks, without reference to the amount of capital, are exempt from taxation, of course nearly every bank would resolve itself into a savings-bank.

Mr. WOODWARD. Not at all. Read the last words of the proviso.

Mr. ALLISON. We have a provision by which we tax all deposits one twenty fourth of one per cent. in this bill, or one half of one per cent. per annum. Now, if we allow persons to organize savings-banks with capital stock, in the large cities especially, they would make it their sole business to receive deposits and reloan those deposits to other persons, and thus escape taxation altogether; not only the license tax or special tax proposed in this paragraph, but also the tax on deposits of banks as provided in section one hundred and thirteen.

The same language is used, the gentleman will observe, in that section as is used in this section. This is the existing provision of law, and applies to a class of banks that have sprung up all over the country, organized especially and exclusively for parties to deposit in them, and paying only out of those deposits the actual expense of conducting the business, so that there are no profits to stockholders. Now, we propose to except that class of banks, and make them pay no tax. But it seems to me that all other bankers, or all banks having a stock upon which dividends are paid, should pay a portion of the tax allotted to banks and banking. The argument of the gentleman from New York [Mr. McCARTHY] is perfectly applicable to this class of cases. There is no class of people in this country that can so well afford to pay a reasonable tax upon their capital as those engaged in banking.

The question was taken on Mr. WOODWARD's amendment; and it was disagreed to.

The question recurred on Mr. EGGLESTON's motion to strike out the proviso; and being put, the motion was disagreed to.

The next question was on Mr. BARNES's motion to strike out the entire paragraph.

Mr. HOLMAN. I desire to offer an amendment to the paragraph before the vote is taken on striking it out. It seems to me that the amount of tax on banks may very properly be increased, and I therefore move to strike out "one hundred" and insert "three hundred" in lieu thereof. There is certainly no interest in the country that can so well afford to bear a reasonable taxation or a very high taxation as the banking institutions, which are based exclusively on the labor of the country, which are adding nothing to the wealth and industry of the country, and are only incidentally promoting the prosperity of the country as agents of exchange. They certainly ought to be subject to full taxation. It seems to me that a tax of



\$100 on banks whose capital is \$50,000, considering the facilities they possess, whether they be State or national institutions, is an exceedingly meager tax. I trust, therefore, that the Committee of Ways and Means will not object to a slight increase of this tax. The laboring interests of this country feel that the burdens of taxation have been thrown upon them, that capital is escaping from those burdens to a much greater extent than it ought to escape, and that these agencies connected with the administration of our financial affairs, which are not necessary to the promotion of the public wealth, which do not add to the wealth of the country or encourage the creation of wealth, and which live off the labor of the country, can well afford to bear a higher rate of taxation.

Mr. SCHENCK. The gentleman from Indiana has, perhaps, not adverted to the fact that in other portions of this bill banks have additional taxes to this special tax imposed on them. If there were no other tax on banks than this special tax there might be some propriety in increasing it; but besides this, if the gentleman will turn to page 166, he will find that we have continued, in addition to the special tax, a tax upon the deposits, a tax upon the capital, and a tax upon the circulation of banks; and we have doubled the tax upon circulation compared to what it is now. And in addition to that we have brought in the national banks and subjected them to the same rule of taxation as other banks. I hope, therefore, the amendment will not prevail.

Mr. LYNCH. I desire to ask the chairman of the Committee of Ways and Means whether this tax upon page 166 is in addition to the tax imposed by the currency act?

Mr. SCHENCK. It is in addition to this special tax.

Mr. LYNCH. But the gentleman is aware that the currency act provides for a tax on circulation.

Mr. SCHENCK. The gentleman will find, if he will look at the bill, that we have repealed that and brought the national banks into the internal revenue law, and put them on the same footing with other banks.

The question was taken on Mr. HOLMAN'S amendment, and it was disagreed to.

The question was then taken upon the motion of Mr. BARNES, and it was not agreed to.

No further amendment was offered.

The next paragraph was read as follows:

Brokers shall each pay \$100. Every person whose business it is to negotiate purchases or sales of stock, bonds, exchange, land-warrants, bullion, coined money, bank notes, promissory notes, or other securities for himself or others, shall be regarded as a broker. Any person having paid the special tax as a banker shall not be required to pay the special tax as a broker.

Mr. WELKER. I move to amend this paragraph by striking out the words "brokers shall each pay \$100," and insert in lieu thereof the following:

Brokers whose annual business does not exceed \$40,000, shall each pay fifty dollars; those whose business exceeds \$40,000, and is less than \$80,000, shall each pay \$100; and those whose business exceeds \$80,000 per annum, shall each pay \$150.

As the paragraph now stands all brokers pay the same tax. I think the tax should be graded according as they do a greater or a less amount of business. There is a class of brokers in the different towns of this country who do a very small amount of business. It seems to me to be unfair to make them pay \$100 tax, when brokers in large cities, doing a much larger amount of business, pay only the same amount of tax.

Mr. SCHENCK. The amendment of my colleague [Mr. WELKER] would be a very wise provision if it were not already provided for in another part of the bill. If the gentleman will refer to section one hundred and fifteen of this bill he will find that we bring those brokers under another system of taxation, a tax on sales. The rate at which they are at present taxed is one cent on every hundred dollars of sales. We propose to increase that rate to two cents on every \$100. They will be taxed

according to the amount of business they do only twice as much as under the present law.

Mr. WELKER. That obviates one of my objections to this paragraph, but not the other objection. It seems to me to be unfair that these small brokers, whose business does not exceed four or five thousand dollars a year, and perhaps not half that much, buying promissory notes or selling them, not engaged in stock business at all, should be compelled to pay the enormous tax of \$100 for the purpose of carrying on that occupation in a small country town. It seems to me the tax is too much for the business done. It may be well enough to make large brokers pay more tax than these small ones do.

Mr. SCHENCK. It is true we have increased the special tax on brokers from fifty dollars to \$100 under our system of equalization. And one of these worthy gentlemen in the smallest village will probably make it up by the shaving of a single note. I think no man who would follow the business of a broker, either in a country village or in the city, is hardly fit to be trusted by his neighbors in that business, or as a man to be relied upon, if he cannot pay this amount of tax. One would think that any man who is fit to engage in this business would be able to obtain from his gains the sum of \$100 to pay for the privilege of acting in that capacity.

Mr. INGERSOLL. Will the gentleman allow me to ask him a question?

Mr. SCHENCK. Yes, sir.

Mr. INGERSOLL. I have information from the assessor of my district to this effect: there are those within the district whose nominal business is that of farming or the law or trade; still they make it a business, not openly, but secretly, to buy notes, to negotiate loans of money, and really to do a brokerage business. If you inquire of them what their business is, they will tell you that they are farmers or lawyers or merchants, as the case may be.

Mr. MAYNARD. Corresponding to bush-whackers and guerrillas in the war.

Mr. INGERSOLL. Yes, sir. They pay no special tax or license as brokers. Now, I want to inquire if this paragraph is so strong as to include these men who are really brokers?

Mr. SCHENCK. It will be the fault of the assessor of the district if they are not included.

Mr. INGERSOLL. Would it not be well to amend this paragraph so as to read, "all persons who shall engage in the business of negotiating purchases or sales of stocks," &c., instead of "every person whose business it is to negotiate," &c.? I will offer that amendment as soon as I can get the opportunity to do so.

Mr. PETERS. Mr. Chairman, that I may have an opportunity to say a word on this question, I move to amend the amendment by striking out the last word. I hope that the amendment of the gentleman from Ohio [Mr. WELKER] will be adopted. I know something as to what would be the practical operation of this provision of the bill. Now, sir, there could be no objection to requiring a broker to pay \$100, if he were a broker in the ordinary mercantile sense of that term; but to require that every man who is a broker under the legal definition of this act shall in every instance pay at least \$100 is a hardship. Now, I know that a country trader in my county in Maine, who is in almost all sorts of business, happened to buy and sell two or three promissory notes. He was indicted before the district court, the judge of which ruled, and I have no doubt rightfully, that if the man bought or sold a single piece of paper and held himself out as willing to buy or sell others, he was a broker within the definition of the law; and the judge further ruled that if the man had bought or sold three pieces of paper, the jury had a right to say that he was a broker within the common law definition. I think there is a great hardship in putting the poor country broker, the man who does a very small business in this line, upon a level with a man doing an im-

mensity of business in New York city. I trust the committee will support the proposition of the gentleman from Ohio, and declare that the little broker in the country may operate in his line of business by paying fifty dollars.

Mr. GRISWOLD. I desire to make an inquiry. Do I understand the gentleman to say that in the case he has mentioned the court decided that if a man engaged in other branches of business happened to buy a single promissory note he was to be considered, in contemplation of the law, a broker?

Mr. PETERS. Not precisely that; but that if a man bought or sold one piece of paper, and held himself in readiness to buy or sell more, although his transactions might be ever so limited, it constituted a business as a broker.

Mr. GRISWOLD. I understand, then, that the ruling was that where a man buys two or three promissory notes, that is to be considered the business of that man.

Mr. PETERS. That that constitutes him a broker within the meaning of the law, and the construction is that he may be a broker and a wholesale dealer and a retail dealer and a liquor dealer, that he may combine twenty different sorts of business, on which he is obliged to pay a distinct license in each case. I say there is a hardship in compelling the man engaging in this business in a small way in a country town to pay the same amount as is paid by the man who carries on business to the extent of millions.

Mr. SCHENCK. He does not pay the same.

Mr. PETERS. Well, I will say, as the man making brokerage his only and large business. I hope the amendment of the gentleman from Ohio will prevail. I withdraw my amendment to the amendment.

Mr. WELKER. I renew the amendment to the amendment. Since offering my amendment I have turned to the section of the bill regulating the tax on brokers, and I do not see that that will equalize this taxation at all; it is an additional tax. This paragraph of the bill starts off by charging \$100 tax upon all classes of brokers. Then on page 168 provision is made for a certain percentage of taxation upon the amount of business that may be done in the purchase and sale of coin, bullion, promissory notes, &c. This of course will compel the man doing a large business to pay more tax than one doing a small business. But the starting point is wrong. We propose to tax as a broker doing a regular business the man living in a village who happens in the course of the year to buy two or three promissory notes. The assessors have always been construing this law as covering that class of transactions in our small towns. If a man buys two or three promissory notes in the course of a year, it is considered as so far his business, and they have required this class of men to take a broker's license. Now, I do think that \$100 is too much to be required from this class. Certainly there ought to be some limitation; and if my amendment be not agreed to, there ought to be provided for this small class of brokers some lower tax than that provided for in this bill. I think my amendment would be fair and equitable; for when brokers transact a large business they must necessarily pay more tax under the other provision of the bill.

I withdraw my amendment to the amendment.

On the amendment of Mr. WELKER, there were—ayes 47, noes 28; no quorum voting.

Mr. SCHENCK. I am willing that the amendment shall be regarded as agreed to. We can have a vote in the House.

The CHAIRMAN. If there be no objection the amendment will be considered agreed to.

There was no objection.

Mr. INGERSOLL. I renew the amendment I offered before, modified as follows:

In line fifty-two, after the word "business," insert "wholly or in part," so it will read:

Every person whose business, wholly or in part, it is to negotiate purchases or sales of stocks, &c.

Mr. WELKER. I rise to a question of order. I believe my amendment is agreed to.

The CHAIRMAN. This is an independent amendment.

The amendment was agreed to.

Mr. BARNES. I move to strike out "for himself and others" and insert "for others than himself."

Mr. Chairman, I am inclined to think that all taxation of this class of business will operate beneficially. There are gentlemen connected with the business of brokers in the large cities who are among the most respected members of society, yet there are others whom it is no interest of the Government to support by legislation. If I may be allowed to use the expression I would say that there are a large number of men among brokers who are considered a nuisance to the trade. There are men without capital to insure the safe fulfillment of their engagements or for the custody of money put into their hands. There are men without reputation relying upon the introduction of friends to secure capital. There are men without reputation of any kind. The severe taxation of such men would be beneficial.

Mr. SCHENCK. I hope that amendment will not be adopted.

The amendment was rejected.

No further amendment being offered, the Clerk read the next paragraph, as follows:

Commercial brokers shall each pay twenty dollars. Any person whose business it is, for others, to negotiate sales or purchases of goods, wares, or merchandise, or to negotiate freights and other business for the owners of vessels, or for the shippers or consignors or consignees of freight carried by vessels, shall be regarded as a commercial broker.

Mr. SCHENCK. At the commencement of the second sentence I move to strike out "any" and insert "every."

The amendment was agreed to.

Mr. SCHENCK. I move after the word "merchandise" to insert—

Or to sell or to offer for sale as the agent of any merchant, commercial house, or manufacturer residing within the United States, goods, wares, or merchandise by samples, or as agent to solicit, receive, or transmit orders for goods, wares, or merchandise for any merchant, commercial house, or manufacturer within the United States.

The amendment was agreed to.

No further amendment being offered, the Clerk read the next paragraph, as follows:

Foreign commercial brokers shall each pay a special tax of \$5,000. Every person who makes it his business to sell or offer for sale, by samples or otherwise, goods, wares, or merchandise of any description, as the agent of any merchant, commercial house, or manufacturer, residing or being without the limits of the United States, or to negotiate in any manner for such sale to be made by any such merchant, commercial house, or manufacturer abroad, or to solicit, receive, or transmit orders to such merchant, commercial house, or manufacturer abroad, shall be regarded as a foreign commercial broker. Every foreign commercial broker shall be required by the assessor or assistant assessor of every collection district in which he may so sell, or offer for sale, or negotiate for the sale of, or solicit, receive, or transmit orders for goods, wares, or merchandise, for or to any such merchant, commercial house, or manufacturer, residing or being without the limits of the United States, to produce the receipt showing that the special tax herein provided for has been duly paid to the assessor of some district within the United States within the current year; and if it shall appear that such tax has not been paid, or has not been paid within thirty days after the 1st day of May in such year, or upon such neglect or refusal to produce such tax receipt when so demanded by the proper officer, the party so delinquent shall be liable to a penalty of \$10,000, and shall, on conviction, be fined not less than \$10,000 nor more than \$50,000, or imprisoned not less than six months nor more than two years: *Provided*, That no person shall be regarded as a foreign commercial broker within the meaning and for the purposes of this act who, being a retail dealer, wholesale dealer, commercial broker, or manufacturer in the United States, pays the special tax as such and makes returns of the amount of his sales for assessment for the payment of any additional tax as required by law.

Mr. SCHENCK. I move to amend by striking out in lines sixty-four and sixty-five the words "shall pay a special tax of \$5,000," and inserting in lieu thereof the following:

Whose actual sales do not exceed \$1,000,000, shall each pay a special tax of \$5,000; and when exceeding \$1,000,000, shall pay in addition five dollars for every \$1,000 for sales in excess of \$1,000,000.

The amendment was agreed to.

Mr. SCHENCK. I move further to strike

out the word "assessor" and insert "collector."

The amendment was agreed to.

Mr. SCHENCK. I move further to strike out the words "or has not been paid within thirty days after the 1st day of May in such year."

The amendment was agreed to.

Mr. CULLOM. I would like the chairman of the committee to explain why he places the special tax on foreign commercial brokers at such a high figure. I understand the present law does not tax them at all. This is a pretty strong beginning.

Mr. SCHENCK. There is a class of men to be found in all large cities, especially in New York, who represent foreign manufacturers and foreign commercial houses. They have no local habitation or name. They have no place of business. They are a species of drummers upon a very large scale. They take each of them a room for a few days at the Astor House, again at the Fifth Avenue hotel, and again at the Continental at Philadelphia, and by exhibiting samples, taking orders, and negotiating sales upon the samples and the credentials they show, they do a business of millions of dollars. Millions upon millions are sold in this way without these foreign manufacturers or commercial houses paying one cent of tax to the United States. The consequence is that they come into competition with settled and fixed traders in this country and with settled brokers in this country who pay their regular tax. Now, the object of this provision is to compel these men to come to roost, to constrain them to open business houses and do a regular business, to give an account of their sales and pay as other commercial traders do, or else on their peril refuse to pay the very large special tax which we impose upon them, which is about the only way we have of reaching them. For that purpose the gentleman will see we have in the case of these roving people gone a little further than in other cases, and require them upon the demand of an assessor to show that they have somewhere within the United States in some collection district paid this heavy tax and are entitled to carry on this large trade in the country; and in default of that go to the penitentiary.

Mr. BLAINE. Is not this tax one which may be very easily evaded? A man reaches New York, and if he makes his sales he finds he has to pay \$5,000. Can he not easily employ some person who had paid a fifty dollar or \$100 tax to do all this business?

Mr. SCHENCK. Very possibly; but then the trader he employs being a known person, must make his returns, and we thus get the tax.

Mr. BLAINE. But you do not get the \$5,000.

Mr. SCHENCK. No; but we get nothing from these men now at all. The object is to drive them either to become settled traders themselves, thus coming into competition with our people, or else employ in this country settled known traders who pay their tax in the regular way.

Mr. BARNES. I desire to ask the gentleman a question. So far as New York city is concerned, I am not aware that this class of persons do as he has represented; and as to their having no places of business in New York, they have lofts as well as other places where they are engaged in their business, and I think it is a great hardship to impose a higher tax on them than on wholesale dealers. If you require them to pay as wholesale dealers upon their sales or orders, it would be right and just. In several instances they have paid a license as commercial brokers. There is a large number in the city of New York, and this will drive them out entirely.

Mr. SCHENCK. The difficulty is that they do not pay a tax as wholesale dealers, or if they do they will escape this rigorous law. All they have to do to escape the rigor of this law is to become, as I said before, regular dealers

in the country. But as it is now they pay nothing at all. And so far from there not being just such a class of men as I have described in the city of New York, I suppose if I have received one letter, I have received a score of letters thanking the Committee of Ways and Means for having made this provision for the defense of regular dealers as against these roving chaps with commissions from manufacturers and traders abroad.

Mr. STEWART. The difficulty is that you will drive all this trade into the hands of the importers. The large houses like Stewart & Co., and Claffin, Mellen & Co., have agents abroad whom they pay for staying there and ordering goods for them. The manufacturers abroad have agents in New York city and in other cities to solicit orders and they are merely acting as agents to the parties abroad who fill the orders. Now, by this provision you will drive that branch of trade out of the country.

Mr. SCHENCK. The gentleman will observe that this applies only to agents who are the agents of foreign commercial houses and foreign manufacturers, and not to the representatives of our own legitimate traders.

The Clerk read the next paragraph, as follows:

Custom-house brokers shall each pay ten dollars. Every person whose business it is, as the agent of others, to arrange entries and other custom-house papers, or to transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise, shall be regarded as a custom-house broker.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to offer the following amendment:

Page 97, line ninety-nine, strike out the word "ten" and insert in lieu thereof "twenty;" so that it will read: "Custom-house brokers shall each pay twenty dollars."

The amendment was agreed to.

The next paragraph was read, as follows:

Insurance agents, whose annual receipts from fees and commissions do not exceed \$2,000, shall each pay ten dollars; when exceeding \$2,000, shall each pay twenty dollars. Every person who, for pay, shall act as agent to negotiate or procure insurance for any fire, marine, life, mutual, or other insurance company or companies authorized by any law of the United States or of any State, shall be regarded as an insurance agent.

Mr. STARKWEATHER. I offer the following amendment:

Page 97, line one hundred and six, after the word "commissions" insert the words "exceed \$500 and;" so that it will read: "Insurance agents, whose annual receipts from fees and commissions exceed \$500 and do not exceed \$2,000, shall each pay ten dollars."

Mr. ALLISON. There is no objection to that amendment.

The amendment was agreed to.

Mr. BARNES. I would like to inquire of the chairman of the Committee of Ways and Means how in this particular instance they propose to ascertain the amount of receipts of insurance agents? So far as my knowledge extends they are generally a class of itinerants and do business for a large number of companies, and their statistics are in their pockets or in their heads. I make the inquiry for information, and if the suggestion which I make is correct I think the clause had better be amended so as to fix a specified tax which shall apply to them as individuals instead of a tax on their receipts.

Mr. SCHENCK. The gentleman will find that there is a general section farther along in the bill providing that monthly returns shall be made in all these cases. As a matter of course there may be difficulty with itinerant persons, but there is the same law now.

Mr. BARNES. In order that this matter may be further discussed I move to strike out "\$2,000" and insert "\$3,000" in lieu thereof. I desire to say that probably nine tenths of the insurance done in the city of New York is done by agents—by agents who travel from one office to another and solicit this business from large houses, who do their insurance business almost entirely through agents. Almost every commercial house has an agent

who calls regularly, keeping an account of the expiration of their policies and the issuing of new ones. The agent attends to the business at the agencies of the different insurance companies in that city. No way suggests itself to my mind by which the amount received in individual cases can be traced or arrived at. If there is any answer to this, to show how the Government is to obtain a revenue from this source, I would be pleased to hear it; I will not press my amendment, but will withdraw it. No further amendment was offered.

The next paragraph was read as follows:

Foreign insurance agents shall each pay fifty dollars. Every person who shall act as agent to negotiate or procure insurance for any foreign fire, marine, life, mutual, or other insurance company or companies, shall be regarded as a foreign insurance agent.

Mr. STARKWEATHER. I move to amend this paragraph by striking out "fifty dollars" and inserting "\$100."

The amendment was agreed to.

No further amendment was offered.

The next paragraph was read as follows:

Auctioneers, whose annual sales do not exceed \$10,000, shall each pay ten dollars; and if exceeding \$10,000 and not exceeding \$25,000, shall each pay twenty dollars; and if exceeding \$25,000, shall each pay fifty dollars, and two dollars, in addition, for every \$1,000 in excess of \$25,000. Every person shall be deemed an auctioneer whose business it is to offer property at public sale to the highest or best bidder: *Provided*, That the provisions of this paragraph shall not apply to judicial or executive officers making auction sales by virtue of any judgment or decree of any court, nor public sales made by or for executors, administrators, or guardians of any estate held by them as such.

Mr. STEWART. I move to strike out the proviso of this paragraph, for the purpose of inquiring of the chairman of the Committee of Ways and Means [Mr. SCHENCK] the object of inserting this provision here? So far as the city of New York is concerned, where such sales are made, they are usually made by auctioneers who charge the purchaser a certain percentage upon the amount of sales. I do not know how it is in other parts of the country.

Mr. HIGBY. Sales on execution?

Mr. STEWART. Yes; and I think that is so generally throughout the State. However, I will not press my amendment, but withdraw it. No further amendment was offered.

The next paragraph was read, as follows:

Real estate agents, whose annual receipts from fees and commissions do not exceed \$2,000 shall each pay ten dollars, and if exceeding \$2,000, shall pay in addition five dollars for every \$1,000 in excess of \$2,000. Every person whose business it is, for others, to sell or offer for sale real estate, or to rent houses, stores, or other buildings or real estate, or to collect rent, except lawyers paying a special tax as such, shall be regarded as a real estate agent.

Mr. BENTON. I move to amend this paragraph by striking out "five dollars" and inserting "ten dollars," so that that portion will read, "shall pay in addition ten dollars for every \$1,000 in excess of \$2,000." I think that is a very reasonable tax. When a person makes sales and receives fees and commissions to the amount of \$2,000, he can better afford to pay ten dollars for every \$1,000 over \$2,000 than he could to pay five dollars upon the first \$1,000. It seems to me that the rate of tax should be increased as the business increases. I think this is so plain that it requires no argument.

Mr. SCHENCK. The gentleman proposes to make the tax one per cent. The committee proposed to make it one half of one per cent.

Mr. BENTON. A man who can make four or five thousand dollars in this business can well afford to pay one per cent.

The question was then taken upon the amendment of Mr. BENTON; and upon a division there were—ayes twelve, noes not counted.

So the amendment was not agreed to.

Mr. MILLER. I move to amend the paragraph by inserting after the words "whose annual receipts from fees and commissions," the words "exceed \$300 and;" so that it will read, "whose annual receipts from fees and commissions exceed \$300 and do not exceed

\$2,000." It seems to me that there can be no objection to this amendment. One whose business does not amount to \$300 is hardly worth taxing.

The amendment was not agreed to.

Mr. BARNES. I move to amend the first sentence of this paragraph by striking out the words "whose annual receipts from fees and commissions do not exceed \$2,000 shall each pay ten dollars, and if exceeding \$2,000, shall pay in addition five dollars for every \$1,000 in excess of \$2,000," and inserting in lieu thereof the words, "shall each pay \$100;" so that it will read "real estate agents shall each pay \$100." And I submit the same suggestions which I offered in regard to insurance agents. There is no known way, so far as I can understand, by which any amount of revenue can be derived from this class of individuals.

The business done by them is very large, especially in cities; and if they could be reached a considerable amount of revenue might be derived from them. But it is well known that there is no practicable way by which one dollar in a hundred which that class of individuals receive can ever be taxed. I think this paragraph should be amended so as to afford a reasonable amount of revenue or else be stricken out entirely.

Mr. PILE. A real-estate agent in the city of St. Louis, where I live, has his regular office and makes his returns regularly. I think the tax should be graded upon them in proportion to what they make, as it is in the case of other classes of business men, agents, and dealers. I hope the amendment will not be adopted.

The amendment of Mr. BARNES was not agreed to.

No further amendment was offered.

The next paragraph was read, as follows:

Produce brokers shall each pay ten dollars. Every person other than one having paid the special tax as a commercial broker, or cattle broker, or wholesale or retail dealer, or peddler, whose business it is, for others, to negotiate sales or purchase of agricultural or farm products exclusively, shall be regarded as a produce broker.

No amendment was offered.

The next paragraph was read, as follows:

Pawnbrokers, using or employing in their business a capital not exceeding \$50,000, shall each pay \$100, and if exceeding \$50,000, shall pay, in addition, four dollars for every \$1,000 so used in excess of \$50,000. Every person whose business or occupation it is to take or receive, by way of pledge or pawn, any goods, wares, or merchandise, or any kind of personal property, as security for the repayment of money, shall be deemed a pawnbroker.

No amendment was offered.

The next paragraph was read, as follows:

Claim agents and patent agents shall each pay twenty-five dollars. Every person whose business it is to prosecute claims in any of the Executive Departments of the Government, or to solicit or procure patents, shall be deemed a claim agent or a patent agent, as the case may be.

Mr. ELA. I move to amend by striking out the first sentence of the paragraph just read, and inserting in lieu thereof the following:

Claim agents and patent agents whose annual receipts from fees do not exceed \$1,000, shall pay ten dollars; if exceeding \$1,000 and not exceeding \$2,000, twenty dollars; if exceeding \$2,000, thirty dollars.

Mr. Chairman, there are some sections of the country where there is not enough business done by claim agents to warrant the payment of a tax of twenty-five dollars, yet where it will be a great inconvenience if those requiring the services of this class of agents are required to go as far as they will be compelled to go if there be no smaller rates of tax than twenty-five dollars. I hope the amendment will be adopted.

Mr. SCHENCK. I do not know that there is any objection to that amendment.

The amendment was agreed to.

The next paragraph was read, as follows:

Patent-right dealers shall each pay ten dollars. Every person whose business it is to sell or offer for sale patent-rights, shall be regarded as a patent-right dealer.

No amendment was offered.

The next paragraph was read, as follows:

Intelligence-office keepers shall each pay ten dollars. Every person whose business it is to find or

furnish places of employment for others, or to find or furnish servants, shall be regarded as an intelligence-office keeper.

No amendment was offered.

The next paragraph was read, as follows:

Express carriers shall each pay ten dollars. Every person engaged in the carrying or delivery of money, valuable papers, or any articles for pay, or doing an express business, whose gross receipts therefrom exceed the sum of \$1,000 per annum, shall be regarded as an express carrier: *Provided*, That such tax shall be imposed but once upon any person in respect to business done by such person on a continuous route, and shall be required only from the principal in such business; and draymen and teamsters owning only one dray or team shall be exempt from such tax.

No amendment was offered.

The next paragraph was read, as follows:

Peddlers, when traveling with more than two horses or mules, shall be rated as of the first class, and shall each pay fifty dollars; when traveling by boat, or with two horses or mules, as of the second class, and shall each pay thirty dollars; when traveling with one horse or mule, as of the third class, and shall each pay fifteen dollars; when traveling on foot or by public conveyance, as of the fourth class, and shall each pay ten dollars. Every person whose business it is to travel from place to place to sell or offer for sale, at retail, goods, wares, or other commodities, shall be regarded as a peddler; but peddlers of the third and fourth class, who sell only charcoal, newspapers, books, magazines, the products of their own farms or gardens, fish, shell-fish, pies, cakes, nuts, fruit, or confectionary, shall be exempt from a special tax. Any peddler who sells, or offers for sale jewelry, or dry goods, either foreign or domestic, in the original package, whether traveling on foot or otherwise, shall be rated as of the first class, and shall pay fifty dollars. No peddler shall sell, or offer for sale, any distilled spirits, fermented liquors, or wines. A manufacturer or producer of any article, except distilled spirits, who may by himself or his agent, and by his own conveyance, deliver the same at places other than the place of manufacture, shall not, by reason of such delivery only, be regarded as a peddler.

Mr. SCHENCK. I move to amend by striking out in the paragraph just read the sentence, "No peddler shall sell or offer for sale any distilled spirits, fermented liquors, or wines," and inserting in lieu thereof the following:

And any peddler who sells or offers for sale distilled spirits, fermented liquors, or wines, shall pay, in addition to the special tax of the class in which he is rated, the special tax of a wholesale or retail liquor dealer according to the amount of his sales.

The amendment was agreed to.

Mr. SCHENCK. I move further to amend by striking out the word "only," the sixth word from the end of the paragraph.

The amendment was agreed to.

No further amendment being offered, the next paragraph was read, as follows:

Lottery managers shall each pay \$3,000. Every person who shall own or manage any lottery or prepare any schemes for lotteries, or own, hire, or have the control or enjoyment of any lottery grant, franchise, or privilege, or make or devise, or issue to be sold by others, any lottery tickets or fractional parts thereof, or any token, certificate, or device, representing or intended to represent a lottery ticket or any fractional part thereof, or any policy or combination of numbers in any lottery, or the evidence in any form of any chance or interest in the drawing of any lottery, shall be regarded as a lottery manager.

Mr. SCHENCK. I move to amend by striking out in the second sentence of the paragraph just read the words "own or," and also the word "own;" so that it will read:

Every person who shall manage any lottery or prepare any scheme for lotteries, or hire, or have the control or enjoyment of any lottery grant, franchise, or privilege, &c.

The amendment was agreed to.

Mr. SCHENCK. I move further to amend by inserting after the word "lottery," in line two hundred and twelve, the words, "or who shall be a backer or guarantor for the payment of bets or wagers won or amounts lost upon any scheme or policy of numbers or on the drawing of any number or numbers in any lottery."

The amendment was agreed to.

Mr. BROOMALL. I move to further amend by adding at the end of the paragraph the following:

*Provided*, That nothing in this act contained shall be so construed as to authorize the establishment or management of any lottery or the sale of any lottery policies or tickets in any State where the same is prohibited by the laws of such State.



Mr. SCHENCK. I have no objection to that. It is only reenacting the law as declared by the Supreme Court.

Mr. HOOPER, of Massachusetts. In section ninety-six, on page 130 of the bill, the gentleman will find a provision covering the same ground as his amendment.

Mr. BROOMALL. I find that is so. I withdraw the amendment.

No further amendment was offered.

The next paragraph was read, as follows:

Dealers in lottery tickets shall each pay \$100. Every person who shall sell, or offer for sale, lottery tickets, or fractional parts thereof, or any token, certificate, or device representing or intended to represent a lottery ticket, or any fractional part thereof, or any policy or combination of numbers in any lottery, or the evidence in any form of any chance or interest in the drawing of any lottery, shall be regarded as a dealer in lottery tickets.

Mr. SCHENCK. I move to amend by inserting before the words "shall be regarded," near the close of the paragraph, the following words:

Or who shall make, receive, or record as a writer, or in any other way, either with or without backers, any wager or bet on the drawing of any number or numbers in any lottery.

The amendment was agreed to.

No further amendment being offered, the Clerk read the next paragraph, as follows:

Proprietors of gift enterprises shall each pay \$500. Every person who shall sell or offer for sale any real estate or article of merchandise of any description, or any ticket of admission to any exhibition or performance, with a promise, expressed or implied, to give or bestow any article or thing to the purchaser of such real estate, merchandise, or ticket, or shall in any manner hold out the promise of gift or bestowal of any article or thing, shall be regarded as a proprietor of a gift enterprise. No such proprietor, in consequence of being thus taxed, shall be exempt from paying any other tax imposed by law, and the special tax herein required shall be in addition thereto.

Mr. SCHENCK. I move to strike out the words "or implied, to give or bestow any," and insert "implied or contingent, to give or bestow."

The amendment was agreed to.

The CHAIRMAN. The Committee of the Whole, in pursuance of the order of the House, will now take a recess until half past seven o'clock to-night.

The committee accordingly (at four o'clock and forty minutes p. m.) took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

At half past seven o'clock the House reassembled in Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The CHAIRMAN. There is no amendment pending, and the Clerk will proceed with the reading of the bill.

The Clerk read the next paragraph, as follows:

Architects and civil engineers shall each pay ten dollars. Every person whose business it is to plan, design, or superintend the construction of buildings, ships, roads, bridges, canals, or railroads, shall be regarded as an architect and civil engineer: *Provided*, That this shall not include a practical carpenter who plans only the building on which he labors.

No amendment being offered, the Clerk read the next paragraph, as follows:

Builders and contractors shall each pay ten dollars. Every person whose business it is, by contract, to construct buildings, vessels, bridges, wharves, canals, turnpikes or railroads, or to remove buildings, and whose receipts from such contracts exceed \$2,500 in any one year, shall be regarded as a builder and contractor.

No amendment being offered, the Clerk read the next paragraph, as follows:

Plumbers and gas-fitters shall each pay as retail or wholesale dealers, according to the amount of their annual sales. Every person whose business it is to fit, furnish, or sell plumbing materials, gas-pipes, gas-burners, or other gas-fittings, shall be regarded as a plumber and gas-fitter.

No amendment being offered, the Clerk read as follows:

Assayers, assaying gold or silver of a value not

exceeding in one year \$250,000, shall each pay \$100, and \$200 when the value exceeds \$250,000, and \$500 when the value exceeds \$500,000. Any person whose business it is to separate gold or silver from other metals or mineral substances with which such gold or silver, or both, are alloyed or combined, or to ascertain and determine the quantity of gold or silver in any ore, alloy, or combination with other metals, shall be deemed an assayer.

Mr. HIGBY. I move to strike out the last sentence.

Mr. Chairman, it seems to me that portion of the paragraph should be stricken out. It does not well enough define the business referred to. A person in what is called the quartz mining business, who separates the dross from the gold, which makes it the pure article, may be an assayer under this definition. If there is any member of the Committee of Ways and Means here, I would like to know whether this is the language of the present law in the definition of an assayer?

Mr. MAYNARD. It is in substance the same as the law now is.

Mr. HIGBY. The gentleman says the language is the same in substance. I want the language to be precisely the same, so that there shall be no mistake about it. It reads here as though a certain class of miners might be construed to be assayers.

Mr. MAYNARD. I find the language of the present law is precisely the same.

Mr. STEWART. The word "occupation" is omitted.

Mr. MAYNARD. The law reads "business or occupation." It is substantially the same.

Mr. HIGBY. I withdraw my amendment.

No further amendment being offered, the Clerk read the next paragraph, as follows:

Miners shall each pay ten dollars. Every person who shall employ others in the business of mining for coal, or for gold, silver, copper, lead, iron, zinc, spelter, or other minerals, not having paid the tax therefor as a manufacturer, and whose receipts from such business shall annually exceed \$1,000, shall be regarded as a miner.

Mr. MOORHEAD. I move an amendment from the committee by striking out the words "not having paid the tax therefor as a manufacturer."

Mr. HIGBY. I rise to oppose the amendment. I would like to have some explanation of it.

Mr. MAYNARD. The explanation of the amendment is this: that the words are simply surplusage; they mean nothing, because we tax no manufacturers.

Mr. HIGBY. You did in the original law.

Mr. MAYNARD. This is simply a transcript from the original law, and inasmuch as the manufacturers are not now taxed the words have no meaning.

Mr. HIGBY. Then I understand that under this bill the manufacturer is not taxed, whereas he was before.

Mr. MAYNARD. No manufacturer is taxed under the present law.

The amendment was agreed to.

Mr. HIGBY. I move to strike out the whole section. It is true that we have heretofore submitted on the Pacific coast to a tax on mining, but it was not done in the light of justice to this class of men. We submitted to it together with the other taxes. That upon gold was placed at one half of one per cent. But it was at a time when the country was in trouble, when the rebellion was at its height, and we were not disposed to be so particular at that time with reference to these things as we are now. I hold that there ought to be no such burden imposed upon the business of mining for gold or silver. These men pay their income tax the same as all other people. They have to pay, like those engaged in the business of manufacturing, a license in order to mine for gold and silver. Public policy dictates that there should be no such restraint upon mining for gold and silver.

Another thing: gold and silver that are taken from the earth by the process of mining have a fixed value, while the products of manufacturing establishments have added to the price of the manufacture the amount of the license. But the man who takes gold and sil-

ver from the mines can do nothing of the kind. Gold has a fixed value when it is in bullion as well as when it is in coin. It is not to be lessened, it is not to be increased. The policy has been advocated in all these tax measures that the manufacturer of an article could pay the amount of the tax and charge it over to his customers who purchase from him. That has been the argument advanced. But as a manner of public policy there should be no manner of restraint whatever upon the business of mining for gold and silver. Not only as a matter of public policy, but as a matter of principle this House should not put any restraint whatever on a business of this kind. These men pay their income tax and all the other taxes. This is made a specialty. It is not a manufacturing business; it cannot be considered in that light.

Mr. MAYNARD. I regret exceedingly the necessity which is imposed upon us to insist upon this tax. It is an unpleasant necessity that we are laboring under to impose it. This section is simply taken from the law as it has stood for years. I am told it has been opposed every year when brought up on substantially the same ground as it is at present, so that we have a repetition of previous criticisms. This does not impose a tax, it will be observed, upon the laborer who goes into the bowels of the earth, digs the mineral treasure there, and brings it to the surface. It is a tax simply upon the capitalist who is engaged in that business, and has his capital invested in the employment of labor in that kind of business. The section does not limit its provisions, it will be observed, to the mining of gold and silver, but it extends as well to coal, to copper, to lead, to iron, zinc, and spelter, and every other mining interest through the country, and this simply provides with reference to those who engage in this business with their capital in the employment of labor and the other instrumentalities by which great enterprises are carried on, the same taxation that we impose upon capital that is employed in the other useful and industrial pursuits of the country. I hope the amendment will not be adopted.

Mr. WOODWARD. I rise to support the amendment of the gentleman from California.

The CHAIRMAN. Debate is exhausted on that amendment.

Mr. HIGBY. I withdraw the amendment.

Mr. WOODWARD. I move to amend the paragraph by inserting after the word "mining," in the two hundred and sixty-third line, the words "but who does not himself actually work at mining;" so that it will read:

Miners shall each pay ten dollars. Every person who shall employ others in the business of mining but who does not himself actually work at mining for coal, or for gold, silver, copper, lead, iron, zinc, spelter, or other minerals, not having paid the tax therefor as a manufacturer, and whose receipts from such business shall annually exceed \$1,000, shall be regarded as a miner.

Mr. Chairman, I do not know that this incorrigible majority can be conciliated so as to allow any amendment to this bill. I do not know but that we have got to take this bill as it comes from the committee without improving it at all. I have no doubt that the committee have taken great pains to perfect the bill. I have no doubt they combine a considerable amount of knowledge in regard to the business of the country; but I think they did not understand the business of coal-mining when they put this provision in this form.

Now, I wish the committee to understand that in the district in which I dwell, the principal business is the mining of anthracite coal. The way in which it is done is this: the coal mines are owned either by large proprietors or by corporations. They are sometimes leased, sometimes worked by the owners. But those mines, which are approached by various chambers or adits, are worked by miners who are employed by the lessees or the corporation, and these master miners employ under them subordinate miners. The master miners, going into the mines with their subordinates, working diligently day by day with them, necessa-

rily superintending the work and actually conducting it themselves, for the safety of all parties and for the good of the mine, because mining is an art which must be conducted by men skilled in it or you bring the whole down on your head; these master miners are the actual employers of the mining labor, and under this section they are taxed, whereas there is no more reason for taxing these master miners than there is for taxing the merest coal-heaver.

Now, the committee evidently did not intend to tax the laborer and yet they have done so by the phraseology of this section, and my amendment is designed to take that consequence out of their provision.

Mr. MAYNARD. I desire to ask the gentleman a question for information. This is the law as it now stands and has stood for some time. Does the gentleman say that the law has operated unfavorably on this class of persons? Is he reasoning *a priori* or *a posteriori*?

Mr. WOODWARD. I do not pretend to know how many miners have been annoyed by what you say is the law as it stands. I know that the mining interest of my region is greatly oppressed, and I know that when you lay a tax upon the day laborer in a coal mine who is not permitted to earn more than \$1,000 a year for the support of himself and his family you are laying a tax upon the very party which this committee evidently did not intend to tax. That is my point. Now, my amendment simply defines the actual miner. I propose to insert after the word "mining" the words "but who does not himself actually work at mining," so as to exempt the man who does actually work himself at mining. That is the effect of my amendment.

Mr. MAYNARD. Does any man who works at mining himself receive \$1,000 a year for his labor?

Mr. WOODWARD. Oh, certainly. Why, during the war miners made \$100 a month and more by their work.

Mr. MAYNARD. How is it now?

Mr. WOODWARD. It is very much lower, of course.

Mr. BLAINE. I will inform the gentleman from Tennessee [Mr. MAYNARD] that they can do it now.

Mr. WOODWARD. A thousand dollars a year sometimes is but a small compensation. But it is earned—and that is my point—by his actual, manual labor at mining. The committee certainly do not intend to tax him; but they have done so, so far as this paragraph stands. If my amendment is adopted that difficulty will be obviated.

Mr. MULLINS. I rise to oppose the amendment. If the gentleman from Pennsylvania [Mr. WOODWARD] desires to effect the object he states he has in view, I do not see that he will accomplish it by the amendment he has offered. The sum total of his proposition is that those who do not labor in the mine shall pay the tax. Now, that may be stretched out so as to reach even me in Tennessee, although I never saw a mine. Now, I can see the object aimed at; but I think some other amendment would be better. I cannot go in for this amendment, for you will not get a single man taxed under it. They will run in the mine, do a day's work this month, another day's work next month, perhaps one in a year will save them, and thereby no tax will be levied on any of them.

Mr. WOODWARD. Mining cannot be done in that way.

Mr. MULLINS. I know to what extent men are able to dodge these taxes. They dodge the tax on liquor; and when they can do so that so easily as they do, it will be easy for them to evade this tax by working an hour, and then declare that they have been actually laboring themselves, and expect to work to-morrow. The proper way is to put a tax on the sales of coal, and then you will have them. If you do not intend to tax any individual for his actual labor in mining, then tax the privilege of put-

ting the product of the mines upon the market. And when you have done that, put the tax on a sliding scale, make it a percentage tax, and then you will get every farthing of it if they will only swear the truth; if they do not, then they will be guilty of perjury. Now, I presume the greater part of them are honest and will come square up to the mark. Tax the sales, and then you will get every dollar.

Mr. WOODWARD. I withdraw my amendment if my colleague [Mr. CAKE] will renew it.

Mr. CAKE. I will renew the amendment. I think I can show this committee such reasons as will induce them to agree to the amendment. What my colleague [Mr. WOODWARD] has stated is exactly right. The reason this tax should not be so levied is this: you cannot levy this tax and collect it of all miners alike. If they have ordinary luck there are none of them who cannot make at least \$1,000 a year, and many of them more. The tax must be collected in advance if you collect it at all. You collect this ten dollars tax in advance; then the operations of the mines might run against the miners, and they would fail to make a living. That often happens in the coal region. All those miners who make over \$1,000 are assessed. That is done under the law as it now stands. These men are contractors, not mere laborers. They employ men to work in the mines. When they take a contract they always employ laborers to carry out their contract. If everything is right they sometimes make a great deal of money. Just at this time they are not making so much. I therefore hope the Committee of the Whole will adopt the amendment.

Mr. SCHENCK. I hope gentlemen will not lose sight of the fact that all this is, or is attempted to be, established as a system, and a system which shall result in equality all around. The object is to tax those who employ capital.

In the first place, there are all the manufacturers of the country, they having special taxes imposed upon them, and also taxes upon the sales of their commodities. Then we tax the dealers in something like the same proportion. Then, between these there lie classes of persons who can be regarded neither as dealers nor as manufacturers, but who employ, in one shape or another, capital, who enjoy the protection of the Government, and who are reasonably expected to contribute to its support, such as builders—

Mr. WOODWARD. I would like to ask the gentleman a question. When he speaks of taxing those who employ labor does he mean to include a head miner who selects his men to go and work in the gangway of a mine?

Mr. SCHENCK. No, sir; not if he works as a foreman for others; but if he be a contractor, an owner, or a lessee of a mine, employing others to work for him, carrying on a business in which he employs others, we regard him as a miner. We do not propose to tax the laborer. It is the same principle as that on which we tax the builder or the contractor for building houses or bridges. We do not tax the carpenter or the joiner who actually does the work, unless he be in the capacity of a head workman, not employed himself, but employing others.

Then there are photographers; there are assayers, and various other classes. There are the professional men, such as lawyers, physicians, dentists, and there are the confectioners and the apothecaries—classes of men who do not fall within the description of dealers nor within the description of manufacturers, but who yet employ capital.

Now, sir, this objection to taxing miners, as if they were to stand upon a different footing from everybody else employing capital or hiring others, or engaging in profitable enterprises, has been made here each successive year for five years; and I suppose that if we should have bills of this character for ten, fifteen, or twenty years to come, we should every year have the same thing repeated. I do not know any reason why those whose business lies beneath the

surface of the earth should be favored in any way more than those whose occupation is above the surface of the earth. The object is to tax those who employ others in pursuits involving the investment of capital.

Mr. WOODWARD. But do not themselves labor.

Mr. SCHENCK. But do not themselves labor; or, if they labor, labor only with their workmen to encourage and stimulate them. I suppose that in this democratic country of ours there are very few manufacturers who have not begun upon a small scale by being first apprentices, then journeymen, then master mechanics, and finally attaining positions at the head of establishments where they own capital and hire others; and yet, with the habits of industry prevailing in this country, they often, even when they become wealthy, labor on with their own hands, in company with their journeymen and other employes. So it may be with the miners. The object is not to touch the laborer himself, but only him who employs labor. A small tax is proposed upon miners who, whether they labor themselves or not, employ others to dig the minerals or metals from the bowels of the earth, thus investing their capital in enterprises of that sort. We put them upon an equal footing with all other kinds of business.

Mr. CAKE. I would like to put a question to the chairman of the Committee of Ways and Means; but before doing so I desire the Clerk to read again the amendment.

The Clerk read as follows:

In line two hundred and sixty-three, after the word "mining," insert "but who does not himself actually work at mining."

Mr. CAKE. I ask the chairman of the committee whether he can possibly object to that amendment? It seems to me in entire harmony with his remarks.

Mr. WOODWARD. His own speech shows, I think, that he would not object to the amendment if he understood it.

On agreeing to the amendment there were—ayes 27, noes 43; no quorum voting.

Mr. RANDALL. The chairman of the Committee of Ways and Means had better consent to have a vote on this proposition in the House.

Mr. ALLISON. I do not know that this will make much difference. The tax collected last year was only \$26,000.

Mr. HIGBY. I propose this because it does not amount to much.

The CHAIRMAN. No quorum voted.

Mr. ALLISON. I object to a vote being taken in the House, for that occupies time. We may as well settle the question here.

Mr. HIGBY. I withdraw the call for the division.

The CHAIRMAN. The amendment, then, is rejected.

Mr. HIGBY. Is it in order to move to strike out the paragraph?

The CHAIRMAN. It is.

Mr. HIGBY. I make that motion.

Mr. BROMWELL. I wish first to perfect the section. I move to strike out "\$1,000" and insert "\$3,000."

Mr. Chairman, it appears from this paragraph, and the ones which follow, that miners are to pay ten dollars when their business exceeds \$1,000, and lawyers only ten dollars when their gross annual receipts for professional services exceed \$3,000. Now, it strikes me that a lawyer can afford to pay on \$1,000 as well as the miner. His business is certainly as sure and not liable to any greater vicissitudes.

Mr. ALLISON. I call the gentleman to order, as we are not on lawyers.

Mr. BROMWELL. I am not out of order. Mr. HOOPER, of Massachusetts. I call the gentleman's attention to the difference in the phraseology. It is any lawyers who do not exceed \$3,000. If he makes only five dollars he has to pay this tax.

Mr. HIGBY. I hope this debate will go on in order.

Mr. BROMWELL. There is no difference between them. The miner is to pay ten dol-

lars if his receipts amount to \$1,000, but the lawyer may do business exceeding \$2,900 and is only to pay ten dollars. Why should it not be the same in both cases? I think, inasmuch as it seems proper to make this provision for lawyers, the same provision should be applied to miners.

Mr. SCHENCK. I desire to inquire how the debate stands on this paragraph. Has any amendment been offered?

The CHAIRMAN. The gentleman from California has moved to strike out the section, and the gentleman from Illinois has moved to amend the section proposed to be stricken out.

Mr. SCHENCK. I doubt whether this cock will fight at all. [Laughter.] What is the provision? It is simply this: that each miner shall pay ten dollars if his business amounts to \$1,000 or more, no matter how much more. The lawyer must pay ten dollars if his business does not exceed \$3,000. If he only receives five dollars he has to pay the tax. So nothing of a democratic or demagogical character can be drawn from that. It will not answer at all. The argument is the other way.

Mr. BROMWELL. I will ask the gentleman whether it is not true that this bill provides that a lawyer may do a business of \$2,900 and be compelled to pay only ten dollars?

Mr. SCHENCK. Yes, sir; and a miner may do \$1,000,000. The miner is not to go above ten dollars. Now, rather than the committee shall be broken up I will agree that the amendment shall be considered as adopted and a vote taken in the House.

Mr. BROMWELL. I withdraw the amendment.

Mr. MILLER. I renew it. I have only a word to say in regard to it. I only feel an interest about coal miners. I am not particularly interested in the other miners. The miner is to pay ten dollars if his business exceeds \$1,000. Now, the objection I have to this is, these miners employ others to labor for them; their receipts may be \$1,000; and yet when they pay their laborers they may not have \$300 left. Our tax bills heretofore have never been in favor of taxing labor, and this does tax the laborer.

Mr. ALLISON. I move that the committee rise for the purpose of closing debate on the pending paragraph.

Mr. HIGBY. I wish to understand what limit the gentlemen are going to allow to debate. I made a motion sometime ago to strike out, and I have had no opportunity to be heard.

The CHAIRMAN. The motion was discussed.

Mr. HIGBY. I have something to say on it. The CHAIRMAN. It was debated and opposed.

Mr. HIGBY. Then I ask to take a vote, for I made another amendment.

The CHAIRMAN. The gentleman cannot make a second amendment and retain the floor.

Mr. HIGBY. Then I will ask for a vote upon it.

The motion of Mr. ALLISON, that the committee rise, was agreed to.

So the committee rose; and Mr. BLAINE, as Speaker *pro tempore*, having taken the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into the Committee of Whole on the state of the Union on the tax bill; and pending that motion I move that all debate on the pending paragraph terminate in fifteen minutes after going into Committee of the Whole.

Mr. HIGBY. I hope the gentleman will allow more than fifteen minutes.

The motion of Mr. SCHENCK was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of

the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

Mr. COBB. I desired to get the floor some time ago in order to move an amendment or two, which I think would perfect this paragraph and make it understood by the people. But as I have not time now to perfect the amendment and say what I desired to, I will content myself with speaking to the motion of the gentleman from California, [Mr. HIGBY,] that the clause be stricken out. Now, I desire to state, in the hearing of this committee, that the tax collected from this source during the year 1867 was but \$26,000, and in 1866 it was but \$28,000. It will therefore be appreciated by the committee that it is but a small matter; nevertheless it is a tax which to a great extent discourages the business of mining.

Mr. Chairman, I know nothing of the business of mining for coal, but I represent a district which is largely interested, or was in former times, in mining for lead ore and zinc; and the idea of the chairman of the committee that capital is used in mining to a greater extent than in farming, or any of the ordinary avocations of life, is a great mistake. In the lead mines and in the gold mines generally very considerably less capital is employed *per capita* than is employed by farmers. The tools which the miner has to use do not cost half as much as those of the farmer. In mining it is nearly all labor. Therefore, this tax, small as it is, is a tax upon the labor, the sweat of the brow of the miner. I say this with a full knowledge that the paragraph contains words which seem to imply only those who employ others to mine shall be taxed. But such is not, in my humble opinion, the true construction of the section in regard to mining. The paragraph says miners shall pay ten dollars. One gentleman contends that these very words are qualified, and mean one kind of miners. Not so. It is claimed that it includes a class of men who are not themselves miners but who employ men to mine for them—that they shall be taxed as miners also.

Mr. HIGBY. Does it not include an individual who has his mine and employs a man with him?

Mr. COBB. Well, sir, doctors differ in regard to that. The committee last night said it did not.

Mr. HIGBY. You cannot give it any other construction.

Mr. COBB. I understand they do. I yield now to the gentleman from West Virginia, [Mr. HUBBARD,] who desires to say a few words.

Mr. HUBBARD, of West Virginia. I want to make a single remark in connection with this paragraph. It has been asserted that it has been opposed at every session of Congress, and I say it has been very properly opposed, because it is not in harmony with the remainder of the bill. This is a tax upon persons who produce a raw material. The great purpose of the bill is to place taxes upon manufacturers. Those who take the raw material and put it into a more valuable shape are charged a tax for so doing. This paragraph taxes those who produce the raw material, and we might with as great propriety tax the agriculturist who grows the wheat or the man who sends individuals into the forest to cut timber and float it down to the lumber manufactory. It is a tax on the man who produces the raw material which is to be made more valuable by others.

I have a special objection to the tax upon mining for coal, because it is intimately connected with all other manufacturing pursuits as the producer of steam-power. You might with as much propriety tax the man who employs men to go into the forest to cut timber for fire-wood for fuel, because coal is a great element of fuel throughout the country; and as this paragraph is not in harmony with the rest of the bill I hope it will be the pleasure of the committee to strike it out.

The question was taken on striking out the paragraph; and there were—ayes 28, noes 33; no quorum voting.

Mr. SCHENCK. Rather than break up the committee I am willing that this amendment shall be voted on in the House.

Mr. HIGBY. I agree to that.

The CHAIRMAN. Then the amendment will be considered as agreed to.

The next paragraph was read, as follows:

Photographers shall each pay ten dollars. Any person who makes for sale photographs, ambrotypes, daguerreotypes, or any pictures by the action of light, shall be regarded as a photographer.

No amendments were offered, and the Clerk read as follows:

Lawyers, whose gross annual receipts for professional services do not exceed \$3,000, shall each pay ten dollars; when exceeding \$3,000, shall each pay twenty-five dollars. Every person who, for pay, shall prosecute or defend causes in any court of record of the United States, or of any State, or give legal opinion or advice, shall be regarded as a lawyer.

Mr. MAYNARD. I was requested by the gentleman from Maine, [Mr. PERERS,] who is not in his seat and who informed me that he would be unable to be here this evening, to suggest two amendments, one in line two hundred and seventy-five, on page 104, to strike out the words "for pay," and the other is in line two hundred and seventy-six, to insert after the words "defend causes" the words "or enter their appearance." The object of this last amendment is to reach a class of persons who, I understood him to say, in the courts of his country obtruded themselves among the profession to procure its honors and general dignities and franchises, getting in the way of other persons and they ought to pay in the same manner as those who actually and in good faith practice.

Mr. HOOPER, of Massachusetts. I rise to oppose the amendment. I object very much to striking out the words "for pay." The gentleman will see that as the paragraph will then stand, every person who gives a legal opinion or gives any advice to a friend will be regarded as a lawyer and must pay ten dollars. I think the words "for pay" are the essential part of the paragraph. Every person who gives advice to another has got to be taxed ten dollars. He cannot advise a friend without paying ten dollars. I hope the words "for pay" will be retained.

Mr. MAYNARD. There are really two amendments. I move first to strike out the words "for pay."

The amendment was disagreed to.

Mr. MAYNARD. I now move to insert after the word "causes" the words "or enter their appearance."

The amendment was disagreed to—ayes twenty, noes not counted.

Mr. BROOMALL. I move to strike out the whole paragraph, and to insert in lieu thereof the following:

Lawyers, whose gross annual receipts for professional services do not exceed \$3,000 shall each pay twenty-five dollars; when exceeding \$3,000 shall each pay \$100. Every person who for pay shall prosecute or defend causes in any court of record of the United States, or of any State, or give legal opinions, or advice shall be regarded as a lawyer: *Provided*, That this tax shall not be imposed upon any lawyer until after he has been admitted to the practice of law at least two years.

I have always thought the special tax imposed upon lawyers ridiculously low. I suppose this particular profession has been neglected on account of there having been so few lawyers in Congress since these special taxes arose. It strikes me that the only hardship of a special tax of even twenty-five dollars must be upon those who have just been admitted to the bar, and the committee will see by the provision that I have made that I do not propose to tax them until they have been admitted to practice for two years. If in that time a man cannot pay a tax of twenty-five dollars, I should consider that he had mistaken his vocation and had better go at something else.

Mr. HOLMAN. I move to amend the substitute by inserting after the word "services"



the words "shall exceed \$500, and;" so that it will read: "lawyers, whose gross annual receipts for professional services shall exceed \$500 and do not exceed \$3,000." I think the profession can afford to pay that tax. It is a higher tax than most other men pay for exercising a profession; but it seems to me there should be an exception in favor of those with small incomes, as there are in all neighborhoods lawyers who, with great patience and plodding industry, accumulate but a few hundred dollars a year by their profession. They are never successful; but they like their profession, although during their whole lifetimes they make but a few hundred dollars a year. Those, however, whose fees amount to \$1,500 or \$2,000 a year can afford to pay the tax.

Mr. SPALDING. I think the tax on lawyers should be raised. The highest sum named in the substitute, I think, is \$100. I move to double it, and make it \$200, which I think is low enough.

Mr. ALLISON. Had not my friend better make the tax fifty per cent. of the gross receipts?

Mr. SPALDING. No, sir; I think my amendment is better.

The question was then taken upon the amendment of Mr. SPALDING; and it was not agreed to.

The question was then taken upon the amendment of Mr. HOLMAN; and it was not agreed to, upon a division—ayes fifteen, noes not counted.

The question was then taken upon the substitute of Mr. BROOMALL; and it was not agreed to.

Mr. BUTLER. I move to amend this paragraph by striking out the words "of record," so that the clause will read:

Every person who, for pay, shall prosecute or defend causes in any court of the United States, or of any State, or give legal opinions or advice, shall be regarded as a lawyer.

There are a large number of courts in our part of the country that are not courts of record technically, police courts, justice-of-the-peace courts, trial-justices' courts, where there is a very considerable practice. I do not think it will harm this paragraph to strike out the words "of record."

Mr. SCHENCK. I do not think it will either. I hope the amendment will be adopted.

The amendment of Mr. BUTLER was then agreed to.

Mr. MILLER. As it is conceded on all hands that young lawyers are generally very poor, I move to amend this paragraph by inserting after the word "services" the words "exceed \$500 and;" so that it will read, "lawyers, whose gross annual receipts for professional services exceed \$500 and do not exceed \$3,000, shall each pay ten dollars," &c.

The amendment was not agreed to.

Mr. EGGLESTON. I move to amend this paragraph by changing the amount of tax to be paid by lawyers from ten to twenty-five dollars, and from twenty-five to forty-five dollars. That will increase the tax a little on these professional gentlemen. I am satisfied there is no class of the community who can pay a tax more easily, and who will pay it more readily and not grumble at it, than these lawyers. The chairman of the Committee of Ways and Means [Mr. SCHENCK] says that the object of the committee is to levy a tax upon capital. And as the capital of lawyers is brains, I think he will agree with me that the tax should be raised in this case. And I am satisfied that the gentleman from Massachusetts [Mr. BUTLER] will make no objection to this increased tax being laid upon his profession.

Mr. SCHENCK. I am willing to compromise with my colleague, [Mr. EGGLESTON,] and vote for his amendment.

The question was then taken upon the amendment of Mr. EGGLESTON, and upon a division there were—ayes thirty, noes not counted.

So the amendment was not agreed to.

No further amendment was offered.

The next paragraph was read, as follows:

Conveyancers shall each pay five dollars. Every person other than one having paid the special tax as a lawyer or claim agent, who, for pay, draws deeds, bonds, mortgages, wills, writs, or other legal papers, or examines titles to real estate, shall be regarded as a conveyancer.

Mr. STEVENS, of New Hampshire. I move to amend by adding at the end of the paragraph just read the following:

*Provided*, That no license shall be required or tax imposed upon any conveyancer, unless his actual income therefrom shall amount to at least fifty dollars.

Mr. BLAINE. Say \$100.

Mr. SCHENCK. The word "license" is not a proper word to be used, because the Supreme Court has decided that as licenses we cannot impose these taxes. The gentleman will accomplish his purpose by saying, "conveyancers whose receipts from their business exceed so much." In saying this I do not mean to indicate my intention to support the amendment; but I desire that the gentleman shall frame his amendment in such a form, that it will not, if adopted, mar the harmony of the bill.

Mr. STEVENS, of New Hampshire. I modify my amendment in the manner the gentleman suggests.

Mr. SCHENCK. I think that from those who do conveyancing for pay we ought to receive at least five dollars.

Mr. STEVENS, of New Hampshire. Mr. Chairman, I desire to say that thirty-five out of the sixty towns in my district have no licensed conveyancer and no practicing lawyer; and under the provision of this paragraph, if it be adopted, the inhabitants of those towns will not be able, without great inconvenience, to find persons to do for them the neighborly act, as it often is, of writing a deed or a will. I desire that this portion of the bill shall be so amended that the people of my district may not be obliged to travel six, eight, and in some cases, twenty miles to find a lawyer or conveyancer to draw a will or a deed. I do not know that I should say "conveyancer," because in New Hampshire we have no persons specially of that class. All the persons who follow conveyancing as a business take out licenses as lawyers.

Mr. DAWES. Mr. Chairman, what the gentleman from New Hampshire states in regard to his district is true, I think, in regard to almost all the country districts in the United States. In half our towns there is neither lawyer nor professional conveyancer; and for the drawing of their deeds and other legal writings the people rely upon the justices of the peace and their neighbors. If every man who takes fifty cents for drawing a deed for his neighbor must pay this license, it will certainly operate as a hardship by compelling many a man, when he wants to execute a deed for an acre of land, to travel perhaps twenty miles to find a lawyer. I know perhaps a dozen of these justices of the peace in country towns whose entire gross receipts from this kind of business do not amount to ten dollars a year, and yet they do all the conveyancing for the towns in which they reside. I submit it is hardly fair to compel such men to pay this license.

The CHAIRMAN. No amendment is now before the committee. The amendment of the gentleman from New Hampshire, which was withdrawn for the purpose of modification, is not now in the possession of the Clerk.

Mr. FARNSWORTH. I move to amend by adding at the end of the paragraph the following:

*Provided*, That no license shall be required or tax imposed upon any conveyancer unless his annual income therefrom shall amount to at least fifty dollars.

Mr. HOOPER, of Massachusetts. I rise to a point of order. I submit that this amendment is not germane to this paragraph. The paragraph does not provide for any licenses.

The CHAIRMAN. The Chair overrules the

point of order. The amendment is germane to the pending paragraph.

Mr. FARNSWORTH. I rise for the purpose of advocating that amendment, and to state a case in point. A justice of the peace in my own county wrote to me to bring his case before the Commissioner of Internal Revenue. He had in the course of a year written out two deeds, and he found himself taxed for a license as a conveyancer. It is the same thing all over the country. A justice of the peace will have to go ten or twenty miles where there is a lawyer or a conveyancer to make a deed.

Mr. ALLISON. I do not see how that can be possible, as this is not in the existing law.

Mr. FARNSWORTH. The law now compels conveyancers to pay a license. I have given the case of a justice of the peace, who had made only two deeds in a year, and was required to pay a tax for license. I think this is all wrong.

Mr. SCHENCK. I ask the gentleman to modify his amendment, so it shall read, "conveyancers whose gross annual receipts as such exceed fifty dollars," so as to preserve the form of the bill.

Mr. FARNSWORTH. I consent to that.

Mr. SCHENCK. Having drawn a speech from every New England squire, as I supposed we would, I hope the vote will be taken on the amendment. [Laughter.]

Mr. LOGAN. The language of the amendment will only apply to conveyancers.

Mr. SCHENCK. The amendment is proposed to be put in this form, "conveyancers whose annual receipts," &c. Then comes the provision which defines who are conveyancers.

Mr. HOLMAN. I move to strike out this section, and I desire to say a word on this proposition. The taxes to be derived from this source will be a mere bagatelle. It will not pay the expense of collection. A great multitude of persons are to be made the subject of annoyance for this pittance. It seems to me there are greater subjects of taxation than this. The fewer subjects of taxation there are the better it is for the Government and the country. Taxes like this annoy without doing any great good. They create feelings of indignation against all taxation. I trust this paragraph will be stricken out.

Mr. SCHENCK's amendment was agreed to.

The committee divided on Mr. HOLMAN's motion; and there were—ayes 35, noes 42; no quorum voting.

The CHAIRMAN ordered tellers; and appointed Mr. HOLMAN and Mr. BROOMALL.

Mr. SCHENCK. I am willing to agree that this amendment shall be considered as rejected, and that a vote shall be taken on it in the House.

There was no objection, and it was ordered accordingly.

Mr. DAWES. I move to insert, "whose gross receipts from their business as such exceed twenty-five dollars."

The amendment was rejected.

No further amendment being offered, the Clerk read the next paragraph, as follows:

Physicians, surgeons, and dentists, whose gross annual receipts for professional services do not exceed \$3,000, shall each pay ten dollars; when exceeding \$3,000, shall each pay twenty-five dollars. Every person (except apothecaries) whose business it is, for pay, to prescribe remedies, or perform surgical operations, for the cure of any bodily disease or ailment, shall be deemed a physician, surgeon, or dentist. But no physician shall be liable to a further special tax for keeping on hand and using medicines only for the purpose of making up prescriptions for his own patients.

No further amendment being offered, the Clerk read the next paragraph as follows:

Apothecaries, whose annual sales exceed \$1,000 and do not exceed \$10,000, shall each pay ten dollars, and, in addition thereto, when their annual sales exceed \$10,000, shall pay in addition two dollars for each \$1,000 in excess of \$10,000. Every person who keeps a shop or building where medicines are compounded or prepared according to prescriptions of physicians, or where medicines are sold, shall be regarded as an apothecary; but a wholesale or retail dealer who has paid his special tax as such shall not be required to pay tax as an apothecary; nor shall any apothecary be required to pay, in addition, the special tax as a

retail dealer in liquor, in consequence of selling alcohol, or selling or dispensing, on the prescription of a physician, wines and spirits official in the United States or other national pharmacopœias in quantities not exceeding half a pint at any one time, and not exceeding in the aggregate cost value thereof the sum of \$300 in any one year.

Mr. BARNES. I desire to make an amendment at the beginning of this section, by striking out "one" and inserting "two," so that it will read, "apothecaries whose annual sales exceed \$1,000." My reason is this: a person whose salary is \$1,000 is exempt from all taxation upon his income; but here is a person who gives his time and employs his capital to do \$1,000 worth of business, and that includes the cost of the articles, and yet he is called upon to pay ten dollars tax. It seems to me that all branches of business should be exempted to the amount of at least \$2,000. The exemption is made of a salary of \$1,000, from the fact that the money is partially exhausted. Probably one half the amount of the sales is exhausted in the cost of the articles sold by the apothecary. I wish to test the sense of the House on this amendment. In case it does not prevail, I shall not call it up in the other sections.

The amendment was disagreed to.

Mr. BARNES. I now move to amend by inserting after the word "pharmacopœias" the words, "not to be drank on the premises;" and further in the same line by striking out the words "half a pint," and inserting "one quart," so that it will read, "or selling or dispensing, on the prescription of a physician, wines and spirits official in the United States or other national pharmacopœias, not to be drank on the premises, in quantities not exceeding one quart at any one time." This section, which applies to apothecaries, states the character of their business and specifies the taxation. It is well understood that the business of the apothecary is to sell not only drugs, but numerous other kinds of goods. An apothecary must ordinarily sell glass, putty, spirits, &c. Now, the restriction as regards the sale of spirits to half a pint, it seems to me, is not warranted by the necessity of the case. I have offered this amendment without any intention to dilate upon it at length. I simply desire to call the attention of the committee to it, believing it to be just and necessary. I move further to amend, at the end of the paragraph, by increasing the amount of liquors from \$300 to \$1,000. Having said all I desire to say upon these amendments, I yield to allow the committee to answer.

Mr. ALLISON. Mr. Chairman, this whole provision is the existing law, and has remained in the statute-book ever since 1864. There is no difficulty in relation to it, and I hope the amendment will not prevail. I yield to the gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. FARNSWORTH. I desire, in addition to what the gentleman from Iowa has said, to ask the Clerk to read a paragraph which I send up.

The Clerk read as follows:

"Hearken, Thomas, to instruction:  
For all thy ills a remedy is found,  
A panacea, certain, pleasant, sure,  
PLANTATION BITTERS—S. T.—1860—X.,  
A wondrous tonic, made by Dr. Drake.

"We presume 'poor Tom's' case is not worse than hundreds who are cured daily by this wonderful medicine."

The amendment was disagreed to.

The Clerk read as follows:

Manufacturers of medicines and medical preparations, whose annual sales exceed \$3,000, shall each pay twenty-five dollars. Every person (not being one who compounds or prepares medicines as a physician, or as an apothecary according to prescriptions of physicians) whose business it is to make, compound, or prepare any pills, powders, tinctures, troches, lozenges, syrups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils, or other medicinal preparations or compositions whatsoever, for consumption and sale, wherein the person making or preparing the same has, or claims to have, any private formula or occult secret or art for the making or preparing the same, or has or claims to have any exclusive right or title to the making or preparing the same, or which are prepared, uttered, vended, or exposed for sale under any letters-patent, or held out or recommended to the public by the makers, venders, or proprietors thereof as proprietary medicines, or

as remedies or specifics for any disease or ailment affecting the human or animal body shall be regarded as a manufacturer of medicines and medical preparations.

Mr. SCHENCK. I move to transpose the words "secret" and "art," so that it shall read "art or secret."

The amendment was agreed to.

The Clerk read as follows:

Manufacturers of cosmetics and perfumery, whose annual sales exceed \$1,000, shall each pay twenty-five dollars. Every person whose business it is to make any essence, extract, toilet-water, cosmetic, hair-oil, pomade, hair-dressing, hair restorative, hair-dye, tooth-wash, dentifrice, tooth-paste, aromatic cachous, or any similar articles, by whatsoever name the same heretofore have been, now are, or may hereafter be called, known, or distinguished, to be used or applied as perfumes or applications to the hair, mouth, or skin, shall be regarded as a manufacturer of cosmetics and perfumery.

Mr. SCHENCK. I desire to say in behalf of the Committee of Ways and Means that the gentleman from New York, [Mr. BARNES,] representing an interest involved in these two paragraphs, this one and the one preceding it, appeared before the committee yesterday to propose a change so that all the taxes which are included in these two paragraphs should come in under the head of special taxes, including a tax on their sales, so as to relieve them from the specific tax collected by stamps, provided for in the latter part of the bill. The committee were unable to act on the subject at that time and intended to vote on it this morning, but the reception of the Chinese embassy prevented the meeting of the committee; and I will ask the unanimous consent of the committee to pass over these two paragraphs until after to-morrow morning so as to give an opportunity to the committee to keep faith with the gentleman from New York.

Mr. BUTLER. I object; and I will give the reason if it is in order.

Mr. BARNES. I supposed an opportunity would have been presented to have changed this manner of collecting the tax before the Committee of Ways and Means, and that I should not have been compelled to argue the question before the House. Some of the members of the committee were willing to receive the information in that way which they had not had an opportunity of receiving, and I would be very much obliged to the gentleman from Massachusetts if he would withdraw the objection, and let these paragraphs be passed upon again by the Committee of Ways and Means.

Mr. BUTLER. I have a reason for objecting; I do not do it merely arbitrarily. If the committee will bear with me a moment I will state it. It is that the makers of these cosmetics and drugs and patent medicines are of all others the least useful on earth, and are of the least consequence to anybody but themselves. They are taxing the people in every form for articles which are of no use except to poison them, and for that reason I want them taxed in this part of the bill, taxed under the stamp taxes, and taxed everywhere.

Mr. BARNES. Then I would suggest that the taxes may be increased by referring the matter back to the Committee of Ways and Means.

The CHAIRMAN. Does the gentleman propose an amendment?

Mr. BARNES. Of course I must offer the amendment in a different form from what was my understanding with the Committee of Ways and Means. I move to strike out both these paragraphs, the one beginning on line three hundred and thirteen, and the one beginning on line three hundred and thirty-four.

The CHAIRMAN. The Chair will state to the gentleman that one of those paragraphs has been passed, and that it is too late to move to strike it out.

Mr. BARNES. I move, then, to strike out the paragraph beginning on line three hundred and thirty-four, which is as follows:

Manufacturers of cosmetics and perfumery, whose annual sales exceed \$1,000, shall pay twenty-five dollars. Every person whose business it is to make any essence, extract, toilet-water, cosmetic, hair-oil, pomade, hair-dressing, hair restorative, hair-

dye, tooth-wash, dentifrice, tooth-paste, aromatic cachous, or any similar articles, by whatsoever name the same heretofore have been, now are, or may hereafter be called, known, or distinguished, to be used or applied as perfumes or applications to the hair, mouth, or skin, shall be regarded as a manufacturer of cosmetics and perfumery.

I should have moved to strike out the preceding paragraph if I had not supposed that the request of the chairman of the Committee of Ways and Means would be granted, and that the matter would be referred back to the committee. That was the reason why I did not make the motion in time, and, therefore, I ask the unanimous consent of the committee to be allowed to move to strike out both paragraphs.

Mr. ALLISON. I must object.

Mr. BARNES. I move, then, to strike out the paragraph which I have read.

Mr. Chairman, I find that the rates of taxation upon various articles and trades specified in the bill range in comparison something like the following: the rate to be derived from confectionery is one sixth of one per cent., from the manufacture of jewelry one per cent., from gold and silver ware half of one per cent., fire-arms half of one per cent., pianos half of one per cent.

Mr. ALLISON. I will withdraw my objection, so as to let the gentleman from New York test the sense of the committee on striking out the preceding paragraph.

Mr. BEAMAN. I renew the objection.

Mr. BARNES. My remarks will apply to the articles included in both paragraphs. The rate of taxation on the manufacture of billiard tables is one per cent. Then candles, chocolate, gunpowder, white lead, paints, colors, glue, cement, gold leaf, building and monumental stones, mineral water, fancy soaps, enameled leather, &c., are not taxed. The articles enumerated in these two paragraphs of which I am speaking are taxed from six to twenty-five per cent. An article which is sold at wholesale at ten dollars per dozen, or eighty three cents per single item, is taxed specifically six cents, which is seven and twenty-eight hundredths per cent. upon the manufacturer's price. Articles which sell at eight dollars per dozen and are sold at sixty-four cents per item are taxed four cents, which is six and twenty-five hundredths per cent. Those that are sold at fifty cents per dozen are still taxed one cent for each article, which is at the rate of twenty per cent. And if you will examine these articles you will find that some of them are taxed as high as thirty-three and one third and even fifty per cent.

Now, gentlemen will bear in mind that there is a very great difference in the rates of taxation upon these different classes of articles. The lowest rate of taxation on the articles of this class is at least six per cent.

[Here the hammer fell.]

Mr. ALLISON. For one I should have been glad to have given the gentleman from New York [Mr. BARNES] a full opportunity to have presented before the Committee of Ways and Means his views upon this paragraph and the one immediately preceding it, although my mind is clearly made up as to the duty of the committee in respect to these two paragraphs. I perfectly agree with my distinguished friend from Massachusetts [Mr. BUTLER] with reference to the ability of this class of articles to bear taxation. I think there are no classes of articles that can better bear taxation than the class of medicines and medical preparations known as "patent medicines." We tax to-day very highly the article of friction matches, and raise from it a revenue of \$3,000,000 or more, yet the gentleman from New York asks us to remove from schedule C, for that really is his proposition, everything in it except friction matches. For one, I think we should retain the tax as it is in this paragraph, and also retain the provision in schedule C.

I will say that this question has at least once received the careful attention and consideration of the Committee of Ways and Means. After having received such careful consideration and due deliberation, the Committee of

Ways and Means inserted this paragraph in this bill, and have presented it here; and I do not believe it is in the power of the gentleman from New York, although he has a great array of statistics, to convince the Committee of Ways and Means, or this Committee of the Whole, that these articles cannot bear the tax here proposed.

The question was then taken upon the amendment of Mr. BARNES; and it was not agreed to.

Mr. SCHENCK. I desire once more to say distinctly to this Committee of the Whole—and of course I must thereafter leave it to their judgment—that the Committee of Ways and Means decided to report this bill in its present shape, putting a special tax upon the manufacturers of these articles, and also retaining these articles for taxation specifically in schedule C, as gentlemen will find by reference to section one hundred and twelve of this printed bill.

But the gentleman from New York [Mr. BARNES] appeared before the Committee of Ways and Means, and sought to get the committee to change their decision. After hearing him fully upon the subject the committee agreed to take a vote upon the subject this morning before it came up in the House. The committee, as members very well understand, were prevented from holding any meeting this morning.

I now submit to the gentlemen of this Committee of the Whole whether their minds are so fixed upon this subject that they will not allow the Committee of Ways and Means again to consider it. I feel I am bound in good faith to the gentleman from New York to again submit that matter to this committee.

Mr. BUTLER. And I again object.

Mr. BARNES. I move to amend this paragraph by striking out the word "cosmetics." And I desire to say further to this committee, in continuation of my line of argument, that the majority of the articles enumerated in these two paragraphs are composed in large part of spirits which to-day bear a tax of six hundred per cent.

Mr. LOGAN. But it does not pay the tax.

Mr. BARNES. And if the tax on distilled spirits is reduced to fifty cents a gallon, which, I believe, is the lowest sum that has been mentioned here, the tax will still be two hundred per cent. Then you put an average tax of from twelve to fifteen per cent. upon articles which are made from material already taxed six hundred per cent. I say there is nothing else in this bill that corresponds with it by at least one hundred per cent. And furthermore, the manner of levying this tax is subject to the gravest objection; it is neither *ad valorem* nor specific. The articles are small in character and cheap in value. One hundred and forty-four small articles constitute a package, and a piece of paper denominated a stamp, the value of which is represented by one cent, two cents, or four cents, is to be placed on each of these small articles.

Instead of taking the package itself, which may contain one or five gross, a larger or a smaller quantity, and putting upon the package a single stamp which shall represent a wholesale manufacturer's price, the law, under the recommendation of the Committee of Ways and Means, has been so framed heretofore, (because the matter was not properly understood,) as to require the pasting of these small pieces of paper upon each of these small articles, when the stamp could be much better applied upon the gross product. Such a requirement is not made in regard to any other class of articles except friction matches, to which the gentleman from Iowa [Mr. ALLISON] has referred, an article of such a character that the tax can be added to the selling price and is always paid by the consumer. The class of articles to which I refer are to-day sold at about the same prices as they were in 1860. The manufacturers advanced the prices upon these goods, but finding the advance could not be sustained, they have been compelled to reduce the prices. You can now enter any

store on Pennsylvania avenue and purchase a majority of these articles at the same prices at which they were sold ten years ago.

In reply to the wholesale assertion which has been made here with reference to the profits of this branch of business, I say that although there may be individual exceptions where fortunes have been made, yet such instances are in this business less numerous by ninety-nine per cent. than those occurring in any other department of business enumerated in this bill. I can refer gentlemen to a catalogue of those interested in this class of business, with the articles which they have been engaged in manufacturing; and I defy any gentleman to find forty articles out of the one thousand enumerated which have not bankrupted those who were interested in them.

Mr. ALLISON. I rise to oppose the amendment and ask a vote.

The amendment was not agreed to.

Mr. BARNES. I move to amend by striking out the words "toilet water" in line three hundred and thirty-seven.

Mr. Chairman, the objections raised to the mode of legislation contemplated in these paragraphs are distinct, they are sensible, they are equitable, and no fair-minded man on this floor can look at them in any other light. The articles here enumerated are such as are almost a matter of necessity in the family of every gentleman upon the floor of this House. If I should go to the residence of the gentleman from Massachusetts, [Mr. BUTLER,] who undertook to denounce the branch of business of which I am now speaking, I have no doubt whatever that I should find there five, ten, and perhaps twenty-five representatives of the class of articles which he denounces as injurious. So far as that is concerned, I suppose there is not a gentleman upon this floor who does not know that the gentleman from Massachusetts, who deals in this wholesale denunciation of a class of men who are as respectable as any whom he can call kinsmen, has a fellow-townsmen, Dr. J. C. Ayer, who is as respectable a man as any in the community, and who is performing as good a work for humanity when he sells his compounded prescription in a sealed bottle, as when he formerly, as a physician, sent his prescription to an apothecary to be compounded—as good a work as any other physician, when he sends his prescription to be put up, that it may be taken by the patient. So far as regards the general merits of the business, I leave that question to the common sense of gentlemen themselves. I think the business needs no defense. It is a business which is recognized in your tax bills. As I understand, the Committee of Ways and Means do not design to tax out of existence any business. But they are proposing to tax this business, so far as the alcoholic preparations are concerned, entirely beyond the extent to which it can bear taxation. Most of these articles, as I have remarked, are composed largely of double-proof spirits, necessary to preserve them on the one hand against the effects of heat, and on the other against the influence of cold. Seventy-five per cent. of the bulk of these articles is spirits. It is the necessity of their preparation and preservation.

I submit to this House that these articles are as meritorious as any other class of articles, and are not to be burdened with higher taxation than other like articles. The taxation that is imposed upon pianos and billiard-tables is sufficient tax to put upon them. I insist that it is unjust to discriminate as is done against these small articles. It is not fair that they should have so many of these small stamps put upon them. See the great impropriety there would be in taxing the spool of cotton, the buttons, and every other small thing that goes to make up a coat instead of putting the tax upon the coat itself. I can enumerate one hundred and forty-four of these small articles, worth only four dollars, upon which one hundred and forty-four of these pieces of paper are placed, each of which represents one cent.

The percentage of tax is thirty-three per cent., and more.

[Here the hammer fell.]

Mr. BUTLER. I am sorry, Mr. Chairman, that the gentleman from New York insists upon bringing before the House the name of the gentleman who is engaged in making preparations commonly known as "patent medicines." He is not a constituent of mine, and I have nothing to say against him in any shape or form. I never did believe his medicines did any good to anybody. I do not think that they have added to "the sum of human happiness" in any degree. I do not believe they are a valuable preparation to anybody but himself. From them he has derived a very large income, due to his energy and his persistence, and his advertising so largely.

Now, sir, passing from him, I take up the general subject. The people of the United States would be better off if they could legislate out of existence pills, powders, tinctures, troches, lozenges, sirups, cordials, bitters, anodynes, tonics, plasters, liniments, salves, ointments, pastes, drops, waters, essences, spirits, oils, extracts, toilet-waters, cosmetics, hair-oil, pomade, hair-dressing, hair-restorative, hair-dye, tooth-wash, dentifrice, tooth-paste, aromatic cachous, or any similar articles. I submit if we could tax them so they would never be heard of it would be better for us all. They are a necessary evil.

A MEMBER. They are unnecessary.

Mr. BUTLER. No, sir; they are a necessary evil; because, men believe there is something of health by pouring this poison into them, and men believe there is something of beauty by putting this stuff on them. They are of no earthly use except for the benefit of those who sell them. I call the gentleman's attention to the fact that he has argued this case three times, and he has convinced but one man in this House to vote with him, and that is himself. Is it, then, quite right that he should take up the valuable time of the country in discussing this question which he has discussed in the Committee of Ways and Means, and discussed here? In all fairness, should not there be an end of it? I only objected for the purpose of putting forward the public business. I had no other object. I desire to have debate closed on this paragraph.

Mr. SCHENCK. I hope, by unanimous consent, debate will be closed on these two paragraphs.

Mr. BARNES. I object.

Mr. ALLISON. I move that the committee rise for the purpose of closing this debate.

The motion was agreed to.

So the committee rose; and Mr. DAWES, as Speaker *pro tempore*, having taken the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

Mr. ALLISON. I move that the rules be suspended, and the House resolve itself into Committee of the Whole on the state of the Union; and pending that motion, I move that all further debate on the pending paragraphs shall be closed in one minute after their consideration shall be resumed.

Mr. BARNES. I ask for a division.

Mr. ALLISON. How much time does the gentleman want?

Mr. BARNES. This legislation has got to go on straight or it cannot go on at all. If I have the power I shall move that there be a call of the House.

Mr. GARFIELD. I rise to a point of order. The gentleman is not in order.

The SPEAKER *pro tempore*. The question is on the motion that all debate shall close in one minute.

The question being put, there were—ayes 46, noes 14; no quorum voting.



Tellers were ordered; and the Chair appointed Messrs. BARNES and ALLISON.

Mr. CULLOM. How much time does the gentleman from New York desire?

Mr. BARNES. I cannot tell; I want tellers. The committee divided; and the tellers reported—ayes 69, noes 13.

Mr. SCHENCK. I move that all debate cease in ten minutes after going into Committee of the Whole upon the pending paragraph. The motion was agreed to.

Mr. SCHENCK. I now move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union, and resume the consideration of the internal tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

Mr. BARNES. Mr. Chairman, when interrupted I was about to say that I happen to occupy a position—

Mr. UPSON. Mr. Chairman, is there any amendment pending?

The CHAIRMAN. The gentleman from New York has the floor.

Mr. BARNES. I will renew the amendment on any part of the section for the purpose of debating this subject.

Several MEMBERS. Go on.

Mr. BARNES. Mr. Chairman, I have in my possession from five to eight hundred letters from druggists and manufacturers of articles enumerated in these two paragraphs of this bill. It so happens that I sustain a relation to this class of persons throughout the United States which makes me the natural receptacle of this kind of information. These parties request me to do what little I can to see that their interests are presented and represented in this House. I have endeavored since I have been here to treat every member of the House with courtesy, and I will appeal to any gentleman here if I have taken offense at any word that has ever been uttered, any insinuation or innuendo that has been intended, directly or indirectly, for myself. But two gentlemen on this floor to-night have deliberately insulted me, and I say to those gentlemen—

Mr. ALLISON. I would like to ask the gentleman if he includes me?

Mr. BARNES. I did not include the gentleman.

Mr. MULLINS. Regular order, Mr. Chairman. [Laughter.]

Mr. BARNES. I am compelled from the action that the House has seen fit to take to explain my relations to this kind of business. From Portland, Oregon, across the Sierra Nevada, throughout the western States to Portland, Maine, throughout the southern States, and I may say beyond the confines of the stars and stripes, I am called upon for information with reference to this kind of business. I have undertaken to consult with the Committee of Ways and Means with reference to it in order that it might have a fair consideration. I am met here with the presentation of the most extraordinary taxes that are to be found in this bill, and applied in a manner that I undertake to say cannot be defended in a five-minute speech by any gentleman, whether he be a member of the Committee of Ways and Means or any other member of the House. Just think of the application of one hundred and forty-four small pieces of paper to one hundred and forty-four tooth-picks! How absurd and ridiculous! No man can sustain it upon any common sense principle. If gentlemen invite plain language, I am compelled to give it to them. I say I am associated with people who feel that they are overtaxed. When a man manufactures a billiard table he is taxed upon the sale of it one per cent. Another man manufactures medicines or perfumery, and he is taxed twenty-five dollars, and has to pay what amounts to one or two per cent. more. I say it is an invidious

discrimination, an unjust interference. I say so to the gentlemen who prepared this bill.

I am discussing this subject in a manner in which I did not intend. It was in my mind to refer to stamps in the illustration of books or magazines which we will say Harper publishes. He stamps it at the retail price of forty cents. In New York city it is sold at thirty cents, in Denver at seventy-five cents, in Salt Lake City two dollars, and in San Francisco at another price; and yet, by the action of the Committee of Ways and Means, articles less in volume and price than that magazine, and composed of more duplicates, are compelled to apply stamps—which shall do what? Why, that shall represent the retail price. I ask the Committee if they can defend the idea of putting a retail price on a bottle of medicine, an article of perfumery, or any of the things of which I am speaking? This bill would not stand an hour's investigation before any judicial tribunal, for it requires an impossibility, and a law of that kind, I undertake to say, before the common sense of any community is null and void, and could not be enforced.

[Here the hammer fell.]

Mr. ALLISON. I rise to oppose the amendment, and I will yield my time to the gentleman from New York to continue his remarks.

Mr. BARNES. I am much obliged to the gentleman. I desire now to call the attention of the committee to the absurdity of taking the infinitesimally small duplicates of articles like these under consideration here and compelling them to be manipulated in the way this bill prescribes. Why does not the committee take hold of large articles, such as plows and safes and desks, and cause stamps to be put upon them? But instead of that, the committee take these small articles and compel them to be manipulated at an expense of one or perhaps two per cent. to the proprietor for the application of the stamps. It loses sight of the fact that the stamps might be applied to the gross packages. The facts have been presented to the committee, but I felt that the committee did not understand the impracticability of this application of stamps. The articles produced are cheap in price, the stamps required are numerous, and the expense of applying them is greater in some cases than the profit realized. Moreover, there are constant thefts of these stamps. I have known within my own experience of at least fifty children employed at laboratories in the city where I reside who have been arraigned within the last year for stealing stamps, and who had been tempted to become felons by the facilities for stealing them. I know of one lad fourteen years old who had taken from one place and sold in two other places \$900 worth of these stamps within three months before he was detected. You can all understand the difficulties attending the operation of using these stamps. I ask gentlemen to point out one single advantage in collecting the tax in this way.

If the assertion of the gentleman is correct, that this is the most effective mode of collecting the revenue, then, sir, why is it not applied to all the articles which are enumerated in this bill? It is very singular reasoning to maintain that large articles, such as planing mills and plows and implements of manufacture and wheels, should be untaxed by stamps, while the cogs of the wheel and the buckles of the harness are to be stamped in duplicate. I submit to gentlemen that they have no argument upon this point.

Mr. Chairman, I shall be compelled, as we progress with the bill, to offer amendments with reference to the amount and character of these stamps. I will not now detain the committee longer. I regret to have taken up so much of its time. It was not my intention to do so, but I have been driven into it. I have merely given expression to the views and wishes which have been communicated to me by a large number of persons scattered throughout this country, and if I have made myself understood by this committee and by these gentlemen when they find their just ideas

defeated I shall be very glad. I now withdraw the amendment.

No further amendments being offered, the next paragraph was read, as follows:

Confectioners shall each pay as a wholesale or retail dealer, according to the amount of sales. Every person whose business it is to sell or offer for sale confectionery in any building shall be regarded as a confectioner. No person who has paid his special tax as a wholesale dealer or retail dealer, keeper of a hotel, inn, or tavern, or keeper of an eating-house, shall be required to pay an additional special tax as a confectioner.

No amendments were offered, and the Clerk read as follows:

Manufacturers of confectionery, whose annual sales exceed \$1,000 and do not exceed \$5,000, shall each pay a tax of twenty dollars, and when the sales exceed \$5,000 shall, in addition, pay six dollars for each \$1,000 in excess of \$5,000. But a manufacturer of confectionery who sells or offers for sale exclusively the products of his own manufacture shall not be required, in addition to his tax as a manufacturer of confectionery, to pay the special taxes imposed on a confectioner.

No amendment was proposed, and the following paragraph was read:

Grinders of coffee and spices, whose annual sales exceed \$1,000, shall each pay a tax of twenty dollars. Every person who grinds coffee, spices, or mustard, or any article intended for use as a substitute for, or as an adulteration of, coffee, spices, or mustard, or who compounds, mixes, or prepares for sale any article intended for use and sale as coffee, spice, or mustard, or as a substitute therefor, shall be regarded as a grinder of coffee and spices.

No amendment was offered.

The next paragraph was read, as follows:

Keepers of hotels, inns, or taverns shall be classified and rated according to the yearly rental or the estimated yearly rental value of the house and property intended to be so occupied, as follows, to wit: when the rent or valuation of the yearly rental of said house and property shall be \$300 or less, they shall each pay ten dollars; and if exceeding \$300, for every additional \$100 or fractional part thereof in excess of \$300, shall pay five dollars. Every person whose business it is to furnish food and lodging to travelers and others, for pay, shall be regarded as a keeper of a hotel, inn, or tavern. Any person keeping a hotel, inn, or tavern may keep and feed the animals of travelers or sojourners without the payment of an additional special tax as a livery-stable keeper; but wines, spirits, or malt liquors shall not be sold to be drunk upon the premises without the payment of the additional special tax of a retail liquor dealer. Owners of steamers and vessels upon the waters of the United States, on board of which passengers or travelers are provided with food or lodgings, shall be subject to and required to pay a special tax of twenty-five dollars. The yearly rental value of hotels, inns, or taverns shall be determined by the assistant assessor, but at not less than the actual rent when rented.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to move to amend this paragraph, in the third sentence, by striking out the words "to be drunk upon the premises without the payment of the additional special tax of a retail liquor dealer;" and inserting in lieu thereof the words, "without the payment in addition of the special tax of a wholesale or retail liquor dealer, according to the amount of his sales."

Mr. BUTLER. I rise to oppose this amendment, and for reasons which I will state to this committee. I do not see any use in passing this amendment, because I am quite certain that, at this period of this session of Congress, there is no reasonable prospect that we can pass this bill. Therefore it is not worth while to try any longer to amend it.

This bill was reported to the House on the 12th of May, after having been for five months under consideration by the Committee of Ways and Means. I appreciate the labors of that committee, and think they have made a bill as near perfect as it is possible for any committee to do. We have now been all this time upon this bill and have only reached page 108, the bill containing three hundred and sixty pages; and we have not yet reached the really debatable matter contained in the bill.

I am afraid, if we continue the consideration of this bill, we will not be able to get it through this House before the 1st of July. The bill will then have to go to the Senate, where it will be referred to the Committee on Finance. Many gentlemen who have interests at stake will want to be heard before the Committee on Finance. That committee will not get through with its consideration in much less

time than a month, however well they may work upon it. Then the Senate will take, at least, another month to discuss and amend it, as they are without the previous question. Thus it will be September before we will be able to receive this bill from the Senate so as have an opportunity to examine their amendments. In the mean time we shall have lost the advantage of passing some provisions in regard to the tax on tobacco and distilled spirits.

I wish, therefore, now to give notice—and that will be a reason why I do not want this amendment to pass—that on to-morrow, when the motion is made to go into Committee of the Whole upon this bill, I will oppose it for the purpose of moving a postponement of the further consideration of this bill until the first Monday of December next. At the same time I shall ask that a resolution be passed instructing the Committee of Ways and Means to report in a separate bill the sections in regard to the tax on distilled spirits, malt liquors, and tobacco, with such general provisions of legislation as will be necessary to make that tax effective. That is practically all we can do.

Mr. CULLOM. That is about all there is in this bill.

Mr. BUTLER. I beg the gentleman's pardon. I am told that that is about all there is in the bill. That may be all that is practical in the bill. But there are other provisions here which it would be an immense annoyance to this House to attempt to perfect while we can obtain all the practical advantages that will be derived from the bill by the course I propose to take.

Now, let me submit this to our friends of the Committee of Ways and Means. They have required five months to bring this bill to its present state of perfection, and they have done a great work; it is a work that has been well done. Now, we ought in both Houses to be quite as long over the bill as were the Committee of Ways and Means.

But, it is only because of this late hour of the session that I oppose—I beg pardon; I take back that word; I do not oppose the bill, but I suggest a postponement, which is not a motion hostile to the bill. It may be regarded as hostile in parliamentary language. But it is not, because I do hope the bill will pass at some time.

Now, I put it to the majority in this House if it is not their opinion, if it is not the opinion of almost every gentleman here, that it is extremely doubtful if we can pass this bill this session. Does any gentleman here believe that this bill can be put through Congress and become a law before September next?

Mr. SCHENCK. Since the Chair has permitted this argument upon a motion to amend I suppose it is equally competent to oppose the amendment in the same vein.

I am very much afraid, sir, that the gentleman from Massachusetts [Mr. BUTLER] takes counsel from his wishes rather than his fears when he speaks of the impossibility of getting this bill through. What are the facts? The gentleman speaks of the length of time occupied in preparing the bill. A good deal of time was so occupied, and the work is before this committee. The Committee of Ways and Means are not disposed to feel any shame for having bestowed so much time and labor in what was so onerous an undertaking, the condensation, collation, and codification of all your internal revenue laws.

The delay, however, has not been alone that of the Committee of Ways and Means. There are other circumstances which have protracted this session. The gentleman does not need to have me specify them. But how do we stand? After the termination of the delays arising out of impeachment, and since we have been enabled to bring the bill before the House, there have been but three full days of work upon it. Last week we were interrupted by privileged questions of various kinds, and by some allowance of general debate, demanded upon all hands, so that until the middle of the day on Thurs-

day there was no opportunity to consider the bill in detail. On Saturday we were once more interrupted, and again yesterday by questions arising out of matters over which the gentleman from Massachusetts has more control than anybody else in this House. Yet, occupying this comparatively small portion of the time of the House, what have we done? We have gone one third of the way through the bill, or very nearly that. We have considered one hundred and eight pages out of the three hundred and sixty, considerably more than one fourth.

What has been the fact in regard to former bills of this character? Why, sir, a bill introduced in 1866 of a little more than one half the length of this, involving upon almost every page of it and for many successive pages disputes upon item after item, occupied the House twenty days in going through with it, from the 8th to the 28th of May; yet the bill passed finally in good time. And now having commenced the consideration of this bill only last week, and having devoted to it only three full days, we have shown, as I predicted in the beginning, that this bill can be carried through in this House with ten days of work altogether. I say again that if gentlemen shrink from the performance of this work now, they take counsel from their wishes rather than their fears. If we really wish to pass the bill, there is no difficulty in the House of Representatives at least doing its share of the labor and doing it properly. If the Senate chooses to take another responsibility, it is for that body, not for us, and I for one will not consider that question.

One word as to the proposition made by the gentleman. If the Committee of Ways and Means take this bill to their committee-room and arrange the various administrative sections, so as to connect them with the tax upon tobacco and whisky, they cannot report it back in much, if any, less time than it would take to carry through the House this bill with which we have now progressed one third of the way. I speak advisedly. The committee cannot in less than something like a week prepare such a bill as the gentleman speaks of, for the various general and administrative sections must be molded together connectedly if we are to do our work well; we cannot take at random a page here and a page there.

One thing further I desire to say. If this House of Representatives, with a Republican majority, shrinks from meeting all these questions and making provision for the revenue of the country with reference to the necessary demands upon its resources, their constituents will understand that they have shrunk from a labor that was expected from them, and they will, I think, be kept at home individually in consequence of this failure upon their part to do the duty for which they are sent here. And I think they ought to be kept at home. I think if this House of Representatives and this Congress, because of any supposed inconvenience of sitting a week or a month longer, or, if necessary, a month or two longer—though no such necessity is devolved upon us in disposing of the questions involved in the business now before the House—they do not deserve to come back again or to retain power in the country, because they shrunk from that responsibility the people of the country expect them to take. I speak plainly, because I desire to be understood; and I speak earnestly, because I feel earnestly in the matter.

The CHAIRMAN. There is no question before the committee. The Chairman allowed statements to be made because there was no objection.

Mr. COVODE. I move to strike out the last line. It has been my opinion from the commencement, as I have stated on a former occasion, that, while I believe the bill would go through the House—

Mr. SCHENCK. I object to this debate. The gentleman must confine himself to his amendment. When the gentleman from Massachusetts spoke as he did I claimed the privilege to reply. I object to further general debate.

The CHAIRMAN. The Chair sustains the point of order. The amendment of the gentleman is not an amendment to the pending proposition.

Mr. COVODE. What I wanted to say was this—

Mr. SCHENCK. I object.

Mr. SCHENCK's amendment was agreed to.

Mr. ELA. I move to insert after the word "less" the word, "whose gross receipts shall exceed \$500;" so it will read:

When the rent or valuation of the yearly rental of said house and property shall be \$300 or less, whose gross receipts shall exceed \$500, they shall each pay ten dollars; and if exceeding \$300, for every additional \$100 or fractional part thereof in excess of \$300 shall pay five dollars.

Mr. Chairman, as it is now, it is almost impossible for a man traveling across the country to get dinner for himself and horse. There is not business enough at the cross roads to warrant a man in paying a license tax.

The amendment was rejected.

Mr. ARCHER. I move that the committee rise.

The House divided; and there were—ayes 27, noes 42.

So the motion was disagreed to.

The Clerk read the next paragraph, as follows:

Keepers of eating-houses whose annual sales exceed \$1,000 and do not exceed \$10,000 shall each pay ten dollars; when exceeding \$10,000, shall each pay twenty-five dollars. Every place where food or refreshments of any kind, not including spirits, wines, or malt liquors, are provided for casual visitors, and sold for consumption therein, shall be regarded as an eating-house.

Mr. BUTLER. I move to add the following:

Provided, That nothing in this section shall be construed to prevent any State restraining by its own laws the sale of intoxicating liquors.

Mr. SCHENCK. That is already provided for in a general provision.

Mr. BUTLER. Then I withdraw the amendment.

No further amendment being offered, the Clerk read the next paragraph as follows:

Livery-stable keepers, when the annual rental or estimated rental value of the stable and premises used for such business does not exceed \$2,000 per annum, shall each pay ten dollars; and if such rental or estimated rental value shall exceed \$2,000 per annum, fifty dollars; and no additional special tax shall be imposed upon any livery-stable keeper for dealing in horses.

Mr. SCHENCK. I move to insert the following after the word "dollars" where it last occurs:

Any person whose business it is to keep horses for hire or to let, or keep, feed, or board horses for others, shall be regarded as being stable keepers.

Mr. BUTLER. I propose to show a reason why we should not adopt this amendment, and as a reason why this amendment should not be passed. I propose again to show that it is a loss of time to this committee to go into this—

Mr. SCHENCK. I object to any debate as to whether the bill shall pass or not upon a question of this kind.

The CHAIRMAN. The Chair sustains the point of order. The remarks of the gentleman are not germane to the pending amendment.

Mr. BUTLER. I propose, then, to say that this amendment will only take the time of the House uselessly; therefore it ought not to be passed, and for the reason that here is one of a series of amendments which have got to be put on the bill by the committee itself in order to perfect it; and while we are perfecting it in this way—

Mr. SCHENCK. I insist upon my point of order.

The CHAIRMAN. The Chair sustains it. Mr. SCHENCK. The gentleman cannot proceed except in order.

Mr. BUTLER. The best way to try that is to object on that account.

Mr. SCHENCK. I suppose by the course of the gentleman's proceeding that he is going to speak generally.

Mr. BUTLER. Then I will ask leave of the House to put it to a vote.

The question being taken on the amendment of Mr. SCHENCK, it was agreed to.

Mr. SPALDING. I move that the committee rise.

The question was put; and there were—aye twenty.

Mr. BARNES. I insist on a further count.

Mr. SCHENCK. It is very evident that gentlemen intend—

Mr. BUTLER. I call the gentleman to order. [Laughter.]

Mr. SCHENCK. I will move, myself, that the committee rise.

Mr. BUTLER. That motion is made already. [Laughter.]

Mr. SCHENCK. I hope it will be acceded to whenever there is an evident purpose to—

Mr. BUTLER and others. Order.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

#### INCREASED DUTIES ON IMPORTS.

Mr. MOORHEAD. I ask unanimous consent to introduce a bill to increase the revenue from duties on imports and to equalize exports and imports, for the purpose of having it printed and referred to the Committee of Ways and Means.

Mr. BARNES. I object. I understand the House does not hold evening sessions for this purpose.

Mr. PAINE. I move that the House adjourn.

The motion was agreed to; and thereupon (at ten o'clock and fifteen minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. HUBBARD, of Connecticut: The petition of Edward J. Nichols, a captain in the naval service of the United States, praying for advancement in rank.

By Mr. LAWRENCE, of Pennsylvania: Two petitions from citizens of Western Pennsylvania engaged in the manufacture of tobacco, asking for a reduction of tax on cigars and leaf tobacco.

#### IN SENATE.

WEDNESDAY, June 10, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### HOUSE BILLS REFERRED.

The following bills yesterday received from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 1194) to provide for the inauguration of State officers in Arkansas, North Carolina, South Carolina, Louisiana, Georgia, and Alabama, and for the meeting of the Legislatures of said States—to the Committee on the Judiciary.

A bill (H. R. No. 631) amendatory of an act approved July 26, 1866, entitled "An act to authorize the construction of certain bridges and establish them as post roads—to the Committee on Post Offices and Post Roads.

A bill (H. R. No. 1205) to further amend the postal laws—to the Committee on Post Offices and Post Roads.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Secretary of the Interior, communicating, in compliance with a resolution of the 27th ultimo, information in relation to the reasons why a number of per-

sons enrolled as Creek Indians by the Creek agent in 1867 have been stricken from the rolls and refused payment of their *per capita* dividend; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also laid before the Senate a letter of the Secretary of the Interior, communicating a copy of a telegram from Lieutenant General Sherman, relative to the removal of the Ute and Navajo Indians; which was referred to the Committee on Indian Affairs, and ordered to be printed.

#### PETITIONS AND MEMORIALS.

Mr. CONKLING. I present the petition of numerous merchants of the city of New York, calling attention to the objections to an act of Congress of 1863 preventing the issuing of execution against collectors of customs, and praying a repeal of that act and similar acts. The petition comes to me with a letter from an eminent lawyer suggesting that it ought to be referred to the Committee on the Judiciary. It seems to me, however, that it pertains more appropriately to the Committee on Finance, and therefore I move that it be referred to that committee.

The motion was agreed to.

Mr. SUMNER. I present the petition of the grand and petit jurors of the circuit court of the United States for the first circuit and district of Massachusetts, in which they represent that while, as citizens of the United States, they recognize the duty of doing their part as jurors in the proper administration of the laws, and that such services should not be made a matter of profit, they yet think that a just compensation should be paid them in order that no person may be compelled to bear more than his fair share of the public burdens. They then proceed to represent that the fees of jurors, as now established by law, being only two dollars per day for attendance and five cents per mile each way for travel, are undoubtedly inadequate to their support during the discharge of these duties; that they cannot pay their bills at the hotels where they reside in Boston for the fees which they receive; and they petition Congress to make such an addition to the per diem of jurors as may seem expedient and just. This petition is signed by the two juries, headed by their respective foremen, and it has, then, this memorandum, signed by Nathan Clifford, associate justice of the Supreme Court of the United States, and John Lowell, district judge:

"We concur in the foregoing petition, and hope it will receive the attention of Congress."

To this is added also the following memorandum, signed by G. S. Hillard, United States attorney, and George L. Andrews, United States marshal:

"We concur in the above petition, and earnestly hope it may receive the early and favorable consideration of Congress."

It seems to me that this petition is certainly very equitable, and that there ought to be an addition to the per diem of jurors.

The PRESIDENT *pro tempore*. The petition will be referred to the Committee on the Judiciary.

Mr. HOWARD. I think a similar memorial has been presented to Congress from my own State, making the same complaint, and it is a very serious evil in the administration of justice, and I wish to call the particular attention of the Committee on the Judiciary to this subject. Certainly it cannot be the desire of the Government of the United States that jurors called from their homes should be obliged to pay a large portion of the expenses of doing their duties as such.

Mr. SUMNER. I do not see the chairman of the Judiciary Committee in his place, but there are certainly three or four gentlemen of that committee present, and I hope they will not think I take too great a liberty if I invite their attention to this petition.

Mr. CONKLING. As this subject seems to be dwelt upon somewhat, I beg to suggest to the honorable Senators who have it in view that the theory was in early times, and the

theory is now in the part of the country with which I am most familiar, that a man who sits as a juror is not to receive compensation in money, as he would for services rendered, but that it is in part a contribution which he makes to the general welfare, and in part it goes upon the idea that he receives remuneration and compensation in other ways than merely through his per diem allowance.

Mr. SUMNER. Listening to the lawyers? [Laughter.]

Mr. CONKLING. I have heard the honorable Senator from Massachusetts before disclaim much respect for the lawyers, and I regard his want of veneration in that respect as one of the few foibles which may be attributed to him. It is greatly to be regretted by his friends that he has not more veneration for lawyers and for the bar than he seems to have. Yes, sir, there may be some advantage in listening to the lawyers, and becoming acquainted with affairs and business. In the State of New York I believe no juror is paid more than ten shillings a day; I speak now of the State courts, and I speak of those counties in which the supervisors have placed the rate at the highest figure; and there is no difficulty in obtaining juries, no difficulty in securing the attendance of the most respectable men, the most substantial men in their localities; and I am very sorry that either in Massachusetts or Michigan men should be less public spirited or less patriotic than they are in the larger States.

The PRESIDENT *pro tempore*. The petition is referred to the Committee on the Judiciary.

Mr. McCREERY presented a petition of citizens of Paducah, Kentucky, praying compensation to Dr. J. M. Best for losses sustained during the battle around Fort Anderson, on the 25th and 26th of March, 1864; which was referred to the Committee on Claims.

Mr. THAYER presented a petition of citizens of Nebraska, praying the establishment of a mail route from Fremont to Lincoln in that State; which was referred to the Committee on Post Offices and Post Roads.

Mr. RAMSEY presented additional papers in relation to the claim of Antoinette Darling, for property destroyed by the Indians; which were referred to the Committee on Indian Affairs.

Mr. MORRILL, of Maine. I present the memorial of the General Assembly of the Presbyterian church of the United States, convened at Harrisburg, Pennsylvania, who represent that the Indians have no adequate protection by the laws of the United States, and they pray that Congress will remedy by appropriate legislation these evils, by enacting that the Indians of our country shall be subject to the criminal laws of the United States, and of the States and Territories in which they may be found, just as well as others, whether native or foreign, who may be within the bounds of our national or State or territorial jurisdiction, are subject to those laws. I move that the memorial be referred to the Committee on Indian Affairs.

The motion was agreed to.

Mr. MORTON presented the memorial of the Chamber of Commerce of Cincinnati, Ohio, praying the passage of a general law to regulate the construction of bridges over the Ohio and Mississippi rivers, so that they shall not obstruct nor make dangerous the navigation of those rivers; which was referred to the Committee on Post Offices and Post Roads.

Mr. CORBETT presented a petition of citizens of Idaho Territory, praying the establishment of a mail route from Placerville to Bluff Station, in that Territory; which was referred to the Committee on Post Offices and Post Roads.

#### REPORTS OF COMMITTEES.

Mr. MORRILL, of Maine, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869, reported it with amendments.



Mr. FERRY, from the Committee on Patents and the Patent Office, to whom was referred the bill (H. R. No. 783) for the relief of Samuel Pierce, reported it without amendment, and submitted an adverse report; which was ordered to be printed.

Mr. MORGAN, from the joint Committee on the Library, to whom was referred the petition of John S. Hittell, in regard to the appointment of a board of commissioners to prepare a report upon the question of whether the introduction of the phonetic alphabet into common use in Great Britain and the United States is practicable, and whether it would be beneficial, asked to be discharged from its further consideration; which was agreed to.

Mr. POMEROY, from the Committee on Public Lands, reported amendments intended to be proposed to the bill (H. R. No. 605) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1869; which were ordered to be printed.

#### BILL INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 531) for the organization, government, and payment of the Army; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

#### PRINTED MAIL MATTER.

Mr. RAMSEY. I move that the Senate proceed to the consideration of House bill No. 176. It is important that the bill, if passed at all, should pass now. It proposes to amend the act of Congress of 1864, regulating the conveyance of printed matter by mail between western Kansas and eastern California. The Postmaster General is about entering into contracts for the conveyance of the mail overland again, and it is important that this bill should pass now. I move to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 176) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864. The bill proposes to repeal the fourth section of the act of March 25, 1864. The Committee on Post Offices and Post Roads proposed to amend the bill by striking out all after the enacting clause and inserting:

The operation of the fourth section of an act to provide for carrying the mails of the United States to foreign ports, and for other purposes, approved March 25, 1864, shall cease and determine on and after the 30th day of September, 1868.

Mr. SHERMAN. I should like to have the fourth section of the act referred to read.

Mr. CONNESS. That is the section which prohibits the transmission of newspapers without the prepayment of letter postage between certain points in the West.

Mr. RAMSEY. Between western Kansas and eastern California.

Mr. SHERMAN. Let it be read.

Mr. RAMSEY. Almost all the Territories of the West are protesting against the continuance of this provision of law, and asking that they may be placed on an equality with the other States and Territories of the country and allowed to receive mail matter of all sorts and descriptions by post.

Mr. SHERMAN. I should like to have that law read.

Mr. RAMSEY. The Clerk has sent for it, and it will be here in a moment. The House of Representatives passed this bill repealing that section of the law of 1864, but the committee found that the contract with the overland mail company was made in subordination to that law, and that the repeal of it now would probably entitle them to come against the Government for liberal damages. The committee, therefore, amended the bill so as to postpone its operation until after the 1st of September, when the present contract with that company expires. The Postmaster General is now about entering into a new contract as from that day,

and it is thought advisable to pass this bill before that contract is made.

Mr. JOHNSON. Does the Department concur in the propriety of the bill?

Mr. RAMSEY. Yes, sir; the Department consents to it, and desires that the law referred to should be repealed. The Clerk now has the section, and it can be read.

The Chief Clerk read the fourth section of the law of March 25, 1864, as follows:

"And be it further enacted, That all mailable matter which may be conveyed by mail westward beyond the western boundary of Kansas, and eastward from the eastern boundary of California, shall be subject to prepaid letter-postage rates: *Provided, however,* That this section shall not be held to extend to the transmission by mail of newspapers from a known office of publication to bona fide subscribers, not exceeding one copy to each subscriber, nor to franked matter to and from the intermediate points between the boundaries above named at the usual rates: *Provided further,* That such franked matter shall be subject to such regulations as to its transmission and delivery as the Postmaster General shall prescribe."

Mr. CONNESS. I simply wish to say that that provision was inserted in the law when the overland mail ran over the whole route on wheels, and it was found necessary to relieve it from carrying the great mass of newspaper matter. Now the two ends of the railroad are approaching each other very rapidly, and the means of transmission between them furnishes greater facilities. A new contract for the transportation by the overland mail is to be made, to go into operation in September, and the object is that all mail matter may be transported under the new contract to be made.

Mr. EDMUNDS. Is it paid for by weight?

Mr. CONNESS. Certainly, according to the newspaper laws.

Mr. SHERMAN. Undoubtedly this will largely increase the contract price for carrying mail matter; and there is no injustice, it seems to me, in requiring this outside newspaper matter to pay a little higher than the present rate. It seems that under the law as it now stands papers subscribed for by regular subscribers and sent even into this middle country only pay the present rates, and the increased rate simply applies to packages of newspapers sent not in the ordinary course.

Mr. CONNESS. It applies to magazines and general newspapers.

Mr. SHERMAN. I see no injustice or inequality in requiring persons who get these packages to pay the increased cost of transportation. Undoubtedly the contractors will make a very liberal addition to their bids for the new burden cast upon them by the repeal of the act of 1864.

Mr. CONNESS. This contract will be made in view of the completion of the Pacific railroad, which will be within the next year, that is, within 1869. The two roads will meet in 1869. That is now as near a fixed fact as anything can be that has not yet taken place. This business of the transportation from the East to all over the West of our leading periodicals has grown to be a great business, and it is a business that lies at the foundation of the circulation of intelligence more perhaps than any other. The people of the West are entitled to all the facilities the mail can give. I do not suppose the Government will be charged with a cent extra for the contract for carrying the mail.

Mr. STEWART. I will say to my friend from Ohio that there is a very marked injustice in the present law, and we have submitted to it for a considerable time. For instance, papers and magazines printed in California are stopped on the boundary of that State and the people of Nevada cannot get them. While the stages were overloaded we were not indisposed to submit to this; but now the railroad is running over the mountains, and there is no reason why there should be a discrimination against the citizens of Nevada in receiving magazines and bundles of papers to the distribution of which they are as much entitled through the mail as are the citizens of Ohio. There is no reason for the existing provision now that railroads extend into the interior.

Mr. SHERMAN. The Senate will see that

this repeal does not affect the railroad lines, because, so far as the railroads are concerned, they have contracts with the Government by which they will transport everything that would be properly mail matter. So far as railroad lines are concerned, I have not the slightest objection to allowing the same rates of postage to be charged on printed matter in every part of the country; but there are vast regions of country where there are no railroad lines—for instance, the vast region lying between middle Kansas and southern California, including Santa Fé and the whole of New Mexico. At best, our Post Office Department is a great burden upon the public Treasury, and there is no reason why the Government of the United States should carry packages of newspapers at less than the actual cost of transportation. As I understand, the fourth section of the act of 1864 was put in for the purpose of covering a portion of the expense of carrying this rather outside mail matter. The manifest effect of its repeal will be to swell the deficiency in the Post Office Department, already large, and increasing daily by making now routes in the West.

Mr. CONNESS. I will say, in reply to my friend from Ohio, that he is laboring under one serious error. The object of the passage of the section of the act of 1864 was to utterly prohibit the carrying of printed matter, and therefore it charged letter postage upon all such printed matter and required prepayment of it, which was an enormous tax, prohibiting totally and entirely its transportation. Now, the object is to remit and open it up. The purpose of that legislation was to release the direct overland mail between Atchison, in Kansas, and Folsom, in California. It will be remembered that the newspaper matter that will be sent over the lateral lines will be very small, while the great mass of the newspaper matter that would have been sent over the main lines would have prevented the transportation of letters in any ordinary time, and therefore it was found necessary to make this prohibition by charging letter postage that nobody could afford to pay on newspapers. I have not, in the Committee on Post Offices and Post Roads of the Senate, been in favor of the passage of this bill as yet, but the committee voted me down upon it and made a report in its favor. I think, on the whole, it ought to enter into the new contract now to be made, and that the repeal ought to take place.

Mr. HENDRICKS. Mr. President, this bill perhaps ought to lie over one day, as Senators may want to look into it; but if Senators desire to go on with this bill to-day, I will not make the motion I desire to submit.

Mr. CONNESS. We are ready for a vote.

Mr. STEWART. We can vote now.

Mr. MORRILL, of Vermont. Mr. President, I am not clear that it is now the proper time to repeal the section referred to in the bill before the Senate. I think it is too early, too soon. If we wait until these railroads come nearer together there will be much less difficulty about it. But I am informed by some of the contractors that if this bill shall pass, it will require a larger amount of force to transport the mails by more than double; that the newspaper mail will weigh more than all their letter mail and passengers do at the present moment, and that it will increase the expense enormously, and they cannot afford to take it at anything like the rates that are now given under the present contract. It seems to me, therefore, that it would be wise to postpone this repeal until the railroads have approximated to a nearer point of connection. Formerly the Post Office Department was a self-supporting institution; but for the last year or two it has been a very heavy burden, and I am quite sure that this will increase the amount of deficit of the Post Office to a larger extent than any gentleman now here would be willing to admit.

Mr. RAMSEY. I, too, had a conversation with some of the gentlemen who are engaged in transporting the mail across the continent.

They did object to the bill as it was passed by the House of Representatives, but they accepted the proposition reported by the Senate committee as a fair compromise, and gave their entire consent to this modification from and after the expiration of the present contract. The additional expense will not be one dollar.

Mr. SHERMAN. My friend will allow me to say that they accepted it on the ground that the contract expired in September, and that if the change was made, they would, as a matter of course, have a reasonable allowance.

Mr. RAMSEY. No; they anticipated bidding again for the contract, and I presume hope to get the contract; but the railroad will have advanced so far by that time that they can take this additional burden without any additional expense.

Mr. CONKLING. I should like to ask the chairman of the Committee on Post Offices and Post Roads a question. When the contracts expire on the 30th of September, if that be the time—that is the time fixed in the bill—there will not be railroad communication completed; and between the 30th of September and the completion of railroad communication, by what process is it that we are to get this carrying done any cheaper than we shall be able now to get it done?

Mr. RAMSEY. If you do not get it any cheaper, you will get more service done.

Mr. CONKLING. But I understood this to be the idea: that an economical and prudent thing was to be accomplished by this amendment, inasmuch as it fixed a period ahead of the expiration of current contracts as the time when this act shall take effect, of course for the reason that then, in making fresh bids, the whole matter could be adjusted. If the railroads were to be in operation at that time doubtless the bids would be much lower than they are now, going around by water or going overland by horse-power; but in the absence of the railways during the next year or year and a half, whatever the time may be, I inquire of the chairman why it is that the Government is clearly not to pay the whole expense, as it would do now of carrying this matter, and at the same time without any remunerative postage?

Mr. HARLAN. It doubtless will cost something more; but I should like to know on what principle the people who live in the new States and Territories can be compelled to pay more for the transportation of newspapers than the people who live in the old States.

Mr. CONKLING. I did not intend by my question to suggest the contrary of what the honorable Senator says; but I understood some Senator to say that this measure involved no expense and for the reason that the time of its taking effect was fixed at a future day. Of course we do not want to vote under a mistake of facts.

But, to answer the question the Senator puts to me, I beg to suggest that the reason why people in the remoter States should pay more than people in States less remote is that they are further off; that the service is worth more; that like all other things in the nature of property the cost of production, the cost of accomplishing the thing, is to be taken into the account when you are measuring what the compensation should be. That is the reason.

Mr. HARLAN. Mr. President, if it were possible to reduce such a theory to practice, it might be well enough to compel the people of Iowa to pay more for the transportation of letters or newspapers than the people of New York or the people of Maryland, who reside nearer the places of publication or the point where letters are mailed; but the system that we have adopted is to charge uniform prices for carrying letters all over the United States. It would result, doubtless, advantageously to the people in the Territories to some extent; but we have heretofore been affording the frontier settlers this small advantage as a slight compensation for the hardships they encounter in opening up a new country. Under the present arrangement the people in these new Territo-

ries are compelled to pay express rates for all the newspapers they receive, or else wait until those papers can be shipped around the Cape or across the Isthmus. The time has arrived when the termini of these railroads, the one being constructed eastward from California and the other westward from the Missouri river, have come so near reaching each other that the committee deemed it proper to repeal this law discriminating against the people in the new States and Territories.

Mr. CORBETT. I understand, if this contract is relet, and it should cost a little more than it does at the present time, that as soon as the railroad is completed the contract will be again let under the law, and that then the mails will have to be sent by the railroads according to a fixed rate as provided by law now. Therefore, if it should be relet under this bill, it would go into operation under that contract with an increased cost for perhaps one year or one year and a half, and at the end of that time the expense would be greatly reduced under the law by sending the mails by the railroads; so that it cannot be a great expense to the Government for this short time.

Mr. RAMSEY. The reason why the operation of this bill was postponed until after the new contract was that the Government would be responsible in damages, in all probability, to this transportation company if it imposed upon them the carrying of matter that they were excluded from carrying under their contract. I say that in answer to the Senator from New York. If we impose upon them this new labor, not contemplated in the contract entered into with them, they will be entitled to damages. For that reason we postponed this provision until the expiration of the present contract.

Mr. STEWART. I was about to reply to the Senator from New York that this did not depend altogether upon the cost of production. For instance, my State is about three hundred miles distant from San Francisco and only about one hundred and fifty miles from Sacramento, and there is a railroad there, and yet it costs more to get newspapers there than it does to send them from Boston to Omaha. In fact, the present rate is prohibitory. They cannot be sent without paying full letter postage. This is not a question of distance; it is a question of arbitrary lines dividing California and Nevada, and prevents papers being carried over there when the distance is very short. This discrimination has been a very severe one, but we have allowed it to remain so far because we were unwilling to overload the overland mail so that it could not be carried at all. It has operated very severely on Nevada all the time.

Mr. MORRILL, of Vermont. Is there an amendment pending?

The PRESIDENT *pro tempore*. The amendment of the committee is pending.

Mr. MORRILL, of Vermont. I move to amend the amendment of the committee by striking out "1868," the last word in the amendment, and inserting "1869."

Mr. FRELINGHUYSEN. How will it read then?

The CHIEF CLERK. The amendment of the committee, if amended as proposed, will read as follows:

That the operation of the fourth section of an act to provide for carrying the mails of the United States to foreign ports, and for other purposes, approved March 25, 1864, shall cease and determine on and after the 30th day of September, 1869.

Mr. CONKLING. It ought to be 1870.

Mr. MORRILL, of Vermont. It ought to be, as the Senator from New York suggests, 1870, but certainly it ought to be postponed until 1869. I trust that there will be no objection to that amendment.

The PRESIDENT *pro tempore* put the question on the amendment to the amendment, and declared that the yeas appeared to have it.

Mr. MORRILL, of Vermont. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. CONNESS. If the Senator will agree

to modify his amendment so as to make it the year 1900, I think he may carry it. [Laughter.]

Mr. MORRILL, of Vermont. I placed it at 1869 because the Senator from California told me privately he would go for it. [Laughter.]

The question being taken by yeas and nays, resulted—yeas 17, nays 20; as follows:

YEAS—Messrs. Cole, Conkling, Cragin, Davis, Ferry, Fessenden, Frelinghuysen, Hendricks, Morgan, Morrill of Vermont, Morton, Patterson of New Hampshire, Patterson of Tennessee, Pomeroy, Ross, Sherman, and Willey—17.

NAYS—Messrs. Cameron, Chandler, Conness, Corbett, Drake, Harlan, Howard, Howe, Ramsey, Stewart, Sumner, Thayer, Tipton, Trumbull, Van Winkle, Vickers, Wade, Williams, Wilson, and Yates—20.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cattell, Dixon, Doolittle, Edmunds, Fowler, Grimes, Henderson, Johnson, McCreery, Morrill of Maine, Norton, Nye, Saulsbury, and Sprague—17.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment reported by the committee.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. SHERMAN. I call for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. SHERMAN. Now, Mr. President, I wish to say only a word in regard to this bill. The law as it stands enables the people of the Territories as well as of the States to receive their mail proper at the same rates of postage that are received between Philadelphia and New York. The same price is charged for a letter addressed to the remotest regions of the United States as is charged for a letter carried five miles. So with all newspapers carried in the ordinary course of transmission to subscribers in the ordinary way. Our postal laws have been within a few years extended to all express matter really. They have been greatly extended so that our postal service now embraces a vast variety of matter that was formerly excluded from the mails. Large packages of newspapers are sent for distribution and resale by dealers; so that the Post Office Department does a great deal of business that in olden times would have been done by express companies.

The fourth section of the act of March 25, 1864, which it is now proposed to repeal, was intended to prevent an abuse. Every ounce of matter carried to these remote Territories costs several times the amount received by the Government for its transmission. So far as letters are concerned, which tend to promote an interchange of communication between citizens of the United States, it may be unwise to discriminate, although the cost of their transmission is a great deal more there than in other settled portions of the country; but when you extend the postal service so that it embraces a great variety of matter, coming more properly within the duty of common carriers, there is then a proper reason for limiting the amount of mail matter that may thus be carried. It seems to me that this fourth section of the act of 1864 was a wise one. I think the amount paid to the Overland Mail Company is \$600,000 per year.

Mr. CONNESS. One million dollars.

Mr. SHERMAN. It was formerly when I remembered it \$600,000, the original contract, now increased to \$1,000,000. In 1860 when the act was first passed, I think it was \$600,000. Then we give a sum for transporting mail matter around by water.

Mr. CONNESS. That is deducted from the \$1,000,000.

Mr. SHERMAN. Then probably I was right that \$600,000 is the amount paid to this company. Our laws were so arranged that the bulky matter was transported by water at a less price per ounce or per pound, and in this way the expense was lessened. Now it is claimed that because the Pacific railroad approaches completion this discrimination should

be done away with. So far as the railroad company can carry the mail matter I am perfectly willing that it should be done away with. The price of transportation on the railroad is fixed by general rules, and just so far as the railroad extends this discrimination should cease; but the expense of this express matter is from the terminus of the railroads though the different by-ways or different roads in that remote country.

We are now organizing new mail service not only over the South, but over the West, and all this service is a vast addition to the expenses of the Post Office Department. During the war the Post Office Department was self-sustaining. Now, it is gradually falling back, and the deficiency in the postal service is largely increasing. This measure will tend still more largely to increase it.

Under these circumstances it seems to me it would be wiser to postpone this measure, which will unquestionably lead to an addition of the expenses of the Post Office Department, until the time when the railroads are spread over that country. There is no hardship in requiring dealers who get express matter, mail matter if you please, over these roads at the expense of the Government, to pay that additional expense. You simply load down your mail and require these stages to carry a great amount of matter over vast distances at the expense of the Government of the United States, not for the benefit of the people, but for the benefit merely of the persons who probably sell magazines, &c. All the citizens who subscribed for a newspaper or who received letters would get their mail matter at precisely the same cost that we would in old and settled communities where the expense is not one tenth the cost in the extreme western country.

As a matter of course I have no care on this subject except so far as it will affect the increased cost. After September we shall undoubtedly have to pay more for this service, and we shall feel it in the end by the increase of the deficiency in the Post Office Department. This is a matter involving, I presume, several hundred thousand dollars.

Mr. CONNESS. Oh, no.

Mr. SHERMAN. I have no doubt that the postal service which now costs \$16,000,000 altogether will be increased several hundred thousand dollars by the provisions of this bill. That is my deliberate judgment. I cannot say what the amount will be, because I have no material to estimate upon; but our country is so vast and our population is scattered through so vast an extent of territory that the expense of this transportation will be greatly increased. It seems to me it is a matter well worthy of consideration.

Mr. RAMSEY. The Senate might infer from the opposition of the Senator from Ohio to this proposition that there was something extraordinary about it. My own impression is, from all the information I can gather, that it will not cost the Government one cent additional for the transportation of printed matter by mail as provided for in this bill. Now, sir, throughout the United States, no matter what the distance is, east of the Alleghany mountains—and so it is on the Pacific slope—a letter or printed matter will pass at a uniform rate, and the only discrimination known under our law is against these interior Territories, the very region of the country in favor of which discrimination, if discrimination should be had anywhere, should be made. The people there get their reading matter at very great expense as compared with what we pay for it in the States east of the mountains. I am told by those familiar with the newspaper business in the Territories, that a newspaper which you can buy here for five or ten cents costs them fifty cents or a dollar there. Why should this continue? Why should these people who build up your country at a great sacrifice at best have this sacrifice imposed upon them by a discrimination against them in your laws. Sir, there is no reason for it; and there is no reason for the apprehensions of the Senator from Ohio that this bill will add to the expense of the

transportation of the mails. It will not add one cent to that expense. The Pacific railroad is almost completed across the continent, and of course the expense of the transportation of the mail will not be one half or twenty-five per cent. of what it used to be. It is simply upon the lateral roads, the roads running north into Montana and south into New Mexico, on which staging has yet to be done, except a small link between the extremities east and west. I hope the Senate will allow the bill to pass.

Mr. CONNESS. I rise to correct a statement of the Senator from Ohio, and to make an additional statement touching the cost of this service. The whole cost, I think, under the old contract was \$1,000,000.

Mr. SHERMAN. A single line.

Mr. CONNESS. Certainly; a single line. I am speaking of a single line to which this law applies. One hundred and sixty thousand dollars of that were paid for sea service, leaving \$840,000 for overland service. That was when the overland service reached from Atchison, in Kansas, to Folsom, in California, on wheels. I have no doubt, under the new contract to be made in September, the entire service, after the repeal of this provision, will not exceed \$500,000; so that in place of its being an increase, there will be a decrease at least of one third. I have no doubt at all on that point. The Senator is entirely mistaken in his estimates.

Mr. MORRILL, of Vermont. The chairman of the Committee on Post Offices and Post Roads is certainly laboring under a mistake in supposing that we are going to diminish the expense of carrying the mails even after we have obtained railroads; for if he examines the subject he will find that we are paying, in many instances, more than we paid before the construction of railroads for the transportation of the mails, so that the amount we are to pay for mail service will not be diminished whenever the Pacific railroad is completed, for they will unquestionably demand the maximum rate per mile for that service, and will be entitled to it. The idea that this is not to increase the expenses of the mails that are transported by stage coaches, to me seems utterly preposterous. We know that the mails will be increased in some cases by tons, and the idea that the contractors are going to take the mails for the same price is certainly without any foundation. It will increase the expense, and we cannot shut our eyes to the fact. I regret that the Senate did not incorporate the amendment that I proposed, to postpone this repeal until 1869. If it had been postponed until 1869, then the increased amount that would be paid on the stage-coach mail between the two points of the railroads would be much less, but that not having been incorporated in it, I trust the bill will fail.

The PRESIDENT *pro tempore*. The question is on the passage of the bill; and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 26, nays 12; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Conness, Corbett, Cragin, Davis, Drake, Ferry, Harlan, Howard, Howe, Nye, Pomeroy, Ramsey, Ross, Stewart, Sumner, Thayer, Trumbull, Van Winkle, Vickers, Wade, Wiley, Williams, and Yates—26.

NAYS—Messrs. Conkling, Essendeen, Freligh, Folsom, Hendricks, Johnson, Morgan, Morrill of Maine, Morrill of Vermont, Patterson of New Hampshire, Patterson of Tennessee, Sherman, and Wilson—12.

ABSENT—Messrs. Anthony, Bayard, Buckalew, Cattell, Dixon, Doolittle, Edmunds, Fowler, Grimes, Henderson, McCreery, Morton, Norton, Saulsbury, Sprague, and Tipton—16.

So the bill was passed.

#### NAVAL APPROPRIATION BILL.

Mr. MORRILL, of Maine. I ask permission to present at this time a report from the committee of conference on the disagreeing votes of the two Houses on the act making appropriations for the naval service for the year ending June 30, 1869.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the

bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the third, twenty-fourth, twenty-fifth, thirty-seventh, and thirty-eighth amendments of the Senate, and agree to the same.

That the Senate recede from their thirty-fifth and thirty-sixth amendments.

That the House recede from their disagreement to the eighth amendment of the Senate, and agree to the same with the following amendment:

Strike out all of said amendment and insert in lieu thereof the following: "Provided, That the civil engineer and naval storekeeper at the several navy-yards, shall be appointed by the President with the advice and consent of the Senate, and that the persons employed at the several navy-yards to superintend the mechanical departments, and heretofore known as master mechanics, master carpenters, master joiners, master blacksmiths, master boiler-makers, master sailmakers, master plumbers, master painters, master calkers, master masons, master boat-builders, master spar-makers, master block-makers, master laborers, and the superintendents of rope-walks, shall be men skilled in their several duties and appointed from civil life, and shall not be appointed from the officers of the Navy."

And that the Senate agree to the same.

L. M. MORRILL,  
RUSCOE CONKLING,  
J. W. NYE,

Managers on the part of the Senate.

E. B. WASHBURN,  
N. P. BANKS,

Managers on the part of the House.

Mr. MORRILL, of Maine. The committee agree to recede from the amendment of the Senate, which disagreed to the House proposition to reduce the Navy below eighty-five hundred men. The committee report that the Senate should recede from that and agree to the House proposition, so that the bill, as it stands, will be as presented to us from the House of Representatives in that particular. The Senate also agree to the House proposition as amended in regard to the master mechanics and subordinates in the several navy-yards. The original House proposition required them to be appointed by the President and confirmed by the Senate. The Senate non-concurred in that altogether; but the committee now recommend that the Senate shall recede from that disagreement and agree to the proposition as amended, which is that the civil engineer and naval storekeeper shall be appointed by the President, with the advice and consent of the Senate, and, as to the other subordinate officers, that they shall be appointed as heretofore, without the advice and consent of the Senate. In all other respects the House recede from their position, and concur with the Senate.

The report was concurred in.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the joint resolution (H. R. No. 218) for the relief of John M. Palmer.

The message also announced that the House had passed a bill (H. R. No. 1212) to relieve certain citizens of Arkansas of disabilities, in which it requested the concurrence of the Senate.

#### ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. R. No. 218) for the relief of John M. Palmer; and it was signed by the President *pro tempore*.

#### REPRESENTATION OF SOUTHERN STATES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress, the pending question being on the motion of Mr. SHERMAN, to amend the amendment reported by the Committee on the Judiciary by striking out the following words at the close of the first section:

And the State of Georgia shall only be entitled and admitted to representation upon this further



fundamental condition: that the first and third subdivisions of section seventeen of the fifth article of the constitution of said State, except the proviso to the first subdivision, shall be null and void, and that the General Assembly of said State, by solemn public act, shall declare the assent of the State to the foregoing fundamental condition.

Mr. WILLIAMS. Although this amendment was characterized by the Senator from Indiana [Mr. MORTON] as an undisguised attempt at repudiation, I do not quite concur in that view of the subject. This seventeenth section of the fifth article of the constitution of Georgia does not propose to affect the obligation of the contract at all; no words can be found in that section, as I understand it, professing to destroy the existence of any contract; but the section undertakes to suspend, to make a temporary suspension of the remedy which the law otherwise would give for the enforcement of these contracts in a court of justice.

Mr. CONKLING and Mr. EDMUNDS. It is an indefinite suspension.

Mr. WILLIAMS. If the honorable Senators will allow me to finish what little I have to say, they can reply if I make any mistake.

Mr. EDMUNDS. I beg pardon.

Mr. WILLIAMS. I am well aware that this section provides for a suspension of the remedy for the collection of debts until the Legislative Assembly of the State shall otherwise provide, and it amounts substantially to an authority to the Legislative Assembly of the State to suspend according to its own judgment the collection of debts.

This section, I acknowledge, is obnoxious to the objection that it may be in violation of the Constitution of the United States; but it is a question that admits of discussion as to whether or not this section does absolutely violate the provision of the Constitution of the United States which prohibits a State from impairing the obligation of contracts. This constitution was made by a convention of the State of Georgia, consisting of persons who were competent to pass upon the question; it was submitted to a vote of the people of that State, and they have affirmed that this shall be their constitution; and it is barely possible that they may be correct in their judgment as to whether or not the clause of the constitution is in conformity with the Constitution of the United States. If I understand the reconstruction laws, it is not necessarily the duty of Congress to revise the constitution of every one of these States, and if, in the judgment of Congress, some clause be found there which may be regarded as in contravention of the Constitution of the United States, to strike out that clause and revise and amend the constitution and make it in entire conformity to our views of law or expediency, because if we assume to pursue that course we might just as well have made these constitutions at the beginning and sent them down there with instructions to the people to adopt them as the constitutions of the several States. It seems to me, as this is a doubtful question, that the people of the State of Georgia should be left to decide it for themselves as to whether or not this section of their constitution does accord with the Constitution of the United States. To undertake to revise it by these so-called fundamental conditions is undertaking, it seems to me, on our part to make a constitution for the people of the State of Georgia; and certainly it cannot be said that their constitution with this clause in it is not republican in form, as it is required to be by the reconstruction laws of Congress.

This section of the constitution of Georgia was adopted by the convention, and has been approved by the people of that State. I do not understand that it is a section of the constitution which is altogether favored by the debtors in the State of Georgia, but I understand that the creditors there favored the adoption of this section, and I am advised that members of the convention, to whom twenty and thirty and as much as fifty thousand dollars were due in the State, were active friends of this provision in the constitution. It is a section which meets generally, as I understand,

with the approbation of both debtors and creditors in that State.

When the debts to which this section refers were created, the people of the State of Georgia were generally possessed of slave property. Many of these debts were contracted upon the faith of that property. Men incurred these obligations with an expectation that out of that sort of property they could meet their contracts. Most of the personal property of that State consisted in slaves. Now that property has been struck out of existence, millions upon millions of that sort of property have been destroyed by the action of the Federal Government with the consent of the people; and so these debtors have been left without the means which they expected to have for the payment of these debts, and thousands of men there are left in the possession of land without the necessary means for its cultivation. In view of this fact, and in view of the devastation of the war and of the general impoverishment of the people, it was believed to be for the advantage of all concerned, creditors as well as debtors, that there should be a relief or a stay law embraced within this constitution. The creditors of men in Georgia who may owe thousands of dollars are as much interested in this as the debtor. Suppose a man owes \$10,000 to a dozen different men. This weight of indebtedness is a burden upon his energies; he has no expectation, no hope of success, while his property, whatever he may obtain, is exposed to an attachment or an execution; each creditor is watching the other; each desires to be more vigilant than the other, and if a man who owns land and is without personal property or effects with which to pay his debts acquires any means, if he procures the necessary agricultural implements for the cultivation of his land, or if he puts in a crop, before he can realize anything, before he can make a start, this property may be seized by some creditor anxious to be more vigilant than all other creditors, and he be stripped and reduced to his original poverty. Under these circumstances it is exceedingly difficult, if not impossible, for the debtor to acquire the necessary means for the payment of his debts. Now, if there be a law or a provision in the constitution by which all creditors are required to remain quiet until the debtor can recover himself to some extent, until he can acquire to some extent the necessary means for the payment of his indebtedness, then the Legislative Assembly, if he does not pay without the forcible collection of those debts, may authorize the creditors, each having an equal start, to collect their debts.

Stay laws have been enacted in different States of the Union. They have been found necessary in these southern States. Insolvent laws, bankrupt laws are all of a kindred nature with the clause which is contained in this constitution. And, sir, the Congress of the United States has passed a bankrupt law and made it applicable to existing debts, and has authorized the repudiation and cancellation of millions of indebtedness in the United States by the debtors going through a certain process.

Mr. CONKLING. The honorable Senator will permit me to ask him a question. Is it not true, universally true, that the Federal courts and all other courts have held that such a provision as he speaks of in the laws of any State is absolutely void? In other words, is it not true that all insolvent laws in the States (because they have no power to pass bankrupt laws) have been compelled to be confined to prospective provisions, on the ground that it was absolutely null for any State, whatever its constitution might be, to attempt to strike down or discharge existing debts? And is it not true that Mr. Madison, for example, in what he said on that subject, made the distinction and pleaded as he did the universal acquiescence of the American people, to use his own phrase, for holding that even the Congress of the United States had the power to pass a retroactive bankrupt law?

Mr. WILLIAMS. I know, Mr. President, that there have been decisions that the insol-

vent laws of a State intended to operate retrospectively upon contracts, were invalid; but Congress has decided that a bankrupt law passed by this body may apply to and dissolve existing contracts; and I say that such a law as that has been in force in the United States now for more than a year, and men who were willing to avail themselves of the benefits of that law have discharged themselves from the obligations of their contracts. I speak of that simply to say that Congress having enacted such a law on the ground that the pecuniary embarrassments of the people required such an enactment, and having authorized the destruction of millions of indebtedness in the United States, ought not to be too eager to condemn the people of Georgia for repudiation because they provide, so far as they themselves are concerned, as among themselves, that there may be a suspension of the collection of debts within that State.

Now, sir, it seems to me that this matter may be properly left to the people of the State of Georgia. Is there any complaint made here by those people as to this clause of the constitution? I understand that this provision of the constitution is one of the most acceptable within the instrument, and that it is not a provision about which there is any party division in the State of Georgia; but it is simply regarded there by all the people, in view of the great losses which they have sustained during the war, in view of the general prostration of business in that State, as a temporary relief, so that men who have lands and plantations there may proceed and prepare themselves for the payment of their debts. If men who have nothing but lands there are to be pursued with this indebtedness from time to time, are to be followed from year to year, can they ever enable themselves to discharge the indebtedness which has been devolved upon them?

The section of the bill which it is moved to amend it seems to me is not quite consistent with itself, for while it proposes to amend the constitution of Georgia by striking out a certain portion of its provisions, it retains another portion which amounts to a repudiation of debt. I allude to the proviso "that no court or officer shall have, nor shall the General Assembly give, jurisdiction or authority to try or give judgment on, or enforce any debt the consideration of which was a slave or slaves, or the hire thereof." Suppose before the abolition of slavery in the State of Georgia a man purchased a slave and gave his note for it; that was a legitimate transaction at the time; that was a valid contract at the time. This constitution undertakes to say that that contract shall cease to exist. It is different from the other provision, for it not only provides that the remedy shall be suspended, but it denies to the General Assembly of the State the power to authorize the collection of any such debt.

Mr. EDMUNDS. There we stand on the higher law.

Mr. WILLIAMS. I know you stand in that respect on the higher law; but if this provision which the Senator proposes to strike out is so obnoxious because it is in violation of the Constitution of the United States, how does he reconcile his support of the proviso which I have just read, which is retained in the section, which is in itself equally unconstitutional? Suppose, while slavery existed there, a man hired a slave and agreed to give \$500 for his services for two or three years, and he enjoyed the benefit of those services, he received the labor of the slave, he sold the proceeds of that labor and received the money for it; this constitution declares that such a contract shall be null and void, and that no court of the State of Georgia shall ever enforce a collection of the money under it. Why do you include this and repudiate the other portion of the section? The fact that slavery has since been abolished does not affect the validity of a contract good at the time it was made.

It was suggested by the Senator from Indiana [Mr. MORTON] that there was danger, if

we allowed this provision to stand, that we might encourage the repudiation of the national debt, just as though we are bound, as a Congress, to take care that the people of each State, in the regulation of their own domestic affairs, shall conform to our views of matters and things. If the Federal Government stood in the position that the debtors in Georgia do, repudiation would be inevitable, because the Federal Government could not to-day pay its debt if it was compelled to do so. If there was any power in any court to compel it to pay, to render judgment, and to issue execution against the Federal Government, could the Federal Government pay its debt or one tenth part of its debt under such circumstances? But the Federal Government has the power to provide the terms and conditions upon which it will pay; it fixes the time when it will pay its indebtedness; it puts off the payment for years, and it proposes now to extend the time, and the creditors of the Federal Government have no power but to submit to the regulations that are imposed upon them. So there is no analogy whatever between the cases. The simple fact that the people of the State of Georgia desire that there shall be a temporary suspension of the power to collect debts there, is no reason, and it can be perverted in no way to excuse or justify repudiation.

There have been very many sound philosophers and statesmen who have argued that all laws for the enforcement of the collection of debts should be abolished. Every man has a right in Georgia, who is so disposed, to pay his debts; every man who feels bound in honor to pay has a perfect right to pay; and it has been argued by some very distinguished men that it would be as safe, and that it would be of as much advantage in every point of view to intrust the payment of debts to the honor of the debtor, as to provide that the creditor might pursue him through a court of justice. I do not, of course, indorse that view of the subject; but in view of all the circumstances, considering the condition of the people there and the doubtful character of this legislation, as the question does not seem to me to be entirely clear, I think we had better not interfere. If you take the provision altogether it contemplates that the obligation of the contract shall exist, because there is a clause declaring that at a subsequent time when creditors may proceed under the law of the Legislature to collect debts a certain tax shall be imposed, showing that this section recognizes the obligation of the debt. I do not say that I would have advised such a section in the constitution of the State of Georgia; but I say that after it has been made by a convention of the people there, and after it has been approved by a majority of the people, in view of all the circumstances and of what we know to be the necessities of that people, and in view of the advantages to all, the advantages to creditors as well as debtors, we ought not to disturb it. So far as creditors living in other States are concerned, their remedies in the courts of the United States remain entirely perfect. This is a matter altogether that concerns the people of the State of Georgia; and if they agree among themselves that they will suspend the collection of debts for a given time for the benefit of all concerned, whose business is it? They alone are concerned. Are we to set ourselves up as the guardians of the people of the State of Georgia on this question, and say to them, "You do not know how to take care of yourselves, and we will undertake to regulate these matters for your benefit." Where are the creditors in the State of Georgia who have come here and complained of this section? They say that they desire that it shall be in here; it makes the constitution acceptable; it provides for repose; it enables every man to go to work with a feeling of security and to resuscitate his fallen fortunes. The man who has been unfortunate during this war, who has become involved in debt, whose property in slaves has been taken away by the convulsions of the war or the amendment of the Constitu-

tion, may go to work, and he may feel secure that he can do something for the improvement of the country and the support of his family and the benefit of society, without having a sheriff at his heels all the time to seize every crop that he undertakes to raise, and to keep him in a state of servitude under the burden of indebtedness.

Now, sir, ought we not to let the people of the State of Georgia manage this matter for themselves? We are in no way complicated if we accept this constitution. We did not make it. We do not pass any judgment upon this provision of the constitution. I doubt not there are many provisions in all these constitutions about the constitutionality of which men might very properly differ; but if any man is aggrieved by any provision of any constitution there that is supposed to be unconstitutional, the courts of the country are open for redress, and that man can vindicate his rights there. But, sir, I deny that it is our business to undertake to supervise the creation of these constitutions, beyond requiring that they shall be republican, that they shall protect the civil and political rights of all men; but so far as courts are concerned, so far as contracts are concerned, or commerce, or business within the jurisdiction of these several States, I submit that the people there ought to be left to regulate those matters for themselves.

Mr. HOWARD. Mr. President, it is quite evident, from the language of this clause of the constitution of Georgia, at least it is evident to my mind, that it resulted from the efforts of the debtor part of the community. I do not, however, regard it as any worse on that account. The debtor part of the community have their rights as well as the creditor portion; but they have no greater rights. While it is the duty of legislators to protect the rights of the debtor, it is not by any means to be forgotten that the honest creditor is equally entitled to the protection of law. I shall vote against the amendment which has been offered, to strike out the clause in the report of the Committee on the Judiciary disagreeing to this seventeenth section of the fifth article of this constitution. I look upon that section as disfiguring the constitution of that State, and do not believe that to-day, if the opinions of the people of that State could, upon a full consideration of the subject, be taken on the question of retaining this clause of their constitution, they would do so.

If there be any quality of a civilized government more bright and shining than any other, it is the regular, vigorous, and prompt administration of justice between man and man, and particularly the enforcement of pecuniary obligations between them. Without this quality no government is entitled to the name; and I dissent entirely from the views taken by those philosophic writers to whom my honorable friend from Oregon has referred, that it would be better for all to leave the question of indebtedness to be settled between the parties without any intervention of the laws. I do not believe that debts would be paid upon the principle of mere honor as promptly as they are now paid under the threat of an execution and forced sale for that purpose. We have not yet quite reached those millennial days when every man regards the rights of his neighbor as equally precious with his own.

Now, sir, what is this clause? It is as follows:

"1. No court in this State shall have jurisdiction to try or determine any suit against any resident of this State upon any contract or agreement made or implied, or upon any contract made in renewal of any debt existing prior to the 1st day of June, 1865; nor shall any court or ministerial officer of this State have authority to enforce any judgment, execution, or decree rendered or issued upon any contract or agreement made or implied, or upon any contract in renewal of a debt existing prior to the 1st day of June, 1865, except in the following cases."

It cannot escape the attention of Senators that here are two classes of contracts, both of which come within the prohibitory terms of the clause. The first covers every executory contract that may be made between parties or that

may have been made at any time in that State prior to the 1st of June, 1865. For instance, a party in Georgia enters into a contract with his neighbor upon a valuable consideration to convey to him at some future time a tract of land; he has not yet conveyed it; the time within which he is to make the conveyance has arrived; and this clause of the constitution steps in and declares that even under such a contract a court of equity shall be deprived of the power to compel the party to perfect his contract and give a conveyance to the purchaser. Is this just? Of course it is the height of injustice. The constitution in this respect operates as a fraud upon the honest purchaser by taking away from him all judicial remedy to compel the vendor to perform his agreement. The same may be said as to every description of executory contracts whether in reference to real estate or to personal property. All those contracts are brought within the category of this prohibitory clause.

Again, it declares that no contract out of which an indebtedness shall have grown and no renewal of such a contract, whenever that contract may have been made, however old it may be, however sacred it may be, shall be the foundation of any remedy in a court of justice. Mr. President, this is very harsh and sweeping; and we are now called upon to approve and affirm this strange provision in the constitution of Georgia. Why, sir, it was long ago settled that every law of a State by which all substantial remedy is taken away from the party upon his contract is a violation of the obligation of that contract. Take away the remedy of the party upon his contract, say to him that the court of justice shall not come to his aid, and you legally violate the contract itself. This, sir, is very old doctrine; it was decided as long ago as the case of *Green vs. Biddle*, in 8 Wheaton's Reports. It was there decided that such an act is a violation of that clause of the Constitution of the United States which prohibits the States from passing an act impairing the obligation of a contract. Can we consistently, even by our silence, approve such a principle as this? Can we here vote an approval of this constitution, which, by its very terms, is a violation of the Constitution of the United States, which we have sworn to support? Sir, I cannot do this. I cannot forget my obligation to the Constitution; I cannot forget that that instrument prohibits the adoption of any such principle by a State.

Now, sir, I insist that there can be no necessity even in Georgia for such a clause as this. It will not be long before the fourteenth amendment of the Constitution of the United States will become to all intents and purposes a part of the Constitution. That amendment declares that all manner of indebtedness contracted in aid of the recent rebellion shall not be the foundation of any claim in any court of justice. This is the language:

But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

No matter where they are set up, whether as a claim against a State or a claim of one private party against another, this amendment of the Constitution declares them to be void. Of course they can never be enforced even in a private proceeding between man and man, so that so far as any such kind of claims is concerned, the provision is already ample and sufficient, and all debtors involved in them may rest perfectly secure from all molestation on their account.

Again, we have recently passed a bankrupt law which is of universal application in all parts of the United States and to all the people of the United States, the people of Georgia included. That act enables every honest debtor who is insolvent, by a certain proceeding to be taken according to the terms of the act, to discharge himself from his indebtedness. Every man in Georgia who owes debts and who has honestly become insolvent, whether by the

emancipation of his slaves or any other cause which is not illegal or dishonest, may resort to this act and discharge himself entirely from his indebtedness. Is not this a consideration which ought to have weight with us in our discussions of this constitution, and with the people of Georgia? We have thus relieved the suffering people of Georgia, every man of them who is honestly insolvent, from the pressure of his debts; and he has it in his power to-day, by a simple proceeding, to discharge himself and become again a free man by making an assignment of his property for the benefit of his honest creditors.

Again, sir, this constitution itself makes very ample provision against almost every case of hardship that can occur in the State of Georgia. It declares, in article seven, that:

"1. Each head of a family, or guardian, or trustee, of a family of minor children, shall be entitled to a homestead of realty to the value of \$2,000 in specie, and personal property to the value of \$1,000 in specie, both to be valued at the time they are set apart. And no court, or ministerial officer in this State, shall ever have jurisdiction or authority to enforce any judgment, decree, or execution against said property so set apart—including such improvements as may be made thereon, from time to time—except for taxes, money borrowed and expended in the improvement of the homestead, or for the purchase-money of the same, and for labor done thereon, or material furnished therefor, or removal of incumbrances thereon. And it shall be the duty of the General Assembly, as early as practicable, to provide, by law, for the setting apart and valuation of said property, and to enact laws for the full and complete protection and security of the same to the sole use and benefit of said families as aforesaid."

Here, I undertake to say, is a larger exemption of homestead property than exists in any other State of the Union. If there be any constitution or statute containing a more liberal provision on that subject, I have not yet seen it.

When the convention of Georgia passed upon this constitution they contemplated that Congress might not consent to every clause of the instrument, and hence they declared in article eleven, subdivision eleven.

"XI. Should this constitution be ratified by the people, and Congress accept the same with any qualifications or conditions, the government herein provided for and the officers elected shall nevertheless exist and continue in the exercise of their several functions, as the government of this State, so far as the same may be consistent with the action of the United States in the premises."

They have thus invited our attention to this clause of their constitution; and they have agreed in the instrument itself that in case Congress shall dissent from any of its provisions they may do so, and that those provisions shall not be considered and treated as parts of their constitution, although the government of the State is to go on, notwithstanding our dissent and rejection of objectionable provisions. There was some person in that convention who saw that there might be an objection raised here against this clause, proclaiming, as it does, an almost universal jubilee to the debtor part of the community in that State; and the people who voted upon the Constitution and ratified it have in like manner agreed that we may revise and correct it as we may see fit. Now, sir, I propose to avail myself of this privilege thus extended to us. I cannot consent to this attempt to repudiate honest debts created before the commencement of the rebellion as well as after. I am opposed to this system of repudiation, (for it is nothing else,) because where you take away all remedy from a party, where you say to him there shall be no court to which he can resort for a remedy, you as much violate the contract itself as if you had taken it in your hands and destroyed it.

It is very true, Mr. President, that this constitution in a subsequent clause declares that in case the Assembly shall by law give the courts jurisdiction over the excluded contracts they may do so; but this does not satisfy my mind. We are called upon as legislators here to pass upon the propriety of this system of repudiation, and, for one, I cannot agree to it, and I do not believe the people of Georgia will complain if we strike it out of their constitution. I cannot imagine that there can be a majority of the people of Georgia who are

willing to say to the poor man or to the rich man who has an honest claim against his neighbor that he shall have no legal means whatever to enforce it. I do not believe that a majority of that people have so far forgotten their obligation to the Constitution of the United States; I do not believe that a majority of them have so far lost sight of the principles of common honesty as to deny all remedy to a creditor, whether he be poor or rich. Sir, it is a violation of the first principles of civilized government; it is a broad and deliberate departure from that definition of justice which the Justinian code so beautifully expresses: "*Justitia est constans et perpetua voluntas jus suum cuique tribuere*;" which, being interpreted into English, if the Senator from Massachusetts will allow me to translate it, [laughter,] means: "Justice is the constant and perpetual willingness and wish to give to every man that which is his own." This clause denies it.

I hope, therefore, Mr. President, that this clause in the bill will not be stricken out. The people of the State of Georgia who have passed upon this constitution expect us to act upon it, and if they entertain that expectation, as they say they do in the constitution they have sent us, they must foresee that there can be but one result in our action upon it; and that is, that we shall abide by the Constitution of the United States.

Mr. CONKLING. Mr. President, having concurred, as a member of the Committee on the Judiciary, in recommending the imposition of this condition, although I do not believe in the general policy of imposing conditions on the admission of States, I beg to assign briefly my reason for concurring in the report of the committee.

The constitution proposed by the State of Georgia provides for its own acceptance by Congress with such qualifications or conditions as may be thought necessary by the Congress of the United States; but I did not suppose that it was necessary to appeal to this provision of the constitution of Georgia in order to vindicate the recommendation of the committee. On the contrary, it seemed to me that this proposition fell precisely within the principle of the Missouri case. That constitution, as was alleged, in defiance of the Constitution of the United States, attempted to set up an inequality in its own favor; and it was to level that distinction, and to conform it to the Constitution of the United States, that Congress imposed what was there called a condition. This case seemed to me to fall within that principle, because I could not doubt, and after hearing the remarks of the honorable Senator from Ohio and of the honorable Senator from Oregon, I still cannot doubt that these provisions are in palpable and flagrant conflict with the Constitution of the United States.

I assume, first, Mr. President, that if it be true that this provision of the constitution of Georgia does conflict with the provisions of the national Constitution we shall have little difficulty in harmonizing here upon the proposition that our right extends as far as we are now asserting it. Indeed, I think upon that hypothesis there would be but one answer and one objection to this part of the bill in its present form, and that is, that the proposed constitution, infringing upon the Constitution of the United States, would be therefore and thereby void, and thus it would be unnecessary for us to impose this condition, and its imposition would be surplusage. That argument was made in the case to which I have adverted, and it may always be made in these cases; and it goes rather to the question of convenience, to the question of discretion, than to anything else. It may be said that it is just as well to commit to the action of the courts, without any direction from us, the whole question, and trust to the adjudication there; but the other view has been accepted repeatedly, and in the various compacts which have been made in reference to the taxation of the public lands, and a variety of things heretofore referred to in a previous debate Congress has assumed, so

that I think we may consider that the better practice, that it is well worth while, on the threshold, to point out and give notice of such repugnancies in proposed constitutions as we intend to insist upon and denounce as void by the Constitution of the United States. The only question then remaining upon this branch of the subject is, whether the Senator from Oregon, for example, is right in affirming that there is nothing here conflicting with the injunction of the Federal Constitution that no State shall pass laws impairing the obligation of contracts.

Mr. WILLIAMS. I wish to correct the Senator. I made no such affirmation. I said that it was a doubtful question as to whether or not it was in conflict with the Constitution of the United States; a question upon which men would differ and did differ, and in consequence of that it was the province, in my judgment, of the convention of the people of Georgia to decide the question for themselves.

Mr. CONKLING. I am going to argue briefly to the Senate that it is not a question upon which men differ, or upon which lawyers can differ, and I am going to ask the Senator to agree with me, that these provisions are so palpably in the teeth of the other provision, to which I will advert, that they cannot stand together, and that no lawyer can affirm that he thinks there is a rational doubt on the subject.

We start with a provision in this constitution that no judicial and no executive officer shall take part in the enforcement of any debt or obligation created anterior to the year 1868; and there is no redemption, there is no salvation or qualification as to this section, excepting the provision that the Legislature by affirmative action may rescue certain cases from its operation. I say there is no qualification, excepting this, beyond the few isolated and specified cases which are withdrawn by the constitution. Thus, then, we have this provision, that no creditor whatever, with the exception of the few here described, shall have any remedy now, or at any time in the future, against his debtor, unless at some future time the Legislature shall set up the means by which that remedy is to be acquired.

Stop there one moment, Mr. President, and let us see where this proposition falls, tested by all the cases on this subject, not only the case of *Green vs. Biddle*, referred to by the Senator from Michigan, but a variety of other cases, some of which I have been looking at this morning, where the court has said in various forms "the laws which exist at the time and place of making the contract, enter into and form a part of it, and they embrace alike those which effect its validity, construction, discharge, and enforcement;" and see now how recently this has been affirmed by the Supreme Court of the United States, and see how striking one case is in particular, which will be familiar to my honorable friend from Illinois, in which the decision has been made. There was in the State of Illinois recently a stay law proposing to stay for only twelve months, according to my recollection, the collection of debts, and that, I think, upon the assent of two thirds of the creditors, or with some prudential qualification of that kind; and that law, the court said, in *1 Howard*, directly interfered with this provision of the Federal Constitution, and was void, proposing merely and literally a postponement of the remedies by which debts were to be collected. And so in a variety of other cases which I have here, embracing every instance of an insolvent law, whether called by that name or called a bankrupt law, in which any State has attempted to unsettle or interfere with existing debts. And therefore it is, as the honorable Senator from Oregon will remember, and therefore it was that the Constitution of the United States commits and commits exclusively, as the courts have held over and over again, to the Congress of the United States the power to establish a uniform system of bankruptcy. Were it otherwise, were it in the power of the States to do what, even in the mild construction of the Senator, these provisions mean,



why would it be necessary or useful for Congress to establish a uniform system of bankruptcy? Every State could regulate the matter for itself by stay laws or otherwise, and we should have the whole country checkered with ununiform and peculiar systems of bankruptcy.

But, Mr. President, go a little further in these provisions, and you find that no debt, that no evidence of debt which is in any respect tainted by affinity or contact with the rebellion, is to be enforced. That is all well so far, but entirely unnecessary, by the by, as was said by the honorable Senator from Michigan, because this constitution is not to speak until this bill is consummated, until it has passed both Houses and received the executive signature or been passed over the executive veto, and whenever that occurs, and the act shall take effect by the ratification by each of these States of the fourteenth amendment of the Constitution of the United States, then every debt tainted by reason of connection with the rebellion is paralyzed and annihilated by a provision paramount to all this. But I say going only so far the provision is quite defensible; but what do they add to it? That

"The burden of proof shall be upon the plaintiff to satisfy the court and jury that the bond, deed, note, bill, or other evidence of indebtedness upon which said suit is brought, is or are not, nor is any part thereof founded upon or in any way connected with any such illegal contract."

Stopping right there it would have been pretty hard to impose the negative on a plaintiff for example, if usury were set up in a State where there are usury statutes, to show affirmatively that there was no usury as a part of his case in chief. But further:

"And has not been used in aid of the rebellion and the date of such bond."

I ask the attention of my honorable friend from Vermont [Mr. MORRILL] to this, in view of a question he asked yesterday, which seemed to me very cogent—

"and the date of such bond, deed, note, bill, or other evidence of indebtedness shall not be evidence that it has or has not, since its date, been issued, transferred, or used in aid of the rebellion."

So that the *bona fide* holder of a bond issued by the State of Georgia long anterior to the rebellion, or the holder of any other speciality good for twenty years by the former statute of limitations of the State of Georgia must show affirmatively as a part of his case in chief where that bond has been ever since the rebellion broke out; and the defendant may sit by and fold his arms without offering any evidence whatever of its being tainted, and he never can be called upon to make his proof until the other party has shown negatively the absence of all these bad qualities.

What will the Senator from Oregon say to this in the face of the decisions that the laws as they stood affecting the enforcement, the discharge, the remedies applicable to contracts, all enter into and form a part of the contract, so that displacing them does violate the sanctity of the contract? What will he say in view of these decisions of a provision such as I have read? But look a step further in this constitution:

"It shall be in the power of the General Assembly to assess and collect upon all debts, judgments, or causes of action when due, founded on any contract made or implied before the 1st day of June, 1865, in the hands of any one in his own right, or as trustee, agent, or attorney of another, on or after the 1st day of January, 1868, a tax of not exceeding twenty-five per cent., to be paid by the creditor on pain of the forfeiture of the debt, but chargeable by him as to one half thereof against the debtor, and collectable with the debt."

Did any man ever hear in a land of written law of a provision like that? Here is a man in the State of Georgia who, when the rebellion broke out, owed a firm in the city of New York \$50,000 for merchandise furnished—and it is not barred by the statute of limitations, let me remind the honorable Senator from Ohio, as he suggested yesterday—for although seven years have run, and six is the customary duration of the statute in the States, Congress passed an act which, by the by, was unnecessary, providing that during the pendency of the rebellion no statute of limitations should run. The

Supreme Court of the United States at its last term decided that with or without that act (because they said the law had been so in the absence of it) the statute was arrested by the rebellion and did not run against any of these debts. Therefore, to pursue my illustration, a firm or an individual in the State of Georgia owes a creditor in the city of New York, for goods furnished, \$50,000, and although the debt was contracted seven years ago it is as fresh for all purposes as if it were contracted yesterday. This creditor having been kept for seven years from the pursuit of his remedy goes to the State of Georgia and commences his suit. The first thing that happens to him is to fall under the sweep and besom of this provision, which compels him to advance twenty-five per cent. of the entire amount as a tax, half of which he is to be allowed to charge over to the debtor and collect it from him.

Will any Senator say, will the honorable Senator from Oregon say, that intelligent men can differ upon the question whether such a provision as that affects and impairs the loss as they stood covering and guarding the enforcement and validity of that contract at the time it was made? I apprehend not, sir. On the contrary, we must all admit that this is rank repudiation, covered with a gauze so thin as hardly to be respectable even as a disguise. It means nothing but that; and the only thing in it that I see to be defended in morals or in ethics is that part of the provision which denounced debts made in aid of the rebellion and debts with regard to slaves. The latter is excepted by the proposition in the bill as it stands; and the portion relative to debts contracted in aid of the rebellion, as I said once before, and as we ought none of us to forget, is abundantly disposed of by the fourteenth amendment to the Constitution of the United States, which is to take effect as soon as this takes effect, because here are States enough to consummate it, and its consummation by them is a condition precedent to admission.

Therefore, Mr. President, it seemed to me clear that here was a case of an attempt by a State to invade the principles of commercial honor and of public morals, and at the same time to invade a clear provision of the Constitution of the United States; and I thought the committee did well to stand first upon the invitation which the State of Georgia had given Congress to qualify this constitution in its acceptance, and I think they would have done well, had it not been there, to stand on the broad ground assumed in the Missouri case, that States are to come in no more than the equals of prior States, and that a provision like this, peculiar and obnoxious, is not to be tolerated upon the general grounds.

Mr. President, while speaking of this I wish to call attention to a provision of the constitution of the State of Alabama, which by a very close vote has been included in this bill, and I ask to bring it to the attention of the Senate because a memorial has been sent here signed by many constituents of mine and other persons, representing the estates of deceased persons, representing widows and minor children. The twenty-sixth section of article one of the constitution of Alabama contains a provision which in principle, it seems to me, cannot be distinguished from this which we have been discussing. I will read the whole of the section, as it is very brief:

"That all navigable waters shall remain forever public highways, free to the citizens of the State and of the United States, without tax, impost, or toll imposed; and that no tax, toll, impost, or wharfage shall be demanded or received from the owner of any merchandise or commodity for the use of the shores or any wharf erected on the shores or in or over the waters of any navigable stream, unless the same be expressly authorized by the General Assembly."

Mr. HOWARD. What article is that?

Mr. CONKLING. It is the twenty-sixth section of article one of the constitution of Alabama. I beg to inquire of Senators what is the distinction in principle between that provision and a provision declaring that no rent should be collected for farms or the occupation of land in the State of Alabama, except by

express permission of the General Assembly of that State? No man is to be allowed to receive for the use of any wharf erected on the shores of a stream or erected over any stream. What does that mean? A warehouse, in common language. No man is to be allowed to receive for the use of a wharf, a warehouse, or the shores of a stream any toll, tax, or compensation for its occupation. Riparian owners are to be divested of the use and occupation, the rents, issues, and profits of their land. I see no principle upon which this can be defended; and here are memorialists who recite that in the city of Mobile they have become the owners of considerable water fronts, which they have improved at a large expense, in respect of which attempts have been made repeatedly to invade their rights; that there are now pending litigations involving their rights, and that they are met by a proposition in this constitution to strike them down and obliterate them at one stroke.

It seems to me, Mr. President, (because the subject is properly here now, if Alabama is to go into this bill,) that the same condition which we are proposing in the case of Georgia ought to be extended to this case; because, although the operation of it may be less general, although the hardship of it in the actual realization may be less in this case than in the other, the distinction between the two cases in principle I am unable to see.

Now, Mr. President, while I am up, I wish to set a matter right with my honorable friend from Massachusetts, [Mr. WILSON.] We had some discussion the other day as to the vote given by him in reference to the provision as it stands now in the reconstruction law requiring a majority of all registered voters to participate in the elections. Since that time the honorable Senator and myself have explored the record to see how it stands, and it shows that the honorable Senator did vote for the provision as it is in the law requiring a majority to participate in the election to decide the question whether a convention should be held and who should compose that convention, but that he spoke against and voted against the provision in reference to the other election. It shows that he voted for the provision requiring a majority of all the registered voters to take part in the election ratifying the constitution only as that provision stood as a part of the bill, and that he did not vote for it as it stood separately. That is as my honorable friend understands the record, taking the Globe and Journal both together. It is a record not very easy to be understood, as we both found; and the occasion of the mistake did not occur to either of us until after we had looked at it very fully; but we were both satisfied it was a misleading record as it appeared in the Globe, and the whole thing taken together showed his position as I now take great pleasure in stating it to be.

Mr. HOWE. Mr. President, I am inclined to vote for the amendment now pending, and it has been attacked so vigorously and so gravely that I feel called upon to apologize for, if I cannot justify, the vote I am about to give.

When any measure I espouse or any vote I propose to give is advertised as a sanction of repudiation, it is calculated to startle me, because I am not on that platform, as a general thing. I am rather in favor of the payment of debts, all debts except my own, [laughter;] but, sir, I am not so clear that everything which is called a debt ought to be paid. One of the first efforts to which this Government directed its attention upon the close of hostilities was to prevent the payment of a certain class of contracts which were entitled debts. The Government felt it to be one of the first duties incumbent upon them to relieve the people of each one of these States which plunged into the rebellion from the obligation of paying each and all the debts which were contracted in aid of that rebellion, and that for a double reason: because the obligation was stained with the guilt of the rebellion itself, and because it was known that many of

those debts had been contracted in defiance of the will of those people from whose pockets must be wrenched the means to pay the debts. That effort we hope will be finally successful.

The clauses in the constitution of Georgia which are brought to the attention of the Senate by the amendment offered by the Senator from Ohio are another effort to afford relief similar to that, as it seems to me, to which I have just alluded.

Sir, two events have transpired to that community in Georgia which seem to me to make this measure proper, just, and equitable, if the measure itself can be defended upon constitutional grounds. I assume that the purpose of this clause in the constitution of Georgia is not to cancel the obligation of any indebtedness existing prior to the war, and that it will not have that effect. I assume that the only purpose of it is to prevent citizens of Georgia from being harassed upon contracts entered into during the war. And now two events have transpired which seem to me to justify an effort to relieve that people from those embarrassments if it can be done. One of those events is this: when these contracts were made the people of Georgia held one class of personal property denominated slaves, amounting to many hundred millions of dollars, which to-day, and all days hereafter, when these contracts are to be performed, if they are to be performed at all, are not worth a dime; and that, too, through the direct interference and agency of the Government, of law. It is because of a change in the laws that that class of property, worth so many millions then, is worth nothing now, in the sense in which it was then valued.

But another event has taken place. When these debts were contracted a dollar meant a very different thing from what it means to-day and must mean hereafter when these debts are to be enforced. When in 1863 and 1864 contracts were made for the payment of \$100 or \$1,000 those people were subjected to laws under the operation of which \$100 or \$1,000 was as but a song in comparison with \$100 or \$1,000 to-day. If the courts are to be opened to the enforcement of these obligations, it must be remembered that the term "dollar" will enter into the judgment just as it did into the contract; but although the judgment may be but for \$100, and the contract on which that judgment is obtained was for the precise sum of \$100, the \$100 with which the judgment will be paid will be from four to fifty fold as much as the \$100 which were named in the contract.

Mr. HOWARD. Suppose the contract was payable in confederate money.

Mr. HOWE. As the contract was payable.

Mr. JOHNSON. A dollar is worth more than it was then.

Mr. HOWE. So it seems to me, that a dollar is worth more now than it was then.

Mr. JOHNSON. You pay it in greenbacks now.

Mr. HOWE. Yes, sir; it is paid in greenbacks, and when the contract was made it was made payable in confederate money. It is all the difference between greenbacks and confederate money. So it seems to me very proper to relieve the people against these evils if it can be done.

But it is said it cannot be done because of a plain and palpable prohibition in the Constitution of the United States. It is said that this clause of the constitution of Georgia does impair the obligation of a contract, and that that is forbidden by the Constitution of the United States. I am not going to detain the Senate at any length with an argument upon that constitutional question. It would be profitless to do so. The dispute as to what laws do or do not impair the obligation of a contract has been an active and lively one ever since that clause was put into the Constitution of the United States, and I think is no nearer settlement to-day than it was when the dispute first commenced. The authorities upon it are endless, as I remember to have known once, though it is some years

since I have taken the trouble to look at any of them.

I do not think it worth while, for another reason, to detain the Senate with an argument upon this point, for I am entirely satisfied that if this clause does in effect impair the obligation of a contract it will destroy the Constitution of the United States. I think the Constitution of the United States will abide, and I think the only effect will be that this clause will be just what the pending bill says it will be, null and void; but that declaration will come from the judicial authorities of the country instead of coming from the legislative authority; and I should prefer to see that judgment pronounced by the courts rather than see it pronounced by the Legislature for two reasons: first, because when it is pronounced by the judicial authority there will be an end of the question, which will not happen if this Senate or this Congress shall so declare; and secondly, because it is possible the courts will not make such a decision, and I believe, as I have already said, it would be expedient to afford this relief if it is in the power of legislation to afford it.

Just what is the obligation of a contract, I think it is very difficult to say, in the light of adjudications. Recollect the language employed in the constitution of Georgia does not propose to touch the obligation of a contract. All the courts have said, as I remember, that although under that prohibition the legislation of a State cannot touch, cannot impair, cannot lessen the obligation of a contract, yet the courts have uniformly said that the States have full power, full control over remedies upon contracts. This provision simply undertakes to touch the remedy, to withhold the remedy upon the contract. That is what it proposes to do. What the obligation of the contract may be worth in dollars and cents after the legal remedy is taken away I shall not stop to consider. We cannot settle that.

Mr. MORTON. I wish to ask the Senator from Wisconsin one question. I ask him if the remedy to enforce a contract is not of the essence of the contract itself; and if the courts have not decided that in taking away the remedy, the means of enforcing a contract, the contract itself is thereby impaired; if that is not the uniform current of decisions on that question?

Mr. HOWE. No, Mr. President, I cannot admit that it is the uniform current of decision; and yet such language has been held by courts frequently. There is, in point of fact, but very little language on this subject which the courts have not employed at different times and in different cases. But I am not prepared to admit that a plain and adequate remedy upon a contract is of the essence of the contract itself or any part of the obligation. When I give you my note, sir, to pay you \$100 I do not think it is any part of the obligation of that contract that I should furnish you a court in which to sue upon the note or obtain judgment upon the note any more than it is a part of the obligation of that contract that I will furnish you an attorney to prosecute your suit in case I do not pay. Plainly there is an obligation resting upon me to pay that \$100. It is a moral obligation. The State may add legal penalties and sanctions to that obligation if it chooses. But, sir, may not the State withhold those legal sanctions if it chooses? What is there in the Constitution of the United States which compels the State to furnish judicial tribunals in which to enforce such contracts and to maintain suits upon them? Is it true, Mr. President, that, because I give a note for money, I impose upon the State in which I live a constitutional obligation to furnish judicial tribunals with which to collect that note? For if this declaration in the constitution of Georgia, which closes their courts against suits upon such notes or such obligations, is a violation of the Constitution of the United States, it seems to me that the constitution of Georgia would be a plain infraction of the Constitution of the United States if it did not provide any judicial

tribunals at all, or if it confined their jurisdiction to cases of tort as distinguished from cases of contract.

If this be so, if this reasoning be correct, then the obligation which devolves upon a State to establish a judicial department in its government, to create judicial tribunals, arises, not from any command in the Constitution of the United States, for there is no such command, but it springs from the accident that some one or more of the citizens of the State have made a contract and created a necessity for some such judicial department. The first man who makes a bargain and does not execute it right off devolves the necessity upon the State. The man who goes into a hotel and takes his dinner and does not pay for it at the bar, but has it charged up, as Mr. Nasby has his grog, imposes upon the State an obligation to create a judicial department of the government that that dinner may be sued for and collected. That is the result of the argument. I do not think myself that this is any part of the obligation of a contract. I think it belongs to the remedy, only the remedy. But if I did not think so, if I were not decidedly of that opinion, if I thought the question was doubtful, if the inclination of my own mind was rather the other way, since it is not settled to be an infraction of this clause of the Federal Constitution, I should still agree to let that clause stand in the constitution of Georgia for the judicial tribunals of the land to interpret and to annul or sustain as they see fit.

Some of the exceptions taken to this provision urged by the Senator from New York, [Mr. CONKLING,] as I understood him, are exceptions resting upon the second subdivision of the seventeenth section of the fifth article, which the bill reported from the Judiciary Committee sustains, and does not propose to strike out, and which the pending amendment therefore does not affect. I understand the committee propose to annul only the first and third subdivisions of the seventeenth section.

Mr. CONKLING. They propose to annul everything in relation to contracts, except as to contracts in regard to slaves.

Mr. HOWE. No, sir; only the first and third subdivisions of that section. That was my understanding of the matter. The bill reads:

"And the State of Georgia shall only be entitled and admitted to representation upon this further fundamental condition that the first and third subdivisions of section seventeen of the fifth article of the constitution of said State, except the proviso to the first subdivision, shall be null and void, and that the General Assembly of said State by solemn public act shall declare the assent of the State to the foregoing fundamental condition."

If there is any portion of these provisions which is clearly and palpably unjust, it is a portion of that very proviso which the Judiciary Committee propose to retain, for that proviso prevents the Legislature from empowering their courts to take jurisdiction of suits brought either to recover the value of slaves, or to recover the value of the labor of slaves. There is clearly a good, sound, equitable reason why the courts should not be open to enforce suits to recover the value of slaves. That palpable reason is, that slaves have no longer any value; that although the purchaser bought them in good faith, promised to pay for them in good faith, they turned to ashes on his hands, and by the intervention of the Government itself. But when he has not bought, but hired simply, he has derived all the benefit that he could possibly derive from the labor of the slave. There is no reason in the world for refusing the hirer the privilege of collecting pay for the labor of his slave, that there is not for refusing the right to collect pay for his own labor. It is a day's work, or a month's work, or a year's work, and the borrower has got the full benefit of it in either case. The committee propose to retain that provision. That seems to me as clearly unjust as any portion of this section.

But there is one feature in this section to which I have not alluded, and to which I have heard no illusion made during the debate, and

that is to the first clause of the seventeenth section. Among the exceptions to the section are all cases which shall be excepted by the Legislature at any time. In spite of the prohibition in this clause, the Legislature may give jurisdiction to the courts to recover upon all these contracts except those for the hire or price of slaves, so, in the light of that exception, this prohibition amounts to nothing more than this, that the courts of Georgia shall not have jurisdiction in cases of contract any further than the Legislature shall provide; that its jurisdiction in cases of contract made prior to June 1, 1865, shall be such as the Legislature of Georgia shall prescribe. That is what it is. That is the way I read it. My friend from New Jersey [Mr. FRELINGHUYSEN] thinks I have misread it. Very likely. He will have the opportunity to point it out; but I do understand that to be the whole meaning of the provision; and, I take it, thus interpreted, no one will seriously urge that that is an infraction of the Constitution of the United States.

I have felt called upon to say so much, Mr. President, in explanation of the vote I am about to give. I think this only a reasonable protection to afford to these people. If it seems like repudiation, it is in fact only the repudiation of contracts which, as it strikes me, cannot be enforced to-day without doing great injustice to the people between whom and among whom these contracts sprang into existence. Their circumstances are so much altered, things are so vitally and radically changed, that to enforce these contracts seems to me likely to do much more injustice than justice.

Mr. MORTON. Mr. President, I must say that I have been somewhat surprised by this discussion and by the positions that have been taken in defense of this article in the constitution of Georgia. We have heard from the Senator from Oregon, [Mr. WILLIAMS,] yesterday from the Senator from Ohio, [Mr. SHERMAN,] and just now from the Senator from Wisconsin, [Mr. HOWE,] that this provision was necessary for the protection of the people of Georgia, and to enable them once more to recover their position. Why is it more necessary in Georgia than in any other of the rebel States? In point of fact Georgia suffered less from the rebellion than almost any other State that was engaged in it. It was exempted from the actual presence of contending forces almost entirely until Sherman made his march to the sea. That part of the State of Georgia that he traversed of course suffered severely. But, sir, take it altogether, there is less excuse for a provision of this kind in the State of Georgia than in any one of the rebel States. There is Alabama right alongside, and North Carolina, and then there is South Carolina and other rebel States that have not made provisions of this kind. No other State has done so. It has remained for Georgia to do it, with less excuse and with less cause than any of these States.

The Senator from Wisconsin assumed that this applied only to debts contracted during the war, and which were to be paid in confederate money. The Senator from Wisconsin is mistaken. It applies to debts contracted before the 1st day of June, 1865, not the debt contracted during the war only, but all debts contracted before the 1st of June, 1865.

Mr. HOWE. I do not know but that I was misunderstood. I do not know that I said precisely what I meant to say. I certainly did not mean to say that the language of the clause in the constitution of Georgia did not include debts made prior to the war. Indeed, I think I admitted that it did; but I assumed and asserted merely that it was the purpose of the clause to relieve only debts made during the war, and that under the legislation of Georgia such would be the practical effect.

Mr. MORTON. I think I did not misunderstand the Senator, and in fact his explanation harmonizes with my understanding of what he said. He said he did not see that this pro-

vision in language was confined to debts contracted during the war; but he said it was intended to meet the case of debts contracted during the war and to be paid in confederate money. Sir, it meets the case of all debts contracted before the war. It meets the case of debts owing by southern men to northern men, and to citizens among themselves contracted before the war. If it was intended to apply simply to debts contracted during the war and to be paid in confederate money, it would have said so; but it does not say so. It is broad and sweeping in its provisions.

Now, sir, debts contracted in Georgia during the war in the ordinary course of business, unless they declared upon their face that they were to be paid in confederate money, are just as valid as debts contracted before the war, if they had no connection with the rebellion. Why should those debts not be paid? If a man during the war contracted a debt to his groceryman or to his physician or his lawyer, or his farmer for his meat, having no connection with the rebellion, and not specifying upon its face that it was to be paid in confederate money, it is a valid obligation, and should be paid just as much as though it had been contracted before the war or since the war.

Mr. President, I understand the Senator from Wisconsin to argue distinctly that by taking away the remedy, or the means of collecting a debt, you do not thereby impair the obligation of the contract. Why, sir, what is the contract worth in a legal point of view if there are no means of enforcing it? It is worth nothing. The Senator says the moral obligation is still there. Certainly that may be there; but the constitution is not talking about the moral obligation of a contract. A State cannot impair the moral obligation of a contract by any law it may make. A State can only impair the legal obligation, and it is of the legal obligation that the Constitution is talking, and not of the moral obligation, because that cannot be effected by any act of legislation. It is the legal obligation; and when you take away the means of enforcing a contract, you have rendered it worthless; you have most essentially impaired its obligation.

I ask the Senator if it was not the uniform current of decisions that whatever interfered materially with the collection of a debt was held to impair the obligation of the contract?

Mr. JOHNSON. That has been decided half a dozen times.

Mr. MORTON. That has been decided half a dozen times in the courts of the United States, and perhaps in almost every State in the Union in the State courts. Why, sir, in the little digest that I have here before me there are a number of authorities referred to. I read from Paschal's Annotated Constitution, page 155:

"The laws which exist at the time and place of the making of the contract enter into and form a part of it; and they embrace alike those which affect its validity, construction, discharge, and enforcement."

And a number of authorities are referred to in the Supreme Court of the United States. Then again:

"As, if the acts so change the remedies as materially to impair the rights and interests of the owner, they are just as much a violation of the compact as if they overthrown his rights and interests."

Mr. JOHNSON. What is the case given?

Mr. MORTON. There are a number of cases—the cases of *Van Hoffman vs. City of Quincy*, 4 Wallace, 552; another in 1 Howard, 297; *Sturges vs. Crowninshield*, 4 Wheaton, 122, and a number of others. Then the author goes on to say:

"The ideas of validity"—  
that is of obligation—  
"and remedy are inseparable."

I know that nobody comprehends clearer than the Senator from Wisconsin, that if you take away the remedy, there is no validity to the contract in a legal point of view. But enough upon that point.

I understood the Senator from Oregon to argue that we have nothing to do with a State

constitution except so far as to see that it is republican in form; that although it may contain provisions that are inimical to and in direct conflict with the Constitution of the United States, we have nothing to do with it except to see that it is republican in form.

Mr. WILLIAMS. I did not exactly say that, but I said that it was inexpedient. I know that a constitution might contain provisions that we should be bound to reject; but I said that it was not expedient for us to revise a State constitution where it protected the political and civil rights of the State.

Mr. MORTON. I think I understood the Senator's position, and I do not think that his explanation changes it from my version of his opinion. Sir, if a State constitution contains a provision in palpable violation of the constitution of the United States, it is clearly inexpedient for us to give our sanction to it. It is never expedient for the Congress of the United States, in accepting a State constitution, to accept it with provisions that are in direct hostility to that constitution under which we are authorized to act, the constitution that creates this Government. We cannot sanction receiving a State constitution with provisions directly in conflict with the Constitution of the United States. This provision in the constitution of Georgia is in direct conflict with the Constitution of the United States, and it is inexpedient for us to recognize it as being valid; to receive a State into the Union, to institute a new State government and permit it to go into operation upon provisions of a State constitution that are in direct violation of the Constitution of the United States; and such has been the practice of the Government of the United States. I believe where State constitutions have been presented, from time to time, that have contained provisions regarded as hostile to the Constitution of the United States, they have always been required to change them.

The Senator from Oregon says it has been approved by the people of Georgia, and what difference does it make to us whether it is impairing the obligations of a contract or not if the people of Georgia are agreed to it? Sir, they are part of the Republic, and they have no higher or greater rights than the people of Indiana have. But this provision does not confine itself to contracts between citizens of Georgia. If a debt owing to a citizen of the State of Indiana be cut off by this provision. Therefore, it is our business out of Georgia as well as in Georgia. If a citizen of Indiana has a debt owing to him by a citizen of Georgia he is cut off absolutely from the collection of that debt, unless it is for a sum of \$500, and he can then go into the circuit court of the United States. But if he is a poor man, if the debt is less than \$500, he is to lose it. It is only the large creditors and those who live in other States that have a remedy left to them, while the small creditor, the small dealer, has his debt absolutely cut off.

Mr. President, I saw a citizen of Georgia the other day, and he was the man who first called my attention to this provision. He came to see me and talk to me about it. He was an acknowledged Union man, and had been throughout the war. He had lost a large property by means of the confederate government; it had been confiscated. He said that the adoption of this provision would utterly ruin him and leave him penniless. What he had left was in the form of debts. He living in Georgia and his debtors living in Georgia he cannot go into the courts of the United States; he must sue in the State courts; and if that right be taken away he is totally ruined. He is a Union man, one whom I had known to be a Union man throughout the war. Can we indorse a constitutional provision that robs a man of his rights, of all the fortune left to him in direct violation of the Constitution of the United States?

The Senator from Oregon spoke about the bankrupt law. He inquired if it was competent for Congress to pass a bankrupt law by which hundreds of millions of debt in the aggregate



are canceled, is it not competent for Georgia to cut off, by a constitutional provision, the collection of all debts created before a certain time? I answer no; there is no parallel whatever between the cases. What is a bankrupt law? It is certain provisions supposed to be equitable by which the debtor upon the surrender of all his property, except that which the law may give him to prevent his family from being beggared, is finally, on compliance with certain conditions, released from his debts. It applies to cases of bankruptcy where men are unable to pay their debts, where they surrender their property fairly and fully to their creditors. But this provision does not apply to bankrupts. It applies to the wealthy as well as to the poor. It cuts off the collection of all debts.

The Constitution of the United States expressly provides that Congress may pass a general bankrupt law. That is one of the powers expressly conferred upon the Government of the United States; and the same instrument says that no State shall pass a law impairing the obligation of a contract. There is no provision in the Constitution of the United States saying that Congress may not pass a law impairing the obligation of a contract. That prohibition is confined to the States. I believe Congress has uniformly refrained from passing such laws, although there may be no constitutional provision prohibiting them. This prohibition is directed expressly to the States; but no act can be referred to on the part of Congress looking in that direction, except the bankrupt law, which is entirely different in its character from the act here referred to.

My friend from Oregon says that some philosophers and publicists have discussed the question of abolishing all laws for the collection of debts, leaving all debts to be paid simply upon honor. I have read some essays on that subject, but they were always to take effect in the future. They provided that some period should be fixed, and after that period there should be no laws for the collection of debts, the effect of which would be to make men careful in contracting debts or in giving credit, giving credit only to persons of good character, who they believed would pay their debts honestly and honorably. I never even heard that question discussed as being made applicable to debts already contracted; but the theory was put out with reference to a future time, after which there should be no collection of debts by law.

Now, in regard to the collection of debts for slave property, this bill provides that there shall be no debts collected for slave property. We accept that. What is the reason of it? It stands upon the general principle that has been recognized by the laws of the United States, that slavery does not exist by virtue of national law, but only by virtue of positive law, and that slaves are no consideration for a contract except by virtue of positive law; and that when that positive law is withdrawn the consideration falls to the ground. The whole policy of this Government has been changed in the last five years. Slavery has been abolished, and we now recognize the doctrine that slavery is immoral, and that slaves are an immoral consideration for a contract, and that it cannot stand. I know there are those who still insist that a debt contracted for slaves ought to be collectable. I will not stop to argue that question, but I will say that there is a broad distinction between debts contracted for slave property and debts contracted for other property that is recognized by the law of nations and the natural law.

Mr. WILLIAMS. I should like to ask my friend a question, with his permission.

Mr. MORTON. Certainly.

Mr. WILLIAMS. Does not that proviso impair the obligation of a contract? If the contract was legal and valid at the time it was made, and the proviso undertakes to abolish the contract, does it not impair its obligation?

Mr. MORTON. I am not disposed to argue the question in regard to slave property. It may, in one sense, impair the obligation. I

mean to say, however, that contracts of that kind are held, by what is now the settled policy of this country, and by what ought to have been its policy always, to stand upon a different obligation, a different footing morally, and perhaps legally, from contracts of any other kind. Slave property was swept away; those owning slaves lost them; and it was perhaps just as proper that those owning choses in action, debts, promissory notes, and bills of exchange given for slaves should lose them, also.

Mr. FOWLER. I should like to ask the Senator from Indiana this question: whether a contract for slaves made before the proclamation of January, 1863, is not obligatory in law; whether it could be avoided at all by any legal means? I agree with him entirely in his views of the morality of the subject, and I have done so for many years; but nevertheless I hold that such a contract is legal and binding, and could be enforced.

Mr. MORTON. I must answer that question as I did the question asked by the Senator from Oregon. If John Brown just before the emancipation proclamation sold a slave to John Doe, and the proclamation and the thirteenth article of the Constitution came in afterward and took away the slave from John Doe without compensation, would it not be just as fair that John Brown should lose his note?

Mr. SHERMAN. I think my friend from Indiana has fallen into a grievous error. John Doe never dealt in anything but real estate, and John Brown never dealt in slaves, [laughter;] so I think he ought to take a better illustration.

Mr. MORTON. That is all very well, except that my friend is not well informed. He supposes that there was never but one John Brown who was hung over here in Charlestown, Virginia.

Mr. SHERMAN. The only one I know.

Mr. MORTON. The Senator's acquaintance is somewhat contracted. [Laughter.] So far as John Doe is concerned, he will serve just as well for an illustration here as he does in a fictitious case for the recovery of property in an action of ejectment. That does not affect the character of the illustration. I say, if it was right and proper for us to take the slave from the purchaser without compensation, it was just as proper that the man who sold him and held the note for him, should fail to collect the note. Will the Senator tell me the distinction between the two cases?

Mr. HENDRICKS. May I ask my colleague one question?

Mr. MORTON. Yes, sir.

Mr. HENDRICKS. Suppose that A should sell to B a horse, and the officers of the Army, three or four days afterward, should come along and find it absolutely necessary to take that horse, and that without compensation; would it lie in the mouth of the vendee to say that he lost his property, and therefore as between him and the vendor the consideration fell?

Mr. MORTON. I do not think that is a very hard question. If the officers found it a military necessity—which you know covers a great many things—to take the horse, the Government is still bound to pay for the horse whenever it becomes able to do so. The obligation exists on the part of the Government to pay for the horse; so that the case of the horse is essentially different from that of the slave. I think my colleague fell into an error as grievous as that with which the Senator from Ohio charged me, because he had never heard of any John Brown except the one who died at Charlestown.

I do not feel disposed to argue this question in regard to slave property or notes given for slave property. I assume, and I think it has been the general sentiment of the country, that old debts created for slave-property should not be enforced. I think that that position is consistent with the moral sentiment of the country, is consistent with the act of emancipation itself; but whether I am right or wrong about that, it furnishes no sort of argument for the general

act of repudiation contained in the constitution of Georgia.

Mr. FOWLER. I wish to make a few remarks in reference to this subject. In relation to the first section of the fifth article of which the Senator from Indiana [Mr. MORRIS] has spoken, I agree with him cordially, that it does necessarily impair the obligation of contracts, and ought not to be sanctioned by the Congress of the United States. I do not see how we can do it. I shall not attempt to discuss it. I think the argument of the Senator from Indiana perfectly sound and logical on that point. But I cannot concur with the principle that he has enunciated, that because slavery was an immorality and is regarded as an immorality at the present time, therefore a contract which was made for the purchase of slaves is necessarily immoral. That does not follow at all. By law, by authority of law, slavery is not only held to be illegal, but immoral; but no law in any State, and no decision of any court in any State, has ever supported or even hinted at the idea that a contract which was legal before the abolition of slavery, is not so now because it is immoral or wrong. I know of no decision in any place in the United States that has been made on such a principle as that; and I was astonished to-day to hear it asserted by any person that such a contract is illegal, and cannot be enforced in law. So far as the immorality of the question is concerned, I held the same opinion twenty years ago that I do now, at a time when scarcely any person else did. No court held to any such doctrine as that, nor do they hold to any such doctrine yet. I think a contract for slaves made prior to the abolition of slavery, or to the emancipation proclamation, is perfectly legal and would be held to be legal in every State of the United States. I do not know of a solitary decision to the contrary.

Mr. FRELINGHUYSEN. I have listened to this debate with some interest, and the only argument, the only plausible apology that I have heard for the introduction of this provision in the constitution of Georgia was that advanced by the Senator from Wisconsin, [Mr. HOWE,] that it was hard to compel persons who made contracts, payable in so many dollars, which really was intended to be confederate money, to answer a judgment for a like number of dollars, which, perhaps, would be one hundred times the value. That is the only plausible apology that I have heard for this provision in the constitution of Georgia. But to attain that end we are not at liberty to violate the plain provisions of the Constitution of the United States and to give our sanction to the impairing of contracts by a State. To reach that end we are not at liberty to violate all contracts between the South and the North and all contracts which have not the peculiar feature to which the Senator alludes; and it seems to me perfectly easy to remedy the evil to which the Senator from Wisconsin thinks this provision is directed without any such provision in the Constitution. What is easier than that the Legislature of Georgia, as soon as they convene, should pass a statute enacting that all contracts made in view of being paid in confederate money shall be satisfied by a payment in money of the United States to an amount equal to the value of the money at that time, and let a jury find the amount. It is not necessary to attain the only possible good that has been suggested to grow out of this provision for us to ignore the Constitution of the United States and to violate hundreds of contracts which have not the feature to which the Senator alludes.

Mr. BAYARD. Mr. President, I do not rise for the purpose of discussing the merits of the bill before the Senate, nor even of the amendment proposed by the honorable Senator from Ohio; but merely to assign the reasons why I shall not vote either for or against that amendment.

In my judgment, the so-called reconstruction laws of Congress are utterly in excess of the legislative power; and in my judgment the

constituencies that Congress was pleased to organize under a usurpation of power in the several States which are said to be restored under this bill, are not constituencies known to the laws and the constitutions of those States. Nor do I believe any constitution they may have adopted can be worth more than the paper on which it is written, subject to a single exception. Believing this, of course I do not mean to deal with an instrument in any way by way of amendment which I think has no legal existence. But there lies beyond it the question of what may be the determination of the people of the United States on your reconstruction laws. They have not been, since the first one was passed, before the people of those States which are represented in Congress, either for approval or condemnation. They soon will be. If they approve your action and sustain those laws, whatever may be their ultimate consequences, I admit they must be submitted to. But if they reverse your action you might well pause before attempting to carry into effect legislation adverse to the sentiments of the people of the country. My hope rests there.

I have great confidence in the practical capacity of the American people; and I do not believe in the omnipotence of the Congress of the United States. I believe that in a struggle between that Congress and the sentiment of the people Congress will have to give way. Do not misunderstand me. I do not speak of the people of the ten States that are being reconstructed. Within a constitutional sense you have left no people there now. Their laws you have abrogated; their constitutions you have put an end to; under military power you have organized a constituency consisting of an inferior race, who are the mere agents and tools of the Congress of the United States. Sir, the question must come this fall before the people, and you cannot avoid it, whether they will recognize the right of Congress to impose through the Federal Government a domination over them through a constituency which they have repudiated and rejected in their own individual States. My hope rests there. Should they decide to sustain your measures, As I said, come weal, come woe, they must be submitted to; but you have to meet that issue, and it is the great issue before the country. My hope rests in the intelligence of the people that, lost as our liberties have been, that intelligence will be sufficient to recover them, will be sufficient to reestablish the Constitution of the United States, sufficient to restore to us a government of laws, not a government founded on the mere will of bodies which have limited legislative powers, and yet have not only transcended those powers, but have actually abrogated the executive and almost nullified the judicial department of the Government.

Under these circumstances, Mr. President, I consider it quite immaterial what may be the decision of Congress as to whether the amendment of the honorable Senator from Ohio shall obtain or not. I do not mean to meddle with a paper which I do not recognize as constitutional. The people are to pass upon your action yet; and if they mean to preserve their own liberties I cannot doubt the result. Perhaps at a future time, when I have more strength and the Senate more leisure, I may endeavor to point out in what respects I consider your reconstruction laws as not only utterly destructive of the Constitution of the United States, but as utterly subversive of the semblance of free government, as necessarily ending in one of those two alternatives—either a concentrated, consolidated bureaucratic despotism or anarchy. Now, I will not detain the Senate further than this statement of my general views. I will not vote upon the amendment proposed by the Senator from Ohio.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Ohio to the amendment of the Judiciary Committee.

Mr. WILSON called for the yeas and nays, and they were ordered.

Mr. JOHNSON. Mr. President, I am opposed, as I have already stated to the Senate, to the imposition of any fundamental condition to the admission of these States into the Union; but being perfectly satisfied that the provision in the constitution of Georgia to which the particular amendment refers is of itself unconstitutional, I could not vote for the admission of the State with that clause, and I shall therefore be compelled to vote against the amendment proposed by the honorable member from Ohio.

Mr. HENDRICKS. I have experienced somewhat the same embarrassment in my reflections on this subject that has been expressed by the Senator from Delaware, [Mr. BAYARD.] I do not think that we have any right to add one or two or take one word from the constitution of any State. And yet, sir, it is so palpable to my mind that this proposition of repudiation in the Georgia constitution is in violation of the Constitution of the United States that I shall vote against the proposition to strike out that clause of the bill which declares that that cannot be a part of the constitution. I do not feel that in casting this vote I am adding to or taking from a constitution; I feel that I am simply declaring that a provision of that constitution is no part of it, as a legal doctrine, but that it is an effort on the part of the people of Georgia—if it may be said that the people of Georgia have done this at all—to violate the Constitution of the United States, and we merely express our dissent.

Mr. DAVIS. Mr. President, my position differs a little from that of the honorable Senator from Indiana, [Mr. HENDRICKS.] If the question of this constitution was legitimately before the Senate of the United States, I would accord with his position; I would say that if a new State was about to be admitted into the Union, and the constitution of that new State was under consideration, and there was a provision in it at war with the Constitution of the United States, as in the case of the State of Missouri, that provision of the constitution of the proposed new State which was in conflict with the Constitution of the United States would be void. I believe that position sound and legitimate. But, Mr. President, I hold that we have no more right as the Senate of the Congress of the United States to act upon the measure that is now before us than has the Legislature of any State. In other words, I hold that we have no jurisdiction over this subject. Some of these States were original members of the United States; others have been constitutionally and legitimately admitted as members of the United States, as States in the Union. When those new States were admitted into the Union, I hold that all power of Congress over the subject of those States in regard to their admission or readmission or exclusion was exhausted; that when a State is once in the Union as a State, she is in the Union constitutionally and legitimately forever, and she never can be taken out of the Union except by successful revolution.

I hold that these States were States in the Union constitutionally and *de jure* during the whole of the rebellion; and whenever the rebellion was put down, all that remained to do was that their existence and their governments and laws, just as they existed at the time rebellion was commenced, should be reacknowledged by the Government of the United States.

Now, Mr. President, I will make one remark in relation to the position assumed by the honorable Senator from West Virginia [Mr. WILLEY] yesterday. I expect to-morrow to give my views more at length on this subject. It is not everything that was done by the governments of the States in rebellion during the rebellion that can be repudiated. It is only such acts as they did which were incompatible with their relations as members of the United States to the General Government. Everything that those States did or attempted to do as States of another confederation was void, absolutely void; but in the administration of

justice between citizen and citizen, in the passage of laws that did not affect their relations to the Union, that were not promotive of rebellion and secession, and all the acts of their government or any of its departments which were entirely compatible with their relations as members of the United States will stand and ought to be recognized, in my judgment.

I will illustrate this by a single position. Those States held courts, State courts. Those State courts had their jurisdiction. They decided rights and titles to property. If land titles were decided and properly decided by those courts while the States were in rebellion there is no power, in my judgment, that can legitimately unsettle and reverse the judgments of those State courts in relation to land titles within their borders.

Mr. HOWARD. Will the Senator allow me to ask him a question here?

Mr. DAVIS. Certainly.

Mr. HOWARD. I will ask the Senator whether a judgment rendered by a confederate court, not a State court, but a confederate court, in an ordinary suit between individuals respecting land or any other matter, would be or should be held to be valid by us or by any party?

Mr. DAVIS. I will answer that question, Mr. President. There was no such thing as a confederation legally and constitutionally. It did not exist legally and constitutionally at all.

Mr. HOWARD. In fact.

Mr. DAVIS. It was a nonentity, though, legally and constitutionally. The whole confederation was a myth; it was a usurpation; it was an unauthorized creation of usurped power and is so to be treated. I say that a judgment in the State of Virginia settling land titles, during the pendency of the rebellion, if it was not in conflict with the Constitution and laws of the United States, has as binding and as permanent obligation and force as though it had been settled in any State that adhered to the Union.

Mr. HOWARD. Suppose the judgment was rendered by a confederate court in Virginia.

Mr. DAVIS. You may call it what you please. There was no confederate court there; there was no such legitimate and constitutional idea as a southern confederacy. My position is simply that where these States continued their governments and their courts, and they, by their different departments, acted in harmony with the Constitution and Government of the United States, and not in conflict with them, the judgments of those courts ought to stand and will stand.

Mr. HOWARD. Why not, then, the judgment of a confederate court?

Mr. DAVIS. There is no such thing as a confederate court.

Mr. HOWARD. There was in fact.

Mr. DAVIS. You might have set up a court yourself; a county in the State of Michigan might have set up a court of itself and have proceeded to adjudicate cases, and it would have been just as legitimate and constitutional a court as the courts set up in the States as confederate courts.

But this is the principle I am contending for: these States were States in the Union before they seceded; their secession did not remove them from the Union constitutionally or legitimately or *de jure*; they were still in the Union; and so far as these States did any acts by their departments which were not in conflict with the jurisdiction of the United States and the Government of the United States, and which were compatible with their previous constitutions and laws, those acts are valid. I will elaborate that position at some other time more at length. The whole power of the Government of the United States over the subject was simply to suppress the insurrection. According to national law and according to the principles of our Constitution, when insurrection was suppressed *de jure* the condition of things that existed before it commenced was revived in all their relations, in all their fullness, in all their obligation, both

upon the State governments and the Federal Government.

Sir, after the armies of the confederacy, as it was termed, surrendered; after the insurrection or the rebellion was suppressed; when the people of the rebel States all submitted to the jurisdiction and authority of the United States and of the United States Government, the work was fully accomplished; there was nothing more to do; the power of Congress over the subject was exhausted, and not a vestige of it remained afterward. It was the duty of Congress, of the President, of the Judiciary, of the Government of the United States, in all of its departments, simply to acknowledge that the insurrection was suppressed and to reinstate things precisely as they existed before the insurrection commenced.

All these States submitted to the suppression of the insurrection. They all conceded that that had been a crime, a rebellion, and a wrong on their part against the people of the United States and the Government of the United States. They undid everything they had done or attempted to do as separate States, and as a separate, independent, hostile confederation; they retraced their steps of wrong and rebellion and war as far as they could; they came back and acknowledged obedience to the United States, to its Constitution, and its Government; and those conditions that had been suggested to them by members of Congress and by the Executive, that they should by their own constitutions and laws abolish forever slavery, that they should repudiate the rebel debt, that they should repudiate the principle of secession, were yielded to by the people of the several States, and therefore they are bound by them now and forever. They never can reinstate slavery. A freeman, or a man once made free by the laws of a State, could never be enslaved in the United States again, even before the rebellion.

Mr. HOWARD. Were they not sold?

Mr. DAVIS. They were sold for crime. If the question had been made, the courts would have settled it, I think, on the principle I have just stated.

But, Mr. President, I was remarking that these States came back to the Union; they acknowledged the insurrection in them suppressed; they conceded that they had committed the crime of treason against the United States; they made their submission; they asked for readmission to the practical and friendly relations with the United States and with the Government of the United States which had formerly subsisted, and by all the principles of the Constitution, and by every principle of national law, so far as national law can be made applicable to our case, they had a right to take that position, and when they took it the old state of things between them and the other States and the United States and the Government of the United States, was *de jure* restored. After they had thus made their submission they rehabilitated their State governments, they elected Senators to the Senate of the United States and Representatives to the House of Representatives, and those Senators and those Representatives ought to have been admitted, and were by the Constitution entitled to admission the moment they presented themselves at the doors of the two Houses of Congress for admission. Sir, the most preposterous and unauthorized exercise of power that I have ever known to be attempted was by the Congress of the United States attempting to abrogate those States and their State governments and to declare that they had no legitimate governments. There is but one power on earth that can create a State government, and that is the people of the State itself. The only condition that Congress can impose upon the exercise of that power is that the government they create shall be of a republican form, that is of such form as the governments of the States which existed at the time the Constitution was adopted. There was not a single State government in all the ten States that was not more democratic, more republican in

its form, when they elected their Representatives and Senators, and sent them to the two Houses of Congress after the insurrection had been suppressed and they had made their submission, than any State government in existence when the Federal Constitution was formed.

Mr. PATTERSON, of New Hampshire. Will the Senator allow me to ask him a question?

Mr. DAVIS. Yes, sir.

Mr. PATTERSON, of New Hampshire. I understand the Senator to say that the power and rights of the Government were exhausted when the rebellion was crushed. Now, I wish to know if the call of conventions in the southern States by the President to frame constitutions, and the conditions which he pressed upon those conventions, were acts done in the exercise of legitimate authority?

Mr. DAVIS. I will answer that question. He had no more right to act in those premises than I had.

Mr. PATTERSON, of New Hampshire. Then I wish to know if the governments which grew out of the call of those conventions were legitimate governments, inasmuch as they displaced the old governments.

Mr. DAVIS. I will answer that question. They were, because the people assented to them.

Several SENATORS. The constitutions were not submitted to the people.

Mr. DAVIS. If they were not submitted to the people the people acquiesced in them. Who made the government of California? It was your General Halleck who made it principally. He submitted it to the people with the sanction of their convention, and the people ratified it. The people alone can make a government, and they can make it by acquiescence as well as by positive vote, as almost all the governments of the world have been, by acquiescence rather than by positive vote.

Mr. President, when this became the condition of things that I have just recounted it was as competent and constitutional for the Congress of the United States to impose another government upon the State of Indiana or Ohio or Massachusetts as upon the lately revolted States.

Mr. PATTERSON, of New Hampshire. I wish to ask another question. I understand the Senator now to say that these constitutions and the governments founded upon them were legitimate inasmuch as the people acquiesced in them. They were never submitted to the people, except in one State, and in that State they rejected it, did not acquiesce in it. I wish to know how it was in that State.

Mr. DAVIS. I will answer the honorable Senator thus: if they rejected all their governments, that did not vest Congress with any power to make governments for them. Neither the President nor Congress had any power to make governments for the people of those States. You speak of the congressional policy and the presidential policy; but there is but one policy, and that is the policy of the Constitution. The President and Congress had the right, if they pleased, to make suggestions to the people in relation to their governments. It was the right, it was the perfect freedom of the people of those States constitutionally to accept or to reject those suggestions, either of the President or of Congress. They did accept the suggestions of the President, and having accepted these suggestions and adopted them in their constitutions, they became the valid and constitutional law of each State.

Mr. President, I was coming to this position—

Mr. HENDRICKS. If the Senator expects to pursue his remarks, perhaps he will yield to a motion to adjourn, or to go into executive session?

Mr. DAVIS. I would rather do so. I would rather take up my subject *in extenso* to-morrow, when I will give the Senator from New Hampshire the benefit of all the light I can shed on the subject.

Mr. HENDRICKS. It is very evident that

the bill cannot be completed to-night. I move that the Senate proceed to the consideration of executive business.

Mr. TRUMBULL. I hope not. I hope we shall stay here and finish this bill to-night. We were very near finishing it on Saturday last.

Mr. HENDRICKS. I understand that the Senator from Illinois [Mr. YATES] expects to speak.

Mr. DAVIS. If it is to be the pleasure of the Senate to go on everybody must submit, of course. This is a very imperial body, though not as much so, I believe, as the other House. [Laughter.]

The PRESIDENT *pro tempore*. The question is not debatable. Does the Senator from Kentucky yield the floor to the Senator from Indiana for a motion that the Senate proceed to the consideration of executive business?

Mr. DAVIS. I do.

The motion was not agreed to.

Mr. DAVIS. Mr. President, I rose to state my dissent from the position of the Senator from Indiana on this amendment. He said that in the proposed constitution of one of the States there was a provision incompatible with the Constitution of the United States; and in that opinion I concur fully; and, as I stated, if this was a legitimate, regular, constitutional proceeding in relation to the constitution of that State, I would not hesitate to vote in accordance with that conviction of my mind and in accordance with the sentiment announced by the honorable Senator; but, in my judgment, there never was a work of more superfluity than the action of Congress upon the constitutions of these ten States. They have not a particle, they have not a color, of constitutional power to act upon the subject according to my judgment. They have no right to be entertaining a proposition that these States shall have representation in the two Houses of Congress upon this or that constitution. They have no more right to revise and change these constitutions than any number of private citizens have. The whole business is *coram non judice*. They have no jurisdiction over the matter any more than Congress would have over a constitution that was brought up in the same way from the State of Indiana. Suppose a constitution were presented from the State of Indiana, and Congress was to take it up and be considering it and debating it, as the Senate is the constitutions from these several States, would it not be a burlesque except for the mischief that it might introduce? Would it not be ludicrous and ridiculous in the highest degree that the Congress of the United States should be debating such a constitution from the State of Indiana? Indiana has been a loyal State, one of the most loyal; but the matter of loyalty or disloyalty in the present condition of things does not affect the question. According to my opinion, the power of Congress would be exactly the same in relation to both cases. For that reason, as the proposition now is to amend or modify or reject a portion of a constitution over which, in my judgment, Congress has no cognizance, I vote against it, and against all propositions to amend or to modify; and I will then vote against all these constitutions in whatever form they may come.

Mr. HENDRICKS. Will the Senator from Kentucky allow me to ask him a question as a practical matter? Suppose I concede that Congress has no power over this whole subject, still here is the document that we are acting upon, and one proposition is to strike out that which is clearly offensive, and the other proposition is to retain it. Now, although we have not any right to have anything to do with the whole subject, yet we have to decide whether we shall vote to strike that out or leave it in, and inasmuch as it is more offensive than anything else I think it best to strike it out.

Mr. DAVIS. I do not dissent from the soundness and practical good sense of the honorable Senator's position, but my position is that we have nothing to do with the subject, either to make it worse or better, and in my action I follow that conviction. Sir, so far as



one of the humblest members of the Senate, and one of the humblest citizens of the United States is concerned, I never intend to acquiesce in any decision which Congress may make in relation to these constitutions or these States. As long as I have a voice that can be heard in utterances here or elsewhere it shall always be in favor of the original constitutional rights of these people, and never will I consent to any other than a peaceable submission when all the authorities of the Government, backed by the people of the United States, after years and years and years of struggle to overthrow these monstrous usurpations, shall have proved ineffectual. I declare war against the whole system as far as I am concerned, and that war I will make with every energy and every faculty with which it has pleased my Creator to endow me; and I will live and breathe in the hope that the free people of the United States will guaranty to the people of every State in the Union the sole and sovereign right to make their own constitutions and forms of government, will come to their rescue, and will finally vindicate these great principles of the Constitution.

The *PRESIDENT pro tempore*. The question is on the amendment of the Senator from Ohio [Mr. SHERMAN] to the amendment of the Committee on the Judiciary.

The question being taken by yeas and nays, resulted—yeas 8, nays 35; as follows:

YEAS—Messrs. Cameron, Ferry, Howe, Ramsey, Sherman, Thayer, Williams, and Wilson—8.

NAYS—Messrs. Anthony, Buckalew, Chandler, Cole, Conkling, Connors, Corbett, Cragin, Davis, Drake, Edmunds, Fessenden, Frelinghuysen, Harlan, Hendricks, Howard, Johnson, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Patterson of Tennessee, Ross, Saulsbury, Sumner, Tipton, Trumbull, Van Winkle, Vickers, Wade, Willey, and Yates—35.

ABSENT—Messrs. Bayard, Cattell, Dixon, Doolittle, Fowler, Grimes, Henderson, Norton, Pomeroy, Sprague, and Stewart—11.

So the amendment to the amendment was rejected.

Mr. WILLIAMS. Now, I move to amend the first section of the bill by striking out all after the word "condition" in line fourteen, and inserting:

That so much of the seventeenth section of the fifth article of the constitution of the State of Georgia as suspends the collection of debts contracted prior to the 1st day of June, 1865, shall be void as against all persons who were loyal during the late rebellion, and who, during that time, supported the Union.

Mr. HENDRICKS. I submit as a question of order whether that motion is not the same that has just been voted on—the motion to strike out.

The *PRESIDENT pro tempore*. The other motion was to strike out. This motion is to strike out and insert, and it is in order.

Mr. CONKLING. If I comprehend this proposition aright, it is proposed that in the same breath we shall affirm that this clause in the Georgia constitution is unconstitutional, and is void, and is repudiation in character, and yet that we shall affirm it as valid as to a certain portion of creditors whom the amendment designates for that purpose. I do not think that is quite proper.

Mr. MORTON. I beg leave to suggest that this is a motion of an entirely different character. It is not to strike out of the constitution of Georgia a certain provision, as we have a right to do as a condition of acceptance to any State, but it is to insert another provision in that constitution which they have not done for themselves. It is to make substantially a new provision, not simply to strike out and get clear of one that we regard as a violation of the Constitution of the United States, but it is to strike out part of it, and then make a new one for them.

Mr. CONKLING. Or, if my friend will allow me a moment, it is to say that this provision is half good and half bad; that it is valid so far as relates to everybody except loyal men, and that as to those, it is not; that is to say, for a certain purpose it is effectual, and for everything beyond that it is ineffectual and void.

Mr. WILLIAMS. Well, Mr. President, the learned and distinguished Senator from New York may begin now to see that there is no distinction between loyal and disloyal men in the South; but he has not been looking, I judge, in that direction for the last three or four years. I am very much mistaken, or considerable of the legislation of Congress for the last three or four years has been based upon the assumption that there was a difference between loyal and disloyal men in the southern States; and our statute-books are full of provisions that a man shall not go into a court, shall not go into the Court of Claims and many other of the courts of this country, unless he can go there in the first place and affirm upon the threshold that he is a loyal man. Disloyal men are not allowed to come into our courts with their claims in many instances, and the law from the beginning of the rebellion down to the present time has recognized that distinction. And it has been claimed here—whether with good foundation or not, perhaps I ought not to say—that those men who did array themselves against this Government not only forfeited their right to enforce a contract, but their property, their political rights, and, if prosecuted, their lives.

Now the Senators seem to be astonished that there should be any proposition made here to make a distinction between these two classes of persons. We do not propose to put a new provision into their constitution; but the bill provides that that section of the constitution of the State of Georgia shall be void as to all persons, and this amendment provides that it shall only be void as to a certain class of persons, a class of persons who have by reason of their crime, their violation of law, and their hostility to the Government of the Union, forfeited their right to enforce these contracts. I do not care to argue the question; I simply submit the amendment.

Mr. BUCKALEW. I ask the Senator if he has reflected that under his amendment, debts due to foreigners will be repudiated, debts contracted before the war with persons not citizens of the United States? They would be left subject to the constitution.

Mr. CONKLING. Certainly they would. The amendment to the amendment was rejected.

The *PRESIDENT pro tempore*. The question recurs on the amendment of the Committee on the Judiciary as amended.

Mr. TRUMBULL. There is a slight amendment which I wish to move to the second section, to insert the word "first" after the word "the," so as to read: "that if the day fixed for the first meeting of the Legislature," &c. I think it means that now; but some persons suppose it may not.

The amendment to the amendment was agreed to.

Mr. TRUMBULL. Now, in the third line of the second section, after the word "constitution," I move to insert the words "or ordinance;" so as to read: "that if the day fixed for the first meeting of the Legislature of either of said States by the constitution or ordinance thereof shall have passed," &c.

The amendment to the amendment was agreed to.

Mr. TRUMBULL. I move now to strike out in the sixth line the words, "time fixed by the constitution of such State," and insert the words, "the period fixed;" so that it will read: "if there shall not be time for the Legislature to assemble at the period fixed, such Legislature shall convene at the end of twenty days," &c.

The amendment to the amendment was agreed to.

Mr. WILLIAMS. I move to amend by inserting after the word "same," in the ninth line of the third section, these words:

And thereupon the officers of each State duly elected and qualified under the constitution thereof shall be inaugurated without delay; but no person prohibited from holding office under the United States, or under any State, by section three of the

proposed amendment to the Constitution of the United States, known as article fourteen, shall be deemed eligible to any office in either of said States.

Mr. HENDRICKS. I do not know that I understand the amendment offered by the Senator from Oregon. I wish to inquire whether this is a proposition to declare certain persons ineligible who are eligible under the constitution as sent to us.

Mr. EDMUNDS. I should like to have the question divided on this amendment. I have no objection to the first part of it, which provides for inaugurating the State officers, which would follow as a matter of course; but to undertake to make a disqualification in this bill for officers holding under the State, after they are inaugurated as State officers, or on the occasion of the inauguration after the conditions of admission are complied with, it seems to me would be going too far, especially when the constitutional amendment, if adopted by the particular State, when it shall be adopted must be the exclusive test. While I am in favor, as it now strikes me, of the first branch of the amendment, the second, it appears to me, would not be right or wise. So I ask that it may be divided.

Mr. WILLIAMS. The first section of the bill as reported by the committee provides that the States named there shall be entitled to representation when the respective State Legislatures ratify the constitutional amendment, and in the case of Georgia when its Legislature in addition accedes to the fundamental condition prescribed. Section two provides for the time when the Legislatures shall meet for the purpose of passing upon the constitutional amendment. Section three provides that the first section of the act shall take effect, as to each State, when the constitutional amendment is duly ratified by that State; but there is no provision in the bill, as it now stands, as to the time when the State officers, the Governor and others, shall be inaugurated. I know that it may be inferred that they are to be inaugurated when the Legislature of the State ratifies the constitutional amendment; but it is desirable, and telegrams have been received here within a few minutes showing it to be very desirable, that all parties concerned should know the exact time, so that there will be no chance for any controversy on that subject. I am sure there can be no objection to fixing a time by express provision, which is fixed by implication of law.

As to the other provision, the adoption of the constitutional amendment by the Legislature of a State does not necessarily put the constitutional amendment in force, and by virtue of that constitutional amendment certain persons are made ineligible to any office under the Government of the United States, or under any State government. Certain persons who have held offices under the Government of the United States, taken an oath to support the Constitution, and have afterward gone into the rebellion are disqualified under that constitutional amendment from holding any office under the Federal Government or under any State government unless Congress shall relieve them. There is a question in the country as to whether or not that amendment is now a part of the Constitution of the United States; but in any event, no matter what may be the view taken of that question, when these States ratify the constitutional amendment, and when it becomes a part of the Constitution, which it is supposed will be the necessary effect of their action, let their offices be subject to that amendment. If persons who will be ineligible under the constitutional amendment when it takes effect are now permitted to go into office the offices will be vacated by the adoption of that constitutional amendment. Why not provide at once that no such men shall be inaugurated?

There is no hardship whatever in this provision of law, because we intended, when we passed the constitutional amendment and submitted it to the States, that the persons therein described should be disqualified from holding office in the States lately in rebellion. That

was our purpose in passing that constitutional amendment; that was our purpose in requiring it to be ratified by the requisite number of States. If it be true that twenty-three States, being more than three-fourths of the loyal States of the Union, having ratified the constitutional amendment, it is now a part of the Constitution, then this clause is perfectly constitutional and perfectly proper; but there is doubt upon that question; people do differ as to whether or not that has taken effect. The object of this provision is not to allow persons to go into possession of office in the southern States who are made ineligible by that fourteenth amendment to the Constitution, for if they are allowed to take possession of the offices now, when the States ratify the constitutional amendment, when twenty-eight shall have given their assent to it, then these persons in office must necessarily vacate and there will be no provision for filling the offices.

Mr. President, are we afraid to stand upon our platform? Are we beginning to crawl out of this business at this time? After we have passed a constitutional amendment by two thirds majority of both Houses with a view of disqualifying these very persons and keeping them out of office in the South, and after twenty-three States have ratified that constitutional amendment, and after we require it as a condition of the admission of these States into the Union that they shall ratify the constitutional amendment, are we now afraid to apply it? Shall we say that it is not advisable to apply it to the southern States? We want to keep the rebels out of office, do we not? Is not that our purpose?

Mr. CONKLING. Does the fourteenth amendment keep them out?

Mr. WILLIAMS. It does when in force.

Mr. CONKLING. Not one of these States is to come in until it ratifies, and all the rest come in at the same time and ratify, so that it will be a part of the Constitution.

Mr. WILLIAMS. I beg the Senator's pardon; one State may ratify the constitutional amendment at one time and another State at another time; one State will ratify in two weeks from this time, another in a month, another in two months; they are not expected to ratify the constitutional amendment on the same day, and whenever each State does ratify it the persons who are eligible under the constitutional amendment are to come into possession of the State offices, and those who have been rebels, or those who are disqualified by the constitutional amendment, are to be excluded. It seems to me that is reasonable and just. It will prevent confusion and disorder in the southern States if we now provide for putting the State governments there in the hands of loyal men. It is to avoid confusion and disorder and distraction that I insist that this amendment ought to be adopted.

Mr. EDMUNDS. Mr. President, we are to put these State governments, as soon as we make them State governments, into the hands of themselves, if I understand the theory of setting up States. When we have set up a State and declared by this bill that on agreeing to the constitutional amendment it shall become once more a State to all intents and purposes, it appears to me rather singular for us to declare by act of Congress what sort of persons shall hold offices under that State constitution. It is a thing that cannot be done. We may provide by constitutional amendment, when a sufficient number of States shall have agreed to it, that certain persons shall be disqualified. That we have provided; and we provided it by constitutional amendment, because we knew and everybody else knew, that it could not otherwise be done. An act of Congress would be perfectly inefficacious to declare what sort of persons should hold office in Vermont or in Oregon. It is totally beyond our power. Now we cannot play fast and loose about this business.

The whole object of this act is to set up a State government. We have selected by our previous laws the class of persons who were to

set this government up. We have permitted them to select their State officers and form their State constitution. Now we say when they have complied with certain conditions that we impose they shall become a State government and shall be remitted to themselves. My friend from Oregon proposes that, having done that, we shall declare in the same breath that certain persons whom they have elected to State offices shall not be qualified to hold office under that State government. Who, then, is to exercise the functions of those particular offices? It has already become a State when these things shall have been done. My friend may say the existing person, the appointee of Mr. Johnson, or the person elected by his constituencies, which were exclusively rebel, or some military officer who has succeeded to those appointees, shall take the place. That would present what my friend would call rather a craw-fish anomaly, I should think, in government—a State government set up, having all the rights of a State, one half of whose officers should have been elected by its people, and the other half should be the military officers of the United States! That would be a singular state of things.

Take North Carolina. I believe it is understood that Governor Holden is the elected man as Governor of that State. It is understood that he is amenable to the constitutional amendment; that he is a person who cannot act under the fourteenth article unless Congress shall relieve the disability. The people have elected him to office. Now we put the State of North Carolina on its feet, and we say, "Go on; you become a State," and at the same time we say "the Governor that you have elected shall not exercise the functions of the office to which you have elected him, but the present military governor, whoever he may be, after you have become a State, shall exercise the functions of Governor there." It is totally inadmissible.

Mr. WILLIAMS. Mr. President, I do not understand that we say anything of that kind.

Mr. EDMUNDS. That is the necessary consequence.

Mr. WILLIAMS. Not at all the necessary consequence. When this State government is inaugurated it supplants the provisional government there and all the officers of that provisional government, and the only effect of this provision would be to vacate the offices and leave them vacant until others are elected to fill their places. That would be the necessary effect of this provision. It does not continue the provisional government or any part of the provisional government in force. As to Governor Holden, it may be that he is subject to disqualification under this provision; but Congress has the power, and, I believe, Congress contemplates relieving him from that disability; but there are a large number of persons who have been elected in open defiance of our laws, with the express purpose of defying the power of Congress, who were rebels during the war, and who knew at the time they were elected that they would be disqualified under the constitutional amendment; and it is for the purpose of excluding such persons from office that I offer this provision. If we had adhered to the reconstruction law this would be wholly unnecessary, because that law provided that before any one of those States should be admitted the fourteenth amendment should have become a part of the constitution; but we have determined to abandon that part of the reconstruction law and allow each State to come in at any time whenever it may ratify the constitutional amendment, whether that amendment is a part of the constitution or not. So to carry out the purpose of the constitutional amendment, to carry out the purpose we had at the time, it is necessary that we should adopt this provision to prevent rebels from coming into office.

Mr. MORTON. I think this amendment is perfectly proper, and in fact necessary. I offered one to the same effect the day before yesterday, but gave way to one offered by the Senator from Oregon. It simply provides,

and that is the whole of it, that the same rule as to eligibility shall be applied to officers inaugurated before the fourteenth article becomes a part of the Constitution, which will exist after it does become a part of the Constitution, and the disability in either case is to be removed in the same way by a simple act of Congress. Otherwise it may happen, as the Senator from Oregon says, that persons may be inaugurated as State officers who will become disqualified the moment the fourteenth article becomes a part of the Constitution, and whom Congress, perhaps, may choose never to relieve; but if we now vote to apply the same rule to officers that will be applied by the fourteenth article when it becomes ratified, then we shall have no contention about it, and the act of Congress relieving the particular person will be equally applicable in either case.

Mr. TRUMBULL. My recollection is that the reconstruction act itself provides that no person shall be elected to any office during this provisional existence of the governments who is not qualified in accordance with the Constitution, or who could not take the test oath.

Mr. MORTON. That renders it necessary for the fourteenth article to be part of the Constitution. There is just the difficulty.

Mr. TRUMBULL. This amendment only applies to the provisional officers. Nobody proposes, I take it, to pass a law that is to operate after the State becomes a State, but it is only in the inauguration, to get a State. That is as I understand it.

Mr. MORTON. So that no officer shall be inaugurated who will be disqualified when the fourteenth article comes to operate.

Mr. TRUMBULL. Does not the reconstruction act, as it exists, prevent any such person from qualifying?

Mr. MORTON. No, it does not refer to the fourteenth article, but to the Constitution itself, so that the fourteenth amendment would have to be a part of it to take effect.

Mr. EDMUNDS. I am sorry to occupy time, but it seems to me we should present a very singular spectacle to the country if we take the last part of this amendment. What my friend from Indiana proposed yesterday was that these elected officers who were not disqualified by the fourteenth article should be at once inaugurated, but he immediately proceeded to provide that this inauguration should be deemed provisional only, keeping them still under the controlling authority of the United States until the first section of the act, that is to say the fundamental condition about the fourteenth article, should be complied with. That would do, because so long as these governments are provisional, that is to say governments under our law instead of governments under the will of the people of these States, we have a perfect right to declare who shall hold office and who shall not; and we did in the reconstruction acts provide for these provisional governments that only a certain class of persons should either hold office or vote for officers. That was perfectly right; but now Senators will not forget that we have refused to make these governments provisional until the fourteenth article actually becomes a part of the Constitution of the United States, and we have declared, on the contrary, that on the passage of this act and on the adoption by each Legislature of the fourteenth article that shall at once be a State in the Union to all intents and purposes. I think we have made a great mistake, and I have said that before, but I shall not argue it over again. That is what this bill proposes to do. It is not setting up a provisional government in North Carolina or South Carolina, or any other of these States; it is readmitting them or restoring them to their original relations to the Union. Now, what my friend from Oregon proposes is, that in making that restoration and at the very time when that restoration becomes complete, we shall say to the people of these States, "Here are a certain class of your citizens whom you

have elected to office who we declare shall not exercise office under your State government that is complete and full."

I say we have no right to say that. We have a right to say it by constitutional amendment, but we cannot pass a constitutional amendment in a bill. We have no power whatever in point of law—and that point was evaded by both my friends in answering what I said before—we have no power whatever by an act of Congress to declare that certain persons shall or shall not hold office in a State. We have a right to declare that they shall or shall not hold office so long as they are to hold or exercise functions under our law in a government which is provisional, but the whole object of this bill, as I have said, is to make the provisional government cease, and to set up State government complete and entire. My friend from Oregon answers as to the inconvenience, that he does not propose to have the military governors continue to exercise the functions, but to leave the State offices vacant. What kind of a State government would you have if the very moment that you declare it a State government you declare that it shall not have any Governor, for illustration? And then his amendment provides for an absolute disqualification. However, I do not wish to occupy time. I believe I am understood.

Mr. FRELINGHUYSEN. It seems to be very clear that we do not have any right—at least I do not see on what ground we have the right—to fix by enactment here the qualifications of the officers of a State after it is a State; but I understood the Senator from Vermont to suggest some way in which it should be considered provisional.

Mr. EDMUNDS. No; I said, in answer to the Senator from Indiana, [Mr. MORTON,] that the difference between what he now maintains and what he offered yesterday was that while he provided for the same fact yesterday he provided that so long as that fact continued the government should be provisional and the State should not be set up. There is no way that I know of to do what the Senator from New Jersey suggests.

Mr. WILLIAMS. The Senator from Indiana, in his amendment, provided exactly what I have provided. I have taken my amendment from his amendment; but he did also provide that the person having the next highest number of votes should fill the office. That has been omitted, and it has been left for the Legislature to provide by law for an election. This will not probably affect any considerable number of offices in the southern States; but there are members elected to the Legislatures and persons elected to other offices there who are wholly disqualified under the constitutional amendment. As to our right to do this, I am astonished to hear gentlemen affirm here that we, who have passed the reconstruction acts, have no right to say by legislation that no rebel shall take office under these State governments. Suppose we have provided in the act of March 2, 1867, that no rebel should be inaugurated under any of these State governments, should we not have had a perfect right to pass such a law as that? Where is the constitutional provision that prevents it? Sir, any constitutional provision that would prevent any enactment of that kind would prevent the enactment of the entire reconstruction system, for when you assume jurisdiction over these States so as to provide for the reconstruction of their governments then you assume a jurisdiction that entitles you to provide that they shall be reconstructed as you prescribe in every respect, and it is upon that ground that I contend we have this right.

Mr. HENDRICKS. I thought I had understood the theory of this reconstruction somewhat as held by the majority; but I guess now I did not. I thought it was this, that you held that there were no governments down there that had legal validity, and that, therefore, Congress might govern them until the State governments could be reestablished; and that

when, in any State, the State government should be reestablished, then it was a State government with all the powers possessed by any other State government. If I am mistaken in that theory of the majority in this business, I do not understand the subject at all.

Mr. WILLIAMS. You are not mistaken.

Mr. HENDRICKS. Then it is a State for all the purposes and with all the powers that a State may exist; and certainly one of the powers of a State government is to say who shall be qualified and who disqualified to hold office, to execute the laws, to make the laws of such a State. When is this to become a State? That is the only question; for when it does become a State, and becomes clothed with all the powers of a State, clearly according to your own theory, as always declared, Congress has no power to control the eligibility to office. You concede, then, as soon as it becomes a State government, with the powers of a State government, all power over that subject is with the State.

Then I understand under this bill that at a certain time they are to be State governments clothed with all the powers of State. That time is when the Legislature shall meet, not then a State—a curious thing, not exactly a provision—provisional, not exactly a State, but in a queer condition. When that Legislature shall meet, not the Legislature of a State, but the Legislature of a provisional government, and after that Legislature in that character, in that position, shall pass an ordinance ratifying the constitutional amendment, it is to become a State; then it is completely clothed with the powers of a State. Before it can be so completely clothed it must do the most solemn act that under the Constitution of the United States a State Legislature is ever called upon to do—amend the Constitution of the United States. But, passing over all that difficulty, which of course I cannot comprehend, a difficulty according to your theory, when the Legislature shall agree to the constitutional amendment, it is a State; and right then you say that before the constitutional amendment is adopted that regulates this subject, when it is completely clothed as a State, Congress by law may declare who may hold office and who shall not hold office. Is that your theory? If so, it is a very singular theory.

Mr. MORTON. I should like to answer before the Senator takes his seat. The State is not complete and is not a State at the time of the inauguration of State officers. That is a preliminary step to the final organization of the State. Then, at the time of the inauguration of the State officers it is clearly under the control of Congress as much so as it is now. These are steps to the final consummation; and the character of the State is not put on until all of the conditions have been complied with, the last one of which is the ratification of the fourteenth article of amendment. It is clearly within the control of Congress up to that time, and then when the fourteenth article becomes a part of the Constitution the thing is taken from the control of the State as well as from Congress, so far as the provisions of that article are concerned. It is a part, then, of the supreme law of the land that these parties shall not be qualified.

Mr. HENDRICKS. Now, Mr. President, I think I understand it. It is admirable! Suppose that on Monday the Legislature meets; on Monday the officers are inaugurated. Well, it is queer; I do not know what they are officers of. I expect they are officers of Congress, because it is not a State yet. But the Governor is not eligible under the fourteenth article of the Constitution, and therefore he is not inaugurated, and the thing swings along without a Governor. On Tuesday that Legislature ratifies the constitutional amendment. It is then a complete State, and has the control of this subject. On Tuesday evening that Governor is inaugurated, because the constitutional amendment not being adopted and the law of Congress having gone right up to that time and then ceased to be a law on this subject, he is inau-

gurated. It is a complete State then, and has a Governor who is inaugurated because, as a State, the State controls the subject. Then you may go on a few days more, and the constitutional amendment being ratified by enough States that man goes out.

Mr. MORTON. That is the difficulty we intend to prevent.

Mr. HENDRICKS. I guess we have the history of it now. But there is a time when he will come in and be inaugurated.

Mr. MORTON. If we relieve him, he will.

Mr. HENDRICKS. He will be inaugurated whether you relieve him or not. That relieving business is going to be a very beautiful one. I should not like to be a part of the majority to be connected with any such transaction, that men whose hands, as you have said here so often, are dripping with the blood of northern people, whose skirts are stained with northern blood, are to be restored to political rights because of their party affiliations. I hope that the Democratic party, of which I am proud to be a member, will never be brought to the test of any such work. Let men be restored to their citizenship, if restoration be necessary, because as citizens they are worthy, not because they worship at a particular party altar, but because they are true to the country as shown by their conduct.

But I do not intend to go off and discuss that matter. I am merely getting at the particular time when a man shall be put into office, and then when he shall be put out. According to the Senator from Oregon he shall not be inaugurated on Monday; but if that Legislature on Tuesday shall ratify the constitutional amendment he shall be inaugurated on Tuesday.

Mr. WILLIAMS. That is not my position at all.

Mr. HENDRICKS. No; it is my colleague's position. The Senator from Oregon, I believe, asks, who is afraid? It is very clear he is not afraid. That has been demonstrated by two or three years' experience. I do not believe that even the thunders that come over the Rocky mountains produce any consternation in his mind on this subject—not the slightest. I will tell you just where I am afraid. When I come to a point where I cannot go any further without violating the Constitution of the United States, I acknowledge my fear, and it is no impeachment of my manhood to acknowledge it. When a State government is organized, I do not believe any act of Congress can control the eligibility of its officers. I do not believe that under the Constitution that can be done. Therefore, I do not believe in your provision, and shall not vote for it. There is a day or two just before the constitutional amendment shall be ratified by the Legislature, that the theory of reconstruction will allow this measure; but just as soon as the Legislature ratifies the constitutional amendment your theory defeats it. Your theory is, that then it is a State to regulate the subject of eligibility according to its own pleasure, for that time and this, until the constitutional amendment is ratified by twenty-seven States; that the whole subject is regulated by the constitution of the particular State, and not at all by an act of Congress.

Mr. STEWART. Mr. President, I have not the slightest difficulty on this subject. I do not see any difficulty in it. We have undertaken to reorganize these States, so as to bring them in harmony with the Government of the United States upon the theory that they and their people were at war with the United States and have been subdued. We have endeavored to select such people as would act in harmony with the Government of the United States. If we are right in that, and to this point I call the attention of my friend from Vermont—

Mr. HENDRICKS. Come here, and I will give you mine.

Mr. STEWART. That is valuable, but it may not be as sharp. I want the attention of my friend from Vermont.

Mr. EDMUNDS. You shall have it.



Mr. STEWART. I say, as I understand the matter, we undertook to reorganize these State governments because they had been destroyed by rebels, and because we assumed the right to reorganize them, not because the States had gone out of the Union. We have not been discussing the technical question whether the States were out or in. We found them disorganized; and now it becomes necessary to determine what is meant by reorganizing a State that has been destroyed. The State organization has been destroyed; but the people are there; the territory is there; several elements of a State are there; but organization is wanting. We undertook to do it on a loyal basis. It requires several steps to accomplish that. It seems to me that that organization will not be complete, although you may say it is a State at this time, until you have installed all the State officers necessary to carry on the organization. If that be true, and it is necessary to prevent A or B, because he is a public enemy, from participating in that organization preliminarily until we get the State organized, I do not see why we have not the same right to do that that we had to do any of the other acts that we have performed.

Mr. EDMUNDS. Let me ask my friend a question.

Mr. STEWART. Certainly.

Mr. EDMUNDS. All that is perfectly true, or part of it at least; but I will ask my friend whether he thinks that anything less than a State in the Union can effectually adopt the fourteenth article of amendment to the Constitution? Must it not be a State to agree to the fourteenth article?

Mr. STEWART. It must be a State either at the time, or to become one on doing something afterward. I suppose we can accept their action on the principle on which we accept Senators elected from communities organized as States and subsequently admitted. Nothing but a State would have the right to elect Senators; but still, before they are admitted into the Union, before they can perform the functions of a State, we have accepted Senators from them.

Mr. EDMUNDS. That being so, will my friend permit me to call his attention to what this section declares, just as the committee and majority are determined it shall be. "The first section of this act," which my friend knows provides for the complete rehabilitation of these States:

"The first section of this act shall take effect as to each State"—

I leave out Georgia now—

"when such State shall by its Legislature duly ratify article fourteen of the amendments to the Constitution."

Mr. STEWART. I do not know that the first section provides for their complete rehabilitation. It provides that they shall be entitled to representation in Congress, and entitled to be rehabilitated.

Mr. MORTON. It was drawn with a view to have a government that could call the Legislature together.

Mr. STEWART. We have undertaken to reorganize the State, because it was destroyed and its officers dispersed; but I do not think it has complete rehabilitation until we put in all of these officers. I do not think the work we have undertaken is done until that time. I think that is the criterion. The only reason why we have any right to do anything on this subject was because there were no loyal officers, no loyal organizations to carry on these governments, and until that organization is completed, if we had any right to touch it, in the preliminary steps, we have the right to complete it. There is no doubt about that.

I wish to make one remark to the Senator from Indiana, [Mr. HENDRICKS.] He said that the majority here would be ashamed of the business of relieving those people from their disabilities. He said he would hate to be one of the majority and take the responsibility, because we will relieve Republicans,

because we will relieve Union men; and that will be partisan, and we shall be ashamed of it. Now, I want to tell the Senator from Indiana that I am proud to remove the disabilities of Union men, loyal men who will cease their opposition to the Government.

Mr. HENDRICKS. If the Senator will allow me, I did not say that. I was not talking about Union men. They do not need to be relieved. A man who stood by the Government during the war needs no relief. He stands in a more proud position than any of us perhaps, having resisted more. But the man whose hands are dripping with blood, whose skirts are stained all over with the blood of the sons of the North, and who now for political purposes comes in and joins a political party, is the man you propose to relieve—not one who is free from blood, but admitting the blood, admitting his rebellion, admitting his treason, you relieve him because he has joined your political party!

Mr. STEWART. I thank the Senator for the correction he has made. We do relieve them when they repent. We do hold to the possibility of repentance. We do say that when they will cease to war upon the Government, when they will come out as Longstreet and others in the South have done, and stand by the Union cause, and accept the verdict of the war, they ought to be relieved. But we say to those who join the Ku-Klux-Klan and commit assassinations, and defy the Government, and wait for a reaction, that they may dictate terms to loyalty and trample it in the dust, "You are still enemies of this Government." We say to those who are willing to accept the situation and acknowledge the verdict of the war, "We will relieve you." I think that is generous. I think that is enough. I think there is a distinction between the members of the Democratic party or the Ku-Klux organization and gentlemen who accept the situation. I would make a discrimination between them.

Mr. SAULSBURY. Will the honorable Senator allow me to ask him in what category he places that very distinguished member of the late Chicago convention, Governor Brown, of Georgia, who seized upon Fort Pulaski even before Georgia seceded? Is he now one of those "loyal" men who are to build up a great "loyal" community in Georgia? I presume he is perfectly "loyal."

Mr. STEWART. Governor Brown says that he accepts the situation, that he will support the flag of his country. He regards the course he has now taken as supporting this Government. He regards those whom he has left behind, those who are on the other side, as being engaged in the same cause in which they were heretofore engaged. He has come over to our side, the side of the Government. I think we have a right to be sufficiently partial to men who are in favor of this Government to make a distinction between the friends of the Government and the enemies of the Government; and if the friends of the Government happen to be friends of the Republican party I do not think there is much harm done. I believe that is generally true that the friends of the Government have been the friends of the Republican party, and I believe the Republican party comprised about all the friends the Government had during the war. On the other side we find all those who opposed the Government. We find the enemies of the Government against the Republican party. So I do not think there is any particular party question in this. If to be a party man is to be for the Government, if to be a Republican is to be in favor of the Government and in favor of law, then I think we may be charged as partisans for relieving from disabilities those who will favor the Government. If to be a Democrat is to belong to that party who say they will never submit to the authority of this Government, that they will dictate their own terms, although they are conquered, if they are the Democrats that we are called upon to relieve, then we will take the party responsibility of refusing to do it.

Mr. DRAKE. Will the honorable Senator from Nevada allow me to make a single suggestion to him?

Mr. STEWART. I am through.

Mr. HENDRICKS. I wanted to ask the Senator from Nevada a question.

Mr. DRAKE. I will state that if the honorable Senator from Nevada, or any other Senator here, intends to allow the honorable Senator from Indiana to be poking him into a speech every five minutes in this debate, we shall not get rid of this bill in the next week. There is a most admirable faculty in the honorable Senator from Indiana of sticking pins into his political opponents and prolonging debate to an indefinite extent. I very respectfully suggest that while it is perfectly proper that we should be stuck with pins by the Senator from Indiana as to points that are pertinent to the debate, pertinent to the pending bill, it is not worth while that we should suffer ourselves to be run off upon points that do not belong to this bill. The question about relieving from disabilities belongs to other bills that are pending in the Senate now; and when the time comes to consider them, the honorable Senator from Indiana will probably find full use for all his pins, big and little. [Laughter.]

Now, I wish to reply, on a single point, to a suggestion which the Senator from Indiana made. [Laughter.] I am very glad, indeed, that gentlemen find amusement in it.

Mr. NYE. I call the Senator to order.

The PRESIDENT *pro tempore*. What is the point of order?

Mr. NYE. The Senator from Missouri choked my colleague down for the purpose of getting the floor himself to make a long speech, which my colleague could have made, and I insist upon it that that is not fair. [Laughter.] The only difference, it seems to, between my colleague and the Senator from Indiana is this: my colleague thinks that the rebels need repentance and forgiveness; but the honorable Senator from Indiana does not think they need any; he thinks they have been right all the time.

Mr. HENDRICKS. I do not think the Senator from Nevada ought to take the floor from the Senator from Missouri to make a speech himself. [Laughter.]

Mr. NYE. I am through.

Mr. DRAKE. The only point on which I undertook to make a suggestion to the honorable Senator from Nevada who preceded me, [Mr. STEWART,] was that he should not allow the Senator from Indiana to provoke him into a speech upon other questions than those now before the Senate. There is a point made by the Senator from Indiana which has been discussed by others, and there is one remark to be made about it; and that is, that with regard to the installation of these officers in a rebel State, we are bound to see that the men who have been elected to office there under elections held by the authority of acts of Congress, and not under elections held by the authority of the States, shall be the right kind of men.

Whatever may be the position taken by the Senator from Indiana as to the right of a State to admit whom it will to office under future elections, there is an undoubted and undeniable responsibility resting upon us to see that no rebels go into office there by virtue of the elections held under our authority; and that seems to me to be an all-sufficient answer to the point made by the Senator from Indiana about the admission of these men.

Mr. SAULSBURY. That was a very unkind remark the Senator from Missouri made just as he sat down, that it was the duty of Congress to see that no rebels went into office in the State of Georgia. Why, Mr. President, he is stabbing the friends of his own household. What did we witness at Chicago? Delegations from those States, and their spokesman, Governor Brown, stating upon the floor of the convention that those delegations were mostly composed of original secessionists. The Senator's friends admitted those men into their national convention to help them nominate

Grant and Colfax, although they proclaimed themselves to have been rebels; and yet now we are told by no less high an authority than the Senator from Missouri that it is the duty of this Congress, and especially, I suppose, of the Republican portion of this Congress, to see that they shall not be admitted to office in those States.

Mr. DRAKE. In answer to the remarks of the Senator from Delaware, I have simply this to say, that my opposition to the installation of rebels in office there extends to all of both parties, and not, as the honorable Senator from Indiana said, to those who are against me politically, to be laid aside in favor of those who are with me politically. I am against the whole gang of rebels, from the beginning to the end, being allowed to hold office until they are relieved by Congress of their disabilities. I am against every form of rebel domination, there or here, everywhere and at all times, whether they come as my political friends or political enemies. So that the honorable Senator from Indiana cannot put me in the category that he attempts to put others here on that point.

Mr. HENDRICKS. The question, Mr. President, is, whom is the Senator from Missouri in favor of relieving from the disabilities brought upon themselves by their treason, by their bloody hands? That is the question.

Mr. DRAKE. I do not intend that the Senator shall stick his pins in me in that way.

Mr. HENDRICKS. No; but still he will find himself in that question; he has got into it now; and he cannot go a little piece in and then back out. He says he is not in favor of letting them hold office until they are restored by act of Congress; but whom do you propose to restore? Do you intend to take that distinguished Governor of a southern State who first raised the flag of secession, and invited all the young men of his State to follow him and to follow what he proclaimed to be the "bright and promising banner," and after those young men followed him, and now that they are not willing to go with him into a political party, although they acknowledge that they were defeated in the war—does he intend to restore the leader because the leader becomes politically a brother of the Senator? Is that it?

Mr. DRAKE. It will be time enough to answer that when that question comes up.

Mr. NYE. If the Senator from Indiana will allow me—

Mr. HENDRICKS. The Senator will excuse me. I have just a word to say to his colleague, [Mr. STEWART.] His colleague has spoken about divisions, about parties, about Democrats, about Republicans. I should like to know to which of the classes the Senator from Nevada belonged just two years ago when he supported the policy of President Johnson. I supported that policy, and the records of the Senate show that it was supported also by the Senator from Nevada, [Mr. STEWART,] who now makes himself the leader of the majority in this body, who feels that he is called upon to answer every speech that is made. Nobody can say anything to the Senate in opposition to the views of the majority unless the Senator from Nevada takes it up. He makes himself the champion. He feels that he must answer; else no answer is made. Why this extraordinary zeal? The Senator two years ago said that we were right. Two years ago he said the governments established by Mr. Johnson ought not to be torn down, that they ought to be upheld. Now, a man is not to be restored to political rights if he holds to the same doctrine that the Senator from Nevada taught two years ago! I have found that those gentlemen are the most zealous and the most enterprising in political efforts who at one time occupied a different ground. The man who goes right along in his political belief is not apt to become extreme; but if a man changes, then he must show the sincerity of his change by the extraordinary zeal of his character. Is that the condition of the Senator from Nevada? I believe it is, myself.

Mr. DRAKE. Mr. President—

Mr. STEWART. Will the Senator from Missouri allow me to say a word? [Laughter.]

Mr. DRAKE. Certainly; I will allow the Senator from Nevada whatever he desires in the way of speech, but I would not be stuck by such a small pin as that.

The PRESIDENT *pro tempore*. The Senator from Missouri is not in order.

Mr. DRAKE. Why, sir, the Senator from Nevada appealed to me.

The PRESIDENT *pro tempore*. He had no right to appeal to any one but the Chair.

Mr. STEWART. I am aware that if the Senator from Indiana can get any remarks of mine in favor of his side it will be very high authority; but he is very much mistaken in his statement of the extent to which I ever upheld the President's policy. It is true that I was opposed to the tearing down of those governments instituted in the South until some other policy could be substituted. He states it a little stronger than I ever did. I was in favor of inaugurating some effective policy. I was always in favor of protecting the loyal men of the South. I was always in favor of making loyalty honorable there and treason odious. I never was in favor of placing the southern country in the hands of rebels. I thought that tearing down those governments without proposing a plan to build others up was not right.

A little more examination of what I said on that occasion will show the Senator that he has done me great injustice upon this question of consistency toward rebels. Upon the question of consistency toward the rebels I claim as consistent a record as any other man; I believe I have been as consistent as any man in the Senate. I have been opposed on all occasions to rebel rule. I have been in favor of taking any and every means to avert it. I did think at one time that rebel rule might have been prevented by universal suffrage and universal amnesty. I believe it might have been prevented at that time by universal amnesty and universal suffrage.

I believe that we should have so divided the southern people then, by that policy, that we could have organized a loyal party there. That was not done; but we submitted to them a constitutional amendment. Then Mr. Johnson upon that inaugurated a new rebellion. He set the rebels against us. He told them to submit to nothing, and they refused to agree to that amendment. We found that the authority of this Government must be set up against the rebels, and we passed our reconstruction measures.

I have had in charge the bills for relieving men from disabilities. My criterion of examination in each case has been, was this man in favor of or against the Government; and I defy the Senator from Indiana or any one else to show wherein I have ever agreed to place the South under rebel rule or to let rebels acquire absolute control of the State governments so that they could exercise their rebel rule. I have always been in favor of holding complete control of that country until it could be restored to loyalty. As to the mode of accomplishing that result, we have all entertained different views at different times. There have been several experiments made by the majority. The tactics of the enemy have changed from time to time. They have been consistent in but one thing, and that is in defying the authority of this Government. No matter what generosity was extended to them, no matter what efforts were made to bring them back, the majority of the late rebels have continued to defy the Government. Some have yielded obedience to the Government. The latter class we are ready to take by the hand and welcome back; but to say that we are to relieve from disabilities defiant rebels, and place the loyal men of the South under rebel rule is new doctrine. It is a doctrine that I have never entertained for a single moment. I have never admitted it either here or elsewhere.

I admit that I had no idea of the extent of the malignity of those people. I had no idea

that they would continue their assassinations. But the proof is becoming stronger and stronger daily. We see in a paper to-day a notice of the assassination of members of the Legislature in South Carolina; we saw accounts of assassinations but yesterday in Georgia; and what is worst of all, I see those assassinations justified in the rebel press or made light of. The poor men who fall victims to this malignant hate are ridiculed in their graves and ridiculed before they are sent to their graves. And yet are we to be told that we must continue to trust those men? Because a man attempts to protect the loyal people in the South from assassination and murder is he to be abused for inconsistency? Show me the loyal man in the North who has not been anxious to extend to them generous terms, and who has not found that those terms were rejected and spurned, and who has not learned that harsher measures were necessary.

From the beginning of the war until now the Union party has been compelled to resort to new measures to meet new treason. When the war began our generals returned negroes to their former masters to build fortifications for them, from which to deal death into the loyal ranks of the United States. You sent your sons South to be slaughtered by the works erected by the negroes whom you returned to rebel masters. That was the policy of the Government at one time, to maintain slavery and the Union. That was found impossible. It was found that the Union must be destroyed or slavery destroyed. Was it inconsistent in Mr. Lincoln to lay his hand upon slavery when it was between us and the Union? So it went on, and the emancipation proclamation came.

After they laid down their arms everybody felt generous toward them, and anxious that they should be restored on the basis of loyalty. Many expressions of kind feeling were made and great anxiety was felt for their restoration, until Andrew Johnson organized a new rebellion, until he organized a despotism there which was preying upon our friends, passing black codes, attempting to inaugurate slavery. When I saw that I was not inconsistent in attempting to save this country from rebel rule; and I am not now inconsistent in still advocating that policy. I am no new convert to the Union of these States; I am no new convert to liberty; I am no new convert to loyalty; I am no new convert to hatred of rebel rule. I would hate myself if from the beginning of this war until now I had not been the consistent advocate of every effort of this Government to maintain its own existence and to protect all men everywhere.

You talk of a consistent record, and you complain of southern men now because they do not preserve a consistent record of disloyalty. You complain of Governor Brown because he has yielded up his disloyalty and is willing to become an obedient subject of this Government. You sneer at that as inconsistent. I would rather have a little inconsistency, if that inconsistency be in the form of repentance, than to have the obstinate sinner who continues in wrong and who never, during his whole life, thinks of doing right—a consistent rebel from the beginning to the end, or one consistent in supporting it. That is a beautiful consistency.

Mr. SAULSBURY. Mr. President, it must be a source of great gratification to the members of this body to hear that the distinguished Senator from Nevada [Mr. STEWART] is opposed to assassination, is opposed to rebels being invested with power in their States, is opposed to rebels having any say whatever in the governments of the States in which they live. One would suppose that the honorable Senator had such a horror of all these things that he would not now especially give aid or countenance to the participation of such persons in the affairs of the Government; and yet what do we see? He is here advocating the admission of North Carolina to representation in Congress, and he is in favor of giving to the loyal people of North Carolina, as well as Georgia, and

other States of the South representation here, and to give to those loyal people the control of the governments of the States in which they live. And who are some of these "loyal" persons who are held up as bright examples for the imitation of their neighbors and friends at home? I believe that the Governor-elect of North Carolina, a bright and shining loyal man in the present day under repentant influence, such as is described by the Senator from Nevada, is a certain Mr. Holden. I hold in my hand a paper containing extracts from some of the writings of this distinguished loyalist, one of which I will read. The holy horror of the Senator from Nevada at assassination has caused me to look it up, and I will present it to the Senate:

"Who will plot for the heads of Abe Lincoln and General Scott?"—*William W. Holden, in the Raleigh Standard of June 5, 1861.*

He is one of your "repentant rebels!" He is one of the men whom you welcome into your fold who are to make "loyalty honorable and treason odious!" You could execute Wilkes Booth for doing that which was suggested by the loyal Governor of North Carolina; you could hang Mrs. Surratt upon a suspicion that she wished Abraham Lincoln to be assassinated; but you take and make a loyal Governor over a loyal people of the man who first made the suggestion of the assassination of your late lamented chief.

I venture to say that in the long list of names which have been presented, both in the other House and in this Chamber, as proper subjects for pardon by congressional action, there is not one who has not been ascertained to be ready and willing to show true repentance in one way, and one way only, and that is by voting the Republican ticket. That is the test of loyalty. A man may have invited assassination and murder; he may have seized upon your forts before his State seceded; he may have carried on war against the Government until the cause became hopeless; he may have never surrendered until all hope of success was abandoned; he may have stood side by side with his neighbor and fought in the common cause for the destruction of the Federal Government; and you have but one test of repentance, one evidence of loyalty, and that is, that he is prepared not only to confess his sins and do works meet for repentance otherwise, but he must come and vote the Republican ticket. That is the sanctifying grace that elevates him to the state of conversion consequent upon genuine repentance, and makes him meet for the political church of glory of which my distinguished friend is such a bright saint. [Laughter.]

Now, I should like the distinguished Senator from Nevada to point out a single man in the whole southern States to whom he is willing to extend pardon and forgiveness who he is assured will not vote the Republican ticket. I ask the Senator where is the southern man, if he will only "cry aloud and spare not," if he will stand in the highways and byways and shout the praises of Grant and Colfax, that he is not perfectly willing to forgive; and where is the one whom, if he will not do that, the Senator would not keep deprived of all political privileges and call a rebel?

Mr. President, my honorable friend would not deceive the people if he could, and let me tell him he could not deceive them if he would. This thing is all plain. The people of this country see it all, and will see it all. This giving "relief to loyal men in the South" means giving relief to such as you can buy to vote your ticket. You buy them with a pardon, and it would be much more honorable to buy them with money; for the man who went before his neighbors and friends proclaiming that he was acting in a just cause, and invoking their cooperation and leading them into the ranks of rebellion and civil war, and who then, with a dastardly spirit, after proclaiming that he was right, comes and asks for pardon on condition of voting the Republican ticket, is a meaner man than the man

who would sell his vote for money. This pardon brokerage that has been set up by Congress with which to buy votes in the southern States is seen by the people of the United States. They perfectly understand it, and it is not in the power of my distinguished friend, who heralds and champions the cause of Republicanism, to shut the eyes of the American people to it.

Mr. WILSON. I hope we shall now take a vote.

The PRESIDENT *pro tempore*. The Senator from Vermont calls for a division of the question on the amendment to the amendment. The question, therefore, is on the first clause of the amendment to the amendment, which will be read.

The CHIEF CLERK. The first clause of the proposed amendment is to insert after the word "same," in line nine of section three of the amendment of the committee, the following words:

And thereupon the officers of each State duly elected and qualified under the constitution thereof shall be inaugurated without delay.

Mr. TRUMBULL. It seems to me that there is no sort of necessity for that portion of the amendment. As a matter of course, when the State organization is recognized and the State is recognized as entitled to representation in Congress, the officers will be inaugurated at once. I see no occasion for it, and I hope it will not be adopted.

Mr. DRAKE. I suggest to the honorable Senator from Oregon, in order to avoid any possibility of question about the matter, that it would be well, perhaps, to put in that clause of the amendment after the words "constitution thereof" the words previously used in the act "herein recognized."

Mr. EDMUNDS. They are not previously used in the act.

Mr. DRAKE. They are somewhere used in it.

Mr. WILLIAMS. There can be no question about that, I suppose. There is only one constitution of a State.

Mr. DRAKE. They claim to be acting under another constitution now, or to have another constitution there. I suggest the modification simply for the consideration of the mover of the amendment.

The PRESIDENT *pro tempore*. The question is on agreeing to the first clause of the amendment proposed by the Senator from Oregon to the amendment of the committee.

Mr. WILLIAMS. On that question I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 23, nays 18; as follows:

YEAS—Messrs. Cameron, Chandler, Conness, Corbett, Cragin, Drake, Edmunds, Howard, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Stewart, Sumner, Thayer, Tipton, Wade, Williams, Wilson, and Yates—23.

NAYS—Messrs. Bayard, Buckalew, Cole, Conkling, Davis, Fowler, Frelinghuysen, Harlan, Hendricks, McCreery, Morgan, Patterson of Tennessee, Ross, Saulsbury, Trumbull, Van Winkle, Vickers, and Wiley—18.

ABSENT—Messrs. Anthony, Cattell, Dixon, Doolittle, Ferry, Fessenden, Grimes, Henderson, Howe, Johnson, Norton, Sherman, and Sprague—13.

So the first clause of the amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on agreeing to the next clause of the amendment, which will be reported if it is called for.

Mr. EDMUNDS. I ask for the yeas and nays on that question.

The yeas and nays were ordered.

Mr. CONNESS and Mr. COLE. Let the amendment be reported.

The Chief Clerk read the second clause of the amendment to the amendment, which was to insert after the words just adopted the following:

But no person prohibited from holding office under the United States or under any State by section three of the proposed amendment of the Constitution of the United States known as article fourteen, shall be deemed eligible to any office in either of said States.

The question being taken by yeas and nays, resulted—yeas 26, nays 15; as follows:

YEAS—Messrs. Cameron, Chandler, Cole, Conness, Corbett, Cragin, Drake, Harlan, Howard, Morrill of Maine, Morrill of Vermont, Morton, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Stewart, Sumner, Thayer, Tipton, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—26.

NAYS—Messrs. Bayard, Buckalew, Conkling, Davis, Edmunds, Fowler, Frelinghuysen, Hendricks, McCreery, Morgan, Patterson of Tennessee, Ross, Saulsbury, Trumbull, and Vickers—15.

ABSENT—Messrs. Anthony, Cattell, Dixon, Doolittle, Ferry, Fessenden, Grimes, Henderson, Howe, Johnson, Norton, Sherman, and Sprague—13.

So the second clause of the amendment to the amendment was agreed to.

Mr. DRAKE. I now move to amend the amendment of the committee in the first section, by striking out all after the word "that," in the ninth line, down to the word "and," in the twelfth line, in the following words:

There shall never be in such State any denial or abridgment of the elective franchise to any person by reason or on account of race or color, excepting Indians not taxed.

And inserting in lieu of those words:

The constitution of neither of said States shall ever be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in said State, who are entitled to vote by the constitution thereof herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution may be made with regard to the time and place of residence of voters.

I offer this amendment in order that the fundamental condition imposed upon all these States may be the same.

Mr. WILSON. This is the same as the Arkansas provision.

Mr. DRAKE. This is the same as the committee of conference agreed upon in the case of Arkansas, and I think it is proper that they should all be made exactly alike in regard to the fundamental conditions.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now recurs on the amendment reported by the Committee on the Judiciary, as amended. The amendment, as amended, was agreed to.

Mr. DRAKE. There is an amendment in the preamble reported by the committee.

The PRESIDENT *pro tempore*. We have not come to that yet. That is the last thing.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question now is on concurring in the Senate with the amendment made as in Committee of the Whole.

Mr. TRUMBULL. Now, I desire to have a separate vote on inserting Alabama.

Mr. EDMUNDS. You must move to strike it out; that is the only form in which you can reach it. There is only one amendment made in committee.

Mr. TRUMBULL. Must that motion be made before the Senate concur in the amendment?

The PRESIDENT *pro tempore*. You can now move to strike it out.

Mr. TRUMBULL. Then I move to strike out Alabama.

Mr. WILSON. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

Mr. EDMUNDS. Mr. President, as I was not present when this Alabama discussion terminated the other day, and therefore did not have an opportunity to say what I wished to say, I want to say it now. I am very sorry, indeed, that the Senate has thought fit in committee to insist upon inserting this State in this bill. Every Senator who hears me knows that each one of these States, properly considered, stands on its own footing, and that this is the first instance in the history of the country where we have undertaken to deal with more than one State at a time in admitting them into the Union. At least, if there is any exception, it is not within my knowledge. And it is right and proper that they should be dealt



with separately, because circumstances, laws, institutions, everything that relates to the propriety of admitting one State, may have nothing whatever to do with the propriety of admitting some other State. Therefore, as a matter of justice and expediency, there is no more propriety in grouping all these States in one bill than there would be in grouping all the bills that are before any of the committees of this body into one and putting them through.

But my objection, Mr. President, does not depend simply upon the intrinsic propriety of this. It depends upon specific objections, which are controlling upon my mind, to the admission of Alabama as a full State at this time. While I am willing to yield to that sense of political expediency—and I do not use the word "political" in a party sense—which my associates have acted upon as to these other States, although it disagrees with my own opinion as to what we ought to do, as Senators know, and therefore I go for this bill to admit these other States, I cannot perceive how, conscientiously, in the discharge of my own duty, I can bring myself to vote for this bill with Alabama in it, because the case as to that State stands upon an entirely different footing from that of the other States. The principle upon which we have attempted to proceed in organizing these States has been that we would, in the first place, set up over this territory where the rebellion had been crushed, a military government for the mere preservation of order until some legal steps could be taken for a complete and peaceful restoration of self-government to those communities. Then what did we undertake to do?

Mr. TIPTON. Will the Senator give way to a motion to adjourn?

Mr. EDMUNDS. If it is the pleasure of the Senate; but I would just as leave talk now as at any other time.

Mr. CONNESS. It is the pleasure of the Senate to vote.

Mr. EDMUNDS. But before the vote is taken on this bill I wish to state the reasons why I shall vote against it; not for the particular benefit of Senators, but for the benefit of myself and my constituents.

Mr. TIPTON. I desire to follow the example of the Senator, and to give my reasons also for voting for the proposition.

Mr. CONKLING and others. Let us finish the bill to-night.

Mr. HENDRICKS and others. Let us adjourn.

Mr. EDMUNDS. I do not intend to occupy the time of the Senate either against its pleasure or with its pleasure, because what I have to say will not be long; but before the vote is taken on this proposition I intend to give the reasons which make me desirous that the Senate should leave Alabama to be considered by itself, and I was proceeding to state those reasons.

I had said, Mr. President, that we had established a military government as the first step. As the next step, and not at all connected with military government except as incidental, was the provision that we made for restoring to these people self-government. The first step in that provision was to select from the population in those States a defined and described class of persons as the persons to whom we would commit the first faculties of self-government, of electing conventions and framing constitutions, and to whom, in accordance with all our republican notions so far, those constitutions were to be submitted for adoption or rejection.

We had thus first established order. We had then selected a class of constituents into whose hands we would put the government of those States by a distinct classification and definition of the faculties and qualities that they should possess and exercise in performing those functions. We said to that people—speaking now particularly of Alabama, although it applies to all the rest—"inasmuch as it is known to the whole country that there is only a small proportion of white men in that State who are loyal to the Government, inasmuch as it is known to the whole country that the

large mass of the people who can exercise these faculties in that State are persons who have never exercised them before, and who are just now, for the first time, elevated into the scale of social and political freedom, before this constitution shall be inaugurated, before even a convention shall be called to frame it, a majority of all the classes to whom the right to vote is given shall participate in selecting the agents to whom that work is committed." That was thought to be wise and republican. It underwent debate in this body, and this body declared as its judgment, and it so stood in the law, that a majority of the whole number should act upon the question of framing their local State government.

When the bill passed the House of Representatives, if I rightly recollect it, they even went further than that, and required that a majority of the whole number registered should vote for a convention and for the constitution; but as we left the law we required that a majority of the whole voting body should act upon the question; and the only object we had in that, the great object I had in doing the little that I could and did to further that project, was to induce those people who were entitled to register and who had yet been hostile to the Government and who were hostile to giving suffrage to the blacks to come forward and participate in the formation of governments, to give them, if they were opposed to negro suffrage, the opportunity of registering and putting themselves on record as a body of men who were willing to act in the reorganization of the State, even if they acted in opposition to the views which the majority here entertained of referring suffrage to the blacks; because it was perfectly well understood—at least I believed—that if we left it in any other wise this great mass of people would hang back and would take no participation at all in the formation of these governments, and then we should be told all over the North, and with great force and plausibility, that we had remitted these governments to the blacks solely, and that none but the blacks had participated in the formation of them; and the object of that would have been to produce a political revolution in the North which would restore the Democratic party to power, who would then recognize nobody but these rebels who had refused to take part in forming these governments, and our emancipated blacks would have had a very poor chance of voting after that.

Mr. HENDRICKS. Will the Senator yield to a motion to adjourn?

Mr. EDMUNDS. I beg that my friend from Indiana will excuse me, because my own political friends insist upon going on.

Mr. HENDRICKS. I was going to suggest that evidently Senators of the majority are not giving the closest attention to the debate, and it is utterly impossible for any gentleman to discuss this question satisfactorily as the Senate is now organized in its present fatigued condition. Therefore, if the Senator will allow me, I will move an adjournment.

Mr. EDMUNDS. I am much obliged to my friend. I know that he and his colleagues pay attention always, particularly to doctrines that they do not like, [laughter;] but inasmuch as my friends on this side like the doctrines I preach, I do not ask them to pay attention if they will only not make so much noise as to prevent my hearing myself. As I stated before, what I am saying is in self-defense, and not in the expectation, I am sorry to say, of convincing a single Senator on this side of the Chamber of the propriety of my views; and as what I am saying is in self-defense, I do not ask anybody to listen to me.

Mr. President, this was the object, so far as it influenced my action, for which this provision was inserted in the law that authorized the people of Alabama to form a State government. It had precisely the effect that I, for one, expected and intended that it should have, and that was to bring to the registry, and thus to induce them to take the first step in reorganizing the State government, the whole body

of the people of that State, white as well as black, those who had been engaged in the rebellion as well as those who had suffered for their patriotic adherence to the right side. There was one step. They were committed. The southern Democrats—and I use the term in no offensive sense—who had been, every man of them almost, rebels, were committed to the policy of taking a step under this authority of Congress in the great work of restoration and reconstruction, a step from which they could not recede. They had chosen voluntarily to register, and we all know that it was after great hesitation and with much fear and trembling that they did it. One half of their papers in the first place, at the outset, endeavored to prevent their doing it, for the very reason I have now suggested; but it was done. Then a convention was called, a constitution was framed, and the same law which declared that they should act so far still declared that a majority of the whole body must participate in order to give any vitality at all to that constitution. We all know that so far as the record goes, so far as we have the official returns upon which we are acting, that majority did not participate.

To be sure I know it is said that this is excused by the fact that some were prevented from going to the polls who would otherwise have gone; that in some places there were no elections held; and therefore a reasonable horoscope is cast of some supposed future to show that there would be a majority acting if circumstances had been more favorable. Mr. President, that is a singular argument to address to a body of men as showing that a law is complied with, or substantially complied with, because it is pure speculation and nothing else. We sometimes oust a man from an office to which he was elected by fraud, because there the fraud is an affirmative act, and once investigated it turns out that he has no title to the office; but where did you ever hear of a man being installed into office on the ground that his election was prevented by fraud when he did not get any votes at all? That is practically this question; because, although it was not a question of an election between two different, distinct sets of men, the law said that there must be a majority of the votes cast, and now it happens that by some popular tumult or other cause a majority of votes was not cast at all. You do not know, except by mere speculation, which way they would have been cast if the whole number had voted. So, acting upon that mere speculation, assuming that if a majority of votes had been cast there would have been a majority for your side, you undertake to say that that has been done which the proof shows has not been done.

Mr. President, is that right; I am not now arguing the propriety of the original proposition itself as it affects the final question; but I am saying this: when you lay down to the people a ground or principle upon which they should be entitled to form a government for themselves, and they do not act upon that ground or principle, can you say that the government is nevertheless formed when it is to be a government of that people, when they are the persons to whom you have remitted, and to whom you must remit if you believe in republicanism at all, the right of declaring whether they will have that constitution or not. You point out to them the method by which their will shall be ascertained, and then when you apply the test of that method you find that by their will, as you have prescribed their taking the evidence of it, it has not been adopted, are you to turn around, acting upon republican principles, and say that that which has not been done according to your own formula shall nevertheless be treated as done, and impose a constitution, if it be as perfect as the sermon on the mount, upon a community much less than one half of whom have, so far as the record goes, voted for it or upon it at all? That is certainly not republican.

If we were establishing a mere territorial gov-

ernment in that place, we should not need to consult the will of that people, because the people of a Territory, or of a conquered State, are so far at the will of the ruling power; but Senators seem to forget that this act which is now to be done, must of necessity be the act of that people, and it must be the act of that people derived from the affirmative action of the voters going to the polls and putting in their ballots, which is the only evidence recognized so far of giving any validity or vitality to a man's vote. I never heard in any contested election between man and man of a person's vote being counted for one candidate or another unless he went to the polls. No man was ever ousted from any office, or from any place to which he had been elected, on account of the fact that somebody was prevented from voting for the other man who would have a right.

Mr. MORTON. Are you not acting on that very principle?

Mr. EDMUNDS. How?

Mr. MORTON. By proposing that every man who did not go to the polls from any cause should be counted as voting against the constitution.

Mr. EDMUNDS. No, sir; we are not acting on that principle. We did not declare that every man who did not go to the polls from any cause should be counted as voting against the constitution.

Mr. MORTON. That is the effect.

Mr. EDMUNDS. There being one hundred and fifty thousand men in the State who are entitled of right to exercise the faculty of deciding whether they will have a constitution or not, we declare that there must be at least a majority of those men who shall be willing to say one way or the other before it becomes the constitution of the whole. But, as I said, Mr. President, I am not defending at this moment, and I do not want to take time to defend it, the intrinsic propriety of that provision, except so far as I have already spoken of it as a necessary inducement, a coercive inducement almost, I may say, morally so, to the persons who had been rebels in these States, to come forward and register. I am speaking of the fact as it is, that this became a part of the law, which could not be misunderstood by anybody, upon solemn debate in the two Houses of Congress. As such it was sent to these people, and as such a majority of that people did that which was equivalent to complying with the law in such way that, by force of that law, the constitution was not adopted. That is the proposition.

Mr. President, that being the law—and, as I have said, I do not want to take time to discuss whether it is right or not in any other sense than that in which I have now spoken of it—the question is whether we can, consistently with our duty to our principles of republican faith, undertake to say that a constitution which we have submitted to a people, and which has by that people been rejected, shall nevertheless be imposed upon that people, and the government organized by it be inaugurated under it, and men put into the possession of offices of all kinds, ministerial, executive, judicial, military, who are to govern that people, when that election was nothing but straw, from the fact that the very constitution under which the election was held never received any validity or vitality at all, that it receives its first validity and vitality from this enactment that you are about to pass. That is what gives it vitality and validity, not the consent of a majority of that people ascertained in the only way you can ascertain the consent of a majority of that people, according to the previously provided and arranged method of ascertaining it, but according to your own speculative will now; and you therefore set up a State by the sheer force of your legislative will now, and by that same will put every department of its government into the hands of persons who, for aught we know, would not one of them have been selected to fulfill these functions by that people if your law had been so arranged as to require every man, in order to have his

wishes known, come out and vote. How do we have a right to know that any one of these officers would have been elected if the majority who stayed at home, and who, therefore, knew the constitution could not be adopted, had by your law been called upon to come out and vote, and who might possibly have voted for somebody else?

I know it is a very easy answer to make to this to say that it is altogether probable that the thing would have come out just as it did. That is setting up States upon the basis of merely an imaginary republicanism. We might say at any time that possibly the people of the State of Vermont or of Oregon would prefer some constitution that we should impose upon them and some Governors that we should send there much better than those they would elect. There might be a faction there who would make us believe that, and therefore the argument would be "let us impose it upon them, they will be satisfied with it; a majority are probably for it." The trouble is, Mr. President, that under a republican form of government, the only method of knowing whether a majority is for or against a thing is by trying the question, and letting the majority say through the ballot-box whether they are for it or against it. We have undertaken to do that, and we have found, according to the very method we have prescribed, that a majority were against this constitution, and not for it; and judging from some of the provisions there are in it, I do not blame them at all. I should have voted against it myself. I think every honest man—and I know my friend from Indiana [Mr. MORTON] is one—on looking at one of its provisions to which my friend from New York [Mr. CONKLING] called attention to-day, would have been obliged to vote against it. I refer to the provision which was nothing but a sheer and barefaced attempt to wrest private property from its owners wherever that property was on the shore of a navigable stream. I do not know that this had any influence; I do not know what sort of constituencies there are in Alabama; but I have a right to presume that a provision in a constitution which is repugnant to our sense of justice, which shocks all the notions we have of government and of right, ought to be distasteful to the people of Alabama. And yet this constitution, not having been examined by the committee who reported this bill, because the committee thought it was unwise to clog and endanger the admission of these other States by this different and separate question, it is, with all its faults and frailties, and with the officers elected under it, to be set up by force of this bill over that people, without even an examination.

Mr. CONNESS. Does the Senator undertake to tell us that the Judiciary Committee, of which he is a member, to whom the bill was referred containing Alabama, struck Alabama out, and recommended the Senate to adopt their report without having examined the case of Alabama at all, thus denying to us the right to the knowledge we sought on that question by referring it to them?

Mr. EDMUNDS. I did not say any such thing, Mr. President. If my friend paid attention to what I said he would have known that I did not say any such thing; and if he did not pay attention, he has misrepresented what I said. I said that this constitution was not examined by the committee with a view to acting upon it as a constitution, for the reason that the committee were of opinion that, on account of the peculiar difference between the case of this State and of the others, it ought not to be in the bill; and having determined that it ought, for those reasons, not to be in the bill, we did not think it necessary to undertake to provide fundamental conditions in regard to the constitution of a State which was not going into the bill. That is what I said; and I think there is some reason in that. We should have presented a very extraordinary spectacle to this body if we had reported in favor of striking out Alabama on the ground I have stated, and also provided that there should be certain fund-

amental conditions in her case after she was struck out, which would be the effect of such a course as my friend from California refers to. I have stated my position, and I trust my friend now does not misunderstand me.

Mr. CONNESS. I do not think I misunderstand the Senator, and I am perfectly willing to let the matter stand as it does in the report.

Mr. EDMUNDS. Now, Mr. President, the question is whether it is wise and right for a majority of this body to insist upon grouping with the case of the States which we are all willing should pass in the way they are now left a State which stands upon an entirely different principle, let it be right or wrong, one which has merits or demerits of its own that are not applicable to the others, and which ought, therefore, in all justice and fairness, to be considered by itself, so that every gentleman can give an intelligent vote on each branch of the proposition.

If my friend from California and my friend from Connecticut believed that the case of Florida was one which, under the peculiar circumstances of that case, ought not to go there, why ought they to be compelled to vote to carry that through against their consciences in order to carry through the other five that they did believe in? And why ought I to be compelled, if it were possible to compel me, to vote to put Alabama through the approval of this body because I believe that the case of Georgia and the case of Louisiana and the case of the other States is one upon which I may well act with my party and political friends? That is the question. In bills which relate to one subject an amendment may be proper that concerns one item of that subject; and if there was any necessary relation between the case of Alabama and the other States, there would be some sense in having them all in the same bill; but we all know, as I said before, that this is the first instance in the history of the country where the case of one State has been entangled or connected with the case of another; where the constitution of one State, good or bad, has been attempted to be carried through upon the strong back of some other constitution that has been clearly adopted on the principles laid down by your organic law. There would be just as much propriety in adding Colorado to this bill; and I am almost astonished that some of my friends have not proposed that, and thus ride that through, although it has been once rejected in this body. I am not now speaking of its merits; but I say there would be just as much propriety in putting Colorado upon this bill as there is in putting Alabama upon it. Then it would be said to every friend of Colorado, "Colorado is a clear case; never mind about your doubts and difficulties as to any other States; never mind what their constitutions are; you have one good provision in the bill, and therefore put it through with all the others." That is unjust, Mr. President; it is wrong; it is a dangerous precedent in legislation; and the time may come within the lives and the official presence of some of us here when we shall be exceedingly sorry that we had any hand in setting a precedent of this description.

Mr. President, I promised not to occupy more time than was sufficient to state my own position in self-defense. I have now stated the reasons why I am so desirous that the Senate should leave Alabama out of this bill and leave her to be considered by herself. The Judiciary Committee are not blind to the necessities of that people. They are desirous that they shall be provided for immediately. There is no want of harmony or concert in the committee on that subject. We are only waiting to have this bill disposed of to bring forward a bill which the Senate, if they then think upon the merits of Alabama alone, should admit her as a full State at once, will permit them to do it; or if they think it better, as my friend from Nevada [Mr. STEWART] did the other day when he introduced a bill for that purpose, to set them up as a provisional State until, according to republican principles, their constitution can

again be submitted to the people, and as the House of Representatives have thought by passing such a bill as to Alabama, then to do that instead of loading this bill with this extraneous difficulty which does not belong to it.

Mr. CONNESS. Mr. President, I will not occupy time. The proposition of the Senator which he undertook to sustain I undertake to say is totally untenable. He insists that he has the right here, and that I and others have the right, to have separate propositions to vote upon. What is legislation, sir, but a compromise of opinions? I desire to present a bill here on a given subject. I give it mature consideration. I prepare it to fit that subject exactly according to my mind and its best reflections. I introduce that bill. It is referred to a committee; it is there changed by the stamp of other minds. It is then brought into the Senate; it is here again changed by the stamp of other minds; and finally I vote for it though it be different entirely from the form in which I prepared it according to my best judgment. And, sir, if you wait until you get a proposition of any kind to fit the mind and judgment of every Senator, you would wait forever and there would be no legislation.

Mr. HENDRICKS. Mr. President, every Senator concedes that according to the law the constitution of Alabama was rejected by the people; that the effect of the vote of the people under the law was to reject it. Now, the proposition is to admit the State, that rejection to the contrary notwithstanding. It is the simple naked proposition that the law on that subject was no law and that it does not bind the judgment or the conscience of the Senate. I think this is a very singular position for the Senate to assume first after the close of an impeachment trial when the President of the United States was called in question and put upon his trial upon the charge of disregarding law. Let me ask this question of Senators: suppose the reconstruction law had provided that upon the ratification of a constitution by the vote of the people according to the law the President should declare the State admitted; and suppose, according to the law, the vote as it stood rejected the constitution, and then the President had issued a proclamation declaring that the State was admitted, what would you say to the President? You would say to him, "This is the law; it was obligatory upon you; it bound you; we will prosecute you before the Senate and before the judgment of the country for proclaiming a constitution to have been agreed to by the people when it stood rejected according to law." And yet the Senate may disregard the law, plain and palpable, and it stands as the judgment of the Senate that that was no law, provided Alabama be now admitted.

I intended to say just this much. I do not intend to discuss the merits of Alabama or its demerits. There are features in its constitution that ought, perhaps, to be discussed. Those features that give representation in the Legislature in larger proportion to those parts of the State where the negro population is dense and in smaller proportion to those parts where the white population predominates ought to receive the attention of the Senate. The provisions that require a man to swear that he will not disturb by any action of his in the future the right of voting before he shall be allowed to vote himself; that the citizen, in regard to the institutions of his State, shall tie his hands first by oath before he is allowed to vote, in my opinion ought to be considered. But prominent and above all is the proposition that you admit the State with this constitution, notwithstanding her rejection of it, according to the law that you enacted, the declaration by Congress; that an act upon which the stamp of law was placed was really no law; and that not by a modification, not by a repeal, but by a disregard of it in regard to acts done while it was understood to be in force.

Mr. CRAGIN. Mr. President, I suppose it will be in order for those of us who have not said a word to make a few remarks. The speech of the Senator from Indiana, [Mr.

HENDRICKS,] as he started out, would give us to understand that Congress had no right to repeal or modify any of its laws.

Mr. HENDRICKS. I did not say that. I said expressly that this was not a repeal or modification; but a disregard of the law.

Mr. CRAGIN. I say that the Senator started out in the way I stated, but before he got through he made the suggestion that he now alludes to. It occurs to me that cases similar to this have happened repeatedly. Congress has often passed what are known as enabling acts, requiring Territories to do certain things in order that they might be admitted as States, and when they have come here presenting their constitutions frequently they have failed to comply entirely and specifically with the law, and yet Congress in its discretion has admitted those States, notwithstanding the law had not been complied with in every particular. We may now change our minds upon that subject; we may say that they have so nearly complied, and the circumstances are such that it is better that the State be received than that it be kept out. To my mind, if ten thousand men in Alabama had come to the polls and voted against this constitution, thereby complying with the law, making a majority of the registered votes, the constitution would not have come here with one particle more moral force or power than it now comes with, nor would that people be better prepared to assume the responsibilities of a State government and to carry it on than they are now.

Mr. EDMUNDS. Suppose eighty thousand had gone and voted against it?

Mr. CRAGIN. That is not supposable. It is known in this case that the opponents of the constitution, the rebels as they are called, believed that they could more certainly defeat this constitution by staying away from the polls. They determined to do that themselves and also to keep away others, to keep away all that they could who would vote for it. That policy prevailed; and they did according to the law defeat the constitution. I admit it; but to my mind, under all the circumstances, it is better for Congress now to waive that part of the law and admit this State, when we all know that a very large percentage of the people have voted for the adoption of this constitution; and there is no Senator within the sound of my voice who does not believe that if this State had voted under the amended law under which all the other States have voted, by which a majority of those voting could control, this constitution would have been adopted by a large majority. There is no Senator on this floor who does not privately believe that the constitution would have been adopted if men had come up to the polls instead of staying away.

Mr. EDMUNDS. Permit me to make a remark to my friend?

Mr. CRAGIN. Certainly.

Mr. EDMUNDS. I ought to say, in reply to that very point, that I was myself in favor, early in January, of changing the law so as to allow a majority of those voting to decide, and I think some other members of the committee were also; but it was represented to some of us by influential friends in Alabama, some who had been elected to office, that it would not do to make that change, because the majority would be the wrong way. They thought it would be fairly produced, to be sure; but they were afraid that would be the result.

Mr. CRAGIN. The same thing was said in reference to the other States. It was said when the amendatory bill was passed that we should lose the constitution in every one of these States, but the demonstration is the other way—

Mr. EDMUNDS. I agree to that.

Mr. CRAGIN. The experiment has shown that every one of them that has acted has adopted the constitution. Alabama would have done the same thing by more than thirty thousand majority, I have not the least doubt, if the amendatory law had prevailed there.

Mr. BUCKALEW. I desire to make one remark, as the remarks of the Senator from New

Hampshire [Mr. CRAGIN] go upon the record of our proceedings, that his argument in the main particular is misconceived. He says, true, the law was as contended for by the Senator from Indiana: true, we now propose to disregard that law; but Congress unquestionably has a right, and a reasonable right, to dispense with a condition which it required. It is very true that a condition reserved in a former law on behalf of Congress itself, inuring to its advantage or in reservation of its power over a subject, may be dispensed with. I agree to all that; I assent to his argument thus far; but the Senator fails to perceive that what is now proposed is that this law shall be dispensed with and set aside against the interest and against the right of the people of Alabama. They were parties to this legislation; they were mainly interested in it; and when they acted under it, the good faith of this Government was pledged to them that that law should take effect precisely as it was drafted. You cannot repeal that law now. Why? Because it is executed; because proceedings have taken place under it. It is beyond the authority or power of Congress to undo what has been done. We cannot reverse history. All that we can do is to make provisions which will be prospective and take effect hereafter. But as to a law which has expended its force, as to a law under proceedings have taken place, it is impossible for us to change the law in regard to the past; we can only make a new provision which shall take effect in the future; and in the present case on what ground do we stand? In substance, when we get to the heart of this question, it is proposed by act of Congress to establish a constitution for the State of Alabama, and to impose it upon her people for all future time until they shall think proper to change it.

I say, then, that the condition we dispense with, that this setting aside of the law, that this waiver of a condition or of a provision of the law, is not a power which was reserved to Congress itself; it is not a waiver of our right, of our privilege, or of our power, but it is an attempt by us to waive rights under that law which vested in the people of Alabama, and which they only can surrender, which we cannot surrender for them or waive for them at all. You are attempting to set up by act of Congress a constitution for a State; it is imposed upon that people by your will; it has no other legal foundation and no other legal character.

But, sir, I do not care to go into this debate. I only rose, as the argument of the Senator from New Hampshire is going out in our published proceedings, to point out the fallacy, the absurdity of reasoning into which that Senator, usually so acute and so accurate in his logic, had fallen.

Mr. MORRILL, of Maine. I rise, sir, to notice a remark of the Senator from Indiana, which is, that we are about to admit Alabama in violation of this law. If I thought so I should not vote for it; but as I do not think so, of course my vote will turn upon other considerations. It is a violation of this statute, according to the Senator's notions, because he says it is clear, conceded, that the constitution has not received a majority of the registered voters there. That is the proposition. If that were the only provision in the statute, and the whole subject were made to turn precisely on that proposition, then I should say that the statement of the honorable Senator was correct; but that is not the whole. There are five distinct propositions in this statute, every one of which must be made to appear to the satisfaction of Congress before the State is to be entitled to admission. The fundamental proposition in this section is not that a majority of the registered voters shall vote. That is not the idea which underlies the statute. This statute, together with the other statutes on the same subject, undertakes to provide for the formation of constitutions for those States; and upon what idea? After giving the terms and conditions on which they should proceed, it was



that they should be adopted by "a majority of the qualified electors." That is the idea in this statute, and the fundamental idea. I will read its words: "and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified electors" in the States, then they are to be admitted; not if Congress is satisfied that it meets the approval of a majority of all the registered voters, but a majority of all the qualified voters.

Mr. EDMUNDS. What others are qualified besides the registered voters?

Mr. MORRILL, of Maine. I will come to that in a moment. I say that is the fundamental proposition in this act; whenever Congress is satisfied that a majority of the qualified voters approve of any one of the constitutions here formed, then it is the duty of Congress, I submit, to admit the State. The Senator from Indiana says that does not appear. Why does it not appear? Because he says it is clear that a majority of the registered voters have not voted. I submit to him that that is not a logical statement of the case, nor is that a logical deduction. If a majority of the registered voters had appeared, doubtless the Senator would have found satisfactory evidence that a majority of the qualified voters had approved the constitution; but I can conceive that a majority of the registered voters might have voted for this constitution and still a majority of the qualified voters not have approved it, and we should so find because it might have been done in fraud; it might have been done by menace and threat. So this provision for a majority of the registered voters is only a method after all. It was a method which Congress, through this statute, provided for ascertaining that a majority of the qualified electors approved it.

Now, I will ask my honorable friend from Indiana whether he would contend that if a majority of the registered voters had voted for this constitution Congress was committed on the subject so that we were then bound to receive this State; that there was no option; that it would have been in bad faith to refuse admission? If the returns showed that a majority of the registered voters had voted for this constitution, should we be estopped? The Senator will not contend for that. We should go still further, and consider whether they had voted fairly; that is, whether the election had been a fair one, whether they had voted under menace, whether they had been bribed, whether there had been any inducement which rendered that apparent expression an unfair expression, not a real expression of the qualified voters. Therefore I say it was only a method; we are not concluded by it; we would not have been concluded if the returns had shown that a majority of the registered voters had voted. Congress did not intend to be concluded; we intend to look further and see whether it was fairly done; and that is one of the propositions in the law. First, the returns shall show so and so; second, "and if it shall appear, moreover, that the election was one at which all the voters qualified had an opportunity to vote." Does anybody pretend that they had an opportunity? If they had not an opportunity, we surely are not concluded. Then comes in the third proposition, which I have dwelt upon, and which I say is the fundamental idea in this statute, that Congress, after all has been done, is to be satisfied that a majority of the qualified electors approved the constitution; and I submit that if Congress are satisfied of that, there is no violation of the act if the State is admitted.

One other word and I have done. I did not rise to discuss the question, and had not intended to say a word on the subject. It is certainly the great political necessity of this country, conceded to be so on all hands, that these States should be admitted to representation in the Congress of the United States. Our friends on this side of the Chamber who oppose the admission of these States to representation under these constitutions are just as strenuous

as we are for their admission; but they would have admitted them upon other constitutions and upon other grounds. There is just one testimony here in this Senate everywhere that these States must be admitted to representation in the national Congress at the earliest practicable moment. That is our duty. That is the duty of the session. It is the grand political necessity of the country that these States should be admitted to representation here at the earliest practicable moment. I shall act therefore, sir, in the presence of that necessity in the vote I give.

I think Alabama deserves better than she has received at our hands. I think it does not become us to apply a different rule to Alabama from that which we apply to the other States. Alabama came here early. Alabama was the first to move in the work of reconstruction. She held out to us more encouragement of a disposition to adopt the legislation of Congress for her readmission than any of the other States. In this sense I think she fairly took the lead.

According to my recollection she came here very early, admonishing us that if we did not apply the rule which we have subsequently applied to the other States, she would certainly fail. I know my honorable friend from Vermont says he had some information on the subject which led him to believe that somebody, some portion of the people in Alabama, did not desire the change; but my information was at a pretty early period, through sources I thought entirely reliable, that the loyal people of that State believed it would be a failure if this rule so extraordinary in American politics, this rule a violation of the American principle in politics, was applied to her. She did not get relief, and the result has verified that her fears were well founded.

For these reasons, Mr. President, not to elaborate, I shall vote for Alabama in this bill.

Mr. TIPPON. When I said a few moments ago that I desired an opportunity of expressing my views on this subject, I intended to throw out a few propositions which I supposed were an analysis of the fifth section of the reconstruction act which has just been discussed by the Senator from Maine, and it has been done to my satisfaction so thoroughly that I shall not attempt a discussion of the section at all. I simply intended to draw from it this deduction in the language of the law: "If the Congress shall be satisfied that such constitution meets the approval of a majority of all the qualified voters in the State, then the same shall be admitted to representation;" and being satisfied that it does meet the approbation of a majority of all the qualified electors, I am ready to vote for it for that cause.

On the other point, I see no objection to grouping all these States together. I admit that heretofore we have generally, as to the Territories, put each one separately in an enabling act, and have admitted them as States separately; but all these States were grouped together, or their condition was grouped together in one common law, and if it was legitimate to make a proposition to them in general terms, I hold that it is legitimate to admit them in one common bill.

Mr. SAULSBURY. Mr. President, one thing I think our friends who are satisfied ought to endeavor to do for the benefit of those who are not exactly satisfied, and that is to state to us the basis of their satisfaction. What is it that has appeared here before the Senate to give such plenary satisfaction to honorable Senators that a majority of the people of Alabama are in favor of this constitution? It is true they have sent up their voice to you; you have evidence that they rejected it by sixteen thousand majority, I think it was; that is, it failed to receive a majority of the votes of the qualified voters of Alabama by sixteen thousand; and yet there is some fountain of satisfaction opened up in this Chamber into which honorable Senators dive and come out clean, perfectly satisfied in their own minds, and yet they do not deign to tell

us one simple circumstance which gives them the satisfaction. They point out no evidence to us. They are happy, perfectly happy; but where the grace comes from that electrifies their souls and sets them to shouting, nobody knows but themselves. It is a secret, magnetic influence—

Mr. MORTON. If the Senator will allow me, I will state one basis of the satisfaction that prevails in the Senate Chamber. It is that there were sixty-nine thousand six hundred votes cast in favor of the constitution in Alabama and only eleven hundred against it.

Mr. SAULSBURY. Well, Mr. President, that may be perfectly satisfactory to the honorable Senator; but when we recollect that under the terms of the act a majority of all the votes was necessary to give validity to this constitution, and when it is apparent to everybody, and everybody knows from the newspapers and knows from mingling with the people of Alabama that those opposed to it adopted the policy of staying away so as to show their dissent, that that was the plan adopted by them to show that they did not favor the adoption of the constitution, I do not think the satisfaction of the honorable Senator from Indiana can be imparted to others. He says only one thousand voted against it. Logically, then, the honorable Senator would suppose that there are but one thousand persons in Alabama opposed to this constitution. While I will not disturb the satisfaction of honorable Senators, while I wish them to be happy, I beg to remind them that not only the eyes of Delaware, but the eyes of all the people of the United States are upon them, and they will try to discover the real sources of this satisfaction.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The question is on the amendment of the Senator from Illinois to the amendment made as in Committee of the Whole, which is to strike out "Alabama."

The question being taken by yeas and nays, resulted—yeas 16, nays 24; as follows:

YEAS—Messrs. Bayard, Buckalew, Conkling, Davis, Edmunds, Frelinghuysen, Hendricks, Howe, McGreevy, Morgan, Morrill of Vermont, Patterson of Tennessee, Saulsbury, Trumbull, Vickers, and Yates—16.

NAYS—Messrs. Cameron, Chandler, Conness, Corbett, Cragin, Drake, Ferry, Harlan, Morrill of Maine, Morton, Nye, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Van Winkle, Wade, Wiley, Williams, and Wilson—24.

ABSENT—Messrs. Anthony, Cattell, Cole, Dixon, Doolittle, Fessenden, Fowler, Grimes, Henderson, Howard, Johnson, Norton, Patterson of New Hampshire, and Sprague—14.

So the amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now is on concurring in the amendment made as in Committee of the Whole.

The amendment was concurred in.

It was to strike out all of the House bill after the enacting clause, and in lieu thereof to insert:

That each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida shall be entitled and admitted to representation in Congress as a State of the Union when the Legislature of such State shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-Ninth Congress, and known as article fourteen, upon the following fundamental condition: that the constitution of neither of said States shall ever be so amended or changed as to deprive any citizen, or class of citizens, of the United States of the right to vote in said State who are entitled to vote by the constitution thereof, herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution may be made with regard to the time and place of residence of voters. And the State of Georgia shall only be entitled and admitted to representation upon this further fundamental condition: that the first and third subdivisions of section seventeen of the fifth article of the constitution of said State, except the proviso to the first subdivision, shall be null and void, and that the General Assembly of said State by solemn public act shall declare the assent of the State to the foregoing fundamental condition.

SEC. 2. And further enacted, That if the day fixed for the first meeting of the Legislature of either of said States by the constitution or ordinance thereof shall have passed or have so nearly arrived before the passage of this act that there shall not be time for the Legislature to assemble at the period fixed,

such Legislature shall convene at the end of twenty days from the time this act takes effect unless the Governor-elect shall sooner convene the same.

Sec. 3. *And be it further enacted*, That the first section of this act shall take effect as to each State, except Georgia, when such State shall by its Legislature duly ratify article fourteen of the amendments to the Constitution of the United States, proposed by the Thirty-Ninth Congress, and as to the State of Georgia when it shall in addition give the assent of said State to the fundamental condition hereinbefore imposed upon the same; and thereupon the officers of each State elected and qualified under the constitution thereof shall be inaugurated without delay; but no person prohibited from holding office under the United States or under any State by section three of the proposed amendment to the Constitution of the United States known as article fourteen shall be deemed eligible to any office in either of said States unless relieved from disability as provided in said amendment; and it is hereby made the duty of the President within ten days after receiving official information of the ratification of said amendment by the Legislature of either of said States to issue a proclamation announcing that fact.

Mr. DRAKE. I suppose now is the time for amendments in the preamble.

The PRESIDENT *pro tempore*. It is. The amendments reported by the Committee on the Judiciary to the preamble will be read.

The CHIEF CLERK. It is proposed to amend the preamble by striking out "Alabama" in the second line and inserting "Florida," and by striking out the words "in form" after the word "republican" in the seventh line.

Mr. TRUMBULL. "Alabama" should not go out now.

Mr. DRAKE. And Florida should be inserted in the preamble. There are two amendments in the preamble. One is to insert the name of Florida there; and as it is now in the body of the bill, it should of course be inserted in the preamble. The other is to strike out the words "in form." Both of these amendments require the action of the Senate.

Mr. TRUMBULL. I think if the Chair will put the question separately on each proposition we shall get at it quicker. The first question is on striking "Alabama" from the preamble. Of course that will not be stricken out now after the vote of the Senate.

The PRESIDENT *pro tempore*. The question is on the amendment proposing to strike "Alabama" from the preamble.

The amendment was not agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment inserting Florida in the preamble.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The next question is on the amendment to strike out the words "in form" after the word "republican" in the preamble.

The amendment was agreed to.

Mr. DRAKE. I suggest that in engrossing the preamble the word "and" be transposed so as to put it in between Alabama and Florida.

The PRESIDENT *pro tempore*. That amendment will be made as a matter of course, if there be no objection.

The preamble, as amended, reads as follows:

Whereas the people of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida have, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, framed constitutions of State government which are republican, and have adopted said constitutions by large majorities of the votes cast at the elections held for the ratification or rejection of the same: Therefore,

Mr. CONKLING. The bill having been amended so as to include Alabama, I have an amendment to offer now to make it harmonious, and conform the case of Alabama to that of Georgia. I called attention earlier in the debate to the fact that there is in the constitution of Alabama a provision equivalent in principle to that which has been denounced in the case of Georgia. To meet that I offer, in the language already employed in the bill, this amendment:

And the State of Alabama shall be entitled and admitted to representation only upon this further fundamental condition: that section twenty-six of the first article of the constitution of said State, except so much thereof as makes navigable waters public highways, shall be null and void, and that the

General Assembly of said State, by a solemn public act, shall declare the assent of the State to the foregoing fundamental condition.

Of course it will involve no additional time, as the action of the General Assembly is necessary. The clause of the Alabama constitution which I propose by the amendment to avoid is this:

"That all navigable waters shall remain forever public highways, free to the citizens of the State and of the United States, without tax, impost, or toll imposed; and that no tax, toll, impost, or wharfage shall be demanded or received from the owner of any merchandise or commodity for the use of the shores, or any wharf erected on the shores, or in or over the waters of any navigable stream, unless the same be expressly authorized by the General Assembly."

The Senate will see that it deprives riparian owners of the rents, issues, and profits of their lands, because the owners of merchandise may use wharves; and it is here provided that no wharfage, which means, of course, no compensation, is to be collected; and the same of warehouses. Some Senator has suggested to me in private conversation that these latter words, "unless the same be expressly authorized by the General Assembly," mean that if that has been done heretofore at any time the case would not be reached by this clause, and that such persons would be protected. It will be seen, however, that it is not so, but the provision exposes all riparian owners to the occupation of anybody who chooses to occupy, without the power to demand or receive compensation unless the General Assembly shall hereafter pass a law by which they may collect it. In connection with that, we have before us a memorial signed by the trustees of infants and widows, and estates of deceased persons, residing in Connecticut, New York, Michigan, and other States, showing us that at large expense they have made improvements in Mobile upon property the title to which goes back to the original acquisition of the territory, goes back to the very morning of the State and of the Territory, and that the intention of this provision of the constitution is to oust them altogether and to deprive them of their rights of property. Inasmuch as we have made the same provision I now offer as to Georgia in a like case, I think the bill should be made harmonious by inserting this amendment.

The PRESIDENT *pro tempore*. I suppose it is not strictly in order to insert anything in the matter which has already been agreed to by the Senate.

Mr. CONKLING. I do not understand that to be so.

The PRESIDENT *pro tempore*. The Chair will raise no such question.

Mr. CONKLING. The Chair may not understand exactly the form in which this comes up. I propose to add these words to the text of the bill as an amendment to come in at the end of the first section.

The PRESIDENT *pro tempore*. As an addition?

Mr. CONKLING. As an addition.

The PRESIDENT *pro tempore*. That is in order.

Mr. SHERMAN. I think the amendment is in order, because it is to add new matter which has not been passed upon; but it does seem to me that the Senator is making a great deal out of this more than is at all involved in it. This provision of the Alabama constitution does not affect contracts or property rights according to my judgment. It does not raise the question raised in the case of Georgia. I will read the clause and Senators will see the bearing of it according to the explanation made to me:

"That all navigable waters shall remain forever public highways free to the citizens of the State and of the United States, without tax, impost, or toll imposed; and that no tax, toll, impost, or wharfage shall be demanded or received from the owner of any merchandise or commodity for the use of the shores, or of any wharf erected on the shores or in or over the waters of any navigable stream, unless the same be expressly authorized by the General Assembly."

The purpose of this is to prevent the owner of land from levying on a steamboat that chooses to anchor by the shore, a tax or toll. There are navigable streams in this State of

the highest importance. Obstructions might be made or improvements might be made on the banks of a river not authorized by the local law. Unquestionably the State of Alabama has supreme jurisdiction over the shores of navigable rivers within its limits. The State may not impede the navigation of a river; it cannot authorize an obstruction to a river; but it can legislate as to the banks of a river, and it may prevent wharves and buildings from being erected on the banks of a river except in pursuance of law. That is all that is required in this clause, that no citizen of Alabama shall levy a wharfage, toll, duty, or impost upon any citizen, at home or abroad, for any use of its lands, unless by authority of law.

The Senator confines the latter part of the clause to authority given hereafter by the General Assembly; but I submit that it does not bear that construction, and is not so intended. It says: "unless expressly authorized by the General Assembly." The word "authorized" includes the past as well as the future, the General Assembly of the past as well as the General Assembly of the future, and this is merely to prevent persons owning property on the banks of a navigable river from asserting exclusive rights which will interfere with the free navigation of the river and prevent steamboats landing where they choose, and to prevent them from assessing imposts, duties, and burdens of like character upon persons engaged in lawful commerce. If it means more than that, I have mistaken the clause.

Mr. MORRILL, of Maine. If it means only that, there is no necessity for the provision, because, of course, individuals cannot get private rights as against the public right of navigation.

Mr. SHERMAN. But that is not the point. Suppose a person builds a wharf without authority of law against the policy of the State. Ought not the State to have the power to control the building of wharves and improvements along the banks of streams? This clause simply says that persons shall not do it except in pursuance of authority granted by the General Assembly.

Mr. FRELINGHUYSEN. I do not understand the provision to relate at all to the building of wharves, but to the collection of wharfage at wharves built.

Mr. SHERMAN. "Unless the same be expressly authorized by the General Assembly." It does seem to me that the General Assembly may, by general laws, pass rules and regulations, or even by special charters grant privileges to erect wharves along the banks of the rivers. Do you want to interfere with that right exercised by the State of Alabama? It seems to me to do that would be for Congress to supervise and control the local matters of the State of Alabama. All the objection I have to this proposition is that I do not think we ought to attach fundamental conditions to the admission of States which relate solely to unimportant matters of local legislation that may be fairly left to the General Assembly of the State.

Mr. FRELINGHUYSEN. I certainly think we ought not to interfere with the local legislation of Alabama; but if they send a constitution here which does, in direct terms, violate the Constitution of the United States, we cannot avoid interfering with it; and as I understand the provision brought to our notice by the Senator from New York, it prohibits the collection of wharfage on wharves and storehouses except as authorized by the Legislature. There may have been, and probably are, hundreds of wharves and erections over that water which have not been authorized by the Legislature, which have been erected there as a matter of common right by virtue of the right of property without any action of the Legislature on the subject; and this takes away from all these property-owners the value of their property, and prevents their collecting wharfage for it.

Besides, there is a conclusive argument against this provision of the constitution of

Alabama. It is not a matter to be put into a constitution at all, but it is a matter of legislation. There is no more propriety in putting this provision in the constitution, if it is not intended to bind down the Legislature to interfering with contracts, than there is in putting the whole statute-book in the constitution.

Mr. SHERMAN. The objection now made by the Senator is extraordinary. Every constitution now contains a multitude of legislation, and the great objection to modern State constitutions is the multiplicity of legislation which they contain. That is the last objection I ever expected to hear from the Senator from New Jersey. Every provision of a constitution is a kind of legislation, and some provisions are rather minute, and almost all our modern constitutions are too minute. I never expected to hear an objection made to the admission of a State on the ground that the people of that State chose to put certain things in the form of constitutional legislation instead of the form of legal enactment.

Mr. FRELINGHUYSEN. My friend will observe, however, that the argument is this: that it is subject to the objection that it is a violation of the Constitution of the United States, and at all events it is not necessary, because it would be equally effective in a statute if it is not in violation of the Constitution of the United States. That is my point.

Mr. SHERMAN. I do not understand the Senator. I believe in leaving to the States the care of local legislation, and I am rather astonished that the Senator from New Jersey especially should make this objection, representing as he does a State that claims the power as a State to control the commerce of the United States, so that really we have not the power to pass enactments on that subject, so that no citizen of the United States can go through the State of New Jersey between the two great commercial cities of the Union without being affected by the local legislation of New Jersey. New Jersey claims the power of impeding all the commerce of the United States and doubling the expense of transportation. If New Jersey were to throw open her laws, the price of passing through New Jersey would be reduced one half.

This has been a matter of complaint for years; and the Senator from New Jersey now complains about conferring upon the people of Alabama the right to make laws in regard to the shores of their navigable rivers, to regulate the wharfage, the amount of tolls and assessments and wharf rents that their citizens shall pay.

I only desire to say that I am in favor of Congress exercising rather plenary powers; but when I commence I do not want to begin with the regulation of tolls and wharfage for wharfs on the banks of the streams in Alabama. I would rather commence with some great highway where the impediments thrown in the way of commerce are worthy of the attention of Congress. It does seem to me that we belittle the subject when we seek to attach to the admission of States fundamental conditions applicable to mere local matter, such as the rent of a wharf and the like. This provision of the constitution of Alabama may be wise or unwise; I do not know; but certainly it is a matter of local legislation in regard to the shores and the banks of their rivers with which we ought not to interfere, especially by an extraordinary provision of amendment to their constitution made by Congress now in the last stages of this debate.

Mr. FRELINGHUYSEN. Mr. President, I do not know that the character of New Jersey is at all involved in the discussion of a constitutional question; and I suppose the Senator from Ohio referred to New Jersey for the purpose of diverting the attention of the Senate from the subject, as he did not seem very well able to maintain the position that he had taken on the constitutional question. As to its belittling the subject, let me say, sir, that it is no little subject for the Senate of the United States to stand guardians over the constitution and say

to every State that comes here with a constitution "You shall not impair the obligation of a contract;" and whether it is in a little matter or a great matter, the principle is the same. Nobody can read this provision of the constitution of Alabama without coming to the conclusion that they have undertaken to prohibit owners of wharves and other erections over navigable streams from collecting wharfage, which is directly impairing a contract.

Mr. SHERMAN. I should like to know what contract is involved? Who made a contract about the building of wharves in Alabama?

Mr. FRELINGHUYSEN. Nobody under the sun made a contract about building wharves, and there is nothing in the constitution about building wharves. It is about the collecting of wharfage for the use of wharves.

Mr. SHERMAN. But the Senator says the constitutional provision as to the inviolability of contracts is involved. I should like to know what contract is involved in this case. Was there a contract existing between the wharf-owners and anybody else that they should build wharves there? I am not aware of any. I suppose that they hold their wharves and other property subject to the local law of Alabama, and may be regulated and affected by the local law of Alabama. It is not a question of contract. If there is a contract, if the Senator from New Jersey will say there is a contract—

Mr. CONKLING. Most assuredly I say it.

Mr. SHERMAN. The Senator may say that there is an implied contract that every riparian owner may have a right to build anything he chooses on the banks of the river.

Mr. EDMUNDS. I will say to the Senator that the question has been before the Supreme Court of the United States in a case coming up from the city of Mobile. When Alabama was admitted into the Union the waste lands, as they were called, were reserved to the United States, and the United States granted patents to these shore rights. The State of Alabama did the same thing, and the question arose under the conflicting patents as to who had the best title. The Supreme Court of the United States decided that Alabama had the title to these lands; that she could grant them to whomsoever she pleased, and that her patents were good. Therefore the persons who own these wharves hold under a title granted by the State of Alabama. Now, this law undertakes to say that a title granted by the State of Alabama shall be impaired, by declaring that there shall be no beneficial use or enjoyment of it. That the Supreme Court have frequently decided in other cases is a violation of the contract.

Mr. SHERMAN. The Senator does not go far enough. Does he show that the State of Alabama by her patent authorized them to build wharves, or is that necessarily implied from the patent?

Mr. EDMUNDS. That is necessarily implied from the patent of the land down to the water, where the stream is navigable, to the shore line.

Mr. MORTON. I should like to ask the Senator from Vermont what decision the Supreme Court of the United States has ever made in regard to the right of Alabama to regulate the question of wharfage.

Mr. EDMUNDS. I do not know that they have decided anything as to the right of Alabama to regulate the question of wharfage as to all persons. They have decided that the State of Alabama was the proprietor of these very lands, and that the State of Alabama had a right to grant them to the persons who were the subjects of these law-suits; and the Supreme Court therefore decided that the persons who owned these shore rights and had wharves upon them were lawfully entitled to hold them. Now, the State comes in by this constitution, and says that although they are lawfully entitled to hold them, and have held them for forty years, they shall not use them, but that everybody else may use them without paying for that use.

Mr. MORTON. My understanding is that the Supreme Court decided that the title to these waste or wet lands was in the State of Alabama under the act of Congress, and that the patent of Alabama was good against the title executed by anybody else, and that it goes no further than that. So far as the rights of riparian proprietors of navigable streams are concerned, those rights have always been held in part to be subject to the rights and interests of navigation.

Mr. HOWE. Mr. President, I wish to ask the Senator from Indiana if the State has ever claimed any other jurisdiction than that of running the boundary line between the waters navigable and the waters not navigable?

Mr. CONKLING. And removing obstructions.

Mr. HOWE. Preventing obstructions by the shore owner in that part of the stream which is navigable.

Mr. MORTON. I understand that the rights of navigation go much further than the definition given by the Senator from Wisconsin. If they go no further than that, it would be in the power of riparian owners virtually to destroy navigation, especially upon our small rivers in the interior. The subject of regulating wharfage to prevent extortion and so that the interests of commerce shall not be injured is peculiarly proper for State legislation, and I undertake to say is the subject of State legislation in almost every State where there is a navigable river.

Mr. BUCKALEW. The Senator will in a moment see that there is no question about the right of the State to regulate rights of wharfage, rights of landing, or any other rights; the question here arises upon the destruction of rights. There is the greatest possible distinction between the two things.

Mr. POMEROY. I think the framers of this constitution have put in it precisely the provision they wanted to put in, and the one that is adapted to the wants of the State of Alabama. It is known to me and I suppose to many Senators that there has been a long conflict at Mobile in regard to those rights, and that the attorney for the State is even now prosecuting the men who claim to have exclusive rights of wharfage; and the complaint grows out of the fact that they have been charging exorbitant rates and interfering with commerce, and have grown up into an immense monopoly. They claim that they are above the legislation of the State, that the Legislature cannot interfere with them, and it is a matter of grievance to the city. They have held heretofore that they got their title to this property in some way above the statute; and now the framers of this constitution have determined to bring their rights within the control of the Legislature of the State, and it ought to be there. A monopoly of this kind can so tax commerce as to almost destroy it; that is, they can put such a burden upon commerce as to become a grievous tax to the citizens of the whole State by imposing exorbitant wharfage. This monopoly has been complained of, and it is because of it that the people of Alabama have put this clause in their constitution, and we should not interfere with it. The effect of it is to put the matter into the control of the State, as it ought to be; and the people of the State of Alabama who framed this constitution will feel exceedingly grieved if we interfere, because it is relieving them of an enormous burden that they have been trying to throw off in the courts for years, and if the power is put in the hands of the Legislature of the State they can regulate it.

Mr. MORTON. It is admitted that a State has a right to regulate the question of wharfage; and if it has a right to do that, it has a right to provide that fees above a certain rate shall not be exacted; that would be a necessary part of the regulation. If it cannot make that a part of the regulation, the right to regulate amounts to nothing, as I think.

Mr. CONKLING. Allow me to ask a question for information. If this part of this con-



stitution is stricken out, does it in the Senator's judgment at all impair in the slightest degree the right of the State to regulate the amount of wharfage, and all that?

Mr. MORTON. I suppose the fact is that the State of Alabama has not heretofore regulated that wharfage in the way it ought to have been. I have a letter in my desk complaining bitterly of the exactions that have been made at Mobile, especially on that part of the trade intended to go up the Alabama river, and saying that this clause in the constitution is necessary for the purpose of protecting commerce upon the Alabama river. It is simply a method, perhaps not a very good one, of providing that the question of wharfage shall be under the regulation of the Legislature.

Mr. SUMNER. Mr. President, I am able from information that I have received, to confirm what has been stated by the Senator from Kansas, and also the conclusions of the Senator from Indiana. I understand that there is at Mobile a margin of land between what we may call the main land and the water, which has been made. It is what we call made land; and it is on that land that the wharves are made, and from it they are run out into the water. The proprietors of that land undertake to lay exorbitant tolls, to make egregious exactions on a particular commerce, especially that, I understand, which comes from New Orleans.

Mr. MORTON. And Boston.

Mr. SUMNER. And perhaps Boston, though that is not mentioned to me by my informant; but I was told that the exactions bore particularly on ships coming from New Orleans. Whether the ships come from New Orleans or Boston is of no importance; it is enough that there are exactions made. I understand that sometimes fees amounting to several hundred dollars are demanded of ships when something very slight would have been all that was proper. The people there knowing this evil, desiring to remove it, have taken this way: they have in their constitution specifically declared that the Legislature of the State shall have jurisdiction of this matter; and now shall we undertake to interfere? Clearly not to my mind. There is an abuse, according to all the evidence, at Mobile. The question may arise, then, shall this rule be applicable to other places; why confine it to Mobile? The answer to that is that planters on the rivers may impose the same exactions; abutting, as some of their plantations may, on rivers, they may demand tolls or wharfage from steamers or vessels that stop.

Mr. CONKLING. Is it not true of other States, and why not have it in their constitutions?

Mr. SUMNER. The Senator asks me if it is not true of other States. We have no evidence that in any other State there has been an abuse. The facts show that in this State there is and has been an abuse, and here is an honest effort to meet it, and I think we ought not to interfere with the effort.

Mr. HENDRICKS. The statement made by the Senator from Kansas is quite sufficient to show that this provision ought to be stricken from this constitution. He says that tolls have been exacted at Mobile, and that the people for years have tried to get rid of those tolls by proceedings in courts, and have failed.

Mr. POMEROY. I did not mean to say that they have failed, because the matter is still in litigation. It is the exorbitant tolls they are complaining of; not any others.

Mr. HENDRICKS. I tried to state the Senator just as he stated himself; and if I did not state him correctly, of course he is understood now. Then there is a right that has been litigated in the courts of some sort, and the purpose of this constitutional provision is to strike that down. I submit to Senators, is that a proper mode of getting rid of a right thus supported in the courts? A constitutional convention is in session, and some parties that want to accomplish some dirty end perhaps go to that body when the owners of private property are not there, having no idea

when a government is being established and the form of it fixed that their private rights are to be attacked in a thing of that sort, and the first they know of it they are stricken down. Now, how does this stand? It appears, according to the statement of facts, that the State of Alabama granted riparian rights, the right to the land adjoining the water. Does that give any right?

Mr. SHERMAN. Allow me to correct my friend as to that material fact, because I took pains to inquire as to the facts of a gentleman who lives in Alabama, and though he does not reside in Mobile is familiar with the facts. These wharves are built on the accretions of land outside of the land patented by the State of Alabama. They are held there on land which probably formerly was within the bounds of navigable rivers, but by the changes of time has become made land. It is covered probably by the general power of the United States; probably the title is in the United States. These wharves have been built there, and they are now levying at Mobile \$600 on a vessel the wharfage of which at New Orleans would be sixty dollars. It is a source of dispute and controversy, and this provision was inserted merely to place the undoubted jurisdiction over these wharves in the Legislature of Alabama.

Mr. HENDRICKS. I wish to ask the Senator exactly what he means. He says these wharves are on accretions. Does he mean made land or accretions?

Mr. SHERMAN. Made land outside of the old limit of the low-water mark.

Mr. HENDRICKS. If the owner of the land has extended his land by filling it in, he has still that right. If it be an accretion, then it is a very clear thing that the accretion belongs to him. As rapidly as the accretions are formed the ownership goes with them.

Mr. WILLIAMS. Not necessarily.

Mr. HENDRICKS. Necessarily. I say that is the law without exception, that the man who owns the land owns the accretions.

Mr. CONKLING. If the Senator will allow me one moment, as he refers to the statement made by the Senator from Ohio, I will say that in the case reported in the Supreme Court in 8 Howard the court decided flatly the other way from that stated by the Senator from Ohio, that the title to the land was not in the United States, that the United States had nothing in the world to do with it, that it had been in the State of Alabama, and had passed by the grant of the State to its patentees. That was the point in judgment, and that was decided. The decision was as to the identical land we are now talking about.

Mr. HENDRICKS. Then it stands adjudicated that these parties own this land. Now, I want to know of Senators if a man who has a ship on the sea has a right to load and unload upon my land without paying me anything for it. In the absence of legislation, have I not the legal right to demand of him for that use of my property a reasonable compensation?

Mr. SHERMAN. Can you obstruct navigation?

Mr. HENDRICKS. I am not prepared to say whether I can entirely obstruct navigation; but it is very clear that where I own land, a man who wishes to unload his vessel on my land must pay for the use of it; and in the absence of legislative regulation of the subject I have the right to charge whatever I choose for that use, provided I charge what is reasonable. Whether in the absence of an express contract I can charge more than a *quantum meruit* I will not now undertake to discuss; but that I have the right to charge a man who loads and unloads his vessel on my property for that use of my property is not to be questioned. There is no doubt about that. In the absence of legislation I may make that charge; but in the interests of commerce I admit that it may be regulated by legislation, as the use of mill property may be regulated by legislation. I build my mill upon a stream that is entirely within my own lands; I back the water

only to my upper line; but still the Legislature may regulate the tolls I may charge. In the absence of legislative regulation may I not charge a man that brings his grist to my mill whatever is right, and can a constitutional provision come in and say that I have no such right except as the Legislature confers it upon me? Here is the case precisely. Here are parties who own lands and have built wharves upon them. Their right to that property has been adjudicated by the Supreme Court. They have, by virtue of their ownership, and not because the Legislature has conferred it upon them, a right to charge reasonably for the use of their property. Here is a constitutional provision to strike off that right, to say that it is gone—a right that rests upon the grant of the State; for a deed is a contract, and all that follows that deed is secured by the contract. Whatever I may claim under my deed is secured by the contract. The State having granted it to these parties they have, under the contract, the right to charge reasonably for the use of their property. This constitutional provision undertakes to strike down that granted right, and to say that the right no longer shall rest upon the contract and upon the grant, but that it shall rest upon legislative will. I ask Senators if that can be done. I undertake to say that there is dirt inside of this effort with somebody. It may be that the proprietors have charged too much. That can be regulated any day by the Legislature. There is no difficulty in that; but to say by a constitutional provision that my right to charge, which rests in the grant, shall be stricken down, and it shall then rest only in legislative will, is a palpable violation of a contract.

Mr. MORTON. It is very obvious, from the reference made to the suits that have been instituted in regard to this matter, and from the complaints coming from Alabama, that there is some great grievance there to be remedied, and they have undertaken to do it in this constitution. Now, sir, the question of wharfage is a matter that is peculiarly within the control of the Legislature. I undertake to say that no riparian proprietor has any right, or can acquire any right that is inimical to the general commerce of the country. Therefore, inasmuch as there are conflicting rights and conflicting interests, while his interests are to be protected, there is the greater interest of the country and of commerce to be protected also. Therefore it is that the regulation of that may be placed properly in the Legislature; and that is all, substantially, that this provision attempts to do. It is not like the question of taking away the right to recover debts, the question of repudiation, in direct and palpable violation of the provision of the Constitution of the United States; but the most that can be claimed against it is, that it is a question of the violation of a private right; but a right so intimately connected with the public rights that you cannot distinguish between them without selecting some third party as the proper arbiter and disposer. It simply says that these wharf rates or tolls shall not be collected except upon arrangement or authority of the Legislature; in other words, the whole authority is devolved upon the Legislature, where it properly belongs; and it is not a matter of such magnitude, or a matter involving such a constitutional question, that we may take hold of it here.

Mr. CONKLING. Mr. President, we seem to be lost here in a very strange confusion, on one side or the other, about this matter. The honorable Senator from Ohio tells us that there is no obligation of contract to be impaired here. I should have more faith in that declaration of his if he had not told us the same thing in regard to Georgia, and if the Senate had not by an overwhelming vote decided against him in regard to that.

Now, let us see, stripping this of everything except the admitted facts which we can comprehend in one moment, what this case is. Here are men in Mobile, the patentees, as we have the evidence before us, from the State of

Alabama of these identical lands—not some others, but the very lands with regard to which the Senator from Kansas makes his statement. We have repeated decisions of the Supreme Court, and one which has been referred to here at length for another purpose, holding that the United States has no right of eminent domain or privilege of interference whatever with these lands; but that they fall exclusively within the municipal and State jurisdiction; and that the State of Alabama has divested herself absolutely of these lands by granting them to the patentees. Now, the Senator from Ohio asks, where is the contract in this transaction? Why, sir, has not the court decided frequently that every grant is a contract? And when these people received by grant the lands covered by the grant did they not take them exempt from every possible incumbrance excepting one? What incumbrance rested upon them except the common law concomitant, that every man must use his own so as not to injure another? Except as to that, they took them absolutely against all comers.

But, says the honorable Senator from Indiana, [Mr. MORRIS] wharfage, being an appendage of commerce, is, as to regulation, within the power of the State. Yes, sir; and there, as the Senator from Indiana [Mr. HENDRICKS] suggested, arises the double hardship in this case. If I am a mill owner I have a right to say to him, "I do not receive your grist; I do not treat you as one of my customers;" but if I am a riparian owner upon the banks of a public highway used as a navigable stream I am subject, without any provision of this sort, to regulations as to commerce and wharfage falling within the jurisdiction of the State; and therefore it is that I cannot fence against the incidents of commerce; therefore it is that my shores are liable to be used; and therefore is the monstrosity of this provision, not only as to wharves, but as to shores, that no man anywhere in the State of Alabama, a riparian owner, shall exact, nor shall it be lawful for him to receive, any compensation whatever for any use which may be made of the shores of that stream. And we are arguing here the question whether that invades the sanctity of a contract or not! To convey a man his farm and then put in the fundamental law that he shall be robbed at the pleasure of every passer-by of the rents, issues, and profits of it, and be without remedy! Why, sir, I say, with great deference to gentlemen, that it is monstrous, a thing the parallel of which cannot be found in the jurisprudence of any country that has written laws.

"The right to regulate wharfage!" Yes, sir; but has this provision anything to do with that? As the Senator from Pennsylvania well and unanswerably says, strike out this provision of the constitution and that whole power remains intact, the same power that the State of New York has and every other State, not one of them having a provision like this in its constitution. Does any one doubt that?

We are told that \$600 are charged where something less should be charged. Why does not the Legislature regulate it? Obstructions to commerce, the Senator from Ohio says, may be interposed. Does this tend to remove them? Not in the slightest degree; but the shores—not made land, if there was any distinction there, which there is not—the shores of every stream in the State of Alabama shall be open without let or hindrance to every passer by, and no man can maintain his action *quare clausum fregit*. That is the proposition. I say it is monstrous, and I say with some zeal, speaking in the name of constituents of my own who are memorialists here, that it is doubly monstrous for another reason; and what is that? It is that the Senate has notice served upon it by these memorialists, respectfully, that there are rights in litigation, as the Senator from Kansas stated, that the courts have decided that the patentees are entitled; that an appeal has been taken to the national courts in a suit in which a perpetual injunction

is prayed; that a fictitious title is set up here unfairly and in fraud of their rights, as they say; and that, pending that controversy, just there, when an appeal was to be taken to the Federal courts, unexpectedly and in a manner well warranting my friend from Indiana [Mr. HENDRICKS] in saying that it is suspicious and suggestive of foul play, there is foisted into this constitution what the doctors would call a foreign substance, a thing which does not look like the fly in amber, although it is equally extraordinary that it should be here, but it looks far less interesting than that, and which I say is suggestive not only of bad faith, but, in my humble judgment, never could have been put here for any reason that the ingenuity of man can suggest, looking to the public interest or to any thing under heaven, except enabling some private party to snatch by illicit process from the courts the questions which properly pertain to them.

Mr. President, a friend, whom I do not see, a member of this body, said in joke a suggestive thing to me a few moments ago. He said, "We are going to examine the particulars of this bill when we get home." We are not doing it here, but we are going to examine it particularly when we get home before a different tribunal; and I think we may as well bear in mind that we ourselves, if nobody else, when this is all over, will look at this legislation, without regard to the fact that the hour of eight o'clock came before we went home to dinner; we shall look at it as it will stand; and I think there are risks enough involved necessarily in this legislation without carrying any more. And as I am upon that point I will say that I expect to vote for this bill, and I do it with great trepidation; I do it with great doubt whether it is not a mistake in the very best form in which we can put it.

But however that may be, I say again, do not let us put into it, unnecessarily, indefensible things. Here is a provision which stands out as clear as a sunbeam in violation of the Constitution of the United States; and the provision we have inserted with regard to Georgia is mere usurpation, as I understand the law, unless the right and the duty pertain to us to put the seal of condemnation upon this. It does not strike at personal property merely; it does not strike at debts merely; but it is just as vicious and just as wanting in the elements of constitutionality as if it said that no rent should hereafter be collected for any farm in the State of Alabama unless the Legislature by special grant conferred the right to do it. What, in the name of conscience, has the Legislature to do with this, I should like to know? The Legislature to confer upon me that right which makes my house my castle! The Legislature to give me as a donation, a benefaction, the right to hold and use and enjoy that which by the common law, and the civil law, older than that, and the jurisprudence of every civilized nation, pertains to me for reasons going behind all legislative action! Sir, unless we are going to run a plowshare over the foundations of government, unless we are going to obliterate all settled distinctions, and sow the place where they were with salt, that they need not spring again, let us come back, although it is the great subject of reconstruction in which we are engaged, to those homely doctrines, those practical matters of sense which have gone unchallenged thus far in the history of our country.

Now, Mr. President, I do not mean to be zealous or warm about this.

Mr. HOWE. I think you have been.

Mr. CONKLING. If I have been, I beg pardon of my friend from Wisconsin, who never allows himself to get unduly zealous.

Mr. HOWE. It is granted.

Mr. CONKLING. But this constitution, as was said by the Senator from Vermont, was made a part of what we are doing, unexpectedly to the Judiciary Committee. There has been a great deal to examine on these subjects, a great many constitutions to read; and

although my diligence has been less than that of any other member of the committee, I presume, I have endeavored to understand as well as I could what there was in this subject. My attention was called to this particular matter after the prospect became imminent that Alabama would be included in the bill; and a variety of facts have been stated to me which I have not stated here, and which I do not propose to state, going to show the truth of the suspicion which strikes the minds of Senators on this point. There are many persons who signed this memorial, and other persons from whom I have received letters, who say that it is not only a hardship but a naked piece of piracy, a bold piece of theft, waged against the estates of dead men and the possessions of minor children and of widows. Therefore I think it contains all the elements which commended to our attention similar provisions in the constitution of Georgia, and moral ingredients besides, which call loudly upon the Senate to put upon it the seal of its disapprobation.

Mr. CORBETT. Mr. President, this provision in the constitution of Alabama seems to me to be a very remarkable one. In all my knowledge of commercial transactions I have never heard or seen such a preposterous proposition. Here were certain low lands granted to private individuals. Those lands, which were probably worthless originally, have been improved by those individuals. I presume cargoes could not have landed there without such improvements, and perhaps the grants were made with the understanding that those receiving them should make these wharves. Having invested their money and improved the city in such a manner that commerce can be accommodated, can it be possible that the Legislature can take away the privileges heretofore granted without restriction? If the Legislature of the State or the authorities of the city desire to impose a restriction, the time to have done that was when the lands were granted. If they have made a mistake in that respect, it seems to me their only remedy is in promoting competition in other portions of the city or in building up other portions of the city, where similar accommodations can be had.

Sir, I have heard a great deal of this cry about corporations and individuals that had extraordinary rights. When they have been successful, there are always plenty of people to cry them down and attempt to get possession of their property and vested rights. If the people of Alabama, by a constitutional provision, can disturb the rights that have been granted to these people for years, perhaps fifty years, if they can sweep away all those vested rights, and say that they shall be entirely done away with, and this wharf property shall belong to the State hereafter, and there shall be no tolls charged unless the State thinks proper to allow them, they can vest those rights, and give that property to the city, and allow them to charge just such prices as they choose.

If I had invested \$100,000 in Mobile, Alabama, upon a wharf, without any restriction from the State or the government of the city, I should like to know whether the State would have the right to say that that property should be taken away from me, or that my vested rights should be done away without any compensation whatever. If the State has a right to fix the wharfage there, if it has a right to regulate it at all, it has a right to make it one cent a ton. If these persons have their rights without any conditions from the city I do not see any help for the people of that city. So far as the right to land goods upon the shores is concerned, every man has a right to low-water mark to the shore to his land, as I have always understood; and if a person desires to land goods upon it he must get permission, the right of way through the fields of that owner in order to convey those goods from the shore, or otherwise he has got to go to the nearest town or place where there is a landing, where there is a wharf, and haul his goods down there.

That is reasonable and right. I see no injustice in it. Otherwise, if a man has no control over his shore along the river to low-water mark, you might drive through his fields and destroy his crops; you could annoy him in many ways. As I have always understood, every man has control of his shores to the low-water mark. It seems to me that this provision in the constitution of Alabama is a monstrous proposition, as the Senator from New York states, and I certainly shall vote for his amendment. It seems to me right and proper.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from New York.

Mr. CONKLING. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. WILLIAMS rose.

Several SENATORS. Let us vote.

Mr. WILLIAMS. Mr. President, certain Senators, after they have made speeches, are very impatient when another Senator proposes to speak upon the subject. I do not propose to tax the patience of the Senate; but I desire simply to remark that this question has been argued upon an assumed state of facts, for which there is no proof before the Senate. The persons who were elected to the constitutional convention of the State of Alabama may be supposed to be intelligent and honest men, and we have no right to conclude that they were dishonest and disposed to violate the Constitution of the United States, and that all virtue has come to be concentrated in this particular body of men. The men who represented the people of Alabama in that convention knew what the facts were in this case, and we do not. One man gets up here and makes a statement, and another man makes a contradictory statement, and we propose to strike down a provision of the constitution of Alabama that has been submitted to and approved by the people upon a supposed state of facts, of which every one of us is ignorant, proceeding upon mere surmises or mere conjectures that there may be something wrong about this section of the constitution.

Sir, it may be that there is a monopoly formed there in the city of Mobile or elsewhere in the State of Alabama that is crushing out by its exorbitant exactions the commerce of the State, and that Alabama is made, like Ireland, the victim of non-residents. It is not improbable, from what the honorable Senator from New York has said, that such is the fact; for he appears here, he says, in his zeal to strike out this section of the constitution, for citizens who live in the State of New York, persons who have no interest in Alabama but to impose exactions upon the people, and fleece them through monopolies and combinations without regard to their interests or their welfare. This is possible; I do not say it is the fact. But, sir, it is possible that this provision is right and just and necessary to protect the commerce of that State; and it only amounts in substance in giving to the Legislature the authority to regulate the subject.

Mr. President, we had a very elaborate argument the other day from the Senator from New York to show that Congress had no power to impose a fundamental condition upon the admission of a State, and now he proposes to impose a most extraordinary fundamental condition upon Alabama.

Mr. CONKLING. I beg the Senator's pardon. I would not interrupt him if he did not, unintentionally no doubt, misstate me. My argument the other day was, that Congress had power to impose conditions in those cases where the Constitution of the United States was violated; and I stated my reasons for it; but I argued against the ability to impose others. I only ask the Senator not to misstate my position.

Mr. WILLIAMS. I did not pay particular attention to the distinctions which the Senator made, but I know that his argument was very elaborate against the proposition then before

the Senate, to attach a fundamental condition to the admission of the State of Arkansas. But assuming that such was his position, who is altogether certain that this particular section is in violation of the Constitution of the United States? What clause of the Constitution of the United States prohibits this section of the constitution of the State of Alabama? I know it is said that private property may not be taken for public use without just compensation; but that applies to Federal legislation, and not to State legislation. I am not advised that there is any one provision of the Constitution of the United States with which this section is in conflict, or so clearly in conflict as to make it altogether certain that a court would decide it to be unconstitutional. I say it is a doubtful question; and I am surprised to see Senators here who have been so long and so earnestly contending for the rights of the people, and denying to Congress the power to control the people in the formation of their constitutions and the establishment of their State governments, now taking the ground that Congress may go into a State constitution that has been formed by a convention and approved by the people and regulate its different provisions, as though Congress was making the constitution for the people, regulating the subject of wharfrage, regulating the subject of tolls, and doing it by putting into the act admitting the State a fundamental condition.

Sir, if this subject of fundamental conditions is to be made ridiculous in the eyes of the nation, do so by putting into a solemn act admitting a State an irrevocable condition, one that is to stand all through time and bind all generations, that the "sovereign State," as my friends on the other side delight to call the different States of the Union—the sovereign State of Alabama shall never control or regulate the wharves on its rivers or tolls upon its streams. But, sir, I do not wish to occupy time upon it.

Mr. HOWARD. I have but a word to say on this subject. I question very much the constitutionality of that particular clause in the Alabama constitution referred to by the Senator from New York; but I do not think that the Senate is very properly constituted to settle such a question as that in reference to the navigable streams of Alabama. I am not prepared to say whether it is or is not constitutional, nor am I prepared to say whether the State of Alabama, with all its sovereign power, is competent to impose regulations upon the owners of lands fronting on navigable streams. I very much doubt it, for the reasons stated by the honorable Senator from New York. But both these questions are really such as more properly become a court of justice to decide than the Senate of the United States. I hope, therefore, that we shall leave them to be settled by the courts where all parties in interest can be heard by their counsel, by their witnesses, and the matter properly and finally adjusted according to law.

There is another view, sir. Suppose we adopt the condition which is presented by the honorable Senator from New York. I fear when that question comes before the Legislature of Alabama it will be one that will attract the attention of that Legislature for a very considerable time. There has been a great deal of debate about it here, and I have no doubt there will be a great deal more in the Legislature of Alabama when it shall assemble, and that, instead of acting promptly upon the fourteenth amendment of the Constitution, which we want to secure above all things else, they will spend a fortnight or three weeks, or perhaps six weeks in discussing this wharfrage business and riparian rights; and thus the great end which I have in view, which is the adoption of the fourteenth amendment, will be defeated.

I hope, sir, that the amendment of the honorable Senator from New York will not be adopted for the reasons which I have given. It is a judicial question, to be heard and deter-

mined upon the evidence and upon the law before a court and jury regularly constituted, and I will not undertake to adjudicate it in this form here.

Mr. COLE. I do not think we can get much further along with this debate to-night, and I rose for the purpose of moving an adjournment. ["No!" "No!"]

Mr. SUMNER. Let us take the vote on the pending amendment, and then adjourn.

Several SENATORS. No, no; let us sit it out to-night.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from New York, and the Clerk will call the roll.

The question being taken by yeas and nays, resulted—yeas 16, nays 23; as follows:

YEAS—Messrs. Anthony, Buckalew, Conkling, Corbett, Edmunds, Frelinghuysen, Hendricks, Howe, McCreery, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of Tennessee, Ross, and Vickers—16.

NAYS—Messrs. Chandler, Cole, Conness, Cragin, Drake, Ferry, Harlan, Howard, Morton, Pomeroy, Ramsey, Saulsbury, Sherman, Stewart, Sumner, Thayer, Tipton, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—23.

ABSENT—Messrs. Bayard, Cameron, Cattell, Davis, Dixon, Doolittle, Fessenden, Fowler, Grimes, Henderson, Johnson, Norton, Patterson of New Hampshire, Sprague, and Trumbull—15.

So the amendment was rejected.

Mr. WILLIAMS. I wish to make a slight addition to the amendment that I offered, and which was adopted in committee. I suppose there will be no objection to it. It is simply explanatory. I ask the Clerk to read it.

The CHIEF CLERK. It is proposed to add to the amendment adopted on motion of Mr. WILLIAMS the following words, "unless relieved from disability as provided in said amendment," meaning the fourteenth article.

Several SENATORS. That is right.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time.

Mr. SUMNER. There are several Senators who wish to address the Senate on some of the general propositions involved in this important bill. It is now late. I think the Senate would not ask them to proceed to-night. I may mention that I am one. I have been in my seat since twelve o'clock, and I have not had a morsel of food since early morning. I am not, therefore, in a condition to enter into an extended discussion. My friend, the Senator from Illinois, [Mr. YATES,] I know, desires to address the Senate also, and I believe there are other Senators; and, under the circumstances, I think that I shall not make a mistake if I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. Before putting the question on that motion, the Chair will lay before the Senate a communication from the Secretary of War.

Mr. CONNESS. I hope that will not be done. The motion to adjourn is the only thing in order.

The PRESIDENT *pro tempore*. This communication ought to be laid before the Senate and referred to a committee.

Mr. CONNESS. What is the rule on the subject?

The PRESIDENT *pro tempore*. The rule is that the Chair may lay these things before the Senate when he pleases. [Laughter.]

Mr. CONNESS. I desire to be correct about this. Do I understand the Chair to say that the rule is that the Chair may lay these communications before the Senate when he pleases?

The PRESIDENT *pro tempore*. That is the rule laid down in the books. [Laughter.]

Mr. CONNESS. Very well, sir.

#### EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of War, communicating a letter from Major General Sheridan, recommending the insertion of a clause in the anticipated ratification of a treaty lately concluded with the Osage Indians requir-



ing the Leavenworth, Lawrence, and Galveston Railroad Company, for reasons stated therein, to extend their road from Leavenworth City to the military post of Fort Leavenworth; which was referred to the Committee on Indian Affairs.

#### HOUSE BILL REFERRED.

The bill (H. R. No. 1212) to relieve certain citizens of Arkansas of disabilities was read twice by its title, and referred to the Committee on the Judiciary.

#### REPRESENTATION OF SOUTHERN STATES.

The Senate resumed the consideration of the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts, [Mr. SUMNER,] that the Senate do now adjourn.

Mr. FERRY. I call for the yeas and nays on that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 19, nays 21; as follows:

YEAS—Messrs. Anthony, Buckalew, Cole, Davis, Hendricks, Howard, McCreery, Morgan, Nye, Patterson of Tennessee, Ross, Saulsbury, Sherman, Sumner, Thayer, Vickers, Wade, Wilson, and Yates—19.

NAYS—Messrs. Chandler, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Ferry, Frelinghuysen, Harlan, Howe, Morrill of Vermont, Morton, Pomeroy, Ramsey, Stewart, Tipton, Trumbull, Van Winkle, Wiley, and Williams—21.

ABSENT—Messrs. Bayard, Cameron, Cattell, Dixon, Doolittle, Fessenden, Fowler, Grimes, Henderson, Johnson, Morrill of Maine, Norton, Patterson of New Hampshire, and Sprague—14.

So the Senate refused to adjourn.

Mr. YATES obtained the floor.

Mr. ANTHONY. With the permission of the Senator from Illinois, and with the unanimous consent of the Senate, I should like to make a suggestion. I think that if an agreement could be arrived at now that a vote shall be taken to-morrow at a certain hour fixed we might adjourn, very much to the convenience of the Senate, and without much interruption to the public business. If it shall be agreed that the vote shall be taken to-morrow at four o'clock it will give a chance to those who desire to speak to be heard.

Mr. TRUMBULL. How can you make such an agreement when so many speeches are to be made?

Mr. ANTHONY. We can make such an agreement, if it shall be unanimously assented to, with the understanding that the Senator who has charge of the bill shall have the closing speech. That has been done many times since I have been a member of the body; there has been an agreement arrived at that at a certain hour fixed the Senator having charge of the bill should take the floor and at the close of his speech the vote be taken. If that can be agreed upon now, it will give our friends who desire to speak an opportunity to be heard in a better part of the day.

Mr. TRUMBULL. I think as we have stayed to this hour, we had better dispose of the bill.

Mr. ANTHONY. I will stay if the Senator who has charge of the bill says so.

Mr. CONNESS. I trust we shall go on with our business. The question has been submitted and decided.

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

Mr. HENDRICKS and others called for the yeas and nays; and they were ordered.

Mr. YATES. Mr. President, I shall not speak to-night. I have refrained from speaking for the last two days in order to expedite the bill, with the hope that I might have an opportunity to address the Senate on the question of its final passage. I might have spoken heretofore if I had desired to thrust myself on the Senate; but I preferred to expedite the bill, and hence I refrained from speaking until the bill should be on its passage.

Mr. WILSON. Mr. President, I think we had better make an arrangement about this

matter, and have it understood that the vote shall be taken to-morrow.

Mr. SUMNER and others. That is the best way.

Mr. WILSON. I understand that my colleague and the Senator from Illinois have carefully prepared remarks on this bill, and desire to speak. It may be that some one may wish to reply to them, and therefore I propose that we reach an understanding that the vote shall be taken to-morrow.

Mr. WILLIAMS. I beg to suggest that the Senator from Kentucky [Mr. DAVIS] has given us notice that he wishes to be heard.

Mr. WILSON. Let it be understood that we give to-morrow to debate on this bill, and close the debate to-morrow.

Mr. ANTHONY. Unless there can be some hour fixed to-morrow when we shall take the vote, we may as well take it to-night at twelve o'clock as to-morrow night at twelve. If Senators will agree that the debate shall close at four o'clock to-morrow, and that at that time the Senator from Illinois, who has charge of the bill, [Mr. TRUMBULL,] shall be entitled to the floor, and that at the conclusion of his remarks the vote shall be taken, I think we may agree to oblige our friends, whom we all wish to oblige, and conduce to our own comfort. If, however, there is to be no hour fixed for taking the vote to-morrow, but we are to go on without any security that we shall not have to take it at one or two o'clock in the morning, we may as well take it to-night.

Mr. CONNESS. I simply wish to say that there will be abundant opportunity for Senators to make speeches when the veto to this bill comes in, which is morally certain. I hope that, since we have worked so long upon this bill to the exclusion of other business, Senators will consent to vote on it to-night. There will be abundant opportunity for discussion hereafter on the main proposition.

Mr. HENDRICKS. I think it is very unreasonable that the Senator from Illinois and the Senator from Massachusetts should not be allowed to be heard on this subject. I have not quite so much sympathy for the Senator from Massachusetts, inasmuch as I understood him to say some time ago that a lawyer ought to be able to commence speaking at ten o'clock in the morning and speak until six o'clock in the evening. [Laughter.]

Mr. SUMNER. It is past six now.

Mr. HENDRICKS. But inasmuch as he is connected with gentlemen who have not the same powers of endurance, I think it is but reasonable to adjourn; and I do not see why we cannot all agree to take the vote at four o'clock to-morrow. It is reasonable. We generally extend this sort of courtesy to one another, and I should dislike to see it refused to any Senator. I know I should expect it if I asked for it.

Mr. CONKLING. Mr. President, I have only to say, in the spirit in which the Senator from Rhode Island made his suggestion, that voting against this adjournment and insisting upon remaining here is one of the most unpleasant incidents which have occurred to me since I have been in the Senate. I have been appealed to quite strongly by one or two Senators who wish to speak, and who seem to misunderstand entirely my vote, and I beg to explain to them in the presence of the whole Senate why it is that I did not do what, with some feeling, one or two of them seem to think I should have done.

I agree with the Senator who has this bill in charge, and who has attempted in vain on two or three days to induce the Senate to remain here and dispose of it, to remain on this occasion to do it; and I beg to say to those Senators that I did it in ignorance of the fact that they wished to be heard upon the bill. I did know that they contemplated addressing the Senate, but I did not know that they contemplated doing it or attached importance to doing it upon this particular bill. I beg to say to them that I made the agreement I did in

ignorance of their wishes; and that in voting as I did I stand by that understanding. At the same time I am very glad that the Senator from Rhode Island, with his usual good nature and politeness, is seeking to get some arrangement which will be satisfactory to everybody.

Mr. MORTON. If the Senate had been informed this afternoon, at the usual time of adjournment, that there were Senators desirous to make speeches which would occupy four or five hours, the Senate would have adjourned and we could have went home. I have stayed here until this hour with much physical difficulty and suffering for the purpose of taking a vote on this bill. Now, Mr. President, I shall be glad to hear the Senator from Massachusetts and the Senator from Illinois. I know their ability, and I understand something about the subject on which they are going to speak; and I am not willing for one that any arrangement shall be made that the vote shall be taken at four o'clock or five o'clock to-morrow afternoon. From what I understand will be the course of discussion to be pursued by one or both of these distinguished Senators, there will be some here—and not a few I imagine—who will desire to reply to them. Their doctrines will not be allowed to pass the Senate unchallenged. I have no objection to adjourning now, but not with the understanding that certain speeches are to be delivered to-morrow, and that then the Senate is to adjourn or the vote to be taken, denying to others the privilege of replying if they should desire to do so.

Mr. FERRY. Mr. President, my anxiety to get to a vote upon this bill to-night grows out of the intelligence which every morning's mail brings me from these southern States. Not a mail comes, not a morning paper comes to my room that does not contain accounts of murders and outrages being perpetrated; and we of the Senate of the United States, ready to take a vote and ready to pass this bill, are asked to adjourn over for the purpose of hearing further speeches upon the side which is sure to prevail if a vote is taken to-night. I hope, for the sake of the suffering citizens of this country in the southern States, that we may take the vote to-night.

Mr. DAVIS. Mr. President, I do not think the passage of this bill will arrest any of the murders and violence that the honorable Senator from Connecticut mentions. On the contrary, if it has any effect in that direction, I believe it will increase them. But this is a very important measure, and it does not seem to me that an undue or an unseemly amount of time has been consumed upon it. A measure of more importance in its effects has not come up to be acted on by the Senate. If the Senate should take all day to-morrow, and until this time in the evening to-morrow, to dispose of this important measure, it would not be a waste of time. I think the Senate ought to adjourn to give the gentlemen who wish to debate the measure such further time to do so as they, in their discretion, may choose to use.

Mr. HENDRICKS. I suppose there is no difficulty in coming to an understanding that some time to-morrow or to-morrow evening we shall vote. Does any Senator object to that? With that sort of understanding I think we might well adjourn; and therefore I move that the Senate do now adjourn.

Mr. CONNESS. Upon that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. FERRY. I suggest that there has been no business since the last vote on a motion to adjourn.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana that the Senate do now adjourn, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 16, nays 24; as follows:

YEAS—Messrs. Buckalew, Cole, Davis, Hendricks, Howard, McCreery, Morgan, Patterson of Tennessee,

Ross, Saulsbury, Sumner, Thayer, Vickers, Wade, Wilson, and Yates—16.

NAYS—Messrs. Chandler, Conkling, Conness, Corbett, Cragin, Drake, Edmunds, Ferry, Frelinghuysen, Harlan, Howe, Morrill of Maine, Morrill of Vermont, Morton, Nye, Pomeroy, Ramsey, Sherman, Stewart, Tipton, Trumbull, Van Winkle, Willey, and Williams—24.

ABSENT—Messrs. Anthony, Bayard, Cameron, Cattell, Dixon, Doolittle, Fessenden, Fowler, Grimes, Henderson, Johnson, Norton, Patterson of New Hampshire, and Sprague—16.

So the Senate refused to adjourn.

The PRESIDENT *pro tempore*. The question is, Shall the bill pass? and upon this question the Senator from Illinois [Mr. YATES] is entitled to the floor.

Mr. YATES. Mr. President, I do not feel inclined to speak to the Senate to-night. I could not, at this time, be heard with any pleasure by the members of the Senate or any satisfaction to myself. As I have before stated, I have purposely refrained from speaking heretofore in order to expedite the passage of this bill. I have refrained from speaking on the amendments with the expectation that I should be heard on the passage of the bill. Of course I shall not trespass on the time of the Senate at this hour.

Mr. HENDRICKS. If the Senator will yield to me I will move that the Senate adjourn to meet at ten o'clock to-morrow.

Mr. SHERMAN. That is not in order. The hour of adjournment is fixed by the rule, and cannot be changed by a simple motion in this way unless by unanimous consent.

The PRESIDENT *pro tempore*. The Chair thinks the motion is in order. The question is on the motion of the Senator from Indiana, that the Senate do now adjourn to meet at ten o'clock to-morrow morning.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

Mr. SUMNER. What I have to say to-day will be confined to a single topic. I shall speak of the *validity and necessity of fundamental conditions on the admission of States into the body of the Nation*; passing in review objections founded on the asserted Equality of States and also founded on a misinterpretation of the power to determine the "qualifications" of electors, and that other power to make "regulations" for the election of certain officers. Here I shall encounter the familiar pretensions of another time, no longer put forth by defiant slave-masters, but retailed by conscientious Senators, who think they are supporting the Constitution, when they are only echoing the voice of slavery.

Fundamental conditions on the admission of States are older than our Constitution: for they appear in the Ordinance for the vast territory of the Northwest, adopted anterior to the Constitution itself. In that Ordinance there are various conditions, of perpetual obligation, as articles of compact. Among these is the famous prohibition of slavery. In the early days of our Nation, nobody thought of questioning the validity of these conditions. Scattered efforts were made to carry slavery into some portions of this region, and, unquestionably, there were sporadic cases, as in Massachusetts itself; but the Ordinance stood firm and unimpeached.

One assurance of its authority will be found in the historic fact that in 1820, on the admission of Missouri as a State of the Union, there was a further provision that in all territory of the United States north of 36° 30' north latitude, "Slavery and involuntary servitude, otherwise than in the punishment of crimes, whereof the parties shall have been duly convicted, shall be and hereby is *FOREVER PROHIBITED*." This was the famous Missouri compromise. Missouri was admitted as a State without any restriction of slavery, and all the outlying territory west and north was subjected to this condition *forever*. It will be observed that the condition was in no respect temporary; but that it was "forever," thus outlasting any territorial Government and constituting a fund-

amental law, irrevocable through all time. Surely this condition, perpetual in form, would not have been introduced had it been supposed to be inoperative—had it been regarded as a sham and not a reality. This statute, therefore, testifies to the judgment of Congress at that time.

It was only at a later day, and at the demand of slavery, that the validity of the great Ordinance of Freedom was called in question. Mr. Webster, in his memorable debate with Mr. Hayne in 1830, vindicated this measure in language worthy of the cause and of himself, giving to it a palm among the laws by which civilization has been advanced, and asserting its enduring character:

"We are accustomed, sir, to praise the lawgivers of antiquity; we help to perpetuate the fame of Solon and Lycurgus; but I doubt whether one single law of any lawgiver, ancient or modern, has produced effects of more distinct, marked, and lasting character than the ordinance of 1787. It fixed forever the character of the population in the vast regions north-west of the Ohio, by excluding from them involuntary servitude. It impressed on the soil itself, while it was yet a wilderness, an incapacity to sustain any other than freemen. *It laid the interdiction against personal servitude, in original compact, not only deeper than all local laws, but deeper also than all local constitutions.*"—Webster's Works, vol. 3, p. 284.

Words of greater beauty and power cannot be found anywhere in the writings or speeches of this orator. It would be difficult to declare the perpetual character of this original interdiction more completely. The language is as picturesque as truthful. Deeper than all local law, deeper than all local constitutions, is this fundamental law; and such is its essential quality, that the soil which it protects cannot sustain any other than freemen. Of such a law the orator naturally proceeded to say:

"We see its consequences at this moment, and we shall never cease to see them, perhaps, while the Ohio shall flow."—*Ibid.*

In these last words the value of such a law is declared. It is for *prevention*, which is an essential object of all law. In this case it is the more important, as the evil to be prevented is the most comprehensive of all.

Therefore, on the authority of Mr. Webster, in harmony with reason also, do I say, that this original condition was not only perpetual in character, but beneficial also. It was beneficence in perpetuity.

Mr. Chase, in his admirable argument before the Supreme Court of the United States, in the *Van Zandt case*, is hardly behind Mr. Webster in homage to this Ordinance or in a sense of its binding character. In his opinion it is a compact of perpetual obligation:

"I know not that history records a sublimer act. The United American States, having just brought their perilous struggle for freedom and independence to a successful issue, proceeded to declare the terms and conditions on which their vacant territory might be settled and organized into States; and these terms were: not tribute, not render of service, not subordination of any kind; but the *perpetual maintenance of the genuine principles of American liberty, declared to be incompatible with slavery*; and that these principles might be inviolably maintained, they were made the *articles of a solemn covenant* between the original States, then the proprietors of the territory and responsible for its future destiny, and the people and the States who were to occupy it. Every settler within the territory, by the very act of settlement, became a party to this compact, bound by its perpetual obligations, and entitled to the full benefits of its excellent provisions for himself and his posterity. No subsequent act of the original States could affect it, without his consent. *No act of his, nor of the people of the territory, nor of the States established within it, could affect it, without the consent of the original States.*"

According to these words, which I am sure would not be disowned by the present Chief Justice of the United States, the Ordinance is a sublime act, having for its object nothing less than the *perpetual maintenance of the genuine principles of American liberty*. In form it is a compact, unalterable except by the consent of the parties, and, therefore, *forever*.

If anything in our history was settled by original authority, supported by tradition and time, it was the binding character of the Ordinance for the government of the Northwest Territory. Nobody presumed to call it in question, until at last Slavery flung down its

challenge to everything that was settled for Freedom. The great Ordinance, with its prohibition of slavery, was not left unassailed.

All this makes a strange eventful passage of history. The enlightened civilization of the age was beginning to be felt against slavery, when its representatives turned madly round to confront the angel of light. The madness showed itself by degrees. Point by point, it made itself manifest in Congress. The slave-masters forgot morals, history, and the Constitution. Their manifold pretensions resolved themselves into three, in which the others were absorbed; first, that slavery, instead of an evil to be removed, was a blessing to be preserved; secondly, that the right of petition could not be exercised against slavery; thirdly, that in all that concerns slavery State Rights were everything, while National Rights were nothing. These three pretensions entered into Congress, like so many devils, and possessed it. The first broke forth in eulogies of slavery and even in blandishments for the slave trade. The second broke forth in the "Atherton gag," under which the honest, earnest petitions, from the national heart, against slavery, even in the District of Columbia, were tabled without reference, and the great right of petition, promised by the Constitution, became a dead letter. The third, beginning with the denial of the power of the Nation to affix upon new States the perpetual condition of Human Rights, broke forth in the denial of the power of the Nation over slavery in the Territories or anywhere else, even within the national jurisdiction. These three pretensions all had a common origin, and one was as offensive and unreasonable as the other. The praise of slavery and the repudiation of the right of petition by the enraged slave-masters was not worse than the pretension of State Rights against the power of the Nation to prohibit slavery in the national jurisdiction, or to affix righteous conditions upon new States.

The first two pretensions have disappeared. These two devils have been cast out. Nobody dares to praise slavery; nobody dares to deny the right of petition. The third pretension has disappeared, only so far as it denied the power of the Nation over slavery in the Territories; and we are still doomed to hear, in the name of State Rights, the old cry against conditions upon new States. This devil is not yet entirely cast out. Pardon me if I insist upon putting the national rights over the Territories and the national rights over new States before their admission in the same category. These rights not only go together; but they are one and the same. They are not merely companion and cognate; but they are identical. The one is necessarily involved in the other. Prohibition in the Territories is prolonged in conditions upon new States. The Ordinance of 1787, which is the great example, asserts the *perpetuity* of all its prohibitions; and this is the rule alike of law and statesmanship. Vain were its prohibitions, if they fell dead in presence of the State government. The pretension is too irrational. The Missouri act takes up the rule asserted in the Ordinance, and declares that, in certain territories, slavery shall be prohibited *forever*. A territorial existence, terminating in a State government is a short-lived *forever*. Only by recognizing the power of the Nation over the States formed out of the Territory can this *forever* have a meaning above the prattle of childhood or the vaunt of Bombastes.

The whole pretension against the proposed condition is in the name of State Rights; but it cannot be doubted that it may be traced directly to slavery. Shall the pretension be allowed to prevail, now that slavery has disappeared? The principal has fallen; why preserve the incident? The wrong guarded by this pretension has yielded; why should not the pretension yield also? Asserting as I now do the validity and necessity of the proposed condition, I would not seem indifferent to the rights of the States in those proper spheres

appointed for them. Unquestionably States have rights under the Constitution, which we are bound to respect; nay more, which are a source of strength and advantage. It is through the States that the people everywhere govern themselves, and our Nation is saved from a central domination. Here is the appointed function of the States. They supply the machinery of local self-government for the convenience of life, while they ward off the attempts of an absorbing imperialism. *But there can be no State Rights against Human Rights.* Because a State, constituting part of a Nation dedicated to Human Rights, may govern itself and supply the machinery of local self-government, it does not follow that such a State may deny Human Rights within its borders. State Rights, when properly understood, are entirely consistent with the maintenance of Human Rights by the Nation. The State is not humbled when it receives the mandate of the Nation to do no wrong; nor can the Nation err when it asserts everywhere within its borders the imperialism of Human Rights. Against this righteous supremacy all pretensions of States must disappear as darkness before the King of Day.

The song of State Rights has for its constant refrain the asserted *Equality of the States*. Is it not strange that words so constantly employed, as a cover for pretensions against Human Rights, cannot be found in the Constitution? It is true, that by the laws of nations, all sovereign States, great or small, are equal; but this principle has been extended without authority to States created by the Nation and made a part of itself. There is but one active provision in the Constitution which treats the States as equal, and this provision shows how this very Equality may be waived. Every State, large or small, has two Senators, and the Constitution places this Equality of States under its safeguard by providing that "no State without its consent shall be deprived of its equal suffrage in the Senate." But this very text contains what lawyers might call a "negative pregnant," being a negation of the right to change this rule, with an affirmation that it may be changed. The State with its consent may be deprived of its equal suffrage in the Senate. And this is the whole testimony of the Constitution to that Equality of States, which is now asserted in derogation of all compacts or conditions. It is startling to find how constantly the obvious conclusions from the text of the Constitution have been overlooked. Even in the contemplation of the Constitution itself, a State may waive its equal suffrage in the Senate, so as to be represented by a single Senator only. Of course, all this must depend on its own consent, in concurrence with the Nation. Nothing is said of the manner in which this consent may be given or accepted by the Nation. But if this important limitation can in any way be made the subject of agreement or compact, pray, sir, where will you stop? What other power or prerogative of the State may not be limited also, especially where there is nothing in the Constitution against any such limitation? All this I adduce, simply by way of illustration. There is no question now of any limitation in the just sense of this term. A condition in favor of Human Rights cannot be a limitation on a State or on a citizen.

If we look further and see how the senatorial equality of States obtained recognition in the Constitution, we shall find now occasion to admire that facility which has accorded to this concession so powerful an influence; and here the record is explicit. The National Convention had hardly assembled, when the small States came forward with their pretensions. Not content with suffrage in the Senate, they insisted upon equal suffrage in the House of Representatives. They had in their favor the rule of the Continental Congress and also of the Confederation, under which each State had one vote. Assuming to be independent sovereignties, they had also in their favor the rule

of International Law. Against these pretensions the large States pleaded the simple rule of justice; and here the best minds concurred. On this head the debates of the Convention are interesting. At an early day, we find Mr. Madison moving that "the equality of suffrage established by the Confederation ought not to prevail in the National Legislature." This proposition, so consistent with reason, was seconded by Gouverneur Morris, and according to the report "being generally relished," was about being adopted, when Delaware, by one of her voices on the floor, protested, saying, that, in case it were adopted, "it might become the duty of her delegates to retire from the Convention." Such was the earliest cry of secession. Gouverneur Morris, while observing that the valuable assistance of these delegates could not be lost without real concern, gave his testimony, that "the change proposed was so fundamental an article in a National Government, that it could not be dispensed with." (*Elliott; Debates*, vol. 5, p. 135.) Mr. Madison followed by saying very justly that "whatever reason might have existed for the equality of suffrage when the Union was Federal among sovereign States, it must cease, when a National government should be put in its place." Franklin, in similar spirit, reminding the Convention that the equal suffrage of the States "was submitted to originally under a conviction of its impropriety, inequality, and injustice." (*Ibid.*, p. 181.) This is strong language from the wise old man; but very true. Elbridge Gerry, after depicting the States as intoxicated with the idea of their sovereignty, said that "the injustice of allowing each an equal vote was long insisted on; that he voted for it; but that it was against his judgment and under the pressure of public danger and the obstinacy of the lesser States." (*Ibid.*, p. 259.) Against these overwhelming words of Madison, Morris, Franklin, and Gerry, the delegates from Delaware pleaded nothing more than that without an equal suffrage, "Delaware would have about one ninetyth for its share in the general councils, while Pennsylvania and Virginia would possess one third of the whole;" and New Jersey, by her delegates, pleaded also that "it would not be safe for Delaware to allow Virginia sixteen times as many votes as herself." (*Ibid.*, p. 211.) On the part of the small States, the effort was for power disproportioned to size. On the part of the large States there was a protest against the injustice and inequality of these pretensions, especially in a Government national in its character. The question was settled by the great compromise of the Constitution, according to which representation in the House of Representatives was proportioned to population, while each State was entitled to an equal suffrage in the Senate. To this extent the small States prevailed, and the Senate ever since has testified to the equality of States, or, rather, according to the language of the Federalist on this very point, it has been the "palladium to the residuary sovereignty of the States." (*Federalist*, No. 43.) Thus, by the pertinacity of the small States, was this concession extorted from the Convention, in defiance of every argument of justice and equity and contrary to the judgment of the best minds; and now it is exalted into a universal rule of constitutional law, before which justice and equity must hide their faces.

This protracted and recurring conflict in the Convention is compendiously set forth by our great authority, Judge Story, when he says, "it constituted one of the great struggles between the large and the small States, which was constantly renewed in the Convention and impeded it in every step of its progress in the formation of the Constitution. The struggle applied to the organization of each branch of the Legislature. The small States insisted upon an equality of vote and representation in each branch; and the large States upon a vote in proportion to their relative importance and population. The small States at length yielded

the point, as to an equality of representation in the House; but they insisted upon an equality in the Senate. To this the large States were unwilling to assent; and for a time the States were on this point equally divided." (*1 Story, Commentaries*, Vol. 1 § 694.) This summary is in substantial harmony with my own abstract of the debates. I present it because I would not seem in any way to overstate the case. And here let me add most explicitly, that I lend no voice to any complaint against the small States; nor do I suggest any change in the original balances of our system, I insist only that the victory achieved in the Constitution by the small States shall not be made the apology for a pretension inconsistent with Human Rights. For the sake of a great cause the truth must be told.

It must not be disguised that this pretension has another origin outside the Constitution. This is in the Ordinance of 1787, where it is positively provided that any State, formed out of the Northwest Territory, "shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States in all respects." (*Hickey's Constitution*, p. 425.) Next after the equal suffrage in the Senate stands this provision with its talismanic phrase, *equal footing*. New States are to be admitted on an *equal footing* with the original States in all respects whatever. This language is strong; but nobody can doubt that it must be read in the light of the Ordinance where it appears. Read in this light its meaning cannot be questioned. By the Ordinance there are no less than six different articles of compact "forever unalterable unless by common consent," constituting so many perpetual safeguards; the first perpetuating religious liberty; the second perpetuating trial by jury, *habeas corpus*, and judicial proceedings, according to the course of the common law; the third perpetuating schools and the means of education; the fourth perpetuating the title of the United States in the soil without taxation, the freedom of the rivers as highways, and the liability of the people for a just proportion of the national debt; the fifth perpetuating the right of the States to be admitted into the Union on an *equal footing* with the other States; and then, next in order, the sixth perpetuating freedom—being that immortal condition, which is the golden bough of this mighty oak, "that there shall be neither slavery nor involuntary servitude in the said territory." Now it is clear that subjection to these perpetual conditions was not considered in any respect inconsistent with that "equal footing" which was stipulated. Therefore, even assuming that States when admitted shall be on an "equal footing" with others, there can be no hindrance to any conditions by Congress kindred to those which were the glory of the Ordinance.

To all who, borrowing a catch-word from slavery, assert the Equality of States in derogation of fundamental conditions, I oppose the plain text of the Constitution, which contains no such rule, except in a single instance, and there the equality may be waived; and I oppose also the Ordinance of 1787, which, while requiring that new States shall be admitted on an "equal footing" with other States, teaches by its own great example, that this requirement is not inconsistent with conditions of all kinds and especially in favor of Human Rights. The Equality of States on the lips of slave-masters was natural, for it was a plausible defense against the approaches of Freedom; but this unauthorized phrase, which has deceived so many, must be rejected now, so far at least as it is employed against the Equal Rights of all. As one of the old garments of slavery, it must be handed to the flames.

From this review, it is easy to see that we approach the present question without any impediment or constraint in the Constitution. Not a provision, not a clause, not a sentence, not a phrase in the Constitution can be made an apology even for the present objection. Absolutely nothing; and here I challenge reply.



Without any support in the Constitution its partisans borrow one of the worst pretensions of slavery, and utter it now as it was uttered by slave-masters. Once more we hear the voice of slavery, crying out in familiar tones, that conditions cannot be imposed on new States. Alas! that slavery, which we thought had been slain, is not entirely dead. Again it stalks into this Chamber, like the majesty of buried Denmark—"In the same figure like the king that's dead"—and then, like this same ghost, it cries out "swear," and then again "swear;" and Senators pledged to freedom take up the old pretension, and swear it anew. For myself, I insist, not only, that slavery shall be buried out of sight, but that all its wretched pretensions hostile to Human Rights shall be buried with it.

The conditions upon new States are of two classes; first, those that may be required; secondly, those that must be required.

The first comprehends those conditions, which the Nation may consider it advisable to require, before admitting a new member into the partnership of government. The Constitution, in positive words, leaves to the Nation a discretion with regard to the admission of new States. The words are: "New States may be admitted into the Union," thus plainly recognizing a latitude under which any conditions not inconsistent with the Constitution may be required, as, by a firm on the admission of a new partner. All this is entirely reasonable; but I do not stop to dwell on it, for the condition which I have at heart does not come under this head.

A fundamental condition in favor of Human Rights is of that essential character, that it must be required. Not to require it is to abandon a plain duty; so it seems to me. I speak with all deference to others, but I cannot see it otherwise.

The Constitution declares, that "the United States shall guarantee to every State in this Union a republican form of government." These are grand words, perhaps the grandest in the Constitution, hardly excepting the Preamble, which is so full of majestic meaning and such a fountain of national life. Kindred to the Preamble is this supreme obligation imposed on the United States to guaranty a republican government. There it is. You cannot avoid this duty. Called to its performance, you must supply a practical definition of a republican government. This again you cannot avoid. By your oaths, by all the responsibilities of your position, you must say what in your judgment is a republican government, and you must so decide as not to discredit our fathers and not to give an unworthy example to mankind. Happily the definition is already of record in our history. Our fathers gave it to us, as amid the thunders of Sinai, when they put forth their Declaration of Independence. There it stands in the very front of our Great Charter, embodied in two simple self-evident truths, first, that all men are equal in rights, and secondly, that all just government is founded only on the consent of the governed—the two together making an axiomatic definition which proves itself. Its truth is like the sun; blind is he who cannot see it. And this is the definition bequeathed as a frechold by our fathers. Though often assailed, even by Senators, it is none the less true. So have I read of savages, who shot their arrows at the sun. Clearly, then, that is a republican government where all have equal rights and participate in the government. I know not if anything need be added; I am sure that nothing can be subtracted.

The Constitution itself sets the example of imposing conditions upon the States. Positively it says, no State shall enter into any treaty, alliance or confederation; no State shall grant letters of marque or reprisal; no State shall coin money; no State shall emit bills of credit. Again, it says, no State shall, without the consent of Congress, lay any duty of tonnage, or keep troops or ships of war in time of peace. All these are conditions in the text of the Constitution, so plain and intelligible as

to require no further elucidation. To repeat them on the admission of a State would be superfluous. It is different, however, with that highest condition of all, that the State shall be republican. This requires repetition and elucidation, so as to remove all doubt of its application, and to vitalize it by declaring what is meant by a republican government.

Here I might close this argument; but there are two hostile pretensions which must be exposed; the first, founded on a false interpretation of "qualifications," being nothing less than the impossible assumption that because the States may determine the "qualifications" of electors, therefore they can make color a criterion of the electoral franchise; and the second, founded on a false interpretation of the asserted power of the States "to regulate suffrage," being nothing less than the impossible assumption that, under the power to regulate suffrage, the rights of a whole race may be annihilated. These two pretensions are, of course, derived from slavery. They are hatched from the eggs that the cuckoo bird has left behind. Strange that Senators will hatch them.

(1.) By the Constitution it is provided that "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures." On this clause Senators build the impossible pretension that a State cannot be interrupted in its disfranchisement of a race. Here is the argument. Because a State may determine the qualifications of electors, therefore it may deprive a whole race of equal rights and of participation in the Government. Logically speaking, here are most narrow premises for the widest possible conclusion. On the mere statement, the absurdity is so unspeakable as to recall the kindred pretensions of slavery, that, because commerce is lawful, therefore commerce in human flesh is lawful also. If the consequences were not so offensive, this "argal" might be handed over to consort with that of the Shakespearean grave-digger. But the argument is not merely preposterous, it is insulting to the human understanding, and a blow at human nature itself. If I use strong language it is because such a proclamation of tyranny requires it. Admitting that the States may determine the "qualifications" of electors; what then? Obviously it must be according to the legitimate meaning of this word. And here, besides reason and humanity, two inexhaustible fountains, we have two other sources of authority; first, the Constitution in which the word appears, and secondly, the dictionaries of the English language, out of both of which we must condemn the intolerable pretension.

The Constitution, where we find this word, follows the Declaration of Independence and refuses to recognize any distinction of color. Search and you will confess, that there is no word of "color" in its text; nor is there anything there on which to found any disfranchisement of a race. The "qualifications" of different officers, as President, Vice President, Senators and Representatives are named; but "color" is not among these. The Constitution, like the Ten Commandments and the Beatitudes, embraces all alike within its mandates and all alike within its promises. There are none who must not obey it; there can be none who may not claim its advantages. By what title do you exclude a race? The Constitution gives no such title; you can only find it in yourselves. The fountain is pure; it is only out of yourselves that the waters of bitterness proceed.

The dictionaries of our language are in harmony with the Constitution. Look at "qualifications" in Webster or Worcester, the two best authorities of our time, and you will find that the word means "fitness"—"ability"—"accomplishment"—"the state of being qualified;" but it does not mean "color!" It embraces age, residence, character, education and the payment of taxes—in short, all those conditions which when honestly administered are in the nature of regulation, not of disfranchisement.

The English dictionaries, most used by the framers of the Constitution, were Bailey and Johnson. According to Bailey, who was the earliest, this important word is thus defined:

(1.) "That which fits any person or thing for any particular purpose."

(2.) "A particular faculty, or endowment, or accomplishment."

According to Johnson, who is the highest authority, it is thus defined:

(1.) "That which makes any person or thing fit."

Example.—"It is in the power of the prince to make piety and virtue become the fashion, if he would make them necessary qualifications for preferment."—Swift.

(2.) "Accomplishment."

Example.—"Good qualifications of mind enable a magistrate to perform his duty, and tend to create public esteem of him."—Atterbury.

By these definitions this word means "fitness," or "accomplishment," and, according to the well-chosen examples from Swift and Atterbury, it means *qualities* like "piety" and "virtue," or like "faculties of mind," all of which are more or less within the reach of every human being, but it is impossible to extend this list so as to make "color" a quality. Absolutely impossible. Color is a physical condition, affixed by the God of nature to a large portion of the human race, and insurmountable in its character. Age, education, residence, property, all these are subject to change; but the Ethiopian cannot change his skin. On this last distinctive circumstance I take my stand. An insurmountable condition is not a qualification but a disfranchisement. Admit that a State may determine the "qualifications" of electors, it cannot, under this authority, arbitrarily exclude a whole race.

Try this question by examples. Suppose South Carolina, where the blacks are numerous, should undertake to exclude the whites from the polls, on account of "color;" would you hesitate to arrest this injustice? You would insist that such a government sanctioning such a denial of rights, under whatever pretension, could not be republican. Suppose another State should gravely declare, that all with black eyes should be excluded from the polls; and still another should gravely declare that all with black hair should be excluded from the polls, I am sure that you would find it difficult to restrain the mingled derision and indignation which such a pretension must excite. But this fable pictures your conduct. All this is now gravely done by States; and Senators gravely insist that such exclusion is proper, in determining the "qualifications" of electors.

(2) Like unto the pretension founded on a misinterpretation of "qualifications" is that other founded on a misinterpretation of the asserted power of a State to make "regulations." Listen to this pretension. Assuming that a State may regulate the elections, without the intervention of Congress, it is insisted that it may disfranchise a race. Because a State may regulate the elective franchise, therefore it may destroy it. Surely it is one thing to regulate and quite another thing to destroy. The power to regulate cannot involve any such conclusion of tyranny. To any such wretched result however urged, there is one sufficient reply, *non sequitur*.

According to the Constitution, "the times, places and manner of holding elections for Senators and Representatives shall be prescribed—each State by the Legislature thereof; but the Congress may, at any time, by law make or alter such regulations, except as to the places of choosing Senators." Here is the text of this portentous power to blast a race. In these simple words no such power can be found, unless the seeker makes the Constitution a reflection of himself. The times, places and manner of holding elections are referred to the States; nothing more; and even these may be altered by Congress. Being matters of form and convenience only, in the nature of "police," they are justly included under the head of "regulations," like the sword and

uniform of the Army. Do we not familiarly speak of a *regulation* sword and a *regulation* sash? Who will dare to say, that under this formal power of *regulation* a whole race may be despoiled of equal rights and of all participation in the Government? This very pretension was anticipated by Mr. Madison, and condemned in advance. Here are his decisive words in the Virginia Convention:

"Some States might regulate the elections on the principle of equality, and others might regulate them otherwise." \* \* \* "Should the people of any State, by any means, be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government.—*Elliot's Debate*, vol. 3, p. 347.

Thus was it expressly understood, at the adoption of the Constitution, that Congress should have the power to prevent any State, under the pretense of regulating the suffrage, from depriving the people of this right or from interfering with the principle of *Equality*.

Kindred to this statement of Mr. Madison is that other contemporary testimony, which will be found in the *Federalist*, where the irrepealable rights of citizens are recognized without distinction of color. This explicit language cannot be too often quoted. Here it is:

"It is only under the pretext that the laws have transferred the negroes into subjects of property that a place is disputed them in the computation of numbers; and it is admitted that if the laws were to restore the rights which have been taken away the negroes could no longer be refused an equal share of representation with the other inhabitants.—*The Federalist*, No. 54.

This testimony is as decisive as it is authentic. Consider that it was given in explanation and vindication of the Constitution. Consider that the Constitution was commended for adoption by the assertion, that on the termination of slavery "the negro could no longer be refused an equal share of representation with the other inhabitants." In the face of this assurance, how can it be now insisted, that, under the simple power to regulate the suffrage, a State may deny to a whole race that "equal share of representation" which was promised? Thus from every quarter we are brought to the same inevitable conclusion.

Therefore, I dismiss the pretension founded on the power to make *regulations*, as I dismiss that other founded on the power to determine *qualifications*. Each proceeds on a radical misconception. Admit that a State may determine *qualifications*; admit that a State may make *regulations*, it cannot follow, by any rule of logic, or law, that, under these powers, either or both, it may disfranchise a race. The pretension is too lofty. No such enormous prerogative can be wrung out of any such moderate power. As well say, that, because a constable or policeman may keep order in a city, therefore he may inflict the penalty of death; or, because a father may impose proper restraint upon a child, therefore he may sell him into slavery. We have read of an effort to extract sunbeams out of cucumbers; but the present effort to extract a cruel prerogative out of the simple words of the Constitution is scarcely less absurd.

I conclude as I began, in favor of requiring conditions from States on their admission into the Nation, and I insist that it is our especial duty, in every possible way, by compact and by enactment, to assure among these conditions the equal rights of all and the participation of every citizen in the government over him, without which the State cannot be republican. For the present I confine myself to the question of conditions on the admission of States, without considering the broader obligation of Congress to make Equal Rights coextensive with the Nation, and thus to harmonize our institutions with the principles of the Declaration of Independence. That other question I leave to another occasion.

Meanwhile I protest against the false glosses originally fastened upon the Constitution by slavery, and, now continued, often in unconsciousness of their origin, perverting it to the vilest uses of tyranny. I protest against that

exaggeration of pretension, which, out of a power to make "regulations" and to determine "qualifications," can derive an unrepugnant prerogative. I protest against that pretension, which would make the asserted Equality of States the cover for a denial of the Equality of Man. The one is an artificial rule, relating to artificial bodies; the other is a natural rule, relating to natural bodies. The one is little more than a legal fiction; the other is a truth of nature. Here is a distinction, which Alexander Hamilton recognized when, in the debates of the Convention, he nobly said:

"As States are a collection of individual men, which ought we to respect most, the rights of the people composing them or of the artificial beings resulting from the composition? Nothing could be more preposterous or absurd than to sacrifice the former to the latter."—*Elliot's Debates*, vol. 5, p. 258.

High above States, as high above men, are those commanding principles, which cannot be denied with impunity. They will be found in the Declaration of Independence expressed so clearly that all can read them. Though few, they are mighty. There is no humility in bending to their behests. As man rises in the scale of being while walking in obedience to the divine will, so is a State elevated by obedience to these everlasting truths. Nor can we look for harmony in our country until these principles bear unquestioned sway, without any interdict from the States. That unity for which the Nation longs, with peace and reconciliation in its train, can be assured only through the Equal Rights of All, proclaimed by the Nation everywhere within its limits, and maintained by the National arm. Then will the Constitution be filled and inspired by the Declaration of Independence, so that the two shall be one, with a common life, a common authority, and a common glory.

Mr. BUCKALEW. Mr. President, the Senator from Massachusetts, speaking at the end of a nine hours' session, when it was not likely that any other member of the Senate would occupy the floor by way of reply, characterizes the speeches that have been made by his fellow-members as the echo of slavery, as a retelling over of the former utterances of what he has so often described as a fell and diabolical spirit. I was not aware that the question of human servitude had entered into this debate in any of its stages, or that it was directly involved in any of the questions which have been undergoing debate. As, however, three fourths of the speaking upon this bill has been by gentlemen in political accord with himself, I suppose his criticisms are directed to his own side of the Chamber and to his own political associates rather than to this side of the Chamber and to those who agree with me in opinion. If his political associates are agreed that he shall lash them as the retailers of former slavery cries, certainly I am content; but I think it a grievance to all that we should have repeated over again arguments that are perfectly familiar not only to the Senate but to the people of the country, and arguments which, in my judgment, have been answered in the Senate and out of the Senate, and successfully answered, whenever they have been made.

I allude particularly to two points of the Senator's speech which, so far as I can discover, are the only ones that have a direct bearing upon the questions which have been discussed pending the consideration of this bill. First, he insists that the ordinance of 1787 is a precedent and an authority for imposing the fundamental conditions that have been placed in this bill, and for imposing any other fundamental conditions similar to them which we may choose to introduce into this or into any other bill, whether for the admission of a new State or for the readmission to representation of an old one. Mr. President, the ordinance of 1787 was made before our Government was created. It was made under political institutions which died out, under a form of government which was superseded by that under which we live, and its application to the Northwestern Terri-

tory, so far as the United States is concerned, was during the territorial condition and before the Territory was organized into States; and never, in the legislation of Congress, or in the practice of the country, or in the accepted opinions of our public men, was it proclaimed or understood that Congress could impose any condition whatever upon the several States which were carved out of that Northwestern Territory and which now constitute honored and powerful members of the American Union.

Mr. YATES. The Senator will remember that the ordinance of 1787 was reaffirmed by the First Congress after the adoption of the Constitution, and that afterward, when this Territory was formed into States, the States were admitted containing provisions in their constitutions saying that they were consistent with the ordinance of 1787.

Mr. BUCKALEW. Certainly it was competent for the people of the Northwestern Territory to put such provisions in their constitutions.

Mr. YATES. But I say the ordinance of 1787 was reaffirmed by the First Congress.

Mr. BUCKALEW. I am coming to that in a moment. Certainly it was competent for the people of the Northwestern Territory to insert such a condition in their fundamental law when they came to make it; and taking one view of congressional power with reference to the Territories, it was competent for the United States to impose, as a new proposition entirely, such a condition or such a law upon the people in their territorial condition. There is a distinction which is not sometimes drawn by gentlemen in considering this subject. There is a material difference between admitting a State upon a condition which expends itself at the time, which simply leads to the act of Congress, and imposing, or attempting to impose, a condition which shall bind the sovereignty of the State in future time; which shall tie up its hands, and prevent it from the performance of an act of sovereignty which is possessed and may be exercised by all the other States that constitute the American Union.

The objections to fundamental conditions are objections leveled at those of the latter character. As I stated the other day, I see no strong objection to admitting a State upon the condition that nothing in her constitution, nothing in her political institutions, shall contravene the Constitution of the United States. I see no objection when she is admitted to giving her notice that as to anything contained in her frame of government contrary to the letter or spirit of the Constitution of the United States, it shall be held void, it shall not be sustained or respected by the Government of the United States, either in its legislative or judicial departments, in all future time. Such was the nature of the condition imposed in the Missouri case, as I explained the other day.

But these modern fundamental conditions which are now creeping into our public statutes, and which will multiply in number, doubtless, in future, and be the subject, possibly, of much national disturbance and difficulty, are of a very different character. They are attempts to mold the political institutions of the States that are to apply for admission or for representation, according to the opinions, the passions, or the party interests of the hour. They are attempts to curb, to limit, to regulate, and to mold the sovereignty of particular States, and to place them in this Union upon grounds of inequality in comparison with all the other States which compose the Union.

I go back, sir, to the point with which I began, that the argument of the Senator from Massachusetts, based upon the ordinance of 1787, is entirely inapplicable to the case now before the Senate, the question of the renewed representation of the States of the South.

The Senator from Massachusetts, in the next place, repeats over again, for the twentieth time perhaps, his argument upon that clause of the Constitution which declares that the United States shall guaranty to every State

in the Union a republican form of government. He insists again that under this provision of the Constitution any State which excludes a portion of its people from the right of suffrage does not possess a republican form; and hence, in certain cases at least, it is proper for Congress to interpose and to so control the State, to so shape her political institutions that suffrage shall be as extensive at least as the male adult population of the State. I need not stop to inquire whether he applies this principle properly. I need not stop to inquire whether in the votes he and others who think with him are giving upon the reorganization of these States, they are applying this principle in practice. Do they not know, and does not the country know, that while these warm words are upon their lips, while they are proclaiming the nature of this provision of the Constitution and insisting that it is without limitation, that it must command provisions including the whole male adult population, they are voting for bills, and by their votes passing bills to reorganize States with a disfranchisement of a quarter of a million of those who were formerly electors or qualified under former laws? Is not this an astonishing spectacle, a most surprising difference between argument and conduct, between the theories and reasonings upon which our action is invoked in favor of these bills and the character of the bills themselves?

But, sir, the whole argument is refuted by referring to a single authority. I suppose there is no authority known in our political history so commanding, so respectable, and so weighty as that of Mr. Madison. The Senator from Massachusetts himself has referred to that great character, and by citations from him has attempted to sustain some of his positions taken in the very elaborate essay that he has read to the Senate. Mr. Madison said that those words in the guarantee clause of the Constitution—securing to each State a republican form of government—were to be construed with reference to the forms of State government which existed when the Constitution was made; and how obvious that is when the proposition is stated. Words referring to forms of State government and guaranteeing their existence in all future time by the supreme power of the United States must attach themselves to forms which were then in existence, and under which the Constitution itself was made; and we know that at that time in every one, or in nearly every one, of the States which formed the Union and afterward composed it, there was this very disqualification of a portion of the population against which the Senator from Massachusetts now levels his argument, and against which he cites this very clause of the Constitution as furnishing a conclusive argument.

Isay to him, then, that in none of the frequent occasions on which I have listened to him upon this guarantee clause of the Constitution, has he suggested an answer to this conclusive argument made by Mr. Madison early in the history of the Government, and no man has heard from any other quarter an answer to it. It is absolutely conclusive unless you take some principle of progression into your minds and attempt to construe a Constitution adopted in 1787 according to new impressions and new ideas in 1868, and cause your fundamental law now to bear a meaning entirely different from that which it bore when it was first established.

As to the other parts of the Senator's speech reciting facts in the history of the Government, and particularly citations which have been introduced frequently before in debate, I shall say nothing.

We have come to the end of this debate, and I understand that this bill is to be passed, to be sanctioned, at least by a vote of the Senate, and to be sent to the House of Representatives for its concurrence in the amendments which we have adopted. Now, what is this bill? A few words upon that and I shall close. It is a bill to admit these States to renewed representation. We have already admitted two of the

original eleven engaged in the rebellion. Tennessee was admitted soon after the termination of the great struggle, and recently we have passed a bill for the renewal of representation to Arkansas. Six are now to be added, and I believe there are three with reference to which no action has yet been taken in Congress, but in regard to which action may be expected hereafter.

What is this bill? It is to sanction a reorganization of the southern States, or of a majority of them, upon two principles: first, that the entire adult negro population shall vote not only at the first election which shall give the new political institutions of the State their form, but in all subsequent elections so long as the constitution of the State remains unchanged; and to render this principle permanent and to secure it against any change of public opinion you incorporate in your law what you call fundamental conditions. You are not content to exercise your powers for the present time alone. You now command the field of action. You hold a vote in the two Houses of Congress which renders you, so far as the enactment of laws in this Government is concerned, supreme. For the time being your will dictates law to the United States. But you are not satisfied with this. You propose to take from the men of future times the power and authority to change your work, at all events, in those States of the South which are concerned in your present legislation. You propose to reach out your hands from these Halls in which you sit as the Representatives of the people and of the States into the States of the South, and to stamp upon the constitutions of those States, upon their local frames of government, an impress of your will which shall remain unchangeable in all future time by any voluntary action of the political communities in which those constitutions are established. And why do you do this? You do this, sir, in order to secure to the colored adult men of the South not the right of suffrage for the moment, nor as an experiment of their capacity in free government, but to secure it to them against the shifting and changing opinions of future times, against the experience of future times, against any possibility that it shall be narrowed and made to conform to the experience and necessities of those States as they may be developed hereafter. This is very extraordinary legislation, the like of it unknown at least in our own history, and I do not know that any example to warrant it is known in the history of any free State.

But what else do you attempt to secure by this and other bills and by prior laws? Apparently apprehensive that your new political bodies so established in the southern States will receive direction, will be to a great extent controlled by the intelligent populations that are resident there of your own race, you have proceeded from time to time to disfranchise them to a great extent, and now by this bill make firm and effectual that disfranchisement which is most proscriptive and intolerant. Such is the character of this measure considered in connection with the measures which have preceded it, and of which it is the culmination.

Now, sir, can any one doubt your object? Perhaps you have not avowed it to yourselves. You may have shrunk back from the self-acknowledgment of the truth. But what is the truth? It is that to a great extent all this has been done and this crowning measure is to be passed, in order that you may retain that power in the Government of the United States which you now possess, in order that that which you have grasped by the consent of the people and under peculiar circumstances in our political history, you shall hold firm in the future; that your power shall not be torn from you by public disapprobation; that by majority votes in those States which you represent, you shall not be removed from that position of authority and of dominating influence which you hold in the Government of the United States. Is not that

your purpose? Does it not inspire your conduct? Does it not lie behind all these your acts and speak them into being? Does it not infuse into your conduct that energy and zeal by which it is characterized? Does it not touch the tongue of the Senator from Massachusetts as with a coal of fire? Does it not keep us here at an untimely hour of the night to press through its last stages this bill?

I hold, and at least one half of the population of the States represented in Congress hold, that your body of reconstruction laws are invalid; that they are without warrant of authority in the fundamental law. You have taken from the Supreme Court the power to pass judgment upon them. You have withdrawn a case which would have elicited the opinion of that court suddenly from its jurisdiction, and prevented a decision upon the validity of your laws.

Mr. President, what are we to expect in the future? Will this work of yours stand? You say yourselves it will not stand investigation in court and a judicial judgment. You have said so by your conduct. You know that at least half the people represented in Congress are firmly and strongly against it, for they have said so within the last twelve months in most emphatic language. You cannot question the fact. How is your work to stand in the future, the work of which this bill is supposed to be the guarantee of security and endurance? I will tell you, Mr. President, how it may stand. I will state to you the foundation upon which alone it can stand. It is the acquiescence and acceptance of the people of the southern States. You may denounce them as rebels; you may paint in warm and glaring colors all of evil and of wrong that they have committed against you and against the Government of their country; you may speak of them as you please; this work of yours cannot and will not stand unless they accept it, unless they acquiesce in it, and agree to live under it and uphold it in the future. Humanity may be pressed down under the iron weight of political power; but there is in it a recuperative energy which will lift it superior to all the political bonds with which you may attempt to shackle it; and in our country there is yet enough left of republican forms, there is yet enough left of organized popular power, to peacefully break into pieces the bonds with which you would bind the people. It will not be necessary to resort to revolution, to appeal to force, in order to obtain political redress.

Sir, your work will have security and a guarantee of future existence when it is accepted, and accepted truly and heartily by the people of those States with which your legislation is concerned. That is the only true security, the only firm guarantee which you can possibly have.

Sir, what is the result? What are your elections worth if they are to be carried by this colored vote of the South counted fully while a quarter of a million of white voters are disfranchised and excluded from the right of suffrage? What is your election worth if it is to be carried by votes cast at elections under the control which is established by these reconstruction laws, elections which will be tainted, corrupted, and loaded down with fraud? These first ones are cursed and tainted by it largely; and when the political passions and corrupting influences of the present year come to hear fully upon those southern elections, it is quite likely that they will become one of the scandals of the earth. Will you be able to maintain an election carried by those votes? Sir, you will not.

Therefore, I repeat to you what I stated on a former occasion when debating another subject: you are to go to the people of the adhering States with your case, with this bill, and with the laws which have preceded it; you are to submit to them your policy, your statutes, your conduct. If they give you a quittance and uphold you, there will be complete acquiescence by your political opponents represented in Congress. But let me assure you, sir, that



all those expectations which gentlemen indulge of ruling this country by colored suffrage will be utterly vain and fruitless. The States that stood by the Government of the United States when the war broke out, and stood by it through the war, and now hold power in the Congress of the United States have the moral as well as the legal right to determine the result of the presidential election of 1868, and it will not be possible to supplement or overrule their judgment by these vicious organizations attempted to be set up in the South by your reconstruction laws against the will of those who comprise the intelligence of those States, and hold in their hands the property of those States.

I think, sir—and with this point I will conclude—if I were to go from my own position and place myself in yours, that the wisest thing that could be done by Congress, taking into account the existing situation of our country and the present posture of our public affairs, would be to make provision for the temporary preservation of order in the States of the South during the present year, and to hold the presidential election without reference to them, in the States represented in Congress, and in those States only. We would thus avoid an immense amount of expense, a great amount of excitement and disturbance and scandal in the country, and possibly much of evil in the future.

We know that the old State organizations set up by the people themselves disappeared after the war. They were replaced by State governments set up on the invitation of the President of the United States. Those Congress refused to acknowledge, and they have gone aside; they have almost disappeared from the scene. Now, Congress by its law, by an exercise of its authority alone, in hostility to that of the President of the United States, in hostility to the opinions of a large part of the people of the represented States, and in contempt of the rights, opinions, interests, and passions of a large portion of our own race in the southern States, is attempting to set up a system of governments of its own. These are all to be congressional States. Do we not know that the Arkansas constitution will stand, if at all, upon the law of Congress, having been rejected at home? Do we not know that you put in this bill the State of Alabama as a congressional State after the constitution had been rejected under the law in that State? And do we not know that the constitution of every one of these other States stands for its validity upon the legislation of Congress, enfranchising the one race and disfranchising the other? Do you expect the people of the country to accept this system, and not merely to accept it for the time being as a thing not to be helped, but to accept it as the controlling element of political power in the Government of the United States? There is the point. These laws are pressed in the particular form which they assume because it is sought to obtain an element of political power from the States of the South, which shall subserve the interests of party and enable you to maintain control of this Government in the future.

I know that my opinions and advice are likely to go for little in influencing the result upon this bill; but I must repeat that if I were standing in the situation in which the majority in Congress stand, if I held the position which they hold, instead of attempting to rush these States into the presidential election with all the evils and mischiefs that will be attendant upon such a policy, having already delayed their reorganization and their reëntance into the two Houses of Congress, I would postpone their rehabilitation until the elections of the present year had been held in the adhering States.

Mr. President, I regret that I have detained the Senate so long at this late hour. I had no intention of speaking at length. I regret, also, that under the circumstances I am not able and that it would be ungracious to proceed and state the whole argument which ought to be made

against this bill before it passes into an enactment. I have said thus much in response to the Senator from Massachusetts and in regard to the policy of this scheme of legislation, because I thought that some answer to his remarks, and some further words of hostility to the bill, would be timely and proper notwithstanding the lateness of the hour and the impatience of the Senate.

The PRESIDENT *pro tempore*. The question is on the passage of the bill.

Mr. WILSON. I ask for the yeas and nays on that question.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered.

Mr. MORRILL, of Vermont. Mr. President, I desire to occupy the attention of the Senate for but a single moment in consequence of the speech of the Senator from Massachusetts. With the fore part of that speech, in relation to the ordinance of 1787, and with all the encomiums that he passed upon it, and quoted from Daniel Webster, Chase, and others, I cordially agree. With his definition of qualifications and regulations, and the sentiments he uttered on these subjects, I cordially agree. But when the Senator announced that he had got some new matter, never before presented, I listened with interest, as I always do to whatever he has to say; and I was a little surprised to find that it was one of the slogan cries of a former Democratic member of the House of Representatives from Ohio.

Mr. SUMNER. Who was it, pray?

Mr. MORRILL, of Vermont. Vallandigham. [Laughter.] Its whole tendency was to raise a prejudice against the equality of representation here in the Senate. Now, Mr. President, I have always supposed that this Government was a Government of checks and balances. If the Senator had referred to the same illustrious personage from whom he quoted in commendation of the ordinance of 1787—Mr. Webster—I think he would have discovered that this Government was not considered by that high authority a pure democracy, but a representative Government, and a Government of checks and balances. Sir, that very feature, which I am sorry to say has received from the Senator from Massachusetts a blow this night, by calling attention to its injustice, has always been regarded as one of the most admirable features in our Government. If it were possible for other nations to copy our Government in this respect, there is no question that we would have proved more of a model Government in fact than we are at the present time. All publicists that I have read on the subject have so intimated. Take France, or England, or any of the continental nations; it is the utter impossibility of their having a body like this, based in any respect upon independent States as a check and balance upon the popular branch of the Government, that prevents the spread of American republicanism there at this day.

Sir, this cry that there is some injustice in having unequal representation on the part of the States would bring us to the position that we should occupy if we had but one representative body. In my opinion, it may fairly be regarded as the very safeguard of the Republic—security for its lasting perpetuity—that we have this body and that we have equal representation in the Senate.

The Senator quoted from the Constitution that this equal representation of the States in the Senate might be changed by the consent of the States themselves. I will not characterize that argument. I do not see its strength. Is it to be supposed that that provision is likely to be construed into a permission to change it? You might as well expect to get the permission of a man that you should hang him as to expect that the States themselves will surrender any such provision as that. It has always been regarded as a permanent, immovable, fixed provision of the Constitution. Without it the Union could not have been established, and it is as much for the benefit of large States as small. No states-

man, no commentator on the Constitution that I have ever seen has ever regarded it differently. But, sir, at this late hour I do not desire to detain the Senate.

The PRESIDENT *pro tempore*. The question is on the passage of the bill, upon which the yeas and nays have been ordered.

Mr. SHERMAN. I desire to state that I was requested by the Senator from Kentucky [Mr. DAVIS] to announce that he had paired off with the Senator from Indiana, [Mr. MORRISON.] The Senator from Kentucky, if present, would vote against the bill and the Senator from Indiana for it.

Mr. VAN WINKLE. I desire to state that I have paired off with the Senator from Indiana, [Mr. HENDRICKS,] who, if present, would vote against the bill, while I would vote in favor of it.

Mr. RAMSEY. My colleague [Mr. NORTON] is confined to his room by sickness, and he desired me to say so to the Senate in explanation of his absence.

Mr. WILLEY. The Senator from Delaware [Mr. SAULSBURY] and myself agreed to pair off on this subject. If he were here he would vote against the bill and I for it.

The question being taken by yeas and nays, resulted—yeas 31, nays 5; as follows:

YEAS—Messrs. Anthony, Cameron, Chandler, Cole, Conkling, Connors, Cragin, Drake, Ferry, Frelinghuysen, Harlan, Howard, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomeroy, Ramsey, Ross, Sherman, Stewart, Sumner, Thayer, Tipton, Trumbull, Wade, Williams, Wilson, and Yates—31.

NAYS—Messrs. Bayard, Buckalew, McCreery, Patterson of Tennessee, and Vickers—5.

ABSENT—Messrs. Cattell, Corbett, Davis, Dixon, Doolittle, Edmunds, Fessenden, Fowler, Grimes, Henderson, Hendricks, Johnson, Morton, Norton, Saulsbury, Sprague, Van Winkle, and Willey—18.

So the bill was passed.

Mr. TRUMBULL. The title of the bill should now be amended by inserting Florida.

The title of the bill was amended to read, "A bill to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress."

Mr. YATES. Mr. President, I move that the Senate now proceed to the consideration of Senate bill No. 11, being a bill to admit the State of Colorado into the Union.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

WEDNESDAY, June 10, 1868.

The House met at twelve o'clock m. Prayer by Rev. LEON PILATTE, of Nice, France.

The Journal of yesterday was read and approved.

### INCREASED DUTIES ON IMPORTS.

Mr. MOORHEAD, by unanimous consent, from the Committee of Ways and Means, reported a bill (H. R. No. 1211) to increase the revenue from duties on imports and tend to equalize exports and imports; which was read a first and second time, ordered to be printed, and recommitted to the committee.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was re-committed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

### GOVERNMENT BUILDING AT PITTSBURG.

Mr. MOORHEAD also, by unanimous consent, offered the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of the Treasury be directed to report to this House the condition of the Government building used at Pittsburg for custom-house, post office, United States court-room, pension office, Ohio river improvement office, steamboat inspector's office, &c., and its adaptability for all these purposes, and make such suggestions and recommendations as he deems proper and as the public service may require.

### REMOVAL OF DISABILITIES.

Mr. PAINE. I am directed by the Committee on Reconstruction, to whom were referred two several petitions for the relief of

disabilities of citizens of the State of Arkansas, to report a bill (H. R. No. 1212) for the relief of certain citizens of Arkansas of disabilities.

The bill was read a first and second time, and the question was on ordering it to be engrossed and read a third time.

The bill proposes to enact (two thirds of each House concurring therein) that the several persons named therein, citizens of Arkansas, be severally relieved from all disability imposed upon them or either of them by the act passed March 2, 1867, entitled "An act to provide for the more efficient government of the rebel States" and the acts supplementary thereto; and the amendment to the Constitution of the United States known as article fourteen; namely, William M. Harrison, of Drew county; and James R. Berry, of Pulaski county.

Mr. PAINE. I will ask the previous question on the bill.

Mr. MILLER. I should like to know who the parties are.

Mr. PAINE. One of these gentlemen is judge-elect of the supreme court of the State of Arkansas, and the other is the auditor-elect of that State. Both of them come to us with perfectly satisfactory indorsements and recommendations, and we therefore advise that they be relieved from disabilities, so as to aid in setting in motion the State government of Arkansas.

Mr. MILLER. I would ask if these men took an active part in the rebellion?

Mr. PAINE. They were sufficiently implicated in the rebellion to render it necessary for them to be relieved by act of Congress.

Mr. MULLINS. Were they officers in the rebel army?

Mr. PAINE. I believe neither of them was an officer in the rebel army.

Mr. MULLINS. What positions did they occupy?

Mr. PAINE. Does the gentleman ask what positions they now occupy?

Mr. MULLINS. No; what positions did they occupy in the rebel cause?

Mr. PAINE. I cannot now state. We have been informed, but the information was laid before us some time ago, and I forget the precise offices they held. I believe they held civil offices during the rebellion. It is certainly necessary that they should be relieved in order that they may hold the offices to which they have recently been elected.

Mr. MULLINS. I would ask if they held any offices which required them to take an oath to support the Government of the United States and afterward went voluntarily into the rebellion?

Mr. PAINE. I cannot now answer with certainty. But if they did, then this is precisely the case designed to be provided for by a bill of this kind requiring the consent of two thirds of both Houses of Congress.

Mr. MULLINS. What I desire is that the House shall know the facts as to their complicity in the rebellion, and as to their subsequent repentance of their fault.

Mr. PAINE. I have no doubt, from the information I have received, that they were implicated in the rebellion far enough to render it necessary that they should be pardoned through this bill.

Mr. WASHBURN, of Illinois. I desire to know if it is the wish of the loyal men of Arkansas that this bill shall pass?

Mr. PAINE. It is the earnest wish of the representatives of that State now in Washington. They have been constantly importuning the committee to press this bill to a vote.

Mr. GARFIELD. Do gentlemen expect that we will ever be called upon to pass any bill of this character, on such conditions as make it absolutely unnecessary to pass it? From the questions put to my friend from Wisconsin, I should suppose that gentlemen wanted him to show that these men were entirely innocent of anything that would render necessary the passage of a bill for their relief. It strikes me that the very fact that they were

not without offense in the past makes this bill necessary. I am sure that those who desire to restore the rebel States safely, and as speedily as possible, will, whenever the committee have fully examined a case and reported a bill like this, be willing to sustain the committee. I wish to say, moreover, that, so far as I know, the men who fought against the rebellion in the field are among those who are most willing to bring back into the privileges of citizenship all who are sincerely desirous of aiding to build up what they once attempted to destroy. General Scott made an observation in 1861 or 1862 which, I think, is worthy to be remembered. I do not repeat it with reference to any persons here, but as a sentiment applicable to the tendency we observe in some quarters to nurse our vengeance against all who went into the rebellion. General Scott said, that "when this war should be ended, it would require all the force of the nation to restrain the fury of the non-combatants." I think that we ought, without any unnecessary delay, to let all these people in who give sufficient evidence of a genuine purpose to stand by the Union, and I am sure that those who have been in the Army will be the first to assent to this policy.

Mr. PAINE. I will make one single statement, and then I will ask for the previous question. My statement is this: we have been fully informed as to the positions held by these gentlemen; but the facts were stated to us so long ago, and so many other men have been brought before the committee, that I forget the precise positions held by these gentlemen. But the evidence before the committee that these men are entitled to relief is entirely satisfactory to the committee. And I believe there is no objection on the part of any gentleman of the committee to this particular bill. I think I am not mistaken on this point.

Mr. MAYNARD. I desire to say a word or two before the previous question is called.

Mr. PAINE. Very well.

Mr. MAYNARD. The gentleman says that in the opinion of the committee these men ought to be relieved. That is not giving us any information. The fact that the committee report the bill and recommend its passage declares all that.

Now, what I desire, and I suppose that is what the House desires, is to know upon what principle the committee have acted, to know what is their reason for thinking that these men ought to be relieved. I do not say I am not in favor of the bill, or that I will not vote in favor of it when I understand it. But I do think that in legislation as important as this, the principle of which is to run through an immense number of individual cases, we ought to establish some general principle of action, and not to act on mere caprice, not to let kissing go by favor, or the want of it by disfavor. I have no doubt the gentleman thought and the committee thought these men ought to be relieved, or they would not have reported the bill. But I submit that they ought to tell the House the grounds of their action.

Mr. FARNSWORTH. Will the gentleman from Tennessee [Mr. MAYNARD] indicate to the House some principle upon which the committee ought to act?

Mr. MAYNARD. No, sir; I will do no such thing. I am not called upon to do any such thing. If I was on a committee which was charged with that responsibility I would do it, and do it most cheerfully; and I should think I was very short of my duty if I failed to do so.

Mr. PAINE. I must resume the floor.

Mr. STEVENS, of Pennsylvania. Will my colleague on the committee [Mr. PAINE] yield to me for a few moments?

Mr. PAINE. Certainly.

Mr. STEVENS, of Pennsylvania. I would say to the gentleman from Tennessee, [Mr. MAYNARD], and to the House, that the general rule we have adopted in these cases is to take the recommendation of the convention that framed the constitution with which the State

comes here. In this case we have, beside the recommendation of the convention, the recommendation of the Republican committee of that State, upon which we place great reliance. As a general rule we act upon the recommendation of the convention forming the State constitution.

Mr. PAINE. I will now answer the gentleman from Tennessee, [Mr. MAYNARD], and I will be obliged to any gentleman in this House who takes an interest in this bill if he will listen to what I say. In the first place we had the recommendation of the constitutional convention of Arkansas, which came to us in a documentary form. Now, although that is a strong recommendation, and ought to be regarded by this House if it stood alone, we had in addition the knowledge of the fact that these men had been elected by the people of Arkansas to hold the office, one that of State auditor, and the other that of judge of the supreme court of that State. In addition to that evidence we had the verbal assurance of the entire Arkansas delegation at this Capitol, who, in repeated personal interviews with the committee, assured us that although these men had been implicated in the rebellion they were now entirely loyal in their sentiments, were devoted to the Union, and if relieved from their disabilities would, as they were perfectly competent, prove to be loyal and valuable citizens of the United States.

Now, it seems to me that it would be impossible for the Committee on Reconstruction ever to have an accumulation of evidence stronger than they have in this case; and if my friend from Tennessee [Mr. MAYNARD] shall ever require anything more from the Committee on Reconstruction or from this House than a recommendation of the constitutional convention of the State, backed up by the votes of the people of the State, and also by the personal assurances of the entire congressional delegation—representative and senatorial—of that State, then I do not see how he can obtain it.

Mr. MAYNARD. I want to say to the gentleman that his statement is satisfactory. I can take his speech now, and go before the country and sustain my vote for this bill.

Mr. PAINE. I am glad the gentleman from Tennessee is satisfied.

Mr. MILLER. I am told that one of these men was appointed by Mr. Lincoln in charge of the land office in that State, and afterward handed it over to the rebels.

Mr. PAINE. I have never heard of any such thing. But if it was so, this is precisely the bill they need.

Mr. MILLER. I hope the gentleman will tell us what positions they did hold.

Mr. PAINE. I did know, but it was so long ago that I have now forgotten it. I call the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The question is upon the passage of the bill, which by its terms requires a two-thirds vote.

Mr. BROOKS. Is not this vote to be taken by a division?

The SPEAKER. Does the gentleman from New York [Mr. Brooks] ask for a division?

Mr. BROOKS. No, sir; I do not.

Mr. COBURN. I call for a division.

On the passage of the bill there were—ayes 84, noes 22.

The SPEAKER. Two thirds having voted in the affirmative, the bill has passed.

Mr. PAINE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DIVISION OF THE STATE OF TEXAS.

Mr. STOKES. I ask unanimous consent to introduce a joint resolution for reference to the Committee on Reconstruction. It is entitled "A joint resolution for the admission into the Union of three more States formed out of the territory of Texas in addition to said State of

Texas, for the recession to the United States of certain outlying territory belonging to said State, and for other purposes."

Mr. BROOKS. I object.

#### POTOMAC NAVIGATION COMPANY.

Mr. WELKER, by unanimous consent, introduced a bill (H. R. No. 1213) to incorporate the Potomac Navigation Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

JOHN M. PALMER.

Mr. COBB submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (H. R. No. 218) for the relief of John M. Palmer, having met, after full and free conference, have agreed to recommend, and do recommend to their respective Houses, as follows:

That the House recede from their disagreement to the amendments of the Senate, and agree to the same.

AMASA COBB,

W. S. HOLMAN,

*Managers on the part of the House.*

W. T. WILLEY,

JOHN SHERMAN,

JUSTIN S. MORRILL,

*Managers on the part of the Senate.*

Mr. COBB. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report was agreed to.

Mr. COBB moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### AMERICAN LINE OF OCEAN STEAMERS.

Mr. ALLISON. I call for the regular order.

The SPEAKER. The first business in order during the morning hour is the bill (H. R. No. 989) to provide for an American line of mail and emigrant passenger steamships between New York and one or more European ports. This bill was reported yesterday from the Committee on the Post Office and Post Roads, and was pending at the expiration of the morning hour. The amendments reported by the committee will be read.

The amendments were read as follows:

##### First amendment:

In section one, line fourteen, strike out "twelve" and insert "twenty."

##### Second amendment:

Strike out section four, and insert in lieu thereof the following:

That to insure the construction of the above-mentioned vessels within the time and in the manner hereinbefore provided, and the maintenance of the said line, the said Commercial Navigation Company may issue bonds to such an amount that the entire annual interest thereon shall not exceed the sum of \$250,000, such bonds to be made payable at the expiration of the before-named twenty years, and the interest thereof to be made payable semi-annually, the principal and interest of such bonds to be made payable in coin of the United States. That for the protection of the holders of such bonds they shall be severally registered at the Post Office Department and certified by the chief clerk of the Department without liability for the payment of the interest or principal of said bonds upon the part of the Post Office Department only in manner as hereinafter provided. And the Postmaster General shall receive all moneys for postage earned by the steamships of said company, and shall apply the same as far as needed to the payment of the semi-annual interest upon the before-mentioned bonds, and shall retain the surplus after paying such interest, and shall invest the same quarterly in the securities of the United States to form a sinking fund, to be held solely for the benefit of the bondholders, and to be applied to the payment of the principal of such bonds. And whenever, and as soon as, such sinking fund shall equal in amount the entire principal of said bonds, then from that time forward the interest of said bonds shall be paid out of the income of such sinking fund, and the principal thereof out of the same fund at their maturity. And all postage earned after the time when said sinking fund shall be made up to the amount aforesaid shall belong to and be paid quarterly to the said company by the Postmaster General of the United States.

##### Third amendment:

In section five, lines eighteen and nineteen, strike out the words, "guaranteed bonds, including both principal and interest" and insert the following: "The before-named registered bonds, the amount of which in this event shall be paid to the holders thereof at maturity of the same."

##### Fourth amendment:

In section seven, line three, strike out "twelve," and insert "twenty."

##### Fifth amendment:

In same section, strike out all after the word, "steamships," to the end of the section, as follows:

And as a further additional security for the guaranteeing of the payment of said bonds in the event of loss of any of the aforesaid steamships, the said navigation company shall, during the continuance of said bonds, or any portion of the same, or any amount that may be due, toward the payment of said bonds, cause to be issued from time to time, policies of insurance against the dangers and perils of the sea, on each of the aforesaid seven steamers, by marine insurance companies of good standing, and made payable to the Postmaster General. The total of such policies shall be equal to the amount of bonds guaranteed and outstanding as aforesaid, and shall be to cover against loss of any and each of said steamships; and in case of loss, such amounts as may be received on said policies shall be held by the Postmaster General to the credit of said Navigation Company, but shall be payable to said company only whenever they may complete the said number of seven steamships, and have and keep them insured for the benefit of the United States as aforesaid; and in default of such insurance by said company, the Postmaster General shall have the right, and it shall be his duty, to insure the same at the expense of said company, and for the benefit of the United States.

##### Sixth amendment:

In section eight, line eleven, strike out "twelve" and insert "twenty."

Mr. PHELPS. I ask the gentleman from New Jersey to yield to me to move an amendment in the nature of an additional section.

Mr. HILL. I cannot yield now, as I desire first to make an explanation of the provisions of the bill.

The SPEAKER. The pending question is on the amendments which have just been read.

Mr. HILL. Mr. Speaker, this bill contemplates the establishing of an "American line of mail and emigrant passenger steamships between New York and one or more European ports." The Commercial Navigation Company of the State of New York propose to build at least seven first-class steamships, and when constructed shall be organized into and compose the United States mail steamship line, for proper conveyance of mails and passengers.

The bill also provides that in order that this line may be placed on a good basis, succeed, and obtain a nationality, the Postmaster General is empowered and authorized to contract with the "Commercial Navigation Company" for the weekly or semi-weekly conveyance of all European and foreign mails of the United States between New York and Bremen, touching at Southampton, England, or Liverpool, touching at Queenstown, for a term not exceeding twenty years.

That to insure the construction of the above-mentioned vessels within the time and in the manner hereinbefore provided, and the maintenance of the said line, the said Commercial Navigation Company may issue bonds to such an amount that the entire annual interest thereon shall not exceed the sum of \$250,000, such bonds to be made payable at the expiration of the before-named twenty years, and the interest thereof to be made payable semi-annually, the principal and interest of such bonds to be made payable in coin of the United States. That for the protection of the holders of such bonds they shall be severally registered at the Post Office Department and certified by the chief clerk of the Department. And the Postmaster General shall receive all moneys for postage earned by the steamships of said company, and shall apply the same as far as needed to the payment of the semi-annual interest upon the before-named bonds, and shall retain the surplus after paying such interest, and shall invest the same quarterly in the securities of the United States to form a sinking fund, to be held solely for the benefit of the bondholders, and to be applied to the payment of the principal of such bonds. And whenever, and as soon as, such sinking fund shall equal in amount the entire principal of said bonds, then from that time forward the interest of said bonds shall be paid out of the income of such sinking fund, and the principal thereof out of the same fund at their maturity. And all postage earned after the time when said sinking fund shall be made up to the amount aforesaid shall belong to and be paid quarterly to the said company by the Postmaster General of the United States.

Mr. Speaker, these are the main features of the bill, and Congress may at any time alter, repeal, or amend them.

Never was there in the history of our Government a time when the absolute requirement of a mail and emigrant steam line to Europe

was as important as now; yet, to-day, we have not one single steamship performing regular service to Europe under our flag. Foreign steamers do all our mail, passenger, and freight business, and we, the greatest Power on earth, see our Government dispatches, Government agents, mails, and passengers go to and fro to England, France, Prussia, &c., under the flag and protection of Powers who are in no case our superiors.

The Postmaster General's reports, the last six years, show that we have paid away over two million dollars for the transportation of our mails by foreigners, all of which could have been, and should have been, paid to our own people. Besides this, it is estimated that merchants and emigrants have paid out over fifty millions more for freight and passage money, all of which also went into the pockets of foreign ship-owners. This company intend these ships shall be built in this country, thus fostering American industry and giving work to our own mechanics and laborers. It is their purpose to so construct these vessels that passengers will have every possible comfort and convenience.

The manner in which emigrants are brought to our shores on foreign ships is an outrage on humanity, and ought to attract the attention not only of Congress but the whole nation. The Commissioners of Emigration of New York city, in their report in January last, state:

"That of eleven thousand two hundred and sixty-four steerage passengers who arrived in 1865 in our port from Hamburg, two hundred and twenty-eight died on the passage; of fourteen thousand three hundred and thirty-five who arrived in 1866, died on the passage three hundred and eighty-nine; and of eight thousand seven hundred and eighty-eight arrived in 1867, not less than one hundred and ninety-nine died on the passage."

They further state:

"In our opinion it is of great importance for the interest of humanity, in which both Europe and this country are concerned, and as a question of political economy, that the transportation of emigrants across the Atlantic to this port should be confined to steam vessels, as they not only convey the passengers more comfortably and land them in better health, but, in consequence of the regularity and rapidity of the passage, save an immense amount of labor for their own benefit and that of this country."

"One of the greatest sources of the nation's income in wealth and population has been the vast emigration from Europe, and it should, therefore, be protected by appropriate national legislation. Every principle of public policy looking to the welfare of the country, as well as every sentiment of humanity, demands this at the hands of Congress."

"Under the present system the emigrants are treated more like beasts of burden than like human beings, starved and crowded together in ill-ventilated, ill-fitted, ill-supplied, and ill-manned vessels. The arrival of an emigrant ship in our ports, if it does not bring disease and pestilence among us, often occasions great apprehension and alarm, disturbing the regular business of our city, and creating an indefinite prejudice against the worthy emigrant, instead of extending to him, as he truly deserves, a kind and hearty welcome."

"The Commissioners of Emigration are the trustees as well of the emigrant as of the State of New York and of the United States in general. Although appointed by the State authority for State purposes, their line of duty is not confined to the boundaries of the State, but extends over the whole country, inasmuch as they have to encourage and protect the emigrant until he reaches his new home. It would betray a narrow-mindedness, of which no member of this board is guilty, if they did not look at emigration from this national point of view. Whenever they succeed in doing away with a grievance or achieving a result favorable to the emigrants it is a national gain, and an advantage won for the whole country."

"Hence every consideration in relation to the comfort and protection of the emigrant is of a national character, and demands the serious attention of a good and enlightened statesmanship."

"FREDERICK KAPP,  
"PHILIP BISSINGER,  
Commissioners."

"NEW YORK, January 21, 1868."

The value to our country of these emigrants cannot be overlooked nor overestimated. Many thousands of good men are prevented from coming here on account of the horrors of the sea voyage in being confined in these miserable ships used for this purpose, about which there has been so much complaint of late. The Commercial Navigation Company intend to meet this difficulty and so construct their ships as to make it comfortable for emi-



grant passengers. By the introduction into this country of hundreds of thousands of emigrants who beg and desire to come over and unite with us in enjoying our liberties and blessings, once here it would not be long before they would materially aid us in paying our national debt and make us good citizens, for with their industry and frugality they would soon have their little homes dotted all over the land, as they are in many parts of my district, their occupants esteemed and respected; and I doubt not the same can be said of most of the other congressional districts. By the last census the money value to the country of every emigrant is ascertained to be \$1,080.

The State of Maine pays twenty-five dollars for every emigrant between fifteen and fifty years of age that settles in that State for one year, for the reason to encourage emigration to the State and help build it up. European emigration has done much to help build up this country and make it what it is, and should be encouraged by every means at our disposal.

Combinations have been made by the foreign lines to monopolize the American trade, and drive out all transient steamers that may be in their ports for freight and passengers; it is said that it is almost impossible for transient American steamers to get a berth at their docks, except at the extreme end of the wharf. They make their boasts on the other side of the waters, that they can run off any American line; but a line of American steamers owned by a company that is in some way indorsed by the Government could not be so easily run off, would be respected, and its rights regarded and secured.

The European Governments, most of them, foster and assist their lines of steamers, thus giving them a nationality. The Cunard line has been heavily subsidized, and receives yearly a large amount of money from their Government. The French line is largely subsidized, and has also a large loan of money from the Government. The Bremen line has a large reserved fund. The Inman line has a large number of fine steamships and quite a surplus. The Hamburg line is also well established, with a reserved fund. Against such lines an American line will have to contend at its start; but, with the knowledge to the European world that it carries the United States mail and is indorsed by the Government, it would not be long before it would be permanently established, and no doubt outstrip all other steamship lines now doing business on the great waters. Now, the Commercial Navigation Company do not ask for any subsidy from the Government; all they ask is to carry the United States mail between New York and the European ports mentioned, and the compensation to be received is the postage, in accordance with the act of January 9, 1858. It is but right that Congress should foster this enterprise, and encourage it by thus lending its aid.

By the report of the Postmaster General for the fiscal year 1865, it would appear that \$405,479 was paid to foreign steamship lines for postage of the United States mail matter to England and Europe; in 1866, \$465,979; in 1867, \$455,362.

By these reports we see how safe and secure the payment of the bonds of the Commercial Navigation Company are made by the postal money that will accumulate in the hands of the Postmaster General for the mail services performed by this company, which now, amounting yearly to nearly five hundred thousand dollars, is taken out of the country and paid into the hands of foreign ship-owners.

This large amount is received and paid out, though the rates of postage have been wisely reduced, by the exertions of the present Postmaster General, to half, or nearly half, the previous rates.

The Post Office Department and the Government are entirely dependent upon steamships sailing under foreign flags for the safe conveyance of the mails, their dispatches, diplomatic agents, and bearers of dispatches.

To one line alone of English steamships, which is fostered and assisted by the English Government, the Postmaster General, by his report, appears to have been compelled to pay for postal service for a single year, for want of American steamships, the sum of \$213,330, and the last few years nearly two million dollars. During the late rebellion it is estimated the loss of more than twenty million dollars was sustained by the ship-owners and others interested in commerce in the destruction of vessels and freights by the so-called confederate cruisers, fitted out and manned and sent to sea from England, a country whose steamships now carry the United States mails; and since the war was over this same Government have imprisoned our citizens, at least our naturalized citizens, which is contrary to the law of nations, and only a few days ago the last of these released from prison. Our natural pride should forbid this aiding and fostering lines of steamships belonging to a country who have directly and indirectly aided our enemies, and unlawfully imprisoned our citizens.

Mr. Speaker, I hope this bill will pass, its provisions be faithfully carried out, a line of steamers established that will be a credit to our country, and fully compete with any other line now in existence, being thoroughly American in build, in management, and control, and henceforth the United States mails be carried over the ocean by vessels bearing our nation's flag.

Mr. MILLER. I ask the gentleman to yield to me for a moment.

Mr. HILL. Only for a question.

Mr. MILLER. I ask the gentleman whether this bill creates any liability on the part of the Government of the United States?

Mr. HILL. It does not.

Mr. SHELLABARGER. I wish to call the attention of the gentleman from New Jersey to the last sentence in the bill. It is there provided that Congress may at any time hereafter, during the period of twenty years, and having a due regard to the rights of the said company, alter, repeal, or amend this act, and it shall take effect and be in force from and after its passage. The question I rise to ask is whether that language is intended to enable Congress or the Government at any time to terminate or abandon this long contract of twenty years. If that be the meaning of the clause I wish to suggest an amendment to make it distinct and clear. If that be not the design it seems to me this language is of no practical value, and that the bill is then one that ought not to receive the sanction of this House. The amendment I would suggest is to make the last sentence read as follows:

And Congress may, at any time hereafter during the period of twenty years, terminate or abandon any contract with said company on the part of the United States, and having a due regard to the accrued rights of the said company.

By moving this amendment I do not propose to commit myself to the bill.

Mr. HILL. I will yield to have that amendment offered, and then demand the previous question.

Mr. PHELPS. I trust the gentleman before calling for the previous question will yield to me to offer an amendment.

Mr. WASHBURN, of Illinois. A bill of this kind ought to be discussed.

Mr. HILL. I will yield to the gentleman for a moment.

Mr. WASHBURN, of Illinois. I hope the gentleman from New Jersey will permit some discussion of this bill. It is a matter of great importance, and is the initiation of a new system, one that ought not to be passed by this House without due consideration.

So far as I am personally concerned, I will say that anything I can conscientiously do for the promotion of our navigation interests I will be glad to do; but there are matters in this bill which I never could agree to. I think amendments may be suggested which perhaps the gentleman will agree to. One objection is in reference to the first section. I would like

to know whether it is the intention to retain accumulated mail matter for the purpose of being sent by this line? There is nothing in this bill which would prevent the Post Office Department from keeping back letters, which otherwise might have gone three or four days in advance, waiting for the sailing of this line.

Mr. HILL. What amendment does the gentleman from Illinois propose?

Mr. WASHBURN, of Illinois. I wish to submit to the gentleman this proviso, to come in at the end of the last section:

*Provided, That no letters or mail matter shall be detained for the purpose of being sent by this line.*

Mr. FARNSWORTH. Does not my colleague know that the Postmaster General has no right to detain any mail matter unless he is expressly authorized to do so? What is the use of this proviso?

Mr. WASHBURN, of Illinois. My colleague will understand that this very bill gives to the Postmaster General very wide authority to contract, and under it he might contract that all the letters and mail matter should be compelled to go by this line. There is certainly no objection, even if what my colleague says is true, to placing this provision in the bill.

Mr. PHELPS. Will the gentleman from New Jersey allow me a single question?

Mr. WASHBURN, of Illinois. I understand the gentleman is willing to have this amendment offered.

The SPEAKER. It will then be regarded as pending.

Mr. HILL. I have no idea that the Postmaster General can retain letters.

The SPEAKER. The Chair understands that it is allowed to be offered.

Mr. HILL. I yield five minutes to the gentleman from Ohio, [Mr. DELANO.]

Mr. DELANO. I wish to direct the attention of the House to two features of this bill. The first is that it secures to a company chartered by the New York Legislature a monopoly of the carrying of the mails for the long period of twenty years. The company has yet to enter upon the performance of that duty. The next feature is that it guarantees to that company for that period of time all the sea and inland postage. The gentleman says it gives no bonus. He is mistaken. According to his own figures it gives a bonus, at present rates of carrying the mail, for sea postage alone, of some four hundred thousand dollars per annum. Now, sir, at present it costs the Government the sea postage. But this bill proposes to add as a part of the bonus to this company, not perpetually, but for twenty years, the inland postage. I do not know what the amount now is, but I am credibly informed that it is not less than \$50,000 per annum; and who can tell what it may amount to in the expansion of this country during the next twenty years?

Mr. WINDOM. I desire to ask a question at this point. I understand the gentleman to say that this bill gives a bonus of \$400,000 for sea postage. I do not so understand it. If it is so I am wholly mistaken. If I understand it we are not paying a bonus of \$400,000. We are now paying the sea postage only to foreign vessels under the British flag; and if we pay it to this American company are we not simply paying for the labor they do?

Mr. DELANO. I stated, I believe, that all we paid now to the foreign company was the sea postage. I have been informed by a friend of this measure, who is not a member of the House, that the sea postage alone amounts to about three hundred thousand dollars; but from the particulars given by the gentleman from New Jersey [Mr. HILL] in his remarks it seems to be more than that.

Mr. HILL. The inland and sea postage is \$405,000.

Mr. DELANO. Now, what I wish to bring before the House is the propriety of some limitation to this bonus, as it is likely to increase in the progress of time. I have therefore

prepared a proviso, which I desire to offer as an amendment to the third section, as follows:

*Provided, That when the receipts of said navigation company from sea postage under any contract to be made in pursuance of this act shall equal or exceed the sum of \$350,000 per annum, then the right of said company to receive inland postage shall cease and determine, and said company shall only receive the sea postage.*

The SPEAKER. Does the gentleman from New Jersey allow this to be offered?

Mr. HILL. I do not like to have too many amendments offered to the bill. I will state that in 1858—

The SPEAKER. The five minutes of the gentleman from Ohio [Mr. DELANO] have expired. The gentleman from New Jersey resumes the floor, and the Chair understands he declines to allow the amendment to be offered.

Mr. HILL. On the 14th of June, 1858, Congress passed an act under which the mails are now carried, which limits the compensation to the sea and inland postage when carried by American vessels and the sea postage when carried by foreign vessels.

Mr. PHELPS. Will the gentleman yield?

Mr. HILL. I decline to yield further. This law was passed on the 14th of June, 1858, and has been in existence nine years, and yet no company has been found in this country to organize under it and carry the mails. Why? Because if they secured a contract for carrying the mails for one year, they had no security that they could get it for two, three, or five years, and no company of individuals are going to invest five, six, seven or eight million dollars in an enterprise of this sort without some pledge or security of a longer contract. I consider the bill a just bill, and I do not like this amendment proposing to put these American steamers on the same level with the foreigners who have been carrying the mails for years past, and who have been doing all they can, directly and indirectly, to injure our commerce and destroy our vessels and do us injury. Sir, I cannot consent to that amendment being offered, and I move the previous question on the bill.

Mr. PHELPS. Will the gentleman allow me to ask him a question?

Mr. HILL. I will yield to the gentleman for a moment.

Mr. PHELPS. I would ask the gentleman from New Jersey whether the Commercial Navigation Company of the State of New Jersey—"a corporation existing under the laws of the State of New York"—has at this moment a single steamship afloat? Has it now built or has it in process of construction a solitary steamer?

I wish to ask the gentleman a further question, and that is, whether the provision in the fourth section authorizing the registration at the Post Office Department of the Government of the bonds to be issued by this Commercial Navigation Company for the purpose of enabling it to build the seven proposed ocean steamships, together with the further provision constituting in effect the Postmaster General a trustee or receiver for the payment of the semi-annual interest on these bonds out of accrued postages, and for the ultimate payment of the principal of the bonds by means of a sinking fund, whether these provisions do not amount to a constructive guarantee of the bonds? I find the bill originally did, in express terms, authorize the Postmaster General "to guaranty the payment and interest of the bonds to the amount of not more than \$3,600,000."

I shall ask the gentleman from New Jersey to allow me to offer two additional sections to this bill by way of amendment, and I hope he will not insist upon the previous question without permitting this amendment to be read. The bill confers exclusive privileges upon a single corporation in New York—a corporation that has no claims, that has its ships yet to build and its capital to raise, and that by the aid of congressional legislation and patronage, in anticipation of which, so far as appears, the

corporation was organized. For my part, Mr. Speaker, I am glad to accord to New York every advantage that her position, enterprise, and capital entitle her to. But I am not disposed to yield to a New York enterprise special privileges by way of Government patronage, when the same privileges are denied to enterprises of my own State which have established already claims upon the protection of the Government, if protection is to be shown anywhere, by their persevering and successful struggles in upholding the American flag upon the high seas.

A Maryland corporation, the Baltimore and Ohio Railroad Company, has maintained for more than two years past a line of ocean steamers, American built and American registered, between the ports of Baltimore and Liverpool. The same corporation is joint owner, with the North German Lloyds, of a line of Clyde-built steamers between Baltimore and Bremen, touching at Southampton, the identical route contemplated by this bill. Another Maryland corporation, the Baltimore and Havana Steamship Company, is struggling successfully to maintain another American line of ocean steamers, American built and American registered. Neither of these lines has yet received a helping hand from the Government, nor a single dollar from its Treasury by way of subsidy. They are the natural result of the natural causes which combine to concentrate the trade of the great West and South in the city of Baltimore, the destined metropolis of those sections. We never have asked, and do not ask now, for any exclusive privileges or special patronage; but I do claim for these lines the equal and exact justice of being placed upon the same footing with an experimental enterprise which, from the first moment of its existence, begins to lean upon the arm of the national Government.

The first additional section of the amendment which I hold in my hand extends the same privileges and advantages which are secured to the Commercial Navigation Company of New York in regard to contracts and compensation for carrying the mails, and also in regard to the arrangements for building additional steamers by the issue of registered bonds, under the auspices of the Post Office Department, to the two Maryland corporations which I have named, the Baltimore and Ohio Railroad Company and the Baltimore and Havana Steamship Company.

The other section provides for extending precisely the same privileges to any other company in the United States now or hereafter incorporated.

If the gentleman insists on refusing to hear the amendment reported by the Clerk, I hope the House will not sustain the demand for the previous question.

Mr. HILL. I must resume the floor.

Mr. PHELPS. Will the gentleman allow me to offer the amendment I have indicated?

Mr. HILL. I cannot.

Mr. DELANO. I have modified my amendment, and the gentleman from New Jersey allows me to offer it. I move to add at the end of section three the following:

*Provided, That when the receipts of said navigation company from sea postage under any contract to be made in pursuance of this act shall equal or exceed the sum of \$400,000 per annum, then the right of said company to receive the inland postages shall cease and determine, and said company shall only receive sea postage.*

Mr. HILL. I will allow that amendment to be offered; and I now yield to the chairman of the Committee on the Post Office and Post Roads.

Mr. FARNSWORTH. I simply desire to say to the House, that they may understand this bill, that there is no subsidy in it whatever. Various schemes and petitions have come before the committee asking us to subsidize different lines, but we have refused to do it. We have done in this bill what we think is a very fair thing. We propose to pay the postages to our own ships, if they will carry the mails, instead of paying them to foreigners, who are doing all

they can to drive our ships from the ocean. That is all there is in this bill, and I move the previous question upon it.

The question was taken upon seconding the previous question; and upon a division there were—ayes sixty-three.

Before the noes were counted,

Mr. PHELPS called for tellers upon seconding the previous question.

Tellers were ordered; and Mr. HILL and Mr. PHELPS were appointed.

The House again divided; and the tellers reported that there were—ayes sixty-five, noes not counted.

So the previous question was seconded.

The main question was then ordered.

Mr. CLARKE, of Kansas. I move that the bill and pending amendments be laid upon the table, and on that motion I call for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and it was decided in the negative—ayes 36, nays 97, not voting 56; as follows:

YEAS—Messrs. Allison, Archer, Baker, Baldwin, Beatty, Boyer, Bromwell, Broomall, Buckland, Burr, Sidney Clarke, Cobb, Coburn, Cook, Eggleson, Eldridge, Glossbrenner, Grover, Richard D. Hubbard, Knott, Mallory, Marshall, McCullough, Nunn, Paine, Phelps, Poislley, Ross, Scofield, Stone, Thomas, Lawrence S. Trimble, Upson, Van Auken, Elihu B. Washburne, and Welker—36.

NAYS—Messrs. Ames, Delos R. Ashley, Barnes, Beaman, Benjamin, Benton, Blaine, Blair, Brooks, Calk, Chanler, Churchill, Reader W. Clarke, Cornell, Covode, Dawes, Donnelly, Eckley, Ela, Eliot, Farnsworth, Ferriss, Ferry, Fields, Garfield, Geiz, Golladay, Gravelly, Griswold, Halsey, Harding, Higby, Hill, Holman, Hooper, Hopkins, Hotchkiss, Chester D. Hubbard, Hulburt, Hunter, Ingersoll, Jenckes, Judd, Julian, Kelsey, Ketcham, Kootz, Lafin, George V. Lawrence, Lincoln, Loan, Logan, Loughbridge, Maynard, McClurg, Mercur, Miller, Moore, Moorhead, Morrell, Morrissey, Mullins, Newcomb, Niblack, Nicholson, Pike, Plants, Pomerooy, Price, Randall, Raun, Robertson, Robinson, Sawyer, Schenck, Shellabarger, Sitgreaves, Spaulding, Starkweather, Aaron E. Stevens, Stewart, Stokes, Taber, Taffe, Taylor, John T. Trimble, Trowbridge, Twichell, Robert T. Van Horn, Ward, Cadwalader C. Washburn, Henry D. Washburn, William B. Washburn, William Williams, John T. Wilson, Windom, and Woodward—97.

NOT VOTING—Messrs. Adams, Anderson, Arnell, James M. Ashley, Axtell, Bailey, Banks, Barnum, Beck, Bingham, Boutwell, Butler, Cary, Culum, Delano, Dixon, Dodge, Driggs, Finney, Fox, Haight, Hawkins, Asahel W. Hubbard, Humphrey, Johnson, Jones, Kelley, Kerr, Kitchin, William Lawrence, Lynch, Marvin, McCarthy, McCormick, Mungen, Myers, O'Neill, Orth, Forham, Peters, Pike, Poland, Pruyn, Selye, Shanks, Smith, Thaddeus Stevens, Van Aernam, Burt Van Horn, Van Trump, Van Wyck, Thomas Williams, James E. Wilson, Stephen F. Wilson, Wood, and Woodbridge—56.

So the motion to lay on the table was not agreed to.

The question recurred upon the amendments reported from the Committee on the Post Office and Post Roads; and being taken, they were agreed to.

The next question was upon the amendment of Mr. SHELLABARGER, to amend the last clause of section eight so that it will read as follows:

And Congress may at any time hereafter during the period of twenty years terminate or abandon any contract of the United States made with such company, add having a due regard to the accrued rights of the said company, alter, repeal, or amend this act, and it shall take effect and be in force from and after its passage.

The amendment was agreed to.

The next question was on the amendment of Mr. WASHBURN, of Illinois, to add to section two the following:

*Provided, That no letters or mail matter shall be detained for the purpose of being sent by this line.*

The amendment was agreed to.

The next question was on the amendment of Mr. DELANO, to add to section three the following:

*Provided, That when the receipts of said navigation company from sea postages under any contract to be made in pursuance of this act shall equal or exceed the sum of \$400,000 per annum, then the right of said company to receive the inland postages shall cease and determine, and the said company shall only receive the sea postages.*

The amendment was agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. FARNSWORTH. Upon that question I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. HILL, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

Leave of absence until Monday next was granted to Mr. MCCARTHY.

Leave of absence for two days was granted to Mr. WASHBURN, of Indiana.

Leave of absence for ten days was granted to Mr. SITGREAVES.

Indefinite leave of absence was granted to Mr. HUNTER.

#### ELIZABETH CAVALIER.

Mr. HALSEY obtained leave to withdraw the papers of Elizabeth Cavalier, now before the Committee of Claims, leaving copies of them on file.

#### ORDER OF BUSINESS.

The SPEAKER. The morning hour has expired. The House, on the 27th of May, ordered by unanimous consent that a bill (H. R. No. 929) to promote American commerce, reported by the gentleman from Massachusetts, [Mr. ELIOT,] from the Committee on Commerce, should be taken up after the morning hour on this day, the second Wednesday in June. That bill is now before the House, and the gentleman from Massachusetts [Mr. ELIOT] is entitled to the floor.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869.

The message also announced that the Senate had passed a bill (H. R. No. 176) to amend an act entitled "An act to provide for carrying the mails from the United States to foreign ports, and for other purposes," approved March 25, 1864, with an amendment, in which the concurrence of the House was requested.

#### APPROPRIATION FOR PUBLIC BUILDINGS, ETC.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, transmitting a communication from the chief of engineers, with estimate of funds necessary to supply deficiencies in the appropriation for public buildings and grounds for the year ending June 30, 1868; which was referred to the Committee on Appropriations, and ordered to be printed.

#### NAVAJO AND UTE INDIANS.

The SPEAKER also, by unanimous consent, laid before the House a communication from the Secretary of the Interior, transmitting a telegram from Lieutenant General Sherman, relative to the removal of the Navajo and Ute Indians; which was referred to the Committee on Appropriations, and ordered to be printed.

#### REPORTS ON PURCHASE OF ALASKA.

Mr. LAFLIN reported, from the Committee on Printing, the following resolution; on which he demanded the previous question:

*Resolved*, That there be printed for the use of the House eight thousand extra copies of the majority and minority reports on the treaty with Russia; and for the use of the State Department two thousand copies of part two of Executive Document No. 177.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also

moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PUBLIC BUILDING IN NEW YORK CITY.

Mr. FARNSWORTH, by unanimous consent, reported from the Committee on the Post Office and Post Roads, a bill (H. R. No. 1214) to provide for the erection of a building for a post office and United States courts in the city of New York; which was read a first and second time, recommitted, and ordered to be printed.

Mr. SCOFIELD moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### NAVAL APPROPRIATION BILL.

Mr. WASHBURN, of Illinois. I am directed by the committee of conference on the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869, to submit a report.

The Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House recede from their disagreement to the third, twenty-fourth, twenty-fifth, thirty-seventh, and thirty-eighth amendments of the Senate, and agree to the same.

That the Senate recede from their thirty-fifth and thirty-sixth amendments.

That the House recede from their disagreement to the eighth amendment of the Senate, and agree to the same, with the following amendment:

Strike out all of said amendment and insert in lieu the following:

*Provided*, That the civil engineer and naval storekeeper at the several navy-yards shall be appointed by the President, with the advice and consent of the Senate, and the persons employed at the several navy-yards to superintend the mechanical departments, and heretofore known as master mechanics, master carpenters, master joiners, master blacksmiths, master boiler-makers, master sailmakers, master plumbers, master painters, master caulkers, master masons, master boat-makers, master sparmakers, master blockmakers, master laborers, and the superintendents of rope-walks shall be men skilled in their several duties and appointed from civil life, and shall not be appointed from the officers of the Navy.

And the Senate agree to the same.

E. B. WASHBURN,

N. P. BANKS,

Managers on the part of the House.

L. M. MORRILL,

ROSCOE CONKLING,

J. W. NYE,

Managers on the part of the Senate.

Mr. WASHBURN, of Illinois. I demand the previous question on the adoption of the report.

The previous question was seconded and the main question ordered; and under the operation thereof the report was adopted.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RECUSANT WITNESS.

Mr. ELDRIDGE. I ask the gentleman from Massachusetts to yield to me.

Mr. ELIOT. Yes, if it takes no time.

Mr. ELDRIDGE. I think it will take no time.

Mr. ALLISON. We will hear what it is first.

Mr. ELDRIDGE. I offer the following resolution:

*Resolved*, That the committee of managers be instructed hereby to examine the witness Woolley immediately, to the end that if he shall answer as required by this House the questions for the refusal to answer which he was adjudged in contempt of this House he may no longer be deprived of his liberty as a citizen.

Mr. ELIOT. I decline to yield for the resolution to be offered.

#### APPEALS FROM COURT OF CLAIMS.

Mr. CHURCHILL. I ask the gentleman from Illinois to yield to me for the purpose of moving to take from the Speaker's table for reference to the Committee on the Judiciary

Senate bill No. 164, to provide for appeals from the Court of Claims, and for other purposes.

Mr. ELIOT. I yield for that purpose.

Mr. BROOKS. I am afraid of that class of cases in reference to the courts, for I do not forget the McCordle case.

Mr. CHURCHILL. It is only for reference.

Mr. HOLMAN. It is a bill I think that should go to the Committee of Claims.

Mr. SCOFIELD. The gentleman cannot be aware of the character of the bill. It has nothing to do with claims. It only provides for the appeal of decisions of the Court of Claims to the Supreme Court of the United States.

Mr. HOLMAN. I do not object.

The bill was taken up, read a first and second time, and referred to the Committee on the Judiciary.

Mr. BROOKS moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### RECUSANT WITNESS.

Mr. BUTLER. I ask my colleague to yield to me.

Mr. ELIOT. If it takes no time.

Mr. BUTLER. Mr. Speaker, I desire to say, for the information of gentlemen on the other side, that a meeting of the committee of managers has been called for to-morrow morning, at which time Mr. Woolley will be examined.

Mr. ELDRIDGE. I insist that it is all wrong and unjust to keep a man for forty-eight hours, indeed for three days, in close confinement—

Mr. ELIOT. I do not yield.

Mr. ELDRIDGE. I solemnly protest against this outrage upon the liberty of the citizen.

#### ORDER OF BUSINESS.

Mr. ELIOT. Mr. Speaker, before I proceed to discuss the bill before the House I shall, with the leave of the House, make a statement. Notice has been given of an intention to make a motion in reference to the tax bill. I suppose it is the desire in some form or other to have the judgment of the House whether that bill is to be continued with or laid over. I have no desire to interfere with any action in that direction, and if I may have the right to-morrow, after the morning hour, as I have it now, the bill of the gentleman from Pennsylvania [Mr. O'NEILL] to come after the pending bill, I will yield to that arrangement.

Mr. SCHENCK. I hope there will be no objection to the gentleman's having his bill in the same position to-morrow morning that it is in now. That, of course, will not prevent my moving to-morrow morning to postpone the consideration of that bill to another time.

The SPEAKER. The bill reported by the gentleman from Massachusetts [Mr. ELIOT] having been made a special order by unanimous consent has priority over all other special orders by usage of the House; but it can be postponed by a majority vote to a certain time, having the same right of priority.

Mr. SCHENCK. If it is postponed till to-morrow morning it will be in the same position then as it occupies now.

The SPEAKER. It will. After the gentleman from Massachusetts shall have concluded his remarks the Chair will entertain the motion of the gentleman from Ohio, [Mr. SCHENCK.]

Mr. ELIOT. There is a bill reported by the gentleman from Pennsylvania, [Mr. O'NEILL,] which was ordered to be considered after this.

The SPEAKER. That will be governed by the position of this bill as an appendage thereto. It will be subject to the same order.

Mr. SPALDING. There are two short appropriation bills which it is very necessary the House should consider. I would be glad to be permitted to have them taken up and acted upon. They will not both of them occupy an hour.

The SPEAKER. The motion to go into Committee of the Whole would have priority,



because that has been ordered by a suspension of the rules to be made every day after the morning hour, subject only to unanimous consent for the assignment of bills.

Mr. ELIOT. I move that the further consideration of the pending bill be postponed, reserving the same rights, till to-morrow morning.

The motion was agreed to.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union on the tax bill.

Mr. BUTLER. I rise to a question of order. I desire to inquire if it is possible for the House to deal with the tax bill otherwise than in Committee of the Whole, except by voting down the motion just made? because I desire at some time, and now, if I can, to move to postpone the bill. But I suppose it cannot be done at this time.

The SPEAKER. It cannot be done during the pendency of the motion to suspend the rules, which suspends the rule authorizing the motion to be made for the postponement of this bill. If the motion to go into Committee of the Whole should be voted down the gentleman's motion will then be in order, as will be seen by page 182 of the Digest, which the Clerk will read.

The Clerk read as follows:

"A special order may be postponed by a majority vote, and according to the rules whenever the time arrives for the consideration of a special order in Committee of the Whole the same may be postponed by a vote in the House."

The SPEAKER. The question is on the motion to suspend the rules and going into Committee of the Whole.

Mr. WASHBURNE, of Illinois. This will be a test vote. I understand that the Committee of Ways and Means—

Mr. SCHENCK. I object to any debate.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 82, nays 57, not voting 50; as follows:

YEAS—Messrs. Allison, Ames, James M. Ashley, Baker, Banks, Beatty, Beck, Benton, Bingham, Bromwell, Brooks, Broomall, Buckland, Cake, Reader W. Clarke, Sidney Clarke, Cobb, Coburn, Cook, Cornell, Covode, Cullom, Delano, Eckley, Ela, Farnsworth, Ferry, Garfield, Gravelly, Griswold, Harding, Higby, Hill, Hooper, Hopkins, Chester D. Hubbard, Richard D. Hubbard, Ingersoll, Jenckes, Judd, Kelsey, Ketcham, Kitchen, Koonz, George V. Lawrence, Loan, Logan, Lynch, Marshall, Maynard, McClurg, Miller, Moorhead, Morrell, Morrissey, Mullins, Newcomb, Niblack, Paine, Phelps, Pile, Plants, Polsley, Pomeroy, Raun, Sawyer, Schenck, Scofield, Shellabarger, Aaron F. Stevens, Stewart, Stokes, Taffe, Taylor, John Trimble, Twichell, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Wolker, William Williams, and John T. Wilson—82.

NAYS—Messrs. Archer, Baldwin, Barnes, Beaman, Benjamin, Blair, Burr, Butler, Churchill, Dawes, Dodge, Donnelly, Eldridge, Eliot, Ferriss, Fields, Getz, Glossbrenner, Golladay, Grover, Holman, Hotchkiss, Hulburd, Hunter, Julian, Knott, Laffin, Loughridge, Mallory, McCormick, McCullough, Mercer, Moore, Nicholson, Nunn, Price, Randall, Robertson, Robinson, Ross, Sitgreaves, Spalding, Starkweather, Thaddeus Stevens, Stone, Taber, Thomas, Lawrence S. Trimble, Trowbridge, Upson, Van Aernam, Van Auker, Van Trump, Ward, Cadwalader C. Washburn, Elihu B. Washburne, and Woodward—57.

NOT VOTING—Messrs. Adams, Anderson, Arnell, Delos R. Ashley, Axtell, Bailey, Barnum, Blaine, Boutwell, Boyer, Cary, Chanler, Dixon, Driggs, Eggleston, Finney, Fox, Haight, Halsey, Hawkins, Asahel W. Hubbard, Humphrey, Johnson, Jones, Kelley, Kerr, William Lawrence, Lincoln, Marvin, McCarthy, Mungen, Myers, O'Neill, Orth, Perham, Peters, Pike, Poland, Prayn, Selys, Shanks, Smith, Burr Van Horn, Van Wyck, Thomas Williams, James F. Wilson, Stephen F. Wilson, Windom, Wood, and Woodbridge—50.

So the motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union. (Mr. POMEROY in the chair.) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The CHAIRMAN. The Clerk will resume

the reading of the bill where it was suspended last night.

The following paragraph was read:

Dealers in horses shall each pay ten dollars. Any person whose business it is to buy or sell horses or mules shall be regarded as a dealer in horses.

No amendment was offered, and the next paragraph was read, as follows:

Cattle brokers whose annual sales do not exceed \$10,000 shall each pay ten dollars; and when the annual sales exceed \$10,000, shall pay, in addition, one dollar for each \$1,000 in excess of \$10,000; and the tax on such excess shall be assessed and paid in the same manner as in the case of wholesale dealers. Every person whose business it is to buy or sell or deal in cattle, hogs, or sheep shall be considered as a cattle broker.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to offer the following amendment:

Page 109, line four hundred and seventeen, strike out all after the word "dollars" to and including the word "dealers," on line four hundred and nineteen, as follows: "And the tax on such excess shall be assessed and paid in the same manner as in the case of wholesale dealers."

The amendment was agreed to.

The Clerk read the next paragraph, as follows:

Butchers whose annual sales exceed \$1,000 shall each pay ten dollars. Every person whose business it is to sell butcher's meat at retail shall be regarded as a butcher, and shall not be required to pay the special tax as a retail dealer on account of selling other articles at the same shop, stall, or premises; but butchers who shall sell butcher's meat exclusively, by themselves or agents, traveling from place to place, and not from any shop, stall, or stand, shall be required to pay five dollars only.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

Page 110, line four hundred and twenty-seven, after the word "premises," insert the words "unless such sales exceed \$5,000."

The amendment was agreed to.

The next paragraph was read, as follows:

Dealers in canned and preserved meats and vegetables, whose annual sales exceed \$1,000 and do not exceed \$5,000, shall each pay ten dollars, and when the annual sales exceed \$5,000 shall pay, in addition, two dollars for each \$1,000 in excess of \$5,000. Every person who prepares and puts up, in cans, bottles, or other packages, for sale, meats, fish, shell-fish, fruits, vegetables, sauces, sirups, jams, jellies, or prepared mustard, shall be regarded as a dealer in canned and preserved meats and vegetables.

Mr. ROBINSON. Would it be in order to go back to the paragraph in regard to horse dealers? I desire to ask a question of the chairman of the Committee of Ways and Means.

The CHAIRMAN. The committee can only go back by unanimous consent.

Mr. BEAMAN. I object to going back.

The Clerk read the next paragraph, as follows:

Owners of stallions and jackasses kept for the use of mares shall pay ten dollars for each animal so kept and used. Every person who keeps for pay a stallion or a jackass for such use shall be regarded as the owner thereof, and shall furnish to the assessor or assistant assessor a statement containing a brief description of the animal, its age, and the place or places where used, or to be used. All accounts, notes, or demands made in consideration of the use of any such stallion or jackass, the owner thereof not having paid the tax as aforesaid, shall be void.

Mr. MULLINS. I move to insert after the word "jackass," in line four hundred and forty-four, the words "or any 'visible admixture' thereof." [Laughter.]

The amendment was rejected.

No further amendment was offered, and the Clerk read the following paragraph:

Proprietors of places of public amusement shall pay therefor: for those of the first class a special tax of \$200 each, and for those of the second class a special tax of twenty dollars each. Every building, tent, or other place occupied or used exclusively or chiefly, for dramatic or operatic representations or performances, or for concerts, balls, masquerades, or exhibitions, or for feats of horsemanship or acrobatic sports, for admission to which money is paid, shall be rated as a place of public amusement of the first class. Rooms or halls which are only occasionally hired or used for dramatic or operatic representations or performances, or for concerts, balls, or exhibitions, for admission to which money is paid, shall be rated as places of amusement of the second class. Circuses, or other public amusements or performances which move from place to place, shall pay a special tax the same as places of amusement of the first class; and the special tax

receipt therefor shall be framed by the person to whom issued, and shall be hung up at the place of entrance to such circus or other place of amusement, so that the same can be easily seen and read by every person visiting such place of performance. And every proprietor or manager of such circus, public amusement, or performance, shall give a bond in the sum of \$10,000, with sureties, to the assessor of the district where such person resides, conditioned that he will comply with all the requirements of law pertaining to such business; and no receipt shall issue to any person for such special tax until such bond shall have been given by such person to and approved by the said assessor. And every such proprietor or manager who shall neglect or refuse to display the proper special tax receipt in the manner hereinbefore required shall, on conviction thereof, be fined \$500. And where such circus or other public amusement or performance is had or given in a tent or other temporary or movable shelter or inclosure, the capacity of such tent as provided in the section of this act shall be stated in the application for registry with the assistant assessor, and shall be entered by the collector on his receipt for the special tax. Proprietors of menageries, or other shows not hereinbefore enumerated and described, for the exhibition of, or admission to which, money is paid, shall each be taxed as proprietors of public amusements of the second class, unless such menagerie or show shall be accompanied by, or consist in part of, exhibitions of theatrical or dramatic performances, in which case they shall be taxed the same as places of amusement of the first class. Every proprietor of any circus, menagerie, or other show, who removes his exhibition from place to place, shall be required by the assessor or assistant assessor of any collection district in which such amusement is given or exhibited to produce the receipt showing that this special tax therefor has been duly paid to the assessor of some district within the United States, within the current year; and if it shall appear that such tax has not been paid, or has not been paid within thirty days after the last day of May in such year, or upon neglect or refusal to produce such tax receipt when so demanded by the proper officer, the party so delinquent shall be liable to a penalty of \$10,000, and shall be subject to and on conviction for the offense be fined not less than \$10,000 nor more than \$50,000, and be imprisoned not less than three months nor more than two years.

Mr. SCHENCK. I am instructed by the Committee of Ways and Means to offer the following amendment:

Page 112, lines four hundred and eighty-seven and four hundred and eighty-eight, strike out the words "the section of."

The amendment was agreed to.

Mr. ELA. I move to insert after the word "class," in line four hundred and sixty-four, the following proviso:

Provided, That when the net receipts of such room or hall shall not exceed \$100 no tax shall be required.

It is so manifest that some restriction ought to be made in this matter that I take it the very statement of the amendment is sufficient.

Mr. PAINE. I would inquire of the gentleman if he refers to the net receipts for a single evening?

Mr. ELA. The net receipts for the year.

Mr. PAINE. I suggest to the gentleman that he should modify his amendment in that way.

Mr. ELA. I will modify it so as to read, "when the net annual receipts," &c.

The amendment was agreed to.

The Clerk read the next paragraph, as follows:

Proprietors, owners, agents, or lessees, of any place or object, not included in the above classes, for the privilege of seeing which entrance money, fee, or reward is demanded or received, shall, where the entrance money, fee, or reward demanded or received for each adult person does not exceed the sum of twenty-five cents, each pay a special tax therefor of fifty dollars; and when such entrance money exceeds twenty-five cents, \$100. And in addition to the penalties, otherwise provided, for non-payment of special taxes, the place or object belonging to, or leased, or held by any such person, shall be seized and forfeited to the United States.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

Page 113, line five hundred and fourteen, strike out all after and including the word "or" where it last occurs down to the end of the paragraph, as follows:

Or object, not included in the above classes, for the privilege of seeing which entrance money, fee, or reward is demanded or received, shall, where the entrance money, fee, or reward demanded or received for each adult person does not exceed the sum of twenty-five cents, each pay a special tax therefor of fifty dollars; and when such entrance money exceeds twenty-five cents, \$100. And in addition to the penalties otherwise provided for the non-payment of special taxes, the place or object or objects belonging to, or leased or held by any such person, shall be seized and forfeited to the United States.

And insert in lieu thereof the following:

Not included in the above classes, for the privilege

of entering or visiting which money, fee, or reward is demanded or received, shall, when such money, fee, or reward demanded or received for each adult person does not exceed the sum of twenty-five cents each, pay a special tax therefor of fifty dollars; and when such money, fee, or reward exceeds twenty-five cents, \$100: *Provided*, That school exhibitions, readings, lectures, art exhibitions not moved from place to place, agricultural or horticultural exhibitions, or fairs for the benefit of any benevolent enterprise, or sanitary, charitable, or religious association, and fairs and exhibitions of any incorporated mechanical or scientific associations, shall not be required to pay a special tax.

The amendment was agreed to.

No further amendment was offered.

The next paragraph was read, as follows:

Jugglers shall each pay twenty-five dollars. Every person who, for pay, gives exhibitions of tricks by sleight-of-hand, or who, as an astrologer or fortune-teller, pretends to foretell future events, shall be regarded as a juggler. Every juggler who goes from place to place giving his exhibitions, or performing as such, shall be required to produce the receipt for his special tax on demand of the proper assessor or assistant assessor, and shall be liable to the same penalties for any violation of the law as are provided against proprietors of circuses or menageries in like cases.

Mr. BUTLER. I move to amend this paragraph by inserting after the words "pretends to foretell future events," the words "or whoever for pay claims to act as a spiritual medium, or gives sittings or exhibitions in conjunction therewith." There is a very large number of persons who are undoubtedly honest believers in spiritual communications. There is another large class of persons who do not honestly so believe, but who claim to do so, and give exhibitions, and pretend to give information derived from the spirits. They now constitute substantially the only class of fortune-tellers or jugglers that we have. I propose that they shall be included in the class of jugglers to be taxed. I do not suppose the amendment will meet with any opposition.

Mr. MULLINS. I suppose the gentleman does not intend to embrace in this class those who are spiritually commissioned from above and specially enlightened to preach the gospel as ministers?

Mr. BUTLER. Oh, no.

The question was then taken upon the amendment of Mr. BUTLER; and upon a division there were—ayes 36, noes 29; no quorum voting.

Mr. SCHENCK. I have no objection to have this amendment regarded as adopted in order to have a vote taken upon it in the House.

Mr. SPALDING. I object to the amendment being adopted here.

Mr. HARDING. I hope it will be rejected.

Tellers were ordered; and Mr. BUTLER and Mr. RAUM were appointed.

The committee again divided; and the tellers reported that there were—ayes 45, noes 51.

So the amendment was not agreed to.

No further amendment was offered.

The next paragraph was read, as follows:

Proprietors of bowling-alleys and billiard-rooms shall pay ten dollars for each alley or table. Every place or building where bowls are thrown or billiards played, and open to the public, with or without price, shall be regarded as a bowling-alley or billiard-room respectively.

Mr. LYNCH. I desire to move an amendment to this paragraph, to strike out "ten" and insert "twenty-five;" so that the clause will read:

Proprietors of bowling-alleys and billiard-rooms shall pay twenty-five dollars for each alley or table.

I notice by this bill that manufacturers of billiard-tables are required to pay a tax of twenty-five dollars, if their annual sales amount to \$1,000. Now, I believe the profits from a bowling-alley or a billiard-table are very much larger than the profits upon \$1,000 worth of these articles sold by the manufacturers. I think this amendment should be adopted.

Mr. ALLISON. It will be observed that we propose to charge a tax of ten dollars on each alley or billiard-table. I think that is a pretty liberal tax, and I hope the amendment will not be adopted.

The question was then taken upon the amendment of Mr. LYNCH; and, upon a division,

there were—ayes 42, noes 39; no quorum voting.

Tellers were ordered; and Mr. LYNCH and Mr. ALLISON were appointed.

The committee again divided; and the tellers reported that there were—ayes 53, noes 43.

So the amendment was agreed to.

Mr. BURR. I move to amend this paragraph by adding to it the following:

*Provided*, That persons keeping billiard-tables in their residences, and using or permitting the same to be used without charge for the use thereof, shall be taxed only ten dollars on each table so kept.

This paragraph as it now stands is perhaps of doubtful construction. Many persons keep billiard-tables in their private houses for their own amusement and gratification and that of their friends. Now, I want to guard against charging them the same amount that is charged against persons who keep tables as a matter of speculation, and for that purpose I have offered this amendment, for I think it is right. I am in favor of increasing the tax on tables kept for speculation; but I do not think the tax should be imposed upon tables kept merely for purposes of recreation or amusement. I suppose the answer will be that it is not intended to tax tables kept by persons in their private residences merely for amusement, because the words of this paragraph are "open to the public." But who shall say, if a dozen friends meet at the house of a gentleman who has one or more billiard-tables, and he opens the room to them, that it will not be held that he opens them to the public?

Mr. ALLISON. We have elsewhere provided that a tax of ten dollars shall be paid on a table not kept for hire, so that the amendment of the gentleman is not necessary.

Mr. BURR. Where is that provision?

Mr. ALLISON. On page 172, line thirty-three.

Mr. BURR. It will do no harm to add my amendment here to explain language which, as it stands, is indefinite.

The amendment was not agreed to.

Mr. BENTON. I move to amend by adding at the end of the paragraph the following:

*Provided*, That no tax shall be required in case of bowling-alleys furnished without charge by keepers of hotels for the use of their guests.

Mr. Chairman, I know that in many hotels bowling-alleys are provided without charge for the recreation of the guests. This is especially so among the mountains, where the hotels during the summer are largely patronized by people from all parts of the country. Bowling-alleys are provided that the guests may have exercise and amusement in this proper and reasonable way; and so far as my knowledge extends, no charge is made for the use of those alleys. To require the keepers of such hotels to pay a tax on the bowling-alleys thus provided without charge strikes me as unreasonable and outrageous. The case is very different in regard to billiard-saloons kept for profit in our cities and towns, because in them our lads and young men are educated to habits of indolence and frivolity which are injurious to the community. But it is very reasonable and necessary that the guests patronizing our large hotels among the mountains and in other places of summer resort should have an opportunity to indulge in healthful exercise and recreation; and the hotel-keepers, so far as I am aware, provide bowling-alleys for this purpose without making any charge for their use.

Mr. LYNCH. Does not the gentleman know that in all these places of summer resort the proprietors charge exorbitant prices for the use of their bowling-alleys, as well as for everything else—much more than is charged in our ordinary hotels?

Mr. BENTON. Mr. Chairman, I do not know any such thing; nor do I believe that such is the fact. My knowledge is directly to the contrary. So far as I have been able to ascertain, the guests of the hotels at our places of summer resort are allowed to use the bowling-alleys without a single cent of charge.

The gentleman talks about the "exorbitant charges" of our hotel-keepers among the mountains. Why, sir, considering the disadvantages and inconveniences under which they labor in furnishing their guests with the necessities and comforts and luxuries of life, I say that they are most reasonable in their charges, though of course they must charge more than the keepers of hotels in large cities where there are abundant facilities for obtaining everything needed for supplying guests. When the gentleman undertakes to say that these hotel-keepers in the mountains exact exorbitant rates, he makes a charge which, in my judgment, is unjust and untrue.

Mr. LYNCH. I can only say that the gentleman's experience must have been entirely different from mine.

Mr. ALLISON. Mr. Chairman, I hope that the amendment of the gentleman from New Hampshire [Mr. BENTON] will not be adopted. He voted just now to increase this tax to twenty-five dollars on each bowling-alley; and I, for one, am not in favor of exempting the hotels that may happen to be on the mountains of New Hampshire, while we impose this tax on the keepers of these alleys everywhere else in the country. I think the taxation ought to be uniform. I hope the exception proposed by the gentleman will not be made.

Mr. SCHENCK. Mr. Chairman, gentlemen seem to misunderstand the principle upon which this charge is made. It applies only to "every place or building where bowls are thrown or billiards played, and open to the public with or without price." The reason for including places open to the public "without charge" is that if in such places there is no formal charge it is because the keepers get their pay in some indirect way; and unless we have such a provision, they will sell liquor or something else and throw the bowls in, or they will charge for the bowls and throw the liquor in. [Laughter.] Those who keep these hotels, of which the gentleman speaks, among the mountains and at watering places, will take care that the charges to their guests shall be such as to reimburse them for all the expense which they incur in affording those guests amusement. Therefore, we have extended the tax to all tables or alleys kept for use with or without price, for if they do not get a price directly they will obtain that price in some indirect way.

Mr. BENTON. I will say a word in reply to the gentleman from Iowa, [Mr. ALLISON.] If he supposes that the public houses I have referred to are peculiar to New Hampshire he is less informed than I supposed him to be. If he had been informed on the subject of hotels in the United States I do not suppose he would have assumed to make such a statement as he has. What he has said in regard to the hotels in New Hampshire is unjust. There are hotels like those in New Hampshire throughout the country. If he feels invidious toward New Hampshire because of her sublime mountain scenery, he is not so enlarged in his views as I thought he was. I do not envy his people the peculiar advantages of his State.

The amendment was disagreed to.

No further amendment being offered, the Clerk read the next paragraph, as follows:

Jewelers, whose annual sales exceed \$1,000, and do not exceed \$5,000, shall each pay a tax of twenty-five dollars, and when the annual sales exceed \$5,000 shall pay, in addition, ten dollars for each \$1,000 in excess of \$5,000. Every person who manufactures for sale articles intended for personal wear, or for ornament, composed in whole or in part of gold or silver or other precious metals, or of any alloy or imitation of any of said metals, or of diamonds or other precious stones or gems or any imitation thereof, shall be regarded as a jeweler.

Mr. SCHENCK. I move an amendment to that paragraph, and desire to say a word. If this amendment prevails I will move to strike out the following paragraph. After the word "thereof" I move to insert "or any goods or wares of gold or silver." The proposition is to transfer the manufacturers of gold and silver ware to this head of jewelers, embracing them all in a general paragraph. It is often difficult

to determine whether a thing is an article of jewelry, or manufactured of gold and silver ware exclusively; as a watch chain, &c.

The amendment was agreed to.

Mr. McCORMICK. I move to reduce the tax from ten dollars to five dollars. It seems to me this is higher than it should be, especially if the other section be stricken out.

The amendment was rejected.

No further amendment being offered, the Clerk read the next paragraph, as follows:

Manufacturers of gold and silver ware, whose annual sales exceed \$1,000 and do not exceed \$5,000, shall each pay a tax of twenty-five dollars, and when the annual sales exceed \$5,000 shall pay, in addition, five dollars for each \$1,000 in excess of \$5,000. Every person who makes for sale any goods or wares of gold or silver other than jewelry shall be regarded as a manufacturer of gold and silver ware.

Mr. SCHENCK. I move to strike out that paragraph.

The motion was agreed to.

The Clerk read the next paragraph, as follows:

Manufacturers of fire-arms, whose annual sales exceed \$1,000 and do not exceed \$5,000, shall each pay a tax of twenty-five dollars, and when the annual sales exceed \$5,000 shall pay, in addition, five dollars for each \$1,000 in excess of \$5,000. Every person who makes for sale cannon, guns, pistols, or other fire-arms, shall be regarded as a manufacturer of fire-arms.

No amendment being offered, the Clerk read the next paragraph as follows:

Manufacturers of pianos, whose annual sales exceed \$1,000 and do not exceed \$5,000, shall each pay a tax of twenty-five dollars, and when the annual sales exceed \$5,000 shall pay, in addition, five dollars for each \$1,000 in excess of \$5,000. Every person who manufactures pianos, organs, melodones, harps, or other parlor musical instruments shall be regarded as a manufacturer of pianos.

No amendment being offered, the Clerk read the next paragraph, as follows:

Manufacturers of billiard-tables, whose annual sales exceed \$1,000 and do not exceed \$5,000, shall each pay a tax of twenty-five dollars, and when the annual sales exceed \$5,000 shall pay, in addition, ten dollars for each \$1,000 in excess of \$5,000.

No amendment being offered, the Clerk read the next paragraph, as follows:

Manufacturers of playing-cards, whose annual sales do not exceed \$5,000, shall each pay a tax of twenty-five dollars, and when the annual sales exceed \$5,000 shall pay, in addition, ten dollars for each \$1,000 in excess of \$5,000.

Mr. ROBINSON. Are not playing-cards taxed by a stamp duty?

Mr. SCHENCK. They are.

Mr. ROBINSON. I move to strike out this paragraph.

Mr. MAYNARD. Is that business suffering? I do not understand that it is suffering in the United States.

Mr. SCHENCK. The gentleman asks for information, and it is proper the House should understand how this matter stands. This business of manufacturing playing-cards is specifically taxed in another shape. By schedule C, playing cards are required to pay five cents for each pack. I understand that they cost from eleven to forty cents a pack, and they retail at from twenty cents to two dollars, or even higher. The tax of five cents is without reference to the price or quality upon every pack of cards. Then the committee have proposed in this bill a further tax on the business of manufacturing playing-cards of twenty-five dollars as a special tax, and a further tax on the sales of one per cent. This is in addition to the tax of five cents on each pack, which is collected by stamps.

This is an exceptional case. It will be for the House to determine whether a tax on sales shall be added to the tax collected by stamps upon each pack. It has been agreed to by the committee only for the reason that we have supposed that this was one of those luxuries that it might be well to tax to any extent that it would reasonably bear, even though it should increase the price of the article, because it is a proper subject of high taxation.

The only question with the committee, with me at least, was this: whether by taxing it very high, in two or three different ways, we might not promote the use of cards for a longer time or more frequently, and a less fre-

quent change of the decks, so as to defeat in some degree the object of securing a large revenue. My object, for one, is to strike just that line of tax that will produce the greatest amount of revenue from this article.

Mr. ROBINSON. I have offered this amendment because this, which seems to be as respectable an occupation as any other, has been singled out for a triplicate tax. It is taxed first on the manufacture, then on the sales, and again by stamps. I hardly know what my distinguished friend from Tennessee meant when he asked me some question about cards.

Mr. MAYNARD. The question I asked was whether the interest of manufacturing playing cards had languished at all.

Mr. ROBINSON. I am not quite sure, and I think the question would apply with more force to the gentleman from Tennessee. If I am not misinformed, the history of that State shows that those coming from that quarter should be as well posted in card playing as any body in Brooklyn. For myself, I can say I have never played a game of cards in my life and I do not know that I ever shall. I have no interest at all in this question, only I see the injustice of keeping this tax on a respectable portion of our manufacturers.

The amendment of Mr. ROBINSON was disagreed to.

Mr. BARNES. I desire to amend this section. I am opposed to making playing-cards or any other article pay excise by the way of stamps in addition to other taxes. I move to strike out "ten" and insert "twelve," making a nominal addition to the tax for the purpose of calling the attention of the committee to this subject. I have heard no argument yet advanced by the committee or by anybody on this floor to justify this duplicate tax, or the paying of a tax by stamps. When I have heard an argument on that point I shall be very glad to acknowledge the force of it, and if I can be convinced of its propriety I shall be glad to do all I can to expedite the passage of these different sections of this tax bill. But I submit unless there is some reason occult and difficult to be understood which can be given, there is no propriety in taxing this or a hundred other articles in the manner now proposed, and then seizing the article and compelling the manufacturer thereof to put upon it a stamp. It seems to me the principle is so simple, and the advantage of single taxation so easily understood, that it ought not to require a single word of explanation. With these remarks I submit the amendment.

The amendment was disagreed to.

Mr. MILLER. I move to strike out "twenty-five dollars" and insert "fifty dollars," so that it will read, "shall each pay a tax of fifty dollars." I think there is no subject of taxation that deserves taxation more than this. The manufacture of playing-cards is a nuisance, and I hope it will be taxed to the utmost extent.

Mr. ALLISON. I oppose the amendment, and ask for a vote upon it.

The question was taken on Mr. MILLER's amendment, and it was disagreed to.

The Clerk read the next paragraph, as follows:

Proprietors of export warehouses for the storage of distilled spirits, tobacco, or petroleum in bond, shall each pay twenty-five dollars, and the person who has the chief control of the premises occupied for such warehouse purposes, either as owner or lessee thereof, or otherwise, shall be deemed the proprietor.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

Page 116, strike out from and including the word "export," in line five hundred and eighty-eight, to and including the word "petroleum," on line five hundred and eighty-nine, as follows: "export warehouses for the storage of distilled spirits, tobacco, and petroleum," and insert in lieu thereof the words "United States bonded warehouses for the storage of articles;" so that the paragraph will read as follows:

Proprietors of United States bonded warehouses for the storage of articles in bond, shall each pay twenty-five dollars, and the person who has the chief control of the premises occupied for such warehouse purposes, either as owner or lessee thereof, or otherwise, shall be deemed the proprietor.

Mr. LOGAN. I move to amend the amendment by striking out the word "articles" and inserting "merchandise" in lieu thereof.

The amendment to the amendment was disagreed to.

The amendment of the Committee of Ways and Means was then agreed to.

Mr. LOGAN. I do not desire any discussion about this question, but I want to have an understanding with the Committee of Ways and Means, inasmuch as I may differ with them, whether or not I shall be permitted, at the proper time, to return to these sections and offer an amendment in reference to all of them. If so, I have nothing further to say. If not, I desire to propose an amendment now to this paragraph.

Mr. HOOPER, of Massachusetts. I object.

Mr. LOGAN. Then I move to strike out the word "proprietors." I am very much surprised at the objection of the gentleman from Massachusetts, because he knows my views in reference to this matter and I think the views of the House, and really the views of the committee when they first met. I offer this amendment because all through the law we find bonded warehouses—the very thing that we have been striking at from the commencement of this session of Congress—in reference to whisky and other articles. The object of this provision is to assess upon the person who is the owner or proprietor of a bonded warehouse a tax of twenty-five dollars. By indirection this authorizes the establishment of bonded warehouses.

It will not do to say that this paragraph applies to warehouses connected with the customs of the country, because it does not, nor is it so intended. There is a law already in existence, which this bill does not repeal, which is full and sufficient so far as customs warehouses are concerned. If the gentleman will consent to so amend the paragraph as that it shall apply only to the custom-house warehouses and exclude the idea of reestablishing bonded warehouses all over the country, I am willing to agree to that; but this is an indirect way of establishing again the system of frauds that existed in this country for the last few years. Gentlemen will see that it is so if this law goes into effect. I will modify my amendment, and move to amend the paragraph so that it shall read "proprietors of United States customs warehouses for the storage of merchandise," &c. That will exclude the idea of these bonded whisky shops and apply it only to the warehouses necessary to the collection of the customs of the country.

Mr. SCHENCK. I regret exceedingly that the occupation, absorbing as it was, of our colleague upon the committee prevented him from being present when this bill was being framed. If he had been, and had had an opportunity of understanding the bill in its different parts as we progressed with it, I know he would not stand here imputing directly, or indirectly, in any way an intention on the part of the committee of which he is a member—

Mr. LOGAN. I beg the gentleman's pardon. I have not intended to impute any such thing to the committee, nor do I desire to impute any such thing.

Mr. SCHENCK. That is enough. I misapprehended the gentleman, then, when I supposed he thought that was the effect of our legislation.

Mr. LOGAN. I think that is the effect of it; but I do not say that was the design of the committee.

Mr. SCHENCK. What is proposed? That proprietors of United States bonded warehouses, a very profitable business, shall each pay twenty-five dollars internal tax. That is the whole of it. Now, who will be affected by that? Every man who is the proprietor of a United States bonded warehouse for the use of the custom-house; every one who is the proprietor of a distinct distillery warehouse. And if we have export warehouses for distilled spirits, tobacco, oil, or anything else to be exported from the country, then this provision will apply to them. If we have no such ware-



houses, in which distilled spirits, tobacco, or other articles are stored, then, of course, so far as they are concerned, this provision will be inoperative. The gentleman from Illinois [Mr. LOGAN] sees in it a bugbear, a specter, connected with this whisky question, which has no existence at all. Now, if you put your direct tax on whisky very low, perhaps even as low as seventy-five cents per gallon, or even lower than that, you may be able to collect it at the distillery, and not have any warehouses at all except at the distillery, out of which the whisky shall not be permitted to go without the payment of the tax, except it be to warehouses to which it is to be carried, to be conveyed thence on ship-board, under such strict regulations that it shall not be allowed to go abroad without paying the tax. If you propose to break up the whole export trade, then you may get rid of even any export warehouses at all. But in either case you will still want, and will still have, bonded warehouses, and we want to tax the proprietors of them. That is all there is in it. This warehousing business is a profitable business, and we think it can very well afford to pay this special tax. It has been a vastly money-making business, directly under the whisky law and indirectly by reason of frauds. I am as much opposed to a loosely-regulated warehouse system as the gentleman can possibly be.

Mr. LOGAN. I will modify my amendment so as to have the opportunity to say a few words. As a matter of course, I feel very much embarrassed in proposing amendments to this bill, belonging, as I do, to the Committee of Ways and Means. But I hope my zeal in the matter will not be misunderstood. I desire to have no difference with the committee, but I do desire to be understood. I moved to amend this paragraph by inserting the word "merchandise," and the gentleman from Ohio [Mr. SCHENCK] objected. Now, I desire any gentleman to tell me, if this is intended for a bonded warehouse for the use of merchandise, why not put the word "merchandise" in the provision instead of the word "articles?" That is a very simple proposition. I propose to amend this paragraph so that it will read, "United States custom-house warehouses for the storage of merchandise." Now, that is so plain that we can all understand it. United States warehouses for the storage of merchandise; that is all that is intended by this law, the gentleman says. If so, why not say so? My proposition is to make this read, "United States custom-house warehouses for the storage of merchandise." That is all the gentleman says that they propose. Then I say put those words in the bill.

My first proposition is this: I said to the committee if they would allow me to offer an amendment at the proper time in reference to the bonded warehouses I would make no objection to passing this paragraph. But the gentlemen refused to do that. Why not allow an amendment at the proper time, so that the House may determine what kind of warehouses they want, if they want any? The gentlemen can prevent my going back to this paragraph in Committee of the Whole.

Mr. BLAINE. You can offer an additional section to the bill.

Mr. LOGAN. I know you can put a section in at any place, provided you can have time to explain it and make it understood. But if the House commits itself all along to this bonded warehouse system, then we shall get no better law than we have had heretofore.

Now, my objections to some of the action of the committee in reference to this question arise not from a desire on my part to make any accusation against them, but from an honest difference of opinion. If such a difference of opinion is not legitimate and authorized in this House, I am ready to withdraw from the committee, and they can get in my place some one who will agree with them. That is all.

Mr. SCHENCK. Mr. Chairman, I am determined to be, if possible, entirely understood in reference to this matter. I say again that if

you prohibit in every shape whatever export warehouses for distilled spirits, and abolish the entire business of exportation of spirits from this country, you will still need bonded warehouses. You will need not only bonded warehouses for customs, but warehouses at the distilleries. I explained the other day the impossibility (which must be obvious to every gentleman) of standing with your quart or gallon measure at the tail of the worm of the still catching the whisky as it flows, and collecting the tax upon each gallon as it comes forth. The liquor must be removed into some closely-guarded cistern-room, put into the necessary barrels, properly stamped, put into the warehouse at the distillery, and not removed therefrom without the payment of the tax. If you do reduce the tax to a low standard, and require the payment of all the taxes at the distillery, and if you do put the whisky into such a warehouse, shall it be there without any bond? Shall not these be bonded warehouses? I apprehend it is essentially necessary that they shall be?

Mr. LOGAN. I will call the attention of the gentleman to the fact that that is provided for in the bill.

Mr. SCHENCK. I know it is.

Mr. LOGAN. Why, then, insinuate that I am trying to exempt this kind of warehouse from the payment of tax?

Mr. SCHENCK. I am only saying that the question now before us is not whether we shall or shall not have anything of that kind, but whether we shall tax the proprietors of all bonded warehouses. We cannot tax them unless we put in the law a provision for taxing them. If we do not insert such a provision they escape taxation; and if we do insert it, we say that they ought to be taxed, without regard to the kind of bonded warehouses. I did not care particularly about the insertion of the word "merchandise" in place of "articles." I made no objection to that proposition. "Articles" happens to be the word that is used all along through the bill; and it is broad enough to embrace tobacco, distilled spirits, and goods of every kind. The gentleman may put in not only "merchandise," but "goods, wares, and merchandise," and when he has done that he has not shut out whisky. Distilled spirits are as much merchandise as is cotton cloth, and if we have customs warehouses and receive in them importations from abroad, you may call them "goods," you may call them "wares," you may call them "merchandise," you may call them "articles," you may call them by any generic name of that kind, and in either case the term will include fluids as well as solids, because they are all articles of trade.

Now, so far as I am concerned, I have no objection to permitting this question to be reserved, that the gentleman may go back to it hereafter. But I say there will be no necessity for going back. Whatever the House may decide as to export warehouses, whether it permits or does not permit the removal of distilled spirits from the distillery to any warehouse, that matter cannot affect in the slightest degree the question whether we shall or shall not tax the proprietors of bonded warehouses. [Here he hammered fell.]

The CHAIRMAN. Unless there is objection the *pro forma* amendment of the gentleman from Illinois [Mr. LOGAN] will be considered as withdrawn.

There was no objection.

Mr. JUDD. I move to amend by striking out the last word.

Mr. Chairman, at an earlier stage of the discussion of this bill it was intimated by several gentlemen that when the proper point should be reached the question would be raised for the decision of the committee, whether the system abolished by our legislation in the early part of this session should be by this bill reinstated in form or in substance. Those sections were passed over, Mr. Chairman, with the understanding that if the amendment be made at the proper stage of the proceedings

then the privilege should be granted to go back to all other sections and make them correspond to the action of the committee on the main question. That was my understanding, and hence I should have taken no sort of exception to the phraseology here in this clause if that was so understood by the chairman of the committee.

Mr. Chairman, it is utterly impossible by one amendment to strike the system of warehouses out of this bill. It is coupled with other articles throughout the bill. In other words, the committee had their system, which not only embraces tobacco, but distilled spirits. There is no objection to that if that was their view; but what I desire is, that when the main point is decided by the committee, whether distilled spirits shall be allowed to be transported in bond or not, when that question is decided, if decided in the negative, we shall have the privilege of recurring to the preceding sections and correcting them.

Mr. MAYNARD. The gentleman will see that we provide in another section for export bonded warehouses, a section which we have not yet reached.

Mr. JUDD. I have read that section, and I have read the entire bill, although the chairman seems to think no member has read the bill. I do not pretend to be as familiar with the bill as the members of the Ways and Means Committee. I do not intend to be forced from the position I assumed a few days ago by any of this side discussion, that the fraud which has been perpetrated in relation to distilled spirits has grown out of the business of transporting distilled spirits in bond; and although you may talk about warehouses at the distilleries or elsewhere, I am not discussing that question now, nor did I the other day. I did allege that at an early part of the session this committee did agree that frauds in the whisky trade arose when you set the article in motion. When it is set in motion it disappears from taxation. I want the main question settled first, and when that is settled I want to have the privilege of amending accordingly the preceding sections.

The question recurred on Mr. LOGAN's amendment.

Mr. LOGAN. I will withdraw the amendment if the gentleman from Ohio will consent at the proper time that all the sections in reference to bonded warehouses shall be open for amendment.

Mr. FARNSWORTH. The amendment is not in order as it now reads.

Mr. LOGAN. I will modify my amendment so as to strike out the section as it has been amended, and move for it the section as I have proposed to amend it.

Mr. SCHENCK. I object to that. The gentleman is willing to put a tax upon customs bonded warehouses. So am I. I want to put a tax upon distilled spirits bonded warehouses. The gentleman does not want any distilled spirits bonded warehouses. How he is to get the tax upon whisky with it lying around loose in barrels or in the cistern-room is more than I can tell. I beg to call the gentleman's attention to this section:

SEC. 204. And be it further enacted, That every distiller shall provide at his own expense a warehouse, to be situated on and constitute a part of his distillery premises, to be used only for the storage of distilled spirits, of his own manufacture, but no dwelling-house shall be used for such purpose, and no door, window, or other opening shall be made or permitted in the walls of such warehouse leading into the distillery or into any other room or building; and such warehouse, when approved by the Commissioner of Internal Revenue, on report of the collector, is hereby declared to be a bonded warehouse of the United States, to be known as a distillery warehouse, and shall be under the direction and control of the collector of the district, and in charge of an internal revenue storekeeper assigned thereto by the Commissioner of Internal Revenue; and the tax on the spirits stored in such warehouse shall be paid before removal from such warehouse, unless removed in pursuance of law.

We do not permit them to be removed without the tax being paid; but I am not certain that will be the ultimate result of our legislation. Still, I say it will be impossible to get

along without warehouses of some kind at the distilleries to collect the tax. If you are going to leave the whisky lie around until the stamps can be put upon it and paid for, then you will out-Herod all the looseness that has ever been practiced in the warehouses or out of the warehouses. We have seen this to be so necessary that we have taken care to guard this whisky by provisions of law, every drop of it, as far as practicable, from the moment it leaves the worm till it goes into the distillery or warehouse, and is made there a subject of taxation, and is released from it upon the payment of the tax. But a distillery warehouse is necessary, and I want the parties in addition to other taxes to pay for the warehouse. If the gentleman wants to get rid of that, and save the distiller twenty-five dollars, that is another thing. He wants to tax bonded warehouses. So do I; but I want to tax distillery warehouses also. And if we have export warehouses I want to tax them also. I want to tax every proprietor of every bonded warehouse in the United States, everywhere and for all purposes. The more they make of these warehouses the more tax we shall get. It may be important not to have many classes of them; but whether we have few or many I want to put at least twenty-five dollars on each proprietor.

Mr. LOGAN. I desire a moment to answer the gentleman. I am glad to find that he begins to agree with me. He wants to tax bonded warehouses, and so do I. But I want to tax them under their proper names. If the gentleman wants bonded warehouses for distilled spirits, let them be named as such. But then I propose to tax these warehouses more than twenty-five dollars. But I want to collect the tax on distilled spirits at the worm of the still. The gentleman need not try to make sport, as he has several times endeavored to do, about measuring out the spirits by the quart at the worm of the still, in order to prevent gentlemen from getting a true idea of the proper manner of collecting the tax at the still. The way to collect it is at the place where the distiller keeps his whisky when he gauges the barrels. You propose to reduce the whisky tax and give the distiller his bonded warehouse, and then you propose to tax the bonded warehouse. Now, I am for taxing the warehouses and making the law apply to them under their specific names.

Make your warehouses for the storing of merchandise and warehouses for storing whisky alone. And when you come to make warehouses exclusively for the storing of whisky, I am for taxing them more than twenty-five dollars. There is the distinction between the gentleman and myself. Now, if gentlemen are sincere—and I presume they are—if you intend to have these warehouses that you are now talking about for merchandise, why not say so? Then my proposition is correct and proper. Then when you put a tax upon your whisky warehouses say so, and let the country understand it.

Mr. HOOPER, of Massachusetts. Is not whisky merchandise?

Mr. LOGAN. I do not mean to say but that it is; but if you will put it in this law in the way I suggest, and have your whisky warehouses separate from the others, then the law will exclude distilled spirits from the warehouse for merchandise. I desire each class of bonded warehouses to stand on its own merits. This is intended for customs warehouses, I presume, because I suppose the gentleman does not intend to tax bonded warehouses for holding whisky the same as for storing something else that does not pay half the tax. Now, let us declare the customs warehouses to be taxable at twenty-five dollars, and then if the House determines to have bonded warehouses for whisky, tax them according to the character of the article they contain.

The amendment of Mr. LOGAN was disagreed to.

The Clerk read as follows:

Dealers in petroleum, whose annual sales do not exceed \$10,000, shall each pay ten dollars, and when

the annual sales exceed \$10,000 shall pay, in addition, one dollar for every \$1,000 in excess of \$10,000. Every person who is an owner or operator of an oil well, or whose business it is, either for himself or others, to buy or sell crude petroleum, shall be regarded as a dealer in petroleum.

Mr. SCOFIELD. In line five hundred and ninety-nine I move to strike out the word "an" and to insert in lieu thereof "a productive;" so that it will read: "Every person who is an owner or operator of a productive oil well," &c.

Mr. ALLISON. I do not think that amendment should be adopted. I oppose it.

Mr. WOODWARD. I beg leave to inquire of my colleague what he means by a "productive oil well?"

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. SCOFIELD. I will withdraw it, and renew it for the purpose of explaining.

The CHAIRMAN. The gentleman can do so if there be no objection.

No objection was made.

Mr. SCOFIELD. The words are "an owner or operator of an oil well." If only the word "operator" had been used it would have meant to limit the tax to productive wells. But the owner of any oil well that is not at present yielding oil, although it may at some future time yield oil or has yielded it in the past, ought not to be taxed or considered as a dealer in oil. Perhaps he might be so considered under the construction of this clause, and it will make it clearer if we put in the word "productive."

Mr. UPSON. I call the attention of the gentleman to the first part of the paragraph. It relates to dealers "whose annual sales do not exceed \$10,000." The oil well, therefore, must be productive; there has got to be a sale of some kind.

Mr. WOODWARD. I do not want to debate this matter. I wish to say, however, that I would rather strike out this whole paragraph with regard to oil. I do not think we ought to tax it in any form whatever, or to tax either the owner or the operator of an oil well.

Mr. SCOFIELD. The language of the paragraph is "whose whole annual sales do not exceed \$1,000." Now, if he only sells a gallon he will have to pay the tax.

Mr. UPSON. Would it not be a "productive" well if it produced a gallon?

Mr. SCOFIELD. No; I suppose not. At all events, the insertion of the word can do no harm.

Mr. WOODWARD. I move to strike out the whole paragraph.

Mr. SCHENCK. I wish to suggest to the gentleman from Pennsylvania that he alter his amendment, and move to amend the paragraph so as to read, "Every person who is an owner or lessee and operator of an oil well," &c.

Mr. SCOFIELD. I will accept that modification.

Mr. SCOFIELD's amendment, as modified, was agreed to.

Mr. WOODWARD. I withdraw the motion to strike out the paragraph.

Mr. ALLISON. I move to strike out the word "one," in line five hundred and ninety-seven, and to insert "two" in lieu thereof; so that it will read: "shall pay in addition two dollars for every \$1,000 in excess of \$10,000." I offer this amendment because it has been intimated that the provision in this bill taxing oil specifically ten cents per gallon is to be stricken out. I believe the chairman of the Committee of Ways and Means intimated as much in his opening remarks. I do not know what may be the fate of that proposition, but if that tax is to be stricken out, then dealers in oil should be placed precisely on a par with all other dealers in this country and pay two dollars on their sales in excess of \$10,000, as every other dealer is obliged to do. If the provision taxing oil specifically shall not be stricken out, then I shall be willing to go back and restore this tax to one dollar.

Mr. SCHENCK. I suggest to my colleague that he enter his motion, and that the vote on

it be reserved. I agree with him that if we take off the tax of ten cents per gallon the least we can do will be to put dealers in oil on the same footing with other dealers.

I ask that by unanimous consent this amendment may be reserved.

No objection was made, and the amendment was reserved.

The Clerk read the next paragraph, as follows:

Distillers of oil shall each pay fifty dollars. Every person who shall distill, refine, or filter petroleum or oil from coal, asphaltum, shale, peat, or other bituminous substances, or shall manufacture illuminating or lubricating oil, or shall mix, purify, filter, or prepare in any other manner any of the products of such refining process, distillation, or manufacture, shall be regarded as a distiller of oil.

Mr. SPALDING. I do not object to this tax, but I wish to have it graduated, and I have prepared an amendment for that purpose. I move to strike out the first sentence, "distillers of oil shall each pay fifty dollars," and insert in lieu thereof the following:

Distillers of oil, who manufacture not more than ten thousand barrels a year, shall pay twenty-five dollars; those who manufacture more than ten thousand and less than fifteen thousand barrels shall pay fifty dollars; and all who manufacture more than fifteen thousand barrels annually shall pay seventy-five dollars.

I represent a district largely interested in the refining of this article, petroleum. I believe the manufacturers do not so much object to this tax of fifty dollars; but a great many of them are small manufacturers, and the twenty-five dollars tax which I propose will, perhaps, be enough for them to pay; I refer to small manufacturers who manufacture twenty, twenty-five, or thirty barrels a day. We have some who manufacture two hundred, three hundred, and even five hundred barrels a day. I propose by my amendment to graduate the tax, and make the large manufacturers pay seventy-five dollars, the small manufacturers twenty-five dollars, and the medium fifty dollars.

Mr. MAYNARD. Are there any manufacturers who would pay seventy-five dollars under this amendment?

Mr. SPALDING. Yes; there are several in my district.

Mr. ALLISON. I think this paragraph and the preceding paragraph should be passed over for the present. If the subsequent section is stricken out there should be an addition to this tax.

Mr. SPALDING. I do not think the subsequent section will be stricken out. The tax on mineral oil has been reduced from twenty cents to ten cents per gallon; and it will be putting me in an embarrassing position if we take it all off.

Mr. ALLISON. Very well; I will go with the gentleman.

Mr. SCOFIELD. I move to amend the amendment so as to provide that the person who runs but one still shall pay ten dollars. I think the gentleman from Ohio [Mr. SPALDING] is very much mistaken in regard to the disposition of this House if he thinks it will not relieve this oil interest from the specific tax per gallon. From conversations with a very large number of the members of this House, I am very sure they will not be in favor of continuing all this expensive machinery for the collection of a tax so small yet so oppressive, considering the amount. I feel very sure the whole tax per gallon will be stricken out, and I hope the gentleman will aid us in doing so when we come to it. I am of this opinion from conversations that I have had with, I suppose, one half of the members of this House.

Mr. SPALDING. Of course I cannot be expected to oppose the relieving of my people altogether from this tax, and I shall vote for it. But I do not ask for it; I do not think my constituents ask for it; I do not think they feel the necessity for it.

Mr. SCOFIELD. A great many of the gentleman's constituents have asked me for it. The gentleman has been absent a short time, and a great many of his constituents have come

to me about this tax. If it is to affect the final vote I hope the suggestion of the gentleman from Iowa [Mr. ALLISON] will be agreed to; for I feel perfectly confident that this tax per gallon will be removed. I now withdraw my amendment to the amendment.

The question was upon the amendment of Mr. SPALDING.

Mr. SCHENCK. At the beginning of the winter the oil men, represented here very numerous, fell into a mistake, perhaps, in regard to their interest, when they represented that nothing could bear a tax better than oil; it was then twenty cents per gallon. They afterward became satisfied that they must have some relief, and this House gave it to them, taking off the half of that tax. It has now reached that point when I think it will be about as expedient to put these oil manufacturers in the general class of manufacturers as it will be to keep on this tax of ten cents per gallon. However that may be, we have already taken from them a burden of some three million dollars.

Now, what do we propose here? That each distiller shall pay a special tax of fifty dollars upon the manufacture of this article, which it was once thought could bear a tax so well. What will that amount to? My colleague [Mr. SPALDING] says that the very small establishments manufacture only some ten or fifteen barrels per day. Suppose we take ten barrels as the average, allowing three hundred working days in a year, that will make three thousand barrels. And at fifty dollars, that will be less than two cents per barrel; not a very onerous tax, considering the millions already taken off. But if you get it down to twenty-five dollars, it will be not quite a cent on a barrel. The truth is it is not a heavy tax at all; and it does seem to me that gentlemen who are expecting to urge upon this House the propriety of taking off altogether the specific tax of ten cents a gallon, leaving these men to pay like other manufacturers a tax of two tenths of one per cent. on the amount of their sales over \$5,000, ought not to be pressing us in regard to these incidental points as they arise, lest thereby they endanger their case.

Mr. SCOTFIELD. The gentleman will permit me to say that all I am seeking now is to have this question reserved.

Mr. SCHENCK. This is a very small tax when you come to examine it.

Mr. SPALDING. I am not objecting to the tax; but I wish to have it graduated.

Mr. ALLISON. I ask unanimous consent that this paragraph may be reserved for consideration hereafter.

The CHAIRMAN. If there be no objection, the paragraph will be reserved.

There was no objection.

The next paragraph was read, as follows:

Distillers producing two hundred barrels, or less, of distilled spirits, counting forty gallons of proof spirits to the barrel, within the year, shall each pay \$200, and one dollar for each such barrel produced in excess of two hundred barrels. And monthly returns of the number of barrels of spirits, as before described, distilled by him, shall be made by each distiller in the same manner as monthly returns of sales are made. Every person who produces distilled spirits, or who brews or makes mash, wort, or wash for distillation or for the production of spirits, or who by any process of vaporization separates alcoholic spirit from any fermented substance, or who, making or keeping mash, wort, or wash, has also in his possession or use a still, shall be regarded as a distiller.

Mr. SCHENCK. On behalf of the Committee of Ways and Means, I move to amend by adding at the end of the paragraph just read the following:

Provided, That no tax shall be imposed for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical, chemical, or scientific purposes, which has been used in those processes.

Mr. LOGAN. Mr. Chairman, I know that I occupy an unfortunate position in being obliged to oppose propositions emanating from the Committee of Ways and Means. I expect that this amendment will be adopted. I presume the House will not pay any attention to anything I may say about the matter. But I desire to call attention to the fact that the ex-

emption of persons recovering alcohol in the manner and for the purposes indicated in the amendment has been shown to be one of the sources of fraud. Why the Committee of Ways and Means should recommend this exemption I cannot understand. There are evidences that in this way frauds have been committed; and although at one time the Commissioner of Internal Revenue, I believe, suggested the insertion of this amendment, yet since that time he has recommended taking it out of the bill. I am opposed to any such amendment, because it opens up one of the avenues for fraud. The only thing we can safely do is to tax these persons as we tax all other distillers. When they carry on these processes they are in fact engaged in distilling; and there is as much propriety in taxing them as in taxing the distiller who manufactures spirits in the first instance.

The CHAIRMAN. Debate on this amendment is exhausted.

Mr. SCHENCK. In order that I may make an explanation, I move *pro forma* to amend the amendment by striking out the last word.

Mr. Chairman, my colleague on the committee [Mr. LOGAN] is somewhat mistaken as to the facts in relation to the history of this amendment. The position of the matter is this: we are endeavoring, by the most stringent measures we can devise, to guard against illicit distillation. In revising the present law we found in it a saving clause in favor of those engaged as druggists or chemists in recovering alcohol which had once been used. This exception in their favor is made by the law as it now stands; it is to-day the law. We were so anxious, however, to cut off all possibility of any wrong being done that, in preparing this bill, we omitted the provision. The gentleman from Illinois is mistaken in saying that it was left out at the request of the Commissioner of Internal Revenue. He may have made that request, but—

Mr. LOGAN. I said he made the suggestion.

Mr. SCHENCK. I never heard of it before this morning, and I have since been ransacking my memory in regard to the matter. I remember very well now that the sub-committee on whisky, in a room in the Treasury Department, came to the conclusion that provision might leave the door open to some frauds. I know that the Commissioner of Internal Revenue never spoke to me, nor, so far as I know, to any of the committee, on the subject. He came afterward and suggested that he had made a mistake in leaving that off. Since that I have had complaints made to me by druggists and chemists that, instead of opening the door for fraud by leaving the law as it is, we were doing them great mischief in not retaining it as it now is.

Now, I remember the frauds the gentleman refers to. They were not frauds under this but under another section of the present law, the one hundred and sixty-eighth section, where men have been permitted to take, for the manufacture of articles to go abroad, such as cosmetics and patent medicines or anything of that kind, distilled spirits in bond, and upon proof that they had manufactured into these articles and sent them abroad, they have been relieved from paying any tax. This opened the door for fraud against which we have provided.

Mr. BECK. I ask the chairman whether he will not consent to pass by the remaining portion of this paragraph until the tax on whisky and tobacco is determined?

Mr. SCHENCK. I have no objection to that, but I do not wish to reserve the whole bill.

Mr. BECK. When that is done we will be better able to arrange these things.

Mr. SCHENCK. I was going to suggest something of that sort, but this is a distinct question which does not touch the other. I desire to say, so far as I know anything about it, that I have come to the conclusion we ought not to have cut this section out of the law as

it now is, but, on the contrary, ought to have retained it; and although the committee reported the bill without this little clause, it afterward concluded to restore it.

I am sure my colleague is mistaken. The examination of Mr. Parker—

[Here the hammer fell.]

Mr. LOGAN. I do not desire any further controversy about this; but I desire to be fairly understood and fairly represented. Now, when the gentleman says there has never been anything of the kind he has, unintentionally I know, done me injustice. The Clerk knows what I state to be true. I examined Mr. Parker myself. I was a member of the sub-committee, and heard the facts I have stated, and it was upon those facts I made the suggestion. I made it, too, in the committee. I do not know whether the Commissioner made the statement to him or not. I know the statement made to me, and I know the proposition was to put this in the bill. I know the evidence before the committee shows that frauds were committed by stills used by druggists, and that is the only reason I made the suggestion.

The amendment was agreed to.

Mr. SCHENCK. I move to amend by striking out "\$200" and inserting "\$1,000;" and striking out "one" and inserting "five," so the special tax on the distiller shall be \$1,000 in addition to five dollars as a special tax on each barrel. I do not ask for a vote now; but that it shall be reserved until we fix the direct tax together with the pending and succeeding paragraphs, as follows:

Rectifiers of distilled spirits, rectifying, purifying, or refining two hundred barrels or less of distilled spirits, counting forty gallons of proof spirits to the barrel, within the year, shall each pay \$200, and fifty cents for each such barrel produced in excess of two hundred barrels. And monthly returns of the quantity and proof of all the spirits purchased and of the number of barrels of spirits, as before described, rectified, purified, or refined by him, shall be made by each rectifier in the same manner as monthly returns of sales are made. Every person who rectifies, purifies, or refines distilled spirits or wines by any process, and every wholesale or retail liquor dealer or compounder of liquors who has in his possession any still or leach-tub or who shall keep any other apparatus for the purpose of refining in any manner distilled spirits, shall be regarded as a rectifier.

Compounders of liquors shall each pay twenty-five dollars. Every person who, without rectifying, purifying, or refining distilled spirits, shall by mixing such spirits, wine, or cider with any materials, manufacture any spurious, imitation, or compound liquors, for sale under the name of whisky, brandy, gin, rum, wine, spirits, cordials, or wine bitters, or any other name, shall be regarded as a compounder of liquors.

Retail liquor dealers whose annual sales do not exceed \$2,500 shall each pay twenty-five dollars; if exceeding \$2,500 and not exceeding \$5,000 shall each pay fifty dollars; if exceeding \$5,000 and not exceeding \$10,000 shall each pay \$100; if exceeding \$10,000 and not exceeding \$20,000 shall each pay \$200; and if exceeding \$20,000 shall each pay \$1,000. Every person who sells or offers for sale distilled spirits, wines, or malt liquors, in less quantities than one quart at a time, or to be drunk at the place, or on the premises where they are sold, shall be regarded as a retail liquor dealer.

Wholesale liquor dealers shall each pay fifty dollars, and twenty-five dollars for every additional \$1,000, on all sales in excess of \$2,000. Every person who sells or offers for sale distilled spirits, wines, or malt liquors in quantity of not less than one quart at one time, and not to be drunk at the place or on the premises where the sale is made, shall be regarded as a wholesale liquor dealer. But no distiller or brewer, who has paid his special tax as such, and who sells only distilled spirits or malt liquors of his own production in the original casks or packages in which they are placed for the purpose of affixing the tax stamps, shall be required to pay the special tax of a wholesale dealer.

Mr. ROBINSON. Would it not be proper now, instead of reserving this portion, to take a vote on the tax on distilled spirits?

The CHAIRMAN. That question is not pending.

Mr. ROBINSON. Why not move a proviso that hereafter distilled spirits shall pay fifty cents a gallon?

The CHAIRMAN. That would not be germane to the paragraph. If there is no objection these portions of the bill will be reserved. The Chair hears none.

The Clerk read as follows:

Manufactures of stills shall each pay fifty dollars, and twenty dollars for each still or worm for distilling made for sale by him. Any person who manu-



factures any still or worm to be used in distilling shall be deemed a manufacturer of stills.

Mr. SCHENCK. I move to strike out the words "for sale," so that it will read "or worm for distilling made by him."

The amendment was agreed to.

The Clerk read as follows:

Maltsters or malt-dealers, whose annual sales do not exceed \$25,000, shall each pay fifty dollars; and if their annual sales exceed \$25,000, for every additional \$1,000 in excess of \$25,000 they shall pay two dollars. Every person shall be regarded as a maltster or malt-dealer who makes or prepares malt extract, malt, or any preparation thereof, and who sells the same or offers it for sale, on commission or in any other manner. The market value of all malt extract, malt, or any preparation thereof, prepared and used by any maltster himself, shall be included in and be regarded as part of the sales made by him as a maltster; and the payment of a special tax by any person as a brewer or distiller shall not exempt such brewer or distiller who may do the business also of a maltster or malt-dealer from the payment of the special tax as such maltster or malt-dealer, nor from the keeping of separate books and making the returns required of a maltster or malt-dealer;

Mr. GRISWOLD. I move to amend the paragraph by striking out the following clauses:

Whose annual sales do not exceed \$25,000.  
And if their annual sales exceed \$25,000, for every additional \$1,000 in excess of \$25,000, they shall pay two dollars.

The market value of all malt extract, malt, or any preparation thereof, prepared and used by any maltster himself, shall be included in and be regarded as part of the sales made by him as a maltster, (nor from the keeping of separate books and making the returns required of a maltster or malt-dealer:

So that the paragraph as amended will read:

Maltsters or malt-dealers, shall each pay fifty dollars. Every person shall be regarded as a maltster or malt-dealer who makes or prepares malt extract, malt, or any preparation thereof, and who sells the same or offers it for sale, on commission or in any other manner; and the payment of a special tax by any person as a brewer or distiller shall not exempt such brewer or distiller who may do the business also of a maltster or malt-dealer from the payment of the special tax as such maltster or malt-dealer.

The effect of this amendment will be to leave the tax on ale as it now is. I should have presented this matter to the committee if I had had an opportunity to do so; but as I had not I now submit it on my own responsibility. I do so for the reason that, in my judgment, the present tax on ale is quite as high as is practicable. If we increase it it becomes an unreasonable and onerous tax, and from necessity, when you go beyond a certain point, the tax must affect the consumption. It will be borne in mind that the original tax on ale was sixty cents per barrel. In 1864, I think, it was increased to one dollar, that being regarded as the highest tax which the article would admit of practicably. Now, by this section it is proposed to put a special tax on maltsters or malt-dealers and a further tax on their sales, thus increasing the tax on the article.

Mr. GETZ. Would it be in order to propose an additional amendment?

The CHAIRMAN. As soon as this is disposed of.

Mr. SCHENCK. The gentleman from New York proposes that all maltsters or malt-dealers shall pay fifty dollars and to stop there, with no tax on the sales. Now, I know how popular lager beer is, as well as beer and ale. I like them myself. I would like to see them taking the place of spirituous liquors as far as possible. But, at the same time, I am not prepared to believe that this is an interest, so far as the manufacture is concerned, that is suffering. We have not proposed to increase the tax on malt liquors, which remains, as before, at one dollar on each barrel produced. What is proposed is, that inasmuch as the manufacturing of malt is a distinct business, and inasmuch as these maltsters or dealers in malt make a profit on the capital invested separate from the production of beer or ale, they shall be put upon a footing with other manufacturers and made to pay a tax on their sales. And I submit to the gentleman whether, if he succeeds in this amendment, he will not leave them, so far as a tax on sales will be concerned, to fall in under the head of other manufacturers. It appears to me that to deal in malt, to manufacture it, being a separate business, there is as much propriety in charging the dealer in malt and

charging the manufacturer of malt as there is propriety in charging the man who deals in hops, which are also used in the production of this commodity. You do not let off the dealer in hops because he happens to deal in an article which contributes to make this popular beverage. Why let off the malt dealer who also deals in an article which enters as one of the component parts into beer. You do not let off the man who manufactures the vats or barrels in which the fermented liquor is made or put to be conveyed to market. And yet why should you not on the same principle let him off because he contributes to what we propose to make, if possible, the great popular beverage, driving out spirits from the country? I cannot understand upon what principle a proposition can be founded to treat the manufacturer of this article or the dealer in this article as if he stood upon a different footing from the manufacturer of or dealer in any other article.

Mr. GRISWOLD. I move *pro forma* to strike out the last word. I desire to say, in answer to the chairman of the Committee of Ways and Means, that, of course, there is but one reply to make to his interrogatory, and that is that we have already, as I stated in my remarks before, taxed this article as high, in my judgment, as it will bear, and that it is impolitic to go beyond the point of safety on this or any other article. And I may take occasion to say here that I am influenced on this question by the same considerations and views as I have entertained in reference to the whisky tax. I believe that the present tax on whisky is too high; that it is impracticable and impossible to collect it, and for that reason I have from the outset been in favor of reducing the tax. And as I view the tax on whisky, so I view that on ale. I think we have got it already as high as it will bear, and that, of course, is the only reason that can be alleged for opposing any additional tax upon it.

Mr. GARFIELD. I would like to make this suggestion in regard to malt. The last action that was had by Congress on the subject of the tariff left malt in an exceptional and unfortunate position in this, that the tariff duty on barley and its relation to the tariff duty on malt is such that it is cheaper to go over into Canada and buy malt and bring it into this country already made than it is to buy the barley in Canada and manufacture the malt in our own manufactories. There is, therefore, a peculiar hardship resting at this time upon maltsters in consequence of the exceedingly high duty on barley as compared with the duty on manufactured malt.

It seems to me, therefore, that if anything is to be done touching this question at all, or touching the burden which maltsters should bear, it should be done with that fact borne in mind, that they are already bearing a burden that is disproportionate in consequence of the bad adjustment of the tariff.

Whilst the reciprocity treaty between us and Canada was in existence, barley came in free and malt was protected by a certain rate of duties, but when the reciprocity treaty expired barley immediately passed under the general regulations of the tariff.

Mr. SCHENCK. If that is the case, how is it that the manufacture of malt has gone on as usual?

Mr. GARFIELD. I do not know what the fact may be; but if it is a profitable business now it must have been vastly more so then. I do know from correspondence I have had with gentlemen in the trade that it is said that many American maltsters now get their malt in Canada instead of making it at home, as they did before the present state of affairs supervened.

Mr. GRISWOLD. In reply to the inquiry of the chairman of the Committee of Ways and Means [Mr. SCHENCK] as to the reason why the business of the maltster is so profitable I desire to say that one very good reason is this: with the present tax of two dollars per gallon on whisky a demand has sprung up among the

small distillers of whisky for malt for distillation. A very large market for malt has been created by the demand of these illicit distillers. I now withdraw my amendment to the amendment.

The question recurred upon the amendment of Mr. GRISWOLD.

Mr. ROBINSON. I move to strike out this entire paragraph.

The CHAIRMAN. That motion will be in order after amendments to the paragraph have been disposed of.

The amendment of Mr. GRISWOLD was to make the paragraph read as follows:

Maltsters or malt-dealers shall each pay fifty dollars. Every person shall be regarded as a maltster or malt-dealer who makes or prepares malt extract, malt, or any preparation thereof, and who sells the same or offers it for sale, on commission or in any other manner. And the payment of a special tax by any person as a brewer or distiller shall not exempt such brewer or distiller, who may do the business also of a maltster, or malt-dealer, from the payment of the special tax as such maltster or malt-dealer.

The question was taken upon the amendment; and upon a division there were—ayes 36, noes 38; no quorum voting.

Mr. GRISWOLD. I ask for tellers.

Tellers were ordered; and Mr. GRISWOLD and Mr. ALLISON were appointed.

The committee again divided; and the tellers reported that there were—ayes 55, noes 42.

So the amendment was agreed to.

Mr. GETZ. I move to further amend the paragraph by reducing the tax from fifty dollars to twenty-five dollars.

Mr. MAYNARD. I rise to a question of order. The amendment we have just adopted, on the motion of the gentleman from New York, [Mr. GRISWOLD,] puts those words in this paragraph.

The CHAIRMAN. The Chair overrules the point of order. The gentleman from Pennsylvania [Mr. GETZ] moves to amend a portion of the original paragraph.

Mr. GETZ. I propose this amendment because the tax upon maltsters is an indirect tax upon brewers. Whatever tax the maltster is required to pay is ultimately paid by the brewer. The Committee of Ways and Means have provided fully for the tax on the brewing interests, and the brewers are willing to pay that tax. The amendment I propose is merely to put maltsters upon the same footing with all other dealers, as will be seen by reference to the bill. I offer this amendment in pursuance of the statement of the chairman of the Committee of Ways and Means, [Mr. SCHENCK,] who contended that maltsters should not be exempted from the general taxes imposed upon other dealers.

Mr. ALLISON. I think there is a great deal of force in what the gentleman from Pennsylvania [Mr. GETZ] says. I will move to strike out this entire paragraph, and that will put maltsters upon the same footing with other manufacturers.

Mr. GETZ. I will withdraw my amendment and allow the vote to be taken upon the motion to strike out, with the understanding that if that motion does not prevail I shall be allowed to renew my amendment.

The CHAIRMAN. That will be done if no objection is made.

No objection was made.

Mr. ALLISON. I now move to strike out the entire paragraph.

Mr. ROBINSON. I believe that was my motion, to strike out the paragraph.

The CHAIRMAN. The Chair will recognize the gentleman from New York [Mr. ROBINSON] as entitled to the floor.

Mr. ROBINSON. This is one of those cases in which the tax is already high enough without duplicating and triplicating it. The tax upon this healthy and useful beverage is high enough; and I trust this paragraph will be stricken out, so as to give this measure of relief to an article already too highly taxed. I will not make a very long speech upon this subject, as I do not intend to occupy the attention of the House. The propriety of this

motion to strike out is so self-evident that I presume it will pass unanimously.

The question was then taken upon the motion to strike out the paragraph; and, upon a division, there were—ayes fifty-six, noes not counted.

So the motion to strike out was agreed to.

The committee then rose informally, and the Speaker resumed the chair.

#### ENROLLED JOINT RESOLUTION.

Mr. HOPKINS, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled, a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (H. R. No. 218) for the relief of John M. Palmer.

#### INTERNAL TAX BILL.

The Committee of the Whole resumed the consideration of the internal tax bill.

The following paragraph was read:

Brewers shall each pay \$100. Every person whose business it is to manufacture fermented liquors of any name or description, for sale, from malt, wholly or in part, or from any substitute therefor, shall be regarded as a brewer.

Mr. SPALDING. I would like to move to strike out this entire paragraph. But I will move to reduce the tax from \$100 to fifty dollars on brewers.

The question was taken; and upon a division there were—ayes thirty-four, noes not counted.

So the amendment was not agreed to.

Mr. VAN AUKEN. I move to amend, so as to make the first sentence of the pending paragraph read as follows:

Brewers whose sales do not amount to over \$10,000 shall pay twenty-five dollars; above \$10,000, \$100.

Mr. Chairman, I do not wish to discuss this question; but it seems to me the provision of the bill as it stand must operate unjustly by making no discrimination between brewers doing a large business and those who do a small business. Gentlemen must, I think, see at once the manifest propriety of graduating this tax according to the amount of business.

Mr. SCHENCK. I desire to say that the tax proposed in this paragraph is precisely the same as that imposed by the present law. I believe the brewers are satisfied with it, and are enabled to carry on their business successfully.

Mr. VAN TRUMP. Does not my colleague [Mr. SCHENCK] wish to satisfy the small brewers?

Mr. SCHENCK. No complaints of this \$100 tax have come to the committee.

Mr. VAN AUKEN. There are some small brewers in my district who are seriously affected by this requirement of \$100. It seems to me there should be a reduction as to those doing a small amount of business.

On the amendment of Mr. VAN AUKEN there were—ayes 39, noes 57.

Mr. VAN AUKEN. I call for tellers.

Tellers were not ordered.

So the amendment was not agreed to.

Mr. SPALDING. I move to amend by striking out the pending paragraph.

The hour of half past four o'clock p.m. having arrived, the committee, under the order of the House, took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The Committee of the Whole on the state of the Union reassembled at half past seven o'clock p. m., (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and amend the laws relating to internal taxes.

The pending paragraph was the following:

Brewers shall each pay \$100. Every person whose business it is to manufacture fermented liquors of any name or description, for sale, from malt, wholly or in part, or from any substitute therefor, shall be regarded as a brewer.

The pending question was upon the amendment of Mr. SPALDING, to strike out the paragraph.

The amendment was not agreed to.

No further amendment was offered.

The next paragraph was read, as follows:

Dealers in leaf tobacco, whose annual sales do not exceed \$25,000, shall each pay fifty dollars; and if their annual sales exceed \$25,000, for every additional \$1,000 in excess of \$25,000, they shall pay two dollars. Every person shall be regarded as a dealer in leaf tobacco, who shall, for himself or on commission, sell or offer for sale leaf tobacco of foreign or domestic production. And payment of a special tax as a wholesaler, dealer, tobaccoist, manufacturer of cigars, or manufacturer of tobacco, shall not exempt any person dealing in leaf tobacco from the payment of the special tax therefor hereby required. But no person shall sell at any one time a less quantity than fifty pounds of leaf tobacco without making a monthly return of the aggregate of such sales to the proper assistant assessor, and a tax of sixteen cents per pound shall be assessed on all sales made in less quantity than fifty pounds, and collected as other monthly taxes are required to be paid. But no farmer or planter shall be required to pay a special tax as a dealer in leaf tobacco for selling tobacco of his own production.

Mr. SCHENCK. I move to amend by striking out the words "but no person shall sell at any one time a less quantity than fifty pounds of leaf tobacco without making," and inserting "every dealer who shall sell at any one time a less quantity than fifty pounds of leaf tobacco shall make;" so that the sentence shall read as follows:

Every dealer who shall sell at any one time a less quantity than fifty pounds of leaf tobacco shall make a monthly return of the aggregate of such sales to the proper assistant assessor, and a tax of sixteen cents per pound shall be assessed on all sales made in less quantity than fifty pounds, and collected as other monthly taxes are required to be paid.

The amendment was agreed to.

Mr. SCHENCK. I move to amend the same sentence by striking out the word "collected," and inserting "paid."

The amendment was agreed to.

Mr. BUTLER. I move to amend the pending paragraph by striking out at the close of the second sentence the words "of foreign or domestic production;" so that the sentence will read:

"Every person shall be regarded as a dealer in leaf tobacco who shall, for himself or on commission, sell or offer for sale leaf tobacco."

The amendment was agreed to.

Mr. CLARK, of Ohio. I move to amend by adding at the end of the pending paragraph the words "or which he received as rent of that produced by tenants upon his lands;" so that the last sentence will read as follows:

But no farmer or planter shall be required to pay a special tax as a dealer in leaf tobacco for selling tobacco of his own production or which he received as rent of that produced by tenants upon his lands.

The amendment was agreed to.

Mr. WASHBURN, of Massachusetts. I move in lines seven hundred and three and seven hundred and four to strike out "twenty-five," and insert "ten;" so it will read "\$10,000," instead of "\$25,000," and in line seven hundred and three to strike out "fifty dollars," and insert "twenty-five dollars." The committee will understand that the only alteration is in the amount of sale, putting the limit at \$10,000, and fixing the tax at twenty-five dollars where the sales do not exceed \$10,000, and two dollars for every 1,000 over that. In the bill the tax is fifty dollars on sales which do not exceed \$25,000.

I wish for a single moment to call the attention of the committee to the fact that in many sections of the country it is the custom of persons in individual districts and towns to buy the tobacco raised in the neighborhood, amounting to \$10,000, which they sell to the dealers in the cities. This bill cuts off that class of persons. The amount they purchase is small in any one town or neighborhood, amounting only to \$5,000, \$8,000, or \$10,000, and they cannot afford to pay fifty dollars. My amendment provides if the sales do not exceed \$10,000 the tax shall be ten dollars, and if over that the tax shall be two dollars on every additional \$1,000.

Mr. SCHENCK. I understand the gentleman to change in the seven hundred and fourth line, as well as in the seven hundred and third line, so it will read:

Dealers in leaf tobacco, whose annual sales do not

exceed \$10,000, shall each pay twenty-five dollars; and if their annual sales exceed \$10,000, for every additional \$1,000 in excess of \$10,000 they shall pay two dollars.

That preserves the principle of the bill, and I do not object.

The amendment was agreed to.

Mr. TRIMBLE, of Kentucky. I move to strike out the paragraph. I do not think, sir, that the principle of this section ought to be adopted. The action of Congress heretofore on the subject of tobacco has left the leaf tobacco free. We have heretofore imposed no tax on it, but this paragraph proposes to require every man who deals in tobacco to any extent to get a license. In the State I represent a large number of farmers buy from their neighbors, and under this section, if the neighbor has not even sufficient to make a hoghead, he will have to get a license or else will act in violation of the law.

I think this principle ought not to be adopted by the House. The people who buy from those who raise the tobacco in the leaf, in the raw state, ought to be permitted to do so without being compelled to get a license or coming under this provision of the bill. There is no more reason for compelling a farmer who buys a part of a hoghead of tobacco from his neighbor to pay a license than to require a farmer who buys his neighbor's hogs or corn or wheat. I think the section ought to be stricken out, so we may obtain from tobacco in its manufactured state that revenue which should be borne by it. You will find this will operate oppressively, in my judgment, upon the tobacco-growing section of this country. I think the committee will act wisely in striking out the section and imposing no tax upon those who deal in this limited way.

Mr. SCHENCK. I am like the gentleman from Kentucky. I represent a tobacco and leaf tobacco district, and I think he labors under a misapprehension in reference to this section. There is no burden upon the farmer at all. He is not required to pay for a license on the leaf tobacco that he raises.

Mr. TRIMBLE, of Kentucky. There are some who buy the leaf tobacco from their neighbors.

Mr. SCHENCK. I put the case of one who trades in leaf tobacco. One of the great difficulties we have in keeping the trade within such limits as to prevent great fraud has been to have a run of the leaf tobacco. For this purpose on the regular dealers who buy and sell tobacco not produced by themselves or received as rent from their tenants, we have laid a tax, that is, upon those who deal in leaf tobacco as a trade, as a business. It enables us to have a run of leaf tobacco, to trace it to the manufacturers, and to keep a supervision over them. These men should pay a tax as well as the dealers in other articles. So far as dealers are concerned I know no reason why dealers in leaf tobacco should stand on any more favorable footing than dealers in any other commodity.

The other part of the section relates to the necessity of making a return and paying the tax upon a quantity less than fifty pounds that may be sold. This was regarded as a necessary provision in order to prevent a practice which prevails to a great extent of evading the tax by selling leaf tobacco, not as a regular dealer, but in small lots, to be cut up by the person who purchases and uses it as smoking or chewing tobacco without being subject to any tax at all. It is to protect regular dealers in leaf tobacco who sell in amounts greater than fifty pounds, who are engaged in regular honest trade in that article. At the same time it prevents filling the country and supplying individuals with small lots of tobacco which are not bought for the purpose of being manufactured, and which are not manufactured at all, except in such a way as to evade all payment of tax upon it by being cut by the party who thus obtains the small quantity. This provision in relation to leaf tobacco has been made after full consultation with all the tobacco man-

ufacturers and dealers as one of the means of protecting their own trade.

Mr. O'NEILL. I move, *pro forma*, to strike out the words "in less quantity than fifty pounds." It seems to me that this condition of purchasing not less than fifty pounds will have a very disastrous effect upon the small manufacturers of cigars.

Mr. PILE. I suggest that this section does not refer to manufacturers, but dealers in leaf tobacco.

Mr. O'NEILL. It proposes to prevent the selling of leaf tobacco in quantities of not less than fifty pounds at any one time. Now, I suggest whether this does not tend to depress a very large number of persons who are engaged in a small way in making cigars.

A MEMBER. It refers to dealers in leaf tobacco.

Mr. O'NEILL. I supposed it affected the class of persons that I have alluded to, who are not able to buy in large quantities with which to make cigars in their shops for sale. I withdraw the amendment.

Mr. LOGAN. I hope the chairman of the committee will excuse me for proposing an amendment. I do it for the reason that this law in regard to tobacco is a little different from what I understand it to be. Inasmuch as I was not before the committee very often, I presume I will be excused for moving to strike out of the paragraph these words:

But no person shall sell at any one time a less quantity than fifty pounds of leaf tobacco without making a monthly return of the aggregate of such sales to the proper assistant assessor, and a tax of sixteen cents per pound shall be assessed on all sales made in less quantity than fifty pounds, and collected as other monthly taxes are required to be paid.

All dealers in leaf tobacco under this section whose annual sales do not exceed \$25,000, have to pay fifty dollars. But the part which I move to strike out provides that they shall not sell less than fifty pounds at any one time.

Mr. HOOPER, of Massachusetts. Without paying sixteen cents a pound.

Mr. LOGAN. Without paying sixteen cents per pound. I think this will work a great hardship. Where I reside, in my immediate home, there is a great deal of tobacco raised; in fact the most of the crop in that country is tobacco. There are a great many poor people there. You will find it so in all tobacco-raising countries. They do not use the pressed tobacco, the article that is sold for a dollar a pound, nor do they use smoking-tobacco put up in packages, but they buy it in the hand, cheaply twisted for their own use. Now, this provision, if I understand it, will prevent just that thing. It will force the poorer class of people who purchase tobacco in the hand to go and buy it at the prices charged for it as put up in parcels. That is not the object, but it is the effect of the provision, and for that reason I move to strike out this clause. It is not necessary for us to legislate entirely for the manufacturers. We should legislate somewhat for the poor man, who is his own manufacturer of tobacco. Let the man who desires to purchase tobacco and twist it for himself do it; and if he prefers to smoke it let him do it. It is nobody's business. It is his own taste, and if he cannot afford to smoke and chew the kind of tobacco you do, let him have the kind he can afford to use. Hence, I propose to strike out those words, and then the section will stand that all persons who deal in leaf tobacco, whose annual sales do not exceed \$25,000 shall pay fifty dollars, and if their annual sales do exceed that, then it is to be increased according to the excess over \$25,000. What difference does it make to you or I whether the leaf-tobacco man sells by the ten pounds or by the hand or by the fifty pounds? It makes no difference. You collect the same revenue precisely if he sells by the ten pounds as if it is sold by the fifty pounds, but it is not the same to the poor man who can afford to buy it only by the hand.

Mr. CLARKE, of Ohio. I call the gentleman's attention to the closing lines of the paragraph:

But no farmer or planter shall be required to pay

a special tax as a dealer in leaf tobacco for selling tobacco of his own production.

Mr. LOGAN. That is true.

Mr. CLARKE, of Ohio. Does not that exempt these men of whom the gentleman speaks?

Mr. LOGAN. No, sir; it does not.

Mr. SCHENCK. I think the gentleman is laboring under a misapprehension. I have amended the paragraph so that it now reads "But every dealer who shall sell at any one time," &c.

Mr. LOGAN. How has it been amended?

Mr. SCHENCK. The gentleman and I are both striving after the same thing. We know that there is a great deal of injury done to the revenue by the selling of tobacco in small lots to be cut up by the purchaser, and thus escaping taxation entirely and interfering with the manufacturers of tobacco. We have, therefore, required that in those cases where they sell in less amounts than fifty pounds they shall make monthly returns, and that it shall be charged at the lowest rate of tax, sixteen cents a pound. But the object is not to prevent persons from raising and selling their own tobacco, and therefore I had amended the paragraph before the gentleman spoke, and I will ask the Clerk to read it as it now stands amended.

The Clerk read as follows:

But every dealer who shall sell at any one time a less quantity than fifty pounds of leaf tobacco shall make a monthly return of the aggregate of such sales to the proper assistant assessor, and a tax of sixteen cents per pound shall be assessed on all sales made in less quantity than fifty pounds, and paid as other monthly taxes are required to be paid. But no farmer or planter shall be required to pay a special tax as a dealer in leaf tobacco for selling tobacco of his own production, or which he received as rent of that produced by tenants upon his lands.

Mr. LOGAN. I will only say that I do not understand it. I do not mean to be captious at all, but I really do not understand this explanation. I do not think it obviates the difficulty at all. My object is to provide that a poor person may buy a hand of tobacco without having to pay an extra tax for it. That is my object. I do not think the objection I have to this provision is obviated by the amendment which has been made, and I, therefore, insist on my amendment.

Mr. COBURN. I think the difficulty can be obviated by exempting all sales under \$100 worth, and then a man who wants to buy fifty dollars' worth or seventy-five dollars' worth, or any amount under \$100, can do it without paying tax.

The CHAIRMAN. Debate is exhausted on the amendment.

The question was taken on Mr. LOGAN's amendment, and it was disagreed to.

The question recurred on the motion of Mr. TRIMBLE, of Kentucky, to strike out the entire paragraph; and being put, the motion was disagreed to.

The Clerk read the next paragraph, as follows:

Dealers in tobacco, whose annual sales do not exceed \$5,000, shall each pay ten dollars, and two dollars for each additional \$1,000 in excess of \$5,000. Every person whose business it is to sell or offer for sale manufactured tobacco, snuff, or cigars, shall be regarded as a dealer in tobacco. And any keeper of a hotel, inn, tavern, or eating-house, who sells tobacco, snuff, or cigars, shall pay, in addition to his special tax therefor, the special tax of a dealer in tobacco.

Mr. SCHENCK. I move to amend this paragraph by striking out in the first sentence all after the words "dealers in tobacco, whose annual sales do not exceed," and inserting in lieu thereof, "\$1,000 shall pay five dollars, and if their annual sales exceed \$1,000 shall pay in addition two dollars for each \$1,000 in excess of \$1,000."

The amendment was agreed to.

Mr. SCHENCK. I move to further amend the last sentence of this paragraph by inserting before the words "keeper of a hotel," the words "retail dealer or."

The amendment was agreed to.

Mr. STEWART. I move to amend this

paragraph by striking out the last sentence, which has been amended to read as follows:

And any retail dealer or keeper of a hotel, inn, tavern, or eating-house, who sells tobacco, snuff, or cigars, shall pay, in addition to his special tax therefor, the special tax of a dealer in tobacco.

I suppose it is not the intention of the Committee of Ways and Means to make the tax too onerous upon keepers of hotels and tavern-keepers. We have already charged upon hotel-keepers a tax of twenty-five dollars on every billiard-table and bowling-alley, besides a very large tax on rentals. And then there is a paragraph which has been passed over, which increases the tax to an enormous extent.

As such a provision as this has not been in any other revenue law, and as I think it is too onerous a tax to be imposed upon these people who are keepers of hotels, tavern-keepers, and keepers of eating-houses, I have moved this amendment, for I think this burden is unjust.

Mr. MULLINS. I cannot see the propriety of the change contemplated here. I can see one way in which it would perhaps be advantageous to those who stay at hotels and want to smoke their pipes and puff their cigars there; it would be very convenient to them. These hotel-keepers, as a general thing, rent a small room besides the tipping-room to a person who deals in smoking-tobacco and cigars, and perhaps is ready to flavor it with a little Tom and Jerry. As persons avoid an indictment for selling whisky by saying that they only flavor their Tom and Jerry with it, so in this case they will avoid the tax on cigars by saying they flavor their Tom and Jerry with a cigar. Now, these are the very men who dodge the law, and we want to knock off this little wheel-house where they are standing.

Now, I know it would be very convenient for gentlemen who stay at hotels to have a chance to get their smoking-tobacco and cigars without going out of the hotel. Now, I stop at a hotel, and I am willing to take a little walk whenever I want to get any tobacco or cigars, if that will help the revenue. And I have no doubt it would be better for the health of all parties if they would take this little exercise. I do not suppose the gentleman was serious in offering this amendment, and therefore I will not seriously oppose it, as I know it cannot pass.

Mr. ALLISON. I would say to the gentleman from New York [Mr. STEWART] that this paragraph now proposes a reduction of five dollars upon the tax imposed by the existing law.

Mr. STEWART. I do not think there is anything in the old law to this effect.

The question was taken upon the amendment of Mr. STEWART; and upon a division there were—ayes 18, noes 51; no quorum voting.

Mr. STEWART. I ask for tellers.

Mr. SCHENCK. If the gentleman desires it, I will agree that he shall have an opportunity to move his amendment in the House.

Mr. STEWART. That is all I want.

The CHAIRMAN. That can be done if no objection is made.

No objection was made.

The amendment of Mr. STEWART was accordingly rejected.

Mr. COBURN. I move to amend the first sentence of this section by inserting after the word "sales" the words "are over \$100 and;" so that it will read:

Dealers in tobacco, whose annual sales are over \$100 and do not exceed \$5,000, shall each pay ten dollars, and two dollars for each additional \$1,000 in excess of \$5,000.

The effect of this amendment will be to exempt from taxation all dealers in tobacco in an amount less than \$100. There are many small dealers in tobacco, country storekeepers and such persons, who do not make it a regular business. It is a great hardship upon such persons to be compelled to pay this tax, and it should not be imposed. Such dealers make little or nothing on their sales, and there is no danger of frauds from this source.

I think it may in some measure obviate the



objection of my friend from Illinois [Mr. LOGAN] to a portion of this bill.

Mr. SCHENCK. I hope that amendment will not be adopted. If we are going to rely upon tobacco, fermented liquors, and distilled spirits mainly for the revenue to carry on the Government—and I think we must ultimately come to that—we shall have to tax the persons who engage in the business of manufacturing and selling those articles. This anxiety to fill the country, or to pursue such a course as must result in filling the country, with all sorts and descriptions of small dealers in these articles, tends, and will continue to tend, to defeat the end we are aiming at.

Now, we have become convinced that the only course for us to pursue in regard to distilled spirits and tobacco was to cover the whole subject in such a manner as will require all persons engaged in the business to contribute fairly and fully to the support of the Government by increasing its revenues so as to relieve in part now, and ultimately relieve altogether, those industrial pursuits which relate to matters that are not merely of luxury and of artificial tastes. I hope no such principle as this will be adopted.

Mr. PAINE. If the gentleman from Indiana [Mr. COBURN] will examine this whole paragraph he will see that his amendment will not meet the case of the gentleman from Illinois, [Mr. LOGAN,] which had reference to leaf-tobacco, while this amendment is confined to dealers in manufactured tobacco.

The question was taken upon the amendment of Mr. COBURN; and it was not agreed to, upon a division—ayes twelve, noes not counted.

Mr. STEVENS, of New Hampshire. I move to amend the pending paragraph by striking out the word "cigars," wherever it occurs. Mr. Chairman, I received some time ago from some of my constituents engaged in the manufacture of cigars a remonstrance against this increased tax, which I presented and had referred to the Committee of Ways and Means. On an examination of that remonstrance, I have been led to conclude that it is well provided, and in this conclusion I have been confirmed by the admissions made from time to time on this floor by the chairman of the Committee of Ways and Means. It has been repeatedly stated here, not that the tax upon the articles of spirits and tobacco is too low, but that the difficulty is that the Government cannot collect one half or a much less proportion of the tax already assessed and attempted to be collected. Yet, in the face of the admission made on this floor by the chairman of the committee, in the hearing of members of the House that the tax upon cigars has been such as to stimulate almost beyond precedent the smuggling into this country of foreign cigars, coming into ruinous competition with our home manufacture. Notwithstanding this admission, the Committee of Ways and Means propose to increase this tax, burdening to a still greater degree the manufacturers of cigars.

Now, Mr. Chairman, I take it for granted that the manufacture of cigars is an honest and reputable business. I take it for granted, also, that in the estimation of at least a considerable proportion of the community this business stands upon a different ground from the distillation of spirits. I regard it as an honest and reputable business; and so viewing it I do not desire to see it burdened with this onerous, and, as it seems to me, entirely useless tax, a tax that cannot be collected.

For this reason, and because I desire to represent on this floor the wishes of my constituents, I have moved to strike out the word "cigars" wherever it occurs in this paragraph, leaving this branch of business still subject to the specific tax per thousand on the manufacture of cigars, which, as I understand, has been raised by the committee to ten dollars per thousand, although I trust it will be reduced to five dollars as it has stood heretofore.

Mr. SCHENCK obtained the floor.

Mr. BROMWELL. If my friend from Ohio [Mr. SCHENCK] will yield for a moment I

would like to ask the gentleman from New Hampshire what difference this paragraph can make as to foreign cigars? It imposes a tax on the sales and applies to the seller of either the foreign or the domestic article. The gentleman speaks as though his objections to the paragraph were that it favors the foreign article.

The CHAIRMAN. Does the gentleman from Ohio [Mr. SCHENCK] yield?

Mr. SCHENCK. No, sir. Mr. Chairman, I desire in the first place to announce distinctly that so far as the Committee of Ways and Means can control the matter, no attempt will be made to change the tax on cigars; that will remain at five dollars per thousand, although it was ten dollars in the bill as originally reported. Such, I understand to be the desire of the committee.

What is it that the gentleman from New Hampshire proposes? Why, that the manufacturers of cigars shall be put, as to their sales, upon a different footing from all other manufacturers, and upon a different footing from the manufacturers of snuff, plug tobacco, or chewing tobacco. On what ground this proposition is to be sustained I am at a loss to comprehend, except that the gentleman says he understands it to be the wish of his constituents. Sir, in every civilized country raising a revenue by taxation, it is coming to be understood that in order to relieve the burdens of the people it is best that taxation shall be made, so far as possible, to rest upon those objects connected with artificial appetites or mere luxuries. Yet, the gentleman would put the manufacture of cigars upon a better footing than perhaps almost any other manufacture in the country. He proposes to relieve these manufacturers entirely, as I understand, from any special tax, leaving them, it is true, subject to the specific tax upon the article itself; but the manufacture and the sale of the article and the dealing in the article are not to be subjected to the tax of two tenths of one per cent. imposed upon other manufactures.

Mr. STEVENS, of New Hampshire. I made no such statement.

Mr. SCHENCK. Now, sir, we have taken a different view of this matter. We put a special tax of ten dollars upon those who make sales not exceeding \$5,000, and only two tenths of one per cent. on all over \$5,000. We thought at least this might be made in reference to the manufacture of cigars, as well as that they should pay ten dollars on the basis of a specific tax, although their manufactures might, in the amount of sales, be less than \$5,000.

I hope this amendment will not prevail. I hope we shall contrive in some way out of these subjects of tax to get something more than that proportion of tax we derive from the ordinary industry of the country. These refer to luxurious habits and artificial appetites.

The question was taken on the amendment of Mr. STEVENS, of New Hampshire, and it was rejected.

Mr. GETZ. I move to insert after the word "cigars," in the seven hundred and thirtieth line, the words "to an amount exceeding \$300 a year." I make this amendment for this reason: there are a great many small hotels, beside tavern-keepers and restaurant-keepers, who sell an inferior quality of tobacco and cigars to small amounts, and who are under the imposition of other taxes. I do not think it is fair to tax them again. Some do not sell more than fifty dollars a year. I have in my district tavern-keepers who do not sell more than \$100 a year.

Mr. MAYNARD. I suggest that the people who cannot engage in this business profitably should get into some other small business that is profitable.

The question was taken; and Mr. GETZ's amendment was rejected.

Mr. STEVENS, of New Hampshire. I move to strike out the entire paragraph.

Mr. Chairman, I have been accused, if I may use the expression, by the chairman of

the Committee of Ways and Means with being partial to the manufacture of cigars. I disclaim entirely any such partiality. I suppose those more particularly interested than my constituents in the other branches of the manufacture of tobacco have their Representatives who will take care of their interests. I stated at the outset the particular reason why I brought this subject to the attention of the committee. I say now to the chairman of the Committee of Ways and Means I am prepared to vote to strike out this whole paragraph, and strike off this additional burden from the manufacturers of tobacco.

I am not prepared to say we should go so far as to burden the manufacture or culture of tobacco with such a tax as the gentleman proposes to derive revenue from it. I do not admit that tobacco stands upon the same ground as distilled spirits or intoxicating liquors. In my judgment it is no more a luxury than tea or coffee, and it is a habit no more false for tobacco than for tea or coffee. Yet, sir, we all know that tea and coffee are taxed only for the purpose of raising revenue, and not because they are luxuries. I am willing that tobacco shall be taxed for the purpose of raising revenue, but I do not wish it taxed so that it will be burdensome upon the people, and the result shall be, as the committee say it has been, to prevent the collection of the tax.

Mr. ALLISON. I rise to oppose the amendment. I do not precisely understand the proposition of the gentleman from New Hampshire. Under the existing law retail dealers in tobacco are taxed ten dollars. Under the bill now proposed we reduce the tax to five dollars, and two dollars per thousand on other sales, so that it is a reduction. It is an absolute reduction of tax on small dealers for the reason that we have taxed tobacco in the form of manufactured tobacco and cigars.

Mr. STEVENS, of New Hampshire. Do I understand, as the section now stands, we only put the tax at five dollars?

Mr. ALLISON. Yes, sir.

Mr. STEVENS, of New Hampshire. I read it ten.

Mr. ALLISON. That has been amended. Does the gentleman withdraw his amendment?

Mr. STEVENS, of New Hampshire. I do not.

Mr. ALLISON. I will say further that we propose to tax dealers in tobacco as we propose to tax dealers in other articles. I appeal to my friend to know whether or not he proposes, after having reduced the tax upon the industry of the country, now to reduce the tax on luxuries, those things that are known as such, so that we shall not raise the requisite amount of revenue, and next winter have to come back here and impose taxes upon the industry of his constituents? Because that will be the result of it. We must either impose a liberal and fair tax upon the luxuries of the country, or we must impose taxes upon its industry. Now, here is a luxury, and tobaccoists in this country cannot complain of the tax, because we have imposed an enormous tax on all imported tobacco.

Mr. STEVENS, of New Hampshire. If the gentleman will allow me, I would ask him if the Committee of Ways and Means have not found that it is utterly impossible to collect the tax already imposed upon tobacco in its various forms?

Mr. ALLISON. I answer the gentleman by saying that we believe we can collect the small tax of two tenths of one per cent., or two dollars on \$1,000 as easily upon tobacco as on any other product manufactured in this country. That is all we propose to do by this bill. We propose to disseminate this tax among the dealers in and manufacturers of tobacco as we do among the dealers in and manufacturers of every other product under this bill. Now we have reduced the specific tax on cigars to five dollars per thousand, and I believe we will not increase the specific tax on the article of tobacco. Therefore I ask

the gentleman not to interpose an amendment here which will discriminate in favor of these luxuries and against the necessary industry of the country. I yield the remainder of my time to the gentleman from New Hampshire.

Mr. STEVENS, of New Hampshire. I desire to say that I did not understand when I moved the amendment that an amendment had been made reducing the tax from ten dollars to five dollars. That certainly is a concession on the part of the committee which I hail with a great deal of satisfaction. I will say to the gentleman who appeals to me to know whether I desire to discriminate that I think the appeal was made, to my knowledge, by way of enlargement of his own speech, and not with any idea that I could entertain a feeling of that kind. I put the question to him which he has avoided answering, whether the Committee of Ways and Means have not ascertained—and I now ask him if they have not so announced to the House—that it is utterly impossible to collect the tax on manufactured tobacco under the present law? He has not answered it; he evades it.

Mr. ALLISON. I do not evade it. The specific tax I know has been avoided, not the tax upon the dealer.

Mr. STEVENS, of New Hampshire. Then I will say I desire just this: that the Committee of Ways and Means and this House shall devise some means by which we can collect the tax already imposed.

[Here the hammer fell.]

Mr. STEVENS, of New Hampshire. I withdraw the amendment.

The Clerk read as follows:

Manufacturers of tobacco shall each pay ten dollars, and in addition thereto, where the amount of the penal sum of the bond of such manufacturer, required by this act to be given to the collector of the district, shall exceed the sum of \$5,000, two dollars for each \$1,000 in excess of \$5,000 of such penal sum. Every person whose business it is to manufacture tobacco or snuff for himself, or who shall employ others to manufacture tobacco or snuff, whether such manufacture shall be by cutting, pressing, grinding, crushing, or rubbing of any leaf or raw tobacco, or otherwise preparing raw or leaf tobacco or manufactured or partially manufactured tobacco or snuff, or the putting up for use or consumption of scraps, waste, clippings, stems, or deposits of tobacco, resulting from any process of handling tobacco, shall be regarded as a manufacturer of tobacco.

Mr. SCHENCK. I move to strike out in line seven hundred and thirty-five the words, "collector of the district." They are unnecessary, as the bond is given to the United States.

The amendment was agreed to.

Mr. PILE. I move to amend by striking out the following:

Where the amount of the penal sum of the bond of such manufacturer, required by this act to be given to the collector of the district, shall exceed the sum of \$5,000 (two dollars for each \$1,000 in excess of \$5,000 of such penal sum).

And by inserting in lieu thereof the following:

When the yearly sales of such manufacturer shall exceed \$5,000, two dollars for each additional \$1,000.

I offer this for the purpose of inquiring of the chairman of the committee if the provision of the section, as it now stands, is not liable to abuse in this way?

The tax is graduated by the penal sum of the bond. If I remember the general provision of the bill with reference to the bond, it may be increased by the collector, and the collector or the Commissioner of Internal Revenue, together with the collector, has discretionary supervision of these bonds, and may impose a heavy bond on one man and a light bond upon another. If that be true, I can readily see how, for personal purposes, a collector may impose great hardships upon one manufacturer and extend favors to another. Or if the amount of the bond is graduated upon the machines the manufacturers may have, then I think a man should not be required to give bonds for the definite number of machines or presses he may own when he may use them only half the year and not use them the rest of the year, while other manufacturers may

use theirs the whole of the year. This tax should be graduated as other taxes of this kind are, upon the amount of business and manufacturing done. If there is any reason for the change of the graduation of this tax from the amount of sales to the amount of the penal bonds that can be given by the commissioner, I shall not press the amendment, but I should like to have the matter explained.

Mr. SCHENCK. The object of this was to fix the special tax in conformity with the provisions in relation to the bonds to be given by manufacturers of tobacco. On page 204 it is provided that the manufacturer of tobacco "shall give a bond in conformity with the provisions of this act, to be approved by the assessor of the district, in the sum of \$2,000, with an addition to said sum of \$3,000 for each cutting machine kept for use, of \$1,000 for each screw-press kept for use in making plug or pressed tobacco, of \$5,000 for each hydraulic press kept for use, of \$1,000 for each snuff-mill kept for use, and of \$1,000 for each hand-mill," &c. So that the bond is regulated by the amount of business that is done, and the special tax is made to conform to the amount of the bond, the bond indicating the amount of business.

Mr. PILE. It may become necessary for the manufacturer to have more presses and more cutting-machines than he can use the entire year.

Mr. SCHENCK. Then he will cancel his bond so far.

Mr. PILE. This provision in regard to the bond applies to the number of machines he has, and not to the number that he uses.

The question was taken on Mr. PILE's amendment; and it was disagreed to.

The next paragraph was read as follows:

Manufacturers of cigars, whose annual sales shall not exceed \$5,000, shall each pay ten dollars, and two dollars for each additional \$1,000 in excess of \$5,000. Every person whose business it is to make or manufacture cigars for himself, or who shall employ others to make or manufacture cigars, shall be regarded as a manufacturer of cigars: *Provided*, That no special tax receipt shall issue to any manufacturer of cigars until he shall have given the bond required by law.

Mr. SCHENCK. I offer the following amendment from the Committee of Ways and Means:

Page 123, line seven hundred and forty-nine, after the word "and," at the end of the line, insert "when their annual receipts exceed \$5,000."

So that it will read:

Manufacturers of cigars whose annual sales shall not exceed \$5,000 shall pay ten dollars, and when their annual receipts exceed \$5,000, two dollars for each additional \$1,000 in excess of \$5,000, &c.

The amendment was agreed to.

Mr. MILLER. In line seven hundred and forty-nine I move to strike out "ten" and insert "five" in lieu thereof, so as to make the tax five dollars. I believe there will be no objection to that. Five dollars is what they have had to pay heretofore.

Mr. SCHENCK. That will simply put them on a more favorable footing than any other manufacturers. That is all I have to say.

The amendment was disagreed to.

The next paragraph was read as follows:

Cigar-makers shall each pay one dollar. Every person whose business it is to make cigars for others, either for pay, upon commission, on shares, or otherwise, from material furnished by others, shall be regarded as a cigar-maker. Every cigar-maker employed in the making of cigars in any collection district, other than the district where such special tax receipt shall have been issued to him, shall register his name and residence, without previous demand therefor, with the assistant assessor of the division in which such cigar-makers shall be so employed; and any cigar-maker who shall neglect or refuse to make such registry shall, on conviction thereof, be fined five dollars for each day that such cigar-maker shall so offend by neglecting or refusing to register.

Mr. SCHENCK. On page 123, line seven hundred and fifty-seven, I move to strike out the words "one dollar" and insert "twenty-five cents" in lieu thereof; so that it will read "cigar-makers shall each pay twenty-five cents." I propose, in behalf of the Committee of Ways and Means, to reduce the dollar to twenty-five cents. I know that all around me are a great number of patriotic gentlemen

ready to pitch in for the protection of the poor cigar-makers. [Laughter.] Now, the truth is that you cannot keep up a system under which we shall know what cigars are made unless you have a registration of cigar-makers. Most of the cigars are not made in the shops, but are made outside by persons who take the material and return a certain number of cigars, persons who carry their work home with them. The object is to have a registration of the cigar-makers; it is not for the purpose of revenue. The proof of that is to be found in the fact that we propose that the whole of this twenty-five cent fee—for that is what we propose to reduce the tax to—shall be given to the assessor for issuing the certificate. Gentlemen say that it is very hard that a man cannot be employed as a cigar-maker without taking out a certificate as such. So it is probably as compared with other laborers; but we are perfectly satisfied, from the experience of this and every other country, that when you undertake to keep the run of the business of cigar-making you must know who make the cigars.

Mr. VAN TRUMP. Why not let the certificate be issued without expense to the cigar-makers?

Mr. HUBBARD, of West Virginia. I would ask the gentleman—

Mr. BROMWELL. Mr. Chairman—

Mr. SCHENCK. I cannot well yield to and answer more than five gentlemen at one and the same time.

Mr. HUBBARD, of West Virginia. What is the objection to the present mode of granting permits to cigar-makers, and not imposing a direct tax upon them?

Mr. SCHENCK. That costs fifty cents.

Mr. HUBBARD, of West Virginia. No; twenty-five cents.

Mr. SCHENCK. I do not care what it is. Gentlemen may make it one cent if they please. All that I want to show is that it is no tax, no oppression. I defy any one who has ever attempted to follow this business of cigar-making, to keep the run of it in such a way as to protect the Government against frauds or evasions of the law unless some account is kept of those who are engaged in making cigars for manufacturers?

Mr. HUBBARD, of West Virginia. What is the objection to inserting in section one hundred and sixty-three of this bill, in which the duties of these cigar-makers are specified, a provision requiring this registration to be made? As this provision now stands it imposes a direct tax upon the cigar-makers, which I want to avoid. Let it come in as a permit, the same as under the present law.

Mr. SCHENCK. I will tell the gentleman the difficulty about the permit as he calls it. These were originally called permits and licenses; but the Supreme Court decided that you could not grant permits, you could not grant licenses; that it was not within the power of the Congress of the United States to pass laws by which privileges were to be given for the future; but that you might put a special tax upon persons with reference to the business they followed, and attach to that business any condition. And it is in conformity with that decision that the law has been altered. Under the decision of the Supreme Court what used to be called licenses have been entirely abandoned, and we have substituted special taxes upon all persons according to the pursuits in which they are engaged. That has been kept up and sustained for the last two or three years.

Mr. HUBBARD, of West Virginia. All right; I am satisfied.

Mr. PAINE. It has been said by the chairman of the Committee of Ways and Means that he proposes to impose this tax of twenty-five cents for the purpose of effecting registration in order to enable the officers of the Government to follow the cigars that are made and tax them. Now, if we impose a tax on these cigar-makers, we will make it an object on their part to elude the registration. As the object is not to secure revenue from the cigar-maker by registration, it seems to me the best plan

would be to pay each one of them twenty-five cents in order to induce him to be registered.

Mr. EGGLESTON. I move to amend by striking out the whole paragraph.

The CHAIRMAN. The gentleman from Missouri [Mr. PILE] has been already recognized to make that motion, but yielded that the paragraph might be perfected. The question is on the amendment of the gentleman from Ohio, [Mr. SCHENCK,] to strike out "one dollar" and insert "twenty-five cents," so as to make the first sentence read, "Cigar-makers shall each pay twenty-five cents."

The amendment was not agreed to.

Mr. PILE. Mr. Chairman, I move to amend by striking out the first sentence. I proposed to move to strike out this whole paragraph; but from the remarks of the gentleman from Ohio [Mr. SCHENCK] I have concluded that this registration is perhaps necessary. It may be necessary to require these cigar-makers to register; to keep a list of them at the offices of the different assessors; but it certainly seems to me a very small business to impose a tax of twenty-five cents on the cigar-makers for making this registration. If the object is simply their registration and not to make this a source of revenue, then, as the gentleman from Wisconsin [Mr. PAINE] has said, that object can be better secured by simply requiring them to register, imposing upon them the payment of no fee for such registration.

I am opposed absolutely to the principle of taxing directly the laborer, even to the extent of one cent. I do not want it to be said that we tax directly the man who earns his bread by his toil. I am unwilling that by our legislation we should impose taxation directly upon the journeyman laborer, the laborer who works in the shop for his daily or weekly wages. I am against the whole principle, and I trust that any provisions founded upon that principle will be stricken from this bill. If there is a necessity for this registration, let the provisions with reference to registration stand, but strike out this pitiful little tax of twenty-five cents or one dollar.

Mr. BECK. Mr. Chairman, I rise to oppose the amendment of the gentleman from Missouri, [Mr. PILE,] because I think no portion of this paragraph ought to be retained. It proposes to impose a fine of five dollars for each day that a cigar-maker may refuse or neglect to register. This penalty applies to every cigar-maker. I want to say to the committee that in my section of the country, as I suppose in many other localities, these cigar-makers are composed in many instances of boys and girls, old negro men and women, persons who have not the capacity to conform to a requirement of this kind. To fine each of these persons five dollars for every day that they fail to do what many of the most intelligent of them have not the intelligence to understand, seems to me to be too severe. Let us, if necessary, require the manufacturer to furnish a list of the persons in his employ, and fine him if he fails to do so; let us adopt any method by which we can reach a registration through intelligence; but to require boys and girls, old negro men and women—persons who would be paupers but for the fact that they can make cigars—to register under a penalty of five dollars for every day they fail to register, would be, in my judgment, unwise legislation. Every gentleman of this House living in a tobacco-growing region must know that very many of our cigars are made by the class of persons I have mentioned. To impose upon them this penalty of five dollars a day would be utterly ruinous; it would simply fill your jails to no purpose whatever. That is the reason I object to this whole paragraph.

Mr. SCHENCK. I move *pro forma* to amend the amendment of the gentleman from Missouri [Mr. PILE] so as to strike out, instead of the first sentence, the whole of the first line of the paragraph. I rose a while ago for the purpose of opposing the gentleman's amendment, but was so unfortunate as to be unable to get the recognition of the Chair before another gentleman, who made a speech on the same

side, which I do not understand to be a very formidable kind of opposition.

I wish the House distinctly to understand that I care not whether they call this a tax or a permit; I care not whether they charge anything for it so only they shall secure the registration as a sort of a police registration, for that is all it is. If you want to collect the tax upon cigars it is necessary that you should know who are engaged in the manufacture of cigars. The great difficulty is to keep the run of those who make cigars for the manufacturers. The mere maker is not called a manufacturer and is not taxed as a manufacturer, but he who has the capital and employs these actual makers is charged and taxed in this way; and in order to prevent fraud in this, just as in the matter of fraud in whisky between the worm of the still and the distillery warehouse, it seems to have been shown beyond all question, clearly and certainly, we must know where and by whom cigars are made, in order that they may be embraced, and in order their numbers may be ascertained and the tax collected upon them. Now, sir, for this purpose it has been the policy of the law to have them pay for what is called a "permit." We propose the same thing, and call it a special tax. I do not care what you call it; I do not care whether you charge anything or not. We have only charged the cigar-maker enough to pay the assessor for issuing a certificate of registration. He is charged twenty-five cents, which, as the law is now, and as we propose to make it, goes as a compensation to the assessor. We propose simply that the cigar-maker shall pay enough, call it tax or permit, to pay the expenses of this certificate of registration.

Mr. WELKER. I suggest to my colleague to strike out all of this section which requires any tax to be paid at all, and require these cigar-makers to register their names.

Mr. SCHENCK. That is exactly the amendment now pending offered by the gentleman from Missouri.

Mr. WELKER. But his amendment strikes out that part in reference to obtaining a register. I want to strike out all that part which provides that they shall be fined. I want to provide that they shall be registered, but that they shall be required to pay nothing. This will obviate all difficulty.

Mr. SCHENCK. In other words, the gentleman will make cigar-makers do certain things, and then strike out the definition of a cigar-maker. We propose to keep up that definition. I know perfectly well what all this means. I have it in my own town, where we make four million cigars. If I were one of these cigar-makers—

[Here the hammer fell.]

Mr. HUBBARD, of West Virginia. Mr. Chairman, I desire to remind the chairman of the Committee of Ways and Means, in reference to the fee of twenty-five cents to the assessor for registering cigar-makers, that an amendment was made to strike that out, but action on it was suspended, dependent on the action on this paragraph. If this be stricken out, then the part that relates to the fee to the assessor will also be stricken out. That was the understanding with which we passed from the preceding portion of the bill. Therefore the fee to the assessor ought not to be brought up as a plea why this should be put in this paragraph to pay the assessor.

The question was taken on Mr. SCHENCK's amendment; and it was disagreed to.

Mr. CHURCHILL. I move to strike out the first sentence.

The CHAIRMAN. That is not in order.

Mr. CHURCHILL. I move to strike out the whole paragraph, and insert a substitute.

The CHAIRMAN. That is not in order.

The question was taken on Mr. PILE's amendment; and it was rejected, only twenty-four voting in the affirmative.

Mr. EGGLESTON. I move to strike out the whole paragraph; and I am very much obliged to the Committee of Ways and Means for the opportunity to give my views on this

paragraph. I have watched this bill as attentively as almost any member who has not participated in getting it up, from the beginning on to this hour. I have read it through. I have tried to get through my brain what it meant, and I have never come to any conclusion until we reached this paragraph of the bill; and that is this, that the committee have abandoned all idea of getting tax on whisky and spirits, and they have at last come down to the poorest class of mechanics to tax them upon their business and occupation.

Mr. SCHENCK. It is the present law.

Mr. EGGLESTON. A more odious tax never was imposed than that under the present law. You ask the assistant assessors in the large cities to go into a cigar-shop, creep up to the crippled soldier, and ask him for his twenty-five cents. These officers tell me they would rather take a half dollar out of their own pocket and put it into the hands of these poor men than be compelled to perform this duty. Under the present law they ask him for twenty-five cents, but the Committee of Ways and Means have proposed to increase it to a dollar.

Mr. ALLISON. My proposition is to make it twenty-five cents.

Mr. EGGLESTON. I know it; but why did you propose it? Because you saw gentlemen on every side demanding it. As my colleague [Mr. SCHENCK] said, it was five against one. Now, this is a small matter for us. My friend from Illinois [Mr. LOGAN] says he does not belong to the committee. I thought he did. I say this is a small matter to us, but to these people it is important. And yet it is not so much the dollar or the twenty-five cents as it is the principle. We do not tax the carpenter, nor the shoemaker, nor mechanics of any sort from beginning to end of this bill. You tax nobody except those poor cigar-makers, many of whom are females, many of whom are small girls and boys of ten or twelve years of age. We propose to send these assessors about the cigar-shops to collect this twenty-five cents. Sir, if there is no other way of keeping a record of how many cigars are made in this country I say let the record go. Do not let us have any such means as this provided for making a record.

Mr. MULLINS. Will the gentleman allow me a question?

Mr. EGGLESTON. Certainly.

Mr. MULLINS. Is the gentleman engaged in the cigar manufacture? [Laughter.]

Mr. EGGLESTON. I am engaged in no such business. If I was engaged, I will say to the gentleman, in any kind of manufacturing business, I would not vote upon a question affecting that business here one way or the other. I hope that this paragraph will be stricken out. I am satisfied my colleague [Mr. SCHENCK] will wish it had been when he comes to look it over. I hope he will agree now to have it all stricken out.

Mr. SCHENCK. Mr. Chairman, I am happy to know that my colleague has given continual attention to this tax bill. Watching it as it proceeded from page to page through all its great length, and waiting till some grand subject equal to his genius—twenty-five cents on cigars [laughter]—was presented for the consideration of the House, and then his mighty intellect was waked up as he found a subject with which he could grapple. [Laughter.] I congratulate the country and this House that after watching, waiting, hoping, and looking for some occasion which should arouse his intellect so as to assert itself in its full proportions and give the world the entire benefit of all this genius, he has at length reached that which was the proper standard for its measurement. [Laughter.] Sir, I have said nothing about there being five against one on this question. When gentlemen were interrupting me all around, I said that I could not answer five at a time who were appealing to me for the floor. It was a perversion to suggest that I said anything else.

As to this tax I have explained without any demagogism, and, as I thought, clearly to the House, that the committee have not pro-



posed anything except to continue the law with a view to a police regulation which they deem to be necessary in order to know who are engaged in manufacturing cigars and in making cigars for the manufacturer, so as to prevent cigars getting into the market without paying the tax. I said distinctly—and the gentleman might have saved himself much of his comment if he had remembered it—that the committee did not care whether it was one cent, ten cents, twenty-five cents, or a dollar; and I proposed, seeing that gentlemen thought it was in the nature of a tax, because a dollar was mentioned, to bring it down to twenty-five cents, thinking that descending from a dollar downward, if my colleague would only make an effort to rise toward twenty-five cents we might meet somewhere on the way. But my colleague was not willing to meet that compromise, and, with other gentlemen here, voted against reducing it from one dollar to twenty-five cents, so as to have an opportunity, I suppose, afterward of attacking it as a dollar tax. Sir, I do not believe, and I represent a great many of these men, that the cigar makers of the country are especially obliged to those who believe that they are not willing to pay their dollar or fifty cents or twenty-five cents or whatever else the interests of the revenue of the country may require for the purpose of registration in order that the business may fairly and honestly go on in the country. That is a kind of demagogism in which I do not indulge myself, being willing to take the responsibility of doing what I think right, and I do not sympathize with it when gentlemen flash it off in all directions around me.

Now, sir, I hope the House will bear in mind the object for which this is introduced, and if they desire that the assessor or any other officer shall do the duty for nothing, let it be so. It takes only so much, and it is a very small amount, from their receipts. Adopt the substitute suggested by the gentleman from New York, [Mr. CHURCHILL,] providing that this registration shall be made, and leaving out every charge whatever for it. No matter what the charge is or whether no charge be made, I repeat to the House for their understanding that all this pretense that it is for the purpose of grinding down the poor cigar-makers is a poor, miserable, demagogical pretext, which has no foundation in anything said or proposed by the committee. All that has been proposed by the committee was to secure some sort of regulation by which we might feel sure that our taxes would be collected, without any reference whatever to any idea of raising revenue from this source.

[Here the hammer fell.]

Mr. HUBBARD, of West Virginia. Before the question is taken on the motion to strike out the paragraph, I propose to perfect it by inserting after the word "shall," in line seven hundred and sixty-seven, the word "knowingly," so that it shall read "who shall knowingly neglect or refuse," &c.

Mr. ALLISON. Nobody objects to that. The amendment was agreed to.

Mr. HUBBARD, of West Virginia. Again, in line seven hundred and sixty-nine, after the word "so" I move to insert "knowingly."

Mr. ALLISON. No one objects to that. The amendment was agreed to.

Mr. BROMWELL. I move to strike out the entire paragraph, and to insert in lieu thereof the following:

Every manufacturer of cigars shall register the name and residence of every cigar-maker in his employ with the assistant assessor of the division in which his principal place of business is located, and every manufacturer of cigars who shall fail to make such registry shall, on conviction thereof, be fined five dollars for every day he shall so fail or refuse to register any person employed by him.

Mr. Chairman, as I have drawn this amendment in great haste, I am not entirely certain that it covers every point that it ought to, but I do feel very sure that the gentleman from Ohio, [Mr. SCHENCK,] the chairman of the Committee of Ways and Means, need not be so very certain about the demagogism in this House. I have heard that word demagogism

fall from him several times in the course of this debate, and I will say to him that there is something more than demagogism in the opposition to this paragraph. These penalties are unheard of. They are applied to a class of laborers who are ignorant, as the gentleman from Kentucky [Mr. BECK] has well said. They are to be imposed without previous notice. The assessor is instructed by this law not to tell these persons that they are making themselves liable to a fine of five dollars a day. I say it is a trap, and I say that it is a law which will be as odious as any law that can be found in the tax-book of the United States.

Whether it be demagogical or not, I say that these little vexatious and annoying provisions, especially when they touch private persons are the most odious and the hardest to explain of any laws that can be put upon the statute-book. I think the suggestion of the gentleman from Kentucky was well made, that the law is onerous and uncalled for. I admit the necessity of registration. Either the cigar-makers themselves should register or the manufacturers should register for them; I care not which.

But why shall such penalties be visited upon that class of persons? Suppose one of those ignorant persons works for thirty days before he finds out that there is any such law as this—for the assessor will not inform him of the requirements of the law—that thirty days will amount to a penalty of \$150 from which there is no escape, as the assessor possesses no power of compromise. Now, I say it is contrary to all the spirit and genius of our laws.

Mr. MAYNARD. Will the gentleman allow me to ask him a question?

Mr. BROMWELL. Certainly.

Mr. MAYNARD. The gentleman admits, as a part of the general policy, the propriety of having all cigar-makers registered?

Mr. BROMWELL. I do.

Mr. MAYNARD. How does the gentleman propose to enforce that provision if there is no penalty for not doing so?

Mr. BROMWELL. I propose by my amendment to make the manufacturers do it.

Mr. MAYNARD. Suppose a man is not working for any particular manufacturer, but is at work around generally, making cigars.

Mr. BROMWELL. It is very easy to make a provision to suit their case.

Mr. ALLISON. I desire to say one word with reference to this provision. I think every gentleman on this floor will admit that there have been great frauds committed in the manufacture of cigars. Those frauds arise not from the fact that these cigar-makers are in the employment of others, but from the fact that they themselves made cigars in small quantities in their garrets or cellars, and then came out upon the streets and disposed of those cigars in small quantities to saloon-keepers and small sellers of cigars. The object of this provision is to ascertain in every city and town the people who are actually engaged in this business of cigar-making.

I agree with my friend from Kentucky [Mr. BECK] that these people who engage in the business of cigar-making are usually an ignorant class of people. Therefore I was in favor of the amendment of the gentleman from West Virginia, [Mr. HUBBARD,] that before we imposed any penalty upon them we should show the existence of knowledge on their part that it was their duty to register themselves. That amendment has been adopted, and is now a part of this bill. Therefore no man can be subjected to any punishment for not registering under this provision, until it is shown that he had knowledge of the fact that this law existed, and that having that knowledge he still refused to register in accordance with it. It seems to me that that obviates the objection made by a great many gentlemen here.

Now, I want to say to my friend from Ohio [Mr. EGGLESTON] that I have heard no man upon this floor more loud in his denunciations of the frauds upon the revenue, which have been committed by distillers, by the whisky ring, as he terms them, and those engaged in

the manufacture of tobacco, than he himself has been. And I apprehend that no gentleman here represents a constituency more largely engaged in perpetrating those frauds upon the revenue than the constituency which the gentleman himself represents.

Now, we do not propose by this provision to impose any great penalty or burden upon these poor people who are engaged in making cigars, if they neglect or refuse to comply with the requirement of registration. Long before the gentleman's voice was heard upon the subject upon this floor the Committee of Ways and Means decided to reduce this tax to twenty-five cents. And the words "one dollar" are a misprint in the bill.

Now, if the gentleman thinks that the tax of twenty-five cents is too high, I am willing that it should be reduced to ten cents. The only object, as stated by the chairman, is that the assistant assessor in every district may know the persons who are engaged in the manufacture of cigars, that he may keep the run of their business. These cigar-makers go from the employ of one manufacturer to that of another; hence it is in my judgment impracticable to require the manufacturer to register the names of his employés. To-day the cigar-maker may be employed by a manufacturer, and to-morrow he may buy five or ten dollars' worth of tobacco and going into a garret make cigars on his own account, and the next day he may go into a saloon and sell them.

Now, it is the interest and the duty of every honest manufacturer and of every honest industrious cigar-maker in this country to see to it that this employment shall be a legitimate employment; and any man who is desirous of pursuing this occupation honestly will not object to paying twenty-five cents, and by going to the assistant assessor or upon the demand of that officer giving his name and telling where he is employed as a maker of cigars.

Mr. BECK. Will the gentleman from Iowa [Mr. ALLISON] allow me to call his attention to a single point which I think controls this whole question?

[Here the hammer fell.]

The CHAIRMAN. The time of the gentleman from Iowa [Mr. ALLISON] has expired.

Mr. CHURCHILL obtained the floor.

Mr. GRISWOLD. If my colleague [Mr. CHURCHILL] will yield to me for a moment, I wish to inquire whether the word "knowingly" has been inserted before "neglect or refuse."

The CHAIRMAN. It has been.

Mr. CHURCHILL. As an amendment to the amendment of the gentleman from Illinois, [Mr. BROMWELL,] I move to amend so as to make the paragraph read as follows:

Every person whose business it is to make cigars for others, either for pay, upon commission, on shares, or otherwise, from material furnished by others, shall be regarded as a cigar-maker. Every cigar-maker shall register his name and residence, without previous demand thereof, with the assistant assessor of the division in which such cigar-maker shall be employed; and any cigar-maker who shall knowingly neglect or refuse to make such registry shall, on conviction thereof, be fined five dollars for each day that he shall so offend by neglecting or refusing to register.

This omits the charge imposed by the paragraph on every cigar-maker, and provides for a registry; but the penalty is incurred only where the party knowingly offends.

The CHAIRMAN. Unless the gentleman from Illinois [Mr. BROMWELL] accepts this as a modification of his amendment, it is not in order.

Mr. FARNSWORTH. I rise to a question of order. Is it not in order to amend the matter which it is proposed to insert before it is inserted?

The CHAIRMAN. The original text may be amended, but the amendment of the gentleman from Illinois cannot be amended.

Mr. FARNSWORTH. But my point is that it is in order to amend what it is proposed to substitute for the words to be stricken out. When you once get it in it cannot be amended.

The CHAIRMAN. The original text can be amended.

Mr. FARNSWORTH. But the matter to be substituted for it—

The CHAIRMAN. That must be taken as a whole.

The amendment of Mr. BROMWELL was not agreed to.

Mr. CHURCHILL. I now move to amend the paragraph so as to read as follows:

Every person whose business it is to make cigars for others, either for pay, upon commission, on shares, or otherwise, from material furnished by others, shall be regarded as a cigar-maker. Every cigar-maker shall register his name and residence, without previous demand therefor, with the assistant assessor of the division in which such cigar-maker shall be employed; and any cigar-maker who shall knowingly neglect or refuse to make such registry shall, on conviction thereof, be fined five dollars for each day that he shall so offend by neglecting or refusing to register.

Mr. Chairman, I have only to say, in regard to the amendment I have offered, that it dispenses with any sum to be paid by the cigar-makers. It provides for a registration of the cigar-makers, the great point desired to be secured by the committee in the proposition they have here made in their bill. It also inserts the word "knowingly," so the cigar-maker shall not be liable to the penalty unless he has knowingly offended against the law.

Mr. HOOPER, of Massachusetts. I move to amend the substitute by striking out after the words "and any" and to insert as follows:

Manufacturer of cigars who shall employ a cigar-maker, who shall neglect or refuse to make such registration shall, upon conviction, be fined five dollars for each day that such cigar-maker so offending in neglecting or refusing to register shall be employed by him.

Mr. LOGAN. I wish to ask the gentleman a question. Was that amendment agreed to in the committee?

Mr. HOOPER, of Massachusetts. No, sir; I offer it independently.

Mr. BARNES. I rise to oppose the amendment. I have heard no objection on the part of any gentleman upon this floor to the object proposed in this section, the registration of cigar-makers. While we pass this paragraph in a way to understand it, that it shall be for the particular object of registration—and they do say so—yet, sir, to levy any tax of any amount on the laborers who are not in this law, those who are to come after us, looking at this paragraph, will say that it levies a tax directly upon one class of laborers. Therefore I am opposed to being required to single out any class of producers and leave them subject to a tax. However desirable it may be to produce this registration, it is more desirable that there should be no record of an effort of this kind which should carry a taint upon the laborer. The House understands it. If the Committee of Ways and Means consent to strike out all but the registration provision I see no objection to it. I yield to the gentleman from Kentucky.

Mr. BECK. I desire to say that I have a substitute which I think will meet the ideas of the chairman of the committee. It is as follows:

Each manufacturer of cigars shall register with the assistant assessor of his district the name and sex of all persons employed by him in the manufacture of cigars, and shall, from time to time, report the changes in his employes, and the number of cigars made by each; and failure either so to register his employes, or to give a true account of the cigars manufactured by each, shall subject him to a fine of ten dollars for each offense.

Mr. SCHENCK. I move by unanimous consent that all further debate on this paragraph be terminated.

There was no objection; and it was ordered accordingly.

The amendment of Mr. HOOPER, of Massachusetts, was agreed to; and then Mr. CHURCHILL's substitute, as amended, was adopted.

Mr. EGGLESTON. I now withdraw the motion to strike out the paragraph.

The Clerk read the next paragraph, as follows:

Manufacturers, not otherwise charged with a special tax, shall each pay ten dollars; and all manufacturers, whose annual sales exceed \$5,000, (except those otherwise provided for, or those on whose prod-

ucts a specific tax is imposed,) shall pay two dollars for each additional \$1,000 on the amount of their sales in excess of \$5,000. Every person who shall manufacture by hand or machinery, in whole or in part, any goods, wares, or merchandise, and whose annual sales of such products shall exceed \$5,000, or who shall manufacture or prepare for sale any article or compound on which a specific tax is not imposed, or who shall put up for sale in packages, with his own name or trade-mark thereon, any article or compound on which a specific tax is not imposed, shall be regarded as a manufacturer. But in making the assessment of tax a deduction shall be allowed of all sales included in the return of any manufacturer, which shall be shown to have been made by or through any authorized agent of such manufacturer, such agent having included such sales in the return made by him to the assessor or assistant assessor of the district in which he is doing business, and having paid the tax thereon.

Mr. SCHENCK. I move to strike out of the paragraph all after the word "manufacturers," in line seven hundred and ninety-two, down to the end of the same, and to insert in lieu thereof the following:

Whose annual sales exceed \$5,000 shall each pay ten dollars, and if no specific or stamp tax is imposed on their products, shall pay in addition two dollars for each \$1,000 of sales in excess of \$5,000. And manufacturers' returns shall include all sales made in general for the account of the manufacturer. Every person who shall manufacture by hand or machinery, in whole or in part, any goods, wares, or merchandise, or who shall manufacture or prepare for sale any article or compound on which a specific or stamp tax is not imposed, or who shall put up for sale in packages with his own name or trade-mark thereon any article or compound on which a specific or stamp tax is not imposed, shall be regarded as a manufacturer.

Mr. SPALDING. I move to amend by adding this as a proviso:

Provided, That no person shall be regarded as a manufacturer who simply makes butter and cheese, or either of them, for his own consumption or for market.

The amendment to the amendment was agreed to.

Mr. HOOPER, of Massachusetts. I call for a division.

Mr. SPALDING. Too late.

Mr. HOOPER, of Massachusetts. I rose in time.

Mr. SCHENCK. Would it be proper to ask the attention of my colleague to this subject in another part of the bill, section ninety-five?

Mr. SPALDING. I understand that perfectly well.

Mr. HOOPER, of Massachusetts. I withdraw the demand for a division.

Mr. SCHENCK. I ask for a division.

Mr. SPALDING. That will not answer. We will take a vote in the House.

Mr. ELIOT. I propose to amend by adding after the provision which was just inserted the following:

But millers whose business is to grind corn or grain in windmills, whose annual profits do not exceed \$1,000, shall not be subject to tax.

Mr. SCHENCK. Why?

Mr. ELIOT. Simply because that is an interest I desire to protect. [Laughter.] I wish to say that the object of this amendment is to protect a class of very small operatives who are known as millers, engaged in running windmills in different parts of the country, whose whole profits do not run up to more than four or five hundred dollars a year, and much more frequently not half of that sum. In some cases it is less than \$100. They have been subject to a tax of ten dollars, and I suppose would be subject to it under this bill, although I do not apprehend that they come within the range of the class whom it is intended to tax by the committee that reported this bill.

The chairman of the committee asks me why I exempt windmills. I answer that it is to meet this class of cases. If there are others who stand in the same category I think he will agree with me that they ought to be exempted. It is a very small interest, and the revenue would hardly be much enlarged by having this tax levied. Sir, I have on my table a letter from parties who are engaged in this business, who say that in the community where they live there are several mills the millers of which receive less than fifty dollars a year for their services, and out of this they are compelled to pay a tax under the present law of ten dollars. I

suppose they will have to pay it under the provisions of this bill. I think it is wrong.

Mr. HOOPER, of Massachusetts. Allow me to move an amendment by adding mills moving by water raised by hydraulic rams. [Laughter.]

Mr. SCHENCK. As to the relative claim of wind, water, and steam, I suppose anybody who has listened to our debate this evening will well understand that windmills are to have the preference. [Laughter.] It is a little singular that gentlemen want to bring their two, three, or four hundred dollar affairs under every bill which we propose, when we have provided that no manufacturer shall be taxed anything whose annual sales do not exceed \$5,000.

Mr. ELIOT. I beg pardon—

Mr. SCHENCK. And I beg the gentleman's pardon.

Mr. ELIOT. If the chairman of the Committee of Ways and Means is right, I will yield, but I think he will see—

Mr. SCHENCK. In the first place, if the gentleman will look at the bill as it is reported, he will find that it provides that "manufacturers, not otherwise charged with a special tax, shall each pay ten dollars; and all manufacturers whose annual sales exceed \$5,000 (except those otherwise provided for, or those on whose products a specific tax is imposed) shall pay two dollars for each additional \$1,000 on the amount of their sales in excess of \$5,000. Every person who shall manufacture by hand or machinery, in whole or in part, any goods, wares, or merchandise, and whose annual sales of such products shall exceed \$5,000."

Mr. ELIOT. Go on, sir.

Mr. SCHENCK. I will; "or who shall manufacture or prepare for sale any article or compound on which a specific tax is not imposed."

Mr. ELIOT. Exactly; that meets this case.

Mr. SCHENCK. Not at all.

Mr. ELIOT. There is no specific tax imposed on grain.

Mr. SCHENCK. Will the gentleman allow me to finish my sentence?

Mr. ELIOT. Oh, yes.

Mr. SCHENCK. That was the bill as it stood. It was complained, however, that that definition of a manufacturer as being one whose sales exceeded \$5,000 did not make it as clear as it would be if the \$5,000 clause were put in the beginning of the text, and, therefore, to make it clear beyond all doubt, according to the intention of the committee, I was directed to propose an amendment which is now pending and before you, and I will ask the Clerk to read it.

The Clerk again read the amendment.

Mr. SCHENCK. Now, that is the proposition made by the committee with the amendment of my colleague, [Mr. SPALDING.] What is it? Why, that the manufacturers who are to pay ten dollars are to be only those whose annual sales exceed \$5,000. To make it clear beyond all question, the committee agreed to transpose the language in such a way as to express it in that manner, that the ten dollar tax does not apply to anybody unless his annual sales exceed \$5,000. Then they go further, and say that in those cases where there is no other provision in regard to the tax, as there is in the case of tobacco, distilled spirits, and so on, there shall be upon sales above a certain amount two tenths of one per cent. That is the whole of it.

Mr. ELIOT. The gentleman from Ohio has taken all of my five minutes.

Mr. SCHENCK. If that is the case I will give the gentleman mine.

Mr. ELIOT. I wish to call the gentleman's attention to the fact that in the amended paragraph the same language is used that is contained in page 124 of the bill, in this respect: that it is provided that—

Every person who shall manufacture by hand or machinery, in whole or in part, any goods, wares, or merchandise, and whose annual sales of such products—

Mr. SCHENCK. That is stricken out.

Mr. ELIOT. This is still in the paragraph:

And whose annual sales of such products shall exceed \$5,000, or who shall manufacture or prepare for sale any article or compound on which a specific tax is not imposed, or who shall put up for sale in packages with his own name or trade-mark thereon, any article or compound on which a specific tax is not imposed shall be regarded as a manufacturer.

That language is contained in the gentleman's amendment, and there is no limit in this part of the amendment to the \$5,000. The definition of a manufacturer is threefold.

Mr. SCHENCK. The gentleman will find that the manufacturer whose sales amount to more than \$5,000 is to pay the tax. He is to pay nothing unless, being a manufacturer, his annual sales exceed \$5,000.

Mr. ELIOT. Then I understand the gentleman to mean that the amendment which I offer is not called for because this class of persons would not be subject to tax.

Mr. SCHENCK. They are omitted entirely.

Mr. ELIOT. Then, of course, I withdraw my amendment.

Mr. FERRY. I move to amend the substitute by inserting after the word "dollars" the words "except unmanufactured lumber and breadstuffs." My object is to exempt from taxation "unmanufactured lumber and breadstuffs," in harmony with the legislation so recently passed by both Houses of Congress, and for several weeks the law of the land. I am apprehensive that the chairman of the Committee of Ways and Means has overlooked that fact, since the object of the Committee of Ways and Means is stated to be to lessen the burden of taxation upon the poorer classes. I think there will be no objection offered by the committee to my amendment, but that they will accept it as an oversight on their part.

Mr. WELKER. What does the gentleman mean by unmanufactured lumber?

Mr. FERRY. I have employed the same phraseology that was employed when this subject was before Congress when the recent law was under consideration. In other words, I propose to exempt from taxation lumber used as such. The better quality of lumber is, more or less, manufactured and merged into some other article, and so designated as an article of merchandise. That, however, is not included in the proposed amendment. My amendment relates mostly to the lumber used by the poorer classes of our people.

Mr. PAINE. Is not the gentleman willing to include in his amendment fuel, clothing, and lager beer?

A MEMBER. And hoop-poles. [Laughter.]

Mr. FERRY. I am willing to accept any article that will equally tend to lighten the burdens of the masses of the people; but failing to get all I hold to a part rather than lose the whole. The gentleman has cooperated with others in framing the provision in reference to lager beer, and I have no disposition to disturb his adjustment of that article which he names.

Mr. WELKER. Will the gentleman allow me to put in his amendment "grindstones?" There is a large interest of that kind in my district.

Mr. FERRY. The gentleman may move that amendment if he desires. I have no "axes to grind," and will not interfere with the turning of his own grindstones.

Mr. MULLINS. I wish it would be turned, for I have several small axes I want to have ground. [Laughter.]

Mr. FERRY. I am not to be diverted from the object I have in view, that is, the relieving from taxation the prime articles of breadstuffs and lumber as far as possible. Let us give as far as we can the poor man a freehold, free shelter, and free food. And then with a free ballot, a free Government, and free competition with the Powers of the earth, I would be willing to let him and the nation make their own way as they can in the world.

Mr. MAYNARD. Would the gentleman be willing to give him free whisky with his free ballot on the day of election?

Mr. FERRY. I will allow the gentleman

to determine that matter when election day comes.

Mr. SCHENCK. This is our old friend from the Northwest. The gentleman proposes, what was adopted in the bill passed in March last, to exempt breadstuffs and unmanufactured lumber.

If I understand the gentleman aright, there is a kind of association up on the northwestern lakes somewhat after the character of the Young Men's Christian Association, or the great sanitary society which existed during the war, which association has nothing at heart so much as the taking care of the poor man, and providing him with shelter from the inclemencies of the season and from the peltings of the pitiless storm. If that be so, I do not know but what we ought to look out for these persons as well as those who are engaged in the business and speculation of manufacturing breadstuffs, who in engaging in that speculation of course have no desire except to fill the belly of the poor man. If that be so, then that is a reason for this exemption.

But if, on the other hand, those men engage in the lumber trade and in the breadstuff trade, in order to make money like other citizens who engage in other trades, then I see no reason why they should not pay a tax upon the capital they employ and the profits they make like other manufacturers. I received a letter from a gentleman in Milwaukee some time ago who is engaged very largely in the manufacture of leather. He said his attention had been attracted by this exemption of the lumber business. And then he went on to say, in substance, this: "It may be that lumber is an article that the poor man purchases. But I do not so understand it, nor do we in this neighborhood so understand it. We generally find those engaged in the lumber business to be men of very considerable means and carrying on a large business. As to the lumber they manufacture affording shelter to the poor man, that shelter is generally obtained by hiring houses from the rich men who build them. So that really those who purchase the lumber are not the poor men who live in the houses, but the rich men who buy or build the houses and afterward rent them at high rates to the poor man. But the manufacturer of leather—an article which must enter into almost all the common pursuits and uses of life, not only in the shoes which every man must wear, but in a thousand other ways—I should feel ashamed if I were not willing to contribute for the support of the Government this small tax that you have imposed upon the article I manufacture—a tax of only two tenths of one per cent. instead of two and a half, three, and five per cent., which we were obliged to pay before last March. But if you let off the lumberman, I ask why, in the name of reason and justice, you should not let off those who deal in leather as I do." And the same might be said of a thousand other branches of industry.

The truth is, Mr. Chairman, this is not a question as to who uses the articles or how it is used; it is a question about the taxation of those who are employing their capital and making profit; and with all due deference to my friend here from the Northwest, [Mr. FERRY,] I do not believe that the man who invests his capital in the lumber trade or the lumber manufacture thinks anything more of the poor man than does he who makes cloth or leather or anything else.

Mr. BLAINE. I move to amend the amendment by striking out the last word. I desire to discuss briefly the amendment which the chairman of the Committee of Ways and Means so vigorously opposes. And in the first place, let me say that during the entire war, when we were seeking everything on the earth, and in the skies, and in the waters under the earth, out of which taxation could be wrung, it never entered into the conception of Congress to tax breadstuffs—never. During the most pressing exigencies of the terrible contest in which we were engaged, neither breadstuffs nor lumber ever became the subject of one penny of tax-

tion. What was the reason of this? Let me tell my friend from Ohio that it was not because of the influence of the rich grain-dealers at Chicago or Toledo or Milwaukee. It was because, if anything be universal, breadstuffs are universal; for they constitute literally "the staff of life." If you impose on them a tax ever so small in amount it will be made a pretext by the very speculators of whom gentlemen talk for adding an appreciable amount to the cost of a barrel of flour. I do beseech this House not to sanction the principle of subjecting such an article to taxation for the sake of the paltry amount that is to be gained from this source.

Mr. WELKER. Does the gentleman expect to secure an exemption for lumber by advocating an exemption for breadstuffs? [Laughter.]

Mr. BLAINE. I am referring to breadstuffs, because it illustrates a principle. I beseech this House not to sanction a tax on breadstuffs which will simply build up a mountain of prejudice for the sake of a mole-hill of revenue.

But, sir, I have said enough on that point. Now, as to the article of lumber, I again remind the House that there has never been a tax upon this article. The gentleman from Ohio may talk of this question as he pleases; but I say that wherever the western frontiersman undertakes to make for himself a home, to till the soil, to carry on the business of life, he needs lumber for his cabin; he needs lumber for his fence; he needs lumber for his wagon or cart; he needs lumber for his plow; he needs lumber for almost every purpose in his daily life.

Mr. PAINE. Does he not need clothing also?

Mr. BLAINE. I ask the chairman of the Committee of Ways and Means to tell me why it is that these articles have never been taxed heretofore?

Mr. HOOPER, of Massachusetts. Does the gentleman mean to say they have never been taxed?

Mr. BLAINE. I do.

Mr. HOOPER, of Massachusetts. Were not the manufacturers of wood taxed? Is not lumber wood?

Mr. BLAINE. Not at all; and I am surprised that a gentleman who lives so near Maine as the gentleman from Massachusetts should be so ignorant of what lumber is.

Mr. HOOPER, of Massachusetts. Will my friend allow me to ask whether the tax was not upon lumber, manufactured or unmanufactured?

Mr. BLAINE. I am not answerable for the singular verbiage incorporated in the act of March, which excepted the manufacture of lumber and breadstuffs. The difference between manufactured and unmanufactured lumber is known to everybody, or ought to be known to everybody who attempts to draw the act. Boards, joists, work that comes from the saw-mill, (for I use the generic phrase.) is lumber. Where it goes through the planing-mill for finer purposes it is not classed as lumber, or if classed at all, as in the reciprocity treaty, it is called manufactured lumber, not unmanufactured lumber. The planing-mill is distinct from the saw-mill.

[Here the hammer fell.]

Mr. SCHENCK. What is the amendment?

Mr. BLAINE. I withdraw it.

Mr. SCHENCK. I move to add "leather."

Mr. Chairman, we are testing a principle, and I am glad it is presented to the committee to be decided. I repeat that the proposition made by the committee, the intention of the law, is to meet and tax capital employed, and thus reach the profits of that capital, and make such profits contribute a part to the support of the Government. And I claim all attempts at exemption, not on account of the capitalist, but another, and because of the particular things in which he deals and the prejudice to be excited in favor of them, because they are used by the mass of the people of the country, is aside from the true question.



Sir, I probably represent more flour-mills than any twenty of these gentlemen. I have not consulted with the millers of my town, of whom there are vast numbers, for that is our principal business, nor have they indicated their desire to me. Yet if I undertook to say for them, while all other manufacturers of the country are on sales above \$5,000, paying nothing below that, paying ten dollars special tax and two tenths of one per cent. as a small contribution toward the support of the Government, that they should be exempted, they would be ashamed of themselves if they did not contribute two tenths of their sales among the rest. It will amount to two cents on the average value of a barrel of flour in my town, about ten dollars, and it will not make a difference of two cents to any man who consumes a barrel of flour. They know it and I know it. We all know it. It will not be an appreciable difference, but when applied to other manufactures it will amount to a great deal to the Government.

The gentleman says wood, lumber; that lumber enters into the needs of every man more than anything else except these breadstuffs, which fill him internally. Look at what the gentleman wears. There is his shirt, there is his hat, there are his shoes, there are his stockings, there are the buttons which fasten the whole together; all these seem to be necessities which we carry around with us, and yet he has never known of these to be exempt. It is wood, lumber which helps to build the house of the poor man. It helps to build the house ordinarily built by the speculator or builder and hired to the poor man at a high rate. The poor man is not a man who deals in lumber.

Now, in regard to breadstuffs it is different. If there is anything which appeals for exemption it is breadstuffs, but representing breadstuffs to the extent I do I make no appeal for them. I repeat, sir, that the millers whom I in large numbers represent would be ashamed not to give two tenths of one per cent. on sales above \$5,000 to support the Government. Everything else, however, is to be set aside for this particular article.

It is a part of that system by which when, two years ago, we had up what was called the Morrill bill, one gentleman proposed to except rakes, another hoes, another reapers, and another something else, when in fact the people did not get these things one cent cheaper, but it only went to enhance in some small degree the profits of the makers of agricultural implements, who invested their capital in the business, not with the view of making bread to feed the poor, but because they found that investing it in that business was about the most profitable way they could employ it. So it is with the lumber and with the minerals, and with all these other things. I wish upon general principle to tax the employment of capital fairly and evenly all around, except that when we come to particular articles of luxury we should increase the tax upon them, not for the reason that there is anything wrong in those who manufacture these articles of luxury, but because they are manufacturing articles which, if we do increase the value by a very heavy tax upon them, will only take that much out of the pockets of the consumers, who are a small class, of luxurious habits. That is the only ground upon which I would make a distinction at all. As to drawing a distinction between clothing and shelter, between the boards on a man's fence and the pantaloons on his — [Laughter.]

[Here the hammer fell.]

Mr. WASHBURN, of Massachusetts. As far as this question of lumber is concerned, though I believe many members of this House are interested directly or indirectly in its manufacture, yet I doubt whether there are three members in the House who believe there is any reason why it should be exempted. The same reasons apply to various other necessities of life that apply to lumber or breadstuffs, and in this little tax which is proposed to be

put upon it I hope there will be no exemption. There are few persons who are more interested than I am in this question. But when the committee proposes to put on a small tax, to say that there is any argument which will apply to lumber that will not apply to other necessities of life is a mistake, and I think every individual who is connected with the business knows it and is willing to acknowledge it. Some individuals may be anxious to please their constituents, but when you examine the question, and apply it, as was said by this committee, there is no reason why this article should be exempt which does not apply to other necessities.

Mr. SCHENCK. Do I understand the gentleman himself to be a large dealer in lumber?

Mr. WASHBURN, of Massachusetts. Yes, sir.

Mr. MULLINS. And here is another one in the same class.

Mr. PILE. Mr. Chairman, I believe there is no city in the United States that manufactures so much flour as St. Louis. I know a large number of manufacturers of flour in that city, and they are as able and as willing to pay the regular tax that is imposed upon other manufacturers as any class of men in the country. I can see no reason for their exemption, and I hope the tax will be imposed upon them.

Mr. FERRY. I rise to oppose the amendment offered by the chairman of the committee. I wish to be understood upon this question. I may be pardoned for saying that I moved this amendment in the first instance in the committee of conference. My phraseology then was not as I have sent it up now to the Chair. I have conformed it to the phraseology adopted on that occasion. My amendment was simply "lumber and breadstuffs," but there were others of the committee who deemed it best that the term "manufactured" should be used, and therefore I have so shaped it now for the purpose of harmonizing with the existing law.

Now, in response to the gentleman who said he was interested in the manufacture of lumber, [Mr. WASHBURN, of Massachusetts,] I do not disguise the fact that I, too, am interested, and I will stand with that gentleman so far as any interest I have in taxing it to the fullest extent is concerned. But I represent a constituency who are largely engaged in this interest, and I still press before the committee this point, that the manufacture of lumber and breadstuffs has never been taxed.

Mr. HOOPER, of Massachusetts. The gentleman will allow me to call his attention to the bill passed March 2, 1867. Boards, shingles, laths, and other manufactured lumber were expressly put into that bill to exempt them thereafter from tax.

Mr. BLAINE. That was merely to exclude a conclusion, and not because they had ever been taxed before.

Mr. FERRY. I state understandingly in this matter, that during the whole war the manufacture of lumber never was taxed. Sales of lumber by dealers have been taxed, and I am not here to urge an exemption from tax of sales of lumber, for that has been a policy of the Government, but my point is that manufacturers of lumber were never taxed. The argument used for the exemption from taxation of the manufacture of lumber was that those who engaged in the interest entered into wild and unknown sections of the country, invited capital and employed labor there, and contended with the elements of nature, and therefore they ought to be exempted, and they were exempted; upon their lands, logs, mills, and working property, they were taxed enough; but when the lumber is carried to market and then offered for sale by themselves or others as dealers, they have to pay the same tax as is imposed on other dealers in other articles.

The objection raised by the chairman of the Committee of Ways and Means is, that if we exempt this from taxation it is only putting money into the pockets of the capitalists and builders of houses who compel poor men to

pay high rents for them. The gentleman must see that the more tax you impose on the lumber that enters into the construction of houses the more rent must necessarily be imposed on the poor men who occupy those dwellings, and the object of my amendment is so to reduce the price of lumber as to enable the poor man to put up his own shanty or dwelling, or lessen rentals where he is unable to build for himself.

Mr. WASHBURN, of Massachusetts. I would ask the gentleman if a tax upon the windows and doors that go into the poor man's dwelling would not raise the price just as much?

Mr. FERRY. I know it would, but I take the ground that lumber was never taxed before; that this is initiating a new system of taxation, and therefore I oppose it. I state frankly that if lumber had ever been taxed in its manufacture, I would not urge here, nor have been before the committee of conference advocating, its exemption; but I say that it has been exempted during the war when we wanted all the taxes we could possibly raise, and I say that for the same reasons now as then this manufacture should be exempt from taxation. It is for that reason I press this question before the committee.

Mr. HOOPER, of Massachusetts. Will the gentleman allow me to ask him a question?

Mr. FERRY. I yield for that purpose.

Mr. HOOPER, of Massachusetts. The gentleman speaks of taxing the manufacture of lumber. I would ask him how the manufactures of lumber are taxed? Under this paragraph the tax is simply confined to sales.

Mr. FERRY. It is a tax on the manufacture of lumber, and not on its sales. When the same parties are manufacturers and dealers they ought not to pay taxes twice, which would be the case if taxed on manufactures as they are now taxed on sales as dealers.

Mr. HOOPER, of Massachusetts. No, on the amount of sales.

Mr. SCHENCK. Like all other manufacturers.

Mr. FERRY. I understand the difference. They are taxed where the lumber is manufactured, and then when it is carried to lumberyards and sold it is taxed again. My purpose is to interfere with the tax on the manufacture alone. I am opposed to it.

[Here the hammer fell.]

Mr. SCHENCK. I ask that by unanimous consent debate may be closed on this paragraph.

Mr. BLAINE. Before that is done, I desire to ask the gentleman one question.

Mr. HIGBY. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

Mr. TROWBRIDGE. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at ten o'clock and twenty minutes p. m.) the House adjourned.

#### PETITIONS, ETC.

The following petitions, &c., were presented under the rule, and referred to the appropriate committees:

By Mr. FARNSWORTH: The petition of Dr. Francis Lieber concerning mails to the Territories and remote military posts.

By Mr. FERRIS: A memorial and proofs of the claim of the town of Queensbury, New York, for reimbursement for United States Treasury notes lost at sea by sinking of steamer Melville.

By Mr. HUNTER: A memorial of George W. Parsley, asking that the amount of pension

due his mother at her death be allowed him as her heir.

Also, a memorial of Elzy Rucker, asking that money be refunded which was improperly collected from him.

By Mr. NIBLACK: A memorial of Elizabeth Lamar, mother of Curtis Lamar, a soldier in the late war, who was killed at Panther creek, Kentucky, praying for a pension.

By Mr. SITGREAVES: A petition of S. N. Marsh, asking an extension of his patent for improvement in trusses.

By Mr. STOKES: A petition for the relief of the widows of Willis Riggs, John Conner, and Barney Eastridge, of Hamilton county, Tennessee.

#### IN SENATE.

THURSDAY, June 11, 1868.

Prayer by Rev. E. H. GRAY, D. D.

On motion of Mr. WILSON, and by unanimous consent, the reading of the Journal of yesterday was dispensed with.

#### INVITATION TO A SHARPSHOOTER'S FESTIVAL.

The PRESIDENT *pro tempore* laid before the Senate a letter from P. F. Steffer, president of the American Sharpshooters' Society, inviting the Senate to be present at the shooting festival to be held at Jones' Wood, New York city, from the 27th of June to the 6th day of July, 1868: which was ordered to lie on the table.

#### PETITIONS AND MEMORIALS.

Mr. CATTELL presented the preamble and resolution of the National Board of Trade, composed of delegates from the boards of trade of the principal cities of the United States, assembled at Philadelphia June 5, 1868, praying the passage of the bill (H. R. No. 788) to regulate the appraisement and inspection of imports; which was referred to the Committee on Finance.

Mr. YATES presented a resolution of the House of Representatives of the Legislative Assembly of the Territory of Colorado in favor of the admission of that Territory as a State into the Union; which was ordered to lie on the table.

Mr. FERRY presented the petition of Jonathan J. Turner, praying an extension of his patent for an improvement in alarm clocks; which was referred to the Committee on Patents and the Patent Office.

#### PAPERS WITHDRAWN.

On motion by Mr. ANTHONY, it was

Ordered, that Benjamin Tilley have leave to withdraw his petition and papers from the files of the Senate.

#### REPORTS OF COMMITTEES.

Mr. DRAKE, from the Committee on Naval Affairs, to whom was referred the petition of Lieutenant Henry A. Bartlett, of the Marine corps, asked to be discharged from its further consideration; which was agreed to.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the petition of Messrs. Sweeny and Baugh, asked to be discharged from its further consideration; which was agreed to.

He also from the same committee to whom was referred the petition of George Sibbald, asked to be discharged from its further consideration; which was agreed to.

Mr. MORRILL, of Maine, from the Committee on Commerce, to whom was referred the bill (S. No. 505) to amend an act entitled "An act concerning the registering or recording of ships or vessels," reported it without amendment.

Mr. HOWE, from the Committee on Claims, to whom was referred the bill (H. R. No. 722) for the relief of Sally C. Northrop, reported it without amendment.

He also, from the Committee on Claims to whom was referred the petition of Matthias Harris, asked to be discharged from its further consideration; which was agreed to.

Mr. CHANDLER, from the Committee on

Commerce to whom was referred the petition of citizens of Cambridge, Maryland, reported a bill (S. No. 533) to establish Cambridge in the State of Maryland, a port of delivery; which was read and passed to a second reading.

Mr. HOWARD, from the Committee on Claims to whom was referred the memorial of William Pitcher and Axel Hayford, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee to whom was referred the petition of Margaret A. Russell, submitted an adverse report; which was ordered to be printed.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the resolution submitted by Mr. SUMNER, on the 18th of March, to print extra copies of the President's message and documents relating to the joint occupation of San Juan island reported it without amendment; and the resolution was considered and agreed to.

He also, from the same committee, to whom was referred the resolution submitted by Mr. SHERMAN on the 9th instant, to print additional copies of the amended bill relating to international coinage, with the reports thereon, and the report of Samuel B. Ruggles, commissioner to the Paris monetary conference, reported it without amendment; and the resolution was considered and agreed to.

#### BILLS INTRODUCED.

Mr. HARLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 532) to incorporate the Uniontown and Washington City Railroad Company, in the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 534) relating to contested elections in the city of Washington, District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

#### CORPS BADGES.

Mr. WILSON. I move that the Senate take up joint resolution No. 93, granting permission to officers and soldiers to wear the badge of the corps in which they served during the rebellion. I suppose nobody will oppose it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 93) granting permission to officers and soldiers to wear the badge of the corps in which they served during the rebellion.

It provides that all who served as officers, non-commissioned officers, privates, or other enlisted men in the regular Army, volunteer, or militia forces of the United States during the war of the rebellion, and have been honorably discharged from or still remain in the service shall be entitled to wear, on occasions of ceremony, the distinctive Army badge ordered for or adopted by the Army corps and division, respectively, in which they served.

The joint resolution was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### EZRA CARTER, JR.

Mr. MORRILL, of Maine. I move that the Senate take up for consideration Senate bill No. 353.

The motion was agreed to; and the bill (S. No. 353) to authorize the accounting officers of the Treasury to adjust the accounts of Ezra Carter, jr., late collector of customs at Portland, Maine, was read the second time, and considered as in Committee of the Whole.

It is an authorization to the proper accounting officers of the Treasury Department to settle and adjust the accounts of Ezra Carter, jr., late collector of customs at Portland, Maine, in which the vouchers have been destroyed by fire, upon equitable principles, and allow such credits as shall seem just and rea-

sonable from the best evidence the nature of the case will admit; but the sum so to be allowed is not to exceed \$895 90, by reason of the loss and destruction of his vouchers.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

#### CONTRACTORS FOR IRON-CLAD VESSELS.

Mr. HENDRICKS. I move to take up the bill which has been considered by the Senate two or three days, and I suppose will not occupy much time. I allude to Senate bill No. 307.

Mr. SHERMAN. I am very anxious to-day—I have postponed it a long time—to take up Senate bill No. 440, making some amendments to the banking law, which ought to be acted on. It is a bill of general importance, and I trust the Senate will allow it to be taken up. I do not wish to interfere with the passage of the bill of the Senator from Indiana; but this is a matter of high public importance, which ought to be acted upon, and I hope it will be acted on in a short time, so that the bill may be sent to the House of Representatives.

Mr. HENDRICKS. The bill of the Senator from Ohio comes up regularly in the business of the Senate, while this bill has been considered in the morning hour.

Mr. SHERMAN. Then I will state that at one o'clock, whatever is pending, I will move that the bill I have alluded to be taken up, so that it may be disposed of, and either be defeated or sent to the House to-day.

Mr. SUMNER. I desire to make a motion which may have some influence on the order of business to-day, a privileged motion which I wish to have entered, to reconsider the vote on the final passage of the bill for the admission of the rebel States last evening.

Mr. CONNESS. That is not in order now.

Mr. HENDRICKS. Can that motion be made while my motion is pending? I do not wish to object to it, however.

Mr. SUMNER. It can be entered now; that is all I ask to do now.

Mr. CONNESS. Entering a motion is making a motion. It cannot be entered unless it is made.

The PRESIDENT *pro tempore*. The motion cannot now be made unless than by unanimous consent, as there is another matter pending before the Senate.

Mr. SUMNER. I beg the Chair's pardon. I think a motion to reconsider can be entered.

Mr. CONNESS. I object to that.

Mr. HENDRICKS. I have no objection to entering the motion.

Mr. SUMNER. The entering of a motion to reconsider is always in order.

Mr. CONNESS. Well, Mr. President, I rise to a question of order. I say no motion can be entered unless it is first made. That is my point of order.

The PRESIDENT *pro tempore*. The Senator from Massachusetts makes a motion to reconsider, and wants that entered on the Journal.

Mr. CONNESS. He had not the floor to make that motion. It was not made in order.

The PRESIDENT *pro tempore*. That is true. The Senator from Indiana moves to take up Senate bill 307, for the relief of certain Government contractors. The question is on taking it up for consideration.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 307) for the relief of certain Government contractors, the question pending being on the amendment of Mr. Howe to the amendment of Mr. HENDRICKS.

Mr. HENDRICKS. I ask that both amendments be read.

The CHIEF CLERK. The Senator from Indiana [Mr. HENDRICKS] moves to insert at the end of the bill:

Which shall be full discharge of all claims against the United States on account of the vessels upon which the board made the allowance as their report under the act of March 2, 1867.

The Senator from Wisconsin [Mr. HOWE] proposes to amend the amendment by substituting for it:

Which payments respectively shall be in full discharge of all claims of the persons to whom such payments shall be made, which have been presented under said act, and of all claims arising out of the matters in connection with which the services and damages so claimed for arose.

Mr. HENDRICKS. I simply wish to say that I hope the amendment to the amendment will not be agreed to. I am satisfied that it would operate unjustly, and that the amendment I propose amply secures the Government.

Mr. HOWE. I offered this amendment to the amendment, and have a word further to say in support of it. The claimants who are named in the bill, it seems, made claims upon different pieces of work. The Navy Department examined the claims as supported by testimony in reference to each piece, and awarded damages on some items and disallowed the claim on others. The amendment offered by the Senator from Indiana proposes in effect to abide by the judgment of the Navy Department in reference to the items where the judgment was favorable to the claim, but to ignore it so far as it bears upon the items where the judgment or the award was unfavorable to the claim. The amendment which I move proposes to abide by the judgment so far as it bears upon the claimants or affects the claimants named in the bill. Manifestly, it seems to me that this is all the claimants each would ask. They presented against the Government a claim consisting of several items. The bill of particulars, so to speak, contains several items. The Navy Department allowed some of the items in the bill and disallowed others. The claimants say that they will accept the award of the items which were allowed, but they ask leave to sue the Government again in the Court of Claims upon the items which were disallowed. It does seem to me that this would be an extraordinary act on the part of the Government. I must insist upon it that these claimants should either waive this award altogether and go into the Court of Claims, which stands wide open to them, and there maintain their suit for the whole amount.

Mr. DRAKE. I suggest to the Senator that the court does not stand wide open to them unless we open the door by legislation.

Mr. HOWE. This claim arises on contract. What is the difficulty of their going in there? I suppose the court was created for that express purpose. But if there needs legislation to enable them to go to the Court of Claims, that legislation can be had; and if they are going there for any part of the claim it seems to me they should go for the whole. I am willing that they shall take this award if they will take it and be content with it; I am willing that they shall go to the Court of Claims if they will go to the Court of Claims for the whole of their account; but I do not think it is fair to ask us to pay a part of their accounts, which the Navy Department has found to be just, and go to the Court of Claims to recover that portion of it which the Navy Department has found to be unjust.

Mr. CRAGIN. Mr. President, I hope that this amendment of the Senator from Wisconsin will not be adopted. The bill now under consideration proceeds upon the idea that this board of examination has reported in favor of certain claimants the amount which the vessels cost them in addition to what they have received, in consequence of the delay and action of the Government; simply that, and no more. There is another bill pending before the Senate, that came from the same committee, authorizing these and other claimants to go to the Court of Claims with their claims. The amendment of the Senator from Wisconsin would apply to that bill; or he could go against that bill wholly and reach his point; but so far as this particular bill is concerned, his amendment, in my judgment, is not pertinent. It is not possible for these claimants to receive any thing more from the Government unless the Government in some way authorizes

them to receive it, or puts them in a position to go to the Court of Claims. What is claimed in this bill is simply what is their due arising from the action of the Government. It is true that they claim more. They claim that in justice, in equity, they should be paid by the Government the dollars that they have expended in building these vessels; that they should be paid what the vessels have actually cost them. This bill, however, does not provide for any such thing; it provides for paying them simply what it has cost them by the delay and action of the Government; pure, simple justice and no more. Beyond that, they claim that they ought to be paid more; but they do not ask it in this bill, and they cannot get it unless Congress in some way comes to their relief. When we come to the other bill which proposes to allow them to go to the Court of Claims, the amendment of the Senator from Wisconsin would be in order. It is in order now, of course; but it would be pertinent then.

It seems to me that this bill ought to pass just as it is; and then if the Senate think the other bill ought not to pass, let them come to that conclusion or the amendment will be proper there; but to ingraft this amendment upon this bill would be unjust. Take, for instance, the case of Secor & Co. By this bill they are allowed about one hundred and fifteen thousand dollars on three vessels. There are three or four more vessels that they built on which they lost large amounts of money. They ask that they may be allowed to go with the other contractors to the Court of Claims for these other vessels; but as I understand it, this amendment, if adopted, would entirely cut them off from that. Their claim on the other vessels, not included in this report and this bill, is just as equitable as the claim of any other contractors. I hope the amendment to the amendment will not be adopted.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Indiana, [Mr. HENDRICKS.]

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

#### REPRESENTATION OF SOUTHERN STATES.

Mr. SUMNER. Mr. President, I now move the reconsideration of the bill passed last evening with regard to the rebel States.

Mr. DRAKE. I want to make an appeal to the Senator from Massachusetts.

Mr. SUMNER. The Senator will allow the motion to be put, and then he can make his appeal.

The PRESIDENT *pro tempore*. The question is upon reconsidering the vote by which House bill No. 1058 was passed.

Mr. CHANDLER. I move to lay that motion on the table; and on that motion I ask for the yeas and nays.

Mr. YATES. I ask the Senator to withdraw his motion, as I wish to make some remarks.

Mr. CHANDLER. I will do so.

Mr. SHERMAN. The only purpose of this motion, as I understand, is to allow the Senator from Illinois [Mr. YATES] to make a speech. I think we cut him off pretty harshly last night, and I am disposed to give him the opportunity to be heard now.

Mr. CHANDLER. Certainly; I withdraw the motion with pleasure under those circumstances.

The PRESIDENT *pro tempore*. The question is upon reconsidering the vote by which the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress, was passed.

Mr. YATES proceeded to address the Senate. [See Appendix.]

Mr. SUMNER. If there is no objection, I will now withdraw the motion for a reconsideration.

The PRESIDENT *pro tempore*. The motion is withdrawn.

#### ORDER OF BUSINESS.

Mr. WILSON. I move to take up House bill No. 598, to continue the Bureau for the relief of Freedmen and Refugees, and for other purposes.

Mr. SHERMAN. I hope the Senator from Massachusetts will allow me to call up the banking bill, which I think will not occupy much time. The Senator from Pennsylvania [Mr. CAMERON] desires to offer an amendment to it. I do not wish to discuss it. It has been up three times. It is a Senate bill, and if it is to be passed at all, it ought to be passed to-day. The Senator from Pennsylvania wishes to strike out one section of the bill, and I am perfectly willing to take the question on that amendment without debate.

Mr. RAMSEY. The Senator from Illinois [Mr. YATES] gave notice last evening that he would move to proceed to the consideration of the bill for the admission of Colorado to-day.

Mr. YATES. I move—

Mr. WILSON. I have the floor.

The PRESIDENT *pro tempore*. The Senator from Massachusetts has the floor.

Mr. WILSON. The Senator from Illinois has occupied the floor for a considerable time to-day, and I desire now to call up the bill to continue the Bureau for the relief of Freedmen and Refugees, and for other purposes.

Mr. SHERMAN. That is a House bill.

Mr. WILSON. Yes, sir; and it is very important that it should be passed. The bureau expires in a few days. This bill ought to have been passed before, but I have yielded again and again to other Senators. I do not believe it will take any time. I should like to have it disposed of to-day, if possible.

Mr. POMEROY. It must be passed before the 1st of July, or else the Commissioner of the Freedmen's Bureau will be obliged to close the office on that day.

Mr. SHERMAN. I do not want to antagonize any bill. The bill that I speak of is one in which every Senator is as much interested as myself. It relates to abuses in the banking system which ought to be corrected.

Mr. WILSON. I know that. I agree with the Senator on that subject; but I have moved to take up this bill; it is important to pass it as soon as possible; and I think we can dispose of it in a short time.

Mr. YATES. I thought I had an understanding with the Senator from Massachusetts this morning, that I was to be allowed to call up the Colorado bill, which will probably take but a short time and not lead to much debate. I hope we shall take up that bill.

Mr. WILSON. We can pass the bureau bill in half an hour or so.

Mr. YATES. I will state, also, that I submitted a motion to take up the Colorado bill last evening.

Mr. RAMSEY. And that motion was pending when the Senate adjourned.

Mr. YATES. Besides, it is a bill germane to the bills we have been considering—a bill for the admission of a State. I think it will take but a short time to pass it; there is very little objection to it; and I hope the Senator will allow me to call it up. It cannot take a long time to consider it.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts withdraw his motion?

Mr. WILSON. I should be very glad to have a vote taken on the bureau bill to-day.

Mr. SHERMAN. Then stick to it, or I shall insist upon mine.

Mr. YATES. I submitted a motion to take up the Colorado bill last evening.

Mr. WILSON. I do not wish to take up any of the time of the Senate in regard to the order of business. I supposed that the Colorado bill would come up the first thing this morning, and be disposed of in probably an hour, and that this bureau bill would be then taken up. I have been begging and pleading



here for a week to have this bill considered. I will now yield to the Senator from Illinois; but I give notice that I shall move to take up this bill to-morrow at one o'clock, and shall antagonize it against any other measure that may be before the Senate.

Mr. YATES. Now, I move to take up Senate bill No. 11.

The PRESIDENT *pro tempore*. The Senator from Massachusetts withdraws his motion, and the Senator from Illinois moves that the Senate proceed to the consideration of the bill mentioned by him, for the admission of Colorado into the Union.

Mr. SHERMAN. I think I had the floor first in prior order to the Senator from Illinois, and I shall ask a vote of the Senate on the question of taking up the Colorado bill, a matter of no moment, no great pressure, so that if that motion does not prevail we may take up a bill which I say to the Senate ought to be acted on one way or the other and sent to the other House, in order to give them time to consider it and act upon it. I hope the Senate will not now take up the Colorado bill, which will lead to another political discussion. It has always been opposed here, and always opposed with great violence. I shall vote for the admission of Colorado whenever it is presented to us; but I am utterly opposed to taking it up to-day, unless we can first have action on some other bills that are more pressing. The Senator from Illinois has occupied the attention of the Senate on another bill from his committee recently, while the Committee on Finance, which is generally supposed to have matters of public importance, has not been able to get the floor now for three months in regard to any vital measure that is before the Senate from that committee. If I recollect aright, the Committee on Finance has not occupied the attention of the Senate since the funding bill was under debate in February or March last, and there are one or two bills vitally important from that committee that ought to be considered. Under the circumstances, I think the Senate ought to refuse to take up the Colorado bill.

Mr. YATES. If I had any idea that this bill would take much time I would not press it; but it is a bill for the admission of a State; in the nature of a privileged question, at all events. I am sorry that the Senator refers to my having occupied time. I think, on this question of the admission of States, he has occupied ten times as much as I have.

Mr. SHERMAN. I did not speak of the Senator occupying time. I said that his committee had occupied time with another bill.

Mr. YATES. I thought you alluded to my speaking to-day.

Mr. SHERMAN. No; I referred to the bill for the organization of the Territory of Wyoming. I said that the Committee on Territories had occupied the attention of the Senate, while the Committee on Finance had not.

The PRESIDENT *pro tempore*. The question is on taking up the bill mentioned by the Senator from Illinois.

Mr. ANTHONY. I hope we shall take up the bill proposed by the Senator from Ohio. This bill for the admission of Colorado cannot be disposed of in less than a week after we take it up. Everybody knows that we shall have all these speeches made over again upon it, every one of them; and I think we had better dispose of the business of the country that is pressing upon us. It is entirely out of the question that we can pass the Colorado bill in a day or two.

Mr. YATES. As my friends do not seem to agree with me in this matter, I will yield the floor to the Senator from Massachusetts, who yielded it to me.

Mr. SHERMAN. He has agreed to take up his bill to-morrow.

Mr. WILSON. I gave the floor to the Senator from Illinois, giving notice that I should submit my motion to-morrow, at all events.

Mr. SHERMAN. I believe, then, that the Senator withdraws his motion.

Mr. YATES. If the Senator from Massachusetts desires to take up his bill, I will yield to him; but otherwise I shall antagonize my bill with any other that may be proposed.

Mr. WILSON. I move, then, to take up House bill No. 598.

The PRESIDENT *pro tempore*. Does the Senator from Illinois withdraw his motion.

Mr. YATES. Yes, sir; and I give notice that I shall renew it to-morrow.

#### PRESIDENTIAL APPROVAL.

A message from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary, announced that the President had this day approved and signed the following bills:

An act (S. No. 339) granting a pension to Sarah Webb, widow of William R. Webb, and her minor children;

An act (S. No. 319) granting a pension to Bridget W. McGrorty, and the minor children of William B. McGrorty; and

An act (S. No. 419) granting a pension to Mary Atkinson.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 601) making appropriations for the naval service for the year ending June 30, 1869.

The message further announced that the House had passed a bill (H. R. No. 366) to incorporate the National Hotel Company of Washington city, in which it requested the concurrence of the Senate.

#### FREEDMEN'S BUREAU.

Mr. WILSON. I now move to take up House bill No. 598.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 598) to continue the Bureau for the relief of Freedmen and Refugees, and for other purposes.

Mr. WILSON. The bill has heretofore been read through and amended.

The bill was reported to the Senate, as amended, and the amendment made us in Committee of the Whole, was concurred in.

The amendment was ordered to be engrossed, and the bill to be read a third time. It was read the third time.

Mr. HENDRICKS. I ask for the reading of the bill. I have not a copy of it before me, and I should like to hear it read as it stands amended.

The CHIEF CLERK read the bill, as amended, as follows:

*Be it enacted, &c.*, That the act entitled "An act to establish a Bureau for the relief of Freedmen and Refugees," approved March 3, 1865, and the act entitled "An act to continue in force and to amend 'An act to establish a Bureau for the relief of Freedmen and Refugees, and for other purposes,'" passed on the 16th of July, A. D., 1866, shall continue in force for the term of one year from and after the 16th of July, in the year 1868, excepting so far as the same shall be herein modified. And the Secretary of War is hereby directed to reestablish said bureau where the same has been wholly or in part discontinued: *Provided*, He shall be satisfied that the personal safety of freedmen shall require it.

SEC. 2. *And be it further enacted*, That it shall be the duty of the Secretary of War to discontinue the operations of the bureau in any State whenever such State shall be fully restored in its constitutional relations with the Government of the United States, and shall be duly represented in the Congress of the United States, unless upon advising with the Commissioner of the bureau, and upon full consideration of the condition of freedmen's affairs in such State, the Secretary of War shall be of opinion that the further continuance of the bureau shall be necessary: *Provided, however*, That the educational division of said bureau shall not be affected, or in any way interfered with, until such State shall have made suitable provision for the education of the children of freedmen within said State.

SEC. 3. *And be it further enacted*, That unexpended balances in the hands of the Commissioner, not required otherwise for the due execution of the law, may be, in the discretion of the Commissioner, applied for the education of freedmen and refugees, subject to the provisions of law applicable thereto.

SEC. 4. *And be it further enacted*, That officers of the Veteran Reserve corps or of the volunteer service, now on duty in the Freedmen's Bureau as assistant commissioners, agents, medical officers, or in other capacities, who have been or may be mustered out

of service, may be retained by the Commissioner, when the same shall be required for the proper execution of the laws, as officers of the bureau, upon such duty and with the same pay, compensation, and all allowances, from the date of their appointment as now provided by law for their respective grades and duties at the dates of their muster-out and discharge; and such officers so retained shall have, respectively, the same authority and jurisdiction as now conferred upon "officers of the bureau" by act of Congress passed on the 16th day of July, in the year 1865.

SEC. 5. *And be it further enacted*, That the Commissioner is hereby empowered to sell for cash, or by installments with ample security, school buildings and other buildings constructed for refugees and freedmen by the bureau, to the associations, corporate bodies, or trustees who now use them for purposes of education or relief of want, under suitable guarantees that the purposes for which such buildings were constructed shall be observed: *Provided*, That all funds derived therefrom shall be returned to the bureau appropriation and accounted for to the Treasury of the United States.

Mr. HENDRICKS. Mr. President, I do not intend to discuss this bill at any length. I have heretofore felt it to be my duty to say to the Senate what I thought it proper to submit against the system established by this legislation. The offensive features of that system, its inroads upon our theory of government, its disregard of constitutional provisions, its burdens upon a heavily-taxed people, I have heretofore considered in the presence of the Senate, and I do not now feel myself required to repeat the arguments which I then made against the system.

It is, however, proposed to continue this bureau for another year. I think the continuance of this system for another year will be a disappointment to the people. It was understood that shortly after the close of the war, these freedmen having been made free, the special charge and support of them should be taken from the General Government and from the tax-payers of the nation, and that they would be expected to provide for themselves. The time came around when the original bill establishing the bureau expired and it would have ceased to exist. Then a special law was passed for its continuance for two years. The people to some extent acquiesced in that continuance, hoping, expecting that the bureau would cease to be a burden to them at the time mentioned in the law.

But now, three years after the close of the war, three years after it is claimed that these people became free, it is proposed to continue this bureau for yet another year. For one year these colored people have been regarded by Congress as competent to take charge of the governments of ten States, and, by the policy of Congress, competent, as a balance in the political power of the country, to decide the next presidential election; competent, by the disfranchisement of a large body of the white people, to take the exclusive control of ten States; competent to frame constitutions of government for those States; competent to enact the laws which shall govern the interests of the people of those States in every respect; and yet, after Congress has made that declaration, it is proposed for still another year to continue over them this system of guardianship and special government, which rests for its support upon the proposition that they are not capable of providing for and taking care of themselves. A race that has been made free and elevated to political power, elevated to political control in ten States; a race upon which has been conferred the exclusive power of governing ten States by the disfranchisement of a portion of the white people; a race that it is claimed is competent to decide the next presidential election by holding the balance of political power, is still to be specially provided for by a system of special protection, of special guardianship, and of special support; and this as a burden upon a Treasury already burdened; this as a burden upon the tax-payers of the country who now groan under the loads they have to carry!

My attention was called a day or two since to the character of the convention in South Carolina that has formed a constitution for that State, the character of its colored membership,

the power in the convention if I may so express it. There, without any considerable responsibility for the finances of that State, contributing comparatively nothing, they declare in a convention what shall be the burdens upon the white race; they fix the form of government for the white people; they decide what shall be the laws for the white people; and you recognize it. You declare that by a bill passed yesterday, to be the form of government for the people of South Carolina. But yesterday you indorsed the system of government that the colored people of the South have established for those States. You say that the wisdom of the negro race has been quite sufficient, inasmuch as that race controlled the election of delegates to the conventions to decide the political fortunes of one third of this country; and to-day you propose to declare these same people not competent and not capable of taking care of themselves; and to say that the Treasury of this country must maintain in all the States of the South for still another year officers in the States, in the counties, and perhaps in the parishes and townships, unknown to the Constitution, unknown to the former legislation of the country, as special guardians of these people.

It need not be repeated, because the people have ceased to believe it, that the white men are oppressing these colored persons. It has been repeated *ad nauseam* in the Senate and in the House that murders are of daily occurrence; that outrages upon the negroes are being constantly perpetrated; but the people have ceased to believe this. They know it is not true. They know that in the southern States now, States that are governed to-day by the iron power of military force, there is less of violence and disturbance than in some of the northern States, particularly upon this race; so that that argument ceases to have weight with the people. At last the people of the North have come to understand much of the facts on this subject. The people of the North know that you have placed the white race under the negro race; that the white race is to-day the dependent and subordinate race at the South; and you can no longer use the argument to the people of the North, for they will not believe it, inasmuch as it is not true, and they have come to look upon things as they are—they will not believe that this system is longer necessary for the protection of the colored race. Rather they will believe that some protection is necessary for the white race. It was but last week, I believe, that I read to the Senate an extract from one of the Republican papers published in this city, to the effect that five white men in one particular neighborhood adjoining the city of Selma, Alabama, had been murdered, and not one arrest has been made. No notice had been taken of that outrage, nor was it spoken of. Why, sir, I called the attention of the Senate to a decision of a court-martial in Alabama, by which five or seven white men were banished—banished from the country to a horrible island. These are the outrages that are now attracting the attention of the people at the North.

But, sir, I do not intend to discuss that subject. I merely intended to call the attention of the Senate to the fact that yesterday we passed a bill which rests for its support upon the proposition that the colored race of the South are competent to take charge of the affairs of this Government; that they are competent, not only to govern the States of the South, but to control, as a balance, in the political power of the country, the selection of President and Vice President of the United States; and to-day you propose to put them under a special guardianship; and this at the expense and cost of a heavily taxed people. My own judgment is that it is the interest of both races that each shall look to their own industry and enterprise for their prosperity. If you make the colored people dependent upon the Treasury of the nation, they will never depend upon that effort and enterprise and

industry which are indispensable to the elevation of any people. I believe this system is hurtful to the negro, while I know it is oppressive and cruel to the white man. This bureau is to be continued for another year. Of course it will be disavowed, but I think myself that a special work is to be performed by this bureau. It is expected that the bill which passed the Senate yesterday will soon become a law, and that the citizens of the southern States will be restored to representation in Congress, and under it to their vote in November. Then there will be no pretext, as you say, for the continuance of the military force; then you cannot by the appointment of generals, control the election-boards; then by the military you cannot control the elections in the South; and you fear to leave it as a contest between the intelligence and moral force of the white race and the colored race in the elections; and so this bureau is to be continued. In every county and neighborhood, if possible, there is to be a paid agent, who, for the rest of this season and until after the November elections, is to be the special partisan of a political party to see to the elections, organize the forces, and as far as possible control the elections.

My opinion, Mr. President, is that it will be the judgment of the men of the North, who are now thinking very coolly and deliberately upon these matters, that this bureau is to be continued, not for the purpose of taking care of a race that your law has placed in supremacy and in power over the white race, but for the purpose of managing, manipulating, and controlling the elections that are to take place in these States of the South. That is my judgment as to the purpose of the continuance of this bureau. The soldiery being withdrawn, there will not be paid agents to represent a political party in the South any longer unless this bureau be continued. Continue that, and you have your active, paid, energetic agents to represent the interests of a political party in the South; the men who are to continue the loyal leagues, to keep the negroes in organization as against the white race.

Mr. President, if the negro is to have the right of voting in the southern States, it is the true policy that this strife of race shall be discouraged. Instead of pursuing that policy, you propose to continue a bureau there to take special charge of the colored people, to take charge of them in making provision for them, in supporting them, in seeing to their personal conduct, in controlling their contracts, in controlling the execution and enforcement of their contracts, and also in organizing them through the loyal leagues into a political party in your support. This bureau must be continued for that, although it shall cost the people of the North millions of dollars. If they be industrious, why is it that three years after the war has closed a special provision must be made for them?

Mr. President, I have referred to the points to which I felt it to be my duty to allude. This bill, of course, will pass. I do not make any argument against it in the hope that it will be defeated. The time will come, in my judgment, when the people of the North will discontinue such things, and return, and that before very long, to the old-fashioned system of government in this country, of equal, just, fair laws for all.

Mr. EDMUNDS. Mr. President, I did not understand precisely what my friend from Indiana meant in what he said about the negroes voting, whether he is in favor of suffrage being extended to the blacks in the southern States or opposed to it. I should like a little explanation on that point.

Mr. HENDRICKS. The Senator from Vermont had no occasion to understand me in any respect on that subject, for I was not discussing that.

Mr. EDMUNDS. My friend is mistaken. He referred to the question, and said if the negroes were to be permitted to vote, then it ought to be so and so; and I did not apprehend whether he was in favor of the propo-

sition that they should be permitted to vote or against it.

Mr. HENDRICKS. I referred to the fact rather emphatically that you have disfranchised a very large body of the white people of the South, and by the bill which you passed yesterday, and which it is supposed will become a law, you expect to count the votes of the colored people at the next presidential election. This is a balance of political power that may control the next election; and I undertook to show that it was important for party ends that there should be a paid body organized throughout these States to control that vote, to make it sure.

Mr. EDMUNDS. I am still so obtuse as to be unable to ascertain yet whether my friend is in favor of negro suffrage in the South or opposed to it.

Mr. HENDRICKS. I suppose the Senator is in no difficulty to understand exactly what I was saying.

Mr. EDMUNDS. No; no difficulty in understanding what you were saying, but a great deal of difficulty in understanding what you mean on the question whether negroes ought to be permitted to vote or ought not.

Mr. HENDRICKS. There is no difficulty in understanding what I mean if the Senator understands what I say.

Mr. EDMUNDS. I understand what the Senator says, and that is, he thinks the rebels ought to be permitted to vote. He finds fault with our disfranchising men who added to the guilt of rebellion, perjury in violating their oaths to support the Constitution of the United States; but I fail yet to have him explain to me whether this other class of persons whom he is so desirous of being let alone ought to be intrusted with that franchise with the rebels or without them. Upon that point he seems a little shady.

Mr. HENDRICKS. Mr. President, in the State of Indiana, as a citizen, I expect to oppose the enfranchisement of the negro. In the State of Indiana we claim the right to control it; and as Ohio has decided, as Kansas has decided, as other States have decided, Indiana, in my judgment, will stand by that position. In the southern States, in my opinion, it should be left to the political community, as organized in those States, to decide the question of suffrage. In my judgment, it is not a question for congressional debate; it is a question for decision in each State, who shall vote and who shall not vote. I was not discussing my own preferences. I was discussing the conduct of the party of which the Senator from Vermont is a distinguished member, in excluding from the ballot-box a large body of white people, enough so as that when you enfranchise the negroes of the South, you give them the political power of those States, and then it becomes necessary to have an organized band of men to control their votes through the loyal leagues and otherwise; and I expressed the opinion that that is the real purpose of this legislation. Does the Senator agree with me upon that point?

Mr. EDMUNDS. I am still in confusion, Mr. President. My friend says that he wishes to leave it to these political communities in the South to decide whether the negroes shall vote or not. I wish him to tell me what he means by the political community in the South. Does he mean the men who were engaged in the rebellion? Are they to decide whether their emancipated slaves shall be permitted to vote or not, or does he mean the community to whom the laws of Congress have intrusted the privilege of exercising political power; that is to say, all white men who have not committed perjury against the Government and all black men who are citizens, being over twenty-one years of age? Will he explain that to me?

Mr. HENDRICKS. The Senator need not ask for my opinion on that subject, for I think every vote I have ever given has illustrated that opinion.

Mr. EDMUNDS. Well, what is it?

Mr. HENDRICKS. I do not believe that

Congress has any right to disfranchise any white man in the southern States and to enfranchise any negro for the purpose of giving the political power into the hands of the colored race.

Mr. EDMUNDS. That does not answer the question. My friend is still evasive. I must cross-examine him a little further. Suppose we grant that for the sake of the argument, and agree that the southern communities are to decide; does he mean to have that question decided by the men who were engaged in rebellion and the other white men, excluding the blacks from a voice in that decision, or does he mean to leave it to the whole body of the community?

Mr. HENDRICKS. In my judgment it must be left to the men who are authorized to decide it under the laws and the constitutions of the States.

Mr. EDMUNDS. What laws and what constitutions?

Mr. HENDRICKS. The constitutions and laws in force. The Senator knows very well that I hold the doctrine that the constitutions of the States came down through the rebellion, that there was no power in the rebellion to destroy a State government, to destroy a State constitution, that those acts of the southern States were void which were in aid of the rebellion, that the constitutions came down through the rebellion, and that those constitutions define the political community of each State.

Mr. EDMUNDS. That is perfectly satisfactory. We now have my friend from Indiana, and of course his party, standing upon this simple platform, which I, for one, am willing the whole country should know; and that is, that the political power in the South still rightfully and constitutionally resides in the very men who engaged in rebellion, and nobody else; that is to say, in the white men of the South, those who were authorized in 1860 to exercise political power, excluding everybody else. He and his party, therefore, wish to turn over these communities that we have wrested out of rebellion into the very hands of the rebels themselves and nobody else, and to leave this black race at their mercy. I am willing to meet him even in Indiana on that question.

Mr. HENDRICKS. I should be very happy to see the Senator from Vermont in Indiana. [Laughter.]

Mr. EDMUNDS. I will go there about the time of the gubernatorial election. [Laughter.]

Mr. HENDRICKS. At any time that it will be convenient for him to visit that State it will give me pleasure to meet him.

Mr. DRAKE. If the honorable Senator from Indiana will allow me a word, I would be obliged if he would answer a question.

Mr. HENDRICKS. Certainly.

Mr. DRAKE. The Senator from Indiana has several times in the course of his remarks this morning referred to a fact which has been repeatedly referred to in like manner by gentlemen on that side of the Chamber, to wit, as he states it, that we disfranchise enough of the white race there to give the balance of power or predominance to the black race. Will the Senator from Indiana be so kind as to state whether he has ever investigated the question of the number of white men that are disfranchised in the manner that he speaks of? If he has, will he be so kind as to state what is the result of his investigations? If he has investigated it I am free to say that I shall attach a good deal of importance to the result of that investigation so far as he is concerned.

Mr. HENDRICKS. Mr. President, I believe I am too modest to repeat myself as authority in the Senate. On the 30th of January last I had occasion to discuss these questions, and to discuss the particular question to which the Senator now refers; and if the Senator will regard it as not offensive, I would refer him to my remarks upon that occasion in answer to his inquiry.

Mr. DRAKE. Will the Senator, then, allow me one other word before I sit down?

Mr. HENDRICKS. Certainly.

Mr. DRAKE. The constitutional amendment disfranchises nobody in the southern States but those who had before engaging in rebellion taken an oath of allegiance to the United States in order to hold office and afterward engaged in rebellion. Now, sir, I am enabled to state on that point that there resides in the State of Ohio a gentleman of national reputation, the commissioner of statistics of that State, a statistician who is probably without a superior in this country. I refer to Edward D. Mansfield, doubtless well known by reputation, if not personally, to the honorable Senator from Indiana. He has investigated this subject, and I would say, that after his investigation has been made, I presume no better investigation could be made, except by an actual polling of the inhabitants of these southern States; and he estimates that the whole number disfranchised by the constitutional amendment in all the ten rebel States does not, and cannot in the nature of the case, exceed forty thousand.

Now, sir, if the honorable Senator from Indiana has ever investigated that subject, and can arrive at a better conclusion than that, I should like to know it from him; because if that be anything like the fact of the case—and any one can judge of that by just remembering the terms of the amendment and the scope of it over those States—then it takes away the very foundation of fact upon which the remarks of the Senator from Indiana on that subject go, and the remarks made by his political associates. It is impossible, if there are only forty thousand men in the whole ten rebel States that are disfranchised by our action here, that the effect of that disfranchisement, coupled with the enfranchisement of the negro, should be that which the Senator and his political associates describe it to be.

Mr. EDMUNDS. And that is only from holding office by the amendment, not from voting.

Mr. DRAKE. Yes, sir; exactly. There is a point still further, that they are not disfranchised from voting; they are only disfranchised from holding office. These two facts being taken into consideration, that only forty thousand of them are disfranchised for any purpose, and none of them barred from going to the polls in those States and voting, I do not exactly see how the position which the gentlemen on the other side of the Chamber are so fond of ringing the changes upon can really be a tenable one before the country, or can amount to anything in the political canvass on which they are now entering.

Mr. HENDRICKS. I will ask the Senator from Missouri whether he understands the amendment known as the fourteenth article to have been adopted?

Mr. DRAKE. I have heretofore stated, as my individual opinion, that it is not adopted, and, therefore, that there is at present no disfranchisement, except by our act of Congress, and that extends only to the formation of these governments.

Mr. HENDRICKS. Exactly so, Mr. President. Therefore it is not important to consider what persons will be disfranchised under that amendment. It is only important to consider what persons you have disfranchised in your reconstruction policy by the laws of Congress. By those laws, as I now recollect, you disfranchised not those only who took an oath in accepting an office, but all who at any time heretofore held an office under the Government of the United States or of any State and participated in the rebellion. I think the act of Congress waived in its disfranchisement the condition that the party should have taken the oath which is mentioned under the amendment known as the fourteenth article.

But, Mr. President, I do not believe at all in the estimate to which the Senator from Missouri refers. It is necessarily but a matter of opinion as to the number of persons that are

disfranchised. You take the southern States and guess as you can how many persons there are in those States who have ever held an office and who participated in the rebellion. I cannot very well guess, because there are no statistics that enable me to form an opinion; and the person in Ohio to whom the Senator from Missouri refers can have no facts upon which to base an opinion, because there are no statistics that show the number of persons now alive who held office in the southern States and who participated in the rebellion.

Some two weeks ago I had a conversation with a very distinguished gentleman from Alabama, and he expressed the opinion to me that in that State alone the act of Congress disfranchised in this reorganization from twenty-five to thirty thousand persons. He is a citizen of that State, a gentleman prominently connected with public affairs, and a gentleman in whose opinion I have great confidence. He expressed the opinion to me that in that State alone the exclusion of white persons would be twenty-five or thirty thousand.

I have heard the opinion expressed—how far I rely upon it it is not necessary for me to say; not with entire confidence, because it is but an opinion—that in all the southern States the disfranchisement amounted to three hundred thousand persons. But the result of the elections in the southern States has shown, we know the fact, that the one race has the power, and that the other race is stripped of power. It is apparent, plain, palpable; and now, my argument was that it is necessary for political results to control the votes in November of these colored people to maintain the organization which has been brought about through the loyal leagues and otherwise; and to do that it is necessary to have this paid band of partisans which this bureau will continue.

The Senator from Vermont has expressed, to his own satisfaction, what he supposes to be my views. I do not accept of his statement of my views. I choose to state them myself. Mr. President, I have opposed this policy on the part of Congress of regulating suffrage in the States. I do not think that in a northern State, or a southern State either, Congress has the power under the Constitution to say who shall vote for or against a State constitution, and who in the southern States shall vote for or against a candidate for Governor. I think it is expressly given in the Constitution to the State government to define the right of suffrage, and that it was a usurpation on the part of Congress to declare who should be the electors of members of the Legislature in the different States; for I think it is expressly in the Constitution left to the States to decide for themselves.

In the State in which I live my voice has been, and I have no doubt it will continue to be, against the enfranchisement of the colored people. I am in favor, in the State of Indiana, of governing, as we have in times past, through the power, the voice, the judgment, the patriotism of the white race. If in any other State the negro becomes enfranchised by the act properly of the State government, it is satisfactory to me. I have no war to make against Massachusetts because she allows the colored people to vote. It was her judgment. It is her will and pleasure under the Constitution of the United States. She has the right so to decide. I make no war against it. I have no objection that in the State of New York a qualified suffrage is given to the colored man; for it is the business of New York to decide that question for herself. So in Indiana; we will decide it in that State according to the pleasure of the white people. In every State I claim the same is the constitutional rule; that there can be no condition of affairs that gives to Congress the power of declaring who shall be a voter for a member of the most popular branch of the Legislature, for the reason that the Constitution in express words leaves that to the decision of the State government.

Mr. President, I have said more upon this



bill than I intended. I will close by repeating that the continuance of this bureau upon the pretexts that are now set up, pretexts that were dissipated in the most emphatic manner by the vote of yesterday, the continuance of this burden upon the people of the country in the present condition of their finances and their business will be a grievous disappointment, and I think it is not justified by any political necessity whatever.

Mr. DRAKE. Mr. President, I think we have got the position of the honorable Senator from Indiana pretty well defined in this matter. I think he has taken a large stride this morning toward making himself a very acceptable candidate of the Democracy for the Presidency. I do not know that they could ask much more of him. He says that we have disfranchised in the rebel States three hundred thousand white men, and enfranchised all the negroes, and thereby we have got the power in those States. Sir, it is a very well-known fact to the Senate and to the country, for which we need not appeal to the Congressional Globe or to the Journals of the Senate, that the Senator from Indiana voted against all the bills that have been passed here which effected this supposed disfranchisement of three hundred thousand men. It is another well-known fact that the supposed three hundred thousand were disfranchised for no other cause than that they had been engaged in the rebellion, and had done all they could to destroy the Government of the United States.

Now, sir, put this and that together, and it is very manifest that the Senator from Indiana voted against all those bills effecting that disfranchisement, with the idea in his mind that if the bills were not passed the control and the power of those States would be in the hands of those very three hundred thousand rebels and their associates in that country who sympathize with them.

That is the first step. He is in direct sympathy with that band of disfranchised rebels to the extent that he would not have them disfranchised because of their rebellion. Why? Because every man of them is a good Democratic voter if he can get to the polls, and the honorable Senator may, before he is a month older, stand in a position where he would like very well to have their votes.

But, sir, there is a very wide difference between the honorable Senator and his associates on that side of the Chamber and the gentlemen on this side; and it consists in this: that while we would disfranchise rebels for crime against their country, that the governments of those ten States may pass into the hands of loyal men, he would disfranchise the hundreds of thousands of loyal men there to put those governments in the hands of rebels, and do it for no reason on earth but that the loyal man's skin is black and the rebel's skin is white.

Very well, Mr. President, if the honorable Senator is satisfied with his position on this subject I am; and all that remains to be said about it is, that whether it be the honorable Senator from Indiana or any other gentleman of his party that is to become the standard-bearer of that party, which would trample under foot the loyal defenders and friends of the country because their skins are black, and put over them the traitors of the country because their skins are white, he will find that the verdict of the nation will not be quite as unanimous in favor of the proposition as he seems now to think it probably will be.

Mr. HENDRICKS. Before the Senator from Missouri takes his seat, if he would allow me, I should like to ask him one question.

Mr. DRAKE. Certainly.

Mr. HENDRICKS. I understand him very distinctly to hold that the colored people of the South ought to have the right of voting. Does he believe the same in regard to the northern States? Ought the colored people to be disfranchised in the State of Indiana, in his judgment?

Mr. DRAKE. Beyond all question, sir;

over the whole length and breadth of the land there ought to be a universal enfranchisement of them.

Mr. FRELINGHUYSEN. Mr. President, I understand that the Democratic party of this country are opposed to the reconstruction measures adopted yesterday, and we have been told that they intend to effect a reform of them when they get into power, to have them reversed and things put back to the condition that they have been in. Now, I should like information as to how it is proposed to accomplish that end in order that the country may understand the issue properly. Does that party, do the opponents of these measures, purpose to have Congress interfere with suffrage in the States, and, thereby, according to my opinion, go contrary to the Constitution and thereby go contrary to all their declarations in the past? Universal suffrage being established a fixed fact, as it will be in thirty days, how do they propose to effect their reform? Do they mean to become the advocates of the doctrine that the right to regulate suffrage is with Congress, and not with the States, and have Congress pass laws excluding from suffrage the colored people? There is no other way in which it can be effected in the States. Those who have got the suffrage will hold to the suffrage; and if the Democratic party propose to adopt such a measure as I have suggested to carry out their purpose of excluding men from suffrage, they propose to involve this country in more trouble and to bring upon it greater evils than, I was going to say, it has yet passed through. I believe that this whole country will adopt the motto of the leader of the great party of liberty and raise the cry, "Let us now have peace."

Mr. WILSON. Mr. President, the honorable Senator from Indiana [Mr. HENDRICKS] assumes to speak for the people—to tell the Senate what the northern people think, how they feel, and how they will act. It has come to be the habit of that Senator to remind his associates here of the feelings, sentiments, purposes of the people. In view of the events of the past eight years, of the predictions of the Senator and his associates, and of the results, I think he should be a little more cautious in assuming to speak for the people of the loyal States. In the immediate future, as in the past eight years, the friends of the unity of the Republic and the liberties of all the people will see that their great work goes on till it is completely achieved.

The Senator tells us we have admitted these seven rebel States so that the negroes may determine the result of the coming presidential election. Does not the Senator know that Congress, more than one year ago, presented the terms and conditions of reconstruction to the people of the rebel States? Does he not know that the people of six of those States have complied with those terms and conditions? Are they not here demanding admission? Are we not bound by our plighted faith to promptly admit them to representation and to the rights of local self-government? The purpose of Congress was to reconstruct the country on the basis of loyalty and equality of rights and privileges. We but redeem our pledges and obey the will of the people in welcoming the erring sister States to their practical relations. I bid them welcome to the rights and blessings of the Union. I defy any party to undo what has been done—to turn their representatives out of these Chambers. If the Senator from Indiana can see nothing but partisan purposes in the restoration of these States; if he can see nothing but an effort to control the coming election by the negro vote, I am sorry for his blindness. I assure him that I do not expect to carry all of these reconstructed Commonwealths, and that I do expect to carry at least twenty of the twenty-seven States represented in this Chamber for the great captain selected to lead the nation to the crowning victory for patriotism, liberty, justice, and peace.

Sir, the honorable Senator speaks of the "burden" imposed upon the country by the Freedmen's Bureau. Burden put upon the country by the Freedmen's Bureau! Sir, I state it as my deliberate opinion that the Freedmen's Bureau has not put the burden of one dollar upon the Treasury of the United States. No, sir; not the first dollar. When the war closed there were three and a half million freedmen in the ten rebel States not represented here. They were without lands, without houses, without property. They had toiled for masters; so had their fathers for generations. The fruits of their unrequited toil had been swept away in the fire and smoke of civil war. The slave was free, but the master was reduced to poverty; master and slave distrusted each other; neither fully comprehended the situation; disorganization rested upon the productive interests of the South. Then, when industry was paralyzed, when chaos reigned, the Freedmen's Bureau was organized. It carried aid to the suffering, brought the old masters and the emancipated bondmen into new relations, organized labor, gave protection and security, and established order. The intervention of the bureau added tens of millions of dollars to the wealth of the nation; and God alone can measure the benefits it conferred upon the race passing from the system of slave labor to the system of free labor.

Up to the 1st of January, 1868, the bureau, at an expense to the Treasury of the United States of \$3,847,000, had, in two and a half years, so aided in the organization of labor that the nation had exported \$300,000,000 of cotton, and raised in taxes on cotton nearly forty million dollars.

For every dollar drawn from the Treasury to support the Freedmen's Bureau, ten dollars at least have been added to the productive industry of the country. More money has been put into the Treasury of the United States from the tax on cotton, through the labors and power of the bureau, than has been drawn from the Treasury in support of the bureau. Financially the Freedmen's Bureau has been a grand success; an element of incalculable value in the productive powers of the nation.

As a measure of humanity, of relief for the dependent, the bureau has achieved a mighty work. Up to the 1st day of January, 1868, eighteen million rations had been issued to freedmen, and five million rations to white persons. Mr. ELIOT, chairman of the House Committee on the Freedmen's Bureau—a gentleman who has given much attention to the subject—states in his report, which I commend to the attention of the Senator from Indiana, that—

"Before the close of the war large numbers of people of all classes had been driven from their homes, and were utterly destitute. Many hung about the camps of our armies, and picked up such scanty means of living as their situation afforded. Commanding officers were obliged to issue rations from the commissariat to save multitudes from starving. And when this bureau was established it assumed the care of all these collections of dependent paupers. At first no other humane course was possible but to continue the issue of rations until order could be restored, and a general return to industrial pursuits could be effected. But stringent orders were issued to 'observe great discrimination in administering relief, so as to include none that are not absolutely necessitous and destitute.' The exact number of persons relieved by military commanders in the first months of confusion subsequent to the cessation of the hostilities cannot be ascertained, but the issues were large. Even as late as August, 1865, the commissary general makes the total 145,120 persons. But in September, when the bureau had become organized, and the condition of applicants was more carefully scrutinized, the number was reduced to 74,951; a very large number of these only receiving half rations. From that date the issues steadily decreased, so that the average number per day for the year ending September 1, 1866, was 29,819, and for the year ending September 1, 1867, the daily average was 11,658 throughout all the southern States. These rations were given only to the sick, the infirm, and orphans, the classes who in all communities must be cared for by some kind of public charity.

In addition, however, to this regular relief furnished through the bureau, Congress authorized, in March, 1867, a general issue of provisions 'to prevent starvation and extreme want in those southern and southwestern States, where a failure of the crops and other causes have occasioned widespread destitution. Under this act corn and meat were

distributed to 58,343 persons daily for a period of four months, at a cost of about ten dollars each per month.

"Thus, through the agency of the bureau, the poverty and want of the South were in great measure relieved and much suffering prevented."

To the cause of education the bureau has been of infinite value. Acting in coöperation with societies and humane persons in the loyal States, it has aided in organizing thirty-seven hundred schools, in which are taught two hundred and thirty-eight thousand scholars. It is believed that more than half a million of freedmen have been taught to read. Such results must be gratifying to every generous and patriotic mind. It has the blessings and prayers of humane and Christian men, and, in spite of the prophetic avowals of the Senator from Indiana, it will continue to be dear to the people, who wish to lift up our country by elevating all our people.

This much abused bureau has, at little cost, done more for the administration of justice, for the maintenance of order, for the security of person, liberty, and property, than an army costing tens of millions of dollars. It is estimated that more than one hundred thousand cases have been tried and determined by the agents of the bureau. To this tribunal the freedman has turned for protection, for justice, for security. To this tribunal the employer has resorted to enforce contracts against delinquents, and to find protection against the lawless.

It is proposed, Mr. President, to continue this beneficent instrumentality one year longer. No appropriation will be required for its support. It has been in operation three years, and for its support \$10,780,000 have been appropriated. More than six million dollars of this appropriation was on hand on the first of the year. General Howard, the ever faithful head of the bureau, asks Congress to continue for another year this work, that has accomplished so much for charity, for order, for justice, for development. General Howard says:

"After having carefully canvassed the whole field, and considered the liabilities to oppression and want likely to arise from a too early withdrawal of the protecting arm of the General Government from those who have been distinctively loyal, I have come to the settled conclusion that it would be wise to continue this bureau for at least one year longer than I previously recommended; to continue it till matters settle; till the new governments shall be not only established, but in practical operation, and be able and willing to afford the protection and the relief which the United States Government has rendered, and is now rendering, through its instrumentality."

Sir, I close by invoking the favorable action of Congress for this bill continuing the bureau for another year, and by asking for it the considerate judgment of the people who embrace in their affections the whole country and the interests of all, especially of the poor and the weak. Sir, I have faith that the Christian people of the North, who have not forgotten the words of our Divine Master, "Ye have the poor always with ye," will sanction the continuance for another year of an instrumentality that has contributed so much to carry the nation through the trials and dangers that encompassed it in passing from slavery to freedom, from civil war to enduring peace. When I think of the measureless good the Freedmen's Bureau has achieved for our country, for the cause of freedom, justice, and humanity, for moral, intellectual, and material development, I am led to recognize the agency of a Power higher than man's power in its creation. Ages hence its influences for good will be felt, and those who come after us will recognize those influences if we do not. In coming days, when the rebellious South shall be lifted up out of the depths into which slavery and civil strife plunged her, she, too, will acknowledge and bless the instrumentality of the now hated and derided Bureau of Freedmen and Refugees.

Mr. PATTERSON, of New Hampshire. Mr. President, I am not inclined to find fault with the Senator from Indiana [Mr. HENDRICKS] for the views which he has expressed on this subject, for I think his position is a

very natural one. It seems that there is a little conflict at this time among the Democratic magnates. The present Chief Justice, I remember, said soon after the close of the war that the right to reorganize State governments in the rebel States reverted to the loyal people in those States. The Senator who is also, as well as the Chief Justice, now of the prominent gentlemen spoken of as candidates of the Democratic party, takes this view: that the right to reorganize governments in those States reverted to the rebel leaders when the war was put down. It seems they stand at the opposite poles in this matter of reorganization. Now, I apprehend that the efforts of the Senator from Indiana are directed to this point: to prevent a threatened defection of the Democratic party. He is afraid that the whole party are going to drift over to the position occupied by the Senator from Massachusetts, [Mr. SUMNER,] and it is only natural and proper that he should attempt to stay the tide which is sweeping his party, as he may think, to destruction.

I do not wish to do the Senator any injustice, but he said a few moments since that the governments of the southern States did not perish during the struggle through which we have passed, that they survived the war. If that is his position he must necessarily take the ground that the governments which were organized in the southern States by Johnson were illegal governments, that they had no legitimate existence; and he stands to-day precisely where his friend from Kentucky [Mr. DAVIS] stood yesterday when he took the position that the Johnson governments were illegal and unauthorized by law or Constitution. If that is his position he ought to have condemned those governments as well as condemn the governments which have been organized under the congressional plan of reconstruction. His position leads him necessarily to the doctrine that governments should have been reorganized in the rebel States by the leading rebels, by the very men who in South Carolina and Georgia and Alabama, and the other States which went into secession, could vote before the war; and they are the men who went into the rebellion, who led the rebellion, who fought in the rebel armies. That, sir, is his position, and he ought to defend it to be logical here to-day.

But he took one other position which I could not comprehend. He said that the purpose of the continuance of this Freedmen's Bureau was to organize or keep in existence the Union leagues among the colored men, so that they might vote properly in the fall elections. Suppose that is the object. I do not presume the gentleman would pretend to say that that work would be any part of the official duties of the agents of this bureau; it would be outside work, extra duty which they would take upon themselves. Now, if the colored gentlemen to whom we have given the right to vote are inclined to vote the Republican ticket, is there any special reason why they should not be organized into Union leagues? Is there anything wrong, politically or morally, in the Democrats of this country organizing into a Democratic party and maintaining that organization, keeping it efficient. If there is no wrong in that, there is no wrong in having the loyal men of the South, black and white, organized into Union leagues or any other leagues in order to support liberty and loyalty at the South; and it matters little who do it. It may be done by the agents of this bureau or by anybody else. They have just as good a right to their political opinions and to exercise their political rights as anybody else.

Mr. HENDRICKS. Mr. President, I did not intend to add another word to what I said on this bill, and I would not say a word now except for some of the remarks of the Senator from New Hampshire, who always expresses himself as he intends, exactly, correctly, and, as I will add, very beautifully. But, sir, he says that I ought to hold that the Johnson governments were illegal.

I have had occasion to express my views upon that subject here somewhat elaborately; and briefly to restate them now, they are about as follows: I do not believe that the people of any State can destroy their State government, because that State government is a part of the Federal Union and organization. The government of the State of Indiana is a portion of the property of the Union, for the reason that in its organization it is a part of the Union. I do not believe that the ordinance of secession of any State could have the legal effect of destroying the State governments. I think the ordinance of secession was simply null and void in a legal point of view. I think that the war did not have the effect to destroy the State governments and separate them from the Union for the reason that the war failed in its purpose. If the war made by the confederacy of the South had been a success, and the government of the South had become established at the close of the war, the question would have been a very different one.

I do not believe that Andrew Johnson possessed any power to establish a State government. I do not understand that he claimed that he had any such power. He claimed that under the Constitution he had the right to aid the people in the southern States in bringing about their practical relations to the Government of the United States. If I understood the doctrine of Mr. Lincoln, as expressed in his proclamations, I occupy about that ground: that the result of the war was to disturb the practical relations of the State governments with the Federal Union, and that all that was to be done at the close of the war was to restore those practical relations. The States were not gone; their organizations were not destroyed; but their practical relations to the Union were disturbed. But those practical relations were to be restored, and that was the purpose of Mr. Lincoln in the proclamations which he drew up; not to make new State governments, but to restore the practical relations of the southern States with the Union. When the people of the South, by voting for delegates and holding conventions, accepted the plan proposed by Mr. Johnson, the act of the people in thus adopting the proposition gave for the first time force and validity to that proposition. I do not believe that President Johnson could make a State constitution—could add to a State constitution or take from a State constitution any more than I do not believe that Congress yesterday had a right to make a State constitution for the State of Alabama against the vote of the people.

Mr. HOWARD. Will the honorable Senator allow me to put him one short question?

Mr. HENDRICKS. I would like to finish what I have to say in reply to the Senator from New Hampshire, and then I will yield the floor.

Mr. PATTERSON, of New Hampshire. Mr. President—

Mr. HENDRICKS. I will yield to the Senator from Michigan if he wishes, of course, or to either Senator; but I prefer to go on.

Mr. HOWARD. I merely wish to put a question to the honorable Senator. Under the doctrine which he now announces to the Senate, how did it happen that Mr. Johnson was clothed with authority to proscribe a large portion of the rebels in the southern States in his North Carolina proclamation by way of defining the right of suffrage? Had he that power under the Constitution, or had he not?

Mr. HENDRICKS. Certainly, I think he has not. I do not think the President has that power any more than Congress has; I do not think either has it. I think the power to regulate the suffrage is given to the people of the States in express terms by the Constitution, and especially in the elections to the most numerous branch of the Legislature, which Congress undertook to regulate by the reconstruction acts. The Senator from New Hampshire, I believe, desired to ask a question. I will hear him before I proceed further.

Mr. PATTERSON, of New Hampshire. I rise merely to ask a question in order that the Senator may direct his remarks to the particu-

lar question I want answered. He says that President Johnson had a right to aid the people of the South in reorganizing State governments there. Now, I wish to know of him if their meeting in convention and framing a constitution of government established a government there without the people's having adopted that constitution? Was it not necessary that the people of each State should vote upon the constitution and accept or reject it in order to make the action legal? They did act in no one of those States upon their constitutions except in North Carolina, and there they rejected it. Now, I wish to know of him if these governments were legal governments without such action?

Mr. HENDRICKS. In regard to North Carolina I do not understand the facts as stated by the Senator from New Hampshire. That a State constitution ought to be adopted without submission to the people I do not believe. I think that the fundamental law of a State ought to be agreed to by a vote of the people. I think that is the proper policy to be adopted; but that they can, through delegates whom they select, promulgate a constitution there is no doubt. There are States now living under constitutions thus adopted; and I think I recollect that the Senator from Pennsylvania stated that the constitution now in force in the State of Pennsylvania never was voted upon by the people at all, but that it has its force by the declaration of the convention that adopted it.

Mr. President, the Senator from New Hampshire thinks that I did not have the right to criticize the purpose of maintaining the loyal leagues and organization among the people through the instrumentality of the bureau, and he says it is like the organization of the Democratic party. In two respects it is very different. The organization of the Democratic party is a public organization; its action is public; its purposes are proclaimed everywhere; all the people can see all that it does. There are no secret movements in that party; it is a public party, while the loyal leagues, as I understand, though I am not very intimately acquainted with their movements, are secret organizations. In my judgment, although to some extent this may prevail in the parties of the country, it is not defensible. I do not think that the political fortunes of a free country ought ever to be controlled by secret organizations. In respect to that which affects only membership, men may have secret organizations, and I find no fault with them; but inasmuch as the Government, its policy, its system of laws affects me and all the citizens alike, it is right that the consultations of the people in regard to that Government and in regard to its policy should be public. I do not think that a political organization ought to be a secret organization. But, further, if it be right to have political organizations in secret, is it right for Congress to maintain at the popular expense a bureau that there may be agents in each neighborhood to organize these secret political organizations? Conceding that it be right, which I do not concede, to organize the colored people of the South into secret leagues, I deny the right of the Senator from New Hampshire, I deny the right of Congress, out of the public Treasury to defray the expense of an army of political organizers. If political organizations are to be maintained, let the expense be borne by the men that want to maintain them, and not out of the public Treasury.

Mr. PATTERSON, of New Hampshire. Mr. President, I will speak for a moment only to the closing remarks of the Senator from Indiana. He says that these Union leagues are secret associations, and he does not believe in the right of secret associations for political purposes anywhere in any part of the country. Now, sir, I know but very little about these Union leagues; but I believe that they are open to any man who is willing to join them, and if the gentleman is excluded it is because he excludes himself and does not care to vote the ticket which the Union leaguers vote, and that is the only reason why he or anybody else is excluded.

And I presume that the Democratic party is quite as exclusive as this. When the Democratic leaders meet to settle their policy I think they would hardly admit to their secret councils me or any Union Republican. So I think they are quite as secret as these Union leaguers; and if I am not greatly mistaken, their present chief, the President of the United States, is himself a member of one of these leagues.

I agree with the Senator fully in what he says about the acts of secession. I do not suppose that any act of secession can take a State out of the Union; I believe the effort to take the States out by force of arms was an utter failure; but I believe also that the old governments which existed in the rebel States previous to the war ceased actually to have any practical existence. Will the gentleman pretend that the State government of South Carolina which was in existence during the war was a government in this Union? No State government can be a government within the Union without it comes in by the action of Congress. The State government of South Carolina was not in the Union by any action of Congress, but it was in existence in violation of the will of Congress. That government and the leaders of it spurned the flag and spit upon your Constitution and bade defiance to the Government of the Union. The people of South Carolina expelled the courts of the Union, expelled the custom-house officers, and all the authority of the Union from the State; and so in the other States. Now, does the gentleman pretend to say that those State governments, which were the *de facto* governments in those States, were governments in the Union?

Mr. HENDRICKS. Will the Senator allow me?

Mr. PATTERSON, of New Hampshire. Certainly.

Mr. HENDRICKS. I say, in the language of Mr. Lincoln, that their practical relations were, for the time being, disturbed. Now, upon the argument of the Senator, I wish to ask him a question. After the ordinance of secession by the State of Virginia, and after war was flagrant and Virginia in the war with all the earnestness that she might command, the Legislature of old Virginia elected two Senators to this body and they were admitted. If secession and war took the State out of the Union, how did those Senators thus elected come to take their seats in this body?

Mr. DRAKE. By the consent of the body.

Mr. PATTERSON, of New Hampshire. Mr. President, I will go back to the point on which I was speaking when the Senator from Indiana interrupted me. He says that neither secession nor war can take a State out of the Union. Very well; but suppose that all the male voting population in South Carolina were to die, where would the government be?

Mr. HENDRICKS. That is rather an exhaustive question. [Laughter.]

Mr. PATTERSON, of New Hampshire. Very well, I will make it a practical question for the gentleman. Suppose that the whole male voting population of South Carolina go into rebellion and commit treason against this Government; they are politically dead, and are in the same attitude precisely as they would be, so far as the Government is concerned, if they were actually dead. That was their position, and they lost their right to vote by their own action, and not by the action of the Government.

The Senator from Wisconsin, [Mr. DOOLITTLE,] the other day went on to say that we had deprived these men of the privilege of voting.

Sir, they deprived themselves of the privilege of voting. He assumed that the pardon of the President rehabilitated them with all their political rights, and he quoted the opinion of the Supreme Court of the United States as proof of it. I suppose he understood perfectly well that the Chief Justice of the United States and three of the associate justices in the case referred to took the ground that the pardon of the President did not rehabilitate rebels

with the right of suffrage; it only freed them from the penalties due to the violation of the law, the penalties due to treason, and did not rehabilitate them with political rights. If these gentlemen have not the right to vote it is because they deprived themselves of it. Our action has been generous; we have given the right to vote to all the rebels except those who added this violation of oath to their treason, who committed perjury in addition to treason.

Mr. DAVIS addressed the Senate in opposition to the bill. [See Appendix.]

The bill was passed.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHEON, its Clerk, announced that the House had passed a bill (H. R. No. 929) to provide for an American line of mail and immigrant passenger steamships between New York and one or more European ports.

#### HOUSE BILLS REFERRED.

The bill (H. R. No. 929) to provide for an American line of mail and immigrant passenger steamships between New York and one or more European ports was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

The bill (H. R. No. 366) to incorporate the National Hotel Company of Washington city was read twice by its title, and referred to the Committee on the District of Columbia.

#### POLITICAL DISABILITIES OF R. R. BUTLER.

Mr. TRUMBULL. I move to take up House bill No. 870, to remove political disabilities from Roderick R. Butler, of Tennessee.

Mr. POMEROY. Does the Senator propose to go on with the bill now, or merely to have it taken up that it may be in order for to-morrow?

Mr. TRUMBULL. I think it can be passed in a very few minutes.

Mr. POMEROY. Very well.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 870) to remove political disabilities from Roderick R. Butler, of Tennessee, the question being on the amendment reported by the Committee on the Judiciary, to strike out all of the bill after the enacting clause, and also to strike out the preamble, and in lieu of the portion stricken out to insert after the enacting clause of the bill the following words:

That all legal and political disabilities imposed by the United States upon Roderick R. Butler, of Tennessee, in consequence of participation in the recent rebellion, &c., and the same are hereby, removed. And the said Butler, on entering upon the discharge of the duties of any office to which he has been or may be elected or appointed, instead of the oath prescribed by the act of July 2, 1862, shall take and subscribe the following oath: I, Roderick R. Butler, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will faithfully discharge the duties of the office on which I am about to enter, so help me God.

Mr. DAVIS. I move to amend the amendment by inserting after the name of Mr. Butler the words "and all other persons."

Mr. SAULSBURY. I suggest to my friend to use this language: "or any other citizen of the United States."

Mr. DAVIS. I accept that modification. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 5, nays 28; as follows:

YEAS—Messrs. Davis, McCreery, Patterson of Tennessee, Saulsbury, and Vickers—5.

NAYS—Messrs. Anthony, Cattell, Cole, Conness, Cragin, Drake, Edmunds, Fessenden, Frothinghams, Harlan, Howe, Morgan, Morrill of Maine, Morrill of Vermont, Nye, Patterson of New Hampshire, Pomerooy, Ramsey, Ross, Stewart, Sumner, Thayer, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—28.

ABSENT—Messrs. Bayard, Buckalew, Cameron, Chandler, Conkling, Corbett, Dixon, Doolittle, Ferry, Fowler, Grimes, Henderson, Hendricks, Howard, Johnson, Morton, Norton, Sherman, Sprague, Tip-ton, and Yates—21.

So the amendment to the amendment was rejected.



Mr. SAULSBURY. Mr. President, I always try to cultivate feelings of personal kindness, friendship, and charity to every being in the same plane of life. I do not intend to occupy the attention of the Senate to-day; but a voice comes to me from the ages of the past, whispering that we should do those things which look to charity. The high council of the American nation is in session. They are passing upon the acts, past, present, and prospective, of the race to which they belong. The voices are discordant. One voice is for hate and enmity and animosity. Another voice says, "Mingle with your excited feelings the spirit of charity; remember the message which went out from the plains of Bethlehem at midnight, 'Peace on earth, good will to men.'" Senators, representatives of the great thought and feeling of the American heart, you cannot escape the conviction that you are subject to religious influence, religious thought, and religious promptings, and in acting upon bills of this kind bear in mind the injunction, "Do justly, love mercy, walk uprightly."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. BUCKALEW. Mr. President, during the progress of the impeachment trial, in the morning hour on one occasion I had advanced part of the way through the record of this gentleman as a member of the Legislature of Tennessee under the confederate organization. I was interrupted in my remarks by the expiration of the morning hour, and the bill was subsequently referred back to the Judiciary Committee for the purpose of taking further evidence in the case. The committee did examine Mr. Butler, the gentleman named in the bill, and one of his friends, with regard to his conduct during the war, and particularly with reference to his conduct upon two occasions, on one of which he had made a present of a pair of boots to a man who had killed another, and on another had employed or instigated a particular man to go through the lines into the confederate territory for the purpose of taking the life of another. This evidence was reported to the Senate, and has been printed, and it is all of an exculpatory character. It was taken without cross-examination and without the presence of any person opposed to Mr. Butler. It was, therefore, necessarily *ex parte* in character, as most of the testimony taken before our committees is. I have read over this evidence, and have compared it with the information which we have in a document published by the House of Representatives when the case was under consideration in that body.

The general conclusion to which my mind has come is that this man was for a period of time a secessionist; that he did render, and did intend to render, aid and comfort to the enemies of the United States; that he changed his intentions, and in the latter months of the war took part on our side, and was concerned in raising a military company, of which he was commanding officer, although he was not in actual service. Now, he is barred an entrance into the lower House of Congress by the iron-clad oath prescribed by the act of July 2, 1862. He cannot be admitted as a member of the House because he cannot take the oath. What surprises me is that in all the documents which are before us, in all the evidence which is produced, he should attempt to deny and to contradict and to overthrow the imputation of his having been identified with the enemies of the United States, a fact of which there is the most abundant proof, so conclusive in its nature that I think no man who peruses the documents with an impartial mind can have any doubt whatever.

My attention was first directed to this case by reason of this circumstance: that a man who went deliberately into the Legislature of Tennessee and took an oath to support the government of the confederate States, who voted to raise and equip a military organization in that State; who made a motion giving

the use of the legislative hall to the electoral college who were to count votes for Jefferson Davis; who voted to repudiate the indebtedness of the citizens of that State to northern creditors; who voted to move a bank and its funds from a point where they would be liable to be seized by us or to be diverted to the use of the Federal cause; who voted in favor of resolutions denouncing "the Lincoln despotism," and asserting in the face of the world that Tennessee would never give up the contest against it, and who did many other things the recital of which I shall not now weary the Senate with—that he should appear here, and in both Houses of Congress attempt to make up for himself by parol evidence, by the testimony of witnesses, by the strange, exaggerated statements of men who are politically friendly to him, a first rate loyal character.

I confess that I formed a very unfavorable opinion of him because of this circumstance. I would much rather vote to admit to Congress a man who would frankly acknowledge that he had committed an error and an offense and would appeal to our generosity, to our humanity and forbearance. I would listen to such an appeal as that with some respect, whether I assented to it or not; but upon the face of the record it appeared that this man himself had called witnesses to prove that he had attempted to take human life in violation of the laws of war; that he had employed a man to go through the military lines into the enemy's country and take life independent of any authorized and allowable military operation; and that on another occasion, where life had been taken in an unlawful manner, he made a present (to be sure of only a pair of boots) to the man who had committed the deed.

It is said that there was an extraordinary state of things in Eastern Tennessee; that violence and outrage were the order of the time, and that acts of this kind are to be excused because they were acts of retaliation. Sir, I do not admit this plea. I do not admit that because murders have been committed upon my party, or upon my friends, I am authorized to commit murder in return, or to encourage its commission by others. If retaliation is to be resorted to, it must be done under authority of some officer authorized lawfully to command, and who will proceed upon the stern necessity of the case with strict regard to military rules, and be responsible to his Government and to the world for what he orders to be done.

In this supplementary testimony, taken before the Judiciary Committee, an explanation was given of Mr. Butler's votes in the Legislature, and the explanation was, that whereas certain citizens of Eastern Tennessee had burned bridges for the purpose of aiding the Federal cause, and were for that alleged offense taken to Nashville and confined in prison, it was expedient for Butler to go into the confederate Legislature and vote there like a first-rate confederate against us, and put himself upon the records in the manner I have described. I looked a little into that. As it happened, one man concerned in the destruction of those bridges, a loyal man, according to the parlance of the times, was in Washington city, and I ascertained from him the date of that event. His statement was corroborated by that of others; but it was itself conclusive. He was undoubtedly one of the principal persons engaged in the enterprise. That occurred on the 9th day of November, 1861. This fact disposes of the excuse made for Butler, because the Legislature met early in October, and then he took upon his conscience the oath to support the confederacy, and followed it up from time to time by disloyal votes, staying there openly, in the face of all the people of Tennessee, and of "all the people of the United States," too, as a member of the enemy's law-making power. These bridges were not burned for a month afterward, on the 9th of November, and yet this paltry excuse, that he did all this, that he participated in the proceedings of that Legislature in order to make favor and strengthen himself

that he might assist the Union prisoners in Nashville, is presented here for our consideration.

Again, in that supplemental testimony, he states that although he gave a vote upon particular resolutions, (those hostile to peace on any terms,) he afterward, in company with another member, endeavored to change his vote. The natural conclusion to be drawn from the evidence would be, that having given that vote under the pressure of patriotic necessity, as soon as the emergency passed he endeavored to rectify his action and resume his position as a Union man. I have looked at the record of that Legislature. No such motion was made by him at or about that time. He continued to sit in the Legislature down until about the middle of February. It assembled early in October, and continued in session until about the middle of February. These bridges were burned on the 9th of November; and the transaction in regard to the prisoners must have taken place in a month or two afterward. Subsequent to their discharge he continued to serve in the Legislature.

After the fall of Fort Donelson, in a panic, the Legislature adjourned and went to Memphis. What was the state of things then? Our armies were advancing. Triumph was beginning to come to our cause. The state of things were changing in Tennessee. Every loyal heart in that state beat with enthusiasm. But what did Butler do? Withdraw himself from the Legislature? No; he appears upon the record making motions or voting with regard to the adjournment of the Legislature to another place of greater security.

This fugitive Legislature went to Memphis; and what next? He turns up there again as a member of it. He gave votes there on the 18th and 19th days of March. In his testimony he says he did not go to Memphis; he avoided going there until some time in May, when, under a particular state of facts, he just went there and made his obeisance and hurried away as quick as he could. Sir, there was no session, so far as I can discover, in the month of May; but he was there in March, pretty soon after the Legislature transferred its sittings from Nashville to that place; and there his votes were recorded upon the journal, and his name also appears in the roll of the members entitled to pay for faithful attendance.

The State of Tennessee requires an oath of every candidate for Congress similar to that which we require when an applicant for a seat is sworn in. This man went forward and took that oath. He swore that he had not yielded aid and comfort to the enemies of the United States, nor taken any part against us. I am indisposed to admit him into Congress in the face of that fact. If he took that oath truly and justly the House of Representatives can admit him without asking us to assent to the passage of this bill. If he was authorized honorably to take that oath as a candidate under the law of Tennessee he can be admitted into the House of Representatives without question. They can permit him to take it over again, or take an oath substantially the same, and no appeal need be made to us for our assistance to relieve him from any disabilities under existing laws.

Mr. NYE. Will the honorable Senator allow me to ask him a question?

Mr. BUCKALEW. Yes, sir.

Mr. NYE. I want the honorable Senator to tell the Senate why he did not object in the case of Mr. PATTERSON, who swears himself that he took the oath of allegiance to that government and swore to execute its laws? I should like to know why the Senator did not make the same objection to letting him in?

Mr. BUCKALEW. I regret that the Senator was not present on a former occasion when I discussed this subject and drew the distinction between the two cases broadly and clearly.

Mr. NYE. One served as a legislator, and the other as a judge and took the oath. I do not see the difference myself.

Mr. BUCKALEW. I am not anxious to put

in the Globe a repetition of my former argument upon that very point to show what an essential difference there was in the two cases; and yet in that former case, which appealed to us strongly for indulgence and favor, the House of Representatives refused to pass just such a bill as this when it was sent over to them for their approval. In this case Butler took a political office and acted as a member of the Legislature of Tennessee in all those trying times in the early part of the war when the position of his State was most important. In the case of Senator PATTERSON, he held a judicial office, or rather he continued to hold it.

Mr. NYE. I beg your pardon; he was elected to it.

Mr. BUCKALEW. I say he held it before, and at the instance of the Union men he was reelected and took this oath under duress, accompanying it with a protest at the time.

Mr. NYE. I beg your pardon.

Mr. BUCKALEW. Certainly, it all appears in the record of his case. Now, if the Senator will excuse me, I have heretofore spoken fully on that whole matter, and I do not choose to waste the time of the Senate by going away from the legitimate topics of this debate for the purpose of relieving his mind of difficulty.

Mr. NYE. I want to ask you one more question, and I have done.

Mr. BUCKALEW. I must decline.

Mr. NYE. It is the first time I have ever asked you a question.

Mr. BUCKALEW. I must decline, because I know the Senate is impatient to conclude this subject, and I wish to finish my argument.

The PRESIDENT *pro tempore*. The Senator from Pennsylvania cannot be interrupted without his consent.

Mr. BUCKALEW. Such as I have described it is the case of this applicant. This bill is for his relief from the disabilities imposed upon him by our general legislation; but in my opinion he is entitled to no relief, and the law should not be dispensed with in his favor.

Now, sir, I desire to call attention to another case about which no inquiry is made of me in this debate, and that is the case of a Representative from the State of Kentucky, adjoining Tennessee, upon which we have full information in a printed official document upon our tables, published by order of the House of Representatives. A man named John Young Brown, at a particular period in the war, in the State of Kentucky, when the people of that State took the foolish idea into their heads of maintaining a position of neutrality, made a speech at a public meeting in which he threatened resistance to those, North or South, who should attempt to move Kentucky from the position which it was proposed she should assume. He said that he for one would resist the entrance of Federal troops into that State. It was a declaration of intention, a foolish and improper speech, and doubtless he regrets it as much as other citizens of Kentucky regret their connection with that movement of neutrality, which was temporary and soon died out. It was impossible for the State to hold any such position in the war.

Subsequent to that time John Young Brown, in common with a large part of the people of Kentucky, changed his position entirely, and he was a Union man during the war and has been since. He was elected to the House of Representatives, and appeared there as a claimant for a seat some months since. A report was made to that House, which we had furnished to us, setting forth all these facts. The Committee on Elections reported to the House that that was an unpatriotic speech; that it was calculated to give aid and comfort to the enemies of the United States, pronounced as it was when the war had broken out, or was about breaking out, and when the position of Kentucky was material as between the parties to the struggle. He was rejected by the House. He was sent home. It was urged that he could not take this oath prescribed by the act of July, 1862. He was returned to his constituents,

and they are without representation in the Hall of the House. And this took place, without any imputation upon his present political position or political views, so far as regards patriotism, or upon his conduct in the war subsequent to the delivery of his speech.

But here comes a bill from the House to permit his neighbor over the line, in Tennessee, to enter that House in spite of this oath; a man with a record a thousand times worse than his. He never did any act beyond mere speech that can be tortured into unpatriotic conduct, and that was under particular circumstances in Kentucky. No bill for his relief is sent here. No resolution is proposed for our acquiescence to enable him to take the oath under the act of July, 1862. But this man, who sat in the Tennessee Legislature, and whose career was such as I have described it, is to be admitted by our consent and approval in passing the pending bill. Sir, this course of action is odious, unequal, and unjust. Can there be any reason given why different treatment should be extended to these two men who come from adjoining States? If there be any reason in favor of either it is in favor of the candidate for a seat from Kentucky; and yet it is proposed to discriminate in favor of the candidate for admission from Tennessee.

How was it in the late case from Maryland of a claim of membership in the Senate itself—a case where a father had given to his son the sum of \$100 when he was going forth from the paternal mansion, as it appeared, to take part in the confederate service. That case was so well balanced, was so dubious in its facts, that the Senate was almost equally divided in regard to it as to whether Mr. Thomas should be admitted to take the oath and to take his seat or not. A small majority of the Senate decided that he should not be permitted to take the oath, and he was turned away from our doors. He was sent back to Maryland rejected, and that State was compelled to select another citizen to represent her in the Senate of the United States. Was any bill proposed for his relief, to remove from him any disability he had incurred under our laws? Was he a man less meritorious than the applicant who is now before us? Was not his offense trifling, slight, insignificant, compared with the offense of taking a seat in a hostile Legislature, and sanctioning by his presence and by his vote the passage of measures to organize his State in hostility to the Union?

Mr. President, I think it will be the part of wisdom, certainly it will be fair, for the Senate to refuse the passage of this bill, and to leave the House of Representatives with regard to the admission of Mr. Butler to stand precisely where it took position in the case of John Young Brown, and precisely where the Senate stood with regard to the admission of a Senator from the State of Maryland. If we pass this bill we will have selected, in my judgment, the worst one of the cases which have arisen during the present session of Congress, in either House, under the oath act of 1862; we will have extended favor and indulgence where we should withhold them.

I have spoken hurriedly and imperfectly; but I have endeavored to present to the Senate the leading and controlling considerations which, in my judgment, should induce us to refuse admission to this man under the bill which has been sent to us by the House. I have refrained from entering into any debate upon the general question of removing in this way the disabilities imposed by general laws. I know that that question will be involved in bills which will come up hereafter, and there will then be opportunity to discuss it.

I shall regret, however, the placing of this case upon the record as a precedent to be used in argument when future cases shall arise. We are entering upon a very troublesome and very doubtful system of legislation. We have general laws which apply to all the inhabitants of the southern States, to men of all parties, of all sorts who were concerned in the rebellion. They all bear that character of uniformity of

application which should be borne by all public enactments, except in very peculiar cases.

Now, sir, you are proposing to select out particular individuals, and extend to them favor and exemption. I have no doubt that this scheme of legislation will become extremely odious; that when it comes to be examined by the people of the country, and they see that it cannot be acted upon except with partiality, they will disapprove of it. Besides, we will find ourselves embarrassed in both Houses by these questions of exemption from law. They will be coming up constantly. If our general laws are too strict and rigid, let them be relaxed. If there are classes of men from whom the pressure of our laws should be withdrawn, let us exempt them. If taken in their whole effect those laws are found to be inconvenient and inexpedient, let us repeal them altogether; but let us, in any event, regulate the admission of members into Congress by general laws which shall not be dispensed with in favor of particular applicants while they are left in force to exclude others.

The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time.

Mr. BUCKALEW. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. VICKERS. Mr. PATTERSON, of Tennessee, is paired off with myself. If he were here he would vote for the bill and I against it.

The question being taken by yeas and nays, resulted—yeas 23, nays 5; as follows:

YEAS—Messrs. Cattell, Cole, Conness, Corbett, Cragin, Drake, Edmunds, Harlan, Howe, Morgan, Morrill of Maine, Nye, Patterson of New Hampshire, Pomeroy, Ross, Stewart, Thayer, Trumbull, Van Winkle, Wiley, Williams, Wilson, and Yates—23.

NAYS—Messrs. Buckalew, Davis, Hendricks, McCree, and Wade—5.

ABSENT—Messrs. Anthony, Bayard, Cameron, Chandler, Conkling, Dixon, Doolittle, Ferry, Fessenden, Fowler, Frelinghuysen, Grimes, Henderson, Howard, Johnson, Morrill of Vermont, Morton, Norton, Patterson of Tennessee, Rumsey, Saulsbury, Sherman, Sprague, Sumner, Tipton, and Vickers—26.

So the bill was passed.

Mr. YATES. I move that the Senate now proceed to the consideration of the bill (S. No. 11) to admit the State of Colorado into the Union.

Mr. HENDRICKS. Does the Senator propose to go on with that bill now?

Mr. YATES. No; to leave it as unfinished business.

The question being put, there were, on a division—16 yeas and 9 noes; not a quorum voting.

Mr. CONKLING. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

## HOUSE OF REPRESENTATIVES.

THURSDAY, June 11, 1868.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Clerk commenced the reading of the Journal of yesterday, but before it was concluded,

Mr. CULLOM moved that the further reading of the Journal be dispensed with.

No objection was made.

The SPEAKER. The morning hour has now commenced, and the first business in order is the call of committees for reports, commencing with the Committee for the District of Columbia.

## NATIONAL HOTEL COMPANY.

Mr. McCULLOUGH, from the Committee for the District of Columbia, reported back, with amendments, House bill No. 366, to incorporate the National Hotel Company of Washington city.

The first amendment reported from the committee was to strike out the word "selling" and to insert after the word "leasing" the words "for the sole purpose of erecting and maintaining a hotel as aforesaid."

The amendment was agreed to.

The next amendment from the committee was to add to the bill the following section:

SEC. 5. *And be it further enacted, That each stockholder shall be individually liable for the debts of the corporation to the amount of stock held by each respectively, and Congress hereby reserves the right to amend, alter, or repeal this charter at pleasure.*

The amendment was agreed to.

The question was upon ordering the bill, as amended, to be engrossed and read a third time.

Mr. UPSON. Is this corporation perpetual, or is it limited to any number of years?

Mr. McCULLOUGH. It is not limited; but Congress reserves the right to repeal the charter at pleasure.

Mr. UPSON. The question may come up as to vested rights under the charter.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. McCULLOUGH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JAMES H. FOSTER.

Mr. BLAINE moved that the Committee on Appropriations be discharged from the further consideration of the petition of James H. Foster, for pay due him for services to the Government, and that the same be referred to the Committee of Claims.

The motion was agreed to.

POST ROUTE IN MISSOURI.

Mr. BENJAMIN, by unanimous consent, introduced a bill (H. R. No. 1215) to establish a post route from Rockport to Glasgow, in Missouri; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

R. T. MERRICK.

Mr. MARSHALL. I ask that the Clerk read a paper which I send up to his desk.

The Clerk read as follows:

WASHINGTON CITY, May [June] 9, 1868.

MY DEAR SIR: Mr. BUTLER yesterday stated in the course of debate as follows:

"Mr. BUTLER. I will state that I meant to refer to Mr. Merrick, the counsel for the prisoner, and W. W. Warden, the President's short-hand writer. And I want to know of this House if I have the right to refer to these men, when I have got telegram after telegram between these parties?"

The statement is incorrect in so far as it applies to me.

Until the day of Mr. Woolley's arrest I had not met him since the winter of 1863, and to the present time have never communicated with either Mr. Warden or Mr. Woolley by telegram or letter.

I desire, therefore, that the statement made by Mr. BUTLER to the effect that he has "telegram after telegram," or the intimation that he has any telegram whatever passing between either of the gentlemen named and myself, may be corrected.

Very truly, yours,

R. T. MERRICK.

Mr. MARSHALL. I have asked to have this communication read in justice to Mr. Merrick, who felt that injustice had been done him, doubtless through misapprehension. He gave me this communication immediately after the occurrence, but I have had no opportunity to present it before.

NATIONAL ART UNION ASSOCIATION.

Mr. McCULLOUGH, from the Committee for the District of Columbia, reported back, with amendments, House bill No. 864, for the incorporation of the National Art Union Association of the District of Columbia.

The bill was read at length. The first section provides that Albert Bierstadt, Regis Gignoux, and Sanford R. Gifford, artists, of New York; and Charles Knap, Henry Barnard, Frederick B. McGuire, Robert S. Chilton, Francis C. Adams, John W. Magill, and Richard B. Mohun, of Washington, District of Columbia, or any five of them, their associates and successors, shall be created a body corporate and politic, under the name and style of the "National Art Union Association," with full powers as such to have a common seal, to sue and be sued, plead and be impleaded, hold

real and personal property, and do all acts necessary for the objects of their association.

The second section provides that the objects of this association shall be declared to be the promotion of art, the encouragement of American artists, the establishment of a national gallery of art, and the distribution of works of art, such as paintings, engravings, and chromos, among the people.

The third section provides that the principal office, or place of business of this association, shall be in the city of Washington, District of Columbia, with such branches and agencies elsewhere as the needs of the association may require.

The fourth section provides that the capital stock of this association shall be not less than \$50,000 nor more than \$100,000, in shares of \$100 each. And in all elections by the stockholders each share of stock shall entitle the holder to one vote, either in person or by written proxy.

The fifth section provides that the management of this association shall be vested in a board of five directors, to be elected annually, with power to fill vacancies; and that they shall choose or elect from among themselves a president, and shall have power to appoint and fix the compensation of a secretary, treasurer, and such inferior officers and agents as may, from time to time, be required.

The sixth section provides that the capital stock shall be called in and paid in such installments and at such times as the president and directors for the time being may require; and the neglect or refusal of any stockholder to pay his just proportion of each and every assessment shall make a forfeiture to the association of each share of stock on which one or more assessments shall remain unpaid thirty days after legal demand, and shall further subject the holder to all damages resulting to the association from such refusal or default; provided that no stockholder shall vote at any election or meeting of the association on whose shares any installments or arrearages may be due more than fifteen days previous thereto.

The first amendment reported from the committee was to add to section three the following:

And when any branch or branches may be established in any State it shall be subject to the laws of such State.

The amendment was agreed to.

The next amendment reported from the committee was to add to section six the following:

And Congress hereby reserves the right to amend or repeal this charter at pleasure.

The amendment was agreed to.

The question was upon ordering the bill, as amended, to be engrossed and read a third time.

Mr. HARDING. I desire to move to strike out the third section of this bill, so as to limit the operations of this company to the District of Columbia. I am opposed to legislating for the country at large, under pretense of making corporations in the city of Washington. I desire to move to strike out the third section, and to insert in lieu thereof a provision that the operations of this company shall be limited to the District of Columbia. Under this bill the company may establish branches in any State of this Union, subject, it is true, to the regulations of the State, but requiring positive legislation for that purpose.

Mr. WASHBURN, of Illinois. My colleague [Mr. HARDING] desires, then, to strike out the third section?

Mr. HARDING. Yes, sir.

Mr. WASHBURN, of Illinois. And then add a proviso at the end of the bill confining its operation to this District.

Mr. INGERSOLL. Mr. Speaker, in reply to my colleague, I wish to say a word. Companies incorporated by the Legislatures of the various States, such as insurance companies, &c., are always allowed to do business in any part of the United States, subject to the regulations of the States in which they may operate.

Mr. HARDING. I desire to correct my colleague. Companies incorporated by any of the States have no legal right to operate elsewhere than in the State by which they are incorporated.

Mr. INGERSOLL. My colleague is mistaken.

Mr. HARDING. If they operate in other States, it is by permission of those States.

Mr. INGERSOLL. Of course.

Mr. HARDING. This bill proposes to give the company the right to establish branches in other States subject to regulation by those States.

Mr. INGERSOLL. Suppose the regulation of a particular State provides that no foreign company shall do business there at all, can such a company carry on its operations there?

Mr. HARDING. I grant that in such a case the authority given in this bill would be inoperative; but I do not think it proper that we should require a State to forbid by affirmative legislation the operations of any of these companies incorporated by Congress.

Mr. INGERSOLL. Mr. Speaker, I make the assertion that my colleague cannot name a State of the Union which by its law excludes foreign corporations from doing business within its limits under proper regulations. Now, when Congress authorizes a company to do business, why should the company, because organized in this District, be subjected to restrictions which are not imposed upon similar corporations created under State laws? Congress is, of course, the only legislative authority that can create a corporation within this District; and why should not a corporation created by the authority of Congress exercise in the State of Illinois, for instance, the same powers which are exercised there by a company incorporated by the State of Massachusetts or Connecticut?

Mr. McCULLOUGH. Mr. Speaker, I wish to add but one word to what has been said by the chairman of the committee, [Mr. INGERSOLL.] If the objects of this bill are proper, I can see no good reason why the company which it proposes to organize should not have a branch in New York or Philadelphia or Baltimore, or any other city of the Union, in accordance with the laws of the respective States. This is the effect of the amendment which the committee have inserted.

Mr. HARDING. The gentleman will allow me to say that there is nothing to prevent this company from going to Pennsylvania or any other State and obtaining a charter there; but we should not expressly authorize it to operate there, subject only to regulation by the particular State. I hold that our national Government was not constituted for the purpose of creating corporations to operate in the several States.

Mr. McCULLOUGH. I demand the previous question.

Mr. WASHBURN, of Illinois. Has the amendment suggested by my colleague [Mr. HARDING] been received?

The SPEAKER. Does the gentleman from Maryland allow that amendment to be offered?

Mr. McCULLOUGH. No, sir; I decline to allow it to be offered. I call for the previous question.

The previous question was not seconded.

Mr. McCULLOUGH. I will consent that the amendment be offered and then renew the demand for the previous question.

Mr. ASHLEY, of Ohio. I hope we will have no more of these corporation acts reported for the action of the House. I hope this will be recommitted to the committee with instructions to report a general bill.

Mr. McCULLOUGH. Why does not the gentleman report a general bill for the Territories?

Mr. HARDING. I am willing to yield to the suggestion of the gentleman from Ohio.

The SPEAKER. The amendment of the gentleman from Illinois [Mr. HARDING] is now pending, and the gentleman from Maryland is entitled to the floor.



The amendment was reported as follows:

Strike out the words, "with such branches and agencies elsewhere as the needs of the association may require," and in lieu thereof insert "and the operations of said association shall be confined to said District of Columbia."

Mr. McCULLOUGH. I renew the demand for the previous question.

The House divided; and there were—ayes 41, noes 41; no quorum voting.

The Speaker ordered tellers; and appointed Mr. McCULLOUGH, and Mr. ASHLEY of Ohio.

The House again divided; and the tellers reported—ayes 58, noes 38.

So the previous question was seconded.

The main question was then ordered to be put.

Mr. ASHLEY, of Ohio. I move that the bill and amendment be laid on the table.

Mr. WASHBURNE, of Illinois. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 60, nays 56, not voting 78; as follows:

YEAS—Messrs. Ames, Delos B. Ashley, James M. Ashley, Baker, Boaman, Beatty, Benjamin, Blair, Bromwell, Broomall, Churchill, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cornell, Covode, Dawes, Delano, Dodge, Donnelly, Eckley, Eggleston, Ela, Eliot, Ferriss, Fields, Garfield, Gravy, Harding, Chester D. Hubbard, Julian, Kelsey, Ketcham, Laffin, Mercer, Miller, Moore, Morrell, Mullins, Newcomb, O'Neill, Paine, Peters, Pooley, Pomeroy, Price, Raum, Sawyer, Scofield, Spalding, Starkweather, Thaddeus Stevens, Taffe, Taylor, Trowbridge, Van Aernam, Ward, Cadwalader C. Washburn, and Elihu B. Washburne—60.

NAYS—Messrs. Baldwin, Barnes, Beck, Benton, Boyer, Brooks, Buckland, Burr, Calkins, Chanler, Coburn, Cullom, Driggs, Farnsworth, Ferry, Getz, Glossbrenner, Grover, Halsey, Higby, Holman, Hopkins, Hotchkiss, Richard D. Hubbard, Hunter, Ingersoll, Judd, Knott, Koonz, Lincoln, Lynch, Marshall, McClurg, McCullough, Morrissey, Niblack, Nunn, Phelps, Pike, Pile, Randall, Schenck, Aaron F. Stevens, Stewart, Stokes, Taber, Thomas, Lawrence S. Trimble, Upson, Van Auker, Van Trump, William B. Washburn, Welker, William Williams, Windom, and Woodward—56.

NOT VOTING—Messrs. Adams, Allison, Anderson, Archer, Arnell, Axtell, Bailey, Banks, Barnum, Bingham, Blaine, Boutwell, Butler, Cary, Dixon, Eldridge, Finney, Fox, Golladay, Griswold, Haight, Hawkins, Hill, Hooper, Asahel W. Hubbard, Hulburd, Humphrey, Jencks, Johnson, Jones, Kelley, Korr, Kitchen, George V. Lawrence, William Lawrence, Loan, Logan, Loughridge, Mallory, Marvin, Maynard, McCarthy, McCormick, Moorhead, Mungen, Myers, Nicholson, Orth, Perham, Plants, Poland, Pruyn, Robertson, Robinson, Ross, Selye, Shanks, Shellabarger, Sitgreaves, Smith, Stone, John Trimble, Twichell, Burt Van Horn, Robert T. Van Horn, Van Wyck, Henry D. Washburn, Thomas Williams, James F. Wilson, John T. Wilson, Stephen F. Wilson, Wood, and Woodbridge—73.

So the bill and amendment were laid on the table.

Mr. COVODE moved to reconsider the vote by which the bill and amendment were laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. HILL was granted leave of absence for four and Mr. JONES for ten days.

CASE OF REV. JOHN M'MAHON.

Mr. HUNTER. I ask the gentleman from Illinois to yield to me to offer a resolution of inquiry.

Mr. INGERSOLL. I will if it gives rise to no debate.

Mr. HUNTER. I offer the following preamble and resolution for reference to the Committee on Foreign Affairs.

The Clerk read as follows:

Whereas it appears from the Kingston, Canada, West, Daily News and other Canadian daily papers, that Rev. John McMahon, a Catholic priest, and a citizen of the State of Indiana, who was convicted and sentenced to imprisonment in the penitentiary for the period of fifteen years for having exercised his sacerdotal duties toward the Fenian dead and wounded in the Fenian invasion of 1868, has been flogged in the Kingston penitentiary for having in his possession a copy of the Irish American newspaper, published in New York, and because he would not reveal the name of the party whose charity favored him with this glimpse of the outer world; Therefore,

Be it resolved, That the Committee on Foreign Affairs make inquiry as to the facts of the case, and if it be found that such brutal outrage has been inflicted as above stated, that the committee report to

this House what steps should be taken in the matter; and the committee further inquire, if such acts of brutality upon American citizens, if not the sentence of penal servitude for a political offense in itself, be not an outrage upon the honor and sovereignty of the United States; and for the above purpose the committee shall have authority to send for persons and papers and report at any time.

The SPEAKER. There is no objection, and the resolution is received.

Mr. WASHBURNE, of Illinois. I should like to have some explanation.

Mr. INGERSOLL. I do not want any explanation, nor does my colleague. He only wants to exhaust the morning hour. [Laughter.]

Mr. WASHBURNE, of Illinois. I hope my colleague will preserve his temper. I have a right to ask for explanation, as the resolution is before the House.

Mr. INGERSOLL. I only let the resolution in provided it gave rise to no debate.

Mr. WASHBURNE, of Illinois. It is not in order to withdraw it; the resolution is before the House.

The SPEAKER. The gentleman from Illinois [Mr. INGERSOLL] is entitled to the floor to make any motion.

Mr. INGERSOLL. Have I not a right, having yielded the floor only on condition that the resolution should take no time or lead to no debate?

Mr. HUNTER. I call the previous question.

Mr. WASHBURNE, of Illinois. I want some information in regard to the matter; but I do not care about arming this committee with power to send for persons and papers, and put the country to expense, without knowing something of the facts.

The SPEAKER. If the gentleman from Illinois states that he yielded to allow the resolution to be offered, upon the condition he states, he can resume the floor to the exclusion of the resolution.

Mr. INGERSOLL. I do so because my colleague objected. Personally I have no objection to the introduction and reference of the resolution if my colleague does not object to it.

Mr. WASHBURNE, of Illinois. I will not allow it to be referred if I can avoid it.

Mr. HUNTER subsequently agreed to strike out that part which relates to sending for persons and papers.

Mr. WASHBURNE, of Illinois, withdrew his objection.

The resolution was then agreed to.

Mr. HUNTER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ALEXANDRIA CANAL.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back the bill (H. R. No. 892) relating to the Alexandria canal, with a substitute therefor.

The substitute was read, as follows:

Whereas by an act of Congress, on the 26th day of May, 1830, the Alexandria Canal Company was incorporated, and authorized and empowered to construct, operate, and maintain a canal from Georgetown, in the District of Columbia, to Alexandria, in the State of Virginia, with an aqueduct across the Potomac river at Georgetown; and whereas by an act of the General Assembly of the State of Virginia, passed on the 16th day of February, 1866, the board of public works was authorized to unite with the corporate authorities of the city of Alexandria in making disposition of the Alexandria canal, in order to repair and make said canal available; and whereas said board of public works did, in pursuance of said authority, so unite with said corporate authorities, and did by their joint vote, and a vote of a majority of the stockholders of said canal company, empower and direct the president and directors of the said canal company to lease the said canal for the period of ninety-nine years; and whereas the said president and directors, in pursuance of said authority, did, on the 16th day of May, 1866, grant, lease, and convey the said canal, its aqueduct, locks, banks, lands, gates, and property of all description to Henry H. Wells, Philip Quigley, and William W. Dungan, the grantees therein named; and whereas afterward, and by an act passed by the General Assembly of the State of Virginia on the 17th day of April, 1867, the said lease was ratified and affirmed, and the lessees were further authorized and empowered to build,

operate, and maintain a new aqueduct, and in conjunction therewith a railroad and a road bridge across said piers, and to build, operate, and maintain a railroad from Georgetown to Alexandria; and whereas the said lessees have entered into possession of and repaired the said canal, and have erected a new aqueduct across the said Potomac river upon the said piers connecting the Chesapeake and Ohio canal with the said Alexandria canal; Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the said grant, lease, and conveyance be, and the same is hereby sanctioned, ratified, and confirmed; and the said president and directors of the said canal company are hereby authorized and empowered to execute any and all other leases, agreements, and conveyances that may be necessary to render the said lease valid and effectual. That said aqueduct across the Potomac river from Georgetown to the Virginia shore, and so connecting the said canals, is hereby declared to be a lawful structure in its present position and elevation, anything in any law or laws of the United States or of any State to the contrary notwithstanding.

SEC. 2. And be it further enacted, That the said lessees, their associates, their heirs, and assigns are hereby authorized and empowered to maintain and operate said aqueduct, and to erect, build, operate, and maintain across the Potomac river from Georgetown, in the District of Columbia, to the Virginia shore, upon and over the stone piers upon which the aqueduct now rests, in conjunction therewith, a bridge of wood, iron, or stone, with one or more ways for the passage of persons, animals, and vehicles, and also with one or more tracks or ways for the passage of engines and cars, with such other conveniences as are usual or necessary for a railroad.

SEC. 3. And be it further enacted, That it shall be lawful for the said lessees, their associates and successors, to lay out, construct, maintain and operate a railroad across said bridge from Georgetown, in the District of Columbia, to the city of Alexandria, in the State of Virginia, and to connect with the Orange and Alexandria railroad, and Alexandria, Loudoun, and Hampshire railroad at Alexandria, or with any other railroad running to said city, or with any railroad running to Georgetown, in the District of Columbia; and it shall be lawful for the said lessees, their associates, their successors, to lay out, build, operate and maintain the said railroad upon the berme bank of said canal, in whole or in part, with power and authority to diverge therefrom when and as often as may be necessary, in order to obtain the best and most direct route between said aqueduct and the city of Alexandria: *Provided, however,* That said railroad shall not be so laid out, constructed, or operated, as to impede or interfere with the convenient and legitimate use of the said canal or aqueduct as a canal, and for the transportation of persons and property by water.

SEC. 4. And be it further enacted, That it shall be lawful for the said lessees, their associates and successors, to transport passengers, freight, and baggage over said railroad, and to collect fare or tolls for the same; and they may have such other rights and powers, and under such restrictions as at present are provided in the general railroad laws of the State of Virginia: *And it is further provided,* That in case the Alexandria Canal Company shall elect, as by the terms of said lease they have the right to, to reënter and repossess the said canal, said company shall also have the right at the same time to take possession of the said railroad and bridge, by first paying the lessees and their successors the actual value of the superadded and superimposed works, to be ascertained by referees to be equally chosen by the president and directors of the Alexandria Canal Company, and the lessees and their successors, said referees to choose an umpire, if one should become necessary, in order to agree upon such value; but if the said canal company shall not so elect to reënter and possess said canal and acquire said railroad and bridge, then said bridge and railroad, with all its property, rights, and effects shall be and remain the property of the lessees and their associates, with full power to maintain the same, but they shall repair and be liable for all damages which may at any time be done to the said canal by said railroad, or which may be caused by the use of any of the canal property for the purposes of the railroad; said railroad to be kept on the same footing as postal roads are required to be kept, and the same is hereby declared to be a postal road.

SEC. 5. And be it further enacted, That as soon as the said bridge is so far completed as to be ready, fit, and convenient for the passage of persons, animals, and vehicles, the said lessees, their successors, and their legal representatives may demand, have, and receive, in advance, the following tolls, to wit: for any foot passenger crossing over said bridge, two cents; for any horse, mule, or jack, every ox or other horned cattle, five cents; for every vehicle drawn by one animal, fifteen cents; drawn by two animals, twenty-five cents; drawn by four animals, thirty-five cents; but no extra charge shall be made for the driver of such vehicle; for every hog, sheep, or other live creature, one cent: *Provided, however,* That it shall be lawful for said lessees to commute these rates to persons requiring yearly passes; which said rates or other lower rates to be by them prescribed from time to time, the said lessees may demand in advance or may sue for, have and receive of and from any person who shall pass over said bridge, or who shall send, ride, or drive any animal or vehicle over the said bridge without first paying said tolls. And any person who shall attempt to injure said bridge, or to pass over the same, or to pass his animals over it without first paying the tolls prescribed herein, or shall attempt to force said bridge, shall be deemed guilty of a misdemeanor and

be subject to a fine of not less than five dollars nor more than ten dollars for each offense, to be collected in any court having jurisdiction of misdemeanors in the District of Columbia: *Provided, however*, That a conviction for such misdemeanor shall not in any wise be a bar to any suit brought to recover damages for any injury to said bridge: *Provided, however*, That said bridge is open and free for the passage of troops and munitions of war by the United States without charge or compensation of any kind.

Mr. WASHBURNE, of Illinois. I now desire to have the original bill read, as I desire to make a point of order upon it.

The SPEAKER. The fifth section is the only one in which the original bill differs from the substitute.

Mr. WASHBURNE, of Illinois. I do not know what the substitute is, as it has not been printed. I desire that the original bill shall be read.

Mr. INGERSOLL. The only difference between the substitute and the original bill is in the fifth section. My colleague demands the reading of the entire original bill just because he has a right to do it, and not because he has any good reason.

Mr. WASHBURNE, of Illinois. The gentleman has no right to say that.

The SPEAKER. The gentleman from Illinois [Mr. WASHBURNE] has a right to demand the reading of the original bill.

Mr. INGERSOLL. I know he has, and I have a right to disclose what his motive is.

The SPEAKER. The gentleman might have reported the substitute as an original bill.

Mr. INGERSOLL. Well, sir, I have authority to do that.

The SPEAKER. The gentleman has, however, reported it otherwise, as a substitute.

The Clerk then proceeded to read the original bill, but before he had concluded the reading the morning hour expired.

The SPEAKER. The bill goes over until the morning hour of Tuesday next.

Mr. WASHBURNE, of Illinois. I ask my colleague to have his substitute printed.

Mr. INGERSOLL. I have no objection to that, if it can be printed before the bill comes up again.

The SPEAKER. The bill will not come up again until Tuesday.

Mr. INGERSOLL. Then it can undoubtedly be printed before that time; and I move that the substitute be printed.

The motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The business before the house is the consideration of the bill (H. R. No. 929) to promote American commerce, reported by the gentleman from Massachusetts, [Mr. ELIOT,] from the Committee on Commerce, on the 27th of May last, and by unanimous consent ordered to be considered yesterday after the morning hour and then postponed until to-day.

#### MURDERS IN SOUTH CAROLINA.

Mr. ASHLEY, of Ohio. I ask the unanimous consent of the House to offer the following preamble and resolution:

Whereas information, regarded as reliable, has been received that Solomon Dill, of Camden, South Carolina, late a member of the constitutional convention in said State and a member elect to the Legislature, together with two colored men, citizens of the United States, were brutally murdered on the night of the 6th instant, at the residence of said Dill, for no other reason than their devotion to the Union and the Government; and whereas in pursuance of the same system of organized assassination Mr. W. I. Mixon, school commissioner elect for Barnwell county, South Carolina, was also recently assaulted by armed desperadoes and dangerously, if not mortally, wounded: Therefore,

*Resolved*, as the sense of this House, that General R. K. Scott, the Governor elect, should at once take the most active measures for the arrest of the said assassins and murderers, and to that end he is requested to offer a reward of \$10,000 for their prompt apprehension.

*Resolved further*, as the sense of this House, that it is the duty of the general commanding of said district to apprehend and place in close custody all well known desperadoes residing in the vicinity where said murders were committed as a measure necessary to aid in revealing the murderers and to check the recurrence of such acts in the future.

Mr. BROOKS. What is it proposed to do with that resolution?

Mr. ASHLEY, of Ohio. I desire to make a short statement, and then I shall ask a vote on the resolution.

Mr. TRIMBLE, of Kentucky. I object to the resolution.

Mr. BROOKS. I hope the gentleman from Kentucky will not object if the gentleman from Ohio will accept an amendment providing that the committee shall also investigate as to the outrages perpetrated on and the murders of Democrats under the government of Tennessee and under the military governments of Alabama and North Carolina.

The SPEAKER. The gentleman from Kentucky [Mr. TRIMBLE] objects to the resolution and it is not before the House.

Mr. ASHLEY, of Ohio. Then I give notice that I will introduce it on Monday.

The SPEAKER. The resolution is not before the House, the objection of the gentleman from Kentucky [Mr. TRIMBLE] preventing its introduction.

#### FOREIGN INSURANCE COMPANIES.

The SPEAKER, by unanimous consent, laid before the House, a communication from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of State, relative to one of the provisions of a bill now pending before the House, proposing to tax foreign insurance companies three per cent. upon their gross premium receipts; which was referred to the Committee of Ways and Means.

#### RECONSTRUCTION EXPENSES.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting estimates by the Paymaster General for deficiencies of appropriations required for reconstruction purposes in the various military districts; which was referred to the Committee on Appropriations.

#### MESSAGE FROM THE PRESIDENT.

A message in writing from the President was communicated to the House by Colonel WILLIAM G. MOORE, his Private Secretary; who also informed the House that the President had approved and signed an act and joint resolutions of the following titles:

An act (H. R. No. 1083) for the relief of Thomas McLean;

A joint resolution (H. R. No. 251) authorizing the Secretary of War to furnish supplies to an exploring expedition;

A joint resolution (H. R. No. 284) to provide for the removal of a suit pending in the circuit court of Jefferson county, West Virginia, to the circuit court of the United States; and

A joint resolution (H. R. No. 287) for the restoration of Captain James F. Armstrong, United States Army, to the active from the retired list.

#### GREAT AND LITTLE OSAGE INDIANS.

Mr. CLARKE, of Kansas. I ask unanimous consent to submit the following preamble and resolution for consideration at the present time:

Whereas it is reported that a treaty has recently been concluded with the Great and Little Osage Indians, by which it is proposed to transfer eight million acres of land, located in the State of Kansas, to a railroad corporation; and whereas it is reported that by the provisions of said treaty the people of the United States are excluded from the rights of homestead and preemption settlement; and whereas it is also reported that improper influences have been used to accomplish the framing and signing of said treaty, and that the interests of the Indians and of the people have been grossly and fraudulently neglected; Therefore,

*Resolved*, That the President is hereby directed to furnish to this House copies of all instructions, records, and correspondence connected with the commission authorized to make the above-named treaty, and copies of all propositions made to said commission from railroad corporations or by individuals; and the President is requested to withhold said treaty from the Senate until a full investigation can be had and report made by the Committee on Indian Affairs of this House.

Mr. STARKWEATHER. I object.

#### STILLWATER AND ST. PAUL RAILROAD.

Mr. DONNELLY, by unanimous consent, introduced a bill (H. R. No. 1216) regulating

the disposition of the land grant already made for a railroad from Stillwater to St. Paul, Minnesota; which was read a first and second time, referred to the Committee on the Public Lands, and ordered to be printed.

Mr. TROWBRIDGE. I move to reconsider the various votes of reference this morning; and I also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### ORDER OF BUSINESS.

Mr. FARNSWORTH. I move that the House now proceed to the consideration of business upon the Speaker's table.

Mr. WASHBURNE, of Illinois. I desire to ask my colleague [Mr. FARNSWORTH] for what purpose he desires to proceed to business upon the Speaker's table?

Mr. FARNSWORTH. To dispose of some amendments of the Senate to various bills, some of which have been laying there for two or three weeks.

Mr. WASHBURNE, of Illinois. By action or reference to committees?

Mr. FARNSWORTH. Some by action and some by reference.

The question was then taken upon the motion of Mr. FARNSWORTH, to proceed to the consideration of business upon the Speaker's table; and upon a division there were—ayes 50, noes 35; no quorum voting.

Tellers were ordered; and Mr. FARNSWORTH and Mr. BURR were appointed.

Mr. SCOTFIELD. I desire to inquire of the Chair if the reconstruction bill has come back from the Senate?

The SPEAKER. It has not. The Chair is informed that the bill is now being discussed in the Senate upon a motion to reconsider.

Mr. SCOTFIELD. Then I hope we will not go to business upon the Speaker's table until that bill comes back.

The House again divided; and the tellers reported that there were—ayes thirty-seven.

Before the noes were counted,

Mr. FARNSWORTH said: I withdraw the motion to proceed to the consideration of business upon the Speaker's table.

#### GREAT AND LITTLE OSAGE INDIANS.

The SPEAKER laid before House the following message from the President of the United States:

*To the House of Representatives:*  
In reply to the resolution of the House of Representatives of the 1st instant, I transmit herewith a report from the Secretary of the Interior in reference to the treaty now being negotiated between the Great and Little Osage Indians and the special Indian commissioners acting on the part of the United States.  
ANDREW JOHNSON.

WASHINGTON, D. C., June 10, 1868.

Mr. CLARKE, of Kansas. I move that the message of the President, with the accompanying documents, be printed and referred to the Committee on Indian Affairs, with instructions to investigate the circumstances attending the negotiation of the treaty therein referred to, and with power to send for persons and papers.

Mr. CULLOM. Is that motion in order?

The SPEAKER. It is; but the Chair will first take the question on the first part of the motion, that the message and accompanying papers be referred to the Committee on Indian Affairs and ordered to be printed. If there be no objection, that will be considered as agreed to.

There was no objection.

The SPEAKER. The question now recurs on the motion that the Committee on Indian Affairs be instructed to investigate the facts referred to in the documents, with authority to send for persons and papers.

Mr. CHANLER. I object.

The SPEAKER. The gentleman from Kansas has the right to make the motion, as it grows out of the question now before the House.

The motion was agreed to.

Mr. CLARKE, of Kansas, moved to reconsider the votes just taken; and also moved

that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### PROMOTION OF AMERICAN COMMERCE.

**THE SPEAKER.** The first business in order after the morning hour is the bill (H. R. No. 929) to promote American commerce, on which the gentleman from Massachusetts [Mr. ELIOT] is entitled to the floor.

**MR. ELIOT.** Mr. Speaker, gentlemen on both sides of the House are desirous that this bill should be postponed for a few days, in order that the tax bill may be proceeded with. The gentleman from Ohio [Mr. SCHENCK] gave notice yesterday that when this bill from the Committee on Commerce should come before the House he would ask its postponement. I am very anxious that when it shall come up for discussion, it shall have the attention of the House, so that some final decision may be reached. I therefore, at the request of several gentlemen, move that the bill (H. R. No. 929) to promote American commerce, and the emigrant bill which is to be considered in connection with it, be postponed until next Wednesday, after the morning hour, with the same priority that those bills now have; and I will say frankly that if the tax bill shall then be under discussion I shall probably ask that this subject may be still further postponed.

**THE SPEAKER.** If there be no objection, the motion of the gentleman from Massachusetts [Mr. ELIOT] will be regarded as agreed to.

There was no objection.

#### DISPENSING WITH EVENING SESSION.

**MR. SCHENCK.** I rise for the purpose of moving that the House resolve itself into Committee of the Whole upon the tax bill.

**MR. GARFIELD.** I hope my colleague will give way for a motion the object of which I will state. In view of the fact that the House has now been occupied for a number of nights in succession, I desire to move that the session of to-day be continued till half past five o'clock, and that then we adjourn, thus dispensing with the evening session. I think this proposition will be generally acceptable.

**MR. CULLOM.** I object to it.

**MR. GARFIELD.** I would like my colleague [Mr. SCHENCK] to say whether he will not consent to the proposition I have made.

**MR. SCHENCK.** I have been applied to by a great many gentlemen, who complain that to work every night in the week is too much. We have met now three nights in succession, and I would assent to my colleague's proposition if the House would certainly keep a quorum here till half past five o'clock. If that arrangement cannot be made I shall object.

**MR. GARFIELD.** I have no doubt the House will agree to that.

**THE SPEAKER.** The Chair will state that a majority of the House can rescind the order for an evening session; but it requires unanimous consent to order that the House or the Committee of the Whole shall remain in session till a particular order, thus precluding a motion that the House adjourn or the committee rise.

**MR. SCHENCK.** I am aware of that, and hence I ask that there shall be unanimous consent to the arrangement.

**MR. MULLINS.** I shall not consent. Let us go on as we have done.

**MR. SCHENCK.** I do not mean to ask that the standing order shall be rescinded except for to-day, so that gentlemen may have one evening's rest.

**MR. GARFIELD.** My proposition had reference only to to-day.

**MR. TROWBRIDGE.** I think the gentleman could more readily obtain assent to a proposition for meeting at an earlier hour.

**MR. SCHENCK.** If I do not get unanimous consent I cannot yield to the suggestion.

**MR. MULLINS.** I object. I am opposed to making arrangements one day and disarranging them the next.

#### INTERNAL TAX BILL.

**MR. SCHENCK.** I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union on the tax bill.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union. (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

**THE CHAIRMAN.** The pending paragraph was as follows:

Manufacturers, not otherwise charged with a special tax, shall each pay ten dollars; and all manufacturers whose annual sales exceed \$5,000 (except those otherwise provided for, or those on whose products a specific tax is imposed) shall pay two dollars for each additional \$1,000 on the amount of their sales in excess of \$5,000. Every person who shall manufacture by hand or machinery, in whole or in part, any goods, wares, or merchandise, and whose annual sales of such products shall exceed \$5,000, or who shall manufacture or prepare for sale any article or compound on which a specific tax is not imposed, or who shall put up for sale in packages, with his own name or trade-mark thereon, any article or compound on which a specific tax is not imposed, shall be regarded as a manufacturer. But in making the assessment of tax a deduction shall be allowed of all sales included in the return of any manufacturer which shall be shown to have been made by or through any authorized agent of such manufacturer, such agent having included such sales in the return made by him to the assessor or assistant assessor of the district in which he is doing business, and having paid the tax thereon.

The pending amendment, offered by Mr. SCHENCK, was as follows:

Strike out the paragraph, and in lieu thereof insert as follows:

Whose annual sales exceed \$5,000 shall each pay ten dollars, and if no specific or stamp tax is imposed on their products shall pay, in addition, two dollars for each \$1,000 of sales in excess of \$5,000. And manufacturers' returns shall include all sales made in general for the account of the manufacturer. Every person who shall manufacture by hand or machinery, in whole or in part, any goods, wares, or merchandise, or who shall manufacture or prepare for sale any article or compound on which a specific or stamp tax is not imposed, or who shall put up for sale in packages with his own name or trade-mark thereon, any article or compound on which a specific or stamp tax is not imposed, shall be regarded as a manufacturer: *Provided*, That no person shall be regarded as a manufacturer who simply makes butter and cheese, or either of them, for his own consumption or for market.

The pending amendment to the amendment, submitted by Mr. FERRY, was to insert "except unmanufactured lumber and breadstuffs."

**MR. SCHENCK.** Mr. Chairman, gentlemen should know how this question now stands. It is thus: the Committee of Ways and Means have proposed a modification of this whole paragraph, so as to make it clear that all manufacturers who sell less than \$5,000 a year are released from any tax on sales or any tax whatever. To this an amendment has been offered excepting breadstuffs and lumber.

**THE CHAIRMAN.** No further amendment is now in order.

The committee divided on Mr. FERRY's amendment; and there were—ayes 28, noes 40; no quorum voting.

**THE CHAIRMAN** ordered tellers; and appointed Mr. FERRY and Mr. NIBLECK.

The committee again divided; and the tellers reported—ayes 43, noes 48.

So the amendment to the amendment was rejected.

**MR. CULLOM.** I move to amend the amendment by inserting "except the manufacture of sugar from beets."

**MR. CHAIRMAN.** I trust the Committee of Ways and Means will accept that amendment. This is an interest which has just been started in the United States. There are only two or three establishments now manufacturing sugar from beets, and, so far as I know, up to this time none of them have made anything, although their sales may be over \$5,000 per annum.

**MR. SCHENCK.** Our idea is to equalize the burdens of taxation, and we have relieved everybody whose sales do not exceed \$5,000 a year. If these are small concerns struggling into existence, then they have not reached that amount of sales, and are not taxed at all.

**MR. CULLOM.** Their sales do exceed \$5,000.

**MR. SCHENCK.** Then they ought to be taxed.

**MR. CULLOM.** Although their sales may amount to over \$5,000 per annum, yet the truth is they have not made one cent. I think it is an interest which ought to be encouraged by the people of the United States.

**MR. MAYNARD.** I wish to ask the committee, before adopting this amendment, to strike out the words "from beets." If the amendment is to be adopted at all it ought not to be limited to the production of sugar from that specific article. Now, the general sugar interest was much impaired by the war.

**MR. PAINE.** What is the amendment?

**MR. MAYNARD.** If the manufacture of sugar be exempted then the entire sugar manufacturing interest of the country should be exempted. It was impaired and almost destroyed by the war. It is desirable to resuscitate this great commercial interest of the country. And if I may be allowed a single moment here by way of digression, to show the great advantage to the country of protecting its own industry over not protecting it, I will cite the instance of two articles, sugar and salt. The southern confederacy, as long as the sugar interest was protected by legislation, continued to have an abundance of that article—more than they wanted. But in regard to salt, which never had been protected, although it might have been produced there, it was, in point of fact, not produced, and the people were driven almost to the point where they fished for the want of it. There could be no instance illustrating more fully the general policy of protecting our own interests by legislation than the experience respecting those two articles in the southern confederacy. If the manufacture of sugar is excepted at all, I hope it will embrace generally the sugar manufacture.

**MR. SCHENCK.** This bill lets off, as we did on the 1st of March last, all sugar from a tax of one cent a pound, which is more than one fifth of one per cent.

**MR. CULLOM.** I do not think it is fair to include the manufacture of sugar from cane, or those substances which have been recognized as elements for making sugar time out of mind. The manufacture of sugar from beets is an experiment which has never been fairly tested in this country. If it were not for the fact that this business is struggling into existence, and it is yet to be tested whether it will prove successful, I would not ask this exception at all. But not having yet been tested, I think we ought to relieve it from this special tax.

The amendment of Mr. CULLOM was disagreed to.

The question recurred on the amendment of Mr. SCHENCK, as amended by the adoption of the amendment of Mr. SPALDING.

**MR. TROWBRIDGE.** I move to amend the amendment by adding at the close of the paragraph the following:

*Provided*, That manufacturers who have paid a tax as dealers, shall be permitted to sell their products without additional tax.

I do not know but this is provided for.

**MR. SCHENCK.** It is all provided for.

**MR. TROWBRIDGE.** I made the amendment in order to make the inquiry. I now withdraw it.

**MR. FLANDERS.** I move to amend by inserting in line seven hundred and seventy-seven, after the word "dollars," the following:

*Provided*, That the value of the lumber shall be estimated at the mill where it is manufactured.

I offer this for the purpose of inquiring of the chairman of the committee if lumber manufactured at Puget sound, for instance, and sold in San Francisco, after having paid a freight of eight dollars per thousand feet, is to be taxed at San Francisco. Many of the manufacturers of lumber at Puget sound reside in San Francisco, and sell their lumber there after paying the freight. Now, will they have to pay



the tax on the additional freight, or will it be assessed at the place where the lumber is manufactured?

Mr. SCHENCK. We have endeavored to make this perfectly equal. It is a tax on the sales made of his own production by the manufacturer, provided the sales in any year amount to more than \$5,000. He himself chooses where that tax shall be assessed. Wherever he chooses to sell, wherever he puts his wares on the market, there he pays the tax.

Mr. FLANDERS. There are something like one hundred million feet of lumber manufactured at Puget sound which is sold at San Francisco. The owners of the mills have their offices in San Francisco, and ship the lumber in their own vessels, and it costs them on the average about eight dollars per thousand feet for freight. Now, it will be observed that on the lumber thus shipped they will not only pay a tax on the manufacture, but a tax on the freight that they pay. I think, therefore, that to make it perfectly clear and fair my amendment ought to prevail.

Mr. SCHENCK. I do not know that this needs further explanation; it must be obvious. I admit that if a man makes lumber far up on the Pacific coast, on the edge of our great country, and sells it there, he will get a less price and will pay a less tax. But if he chooses to carry the lumber to another market and sell it there, he will get a higher price, and of course will pay a higher tax. It is true that a part of that higher price is made up of the cost of transportation. So it is in regard to the price of anything. The manufacturer chooses his market, and in choosing his market he adds to the cost of his article somewhat, but he does it in the hope of getting in greater proportion a price for it. A manufacturer chooses his own market.

Mr. FLANDERS. I do not think the chairman of the Committee of Ways and Means should press this additional tax. There is no consistency or propriety in charging the manufacturer, in addition to the cost of his lumber at the point where he manufactures it, a tax on the freight he pays to get it to the place where he sells it.

The question was taken on Mr. FLANDERS's amendment; and it was disagreed to.

Mr. BLAINE. I am under the impression that the amendment offered by the gentleman from Michigan [Mr. FERRY] was lost on account of lumber being in it. I am going to test the sense of the committee, without debate, on taxing breadstuffs. I do not want the United States to be the only country in the world that taxes bread. I move, therefore, to add to the amendment the following proviso:

*Provided*, That breadstuffs shall not be taxed as manufactures.

The question was taken; and the amendment was disagreed to—ayes thirty-three, noes not counted.

Mr. MAYNARD. I move to amend the amendment by adding to it the words "within the United States." I ask the attention of the committee to this amendment. It will be recollected that the amendment offered by my colleague on the Committee of Ways and Means [Mr. SCHENCK] was amended by a proviso exempting the manufacture of butter and cheese for the benefit of the manufacturer or for the market. I propose to add after the word "market" the words "within the United States." I do it for the reason that there is a large manufacture of cheese that is expressly for the foreign market, and which, of course, ought not to be exempt from taxation.

Mr. SCHENCK. There is no objection to that.

The amendment to the amendment offered by Mr. MAYNARD was agreed to.

The question recurred on the amendment reported by Mr. SCHENCK from the Committee of Ways and Means, as amended; and being put, the amendment was agreed to.

The Clerk read the next section, as follows:

SEC. 88. *And be it further enacted*, That in all cases where more than one of the pursuits, employments,

or occupations hereinafter described, shall be engaged in or prosecuted by the same person at the same time, except as hereinafter provided, the tax shall be paid in each according to the rates severally prescribed; and that any number of persons doing business in copartnership at any one place shall be required to pay but one special tax for such copartnership, except lawyers, conveyancers, claim and patent agents, physicians, surgeons, dentists, cattle-brokers, dealers in horses, peddlers, foreign commercial brokers, custom-house brokers, pawnbrokers, patent-right dealers, dealers in lottery tickets, and cigar-makers, who shall each be separately taxed; and that any auctioneer may sell by auction any goods or commodities for or on behalf of any person who has paid the special tax as a wholesale or retail dealer on the premises of such person; and any auctioneer who shall sell goods or commodities otherwise than by auction shall pay a special tax as a retail or wholesale dealer, as the case may be.

Mr. CAKE. I move to amend that section by inserting after the word "prescribed," in line six, the words, "provided that where the roasting of coffee is combined with the manufacture of bread no additional tax shall be paid." I have no remarks to make. I submit the amendment for a vote of the committee.

Mr. HOOPER, of Massachusetts. There is no tax assessed anywhere here on the roasting of coffee that I am aware of. I hope the amendment will not be adopted.

Mr. CAKE. I do not believe myself that a tax is assessed on roasting coffee, but in order to make it plain I offer the amendment, which can do no harm.

The question was taken on the amendment; and it was disagreed to.

Mr. CHURCHILL. I move to amend this section by striking out the words "and cigar-makers," and inserting the word "and" before the words "dealers in lottery tickets."

Mr. SCHENCK. That is in accordance with the action of the Committee of the Whole last night. I have no objection to the amendment.

The amendment was agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 89. *And be it further enacted*, That the receipt for the payment of any special tax shall specify the trade, business, or profession for which such tax is paid, the name, residence, and place of business of the person paying the same, and the time for which payment is made; except that no statement of a special place of business shall be required of or included in the receipt given to any auctioneer, peddler, patent-right dealer, commercial, produce, cattle or insurance broker, insurance agent, horse dealer, photographer, juggler, or proprietor or manager of a show or amusement, who proposes to pursue his business from place to place. The payment of the special tax herein imposed shall not exempt from an additional special tax any person who shall have, or provide himself with an office, warehouse, or other establishment for doing business in any other place than that stated in his receipt. But nothing herein contained shall require a special tax for storing goods, wares, or merchandise elsewhere than at the place of business.

Mr. SCHENCK. I move to amend this section in the first sentence by striking out the words "cattle or insurance broker," and inserting in lieu thereof the words "or cattle broker."

The amendment was agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 90. *And be it further enacted*, That every person engaged in or prosecuting any trade, business, or profession, or doing any act for which a special tax is imposed, shall, on demand of any officer of internal revenue, exhibit the receipt for payment of such tax, and unless he shall do so may be deemed not to have paid the same. And in case any person not required to have a special place of business, but who pursues his business from place to place, shall fail or refuse to exhibit the proper receipt when so demanded, said officer may seize any property in the possession of such person, and which is in any way used in his business, and report such seizure to the assessor of the district in which such seizure is made; and the said assessor shall give ten days' notice by publication in any newspaper in the district, or by personal service, or by copy left at the residence of the person so offending, requiring him to show cause why such property so seized shall not be forfeited; and in case no sufficient cause be shown the assessor shall declare such property forfeited, and shall issue an order to the collector of the district for the sale thereof, and the proceeds of such sale, after deducting and paying therefrom the expenses of the proceedings, shall be paid to the collector of the district for the use of the United States.

No amendment was offered.

The next section was read, as follows:

SEC. 91. *And be it further enacted*, That any person who shall engage in or prosecute any trade, business, or profession, or do any act hereinafter mentioned, for which a special tax is imposed by law, without the payment of said tax, as in that behalf required, shall, for every such offense, beside being liable for the payment of the tax, be subject to a penalty of not less than fifty dollars nor more than \$1,000. And if such person so offending shall be a manufacturer of tobacco, snuff, or cigars, distiller, rectifier, wholesale liquor dealer, compounder of liquors, manufacturer of stills, or brewer, he shall also, on conviction thereof, be fined not less than \$500 nor more than \$5,000, and be imprisoned not less than three months nor more than two years.

Mr. SCHENCK. I move to amend the first sentence of this section by striking out the word "hereinafter mentioned."

The amendment was agreed to.

Mr. SCHENCK. I move further to amend this section by striking out of the second sentence the words "snuff or cigars, distiller, rectifier, wholesale liquor dealer, compounder of liquors, manufacturer of stills, or" and inserting in lieu thereof the words "or cigars, or a," so that that sentence will read:

And if such person so offending shall be a manufacturer of tobacco or cigars, or a brewer, he shall also, on conviction thereof, be fined not less than \$500 nor more than \$5,000, and be imprisoned not less than three months nor more than two years.

The amendment was agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 92. *And be it further enacted*, That upon the death of any person during the year for which he has paid the special tax on his trade, business, or profession, it shall be lawful for the executors or administrators, or the legal representatives of such deceased person, to engage in or prosecute in like manner, for the residue of the term for which the tax shall have been paid, such trade, business, or profession without payment of any additional tax. And any person may remove to any other place to carry on the trade, business, or profession specified in the tax receipt without payment of any additional tax; and any change in the persons constituting a firm or company which has paid said special tax shall not be considered as rendering said firm or company liable for the additional tax: *Provided*, That all cases of death, removal, or change as aforesaid, shall be reported to the assistant assessor and registered with the assessor and collector of the district, under regulations to be prescribed by the Commissioner of Internal Revenue.

Mr. PRICE. I move to amend this section by inserting just before the proviso the following:

But any transfer in any business upon which the special tax has been paid shall not subject the party to whom the transfer is made to the payment of an additional tax.

That is what I spoke of the other day as necessary.

Mr. SCHENCK. I hope the gentleman will give some reason for his amendment. I do not think it is necessary.

Mr. PRICE. The reason for it is this: if a firm doing business, under the section as it now stands, shall change the firm, then no additional tax shall be paid. But if that firm sells out the business to another firm, then this section does not prevent another tax being required. Now, I propose that the party to whom the business is transferred shall not pay the special tax, which has already been paid for the year.

Mr. SCHENCK. In reply to the gentleman I will assign the reason why I think the amendment of the gentleman is not founded upon a correct principle. This is not a tax upon things, as a tax upon land or other property; but it is a tax upon persons who are employing capital in a particular way. If you tax a man for any pursuit in which he is engaged, and give him leave to sell out his business with the privilege of the paid tax, you may have a dozen changes in the course of a year; and the assessor and collector will find difficulty in following around and ascertaining whom he is to deal with. And in this way a number of persons will go through these old clothes, transmitted from one to another.

The only exception that we have thought it prudent to make is where by death or some unavoidable casualty there shall be a dissolution of the firm, and the business is still continued by a regular legitimate successor, made such by the law, or in the family; then the tax

may be considered as still attaching to the business.

Mr. PRICE. I have no doubt the committee intended to cover the whole ground, but they have not done so; that is the only point I wish to make. The section as it now stands provides that any change in the persons constituting a firm or company which has paid a special tax, shall not be considered as rendering the new firm liable for an additional tax. For instance, John Smith and Tom Jones constitute a firm which has paid the tax for a year. Jones sells out to Brown, but under this provision no new tax is required. But if Smith and Jones sell out to Roe and Doe, they will have to pay a special tax. I propose to provide that the effect shall be the same whether the whole or only a part of the firm be changed.

Mr. SCHENCK. I think the gentleman is mistaken in his proposition. I was about to add when he interrupted me, that this provision of the bill is a part of the present law.

Mr. WELKER. I move to amend the amendment of the gentleman from Iowa, [Mr. PRICE,] by adding to it the following:

*Provided, That the business is carried on at the same place of business.*

Mr. PRICE. I accept that as a modification of my amendment.

Mr. PAINE. I should be glad to inquire of the chairman of the committee whether this bill in any of its provisions imposes a personal tax upon a firm as such? Is not the tax imposed on each of the members of the firm? So far as I have observed, this personal tax imposed upon individuals for carrying on different trades, occupations, or professions, is imposed upon firms. I believe that in this bill the word "person" is always used; and I suppose as regards this class of taxes, if there should be half a dozen members of a firm, this tax would be imposed on each of the members. There is, of course, a class of taxes imposed upon firms as such, as, for instance, the tax upon sales. But where "persons" are taxed for carrying on a specific business, then of course, if we follow the literal phraseology of the bill, each member of the firm must pay that tax. I suppose this is the case with the tax provided for in this section. Hence I can see no reason for or propriety in the amendment of the gentleman from Iowa. On the contrary, it seems to me that we should strike out the whole of the following words:

And any change in the persons constituting a firm or company which has paid said special tax shall not be considered as rendering said firm or company liable for the additional tax.

Mr. PRICE. I think, Mr. Chairman, I understand what the English language means when it is written as plainly as it is in this section. If this section does not tax business then it does not do anything. The language is—

That upon the death of any person during the year for which he has paid the special tax—

On what? On his trade, business, or profession. If two men are selling boots and shoes and one of those men sells out to another party, then, under the section as it now stands, no additional tax is to be paid; but if both sell out to another man or several others, the latter must pay the tax. That is what I propose to avoid. The matter is as plain as the nose on a man's face.

Mr. ELA. I move to amend the amendment so as to insert after the words "additional tax" in line eleven, the following:

And when ceasing to do business for which he has paid special tax, he may authorize his successor in business or any other person to conduct the same business during the time for which he has paid such tax by making assignment of his special tax receipt.

The CHAIRMAN. This amendment is not in order. It is not properly an amendment to the pending amendment.

Mr. GARFIELD. I move *pro forma* to amend the amendment by striking out the last word. I desire to say that, as I understand this tax, it is in the nature of a special tax imposed upon persons or individuals engaged in different branches of business. But in case of a firm, the change of one member of the

firm is not to be regarded as such a change of the firm as to require a new payment of tax. When, however, the whole firm or association sells out to another party the case is different. I suppose we do not want to do what the proposition of the gentleman from New Hampshire [Mr. ELA] would accomplish—make these special licences transferable without restriction, so that a dealer in boots and shoes may pass over his receipt, with all his rights under it, to a man in an entirely different kind of business, or that a disreputable firm may, without the payment of a tax, succeed to the rights of a reputable firm. The design is, as I understand, that the rights conferred by the payment of the tax shall be in the nature of a grant to individuals; and when the whole firm is changed in its individual capacity, then, I take it, the special grant ought to cease. I hope the amendment will not be made.

Mr. PRICE. I do not desire to continue this debate, but I wish to attract the gentleman's attention for a single moment. This is a personal tax, and is transferred from person to person. Now, how does the gentleman explain this? On the death of any person during the year that he has paid a tax it may be transferred to the executor. The dead man can transfer the tax to his successor. This tax upon persons, if it means anything at all means a tax on the business. It provides that if a man dies his executor may carry on his business without tax. I only provide, in accordance with the spirit of the section, for exactly the same thing when the entire firm changes as when only a part of it dies.

Mr. GARFIELD. I withdraw the *pro forma* amendment.

Mr. SCHENCK. I renew the amendment for the purpose of making, as clearly as I can, an explanation of what we intend by this section and the reasons on which it is founded. These are special taxes, in the strict sense of the term. They are not intended to be general taxes. They are special as to persons. They are taxes upon particular persons employed in the use of capital or of their wits in a particular way. If gentlemen will turn to page 356 and to section two hundred and eighty-eight they will find something in this connection which helps my explanation. We found in this law, running all through it, "every person, corporation, body politic, or association," and so on. In order to get rid of that we have a general section, in which it is provided that where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the word "person," as used in this act, shall be construed to mean and include a firm, partnership, association, company, or corporation, as well as a natural person. We have used throughout the bill the word "person."

The law as it now stands we have not interfered with, that is, where parties engaged in one business enter partnerships, either in trade or manufactures or a profession, they shall be counted as one person, and pay a special tax accordingly, with this exception, to be found on page 125, which we have passed over this morning; and, as it seems, without notice on the part of any of these gentlemen, and that is this:

And that any number of persons doing business in copartnership at any one place shall be required to pay but one special tax for such copartnership, except lawyers, conveyancers, claim and patent agents, physicians, surgeons, dentists, cattle brokers, dealers in horses, peddlers, foreign commercial brokers, custom-house brokers, pawnbrokers, patent-right dealers, dealers in lottery tickets, and cigar-makers, who shall each be separately taxed.

The reason for that is this: this is peculiarly a personal business in every one of these cases. The provision is for special tax upon persons engaged in business. The law does not think it good policy, nor do the committee think it good policy in that respect, to permit half a dozen lawyers to come together and pay one tax for all, and then to scatter, and each sell out his license to somebody else.

Mr. PRICE. Let me ask the gentleman a question. If a lawyer dies and his executor happens to be a farmer, who knows no more

about law than I do about Greek, can he carry on the business?

Mr. SCHENCK. We have provided in reference to everything that will cover the case of the death of a party in business. In the event of the death of a party engaged in business the law steps in and saves the succession. Where a partnership has paid a special tax and they change the business, but keep up the firm, the special tax goes on. The question arises, how far will we make exception? We agree by law to make an exception in the case of death.

[Here the hammer fell.]

Mr. ELA. I move *pro forma* to amend the amendment of the gentleman from Iowa [Mr. PRICE] by striking out the last word. There is a manifest injustice in not allowing this transfer of special tax to be made to the successor in any business. Under the old license law they were transferable. Now, in some cases you provide that a special tax shall amount to \$5,000, and yet after a man has paid this tax and has conducted his business for one month if he finds it for his interest to sell out and close up his business, he loses the whole amount except such benefit as he may have derived from it during the single month that he had conducted the business. That is a gross injustice. Then the amendment, which the gentleman has accepted, limits the business to the place where it is carried on, which is manifestly unjust in a case where the business is carried on in different places, as in selling by samples. The same objection applies to peddlers. The old system of license provided for transfers of the special taxes, the same privilege of assigning the business ought to be allowed in this bill.

Mr. MAYNARD. If the gentleman from New Hampshire will listen to a suggestion, I think it will relieve him of the difficulty that seems to press upon him. These persons pay in proportion to their sales and no more. A man may sell \$1,000,000 worth of merchandise in three months and he pays his tax to that extent. He then sells out to B, who carries on the business for three months longer. B only pays for what he sells. Then B sells out to C, who pays only for what he sells, and not for what was sold by his predecessor.

Mr. ELA. That does not meet the case where a man pays \$5,000 for a license before he commences business.

Mr. MAYNARD. That is a class of persons in regard to whom the object is to prevent their doing business in that particular way.

Mr. ELA. I withdraw the *pro forma* amendment.

Mr. INGERSOLL. I move *pro forma* to strike out the last line of the amendment of the gentleman from Iowa. There are some very good reasons for a modification of this section, as proposed by the gentleman from New Hampshire and by the gentleman from Iowa, [Mr. PRICE.] I think the gentleman is correct in his assumption in regard to the intention of the committee as manifested in this section. It is a tax on the business and not on the person. I want to call the attention of the chairman of the committee and of the House to this state of facts: They require a special tax on the business of a hotel-keeper, we will say, for an illustration. It may be \$500. Within a week a man who has paid for the license—for it is only a change of name to call it a special tax—may, for some reason, desire to sell out. He finds a purchaser and makes the transfer. The purchaser is required to pay for a new license \$500. In a month that person sells out, and the purchaser is required by this section to pay \$500. And so, no matter how many may be engaged in the same business in the same place successively, each one has to pay this special tax. Now, this bill ought to be so modified as to permit the same business to be conducted in the same place for one year under one special tax. That is no more than fair. It is not fair to impose a new tax on every change made in a firm or in the ownership of the business so long as they continue in the same place and in the same building.

Now, sir, as I understand it, the amendment of the gentleman from Iowa, as modified, includes the proposition which I am debating, that one tax is all that the Government should require upon the same business conducted for one year in the same place without reference to the parties who carry that business on.

Mr. SCHENCK. Mr. Chairman, I shall repeat my opposition to this amendment, for it is one of a sort of Protean character, which keeps appearing and reappearing in pretended different shapes, but always the same thing, and when I have expressed my opposition to it I shall request that debate on this paragraph may cease.

Now, we propose no new thing. What we propose is simply a continuance, so far as this matter is concerned, of the present law. By these special taxes we impose upon persons engaged or employing their capital in a particular way what we considered fair as their contribution to the support of the Government. This may operate in certain cases, where by no fault of their own or by force of circumstances a change is necessary, a hardship, and for three classes of those occurrences that may happen to a man in business we have provided. We have provided that in case of his death the law will step in and make an exception and provide relief so far as to permit his legal representatives or family to have the benefit of the tax he has paid. We have provided that where by force of circumstances a man has to remove from the place where he commenced business he may continue his business at another place to which he may go. And we have provided that where a partnership or firm is still kept up, but circumstances have occurred which induce a change in the individual persons composing that firm or partnership, the partnership shall still have the benefit of the tax which it has paid.

In all these cases, however, we have thought it proper to guard it, as the law now guards it, by providing that in any such case of death, change, or removal, the fact shall be registered with the assistant assessor and with the collector, together with the name or names of the person or persons deceased, or making such change or removal under regulations to be prescribed. The object of that is to keep the run in the different districts of the persons who thus are permitted to have the benefit of these exceptions.

[Here the hammer fell.]

#### MESSAGE FROM THE SENATE.

At this point the committee rose informally, and the Speaker having resumed the chair, a message was received from the Senate, by Mr. GORHAM, its Secretary, announcing that the Senate had passed bills and a joint resolution of the following titles; in which he was directed to ask the concurrence of the House:

A bill (S. No. 307) for the relief of certain Government contractors;

A bill (S. No. 353) to authorize the accounting officers of the Treasury to adjust the accounts of Ezra Carter, jr., late collector of the customs at Portland, Maine; and

A joint resolution (S. R. No. 93) granting permission to officers and soldiers to wear the badges of the corps in which they served during the rebellion.

The message further announced that the Senate had passed the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress, with amendments, in which the concurrence of the House was requested.

#### INTERNAL TAX BILL.

The Committee of the Whole on the state of the Union then resumed its session.

Mr. INGERSOLL. I withdraw my amendment to the amendment.

The question recurred on Mr. PRICE's amendment.

Mr. SCHENCK. I ask unanimous consent that all debate may be closed on this section. There was no objection; and it was so ordered.

The question was taken on Mr. PRICE's amendment; and there were—ayes 33, noes 21; no quorum voting.

Mr. INGERSOLL. I hope the Committee of Ways and Means will agree to consider this amendment as agreed to.

Mr. SCHENCK. Oh, no.

Mr. HOOPER, of Massachusetts. I cannot agree to that. I call for tellers.

Tellers were ordered; and Messrs PRICE, and HOOPER of Massachusetts, were appointed.

The committee divided; and the tellers reported—ayes 49, noes 38; no quorum voting.

Mr. HOOPER, of Massachusetts. I withdraw the call for a division, with the understanding that we shall have a vote on the amendment in the House.

The CHAIRMAN. Then the amendment will be regarded as agreed to.

Mr. SCHENCK. Was there a quorum voting?

The CHAIRMAN. The gentleman from Massachusetts stated that he waived a further count on the understanding that there should be a vote in the House.

Mr. PRICE. There must be a vote in the House.

Mr. SCHENCK. I am willing that the gentleman shall have an opportunity of renewing the amendment in the House.

Mr. PRICE. Oh, no; we do not propose when we have the victory to give up our advantage.

The CHAIRMAN. No quorum voted, and if the gentleman from Ohio insists on it the roll will be called.

Mr. SCHENCK. The gentleman shall have an opportunity of renewing the amendment in the House. I hope he will agree to that rather than break up the committee.

Mr. PRICE. No, sir.

Mr. SCHENCK. Very well: I do not object to the call. Let it appear on the record who is here to attend to the business of the House.

Mr. PRICE. I am quite willing. I am always here.

Mr. SCHENCK. It is about time we had a call of the House.

Mr. PRICE. There is a majority in favor of the amendment, and I do not propose to waive any rights I have acquired.

The CHAIRMAN. The Chair will state that the gentleman from Massachusetts [Mr. HOOPER] called for tellers, which were ordered. After the result of the count had been announced, the gentleman from Massachusetts [Mr. HOOPER] said he would withdraw his call for a further count, and allow the amendment to be adopted, as a vote could be taken upon it in the House.

Mr. SCHENCK. Very well. I am willing to be bound by what has been done by my colleague on the committee.

No further amendment was offered.

The next section was read, as follows:

SEC. 93. *And be it further enacted*, That in every case where it becomes necessary to ascertain the amount of annual or monthly sales made by any person on whom a special tax is imposed, or to ascertain the excess of such sales above a given amount, such amounts and excesses shall be ascertained and returned under such regulations and in such form as shall be prescribed by the Commissioner of Internal Revenue; and in any case where the amount of the tax has been increased by law above the amount before paid by any person in that behalf, such person shall be again assessed and pay the amount of such increase from the taking effect of this act; and in any case where the amount of sales or receipts has been understated or underestimated by any person, such person shall be again assessed for such deficiency, and shall be required to pay the same, with any penalty or penalties that may by law have accrued or be chargeable thereon.

Mr. SCHENCK. I move to amend this section by striking out the following clause:

And in any case where the amount of the tax has been increased by law above the amount before paid by any person in that behalf, such person shall be again assessed and pay the amount of such increase from the taking effect of this act.

The amendment was agreed to.

Mr. PETERS. I desire to suggest a verbal amendment to this section. I think the words "if done fraudulently" should be inserted in

the last clause of this section. I am not familiar enough with the bill to be able to tell what the penalty may be. But it strikes me that unless a person acts dishonestly he should not be liable to the penalty.

Mr. SCHENCK. There is a provision in the portion of the bill already passed which enables a person making a mistake to be relieved from the penalty.

Mr. PETERS. As the chairman of the Committee of Ways and Means seems to be so certain that the amendment I have suggested is not necessary, I will withdraw it.

No further amendment was offered.

The next section was read, as follows:

SEC. 94. *And be it further enacted*, That in all cases where it is provided that the special tax imposed on any person engaged in manufacturing or prosecuting any business shall be increased by imposing an additional tax estimated on the excess of sales beyond the amount of sales specified as the maximum for which the annual special tax is imposed, the amount of all sales shall be returned monthly; but it shall be held and considered that the annual payment of the special tax due on the 1st day of May in each year shall be for the tax on the sales in that year until they amount to such maximum; and no addition to any special tax shall be assessed and collected on any sales reported in any monthly or other periodical return or statement required by this act until the sales in that year exceed the amount specified as the maximum for which the annual special tax was paid, and such addition shall be assessed and imposed only on the excess beyond the maximum amount so specified.

Mr. SCHENCK. I move to amend the first clause of this section by striking out the words "the amount of all sales" before the words "shall be returned monthly," and inserting in lieu thereof the words, "or on the amount of receipts for such business, the amount of such sales and receipts."

The amendment was agreed to.

No further amendment was offered.

The next section was read, as follows:

SEC. 95. *And be it further enacted*, That nothing contained in this act shall be construed to impose a special tax upon any person who sells wine made from grapes or other products of his own growth, at the place where the same is made; nor shall any farmer be taxed as a manufacturer or dealer for making and selling butter or cheese, with milk from his own cows, manufactured on his own farm, nor for producing or selling any other farm product.

Mr. BARNES. I move to amend the last clause of this section by striking out the word "farmer," and inserting in lieu thereof the word "person." There are a great many persons in this country not farmers who produce these articles.

The amendment was agreed to.

Mr. HOLMAN. I move to amend the last clause of this amendment by inserting before the words "butter or cheese," the words "sugar or molasses manufactured from sorghum, the product of his own growth, or." I am not certain but what this provision is already in this bill; I have not noticed the amendments which have been made. But if a provision of this kind is not now in this bill, then I think my amendment ought to be adopted, so as to encourage a new industry of this character. It seems to me this article can bear taxation much less readily than almost any other; I think it should be particularly encouraged. In the main this manufacture is now carried on by small proprietors, men who raise an acre or two acres of sorghum and manufacture it themselves. I hope there will be no objection to the amendment.

Mr. SCHENCK. I shall not oppose the amendment.

The amendment of Mr. HOLMAN was then agreed to.

Mr. SPALDING. In order to make this provision consistent with what we have already passed, I move to strike out of this section all that relates to butter and cheese, because we have provided for that in a previous part of the bill.

Mr. SCHENCK. I oppose that amendment, and I hope these words will be kept in this section. If we send this bill to the Senate with two provisions in it relating to butter and cheese, the Senate will choose between the two, and probably will strike out what has been inserted upon the gentleman's motion. I



desire to give notice that hereafter I shall ask that all amendments be reduced to writing and announced from the Clerk's desk. A few moments ago an amendment was adopted which I and others around me did not hear the Clerk announce, though probably he did so.

The CHAIRMAN. The Chair will enforce the rule whenever any gentleman insists upon it.

Mr. MULLINS. I shall insist upon it.

The amendment of Mr. SPALDING was not agreed to.

Mr. ROBINSON. I move to amend by striking out near the close of this section the words "manufactured on his own farm;" so that the clause will read:

Nor shall any person be taxed as a manufacturer or dealer for making and selling butter or cheese with milk from his own cows, nor for producing or selling any other farm product.

I do not see why this exemption should not extend to persons hiring a farm for the purpose of making or selling butter or cheese. I think there would be propriety, also, in striking out the words "from his own cows;" for persons may carry on this business upon shares, owning neither the cows nor the farm; and I do not think such persons should be taxed more than those carrying on the same business, but owning the farm and the cows.

A MEMBER. That is provided for.

Mr. ROBINSON. If this section is intended to have the construction which I designed to express by my amendment, I withdraw the amendment.

Mr. BARNES. I move to amend the section by striking out in line seven the word "farm" and inserting "premises;" so as to make the last clause read:

Nor shall any person be taxed as a manufacturer or dealer for making and selling butter or cheese, with milk from his own cows, manufactured on his own premises, nor for producing or selling any other farm product.

This will make the section harmonize with the action we have already taken.

Mr. SCHENCK. Mr. Chairman, I am opposed to this amendment. The Committee of Ways and Means have very carefully endeavored to guard this bill in such a way that when a farmer, from the milk of his own cows and on his own farm, makes butter and cheese, he shall not be regarded as a manufacturer, but that the making of those articles shall be regarded as one of the incidents of his operations as a farmer. Gentlemen know perfectly well—and none better than my neighbors in the Western Reserve of Ohio—that this business of cheese-making is sometimes a very extensive and profitable business. Gentlemen here begin by getting in an amendment to strike out in this section the word "farmer" and insert "person," so that nobody who follows this business shall be regarded as a manufacturer or dealer. By an inadvertence or misunderstanding that amendment was permitted to pass. And now it is proposed to go one step further by striking out "farm" and inserting "premises." The latter term is broad enough to include one of those infernal places in New York where hundreds of cows are kept steaming and sweating over swill-tubs to give milk which, whether in the shape of the liquid itself or in the form of butter and cheese, is poisonous to those who use it.

Mr. BARNES. That kind of milk does not produce butter.

Mr. SCHENCK. No, it does not make butter, I believe, but makes some sort of curd. Whether in its liquid or its solid shape, I believe it to be poisonous. I assume that the object is of some gentleman here to permit this whole manufacturing business to creep in step by step by means of these changes. By the time this process shall have been completed this branch of manufacturing industry will be entirely exempt from its share of the burdens of the country; so that instead of relieving the farmer from taxation upon that which is incident, in a greater or less degree, to his occupation, we shall have released a whole branch of business for the benefit of those who may invest their capital in that way.

Mr. SPALDING. I wish to reply to my colleague.

The CHAIRMAN. Debate is exhausted. The question was taken on Mr. BARNES's amendment; and it was rejected.

Mr. SPALDING. I move to strike out the words "with milk from his own cows." The gentleman says I know something about this.

Mr. SCHENCK. I know you do.

Mr. SPALDING. I know that farmers do not always make butter from milk of their own cows. A custom has grown up among farmers of exchanging milk with each other and of making butter and cheese out of borrowed milk. It is considered as the product of their own farms. Now, my friend, the chairman of the Committee of Ways and Means has urged more than once that it was wise to place the burden of taxation upon the false tastes of men for liquor, tobacco, &c. I take it that he drew milk from his mother's breast and acquired a taste for it in that way. It is, therefore, a natural taste; and according to his reasoning this matter should escape all taxation. I appeal to him to follow out his own reasoning, and I ask him in good faith to have these words stricken out, because our farmers make butter and cheese from milk they have received in exchange as from milk of their own cows.

Mr. MULLINS. I hope the amendment will be rejected; and as I am up I will give you my idea of this matter. I must give vent to my thoughts on the moving of this amendment about butter and cheese. Having gone over the material points of the bill, and now having come to this place where little farmers are interested, as to the partnership of farmers for the purpose of exchanging milk and making butter and cheese, then, lo! when before all was serene as a summer morning, we have a terrible wrangle and a great clamor raised. I know what this means. If we allow this borrowing and exchanging of milk, as the gentleman suggests, then there may be an association of parties who will supply all the butter and cheese and run the little farmers out of the market entirely. That is what it means.

The question was taken on the amendment of Mr. SPALDING; and it was disagreed to.

No further amendment being offered, the Clerk read the next section, as follows:

SEC. 96. *And be it further enacted*, That the payment of any special tax imposed by this act shall not be held or construed to exempt any person carrying on any trade, business, or profession from any penalty or punishment therefor provided by the laws of any State; nor to authorize the commencement or continuance of any such trade, business, or profession contrary to the laws of any State, nor in places prohibited by municipal law; nor shall the payment of any such tax be held or construed to prohibit or prevent any State from placing a duty or tax on the same trade, business, or profession for State or other purposes.

No amendment being offered, the Clerk read as follows:

#### STAMPS.

SEC. 97. *And be it further enacted*, That all internal revenue stamps of every kind and denomination on hand with the Commissioner of Internal Revenue, or under his control, together with all such stamps as may be in the possession of or charged to any collector or other officer, agent, or person at the time this act takes effect, shall be accounted for by said Commissioner to the Treasury Department; and to this end he shall render a full and detailed report thereof, in duplicate, one report to be delivered to the Treasurer of the United States and the other to be delivered to the First Comptroller of the Treasury; and it shall be the duties of those officers severally to take account of the stamps thus reported, their numbers, kinds, and denominate values, and to charge the same to the respective accounts of the Commissioner, collectors, agents, or other officers or persons entitled by law to the possession of the same, and with whom they may appear to be severally deposited.

Mr. SCHENCK. I move to strike out the word, "duties," and insert in lieu thereof "duty."

The amendment was agreed to.

No further amendment being offered, the Clerk read the next paragraph, as follows:

SEC. 98. *And be it further enacted*, That whenever any internal revenue stamps shall be prepared on the requirement of the Commissioner of Internal Revenue, and shall be ready for delivery, the said Commissioner shall issue a warrant therefor in favor of the Treasurer or some Assistant Treasurer of the United States, addressed to the person or persons, or

company, by whom the same shall have been so prepared, specifying therein the several denominations and the number of each denomination, and shall deliver a copy of said warrant to the First Comptroller of the Treasury. And it shall be the duty of the Treasurer or the Assistant Treasurer forthwith to present such warrant to the party to whom the same shall be addressed, and to receive the stamps therein described, and to transmit to the Commissioner and to the First Comptroller each a certificate of the fact. And the Secretary of the Treasury may make such regulations as to him may seem proper for the interests of the United States and the convenience of the public, for the transfer of stamps by the Treasurer to an Assistant Treasurer, and from one Assistant Treasurer to another, or to the Treasurer; and he may also make regulations for the custody and disposal of stamps by designated depositaries. And for the safe-keeping and disposal of stamps agreeably to law, the said Treasurer and each Assistant Treasurer and designated depositary, respectively, shall, with their respective sureties on their official bonds, be held bound and liable to the United States for the par money value of such stamps, in the same manner and to the same extent as for the safe-keeping and disposal of the moneys of the United States. And whenever application shall be made to purchase stamps the Commissioner shall issue a warrant therefor on the Treasurer, or proper Assistant Treasurer, stating therein the number of each denomination of stamps to be delivered, and the sum to be paid therefor; but in no case shall a warrant be issued for less amount than fifty dollars of the denominate value of stamps. And upon the presentation of such warrant to the Treasurer or proper Assistant Treasurer, and the deposit with the said Treasurer or Assistant Treasurer of the sum designated, the described stamps shall be delivered to the holder of the warrant and a receipt taken therefor; but the Commissioner may require a deposit of the purchase money before issuing a warrant for the delivery of stamps, and where by law the delivery of stamps to collectors of internal revenue without prepayment of the value thereof may be authorized, such deliveries shall be made in the manner and with the forms prescribed in this section. *Provided*, That the Commissioner and the Secretary of the Treasury may together authorize some officer of the United States, appointed by the President, by and with the advice and consent of the Senate, and having his office in San Francisco, to draw warrants for stamps on the Assistant Treasurer at San Francisco; and such officer, in addition to transmitting a copy of each warrant to the First Comptroller, as required of the Commissioner, shall make such reports of his transaction as may be required by the Secretary of the Treasury and the Commissioner. The Treasurer, each Assistant Treasurer, and designated depositary, to whom stamps shall be delivered, shall, at the expiration of each quarter, or oftener if required, render and transmit to the Fifth Auditor of the Treasury an account of the stamps received by him, in which he shall be charged with all stamps on hand at the beginning of the quarter, and with all stamps received by him during the greater or lesser period of time, at the denominate value of such stamps; and he shall be credited at like value with all stamps delivered by him upon warrants, as herein provided, upon the production of the warrants, duly receipted, by the parties respectively to whom the deliveries may have been made; and he shall accompany each account with schedules of the denominations and numbers and character of the stamps charged; of those delivered upon warrants and of those yet remaining on hand. Each collector of internal revenue to whom stamps may be delivered for sale shall in like manner render and transmit to the Fifth Auditor an account and schedule of stamps received by him, stamps sold and stamps remaining on hand, separate from his other accounts, in which he shall be charged with all stamps on hand at the beginning of the quarter, and with all stamps received during the period embraced in the account at the denominate value thereof, and he shall be credited with all moneys deposited by him on account of sales of stamps, with the commission on such deposits authorized by law and the regulations of the Commissioner, and with such stamps as he may have, under the regulations of the Commissioner, returned to the Treasurer, an Assistant Treasurer, or designated depositary. And in case of the failure of the Treasurer, an Assistant Treasurer, designated depositary, or collector of internal revenue to pay over moneys received for stamps, or otherwise properly to account for the stamps received by him, he shall be liable to the United States for the full denominate value of such stamps, without deductions for commissions or other charges. And all moneys received from the sale of stamps shall be paid into the Treasury separate and distinct from other public moneys. And the Secretary of the Treasury is authorized to make rules and regulations for the safe-keeping and transmission of stamps, and to provide, by contract or otherwise, for the manufacture of them, in such numbers and kinds, and of such descriptions, denominations, and devices, as the Commissioner of Internal Revenue may require.

Mr. SCHENCK. I move to amend, in line twenty-seven, by striking out the words "par money" and inserting the word "denominate."

The amendment was agreed to.

Mr. SCHENCK. I move further to strike out the following words:

In which he shall be charged with all stamps on hand at the beginning of the quarter, and with all stamps received during the period embraced in the account at the denominate value thereof, and he shall be credited with all moneys deposited by him

on account of sales of stamps, with the commissions on such deposits authorized by law and the regulations of the Commissioner, and with such.

And by inserting in lieu thereof, the following:

Charging in the account all stamps on hand at the commencement of, and all stamps received during the period embraced in, the account, at the denominated value thereof, and crediting all moneys deposited by him on account of sales of stamps, including commissions authorized by law and the regulations of the Commissioner on such sales, and with the amount of such.

The amendment was agreed to.

The Clerk read as follows:

SEC. 99. *And be it further enacted*, That the Commissioner of Internal Revenue is authorized, at his discretion, to supply collectors with all the stamps required by them in their several districts, to be charged to and accounted for by said collectors severally, as provided by law; and he may sell to any person, in an aggregate amount of not less than fifty dollars, any stamps, except stamps for the taxes on distilled spirits, fermented liquors, and tobacco, snuff, and cigars, to be paid for to the Treasurer of the United States in the manner provided in this act, allowing to the person so purchasing a discount of five per cent. on any amount so sold; but the purchaser, in cases where such stamps are represented by stamped paper, parchment, or vellum, shall be required to pay the full cost of the paper, parchment, or vellum. And any proprietor of articles named in schedule C, who shall furnish his own die or design for stamps to be used exclusively for his own articles, shall be allowed a discount of ten per cent. on any amount exceeding \$500 purchased at one time. The Commissioner of Internal Revenue may make general regulations respecting allowances to be made for stamps issued under the provisions of this act, which may have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, or where the taxes represented thereby have been paid in error and remitted; and such allowances shall be made, either by giving other stamps in lieu of the stamps so allowed for, or by repaying the amount thereof, after deducting therefrom the amount of any discount that may have been allowed to the owner thereof; but no allowance shall be made in any case until the stamps so spoiled, or rendered useless, shall have been returned to the Commissioner of Internal Revenue, or until satisfactory proof has been made showing the reason why said stamps cannot be so returned.

Mr. SCHENCK. I move to strike out the word "all" in the third line.

The amendment was agreed to.

Mr. SCHENCK. I move further to strike out, in line sixteen, the words, "exclusively for his own articles," and insert the words, "only upon those articles which he owns or of which he has the exclusive control."

The amendment was agreed to.

Mr. SCHENCK. I move further to amend by striking out the word "useless" in line twenty-two and inserting the word "absolute."

The amendment was agreed to.

Mr. BEAMAN. I desire to offer the following amendment to come in at the end of the section:

*Provided*, That the Commissioner of Internal Revenue may, from time to time furnish, supply, and deliver to any manufacturer of friction or other matches, cigar-lights, or wax tapers, a suitable quantity of adhesive or other stamps, such as may be prescribed for use in such cases, without prepayment therefor, on a credit not exceeding sixty days requiring in advance such security as he may judge necessary to secure payment therefor to the Treasurer of the United States within the time prescribed for such payment. And upon all bonds or other securities taken by said Commissioner under the provision of this act, suits may be maintained by said Treasurer in the circuit or district court of the United States in the several districts where any of the persons giving said bonds or other securities reside or may be found in any appropriate form or action.

This amendment is copied from the law as it now stands.

Mr. ALLISON. We have made a similar provision. I do not know whether it is in exactly the same words. I hope the gentleman will withdraw the amendment until it can be compared with the provision that we have reported.

Mr. BEAMAN. I withdraw it.

The Clerk read as follows:

SEC. 100. *And be it further enacted*, That in any collection district where, in the judgment of the Commissioner of Internal Revenue, the facilities for the procurement and distribution of stamps are insufficient, he may supply any postmaster in such district without prepayment therefor with stamps not exceeding \$200 in the aggregate amount at any one time, and not including stamps for distilled spirits, fermented liquors, tobacco, snuff, or cigars, requiring from such postmaster a bond, with sufficient sureties, to be approved by said commissioner, in an amount

equal to double the value of the stamps so furnished, conditioned for the faithful return, whenever required, of all such stamps undisposed of, and for the payment monthly of all money received for those sold, which bond shall be deposited with the First Comptroller of the Treasury; and in the adjustment of the account of such postmaster for stamps so furnished to and sold by him he shall be allowed a commission of five per cent. for his services.

Mr. SCHENCK. I am requested by the managers to ask that the committee may rise for the purpose of making an order of the House to discharge Mr. Woolley from custody immediately. I understand he has been examined, and the committee are ready to discharge him.

The motion was agreed to.

So the committee rose; and Mr. DAWES, as Speaker *pro tempore*, having taken the chair, Mr. POMEROY reported that the Committee of the Whole on the state of the Union had had under consideration the state of the Union generally, and particularly the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes, and had come to no resolution thereon.

#### DISCHARGE OF RECUSANT WITNESS.

Mr. BUTLER. Mr. Speaker, I am instructed by the committee of investigation to report the following resolution:

*Resolved*, That Charles W. Woolley, having appeared before the committee of investigation and answered all questions put to him by the committee or its order, and thus purged himself of his contempt of the House in that regard, be discharged from arrest and held only to appear and make further answer if required according to his summons.

I desire only to say that the witness has answered fully and distinctly all questions that have been put to him; and there seems, in the judgment of the committee, no further reason for holding him under arrest, and any further attendance will be under the summons. On that resolution I move the previous question.

Mr. ROBINSON. I wish to ask the gentleman a question?

Mr. ELDRIDGE. What was the gentleman's last remark?

Mr. BUTLER. The last remark was that there was no further occasion to hold him except under the summons.

Mr. ROBINSON. Will the gentleman allow me to ask him a question?

Mr. BUTLER. Certainly; I will yield for a question—that is all?

Mr. ROBINSON. I want to ask if it is true that Mr. Woolley was originally arrested by order of the committee, or any part of the committee, without the order of this House?

Mr. BUTLER. It is not. He never was ordered to be arrested by the committee.

Mr. ROBINSON. It is so stated by Mr. Woolley.

Mr. BUTLER. I insist on the previous question.

The SPEAKER *pro tempore* proceeded to put the question on seconding the previous question.

Mr. ELDRIDGE. I understand the gentleman from New York to have asked the gentleman from Massachusetts a question which involves a fact— [Cries of "Order!"]

The SPEAKER *pro tempore*. The House is dividing and no debate is in order.

Mr. ELDRIDGE. I merely desire to ask a question of the gentleman from Massachusetts. [Cries of "Order!"]

The SPEAKER *pro tempore*. That cannot be done except by unanimous consent. [Loud cries of "Object!"]

Mr. ELDRIDGE. I supposed that it could be done by the consent of the gentleman from Massachusetts. [Cries of "Order!"]

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. BUTLER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

#### LEAVE OF ABSENCE.

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. LAWRENCE] asks leave of absence for one week. If there be no objection it will be granted. The Chair hears none.

Mr. SCHENCK. What was that? Another leave of absence?

The SPEAKER *pro tempore*. The gentleman from Pennsylvania [Mr. LAWRENCE] asks leave of absence for one week. The Chair so stated and heard no objection.

Mr. SCHENCK. I object unless there is some special reason for it.

The SPEAKER *pro tempore*. The Chair thinks the objection comes too late.

A MEMBER. Mr. LAWRENCE has already left the city.

Mr. SCHENCK. Well, I do not press the objection, but I desire to give notice, and I do it in no spirit inimical to anybody, that hereafter when a gentleman goes away first and then asks leave of absence of the House, I shall object.

The SPEAKER *pro tempore*. The leave of absence has been granted.

#### INTERNAL TAX BILL.

Mr. SCHENCK. I move that the rules be suspended, and that the House resolve itself into Committee of the Whole on the state of the Union on the tax bill.

The motion was agreed to.

The House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. POMEROY in the chair,) and resumed the consideration of the special order, being the bill (H. R. No. 1060) to reduce into one act and to amend the laws relating to internal taxes.

The Clerk read as follows:

SEC. 101. *And be it further enacted*, That if any person having the custody of any plate, die, or other instrument from which any stamp, or any part thereof, mentioned in this act, shall have been printed, or which shall have been prepared for the purpose of printing any such stamp, or any part thereof, shall use such plate, die, or other instrument, or knowingly permit the same to be used for the purpose of printing any stamp, or any part thereof, except such as shall be printed for the use of the United States, by order of the proper officer thereof; or if any person shall make or engrave, or cause or procure to be made or engraved, or shall aid in making or engraving, any plate, die, or other instrument in the likeness or similitude of any plate, die, or other instrument designed for the printing of any such stamp, or any part thereof; or shall vend, or sell, or buy any such plate, die, or other instrument; or shall bring into the United States from any foreign place any such plate, die, or other instrument, with any other intent, or for any other purpose, in either case, than that such plate, die, or other instrument shall be used for printing such stamp, or some part or parts thereof, for the use of the United States; or if any person shall have in his custody or possession any plate, die, or other instrument, engraved after the similitude of any plate, die, or other instrument, from which any such stamp, or any part or parts thereof, shall have been printed, with intent to use any such plate, die, or other instrument, or cause or suffer the same to be used in forging or counterfeiting any such stamp, or any part or parts thereof, issued or to be issued as aforesaid; or shall have in his custody or possession any stamp engraved and printed after the similitude of any such stamp issued as aforesaid, with intent to sell, or otherwise use the same, or with intent to defraud the United States of any of the taxes imposed by law, or any part thereof; or if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument which shall have been provided, or may hereafter be provided, made, or used in pursuance of this act, or shall forge, counterfeit, or imitate, or cause or procure to be forged, counterfeited, or imitated, the impression, or any part of the impression, of any such stamp, die, plate, or other instrument as aforesaid, upon any vellum, parchment, or paper; or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment or paper, article or thing, with any such forged or counterfeited stamp, die, plate, or other instrument, or part of any stamp, die, plate, or other instrument, as aforesaid, with intent to defraud the United States of any of the taxes hereby imposed, or any part thereof; or if any person shall have in possession, or shall utter or sell or buy or offer to sell or offer to buy any vellum, parchment, paper, article, or thing, having thereupon the impression of any such counterfeited stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, or any such forged, counterfeited or imitated impression or part of impression, as aforesaid, knowing the same to be forged, counterfeited or imitated; or if any person shall knowingly use or permit the use of any



stamp, die, plate, or other instrument, which shall have been so provided, made, or used as aforesaid, with intent to defraud the United States; or if any person shall fraudulently cut, tear, or remove or cause or procure to be cut, torn, or removed, the impression of any stamp, die, plate, or other instrument which shall have been provided, made, or used in pursuance of this act from any vellum, parchment, or paper or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall fraudulently use, join, fix, or place or cause to be used, joined, fixed, or placed, to, with, or upon any vellum, parchment, paper, or any instrument or writing charged or chargeable with any of the taxes hereby imposed, any adhesive stamp, or the impression of any stamp, die, plate, or other instrument, which shall have been provided, made, or used in pursuance of law, and which shall have been cut, torn, or removed from any other vellum, parchment, or paper or any instrument or writing charged or chargeable with any of the taxes imposed by law; or if any person shall willfully remove or cause to be removed, alter or cause to be altered, the canceling or defacing marks on any adhesive stamp, with intent to use the same or to cause the use of the same after it shall have been once used, or shall knowingly or willfully sell or buy such washed or restored stamps, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same, or prepare the same with intent for the further use thereof; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any washed, restored, or altered stamps, which have been removed from any vellum, parchment, paper, instrument, or writing; then, and in every such case, every person so offending, and every person knowingly and willfully aiding, abetting, or assisting in committing any such offense as aforesaid, shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned for not less than one year nor more than five years; and all articles to which such forged, counterfeited, washed, restored, or altered stamps have been affixed shall be forfeited to the United States; and all such stamps, plates, dies, and other instruments shall be destroyed by the marshal under the direction of the court.

Mr. ALLISON. I move to amend this section, by adding to it the following:

*Provided*, That the presence upon any stamp of a cancellation mark shall be *prima facie* evidence that such stamp has been cut, torn or removed from some writing or instrument charged or chargeable with a tax, unless said stamp shall be affixed to an instrument or writing, and the cancellation mark be that which is appropriate to such instrument or writing.

Mr. GARFIELD. I would call the attention of the gentleman from Iowa [Mr. ALLISON] to this fact: his amendment says "unless said stamp shall be affixed to an instrument or writing." Are there not a great many articles upon which stamps are to be used, which cannot be so described?

Mr. ALLISON. This section applies to the cutting or tearing off stamps from "any parchment, vellum, paper, instrument, or writing."

Mr. GARFIELD. Are not stamps applied to other articles not so described?

Mr. ALLISON. They are; but the proviso I have moved relates only to the articles described in this section.

The amendment was agreed to.

Mr. ROBINSON. I move to amend this section by striking out the following clause:

Or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any washed, restored, or altered stamps, which have been removed from any vellum, parchment, paper, instrument, or writing.

I see no reason at all for this very severe provision of the law. Persons might have stamps in their possession without any illegal purpose. But that to which I principally object are the words included in the parentheses, "the proof whereof shall lie on the person accused." And wherever I meet with any such provision in this bill, I intend to oppose it as something tyrannical, unjust, and wrong in every way. It is wrong to have such a provision as this in the law, by which the mere possession of a couple of stamps of the value of two cents, shall be regarded as evidence of guilt, throwing the burden of proof of innocence upon the person having possession of the stamps. And if there is any use at all in any portion of this clause, I can see no excuse for the words embraced in the parentheses.

I will modify my amendment, and move to strike out the words in the parentheses, "the proof whereof shall lie on the person accused."

Mr. ALLISON. There can be no possible honest reason for a person having in his possession "washed, restored, or altered stamps."

Mr. ROBINSON. I have a few in my pocket now, and have had for more than a twelve-month.

Mr. ALLISON. Or if there is any honest reason it can be easily shown. In the large cities there is a very large traffic in these washed and restored canceled stamps. The object of this provision is to impose a punishment upon a class of people who indulge in this sort of traffic. I think it is a very just and proper provision, and that no honest man will be troubled by it.

Mr. VAN AUKEN. Suppose a deed is drawn up and a stamp affixed to it, and before the deed is delivered the party changes his intention so as to require the drawing up of a new deed.

Mr. ALLISON. This provision applies to persons having these restored, washed, or canceled stamps in their possession without any legal excuse therefor. If a man has an honest legal reason for having such stamps in his possession it will be very easy for him to show that reason. I do not think much of that objection to this provision.

Mr. BARNES. Will the gentleman from Iowa [Mr. ALLISON] allow me to ask him a question?

The CHAIRMAN. Debate is exhausted on this amendment.

On agreeing to the amendment of Mr. ROBINSON there were—ayes 28, noes 43; no quorum voting.

The CHAIRMAN. Does the gentleman from New York [Mr. ROBINSON] insist on a further count?

Mr. ROBINSON. Yes, sir; I feel justified in making every effort in my power to have this abominable provision struck out.

Mr. MAYNARD. I think I can suggest to the gentleman from New York a modification of his amendment which would be acceptable.

The CHAIRMAN. Debate is exhausted. No quorum having voted,

The CHAIRMAN, under the rule, ordered tellers; and appointed Mr. ROBINSON and Mr. ALLISON.

The committee divided; and the tellers reported—ayes 25, noes 72.

So the amendment was not agreed to.

Mr. PAINE. I move to amend the proviso which has been added to this section on motion of the gentleman from Iowa, [Mr. ALLISON,] by inserting after the word "instrument" the words "or article."

Mr. ALLISON. There is no objection to that.

The amendment was agreed to.

Mr. ROBINSON. I move to amend the section by striking out the following:

Or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any washed, restored, or altered stamps, which have been removed from any vellum, parchment, paper, instrument, or writing.

Mr. Chairman, I trust the committee will not understand me as trifling with its time by bringing up this question again. I believe that no gentleman who will carefully examine the provision which I move to strike out, can say that there is any necessity for it. Its adoption will simply place upon our statute book a cruel, unnecessary, and unconstitutional enactment, which can only be defended by those who expect severity to do what severity can never accomplish. I trust, therefore, that this provision will be stricken out.

How would such an enactment operate? Any gentleman having upon his person as mere curiosities two stamps of the value of one cent each, may be arrested by any one of the many thousands of inspectors, runners, &c., scattered all over the country, may be brought before a magistrate or commissioner, and there compelled to call witnesses to prove that he has those stamps in his possession for an innocent and lawful purpose. I say, take all the oppressive laws that have ever been denounced for their injustice and severity, and you will not find upon the statute-book of any nation so unjust, severe, and unnecessary a

provision as that upon which I am now commenting. It would seem as if it had been framed to outbid and out-Hector all previous forms of tyranny, putting into the hands of these revenue officials more power than was ever before put into the hands of magistrates of any kind.

Mr. Chairman, I yield the remainder of my time to my colleague, [Mr. BARNES.]

Mr. BARNES. Mr. Chairman, I fully indorse the views which have just been expressed by my colleague. I am astonished that gentlemen should propose to incorporate a provision of this kind into a bill intended to be just. Let me illustrate how such a provision would operate. On a recent visit to my own establishment in the city of New York I found that in consequence of some jealousy (the cause of which I do not know) between two of my employes, one of them had put into the pockets of the other articles of merchandise and had him arrested and taken to the Tombs for the supposed theft. Now, we all know that malice is a more powerful incentive of human action than avarice or revenge or any other passion. Under the influence of this passion children or even adults may place these canceled stamps upon the person of any one whom they wish to injure, and subject him to a sort of inquisition which we all understand is unjust. It seems to me whatever object is designed by the committee to gain a great revenue, some other means ought to be ascertained for the purpose of accomplishing it.

Mr. SCHENCK. If these two gentlemen were better lawyers they would not be as good orators. We should not have heard from one that this is the first instance in which we out-Hector and outbid every other form of tyranny. There is no new principle of law whatever involved in it. What is it we propose? To make it a penal offense to be found in the possession of altered, washed, or restored stamps. Not canceled stamps, for you may have as many canceled stamps in your pocket as you please; but if you are found with stamps canceled, and the cancellation partially removed so as to restore them, wash them and put them upon the market, you are like any other person found in possession of counterfeited or altered notes, and it is a *prima facie* case against any one charged with that offense to say he has been found in possession of these altered or counterfeit notes.

Mr. BARNES. Could I not take those stamps and manipulate them in that way, and place them upon the person of a second party, so as to work to his own injury under this bill?

Mr. SCHENCK. I could get counterfeit notes, and, if I were willing to do it, could sneak up and put them into the pocket of my friend from New York, but if I did it would be easy to inquire into and explain the matter. It is rather a violent presumption for the gentleman to make.

All through the statute-books of every State of the Union are provisions precisely similar to this, that it shall be held to be penal, not merely to counterfeit and forge, but to be found in possession of forged and counterfeit notes. That is all there is of it. This provision, "if any person shall knowingly," "Knowingly"—that will meet the gentleman's case. The language is:

Or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any washed, restored, or altered stamps, which have been removed from any vellum, parchment, instrument, or writing, then, and in every such case, every person so offending, and every person knowingly and willfully aiding, abetting, or assisting in committing any such offense as aforesaid, shall, on conviction, be fined not less than \$500 nor more than \$5,000, and imprisoned for not less than one year nor more than five years.

The amendment was disagreed to.

No further amendment being offered, the Clerk read, as follows:

SEC. 102. And be it further enacted, That there shall be levied, collected, and paid as taxes, for and in respect of the several instruments, matters, and things mentioned and described in the schedule (marked B) hereto annexed, or for or in respect of the vellum, parchment, or paper upon which such



instruments, matters, or things, or any of them, shall be written or printed, by any person or persons, or party who shall make, sign, or issue the same, or for whose use or benefit the same shall be made, signed, or issued, the several amounts of money set down in figures against the same, respectively or otherwise specified or set forth in the said schedule; the payment of which amounts shall be indicated and proved by adhesive stamps to be affixed to such instruments, matters, and things, and canceled in the manner and form prescribed by the Commissioner of Internal Revenue.

The CHAIRMAN. If there be no objection the remaining paragraphs of section one hundred and two will be considered as separate sections.

There was no objection; and it was ordered accordingly.

The Clerk then read as follows:

*Schedule B.*

Agreement or contract, other than domestic and inland bills of lading, and those specified in this schedule; any appraisement of value or damage, or for any other purpose; for every sheet or piece of paper upon which either of the same shall be written, five cents: *Provided*, That if more than one appraisement, agreement, or contract shall be written upon one sheet or piece of paper, five cents for each and every additional appraisement, agreement, or contract.

Mr. BLAIR. I move to strike out the paragraph just read.

Mr. Chairman, I think it is hardly necessary to levy this tax. This tax and the one that follows it are both of the same character. The amount is not so material as the trouble occasioned by it. I presume that gentlemen who have been acquainted with the business of the courts of the country will have observed that there is a vast amount of litigation constantly growing out of this little five cent stamp which is required to be applied to contracts. Most generally they are drawn up by persons who are not skilled in the art of drawing contracts and have not much knowledge of the law. In a great many instances they do not put on the stamps as they are required to do by law; in others they put them on wrongly. Now, the object of my amendment is simply to see whether the committee think upon the whole it is best to retain such a tax. I make the motion in accordance with my own judgment on this subject that these petty, annoying, and troublesome taxes which do not produce a great deal of revenue, had better be dropped out of our internal revenue system. My experience has been that this is one of that kind. And the same objection applies to the stamp tax in the next paragraph, required to be put on receipts and various documents which are used in the common course of business among persons who are not skilled in these transactions. They are a matter of a great deal of annoyance, and I believe that the amount which is received from this source is not a compensation for the annoyance they occasion.

Mr. SCHENCK. I wish the millenium had come, Mr. Chairman, so that we could do without any tax altogether. But I do not think it can be done yet. While I recognize the force of the remark made by the gentleman from Michigan, that the stamp tax is a troublesome one, I recognize in a little stronger degree the absolute necessity of having the \$18,000,000 which we derive from stamps as a part of the revenue which has helped us hitherto, and upon which we count now in order to be able to carry on the operations of the Government. Unwilling to extend this system of stamps, and hoping for a day not many years distant, as I trust, when we may be able to dispense not only with this but with the tax on incomes, legacies, and many other things, provided Congress and the people will sustain us in the attempt to make up from distilled spirits, tobacco, and other articles what we need for the support of the Government, we have thought it best not to make any change in the law now. We have not extended it in any degree whatever. And I take this occasion to say here that this schedule B is reported back with some sections ameliorating, in some respects, some of the hardships that occur. Those provisions will be found at the close of the pending schedule, but so far as the schedule itself is concerned

it is without alterations. I therefore consider it a sort of test question, when this objection is made, to be submitted as such to the committee at the threshold whether we are going to sustain the stamp system at all.

Mr. CULLOM. What amount of tax is now collected on these stamps?

Mr. SCHENCK. We cannot separate these from some others which are sold to be applied to the articles contained in schedule C; but taking them altogether, the amount of stamps sold in the last year was \$16,094,000.

Mr. LOUGHRIDGE. How much of that was for stamps of the denomination of five cents?

Mr. SCHENCK. I cannot tell. They are not given separately in the report of the Commissioner. We have endeavored to get the separate amounts of the different items, but it seems to be impossible to obtain them with any degree of approximate certainty even. One of the most numerous sold stamps is the two cent stamps. The sales of that alone, as I understand, amounted to about \$2,000,000. Of the five cent stamps, however, I understand, that not so large an amount in the aggregate has been sold.

[Here the hammer fell.]

The amendment of Mr. BLAIR was disagreed to.

The Clerk read as follows:

Bank check, draft, or order for the payment of any sum of money whatsoever, drawn upon any bank, banker, or trust company; and for any sum exceeding ten dollars drawn upon any other person or persons, companies, or corporations, at sight or on demand, two cents.

Mr. WELKER. I move to strike out ten dollars and insert twenty dollars.

I want to make this clause correspond with an amendment which I shall propose in the next paragraph and make it twenty dollars instead of ten dollars. I think that is small enough.

The amendment was disagreed to.

No further amendments being offered, the Clerk read the next paragraph, as follows:

Bill of exchange, (inland,) draft, or order for the payment of any sum of money not exceeding \$100, otherwise than at sight or on demand, or any promissory note, (except bank notes issued for circulation, and checks made and intended to be forthwith presented, and which shall be presented to a bank or banker for payment,) or any memorandum, check, receipt, or other written or printed evidence of an amount of money to be paid on demand, or at a time designated, for a sum not exceeding \$100, five cents.

Mr. WELKER. I move to amend that paragraph by inserting after the word "money" in line thirty-four; the words "above the sum of twenty dollars and," so that it will read: "bill of exchange, (inland,) draft, or order for the payment of any sum of money above the sum of twenty dollars and not exceeding \$100, otherwise than at sight or on demand," &c. I propose to exempt from this stamp tax all notes, checks, &c., for a less sum than twenty dollars. Now, I feel the force of the remark made by the gentleman from Michigan, [Mr. BLAIR,] that a stamp tax on these small commercial papers is a very annoying and troublesome tax. I see the necessity of a preservation of the stamp tax on some classes of papers, but on the execution of little promissory notes and receipts and checks for a less sum than twenty dollars, it strikes me that we can very well get rid of the tax. These stamps are not very easily procured at a distance from the county seats where the collectors reside. Take my own county, for example, many of the business men are situated ten, twelve, or fifteen miles from the county seat and a stamp is required for every little note for the sale of a cow and every small business transaction. This tax amounts in the aggregate to but very little. I can see a necessity for keeping the stamp tax on some classes of papers, but I hope the committee will be willing to exonerate these small notes from the operation of the stamp duty.

Mr. HIGBY. Would it not be possible for a man owing a sum of \$500 to give small notes for the amount and thus escape the tax?

Mr. WELKER. I do not think the tax would be very likely to be evaded in that way.

Mr. PHELPS. I suggest to the gentleman that he had better propose the same amendment in line forty-two.

Mr. ALLISON. I hope this amendment will not be adopted. This is only a tax of five cents on notes, &c., for a less amount than \$100. It has existed for several years in this schedule, and the people understand it very well, and it is very useful to the Government.

Mr. CULLOM. Is not this a change from the old law?

Mr. ALLISON. I think not. This paragraph is in relation to promissory notes.

Mr. CULLOM. And checks. I think it is a change from the existing law.

Mr. ALLISON. It is precisely the existing law with reference to promissory notes and checks. The committee were very careful to make no changes in this schedule for the reason that the people of the country thoroughly understand the schedule now. Every insurance company has published this schedule on its cards, and nearly every business man and the people are familiar with it. It is a very small tax in detail, but a very large sum to the Government in the aggregate. I hope my friend will not insist on his amendment. We have a provision in this bill which will obviate one of the objections he makes; it authorizes every postmaster in the country on certain conditions to sell stamps, so that a good deal of the difficulty now experienced in obtaining stamps will be obviated.

Mr. PHELPS. I move to amend the amendment by inserting after the word "sum," in line forty-two, the words, "exceeding twenty dollars and."

The CHAIRMAN. That is not an amendment to the pending amendment.

The question was taken on Mr. WELKER's amendment; and it was disagreed to.

Mr. WELKER. I now move to insert on page 42, after the word "sum," the words "above twenty dollars and;" so that it will read:

Or any promissory note, (except bank notes issued for circulation, and checks made and intended to be forthwith presented, and which shall be presented to a bank or banker for payment,) or any memorandum, check, receipt, or other written or printed evidence of an amount of money to be paid on demand, or at a time designated, for a sum above twenty dollars and not exceeding \$100, five cents.

The amendment was disagreed to.

Mr. MILLER. I move to insert the words "over ten dollars and." At present a man is charged five cents on every small matter of a dollar or two.

Mr. ALLISON. Nobody gives a note for one dollar.

The amendment was disagreed to.

Mr. LOUGHRIDGE. I move to add to the paragraph the following proviso:

*Provided*, That promissory notes for less than \$100 not drawn by or upon any bank, banker, trust company, or any company or corporation, shall not be required to have a stamp affixed.

I propose this amendment for the purpose of avoiding a great deal of trouble to which the people in the country are now put in drawing promissory notes, &c. As has been remarked here, the people in the country, especially in the West, have not these stamps on hand all the time. The income from this source is but a small matter compared to the inconveniences and trouble to which such a provision subjects the people.

Mr. GARFIELD. I hope the amendment will not prevail. I think it will be far better for us to retain this whole stamp section as it now is until we can relieve the country entirely or nearly so from this stamp duty; and to undertake to relieve it only in so small a part as this would be of no particular advantage to the people.

The amendment of Mr. LOUGHRIDGE was not agreed to.

Mr. NICHOLSON. I move to amend the clause last read by striking out the words "and checks made and intended to be forthwith pre-

sented, and which shall be presented to a bank or banker for payment." I offer this amendment for the purpose of asking some member of the Committee of Ways and Means if that is not a change in the law as it now exists, and if it does not materially conflict with the preceding clause?

Mr. ALLISON. This change is necessary, as it relates to time drafts, while other checks and drafts are subjected to a stamp duty of two cents each.

Mr. NICHOLSON. I withdraw my amendment.

No further amendment was offered.

The following clauses were read:

And for every additional \$100, or fractional part thereof, in excess of \$100, five cents.

Bill of exchange, (foreign,) or letter of credit, drawn in but payable out of the United States, if drawn singly, or otherwise than according to the custom of merchants and bankers, in a set of three or more, shall pay the same rates of duty as inland bills of exchange or promissory notes.

If drawn in sets of three or more: For every bill of each set where the sum made payable shall not exceed \$100, or the equivalent thereof, in any foreign currency in which such bills may be expressed, according to the standard of value fixed by the United States, two cents.

And for every additional \$100, or fractional part thereof, in excess of \$100, two cents.

Bill of lading or receipt (other than charter-party) for any goods, merchandise, or effects to be exported from a port or place in the United States to any foreign port or place, ten cents.

Bill of sale by which any ship or vessel, or any part thereof, shall be conveyed to or vested in any other person or persons, when the consideration shall not exceed \$500, fifty cents.

Exceeding \$500 and not exceeding \$1,000, one dollar.

Exceeding \$1,000 for every additional amount of \$500, or fractional part thereof, fifty cents.

Bond. For indemnifying any person for the payment of any sum of money, where the money ultimately recoverable thereupon is \$1,000 or less, fifty cents.

Mr. PETERS. I move to amend the clause last read by striking out the words "money ultimately recoverable thereon" and inserting in lieu thereof the words "penal sum." I have found in practice a great deal of difficulty resulting from the construction of similar phrases in the revenue laws. How can a person tell in advance what may be ultimately recoverable upon a bond?

Mr. ALLISON. I do not object to that amendment.

Mr. SCHENCK. That is right.

Mr. PETERS. I think such an amendment is necessary.

Mr. SCOTFIELD. We will all agree to it if you will not say anything more.

Mr. PETERS. Very well; I will not say another word.

The amendment was agreed to.

No further amendment was offered.

The next clause was read, as follows:

Where the money ultimately recoverable thereupon exceed \$1,000, for every additional \$1,000, or fractional part thereof in excess of \$1,000, fifty cents.

Mr. ALLISON. I move the same amendment to this clause that was adopted to the one next preceding, to strike out the words, "money ultimately recoverable thereupon," and insert in lieu thereof the words, "penal sum."

Mr. HOLMAN. I object to the amendment. I think the language now used in the law is fully understood by the people. I do not think it is necessary to make these changes, for every change produces confusion. I hope the amendment will not be adopted.

Mr. MAYNARD. I hope the amendment will be adopted.

Mr. HOLMAN. I hope we will adopt the entire schedule as it is in the present law.

The question was then taken upon the amendment of Mr. ALLISON; and it was agreed to.

No further amendment was offered.

The following clauses were read:

Bond for the due execution or performance of the duties of any office, one dollar.

Bond of any description, other than such as may be required in legal proceedings, or used in connection with mortgage deeds, and not otherwise charged in this schedule, twenty-five cents.

Certificate of stock in any incorporated company, twenty-five cents.

Certificate of profits, or any certificate or memo-

random showing an interest in the property or accumulations of any incorporated company, if for a sum not less than ten dollars and not exceeding fifty dollars, ten cents.

Exceeding fifty dollars and not exceeding \$1,000, twenty-five cents.

Exceeding \$1,000, for every additional \$1,000, or fractional part thereof, twenty-five cents.

Certificate. Any certificate of damage or otherwise, and all other certificates or documents issued by any port warden, marine surveyor, or other person acting as such, twenty-five cents.

Certificate of deposit of any sum of money in any bank or trust company, or with any banker or person acting as such—

If for a sum not exceeding \$100, two cents.

For a sum exceeding \$100, five cents.

Certificate of any other description than those specified, five cents.

Charter-party. Contract or agreement for the charter of any ship or vessel or steamer, or any letter, memorandum, or other writing between the captain, master, or owner, or person acting as agent of any ship or vessel or steamer, and any other person or persons, for or relating to the charter of such ship or vessel or steamer, or any renewal or transfer thereof, if the registered tonnage of such ship or vessel or steamer does not exceed one hundred and fifty tons, one dollar.

Exceeding one hundred and fifty tons and not exceeding three hundred tons, three dollars.

Exceeding three hundred tons and not exceeding six hundred tons, five dollars.

Exceeding six hundred tons, ten dollars.

Contract. Broker's note or memorandum of sale of any goods or merchandise, real estate, or property of any kind or description, issued by brokers or persons acting as such, for each note or memorandum of sale, ten cents.

Bill or memorandum of the sale or contract for the sale of stocks, bonds, gold or silver bullion, coin, promissory notes, or other securities, shall pay a stamp tax at the rate provided in section —.

Mr. ALLISON. I move to amend the last clause just read by striking out "section —," and inserting "this act."

The amendment was agreed to.

No further amendment was offered.

The following clauses were read:

Conveyance, deed, instrument, or writing, whereby any lands, tenements, or other realty shall be granted, assigned, transferred, or otherwise conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his, her, or their direction, when the consideration or value does not exceed \$500, fifty cents.

When the consideration exceeds \$500 and does not exceed \$1,000, one dollar.

And for every additional \$500, or fractional part thereof, in excess of \$1,000, fifty cents.

Entry of any goods, wares, or merchandise at any custom-house, either for consumption or warehousing, not exceeding \$100 in value, twenty-five cents.

Exceeding \$100 and not exceeding \$500 in value, fifty cents.

Exceeding \$500 in value, one dollar.

Entry for the withdrawal of any goods or merchandise from bonded warehouse, fifty cents.

Insurance, (life.) Policy of insurance, or other instrument, by whatever name the same shall be called, whereby any insurance shall be made upon any life or lives—

When the amount insured shall not exceed \$1,000, twenty-five cents.

Exceeding \$1,000 and not exceeding \$5,000, fifty cents.

Exceeding \$5,000, one dollar.

Insurance, (marine, inland, and fire.) Each policy of insurance, or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description, whether against perils by the sea or by fire, or other peril of any kind, made by any insurance company, or its agents, or by any other company or person, the premium upon which does not exceed ten dollars, ten cents.

Exceeding ten and not exceeding fifty dollars, twenty-five cents.

Exceeding fifty dollars, fifty cents.

Lease, agreement, memorandum, or contract for the hire, use, or rent of any land, tenement, or portion thereof, where the rent or rental value is \$300 per annum or less, fifty cents.

Where the rent or rental value exceeds the sum of \$300 per annum, for each additional \$200, or fractional part thereof, in excess of \$300, fifty cents.

Mr. ALLISON. I move to amend the clause last read by adding to it "When executed in duplicate the stamp shall be required only on the instrument held by the lessee."

The amendment was agreed to.

No further amendment was offered.

The following clauses were read:

Manifest for custom-house entry or clearance of the cargo of any ship, vessel, or steamer for a foreign port—

If the registered tonnage of such ship, vessel, or steamer does not exceed three hundred tons, one dollar.

Exceeding three hundred tons and not exceeding six hundred tons, three dollars.

Exceeding six hundred tons, five dollars.

Mortgage of lands, estate, or property, real or personal, heritable or movable whatsoever, where the same shall be made as a security for the payment of

any definite and certain sum of money lent at the time or previously due and owing or forborne to be paid, being payable; also any conveyance of any lands, estate, or property whatsoever, in trust, to be sold or otherwise converted into money, which shall be intended only as security, and shall be redeemable before the sale or other disposal thereof, either by express stipulation or otherwise; or any personal bond given as security for the payment of any definite or certain sum of money exceeding \$100, and not exceeding \$400, fifty cents.

Exceeding \$500 and not exceeding \$1,000, one dollar.

And for every additional \$500, or fractional part thereof, in excess of \$100, fifty cents.

Upon every assignment or transfer of a mortgage the same stamp tax upon the amount remaining unpaid thereon as is herein imposed upon a mortgage for the same amount: *Provided*, That upon each and every assignment or transfer of a policy of insurance, or the renewal or continuance of any agreement, contract, or charter, by letter or otherwise, a stamp duty shall be required and paid equal to that imposed upon the original instrument: *And provided further*, That upon each and every assignment of any lease a stamp duty shall be required and paid equal to that imposed on the original instrument, increased by a stamp duty on the consideration or value of the assignment equal to that imposed upon the conveyance of land for similar consideration or value.

Mr. ALLISON. I move to amend by adding at the end of the clause last read the following:

Except an assignment or transfer to a trustee as successor to one resigning the trust.

The amendment was agreed to.

Mr. STEVENS, of New Hampshire. I move to amend by striking out near the beginning of the clause last read the words "the same stamp tax upon the amount remaining unpaid thereon as is herein imposed upon a mortgage for the same amount," and inserting in lieu thereof "twenty-five cents." I desire, Mr. Chairman, to make the tax upon the assignment or transfer of a mortgage uniform. I suppose it is well understood that in many of the States, perhaps in all them, it is judicially held that the formal assignment of a mortgage is not necessary to the transfer of the mortgage interest, that an assignment of the mortgage note carries with it as an incident the transfer of the mortgage security. In view of this construction of the law, these assignments in many States are seldom made formally by the transfer of the mortgage, the mere assignment of the mortgage note being relied on as sufficient. In this way the Government loses in its revenue a considerable amount which it would receive were the tax on assignments of mortgages fixed at a small uniform sum. I think there would be a decided advantage in placing upon these assignments a uniform tax of reasonable amount. Hence, I hope my amendment will meet the approval of the committee.

Mr. ALLISON. Mr. Chairman, I presume the law as stated by the gentleman from New Hampshire is the same in nearly all the States; it is so far as I know. But this paragraph corresponds with the provision of the present law, according to which, if a note is stamped, the mortgage need not be, provided the stamp upon the note is for the amount which would be required upon the mortgage. I think it better to leave this clause as it is rather than change it, thereby creating confusion. I do not think the amendment proposed would tend to increase the revenue.

Mr. STEVENS, of New Hampshire. The gentleman will allow me to say that I think he misapprehends the point I made, that the mere indorsement and transfer of the note is all that is necessary to transfer the mortgage.

Mr. ALLISON. I understand that perfectly.

Mr. STEVENS, of New Hampshire. Hence, while required to pay upon the assignment of a mortgage a tax graduated in accordance with the amount of the mortgage, persons will not make the formal transfer, but will merely assign the mortgage notes; while, if the stamp-tax were reduced to twenty-five cents, many persons would prefer, by paying this small amount, to make their title appear properly on the record; and thereby the revenues of the Government would be increased.

Mr. ALLISON. I think we shall get more revenue by retaining the present provision than by adopting the one the gentleman proposes.

Mr. HOLMAN. For the sake of making a single suggestion on this subject, I move to